CONGRESSIONAL GLOBE

FOR THE

SECOND SESSION FORTIETH CONGRESS.

PART II.

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THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION;

AND

A SUPPLEMENT,

EMBRACING THE PROCEEDINGS IN THE TRIAL OF ANDREW JOHNSON.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1868.

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Now, Mr. Chairman, I take the ground, in the first place, that the House will not do this injustice. We have decided not to raise the compensation of the employés in the Departments twenty per cent.

Mr. WASHBURNE, of Illinois. My friend's remarks are out of order, and I hope he will reserve them to another time.

Mr. PIKE. I am in order. I hope the committee will not do the injustice to refuse to change the law in reference to the compensation of members while at the same time they reduce the compensation of others from that which the law provides, and who are equally as well entitled to get what the law now allows as we are.

Mr. WASHBURNE, of Illinois. I oppose the amendment, and shall ask the committee to rise unless it is agreed to close the debate on this paragraph by unanimous consent.

Mr. SCHENCK. I want to make an inquiry.

Mr. WASHBURNE, of Illinois. I move that the committee rise for the purpose of closing this debate.

The committee divided; and there were—ayes 65, noes 40.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union, and pending that motion he moved that all further debate on the pending paragraph of the appropriation bill under consideration in the committee be closed in one minute after its consideration shall be resumed.

Mr. MUNGEN moved that the House adjourn.

The House divided; and there were—ayes 84, noes 35.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

So the motion was agreed to; and thereupon (at three o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Sheriff J. W. Stephenson, of Paris, Texas, for the continuance of the Freedmen's Bureau.

By Mr. BOUTWELL: The petition of J. Wright and others, C. F. Battles and others, William C. Avery and others, manufacturers, in reference to taxation and to the expenditures of the Government.

By Mr. COVODE: The petition of Samuel Wills, of Lananark, Illinois, for relief.

By Mr. FERRY: A memorial of J. H. Palmer, Theodore C. Downing, and 250 others, citizens, praying that a post route be established between the city of Battle Creek, in Calhoun county, and Nashville, in Barry county, Michigan, via post office villages of Assyria and Maple Grove.

By Mr. GOLLADAY: The petition of Mary F. Williams, of Cumberland county, Kentucky, praying for compensation for a horse pressed by the United States authorities.

By Mr. GRAVELY: The petition of citizens of Springfield, Missouri, praying the establishment of a district court at Springfield, Missouri.

Also, the petitions of citizens of Arkansas, asking that a certain road in said State be declared a post route.

By Mr. MYERS: The petition of Anne Vaughn, widow of Daniel Vaughn, deceased, late private company A, fifty-eighth Pennsylvania volunteers, for a pension.

By Mr. O'NEILL: A memorial of William S. Hansell & Sons, Bocking Bros., Samuel R. Phillips, E. P. Moyer & Bros., Kneass & Co., Lacey Welker & Co., William Gallagher, A. M. Dorman, S. P. Harmer, William H. Pearce, and R. Nece & Co., leading manufacturers of saddlery and harness in the city of Philadelphia, asking for the repeal of the internal revenue tax upon goods made by them.

By Mr. PAINE: Resolutions relating to payment of bounties and pensions, adopted at a meeting of soldiers in Milwaukee, January 30, 1868.

By Mr. ORTH: The petition for a mail route from Elizaville, via Millwood, to Noblesville, Indiana.

By Mr. PHELPS: The claim of Thomas H. Mube, of Baltimore, Maryland, for compensation for beef cattle.

By Mr. POLAND: The petition of John H. Garges, praying compensation for property taken by the military authorities of the United States.

Also, the petition of James Crux, praying compensation for property taken by the military authorities of the United States.

By Mr. STOKES: The petition of Lucinda Tweed.

Also, the petition of Elizabeth Shelton.

Also, the petition of the loyal citizens of Tennessee, for payment for supplies furnished the Federal Army during the late rebellion.

By Mr. WASHBURN, of Massachusetts: The petition of Rodney Wallace and others, citizens of Fitchburg, Massachusetts, asking that the tax may be removed from burning gas where it is manufactured in small quantities.

IN SENATE.

FRIDAY, *February* 7, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. PATTERSON, of Tennessee. I desire to present a memorial, signed by certain officers, setting forth that they are honorably discharged officers of the late Army raised to suppress the rebellion, and while in service as such officers there became due them as a part of their compensation pay for servants kept by them at the rate of sixteen dollars per month, from and after the 1st day of May, 1864, by virtue of the act of Congress approved June 20, 1864, increasing the pay of the private soldiers of the Army. They state further, that their right to the difference between eleven dollars per month for each of their servants kept during the period from May 1, 1864, to March 3, 1865, was frequently urged at the time and since, but without success, and that finally counsel was employed to present the question to the courts, in order to fix a rule for the guidance of the department; and accordingly suit was brought in the United States Court of Claims in the case of Charlotte M. Crocker, the widow of the late General M. M. Crocker, of Iowa, and that court without dissent sustained the right claimed. They further state, that in order to obtain the decision of the highest judicial tribunal the United States Solicitor appealed the cases decided by the Court of Claims to the Supreme Court of the United States, where they are now pending.

They further state, that on Monday, the 20th day of January, 1868, the Senator from Massachusetts [Mr. WILSON] introduced in the Senate a bill which is designed to prohibit the payment to the petitioners of any portion of this claim, even should the Supreme Court of the United States decide that they are entitled to it. I suppose the proper reference is to the Committee on Military Affairs, and I move its reference to that committee.

The motion was agreed to.

Mr. POMEROY. I have received two memorials, signed by a large number of citizens in the city and county of New York, relating to a memorial adopted by the national convention of manufacturers assembled at Cleveland, Ohio, December 18, 1867, which relates to adjusting the internal revenue taxes so as not to depress American industry and American labor. I move their reference to the Committee on Finance.

The motion was agreed to.

Mr. POMEROY. I have also received two memorials, adopted by the same convention on the 18th of December, 1867, at Cleveland, Ohio, relating to the manner of collecting the revenue taxes, and suggesting that revenue agents and collectors and assessors should be men of the highest character and respectability, and that all candidates for such offices should undergo an examination into their moral and educational fitness. I do not know but that these memorials should have been sent to the President of the United States, as he makes all selections of officers; but as they are sent to the Senate, and as the Senate do have the privilege of advising and consenting to such appointments, I propose respectfully to refer them to the Committee on Finance.

The memorial was so referred.

Mr. DRAKE presented a memorial of Hess, Becker & Co., of St. Charles, Missouri, asking that the duty on imported ultra marine blue be changed from an *ad valorem* to a specific one; which was referred to the Committee on Finance.

Mr. RAMSEY presented a memorial of citizens of Minnesota, praying the establishment of a mail route from Hastings to Stillwater and a mail route from Prescott to St. Paul, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions of the Legislature of Minnesota, relative to the protection of American citizens in foreign countries; which were referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of removing the Indian tribes now occupying the country lying between the forks of the Cheyenne river, Dakota Territory, to some other locality, and that that region may be made available to the needs of the white man; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, recommending that aid be granted to the Northern Pacific Railroad Company; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. SUMNER. I present the petition of the American Statistical Association, signed by their president, in which they respectfully call the attention of Congress to nine different propositions relating to the proposed metrical system of weights and measures and coins. The petition and accompanying papers mainly relate to what is called the metrical system of coinage. As that subject is now before the Committee on Finance, I shall ask the reference of the petition to that committee; but at the same time it seems to me that the character of this petition, which I have carefully examined, and the subject to which it relates, its delicacy and its scientific character make it important that these results shall not be lost, as they might be by a simple reference. I shall, therefore, venture to ask the Senate to order the printing of this petition. It seems to me that they will not essentially depart from their rules if, in view of the character of this document, they do authorize its printing. I therefore now present it, and move its reference to the Committee on Finance, and that it be printed.

The motion was agreed to.

Mr. VAN WINKLE presented a memorial of honorably discharged officers of the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment

of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. NYE presented a petition of citizens of Nevada, praying the establishment of a mail route from the mail station on the overland mail route in Ruby valley to Camp Halleck, in the Humboldt valley, and the establishment of a post office in Ruby valley and a post office at Camp Halleck; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of James Crutchett, reported a joint resolution (S. R. No. 101) referring the petition and papers in the claim of James Crutchett to the Court of Claims; which was read and passed to a second reading.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 328) to establish certain post roads, reported it with amendments.

JAMES M'INTOSH.

Mr. CORBETT. The Committee on the District of Columbia have had under consideration the memorial of Donald McIntosh, praying that his brother be admitted to the insane asylum in the District of Columbia, and have instructed me to report a joint resolution. I will state that the young man is the brother of an officer in the Army who was stationed in Washington some time during the war at pay that enabled him to keep his brother at the hospital for the insane in this District; but he has now been appointed a second lieutenant, and is unable to pay for keeping his brother in the asylum. The committee have instructed me to report a joint resolution, and I ask for its present consideration.

By unanimous consent the joint resolution (S. R. No. 102) instructing the superintendent of the Asylum for the Insane in the District of Columbia to admit James McIntosh on the same footing as indigent insane persons of the District, was read three times and passed.

ISLANDS IN THE GREAT MIAMI RIVER.

Mr. SHERMAN. There is a little bill of local interest reported from the Committee on Public Lands which I think will excite no debate, and which I ask the Senate to take up and dispose of now. It is House bill No. 223, in relation to islands in the Great Miami river.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SHERMAN. The Committee on Public Lands have reported the bill with an amendment in the nature of a substitute. I presume, therefore, it is only necessary to read the amendment.

The PRESIDENT *pro tempore*. The reading of the original bill will be dispensed with if there be no objection. The amendment will be read.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause and to insert the following:

That in the case of such islands in the great Miami river, in the State of Ohio, as are undisposed of, or any vacant public lands adjacent thereto, which are in the actual and exclusive occupancy of any persons who have made improvements thereof or of their heirs or assigns, such occupants thereof shall have the preference right to enter the same at $2 50 per acre, on making proof of the facts to the satisfaction of the Commissioner of the General Land Office, and paying for the land within twelve months from the passage of this act, and patents shall issue for the tracts so entered as usual in entries of public lands.

Mr. JOHNSON. I should like to know from my friend from Ohio if there are any claimants other than those who are now the occupants?

Mr. SHERMAN. I understand not. I will state that there is an island in the Big Miami that has been occupied for a long time by a number of people, now farmed and improved, but the title is really in the United States, and a difficulty has occurred about taxing, &c., and efforts are now being made by outside parties to enter it as unoccupied public land. The chairman of the Committee on Public Lands can explain it more fully than I can.

Mr. POMEROY. When the State of Ohio was originally surveyed these islands were not included in the survey; but they were settled upon. In the process of years, however, they were surveyed, and yet there was no title obtained. These people who have had undisputed possession for a great number of years claimed the right to enter them. The Committee on Public Lands of the Senate sent this bill as it came from the House to the Commissioner of the General Land Office, and the amendment we have reported was drawn in the Land Office, and is precisely in language and form as it was sent to us from the Commissioner. He believes that to be the most just and equitable method of settlement. It provides that these parties who have had possession for forty or fifty years shall have title upon paying $2 50 per acre within twelve months, and that is regarded as an equitable settlement. There are no adverse claimants.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed, and the bill read a third time. The bill was read the third time, and passed.

GABILLAN LAND GRANT.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Private Land Claims be directed to inquire into the propriety and necessity of taking such steps as shall be found necessary to restore to the body of the public domain the tract of land in California known as the Gabillan grant.

BILLS INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VAN WINKLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 332) granting a pension to John W. Harris; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 333) for the relief of Julia M. Molin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 334) additional to an act to establish a uniform system of bankruptcy throughout the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 335) to create an Indian department, and to provide for the government and civilization of the Indians; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

He also asked, (by request, as he stated,) and by unanimous consent obtained, leave to introduce a bill (S. No. 336) to render more efficient the conduct of Indian affairs; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

GOVERNMENT AGENTS.

Mr. PATTERSON, of New Hampshire. I move that the Senate proceed to the consideration of Senate bill No. 269.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 269) in addition to an act entitled "An act to regulate the tenure of certain civil offices."

The PRESIDENT *pro tempore*. This bill was recommitted to the joint Committee on Retrenchment, and has been reported with an amendment, which will be read.

Mr. PATTERSON, of New Hampshire. I desire to perfect the amendment before it is read. In the third line of the first section after the word "that" I move to insert "at and;" and in the fourth line of the fifth section I propose to fill the blank by inserting "twenty-five," and also in the sixth line of the sixth section to fill the blank with "twenty-five."

The PRESIDENT *pro tempore*. These modifications of the amendment will be made, and the amendment as modified will be read.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill, and insert the following:

That at and after ten days from the passage of this act no general or special agent of the President, or of any of the Departments, bureaus, or branches of the Government, by whatever name or designation he may be known, except such as are authorized by statutes specifying the duties and compensation of the agents so authorized to be employed, shall be appointed, commissioned, employed, or continued in office: *Provided*, That the Secretary of State shall have power to appoint, from time to time, special agents for foreign service, not exceeding five in number, who shall be paid out of the contingent fund appropriated to the use of the State Department.

SEC. 2. *And be it further enacted*, That no revenue agent or inspector of internal revenue authorized by the acts of March 3, 1863, June 30, 1864, and March 3, 1865, nor any other general or special agent in any department of the Government, whose duties and compensation are fixed by law, be appointed, commissioned, or continued in office, except as hereinafter provided.

SEC. 3. *And be it further enacted*, That the term of office and employment of all such agents and inspectors mentioned in the preceding section, in office or employed at the time of the passage of this act, shall expire ten days after the passage of this act; and hereafter every such agent or inspector whose employment is provided for in this act shall be appointed by the President, with the advice and consent of the Senate, but such agency or inspectorship may be discontinued at the pleasure of the President.

SEC. 4. *And be it further enacted*, That there may be appointed, in the manner provided in the preceding section, in the Treasury Department, as occasion may require, general and special agents, not exceeding twenty-five in number, who shall receive a compensation not exceeding six dollars per day, together with a suitable allowance for traveling expenses by way of mileage, or reimbursement of actual expenditures in the performance of the specific duties legitimately pertaining to such agencies.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury shall have power to appoint agents as now provided by law, and for which an appropriation has been made, not exceeding twenty-five in number, whose duty it shall be to aid in the prevention and detection of the counterfeiting of currency notes and bonds of the United States. He may also employ temporarily, on the nomination of the Comptroller of the Currency, such persons as may be needed for the examination of the banks provided for in the act of June 3, 1864.

SEC. 6. *And be it further enacted*, That the Postmaster General is hereby authorized to appoint route agents, whose compensation and allowance is less than $1,000 per annum, or at that rate, to take charge of the transportation and distribution of the mails on specified routes, and also agents, not exceeding twenty-five, as now provided by law, and for which an appropriation has been made, whose duty it shall be to promote the efficiency and prevent abuse in the postal service of the United States. It shall be the duty of the Secretary of the Treasury and of the Postmaster General to report to Congress, at the beginning of each session, the number of such agents employed, the expense, locality, nature, and amount of their services. They shall be paid out of money specifically appropriated for this purpose.

Mr. STEWART. After the word "Treasury," in the tenth line of the sixth section, I move to insert the words "Secretary of State;" so as to read:

It shall be the duty of the Secretary of the Treasury, Secretary of State, and of the Postmaster General to report to Congress at the beginning of each session the number of such agents employed, the expense, locality, nature, and amount of their services.

Mr. SUMNER. I should like to have the attention of my friend to the point that is involved in that. Suppose agents have been sent by the Department on secret service that on the whole it is not expedient should at that time be communicated to the public, would not his amendment require the revelation to be made to Congress? I think that, on reflection, the Senator will agree with me that it is not expedient to require it. I do not wish to make

any point about it, but I see that his amendment, if it prevails, does interfere with the system. Is it expedient to interfere with it?

Mr. CONKLING. Let me make a suggestion to the Senator. The same thing he suggests struck me, and the difficulty grows mainly out of the employment in the thirteenth line of the sixth section of the words "nature of their services." There can be, I suppose, no objection to providing that the Secretary of State shall report the names of the persons employed and the compensation paid to them. If the words to which I have referred were stricken out here, however, they would be stricken out as applicable to the Treasury and Post Office Departments, which would not be proper; and therefore I suggest to the Senator from Massachusetts, and also to the Senator having this bill in charge, that the provision relating to the State Department had better be added at the first section, and had better be merely that the names of persons employed and the compensation paid to them shall be reported to Congress. Then there will be no disclosure of that kind of information to which the Senator from Massachusetts refers.

Mr. STEWART. After that suggestion I withdraw the amendment in that place.

Mr. CAMERON. I move to amend the amendment reported by the committee by striking out the proviso at the end of the first section, which is in these words:

Provided, That the Secretary of State shall have power to appoint from time to time special agents for the foreign service, not exceeding five in number, who shall be paid out of the contingent fund appropriated for the use of the State Department.

My object is to take from the Secretary the power of sending any agents abroad. The Senate will remember that we refused to insert in the bill the other day such an authority, and this proviso has been added by the committee since it was recommitted. I thought it was pretty well understood in the Senate that we were to break up this system of sending agents abroad, and I desire to do so by leaving out this proviso.

Mr. SUMNER. The Senator from Pennsylvania, I think, did not follow the discussion with his usual attention, or he would not have made the remark that he has. The proviso that is introduced was the one proposed by my friend, who has this bill in charge, the Senator from New Hampshire. The amendment moved by me was voted down, and the Senator from Pennsylvania was among those who voted against it; but when it was voted down the Senator from New Hampshire announced that he should move the proviso which now appears in the bill. The effect of this proviso is to limit the number of agents employed by the Secretary of State to five, and the Senator from New Hampshire, who had given the subject so much attention, thought that there would be no harm in such a proviso containing such a limitation. Looking still further at the bill, the Senate will see that the Treasury Department is allowed what are called general and special agents not exceeding twenty-five in number. They will also see that the Postmaster General is allowed to have a certain number of agents. In the bill as originally reported that number was twenty; but my friend, the chairman of the Post Office Committee, the Senator from Minnesota, moved to add five to that twenty, making, therefore, twenty-five for the Post Office Department. Now, the bill as reported from the Committee on Retrenchment, after careful consideration, proposes to allow, not twenty-five, not twenty, but only five to the State Department. I make this explanation that the Senate may understand the true state of the question.

Mr. CAMERON. There may be some reason for allowing the Treasury Department and the Post Office Department to have secret agents; but I think we discussed this subject the other day very fully in regard to the State Department, which is a very different affair. The State Department now has over thirty ministers abroad, and several hundred consuls scattered all over the world. This Government has no secret business abroad. We have nothing to do with the affairs of any country on the continent of Europe or any of the islands. We have nothing to do with their governmental affairs, and why should we send special agents there to spy into their concerns? We want no entanglements with them. Indeed, that is one of the cardinal principles of our Government and one of the strongest feelings of our people, that we shall have no entangling connection with any Government abroad. I can see no reason for allowing these agencies except that it gives power to the head of a Department to sometimes do a kind act for a favorite who cannot pass the ordeal of the Senate.

I am opposed, as I said the other day, to this system of spies. Generally none but bad men are employed for such places, and I think the country is overrun with them now. This bill, by limiting the number which the Secretary of the Treasury may appoint will do a great deal of good, and the amendment made by the committee which will compel the publication of the names and compensation of those employed will, I think, in a year or two enable us to get rid of the whole of them. After we find the names of the persons employed and the manner in which they have been employed I think the whole country, and especially Congress, will soon see that the entire system is wrong. But whatever considerations may apply to the Treasury and Post Office Departments I can see no reason whatever for allowing a sum of money to be placed in the hands of the Secretary of State to be used in this way, and I trust the proviso will be stricken out as we did strike out the whole affair the other day.

Mr. SUMNER. One other remark in reply to my friend from Pennsylvania. He says that we have in the foreign service ministers and consuls, and to them he is disposed to intrust all our interests. I would ask whether in the Post Office Department we have not all over the country postmasters; whether in the Treasury Department we have not all over the country collectors of revenue in large numbers—in New York, in Boston, in Philadelphia, in all the great cities of commerce, in very large numbers; and yet, notwithstanding all that most expensive apparatus for the administration of the Post Office and for the collection of the revenue, it is proposed to give to each of those Departments twenty-five other agents to be employed for incidental service. Now, the argument of my friend against agents abroad, because we have ministers and consuls, is equally strong against agents in the Post Office or in the Treasury Department, because there is in each of those Departments what he might call a complete apparatus for the administration of the Department. I therefore submit that my friend is mistaken when he proposes to apply the knife to this very small allowance. I will not say anything more.

Mr. CAMERON. I think I said distinctly that I was opposed to the whole system and would like to break it all up. I believe that the Post Office Department and the Treasury Department can be conducted just as well without secret agents as with them; but there is some excuse for them there, and it will take some time to educate the officers as well as the country into the idea that they can be dispensed with. There is some excuse for them in the fact that occasionally there are not only frauds committed upon the Treasury, but there are forgeries upon the currency of the country, and the system has been to detect those who are guilty by means of secret agents. So in the Post Office Department that has been the custom, because if the postmasters were such men as they ought to be they would protect the Department in their particular localities without an agent coming to supervise them. I said that there was no reason at all, in my judgment, for sending these people abroad, and therefore I would begin by striking out that. I believe there is no necessity for it in the other Departments; but as I said before the amendment which will compel the Departments to publish the names, the compensation, and the duties of those whom they employ will have such results that after a year or two the whole country will see that there is no necessity for the employment of such persons; and at all events it will lead to selecting good, honest, and respectable persons for those places. My great objection now to the whole of this system is to the men who are employed who have not the confidence of the country and who could not get the sanction of the Senate for their employment. Here it does not do so much harm as it does to send a scamp and a vagabond across the ocean representing this Government, as sometimes happens—not always I am sure, but sometimes it does. A man goes abroad carrying with him the broad seal of this country as a recommendation to society, passing the custom-house officers everywhere as an agent of the Government, with no character to base this deference upon. I am opposed, as I said before, to the whole system, and I would begin by cutting it off in the State Department.

Mr. CONNESS. Time is very valuable, sir, and I will try not to occupy much of it. I agree with what the honorable Senator from Pennsylvania has said. I think in place of increasing our agents abroad, we should limit the number of them. It is strange to me that before this time the Committee on Retrenchment have not given their attention to the reduction of our foreign agents abroad. There is no more need of a minister resident at all the republics of Central America, beginning with Mexico and ending with Chili, than there is that we should send five to each of them; not a particle. One superintending minister having charge of our foreign relations with all those republics, leaving the affairs in the hands of the consuls general in the meantime, would be sufficient. We are spending hundreds of thousands of dollars in our foreign relations. In my opinion that ought to be diminished in place of increasing it. I hope the amendment will prevail.

Mr. SUMNER. I will make still one further remark. I think that it is not expedient for us to go into this proposed change without an inquiry, at least, by the committee which has charge of the business of that Department. I think that through a report of that committee the Senate ought to be informed of the bearings of this proposed reform that they may know whether in reality it is a reform or not; whether there be anything in economy or in reason to justify the change.

Now, I am going to submit a remark to my excellent friend from Pennsylvania, [Mr. CAMERON.] I do not believe that, as strong as he is for economy, as rigid as he is in that direction, he would think of the proposition which he now maintains so zealously if there was an Administration at the other end of the avenue in which he had confidence. I believe that this movement grows out of the radical distrust of the existing Administration and the members of the Cabinet. It is on that account that Senators propose to strip the State Department of this traditional, time-honored attribute. I am sure that my friend, if things were situated differently, if there were a person in the State Department who was so fortunate as to enjoy his political and personal confidence, would not think of taking from him this very small power. I believe that he would feel that it was important to the interests of the country that that discretion should be left with the State Department, as it had been from the beginning of the Government. Now, things being so, I have still further to suggest to my friend whether it is expedient, merely from a distrust of the existing Administration, to undertake a change so radical as that which he proposes, and which, if the Administration were friendly and enjoyed his confidence, he would not think of proposing? Sir, I am unwilling to approach this question on any grounds of personal like or dislike. I look at it as a question of principle, and I try to bring it to the test of experience in the administration of the Government. Bringing it to that test, it does seem to me that the Senate ought not to adopt the proposition of my friend.

Mr. CAMERON. The appeal of the honorable Senator from Massachusetts is rather a strange one. It is hardly fair, I think, to doubt the motives of a Senator. I take it for granted that everybody here is governed in all cases by some principle. Perhaps I may be mistaken; but before I proceed any further I will ask the Senator whether this Administration has his personal and political confidence?

Mr. SUMNER. Not at all.

Mr. CAMERON. Then we are pretty near equal in that respect. These are reforms that are proper to be made, in my judgment, no matter who may happen to be at the head of this Government. Happening now to have so large a majority as the Republican party has in this body, I think it is peculiarly its duty to begin reform somewhere. All great extravagancies are made up of details. Men become extravagant because they do not take care of the particles, the small items, which in the end make the grand totals. Every portion of this Government has gone into extravagance for years, greatly more during the war than before, and it is because we were compelled during the war to expend large sums. We have become accustomed to look upon millions as we formerly did on hundreds or thousands, and when a proposition is brought in here appropriating less than one hundred thousand dollars it is called a trifle, and Senators say at once, "Let it go, it is a small thing." We spent $40,000 in the last four or five years for private agents abroad who, in my judgment, as pure and reputable men as they have been, and efficient officers as they may have been, did not do a copper's worth of good. Many of the agents who went abroad did nothing which benefited this country at all. They did not even make public opinion in England to the amount of one vote in Parliament. Why, sir, I myself was at a dinner in Liverpool, in 1862, at which were gathered the consuls there from all the world, at which there were seventy consuls, and there was not a man in all that assemblage who was favorable to this Government but the consul from the United States; and yet England and Europe had been traversed that whole year by scores of men from this country under the seal of the State Department.

My object is to begin this reform at some place. We have great extravagance here everywhere. I think our printing is one of the great leaks of Congress. Sir, we must show the country that we are earnest in this work of retrenchment and economy. If we do not do so we shall have bankruptcy in the country in less than five years. We must reform here; we must cut down the taxes; and we can only do so by retrenching and reducing our expenses. In my judgment, there is no fitter place to begin with than the State Department, for that is the head of the Government, and then we can go through all the others as quick as we can.

Mr. FESSENDEN. Mr. President——

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. PATTERSON, of New Hampshire. I trust the gentleman from Iowa, who has the floor on the special order, will permit this bill to come to a vote. I think it will take but a few moments.

Mr. FESSENDEN. Let the special order be passed over informally for a few minutes.

Mr. HARLAN. I have no objection if the debate is not protracted unusually long.

The PRESIDENT *pro tempore*. It requires unanimous consent to pass it over in this form. Is there any objection to continuing the debate on this bill? No objection being made the Senator from Maine will proceed.

Mr. FESSENDEN. I wish merely to say that I agree with my friend from Pennsylvania that we ought to begin to reform, and I think this bill is a fair beginning. It cuts off a great deal that is useless; but I am not for carrying this reform so far as to cut off what I believe to be essential. Acting upon that principle, you may just as well abolish the Departments and get along helter-skelter. We should do nothing unless we are to give a rule or a reason for doing it.

All I have to say with regard to this amendment is, that I do not suppose there will be ordinarily in time of peace any very particular necessity for a special agent to be sent abroad. Ordinarily, our consuls and our ministers can do all the business that is necessary there. That additional agents have been necessary during the war there is no question. And I wish to say with regard to the State Department, although I have not been particularly connected with its business in this body, yet, from my observation of it, I think that Department has been conducted always with a very great degree of economy and care. I have not seen the evidence of any very particular unnecessary expenditure in that Department. If gentlemen, instead of talking in general terms, can specify an instance wherein there has been extravagance, I should like to hear it, in order that my opinions may be set right if they are wrong.

Mr. CONNESS. I will specify to the extent of reminding the Senator of the enormous contingents that have been appropriated for that Department and the fact that they have been used. I think he will not be at a loss to find the cost of that Department, outside of the specific appropriations, if he will look at those contingents.

Mr. FESSENDEN. I consider myself in some degree responsible for the contingencies because I had charge of the bills in which the contingencies were placed, and instead of their being enormous I do not think they have been at all extravagant. They were enlarged, on an examination by the committee of the necessity of enlarging them, during the war. There was a very great necessity for special emergencies at that time, and the appropriations became larger than usual. How far they have been spent entirely the Senator does not know, because it is in the nature of secret service, and no particular account has been rendered. The account is audited by the President himself personally.

Mr. CONNESS. Contingent funds are bourns from whence nothing returns.

Mr. FESSENDEN. Well, Mr. President, we cannot always know what is done with the contingent funds. If there has been any extravagance in a contingent fund anywhere it has been in this Chamber more than in any other place that I know of; and "physician, heal thyself" applies, so far as a contingent fund is concerned, to us more than to any other Department in the Government, in my belief. Of course, I am as much responsible for that as any other Senator.

But with regard to the State Department, I repeat what I said. There was one very large contingency which passed through this Chamber under my personal supervision. I did not give a reason for it. I was not required to give a reason. It was first adopted in the House and came here—an appropriation of $250,000. It was for a special purpose and a secret purpose, necessarily kept secret at the time. It was of the first importance that it should not be known. It failed, and I suppose the greater part of that contingent fund is left.

Mr. SUMNER. I understand, the whole of it.

Mr. FESSENDEN. Some part of it probably was spent in the pay of the commissioner.

Mr. SUMNER. Very slight, indeed. The main part remains in the Treasury untouched.

Mr. FESSENDEN. But merely to complain that a contingent fund has been appropriated, until we know the items and can see that it has been misappropriated and misused, is not fair to the Department, let me say to the Senator from California. He should, in the first place, inquire and ascertain how it has been used, to see whether it is unnecessary. Now, sir, we have got back to a time of peace, and we cut down the contingencies of the State Department last year very extensively. We cut them down to a much smaller point than they have been any year since the war commenced. And I say again that I believe from my examination here that the contingent fund of the State Department has been expended with as much care and as much integrity as it possibly could be. I have seen no evidence to the contrary. I knew at the time the object of the large contingencies that were called for and I approved of them, and I do not believe they have been misapplied.

Ever since the formation of the Government it has been found to be expedient to allow a certain amount of secret service agencies of this description. As the Secretary of State says, it may not be necessary to employ one during the next year; but that, to a small extent, the power should exist in the Government, connected as it is with all Governments abroad, I believe to be proper. I think it should be; and when it is cut down to not exceeding five in number I think we need not complain that we are very extravagant in allowing that. That is my opinion about it.

Personally, it is a matter of entire indifference to me whether this is voted up or voted down. I simply rose to give my opinion on the general subject, that I think it would be poor economy in economizing to cut off what may be absolutely necessary and useful. Sir, you must allow some discretion to the heads of Departments. If they do not suit you change the Government and get rid of them. There is the remedy. But you must trust somebody. The idea that a Government is to be carried on with great officers at the head of it selected from the first men of the nation, whatever party may be in power, and that they are always to be looked upon as men who are striving to cheat the Government somehow in these little petty sums, is, in my judgment, poor policy and very unfair to them. The remedy does not lie there.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania to the amendment of the committee, to strike out the proviso to the first section.

Mr. CAMERON called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. SAULSBURY (when his name was called) said: I decline to respond to my name for the reason given yesterday, that I am paired off on all questions with the Senator from Massachusetts, [Mr. WILSON.]

The result was announced—yeas 8, nays 30; as follows:

YEAS—Messrs. Cameron, Chandler, Conness, Howard, Stewart, Thayer, Tipton, and Wade—8.

NAYS—Messrs. Anthony, Cattell, Cole, Corbett, Davis, Doolittle, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Harlan, Henderson, Hendricks, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sumner, Van Winkle, Willey, and Yates—30.

ABSENT—Messrs. Bayard, Buckalew, Conkling, Cragin, Dixon, Edmunds, Grimes, Guthrie, Norton, Nye, Saulsbury, Sprague, Trumbull, Williams, and Wilson—15.

So the amendment to the amendment was rejected.

Mr. STEWART. I offer the following amendment, to come in at the end of the proviso to the first section as an additional proviso:

And provided further, That at the commencement of each session of Congress the Secretary of State shall report to Congress the name of every agent so appointed, the time of his appointment, and the full amount paid or allowed each of such agents on any account whatever.

Mr. SHERMAN. I trust that amendment will not be made.

Mr. STEWART. Why?

Mr. SHERMAN. In the first place, the multitude of papers sent to us from the Executive Departments is a great nuisance. This report would be of no service; and it might be that in the opinion of the State Department the names of the persons ought not to be sent. I regret exceedingly that the Secretary of State sent the name of a distinguished foreigner here as an agent of the United States. I regret it

on his account, and I regret it on our own. If I supposed that any resolution of the Senate would justify such a communication, I certainly would not vote for it. Now, these are confidential agents, sometimes very important. Why require that their names and the amount they receive shall be sent here to the Senate? If it is desired, if we fear that the power is being abused, we can call for the information at any time; but we ought not to require it in this way. All these regular reports that are made to us lie upon our tables and are never looked at by Senators. There are some thirty volumes sent to the House of Representatives or to the Senate of executive reports of various kinds, and I doubt very much whether any Senator looks over them. I trust this amendment will not be agreed to.

Mr. ANTHONY. I think there is another reason why this amendment should not prevail. The Secretary of State, in the communication which was read to us the other day, stated that not one of the agents whom he enumerated had received any compensation for his services, but had only taken his actual expenses. Now, for employment of this kind it is very desirable that the Secretary of State should have men of high character and position, such as he certainly did select, according to the list of names sent to us. What gentleman is going to serve the State Department in that capacity if his name is to be sent in here and the amount of money he has received and the time he has been absent, and he is to be treated precisely like an employé who serves where he can get the most money? The conquence will be that the Secretary will have to descend to that class of men who go for pay instead of men who are willing to go and serve the Government and receive no compensation.

Mr. HENDERSON. I will suggest another difficulty that has not yet been suggested. If this amendment be adopted, although the service for the discharge of which the agent may have been appointed is not completed, yet his name must be exposed at the end of the year when the regular report comes in. Of course, it will be necessary for him to be named if he has been appointed at all. His name will go to the public. This might defeat the very object that the Secretary had in view in his appointment. Therefore I think the amendment ought not to be adopted in its present shape.

Mr. STEWART. I must confess that I am unable to comprehend this matter. I cannot see what relations the United States can have with any foreign Government that are of so secret a character that the agents cannot be known. I do not believe we have any such relations with the Governments of the world. That might have been so in former years when the business of each Government was to cheat the other. When diplomacy was a trick there might have been something in that; but in this country, situated as it is, isolated from Europe, not engaged in their kingcraft at all, I do not believe there is anything connected with our Government to forbid the names of its agents being sent to the Senate. It ought not to be humiliating to any gentleman, however high, to be an agent of the United States and have that fact known. If it was proper that he should be employed, certainly it could not humiliate him to have that fact known; and if it was improper that he should be appointed, if he was given this commission for the purpose of making a European tour at the expense of the United States, that fact ought to be known, and it ought to reflect upon him if he is a man of character. Besides, it would not appear from this report which I propose to have made, what he had gone abroad for, but simply that he was an agent of this Government.

Mr. SUMNER. The proposition of my friend is like those that have preceded it—it seeks a change of the existing system, even to the extent of entirely overturning it; and in enforcing his proposition, the Senator says that he sees no reason for the employment of any secret agents by the Department of State. If my friend had given to that question the attention which I know he gives to others I should listen with very great respect to his conclusion. If he had gone into it as he goes into questions with regard to mines, and then would communicate the results of his examination to the Senate, I believe that there are none who would be hearkened to with more entire respect. But I do submit to my friend that he does take something of a burden upon himself when on his own judgment he proposes to reverse the standing policy of this Republic from the Administration of Washington. Those most intimate with our foreign affairs, whether in the Senate or out of it, I believe concur in the opinion that something of this nature is needed—I do not say on any large scale, but that some means are needed to be at the disposal of the State Department, something like this—for the management of our foreign relations. I was going to ask my friend to withdraw his proposition, so that we need not vote on it.

Several SENATORS. Let us vote.

Mr. STEWART. It may be that I am unfamiliar with the exact reasons which apply to this case. I offered the amendment for the purpose of eliciting the reasons. If there is any good reason why this Government should conceal the names of the agents whom it employs for any business I should like to hear them. If such reasons exist it ought to be within the power of a man to state them or to illustrate them in some way. There are a great many things that we do in secret in regard to which there is no reason for secrecy. There is no reason for considering an Indian treaty in secret session of the Senate, and yet we close the doors and consider it in secret. Such treaties are made with little tribes that have no dignity as nations, and yet it seems to be regarded by the practice of the Government as disrespectful to the grand, high contracting powers with which we make these treaties to allow our doors to be open while we discuss them. So we go into secret session upon them. We do secretly a great many things that had better be done openly.

There may be some reasons for this; but, as I stated before, I cannot see it. I do not know what negotiations this Government can have or ought to have with foreign Powers of so secret a character that the fact that an agent has been employed may not be published, without stating the service on which he was employed. What objection can there be to publishing the fact that a certain person was employed by the Government at a certain time and received so much, without stating what his business was, without any further disclosure, and not stating whether he went out of the country or where he was—nothing more than the mere fact that he was employed so long by the Government and received so much money? It may be that there is some mystery about it; but having ascertained that there are some things which we do mysteriously that do not require any secrecy, and our management of the Indians being a very marked illustration of it, I thought I would propose this amendment, and learn what reasons exist for secrecy here. We sit in solemn session, in secret, to consider treaties, made, perhaps, with half a dozen Indians, whom it would be very difficult to find, with names that nobody ever heard of before. We know that we do that, and everybody knows there is no necessity for secrecy in that case, and if there is any necessity for secrecy here let it be stated. I cannot see it.

Mr. PATTERSON, of New Hampshire. I hope that Senators will permit us to come to a vote on this question. I do not wish to impose on the kindness of my friend from Iowa. I suppose the Senate understand the merits of the question. I have refrained entirely from speaking because I desired to come to a vote. I wish to say, however, to my friend from Massachusetts that it was not simply and purely distrust of the Administration that led to the introduction of this bill. When the subject came before the Committee on Retrenchment it was looked at simply and purely in that light. It was understood that the number of officers employed by the different Departments of the Government had greatly increased and largely augmented the expenses of the Government during the war and in the State Department as well as in other Departments of the Government. The number of consuls and the number of ministers and other employés of the State Department has greatly increased. Still, we feel the force of the remarks which have been made by the chairman of the Committee on Foreign Relations. In time of war there is an absolute necessity for some of these secret agents; perhaps not in time of peace; and if we are to retrench here in the State Department let us cut off some of the useless consuls and ministers. I hope we shall come to a vote at once.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. HOWARD. There is a class of officers, or *quasi* officers, not very numerous, who seem to have escaped the attention of the committee that reported this bill, and they are the railroad commissioners existing under the various acts of Congress in reference to the Pacific railroad and its branches. I do not think their case is covered by the language of the bill, and I venture, therefore, to move an amendment, to insert after the word "known," in the sixth line of the first section, the words "nor any railroad commissioner;" so as to read:

That at and after ten days from the passage of this act no general or special agent of the President, or of any of the Departments, bureaus, or branches of the Government, by whatever name or designation he may be known, nor any railroad commissioner, except," &c.

I suppose there will be no objection to this amendment.

The amendment to the amendment was agreed to.

Mr. HOWARD. This necessitates a further amendment in line seven of section two by inserting after the word "law" the words "nor any railroad commissioner," so as to make the bill symmetrical.

The amendment to the amendment was agreed to.

Mr. HOWARD. Then in section three after the word "agents," in line two, the words "railroad commissioners" should be inserted, and after the word "agent" in line five the word "commissioner."

The amendment to the amendment was agreed to.

Mr. RAMSEY. I desire to propose a verbal change by inserting in the sixth line of the sixth section the word "special" before "agents;" so as to give their proper legal designation to the special agents of the Post Office Department here provided for.

The amendment to the amendment was agreed to.

Mr. POMEROY. I notice that the last clause of the third section conflicts with the tenure-of-office bill. I do not know but that it is right; still I wish to call the attention of the Senate to it. The tenure-of-office bill provides:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified."

The effect of which is that men confirmed by the Senate hold office until the Senate consents to their removal. The concluding clause of the third section of this bill, however, puts it in the power of the President to discontinue at his pleasure all the class of officers named in the section without the advice and consent of the Senate.

Mr. CONKLING. Provided he discontinues the agency or office which they fill.

Mr. POMEROY. Perhaps that ought to be so; but still so far as it relates to these particular offices it conflicts with the tenure-of-office bill.

Mr. PATTERSON, of New Hampshire. I will simply say that that clause was put in to provide for cases where the duties of these agents should cease during the recess of Congress, giving the President a right to dispense not only with the agent but with his place.

Mr. HARLAN. I offer the following amendment as an additional section:

And be it further enacted, That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint in addition to those now authorized by law, the following Indian agents: one for the State of Iowa, two for the Territory of Dakota, three for the Territory of Montana, two for the Territory of Idaho, two for the Territory of Arizona, two for the Territory of New Mexico, one for the State of Nevada, and one for the Indian Territory, whose compensation shall not exceed $1,500 per year each: *Provided*, That the President may at any time discontinue any of said agencies.

In explanation of this perhaps I ought to remark, in addition to what I said a few days since, that there have been agents employed by the Interior Department for work of this kind which I think they must necessarily employ hereafter or suffer great embarrassment. I have by inquiry at the Department ascertained that there are thirteen or fourteen Indian agents employed in this way, and in looking over the report of the Commissioner of Indian Affairs I find the necessity for them. I will illustrate it by reading a paragraph or two from the report. In relation to Arizona the Commissioner remarks:

"There is no full agent for Arizona. The special agents are John Fondge, appointed November 7, 1865, to the charge of the river tribes, and Levi Ruggles, appointed April 28, 1866, to the Papagos agency."

In relation to Nevada the Commissioner remarks:

"Franklin Campbell is the special agent for Nevada; there is no full agent."

And so I find in relation to each of the other cases which I specify in this amendment. These agents are appointed to serve in connection with tribes with whom we are now in treaty relations, but for which tribes there has been no agents provided by any law. They are consequently appointed by the Department; and this has been the custom for many years. I remember having called the attention of Congress to it myself at one time, and requested authority of law for the appointment of these agents; but it was passed over at the time for some cause.

Mr. FESSENDEN. I will ask my friend whether, as this is a retrenchment bill, that is not rather a curious kind of retrenchment to provide for appointing some dozen more officers?

Mr. HARLAN. That may be so; but I suggest it to the judgment of the Senate whether it is wise now to cut off this kind of communication with a large number of Indian tribes with whom we have made treaties recently.

Mr. FESSENDEN. This, I understand, is an addition to the agents now allowed by law.

Mr. HARLAN. In addition to the regular agents now allowed by law; but they are in service, and have been in service for years, many of them.

Mr. FESSENDEN. It is not a cutting off.

Mr. HARLAN. It is no cutting off and no addition, but merely puts it in the power of the President and Senate hereafter to appoint these agents; it legalizes what has been done under a discretion supposed to be lodged with the Secretary of the Interior.

Mr. RAMSEY. The bill as it stands cuts them off, and the Senator from Iowa wants to save them.

Mr. HARLAN. Yes, sir; the bill reported by the committee and now under the consideration of the Senate, it seems to me, cuts them off, and will deprive the Interior Department of their use hereafter.

Mr. PATTERSON, of New Hampshire. I hope the Senate will not incumber the bill with this amendment. If we admit all the amendments in this direction which gentlemen propose the nature of the bill will be completely changed. We can make an amendment to the Indian appropriation bill which will cover all the wants of the Indian service.

Mr. HARLAN. But in the mean time these officers will be put out of office. This bill terminates their existence finally in ten days after its passage. I have no personal interest in the matter; I am not on any committee connected with the Interior Department; but I could not fail to observe the embarrassment which it seems to me will grow out of the passage of the bill without some such amendment. I leave it, of course, for the Senate.

Mr. CONNESS. I think there is a little misapprehension in regard to the effect of this amendment. It does not propose to increase the number of agents; but, as this bill would cut off all the agents now employed and that are necessary, this amendment proposes to legalize a certain number and cause their reappointment by the President and Senate, while now they are designated by the Secretary of the Interior alone. In this connection I desire to say that it will be simply putting the Indian agents of the whole country upon the same basis that the Indian agents in the State of California are on now. They are provided for by law and their salary specified, and they are appointed by the President and Senate; and this is putting the existing agents elsewhere upon the same basis, not increasing the number, and I think in many instances cutting down the compensation, for this fixes the compensation uniformly at $1,500, which is a very moderate sum.

Mr. FESSENDEN. I did not understand it before.

Mr. CONNESS. I saw that; and I think, so far from embarrassing the bill, it is a very useful and necessary amendment, because the bill would drive these men out of office, and the Department cannot do without their services.

Mr. COLE. It is evident that there will be much more discussion on this bill, and, judging from the importance of the amendment just offered, it seems to me that the whole measure should receive very careful attention. I therefore move that the further consideration of it be postponed until to-morrow.

Mr. PATTERSON, of New Hampshire. I hope that motion will not prevail. This bill has been four or five days before the Senate; it has been once recommitted, and is now reported back.

Mr. COLE. It has been up on two or three days, I think, a short time each day. It has not, however, been very generally discussed. I am satisfied I have not had time thus far to give it the attention I should like to bestow on it. I see that it effects some most radical changes in the administration of the Government, and such as I would desire to examine before the bill becomes a law. I therefore insist on my motion.

The PRESIDENT *pro tempore*. The Senator from California moves that the further consideration of this subject be postponed until to-morrow.

The motion was not agreed to—ayes seven, noes not counted.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Iowa.

Mr. SHERMAN. I do not want to delay this bill by discussing it; but it seems to me the amendment itself is an illustration of the necessity of passing this bill. If so many agents as are here named have been employed without authority of law it is rather extraordinary, when at any moment the head of the Department might have asked the proper authority and it could readily have been granted. The Indian appropriation bill every year adds more or less to the number of officers of the Indian department, and I think the proper committees of the Senate have never refused to give to the head of the Department officers for Indian service when asked for. If, therefore, these agents have been employed without authority of law it shows the necessity for passing this bill.

I have no doubt some temporary inconvenience will grow out of the passage of the bill; officers not now thought of will be cut off; but that is a temporary matter, and when the fact is made known to us we can correct it always in the appropriation bills which annually come to us, and which annually supply the compensation for these officers. If any officers are cut off that are really needed they will be supplied afterward by amendments to the appropriation bills; and the temporary inconvenience to grow out of the suspension of these officers until we can pass the appropriation bills is not to be weighed against the general merits of the bill. Therefore, without debating the matter further, I trust these amendments for exceptional cases will be voted down and left to be provided for in the general appropriation bills.

Mr. CORBETT. I can see wherein this bill will affect some agents that are now engaged in the Indian department in certain matters that may involve the peace of the country in some of our Territories. I think that the amendment proposed by the Senator from Iowa is very important. Under his amendment these appointments will come before the Senate for confirmation, whereas previously they have not been confirmed, but special agents have been sent out by the Department of the Interior to carry into effect certain treaties and disburse certain moneys which would naturally come under the charge of the Superintendent of Indian Affairs in some of these Territories. This proposed amendment, instead of allowing these appointments to be made by the Secretary of the Interior, requires the President to send nominations to the Senate and to have the agents confirmed by the Senate. This will tend to secure men of responsibility, men that some of us know, and I think it is very important that this amendment should be adopted.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa to the amendment reported by the committee.

The question being put, a division was called for.

Mr. CONNESS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. I wish simply to say that the effect of this amendment is to bring before the Senate, by appointment of the President, agents now actually in existence, and if it be not adopted the effect of the bill will be to legislate them out of office.

The question being taken by yeas and nays, resulted—yeas 31, nays 8; as follows:

YEAS—Messrs. Anthony, Bayard, Cameron, Cattell, Chandler, Conness, Corbett, Cragin, Davis, Drake, Fessenden, Fowler, Frelinghuysen, Harlan, Hendricks, Howard, Howe, Johnson, Morgan, Morton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sumner, Tipton, Trumbull, Van Winkle, Wade, and Yates—31.

NAYS—Messrs. Buckalew, Cole, Conkling, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Thayer, and Willey—8.

ABSENT—Messrs. Dixon, Doolittle, Edmunds, Ferry, Grimes, Guthrie, Henderson, Norton, Saulsbury, Sherman, Sprague, Stewart, Williams, and Wilson—14.

So the amendment to the amendment was agreed to.

Mr. HENDRICKS. I move to strike out the third section of the amendment reported by the committee.

The PRESIDENT *pro tempore*. The section proposed to be stricken out will be read.

The Secretary read as follows:

SEC. 3. *And be it further enacted*, That the term of office and the employment of all such agents, railroad commissioners, and inspectors mentioned in the preceding section, in office or employed at the time of the passage of this act, shall expire ten days after the passage of this act; and hereafter every such agent, commissioner, or inspector whose employment is provided for in this act shall be appointed by the President, with the advice and consent of the Senate; but such agency or inspectorship may be discontinued at the pleasure of the President.

Mr. HENDRICKS. This section, in the first place, legislates out of office those agents now

in office, and in the second place requires that the persons appointed in their place shall be confirmed by the Senate. I am opposed to the first proposition, because I think it is not a proper mode of legislation to legislate with a view to turning men out of office that other men may be appointed in their stead. I say this with no political or partisan reference, but as a general proposition. I think the legislative department is not profitably engaged when merely considering the question how one set of men shall be got out of office with a view to make places for another set. I am opposed to the second proposition of the section, because I think this class of officers are of that inferior grade that it was contemplated in the Constitution should be left for appointment to the heads of Departments. The offices are mostly of very inferior grade, many of them with a compensation not exceeding $1,000, others not exceeding $1,200. By law we have provided that the compensation of agents of the Post Office Department shall not be less than nine hundred nor more than twelve hundred dollars. Now, it is proposed for the security of the public service that that inferior class of officers shall be brought before the Senate for its consideration. I do not think that the public service requires it, and I do not think that it was contemplated by the provision of the Constitution on the subject of appointments to office. We might as well provide that all the clerks of the Departments shall come before the Senate for confirmation. The clerks get from twelve hundred to two thousand dollars according to their grade, and they certainly discharge duties as important to the public service as the agents that are contemplated in this bill. Here in a Department will be a thousand clerks perhaps——

Mr. PATTERSON, of New Hampshire. Will the Senator allow me to ask a question? I should like to have him specify the particular class of officers struck by this bill whose annual compensation is less than $1,000.

Mr. HENDRICKS. If I understand the bill correctly, it strikes at that class of agents whose compensation was fixed during the last Congress at a minimum of $900 and a maximum of $1,200—mail agents. The Senator from New Hampshire says I am mistaken in that.

Mr. PATTERSON, of New Hampshire. The provision is that route agents whose compensation is more than one thousand dollars per annum shall come before the Senate; all others are to be appointed as now.

Mr. HENDRICKS. I had not observed those words; then I am mistaken to the extent of $100. Still the argument is the same. I was going on to say that we might as well provide that the clerks of the Departments should come before the Senate for confirmation. These clerks frequently have responsible and important duties to discharge; in many instances they have the custody of public securities of very great value. Take the clerks in the Treasury Department, who have the control and custody of the public securities; nobody has proposed that they shall be brought before this body for confirmation or rejection. Why? Because we all feel that the responsibility ought to be left with the head of the Department. He is the responsible man. Nobody thinks of holding a clerk responsible for the transaction of the business of the Department. So I think in regard to these little offices; the head of the Department ought to be held responsible by the public instead of transferring the responsibility to the Senate or to the particular persons who may discharge the duties of these trifling agencies. The better policy is to hold the head of the service as responsible to the public for the efficient discharge of the duties. So I think, in view of the objectionable character of this legislation, legislating one class of men out to make places for others, and also from proper consideration of the public interest and proper policy to be adopted in regard to the responsibilities of the public service, this section ought to be stricken out.

Mr. STEWART. I should like to inquire of the Senator if he holds the Secretary of the Treasury responsible for the non-collection of the revenue.

Mr. HENDRICKS. In my opinion the head of the Department ought to be held responsible for the collection of the revenue. I think that is the right doctrine; and in order to hold him responsible you must give him the power; but Congress, very unwisely, as I think, and as the President demonstrated in his message, has taken that responsibility away from the head of the Department and taken it upon itself. Congress has said that the President and the Secretary shall have no power of removal unless they can make out a case of misconduct in office. Mere ability to discharge the duties successfully would be a difficult proposition to establish upon a trial. So I say to the Senator from Nevada the policy which he himself helped to establish has taken away from the head of the Department the responsibility that ought to rest upon him. I think that the responsibility ought to rest where the Constitution has left it; and if the responsibility rests there the justice that finds a lodgment in every man's heart says that the power shall be left there, too.

Mr. STEWART. I should like to inquire of the Senator if the frauds had not commenced before Congress undertook to interfere with the tenure of office.

Mr. HENDRICKS. I have not examined that subject with sufficient care to answer the Senator's question. The date of the frauds that have been perpetrated upon the Treasury I do not know; I shall not undertake to answer. I have heard very much more complaint about the failure to collect the revenues successfully within the last year or so than I did before. Perhaps it was because my attention was not called to it; perhaps it was because of the legislation in regard to certain articles of taxation. I took occasion in some remarks on a difference of opinion with the Senator from New York [Mr. CONKLING] the other day to express my opinion on that subject. I think that the responsibility rests somewhat upon the legislation of Congress on that question; but I do not care about going into a general discussion of it.

The question of the Senator from Nevada, I think, was not pertinent to the subject I was discussing. I want to know from the Senator from Nevada whether the Secretary of the Treasury ought to be held responsible for the safe-keeping of the public securities in that Department, and whether, being held so responsible, he ought not to have absolute control of the appointment and removal of the particular clerks that shall have their direct custody? Now, if we leave such powers in the hands of the Department, why legislate in regard to these other officers, who are quite as inferior as the class I have referred to?

Mr. CONKLING. When the Senator from Nevada asked the Senator from Indiana how far he deems the Secretary of the Treasury responsible, the Senator from Indiana turns around, of course not for political purposes, of course not for effect outside of this Chamber, but purely by way of persuasion upon this body, and attempts to lay to the tenure-of-office bill the responsibility which is to shield the Secretary of the Treasury. Now, sir, I want to answer him by one remark, which is that his argument, I submit, is utterly lame and utterly futile, for this simple reason: the tenure-of-office bill leaves to the President of the United States and the Secretary of the Treasury every power, even to the uttermost, to remove men from office which either of these officers ever dared avow or confess they exercised before that bill was passed. Why? Because it leaves them perfectly free to suspend, without let or hinderance, any officer whatever for any act or omission in his office which would constitute a proper ground for removal. Beyond that domain there is no ground except political prejudice or political preference, except the doctrine of political rewards and punishments, which have nothing to do with the efficiency of service. Therefore, I put back to the Senator from Indiana the proposition which he has presented to us over and over again on that subject, and I say to him that the Secretary is as free now as the Secretary ever was to suspend any man and every man, either for act or omission who deserves suspension; and the only supervisory power, the only power of any sort, reserved to the Senate by the act in question is the right afterward to scrutinize this suspension and see whether it is set down to the merits or set down to an unworthy political account; and if in truth a man has been suspended for cause, suspended for a meritorious reason, this body consummates the suspension and makes it a permanent removal; but if it turns out that the officer did his duty, and being honest has been suspended merely because he would not sell his political principles, this body reserves the right to say that also.

There is the end-all and the be-all of this tenure-of-office bill in this respect, and I think it will take more than even the skillful and adroit practice of the distinguished Senator from Indiana to put off—I will not say to palm off, lest he might deem it offensive—upon the public the idea that really these heads of Departments are to be discharged without blame and without responsibility, because by law we have been compelled to attempt to protect honest men doing their duty and committing no offense except voting as they choose.

Mr. HENDRICKS. Mr. President, I do not desire to continue this debate. I have made this proposition, which is a very simple one, and I supposed it would not excite any one. The Senator from Nevada gave it a turn and direction which I did not anticipate, and now the Senator from New York chooses to give the discussion somewhat of a political character. I do not intend now to pursue the line of thought which he has suggested, except to say this: that every man knows that if the head of a Department is to be held responsible for the efficiency of his Department he must have the control of it. We know that in the prosecution of private affairs a man who carries on a large workshop or a manufacturing establishment successfully must have the power of removal and appointment absolute in his own hands; and I say that that power which justifies responsibility and which will secure efficiency in the public service is materially impaired when you qualify the right to remove by imposing upon the removing power the duty to make out a case upon a trial made up before the Senate. No head of a Department can make his Department efficient under legislation like this, in my judgment; and the history of the public service, from this time on, will illustrate that; and I will undertake to say that when the next presidential election shall have passed over, and when experience shall have tested this question, the very party in power that enacted the tenure-of-office bill will repeal it as a duty to the country. I look for the repeal of that law within three years. I will help the party in power, if I should be honored with a seat here, at any time that they propose its repeal, and I shall be for throwing back upon the President and upon the heads of Departments that responsibility for the discharge of the public service which the Constitution, in my judgment, places upon them.

Mr. CONKLING. That is all very good, I think; but the difficulty with what the Senator says now is this: the head of a Department is not called upon in suspending an officer to make out any case whatever. On the contrary, he suspends by a mere stroke of his pen, a mere fiat, just as much as he ever did; and he is never called upon in the end to make out a case except so far as he makes one by assigning his reasons to the Senate. Now, I say to the Senator, whenever the head of any Department for whom he speaks shall send here the suspension of recreant officers with his reasons for doing it, and the Senate shall refuse to assent and shall obstruct and hinder him by caviling with the reasons which he assigns, I

think it will be high time to complain of the law in that respect. Suffice it to say that the shoe pinches now in the fact that these men are not suspended at all for dereliction of duty, either in vacation or in session of the Senate, and that the question does not arise whether these officers would be sustained or not.

Mr. PATTERSON, of New Hampshire. This debate has run on very much longer than I anticipated, and it is very clear that I am infringing on the time of my friend from Iowa. I hope, therefore, Senators will let us come to a vote on the question at once. They can vote either way, of course.

Mr. BUCKALEW. Mr. President, I differ very much from the views of the Senator from New York on the nature and effects of the tenure-of-office bill. I understand by that bill, judging by the face of the statute, that the President of the United States has no power to suspend an officer for inefficiency or for a variety of causes such as have heretofore been acted upon by the President and by heads of Departments in the practical administration of the Government. By the face of that law the President is confined to two classes of objections against officers: first, official misconduct, and second, complete incapacity for the performance of the duties charged upon them. The result is, that the President, before he can proceed under the law in vacation, between the sessions of the Senate, must have made up a judgment against an officer in his own mind that he has been guilty of a legal offense defined by the statute, some form of official misconduct, or that, by reason of insanity or some other very extraordinary cause, he has become utterly incapable of performing the duties of the office. If he is merely an inefficient officer, if he is merely a man of insolence to his superiors, if he misconducts and misbehaves himself in a thousand different ways, he cannot be touched unless the case comes within the two classes of objections which I have mentioned as defined by the statute. It hence follows that the executive arm is paralyzed, and the execution of the laws must be impeded, if this statute continues in force.

Now, sir, what is the present bill, or rather what is the section which the Senator from Indiana proposes to strike out? It is simply this: that the two Houses of Congress, acting together by a bill or joint resolution which is to have the effect of law, propose to turn certain men out of the offices which they now hold. That is a plain proposition, although it is a somewhat extraordinary one, somewhat novel, a thing almost unheard of in the history of the Government until within the last two years. I believe we passed a bill somewhat similar to this in regard to pension agents at one time; but in the history of the Government down until a very recent time this was unknown—this mode of proceeding by the legislative department of the Government—a power of dismissal from office, a power to turn officers out of public trusts and employments which they hold under law by Congress, the two Houses acting by bill or joint resolution.

Then, sir, what more does it propose? It proposes at once to have all these offices filled again by the President, by and with the advice and consent of the Senate. It is not to relieve the public service from a certain number of unnecessary officers. It is not to reorganize any branch of the Government, to give it a greater efficiency. It is simply to get rid of particular men, to take away from them the offices or employments which they hold, and then without changing your administration or reforming it in the slightest particular, without attempting to reorganize it in any respect, so far as these particular officers are concerned, you propose to take into the hands of the Senate and of the President conjointly the power of appointing them.

Are we to go on hereafter upon the system which this bill indicates? Is it to be understood hereafter that for a party purpose, or for any other purpose, such as has been hitherto unknown in the history of the Government, Congress from time to time are to dismiss particular officers of the Government and then provide a new mode for their appointment by which illegitimate and alien interests will be consulted in the administration of the Government?

Sir, I am against this whole scheme. I do not believe Congress ought to meddle in any way with appointments to office. I think it is a duty that Congress cannot discharge. I think it is to be regretted that there is no provision in the Constitution which prevents the legislative department from meddling with persons who hold office in any way, except, perhaps, by abolishing the offices themselves in case reform is to be introduced into the practice of the Government. Having said what I proposed, Mr. President, I shall resume my seat.

Mr. CONKLING. I do not wonder that the tenure-of-office bill is, as obviously it is, a very tender subject with our friends on the other side——

Mr. BUCKALEW. If the gentleman will excuse me, I will say that so far as my information extends, and I have some on this subject, the majority of persons to be affected by this section belong to the gentleman's own party. There is no political interest involved for which I am taking care at all.

Mr. CONKLING. The Senator is not speaking of the precise thing of which I am speaking. I am speaking of that subject which is so very tender with him and with his party friends, naturally so, namely, that statute now upon the books which prevents the President of the United States from prostituting all the patronage of this Government for political purposes. That is what I am talking about; that is what my friend has been talking about; that is what he and leading Democratic gentlemen generally are very sensitive about, and very justly so, because if the work could have gone on as it commenced; if there had been no tenure-of-office bill; if the President of the United States and his friends had been able to put up for sale to be raffled for by politicians the whole patronage of the country, I have no doubt he would have been able to carry the business of demoralization and of political apostacy somewhat further than he did carry it, and therefore it is that on all occasions we hear from gentlemen of a certain political denomination a great outcry with regard to the tenure-of-office bill.

This morning, in the case of the distinguished Senator from Pennsylvania, it takes the form of a denial of my assertion that this act leaves the President the full power to purge public place of every scoundrel and of every inefficient man. That he denies, and that I repeat. I deny the assertion of the Senator when he says that this law implies that a man must commit a crime or that he must be absolutely—I believe his word was "totally"—incapable before he can be touched. Now let us see what it provides. He is to be "guilty of misconduct in office." What does that mean? Crime? Does it mean crime? No, sir; because the act proceeds, "or crime." The language is "misconduct in office or crime." What is "misconduct in office" as contra-distinguished from "crime?" Is it not any act of omission or commission in which the officer comes short in his official obligations? If it does mean that, suppose the act stopped there, I should like to know what power in addition to that you want to give to the Executive or to anybody else in order to hold public officers to their accountability. If a man, as a collector of the revenue may be removed in an instant for any act, for any omission, for any dereliction which cannot be squared with his whole duty in that place, what more do you want? That is what this act provides; and further, he may be suspended if "for any reason" he "shall become incapable"—not totally incapable, as the Senator says, but incapable in the ordinary meaning of that word—"or legally disqualified to perform its duties."

Now when may he be suspended? Always; in every case, there being no exception whatever, when the Executive, looking on with an impartial eye, finds that in any respect, weighing him in the balance he is found wanting. That is the case in which he may be suspended; and then the Executive, at a proper time, shall transmit to this body his reasons for that action. That is the only shackle or incumbrance on him.

I do not wish to pursue this matter; but I desire to say again that, in spite of any argument which can be made, this act leaves the responsibility where it was before; and whenever, in the end, the Senate shall overrule the Secretaries of the President or the President himself in removing men for cause, it will be high time to attempt in that way to get rid of responsibility, but it will not do now.

Mr. BUCKALEW. One word. I think the Senator's language——

Mr. HARLAN. I rise to a question of order. It is very manifest that this debate cannot terminate immediately, as was anticipated by the Senator who has this bill in charge, but I do not wish to interrupt the regular legislative business of the Senate by any remarks I have proposed to make; and I therefore move now that the regular order of to-day be postponed until Monday next at one o'clock.

Mr. BUCKALEW. I should like to know whether the Senator's motion is in order. I do not understand what the point of order is.

Mr. HARLAN. The Senator occupies the floor by sufferance merely.

Mr. BUCKALEW. I was not aware that I held the floor by sufferance. I supposed I held it by right, being assigned to it by the Chair.

The PRESIDENT *pro tempore*. A habit has sprung up here that perhaps is not recognized by any rule which we have, and that is, when the morning hour has expired and business is pending a motion is made to pass by the regular order informally for the purpose of finishing the business under consideration. I suppose it is generally understood that it is to continue but a short time; and without any design it has been permitted to go on in that way; but when it does go on I suppose the Presiding Officer loses all power over it, and it is like every other matter. I suppose the Senator from Pennsylvania is in order, and if he will not give way to a motion to proceed with the other bill or to take it up he is not obliged to do it.

Mr. BUCKALEW. I should have been through by this time. What I was going to observe was this: the language of the Senator from New York, in response to me, I think, is rather more vehement than forcible. He goes over the face of the statute to which I alluded and reads the words "official misconduct" and "crime" and "incapacity," the very three words which I supposed were there and upon which my argument was based. What I said before was that I supposed official misconduct indicates or means some offense, just as the term "misdemeanor" in the law indicates some offense against the particular statute which forbids the commission of misdemeanor by a citizen. I repeat, sir, that from the face of the statute you cannot impute any power to the President to remove a man from office because he is inefficient. I said it required that he should be totally incapable. I suppose it means that he shall be really incapable. That is all I meant by the term "totally incapable," if I used it. The prefix adds nothing to the meaning of the word. It shall be a case of incapacity disqualifying a person entirely from the performance of the duties of the office as prescribed by law; but if he is inefficient he cannot be removed, and just so in regard to the other language. This "official misconduct" must be something more than some mere impropriety; it must be something more than mere falling short of that standard of official capacity and official performance of duty required by the public service.

ORDER OF BUSINESS.

Mr. HARLAN. I now renew the motion I made, that the regular order be postponed until Monday next at one o'clock.

Mr. SHERMAN. Before that is done I

should like to know, in order to be guided in the dispatch of the public business, the probable length of the debate on reconstruction, and I should like, if possible, to get the sense of the Senate as to taking up another bill. I desire on Tuesday or Wednesday to call up the bill reported by me yesterday; and in order to give full notice to Senators I will move now that on, say Wednesday next, the funding bill be made the special order.

The PRESIEDNT *pro tempore*. The Senator from Iowa has a prior motion, which is to take up the special order of to-day for the purpose of postponing it to a future day.

Mr. SHERMAN. I hope the Senator will allow me to move to take up the funding bill with a view of postponing it until Wednesday, so that I may test the sense of the Senate on that question.

Mr. HARLAN. I have made this motion with a view of enabling the Senator who has charge of the pending bill to terminate it; and I think it is best that the regular order should go over, in order that we may complete the subject which has been under discussion to-day.

Mr. FESSENDEN. Will the Senator from Iowa allow me to make a suggestion?

Mr. HARLAN. Certainly.

Mr. FESSENDEN. The bill on which the Senator from Iowa is entitled to the floor is now the regular order of business; it is entitled to precedence. If the bill which has been under consideration this morning is suffered to go on and be finished that bill will then have precedence, and he can hold it as the special order by not proceeding to other business; but if it be now postponed until one o'clock on Monday it will lose its place if other business intervenes. I think he had better allow this bill to be proceeded with if he thinks it best to finish it, and then, if we adjourn over to Monday, that business which is the special order for to-day remains so.

Mr. JOHNSON. There is no arrangement depending upon me that I will not make at once to accommodate the honorable member from Iowa or the honorable member from Ohio. I have heretofore attempted to get before the Senate for disposal the case of my colleague. I had hoped to do so last Monday; but at the instance of several gentlemen who desired to participate in the debate on the reconstruction bill I then informed the Senate that I should not call the question before them again until that debate was closed. I rise now for the purpose of saying that when that debate is closed, or when the members who desire to address the Senate on that subject and have not yet addressed the Senate shall agree to permit me to call up the case of my colleague, I should do so; and when that debate is closed I will ask the Senate to act upon the case of my colleague. It has been pending a great while. The State is partly unrepresented. I hope he will be permitted to take his seat; but if he is to be denied his seat in the Senate it is my duty, and the right of the State that I should perform that duty, to have the decision made known to the Legislature now in session, that they may appoint some other Senator against whom perhaps the Senate would not have the objections which in the minds of some seem to prevail as against my colleague. I shall therefore, when the reconstruction debate closes, or when the members who propose to address the Senate on that question will permit, call up the case of my colleague, although it may postpone the consideration of the bill referred to by the honorable member from Ohio.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to postpone the pending bill and all other orders for the purpose of taking up the unfinished business of yesterday, being House bill No. 459, commonly called the supplementary reconstruction bill.

The motion was agreed to.

Mr. HARLAN. I now move to postpone the further consideration of the bill till Monday next at one o'clock.

The motion was agreed to.

Mr. CONNESS. I move now that the Senate resume the consideration of the bill which has been under consideration this morning.

Mr. SHERMAN. Before that is done I should like to have a day set for the funding bill, if possible.

Mr. CONNESS. I think it must be apparent to the honorable Senator from Ohio that he cannot, just at this time, fix a day for the consideration of that measure, in view of the pending debate. The debate, it is true, has been prolonged; but, considering the importance of the question and the number of Senators yet to be heard upon it who have not spoken, I think it will be impossible to fix the consideration of the funding bill for as early a day as the Senator proposes. He must know that the funding bill is a measure of great importance, which will lead to lengthy discussion. He cannot expect it to be concluded in a few days, perhaps not in a few weeks, and he had better, I think, pass it over at present until we can see the end, or nearly the end, of the debate which is now pending.

Mr. SHERMAN. I gave way with pleasure to the Senator from California; but I must say that I have already done what he has advised me to do, and therefore the advice falls, because it has already been profited by. I have already gone around and ascertained that the debate on the reconstruction bill will probably not occupy over two days more, so far as I can ascertain and learn from various Senators. The Senate has made up its mind, apparently, that a day or two days probably will afford all the time necessary to conclude that debate—that is what I gather from various Senators; or, at any rate, if the debate is to be very much prolonged, being in the nature of a political debate, there is no great pressing necessity to close it now, but it may as well be continued after the bill shall have been reported back as to go on now upon the question of reference, and I see no great objection to postponing it until after other bills of a more urgent character are acted upon. I do not care what day is fixed, but I prefer that some day should be set at which the Senate will feel disposed to take up the funding bill, so that we may prepare ourselves for that day; and I would suggest next Thursday, so as to allow one more day than I did before.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate proceed to the consideration of Senate bill No. 207, with a view of fixing a future day for its consideration.

Mr. FESSENDEN. I really hope that will not be done. We are already troubled with two questions that are unfinished, upon which there has been a great deal of debate, and I think both of them ought to be disposed of before we take up a bill of that importance. I hope the bill may be reached in reasonable season, although I do not perceive any very pressing necessity for it at the present time. I do not think there is, though I suppose on that point there is a difference of opinion between the Senator from Ohio and myself. But I have noticed that this appointment of days for particular bills frequently results in a loss or waste of time. I think the Senator from Ohio will let his bill rest on the table for a few days until we can finish the two questions to which I have referred, as we shall probably do in the course of the next week; the coast will be clear then for his bill. I am not willing, from the experience I have had here, to agree to assignments of bills for special days, having seen the infinite confusion and waste of time that is often thereby created.

I hope, with the Senator from Ohio, that the reconstruction debate can be finished in the course of a few days, and I think the question alluded to by the honorable Senator from Maryland ought also to be taken up and finished; it has been postponed now for some time. I suggest to the Senator from Ohio whether he had not better let this bill lie a few days to see the course these debates take before he presses the bill. It is certainly one with regard to which a week or two, more or less, will not be of very great consequence at the present time. It ought certainly to be taken up before the close of the session, but I see no immediate necessity for action, though of course the Committee on Finance are much better judges on such a point than other Senators.

Mr. SHERMAN. I do not wish, as a matter of course, to interfere with the order of business or with the disposition of the Senate as to the discussion of any bill before the body, but the pending debate on the reconstruction bill is rather under peculiar circumstances. That bill is not in charge of any committee, because it has not yet been referred, and therefore there is no one interested in calling for a vote on the pending question upon it. I have no doubt the reconstruction debate will go on for six months, interrupted only occasionally by some Senator getting before the Senate some bill in which he takes a direct interest, either officially or otherwise. The motion I made was at the suggestion of Senators, that some indication might be given by the Senate as to how long it would allow this general political debate, for that is the nature of it, to interfere with the ordinary course of business.

Now, in regard to the necessity of acting on the funding bill, I will state to the Senator from Maine that I do not intend to press that bill more rapidly than the sense of the Senate shall indicate, because I consider it to be a bill of great importance, and I desire to have it deliberately considered, and I do not wish to press it unduly; but at the same time it is important that the Senate should act upon it before the general appropriation bills and the tax bills come to us from the other House, when the pressure of the other important business of the session will be so great upon us as to prevent the deliberate consideration of the funding bill.

But, sir, I am perfectly willing to follow the suggestion of the Senator from Maine, and therefore I withdraw my motion, and now give notice that on Thursday next at one o'clock I will move to take up the funding bill; and I hope that the Senators who desire to participate in the discussion on the reconstruction bill will so arrange among themselves as to close that debate by Tuesday night, and then on Wednesday we can dispose of the election case from Maryland, and thus business will be left in such a position that on Thursday I may have the floor for the purpose of discussing the funding bill.

ADJOURNMENT TO MONDAY.

Mr. ANTHONY. I move that when the Senate adjourns to-day it adjourn to meet on Monday.

The motion was agreed to.

SUSPENSION OF SECRETARY STANTON.

Mr. CONNESS. I hope we shall now proceed with the bill which has been under consideration this morning.

Mr. ANTHONY. I believe there is no objection now to the resolution providing for printing the reports in the case of the suspension of the Secretary of War, and I move to take it up.

Mr. PATTERSON, of New Hampshire. Is there not a motion already pending before the Senate to go on with the consideration of the bill which was up this morning?

The PRESIDENT *pro tempore*. That bill was superseded by taking up other business.

Mr. CONNESS. But the motion to take it up again is pending, and the other business which has been interposed has been done by unanimous consent. Let the bill be taken up, and then the honorable Senator from Rhode Island can get his resolution considered by unanimous consent.

Mr. ANTHONY. Very well.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Rhode Island to make a motion.

Mr. ANTHONY. Yes, sir; and if my mo-

tion is in order I insist upon it. If it is not I shall submit to the ruling of the Chair.

The PRESIDENT *pro tempore*. The Chair is not aware of any other motion pending. The Senator from Rhode Island moves that the Senate proceed to the consideration of the resolution mentioned by him.

Mr. PATTERSON, of New Hampshire. I ask if that is in order? Was there not a prior motion pending before the Senate?

The PRESIDENT *pro tempore*. Not that the Chair is aware of.

Mr. CONNESS. I submitted a motion that the Senate proceed to the consideration of the bill in charge of the honorable Senator from New Hampshire. There has been some succeeding business, but it has been done by unanimous consent. I have said, however, that if the bill be taken up the honorable Senator from Rhode Island can get his resolution considered by general consent.

Mr. ANTHONY. Very well.

The PRESIDENT *pro tempore*. The Senator from California moves that the Senate resume the consideration of the bill (S. No. 269) in addition to an act entitled "An act to regulate the tenure of certain civil offices."

The motion was agreed to.

Mr. ANTHONY. Now I ask the unanimous consent of the Senate to take up the resolution to which I have referred. It will save time and trouble to dispose of it now.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent, there being another question pending. The Chair hears no objection, however, and the resolution will be read.

The Secretary read the following resolution:

Resolved, That ten thousand copies of the reports of the majority and minority of the Committee on Military Affairs and the Militia in regard to the suspension of Hon. Edwin M. Stanton from the office of Secretary of War be printed for the use of the Senate.

Mr. BUCKALEW. I move now the amendment which I mentioned on a former occasion, to include in the resolution also the message of the President of the United States to the Senate assigning his reasons for the suspension of Mr. Stanton.

Mr. ANTHONY. I have no objection to that.

Mr. HOWARD. There is no objection to it.

The amendment was agreed to.

Mr. HENDRICKS. I have no objection to the passage of this resolution, if the Senate thinks it ought to be passed; but I wish to ask of the Senator having the resolution in charge why he proposes to publish an extra number of copies of these documents? It is the first case, to be sure, or one of the first cases, under the tenure-of-office bill; but it is a case that is likely to occur very frequently hereafter, where the President suspends some officer and the Senate does not agree to the reasons he assigns for the suspension. Then are we to publish and send to the country, for the vindication of somebody, either the President or the officer, extra numbers of the documents in all such cases? What is there in this? Is it on the idea that the Secretary of War is a high officer? A collector of revenue may be a high officer, or he may be a low officer, and yet his vindication before his people is a thing that is as dear to him as a Cabinet officer's reputation can be to him. Is it to be understood that we are going to publish extra numbers of the correspondence that shall take place whenever there is a suspension from office? I have no objection to the publication; but the papers are all before the country now, so far as that is concerned, and I do not see that the public interests are to be promoted by the commencement of the policy of publishing documents in all these cases.

Mr. WILLIAMS. I do not like much to interfere with this business of printing; it may be that it is a question upon which I am not competent to decide; but I concur with what the Senator from Indiana has said about the necessity of printing this large number of these reports. The document is perhaps a valuable one in one point of view, but it certainly does not convey any great amount of information to the people; and there are no persons in this country, I presume, or certainly but few persons who take interest enough in political matters to know what is transpiring in Congress, who have not already read and examined these reports. They were upon an exciting question; they were published in all the newspapers; they were read everywhere; they have been commented upon, and the people understand what they contain. The public printing business, as it appears to me, has vastly accumulated; it imposes a large tax upon the public Treasury; and although this particular document may not involve the expenditure of any very great amount of money, yet we might as well begin to stop the small leaks if we can, and then we shall be prepared to approach the larger ones, and establish, if possible, retrenchment in this respect. I know that there are many documents which are valuable, which ought to be preserved, which are valuable for reference, for the information which they contain; but so far as this report is concerned, it seems to me to be an unnecessary expense to publish it and tax the Treasury with the amount necessary to pay for the publication.

Mr. CONKLING. I should like to inquire of the honorable chairman of the Committee on Printing how much it will cost to publish the number proposed of this document.

Mr. ANTHONY. The original resolution as reported by the committee would involve a cost of from sixty-five to seventy dollars. I do not know how much the printing of the President's message will add to it; but any Senator can judge. I do not know how much this debate has cost; but I think it has cost a good deal more than it will to print the document.

Mr. POMEROY. Are all these documents to be printed in one pamphlet?

Mr. ANTHONY. Yes, sir.

Mr. POMEROY. Then I am opposed to the whole of it. I would not send out one of them.

Mr. CONKLING. I am opposed usually to extra printing. I shall vote for this, however, and I beg to state why. I think if this document is printed in extra copies the people more generally may see it, somewhat more generally than they have already, and I want them to see it, because I want them to know how the tenure-of-office bill works. We have heard a good deal about that this morning; we hear about it very frequently; and I think this is a very good opportunity to explain to the public the workings of that statute. They will be able to see from this how far the President is hampered in removing men for cause; and they will be able to see for what class of reasons he does interfere with officers and attempt to expel them. They will also be able to see the grounds upon which the Senate act in holding some check upon presidential power. I do not think there will ever be a better illustration of it.

Senators say it will often occur. It will not often occur in a pioneer case like this, in a large case which is in the white of the public eye, as this has been. It has the charm of novelty, and it is quite large in proportion; and therefore I think it is an excellent occasion to put out a general advertisement of the workings of the tenure-of-office bill, to the end that the people may see whether it is true on the one side that the purpose of that law is to keep honest men in office, or whether it is true as alleged on the other side that the purpose is to prevent the expelling of dishonest and inefficient officials. Therefore I wish to have the extra copies printed and circulated.

Mr. POMEROY. I hope this resolution will be indefinitely postponed. I cannot see any reason why we should now proceed to publish this document. In the first place, every word of it has been published. You cannot get any newspaper to publish it now without paying for it, because it has already been published. Of course, the expense of printing this document will be very small; perhaps it will not exceed one hundred dollars; but why publish it at all? If the Senate intends to do up a package of these things and send my proportion of them to my committee-room, I give notice that I will not send out one of them. I do not send out to my constituents any speeches that I do not like myself. I do not gather up all speeches and messages that are opposed to me and send them out. I send out nothing that I do not believe in and consider to be right. I send out such documents as I believe will do good, not such as I believe will do hurt. I believe half of this document will do injury wherever it goes.

Mr. CONKLING. Will not the other half counteract it?

Mr. POMEROY. I do not send out medicine in that way. I send out such things as I think will do good, such as I believe in. If you do up these things together I would not have them circulated at all. I move the indefinite postponement of this resolution.

Mr. ANTHONY. I am quite indifferent personally what disposition the Senate makes of this resolution; but I wish to have it disposed of. It was thought by the committee that inasmuch as this was the first case under the tenure-of-office law, and a case of very great importance, in which the matter had attracted the public interest very largely, and as it was fully argued in the reports, and especially as the resolution proposes to publish a document embodying the views of both sides, since it has been amended very properly on the motion of the Senator from Pennsylvania to include the President's message, it would be a fair document for publication, especially as the cost is very slight.

But, sir, I wish to correct one error into which my friend from Oregon has fallen, and which everybody else seems to have fallen into—and I can never get anybody to listen to me when I attempt to correct it—and that is that the congressional printing has enormously increased. The congressional printing is less to-day than it has been at any time since I have been connected with public affairs, and I believe I have been on the Printing Committee during the whole period of my service here. The reason why the cost of public printing looms up so largely in the public eye is that now, since we have all the printing done at the Governmental establishment, it takes in all the Department printing. The printing of the Treasury Department alone is enormous. All the blanks, all the forms, all the returns for the internal revenue are printed at the Government Printing Office; and then, when the total is laid before us, people exclaim, "How enormously extravagant Congress has been in printing public documents!" The fact is that there are fewer public documents printed now than ever before since I have been connected with that department of the public service. Documents of which we formerly printed ten thousand are cut down by law to four thousand, three thousand, or two thousand, and some of them are not printed at all.

I have attempted several times to correct this misapprehension, which is very general, and seems to be nowhere more prevalent than among Senators, who ought, before they make such statements, to examine the report of the Superintendent of Public Printing.

Mr. HOWE. Mr. President, I am in hopes that this resolution will be agreed to by the Senate, not that I am so very anxious to have these reports go to the public, not that I think the safety of the nation depends upon their going to the public. I am well satisfied the Republic would exist if these reports were not sent out; but I should be extremely sorry to see the Senate of the United States refuse to send these papers out. They all belong together; they are the statement of one case.

A year ago you put upon the statute-book a law intended to restrict the power of the President over the patronage of the Government, over the officers and offices of the country; and under the provisions of that law the President undertook to remove from office an obnoxious Secretary. In accordance with the provisions of that law he felt called upon to

communicate to the Senate, and did communicate to the Senate, what he said were his reasons for removing him. That communication was referred to a committee of this body, and the committee has reported, and the Senate has passed upon the case. I think a due respect on our part to our own decision calls upon us to submit our reasons for our action to the public. For my own part I have sufficient confidence in the correctness of our conclusion to let it go to the public, to let the public see not only the conclusion but the reasoning upon which that conclusion was adopted.

I think that all three of the papers ought to go to the public—the President's communication, the report of the majority of the committee, and the report of the minority, because they all go to make up the case. The case is incomplete without them all. If one paper goes the whole should go, that the public may hear both sides of the questions presented, and may pass, in view of the presentation of both sides, upon the action of the Senate. And I think this is more than all necessary and proper to be done at the present time because the public has recently been informed by a correspondence laid before it that while the President conceded that his power to remove that particular Secretary was taken from him by statute; while he conceded that without the consent of the Senate he could not remove that officer; while he conceded that he could do no more than suspend him from office temporarily; and conceded that he was compelled by the law to submit his reasons for doing that to the judgment of the Senate, and while he did submit them to the judgment of the Senate—I say there has been laid before the public a correspondence in which the President, to my mind, openly confesses that all that time, while he was attempting to get rid of the Secretary of War in accordance with the requirements of the tenure-of-office bill, he was engaged in a conspiracy to exclude the Secretary from that office in spite of the provisions of the tenure-of-office bill and in defiance of the decision of the Senate, let the decision of the Senate be what it might. So much is patent to the public to-day upon the confessions of the Executive himself.

That being the state of the case to-day, it seems to me that the public should know whether this Secretary has ever been charged with anything so very criminal as to make it essential to the public safety that he should be excluded from office, in defiance of the will of the Senate and in defiance of the statutes of the land; and for that reason I want not only the President's alleged reasons for suspending him sent to the public, but I want the answer which has been made to them on the part of a committee of the Senate also to go, and the defense of those reasons which was made by the minority of the committee.

Mr. BUCKALEW. As I understand the correspondence to which the Senator from Wisconsin has referred, it justifies a statement exactly opposed to that which he has made upon one point. I understand from it that the President asserts that he had power to suspend Mr. Stanton independent entirely of the act of Congress commonly called the tenure-of-office law, and that in exercising his power of suspension he did not necessarily proceed under the provisions of that law; that, although this act was done by him under his general constitutional power, there was no impropriety in submitting his reasons for the act to the Senate of the United States for their consideration.

Now, sir, I took particular notice of that part of the recent correspondence, because it concurred exactly with my own opinion on the subject of the power of suspension as it is now vested in the President of the United States. In my opinion, before the tenure-of-office law was passed, the President of the United States had the power to suspend any officer from his office where the tenure was not fixed. The power to remove which then existed in him, or was supposed to exist in him, included the power of suspension on the familiar principle that the greater includes the less. Now, therefore, any person, whether President or citizen, who denies the constitutionality of the tenure-of-office law, who holds it to be null and void under the Constitution of the United States, may yet well affirm a power in the President of the United States to suspend the Secretary of War, or almost any other public officer, from the exercise of his official duties. The message of the President transmitted to the Senate, which it is now proposed to print, does not state that this suspension was made under the tenure-of-office law, and does not ask the Senate to pass judgment upon the act that he has performed. It is simply a message which it was competent for the President of the United States to transmit to the Senate with reference to his official conduct, whether that law be accepted as a valid law or not. He suspended Mr. Stanton from the exercise of the duties of his office, and he made that suspension for particular reasons. He transmitted a message to the Senate informing us what those reasons were, and the case is left at that. The Senate thought proper—but it was an act of its own; I suppose it understood that it was its duty under its own law—the Senate proceeded to take up the case of Mr. Stanton and to express its judgment upon it by a resolution, and transmitted that resolution not only to the President of the United States but to the removed or suspended Secretary of War and also to General Grant.

Now, the point I mean to put is this: that those who hold, with the President of the United States, that the tenure-of-office bill is unconstitutional and invalid, and who may desire that the question of its validity should be tested by the only department of the Government which can pass upon it, to wit, the Supreme Court of the United States, are not concluded by anything which has been done by the Congress of the United States on this subject. From their point of view, they may insist, and I understand he does insist, that that suspension can stand upon his general powers as President of the United States; that it was a valid and proper act independent of your statute; and that whether we agreed or disagreed with the President of the United States, the transmission of a message upon that subject to us was an appropriate proceeding. The Senate, of course, accepting that law as valid, had put in its possession the means of action under that law and did proceed to act, and the action of the Senate has had practical effect so far; but the case stands undetermined with reference to the validity of that law. That is a point that we need not go into at present.

But in publishing these papers, the message of the President and the reports of our committee, and sending them out to the judgment of the country, the point I make is that upon the face of the President's message he is not concluded against questioning your law; I mean he is not concluded against asking a decision upon it by a judicial tribunal in the proper manner. The act which he has done of suspension, and his message to the Senate on the subject, may well stand good, may well be held to have been appropriate, although he or some person representing him should go before the Supreme Court of the United States questioning the validity of your law——

Mr. HOWARD. Will the gentleman from Pennsylvania answer me a question?

Mr. BUCKALEW. I always give way to a proper question.

Mr. HOWARD. The honorable Senator seems to insist that the power of removal includes the power to suspend under the technical legal principle that the greater includes the less. Will he inform the Senate whether there be any precedent in the whole history of the Government, from the beginning down to the present time, of a mere suspension of an officer by the President, whether such a principle has ever been put in practice?

Mr. BUCKALEW. If the Senator asks me if I can put my finger on a particular case——

Mr. HOWARD. That is the question I put.

Mr. BUCKALEW. I say to him I cannot; but I desire to accompany that statement with another, which is that I believe officers have been frequently suspended temporarily pending inquiry into their official conduct. I am unable to state any case, but the impression of my mind is that it has been often done.

Mr. HOWARD. I do not propose to argue that question with the Senator now. I do not uphold any such principle. The officer must be removed under the old law, or be permitted to remain.

Mr. HOWE. I propose to argue it with the Senator from Pennsylvania now. I deny that there was any power in the President of the United States to suspend a man from office before the tenure-of-office bill was passed. I deny that the general principle of law which the Senator from Pennsylvania cites applies to that case. Instead of its being a case of the greater including the less, it is a case of the less including the greater. The power to suspend is not the lesser power; it is the greater one. The statute did confer upon the President the power to remove a Secretary; and when he had removed a Secretary, by the act of removing a Secretary he created a vacancy, and therefore he was authorized by the Constitution to fill that vacancy temporarily by an appointment which should last just so long. But the power to suspend is a very different one. The power to suspend is a power to create two Secretaries, or rather to have two Secretaries at the same time; for suspending an officer, independent of the statute, does not create a vacancy in the office, does not terminate the salary. He would still be entitled to his salary; and yet if the President had the power to suspend and put another man in his place the other man must have a right to the same salary; and so this power of suspension, which was claimed as an incident of the power of removal, was a power which, uncontrolled by statute, would enable the President to have two Secretaries for each one of the Departments under the Government.

Mr. HOWARD. Any number.

Mr. HOWE. Yes, as said by my friend, any number. He could suspend as long as he pleased, though perhaps he could not get but two on the pay-rolls, and I do not know that he would be able to do more than that. No, Mr. President, I dissent entirely from the idea that there was a power of suspension independent of the tenure-of-office bill. I do not undertake to affirm that the President might not by possibility be made to think he had such a power; but I am inclined to think that that idea never occurred to him until long after Mr. Stanton was suspended. But the simple fact is that Mr. Stanton was suspended after the passage of the tenure-of-office bill. Whether, in suspending him, the President did, in fact, act upon the provisions of that law or not, of course we cannot try here or elsewhere; but he suspended him in accordance with the terms of that law after that law was passed; proceeded, just as that law directed him to proceed, to submit the reasons for doing it to the Senate of the United States, and he put in his place another officer, just as that law empowered him to do, to act *ad interim*. He did all these things just as the law prescribed; he did things which were never done, I undertake to say, in the history of the Government before that act was passed, and which I submit confidently, as a matter of law, there never was any authority for doing until that law was passed.

And yet the Senator from Pennsylvania would have us believe that, acting in this way, he acted upon the belief and in the faith that really he was not governed by the tenure-of-office bill at all; that he was independent of that, and had authority for doing all these things independent of that. Of course it would not be safe for us to say that he knew he was conspiring against the terms of that law. I do not want to say that. I know how easy it is for a man to affirm his belief in his

right to do whatever he thinks it pleasant to do. I remember very well hearing of a very conscientious gentleman who was in the habit of turning his horse into his neighbor's demesne. His neighbor found him there so frequently that he rather suspected the owner of the horse of doing it on purpose. He watched one night and found the gentleman riding up to his fence and taking down the bar very deliberately and taking his saddle off, and just as he was going to slip the bridle off and let his horse in, he stepped up and confronted him and said: "You do not really mean to turn your horse into my demesne, do you?" He was a little staggered at first, but after a moment's reflection he said he would like to know if he had not a right to turn his horse into his demesne? [Laughter.] The President can confront us in the same way; but after all his case would look to me just as though he never supposed he had the right until he found it necessary to defend the purpose which he confessed to, and that is, of excluding the Secretary of War from that office in defiance of the terms of that law, and in defiance of the judgment of the Senate, which he himself had invoked. Of course, it would be asking too much of the President to ask him to confess to the whole country that he was attempting to do these things, knowing he had no right. The least his party friends could ask of him would be to assert his belief in his right to do that. I do not think they had better be particular at all as to how he founds that right. He ought, in justice to his friends, to assert that he really had it. I do not believe he has any such right. But he has confessed to a purpose of exerting that power. Now, I want the country to see the case upon which he undertook to act. I want them to see the reasons which he assigned himself for wishing to get rid of the Secretary of War, and the answer to those reasons.

Mr. CONNESS. I hope we shall come to a vote on this question of printing in order that we may resume the consideration of that other bill, which is so important, which was laid aside to allow this resolution to be disposed of.

Mr. ANTHONY. I wish to say a single word, inasmuch as a question is raised with regard to the cost of the public printing. I confess it has but little more reference to this question than the rest of the debate. The whole cost of the public printing is $1,630,000, of which there was ordered by the Senate $156,000 and by the House $454,000, and of these two amounts a very large proportion was printed to supply the Departments and bureaus with documents that emanated from them respectively. The whole amount of public printing ordered by the Senate cannot exceed one hundred and fifty thousand dollars per annum.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas, to postpone the resolution indefinitely.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the adoption of the resolution.

Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Drake, Edmunds, Fessenden, Harlan, Henderson, Howard, Howe, Johnson, Morgan, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, and Yates—27.

NAYS—Messrs. Bayard, Conness, Cragin, Davis, Dixon, Ferry, Frelinghuysen, Hendricks, Morrill of Vermont, Ross, Willey, and Williams—12.

ABSENT—Messrs. Cattell, Corbett, Doolittle, Fowler, Grimes, Guthrie, Morrill of Maine, Morton, Norton, Pomeroy, Saulsbury, Sherman, Sprague, and Wilson—14.

So the resolution was adopted.

GOVERNMENT AGENTS.

The PRESIDENT *pro tempore*. The bill (S. No. 269) in addition to an act entitled "An act to regulate the tenure of certain civil offices" is now before the Senate, as in Committee of the Whole, the pending question being on the amendment offered by the Senator from Indiana, [Mr. HENDRICKS,] to strike out the third section of the amendment reported by the committee.

Mr. ANTHONY. I wish to ask the Senator who has this bill in charge one question. If I read the bill correctly, all the offices designated here are to be vacated in ten days from the passage of this bill.

Mr. PATTERSON, of New Hampshire. Yes.

Mr. ANTHONY. Is there any provision made for the continuance in office of the present incumbents between the time of the expiration of their offices and the confirmation of their successors? Do they remain in office until their successors are confirmed?

Mr. PATTERSON, of New Hampshire. There is no provision of that kind in the bill.

Mr. ANTHONY. Ten days is a very small length of time, it seems to me, for us to decide upon the qualifications of so great a number of officers. I make the suggestion. I suppose the Senator has given the subject consideration. I have not.

Mr. JOHNSON. I made the suggestion to my friend from New Hampshire that I thought ten days was too short a time, and suggested to him twenty days. These agents are all over the country, some of them in the most distant parts of the Pacific coast. I do not see how they can be notified. They will go on, therefore, practically to discharge the duties of their offices with citizens of the United States or others with whom they have a right, if they are in office, to enter into agreements, and then it may turn out, and it will turn out, that everything they have done or may do after the expiration of ten days from date, if we pass the bill to-day, would be void, and it may therefore operate very prejudicially to parties with whom these agents may contract. I should suppose twenty days would secure us against anything of that sort, and if the honorable member from New Hampshire has no objection I will propose twenty days instead of ten.

Mr. PATTERSON, of New Hampshire. As the bill was originally drawn it stood thirty days instead of ten days; but, on consultation with members of the Senate, and also with some of the heads of the Departments, it was understood that ten days was ample. All on this side, certainly, of the mountains can receive proper notification of the termination of their offices in that time by letter; those on the other side by telegraph, and there are but very few of them. I think ten days will be sufficient.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The amendment to the amendment was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the committee as amended.

Mr. HENDRICKS. Which amendment was that we just voted on?

Mr. JOHNSON. I did not propose an amendment. The Chair was under a misapprehension. I only made a suggestion to the member from New Hampshire; so that really the question before the Senate is whether they will adopt the amendment of the Senator from Indiana, to strike out the third section.

Mr. FESSENDEN. That is what we have just voted on.

The PRESIDENT *pro tempore*. That was the question stated and voted on, and the Senate refused to strike it out.

Mr. HENDRICKS. I did not so understand it. I thought it was another amendment.

The PRESIDENT *pro tempore*. The Chair will put the question over again if there is any doubt about it. The question is on striking out the third section of the amendment reported by the committee.

The amendment to the amendment was rejected.

The amendment of the committee, as amended, was agreed to.

Mr. ANTHONY. I ought to know, but I do not understand in the various amendments this bill has undergone whether the post route agents are excepted from its provisions.

Mr. RAMSEY. They are all provided for.

Mr. PATTERSON, of New Hampshire. The amendment was made that was suggested by the Senator from Vermont [Mr. EDMUNDS] in that respect.

Mr. ANTHONY. Does that except all route agents or only a certain number?

Mr. PATTERSON, of New Hampshire. As it now stands the Postmaster General has a right to appoint all whose salaries are less than one thousand dollars; all over that have to come to the Senate for confirmation.

Mr. COLE. The objection to the bill as it now stands, to which attention has already been called, would suggest the necessity for an amendment which I shall propose. In the first line of the bill I move to strike out the word "ten," which precedes the word "days," and to insert the word "thirty;" and also in the fourth line of the third section to strike out "ten" and to insert "thirty." It is very clear to my mind that it will be utterly impossible for the places of those who are now occupying these offices that are to be vacated to be filled within the space of ten days. Those officers are now discharging very important duties for the Government and are rendering, so far as those on the Pacific coast are concerned, very important service. I am opposed to the bill, even though it should be amended; but this amendment, it strikes me, is very essential for the reason stated.

In support of what I have said in behalf of the officers on the Pacific side I will call attention to a statement which I have received from the Treasury Department in reference to the whisky tax. The amount of tax upon whisky collected in the ten districts included within the cities of New York and Brooklyn—that is, the first nine districts of New York and the thirty-second district of New York—reached last year the sum of $1,867,032. The amount collected in the San Francisco district, the first district in California, during the same period was $1,803,458. Nearly as much was collected in that one district as was collected in all the ten districts in New York included in the cities of New York and Brooklyn.

The fact that so little of that tax is collected in the cities of New York and Brooklyn may be a strong reason why this bill should pass, but it seems to me no remedy is to be found in this direction. I do not see how the matter is to be mended by the passage of this bill. These officers are appointed by the same authority that will have the appointment of their successors. They are appointed by the executive department of the Government; and it must certainly be remembered by Senators that under this bill as it now stands the President will have the nomination of all of them. The President may designate whomsoever he pleases, and may appoint his friends, if you please, or persons that are perhaps as unfaithful to the Government as those who now occupy the offices in the cities to which I have referred, and there is no remedy. The Senate may continue to reject the nominations, but that will not effect a remedy, because the President has the nomination of the officers in his own hands, and the power of the Senate is purely negative. We can reject; we cannot select.

I do not see for my part why the Democrats here should object to the passage of this bill. It will certainly be to their advantage as a party movement to have it passed. It will certainly turn out of office three Republicans to one Democrat, and if the bill is passed for the purpose of getting rid of the one fourth Democrats who fill these places it is not very likely that the President, operating with the Democrats, will nominate Republicans again for the places. That is not to be supposed. It cannot be expected that he will pursue that course; and we shall find ourselves embarrassed by having these places vacant or being compelled to fill them by our political opponents. It is with

some reluctance that I refer to the political view of any question before this body, but certainly this strikes me so forcibly that I cannot but mention it in this connection.

For these reasons I am opposed to the bill, but if it must pass it certainly ought to pass with the amendment I have designated, namely, substituting thirty days for ten days.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from California, in section one, line one, and also in section three, line four, to strike out the word "ten" before the word "days" and insert the word "thirty."

The amendment was agreed to; there being, on a division—ayes 21, noes 7.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

Mr. HENDRICKS. With a view to taking the yeas and nays on the subject, I move to strike out the third section—the same amendment which I proposed before.

The PRESIDENT *pro tempore*. The amendment made in Committee of the Whole has been concurred in in the Senate, and it is not in order to move to strike out that section.

Mr. HENDRICKS. This whole thing is an amendment, I understand.

The PRESIDENT *pro tempore*. The Senator can move a reconsideration.

Mr. HENDRICKS. I make that motion. I was misled by the fact that the whole bill is an amendment.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to reconsider the vote by which the amendment made as in Committee of the Whole was concurred in.

The motion was agreed to.

Mr. SHERMAN. As the Senator says he did not understand the state of the case and wants simply a vote of the Senate I think we ought to give it to him. I shall vote against his motion.

Mr. HENDRICKS. I desire to have the yeas and nays on this motion to strike out the third section. I supposed that the amendments that had been agreed to in committee were the verbal amendments which had been made. I did not think of the whole bill being an amendment. It is rather exceptional for a whole bill to be reported as an amendment, and therefore I was misled. However, I am not very particular about it.

The PRESIDENT *pro tempore*. The Chair has no control over it, and the Senate have refused to reconsider its vote.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. COLE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 9; as follows:

YEAS—Messrs. Anthony, Cameron, Chandler, Conkling, Conness, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, and Yates—32.

NAYS—Messrs. Bayard, Buckalew, Cole, Davis, Dixon, Hendricks, Johnson, Patterson of Tennessee, and Ross—9.

ABSENT—Messrs. Cattell, Corbett, Doolittle, Fessenden, Fowler, Grimes, Guthrie, Morton, Norton, Saulsbury, Sprague, and Wilson—12.

And so the bill passed.

BRIDGE AT LA CROSSE.

Mr. RAMSEY. There is on the table of the Senate a bill (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river and establish a post route. It is a House bill, reported favorably by the Committee on Post Offices and Post Roads of the Senate, and I hope it will be taken up and passed. I do not suppose it will occupy five minutes time. I move to take it up for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the Southern Minnesota Railroad Company, a corporation existing under the laws of the State of Minnesota, to construct and operate a railroad bridge across the Mississippi river, between the city of La Crosse, Wisconsin, and a point opposite, in the State of Minnesota, with the consent of the Legislatures of the States of Minnesota and Wisconsin, and the bridge thus authorized to be constructed is declared a post route and subject to all the terms, conditions, restrictions, and requirements, and entitled to all the privileges named in an act approved July 25, 1866, entitled "An act to authorize the construction of certain bridges and to establish them as post roads."

Mr. TRUMBULL. I should like to inquire if the act referred to in the bill is the general one authorizing bridges on the Mississippi?

Mr. RAMSEY. It is the general bill in relation to bridges on the Mississippi river; and this bridge is to be subject to all the restrictions, conditions, and requirements imposed by that act.

Mr. TRUMBULL. I did not know whether that was the act referred to.

Mr. RAMSEY. That is the act.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. MORRILL, of Maine. I should like to know how it happens that the Committee on Post Offices and Post Roads have taken to building bridges?

Mr. RAMSEY. Because the Mississippi river is a navigable stream, and it requires the authority of law to cross it.

Mr. MORRILL, of Maine. That is a commercial question, and not a question of post offices and post roads.

Mr. RAMSEY. In the judgment of the Senate the Committee on Post Offices and Post Roads were better informed on that subject and a more safe depository of that question, I imagine. [Laughter.]

Mr. MORRILL, of Maine. I propose, with submission to the honorable Senator, to try that question with him, whether that is the judgment of the Senate.

Mr. RAMSEY. Very well.

Mr. MORRILL, of Maine. I maintain there is not the slightest authority, either in law, Constitution, or precedent, for any such action. It never was pretended in this Government any where, at any time, under any circumstances, that the Government had any authority to build a road or a bridge under the power to establish post roads. The establishment of a post road is simply the authority to carry the mails over roads that are constructed. It never was construed, and there is not an instance in the whole history of the Government where it was ever supposed that this power gave the Government the slightest authority to make a road. Now, when you come to the question of bridging a navigable stream, is that a question that belongs to the Post Office Department? Why, sir, it is commercial. Whether you can afford to throw a bridge over a navigable stream at a particular place is a commercial question, emphatically and peculiarly.

I make these remarks simply that the honorable Senator shall understand that hereafter I propose to question his authority.

Mr. RAMSEY. The Senator from Maine says there is no precedent for this. He certainly could not have been here during the last Congress when the act of July 25, 1866, was passed and all the bridges on the Mississippi were authorized.

Mr. MORRILL, of Maine. It is high time, if the honorable Senator has been practicing this, and it is his good nature and persistency that have got these bills through the Senate, that we should understand it. It is the first time I ever understood he was dealing in any such way. I do not know that I shall make a motion to refer this bill to the Committee on Commerce; but I do not want it to be understood, as a matter of course, that these bridges are to be thrown over navigable waters at the instance of the Committee on Post Offices and Post Roads. As my attention is called to this bill, let us see what its provisions are. I will read it if the Senate will indulge me:

"That the Southern Minnesota Railroad Company, a corporation existing under the laws of the State of Minnesota, is hereby authorized to construct and operate a railroad bridge across the Mississippi river, between the city of La Crosse, Wisconsin, and a point opposite, in the State of Minnesota, with the consent of the Legislatures of the States of Minnesota and Wisconsin; and said bridge by this act authorized to be constructed, is hereby declared a post route and subject to all the terms, conditions, restrictions, and requirements, and entitled to all the privileges named in an act approved July 25, 1866, entitled 'An act to authorize the construction of certain bridges and to establish them as post roads.'"

I think my honorable friend will hardly say that a bill to authorize the construction of a bridge which does not contain within itself the provisions, stipulations, and conditions upon which it may and ought to be constructed is exactly a suitable thing to be done. This bridge is to be built according to some other bridge built somewhere else. It does not follow that a bridge that may be suitable at one place will be suitable in another, by any means. This bill refers to a bridge which was authorized to be constructed somewhere else. The Senate ought to know whether this is a proper thing to be done at this particular place; whether it will interfere with the commerce of the great father of waters. That is the question; and I want the honorable Senator to understand that that is a question of commerce, and it is paramount to the consideration of carrying the mail; and the Senator, as chairman of the Post Office Committee, is not presumed to know anything about the wants of that river for commerce, [laughter,] notwithstanding all he knows on the question of carrying the mails on which he is supreme, and I defer to him entirely on that. If the chairman of the Committee on Commerce were here and knew of this, the Senator would hear what he will not hear now. [Laughter.] I do not feel any great interest in this particular thing; but I do say no graver question can be presented to the Senate. Who has the jurisdiction now over this question of placing obstructions on our internal waters? because a bridge is an obstruction any how. Is that a question of carrying the mails? If this committee have got into that business, they had better get out of it. It does not belong to the Committee on Post Offices and Post Roads, and I give the honorable Senator to understand that I shall antagonize him every time he undertakes to exercise that jurisdiction. If he has got bills through of this character before, I am satisfied the Senate did not understand them.

Mr. JOHNSON. They voted on faith.

Mr. MORRILL, of Maine. Of course. The Senator from Minnesota is almost always right, is very apt to be right; and I suppose the Senate took it for granted that his bills were right. I do not know how I came to listen to this one, but I did. Now I suggest that this bill really ought to go to the Committee on Commerce. I have no reason to believe, and do not believe, there is anything particularly injurious in this bill; but I submit to the honorable Senator that it is not a proper thing to undertake to pass a bill to authorize the construction of a bridge at a particular place on the Mississippi river far up as this is. I do not know what the character of it is—and to make the terms and conditions of it depend upon another bill for the construction of a bridge at an entirely different place—it is that loose kind of legislation which never ought to be authorized, I submit. I had two objects in rising: one was to protest against this jurisdiction and the exercise of it hereafter; and the second was to point out this defect in this bill.

Mr. RAMSEY. I am sorry that my honorable friend from Maine is so very short in his memory. He has voted for every proposition for bridging the Mississippi river that has heretofore passed this body and passed Congress. Then, again, he is locking the stable after the

horse has been stolen, to use a homely simile. If this bridge be an interruption to the navigation of the Mississippi river, it is too late to complain, for that has already been effected. In the act of Congress of July 25, 1866, to which this bill refers, the commerce of that great river was, as we thought, effectually preserved and guarded. The committee had before them the chief engineers operating and having charge of the survey and improvement of that river. The subject was thoroughly and entirely investigated.

Mr. JOHNSON. Was that bill of July 25, 1866, reported from the Committee on Post Offices and Post Roads.

Mr. RAMSEY. Of course, and was passed by Congress, and has been the law ever since that time. All these matters have been referred to the Committee on Post Offices and Post Roads. This subject of bridging the Mississippi and all the great rivers of the West was thoroughly considered by that committee. General Warren, formerly, as we all know, in command of one of the great corps of the Army of the Potomac, a distinguished engineer of great experience, long employed in the survey of the Mississippi river, and who understands the whole theory of the navigation of the river, and of the interruption to that navigation by bridges, was before the committee. The committee framed the law in such a way that the bridges should by no means interfere with the navigation of the river; that they should be draw-bridges, and that is the provision which has been reincorporated into this bill; that there shall be a space of one hundred and sixty feet on either side of the pivot pier of the bridge; that there shall be fifty feet in the highest stage of water between the surface of the water and the bridge itself; and that from pier to pier the ordinary span shall be two hundred and fifty feet. All these things have been carefully and thoroughly provided for; and the honorable Senator from Maine has always voted for those bills; and it is the most remarkable thing that he has just now discovered any interruption to commerce in them.

Mr. CONNESS. I think the honorable chairman of the committee on which I have the honor to serve, the Committee on Post Offices and Post Roads, misapprehends the Senator from Maine entirely. The Senator from Maine intended a joke, and probably has provoked some merriment at the expense of our committee. He certainly has not raised this question of the jurisdiction of the two committees for any other purpose. The difficulty in his case is that he has engaged in taking a character that does not become him at all, the character of Rip Van Winkle; for he is a Senator who never sleeps, who is always vigilant; and he can scarcely afford to take that character. He has failed in taking it, evidently, palpably. When he has stated to us that the consideration of a measure of this kind is a question of commerce, and therefore belongs to the Committee on Commerce, I know with the Senator that that able committee is entirely competent to consider those questions involving the construction of bridges over our rivers had it been the habit of the Senate to refer those questions to them; but the contrary is the case. If it had been the pleasure of the Senate to send bills involving the construction of bridges to the Committee on Commerce I for one, as a member of the Committee on Post Offices and Post Roads, should have been very glad; but the contrary has been their habit. They have never referred one of them to that committee. The result has been that they have been uniformly considered by the Committee on Post Offices and Post Roads, and it may be said to the credit of the present chairman of that committee that he has examined these cases with great closeness and exactness; that no step has been taken, no recommendation has been made, involving a bill of this character but upon the closest and most thorough investigation. I undertake to say that no legislation has been more carefully considered than the bills involving the right to construct these bridges have been by this committee. As stated by the chairman, distinguished engineers have been employed and brought here to give proof, and there is not now a complaint from any source whatever touching the legislation, so important, heretofore had on this subject.

Hereafter, when a bill comes here involving this question, if it shall be the pleasure of the distinguished chairman of the Committee on Commerce, now absent, or of the honorable member from Maine, who stands next on that list, to ask its reference to the Committee on Commerce, for one I certainly shall not object. But the Senator certainly jested when he undertook to underrate the capacity of a committee composed of his colleagues and associates in the Senate——

Mr. MORRILL, of Maine. I should like to know whether the Senator represents me as saying that?

Mr. CONNESS. I understood that to be the drift of the Senator's position.

Mr. MORRILL, of Maine. I said no such thing.

Mr. CONNESS. I am very glad to hear the Senator say that. There can certainly be little objection to the passage of this measure; but if the honorable Senator has any doubt of it, and will ask it to be laid over until another day in order to examine it, that will be entirely in order.

Mr. MORRILL, of Maine. No, sir; I have not asked that.

Mr. CONNESS. But, sir, that it has been fully considered is quite certain.

Mr. JOHNSON. In the Wheeling bridge case the Supreme Court held, and very properly held, I have no doubt, that under the commercial power which Congress has in regulating commerce among the States, Congress has the right to bridge the navigable rivers of the United States. So far as the construction of a bridge is concerned they placed the authority of Congress upon that power. They pronounced that particular bridge, however, to be an obstruction to commerce, and it had not then been authorized by Congress. After that decision was pronounced Congress passed an act declaring that the structure was a legal one and making it a post road. In providing for that they acted under the authority to establish post offices and post roads. They found a bridge constructed, and it constituted a part of the road, in fact, from this side of the Ohio to the other side of the Ohio, and they declared, under their power to establish post offices and post roads, that the bridge should be considered a post road, so as to take it entirely out of the authority of the States.

Congress have held, necessarily held, by that provision that it is for Congress alone to decide whether a navigable stream shall be bridged so as in point of fact to interfere with commerce. They have claimed that Congress have the authority under the power to which I have referred to stop the navigation altogether; but that has not been done in any one instance. So that there can be no question, I think, as to the authority of Congress to authorize the bridging of streams. Congress, in this case, if they pass this bill, will only do what they have done in all the other instances, in which authority has been granted to erect bridges over navigable streams. They provide that the bridges which they may authorize shall not seriously obstruct the navigation. The proof in the Wheeling bridge case was that there were seven steamers plying up and down the river that could not get through the bridge at all, their chimneys being so elevated that they could not pass without serious obstruction and sometimes danger. Notwithstanding that, Congress, by the act to which I have referred, declared that the bridge was a legal structure and made it a post road so as to take it entirely out of the authority of the States of Virginia and Pennsylvania.

Mr. CONNESS. At a period in the progress of this country the chief internal commerce of the country was had by the channels of rivers. Within this generation that has almost entirely changed, or very largely changed. Now, the greatest amount perhaps of the internal commerce and trade of the country passes over railroads; and there is a corresponding necessity to span the rivers with bridges; but in doing it care has been taken, as in this instance, not to impede the navigation of the river materially so as to leave this river navigable and therefore valuable still for commercial interests, and also to render the new mode of facilitating commerce by carrying it over iron tracks also practicable. Great care has been preserved in the legislation that has been had, and the bill that is now before us is an instance of that care.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-rolls of the United States;

A bill (H. R. No. 659) granting a pension to Sarah E. Pickell;

A bill (H. R. No. 660) restoring lands to market along the line of the Pacific railroad and branches;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to Susan V. Berg;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 667) granting a pension to Mary Graham;

A bill (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 671) granting a pension to the widow of Henry Kaneday;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 674) granting a pension to the widow of William S. Hamlin;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 676) granting a pension to Thomas Connolly; and

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly.

LAND GRANTS TO NEVADA.

Mr. STEWART. I ask the Senate to take up and pass a little bill, which is purely local in its character, for the purpose of carrying into effect certain land grants; not to make any new ones. It has been thoroughly considered by the Committee on Public Lands, and is short. It is Senate bill No. 190. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 190) to further provide for giving effect to various grants of public lands to the State of Nevada.

Mr. STEWART. The Committee on Public Lands have reported the bill with an amend-

ment in the nature of a substitute. I presume the reading of the substitute will be sufficient.

The PRESIDENT *pro tempore*. If there be no objection, the reading of the original bill will be dispensed with. The amendment will be read.

The Secretary read the amendment, which was to strike out all of the original bill after the enacting clause, and to insert the following in lieu thereof:

That the State of Nevada is authorized to select the alternate even-numbered sections within the limits of any railroad grant in said State in satisfaction, in whole or in part, of the several grants made in the following acts of Congress, to wit: The act organizing the Territory of Nevada, passed March 2, 1861; the act admitting the State of Nevada into the Union, passed March 21, 1864, and the act concerning certain lands granted to Nevada, passed July 4, 1866: *Provided*, This privilege shall not extend to lands upon which there may be rightful claims under the preëmption and homestead laws: *And provided*, That if lands be selected, the minimum price of which is $2 50 per acre, and which lands are not upon the sixteenth or thirty-sixth sections already granted to the State, or indemnity lands for said sections, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is $1 25 per acre. *And provided further*, That the lands granted in the eighth and ninth sections of the said act admitting Nevada into the Union shall be selected within four years from the passage of this act, and the period for the selection of said lands is hereby so extended.

SEC. 2. *And be it further enacted*, That the lands known and designated for the establishment of an agricultural college by the act of July 2, 1862, and the acts amendatory thereto, shall be selected in the same manner and of the same character of lands as may be selected in satisfaction of any other grants referred to in the first section of this act. But this act shall not authorize the selection of lands valuable for mines of gold, silver, quicksilver, or copper. This act shall apply to selections heretofore made, with the same limitations and restrictions applicable to future selections: *Provided*, That the same shall not interfere with any rightful claims under the preëmption or homestead laws.

SEC. 3. *And be it further enacted*, That the land office at Belmont, Nye county, State of Nevada, is hereby removed to Aurora, in Esmeralda county, and the district shall be known as the Aurora district. The counties of Nye, Lincoln, and Lander shall constitute a land district, the office of which is located at Austin; and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said State, and change the location of the land office from time to time, when the same shall be expedient.

The amendment was agreed to.

Mr. SHERMAN. There is one inquiry which I wish to make and wish to have answered. This bill authorizes the State of Nevada to select lands granted for railroad purposes——

Mr. STEWART. No; it simply authorizes her to select the even-numbered sections within the limits of the railroad grants, provided that if she makes any selection of them applying to lands worth $2 50 per acre she shall only take half the number of acres that has been allowed.

Mr. SHERMAN. The Senator does not understand me. This allows the selection for railroad grants.

Mr. STEWART. No.

Mr. POMEROY. I ask the Secretary to read the last clause of the second section. I thought we did not agree to that in committee.

The Secretary read the latter part of the second section of the committee's amendment.

Mr. POMEROY. The question with me was whether we agreed to apply it to "selections heretofore made."

Mr. STEWART. We agreed to it in this precise language after full discussion.

Mr. POMEROY. I had forgotten it.

Mr. HENDRICKS. I doubt whether those words are necessary to accomplish the purpose intended by the Senator from Nevada, and they may have the effect to legalize a selection so as to take it from under the control of the proper Department of deciding upon the selection. If the Senator thinks those words are important to his bill I shall not contest it; but we run the risk, perhaps, of legalizing by express enactment the selections already made when it really is an administrative question to go before the proper office. If the Senator thinks it will answer his purpose as well, I would rather those words were left out of the bill.

Mr. STEWART. I have no objection to striking out from the ninth to the twelfth line inclusive. That clause does not make much difference.

The PRESIDENT *pro tempore*. It is hardly in order to make that amendment now because the amendment reported by the committee has been agreed to.

Mr. STEWART. It can be done by unanimous consent.

The PRESIDENT *pro tempore*. When the bill is reported to the Senate it will be in order to make that amendment.

Mr. HENDRICKS. I wish to ask one other question. Why does not the Senator use the words that we usually use in these bills, "excluding all mineral lands?" I do not know whether there are any other mineral lands than those specified here.

Mr. STEWART. There are no others that I know of. This is the language used in all the acts in regard to Nevada.

Mr. POMEROY. We have generally said "mineral lands." The question is whether they can take coal lands. It is held by the Department now that coal lands are mineral lands. Formerly it was held that they were not. In my State we have preëmpted all the coal lands.

Mr. STEWART. This is the same language that was used in the other grants; it follows the language used in them precisely.

Mr. POMEROY. The Department now holds that coal lands are mineral lands, and if so, it would give a right to select coal lands under the provisions of this bill.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. HENDRICKS. The Senator from Nevada is willing to strike out certain words in the second section, and I prefer that they should be stricken out.

Mr. STEWART. I am willing to strike out this clause, because I learn that only two sections have been selected, and I do not care for it; it is not material. The clause is the ninth, tenth, eleventh, and twelfth lines of the second section, in these words:

This act shall apply to selections heretofore made, with the same limitations and restrictions applicable to future selections: *Provided*, That the same shall not interfere with any rightful claims under the preemption or homestead laws.

That clause may be stricken out, because I have learned since, by a letter received from there, that there were but two of these selections; and it is quite immaterial whether this clause is retained or not.

The PRESIDENT *pro tempore*. The question is on the motion to strike out the clause just read at the end of the second section of the amendment made in committee.

Mr. FESSENDEN. Several gentlemen wish to look at this bill before it finally passes, and it is evident that it cannot be looked at with any consideration to-night. I therefore move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I wish the Senator would allow me to call up a bill that will lead to no debate.

Mr. FESSENDEN. I know that there are a great many other things to be called up; but I think it best to insist on my motion.

Mr. HENDRICKS. If the Senator from Maine will allow me before that question is put, this bill has in it but one single proposition——

Mr. FESSENDEN. But gentlemen wish to look at it. Several have said so to me, and one in particular said that he desired to consider it; and therefore I thought, as it could not be considered to-night, that I would make the motion for an executive session.

EXECUTIVE SESSION.

The motion was agreed to, and the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February 7*, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

VACANCY FILLED.

The SPEAKER announced that he had appointed Mr. BEATTY to fill a vacancy on the Committee on Invalid Pensions caused by the death of Mr. HAMILTON.

GOVERNMENT LANDS ON PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, from the Committee on the Pacific Railroad, reported a bill (H. R. No. 660) to restore lands to market along the line of the Pacific railroad and branches; which was read a first and second time.

It enacts that nothing in the act approved July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and the acts amendatory thereof, shall be held to authorize the withdrawal or exclusion from settlement and entry, under the preemption or homestead law, the even-numbered sections along the line of the several routes therein mentioned which have been, or hereafter may be, located; provided, that such section shall be rated at $2 50 per acre, subject only to entry under those laws. And the Secretary of the Interior is directed to restore to homestead settlement, preëmption, and entry, according to existing laws, all the even-numbered sections of land belonging to the Government now withdrawn from market on both sides of the Pacific railroad and branches, wherever said road and branches have been definitely located.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARBOR AT PORT WASHINGTON.

Mr. ELDRIDGE, by unanimous consent, presented the memorial of the Legislature of Wisconsin, asking for an appropriation for a harbor at Port Washington, Wisconsin; which was ordered to be printed, and referred to the Committee on Commerce.

MORNING HOUR.

Mr. WASHBURNE, of Illinois, called for the regular order.

The House accordingly proceeded, as the regular order of business in the morning hour, to the consideration of reports from the Committee on Invalid Pensions.

M. A. STRAIGHT.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back a bill (H. R. No. 373) to place the name of M. A. Straight upon the pension-rolls of the United States, with a recommendation that it do pass.

It directs the name of the applicant, widow of Alonzo A. Straight, to be placed on the pension-rolls, subject to the laws in relation to pensioners.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH E. PICKELL.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 659) granting a pension to Sarah E. Pickell; which was read a first and second time.

It directs the name of the applicant, widow

of John Pickell, late of the thirteenth regiment New York volunteers, to be placed on the pension-rolls, at the rate of seventeen dollars per month, commencing April 6, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT OF BOUNTIES AND PENSIONS.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the consideration of resolutions adopted at a meeting of soldiers of Wisconsin, January 3, 1868, relative to the payment of bounties and pensions; and the same were referred to the Committee on Military Affairs.

HEIRS OF WILLIAM CRAFT.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-rolls the names of the widow and minor children of the late William Craft, late of company H, eighty-second Pennsylvania regiment, subject to the provisions and limitations of the pension laws, to commence April 6, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLUMBIA DEAF AND DUMB INSTITUTION.

Mr. SPALDING. With the permission of the gentleman from Maine, [Mr. PERHAM,] I ask leave to report back from the Committee on Appropriations a bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution.

The bill was read a first and second time.

Mr. SPALDING. I move that the bill be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for Thursday of next week.

Mr. WASHBURNE, of Illinois. I do not wish this to be made a special order to come in before the general appropriation bills, as this is not a general appropriation bill.

The SPEAKER. The general appropriation bills will have priority in Committee of the Whole unless they are laid aside.

Mr. WASHBURNE, of Illinois. I would suggest to the gentleman from Ohio [Mr. SPALDING] to name some day toward the latter end of this month for this bill, by which time the other appropriation bills will probably be out of the way.

Mr. SPALDING. I will move that it be referred to the Committee of the Whole, made the special order for the last Thursday of this month, and ordered to be printed.

The motion was agreed to.

HEIRS OF GEORGE R. WATERS.

Mr. PERHAM reported from the Committee on Invalid Pensions a bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters, with a recommendation that the same do pass.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of George R. Waters, late a member of the fiftieth regiment New York engineers, commencing November 17, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOUIS A. UHL.

On motion of Mr. PERHAM, the Committee on Invalid Pensions were discharged from the further consideration of the petition of Louis A. Uhl; and the same was laid on the table.

CYRUS K. WOOD.

Mr. PERHAM also reported from the Committee on Invalid Pensions a bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood, with a recommendation that the same do pass.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to pay to Cyrus K. Wood, of Auburn, Maine, the father and legal representative of Cyrus D. Wood, late a member of company H, tenth Maine volunteer infantry, at the rate of eight dollars a month from the 8th of May, 1863, to 6th of June, 1866, and of twenty-five dollars a month from the 6th of June, 1866, to the 8th of April, 1867.

Mr. HOLMAN. I ask that the report be read.

The Clerk began the reading of the report, but before concluding,

Mr. HOLMAN said: As this seems to be a lengthy report I will not ask for the further reading of it. But I desire to make an inquiry. It is stated in the report, I notice, that this soldier died leaving neither widow nor children, yet it is proposed to give a pension to his representative. Now, I desire to know who is the representative.

Mr. PERHAM. The father of the soldier, who is very poor, and who spent his all and more, too, in taking care of his son while living.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUSAN LIBBY.

Mr. PERHAM moved that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Susan Libby, of Maine, for bounty and back pay for the service of her son, and that the same be referred to the Committee on Military Affairs.

The motion was agreed to.

CHARLES GOULER.

Mr. PERHAM also reported, from the Committee on Invalid Pensions, a bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler, with a recommendation that the same do pass.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the Secretary of the Interior be authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the minor children of Charles Gouler, late a private in company F, ninth New Hampshire volunteers, commencing April 18, 1866.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUSAN V. BERG.

Mr. PERHAM also, from the Committee on Invalid Pensions, reported back, with an amendment in the form of a substitute, a bill (H. R. No. 421) granting a pension to Susan V. Berg.

The substitute, which was read, provides that the Secretary of the Interior be authorized and directed to place on the pension-rolls, at the rate of eight dollars per month, subject to the provisions and limitations of the pension laws, the name of Susan V. Berg, widow of Charles Berg, who was killed while in the employ of the quartermaster's department, in Kansas, on or about the 12th of November, 1864.

Mr. WASHBURNE, of Illinois. I call for the reading of the report.

The report, which was read, states that Charles Berg was first clerk of Captain Goldsborough, quartermaster of the United States Army while on his way from Leavenworth, Kansas, to Fort Zarah; that when a body of Indians were approaching in a hostile manner Berg was taking a gun from an ambulance for the purpose of joining in repelling the attack, when the gun was accidentally discharged, the ball entering his wrist, inflicting a wound which rendered amputation necessary. Gangrene supervening, he died in about three weeks. His widow alleges that Berg served in the Army in various capacities, as a private, lieutenant, assistant surgeon, surgeon, and major, for a considerable time prior to his service as clerk to Captain Goldsborough. Though not strictly an enlisted man at the time the injury occurred, he was attempting in good faith to repel an attack of Indians threatening the lives of the command with which he was connected and the property of the Government. The committee, therefore, believe his widow entitled to a pension.

The substitute was adopted.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY SNELLING.

Mr. PERHAM also, from the Committee on Invalid Pensions, reported adversely upon the petition of twenty-four citizens of New York, for a pension for Henry Snelling, of Geneva, New York; which was laid on the table.

HENRY H. HUNTER.

Mr. PERHAM also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 666) granting a pension to Henry H. Hunter; which was read a first and second time.

The bill, which was read, provides that the Secretary of the Interior be authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Henry H. Hunter, a resident of Knox county, Kentucky, who was wounded while serving with the first regiment of Kentucky volunteer cavalry, the pension to commence October 7, 1861.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY GRAHAM.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 667 (for the relief of Mary Graham; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Mary Graham, mother of John Graham, alias Patrick Ryan, late of company A, eighteenth United States infantry, commencing September 10, 1866.

It appears from the report, which was read, that Mrs. Mary Graham is a widow, aged fifty-five, with a number of young children dependent upon her for support, and claims a pension on account of the death of her son, John Graham, alias Patrick Ryan. He enlisted, at the age of eighteen, October 10, 1861, in company A, ninety-fourth New York volunteers. On September 12, 1862, with a boy's caprice, he left his regiment, and after eighteen days enlisted under the name of Patrick Ryan in the regular Army. He received a bounty of twenty-five dollars, much less than the pay he forfeited by leaving the ninety-fourth New York volunteers. He was engaged at the battle of Chickamauga, and was taken prisoner. He was in the Richmond, the Danville, and the Andersonville prisons, and after exchange went home on parole, being sick.

In October, 1865, by expiration of his term of enlistment, he was discharged from the Army, his discharge papers showing his character to have been good. His sickness, the result of his imprisonment in rebel prisons, resulted in his death September 10, 1866. The Commissioner of Pensions refused his pension because of his being a deserter. After full consideration the committee report a bill granting a pension.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

E. D. GAGE.

Mr. PERHAM, from the same committee, reported adversely on the petition of E. D. Gage, praying for a pension; which was laid on the table.

ELIZABETH BUTLER.

Mr. PERHAM, from the same committee, also reported a bill (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Elizabeth Butler, widow of Cyrus Butler, late a special agent in the provost marshal's office in the nineteenth Pennsylvania district, as the widow of a second lieutenant, commencing October 31, 1864.

It appears from the report that Elizabeth Butler is the widow of Cyrus Butler, who was appointed special agent in the office of Captain H. S. Campbell, provost marshal nineteenth district of Pennsylvania. He was wounded in the discharge of his duty while attempting to arrest a deserter on the 30th of October, 1864, and died from the effects of his wound October 31, 1864. The pension laws include all provost marshals, assistant provost marshals, and enrolling officers, but they do not include this officer, as he was appointed as a special agent at the time he received his wound. He was performing the duties of assistant provost marshal.

Mr. ROSS. Upon what ground is the pension put of that of the widow of a second lieutenant?

Mr. PERHAM. I will answer the gentleman that by the pension laws provost marshals and enrolling officers who may be wounded while serving notifications on deserters are ranked as second lieutenants.

Mr. COVODE. I think this dates back too far.

Mr. FARNSWORTH. Who appointed this man special agent? Was it by the Provost Marshal General or the provost marshal of the district? In what capacity was he engaged?

Mr. PERHAM. He was designated by the provost marshal of the district and appointed by the Provost Marshal General. He was wounded while attempting to arrest a deserter, which wound caused his death.

Mr. FARNSWORTH. In what character was he employed? This bill, I see, proposes to give a pension as second lieutenant. In what capacity was he employed? Was it as detective or was he sent out to arrest deserters? Had he been in the Army? Was he acting as a constable? As this bill proposes to grant a pension the same as that allowed to a lieutenant, it is a new precedent, and it seems to me we ought to be careful how we act upon the matter. It seems to me we ought to have some statement of the nature of the case, and some reason given why the widow should get a larger pension than the widow of a private soldier.

Mr. PERHAM. I will answer the gentleman by saying that the law provides that provost marshals, assistant provost marshals, and enrolling officers who may be injured in the performance of duties like serving notices on drafted men or arresting deserters, when sent to perform that kind of duty, are included within the pensions law and recorded as in the service of the United States. Special agents are not by the general law so included. They, however, as we understand now, had to perform the same duty. This man was acting as an officer for the purpose of arresting deserters, and in the discharge of that duty was injured in the manner specified.

Mr. FARNSWORTH. Was he injured because he was engaged in that duty? What were the circumstances of his injury?

Mr. PERHAM. If he was not so injured the committee would not have recommended a pension.

Mr. ROSS. I move to strike out the pay of lieutenant and insert the pay of a private.

The SPEAKER. The report states that he was wounded while attempting to arrest a deserter.

Mr. PERHAM. I hope the motion of the gentleman from Illinois [Mr. Ross] will not prevail. It is the law as applied to other officers who were acting on precisely the same duty.

Mr. COVODE. I wish to ask from what time the pension is to date. Does it date back to 1864?

Mr. PERHAM. It dates from the time the injury was received, treating him precisely as we treat every other person in like services.

Mr. COVODE. I do not object to the pension, but I think it should date from the present time.

Mr. BENJAMIN. I ask my colleague to yield to me.

Mr. PERHAM. Certainly.

Mr. BENJAMIN. I desire to say in connection with this bill that it does not have the unanimous assent of the Committee on Pensions. The question in regard to these deputy provost marshals came up in the last Congress, and I opposed the pensioning of them. I am still opposed to doing it. In the first place, these persons were never in the service of the United States. The regulation of the Provost Marshal General, after the passage of the conscription act, required the district provost marshal to supply a deputy in each of the counties composing his district. They were appointed and were paid a salary, but in nine cases in every ten they discharged no duty whatever. They were directed by orders from time to time issued to look after deserters. They received as a general thing, varying in different circumstances, from one hundred to one hundred and fifty dollars a month, never going out of their immediate locality or beyond the bounds of the county in which they lived, and in a large majority of cases they never discharged any duty whatever.

These places were sinecures. They were of no earthly necessity to the Government as a general thing. The Government also paid at that time and for some time succeeding thirty dollars in addition for every deserter that was arrested. All these persons had to do was to point out a deserter and some one else arrested him and took him to the provost marshal at headquarters and received the thirty dollars for delivering him there. Now, these deputy marshals were in no sense of the word military officers. They had no rank; they were never enlisted; they were never mustered; they were never borne on any rolls; and, in my judgment, they should not be entitled to the benefit of the pension laws.

I bring these facts to the notice of the House so that we may have an expression upon this very case, as there will undoubtedly be others that will be governed by the same principle. After investigating this case, and being perfectly familiar with the duties of these deputy provost marshals, having once served as provost marshal myself, I give it as my judgment that this bill ought not to pass.

Mr. PERHAM. In reply to my colleague, I will say that it is very true that much of the duties of these special agents, as assistant provost marshals, was merely clerical, and the committee at the last Congress took care to provide that they should not be entitled to any pension in consequence of any casualty occurring while engaged in any of these clerical duties, or of any sickness or disease that might be contracted while engaged in that duty. But they did provide that when these officers went out for the purpose of arresting deserters—a kind of business that every man who lives in the border States especially, and some who live in the northern States know was more dangerous than any service in the field—they should be regarded as within the line of duty in the military service, and receive pensions accordingly.

In this special case, this man was killed while engaged in arresting a deserter. It is immaterial to the committee what action the House may take in regard to the case, but they deemed it proper, as this man was killed in the service, that his heirs should receive a pension.

Mr. LOGAN. I would ask the gentleman whether or not the law authorizing the payment of pensions to soldiers and sailors and to the widows of those who have served in the Army and Navy embraces this class of persons?

Mr. PERHAM. The law passed during the last Congress does include all except special agents. It includes provost marshals, assistant provost marshals, and enrolling officers while engaged in these duties I have specified.

Mr. LOGAN. You say they are included in the law?

Mr. PERHAM. They are.

Mr. LOGAN. What was the character of the service this man performed?

Mr. PERHAM. He was acting as special agent, appointed under the direction of the Provost Marshal General, as the records of that office show.

Mr. LOGAN. Then persons of this class are not included in the pension laws?

Mr. PERHAM. Special agents were not included.

Mr. LOGAN. Exactly; that is what I wanted to know. Then if he is not included in the law, and was merely doing service as an agent, I would ask whether, if a man who performed clerical duties in the provost marshal's office, who was not a soldier, was not detailed as such nor assigned to duty as such, but was merely employed by the provost marshal to do clerical duty in his office, should while performing that duty and by accident be wounded, he would be entitled to a pension?

Mr. PERHAM. As I understand the law he would not.

Mr. LOGAN. Then this man is not.

Mr. PERHAM. The law applies only to those engaged in this special service.

Mr. LOGAN. Then this man is not entitled to it.

Mr. PAINE. If we prove that the facts are as the gentleman from Missouri [Mr. BENJA-

MIN] has stated them to be, it seems to me to afford us no good reason for rejecting this bill. It is doubtless true that in most cases the provost marshals had nothing to do which had in any degree the character of military service, strictly so called. It may be true that in most instances the provost marshals had only to perform clerical duties. Grant that. This bill does not propose, either expressly or by implication, to grant a pension for the performance of mere clerical duties. This bill merely seeks to apply the rule which applies to soldiers, to provost marshals and the employés of provost marshals when the duties they perform are analogous to those performed by soldiers.

Now, the duty performed in this case was not a clerical duty. It was a duty which involved physical danger. It was a duty which not only involved but actually resulted in loss of life. It was the arrest of a deserter who killed the officer who attempted to arrest him. It is no answer to say that the men who are engaged in this kind of duty ordinarily are performing merely clerical duties. The committee do not ask you to give a man a pension or to give a pension to the widow and heirs of a man who was merely engaged in performing clerical duties, but they ask you to give a pension to a man who was performing a duty in its nature military and who lost his life in the performance of that duty. Now, it does seem to me that the facts stated by the gentleman from Missouri [Mr. BENJAMIN] do not furnish any good reason for refusing to enact the bill reported from the committee. I am in favor of its enactment.

Mr. PERHAM. I think I must now insist upon calling the previous question.

Mr. FARNSWORTH. Will the gentleman yield to one more question?

Mr. PERHAM. For a question, yes.

Mr. FARNSWORTH. I desire to know of the gentleman from Maine, [Mr. PERHAM,] if he thinks it is right to grant pensions to the widows of men who were engaged working upon railroads and unfortunately were killed, or of those agents who were employed for a bounty, and who so far as I know were a class of spies, and who were to receive a bounty for arresting deserters; taking their chances, as one may say? They were generally men who made enough money by the bounties which they secured to buy themselves off from the draft.

Mr. PERHAM. I cannot yield to the gentleman any further. I will answer any question which is applicable to the case.

Mr. MAYNARD. I would like to ask the gentleman a single question.

Mr. PERHAM. Very well.

Mr. MAYNARD. I desire to inquire whether, in the opinion of the gentleman, who is the chairman of the Committee on Invalid Pensions, [Mr. PERHAM,] every person who was engaged in the general military service of the country, whether combatant or non-combatant, and who lost his life, is not entitled in the person of his widow and his orphans to be rewarded by his Government, whether he who was exposed to danger which cost him his life, and was not permitted to have arms in his hands to protect him, may not, at least, have been as meritorious as he who went into the struggle with arms able to defend himself against danger?

Mr. PERHAM. Possibly so; but that has nothing to do with this case. I must now insist upon the previous question.

The previous question was seconded and the main question was ordered.

The first question was upon the amendment of Mr. Ross, to reduce the pension from that of "second lieutenant" to that of "private;" and being taken, upon a division there were—ayes 55, noes 54.

Before the result of the vote was announced,

Mr. PERHAM called for tellers.

Tellers were ordered; and Mr. PERHAM and Mr. Ross were appointed.

The House again divided; and the tellers reported that there were—ayes 59, noes 46.

So the amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. BENJAMIN. I move that the bill be laid on the table.

The motion was not agreed to.

The bill was then passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for two weeks for Mr. DIXON.

MYRON WILKLOW.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Myron Wilklow, late a member of company B, forty-seventh Ohio volunteers, commencing June 2, 1865.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HEIRS OF ANDREW HOLMAN.

Mr. VAN AERNAM also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman; which was read a first and second time.

The bill, which was read, proposes to authorize and direct the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Andrew Holman, late a private in company G, twenty-ninth regiment Ohio volunteer infantry, the pension to commence March 26, 1865.

Mr. ROSS. I call for the reading of the report.

The report, which was read, states that Holman served faithfully with his command, sharing in all its campaigns and marches. Wounded at Chancellorsville, he yet participated in the battle of Gettysburg. After the disaster at Chickamauga in September, 1863, his regiment, with other troops, was sent to reënforce the Army of the Cumberland. He served all through the campaign from Chattanooga to Atlanta, and marched with General Sherman to the sea. On the march from Savannah, Georgia, he was taken sick before reaching Fayetteville, North Carolina, and at Fayetteville he was put on board of a hospital transport, with other sick and wounded of the Army, and has never been heard from since. The committee believe the evidence of his death sufficient, and report the bill for the benefit of his heirs.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WIDOW OF HENRY KANEDAY.

Mr. VAN AERNAM also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 671) granting a pension to the widow of Henry Kaneday; which was read a first and second time.

The bill, which was read, proposes to authorize and direct the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Henry Kaneday, late a private in company I, fifteenth regiment Iowa infantry, the pension to commence March 15, 1862.

The report, which was read, states that Kaneday died at Keokuk, Iowa, March 5, 1862, while home on sick furlough. He entered the military service of the United States early in the summer of 1861, and served faithfully until after the battle of Pittsburg Landing, participating in the hardship, excitement, and exposures incident to that persistent and terrible struggle. He soon after became prostrated by sickness. A furlough was granted him to go to his home at Keokuk, Iowa, where he died from his disease two days after reaching there. The widow of Kaneday has been unable to procure a pension from the Department in consequence of the conflicting statements of the surgeon who saw him prior to his leaving the front and the physician who attended him after he had reached his home and until his death. The committee, after thorough investigation, are of opinion that the disease of which Kaneday died was contracted while he was in the service of the United States and in the line of his duty as a soldier. They therefore recommend the passage of the bill for the relief of his heirs.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HEIRS OF CHARLES W. WILCOX.

Mr. VAN AERNAM also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox; which was read a first and second time.

The bill proposes to authorize and direct the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Charles W. Wilcox, late of company B, ninety-seventh Illinois volunteers, commencing March 16, 1863.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN S. PHELPS.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of John S. Phelps, late lieutenant thirty-fifth regiment Kentucky mounted infantry, commencing July 23, 1863.

The report was read. It states that Saffronia C. Phelps is the widow of John S. Phelps, who served in the thirty-fifth regiment Kentucky mounted infantry from its organization, in 1861, to the 26th day of May, 1863, when he received from the Governor of Kentucky a commission as second lieutenant in the thirty-fifth regiment Kentucky volunteer infantry, then being raised for the United States service. This was granted as a merited recognition of his bravery and skill as a soldier. He entered upon his duty as a second lieutenant, and while attempting to execute the order of his commanding officer, Lieutenant Colonel E. R. Weir, to recover

a horse belonging to the United States, one Hugh Moss, a violent rebel, shot and instantly killed him. The committee deem this a meritorious case, as he was killed in the line of his duty, and report a bill accordingly.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM S. HAMLIN.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 674) granting a pension to the widow of William S. Hamlin; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of the widow of William S. Hamlin, late of company G, third Iowa volunteers, commencing December 16, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORNELIUS S. RICE.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius S. Rice; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Cornelius S. Rice, late of company B, ninety-first regiment Pennsylvania volunteers commencing December 4, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS CONNOLLY.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 676) granting a pension to Thomas Connolly; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Thomas Connolly, company A, sixty-ninth New York volunteers.

It appears that Thomas Connolly, late private company A, sixty-ninth New York volunteers, twenty-two years of age, entered the Army 1st day of July, 1864; that while engaged in the battle of Ream Station he was taken prisoner; that he was confined in Libby Prison, at Belle Island, and at Salisbury from August 26, 1864, to 25th of February, 1865; that he was discharged from the Army 13th July, 1865; that after his discharge he was stricken with paralysis, and is now a cripple without means of support, being at the Soldiers' Home and dependent upon charity.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HEIRS OF JAMES HEATHERLY.

Mr. NUNN, from the Committee on Invalid Pensions, reported a bill (H. R. No. 677) granting a pension to the minor children of James Heatherly; which was read a first and second time.

It grants a pension to the minor children of James Heatherly, late of company E, eleventh West Virginia volunteers, commencing December 19, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NUNN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

DRAWING FOR SEATS.

Mr. POLAND. I rise to a privileged question. I offer the following resolution, and demand the previous question:

Resolved, That the resolution of March 5, 1867, relating to the drawing of seats in the House, be rescinded, and that immediately after the passage of this resolution the members of the House proceed to draw seats in the same manner in which seats were drawn in the Thirty-Ninth Congress.

I desire to say that at the commencement of this Congress, on the 4th of March, six States were unrepresented.

Mr. PERHAM. Mr. Speaker, is this a question of privilege?

The SPEAKER. It has always been ruled a privileged question. It is not a question of privilege, because that affects the right of a member to his seat.

Mr. WASHBURNE, of Illinois. Mr. Speaker, how did the gentleman from Vermont get the floor?

The SPEAKER. The Chair recognized him.

Mr. SPALDING. I submit it is not a question of privilege for every day of the year. It is only for one drawing for one Congress or one session of Congress that the resolution is admissible, and we have acted upon it once.

The SPEAKER. The Chair cannot sustain that point. It is no question of privilege at all, but a privileged question, and the Chair cannot say but that a privileged question may be presented more than once during a session. It is for the House to determine.

Mr. POLAND. I offer this resolution not on my own behalf. At the time of drawing for seats at the commencement of the present Congress I was here and drew for a seat with the rest. Whether I got a good seat or not I took my chance, and of course I have no reason to complain. But I offer this resolution as an act of justice to the members from the six States who had not been elected at that time. If any gentleman here was able in their absence to secure himself a comfortable seat, and desires to prevent those gentlemen from having a fair opportunity to compete with him for a seat, to which they are as much entitled as himself, I confess I do not appreciate that kind of feeling.

The SPEAKER. The Chair will state to the gentleman from Vermont that the clerks inform him it will be impossible to execute this resolution immediately. The names of members have to be prepared before the drawing can take place.

Mr. POLAND. Then I will modify it so as to have the drawing take place to-morrow morning.

Mr. UPSON. I understand the gentleman to offer this, not on his own behalf, but on behalf of new members. I wish to understand if he would vote against the resolution?

Mr. POLAND. I shall vote in favor of it.

Mr. UPSON. Then I understand it is offered on the gentleman's behalf.

Mr. POLAND. I yield to the gentleman from New Hampshire, [Mr. BENTON.]

Mr. BENTON. I rise to say a word upon this question in my own behalf. As I understand it this House decided in March last, at the commencement of the first session of this Congress, which was called by special act of Congress, that the seats should be drawn and distributed among the members, and, as has been stated by the gentleman from Vermont, five or six States were not represented at all. It was proposed here some weeks ago that there should be another drawing, the number of members of the House having been increased by the presence of members from those States that were not represented here at the first when the drawing took place. Now, it strikes me that every man who has an idea of what is fair and honorable must concede that there is no equality so far as those States are concerned. Their Representatives had no opportunity to take their chance in securing favorable seats. The States which they represent have not been fairly dealt with in that respect. Now, sir, any man who is nicely and securely located in a favorable place, who will for the sake of a convenient seat refuse to allow his brother members who have had no opportunity to draw for seats a fair chance in a little matter of this kind, I would not trust him with a matter of magnitude. [Laughter.]

Mr. SPALDING. I desire to ask the gentleman from New Hampshire a single question.

Mr. BENTON. I yield for a question.

Mr. SPALDING. I ask the gentleman if he expects that we shall draw for seats again when the Representatives from Alabama come in in the course of two or three weeks and again when the other States come in?

Mr. BENTON. I am prepared to answer that question. I say that if there are additions made to this House by the representation of States that are not now represented, let us have a new shuffle and deal. [Laughter.] Let the whole House have a fair chance.

Mr. ELDRIDGE. I desire to ask if the words "shuffle" and "deal" are parliamentary language? [Laughter.]

Mr. VAN TRUMP. I would ask the gentleman if there was not a proposition for a drawing this session?

Mr. BENTON. I understand the question of the gentleman from Ohio to be whether there was not a regular drawing at this session. I do not understand that there has been any drawing at this session. There was a drawing at the special session.

Mr. VAN TRUMP. I may be mistaken; but I think there was such a proposition made and it was voted down.

Mr. BENTON. I understand that there was a resolution providing for a drawing introduced by the gentleman from Tennessee, [Mr. MAYNARD,] and it lacked only one or two votes of passing. I suppose it will pass now. That, however, was a different resolution, exempting several gentlemen, and among others the gentleman from Ohio, [Mr. SPALDING,] who is very favorably located in this House.

Mr. SPALDING. I wish to correct an error. As the gentleman has referred to me, he will allow me to explain.

Mr. BENTON. I yield to the gentleman.

Mr. SPALDING. When a gentleman upon the other side proposed to except my name and to leave me my seat I declined it, and I made the motion myself to lay the resolution on the table, and it was laid on the table. I did not assent to that resolution at all.

Mr. BENTON. Yes; I understand that the gentleman did make that motion, and I think I understand why he made it.

Mr. SPALDING. Some of us must occasionally draw indifferent seats. Why, during the whole of the last Congress I was over on the African coast all the while. [Laughter.]

Mr. BENTON. I understand that the gentleman is not excepted by this resolution, as I think he should not be. I think that we should all stand upon a common level upon this floor and have equal rights and privileges. That is all I ask and all that is demanded by this resolution. [Cries of "Question," "Question."]

Mr. POLAND. This resolution does not except the four venerable gentlemen who were excepted in the resolution offered before. It was found that very little could be made by that kind of bribery, for I believe every one of the excepted gentlemen who was present voted against the resolution. My recollection is that

my friend from Ohio [Mr. SPALDING] had started his opposition to the resolution before his name got into the excepted list, so that I do not think he is entitled to as much credit for generosity as he now claims. [Laughter.]

Mr. SPALDING. Yes; and my friend from Vermont asked me to vote in favor of the resolution after my name was excepted, and I declined. [Laughter.]

Mr. BENTON. I will now yield to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I wish only to say a word upon this question. In the last Congress I was not so fortunate in drawing a seat as I was in this Congress. I happened to get a back seat, like that of the gentleman from Vermont, [Mr. POLAND,] and I had to hang around "the verge of the Government" most of the time during the last Congress. I took my chance, however, with my brethren at the time and bore the misfortune as well as I could. I was more fortunate this time, and it seems to me rather unfair that we should be charged with a want of generosity because we occupy and would hold the seats which by the turn of fortune were assigned to us. I am always willing to accommodate my brethren with my seat, and I have very often done so. When I have found gentlemen occupying it I have never insisted on their getting out of it. When I was in the outer circle, and shivering about in the cold, I found no one disposed to show any particular generosity to me, certainly not enough to propose a new drawing. I had to stand it through, and I am willing to sit it through now, and do not feel that it is very ungenerous to do so either. When I wanted to get the Speaker's ear in the last Congress I had to come down and beg some one on the other side having control of the House to give me an opportunity. Now, I do not see but what if we are to go into another drawing of seats this morning we may have another next week, and so on all through the session. I had supposed that when we once had drawn seats the matter was settled; our lots were determined and our seats drawn for the Congress.

Mr. HIGBY. Will the gentleman yield to me for a question?

Mr. ELDRIDGE. Yes.

Mr. HIGBY. I would ask the gentleman if he has drawn a seat which suits him?

Mr. ELDRIDGE. I have, and I will ask the gentleman if he is satisfied with his seat?

Mr. HIGBY. I am, and still I shall vote for this resolution.

Mr. ELDRIDGE. I think the gentleman is a very generous man, but this is the only exhibition this side of the House has had of it.

Mr. POLAND resumed the floor, and yielded to

Mr. STARKWEATHER, who said: I desire to say that I have heard gentlemen, who were here at the time the seats were drawn, say that they expected and that fair play would give us a new deal, and I desire my friend from Vermont [Mr. POLAND] to give them an opportunity; as I said, I understood from gentlemen who were here when seats were drawn, and who were fortunate in the drawing, that we were to have the opportunity for a new deal. More than that, there were not only the six States which had not then chosen their Representatives, but other States which had elected their Representatives, who did not have an opportunity to come in and select their seats. For instance, the gentleman from Oregon, [Mr. MALLORY,] representing an entire State, was chosen in season to be here had full notice been given of the session of Congress, but he was not here in time for the drawing. And not only the States of New Hampshire, Connecticut, Rhode Island, Kentucky, and California had not chosen their Representatives, but there were other States who had chosen their members who were not here, who could not be expected to be here, and yet who were entitled to a choice in the selection of seats. And now I say that it seems to me that these gentlemen who have for four months occupied good seats, now that all the States are represented except the States that are being reconstructed, must see that fair play demands that we also should have an opportunity to correct what has not yet been corrected.

And I could refer to another thing that bears some analogy to this. The Speaker decided not to appoint the committees for the House until the States were represented. It was just as proper for the Speaker to have appointed all the committees when six States were not represented here as to have the seats drawn under the same circumstances. The expression has come so often from gentlemen who were here that we ought to have a fair deal that I think objection to it should come from no one.

Mr. POLAND. I do not apprehend that any further discussion upon this subject is necessary. I will modify my resolution so as to provide that the drawing, if ordered, shall take place on Monday next, after the morning hour. I now call the previous question.

The question was upon seconding the previous question.

Mr. VAN HORN, of New York. I move to lay the resolution on the table.

The question was taken; and upon a division there were—ayes 64, noes 63.

Before the result of the vote was announced,

Mr. FARNSWORTH called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 83, not voting 29; as follows:

YEAS—Messrs. Anderson, Archer, Baldwin, Barnes, Beaman, Bingham, Boutwell, Boyer, Brooks, Broomall, Burr, Butler, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Cullom, Eckley, Eldridge, Eliot, Ferriss, Ferry, Fields, Getz, Gravely, Haight, Halsey, Harding, Hooper, Hulburd, Humphrey, Hunter, Judd, Kelley, Kitchen, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marvin, McClurg, McCullough, Moore, Morrell, Mungen, Myers, O'Neill, Paine, Perham, Pike, Pile, Plants, Ross, Schenck, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Thomas, Upson, Van Aernam, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, and Windom—77.

NAYS—Messrs. Adams, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Beatty, Beck, Benton, Blaine, Blair, Bromwell, Buckland, Cary, Cobb, Coburn, Dawes, Donnelly, Driggs, Eggleston, Ela, Farnsworth, Garfield, Glossbrenner, Golladay, Grover, Hawkins, Higby, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Johnson, Julian, Kerr, Ketcham, Knott, Koontz, Lincoln, Logan, Loughridge, Mallory, Maynard, McCormick, Mercur, Miller, Moorhead, Mullins, Newcomb, Niblack, Nicholson, Nunn, Orth, Peters, Poland, Price, Pruyn, Randall, Sawyer, Scofield, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Van Auken, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, Woodbridge, and Woodward—83.

NOT VOTING—Messrs. Allison, Ames, Banks, Barnum, Benjamin, Dixon, Dodge, Finney, Fox, Griswold, Jones, Kelsey, McCarthy, Morgan, Morrissey, Phelps, Polsley, Pomeroy, Raum, Robertson, Robinson, Selye, Shellabarger, Taber, John Trimble, Van Wyck, Elihu B. Washburne, Stephen F. Wilson, and Wood—29.

So the resolution was not laid on the table.

During the roll-call,

Mr. FARNSWORTH said: Mr. Speaker, have the Delegates from the Territories the right to vote on this question? [Laughter.]

The SPEAKER. They have not.

The result of the vote was announced as above stated.

The question then recurred on seconding the demand for the previous question.

The previous question was seconded and the main question ordered; which was on agreeing to the resolution.

Mr. UPSON. I move that the resolution be laid on the table.

The SPEAKER. That motion is not in order. It has already been made and voted on at this stage.

Mr. MUNGEN. Would an amendment be in order?

The SPEAKER. Only by unanimous consent.

Mr. ASHLEY, of Ohio. I object.

Mr. MUNGEN. I have an amendment which I would like to have read for information.

The SPEAKER. Is there objection to the reading of the amendment?

Mr. DRIGGS. I object.

Mr. UPSON. I call for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 74, not voting 30; as follows:

YEAS—Messrs. Adams, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Beatty, Beck, Benton, Blaine, Blair, Bromwell, Buckland, Cary, Cobb, Coburn, Cullom, Dawes, Donnelly, Driggs, Eggleston, Ela, Farnsworth, Garfield, Glossbrenner, Golladay, Grover, Hawkins, Higby, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Johnson, Julian, Kerr, Ketcham, Knott, Koontz, Lincoln, Logan, Loughridge, Mallory, Maynard, McCormick, Mercur, Miller, Moorhead, Mullins, Newcomb, Niblack, Nicholson, Nunn, Orth, Peters, Phelps, Poland, Price, Pruyn, Randall, Sawyer, Scofield, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Van Auken, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, Woodbridge, and Woodward—86.

NAYS—Messrs. Anderson, Archer, Baldwin, Barnes, Beaman, Bingham, Boutwell, Boyer, Brooks, Broomall, Burr, Butler, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Eckley, Eldridge, Eliot, Ferriss, Ferry, Fields, Getz, Gravely, Haight, Halsey, Harding, Hooper, Hulburd, Humphrey, Hunter, Judd, Kelley, Kitchen, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marvin, McClurg, McCullough, Moore, Morrell, Mungen, Myers, O'Neill, Paine, Perham, Pile, Plants, Ross, Schenck, Sitgreaves, Smith, Spalding, Stewart, Stone, Thomas, Upson, Van Aernam, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, and Windom—74.

NOT VOTING—Messrs. Allison, Ames, Banks, Barnum, Benjamin, Dixon, Dodge, Finney, Fox, Griswold, Jones, Kelsey, McCarthy, Morgan, Morrissey, Pike, Polsley, Pomeroy, Raum, Robertson, Robinson, Selye, Shellabarger, Thaddeus Stevens, Taber, Van Wyck, Elihu B. Washburne, Stephen F. Wilson, and Wood—30.

So the resolution was adopted.

Mr. POLAND moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCIES IN INDIAN DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, with an estimate of appropriations required to supply deficiencies in the office of the Commissioner of Indian Affairs for the year ending June 30, 1868; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS, ETC.

Mr. WASHBURNE, of Illinois. I rise for the purpose of moving to go into Committee of the Whole upon the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869. I have, however, been appealed to by several gentlemen to yield before making that motion; and I will yield in the first place to the gentleman from Iowa [Mr. WILSON] for a brief personal explanation.

The SPEAKER. Is there objection to the gentleman from Iowa making a brief personal explanation?

Mr. JOHNSON. I object to all personal explanations as I have been denied the privilege of making one.

Mr. WASHBURNE, of Illinois. Before making the motion to go into Committee of the Whole I ask that by unanimous consent the session of to-morrow be devoted solely to debate in Committee of the Whole on the state of the Union.

The SPEAKER. Is there objection to assigning to-morrow for debate in Committee of the Whole on the state of the Union?

Mr. SCHENCK. I object until I can have an opportunity to submit a proposition. At least one committee of this House finds it extremely difficult to mature business in the hour or so before our daily session and in those snatches of time that can be obtained at other periods during the sitting of the House. Even

the presence of the House in the Capitol must more or less distract the attention of members in the committee-room and occasion interruptions. I propose, therefore, to move when the House adjourns to-day it adjourn to meet on Monday next, so as to allow a good day's work to-morrow in the several committees of the House.

Mr. WASHBURNE, of Illinois. I made the suggestion at the request of a great many gentlemen who desire an opportunity to make speeches. It is impossible, as the gentleman will see from the state of business of the House, to go into Committee of the Whole on the state of the Union on working days to allow speeches to be made, and therefore Saturday is the only day that can be devoted to that purpose. If there is objection I of course do not press it.

Mr. SCHENCK. I wish to have a vote on the motion to adjourn over.

The SPEAKER. The gentleman from Illinois has the floor.

PENSION APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from Massachusetts.

Mr. BUTLER, from the Committee on Appropriations, reported a bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1869; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for February 24, and from day to day until disposed of.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed House bill No. 223, in relation to islands in the Great Miami river, with an amendment, in which he was directed to ask the concurrence of the House.

It further announced that the Senate had passed joint resolutions of the following titles; in which the concurrence of the House was requested:

A joint resolution (S. No. 102) instructing the superintendent of the Asylum for the Insane in the District of Columbia to admit James McIntosh on the same footing as indigent insane persons of the District; and

A joint resolution (S. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

CUSTODY OF PUBLIC MONEY.

Mr. BUTLER, from the Committee on Appropriations, also reported back House bill No. 500, for the better regulation of the custody and expenditure of the public money; which was ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for February 24, and from day to day until disposed of.

CLAIMS OF MASSACHUSETTS.

Mr. BUTLER moved that the Committee on Appropriations be discharged from the further consideration of the claims of the State of Massachusetts, and that they be referred to the Committee of Claims.

The motion was agreed to.

Mr. SCHENCK. I withdraw my objection to the motion of the gentleman from Illinois, so as to let gentlemen who desire it to get rid of that which is on their minds.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from Iowa.

PERSONAL EXPLANATIONS.

Mr. WILSON, of Iowa. Mr. Speaker, I notice in the New York Herald of yesterday an article which reads as follows:

"*Curious Revelations in the Judiciary Committee's Investigations.*—It appears that the House Judiciary Committee, in investigating the matter of Mr. Justice Field's alleged expressions with regard to the unconstitutionality of the reconstruction acts, found more than they expected, or perhaps desired. The chairman of the committee, Mr. WILSON, of Iowa, a thorough Radical, was called to the stand as a witness, and he testified that not only Mr. Field but Mr. Justice Davies and, what is more astounding, Chief Justice Chase, had pronounced the pending reconstruction bill unconstitutional. The great high priest of the Radical church, the Radical candidate for the Presidency, the Chief Justice himself, declared in private conversation the bill unconstitutional! What a bombshell this will prove in the Republican camp! What a surprise to the mousing politicians who thought to make a case against Mr. Justice Field! The Washington correspondent says Mr. WILSON's testimony created a commotion at the capital, and we are not surprised at it. Let Mr. Chase be impeached at once, by all means, and that will improve his chances for the White House."

I wish to state there is not truth enough in this article to make it respectable fiction. At the time it was written the Committee on the Judiciary had not entered upon the investigation of Mr. Justice Field's alleged expression as to the unconstitutionality of the reconstruction acts, and consequently I had not testified before the committee in that case; nor have I testified here since. Nor, sir, do I expect to testify in that matter before the committee, for I know nothing about it. I know nothing of the views of Mr. Justice Field or of Mr. Justice Davies or of Chief Justice Chase relative to the reconstruction act of Congress or of the bill still pending in the Senate. I have not conversed with either of them. So far as I am connected with giving testimony before the committee, so far as my having any knowledge of the views of the members of the Supreme Court, that article is without the least foundation. It is made out of the whole cloth from one end to the other.

Mr. JOHNSON. I ask the gentleman from Illinois to allow me to make a personal explanation.

Mr. WASHBURNE, of Illinois. For how long?

Mr. JOHNSON. A very few minutes. I will be as brief as possible.

Mr. WASHBURNE, of Illinois. I will yield five minutes.

Mr. JOHNSON. I will send to the Clerk's desk to have read a resolution that I proposed some days ago, as printed in the Globe, with some accompanying remarks.

The Clerk read as follows:

"Mr. JOHNSON. I ask unanimous consent to offer the following resolution:

"*Resolved*, That the Judiciary Committee be hereby instructed to inquire whether it be in the power of Congress to prevent the immigration of Chinese and other inferior races to our country; and also whether the civil rights acts and the proposed amendments to the Constitution of the United States confer the rights of citizenship, including the right of suffrage, upon Chinese as well as all other males born in the United States over the age of twenty-one years, and to report by bill or otherwise.

"Mr. PILE. I object.

"Mr. JOHNSON. I simply desire the reference of this subject to the Committee on the Judiciary. I hope the gentleman will withdraw his objection.

"Mr. PILE. I must insist on the objection. I think the resolution is a burlesque on common sense."

Mr. JOHNSON. Now, Mr. Speaker, I desire to say to the House in vindication of myself, my own honor, and the honor of those who sent me here that I do not lie under affronts like this. I did not hear the expression of the gentleman from Missouri, or I should have repelled it at the time.

Now, sir, as to the merit of the resolution, the Supreme Court of the United States in the cases known as the passenger cases have decided that the States can prevent the immigration within their borders of any class of foreigners. But the United States have made a treaty with China, and the supreme court of the State of California has decided that in consequence of that treaty, notwithstanding the former decisions of the Supreme Court of the United States, the State of California cannot prevent the immigration of Chinese to that State. This, then, becomes an important question.

Then as to the second subdivision of the resolution, it instructs the Judiciary Committee to inquire whether the civil rights bill and the proposed amendments to the Constitution now pending before this House will confer the right of citizenship, including the right of suffrage, upon Chinese and other inferior races. That is an important question, also, and for this reason: the political party with which I affiliate declares before the country that the right of citizenship being conferred upon these people they will also have the right of suffrage; that the right of suffrage follows naturally and by force of law the right of citizenship. The party to which the gentleman from Missouri [Mr. PILE] belongs denies that proposition.

Now, these are questions of vital importance to the whole people of the United States, but very particularly so to the people that I represent. We have from sixty thousand to eighty thousand Chinese in our State; the males are petty thieves and the females are harlots. Larceny and prostitution are trades among those people. Like filthy harpies they are defiling the very food we eat, rendering pestilential the air we breathe.

I see the Speaker is looking at the clock. [Laughter.] I hope the House will allow me a minute or two longer. Now, in regard to the gentleman's ability to set himself up as a censor upon important measures brought before this House I have only this to say: he may judge for himself, but he ought not to set himself up as a judge for all. He ought to be courteous to the members upon this floor. Sir, I know nothing of the gentleman's qualifications for the high office he takes upon himself. I do know by looking at the Congressional Register that the gentleman is a minister of the gospel and a brigadier general—a pulpit hero and a battle-field priest. [Laughter.]

[Here the hammer fell.]

Mr. JOHNSON. I ask the House to allow me to go on.

Mr. WASHBURNE, of Illinois. I think the gentleman has ably vindicated himself.

Mr. JOHNSON. Just a moment. [Laughter.]

Mr. WASHBURNE, of Illinois. I will allow the gentleman one minute further. [Laughter.]

Mr. JOHNSON. Now, I say this to the gentleman to his honor, because I admire his buttons and reverence his cloth. [Laughter.] But I say that he has no right to stand here and thus characterize an important measure that I bring before this House. It was not his advice that I sought, but the advice and counsel of the Judiciary Committee of this House. They saw no hidden danger lurking in the resolution.

But it is not the first time in the history of the world that the eyes of wisdom have been closed to threatening danger. We read in sacred history that Balaam, when the angel of the Lord stood in the way with a flaming sword turning to the right and to the left, had no eyes to see. But the poor ass saw the danger and blurted out vehemently. [Laughter.]

Now, one word more. While I have sat here and listened to the instruction which the gentleman has offered to this House; while I have sat here and heard the eloquence peal forth from him like wind and vapor from a great steam whistle, [laughter,] I have been reminded of the old story of the fox and the bell. Do not cut me off if you please. [Laughter.] A fox had been chased by the hounds until he found it necessary to take refuge near a village church. While pursuing his way quietly and meekly—and it was very quietly, indeed, because of the nearness of the dogs—suddenly the old bell in the church steeple pealed forth its summons to the villagers for worship. The fox stood still in pensive surprise until the ringing ceased. He then looked around cautiously, and finally swelling with indignation, spoke out aloud and said, Even should the dogs tear me to pieces I will say it; O, thou brazen-faced, wide-mouthed, long-tongued, empty-headed thing, what insane people could have elevated thee to thy present giddy height?

The SPEAKER. The gentleman has had two minutes.

Mr. JOHNSON. Allow me one more. [Laughter.]

Mr. SPALDING. I hope the gentleman will have leave to print.

The SPEAKER. Does the gentleman from

Illinois [Mr. WASHBURNE] yield further time to the gentleman from California?

Mr. WASHBURNE, of Illinois. No; I do not.

Mr. JOHNSON. At least allow me to finish my sentence.

Mr. PILE. I appeal to the gentleman from Illinois to allow me a minute.

Mr. WASHBURNE, of Illinois. I yield to the gentleman for two minutes, and no longer.

Mr. JOHNSON. I thank the gentleman for two minutes. [Laughter.]

The SPEAKER. The gentleman from Illinois has yielded two minutes to the gentleman from Missouri, [Mr. PILE,] and not to the gentleman from California.

Mr. ROSS. I object.

The SPEAKER. The gentleman from California [Mr. JOHNSON] had two minutes, and now the gentleman from Illinois [Mr. WASHBURNE] yields two minutes to the gentleman from Missouri, [Mr. PILE.]

Mr. JOHNSON. I ask the gentleman from Missouri to allow me to finish my sentence. [Great laughter.]

Mr. PILE. The gentleman cannot expect me to yield him part of my two minutes after he has had seven or eight minutes.

The SPEAKER. Does the gentleman from Missouri yield one minute to the gentleman from California?

Mr. PILE. No; I do not.

Mr. JOHNSON. I am on the floor, and the gentleman cannot take me off. [Laughter.]

The SPEAKER. The gentleman's time has expired. He had two minutes longer than the five minutes.

Mr. JOHNSON. Then I understand that gentlemen upon the other side of the House decline to allow me to finish my story.

Mr. PILE. I have no disposition to reply.

Mr. INGERSOLL. I call for the regular order.

Mr. WASHBURNE, of Illinois. Then I must insist on my motion to go into Committee of the Whole on the state of the Union.

Mr. INGERSOLL. If this discussion is to be closed in two minutes I will withdraw my objection.

Mr. ROSS. I think I must object to the gentleman from Missouri [Mr. PILE] going on unless he will let the gentleman from California have two minutes longer.

Mr. PILE. I think when the gentleman from Illinois has yielded me two minutes in which to answer remarks which occupied seven or eight minutes, I might be allowed to proceed.

Mr. ROSS. I have no objection to the gentleman having his two minutes, but I think it is improper to cut the gentleman from California [Mr. JOHNSON] off in the middle of a sentence.

Several MEMBERS. Let him print the balance.

The SPEAKER. Does the gentleman from Illinois [Mr. Ross] insist on his objection?

Mr. ROSS. I do, unless the gentleman from Illinois will yield two minutes to the gentleman from California.

Mr. WASHBURNE, of Illinois. Before pressing the motion that the House resolve itself into Committee of the Whole on the state of the Union, I desire to say that so much time has been taken up this morning that I would be glad if the committee would agree to remain in session until five o'clock.

Mr. INGERSOLL. Say half past four.

Mr. WASHBURNE, of Illinois. Very well.

The SPEAKER. The gentleman from Illinois gives notice that he will ask the committee to sit until half past four.

Mr. PILE. There is so much objection to continuing this matter of personal explanation at this time that I will merely say that on Monday next I will ask the indulgence of the House to be permitted to reply to the gentleman from California, [Mr. JOHNSON.]

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I now renew the motion that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union upon the special order. And pending that motion I move that all general debate upon the pending appropriation bill be closed in two minutes after its consideration shall be resumed by the committee.

The motion to close general debate was then agreed to.

The question recurred upon the motion to suspend the rules for the purpose of going into Committee of the Whole.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The CHAIRMAN. By order of the House all general debate upon this bill is to be closed in two minutes; and all debate upon the pending paragraph and amendments thereto is to be closed in one minute. The pending question is upon the paragraph appropriating $430,000 for compensation and mileage of Senators, to which the gentleman from Maine [Mr. PIKE] has moved an amendment to strike out "$430,000" and insert "$300,000."

The question was taken upon the amendment, and it was not agreed to.

The next question was upon the amendment of Mr. PAINE, to strike out "$430,000" and insert "$414,000."

The question was taken; and upon a division there were—ayes 15, noes 53; no quorum voting.

Tellers were ordered; and Mr. URSON and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported that there were—ayes 28, noes 67.

So the amendment was not agreed to.

Mr. LAWRENCE, of Ohio. I move to amend this clause by adding the following:

Provided, That no part of the money herein appropriated shall be applied in paying mileage exceeding the rate of ten cents per mile; and all laws in conflict herewith are hereby repealed.

Mr. WOODBRIDGE. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WOODBRIDGE. My point of order is that the gentleman cannot offer an amendment to an appropriation bill to change an existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WINDOM. I move to amend this paragraph by striking out "$430,000" and inserting "$320,000;" so that it will read, "for compensation and mileage of Senators, $320,000."

Mr. BLAINE. That $100,000 ought to come out.

The CHAIRMAN. Debate is not in order.

Mr. WASHBURNE, of Illinois. I am willing that the amendment should be adopted, and have a vote taken upon it in the House.

The amendment was agreed to.

Mr. MAYNARD. I move to further amend the paragraph by adding:

Provided, That mileage shall be computed by direct geographical line from the residence of the Senator to the Capitol.

Mr. WOODBRIDGE. I raise the point of order that the law now provides how the mileage shall be computed and therefore this amendment is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHENCK. I move to further amend this clause by adding the words, "in addition to any unexpended appropriation for that purpose now in the Treasury."

The amendment was agreed to.

Mr. LAWRENCE, of Ohio. I move to further amend this clause by adding the following:

Provided, That no part of the money herein appropriated shall be applied in paying mileage exceeding the rate of ten cents per mile.

Mr. WOODBRIDGE. I object to the amendment upon the same ground that I objected to the amendment offered by the gentleman from Ohio [Mr. LAWRENCE] a few minutes since, that it is out of order because it proposes to change the existing law.

Mr. LAWRENCE. I have modified the amendment I offered before, so as to free it from that objection.

The CHAIRMAN. The Chair overrules the point of order, and rules the amendment to be in order.

Mr. LAWRENCE, of Ohio. Is it in order to discuss this amendment?

The CHAIRMAN. It is not. By order of the House all debate upon this paragraph is closed.

The amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, namely, Secretary of the Senate, $3,600; officer charged with disbursements in the Senate, $480; Chief Clerk, $2,500; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at $2,160 each; eight clerks in office of the Secretary of the Senate, at $1,850 each; keeper of the stationery, $1,752; two messengers, at $1,080 each; one page, at $500; Sergeant-at-Arms and Doorkeeper, $2,000; assistant doorkeeper, $1,700; postmaster to the Senate, $1,750; assistant postmaster and mail carrier, $1,440; two mail boys, at $1,000 each; superintendent of the document-room, $1,500; two assistants in document-room, at $1,200 each; superintendent of the folding-room, $1,500; three messengers, acting as assistant doorkeepers, at $1,500 each; seventeen messengers, at $1,200 each; clerk or secretary to the President of the Senate, $1,752; clerk to the Committee on Finance, $1,850; clerk to the Committee on Claims, $1,850; clerk of printing records, $1,850; clerk to the Committee on Appropriations, $1,850; superintendent in charge of the furnaces, $1,200; assistant in charge of furnaces, $864; three laborers, (one in charge of private passages,) at $864 each; Chaplain to the Senate, $750; one special policeman, $864, making $84,744.

Mr. WOODBRIDGE. I move to amend by striking out the paragraph just read, and inserting in lieu thereof what I send to the Clerk.

The Clerk read as follows:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, namely: Secretary of the Senate, $4,320; officer charged with disbursements of the Senate, $576; chief clerk, $3,000; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at $2,592 each; eight clerks in office of the Secretary of the Senate, at $2,220 each; keeper of the stationery, $2,102 40; two messengers, at $1,296 each; one page, at $720; Sergeant-at-Arms and Doorkeeper, 2,400; assistant doorkeeper, $2,040; postmaster to the Senate, $2,100; assistant postmaster and mail-carrier, $1,728; two mail boys, at $1,200 each; superintendent of the document-room, $1,800; two assistants in document-room, at $1,440 each; superintendent of the folding-room, $1,800; three messengers, acting as assistant doorkeepers, at $1,800 each; seventeen messengers, at $1,440 each; clerk or secretary to the President of the Senate, $2,102 40; clerk to the Committee on Finance, $2,220; clerk to the Committee on Claims, $2,220; clerk to the Committee on Printing Records, $2,220; superintendent in charge of the furnaces, $1,440; assistant in charge of furnaces, $864; laborer in charge of private passages, $864; two laborers, at $864 each; Chaplain to the Senate, $900; one special policeman, $864; making $98,704 80.

Mr. LAWRENCE, of Ohio. I raise a point of order on this amendment, that it proposes to change the law as it now stands, which fixes these salaries. It is precisely the same objection which the gentleman from Vermont [Mr. WOODBRIDGE] made to the amendment I submitted a few moments ago. This amendment does not merely propose an appropriation; it is a proposition to change the law fixing these salaries.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WOODBRIDGE. Mr. Chairman, as I understand the amendment which I have just offered, it does not change the existing law in any particular. At the first session of the Thirty-Ninth Congress a law was passed making the pay of members of Congress $5,000 a year, and making a permanant addition of

twenty per cent. to the salaries of the employés of the House. That, sir, is the law to-day; and I have introduced this amendment for the purpose of making this bill conform to the existing law.

Now, sir, in the first place, as I understand the rules of this House, an amendment of an existing law cannot be included in an appropriation bill; but even if that can be done the statement which the gentleman from Illinois [Mr. WASHBURNE] made yesterday, though doubtless he supposed he was stating the fact, was an error, because in this bill there is no provision for repealing the existing law in relation to the compensation of our employés. The last paragraph of the bill, to which I understand the gentleman referred, is as follows:

"For compensation of the district marshals, $14,600; and it is hereby provided that the number of officers, clerks, and employés employed and paid in the several departments, bureaus, and offices mentioned in this act, shall be limited to the number herein specified and provided for; and all laws and parts of laws by which any other officers, clerks, or employés in said several departments, bureaus, and offices are created or provided for, beyond such as are in this act specified, are hereby repealed."

Now, sir, in this repealing provision the compensation of the employés of Congress is not included; and the gentleman from Illinois [Mr. WASHBURNE] was under an erroneous impression when he stated yesterday to his colleague [Mr. LOGAN] that if he would examine the bill he would find a clause repealing the increase of the pay of congressional employés. Why, sir, the gentleman from Illinois, [Mr. WASHBURNE,] when the Military Academy bill was under consideration a day or two ago, said several times in the course of the debate, "such is the law, and it is the duty of Congress in its appropriation bills to execute the law." If he was honest in that declaration he will to-day favor the amendment which I have offered.

Sir, I believe in economy as much as the gentleman from Illinois does. But that cry has become so common in this House that it does not any longer even tickle the ears of the people. Economy we must have in the administration of our public affairs. We must have a reduction of our Army to a minimum standard, taking into consideration the safety of the Republic. We must have a reduction of our Navy. We must have a just administration of our tax laws; the collection of revenue from the luxuries of life, so that the industry of the country will no longer suffer; a judicious revision of our system of foreign imports, so that we may obtain the necessary amount of revenue, while at the same time protecting the manufacturing interests of this country. That is what the people demand at our hands.

But, sir, they do not demand injustice. This, sir, is no economy. It is like the father who allows his children to go uneducated because he would save his money. It is like the man who would allow his house to go into dilapidation because he would keep his money. It is like the farmer who sends everything to market except what his pigs only will eat and feeding his family on what the pigs reject. It is that sort of economy. It is parsimony born of avarice.

Now, sir, the people of this country do not ask us to starve our employés. They ask us to give every one a fair compensation. And I am in favor of restoring to the clerks the payment of twenty per cent. But that, sir, is not a parallel to the one here now, as was stated yesterday by the gentleman from Illinois, [Mr. WASHBURNE.] The twenty per cent. to the clerks of the several Departments expired by its own limitation last July, according to the act providing for their increased pay. There is no limitation here. The salaries of our employés are fixed by law. They are as permanent as the salary we receive ourselves, and cannot be changed until the law itself is repealed. And while I do not say it is an insult to the House, I do say it is the most extraordinary proceeding that the Committee on Appropriations should come here and recommend propositions for the action of the House in clear violation of the well-settled law of the land. I do not justify any committee that will do that, for I believe it is done more for reputation than for the welfare of the Union.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. The amendment of the gentleman from Vermont will bring the House to a clear vote on the whole question now before it, and so far as that is concerned I am glad he has offered his amendment in its present shape. If this committee adopt the amendment of the gentleman from Vermont it will be reported to the House, where it can be settled on a vote by yeas and nays.

Now, sir, in reply to the strictures of the gentleman from Vermont—his strictures upon the Committee on Appropriations—I desire to state to this Committee of the Whole what influence operated upon the Committee on Appropriations in inserting this provision of the bill. We found, sir, that the twenty per cent. had been cut off from all the employés of the Government outside the Capitol. We found that the House of Representatives had refused by a direct vote to give this twenty per cent. additional compensation to any of the employés of the Government disconnected with the Capitol. We found if we voted for that twenty per cent. we voted more than twelve hundred thousand dollars out of the Treasury of the United States, as it would require more than twelve hundred thousand dollars to pay this twenty per cent. This is a mere bagatelle in the estimation of the liberal gentleman from Vermont, who is in favor of economy, but who is also in favor of every appropriation to rob the public Treasury.

Now, Mr. Chairman, when we considered that we concluded that it was unjust and unfair, and that we could not stand before the country making this discrimination in favor of our own employés and against everybody else, and hence we did propose the several sums specified in this section of the bill.

Now, the gentleman says this is changing existing law, or rather it is not carrying out existing law. He endeavors to convict me of inconsistency in what I said the other day. Sir, there is no inconsistency in it. I said we had no right to refuse an appropriation called for by law unless we repealed the law; and I say now that in the last clause of this bill we do repeal the law, so as to make it conform to the appropriations which are now specified.

Mr. MYERS. The gentleman states he does this because we refused the twenty per cent. to the other employés of the Government. Now, did he vote to give it to those other employés?

Mr. WASHBURNE, of Illinois. If the gentleman had been here when that vote was taken he would have known that I voted against anything additional. And I am consistent here to-day. I voted against that twenty per cent., and I say that to be consistent with myself I must vote against this twenty per cent.

I have not time, of course, in five minutes to go over the whole question of twenty per cent. additional compensation. Let us pass upon this and see precisely where we stand. If the committee will examine the laws—and I have not time to read from them—they will see that there are no instances, except certain employés, whose pay is less than $1,000——

[Here the hammer fell.]

Mr. LOGAN. I propose to amend by adding one dollar to the amendment of the gentleman from Vermont in reference to the special police, so that it will read: "one special policeman, $865."

I do not desire to discuss this bill for any other purpose than to call the attention of my colleague to the fact that he is in error in his statement that there is a provision in this bill, as reported, repealing the law giving the twenty per cent. to the employés of the House and Senate. There is no such provision in the bill. The clause is as follows:

And all laws and parts of laws by which any other officers, clerks, or employés in said several Departments, bureaus, and offices are created or provided for beyond such as are in this act specified are hereby repealed.

This repealing clause in the appropriation bill applies not to the employés of the Senate and House, but to other officers of the various Departments and bureaus of the Government. It does not apply to the employés and clerks as provided for in this bill.

Then let me call the attention of the House to one other thing. In the very law that provides that twenty per cent. shall be allowed in addition to the salaries now provided by law for the clerks and employés of the Senate and House we find a provision giving to the members of Congress, as I remarked yesterday, an increase of their annual salaries from three thousand to five thousand dollars. In section eighteen of that law it is provided that twenty per cent. shall be given to these clerks and employés of the House and Senate in addition to their present salary under a prior law, and there is no attempt to repeal this provision of the law of 1866 by this bill as reported from the Committee on Appropriations. That being the case, then I ask the House to apply the same rule to those clerks and employés that they apply to themselves. I ask the chairman of the Committee on Appropriations if that looks well for members of this House? Almost the first line in the bill provides—for what? For a sufficient amount to pay the Senators $5,000, under section seventeen of the law of 1866. Then immediately follows a reduction of twenty per cent. from the pay of the poor employés of the Senate. Now, what kind of legislation is that? It is legislation which gives to us our salaries, that retains the rich in possession of their gains, but takes away or reduces the compensation of the poor man. It is the same old principle of giving to the rich and taking from the poor.

Yesterday, when I tried to have stricken out of the Military Academy appropriation bill a provision giving to the officers at West Point an additional amount to their salaries as allowed by law, I asked this House if it would apply such a rule to West Point and a different rule to the poor soldiers that were working for us as laborers, wheeling a wheelbarrow and moving our documents. I call the attention of my colleague to the fact that there stands at one of our doors a man without any arms, both having been taken away by a rebel shot, and he, with two iron hooks attached to his stumps, moves the door back and forth. From that poor man you take away the twenty per cent. which the law gives him, while for your West Point lieutenant you increase his compensation thirty per cent. Why? Because he is a graduate of the Military Academy. But the poor armless soldier can open and close the door for you as you pass along and you refuse to give him his additional pay, which he is entitled to by law.

[Here the hammer fell.]

Mr. LOGAN. I withdraw the amendment.

Mr. STEVENS, of Pennsylvania. I move to amend by striking out the amendment offered by the gentleman from Vermont and inserting the following as a substitute:

To certain employés in the civil service of the Government at Washington twenty per cent. upon their pay for one year from and after June 30, 1867: *Provided*, This shall not apply to employés whose pay exceeds $3,500 per annum.

I desire to revive that law of 1866 for one year.

Mr. WASHBURNE, of Illinois. I rise to a question of order. That certainly cannot be in order; it is making a new law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. STEVENS, of Pennsylvania. Then I move to strike out all the amendment of the gentleman from Vermont except the last word and insert what I have offered.

The CHAIRMAN. That will not be in order. It is changing the law; it is original, independent legislation.

Mr. STEVENS, of Pennsylvania. It is amending the law, nothing else.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. STEVENS, of Pennsylvania. Then, sir, I have only to say that I shall vote for the amendment offered by the gentleman from Vermont, [Mr. WOODBRIDGE.] Last year the House, after full discussion upon the question, made provision for this extra compensation, and I understand that the amendment of the gentleman from Vermont confines it to one year. If not, I will move an amendment so as to confine it to one year.

Mr. WASHBURNE, of Illinois. That is just as much out of order as the other proposition of the gentleman.

The CHAIRMAN. The Chair understands that the proposition of the gentleman from Vermont [Mr. WOODBRIDGE] is for one year. This is a bill making appropriations for the fiscal year ending June 30, 1869.

Mr. STEVENS, of Pennsylvania. I do not so understand it. I understand that the amendment is general in its terms.

Mr. WASHBURNE, of Illinois. I should like to have the amendment read again.

The Clerk began to read Mr. WOODBRIDGE'S amendment.

Mr. WASHBURNE, of Illinois. I only want to have that portion of it read limiting it, and which, I contend, changes the existing law.

The CHAIRMAN. There is no proposition of that kind pending. The amendment offered by the gentleman from Pennsylvania [Mr. STEVENS] was ruled out of order.

Mr. STEVENS, of Pennsylvania. I move to amend the amendment by adding the words "this to continue for one year."

Mr. WASHBURNE, of Illinois. That is liable to the same objection; it is new legislation. I make the point of order on it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. STEVENS, of Pennsylvania. That is the very thing that was put in the bill last year, to my certain knowledge. I am told now that the amendment does limit it to one year.

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania that the amendment offered by the gentleman from Vermont is in so many words the appropriation made last year. It does not change the existing law. It is to carry out the existing law. The amount proposed to be appropriated corresponds with the amount appropriated last year.

Mr. SPALDING. Does it limit it to the officers of the Senate?

The CHAIRMAN. This is the appropriation for the officers of the Senate.

Mr. SPALDING. That is what I wanted to know.

Mr. STEVENS, of Pennsylvania. Do I understand this to be for all the officers of Congress?

The CHAIRMAN. Only for the officers of the Senate.

Mr. STEVENS, of Pennsylvania. If the amendment is confined to the Senate I have nothing to say.

Mr. SCHENCK. I move to amend the amendment by reducing the amount for the last officer named in it five dollars.

Mr. Chairman, as I understand this question it is presented to us now in this way: the law of the land gives, by an addition of twenty per cent. to their former salaries, a certain salary to each one of the employés of the Senate. That is the existing law; and it is neither repealed nor proposed to be repealed by this bill. The last section of the bill to which the gentleman from Illinois [Mr. WASHBURNE] refers makes no repeal whatever of that law. It is a provision relating to the persons who shall be contemplated by the law as provided for, without one word as to their compensation.

Then, sir, we stand here with a law upon our statute-book giving to each one of the persons named in this section a certain salary as compensation, and with an appropriation bill before us which proposes to reduce that salary without its having been reduced by any repeal or change of the law.

Now, sir, suppose that this bill passes, and suppose that for the postmaster of the Senate you appropriate $1,700, when by law his salary is $2,100; what will follow? They will pay him, perhaps, the $1,700, and when he asks for his other $400 they will not be able to say "the law does not allow it to you," but they will simply reply, "Congress did not make an appropriation for your full salary." What, then, follows? He has a claim, then, upon the Government for the $400 of his salary unpaid, and it will be very difficult for any future Congress to refuse to pay him that $400. The law is not repealed; it is unchanged; the appropriation does not conform to the law, but falls short of it. He performs the service and demands the payment of his salary, and the reply he receives at the door of the Treasury is, "There has been only an appropriation for a part of your salary; the rest must stand over and come into some deficiency bill."

Apply it to the case of a member of Congress, to my friend from Illinois, [Mr. WASHBURNE,] for instance. Suppose we should appropriate only $3,000 for his salary, without any change of the law which gives him $5,000 a year, will he pretend to say that he would not then have a good claim against the Government for $2,000 more?

Mr. SPALDING. If my colleague [Mr. SCHENCK] will allow me, I will say that the Committee on Appropriations ordered a clause to be reported repealing that provision.

Mr. SCHENCK. I do not know what the committee have ordered. I am not in possession of their secrets. I only know what they have done; there is nothing of that sort in the bill. They may intend to follow it up hereafter by a motion to amend the bill so as to make it conform to their appropriation, and then, perhaps, they may accomplish their object legitimately. But, as the bill now stands, it only makes an appropriation of a less amount than the man would be entitled to claim from the Treasury, and will leave the Government in his debt.

Mr. WOODBRIDGE. Lest the committee may misunderstand this amendment I propose to explain it.

Mr. MAYNARD. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MAYNARD. My point of order is that the gentleman from Vermont [Mr. WOODBRIDGE] has already spoken upon the same side of this question.

The CHAIRMAN. The Chair understands the gentleman from Vermont to be about to oppose the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. MAYNARD. If the Chair understands that I think the Chair is the only one here who does.

The CHAIRMAN. The pending question is upon the amendment of the gentleman from Ohio [Mr. SCHENCK] to the amendment of the gentleman from Vermont, [Mr. WOODBRIDGE.] The gentleman from Vermont, who has not yet spoken upon the amendment to the amendment, now proposes to speak in opposition to it.

Mr. MAYNARD. The Chair merely understands that the amendment of the gentleman from Ohio is in furtherance of the object had in view by the gentleman from Vermont, that they are both on the same side of the question.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from Vermont will proceed.

Mr. WOODBRIDGE. During the first session of the Thirty-Ninth Congress a law was passed fixing the compensation of the employés of the House. In accordance with that law there was appropriated for the present fiscal year precisely the amount due them under that law of Congress. My amendment is precisely in accordance with the appropriation for this purpose made last year, so that if it is adopted it will then provide for the payment of these employés of the Senate precisely what they are entitled to under the law, and no more.

And I will state further that, there having been for a long time discrepancies and differences between the salaries of officers of the same grade of the two Houses of Congress, there was appointed a joint select committee to revise and fix the pay of the officers of the two Houses. That committee have been devoting their attention carefully to the duty assigned them, but have not yet completed their work. At an early day, however, they will bring in a bill revising and equalizing the pay of those employés.

As to the remark of the gentleman from Illinois, [Mr. WASHBURNE,] that "the gentleman from Vermont comes here to rob the Treasury"——

Mr. WASHBURNE, of Illinois. I did not make any such statement.

Mr. WOODBRIDGE. I can only say that that remark indicates that he is—a gentleman. I am in favor of no scheme not based upon justice, and I would not vote to rob the Treasury of one dollar. But I hope I am too much of a man to come here and oppose that which is the due of one, even of the humblest, of our citizens. When a poor widow comes here and in tears asks for the pension to which she is entitled, or when a poor orphan, destitute and hungry, comes here and asks to be paid the pittance that the Government owes him, as the child of a brave soldier, I will not rise in my place here and cry "economy, economy," "robbery, robbery." The tears of widows and orphans sent away from Congress, deprived of their just dues, shall not be laid to me charge. I will do to them as I will do to everybody who comes here and respectfully asks for relief; I will do justice to them let the consequences be what they may. When the American Government shall have come so low that it cannot do right, when it is so reduced and poor that it cannot pay a fair and adequate compensation to its employés, then the time will have come when the stars should sink in eternal night.

I, sir, have no fear of it. Backed by thirty-five million people, industrious, honest, manly, and brave, this Government can protect itself, can pay its debt, can compensate fairly its employés, and do justice to all men, and in the end will show itself the greatest nation the sun has ever shone upon.

The gentleman from Illinois [Mr. WASHBURNE] said the other day that he had "no reputation to make and no reputation to lose." I beg of him not to put us all in the same position that he occupies himself. I, sir, have reputation to make if I can make it properly; and if I have made any reputation heretofore I cannot afford to lose it. And I cannot sit quietly in my place and be unjustly accused of either directly or indirectly lending my voice or my votes to the furtherance of any proposition not based on integrity and justice.

[Here the hammer fell.]

Mr. HILL. I desired to ask the gentleman from Vermont [Mr. WOODBRIDGE] before he sat down whether his amendment proposes to give this increase to the laborers.

Mr. SCHENCK. I withdraw my amendment.

Mr. SPALDING. I renew the amendment. As a member of the Committee on Appropriations I desire to say a word or two. That committee seems to be unnecessarily impugned. We do not wish to run so directly counter to the propositions of gentlemen as they may imagine. I myself, on a former occasion, offered a resolution to give this twenty per cent. to the employés in the different Departments. I afterward found that I had made a mistake in framing that resolution, because I excluded those whose pay is less than $1,000. I had thought, and so had the committee, that there was already in force a provision of law giving to that class of employés an increase of twenty per cent.; but we found we were mistaken on that point. I now design to propose at a proper time (and perhaps during the discussion of this bill we may find a fit opportunity) to place the employés in all the various Departments of the Government in Washington upon

an equal footing with the employés of Congress, provided it be the sense of Congress that this twenty per cent. shall be continued. I am not averse to the continuance of it, and I think one half of the committee are not averse to it. It is only a question of economy with this House and with Congress and with the nation. The question is, can we afford to do it? I shall be very glad to do it; and I think, as at present impressed, I shall vote in favor of the proposition.

Now, sir, I want the committee to understand this matter. This twenty per cent. was paid the first year to the employés of Congress; it is being paid the second year. By this bill we are reaching into the third fiscal year. We propose now to take the judgment of this House upon the question, shall it be continued during the fiscal year commencing on the 30th of June next? If the House should say "No," then we shall be obliged to insert in this bill a proviso repealing the provision now in force. If the House should say that this increase shall be continued then we must, as the gentleman from Vermont [Mr. WOODBRIDGE] proposes, increase the amount of the appropriations reported in the bill.

I only give notice to members of the House that they are now about to decide a test question. If they decide to continue this twenty per cent. during the next fiscal year to the employés of Congress it will be but fair and just to give twenty per cent. to all the employés in the Executive Departments, who work quite as much time, to say the least, as the employés of Congress. For myself, I am in favor of granting it to the whole. I will vote for giving it to the employés of this House, and I will vote for giving it to the employés of the Executive Departments. Now my position is known.

Mr. BUTLER. Mr. Chairman, I do not get up to "skyrocket" this question, but to deal with it in a plain, practical, business way. The question is a test question. If this House means to give to all the employés of the Government at Washington, including all laborers, twenty per cent. addition to their pay, be it so. But let us not give it to employés in this Capitol unless we are willing to give it to those outside. Now, sir, I am opposed to giving the twenty per cent. additional, and for this reason mainly: to pay this will take $1,200,000 out of the pockets of the taxpayers.

Mr. LOGAN. I would like, with the gentleman's permission, to say that this bill, in appropriating this twenty per cent. to the employés of Congress, will not take $1,200,000 out of the Treasury.

Mr. BUTLER. I have not said that it will; but I have said that this is a test question, because we cannot with any show of reason give this twenty per cent. to our employés and deny it to the employés in the Departments. If you give it to all the employés in Washington you give $1,200,000 out of the money of the people. Now, sir, we have just passed a law that the employés of the Government shall labor for only eight hours a day.

Several MEMBERS wished to ask questions.

Mr. BUTLER. I have but five minutes. If you will give me time every man may ask me questions, and I will be happy to answer. I cannot yield now.

Mr. Chairman, we have already passed a law taking off twenty per cent. from the time of labor. I find in this very bill three laborers provided for at $840 a year each, and I know that in the other Departments of the Government in Washington laborers get $720 each, and they labor only eight hours a day. On page 286 of the Estimates I find that in Washington a laborer in the hospital department of the Navy gets $720. I find in the same hospital department of the Navy laborers in New York and Boston get only $240 each. I find that those in Annapolis get $150; and here is one in Washington, District of Columbia, $144. I ask where is the justice in this giving three times more to Washington laborers? If gentlemen will vote to give laborers this increased price all over the country I may be willing to go with them. The truth is we are influenced here by the appeals of the sisters, wives, and sweethearts of employés, who take us by the button and impress us with the necessity of adding to these emoluments, so that we forget the ill-paid, overtaxed laborer elsewhere.

[Here the hammer fell.]

Mr. SPALDING'S amendment to the amendment was rejected.

Mr. HOLMAN. I move to amend the amendment by striking out the last word.

Mr. Chairman, it might have been inferred from what has transpired during the present Congress that there was an earnest effort to economize the expenditures of the Government after these years of unexampled extravagance, but I fear that the hopes of such reform will prove delusive. We have abundant promises of reform from gentlemen who control the action of the House. I was pleased with the remark made by the gentleman from Maine [Mr. BLAINE] yesterday in reference to one appropriation bill, tending to show that at the rate by which our expenses were intended to be reduced by the pending appropriation bills this Congress would bring the expenditures back to what they were when the Republican party came into power, but I see no hope of such reform in the bill now before the House. I wish to call the attention of gentlemen to the expenditure provided for in the pending paragraph of this bill and the amendment of the gentleman from Vermont for the employés of the Senate, compared with the expenditures for the same purpose during the year before the Republican party came into power, for it is to the expenditures under Buchanan's Administration to which the gentleman from Maine has referred. The paragraph under consideration, as it now stands, appropriates $84,744, which is $9,330 more than was appropriated in the last session of the Thirty-Sixth Congress in 1861—an increase of $9,330 in a comparatively small matter of expenditure. The party now controlling the destinies of this country came into power more on the charges of the extravagance on the part of Mr. Buchanan's Administration than on any other specific charge, and now, even in a moment of economy, one seeks to approximate to the expenditures of that Administration. The appropriation then was $75,414 as against $84,744 now proposed to be appropriated, under the pressure of severe economy, for exactly the same purpose. If you add the twenty per cent., as proposed by the gentleman from Vermont, [Mr. WOODBRIDGE,] and which it seems to be reasonably certain you will do, you make an increase of the expenditure for this specified purpose, the employés of the Senate, of $27,278 more than the appropriation for the last session of the Thirty-Sixth Congress—nearly forty per cent. of increase—and this increase is proposed to be made upon those expenditures at the very moment when gentlemen are talking about coming down to a system of the severest economy.

Mr. MYERS. I should like to ask the gentleman from Indiana what the difference is in the price of provisions and clothing between that time and this?

Mr. HOLMAN. I will answer the gentleman that the laboring classes of our people, upon whom rests the whole burden of supporting the Government, are not receiving higher compensation, dollar for dollar, than they received at the time the appropriation was made to which I refer.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment of the gentleman from Indiana, and will state this to the House: it is claimed by the committee that it was their intention in the proviso at the end of the bill to make it apply to all employés. If it does not go to that extent when we come to that we will amend it so that there shall be no question on the subject.

Mr. PAINE. I shall oppose the amendment.

Mr. WASHBURNE, of Illinois. Very well; the gentleman has a right to do that. He need not interrupt me, however, in my five minutes without my consent.

Now, I understand this feeling very well. I am in my normal condition to-day, and I find myself assailed on all sides of the House because I have seen fit, in the discharge of a duty which I owe to my constituents and to the country, to report this bill by the unanimous consent of the committee. I am assailed by the gentleman from Vermont, [Mr. WOODBRIDGE,] by my colleague, [Mr. LOGAN,] by the gentleman from Ohio, [Mr. SCHENCK,] and by gentlemen all around me, and why? Because we propose to put our own employés here on an equality with all the others.

My colleague talks about the course pursued in relation to soldiers at West Point and what we are doing here to-day. What did we do yesterday? So far as the soldiers were concerned I insisted that they should be paid in accordance with existing law, and as there was no provision in the bill repealing the law I did not undertake to strike it out in regard to the soldiers at West Point. I did not undertake to strike at those gallant young men, all of whom have seen service in the field. And, sir, how does my colleague appear here? What does he propose to do for the soldiers? Has he proposed any provision for raising the salaries of soldiers in the field, who have shared with him the dangers and perils of the battle-field? Not at all; but he proposes to add to the already existing salary in the very first item of $3,600 to the Secretary of the Senate, a gentleman whom I highly respect and a personal friend, how much? Seven hundred and twenty dollars in addition to the salaries which we fix here at $3,600. And so throughout.

Sir, nothing is done for the soldier. But, as the gentleman from Massachusetts [Mr. BUTLER] has said, we are button-holed, influenced, and persuaded. I wish I could say that it is my duty to be thus influenced, because there is no man here who appreciates more highly the services of our clerks, messengers, and employés than I do. There is no man here who has known them longer; there is no man here that can testify more truthfully to their fidelity, their affability, and their uniform courtesy to us as members. But, sir, I have a duty to perform. I am not voting away my own money. That I can give away; that is my business. But I have no right to vote away money at the cost of others without a good and sufficient reason to justify me.

These are some of the considerations which have influenced me. Gentlemen seem to think I am responsible, that I have some particular interest in this matter. What is my responsibility or my interest more than that of every other gentleman? What is it more than belongs to every man—to guard vigilantly the Treasury of the country, and see that there are no extravagant or improper expenditures made?

[Here the hammer fell.]

Mr. HOLMAN. I withdraw my amendment.

Mr. LOGAN. I renew the amendment. I must certainly confess that I am very much astonished at my colleague's remarks in reference to an assault by me upon him. I have made no assault upon him. I was speaking about the question of the equality of these men with others whose cases we have been acting upon. But my colleague seems inspired with a determination to court something of this kind from me. He says that he did not strike at the gallant soldiers as others did, meaning me, as I understand. Now, sir, I say to the gentleman that I court no disputation with him on that or any other point; but when he undertakes to shield himself behind any insinuation such as that made to me, that I struck at the soldiers either at West Point or anywhere else——

Mr. WASHBURNE, of Illinois. Oh, no. I did not say so.

Mr. LOGAN. Well, sir, you did say it.

Mr. WASHBURNE, of Illinois. No, sir.

Mr. LOGAN. Well, you insinuated it, and I had just as lief you would say it. At no time have I attempted to strike at the soldier anywhere. What I did say was this: that while my colleague insisted yesterday that the officers at West Point should have an extra allowance because the law gave it to them, I have only insisted that the same rule should be applied to our employés in the House—that they should have this allowance because the law gives it to them. But my colleague places himself in opposition to this and in favor of the other, while the law allows it in both cases. A strange position!

Now, as to striking at soldiers, let me say to my colleague that I am as good a friend of the soldier as he dare be, and perhaps a little more discreet one than he is; and I say to him now that what I said a little while ago is true—when you appropriate money to pay the extra allowances of lieutenants at West Point that three fourths of the men about this House and the Senate to-day are as gallant men as they ever were, and have served their country as faithfully as they ever did. So far from striking at the soldier, I am striking at nobody; but I ask that the law shall be faithfully carried out in this appropriation bill as well as in every other bill. These maimed and one-legged and one-armed and no-armed men around this Capitol are just as much entitled to have the full measure of the law meted out to them as is any man in this land, whether he wears a cocked hat or has epaulettes on his shoulders and stars made of diamonds or what else they may be.

This bill does not affect the clerks in the Departments. It has no effect upon them whatever. It affects only these employés at the Capitol. And I say to the gentlemen on this Committee on Appropriations that when you refuse to your doorkeepers and your clerks and your reporters the amount which under the law they are entitled to and at the same time keep your own salaries unreduced you are doing such an act of injustice as no man can justify himself in before the country. I say—and I appeal to every soldier in this land—that when you strike down these men and refuse to deal justly by them and give them the same measure of justice under the law which you give to others, you are doing an injustice that will come back to mock you to your own faces, and you will find it so.

Sir, I do not desire any sympathy on account of soldiers any more than anybody else. I desire that the poor cripple, and the man that is not crippled, be he either soldier or laborer, shall have the same justice done him here that is done to other men because they happen to belong to the aristocracy of this country, and to a class of men who claim that they should be bowed down to and worshipped by the poor men who pay the taxes to support them. I say let us give to these poor men the pay that the law allows them.

Here the hammer fell.

Mr. KELLEY. Mr. Chairman, I have as much consideration for the soldier as the eloquent gentleman who has just taken his seat, but I have also some consideration for the soldiers' orphans and the soldiers' widows, I have some consideration for the few soldiers in the employ of this House, and I have more for the thousands of them unemployed by reason of excessive taxation in every congressional district in the country.

For what period of time are we asked to legislate? Not for to-day or to-morrow, but from the 30th of June, 1868, to the 30th of June, 1869, with the price of everything tending downward, with our country being restocked with cattle, and broad fields planted to give us the hope that food will come down as well as fabrics. When this twenty per cent. was added, gold was at more than 200, and all prices were increased by the demand of the Government for Army goods. Now, the supply of labor is in excess and wages are falling. Gentlemen cannot read a newspaper without finding that wages are being cut down ten per cent., twenty per cent., twenty-five per cent., and that working men, women, and children are idle. The cause for this twenty per cent. increase having disappeared, I am unwilling longer to tax the tea, the sugar, the coffee of the soldiers' widows and orphans to pension a few around these two Houses. Sir, we can with no grace continue this twenty per cent. to the employés of the House and refuse it to those of the various Departments; and in voting this twenty per cent. every gentleman should know that he is imposing an additional tax of $1,250,000 upon the people of the country, the unemployed soldiers, and the widows and orphans of soldiers. That dodge will not do for this argument.

Nor is it fair to say that members of Congress increased their own pay, and thereby added to the expenditures of the country. There were members here who voted away more from themselves in the way of mileage than they received by the increase of their compensation. Just make the calculation of the amount required to pay the mileage under the old rule, and the mileage under the new rule, and also take into account all the other curtailments which have been made; and you will find that the measure which is demagogically flung in the faces of those who have the courage to oppose this legislation as selfish and extravagant, is a measure for equalizing the pay of members. Why should I work for $3,112 a year while Delegates from the Territories get from ten thousand dollars to twelve thousand dollars a year? We merely cut down their ten thousand dollars and twelve thousand dollars a year, and add it to the pay of the useful members on the floor. [Great laughter.] I should have said, the voting members on this floor; thus equalizing their pay.

Mr. LOGAN. I withdraw the amendment to the amendment.

Mr. WASHBURNE, of Illinois. I move that the committee rise for the purpose of closing debate on this paragraph.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

INCOME-TAX PAYERS, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a communication from the Commissioner of Internal Revenue, in compliance with a resolution of the House of the 30th ultimo, relative to the number of persons paying income tax in each State, the number of manufactures paying tax, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

SOUTHERN RAILROADS.

Mr. McCLURG, by unanimous consent, from the select Committee on Southern Railroads, submitted a report from the majority of the committee; which was ordered to be printed and recommitted.

Mr. CHANLER, from the same committee, obtained leave to make a minority report.

Mr. HOLMAN moved to reconsider the vote by which the report was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on the legislative appropriation bill all debate on the pending paragraph terminate in two minutes.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union upon the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the Chair,) and resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The pending paragraph was as follows:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, namely: Secretary of the Senate, $3,600; officer charged with disbursements in the Senate, $480; chief clerk, $2,500; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at $2,160 each; eight clerks in office of the Secretary of the Senate, at $1,850 each: keeper of the stationery, $1,752; two messengers, at $1,080 each; one page, at $500; Sergeant-at-Arms and Doorkeeper, $2,000; assistant doorkeeper, $1,700; Postmaster to the Senate, $1,750; assistant postmaster and mail carrier, $1,440; two mail boys, at $1,000 each; superintendent of the document room, $1,500; two assistants in document room, at $1,260 each; superintendent of the folding-room, $1,500; three messengers, acting as assistant doorkeepers, at $1,500 each; seventeen messengers, at $1,200 each; clerk or secretary to the President of the Senate, $1,752; clerk to the Committee on Finance, $1,850; clerk to the Committee on Claims, $1,850; clerk of printing records, $1,850; clerk to the Committee on Appropriations, $1,850; superintendent in charge of the furnaces, $1,200; assistant in charge of furnaces, $864; three laborers, (one in charge of private passages,) at $864; chaplain to the Senate, $750; one special policeman, $864, making $84,744.

The pending amendment was by Mr. WOODBRIDGE, to strike out the paragraph and insert in lieu thereof the following:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, namely: Secretary of the Senate, $4,320; officer charged with disbursements of the Senate, $576; chief clerk, $3,000; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at $2,592 each; eight clerks in office of the Secretary of the Senate, at $2,220 each; keeper of the stationery, $2,102 40; two messengers, at $1,296 each; one page, at $720; Sergeant-at-arms and Doorkeeper, $2,400; Assistant Doorkeeper, $2,400; Postmaster to the Senate, $2,400; Assistant Postmaster and mail-carrier, $1,728; two mail boys, at $1,200 each; superintendent of the document room, $1,800; two assistants in document room, at $1,440 each; superintendent of the folding room, $1,800; three messengers, acting as assistant doorkeepers, at $1,800 each; seventeen messengers, at $1,440 each; clerk or secretary to the President of the Senate, $2,102 40; clerk to the Committee on Finance, $2,220; clerk to the Committee on Claims, $2,220; clerk to the Committee on Printing Records, $2,220; superintendent in charge of the furnaces, $1,440; assistant in charge of furnaces, $864; laborer in charge of private passages, $864; two laborers, at $864 each; chaplain to the Senate; $900; one special policeman, $864; making $98,704 80.

The question was taken; and upon a division there were—ayes 82, noes 37.

So the amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For contingent expenses of the Senate, namely:
For stationery, $25,000.
For newspapers, $5,000.

Mr. BAKER. I move to amend by striking out the words, "for newspapers, $5,000." I will briefly give my reason for this amendment. I am clear in my judgment that this newspaper matter is an abuse which ought to be discontinued. Here is an appropriation of $5,000 for newspapers for the Senate. And further along in the bill I find an appropriation of $12,500 for newspapers for the House; in all, $17,500 for newspapers. In my judgment this is nothing more nor less than a method of increasing the compensation of members.

The amendment was not agreed to.

Mr. FARNSWORTH. I desire to call the attention of the committee to a preceding paragraph; "For stationery, $25,000."

Mr. WASHBURNE, of Illinois. The committee have passed that.

Mr. FARNSWORTH. I notice that there is further on an appropriation of $30,000 for stationery for members of the House. I desire to inquire of my colleague, [Mr. WASH-

BURNE, of Illinois,] if the Senate uses $25,000 worth of stationery while the House uses only $30,000, with three times the number of members?

Mr. WASHBURNE, of Illinois. The amount for each Senator and member has been limited by a bill passed this session.

The Clerk resumed the reading of the bill, and read as follows:

For Congressional Globe and Appendix, $20,000.

Mr. MAYNARD. I move to strike out that clause. This is not a new question, but one which has been before Congress on former occasions and discussed at considerable length. This printing question for a long time gave Congress a great deal of trouble. As the best mode of escaping from it and solving the difficulty a Government Printing Office was established and placed in charge of a superintendent of public printing; and I believe that the experience of every gentleman will concur with mine that the printing is now done much better, much more economically, than it was ever done under either of the previous systems, the contract system or the system of electing a congressional printer.

The Congressional Globe, which seems to have sprung up, no one seems able to tell precisely how, and fastened itself as one of the institutions upon the two Houses of Congress, was not so easily disposed of. After the other printing had been provided for the question of The Congressional Globe came up; but whenever gentlemen attempted to inquire into the matter they were always told that there was a contract which could not be interfered with. It so went on until the Thirty-Eighth Congress, when, in order to put itself into an attitude where it could remand and remit this work of the congressional debates to the Government Printing Office, where it properly belongs, Congress passed, on the 4th of July, 1866, the following act:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, directed to purchase from the publishers of the Congressional Globe and Appendix, for each Senator, Representative, and Delegate in the present and each succeeding Congress, who has not heretofore received the same, one complete set of the Congressional Globe and Appendix.

"SEC. 2. *And be it further enacted*, That there shall be paid to the publishers of the Congressional Globe and Appendix, by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent fund of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress.

"SEC. 3. *And be it further enacted*, That the sum of $98,544 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated for the purposes herein named for the present Congress; and that $30,424 of the same be disbursed by the Secretary of the Senate, and the remainder by the Clerk of the House of Representatives.

"SEC. 4. *And be it further enacted*, That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed: *Provided, however*, That the above provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose."

The Thirty-Ninth Congress, on the 2d of March, 1867, passed this further provision:

"*And be it further enacted*, That the notice required by the fourth section of the act entitled 'An act to pay in part for publishing the debates in Congress, and for other purposes,' approved July 4, 1864, is hereby given that Congress will, in two years from the close of the present Congress, abrogate the provisions of the first and second sections of said act."

That is, that the contract existing, or supposed to exist, between Congress and the proprietors of the Congressional Globe shall terminate on the 4th day of March, 1869. Yet the Committee on Appropriations, doubtless overlooking this provision of the statute, have provided for the employment of that establishment during the whole of the fiscal year ending on the 30th of June, 1869.

Now I hope this Congress will stop this enterprise where the last Congress proposed to stop it. To show that that action is wise, I have only to ask gentlemen to look at any printed matter lying upon our desks which comes from the Government Printing Office, and compare it with the volumes of the Congressional Globe, which they are accustomed to receive. The Congressional Globe printing is the very worst printing done at present, or which has ever been done by authority of Congress.

[Here the hammer fell.]

Mr. BLAINE. I would ask the gentleman from Tennessee, [Mr. MAYNARD,] what he supposes it would cost to get up the Congressional Globe on such paper as we have our bills printed on?

Mr. MAYNARD. I do not propose that the Congressional Globe shall be printed on any such paper at all. But certainly we might have it printed on paper something like the paper upon which the "estimates" are printed, or upon paper something like that upon which the debates of Parliament are printed. We might have them put up in a style that would last longer than the gentleman himself. The Globes they give us at present will not last long enough to answer during the lifetime of the gentleman or myself, if his life is as long as I hope it may be.

Mr. GETZ. I think my friend from Tennessee is mistaken in his remarks.

Mr. BLAINE. I was about to say that the Congressional Globe, to be printed on the paper to which the gentleman from Tennessee refers, and such as we print our bills and estimates on, would cost an almost incalculable sum. Now, in my judgment, so far as regards the style in which the Congressional Globe is printed, it is printed as well, if not better, than the average of newspapers in the country.

Mr. MAYNARD. Does the gentleman think he has the Congressional Globe in his hands? It is the Daily Globe.

Mr. BLAINE. I do not think the paper differs materially. I think the Congressional Globe is printed as well as the Daily Globe. That is all I wish to say on that point.

Now, sir, in regard to the reporting of our debates here by the gentlemen who report for us, I say that there is no system of reporting anywhere in the world to compare for its fullness, its accuracy, and its impartiality with that of the reports of the American Congress in the Congressional Globe.

Mr. MAYNARD. I do not propose to interfere with the present system of reporting by which our debates are reported. The reporters here are our employés and we can still retain them.

Mr. BLAINE. If the gentleman wants us to appropriate for paper such as he alludes to it would cost thirty-five to forty cents a pound. Let him do that if he wants to.

[Here the hammer fell.]

The committee divided on Mr. MAYNARD's amendment; and there were—ayes sixteen, noes not counted.

The CHAIRMAN. Does the gentleman insist on a further count?

Mr. MAYNARD. I do not if it can be understood that I shall have a vote in the House. Otherwise I do.

The CHAIRMAN. The amendment is rejected.

The Clerk read as follows:

For packing boxes for Senators, $3,500.

Mr. FARNSWORTH. I move to strike that out. I find by this bill that it appropriates $13,500 for packing boxes for members, making $17,000 for this useless expenditure. It is to supply Senators and members with these miserable packing boxes at the rate of two or three to each member.

A MEMBER. Three.

Mr. FARNSWORTH. Two or three each; I care not what the exact number is. I know that I seldom ever get any myself, for they are a useless incumbrance. It seems to me outrageous for the House to be adding in this indirect way to the emoluments of our office $17,000 that we might as well save to the country, as these boxes are useless. We have the franking privilege by which we may send all our books and public documents to our homes, and I do not know what use members have for these packing boxes unless it is for their private use. If they do want trunks and packing boxes for their private uses then let them purchase them themselves.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations examined that item and found that Senators and members were allowed to receive a certain number of packing boxes; and, sir, this appropriation covers the contract price which the Government pays for these packing boxes. The Senators are allowed the same as the members. I feel no interest in the matter. If members want to strike it out I certainly shall make no objection.

Mr. FARNSWORTH. I move to strike out "500."

I should like to ask my colleague from Illinois if he thinks it reasonable, if he really thinks $17,000 is required to furnish packing boxes for the members of the House and Senate every year?

Mr. WASHBURNE, of Illinois. I can only say that has been the case in the past, and that my colleague and I have shared in it. If he wishes to strike it out I have no objection.

Mr. FARNSWORTH. I think that $17,000 will furnish seventeen thousand boxes.

Mr. WASHBURNE, of Illinois. They cost five or six dollars a piece.

Mr. FARNSWORTH. Nonsense!

Mr. WASHBURNE, of Illinois. The testimony before the committee was that these boxes cost seven dollars apiece.

Mr. WINDOM. As I understand it, each member receives three boxes. There are fifty-four Senators, and $3,500 makes these boxes cost twenty dollars each. The gentleman from Illinois says they are estimated at seven dollars each, and yet we pay twenty dollars.

Mr. FARNSWORTH. I withdraw the amendment to the amendment.

The question being taken on the original amendment of Mr. FARNSWORTH, it was agreed to.

The Clerk resumed the reading of the bill; and having read the following clause:

For miscellaneous items, $25,000.

Mr. CULLOM said: I move to strike out that item, unless it can be satisfactorily explained.

Mr. WASHBURNE, of Illinois. The only explanation is, this is an appropriation for the ordinary contingent expenses of the Senate, the same that we have in the House. We have always had it in both branches. The estimate which was given to the committee for the Senate was $30,000. The committee cut it down to $25,000.

Mr. FARNSWORTH. Who makes the estimate?

Mr. CULLOM. I think we are appropriating a sufficient amount to the Senate, the objects of which are specified.

Mr. WASHBURNE, of Illinois. The gentleman can refer to an official document which I have here, which will give him every single item of the appropriation.

The question being taken on the amendment, there were—ayes forty.

Mr. WASHBURNE, of Illinois. I will consent that it be stricken out. I have no more interest in it than my colleague.

The amendment was accordingly agreed to.

Mr. BOYER. I move that the committee rise.

The motion was disagreed to.

The Clerk resumed the reading of the bill, and read the following paragraph:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, namely: Clerk of the House of Representatives, $3,600; Chief Clerk and one assistant, at $2,160 each; twelve assistant clerks, (including the Librarian,) at $1,800 each; one chief messenger; and the clerk to the Speaker, each at $4 80 per day; for three messengers, at $1,200 each; one engineer, $1,500; three assistant engineers, at

$1,200 each; six firemen, at $2 40 each per day; clerk to Committee of Ways and Means, $2,160; clerk to Committee on Appropriations, $2,160; clerk to Committee on Claims, $1,800; Sergeant-at-Arms, $2,160; clerk to Sergeant-at-Arms, $1,800; messenger to the Sergeant-at-Arms, $1,200; Doorkeeper, $2,160; first assistant doorkeeper, $2,160; Postmaster, $2,160; first assistant postmaster, $1,740; four messengers, at $1,440 each; two mail boys, at $900 each; Chaplain, $750; two stenographers, $3,650 each; superintendent of folding-room, $1,800; superintendent and assistant of the document-room, at $4 80 per day each; eleven messengers, five at $1,500; and six at $1,200 each; twelve messengers during the session, at the rate of $1,200 per annum, $5,416 67, making a total amount of $107,530 67.

Mr. WOODBRIDGE. I move to strike out that paragraph and insert in lieu thereof the following:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, namely: Clerk of the House of Representatives, $4,320; Chief Clerk and one assistant, $2,592 each, $5,184; twelve assistant clerks, (including the Librarian,) at $2,160 each, $25,920; one chief messenger and messenger to the Speaker, at $5 76 per day each, $4,204 80; for three messengers, at $1,440 each, $4,320; one engineer, $1,800; three assistant engineers, at $1,440 each, $4,320; five firemen, at $2 40 each per day, $4,380; for clerk to Committee of Ways and Means, $2,592; clerk to Committee on Appropriations, $2,592; clerk to Committee on Public Lands, $2,160; clerk to Committee on Claims, $2,160; Sergeant-at-Arms, $2,592; clerk to the Sergeant-at-Arms, $2,160; messenger to the Sergeant-at-Arms, $1,440; Doorkeeper, $2,592; first assistant doorkeeper, $2,592; Postmaster, $2,592; first assistant postmaster, $2,088; five messengers, at $1,728 each; two mail boys, at $1,080 each; Chaplain of the House, $900; stenographers, $4,380; superintendent of folding-room, $2,160; superintendent and assistant of the document-room, at $5 76 per day each, $4,205 80; eleven messengers, five at $1,800 and six at $1,440; twelve messengers during the session, at the rate of $1,440 per annum, $11,520.

Mr. WASHBURNE, of Illinois. I was badly beaten on this amendment before. I will agree to consider it as adopted and take a vote on it in the House.

The amendment was accordingly agreed to.

The Clerk resumed the reading of the bill and read the following proviso in reference to the pay of the Capitol police:

Provided, That from and after the close of the current fiscal year the police and protection of the Capitol building and grounds shall be under the direction of the engineer department of the Army, and the Secretary of War shall detail for that service, from the garrison of Washington, such number of non-commissioned officers and privates, not exceeding forty, as may be deemed necessary for the purpose by the engineer-in-chief; and soldiers when so employed shall have an extra allowance of twenty-five cents per day for privates and thirty cents per day for non-commissioned officers; to be paid during the next fiscal year out of the appropriation herein made, and hereafter by the pay department of the Army out of the general appropriation for the Army.

Mr. FARNSWORTH. I move to strike out that whole proviso.

Mr. MAYNARD. I raise the point of order that this proviso is not in order in this bill. When the bill was introduced this point of order was reserved by the gentleman from Indiana, [Mr. HOLMAN.] This proviso, therefore, stands precisely as an amendment proposing independent legislation.

The CHAIRMAN. The Chair sustains the point; it is independent legislation.

Mr. HOLMAN. I raise the point of order that this point cannot be made at this stage of the bill, but during its first reading at length by the Clerk.

The CHAIRMAN. The first reading was merely for information. Any point could be made on this reading that might have been made in the House before the reference to the Committee of the Whole.

The proviso was accordingly stricken out.

Mr. BLAINE. I move to amend the clause, "for the Capitol police, $5,000," by striking out $5,000 and inserting $74,000. The expenses of the Capitol police as now organized are $74,000 per annum. That is the estimate.

Mr. LOGAN. It is $64,000.

Mr. BLAINE. No, sir; it is $74,000.

The amendment was agreed to.

Mr. BROOKS. How does the paragraph stand now?

The CHAIRMAN. It reads: "For Capitol police, $74,000."

Mr. BROOKS. Is the proviso stricken out?

The CHAIRMAN. It was ruled to be not in order.

Mr. BROOKS. I think it was a misprint. I do not think it ever came from the Committee on Appropriations. It must have been the work of the printer's devil.

Mr. WASHBURNE, of Illinois. Is the sum now $64,000 or $74,000?

The CHAIRMAN. It is $74,000.

Mr. WASHBURNE, of Illinois. The gentleman from Maine should modify his amendment so as to make it correspond with the estimates.

Mr. BLAINE. I desire to modify it so as make the sum $64,000.

Mr. HOLMAN. The amount in the estimates is $35,000.

Mr. MAYNARD. Thirty-two thousand dollars.

Mr. LOGAN. For the Senate and the House it is $64,200.

The CHAIRMAN. If there be no objection, the paragraph will be modified so as to make the appropriation $64,000 instead of $74,000.

No objection was made.

Mr. ELDRIDGE. I move that the committee rise.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Wisconsin will not interfere with the arrangement made when we went into committee. The understanding was that we should remain in session until half past four o'clock.

Mr. ELDRIDGE. Understanding that there was some such tacit agreement in the House I withdraw the motion.

The Clerk read the following paragraph:

For twenty-four copies of The Congressional Globe and Appendix for each member and delegate of the third session of the Fortieth Congress, and one hundred copies of the same for the House library, $25,250, or so much thereof as may be necessary.

Mr. COBURN. I move to add the following proviso:

Provided, That from and after the close of the current fiscal year the proceedings of Congress shall be reported and printed under the superintendence of the Congressional Printer, and shall be printed and bound at the Public Printing Office.

Mr. WASHBURNE, of Illinois. I make the point of order that that is independent legislation. It changes the contract and the law both.

The CHAIRMAN. The Chair sustains the point of order.

Mr. JULIAN. I have been absent from the House for a little while, and I ask unanimous consent to offer an amendment on a page which we have passed.

Mr. WASHBURNE, of Illinois. I object to going back.

Mr. MAYNARD. I move to strike out the paragraph which has been read in relation to The Congressional Globe. The effect will be substantially the same as the motion that was made by my friend from Indiana, [Mr. COBURN.]

In answer to the similar proposition which I made a few pages back in the bill, it was said—and that was all the reply made by the gentleman from Maine [Mr. BLAINE]—that if the debates were printed on such paper as our bills are printed upon it would cost a great deal of money. I wish to ask the gentleman from Maine, who evidently must have understood the subject, or he would not have presumed to speak upon it—and it is his business to understand it, as a member of the Committee on Appropriations, in presenting such an appropriation—I wish to ask him how much money The Congressional Globe costs the Government now, one year with another? I ask him to tell this House whether one quarter of a million dollars will cover the expense—aye, whether half a million dollars will cover the annual expenditure one way and another for The Congressional Globe? It costs us an enormous sum, and the complaint I make is, that we do not get the worth of our money. If it is printed, as the last Congress contemplated, at the Government Printing Office, it will be done as the other public printing is done, at the exact expense for paper and labor.

I do not propose to interfere with the present system of reporting the debates, which the gentleman cannot think more highly of than I do. I do not propose to interfere at all with those gentlemen sitting in the reporters' seats here; I propose that they shall continue to report as they do now. But I propose that their reports shall be printed where our other printing is done, at the Government Printing Office, under the management of the Superintendent of Public Printing, under whose management the public printing has been exceedingly well done, better than ever before since the beginning of the Government.

I submit this proposition as one of economy, as one which will reduce the expenditures of the Government a very great amount. And it will give us the further advantage of getting the value for the money which we appropriate for this work. I know it is very hard to get removed from Congress any institution after it has been once established, because there are so many influences brought to bear upon members of which they are wholly unconscious; words are whispered in their ears from quarters of which they have no suspicion; what they take unsuspectingly for fact is frequently the most interested statements.

I read a few minutes since the legislation of Congress in 1864, and the legislation of the last Congress, contemplating a termination of the relations now existing between Congress and the Congressional Globe establishment at the close of the present Congress, and looking to having that printing done at the Government Printing Office. Then we can order such number of copies of the debates as we choose, just as we now order upon the report of the Committee on Printing; such numbers of copies of the Patent Office report, of executive documents, or anything else, as we want. I want some gentleman to tell me what reason there is, if any, why this printing should not be done at the Government Printing Office the same as all the other Government printing is done?

Mr. WASHBURNE, of Illinois. I have only this to say in reply to the gentleman from Tennessee, [Mr. MAYNARD,] this is to carry out a provision of existing law, and of a contract under that law. The gentleman's speech may be very well on some other occasion, but it is out of place now. I am opposed to his amendment, and ask that the vote be taken upon it.

Mr. MAYNARD. Will the gentlemen allow me a moment?

Mr. WASHBURNE, of Illinois. No, sir.

Mr. CHANLER. I move to reduce the amount appropriated in this paragraph one half. I do so for the purpose of saying that unless we have some guarantee that the printing ordered to be done at the Government Printing Office shall be laid upon our tables at the time specified by law, then I do not want to order any more printing done by that office. There is hardly any report laid on our desks at the time provided by law.

I am assured by practical printers connected with that office that it will be impossible to get up at the Government Printing Office a daily paper like The Daily Globe, unless it be entirely reorganized in an entirely different manner from what it is now. Therefore the object of the gentleman from Tennessee [Mr. MAYNARD] will be defeated, unless there shall be additional legislation upon this subject. And before we put this extra amount of work upon the Government Printing Office, we certainly should insist upon the prompt and satisfactory performance of the work now submitted to that establishment. I do not make any charges; but I wish simply to show that the Government Printing Office has already as much work as it can do, and even more. And by laying double work upon that establishment we certainly will gain nothing.

Mr. MAYNARD. I wish to call the attention of the gentleman from Illinois [Mr. WASHBURNE] to the provision of the statute which I read a few minutes since, and which probably escaped his attention. That provision expressly

provides that the contract with the Congressional Globe shall terminate at the expiration of two years from the close of the last Congress. That puts an end to that contract. It is precisely because this appropriation is not for the purpose of executing a contract that I object to it, and ask to have this printing turned over to the Government Printing Office.

Mr. WASHBURNE, of Illinois. The proprietors of the Congressional Globe cannot get one dollar more than they are entitled to by their contract under the law. We put in the addition, "or so much thereof as may be necessary." They can get no more than they are entitled to under the contract in execution of the law to which the gentleman from Tennessee refers.

Mr. MAYNARD. The law is here, as plain for us to read as for anybody else.

Mr. FARNSWORTH. That is in regard to one complete set of the Globe for each new member.

Mr. MAYNARD. No, sir.

Mr. FARNSWORTH. It is in the act of 1864, to pay in part for publishing the debates in Congress, and for other purposes.

Mr. BLAINE. There is no doubt in the world that Congress has the right to put the publishing of our debates in the hands of the Public Printer if it deem it expedient to do so; but the only question pending here on this appropriation bill is whether, on an appropriation bill, in this hasty manner, we shall make the radical change now proposed? I should think the gentleman from Tennessee would see, if I had not a great respect for him I would say, the absurdity of such a motion. If you change the law you will have to organize a bureau for the printing of our debates, and it is a matter which requires looking into, and providing all the details. Until that is done we simply propose to give to the proprietors of the Globe what they have a right to by well understood stipulations of contract. That is the whole matter.

Mr. MAYNARD. Will the gentleman allow me? Before he speaks of absurdity let him remember that a law was passed at the end of the last Congress that at the expiration of the present Congress our connection with the Globe should cease. Now, does he not see the absurdity of appropriating money to carry on this Globe beyond that time?

Mr. BLAINE. I ask the gentleman has it ceased? Has our connection ceased with the Globe?

Mr. MAYNARD. It will cease before this appropriation takes effect. We are appropriating for a period beyond that time.

Mr. BLAINE. The appropriation will not be paid if there is no contract with the Globe, or after the contract with the Globe ceases.

Mr. MAYNARD. I have attempted to read the law.

The CHAIRMAN. The gentleman's time has expired.

Mr. CHANLER, by unanimous consent, withdrew his amendment to the amendment.

Mr. FARNSWORTH. I renew the amendment for the purpose of calling the attention of the committee to the provision of the act passed by the Thirty-Ninth Congress. It was there provided that notice shall be given that at the end of the Fortieth Congress the United States will terminate the contract for the purchase of full sets of the Congressional Globe and Appendix for each new Senator, Member, and Delegate.

Mr. MAYNARD. That is not the law to which I referred. I will read the section of the law as it now stands upon the statute-book:

SEC. 11. *And be it further enacted*, That the notice required by the fourth section of the act entitled "An act to pay in part for publishing the debates in Congress, and for other purposes," approved July 4, 1864, is hereby given that Congress will in two years from the close of the present Congress abrogate the provisions of the first and second sections of the said act.

Mr. BLAINE. Let me ask one question, so we may have this matter understood. The Fortieth Congress will expire on the 4th day of March, 1869, and we are now appropriating for the fiscal year ending June 30, 1869? Every solitary dollar contained in this appropriation will be required before the termination of the fiscal year on the 30th of June, 1869. The law now provides that the first session of a Congress shall commence immediately after the adjournment of the preceding one, and unless this appropriation should be made we will have nothing to pay for the reporting of that first session, or any session that may take place in the autumn.

Mr. MAYNARD. The gentleman ought to have stated that before.

Mr. BLAINE. You did not give me an opportunity.

Mr. MAYNARD. If the gentleman had stated that this appropriation only extended to the 4th of March, 1869, I would not have objected to it. But this does not do that. The effect of this will be that a construction will be put on this appropriation beyond that time that it repeals the law I have read, inasmuch as the appropriation for the Globe extends beyond the 4th of March, 1869.

Mr. BLAINE. No, sir; it will not. I will tell my exact friend that the first session of the next Congress will begin the day that this Congress adjourns. In old times this appropriation would have exhausted itself. Then nine months would have elapsed before the Globe would have been called on to do any printing of the debates for The Congressional Globe, and five months after the expiration of the fiscal year.

The CHAIRMAN. The gentleman's five minutes have expired.

Mr. FARNSWORTH. I withdraw my amendment to the amendment.

The question recurred on Mr. MAYNARD's amendment, and it was rejected.

The Clerk read as follows:

To enable the Secretary of the Interior to purchase of Messrs. Little, Brown & Co. two thousand copies of the fourteenth volume of the United States Statutes-at-Large, for distribution agreeably to the acts of Congress directing the distribution of the other volumes, $7,000.

Mr. CULLOM. I move to strike that out. I should like to have some explanation of it.

Mr. WASHBURNE, of Illinois. They are distributed all over the United States by officers of the United States.

Mr. CULLOM. I withdraw my amendment.

The Clerk read as follows:

For folding documents, including materials, $50,000.

Mr. HIGBY. Why is that $8,000 more than the appropriation for last year?

Mr. WASHBURNE, of Illinois. I will tell the gentleman. A great many speeches are being made, not by the gentleman from California or by myself, but by a great many other gentlemen, and this is necessary to send them off to the people.

Mr. HIGBY. That does not apply to this but to next year, ending the 30th of June, 1869. I move to strike out "$50,000" and insert "$40,000."

The motion was agreed to.

The Clerk read as follows:

For furniture and repairs, $16,500.
For packing boxes for members, $13,500.

Mr. BLAINE. I move to strike that out and insert "for furniture, repairs, and packing boxes for members, $30,000. The estimate is for $40,000. The committee have cut it down to $30,000. The two items are separated, and I cannot account for it. I put them together, as it was intended it should be.

I have been told since the discussion this morning that the actual cost of these packing boxes is $3 50 apiece, and it takes about two thousand two hundred dollars for packing boxes for the House of Representatives. The remainder of the appropriation is for furniture and repairs. The appropriation for packing boxes is far less than for furniture and repairs.

Mr. FARNSWORTH. I oppose the amendment. I think we should strike out $15,000 for packing boxes. Even then the amount for furniture and repairs is too large. We appropriate thousands and thousands every year for furniture and repairs, and they are always used. If the carpets become a little worn some one takes what we have, and some one else is always ready to sell us new ones. The furniture of the Capitol is in good condition now, and I think $15,000 is enough for next year.

Mr. BLAINE. I move to strike out the last word.

Mr. RANDALL. I move that the committee rise. The hour has arrived when it was agreed we should rise and adjourn.

Mr. WASHBURNE, of Illinois. I was about to make the motion.

Mr. RANDALL. I yield to the gentleman to make it.

Mr. WASHBURNE, of Illinois. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

SAMUEL H. MOORE.

Mr. MUNGEN, by unanimous consent, introduced the following resolution, which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to furnish to this House copies of the papers in possession of the Adjutant General in relation to the case of Samuel H. Moore, late a private in company G, fifty-seventh regiment Ohio veteran volunteer infantry, for the use of the Committee on Military Affairs.

TRADE WITH CANADA, ETC.

Mr. INGERSOLL, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to this House a statement of the trade between the United States and the British North American Provinces, now confederated under the name of the Dominion of Canada, since the abrogation of the reciprocity treaty, and showing to what extent, if any, the interests of the United States have been affected by such abrogation. Also, as to the nature of the arrangement for securing to American citizens the free navigation of the river St. Lawrence and the privilege of fishing in the waters adjacent to Canada.

DECREASE OF INTERNAL REVENUE.

Mr. CAKE. I ask unanimous consent to submit the following preamble and resolutions:

Whereas a statement purporting to be prepared by the Secretary of the Treasury from the official records of his Department has been published in the National Intelligencer, and also sent to the public through the Associated Press, in which it is stated that in one hundred and nineteen collection districts removals were made during the fiscal year 1867 upon the recommendation of the Commissioner of the Internal Revenue, in which districts the average falling off of internal revenue, as compared with the year 1866, was $160,942 81 per district; and that in the same year 1867 removals were made in twenty collection districts by the President without the recommendation of said Commissioner, in which the falling off of revenue is only $46,470 37 per district: Therefore,

Resolved, That the Secretary of the Treasury be directed forthwith to inform this House whether any such statement was prepared by him or by his direction from the official records of his Department; and whether it was published by his direction, and if so, for what purpose; and that, in case the above statement was not prepared and published by the Secretary or by his direction, that he inform this House, if within his knowledge, by whose direction or suggestion it was prepared and put in circulation.

Resolved, That the Secretary of the Treasury inform this House in what collection districts removals and appointments were made upon the recommendation of the Commissioner of Internal Revenue during the fiscal year 1867; the names of the officers removed and appointed, with copies of all correspondence or recommendations of said Commissioner; the amount of the revenue collected in the year 1866 in each of said districts, and the amount of the falling off of revenue in each district, compared with the year 1866, together with the amount of decrease on each of the leading branches of revenue. Also, a like statement in regard to all removals and appointments made during the same time upon the recommendation of the Secretary of the Treasury without the recommendation of the Commissioner. Also, a

like statement in regard to all such removals and appointments made by the President and without the recommendation of either the Secretary or the Commissioner.

Mr. RANDALL. I object.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. TABER for one week.

And then, on motion of Mr. WASHBURNE, of Illinois, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of J. B. Watts, attorney-at-law, of Staunton, Virginia, for an amendment to the bankrupt law.

By Mr. BOUTWELL: Memorials of F. F. Battles and others; B. F. Salmon and others; William A. Burke and others, manufacturers, in reference to taxation and public expenditures.

By Mr. CHANLER: The petition of Philander Crane, George P. Crane, Luke Fitzsimmons and others, for the repeal of the tax upon annual profits or income.

By Mr. COVODE: The petition of Benjamin F. Brubaker and John F. Taylor, members of the one hundred and eighty-fourth Pennsylvania volunteers, for bounty for themselves and others.

By Mr. DRIGGS: The petition of the Hon. George C. Jones, of Ontonagon, Lake Superior, in the State of Michigan, and 200 others, citizens of the same place, praying Congress to save the copper interest of the country from ruin by the immediate imposition of an increased duty on foreign copper.

By Mr. FERRY: The petition of L. R. Morgan, Myron E. Thurston, and 15 others, citizens of Benzie county, Michigan, praying for the passage of a law establishing a post route from Manistee via Portage Lake, Huntington Dock, Herring Lake, Frankfort, Empire Dock, Sleeping Bear, to Glen Arbor, in the counties of Manistee, Be..zie, and Leelenaw, Michigan.

Also, the petition of Stephen G. Owen and 27 others, honorably discharged soldiers, for the passage of the equalization bounty law.

Also, the petition of William Roberts and 30 others, honorably discharged soldiers, for same object.

Also, the petition of Jesse Smith, company C, twenty-sixth Michigan infantry, and 30 others, honorably discharged soldiers, for same.

By Mr. GARFIELD: The petition of 55 citizens of Warren, Trumbull county, Ohio, praying for legislation to reform civil service of the United States, and reduce the taxation on industry.

By Mr. HOOPER, of Massachusetts: The petition and propositions of the American Statistical Association in respect to the metrical system of coins, weights, and measures.

By Mr. KNOTT: The petition of John W. Harden, of Casey county, Kentucky, late private in company I, first Kentucky volunteer cavalry, praying for bounty and pension.

Also, the petition of Mrs. Elizabeth Peach, of Casey county, Kentucky, praying for pension.

By Mr. PERHAM: The petition of Lewis C. White and 36 others, pensioners, from whom pensions were withheld in consequence of being engaged in the civil service of Government under the act of March 3, 1865, asking that the amount so withheld be paid to them.

By Mr. STOKES: The evidence and other papers in the matter of the claim of John M. Palind.

By Mr. TRIMBLE, of Kentucky: The petition of Emily Boone, mother of John W. Boone, deceased, of twentieth Kentucky infantry, praying for back pension.

By Mr. TWICHELL: The petition of citizens of Barre and Brookfield, Worcester county, Massachusetts, for establishment of mail route between Barre and West Brookfield.

By Mr. WILLIAMS, of Indiana: A memorial of 35 late Army officers, protesting against any action by Congress to prevent the payment of servants' pay to officers who may be entitled thereto under the law, as may be decided by the Supreme Court of the United States to be due under the laws heretofore passed on that subject.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 8, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. HULBURD. I present the proceedings of a public meeting of citizens of Brush's Mills, New York, in regard to the rights of American citizens in foreign countries.

The SPEAKER. The session of to-day is ordered for debate only on the President's annual message.

Mr. HULBURD. I understood that a paper of this kind could be presented in the House.

The SPEAKER. It cannot be received in open House. The gentleman can, however, file it under the rule, and it will be recorded by the stenographers.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. MCDONALD, its Chief Clerk, announced that the Senate had passed a bill of the House (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river and establish a post route.

The message further announced that the Senate had passed a bill (S. No. 269) in addition to an act entitled "An act regulating the tenure of certain civil offices," in which he was directed to ask the concurrence of the House.

PRESIDENT'S MESSAGE.

Mr. WASHBURN, of Indiana. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the President's annual message.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the President's annual message, Mr. HAWKINS being entitled to the floor for ten minutes.

CLAIMS OF LOYAL CITIZENS.

Mr. HAWKINS. In continuation of my remarks in reference to the rights of the loyal people of Tennessee, I desire to have read at the Clerk's desk a memorial signed by Governor Brownlow and three hundred others.

The Clerk read as follows:

To the Senate and House of Representatives of the United States in Congress assembled:

This memorial of the undersigned soldiers and citizens in behalf of the loyal people of East Tennessee respectfully showeth, that in the late war which the Government waged against treason and rebellion, in defense of the Union and for the protection of her Constitution and supremacy of her laws, East Tennessee, though overrun and surrounded by the arms of the enemy, and under the most adverse circumstances, which shook the whole nation and carried doubt and anxiety to the quiet and safe homes of the North, stood fast and firm to her faith and principles, "solitary and alone" in her mountain-girt position, and was never known to falter in her duty. Though hundreds of miles, with the rock-ribbed mountains of the Cumberland intervening, had to be crossed and traveled to reach the Union Army, her brave and gallant sons and aged fathers, with a courage and determination equal to that of the Spartan warriors who fought and fell at the Pass of Thermopylæ, left their homes and families to the mercies of a ruthless and cruel enemy, and by night fearlessly stole through the camps and fires of the sentinel foe to do battle for liberty, their country, and their country's honor. That all who were able or could by any means leave home were thus found fighting for the flag of the Union, and those otherwise circumstanced aided in whatever way a chance was offered; and no loyal man or woman failed to do service for the cause. Such is no less a matter of fact than it is a part of history. That ample proof is not wanting to show the conspicuous and important part borne by East Tennessee in the war, her fidelity and determination, her sacrifices and sufferings, her deeds of valor and endurance will adorn the pages of history and render her name immortal.

That when the Federal army, under the gallant and good Burnside, came, walking forced marches, and subsisting mostly off the country, taking no time and but little pains to ascertain who were loyal and who not—for there were matters of far greater importance for his consideration and action—the same being true also of the unprecedented campaign of the brave Sherman to the rescue of Knoxville and Burnside's army, only the more aggravated circumstances and pressing necessities attending the march caused the country to suffer proportionately greater losses and damages; that during the siege the army was subsisted by the country, otherwise a capitulation or a retreat would have been inevitable; that during the year and a half afterwards, up to the time of the surrender of Lee, advancing and retreating forces, fighting battles or encamping and patrolling the whole country, and especially upper East Tennessee, necessarily laid waste the country, and gathered quartermaster and commissary stores from every district in large and small quantities, from the poor as well as from the rich, from the family or widow of the Union soldier, as well as from the rebel and his family. Nor is evidence wanting to establish these facts, for they are too well known and the circumstances too well understood to admit of a doubt or for a question to be provoked.

That a great portion of these supplies was given up cheerfully and the damages submitted to by the loyal, with the full faith that the United States Government would protect the rights of her citizens and see them remunerated; that frequently much was taken by force, without the consent of the owner, be he Union or rebel—for a greater part of which all alike received neither pay, receipt, nor voucher—often for good, sometimes for sinister reasons.

This can be best explained by giving one or two illustrations: a Union woman whose husband is away in the Union Army lives in the country; she has one cow, which is the main support of her children; soldiers come along collecting cattle turn the cow out and drive her away, telling the poor woman to call at headquarters, perhaps five miles distant or more, and she receives a voucher. How can the wife or widow leave her children in such dangerous times to walk, perhaps, many miles? Sometimes they have braved every danger, and plodded over the weary miles to find at their journey's end that the command had left and their efforts had been in vain. Again, a Union man owns a good farm, well fenced and timbered; one week a regiment or brigade encamps on his fields and uses a line or two of fence; next week another command comes along, encamps for a week or a fortnight, destroys more fence and some timber, until, by piecemeal, all his fences and timber have by different commands been used up and destroyed, no receipts being given, and no officer considering himself responsible. These are familiar examples and of every day occurrence at that time, and it was undoubtedly the case that the farmer, whether absent in the Army or elsewhere, or at home, received no pay, receipt, or voucher for his timber, fences, cows, horses, hogs, poultry, sheep, &c. It is not intended to speak at all invidiously of the brave soldiers who fought and suffered for the deliverance of our homes, but to represent the circumstances just as they are and were, and as every soldier who marched and fought in East Tennessee knows to be true, and knows, too, that necessity justified the extreme measures often thus restorted to for the comfort and success of the Army.

That while the memorialists claim for East Tennessee a high prerogative of merit for her loyalty, perseverance, and endurance, they ask for no superior privileges or favors as a recompense for the performing of that which it was her duty to do, but very respectfully prays that loyalty in East Tennessee be respected, encouraged, and sustained; that since the act of July 4, 1864, with the rulings of the Departments, requiring the affidavits of officers and other evidence, which it is at times impossible to obtain, to substantiate claims, has not reached and cannot reach the case so as to remunerate East Tennessee, owing to the peculiarity of circumstances, not common to other States; that there be an amendment to said act, so that the loyal men and loyal women of East Tennessee can be reimbursed, in part at least, for that which the Government received and used, and by which it was benefited, without even the expense of transportation. That women, children, and old men, in consequence thereof, had to procure provisions afterward at fabulous prices and carry them on their shoulders for miles home; and now, after four years, is it just that they should be finally rejected and denied the nominal prices the Government at that time was paying? Was not every officer and soldier an agent of the Government, and is not the Government responsible for the acts of her soldiers and other agents at sea and in foreign countries? Has she not been responsible and recognized herself so in Pennsylvania and other States? Are not our rulers magnanimous enough to deal impartially with her own citizens, and as justly with them as with distant nations?

That since the Government has long since reimbursed rebels and their sympathizers, as well as loyal people in some of the northern States for produce furnished to, and damages done by, not only the Federal but the rebel army, is it not offering a high premium for treason not to pay the claims of loyal East Tennesseeans for that which was taken by and furnished to the Union army? Nothing is asked for the losses and damages caused by the confederates, but in the name of justice, right, and humanity, the Government owes and ought to pay these claims of loyal people, originated for her own benefit, use, and suc-

cess, many of which have been already filed in the respective offices at Washington, well supported for loyalty and veracity, with the additional sacrifice of clerks' fees and revenue stamps, and, for reasons above stated, stand suspended or rejected.

The immediate attention of Congress is therefore most respectfully and prayerfully solicited to the favorable consideration of these claims by your memorialists.

W. G. BROWNLOW,
Governor of Tennessee.
A. E. BURNSIDE,
Late Major General, &c.
WILLIAM RULE,
Late Adjutant sixth Tennessee volunteers.
L. S. TROWBRIDGE,
Late Major General by Brevet, U. S. volunteers.
A. J. RICKS,
Late Captain United States volunteers.
JOHN L. MURPHY,
Late Major sixtieth U. S. colored infantry.
V. F. GOSSETT,
Late Lieutenant United States volunteers.
ALEXANDER B. TADLOCK,
Late Acting Assistant Surgeon, U. S. A.
JACOB K. LONES,
Late Captain company C, first Tennessee cavalry.
M. D. BEARDEN,
Late Captain, United States Army.
L. B. GAMBLE,
Late Lieut. Col. 3d Tennessee vol. infantry, U. S. vols.
W. R. COOK,
Late Lieut. Col. 2d Tennessee cavalry, U. S. vols.
L. F. McCRILLIS,
Formerly Col. 3d Tenn. cav., comman'g brigade in Tenn.
WILLIAM A. HARPER,
Late Lieutenant Co. H, 127th Indiana volunteers.
WILLIAM R. McBACK,
Late Major second Tennessee cavalry.
THOMAS L. SCOTT.
Late First Lieut. first Louisiana volunteer infantry.

And over three hundred others.

Mr. HAWKINS. I now ask to have read the letter from Governor Burnside, which I send to the Clerk's desk.

The Clerk read as follows:

STATE OF RHODE ISLAND,
EXECUTIVE DEPARTMENT,
PROVIDENCE, *December* 21, 1867.

MY DEAR SIR: Your favor of the 9th instant would have been answered before but for my absence from home. I take great pleasure in authorizing you to put my name on your memorial to Congress asking payment of claims of the "loyal citizens and soldiers of East Tennessee" for damages done by the Union Army during the late war. During my service in that section I know that large amounts of property were taken for the use of the Army at times when it was impossible to give vouchers or receipts for the same.

The officers who took these amounts of property would not to-day be able to certify as to who owned them; neither could they certify as to the exact amounts. I know that much of this property was taken from loyal citizens, in many instances from families of Union soldiers. Seizures made while the Army was on hasty marches gave the owners no chance in many cases to find to what command the officers belonged who made the seizures. If any people in this country deserve payment for this class of claims the loyal people of East Tennessee do. No section has made greater sacrifice for, or shown more courage in, the defense of the Union cause. I sincerely hope some plan may be adopted by Congress to pay these claims. You are at liberty to attach this letter to your memorial.

Truly yours, A. E. BURNSIDE.

A. B. TADLOCK, Esq., *Chairman of Committee, &c.*

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

NATIONAL FINANCES.

Mr. HUNTER. Mr. Chairman, no Congress since the foundation of this Government was ever charged with higher or more responsible duties to its constituency than this. Our country having just emerged from the most terrible and exhaustive war that the history of the world has ever recorded, we find our people heavily burdened with taxes and debt—and under party alarm somewhat restive under the great weight—our crops short, and our finances embarrassed and disturbed. The causes of all this, and who are responsible for the same, I can but incidentally notice, as it connects itself with the subject of our public debt, and will leave a fuller answer of it for some future occasion, feeling that my constituents and the country generally under our financial embarrassments have for the present a more direct interest in the question as to how they shall be relieved from their heavy burden of debt and taxation, and how the finances of the country shall be restored and placed upon a permanent basis, so that the great interests of the country may again be prosperous, than a discussion of that important question, and one never to be forgotten, as to who is responsible for the war through which we have just passed and the other wrongs and outrages which have been perpetrated upon the country, and which not only fastened upon the people this great debt and the heavy taxes necessary for its payment, but which drenched our land with blood, robbed us of the flower of our youth, brought to so many hearthstones wretchedness and poverty, and with its miseries and suffering made our whole land a house of mourning.

Dismissing, then, for the present, this question of responsibility for the wrongs which I have named, and looking only to providing relief for the people and restoring the finances of the country, which in their present disordered condition are crushing the energies of our people, driving many into bankruptcy, and reducing thousands of others to poverty and want, we have a duty before us that demands of each and every member of this Congress his whole time, energy, and talent, that the best possible means may be devised for the accomplishment of this most desirable object; for I assure you, Mr. Chairman, that more depends upon the action of this Congress, and that speedily, too, for the saving of the great business interests of this country, and preventing the same from utter prostration and ruin, thereby driving the mechanic and laborer from the workshop and the field and reducing their families to beggary and want, than many are aware of or are even willing to admit.

Let us, then, for a moment inquire as to the cause of our financial troubles, and seek, if possible, to remove them, and, as far as in our power, provide the means to prevent their future return upon us. The great, prime, moving cause was the seceding of the rebel States and the war that was thereby forced upon the country for the preservation of the Union. The next moving cause was the division between Congress and the President upon the subject of reconstruction and the consequent troubles that were forced upon the country by reason thereof. The Democratic party in the mean time, in consequence of its opposition to the war, had become odious to the masses of the people and lost its prestige in all the northern States but one. Seeing this division between Congress and the President, it at once sought to regain its broken fortunes by joining the President in his war upon Congress, hoping that he would take enough Republicans with him that when united with its strength they would be able to defeat the great Union party of this country, and thereby again reinstate itself into power. It opposed the reconstruction measures of Congress known as the fourteenth article to the Constitution, and induced the southern States to reject them and remain out of the Union. It also attacked the Government securities and undertook to depreciate them. In this contest it was overwhelmingly defeated; but notwithstanding its defeat this open attempt at bad faith alarmed our creditors and created distrust in financial circles.

In 1867, under the financial depression upon the country caused by Secretary McCulloch's contraction policy and the failure of crops, this party again, under the plea of relieving the people from their heavy burdens, attacked the Government securities in a much more serious and formidable way than they had previously done, by advocating the issue of greenbacks in sufficient quantity to pay off the public debt. Upon this issue of virtual repudiation they were successful in many parts of the country, and celebrated their triumph by the burning of more gunpowder and expressions of joy than they did over all the great victories won by the Union Army in crushing the rebellion. After this election business men at once saw that if Democracy should succeed in our next elections, and should carry out this avowed policy of thus paying off our national debt, it would not only bring universal bankruptcy and ruin upon the country, but would end in repudiation of the whole public debt, and they at once lost confidence in the stability of our finances and commenced withdrawing their means from business as fast as possible, expecting a financial crash to come upon the country and wished to be prepared therefor, by reason of which the money has been drawn to the great commercial centers, such as New York, Boston, and other large cities, capitalists being afraid to invest their money in any kind of business that would benefit the laboring man, hence thousands of such have been thrown out of employment all over the country and are now in very reduced circumstances. Crops having failed, there was but little produce in the country to exchange for money, even if the dealers had been willing to purchase the same. Thus have I given the true cause of all our financial troubles: first, partial failure of crops; second, contraction policy of the Secretary; and third, the action of the Democratic party in delaying the reconstruction of the seceded States and attacking the Government securities, thereby destroying confidence among the capitalists and business men throughout the whole country.

Having thus shown the true cause of all our financial troubles, let us next inquire as to the amount and nature of our debt, when and how it should be paid, from what sources our revenues should be derived, and the best mode of permanently settling our financial troubles and restoring confidence and repose to the business interests of the country.

From the official statement of the Secretary of the Treasury, I find our debt on the 1st day of January, 1868, to be as follows:

PUBLIC DEBT OF THE UNITED STATES.

Debt bearing coin interest, January 1, 1868.

5 per cent. bonds		$204,929,800 00
6 per cent. bonds of 1867 and 1868		14,690,941 80
6 per cent bonds, 1881		283,676,600 00
6 per cent. five-twenty bonds		1,373,804,750 00
Navy pension fund		13,000,000 00
		1,890,102,091 80

Debt bearing currency interest.

6 per cent. bonds	$20,713,000 00	
Three-year compound-interest notes	46,244,780 00	
Three-year 7-30 notes	238,268,450 00	
3 per cent. certificates	23,265,000 00	
		328,491,230 00

Matured debt not presented for payment.

Three-year 7-30 notes, due August 15, 1867	$2,022,950 00	
Comp. interest notes, matured June 10, July 15, and August 15, 1867	9,952,810 00	
Bonds, Texas indemnity	257,000 00	
Treasury notes, acts July 17, 1861, and prior thereto	162,811 64	
Bonds, April 15, 1842	54,061 64	
Treasury notes, March 3, 1863	716,192 00	
Temporary loan	2,674,815 55	
Certificates of indebtedness	31,000 00	
		15,871,640 83

Debt bearing no interest.

United States notes	$356,159,127 00	
Fractional currency	31,597,583 85	
Gold certificates	20,104,580 00	
		407,861,290 85
Total debt		2,642,326,253 48

Amount in Treasury.

Coin	$108,430,253 67	
Currency	25,770,349 71	
		134,200,603 38
Amount of debt, less cash in Treasury		$2,508,125,650 10

The foregoing is a correct statement of the public debt, as appears from the books and Treasurer's returns in the Department, on 1st of January, 1868.

HUGH McCULLOCH,
Secretary of the Treasury.

From the above it will be seen that all of our debt except the ten-forty bonds will be due and payable within sixteen years from this date; within that time the interest which we will have paid at the present rate will exceed the whole amount of the debt in gold; hence the question of interest is one of the highest importance to the people, and should, therefore, be placed at the lowest possible amount, so as to be equally just to ourselves and our creditors.

Intimately connected with this subject is a question that seems to demand more of the public attention than almost all others, and that is, when shall the Government resume specie payments? In establishing a financial system I feel that it is our duty to make provision so that the Government may return to it at as early a day as possible, but to fix no time when it shall begin. We have many advocates for the Government returning to specie payments at once, and they have given us their various plans for so doing, but none of them are at all satisfactory to my mind. On the contrary, I am thoroughly convinced that the Government can never begin specie payments and continue them, except by heavier taxation than the people can well stand, until two things are accomplished. First, the country must be prepared to pay all Government tax in coin, and that cannot be done until gold and silver become diffused in all the channels of business and trade as it was before the war; and second, until all our bonded debt, except the ten-forties and those issued in 1861, be so funded that the principal of it shall only be payable at the pleasure of the Government, and not of the creditor, except a very long time is fixed, say forty or fifty years; yet bonds without any limit are better. When that is done and we have nothing but the redemption of our greenbacks to look after we can soon either fund or pay them off and return to specie payments almost at our pleasure. But to undertake to resume specie payments, with our bonded debt as it is, maturing in such large amounts from time to time, and with the amount of greenbacks in circulation, both to be run upon the Treasury by the bulls and bears of Wall street at their pleasure, without any gold or silver in circulation throughout the country in which the Government could collect its revenues, and without a tax levied upon the people not only sufficient to pay the interest upon the public debt and the current expenses of the Government—the only tax we propose to levy for the present—but also to pay the principal of the debt as fast as it matures—for you could not then fund the same upon only such terms and such interest as the holders should see fit to exact—you would soon find the national Treasury without coin and having to suspend specie payments, which would at once create a financial panic all over the land; the results of which would be to crush the business interests of the country and beggar the laboring classes.

Some gentlemen ask how are you going to get gold and silver diffused over the country as it was before the war; and how will you get your bonded debt funded unless the bondholders will consent to it? I admit, Mr. Chairman, that these are difficult questions to answer; but I will give the best solution of them that I can. To diffuse coin we must lessen the demand for it. In order to do that we must make it plenty or provide a substitute for it. In our present condition that can only be done by the Government holding out inducements to persons having bullion to deposit the same in the United States Treasury, and the Secretary of the Treasury to issue to the depositors gold certificates for the amount, and of such denominations as such Secretary may prescribe. This bullion to be coined and the proceeds held in the Treasury for the redemption of the identical certificates that were issued upon it. By this means these gold certificates become equal to coin, for they are redeemable in gold on demand. This process costs the Government no interest except what it pays by way of inducement for parties to so deposit their bullion as above stated. Some may say that these certificates will not remain in circulation for any great length of time, for the reason that they would be run upon the Treasury for the purpose of drawing out the gold. Such I anticipate would not be the result, for the reason that they would answer every possible purpose in business transactions that gold could, and in fact would be superior to gold for the reason that they could be transmitted by letter or more easily carried from point to point. Another asks, what will we do with our greenbacks when we commence issuing these gold certificates? I answer: if the true interests of the country require their withdrawal and we are not in a condition to redeem them, fund them in same amounts and as fast as we issue these gold certificates, by that means they will soon all be retired and the demand for coin being lessened, gold and silver will take their place in all the business transactions of the country. Another asks, what is to be done with our bank paper? I answer: if the banks are continued they must be prepared to redeem their paper in gold and silver whenever the Government resumes specie payment. In short, nothing must then circulate as a currency that cannot be converted into coin at pleasure.

As to how our present bonded debt shall be funded into the long bonds of which I have spoken presents a very serious question, but one, in my judgment, that must be met and solved before we can ever successfully return to specie payments or have a permanent financial system established throughout the country. I am aware that many of my political friends differ with me in the opinion thus expressed, and think there is no necessity for the funding of these bonds into longer ones for either one of the reasons that I have mentioned; they regard our present bonds as sufficiently funded already, and insist that they will not fall due before we are able to pay them. But this difference of opinion, when properly understood, grows out of this fact: they contend that the principal of the five-twenty bonds, which form about five sixths of our whole bonded debt, is payable in coin, whereas I insist that it is payable in currency. They therefore contend that we should resume specie payments at an early day, and when the bonds become due it would be an immaterial question as to how they were to be paid, and that we could then pay them in coin as well as in currency without any detriment to the country, or fund them, as might then be agreed upon. This upon paper looks like a very easy way of settling the difficulty, but I insist that it will not work unless we levy taxes, as I have before remarked, not only sufficient to pay the interest upon the public debt and the current expenses of the Government but also to pay the principal of the debt as it falls due, or then consent to the funding of the debt upon such terms as our creditors should dictate, which would not be favorable to the people, I assure you. I do not feel that it is either expedient or just to our people, under their present embarrassed condition, to tax them for any other purpose than to raise money enough to pay the interest on our debt and the current expenses of the Government, and leave the payment of the principal of the debt until our country shall become fully restored and again prosperous, when all parts of it shall then pay their proportion of it equally.

If these five-twenty bonds are payable in currency, as I insist they are, it would be exceedingly unjust to tax the people to pay them in coin. Let us, then, for a moment examine the question as to whether the principal of these five-twenty bonds is payable in coin or currency. The first law authorizing the issue of these bonds was passed on the 25th day of February, 1862. This act does not provide that the principal of these bonds shall be paid in coin, neither do the bonds upon their face so state. From whence, then, do gentlemen derive their authority for saying that the Government is bound to pay the principal of these bonds in coin. They answer that they derive it from two sources:

First. That the Government, on the face of these bonds, agrees to pay in money, and that means coin and not paper money. That the Government, prior to the issuing of these bonds, whenever it agreed to pay money, always paid it in coin and not in paper, and, therefore, a party purchasing these bonds could have no other understanding than that when it agreed to pay them in money they were to be paid in coin unless otherwise stipulated, which was not done in this case.

Second. That Jay Cooke & Company were employed by the Government to dispose of these bonds, and that they, as its agents, published to the world that the principal and interest of these bonds were payable in gold; that in consequence of these publications persons were induced to purchase these bonds, and that they received them with the full understanding and assurance that they were so payable. That the Government is bound by the acts of its agents, and must, therefore, pay these bonds in coin, and can neither exchange or pay them in anything else, except by the consent of their holders.

I admit that prior to the 25th day of February, 1862, the date of the act authorizing the issue of these bonds, that when the Government agreed to pay money, it was to be paid in coin, for the reason that prior to that time gold and silver were the only lawful currency that the United States had; but this act of February 25, 1862, which authorized the issuing of these five-twenty bonds, also provided a new lawful currency; it consisted of United States notes commonly known as legal tenders or greenbacks. That part of the act providing for the issue of these notes or legal tenders is as follows:

"And such notes herein authorized shall be received in payment of all taxes, internal duties, excises, debts, and demands of every kind, due to the United States, except duties on imports, and for all claims and demands against the United States of every kind whatsoever except for interest upon bonds and notes, which shall be paid in coin; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interests as aforesaid."

These are the provisions of the first section of said act. Now, let me ask gentlemen, after reading the above provisions, how they can insist for one moment that Congress did not intend to establish a new kind of currency with which to pay all of its debts, except as provided in the above act. At that time we were engaged in war, and the people throughout the country, as well as the Government, were unable to get coin to meet their contracts, hence the passage of the above act, wherein the Government expressly provides that these notes or greenbacks should be lawful money, and be received in payment for all claims and demands of every kind due to or from the United States, except interest on bonds and notes and duties on imports. If the Government intended that the principal of these bonds should not be payable in this legal currency thus established, but should be paid in gold, why did it not exempt the principal from such payment the same as it did the interest? It will not do to say it was because the Government had always paid its promises in coin, and therefore it was useless to exempt the principal; the promise to pay interest was just as binding a promise on the Government as the promise to pay principal. Then if the Government intended to pay its promises in coin and not in this currency it was unnecessary to exempt the payment of the interest in currency; and because the exemption was made in the case of the interest and not as to the principal satisfies me that the Government was unwilling to bind itself to pay the principal in coin, but left it discretionary to pay either at its pleasure, as circumstances might justify, when they become due. No other rational solution can be given of the action of Congress on this and subsequent bills of the same character, for the Journals of Congress show that the question of exempting the principal as well as the interest was directly brought to its attention, and still it was not done. I have no doubt but what many members of Congress when these bills were passed thought and hoped that when these five-twenty bonds would become due that the Government would then be paying its debts in coin, and that they would be so paid; and perhaps many purchased under the same belief; but on account of the uncertainty of the times at the passage of these bills Congress purposely avoided the responsibility of paying the principal of these bonds in coin by not exempting it as they did the interest from the provisions of said act, and only

made the interest so payable in coin as an inducement to the people to purchase them.

To insist, then, that when the Government sold these bonds and agreed to pay them in money that it meant that they should be paid in coin, when the first section of the act authorizing their issue also provided for the issue of a money which it expressly stated should be received in payment of all debts against the United States, except interest on bonds and notes, is virtually saying that these bonds are not a debt, because if they are they are payable in that currency, unless excepted therefrom, which they are not, for the act says that it shall be received in payment of debts. Then are they debts? I answer they are, and payable in such currency.

If the above interpretation that I have given of the first act authorizing the issue of the five-twenty bonds be not correct, how can we reconcile it with the act passed authorizing the issue of another class of bonds known as the ten-forties? In this last act Congress provides that the principal and interest shall both be payable in coin. If the argument of gentlemen be true, that the Government when it agrees to pay money thereby agrees to pay coin and not currency, why did it provide for paying these bonds in coin, principal and interest, and why did it put them upon the market at the same time with the five-twenty bonds if they were payable in coin, when the ten-forties were only bearing five per cent. interest, and that payable annually, while the five-twenty bonds were bearing a six per cent. gold interest, payable semi-annually? It was because it thought that a five per cent. bond, with the principal and interest payable in coin, was worth as much as a six per cent. bond with the interest payable in gold, but the principal in currency; each sold at par. I hope some gentleman will answer this when he discusses this question. As to whether the Government is bound by the acts of Jay Cooke & Company as its agents in making the representations that they did, that these five-twenty bonds were payable, principal and interest, in coin at the time of the sale, depends entirely upon the fact as to whether Congress so authorized them to make such representations. If it did, then it is bound by their acts; if not, then it is not so bound.

It is a well settled principle of law that the principal is only bound by the acts of his agent when the agent acts within the scope of his authority. In this case Congress passed a plain law, that every person is presumed to know and understand, authorizing the issue and sale of these bonds by the Secretary of the Treasury. The Secretary had no authority under this law, neither had Jay Cooke & Company to represent that these bonds were payable in any other way than as expressed in the law itself, and when they did so represent, not being authorized by Congress to do so, their representations were not binding upon the Government, of which fact the purchasers were bound to take notice.

But I cannot conceive that these representations of Jay Cooke & Company really deceived any one, for the reason that they were employed by the Secretary to sell another class of our bonds known as the ten-forties, the principal and interest of which were payable in gold, and it was so expressed upon the face of the bonds. And this was at a time when but few of the five-twenties had been sold, as I understand. In their advertisements for the sale of these ten-forty bonds they stated that they were the most desirable bond that the Government had to dispose of, notwithstanding the interest upon them was one per cent. less than on the five-twenty bonds, and gave as the reason that they were the only bonds of the Government that the principal and interest were both payable in coin. So here we have two notices from the same firm employed by the Secretary of the Treasury to sell each class of these bonds, in one of which they say that the principal of these five-twenty bonds were payable in coin, and in the other they say that they were not so payable. So that these notices, if they amount to anything at all, destroy each other. I insist, however, that it was not generally understood that the principal of these five-twenty bonds was payable in coin to those who purchased them. If so, why do we find a banker at Frankfort, in Germany, an agent of our foreign bondholders, as I am informed, writing to the Secretary of the Treasury a letter, substantially as follows:

"It is not understood here in Frankfort that these bonds are payable in gold. If it should be so understood they would bring a much higher price."

Now, if it was understood, as gentlemen say, by all our of bondholders at the time of their purchase that the principal of these five-twenty bonds was payable in gold, why did this agent write that it was not so understood in Germany. It shows conclusively, to my mind, that it was not understood by our foreign bondholders that the principal of these bonds should be paid in coin when they purchased them; for if they had so understood it their agent, instead of writing as he did, would have insisted that our bondholders in Europe when they purchased these bonds did so with the distinct understanding that the principal of the same was to be paid in coin, and if not so paid our Government would be acting in bad faith with them. The truth is that they purchased our bonds with currency that was greatly depreciated at the time, and expected nothing else but currency in return for them, unless our Government should see fit to pay them in coin. As far as my information goes, the only parties that I know of who charge that if the Government does not pay these five-twenty bonds in gold that it will be acting in bad faith with its creditors comes from our own citizens and not from our creditors abroad; and this extreme exaction upon the part of our own bondholders, when their bonds were already exempt from all kind of taxation by States and cities, has contributed as much as anything else to furnishing the Democratic party with arguments with which to create prejudice and dissatisfaction among the people in reference to their payment, and which has materially aided in hastening the present financial crisis that is upon the country.

I know it is urged by some, that upon the ground of equity we should pay these bonds in coin, for the reason that our bondholders would not have loaned their money to the Government if they had not expected gold in return. An argument of that kind does not help their cause; it smacks a little too much of the dollar and not quite enough of loyalty. I am one that believes that the Government has just as much right and power to draft the money of the country for its support in time of war as it has to require the military services of its people. If one class are willing to go to the tented field and risk their lives in the defense of their country at small wages, I do not know but what those who have the wealth, (all of which, to a great extent, depends upon the salvation of the country,) and who do not feel willing to risk their lives upon the battle-field, could well afford to furnish their money at a reasonable interest. I feel that the soldier's blood is as sacred as the rich man's money. If, then, in the absence of any positive argument upon the part of the Government to pay coin for either, and the soldier's debt can be paid in currency, I cannot see why the bondholder should not be satisfied with the same. Some of the bondholders may answer that if they had not furnished their money that the rebellion would not have been put down. I have no doubt but what the soldier could say as much. I know had it not been for his services upon the battle-field the rebellion would never have been crushed. These various complaints from bondholders, I am proud to know, as far as my information extends, does not come from those who furnished the money to the Government in the hour of its peril; but it comes principally from those who have since purchased these bonds for speculation or investment.

Let us next inquire how these bonds shall be funded or paid, and the true mode of raising revenue for the support of the Government. And in connection with these two last inquiries I desire also to discuss to some extent the merits of the policy of the Democratic party as to how the same shall be done. Having shown, as I think satisfactorily, that these five-twenty bonds are payable in currency and not in coin, and as they are payable at the pleasure of the Government at any time after five years from their date a very grave question presents itself, and one upon which the two great parties of the country are divided, and that is: shall these bonds be paid by the issue of greenbacks as fast as they mature? The position of the Democratic party is that they should be so paid. To this proposition I dissent, for two reasons: that it would be injurious to the country and an act of bad faith to our creditors. As this is one of the most important questions that will be discussed before the people in the approaching canvass, and one that must enter largely into the discussion of financial questions, I desire to examine its merits with some care, and ask for the arguments I present, both for and against, a careful consideration. If the Democratic doctrine prevails within two years we would have thrown upon the country, in addition to our present circulation, at least $1,600,000,000 in currency, which would make our currency circulation some twenty-three hundred millions. If we should add to that our gold and silver it would swell the amount some two hundred and fifty millions more, making in all about twenty-five hundred and fifty millions, which would be, at least, $1,550,000,000 more than the country could possibly use for any legitimate purpose. We can only use profitably just enough money to move the produce of the country and keep the markets brisk. One thousand millions would be ample for that.

All beyond that sum, instead of benefiting the people, would only demoralize and corrupt them, depreciate the currency at least threefold, and drive the whole country into wild, reckless, and illegitimate speculations, forcing all business from its healthy, legitimate, and proper channels. So that within three years time the business interests of the country would become so demoralized and exhausted by these terrible excesses that reaction would set in, when these excesses, with all their consequent financial horrors, would return upon the country, overwhelming all its business interests in ruin, driving the great mass of our business men into bankruptcy and reducing the laboring man to poverty, and ending in the repudiation of the whole debts of the country, both public and private. Too much or not enough money affects the country injuriously; but too much will affect it more seriously than not enough, for when times are hard we economize, but when money is plenty it begets extravagance and we overtrade ourselves. It is like a drought or too much rain. The drought cuts the farmer's crops short, but excessive floods not only prevent his planting and tilling in the proper season, thereby cutting his crops still shorter, but they wash and destroy his land, carry away his fences, and frequently ruin his whole premises. But when the season is favorable and just enough, sunshine and rain, then the crops will be good and the farmers prosperous. So with the country financially; when there is just money enough to meet the proper and legitimate demands of the people all kinds of business will be healthy and the country will flourish. To issue greenbacks and pay off our bonds, therefore, as fast as they mature would not only be ruinous to ourselves, but it would be acting in bad faith toward our creditors—a thing that we could not afford to do—for it would be, saying the best for it, paying an honest debt with a currency not worth one third its present value, and made so by our own willful and dishonest act.

If our Democratic friends are really sincere and feel that they are acting for the best interests of the country in thus advocating the issue of greenbacks for the payment of our bonds as they become redeemable, let me ask them to explain how it will better our condition. Does the mere issuing of the greenbacks and

exchanging them for our bonds pay the debt? Does it not still leave the greenbacks in existence to be paid? Is it not only exchanging one obligation for another? Suppose I owe a man $100 and am not able to pay him, if I give him my note for it does that pay the debt? Does it not still leave the note to be paid? So that issuing greenbacks for the payment of the debt, according to this new Democratic invention, when properly understood, is no payment at all. It is simply changing our debt from bonds into greenbacks. In other words, it is taking the load off one shoulder and putting it on the other. Let me ask them still further to explain how much they have really gained for the country when they get all the greenbacks issued and exchanged for our bonds. If we expect to act honestly with our creditors we must redeem these greenbacks which we have given them—for they are nothing more nor less than the promises of the Government to pay, the same as the notes of any individual. The question then comes up, how will we redeem them? We cannot pay them by issuing more greenbacks. Then, how will we pay them? We can only pay them in gold or silver. The question then is, where will we get our gold and silver? We cannot make it like we make greenbacks. We must, then, either borrow it or levy a tax upon the people and raise it in that way. If we borrow we have to pay the debt—and I fear that if we once set the precedent of paying our debts so easily by setting our greenback mill to grinding that our credit will not be in very good condition to borrow—so that the gold and silver must really come from the people at last by a direct tax.

I am thoroughly satisfied, however, if our people ever become so far demoralized as to really issue enough greenbacks to pay off our whole debt, that no tax will ever be levied to redeem them. A people that will not stand a reasonable tax to pay an honest debt in a proper and legitimate way will never suffer themselves to be taxed to pay the debt in any way, but will repudiate it, and that, in my judgment, is not only the desire but the real intention of many Democratic leaders if they can but carry the next elections. They opposed the prosecution of the war for the salvation of the country, which created the debt, and they will, I believe, if they should get into power, oppose any tax to pay it. What, then, is gained by paying off the bonds in greenbacks? Some Democrat may answer, we save the interest on the debt. If we do we do it by depreciating our money at least threefold, which would impose upon the country a loss ten times as great as the benefit gained. Let me ask them, as individuals, when they owe an honest debt and are not able to pay it when due, are they not willing to pay a reasonable interest to their creditor if he will give them time? If they are, then why are they not willing for the Government, as it is not able to pay its debt, to pay its creditors a reasonable interest for their indulgence? Is there any difference in principle? If one is honest is not the other? If one is dishonest is not the other equally so?

Another advantage to be gained, they say, is, that it makes money plenty, and thereby relieves the country. The mere fact of issuing money will not relieve the country as much as many suppose. What the country needs most is a good crop. Suppose there were $500,000,000 in greenbacks issued by the Secretary of the Treasury and paid out to-day, how would the people in those parts of the country where their crops last year were an entire failure be benefited by the issue of the money? These men could only get hold of that money by working for it at so much per day or month or by exchanging their products for it. The great trouble throughout the West is, we have no products to exchange. It is that, principally, that makes the money so scarce, and not for the want of money in the country. I admit that Secretary McCulloch's contractions took considerable money from the country, and when that amount is restored back the people will find that they will have about enough—which I think this Congress will manage to do. It is not so much for the want of money in the country that seems to make it so scarce, but it is because it is so unequally distributed. It is collected and held at the great money centers like New York, Philadelphia, Boston, and other large eastern cities. Some may ask why it collects at those centers and does not distribute over the country. The answer is easy and plain. First, because most of the national banks are located East, and they naturally draw the money to them. Second, our wealthy men principally live at these great centers, and they are like the mariner upon the ocean, when the storm-cloud is gathering he seeks the harbor where his vessel will be sheltered and ride the storm in safety. So with these capitalists; seeing a great financial storm brewing over the country, by reason of a failure of crops and the action of the Democratic party in attacking the national securities, they have withdrawn their means from all kinds of business as fast as possible, and have collected the same in these great commercial harbors until the storm passes.

When that is done, and they find that they can again resume business without any danger, and the country is supplied with a bountiful crop, you will find that money will soon seek the channels of trade as heretofore, and then all will be well with the country again. I implore the people, therefore, not to rush blindly into this new Democratic trap of relieving the country and the people by the issuing of an abundance of greenbacks, for fear that they might be like an old Christian friend of mine on White river, in my State, (Indiana,) who was needing rain as badly, if not worse, than the country needs money. He prayed devoutly for it and that it might come in abundance. And sure enough it did come, but in such quantities that it raised the river so high that it flooded the country, the waters entirely covered his corn, and kept it hid from sight for several days; so that when the waters subsided his crop, that so much needed a good, growing shower, was entirely destroyed. He said that the next time he prayed for rain he would only pray for as much as he needed. So with the country; it needs money, but it needs a good crop worse to exchange for money; and I think if the people will only trust the party now in power that they will be relieved in due time. There are now financial measures before Congress, and which her committees are laboring to perfect, which, in my judgment, will be passed, and not only relieve the country by giving them more money, but will stop when they have given enough, and not so flood the country with it as to utterly ruin its business interests.

The great sovereign remedy however proposed by our Democratic friends in order to heal all our financial and domestic troubles and restore the country to peace and plenty is to place them again in power and then all will be well. That proposition, Mr. Chairman, if we are to judge the future by the past, is only equaled by the fable of the wolf and the lamb, when the wolf insisted that the lamb should open the door and let him into his house, so that he might protect him from all harm. Now this party, for eight consecutive years prior to the 4th day of March, 1861, had control of this country, and upon that day they surrendered it into the hands of the Republican party. As they now insist that they should again be restored to power for the good of the country, let us see how they administered it, and in what nice condition it was in when they handed it over to the Republicans. The Treasury bankrupted and the national credit destroyed at home and abroad; without arms, without an Army, and without a Navy; six States out of the Union, and formed into a southern confederacy, with a constitution, a congress, an army, and Jefferson Davis as president, with its capital at Montgomery, Alabama; the Mississippi river, the great outlet for the commerce of the Northwest, blockaded and its navigation closed; all the Government property and forts in the South, except Sumter and Pensacola, seized and in the hands of rebels, and they surrounded with batteries bristling with cannon and bayonets stolen from the United States Government; the American flag dishonored and disgraced, and the insult cowardly submitted to having been fired upon in our own waters and compelled by force to retire before the enemy, while floating from the Star of the West, a vessel laden with provisions to feed Major Anderson and his starving soldiers then garrisoning Fort Sumter; the capital of the nation beleaguered and with scarce power enough in the Government to inaugurate Abraham Lincoln as its President. All this, Mr. Chairman, was the work of Democrats, under a Democratic Administration, many of whom, a short time previous to that, occupied seats upon the Democratic side of this House and in the other end of this Capitol. And some of them even warmed seats in Mr. Buchanan's Cabinet, and we still find their loss from these Halls bewailed by their Democratic friends as a mother mourns for her first-born. To tear down this great work of treason, planned by Democratic architects, superintended by Democratic workmen, built by Democratic laborers, and defended by Democratic rebel soldiers, and to again build up and restore this country, it cost this nation a four years' war, the sacrifice of three hundred thousand Union soldiers upon the altar of their country, over three thousand millions of treasure, most of which is still hanging like a millstone upon the necks of the people, together with thousands upon thousands of maimed and disabled soldiers, who are living monuments of the great Democratic crime that drenched this land in blood.

These, Mr. Chairman, are the legacies that were bequeathed to us and our children by this Democratic party. With these munificent gifts we should be satisfied and not ask it to do more. But since the military power of this southern Democratic confederacy has been crushed we again find it hard at work, and, with the aid of its great ally, Andrew Johnson, with all the patronage of this Government that he can wield, we find them opposing the restoration of these seceded States with such constitutional guarantees as would forever prevent the recurrence of the scenes through which we have just passed and prevent the fastening upon this Government of the rebel debt, payment for slaves, and the losses sustained by rebels during the war; and thus, by their opposition to this great work of reconstruction, so much needed to restore and give quiet and repose to the country, they are strengthening the arm of treason, making rebels more defiant to our laws and more hopeful that they may yet mend their broken fortunes and regain their lost cause; stimulating them to the commission of acts of bloodshed, as in the case of the New Orleans and Memphis riots; disturbing the peace and quiet of the land; making it necessary to keep a large standing army to restore order and prevent scenes of violence and outrage upon the innocent and unprotected within these seceded States, causing needed but unusual legislation to protect them in the rights of person and property, and to furnish them with food, shelter, and clothing to prevent their perishing with hunger and cold, thus adding millions of expense each year to be paid by the people. We also find them attacking the securities of the Government, which has destroyed confidence among our business men, disorganized our whole financial system, and almost brought us to the very door of financial ruin. Thus the Democratic party, which is claiming so many virtues for itself, is responsible for having plunged this country into war and then furnished and encouraged the rebel soldiery that fought for four years against the flag of their country for the destruction of the Union. I hold it, therefore, responsible for all the blood that has been spilled; for the soldiers that have been sacrificed in defense of their country; for the debt that has been created to maintain it; and for the stricken and bleeding hearts all over the land,

made so by the loss of loved ones who perished in battle. And by its continued opposition to the reconstruction of the seceded States and its attacks upon the Government securities the people will hold it responsible for all our present domestic and financial troubles that are so sorely afflicting the country.

Now, Mr. Chairman, having in connection with this financial question discussed pretty fully the action of the Democratic party, and shown that its favorite schemes upon that subject, if carried out, will not only not benefit the country but greatly injure it, I now briefly propose to indicate my own views as to what should be done by Congress, not only for the present relief but for the future and permanent prosperity of the country.

First. We should only levy taxes enough to pay the interest upon our public debt and the current expenses of the Government, and leave the payment of the principal until the country is fully restored and again in prosperous condition, so that all parts of it can equally pay their portion of it.

Second. That these taxes should not be levied so as to make every man pay according to his worth; but they should be levied exclusively upon the luxuries, the favored classes, and the wealth of the country; doing away with all stamps except where placed upon luxuries, and removing the tax from the laboring and producing interests of the country, so that the tax will not fall upon the poor men, but will be borne by those who will not feel its weight.

Third. We should declare all of our five-twenty bonds, which are payable at the pleasure of the Government five years from their date, due and payable from that time, and payable at their face in the lawful currency of the United States, or exchangeable at the pleasure of the holders into bonds due not less than fifty years from date, (but better if due at no stated period,) but payable at the pleasure of the Government after ten years from their date. These bonds should bear six per cent. interest payable semi-annually, and the principal and interest payable in coin. They should be of such denomination as the Secretary of the Treasury might prescribe and issued from time to time as needed; they should not be sold, but only exchanged in equal amounts for our other bonds. These bonds should be made exempt from all State, municipal, and local taxation; and in consideration of such exemption one sixth of the interest on the same should be retained by the Secretary of the Treasury, which sum by him should be in lawful money semi-annually distributed to each of the States according to their population.

The benefits to be derived from this provision would be, first, a settlement of the question as to how the Government intends paying her five-twenty bonds, which form about five sixths of our whole bonded debt; and second, it stops all further uneasiness upon the part of the bondholders that they are to be paid in depreciated currency, for by this provision they have their choice to either accept the currency of the country for their bonds or exchange them for the six per cent. gold bonds, subject to a tax of one per cent. for the benefit of the States. This provision will also increase the currency of the country, without depreciating it, as it makes it discretionary and not compulsory with the bondholders to accept currency for their bonds. I have no doubt but what many will for the present prefer currency as the country now has too little, but the moment that the country gets enough so that it would commence depreciating, the bondholder is not then compelled to accept it but can exchange for the gold bonds. To prevent the bondholders as well as the country being injured by flooding it with too much currency I put in the provision that these long bonds cannot be sold but can only be exchanged for our present bonds; for if they could be sold by the Government, many individuals would, under my system, take greenbacks in such quantities as to inflate the currency of the country injuriously, knowing that they could exchange them for these long gold bonds at their pleasure. To prevent that I require the party in the first instance to make his choice, which, I think, will operate beneficially to all, as it will insure enough money to answer the wants of the country and not enough to flood and destroy it. In other words we give my old Christian friend a growing shower for his corn, and not a Democratic flood to drown it out.

Some may urge that this is repudiation and treating our bondholders unfairly. I insist that it is not, for this reason: According to the terms of our agreement the Government has the right to redeem these five-twenty bonds at its pleasure after five years from their dates. In this it is doing nothing more than carrying out that agreement. The only difference of opinion is as to whether it is bound to pay in coin or currency. I know some insist in coin and give very good reasons for it. I insist in currency and give I think better ones for my opinion. It is certain that the contract does not say that we are to pay in coin, and as there is this difference of opinion throughout the country honestly entertained, I feel that it is the duty of all to yield a little and not undertake to force matters to either extreme of paying all in coin, for that would give great dissatisfaction to the country and end in bad results, or to issue and pay all in currency, for that would bring disaster and ruin upon the people.

The country desires to return to specie payments at as early a period as possible, and to have her finances placed upon a permanent basis. It can do neither until this question of taxing bonds and issuing greenbacks to pay them off is settled, and settled in such a way as to do equal justice to ourselves and our creditors. The country is also unwilling longer to pay a six per cent. interest in gold, and is therefore desirous of either paying off its debt or placing it at a lower interest. It is willing to pay it in the lawful currency of the country, or exchange it into six per cent. gold bonds, taxable by the Government for the benefit of the States. These bonds will always be par bonds——

Mr. WASHBURN, of Indiana. I would ask my colleague whether the bond that he proposes is not the same as the ten-forty bond we now have, five per cent. interest, and principal payable in gold?

Mr. HUNTER. It is substantially the same as the ten-forty bond except that the interest is payable semi-annually.

Mr. WASHBURN, of Indiana. What is that bond worth now in the market?

Mr. HUNTER. It is at par.

Mr. WASHBURN, of Indiana. I think a little more.

Mr. HUNTER. It is worth above par when the interest is about payable; when the coupons are cut off it is below par. It is, therefore, about a par bond.

The currency that we pay such of our bondholders as desire it for their bonds, they can loan on the best freehold security at ten per cent. interest, or even more, almost anywhere in the United States. So that when we make provision to pay our creditors either in currency or gold bonds at their pleasure as above stated, I do not feel that any one should think we are guilty of repudiation or unfair dealing with our creditors. If the question is not now settled definitely so as to give satisfaction to the whole country and be taken entirely out of politics, I fear the results will be disastrous to our finances and in the end injurious to our creditors.

Third. Another advantage we gain by this proposition is, we get our debt funded and save one sixth of the interest; this interest to be distributed among the States according to population, which would give to each State an amount sufficient to pay its State tax, and thereby relieve the great mass of the people of each State of a heavy burden. Some object to thus distributing the interest to the different States, according to population, for the reason, they say, it is unjust to the States in which the bondholders reside, and if any distribution is made that it should go to those States exclusively.

I think, Mr. Chairman, when this question is investigated it will be found that distribution according to population is the only just and equitable way that it can be made; for this reason: the money that is distributed does not come from the people of the States where the bondholders reside exclusively, but it comes from the people of all the States, and is raised by a tax, not from the bondholders, but principally from the luxuries of the country, such as whisky and tobacco. If it comes, then, mostly from the luxuries, who pays it? It is paid by the consumer of these articles. I do not know that it is any credit to us, but I must insist that the people West and South consume about as much of these luxuries according to population as the people of the States in which those bondholders reside. If the people of the States, then, in which the bondholders do not live pay as much of these taxes in proportion to their population as the people of the States where they do, then I ask is it fair to confine the distribution of this tax, that comes from the people of all the States, to the people of those States where the bondholders reside? I insist that it is not, and the only fair way that the distribution can be made is to give to each State according to population. If that is not done then you really compel the people West and South to pay much more of this tax in proportion to their population than they receive back, but if you make the distribution according to population then all will receive equally and fairly according to the amount paid by them. Some urge that to distribute according to my plan it will be unjust to the North and will be really taxing the North to pay to the South. I cannot look at it in that light. If these southern people consume their proportion of these luxuries that pay this tax, which I am satisfied they will, I see no good reason why they should not have their proportion of the distribution; and as we are now reconstructing them, and will soon, I hope, have them all back into the Union with constitutions republican in form, we must pass general and not sectional laws.

Others who are opposed to this distribution insist that it is a great humbug, and nothing more nor less than collecting a tax from the people and then paying them back with the same money. I look at it very differently; and when the principle is once put into practice gentlemen will find that it will operate very satisfactorily with the tax payers of the country, for the reason the tax, as I said before, comes principally from luxuries and is paid by the consumer, and is, therefore, paid as a matter of choice and not of compulsion. The honest, hard-working farmer, laborer, and mechanic, who consume none of these luxuries, pay none of this tax, but derive an advantage from its distribution, for out of this money so distributed to the State their taxes are paid, and they are relieved of a very heavy burden, and in that way it becomes a blessing to the great mass of people of each State.

Others insist that the country gains nothing by thus funding our bonds and distributing this interest. It gains just this much: these bonds now bear six per cent. interest in gold, except the seven-thirties, and they soon will, as they are convertible into five-twenties; so if they are not exchanged for these long bonds all that six per cent. goes to the bondholders, whereas by funding the debt into these long bonds we give to the bondholder only five per cent., and with the other one per cent. pay the State tax for the people of every State in the Union, an item that is gained by honest legislation and is of the highest importance to the people, and will do more toward giving repose to the country than almost any act that can or will be passed by the present Congress. Some urge that the one per cent. is not enough for the bondholder to pay; that that does not make his tax equal to the local taxation throughout the country, and, therefore, it is unjust to the men who own real estate. I think, when

the question is once examined, it will be found that one per cent. in gold, equal to $1 40 upon $100 in currency, and that, too, upon the full value of the bond, will be equal to the taxation upon real estate anywhere in the United States. So far as my information goes, I do not know of a single instance where the owner of real estate will take for it in cash double the amount for which it is assessed for taxes; so that real estate that is assessed at only half its value for taxation—and I insist that there is none that exceeds that—would have to pay $2 80 upon $100 to equal the tax of one per cent. on the bonds. In other words, the bonds pay one sixth of all they make upon the full value. I would like to know what property, real or personal, throughout the country that pays more than one sixth of its entire income for taxes? Let any gentleman answer it who can.

Some urge that we should not give bonds payable in coin for these five-twenty bonds, but should give bonds payable in currency. I imagine in the end that it will really make no difference, but by making them payable in coin will prove a benefit for the reason, in five years from this date our currency will be equal to gold if we fund our bonds so as to return to specie payments by that time; then it will be immaterial to us whether they are payable in coin or currency; but by making them payable in coin we give stability to our finances and stop all talk of issuing greenbacks to pay them off. Interest is the great item with us, and by thus funding our bonds we lower it and get time on our debt. I have put the bond at five per cent., one per cent. being retained for taxes. If that is not low enough to make it a par bond when we shall have resumed specie payments then I would say go lower. A par bond is what we want, and with that we sustain the honor and credit of the Government.

Fourth. Provision should be made so that holders of our gold bonds, being the ten-forty bonds and those that were issued in 1861, might within a certain time have the privilege of exchanging them into the long bonds above provided for; and in case they are not so exchanged then they shall also be taxed in like manner as the long bonds.

Fifth. For the purpose of insuring a complete funding or payment of all bonds and obligations against the United States, except the United States notes known as greenbacks, and the gold bonds mentioned in the fourth specification above, and such other obligations where the Government expressly agreed to pay coin, the Secretary of the Treasury should be required to give notice to holders of all such to present them for payment or exchange at maturity, and the five-twenty bonds should be declared due five years from their dates, and all such as are not above excepted, which are drawing interest and which shall not be presented within six months after such notice if due, or within six months after they are due after such notice, the interest on the same should cease, and when presented for payment or exchange interest should only be allowed up to the time it did cease as aforesaid. And for the purpose of enabling the Secretary of the Treasury to pay all such persons for their bonds or other obligations except as aforesaid, who prefer payment for the same in lawful currency to exchanging for the long bonds above provided for, he should be directed to issue from time to time such amount of United States notes commonly known as greenbacks as might be required for that purpose.

The benefits to be derived from this provision are twofold: first, it insures a prompt funding of all our bonds and obligations payable in currency or stops the interest on the same; and second, as our people want more money in the country and are not in condition to be taxed for the present so as to raise money to enable the Secretary of the Treasury to make the payments as above required, on account of its scarcity, it furnishes an easy mode of raising the money, without any danger of putting more money upon the country than it really requires, and therefore is not subject to any of the objections that I have suggested against the Democratic policy of flooding the country with national currency.

Sixth. The Secretary of the Treasury should be prohibited from accumulating gold in the Treasury in larger amounts than the demands of the country really require to pay our obligations due in coin; and for the purpose of cheapening gold and lessening the demand therefor the Secretary should be required to only collect such proportion of the duties on foreign imports in coin as will amply supply the wants of the Treasury to meet our gold obligations; and the residue he should collect in the lawful currency of the United States.

The benefits to be derived from this provision are: it keeps down the price of gold, and thereby makes our currency more valuable; when gold accumulates in such large amounts in the Treasury, as it has been doing for the last two years, it makes it scarce throughout the country, and therefore keeps up the price. The pretext that the Secretary by keeping such large amounts on hand can control the gold market and keep down the price is all stuff. Experience has shown that all that it amounts to is this: when he does sell it is by some means always found out a day or two beforehand by a few knowing ones. Gold then suddenly falls, and the few favorites get all the advantage of it at the expense of the many. How the proceeds of this great advantage are distributed I know not. The Government certainly reaps no benefit from it, as she always sells at the lowest market.

Mr. WASHBURN, of Indiana. Would not that be in effect an indiscriminate reduction of the tariff?

Mr. HUNTER. I think not. We can so modify the tariff as to meet it. I think there will be no trouble about it.

Seventh. A sinking fund consisting of the proceeds of the sales of all public lands after this date, together with all moneys paid into the public Treasury belonging to the United States except moneys derived from internal revenue and duties upon foreign imports, and the amount allowed informers under the internal revenue act, should be set apart for the payment of the public debt.

Eighth. The tax should not be reduced upon luxuries, and especially whisky. Experience has shown that there will be about so much whisky consumed each year. If we keep the tax high then the money will go into the national Treasury and help support the Government. If we lower it the consumer will derive but little benefit therefrom, and the proceeds will go to enrich those who deal in it. To lower the tax in order to stop the frauds is to me a very weak argument, and is nothing more or less than a shameful admission that we are unable to provide a law that will meet the emergency and correct the evil. We must have revenue to support the Government, and if we do not get it from luxuries we must take it from honest toil. I am, therefore, in favor of keeping the tax high on such articles, and making a law strong enough to collect it, even if it requires one that will bankrupt and imprison every scoundrel in the country who will willfully violate it.

Ninth. If the national bank system is to be continued, the act authorizing them should be amended and their number increased, so that the West and South might have their proportion, and thus prevent the currency from accumulating in the East to the great detriment of the West and South.

Tenth. Greenbacks, as well as all other money which passes as a circulating medium, should be taxed for State, municipal, and local purposes, the same as all other personal property, and at the same rate per $100.

Eleventh. Our tariff should be so amended that it would furnish us sufficient revenue and at the same time protect all the industrial and productive interests of the country, bear heavy upon luxuries, and exempt as far as possible all necessary articles that are consumed principally by the poor.

Mr. WASHBURN, of Indiana. As the gentleman has concluded his argument I would like to ask him a question.

Mr. HUNTER. Very well.

Mr. WASHBURN, of Indiana. The gentleman says it would not be proper to tax bonds, and yet he is in favor of taxing the United States notes. Can he explain the reason for that difference?

Mr. HUNTER. I will answer the gentleman. I am in favor of taxing bonds by the United States for the benefit of States, but not States taxing them, for the reason I do not believe that States have the right to exercise that power under the Constitution of the United States. The United States notes pass as circulating medium, the same as gold and silver. Why should you tax gold and silver and not tax notes that are as much a circulating medium?

Mr. WASHBURN, of Indiana. I do not think my colleague [Mr. HUNTER] comprehends the scope of my question. My question is this: Why can you not, upon the same principle, tax the bonds?

Mr. HUNTER. I think the principle is very different. It would take me some time, as a matter of course, to answer the question fully. It is being answered on the stump all over the country in speeches. I say that to tax the bonds of the United States by States would be a violation of the Constitution, but the same principle does not apply to greenbacks.

Mr. WASHBURN, of Indiana. One more question. Is it not the same violation of the Constitution of the United States to tax the greenback?

Mr. HUNTER. I think not, because the people do not take it with the understanding that it was anything but currency, the same as gold and silver.

Mr. WASHBURN, of Indiana. Have not the courts already decided that you cannot tax United States notes?

Mr. HUNTER. Some of them have, I believe, and some have not; but not upon constitutional grounds, but because it was in violation of law. I am therefore in favor of changing the law and making them taxable.

Mr. STEVENS, of New Hampshire, then addressed the committee. His remarks will be published in the Appendix.

CURRENCY, BANKS, AND TAXATION.

Mr. CLARKE, of Ohio. Mr. Chairman, it is incumbent upon the Government to provide for the people a currency sufficient in amount for the convenient transaction of all the business of the country requiring the use of money; the material out of which this money shall be made will depend upon the ability of the Government; if it has precious metals sufficient, then of course our money will be of gold and silver; but if gold and silver are not to be had, or if the state of trade with other nations be such that gold and silver, though coined into money, cannot be retained in the country, then something else and the next best material must be made to serve the purposes of money. It is not always in the power of a Government to command gold and silver, and therefore paper money is resorted to as a necessity, not a choice.

SPECIE PAYMENT NOT NOW POSSIBLE.

We cannot now have a metallic circulation, because the balance of trade is largely against us as a nation. We buy in foreign countries more of their commodities than we sell of our own, and the balance has to be made up with gold and silver, the universal money of commerce. Let me illustrate this idea. During June, July, August, and September, 1867, we bought goods of foreign countries amounting to $132,389,011, and during the same time we sold to foreign Governments of our goods to the amount of $98,596,573, leaving us in debt in the four months' trade to the amount of $33,792,438, which balance we had to pay in gold and silver. If the whole year shall show a like state of trade we shall lose over one hundred millions of gold and silver. Can we stand up with our metallic currency and have

it drawn out of the country to the amount of $100,000,000 per year? I think not.

OUR FOREIGN DEBT AND IMPORTS.

But this is not all. We are in debt, and our obligations are largely held abroad, upon which we are paying interest in gold. This foreign debt consists chiefly of five-twenty Government bonds, supposed to amount to $600,000,000, and State, city, railroad, and other bonds, at least $200,000,000 more, making in all $800,000,000. Upon these we pay an annual interest amounting to $48,000,000 in gold. Now, with this drain of interest and $100,000,000 as the balance of trade how can we adopt specie payment with any reasonable hope of being able to sustain it? It is not possible. We must change the form of our public debt and call home the bonds now in the hands of foreigners and place them in the hands of our own people. We must revise our tariff, and, if possible, stop this immense importation of foreign goods. Let me give a few items, which I find convenient, in Mr. Delmar's report for November, 1867. During the months of June, July, August, and September last we imported, among other things, the following:

Cotton, good in value	$5,990,229
Flax, good in value	4,731,337
Woolen, good in value	18,648,065
Iron and steel, good in value	9,398,333
Sugar and molasses, in value	18,082,742
Total for four months	$56,850,706

Here are imports amounting in four months, one third of a year, to over fifty-six million dollars, every dollar's worth of which could and should be produced in our own country, and thereby save the money paid abroad for them to enrich our circulation and to give employment to thousands of our citizens in converting raw materials into valuable fabrics needed for home consumption, and opening a home market larger and better for our agricultural products than all the outside world has ever afforded us.

WE MUST ENCOURAGE HOME PRODUCTION.

We have the raw cotton; we have the flax or the means of producing it; we have mountains of iron and coal inexhaustible, and we have the soil for the sugar-cane, the beet, and the sorghum.

Why not employ the means proper to put all these unbounded resources into practical development, and thereby not only supply our own wants but fill the markets of the world with them, and reverse the tide of trade and turn the stream of gold into our country, instead of out of it, as is now done?

Let no one say it cannot be done. We can do it if we will, and when our people wake up to a realizing sense of the importance of this matter they will act, and the sooner the better. We imported ninety million pounds of wool last year, worth $25,000,000 in gold. Do farmers think wool cannot be raised in our country? I hope not. We raise the finest wool and have the greatest possible facility for its production of any other country. Vermont sheep took the premium in the World's Fair. Why send abroad for $25,000,000 worth of wool? Let the intelligent farmers of the West answer.

THE WOOL TARIFF OF 1867.

We made a small wool tariff last year, and it cut off the immense import of coarse wool from South America. A little more of the same legislation and wool growing will become a paying interest in our country.

Sir, the cotton, flax, wool, iron and steel, raw and manufactured, and the sugar and molasses that we will buy abroad this year (taking the first four months already passed for a criterion) will amount to $170,000,000, to be paid for every dollar in gold, and yet full eighty per cent. of that sum ($136,000,000) is simply bread and meat. If a bolt of muslin or a yard of broadcloth costs five dollars, four of those five dollars are for the food consumed in the production; if a ton of iron or steel costs $100, eighty dollars of the price are to pay for the food consumed by the labor that produced it; if a hogshead of sugar costs $200, $160 are for food. Here, where we enjoy a monopoly in the production of bread and meat and can develop our resources so as to feed the whole world, yet we ignore the fact, and send our gold abroad to buy that very food, and then, to excuse our folly, complain that we have no market for our agricultural productions.

BAD EFFECT OF A BAD POLICY.

We must get out of this highway to ruin. We must diversify our labor and so arrange it as that we may be self-sustaining and self-supporting. England buys our raw cotton for fifteen cents a pound and pays for it in goods, and returns it to us manufactured, and sells it for fifty cents in gold. The old saying is but too true: "We sell a sheep-skin for sixpence and buy back the tail for a shilling." Any country will be impoverished that sells continuously its productions in a raw state; the profit all goes to the manufacturer, who improves the value. Farmers know well the truth of this and prefer, where they have the means to do so, to sell nothing until the last possible improvement is put upon it to increase its value. Let us, at least, learn in the school of experience, and at the earliest moment possible correct the errors of the past by adopting a wiser policy.

SPECIE PAYMENT CONSIDERED.

Gentlemen talk of withdrawing our paper money and adopting specie payment as though it needed only to be commenced and forth it will come. Have they taken the pains to consider how much money is necessary to carry on, with reasonable facility, the internal commerce of this extensive country? In 1860, when our population was several millions less than at present, when we had no great national debt, when the balance of our foreign trade was largely in our favor, and when our marketable productions for the home trade were not two thirds the quantity nor of half the value they are now, our currency then amounted to about five hundred million dollars, of which about two thirds were coin:

Coin	$287,325,493
Paper	202,005,767
Total	$489,331,260

Did we complain then of what Secretary McCulloch delights to call a plethora of money? Not so; even then the volume of money was inadequate to the business wants of the country, and much of the internal traffic had to be carried on with the credit system. Now that our population is one fifth more than in 1860, or nearly forty millions, and our annual productions nearly double, and our people spreading out into new States and Territories in the great West with an activity and enterprise never equaled before in this or any other country, can it be possible that we should be sufficiently supplied with currency at the estimate of the Secretary of the Treasury and those who back him in opinion by being allowed $250,000,000 as a circulating medium? Just moving backwards instead of forwards; instead of giving half the amount of money employed in 1860 we should have double that quantity.

AMOUNT OF MONEY IN 1865.

Up to 1865 no complaint was made by any respectable portion of the people, in public or private position about the plethora of the currency; perhaps while the war was upon us there was but little opportunity, even for croakers, to sound the alarm. What was our circulation that year? See the Secretary's report for 1867, and you will be able to discover that it amounted to over nine hundred million dollars, besides the seven-thirty notes, which entered largely into the circulation. Here are the figures:

Five per cent. notes	$33,954,230
Compound-interest notes	217,024,160
Greenbacks and fractional currency	459,595,311
National bank notes	197,279,298
	907,762,999
Add seven-thirty notes	830,000,000
	$1,737,762,999

So much for the volume of currency on the 1st September, 1865. Then our wise financial minister began to disturb the waters; then it was he fell in love with the idea of specie payments; and then began our troubles in money matters that have borne us down to the earth, and from which our people are struggling to escape. But the Secretary persists in fastening the burden upon them irrevocably. Hear what he says in his report of 1867:

"Since the 1st day of September, 1865, the temporary loans, the certificates of indebtedness, and the five per cent. notes have all been paid, the compound-interest notes have been reduced from $217,024,160 to $71,875,040; the seven-thirty notes from $830,000,000 to $337,978,800; the United States notes, (greenbacks,) including fractional currency, from $459,595,311 to $387,871,477, while the cash in the Treasury has been increased from $88,218,055 to $133,998,398."

Take the Secretary at his word, and see how much he has reduced our circulation in about two years; he admits that these several items, which he has paid in part or *in toto*, "were in circulation as money."

CIRCULATION REDUCED IN TWO YEARS.

Five per cent. notes	$33,954,230
Compound-interest notes	145,149,120
Greenbacks	71,633,834
Money locked up	45,780,343
	296,517,527
Add reduced seven-thirty notes	492,021,200
Total reduction	$788,538,727

Nearly three hundred millions of this reduction was money to all intents and purposes, so made and so used; and the seven-thirty notes used as such to a very great extent. Not only so; we sent to Europe as the balance of trade against us during those two years gold and silver coin, namely:

In 1866	$82,643,374
In 1867	55,116,384
	$137,759,758

And, to cap the climax in this work of oppression, the collection of internal revenue during those two years exceeded six hundred million dollars. Is it any wonder, with this statement of facts that is taken from authentic sources, that the people feel deeply the burdens that they are carrying; burdens made doubly onerous by the unwise and unnecessary contraction of the currency by the Secretary, made in open opposition to the public will, and in utter recklessness as to the hardships he was imposing upon the people.

LITTLE MONEY AND MUCH CREDIT.

One of the great drawbacks in this country, and more especially of the western States, has resulted from a want of money. Those States have never had enough of currency to enable the people to carry on the business to the extent of their enterprise and as the vast undeveloped resources of the country justify. The rapid growth of the West has been accomplished under great embarrassment from the scarcity of money. This want has been supplied, in a measure, at great inconvenience and cost, by the credit system. Goods were bought and sold on credit, labor was performed on credit, everything was credit, and the whole country was filled with promissory notes, and mortgages were spread over the land for millions upon millions of dollars, bearing interest at ruinous rates. The war, which brought so many calamities upon the country, brought with it a tide of currency to the West such as the people never enjoyed before; and never did a people make better use of the blessing than they have done. In the brief time allowed them they moved forward with industry and perseverance, and filled the market with their products, for which they received remunerating prices, and were paid at sight in money—national money—money that paid debts, paid taxes, bought land, and that would not spoil if laid safely away for future use. Then we had a thousand million dollars distributed through the country as a currency, and the West had its share. But Mr. McCulloch has dried up the source of our good fortune, and now, to gratify him in his caprice,

and those who sympathize with him in this war upon the people—for it results in this—they are required, like the Israelites by Pharaoh, to make brick without straw; we must pay taxes, though he refuses us the money with which to do so.

MR. M'CULLOCH'S PLAN.

The Secretary proposes to satisfy the wants of the people with the national-bank notes, which now amount to about three hundred million dollars. All the other money is to be withdrawn, preparatory to specie payment. Let us see what will be our hope for a currency if we are to look to the banks as now organized and located. The total capital of the national banks is about four hundred and twenty-four million dollars, with a circulation of about three hundred million dollars. Now, that circulation is distributed as follows:

The six New England States, with a population of 3,440,881, have a national-bank circulation of nearly one hundred and five million dollars, being over thirty dollars to each individual.

The five middle States, New York, New Jersey, Pennsylvania, Delaware, and Maryland, with a population of 9,221,225, have a circulation of $127,500,000—about fourteen dollars to the individual.

The thirteen western States, Ohio, Indiana, Illinois, Iowa, Michigan, Wisconsin, Minnesota, Missouri, Kansas, Nebraska, Nevada, California, and Oregon, with a population of 11,869,440, have a circulation of $54,000,000—about four dollars and fifty cents to the individual.

Thirteen southern States, with a population of over nine millions, have a circulation of $7,500,000—less than one dollar to each individual.

Ohio will have seven dollars a head, while Connecticut will have thirty-eight, Massachusetts forty-six, and Rhode Island seventy dollars to each individual. Is it matter of surprise that the West complains of a scarcity of money? In the East money is chiefly used by large capitalists engaged in manufacturing, where it passes rapidly from hand to hand, in an unbroken stream; a bale of cotton or a sack of wool is entered at one door and paid for, and before the sun goes down the same money is returned at another door of the same establishment for cloths or calicoes, and at night the cash-book shows as much money on hand as in the morning. Not so in the agricultural States. The farmer requires a full year to make up and square his cash account. He has to expend money for plowing, for sowing, for cultivating, for harvesting, for threshing, for freighting to market; during all which time, he is paying out money, and it never returns until his product is sold. Hence, more money is required by an agricultural people to carry on their industrial pursuits with prompt payment, than those whose business is to buy at one door and sell at another, and the buying and selling completed in a single day.

WHY WE PAY LARGE INTEREST.

The distribution of the currency is too glaringly unjust, and it enables us to account in some measure for the pressure in the West during the last two years. While money at Cincinnati and Chicago has been scarcely attainable at ten, fifteen, and twenty per cent.—often, indeed, at two per cent. a month interest—in the East it has been abundant at five to seven per cent. per annum. This is the penalty the West has to pay for short allowance of circulation, and the people of the East who furnish us from their abundance of circulation are reaping the rich harvest our necessities afford them.

The commercial business of Chicago for 1867, as published in the Republican of that city a few days since, giving the names of merchants, and the amount of business of each, foots up full $250,000,000, and yet the banks of Chicago afford only $4,000,000 of circulation. The trade of Cincinnati is not probably less than that of Chicago, and Cincinnati has but three and a third millions of circulation; each of those cities have more population than the entire State of Rhode Island, yet that State has a circulation of more than twelve millions—nearly double the amount allowed to both those cities.

The national banks of Cincinnati loan about six and a half millions to her business men; and Chicago about eight and a half millions; while the banks of Rhode Island are enabled to loan over twenty-one millions, and the city of Boston over fifty-eight millions. Rhode Island and Boston do not want the currency enlarged. Oh, no; they are comfortable; let those shiver who are left out in the cold. The borrower of money in Ohio pays from ten to twenty per cent. interest for the money he must use in his business. The borrower in Boston pays but five to seven per cent. In Boston they have some thirty dollars to the head of currency. In Ohio they have seven dollars; that explains the case. Ohio and the West asks for more money. The East replies—*quantum sufficit;* and begins to talk of specie payment.

THE AMOUNT OF MONEY NEEDED.

Twenty-five dollars to the individual is none too much money to answer the legitimate purposes of the internal commerce of this country. It should be more rather than less. We had much more than that amount in 1865, and the people made no complaint; indeed the country never increased in real wealth so rapidly as when money was abundant. The bulls and bears of the money market, those who lie in wait for panics—which they are ever striving to create—complained, of course, and our Secretary gave heed to them and ordered his course by their chart; and that is the piloting that is rushing us upon breakers. When things were well enough the people were content, and the Secretary, if he had consulted their interests, would have been quiet; but the destroying angel had whet his sword and was impatient to test its capacity for destruction. Hard pressed as we are for money, we are much better off, even now, than the Secretary intends we shall be if he is not arrested in his career of contraction. I have said twenty-five dollars a head is little enough money for the business wants of the people. I can prove it. We have now, as money, according to the Treasury report of December last—

Of compound-interest notes	$71,875,040
Greenbacks and fractional currency	387,871,477
National bank notes	299,103,996
Cash in the Treasury	133,998,398
Present circulation	$892,848,911

Here is a circulation sufficient for thirty-six million people at twenty-five dollars a head, and with all this we suffer from scarcity! How is it, you inquire? I will answer: in the first place, this tampering with the currency, by reducing it in various ways and by threatening to force specie payment; second, by locking up in bank vaults $180,000,000 of reserves, for no practical purpose whatever; and another $150,000,000 in the national Treasury; thus $330,000,000 are as effectually withdrawn as if sunk in the ocean; the residue is further diminished by being drawn into the bond market, the most tempting investment for private capitalists that can be found in the country. I, perhaps, hazard nothing of truth in asserting that the difficulties in the West in obtaining long loans of money by men of business enterprise, is mainly attributable to the fact that all the reserves of money in the hands of private individuals, who used to lend money to their business neighbors on long time are now invested in five-twenties, because it is convenient, it is safe, it is free from tax, and it pays good interest. Thus the money is drawn from the extremities to concentrate in the great centers of trade—the cities of the seaboard; and thus it is, that while money East loans plentifully at five per cent. in the West it is difficult to be had at ten to twenty per cent.

HOW WE CAN HAVE SPECIE PAYMENT.

It may be asked how is it possible to have specie payment, with eight or nine hundred million of circulation? In the first place, I reply, a sufficient circulation is a public necessity, if specie payment never comes. In the second place, specie payment must be brought about with a full circulation, or it will bring universal bankruptcy upon the country, and crush every vital commercial interest in the land. If we allow the McCulloch policy to proceed, and the currency withdrawn to introduce gold and silver in its stead, its effect will be to double the burdens of the debtors, and in like proportion increase the wealth of the note and bondholders. The national banks have $600,000,000 of the people's promissory notes, payable in currency. Specie payment will convert those notes into demands for gold. The banks make fifty to one hundred per cent. by the simple change from currency to coin, and the debtors lose just in the same ratio. The banker is made rich at a single stroke, and the debtor is made a bankrupt.

And the same disastrous results will be realized in the less noticeable, but perhaps more extensive, indebtedness existing between persons in private life—mortgage debts for loans, for purchase of farms, notes for store bills, for farm implements, for stocking farms, for horses, wagons, machinery, &c.; debts amounting to hundreds of millions of dollars, made at currency prices, all of a sudden, at the advent of forced specie payment, to be doubled and trebled; and thus the debtors will be ground to powder under the increased burden of their debts. If specie payment is brought forward in a reasonable, natural way it will come with a liberal—I may say a flush—currency. Stop tampering with it; give it official credit; reduce the interest-bearing debt to the extent of the means on hand, leaving less than fifteen hundred million dollars at interest; and turn this into a six per cent. debt, payable in lawful money, and subject the bonds to State taxation; a rigid economy in public expenditures; revise our tariff, so that instead of sending $150,000,000 of gold annually out of the country we turn the current in our favor—then, with the product of our mines, which is rapidly developing resources of incalculable and inexhaustible wealth, and the gold necessarily brought by the three hundred thousand emigrants that annually come to make homes among us—all these added to the $300,000,000 said to be in the country now, and we have a pretty safe foundation on which to establish specie payment. Banks in former times have maintained specie payment with one dollar in coin to three in paper. With a greenback circulation the same or even better things can be accomplished. Three hundred million dollars of gold would put $1,000,000,000 of greenbacks at par with coin; no reduction of the currency necessary at all; no panic in business circles; no breaking down of prices; no excuse for indiscriminate bankruptcy—all would be quiet, and the change so easy, so natural, that it would scarcely produce a sensation.

THE PUBLIC DEBT.

Our public debt is now $2,625,502,848, of which $2,223,117,170 is at interest, amounting annually to $130,000,000; and this the Secretary proposes to increase until the entire debt is funded and the interest runs up to $150,000,000. Then, having withdrawn all the greenbacks when they stand in good credit and at par in all the purposes of our internal trade, and having converted them into gold-bearing bonds, dollar for dollar, which bonds are immediately worth forty per cent. premium above the greenbacks, and when he has taken away our currency by giving bonds for them worth $140 to the hundred, he forces specie payment upon the people, thus doubling our burdens by increasing the debt and diminishing the means of paying it.

LET US PAY ACCORDING TO LAW.

Reversing this ruinous policy of the Secretary, let us substitute greenbacks for national bank notes, supply the deficit in the circula-

tion occasioned by the withdrawing of compound-interest notes, until the amount of currency shall be fully adequate to the public wants; buy up, as far as the means of the Treasury will admit, the bonds that are available according to the letter of the law, leaving our public debt at interest, about fifteen hundred millions, with an annual interest of only $90,000,000 instead of $150,000,000, as we are soon to have it if the Secretary shall be permitted to have his way in the matter. This is the sensible and politic course to be taken, and the more it is considered the more it will commend itself to the judgment of sensible, reflecting men of all parties.

This plan works no hardship to any one, repudiates no plighted faith, while it relieves largely the burdens of taxation, and by supplying the people with an ample currency enables them more easily to pay the taxes exacted of them to sustain the credit of the Government.

GREENBACKS OUR ONLY MONEY.

I propose no issue of greenbacks merely to buy up the interest-bearing debt—that would be a species of repudiation to which I give no assent—but issue for the purpose of currency, a thing we must have, and which the Government can much better furnish than to leave us to the shinplaster currency that necessity would force into circulation if greenbacks are withheld. We shall then have but one kind of circulation—greenbacks. Everybody has confidence in the ability of the Government to pay every dollar of its indebtedness; and, although it may not immediately be able to infuse into the circulation the golden element that will make it stand at par with the money of the world, it will not be long until its means will enable it to do so without producing a crisis or a panic that shall unsettle trade or the values of property, but, gently and quietly, as the descending dew, it will bring forward the much-desired specie payment.

ENGLISH BONDHOLDERS COMPLAIN.

We are told the British bondholders will complain if we pay our debts according to law. I have no fears of any loss of character in English estimation on that score. England gives her friendships and good opinions only when and where she can coin them into money; she holds faith with no nation when she can profit by a breach of it; she acknowledges no law, no duty, that conflicts with her interests. When we were in the midst of our troubles with the rebellion she gave us no word of encouragement, lent us no money; but to the rebels she opened her ports and her money-chests; she built for them pirate ships to prey upon our commerce, armed and equipped them, and manned them with her subjects, and lent them her flag under which to carry on their piratical warfare against us; she lent them millions of gold upon cotton bonds to aid them in their efforts to break up this Government—all this did England, in violation of her treaty obligations to us, and in flagrant violation of the laws of nations and the plainest principles of Christian duty toward a friendly Government. Are we to tremble under the scowl of England with her offensive record before us, and impose upon our people unjust burdens to conciliate the good opinions of so faithless a nation as England has shown herself to be in her bearing toward us? I feel no such inclination. England has our bonds, but how did she obtain them? Let me tell you: first, she cried down our credit by speeches in Parliament, by her press, by her official bearing from the sovereign down to the lowest subaltern; then, when our bonds were worth but thirty or forty cents on the dollar, she bought them up at second-hand, and now, holding some six hundred million dollars, for which she paid, perhaps, one half the face, her friends here are clamorous for the "due and forfeit of the bond."

Sir, while I would not return evil for evil nor do a dishonorable act because so treated by England, yet I would be a little more free to stand upon the letter of the law and shake defiance in the teeth of those who when we asked of them "bread gave us a stone, when we asked a fish gave us a serpent."

SPECIE PAYMENT AND MONEY PLENTY.

I have said we can have specie payment and a flush circulation; we dare not have it in any other way without breaking down the trade of the country and bringing ruin upon the people. To accomplish this we must first improve our tariff; and if we cannot get the balance of trade in our favor, as it was in 1860 and 1861, let us, at least, manage to stop the drain of gold to pay the balance against us; this must be done before we can ever resume specie payment and maintain it under any plan; no nation on earth can stand a gold drain of $150,000,000 a year without commercial ruin.

Our annual accumulations of gold may be set down as follows: $60,000,000 from our mines, and say $25,000,000 brought into the country by the three hundred thousand emigrants that yearly flock to our shores; both these sources are more likely to increase than diminish, and they are reliable for years to come. Now, with the gold we have in the country, say $300,000,000, (according to Mr. Hulburd, Comptroller of the Currency,) and the accumulation of $85,000,000 a year, we shall soon be able to establish and maintain specie payment upon a firm basis, and our currency growing annually as our population increases and our uses for money enlarge, the financial condition of the country will become the best we have ever had and better than that of any other country—more abundant and yet solid as the gold upon which it is established.

NATIONAL BANK NOTES TO BE SURRENDERED.

Let our national banks surrender up their circulation and supply the place with greenbacks, then add thereto until the volume of circulation shall be adequate to the public demand. By this means the interest-bearing debt may be reduced to fifteen hundred millions, making the annual interest less than ninety millions. Thus we save over sixty millions that would be lost by Mr. McCulloch's plan in the simple item of yearly interest. The bonded debt being so largely diminished, it would become a popular stock, and must necessarily assume a commanding position in the money market much above par. That being obtained, it needs no uncommon foresight to see how readily a new loan could be effected at the present rate of interest, payable in lawful money and subject to State taxation. Ohio bonds bear six per cent. interest, payable in lawful money and subject to taxation, and yet they are not sold below par. Pennsylvania has just accomplished a new loan at six per cent., payable, principal and interest, in lawful money. The national Government ought to have as commanding credit in the money market as any of the States and be able to make as favorable loans. All it wants is the financial capacity and fidelity to public interest in its agents and officers that those States have, and then we shall have like credit and like success. Then we may begin gradually to raise by moderate taxation something to apply annually to the extinguishment of the principal debt.

A NEW LOAN NOT POLITIC NOW.

I would not now venture upon a new loan; the currency is too much disturbed and the money circles too nervous to make any great financial movement on the part of the Government. Let us elevate the currency as I have suggested, and when we shall have arrived at specie payment, which need not be necessarily remote, then we may change our loan; and, changing it for one payable in lawful money, we shall thereby prevent it from going abroad and confine it to our own citizens, thereby relieving us from the annual drain of gold to pay the interest, and also make it the interest of our people who hold the bonds to sustain their credit and the credit of the currency rather than to cry them down, as is now the inducement of holders, because thereby they enhance the value of gold, and by so much increase their installments of interest. We should not overlook the great importance of so arranging our currency and our bonds as that every one who is the owner of any portion of them should have a personal interest in sustaining them at the highest credit.

THE NATIONAL BANKS.

With regard to the national banks, it is, perhaps, less difficult amicably to adjust matters with them than most persons suppose. The people will be content with any plan that will secure to the banker equality of rights, and subject him to equality of burdens; and no honest banker can, in good conscience, ask more. The great bone of contention is the circulation of three hundred millions of their notes, upon which they receive interest, and interest, also, upon the bonds deposited as security to the public for their redemption. Why not let the Government supply that circulation and save the interest, instead of hiring the banks to furnish it, at a cost of eighteen to twenty-four millions per annum?

Mr. Jay Cooke, who speaks in behalf of the banks, and, I may add, the present able and efficient Comptroller of the Currency, who speaks advisedly and officially—both these gentlemen eminent in position and certainly worthy of great respect and credit—say that the tax paid by the banks more than equals the interest derived from the bonds deposited to secure their circulation. Mr. Cooke, after stating the amount between the Government and the banks, says:

"This balance-sheet between the banks and the people, every item of which is based upon official data, shows that not only is the 'eighteen million subsidy' swallowed up by the very terms and stringent provisions of the law, but an excess of $10,843,000 is paid in cash to the Government by the banks for the privilege of existing."

Mr. McCulloch says:

"If an account were opened with the banks and they were charged with the interest on $300,000,000 and the losses sustained through those that have failed, and credited with the interest on the United States notes held by them as permanent reserves, with the taxes paid by them to the Government and the States, and with a commission covering only what has been saved in transferring and disbursing public money, it will be ascertained that the banks were not debtors to the United States."

LOSS OF CIRCULATION NO INJURY.

I do not stop to inquire into the truth of the facts set forth in the above extracts; if they are true, then so much the better for the purpose I have in view, the surrender of their circulation; if to keep that circulation costs the banks more than it is worth to them, they will suffer no injury, no wrong, by returning it, that it may be replaced with greenbacks; this will conciliate all conflicting views on that subject and remove at least one great rock of offense. I should expect this change to be accompanied with all proper adjustment of taxes, so that no semblance of injustice should be done to the banks. I speak not from motives or feelings of hostility toward them; they are the great money centers of the country, and will exist while our Government exists, as they do exist in all civilized nations; but let them stand upon the common level of equality of right with all others; nothing more, nothing less. I would not wind them up; they are indispensable agents in carrying on the internal commerce of the country; indeed, we could not close them up without producing a fearful money crisis. The people owe them over six hundred million dollars, which, if the banks were forced to wind up, would have to be paid on short notice; and surely our people are not now in a condition for such a calamity. So far from this, let the law be modified and let banking be made open and free to all, and then, instead of being monopolized by New England and New York, let them be established wherever the demands of trade, the interests of the people, and the inclination of capitalists shall justify; thus will we have a more equal distribution of the circulation throughout the country, and the most money will seek the localities where it is most needed.

NO BANKS OF ISSUE.

Let us have no banks of issue, no money but greenbacks and coin; we will thus escape the ruinous consequences that have hitherto attended the crash of banks; let come what may, the currency stands unaffected, because it depends for its redemption, not upon banks, but upon the Government. By removing the national bank currency and substituting greenbacks we remove a serious obstruction to specie payment, and we avoid also the contraction and expansion process that occurs with banks of issue almost as certain but not so regular as the tides; if an effort shall be made to resume specie payment the banks will immediately seek safety in retiring their own notes or fortifying with greenbacks, so that when coin shall be demanded they will have their circulation under cover or greenbacks sufficient to take it up. No one can blame them for this precaution, and yet it will practically withdraw three hundred millions from circulation. Not so if we have nothing but greenbacks afloat as a circulation, for it is indispensable to public safety that specie payment be established with a full volume of currency. Three hundred millions of gold now in the country and fresh supplies pouring in at the rate of near one hundred millions a year, and the outgoing stream stopped, as I have already indicated, there can be no reasonable doubt that our currency could soon be made good as gold, and in amount sufficient for all the wants of the nation.

GREENBACKS AND GOLD.

Such a currency cannot fluctuate; it will be uniform in value and in quantity; no banker will call it in, fearing a run upon his bank, but his interest will be to keep it out in active use, bearing him interest. No reserve funds will have to be locked up idle in the bank vaults; the circulation has the Government as its indorser, and as is the credit of the Government so will be the credit of the money it furnishes to the people. Tight as our money matters are now, there are locked up and withdrawn from circulation at this time probably $150,000,000 of reserves to protect the banks. Banks of issue often attain to great credit with the people, and sometimes have the semblance of strength and solvency, yet few things are so deceptive and nothing more frail and unreal than banks of issue, and nothing so calamitous to the commercial interests of the people as the crises they have so often precipitated upon the country. Take from them this element of weakness and of danger, and while we shall thereby do them no wrong we will confer a lasting benefit upon the people.

But it may be asked can banks live if deprived of the right to issue paper for circulation? Mr. Jay Cooke says they pay more for the circulation they issue than it is worth; then they lose nothing by its withdrawal. Other banking institutions live and flourish without it, and if the national banks cannot stand alone it is conclusive evidence of their want of capacity to answer the purposes designed, and the sooner the people know it the better.

HOW BANKS CAN HAVE MONEY.

The banks have now deposited, to secure their circulation, $332,000,000 in Government bonds. With these naked bonds they can do no effective banking; but they can exchange them for greenbacks, upon which they can bank as safely and as profitably as upon so much gold. Men hire money for all other business pursuits and think it no hardship, and it is difficult to see how banks can complain if required to pay for the use of money they employ in their business; but you say greenbacks are not money. I answer they are money to all intents and purposes, as much so as gold is money; they pass at the value stamped upon them, and so does gold. It is the Government stamp upon the face of both that gives them the specific value at which they pass from hand to hand as money. If a banker wanted gold to bank upon he would scarce expect any one so liberal as to loan it to him without interest. Why ask paper money upon different terms than those upon which gold is to be had, when it serves all the purposes of money equally with gold?

THE ORIGIN OF GREENBACKS.

The Government found the country without a circulating medium; it made a virtue of its necessities and coined its credit into money, to supply the wants of the people; they accept it as such, and submit their property to be valued, bought, and sold by its standard. Shall it be taken and regarded as money by every one except bankers? Do they loan it at their counters without interest because it is paper? Not so; you must pay interest to them on loans of paper the same as upon gold. Then let them buy or borrow it as all others do, and we shall have no further trouble on that score. Banks and people will be accommodated with a currency, the best possible for the present, with the best prospects for an early improvement to the standard of gold, and whatever of profit is derived from its use as a currency inures not to the benefit of private corporations, but to the Government of the people who use it.

TAXES AND DISBURSEMENTS.

It remains now to notice the question of taxation, and then I will have accomplished all that was contemplated in my present purpose. Hitherto we have been heavily taxed, and our people, out of patriotic regard to the sacred cause in which our debt was made, have borne its burdens with great patience. But now we have reached a point in our progress at which we may ease off the burden somewhat and take a season of rest. As we have no war let war taxes be dispensed with and the Government be put upon a peace establishment, and as far as is possible bring back the public expenditures to the sum at which they stood when the rebellion disturbed the repose of the nation. I do not expect to see it so small as in 1860 or any former year of peace. We have grown rapidly even during the war, and the process of national development at the present time is moving rapidly onward and upon a gigantic scale. The great West, that so long remained an unexplored region, a land unknown, has been relieved of its native wildness and converted into States and Territories, where educated, intelligent people are flocking by thousands, building themselves homes, establishing governments, and spreading the blessing of civilization and religion over a country but recently a barren waste. Two great iron belts are stretching from the Missouri river to the Pacific ocean, over which the iron horse with his extended train is now bearing westward a foretaste of the burdens of commerce which will be heaped upon him when those great lines of travel and trade shall have been completed and the great mineral and agricultural wealth of the far West and the Pacific slope shall crowd upon the markets of the world. Our country has grown vastly since the war began, and so wonderful are its capacities for development that war itself, great as it was, did not seriously arrest its growth. Our expenditures will necessarily be large when compared with former years, but compared with the national growth they will not excite surprise. It has been estimated by Mr. Wells, Commissioner of the Revenue, that the annual expenses of the Government may be reduced as follows:

For interest on public debt	$130,000,000
For civil service	40,000,000
For war	53,000,000
For Navy	21,000,000
For pensions	21,000,000
For Indians	5,000,000
	$270,000,000

Our disbursements for these items last year were $346,729,129, showing a reduction of nearly seventy-seven millions. Last year we paid nearly one hundred and six millions of the principal of the public debt; that we propose not to diminish further at this time. Our revenue from all sources last year amounted to over four hundred and ninety millions. This year we propose to bring it down to two hundred and seventy, and probably less. This amount can be raised without disturbing or distressing the people and in a manner that will enable the Government greatly to economize the expense of collection, say—

From customs	$170,000,000
From whisky, &c	50,000,000
From fermented liquor	6,000,000
From tobacco	20,000,000
From stamps	18,000,000
From banks	13,000,000
	$277,000,000

This can be accomplished beyond doubt; and with an honest administration of the law taxing spirits it can be largely increased over these figures, leaving still other sources of revenue, if required, such as license, legacies, gross receipts on sales, and incomes; but totally abandoning the tax upon iron, and its products, and machinery and manufactures, from which nearly sixty-eight millions were derived last year.

So much for improvement upon the condition of affairs as they now stand.

WHAT MAY BE DONE.

Let me now present the case as it would stand if my views were adopted as I have presented them. Expense of Government, as follows:

Interest on public debt	$90,000,000
For civil service	40,000,000
For war, including bounty	53,000,000
For Navy	15,000,000
For pensions	21,000,000
For Indians	5,000,000
	$224,000,000

To be met by revenue derived as follows:

Customs	$130,000,000
Whisky	50,000,000
Fermented liquor	6,000,000
Tobacco	20,000,000
Stamps	18,000,000
	$224,000,000

I count nothing for premium on gold derived from customs, because I expect our currency to be at par with gold very soon, if the necessary measures are adopted as suggested. I reduce the receipt for customs because I expect such changes to be made in the tariff as will encourage the production of certain articles within our own country which we now buy abroad and pay gold for, and to that extent the customs would fall off. All this is reasonable and practicable. It is plain in theory and simple in practice, and may be speedily adopted without producing any injurious sensation in the business of the country; without unsettling values or disturbing the relation between debtor and creditor in the many hundred millions of private debts existing; without any violation of plighted faith to bondholders or banks, but done with right and justice and equity and law, and, I might add, humanity, all on the side of the Government.

PUBLIC FAITH TO BE KEPT SACRED.

Does the bondholder complain? Let him turn to his bond and read it, and as it stipulates so will we pay to the uttermost farthing—"take the due and forfeit of thy bond, but not a drop of Christian blood." But bondholders will lose greatly. What will they lose? They lose the opportunity of making larger interest off an overburdened Government whose heavy weight of debts should admonish them that there is a point beyond which human endurance may not be trusted, and intolerable burdens lead to revolution, in which debts are paid without money. The banker may complain of broken faith, because, having found the law favorable to the accumulation of large profits, he is unwilling to let go his hold and accept terms that will place him upon a common equality in the race for thrift with his fellow-man; but let him look to the law under which he holds his franchise; he will see that Congress has reserved to itself the right to change, alter, and amend the same at pleasure. The time to amend has come; public opinion and public justice require it; and while Congress should not hesitate to do its

duty the bankers should not complain, and as I believe will not, if they have not in their zeal to serve themselves forgotten the duty they owe to their country.

CONCLUSION.

Mr. Speaker, the way of escape from our embarrassments is open, and the highway to future prosperity lies before us. Shall we avail ourselves of them? To-day we have near forty million people; we have peace, and I trust a heritage of a hundred years of prosperity in the future. With a reasonable share of wisdom in present legislation, our public debt need not give us any serious concern; it will gradually melt away while our population is increasing rapidly in numbers and wealth. Europe sends annually three hundred thousand of her children of labor to aid in the development of the resources of this great empire we control. With the active enterprise of our own people and the aid of machinery, what may we not reasonably expect to be accomplished here in the future? Sir, there are members upon this floor who will live to see our population one hundred millions, and our wealth almost beyond the power of figures to compute. We are but the skirmish line of the mighty army that is following close upon the rear; let us not fall below our duty, and by lack of spirit disappoint or delay the destiny that awaits our country. God in His providence has reserved for us the solving of great problems, and our free land is made the theater of the grandest demonstrations of His wisdom and power; let us not ignore our responsibilities or shrink from the duties they impose.

RECONSTRUCTION—RIGHTS OF CITIZENS.

Mr. JOHNSON. Mr. Chairman, the condition of the country, the legislation recently perpetrated by Congress, and the acts threatened, altogether furnish my excuse for attempting to speak at this time. The spirit and substance of our institutions have been assailed, the old Union of the Constitution is rapidly passing away, and disunion by force is attempted instead. But in my humble judgment that force will soon be broken, when a return to constitutional government and a restored Union shall bless and prosper the country. The tyranny which loads the people with unbearable taxation and enthralls the white citizens of ten States must soon pass away; the recent elections furnish sufficient proof of the fact, for the foundation of a belief that the results wished for may be attained—for hope. In all those elections the issue was squarely taken between the white man's constitutional government and negro military despotism—the Democracy leading on one side, Radicalism the other. All over the land where the contest has been made shouts of triumph have gone up from the ranks of those who fought on the side of constitutional liberty, while the cohorts of negro rule have been everywhere put to disgraceful flight. As the blood of Abel cried out from the ground, so cried the blood of our countrymen, unnecessarily shed, from the sacred earth round about where the charter oak once stretched its limbs to Heaven; that cry rested upon the ears of the Democracy of old Connecticut, who, in imitation of the Divine Master, cursed, branded, and drove out the fratricidal party. The same cry was heard in Kentucky, California, Ohio, Pennsylvania, and then in New York, and in all these noble States the Democracy followed the heroic example set them by Connecticut, and sent out as wanderers in the earth, looking for place and spoils, the fratricidal party.

The President's messages vetoing the reconstruction bills—the ablest papers ever written by a statesman—were not enough to crush the monsters against which they were hurled. But the people have declared for the right, for the President, for constitutional liberty, for a white man's government, and against negro rule and military despotism.

But as yet the people's victories have brought the country but little fruits other than that intense happiness which proceeds from a knowledge that our country is right, that it can and will save itself from ruin. No; our victories have not yet broken the death-grip with which the destroyers seek to strangle American liberty. For while we speak, by Radical direction, the very vitals of republican government are being torn from the body of ten sovereign States, while Radicalism, in grim triumph, with despotic tread, tramples upon and tears to fragments the Constitution of our country, in total disregard of the rights of the people. But their time for evil is short, for, in my judgment, the recent elections are nothing to what will follow next fall—nothing more than the gentle breeze which always precedes the mighty tempest.

We should, we will, cheerfully bear the odium of loving the Federal Constitution and the white man's Government established thereby; for we labor for the good of all, the victors no more than the vanquished, believing that between our countrymen there can be no division of legal rights and benefits. In the coming contests for our dearest rights we shall meet our countrymen with arguments, reason, and the freeman's ballot, not with murderous implements of war. But we shall not falter in our defense of the Constitution, never cease to plead for the sacred old instrument. Aye, we will do more; we will swear before God and our country that he who speaks lightly of the Constitution is an enemy, but too mean to be feared. We will not defend the Constitution defiantly, but firmly, and with an honest hope of saving it. However much it may be disparaged, yet it is the work of our revolutionary sires, the work of those who loved liberty above all things else. Through it we get back near our ancestors; by it we have this Congress, did have and will have a Union, did have and will have a white man's government of laws; and we had prosperity, peace, and happiness under it; these we hope to have again.

Then let us brand every man who would bring into disgrace or disregard the plain provisions of this sacred instrument as an enemy to humanity—not as an enemy to be punished, but to be brought into fair view before the country, so the people may strip all such of power and record their names with their errors as monuments of perfidy, cruelty, and baseness, by which the future statesmen in our country may learn this lesson.

To err in judgment is a misfortune common to all men; to err without judgment is common to radicalism and a misfortune to our country. The majority here, in their insane attempts to perpetuate themselves in power, have ignored the Constitution altogether, and tried to cover the minority with disgrace for professing attachment to its provisions. All this, too, with a full understanding that without its plain letter and spirit we have no Government other than a despotism limitless as the boundless universe.

Ignoring its existence entirely, their party has illegally, without accusation or trial, thrown our fellow-citizens into prison for expressing their opinions upon matters pertaining to their own rights. They have made the writ of *habeas corpus* worse than a mockery.

Free speech could not be indulged in by any unless they were base enough to sing praises to old John Brown. Our free presses were thrown out of four-story windows, while Radical major generals stood at the street corners offering encouragement to the mobs by telling them that in their acts of violence and destruction they had only anticipated the official purpose of vandalism. They have exalted cowardice and treachery; they have sought to accomplish great national results by a deliberate, cold-blooded system of bribery and corruption; they deliberately, in time of profound peace, by military commission, sat in judgment upon the lives of the most unfortunate of our country, and as deliberately those unfortunates were put to death; they have denied the right of representation to and questioned the existence of sovereign States of this Union when such States elected Democrats to office; they have loaded us with an unbearable system of taxation, and they have tried to reduce the white population of this country to a level with the African and other inferior races; they have pronounced the Democratic party dead, and arraigned the President for declaring the country could never be saved except through the instrumentality of that party; they have arraigned the President for declaring that peace existed in our war-stricken country; because they say Congress alone has power to declare war and conclude peace. Did Congress declare war against the South? If so, against what part of the South, when, and how? Congress could not declare war against any of the United States, treating them as enemies. If so the Federal Government can levy war against the citizens of this country—an idea equally monstrous with Radicalism.

It is true, a state of war did actually exist, and President Lincoln acted without authority from Congress, as was his lawful right, in providing for the exigencies on his side of the war. It is true, also, that Congress recognized the fact that war existed; but this was without a declaration of war on the part of Congress. The President, Congress, and the judicial department could all recognize the fact that a great civil war, a great armed revolution was going on in our country; but there was and is no power in the Federal Government to declare and wage a civil war. The Federal Government may suppress rebellions and insurrections in the States, but cannot declare war in such cases against an enemy, and wage such war for conquest.

But the sting of the President's assertion that peace existed lies in the fact that radicalism never intended the southern people to have peace; their acts abundantly prove it. The President has treated the southern people as his countrymen, guilty of a failure in a wrong cause, while radicalism has constantly treated them as foreign enemies guilty of crime, visiting them with cruel and inhuman punishments by legislation, a mode of punishment unknown to and unpardonable under our institutions. The President saw with joy that peace existed throughout the land, and as glad tidings he proclaimed it, as was his duty, he being at the head of the Army. Had he not done so his armies would have laid waste the little that remained undestroyed in the South; that would have pleased radicalism no doubt, for with them the most cruel, inhuman, and barbarous petty despot is the brightest shining light; with such to rule the South all is serene; when they are happy in him "December is pleasant as May." Cruelty is their sanctifying grace, and the destruction, the utter destruction, of the southern people, southern rights, southern laws, and southern States is the fruition of their highest hopes on earth.

As long as radicalism prevails in the land the southern people will have a bitter and vindictive enemy, and their country the worst of all governments—Congress the one, the blood-stained sword of the tyrant the other. No statesman can calmly consider the probable results of the reconstruction measures of Congress without trembling with fear for our own safety. In fact, if we recognize the authority of Congress to do these things, we recognize the non-existence of the Federal Constitution, and the fact that anarchy, confusion, and ruin must soon follow. Does any statesman in his sober senses believe for one moment that the American people will submit to have this Government and country mongrelized; that they will acquiesce when ten States are put in the hands of negroes possessing no more knowledge of government generally than their untamed brothers in Africa? Will the white people of the North allow these negroes to come and take seats in this Hall and shape their legislation? Will they allow the Congress of the United States to disfranchise the citizens of States, the white citizens, and enfranchise those who are not citizens, the negroes, simply for partisan purposes?

I tell you the people will not submit to these things, and I tell you they should not. Their

liberties and permanent prosperity are involved in these questions, and these they should defend and provide for; and they will. But aside from this let us see if it be in the power of the Federal Government either to make citizens of the negroes of the South and Chinese in the West or unmake citizens of the white men of any section of our country, as these measures propose. To arrive at a correct conclusion as to the rights of citizenship and the rights incident thereto it is necessary to go back to our Declaration of Independence and to the Convention or Congress that passed it. The Delegates chosen to the First Congress of Colonies, which met in Philadelphia in 1774, were chosen to consider the matters of difference between them (the Colonies) and England. Soon after their meeting they passed a resolution declaring their right to the common law, and that their ancestors from whom they held their rights at the time of their immigration were entitled to all the rights, liberties, and immunities of free and natural-born subjects within the realms of Britain. This meant white men. Jefferson says:

"In Congress, June 7, 1776, the Delegates from Virginia moved, in obedience to instructions from their constituents that the Congress should declare that these united Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown; that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that measures should be immediately taken for procuring the assistance of foreign Powers and a Confederation formed to bind the Colonies more closely together."

All this was by white English subjects for their respective States or Colonies, and proves itself to be. The Declaration of Independence followed.

While English subjects, the citizens of the colonies were at that time bound by political bands to the Government of King George. Negroes had nothing to do with the Government of England or the Colonies wherein they resided. They had been brought to this country as alien slaves, and by the laws then in force their posterity remained the same, the offspring following the condition of the mother. Many of them were from time to time set free, yet they did not become citizens where they resided, and could not, for they were not English subjects, were not bound by political bands or by consanguinity to that country, and because the charters to the Colonists were to free white men who owed allegiance to the British Crown. The colonial governments were governments of white men. The British Government abused the rights of the free white men of the Colonies, the citizens of the Colonies, those who were bound by political bands to that Government. Then the Colonies passed for themselves the Declaration of Independence, which became to them a law sacred as liberty itself. This sacred law, for the maintenance of which life and honor were pledged, was enacted as a law for the several Colonies as governments—for their governments of white men. It made no Union, but left the Colonies independent of each other; it so declares; it left each one an independent nation of the earth. But in support of my position let us come to a closer examination of the declaration:

"When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another," &c.

Now, it will be admitted by all that the word "people" in this quotation has that restricted meaning which gives it application to the Colonies as governments. The bands dissolved were the bands which bound the Colonies to England. The breaking of those bands was not for the citizens separately or individually, but it was a governmental, a sovereign breaking, which of course carried the citizens beyond the reach of the British Government. All who were bound to England became politically free; that is, they remained exactly as before except as to their connection with that Government. It was citizens who justified the declaration; that justification is contained in the facts that "he constrained our fellow-citizens," and "in every stage of these oppressions we have petitioned for redress." "Fellow-citizens," white men. "We," the white citizens, petitioned for redress.

Now, it appears plainly apparent to me that every word of this was written for those who could take part in the affairs of Government and was intended to have a governmental meaning. Then comes the declaration:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

This is the iteration of abstract political principles, applicable alone, governmentally, to those who made it and to those who inherit their institutions. That all men are created equal in a general sense is not true, as every one knows. But it is equally as well known that all are equal before the law. Then, by a fair construction, this means that all men subject to the jurisprudence of the State shall receive protection according to his status as fixed by law, and shall receive it according to law. It was not intended to destroy any distinctions in society. No change was made or contemplated in the fixed status of the inhabitants of the several States. Citizens remained citizens, aliens remained aliens, and those who were neither citizens nor aliens remained as before.

"That among these are life, liberty, and the pursuit of happiness."

The word liberty is here used in a restricted sense; liberty subject to law, liberty so far abridged or restrained as may be necessary for the safety and welfare of the State. There can be no liberty claimed for any one which is above the law. Then I assert this word has a governmental meaning; that it does not contain any individual higher-law meaning, and exists only in the sovereignty of the State. At the time this declaration was made the sovereign power was lodged in the hands of white men. They might have changed the condition of things before the formation of the Federal Constitution; but they did not, since they could not. State liberty is what is meant; self-government—self-government which is declared to be an "inalienable right."

If I am right in what I have just said I have already disposed of the quotation—

"to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

But to be still more explicit, the consent of all of every class and caste was and is given through those who proclaim in the voice of an established State. I assert this to be a sound legal proposition, and its correctness will not be denied. Yes, the right of self-government in established States belongs to States and not to individuals; and for those States that made the declaration the right is inalienable. Yet some of these States, paralyzed by the weight of millions of gleaming blades, are prevented from exercising this, their inalienable right. But bloody swords sometimes rust; bloody tyrants always die. The Declaration of Independence contained nothing new.

Different parts and clauses of Magna Charta, the petition of right, and the Bill of Rights, such as had application, were reënacted, nothing more. The people were free English subjects who had suffered wrong at the hands of the king until they saw proper to declare the principles which had from time immemorial governed their fathers, and to enact that those principles should remain a law to them and their posterity forever. I must indulge the hope that enough has been said to establish the fact that the Colonies were governments of white men at the time the Declaration of Independence was made. That being accomplished, I assert that no change was made in any of the States as to the status of the inhabitants up to the time of the adoption of the Federal Constitution. Massachusetts freed her slaves in the meantime, but did not make them citizens, which she then might have done. Then, with governments of white men, we arrive at the time of the formation of the Federal Constitution, and that fixes the question to that date. Citizenship is a much higher right than the right of voting. The right to vote can be conferred by legislation upon any one, but the rights of citizenship can only be conferred by the courts, according to naturalization laws. The Federal Government may pass a uniform system of naturalization laws, that is, laws which have precisely the same bearing and operation in one State as in another. This is all Congress can do upon the subject of citizenship. When a foreigner avails himself of the benefits of the law he becomes a citizen of the State wherein the proceedings are had, and is a citizen of the United States for that reason, and that alone. He is no citizen of the Government of the United States; there can be no such citizen.

Then it follows that any other legislation upon the right of citizenship by the Federal Congress is unauthorized by the Constitution. The Federal Government cannot make citizens of States out of our negro population. There being no such thing as a citizen of the Government of the United States, and a man being a citizen of the United States simply by virtue of the Federal Constitution, and because he is a citizen of a State or Territory under the Government of the United States, it follows that the Federal Government cannot unmake citizens without the power of destroying States.

Citizenship carries the right of suffrage with it in our country, but the right to vote does not carry with it the rights of citizenship. The States have no power whatever over the question of citizenship, but States may confer the privilege of voting upon any one, and may take it away again. But the right of voting is never conferred upon citizens; it belongs to them. Neither can a State take from a citizen the right to vote, except for crime. A citizen may lose every right, even his life, for the commission of crime, provided the crime be defined and the penalty affixed to its commission before it is committed—not otherwise.

It has been said that a State could take away the right to vote from a citizen because he could not read and write. Such is not the case, and would be a violation of the compact that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States; also of the fifth amendment to the Constitution.

A State may enact such laws for the punishment of crime as the Legislature may deem for the best interest of society. She may punish one class of crime with death, another by a deprivation of political rights, another by imprisonment, another by fine, and so on to the end. Pauperage is a crime for which the right to vote may be taken from a citizen; the safety of the State demands it; but the right to thus deal with the pauper is distinctly placed upon the ground that he is *quasi* a criminal.

It has been stated on this floor that South Carolina and Tennessee had made citizens of negroes and then taken the rights of citizenship away by a constitutional convention. I deny it. There never has been and never can be a negro citizen of either of those States. There never can be without a destruction of the fundamental principles of our Government. But those States can cast the right to vote upon their negro population or any part of them. They did at one time confer the right upon some, and afterward took it away, not from those who enjoyed the right, but from the class to which they belonged. But they only conferred the right as a reward to the industrious negro who had property to represent. In fact such votes represented property and not negroes.

In case of disfranchisement of citizens for crime they must first be convicted, presented, or indicted by a grand jury. A presentment or indictment may put them in prison; if so, while there they are indirectly, for the time, deprived of the right of voting. But if out on bail, notwithstanding the accusation against

them, they are as much entitled to vote as any other citizen. And if never convicted, though indicted, the right of vote continues to them as to other citizens. If the penalty attached to the crime includes a forfeiture of the right to vote and hold office, then a conviction simply puts in operation that part of the law; and officers of election having knowledge of the conviction may reject the votes of such persons as illegal. But officers of election cannot convict a man of crime by the assertion that he has committed one; neither can a legislative body, whether a State Legislature or State constitutional convention. Legislative convictions for crime, or rather legislative punishments for acts asserted to amount to crime, is a most terrible proposition for the contemplation of the legal mind. By the millions, though, we punish our fellow-citizens for acts never classed as crimes. There can be no just law to punish a man for his thoughts or for feelings he cannot help, yet Congress pretends to enact such laws. A man cannot prevent the fowls of the air from flying above his head, but may prevent them from building nests in his hair; if he does this he does well. A man cannot prevent his loves, his hates, or sympathies, but his judgment can prevent him from gratifying any feeling or passion. But to be brief, sympathy with the rebellion, even during its existence, could not be made a crime, it involving no moral turpitude. That man is worse than a lunatic who contends that it is a crime to-day, when there is no rebellion, and when those who engaged in it are again our fellow-countrymen.

Section two, article four, of the Constitution is a compact fixing forever the matter of citizenship precisely as it stood at the time of its adoption. A word again as to the word liberty. I suppose every lawyer will admit that where it is used in the Constitution it at least includes political liberty. Then article five of the amendments settles the question, and neither State Legislatures, State constitutional conventions, or any other power can take it away from a citizen, for it is there declared that he shall not be deprived of liberty without due process of law.

The liberty here spoken of certainly does not mean freedom from arrest or restraint alone, for that is provided for by another clause in the Constitution, the fourth amendment. This amendment says the right of the people—and this relates to all—to be secure against seizures, unless a warrant issue supported by oath, shall never be violated. Then again, it being an inalienable right in the citizen to participate in the affairs of government, I say it would be depriving him of his liberty to take from him either his citizenship or his right to vote, and would be a most palpable violation of the Constitution of the United States.

Now, I arrive at these conclusions: white men for white men's State governments made the Declaration of Independence. Those governments existed without change or alteration up to the formation of the Federal Constitution, and were not changed by it; that the Federal Government has no sort of control over the question of native citizenship, or the right of suffrage; that the States have no powers over the question of citizenship, but have a right to enfranchise those who are not citizens. But no power on earth can lawfully deprive a citizen of his liberty—his liberty according to all the rights incident to his citizenship. Now I am free to say that the same rule holds good with regard to every human being, according to their measure of rights, and for this reason I have gone back so far in history. No man's rights can be violated or taken away by legislation; no man's life, liberty, or property can be taken away except by due process of law. What a man's liberty is in this country must be determined by the courts of law and subject to the law; so must all his inferior rights. I think I have shown that the rights and liberties of the white men of this country are greater than can ever legally be accorded to the inferior races. I should here remark that another and different law and reason applies to the inhabitants of territories ceded to the United States by treaty. In such case the sovereign people of whatever color, if guarantied by treaty the rights of citizenship, would continue in the enjoyment of such rights, they being citizens of the country by birth, domicile, and being the lawmakers of the country as well as by treaty.

The amendments of the Constitution now pending seek to make citizens of the United States of all men born in the country who are of lawful age. The proposal of these amendments is the assumption of powers in the Federal Government not conferred by any line or word in the Constitution or by any fair construction or implication. It is the assumption of all power in the Federal Government; it is the creation of citizens of the Government of the United States, and is a total overthrow of State supremacy. If triumphant, it works a consolidation of government, and will result in a consolidation of empire. It makes citizens not only of the pet negro but also of the filthy Chinese. If the war ever comes between this new sort of citizens and the white American citizen of Caucasian blood, God be merciful to the new. In fact, it changes our institutions so that we have two separate and antagonistic systems, the Federal and State. We have white citizens of the United States, because they reside in a State and are citizens therein. Now we create citizens of the Government of the United States of those who are residents in, but not citizens of, the States. These citizens are negroes, Chinese, and Indians. This must not be or ruin must follow. Can the negro and Chinese citizens of the United States Government prevail over the white citizens of the States? Hardly. But the white men will destroy the negroes and Chinese, and then this Federal Government will fall. For once it be broken on this question it is broken forever.

The debate upon the reconstruction bill took a wide range, but no gentleman pretended to say that it was constitutional for Congress to withhold the protection of the courts from any portion of the American people, whether criminals or goddess-born heroes. They did not argue to prove that martial law could be enacted by Congress for the government of the people. They did not argue to prove that the President of the United States is not the Commander-in-Chief of the Army and Navy of the United States. They did not argue to prove such legislation necessary or advisable, or that the Union could or would be restored by it. But it was said that the President obstructed the plans of Congress, and that he would not enforce its decrees—in what particular was not stated. One distinct and emphatic assertion was made by several leading members on this floor as to the purpose of the Radical party; they gravely declared their intention of "going through" the President. Whether they may succeed in their national pastime I do not hazard a surmise. If he is a non-gas-conductor then it cannot be done, otherwise some should be able to accomplish the feat. In fact, the operation may be agreeable to all parties; this will depend upon the President's fondness for oysters.

I will tell you why it is you so bitterly assail the President; it is because his messages have opened the eyes of the people, and proven to be mortal wounds to the Radical party. In those messages he has written the history of that party, whether truthfully or falsely let time determine. But that history is written, and never can be unwritten. If those messages immortalize the President and secure to him the honor, love, and admiration of coming generations, then radicalism will be execrated so much the more. If radicalism is condemned, loathed, and despised by all honest men, then the President's glory will be so much the greater. A great deal has been said about the clause of the Constitution providing that the United States shall guaranty to each State in this Union a republican form of government.

That provision was intended for the protection of the States against foreign aggression, and against the usurpations of the Federal Government, and never was intended as a declaration against the right of self-government in the States. Are we carrying out that provision when we enact martial law for ten States? But gentlemen say this kind of legislation is resorted to to enable the loyal people of the South to create republican governments. No difference; even if such be the objects it is unconstitutional still, and we cannot do that which the Constitution directly forbids; for the results of such acts are never certain, and the restrictions of the Constitution are placed upon Congress to prevent any experiments or uncertain legislation.

Could not the southern States be restored to their former relations with the Federal Government much sooner if protected by its executive and judicial branches? If gentlemen wanted the southern States in the Union what was to prevent their being in the Union? They had republican forms of government up to the time of the passage of their ordinances of secession certainly. At the end of the rebellion they had the same constitutions and the same machinery of government as before the rebellion. They put their governments in motion, and their relations to the Federal and other State governments were acknowledged in the most solemn form to be that of State governments in this Union of States. You acknowledged them as sovereign States with legal governments, and took advantage of one of their first acts after their relations with the Union had been resumed—I mean their acts abolishing slavery. The rebellious States, by their acts of secession and setting in motion illegal *de facto* governments, did not destroy their constitutions which existed at the time such *de facto* governments were put in motion. Then their old constitutions were still the constitutions for those States. Although for a time, because of the rebellion, they were not enforced in respect to the Federal compact, bu in other respects they were.

But this could make no difference. It was by those constitutions, the Federal compact and acts of admission, that those States remained, for the purposes of goverment, as a part of and members of the Union. Mind, for the purposes of government, for those States never had any other connection either with the Federal Government or any of the other States.

Then it is evident those constitutions remained lawful for the respective States for which they were ordained. The object of a State constitution is to restrict and prescribe the powers and duties of those who fill the places it creates, and as long as a State constitution exists it and it alone directs the machinery of government as to all matters comprehended within it. Then, when the rebellion ceased and governments were put in motion and guided by their old constitutions, those were legal State governments; and the decreeing of any other by the Federal Government is a clear usurpation of power. When the pet, the ebony idol, was being fitted for the high honors you are trying to confer on him, then those were sovereign States in the Union. Ah, yes! When dealing gently with the negro they were States in the Union. Again, as to the crimes committed by the southern citizens who engaged in the war. If the position is taken that they are no longer citizens because they did so, that logically establishes the lawfulness of secession, which we deny.

If they are citizens yet they are entitled to all the benefits of a uniform system of laws administered by the constitutional courts. If citizens, their political and civil rights must be protected and must be the same as is enjoyed by other citizens; and their rights which accrue by virtue of their citizenship cannot be taken away unless they be lawfully convicted of crime. Such conviction has never been had against the southern people, and there is no pretense that it ever will. In fact, I assert it never can; and I do this in full view of the

fact that their secession was unlawful. But in the prize cases it was decided that the rebellion was carried on by States; and the decision was right. Those States seceded and set up another federal system, to which the people of all of them owed allegiance while it existed as a *de facto* government. It was a high crime to resist it, and it could not be resisted. The Government of the United States did not and could not exercise civil jurisdiction in those States during the existence of the "so-called" confederacy. And more: I say this Government did not claim to have such jurisdiction in those States, but distinctly, in many ways, avowed the contrary.

Then, it appears to me that no man who confined his operations strictly within the lines of the confederacy or confederate States committed any crime against the laws of the United States for which he could be punished. I will hazard a remark a little more emphatic. I believe every lawyer in the United States who has studied this question well will agree with me. My doctrine, summed up, is about as follows: I believe that the Constitution of the United States is the supreme law of the land, and that it defines the powers and prescribes the duties of Congress; that it is a compact of perpetual union between the States, guarantying to each the right of self-government; that it put in motion the Federal Government, and is its only charter of powers; that the Federal Government was ordained as a part of the State systems of government, and that the State governments are no part of the Federal system; that the constitution and laws of a State may be rendered inoperative, but that no unlawful combination of citizens can lawfully destroy a State constitution; that State constitutions are ordained by the sovereign voice, and will always exist if the State exists, unless changed by the same power in a lawful manner or be overthrown by a foreign foe for conquest; that the acts of secession passed by the southern States were the acts of States, but were unlawful, being in violation of the compact; that States cannot commit treason; that southern citizens who staid within the lines of the confederacy did not commit treason; that no act not punishable when committed can be punishable as a crime; that there can be no citizens of the Government of the United States; that a citizen of a State is a citizen of the United States by virtue of the Federal Constitution; that the Government of the United States can make citizens by a uniform system of naturalization only; that States cannot make citizens; that the Federal Government has no power over the right of suffrage; that the States can confer the right of suffrage on any one; that none but citizens can be Senators or members in Congress; that none but white men were citizens at the time the Federal Constitution was adopted, and there being no power of change, none but white men can ever be citizens in this country except they be the sovereign power in a State or country ceded to the United States.

In conclusion, no man can rightfully have the doors to our courts barred against him. The legislation resorted to by Congress does not only abolish the Supreme Court, but abolishes the office of President of the United States, at least so far as his constitutional duties are concerned, and centers all power in Congress—a Congress exercising legislative, executive, and judicial powers! This, too, in violation, as I honestly believe, of their constitutional oaths, and against appeals and good advice from this side of the House. We must turn, then, to another and higher source of power, if we hope to save our institutions; with prayers to God for more light we must make our appeals to the people, where we hope to find support for the Constitution of our country—a white man's Government, liberty according to law, and the triumph of that brotherhood founded in love of our Constitution and constitutional liberty. Oh, that we may avert the terrible evils of radicalism; that demon spirit, seething in all that is vile and false, reeking in corruption which is bringing death to our institutions by its loathsome embrace. May the God of nations and men purify them to a fitness for American citizenship!

Mr. SHANKS obtained the floor, but yielded to

Mr. HUNTER, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. SHANKS having taken the chair as Speaker *pro tempore*, Mr. DAWES reported that the Committee of the Whole on the state of the Union having had under consideration the Union generally, and particularly the President's annual message, had come to no resolution thereon.

And then, on motion of Mr. DAWES, the House (at four o'clock and thirty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DAWES: The petition of the Berkshire Woolen Company and others, praying for a revision of taxes.

By Mr. EGGLESTON: A memorial of William Wilson, of Ohio, chancellor of the board of trustees of the Protestant University of the United States, praying for a grant of public lands to endow said institution.

By Mr. FERRY: The petition of John Martinot, William Clark Bridgeton, and 43 others, citizens of Bridgeton, Sheridan, Cedar Creek, Dalton, and Blue Lake, praying that a post route be established between Bridgeton, in Newaygo county, and White Hall, in Muskeegan county.

By Mr. HULBURD. The petition of W. H. Sawyer and numerous others, citizens of St. Lawrence county, New York, praying that the rights of naturalized citizens may be protected when in foreign countries.

Also, the proceedings of citizens of Brush's Mills, New York, in regard to the rights of American citizens in foreign countries.

By Mr. LAFLIN: The petition of John Lassaw, of Lewis county, New York, a soldier of the war of 1812, for an increase of pension.

By Mr. MOORHEAD: The petition of Alexander Moffitt, for compensation for damages to his property done by United States troops.

By Mr. PAINE: The petition of Owen Griffin, for pension.

By Mr. PERHAM: The petition of Ward C. Courter, company F, forty-third regiment Ohio volunteers, for pension.

By Mr. POLSLEY: The petition of Meredith Wells, of Raleigh county, West Virginia.

Also, the petition of J. F. Caldwell, of Greenbrier county, West Virginia.

By Mr. TWICHELL: A memorial of James Williams and others, locomotive builders and machinists, of Massachusetts and New York, for change in internal revenue taxes, so as to tax only articles of luxury.

Also, a memorial of L. F. Whitney and others, of Massachusetts, for same purpose.

IN SENATE.

MONDAY, *February* 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating an estimate from the Commissioner of Indian Affairs of an appropriation required to supply a deficiency in the appropriation for blank books, stationery, and miscellaneous items for the office of the Commissioner of Indian Affairs for the year ending June 30, 1868; which was referred to the Committee on Indian Affairs.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives on Friday last, were read twice by their titles respectively, and referred to the Committee on Pensions:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension rolls of the United States;

A bill (H. R. No. 659) granting a pension to Sarah E. Pickell;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 665) granting a pension to Susan V. Berg;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 667) granting a pension to Mary Graham;

A bill (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and minor children of Andrew Holman;

A bill (H. R. No. 671) granting a pension to the widow of Henry Kaneday;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 674) granting a pension to the widow of William S. Hamlin;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 676) granting a pension to Thomas Connolly; and

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly.

The bill (H. R. No. 660) restoring lands to market along the line of the Pacific railroads and branches, was read twice by its title and referred to the Committee on the Pacific Railroad.

PERSONAL EXPLANATION.

Mr. CONNESS. I find in the synoptical report made by the Associated Press reporters of the proceedings of the Senate on the 7th instant that I am credited with a speech made by the honorable Senator from Massachusetts, [Mr. SUMNER.]

Mr. SUMNER. I hope the Senator will not suffer from it.

Mr. CONNESS. There have been speeches made by the honorable Senator that I would be very willing to father, but not this one. [Laughter.] The Senator is not always even in his matter and sometimes happens to be wrong, as I think he was on this occasion. It relates to the discussion that took place on the additional tenure-of-office bill, in which my position is represented thus:

"Mr. CONNESS took the same view as Mr. SUMNER. He thought it inexpedient to make any such change without, at least, an inquiry by the committee. If an Administration were in existence at the other end of the avenue in which the Senator from Pennsylvania [Mr. CAMERON] could have confidence, he doubted whether the gentleman would attempt to take from the Secretary of State that small power so important to the interests of the State Department and to the country."

If my position was not stated in another paragraph and stated on the other side of the question I should not have called attention to this matter; but as I am not in the habit of being on both sides of questions I beg to call attention to this and ask the reporter to make a note of it, that I was simply against the views taken by the honorable Senator from Massachusetts in his desire to protect the contingencies of the State Department.

PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of citizens of Clayton, Barbour county, Alabama, praying that Benjamin Gardner be relieved from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of Benjamin Gardner, of Clayton, Alabama, praying to be relieved from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Virginia, praying for the removal of the civil disabilities imposed upon William Walter Douglas and Richard F. Bryant, of Richmond county, and Dr. F. H. Smith, of Richmond city, by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of William F. Holden, praying to be relieved from civil disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of enlisted men on duty at the War Department as clerks and messengers, praying that they may have the benefit of their pensions while so employed; which was referred to the Committee on Pensions.

He also presented the petition of John Calvin Johnson, of Georgia, praying to be relieved from civil disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of manufacturers of Massachusetts, praying for an entire revision of the internal revenue laws and a reorganization of the internal revenue department, a reduction of all expenditures to the limit required by a just and careful economy, a repeal of all taxes on raw materials and manufactures, except articles of luxury; which was referred to the Committee on Finance.

Mr. GRIMES presented the petition of John Guest, captain United States Navy, praying for the passage of the bill (S. No. 172) making further provisions for widows and heirs of officers of the Navy, and for establishing naval life insurances; and a memorial of Henry O. Mayo, surgeon United States Navy, remonstrating against the passage of the said bill; which were referred to the Committee on Naval Affairs.

He also presented a petition of R. B. Hitchcock, retired commodore United States Navy, praying to be allowed the rank of rear admiral in the Navy on the retired list; which was referred to the Committee on Naval Affairs.

He also presented the petition of Obadiah F. Plum, company F twenty-second regiment Iowa volunteer infantry, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. RAMSEY presented a petition of citizens of Minnesota, praying for the establishment of a mail route from Madelia to New Ulm, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. CHANDLER presented the petition of M. F. Carleton, praying for payment for the time he performed duty in the field, he having been commissioned while doing service in the field; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORTON presented the petition of Henry H. Cuppy and Elizabeth, his wife, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Susan Overlees, praying that a pension be granted to Daniel Overlees, as guardian of John A. Weed and Elizabeth Jane Weed, children of Robert T. Weed, late a private in the second Indiana battery, who was killed November 10, 1864, while getting on a train of cars at Mishawaka, Indiana; which was referred to the Committee on Pensions.

Mr. MORTON. I also present the petition of clerks, messengers, watchmen, machinists, carpenters, and laborers employed at the Congressional Printing Office, asking that they may be allowed the twenty per cent. extra compensation, and I ask to have it read to the Senate.

The PRESIDENT *pro tempore*. It will be read, if there be no objection.

Mr. FESSENDEN. I believe it is against the rule to have a memorial read, and it is a very bad precedent. It takes up time.

The PRESIDENT *pro tempore*. It cannot be read unless by unanimous consent.

Mr. FESSENDEN. I think I must object, because I think it is a bad precedent and takes up time. I am sorry to apply it to anything presented by the Senator from Indiana.

Mr. MORTON. I think it ought to be read in the hearing of the Senate; but if there be objection to that I will ask to have it referred to the Committee on Finance.

Mr. FESSENDEN. I will withdraw my objection if my friend wishes to have it read. It does no good in the world to read memorials here. They pass out of the minds of Senators, and it takes up the morning hour, and there is a rule against it.

The PRESIDENT *pro tempore*. An objection does not carry it over. It is in the power of the Senate, and it can be decided on a motion whether it shall be read or not without debate.

Mr. FESSENDEN. I will withdraw my objection, as my friend wishes to have it read.

The Secretary read the petition, as follows:

To the Honorable the Senate and House of Representatives of the United States:

The undersigned clerks, messengers, watchmen, machinists, carpenters, and laborers employed at the Congressional Printing Office respectfully petition that, in consideration of the contemplated addition of twenty per cent. to the salaries of the various Government employés, the benefits of that measure be extended to them.

With but few exceptions their pay is very meager, and in these times of enormous rents and high prices of food, as well as other necessaries of life, they find, in many cases, their income wholly inadequate to meet the demands upon them; especially with those having large families is this the case; and, in consequence thereof, they are frequently compelled to anticipate their month's pay and to submit to usury in order to eke out their scanty living.

In consideration of the above facts they sincerely trust that their petition may meet with your favorable consideration.

Mr. MORTON. I move the reference of the petition to the Committee on Finance.

Mr. SHERMAN. Similar petitions have been referred to the Committee on Appropriations, I believe.

Mr. MORTON. Then I will change the reference.

Mr. FESSENDEN. The Committee on Appropriations have nothing to do with it. It is a matter that is not provided for by existing laws.

Mr. MORRILL, of Maine. I was about to suggest that the Committee on Appropriations have come to the conclusion that this subject belongs elsewhere, and that all such petitions and memorials should be referred to the Committee on Finance.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. CONKLING presented resolutions of the common council of Buffalo, New York, praying for an appropriation for the improvement of the harbor at that place; which was referred to the Committee on Commerce.

He also presented the petition of Henry Newall, praying that the Secretary of the Treasury may be authorized to issue to him duplicate United States bonds in lieu of United States bonds Nos. 37,785, 37,786, 37,788, and 34,954, lost at sea in October, 1866; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the memorial of the board of aldermen of Bath, Maine, remonstrating against the removal of the United States court now held in that place; which was referred to the Committee on the Judiciary.

He also presented a letter of the Secretary of State, communicating copies of two dispatches from Arthur Folsom, United States consul at Cape Haytien, relative to his claim for expenses incurred in furnishing food to American citizens and for property stolen; which was referred to the Committee on Claims.

Mr. PATTERSON, of New Hampshire, presented a memorial of J. A. Cushing, praying for the appointment of a committee with power to make a complete investigation into the business of the Washington Gas-light Company, which was referred to the Committee on the District of Columbia.

Mr. POMEROY presented resolutions of the Legislature of Kansas in favor of giving protection to all *bona fide* settlers on the Cherokee neutral lands, and that they may purchase the land on which they have settled in accordance with existing preëmption laws, and that the sales of the Cherokee lands may be set aside and declared void; which were referred to the Committee on Indian Affairs.

Mr. WILLEY presented the petition of J. F. Caldwell, praying that he be allowed interest on $1,167 for the time that sum was illegally withheld from him for carrying the mail on routes 2084 and 1984 in the State of Virginia; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARLAN presented a memorial of honorably discharged officers of the Army, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. FRELINGHUYSEN presented the petition of Oscar Bullus, a commodore on the reserved list of the Navy, praying to be permitted to draw pay as a captain on the reserved list, being the rank held by him on the 2d of March, 1867; which was referred to the Committee on Naval Affairs.

Mr. ANTHONY presented a memorial of late officers of the Army, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented the petition of the Milwaukee and Rock River Canal Company, praying Congress by joint resolution to construe "a resolution for the relief of the State of Wisconsin," approved July 1, 1864, as to entitle them to reimbursement out of the canal land fund for certain amounts paid out by them; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented the memorial of the Chamber of Commerce of the State of New York, praying for the removal of obstructions in the East river at Hurl Gate and the improvement of the navigation from Long Island sound to the city of New York; which was referred to the Committee on Commerce.

He also presented the petition of the Chamber of Commerce of the State of New York, praying for the construction of a harbor of refuge on Block Island; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Buffalo, New York, praying for the passage of a law legalizing all written contracts for the payment of gold coin; which was ordered to lie on the table, a bill on the same subject having been reported from the Committee on Finance.

He also presented a petition of citizens of the county of New York, in regard to discrimination against publishers of newspapers in that county in postage on newspapers printed and distributed in New York city and county, and praying for relief from the burden of unequal taxation, as they allege they are compelled, by a decision of the postmaster at New York city, to affix a penny stamp on each paper sent to subscribers in the county; which was referred to the Committee on Post Offices and Post Roads.

Mr. CRAGIN presented the petition of Allen Smith, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a resolution of the Legislature of Ohio, in favor of the repeal of the tax on cotton; which was ordered to lie on the table, the subject having been disposed of.

He also presented the memorial of the trustees of the Protestant University of the United States, praying for a grant of lands for the endowment of that university; which was referred to the Committee on Public Lands.

He also presented two memorials of honorably discharged officers of the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars a month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which were referred to the Committee on Military Affairs and the Militia.

ADMISSION OF COLORADO.

Mr. RAMSEY. I present the memorial of citizens of Colorado now in Washington, praying for the admission of Colorado as a State in the Union, and urging reasons therefor. They set forth that—

"On the 21st day of March, 1864, enabling acts inviting the people of Nevada, Nebraska, and Colorado to organize State governments were passed. The two former are already enjoying the benefits of self-government, in compliance with said invitation.

"The people of Colorado now ask that they, too, may receive the same consideration, which was assured them by the plighted faith of the Government in the passage of said enabling acts.

"Since the passage of said acts the population and wealth of the Territory have largely increased. To show this very rapid increase we refer to the following facts:

"The vote on the constitution in 1865 gave an aggregate of 5,895 votes.

"The vote for Delegate to Congress in 1866 gave an aggregate of 6,996 votes.

"The vote for local officers and members of the Legislature in August, 1867, gave an aggregate of 9,349 votes.

"This election occurred in harvest time, and at the busiest season among miners, so that in sparse settlements, which are numerous and extensive, not more than half the voters went to the polls. We are confident a full vote would reach at least 15,000."

They state, in further evidence of the growth and wealth of the Territory, that the total receipts by the Post Office Department from Colorado in 1864 were $16,781 05, and in 1867 they were $32,580 24, in support of which they refer to the report of the Postmaster General. They further state that the total receipts of internal revenue in 1864 were $41,160 28, and in 1867 they were $151,686 51. The memorialists say that—

"Colorado has paid to the General Government internal revenue to the amount of $578,079 15, being more than half as much as all the other Territories combined.

"The assessed value of taxable property for the year 1867 in Colorado is nearly twelve million dollars. This does not include the mines nor the land not entered, but filed on for homesteads and preemptions, which together, it is estimated by intelligent parties in Colorado, would increase it to $30,000,000."

They further state that—

"The more rapid development of the great and varied natural resources of Colorado, which would be promoted by a stable and permanent State government, is a matter of national interest."

In summing up the claims of the people of Colorado upon the consideration of Congress for the early admission of the State they urge—

"That her population is now larger than that of a number of the States now in the Union when they were admitted.

"Illinois was admitted in 1818, and the census of 1820 gave her total white population, two years after, at 53,118. The white population of Missouri in 1820 was 55,988. She was finally admitted the next year. The census of 1860 gave the population of Oregon at 52,337, two years after admission. A comparison of the votes of Nevada and Nebraska indicate they each have about the same population as Colorado.

"That her ability to support a State government is greater than many of them were at the time of their admission, and, in fact, equal to some of them at the present time.

"That her people are well established and thoroughly organized under a code of laws of their own enactment.

"That they have proved their worthiness and loyalty to the General Government, both by the payment of their dues and by furnishing their quota of troops to maintain it on the field of battle.

"That they have in good faith organized a State government and complied with all of the essential requirements of the act of Congress to enable them to do so."

I move that this memorial be referred to the Committee on Territories, and that the bill (S. No. 11) reported in the earlier part of this session authorizing the admission of Colorado be recommitted to that committee.

The PRESIDENT *pro tempore*. That order will be made, no objection being made.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

Ordered, That the petition of members of the Kanawha Lodge No. 25, I. O. O. F., of West Virginia, praying to be remunerated for the use of and damage done to the building occupied by them as a lodge-room, be withdrawn from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. VAN WINKLE, it was

Ordered, That Ward B. Burnett have leave to withdraw his memorial and papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the memorial of John H. Finlay, submitted a report, accompanied by a bill (S. No. 337) granting a pension to John H. Finlay. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Blake, submitted a report, accompanied by a bill (S. No. 338) for the relief of William Blake, a soldier of the war of 1812. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Sarah Webb, submitted a report, accompanied by a bill (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor child. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas Chittenden, submitted a report, accompanied by a bill (S. No. 340) for the relief of Thomas Chittenden. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John W. Salyers, submitted a report, accompanied by a bill (S. No. 341) granting a pension to John W. Salyers, a soldier of the war of 1812. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas Stewart, submitted a report, accompanied by a bill (S. No. 342) granting a pension to Thomas Stewart. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of W. G. Cummings, submitted a report, accompanied by a bill (S. No. 343) for the relief of W. G. Cummings. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles H. Bell, praying that a pension be granted to Caroline and Margaret Swartwout, submitted a report, accompanied by a bill (S. No. 344) granting a pension to Caroline and Margaret Swartwout. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. VAN WINKLE. I am also directed by the same committee, to whom was referred the memorial of the Legislature of Wisconsin in favor of granting an additional pension to Richard D. Dunphey, to ask to be discharged from its further consideration. They ask, in fact, for an extra pension sufficient for the support of this man and his family. The circumstances detailed in this memorial would entitle him to a pension on application at the Pension Office.

The report was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 301) authorizing the purchase of certain public lands in Alabama, reported it without amendment.

Mr. EDMUNDS, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad, reported it with amendments.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom were referred resolutions of the Legislature of Nevada, in favor of an appropriation for the payment of losses sustained by citizens of Humboldt county, in that State, from Indian depredations, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

CAPTAIN C. P. JOHNSON.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 452) for the relief of Captain C. P. Johnson, to report it back without amendment, and I ask that the bill be put on its passage. It is a small matter, but of great importance to the party interested.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of War to pay to C. P. Johnson, late a captain in the seventeenth Iowa infantry, the amount by law allowed to a captain of infantry in the regular Army upon the retired list, to commence from the time of his muster out from the seventeenth Iowa infantry.

Mr. SHERMAN. If there is a report accompanying the bill I should like to have it read.

The Secretary read the following report:

The Committee on Military Affairs and the Militia, to whom was referred "An act for the relief of Captain C. P. Johnson," have had the subject under consideration, and respectfully report:

That Captain C. P. Johnson, while an officer of the seventeenth Iowa volunteers, was wounded in battle at Jackson, Mississippi, by a musket ball passing through both hips, and at the same time was captured by the rebels and held as a prisoner for thirteen months, and subjected to brutal treatment and neglect, in consequence of which his wounds were much aggravated, and he now remains at the expiration of nearly five years entirely helpless. He had on his person when captured six months' pay, which was taken by the rebels, and he is now totally without resources and unable to help himself in any way. His mother, who is nearly sixty years of age, is the only relative he has, and she is also entirely destitute of means adequate for the support of herself and him. Captain Johnson has been borne on the rolls and paid as a captain of his regiment until his regiment was mustered out. The pension of a captain being totally insufficient for his support, rendered still more expensive by the necessity of constant medical attendance, it is proposed by this bill to place him on the retired list with the pay and allowances of his grade. It is believed no case so distressing has occurred during the whole war, and your committee are unanimously of the opinion that it is one which calls for the action of Congress.

Captain Johnson has been unable to sit up since he was wounded, and can only lie in one position, extended on a bed face downward. In consequence of neglect and the bad treatment he received while in rebel prisons, the muscles of his hips have sloughed off and the bones protrude through the skin. He is very weak and emaciated, his wounds are still open and discharging, and in consequence of his utter helplessness he has to be watched day and night and attended like an infant. The facts, as stated herein by the committee, are clearly shown by satisfactory evidence, and the committee unanimously recommend the passage of the act for his relief.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 103) construing and giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 345) to provide for the sale of the Mendocino Indian reservation; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 346) to set apart a territory for the Indians now inhabiting the State of Nevada and the Territories of Utah, Colorado, New Mexico, and Arizona; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 104) relating to the ocean mail steamship service between the United States and China, authorized by act of Congress, approved February 17, 1865; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 105) authorizing the Secretary of War to cause surplus or condemned property to be issued to the Indians; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

LAND OFFICE REPORT.

Mr. STEWART. The Committee on Public Lands, to whom was referred the letter of the Commissioner of the General Land Office, communicating letters and statements relative to the distribution of the report of that officer in Europe, have instructed me to report some resolutions. The Committee on Public Lands are of opinion that the proposed publication will be exceedingly useful and desirable. As, however, the question involved is one of printing, we propose to refer the matter to the Committee on Printing.

The following resolutions were referred to the Committee on Printing, and were ordered to be printed:

Resolved, That there shall be printed for the use of the Senate five thousand copies of the report of the Commissioner of the General Land Office for 1867, with the accompanying maps and sketches, and two thousand copies of the same report and maps and sketches for distribution by the Commissioner of the General Land Office.

Resolved, That an abridgment shall be prepared by the Commissioner of all matters therein most essential to impart such general information respecting our public lands as may best stimulate immigration; and of said abridgment there shall be printed twenty-six thousand copies, namely, five thousand in English, and a like number in French, in German, in Dutch, in Swedish, and one thousand in Spanish, each to be accompanied by the connected maps of the United States and by the map of the world on Mercator's projection, and that the aforesaid twenty-six thousand copies shall be placed at the disposal of the Secretary of State for distribution in Europe through our diplomatic agents and such other persons as the Secretary may deem proper.

RIGHTS OF COLORED PERSONS IN CARS.

Mr. SUMNER. I send to the Chair a resolution, on which I wish the action of the Senate now. It relates to an incident that occurred only yesterday, and which, I think, requires the action of one of the committees of this body:

Resolved, That the Committee on the District of Columbia be instructed to consider if any additional legislation is needed in order to secure the rights of colored persons in the railroad from Washington to Alexandria.

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. The resolution goes over under the rule.

Mr. DAVIS. I offered a resolution a few days ago asking for information; I desire to call it up.

Mr. SUMNER. Do I understand there is objection to my resolution?

The PRESIDENT *pro tempore*. There is objection, and, of course, it goes over under the rule.

Mr. MORRILL, of Maine. I submit the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the facts connected with the forcible ejectment from the cars of the Alexandria, Washington, and Georgetown railroad of one of the employés of the Senate, on account of race, on Saturday, the 8th instant, with power to send for persons and papers, and that said committee be further instructed to inquire what legislation, if any, is necessary to protect the rights of passengers on said road.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution. Is there any objection?

Mr. DAVIS. Is that the resolution offered by the Senator from Massachusetts?

The PRESIDENT *pro tempore*. No, sir; this was offered by the Senator from Maine.

Mr. BUCKALEW. I objected to the resolution of the Senator from Massachusetts.

The PRESIDENT *pro tempore*. This is another resolution; one offered by the Senator from Maine.

Mr. BUCKALEW. I object to this, then.

The PRESIDENT *pro tempore*. It goes over under the rule.

Mr. BUCKALEW. I merely wish to say that I shall have no objection to either being taken up to-morrow.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river and establish a post route; and it was signed by the President *pro tempore*.

VESSELS FOR WAR DEPARTMENT.

On motion of Mr. DAVIS, the Senate proceeded to consider the following resolution, submitted by him on the 6th instant:

Resolved, That, in addition to the information heretofore asked of the Secretary of War by resolution passed by the Senate, he also inform the Senate the rate per centum or other amount of compensation paid to the agent or agents, brokers, or persons, with their names, employed by the War Department for each and every vessel purchased, chartered, employed, or taken into the service of the War Department, and the aggregate amount which has been paid to each and every agent, broker, or person for said purchasing, chartering, hiring, or employing of such vessels from the 4th March, 1861, to the present time, the amount paid, and dates of each payment.

Mr. ANTHONY. I do not object to the present consideration of the resolution; but I should like to know if the Senator from Kentucky has formed any estimate of the cost of furnishing this information. We call upon a Department for information sometimes that will take the whole clerical force of the Department for months; then it is sent here and printed and never read. I do not object to the resolution; but I think when such a resolution is introduced it is very proper that the Senator who introduces it should charge himself with that information, which, I dare say, the Senator from Kentucky has done.

Mr. EDMUNDS. I move that the resolution be referred to the Committee on Military Affairs, that they may look into it and ascertain how much it covers.

Mr. DAVIS. I will say a word in explanation of the resolution. Some two weeks since a series of resolutions were passed asking for information from the War Department in relation to the purchase and hiring of vessels by that Department. I suppose the proper officers are now engaged in preparing a reply to that resolution. This simply asks, in addition, that the compensation allowed to each and every person employed in purchasing, hiring, or chartering these vessels shall be stated. Of course the preparation of the information required to answer the first resolution will involve that required to answer this; it will be no additional trouble.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the resolution be referred to the Committee on Military Affairs.

Mr. ANTHONY. I do not think that is necessary after the explanation of the Senator from Kentucky. I do not see that it will require any more clerical labor to furnish this information than that already called for.

Mr. EDMUNDS. It appears to me that if we have adopted any such resolution as is referred to by the Senator from Kentucky it would be much wiser to rescind that than to pass this. This resolution calls for a line of information which goes back to the very beginning of the war, and the operations under which must have terminated three years ago, involving a vast amount of labor and what else I do not know. If we are to adopt this method of reëxamining everything that has been done in all the Departments during the whole of this time, years and years ago, we had better do it on the report of a committee who can consider what sort of information is to be obtained—whether it is a species of information which the public service will permit to be properly disclosed to the public, and what the expense and trouble of getting it will be. Therefore I think it entirely proper that this resolution should go to the committee who have charge of these subjects. They can report upon it in a day, and determine whether it is right or not.

Mr. DAVIS. I hope the resolution will not take the direction moved by the Senator from Vermont. As I stated, the mass of this information was called for some two or three weeks ago by a resolution passed by the Senate. The information sought by this resolution is simply incidental to the information asked by the previous resolution. As I have before stated, that asks for the name and the cost of each vessel employed by the War Department during the war, whether by purchase, charter, or hiring; and this simply asks, in connection with that information, that the amount of compensation allowed to each person employed for effecting the purchase, charter, or hire of vessels be also given. It will take very little time to furnish this information. I am informed that the great amount of information called for by the previous resolution is ready, and it will be a very easy matter to collect the additional information required by this resolution and throw it all into a small compass. I hope, therefore, that the resolution will be passed.

Mr. GRIMES. This is a very harmless resolution, I take it, and may just as well be adopted as not. The facts that will be developed by it will not be of the character anticipated by the Senator from Kentucky. The facts are that all these charters were made by quartermasters, and by nobody else, except in the single instance of the Banks' expedition, where the charters were made by Commodore Vanderbilt, as he is called, in New York, and who made no charge whatever for his services to the Government. I happened on one occasion to be on a committee with my friend from Maine [Mr. MORRILL] that had the subject of Army transportation under consideration, and I think I am justified in saying that there were no go-betweens between the Government and the parties who owned the vessels in any instance except in that to which I have referred, and that there were no commissions paid; but the quartermasters were authorized under certain circumstances to charter vessels, and they did, and the Government paid no compensation for effecting such charters; but if there was any compensation paid to third parties it was paid by those who owned the vessels in order to secure charter parties, about which we knew nothing and with which we had no business.

Mr. CAMERON. Mr. President——

The PRESIDENT *pro tempore*. The morning hour has expired, and the unfinished business of the last day's session now comes up. That unfinished business is the bill (S. No. 190) to further provide for giving effect to the various grants of public lands in the State of Nevada, although the understanding was, I believe, that the Senator from Iowa [Mr. HARLAN] should have the floor on another bill at one o'clock to-day.

Mr. CONNESS. The understanding, of course, is that the honorable Senator from Iowa shall have the floor this morning. I move, therefore, that the consideration of the pending measure be postponed until to-morrow.

The motion was agreed to.

SUPPLEMENTARY RECONSTRUCTION BILL.

Mr. CONNESS. I now move that the Senate proceed to the consideration of the supplementary reconstruction bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary, with the instructions proposed by him.

Mr. HARLAN. Mr. President, it is not my purpose to confine my remarks to an examination of the instructions offered by the Senator from Wisconsin [Mr. DOOLITTLE] nor to extend them to an examination of the details of the bill. I desire, however, to state as clearly and as briefly as I can the reasons that influence me to support the principles involved in this bill and kindred measures of legislation. I do not doubt that the whole controversy will be concluded by the settlement of one question—a mixed question, perhaps, of law and fact—that is, whether the existing organizations in the ten States named in this bill are legal State governments, in harmony with the Constitution of the United States; for if they are, as has been maintained in this discussion on the other side of the Chamber, I think it will follow irresistibly that Congress would have no more rightful authority over the purely local affairs of the people in each one of those States than they could exercise over the local affairs of the people of any of the twenty-seven States now represented on this floor. In the examination of this question I shall proceed in historical order.

In the year 1860 each one of these States had a constitutional State government; but these governments, it has been admitted in this discussion, were superseded by organizations which the people themselves in those States denominated State governments. They were, however, treated by Congress in all the legislation connected with the suppression of the rebellion as void. They were so treated by President Lincoln during his lifetime, and have been so declared by President Johnson in grave State papers communicated by him to the people of those States. It has been admitted, I think, by every Senator who has addressed the Senate on this subject from the other side of the Chamber, that those organizations, beginning in the early part of 1861 and terminating during the year 1865, were void for illegality. The Senator from Maryland [Mr. JOHNSON] informed the Senate and the country that the Chief Justice of the Supreme Court of the United States, sitting as the presiding judge in the circuit court for North Carolina, so held in an actual case brought before him for adjudication. I have in my hand what purports to be a copy of the opinion rendered in that case, and read the following clause:

"There is no doubt that the State of North Carolina, by the acts of the convention of May, 1861, by the previous acts of the Governor of the State, by subsequent acts of all the departments of the State government, and by the acts of the people at the elections held after May, 1861, set aside her State government and constitution connected, under the national Constitution, with the Government of the United States."

Then, Mr. President, it has been held by every department of the national Government, executive, legislative, and judicial, so far as judicial opinions have been rendered on that subject, that these organizations, beginning in 1861 and terminating in 1865, were void for illegality. If they were illegal, why were they illegal? They were formed, each, in pursuance of the provisions of law; some of them with great regularity. Constitutional conventions were assembled by virtue of laws enacted by State Legislatures, and they proceeded formally to change the framework of their governments. These organizations, moreover, became perfect in all their forms, at least to external appearance. They had an executive, legislative, and judicial system. They were effective, in fact so effective that they excluded from the limits of those States, in a territorial point of view, every semblance of civil government in opposition to those thus instituted. They were so far acquiesced in by the masses of the people of those States as to be resorted to for the redress of all their grievances and for the protection of all their rights, both of person and of property. These organizations also resorted to the assessment and collection of taxes and the organization of their militia, the negotiation of loans, domestic and foreign, formed new affiliations, constructed large navies, and organized and supported immense armies, that carried on a terrible war for a long period, which for vigor and effectiveness has been without a parallel on the page of modern history. They were, moreover, republican in form, at least, if the Senator from Indiana [Mr. HENDRICKS] is correct in the definition of a republican form of government stated in a speech delivered by him in this Chamber a few days since. That Senator said:

"Now, sir, I think a republican form of government is a form of government in which the people make their own laws through legislators selected by themselves, execute their laws through an executive department chosen by themselves, and administer their laws through their own courts."

If this be a correct definition of a republican form of government these intervening rebel governments were republican in form; for it cannot be denied that they made their so-called laws through legislators selected by themselves, administered them by executive officers elevated to power by their own votes, and enforced them by a judiciary which they themselves had established. Having been formed in pursuance of law; having become effective in all their parts; having become the exclusive, local, civil government within the territorial jurisdiction of those States—for there was no opposing civil power except in the wake of the Union armies and within the limits of the Union lines—if they were republican in form, I inquire again, in what did their illegality consist?

It may be said that they failed to comply with the third clause of the fourth article of the Constitution of the United States, requiring the "members of the several State Legislatures and all executive and judicial officers, both of the United States and of the several States," to take an oath or affirmation to support the Constitution of the United States.

But, sir, this was merely an omission which could have been easily supplied, which in 1865 the leaders of these organizations proposed to supply, and were prevented by the action of the organs of this Government. It will be remembered that the Governor of Virginia proposed to President Lincoln to convene the Virginia Legislature for the purpose of calling a convention to rescind the ordinance of secession and to repeal all laws enacted which were supposed to be in conflict with the Constitution and laws of the United States. He was prohibited by an order issued by the President to the commanding general at Richmond. The general was instructed, if those parties should persist in holding such a meeting, to disperse them, if necessary, by force of arms. A similar proposition was made to the present President of the United States by the rebel General Johnston through General Sherman, commanding then one of the nation's armies. This proposition was forwarded to President Johnson, who issued orders interdicting a compliance with it; and afterward the Governor of Mississippi proposed to issue a proclamation convening the Legislature of that State for the same purpose, which request was also refused. In order that no doubt may exist as to the truth of these citations of current history, I read the order issued in the latter case, dated May 21, 1865:

"Major General Canby telegraphed as follows to Major General Warren, commanding the Department of Mississippi:

"'By direction of the President you will not recognize any officer of the confederate or State government within the limits you command as authorized to exercise in any manner whatever the functions of their late offices. You will prevent by force, if necessary, any attempt of any of the Legislatures of the States in insurrection to assemble for legislative purposes, and will imprison any members or other persons who may attempt to exercise these functions in opposition to your orders.'"

Then this supposed defect exists by virtue of the refusal of the authorities of the national Government to prevent the people themselves from remedying it. Now, pray tell me in what the illegality of those organizations consists which have been admitted by every department of the Government and every Senator who has spoken from the opposite side of this Chamber to have been illegal from the beginning and void on account of their illegality. The Committee on Reconstruction, in the report to which I will refer presently, also maintained the same position, but they state in that report that this illegality or informality might have been cured by the affirmative action of the national Government; and that position, I think, has been maintained by Senators on the other side of the Chamber and also on this side, and in support of it have been cited various opinions rendered by the Supreme Court of the United States, from which it appears conclusively that the Congress of the United States has been clothed with authority to guaranty to each State a republican form of government, and that Congress, therefore, possessed the exclusive right to decide what is and what is not a republican form of government. Acting under this authority Congress has declined to vitalize these illegal organizations, and this leads me to the consideration of the character of those that now exist, for the purpose of ascertaining, if I can, the difference between these existing organizations, which Senators on the other side maintain are legal, vital, republican, and constitutional, and the organizations that preceded them, which they admit and every department of the Government has decided were void for illegality.

These were formed under the direction of the President of the United States in pursuance of proclamations issued on the 29th of May, 1865, and subsequently prescribing the qualifications of electors and of officers, appointing provisional governors, and directing the elections of delegates to State conventions to amend the existing constitutions or to make new ones for these States. He also directed in these proclamations that the Army and the Navy of the United States should afford those provisional governors all necessary aid and assistance to carry into effect the provisions of these proclamations. Now, the first remark I have to make on this subject is, that it was not then pretended that this procedure was in accordance with the provisions of any law, State or national, statutory or constitutional.

To be more specific, it was not pretended that this procedure was in conformity with the provisions of the old constitutions of these States, which the Senator from Indiana [Mr. HENDRICKS] seemed to think had come on down through all the bloody years of rebellion to the present time untarnished, with all their previous vigor and force. On an examination of those old constitutions no provision will be found authorizing the proceedings which the President instituted in these States under the proclamations to which I have referred; nor can anything be found in the local State laws of any one of these States authorizing any such procedure. Nor is it pretended by any one anywhere that any law of the United States existed authorizing either the President or the people in these States to initiate these State governments; and there is nothing in the Constitution of the United States, unless it be the fourth section of the fourth article, which has been so frequently referred to, clothing the Government of the United States with power to guaranty to each State a republican form of government, and that clause, the Senators on the other side of the Chamber have maintained in this discussion, is not applicable except to a State that previously existed.

We contend that the article of the Constitution to which I have just referred invests this Government with the power to ascertain the character of a State government that has been

previously formed or to initiate a new one where none exists, while Senators on the other side maintain that it does not clothe the Government with power to initiate the organization of a State government; and on this side of the Chamber, in this discussion, it has been maintained that that provision can only be made practical through legislation by Congress, and that it is inoperative until Congress shall provide the means for making it applicable to the existing condition of things. And at the time these organizations were initiated no such legislation had been enacted.

Therefore I repeat that these organizations were not made in pursuance of any law, State or national, statutory or constitutional. Nor were they the fruits of the voluntary action of the people of these States. This has been substantially settled by the references I have already made. The voluntary action of the people was in a different direction, as indicated in the application of the Governor of Virginia to President Lincoln to vitalize the organization that then existed, in the proposition made by the rebel General Johnston to General Sherman, and in the application made by the Governor of Mississippi to President Johnson. They proposed voluntarily to assemble, rescind their ordinances of secession, and repeal the laws which they had enacted in conflict with the Constitution and laws of the United States, and present their Senators and members at the bar of the Senate and of the House of Representatives of the Congress of the United States for admission, and thus resume their former relations.

But the President compelled them to begin *de novo* an organization of State governments from the foundation, and when any of those constitutional conventions which he had initiated declined to carry into effect the clauses of the new constitutions which he had required them to frame he notified them officially, as President of the United States, that unless they complied with those requirements their organizations would not be recognized, and that the military government which had been instituted in those States would be continued. With what show of reason, then, can it be maintained, as it has been on the other side of the Chamber by the Senator from Indiana, [Mr. HENDRICKS,] that these organizations are the fruits of the voluntary, spontaneous action of the people? They were no more voluntary than the delivery of his purse by an unarmed traveler on demand of a highwayman with the mouth of a pistol at his breast. They did just so much as they were required to do by the President of the United States and no more. They were compelled to do that by the sword; and this is what is styled the formation of State governments by the voluntary action of the people!

I am reminded here that several Senators on the other side of the Chamber have insisted that these ten States, having once been in the Union, are still in the Union, are not out of the Union, and never were. I believe the President of the United States has acted on that theory also; and I am somewhat at a loss to reconcile that theory with the admissions to which I referred in the beginning of my remarks. It is said that these States, having once been States in the Union, are still States, and still in the Union; and yet for a period of four years and more they were destitute of State governments. That is something like the existence of a man without a soul—perhaps the condition of our first parent when he was complete in all his parts, but without power of volition, of action, or of consciousness, until the Almighty breathed into him the breath of life.

Here it is maintained, and I think it was distinctly said by the Senator from Maryland, [Mr. JOHNSON,] that these States had not ceased to exist for a single moment; and yet he cited the opinion of Chief Justice Chase for the purpose of showing that the governments which had existed in these States for a period of four years were void. That is a kind of ideal State existence which I cannot readily comprehend. But I may admit that a State may exist in the Union, and if it is at the same time granted that it is totally destitute of government it will not weaken my argument, and the latter has been conceded.

Now, if the first of these systems of State governments was void, and the second system instituted by the President of the United States is as defective as the former—and I think I have shown that it is equally so—then it will follow that these governments, too, are void; that they have no vitality; and this position was maintained, I believe, by the Committee on Reconstruction. This committee, however, admitted that Congress might pass over these informalities and remedy these legal defects by its affirmative action. I also understood the Senator from Indiana [Mr. HENDRICKS] to state that if informalities in the organization of these State governments existed they could be cured by Congress. This, I believe, is in conformity with the legislative history of the United States.

The people of the Territory of California, for example, without the previous enactment of an enabling law, organized a State government; that is, framed and adopted a State constitution and applied for admission into the Union. It was maintained in the discussion that the organization was illegal, and consequently void; yet that that illegality might be cured by an affirmative act of the Congress of the United States. That action was had, and California was admitted into the Union on an equal footing with the other States.

The same may be said of the formation of a State government in Michigan and in Nebraska, where the constitutions were not framed under any existing enabling act, but the informality was passed over. On the other hand, however, the people of New Mexico and Utah, in the absence of an enabling act, framed State constitutions, elected their State officers, selected their members and Senators to the Congress of the United States, applied for admission into the Union, and were not admitted. The illegality in their case was not cured by an affirmative act of the Congress of the United States, and as yet they are not recognized as States.

So in cases that have occurred since the war began. In Missouri the legal State government was overturned by the rebels and a provisional government instituted by loyal citizens, sustained by the advice of the President of the United States and by the power of the Union armies. In Virginia the same state of facts existed. The legal State government was overthrown and a provisional government instituted. So in Tennessee. No one, I believe, has pretended that the people in these States, in setting up their provisional forms of government, acted in pursuance of law; but this informality, or illegality, if you please, was afterward cured by the enactment of laws by the Congress of the United States. They were received back and have since enjoyed their original rights as members of the Union.

But, on the other hand, governments formed in the same mode in Louisiana, Arkansas, and North Carolina were not then recognized by the Congress of the United States, and consequently they have not been restored to their original relations. So with all the ten States mentioned in this bill. Although they have proceeded informally, without authority of law, to set up State governments, doubtless Congress has power to pass over these informalities, cure these legal defects, and receive their Senators and Representatives; but Congress has not, in the exercise of its discretion, seen proper to pass such laws. Doubtless these defects could be cured to-day by the exercise of the legislative power of this nation through the Senate and House of Representatives, but it has not been done; and unless the opinions pronounced by the Supreme Court of the United States in the cases arising out of the rebellion in Rhode Island shall hereafter be overturned, that is the end of the controversy.

It is admitted on both sides that the guarantee clause enables Congress to decide between two organizations which is the legal one. But that concedes the whole question; for if Congress may decide between two organizations which one is republican in form, they may find, if the facts should justify it, that neither is; just as in a contest for a seat in this Chamber by two parties claiming to have been legally elected, the Constitution clothes this body with the power to decide between the applicants; but they may, if the facts established should require, decide that neither has been legally elected, or that neither is eligible to the seat, and refer the question back to be settled by the State from which they come. So in this case. If, then, Congress has not removed these legal defects, they still exist, and it must be the end of the controversy.

I know it has been insisted here during this discussion by several Senators that in their opinion Congress has impliedly recognized the legality of these organizations as States in submitting proposed amendments to the Constitution of the United States, which amendments could not become valid as a part of the Constitution without the affirmation or consent of three fourths of all the States. They say that the assent of some of these ten States was necessary to secure this three-fourths vote, and as one of these proposed amendments has been declared to be a part of the Constitution, as they maintain, in consequence of the affirmation of a part of these provisional States, Congress is concluded, unless we admit the dilemma, which they seem to think inextricable, that these organizations may be States for the purpose of affirming an amendment to the Constitution of the United States and not States for other purposes.

On this point I have two observations to make. The first is, that the concurrent resolutions proposing amendments to the Constitution of the United States were never submitted by Congress to any State *per se* or *pro forma*. They were passed just as other concurrent resolutions were enacted—just as joint resolutions and laws are passed, except that it has been held that these concurrent resolutions do not need the approval of the President. Having been passed, they were lodged with the Secretary of State, the legal custodian of all such papers, and there the action of Congress ended. Each of the other departments of the Government and every State of the Union was bound to take notice of what had been done, and to act or to decline action accordingly. Who will commit the folly of maintaining that it is necessary to proclaim a law in order to give it effect? We all know that a law enacted by Congress takes effect from the moment of its approval, or from the moment of its passage over the President's objections. So with the passage of these concurrent resolutions; no formal submission of them to any of these States was necessary, or, in fact, required.

That I am now speaking according to the record I will prove by citing a passage which I find in a letter addressed by B. F. Perry, provisional governor of South Carolina, to the Secretary of State, (Mr. Seward,) and a clause of his reply. The provisional governor says, among other things, that—

"The members of the Legislature say they have received no official information of the amendment of the Federal Constitution abolishing slavery."

The Secretary, in a letter dated November 6, 1865, replies:

"Your dispatch to the President, of November 4, has been received. He is not entirely satisfied with the explanation it contains. He deems necessary the passage of adequate ordinances declaring that all insurrectionary proceedings were unlawful and void *ab initio*."

Now comes the clause to which I invite particular attention:

"Neither the Constitution nor laws direct official information to a State of amendments to the Constitution by Congress."—*McPherson's Manual*, page 23.

He proceeds to add, however, that a certified copy will be communicated by himself, but that no such action was required of this Government, either by the Constitution or laws of the United States. They were bound

to take official notice of what had been done by the Congress of the United States.

My second observation is, that it is possible, I think, for an act which has been performed by an inchoate State, void at the time it is performed, to become legal by the subsequent action of this Government; and I come to this conclusion from the history of the formation of new State governments, to which I have before referred. The dilemma logically is equally great in either case. Here you require the people of a Territory to form a State constitution, the fundamental law for the government not only of the people, but of the officers of the State. The Senator from Indiana [Mr. HENDRICKS] maintains that, to form a constitution, or to amend a constitution previously existing, requires the highest act of sovereignty that a State can exercise. Here the people of a Territory, before they are a State, are required to put forth an act of sovereignty, doubtless void at the time, but which afterwards acquires legality, becomes vital by the act of the national Government, to which it is officially addressed. So it may be with the action of these States in their transition period; they may put forth acts which, if not ratified or recognized afterwards by the national Government, would be totally void, and yet may be binding when that action shall have been had.

But be this as it may, it is clear that the Congress of the United States never intended by the passage of these concurrent resolutions to declare that these organizations called governments, formed irregularly without authority of law, had, by the action of this Government, become legal and binding. There can now be no doubt on that subject, because Congress has since enacted a law declaring in so many words that these State governments are illegal and must be considered provisional only, but that their machinery may be adopted by the officers of the national Government, civil and military, for the administration of justice, for the protection of the rights of person and of property, and in carrying out the measures which the Government deem necessary in order to secure the organization of legal State governments within the limits of these jurisdictions respectively.

But it is said if they are not legal, and Congress has power to legalize them, it ought to be done; that the peace and welfare of the country require it; and, indeed, it has been said by Senators on the other side of the Chamber that, so far as Republican members of Congress are concerned, they are committed to the adoption of this course, they are morally concluded on this subject, because President Johnson adopted and has been carrying out the policy inaugurated by President Lincoln. They insist that since the Republicans sustained the administration and policy of President Lincoln, therefore, to preserve their consistency, they are bound to sustain this policy in the hands of the succeeding President. The Senator from Indiana [Mr. HENDRICKS] was more explicit on this point than any other Senator; but he and others say that President Johnson took up the paper—meaning the North Carolina proclamation—just as it dropped from the fingers of the murdered President. I believe he said that it was in President Lincoln's own handwriting, had been originated by him, and submitted by him to the members of his own Cabinet, who were continued in office by President Johnson.

Some of these allegations are not susceptible of proof. I know personally that that paper was not in the handwriting of Mr. Lincoln, and every one who has read the testimony delivered by the Secretary of War before the House Committee on the Judiciary, must know that it did not originate with Mr. Lincoln. The Secretary of War says that it originated with himself in his own office, and was carried by him and submitted to the President. Perhaps it may not be amiss for me to state here a fact which has been partially stated by others elsewhere, that the vital feature of this proclamation was not approved by a majority of that Cabinet. I would not state the exact facts on this point had they not been partially developed by the President himself in a communication sent to this body, which has since, by the action of the Senate, been made public, and if I did not recognize the fact, or the alleged fact, that he is in the habit of communicating conversations which occur in Cabinet council to the reporters of public newspapers. If he does not consider these conversations in the character of confidential communications between himself and those who serve under him perhaps I am not bound to so regard them.

Then I state here, without fear of contradiction from any quarter, that on the day the President decided to issue that proclamation in the form in which it was issued, five of the heads of Departments as then represented did not concur with him on that feature of the proclamation which has since become the vital feature and the occasion of so much discussion throughout the country. The Navy Department on that occasion was represented by the Assistant Secretary. He, the Secretary of War, the Attorney General, the Postmaster General, and the Secretary of the Interior, all insisted that suffrage, in some form, ought to be granted to the colored population of these States. Then the policy of President Johnson, or this feature of it, was not approved by the Cabinet of President Lincoln, which was afterward continued in power by the action of President Johnson. Nor did the President himself, or any member of that Cabinet, regard these organizations thus inaugurated in the light of permanent States. Neither the President nor any member of that Cabinet ever advanced such an idea until late in the year 1865, a few days preceding the assembling of the Congress of the United States. If any one can entertain a doubt on this subject, it may be settled by a few citations. I read a communication from W. L. Sharkey, provisional governor of the State of Mississippi, addressed to the Secretary of State:

JACKSON, MISSISSIPPI, *July* 21, 1865.

HON. W. H. SEWARD, *Secretary of State:*

A negro was murdered by a white man, neither of them belonging to or connected with the Army. The crime is punishable under our law with death, as any other murder. The accused is in military custody in Vicksburg. General Slocum refuses to obey a writ of *habeas corpus* issued by a judge competent to issue, but claims the right to try him by military authority. If this be triable by military authority, why not all other crimes, and what is the use of civil government? The record will be sent on.

W. L. SHARKEY, *Provisional Governor.*

Here is the Secretary's reply:

WASHINGTON, *July* 24, 1865.

W. L. SHARKEY,
Provisional Governor Mississippi, Jackson:

Your telegram of the 21st has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only, until the civil authorities shall be restored, with the approval of Congress. Meanwhile military authority cannot be withdrawn.

WILLIAM H. SEWARD.

(See report of Impeachment Committee, page 1097.)

I have here also the reply of the Secretary of State to the provisional governor of Florida, dated September 12, 1865, in which he says:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress."—*Ibid.*, page 1103.

The Senator from New York [Mr. CONKLING] has kindly furnished me with additional evidence on the point, from which I was about to depart—the testimony of the General-in-Chief of our armies, taken before the same committee to which I have previously referred:

"*Question.* You understood that Mr. Lincoln's plan was temporary, to be either confirmed or a new government set up by Congress?

"*Answer.* Yes; and I understood Mr. Johnson's to be so, too."—*Ibid.*, page 825.

And that was the understanding by every one at that time connected with the Government, or, at least, no opposing opinion was ever announced.

Why, Mr. President, this assertion that President Johnson adopted the policy of President Lincoln on the subject of reconstruction, in the face of current history, seems to me so absurd and ridiculous that it ought not to have been insisted on in this Chamber. I know, what nearly every Senator here probably knows, that on that subject President Lincoln never had a policy. When his political friends surrounded him and asked him to establish a policy, in order that his purposes might be known to his friends, that they might be defended in and out of Congress, he replied uniformly in nearly these words: "Having a policy is the thing which I have been always anxious to avoid." He did not desire to be trammeled in his future action by preconceived and previously adopted opinions. He wished to be free, as events occurred rapidly of a startling character, to do that which at the time might seem to him to be for the best interests of our country. That I am not in error in this I will now establish by referring to his own statements.

It will be remembered that some time in the year 1864 a bill for the organization of the rebel States was passed by the two Houses of Congress. It reached the Executive but an hour before the adjournment and failed to receive his approval. That bill is usually known as the Winter Davis or Wade bill. It was the occasion of great controversy throughout the country and considerable dissatisfaction between different parties, friends of the late President. During the recess the President issued a proclamation in regard to it, in which occurs this significant passage:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that while I am (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared by a formal approval of this bill to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for nought, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted, nevertheless I am fully satisfied with the system for restoration contained in the bill as one very proper plan for the loyal people of any State choosing to adopt it; and that I am, and at all times shall be, prepared to give the executive aid and assistance to any such people as soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, in which cases military governors will be appointed, with directions to proceed according to the bill."

Here Mr. Lincoln declared that he was not prepared to adopt any plan as the only plan. He had indicated one mode for reorganization in the States of Louisiana and Arkansas. He proposed to adhere to that until he was able to perceive that it would not subserve the best interests of the country; but, in relation to every other State that might attempt reorganization, he declared his willingness to advise them to pursue the plan indicated in the bill as one very proper mode of reconstruction.

But, sir, I read in the next place from the last speech that ever fell from the lips of that departed statesman, delivered before the populace of this city on the night of April 11, 1865, three days before his assassination. In that speech, among other things he says:

"When the message of 1863, with the plan before mentioned"—

Referring to the organization of provisional governments in the States of Louisiana and Arkansas—

"reached New Orleans, General Banks wrote me he was confident that the people, with his military cooperation, would reconstruct substantially on that plan. I wrote him and some of them to try it. They tried it, and the result is known. Such only has been my agency in getting up the Louisiana government. As to sustaining it, my promise is out, as before stated. But as bad promises are better broken than kept, I shall treat this as a bad promise and break it whenever I shall be convinced that keeping it is adverse to the public interest. But I have not yet been so convinced."

Here is a clear declaration that he would not adhere to that plan, even in relation to Louisiana and Arkansas, longer than he was able to perceive it would subserve the best interests of

the country. Toward the close of the speech he uttered these significant remarks:

"I repeat the question, 'Can Louisiana be brought into proper practical relation with the Union sooner by sustaining or by discarding her new State government?' What has been said of Louisiana will apply generally to other States; and yet so great peculiarities pertain to each State, and such important and sudden changes occur in the same State, and withal, so new and unprecedented is the whole case, that no exclusive and inflexible plan can safely be prescribed as to details and collaterals. Such exclusive and inflexible plan would surely become a new entanglement. Important principles may, and must, be inflexible.

"In the present situation, as the phrase goes, it may be my duty to make some new announcement to the people of the South. I am considering, and shall not fail to act when satisfied that action will be proper."—*McPherson's History of Rebellion*, pages 609-10.

Now, sir, in view of these plain declarations of President Lincoln, one of them his last public utterance, is any one justifiable in saying that President Lincoln had at the date of his death ever settled on any fixed plan for reconstruction? He says in this speech that fixing on any one plan would doubtless prove in the future a new entanglement, and he makes this utterance in perfect harmony with his reply to you, sir, (addressing the President of the Senate,) when you and others on this side of the Chamber insisted that he should settle on some fixed plan, that that was the precise thing which he had been anxious to avoid. He was not willing to be trammeled by previous opinions, which, for consistency's sake, the people might suppose him bound to carry out in practice. That he would have adopted the leading features of the plan proposed in the North Carolina and subsequent proclamations of President Johnson I do not doubt. That he would have disfranchised many or punished criminally any of the rebels I do not believe. But that he would have enfranchised a large number, nearly if not quite all the colored population, in connection with the proclamation of universal amnesty, I do firmly believe—a belief, however, growing out of my intercourse and that of others with that fallen statesman. This was in conformity with the views which he had expressed privately preceding his death. That he would have ignored a law of Congress, especially if it had been adopted by a two-thirds vote of both branches of Congress, nobody who knew him can believe for a single moment. Why, sir, he considered the passage of a bill which had not become a law a sufficient intimation of the will of this nation to justify him in adopting it, as has been seen from the passage which I have read from one of his public proclamations.

If we are not bound, therefore, as the friends of President Lincoln, to sustain in its details and inflexibly the policy of President Johnson, as a kind of administrator, *de bonis non*, of the policy of President Lincoln; if we are still at liberty, without a breach of consistency, to do what the best interests of this great nation may seem to require, the question still recurs, Congress having the power to legalize these illegal governments, ought it to be done? On that point I propose to read a few passages from the report of the Committee on Reconstruction, for the purpose of ascertaining, if I can, in the light of the facts there set forth, what the best interests of the country do demand on this subject.

It will be remembered that this committee was organized by the joint action of the two branches of Congress, and that they called for and obtained from the President of the United States all the papers and records and facts in his possession which he was willing to communicate bearing on the subject; and after perusing these papers and records and examining these facts the committee proceeded to subpœna and examine a very large number of witnesses. I find here in this report, judging from the length of the lists of names, the testimony of about a thousand witnesses taken from all classes of society, citizens or sojourners in these States.

After examining these witnesses, including leaders of the rebel and Union armies and leading men connected with the civil organization of the so-called rebel governments, they report the following facts:

"In all these States, except Tennessee and perhaps Arkansas, the elections which were held for State officers and members of Congress had resulted almost universally in the defeat of candidates who had been true to the Union and in the election of notorious and unpardoned rebels—men who could not take the prescribed oath of office, and who made no secret of their hostility to the Government and the people of the United States."

I read also from the same report, page 16, the following passage:

"Allowed and encouraged by the Executive to organize State governments, they at once place in power leading rebels, unrepentant and unpardoned, excluding with contempt those who had manifested an attachment to the Union, and preferring, in many instances, those who had rendered themselves the most obnoxious. In the face of the law requiring an oath which would necessarily exclude all such men from Federal offices, they elect, with very few exceptions, as Senators and Representatives in Congres, men who had actively participated in the rebellion, insultingly denouncing the law as unconstitutional."

On page 17 the committee say:

"They [the witnesses] also testify that without the protection of United States troops Union men, whether of northern or southern origin, would be obliged to abandon their homes."

Again:

"The general feeling and disposition among all classes are yet totally averse to the toleration of any class of people friendly to the Union, be they black or white; and this aversion is not unfrequently manifested in an insulting and offensive manner."

Again:

"The witnesses examined as to the willingness of the people of the South to contribute, under existing laws, to the payment of the national debt, prove that the taxes levied by the United States will be paid only on compulsion and with great reluctance, while there prevails, to a considerable extent, an expectation that compensation will be made for slaves emancipated and property destroyed during the war. The testimony on this point comes from officers of the Union Army, officers of the late rebel army, Union men of the southern States, and avowed secessionists, almost all of whom state that, in their opinion, the people of the rebellious States would, if they should see a prospect of success, repudiate the national debt."

Again:

"Southern men who adhered to the Union are bitterly hated and relentlessly persecuted. In some localities prosecutions have been instituted in State courts against Union officers for acts done in the line of official duty, and similar prosecutions are threatened elsewhere as soon as the United States troops are removed." * * * * * * *

"Unfortunately the general issue of pardons to persons who had been prominent in the rebellion, and the feeling of kindliness and conciliation manifested by the Executive, and very generally indicated through the northern press, had the effect to render whole communities forgetful of the crime they had committed, defiant toward the Federal Government, and regardless of their duties as citizens. The conciliatory measures of the Government do not seem to have been met even half-way. The bitterness and defiance exhibited toward the United States under such circumstances are without a parallel in the history of the world."

From this examination the committee came to the following conclusion:

"That Congress would not be justified in admitting such communities to a participation in the Government of the country without first providing such constitutional or other guarantees as will tend to secure the civil rights of all citizens of the Republic; a just equality of representation; protection against claims founded in rebellion and crime; a restriction of the right of suffrage to those who have not actively participated in the efforts to destroy the Union and overthrow the Government; and the exclusion from positions of public trust of at least a portion of those whose crimes have proved them to be enemies to the Union and unworthy of public confidence."

To this report I find the following signatures: W. P. FESSENDEN, JAMES W. GRIMES, Ira Harris, J. M. HOWARD, and GEORGE H. WILLIAMS, on the part of the Senate; and on the part of the House, THADDEUS STEVENS, ELIHU B. WASHBURNE, JUSTIN S. MORRILL, JOHN A. BINGHAM, ROSCOE CONKLING, and GEORGE S. BOUTWELL; two of the latter being now honored members of this body.

These facts, therefore, have been found by a jury appointed by the Senate and House of Representatives composed of those of the largest experience in statesmanship. They are not seriously controverted in the minority report signed by the honorable Senator from Maryland [Mr. JOHNSON] and two members of the House of Representatives, [Messrs. A. J. Rogers and H. Grider.] They contest the theory of the report of the majority, but do not seriously question the facts, nor could they, for the testimony of these witnesses is here recorded and may be perused by any gentleman who chooses to read.

This, then, is the reason why Congress does not, and cannot justly and with safety, vitalize these illegal organizations in the ten States to which the bill refers. As in the case of the organizations previously pronounced void, the local governments are in the hands of those who were the leaders in the rebellion, almost without a single exception; and this report states, what the dispatches which I have here from the provisional governors state, that nearly every member elected to the House of Representatives and to this body was unable to take what is familiarly styled the test-oath.

And that brings me to consider the statement made by the Senator from Indiana, [Mr. HENDRICKS,] that the objections to these organizations raised by Senators on this side of the Chamber could not be treated seriously. Here are his words:

"You cannot say to me that you did not intend traitors to come here and sit with you, because you had passed a law in 1862 saying that no man who had given aid to the rebellion should sit here. You claim that law to be valid and constitutional, and that it keeps out of these Chambers and from every Federal office every man that participated in the rebellion or gave it aid or comfort. Then why have you kept this country distracted, its business disturbed, the hopes of the people depressed, for two years, when these constitutions with these provisions came to you, and there was nothing to do but to admit the States to representation? Answer that question to the judgment of the country, and your policy of reconstruction will stand better in popular judgment."

At the time I was in doubt whether the Senator was serious or whether this should be treated as a playful remark. I find it, however, still standing in his reported speech as above quoted. It doubtless has been published by multiplied thousands and scattered over the country, and therefore we are compelled to treat it seriously. Let us illustrate the probability of the effectiveness of this barrier to the admission of rebel candidates for this and the other Chamber by current history. Soon after Congress declared the State of Tennessee in a condition to be represented in the Senate and House of Representatives two distinguished gentlemen, citizens of that State, presented themselves here, demanding admission. One of them was admitted at once; but it was whispered that there was a barrier in the way of the admission of the other; that the test oath could not be truthfully taken. In that oath, Senators will remember, occurs the following clause:

"That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States."

It was known that one of the Senators elected from that State had held, under the rebel government of Tennessee, the high and important office of a judge of a court. He could not, therefore, take this oath truthfully, in the technical words in which it is couched. And here, in justice to myself and to the Senate, as well as in justice to that Senator now sitting as a member of this body, I ought to remark that I do not impugn to him any improper motives. But you will remember that the Judiciary Committee, finding this supposed barrier across the pathway to his seat, reported, and the Senate adopted, a joint resolution repealing that clause of the oath for his benefit. That resolution was non-concurred in by the House of Representatives. The question was then remitted to the Senator himself. He was called on to decide for himself whether he could take the oath prescribed in the law to which the Senator from Indiana referred, and he took the oath.

Mr. PATTERSON, of Tennessee. Will the Senator from Iowa allow me to interrupt him for a moment?

Mr. HARLAN. Certainly.

Mr. PATTERSON, of Tennessee. The Senator is mistaken in stating that that resolu-

tion was reported by the Judiciary Committee. It was a resolution offered by the chairman of that committee after the report was made.

Mr. HARLAN. That may be so. I am gratified to be corrected.

Mr. PATTERSON, of Tennessee. The Judiciary Committee reported that I could take the oath; but the chairman of the Judiciary Committee thought there was a technical objection, and he submitted a resolution to modify the oath so far as I was concerned. It passed the Senate almost unanimously, and went to the House, and there was defeated. I took the oath. I could do it again. I could do it every day. That is the history of the transaction.

Mr. HARLAN. I am obliged to the Senator for the explanation. I do not wish to be understood by him as saying that he violated his own conscience in taking that oath. I doubt not but that he adopted the old scriptural adage that "whilst the letter killeth, the spirit maketh alive." He could not take the oath in these technical terms truthfully; but he was conscious of his own patriotism; he knew that he had accepted and held that office for the protection of the Union men of Tennessee who were his neighbors; and believing himself justified in accepting the office for that laudable and patriotic purpose, he did not consider that it came in conflict with his conscience when the oath was presented him in this precise form. But, sir, I present this case to show that that oath, even when it cannot be taken truthfully, according to its terms, is not a barrier to admission to a seat in this Chamber or in the other branch of Congress.

Why, sir, we have another case pending here now: a Senator-elect from the State of Maryland, standing at the bar of the Senate demanding admission to his seat. In the discussion thus far it has been stated on this side of the Chamber, and I think not seriously called in question, that during the whole progress of the war his sympathies were with the rebels; that he permitted a minor son, knowingly to himself, to enter the rebel service is not questioned. That he advanced means to enable him to do so is testified to by the son himself; doubtless under the conviction on his part that to make war against the Government of the United States was not a high crime or misdemeanor that would blight the conscience and blast the reputation of that son of his. Believing that he could do it with comparative, if not entire innocence, and the boy having failed to collect money from the sale of a water craft, and that fact coming to the knowledge of the father the night preceding the son's departure, the father advanced him means which the boy used in wending his way to the rebel army. And yet, in the face of these facts, it is seriously insisted on the other side of the Chamber, and not repelled with much vigor from this, that it is a question for the conscience of the applicant himself, and if he can conscientiously take the oath then he may be admitted.

Let me illustrate this by a reference to a scrap of history connected with proceedings in Maryland. In that State, under the State laws, an oath was prescribed to be taken by any candidate for the exercise of the right of suffrage, if challenged. The law was enacted, and the oath prescribed, to prevent the returned rebel soldiers from voting. It was not deemed by the loyal people of Maryland to be safe to permit returned rebel soldiers to exercise this right, and thus shape the policy of a loyal State of the Union. These rebels when they found this barrier across their pathway to the ballot-box, sought legal council, and, among others, took the opinion of the able—I may say the illustrious—Senator now sitting in this Chamber from that State. He advised that that law prescribing the oath was itself unconstitutional; that the courts would doubtless hold it to be void; and therefore that the applicant could take that oath without violating his conscience or incurring justly the pains and penalties of perjury. Moreover, if I remember correctly the statement of that opinion, as published at the time, the Senator asserted that it was in a certain sense the duty of the citizen to take the oath when in no other mode could he be able to exercise his undoubted right as a citizen of that State. And they did take it; and enough of them voted to overthrow the policy of the State of Maryland; so that all the Union men of that State who were elevated to place and power have been and are being turned out; and a very short time since so complete was this revolution that in the election of a successor to the honorable Senator he was able to receive but one or two votes; so soon did the bitter fruits of his unwise counsel return to the lips of the man who gave it.

Now, sir, we are asked to trust to the sufficiency of this oath to protect the Senate and House of Representatives from the ingress of rebel Senators and members-elect, when every Senator on that side of the Chamber has insisted that this law, like the law of Maryland on the same subject, is unconstitutional and void.

Mr. HENDRICKS. As I participated somewhat in the debate on Governor Thomas's case, and as I was a member of the committee who reported upon that case, perhaps the Senator may refer to my views upon that question; and if so he does not correctly state them. My views upon the constitutionality of that law were expressed in the Senate some two or three years ago; but always when the question has been before the Senate I have said this: that while that law remained upon the statute-book I should not vote to allow any man to take his seat if in taking that seat he had to swear falsely in that oath; that I thought such a man ought not to be admitted.

Mr. HARLAN. Doubtless the Senator states his own opinion correctly; but I wish to ask him whether, when the bill requiring that oath was pending here in this Chamber, he thought it was unconstitutional?

Mr. HENDRICKS. I was not a member of the Senate when that bill passed, and so could not express any view either in debate or by a vote; but after I came into the Senate, when the question was up in regard, perhaps, to the seat of Mr. BAYARD, of Delaware, I expressed the opinion, which I yet entertain, that Congress can add no qualifications to those qualifications of a Senator of the United States defined in the Constitution. But I have said this—then, now, and all the time—that while that law remains upon the statute-book I will not vote to admit any man to a seat on this floor who would be compelled to swear falsely in taking the oath which would entitle him to a seat.

Mr. HARLAN. I repeat the Senator doubtless states his own opinion correctly. Nevertheless, he insists here that in his opinion this law is unconstitutional. It is the only barrier between seats in Congress and the rebel Senators and Representatives elected from these ten States; and yet he lifts this law to the public gaze as a sufficient obstacle, because he himself would not vote to permit them to violate this oath, if they could not take it without violence to the truth, when he knows that the same question has been submitted to the masses of the people of Maryland, and that by multiplied thousands they have taken the oath. He knows, moreover, that nearly every Senator and member elect from these ten States is unable to take the oath truthfully.

Mr. HENDRICKS. The Senator says I know a state of facts in regard to Maryland of which I have heard nothing. I never heard that this oath was submitted to the people of Maryland. I do not wish him to attribute to me any knowledge of any such business that I know nothing of.

Mr. HARLAN. I have not said I derive my knowledge on that subject from the Senator from Indiana. I derive it from current history, which I apprehend the Senator will not seriously call in question.

To pursue the line of my remarks, it is known to him and known to every sitting member of this body that nearly every Senator and member elect from those ten States is unable truthfully to take that oath. I have here a telegram from the provisional governor of Georgia, in which he informs the President of the United States that no one of them from that State can do so, and that all the members of the State constitutional convention are in the same condition. This is true of nearly all the members of these bodies of State officers and members and Senators elect. But they believe, as does the Senator, that this law is unconstitutional. With them, therefore, this oath will not prove an insurmountable obstacle.

They would maintain that it is a question for each member and Senator-elect to settle for himself, as it was left to the Senator from Tennessee to settle for himself in the case to which I have previously referred. And if left to those members and Senators elect to settle, each for himself, they believing the law unconstitutional, who can doubt that every one of them would swallow it? Otherwise, why were they elected? They doubtless all knew before they were elected that their names were being used as candidates. Why did they not decline these elections if they regarded themselves as ineligible? Ah, sir, why did the people of those States elect them to seats in the other House? Why did the Legislatures elect them to seats in this Chamber? If they knew of the existence of this law, and believed, as the Senator from Indiana now says he believes, that it is, or ought to be, considered a barrier to admission, why did they not publish their ineligibility and permit the people and the Legislatures to elect men who could accept the offices? Would an honorable man under thirty years of age permit the Legislature in his State to elect him to a seat in this body knowing himself to be ineligible? And would members of the Legislatures, knowing of this ineligibility under the Constitution and laws of United States, throw away their votes?

Sir, it is manifest, as plain as the light of the blazing sun at noon-day, that every one of these men expected to be admitted to his seat, either by swallowing the oath or by securing the repeal of the law; or more probably by evading it in the mode proclaimed at one time as a part of the policy of the supporters of the present Executive. It has been declared, and never authoritatively denied, that one object of stumping the United States by the Executive of this nation and several of his heads of Departments was to secure the election of a sufficient number in the North holding kindred views with the Senator from Indiana and the rebels of the South, so that when united with those elected from the South they would form a majority of the members of the other branch of Congress; and on the first day of the present Fortieth Congress they were expected to convene in that Hall with their certificates of election in their pockets, when each man would be the peer of his neighbor, and they, being in the majority, would organize that body, communicate with the President, secure his recognition, and then compel the Senate to receive their colleagues or block the wheels of the national Government. The probabilities of this may be argued, as it seems to me, from the marked similarity of views, expressed here and elsewhere, entertained by the leading members of the Senate on that side of the Chamber and of their political associates in the country.

And here I wish to do one class of Democrats justice. In these remarks I refer only to that portion of them usually denominated copperheads. They and the rebels all believe that these States to which the bill refers had the right to secede. They believe that President Buchanan interpreted the Constitution and laws correctly in his official message to Congress when he said that he failed to discover in the Constitution power in this Government to coerce the obedience of seceding States. These men, North and South, have maintained uniformly that the war prosecuted by the Government of the United States to coerce obedience was illegal, and that all laws enacted by Congress for this purpose ought to be treated as void;

and, consequently, that the debt incurred in the support of the Army and Navy during the prosecution of this war was illegally contracted, and therefore ought not to be paid. They maintain, further, that these States having been illegally invaded, they having been interfered with by force in the enjoyment of a constitutional right, they had the undoubted right to repel force with force; that the war on their part was legal and constitutional; that and the debt therefor contracted in its support was a legal debt, morally and constitutionally binding. They maintain, moreover, in the North and in the South, as represented in this Chamber, that the emancipation of slaves by the national Government was unconstitutional; that the destruction of the property of private individuals by the Union armies was unjustifiable, both in violation of law and the policy usually pursued by civilized nations, and therefore that these sufferers have a right to indemnity.

Now, sir, entertaining these views as I doubt not they do conscientiously and honestly, permit the representatives of these opinions from these ten States of the South and those who concur with them from the northern States to secure a majority of the two branches of Congress, and who can doubt but that they will follow this theory to its inevitable, irresistible, logical consequences? And hence they testified before the Reconstruction Committee that if they had the power they would evade the payment of the national debt; and if they had power they would secure payment for their slaves and for property destroyed during the war. Then, sir, was not the precaution indicated by that committee and since observed by Congress a wise and a justifiable precaution, unless we desire not only to place the local governments of those States in the hands of the enemies of the Republic, but to place the legislation of Congress also as completely under their control?

But here I am met with the remark that there are but few of them; that these ten States would be entitled to but twenty Senators, and perhaps about forty-eight or fifty members of the other House, and if they were admitted, even if they did evade this test-oath or swallow it, they could do but little harm, because the majority from the other States would be so large that they could at any time vote them down. Let me test the wisdom of such a remark. In nearly every State there is a law disfranchising felons. Do the Legislatures of the States suppose that in any one of these States the felons are in a majority, and that the honest men could not at any time vote them down if they were not disfranchised? Then why so uniformly do we find such a provision on the statute-books of the States? Because the people desire to preserve the purity of the ballot-box, as well as a patriotic representation in their local offices and the offices of the Federal Government. Here, then, even in that case it is possible that one rogue disfranchised, if he had the right to vote, might hold the balance of power in the election of State officers; might control the character of the Legislature, and might, therefore, control the character of the representative of the State in this Chamber. How much more, therefore, is it possible—yea probable—that twenty members of this body and fifty members of the other House might hold the balance of power, especially taken in connection with the fact that I have recited? In the face of this uniformity of opinion by the Democracy of the North and West, and the rebels of the South, on these grave questions of the validity of the national debt and the right of the rebels to vitalize their debt, and to secure payment for their slaves and property destroyed during the war, who can pretend that it would not be dangerous to place twenty more men in this Chamber entertaining such views, and fifty more in the other branch of Congress?

If, then, this Government is justifiable in refusing to vitalize these illegal State organizations; if it is necessary for the protection of the people, in order that they may not be hereafter saddled with an immensely augmented national debt, we come to the inquiry, whether we have the power to do so. That has been partially disposed of in the remarks which I have already submitted; but I now address myself to it directly, because the constitutionality of all these measures has been called in question so directly by so many Senators during this discussion. They do not express it as their opinion merely that these laws are unconstitutional: they declare it as an admitted fact. Moreover, they declare that the majority in this and the other branch of Congress enacted these laws knowing them to be unconstitutional. The Senator from Indiana [Mr. HENDRICKS] said that it had been admitted by leading members of this and the other branch of Congress that these enactments were outside of the provisions of the Constitution. When this was disclaimed by every Senator to whom he alluded, he was compelled, being thus driven to the wall, to retire under a newspaper copy of a letter supposed to have been written by the great Commoner from Pennsylvania. He was not here to answer for himself. Had he been, I doubt not he, too, would have maintained that he never made such an utterance; that is that they were enacted outside of the Constitution, in the sense of being in conflict with it.

But it has been charged by several of these Senators that those on this side of the Chamber have voted for these laws and sustained this policy for partisan purposes. In ordinary times I should regard this as a very grave charge. Ten members on that side of the Chamber, in a full Senate, charge forty-three on this side with knowingly, willfully, trampling under their feet the fundamental law of the nation, violating their oaths of office, sitting here with blighted consciences before God; and, if the allegation be true, deserving nothing so much as the scorn of all honest men. Sir, whence did these ten Senators derive authority to sit in judgment upon the forty-three? Is it because they know so much more than their associates here? Is it because their consciences are so much more pure? Is it because they have manifested patriotism of a character so much higher? Is it because they have displayed knowledge of constitutional law of a character so much more profound? However exalted these Senators may be in all these respects, I maintain they are no more—I do not desire to say they are any less—than the peers of those on this side of the Chamber. Are not the avenues of knowledge equally open to those who differ with them in opinion? When they say that the forty-three violate willfully and knowingly the Constitution of the United States for partisan purposes, I am amazed that Senators of their acuteness do not perceive that they bring into requisition a catapult that can be brought to bear with equal vigor against the wall of their own castle. Do men usually display greater zeal or make larger sacrifices to continue in power than they do to acquire place? If so, the philosophers from the beginning of civilization have been at fault in supposing that a hungry swarm of flies was more dangerous than the one previously satiated.

But, sir, are their views sustained by any other department of the Government? I do not remember having noticed any decision pronounced by any of the courts of the United States calling in question the constitutionality of these laws. An opinion, I know, has been cited here, pronounced in what is familiarly known as the Milligan case in Indiana, which is supposed to question the validity of some law of the United States. I inquire what law? When you come to review that opinion, you will find the court decided that there was no law authorizing the organization of a military court in Indiana under the circumstances that then existed, not that Congress had enacted a law on that subject which they found to be in conflict with the Constitution of the United States, but there was a total absence of congressional action.

It is true that some of them, one or two, I believe, of the judges, did what the Senator from Illinois [Mr. TRUMBULL] describes as "slopping over," and advanced the opinion that Congress could not pass such a law. Well, sir, whether Congress could or could not pass a law authorizing a military court to sit in Indiana in time of peace, is not the question before the country nor the question under consideration by me. The question is, Did the court hold in that case that any law of Congress on the statute-book assuming to authorize that military court was in conflict with the Constitution of the United States? They rendered no such decision.

The next case that I can now recall is the decision said to have been given by Justice Miller, of the United States Supreme Court in St. Louis, calling in question the constitutionality of the test-oath, to which I have previously referred. In that case the court held that in its application to cases arising out of facts that existed previous to the passage of the law the law was void—not void generally on account of being in conflict with the provisions of the Constitution of the United States, but being in the nature of an *ex post facto* law its provisions could not be properly applied to cases growing out of facts that existed before the law was enacted. This and the case previously referred to are the strongest if not the only decisions that I have heard cited; and neither of them decides that Congress has surpassed its constitutional authority. Why, sir, in several other cases, copies of the reports of which I have here, and to some of which I have previously referred, the courts maintain specifically that these laws are constitutional. I hold in my hand the report of a case that occurred recently in Maryland, in which the Chief Justice of the United States, sitting as the circuit judge, held as follows:

"If this were otherwise, the indenture set forth in the return does not contain important provisions for the security and benefit of the apprentice which are required by the laws of Maryland in indentures of white apprentices, and is, therefore, a contravention of that clause of the first section of the civil rights law, enacted by Congress on the 9th of April, 1866, which assures to all citizens, without regard to race or color, 'the full and equal benefit of all proceedings for the security of person and property as is enjoyed by white citizens.'

"4. This law, having been enacted under the second clause of the thirteenth amendment, in enforcement of the first clause of the same amendment, is constitutional and applies to all conditions prohibited by it, whether originating in transactions before or since its enactment.

"5. Colored persons, equally with white persons, are citizens of the United States.

"The petitioner, therefore, must be discharged from restraint by the respondent."

Here the Chief Justice holds directly, and pronounces in so many words, that the civil rights bill is constitutional. I have another case here, among the multitude that might be produced, of a decision rendered by Justice Swayne in a case originating in Kentucky; a case criminal, I believe, in its character, in which some white men broke into the house of a colored woman. The perpetrators of this offense were arraigned before the State courts. The woman appeared as a witness, and under the laws of Kentucky was excluded from testifying. Under the civil rights bill the case was transferred from the State court to the United States court, and ultimately came before Justice Swayne, of the Supreme Court of the United States, for review. They plead in that case, among other things, that the law under which this transfer of the case from the State to the United States courts was made was unconstitutional. After wading through a very long and elaborate examination of the subject, covering nearly four columns of close type in the Cincinnati Daily Gazette, that learned jurist came to this conclusion:

"We entertain no doubt of the constitutionality of the act in all its provisions."

Every Senator knows that multitudes of cases originating under laws of Congress, which Senators on the other side pronounced unconstitutional when they were under consideration before this body and the other branch of Congress, have been uniformly held to be valid. I might refer to the case arising in the attempt

to break the blockade, and also originating in the law confiscating the property of rebels. I do not now remember a single case adjudicated by a court of the United States where the court has held that any one of these laws was in conflict with the Constitution of the United States. Then with what show of reason are these charges, which, if they were made elsewhere, I would pronounce equally impudent as brazen, brought against the majority of Congress for having willfully violated the Constitution of the United States, when, so far as the adjudication of these laws has extended, they have been uniformly held to be valid?

But, sir, if the court should in a given case decide not according to the uniform tenor of previous decisions on the same subject, and thus violate the judicial sense of the majority of the people of the United States, it would become binding in that one case alone, and would no more control the policy of this nation than did the decision in the Dred Scott case settle the question of slavery. It settled the condition of Dred Scott. Under that decision he was deprived of his liberty most effectually during his natural life; but it became ineffective in regard to the policy of the nation, and was presently swept away by the voice of the freemen of this Republic. And so would it be if the Supreme Court of the United States, in any case hereafter to arise, were to violate the common sense of justice as entertained by the mass of the people of this country.

And that brings me to the last observation I intend to make. Senators on the other side of the Chamber during this discussion have told us that the people of the United States have expressed themselves, and that according to the more recent expression of public opinion these measures have been found to be unconstitutional. Let us see how these allegations conform to the fact. Elections were held in eighteen States of this Union during the last autumn, either for State offices or for local offices, universally over these States. In those eighteen States there were cast in favor of those who sustain the policy of Congress 1,628,447 votes, and in favor of the so-called policy of the President 1,603,483 votes, leaving a clear majority of 24,964 in favor of the policy of Congress. Then, sir, include the other nine States now represented in Congress who voted a short time before, and we find in favor of the policy of Congress 506,026 votes, and in favor of the policy of the President 396,733 votes, leaving a clear majority of 109,293, which, added to the majority previously named, gives a majority in the aggregate of 134,251 votes. This, therefore, is the most recent expression of public opinion on this subject. Those who maintain that these laws are constitutional find themselves in a majority of over 134,000, when they take their appeal to the great jury-box of the country.

But, sir, these Senators tell us that this majority is much less than that by which their political friends were overwhelmed the year before. That is true; and I think the reason may be said to be this: When this last expression of opinion was taken by these jurors sitting in the national jury-box they tried local State issues; their opinions were partially colored by national policy, and were so far colored as to overwhelm the opponents of Congress. But when were the issues joined between the President and Congress tried? Why, sir, manifestly when the members of Congress returned to their constituencies for an approval or a disapproval of their conduct. One year ago last autumn these public servants went home to their constituencies. There had occurred a direct conflict between the Executive of this nation and the Representatives of the people. The President took an appeal to the people and peregrinated all over this country, from the Atlantic to the Mississippi, making speeches in favor of his own policy, supported by leading members of his Administration.

The members of Congress went home in a more humble capacity and joined issue with the President; and the jury impaneled in that case returned majorities far exceeding the majorities by which these members had been previously elected. They decided, therefore, the issues between Congress and the President the year before, when the men who sustained the President's policy were buried so far beneath the flood that they could hardly hope for a resurrection. Now they find they have not been so badly beaten when the questions decided are more of a local than of a general character; but that, nevertheless, the people have recorded a verdict against them numbering in the aggregate a majority of more than one hundred and thirty-four thousand. Then, sir, why do not these ten Senators join with the forty-three and carry out this most recently expressed will of our countrymen recorded at the ballot-box?

Mr. TIPTON. Mr. President, in the year 1854 a bill passed the Congress of the United States to organize the Territory of Nebraska. Before the passage of that organic act, if necessity had required, a military or provisional government might have been instituted until such time as Congress should permanently organize civil government. The limitation of such a temporary government was fittingly described by Secretary Seward to Governor Sharkey, of Mississippi, July 24, 1864:

"The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress."

In that organic act for the organization of Nebraska it was provided that the right of suffrage should only be exercised by citizens of the United States and such as had declared their intentions to become citizens, and who were white males over twenty-one years of age. Subsequently Congress passed an act to enable the Territory to adopt a constitution and apply for admission as a State. That application for a State was made at the last session of the Thirty-Ninth Congress. But before adopting the constitution of Nebraska, as slavery had been abolished and society was no longer divided between citizens and slaves, an act had become a law affirming that in the Territory of Nebraska there should be no distinction on account of color in the exercise of the elective franchise. It was claimed that the fourteenth amendment to the Constitution, declaring all persons born in the country citizens, made it proper to open up to equal rights all the Government domain. This was regarded as unavoidably necessary, inasmuch as it is made the duty of Congress to guaranty to every State in the Union a republican form of government; and a State could not be republican in which any class of the citizens were excluded from the ballot-box. But inasmuch as the organic act limited suffrage, having passed before all persons born in the country were declared citizens, and Congress having supreme power over the Territories, when Nebraska presented a restricted constitution Congress claimed the right to make its adoption depend upon the fundamental condition that there should be no distinction on account of color in exercising the elective franchise.

But, supposing that Nebraska had sent up two conflicting constitutions. Then she would have been met at the very threshold with the decision of the United States Court in the case of Luther *vs.* Borden, 7th Howard, as follows:

"Under this fourth section, fourth article, of the United States it rests with Congress to decide what government is the established one in a State. For, as the United States guaranties to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And its decision is binding upon every other department of the Government, and could not be questioned in a judicial tribunal."

But, as no such conflict arose, Congress had only to decide upon the republicanism of the constitution, and hence Nebraska is to-day a State in the American Union, in which all citizens of the United States are charged with equal duties and are admitted to equal privileges and blessings. On that basis I am proud to be one of her Representatives, and will of every other State entering the Union demand the same provision.

What, then, was the condition of the ten seceded States when General Grant received the sword of General Lee? Or, for example, what was the condition of South Carolina? In 1861 she had withdrawn from the Government of the United States her Senators and Representatives; had levied war upon the Government and waged it for four years. She had been represented in a confederacy of States unknown to and antagonistic to the Government of the United States. That confederacy had been blotted from the face of the earth; its armies surrendered and all its offices, civil and military, vacated. No confederate officer had been bound to the Government of the United States by an oath of office; but his allegiance had been pledged against it. The true condition of all her people, without scarcely an exception, was that assigned them in the most expressive and truthful language of the President of the United States:

"I say the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy."

And so she was a conquered public enemy, with no more show of loyal, legal State government than the adventurers on the frontier before the organic act passed for Nebraska.

How, then, could she be restored again to her place in the Union? She might be held under military rule or restrained by a provisional government, which should in all respects conform to the will of the conquering power till such times as Congress should pass an act to enable the people to form a State government, or till such form of government as might be improvised for the occasion should be received, examined, and adopted by Congress. If Congress volunteered a form of territorial government the whole question of who should participate in elections and in holding offices would be for their decision. And when the State thus reconstructed from the fragments of a rebel organization should present a constitution for the adoption of Congress, I would proceed upon the assumption that all persons born in the United States are citizens of the same, and are entitled to equal rights, regardless of race or color; and if I found a foreigner who had never been naturalized, but who had already fought under the flag of the Union, I would consider him a citizen, and feel honored in legislating him into the full possession of every American privilege. And if I found a race of men from whose sweat and blood the lordly estates of Carolina had been amassed, and on whose brows had never fallen the light of freedom—a class who were true and loyal when the spray was over them and treason the certain path to favor and influence—I would enfranchise them without precedent, amend constitutions, and enact laws in their favor. In a word, I would prefer loyalty over treason, and not allow any rebel element to enter into that elementary organization.

To the loyal people I would accord just the same constitution my own constituents have so lately received from Congress; and from the disloyal withhold only that which I would withhold from a rebel of Nebraska who might have levied war against his State and government. Instead of deifying intelligence I would decide that the most ignorant man in all the land who was loyal and true was dearer to the heart of the nation than the polished and erudite who doubted, was neutral, or a foe. If the question of investing the soldier with the elective franchise could have been settled on the field of battle just after one of those celebrated charges in which color made no distinction and all bloods mingled, then the intelligence and property qualification would have gone down as did the rebel lines before the combined power of loyal men of high and low degree.

If the fangs of slavery had not originally pierced the Constitution, then, in the first days of the Union, when citizens were sent out to claim dominion over the unpeopled Territories of the nation, it would have been to establish

and support government through the ballot-box irrespective of color. And then those governments once admitted as States, it would have been to organize their militia and bear arms, irrespective of color; in paying taxes and erecting churches and school-houses, in building bridges and roads, in reclaiming the wilderness and crowding the rivers with commerce, it it would have been on the basis of manhood, the power of muscle, and dominion of will.

Mr. President, in the opening of this discussion the Senator from Wisconsin declared that—

"It is a very different thing to take away from a freeman a privilege long exercised by him and by his ancestors from what it is to confer one never before enjoyed upon ignorant, half civilized Africans, just released from slavery."

Sir, I aver that we did not rob these white rebels of the South of any privilege; we captured them as public enemies after they had abandoned every privilege under our Constitution. The Senator himself admits, and I quote his own language:

"For their criminal acts we would have the legal right to try and convict and sentence to imprisonment and to death."

But, instead of punishment or death, we commence to remit them back again to their original standing, and at once reclothe them with all forfeited rights, excepting, in a few instances, that of voting; while in this instance the prohibition is not final but temporary.

Again, the Senator charges that it is an atrocious libel upon ourselves, upon our ancestors, and upon the results of Christian civilization, to allow the African the elective franchise at once, while the foreigner—

"Must appear in open court, and, after five years' residence, prove by the testimony of two citizens a good moral character and that he is well disposed toward the Government and institutions of the United States."

Sir, these colored voters are all native-born American citizens; some of them are of pure African parentage, but many of the most enterprising are descended in part from the most intelligent and aristocratic families of the sunny South; and it was only the other day that a colored orator immortalized his parents by describing how quietly repose in a Virginia grave yard his once proud white father and humble slave mother.

These emancipated sons of toil need no indorsers of their good characters and dispositions toward the Government of their country. Twenty-five million people stand sponsors for them to-day. How nobly they carried themselves during the bloody years of war! Their masters had proclaimed from every stump in the South in case the Republicans elected Lincoln their slaves would all receive emancipation. And every one of them had heard the flying story, and all their simple, trusting faith in God anticipated the coming of the kingdom and the year of jubilee. They bounded to meet the advancing columns of the Union on our first approach to the lines of rebellion; but they were driven back to their hovels and chains, or dragged from the very shadow of the stars and stripes by rebel masters to the auction-block and slave-pen. What then was the evidence of their "good character and disposition toward the Government of their country?" Quiet submission. And then they were told by the more intelligent that the President would restore the Union without slavery if possible, but with slavery if unavoidable. Still they swallowed their tears, stifled their sighs, and only in muffled accents uttered, "How long! O Lord, how long!"

Finally they volunteered as soldiers, knowing their death warrants were signed in advance if captured; and even after the massacre of Fort Pillow rushed into the depleted ranks and carried aloft the battle-torn banners red with the blood of their comrades. Never, no never while public virtue lives, and our hearts respond to the high behests of justice, will this newly enfranchised race be compelled to appear in any court this side of heaven's high chancery to prove their loyalty and good intentions toward their native land.

I was much astonished at hearing the Senator charge disloyalty on the people of color. He exclaims:

"Let us examine this bold assertion. Is it true? Were the negroes loyal during the rebellion? Recall the facts. Who does not remember that at least three fourths of all the negroes in those States during the whole war did all in their power to sustain the rebel cause? They fed their armies; they dug their trenches; they built their fortifications; they fed their women and children. There were no insurrections, no uprisings, no effort of any kind anywhere outside the lines of our armies on the part of the negroes to aid the Union cause. In whole districts, in whole States even, where all the able-bodied white men were conscripted into the rebel army, the great mass of negroes, of whose loyalty you boast, under the control of women, decrepit old men and boys, did all they were capable of doing to aid the rebellion."

Does he not know when they dug trenches and built fortifications it was under military supervision, and that when they refused to rebel and massacre their old, decrepit men and women and helpless children they were making loyalty honor them for their fidelity?

No, sir, it is not true that they did all in their power to sustain the rebel cause. They might have enlisted with the rebels, but they would not trust them. Even when the last old man that could carry a musket and the last boy that could stop a Federal bullet were crowded into the ranks they saw their cause perish for want of soldiers, while the African held the balance of power in the Federal army. They might have piloted the boys in blue into ambush and battery; they might have carried news of our advances and maneuvers; they might have been spies as our servants and refugees; but they toiled by day and traveled by night to warn us of danger, and were so universally true that an enemy should scorn to utter the exception. I can understand how the Senator from Wisconsin might arrive at an astounding conclusion from false premises, but I am lost in astonishment at this charge so confidently asserted and so clearly defined. The Senator says:

"I ask, with all the earnestness of which the soul is capable, can any human being conceive of a measure so well calculated to make the whole white people of the South, men, women, and children, hate and loathe our Government, to hate it with a perfect hatred, to gather around the family altar upon their bended knees to curse it, and in the agony of prayer to call upon God to curse it, as this radical reconstruction which seeks to disfranchise the heart and brain of the South, and to subject at the point of the bayonet the white race to the dominion of their late half civilized African slaves?"

If there is a crime about to be perpetrated which would call for such a world of curses, it would stand to reason that the fact would be easy of detection; it would stand out boldly everywhere. He admits that in the beginning of the rebellion a majority of the white people of the South were opposed to secession.

Now, I claim that this majority were forced into submission, and he admits the fact. The men of "heart and brain" crowded upon them the fatal consequences of the "State rights" doctrine. These men led them through seas of blood, caused women to give up husbands, fathers, sons, and brothers, to the bloody Moloch of war, children to become orphans, and the whole framework of society to be rent and torn asunder.

Why, then, should the whole white people of the South join in this terrible cursing against the country that seeks to restore the olden flag that they were compelled to betray because of rebel power and rule? Why should not the poor white man, always at the mercy of the slave power and always professing a desire to see Government in the hands of the people, be ready to see a democracy established in which his superior intelligence to the mass of the voters would in due time place him where the imperious lordling lately stood and waved his badge of power? Why should he not rejoice that there was virtue enough to hold the ship of state steadily on the track of safety, while he, in piratical madness, sought a traitor's distinction and a traitor's doom?

Mr. President, Thomas Jefferson, the great apostle of freedom and prophet of the political future, warned this nation of the day in which an humble prayer of the lowly would be answered—

"When the measure of their tears should be full, when their groans should have involved heaven itself in darkness, doubtless a God of justice would awaken to their distress."

But no such vision of bloody rebels in prayer ever burst upon him as that which has so startled the Senator from Wisconsin.

When the theory of the Senator on the subject of "negro supremacy forced upon the South" has been brought to the test of facts and figures it has been completely exploded. Will he organize his cursing prayer-meeting in Virginia, where 116,000 whites and 104,000 colored voters were registered and the vote for convention was carried by a majority of 45,455, showing that white men voting for convention gave the majority, the colored being in a minority of 12,000? Will he organize it in North Carolina, where 103,060 whites were registered, while the colored were 71,657, and yet the convention was carried by a majority of over 60,000? Will he organize it in Georgia, where 95,214 whites were registered, while the colored were 93,458, and yet the convention was carried by over 98,000 majority?

If the negroes had been in the majority on the register while they were in a minority in all the rebel States, and then carried every constitution by registered votes, we might have been called on to explain how this state of affairs came about. But when the constitutions were carried where they were in the minority, it became proof positive that free white men allowed it willingly, for the power was all in their own hands. But ex-Governor Brown, of Georgia, has given the reasons for this result in States where the negroes registered a majority. He says:

"The people North have been told lately that the acts of Congress establish negro supremacy and white subordination in the South. The charge is false. It was the perverse obstinacy of the white race refusing to take control that gave the negroes power in the convention. There is fifteen thousand white majority in Georgia. With this majority and the boasted superiority of the race in intellect, education, experience, and wealth, it is a libel on the white men to say that negroes can rule intellect and capital and control numbers everywhere."

The Governor further declares that General Pope adopted the districts as left by the Johnson conventions, without alteration. Then, certainly, these cursing prayer-meetings cannot become a success where the whites were in the majority, and themselves voted for conventions to form new constitutions. And, beyond all doubt, the Senator cannot organize them in States where the whites stayed away from the polls, and thus through spite allowed the colored men to have a majority; and this after the rebel press urged them to stay away, and abused and defamed those who voted. Sir, he may ask again "with all the earnestness of which the soul is capable," what is the magnitude of the crime involved in disfranchising "the heart and brain of the South?" That brain worked out the problem of secession; that heart cursed the Union hallowed by the labors of Washington; that brain made the demand, and that heart sanctioned the terrible crime of perjury. No! no! Such Democratic rebel prayers can never be answered while God remembers the tears and blood, the sorrow and death that followed the demoniac perfidy of this "heart and brain."

In this debate it has been charged repeatedly that the Republican party has not been, at all times, as they are to-day, in favor of negro suffrage, and hence that the party has not been consistent. To this charge the Senator from Indiana [Mr. MORTON] has given the true and sufficient answer. That negro suffrage was not looked to as a remedy for the national malady until Congress came to the conclusion that we could not execute the guarantees of the Constitution without raising up a new class of loyal voters; that "we did not prosecute the war to destroy slavery, but destroyed slavery to prosecute the war."

But let it be remembered that the Administration of Mr. Lincoln had no settled policy in detail, and could have none. There were no precedents to follow. The Union was to be saved, and that was the object; but how? That

was to depend on the course of the rebels. Time indicated each succeeding step, and wisdom applied the remedy.

Mr. President, it is charged that the Republican party demand a new Union and a new Constitution, which, as literally charged, is not true. But had it not been for the anti-slavery wisdom of the framers of the Constitution the results of this war would have necessitated such radical changes in that instrument as to have justified that charge in part. As it is, the the word slave having never appeared in the instrument, and slavery having been abolished, the Constitution in its spirit having been expurgated, the life-blood of freedom now pervades all its parts as though human bondage had never existed. And as a Constitution tacitly acknowledging slavery is just as different from one inspired by universal freedom as light from darkness or vice from virtue to that extent we have a new Constitution and a new Union. The men who all life long held with Jefferson that in a contest for universal freedom the Almighty had no attribute by which to ally Himself with the oppressor easily and naturally adapt themselves to the new and blessed order of events.

Opposed to this old Constitution, with a purified spirit, would likely be found all who fail to comprehend the logic of events, all who have trafficked in the souls and bodies of men, and occasionally given the market an upward tendency by placing on the block their own offspring, and all who are destitute of proper appreciation of Christian civilization. But that a man of the free North, who has known effort and toil and boasted of self-reliance and of the spirit of progress, should lend his voice to swell the dismal chorus of those who weep around the tomb of slavery, cannot be accounted for on any principle governing sanity and Christian morals. When they have attempted to release the States from responsibility, and endeavored to lose sight of the crime on account of the many individuals participating, they have been most triumphantly met by the decision of the United States court in the case of the Brilliante:

"Hence, in organizing this rebellion they have acted as States, claiming to be sovereign over all persons and property within their respective limits, and asserting their right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State."

And thus the rebels have had to stand dumb in the presence of that broken, rejected Constitution, the protection of which they would claim, while they deny its existence and spurn its authority.

When they have attempted to justify the President in his plan of reconstructing States, and scouted the right of Congress to interpose, they have had to meet their own votes in 1864 sustaining a resolution which denied insurrectionary States—

"The right to vote for President, electors, or Vice President of the United States, or of electing Senators or Representatives in Congress until said insurrection in said States is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress hereafter to be passed, authorizing the same."

Thus have they acted upon the assumption that Congress possessed the power, and the President could not declare their return to obedience until Congress granted the power by law. When they have made the specific charge that States cannot secede, and hence their original governments weathered the storm and survived the earthquake shock of battle, the admonitory words of President Johnson's proclamation appointing a provisional governor for North Carolina has smote upon their ears:

"And whereas the rebellion which has been waged by a portion of the people of the United States against the properly-constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and revolting forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of North Carolina of all civil government."

Not suspended the relation of States with the General Government, but "deprived the people of North Carolina of all civil government."

When these gentlemen have attempted to distinguish between individual traitors and public enemies, between the suppression of a rebellion and waging war with a belligerent Power, they have been routed from their fortification of straw by the following language of the Supreme Court:

"When the party in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign, the world acknowledges them as belligerents"—

I call attention to this:

"The world acknowledges them as belligerents and the contest a war."—2 *Black*, pages 666-667.

Again, the court say:

"All persons residing within this territory whose property may be used to increase the revenues of the hostile power are, in this contest, liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors."—*Ibid.*, page 674.

When our mode of reconstruction has been denounced as revolutionary because it goes beyond mere alteration and amendment it has only been necessary to invoke the precedent of the President's proclamation to refute the fallacious assumption:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said State to organize a State government," &c.

Not to amend or change, but remedy that want of "all civil government" by organizing a State government.

When an effort has been made to parry the force of a judicial decision by denouncing it as a "dictum" of one judge, the fact that a bench of nine concurred in the opinion has not had the influence of producing a recantation.

When the Opposition have tried to shield rebel State organizations by investing them with an indefinable sanctity on account of the fact that the President of the United States ordered them into existence, the very pleasant illusion has been dispelled by the declaration of Chief Justice Taney in the celebrated Rhode Island case:

"Unquestionably a military government established as the permanent government of the State would not be a republican government, and it would be the duty of Congress to overthrow it."

When the charge of unnecessary disfranchisement has been made against the policy of Congress it has been answered by reference to the fact that the President's plan of organization originally disfranchised fourteen classes of persons, perhaps, including from two hundred and fifty to three hundred thousand individuals, while ours may reach and not far exceed fifty thousand.

The complaint that we have invested loyalty, irrespective of all other considerations, with the right to vote has been answered by the following provision from the President's organization proclamation:

"And with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations with the Federal Government."

Again, speaking of the Army:

"And they are enjoined to abstain from in any way hindering, impeding, or discouraging the loyal people from the organization of a State government as herein authorized."

Which establishes beyond doubt that the original intent of the President was that only loyal citizens could take part in reconstruction.

In 1866 the President stated his own views in these express words:

"If there were only five thousand loyal men in a State, or a less number, but sufficient to take charge of the political machinery of the State, those five thousand men, or the less number, are entitled to it, if all the rest should be otherwise inclined."

This I hold to be good doctrine to-day; and will be entitled to quotation in all time to come, in every contest of loyalty with treason.

Subsequent to this time the Philadelphia convention seems to have entertained the opinion that it was necessary to extend the range of loyalty in the South, or that Union loyalty, which did everything, dared everything, and suffered everything for the success of the Federal arms, would become "the five thousand or a less number," specified by the President. Hence in that celebrated conclave, when such sentiments as those of Henry A. Wise were the current staple of all rebeldom, as follows:

"You call the cause lost; it is not lost. If I had triumphed I should have favored stripping them naked. They might have appealed for pardon, but I would have seen them damned before I would have granted it. For myself, I take no oath, I ask no pardon."

That convention in its address to the country declared of these people, "there is no section of the country where the Constitution and laws of the United States find a more prompt and entire obedience."

But just at that point, as if the assembly had passing before it a procession of ghosts from the Memphis and New Orleans massacres, it was deemed best to come back to the same proposition of loyalty and add a more emphatic asseveration in this form: "They renew their engagement to bear true faith and allegiance." And had the case not been a desperate one they might have paused with that; but they continued "through all time to come." Then the sentence in full read thus:

"They renew their engagement to bear true faith and allegiance through all time to come."

But, as if remembering that they were posted as perjurers for having broken just such a former vow, they rallied again and prolonged the sentence with this additional member:

"To the Constitution of the United States, and to all laws that may be made in pursuance thereof."

Thus, in order to get these rebels on the loyal register, they pledged them, to all eternity, to obey whatever laws might in future be made under the Constitution. Still they seemed to doubt whether the loyal people would receive them back into church unless they came to the confessional and were put upon probation; but time was precious, and they could not brook the idea of a probation. Hence they come up again promptly, in full force and good order, marching to the sound of Dixie, with stars and bars flying, and again make solemn proclamation: "In no one of them (the States) is there the slightest indication of resistance to this authority against its just and binding obligations."

But remembering that evil-disposed Union men might think threats to subdue them and to reduce to a state semi-slavery the freedmen sounded very much like a "slight indication" to resist binding obligations, they dare not give up the white-washing process without another turn of the screw and application of the brush. And here we have the final consummation—the perfection of political audacity—the sublimity of impudence—the *ne plus ultra* of falsehood deified. "The supreme authority has been acknowledged by word"—good enough as far as it goes—"and act"—better, if true—"in every State;" what more—"and by every citizen within its jurisdiction." Why, Mr. President, if all that had to be done in order to cause you and I and all our fellow-citizens to accord loyalty and truth and devotion to the rebel element of the South they who are charged with reproducing it upon this floor demand our commiseration.

But even all this did not satisfy that most inapproachable and incomprehensible body. They feared some part of that most righteously loyal element might fail to play their part before the work of reconstruction should be completed, and hence a saving clause in these words:

"Though disloyal in sentiment and purpose, and neither the honor, the credit, or the interests of the nation would be safe if they were readmitted to a share in its councils, we have no right, for such reasons, to deny to any portion of the States or people rights expressly conferred upon them by the Constitution of the United States."

Then let these gentlemen move an amendment to the oath taken in the Senate: "I do profanely swear to support the Constitution of

the United States, though I am disloyal in sentiment and purpose, and neither the honor, the credit, or the interest of the nation would be safe if I was readmitted to a share in the councils of the nation. So help me Satan." No other oath would meet the case, and to no other power could they successfully appeal for aid.

From that day to this Democratic orators have eulogized the loyalty of the rebels of the South, and the House and Senate have resounded with their praise; and yet a Louisiana editor, on the day the Philadelphia Convention was in session, knowing its elements and spirit, said:

"Let us wait and hope, for as sure as effect follows cause the convention assembled at Philadelphia is the entering wedge to inaugurate civil strife."

Before I leave this question of loyalty I desire to cast some light upon its present status by calling upon a distinguished southern witness. I call to the stand Robert Toombs, of Georgia, who thus writes to Corry, of Cincinnati, relative to the coming campaign:

"After the reception of yours of the 6th instant, with the proceedings of the Cincinnati convention, I accept with the greatest pleasure the position to which I have been assigned, and will cheerfully give my utmost effort to promote, establish, and vitalize those principles." * * * * * *

"I therefore accept any man as a brother in peace or war who will honestly stand by and defend them. I will be with him as long as the weakness of humanity will enable me to stand by the truth to my own hurt."

"Therefore, sink or swim, survive or perish, I am with the West and the South for the maintenance of the Cincinnati platform of April 13. I will take immediate measures to organize the State of Georgia on that basis, and will urge the true men of the so-called ten rebel States to fall into line. You can fully count on them. I have tried them."

* * * * * * * * * *

"I regret nothing in the past but the dead and the failure. I am ready to-day to use the best means I can command to establish the principles for which I fought.

"Very respectfully and truly, your friend,

"ROBERT TOOMBS."

This testimony settles the fact that the rebels of Georgia unite with northern Democrats to-day to vitalize the principles for which the rebel Toombs fought. And these are the men they would admit into Congress, and this is the exposition of their loyalty; and because Congress prefers the Union men to these complacent traitors we are denounced.

To meet the vaunting charge of our military bill being a despotism it has only been necessary to show, in the axiomatic utterance of the Senator from Maine, that "we began to reconstruct as soon as we began to conquer;" and the military bill is only in aid of reconstruction as a police regulation. Without the emancipation proclamation there never had been reconstruction, and without the much denounced civil rights bill emancipation would have been only a speedy mode of rushing the whole colored element of the South into incalculable sorrow, suffering, or death. But emancipation and civil rights bill, both to be of permanent efficacy, demanded the constitutional amendment abolishing slavery, declaring citizenship, with other concomitants of manhood and nationality; while the key to the treasure-house of God-given rights, the rudder to the newly launched vessel, and the emblem of authority and dignity, was known to be the ballot. With these acknowledged in authority, perpetuated in application, respected in their providential wisdom, and duly credited for the honor they have already secured from foreign Powers, the work of reconstruction will be consummated, treason foiled, and loyalty enthroned.

The failure on the part of the opponents of congressional reconstruction has been most signal in attempting to show an identity of character between the original views of President Lincoln and the doctrine that the rebel State governments survived the war. In 1863 Mr. Lincoln declared by proclamation, "The loyal State governments of several States have for a long time been subverted." And again he repudiated the action of the rebel State authorities of Virginia just after the surrender of Lee, showing he regarded all those governments as dead to loyalty and the Union. Nor have they been able to gain any comfort from his having refused to sign the Winter Davis bill, which reached him one hour before the adjournment of Congress, at a time when he was trying to reorganize Louisiana and Arkansas on a different basis; and the results of the war being still so uncertain that he doubted the propriety of being irrevocably committed to any particular bill, though to this one he had no special objection, aside from the conflict with his effort to restore suddenly the States of of Louisiana and Arkansas.

We who are permitted to record our votes and raise our voices in behalf of the final emancipation of our country from the shackles of tyranny, occupy the most sacred and imposing position ever held by American citizens since the revolutionary fathers "knelt in prayer and battled for a world." They laid the foundation of a temple, but never completed the walls; they entered into a sacred covenant with the God of heaven, but were never able to close the contract.

In 1776 they promised, if Providence would crown their revolution with success, they would do justice to their bondmen. John Jay, the first Chief Justice of the United States, assigned the reason for the covenant in the following words:

"I believe that God governs the world; and I believe it to be a maxim in His, as in our courts, that those who ask for equity ought to do it."

Laurens, of South Carolina, came to the confessional with most appropriate words:

"I am not one of those who dare trust in Providence for defense and security of their own liberty while they enslave and wish to continue in slavery thousands who are as well entitled to freedom as themselves."

But after the shouts of their deliverance had gone out to the ends of the earth, what did they testify as to the fulfillment of Jehovah's part of the contract? It was fitting that Washington should announce the result. Hear him:

"Every step by which the United States have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency."

But the storm once abated, the emotions evoked by its original fury soon subsided and were followed by terrible apostacy. The Father of his Country marked this change with deep regret. To Colonel Laurens he said, in 1782:

"The spirit of freedom which, at the commencement of this contest, would have gladly sacrificed everything to the attainment of its object has long since subsided, and every selfish passion has taken its place."

Luther Martin, of Maryland, said:

"When our liberties were at stake we warmly felt for the common rights of men. The danger being thought to be past which threatened ourselves, we are daily growing more insensible to those rights."

Mr. President, these venerable men were right, that national sins bring national punishments. They were right in affirming that the promise extorted by calamity often fails in prosperity, and that their own pledges unfulfilled were recorded on high. At last, through long years of such terrible apostacy as never before disgraced Christian civilization, we were called upon to comply with that old and sacred contract entailed upon us by the men of the Revolution. We entered as our first answer, this is a white man's war and we are amply able. Providence replied with Bull Run and like disasters. Finally, to the ear of this nation came from over the lapse of years the admonitory words of Martin, "respect the common rights of men." The patriot father called upon for another son to fill the place of him in his gory bed, the wife mourning a fallen husband, and orphan children, in their unutterable anguish, learned to pronounce, "respect the common rights of men!" Providence hedges us around from every avenue of escape, or else to-day we would have been found enacting over again the scene described by Washington, allowing "the spirit of freedom to subside and every selfish passion take its place." But the mere fact of emancipation is not a full compliance with our national duty unless that carries with it all the rights and privileges of freemen. To grant a man his freedom from slavery and yet not secure to him the full and fair protection of law is only a mockery and insult. To allow him to amass property and then let others govern it by law, to allow him to seek liberty but deny him the power of preserving it by legislation, to allow him the claim to life but refuse him a jury of his peers, would be to rob him of the substance and cheat him with the shadow.

Mr. President, there seems to be a strange discrepancy in many of the leading positions of the speech of the Senator from Wisconsin. In one instance he affirms:

"Now that they have in good faith pledged anew their allegiance, and desire to join with us in rebuilding the waste places overrun by this desolating war; now that they have in fact ceased to be rebels, why shall we continue to denounce them as rebels?"

But in the next breath he tells of a war of races. He says—

"That war is now impending over all the South; it is only the presence of the Federal Army which prevents its outbreak upon a gigantic scale in the exile and extermination of the blacks from the Potomac to the Rio Grande."

Of this I have no doubt. From all the denunciation of Union men in the rebel papers of the South; from all the murders of loyal colored men in the South; from the refusal to punish for crimes against life and property and character when loyalty seeks redress in rebel courts, I have no doubt but it is a fact that only "the Federal Army prevents the extermination or exile of the blacks from the Potomac to the Rio Grande." Fatal admission; terrible truth!

But, Mr. President, the passionate appeals of the Senator, his fiery denunciations, his strange perversion of facts, all tend to precipitate that very state of things he professes to deplore. These are no new alarms; the changes have been rung upon them ever since the fatal rupture between the President and Congress. The Philadelphia convention, of which the Senator was so conspicuous a member, prepared the public mind for just such a state of facts by declaring that—

"No people have ever yet existed whose loyalty and faith such treatment long continued would not alienate and impair."

This was intended to be an apology for the first outburst of rebel hate. But then, as if a little fermentation might aid the rising storm, the address continued:

"The ten millions of Americans who live in the South would be unworthy citizens of a free country, degenerate sons of an heroic ancestry, unfit ever to become guardians of the rights and liberties bequeathed to us by the fathers and founders of this Republic, if they could accept, with uncomplaining submissiveness, the humiliations thus sought to be imposed upon them."

Certainly the leaven has leavened the lump; certainly the party have the anticipated results in the necessity of a Federal Army to save the blacks from "exile or extermination."

But the Senator says "they have in good faith pledged their allegiance" and ceased to be rebels. The rebels of the South would not thank the Senator for such assertions. They know they cling to the fancy that the lost cause will yet revive, and in all their social gatherings sing their rebel songs, eulogize their heroes, and curse the Union, the Yankees, and the flag. They hold as their true position, with the Augusta (Georgia) Constitutionalist: "We are a beaten people; beyond that declaration do not go." They hold with Chalmers: "We of the South struck for individual liberty, but centralization overwhelmed us and endangers the liberty of the whole country." They hold with the Mobile Tribune, relative to the Orleans massacre: "It was well done; even if five times or five hundred times the sacrifice of life had been made to accomplish the purpose it would still have been well done." They hold with the same paper "that the defunct confederacy seems not to be so very dead in Kentucky after all." Does any sane man believe for a single moment that to knock down and beat an opponent ever expelled a logical fallacy from his head or expelled a corrupt motive from his heart? Rather he would cling

more closely to his idol and nurse his anger in secret, hoping for an opportunity to enthrone the one and gratify the other.

I believe in my heart the honorable Senator would this day regret to see the military called away from the South on account of what he must know would follow. He knows that the constitutional guarantee of freedom of speech would perish in an hour, and no man would be allowed to discuss the war, the results of the war, and the rights of the people of the North, East, and West to go where they please and utter as fully as at home all the deep-seated convictions of their souls. He knows that the former slaves would be as completely at the mercy of the rebels as when they were in their legal power, for now the additional motive would appeal to the brutal and infamous that these people of color loved the old flag and aided the Lincoln hirelings. He knows that men of the North would be injured in business and driven from many parts of the South. He knows a free press would be mobbed as a pleasant pastime, and editors shot as amusing recreation for the knights of the lost cause. He knows that Union men and Union soldiers would be kicked out of rebel courts all over the South. He knows that schools and colleges dare not allow their pupils and students to recite in public the spirit-stirring eulogies upon loyalty and the American Union which patriotism has produced and eloquence immortalized. He knows that the pulpit dare not attempt to enforce kindness and forbearance to the freedmen and the duty of submission to the laws of the people's Congress, as required by the doctrine that "the powers that be are ordained of God." He knows that after policy has defined its position and cupidity adopted its hypocritical cant the great mass of rebels are bitter rebels still, and will remain so during entire life; no mental or moral change has ever come over the spirit of their dreams. The loyal white men and loyal blacks and a few deceived and now silent and submissive are all to whom the Government can look for hearty coöperation and support.

I do not wish to be uncharitable, and therefore I am inclined to pause just here and dwell upon the fact that if left alone the penitent rebel and the unrepentant rebel would neither of them be asking or desiring to-day the privilege of voting.

On the day of surrender they would have said, we entered the war against you, determined to destroy the American Union; we hated the idea of nationality; we cherished the fancy of State sovereignty; we adored the institution of slavery as a system of power and wealth, a cheap and convenient system of concubinage, a concomitant of aristocracy, and the proper corner-stone of civil government. The appeals of our revolutionary fathers in behalf of universal freedom were all discarded; and when men of the North were exiled from the South, or warned not to enter it with hopes of hospitality, if they came cherishing the doctrines of Thomas Jefferson, we yielded a hearty approval. We turned our pulpits against the doctrines of a universal brotherhood; we expurgated our literature; we put our orators and poets under bonds to be true to our prejudices and desires; and during all these four years of war, by battle, by assassination, by conscription, by starvation in prison-pens and dungeons, and by an effort to press yellow fever into our service, we have bankrupted earth for expedients of destruction. Having done all this, do have mercy upon us, and allow us to retire to obscurity. If life and property are granted we will ever remember your great and astounding magnanimity. But with all our national mistakes and national sins, do not expect us to assume to aid and cherish and build up through the ballot-box this late object of our vengeance. With the blood of the avenging angel on all our door-posts we cannot in less than a generation forget this calamity. We have no love of country; and it is only by love that the citizen can fulfill the duties of his position. Perhaps we have loved our States too blindly; but beyond doubt we have hated our Government of the Union with a perfect hatred. There are a few men among us who were your friends and never faltered. Our slaves are demoralized; but you can make nothing of them. You have run your Government in spite of us; your ways are not as ours; we cannot help you, and, besides, we have sworn each to the other to die in the last ditch rather than live again in the Union under the hated stars and stripes. Your principles are now to triumph—we do not understand them. But if they redeem our desolated lands; if they build up our ruined cities; if they bring commerce to our silent wharves and harbors; if they erect the school and college, our children may some day yield that obedience which we refused. If there are any among us who can take your Constitution to their arms, let them embrace it; if any who can spend their time and means and influence to sustain your Union party in canvassing and voting and becoming legislators for the nation by swearing truthfully they never "gave aid or comfort to the enemies of the country," in your discretion, let them do so. In view of all this, I have no doubt but the rebels would have submitted cheerfully to such reconstruction as we are now enforcing had not their northern allies became their champions, eulogists, and defenders.

Mr. President, you will remember that during the war if a citizen of the South had been found with one of your speeches in his possession, the rebels would have exiled, imprisoned, or murdered him, on a proven charge of sympathy with the Union of the States; but if he had been found with a speech of a Democratic Senator about him, the same rebels would have voted him a friend and given him the protection of the stars and bars. But had the Union men of the South found a wounded soldier with one of your eloquent and impassioned appeals for universal freedom and the success of the Federal arms with him they would have divided their last morsel of food and defended his perishing life at the risk of their own. And, sir, the people of the South measure public men by the same standard to-day. The Union men of all grades look to the Republican party for sympathy and support, while the unrepentant rebels look to their Democratic allies for consolation and hope.

Mr. President, the only path of duty for us to travel is that marked out by the light of Christian civilization. We are pledged by the spirit of our institutions; by Pilgrim vows and Pilgrim faith; by interpositions of Providence, from the hour of the Mayflower's peril to the fall of treason's banner, to do, by our legislation, all and everything demanded by the strictest rules of Heaven's justice. When we attempted to evade a settlement after the American Revolution of 1776, we gradually commenced to illustrate the proposition, "Whom the gods intend to destroy they first make mad." When we denied the criminality of slavery, and turned the Bible's precepts aside, and with the emblems of bread and wine enticed Christ's humble poor to the table of communion in order that the soul-driver might, with greater accuracy, cast the lariat over the head of his property, we were invoking Heaven's vengence and mortgaging the blood of a whole generation. When we decided to try the virtue of extorted tears, and sweat, and blood, as a fertilizer for the virgin soil of the mighty West, and sought to consecrate Kansas and Nebraska to the dominion of the blood-hound and lash, in our impotent rage we were only preparing an amphitheater for the greatest moral and physical contest humanity ever witnessed or civilization ever crowned. Retribution is written all over the later pages of our national history. And now comes the era of compensation. Liberty proclaimed through all the land, the swarthy sons of Africa pleading from the platform, the forum and rostrum the cause of universal rights, and quoting in the ears of defunct aristocracy the severely true precepts of a long-abused now triumphant democracy.

By all the concentrated rays of history, written in blood, I see one only path of safety for my native land, and that is universal justice. You may sail whatever sea you choose, and shift your sails to any point you please, and whether in the calm or storm you reach the goal there never can be peace or safety only in the haven of universal justice. We may tamper with conscience, and make concession to the wounded spirit of a once domineering people, and lie down to dream of Dives in hell and Lazarus in Abraham's bosom; we may shut our eyes and close our ears, steel our hearts and hush our voices, and then look out again upon a carnival of death, hearken to an ocean tone of woe, and die despised, traitors to country, God, and man. But if we seek only justice then our work shall live and grow and swell into more magnificent proportions as future eras rise and culminate into the perfection of truth and duty.

Mr. DAVIS obtained the floor; but yielded to Mr. SHERMAN, on whose motion the Senate proceeded to the consideration of executive business. After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees, not to be brought back by a motion to reconsider. During this call resolutions of State and Territorial Legislatures may be presented.

SALLY C. NICHOLSON.

Mr. BLAINE introduced a bill (H. R. No. 679) for the relief of Mrs. Sally C. Nicholson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HIRAM A. CUTTING.

Mr. POLAND introduced a bill (H. R. No. 680) for the relief of Hiram A. Cutting; which was read a first and second time, and referred to the Committee of Claims.

CURRENCY AND BANKING.

Mr. POLAND also introduced a bill (H. R. No. 681) for retiring United States notes and for a free system of national banking; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PROTECTION OF THE REVENUE.

Mr. BUTLER introduced a bill (H. R. No. 682) in addition to an act to protect the revenues, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

THOMAS F. ROBERTS.

Mr. BOYER introduced a joint resolution (H. R. No. 195) for the relief of Thomas F. Roberts, late first sergeant of company D, fifth Pennsylvania cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

COLLECTOR AT YORKTOWN, VIRGINIA.

Mr. MORRELL introduced a bill (H. R. No. 683) in relation to the collector of customs at Yorktown, Virginia, and abolishing the office of deputy collector at the same place; which was read a first and second time, and referred to the Committee of Ways and Means.

RESTORATION OF REBEL STATES.

Mr. MILLER introduced a joint resolution (H. R. No. 196) requesting the Committee on Reconstruction to inquire and report if there is any further legislation necessary to insure

a more speedy restoration of the ten late rebel States to full political rights, with a sufficient guarantee; which was read a first and second time, and referred to the Committee on Reconstruction.

BANKING CIRCULATION.

Mr. MILLER introduced a joint resolution (H. R. No. 197) declaring it inexpedient to have at this time any change or reduction of the banking circulation; which was read a first and second time, and referred to the Committee on Banking and Currency.

STEAMBOAT BOILERS.

Mr. O'NEILL introduced a bill (H. R. No. 684) providing for the inspection and use upon steamboats of boilers made of materials other than charcoal plates of wrought iron; which was read a first and second time, and referred to the Committee on Commerce.

NEWSBOYS' HOME.

Mr. KOONTZ introduced a bill (H. R. No. 685) supplementary to an act to incorporate the Newsboys' Home; which was read a first and second time, and referred to the Committee for the District of Columbia.

COLUMBIA SAVINGS INSTITUTION.

Mr. KOONTZ also introduced a bill (H. R. No. 686) to incorporate the Columbia Savings Institution; which was read a first and second time, and referred to the Committee for the District of Columbia.

REGISTRATION OF VESSELS.

Mr. SPALDING introduced a joint resolution (H. R. No. 198) to authorize the Secretary of the Treasury to prescribe rules and regulations for registration of certain vessels of western and northern lakes on payment of internal revenue tax; which was read a first and second time, and referred to the Committee on Commerce.

RETURN TO SPECIE PAYMENTS.

Mr. GARFIELD introduced a bill (H. R. No. 687) to provide for the gradual return to specie payments; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

GOLD CONTRACTS.

Mr. GARFIELD also introduced a bill (H. R. No. 688) to authorize gold contracts; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CONSTRUCTION OF JOINT RESOLUTION.

Mr. ADAMS introduced a joint resolution (H. R. No. 199) construing a joint resolution of Congress, approved July 26, 1866; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MARY J. STONE.

Mr. STOKES introduced a bill (H. R. No. 689) for the relief of Mary J. Stone, of Jackson county, Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FREEDMEN'S BUREAU, TENNESSEE.

Mr. ARNELL introduced a joint resolution (H. R. No. 200) in reference to the continuance of the Freedmen's Bureau in the State of Tennessee; which was read a first and second time, and referred to the Committee on Freedmen's Affairs.

RICE M. BROWN.

Mr. HUNTER introduced a bill (H. R. No. 690) for the relief of Rice M. Brown, of Indiana; which was read a first and second time, and referred to the Committee on Military Affairs.

INDIANA VOLUNTEERS.

Mr. HUNTER also introduced a bill (H. R. No. 691) to grant relief to the soldiers of the one hundred and forty-fifth Indiana volunteers, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES M'CARTY.

Mr. HUNTER also introduced a bill (H. R. No. 692) for the relief of Charles McCarty, of Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ADDITIONAL BOUNTY.

Mr. HOLMAN introduced a bill (H. R. No. 693) in relation to additional bounty; which was read a first and second time, and referred to the Committee on Military Affairs.

MARTHA ANN WALLACE.

Mr. COOK introduced a bill (H. R. No. 694) granting a pension to Martha Ann Wallace, widow of Brigadier General W. H. L. Wallace; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZA ANN UPRIGHT.

Mr. FARNSWORTH introduced a bill (H. R. No. 695) granting a pension to Eliza Ann Upright; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HULL & COZZENS AND JOHN NAYLOR & CO.

Mr. VAN HORN, of Missouri, introduced a bill (H. R. No. 696) for the relief of Hull & Cozzens and John Naylor & Co.; which was read a first and second time, and referred to the Committee of Claims.

UNITED STATES COURT IN MISSOURI.

Mr. VAN HORN, of Missouri, introduced a bill (H. R. No. 697) regulating the terms of the United States court for the western district of Missouri; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PACIFIC RAILROAD.

Mr. GRAVELY introduced a bill (H. R. No. 698) in aid of the Atlantic and Pacific railroad; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

HANNAH BROWN.

Mr. UPSON introduced a bill (H. R. No. 699) granting a pension to Hannah Brown; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POST ROAD IN MICHIGAN.

Mr. UPSON also introduced a bill (H. R. No. 700) to establish a post road from Cold Water, Michigan, to Flint, in the State of Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MAIL ROUTE IN IOWA.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 701) to establish a mail route from Toledo, Iowa, to Brooklyn, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

PENSIONS TO DRAFTED MEN.

Mr. PRICE introduced a bill (H. R. No. 702) in reference to the payment of pensions to drafted men; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAIL ROUTES IN MINNESOTA.

Mr. DONNELLY introduced a bill (H. R. No. 703) to establish certain mail routes in the State of Minnesota; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

UNION PACIFIC RAILROAD.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 704) in aid of the Union Pacific railway, eastern division, supplementary to an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July 1, 1862, and the acts amendatory thereof;" which was read a first and second time, and referred to the Committee on the Pacific Railroad, and ordered to be printed.

CLAIMS FOR INDIAN DEPREDATIONS.

Mr. CLARKE, of Kansas, also introduced ab ill (H. R. No. 705) to provide for a commission to investigate claims arising from Indian depredations; which was read a first and second time, and referred to the Committee on Indian Affairs, and ordered to be printed.

INTERCOURSE WITH INDIAN TRIBES.

Mr. CLARKE, of Kansas, also introduced a bill (H. R. No. 706) amending an act entitled "An act to amend an act entitled an act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers, approved June 30, 1834;" which was read a first and second time, and referred to the Committee on Indian Affairs, and ordered to be printed.

MAHALA ANDERSON.

Mr. HUBBARD, of West Virginia, introduced a bill (H. R. No. 707) for the relief of Mahala Anderson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WAGON ROAD IN NEW MEXICO.

Mr. CLEVER introduced a bill (H. R. No. 708) to construct a wagon road from Cinnamon to Virginia City, New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

MARGARET WARD.

Mr. CLEVER also introduced a bill (H. R. No. 709) for the relief of Margaret Ward; which was read a first and second time, and referred to the Committee of Claims.

PRIVATE LAND CLAIMS IN NEW MEXICO.

Mr. CHILCOTT introduced a bill (H. R. No. 710) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico;" which was read a first and second time, and referred to the Committee on Private Land Claims.

SALARIES OF PATENT OFFICE CLERKS.

Mr. PETERS introduced a bill (H. R. No. 711) relating to the salaries of certain clerks in the Patent Office, and for other purposes; which was read a first and second time, and referred to the Committee on Patents.

TESTIMONY IN CRIMINAL CASES.

Mr. PETERS also introduced a bill (H. R. No. 712) to allow the respondent in criminal proceedings to testify in his own behalf in any court of the United States held in any State where such privilege is allowed in the courts of such State by the statute thereof; which was read a first and second time, and referred to the Committee on the Judiciary.

EXPORTATION OF DISTILLED SPIRITS.

Mr. HOOPER, of Massachusetts, introduced a bill (H. R. No. 713) to provide for the exportation of distilled spirits in bond, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Mr. HOOPER, of Massachusetts. I ask leave for the committee to report upon the bill at any time.

The SPEAKER. The Chair cannot ask unanimous consent during the morning hour on Monday.

DUTY ON LUMBER, ETC.

Mr. CHURCHILL introduced a bill (H. R. No. 714) to regulate the duty on lumber, timber, wood, and manufactures of wood; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

OHIO SCHOOL LANDS.

Mr. MUNGEN introduced a bill (H. R. No. 715) for the relief of congressional township number eight, south; range number three, east, in Mercer county, State of Ohio, in relation to school lands; which was read a first and second time, and referred to the Committee on Education and Labor.

LEGAL RATE OF INTEREST.

Mr. INGERSOLL introduced a bill (H. R. No. 716) to amend an act in reference to the legal rate of interest; which was read a first and second time, and referred to the Committee for the District of Columbia.

MECHANICS' LIENS.

Mr. INGERSOLL also introduced a bill (H. R. No. 717) for the enforcement of mechanics' liens on buildings in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

The call of the States and Territories for bills and resolutions having been completed, the Speaker proceeded, as the next business in order during the morning hour, to call the States and Territories in the inverse order for resolutions, commencing with the Territory of Montana.

ROOM FOR TERRITORIAL DELEGATES.

Mr. BURLEIGH. I offer the following resolution, upon which I demand the previous question:

Resolved, That, under the direction of the Speaker a room in the Capitol be assigned for the joint use of the Delegates from the Territories in which to transact their business, such as holding consultations, directing documents, &c.

The SPEAKER. The Chair may be permitted to state that if this resolution shall be adopted he does not know how he can carry it out, as there are ten rooms now in which two committees meet regularly, there not being enough committee-rooms to furnish one for each committee.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to—ayes seventy-seven, noes not counted.

Mr. BURLEIGH. I move to reconsider the vote by which the resolution was adopted; and to lay the motion to reconsider on the table.

The SPEAKER. No motion to reconsider can be entertained in regard to business during the morning hour on Monday.

DRAWING FOR SEATS.

Mr. FLANDERS. I offer the following resolution, upon which I demand the previous question:

Resolved, That members necessarily absent from the House on account of sickness or other unavoidable cause, shall, as their names are called, have selections made for them by friends authorized to represent them.

The previous question was seconded and the main question ordered.

The question was put on agreeing to the resolution, and there were—ayes 62, noes 55.

Mr. KELLEY called for tellers.

Tellers were ordered; and Messrs. KELLEY and HUMPHREY were appointed.

Mr. DAWES. I suggest to the gentleman from Washington Territory [Mr. FLANDERS] that he modify the resolution by striking out the words "or other unavoidable cause." I think there will be no objection to allowing seats to be selected for gentlemen who are absent on account of sickness.

Mr. FLANDERS. I modify the resolution by striking out the words "or other unavoidable cause."

The House again divided; and the tellers reported that there were—ayes 75, noes 34.

So the resolution was agreed to.

ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river and establish a post route.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. POMEROY, on account of serious illness of a member of his family.

REREFERENCE OF LAND CLAIMS.

Mr. CLEVER submitted the following resolution; which was read, considered, and adopted:

Resolved, That private land claims Nos. 9, 41 and 42, referred to the Committee on Private Land Claims, and ordered to be printed January 12, 1861, No. 44 referred to Committee on Private Land Claims and ordered to be printed January 6, 1861, Nos. 45, 46, 47, and 48, referred to Committee on Private Land Claims and ordered to be printed May 16, 1862, be, and the same are hereby, rereferred to said committee, no action having been taken in said claims by the Thirty-Sixth or the Thirty-Seventh Congress, with directions to report by bill or otherwise.

DRAWING FOR SEATS.

Mr. CLARKE, of Kansas, submitted the following resolution, upon which he called the previous question.

Resolved, That the resolution adopted by the House on Friday, February 7, in reference to drawing seats is hereby rescinded.

The question was upon seconding the call for the previous question.

Mr. HOLMAN. I move to lay the resolution on the table.

Mr. FARNSWORTH. Is it in order to make a parliamentary inquiry of the Chair?

The SPEAKER. The Chair will answer a parliamentary inquiry.

Mr. FARNSWORTH. Should the previous question not be seconded, would the resolution go over until Monday next?

The SPEAKER. It would, if it gave rise to debate.

Mr. HOLMAN. I will withdraw the motion to lay the resolution on the table and allow the vote to be first taken upon the other question.

Mr. KOONTZ. I renew the motion to lay the resolution on the table.

Mr. WILSON, of Iowa. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 88, nays 81, not voting 20; as follows:

YEAS—Messrs. Adams, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Beatty, Beck, Bingham, Bromwell, Buckland, Cake, Cary, Cobb, Coburn, Dawes, Driggs, Eggleston, Ela, Farnsworth, Fields, Garfield, Glossbrenner, Golladay, Grover, Hawkins, Higby, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Jones, Julian, Kerr, Ketcham, Knott, Koontz, Lincoln, Logan, Mallory, Maynard, McCormick, Mercur, Miller, Moorhead, Mullins, Newcomb, Niblack, Nicholson, Nunn, Orth, Peters, Phelps, Poland, Polsley, Price, Pruyn, Randall, Raum, Sawyer, Scofield, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Van Auken, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, Woodbridge, and Woodward—88.

NAYS—Messrs. Allison, Ames, Archer, Baldwin, Barnes, Beaman, Benjamin, Boutwell, Boyer, Brooks, Broomall, Burr, Butler, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Dodge, Donnelly, Eckley, Eldridge, Eliot, Ferriss, Ferry, Fox, Getz, Gravely, Griswold, Haight, Halsey, Harding, Hooper, Hulburd, Humphrey, Judd, Kelley, Kitchen, Laflin, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, Marshall, Marvin, McClurg, McCullough, Moore, Morgan, Morrell, Mungen, Myers, O'Neill, Paine, Perham, Pike, Pile, Plants, Robinson, Ross, Schenck, Sitgreaves, Smith, Spalding, Stewart, Stone, Thomas, Upson, Van Aernam, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, Windom, and Wood—81.

NOT VOTING—Messrs. Banks, Barnum, Benton, Blaine, Blair, Cullom, Dixon, Finney, Kelsey, McCarthy, Morrissey, Pomeroy, Robertson, Selye, Shellabarger, Thaddeus Stevens, Taber, Van Wyck, Elihu B. Washburne, and Stephen F. Wilson—20.

So the resolution was laid on the table.

During the roll-call,

Mr. ELIOT said: I received a letter this morning from the gentleman from New York, [Mr. POMEROY,] saying that he is unable to be present on account of illness in his family.

The SPEAKER. Leave of absence has been granted to him on that account.

ANTONIO PELLETIER.

Mr. DONNELLY submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of State be, and is hereby directed, if not inconsistent with the public interest, to furnish this House with copies of the correspondence, official records, and all other papers and documents on file in his Department relating to the imprisonment of Antonio Pelletier, a citizen of the United States, and the confiscation and destruction of his property by the people and officials of the republic of Hayti.

AMENDMENT OF BANKRUPT LAW.

Mr. DONNELLY also submited the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the bankrupt law that a petition of a majority of the creditors in interest shall be necessary to compel a debtor into involuntary bankruptcy, and to report by bill or otherwise.

DOCUMENT FILE CLERK.

Mr. WINDOM. I submit the following resolution, and move its reference to the Committee on Accounts:

Resolved, That the Doorkeeper of the House of Representatives be authorized to appoint a document file clerk, whose salary shall be equal to that of messenger in his department, and who shall be paid from the contingent fund of the House during the time actually employed.

The motion of Mr. WINDOM was agreed to; and the resolution was referred to the Committee on Accounts.

OFFICE OF SECRETARY OF WAR.

Mr. WINDOM also submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That ten thousand extra copies of the correspondence between the President and General Grant be printed for the use of the House.

LEGAL SERVICES FOR STATE DEPARTMENT, ETC.

Mr. HIGBY submitted the following resolution, on which he demanded the previous question:

Resolved, That the Secretary of State be directed to furnish to this House a statement of the amount paid by or through the State Department during each year since 1860 for legal services in addition to the amounts paid to salaried officers, including all sums paid for legal services, whether as office costs, commissions, or traveling or other expenses, with the names of the persons to whom money has been paid, with the amount to each, specifying the cases or business in which such services have been rendered; and also to state whether any amounts are now claimed for similar services hitherto rendered, and by whom; and also what persons, if any, other than the officers authorized by law are now employed as counsel for said Department and for what compensation, and how paid or agreed to be paid, and under what authority such counsel have been retained and employed, and for what purposes.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

Mr. WILSON, of Iowa. I object.

The SPEAKER. Objection being made, the resolution goes over under the rules.

REMOVAL OF SEAT OF GOVERNMENT.

Mr. PAINE submitted the following resolution, on which he demanded the previous question:

Resolved, That the seat of Government of the United States ought to be removed to the valley of the Mississippi.

The previous question was seconded and the main question ordered.

Mr. BURR. I desire to inquire whether the effect of the adoption of this resolution will be to suspend the drawing for seats which was fixed for this morning. [Laughter.]

The SPEAKER. It will not.

The question being on the adoption of the resolution,

Mr. GETZ called for the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKS. I want to make an inquiry for information, so that we may vote intelligently. Is not a part of New York and northern Pennsylvania in the valley of the Mississippi? [Laughter.]

The SPEAKER. That is not a parliamentary question, and the Chair cannot answer it.

The question was taken; and it was decided in the negative—yeas 77, nays 97, not voting 15; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baker, Beatty, Benjamin, Bromwell, Buckland, Burr, Butler, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Ferry, Gravely, Grover, Harding, Hawkins, Higby, Hol-

man, Hooper, Hopkins, Asahel W. Hubbard, Hunter, Ingersoll, Judd, Julian, William Lawrence, Loan, Logan, Loughridge, Mallory, Marshall, McClurg, McCormick, Miller, Mungen, Newcomb, Nunn, Orth, Paine, Pile, Poland, Price, Raum, Ross, Sawyer, Shanks, Smith, Taffe, Lawrence S. Trimble, Upson, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Windom, and Woodbridge—77.

NAYS—Messrs. Adams, Archer, Bailey, Baldwin, Barnes, Beaman, Beck, Benton, Bingham, Blaine, Boutwell, Boyer, Brooks, Broomall, Cake, Churchill, Cornell, Covode, Dawes, Ela, Eldridge, Eliot, Ferriss, Fields, Fox, Garfield, Getz, Glossbrenner, Golladay, Haight, Halsey, Hill, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Johnson, Jones, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Koontz, Lallin, George V. Lawrence, Lincoln, Lynch, Marvin, Maynard, McCullough, Mercur, Moore, Moorhead, Morgan, Morrell, Mullins, Myers, Niblack, Nicholson, O'Neill, Perham, Peters, Phelps, Pike, Plants, Polsley, Pruyn, Randall, Robinson, Schenck, Scofield, Sitgreaves, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Ward, William B. Washburn, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—97.

NOT VOTING—Messrs. Banks, Barnum, Blair, Dixon, Finney, Griswold, Knott, McCarthy, Morrissey, Pomeroy, Robertson, Selye, Shellabarger, Taber, and Van Wyck—15.

So the resolution was not adopted.

DRAWING FOR SEATS.

The SPEAKER. The morning hour has expired; and, according to order, the House will now proceed to carry out the resolution providing for the drawing for seats.

Mr. DAWES. I desire to submit the same motion that was made when we drew for seats at the beginning of this Congress—that the venerable gentleman from Pennsylvania, [Mr. STEVENS,] the gentleman from Maryland, [Mr. THOMAS,] and the gentleman from Illinois, [Mr. WASHBURNE,] the oldest in continuous service of the members of the House, be allowed to retain the seats they now occupy.

The SPEAKER. To entertain that motion requires unanimous consent.

Mr. ELDRIDGE. I object, unless the gentleman from Vermont [Mr. POLAND] be included in the exception. [Laughter.]

Mr. DAWES. I move to suspend the rules to allow me to make the motion I have indicated.

Mr. ELDRIDGE. I withdraw my objection.

The SPEAKER. If there is no further objection the motion of the gentleman from Massachusetts [Mr. DAWES] will be entertained.

There was no objection.

Mr. RANDALL. I desire to move as an amendment to the motion of the gentleman from Massachusetts that members above sixty years of age shall have a preference in the choice of seats. [Laughter.]

Mr. DAWES. I cannot accept that amendment. I call the previous question.

Mr. BOYER. I rise to a question of order. I desire to inquire of the Chair whether it would be in order at this time to move to postpone the drawing for seats till a future day.

The SPEAKER. It would be but for the fact that another motion is now before the House.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. DAWES was agreed to; there being—ayes one hundred and sixteen, noes not counted.

Mr. DAWES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOYER. Mr. Speaker, would it now be in order to offer a resolution to postpone the drawing for seats till a future day?

The SPEAKER. The hour having arrived for the execution of the special order, which is the drawing for seats, a motion to postpone would be in order.

Mr. BOYER. I desire to offer the following resolution:

Resolved, That, in order that equal and exact justice may be done to all whom it may concern, including those members of the House of Representatives who are absent and have not had notice of the proposed drawing for seats this day, the drawing for seats shall be postponed until Monday, the 24th instant, immediately after the morning hour.

Mr. FARNSWORTH and others objected.

Mr. BOYER. I move to suspend the rules to allow the introduction of the resolution.

The motion to suspend the rules was not agreed to.

Mr. MYERS. I ask unanimous consent to offer the following resolution, which I think will greatly facilitate the drawing for seats:

Resolved, That no member who was present at the first drawing for seats in the House during the present Congress, and who has expressed dissatisfaction with the seat he chose, shall have his name placed in the present drawing, but such members shall retain the seats thus chosen by them.

Mr. ASHLEY, of Ohio. I object.

Mr. TWICHELL. My colleague, Mr. BANKS, is detained at his home by sickness. I ask unanimous consent that he be allowed to retain his present seat.

Mr. MUNGEN. I object.

Mr. UPSON. I suppose the gentleman [Mr. TWICHELL] will have the right to draw a seat for his colleague when the name of the latter is called.

The SPEAKER. He will.

FOREIGN COMMERCIAL RELATIONS.

The SPEAKER laid before the House a communication from the Secretary of State, transmitting, in compliance with the acts of August 16, 1842, and August 18, 1856, reports on the commercial relations of the United States with foreign nations for the year ending September 30, 1867; which was ordered to be printed, and referred to the Committee on Commerce.

Mr. WASHBURNE, of Illinois, moved that five hundred extra copies be printed.

The SPEAKER. That motion will go to the Committee on Printing.

The SPEAKER also laid before the House a communication from the Assistant Secretary of State, asking for additional copies of the report on the commercial relations of the United States for the use of the Department of State; which was ordered to be referred to the Committee on Printing.

NUMBER OF VESSELS IN THE NAVY, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, answering House resolution of the 27th ultimo, relative to the number of vessels in the Navy January 1, 1861, number of officers, expenses of the Navy, &c.; which was ordered to be printed, and referred to the Committee on Naval Affairs.

SUFFERING POOR OF THE SOUTH.

The SPEAKER also laid before the House an extract from the proceedings of the constitutional convention of Mississippi, relative to a portion of the cotton tax being applied to the relief of the suffering poor; which was ordered to be printed, and referred to the Committee on Appropriations.

LOAN TO SOUTHERN PLANTERS.

The SPEAKER also laid before the House a preamble and resolutions of the constitutional convention of Georgia, asking, in behalf of southern planters, a loan of $30,000,000 from the United States Government; which was ordered to be printed, and referred to the Committee on Appropriations.

CAPITAL BUILDINGS IN NEW MEXICO.

The SPEAKER also laid before the House resolutions of the Territorial Legislature of New Mexico, on the subject of capital buildings; which was ordered to be printed, and referred to the Committee on the Territories.

VETO POWER.

The SPEAKER also laid before the House resolutions of the Territorial Legislature of New Mexico, on the veto power of the Governor; which was ordered to be printed, and referred to the Committee on the Territories.

DRAWING FOR SEATS—AGAIN.

Mr. BROOMALL. I ask unanimous consent to submit the following resolution:

Resolved, That the drawing for seats of members under the resolution passed on Friday last be postponed until after the admission of the Representatives from Alabama.

Mr. MULLINS and Mr. FARNSWORTH objected.

Mr. BROOMALL. I move to suspend the rules.

The motion was disagreed to—ayes 74, noes 78.

The SPEAKER. By the order of the House the drawing takes place in accordance with the usual practice, which is, for all members to retire beyond the back row of seats.

The members accordingly retired beyond the outer row of seats.

Mr. EGGLESTON. I rise to a privileged question. It has been suggested to me by some gentlemen who occupy seats on the outside of the ring that the box should be well shaken before drawing. [Laughter.]

The SPEAKER. The Clerk will execute that request. The Chair will state that by the usual rule when the names are called members must come forward and occupy the seats that they select until the close of the drawing. Those who in consequence of sickness are allowed to draw by proxy will require one of the pages to occupy the seat chosen for the absent member so that there will be no danger of its being taken by any other member. Any member who leaves the seat drawn by himself before the drawing is concluded forfeits his right to the same.

Mr. CAVANAUGH. I rise to a privileged question.

Mr. GARFIELD. I rise to a question of order. No person is allowed by the rule to speak except from his seat. [Laughter.]

The SPEAKER. No debate is in order.

Mr. CAVANAUGH. I desire seriously to know if there are no names in the box except those of "useful members," to use the expression of the gentleman from Pennsylvania, [Mr. KELLEY.]

The SPEAKER. The Clerk will commence the drawing.

The drawing was then conducted in accordance with the order of the House, and was concluded at five minutes after two o'clock.

ROCK ISLAND BRIDGE.

Mr. PRICE. I ask the unanimous consent of the House to introduce a joint resolution in regard to the Rock island bridge, for consideration at this time.

The joint resolution was read. The first section provides that the act of Congress "making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, be, and the same is, so amended as to authorize and direct the Secretary of War to order the commencement of work on the bridge over the Mississippi river at Rock island; provided, that the ownership of said bridge shall be and remain in the United States, and the Rock Island and Pacific Railroad Company shall have the right of way over said bridge for all purposes of transit across the island and river, upon condition that the said railroad company shall pay to the United States, first, half of the cost of the superstructure of the bridge over the main channel, and half the cost of keeping the same in repair, and shall also build at its own cost the bridge over that part of the river which is on the east side of the island of Rock island, and also the railroad on and across said island of Rock island; and upon a full compliance with these conditions said railroad company shall have the use of said bridge for the purposes of free transit, but without any claim to the ownership thereof; and said railroad company shall, within six months after said new bridge is ready for use, remove their old bridge from the river, and their railroad track from its present location on the island of Rock island; and provided further, that the Government may permit any road or roads wishing to cross

on said bridge to do so by paying to the parties then in interest the proportionate cost of said bridge; but no such permission to other roads shall impair the right hereby granted to the Chicago, Rock Island, and Pacific Railroad Company, and that the total cost of said bridge shall not exceed the estimates made by the commissioners appointed under the act above, approved June 27, 1866.

The second section provides that in case the Rock Island and Pacific Railroad Company shall neglect or fail, for sixty days after the passage of this resolution, to make and guaranty the agreement specified in the act of appropriation aforesaid, approved March 2, 1867, then the Secretary of War shall be, and is hereby, authorized and required to direct the removal of the existing bridge, and to direct the construction of the bridge aforesaid, and expend the money appropriated for that purpose in said act; and the said Rock Island and Pacific Railroad Company shall not have, acquire, or enjoy any right of way or privilege thereon, or the use of said bridge, until the agreement aforesaid shall be made and guarantied according to the terms and conditions of said act of appropriation. All acts or parts of acts inconsistent with these resolutions are hereby repealed.

Mr. SCOFIELD. I object.

Mr. PRICE. I move a suspension of the rules.

MESSAGES FROM THE PRESIDENT.

Several messages in writing from the President of the United States were communicated to the House by Mr. W. G. MOORE, his Private Secretary.

RECESS.

Mr. PRUYN. It is evident that we can do no business amid the confusion caused by members changing their seats. I move that the House take a recess for ten minutes.

Mr. STEVENS, of Pennsylvania. I hope not.

Mr. MUNGEN. I move that the House do now adjourn.

The question was taken; and the House refused to adjourn.

The question was then taken on Mr. PRUYN's motion, and it was agreed to; and the House accordingly took a recess for ten minutes.

MESSAGE FROM THE SENATE.

The recess having expired, a message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed the bill (H. R. No. 452) for the relief of Captain C. P. Johnson.

TRIAL AND CONVICTION OF AMERICAN CITIZENS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to the resolution of the House of Representatives of the 25th of November, 1867, calling for information in relation to the trial and conviction of American citizens in Great Britain and Ireland for the two years last past, I transmit a partial report from the Secretary of State, which is accompanied by a portion of the papers called for by the resolution. ANDREW JOHNSON.

WASHINGTON, *February* 10, 1868.

Mr. ORTH. I move that the message and accompanying papers be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

SUPPLY OF TIMBER FOR THE NAVY.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a communication from the Secretary of the Navy relative to depredations upon, and future care of, the reservations of land for the purpose of supplying timber for the Navy of the United States. ANDREW JOHNSON.

WASHINGTON, *February* 10, 1868.

The message, with the accompanying communication, was referred to the Committee on Naval Affairs, and ordered to be printed.

POST OFFICE AT PENN YAN.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In reply to the resolution of the House of Representatives of the 1st instant, I transmit herewith a report from the Postmaster General in reference to the appointment of a special agent to take charge of the post office at Penn Yan, in the State of New York. ANDREW JOHNSON.

WASHINGTON, *February* 10, 1868.

Mr. KELSEY. I move that the message, with the accompanying report, be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

ROCK ISLAND BRIDGE—AGAIN.

The question recurred upon Mr. PRICE's motion, to suspend the rules to enable him to introduce a joint resolution in regard to the Rock Island bridge for action at this time.

Mr. SCOFIELD. I will withdraw my objection to the introduction of the joint resolution if the gentleman will allow a few minutes debate upon it after it is introduced.

Mr. PRICE. How many minutes does the gentleman want?

Mr. SCOFIELD. I only ask for ten minutes.

Mr. PRICE. I have certainly no objection to having the matter discussed, but it will delay business, and this is a very plain matter. It is only an explanatory law.

The SPEAKER. Does the gentleman from Pennsylvania withdraw his objection?

Mr. SCOFIELD. On condition that the gentleman will allow ten minutes for debate.

Mr. PRICE. I will allow him five minutes, if he will be satisfied with that.

Mr. SCOFIELD. I presume five minutes will be sufficient for me.

Mr. PRICE. Then I will yield five minutes to the gentleman.

Mr. SCOFIELD. Then I withdraw my objection.

No other objection being made, the joint resolution (H. R. No. 211) in regard to the Rock Island bridge was introduced and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. PRICE. I do not wish to consume any of the time of the House in reference to this joint resolution more than to say that the resolution is sent here by the Secretary of War, and is explanatory of the law passed in reference to the removal of a bridge at Rock Island, which is an obstruction to the navigation of the river. The law was passed over a year ago. There is no money in the joint resolution; it is nothing but an explanatory statement of the law. I now yield five minutes to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. I take issue with the gentleman from Iowa [Mr. PRICE] when he says there is no money in this joint resolution. There is not only some money in it, but, in my judgment, there is a great deal of money in it. It is no more and no less than a plan to get a bridge built across the Mississippi river by the United States and then to donate it to a railroad company. The United States now have a bridge across the east portion of the river to the island of Rock Island. It is now proposed that the United States shall build the half of another bridge across the entire river, both branches of it, and to give the one half of that half to a railroad company that will use it all the time, while the United States will have the mere privilege of driving a few Government wagons across it.

Now, everybody who is in favor of that project and of the legislation that inaugurated it at the last session may very well vote now to remove the obstacles which the crude legislation the gentleman from Iowa forced through here without discussion has rendered necessary. And when that object shall have been accomplished the United States will have built a railroad bridge across the Mississippi river and donated the half of it to a railroad company, while the Government will have no other return from the outlay than the mere privilege of driving each year a few wagon teams across it.

There is more than that in this matter. Merely the foundation of the arsenal on Rock Island has been laid, and already more than a million dollars has been expended. One small building only has been built, and the foundation only for the rest has been laid, and one million dollars and over have been expended. Instead of there being no money in this joint resolution, it is only a part of a stupendous whole.

The Secretary of the Treasury has just informed us that the debt of the United States has increased $20,000,000 in one month. I know some gentlemen here say: fill up the Treasury with greenbacks; set your printing presses at work, and make more pictures. But we have so many of them now that the currency is very much depreciated. Let us, instead of depleting the Treasury and filling it with greenbacks, close down the lid and keep it closed until the end of this session.

If we allow this railroad bill to go through and require the half of this bridge to be built at the expense of the United States, the next thing we will be asked to put through all the railroad bills which have been introduced giving subsidies to new railroads; and then I shall ask to be allowed to come in with an application for Congress to build a bridge across the Alleghany river at the place where I live, just as the gentleman from Iowa [Mr. PRICE] wants a bridge built across the Mississippi to Davenport, where he lives. If I bring in such a project will the gentleman vote for it? We need it there very much. I want to know whether the gentleman will vote for it? Let him give me a nod if he will.

Mr. PRICE. I will answer the gentleman when he gets through.

Mr. WASHBURN, of Wisconsin. I will vote for it if it is right.

Mr. SCOFIELD. I have the pledge of the vote of one gentleman for a bridge across the Alleghany river at Warren, provided he gets this joint resolution through, I suppose he means. This measure, introduced when the House is in confusion, (gentlemen being engaged in changing their seats and arranging their desks,) inaugurates a system never before practiced by the United States of building railroad bridges for the sake of having the privilege of using it ourselves a little. This is to be done for the benefit of a rich railroad company, whose stock is now three or four per cent. above par. I ask gentlemen if such a proposition as that should be passed at this time?

Mr. PRICE. Mr. Speaker, I want to say to the House that the speech just made by the gentleman from Pennsylvania [Mr. SCOFIELD] would have been a very good speech if it had contained one thing that it did not contain, and that is a very small spice of truth. And I want to say right here that I make no bargains in legislation. I never ask for a thing unless in my conscience I believe it to be right; and in asking for the passage of this measure the facts of the case back me up. When the gentleman states to the House that we propose to build a bridge there and donate it to a railroad company he states what has no foundation in fact and what he ought not to state upon this floor; for ever since the passage of the original law by this House the greatest obstacle with which this work has had to contend has been this railroad company, because we would not give them the bridge after it is built. And yet the gentleman from Pennsylvania, the friend *par excellence* of reform, retrenchment, and economy, raises a howl against this bill, because he is in favor of a railroad bridge——

The SPEAKER. The gentleman from Iowa [Mr. PRICE] must not state that any gentleman "raises a howl." Such language is certainly not parliamentary. [Laughter.]

Mr. PRICE. If the word "howl" is not parliamentary, I will take it back and substi-

tute some other word that will serve the purpose. "Noise" will probably do as well.

Mr. SCOFIELD. Will the gentleman allow me to ask him a question about the facts?

Mr. PRICE. No, I cannot yield now. I have already yielded to the gentleman.

Now, sir, this resolution proposes, as its very backbone, that the ownership of this bridge shall be in the Government, not giving the control of it to any railroad company. If the gentleman were attorney here for any railroad company, then his speech would be entirely appropriate, provided it had contained a little more of that article which ought to be found in all speeches as well as all books.

I did not suppose any gentleman on this floor would object to this resolution. It is simply explanatory of a law heretofore passed. Instead of giving the control of the bridge to the railroad, it in express terms gives the control to the Government. That is what railroad men do not like, I suppose; but it is what the people want. I now call the previous question.

Mr. HOLMAN. In consequence of the confusion in the Hall it was impossible for us to hear the reading of the joint resolution. I desire to ask whether it makes an appropriation?

The SPEAKER. The Chair is of opinion that it does not, but at any rate it is too late to raise the point, as the joint resolution came in by unanimous consent.

Mr. SCOFIELD. As the gentleman from Iowa [Mr. PRICE] says that I have misstated all the facts——

Mr. PRICE. Not all.

Mr. SCOFIELD. And as the gentleman has himself stated none of the facts, but has asked us to go it blind, without even explaining the facts, I think, after his discourtesy and his unparliamentary remarks with regard to myself he ought to yield for a question.

Mr. PRICE. I will do so.

Mr. SCOFIELD. I ask whether this joint resolution, with the legislation which preceded it, which is perfected by it, and which is useless without it, does not provide that the United States shall build a railroad bridge and pay one half of the expense, the railroad company paying the other half; the title, to be sure, remaining in the United States; the United States having the right of way for wagons by a bridge hung underneath, but the railroad company having the whole use of the main bridge. I ask the gentleman whether that is not the fact?

Mr. WASHBURN, of Wisconsin. Will not the joint resolution also compel the company to remove the present bridge?

Mr. PRICE. I will answer the gentleman. He thinks I have been rather discourteous. I will say to him that there was no intention on my part to be discourteous. But I claim the right when the gentleman makes a statement that does not correspond with the facts to contradict it.

Now, I answer the gentleman that the railroad company have a bridge of their own there to-day, which is an obstruction to navigation, and which, for that reason, this Congress passed a law compelling them to remove. They provided in that first law the Secretary of War should give such aid, pecuniary and otherwise, toward the construction of a new bridge as he thought proper. This is for the purpose of enabling the Secretary of War to carry out the provisions of that law. This joint resolution is asked for by the Secretary of War; and, sir, I answer most decidedly that there is no wagon-road bridge under this bridge for the public.

Mr. SCOFIELD. How do wagons get over it?

Mr. PRICE. The Government is compelled to build a bridge across, and it has to put up piers whether this bridge would run across it or not; but, sir, by this means we make the railroad company pay for one half of the cost of the bridge which it would have to build otherwise at its own entire cost.

Mr. SCOFIELD. The United States have a bridge there.

Mr. PRICE. The United States have no bridge across the river at all. There is a slough.

Mr. SCOFIELD. There is one from the mainland to the island.

Mr. PRICE. There is no river there; but there is a slough between the mainland and Rock island. It requires $13,000 to build that bridge. They have transferred it to the Government, and we do not propose to interfere with it.

Mr. SCOFIELD. That is a bridge to the island.

Mr. PRICE. It is a bridge over the slough costing $13,000.

Mr. SCOFIELD. From the eastern shore.

Mr. PRICE. That is all of it.

Mr. SCOFIELD. The United States are to pay one half of the cost of the railroad bridge and the railroad company are to pay the other half, and the reason he gives us, as I understand, is the company have now a bridge obstructing the navigation, one which the United States requires to be removed, and this resolution provides that the United States shall pay one half of the cost of a new bridge.

Mr. PRICE. The true statement of the case is that the Government is compelled to build a bridge to get to its works upon the island, and by this means the railroad company pay one half of the cost.

Mr. SCOFIELD. The gentleman has substantiated all my statements.

Mr. UPSON. What necessity is there for having a bridge to Rock Island from the opposite western shore?

Mr. PRICE. They could not get to their property unless they had it. The Government own the whole island, which is three miles long, and they are building an armory and arsenal there.

Mr. UPSON. I speak of the western side.

Mr. PRICE. They could not get there without it.

Mr. STEVENS, of Pennsylvania. Has the joint resolution been printed?

The SPEAKER. It has. It is upon the files, printer's number 220.

Mr. SCOFIELD. That is an old one.

The SPEAKER. It is the same joint resolution with the exception of one date, which is changed.

Mr. PRICE. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. SCOFIELD moved that the joint resolution be laid on the table; and on that motion demanded the yeas and nays.

The yeas and nays were not ordered; and the motion was disagreed to.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 45, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R Ashley, James M. Ashley, Baker, Beaman, Benjamin, Bingham, Blaine, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dodge, Eggleston, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Harding, Higby, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Judd, Julian, Kelsey, Koontz, Laflin, George V. Lawrence, Loan, Logan, Loughridge, Lynch, Marshall, Marvin, McClurg, McCormick, Miller, Morrell, Mullins, Mungen, Myers, Newcomb, Nicholson, O'Neill, Orth, Perham, Peters, Pike, Pile, Plants, Price, Pruyn, Sawyer, Shanks, Sitgreaves, Spalding, Stewart, Stokes, Stone, Taffe, Thomas, Trowbridge, Twichell, Upson, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, and Wood—85.

NAYS—Messrs. Arnell, Bailey, Beatty, Benton, Boyer, Brooks, Broomall, Buckland, Cary, Churchill, Cornell, Eckley, Ela, Fields, Getz, Glossbrenner, Haight, Hawkins, Hill, Holman, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Kelley, Kerr, Ketcham, Kitchen, William Lawrence, Maynard, Mercur, Moore, Moorhead, Nunn, Paine, Polsley, Scofield, Thaddeus Stevens, Taylor, John Trimble, Van Auken, Ward, Thomas Williams, William Williams, and Woodward—45.

NOT VOTING—Messrs. Adams, Archer, Axtell, Baldwin, Banks, Barnes, Barnum, Beck, Blair, Boutwell, Burr, Butler, Cake, Chanler, Covode, Dawes, Dixon, Donnelly, Driggs, Eldridge, Eliot, Finney, Fox, Golladay, Griswold, Grover, Halsey, Hooper, Hotchkiss, Jones, Knott, Lincoln, Mallory, McCarthy, McCullough, Morgan, Morrissey, Niblack, Phelps, Poland, Pomeroy, Randall, Raum, Robertson, Robinson, Ross, Schenck, Selye, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Taber, Lawrence S. Trimble, Van Aernam, Burt Van Horn, Van Wyck, Stephen F. Wilson, and Woodbridge—59.

So the joint resolution was passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. CARY for one week after to-day. Also, for Mr. ARCHER for one week.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I rise to move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the legislative appropriation bill. But before that motion is put I will yield for a moment to the gentleman from Pennsylvania [Mr. STEVENS] to offer a resolution, and then for four minutes to the gentleman from Missouri [Mr. PILE] for a personal explanation.

IMPEACHMENT.

Mr. STEVENS, of Pennsylvania. I ask leave to introduce the following resolution:

Resolved, That the evidence taken on impeachment by the Committee on the Judiciary be referred to the Committee on Reconstruction, and the committee have leave to report at any time.

Mr. RANDALL and Mr. BROOKS objected.

Mr. STEVENS, of Pennsylvania. I move to suspend the rules.

Mr. ELDRIDGE. If the gentleman will allow me to suggest an amendment, I may conclude to vote for the suspension of the rules. My amendment is that fifty thousand copies of the evidence be printed for the use of the public. I think the gentleman ought to consent to that, as it has not yet been printed except for the House.

Mr. STEVENS, of Pennsylvania. This is to save taking new evidence.

Mr. ELDRIDGE. The public have never had an opportunity of reading that testimony, and they are very anxious to have it.

Mr. STEVENS, of Pennsylvania. I have no objection.

The SPEAKER. That order cannot be made even by unanimous consent. The motion must go to the Committee on Printing.

Mr. ELDRIDGE. I think the verdict of the people would have been conclusive and final against impeachment before now if the evidence had been printed and distributed among them.

The SPEAKER. Does the gentleman offer that resolution for reference to the Committee on Printing?

Mr. ELDRIDGE. Yes, sir.

The SPEAKER. The resolution then goes to the Committee on Printing.

Is the objection to the resolution of the gentlemen from Pennsylvania [Mr. STEVENS] insisted upon?

Mr. BROOKS. I will not object to the resolution if the gentleman will permit me to make an amendment. It is very important that the reply of the President of the United States, as made to the letter of the General of the Army, be requested to be sent to this House. I therefore move the following additional resolution:

Resolved, That the President be requested to transmit to this House any further correspondence he may have had with General U. S. Grant in addition to that heretofore submitted on the subject of the recent vacation by the latter of the War Office.

Mr. STEVENS, of Pennsylvania. I agree to that.

The resolution of Mr. STEVENS, of Pennsylvania, as amended by the addition of the resolution of Mr. BROOKS, was agreed to.

Mr. STEVENS, of Pennsylvania, moved to reconsider the several votes just taken; and

also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. WASHBURNE, of Illinois. I now yield to the gentleman from Missouri [Mr. PILE] four minutes for a personal explanation.

Mr. PILE. Mr. Speaker, when I objected a few days ago to the introduction of the resolution read by the Clerk at the request of the gentleman from California, [Mr. JOHNSON,] and turned to sit down, I made a remark that I thought the resolution was a burlesque on common sense. I did not make it as a part of my objection, but made it in an under tone; but it seems it was sufficiently loud to catch the reporter's ear, and thus it passed into the record. I regret that that remark should have so troubled the gentleman as to distemper his appetite by day and disturb his sleep by night; but since he has made it the occasion of an attack on me, I desire to say to him if he had known more about parliamentary law and usage with reference to a matter of this kind he would have found that a measure introduced into this House for action may be characterized as foolish, unwise, wicked, unjust, or any similar term without any violation of parliamentary law or without any breach of the rules of courtesy. And I wish to say to him further, since he makes the point upon this expression, that his resolution was a burlesque on common sense and his speech a burlesque on his resolution.

The gentleman felt himself called upon to allude to the fact that I was a clergyman before the war and a general in the Army during the war. That is true, and I have no reason to be dissatisfied with my record either in one capacity or the other. I entered the Army as chaplain, but I very soon came to the conclusion that this secession, pro-slavery, Democratic devil goes not out except by powder and balls, that fasting and prayer would not expel it, and believing in using efficient means I adopted the prayer of Solomon with regard to his enemies, namely, that they should go speedily down into the pit and became, as far as my talents would allow me and opportunity was afforded me, the executor of that prayer by sending as many as possible into the pit by the use of powder and ball; and of course I incurred the displeasure of the South Carolina pro-slavery and treasonable Democracy from which the gentleman sprung, as I understand he is from the State of South Carolina.

That is all I have to say, except that as to the remainder of his speech all the answer I want to make is that I pass it over in silent contempt.

Mr. WASHBURNE, of Illinois, resumed the floor.

Mr. JOHNSON. Will the gentleman allow me one or two minutes?

Mr. WASHBURNE, of Illinois. I cannot yield.

Mr. JOHNSON. Then I give notice that I will take the floor to-morrow morning and reply to the gentleman from Missouri.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the legislative, &c., appropriation bill; and pending that motion I move that all debate upon the paragraphs relating to the Congressional Globe be closed in one minute after the committee resumes the consideration of the same.

The SPEAKER. The Chair is informed that the Committee of the Whole have passed that paragraph.

Mr. WASHBURNE, of Illinois. There are some other paragraphs on the same subject further on in the bill.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The CHAIRMAN stated that the pending question was on the motion of the gentleman from Maine, [Mr. BLAINE,] to amend the paragraph in lines one hundred and sixty-six and one hundred and sixty-seven, so that it will read, "for furniture, repairs, and packing boxes, $30,000."

The question was put; and there were—ayes 57, noes 11; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Messrs. BLAINE and FARNSWORTH.

Mr. FARNSWORTH. I made a motion to strike out the paragraph in regard to packing boxes, and the gentleman from Maine [Mr. BLAINE] moved to amend my amendment.

The CHAIRMAN. The committee is not considering that paragraph.

The committee divided; and the tellers reported—ayes 55, noes 42.

So the amendment was agreed to.

Mr. BLAINE. I now move to strike out lines one hundred and sixty-eight and one hundred and sixty-nine, as follows:

For packing boxes for members, $13,500.

Mr. FARNSWORTH. Before we reach that point I move to strike out the words "packing boxes" from the amendment which has just been adopted. We have stricken out the appropriation for packing boxes for the Senate, and now we certainly ought to strike out that for ourselves.

Mr. BLAINE. I make the point of order that the gentleman cannot go back to that paragraph.

The CHAIRMAN. The Chair sustains the point of order.

The question was taken on Mr. BLAINE's amendment, and it was agreed to.

The Clerk read as follows:

For horses, carriages, saddle horses, $10,000.

Mr. BLAINE. I move to amend the clause just read, so that it will read:

For horses and carriages for the transportation of mails and for the use of messengers, $10,000.

The amendment of Mr. BLAINE was agreed to.

Mr. DRIGGS. I move to strike out the entire paragraph as amended.

Mr. BLAINE. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BLAINE. My point of order is that this paragraph has already been stricken out and amended, and the motion of the gentleman from Michigan [Mr. DRIGGS] is not in order.

Mr. DRIGGS. The paragraph has not been stricken out; it has merely been amended.

Mr. BLAINE. My motion was to strike out and insert.

The CHAIRMAN. The gentleman's motion did not cover the entire paragraph; it merely struck out a portion of the paragraph. The Chair overrules the point of order.

The question was upon the motion of Mr. DRIGGS, to strike out the paragraph as amended.

Mr. DRIGGS. I made this move for these reasons: I find in other parts of this bill these items:

For clerks to committees, pages, horses, and carryalls, $25,000.
For cartage, $3,800.

Now, I think, that is sufficient, without adding $10,000 for horses and carryalls. I therefore move to strike out the paragraph as amended.

Mr. WASHBURNE, of Illinois. I can answer the gentleman in one word. The Committee on Appropriations called before them the Doorkeeper, in order that he might explain this item, for the committee thought it was too large as it stood. But the committee learned that it was the same sum that was appropriated for this purpose last year. It is for the horses and carryalls used for delivering the mails for members. The Doorkeeper stated to the committee that it was utterly impossible to get along without the same number of horses and carryalls which he had at the present time. He said he had made a calculation of the number of horses and carryalls he must obtain, the wear of the carryalls, and the feed of the horses, and found that it would cover this whole amount. The committee accordingly directed that this appropriation should be made. That is the whole case.

Mr. DRIGGS. I desire to ask the gentleman a question.

The CHAIRMAN. No further debate is in order.

The motion of Mr. DRIGGS, to strike out the paragraph, was not agreed to.

The Clerk read as follows:

For laborers, $12,000.
For miscellaneous items, $70,000.

Mr. PILE. I move to strike out the words "for miscellaneous items, $70,000," in order to enable the gentleman from Illinois to explain what it means.

Mr. WASHBURNE, of Illinois. We appropriated $100,000 last year for this purpose, and we thought the amount too large for this year. We called the Clerk of the House before us and asked him to state of what these expenditures consisted. We said to him that we thought, with the present desire for economy, that we should be compelled to reduce the amount to $70,000. Although he said he thought it would be impossible for him to get along with that amount, we did reduce the item to that sum. This item covers the pay of contestants for seats, the expenses for investigating committees, the funeral expenses of deceased members, &c., including what is called the consumable articles which we have in all the committee-rooms about the House.

Mr. UPSON. Is there not a contingent fund besides?

Mr. WASHBURNE, of Illinois. No, sir; this is the contingent fund.

Mr. HIGBY. I move to amend the paragraph by striking out "$70,000" and inserting "$53,650." I make that motion so that I may ask the gentleman from Illinois, [Mr. WASHBURNE,] who has charge of this bill, where he finds the "$100,000" in the appropriation bill of last year for this purpose. I find in that act the sum I have named. I would ask the gentleman if there is another item in the appropriation bill of last year going to make up the $100,000 he has named.

Mr. WASHBURNE, of Illinois. I was misled by the notes I had made on my copy of the bill when I said the appropriation for this item last year was $100,000. The same appropriation last year, as the gentlemen from California [Mr. HIGBY] has stated, was $53,650. The reason of the increased sum named here is that the Committee on Appropriations were informed that the sum appropriated last year was not more than half enough to cover the contingent expenses of the House. Accordingly a deficiency was brought in and was passed; and the Clerk of the House told us that unless we appropriated this amount he would be compelled to come back with a deficiency.

Mr. HIGBY. Does the gentleman refer to the deficiency bill for the current year?

Mr. WASHBURNE, of Illinois. Yes; and we have already passed that deficiency bill.

Mr. HIGBY. Then I withdraw the amendment.

Mr. PILE. I will withdraw the motion to strike out the paragraph.

The Clerk resumed the reading of the bill, and read the following:

For stationery, $30,000.

Mr. WELKER. I move to amend the paragraph just read by adding the following:

Provided, That the Postmaster of the House shall account to the Clerk of the House at the end of each session of Congress for all stationery by him received and distributed.

Mr. WASHBURNE, of Illinois. I hope that this amendment will be adopted.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

For paper for the public printing, $457,065.

Mr. LAFLIN. I move to amend by striking out in the paragraph just read the words "and fifty-seven" and also the words "and sixty-five," so as to make the paragraph read, "for paper for the public printing, $400,000."

Mr. Chairman, it is due to the Committee on Appropriations to state that these estimates were submitted to the Committee on Printing before the bill was printed and met our approval, but a further examination has satisfied us that it would be for the interest of the Government that the amendment I have suggested should be adopted. For the purpose of satisfying the House of the propriety of the amendment I ask the attention of every member to a statement which I am about to make, which I believe will interest every man here, especially those who were members of the Thirty-Ninth Congress. I have ascertained from the record the cost of public printing for that Congress, and compared it with the sum expended by previous Congresses. I desire to submit, in the first place, a statement referring to the House of Representatives solely, and next with reference to the congressional printing, printing ordered by the Senate and House.

The amount paid for printing and for paper for the House of Representatives for the fiscal year 1859–60, when, I believe, the political character of the House was somewhat divided —mongrel, if you will allow me to use that term—was $665,210 95; the amount paid for printing for the House of Representatives for the fiscal year 1866–67 was $454,339 97; being $200,870 98 less than the amount paid for printing during the fiscal year 1859–60, when we were upon a gold basis. Adding to the cost of materials in 1859–60 the extra amount called for by the cost of materials in 1866–67 we shall find that the cost of printing during the fiscal year 1859–60 would have been $882,865 57, or within $15,814 37 of just double the amount paid for printing for the House during the last fiscal year.

I have also taken occasion to refer to the expenses of congressional printing under the different Administrations. I have gone back to the time when the power of this Government was in the hands of the party now in a minority on this floor; and I call the attention of this House, and especially my friends upon the other side of the Chamber who are clamoring for economy, to the statement I am about to make.

The amount paid for congressional printing (Senate and House of Representatives) during the Thirty-Third Congress, 1853–55, Linn Boyd, Speaker, was $2,220,715; while during the Thirty-Ninth Congress, 1865–67, Schuyler Colfax, Speaker, the amount paid for congressional printing was $1,535,791 72—a difference of $684,923 28 in favor of a Republican over a Democratic administration. If we add to the expense of the Thirty-Third Congress the extra cost of material incurred by the Thirty-Ninth Congress, it would make the expense of printing for the Thirty-Third Congress $3,886,251 25.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment *pro forma*, merely for the purpose of thanking the gentleman from New York [Mr. LAFLIN] for his very interesting and elaborate statement of the comparative cost of congressional printing during the last ten or fifteen years. I now yield to the gentleman, that he may finish his statement.

Mr. LAFLIN. Thus it will be seen by the statement I have just made that in one single Congress in the item of printing alone there was a saving by Republican economy over Democratic extravagance of $2,350,459 53. And in making this statement we have not taken into account the increase growing out of the war, the internal revenue, or of population. I trust this amendment will be adopted.

The amendment was adopted.

The Clerk read as follows:

For lithographing and engraving for the Senate and House of Representatives, $85,000: *Provided*, That the female employés in the Government Printing Office shall be entitled to twenty per cent. additional upon their present pay, and the necessary amount is hereby appropriated to pay the same.

Mr. LAFLIN. I move to strike out the proviso.

Mr. MUNGEN. I move to amend it before it is stricken out.

Mr. LAFLIN. I do not yield the floor for that purpose. I wish to make a statement in reference to it.

Mr. MUNGEN. I rise to a point of order. I understand a motion is made to strike out the proviso. There may be something objectionable in it. I wish to strike out a word which will change its whole tenor. Is not my amendment first in order?

The SPEAKER. It will not take the gentleman from New York off the floor. If the gentleman from Ohio moves his amendment the vote will be taken first on perfecting the proviso before the question is taken on striking it out.

Mr. LAFLIN. I rise to a point of order, that this is independent legislation and is not in order in an appropriation bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. LAFLIN. I wish to say, in reference to this paragraph, that we are now paying the female employés of the Government Printing Office at the rate of $1 50 per day, while the same labor in Boston, New York, and, I think, in Philadelphia, but I am not positive about that, costs about five or six dollars per week. This proposes to increase it thirty cents per day, which would be $10 80 per week as against five or six dollars in other cities. I trust this proviso will be stricken out. I submit this statement by authority.

Mr. KELSEY. Mr. Chairman, my judgment is that this proviso simply does justice. It provides a measure of justice as between the male and female employés of the Government Printing Office. Compositors receive four dollars a day, while female employés receive $1 50. These females are the widows of soldiers, and have families of little children to support. Almost every one of these employés performs labor that a few years ago was performed by a man, and in many instances their services are as valuable as those of the male employés. Their expenses are almost as great as those of the male employés, and the small compensation they now receive, and the high prices of living, are sufficient answers to the objection of my colleague. If the female receive half as much as the male employés, that, I presume, is a proposition no gentleman will controvert. Yet, sir, they are receiving less than that amount at this moment. If I were not concluded by the action of the Committee on Appropriations I would move to increase it instead of reducing it.

Mr. LAFLIN. My colleague undoubtedly intended to be right in the impression he would convey to this House, but he is mistaken in point of fact, for there is not one single female employed in the Government Printing Office who performs the work that men there perform; not a single one.

Mr. KELSEY. My colleague misundertood me. I said performed the work formerly performed by men.

Mr. LAFLIN. And there is another point I wish to impress upon the House, to show the difference is still greater than I made it in my first statement, that while these female employés are receiving this extra compensation they only perform eight hours of labor per day, while the same employés in other cities perform ten hours of labor.

Mr. KELSEY. What is the expense of living in other cities as compared with those here?

Mr. LAFLIN. I have never lived in any of those cities, and I cannot answer the question; but I guaranty it is not forty or fifty per cent. in excess of those here.

Mr. GRISWOLD. Would it not be practicable to reduce the number of employés and increase the compensation of those who are left? And I would like to know further how the amount of work performed compares with the amount of the same character performed for private parties?

Mr. LAFLIN. Not having the practical management of the Printing Office I am not able to give as intelligent an answer to my colleague's question as I would like. I will say this; that we have, I do not know how many, applications for these places. I daresay we have at least five to ten applications for the place of every single female employed in the Printing Office. We are besieged with applications to take the places at the present prices, $1 50 per day.

[Here the hammer fell.]

Mr. MYERS. I hope the amendment of my friend from New York [Mr. LAFLIN] will not prevail. It is false economy. The laborers, whether male or female, are worthy of their hire; and the only argument the gentleman from New York has adduced is, that they can get the same class of employés in other places at a less price. The gentleman who interrupted him asked him whether the prices prevailing elsewhere were the same as here. Wages elsewhere do not range as high as here, nor are rents and prices of living as high. My friend says only five or six dollars per week are paid in Philadelphia. They are therefore, if we take such rates, to be paid an amount here not more than sufficient to secure a bare living. I know it is said by some that because thousands, or, if you please, hundreds of thousands are out of employment, those who are lucky enough to have places must not be paid properly. Sir, I am in favor of giving places to as many as can properly be provided for and letting those people be paid proper wages; and I scorn the argument that because others who for the time are thrown out of employment are willing to take their places at any price, hoping to be paid better hereafter, therefore we should listen to that popular clamor. I am in favor of the provision as it stands reported by the committee having charge of it, and who no doubt have examined the question; and I hope that the cry of economy will not induce us to fix an improper rate of wages for those who are in the employ of the Government.

Mr. BENJAMIN. I ask the gentleman how much female laborers in Philadelphia get per day?

Mr. MYERS. I am unable, as I said before, to answer that question. I have no similar employés in Philadelphia; but I do know that there is scarcely an employé, male or female, whose wages have not been increased twenty per cent. since the war. I am responsible for my vote; and so far as my vote and action are concerned I intend to give people a living everywhere.

Mr. BENJAMIN. Does the gentleman not know that they do not get half the amount allowed here?

Mr. MYERS. I do not, for I tell the gentleman I have not been in that business. I now yield to the gentleman from Ohio [Mr. MUNGEN] for a question.

Mr. MUNGEN. Mr. Chairman, I have tried to get the floor to amend the proviso by striking out the word "female." I am with the gentleman from Pennsylvania, but with all due respect for him, I think I am entitled to amend and perfect the proviso that is proposed to be stricken out.

The CHAIRMAN. The Chair so rules, but at the same time the gentleman cannot take the gentleman from Pennsylvania off the floor by offering the amendment. Does the gentleman from Pennsylvania yield for that purpose?

Mr. MYERS. I do.

Mr. MUNGEN. I move, then, to strike out the word "female" in the proviso. I wish merely to say this: that there are male employés in the Printing Office who are at work from nine o'clock in the morning till eight at night, and while we are willing, it seems, to vote additional pay to others, and I understand the Committee on Appropriations are willing

to continue the same additional pay to these employés, owing to the extraordinary price of living here, I hope the amendment I propose will be adopted, so as to bring all the employés in the Government Printing Office under the same rule.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I move that the committee rise for the purpose of closing debate on this paragraph.

Mr. SPALDING. I hope not; I want to say a word.

Mr. WASHBURNE, of Illinois. I will allow the gentleman five minutes when we again go into Committee of the Whole.

The motion was disagreed to.

Mr. SPALDING. Mr. Chairman, I rise to say to the committee that these females in the printing department are the poorest paid of any female employés in any department in the city. We have raised the wages of the females in the Executive Departments. All those who work on salaries receive $900 a year. These employés in the printing department receive only about four hundred and fifty dollars a year. It is proposed in this bill to raise the pay of this class twenty per cent. Now, what man on this floor will object to that? It is only proposed to increase the pay twenty per cent. on about four hundred and fifty dollars a year. I say, sir, we are bound in justice to do it if we keep up the pay of the other employés to $900 a year. This is all I have to say.

The question was taken on the amendment to the amendment proposed by Mr. MUNGEN, and it was disagreed to—ayes four, noes not counted.

The question recurred on Mr. LAFLIN's amendment.

Mr. ELA. I want to say a single word, and for that purpose I move to strike out in line two hundred and three the word "twenty" and insert "thirty" in lieu thereof. If any gentlemen will take the trouble to look over the report of the Congressional Printer, they will find that where male workmen get four dollars a day the female employés get but $1 50 a day. I simply rise for the purpose of saying that I hope there will be one place within the United States where women will get about half as much as men do for the same service for a similar length of time.

Mr. LAFLIN. I want the House to understand perfectly this proposition. According to the present plan of payment at the Public Printing Office, the female employés for eight hours' labor receive nine dollars per week, or thirty-nine dollars per month. Now, if this twenty per cent is added we will pay them ten dollars and eighty cents per week; and if we take into consideration the fact that they labor only eight hours instead of ten hours, as similar laborers do in other cities whose wages I have stated, we will find that we will be paying our female employés fourteen dollars and ten cents per week, as against five and a half and six dollars paid in other cities. Now, if the House is prepared to do this, do it for the sake of charity, but do not do it in the interest of the public service.

Mr. MYERS. I would ask the gentleman to state how much of the five dollars would be left over after paying the expenses of a family.

Mr. LAFLIN. Well, that is certainly a very strange question for the gentleman to put, and I will put the same question in arithmetic to him. The expenses of living of a family depend a great deal upon their habits, and it is perfectly impossible for me to answer his question.

Mr. MYERS. If the gentleman puts the same question to me I will answer that I am not in favor of reducing the amount of compensation below that upon which these poor females can live with proper economy.

Mr. ELA. I withdraw my amendment to the amendment.

Mr. LOGAN. I move to add one per cent., and I do it merely for the purpose of making a single remark. I do not desire to discuss the comparative value of labor here and elsewhere, but I wish merely to say that after the gentleman from New York [Mr. LAFLIN] has succeeded in reducing the appropriations for the public printing in this bill $57,000, and more on the amount reported by the committee, I think it comes with rather bad taste from him to attempt a further reduction on the poor girls that work in the printing office.

Now, sir, the Committee on Appropriations, who certainly have no desire to appropriate more than the law requires, as this House has had assurance, have provided in this bill—although they did not in reference to anybody else—that this class of laborers in the Public Printing Office shall be entitled to twenty per cent. additional pay, and I hope the House will give it to them. I am not a printer myself nor a type-setter, but I know that it is very hard labor and a kind of labor that the gentleman knows cannot be found everywhere. You cannot pick up boys and girls in the streets that can set type or perform the other duties and labors in a printing office. The gentleman knows that very well, being a practical printer. I say, therefore, that they are entitled to this twenty per cent. additional pay, and I hope it will be given to them.

Mr. LAFLIN. The gentleman from Illinois is entirely mistaken with reference to the effect of this amendment of mine. I do not propose by it to reduce the pay of these female employés, but only to prevent a further increase.

Mr. LOGAN. You misunderstood me. I say that your amendment does propose to reduce the appropriations reported by the Committee on Appropriations.

Mr. LAFLIN. There is another thing I wish to correct the gentleman about. He refers to the fact that it requires skilled labor to set type, and therefore he says skilled labor should be paid a remunerative price. That will be a most excellent argument in favor of the proposition of the gentleman if he will point me to a single female employé in the Government Printing Office that sets any type.

Mr. WASHBURNE, of Illinois. I oppose the amendment of my colleague, [Mr. LOGAN,] and I desire to say that I am opposed to this proviso and hope it will be stricken out. Unlike my colleague, who says he is not a printer, I am, and instead of thirty-nine dollars a month I worked for twenty-five dollars a year and considered myself well paid. [Laughter.]

The question was taken on Mr. LOGAN's amendment to the amendment, and it was disagreed to.

The question recurred upon the motion of Mr. LAFLIN to strike out the proviso.

Mr. FARNSWORTH. I move to amend the proviso, before the question is taken on the motion to strike out, by striking out the words "twenty per centum additional upon their present pay" and inserting in lieu thereof "the same compensation that males receive for the same kind of labor." I want to ask the gentleman from New York [Mr. LAFLIN] what kind of labor these females perform?

Mr. LAFLIN. I will answer the gentleman. It is called in printing parlance "stitching, binding, and feeding."

Mr. FARNSWORTH. Are not males employed for similar labor?

Mr. LAFLIN. No, sir.

Mr. FARNSWORTH. Not at all?

Mr. LAFLIN. Not at all. Females perform no labor that the males perform.

Mr. FARNSWORTH. Then I withdraw my amendment to the proviso.

Mr. KELSEY. I move to amend by striking out "twenty" and inserting "twenty-five" before "per cent."

Mr. RAUM. Will the gentleman from New York [Mr. KELSEY] yield to me for a question?

Mr. KELSEY. Certainly.

Mr. RAUM. I desire to ask the gentleman whether, by the adoption of this proviso, the per diem of these employés would be fixed by law? I would call the attention of the gentleman to the fact that the Superintendent of Public Printing has the control of this matter.

Mr. KELSEY. I suppose it would not be fixed.

Mr. RAUM. Then how is it possible for this proviso to affect the pay of these persons unless the law is changed so as to provide a fixed compensation for these females?

Mr. KELSEY. The adoption of this proviso would fix their compensation so far as to add twenty per cent. to their present pay, and to that extent it would be fixed by law.

But the purpose I had in moving this amendment was to state that these female employés do not perform the labor suggested by my colleague, [Mr. LAFLIN.] He refers, when speaking of "stitching and binding," to the female employés in the bindery. Those employés receive eleven dollars per week, which is more than these printing employés would receive, even with this proposed increase. The twenty per cent. additional would not quite bring their pay up to eleven dollars per week. Yet their expenses are the same. As I have already remarked, many of these females have families to provide for and support. I have ascertained by inquiry that ordinarily they pay for their board alone more than half of the compensation they now receive. They have to pay five dollars per week for board, and support those besides who depend upon them. I withdraw my amendment to the proviso.

The question recurred upon the motion of Mr. LAFLIN, to strike out the proviso.

The motion to strike out was not agreed to.

The Clerk resumed the reading of the bill.

The following clause having been read:

For three assistant librarians at $1,800 each, $5,400.

Mr. WOODBRIDGE, said: I move to amend the paragraph relating to the "compensation of Librarian" by striking out "$2,160" and inserting "$2,592."

The CHAIRMAN. That amendment is not now in order except by unanimous consent, the Clerk having read the following paragraph.

Mr. WOODBRIDGE. Then I ask unanimous consent to move the amendment.

Mr. WASHBURNE, of Illinois. I object.

Mr. WOODBRIDGE. Then I move to amend the pending paragraph, in relation to the assistant librarians, so as to make their compensation $2,160 each.

The question was upon the amendment moved by Mr. WOODBRIDGE.

Mr. WASHBURNE, of Illinois. This amendment raises the same question of increase of compensation that was raised by the amendments which have been made to the paragraphs relating to the compensation of the clerks and employés of the Senate and House of Representatives. I shall not oppose the amendment now, as we can have a vote upon it in the House; but it only shows how far the principle involved in the amendments already made will lead us.

Mr. WOODBRIDGE. My amendment will only make this item conform to the existing law and to the appropriation of last year. We have established the principle in relation to the pay of the employés of the House and Senate, so far as the action of this Committee of the Whole is concerned, and I hope the same principle will be carried out here.

Mr. WASHBURNE, of Illinois. Does the gentleman from Vermont [Mr. WOODBRIDGE] consider the Librarian of Congress as coming within the existing law touching our own employés?

Mr. WOODBRIDGE. I do, for the simple reason that in the appropriation bill of last year the same proportionate addition was made to the compensation of those employed in the Congressional Library that was made to the compensation of the employés of the House. They were then paid twenty per cent. extra, which was the same amount extra that was voted to the employés of the House.

Mr. WASHBURNE, of Illinois. That is entirely a different matter. The gentleman's

proposition is not to carry out existing law, but to put that into the law.

Mr. WOODBRIDGE. It is to carry out existing law, because by the law of last session they are entitled to this twenty per cent. extra, and that law has not been repealed.

Mr. WASHBURNE, of Illinois. It was not the same law as that which provided for our employés.

Mr. WOODBRIDGE. No, sir; a different law.

Mr. WASHBURNE, of Illinois. According to my understanding there is no such law, and the gentleman cannot show it. Let him read the law.

Mr. WOODBRIDGE. I am not quite sure that by any general law twenty per cent. was added to the pay of the Librarian and his assistants. I have not had time to examine the question. It was added by the act appropriating pay for their services which passed at the last session of Congress. It is evident to me that they stand upon the same ground as our employés, and their services are quite as deserving of twenty per cent. additional pay.

Mr. WASHBURNE, of Illinois. I rise to a point of order, that the amendment of the gentleman from Vermont changes existing law.

The CHAIRMAN. The Chair overrules the point of order. It has been ruled to be in order to increase salaries of Government officers in appropriation bills.

Mr. WOODBRIDGE. I will now read the law which has been handed to me. It is that the Librarian, assistant librarians, messenger, and other employés of the Congressional Library shall receive an addition of twenty per cent. upon their present pay, "to commence with the present Congress."

The amendment was agreed to.

The Clerk read as follows:

For two assistant librarians, one at $1,000 and one at $1,960.

Mr. WASHBURNE, of Illinois. Let the vote of the committee govern that and the other similar items. I make that motion.

The motion was agreed to.

The Clerk read as follows:

For one messenger, $1,440.

Mr. SPALDING. I move to add one dollar in order to enable me to say to the committee that I was appointed by the Committee on Appropriations to investigate every item of these appropriations for the Congressional Library. I did it with great care and nicety, and I am satisfied there is not a single item we can reduce one dollar. I believe the estimate has been made with the closest economy possible, if we are to keep up the Congressional Library. I hope, therefore, no objection will be made to these appropriations. I withdraw my amendment.

The Clerk read as follows:

For four laborers, at $864 each, $3,456.

Mr. WOODBRIDGE. I understood, and hence do not propose the amendments I otherwise would, the Committee on Appropriations to agree that the amendments shall be considered as adopted increasing all these items twenty per cent.

The CHAIRMAN. Such was the understanding, and they will all be reported to the House with the twenty per cent. added.

The Clerk read as follows:

For Botanic Garden, grading, draining, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, $3,300.

Mr. LOUGHRIDGE. I move to strike that out. I do not know what good this Botanic Garden does the country. I know that members of Congress get bouquets every session. [Laughter.] I have not received mine, and perhaps that is the reason I move to strike it out. It seems to me if we want to strike at something entirely fancy we had better strike this out. It is of no good to the country, while it costs $10,000 yearly. It was begun in 1854, and since then has cost the Government $125,000. This is wrong, and I think the country will so regard it. I hope my amendment will therefore prevail.

The amendment was disagreed to.

The Clerk read as follows:

For pay of superintendent and assistants in Botanic Garden and greenhouses, under the direction of the Library Committee of Congress, $7,374 96.

Mr. LOUGHRIDGE. I move to strike that out.

The amendment was not agreed to.

The Clerk read as follows:

For payment of judgments which may be rendered by the court in favor of claimants, $100,000: *Provided*, That no judgment of said court for any sum exceeding five thousand dollars shall hereafter be paid without the approval of Congress, and an appropriation therefor.

Mr. NIBLACK. I make the point of order that that proviso is independent legislation, changing existing law, and is, therefore, not in order to an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order, and it will be stricken out.

Mr. SPALDING. I agree with the gentleman, and was about to move to strike it out.

Mr. WASHBURNE, of Illinois. It is a mere limitation.

The CHAIRMAN. It not only is a limitation, but changes the existing law.

Mr. SCOFIELD. I move to strike out these words:

For payment of judgments which may be rendered by the court in favor of claimants, $100,000.

Mr. SPALDING. Mr. Chairman, I wish to explain that when this Court of Claims was originated it was but little more than a committee of Congress to investigate claims and report to Congress the amount they found due to the claimants. They were to make report of the nature of the claims at the same time. That was the way the Court of Claims originated. Afterward the law was modified, and Congress provided the Court of Claims should give judgment and their judgments should be taken by appeal to the Supreme Court of the United States for any amount over three thousand dollars, and the Government might take claims of less amount than three thousand dollars in that class of claims which would settle principles for the government of the Executive Departments. That same act contained a proviso that no claim should be paid on the judgment of the Court of Claims unless duly provided for in the estimates by the Secretary of the Treasury. The Supreme Court decided that proviso nullified the whole right of appeal to the Supreme Court of the United States. Afterward Congress in its wisdom repealed that proviso and left the appellate power standing, and it is so now. The law is so now. If they make judgment in favor of any claim for more than three thousand dollars either party may appeal to the Supreme Court of the United States, and in any case less than three thousand dollars the Government may appeal if the case involves any principle which setties the rule for the Executive Departments.

Now, sir, by striking out this appropriation for the payment of their judgments we go back to the old times when we made the Court of Claims simply a committee for this House. I think my friend from Pennsylvania, when he comes to understand the working of the whole scheme, will himself find we are wrong in limiting that court in this manner. I think we are now having that court so systematized, and its proceedings so framed and adjusted, it is beginning to save money to the Government. If any case be doubtful it can be revised in the Supreme Court. I would not do anything which would bring these claims back to Congress, which is the last body on earth to vote on them. I am for keeping that court in its proper sphere if possible. I should like to have a check on it, but that check rests in the Supreme Court of the United States. It rests, furthermore, in the books of reported cases which shall emanate from that court from year to year. Instead of cutting off the power of that tribunal to make decisions in cases, we should rather require, from year to year, they shall publish their opinion in every one of the cases under their supervision and adjudication.

Mr. SCOFIELD. I move to reduce the amount to $75,000.

Mr. Chairman, I do not see the amendment I made in the first instance to strike out will lessen the power of the Court of Claims in any respect. Some gentlemen around me say if you strike that out these claimants will come back to the courts. Not at all. Congress has been open all the time that court has been in existence the same as before. The claimant has his choice between coming to Congress and going to that court. Frequently when he has a claim here he goes to that court; and when his claim is denied there he comes back to Congress. The two tribunals for hearing his case are still open. That is not the question at all here; and the gentleman from Ohio, [Mr. SPALDING,] in opposing my motion, has not discussed it. The question is not whether we will abolish the court, whether we will close it to claimants and open Congress to them, because both tribunals are open now and will be open hereafter; but the question is whether we shall make an appropriation in advance, and invite claimants to go before that tribunal and establish their claims, or whether, after they have been there and judgment has been rendered in their favor, we will act upon them as we do in all other cases where expenses are incurred by the Government, and make an appropriation to pay them. Now, if we make this appropriation in advance we only invite that court to use it up. If the gentleman will allow the limitation contained in the proviso, and confine it to small claims, there would be no objection to making the appropriation in advance; but if that whole $100,000 is to be sponged up by a single claim—one of these cotton claims, for instance—it is a great deal better that we should wait till after judgment is rendered and then appropriate the money. I withdraw the last amendment.

Mr. BUTLER. I rise to oppose the amendment.

The CHAIRMAN. The amendment has been withdrawn.

Mr. BUTLER. I renew the amendment. I desire to call the attention of the House to the exact distinction, which does not seem to be understood. This provision does not affect any cotton claim. By the law of the land the proceeds of captured and abandoned property paid into the Treasury answer all the cotton claims. This appropriation is to answer other just claims against the United States.

Mr. SCOFIELD. I wish to ask the gentleman if he means to say that the Court of Claims can pay these large cotton judgments, which they may render without any appropriation from Congress, out of the proceeds of the sales of abandoned property—abandoned cotton, for instance?

Mr. BUTLER. No, sir; I do not mean to say any such thing. I do not mean to say that the Court of Claims can pay anything, but I do mean to say that it can render judgment, and the law of Congress is that the proceeds of abandoned property, which has been sold and put into the Treasury, is to answer claims against the Government. That is all I mean to say.

Now, then, I mean to say further that this appropriation goes to pay honest claims against the United States that have first got to pass the Court of Claims; and then, if any department of the Government or the solicitor thinks there is the slightest wrong done to them, and they go to the Supreme Court of the United States, after they have gone through the Court of Claims and have gone through the Supreme Court of the United States, I think the claimant ought to have his money. We have already passed a resolution that no man who owned property in the rebel States can have any claim paid anywhere. No man who does not first take the oath that he never favored the rebellion can get into the Court of Claims. I think, therefore, and I believe the committee so thought, and successive Congresses have so

thought, that when a claimant has gone through both the Court of Claims and the Supreme Court, and got judgment in both, he ought to have his money without waiting for another Congress to pass upon the question.

I trust that the amendment will not prevail to strike out the appropriation of $100,000. If it does prevail I trust you will strike out the Court of Claims altogether; for what is the use of having such a court giving judgments that are mere *brutum fulmen*—mere heat lightning. More than that, the Supreme Court have already decided that they will not hear these cases on appeal unless they have the power to enforce judgment, so that if you strike out this appropriation you strike out all chance of appeal on the part of the Government. I withdraw the amendment.

Mr. BROOMALL. I propose to amend by adding to the paragraph the following:

Provided, That no judgment of said court for any sum exceeding five thousand dollars shall be paid out of this appropriation.

It will be seen that my object is precisely the object that the committee had in view in reporting this provision. I think my amendment should be adopted, because, where the judgment exceeds five thousand dollars, undoubtedly this Congress ought to have some supervisory power over the action of the court. I hope the committee will be satisfied with my proposition and adopt it.

Mr. PRUYN. I rise to a question of order. That amendment is open to the same objection that was made by the gentleman from Indiana [Mr. HOLMAN] to the original proposition; it changes the existing law.

The CHAIRMAN. The Chair overrules the point of order. The amendment merely proposes a limitation on the appropriation.

Mr. WASHBURNE, of Illinois. The hour of half past four has arrived, and I am very much obliged to the committee for remaining in session so patiently. I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

CONSULAR AND DIPLOMATIC BILL.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed and made the special order for Wednesday next, and from day to day until disposed of.

Mr. HOLMAN. Let it be understood that points of order are reserved on the bill.

Mr. WASHBURNE, of Illinois. Certainly; that is, in the line of extravagance.

The SPEAKER. The gentleman has the right to reserve points of order.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. BAILEY for two weeks after to-day.

HEIRS OF CHARLES GOULER.

The SPEAKER. The Chair will state that in a pension bill reported by the Committee on Invalid Pensions, and which passed the House, granting a pension to the minor children of Charles Gouler, in place of his widow, the words "are hereby repealed" were accidentally omitted by the committee at the conclusion of the bill. If there be no objection, they will be added to the bill before it goes to the Senate.

No objection was made.

Mr. SCHENCK. Before making the motion which I design to submit, I will yield for a moment to the gentleman from Pennsylvania, [Mr. KELLEY,] who has a resolution to offer in behalf of his colleague, [Mr. STEVENS,] who has been compelled to leave the Hall.

CLAIM OF B. W. PERKINS.

Mr. KELLEY. In behalf of my colleague, [Mr. STEVENS,] who has been obliged to leave the Hall, I ask the unanimous consent of the House to offer the following resolution:

Be it resolved by the House of Representatives of the United States, That the Secretary of State be, and he is hereby directed, if not incompatible with the public interest, to bring to the friendly notice of the Emperor of Russia the injuries alleged to have been sustained by B. W. Perkins, late of Massachusetts, in certain contracts made by him with Russian agents in 1855 and 1856; and to suggest such mode of determination, as, while protecting the interests of an American citizen, shall be consistent with the honor and dignity of the friendly Government of Russia.

Mr. SPALDING. I object.

ORDER OF BUSINESS.

Mr. SCHENCK. I move to go to the business on the Speaker's table. There are two or three matters there which I think ought to be referred.

Mr. WASHBURNE, of Illinois. I hope the gentleman will modify his motion so as to provide that the bills shall be referred to committees, not to be brought back by motions to reconsider.

Mr. SCHENCK. I have no objection to that modification.

The motion, as modified, was agreed to.

ASSISTANT ENGINEER SAWYER.

The SPEAKER. The first business on the Speaker's table is a communication from the Secretary of the Navy, transmitting the papers in the case of the court-martial on Second Assistant Engineer Sawyer, of the United States Navy, called for by a resolution of the House of Representatives of the 27th of January last.

Mr. SCHENCK. I move that that communication be referred to the Committee on Naval Affairs and printed; and I desire to submit a few reasons why I think it ought to be printed and brought to the attention of the country. It is in answer to a resolution which I submitted a short time since calling upon the Secretary of the Navy to report to this House all the correspondence and papers and all the testimony in the case of Second Assistant Engineer Sawyer, of the Navy, who by sentence of a court-martial at Portsmouth, New Hampshire, was sentenced to suspension for one year upon half waiting-orders pay. I have read the testimony as it lies there upon your table, and I commend it to others as good reading when it shall come to be printed.

The Portsmouth navy-yard, so called, is not situated in New Hampshire, as gentlemen know very well, but at Kittery, in Maine, upon the other side of the river. In order to avoid the necessity of passing up the river some two miles or more to cross a bridge, they have established a little ferry-boat for the convenience of the laborers and others at the navy-yard and of the people of Portsmouth, in passing back and forth between the city of Portsmouth and the Maine side of the river. Last fall two officers of the Navy, with some one or two others, got into a political controversy while crossing in the ferry-boat. One of the officers was Mr. Engineer Sawyer, who has been so severely handled and put upon starving pay for a year; the other was Surgeon Gihon, of the Navy, whose sympathies, like those of a great many others, were perhaps on one side of the rebellion while his bread and butter were upon the other side. It seems that Gihon had an old grudge against a Colonel Allen, who happened at the time to be on the ferry-boat; and he spoke of him as "a damned Dutch Radical, who had no business to be there." The reason assigned by him for this grudge, as stated in his testimony, dragged out of him, as almost all his testimony was, was that at some time this Allen had been disrespectful toward a lady or gentleman, a southern friend of Surgeon Gihon. The remark of Gihon in relation to Colonel Allen led this Engineer Sawyer, who, it seems, was a Republican, to say that Colonel Allen had good reason to be a Radical, being a Pole; because, flying from oppression and tyranny in his own country, it was natural he should take the side of popular liberty and freedom when he arrived here.

This remark led to a discussion more or less excited on each side, more or less intemperate, perhaps, though not quite equal to that in which politicians indulge with each other. In this discussion a friend of Gihon, a Mr. Bishop, took part, though it was principally between Sawyer and Gihon. Bishop and Gihon took the Democratic side, and Sawyer took the Republican side. In the course of this conversation, as we gather from the testimony of Gihon and Bishop—for they had the opportunity to testify, while Sawyer, being made a defendant, had to remain dumb—from their testimony most reluctantly given, we gather the fact that one of them, Bishop, spoke most disrespectfully of Congress, as a dangerous body, a bad body, one not properly representing the wishes of the people. He spoke especially of Messrs. SUMNER, WILSON, and STEVENS as vile characters connected with Congress. The Republican, Mr. Sawyer, claimed on his side that Johnson would probably be impeached, and said that he thought he ought to be impeached by Congress. I wish he had been a better prophet than he was.

Many MEMBERS. Amen!

Mr. SCHENCK. In short, it was a political discussion, and nothing else. But a miserable pimp, a man who, with the approval of the Secretary of the Navy, shamelessly signs himself "detective at the Portsmouth navy-yard" to one of the papers reporting this fact to the Secretary of the Navy, a fellow by the name of Stimson, makes complaint accordingly to the executive officer of the yard.

The whole matter was then inquired into. The result is that Sawyer has been condemned and punished for speaking in this manner of the President; while Gihon, whether it is intended as a reward or not for his disrespectful language concerning Congress I do not know, gets a very comfortable and convenient duty in China, which I think carries with it some special compensation and advantages, though of that I am not certain; at all events, he has gone abroad.

Now, sir, the Articles of War of the Navy contain no such provision as that language disrespectful of the President of the United States shall be punishable by court-martial; and I undertake to say that these whole proceedings might be set aside, as during the trial the counsel for Sawyer protested they ought to be, because they are not proper proceedings under any law applicable to the Navy. In the Army regulations there is a provision that to use language disrespectful of the President or of Congress or of the government of any State in which troops shall be stationed at the time when the words are spoken shall be punishable by court-martial. But regardless of the fact that there is no such provision applicable to the Navy, and failing to make the charge of language "unbecoming an officer and gentleman," or something to that effect, and bringing in this proof under that charge, they have instituted this proceeding and made law for the occasion, thus punishing Sawyer.

Now, sir, I do not stand here to defend Sawyer. I do not stand here to defend any man who, while in the naval or military service, speaks disrespectfully of his superior officer; nor do I say that such conduct ought not to be properly noticed—rebuked or reprehended in some way—for the purpose of good discipline. But I do say that to have a pimp, a detective, watching men when they are away from the navy-yard and engaged merely in a political discussion, reporting their words, and then having a proceeding instituted against the man who speaks disrespectfully of one branch of the Government, while the man who speaks

disrespectfully of another branch of the Government is passed by without notice, if not rewarded, is a poor, dirty, mean, partisan business which ought to be exhibited to the world. I hope that if these documents be printed and the case referred to the Committee on Naval Affairs that committee will, at a very early day, report what they think ought to be done in the case of Engineer Sawyer.

Mr. WASHBURNE, of Illinois. Will the gentleman give us the names of the members of the court-martial and state whether it was one of those courts-martial "organized to convict," in the parlance of the Navy Department?

Mr. SCHENCK. No, sir; on that court-martial were very respectable gentlemen—Captain Worden, Captain Almy, and others whose names I have forgotten—good officers. I am astonished at their finding; yet I ought not to be very much astonished when I remember that a gentleman formerly connected with the Navy Department claimed that the Department always "organized courts to convict," and when I remember also how apt courts-martial are to find in favor of the leanings of those holding the power above.

Mr. PRUYN. If the gentleman from Ohio has finished I would like to say a word or two.

Mr. SCHENCK. I was about to call the previous question, but I will yield to the gentleman for five minutes.

Mr. PRUYN. Mr. Speaker, this is a very extraordinary statement, and has been made, it seems to me, under very extraordinary circumstances. I hardly know how it got before the House unless by unanimous consent. But to forestall the judgment of the House in this manner, before these papers have been printed and laid before us, is certainly very extraordinary. I am very glad, however, that the gentleman from Ohio finally avows that the offense of this officer against his Commander-in-Chief was one which ought to have been punished, no matter what were the particular political views and feelings expressed by him. But it seems to me that the gentleman in finding fault with the judgment of the court has made a very grave charge against reputable officers without any foundation for the charge. What had they to do with the other matter which he has brought to the attention of the House? They were convened for a specific purpose—to try an officer on certain charges. They tried the officer and passed sentence upon him; and the gentleman, as I understand, admits the sentence was a very proper one.

Mr. SCHENCK. No, sir; I made no such admission. I will explain in a moment.

Mr. PRUYN. Now, sir, if any other officer is censurable he should be presented by the proper authorities and tried. But why should the gentleman find fault with the officers of the court in this case, who were convened simply to try a person brought before them on specific charges and to try no other person? This imputation, as I understand it to be, upon the fairness of the Secretary of the Navy in this matter seems to me quite uncalled for. Whatever we may find to be the facts when we come to investigate this question, I repeat it is not fair to the Secretary of the Navy or other officers of the Government to bring in a statement of this kind and to pronounce judgment in this way when the papers in the case have never been brought to our attention and when the House at large knows nothing in regard to the subject. I trust this course of action will not be adopted hereafter.

Mr. SCHENCK. I wish to say one word or two to the gentleman from New York, [Mr. PRUYN.] I say I think it proper that when officers are publicly engaged about business as officers of the Army or Navy they should be reprehended if they speak disrespectfully of any department of the Government, or of any superior officer, but I do not say this sentence was anything like a proper, just, or reasonable sentence. On the contrary, I say it is a harsh sentence, rendered in reference to a matter which was more of an ordinary political discussion outside of anything connected with the duty of either officer.

Then, again, as to the court. I have stated my recollection of the members who constituted the court. They are officers of high character. Of two or three of them I have personal knowledge, and my only wonder is they should have rendered a sentence of that kind. My reference is mainly to the fact that the Secretary of the Navy keeps a detective at this navy-yard, and I suppose also at each of the others, who watches the words that fall in the heat of private conversation from officers outside of that yard, on a public ferry-boat, though established as a ferry-boat by the commander of the yard to carry people back and forth to the city. And I mean to allude to the Secretary of the Navy, too, when he reads a homily, as you will find he does in his general order, on the propriety of such punishment being made of any person who speaks ill of the President, shutting his eyes to the fact the witnesses were compelled to admit little by little, that on their side the conversation was not any more respectful to another branch of the Government than was his to the President.

As to not having the papers before the House, no one is responsible for what I state. I introduced the resolution because I learned something of the facts, and I have drawn them out. I have read all the papers on the Speaker's table, and I am giving my opinion of them for what it may be worth to this House as a good reason why we should print as well as refer that executive communication; and in order that I may attract public attention to it I do not hesitate to say what my object is.

Mr. PRUYN. I am happy to hear from that side of the House this denunciation of a system which we of this side have denounced heretofore in vain.

Mr. SCHENCK. I am always glad to please my good friend from New York.

Mr. GARFIELD. I suggest this be passed over until to-morrow morning.

Mr. WASHBURNE, of Illinois. I hope not. We have no time for it. Let us dispose of it now.

Mr. SCHENCK. I will now yield to the gentleman from the Portsmouth district, New Hampshire, who wishes to say something.

Mr. ELA. Mr. Speaker, there has been nothing said by the gentleman from Ohio on this matter in which I do not fully concur. I know reports have come to me, from time to time, in reference to the Portsmouth navy-yard, that men of Republican sentiments holding places there were threatened with removal if they did not either cease the expression of their views or change their political opinions. They came from a Democratic paper thoroughly in sympathy with the rebellion when it was in progress. The editor of that paper was so thoroughly committed to the rebellion that the people of Stafford county, New Hampshire, where he was then editing a paper, refused longer to allow him to continue in that position. In obedience to those threats officers were detached and workmen were discharged from the yard. This detective, whose duty, if it is anything, ought to be to guard the property in that yard and look out for the interests of the Government, is perhaps on a mission to this city with information in regard to the political sentiments of men employed there.

Mr. WASHBURNE, of Illinois. Is he here now?

Mr. ELA. I think not. I hope the gentleman who has charge of the bill, when he comes to see the appropriations that are made upon the estimates of the Department for this class of men at the different navy-yards, will take care that they are stricken out. This boat is a little steamer passing between Portsmouth and the navy-yard, and all this conversation arose upon the provocation of Gihon, who has been rewarded. Sawyer acted on the defensive. It occurred on board the boat, and not at the navy-yard; it was not within the limits of the Government employment at all.

Mr. SCHENCK. I now move the previous question.

Mr. RANDALL. Allow me a minute.

Mr. SCHENCK. Certainly.

Mr. RANDALL. I am very glad, indeed, that the other side have waked up to this system of persecution among laborers which they adopted and continued four years under Lincoln's Administration.

Mr. WASHBURNE, of Illinois. When?

Mr. GARFIELD. Where?

Mr. RANDALL. Now you see where we had to suffer during the whole of that period. Committees were appointed to visit the navy-yards to hunt out poor men simply because they voted the Democratic ticket. Now you see the posioned cup has come to your own lips, and you must continue to suffer just as you saw us suffer. [Laughter.]

Mr. WASHBURNE, of Illinois. Will the gentleman tell me how many good Republicans were turned out of the navy-yard at Philadelphia at the last election?

Mr. RANDALL. Why, sir, none that I know of; but since that thousands have been turned out, and they are now about half and half, as I believe. I think my colleague will sustain me in that statement.

Mr. SCHENCK. I yield a moment to the gentleman's colleague, [Mr. O'NEILL.]

Mr. O'NEILL. My colleague who has just sat down [Mr. RANDALL] represents what is called the navy-yard district. The navy-yard is located just around the border of my own district, so that I am likely to know something about it. Now I have this to say: that many men, skilled mechanics, the best in Philadelphia, have been turned out of that yard, being hunted down by Democratic committees and by officers who have so acted as to bring the contempt of the country upon them in hunting out the politics of these men and getting them discharged.

Mr. RANDALL. Will the gentleman name a single Democratic committee that has been hunting them out?

Mr. O'NEILL. No, sir; I cannot give the names.

Mr. RANDALL. I can give the names of Republican committees.

Mr. O'NEILL. I have seen them in that yard, and I know that just as in the case of this engineer, of whom the gentleman from Ohio [Mr. SCHENCK] has been speaking, men with the uniform of officers of the Navy of the United States have taken upon themselves this work and have tried by a sort of court the political standing of these men and had them discharged; and I know further, that under that persecution the very best workmen of Philadelphia have been turned out of the yard. Those who were kept there at work under cover on rainy days under the rule of the Department have been turned out because they were Republicans to make room for less skilled workmen who were Democrats, thus leaving the former to work only on the clear working days, while the latter got work all the time.

Mr. SCHENCK. I hope the House will remember what the proposition is. It is to print that which relates to the case of an officer of the Navy, and has no reference to the case of any laborers. They have only been brought in incidentally in this discussion. I do not wonder my friend from Pennsylvania [Mr. RANDALL] should feel aroused when any allusion is made to laborers in the navy-yard.

Mr. RANDALL. Why should I?

Mr. SCHENCK. Since they have had to elect Democrats I do not know but they have done as well as they could have done in electing such members as the gentleman from Philadelphia, [Mr. RANDALL.] But that does not alter the facts as to this case. I now call the previous question.

Mr. NIBLACK. Will the gentleman yield to me?

Mr. SCHENCK. No, sir.

The previous question was seconded and the main question ordered; and under the opera-

tion thereof the communication, with the accompanying papers, was ordered to be printed, and referred to the Committee on Naval Affairs.

And then, on motion of Mr. SPALDING, (at four o'clock and fifty-five minutes,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of J. S. Reid, of Louisville, Mississippi, praying that Harrison Hughes, a freedman, may be allowed to distill spirituous liquors free of internal revenue tax.

Also, the petition of Mrs. Jane Preston, of Lucan, Canada West, for relief.

By Mr. BALDWIN: The petition of C. S. Sumner and others, of Milford, Massachusetts; and also of Charles Fales and others, of Brookfield, Massachusetts, for a reduction of the tax on manufactures.

By Mr. BARNES: The petition of citizens of Brooklyn, New York, to grant pensions to the soldiers of 1812.

By Mr. COVODE: The petition of Eliza M. Dawson, praying compensation for supplies furnished the United States armies under Lieutenant General Grant in 1862.

By Mr. CULLOM: Papers in relation to the claim of May Sullivan against the Government.

By Mr. DODGE: The petition of citizens of Sidney and Plum Hollow, Frémont county, Iowa, praying for a post route from Sidney to Plum Hollow and Bartletts, on Chicago, Burlington, and St. Joseph railroad, Iowa.

By Mr. ELIOT: The petition of Lorenzo Pierce and another, for registration of British bark Ocean Steed as an American vessel.

By Mr. FERRISS: The petition of citizens of Clinton county, New York, for pension or bounty to Joseph B. Rodden.

By Mr. HOPKINS: A memorial of Margaret W. Robinson, for additional pension.

By Mr. KELSEY: The petition of Howland Hemphill, for relief.

By Mr. LYNCH: A memorial of Cleveland convention, proposing a plan for change of internal revenue taxes.

Also, a memorial asking change in mode of appointments to office.

Also, a memorial of New England convention of manufacturers, asking a revision of the revenue laws.

By Mr. STOKES: The petitions of Mrs. Elizabeth Nelson and others, of East Tennessee, for back pay, &c.

Also, the petition of John B. Riggs, for pay as a second lieutenant.

Also, papers in the matter of H. A. White, late captain company C, third North Carolina mounted infantry.

Also, papers in the matter of George C. Haynie.

By Mr. VAN TRUMP: The petition of Samuel Haninger and 120 others, of all parties, of Ross county, Ohio, praying Congress to pass an act to authorize the issuing a sufficient amount of legal-tender notes to pay the bonds of the United States notes, having due reference to the question of not producing an over-expansion of the circulating medium.

By Mr. WASHBURNE, of Illinois: The petition of Alonzo V. Richards, late second lieutenant signal corps, United States Army, for back pay.

By Mr. WILLIAMS, of Pennsylvania: The petition and documents of Henry L. Schutt, of Butler county, Pennsylvania, asking for a pension.

By Mr. WILSON, of Iowa: The petition of the adjutant generals of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Michigan, Kentucky, West Virginia, Indiana, Illinois, Wisconsin, Iowa, Minnesota, Missouri, and Kansas, for additional compensation.

IN SENATE.

TUESDAY, *February* 11, 1868.

Prayer by Rev. WILLIAM BAUM, D. D., of New York.

The Secretary proceeded to read the Journal of yesterday's proceedings, but before concluding—

Mr. CONNESS. If there be no objection I hope that we shall dispense with the reading of the Journal, at this period particularly, when time is so valuable; and I make that motion.

The PRESIDENT *pro tempore*. The Senator from California moves that the reading of the residue of the Journal be dispensed with.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Objection being made it must be read.

The Secretary resumed and concluded the reading of the Journal.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Attorney General, prepared in compliance with the resolution of the Senate of the 30th ultimo, requesting information as to the number of justices of the peace now in commission in each ward, respectively, of the city of Washington; which was referred to the Committee on the District of Columbia.

He also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made by the quartermaster's department during the month of January, 1868; which was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 3d instant, information in relation to the amount of rent paid for public stores in the city of New York, and in relation to other locations for customs warehouses in that city; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the board of trustees of the Protestant University of the United States, praying a grant of lands for the endowment of that university; which was referred to the Committee on Public Lands.

He also presented a memorial of citizens of Ohio, praying a change in the mode of appointments and removals, and in the qualifications of officers who are selected to execute the laws for the collection or for the disbursement of the moneys belonging to the United States; which was referred to the Committee on Finance.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of such an amendment of the organic law of the Territory as will allow the Legislative Assembly of the Territory to enact laws by a two-thirds vote of both branches thereof, notwithstanding a veto of the Territorial Governor; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an additional appropriation for the completion of the capitol building in that Territory; which was referred to the Committee on Territories.

He also presented resolutions of the constitutional convention of Mississippi, in favor of an appropriation of so much of the tax levied upon cotton for the year 1867 as will enable the Freedmen's Bureau to supply the actual wants of citizens without respect to color; which were referred to the Committee on Finance.

He also presented resolutions of the constitutional convention of Georgia, in favor of an appropriation of $30,000,000 by the Government, to be loaned under proper regulations, to aid in developing the agricultural interest of needy southern planters; which were referred to the Committee on Finance.

He also laid before the Senate resolutions of the Legislature of Ohio in favor of the repeal of the tax on cotton; which were ordered to lie on the table.

Mr. WILSON presented the following petitions and memorials, praying the removal of the civil disabilities imposed upon the petitioners and memorialists by acts of Congress, and they were referred to the Committee on the Judiciary:

The petition of Hilliard J. Jones, of Houston county, Texas;

The petition of Matthew W. Locke, of Arkansas;

The memorial of John A. Letton, of New Orleans;

The petition of Joseph A. Corbell, of Arkansas; and

The petition of George C. Organi, of Virginia.

He also presented a petition of citizens of Mississippi, praying the removal of the civil disabilities imposed upon W. G. Vaughn, a citizen of that State, by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. TRUMBULL. I have received, and been requested to present to the Senate, a petition signed by John S. Bailey, of Macomb, Illinois, and a number of others, many of them members of the bar, setting forth that the district of country known as the military tract in the State of Illinois, embraces about half a million of people, and that there is a great deal of litigation in that part of the State which properly is carried on in the United States courts; and that the costs and expenses of this litigation would be greatly reduced if the terms of the southern district court of Illinois were held at the city of Quincy, in that State, or if a new district were established for that portion of the State of Illinois. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. NORTON presented a memorial of the Legislature of Minnesota, in favor of removing the Indian tribes now occupying the country lying between the forks of the Cheyenne river, Dakota Territory, to some other locality, and that that region may be made available to the needs of the white man; which was referred to the Committee on Territories.

He also presented resolutions of the Legislature of Minnesota, in relation to the protection of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

He also presented a memorial of the Legislature of Minnesota, in favor of granting aid in the construction of the Northern Pacific railroad; which was referred to the Committee on the Pacific Railroad.

Mr. GRIMES presented the petition of Cincinnatus W. Harper and Clarence C. Harper, heirs-at-law of John W. Harper, deceased, praying compensation for the use and occupation of their land in the county of Norfolk, Virginia, by the United States for hospital and navy-yard purposes; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Iowa, praying that a pension be granted to Orson Young, of Burlington, Iowa, for military service rendered to the Government; which was referred to the Committee on Pensions.

Mr. DAVIS presented additional papers in relation to the claim of Robert Gibson for compensation for the use and occupancy of his farm by United States troops and for the destruction of property thereon; which were referred to the Committee on Claims.

Mr. THAYER presented a petition of citizens of Nebraska residing in the Platte valley, praying that the lands along the line of the Union Pacific railroad may be restored to market and subjected to the homestead and preëmption laws, and also that a homestead on those lands may embrace one hundred and sixty acres instead of eighty acres, and that

the land may be entered at $1 25 per acre; which was referred to the Committee on Public Lands.

He also presented the petition of citizens of Nebraska, praying the establishment of a mail route from Lincoln to Beaver Creek, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of citizens of Iowa and Nebraska, praying the establishment of a tri-weekly mail route from Little Sioux, Iowa, to West Point, Nebraska; which was referred to the Committee on Post Offices and Post Roads.

He also presented two petitions of citizens of Nebraska, praying for the establishment of a mail route from Beatrice to Millford, in that State; which were referred to the Committee on Post Offices and Post Roads.

PERSONAL EXPLANATION.

Mr. CONNESS. I rise, in connection with the matter that I noticed yesterday morning, the reports of the Associated Press, to say, in justice to the reporter who is now engaged in making those reports, that they are generally made with great exactness, and that in the case to which I alluded yesterday they were so made, but the transposition took place at the telegraph office in this city. I make this explanation in justice to the reporter, who does his work well.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 313) requiring persons applying to Congress for the extension or renewal of patents to give public notice thereof, reported it without amendment.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the petition of officers, detectives, and employés of the Board of Police of Washington city, praying an increase of compensation, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

He also, from the same committee, to whom were referred the petitions of Samuel W. Maurice, John C. Elvans, and William J. Clark, praying a compensation for services rendered as assistant assessors of internal revenue in South Carolina, asked to be discharged from their further consideration, and that they be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the clerks of Departments and other employés in the civil service at Washington, praying an extension of the joint resolution approved February 28, 1867, granting additional compensation, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 397) to amend an act entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," reported it with amendments.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the petition of Ethan Ray Clarke and Samuel Ward Clarke, praying confirmation of title to certain lands in the State of Florida, reported a bill (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government; which was read, and passed to a second reading.

ISRAEL S. DIEHL.

Mr. MORRILL, of Vermont. The Committee on Finance, to whom was referred the joint resolution (S. R. No. 92) for the relief of Israel S. Diehl, have instructed me to report it back without amendment and recommend its passage. I ask the unanimous consent of the Senate to consider it at this time. I am sure when it is explained there will be no objection to it.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to remit the duties charged on the importation of a number of Cashmere or Angora goats, imported for the introduction of the breed into a portion of the United States by Israel S. Diehl, and to cause to be returned to him $135 in gold deposited by him with the deputy collector of the port of New York, November 29, 1867, on account of the payment of this duty.

Mr. MORRILL, of Vermont. I will state, for the information of the Senate, that Mr. Diehl was sent out as commissioner of the Agricultural Department, and while in Asia Minor he bought about one hundred and sixty of these Angora goats and brought them to New York, losing on the way some thirty or forty of them. When he went away the law provided that such animals imported for breeding purposes should be exempt from duty, as they had almost always been from the foundation of the Government; but in May, 1866, after the termination of the reciprocity treaty, in order to obtain a duty upon horses, cattle, sheep, and hogs, which were being imported in large numbers from the British provinces, a joint resolution was passed imposing a duty of twenty per cent. upon all living animals. Of course, under such a resolution there was no exemption of animals imported for breeding purposes. That resolution, however, was passed in the expectation that within a month or two from that time the general subject would be taken up and the usual provisions in relation to the importation of animals for breeding purposes would be adopted; but no legislation having been passed upon the subject, all animals now imported are subject to a duty of twenty per cent. I conceive that there is no Senator who would object to the importation of these animals, as, of course, it can be for no other purpose than for breeding, as there are very few in the country at the present time; and it is very desirable, if they can be raised, as I understand they can be, in Missouri and Kansas to as much advantage as in any other part of the world. I trust there will be no objection to the resolution.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RAILROAD AT PORTLAND, OREGON.

Mr. WILLIAMS. The Committee on Public Lands, to whom was referred the bill (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," have instructed me to report it back with an amendment as a substitute, and I ask that the bill be put on its passage at this time.

Mr. CONKLING. What is the bill?

Mr. WILLIAMS. It is a bill that does not appropriate a dollar of money or a foot of land; it simply extends the time for the construction of the road named. It is just like many bills that have passed the Senate without any opposition.

Mr. CONKLING. I ask that the bill be read.

The PRESIDENT *pro tempore*. It will be read for information.

Mr. WILLIAMS. I suppose only the substitute need be read.

The Secretary read the reported amendment, which was to strike out all after the enacting clause of the bill and in lieu of the words stricken out to insert:

That section six of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," approved July 25, 1866, be so amended as to provide that, instead of the times now fixed in said section, the first section of twenty miles of said railroad and telegraph shall be completed within two years from the passage of this act, and at least twenty miles in each three years thereafter, and the whole on or before the 1st day of July, A. D. 1880.

Mr. CONKLING. I wish the Senator who has this bill in charge would tell us a little about it. I would like to know, for example, whether it has been reported by the committee or not.

Mr. WILLIAMS. When I made the report I stated that I was instructed by the Committee on Public Lands to report this substitute for the bill. It simply provides for extending the time. This road is located, so far as Oregon is concerned, in the heart of the Willamette valley, and there is little or no land that can be taken under the act of 1866. The people there are struggling to build this road as far as possible from their own resources, and it is exceedingly difficult for a weak people as they are, comparatively speaking, to construct such a road. It has been ascertained that the time fixed in the original law is too short to enable them to complete the road, and this bill is to grant an extension of the time. Bills of this description are passed without objection for other States. It does not take one cent out of the Treasury or add anything to the appropriation of land contained in the former act.

Mr. STEWART. A great mistake has grown up in regard to what is granted by these land-grant acts in many instances. It is supposed that we have granted very large amounts of land, and this is an illustration of the mistakes which grow up. I have seen the number of miles figured up, and consequently the number of acres of land granted to a road like this. This road goes through the Willamette valley, which is settled up, and has been for years. Perhaps the grant may extend somewhat on the hills and lay hold of some lands there that cannot really be occupied. What aid we extend to this road by the land grant amounts to a mere bagatelle. It gives them a little encouragement and perhaps helps them on somewhat. It should be distinguished from a land grant made through the prairies of the West, where in many instances the companies have got the full amount. The popular idea that these grants all convey good lands to the extent of the number of acres which the grant would call for if there were lands to be taken, when in fact the land is either occupied by settlers or is a desert, is a great mistake in the public mind. There is very little granted to this road, and it would be a great hardship to require them to either forfeit the little grant they have got or do an utter impossibility.

Mr. HENDRICKS. I will ask the Senator from Nevada if there is anything in this bill beyond the simple proposition to waive the forfeiture on the part of the Government because the road has not been completed exactly at the time fixed?

Mr. STEWART. It merely extends the time; nothing else.

Mr. HOWARD. I beg to inquire of the Senator from Oregon at what time these lands become forfeited?

Mr. WILLIAMS. The act making the grant was passed on the 25th of July, 1866, and they become forfeited in two years from the date of that act. So unless this bill is passed between this time and the 25th of next July the lands will be forfeited. The parties are at work on the road now. The city of Portland has just subscribed $250,000 to aid in the construction of the road, and the people are subscribing largely to the extent of their means to complete it, and very little aid, if any, is derived to the road from the lands lying along the first sections.

Mr. HOWARD. What portion of the road has been completed already?

Mr. WILLIAMS. None of it. Not one mile of it is completed.

Mr. STEWART. Some parties have been at work surveying it since they got the grant, as I understand.

Mr. HOWARD. The road has been surveyed and the lands reserved, then, on each side of the route?

Mr. WILLIAMS. Yes, sir; the route of the road has been surveyed and the plat of

survey is filed with the Secretary of the Interior and has been accepted by him.

Mr. HOWARD. And the effect of this bill is merely to prevent the forfeiture of the lands and their reversion?

Mr. WILLIAMS. Yes, sir.

Mr. HOWE. It is only a year and a half since the grant was made?

Mr. WILLIAMS. About that time. The time mentioned in the original bill was altogether too short. This bill has no other effect than to extend the time for the construction of the road.

Mr. MORRILL, of Vermont. How long?

Mr. WILLIAMS. Two years for the first section, and they are to construct each succeeding section of twenty miles within three years, and to make it as much sooner as they can. Everybody is interested in having the road constructed as soon as practicable; but it is very difficult to start the construction of a railroad in that country.

Mr. CONKLING. I had no purpose, I have none now, of interfering with the convenience of the honorable Senator who has this bill in charge. There are, however, a great many proposed schemes of this sort affecting the public lands and affecting the public moneys. Here is a bill the original of which I think has never been printed. If I am wrong in that respect the Senator will correct me. I think the original bill which was referred to the committee was not printed.

Mr. WILLIAMS. Certainly not.

Mr. CONKLING. The Senator says, "certainly not." I wonder a little at his expression. Why "certainly not?" Is it the practice of this body to have bills introduced and referred without being printed, reported back by the committee without being printed, an amendment in the nature of a substitute reported back without being printed, and then, without any printing, for the Senate to proceed at once to put the bill on its passage and have it go to its final conclusion without any debate except a mere inquiry? No, sir; that is not usual. It is not usual in either House, and particularly not in this House where there is no previous question and no hasty mode of doing business. On the contrary, a bill of any magnitude—and certainly this is a bill of some importance—is usually printed, that Senators may know in advance something about it; but when it comes from a committee, at least, the practice is that it lies over, so that by inquiring, if not by seeing it on our tables, we may know something about it.

Mr. FESSENDEN. Does it make an appropriation?

Mr. CONKLING. I understand not. Now, Mr. President, I am not authorized to say that this bill is not all right in every way; first, because I have no knowledge which would authorize my saying so; and, second, because the honorable Senator from Oregon tells us it is all right; but I submit, nevertheless, that this is a very unfortunate departure, as I think, from the ordinary modes of doing business. I confess that I should think the Senate was accepting a great deal from me, even if I held the distinguished position of the Senator from Oregon as chairman of this committee, if they would adopt measures and vote finally upon bills of this sort upon my rising here and presenting them without their having been in print and my saying they were all right. It may even be that as a measure to effectuate the intentions of the committee this bill is not as well as it would be if it could be criticised in the ordinary way.

Now, sir, I make these remarks partly in explanation to my honorable friend from Oregon of the reason why I asked a question with regard to the bill. I think this is not the way to legislate, and if there be one class of measures, I submit, more than another to which the criticism I make is applicable it is that class which is pressed by large numbers of persons, because they represent great private interests. This belongs to that class. There are a good many other bills and propositions which belong to the same class. I hope I shall be excused for expressing the hope that we shall legislate upon this particular sort of measure at least with as much circumspection as belongs to the ordinary and habitual practice of legislation.

Mr. WILLIAMS. The honorable Senator from New York does me too much honor in saying that I am the chairman of the committee by whom this bill is reported. The honorable Senator from Kansas [Mr. POMEROY] is the chairman of the committee. I am an humble member of that committee.

Mr. CONKLING. Which is the committee from which it comes?

Mr. WILLIAMS. The Committee on Public Lands.

Mr. CONKLING. I did not understand that.

Mr. WILLIAMS. And I was instructed by the committee to report back this bill. Now, I simply ask to have the bill put on its passage. I did not expect it would pass without its being read to the Senate and the Senate being informed as to its contents. The request which I made of the Senate is not without precedent, for we have just passed a bill that was reported from the Committee on Finance without printing, and without any consideration further than the reading of the bill. It is usual here every morning to pass bills in this way. This bill simply provides for an extension of the time mentioned in the sixth section of an act that has already passed the Senate. If that bill appropriating lands, or if any bill appropriating money or affecting the rights of the public or of the Government was here, of course it would be very proper that it should be printed and considered before it was put upon its passage; but as it has been customary ever since I have been here to pass these bills without objection because the Government and the people are in no way concerned I supposed there would be no objection to the passage of this bill. When the bill was introduced it was not printed, and very many bills are introduced that are not printed when they are introduced. I understand that they cannot be printed without a special order for that purpose; that they are only printed when they are reported from a committee. If, however, the Senator insists upon having this bill printed, of course I shall not press its passage now.

Mr. CONNESS. I hope that my friend will agree to let this bill lie over until to-morrow, and be printed. I intended to ask him to do that in the first instance, because I desire to offer a section to it affecting some grants in California; but I did not wish to interfere with the Senator's proceedings, and refrained from doing it. But since so much time has been consumed, and there is an evident desire to have it presented, I hope the Senator will let it go over.

Mr. WILLIAMS. Very well.

Mr. CONNESS. It is a very simple proposition, and can be very easily understood by the Senate.

Mr. HOWE. I ask the Senate to proceed to the consideration——

The PRESIDENT *pro tempore*. The subject before the Senate is not disposed of. Does the Senator from California make a motion that this bill be postponed until to-morrow?

Mr. CONNESS. I suggested that it be postponed until to-morrow, and printed. I will now make the motion.

The PRESIDENT *pro tempore*. The question is on that motion.

The motion was agreed to.

HEIRS OF GENERAL I. B. RICHARDSON.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 302. It is a bill paying a debt to the widow of a soldier who died in the service. It is only $400.

The motion was agreed to; and the bill (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased, was read a second time, and considered as in Committee of the Whole. It proposes to appropriate the sum of $400 to Mrs. Frances S. Richardson, widow of the late Major General I. B. Richardson, deceased, in trust for Israel P. Richardson, minor child and heir of General Richardson, deceased, in full compensation for one mule and four horses stolen from deceased in the year 1852, by the Apache Indians, while he was on duty in New Mexico as an officer of the United States Army.

Mr. CONNESS. In what year was that?

The SECRETARY. Eighteen hundred and fifty-two.

Mr. CONNESS. Where does that bill come from?

Mr. HOWE. The Committee on Claims.

Mr. CONNESS. I hope the chairman of the committee will state something about the bill.

Mr. HOWE. General Richardson, then an officer in the Army, was stationed in that Territory at that time. Those Apache Indians stole these horses. Your law at that time required the Government to pay for all property stolen from those who were authorized to be, or resided within, the Indian Territory, and if you had treaties with the Indians the amount you paid for property stolen was to be taken out of the annuities due to them, and if there were no such treaties you took it out of your own Treasury. With the Apache Indians we had no treaty, and this appropriation, if it is made, must come out of the Treasury.

Mr. SHERMAN. Why was it not paid before? This long delay creates suspicion.

Mr. HOWE. Because there has been no appropriation, as the Auditor said, out of which it could be paid.

Mr. SHERMAN. Is that the only objection?

Mr. HOWE. That is the only objection.

The bill was reported to the Senate without amendment.

Mr. CONNESS. I do not know but that this is all right. It is certainly a small matter, although as establishing a precedent here it may be a very considerable one. My impression is that if this bill shall pass the constituents of any Senator in the West may request him, and he will be obligated to introduce at their instance bills calling upon the Treasury for hundreds of thousands of dollars.

Mr. TRUMBULL. Oh, no.

Mr. CONNESS. Why not?

Mr. TRUMBULL. It is limited to those who are rightfully in the Indian country. Our laws kept most persons out.

Mr. GRIMES. I recollect that just such cases have occurred here and been passed by Congress.

Mr. TRUMBULL. It is in pursuance really of a law of Congress.

Mr. CONNESS. I know that there is a law that says something about compensation for losses in the Indian country, upon the principle, I believe, that it is the duty of the Government to protect the citizens against the hostile acts of Indians to person or property; but I apprehend that law has not been followed up by payment in every case.

Mr. HOWE. It has not been in this case, but it ought to be.

Mr. CONNESS. I do not know. I think it is a very serious matter.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DOOLITTLE. I wish my colleague would allow this bill to lie over. I confess there is a principle involved in it that I have very anxious fears of, if we admit for a moment that we are to pay the losses which have followed in consequence of depredations by Indians in New Mexico, Arizona, Montana, and all that wild Indian country. I care nothing about the amount in this bill—it is nothing; but the question with me is whether it may not establish a precedent that will draw $100,000,000 from the Treasury.

Mr. HOWE. I will say to my colleague that the precedent is established by the law of the land, an express provision of law that you shall pay in such cases as this, and we are establishing no new precedent.

Mr. DOOLITTLE. If my colleague is entirely satisfied, on examination, that this is an exceptional case, I will not object to the passage of the bill. The principle was what I was afraid of.

Mr. WILLIAMS. I had supposed that the statute to which Senators refer was practically a dead letter, because it certainly has not been complied with in reference to claims of this description. It is almost impossible to tell what does or does not constitute Indian country. Take Oregon, for instance. No treaties were made with the Indians to extinguish the Indian title there, but Congress passed a donation act inviting settlers to go there and take possession of the lands, and in pursuance of that they did go there and took the lands and occupied them, and the Government made title; and yet there were no treaties with the Indians extinguishing their title, and numerous claims of this description exist in that country, growing out of the depredations committed by the Indians upon white people. I do not object to the passage of this bill if it can be made applicable to all similar cases; but I object to making an exception of any particular case and not applying the rule generally to cases of this description. I know that I have in my hands now papers showing depredations in what is technically called the Indian country upon white persons who are lawfully there in pursuance of an invitation by Congress, and of course I shall expect, if this bill passes, that their claims will receive the same attention at the hands of Congress.

Mr. CONNESS. I have had claims sent to me since I have been here, and some now in my possession, by citizens of the United States who suffered a loss of nearly their entire property, some of the parties losing their lives, by the depredations of Indians on the plains, where the parties were legally and legitimately, and where the Government of the United States undertook to protect them, but failed in that protection. Every citizen must know that he takes risks in crossing the plains; but they go; and upon losing their property they are entitled under the law to which the chairman of the committee has alluded to payment just as much as in this case; but I have not pressed these claims upon Congress, but have replied to them that they were, in my opinion, a class of claims which could not be properly pressed against the Government. And yet, under this law—I know the statute the Senator refers to—they would technically come. It is time that the law should be examined. I think it is wrong that we should now establish the rule of making compensation for every horse and mule lost in the Indian country. Persons who go into new countries, if they be in the Army, go there to take some chances and some risks. The plunder or loss of their horses or stock by Indians is one of the incidents of their position; and it is very difficult to distinguish, when stock is lost in an Indian country, how it is lost. It is a very general habit to charge it to the Indians; but it is lost to the party because it is allowed to stray and go forth with insufficient care. The Indians are said to have stolen it. They do often do so; and if we are to make the national Treasury responsible for the stock stolen in what is called the Indian country I think we had better engage in filling the Treasury at a greater rate than we have filled it recently.

The PRESIDENT *pro tempore*. The morning hour having expired, House bill No. 439 is before the Senate, the pending question being the motion to refer to the Judiciary Committee, with instructions, on which the Senator from Kentucky is entitled to the floor.

Mr. SUMNER. I hope the Senator from Kentucky will allow the resolution that I offered yesterday to be taken up and passed.

Mr. DAVIS. I have no objection to any business that will not consume time.

Mr. SUMNER. I ask that the resolution offered by me yesterday relating to a recent outrage in this neighborhood be taken up.

The PRESIDENT *pro tempore*. It requires unanimous consent.

Mr. HENDRICKS. The Senator from Pennsylvania [Mr. BUCKALEW] objected to that resolution yesterday, as I understood. He is not in his seat this morning. I do not know for what purpose he objected, but as he is not here I object for him now.

Mr. SUMNER. The Senator stated that he would not object to its consideration to-day.

Mr. HENDRICKS. He is not here. Perhaps he wishes to make some remarks on it. I do not know.

The PRESIDENT *pro tempore*. The Senator from Indiana objects.

Mr. DAVIS. I have no objection to the transaction of any business which will not lead to discussion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler, and a joint resolution (H. R. No. 201) in relation to the Rock island bridge, in which it requested the concurrence of the Senate.

LAND GRANTS TO NEVADA.

Mr. STEWART. The other evening, when we went into executive session, we had under consideration a bill in regard to lands in Nevada, which was about ready to be passed. I should like to be allowed to proceed with that a few moments now. I think it can very soon be disposed of.

The PRESIDENT *pro tempore*. The Senator from Nevada asks unanimous consent to take up the bill mentioned by him, which is the bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada. The Chair hears no objection, and that bill will be considered as before the Senate. When it was last under consideration the pending question was on an amendment to the amendment, made as in Committee of the Whole, to strike out in lines nine, ten, eleven, and twelve of section two of that amendment the following words:

> This act shall apply to selections heretofore made with the same limitations and restrictions applicable to future selections: *Provided*, That the same shall not interfere with any rightful claims under the preëmption or homestead law.

The amendment to the amendment was agreed to.

The amendment made as in Committee of the Whole, as amended, was concurred in.

Mr. CONNESS. I now offer the following amendment as a new section:

> *And be it further enacted*, That the provisions of this act shall apply to the lands granted to the State of California by the act of July 2, 1862, known as the agricultural college grant.

I wish to explain this to Senators. We simply want the provisions in the bill which is pending applied to our State so far as the grant made to our State for an agricultural college is concerned. California has made no selections as yet for that purpose; and the Governor of the State in his last annual message called public attention to the fact, and called our attention here to the fact that the President of the United States was not proclaiming or offering for sale land from which the selections could be made. The pending bill provides that the State of Nevada may select from the even sections reserved in the railroad grants, provided they take one acre for two, because the price fixed on those sections is $2 50 per acre. On the same terms we desire the privilege of selecting the agricultural college lands from that area in our State.

Mr. HENDRICKS. The bill which the Senator from Nevada has called up was considered by the Committee on Public Lands with a good deal of care, and the precise provisions which it contains were agreed upon by that committee. The proposition of the Senator from California has not been before that committee. It may be right; it may be that on examination I shall have no objection to it; but I think that so important a proposition as that ought to be considered by the committee before it is agreed to.

Mr. STEWART. I would call the attention of the Senator from Indiana to the fact that it is precisely in harmony with the provisions of the agricultural college grant of July 2, 1862. In the fifth subdivision of the fifth section of that act it is provided:

> "When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionately diminished."

That is all this amendment provides for, but the same difficulty exists in California with regard to the withdrawal of the Pacific railroad grants that exist in Nevada. This does not change the law, and does not interfere with anything the railroads want. It keeps the law substantially as it was. I have examined the amendment.

Mr. HENDRICKS. If the Senator from Nevada be entirely accurate the amendment is not necessary. If the bill granting to the State of California, with the other States, lands for an agricultural college authorizes their location in the name of the State upon the two and a half dollar lands there is no need of this amendment. But, Mr. President, one or two years ago we legislated with a good deal of detail in regard to the lands of California, quieting titles. The Committee on Public Lands gave a good deal of attention to the subject, and it was a very embarrassing subject, and we feel the embarrassment to some extent yet, but I think the result of our action was beneficial to the people and to the State of California. Now, how far that legislation may mingle with this proposition I do not know.

Mr. CONNESS. Not at all.

Mr. HENDRICKS. I cannot vote for an amendment of such importance as this without some better opportunity to examine it than I can possibly have here in the Senate.

Mr. CONNESS. I desire to say to the honorable Senator that this has no connection with the laws passed to which he refers. I have already stated that no selections have yet been made by the State of California under the grant for an agricultural college, that the State is now taking steps for the organization and erection of a building for such a college, and that the Governor of the State, in his last message in December last, called attention to the fact that the State could not, under existing laws, locate these lands and get them in aid of the organization of the agricultural college, and requested us here to take such steps as should enable the State to select these lands.

Mr. EDMUNDS. What is the difficulty? Why can you not do it?

Mr. CONNESS. The difficulty is the same that exists in the State of Nevada, which calls for the passage of this bill, that the lands are not offered for sale in the State of California any longer to any greater extent than are taken up by preëmptions and for homestead settlement. This mass of lands laying alongside of the railroads to which grants have been made, constituting the even sections, are by law subject to preëmption and settlements; but such as are not preëmpted and settled it is provided by this amendment may be taken as a portion of the grant to the State in lieu of the grant made for an agricultural college, provided that the State take but one acre, they being maximum priced lands at $2 50 per acre for every two acres to which she would have been entitled under that grant. Thus the Senator can clearly see that the proposition is easily understood. I avail myself of this opportunity in place of introducing a separate bill, which the Senator understands very well but additionally clogs up our business. If it were not a simple proposition, easily understood, I would not attempt it in this way.

Mr. HENDRICKS. The Senator from California knows how reluctant I am to interpose any objection to a proposition of this sort made

by him; but he asks, I think, a little too much of us when he asks us to agree to a proposition which we cannot properly investigate. In Nevada our examination satisfied us that it was proper to allow the State to make locations upon the reserved alternate sections, but in California the necessity may not exist. I cannot say that it does not; but I wish Senators to observe this result of the legislation that we are now agreeing to on the part of Nevada, to see whether we shall carry it further or even so far as to pass the bill. In the first place we grant the odd section to the railroad companies; then there are hundreds of thousands of acres in the hands of the State and the State's assignee—the railroad company—held as a monopoly for the present. Next, we grant to the State the even-numbered sections, to be held by the State for agricultural college purposes. This is the proposition, and we have an entire section of country then held by the State and by a railroad company.

Mr. STEWART. Allow me to call the attention of the Senator from Indiana to the fact that in 1866 we limited the State in her selection and in her disposition of the land to disposing of it to actual settlers quite as carefully as the United States do, so as not to allow it to be monopolized. There are restrictions on the mode in which the State shall dispose of her lands which place them within the reach of actual settlers, so that the State cannot sell in large quantities to the detriment of settlers.

Mr. HENDRICKS. What are the prices at which the State shall sell?

Mr. CONNESS. I will answer the question if the Senator from Nevada will permit me. One dollar and a quarter is the maximum rate at which California sells all lands granted to her; that is the highest rate.

Mr. HENDRICKS. That was not the question I asked. The Senator from Nevada suggested that the act of Congress limited the disposition of these lands so as to prevent monopolies, and I wanted to know what was the maximum, if any, fixed by the act of Congress.

Mr. CONNESS. Then I state for the Senator's information that the State laws fix $1 25 in our State, and no more.

Mr. DAVIS. I think I have allowed my friend from Nevada a very full opportunity to test his ability to pass the bill to-day.

Mr. CONNESS. I hope the Senator from Nevada will allow this bill to go over, so that Senators may have an opportunity to examine it and the amendment.

Mr. STEWART. I will let it go over, but I am anxious to pass the bill. I will, however, make this single remark, that under the rulings of the Department we have been unable to enter a single acre of land, and it is necessary to make the law exceedingly plain in order to enable us ever to get any. We have been trying to get some for several years.

The PRESIDENT *pro tempore*. The bill will be postponed until to-morrow.

Mr. EDMUNDS. In connection with the postponement of this bill I should like to have it printed with the amendment agreed to and the amendment of the Senator from California.

Mr. CONNESS. The bill was printed as it was reported by the committee.

Mr. EDMUNDS. I know that.

Mr. CONNESS. If the Senator wants my amendment printed that may be ordered.

Mr. EDMUNDS. I move that the bill as it stands and the proposed amendment be printed.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler—to the Committee on Pensions.

A joint resolution (H. R. No. 201) in relation to the Rock Island bridge—to the Committee on Post Offices and Post Roads.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary, with the instructions proposed by him.

Mr. DAVIS. I move to amend the proposition of the Senator from Wisconsin by striking out all after the word "instructed," and inserting the words which I send to the Chair and ask to have read.

The Secretary read the words proposed to be inserted, as follows:

To report a recommendation that this bill do not pass, and also a bill to repeal an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and all acts supplementary and amendatory thereto.

Mr. DAVIS proceeded to address the Senate on the general subject of reconstruction, but, without concluding, gave way to Mr. MORRILL, of Maine, who moved that the Senate proceed to the consideration of executive business. The speech of Mr. DAVIS, when concluded, will be published in the Appendix.

The motion of Mr. MORRILL, of Maine, was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 11, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

DRAWING FOR SEATS.

Mr. WINDOM. I rise to a privileged question. I offer the following resolution:

Resolved, That the resolution of February 7, 1868, relating to the drawing of seats in the House be rescinded, and that immediately after the passage of this resolution the members of the House proceed to draw seats in the same manner in which seats were drawn in the Thirty-Ninth Congress.

[Laughter.]

The SPEAKER. The Chair rules that that is not a privileged question. The resolution provides that the resolution of February 7 be rescinded, and that resolution has been executed and cannot be rescinded.

Mr. ORTH obtained the floor.

Mr. WINDOM. I will modify my resolution by striking out that part of it.

The SPEAKER. The gentleman from Indiana has the floor.

Mr. ORTH. I yield for a moment to the gentleman from Massachusetts [Mr. BOUTWELL.]

PERSONAL EXPLANATION.

Mr. BOUTWELL. I wish to call attention to a paragraph in the New York Herald dated February 10, in which the writer says:

"As a member of the Judiciary or Impeachment Committee Mr. BOUTWELL received $886 for the May session, which includes mileage from Groton, Massachusetts, to Washington and return. Mr. ELDRIDGE, of Wisconsin, of the same committee, gets $542 for the May session, and this includes two thousand seven hundred and eighty-four miles' travel. The mileage of the first amounts to ninety dollars, the mileage of the last to $278, showing an excess of pay to BOUTWELL over ELDRIDGE, for same service, of $432."

Mr. BROOKS. We cannot hear a word here in the suburbs. [Laughter.]

Mr. BOUTWELL. I am sorry the gentleman is in the suburbs.

The SPEAKER. It is very difficult for any gentleman to speak loud enough to enable every person in this Hall to hear him.

Mr. CHANLER. I suggest to the gentleman from Massachusetts that he send the paragraph to the Clerk's desk to be read.

Mr. BOUTWELL. I have read all that I propose to read, and it will appear in the Globe; that is sufficient. I only wish to say that there is an error in this statement. The Judiciary Committee held three sessions during the intervals of Congress, from the end of the March session to the commencement of the November session, all of which I attended. I have been to the Clerk's office and find that the allowance made to me for travel and expenses in the aggregate, including the whole, was $435 60 instead of $886 for the May session alone, as stated in the New York Herald. I presume, however, that there is no fault on the part of the newspaper writer; for I understand that while I was chairman *pro tempore* of the Judiciary Committee some five hundred dollars were drawn from the funds for the payment of witnesses' fees and the expenses of the committee which, by some accident, has been put to my account, while, in fact, it was expended for the business of the committee. I only wish to say that I received no such sum of money for my own purposes.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER. The House resumes the consideration of the bill reported by the Committee on Foreign Affairs (H. R. No. 584) concerning the rights of American citizens in foreign States, upon which the gentleman from Indiana [Mr. ORTH] is entitled to the floor.

Mr. ORTH. I yield five minutes to my colleague from Indiana, [Mr. HUNTER.]

Mr. HUNTER. Mr. Speaker, I indorse the bill now under consideration since its amendment, and shall therefore occupy the few moments that I have allotted to me by my colleague [Mr. ORTH] exclusively to the discussion of the main point presented in the bill. It is the right of expatriation. I know that Blackstone and many of the great law-writers of Europe have taken the broad ground that no person has the right to expatriate himself from the Government to which he owes allegiance; that once a subject always a subject. I know that Chancellor Kent, one of the greatest law-writers of this country, has mooted the same opinion, not upon any case presented where the point was in direct issue, but speaking upon general principles. But, sir, notwithstanding what law-writers have said upon this subject, this Government can never accede to any such doctrine. The fundamental law of this country, the Constitution of the United States, the great charter of our liberties, utterly forbids it. When the Constitution provides that Congress shall establish a uniform rule of naturalization, and in compliance therewith Congress does make a law by which citizens of foreign birth may absolve their allegiance from their native country and become citizens of this, what does it mean? Does it mean that when a foreigner in good faith, complies with this law, and takes the solemn oath that is required and swears allegiance to this country and abjures all others, that he shall be in fact an American citizen, and entitled to all the rights of life, liberty, property, and protection that a native-born citizen is under our Constitution; or does it mean that compliance with our naturalization laws only gives protection while the person resides in this country? I hold, sir, that the doctrine of this Government is and should be that a compliance with our naturalization laws fully absolves the person so complying from all obligations to the Government of which he was a subject, and confers upon him all the rights and privileges that belong to an American citizen; and when his rights are invaded by any foreign Power it is the duty of this Government to see that they are properly redressed. I admire the sentiment expressed by Captain Ingersoll to the Austrian naval commander in the case of Martin Kozsta, when he said to him that no American citizen can be confined in prison or wear chains unless he has been guilty of the violation of a law that requires it. In the cases of Colonel Nagle and others who are now confined in British dungeons, and which are commanding so much public attention, I can see but one course for our Government to pursue, and that

is to authorize the Executive to protest against their confinement and demand their immediate release, unless they are confined upon charges for acts committed by them in violation of the laws of Great Britain and within her jurisdiction, and in that case demand for them fair and speedy trials according to the laws of that country. In case our reasonable request thus made is refused to be complied with, then I insist that, in the language of this bill, we shall seize an equal number of British subjects and place them in similar confinement that our citizens are placed in until the British Government will comply with our request. And if that shall not succeed in accomplishing the desired result of releasing our citizens, then, sir, I am for using the war power of this Government to compel the British Government and all others to properly respect the rights of our adopted citizens. I hold, Mr. Speaker, that this Government cannot do less; the rights of our citizens demand it, and the self-respect of our Government requires it. Otherwise we might just as well abandon our naturalization laws and admit that we have not the power or the pluck to enforce them, and no longer deceive foreigners who are attracted to our shores by the advantages held out by our country, and say to them candidly, you may come here and seek homes, but we cannot make you citizens or protect you in your rights.

Mr. Speaker, I am not one of those persons that believe that England will turn a deaf ear to our demands, because they are reasonable and just. She has always known of our naturalization laws and has permitted her citizens to come here by hundreds of thousands for the express purpose of taking their benefits and becoming citizens of this country. She is, therefore, estopped from setting up the claim she has, that our naturalized citizens are still her subjects and responsible to her laws, unless she means trouble. If that is what she is seeking then I, for one, am willing that she shall be gratified. But woe unto the day she breaks peace with this Government. When she does Canada will cease to be a part of her domain and Ireland will be free. My counsel, therefore, Mr. Speaker, is for peace, if it can be had upon honorable terms; but war, rather than see American citizens deprived of their liberty in violation of law.

Mr. ORTH. I now yield five minutes of my time to the gentleman from Illinois, [Mr. COOK.]

Mr. COOK. Mr. Speaker, in the short time allowed me I do not expect to make any extended argument upon this question. I merely want to call the attention of the House and of the Committee on Foreign Affairs to what seem to me to be defects in this bill. And in order to make my point thoroughly understood I desire to refer first to the cases of two naturalized citizens of the United States residing in my district who recently visited Europe and were there arrested. The features of those cases, as I understand them, illustrate the point I desire to make. In one of the cases the person, a resident of my own town, and who for many years has been a naturalized citizen of the United States, went to Prussia to settle some business which he had to transact in that country. He was there arrested on the charge that he had committed a crime against the laws of Prussia by leaving the country without having rendered service in the *landwêhr*, or having provided a substitute. He was arrested charged with a crime under the laws of Prussia. After having been put to very great inconvenience, trouble, and expense, he was enabled to make his escape and return to this country.

The other was the case of Donat Halliker, who came to this country, at the age of seventeen years, in 1845, was naturalized in 1853, and served as a soldier in the Army of the United States during the Mexican war. In 1860 he visited France, with a passport from the Secretary of State of the United States, for the purpose of settling some patrimonial inheritance which had fallen to him. While there he was warned to do military duty in the French army, was arrested, confined in prison for some length of time, and then released, in order that he might find a substitute. Having been directed to report from time to time at a certain point he took advantage of his release and made his escape from France. I hold in my hand a memorial which sets forth all the facts in the case.

Here are two cases, in both of which the individuals were charged with being "guilty of crime against the laws of a foreign State," the one of crime against the laws of Prussia, the other of crime against the laws of France. The one was arrested as a deserter, under the laws of France, having been notified to render military service in the French army, and required to report from time to time to the French military authorities; the other was charged with a crime against the laws of Prussia in having left that country without either having served in the *landwêhr* or having provided a substitute.

The bill under consideration provides that no citizen charged with being guilty of a crime against the laws of any foreign country shall be entitled to the protection conferred by this act. Now in each of the cases to which I have referred that charge was made. In the one case the person had been a citizen of the United States for nearly twenty years and a soldier of the United States in actual service. He was a minor when he came here, and has been a naturalized citizen for nearly twenty years. Yet he cannot come within the provisions and protection of this bill. I understand such to be the legal effect of this bill, though I know it is alleged such is not its effect.

Mr. BANKS. Will the gentleman allow me a moment?

Mr. COOK. I have hardly time enough to justify my yielding any of it.

Mr. BANKS. I desire to say that the interpretation given to this bill by the gentleman from Illinois [Mr. COOK] is not the correct one.

Mr. COOK. I understand such to be the correct interpretation of the bill. One of these men was charged with a crime against the laws of Prussia, was arrested under that charge, and put to great inconvenience, expense, and trouble in order to procure his release. This bill provides that—

> No citizen of the United States who is guilty of crime against the laws of any foreign State, committed within its jurisdiction.

Halliker was charged with crime against the laws of Prussia, or, in other words, he was charged with an act which is defined to be a crime by those laws, and therefore he would not, in my opinion, be protected by this bill. I am averse to any proposition which will allow any foreign State to define what shall be deemed a crime which shall deprive an American citizen of the protection of his Government.

Why should there be any objection to make this matter certain—to declare by law that the native-born and naturalized citizens of the United States shall be entitled to equal protection as they owe an allegiance? and I desire to offer an amendment to the bill, in section one, line twelve, to strike out these words:

> *Provided always*, That no citizen of the United States who is guilty of crime against the laws of any foreign State, committed within its jurisdiction, shall be entitled to the protection contemplated by this act.

And insert in lieu thereof these words:

> *Provided always*, That no citizen of the United States who is guilty of any act within the jurisdiction of any foreign State which would be a crime against the laws of such State if committed within its jurisdiction by a native-born citizen of the United States.

I deem the adoption of some amendment of this kind essential if the bill is to afford any real protection to naturalized citizens. Yet, if this amendment were adopted I think the bill open to objection and greatly prefer the proposition of my colleague, [Mr. JUDD.]

There are no grades in American citizenship. There is no special privilege or right belonging to one citizen of the United States that does not belong to every other, whether he be naturalized or native born. We made no distinction between native and foreign born citizens in our late terrible struggle, when both alike volunteered, and both alike were drafted into the military service of the country. When a naturalized citizen was drafted if, as was the case in some instances, he claimed protection from the Government of his birth, it was held as a full and conclusive answer to such claim that the person making it was a naturalized citizen of the United States. Our Government refused to allow any naturalized citizen to claim or receive any protection from the draft from any foreign Government whatever, and all foreign States acquiesced in this assertion of our Government of the right to require and enforce military service from naturalized citizens. The right of protection and the duty of allegiance are reciprocal and coextensive.

Our Government ought not and cannot occupy the position of requiring allegiance and military service from naturalized citizens and refusing to allow the Government of their birth from protecting them from such service, and at the same time refusing them the protection extended to native-born citizens; in other words, the naturalized citizen does not and cannot owe allegiance to two wholly distinct Governments at the same time, and if his allegiance be due to our Government he is entitled to the full protection of an American citizen. All foreign Governments which have acquiesced in the settled policy of naturalization—which has been the policy of our Government from the beginning—are estopped from now saying that we had no right to afford to naturalized citizens the full protection which is the right of every American citizen.

I am opposed to the system of reprisals proposed in the bill as being wholly useless in settling the principle involved and only productive of annoyance and injury to individuals. What would be the advantage gained if we were to seize Mr. Charles Dickens as a hostage for George Francis Train, or how could the principle involved be settled thereby? Would it not be far better that we should announce temperately, but firmly, that naturalized citizens will receive in the future the same measure of protection afforded to those of native birth, and make such announcement good by the use of all the means necessary to that end?

Mr. ORTH. I now yield to the gentleman from Illinois, [Mr. BAKER.]

Mr. BAKER. Mr. Speaker, the questions of international law growing out of the transfer of citizenship from one nation to another are exceedingly difficult of solution; so difficult, that although I think the bill now before us is totally inadequate, yet I am not disposed to criticise it in a harsh and censorious spirit. It is the first effort of the committee upon a great and embarrassed subject, and to have achieved complete success upon first impression, and without the aid of the criticism of the House and the country, would have been a prodigy of performance rather than a thing reasonably to have been looked for.

In my opinion the bill should be recommitted with proper instructions. I think it is defective for what it contains and for what it does not contain.

The second section should not, in my judgment, have a place in the statutes of the Republic. It provides:

> That whenever it shall be duly made known to the President that any naturalized citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign; or if any citizen shall have been so arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and the President shall, without unreasonable delay, give information to Congress of any such proceedings under this act.

Upon this section I make these observations: first, it expressly empowers the President to precipitate upon the country a condition of things imminently likely to lead at

once to non-intercourse and hostility with other nations. He is empowered to arrest and detain in custody "any subject or citizen" of the offending Government who may be found within the jurisdiction of the United States, including, by the terms of the bill, any such innocent and unoffending foreigner who may happen to be in the country. Secondly, the resort to such a means is only to be justified in the extremity of actual war, and even then it is felt by all just minds to be a revolting necessity. To imprison an innocent man in retaliation for the imprisonment of another innocent man is rather a rude and barbarous than a civilized procedure. It can give no real satisfaction to the moral sense, and is not in harmony with the ideas and methods of an advanced civilization. Thirdly, it follows from what I have said that such a means would not be the best and most apt to attain the object had in view. It would be more likely to still further embitter and embarrass the difficulty. It would close the door to all friendly consideration of the great propositions of public law which we should present for the definitive sanction of foreign States. For these reasons I earnestly hope that no such provision may find a place in any enactment we may pass.

In the next place I think the bill is defective in this, that it does not clearly and distinctly announce the principle of expatriation. The following is that part of the first section of the bill, as amended by the committee, which bears upon this vitally important point, and in my judgment it fails to make a direct and definite announcement of the principle:

Be it enacted, &c., That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances. And the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the foregoing principle of public law which has heretofore been asserted by the Government of the United States in regard to the rights of naturalized citizens.

Upon this language I make these remarks: First, the statement that naturalized and native-born citizens shall receive the same protection may imply but it does not assert the right of expatriation. The declaration is, that all persons who have left their native country and naturalized here shall be protected as natural-born citizens; but the more fundamental fact, upon which protection must be based at last, that such persons had a natural right thus to expatriate is not declared. Secondly, the concluding clause still further confuses and enfeebles the section by referring us back to the principle of public law which has heretofore been asserted by the Government of the United States in regard to the rights of naturalized citizens—the historical fact being that, however grounded in natural justice the right of expatriation may be, the United States has not heretofore given it a distinct and unbroken utterance, such an utterance as is due to our ideas of liberty and worthy of the public law of the nineteenth century.

A popular idea to that intent has existed, I know, but it has not found a complete and consistent organic expression. It is just that expression which I now wish to see it have: first, through a declaratory act or resolution on the part of Congress, and then through a decent, respectful, but firm maintenance of the principle on the part of the Executive. By this means fitly pursued I am persuaded we can soon reach a substantial solution of the legal aspect of the question, and thus secure all proper protection for American citizens in foreign States. I think I perceive that well nigh the whole difficulty grows out of the want of a definite and formal international recognition of the natural right of expatriation; and I think I perceive that such has been the growth of the idea of liberty, not only here but in the States of Europe, that that right is just about ready to take such definite and formal place in the law of nations. In natural reason and by implication from much of the practice of nations it is already public law. It only needs a technical and positive recognition. But in seeking to secure for it that recognition we should appeal not to the dead past, but to immutable reason; we should assert a principle instead of reciting a history, especially where the text of that history speaks with a double tongue.

Before submitting the form of a declaratory bill, such as I think it would be proper to pass, I will first present a brief historical sketch of the question, with a view to showing how conflicting has been the expression of opinion upon the subject in our own country, and for the purpose of suggesting some of the elements of the solution of the problem. As the foundation upon which a number of American opinions rest I will first cite from Blackstone the common law doctrine of perpetual allegiance:

"It is a principle of universal law that the natural-born subject of one prince cannot by any act of his own, no, not by swearing allegiance to another, put off or discharge his natural allegiance to the former; for this natural allegiance was intrinsic and primitive and antecedent to the other, and cannot be divested without the concurrent act of that prince to whom it was first due."—1 *Blackstone's Commentaries*, page 169.

The question of the right of an American citizen to expatriate at his own will was first mooted before the Supreme Court of the United States in the case of Talbot *vs.* Janson, (3 Dallas, page 133,) in 1795. The point was not decided; but the discussion of it supplied some intimation of what the opinion of the court would have been had the facts been such as to call for a decison. Justice Kent, commenting upon the case, says:

"The majority of the Supreme Court gave no opinion upon the question; but the inference from the discussion would seem to be that a citizen could not divest himself of his allegiance except under the sanction of a law of the United States, and that, until some legislative regulations on the subject were prescribed, the rule of the common law must prevail."—2 *Kent's Commentaries*, page 8.

In the case of Isaac Williams before the circuit court of the United States for the district of Connecticut in 1797, Judge Ellsworth, at the time Chief Justice of the United States, is reported to have said, in the delivery of the opinion:

"The common law of this country remains the same as it was before the Revolution. The present question is to be decided by two great principles; one is that all the members of a civil community are bound to each other by compact; the other is that one of the parties to this compact cannot dissolve it by his own act. The compact between our community and its members is, that the community will protect its members; and on the part of the members that they will at all times be obedient to the laws of the community and faithful to its defense. It necessarily results that the member cannot dissolve the compact without the consent or default of the community."—2 *Cranch*, page 82, note a.

In the case of the United States *vs.* Gillies, before the circuit court of the United States for the district of Pennsylvania, in the year 1815, (1 Peters, C. C. R., 159,) the question was again alluded to, but not decided. Justice Washington, though not deciding the point, indulged in a very broad intimation of his opinion upon it. He said:

"I do not mean to moot the question of expatriation founded on the self-will of a citizen, because it is entirely beside the case before the court. It may suffice for the present to say that I must be more enlightened upon this subject than I have yet been before I can admit that a citizen of the United States can throw off his allegiance to his country without some law authorizing him to do so. It is true that a man may obtain a foreign domicile which will impress upon him a national character for commercial purposes, and may expose his property found upon the ocean to all the consequences of his new character, in like manner as if he were, in fact, a subject of the Government under which he resides. But he does not, on this account, lose his original character, or cease to be a subject or citizen of the country where he was born and to which his perpetual allegiance is due."

Justice Kent, after referring to the preceding and some other cases, concludes as follows:

"From this historical review of the principal discussions in the Federal courts on this interesting subject in American jurisprudence, the better opinion would seem to be that a citizen cannot renounce his allegiance to the United States without the permission of Government, to be declared by law; and that, as there is no existing legislative regulation on the case, the rule of the English common law remains unaltered."—2 *Kent's Commentaries*, page 10.

At a later period, 1830, in the case of Inglis *vs.* the Trustees of the Sailors' Snug Harbor, (3 Peter's S. C. R. 99,) the Supreme Court said that "allegiance may be dissolved by the mutual consent of the Government and its citizens or subjects;" that "the Government may release the governed from their allegiance." And in the case of Shanks, *et al.*, *vs.* Dupont, *et al.*, (*Ibid.*, 242,) Mr. Justice Story, delivering the opinion of the court, said:

"The general doctrine is that no persons can by any act of their own, without the consent of the Government, put off their allegiance and become aliens."

In 2 Story on the Constitution, paragraph 110, note 4, I find the following, which is to the same purport exactly:

"A question is often discussed under this head, how far a person has a right to throw off his national allegiance and to become the subject of another country without the consent of his native country. This is usually denominated the right of expatriation. It is beside the purpose of these commentaries to enter into any consideration of this subject, as it does not properly belong to any constitutional inquiry. It may be stated, however, that there is no authority which has affirmatively maintained the right, (unless provided for by the laws of the particular country,) and there is a very strong current of reasoning on the other side, independent of the known practice and claims of the nations of modern Europe."

The general effect of the foregoing opinions is, that the citizen cannot expatriate without the consent of his Government, declared by law—a conclusion in which I by no means concur, believing, as I do, that it is not sanctioned by reason and natural justice, and knowing, as I do, that it is not in harmony with the actual practice of nations. There is another class of American opinions quite the reverse of the foregoing and altogether sounder, in my judgment. I will next produce a few of these:

In the case of Stoughton *vs.* Taylor, (2 Paine's Circuit Court Reports, page 660,) the right of expatriation is expressly held to be inherent and fundamental. Justice Van Ness, delivering the opinion of the court, said:

"The occasion will not permit me to go into a full examination of the principles of public law in reference to this right of expatriation. I think, however, that it can be maintained under the established law of nations, and even by the laws and the practice of those who have become the most strenuous for what may be termed the modern doctrine of perpetual allegiance—a doctrine which grew out of the feudal system, and was supported upon a principle which became imperative with the obligations on which it was founded. In this country expatriation is conceived to be a fundamental right."

In the case of Murray *vs.* McCarty, (2 Munford, 393,) decided in 1811, in the supreme court of appeals of the State of Virginia, Judge Cabell said:

"Nature has given to all men the right of relinquishing the society in which birth or accident may have thrown them, and of seeking subsistence and happiness elsewhere; and it is believed that this right of emigration or expatriation is one of those 'inherent rights of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity.' But although municipal laws cannot take away or destroy this great right they may regulate the manner and prescribe the evidence of its existence, and in the absence of the regulations, *juris positivi*, the right must be exercised according to the principles of general law."

In the case of Alsberry *vs.* Hawkins, (9 Dana's Reports, 177,) decided in the court of appeals of the State of Kentucky in 1839, the chief justice, George Robertson, a very able judge, in rendering the decision of the court, said:

"Whatever may be the speculative or practical doctrines of feudal Governments or ages, allegiance in these United States, whether local or national, is, in our judgment, altogether conventional, and may be repudiated by the native as well as adopted citizen, with the presumed concurrence of the Government, without its formal or express sanction. Expatriation may be considered a practical and fundamental doctrine of America. American history, American institutions, and American legislation all recognize it. It has grown with our growth and strengthened with our strength. The political obligations of the citizen and the interests of the Republic may forbid a renunciation of allegiance by his mere volition or declaration at any time and under all circumstances; and therefore the Government, for the purpose of preventing abuse and securing the public welfare, may regulate the mode of expatriation."

Secretary Marcy, in his letter to Chevalier Hulseman, in the case of Martin Kozsta, has

admirably stated the right of expatriation and its limitations. He says:

"There is great diversity and much confusion of opinion as to the nature and obligations of allegiance. By some it is held to be an indestructible political tie; and though resulting from the mere accident of birth, yet forever binding the subject to the sovereign. By others it is considered a political connection in the nature of a civil contract, dissoluble by mutual consent, but not so at the option of either party. The sounder and more prevalent doctrine, however, is that the citizen or subject, having faithfully performed the past and present duties resulting from his relation to the sovereign power, may at any time release himself from the obligation of allegiance, freely quit the land of his birth or adoption, seek through all countries a home, and select anywhere that which offers him the fairest prospect of happiness for himself and his posterity."—*Senate Documents*, first session Thirty-Third Congress, p. 33.

To my apprehension this is clearly the doctrine of natural justice, as it is certainly the doctrine which has received the largest recognition from the practice of nations. Historically, the idea of perpetual allegiance is probably not older in Europe than the feudal system, which emerged out of the barbarism that followed the dissolution of the Roman empire. It had no place, I think, among the Greek republics, and certainly none in the Roman republic and empire. On the contrary, that great political organization, out of whose wreck has grown up nearly all the States of Europe, recognized the right of expatriation to a liberal extent. It was a part of the Roman policy and the Roman law, and is thus celebrated by one of her most eminent statesmen:

"But the whole of this topic of my speech and the whole of this discussion, O judges, has reference to the common right of changing one's city; it has nothing in it which is peculiar to the religious observance of treaties. For I am defending the universal principle that there is no nation on the whole face of the earth" * * * * * "as to which we are forbidden to adopt any one of its citizens as our own or to present any one of them with the freedom of our city. Oh, how admirable are our laws, and with what God-like wisdom were they established by our ancestors from the very first beginning of the Roman name! especially the law that no one of our people can be a citizen of more than one city" * * * * "and that no one can be compelled against his will to change his city, nor against his will to remain a citizen of any city. For these are the firmest foundations of our liberty, that every individual should have it in his own power to retain or abandon his privileges."—*Cic. Orat. pro L. C. Balbus, XIII.*

The French law gives no countenance to the doctrine of perpetual allegiance; on the contrary, it distinctly recognizes the inherent right of expatriation by providing that the French citizen who shall at his own option do any one of several things shall thereby lose his quality of Frenchman. The following is the French law upon this subject:

"The quality of Frenchman shall be lost, first by naturalization in a foreign country; second, by accepting, without the authority of Government, public employments bestowed by a foreign Power; thirdly, by adoption into any foreign corporation which shall require distinctions of birth; fourthly, in short, by any settlement made in a foreign country without intention of return."—*Code Napoleon*, Art. 17.

"The Frenchman who, without the authority of the Government, shall engage in military service with a foreign Power or shall enroll himself in any foreign military association shall lose his quality of Frenchman."—*Ibid.*, Art. 21.

Even the statutory law of England is in express conflict with her common law doctrine of natural and perpetual allegiance. By an act (7 and 8 Victoria, chapter 66) adopted August 6, 1844, and amendatory of previous acts as far back as the time of William III, the British Government has explicitly provided for the transfer of the allegiance of a foreigner to the Crown of England, thus clearly and practically ignoring her own feudal doctrine of continuing allegiance. The provisions of this act impose no other disability upon the adopted citizen except that he shall not be a member of the privy council, nor of either House of Parliament, leaving it to the discretion of the principal Secretaries of State—who are charged with the execution of the act—to extend the disabilities if they think fit. The following is the oath prescribed by the act:

"I, A B, do sincerely promise and swear that I will be faithful and bear true allegiance to her majesty Queen Victoria, and will defend her to the utmost of my power against all conspiracies and attempts whatever which may be made against her person, crown, or dignity; and I will do my utmost endeavor to disclose and make known to her majesty, her heirs and successors, all treasons and traitorous conspiracies which may be formed against her or them; and I do faithfully promise to maintain, support, and defend, to the utmost of my power, the succession of the crown, which succession, by an act entitled 'An act for the further limitation of the crown and better securing the rights and liberties of the subject,' is, and stands limited to the Princess Sophia, electress of Hanover, and the heirs of her body, being Protestants, hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of this realm: so help me God."

Here, sir, is an oath of abjuration and allegiance—abjuration of foreign sovereignty and allegiance to the adopted sovereignty of Great Britain, all based upon the voluntary action of the foreigner who seeks to become a British subject. There could not be a more distinct recognition of the right of expatriation. No matter, therefore, what may be the common law of England, nor what may have been the mistaken acceptance of this law by some American judges, writers and diplomats—England is estopped by her solemn, higher, and more enlightened statute from appealing longer to the dead and effete authority of her feudal law. So strong is the position in reason and so plain is her implied recognition of the right, that I am persuaded the statesmen and lawyers of England would concede the point if the consequences of their own action were pressed upon them to their logical result.

In view of the whole situation I think the following is about such a declaratory act as we should adopt at this time, and I respectfully submit it to the candid consideration of the House, intending to offer it as a substitute if an opportunity occurs:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of expatriation, like the rights of life, liberty, and the pursuit of happiness, is a natural and unalienable right.

SEC. 2. *And be it further enacted*, That when, in the *bona fide* exercise of the rights of expatriation and naturalization, citizens or subjects of any foreign State have heretofore become, or shall hereafter become citizens of the United States, such naturalized citizens are citizens of the United States to all intents and purposes whatsoever, and as such are of right entitled to receive from this Government, and shall receive, the same protection of life, liberty, and property that is accorded to native-born citizens of the United States in like situation and circumstances.

SEC. 3. *And be it further enacted*, That the United States will at all hazards extend full and complete protection to its native-born and naturalized citizens, and will exercise the same jealous care and put forth the same measure of energy in the protection of the rights of its naturalized as of its native-born citizens.

SEC. 4. *And be it further enacted*, That to the end that the rights of American citizens in foreign countries may cease to be questioned, and that the peace of nations may be preserved, it is hereby declared to be the duty of the Executive of this Government to insist energetically and without delay upon the recognition of the foregoing rights by other Governments, and particularly to interpose with like promptitude and energy, upon the basis of the principles declared in this act, in the behalf of all American citizens whose rights may be infringed by or under the authority of any foreign State; and to lay before Congress as early as practicable, and from time to time, the results of such interposition, together with the facts involved in the cases which may now exist or hereafter arise, of infringement of the principles of this act by or under the authority of any foreign State.

Such, sir, is substantially my conception of the action that is now needed to be taken by Congress. Such action is not amenable to the objection that it would only operate in future; *ex vi termini* it would necessarily cover both the past and the future. A principle of natural justice admits no limitations of time. It is as eternal and immutable as the will of God who ordained it. I am tempted to illustrate this truth by citing a passage of extraordinary greatness and elevation from Cicero's book upon laws. It is one of the immortal passages of the world's literature of thought:

"The impulse which directs to right conduct and deters from crime is not only older than the ages of nations and cities, but is coeval with the Divine Being who sees and rules both heaven and earth;" * * * * "for the impulse which impels to right conduct and warns us against guilt springs out of the nature of things. It did not begin to be law when it was first written, but when it originated, and it is coeval with the Divine mind itself."

In my opinion we should declare great principles, and say nothing of details and particular exceptions. The principles, once explicitly insisted upon by this Government and definitely recognized by other nations will be found to solve the difficulties of special cases as they arise. I think we should say nothing of the classes of cases in which we will *not* extend protection. These are very generally provided for by the law of nations already, and at all events they are instances in which the whole question is in our own hands, and in relation to which no point of conflict can arise with other nations. What we need is a formal and explicit appeal to the great natural right of expatriation, and the concurrent right of perfect and entire citizenship, based upon the *bona fide* exercise of the rights of expatriation and naturalization. The right of expatriation should be grouped with the natural rights of life, liberty, and the pursuit of happiness, amenable like them to such reasonable conditions of enjoyment as may be required by the well-being of society and States, but like them, not to be destroyed by regulation. This, in my judgment, is the teaching of natural reason, that primal source of just law, from which proceed the beneficent institutions of nations and the good and wholesome rules of action which regulate the intercourse of nation with nation.

Bynkershoek says well when he says, "reason, reason alone is the soul of the law of nations." Under the impulse of reason international law has grown and is to grow. As civilization advances, the errors and shortcomings of the past rot in oblivion, but reason is a perennial fountain of life and liberty to the nations. It is appropriate that this Republic, which, discarding conventionalism and appealing to pure reason, has given to the world so noble a declaration of the natural rights of man, viewed as a citizen of a particular State, should press upon the nations, and contribute to the public law of the world, an explicit declaration of that other great natural right of man, which springs out of his larger relation to the whole family of States.

Mr. ORTH. I now yield ten minutes to the gentleman from Ohio, [Mr. ASHLEY.]

Mr. ASHLEY, of Ohio. Mr. Speaker, I am obliged to my friend from Indiana [Mr. ORTH] for yielding even the few moments he has allowed me.

I am in favor of the purpose sought to be secured by this bill. I am not satisfied, however, with it as originally reported or as amended by the committee. To the propositions so ably presented by the honorable chairman of the Committee on Foreign Affairs [Mr. BANKS] in the report before us, I give my cordial assent. I regret that I cannot approve as fully the bill accompanying it. I want a provision in the bill affirming the right of expatriation for all American citizens. It seems to me that the United States cannot with propriety ask foreign Governments to yield a regulation so long maintained and conceded by all Governments except our own, as legitimately within the scope of municipal authority, without first affirming the right of expatriation for all American citizens, and by public statute recognizing their right voluntarily to become subjects and citizens of any foreign prince or potentate. I hold that every man has the inherent right to remove from one nation to another. A citizen of the United States may go from this country to France, Great Britain, Germany, or any other nation, and by complying with their laws become a citizen if he so elect. In the language of Burlemaqui, quoted by the chairman of the Committee on Foreign Affairs in the report before us, I hold that—

"It is a right inherent in all free people to have the liberty of removal if they think proper. When a person becomes a member of a State he does not thereby renounce the care of himself and his affairs. He may seek the necessaries and conveniences of life elsewhere. The subjects of a State cannot be denied the liberty of settling elsewhere in order to procure those advantages which they do not enjoy in their native country."

European Governments do not recognize this doctrine. They claim—

"That a natural-born subject of one prince cannot by any act of his own discharge his natural allegiance and become the subject of another prince without

the concurrent act of the prince to whom his first allegiance was due."

To this doctrine, the offspring of feudalism, the American people object. It is a doctrine as unreasonable as it is unjust, and cannot without dishonor be conceded by the Government of the United States; nor can it be long maintained by any enlightened Government in opposition to the liberal and cosmopolitan spirit of the age.

I hold that the doctrine of perpetual allegiance is entirely indefensible, and that it must be abandoned by all Governments which have outgrown the barbarism of the feudal ages and advanced to the position of an enlightened Christian Power fit to be recognized among the brotherhood of nations.

While the United States have never affirmed by declaratory statute the doctrine of expatriation for American citizens, the executive and legislative departments of the Government have always recognized, and the people of the country have understood, the Government to hold it. In fact, the doctrine of the right of expatriation is a doctrine as well settled to-day in the minds of the American people as though it had been recognized by statute from the organization of the Government. Our whole history bears witness that we have never recognized the doctrine, "once a subject always a subject," nor will such a doctrine ever be recognized by this Government. It seems to me, however, that before we demand of other Governments the right of expatriation for their citizens that we should set them an example, which they could not misunderstand, by providing by statute for the voluntary expatriation of our own. There is a provision in the first section of this bill which I cannot approve; it is the provision which declares that—

"The President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens."

I am unwilling to clothe any President with such vast power as I understand this provision to confer, and certainly I would not clothe the present incumbent of the presidential office with any discretionary power on this or any other subject.

I am not in favor of lodging the war power in the hands of any President, least of all in the hands of the man now discharging the duties of that office. Let the acting President be authorized through our accredited ministers at foreign Courts to present the determination of the American Government on this question by laying before them a copy of the law we shall pass and urge the adoption by them of the doctrines therein affirmed, and let the result be reported to Congress for their judgment and action. Congress is clothed by the Constitution with the war-making power of the nation, and if it becomes necessary to vindicate the rights of American citizens and maintain the honor of the Government by a declaration of war I am sure Congress will not shrink from its duty. The rights of American citizens, native-born or naturalized, and the honor of the American Government, are far safer in the keeping of Congress than in the keeping of any President. Nor do I approve of the proposition to make reprisals upon innocent and unoffending men temporarily residing in or traveling through this country in retaliation for the indefensible conduct of the Governments to which they may happen to owe allegiance. That proposition, I hope, will not be adopted. I prefer to declare, as was suggested privately to me the other day by my colleague, [Mr. SPALDING,] that a violation of the provisions of this act by any Government shall be "just cause for war." This announcement would command the attention and respect of nations, and in my judgment do more to avert war than the provision proposed, if it did not cause them to adopt without war the doctrines affirmed, at least so far as it affected the rights of naturalized American citizens.

I say nothing now of the hardship and injustice of reprisals such as is proposed by this act. It seems to me like returning to the barbarism of the feudal ages. In my opinion our Government would be wanting in true dignity should they enact and attempt to execute such a law. Its adoption by this Government would insure its adoption by other Governments, and reprisal would follow reprisal, and innocent men suffer unjustly until war came, and the laws of war, more merciful than the law of reprisal, succeeded this unjust and indefensible enactment. No nation having the power to protect its citizens would long submit to such reprisals. War would be inevitable, and if war must come better that it come without the arrest and imprisonment of innocent men. Such a course would not only lose us the respect of all liberal men and humiliate us in our own estimation, but cover the nation with shame.

Mr. Speaker, this is a question of transcendent importance, and involves interests affecting personally millions of our citizens. It also affects the honor and plighted faith of the nation. So grave and important a subject ought to be carefully and dispassionately discussed. I regret that the chairman of the Committee on Foreign Affairs has determined to close the debate so soon.

This is a subject requiring the largest and most comprehensive statesmanship, and ought to have the fullest consideration. I do not want to be deceived myself, nor do I want to mislead others. The provisions of this bill ought to be so plain as to require no explanation, and to be incapable of misinterpretation. Is this such a bill? The discussion thus far satisfies me that it is not. The honorable chairman of the committee says he cannot answer a simple question touching one paragraph in the first section without making a speech. I cannot interpret the provisions of the bill as many gentlemen interpret it who are giving it their support. It seems to me that an affirmative declaration in the bill is so succeeded by a negative as to destroy its value.

I shall vote for the bill, however, imperfect as I regard it, trusting that a fuller discussion in the Senate than has been allowed us here will secure the adoption of amendments which will make it more acceptable than it is now. I am so desirous for the passage of some such measure that I think it my duty to vote for this bill, imperfect as it is, and trust to the Senate for the amendments I wish. I do not doubt that the purpose sought to be obtained is security to the persons and property of all citizens native born or naturalized, and an affirmation of the inherent right of expatriation. This is the object at which all are aiming. I do not know of a single member of the House who does not recognize the necessity for positive action on the part of Congress, nor do I know of one who does not indorse the justice of the doctrine affirmed in the able report of the committee. Having proclaimed to the world that we hold sacred the right of self-expatriation, we must maintain it at whatever cost. We have invited the citizens of all civilized nations to come among us and assume the obligations and duties of citizenship. Those who have become citizens were assured when taking the oath of allegiance that the flag of the Republic should be their shield and defense; that he who was naturalized in pursuance of law had conferred upon him every right, privilege, and immunity of the native born. Millions of men, having faith in the American Government and in its power and ability to protect its citizens, have assumed the obligations and responsibilities of citizens. The practical question now before us is whether this Government shall keep faith, and by legal enactment give official notice to all the world that no naturalized citizen, guiltless of crime, shall be deprived of life, liberty, or property by any foreign Power.

This protection is due from this Government to every citizen foreign born as well as native born. We cannot without dishonor yield this doctrine, and I do not intend to stop short of its complete recognition by all foreign Governments.

The men who in this country battled through so many long and weary years for the rights of all men against the prolonged reign of caste and oppression and the cruel assumptions of slavery are the men who may be depended upon to battle for all men, in every land, against the unjust assumptions of privileged classes and Governments. Our voices and votes have ever been on the side of liberty and against slavery; and they will ever be against the injustice and oppression of aristocracies and anti-republican Governments.

We plead for a recognition by all civilized Governments of the inalienable right of expatriation. We ask for the citizens and subjects of all Governments the same rights we concede to our own—the right voluntarily to seek homes in any land where they may hope to better their condition. Let this doctrine be declared as the settled policy of this country by its enactment into law and it will command the respect of all nations. It will give vitality and authority to the doctrine that a man does not owe perpetual allegiance to the land of his birth. It will, as my friend from Iowa said the other day, "breathe the breath of life into that clause of the Constitution which declares that 'the Congress shall have power to establish a uniform rule of naturalization.'"

Mr. Speaker, if the outrages which have been perpetrated by foreign Governments during the past year upon American citizens had been perpetrated by the Government of the United States upon their citizens we should have had more than a feeble protest and remonstrance; they would have demanded indemnity for their citizens thus outraged and security for our future conduct. Shall this Government be less mindful of its duty and the obligations it owes to its citizens than the despotic Governments of Europe? I trust not. Allegiance and protection are the reciprocal duties of citizens and Government. We have no right to expect loyalty of naturalized citizens unless we protect them, if need be, with the entire power of the Government. The passage of some such act as the one now before us will be an official recognition of our obligations to naturalized citizens, and I am persuaded will hasten the settlement of this question in which so many millions have an interest. To hasten that hour I give my voice and vote for this measure, imperfect and unsatisfactory as it is.

Mr. ORTH. Mr. Speaker, I desire briefly to consider some of the objections which have been urged against the details of this bill; for I believe that thus far not a single member of the House has indicated any opposition whatever to the leading principles of the measure. After considering those objections I shall then endeavor to show that they do not properly apply to this bill or any of its provisions.

In listening to the discussion which has already taken place I have witnessed an evidence of the old adage, that it is much easier to pull down than to construct, easier to find fault than to correct. In all the propositions, numbering not less than one hundred, which have been submitted to the Committee on Foreign Affairs there was not a single one which contained any suggestion with regard to practical legislation upon this subject. In the proceedings of all the various public meetings which have been held throughout the country, calling the attention of the public mind to the wrongs which a portion of our citizens have suffered at the hands of European Powers, there is not a single practical suggestion with regard to congressional action upon this subject. Our entire history, so far as legislation is concerned, is silent on this question; and thus, Mr. Speaker, while no one objected to the assertion of the principle that it is the duty of this Government to protect its citizens, native or naturalized, wherever they may be, the committee found themselves without a guide, without a light, to direct them in their proposed course of legislation; and without arrogating anything whatever to the committee I believe

I can show to the dispassionate judgment of the House that we have been fortunate in presenting this great subject in such a form as will not only commend itself to the approval of the House and our constituents, but will accomplish the object at which we aim, namely, the recognition of this great American principle at the hands of the Governments who have thus far disregarded them.

Now, sir, I might say that the objections to this bill reduce themselves to two and two only. The first grand leading objection is that the bill is not stringent enough in its details; and the other objection is that it is too stringent in its details. Here we meet these two opposing forces, the one asserting that there is no vitality whatever in this bill, that it is a mere declaration of a "glittering generality," with no force or power to make it felt and respected; the other saying "you have lodged in the executive branch of this Government the power of peace and of war. I believe that this bill is not justly obnoxious to either of these objections, and that if passed it will be found to possess sufficient vitality to accomplish its object without placing in the hands of the executive department of the Government any unnecessary power to insure its enforcement. The gentleman from Minnesota, [Mr. DONNELLY,] who addressed the House at an early period of the consideration of this bill, following the suggestion of my venerable friend from Ohio, [Mr. SPALDING,] instead of reprisal preferred an act of war. The gentleman from Illinois, [Mr. BAKER,] who has spoken this morning on this subject, characterized reprisal in this bill as barbarous in the extreme, as not compatible with the spirit of the age in which we live.

Why, Mr. Speaker, what is reprisal but that rigorous and precautionary step which Governments take to obtain redress without a resort to war; and yet gentlemen opposed to this bill on account of this reprisal provision say we ought to take a bolder step and first declare non-intercourse, which non-intercourse, we know, would almost inevitably be followed by flagrant war. War itself is savage and barbarous, and never to be countenanced but in the most extreme cases. We have, in submitting this bill to the House, deemed it necessary to have some force, some power, some authority by which we could make its provisions respected by other nations. Mere naked legislation, such as suggested by my friend from Illinois, [Mr. JUDD,] a mere declaration of principle without following it up with the strong power of this Government lodged in the executive branch thereof, would perhaps excite a smile across the water as an innocent American pastime; but when you say to Prussia, or when you say to Great Britain, "The moment you disregard the principle of American protection to all her citizens; the moment you raise your hands against an American citizen, native or naturalized, we will lay our hands on your citizens or subjects and hold them as long as you hold ours."

That, Mr. Speaker, will be a solution of these troubles. Reprisal will bring relief or bring us to the point of non-intercourse. And if the European nations will not recede from their untenable position of perpetual allegiance it will bring us to a state of actual war. This is not ordinary legislation. This is not a law enacted by the legislative branch of the Government, and is not intended to operate upon our citizens in their individual capacity or merely to affect individual rights. Not at all. We are declaring to-day in the face of the civilized world what is our settled principle on this subject, and giving notice of the means we intend to use in enforcing that law against every nation that violates its provisions. We could accomplish our object by a declaration of war. But is this House prepared to take that as the first step? You can do it by declaring non-intercourse. Is this House prepared even to adopt that course? I think not. What other resort is left to you but reprisal, a principle of action recognized by nations since the earliest dawn of civilization.

The gentleman from Missouri [Mr. PILE] takes special exception to the bill, and sees in it scarcely anything to recommend it to his consideration. He desires its recommittal to the Committee on Foreign Affairs with instructions to ingraft upon it his suggestion by way of amendment.

But his suggestion is more in the nature of a formal declaration of principle, which is nugatory unless followed by provisions for their vigorous enforcement. We want no mere declaration of principle. We do not desire in the ninety-second year of our national existence to reaffirm the principle which lies at the foundation of our Government. With what favor would a bill be received by this House from the Committee on the Judiciary declaring every American citizen has a right to life? Suppose your Judiciary Committee were to introduce a bill here stating every American citizen is entitled to his liberty? Would we pass such a law as that? Would we entertain it for a moment? Not at all. Our answer would be that those are principles which our ancestors declared to be "self-evident" when they were engaged in the glorious work of founding this Republic, that life and liberty are among our inalienable rights. They did not stop there, but declared the further inalienable right of the pursuit of happiness; that American citizens had the right to go over the world wherever they pleased and to absolve their allegiance and cast their fortunes in any other place in the free exercise of their own volition. Hence there is no necessity for a declaration of the right of a man to expatriate himself, and it is too late for this Government to-day to place upon its statute-book such a declaration and then have the Governments of Europe taunt us by saying "it was not till 1868 that you placed that declaration on your statute-book," ignoring all past history on the subject, and starting out, as it were, from a new stand-point, upon a principle which we contend is as old as the American nation itself.

Mr. PILE. Will the gentleman yield to me a moment at this point?

Mr. ORTH. I cannot; I would be glad to do so if I could. I have been very liberal already in yielding.

I listened with patience to the remarks of the gentleman from New York, [Mr. CHANLER.] I thank him for one admission which he made, that this nation has been too tardy in legislating upon this subject. I will, however, allude to that again before I take my seat. He is opposed *in toto* to this bill. I am somewhat surprised that in view of the constituency which he represents he contents himself with calling upon the executive branch of the Government for specific cases of the invasion of the rights of American citizens, and asking, as I infer from his position, separate legislation with regard to each individual case.

Mr. CHANLER. I desire to correct the gentleman.

Mr. ORTH. I have no intention to misstate his position.

Mr. CHANLER. I took no such position, and I think no such inference as the gentleman speaks of can be drawn from my remarks as printed.

Mr. ORTH. The gentleman commenced his remarks by saying that instead of the passage of this bill, a bill which affirms in the face of the civilized world what are the principles and doctrines of our Government, and how we mean to maintain them, we shall do what? Just what has been done in this Government for the last seventy-five years. What is it? First, that we should make an appeal to foreign Governments through our diplomatic agents. We have appealed and the appeal has been met with contumely by those nations. We desire to appeal no more through our diplomatic agents until we tell our agents, "Take that bill with you and say to the Governments of Europe that the American nation is now prepared to vindicate the rights of its citizens."

The second proposition of the gentleman from New York submitted in lieu of this bill is, by special treaty with those foreign nations with whom trouble has arisen. Suppose that the gentleman from New York [Mr. CHANLER] were to-day sent as embassador with full authority to the kingdom of Great Britain to treat with reference to the release of men who were formerly his constituents and now confined in British dungeons. Does he desire that those constituents shall, in the language of his colleague, [Mr. ROBINSON,] "continue to rot in British dungeons" until the tedious process of diplomacy has been exhausted? No, sir; we have had too much diplomacy, too much attempt at treaty making on this subject. Let us speak as becomes a great and powerful people, and let us see that our voice shall be respected and felt throughout the world.

The third proposition of the gentleman is by remodeling the existing law of nations by means of a congress of nations. Suppose you get a congress of nations. Fifteen nations join us in that congress. Fourteen of them hold to the old feudal doctrine of perpetual allegiance. Our own nation holds that that doctrine is incompatible with the genius of our institutions, and hence has no force or effect with us whatever. The result is you have fourteen votes in that congress against you to one in your favor. Sir, we cannot afford to await the tedious action of a congress of nations, which the gentleman indicates as a proper solution or remedy for our difficulties. We cannot afford the tedious assemblage and discussion of so august and venerable a body, even if assured of a favorable decision, of which even the most visionary among us has no hope.

I am sorry that my friend from Illinois [Mr. JUDD] has fallen into one error in reference to this bill, because I know he has studied this subject and understands it. He says that this bill asserts no unconditional principle and contains no effective provisions for the redress of wrongs. Why, Mr. Speaker, the very first four lines of the bill assert the most glorious principle that was ever contained in any statute-book. What is it?

> That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

Is not that an assertion of an unconditional principle, and a principle, too, which underlies the whole fabric and groundwork of this proposed legislation?

He goes further and says that the bill contains no effective provisions for the maintenance of that principle. I have alluded to it already briefly, and I shall allude to it hereafter. It is, that we say to Great Britain, "For every man you arrest we will arrest one of your subjects."

Now, then, what is the plan submitted by the gentleman from Illinois [Mr. JUDD] in lieu of the pending measure? Eleven propositions, and, with all due respect, it strikes me that they are rather the deferential propositions of a *diplomat* than the strong, impressive, and forcible language of the legislator. We are dealing with a subject which will attract not only the attention but the severe criticism of the world. We speak in the form legislative, and in doing so we must use the language of the law-giver and not the studied and courtly phraseology of the *diplomat*. The adoption of these ten declarations of principles submitted by the gentleman from Illinois would be as harmless and as powerless in opening the prison doors of Europe as eleven notes from the State Department with all the grace and all the urbanity which the most distinguished *diplomat* can employ. We want to go before Europe not in the garb of diplomacy, but in the might and strength and power of this great Republic, and in doing so we will be respected.

It is an important step. Let no gentleman of this House conceive for a moment that in voting for this bill he votes for any ordinary legislation. That legislation may test our strength as well as the virtue and patriotism

of the American people; but our people will be equal to the occasion. We are by this bill legislating for the world, so far as American interests are concerned. We give notice to all nations that this is an undying principle of the American Government, that the rights of her citizens must be respected everywhere, and if not, we will see that those rights are enforced, if need be, at the point of the bayonet, backed up by all the material and power and resources of this vast Government. Nothing short of that, Mr. Speaker, will remedy the evils of which our people so justly complain, and I hope and trust that this House will stop at nothing short of the provisions contained in this bill.

The first section, then, enunciates the grand principle that under the American Constitution and under the American law there is no distinction between native-born and naturalized citizens. We assert, furthermore, that this principle of public law has heretofore always been asserted by our Government, and that the President is empowered to employ all the resources of the Government in just efforts to secure a recognition by other Governments of this principle.

The gentleman from New York [Mr. CHANLER] will see here that the doors of diplomacy are not closed, and that if necessary in any particular case to enter upon the subject by treaty the President is fully authorized and empowered to do so. But where our citizens are in prison, where the wrong is being inflicted day by day and week by week, we go a step further and say that in that event the President shall lay the hand of this Government upon any citizen of that foreign Government he may find within our territorial limits. But there is a proviso to this first section that we do not extend this relief to a certain class enumerated in the proviso. What is that class? First, "no citizen of the United States who is guilty of crime against the laws of any foreign State committed within its jurisdiction." As a matter of course, if any of our citizens, native or naturalized, shall leave this country and go within the territorial limits of another, and there be guilty of a crime, we shall not attempt to protect him if he be accorded a fair and impartial trial; and the gentleman from Illinois [Mr. COOK] who addressed the House this morning will see upon reflection that he has given too general and enlarged an interpretation to the word "crime" as used in this bill. It is used in a more common and restricted sense, as denoting "an offense or violation of public law of a deeper and more atrocious nature, as treason, murder, robbery, theft," &c., as contradistinguished from the lesser offenses of trespass or misdemeanor, and hence does not embrace the special case to which he has called our attention.

The bill further excepts any one who deserts from the actual service of the army or the navy in any foreign State, or from any military or naval conscription actually ordered by such State. The gentleman from Illinois [Mr. JUDD] says that this would leave the immigrant subject to arrest whenever he should return to his native country, upon the mere formal charge of desertion. Not so; the Government of Prussia, for instance, to which he refers, must make an actual conscription, for we would not regard a mere *pro forma* conscription. The Government of Prussia cannot sustain herself before the civilized world in any other position, nor will she attempt it.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. ORTH. I cannot yield now, as my time is limited. This bill does not give protection to any one who shall have acquired naturalization by misrepresentation or fraud, or who shall have forfeited or renounced the protection of this Government. I have thus, I regret to say, very imperfectly indeed, glanced at all the objections which have been urged against the different provisions of this bill. In conclusion, let me state briefly that this nation has always encouraged immigration. It is our interest and our duty to continue that encouragement, especially so now that we are overburdened by a large national debt. We want all the resources and assistance we can in any manner obtain, and which foreign immigrants bring to our shores. And when we offer to them free homes and free institutions, receiving in return their labor and their support of our Government, we on our part must give them full protection. That is the object and purpose of this bill.

In this country we utterly repudiate the common-law doctrine of allegiance. I do not concede to the full extent the position taken by the learned gentleman from Pennsylvania, [Mr. WOODWARD,] who addressed this House a week ago that the common-law doctrine of allegiance is recognized by the judiciary of this country. I think that doctrine never has been, and never can be, recognized in this country. And why? Because our courts have everywhere held that the common law prevails only where not abrogated by express statute or where not incompatible with the genius and spirit of our institutions. The common law is thus abrogated by the genius and spirit of the institutions of our country, and by the action of this Government: first, in the Declaration of Independence; secondly, in the constitutional provision on the subject of naturalization; thirdly, in the passage of our naturalization laws; and fourthly, by the entire traditional policy of this Government.

I am reminded by the remarks of the gentleman from New York [Mr. CHANLER] to say that legislation on this subject has already been too long delayed. Too long have we borne with seeming patience the wrongs and injuries which the tyranny of Europe has inflicted upon our citizens, who were entitled to our protection, but who have in vain appealed for such protection.

And while I would not, in the discussion of this truly national question, invoke the spirit of party, I must be permitted to say that it is a matter of surprise, at least, that the great Democratic party, when in its former but now departed pride and power, had the absolute control of the legislation of this Government, failed to apply the proper remedy; and this surprise is greatly enhanced by a knowledge of the fact that their possession of the public affairs of this Government for so long a period in our history was due entirely to the active support which the naturalized citizens, with few exceptions, gave to that party. They failed to protect the very men whose votes gave them power and place in this Government.

The measure before us to-day is the true outgrowth of republican principles. When danger threatened on every side—when hosts were marshaled to destroy the unity of this nation—when the leaders of the Democratic party became traitors or passive spectators of, if not sympathizers with, armed rebellion, the patriotism of the country rallied to its support and formed a new political organization for the preservation of the Government upon the principles of humanity, freedom, and equality.

For the last six years this Republican party has been engaged in preserving the unity of the nation and in securing full protection for all our citizens in the enjoyment of their inalienable rights on our soil. Having so far succeeded in this noble work as to place it beyond the power of the evil-doer to accomplish further mischief, we now turn our eyes in other directions; having secured safety and protection to the citizens at home, we mean that he shall have safety and protection abroad. And now, Mr. Speaker, having in a hurried manner alluded to the various principles of this bill and rescued it, as I think, from the objections which have been brought against it, I leave it, so far as I am concerned, to the further discussion and action of this House.

Mr. PAINE. I have here joint resolutions of the Legislature of the State of Wisconsin and a memorial from citizens of Milwaukee, Wisconsin, in relation to the bill now pending. I ask that they be printed at length in the Globe.

No objection was made.

The joint resolutions are as follows:

Joint resolutions No. 1, declaring it to be the duty of the General Government to protect American citizens in the enjoyment of all their rights as such while sojourning in foreign countries.

Resolved by the Senate, (the Assembly concurring,) That it is the duty of the United States Government to define and declare authoritatively the rights and duties of the citizens thereof temporarily sojourning in foreign countries and to protect and defend all classes of her citizens, in the full enjoyment of their rights thus defined and declared, against all infringements thereof by the Governments of the countries in which they may be so temporarily sojourning, by every means within its power; that the principle derived from the feudal system that the masses of the people belong to the Government under which they were born, contended for by the monarchical Governments of Europe, by asserting and seeking to enforce the doctrine, "once a subject always a subject," is repugnant to the dictates of enlightened civilization, and opposed to the rights and best interests of mankind; that expatriation is one of the inalienable rights of man, and from the time when any foreign citizen or subject renounces his former allegiance and becomes domiciled in this country, with the intention, in good faith, to become a citizen of the United States, he should be regarded, during the continuance of such domicile, as invested with our national character and entitled to the protection of our national Government; that no distinction should be tolerated between native born and duly naturalized citizens of the United States in regard to their immunities and privileges in foreign countries, and that a naturalized citizen of the United States, temporarily sojourning within the dominions of his former sovereign can only be compelled to enter the military service or otherwise support the Government of such former sovereign to the same extent and under the same circumstances as might be required of a native-born American citizen thus temporarily domiciled in such foreign country.

Resolved, That the Governor is hereby requested to transmit a copy of these joint resolutions to the President of the United States, the Secretary of State of the United States, and to each of our Senators and Representatives in Congress.

A. M. THOMSON,
Speaker of the Assembly.
WYMAN SPOONER,
President of the Senate.

Approved *January* 22, 1868.
LUCIUS FAIRCHILD, *Governor.*

State of Wisconsin, Office of the Secretary of State, ss.:

I, Thomas S. Allen, secretary of state of the State of Wisconsin, do hereby certify that the foregoing has been compared with the original enrolled resolutions deposited in this office, and that the same is a true and correct copy thereof.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Wisconsin, at the capitol, in Madison, this 30th day of January, A. D. 1868.
[L. S.]

THOMAS S. ALLEN,
Secretary of State.

The memorial is as follows:

MILWAUKEE, WISCONSIN, *February* 5, 1868.

DEAR SIR: The undersigned, citizens of the district which you represent in Congress, having read with surprise certain provisions of the bill introduced by Mr. BANKS for the protection of naturalized citizens abroad, would respectfully call your attention to the following:

The bill referred to contains a proviso which would deprive the adopted citizens of the United States of their citizenship in case they sojourn in a foreign country for a period longer than one year. The inconsistency of this paragraph, with every principle of justice and with the dignity of the United States, is so apparent that we wonder how Mr. BANKS could for one moment entertain a thought of it. When a man has liberated himself from the fetters of European despotism, has solemnly renounced forever his allegiance thereto; when, confiding in the honest intentions of our Republic to accept and protect him as one of her citizens, equal in rights with all the others, he has come here to link his destiny with hers and to make her interests his own, has sworn to support her Constitution and to obey her laws, why should he lose his right to the protection of his adopted country and fall back into the hands of tyranny if he absents himself from her limits a trifle more than a twelvemonth, perhaps to regain his impaired health, to visit his parents and the home of his youth, or to rest from the toils and hardships of many years: and why should any such distinction take place between a native and a naturalized citizen?

There is another clause of the bill which would incur the greatest inhumanity and injustice; it is the one proposing retaliation upon the innocent subjects of foreign Governments who happened to be found in this country at the time when some American has suffered an injury at the hands of an alien Power; perhaps some unfortunate Englishman, totally ignorant and innocent of the crime that had been committed by his monarch upon a citizen of the United States, would be made to suffer imprisonment because the English Government had arrested an American for complicity with Fenianism or under any other pretense. We consider this idea simply barbarous and more befitting the dark ages than our enlightened nineteenth century. We think that in any case where retaliation becomes necessary, as the Government is the party transgressing, that Government alone should be held responsible.

Trusting you will give the above remarks your immediate consideration, and assuring you that we are but expressing the views of many of your constituents, we are, very respectfully, yours,

WILLIAM FRANKFURTH,
CHARLES H. DOERFLINGER,
JOHN P. LINDEMANN,
P. ENGELMANN,
ISAAC NEUSTADTL,
HENRY KŒTZ.

HALBERT E. PAINE, M. C., *Washington, D. C.*

Mr. CLARKE, of Kansas. Mr. Speaker, it is strange indeed that at this day, in the high noon of the nineteenth century, and especially in the Halls of an American Congress, that the representatives of the people should be engaged in discussing the protection due to an American citizen when sojourning beyond the domains of the Republic. Yet we are engaged in considering a measure ostensibly framed to secure those rights. Though in the ninety-second year of our existence as a nation we have not, with all our progress and all our strength, secured from foreign Governments a full recognition of a principle fundamental to our system. Sir, we have fought three wars, two of them of considerable magnitude, and the third—the reverberations of whose guns have hardly ceased—confessedly on a scale unparalleled before in the history of human strife; yet we have not won that proud respect for our citizenship, that sacred regard for its rights, without which, at the hands of all other governmental forms, democracy is a mockery and republicanism the scorn of nations. There must be something rotten in this. Weakness is too plainly confessed when everywhere American citizenship fails of instant recognition.

But, sir, what are the facts out of the existence of which this discussion has grown, and to meet which this bill has been prepared? There are two classes of outrages perpetrated against American citizens. The gentleman from Illinois, [Mr. JUDD,] who so ably represented this Republic at Berlin but recently, and whose thorough knowledge and lucid presentation of this subject sheds so much light on it, has well stated one class. They arise from the claim to military service which Prussia alone of all European Governments maintains in its integrity. That claim is inherent in the Prussian system, yet by that Government's silent acquiescence, at least, in the wholesale expatriation of its people by emigration, it has wholly invalidated its claim for perpetual allegiance. The Prussian claim is not at all on its face the absurdity which the English commentators proffer. It is service due to a country, not to be sneaked out of or evaded by any act of expatriation, rather than personal allegiance due to a monarch. From the general character of that Government it may be hoped that the question can be fairly adjudicated, so far as North Germany is concerned, whenever the American Government shall be self-respecting enough to declare, at least, in the words of the gentleman from Illinois, that—

"The right of expatriation must be insisted upon in all cases where the military obligation or duty has not attached by an actual summons for service."

The other class of cases is more serious and more numerous; they come home to us closer. They bring great personal suffering to many and inconvenience to more whenever the Government by whose acts the cases are created gets into one of its unreasonable panics, and runs, Malay fashion, "a muck" against all who appear to be in the way. They are produced by the claim of perpetual allegiance always held and occasionally enforced by our mother country—the land whose language we speak and in whose intellectual and political traditions we glory. The absurdity of the claim was recently most forcibly illustrated by that able writer on international law, Mr. Vernon Harcourt, whose letters in the London Times bearing on American affairs have commanded wide attention. In one of his "Historicus" letters he conclusively showed that if the doctrine of allegiance as recently expounded was correct then every native-born American descended from a former subject of the British Crown, no matter how far removed from English birth, was owing service and submission to the Government of Great Britain. He completed the demonstration and illustrated its absurdity by supposing General Grant, while directing military operations against Great Britain, being captured by its forces, then tried, condemned, and executed for treason as a British subject, as he undoubtedly is if the Blackstone British theory be correct.

Sir, at the present moment American citizens are confined in English prisons. Some are in the first dreary years of a long term of penal servitude, some are languishing in prison, detained without stated charges, though trial has often been demanded. Hundreds of our fellow-citizens, many of them—probably a majority—men who served the Republic in its hour of supreme peril, have been summarily seized, imprisoned, held under arrest for periods of greater or lesser length, and have then been arbitrarily sent out of the land where they were temporarily sojourning at great loss and inconvenience to themselves. Some of these men were "native and to the manner born" so far as this Republic is concerned; others were their fellow-countrymen, though not birthright but naturalized citizens. All recognition of their claims in this respect has been denied them. Their American citizenship has been contemptuously spurned. It has been treated with visible contumely. Their so-called crimes have been proven only by the oaths of hired informers. Most of the acts charged have been done in our own borders, and not within the jurisdiction of Great Britain. Some of the most flagrant cases of outrages have been defended only by charges of words uttered at public meetings in this land.

It is time, Mr. Speaker, that this thing ceased. It was never time for it to have begun. The fact that the question of the rights of naturalization is yet unsettled is but another of the many proofs we have had during recent years of the want of positive opinions among us as to what constitutes citizenship, and what are its rights and duties when it is assumed. Courts have failed to settle this question. Our vapid imitators of the Old World diplomacy have succeeded only in confusing what to common-sense men has seemed a plain duty, right, and privilege.

Here at home our laws know no distinction between the rights of a native-born and naturalized citizen, except in two particulars, that the President and Vice President must both be native born. The Irishman, Englishman, German, or of whatsoever nation the self-expatriated man may be, obtains here the same rights and has to perform the same duty as the lineal descendant of the Mayflower Pilgrims, the Huguenots of the Carolinas, or the Knickerbockers of New York. He pays, according to his ability, his proportion of taxes. He goes to battle alongside the proudest son of the soil. His blood has run on every field and helped to gain victory in all our wars. He sits here in these Halls equal and honored. He helps to govern our States and to frame their laws. He has helped and continues to make our Republic rich and develop its vast resources. For all this, while we demand of the new-made citizen the best service he can render by brain and hand, we also clothe him with rights which should everywhere protect him as with armor of mail.

Why, sir, the American Republic is founded on self-imposed expatriation. It has been maintained largely by the same law. It is greatly strengthened and enriched year by year by the continued accessions its operations bring to our midst. Every line of our history is an epitomized protest against doubt on the duty of protecting all citizens, and of the right of any or all, according to the words of Thomas Jefferson, written in 1793, "to divest themselves of the character of citizens by emigration or other acts manifesting their intention." Recall for one moment the statement recently made on this floor by another honorable gentleman from Illinois, [Mr. CULLOM,] and repeated by, I believe, the distinguished chairman [Mr. BANKS] of the committee from which the bill under discussion was reported, to the effect that out of our white population of thirty odd millions at least twenty-two of those millions are either emigrants who have come here to assume citizenship or their children. The gentleman from Illinois says:

"In 1790 the seventeen States and Territories then comprising this country had within their borders but three and a quarter millions of people. Taking the recognized rate of increase of births over deaths, being one and thirty-eight hundredths per cent. per annum, the population of the country to-day, saying nothing about emancipated blacks and the people added by the acquisition of territory not then owned, would number about nine and a quarter million people."

Two millions of Irishmen have settled here since the Republic was founded. Two millions of Germans have come into our midst, bringing a large share of industry, intelligence, and skill. Two million more persons of other nationalities have also taken up their abode among us. During the last two years nearly seven hundred thousand emigrants have landed on our shores. The gentleman from Pennsylvania, [Mr. KELLEY,] in a recent speech on this floor having relation to another subject, spoke of the rapid growth of a town in Illinois where fourteen different European tongues and dialects are spoken. This illustrates our discussion. Every western State has its machinery by which to disseminate information as to its resources and encourage emigration. In my own State, with its unnumbered acres of rich and cheap land, this is a cardinal point of administration. Here we pass laws to protect the emigrant on the high seas and in our ports. We have a bureau charged with a special supervision of the subject, and we have chartered companies whose object is to induce emigration hither, and to distribute where its labor is most needed after landing. I call attention to these facts, because their recapitulation justifies the profound astonishment which any man must feel at hearing the diversity of views as to the amount of protection due to a naturalized citizen, and above all as to whether the American Government recognizes in its own citizens the right of voluntary expatriation.

To men like myself, sir, not claiming to be learned in the law, but still somewhat conversant with the nation's history, it is a novel sensation to find grave and learned pundits who seriously doubt our people's right to go elsewhere and throw off such allegiance as we claim; or who, with the best intentions, are yet puzzled to know how far we are justified in going in the protection of naturalized citizens while they sojourn in their native or other foreign lands, and do not violate its laws or attempt to set aside such obligations as international laws impose. Sir, the claim of perpetual allegiance or citizenship is one of those absurd contradictions to the necessities of our modern civilization which lingering feudalism has left in our midst. It is illogical and inhuman in the face of the fact that all the leading Governments of the world, except Russia and China—both which are by most persons deemed semi-barbarous—have permitted and most have encouraged the steady, constant distribution of population which emigration has brought about.

But, sir, the right of expatriation was not even denied in feudal times. It was acknowledged in periods that preceded them. By the Roman law every man was at liberty to remove where he pleased. Grotius, Tryphoneus, Vattel, and other writers on the law of nations agree that "every man has a right to choose the State" of which he desires to become a member; that single persons, if not large companies, have a right to leave a country; that oppressed religionists or those who cannot obtain a sufficient subsistence can do likewise; all these and others have a natural right to expatriate themselves. Nay, more, according to Vattel—

"If the sovereign attempt to molest those who have a right to emigrate he does them an injury, and the injured individuals may lawfully implore the protection of the Power who is willing to receive them."

Blackstone alone, of the great commentators on public law, adheres logically and closely to the doctrine of "perpetual allegiance." In modern European polity the attempt to vindicate or maintain it has in great part been abandoned or modified. Prussia alone maintains in its completeness the duty of military service, and a consequent claim on the person owing it. France, in the "Code Napoleon," recognized in a large sense the right of expatriation. French citizenship is forfeited by the assumption of citizenship in another nationality or by carrying arms therefor. A French woman marrying an alien assumes the citizenship of the husband's country. On becoming a widow she can resume her rights as a French woman. It is true that France claims military service, but even in that she deals liberally with the emigrant, though not as we desire it done. The French courts have recently decided that the expatriated Frenchman's term (if he was liable to military duty when he left) begins on leaving and continues five years. If he returns before that expires he is liable to conscription. If after, he is not.

The British Government, of whose recent outrageous acts we are now complaining so justly, recognizes this natural right of expatriation. Its laws provide for the removal of alienage and the assumption of British citizenship by persons born on soil other than its own, and owing that allegiance which, as Blackstone declares, "is a principle of national law that cannot be absolved even by swearing allegiance to a foreign prince." In the discussion now going on the most enlightened of its publicists and lawyers—able men like Phillimore and Vernon Harcourt—fairly turn into ridicule the English Lord Chief Baron's revamping of Blackstone to suit the avowed purpose of "stamping out" the so-called American side of Fenianism. When our countrymen protested against sentence because of the recognition of their American citizenship, this judge said:

"That according to British law they who were born under the allegiance of the British Crown cannot, by an act of their own, or by the act of any other country or Government, be absolved from their allegiance. It might be, he said, a calamity to persons circumstanced as the prisoners at the bar appeared to be, in accepting the privileges accorded by the Government of another State. They did that which created a conflict between two duties."

But the legal knowledge or logic of the writers do not change the acts of the Government, and as in 1848, when Ireland, the giant upon whose breast England has piled an Etna of oppression, turned in its uneasy sleep, and in doing so threatened the oppressor—American citizens are again made to pay the penalty of a too frank sympathy with a people from whose generous veins so much of their best blood is drawn. England's doctrine of perpetual allegiance, a claim which is pronounced by its very name a perpetual absurdity, is one of those traditional pieces of cruelty which its oligarchy always have at hand to justify acts of cowardly brutality against any portion of its subjects who may resist oppression or grow uneasy under its "paternal" yoke.

Mr. Speaker, we are all agreed on the duty; men of all shades of political opinion vie with each other in declarations of sympathy with the object sought by the bill before us. Let me turn, then, to see whether it accomplishes what is demanded. I start out, sir, as logical deductions from my preceding argument, with two propositions:

First. That at home or abroad, under our flag or a foreign one, the American citizen, whether he be native born or naturalized, is entitled to exactly the same rights and protection; the only exceptions being in the constitutional provision relating to holding the two offices I have already named.

Second. That as we protect and defend the right of self-expatriation in other peoples—growing as we do thereby in many elements of material and political greatness—we also accord it fully, perfectly, completely to our own citizens.

I accept the logic of these propositions without an "if, and, or but." They are democratic in the universal sense. They lie at the very foundation of human brotherhood, of that "bringing together of the ends of the earth," the hope of which is the consummate flower of our century. The question is whether the present bill meets these requirements? To my mind it does not. In the very opening words I find language which is a virtual denial of the rights of citizens such as we are discussing. On lines three and four it is said with regard to naturalized citizens that they "while in foreign States shall be," &c. Why should the word "shall" be inserted there? It certainly implies that they hitherto have not been entitled to the rights and protection hereby proposed to be guarantied. If we were speaking of native-born persons we should not use this language; nor do I see the propriety, in terms like the first sentence, of discriminating between naturalized and native-born citizens. It is to be feared that some portion of the Know-Nothing obligations once so rife in the State which the distinguished chairman in part represents, have unconsciously filtered through the pen with which this bill was written. Why not, sir, make a simple declaration—the stronger the better—that all citizens of the United States while in foreign States are entitled to and shall receive from their Government all the protection in person and property to which they are entitled in such situation and circumstances?

This, it seems to me, sir, is more full, more direct, and far less invidious than the first portion of the bill before us. Nor can I see the necessity of empowering the President in this special form "to employ all the resources of the Government in just efforts," &c. The Executive has ample power under the Constitution to have initiated measures for the making of treaties to rectify such wrongs as are now being treated of, and no Congress has ever met or is likely to meet in this Capitol which will not at once respond to any just demands for lawful power to carry out this great duty of a Government—the protection of all its citizens. I cannot see the necessity of making a special provision for enlarging powers which, under the Constitution, are ample enough. I object, sir, altogether to the constant repetition of the words "naturalized citizens." In this measure we propose to front foreign nations with solemn enactment. In the eyes of the world it is the Republic's imposing duty not to recognize any difference in kind or degree of citizenship. When a man becomes naturalized by his own voluntary act he is in our eyes, in the face of the law, and must be acknowledged by the world, an American citizen—nothing more, nothing less. Not naturalized or native born, but an American citizen. All nations must be made to acknowledge him in that light, and that only. Our laws must not use words drawing or recalling distinctions that may perhaps seem invidious. American citizenship simply is our individual and should be our national glory.

Again, the section I am considering contains an elaborate proviso, setting forth that if our citizens sojourning in foreign States shall commit crimes against the laws thereof they shall not be entitled to such protection as it is the intent of this measure to insure. Why, sir, have we been in the habit of protecting criminals? Is there anything in our diplomatic intercourse which warrants a fear that we may ever intervene for the safety of the law breaker? If not, why, then, are we to enact that we will not do what we have never done and are not likely to do?

Again, sir, we make an exception as to "desertion from actual service in the Army or Navy of such foreign State." This is a strange clause. It seems to have been inserted to afford some word-splitting secretary an opportunity of evading the issue we desire to make with regard to the claim set up by Prussia. There are instances in which we can all see that, even in the case of actual deserters from an intolerable tyranny and despotism, who should have taken our citizenship upon themselves, we should be bound to defend them abroad or be disgraced there and at home. Why should we enumerate these and the other special exceptions unless they were designed, as I have before suggested, for the purpose of evading most important points which are directly involved in this discussion? Did we ever, does any Government, sustain a man against whom fraudulent naturalization is established or who is a proved traitor thereto? To name such cases seems to be folly. As for our renouncing the rights of citizenship, that is logically and most directly acknowledged by our acceptance of the principle of naturalization. It follows that what we demand and maintain we also accord. The last exception, relating to five years' continuous residence abroad, is of a piece with the others. It is an attempt to fence and narrow issues which may necessitate earnest work and service down to mere shadows and abstractions that technical diplomacy may discuss forever in protocols and dispatches as smooth and as interminable as the volumes which Mr. Seward sends forth appear to be.

My objections to the remaining sections of the bill are as numerous as to the portion I have examined. The second section is altogether unnecessary, or at least it conveys power which it is feared could be construed to mean the right to declare or precipitate war by the Executive. There is a constitutional objection to this: it is vested by the national charter in the hands of Congress alone. If it were not I certainly would not give to the present Executive such power as could be shown to exist herein by a supple Attorney General and a facile Cabinet.

The third and fourth sections are open to very many grave objections. Suppose a man to have no property to be assessed at home. Some might be so poor and yet be a true patriot; might, by many circumstances, be compelled to stay over the limited five years, at the end of which he is to be denaturalized by this bill; yet, at the same time, he might have served the Republic gallantly, lost a limb in its service, and be willing to again devote himself to its needs when he returns.

Again, sir, as to the proposition that a man serving "as an army or navy belligerent in any foreign war or service" should thereby lose his American citizenship, so far as the protection proposed by this measure is concerned. Now, sir, perhaps this was intended only to refer to the belligerents with whose forces he serves or against whom he fights, and not at all as to other nations. Let me suppose a case: if this is intended in the broad sense it appears to be used in this bill the illustrious General Garibaldi was at one time a naturalized citizen of this Republic. We know how true and noble an admirer and friend of it he is and has ever been? He left here when, in 1848, Europe rose from "its lair of slaves." He went to Italy and aided in creating the Roman republic. He was defeated by French arms and left Italy, refusing to surrender, as he might safely but ignobly have done. Suppose, then, he had been seized by some third Power and placed at the disposal of France or Rome? If he had then appealed to the American Government (claiming his citizenship) for protection against the act of the treacherous third party, against whom he had not acted the part of a belligerent, would he not have been defended by the great Republic, of whose honors not the least is the fact that it has enrolled the name of Garibaldi among its citizens.

Mr. Speaker, I cannot sustain the bill in its present shape. I do not think it attains what it is designed for, and there seems too large a list of special exceptions. I want a simple, direct, but comprehensive declaration of our duty to protect in every just right all our citizens when residing in foreign States, and an ample announcement of our determination to so award that protection as that everywhere the simple announcement, "I am an American citizen," shall be as potent to shield from outrage as was the citizenship of ancient Rome to cover every one of her children. In mainte-

nance of that duty I am ready, sir, should it be necessary, which God forbid, to vote the last dollar in the Treasury, the last ship in the ports, and the last man in the land.

Mr. BANKS obtained the floor.

Mr. PRUYN. Will the gentleman from Massachusetts [Mr. BANKS] yield to me for a moment?

Mr. BANKS. For what purpose?

Mr. PRUYN. That I may ask of the House leave to print some remarks which I had hoped to have an opportunity to make. On a former occasion I obtained the floor on this question for the purpose of making one brief statement only, but could not obtain it for anything further. I understand that the chairman of the committee [Mr. BANKS] desires to bring this question to a vote without further discussion. I therefore ask permission of the House to print, as part of the debates, what I had desired to say on this subject.

There was no objection, and leave was granted. [See Appendix.]

ORDER OF BUSINESS.

The SPEAKER. The morning hour has expired, and the first business in order is the consideration of the contested-election case of Smith *vs.* Brown, from the State of Kentucky, on which the gentleman from Massachusetts [Mr. DAWES] is entitled to the floor.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President was communicated to the House, by Mr. W. G. MOORE, his Private Secretary, who also informed the House that the President has approved and signed a bill (H. R. No. 512) in relation to taxing shares in national banks.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed a joint resolution (S. R. No. 92) for the relief of Israel S. Diehl, in which the concurrence of the House was requested.

WITHDRAWAL OF PAPERS.

Mr. HUNTER, by unanimous consent, asked and obtained leave to withdraw from the files of the House papers in the case of Greenwood Laflore, J. C. Harris, and others.

Mr. LAWRENCE, of Pennsylvania, by unanimous consent, asked and obtained leave to withdraw from the files of the House papers in the case of Mrs. Nancy M. Wilson.

SALE OF LIGHT-HOUSE SITES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting a letter from the Light-House Board, relative to the sale of such light-house sites as are no longer necessary; which was referred to the Committee on Commerce, and ordered to be printed.

BINGHAM'S SURGE RELIEVER.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in answer to a resolution of the House of the 27th ultimo, relative to Bingham's surge reliever; which was referred to the Committee on Naval Affairs, and ordered to be printed.

ROOM FOR TERRITORIAL DELEGATES.

The SPEAKER. The Chair will also lay before the House a letter from the architect of the Capitol, to whom the Chair referred a resolution adopted yesterday by the House, providing for the assignment of a room for the use of territorial Delegates.

The Clerk read as follows:

ARCHITECT'S OFFICE, CAPITOL EXTENSION,
WASHINGTON, D. C., *February* 11, 1868.

SIR: In relation to the resolution of February 10, 1868, calling upon the Speaker to assign a room for the Delegates from the Territories, which you referred to me, I have the honor to state that there is no unoccupied room in the House wing suitable for the purpose. The only rooms convenient to the House wing are those in the basement story of the center building under the old Hall of Representatives, which are occupied principally for packing and storing documents. If other accommodations were made for the documents, several of these rooms could be fitted up for committees.

I respectfully suggest that the Committee on Public Buildings and Grounds be directed to examine the building, with the view to obtain more committee-rooms, and to report what rooms can be made available for that purpose; and also to make such recommendations as may be necessary to accomplish this object.

I am, very respectfully, your obedient servant,
EDWARD A. CLARK, *Architect.*

Hon. SCHUYLER COLFAX,
Speaker House of Representatives.

Mr. WASHBURNE, of Illinois. I move that this letter be referred to the Committee on Public Buildings and Grounds.

The motion was agreed to.

OFFICE OF SECRETARY OF WAR.

The SPEAKER also, by unanimous consent, laid before the House a message from the President of the United States, which was read, as follows:

To the House of Representatives:

In compliance with the resolution adopted yesterday by the House of Representatives, requesting any further correspondence the President "may have had with General U. S. Grant, in addition to that heretofore submitted, on the subject of the recent vacation by the latter of the War Office," I transmit herewith a copy of a communication addressed to General Grant on the 10th instant, together with a copy of the accompanying papers.

ANDREW JOHNSON.

WASHINGTON, D. C., *February* 11, 1868.

EXECUTIVE MANSION, *February* 10, 1868.

GENERAL: The extraordinary character of your letter of the 3d instant would seem to preclude any reply on my part, but the manner in which publicity has been given to the correspondence of which that letter forms a part, and the grave questions which are involved, induce me to take this mode of giving, as a proper sequel to the communications which have passed between us, the statements of the five members of the Cabinet who were present on the occasion of our conversation on the 14th ultimo. Copies of the letters which they have addressed to me upon the subject are accordingly herewith inclosed.

You speak of my letter of the 31st ultimo as a reiteration of the "many and gross misrepresentations" contained in certain newspaper articles, and reassert the correctness of the statements contained in your communication of the 28th ultimo, adding—and here I give your own words—"anything in yours in reply to it to the contrary notwithstanding."

When a controversy upon matters of fact reaches the point to which this has been brought further assertion or denial between the immediate parties should cease, especially where, upon either side, it loses the character of the respectful discussion which is required by the relations in which the parties stand to each other, and degenerates in tone and temper. In such a case, if there is nothing to rely upon but the opposing statements, conclusions must be drawn from those statements alone, and from whatever intrinsic probabilities they afford in favor of or against either of the parties. I should not shrink from this test in this controversy; but, fortunately, it is not left to this test alone. There were five Cabinet officers present at the conversation, the detail of which, in my letter of the 28th ultimo, you allow yourself to say, contains "many and gross misrepresentations." These gentlemen heard that conversation and have read my statement. They speak for themselves and I leave the proof without a word of comment.

I deem it proper, before concluding this communication, to notice some of the statements contained in your letter.

You say that a performance of the promises alleged to have been made by you to the President "would have involved a resistance to law and an inconsistency with the whole history of my connection with the suspension of Mr. Stanton." You then state that you had fears the President would, on the removal of Mr. Stanton, appoint some one in his place who would embarrass the Army in carrying out the reconstruction acts, and add:

"It was to prevent such an appointment that I accepted the office of Secretary of War *ad interim*, and not for the purpose of enabling you to get rid of Mr. Stanton by my withholding it from him in opposition to law, or, not doing so myself, surrendering it to one who would, as the statements and assumptions in your communication plainly indicate was sought."

First of all, you here admit that from the very beginning of what you term "the whole history" of your connection with Mr. Stanton's suspension you intended to circumvent the President. It was to carry out that intent that you accepted the appointment. This was in your mind at the time of your acceptance. It was not, then, in obedience to the order of your superior, as has heretofore been supposed, that you assumed the duties of the office. You knew it was the President's purpose to prevent Mr. Stanton from resuming the office of Secretary of War, and you intended to defeat that purpose. You accepted the office, not in the interest of the President, but of Mr. Stanton. If this purpose, so entertained by you, had been confined to yourself; if, when accepting the office, you had done so with a mental reservation to frustrate the President, it would have been a tacit deception. In the ethics of some persons such a course is allowable; but you cannot stand even upon that questionable ground. The "history" of your connection with this transaction, as written by yourself, places you in a different predicament, and shows that you not only concealed your design from the President, but induced him to suppose that you would carry out his purpose to keep Mr. Stanton out of office by retaining it yourself after an attempted restoration by the Senate, so as to require Mr. Stanton to establish his right by judicial decision.

I now give that part of this "history," as written by yourself in your letter of the 28th ultimo:

"Some time after I assumed the duties of Secretary of War *ad interim* the President asked me my views as to the course Mr. Stanton would have to pursue, in case the Senate should not concur in his suspension, to obtain possession of his office. My reply was, in substance, that Mr. Stanton would have to appeal to the courts to reinstate him, illustrating my position by citing the ground I had taken in the case of the Baltimore police commissioners."

Now, at that time, as you admit in your letter of the 3d instant, you held the office for the very object of defeating an appeal to the courts. In that letter you say that in accepting the office one motive was to prevent the President from appointing some other person who would retain possession, and thus make judicial proceedings necessary. You knew the President was unwilling to trust the office with any one who would not, by holding it, compel Mr. Stanton to resort to the courts. You perfectly understood that in this interview, "some time" after you accepted the office, the President, not content with your silence, desired an expression of your views, and you answered him that, Mr. Stanton "would have to appeal to the courts." If the President had reposed confidence before he knew your views, and that confidence had been violated, it might have been said he made a mistake; but a violation of confidence reposed after that conversation was no mistake of his nor of yours. It is the fact only that needs be stated, that at the date of this conversation you did not intend to hold the office with the purpose of forcing Mr. Stanton into court, but did hold it then, and had accepted it to prevent that course from being carried out. In other words, you said to the President, "that is the proper course," and you said to yourself, "I have accepted this office, and now hold it, to defeat that course." The excuse you make in a subsequent paragraph of that letter of the 28th ultimo, that afterward you changed your views as to what would be a proper course, has nothing to do with the point now under consideration. The point is, that before you changed your views you had secretly determined to do the very thing which at last you did—surrender the office to Mr. Stanton. You may have changed your views as to the law, but you certainly did not change your views as to the course you had marked out for yourself from the beginning.

I will only notice one more statement in your letter of the 3d instant—that the performance of the promises which it is alleged were made by you would have involved you in the resistance of law. I know of no statute that would have been violated had you, carrying out your promises in good faith, tendered your resignation when you concluded not to be made a party in any legal proceedings. You add:

"I am in a measure confirmed in this conclusion by your recent orders directing me to disobey orders from the Secretary of War, my superior and your subordinate, without having countermanded his authority to issue the orders I am to disobey."

On the 24th ultimo you addressed a note to the President, requesting in writing an order given to you verbally five days before, to disregard orders from Mr. Stanton as Secretary of War until you "knew from the President himself that they were his orders."

On the 29th, in compliance with your request, I did give you instructions in writing "not to obey any order from the War Department assumed to be issued by the direction of the President, unless such order is known by the General commanding the armies of the United States to have been authorized by the Executive."

There are some orders which a Secretary of War may issue without the authority of the President; there are others which he issues simply as the agent of the President, and which purport to be "by direction" of the President. For such orders the President is responsible, and he should therefore know and understand what they are before giving such "direction." Mr. Stanton states in his letter of the 4th instant, which accompanies the published correspondence, that he "has had no correspondence with the President since the 12th of August last;" and he further says that since he resumed the duties of the office he has continued to discharge them "without any personal or written communication with the President;" and he adds, "No orders have been issued from this Department in the name of the President with my knowledge, and I have received no orders from him."

It thus seems that Mr. Stanton now discharges the duties of the War Department without any reference to the President, and without using his name.

My order to you had only reference to orders "assumed to be issued by the direction of the President." It would appear from Mr. Stanton's letter that you have received no such orders from him. However, in your note to the President of the 30th ultimo, in which you acknowledge the receipt of the written order of the 29th, you say that you have been informed by Mr. Stanton that he has not received any order limiting his authority to issue orders to the Army, according to the practice of the Department, and state that "while this authority to the War Department is not countermanded it will be satisfactory evidence to me that any orders issued from the War

Department by direction of the President are authorized by the Executive."

The President issues an order to you to obey no order from the War Department, purporting to be made "by the direction of the President," until you have referred it to him for his approval. You reply that you have received the President's order, and will not obey it, but will obey an order purporting to be given by his direction, if it comes from the War Department. You will not obey the direct order of the President, but will obey his indirect order. If, as you say, there has been a practice in the War Department to issue orders in the name of the President without his direction, does not the precise order you have requested and have received change the practice as to the General of the Army? Could not the President countermand any such order issued to you from the War Department? If you should receive an order from that Department issued in the name of the President to do a special act and an order directly from the President himself not to do the act is there a doubt which you are to obey? You answer the question when you say to the President, in your letter of the 3d instant, the Secretary of War is "my superior and your subordinate," and yet you refuse obedience to the superior out of deference to the subordinate.

Without further comment upon the insubordinate attitude which you have assumed I am at a loss to know how you can relieve yourself from obedience to the orders of the President, who is made by the Constitution the Commander-in-Chief of the Army and Navy, and is therefore the official superior as well of the General of the Army as of the Secretary of War.

Respectfully yours, ANDREW JOHNSON.

General U. S. GRANT, *Commanding Armies of the United States, Washington, D. C.*

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Copy of letter addressed to each of the members of the Cabinet present at the conversation between the President and General Grant on the 14th of January, 1868.

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 5, 1868.

SIR: The Chronicle of this morning contains a correspondence between the President and General Grant, reported from the War Department, in answer to a resolution of the House of Representatives. I beg to call your attention to that correspondence, and especially to that part of it which refers to the conversation between the President and General Grant, at the Cabinet meeting on Tuesday, the 14th of January, and to request you to state what was said in that conversation.

Very respectfully, yours,
ANDREW JOHNSON.

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WASHINGTON, D. C., *February* 5, 1868.

SIR: Your note of this date was handed to me this evening. My recollection of the conversation at the Cabinet meeting on Tuesday, the 14th of January, corresponds with your statement of it in the letter of the 31st ultimo, in the published correspondence. The three points specified in that letter, giving your recollection of the conversation, are correctly stated.

Very respectfully, GIDEON WELLES.
To the PRESIDENT.

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TREASURY DEPARTMENT, *February* 6, 1868.

SIR: I have received your note of the 5th instant, calling my attention to the correspondence between yourself and General Grant, as published in the Chronicle of yesterday, especially to that part of it which relates to what occurred at the Cabinet meeting on Tuesday, the 14th ultimo, and requesting me to state what was said in the conversation referred to.

I cannot undertake to state the precise language used, but I have no hesitation in saying that your account of that conversation, as given in your letter to General Grant under date of the 31st ultimo, substantially and in all important particulars accords with my recollection of it.

With great respect, your obedient servant,
HUGH McCULLOCH.

The PRESIDENT.

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POST OFFICE DEPARTMENT,
WASHINGTON, *February* 6, 1868.

SIR: I am in receipt of your letter of the 5th February, calling my attention to the correspondence published in the Chronicle between the President and General Grant, and especially to that part of it which refers to the conversation between the President and General Grant at the Cabinet meeting on Tuesday, the 14th of January, with a request that I state what was said in that conversation.

In reply, I have the honor to state that I have read carefully the correspondence in question, and particularly the letter of the President to General Grant, dated January 31, 1868. The following extract from your letter of the 31st January to General Grant is, according to my recollection, a correct statement of the conversation that took place between the President and General Grant at the Cabinet meeting on the 14th of January last. In the presence of the Cabinet the President asked General Grant whether, "in conversation which took place after his appointment as Secretary of War *ad interim*, he did not agree either to remain at the head of the War Department and abide any judicial proceedings that might follow the non-concurrence by the Senate in Mr. Stanton's suspension, or, should he wish not to become involved in such a controversy, to put the President in the same position with respect to the office as he occupied previous to General Grant's appointment by returning it to the President in time to anticipate such action by the Senate." This General Grant admitted.

The President then asked General Grant if, at the conference on the preceding Saturday, he had not, to avoid misunderstanding, requested General Grant to state what he intended to do; and further, if in reply to that inquiry he (General Grant) had not referred to their former conversations, saying that from them the President understood his position, and that his (General Grant's) action would be consistent with the understanding which had been reached. To these questions General Grant replied in the affirmative.

The President asked General Grant if, at the conclusion of their interview on Saturday, it was not understood that they were to have another conference on Monday, before final action by the Senate in the case of Mr. Stanton.

General Grant replied that such was the understanding, but that he did not suppose the Senate would act so soon; that on Monday he had been engaged in a conference with General Sherman, and was occupied with "many little matters," and asked if General Sherman had not called on that day.

I take this mode of complying with the request contained in the President's letter to me, because my attention had been called to the subject before, when the conversation between the President and General Grant was under consideration.

Very respectfully, your obedient servant,
ALEXANDER W. RANDALL,
Postmaster General.

To the PRESIDENT.

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DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *February* 6, 1868.

SIR: I am in receipt of yours of yesterday, calling my attention to a correspondence between yourself and General Grant, published in the Chronicle newspaper, and especially to that part of said correspondence "which refers to the conversation between the President and General Grant at the Cabinet meeting on Tuesday, the 14th of January," and requesting me "to state what was said in that conversation."

In reply, I submit the following statement: at the Cabinet meeting on Tuesday, the 14th of January, 1868, General Grant appeared and took his accustomed seat at the board. When he had been reached in the order of business the President asked him, as usual, if he had anything to present?

In reply, the General, after referring to a note which he had that morning addressed to the President, inclosing a copy of the resolution of the Senate refusing to concur in the reasons for the suspension of Mr. Stanton, proceeded to say that he regarded his duties as Secretary of War *ad interim* terminated by that resolution, and that he could not lawfully exercise such duties for a moment after the adoption of the resolution by the Senate. That the resolution reached him last night, and that this morning he had gone to the War Department, entered the Secretary's room, bolted one door on the inside, locked the other on the outside, delivered the key to the Adjutant General, and proceeded to the headquarters of the Army, and addressed the note above mentioned to the President, informing him that he (General Grant) was no longer Secretary of War *ad interim*.

The President expressed great surprise at the course which General Grant had thought proper to pursue, and, addressing himself to the General, proceeded to say, in substance, that he had anticipated such action on the part of the Senate, and being very desirous to have the constitutionality of the tenure-of-office bill tested, and his right to suspend or remove a member of the Cabinet decided by the judicial tribunals of the country, he had some time ago, and shortly after General Grant's appointment as Secretary of War *ad interim*, asked the General what his action would be in the event that the Senate should refuse to concur in the suspension of Mr. Stanton, and that the General had then agreed either to remain at the head of the War Department till a decision could be obtained from the court or resign the office into the hands of the President before the case was acted upon by the Senate, so as to place the President in the same situation he occupied at the time of his (Grant's) appointment.

The President further said that the conversation was renewed on the preceding Saturday, at which time he asked the General what he intended to do if the Senate should undertake to reinstate Mr. Stanton, in reply to which the General referred to their former conversation upon the same subject, and said, "You understand my position, and my conduct will be conformable to that understanding;" that he (the General) then expressed a repugnance to being made a party to a judicial proceeding, saying that he would expose himself to fine and imprisonment by doing so, as his continuing to discharge the duties of Secretary of War *ad interim* after the Senate should have refused to concur in the suspension of Mr. Stanton would be a violation of the tenure-of-office bill. That in reply to this he (the President) informed General Grant he had not suspended Mr. Stanton under the tenure-of-office bill, but by virtue of the powers conferred on him by the Constitution; and that, as to the fine and imprisonment, he (the President) would pay whatever fine was imposed and submit to whatever imprisonment might be adjudged against him, (the General.) That they continued the conversation for some time, discussing the law at length, and that they finally separated without having reached a definite conclusion, and with the understanding that the General would see the President again on Monday.

In reply, General Grant admitted that the conversations had occurred, and said that at the first conversation he had given it as his opinion to the President that in the event of non-concurrence by the Senate in the action of the President in respect to the Secretary of War the question would have to be decided by the court; that Mr. Stanton would have to appeal to the court to reinstate him in office; that the ins would remain in till they could be displaced and the outs put in by legal proceeding; and that he then thought so, and had agreed that if he should change his mind he would notify the President in time to enable him to make another appointment, but that at the time of the first conversation he had not looked very closely into the law; that it had recently been discussed by the newspapers, and that this had induced him to examine it more carefully, and that he had come to the conclusion that if the Senate should refuse to concur in the suspension Mr. Stanton would thereby be reinstated, and that he (Grant) could not continue thereafter to act as Secretary of War *ad interim* without subjecting himself to fine and imprisonment; and that he came over on Saturday to inform the President of this change in his views, and did so inform him; that the President replied that he had not suspended Mr. Stanton under the tenure-of-office bill, but under the Constitution, and had appointed him (Grant) by virtue of the authority derived from the Constitution, &c.; that they continued to discuss the matter some time, and finally he left without any conclusion having been reached, expecting to see the President again on Monday. He then proceeded to explain why he had not called on the President on Monday, saying that he had had a long interview with General Sherman; that various little matters had occupied his time till it was late, and that he did not think the Senate would act so soon, and asked, "Did not General Sherman call on you on Monday?"

I do not know what passed between the President and General Grant on Saturday, except as I learned it from the conversation between them at the Cabinet meeting on Tuesday, and the foregoing is substantially what then occurred. The precise words used on the occasion are not, of course, given exactly in the order in which they were spoken, but the ideas expressed and the facts stated are faithfully preserved and presented.

I have the honor to be, sir, with great respect, your obedient servant,

O. H. BROWNING.

The PRESIDENT.

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DEPARTMENT OF STATE,
WASHINGTON, *February* 6, 1868.

SIR: The meeting to which you refer in your letter was a regular Cabinet meeting. While the members were assembling, and before the President had entered the Council Chamber, General Grant, on coming in, said to me that he was in attendance there, not as a member of the Cabinet, but upon invitation, and I replied by the inquiry whether there was a change in the War Department. After the President had taken his seat business went on in the usual way of hearing matters submitted by the several Secretaries. When the time came for the Secretary of War General Grant said that he was now there, not as Secretary of War, but upon the President's invitation; that he had retired from the War Department. A slight difference then appeared about the supposed invitation, General Grant saying that the officer who had borne his letter to the President that morning, announcing his retirement from the War Department, had told him that the President desired to see him at the Cabinet, to which the President answered, that when General Grant's communication was delivered to him the President simply replied that he supposed General Grant would be very soon at the Cabinet meeting. I regarded the conversation thus begun as an incidental one. It went on quite informally, and consisted of a statement, on your part, of your views in regard to the understanding of the tenure upon which General Grant had assented to hold the War Department *ad interim*, and of his replies by way of answer and explanation. It was respectful and courteous on both sides. Being in this conversational form, its details could only have been preserved by *verbatim* report. So far as I know, no such report was made at the time. I can give only the general effect of the conversation.

Certainly you stated that, although you had reported the reasons for Mr. Stanton's suspension to the Senate, you nevertheless held that he would not be entitled to resume the office of Secretary of War, even if the Senate should disapprove of his suspension, and that you had proposed to have the question tested by judicial process, to be applied to the person who should be the incumbent of the Department, under your designation of Secretary of War *ad interim*, in the place of Mr. Stanton. You contended that this was well understood between yourself and General Grant; that when he entered the War Department as Secretary *ad interim* he expressed his concurrence in a belief that the question of Mr. Stanton's restoration would be a question for the courts; that in a subsequent conversation with General Grant you had adverted to the understanding thus had, and that General Grant expressed his concurrence in it; that at some conversation which had been previously held General Grant said he still adhered to the same construction of the law, but said if he should change his opinion he would give you seasonable notice of it, so that you should, in any case, be placed in the same position in regard to the War Department that you were while General Grant held it *ad interim*. I did not understand General Grant as denying, nor as explicitly admitting, these statements in the form and full extent to which you made them. His admission of them was rather indirect and circumstantial, though I did not understand it to be an evasive one. He said that, reasoning from what occurred in the case of the police in Maryland, which he regarded as a parallel one, he was of opinion, and so assured you, that it would be his right and duty, under your instructions, to hold the War Office after the Senate should disapprove of Mr. Stanton's suspension until the question should be decided upon by

the courts; that he remained until very recently of that opinion, and that on the Saturday before the Cabinet meeting a conversation was held between yourself and him in which the subject was generally discussed.

General Grant's statement was, that in that conversation he had stated to you the legal difficulties which might arise, involving fine and imprisonment under the civil tenure bill, and that he did not care to subject himself to those penalties; that you replied to this remark, that you regarded the civil tenure bill as unconstitutional, and did not think its penalties were to be feared, or that you would voluntarily assume them; and you insisted that General Grant should either retain the office until relieved by yourself according to what you claimed was the original understanding between yourself and him, or, by seasonable notice of change of purpose on his part, put you in the same situation which you would be if he adhered. You claimed that General Grant finally said in that Saturday's conversation that you understood his views, and his proceedings thereafter would be consistent with what had been so understood. General Grant did not controvert nor can I say that he admitted this last statement. Certainly General Grant did not at any time in the Cabinet meeting insist that he had in the Saturday's conversation either distinctly or finally advised you of his determination to retire from the charge of the War Department otherwise than under your own subsequent direction. He acquiesced in your statement that the Saturday's conversation ended with an expectation that there would be a subsequent conference on the subject, which he, as well as yourself, supposed could seasonably take place on Monday.

You then alluded to the fact that General Grant did not call upon you on Monday, as you had expected from that conversation. General Grant admitted that it was his expectation or purpose to call upon you on Monday. General Grant assigned reasons for the omission. He said he was in conference with General Sherman; that there were many little matters to be attended to. He had conversed upon the matter of the incumbency of the War Department with General Sherman, and he expected that General Sherman would call upon you on Monday. My own mind suggested a further explanation, but I do not remember whether it was mentioned or not—namely, that it was not supposed by General Grant on Monday that the Senate would decide the question so promptly as to anticipate further explanation between yourself and him if delayed beyond that day. General Grant made another explanation—that he was engaged on Sunday with General Sherman, and, I think, also on Monday, in regard to the War Department matter, with a hope, though he did not say in an effort, to procure an amicable settlement of the affair of Mr. Stanton, and he still hoped that it would be brought about.

I have the honor to be, with great respect, your obedient servant,

WILLIAM H. SEWARD.

To the PRESIDENT.

Mr. BINGHAM. I move that the communication from the President, together with the accompanying papers, be referred to the Committee on Reconstruction, and ordered to be printed.

Mr. BOYER. Let me suggest to the gentleman from Ohio there was an order to print the previous correspondence.

Mr. BROOKS. I move that it be printed with the previous correspondence, and that the same number be printed.

Mr. LOGAN. I desire to know whether there is any more of the correspondence? Is there not a response from General Grant?

The SPEAKER. There is not.

Mr. LOGAN. I ask the purport of the resolution under which this came here? Was it a call upon the President or upon the Secretary of War?

Mr. BROOKS. It included all correspondence.

Mr. LOGAN. I state there is an answer to this correspondence from General Grant which has not been furnished to us.

Mr. BROOKS. If there is an answer I hope all will be printed together in one volume. I have no doubt the moment General Grant's reply is received and examined by the President it will be forthwith sent to this House.

Mr. LOGAN. I ask that further action be suspended until the response of General Grant comes here.

Mr. BINGHAM. I hope that will not be done. There is no necessity of suspending action on this. We want to examine the papers. I move the reference of the message, with the accompanying papers, to the Committee on Reconstruction, and that they be ordered to be printed.

Mr. BOYER. All printed together.

The SPEAKER. The Chair would state the preceding correspondence has been printed, but, as the Chair is informed, incorrectly printed, there being one or two mistakes.

Mr. BINGHAM. I modify my motion so that all this correspondence shall be printed together.

The motion, as modified, was agreed to.

The SPEAKER. The resolution, as written by the gentleman from New York, [Mr. BROOKS,] called only for the letter of the President to General Grant.

Mr. LOGAN. So I thought. What I wish now is to call for the response of General Grant to the letter of the President.

The SPEAKER. Does the gentleman submit that resolution?

Mr. LOGAN. I do. I move that the President shall be directed to communicate to this House General Grant's reply to the letter just read.

Mr. BROOKS. I second that motion.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. WARD, by unanimous consent, was granted ten days' leave of absence.

KENTUCKY CONTESTED-ELECTION CASE.

The SPEAKER stated the first business in order was the Kentucky contested-election case of Smith *vs.* Brown.

Mr. DAWES moved that its further consideration be postponed until Thursday next, after the morning hour.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the legislative, &c., appropriation bill; and pending that motion I move that all debate upon the paragraph relating to the Court of Claims be closed in one minute after the committee resumes the consideration of the same.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The CHAIRMAN stated the pending question was on the amendment of Mr. BROOMALL, to add the following:

Provided, That no judgment of said court for any sum exceeding five thousand dollars shall be paid out of this appropriation.

Before the question was taken on Mr. SCOFIELD's motion to strike out the paragraph, "for payment of judgments which may be rendered by the court in favor of claimants, $100,000,"

Mr. WASHBURNE, of Illinois said: I hope the amendment of the gentleman from Pennsylvania will be agreed to. It carries out the recommendations of the committee.

The committee divided; and there were—ayes 39, noes 47.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. BROOMALL were appointed.

The committee again divided; and the tellers reported—ayes 55, noes 51.

So the amendment to the amendment was agreed to.

Mr. SCOFIELD's amendment was then disagreed to.

The Clerk read as follows:

For compensation to the private secretary, assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class, steward, and messenger of the President of the United States, $18,800.

Mr. BUTLER. I move to strike out "assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class."

The reason I have for moving to strike out the appropriation for such service is, I do not believe, from the constitution of the Government and the form of doing business, that any such clerical assistance is necessary to the President of the United States. The reason I have for so believing is, that up to 1861 no President of the United States ever had it. All the clerical assistance the President had up to 1861 was a private secretary and a secretary to sign patents; and the entire amount that was appropriated for all the expenses of the presidential office, including his steward and messenger, was only $6,450. This bill calls for $23,300. In addition to this clerical assistant the President details from three to five Army officers of the rank of captain to that of colonel as aids, and that expense is added.

Now, I trust these assistants will be stricken out. I do not make the motion because Andrew Johnson is President of the United States. I would make it just as soon if any other man were Chief Magistrate. I do not believe the executive office is the place to do this business. The several Departments are the proper places for the Executive to do it. There needs be no record in the executive office; there needs be no short-hand writer there. The President should have other business, other duties, to attend to; he does have other duties than undertaking to do the executive business which belongs to the Departments. This thing grew up during the war and was part of the exigency of the war. We have returned to peace, and I trust that the presidential office will return to peace in every sense of that word at a very early day.

To show how this abuse has grown up you have only to look over on the next page, where we are called upon to appropriate $3,000 for stationery against $350 in 1861. Therefore I propose to follow up this striking out of these clerks and other assistants, so as to leave the presidential office, so far as regards clerical assistance, precisely where it was in 1861. There is no more reason why there should be other clerical assistants now than there was then. And when we come to the last line I shall further move to strike out $18,800 and insert $4,600, making in the whole a saving of more than fifteen thousand dollars.

Mr. PRUYN. Mr. Chairman, I am surprised at what I must term the illiberality of the gentleman from Massachusetts, [Mr. BUTLER.] A committee of this House, to whom this subject has been intrusted, have deliberately come to the conclusion that a provision of this kind was right and just, and have reported it for the consideration, and, as they hope, the approval of the House. Now, sir, the salary of the President of the United States was fixed at the organization of our Government at its present amount, $25,000. Ten thousand at the time that salary was established would procure just as much of the comforts and necessaries of life as $25,000 in paper will now. But Congress from time to time, during a long series of years, have helped out the President, as it were, by making appropriations of various kinds for the maintenance of the executive establishment, for clerical aid, and for incidental expenses in that department. Some years ago the pay of the steward was provided for; also the pay of porter. I understand, also, that the Government furnishes fuel and light for the Presidential Mansion. I am surprised, also, to hear the gentleman from Massachusetts [Mr. BUTLER] say that there should be no records in the executive department; that the business should be done in the other Departments entirely, and that no person but a single private secretary should be employed by the President for the purpose of aiding him in the discharge of his duties. Now, the gentleman must know—he certainly ought to know, and every member of this House who has had occasion to visit the executive department must know—that a large clerical force is needed. It is impossible, with the vast concerns of this Government, with the many things which constantly come

under the President's care and supervision, that he can get along and discharge all these duties with the assistance of simply a private secretary.

Mr. UPSON. I desire to ask the gentleman a question. Is there any necessity since the general amnesty proclamation for the employment of a pardon clerk?

Mr. PRUYN. I am not prepared to answer that. It is enough for me to know that the committee think it is proper, and they have reported an appropriation therefor. I trust that the House will act in this matter in the spirit of liberality and firmness toward the incumbent of the Executive Mansion, in the spirit which the gentleman from Massachusetts says characterizes his movement, no matter who the incumbent may be. So I say; no matter who the incumbent might be, I would vote for this appropriation recommended by the committee, believing that it is reasonable and that it is demanded by the business and the necessities of that department of the Government.

Mr. KELLEY. I move to amend the amendment by reducing the amount to $4,500.

The CHAIRMAN. The Chair will suggest that that is not an amendment to the amendment of the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. I meant to have amended further by striking out "$18,800" in lines two hundred and sixty and two hundred and sixty-one, and inserting "$4,600" in lieu thereof.

The CHAIRMAN. The gentleman, however, stated that he would move that amendment after the pending amendment was disposed of.

Mr. KELLEY. I will move, then, to amend the amendment so as to strike out to the end of the section; and I do it for the purpose of saying that the facts of the case prove that these are useless appropriations, if I am correctly informed. There is no short-hand writer, as I am informed by many persons who have the amplest means of knowledge, in the employ of the President, other than an Army officer who is acting as one of his staff and receiving his pay as such, the pay of the short-hand writer being drawn by one who knows nothing about that art, and who does not practice it either in the service of the executive department or in the two other employments he holds as the well-paid reporter for Philadelphia and Baltimore newspapers. There were reasons during the war why the Executive might require more assistance and might have required a short-hand writer; but that has passed away, and instead of a short-hand writer this Government is now paying the pay of a short-hand writer—if I am correctly informed, and I believe myself to be so—$2,500 to give the President of the United States direct access to the columns of two leading newspapers, in one of which—and it is a paper of such respectability that without official indorsement it never could have inserted them—appeared the interrogatories said to have been prepared by the President of the United States asking the opinion of the Attorney General as to the legality of disregarding this Congress as the Congress of the United States.

I do not propose my amendment or sustain that of the gentleman from Massachusetts because the present incumbent is President of the United States. I think the amendment would be a proper one let who might be there; but I hope all the more earnestly that it will be adopted because there is every reason to believe—there is knowledge little short of judicial knowledge—that the money is improperly and corruptly employed for the purpose of disparaging the legislative branch of the government and preventing the reconstruction of the country.

Mr. SPALDING. I rise to oppose the amendment to the amendment offered by the gentleman from Pennsylvania [Mr. KELLEY] *pro forma*, and in doing so I wish to say that the bill creating all these different offices in the executive department was passed about a year and a half ago at my instance, and because I believed that they were necessary to the executive department; and I have seen no reason to change my opinion on the subject.

As a member of the Committee on Appropriations I advocated the insertion of this sum of $18,800 because that sum is necessary to pay the salaries attached to these different positions by law. Now, it is one thing to repeal the law creating these offices and it is another thing to appropriate the money when the law requires the appropriation. The Committee on Appropriations have done simply their duty, nothing more, in appropriating the money which the law requires them to appropriate to pay the salaries of these offices.

Now, sir, I will not permit myself, in examining and acting upon a measure of this kind, to take into consideration the character of the individual who fills the office of Chief Executive of this nation. If we are, on all occasions and under all circumstances, to make that inquiry, and to make it invidiously, as some members seem inclined to do, it is a matter which may after a while come back, as the vulgar saying is, to roost. Other men by-and-by will fill that executive office, and we shall be embarrassed by the precedents which we establish ourselves.

I think, sir, from the best information I can get upon the subject, that each one of these officers is needed for the due execution of the business of the executive department of the nation. I know that we have saved a vast amount of property by providing for the appointment of a steward at a salary of $2,000, and requiring that officer to give bail for the safe keeping of all the silverplate and all the furniture in the Presidential Mansion. That is now done, and no losses have occurred since it has been done. Before the passage of the law creating this presidential staff these matters were all left at loose ends. They are now regulated, and properly regulated, by law, and there is a good degree of accountability attached to these respective places.

I do not know so much in regard to the stenographer. I only know that the provision for this officer was inserted by way of amendment in the Senate after the bill had passed this House and the House agreed to the amendment. Such an officer was said to be necessary to the convenient transaction of business at the Executive Mansion. That is all I know in regard to the matter. If this stenographer is so important an obstacle in the way of gentlemen let them refuse to appropriate for the stenographer, and let them repeal the provision of law creating the office. I do not know that I would object to that, but I do not like to see this whole appropriation struck out simply to gratify the feeling of individuals against the incumbent of the executive chair. I yield to the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. I desire to call the attention of the committee to the fourth section of the act of July 23, 1866, which provides—

"That the President is hereby authorized to appoint a private secretary, at an annual salary of $3,500; an assistant secretary, at an annual salary of $2,500; a short-hand writer, at an annual salary of $2,500; a clerk of pardons, at an annual salary of $2,000; and three clerks of the fourth class, and a steward of the President's household, who shall receive an annual salary of $2,000; and said steward shall have the custody of the plate, furniture, and other public property in the President's House, and shall give a bond to the United States in such sum as the Secretary of the Interior shall deem sufficient, and to be approved by him, for the faithful discharge of his trust," &c.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. SPALDING] has expired.

Mr. KELLEY. I withdraw my amendment.

Mr. WASHBURNE, of Illinois. I rise to move that the committee rise for the purpose of fixing a time when we shall close the debate on this proposition. I propose that the debate close in ten minutes after we resume the consideration of the bill.

Mr. SCHENCK. I hope there will be no such cutting off of this discussion.

Mr. WASHBURNE, of Illinois. It is impossible for us to get along without doing so. I move that the committee rise for the purpose of closing debate.

The motion was not agreed to.

Mr. SCHENCK. In order to perfect the paragraph so as to meet another difficulty, I move to amend by adding the following proviso:

Provided. That no officer of the Army or Navy shall be detailed or assigned to duty as a private secretary or clerk, or for other civil service at the Executive Mansion.

Mr. WASHBURNE, of Illinois. I raise the point that this amendment is not in order, as it proposes to change existing law.

Mr. SCHENCK. I beg to say that the amendment simply proposes to carry out the present law and keep the officers of the Army and Navy where they belong. So far from conflicting with the law, the amendment is designed to prevent a violation of law.

The CHAIRMAN. The Chair is not aware of any existing law with which this amendment conflicts, and therefore overrules the point of order.

Mr. SCHENCK. I supposed it would not be considered improper to keep officers of the Army and Navy in their places, performing military or naval duty, and prevent them from becoming the clerks or private secretaries of anybody.

Now, sir, if gentlemen will look at land patents issued in the early days of our Government, they will find that James Madison, James Monroe, and those who preceded them in the presidential office, and even Andrew Jackson coming after, signed patents themselves. After awhile the duty became so onerous that a secretary to sign land patents was provided. Still there was no private secretary. Subsequently a private secretary was authorized. Then during the late war additional assistants were allowed at the Executive Mansion till the matter has assumed the shape shown by the remarks of the gentleman from Maine, [Mr. BLAINE;] an assistant secretary, three clerks, a short-hand writer, a messenger, &c., being authorized until the whole "executive establishment" of the President, as the gentleman from New York calls it, amounts to ten civil officers.

Now, sir, I do not go into the question whether these are or are not too many to be allowed to the President. I am disposed to be liberal in regard to the salary of the President. I am glad that the President having an insufficient salary of $25,000 a year, various Congresses have from time to time provided for paying for fuel, lights, &c., for the Executive Mansion, thus decreasing the President's expenditures for keeping up the establishment and virtually amounting to a considerable increase of his salary.

But, sir, whether we are or are not of the opinion that the President should have an establishment consisting of these ten civil officers, (and I very much doubt whether we have not gone too far in that direction,) certainly, when the President is thus amply supplied with assistance, there is no necessity that officers of the Army should be detailed to perform for him the duty of clerks. I believe I am not mistaken in saying that there are now at least three officers of the Army engaged upon this pet service about the White House. I am not mistaken in saying that officers engaged there have been appointed to vacancies occurring in a staff department in the regular Army, without any purpose that they should enter upon the duties, but in order that thus a salary might be provided for them, they still being retained about the White House as private secretaries or in some corresponding capacity.

Now, what I propose is that whatever we may do with regard to those ten civil officers, properly so called, we at least shall not add to the increase already made in that direction by permitting the President to detail for service at the Executive Mansion three or four other men, officers of the Army, for the purpose of performing these very same duties. I desire

to restrict the right to detail as part of that household establishment officers whose proper duties are military in their character.

Mr. NIBLACK. Mr. Chairman, I rise to oppose the amendment of the gentleman from Ohio. The President is the Commander-in-Chief of the Army and Navy, and as such is as much entitled as any other officer of the Army or Navy to have detailed for his assistance any subordinate officer. I believe that with scarcely an exception every military or naval officer high in rank when charged with onerous duties of any kind is in the habit of having officers detailed for his assistance, either upon his staff or as military secretaries, private secretaries, or in some such capacity. Thus officers performing important duties are relieved of certain clerical labor which it is impossible for any officer charged with important duties to perform in his own person.

If the President of the United States were a civil officer purely, having no connection with the Army or Navy, then I agree this amendment would be very proper. But, in view of the peculiar position and duties of the President, there is no more harm, I think, in detailing officers of the Army to assist him in the performance of those duties than there is in assigning such officers to duty upon the staff of distinguished officers connected with the Army. I can see, therefore, no objection to the practice against which the amendment is directed. By this practice the employment of additional civil officers is avoided, and the President is enabled to command the services of gentlemen familiar with particular branches of duty with which he is charged. I think it not only proper but desirable that the President should have this power of commanding the services of subordinate military officers to assist him in the discharge of certain duties devolving upon him as the head of the Army or Navy.

Mr. MULLINS. Mr. Chairman, I desire to say——

The CHAIRMAN. No further debate is in order.

The amendment to the amendment was agreed to.

Mr. MAYNARD. For the purpose of perfecting the amendment of the gentleman from Massachusetts [Mr. BUTLER] I move to amend by striking out the words "short-hand writer." I make this motion for the purpose of stating a fact which perhaps is not known to all the members of the House, and which I think should be known to them before they act finally upon this question.

Whether a short-hand writer is actually employed or not to fill this position I am unable to say, for I do not know; but I know that the present incumbent of the executive office has constant occasion for one. Many years ago, while Governor of Tennessee, he had the misfortune to be thrown in a railroad disaster in the State of Georgia, by which the elbow of his right arm was broken and the arm disabled, so, in point of fact, he is unable to use the pen except in a rough way to sign his own name. It has been his practice for many years to employ altogether an amanuensis. All his correspondence and writing is carried on in that way. The present incumbent requires an officer of that kind. Knowing this fact I thought it just to the President to state it.

Mr. KELLEY. I ask whether the duties of the office cannot be performed by one man instead of two?

Mr. MAYNARD. That is a question the gentleman can answer as well as I can. While Senator and while military governor of Tennessee he employed a gentleman constantly in that capacity, and sometimes more than one.

Mr. BUTLER. I desire, then, in view of the statement of the gentleman from Tennessee, to modify my amendment so as to leave in the short-hand writer. I would do that if that is the reason for it. But, Mr. Chairman, I want to call the attention of the committee to the fact that we are not endeavoring to cut down the President's salary. His salary is now $25,000, and is not enough, I grant; but we appropriate every year for the expenses of his house more than sixty thousand dollars besides. A little further on we appropriate in this way: Furnace-keeper to the President's house, $600; two policemen for the President's house, $2,640; two watchmen for the President's house, $1,800. Then there are appropriations for doorkeeper, assistant doorkeeper, and so on. I do not mean as at present advised to have those servants taken from him, those which are necessary additions to his household; but I do say again that the President's business is not to have a clerk of pardons; that should be done in the Attorney General's office. He should not have a Treasury clerk; that should be done in the Treasury Department; neither should he have a military officer as clerk; that should be done at the War Department, and so on. He should devote himself to other than details of business in the executive departments, for which the Constitution provides Secretaries.

Mr. MILLER. I should like to ask the question whether Mr. Johnson has more clerks than Mr. Lincoln had?

Mr. BUTLER. To that question I answer he has, and I am glad my friend has called my attention to it. This practice grew up under Mr. Lincoln, and the difficulty is that a practice under a good man becomes afterward a precedent; but this precise law was passed at President Johnson's instigation in 1866. The practice of employing military officers grew up under Mr. Lincoln. That was in time of war. I believe the member from Ohio [Mr. SPALDING] and the member from Maine [Mr. BLAINE] put this upon the letter of the law. Why, sir, let me state once again that we provide in this bill whenever an appointment is stricken out the office shall be abolished, and so there will be no difficulty about the law. What is the use of our going over appropriation bills at all if we cannot strike out anything, because we put in nothing that the law does not compel us to put in. Items like these are frequently put in this bill because the law provides for it, but with the mental reservation on our part to move to strike them out. I trust we shall restore this appropriation to precisely where it was in 1861, and we shall then put the presidential office just where it stood under Madison, under Jackson, under Taylor, Pierce, and Buchanan. I only ask to have it put back to where it was always in time of peace. In time of war we did many things which we do not propose to do in time of peace, and my friends on the other side who are anxious for a return to peace I trust will aid me to put the White House on a peace establishment.

Mr. NIBLACK. I thought the war still continued.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. MAYNARD. I understand the gentleman from Massachusetts accepts my amendment to his amendment.

Mr. BUTLER. I accept it if I may do so.

Mr. BLAINE. Mr. Chairman, I was taken off the floor a little while ago before I had completed what I had to say. I do not intend now to say that all the officers in the paragraph under discussion are absolutely necessary.

The CHAIRMAN. Does the gentleman propose an amendment? Debate is exhausted on the pending one.

Mr. BLAINE. I move to amend by striking out "clerk of pardons." I regard it as perfectly absurd, to use a strong phrase, when the business of all the other Departments has increased three, four, five, and six fold, and absolutely requires a proportionate addition of clerical force, to suppose that the executive department, which is the head of the whole, should need no more clerical assistance than in the days of Madison, as the gentleman from Massachusetts [Mr. BUTLER] says. Now, every one knows that the business of the executive department has increased enormously of late. We are called upon in the subsequent pages of the bill to appropriate for an enormous increase over what was required twenty, ten, or even eight years ago; and I ask any gentleman if it be at all possible, when all the Departments have had their clerical force so largely increased, for the executive head of them all to get along with precisely the same number of secretaries and clerks that he had five years ago. I think the amendment of the gentleman from Massachusetts [Mr. BUTLER] is wrong. It is directly in the teeth of the law which we ourselves, a Republican Congress, enacted only eighteen months ago.

Mr. WOOD. The gentleman from Maine [Mr. BLAINE] in my judgment has stated the case very properly. We cannot reform in this manner. The President has appointed these subordinates in pursuance of existing law, the duties have been performed, and the persons who have performed these duties must be paid. This is simply a proposition to appropriate money to pay salaries which the acts of Congress have created; to pay subordinates appointed by the President in pursuance of the laws of Congress. Now, admitting all the gentleman from Massachusetts [Mr. BUTLER] has said to be true, and admitting to be true what the gentleman from Pennsylvania [Mr. KELLEY] has said with reference to the abuse of this authority conferred upon the President by Congress, this is not the way to reach the difficulty. You must first repeal the law of 1866, and abolish these places before you can refuse to appropriate the money by which they shall be paid after they have discharged their duties. But, sir, I apprehend there is an error in the statement made by the gentleman from Pennsylvania [Mr. KELLEY] to the effect that the President abuses the authority to appoint subordinates for the purpose of reaching the public through the newspapers of the country. I doubt whether that gentleman will state here on his own personal knowledge that what he has asserted this morning is true. I apprehend there is no foundation for the statement. I believe all these persons have discharged their duties; that none of them have sinecures; that all of them earn the salaries which we propose to appropriate money to pay for; that the offices are necessary for the conduct of the business of the executive department, and that the vast increase of the duties imposed by the condition of the country upon the President makes it absolutely necessary that he shall have this additional clerical force. Why, sir, it is almost necessary, for the purpose of meeting the continual assaults made upon him here and elsewhere, that he should have some clerks to enable him to conduct his correspondence.

Mr. WASHBURNE, of Illinois. At the public expense?

Mr. WOOD. But, sir, the gentleman who reports this bill is an economist. He never yet has been known to report in favor of any proposition or to vote for any proposition for the unnecessary appropriation of public money. I will say that to his credit. This bill has passed through his hands. He has cut down the amount to the very lowest minimum. We are bound to assume that every dollar proposed to be appropriated is absolutely required, and I hope the gentlemen on the other side of the House will not, merely because Andrew Johnson is President, seek to embarrass him in the discharge of his official duties.

Mr. BLAINE. I withdraw my amendment.

Mr. KELLEY. I renew it. I desire to say to the gentleman from New York [Mr. WOOD] and to the House that this is not a question whether we will appropriate salaries for officers who have performed duties. The 30th of June, 1868, has not yet arrived. This bill is making appropriations for the expenses of the Government from the 30th of June, 1868, to the 30th of June, 1869, and there is ample time to repeal the law creating these offices if they exist by virtue of law, before the 30th of June, 1868. It is only a future appropriation.

Now, Mr. Chairman, it is proper that I should say, in response to the gentleman from

New York, that I cannot speak of my own knowledge as to whether these gentlemen perform the duties assigned them by law, for I have not been in the habit of visiting the White House lately; but I believe the gentleman who holds the office of short-hand writer to be a man of veracity; I have great personal respect for him; and I want to know whether the gentleman knows that of him which would justify him or me in doubting that man's oath, for my information comes from his own sworn statement before one of the committees of the House that he is not a short-hand writer, and that his principal business in the executive family is to revise the newspapers and read those portions to the President which he thinks he would desire to have read; so that I have tolerable authority for my assertion. The gentleman is, as I have said, the correspondent of a leading newspaper in my own city and of one in Baltimore, and it was through the columns of those papers, on the morning of the 10th of October, when the President believed that Pennsylvania, Ohio, and Indiana had sustained him and elected a Congress to support him, that his queries to the Attorney General as to the constitutionality of turning Congress out of the Halls of Congress were put before the public; and I say that it is time that Congress should cease to give the newspaper reader to his royal highness a salary of $2,500 a year.

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment *pro forma*, and I ask a vote.

Mr. KELLEY. I withdraw my amendment.

Mr. MULLINS. I move to amend this paragraph in line one hundred and fifty-seven by striking out the word "private" where it occurs before the word "secretary," and I think I can adduce good reasons why it should be stricken out. First in order, there is no privacy there now. That has been made manifest at that desk and to the country. He is a public secretary and not a private one. But, sir, my object is to get rid of these officers. I suppose they were appointed during the war, but it is an extravagant number of clerks for a peace basis. Peace has to some extent come, and the President is the last man in the country that should deny it, because he has published to the world that we have peace; he has proclaimed it himself; he has put himself forward instead of Congress and has gone to work propping up all these dead States and making them living ones. It was declared here by a gentleman, in moving an amendment, that the President, being Commander-in-Chief of the Army and Navy of the United States, he has a right to draw upon any of the line officers or privates and fetch them in from the duties assigned them by law and say that they shall have a twofold office, one to stand in the ranks nominally and get pay while really they are brought under the control of the President and do whatever he may desire, and one of them is said to be "private." And now another amendment is proposed to allow the President a short-hand clerk. Well, if you can cut in and make the road any nearer to truth and honesty I go in for the short-hand route. [Laughter.]

But it is urged also, and by my colleague from Tennessee, [Mr. MAYNARD,] whom I respect as highly as he ought to be respected, and for whom I have as high regard as any man living, that we should do this as an act of charity because the President has got his arm broke. [Laughter.]

Well, I want to ask this House, and in all soberness, whether we are responsible for the breaking of his arm, or whether he did not break it himself swinging around the southern circle? [Laughter.] If he did it himself, then let him come up here and I for one will take something out of my pocket to help buy him a cork arm, which I have no doubt will be quite as efficient for good as the one he now has. But the Government should not be taxed for that which it is not responsible for. And if the President wants a private clerk why did he not tell the people before he was elected Vice President that he was decrepit in his right arm, having broke it? [Laughter.]

[Here the hammer fell.]

Mr. MULLINS. I withdraw my amendment.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

IMPROVEMENT OF NEW HAVEN HARBOR.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers, inclosing Colonel Houston's report of the operations for the removal of Middle Rock, New Haven harbor; which was referred to the Committee on Commerce, and ordered to be printed.

RAILROAD ON MISSISSIPPI RIVER.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers concerning a project for constructing a railroad on the west bank of the Mississippi river, from St. Francis river to Girardeau; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

QUARTERMASTER'S CONTRACTS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the acts of April 21, 1808, and July 17, 1862, statements of contracts made by the quartermaster's department during January, 1868; which was referred to the Committee on Military Affairs, and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the legislative, &c., appropriation bill; and pending that motion I move that all debate upon the paragraphs relating to the executive department be closed in one minute after the committee resumes the consideration of the same.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The CHAIRMAN. By order of the House all debate upon the paragraphs relating to the executive department is to be closed in one minute.

Mr. WASHBURNE, of Illinois. I propose to take that one minute for the purpose of stating that I am in favor of the amendment of the gentleman from Massachusetts, [Mr. BUTLER.] I was in favor of it when this bill was being considered by the Committee on Appropriations, and I am in favor of it now. I believe those officers are not needed.

The pending paragraph was the following:

For compensation to the private secretary, assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class, steward and messenger of the President of the United States, $18,800.

The pending question was upon the amendment of Mr. BUTLER to strike out the words "assistant secretary," "clerk of pardons, three clerks of fourth class."

The question was taken; and upon a division there were—ayes 60, noes 37.

So the amendment was agreed to.

Mr. BUTLER. I move to further amend the pending paragraph by striking out "$18,800" and inserting "$6,600." I do that for the reason——

The CHAIRMAN. No debate is in order.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For contingent expenses of the executive office, including stationery therefor, $3,000.

Mr. BUTLER. I move to amend that paragraph by striking out "$3,000," and inserting "$1,000."

The question was taken; and upon a division there were—ayes 57, noes 37; no quorum voting.

Tellers were ordered; and Mr. BUTLER and Mr. BARNES were appointed.

The committee again divided; and the tellers reported that there were—ayes seventy-four, noes not counted.

So the amendment was agreed to.

Mr. BARNES. I move to amend by striking out "$1,000," and inserting "$5,000;" so as to make the paragraph read:

For contingent expenses of the executive office, including stationery therefor, $5,000.

Mr. UPSON. I raise the point of order that as the committee has already inserted "$1,000," it is not in order to move to strike it out.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HARDING. I move to amend by adding at the end of the pending paragraph the following:

Provided, That no person shall be paid under the provisions of law relative to the civil service who belongs at the time of such service to the Army or Navy of the United States.

The amendment was not agreed to.

The Clerk resumed the reading of the bill; and read the following:

Department of State:

For compensation of the Secretary of State and Assistant Secretary of State, for chief clerk, eight clerks of class four, additional to one clerk of class four as disbursing clerk, nine clerks of class three, three clerks of class two, three clerks of class one, one messenger, one assistant messenger, and seven laborers, $57,380.

Mr. BLAINE. I move to amend by striking out the last word of the paragraph just read. I make this motion *pro forma*, for the purpose of making an explanation of a personal nature.

The gentleman from Pennsylvania, [Mr. KELLEY,] in the course of the debate on a previous paragraph, alluded to a newspaper correspondent in connection with the Executive Mansion, who, he said, was somewhat notorious for having published those interrogatories in regard to the constitutional authority of this Congress. I desire to say that the gentleman to whom he referred, and to whom members of the House understood him as referring, is not the person who was guilty of that act. That, I believe, was chargeable to one Mr. Flint, who was quite well known as "Druid," a war correspondent of the New York World.

Mr. KELLEY. Will the gentleman yield to me a moment for an explanation?

Mr. WASHBURNE, of Illinois. I raise the point of order that this discussion is entirely foreign to the pending paragraph.

The CHAIRMAN. The Chair sustains the point of order.

Mr. KELLEY. I made no charge against the correspondent in question except that he was the correspondent of the paper that first published those interrogatories.

The Clerk resumed the reading of the bill, and read the following:

In the construction branch of the Treasury, for supervising architect, $3,000; assistant supervising

architect, $2,000; for two clerks of class four, $3,600; for four clerks of class three, $6,400; for two clerks of class one, $2,400; and one messenger, $720; in all, $13,120; and the clause in act of March 14, 1864, providing for the officers, clerks, and messengers in the construction branch of the Treasury Department, is hereby declared to continue in force until July 1, 1869, and no longer.

Mr. SPALDING. I move to amend by striking out in the paragraph just read the following:

And the clause in act of March 14, 1864, providing for the officers, clerks, and messengers in the construction branch of the Treasury Department, is hereby declared to continue in force until July 1, 1869, and no longer.

I understand that the effect of this clause is to abolish entirely the construction branch of the Treasury Department after July 1, 1869. Is not that the fact? I ask the acting chairman of the committee, [Mr. WASHBURNE, of Illinois.]

Mr. WASHBURNE, of Illinois. I suppose the gentleman understands the clause precisely as it reads.

Mr. SPALDING. I understand the provision as repealing the whole law regulating this branch of the Treasury Department, and to that I object.

Mr. BLAINE. Without the insertion of this provision that branch of the Department would be dead at the end of this fiscal year. It only lives by virtue of this insertion.

The amendment was not agreed to; there being—ayes ten, noes not counted.

The Clerk read as follows:

For compensation of the Second Auditor, chief clerk, six clerks of class four, fifty-four clerks of class three, one hundred and eight clerks of class two, two hundred and twelve clerks of class one, also one clerk of class two and one clerk of class one, (transferred from the Third Auditor's office,) one messenger, five assistant messengers, and seven laborers, in all, $520,640; and the clause of the act of March 14, 1864, authorizing fifteen clerks of class three, fifty clerks of class two, and one hundred and forty clerks of class one, in the office of the Second Auditor of the Treasury, is hereby continued in force until the 30th day of June, 1869, and no longer.

Mr. WASHBURN, of Indiana. I move to amend the paragraph just read by inserting after the provision for the clerks of class one the words "also fifty extra clerks in bounty division;" and also by striking out "twenty" and inserting "forty," so as to make the aggregate amount of the appropriation $540,640.

Mr. BEAMAN. I rise to a point of order that there is no law for this.

The CHAIRMAN. The Chair rules the amendment to be in order.

Mr. BLAINE. I wish to say in regard to the amendment of the gentleman from Indiana that if the Senate concur with the House in ordering those clerks there are two or three appropriation bills on which this provision will be more appropriate. This bill is for the regular list of clerks, and these are temporary clerks, and would be better provided for in the miscellaneous appropriation bill or the deficiency appropriation bill.

Mr. WASHBURNE, of Illinois. And this appropriates money only after the 30th of June next.

Mr. WASHBURN, of Indiana. I want the clerks, and do not care exactly where they are provided for. I withdraw my amendment.

The Clerk read as follows:

For compensation of the Treasurer of the United States, Assistant Treasurer, cashier, assistant cashier, five chiefs of division, two principal bookkeepers, two tellers, one chief clerk, two assistant tellers, fifteen clerks of class four, fifteen clerks of class three, eleven clerks of class two, nine clerks of class one, sixty female clerks, fifteen messengers, five male and seven female laborers, employed in his office; in all, $191,416.

Mr. HIGBY. I move to strike out "$191,416" and insert in lieu thereof "$188,880." Why appropriate more money for this year than for the last?

Mr. BLAINE. I do not think the gentleman is exactly correct in the paragraph he refers to.

Mr. HIGBY. Yes, sir, I am.

Mr. WASHBURNE, of Illinois. The amount appropriated by this bill is "$191,416;" precisely the amount estimated for in the estimates. The amount appropriated last year was "$188,880." The difference is because of the increase of some salaries.

Mr. BLAINE. Twenty per cent. on fourteen messengers.

Mr. HIGBY, by unanimous consent, withdrew his amendment.

The Clerk read as follows:

For paper, special dies, printing circulating notes, express charges, and all expenses necessarily incurred in procuring the same, in above office, $100,000.

Mr. FARNSWORTH. I move the following to come in after that as a separate paragraph:

That each night watchman at the Treasury Department shall, from the 1st day of July, 1867, receive a compensation of $900 per annum; and an amount sufficient to pay said increased compensation for the fiscal year ending June 30, 1868, is hereby appropriated.

Mr. WASHBURNE, of Illinois. I rise to a point of order, that the amendment is not in order, as it changes the existing law.

The CHAIRMAN. The Chair overrules the point of order. The same point has been made several times and has been overruled.

Mr. FARNSWORTH. I believe these men are the poorest paid men in the service of the Government at Washington: these night watchmen, who perform twelve to fifteen hours of labor and get only $720 a year. I hope the amendment will be agreed to.

The amendment was disagreed to.

Mr. LOGAN. I wish to call attention to the fact whether the computation in the following is correct:

For compensation of the Solicitor of the Treasury, assistant solicitor, chief clerk, one clerk of class four, three clerks of class three, three clerks of class two, (one of which transferred from the Third Auditor's office,) one clerk of class one, one messenger, and one laborer, employed in his office; in all, $22,100.

Mr. WASHBURNE, of Illinois. We have taken the figures and have not gone over them ourselves. If the gentleman has found an error I hope it will be corrected.

Mr. SCHENCK. I want to come to the defense of the committee's arithmetic. The solicitor has $4,000; assistant solicitor, $3,000; chief clerk, $2,500; one $1,800 clerk, three $1,600, three $1,400, one $1,200, and one messenger and one laborer make it up.

Mr. WASHBURNE, of Illinois. I have no doubt it is correct.

The Clerk read as follows:

For Commissioner of Internal Revenue, three deputy commissioners, one solicitor, seven heads of divisions, thirty-four clerks of class four, forty-five clerks of class three, fifty clerks of class two, thirty-seven clerks of class one, fifty-five female clerks, five messengers, three assistant messengers, and fifteen laborers, employed in his office; in all, $349,450.

Mr. LOGAN. I move to strike out "one solicitor," because there is no solicitor and never has been.

Mr. BLAINE. There has been one in form. At different times various competent gentlemen have performed the duties of solicitor. The act of June 13, 1866, which reorganized the Department of Internal Revenue, especially provides for a solicitor at a salary of $4,000.

If the solicitor is not appointed he does not draw the money. If he is appointed he will need it. That is the whole of it.

Mr. LOGAN. Well, sir, I state to the House that there has not been a solicitor of internal revenue appointed. I am opposed to appropriating money for an office that does not exist. If it is the intention of the Secretary of the Treasury to refuse to carry out the law for the appointment of a solicitor, merely in order that he may employ lawyers outside that cannot be confirmed, I am opposed to it. I know there are attorneys in this city employed by the Secretary of the Treasury without any authority of law whatever, and to that I am opposed. But if the gentleman knows any lawyer that is employed by the revenue department——

Mr. BLAINE. I do not know any.

Mr. LOGAN. Then why did you say there is one?

Mr. BLAINE. I beg pardon. I said there had been one—speaking in the past tense.

Mr. LOGAN. The gentleman may be very correct in his grammar. I do not know whether there had been or not, but I know there is none now; and the reason I put the inquiry to my friend was that if he knew of any attorney that had been employed by the Department I would like to learn his name. I know there are gentlemen employed in this city whose names are not given either on the roll or in any other way, and yet sometimes payment is made without the knowledge of members of this House or of anybody else as to where the money goes. I am opposed to it. If they desire an attorney let him be appointed under and by virtue of the law as it stands on the statute-book.

Mr. BLAINE. Does the gentleman understand that the persons who have been employed have been paid out of this specific appropriation?

Mr. LOGAN. If they have not what do you want the appropriation for?

Mr. BLAINE. If they have been so paid it is a gross malfeasance on the part of the Secretary of the Treasury. It amounts to an accusation. Here is an appropriation of $4,000, and if no solicitor is appointed the Secretary has no right to pay it to any one else. He has no right to appropriate this money for any other purpose than that for which it is specifically given.

Mr. ALLISON. I rise to oppose the amendment. I regard the Commissioner of Internal Revenue as really the most important officer in that branch of the Government; and what my friend from Illinois [Mr. LOGAN] has said with reference to that officer is true. I assert here that there never has been a solicitor of revenue. We were told in 1866, when the bill for the reorganization of the Treasury Department was under consideration, that it was absolutely necessary for the successful administration of that Department that there should be a solicitor of revenue, whose duty it should be to pass upon the great questions of revenue constantly arising in that bureau. So we passed a law giving, not to the President of the United States, because it was then said that if we gave to him the appointment of this officer it might not be possible to secure a proper and efficient man—we passed a law giving authority to the Secretary of the Treasury to appoint a solicitor of internal revenue. That law went into force in July, 1866, and from that moment to this no such officer has been appointed by the Secretary of the Treasury. I have personally requested him to make an appointment. I do not know why it is that we cannot have a solicitor of internal revenue, who shall pass upon the important questions arising in that Department. I believe such an officer is necessary. Yet we are told that the Secretary of the Treasury will not make the appointment. I would like to know the reason why it is not made.

Mr. WASHBURN, of Indiana. Will the gentleman yield for a correction?

Mr. ALLISON. Yes, sir.

Mr. WASHBURN, of Indiana. The gentleman says that no one has ever acted as solicitor of internal revenue. I desire to say that Mr. Risley, who is deputy collector, is acting as solicitor.

Mr. ALLISON. He may be discharging the duties that would be required to be performed by a solicitor. In the organization of this bureau we provided for three deputy commissioners of internal revenue, and within my own knowledge it has been difficult to secure appointments even of these deputies. I know there is a gentleman by the name of Risley, who is the successor of another gentleman from Wisconsin, but he is deputy commissioner of internal revenue and only has authority to act as such. It may be that matters that should be referred to the solicitor are now referred to him, but he is not the proper officer. If, therefore, we cannot have the office filled—and it should be, because it is an important one—I would be in favor of the motion of the gentleman from Illinois [Mr. LOGAN] to strike out this appropriation; but I regard the office as of so much importance that I take this opportunity of calling the Secretary of the Treasury

again to his duty, and ask him to fill the office in order that a proper, responsible officer may have charge of these various legal questions arising under our revenue laws.

Mr. MAYNARD. I would ask the gentleman whether it would not be as well to let the motion of the gentleman from Illinois [Mr. LOGAN] prevail, so as to reduce as far as we can the nominal appropriations for next year?

Mr. ALLISON. In reply to that, I would say that I doubt very much whether it would be proper economy to strike out this appropriation.

Mr. WASHBURNE, of Illinois. It would be an invitation to the Secretary of the Treasury not to appoint.

[Here the hammer fell.]

Mr. LOGAN. I withdraw my amendment, and move to add to the paragraph the following proviso:

Provided, That until a solicitor is appointed in accordance with law no part of the moneys hereby appropriated shall be applied in payment of services properly pertaining to such office.

Mr. BLAINE. I think that is a very proper amendment.

The amendment was agreed to.

The Clerk proceeded with the reading of the bill down to the following paragraph:

For additional clerks in the Pension Office, per acts of April 7 and July 23, 1866, $20,000.

Mr. BEAMAN. I move to amend that paragraph by striking out the word "additional" and inserting "temporary" in lieu thereof, and also by striking out the words "per acts of April 7 and July 23, 1866;" so that it will read:

For temporary clerks in the Pension Office, $20,000.

I will state the reason for this amendment. According to the estimates submitted $41,000 is asked for temporary and additional clerks. This appropriation is proposed under two distinct acts, one providing $20,000 for temporary clerks and the other providing $21,000 for additional clerks. The Committee on Appropriations are satisfied, and on consultation with the Commissioner of Pensions he tells me that he is also satisfied, that it will be sufficient to allow $20,000, and therefore it has appeared to the committee that it is better to amend this paragraph as I have suggested.

The amendment was agreed to.

The Clerk read the following paragraph:

Office of the Commissioner of Pensions:

For stationery, engraving, and retouching plates for bounty-land warrants, printing and binding the same, office furniture, and repairing the same, and miscellaneous items, including two daily newspapers, to be filed, bound, and preserved for the use of the office, and for detection and investigation of fraud, $22,000.

Mr. BEAMAN. I move to amend that paragraph by striking out "$22,000" and inserting "$40,000" in lieu thereof.

I am assured by the Commissioner of Pensions that it would be utterly impossible for the bureau to go on with its operations without this appropriation.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For enabling the Secretary of the Interior to rent such rooms in the vicinity of the Department, for the use of the Pension Office, as may be deemed necessary for the transaction of business of that office, from November 1, 1867, to June 30, 1869, $3,000

Mr. BEAMAN. I move to amend this paragraph by striking out the words "from November 1, 1867, to June 30, 1869." It will be observed, by examining this paragraph, that it proposes to make an appropriation to cover what in point of fact is a deficiency. As this is only an appropriation for the next fiscal year, the words I have indicated should be stricken out.

Mr. TROWBRIDGE. If that is the condition of the matter, then I move to strike out the entire paragraph. I do it for this reason: we are now constructing a building for the Department of Agriculture.

The CHAIRMAN. The motion to strike out the paragraph will not be in order until the amendment to perfect the paragraph has been disposed of.

The question was then taken upon the amendment of Mr. BEAMAN, and it was agreed to.

Mr. TROWBRIDGE. I now move to strike out the entire paragraph as amended. I do so for this reason: before the time arrives when this appropriation is to take effect, the Department of Agriculture will have vacated all the rooms it occupies in the lower part of the building for the Department of the Interior. I do not see any necessity for making appropriations to rent rooms when the Department of the Interior can have all those rooms when vacated for the use of the Pension Office.

Mr. WASHBURNE, of Illinois. If the gentleman from Michigan [Mr. TROWBRIDGE] knew the Commissioner of Pensions as well as I do he would not suppose he would make any expenditure that was not necessary.

Mr. TROWBRIDGE. On that statement I will withdraw my motion to strike out.

Mr. MAYNARD. I renew the motion to strike out the paragraph for the purpose of calling the attention of the gentleman from Illinois [Mr. WASHBURNE] to the fact that the money which it is proposed hereby to appropriate is to be placed in the hands of the Secretary of the Interior, and the Commissioner of Pensions will have nothing to do with it. I ask the gentleman if he ever knew an appropriation not to be expended if made?

Mr. WASHBURNE, of Illinois. I have known some such instances.

The question was taken upon the motion to strike out, and it was not agreed to.

The Clerk resumed the reading of the bill.

The following clause, under the heading of "Office of Paymaster General," was read:

For three clerks of class four, $5,400.

Mr. MAYNARD. I move to amend by striking out "fifty-four" and inserting "five thousand and four;" so that it will read "five thousand four hundred dollars."

The motion was agreed to.

The following clause under the same heading was then read:

For two clerks of class three, $3,200.

Mr. BEAMAN. I move to amend this bill by inserting after the clause just read the following:

For three clerks of class three, authorized by clause in the act of February 25, 1863, $4,800; *Provided*, That the said clerks shall not be continued after the 30th of June, 1869.

I will state very briefly the reason for proposing this amendment.

Mr. WASHBURNE, of Illinois. The amendment is right.

Mr. BLAINE. We will agree to it.

Mr. BEAMAN. If there is no objection to the amendment, there is no necessity for explaining it.

The amendment was agreed to.

The Clerk resumed the reading of the bill.

The following clause, under the heading "Office of Commissary General," was read:

For one clerk of class four, $1,800; one clerk of class three, $1,600.

Mr. MAYNARD. I move to amend by striking out "eighteen hundred" and inserting "one thousand eight hundred." This may appear to be a small matter, but the amendment is necessary to make this clause correspond with the general draft of the bill. It was for that reason I moved a similar amendment a few moments since.

Mr. BLAINE. I think the amendment of the gentleman from Tennessee [Mr. MAYNARD] is very proper. It is merely a verbal amendment, which should be made, so that the bill may correspond throughout in that respect.

The amendment of Mr. MAYNARD was agreed to.

Mr. BLAINE. I hope the Clerk will be directed to make similar corrections wherever necessary.

The CHAIRMAN. That will be done if there be no objection.

No objection was made.

The Clerk resumed the reading of the bill.

The following paragraph having been read—

Office of Military Justice:

For one clerk of class four, one clerk of class three, one clerk of class two, and two clerks of class one, $7,200—

Mr. WOODWARD said: I move to strike out the paragraph just read. I do not know when the Bureau of Military Justice was established, or by what law. I suppose it was established during the late war for the purposes of that war. The war having ceased, I think this bureau should also cease. Because I believe that this Bureau of Military Justice ought not to exist, I am opposed to this appropriation for its clerks. Without professing any particular knowledge in regard to the history or purposes of the bureau, I will say that, in my judgment, it has brought more disgrace upon this country than any other institution or department that has ever been administered under this Government. And if this bureau ever had any virtue or utility, it has ceased to have it since the war has terminated, and the sooner we blot it out from our laws, and, if possible, from the history of this country, the better for our character as a nation. I believe that in the manner in which it has been administered it has been a disgrace to us. Instead of giving it clerks we should abolish the bureau.

Mr. FARNSWORTH. Can the gentleman point out any case in which injustice has been perpetrated or disgrace brought upon the country by that bureau?

Mr. WOODWARD. I am speaking in a general way. I know that the question of the continuance of the bureau is not now before us; we are dealing now with the question of paying the clerks of that bureau. If I had the time, either now or hereafter, I believe I could fortify the remark I have made, that the administration of this Bureau of Military Justice has been a disgrace to the country. I believe the bureau has violated the rights of citizens, and has done the country no service either during the war or since. I am not disposed to question the good motives with which it was established. I am willing to concede that during the war some department of that kind may have been thought to be necessary; but I do not understand—and unless the chairman of the committee can make such an explanation as I do not anticipate I do not expect to understand—how we can need such an institution in these times of peace.

Mr. BLAINE. If the gentleman will permit me I will give an explanation. I feel very modest in correcting the gentleman upon a question of law; but I will state that the Bureau of Military Justice, although not called by precisely that name, has always existed in the Army. The office of Judge Advocate General for the revision of the proceedings of courts-martial and for the general discipline of the military establishment, has always existed in the Army; and the act of June 20, 1864, merely put it into permanent form, providing for a Bureau of Military Justice, "to which shall be returned for revision the records and proceedings of all courts-martial, courts of inquiry, and military commissions of the armies of the United States, and in which a record shall be kept of all proceedings had thereupon." The act then goes on to define the officers, clerks, &c., that shall constitute the bureau. This appropriation is in precise accordance with the law. I do not think it worth while upon a mere question of appropriating for clerks in pursuance of law to enter into a wide discussion of the question involved in the remarks which the gentleman from Pennsylvania has thrown out. I hardly think his motion would be in order——

The CHAIRMAN. Does the gentleman raise a question of order upon the amendment?

Mr. BLAINE. No, sir; I think it might as well be voted upon after the remarks for and against it.

Mr. WOODWARD. Mr. Chairman——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WOODWARD] has expired.

Mr. WOODWARD. As the gentleman from Maine has consumed a part of my time I think I ought to be allowed the right to reply to him.

Mr. BLAINE. If the Chair will recognize me as entitled to the floor I will yield to the gentleman.

The CHAIRMAN. If the gentleman from Maine [Mr. BLAINE] rises to oppose the amendment the Chair will recognize him.

Mr. BLAINE. Very well. I rise to oppose the amendment, and yield to the gentleman from Pennsylvania a part of my time.

Mr. WOODWARD. Mr. Chairman, I thank the gentleman for his courtesy in yielding to me a part of his time. I thank him more for his courtesy than for his argument, because I do not think there is much in his argument.

Mr. Chairman, it is not true that this Bureau of Military Justice has always existed in some form. It has never existed under this Government, as I understand, until created by the act of 1864, to which the gentleman has referred. The military law under which courts-martial have existed is quite another thing. The Army, I grant, has always had the court-martial as part of the military law of the country; but that was a different thing entirely.

Mr. BLAINE. And the Army has always had a judge advocate general.

Mr. WOODWARD. Very well, sir; something similar to this bureau may have existed as part of the military law of the country, as part of the law of the Army; but it never prior to the late war existed as a separate and distinct department of the Government. Perhaps it was properly made so during the war; I have not denied that it was; but I maintain that it is not an institution to be continued during a time of peace. Without going into the general question, I believe, as I have said, that this bureau has during its whole lifetime been a disgrace and a reproach to the country; and hence I would do whatever can be done toward its discontinuance by withholding appropriations for its support.

Mr. BLAINE. I oppose the amendment.

Mr. WOODWARD. I should like to discuss the question when we have more time.

Mr. MYERS. I move the committee rise.

The motion was disagreed to.

Mr. WOODWARD'S amendment was then disagreed to.

The Clerk read as follows:

Signal office:
For two clerks of class two, $2,800.

Mr. COBURN. What is the necessity for that appropriation?

Mr. WASHBURNE, of Illinois. Last year we appropriated $2,800 for this purpose, and the appropriation is for the same amount now.

Mr. COBURN. I move to strike it out. It is a useless appropriation to keep up a signal office in time of peace.

Mr. FARNSWORTH. It seems to me here is an office we can dispense with. I do not see any necessity for this, and it might as well be stricken out.

The amendment was agreed to.

Mr. UPSON. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Colonel W. G. MOORE, his Private Secretary.

THE WAR DEPARTMENT.

The SPEAKER laid before the House the message and accompanying documents from the President of the United States; which were read, ordered to be printed with the preceding correspondence, and referred to the Committee on Reconstruction.

The Clerk read as follows:

To the House of Representatives:

The accompanying letter from General Grant, received since the transmission to the House of Representatives of my communication of this date, is submitted to the House as a part of the correspondence referred to in the resolution of the 10th instant.

ANDREW JOHNSON.

WASHINGTON, D. C., *February* 11, 1868.

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, D. C., *February* 11, 1868.

SIR: I have the honor to acknowledge the receipt of your communication of the 10th instant, accompanied by statements of five Cabinet ministers of their recollection of what occurred in Cabinet meeting on the 14th of January. Without admitting anything in these statements where they differ from anything heretofore stated by me, I propose to notice only that portion of your communication wherein I am charged with insubordination. I think it will be plain to the reader of my letter of the 30th of January that I did not propose to disobey any legal order of the President, distinctly given, but only gave an interpretation of what would be regarded as satisfactory evidence of the President's sanction to orders communicated by the Secretary of War. I will say here that your letter of the 10th instant contains the first intimation I have had that you did not accept that interpretation.

Now for reasons for giving that interpretation: it was clear to me before my letter of January 30 was written that I, the person having more public business to transact with the Secretary of War than any other of the President's subordinates, was the only one who had been instructed to disregard the authority of Mr. Stanton where his authority was denied as agent of the President.

On the 27th of January I received a letter from the Secretary of War (copy herewith) directing me to furnish escort to public treasure from the Rio Grande to New Orleans, &c., at the request of the Secretary of the Treasury to him. I also send two other inclosures, showing recognition of Mr. Stanton as Secretary of War by both the Secretary of the Treasury and the Postmaster General, in all of which cases the Secretary of War had to call upon me to make the orders requested or give the information desired, and where his authority to do so is derived, in my view, as agent of the President.

With an order so clearly ambiguous as that of the President here referred to, it was my duty to inform the President of my interpretations of it, and to abide by that interpretation until I receive other orders.

Disclaiming any intention now or heretofore of disobeying any legal order of the President distinctly communicated, I remain, very respectfully, your obedient servant, U. S. GRANT, *General.*

His Excellency A. JOHNSON,
President of the United States.

WAR DEPARTMENT,
WASHINGTON CITY, *January* 27, 1868.

GENERAL: The Secretary of the Treasury has requested this Department to afford A. F. Randall, special agent of the Treasury Department, such military aid as may be necessary to secure and forward for deposits from Brownsville, Texas, to New Orleans, public moneys in possession of custom-house officers at Brownsville, and which are deemed insecure at that place.

You will please give such directions as you may deem proper to the officer commanding at Brownsville to carry into effect the request of the Treasury Department, the instructions to be sent by telegraph to Galveston, to the care of A. F. Randall, special agent, who is at Galveston waiting telegraphic orders, there being no telegraphic communication with Brownsville and the necessity for military protection to the public moneys represented as urgent.

Please favor me with a copy of such instructions as you may give, in order that they may be communicated to the Secretary of the Treasury.

Yours truly, EDWIN M. STANTON,
Secretary of War.

To General U. S. GRANT,
Commanding United States Army.

HEADQUARTERS ARMY OF THE UNITED STATES,
February 11, 1868.

Official copy: GEORGE K. LEET,
Assistant Adjutant General.

POST OFFICE DEPARTMENT, CONTRACT OFFICE,
WASHINGTON, *February* 3, 1868.

SIR: It has been represented to this Department that in October last a military commission was appointed to settle upon some general plan of defense for the Texas frontiers, and that the said commission has made a report recommending a line of posts from the Rio Grande to the Red river.

An application is now pending in this Department for a change in the course of the San Antonio and El Paso mail, so as to send it by way of Forts Mason, Griffin, and Stockton, instead of by Camps Hudson and Lancaster. This application requires immediate decision, but before final action can be had thereon it is desired to have some official information as to the report of the commission above referred to.

Accordingly I have the honor to request that you will cause this Department to be furnished, as early as possible, with the information desired in the premises, and also with a copy of the report, if any has been made by the commission.

Very respectfully, &c.,
GEORGE W. McLELLAN,
Second Assistant Postmaster General.
February 3, 1868.

The Honorable Secretary of War.

Referred to the General of the Army for report.
EDWIN M. STANTON,
Secretary of War.

HEADQUARTERS ARMY OF UNITED STATES,
February 11, 1868.

Official Copy. GEORGE K. LEET,
Assistant Adjutant General.

TREASURY DEPARTMENT, *January* 29, 1868.

SIR: It is represented to this Department that a band of robbers has obtained such a foothold in the section of country between Humboldt and Lawrence, Kansas, committing depredations upon travelers, both by public and private conveyance, that the safety of the public money collected by the receiver of the land office at Humboldt requires that it should be guarded during its transit from Humboldt to Lawrence. I have, therefore, the honor to request that the proper commanding officer of the district may be instructed by the War Department, if in the opinion of the honorable Secretary of War it can be done without prejudice to the public interests, to furnish a sufficient military guard to protect such moneys as may be in transitu from the above office for the purpose of being deposited to the credit of the Treasurer of the United States. As far as we are now advised such service will not be necessary oftener than once a month. Will you please advise me of the action taken that I may instruct the receiver and the Commissioner of the General Land Office in the matter.

Very respectfully, your obedient servant,
H. McCULLOCH,
Secretary of the Treasury.

To the Honorable Secretary of War.

Respectfully referred to the General of the Army to give the necessary orders in this case and to furnish this Department a copy for the information of the Secretary of the Treasury.

By order of the Secretary of War:
ED. SCHRIVER, *Inspector General.*

HEADQUARTERS ARMY OF UNITED STATES,
February 11, 1868.

Official copy: GEORGE K. LEET,
Assistant Adjutant General.

Mr. BOUTWELL moved to reconsider the vote by which the message and accompanying documents were referred and ordered to be printed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CURRENCY AND BANKING.

Mr. POLAND moved to reconsider the vote by which House bill No. 681, for retiring United States notes and for a free system of national banking was referred to the Committee of Ways and Means, and that it be referred to the Committee on Banking and Currency.

The motion was agreed to.

COLLECTION OF DIRECT TAX IN DELAWARE.

Mr. SCHENCK, by unanimous consent, from the Committee of Ways and Means, reported back House bill No. 510, to facilitate the collection of direct tax in the State of Delaware, with the recommendation that it do pass.

The bill was read. It provides that the valuation enumerated in the assessment list for direct tax in the State of Delaware, completed April 19, 1867, being the valuation of real estate as owned at or near the time of the valuation of said assessment, is hereby declared and made a lawful assessment of direct tax of $74,683 33⅓ as apportioned to the State of Delaware by virtue of the act of Congress entitled "An act to provide increased revenue from imports to pay the interest on the public debt, and for other purposes," approved August 5, 1861, or as the valuation therein enumerated with the same force and effect as if made with reference to the date of the sixteenth section of said act; and that all existing provisions of law for the collection of said direct tax in the loyal States, except as provided in the fifty-third section of said act, shall be applicable to the collection of the tax therein assessed; and the notification of the time and place where appeals shall be received and determined relative to said assessment given by the assessor immediately after the said completion shall be deemed lawful notice, and all

proceedings under said notice and in general in relation to said assessment are hereby made as valid and legal as they would have been had the assessment been valid from its commencement.

Section two provides that the time within which the assessor is required to deliver the assessment list to the collector shall be within twenty days from the passage of this act.

Section three provides that the lien provided for by the thirty-third section shall be and remain in force during two years after the taxes assessed in accordance with the first section of the act shall be due and payable.

The last section provides for the payment of the necessary expenses of procuring copies of the State assessment list and for advertising upon the approval of the Secretary of the Treasury.

The SPEAKER. Is there objection to the reporting of the bill for present consideration?

Mr. MUNGEN. I object.

Mr. NICHOLSON. I hope not. I can explain it in a moment.

Mr. MUNGEN. The bill is retroactive, *ex post facto* in its operation.

Mr. NICHOLSON. Allow me a moment to explain.

Mr. MUNGEN. If the gentleman from Delaware [Mr. NICHOLSON] is satisfied I withdraw my objection.

Mr. SCHENCK. I will merely state that we have reported the bill back as introduced by the gentleman from Delaware and as approved by the Treasury Department without any amendment whatever.

Mr. NICHOLSON. This legislation is made necessary in consequence of the postponement of the operation of the law imposing a direct tax of $20,000,000 on the real estate of the country. By that act the land was required to be assessed according to its value in April, 1862. The collection of this tax has been postponed by act of Congress till the present time, and now this legislation is necessary in order to enable the assessor and collector of the district of Delaware to collect this tax, for it is impossible to go back now in making the proper assessment to the value of the property in 1862. We desire simply to legalize the assessment which has been made according to the value of the property in 1867. That is the entire object of the bill. It applies to the State of Delaware alone.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY E. SEAY.

On motion of Mr. MAYNARD, by unanimous consent, the Committee of Claims was discharged from the further consideration of the memorial of Mary E. Seay, for compensation for services rendered to the United States in the late war, and the same was referred to the Committee on Invalid Pensions.

REMOVAL OF ASSESSORS AND COLLECTORS.

Mr. LOGAN. I ask consent to offer the following resolution:

Resolved, That the Secretary of the Treasury be instructed to forthwith furnish this House with copies of all communications from the Commissioner of Internal Revenue since June 1, 1867, relating to the removal or appointment of assessors or collectors, and how many have been removed on the recommendations of said Commissioner of Internal Revenue.

Mr. WOOD objected.

DISTRIBUTION OF REVENUE STAMPS.

Mr. BAKER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That for the better accommodation of the people the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law as to provide for the distribution of Government stamps through the post office or otherwise.

WILLIAM CONNELY.

Mr. MULLINS. The petition of William Connely, a citizen of Pennsylvania, was referred to the Committee on Revolutionary Pensions and of the War of 1812. It does not ask for a pension, but for compensation for labor done and materials furnished at one of the navy-yards. I move that the committee be discharged from its further consideration, and that it be referred to the Committee of Claims.

By unanimous consent the motion was entertained and agreed to.

LEGAL EXPENSES OF TREASURY DEPARTMENT.

Mr. JENCKES, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish to this House a statement of the amounts paid by or through the Treasury Department and every bureau thereof during each year since 1860 for legal services, in addition to the amounts paid to salaried officers, including all sums paid for legal services whether as fees, costs, commissions, special allowances, or traveling or other expenses, with the names of the persons to whom money has been paid, with the amount to each, specifying the cases or business in which such services have been rendered; and also to state whether any amounts are now claimed for similar services hitherto rendered and by whom; and also what persons if any, other than the officers authorized by law, are now employed as counsel by said Department and for what compensation, and how paid or agreed to be paid, and under what authority such counsel have been retained or employed, and for what purpose.

NIAGARA SHIP-CANAL.

Mr. CHURCHILL. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of War be directed to report to this House the surveys, plans, and estimates of cost, for a ship-canal to connect Lakes Erie and Ontario or the navigable waters thereof, made in pursuance of joint resolution No. 9 of the first session of the Fortieth Congress, approved March 22, 1867.

Mr. HOLMAN. I object.

ISRAEL S. DIEHL.

Mr. SCHENCK. I desire to report from the Committee of Ways and Means a joint resolution to reimburse Israel S. Diehl for money deposited on account of duty on imported animals. I can explain it in one moment if there is any objection.

The SPEAKER. The joint resolution will be read, and then the Chair will ask for objections.

The Clerk read the joint resolution. It authorizes and directs the Secretary of the Treasury to pay to Israel S. Diehl the sum of $135 in gold, being money deposited with the collector of the port of New York on the 29th of November, 1867, on account of duties on the importation from Asia Minor of one hundred and thirty-five Angora goats for the purpose of breeding and the increase of that variety of wool-bearing animals.

Mr. SCHENCK. I will say that it was questioned whether these goats—Cashmere and Angora goats—introduced for the purpose of building up, as it is thought may be done successfully, a new interest in this country, were liable to pay duty. The money was deposited and the question reserved. This man has had to pay the duties, and it is proposed now to refund the money according to the principle which has prevailed in relation to such matters. The duties have been paid, although I believe about one fourth of the animals have died. The man who introduced them has succeeded in establishing the fact that we can have this kind of animal brought here and made, perhaps, one of those things that will add very much to the industrial interests of this country. We propose simply that these duties shall be refunded to him, in order to encourage the object in which he is engaged.

Mr. WASHBURNE, of Illinois. Has this been referred to the Treasury Department?

Mr. SCHENCK. Yes, sir.

Mr. WASHBURNE, of Illinois. Does the Secretary of the Treasury recommend that these duties shall be refunded?

Mr. SCHENCK. I am not certain that he desires that these duties shall be refunded, but the whole subject has been investigated by the Committee of Ways and Means, and the facts are as I have stated. We are satisfied that the joint resolution should be passed.

Mr. WASHBURNE, of Illinois. Why not let this joint resolution go to the Committee of the Whole on the Private Calendar?

Mr. SCHENCK. If the gentleman insists upon it it must go there I suppose. But there is no necessity for it, as there is really no appropriation in the joint resolution, the amount which it is proposed to refund remaining in the Treasury, without having gone into the Treasury account.

Mr. ROBINSON. I hope this joint resolution will be referred to the Committee of the Whole. This kind of legislation, without full opportunity for investigation, I think, is very wrong.

Mr. SCHENCK. I would prefer that the joint resolution should be passed at once.

The SPEAKER. The Chair will state that there are but two or three bills on the Private Calendar, and this would be soon reached.

Mr. ROBINSON. I withdraw my objection to the consideration of the joint resolution at this time.

Mr. WASHBURNE, of Illinois. I object to its consideration now; let it go to the Committee of the Whole.

Mr. SCHENCK. Very well.

The joint resolution (H. R. No. 202) to reimburse Israel S. Diehl for money deposited in the Treasury on account of duty on imported animals was received, read a first and second time, and referred to the Committee of the Whole on the Private Calendar.

LEGAL EXPENSES OF WAR DEPARTMENT.

Mr. JENCKES. I have three other resolutions, similar to the one I offered a short time since, calling upon the Departments for an account of their expenses for legal services, which I desire to offer now; and first I ask unanimous consent to offer the following resolution for consideration at this time:

Resolved, That the Secretary of War be directed to furnish to this House a statement of the amounts paid by the War Department and every bureau thereof during each year since 1860 for legal services, in addition to the amounts paid to salaried officers, including all sums paid for legal services, whether as fees, costs, commissions, special allowances, or traveling or other expenses, with the names of the persons to whom money has been paid, with the amount to each, specifying the cases or business in which such services have been rendered; and also to state whether any amounts are now claimed for similar services hitherto rendered, and by whom; and also what persons, if any, other than the officers authorized by law, are now employed as counsel by said Department, and for what compensation, and how paid or agreed to be paid, and under what authority such counsel have been retained and employed, and for what purposes.

No objection was made.

The resolution was accordingly received and adopted.

LEGAL EXPENSES OF ATTORNEY GENERAL.

Mr. JENCKES, by unanimous consent, also submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Attorney General be directed to furnish to this House a statement of the amounts paid during each year since 1860 to counsel who have been employed to assist the Attorney General or the district attorneys in cases in which the United States have been interested, whether as fees, costs, commissions, special allowances, or traveling or other expenses, with the names of persons to whom money has been paid, with the amount to each, specifying the cases or business in which services have been rendered; and also to state whether any amounts are now claimed for similar services hitherto rendered, and by whom; and also what persons, if any, other than the officers authorized by law, are now employed as assistant counsel in his Department, and for what compensation, and how paid or agreed to be paid, and under what authority such counsel have been retained and employed, and for what purposes.

LEGAL EXPENSES OF STATE DEPARTMENT.

Mr. JENCKES, by unanimous consent, also submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of State be directed to furnish to this House a statement of the amounts paid by the State Department during each year since 1860 for legal services, whether as fees, costs, commissions, special allowances, or traveling or other expenses, with the names of the persons to whom money has been paid, with the amount to each, specifying the cases or business in which such services have been rendered; and also to state whether any amounts are now claimed for similar services hitherto rendered, and by whom; and also what persons,

if any, other than the officers authorized by law are now employed as counsel by said Department, and for what compensation, and how paid or agreed to be paid, and under what authority such counsel have been retained and employed, and for what purpose; and that he be also directed to state what duties are performed by the examiner of claims in said Department, and whether such office has become necessary; and that he be at liberty to omit in his statement the expenses attending the arrest and bringing home of John H. Surratt.

And then, on motion of Mr. FARNSWORTH, (at four o'clock and forty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOUTWELL: A memorial of Henry Burrows, of Lowell, Massachusetts, and others, in reference to taxation and the public expenditures.

By Mr. BUCKLAND: The petition of Rufus Briggs and 35 others, citizens of Painsville, Ohio, for the reduction of the expenses and taxes of the Government to a peace basis, and an adjustment of the revenue law, so as to keep the balance of trade in favor of the United States.

By Mr. CLARKE, of Kansas: A concurrent resolution of the Legislature of the State of Kansas, requesting Congress to so change the laws and rules relative to settlement upon lands in the State of Kansas along the line first prescribed for the Union Pacific railway, eastern division, by way of the valley of the Republican river, in the State of Kansas, (which line has been changed,) that the earlier settlers, who were permitted to settle upon only eighty acres of land, may obtain an amount of land equal to that which has been granted to persons settling since the change in the said line of railway.

Also, a concurrent resolution of the Legislature of the State of Kansas, instructing the Senators and requesting the Representatives from the State to secure the extinguishment of the Indian title to a certain portion of the diminished Osage reservation, and upon the making of a treaty for the same to insist that the title to the lands shall inure to the Government of the United States and shall be subject to the laws regulating the settlement of public lands.

Also, a concurrent resolution of the Legislature of the State of Kansas, asking a change of the jurisdiction of the United States courts pertaining to the Indian country south of Kansas, from the Territory of Arkansas to the State of Kansas.

Also, a concurrent resolution of the Legislature of the State of Kansas relative to the withdrawal from settlement or disposal of the lands along the route of the Union Pacific railroad.

Also, a concurrent resolution of the Legislature of the State of Kansas, relative to the sale of the Shawnee lands in the State of Kansas.

Also, a concurrent resolution of the Legislature of the State of Kansas, relative to the sale of the Cherokee neutral lands and to the sale of large bodies of lands in the State of Kansas to speculators.

Also, a concurrent resolution of the Legislature of the State of Kansas, respectfully demanding of Congress the passage of a law for the protection of American citizens traveling in foreign countries.

Also, a joint resolution of the Legislature of the State of Kansas, instructing the Senators and requesting the Representative from the State of Kansas in Congress to effect arrangements by which settlers upon the Cherokee neutral lands shall have the right to purchase said lands, or, that all purchases heretofore made shall be annulled and the Government become the purchaser of the entire tract.

By Mr. ELIOT: The petition of Joseph C. Delano, Oliver Prescott and others, taxpayers and producers of the United States, praying for reduction of taxes and expenses.

By Mr. FARNSWORTH: The petition of N. C. Thompson and others, of Rockford, Illinois, for decrease of expenditures and taxation, &c.

By Mr. O'NEILL: The petition of Hinman L. Hall, late of company D, ninety-seventh New York volunteers, whose claim for pension on account of total blindness, caused by exposure while in the service, was rejected by the Commissioner of Pensions, asking that Congress may grant him a pension, which is indorsed by Governor John W. Geary, ex-Governors Curtin and Pollock, Jay Cook & Co., Morton McMichael, and many other prominent citizens of Pennsylvania.

By Mr. PERHAM: The petition of Sarah S. Benedict for pension.

By Mr. ROBINSON: A memorial of Thomas Antisell, of the District of Columbia, calling attention to the decay of the cinchona trees in their native forests, and asking for the establishment of domestic plantations of these trees.

By Mr. SCHENCK: The petition of E. E. Barney and 78 others, citizens of Dayton, Ohio, praying Congress to remove the internal taxes from all industrial pursuits.

Also, the petition of E. E. Barney and 66 others, citizens of Dayton, Ohio, praying Congress to establish a bureau of civil service.

By Mr. VAN AERNAM: The petition of 454 citizens of Cattaraugus county, New York, praying Congress to take some action for the protection of the rights of American citizens abroad.

Also, resolutions adopted by a mass meeting held at Olean, New York, on the same subject.

By Mr. WILLIAMS, of Indiana: A memorial for the relief of John S. Davis, commander United States Navy.

By Mr. WOODWARD: The petition of citizens of Pennsylvania for the reduction of the tax on petroleum and for an *ad valorem* duty instead of the specific tax.

Also, the petition of numerous citizens of the twelfth congressional district, Pennsylvania, for such legislation as will define the status of naturalized citizens of the United States before the world and compel Great Britain to recognize the validity of American naturalization.

IN SENATE.

WEDNESDAY, *February* 12, 1868.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a petition of Matthew Wright, asking relief for destruction of property by the Sioux Indians in 1862, and by soldiers in 1855 and 1856; which was referred to the Committee on Claims.

Mr. FOWLER presented a memorial of honorably discharged officers of the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDRICKS presented a petition of citizens of Indiana, praying an extension of the Ladoga and Parkersburg mail route, No. 12224, to Cairo, in Putnam county, in that State; which was referred to the Committee on Post Offices and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. TIPTON, it was

Ordered, That the petition of Moses Olmstead, on the files of the Senate, be referred to the Committee on Pensions.

RECOMMITTAL OF A BILL.

Mr. CHANDLER. I move to recommit the bill (S. No. 204) to provide for the appointment of a supervising surgeon of marine hospitals of the United States, reported a few days since from the Committee on Commerce.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, who were instructed by a resolution adopted on the 5th of December last to report relative to changes made in the organization of the several navy-yards of the United States, submitted a report; which was ordered to be printed.

Mr. MORRILL, of Vermont, from the Committee on Finance, to whom was referred a resolution of the Legislature of the State of Vermont requesting the Representatives and Senators in Congress from that State to use their influence for a modification of the national banking law, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 205) to regulate the taxation of the capital stock of national banks, reported adversely thereon, and moved its indefinite postponement, a law having been already passed on the same subject.

The motion was agreed to.

Mr. YATES, from the Committee on Territories, to whom was recommitted the bill (S. No. 11) to admit the State of Colorado into the Union, reported it with an amendment, and submitted a report; which was ordered to be printed. He gave notice that he proposed to call up the bill on some early day next week.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the joint resolution (S. R. No. 77) declaratory of the meaning of the act of March 3, 1867, entitled "An act to provide for the prompt settlement of public accounts," asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, reported a bill (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1867; which was read and passed to a second reading.

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 348) declaring the State of Alabama restored to the right of representation in Congress; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 349) granting aid in the construction of a railroad from the town of Vallejo to Humboldt bay, in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 106) relative to fixing an exterior line in New York harbor on both sides of Hudson river; which was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Commerce if there be no objection.

Mr. MORGAN. That committee would be entirely satisfactory to me, but I believe it would be more satisfactory to the Senator from New Jersey to have the resolution referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. It will be referred to that committee, no objection being made.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. HOWARD. I now ask the Senate to postpone all other orders and take up the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

Mr. SUMNER. I hope the Senator will allow me to call up a resolution on the table.

Mr. HOWARD. I make the motion that the Senate do as they please about it.

The PRESIDENT *pro tempore*. The question is on taking up the bill indicated by the Senator from Michigan.

Mr. HOWE. I want to say two things to the Senator from Michigan, and I have not the slightest objection to the Senate's hearing them. One is that I think this bill is of too much importance to proceed to the consideration of it in the morning hour. But, however that may be, I think the Senator from Michigan ought to let the bill which was partially considered yesterday during the morning hour come to a vote. It is a very small matter to the Government, but a very important one to the claimant, and it will doubtless take but a very little time to consider it. I wish the Senator would withdraw his motion and let that bill come up. It is really in order, I suppose, being the unfinished business of the morning hour. The claimant is a constituent of the Senator, and I think he ought to do as much as that for her.

Mr. HOWARD. I am quite aware that the lady alluded to by the Senator from Wisconsin is a constituent of mine; but we shall have time to act on that bill. I can assure him that I look with favor upon the bill itself, and shall vote for it when it comes before the Senate; but this is a bill in which a great number of persons are deeply interested, and they are in expectation that Congress will act upon it at an early day in the session. It has been once before the Senate and partially discussed. I do not think it will occupy a great deal of time at present. I hope, therefore, the Senate will take it up.

Mr. FESSENDEN. I trust not. I have looked somewhat at that bill, but not so much as I desire to do; and I do think, with the Senator from Wisconsin, that it is altogether too important a bill, involving between two and three millions of money out of the public Treasury, to be taken up and passed helter-skelter from time to time in the morning hour. I know that railroads seem now to have a sort of right to take possession of both branches of Congress; but on the whole I think if they have, their measures ought to be taken up when they can be properly and deliberately considered, and not forced into the morning hour, to the exclusion of the proper business of that hour.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to take up the bill mentioned by him.

The motion was not agreed to.

HEIRS OF GENERAL I. B. RICHARDSON.

Mr. HOWE. I move now that the Senate proceed to the consideration of the unfinished business of the morning hour yesterday.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased, the pending question being on the passage of the bill.

Mr. CONNESS. I know, sir, how ungracious a thing it is to oppose a bill of this character. We are told that it is in behalf of the widow of a deceased soldier, of one who deserved well of his country, and gave the highest evidence of that deserving by sacrificing his life in its cause. There can be no gratification to me in opposing an appropriation of money that is founded upon any reasonable ground of right for such a purpose. I am quite aware of that; but I am also aware that unless this bill be amended, unless it be understood that it shall not constitute a precedent, it is a very dangerous bill to pass. I desire it understood at the same time that I have no objection to voting a given amount of money to the person in whose behalf this bill is to be passed; that the few dollars involved in the bill are a very small matter to the nation, and in regard to that point I have no care whatever; but that innumerable claims will be founded upon it, unless some condition or prohibition is appended to it, I am also sure. Having said thus much, I feel that I have discharged my duty in the case.

Mr. HOWE. I will only say one word. The great merit, I think, after all, of this claim is that it is founded upon a statute.

Mr. CONNESS. Let us hear the statute.

Mr. HOWE. I will read it:

"That if any Indian or Indians belonging to any tribe in amity with the United States shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy any horse, horses, or other property belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction of the injury; and, in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party so injured an eventual indemnification: *Provided*, That if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided also*, That unless such claim shall be presented within three years after the commission of the injury the same shall be barred. And if the nation or tribe to which such Indian may belong receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom and paid to the party injured; and if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended."

Mr. FESSENDEN. I ask the Senator whether that act in its spirit applies to officers of the Army who go into the Indian country on business connected with the Army? Is it not intended to apply to persons who are residing and doing private business there?

Mr. HOWE. The language is, "shall within the Indian country take or destroy the property of any person lawfully within such territory."

Mr. HARLAN. If the Senator will allow me I will inquire the date of that act?

Mr. HOWE. June 30, 1834.

Mr. HARLAN. I will inquire of the Senator from Wisconsin if he has examined an amendment to that law, enacted, I think, in 1856?

Mr. HOWE. This property was lost in 1852. This act, I believe, has been repealed since, some time about 1856, but it was not repealed until after this property was lost.

Mr. HARLAN. The depredation was committed before the law was amended?

Mr. HOWE. Yes, sir.

Mr. EDMUNDS. What is the title of that act?

Mr. HOWE. "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers." I read section seventeen. This is all I mean to say on this bill. The precedent, as I said yesterday, is already established. Many claims have been passed under this very act. The act itself, I understand, has been repealed. I think I am not mistaken about that. I do not think this is exactly the case on which we ought to set aside a statute or establish a new precedent.

Mr. CONNESS. If the Senator from Wisconsin will consent to the amendment which I send to the Chair I shall have no objection to the bill.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, and an amendment is not now in order.

Mr. CONNESS. I knew that; but if it is read and approved by the Senator I will then move to reconsider the third reading of the bill so that it may be amended in that particular

Mr. CHANDLER. I merely wish to say that I believe this to be as just a bill as was ever presented here. It may look to Senators very small; it is only $400. It is small; but it is a sum that is very important to the widow and heirs of General Richardson. It will be remembered that he was killed at Antietam, leaving a wife and one child. I believe this to be as just a claim as has ever been passed through this body, and I hope there will be no objection to its passage.

Mr. POMEROY. I do not know but that this is a very just claim. The only point of interest to me is to know whether there is any reason why this claim should be paid arising from the fact that General Richardson was an officer in the Army; whether the committee put the payment of this claim on the ground that he was an officer in the Army.

Mr. HOWE. No.

Mr. POMEROY. If not on that ground then it is on the ground that he was a citizen of the United States——

Mr. HOWE. And lawfully within the Indian country.

Mr. POMEROY. And lawfully within the Indian country. That applies to more than one hundred cases. I think I can safely say that there are more than a hundred cases that I know of where we have always refused payment, or at least where no payment has been allowed. Citizens of my State are constantly going across the continent on the regularly traveled road, and are legally within the Indian country, and they have their stock stolen, and not one of them is entitled to any pay.

Mr. WILLEY. Let me ask the Senator whether the depredations he now speaks of, for which claims are presented, were not since the repeal of the law under which this claim is presented?

Mr. POMEROY. There may be some technicality in regard to the repeal of the law; but I am speaking of the claim on its merits. The Senator from Michigan spoke of this claim as commending itself to us on its merits. If so, the claims of which I speak stand upon equal merit, and there is no more justice in allowing this than those. I understand that if this claim is allowed it becomes a precedent to press other claims of a similar character that may amount to millions.

Mr. CONNESS. Will the Senator give me the floor to make a motion?

Mr. POMEROY. Yes, sir.

Mr. CONNESS. I move to reconsider the vote ordering the bill to be engrossed for a third reading, so as to offer the amendment I have sent up, which I think will be satisfactory to the Senator and to the Senate.

The motion to reconsider was agreed to.

Mr. CONNESS. Now I offer this amendment, to come in as a proviso:

Provided, however, That nothing herein contained shall be construed to establish a precedent for allowing compensation for losses sustained by the conduct of the Indians.

Mr. POMEROY. I do not understand that we can legislate that a thing shall not be a precedent; the fact that we pass it makes it a precedent. It becomes a precedent when payment is made; and our saying in the law that it shall not be a precedent does not prevent it being a precedent.

Mr. CONNESS. This is a case, so far as the owners of the claim are concerned, as I know, of peculiar merit. I cannot rise in the Senate and oppose the payment of this claim, as I before stated, for the amount involved; but I represent a part of the country full of claims that may be sent in here for consideration unless we resolve to pass this, not regarding it as a precedent. I am aware of the apparent contradiction that the Senator alludes to; at the same time I am willing to pass this bill, and very cheerfully, too, if it is not to be considered as a rule under which their claims are to come here of great extent.

Mr. WILLIAMS. I wish to ask the chairman of the Committee on Claims, who has charge of this bill, if he is quite confident that the law under which he proposes to pay this claim has been repealed?

Mr. CONNESS. He has already stated that it has been.

Mr. WILLIAMS. It is possible he may be mistaken. My impression is that the law has not been repealed, but is still in full force and effect. I know that persons living in the State

which I have the honor in part to represent are constantly claiming that demands of this nature should be paid under the provisions of that law, and if it has been repealed I should be very glad to know when and where the repealing act may be found. I have not given the subject any particular attention; but if that law is repealed that will obviate to a considerable extent the objection which I have to the bill.

Mr. HARLAN. With the Senator's leave, I can cite the law modifying the law read by the Senator from Wisconsin, [Mr. HOWE.] It is as follows:

"That so much of the act entitled 'An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers,' approved June 30, 1834, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases by Indians trespassing on white men, as described in the said act, be, and the same is hereby, repealed: *Provided, however*, that nothing herein contained shall be so construed as to impair or destroy the obligations of the Indians to make indemnification out of the annuities as prescribed in said act."

That has been the policy since the passage of this law.

Mr. WILLIAMS. When was that act passed?

Mr. HARLAN. In 1856, I think. Since then the Department has adjudicated all claims arising under that law in cases where the Indian tribes were entitled to annuities from the United States, and indemnity has been withheld from the Indians and paid over to the parties who have suffered losses.

Mr. MORTON. I should like to hear this bill read and to hear a statement of its peculiar merits. I regard the precedent as dangerous, and if there is any peculiarity about this case that entitles it to our consideration I should like to hear it.

The Secretary read the bill.

Mr. HARLAN. I wish to correct an answer I made to an inquiry as to the date of the law. It seems to have been approved February 28, 1859.

Mr. HOWARD. I hope this bill will pass. It is very true that in the repealing act there is no saving clause in favor of cases which had already accrued. That certainly, in my judgment, was a very serious oversight on the part of Congress in passing the act. I cannot presume it was their intention to deprive parties who were justly entitled, under the old law, to compensation. It would be a very singular state of legislation indeed. Certainly they would have been compelled to come here under the act of 1834, which is in the most general terms. All parties who were lawfully in the Indian country, and whose property has been destroyed by the Indians without their fault, are entitled to compensation, first from the trust fund that may exist in favor of the Indians, if there be any such; and if there be no such then the payment is to be made out of the Treasury of the United States. It seems to me it was a solemn promise given to all such parties by Congress that they should be compensated in such cases, and I think it would be very hard, indeed, to deprive a party of that compensation who was really entitled to it before the repeal of the act by the very terms of the act of 1834.

I need say nothing of the merits of the claimant in whose behalf this bill is urged, or rather of her child. We all, who are acquainted with the events of the war, know the character of General Richardson. He was a most gallant and able commander, one of the first and foremost in the army of the Potomac. His memory is cherished by the people of my own State, from which he came, and I really hope that Congress will do his child and his memory the simple justice to keep a plain contract which was made with him under a former act, and that we shall not violate our good faith in reference to a claimant of this description.

Mr. HARLAN. I have no doubt that the case is in itself a meritorious one, but I think the Senate ought not to establish a precedent of this kind without fully understanding the circumstances that led to the repeal of that part of the law.

When the Indian intercourse act, as it is called, was first passed, the Indians were entitled to the occupancy of an immense tract of country west of the Mississippi river, and that law itself inhibited the intercourse of white people with the Indians. It was not lawful for white men to visit them unless they were soldiers or agents of the Government or employés of some kind of the national Government; and when any of them attempted to visit them or to settle among them it became the duty of the military authorities to expel them, which was frequently done. The "dragoons," as they were then called, were in that service; it was the chief part of the duty they performed on the western frontier to expel white men from the Indian territory. So that depredations by Indians on the property of white men occurred very seldom; white men had not the opportunity to commit depredations on the Indians. But since that period all this territory has been thrown open and civil governments have been set up; white men have been enabled to occupy the whole of it with the exception of limited reservations to which some of the tribes have been assigned. The modification of this law was proposed by Mr. Hunter, at that time the chairman of the Committee on Finance of the Senate. I remember the statements which he made, which I think were sustained by current history and have become more potential since. It was said that white men having herds of cattle or stock of different kinds, and being without a market, would drive them over to the vicinity of Indian tribes, where depredations would be certain to be committed on them. They would secure an appraisement of the value of the property thus destroyed and apply to the Government here for payment. If the Indians were entitled to annuities it was paid out of the annuity fund; if not, it would be paid from the Treasury of the United States. It was to cut off wrongs of this kind inflicted on the Treasury that this modification was made of the original intercourse act. If it were wise and prudent at that time—which I doubted; I think I voted against the bill—it certainly would be improper to change it now, for the reasons for such a restriction have been augmented a hundredfold since.

Mr. RAMSEY. I think I have a recollection that a few sessions ago a very large claim for indemnity on account of Indian depredations met the support of my friend from California—I allude to the Chorpenning claim.

Mr. CONNESS. I did not support that claim; quite the contrary.

Mr. RAMSEY. Then I withdraw that remark; but certainly the bill making indemnity in that case was passed by Congress, and that was a claim which could not very essentially differ from this in the principle on which it was based. If I understand this case aright the husband of the present claimant, General Richardson, was by right and according to law in the Indian country in the performance of his duty as an officer of the Army. There can be no reason, then, for the disallowance of the claim. If he were a trespasser on the Indian lands it might be otherwise; but he was in the Indian country lawfully and in the performance of his duty. For myself, I doubt very much the policy of the law repealing that clause of the trade and intercourse act requiring the Government to make indemnity in such cases, for without some guarantee upon the part of the Government to indemnify against depredations committed by the Indians upon those who happen to be casually in the Indian country the whites will revenge themselves upon the Indians, commit depredations by way of retaliation or reprisal, and in this way lay the foundation for Indian wars. I think it would be much safer for the Government to step in and make good losses of this character, and fulfill its guarantees and obligations under the act of 1834. I think that was a wise provision of law, and, in my judgment, it was a great mistake to repeal it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California.

Mr. CONNESS. The effect of the amendment will simply be to put every application that comes hereafter upon its merits, the present bill, if passed, not disturbing or being construed as a disturbance of the laws as they now exist; that is all.

Mr. CONKLING. I understood the honorable Senator from Minnesota to say that this is a case in which the person was properly within the limits of this Territory, and, if I understand him aright, in the military service.

Mr. RAMSEY. So I am informed.

Mr. CHANDLER. It is so.

Mr. CONKLING. If that be so I submit to the Senator from California, even if there were virtue in his amendment, why should we say that this bill shall not be a precedent?

Mr. CONNESS. I suppose that if such an amendment be not adopted it will be construed as a repeal or a precedent of sufficient strength to be equal to a repeal or modification of the act of 1859, which has been read by the Senator from Iowa, and which repeals the original act justifying the allowance of these damages.

Mr. CONKLING. Does the Senator mean that when another case comes as meritorious as this we shall not allow it?

Mr. CONNESS. No, sir; I mean, on the contrary, that it shall be considered on its merits, but that the passage of this claim shall not constitute an invitation to persons to present such claims here, the western country being full of them.

Mr. CONKLING. I sympathize with the object which the Senator from California has in view; but I am afraid he will not be able to accomplish it, although this amendment is perhaps as ingenious as any that could have been offered with that view. If this claim is to be allowed and other claims equal in merit are to be rejected, action is to be taken which I submit is wholly indefensible. If this claim is to be allowed and other claims as meritorious as this are also to be allowed, then we ought not to say that this shall not be a precedent. And then, again, whether we say or do not say that it shall not be a precedent, the Senator from Kansas has well said that the act itself is a precedent despite the verbiage in which it may be wrapped. It will be a precedent for the allowance not only of other claims in truth as meritorious as this, but for the allowance of other claims which in general character cannot be distinguished from this. Therefore I think I see in it not a proposition to appropriate $400, but a proposition looking to the future appropriation of a vast sum of money, and a proposition taking from us very largely, if not the right, the consistency with which hereafter we may deny such claims. If this be a case of hardship, as a matter of feeling I should like to vote for the bill; but whether it be a case of hardship or not, unless it falls within the strict right, unless by law the claimant is entitled to this money, (in which event we should not be called upon to legislate at all,) I am admonished by many considerations that my duty is to vote against it.

Mr. MORTON. The amendment offered by the Senator from California seems to me to amount to this: that this claim is not exactly right, or that it is a case of favoritism and we will not do so again. If this claim is right in principle we ought not to say it shall not be drawn into precedent. If it is not right in principle we ought not to allow it at all. I am advised that there is a vast body of claims perhaps quite as meritorious as this; and if we shall pass this claim with as many protests as we please attached to it, as is stated by the Senator from Kansas and the Senator from New York, the act will be a precedent, the force of which we cannot escape from. If a claim shall be brought here exactly of the same character with this, I ask if the Senator presenting that claim will not refer, and with force, to the fact that we have allowed this claim? Therefore, sir, the amendment offered by the Senator from California amounts to nothing, except as a sort of concession that in some way this claim is not exactly right. I am

opposed to the amendment; and I am opposed to the bill. We have enough drafts on the Treasury. If we allow this claim we ought to know that it is right—right in law and right in fact; but if we shall once embark in the course of allowing claims of this character where are we to stop? There is no justice in paying this claim and in refusing to pay others founded on the same circumstances.

Mr. MORRILL, of Vermont. The statements of the Senator from Kansas and the Senator from California satisfy me that this is a bill which ought to be very carefully guarded. As I understood the chairman of the Committee on Claims, when he reported this bill, to say that the claim was one which would have been settled and paid at the Treasury Department but for the fact that there were no funds there appropriated for that purpose, I suggest to him whether he will not allow the bill to be recommitted with instructions to the committee to report a bill authorizing the Treasury Department to audit and settle the account if they shall find this amount to be due, as I understood him to say it was due under existing laws at the time. If so, I think that will obviate all difficulties about precedents.

Mr. HOWE. Yes, Mr. President, I accede to the request of my friend from Vermont. I see the national Treasury is in imminent danger. What little I can do to protect it I shall be glad to do. If we should happen to pay this $400 claimed, upon the sanction of a positive statute, now asked here by a woman without a dollar in the world, who has given her husband to the nation and to the preservation of its life—if we should happen to pay this $400, and the nation should be bankrupted in consequence of it, I do not want to be responsible for those consequences. I shall be glad to let the bill be recommitted to the Committee on Claims.

Mr. MORRILL, of Vermont. But the Senator has heard, as well as the rest of the Senate, that this question does not depend upon $400. The Senator from California and the Senator from Kansas have assured the Senate that their country is full of just such claims, and that they will come up here, stale claims without proof, and the Senate will certainly be embarrassed in considering a vast number of cases without any substantial merits.

Mr. HOWARD. I hope this bill will not be recommitted to the Committee on Claims. I regard it as a perfectly good claim, and coming within the terms of the act of 1834, and I regard the Government as just as much bound to pay the claim, if the proof is satisfactory that the damage has been done, as it is bound to pay a United States bond under the great seal of the Government. I can conceive of no obligation more direct, more clear, than that of the act of 1834 in precisely this case. Rather than see this honest claim shuffled off in this manner I would prefer to have the Senate vote it down and let the country see whether or not the Senate of the United States will pay an honest obligation.

The PRESIDENT *pro tempore*. The morning hour having expired, House bill No. 439 is now regularly before the Senate.

Mr. CONNESS. I propose to postpone the pending business until a vote can be had on this bill. I move to postpone it for ten minutes, which I think will enable us to come to a vote upon the bill now pending.

Mr. HENDERSON. I desire that the bill should go over until to-morrow. I want to examine it, not in reference to the merits of this particular case, but in reference to its making a precedent for other claims. I know that other claims are pending, and very large numbers of them, and we ought to pass a bill of this sort with a great deal of care. I have no doubt that this is a meritorious claim, coming as it does from the Committee on Claims.

The PRESIDENT *pro tempore*. The Senator from California moves to postpone for ten minutes the regular order in order to continue the consideration of Senate bill No. 302.

The motion was agreed to.

Mr. CONNESS. I will say to the Senator from Missouri that the laws bearing upon this case have all been read; I believe he was not in his seat while it was being done; and all the discussion that can possibly throw any light upon it has been had. I regret very much that I should have contributed to delaying the payment of this claim. I only did it in the conscientious performance of my duty. I now say briefly, in reply to the Senator from Indiana, [Mr. MORTON,] that the effect of the amendment moved by me will be good. In view of the fact that the law of 1834 made the United States responsible for damages committed within the Indian country to persons legally there, and that the act of 1859 repealed that to a certain extent only, making the obligation apply against the annuities due to the Indians, the passage of this bill without any amendment might be construed hereafter as modifying the act of 1859; and in that light alone is the amendment of any value. I hope that the amendment will be adopted, and that then we shall pass the bill.

Mr. HENDERSON. It is true that I was not in when the laws were being read, or at least a portion of them, and I apprehend, from what I understand, that the mind of my friend from California was materially changed upon hearing those laws. I only insist that I shall go through the same process that my friend has gone through, in order to arrive at a just conclusion in reference to this bill, as I understand when it was first called up this morning he was decidedly opposed to it, and now on the reading of the laws he is decidedly in favor of it. I think, inasmuch as I was absent, the Senator ought not to object to having me go through a similar process. I thought it was improper this morning to subject me to that process when other business was in order, and I desired simply to examine the case. I have not looked at the report in the case. Now, I should like to ask the Senator from California whether this officer lost the stock while he was in the military service?

Mr. CONNESS. He did.

Mr. HENDERSON. I should like to ask him further if it was in battle or whether the stock was stolen by private Indians or by a hostile band of Indians?

Mr. CONNESS. Supposed to be the latter; that is, while in the ordinary military service of the country; not in battle.

Mr. HENDERSON. I understand that there are laws already on the statute-book enabling officers to have their claims of this character adjusted, provided the loss occurred in the service. Then what is the necessity for a special bill of this character? I cannot see; but I have no doubt, as it came from the Committee on Claims, that committee being very particular, and reporting very few claims favorably, there is merit in it. I have not heard the report read, however. Is there any written report accompanying the claim?

Mr. CONNESS. There is. It is very brief, and can be read in half a minute.

Mr. HENDERSON. I should like to hear it read.

The Secretary read the following report:

The Committee on Claims, to whom was referred the petition of Frances S. Richardson, make the following report:

The petitioner is the widow of the late Major General I. B. Richardson, who was mortally wounded while leading his command to victory at the battle of Antietam, and who died November 3, 1862, leaving one son, named Israel P. Richardson, and now aged five years.

In 1852, Major General Richardson, then major by brevet of the third infantry, was stationed in New Mexico, and while on duty there, on the 7th day of February, 1852, the Apache Indians stole from him one black mule. On the 8th of September following they stole from him two light sorrel-colored horses, and on the 1st of November following they stole two dun-colored horses.

The value of the property so taken is proved to have been $400.

Under the seventeenth section of the act of June 30, 1834, the petitioner asks that compensation be made to her in trust for her son.

Your committee think that such compensation ought to be made, and report a bill for that purpose.

Mr. CHANDLER. I regret that the Senator from Missouri was not in his seat. All the laws bearing on the case have been read. This same question was up yesterday, and was put over for a day. It is a little matter of $400, and is in strict accordance with the law as it stood at the time the claim was originated. I hope the Senator will take it for granted, inasmuch as he was not here, that the statements of other Senators are correct in that respect, and let this little bill go through on the supposition that the committee thoroughly examined the case and did their whole duty in reporting it. It has been before us now for two days, a little matter of $400, and we have cost the Government more money while we have been discussing it than the whole amount of the claim.

Mr. HENDERSON. This I discover is a matter exclusively belonging to the State of Michigan.

Mr. CHANDLER. No, sir; it belongs to the nation.

Mr. HENDERSON. A Senator from the State of Missouri, it seems, has nothing to do except to vote the appropriation, provided the party to be affected advantageously is from the State of Michigan. If the Senator's argument amounts to anything it amounts to simply that; nothing more.

I do not rise for the purpose of making any objection to this bill; but I see no merit in it. If it is asked to be taken for granted in consideration of the distinguished services of General Richardson, I have no objection; if it is intended as a tribute to his family, of course I am perfectly willing to let it pass; but I can see no merit whatever in it. There are no reasons stated in the report why it should be done; but I surely shall make no objection to it. There may be something outside inducing us to pass the bill, but I see nothing in it. The Senator drives me into this position. I do not understand how these horses and mules were stolen, whether it was by a hostile band or not. I ask the question, are we to compensate for all the damages that arise in a state of war, when we treat the Indians as independent nations?

Mr. HOWE. We were at peace with the Apaches.

Mr. HENDERSON. If we were at peace with the Apache Indians at that time, and this claim is now sixteen years old, it certainly ought to be barred by the statute of limitations. I am told now by the chairman of the committee that the Apache Indians were at peace with this country. Then I have a large number of constituents in my State who have lost horses by theft during the last five or six years, much younger claims than this, and I have as much right, it seems to me, as a matter of justice, to present claims before Congress for those horses, mules, cattle, stock of every character stolen, as others have to present this claim.

Mr. GRIMES. Were your constituents required to be in the Apache country, and were horses and mules necessary for them there?

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from California.

The amendment was rejected.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MORTON called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 31, nays 14; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Corbett, Davis, Drake, Fowler, Frelinghuysen, Grimes, Harlan, Hendricks, Howard, Howe, Morrill of Maine, Norton, Nye, Patterson of Tennessee, Ramsey, Ross, Sherman, Sumner, Thayer, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—31.

NAYS—Messrs. Buckalew, Conkling, Conness, Dixon, Edmunds, Ferry, Fessenden, Henderson, Johnson, Morgan, Morrill of Vermont, Morton, Patterson of New Hampshire, and Saulsbury—14.

ABSENT—Messrs. Bayard, Cragin, Doolittle, Guthrie, Pomeroy, Sprague, Stewart, and Tipton—8.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. House bill No. 439, known as the supplementary recon-

struction bill, is now before the Senate, upon which the Senator from Kentucky [Mr. DAVIS] is entitled to the floor.

Mr. JOHNSON. I move that the Senate proceed to the consideration of the case of my colleague, Mr. Thomas. I have spoken to the honorable member from Kentucky, who is willing, so far as he is concerned, that the case should be taken up. I suppose we can dispose of it in the course of the day.

Mr. SUMNER. I understand that the Senator from Kentucky is in the midst of his speech.

Mr. JOHNSON. I said he had consented. I would not make the motion without his consent.

The PRESIDENT *pro tempore*. The Senator from Kentucky agrees to the motion, I understand.

Mr. SUMNER. I had not expected this motion to be made to-day. I have some papers at home in the matter and a proposition which I had intended to submit to the Senate. I am very sorry to ask for a postponement; but knowing that the Senator from Kentucky was in the midst of an address to the Senate I did not anticipate that this case would be called up to-day.

Mr. JOHNSON. I gave notice several days ago that I should call it up to-day. I supposed that members of the Senate would have recollected it. If they are not prepared to vote upon it, or if those who differ in opinion from me as to the right of Mr. Thomas to his seat are not now in the possession of their papers, so far as I am concerned I have no objection to its going over until the morning, provided it is understood that the case will be taken up to-morrow and, if possible, disposed of. I think it is due to Maryland that the question should be settled. She has now been without one of her representatives on this floor for nearly a year, and the matter itself has been before the Senate now for about two months, I think, without a decision. I hope, therefore, if the case is not taken up now that the Senate will agree that it shall be taken up to-morrow, and, if possible, disposed of to-morrow.

The PRESIDENT *pro tempore*. The Senator withdraws his motion.

Mr. JOHNSON. Not yet.

Mr. SHERMAN. As the Senator from Kentucky does not express a desire to continue his remarks to-day I hope the motion of the Senator from Maryland will prevail, that the case of Mr. Thomas may be taken up and progressed with as far as possible, and then that the Senate may proceed to the consideration of executive business. I will make that motion as soon as I find that the pending question does not require any further time to-day. I suppose there is no real objection to allowing the reconstruction debate to go over for some time.

Mr. SUMNER. I have no objection, and I hesitate to intrude my own personal desires in this matter. I had intended to address the Senate briefly on the case of Mr. Thomas, but the papers in the case I carried home and did not bring with me to-day, as I did not anticipate that it would be called up.

Mr. CONKLING. If the Senator will allow me, it is very natural, it seems to me, that he should not have anticipated that. The Senator from Maryland was understood, after giving notice applicable to this day, to say later that he did not intend to call up the case of his colleague until the conclusion of the pending debate.

Mr. JOHNSON. Oh, no.

Mr. CONKLING. Then we misunderstood him.

Mr. JOHNSON. I said that in the beginning.

Mr. CONKLING. I so understood him, and I am not the only Senator who had that understanding.

Mr. JOHNSON. It was my fault. I said directly the reverse. I said at one time that I would not ask the Senate to consider it until the reconstruction debate was closed; but the other day, when the honorable member from Ohio [Mr. SHERMAN] proposed to take up a bill of his in relation to the funding of stocks, on Thursday, I gave notice that I would call up this case to-day.

Mr. CONKLING. I inquire of the Senator whether he did not individually say that he had changed his mind and should not call it up until after the reconstruction debate?

Mr. JOHNSON. That was before.

Mr. CONKLING. That was the last announcement I ever heard on the subject.

Mr. JOHNSON. It only shows that my friend does not always hear what is said in the Senate.

Mr. CONKLING. That may possibly be attributed to the fact that the distinguished Senator from Maryland, like some other very distinguished Senators of this body, has a practice of communicating in rather a confidential way with those immediately around him the ideas which he imparts when he is on his feet. [Laughter.]

The PRESIDENT *pro tempore*. The Senator from Maryland moves that all prior orders be postponed for the purpose of taking up the case of his colleague.

The motion was agreed to.

RIGHTS OF COLORED PERSONS IN CARS.

Mr. MORRILL, of Maine. I now ask the indulgence of the Senator from Maryland to allow me to call up a simple resolution of inquiry, offered by me on Monday last, in relation to an occurrence on the cars between here and Alexandria.

By unanimous consent the Senate proceeded to consider the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the facts connected with the forcible ejectment from the cars of the Alexandria, Washington, and Georgetown railroad of one of the employés of the Senate, on account of race, on Saturday, the 8th instant, with power to send for persons and papers; and that said committee be further instructed to inquire what legislation, if any, is necessary to protect the rights of passengers on said road.

Mr. SUMNER. I wish to read a statement of the outrage which is referred to in the resolution. I take it from one of the newspapers of the city, as follows:

"A dastardly outrage was perpetrated in Alexandria on Saturday afternoon which is justly considered a disgrace to this age of civilization. Mrs. Kate Brown, an educated, refined, and neatly-dressed colored woman, who is in charge of the ladies' room in the Senate wing of the Capitol building, who had been to Alexandria to visit a sick relative, entered the 'white' car of the local train to return to this city, she having a return ticket, and having gone to Alexandria in the same car. While sitting there she was accosted by the conductor, who ordered her to leave the car, and upon refusing to comply with the unjust request she was roughly seized by the conductor, who, with the assistance of several representatives of the 'chivalry' of the South, finally succeeded in ejecting her. While standing upon the platform a gentleman employed in a clerical capacity at the Capitol chanced to recognize her, and, upon hearing a statement of the outrage, at once kindly took her under his protection, obtained a seat, and accompanied her to the city. Her right side and arm were badly bruised by the rough treatment she received, and her injuries were more serious from the fact of her delicate health. She is now under medical treatment."

I have seen in the marble room of the Senate the surgeon who has been in attendance on this sufferer, and he has described to me her unfortunate condition. He represents the contusions that she has received as very serious. Now, I wish to characterize this outrage as the newspaper has characterized it, as dastardly; and the question for the Senate will be whether such an outrage shall be allowed to pass without some judgment, some way, indeed, of reaching the offender—and here the offender is the railroad company—unless the act of this agent shall be at once disavowed.

Mr. FESSENDEN. And proper reparation made.

Mr. SUMNER. And, the Senator from Maine says, proper reparation made. It may be said that she should be turned over to the courts. The courts are too slow for justice in such a case.

But I desire to go a little further and call attention to another road—I mean that from Washington to Baltimore. I do not know that any outrage that can be characterized in the strong language we may employ about this has occurred on that road; but an employé of the other House has called me from my seat within a few days to mention that he and his family have been badly treated on the Baltimore and Washington train of cars, in defiance of the principle which underlies our civil rights bill. I mention the name of this person—Mr. Downing, who has charge of the restaurant in the other wing of the Capitol. He and his family have been maltreated in one of those cars. Now, I ask, shall that be allowed? I will not undertake now to say what remedy shall be applied. I content myself with asking that the whole subject shall be referred to the Committee on the District of Columbia, trusting that that committee will provide a remedy.

Mr. CONNESS. I sympathize with the statements made by the honorable Senator in this connection, and am ready to go as far as he or any other Senator to put an end to this system of cowardly treatment that is dealt to unoffending persons when they are in public conveyances. But I remind the Senator that this is not the only class of outrage that deserves immediate attention at our hands and at the hands of the honorable Senator. It is nearly four weeks since the question was brought before the Senate of the outrageous arrest in the territory of Great Britain of citizens of the United States for words spoken and acts done in the United States. Those citizens have been incarcerated in dungeons; they have been tried and convicted, in many instances I have no doubt, by juries selected for their conviction; they have been sent thence to the hulks——

Mr. DAVIS. Will the honorable Senator allow me to ask him a question?

Mr. CONNESS. Certainly.

Mr. DAVIS. I inquire whether the subjects of the outrages to which he is now alluding are black or white?

Mr. CONNESS. We are not informed; but I will say to the honorable Senator from Kentucky that, whether black or white, the outrage when committed is an outrage against the American name and nation.

Mr. DAVIS. I am in full sympathy with the Senator, I assure him, in this case.

Mr. CONNESS. I am glad to know that the pride of the chivalric Senator from Kentucky is excited and aroused in behalf of every man alike, without reference to race or color, to native birth or naturalization; and if that honorable Senator and those with whom he acts politically would join us upon the general proposition of freedom and protection to all discord would cease in this nation to-day.

But, Mr. President, I will not be diverted from what I intended to say. I am in earnest, as I have heretofore said, on the subject to which I refer, as I am on the subject now before the Senate. The honorable chairman of the Committee on Foreign Relations on the occasion to which I have alluded, when the matter was discussed here, spoke as an American Senator should speak; but he was reminded that the occasion would not justify delay in the expression and utterance of the opinions that, under those circumstances, should go out from the American Senate while the citizens of this Republic were incarcerated and imprisoned, deprived of their liberty, outraged for the expression of opinions and for convictions that they cannot put off, for they are a part of their existence—convictions in favor of human liberty. The Senator was reminded that while these things were being done it was not well to delay in the committee, of which he is the distinguished chairman, the proper and immediate consideration of the cases.

Mr. SUMNER. Is the Senator aware of any delay?

Mr. CONNESS. The Senator is aware of one month's delay, in which no word has been uttered from the American Senate or from its legitimate mouthpiece, the Committee on Foreign Relations, upon this question. I know

that I am told, as the honorable chairman may tell us this morning, that the executive branch of this Government and the State Department are considering those cases. How? Sending to England and Ireland for copies of the indictments. Mr. President, when upon a memorable occasion arrests, not of British subjects, but arrests offensive to Great Britain were made, did they send to us for the reason of the arrests? Did they ask us to state the case? Did they give us an opportunity to state the case? No, sir; but the insolent message that they sent was simultaneous with the transportation to Canada of a few contemptible British regiments, but highly significant, though few, because it was a sign of British power reaching itself across the Atlantic and beckoning us with its threats in connection with its demands for their release. I know, and the American nation well remember, that this unmitigated insolence toward us was at the time of our deepest distress, and when perhaps "the better part of valor was discretion." But, Mr. President, that exigency in our public affairs no longer remains, and it should be regarded, as it is, the crime of crimes against this nation to put a forcible hand upon an American citizen abroad unless that person be engaged in stirring up sedition or committing offenses against the local laws of the nation in which he happens to be. Sir, I do say, and I am in earnest in saying, and I remind the honorable chairman of the Committee on Foreign Relations, that earnest words and earnest hearts will reach him and us if this delay be continued in the face of the outrages of which we are all cognizant.

Mr. President, I am willing to investigate this case. I am glad that the honorable Senator and others rush forward to defend a weak and evidently unprotected female from the tyrannous grasp of creatures who have been educated in the infamy of slavery; but there should go hand in hand with that—nay, preceding it—an investigation and an expression of opinion that should make the premier of Great Britain understand that there is power here to be used and exercised in defense of the national rights and the national pride. Mr. President, silence is not the correct expression of that pride of opinion. Silence at times becomes men and indicates strength and power; but that is only when men are getting ready for a struggle. I am glad to say in this connection and to notice that a representative from that Government has at last arrived here. I trust that we shall by every means, through the executive branch at once, and by the legislative, too, put an end to those offenses. Yes, sir, let black and white be protected alike; I am for their equal protection; and I am glad to hear the honorable Senator from Kentucky express the same opinion. I know that it is but doing his own individual character justice, and that if he did it the justice that it is really entitled to he would be on our side, in favor of universal liberty in fact and in essence for all.

Mr. SUMNER. Mr. President, I shall not follow the Senator in the larger topics that he has introduced. They are not pertinent to this debate. At the proper time I shall be ready to discuss them. There is a simple proposition on your table for an inquiry into an outrage that has occurred within sight of this Capitol; and fellow-citizens, your immediate neighbors, are in question. A whole race suffers in this wrong. Does any one hesitate to enter upon this inquiry? I do not understand that the Senator from California hesitates.

Mr. CONNESS. Not at all.

Mr. SUMNER. "Not at all," he says. I am glad of it. We need his assistance to crush out the possibility of any such enormity here under our very eyes.

Mr. CONNESS. You have always had it.

Mr. SUMNER. The Senator says we have always had it. He announces his courtesy very well. We always want it. But now on a proposition concerning persons here at home the Senator comes forward to arraign the Committee on Foreign Relations for a supposed indifference or inattention to the rights of fellow-citizens abroad. Has the Senator any evidence of any indifference or inattention on the part of that committee? If so, let him produce it. He says that the committee has not reported. True enough. The subject, he knows, is delicate, important, many-sided, requiring research and investigation. I borrow the last word from the Senator. He says let these cases be "investigated." This is the very thing which is now being done. Without one day's delay after the subject was referred to the committee I put myself in communication with the State Department in order to begin the investigation. More than once I have seen the Secretary with regard to it. His elaborate report on the subject is at this moment preparing. When it arrives it will be found to be voluminous, and I have assurance that it will exhibit a wakeful activity on the part of this Government for the protection of the rights of our fellow-citizens abroad, whether naturalized or native born. I believe that the Senator from California, unless I am misinformed, will be satisfied on this head.

But the report has not yet been received. I have already said that it promises to be voluminous. And now, why is it delayed? The Secretary of State informed me last Saturday that he had not the clerical force in his Department needed to complete it. He says that the correspondence entailed upon the Department in these very cases to which the Senator refers is so extensive that he has not clerks enough to copy the papers for the use of Congress without taking time. Had he more assistance his report would be on your tables now. These are homely facts, but decisive.

I presume that the Senator from California does not wish to proceed until the investigation has been had; at any rate, he so announced. He asked for an investigation. Sir, the investigation is proceeding so far as it can proceed, and I beg to assure that Senator and the country that it will be conducted to the end.

I know not that the Senator from California has a monopoly of sensibilities when the rights of fellow-citizens are in question. I know not that he is the single representative on this floor of American citizens abroad, naturalized or native born. According to him all that he can justly claim as a Senator on this floor, and claiming nothing for myself except an honest desire to perform all the duties of my position, I have in my eye other Senators who are not less sensitive than himself on this question in its various forms. I beg to assure the Senator that the question which he has thus fastened upon the original proposition will be fully considered by the committee to which it has been referred, and I do not doubt that afterward it will be fully considered by the Senate and by Congress. But it cannot be passed upon without consideration. You cannot precipitate a report or precipitate a vote. Of this be assured. You must await the result of that very investigation which the Senator from California solicits.

And now I come back to the original proposition. If fellow-citizens have been wronged abroad, no matter in what country or under what flag, let us reach with strong arm across land and ocean to protect them; but let us not fail to reach down to the humble and the lowly who are at our feet. Protection to all should be the law and the duty of this Republic. In my opinion it is the first condition of a republican Government.

Mr. DAVIS. I wish to make a single remark on the subject that is now before the Senate. I respond fully to the ardent expression of feeling in which my honorable friend from California has indulged in relation to the outrages that may be committed upon any race of people. I am not for negro suffrage, and for the simple reason that I am utterly opposed to a race whose whole history has demonstrated its incapacity for self-civilization and self-government having any political power in a community of white men; but I would be as prompt to redress wrongs and aggressions on that class of our people as the Senator from California or any other person.

But the subject that called him to his feet, and which he brought to the attention of the Senate, in all the length and breadth in which he advocates it, receives my fullest concurrence. After a good deal of reflection on the subject I have come to the deliberate conclusion that the American Government and the American people will have to insist as a new principle of national law that the fullest and freest right of expatriation shall be allowed and shall be guarantied to the whole people of the world.

Mr. CONNESS. I only wish to say, in addition to what I have already stated upon that subject, that it should be spoken through official sources to Great Britain, and they should be made to understand that the United States are not merely sensitive upon this subject, but strongly and determinedly placed, and that the time has come—unless they admit the American doctrine and practically act upon it—while the Cross shall be engaged in trampling upon the Crescent, for the American arm to be engaged in planting the banner of this nation from the Pacific to Nova Scotia. Nothing but care on the part of Great Britain in the conduct of her affairs at this time and justice toward the people of this country can save this as being the result of the history of the period in which we live. I only ask and demand that delay shall not be the treatment that the subject shall have officially here. We are told by the chairman of the Committee on Foreign Relations that it is receiving constant attention, and I might add almost continuous delay. Sir, it admits of no delay. But I cannot take my seat without repeating again that I am with the Senator for protecting the weak at home and all our people abroad.

Mr. YATES. I rise simply to say that the Senator from Kentucky and others on the opposite side of the Chamber should learn one simple fact, and the sooner they learn it the better, and that is, that in this country we are all citizens. English, Irish, Portuguese, Germans, negroes—all are citizens. That is the idea of the Declaration of American Independence; that is the doctrine for which the Union Republican party now exists; and the sooner we learn this the better, because in less than five years, aye, in less than three years, from this moment, by congressional enactment, every man in this country, white or black, will have his vote at the polls as a free American citizen.

Sir, not long since, upon a distant sea, in the case of Martin Kozsta, the words "I am an American citizen" were the talisman of protection to an unnaturalized foreigner, but one who had declared his purpose to become an American citizen, and the flag of Austria fell before the flutter of the stars and stripes. Shall it be said that in the District of Columbia, in the face of the Capitol, with all its glorious memories, where freedom was born, an American citizen shall be turned out of the cars, shall enjoy no rights, shall have no privileges, shall be treated with a tyranny worse than that imposed upon any serf in Europe? Sir, if I were a member of the Committee on the District of Columbia I should be in favor of reporting a bill to abate as a nuisance any railroad company running a railroad through the District of Columbia that did not accord equal rights to citizens. I would not permit the Baltimore and Ohio railroad or the railroad from Alexandria to land a passenger at the depot in Washington until they had learned and understood that in this free country we are all citizens, entitled to the same rights and the same protection, and that we will have this.

Mr. DRAKE. I do not suppose that there will be any serious opposition to the passage of this resolution; but there are circumstances in this case which have not been adverted to and which ought to be brought out in full view before the American people. I venture to say that there is not a Senator on this floor nor a visitor to the Capitol who has had an opportunity to become acquainted with the woman who was the subject of this outrage that is now

before the Senate who has not been impressed with her truly lady-like character, an educated, intelligent, respectable, and to all appearance refined woman, not darker in complexion than some that visit this Capitol from different parts of this nation and move in the society of Washington. She is found upon a railroad car upon which she had before ridden unquestioned, when she got into it at Washington to go to Alexandria; but when getting into it at Alexandria, outside of the District of Columbia, to return to Washington, she is assailed with the information that "they do not allow damned niggers to ride in those cars, anyhow;" and when she remonstrates and shows that she has bought the right to come to Washington in that car, and that she went from Washington to Alexandria in that car, she is ruthlessly and brutally seized by a policeman kept there for the purpose by that company, and when she resists his attempt to put her out of the car by force he calls others of like kind to his aid, and with bruises and distortions of her limbs and aggravated wrongs she is thrust from the cars, while other negro women sit there undisturbed because, forsooth, they have some white woman's baby in their arms. In other words, negroes are to be tolerated in the cars of that road while they are in a servile capacity; but the octaroon, between whom and the white woman by whose side she sits it were difficult to discover the difference, if she goes as a free woman, not charged in a servile capacity for any one, is to be rudely thrust from the cars while southern blackguards sit there with impunity! Sir, this is a thing that the Senate, in my judgment, should take notice of. It is a thing which this nation should take notice of. It is an outrage upon an American woman, a citizen of the United States, which we have no right to leave uninvestigated, though she were much less of a lady in her nature and bearing than she is.

Mr. SUMNER. Since this discussion began to-day I have had put in my hands a communication from Mr. Joseph B. Stewart, the secretary of the Washington, Alexandria, and Georgetown Railroad Company, in which he exonerates the government of that company from any responsibility for this outrage. It seems that the business of the company is at this moment in the hands of a receiver, appointed by a judge in Alexandria, and the malign influence of this receiver is supposed to have prevailed in this recent outrage. I read a few sentences from this letter:

"The treatment of a colored woman on Saturday last by persons at present running that road, as reported to me this morning, is an outrage most repugnant to the feelings of myself, and, so far as I know, equally so to my costockholders in that road, and is wholly contrary to any orders ever given or sanctioned by us when permitted to direct our own affairs. But our road is at present being worked under a sort of usurpation by persons who acquire, not this right, but this power to do so under certain decisions and pretended rulings by one Judge Thomas, who devoted his services to the confederacy while it lasted, but who now administers his notions of law in the circuit court of the county of Alexandria, Virginia, having jurisdiction over that part of our road."

The writer of this further proceeds, as follows:

"For myself and costockholders in the company (and I speak for the whole except twenty-seven shares held by the usurping parties,) the act, as reported, of a conductor or the employés of the receiver of the road in abusing or maltreating the colored woman on Saturday last is wholly repudiated and denounced, and but for our forced obedience to the judicial orders above stated we would eject the scoundrels who committed the act referred to from our road before the sun goes down. As it is, we can only suffer the abuse ourselves and pay the damage when called on."

I read this in justice to the stockholders.

Mr. DRAKE. Then I will inquire of the honorable Senator from Massachusetts whether it be not the fact that this woman, so far as regards recourse for the damage done to her by this act, is utterly remediless except against the man that this writer chooses to call a rebel scoundrel?

Mr. SUMNER. I will not venture to answer that question. The Senator will see that it is a question of law, a question of legal liability, on both sides of which I think something might be said. I should be disposed, however, to hold everybody connected with the road responsible.

Mr. DRAKE. Then if it be that she has no recourse against anybody but this man that this writer calls a rebel scoundrel, that is the more reason why the Senate of the United States should vindicate her cause.

Mr. CONKLING. Why has she no recourse? What is the doubt about her recourse?

Mr. DRAKE. As to damages.

Mr. CONKLING. What is the doubt about it?

Mr. DRAKE. This road being in the hands of a receiver, and the man that has perpetrated this outrage being the employé of the receiver, not of the company, the question comes up whether she can have any recourse for damages at all except against the receiver, whom this writer denominates a rebel scoundrel. That is the more reason why the Senate should look after her.

Mr. CRAGIN. I wish to say one word right in this connection. The Senator from Missouri, I think, misapprehends the communication read by the Senator from Massachusetts. It does not call the receiver a rebel scoundrel, but the conductor, as I understand it. I rose to say that the receiver of this road is a personal friend of mine, and no rebel scoundrel. He is a loyal man. He spoke to me on this subject yesterday, and said that this outrage occurred over in Virginia, beyond his jurisdiction, and that he had no control or power over it whatever; that whoever committed it was in some way employed, as I understand, with a connecting road, and not with this over which he is appointed receiver. He asks for the investigation.

Mr. DRAKE. I beg to say to the honorable Senator that in using the words that I did I did not undertake to charge the receiver with being what this writer speaks of him as being. He says that this receiver devoted himself to the confederacy.

Mr. SUMNER. While it lasted.

Mr. DRAKE. While it lasted; and then he says afterward if he had his way he would put these scoundrels out.

Several SENATORS. He alluded to the judge.

Mr. DRAKE. The judge, then, is it; and the receiver is the appointee of the judge. Very well. The communication speaks of the men who have perpetrated the outrage, and this writer calls them scoundrels. It was according to his own designation that I undertook to speak of them. I know nothing about the receiver except as it appears from that paper.

Mr. FOWLER. It seems to me that we might pass this resolution of inquiry very readily. I do not think anybody will be hurt by it. I do not see any necessity for discussing it at such length. I am perfectly satisfied that the Committee on the District of Columbia will do full justice to the question. I apprehend that if you pass this resolution and send the subject to them the result will be much more favorable to justice in the case than if we discuss it here for a whole day.

Mr. JOHNSON. I agree with the honorable member from Tennessee that this discussion is perhaps altogether unnecessary. The committee will do all that the case requires. Whether the allegations as made are true or not I do not know; I hope it will turn out that they are not true. If they are true it ought to be in the power of Congress to have some remedy provided for this and for all similar cases.

The honorable member from Massachusetts, however, if I understood him correctly, said that cases of the same kind, though not perhaps as hard in degree, have occurred upon the Baltimore and Ohio railroad. Although he did not mention the road, I suppose that is the road to which he refers.

Mr. SUMNER. I did mention it.

Mr. JOHNSON. If any such cases have happened there they have never reached my ear. I travel upon the road very often, and I have been the counsel of the company for a great many years, ever since the road was organized; and this is the first time that I ever heard it stated by anybody that wrongs of this description were perpetrated by the officers of that road. However, if the resolution should be so altered as to extend the scope of the inquiry into the conduct of that road I should make no objection. I ask now that the case of my colleague be taken up.

Mr. WILSON and others. Let this resolution be passed.

Mr. JOHNSON. If the vote can be taken upon it I will not interpose.

Mr. HARLAN. I desire to move an amendment to the resolution by striking out "Committee on the District of Columbia" and inserting "Committee on the Judiciary." I think it is manifest from the discussion thus far that the resolution ought to go to that committee. The road is said to be in the hands of a court, in the hands of a law officer, perhaps of the State of Virginia. It is, therefore, I think, manifest that it is a proper question for the Committee on the Judiciary to investigate, and I hope the Senate will consent that that amendment may be made.

Mr. CONKLING. I hope the honorable Senator from Iowa will not press that amendment. I would not like to say that it is the fashion of the Senate to make the Committee on the Judiciary a waste-basket into which everything is swept which is distasteful to any other committee; but I may say, with great truth and propriety, that a great many resolutions are referred in some way to the Judiciary Committee the application of which to that committee the committee itself is unable to discover. This morning we had a resolution in reference to the appointment of a commission to examine the condition of the harbor of New York or its bottom, with a view to seeing whether external lines require to be made, and after the President had announced, as I supposed he would, that that belonged appropriately to the Committee on Commerce, my colleague rose in his seat and said that some other Senator had said that he would like to have it go to the Committee on the Judiciary, and that resolution was referred to the Committee on the Judiciary. Now, here is a passenger expelled from a car in the District of Columbia, for which the company is liable, if it is solvent——

Mr. HARLAN. The Senator will allow me to suggest that the offense is said to have occurred in the State of Virginia.

Mr. CONKLING. Yes, sir; but that is a distinction without a difference. It occurred between here and Alexandria, or in the neighborhood of Alexandria, just here, as Senators have said by way of figure of speech, under the eaves of the Capitol; and that is what I say now for this purpose. The railway company is liable, if it exists in its own right. If it is an insolvent corporation in the hands of a receiver a question may arise whether the plaintiff would not be beaten on the execution, and perhaps as to the party against whom the action should run. The agent of the company who expelled this woman, although his directors stood by and instructed him to do it, is liable penally for an assault. Now, there is no question of law about this to be determined. The question of fact may be important: first, whether the corporation is insolvent or not; and second, whether in truth, by judicial determination, it is in the hands of a trustee or receiver. These are questions of fact which will appear at once, and which will guide the committee in recommending, if any committee should think it necessary to recommend, what proceeding by law the aggrieved party should take; and, by the by, I do not suppose that that is at all within the purview of the investigation. But in any event, I submit, with great deference, that the Judiciary Committee have nothing to do with this subject, and that, burdened as that committee is, first with its own appropriate duties, and second, encumbered by a great variety of extraneous subjects, this, too, ought not to be heaped on it. It belongs somewhere else.

Mr. HENDRICKS. I am not quite able to agree with the Senator from New York. If the Senate has anything to do with this subject it must be upon one of two grounds—first, to inquire whether an employé of the Senate is under the protection of the Senate, and if any employé happens to have any wrong done him away from the Senate it is the business of the Senate to vindicate the party; or, in the second place, whether the laws of the country require amendment to provide a remedy for such a case. If either of these be the purpose of the resolution and the inquiry it ought to go to the Judiciary Committee.

If the purpose be further, as suggested by the Senator from New York, to inquire who should be the parties defendant in a lawsuit that is to grow out of this transaction, of course the Judiciary Committee ought to inquire into that, if indeed it be the business of the Senate of the United States, seeing that some wrong has been done, as reported in the newspapers, to some person in the District of Columbia, to investigate whether there is a cause of action, and then in what form of action it shall be brought, whether it is in contract or damages; and in the second place, who is the proper person——

Mr. CONKLING. Did the Senator understand me to suggest that this was the object of this resolution?

Mr. HENDRICKS. I will answer that in a minute. I will first finish my sentence. I say, if we are to inquire who is the proper party defendant, an inquiry of that sort ought to be made by the committee of which the distinguished Senator from New York is a member. I know that he would give very valuable advice upon that particular question.

I am not exactly able to see, however, that it is the business of the United States Senate to advise people how to bring their suits in court, and who shall be made the defendants. This is a nice question; it is a close question, perhaps, whether the company itself be responsible, after the management of its affairs has been taken out of its own hands by a court, whether the court should be sued, whether the receiver should be sued, or whether the original company should be sued. My notion of the law has been that in a case like that the remedy is by an application to the court that appointed the receiver, and let the court control some of the funds in the hands of the receiver to make reparation. That, however, would be my opinion in my law office at home; but I do not understand that it is my business as a member of the Judiciary Committee or any other committee of this body to inquire what sort of an action shall be brought and against what parties, in case somebody has been illegally ejected from a car. Has it come to that, that that is the business of the Senate? Has it come to that, that it is the business of the Judiciary Committee to advise people what sort of lawsuits to bring for supposed wrongs in an adjoining State?

I am not sure but that the remark of the Senator from New York was quite right. When he was advised that this case did not occur in the District of Columbia, but that it occurred in the State of Virginia—that suggestion I believe was made by the Senator from Iowa—the Senator from New York said that that was a distinction without a difference. Of course it is, as we are now going on. This District of Columbia, that originally was the subject of exclusive jurisdiction on the part of Congress, has, by the course of recent legislation, been extended, until now the distinction is without a difference between the District and a State, practically. The Senator inadvertently stated what is the sentiment of the legislation of Congress at this time.

But, Mr. President, I think that a reference to the legal questions is a disturbance of the legitimate debate of this case. Clearly this is sensation, quite interesting, very interesting, but entirely sensation. Nobody supposes that the purpose of this resolution is to control legislation; for the Senator from Massachusetts, who introduces it, says that a case of this kind is already provided for by the civil rights bill. He claims that that law, already enacted by Congress, meets such a case. Then we are not called upon to legislate on the subject; and as I can see there is no question except the simple one whether an employé of the Senate must be protected by the Senate. That I will not discuss. If Senators can make sensation out of this, very well. I have heard of hard cases; but I never supposed it was the business of the Congress of the United States to assume judicial powers and investigate facts. What is the use of an investigation? The Senator from Massachusetts and the Senator from Missouri have assumed a certain state of facts. The party that has been abused very much this morning has not been heard. What are the facts can be ascertained in the courts. The remedy is ample, if there be anybody that may be sued, but it may be so complicated that you can find no defendant for the law-suit. If this resolution shall be referred to the Judiciary Committee what little assistance I can give to the Senator from New York in finding out who ought to be the defendant I will contribute; but it would seem to me better, perhaps, that a lawyer should be employed to decide upon that and to bring the suit.

I saw in the paper—I think it was in the same paper that the Senator from Massachusetts read from—that steps had been taken to secure the full prosecution of the case in the courts. If this course is to be pursued some competent lawyer will be employed, and I suppose he will inform himself of the facts whether there be a case against anybody, and if so, against what party. Let the suit progress, and if the laws do not protect against cases of this sort we must amend them, I suppose. We have gone a good piece; perhaps we must go further; and if we are to make inquiry into that, the Judiciary Committee is the proper committee to make it. Whether the legislation extends over a case like this let that committee examine. So in no view of the case can I quite agree with the Senator from New York, for whose opinions I have the greatest respect; and I think that this resolution ought to go to the Committee on the Judiciary.

Mr. MORTON. Mr. President, I do not quite agree with my colleague in his statement of the question. It is not a question whether the Senate is to protect its employés in their personal rights as they travel about the country. Here is an outrage that has been committed, a palpable one, an outrage growing out of the prejudice against color; that prejudice which now constitutes the staple of politics with one party; that prejudice which is now oppressing five million people in this country and seeking to deprive them of all civil as well as political rights. This case is not simply sensational in its character. A respectable colored woman, it is said, has been ejected from the cars for no other offense than on account of her color, and the Senator from Massachusetts proposes by this resolution, as I understand, to inquire whether there is any adequate civil remedy for this outrage. It is as proper a subject for inquiry as any other that could come before the Senate.

Sir, the outrage in this case is not an isolated one. I am informed and believe that they are occurring almost every day, and perhaps frequently every day on southern railroads, and perhaps sometimes on northern ones. If there is an adequate remedy within the reach of the persons who are thus outraged they ought to know it. If there is not, one ought to be provided.

Sir, when it is said that this is sensational, what is meant by it? I suppose it is because a negro is involved in it. But, sir, whenever there is an offense committed against a negro because of his race we may always be sure that the offender will find an advocate in the Democratic party, some one to come forward in his defense, either to palliate or to justify the outrage.

Now, sir, let this inquiry be made. It is not that employés of the Senate shall have special privileges; but, as here is a prominent and a palpable case, let the inquiry be made whether there is a remedy for anybody who may be treated in that way.

Mr. CONKLING. Mr. President, the honorable Senator from Indiana, who sits nearest me, [Mr. HENDRICKS,] in order to hang a speech upon it, takes the liberty of imputing to me what I did not say. Now, sir, free as he is always from sensational practices here, exempt as he is from the frailties and foibles to which the rest of us are addicted, I am glad always to have him relieve himself of anything which weighs upon his mind; but I do not care to have him put into my mouth what I have not said in order that he may make the more apt and forcible what he sees fit to say. I did not suggest that it was the purpose of this resolution or the business of any committee under it to hunt up a defendant and see who would be the appropriate defendant to be prosecuted by the party aggrieved. On the contrary, I expressly said that I thought no such thing would properly be within the province of the committee, and thereupon the Senator rises, and, in very polite and courteous terms, to be sure, delivers to me a sort of instructive dissertation to show the fallacy of supposing that a committee of this body is so far to demean itself as to look up a defendant for this aggrieved woman. Very well, sir; whether I agree with him or not, it is enough to say now that I did not suppose that to be the purpose of the resolution; and I said expressly that I did not so suppose.

One other point, sir. The Senator says that my remark, that whether in the District or out of the District is a distinction without a difference, is all in the line of the legislation and the habits of the majority of this body. I would like, in response to that, to inquire of the Senator whether he thinks—the investigation being upon the point of an injury inflicted upon one of the employés of the Senate—it matters at all if that injury has been inflicted four miles or six miles or twelve miles from this Capitol; and if he does not suppose there is any such difference as that, (as I certainly would not do him the injustice to doubt,) I do not know why it is that he seeks to turn a practical and obvious remark into an accusation against anybody, that we are obliterating State lines and treating States as if they were Districts, or anything of that sort.

Now, sir, the whole of this subject, I take it, without sensation and without amplification, is that an allegation comes here that an employé of the Senate has been greatly outraged and her rights trampled upon, in violation not only of decency, but of law. The Senator who introduced this resolution proposed very properly an inquiry, not for the private benefit of this particular individual, but in the assertion of the rights and prerogatives of the Senate and the maintenance of public decorum; and the question at this moment is whether that is a matter of law to be investigated by the legal organ of this body or whether it is a matter pertaining to the general police and administration of the District of Columbia and its surroundings. My suggestion was simply that there was nothing for the Judiciary Committee to do. I agree with the Senator that there is no defendant to be looked up here and no advice to be given such as counsel would be employed to give; but the purpose is simply to ascertain whether, in violation of the rights and privileges of the Senate, as well as of this particular individual, an outrage, as it has been very properly denominated, has been perpetrated. I think that appropriately goes to the Committee on the District of Columbia, and I should think, without much difficulty, we might arrive at that conclusion.

Mr. CAMERON. I shall vote for this resolution, and I care very little what committee it goes to, though perhaps the Judiciary Committee would be the best one to make the inquiry, for the reason that I do not see how we can reach these railroad companies except through their charters, and that perhaps

involves a legal question. They live by permission of Congress; they have their lives from us; they owe their existence to acts of Congress, and upon all occasions they have done all they could, out of gratitude, I suppose, to injure the country. I remember very well that at the beginning of the war both of these roads, the Alexandria road and the Baltimore and Ohio road, refused to carry troops for the Government, and refused to carry provisions, and they were entirely closed up. All their engines and cars were sent away and all their employés were sent off, and the Government was compelled to take possession of the road. Since that time the company was, I believe, very near bankrupt; certainly the stock went very much below par. One of these companies made no report of their business during the whole war. Latterly they made a report, and it turned out that they had a surplus of $20,000,000, all made out of the Government. The remedy, in my mind, is to make a new railroad. Let Congress charter a road from here to the city of New York, and then we shall have no difficulty hereafter about who shall ride, because they will be glad to carry all the passengers who offer themselves. I intend shortly to offer to the Senate a bill for that purpose. I have no faith in any of the people who control these roads.

Besides that, it is the interest of the country that this city should be opened to the whole continent. Here is a population of nearly two hundred thousand and only one railroad coming into it from the North and one from the South. We are compelled to pay large prices, higher rates than upon any other road in the country; and, as I have told you, when the country needed them they refused their services.

Now, citizens are driven out of the cars. That would not be done in any other part of the country except here, and there is no railroad except one of these that would be guilty of such an offense. The person driven out, too, was a woman. I care not what the color was, whether black or white. I think it is the duty of Congress to inquire into the matter, not because this person particularly was a negro, but because a citizen or a woman was driven out of the cars and compelled to walk, as I understand, from somewhere near Alexandria to this city. I think it the duty of the Senate or of Congress to inquire into the offense. I do not believe that the person could get any remedy from the law, nor do I believe you can reach these companies in any way except by the process which I have intimated, and that is to make a rival road.

Mr. FRELINGHUYSEN. I hope that this resolution will be referred to the Committee on the District of Columbia. That certainly is the proper direction for it to take, because the offense was committed immediately in the neighborhood of the capital, and because the road of this company is partly in the District of Columbia, and its charter is properly under the cognizance of that committee.

I desire, however, while I am up, to refer to an allusion of the Senator from New York, that an improper matter was referred to the Committee on the Judiciary this morning at my instance.

Mr. CONKLING. Oh, no; I beg the Senator's pardon. What I referred to was the motion made by my colleague.

Mr. FRELINGHUYSEN. At my request it went to the Judiciary Committee.

Mr. CONKLING. That I did not understand. I simply said that my colleague made the motion on the suggestion of some one else that it go to the Committee on the Judiciary.

Mr. FRELINGHUYSEN. I simply wish to say that that was a subject which would be inappropriate to any other committee, so that the Senate may not think there was any impropriety in asking that reference.

Mr. CRAGIN. I wish to correct perhaps a wrong impression I gave in some remarks I made a few moments since. I apprehend that there are probably two receivers connected with this road between here and Alexandria. The one I referred to resides in Washington, and was appointed by one of the judges of the court here. The other, for aught I know, may be liable to all that is said against him in the communication which the Senator from Massachusetts read.

Mr. NYE. I wish to call the attention of the committee to whom this question will be referred, whether it be the Committee on the District of Columbia or the Committee on the Judiciary, to the act chartering this Alexandria, Georgetown, and Washington railroad. It was chartered in 1863 by Congress, and at the instance of the honorable Senator from Massachusetts [Mr. SUMNER] this provision was inserted in the first section of the act incorporating that road:

"That no person shall be excluded from the cars on account of color."

Now, sir, it seems to me that this matter would most properly be referred to the Committee on the District of Columbia. If there are so many questions arising in it as are suggested by the honorable Senator from Indiana, [Mr. HENDRICKS,] with the rush of business that the Committee on the Judiciary always have, they would most clearly be unable to examine it before spring, and it would be quite along in the summer before they would come to any conclusion. The Committee on the District of Columbia have less to do, and will report, I trust, to this body whether this company has not by this act forfeited its charter. I believe it has; and I believe it is the duty of Congress upon so flagrant an outrage as this to say to this company in plain terms, "You have forfeited your charter and we shall repeal it." And if no other gentleman on the floor does it I shall take occasion to introduce such a bill and refer it to the appropriate committee myself.

Mr. WILLEY. Being a member of the Committee on the District of Columbia I may be indulged in making a remark. If the question is properly involved in this controversy as suggested by the Senator from Nevada, that this company has forfeited its charter, that certainly is a question of law and properly the subject of investigation by the Judiciary Committee, a question of the highest character and of the nicest character. If the investigation is to take that course, and we are to look for the remedy of these outrages in that direction, unquestionably such a question ought to have the investigation of the law committee of this body.

But, sir, while I am up I beg in a word or two to say that there are, in my estimation, higher principles and higher questions involved than the forfeiture of the charter of this company. It is in vain to attempt to evade the fact that there is a strong prejudice against the colored race in our country, and that that prejudice takes active form and results in outrages upon the rights and privileges and immunities of that race. This outrage, if it be reported correctly, and upon investigation shall turn out to be true as reported, significantly indicates the propriety, in my opinion, of an investigation whether the laws as they now exist applicable to the protection of this race are of a character sufficient to afford the protection to which they are entitled; and in that view of the case it is, in my estimation, a subject which the Judiciary Committee ought to investigate. In any view of the question which you can take it involves principles of law, and therefore I think the Senate ought to send it to the Judiciary Committee. It certainly involves the questions to which I have alluded—questions not proper for investigation by the Committee on the District of Columbia, but of such importance and so vitally connected with the interests of this race at large, not only in the District of Columbia, but all over the whole country where this prejudice toward them exists, as to demand at the hands of the proper committee of this Senate a close and careful investigation, to see whether a remedy more efficient may be provided for their protection than the law seems at present to afford them.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Iowa, to strike out the words "Committee on the District of Columbia" and insert "Committee on the Judiciary" in the resolution.

The amendment was not agreed to—ayes nine, noes not counted.

The resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 452) for the relief of Captain C. P. Johnson; and it was thereupon signed by the President *pro tempore* of the Senate.

PROMULGATION OF THE LAWS.

Mr. ANTHONY. I move that the Senate proceed to the consideration of Senate bill No. 237. It will take but two or three minutes.

Mr. JOHNSON. I have given way now for some time, and, with all my anxiety and wish to oblige the honorable member from Rhode Island, I must insist on going on with the regular order. I had the floor, and the case of my colleague was before the Senate, and I gave way for a moment to enable a resolution to be offered.

Mr. SHERMAN. If that case is before the Senate I ask the Senator to give way for an executive session.

Mr. ANTHONY. It is impossible to do any business now; it is almost three o'clock.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from Rhode Island had not yielded the floor. The Chair will state that when the question in relation to the seat of the Senator-elect from Maryland was passed over it was for the bare purpose, as the Chair understood, of acting upon the resolution that has just been disposed of. So, when that was passed, the supposition of the Chair was that the other subject was before the Senate. The Senator from Rhode Island now moves that the pending and all other prior orders be postponed for the purpose of taking up the bill indicated by him.

Mr. JOHNSON. I ask the honorable member from Rhode Island to tell me what bill that is.

Mr. ANTHONY. It is a bill entitled "A bill in relation to the promulgation of the laws of the United States." It is a bill that ought to have been passed at the beginning of the session, and it will take but a few minutes.

Mr. JOHNSON. I have no objection to that.

The motion of Mr. ANTHONY was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 237) in relation to the promulgation of the laws of the United States. It proposes to make it the duty of the Secretary of State to furnish the Congressional Printer with a correct copy of every act and joint resolution as soon as possible after its approval by the President of the United States, or after it shall have become a law in accordance with the Constitution without such approval. And it repeals so much of section seven of the act entitled "An act to expedite and regulate the printing of the public documents, and for other purposes," approved June 25, 1864, as requires the Secretary of the Senate to furnish such copy.

The Congressional Printer, on receipt of this copy provided for, is in every case immediately to cause an accurate printed copy of the act or resolution, as it shall have been furnished to him, to be prepared and sent in duplicate to the Secretary of State for revision;

and on return of one of the revised duplicates the Congressional Printer is at once to have the marked corrections made, should there be any, and cause to be printed and sent to the Department of State fifty copies, and also cause to be printed separately the usual number for the use of the two Houses of Congress; but on request of the Secretary of State the Congressional Printer is to furnish to the Department of State any additional number of copies of an act or resolution not exceeding five hundred copies.

It is to be the duty of the Secretary of State to transmit to the Congressional Printer, at the beginning of each session of Congress, and thereafter when necessary, a list of all newspapers authorized by law to publish the laws of the United States, with their respective post offices, so far as the same shall have been communicated to him by the Clerk of the House of Representatives; and it is to be the duty of the Congressional Printer, on the printing of each act or resolution, excepting those which are of a private character, and which shall be so designated by the Secretary of State, to transmit a copy thereof to each of the editors of such newspapers for prompt publication; and the number of copies of the public acts and resolutions requisite for this purpose is required to be printed.

All the provisions of the bill which apply to public acts and resolutions are in like manner to apply to treaties between the Government of the United States and foreign Governments, after they shall have been duly ratified and proclaimed by the President of the United States; and also to postal conventions made between the Postmaster General, by and with the advice and consent of the President, on the part of the United States and equivalent officers of foreign Governments on the part of their respective countries, under the authority of the second section of the act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," approved March 3, 1851; but it is to be the duty of the Postmaster General to transmit a copy of each of the conventions to the Secretary of State for this purpose, and the printed copy of the conventions is to be revised by the Post Office Department.

All laws and parts of laws requiring the Secretary of State to send the laws first directly to newspapers for publication, as well as all laws and parts of laws in conflict with the provisions of the act, are repealed.

The Committee on Printing reported the bill with an amendment, to insert at the end of the third section the following:

And all letters and documents to and from the Congressional Printer, relating to the duties and business of his office, shall be transmitted by mail free of postage.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. GRIMES. I will inquire of the Senator from Rhode Island what this bill is? Let us have a little explanation of it.

Mr. ANTHONY. At the last session of Congress an act was passed that took from the State Department the appointment of the newspapers that publish the laws, and conferred that patronage upon the Clerk of the House of Representatives, and this bill is made necessary by that change. The old law required the Secretary of State to send to the newspapers all copies of acts and resolutions of Congress to be printed. This authorizes the Congressional Printer to do it.

Mr. JOHNSON. Newspapers selected by the Clerk of the House?

Mr. ANTHONY. Yes, sir; such as are selected by the Clerk of the House. They are to be sent directly from the Congressional Printer. That is all there is in this bill except that it confers on the Congressional Printer the right to send these slips and all matter relating to the business of his office free of postage.

Mr. RAMSEY. Must they not be franked?

Mr. ANTHONY. Certainly.

Mr. RAMSEY. The bill does not so state.

Mr. ANTHONY. The language employed here is the same employed in regard to postage on communications sent by other heads of bureaus. If it is not correct, let it be altered.

Mr. RAMSEY. My impression is that in other legislation of this character the words "under such regulations as shall be established by the Postmaster General" have been inserted.

Mr. ANTHONY. Very well; then I move to amend the bill by adding those words after the word "postage," in line eighteen of section three.

The amendment was agreed to.

Mr. ANTHONY. There is an order of the Senate which requires that all acts and resolutions which are passed, so soon as they become laws, shall be printed and a copy furnished to each member of each House. This bill provides that the laws for this publication shall be furnished from the rolls by the Secretary of State instead of being furnished, as they have been, by the officers of the two Houses, in doing which errors sometimes necessarily occur. I believe there is nothing objectionable in the bill.

Mr. BUCKALEW. So far as I can understand, this bill is entirely proper—simply to facilitate the transaction of public business; and I was in hopes that the Committee on Printing would look into the general question of the printing of the public laws and report to us some measure by which the cost of publication should be reduced. We have a communication from the Secretary of State at the present session, which has been printed, from which it appears that the cost of publishing the laws has increased enormously. I think that under the present law the rates of charge are perhaps at a much higher figure than they should be. At all events, if I remember aright, the cost of this public printing has within a few years more than doubled; I mean the particular printing referred to in this supplemental bill. I do not know what investigation the Committee on Printing may have given to this subject, whether they have examined that report from the Department of State or not, whether they have examined the question of the present rates allowed under our former law, our law of the last session. Certainly it seems that there is a vast accumulation of expense; and I think in these days of reform, or of talked-of reform, the Committee on Printing ought to examine this question of expense and enable us to reduce to some extent the present very large and, I think, unnecessary outlay of the public money. I know that since the close of the war, naturally enough, there has been some increase in the cost of publishing the laws, because they are to be distributed in the southern country; but that ought not to increase the whole cost over one third, and yet the increase is vastly more than that. I hope the chairman of the committee will enlighten us on this point.

Mr. ANTHONY. The subject to which the Senator from Pennsylvania calls attention has not been referred to the Committee on Printing. The Senate did deliberately, on full discussion, and not at the recommendation of the Committee on Printing by any means, increase the compensation paid to the publishers of the public laws. It is very low, however, still, and the increase was nothing in comparison with the increase in the cost of printing, the original rates having been fixed, I think, at a very early period of the Government; I do not know but in the beginning. It is paid for by the page, and the size of the page has increased considerably since the rate was fixed. This increase was made by the Senate and the House of Representatives after considerable debate. There was also a provision made which I opposed, but I was voted down, increasing the number of papers in certain States—I do not know how many—but two or three States. I saw no reason for it, but the Senate did, and acted, doubtless, with wisdom in the matter. We shall be very happy to examine that subject to which the Senator from Pennsylvania calls our attention if it be referred to us; but it would not be proper to provide for it in this bill. This bill is perfect in itself, and applies merely to the promulgation of the laws, and other matter should not be put in this bill.

Mr. RAMSEY. For the information of the Senator from Pennsylvania I will state that a member of the other branch connected with the Printing Committee I see has stated to the House of Representatives that the expense of the congressional printing of 1866 was several hundred thousand dollars less than the congressional printing of 1859–60; and so, comparing 1865 with 1858–59, it was considerably less. So far, then, from the printing increasing in expense it is really diminishing.

Mr. BUCKALEW. That was a statement made by a member of the House of Representatives in regard to the cost of printing generally, and he insisted that the establishment of the Government printing bureau had been productive of economy. I am not speaking upon that at all. I am speaking simply on this question of the publication of the laws, particularly their publication in the newspapers. The Senator's explanation, therefore, relates to quite another subject.

I will repeat that in what I have said on this subject I do not intend to oppose the present measure, which is, as far as I can understand it, proper enough in itself. If the communication from the Department of State on the question of printing the public laws has not been referred to the Committee on Printing I think it ought to be referred, and I will take occasion to make that motion myself.

Mr. TRUMBULL. I should like to inquire of the Senator who reports this bill if it interferes with the publication of the laws by Little & Brown?

Mr. ANTHONY. Not at all; it only refers to the promulgation of the laws in newspapers.

Mr. TRUMBULL. I understand the bill to go further than that, and to provide for the publication of laws to be distributed to members of Congress and copies to be furnished to the Departments.

Mr. ANTHONY. That refers to the distribution of the laws during the session. As acts and joint resolutions become laws they are printed and distributed to members, each of whom has a file of them. Those laws have been heretofore furnished by the Secretary of the Senate and the Clerk of the House of Representatives. This bill provides that they shall be furnished hereafter from the rolls of the State Department, so that they may be perfectly authentic and correct. There have been some errors heretofore, necessarily, in furnishing the laws without taking them from the rolls.

Mr. TRUMBULL. The bill provides that "it shall be the duty of the Congressional Printer, on the printing of each act or resolution, excepting those which are of a private character, and which shall be so designated by the Secretary of State, to transmit a copy thereof to each of the editors of such newspapers for prompt publication, and the number of copies of the public acts and resolutions requisite for the purpose are hereby authorized and required to be printed." I supposed there was a provision in the bill requiring full copies of the laws to be printed and furnished.

Mr. ANTHONY. No.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

REMOVAL OF REVENUE OFFICERS.

Mr. PATTERSON, of New Hampshire, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be instructed to furnish forthwith, for the use of the Senate, copies of all communications to him from the Commissioner of Internal Revenue relative to the removal or appointment of assessors or collectors since the 1st day of June, 1867, together with a statement of the action, if any, taken upon them.

SENATOR FROM MARYLAND.

Mr. JOHNSON. I move now that the Senate proceed to consider the case of my colleague. I do not propose to debate it myself to-day or perhaps at any time; but I want it to be the first business in order to-morrow at the expiration of the morning hour. I understand the honorable member from Ohio proposes to move an executive session as soon as this matter is taken up. I move that the Senate proceed to consider the case of my colleague.

The motion was agreed to.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. JOHNSON. I suppose the motion I made in the case of my colleague brings that case before the Senate, so that it will be the first thing in order, as the unfinished business, at the expiration of the morning hour to-morrow.

The PRESIDENT *pro tempore*. Certainly.

Mr. JOHNSON. Then I yield to the motion of the honorable member.

The motion was agreed to; and after several hours spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 12, 1868.

The House met at twelve o'clock m. Prayer by Rev. JONATHAN BLANCHARD, President of Wheaton College, Illinois.

The Journal of yesterday was read and approved.

SURRENDER OF CRIMINALS.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill (H. R. No. 719) for the surrender of persons convicted of certain crimes; which was read a first and second time, and referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I demand the regular order.

The SPEAKER. The regular order being called for, the morning hour has commenced, and the House resumes the consideration of the bill reported by the Committee on Foreign Affairs (H. R. No. 584) concerning the rights of American citizens in foreign States, upon which the gentleman from Massachusetts [Mr. BANKS] has the floor.

REORGANIZATION OF PENSION BUREAU.

Mr. VAN AERNAM, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Invalid Pensions be instructed to inquire whether the Pension Bureau cannot be reorganized so as to promote the efficiency and economy of its administration, and to report by bill or otherwise.

NEW JERSEY ANTI-MONOPOLY CONVENTION.

Mr. HAIGHT, by unanimous consent, presented the address and proceedings of the anti-monopoly convention of the State of New Jersey; which were referred to the Committee on Roads and Canals.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. HAIGHT also, by unanimous consent, presented resolutions in reference to the protection of American citizens abroad, adopted at a public meeting held in Jersey City, New Jersey; which were referred to the Committee on Foreign Affairs.

Mr. HAIGHT also, by unanimous consent, presented resolutions on the same subject, adopted at a public meeting of citizens of Bordentown; which were referred to the Committee on Foreign Affairs.

VENTILATION OF THE HALL.

Mr. LAWRENCE, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the practicability of applying Gouge's atmospheric ventilator to the Hall of this House, with the cost thereof, and to report by bill or otherwise.

AMENDMENT OF ADMIRALTY LAWS.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 720) to amend an act entitled "An act to extend the jurisdiction of district courts to certain cases upon the lakes," &c., passed February 26, 1845; which was read a first and second time, and referred to the Committee on the Judiciary.

HARBOR IMPROVEMENT AT BUFFALO.

Mr. HUMPHREY also, by unanimous consent, presented a resolution of the Common Council of the city of Buffalo, New York, asking for an appropriation sufficient to complete the harbor improvement at that place, upon the plan recommended by the United States engineer department; which was referred to the Committee on Commerce.

RIGHTS OF AMERICAN CITIZENS—AGAIN.

The SPEAKER. The business now before the House is the bill (H. R. No. 584) concerning the rights of American citizens in foreign States, upon which the gentleman from Massachusetts [Mr. BANKS] is entitled to the floor.

Mr. MORGAN. I wish to inquire of the Chair, with the consent of the gentleman from Massachusetts, whether it would now be in order to move an amendment to this bill?

The SPEAKER. It would not be. The motion to recommit, now pending, precludes the offering of any amendment.

Mr. MORGAN. When the motion to recommit shall have been disposed of, will it then be in order to submit a motion to amend?

The SPEAKER. If the motion to recommit should be withdrawn, and the previous question called and seconded, no motion to amend would be in order. If the House should not second the demand for the previous question amendments would be in order; and a number of gentlemen have already indicated their desire to offer amendments in that event.

Mr. VAN TRUMP. Will the gentleman from Massachusetts [Mr. BANKS] yield to me for a question in regard to the pending bill?

Mr. BANKS. Certainly.

Mr. VAN TRUMP. I wish to inquire of the gentleman whether he proposes to call the previous question at the conclusion of his remarks?

Mr. BANKS. Mr. Speaker, it is not my purpose to occupy the attention of the House, unless the House chooses to close the debate. I do not propose to volunteer any remarks now. When the House shall consider that the question has been debated a sufficient length of time and shall close the debate, I shall ask attention to some considerations in explanation of the bill. My purpose is not to anticipate the action of the House.

Mr. WASHBURNE, of Illinois. If the gentleman from Massachusetts will permit me I will say I think it but just to the other committees behind his committee that he should close the debate on this question.

Mr. WILSON, of Iowa. I suggest to the gentleman from Massachusetts it be referred to the Committee of the Whole on the state of the Union, where it can be debated under the five-minutes' rule. It may be made the special order and left, also, open to amendment.

Mr. BANKS. I do not wish it to be taken out of the usual course of business. I am willing to submit to any suggestion of the House which is in the usual course of business.

Mr. WASHBURNE, of Illinois. Let the gentleman call for the previous question. He will then have an hour in which to close this debate.

Mr. BANKS. If the House will allow me I will state the course I propose myself. I have not been in attendance on the sessions of the House for the last week, and therefore do not know its spirit and temper on this question as other gentlemen; but the members of the committee advise me that other committees and many members of the House are impatient to have this question decided. The committee are unanimously of opinion this bill should be pressed as it stands to-day; but the committee is perfectly willing, as I understand, to give other gentlemen of the House a vote on certain amendments which have been proposed, the amendment suggested by my colleague from Massachusetts, [Mr. BUTLER,] substituting non-intercourse for reprisal, and the one proposed early in the debate by the gentleman from Ohio [Mr. SPALDING] for a declaration of war instead of reprisal. I am, for one, wholly unwilling to give way to a motion to substitute the English theory of allegiance and expatriation for that which has been the steadfast principle of the American Government up to this time.

Mr. WILSON, of Iowa. Will the gentleman allow me to have a vote on the amendment I have proposed?

Mr. BANKS. What is it?

Mr. WILSON, of Iowa. It is to strike out the second clause of the first section.

Mr. BANKS. With the consent of the members of the committee, I should be perfectly willing to do it. I will say informally that I proposed to do it in committee, but every member of the committee was disinclined to consent to it.

Mr. VAN TRUMP. I wish to make a remark. I hope on such a great national question as this is the previous question will not be sustained, especially when on this side of the House the question has not been debated at all, and in view of the ungenerous remark of the gentleman from Indiana, [Mr. ORTH,] who closed the debate yesterday. This bill ought to be debated fully, for the reason that petitions continue to come up here daily and hourly on this question. I hope the House will vote down the demand for the previous question.

Mr. BANKS. I will say that other questions of this nature must be presented to the House by the Committee on Foreign Affairs, and more general than the one now before the House. So if the House closes discussion on the question this morning, hereafter and very speedily, because the information is before the House, the committee will present this question in a different and more general form.

Mr. PILE. I suggest to the gentleman from Massachusetts that the debate which has proceeded upon this floor on this bill has indicated that a large majority who have spoken on the subject are in favor of a declaratory resolution. I wish to suggest to the gentleman from Massachusetts whether he cannot in his remarks satisfy the House such a resolution would be unwise and would not be fair. I think the House would then be ready to sustain the previous question and vote on the bill.

Mr. BANKS. In answer to the gentleman from Missouri, I say this: that the opponents of this bill have occupied the whole time, and that is the reason a favorable disposition to adopt the English theory appears in the discussion. Now, sir, I do not mean to be a party in any form whatever to the recognition of the English doctrine of allegiance and expatriation by the United States Government. Whatever comes of this question or this bill, I will not consent to an amendment of that kind. But I am willing to discuss that question, and if the bill shall seem to be imperfect in that regard the House can vote it down. Then we shall have the subject in a new form.

Mr. PILE. I desire to suggest that we hear the gentleman upon that point before we vote on the previous question.

Mr. BANKS. I do not wish to occupy the time of the House now, but I intend to do so at the close of the debate. I am unwilling even to trespass upon its attention now.

Mr. PILE. I desire to hear the gentleman before I vote on the previous question.

Mr. BANKS. I yield to the gentleman from Rhode Island.

Mr. JENCKES. I ask the gentleman to yield for the purpose of allowing a vote to be taken on the proposition made by me in the House.

Mr. BANKS. I decline, because the proposition of the gentleman embodies in the laws of this country the English theory of allegiance and expatriation. I cannot consent that that should be done.

Mr. JENCKES. Allow me a moment to explain it.

Mr. BANKS. I have no objection to that, but his bill declares in terms that the right of expatriation be, and hereby is, acknowledged to be the law by the Government of the United States. That is the doctrine of Lord Palmerston, and I cannot consent to such a declaration in legislating upon this question.

Mr. JUDD. Will the gentleman allow me to make a suggestion?

Mr. BANKS. I yield for a suggestion.

Mr. JUDD. I suggest to the chairman of the committee that there is no one question before this House that involves more public interest than that of the protection of naturalized citizens. I agree with him perfectly that we should not declare the English law even by implication. For that reason, and the question being comparatively new, I think members of the House should have a full and complete opportunity to express their opinions upon a question so important as this, involving the rights, as the chairman of the committee has shown by his report, of millions of our citizens. Hence, when we arrive at the final conclusion of the matter, it should be such action as we can all stand by upon all occasions. I concur with the gentleman fully that we should not in any shape or form enact or recognize the existence of the British doctrine on this subject.

One word further. I had, at the close of my remarks made the other day, intended to offer some declaration of principles. I desire to put them before the House in some form, and before the previous question is seconded I hope I shall have an opportunity to present them to the consideration of the House, my idea being that a declaratory resolution of what the law always has been is the proper legislative action upon this question.

Mr. BANKS. I now yield to the gentleman from Pennsylvania.

Mr. BOYER. I desire to ask the gentleman whether he has any objection that a vote should be taken upon the proposition submitted by me the other day, which I think avoids the objection he has to the bill proposed by the gentleman from Rhode Island, [Mr. JENCKES?] My measure is simply a declaratory resolution that naturalized citizens should receive the same protection by our Government in foreign countries as native-born citizens, coupled with the request that the President of the United States investigate and report promptly to the House any invasion of the rights of American citizens abroad.

Mr. BANKS. I cannot yield to the proposition of the gentleman from Pennsylvania, [Mr. BOYER,] because it is to substitute for this bill, which is a bill of action, as we understand it, a direction or request to the executive department of this Government to make inquiry and see what has been done in this matter. I now yield to the gentleman from California.

Mr. HIGBY. I wish to make a proposition to the House, that we have an evening session; that at half past four o'clock we take a recess till half past seven, and have the evening session devoted to debate upon this bill, confining the speeches each to twenty minutes, and that without disturbing its relation in the House.

Mr. BANKS. This question will come up in another form once or twice, and the debate can be continued and must be continued. I now yield to my colleague.

Mr. BUTLER. Mr. Speaker, I put before the House some days since a proposition upon the doctrine of expatriation which is not open to the objection stated by the learned chairman of the Committee on Foreign Affairs, and that proposition is a declaration that the very theory of this Government, framed as it was and composed of colonists and immigrants, perpetually declares, and always has declared, that there is a right of expatriation in any citizen. That is not the English doctrine; it is exactly contrary to the English doctrine. It is the American doctrine, and it is time that it was declared. I then say further that we shall allow every citizen of ours to go abroad and expatriate himself, whenever he chooses, if not tainted with crime; and every citizen of any foreign State may come here and expatriate himself and become a part of us when he chooses, if untainted with crime; and that we ought to give equal protection to every citizen, whether native born or naturalized, wherever he may be found on the globe, and that it is our duty, after demand and refusal to show good cause, to stop all commercial and diplomatic intercourse.

Mr. BANKS. I have already stated to the House that I am willing to admit a vote on the proposition the gentleman has made in regard to non-intercourse; but I suggest to him that the doctrine of his resolution is precisely the doctrine of Lord Palmerston and other English statesmen, that this is a question that the Government has a right to control—that it may confer this right or deny it—and that is a doctrine which I do not wish to see admitted. I yield now to the gentleman from Illinois, [Mr. BAKER.]

Mr. BAKER. I wish to submit, for the information of the House and the gentleman from Massachusetts, [Mr. BANKS,] a proposition that I would like to have a vote upon.

Mr. BANKS. I cannot yield for that.

Mr. BAKER. Let it be read.

Mr. BANKS. I will yield to have it read.

The Clerk read MR. BAKER'S proposed amendment, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of expatriation, like the rights of life, liberty, and the pursuit of happiness, is a natural and inalienable right.

SEC. 2. *And be it further enacted*, That when, in the *bona fide* exercise of the rights of expatriation and naturalization, citizens or subjects of any foreign State have heretofore become, or shall hereafter become, citizens of the United States, such naturalized citizens are citizens of the United States to all intents and purposes whatsoever, and as such are of right entitled to receive from this Government, and shall receive, the same protection of life, liberty, and property that is accorded to native-born citizens of the United States in like situation and circumstances.

SEC. 3. *And be it further enacted*, That the United States will, at all hazards, extend full and complete protection to its native-born and naturalized citizens, and will exercise the same jealous care and put forth the same measure of energy in the protection of the rights of its naturalized as of its native-born citizens.

SEC. 4. *And be it further enacted*, That to the end that the rights of American citizens in foreign countries may cease to be questioned, and that the peace of nations may be preserved, it is hereby declared to be the duty of the Executive of this Government to insist energetically and without delay upon the recognition of the foregoing rights by other Governments, and particularly to interpose with like promptitude and energy, upon the basis of the principles declared in this act, in the behalf of all American citizens whose rights may be infringed by or under the authority of any foreign State; and to lay before Congress as early as practicable, and from time to time, the results of such interposition, together with the facts involved in the cases which may now exist or hereafter arise of infringement of the principles of this act by or under the authority of any foreign State.

Mr. BANKS. I yield now for five minutes to the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. Mr. Speaker, I would not trespass upon the time of the House at this stage of the discussion if the gentleman from Massachusetts [Mr. BANKS] had not undertaken to give a character to the proposition which I have introduced which, in my view, is entirely erroneous. I have attempted simply to state some plain rules which shall be the public law of this country with regard to its citizens abroad, making no distinction between native and naturalized citizens. Citizenship is a unity not divisible; not to be characterized by the quality of the person or the place from which he comes. This bill proposes to declare the rights of American citizens and to insure them protection through all parts of the world. The first proposition is by no means the law of England with regard to expatriation and naturalization, if I understand that law. On the contrary, it is the direct opposite to the law of England with regard to the right of expatriation. It is, sir, the old Roman law, stated as nearly as it can possibly be to the propositions of that law when translated into the English language. It declares that the rights of expatriation and naturalization are inherent rights of American citizens precisely as those rights were declared to be the inherent rights of citizens of Rome. The Roman law made no distinction with regard to citizens on account of their birth-place. It mattered not to the right of protection of the Roman citizen whether he was born in Rome or in Asia Minor, in Gades or in Tarsus, in Smyrna or in Agrigentum; he was a Roman citizen in every part of the Roman world, and among all nations. So this declaration places all citizens upon the same footing here and elsewhere throughout the world.

The second proposition states how that citizenship may be lost; and in this respect it coincides entirely with the general law of Europe, being copied from the Code Napoleon—the spirit of all the continental laws.

The third proposition declares the protection to which American citizens are entitled. In this respect it is a declaration of the law of nations—that which ought to be a part of the public law of every civilized nation. It in plain terms sets forth what that protection shall be. The exceptional cases are also set forth with definiteness. The specification of some of these may be considered unnecessary. I should be willing to leave a portion of them to the discretion of the State Department, to be defined by the rules of that Department, and to be recognized by it and by the representatives of this Government all over the world.

The last proposition shows how citizenship, when once lost, may be reacquired—not by the person becoming naturalized again, but by his simply making a formal authentic declaration of that intention before some court of the United States.

The English law, to which the chairman of the Committee on Foreign Affairs has referred, recognizes naturalization, but in no instance recognizes the right of expatriation. When our laws began to be framed and interpreted after the Revolution, we adopted rules of naturalization under the power conferred upon Congress by the Constitution to pass such laws; but at no time has the Congress of the United States undertaken to declare under what circumstances expatriation may take place.

Now, if we are to meet nations of the earth in negotiations upon the public law on this subject, it seems to me the wisest course for us to pursue is to place ourselves upon the plane of the largest proportion of those nations. By adopting this general declaration we step at once upon the platform of all Europe except England. We therefore avoid nineteen twentieths of the difficulties of diplomacy by harmonizing our public law in this regard with the laws of European nations.

[Here the hammer fell.]

Mr. BANKS. In reply to the gentleman from Rhode Island, [Mr. JENCKES,] I have only to read from his bill, which will show that the statement I have made in regard to it is exactly correct. His bill provides that "the right of expatriation be, and hereby is, declared to be a part of the public law of the United States." That corresponds with the English doctrine.

Mr. JENCKES. Will the gentleman allow me to make an inquiry?

Mr. BANKS. Of course, I must allow the gentleman to make an explanation.

Mr. JENCKES. An inquiry, not an explanation. Will the gentleman state where there is such a declaration in the English law—in any statute, in any decision, in any letter written by any minister of foreign affairs, in any official public document?

Mr. BANKS. It does not matter in what manner the English law is stated. It is enough

that the United States is notified that the law of England claims the right to confer or withhold the power of expatriation. I object to the incorporation of that doctrine in any statute of the United States. Now, Mr. Speaker, I will state what I propose to do in regard to this bill.

Mr. JENCKES. The gentleman will permit me to remind him that he has not answered the question I asked—where can any declaration that such is the English law be found?

Mr. BANKS. In Lord Palmerston's dispatch to Mr. Bancroft in 1849 or 1850, published in the report of the Committee on Foreign Affairs.

Mr. JENCKES. I do not so read that dispatch. I take issue with the gentleman distinctly on that point.

Mr. BANKS. I wish to state the course I propose to pursue in regard to the bill. The committee are unanimous in recommending the passage of this bill. They understand that the House is pressing for action. We have no desire to cut off debate. We are perfectly willing that it shall run on for a week or a couple of weeks. But, in accordance with my duty as chairman of the committee, I am compelled to submit to the House the question whether or not it will close the debate on this subject at this time? I am unwilling to open the bill to the incorporation of this offensive English principle to which I have referred; but I am willing to allow a vote to be taken upon the proposition of my colleague from Massachusetts, [Mr. BUTLER,] to substitute for what is called "the reprisal clause," if the House shall choose, the principle of absolute non-intercourse. I am willing to allow a vote to be taken upon the proposition of the gentleman from Ohio, [Mr. SPALDING,] to authorize a declaration of war, instead of the provision reported by the committee; and if the gentleman from Iowa [Mr. WILSON] desires it, I am willing to open the bill to a vote upon the exclusion of the clause in the first section referring to the executive department of the United States.

Mr. WILSON, of Iowa. I desire to have a vote upon that proposition.

Mr. BANKS. I now withdraw the motion to recommit, and allow the amendments I have indicated to be offered, and in accordance with the request of gentlemen all about me I now call the previous question upon the bill and amendments.

Mr. WILSON, of Iowa. I desire to make a parliamentary inquiry of the Chair. If the previous question should not be seconded will it be in order to move to refer this bill to the Committee of the Whole?

The SPEAKER. Should the previous question not be seconded the bill will then be open for amendment or reference.

Mr. WILSON, of Iowa. Then I desire to make that motion, if the previous question should not be seconded.

Mr. BANKS. I ask for a vote upon the call for the previous question.

Mr. JENCKES. I desire to make an inquiry of the Chair. If the previous question should not be seconded will it then be in order for me to offer the substitute I have indicated?

The SPEAKER. If the previous question is voted down then a motion to amend or a motion to refer will be in order.

Mr. JUDD. I desire to ask a question. If the previous question is sustained will all amendments be out of order except the three permitted by the chairman of the Committee on Foreign Affairs [Mr. BANKS] to be acted upon by the House?

The SPEAKER. In that case no other amendments will be voted upon.

Mr. JUDD. Then I hope the previous question will not be seconded.

Mr. MORGAN. I ask my colleague on the committee [Mr. BANKS] to withdraw for a moment his call for the previous question?

Mr. BANKS. For what purpose?

Mr. MORGAN. I desire to offer an amendment to strike out the proviso of the first section of this bill.

Mr. BANKS. I do not think that proviso should be stricken out. I must insist upon the previous question.

The question was taken upon the previous question; and upon a division there were—ayes 39, noes 78.

So the previous question was not seconded.

Mr. JENCKES. I now offer the following amendment in the nature of a substitute for this bill, to strike out all after the enacting clause and insert:

That the right of expatriation, and also the right of naturalization under the conditions imposed by law, be, and they hereby are, declared to be and to have been a part of the public law of the United States; and the executive department of the Government shall insist upon the recognition of these rights by the Governments of all other nations; and if such rights shall in any case or in any manner be contravened by the Government of any foreign State, contrary to the intent and purposes of this act, it shall be the duty of the Executive to give information of the same to Congress without delay, in order that means may be taken with effect for the protection of any citizens of the United States in any rights which may have been interfered with or denied by such foreign Governments.

SEC. 2. *And be it further enacted*, That any citizen of the United States may lose his national character:

First. By becoming naturalized in any foreign country.

Second. By undertaking, without the permission of this Government, the performance of public duties under a foreign Government.

Third. By making his domicile in any foreign country without intent to return. But no residence for the purpose of commerce shall be considered as made without intent to return.

SEC. 3. *And be it further enacted*, That citizens of the United States in every part of the world, while engaged upon lawful business, shall be entitled to and shall receive such protection as this Government has the power to afford to their persons and property, and the executive department of the Government shall see that such protection is given, and that the rights of American citizens shall be recognized in every foreign State; but such protection shall not be accorded to the following classes of persons, and the Executive shall not interfere in their behalf after their quality shall have been ascertained:

1. Those who have renounced their citizenship in either of the modes described in the preceding section.

2. Those who may be guilty of any crime against the laws of any foreign State, committed within its jurisdiction.

3. Those who, by treason or any other crime against the United States, shall have forfeited their rights as citizens of the United States.

4. Those who shall have been absent from the United States for more than five years continuously, and who shall have failed to make return of their income and property for taxation, or to pay taxes in the district and State within the United States where they have each had their last domicile, during each year of such absence, in the manner required by the laws of the United States and of such State.

5. Those who shall engage in the service of any foreign belligerent contrary to the provisions of the neutrality laws of the United States.

6. Those who may connect themselves with any association in any foreign country, whose organization requires citizenship of such country as a qualification for membership thereof.

7. Those citizens who shall return to the country of their birth with intent to resume a domicile therein, which intent shall be presumed from five years' continuous residence in the native country of any such citizen, or from the establishment of any business therein which requires his personal attention, and which denotes an intention of remaining a permanent resident.

8. Those persons who have procured the evidence of naturalization by misrepresentation or fraud in regard to residence or otherwise.

9. Those who have deserted from actual service in the army or navy of any foreign State, or who, owing military service to their native country, have left it to avoid a conscription actually ordered.

SEC. 4. *And be it further enacted*, That any citizen of the United States who shall have lost or renounced his citizenship in either of the modes hereinbefore set forth may again become entitled to the same by resuming his permanent residence in any State or Territory thereof, and by making declaration of his intent to resume his citizenship in the clerk's office of any court of the United States.

Mr. JUDD. Will the gentleman from Rhode Island [Mr. JENCKES] yield to me for a moment?

Mr. JENCKES. For what purpose?

Mr. JUDD. I desire to offer a substitute for this bill, or at least to have it read.

Mr. JENCKES. I will yield to allow it to be read.

The Clerk read as follows:

1. The Government of the United States was established on the principle that every individual man has an inalienable right to life, liberty, and the pursuit of happiness, and that Governments were instituted among men to secure those rights: and as a means necessary to secure them the express power to establish a uniform rule of naturalization was vested in Congress by the first article of the Constitution of the United States.

2. That since 1790 this constitutional power has been exercised by Congress and for more than three quarters of a century, during which period many millions of people from foreign lands have abjured allegiance to the Governments under which they were born, and, relying upon the naturalization laws of the United States and the faith of the Government for their protection, have become citizens of the United States, contributing by their industry, intelligence, and patriotism to the national prosperity, national security, and national honor.

3. That by the Constitution and laws of the United States no distinction is made between the rights of citizenship belonging to native-born citizens and to naturalized citizens of the United States born in other countries or in the protection due to them from the Government; both classes, subject to the same national duties of citizenship, are justly entitled to the same national protection, the solitary distinction being that the President must be native born.

4. That the naturalization laws of the United States made pursuant to the Constitution, and in force since 1802, required foreign-born persons, as a condition of becoming naturalized citizens of the United States, to abjure all allegiance and fidelity to any other Government, "to absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty whatever," and particularly by name the Power, potentate, State, or sovereignty whereof he was before a citizen or subject; and hence the principles and doctrines of the English common law and all other conflicting doctrines and principles of the systems of jurisprudence respecting the rights and duties of foreign-born citizens of the United States were abolished within the jurisdiction and territory of the United States.

5. The obligations of a Government to protect and defend its native-born citizens at all times and in all countries is conceded in all civilized States and sovereignties; and naturalized citizens having the same rights as native born under the Constitution and laws of the United States, they are entitled to the same protection, and hence against any exaction of military or other service or duty which it would be the duty of the United States Government to protect its native-born citizens from it is equally bound to afford protection, assistance, and redress in behalf of its naturalized citizens.

6. That the naturalization laws of the United States form a part of its national and political system, in force for nearly three quarters of a century, and all foreign Governments whose citizens have heretofore become naturalized are chargeable with notice and acquiescence therein, which cannot now be controverted with due regard to the rights and dignity of the United States Government.

7. The war with Great Britain in 1812 was in a great measure brought on by the violation of the rights of naturalized citizens of the United States, and since that time the impressment of seamen because of their alleged native allegiance to the crown has been in practice abandoned by the British Government.

8. That Congress has the power to declare and vindicate the rights of naturalized citizens, and their present condition and treatment in foreign countries shows that their protection cannot safely be intrusted exclusively to the executive department, but should be enforced by imperative laws.

9. That naturalized citizens charged with crime in a foreign land are entitled to the protection of the United States to the extent that it shall see that the laws of such country are fairly and impartially administered without prejudice or perversion.

10. That the United States are in duty bound to see that no citizen of the United States is tried or punished within a foreign jurisdiction for acts done or words uttered within the United States or any other country except that wherein the prosecution is instituted.

11. That it is the duty of the Government of the United States to demand the immediate discharge and release of all citizens restrained of their liberty in violation of the principles herein declared and just reparation for the wrong any citizen may have suffered.

Resolved, That the executive department be instructed to carry out the doctrines and enforce the rights herein enunciated, and to report to Congress any refusal or neglect on the part of any foreign Government to recognize the demand so made.

Mr. ELDRIDGE. At the proper time, if the distinguished gentleman from Rhode Island will yield to me I will move to strike out the following portion of his substitute:

But such protection shall not be accorded to the following classes of persons, and the Executive shall not interfere in their behalf after their quality shall have been ascertained:

1. Those who have renounced their citizenship in either of the modes described in the preceding section.

2. Those who may be guilty of any crime against the laws of any foreign State committed within its jurisdiction.

3. Those who, by treason or any other crime against the United States, shall have forfeited their rights as citizens of the United States.

4. Those who shall have been absent from the United States for more than five years continuously, and who shall have failed to make return of their income and property for taxation, and shall have paid taxes in the district and State within the United States where they have each had their last domicile, during each year of such absence, in the manner required by the laws of the United States and of such State.

5. Those who shall engage in the service of any foreign belligerent, contrary to the provisions of the neutrality laws of the United States.

6. Those who may connect themselves with any association in any foreign country whose organization requires citizenship of such country as a qualification for membership thereof.

7. Those naturalized citizens who shall return to the country of their birth with intent to resume a domicile therein, which intent shall be presumed from five years' continuous residence in the native country of any such naturalized citizen, or from the establishment of any business therein which requires his personal attention, and which denotes an intention of remaining a permanent resident.

8. Those persons who have procured the evidence of naturalization by misrepresentation or fraud in regard to residence or otherwise.

9. Those who have deserted from actual service in the Army or Navy of any foreign State, or who, owing military service to their native country, have left it to avoid a conscription actually ordered.

I also modify the fourth section so as to conform to that amendment.

Mr. Speaker, I move that amendment for this reason: with the amendment I think I can vote for the substitute; without it I cannot. It seems to me the substitute, adopted as it stands, would give an opportunity to foreign nations to question the validity of the certificate of naturalization given to those whom we adopt as our citizens. It leaves a door open for doubts and difficulties and questions upon the certificate of naturalization. Although there may be good reasons specified in some or each of these propositions for exceptions for excluding an individual from the rights otherwise guarantied, yet it seems to me we ought not to allow any foreign State to raise any such question upon the certificate of naturalization we give to our citizens. That certificate, sir, ought to import *prima facie* absolute verity, and should be respected by every nation upon the face of the globe. The question whether the individual has been naturalized, and thereby is a citizen, is the only material question. It is the only question that ought to be considered or permitted to be raised. All other questions belong to our own internal policy and are material to ourselves only. The citizen, when he demands the protection of his Government, should not be subject to trial for treason or any other crime against the Government. If charged with crime he is as much entitled to the protection provided for by this substitute as if he were not. Let him be protected and then try him according to law. In this way only can the speedy and fair trial guarantied by our Constitution be secured. Suppose the citizen to be imprisoned in a foreign country, and on our demand for his discharge it be alleged that he is guilty of some crime specified in these exceptions, is it to be tolerated that he should be held in a foreign prison till he is tried and acquitted? I repeat that no such question should be permitted. The fact of citizenship of the United States alone should procure and secure protection. I trust, therefore, the gentleman from Rhode Island will agree to strike out all these exceptions from his substitute.

Mr. JENCKES. If my substitute should be adopted as the basis of legislation by this House I certainly should cheerfully yield to the gentleman from Wisconsin [Mr. ELDRIDGE] to offer any amendment which would make certain any point which may be doubtful. It is not the design of the bill to give any nation or any agent or officer of any foreign nation the right or power to question the genuineness or validity of a certificate of naturalization.

Mr. BUTLER. I submit the following substitute for the pending bill, and move that it be printed:

Whereas the Government of the United States, framed by a people made up wholly of colonists and emigrants from other nations, by the very theory of its composition declares the indefeasible right of all men, when untainted by crime against the municipal laws of their country at the time of their departure, to expatriate themselves and to form new relations of citizenship in other lands at will: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under the Government and by the laws of the United States it is declared a settled rule of public law that every citizen of any country not a fugitive from its justice has an indefeasible right at will to expatriate himself and absolve his allegiance to the country of his birth; and when, under the laws of the United States, any such citizen of a foreign country has become a citizen of the United States he is entitled to have all the protection at home and abroad which the Government can afford to any citizen thereof; and it shall be given to every citizen until, by removal from its territory with that purpose by a like solemn act, he shall have renounced his allegiance to this Government.

SEC. 2. Whenever a citizen of the United States shall be deprived of his liberty or despoiled of his property in any foreign country by the act of the Government thereof, he not being held for trial for, or convicted of, a crime against the municipal laws of such country for acts done therein, his release or reparation for the spoliation shall be demanded by the President, and upon failure of compliance with such demand by said Government, or reasons given therefor satisfactory to the President, all diplomatic and commercial intercourse between such country and the United States shall thereupon cease until such citizen be released or reparation tendered; and the President shall as early as possible communicate all the facts in relation to the deprivation of liberty or spoliation of property of such citizen by such Government and the reasons therefor to the Congress of the United States for its action.

The motion was agreed to.

Mr. PRUYN. I offer the following amendment to the substitute of the gentleman from Rhode Island, and move that it be printed:

Additional paragraph to section two:

Fourth. By signing a declaration in writing renouncing his citizenship, which shall be acknowledged by him before a judge of any court of record of the United States or of any State, or before a notary public in any State; or if such person be abroad, then before any diplomatic representative, consul, vice consul, or consular agent of the United States, and on filing such certificate in the office of the Secretary of State the person named therein shall thenceforth cease to be a citizen of the United States. The Secretary of State shall prepare such forms and instructions as may be necessary to carry out this provision.

The motion was agreed to.

Mr. BOYER. I give notice that at the proper time I shall move to strike out all after the first section of the substitute of the gentleman from Rhode Island.

Mr. JENCKES. I yield now to the gentleman from Vermont.

Mr. WOODBRIDGE. Mr. Speaker, within my own observation or experience no graver question has ever been presented before the American Congress than the one under consideration. In whatever aspect we view it, one of two results must inevitably follow, either successful negotiation or a foreign war. It becomes us, then, to consider it in view of the great responsibility resting upon us, involving, as it may, not only the future peace of our Republic, but also the destiny of the present ruling nations of Europe. It rises above party. It rises above the making or unmaking of Presidents. It assumes the proportions of a great national question, enunciating the inherent right of expatriation and the determination of our Government to extend hereafter the same protection of person and property to the naturalized and native-born citizen. Europe, and more especially England, for many years, both as a matter of humanity and public policy, have stimulated emigration by granting subsidy to individual enterprise in that direction, and have at various times discussed in Parliament the propriety and necessity of making the plan of emigration national—overburdened with taxes and crowded with a population too large for her capacity of production, deportation became a necessity, and the United States, with its free institutions and vast extent of unoccupied and fertile public lands, presented the greatest attraction. Our fathers foreseeing that our vast territory must to a great extent be occupied by those owing natural allegiance to foreign Powers provided by law a plan whereby they could divest themselves of that allegiance and become subjects and citizens of the Republic.

Sir, the law by which we declare that under certain regulations foreigners may acquire all the rights of a native-born citizen, would seem to imply that under similar or proper circumstances a native-born citizen of the United States may expatriate himself and assume allegiance to a foreign Power. The judiciary of the country, however, seem to have avoided any authoritative expression upon this point, and it is perhaps fair to admit that in the judicial tribunal the common-law doctrine, that a subject cannot expatriate himself without the sanction of the Government to which he owes the allegiance of birth, is inferentially, at least, maintained. That it has been may be a matter of some surprise, when we reflect that before a foreigner is admitted to the privileges of a citizen he is required, under oath, to abjure forever all fidelity and allegiance to every foreign prince, potentate, or sovereignty whatever; and more particularly all allegiance to the sovereign to whom he owes the natural allegiance which attaches to birth. It would naturally be supposed that the laws regulating naturalization were based upon the idea that a subject can expatriate himself and fully and forever throw off his natural allegiance. This is undoubtedly the view of the most approved writers upon public law. It is the doctrine of Grotius, Puffendorf, Vattel, and many others; and Cicero says that it is one of the firmest foundations of Roman liberty that the Roman citizen had the privilege to stay or renounce his residence in the State at pleasure. The proposition that once a citizen always a citizen is based upon the feudal systems under which there were no free citizens. The subject was born and chained to the soil as the vassal of a lord or superior. He had no voice in the direction of public affairs. Government, such as it was, was not made for him or by him; he was made for the Government; Government was cruelty and law was brute force; manhood had no place, and the individual man no personal rights; and it was from this source and system that Blackstone derived his idea of indefeasible and perpetual allegiance to the English Crown. And hence he says that it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own—no, not by swearing allegiance to another—put off or discharge his natural allegiance to the former, for this natural allegiance was intrinsic, and primitive, and antecedent to the other, and cannot be divested without the concurrent act of that prince to whom it was first due. Is such a doctrine based upon any true philosophy? Is it in accord with the progress and the civilization of the nineteenth century? Is it consistent with our fundamental declaration that all men are endowed with certain inalienable rights, among which are life, liberty, and the pursuit of happiness? What, sir, does that comprehensive phrase, the "pursuit of happiness," mean? Is it to be controlled by the accident of birth? Is it to be circumscribed by certain defined limits of locomotion? Does it subject a man forever to an allegiance, cast upon him by reason of the domicile of his parent, to a Government under which the poor never grow rich and the humble-born never rise? Is it to be obliged to uphold by life and limb a Government which, by its customs or its laws, disregards or tramples upon or neglects the rights of even its humblest citizen? By no means, sir. And yet, if the common-law doctrine of the right of expatriation is sustained, such are the trammels imposed upon our republican idea that the pursuit of happiness, which includes the entire well-doing and well-being of man, is an inalienable right. The theory of our Government, sir, is that all men are created free and equal; and the foundation of our Republic is laid in that great principle, which underlies all true manhood, that in strict subjection to enlightened and just law every man shall be protected in all his natural rights and enjoy the full and free exercise of that conscience which is a part of God within the human soul. In Europe such an idea is not recognized, or, if recognized, is not accepted. There man is made for the Government, not Government for man. Here the power is in and of the people, and the Government is made by them and for them. Our institutions are free and invite the people of all nations to come and enjoy them with us, and prescribes the regulations under which they may become citizens of the Republic. Now, sir, the obligations of the citizen and the Government are reciprocal. The subject abandons that to which he is entitled when free from the restraints of an organized society. He no longer protects himself

by natural law, which is simply the law of force, but yields fealty, allegiance, obedience to an organized Government. Then the faith and honor of the State are pledged to his protection. Sir, wherein are the obligations of a naturalized citizen less or different than the obligations of a native-born citizen? Are they not the same? Is not each equally bound by his oath to regard the law and support and defend the Constitution? Then, sir, if the obligations are the same, wherein does the duty of the Government to each differ? Certainly nowhere. We cannot plead difference in obligation. We can only plead *non possumus* in view of the old feudal doctrine stated by Blackstone and adopted as a part of the common law of England, that once a citizen by the accident of birth expatriation under any circumstances less than the consent of the sovereign is an impossibility. The doctrine, sir, is not only at war with the theory of our institutions, but is equally at war with every principle of justice and of sound public law.

I am aware, sir, that we are about taking a step which may involve us in difficulty with European Powers. It is to be hoped that our position will be accepted. If not, sir, we must take the consequences. Personal death is better than personal dishonor. War is better than national dishonor.

We are told in the able and exhaustive report presented by the chairman of the Committee on Foreign Affairs [Mr. BANKS] that about three fifths of our people are of foreign descent. They with the native born have fought for the honor of our flag; they with the native born have preserved their country and our country; their bones lie mingled in the soil of every battle-field of the rebellion. Ireland, with a people as brave, as patriotic, as patient, and as oppressed as any nation of Europe, looking to us as an example and demanding the recognition of rights which she deems to be justly hers, has the sympathy of thousands of her gallant sons in our country. For the expression of that sympathy within our jurisdiction England arrests and imprisons them, for having violated their natural and indefeasible allegiance; and upon the same principle, if hereafter through war we shall be obliged to teach our arrogant mother another lesson, every patriotic Irishman who will then stand, as he already has stood, by the flag of his adopted country, will, if captured, commit the crime of treason, and be liable to be hanged upon an English gibbet. Sir, it is high time that we assert calmly but firmly and in unmistakable terms the true doctrine of public law, that this Republic will at any and every hazard render to the naturalized citizen the same rights and the same protection that it does to the native born.

We can pursue no other course if we adhere to the accepted principles upon which our Government was established; and it is to be hoped that the enlightened nations of Europe, conceding that we plant ourselves upon recognized public law, upon abstract justice, and upon a necessity arising as well from the condition of our society as the theory of our Government, will readily yield their old feudal relic to our reasonable demand. The question, it must be admitted, is involved in difficulty, for it trenches upon both the custom and the prejudice of Europe. And yet the time seems to have arrived when, by positive enactments, the doctrine which we have long asserted, and respecting which so much skilled and politic diplomacy has been exhausted, should be enunciated and firmly adhered to.

The first provision in the bill reported by the honorable chairman of the Committee on Foreign Affairs [Mr. BANKS] is a manly and firm declaration of our position; but, sir, the sentence immediately succeeding seems to me to paralyze its force. The declaration of the principle of "public law" would seem to amount to nothing but a guide to the Executive to secure by negotiation what we demand as a right. Why, sir, the claim is not a new one. It has been a subject of diplomacy with almost every Administration since the foundation of our Government. No one can have forgotten the celebrated papers of Webster and Marcy; each claiming this to be the true principle of public law which the United States could not yield. And Mr. Seward, in his letter to our minister at Prussia, respecting the arrest of natives of Prussia who had sworn allegiance to our Government upon a temporary visit to their native country, on account of their liability to military service, says that the United States have accepted and established a Government upon the principle of the rights of men who have committed no crime to choose the State in which they will live and to incorporate themselves as members of that State and to enjoy henceforth its privileges and benefits, among which is included protection. This principle is recommended by sentiments of humanity and abstract justice. It is a principle which we cannot waive. So that, Mr. Speaker, it seems to me the first section, down to the proviso, amounts to nothing definite. It neutralizes itself and leaves us in regard to this very important question precisely where we now stand.

The second section, which provides that in case any naturalized person is arrested and detained by any foreign Government in contravention of the intent and purpose of the act, and whose release upon demand shall have been unreasonably delayed or refused, the President of the United States shall arrest any citizen or subject of such foreign Government, and as soon as may be report the facts to Congress, &c. I am opposed to this provision, sir, upon two grounds. The system of hostages in time of peace is against modern civilization and modern international law. It is at best an unnatural and barbarous system, and can only be justified to meet the exigencies of war. Again, the provision commits too much power to the Executive. It authorizes him to do that which is in and of itself *casus belli*. In fact, it incidentally delegates to the President the power vested in Congress alone by the Constitution. Of the various propositions which have been submitted to the House, that of the gentleman from Rhode Island [Mr. JENCKES] is preferable. It announces in the first section the old Roman law as to the right of expatriation. The second section is in accordance with the code of Napoleon as to the manner in which a citizen may lose his national character. The third section asserts what we claim to be the public law, to wit: that when a foreigner has thrown off his natural allegiance by assuming, under the forms of law, an allegiance to our Government he shall receive as to his person and property every protection which we can lawfully afford to a native-born citizen. Thus the question is met fairly and squarely without advancing any new claim or doctrine, but giving to what we have always insisted upon, the force and moral effect of defined and public law.

The bill provides that the Executive shall not interfere in behalf of certain excepted classes of persons. Most of these naturally suggest themselves upon the ground of national comity. The second excepted class, namely, those who may be guilty of any crime against the laws of any foreign State committed within its jurisdiction, has a more direct bearing upon our German citizens; but I can hardly see how we can avoid making the exception. Prussia has a naturalization law, and we would hardly admit that if an American citizen had left our country with a crime resting upon him and after having been naturalized there should return he would not be amenable for the crime under our laws. The law of Prussia making it a crime to leave that country before rendering a prescribed term of military service we certainly cannot commend or approve, and it is to be hoped and expected that the liberal ideas in regard to personal rights and personal liberty, which are rapidly attaining in the German States, will induce a more just and liberal policy. Count Bismarck is desirous to settle this vexed question, and substantially proposed the exemption of all Prussian subjects returning to their native land who had left before their seventeenth year, and also all other persons who were not in the army or notified to enter at the time of leaving, and who shall have been out of the country for ten years. I apprehend, sir, that Prussia will be among the first to recognize the justice and agree to the principles of the law. With France and England it may be otherwise. Neither of them love our free institutions, and both of them are jealous of our power. France, in the day of our tribulation, planted her standard in Mexico, with the intention of establishing a monarchy under European auspices and holding the key to the finest cotton-growing region upon our continent. England, in direct violation of law, attempted, directly and indirectly, to cripple and destroy our commerce. Both Governments sympathized with the rebellious South and desired that our Republic should be severed. Should a firm and manly adherence to the doctrine enunciated in the bill under consideration involve us in war we must accept the issue. Planting ourselves upon the right; asking from other Governments nothing but what we are willing to yield to them; sustained by sound public policy and the principles which underlie free Governments, we give the force of law to what heretofore has been the subject of diplomacy. We owe the duty to ourselves, we owe it to those brave men who have cast their lot with ours, who have defended our flag with their blood, and now that peace has dawned are cheerfully sustaining the great burden which rests upon us.

The SPEAKER. The morning hour has expired, and the bill goes over till to-morrow. The Chair will suggest, as there are numerous amendments to this bill pending, whether it would not be wise to have them all printed, together with such amendments as members propose to offer?

Mr. PRUYN. I make that motion.

The motion was agreed to.

ENROLLED BILL.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 452) for the relief of Captain C. P. Johnson; when the Speaker signed the same.

MANUFACTURERS' CONVENTION AT CLEVELAND.

The SPEAKER, by unanimous consent, laid before the House a memorial of business men of Cincinnati, in favor of the resolutions of the manufacturers' convention held at Cleveland, Ohio, December 18, 1867; which was referred to the Committee of Ways and Means.

WITHDRAWAL OF PAPERS.

On motion of Mr. MILLER, the papers in the case of Aloysius J. Kane, now before the Committee on Naval Affairs, were withdrawn, copies of the same being left.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the legislative appropriation bill. Before the motion is put, however, I desire to state to the House that the chairman of the Committee of Elections [Mr. DAWES] wishes to bring up the Kentucky contested-election case to-morrow. I hope, therefore, that the committee will dispose of this bill this afternoon. It is very important that we should send some of these appropriation bills to the Senate for action there if we expect to get through them in good season.

Mr. INGERSOLL. I ask my colleague to allow me to ask the House——

Mr. WASHBURNE, of Illinois. Excuse me——

Mr. INGERSOLL. I ask the gentleman to hear my proposition first. There are in this city several thousands who are now suffering for bread. A proposition has passed——

Mr. WASHBURNE, of Illinois. I know the gentleman will overcome me if he continues his speech, and so I decline to yield. I now renew the motion that the rules be sus-

pended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to go back to page 12, line two hundred and seventy-six, and strike out $100,000 and insert $40,000; so that it will read:

For publishing the laws in pamphlet form and in newspapers of the States and Territories and in the city of Washington, $40,000.

From information we have from the State Department we are led to believe that $40,000 will be sufficient for the purpose intended in that paragraph.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I ask the committee also to go back to lines two hundred and ninety-three and two hundred and ninety-four. There is an omission made of an amount for the rent of the building occupied by the State Department at present, which is $15,000. We have received a message from the State Department this morning calling attention to the omission. I propose, therefore, to insert after the word "for" the word "rent," and also to insert "twenty-five" instead of "ten;" so that it will read:

For contingent expenses of said building, namely, for rent, fuel, lights, repairs, and miscellaneous expenses, $25,000.

The amendment was agreed to.

Mr. GARFIELD. I ask unanimous consent to go back to page 26 to offer an amendment.

No objection was made.

Mr. GARFIELD. In line six hundred and twenty-three I move to strike out "$1,000" and insert "$900" in lieu thereof; so that it will read, "one messenger, $900."

Mr. WASHBURNE, of Illinois. Let me say to the gentleman from Ohio that that ought not to be changed, because the same principle runs through the whole bill. Under the existing law every employé whose salary is below $1,000 is entitled to twenty per cent. additional. This man's salary is $900, and the twenty per cent. is included here. He cannot get more than that. That is the law in regard to all these messengers and laborers.

Mr. GARFIELD. I am entirely willing to withdraw the amendment, but before doing so I desire to call attention (for I was not here yesterday when this part of the bill was passed) to the very remarkable discrepancy between the appropriations put down on this page of the bill and the estimates laid before us. I find by the estimates that in the Adjutant General's office there are now employed under the law three clerks of class four, nine clerks of class three——

Mr. WASHBURNE, of Illinois. I must call the gentleman to order. He asked consent to go back for one purpose.

The CHAIRMAN. The Chair understands that the gentleman from Ohio is speaking to his amendment.

Mr. WASHBURNE, of Illinois. He is not. He asked consent to go back for a specific purpose, and now he has agreed that he does not wish that purpose accomplished.

Mr. GARFIELD. I will withdraw the amendment; but I wish the gentleman would explain why it is that this very great reduction has been made in the force in the Adjutant General's office. I do not object to it, but I want some explanation. If the gentleman can explain it I shall be satisfied. But it seems to be a very remarkable reduction—a reduction of seventy or eighty clerks on the number that the law now provides for the Adjutant General's department. So far as I know nothing has been said in explanation of this reduction. I shall be very glad if we are able to make it, and the department can get along with the reduced force; but I desire some explanation.

Mr. BLAINE. The explanation is just in one word. Every clerk who has been left out is of a class provided for specifically by the statu e during the rebellion, and no longer. Now they may be needed; I do not know whether they are or are not; but I do know that there is no law for their further employment. If there is a necessity for a new law, it is just as much incumbent on the gentleman from Ohio to introduce that law as on any member of the Committee on Appropriations. They have simply reported this bill in accordance with law. That is all.

Mr. GARFIELD. I withdraw the amendment.

The Clerk resumed the reading of the bill, and read the following paragraph:

Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, $10,000.

Mr. ROBINSON. I move to add at the end of that paragraph the following proviso:

Provided, That the entire expenses of the office of Secretary of War, including clerk hire, messengers, assistants, laborers, books, stationery, maps, labor, extra clerks, watchmen, fuel, light, and miscellaneous items, shall not exceed in each item the amount allowed in this bill for similar purposes to the executive department.

Mr. Chairman, there has been an attempt here to save at the spigot and let out at the bung. There was an effort made yesterday to cut down the allowances made to the executive department. The appropriation of $3,000, reported by the Committee on Appropriations, for stationery and miscellaneous items, was cut down to $1,000, and here, after making all sorts of allowances to the War Department on the last seven or eight pages of the bill, we find this last item which has been read by the Clerk. Now, this place of Secretary of War is but a subordinate position to the Executive, and I see no reason why these appropriations of ten and twenty thousand dollars for stationery and other miscellaneous expenses should be lavished on this subordinate position, which is nothing but an addition to the executive department, giving to the subordinate officer ten times as much as is allowed to the Chief Executive; and particularly when you turn over and find that for the offices of Adjutant General, Quartermaster General, and Paymaster General for blank books, stationery, &c., there is appropriated by this bill $15,000, $10,000, $7,000, &c.; thus providing for every part of the War Department, throwing away thousands and tens of thousands of dollars, I might almost say a half million dollars, for the War Department, while we are cutting down in an extravagant, if not unstatesmanlike, manner the little allowance for the Executive.

Mr. WASHBURNE, of Illinois. I will confine myself, in my remarks, strictly to the question. This is an item which has been in every appropriation bill from time immemorial. The only question has been as to the amount to be appropriated. Last year we appropriated the sum of $15,000.

Mr. BLAINE. And the same for several years preceding.

Mr. WASHBURNE, of Illinois. Yes, and for several years preceding. The Secretary of the Treasury, in sending in the estimates for all the Departments, sent in an estimate for $20,000 for the next fiscal year. The Committee on Appropriations, acting in this matter as they have in all others, have cut down the estimate one half, and have reported this sum of $10,000.

The question was taken upon the amendment of Mr. ROBINSON; and upon a division there were—ayes twenty, noes not counted.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill.

The following clause having been read:

Office of the Paymaster General:

For blank books, stationery, binding, and miscellaneous items, $7,500,

Mr. WASHBURNE, of Illinois, said: I move to amend the paragraph just read by striking out "$7,500" and inserting "$15,000." The appropriation last year was $10,000. Owing to the vast amount of business thrown into the Paymaster General's office by the bounty act, there is already a deficiency which will have to be provided for in the deficiency bill. The estimate for this item for the next fiscal year is $15,000. The Paymaster General has sent a letter to the Committee on Appropriations, which I ask the Clerk to read, in explanation of the increase proposed by this amendment.

The Clerk read as follows:

PAYMASTER GENERAL'S OFFICE,
February 12, 1868.

SIR: In the appropriation bill presented by your committee, and now before the House, you propose for the contingent expenses of this office for the next fiscal year, $7,500, just one half the sum stated for that purpose in my annual estimate of August 19th last to the Secretary of War.

I have the honor respectfully to urge that such amendment be made as to give the full amount of that estimate, $15,000, which sum, I am convinced, after a careful examination of the subject, will be hardly sufficient. The extraordinary consumption of stationery, &c., growing out of the adjustment of bounty claims, will continue in the present ratio, at least, for another year without sensible diminution. The past contingent expenses of the office show a monthly average of $1,246 75, equal to $14,961 per year.

I have the honor to be, very respectfully, your obedient servant.

B. W. BRICE,
Paymaster General.

To the Honorable the Chairman of the Committee on Appropriations, House of Representatives.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations thought that letter gave a sufficient explanation for the proposed increase. It may be stated further that the article of "furniture" comes under "miscellaneous items." The Paymaster General, as every gentleman must know who has been in his office, has had no new furniture or repairs of furniture for years, and everything there is now very shabby. I think this amendment should be adopted.

The amendment was agreed to.

The Clerk resumed the reading of the bill.

The following paragraph was read:

For the general purposes of the War Department building:

For compensation of superintendent, four watchmen, and two laborers of the building, $4,570.

Mr. ROBINSON. I move to strike out this paragraph. In other items connected with the War Department there are enough watchmen provided for.

The amendment was not agreed to.

The Clerk resumed the reading of the bill.

The following paragraph was read:

For compensation of the Assistant Secretary of the Navy, $3,500; chief clerk, $2,200; one fourth-class clerk, (also as disbursing clerk,) $2,000; four clerks of the fourth class, $7,200; five clerks of the third class, $8,000; three clerks of the second class, $4,200; three clerks of the first class, $3,600; one messenger, $1,000; one assistant messenger, $720; two laborers, $1,440.

Mr. GARFIELD. I move to amend this bill by inserting after the paragraph just read the words, "for Solicitor and Naval Judge Advocate General, $3,500."

I offer this amendment in order that I may make an inquiry of the gentleman who has charge of this bill [Mr. WASHBURNE, of Illinois] why this officer has been left out of this bill? I do not make this motion because I have any particular knowledge upon this subject other than that the estimates for the appropriation for the Navy Department put down this officer as one that was necessary. I understand there is a general provision at the end of this bill repealing all offices and dropping from the service all clerks, and, indeed, all bureaus and departments that are not appropriated for in this act.

I desire to call the attention of the committee to this remarkable kind of legislation. We are, I suppose, to be asked by and by to legislate out of existence a very large class of officers or employés of the Government, appropriations for whom are omitted in this bill; and unless members observe, as we pass on, the omissions of the bill they will have no adequate idea of how many hundreds or how

many thousands of persons are legislated out of official existence; nor will they know how many departments or bureaus of the Government are abolished by three lines toward the conclusion of this bill. For the purpose of calling the attention of the committee to that subject I have offered this amendment; for in the estimates of appropriations sent in by the Department the committee will find on page 46 the item: "For Solicitor and Naval Judge Advocate, per act March 2, 1865, 13 Laws, page 460, $3,500." Now I find this bill includes no provision for this officer.

Mr. WASHBURNE, of Illinois. I have not waived the point of order which I think may properly be made on the gentleman's amendment. The gentleman, I believe, merely offers the amendment for the purpose of making an inquiry.

Mr. GARFIELD. I said that I offered the amendment for the purpose of making an inquiry. If the gentleman can satisfy me that the amendment is unnecessary, I will, of course, withdraw it.

Mr. WASHBURNE, of Illinois. The principal part of the gentleman's speech does not apply to his amendment. There are, I need not say to the gentleman, many officers left out in this bill; and we propose to legalize the omission of them by a general sweeping provision at the end of the bill. But that does not apply to this case. This office is not now in existence under the law. I have sent for a copy of the act establishing the office; and gentlemen will see that the office was to be continued only during the rebellion and for one year thereafter. The office has ceased to exist by the expiration of the law creating it.

Mr. GARFIELD. When did it expire?

Mr. WASHBURNE, of Illinois. One year after the rebellion closed.

Mr. GARFIELD. When was that?

Mr. WASHBURNE, of Illinois. Some two years ago.

Mr. SPALDING. Will the gentleman yield to me for a moment?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. SPALDING. Mr. Chairman, I recollect very well that when we created this office of Solicitor and Naval Judge Advocate I thought it was unnecessary and objected to it very strongly; but I was persuaded by others to consent to the creation of the office temporarily during the war. I believe that by the act creating the office it was to continue only during the war and one year thereafter.

Mr. WASHBURNE, of Illinois. If the gentleman will permit me, I will read the law.

Mr. SPALDING. I give way for that purpose.

Mr. WASHBURNE, of Illinois. The act provided—

"That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, for service during the rebellion and one year thereafter, an officer in the Navy Department, to be called the Solicitor and Naval Judge Advocate General, at an annual salary of $3,500," &c.

Mr. SPALDING. Mr. Chairman, for a great number of years after our present form of government was adopted we looked to the Attorney General of the United States and the officers of his department for the construction of acts of Congress and other legal services needed by the various departments. In modern times it has become fashionable to have a solicitor and attorney for nearly every department of the Government. I contend that this practice is all wrong, involving needless expenditure on the part of the Government and tending to create confusion in the administration of the legal business of the Government. We ought to systematize this business and place it all under the direction of the Attorney General. There is no necessity, in my apprehension, for this office of solicitor of the Navy Department. The Committee on Appropriations have omitted in this bill the appropriations heretofore made for this office, because the law creating the office has expired, and we did not consider it necessary to revive it. Now, sir, I am as much in favor of necessary appropriations for the Navy Department as for any Department of the Government, and I will vote for such appropriations; but I believe this office to be altogether unnecessary, and consequently shall vote against this amendment.

Mr. WASHBURNE, of Illinois. I now ask a decision on the point of order which I raised on the amendment.

The CHAIRMAN. The Chairman overrules the point of order on the same ground already explained several times during the pendency of this bill.

Mr. GARFIELD. For my part I am willing to withdraw the amendment.

Mr. TWICHELL. I renew the amendment.

Mr. PIKE. I will state in relation to this office that during the last year the solicitor examined some five hundred cases of courts-martial and other cases which came before him, and it is the opinion of the Secretary of the Navy it would be better to pay this salary than to employ legal assistance when needed. It is only fair to both gentlemen to state this fact. I will state further that the opinion furnished by the solicitor of General Grant is just this: that this is as necessary as the corresponding office in the Army. It is but fair to make this statement.

Mr. SPALDING. Is there any solicitor of the War Department now?

Mr. PIKE. It is called the Bureau of Military Justice. General Holt is at the head of that bureau.

The amendment was agreed to.

The Clerk read as follows:

For compensation of the Assistant Secretary of the Navy, $3,500; chief clerk, $2,200; one fourth-class clerk, (also as disbursing clerk,) $2,000; four clerks of the fourth class, $7,200; five clerks of the third class, $8,000; three clerks of the second class, $4,200; three clerks of the first class, $3,600; one messenger, $1,000; one assistant messenger, $720; two laborers, $1,440.

Mr. PIKE. In line seven hundred and fifty-five I move to strike out "four" and insert "six," so it will read "six clerks of the fourth class." The result of that amendment is to retain the numerical force in that part of the Navy Department at its present pay. The proposition of the committee is to increase the clerical force, making fifteen instead of fourteen, as at present. My proposition is to retain the present force at its present pay. I hope we will not reduce that class of service.

Mr. WASHBURNE, of Illinois. The change in the bill from that of last year is because of the dismissal of certain clerks under a subsequent law. The gentleman from Maine understands that a certain number of clerks were appointed to continue during the rebellion and for one year afterward.

Mr. PIKE. That was overruled.

Mr. WASHBURNE, of Illinois. What I wish to say is that there is no law now in existence which would justify the gentleman's amendment. If it be adopted it will create additional offices and additional clerks.

Mr. PIKE. According to the ruling of the Chairman there is a law in existence.

The CHAIRMAN. The Chair did not so rule. That was not the reason assigned by the Chair.

Mr. PIKE. I understand the ruling was that the law providing for clerks for one year after the rebellion is still in force.

The CHAIRMAN. That was not the point raised, and it was not the reason assigned by the Chair.

The amendment was rejected.

Mr. PIKE. I move to insert "$840" instead of "$720" for the assistant messenger. It is his present pay. He is the messenger who has been standing at the Secretary's door for the last forty years, and gentlemen of the House are all familiar with him. He is a respectable man and he thinks it hard upon him to economize by taking off from his pay $120. It strikes me so, too.

Mr. BLAINE. I rise to oppose the amendment, and wish to say a word. I want to generalize this matter so that we may not have a discussion on every one of these items. The clerical force reduced in this or any other portion of this bill has been reduced by the committee in accordance with one of two acts, the act of March 3, 1864, or the act of February 16, 1863. The act of March 3, 1864, says that in addition to the clerical force now authorized by law "the following clerks and employés are hereby authorized to be employed and to continue only during the rebellion and for one year thereafter." Now, I say the Department was grossly culpable in sending to this House estimates for these clerks and referring to these laws as authority for employing them. I am not prepared to say the reductions the committee has made ought to be adopted. It may be that more clerks may be needed. I do not know about that. But, sir, these Departments have no right to send here estimates for clerks who were only to continue during the rebellion and for one year thereafter.

Mr. PIKE. According to the law of 1862 this man's pay was $700 and not $720. It is now $840.

Mr. WASHBURNE, of Illinois. I think the gentleman is right. The original salary was $700, and twenty per cent ought to be added.

The amendment was adopted.

The Clerk read the following:

For compensation of the chief of the Bureau of Yards and Docks, $3,500; for civil engineer, $2,000; chief clerk, $1,800; one clerk of the third class, $1,600; three clerks of the second class, $4,200; one clerk of the first class, $1,200; one draftsman, $1,400; one messenger, $1,000; two laborers, $1,440.

Mr. PIKE. I move an amendment to the paragraph in regard to yards and docks in accordance with existing law.

Mr. WASHBURNE, of Illinois. We have passed that.

Mr. PIKE. I ask the committee to hear me one moment.

The CHAIRMAN. Does the gentleman propose an amendment?

Mr. PIKE. I propose an amendment to the paragraph in regard to yards and docks. I hope the gentleman from Illinois will not take so small an advantage of me as to insist on his point of order.

Mr. WASHBURNE, of Illinois. I do not withdraw it. We have passed that paragraph.

The Clerk read the following:

For the compensation of the chief of the Bureau of Equipment and Recruiting, $3,500; chief clerk, $1,800; two clerks of the second class, $2,800; one clerk of the first class, $1,200; one messenger, $1,000.

Mr. PIKE. I move to strike out that paragraph and insert the following as a substitute:

For the compensation of the chief clerk of the Bureau of Equipment and Recruiting, $1,800; one clerk of the fourth class, $1,800; two clerks of the third class, $3,200; two clerks of the second class, $2,800; three clerks of the first class, $3,600; one messenger, $1,000; one laborer, $720.

I wish to reply to my colleague. He says this provision in the bill is in accordance with existing law, as are all the rest. In that he is mistaken. The law of July 23, 1866, gives these clerks exactly the salaries specified in the amendment I send to the Chair, and I beg the House to vote the money in accordance with existing law. The gentleman from Illinois [Mr. WASHBURNE] the other day told us that this bill was intended to report appropriations of money in accordance with existing law. Now here is an existing law upon this subject. Now I do not ask the House to increase the clerical force by a single man nor to increase their pay by a single dollar, but simply to give these clerks in that Department the pay the law allows them.

Mr. MULLINS. I desire to ask the gentleman whether these clerks are absolutely necessary—the whole number of them?

Mr. PIKE. I understand they are absolutely necessary.

Mr. WASHBURNE, of Illinois. I have a word to say in reply to the gentleman from Maine, [Mr. PIKE.] He seems to be still harping upon my statement that the appropriations in this bill were to carry out existing laws. I also stated that we provided for the repeal of some laws. The gentleman must know that many items which have been inserted in accordance with existing law have been stricken out. For instance, the clerks for the Presi-

dent were stricken out yesterday, as were several other items. Now, in regard to the amendment of the gentleman from Maine, [Mr. PIKE,] I refer to Miscellaneous Document No. 37, where gentlemen may see a full and complete statement of this matter in figures. The offices in this Bureau of Equipment and Recruiting were created by the act of July 5, 1862, and the total amount for all the clerks and messengers was $10,040. That was under the law creating or revising the Navy Department. Well, sir, in 1867, to show how these things have grown up, we appropriated $18,400 for the same bureau; and this year the Navy Department comes in with an estimate; and what do you suppose it is? Here, in time of peace, the Department, which the gentleman from Maine [Mr. PIKE] represents, asks us for $20,420. The committee, upon a full examination of this whole subject, have proposed to give to this bureau $10,300, which is between one and two hundred dollars more than was given in 1860 under the original act, and which we consider as all-sufficient. The additional amount is an addition of twenty per cent. to one item.

Now, sir, we might as well settle the question on this item as any other. If gentlemen will examine the document I referred to they will see what the expenses of that Department were in 1862, what we appropriated in 1867, and what they estimated for in 1868-69. The original estimate of the Secretary of the Navy was $47,000,000; the revised estimate was $24,000,000. The committee wish to keep the appropriations down to the aggregate reported upon full and thorough examination of the subject.

Mr. PIKE. I move to amend the amendment by striking out the last clerk for the purpose of making some reply to the demonstration of the gentleman from Illinois, [Mr. WASHBURNE.] He is horribly afraid that we shall swell the appropriations to the $47,000,000 proposed by the Secretary of the Navy, forgetting to state, in justice to that "old public functionary," that he, like the General-in-Chief of the Army, sent in revised estimates.

Mr. WASHBURNE, of Illinois. I did state that distinctly.

Mr. PIKE. The gentleman made so much noise that I did not hear that.

Mr. WASHBURNE, of Illinois. I cannot help that.

Mr. PIKE. The Secretary of the Navy sent in revised estimates, just as the Secretary of War did, in pursuance of the desire of this House. The gentleman from Illinois the other day appropriated for extra allowance to officers at West Point on account of existing law, and when I suggest to him that I would go with him to strike down appropriations, including the salaries of members, I find no practical response; but in order to save these enormous amounts it is proposed to strike at a few poor clerks in the Navy Department—a Department that has to day but sixty-one clerks for the purpose of transacting all its business. In relation to this Bureau of Equipment and Recruiting, the present force there is eight clerks. This bill proposes to give it only three clerks. The head of the bureau, Commodore Smith, asks of the House three additional clerks. Now, I beg the House will hear the reasons why he asks for those clerks:

"The chief of this bureau has asked for additional clerks to enable him to keep up with the current duties. Much of the time of the clerks in this bureau is occupied in examining records for the service of sailors in connection with claims for bounty, and if the necessary clerical assistance is denied the sailors and their families will inevitably be the sufferers, and other work will accumulate to such an extent as to be embarrassing in the future."

That is the reason why he asks for additional clerks. Now, my proposition is not to give him additional service, but to let him retain the present service, which the law allows and which is necessary, and with which service he is now unable to keep up with the current business.

Mr. WASHBURNE, of Illinois. I only desire to say one word. The committee might as well pass upon this question now as at any other time; it is the question whether now, since the rebellion has closed and since the duties of these Departments have been vastly reduced, we should go on and create additional offices and pay additional salaries.

Mr. PIKE. We have just passed a clause giving the Second Auditor an additional force. I withdraw my amendment to the amendment and ask a vote on my original amendment.

The question was put; and there were—ayes 7, noes 37; no quorum voting.

Tellers were ordered; and Messrs. PIKE and SCOFIELD were appointed.

The committee divided; and the tellers reported—ayes 18, noes 62; no quorum voting.

The roll was accordingly called, and the names of the absentees noted.

The committee then rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and finding itself without a quorum, he had caused the roll to be called and reported the names of the absentees to the House.

The following is the list of the absentees:

Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Axtell, Bailey, Baker, Barnum, Bingham, Blair, Bromwell, Brooks, Butler, Cake, Cary, Chanler, Cook, Dixon, Dodge, Ela, Eldridge, Fields, Finney, Fox, Getz, Haight, Halsey, Harding, Hawkins, Chester D. Hubbard, Julian, Kerr, Knott, Lincoln, Loan, Logan, Loughridge, Lynch, McClurg, McCullough, Morgan, Morrell, Morrissey, Nicholson, Phelps, Pile, Pomeroy, Randall, Robertson, Robinson, Ross, Selye, Shellabarger, Sitgreaves, Thaddeus Stevens, Stone, John Trimble, Van Trump, Ward, Stephen F. Wilson, Woodbridge, and Woodward.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. R. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased, in which he was directed to ask the concurrence of the House.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER. The chairman of the Committee of the Whole [Mr. WILSON, of Iowa] reports that the committee finding itself without a quorum he directed the roll of members to be called. A quorum having answered to their names upon that call, the Committee of the Whole will resume its session without further motion.

The House accordingly again resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The CHAIRMAN. The pending question is upon the amendment moved by the gentleman from Maine, [Mr. PIKE.] Tellers have been ordered upon that question and have been appointed. Upon the last vote no quorum voted. The tellers will again resume their stations and the vote will be again taken.

The committee again divided; and the tellers reported that there were—ayes 44, noes 62.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For compensation of the chief of the Bureau of Ordnance, $3,500; chief clerk, in place of the assistant provided by section three of the act of July 5, 1862, $1,800; one draughtsman, $1,400; one clerk of the second class, $1,400; one messenger, $1,000; one laborer, $720; one laborer, $576.

Mr. PIKE. I desire to offer an amendment to the paragraph relating to the Bureau of Navigation.

The CHAIRMAN. The committee have passed that paragraph, and are now upon the paragraph relating to the Bureau of Ordnance.

Mr. PIKE. I understood that my amendment was to the paragraph relating to the Bureau of Equipment and Recruiting. I now want to move an amendment to the paragraph relating to the Bureau of Navigation.

Mr. WASHBURNE, of Illinois. I can confirm the statement of the gentleman from Maine, [Mr. PIKE.]

The CHAIRMAN. The amendment of the gentleman from Maine, [Mr. PIKE,] relating, as it did, to equipment and recruiting, would not have been in order to any other paragraph than the one relating to the Bureau of Equipment and Recruiting. The Chair will ask unanimous consent of the committee to go back to the paragraph relating to the Bureau of Navigation so that the gentleman can offer his amendment.

No objection was made.

The paragraph was as follows:

For the compensation of the chief of the Bureau of Navigation, $3,500; chief clerk, $1,800; one clerk of the second class, $1,400; one clerk of the first class, $1,200; one messenger, $1,000.

Mr. PIKE. According to the law of 1866 there are two clerks in this bureau, one of the fourth class and one of the second class. I move to amend this paragraph by striking out "one clerk of the first class, $1,200," and inserting before the words "one clerk of the second class" the words "one clerk of the fourth class, $1,800." I suppose this paragraph in its present form was reported by the Committee on Appropriations through misapprehension. There are two clerks authorized by existing law in this bureau. The Committee on Appropriations allow two clerks to the bureau, but one is of a different class from that authorized by law. I propose to rectify the error and make this paragraph correspond with existing law.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations were under no misapprehension. I will state the basis upon which the committee acted. According to the act of July 5, 1862, the appropriation was:

"For the Bureau of Navigation, one chief clerk at $1,800; one clerk who shall receive a salary of $1,400; one clerk at $1,200; one messenger at $840."

The total amount appropriated for that bureau then was $8,740. By the act of March 2, 1867, we appropriated for the same purpose $10,220. The estimate for this purpose for the next fiscal year increased the sum to $12,220. The Committee on Appropriations determined that in this time of peace they would not consent to such an increase, and therefore we proposed to go back to the law of 1862 and appropriate for this bureau the sum of $8,900, the difference in the amount being made up of the difference of twenty per cent. in the compensation of one of the messengers. The amount appropriated by the act of March 2, 1867, exceeded the amount appropriated in 1862 by $1,480. The amount estimated for, for the year ending June 30, 1869, exceeds the amount appropriated in 1862 by $3,480; and it exceeds the amount appropriated in 1867 by $2,000. The amount proposed in this bill exceeds the amount appropriated in 1862 by $160, which is the twenty per cent. added to the pay of one of the messengers; and it is less than the appropriation of 1867 by $1,320; it is less than the estimate for the year ending June 30, 1869, by $3,320. The Committee on Appropriations think the Committee of the Whole and the House should stand by the provision as they have reported it.

Mr. PIKE. I withdraw my amendment, and in lieu of it move to strike out this entire paragraph and substitute for it the following:

For the compensation of the chief clerk of the Bureau of Navigation, $1,800; one clerk of the fourth class, $1,800; one clerk of the second class, $1,400; one messenger, $1,000; two laborers, $1,440.

The law of July, 1866, contains the following provision in regard to the clerical force of this bureau:

"In the Bureau of Navigation one clerk of class four and one clerk of class two."

This bill proposes to cut down the salary of one clerk in the Navy Department by reducing him from one class to another, taking him from the class designated by law and putting him in another class. If the committee is ready to

strike down the salaries of the poor clerks in that way, let it be done.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations do not propose to "strike down the salaries" at all. We propose to appropriate for the salaries as established by the original law, which we think sufficient.

Mr. PIKE. But here is a law of 1866 making a different provision with regard to these clerks.

The amendment was not agreed to.

The Clerk read the following:

For compensation of five watchmen and two laborers of the building, $4,752.

Mr. PIKE. I move to amend by striking out in the paragraph just read the word "five" and inserting in lieu thereof the word "nine," so as to provide for nine watchmen. I hope, Mr. Chairman, that this mania for economy is satisfied at present by this assault upon the salaries of three or four clerks of the Navy Department. The building for which these watchmen are required is not fire-proof. It is heated by steam; and in the winter season there are in that building more than fifty different fires. The destruction of the building by fire would involve an irreparable loss. The authorities there do not consider it safe to leave the building in charge of only two watchmen each night. The watchmen go on duty at three o'clock in the afternoon and remain until eight o'clock the next morning. In the opinion of those who have the charge and the responsibility in connection with the building, it is necessary to have the number of watchmen proposed in my amendment. With this statement I submit the matter to the House.

Mr. WASHBURNE, of Illinois. In reply to the gentleman from Maine, [Mr. PIKE,] I have only to say that the committee, after examining this matter, came to the conclusion that five watchmen and two laborers—seven men, at an expense of $4,752—are quite enough for watching the Navy Department. I think the House will concur in this opinion.

The amendment was not agreed to.

The Clerk read as follows:

Post Office Department:
For compensation of the Postmaster General, $8,000; three assistant Postmasters General, at $3,500 each, $10,500; superintendent of money-order system, $2,500; chief clerk, $2,200; three chief clerks, at $2,000 each, $6,000; additional to one clerk of class four, as disbursing clerk, $200; eleven clerks of class four, $19,800; forty-nine clerks of class three, $78,400; forty-five clerks of class two, $63,000; twenty-three clerks of class one, $27,600; fifty female clerks, at $900 each, $45,000; ten folders, $7,200; one messenger and three assistants, at $1,000 each, $4,000; nine watchmen, at $720 each, $6,480; fifteen laborers, at $720 each, $10,800.

Mr. SPALDING. I move to amend by adding at the end of the paragraph just read, "for twenty-five clerks in dead-letter office, under act of January 21, 1862, $20,000." Mr. Chairman, the paragraph following that just read proposes to appropriate "for temporary clerks, $20,000." The estimate, as given to the committee, proposed an appropriation of $40,000 for the latter purpose, the item reading, "for temporary clerks, per act of January 21, 1862, 12 Laws, page 332, $40,000." This appropriation was too large. Besides, those are not temporary clerks. The act of January 21, 1862, allowed to the Department for the dead-letter office twenty-five clerks at an average salary of $800, making $20,000. But the business of the dead-letter office has increased so much since the passage of that law that the Department has been obliged to employ temporary clerks, and the appropriation for their pay has been made under the head of temporary clerks. They now require the original appropriation under the law of $20,000 and they want $20,000 in addition for temporary clerks. I understand from the Post Office Department this is required as an imperative necessity, and I hope the committee will adopt the amendment. I hope there will be no objection on the part of the acting chairman of the committee.

The amendment was agreed to.

Mr. SPALDING. In the next line I move to make it read, "For temporary clerks in the dead-letter office, $20,000." Last year we appropriated $17,000 for these temporary clerks in the dead-letter office. They now want $3,000 more, making $20,000.

Mr. FARNSWORTH. Would it not be best to let these temporary clerks be employed at the discretion of the Department?

Mr. SPALDING. I withdraw my amendment if the chairman of the Post Office Committee thinks it best.

Mr. FARNSWORTH. The committee can well understand, while so many new offices are being reopened in the southern States and the postal affairs there are in such confusion, it is necessary the Department should employ temporary clerks in addition to those employed in the dead-letter office.

The Clerk read as follows:

For contingent expenses of the Post Office Department:
For blank books, binding, stationery, fuel, lights, laborers, and furnishing apartments for additional letter-carriers and clerks of the money-order system, $65,000.

Mr. SPALDING. The estimate as sent to us was for $85,000. I move to strike out "$65,000" and insert "$85,000." It is said the estimate was closely made and cannot be dispensed with. I hope the amendment will be adopted.

Mr. WASHBURNE, of Illinois. I hope it will not be adopted. The appropriation last year was only $56,000, and I do not see any necessity for any increase over that.

Mr. SPALDING. I can tell the gentleman why this increase is necessary. Among other expenditures they are fitting up sixty rooms for additional clerks, and the furniture for all those rooms is included in this appropriation. Every dollar of it is required.

Mr. FARNSWORTH. I move to add one dollar. I rise for the purpose of calling the attention of the committee to the note from the Postmaster General accompanying this estimate:

"NOTE.—The increased appropriation for the next fiscal year for contingent expenses is rendered necessary by the large increase of rooms provided by the completion of the post office building and the necessity for additional heating apparatus."

That is what makes it necessary there should be this increased appropriation.

Mr. WASHBURNE, of Illinois. The subcommittee went to the Post Office Department and made a thorough examination of this matter. They found we had appropriated $56,000 last year, and they believed $65,000 would be all-sufficient.

Mr. SPALDING. I wish to say to my friend from Illinois that the sub-committee were at the Post Office Department this morning, and the gentleman from Maryland, [Mr. PHELPS,] if here, would concur with me as to the necessity of this amendment.

Mr. FARNSWORTH. I withdraw my amendment to the amendment.

The committee divided; and there were—ayes 33, noes 47; no quorum voting.

Tellers were ordered; and Mr. SPALDING and Mr. WASHBURNE, of Illinois, were appointed.

The committee again divided, and there were—ayes thirty, noes not counted.

Mr. SPALDING said he did not insist on a further division.

So the amendment was disagreed to.

The Clerk read as follows:

Department of Agriculture:
For compensation of Commissioner of Agriculture, $3,000; chief clerk, $2,000; entomologist, $2,000; chemist, $2,000; superintendent of experimental gardens, $2,000; botanist, $1,400; superintendent of seed-room, $1,800; librarian, $1,800; superintendent of folding-room, $1,200; two clerks of class four, $3,600; four clerks of class three, $6,400; six clerks of class two, $8,400; seven clerks of class one, $8,400; five copyists and attendants in museum, at $1,000 each, $5,000; three messengers, at $840 each, $2,520; two watchmen, at $864 each, $1,728; six laborers, at $720 each, $4,320.

Mr. HOLMAN. I move to strike out "superintendent of experimental gardens, $2,000." Mr. Chairman, it seems to be a little remarkable, after the attempt at economy inaugurated by the Committee on Appropriations, that the items connected with this establishment should have been retained. I think there is no expenditure made by this Government that is less productive of useful results than the appropriations made for the experimental garden. I find this bill contains appropriations to the amount of some twelve thousand dollars for that purpose. That garden has been increasing its expenditures gradually for the last four or five years, and I am not aware of any beneficial result springing from it. It is, in fact, a duplication of the Botanical Garden; it is of the same character; it has a conservatory, and the articles cultivated are of the same general character; and I would like to know if any gentleman on this floor is aware of a single article distributed among his constituents from that garden, or of any information derived from it of any practical advantage to the agriculture or horticulture of the country. I think it is an unnecessary and extravagant thing; its expenditures are constantly increasing, and we ought to stop them right here.

Why, sir, this bill appropriates some fourteen thousand dollars for this fancy garden, for the cultivation of articles of elegance and luxury at this Capitol, while it only appropriates $25,000 for the purchase of seeds and other articles for general distribution, and that, too, as against $60,000 under the late order of things and $150,000 for a previous year. Only $25,000 are appropriated to the general purposes of agriculture for its encouragement, while for these fancy articles, for the cultivation of flowers, we have an appropriation of $14,000. It is an unwarrantable expenditure, in my judgment, and one that ought to be met right here and nipped in the bud, because in a few years the expenditure will be so large as to furnish an argument for the continuance of the establishment. I hope not only this appropriation will be stricken out but all the subsequent appropriations for the same purpose will be met in the same way.

Mr. TROWBRIDGE. I hope the amendment of the gentleman from Indiana [Mr. HOLMAN] will not prevail, because I think if he has not received any benefit from this experimental garden he has not done what he might have done. They are constantly experimenting in the culture of fruits of all kinds, grapes, pears, apples, strawberries, and all the smaller fruits, and they are sending out the result of their observations over the whole country. I have in my hand an amendment, which I shall offer at the proper time, as soon as this one is disposed of, to provide for an assistant superintendent for this experimental garden, believing, as I do, from the report of the Commissioner, that it is absolutely necessary. Therefore I hope the amendment will not prevail.

Mr. WASHBURNE, of Illinois. I will state that this was the amount appropriated for the present fiscal year, together with another amount of $1,200 for an assistant superintendent. The present Commissioner of Agriculture sent in a revised estimate, in which he estimated for both of these officers, namely, $2,000 for the superintendent of the experimental garden, and $1,200 for the assistant superintendent. The committee cut out the assistant superintendent and left the other in the bill.

The amendment was disagreed to.

Mr. TROWBRIDGE. By the unanimous vote of the Committee on Agriculture I am instructed to offer the following amendment:

At the end of line eight hundred and ninety-nine insert:
Statistician, $2,000; assistant chemist, $1,600; assistant superintendent of experimental garden and grounds, $1,200; assistant superintendent of seed-room, $1,200; disbursing clerk, $1,800.

I desire to state, in support of the amendment, that immediately after the present Commissioner of Agriculture was appointed I called upon him, feeling satisfied that the estimates submitted by the late acting commissioner were too large, larger than the Department required, and requested him to revise the esti-

mates and reduce them as much as possible. The Commissioner attempted that revision, and the result was a reduction of the estimates of the late acting commissioner of over one third, nearly one half. But he told me afterward, before the publication of this bill, that he was fearful, from the increase of business which has taken place in his Department since he went into office, that he had reduced his clerical force too much; that he could not get along efficiently with that reduced force. But the committee have reduced him still more and have stricken out five of the employés which he had asked for. The first of these is the statistician. Now, I suspect that perhaps there is some misapprehension with regard to the duties of this officer. His work is to collect the statistics which go into the annual and monthly reports and to compile, revise, and edit them for the annual report.

Now, sir, when I state to this committee that we spent last year $159,000 for the printing and binding of that report it seems to me you can hardly expect it to edit itself, and that you ought to provide a man to edit, revise, and prepare it for publication. With regard to another of these employés whom I seek to restore, the assistant superintendent of the experimental garden and grounds, I desire to say that the present Commissioner has consolidated what were heretofore the experimental garden and the experimental farm, and by that means has discharged the superintendent of the experimental farm and an assistant superintendent of the experimental farm, and a clerk, and in place of all these officers he simply asks you to let him have an assistant superintendent of the experimental garden, at a salary of only $1,200 a year, in place of three officers, one of whom received $2,000, another $1,600, and the third $1,200. That seems to me a reasonable request. With regard to another officer, the disbursing clerk, the Committee on Appropriations have very wisely provided that the accounts of the Commissioner of Agriculture shall hereafter be audited in the Treasury Department; but certainly some officer must draw the money from the Treasury Department and superintend its distribution among the various employés; and I think that all these assistants are absolutely necessary to the efficient, active operations of this Department. I therefore trust the committee will give the Commissioner what he asks for, especially when he himself had reduced the estimates by almost one half—by over ninety-two thousand dollars. I think that is all that is necessary to say on this subject.

Mr. BEAMAN. I am opposed to this amendment, because I do not believe that in the present condition of the country and of that Department all these additional officers are required. I will state, however, that if this amendment shall be voted down I propose to offer an amendment restoring two of these officers, to wit: the statistician and the disbursing clerk, because the committee on reviewing the matter came to the conclusion that those two officers were probably necessary. If this amendment shall be voted down I will offer the amendment which I have indicated.

The question was put on Mr. TROWBRIDGE's amendment, and it was agreed to.

Mr. TROWBRIDGE. In line nine hundred and two I move to strike out the word "six" and insert "ten" in lieu thereof; so that the paragraph will read:

For collecting statistics and material for annual report, $10,000: *Provided*, That hereafter the accounts of the Agricultural Department shall be audited by the Fifth Auditor of the Treasury Department.

Mr. Chairman, I desire to call the attention of the committee to the fact that this is an appropriation for collecting material for the annual report. We have never, since the existence of the Department, appropriated less than $10,000 for this purpose, and have almost always appropriated $20,000. The Congress of the United States expended last year $159,000 to print and bind this work after it was made up, and it certainly seems to me that when we expect to make that expenditure for the book we can afford to spend something for getting the book up. It seems to me absolute folly on the part of the Government to allow a work to be got up on which they shall expend that much money unless it is got up in the best possible manner. The Commissioner asks $10,000 in his revised estimates, and the committee have furnished him with only $6,000. I submit to the committee whether that is a commensurate sum to prepare such a work?

Mr. WASHBURNE, of Illinois. I desire to call the attention of the committee to this way of legislating, and to see, if we adopt these amendments, where we are going to land. The committee has already adopted the amendment of the gentleman from Michigan, [Mr. TROWBRIDGE,] putting in three or four officers which the Committee on Appropriations did not intend to put in. And I desire to call attention to this fact: last year, when everything went on on the most extravagant scale, we appropriated for these items only $38,020. But, in consequence of the pressure that was brought to bear upon us, and knowing somewhat of the temper of this House in regard to this question of agriculture, we proposed to appropriate by this bill the sum of $57,568, being an increase over the amount appropriated last year. But it seems that this Committee of the Whole were not satisfied with that, and upon the request of the gentleman from Michigan, the chairman of the Committee on Agriculture, they have made an additional appropriation for additional officers.

I desire to call the attention of this committee to the expense of this establishment, which has grown up here. The Commissioner asks for an appropriation for salaries of officers of $63,640. Let me read the names of the various officers he estimates for, with their salaries:

Salary of Commissioner	$3,000
Salary of chief clerk	2,000
Salary of statistician	2,000
Salary of entomologist	2,000
Salary of chemist	2,000
Salary of assistant chemist	1,600
Salary of superintendent of experimental garden and grounds	2,000
Salary of assistant superintendent of experimental garden and grounds	1,200
Salary of botanist	1,400
Salary of superintendent of seed-room	1,800
Salary of assistant in seed-room	1,200
Salary of librarian	1,800
Salary of superintendent of folding-room	1,200
Salary of disbursing and auditing clerk	1,800
Salary of chief messenger	900
Salary of two assistant messengers, $700 each	1,400
Salary of six laborers, $600 each	3,600
Salary of two clerks, fourth class, $1,800 each	3,600
Salary of four clerks, third class, $1,600 each	6,400
Salary of six clerks, second class, $1,400 each	8,400
Salary of seven clerks, first class, $1,200 each	8,400
Salary of five copyists and attendants in museum, $900 each	4,500
Salary of two watchmen, $720 each	1,440
	$63,640

Now, sir, we cut off some of these in order to bring the amount down to a point which we thought the condition of the country and the feeling of the House would justify. In regard to the amount for the collection of statistics, for which the Commissioner asks $10,000, we believed that $6,000 would be all-sufficient. We thought that the Commissioner of Agriculture, with this vast force which he has at his command, could call upon some of these various clerks, many of whom are drawing high salaries and are men of great competency—we thought he could take them from their work, or from no work at all, and put them upon this work of collecting statistics. And I think the gentleman from Michigan, [Mr. TROWBRIDGE,] when he comes to look over the list of employé which the Commissioner already has, will come to the conclusion that $6,000 is abundantly sufficient for the purpose which we all desire to accomplish—to have proper statistics gathered for our constituents.

The question was then taken upon the amendment of Mr. TROWBRIDGE, and it was agreed to.

The Clerk read the following:

Department of Agriculture:
For purchases for library, laboratory and museum, $3,000.

Mr. TROWBRIDGE. I have been instructed by the Committee on Agriculture to move to amend the paragraph just read by striking out "$3,000" and inserting "$5,000." The Department of Agriculture expects during the coming summer to take possession of their new building, wherein they will have to set up their own laboratory and library, as they will not then have the advantage which they now possess of using the large number of books in the library belonging to the Patent Office. I suggest that it is but proper that a Department interested in and controlling such an important branch of the Government should have a respectable library.

Mr. WASHBURNE, of Illinois. I trust the Committee of the Whole will not agree to this amendment. It is not for the benefit of our constituents, but for the ornamentation of the new building now being erected over on the island. In the opinion of the Committee on Appropriations there is no necessity whatever for any increase of this appropriation. The sum named here is quite sufficient. If any change is made in it I think it should be reduced to $1,000.

The amendment of Mr. TROWBRIDGE was not agreed to.

Mr. HILL. I move to strike out this entire paragraph. I think it is time we should try and get along without some small matters which we do not need, such as this agricultural library, laboratory, and museum. The cry is coming to us from different parts of the country that our taxes are too heavy, that the people are oppressed and bowed down by their burdens. I think in a time like this we should strike out these small matters that we can get along without for a few years longer.

Mr. MILLER. I hope the amendment of the gentleman from New Jersey [Mr. HILL] will not prevail. I for one would rather increase than diminish this appropriation. The agricultural interest of this country is the interest from which, directly or indirectly, we derive a great proportion of our taxes. I think this is too important an interest to be neglected in any way.

Mr. HOLMAN. Before the vote is taken upon the motion to strike out this paragraph, I move to amend it by striking out the words "and museum" and inserting the word "and" before the word "laboratory." I admit that there may be some pretense of a necessity for a library and laboratory in connection with the Agricultural Department; but it seems to me that there can be no pretense that there is any real necessity for a museum. How is a museum to promote the agricultural interests of this country? And while the country is demanding economy and retrenchment, why should we unnecessarily vote money for fancy articles? The people will pay their taxes far more willingly if they know that every dollar of the revenues of this Government is honestly and appropriately expended.

But, sir, these items for purposes of mere embellishment and decoration, though the amounts may seem comparatively trivial, should be rejected in justice to the people whose labor bears the burdens of the Government. I insist that for matters of mere elegance or taste Congress has no right to lay burdens, even to the extent of a hair's weight, upon the labor of the country. We, of course, properly levy taxes to meet the necessary exigencies of the Government; but I contend that it is a crime against the laboring people of the country for us to ask them to bear any additional burden to meet expenditures incurred for mere purposes of embellishment. I trust that gentlemen who are so eager to economize in the expenditures of this Government will oppose these unnecessary appropriations and join in carrying out the principle that the labor of the country shall not be oppressed to gratify the fancy or the taste of public officials.

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment *pro forma*, (although I am in favor of it,) and ask for a vote.

The amendment was not agreed to.

The Clerk read as follows:

For labor and repairs in the experimental garden, and purchase of plants for the same, $10,000.

Mr. HOLMAN. I move to amend by striking out the paragraph just read. Mr. Chairman, this bill exhibits some features which are certainly quite refreshing when we come to analyze them. This economical Committee on Appropriations propose to expend in the interest of agriculture $31,000; $25,000 for disseminating agricultural products or information, and $6,000 for obtaining the information. While proposing this expenditure of $31,000 for a substantial purpose they propose to appropriate $17,000 for the mere embellishment of the public conservatories about this Capitol—to furnish bouquets and other elegant sources of entertainment $17,000 are to be expended for merely fanciful purposes, while $31,000 are to be devoted to promoting the agricultural interests of thirty million people. What are the items of this $17,000? In the first place, $5,000 for the clerks or attendants of the museum; then $2,000 for the superintendent of a glass-house for the keeping of exotic plants, and $10,000 for the purpose of experimenting in these articles of luxury. No gentleman on this floor can ever, through the instrumentality of this experimental garden, send to his constituents a single article not already produced by them. Grapes are occasionally referred to as articles the propagation of which by the Department of Agriculture is beneficial to the country. Yet, sir, the very finest grapes now propagated in the experimental garden are those already successfully produced in the States of the extreme northwest. From the necessity of the case this Department of the Government can never serve any beneficial purpose by the propagation of agricultural products.

Mr. TROWBRIDGE. Mr. Chairman, with all due respect for the gentleman from Indiana, [Mr. HOLMAN,] I must say that I am perfectly amazed that a gentleman coming from an agricultural State should display such ignorance in discussing an agricultural subject. [Laughter.] Why, sir, are the farmers of this country to cultivate nothing but grain? Are there not valuable fruits, the raising of which may properly and profitably engage the agriculturists of this country? Sir, this experimental garden is devoted to the propagation of agricultural products just as necessary and profitable for this country as almost any the gentleman can name.

Mr. HOLMAN. Will the gentleman be good enough to mention something propagated there to the benefit of the country?

Mr. TROWBRIDGE. Grapes, apples, pears, and similar small fruits. If they are not valuable in the production of this country, then, sir, the State I have the honor in part to represent has been far behind time in selecting its proper agricultural interest, for these small fruits are raised there.

Mr. HOLMAN. I happen to be a farmer. Now, let me ask the gentleman a question. Does not the gentleman know that the experiments on apples, pears, grapes, and such productions as he mentions made at this Capitol, really amount to nothing in furnishing information for any other locality in the United States? He knows that no other locality would engage in the apple or pear trade, on the result of experiments made here.

Mr. TROWBRIDGE. If the gentleman will examine the report of the gentleman who makes these experiments he will discover his questions are all answered, and he will receive information which he seems not now to possess. With regard to his assault on the museum, I was amazed at it. You can go to that museum and find out just what it is, what is best to be grown in each locality, what insects and animals depredate upon the various grains and other agricultural products. You can get more information for those desiring to engage in these agricultural pursuits in this institution, than anywhere else in the country. Yet the gentleman assaults the institution through which this information can be laid before the country. I hope his amendment will not be agreed to.

The amendment was disagreed to.

The Clerk read as follows:

For purchase of new and valuable seeds, and labor in putting them up, $25,000.

Mr. TROWBRIDGE. I move to strike out "$25,000," and insert "$40,000."

Mr. Chairman, I am well aware, in asking this increase of appropriation, I run counter to the prejudices of this House. I am well aware, in the expenditure of this appropriation in days gone by, there was some lack of wisdom—some things done which gave rise to complaints even from the agriculturists of the country; but I can say that in the superintendence of that department now there is everything that could be wished for. I will give a little bit of my own observation and experience in regard to the dissemination of seeds from this Department. About ten or twelve years ago, in the State from which I come, it is known the wheat was attacked by a little insect called the midge and entirely destroyed. I have looked upon hundreds of acres which promised fair to yield thirty or forty bushels to the acre, from which, however, not one bushel was gathered. The farmers of that State were then saved in this, their most valuable product, by the dissemination of a new kind of wheat from this Department, called the Mediterranean wheat. I say, sir, in the State of Michigan alone, in the cultivation of wheat, the farmers of that State have been saved more than the cost of all the seeds sent out since the foundation of this Department. Although I cannot state clearly from any observation of my own, still I learn from some of my western friends that in the cultivation of sorghum, or the Chinese sugar-cane the value has been more to the country than the cost of all the seeds sent out from this Department. A friend of mine from Illinois says that it is a hundredfold more than their cost. And I can state further from my own observation that during the last season, while attending one of the agricultural fairs in one of the counties of my district, my attention was called to a fair specimen of oats. My friend says, "There is the result of a little package of oats you sent me last spring." The remarkable thing was that they weighed forty-three pounds to the bushel while the ordinary oats only weigh thirty-two. Here was an increase of thirty-three and one third per cent.

My friend from Illinois need not laugh. It is not much the farmers ask. It is only $142,000 that we ask for this great interest. Here in this instance was an increase through the agency of the Department of thirty-three and one third per cent. in this one article of production. It seems to me the Department may sometimes distribute valueless seed or seed not adapted to the region to which it is sent and it seems to me that impositions may have been practiced, but they are all overbalanced by the values that have been secured. The Commissioner only wants one half as much as appropriated last year. I think the House will see that the country will be benefited by this sum.

[Here the hammer fell.]

Mr. BEAMAN. Mr. Chairman, I insist that instead of increasing this appropriation we ought very much to reduce it. I insist that $5,000 are ample for the purpose. What is the object of making an appropriation for the purchase of seeds? I suppose my friend does not intend to supersede the seed stores of the country. I suppose he does not intend to furnish seeds for all the prairies of the West. The object, if there be any object at all, is to purchase new and valuable varieties of seeds; and, sir, I aver that there has not been in the last two years $2,000 of the people's money expended for the purpose of purchasing new and valuable varieties. What is the character of the seeds scattered over the country? I appeal to every member here—What have been the kinds of seeds distributed? Have they not been those that existed before we were born, such as mangel-wurzel, peas and beans, long and short cucumbers, and such common varieties?

Now, sir, before we take a vote on this amendment I want to call the attention of the House to this business of the purchase and distribution of seeds. Gentlemen may recollect that we made an appropriation for the fiscal year ending the 30th of June, 1867, of $60,000. Now, see in what manner the appropriation was expended. I have here a statement of the Commissioner of Agriculture, from which it appears that expenditures were made as follows:

For purchase of seeds	$22,084 53
For materials and making seed bags	9,706 42
For materials and labor in putting up seeds	31,531 40
For rent of seed-room	650 00
For freight	3 78
Total expenditures	$63,976 13

NOTE.—It will be observed that the expenditures for seeds for the fiscal year ending June 30, 1867, exceeds the appropriation $3,976 13, the excess being taken from other appropriations.

Thus it seems that for the purchase of these common varieties of seeds, mangel-wurzel and that kind of stuff, $22,084 were expended. Nothing for new varieties of seeds.

Now let us see what was done with the appropriation of $50,000 for the purchase and distribution of seeds in the southern States:

For purchase of seeds	$18,229 41
For materials and making seed bags	10,071 76
For materials and labor in putting up seeds	17,631 14
For agent in southern States	558 30
For rent of seed-room	50 00
For stationery	2,731 30
For freight	687 75
United States tax on salaries	40 34
Total expenditure	$50,000 00

Again we appropriated for the fiscal year ending June 30, 1868, $80,000. How was that money expended? Here is the statement of some of the items:

For purchase of seeds	$8,813 14
For seed bags	8,432 63
For labor in putting up seeds	12,478 54

Now, where is the necessity, I ask, for raising this appropriation to $40,000? Why, sir, we only expended $22,000 during last fiscal year for the purchase of seeds, and we have thus far during the present fiscal year used only $8,813. How, then, can we need $40,000 for the next fiscal year?

Mr. MAYNARD. I move to amend the amendment by adding $5,000, making it $45,000 instead of $40,000. I do it for the purpose of saying that, having represented a rural and agricultural district here for many years, there is nothing in which my constituents feel more interest than in the Agricultural Department of this Government. For the distribution of the agricultural reports, and especially the dissemination of seeds, I have received, perhaps, more applications from my constituents during my term of service here than for any other purpose. With all deference, therefore, to the remarks of the gentleman from Michigan, [Mr. BEAMAN,] who possibly may not be a farmer by practice, and may not live, perhaps, in an agricultural community—with all deference to his opinion, my constituents entertain a very different opinion from that which he expresses. They regard the distribution of such seeds as are in fact distributed, however they may be characterized by gentlemen on this floor, as very important and very desirable to them. I will not go over the whole polity of this branch of the Agricultural Department. We know that before the war $60,000 were appropriated annually for this one object. We know that as a matter of fact this Department has been the means of great improvements in our agriculture and has introduced many new varieties.

The gentleman speaks of the expense of putting up these seeds. For the material and making of these little cloth bags that the seeds are put up in the Department pays, I think, two cents apiece. The immense number of them needed of course makes a considerable aggregate amount. I recollect some years ago a gentleman upon the stump taking up one of

these agricultural reports and showing that there had been paid $10,000 for the picture of some animal. On examination it turned out that it was a lithograph for which, I believe, the payment had been two cents or two and a half cents for each copy, and it was the immense number of copies that had been inserted in the agricultural reports and distributed through the country that produced what seemed to be a large sum paid for a single picture. This argument of the gentleman upon the expense of putting up the seeds and distributing them simply shows the immense number that are distributed, the sub-division and wide dissemination. Now, I am well aware that gentlemen who live in large cities or in the neighborhood of large towns can rely on the seed stores where you get the ordinary and usual varieties, such as are in demand; the new varieties very seldom.

[Here the hammer fell.]

Mr. MAYNARD. I withdraw my amendment to the amendment.

The question recurred on Mr. TROWBRIDGE'S amendment; and being put, the amendment was rejected—ayes 42, noes 55.

Mr. FARNSWORTH. I move to add to the paragraph the following:

But no part of this money shall be appropriated in purchasing old seeds, or such as have heretofore been distributed by the Agricultural Department or the Patent Office.

Mr. Chairman, it is very necessary that we should adopt some provision of this kind. I find that the Agricultural Department is now distributing the very same kinds of seeds that were distributed by the Patent Office ten years ago. We get the same Stowell's evergreen corn, the same kinds of beets and cabbages and marrowfat peas precisely that they have all over my country, and that were distributed ten years ago. I desire that the Agricultural Department shall expend the money we give them in the purchase of rare seeds and seeds that are not common; not that they shall go to the old seed stores and purchase up their old seeds which have laid over for a year or two and distribute them to the country as new and rare and excellent seeds.

Mr. HOLMAN. I offer a substitute for the amendment of the gentleman from Illinois in the following words:

Provided, however, That the seeds so purchased shall be such as are of new and improved varieties, and adapted to general cultivation throughout the United States.

It is very clear that to exclude the Commissioner of Agriculture entirely from the right to purchase old seeds would prevent him from distributing in certain localities varieties which have not yet been introduced there, but I do insist that the money should be expended in the purchase of seeds which are adapted to general cultivation throughout the country.

Now, one word further. I think the country is unfortunate in being represented on this floor by very few farmers, very few gentlemen having practical knowledge of farming. Why, the very Committee on Agriculture is composed of professional gentlemen who know nothing at all about agriculture except what they learned at school from the bucolics of Virgil and the old romances of the Greeks and Romans. The truth is that the subject of agriculture receives no attention here. For fancy embellishments, hot-houses, and exotic plants thousands of dollars are expended, but when an appropriation of only $4,000 is asked for the agricultural interests of forty millions of people, why the professional element on this floor, after enjoying the fragrance of innumerable bouquets at the public expense, coolly votes down the appropriation of even that small sum! Sir, I hope the day will come when there will be more of us who are practical farmers on this floor, and when we become a power here the interests of agriculture will receive more grave consideration than they now do. Because it happens that poor seeds are sometimes distributed does it therefore follow that we must abandon every effort to improve the arts of agriculture and cultivation? Does not the gentleman know that if, once in five years, a new and valuable variety of seed is introduced generally throughout the country it more than compensates for every dollar that may have been expended by the Government for this whole Department? I trust the gentleman will accept my amendment as a substitute for his.

Mr. FARNSWORTH. I do not like the amendment proposed by the gentleman because it leaves the Department to judge what is a new variety. If we say by this bill that they shall not use this money for the purchase of old seeds, or such varieties as have heretofore been distributed, then they are precluded from doing so.

Mr. HOLMAN. Then I suggest to the gentleman to add to his amendment the words "and only for such as are adapted to general cultivation throughout the United States."

Mr. FARNSWORTH. If I understand the suggestion of the gentleman, I do not know that I object to it.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and Mr. ORTH having taken the chair as Speaker *pro tempore*, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the special order, the legislative, &c., appropriation bill; and pending that motion I move that all debate upon the pending paragraph be closed in two minutes after the committee resumes the consideration of the same.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The pending paragraph was as follows:

For purchase of new and valuable seeds and labor in putting them up, $25,000.

The question was upon the amendment of Mr. FARNSWORTH.

The CHAIRMAN. By order of the House all debate upon the pending paragraph and amendments thereto is to be closed in two minutes.

Mr. MYERS. I have but a word or two to say upon this subject. I hope that the proviso offered by the gentleman from Illinois [Mr. FARNSWORTH] will be adopted. The new Commissioner of Agriculture has informed us that he does not intend or desire to send out hereafter any but what he terms "new and valuable species and varieties of seeds." Therefore he can have no objection to this proviso. But I desire Congress to adopt it for another reason. Hitherto the Commissioners of Agriculture have sent out large quantities of new seeds but of old varieties. Under the law as it then stood, the Commissioner entered into contracts with parties for these new seeds of old varieties. As I understand, the present Commissioner desires to repudiate those contracts and not pay for the seeds which have been accepted by the officers of the Government and distributed to the people of this country. I think those contracts legally made should be carried out in good faith, but that for the future the Commissioner shall be restricted to the purchase of new and valuable varieties of seeds. I hope, therefore, the proviso will be adopted.

[Here the hammer fell.]

The CHAIRMAN. All debate upon the pending paragraph has now terminated by order of the House.

The pending question was upon the amendment of Mr. FARNSWORTH, as modified, to add to the pending paragraph the following:

But no part of this money shall be expended in purchasing old seeds or such as have heretofore been distributed by the Agricultural Department or the Superintendent, and only for such as are adapted to general cultivation throughout the United States.

Mr. FARNSWORTH. I desire to say that the last clause of that amendment was not fully understood by me when it was suggested by the gentleman from Indiana, [Mr. HOLMAN,] or I should not have accepted it.

The question was taken upon the amendment as modified; and upon a division there were—ayes thirty, noes not counted.

So the amendment was not agreed to.

Mr. FARNSWORTH. I now move my original amendment to add to the paragraph the following:

But no part of this money shall be expended in purchasing old seeds or such as have heretofore been distributed by the Agricultural Department or the Patent Office.

The question was taken; and upon a division there were—ayes 34, noes 59; no quorum voting.

Tellers were ordered; and Messrs. FARNSWORTH and TROWBRIDGE were appointed.

The committee divided; and the tellers reported—ayes 28, noes 68.

So the amendment was not agreed to.

Mr. TROWBRIDGE. I move to amend the pending paragraph by striking out "twenty" and inserting "thirty;" so as to make the paragraph read:

For purchase of new and valuable seeds and labor in putting them up, $35,000.

The amendment was not agreed to.

Mr. DODGE. I move to amend by adding at the end of the pending paragraph the following:

Provided, That seventy-five per cent. of the seeds shall be distributed through the members of Congress.

The amendment was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For painting walls and fitting up bath-rooms, $6,255.

Mr. DRIGGS. I desire to move an amendment to lines nine hundred and twenty-one and nine hundred and twenty-two.

The CHAIRMAN. That would not be in order. The committee has passed that paragraph.

The Clerk read as follows:

For grading, forming roads and walks, and improving the grounds, $5,000.

Mr. TROWBRIDGE. I am instructed by the Committee on Agriculture to move to amend the paragraph just read by striking out "five" and inserting "twelve," so as to make the appropriation $12,000. This appropriation is for the purpose of improving the grounds around the new agricultural building. The Government has already made an expenditure of about one hundred thousand dollars for the erection of the building, and this bill proposes to appropriate for that purpose nearly fifty thousand dollars more. The building should not stand out in a vacant lot without any cultivation; and I submit to the committee whether $5,000 is a sufficient appropriation for improving thirty-five acres of ground. It seems to me the grounds around that building should be improved in a style commensurate with the building itself and with the other appropriations which are being made. The Commissioner of Agriculture asked for $12,000, and the Committee on Appropriations have reported an appropriation of $5,000.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations cut down the amount from $12,000 to $5,000. After fully considering the question, they believed $5,000 abundantly sufficient to do all the work that will

be necessary during the next fiscal year; and they did not feel justified in recommending a larger appropriation in the present condition of the Treasury.

Mr. TROWBRIDGE. I think the Committee on Appropriations were mistaken in their conclusions.

The amendment was not agreed to.

Mr. DONNELLY. I move to amend by adding at the end of the paragraph just read the following:

Department of Education:
For compensation of the Commissioner of Education, $4,000; for chief clerk, $2,000; for one clerk of class four, $1,800; for one clerk of class three, $1,600; for stationery, blank-books, and miscellaneous items, $2,000.

Mr. Chairman, I ask the attention of the committee for a few minutes. This amendment is made to carry out an existing law, approved the 2d of March, 1867, establishing a Department of Education. That act was passed after very thorough discussion, and by a considerable majority in both Houses of Congress. The omission in this bill to make any appropriation for the Department of Education, taken in connection with the last paragraph of the bill which proposes the repeal of all laws creating departments, bureaus, &c., not provided for in this bill, will operate as a discontinuance of the Department of Education. It repeals the Department by indirection. I desire, if such is the purpose of the Committee on Appropriations, that the question shall be fully and fairly met by the House. No principle of false and narrow economy should, I think, induce us at this time to do away with the Department of Education.

The condition of the southern country, of all those States not yet reconstructed, is such in regard to the intelligence and enlightenment of the people as would disgrace any civilized nation. In six of those States one fifth of the white voters are unable to read and write, while the great mass of the remainder are far below the standard of intelligence which should accompany suffrage. The people of those States feel the great and pressing want of education. I have observed with pleasure that in all their constitutional conventions they are taking steps toward that great end; and that in some cases they have gone so far as to appropriate one fifth of the entire revenue of the State to the support of public schools and other means for the education of their people.

Now, Mr. Chairman, it is our duty to assist them in this laudable work, and that assistance we have proposed to give them by a Department of Education, which will be, as it were, a head to all the great and varied interests of popular instruction, a focal point to which all information may converge, and from which all manner of beneficent influences may radiate to the entire country.

I object to any repeal of the act establishing the Department of Education for another reason, namely: that it has not been fairly tested; it has not had a fair trial; it is proposed to slaughter it before it has had any opportunity to demonstrate its capacity for usefulness. The Department has not yet been one year in existence. By the terms of the law which created it we required the Commissioner of Education to furnish to Congress, in his first report, a statement of the entire land grants made by the United States to the respective States for the purpose of aiding education. That task is an immense one, and fully explains the reason why no report has yet been presented to us by that officer. The words of the act are as follows:

"In the first report made by the Commissioner under this act there shall be presented a statement of the several grants of land made by Congress to promote education, and the manner in which these several trusts have been managed, the amount of funds received therefrom, and the annual proceeds of the same as far as they can be determined."

Now, Mr. Chairman, by the census of 1860 there were in these United States, for which we are now legislating, the vast aggregate of twelve hundred thousand free negroes and whites over the age of twenty years who could not read or write. Since that time this number has been vastly increased by the abolition of slavery and the transfer of the slaves into the condition of citizens and voters. At the ratio of the past growth of the number of those who cannot read or write there will be in 1880 six million human beings over the age of twenty years in the United States who are utterly illiterate. This will give three million voters in whose hands will rest the destinies of the nation, and indirectly of all mankind; and no man can doubt that such a body of illiterate men would some day, in some terrible hour of trial, turn the scale against us and send our Government to destruction. With such a mass of ignorance growing up in our midst are we not, in the words of Carlyle, "shooting Niagara?"

The total amount asked for in the amendment I have offered is but $11,500. I learn incidentally that it is claimed that the officer now at the head of the Department, Professor Barnard, is not the man the friends of the system would desire to see there, and that that fact has led to this effort to abolish the whole Department. It is not here necessary to consider how much truth or falsity there may be in that statement; but even if all the complaints against that gentleman were well founded, which I deny, it is at least our duty to keep the Department alive until we shall tide over the present time, until we reach that day, now rapidly approaching, when we shall have the appointment of that officer in the control of an Executive in sympathy with the party who created the Department. If that officer is objectionble to any friends of education we must treat the Department as we treated the Department of Agriculture when there was one at its head with whom we were not satisfied; we must bide our time, change the incumbent as soon as possible, and in all events preserve the Department.

[Here the hammer fell.]

Mr. PRUYN. Mr. Chairman, I am gratified with some things which the gentleman from Minnesota has said, but I am much surprised to hear from him remarks calculated to impugn the character of the gentleman now at the head of the Department of Education.

Mr. DONNELLY. I did not make any charges against him. I merely stated that I understood this repeal was urged by some on the ground that he was not the proper person for the place. My own opinion is different. I highly approve him.

Mr. PRUYN. He is one of the best men, if not the best man, who could be found for that office. He is amply qualified for the position. He has served as the superintendent of public schools both in Rhode Island and Connecticut, and has been known as one of the foremost men in the cause of education. I am glad this Department is under the authority of a gentleman so competent for the position. I had a conversation with this gentleman, Mr. Barnard, a few days since as to the working and the condition of this Department, and it has been impossible for him as yet to prepare a report of the operations last year. If this Department is to be continued I know of no better man in the country to be at the head of it than Mr. Barnard.

One word as to the merits of the establishment of this Department. I do not think it fairly arises at this time. I do not know the full scope of the act under which it was organized. It is looked upon as a department to collect information as to the condition of education throughout the whole length and breadth of the country, and to distribute information among the States. I trust that the amendment of the gentleman from Minnesota will be adopted.

Mr. WASHBURNE, of Illinois. I move an amendment to the amendment by making the salary of the Commissioner $1,000 less. The gentleman from Minnesota [Mr. DONNELLY] was right in saying that this appropriation had been left out by the committee with a view of working a repeal of the law creating this Department of Education. That is so. I think I may say it was the unanimous opinion of the committee that they would not submit in this bill an appropriation to carry out that law, but allow the House in Committee of the Whole to make an appropriation to suit itself. We found that this Department of Education was established by act of Congress on the 2d of March, 1867; that the act had been fought through and passed by a majority of only one or two votes. I think the venerable chairman of the Committee on Appropriations [Mr. STEVENS] said that he changed his vote from the negative to the affirmative and carried the bill, an act which he regretted more than almost any vote that he ever gave. He has accordingly reported a bill to repeal this very law which we propose to repeal in this bill. We found on examination that this Department, which was established when we were in the mood for establishing almost everything and making appropriations for almost every purpose, had never, in point of fact, been put in operation; that the Commissioner of the Department had, during the ten months or thereabout since his appointment, only spent two months of that time in Washington, and had no office here except one over a restaurant, and that very little expense had been incurred; and sir, when we looked at the estimates which came in after the passage of that bill we found that the very first item was $15,760. That was the amount we were asked to pay in the first instance.

Mr. SPALDING. One moment. The gentleman does not wish to do injustice to the head of the Board of Education, I presume?

Mr. WASHBURNE, of Illinois. Of course not.

Mr. SPALDING. There was not one word uttered in the committee against that gentleman.

Mr. WASHBURNE, of Illinois. Nor have I said a word against him. I have only said that he was not here. I am not discussing the question of the merits of that individual.

Mr. SPALDING. You said he occupied an office over a restaurant.

Mr. WASHBURNE, of Illinois. Well, is that anything against him? [Laughter.] It is very convenient; we are doing business here over a restaurant. [Laughter.]

Mr. SPALDING. There is no better man in the United States for that business.

Mr. WASHBURNE, of Illinois. I do not take issue with the gentleman from Ohio, [Mr. SPALDING,] nor the gentleman from Minnesota, [Mr. DONNELLY,] nor the gentleman from New York, [Mr. PRUYN,] in regard to the character or capacity of this man. I know nothing about him and I care to know nothing in this relation. But when we find that this Department has been created under these circumstances, and that we are called upon in less than eight months after the bill creating it was passed to vote $30,760, I ask gentlemen whether they desire to put themselves on record as voting for an appropriation of this kind.

If I had time I would argue the question of the necessity of a department of this kind in this country. I would like to know why we should launch out with these numerous departments. The case is quite different in our country from what it is in other countries that have been referred to. We have in the various States departments of education which are superior, I undertake to say, to any which we can create here. And for what purpose do we seek to create this Department and spend this large amount of money for it? Why, sir, I think it can be shown that the business which has already been done under this law has been done in the State of Connecticut instead of being done in the city of Washington.

But, sir, the great question is the amount of the appropriation. Gentlemen say it is to carry out existing law. If the committee and the House desire to make this appropriation they can do so, but the Committee on Appropriations believed that it was of such a character that they could not recommend it; hence

they omitted it purposely from the bill as reported.

Mr. BAKER. I rise to oppose *pro forma* the amendment of my colleague, [Mr. WASHBURNE,] Mr. Chairman, it is clear to my mind that to some extent and in some sense we should have in this Republic a system of national education. This is required for great political considerations. It is one of the two great means of unitizing the Republic. Education and intercommunication are the two great means of making us one nation. Now, one step toward the realizing of this idea of education has already been taken. I do not say how complete it is or how imperfect it is, but I am clear that it would be error to ignore it and to expunge it. Let it stand; let it be improved, and it can be made a source of great blessing and great benefit to the country. That is all I have to say.

Mr. WASHBURNE, of Illinois. I withdraw my amendment to the amendment.

Mr. DONNELLY. I renew the amendment. I find that I was somewhat misunderstood in my remarks in reference to the Commissioner of the Department. I desire to say that I made no charges against him, and that I heartily concur in what has been said of him by the gentleman from Ohio [Mr. SPALDING] and others upon this floor. I consider him an exceedingly fit and proper man for the place and every way well qualified to fill it. I was simply repeating the charges against him whispered into the ears of members, and some of which the gentleman from Illinois [Mr. WASHBURNE] has now publicly made, and for the purpose of meeting them.

I would also call attention to the remarks made by the acting chairman of the Committee on Appropriations [Mr. WASHBURNE] in reference to the gentleman from Pennsylvania, [Mr. STEVENS,] now absent from the Hall. He has stated that that gentleman is opposed to the Department of Education, and regretted the vote which he gave in favor of its establishment. I am confident that the gentleman from Illinois [Mr. WASHBURNE] must be in error in this statement. I have quite lately had a conversation with the gentleman from Pennsylvania, [Mr. STEVENS,] than whom no better friend of education exists, on this subject, and I have learned from him that his object in the bill which he has introduced, and which is now pending in this House, is to connect a bureau or department of education with the public school system of the District of Columbia, not to abolish the Department; and he has said to me that he regarded this subject of education as the great paramount interest of the nation, and that he would be the last man in this House to take a step backward or to strike a blow against it. His desire was to give the schools of the District of Columbia into the hands of a department of education, so that all improved schemes of teaching might be experimented upon here and our public schools here be made models for all the other schools of the nation—an admirable and benevolent thought worthy of that illustrious man whose whole life has been devoted to advancing the welfare of his fellow-men—a thought which, if he has the strength to work it out, will give a practical task to the Department and will produce results of incalculable magnitude and benefit to our country.

Now, one word as to the estimate sent in here in reference to this Department. It is true that the estimates ask for the sum of $15,000 in addition to the salaries of the officers, but it must be remembered that we have imposed upon the Department of Education by a resolution of this House the duty of taking a school census of this District, which has involved considerable expense. We have also imposed upon that Department the duty of obtaining information from all the States of this Union that have received land grants from the General Government for the purposes of education—a duty which could not be performed without considerable labor and outlay of money.

But the question before the House at the present time is not as to the appropriation for these incidental expenses; it is as to an appropriation for the salaries of the officers, for the precise salaries as provided by existing law.

The gentleman from Illinois [Mr. WASHBURNE] is in error on another point. I think the Globe will show that in the vote on the final passage of the bill creating this Department in this House there was a majority of not less than twenty in favor of the bill.

Now, Mr. Speaker, this subject of education is attracting universal attention throughout the civilized world. England at this day is in a position not unlike our own. She has extended the right of suffrage to large masses of uneducated men. She sees that her wealth and greatness cannot safely rest upon a foundation of ignorance, hence the subject of popular education is agitating Parliament; it is agitating the public mind of that country, and the question there is, whether, having extended the franchise to the poor people of England, it is not the duty of the Government to compel those people to be educated as a measure of national safety; and compulsory education is now looming up as the great question in the politics of England. We cannot at this day take this step backward, and certainly not for the insignificant sum asked for in my amendment, and which amounts to one thirty fourth part of a cent to each inhabitant of the United States. If the education of the people is essential to the security of our institutions we can afford to spend hundreds of thousands, yes, millions of dollars in its behalf. We cannot pay too high a price for the national safety or the national life. School-houses in this generation will prevent wars in the next. Education, in the long run, is always cheaper than ignorance.

Mr. WOOD. Mr. Chairman, if it be true, as stated by the gentleman from Minnesota, [Mr. DONNELLY,] that the effect of this provision will be to abolish the Department of Education, I shall very cheerfully vote for it. I am very free to say, although I have the utmost confidence in the gentleman who is at the head of that Department, that I can find no authority in the Constitution of the United States for the establishment of any such department as a Department of Education. We have already established a department called the Freedman's Bureau. The practical operation of that bureau is to support hundreds of thousands of lazy, idle negroes at the expense of the Government, and the object of this Department of Education is to educate those negroes. And it is time for the country to know the fact that while labor is oppressed, while the people are borne down by unjust taxation, the Congress of the United States is supporting institutions which have no other motive or object except to educate and support the late slaves of the southern States—people who do not work, people who will not work, people who are supported out of the public Treasury by appropriations of Congress for illegal and improper political purposes.

Therefore, if the effect of voting for this provision, as reported by the Committee on Appropriations, is to abolish this Department of Education I am in favor of it. I favor it because, first, we had no right originally to establish any such Department; secondly, we cannot afford the money necessary to support such a Department; thirdly, the Department itself is likely to fall into improper hands and to be used for improper purposes; therefore if it be true, as the gentleman from Minnesota [Mr. DONNELLY] has stated, that the effect of the provision reported by the Committee on Appropriations is to abolish this Department of Education, then I hope that object will be accomplished and that the money will not be appropriated.

Mr. DONNELLY. I withdraw my amendment to the amendment.

Mr. GARFIELD. I renew the amendment to the amendment. I have no doubt that all those who are opposed to the Department of Education will feel greatly indebted to the gentleman from New York [Mr. WOOD] for his patient research lately made in the Constitution of the United States, but for which the unconstitutionality of the law creating this Department might never have been discovered. I congratulate the opponents of the Department upon this reënforcement. But for the present consideration of this committee, the Department having been established by law, I will not go back and discuss with the gentleman from New York [Mr. WOOD] the constitutionality of that law.

I wish, however, to correct one or two mistakes made by the gentleman in charge of this bill [Mr. WASHBURNE, of Illinois] in reference to the circumstances connected with the passage of the bill by this House establishing the Department. I think he said that it was passed by only one majority, and that that majority was made by the vote of the venerable gentleman from Pennsylvania, [Mr. STEVENS,] which he now greatly regrets. I am very sorry if that distinguished gentleman regrets it, for some of the noblest utterances of his life were in defending the common school law of Pennsylvania.

Now, sir, that bill passed this House by a vote of 80 in the affirmative to 44 in the negative. It passed the Senate without a division. It passed this House by an almost strictly party vote. Almost every "constitutional" member, like the gentleman from New York, [Mr. WOOD,] voted against it. It passed by an almost unanimous vote of the members present of the majority party of this House. I recollect the facts distinctly, for I introduced the bill and had charge of it during the discussion.

Now, in regard to the operation of the Department of Education. The present incumbent was not appointed until near the end of March last. In addition to the important duties devolved upon him by the law establishing the Department a joint resolution was passed soon after his appointment requiring him to take a census of the District of Columbia and furnish all the educational statistics that Congress needed in the work of establishing a free-school system for this city and District. He has performed that duty with very great thoroughness, and is now very nearly ready to report to Congress. Common justice requires us to receive his report and examine his work before we condemn both him and the Department.

The bill creating the Department required him to prepare and report to Congress, in his first annual report, a statement of all the lands given by the General Government to the States and Territories of the United States for the support of education, and to report, as far as possible, what had been done with those lands, and how far the object of the Government had been accomplished, that we might more fully understand the relations of the General Government to the subject of education. When it is remembered that by the ordinance of 1787 one section in every township of land in all the northwestern territory was set apart and dedicated forever for the support of common schools, and that Congress has been for eighty years discharging that trust, either wisely or unwisely, gentlemen will understand how large an amount of property has been given by the General Government for this purpose. One of the objects of this Department was to inquire into and report what had been done with all this property. No authority whatever was given in the law to control the subject of education in the States. I will say, for the information of those gentlemen who were not then here, that the Department was established for the purpose of collecting statistics and publishing them to the country in aid of the general educational movements of the States. The law was asked by the leading educators, and its passage gave them great satisfaction and encouragement.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio [Mr. GARFIELD] says that I was greatly mistaken in regard to the circumstances connected with the passage of the bill establishing this Department. I was not here

at the time, and my information in regard to the matter was obtained from others. But I believe that information is correct, and will be confirmed by gentlemen who were here. According to that information the gentleman's bill, after being once defeated in this House, was, by dint of his persuasion and eloquence, finally reconsidered and foisted upon the country. I understand that to be the fact.

One word more. The gentleman from Minnesota [Mr. DONNELLY] takes issue in regard to the matter of expense. He has proposed merely an appropriation for the salaries. But, sir, we cannot stop there. If we vote these appropriations for salaries we must vote additional appropriations for the contingent expenses of this Department, as set down in this book of estimates; and the aggregate will be $30,670. The question for the House to decide is whether at this time, when our people are crushed to the earth with taxation, when so many in various branches of labor are without employment, we shall foist this Department permanently upon the country at an annual expense of thousands of dollars or whether we shall discontinue it now.

Mr. DAWES. Would not an appropriation for this Department be as useful as an appropriation for seed-bags?

Mr. WASHBURNE, of Illinois. I have opposed both.

Mr. GARFIELD. I withdraw the amendment to the amendment.

Mr. PIKE. I renew it for the purpose of saying a few words in regard to the passage of the act establishing this Department. At the time it was passed I made strenuous opposition to it on the ground that it was entirely unnecessary and, in my judgment, a wasteful expenditure of the public money. It seemed to me also improper as a step toward aggregating here all authority in regard to matters which should be left to the regulation of the States—gathering everything here, as I said at the time, except the poor-houses, which we still left to the control of the States. On the first discussion of this subject, which occupied some time, the measure coming up in the regular course of business upon the report of a committee, the bill was beaten by a small majority. The majority was so small that we who were opposed to the measure were afraid to move to reconsider and lay on the table lest we should not be able to carry it. Subsequently a motion to reconsider was entered, and it was adopted without any further discussion. By dint of personal entreaty the bill was carried through the House; and that is the way it happened to become a law.

Mr. UPSON. The gentleman will permit me to say that the motion to reconsider was made by myself.

Mr. BLAINE. But not on the same day the bill was defeated.

Mr. UPSON. Yes, the same day.

Mr. PIKE. At any rate the motion was not brought up and voted upon till some days afterward. I wish to say further that I hope this House, after performing the magnanimous act of robbing a few clerks of two or three hundred dollars a year, under the lead of the distinguished gentleman from Illinois, will not now squander the money so saved upon this useless institution.

Mr. WASHBURNE, of Illinois. "Still harping on my daughter!" [Laughter.]

Mr. PIKE. I withdraw the amendment to the amendment.

Mr. BLAINE. I renew it. I desire that this matter may be properly understood, for I was responsible in part for the statement made in the Committee on Appropriations that the bill establishing the Department of Education got through this House by a very tight squeeze, having been in the first instance defeated. I hold in my hand the record. On the 8th day of June, 1861, the bill was defeated in this House by a vote of fifty-nine ayes to sixty-one noes. I was myself among the noes; but at a subsequent part of the same day, having the floor on another question, I was good natured enough, or weak enough, at the request of my persuasive friend from Ohio, [Mr. GARFIELD,] to yield the floor to my friend from Michigan, [Mr. UPSON,] to move a reconsideration; and on that reconsideration it was taken up, with what alterations in the meantime I know nothing about, and the bill passed. I say this in order to vindicate the statement I made to the Committee on Appropriations.

Mr. GARFIELD. The gentleman from Maine has explained that the bill was passed with great difficulty, or, as he elegantly expresses it, "by a tight squeeze." But he has not answered the fact I allege, that on the 19th of June, about one week after its temporary defeat, the bill was passed by a vote of eighty yeas to forty-four nays. Now, if that be a "tight squeeze" I should be glad to know how the gentleman would describe the passage of a bill by a really small majority. But no matter; the bill did pass as I have stated, by a vote of almost two to one.

I want to say a word further since I am up. No single act of the last Congress has been more favorably commented upon by other nations than that, freed as it was from all partisan character. One of the leading members of the House of Lords, on the 2d of December last, moved that there be created by the British Parliament a department of education, and that the minister of education should have a seat in the cabinet as one of the counsellors of her majesty. He made one of the most elaborate and searching speeches of the session in its defense. The extension of suffrage to eight hundred thousand working men of England has made an increase of the educational forces a public necessity. The bill establishing the Department has been noticed in all the nations and languages of Europe as a step in the direction which nations must take to secure the liberty of the people and the safety of the Government.

The gentleman from Illinois hopes the amendment will be voted down, and the Department abolished. I am not one of those who seek to pluck out the eyes of the nation. If the gentleman desires to cut off two or three thousand clerks, and their services can be spared, I will join him. I heartily second all his just efforts to reduce the expenditures of the Government; but when he refuses to appropriate $13,000 for the maintenance of this Department, asked for by every friend of education in the United States, and seeks to destroy it, he is like one who would pull down the light-house on our coast to save expense to the Government.

Mr. DONNELLY. I find in the Globe that on the 19th of June the bill passed on the yeas and nays by a vote of eighty yeas to forty-four nays.

Mr. PIKE. Without any discussion.

Mr. GARFIELD. I desire to say one word more. I am surprised at the charges made against the gentleman who is at the head of this Department; and if for no other reason than to give him a fair hearing, we ought not to take action in this matter until we have his reports, which I understand are nearly ready.

Mr. WASHBURNE, of Illinois. Who made the charges?

Mr. GARFIELD. Two or three gentlemen.

Mr. WASHBURNE, of Illinois. What charges?

Mr. GARFIELD. That the Commissioner has not been here, that he has done his work in Connecticut, and so on.

Mr. PRUYN. I simply wish to say if this brought before the House the original merits of this proposition I might look at it in a different light from that in which I now view it. This Department being charged by law with certain specified duties, I think we ought first to have the report of the Commissioner before us, so that we may know what has been done as a guide for our intelligent action.

Mr. GARFIELD moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 237) in relation to the promulgation of the laws of the United States, in which the concurrence of the House was requested.

MICHAEL M'CANN.

Mr. HARDING, from the Committee of Claims, reported adversely on the claim of Michael McCann; and the same was ordered to be laid on the table.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. MOORE for one week.

And then, on motion of Mr. MAYNARD, (at four o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. AMES: The petition of William Mason and others, for removal of obstructions to the navigation of Taunton river.

By Mr. BUCKLAND: The petition of N. S. C. Perkins and others, citizens of Norwalk, Ohio, against the renewal of the patent for the Howe sewing-machine.

By Mr. CAKE: The petition of Theodore Garretson and others, citizens of Schuylkill county, Pennsylvania, in favor of protection to American industry, and denying that any material interest of the country is injured thereby. On the contrary, the example of the English system of protection shows that not only her workshops, but her commerce itself, has been built up by a judicious protective tariff.

By Mr. ELA: The petition of John Morley, of Rollinsford, New Hampshire, for a pension.

Also, the petition of Melinda Ferguson and 6 others, widows of soldiers in the war of 1812, asking for pensions.

Also, the petition of Daniel Stevens and 12 others, soldiers of the war of 1812, asking for a law to give pensions to soldiers who served in that war.

By Mr. HALSEY: Resolutions of the Friendly Sons of Ireland, of Jersey City, New Jersey, in reference to protection of adopted citizens.

By Mr. HILL: The proceedings of a meeting of the Friendly Sons of Ireland, at Jersey City, New Jersey, in regard to the rights of American citizens in foreign countries.

Also, the address, resolutions, and proceedings of the anti-monopoly State convention, held at Trenton, New Jersey, January 22, 1868, to oppose the extension of the monopoly privileges of the Camden and Amboy Railroad Company, and to secure the passage of a general railroad law.

By Mr. HOOPER, of Massachusetts: A memorial of a committee of merchants of Boston, in favor of provision being made by the Government of the United States for expenses incurred in rescuing seamen or passengers from wrecks upon the high seas or inland waters of the United States.

By Mr. HOPKINS: The petition of Sally C. Northrup, praying for relief by the passage of an act perfecting the title to certain bounty land warrants.

By Mr. JULIAN: The petition of 421 citizens of Kansas, praying Congress to grant them the right to purchase, at $1 25 per acre, one hundred and sixty acres each of the lands purchased of the Osage Indians, said right of purchase to be restricted to actual settlers on said lands; and that said lands may not be

donated to railroad corporations, but reserved for settlers only.

By Mr. KERR: A memorial of Mrs. Elizabeth J. Marshall, of Washington county, Indiana, for relief as a pensioner under the United States.

By Mr. MAYNARD: The petition of John Brown and many others, praying for aid to educate the orphans of deceased soldiers in East Tennessee.

By Mr. MOORE: A memorial and resolutions of a meeting of the Friendly Sons of Ireland, in Jersey City, New Jersey.

Also, the resolutions and proceedings of the anti-monopoly State convention of New Jersey.

Also, a memorial of the national convention of manufacturers.

By Mr. MULLINS: The petition of Messrs. Lemuel Balliny and 26 others, citizens of Kentucky, praying for a modification of the internal taxes, so as to relieve the necessaries and tax the luxuries of life, so as to make up the apparent deficit, &c.

Also, the petition of George Theobald and 41 others, citizens of Kentucky, praying for a modification of the internal taxes, so as to relieve the necessaries of life and tax the luxuries of life, so as to make good any deficit therefrom.

Also, the petition of A. R. Jackson and 88 others, citizens of Kentucky, praying for a modification of the internal taxes, so as to relieve the necessaries and tax the luxuries of life, so as to make good any deficit therefrom.

By Mr. VAN HORN, of New York: The petition of citizens of Warsaw, New York, asking a readjustment of the revenue laws and a reduction of taxes.

By Mr. WASHBURN, of Massachusetts: The petition of William Eddy, asking for reissue of United States bond in place of one destroyed by fire.

By Mr. WILSON, of Iowa: A memorial of Leslie Bassett, captain thirteenth Iowa infantry, and 6 other volunteer officers, residents of Brighton, Iowa, relative to a recent decision of the Court of Claims construing the act of June 20, 1864.

WITHDRAWAL OF PAPERS.

The following papers were withdrawn from the files of the House, and referred to the appropriate committee:

By Mr. BUCKLAND: The petition of Miranda Stage, widow of S. Stage, for relief.

IN SENATE.

THURSDAY, *February* 13, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware was read twice by its title, and referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of R. Shaw & Son, knitting weavers, Needham, Massachusetts, praying a revision of the internal revenue laws and a reorganization of the internal revenue department, a reduction of all expenditures to the limit required by a just and careful economy, a repeal of all taxes on raw materials and manufactures except articles of luxury; which was referred to the Committee on Finance.

He also presented a petition of John James Flournoy, praying an amendment to the Constitution of the United States which will fully recognize the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of the United States, praying a change in the mode of appointments and removals of officers charged with the collection or disbursement of moneys belonging to the United States; which was referred to the Committee on Finance.

Mr. MORGAN presented a petition of citizens of New York, praying the passage of a law providing that all contracts made payable in gold by the parties thereto shall be payable in gold according to the tenor of the same; which was ordered to lie on the table, a bill to that effect having been reported by the Committee on Finance.

Mr. WILSON presented a petition of citizens of Boston, Massachusetts, praying the passage of a law that all contracts made payable in gold by the parties thereto shall be payable in gold, according to the tenor of the same; which was ordered to lie on the table.

He also presented a petition of Solomon Stover, praying compensation for the use and occupation of his property by United States troops from June 1, 1861, to May 29, 1866, and for damages to the property by the troops; which was referred to the Committee on Claims.

He also presented a petition of citizens of the United States, praying the passage of a law legalizing all written contracts for the payment of gold coin; which was ordered to lie on the table.

Mr. THAYER presented a petition of citizens of Nebraska, praying an extension of mail route 14004, from Atchison to Padonia, in Kansas, to Nemaha City, Nebraska; which was referred to the Committee on Post Offices and Post Roads.

Mr. DOOLITTLE presented a memorial of citizens of Alabama, protesting against being placed under the rule of negroes, and against the enforcement of the reconstruction acts of Congress; which was referred to the Committee on the Judiciary.

Mr. HOWARD. I present the memorial of J. Weil & Brothers, and some twenty others, citizens of Ann Arbor, in the State of Michigan. They ask that the Navy may be reduced from the one hundred and three vessels now in commission to thirty or less. They want the revenue laws so adjusted that the balance of trade shall be in favor of this country, that the products of our mines of gold and silver and our bonds will remain at home, thus giving us in due time a specie basis for our national currency and work for our now idle men. They declare that they have full confidence in the ability of Congress to grant all they ask, and at the same time protect the credit and honor of the country. They express the belief that by so doing Congress will confer a lasting blessing upon this great and suffering people, and entitle themselves to the credit and support of every voter in the land. This petition is signed by numerous respectable business men of that place, and I ask that it may be referred to the Committee on Finance, and I desire to call the especial attention of that committee to the subjects embraced in it.

It was so referred.

Mr. ROSS presented a resolution of the Legislature of Kansas, in favor of the passage of a law granting pensions to the soldiers of the war of 1812 from the date of their injuries or their discharge from the service; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the petition of Captain George Henry Preble, reported a bill (S. No. 351) for the relief of Captain George Henry Preble, a commander in the Navy of the United States; which was read and passed to a second reading.

Mr. TRUMBULL, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to inquire into the expediency of repealing or modifying the act entitled "An act to temporarily supply vacancies in the Executive Departments in certain cases," reported a bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments; which was read a first time by its title.

Mr. TRUMBULL. I ask that the bill be read a second time, and go on the Calendar.

The PRESIDENT *pro tempore*. It goes on the Calendar without a further reading.

Mr. TRUMBULL. I desire to give notice that I shall call it up at an early day, as soon as I can get the opportunity after it shall have been printed and laid on our tables.

Mr. HOWE, from the Committee on Claims, to whom were referred the petition and documents of Charles J. Jack, praying compensation for services rendered as counsel in defending certain officers, sailors, and marines before a naval court-martial, submitted a report recommending that the petitioner have leave to withdraw his petition and papers; which was agreed to.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the memorial of Edward McD. Reynolds, praying to be reinstated in the Marine corps, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the petition of Ezra Carter, jr., late collector at Portland, Maine, reported a bill (S. No. 353) to authorize the accounting officers of the Treasury to adjust the accounts of Ezra Carter, jr., late collector of customs at Portland, Maine; which was read and passed to the second reading.

WARNINGS OVER OBSTRUCTIONS IN HARBORS.

Mr. MORGAN. I am instructed by the Committee on Commerce, to whom was referred the joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors and in the fair-way of bays and sounds, to report it back without amendment and recommend its passage; and as it is a simple resolution, to which there can be no objection, I ask for its consideration at the present time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Light-House Board, when in their judgment it is deemed necessary, to place a light-vessel or other suitable warning of danger on or over any wreck or temporary obstruction to the entrance of any harbor or in the channel or fair-way of any bay or sound.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORT OF INDIAN PEACE COMMISSION.

Mr. HENDERSON. There was a resolution reported some time since from the Committee on Printing in favor of printing a small extra number of the report of the commission on Indian affairs. I desire to have some extra numbers of that report printed. They can be used very well. I am called on for them, and I cannot furnish them. The supply has been exhausted. I desire that the resolution shall be called up and acted upon now. It will take but a moment. It was postponed on account of my absence.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That five thousand additional copies of the report of the peace commissioners be printed for the use of the Senate.

Mr. POMEROY. Are only five thousand copies to be printed?

Mr. HENDERSON. The resolution seems to be so reported.

Mr. POMEROY. Do you not want more?

Mr. HENDERSON. Five thousand will do, I think.

The resolution was adopted.

DENNISTOWN COTTON CASE.

Mr. STEWART. I submit the following resolution:

Whereas the Secretary of the Treasury, in his letter of January 18, 1868, in reply to a resolution of the Senate adopted December 9, 1867, reports, among other things, that certain suits in New York, known as the Dennistown cotton suits, were compromised by him under the advice of eminent counsel:

Resolved, That the Secretary of the Treasury be requested to furnish to the Senate the name or names of the "eminent counsel" referred to in his communication, with copies of their opinions; also, that he be requested to inform the Senate whether the Attor-

ney General of the United States gave any opinion on the subject of compromising said suits; and, if so, that he furnish a copy of the same; also, that he inform the Senate whether James W. Denver was at any time counsel in said case for the Treasury Department, and that he furnish to the Senate a copy of the letter of said Denver to him, dated August 14, 1867, objecting to any compromise of said suits; and further that the Secretary be requested to report to the Senate what officer or agent of the Treasury Department superintended or made said compromise; and, also, specifically the terms of the same, and, if in writing, that he furnish a copy thereof.

Mr. HENDRICKS. Is that resolution just now being introduced?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. HENDRICKS. I should like to look at it.

The PRESIDENT *pro tempore*. The Senator objects to its consideration to-day, and it goes over under the rule.

ARMY SUBSISTENCE FURNISHED TO INDIANS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inform the Senate what amount of subsistence stores, and the value thereof, has been issued under the orders of the War Department for the support of Indians in charge of the Indian bureau, and for which payment has not been made to the War Department by the Department of the Interior.

MILITARY TRANSPORTATION.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War furnish to the Senate a statement showing the comparative rates now paid by the United States for the transportation of troops and military stores to the Union Pacific Railroad Company, to the Union Pacific Railroad Company eastern division, and to the Chicago and Northwestern Railroad Company.

BILLS INTRODUCED.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 354) to provide for payment for certain losses and damages sustained by the Indians upon the Siletz reservation, Oregon; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 356) for the relief of Messrs. Gellatt and Moore; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 357) to provide a temporary government for the Territory of Wyoming; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. HOWARD. I move that the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company be assigned for consideration and made the special order of the day for Tuesday next at two o'clock.

The PRESIDENT *pro tempore*. The bill must first be taken up before that motion can be entertained.

Mr. HOWARD. I move to take up the bill for the purpose I have indicated.

Mr. SHERMAN. I trust the Senate will not make any special orders, and especially on a mere private bill for a private enterprise. The other day, at the suggestion of the Senator from Maine, I waived my motion to make a special order of a public bill about which there is difference of opinion but great anxiety for some action. I trust, therefore, that the Senator will not press his proposition. I propose on Monday to move to take up the funding bill, and I certainly should dislike to see a public measure affecting the interests of the United States displaced by a measure local in its character, affecting only the interests of one corporation, proposing to grant a subsidy of money. At any rate, this motion to make a special order of a private claim is a rather unusual one, and I trust the Senate will not adopt it. The Senator can, by watching his opportunity, get this bill up. I certainly will not delay action by the Senate on it.

Mr. FESSENDEN. I suggest to the Senator from Michigan whether he had not better follow the example of the Senator from Ohio—these special orders are very embarrassing—and simply give notice that on a certain day he will move to take up his bill? I have no objection to its being taken up at the earliest moment, but I have an objection to these special orders, and the Senator is aware that by a rule of the Senate it requires a two-thirds vote to make any bill a special order.

Mr. HOWARD. I endeavored to get this bill up yesterday morning in the morning hour, and in that effort I encountered the opposition of the honorable Senator from Ohio, who now objects to its being made a special order.

Mr. SHERMAN. I did not object to its being taken up at any time. I have no objection to its being taken up.

Mr. HOWARD. As to the character of the bill, it is by no means a private bill or a private claim, as it has been denominated by the honorable Senator from Ohio. It is a bill of great importance both to the Government of the country and to the company concerned, and I have no doubt it will lead to considerable discussion before it is finally disposed of in this body. I will not, however, press it upon the consideration of the Senate when I am likely to encounter opposition, but must run my chances; but I trust that the next time I call it up I shall have the cordial assistance of the Senator from Maine and also of the Senator from Ohio.

Mr. SHERMAN. I will say to the Senator that, as to-day is set apart for a privileged question, I have no objection to the bill being taken up to-morrow or next day. I shall vote with the Senator to take up the bill so that it may be acted upon; but on Monday I trust the Senate will give me an opportunity to be heard on the bill I have mentioned.

The PRESIDENT *pro tempore*. Does the Senator from Michigan withdraw his motion?

Mr. HOWARD. Yes, sir.

RAILROAD BRIDGES.

Mr. RAMSEY. I move that the Senate proceed to the consideration of the bill (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes. It is very important that this bill should be acted upon at once, in order that the company may proceed with the construction of their road.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to empower the New Orleans, Mobile, and Chattanooga Railroad Company to construct, build, and maintain bridges over and across the navigable waters of the United States on the route of its road between New Orleans and Mobile, for the use of the company and the passage of its engines, cars, and trains of cars, passengers, mails, and merchandise thereon. The railroad and bridges, when constructed, completed, and in use, in accordance with the act and the laws of the several States through whose territory the same shall pass, are to be deemed, recognized, and known as lawful structures and a post road. But the company, in the construction of its bridges over and across the waters known as the East Pascagoula river, the bay of Biloxi, and the bay of St. Louis, is to construct and maintain draw-bridges in the channels thereof, which, when open, shall give a clear space for the passage of vessels of not less than eighty feet in the channels of the East Pascagoula, and of the bay of Biloxi, and of the bay of St. Louis, and of not less than one hundred feet in the channel of the Great Rigolet; and the company is at all times to open the draw-bridges, and provide reasonable facilities for the passage of all vessels requiring the same, except during and for ten minutes prior to and after the time of the passage of the mail and passenger trains of the company.

The Committee on Post Offices and Post Roads proposed to amend the bill by inserting after the word "reasonable" in line twenty-four the words "and necessary;" so as to read, "shall provide reasonable and necessary facilities for the passage of all vessels," &c.

The amendment was agreed to.

The committee proposed to amend the bill further by adding the following additional section:

SEC. 2. *And be it further enacted*, That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said rivers, growing out of the construction of said bridges, is hereby expressly reserved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

JAMES CRUTCHETT.

On motion of Mr. HOWE, the joint resolution (S. R. No. 101) referring the petition and papers in the case of James Crutchett to the Court of Claims was read the second time, and considered as in Committee of the Whole.

It proposes to refer the petition and papers in the case of the claim of James Crutchett to the Court of Claims, and to confer on that court jurisdiction so far as to adjust and adjudicate the claim against the United States of rent for the use and occupancy of claimant's premises, situated on the corner of North Capitol and D streets, in the city of Washington, District of Columbia, known as the "Soldier's Rest."

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CONTRACTORS FOR VESSELS AND MACHINERY.

On motion of Mr. GRIMES, the bill (S. No. 307) for the relief of certain Government contractors was read the second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Secor & Co. and Perrine, Secor & Co. the sum of $115,539 01; to Harrison Lorring, $38,513; to the Atlantic Iron Works, of Boston, Massachusetts, $4,852 58; to Aquilla Adams, the sum of $4,852 58; to M. F. Merritt, the sum of $4,852 48; to Tomlinson, Hartepee & Co., $15,171, and to Poole & Hunt the sum of $3,694 81, being the amount found to be due each of the parties named by the Secretary of the Navy under an act of Congress entitled "An act for the relief of certain contractors for the construction of vessels of war and steam machinery," approved March 2, 1867.

Mr. GRIMES. In the fifteenth line after the word "dollars" I move to insert "to Harlan & Hollingsworth the sum of $38,513."

Mr. SHERMAN. I should like to have an explanation of so large an amount.

Mr. GRIMES. The Senate will remember that at the last session of Congress we had before us a bill allowing about a million and a half dollars to certain contractors for Government vessels constructed for the Government by different individuals throughout the United States during the war. The bill was passed by this body and went to the House of Representatives. It was there referred to the Committee of Claims, and that committee, instead of concurring with the Senate, reported a proposition, which was adopted by the House and concurred in finally by the Senate, directing that the Secretary of the Navy should investigate and determine as to the amount that might be due to each of these contractors upon certain principles announced

in the bill. The Secretary of the Navy referred the subject to a board consisting of a commodore in the Navy, an engineer, and a paymaster. The subject has been heard by this board, and they have reported that there is justly due the sum specified in the bill—about two hundred thousand dollars, in place of a million and a half, as the bill passed by this body provided. The Committee on Naval Affairs have reported this bill in favor of the parties who were found to be equitably entitled to relief by the commission appointed by the Secretary of the Navy.

Mr. SHERMAN. I asked the Senator the meaning of the amendment now offered.

Mr. GRIMES. By an oversight on my part in drawing the bill I left out the name of Harlan & Hollingsworth.

Mr. SHERMAN. Is that firm one of those included in the award?

Mr. GRIMES. Yes, sir; one of those included in the original award, and my attention was called to it afterward.

The amendment was agreed to.

Mr. JOHNSON. I ask the honorable member if the claim of Poole & Hunt is included in the bill?

Mr. GRIMES. They are included, I believe.

Mr. JOHNSON. I ask for the reading of the bill.

The Secretary read the bill as amended.

Mr. HOWE. I wish the Senator from Iowa would state whether these sums are awarded as moneys earned in pursuance of contracts, or whether they are in addition to the contract prices, or upon what principle this money is awarded. I am wholly unfamiliar with the case.

Mr. GRIMES. I have not before me the bill that was passed at the last session of Congress directing the Secretary of the Navy to ascertain and report on this subject; but this finding has been made by the commissioners appointed by the Secretary of the Navy upon the basis of the law. It grows out to a considerable extent, and I believe entirely, of changes that were made in the construction of these vessels and in the engines of these vessels in obedience to the order of the Secretary of the Navy. But I call the attention of Senators to Executive Document No. 3, which contains the report of the Secretary of the Navy on this subject. He was directed by the law of the last session, approved on the 2d of March:

"To investigate the claims of all contractors for building vessels of war and steam machinery for the same, under contracts made after the 1st day of May, 1861, and prior to the 1st day of January, 1864," and to "report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government aforesaid, and the amount already paid the contractor over and above the contract price."

In conformity with that law the Secretary of the Navy appointed Commodore J. B. Marchand, Chief Engineer J. W. King, and Paymaster Edward Foster to investigate the subject. Connected with this report is a tabular statement, as required by the law, by which it will be found that the increased cost of work over the contract price, as claimed by the contractors, is a very large sum, and there has been paid to nearly all of these contractors a certain amount of money, and a pretty large amount of money over and above the contract price; but this board have found that to the particular contractors enumerated in this bill there is still an amount due and which the Government ought to pay. It is in conformity with that report that this bill is presented.

Mr. HOWE. If I understand the Senator's statement—and I wish to know whether I do or not—these moneys are awarded as compensation for extra work not included in the terms of the contract. Is that so?

Mr. GRIMES. Yes, sir; I suppose so.

Mr. HENDRICKS. I do not understand that this is an allowance technically for extra work, but it is an allowance for losses occasioned by the delays which the Government caused in the construction of the vessels and in the change of the plans, as well as the extra work done. The Government interfered from time to time and changed the plan of the work. The contractors had to change their machinery. That delayed them. All this time materials were going up. This is for the increased cost occasioned by that act. That was provided for by the resolution of last session as well as the additional work.

Mr. CONKLING. I should like to inquire of the Senator who has this bill in charge whether this is the last of these claims and proposed appropriations; in other words, whether this is in full, so far as all these contractors are concerned named in this table, being those referred to in the bill, and a great many others?

Mr. GRIMES. That is a question that I cannot answer. I do not suppose that it is the last. I never knew yet anybody who had a claim against the Government who was satisfied with the award he got from the Government, and who did not persist in having a large one afterward. I presume the same thing will follow here that does in all other cases.

Mr. CONKLING. I should like to inquire again, if the Senator will excuse me, what is the amount that has been appropriated heretofore?

Mr. GRIMES. By Congress?

Mr. CONKLING. Yes, sir.

Mr. GRIMES. Nothing at all.

Mr. CONKLING. Does the Senator mean that none of these contractors have received extra compensation until now?

Mr. GRIMES. I mean to say that they have not by virtue of any act of Congress. No law of Congress has been passed giving them extra compensation; but if the Senator will refer to the table in his hands he will see that extra compensation has been allowed them by the Secretary of the Navy, and in some instances to the same parties who are included in this bill, and I do not know but to each one of them.

Mr. CONKLING. I do see, as far as the moment in which I look at it enables me to see, that a very large number of extra allowances have been made. The present bill appropriates, if I am right in my computation, about two hundred and twenty-five thousand five hundred dollars. I suggest that it would be well and satisfactory if we might know before this is passed upon finally how much has been paid heretofore, whether by the discretion of the Department or under general acts, or by special appropriation, and also that we might know how much there is behind, and, in short, have a final accounting whenever a bill is to be passed on this subject. I have no wish, certainly, to interpose against whatever may be right for the parties named here; but it seems to me it would be well to know, at least as to these parties, that we come to a final accounting before anything is appropriated. It would probably be more satisfactory to them as well as safer. If this appropriation is made there is a certain presumption arising that it is to be accepted in full, which, if they have an additional claim and a just claim, would have a tendency to do injustice to them. If that is not to be so, and their claims are to be recognized hereafter, then I do not see why we should not at once, with the whole case before us, make an appropriation. I do not wish to interfere with the bill, but I make these remarks rather by way of suggestion to the Senator from Iowa.

Mr. GRIMES. I do not regard the suggestions of the Senator from New York as any interference. In answer to his inquiries I will say that Congress has not made any such appropriation as he alludes to; that is, by no act of Congress has there been an extra amount paid to these contractors. So far as the action of the Senate is concerned, we did pass a bill at the last session for that purpose, but it failed to pass the House of Representatives. As to the amount that has been paid by the Secretary of the Navy, the Senator can inform himself by reference to the table which I have put in his hands. As to the subsequent claims of contractors I know nothing except this, that each one of the contractors who is not included in this bill is already here clamorous for a bill to be passed allowing him to go before the Court of Claims to show that he is entitled to a compensation that was not awarded by the Secretary of the Navy or by the board that the Secretary of the Navy appointed and who have awarded the amounts to the parties named in this bill.

Mr. CONKLING. If the Senator will pardon me one moment, what is the distinction between the allowances which the Secretary has made, or which he has caused to be made for extra work done under the direction of the Department or for variation in the work caused by him, and the class of compensation covered by this bill?

Mr. GRIMES. There is no difference, I suppose, in the character of the work. This bill is intended to cover some labor that was performed for the Government which was not paid for by the Secretary of the Navy, and out of $2,500,000 of claims that were presented before this board, the board have awarded about two hundred thousand dollars. The Committee on Naval Affairs thought that the best way to dispose of the question was to pay this $200,000, and thus, if they could, get rid of the whole subject.

Mr. HENDERSON. How will that do it?

Mr. GRIMES. It will so far as we are concerned, and so far as these particular contractors are concerned. These people present an equitable case. A board of our own creation among the highest officers of the Navy have taken the statements of the Navy Department and of these contractors, and after examining them thoroughly have decided that of these $2,500,000 of claims that have been presented before them, there are $200,000 that ought to be paid.

Mr. HENDERSON. I should like to ask the Senator if a previous board did not report $2,225,000?

Mr. GRIMES. The previous board simply took the statements of the contractors as submitted without going into the subject thoroughly, as I understand. This board have taken the statements made by the contractors as well as the statements made by the Navy Department, and have thoroughly analyzed the whole thing, sifted it down, and furnished us with a tabular statement, showing the amount of the original contract, the amount that in their opinion the labor was enhanced by the action of Congress or the action of the Department, the amount that has been paid by the Department for this enhanced price, and in these particular cases the amount that they believe still to be due to the contractors.

The PRESIDENT *pro tempore*. The morning hour having expired, the resolution of the Senator from Maryland for the admission of his colleague to a seat in the Senate is before the Senate.

Mr. JOHNSON. I call it up, then.

The PRESIDENT *pro tempore*. It is before the Senate by the rule on the expiration of the morning hour.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 203) reducing the expenses of the War Department, and for other purposes, in which the concurrence of the Senate was requested.

SENATOR FROM MARYLAND.

The Senate resumed the consideration of the following resolution, submitted by Mr. JOHNSON on the 18th of December, 1867:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

Mr. SUMNER. I move to strike out all after the word "resolved" in the resolution, and to insert what I send to the Chair.

The PRESIDENT *pro tempore*. The amendment will be read.

The Secretary read the amendment, which was to strike out all of the resolution after the word "resolved," and in lieu of the words stricken out to insert the following:

That Philip F. Thomas, Senator-elect from Maryland, cannot be admitted to take the oaths of office required by the Constitution and laws, inasmuch as he allowed his minor son to leave the paternal house and serve as a rebel soldier, and gave him at the time $100 in money, all of which was aid, countenance, or encouragement to the rebellion, which he was forbidden to give; and further, inasmuch as in forbearing to disclose and make known the treason of his son to the President or other proper authorities, according to the requirement of the statute in such cases, he was guilty of misprision of treason as defined by existing law.

Mr. SUMNER. A great debate on the question how loyalty shall be secured in the rebel States is for the time silenced in order to consider how loyalty shall be secured in this Chamber. Everywhere in the rebel States disloyal persons are struggling for power; and now at the door of the Senate we witness a similar struggle. If disloyalty cannot be shut out of this Chamber, how can we hope to overcome it elsewhere?

More than once at other times I have discussed the question of loyalty in the Senate. But this was anterior to the adoption of the fourteenth constitutional amendment. The case is plainer now than then, inasmuch as there is now an explicit text requiring loyalty as a "qualification." Formerly we were left to something in the nature of inference; now the requirement is plain as language can make it.

By the new amendment it is provided that "No person shall be a Senator or Representative in Congress who, having previously taken an oath as a member of Congress, or as an officer of the United States, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

These words are precisely applicable to the present case. They lay down a rule from which there is no appeal; and this rule is not merely in the statutes but in the Constitution. It is the plain declaration that loyalty is a requirement in a Senator and Representative. If we do not apply it to ourselves now it is difficult to see with what consistency we can apply it to others. Your course here will affect the meaning of this constitutional amendment, if not its validity for the future.

I do not stop to argue the question, if that amendment is now a part of the Constitution; for I would not unnecessarily occupy your time, nor direct attention from the case which you are to decide. For the present I content myself with two remarks: first, the amendment has already been adopted by three fourths of the States that took part in proposing it, and this is enough, for the spirit of the Constitution is thus satisfied; and, secondly, it has already been adopted by "the *Legislatures* of three fourths of the several States" which have Legislatures, thus complying with the letter of the Constitution. Therefore by the spirit of the Constitution, and also by its letter, this amendment is now a part of the Constitution, binding on all of us. As such I invoke its application to this case. In face of this positive peremptory requirement it is impossible to see how loyalty can be other than a "qualification." In denying it you practically set aside this amendment.

But even without this amendment, I cannot doubt that the original text is sufficiently clear and explicit. It is nowhere said in the Constitution that certain specified requirements and none others shall be "qualifications" of Senators. This word "qualifications," which plays such a part in this case, occurs in another connection, where it is provided that "each House shall be the judge of the elections, returns and *qualifications* of its own members." What these "qualifications" may be is to be found elsewhere. Searching the Constitution from beginning to end, we find three "qualifications," which come under the head of *form*, being (1) age, (2) citizenship, and (3) inhabitancy in the State. But behind and above these is another "qualification," which is of *substance*, in contradiction to *form* only. So supreme is this, that it is placed under the safeguard of an oath. This is loyalty. It is easy to see how infinitely more important is this than either of the others—than age, than citizenship or, than inhabitancy in the State. A Senator failing in either of these would be incompetent by the letter of the Constitution; but the Republic might not suffer from his presence. On the other hand a Senator failing in loyalty is a public enemy, whose presence in this council Chamber would be a certain peril to the Republic.

It is vain to say that loyalty is not declared to be a "qualification." I deny it. Loyalty is made a "qualification" in the amendment to the Constitution; and then again in the original text, when in the most solemn way possible, it is distinguished and guarded by an oath. Men are familiarly said to "qualify" when they take the oath of office, and thus the language of common life furnishes an authentic interpretation of the Constitution.

But no man can be allowed to take the oath as Senator, when, on the evidence before the Senate, he is not competent. If it appear that he is not of sufficient age, or of the required citizenship or inhabitancy, he cannot be allowed to go to that desk. Especially, if it appear that he fails in the all-important "qualification" of loyalty, he cannot be allowed to to go that desk. A false oath, taken with our knowledge, would compromise the Senate. We who consent will become parties to the falsehood. We shall be parties in the offense. It is futile to say that the oath is one of purgation only, and that it is for him who takes it to determine on his conscience if he can take it. The Senate cannot forget the evidence; nor can its responsibility in the case be swallowed up in any process of individual purgation. On the evidence we must act and judge accordingly. The "open sesame" of this Chamber must be something more than the oath of a suspected applicant.

According to Lord Coke "an infidel cannot be sworn," as a witness. This was an early rule which has since been softened in our courts. But under the Constitution of the United States and existing statutes a "*political infidel* cannot be sworn," as a Senator. Whatever may be his inclination or motive he must not be allowed to approach your desk. The country has a right to expect that all who enter here shall have a sure and well-founded loyalty, above all question or "suspicion." And such I insist is the rule of the Constitution and of Congress.

As if to place the question beyond all doubt, Congress by positive enactment, requires that every Senator, before admission to his seat, shall swear that he has "voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility" to the United States. Here is little more than an interpretation of the Constitution. The conclusion is plain. No person who has voluntarily given even "countenance" or "encouragement" to another engaged in the rebellion can be allowed to take that oath.

After this statement of the rule, the question arises, if Philip F. Thomas can be permitted to take the oath at your desk, or, in other words, to "qualify" as a Senator of the United States. Is he competent? This is a question of evidence.

The ample discussion of the facts in this case, and their singular plainness, supersede the necessity of all details. The atmosphere about Mr. Thomas and his acts are harmonious. From the beginning we find him enveloped in coldness and indifference while his country was in peril. But, observing him more closely, we are shocked by two acts of positive disloyalty, one of which is the natural prelude of the other. The first muttering of the rebellion found him a member of the Cabinet of Mr. Buchanan; but when this uncertain President proposed the succor of our troops at Charleston, already menaced with war, Mr. Thomas withdrew from the patriotic service. He resigned his seat, following the lead of Cobb, Thompson, and Floyd. A man is known by the company he keeps. His company at this time were traitors. And the act they united in doing was essentially disloyal. As the rebellion assumed the front of war they all abandoned their posts—some to join the rebellion and mingle with its armies; Mr. Thomas more prudently to watch the course of events in Maryland, ready to lift his arm also if his State pronounced the word. This concerted desertion was in itself a conspiracy against the Government; and, in the case of Mr. Thomas, who was Secretary of the Treasury, it was a blow at the national credit, which it was his special duty to guard. It was an act of disloyalty to be blasted by indignant history, even if your judgment fails now. And this was the first stage in this record.

Meanwhile the war rages. Armies are marshaled. Battles ensue. Washington itself is beleaguered. The Republic trembles with peril. But Mr. Thomas continues in the seclusion of his home, enveloped in the same disloyal atmosphere, and refusing always the oath of allegiance. At last in 1863 an only son arrives at the age of eighteen. Though still a minor he is already of the military age. Naturally filled with the sentiments of his father's fireside, he seeks to maintain them by military service. He is like his father, but with the ardor of youth instead of the caution of years. He avows his purpose to enlist in the rebel army, thus to levy war against his country, and adhere to its enemies. All this was treason—plain, palpable, unquestionable, downright treason. Instead of detaining his son; instead of keeping him back; instead of interposing a paternal veto; instead of laying hands gently upon him; instead of denouncing him to the magistrate, all of which the father might have done, he deliberately lets him go, and then, to cap the climax of criminal complicity, furnishes the means for his journey and his equipment. He gives $100. The father is not rich, and yet he gives this considerable sum. Few soldiers started with such ample allowance. Thus it stands. The father who has already deserted his post in the Cabinet and has refused to take the oath of allegiance to his country contributes a soldier to the rebellion, and that soldier is his only son. To complete and assure the great contribution, he contributes a sum of money also. If all this accumulated disloyalty, beginning in a total renunciation of every patriotic duty, and finally consummated by an act of flagrant, unblushing enormity is not "aid and comfort" or "countenance" or "encouragement" to the rebellion, it is difficult to say what can be. There must be new dictionaries for these familiar words, and they must receive a definition down to this day unknown. They must be treated as thread or gossamer, when they should be links of iron.

On an occasion like the present, where the moral guilt is so patent, I hesitate to employ technical language. The simplest phrase is the best. But the law supplies language of its own. Regarding the act of Mr. Thomas in the mildest light, it was "misprision of treason," according to every definition of that crime which can be found in the books. Lord Hale, whose authority, in stating the rules of criminal law, is of the highest character, says, under this head: "Every man is bound to use all possible lawful means to prevent a felony, as well as to take the felon; and, if he doth not he is liable to fine and imprisonment." (Hale's Pleas of the Crown, volume I, page 484.) Lord Coke, another eminent authority, says, "if any be present when a man is slain and omit to apprehend the slayer it is a misprision." (3 Institutes, page 139.) The same rule is, of course, applicable to treason. Mr. Bishop, who in his remarkable work on Criminal Law has compressed the result of all the authorities, says: "Misprision of treason is the same as treason." (Volume I, section

652.) Then again he says, citing Hawkins, Blackstone, East, and Russell, all familiar names in our courts, each an oracle:

"The doctrine of misprision, as now understood, may be stated as follows: to make a man liable for a crime committed through the physical volition of another, his own will must, in some degree, concur in, or contribute to the crime. *But when it is treason or felony, and he stands by while it is done, without using the means in his power to prevent it, though his will concurs not in it; or when he knows of its having been in his absence committed, but neither makes disclosure of it to the authorities, nor does anything to bring the offender to punishment*—the law holds him guilty of a breach of the duty due from every man to the community wherein he dwells and the Government which protects him."—*Bishop, Criminal Law*, vol. I. sec. 655.

I adduce these authorities in order to show that, by the common law, as illustrated by some of its best names, Mr. Thomas is beyond all question an offender. Clearly he did not use "the means in his power" to prevent the treason of his son; nor did he "make disclosure of it to the authorities," according to the received rule of law.

But the statutes of the United States leave us no room for doubt or indulgence. According to the precise text, the present case is anticipated and provided for. The statute of crimes adopted in 1790, at the beginning of the national Government, after declaring the punishment of treason, proceeds to declare the punishment of "misprision of treason" as follows:

"That if *any person or persons having knowledge of the commission of any of the treasons aforesaid shall conceal and not as soon as may be disclose and make known the same* to the President of the United States or some one of the judges thereof or to the President or Governor of a particular State or some one of the judges or justices thereof, *such person or persons on conviction shall be adjudged guilty of misprision of treason*, and shall be imprisoned not exceeding seven years and fined not exceeding $1,000."—1 *Statutes-at-Large*, page 112.

Apply these plain words to the present case. Nobody can doubt that Mr. Thomas "had knowledge" of the treason of his son; and having this knowledge failed "to disclose and make known the same" to the President of the United States or the other proper authorities. Abraham Lincoln was at the time President. There is no pretense that the father communicated the crime of the son to this patriot magistrate, nor to any other loyal officer by whom he could have been arrested. Therefore, beyond all question, on the facts of the case, the father is guilty under the statute, and liable to seven years of imprisonment and a fine of $1,000. And now, instead of seven years' of imprisonment and a fine of $1,000, it is proposed to give him six years of trust and honor, as a Senator of the United States, with an annual allowance of $5,000.

According to the old law, the indictment against Mr. Thomas would allege, that, "not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil," he perpetrated his crime. And now with this crime unatoned for, he comes here, to ask your support and countenance. We are to forget all that he did, "moved and seduced" by evil instigation, and welcome him to this Chamber, instead of handing him over to judgment.

It is treating this case with a levity, which it is hard to pardon, when Senators argue that the father was not under obligations to exercise all the paternal power in restraint of his son, or at least in denouncing him to the proper authorities. What is patriotism? What is the sacred comprehensive charity of country, if a father can be blameless after such a license to his son? The country was another mother to this son, and he went away to strike this mother on the bosom. There is a case in antiquity, which illustrates the solemn duty of the father at least to detain the son. I quote from Sallust. This remarkable writer, in his history of the Catalinarian conspiracy, tells us that there were many not enlisted in the conspiracy who went out to join Cataline; that among these was A. Fulvius, the son of a Senator; and the historian adds without comment that the father when his son was brought back ordered him to be slain. *Fuere tamen extra conjurationem complures, qui ad Catalinam profecti sunt; in his A. Fulvius, Senatoris filius; quem retractum ex itinere parens recari junit.* (Cataline, cap. 39.) Humanity rejects the barbarous exercise of the paternal power according to the Roman law; but patriotism may find even in this example a lesson of paternal duty. The American father should not have slain his son; but he should have kept him from joining the enemies of his country. This requirement of duty was none the less strong because not enforced by death. I utter not only the rule of patriotism, but the rule of law when I say that it was positive and peremptory. I will not admit that an American citizen can be blameless who dismisses a son from the paternal roof, with money in his purse to make war upon his country. All that the son did afterward, all that the son sought to do became the act of the father who sent him forth on his parricidal errand. The father's treason was continued and protracted in the treason of the son.

In making this contribution to the rebellion, the act of the father was enhanced by his eminent position. He had held a seat in the Cabinet, binding him more than any common citizen to the most watchful allegiance and giving to what he did peculiar importance. A soldier contributed to the rebellion by such a person was a startling event. It was aid and comfort, countenance and encouragement of far-reaching significance. It was a hostile act, directly injurious to his country and of evil example, the influence of which no man can measure. How many others were weakened in loyalty by this parricidal act, who can tell? When the citizen, who has enjoyed public trust and been a "pillar of State" gives way, others about him must fall likewise. So great a parricide must cause other parricides.

And now this father, who gave a son to the rebellion, comes into this sanctuary of the Constitution, where loyalty is the first condition of admission, and asks for a seat. *Immo in senatum venit.* Is there not hardihood in the application? Of course, he cannot be admitted without your act having an influence proportioned to the importance of the position. It will be felt everywhere throughout the country. Admit him and you will unloose the bonds of loyalty and give a new license to the rebellion in its protracted struggle. On the contrary if you send him away, you will furnish a warning to the disloyal, and teach a lesson of patriotism which will thrill the hearts of good citizens now anxiously watching for peace and reconciliation through the triumph of loyalty.

I speak this positively, because on this case I see no doubt. The facts are indisputable, and over all towers one supreme act of parricide, for which there can be no excuse or apology. A soldier was contributed to the enemies of his country. There is no question of motive. The parricidal act was complete, and it explains itself. There is no doubt that it was done. In the presence of such an act, so absolutely criminal, there can be no room for inquiry as to the motive. All this I put aside and look only at the transcendent fact, in which all pretense of innocence is so entirely lost and absorbed that it cannot be seen. As well seek to find a motive if a son struck at the bosom of his mother. The law supplies the motive when it says in its ancient phrase, "moved and seduced by the instigation of the devil."

Some there are who doubt the motive of the father and claim for him now the benefit of that doubt. Even if the motive of this criminal act were in question, as I insist that it cannot be, then do I say, that, in a case like this, when disloyalty is to be shut out of this Chamber, I give the benefit of doubt to my country.

There is another voice which sometimes reaches me. We are told that if the applicant be disloyal, then we may expel him. For myself, I prefer to take no such risk. Viewing the case as I do, I have no right to take any such risk. Disloyalty must be met at the door and not allowed to enter in. The old verses, more than once repeated in our public discussions are applicable now; never more so:

"I hear a lion in the lobby roar!
Say, Mr. Speaker, shall we shut the door
And keep him out, or shall we let him in
And see if we can get him out again?

Mr. TRUMBULL. Mr. President, to all that has been so eloquently said by the Senator from Massachusetts as to the necessity of keeping from these Halls all disloyalty and all disloyal persons I fully assent. But, sir, that, it seems to me, is not the question under consideration at the present moment. I am not aware that there is any testimony or any accusation of present disloyalty against the Senator-elect from the State of Maryland. If there were, and a case were made out, of doubt even, as to his present loyalty, I should agree with the Senator from Massachusetts that he ought not to be permitted to take a seat here; but there is no evidence before the Senate upon that subject. And if he is to be excluded from his seat here it is because he does not possess the qualifications required by the Constitution of the United States or the laws which have been passed in pursuance thereof. We are not here passing upon the confirmation of a person nominated to office; the Senate is not now in the exercise of its jurisdiction as a part of the appointing power to determine who shall fill the offices under the United States; but we are passing upon the right to a seat of a person who has been elected as a Senator by one of the States of this Union. He may not be such a man as we would have selected; certainly he is not such a one as I wish the State of Maryland had selected; but it belongs to the State of Maryland to be represented upon this floor by whomsoever she pleases, so that she sends here a man possessing the qualifications which the Constitution of the country requires and elected in pursuance of the laws passed under and by virtue of the Constitution.

Now, sir, I do not know that I shall bring anything new to the consideration of this question; the ground has been gone over; and I should have said nothing in regard to the case but that I am one of the members of the Judiciary Committee, to whom the subject was referred, and I have felt it incumbent on me, as one of the committee who investigated the case, to state, as I shall very briefly, the considerations which will control my vote on the present occasion.

It is not pretended that Mr. Thomas does not possess the qualifications of age and citizenship and inhabitancy required by the Constitution of the United States. It is not alleged that he has not been duly elected by the Legislature of the State of Maryland. Why, then, is he not entitled to take his seat on taking the oaths prescribed by the Constitution and by law? He is entitled to take it if he can truthfully take the oaths which have been prescribed; and I agree again with the Senator from Massachusetts that if he cannot, in our opinion, truthfully take the oath required by the law of 1862 we ought not to sit by and allow him to subscribe and take it.

Sir, what is that oath? It was enacted on the 2d of July, 1862, after considerable debate and considerable opposition in Congress. It was enacted for the purpose of keeping out of these Chambers persons engaged in rebellion, engaged in armed hostility to the United States, in an effort to overthrow the Government. It seemed to me, and it seemed to Congress, that it was preposterous that any man should come here to legislate for the United States and take an oath to support the Constitution of the United States who was engaged in an effort to overthrow and disrupt the Union. Now, what does the law require? It requires that the party shall swear that he has "never voluntarily borne arms against the United States since he has been a citizen thereof"—it is not pretended that Mr. Thomas has—that "I have voluntarily given no aid, countenance, counsel,

or encouragement to persons engaged in armed hostility thereto." Under this clause it is insisted that Mr. Thomas cannot properly take the oath. The other clauses of the oath it is unnecessary to read, because there is no pretense that Mr. Thomas comes within any of them; and if he cannot properly take the oath it is because he cannot swear that he has not voluntarily given aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States. Whether he has done so is a question of fact; and there are two allegations against Mr. Thomas. One is in regard to his course as Secretary of the Treasury for about thirty days in the winter of 1860-61, before the rebellion had broken out in armed hostility, before a gun had been fired, or rather that he resigned his position as Secretary of the Treasury, and resigned under such circumstances that his resignation is construed by some into an act giving aid and comfort to persons engaged in armed hostility to the United States. It perhaps would be a sufficient reply to this allegation to say that at that time no persons were engaged in armed hostility to the United States. He resigned early in January, 1861. I think the attack upon Fort Sumter, when the first guns were fired, was in April of that year.

But, sir, the testimony before the Judiciary Committee and the uncontradicted testimony is that he discharged his duties as Secretary of the Treasury faithfully to the United States. When he took possession of the Treasury Department, about the middle of December, 1860, our financial condition was very bad. Mr. Cobb, his predecessor, had done, as I think, what he could to bring the credit of the United States into disrepute. Mr. Thomas came in just at the time when Congress passed an act for the purpose of borrowing money to pay the interest which would become due on the 1st of January, 1861; and he took the very earliest steps possible to advertise under the law which was passed for a loan; he succeeded in making that loan, and the interest due on the 1st of January, 1861, was paid, about which the country at that time had great apprehension. There was great alarm in the public mind at that time lest the Government should fail to meet its interest, and thereby its credit be seriously impaired. Some twelve days afterward he resigned this position. Not having the confidence of the moneyed men of the country, as appears by the testimony, he tendered his resignation, giving, also, as a reason that he could not agree with the President in the course he was proposing to take in regard to the collection of the revenue at Charleston—a very unpatriotic reason, if you please; but was it giving aid and comfort to persons engaged in armed hostility to the United States? I do not see how it can be so construed; and it was a question about which he had a right to entertain his opinions. The course proposed to be pursued by Mr. Buchanan, who was at that time President of the United States, may not have been the best. Very few of us indorse many of the measures which were adopted by the then Administration. I think myself that the whole war could have been avoided if the then President of the United States had done his duty to the country.

So much, sir, for the first objection to Mr. Thomas; now a few words as to the other. It is said that he gave aid and comfort to the rebellion by allowing his son to join the rebel army in 1863, and particularly by giving him $100 in money. We are to judge the case on the testimony; by that we are to be governed. We had this young man before the Judiciary Committee; we saw and heard him testify, and the impression which he made upon me was that his father was exceedingly anxious to prevent his going into the rebel army. I think it is fair to say, on the testimony of this young man—and I believe he told the truth, for he did not seem to keep anything back—that his father was anxious that he should not go and join the rebel army, and that he tried to persuade him not to go; gave various reasons why he ought not to go; not such reasons, if you please, as the Senator from Massachusetts would have given; not the patriotic reasons which I wish had actuated him; but he did not think he had a right to go, Maryland being one of the adhering States; he advised him not to go. The young man made up his mind to go, was determined to go, and on the morning when he was about to leave his father gave him $100. It is said that that was voluntarily giving aid, countenance, counsel, or encouragement to persons engaged in armed hostility. He did not give counsel that way, for he advised against it. He did not encourage him to go, because he tried to prevail upon him not to go. Such is the testimony. He did not give countenance to it, unless the giving of this $100 was giving countenance to it; nor did he give aid, unless the giving of the $100 was aid. Now, was it given for any such purpose? No one can read the testimony, and certainly no one could have listened to the testimony, and believe for one moment that the money was voluntarily given as aid and countenance to the rebellion. You contradict the whole testimony to come to any such conclusion. The boy swears differently. The whole transaction shows that that is not the truth. It was the feeling of a father, the parental feeling that drew forth that $100 from Mr. Thomas's pocket. Can anybody read the testimony and believe that if this young man had not been bound to Mr. Thomas by the closest of ties he would have given this $100? Did he give $100 to anybody else to join the rebellion? The testimony shows that he counseled and advised other young men not to go into the rebellion. Is there any evidence that he ever gave a dollar, that he ever gave a cent to any person who was going into it? It is too remote and too far-fetched, in my opinion, to say that this was giving voluntary aid and comfort to the rebellion because he gave his son $100. You might as well say that if years before he had refused to provide for that son, refused to furnish him food and clothing, the boy might have died of starvation and then he never would have gone into the rebel army! When the father fed him and clothed him from childhood up he did it because he was his son, because he was bound by the ties of nature and the affections of a father to feed and clothe him; and shall it be said that because he did this he did it voluntarily for the purpose of aiding and abetting a rebellion and preparing that son to go into rebellion against the Government? Why, sir, this $100 was all gone long before he reached the rebel lines. He did not furnish the son with any very considerable amount of money. He did not furnish any money with a view of aiding him to enter the rebel lines, in my judgment; that is the impression the testimony makes upon me.

Now, a crime cannot be committed without a joint operation of act and intention. The intention is a necessary ingredient to constitute the crime. With what intention was this $100 furnished? Why, sir, sitting here as we do upon oath, sitting as a juror in the jury-box, I could never find by my verdict that this $100 was voluntarily given this son for the purpose of aiding the rebellion. Then if it was not, how has he given aid and comfort to the rebellion? That is all there is in the case. It will not do to say that because we nurtured and supported those who afterward went into rebellion we did the act with that view. You might as well say that all of us gave aid and comfort to the rebellion when we voted an appropriation to educate at West Point young men who afterward went into the rebellion. We did not do it with any such purpose; we voted the money to educate them there and prepare them for war, and when we got them prepared some of them joined the enemies of the country.

But it is said that the father knew that this young man intended to join the rebels. Well, sir, he did. He knew that that was his intention, that he meant to go; and I think the father ought to have restrained him and used all the means he possibly could to restrain him. I do not approve of his not doing more than he did to restrain him, though I think he did try to some extent to restrain him; but we are not competent, I think, to judge as to the extent of patriotism which a man should be required to exhibit under such circumstances. A good many men all through the North did not do what they ought to have done, in my opinion, to put down this wicked rebellion; did not contribute of their substance; did not make all the personal effort they should have made; did not do all they could to suppress the rebellion. Many of them remained quiet, as did Mr. Thomas, and did nothing to aid the country. I cannot commend that course; but does that bring him within this law. Men, more or less, from all our States went into rebellion. We may have known or suspected that certain persons were going into the rebellion. Mr. President, men from your State were in the rebel armies; men from my State were in the rebel armies; the sons of men who fought on the Union side from my State were in the rebel armies. This was a great civil war, and families were even divided, some taking the one side and some taking the other; and the fathers who remained true to the Union cannot be held responsible for the fact that some of their children, against their will, may have gone into the rebel army; nor can they be held responsible nor charged with having given aid and comfort to the enemy because they nurtured and supported children who did go into the rebel ranks.

I place this case, then, Mr. President, so far as I am concerned—I shall not elaborate it, because the ground has all been gone over before—upon the fact that there is no satisfactory evidence to my mind that Mr. Thomas voluntarily gave aid and comfort to the enemy, that he intended to do any such thing. I think such an inference cannot fairly be drawn from the testimony; and something is due, I think, to the previous action of Congress in such cases. I quite agree with the Senator from Massachusetts that where the Senate is satisfied that the applicant for a seat cannot truthfully take the oath he ought not to be permitted to take it; but what have we seen? In the other House there sits a gentleman by, I believe, almost the unanimous vote of that body—very few, if any, votes being cast against his right to a seat—who wrote a letter to which I am about to refer; and when I refer to this letter I do not do it for the purpose of imputing anything wrong or unpatriotic at the present time to the gentleman who wrote it. I know that after writing this letter he joined the ranks of the Union armies and fought through the war for the country, and was as true to the Union as anybody; but, nevertheless, it is admitted that he wrote this letter, in which he says:

"I commend Governor Harris"—

That is, Governor Harris, of Tennessee, who, it will be remembered, was the rebel Governor of that State and did all he could to array Tennessee against the Union, and succeeded in arraying Tennessee against the Union; but here is a letter written by a gentleman now sitting in the other House, in which he says:

"I commend Governor Harris for his course and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation." * * * * "I have always opposed secession, but claim the right of revolution, and the right to resist the oppression of the Federal Government and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come."

This is the language of a gentleman who now holds a seat without objection in the other House of Congress.

Mr. MORTON. I should like to ask the Senator from Illinois a question, with his permission.

Mr. TRUMBULL. Certainly.

Mr. MORTON. I ask if it was not shown in the case of Colonel STOKES that, notwithstanding the writing of that letter, he had been, was, and continued to be, a loyal man all through the war, showing his faith by his

works, and if that history of Colonel STOKES does not distinguish his case utterly from that of Mr. Thomas?

Mr. TRUMBULL. If the Senator from Indiana had listened to my remarks he would not have asked that question. I had already stated that the gentleman who wrote this letter afterward joined the Union Army and fought through the war and was as loyal as anybody; but did not that letter give aid and comfort to men engaged in armed hostility to the United States when it was published? When an individual published over his own signature a letter in which he said that he claimed the right of revolution against the oppressions of the Federal Government, and that that time had come when he would resist, was it giving no aid, comfort, countenance, or encouragement to the rebellion?

Mr. WILLIAMS. How could he take the oath?

Mr. TRUMBULL. That I am not proposing to discuss. I refer to this merely for the purpose of showing the action of Congress in regard to these cases.

Mr. FERRY. I should like to ask the Senator a question if he will allow me to do so.

Mr. TRUMBULL. Certainly.

Mr. FERRY. For my own information on a point of law, as the Senator is chairman of the Judiciary Committee, I would ask first, what it is that constitutes the essence of the criminality of the concealment and non-disclosure of a treason? and in the second place, whether such concealment and non-disclosure is an aid to the public enemy? and in the third place, if it makes any difference what is the intent of such concealment and non-disclosure?

Mr. TRUMBULL. I imagine that it is hardly necessary for me to give a definition to crime. In regard to the last query put by the Senator from Connecticut, I think it does make all the difference in the world as to the intent. I think that the essence of the crime is in the intent, and that there must be an intent to commit it to constitute crime. Criminal negligence may subject a party to punishment; but it is the design to commit the offense that commits a crime. "Thou shalt not kill" is the language, not only of human tribunals, but of the Almighty, and yet killing may take place without the commission of any crime.

Mr. FERRY. But there are crimes of omission as well as crimes of commission.

Mr. TRUMBULL. There must be a criminal intent in the omission as well as the commission, or a culpable negligence amounting to criminality. In my judgment, the intent is everything.

Mr. FESSENDEN. I should like to ask my friend from Connecticut a question, with the permission of my friend from Illinois.

Mr. TRUMBULL. Certainly.

Mr. FESSENDEN. Suppose the son of one of us—the son of the honorable Senator from Illinois for example—had behaved in precisely like manner, the father omitting to give him $100, and the father had not given information of the facts to the President of the United States—had omitted to do so—would the Senator from Connecticut in such a case, if the gentleman had been elected by the Legislature of Illinois on his character and standing as a member of this body, have held that that was sufficient to exclude him from a right to take a seat, because he had been guilty, technically, of what is called misprision of treason? Would you apply it to him?

Mr. FERRY. I do not say that I should; neither do I say that I should apply it in the present case. I put the question for the purpose of having the chairman of the Judiciary Committee meet the objection raised by the Senator from Massachusetts upon the statute in regard to misprision of treason, which statute, it seems to me, is the one that applies most formidably to the case of the Senator-elect.

Mr. SUMNER. And in that connection let me add also the language of the common law, merely to complete the case as stated by the Senator from Connecticut. I give the condensation of Mr. Bishop:

"But when it is treason or felony, and he stands by while it is done without using the means in his power to prevent it, though his will concurs not in it, or when he knows of its having been in his absence committed, but neither makes disclosure of it to the authorities nor does anything to bring the offender to punishment, the law holds him guilty of a breach of the duty due from every man to the community wherein he dwells and the Government which protects him."

Mr. TRUMBULL. Mr. President, in likening this to the crime of an individual, we lose sight of the great war in which we have been engaged. If that test is to be applied everybody is guilty. What is the condition of the Judiciary Committee of the Senate? I do not know but that the Senator from Massachusetts will have us all arrested. This boy came before us, and he confessed before us that he went into this rebellion. I am not sure but that the Senator from Massachusetts has seen walking in the streets of Boston many men who were in this rebellion, and I never heard of his going before the courts or the officers of the law and informing them "there is a man who has been engaged in the rebellion." I do not know but that he is guilty of concealing that fact from the officers by not making it known to them. [Laughter.] I do not know but that the Judiciary Committee, when the boy came before us and testified that he did go into the rebel army and join it, are all guilty of misprision of treason in this sense. We did not arrest him, and, so far as I know, no steps were taken by the committee to arrest him. The Senator from Massachusetts sat in this body along with myself some seven years ago, when on the other side of the Chamber men rose and said that they were going home to their States to defy the Union, proclaimed it here that that was their purpose; that the Union was then dissolved; that they had no respect for your laws and would pay no obedience to your statutes, but were going home for the very purpose of joining their States to overthrow and disrupt this Union. Who of us went before the courts and complained of them for that?

Mr. DRAKE. We could not complain of mere talk.

Mr. TRUMBULL. There was with that talk coupled the act; they did go. But, if the Senator is right, how could Mr. Thomas complain of the talk of this boy when he said he was going?

Mr. DRAKE. There was no war when those persons went out of this Hall, I would suggest to the Senator from Illinois.

Mr. TRUMBULL. When did the war begin?

Mr. DRAKE. It began long before this boy left his father's house.

Mr. TRUMBULL. John C. Breckinridge sat here when the battle of Bull Run was fought. Was there no war then?

Mr. DRAKE. But he did not say he was going.

Mr. TRUMBULL. I do not know that he said that, but he said a great deal worse.

Mr. DRAKE. What he said was publicly said; everybody knew it.

Mr. TRUMBULL. But where, then, was the Senator from Missouri that he did not complain of it?

Mr. DRAKE. I was a thousand miles away.

Mr. TRUMBULL. I happen to know that in the goodly city of St. Louis, where my friend resided, there were some rebels that I think he knew of, and he did not have them arrested.

Mr. DRAKE. Excuse me: you are very much mistaken about that. You were in Washington; I was in St. Louis, and should better understand the position of things there than you did here; and if my son had told me that he was going into the rebel army he would have got no $100 from me under any pretense whatever, I can assure the Senator from Illinois.

Mr. TRUMBULL. I think he would not. I think the Senator from Missouri would not have given him any $100, and that he would have restrained him from going. I think Mr. Thomas should have resorted to other means than he did to restrain his son from going. It was his duty to do it.

Mr. HOWARD. His duty in what respect?

Mr. TRUMBULL. His duty as a patriotic citizen devoted to the Union, I think, should have required him to do more than he did; but because he did not do it I do not understand that he was guilty of voluntarily giving aid and comfort to the enemies of the country. And when you undertake to liken this to a private case, to make misprision of treason out of it because he knew that men were engaged in rebellion and did not go and complain to the judicial authorities, I say you make every man in the land guilty. Not a member of this body could escape, if it was necessary, when sufficient facts came to our knowledge to warrant us in the belief that a man was engaged in treasonable proceedings, to make complaint of him. If that is to be construed into concealing treason, we were all guilty. We were trying to do our duty. I am sure those of us who were in this Chamber were doing what lay in our power to put down this rebellion; but it was a great war. It was not to be put down by complaints before magistrates, but by the valor of the American people, assembled together in armies of hundreds of thousands, whose footsteps shook the very continent as they marched over it. The idea that individuals are guilty of crime in the midst of such a great war because they do not go before constables and magistrates as informers has no application to the great facts that were transpiring at that time in the country.

But, sir, I was drawn away from what I was about to say, and I should have concluded my remarks before this but for the interruption. I was commenting on the letter from which I read, written by a member of the House of Representatives, who, as I said, turned out to be a very loyal and patriotic man during the war, but who nevertheless wrote this letter; and yet by, I believe, almost a unanimous vote of the House of Representatives he was permitted to take his seat on taking the oath. It is not for me to say how he could take it, for at the time it was written it looked very much like giving encouragement or countenance to the rebellion. You cannot make "fish of one and flesh of another." Because he afterward turned out to be a loyal man cannot wipe away that act. If it gave countenance and encouragement to the rebellion when it was done, it is within the terms of your act of Congress. And it would not change the case of Mr. Thomas if it were in proof here that he also, when his son went to the rebel lines, marched with a musket into the Union lines. That would not alter the law of this case; and yet I question very much if that had been the fact whether any question would have been raised against him here. The House of Representatives, in a report which I believe has been brought to the notice of this body by some of the Senators who have discussed this question, lay down this rule, that to come within the statute the party giving the aid and comfort must have designed it as aid and comfort; and I think that would be the fair meaning of the word "voluntarily." He must voluntarily have given aid and comfort to the enemy. He must have designed it.

Mr. CONNESS. Must not have been persuaded.

Mr. TRUMBULL. Must not have been persuaded, if you please to use the word "persuaded." It depends upon the sense in which the Senator from California would use the word. You cannot, as a mere cover for an act, say that you were persuaded; but it must have been with the design of effecting that purpose. Nobody can read this testimony, I think, and fairly say that was the design of Mr. Thomas.

We have had a case in this body where a Senator who held a position in the State of Tennessee, after that State went into the rebellion, was admitted to take his seat on taking the oath prescribed by law. I did not vote myself

that he should be permitted to take his seat; but the Senate did, and by a very decided vote. That was the construction of this body, that a gentleman should be permitted to take his seat on taking the oath, although he had held an office in the State of Tennessee after the State of Tennessee went into the rebellion. It is the decision of the House of Representatives that the person who wrote the letter, a paragraph or two from which I have read, should be permitted to take his seat on taking the oath.

Now you propose, or some do, to deny the right of Mr. Thomas to take his seat, not because he wrote such a letter as this, not because he held any office under the rebel government, (and it will be observed that this oath excludes parties from being members of Congress or holding any office who had held an office under the rebel government,) but because he gave $100 to his son, and his son went into the rebellion, when there is no proof that this $100 was given with any such design, and there is no proof that it effected any such purpose; none whatever that it did in fact aid. It was neither given for the purpose of aiding, nor did it in fact aid, for he did not get into the rebel lines with it. He spent it all and did not get there, and afterward joined the rebel ranks when his money was all gone. He was kept here for three months, I think, after his father gave that money to him, and got entirely out of money long before he reached the rebel lines. It will not do to say that he could not have got to Washington without this $100. We all know that he could. It was not many miles from where his father resided to this city; and he was in this city for weeks before he joined the rebel ranks and his money all gone. So that neither in point of fact nor intention did the $100 go to aid persons in armed rebellion to the United States.

I do not desire to prolong this debate, and I should not have said this much but for the fact that I am a member of the Judiciary Committee, and considered it incumbent upon me to give the reasons for the faith which is in me and for the vote which I shall feel constrained to give when the Senate comes to a vote on this matter.

Mr. EDMUNDS. Mr. President, this is one of the occasions when the tide, it is supposed, is to turn, and a precedent is to be set one way or the other that is to be a guide for our future conduct. There has yet been brought to our attention no case, whatever our action may have been upon it, in which the person who has been admitted into this Chamber or into the House of Representatives was not, during the war and through the war, a thorough adherent, body and soul, to the cause of the Constitution. We have admitted one member here who, in order to accomplish the protection of the persecuted loyalists of Tennessee, did exercise the functions of a civil State office, in a certain technical sense, under the confederacy, himself during all that time in constant danger of the halter from the traitors who were around him. And that is cited as a parallel for the admission of this man into this body! It is possible that we made a technical mistake in admitting Mr. PATTERSON. It is possible that it was in violation of the law. If it was, is that any reason for honorable Senators to urge us to violate it again? Usually, among sensible and patriotic people, one error is enough—quite enough.

But, sir, whether we have committed an error or not in the case of the Senator from Tennessee, it is no parallel in any particular, from its inception to its end, with this. Exactly the same may be said of the case referred to by my friend from Illinois in the House of Representatives. A man writes a letter which is treasonable in its character, undoubtedly, on the face of it; a letter which, undoubtedly, is aid and encouragement to the rebellion upon the face of it, had it been carried to its ultimate destination before it was recalled. I agree with my honorable friend entirely upon that proposition. But what happened in that case? Before the letter reached the person to whom it was addressed further information, better emotions, penitence for the half-way crime that he had committed, seized the man, and from that time forth to the end of the war his life was in peril in the ranks of the Union Army. Is that a parallel for this case? Is that the species of precedent and of argument that is to be addressed to us as an inducement for us to take this step in advance and admit this man? I am not surprised that precedents of this description are referred to. A weak cause marshals to its side all the resources that ingenuity can produce, be they good or bad.

Now, what is this case and what is the law that applies to it? It has been argued by Senators upon a variety of grounds. One Senator believes that under the Constitution a rule of qualification, inclusive as well as exclusive, is declared, and that to that iron bed every candidate is to be applied, and if he possesses the qualifications, or rather fails to possess the disqualifications, that instrument describes, we are bound to admit him or violate the law. That is the proposition of the Senator from Pennsylvania, [Mr. BUCKALEW,] and when asked whether he would admit an open, notorious traitor here, although he were a citizen of the State and of the requisite age, who had been elected by the Legislature of Maryland or some other State, he said that he should be obliged to do it, or in such a case he would take the responsibility of violating the Constitution in order to save it. Mr. President, it is a strange conception of the Constitution, indeed, that it is an instrument framed of such weakness of vitality and such infinite want of consequence and resource, that the only way to uphold it is to break it down. I have not carried my legal education yet to that extent of refinement.

Mr. BUCKALEW. Will the Senator allow me to interrupt him?

Mr. EDMUNDS. With the greatest pleasure.

Mr. BUCKALEW. I do not think I ever said what he supposes I did say, that I would violate the Constitution of the United States. I rather think I would part with an arm before I would say that in this body, and I do not think under any circumstances I would admit that. What I said was this: alluding to a supposed case during the war, if a person who was a rebel appeared here demanding membership under an apparent regular election and with constitutional qualifications, that we would have the same right to resist his entrance into this body by our physical power, by voice, and vote, by calling to our assistance our officers, or in any other way possible that our officers and soldiers would be entitled to use in the field—we would have the same right and the same power to do it. It would be a case of overruling necessity, and under the exercise of the war powers of the Government of the United States the act would be perfectly legal and perfectly proper.

Mr. EDMUNDS. Does my friend mean to say that these war powers are within the scope of the Constitution or without?

Mr. BUCKALEW. All I proposed was to correct the particular statement. I am not going to interrupt the Senator in his argument.

Mr. EDMUNDS. Very well. My friend, like every other man who is put on the defensive, is not bound to testify in such a way as to criminate himself; he need not answer the question. He has covered up now with a coat of extra constitutional war power the mistake that I think he made the other day in stating the proposition that he did. The record will justify him or me in the quotation of the substance of the observations that he then made.

Now, to return, the question first is: what are our rights under the Constitution over this man without regard to the statute and without regard to any overruling necessity? The Constitution declares, and that is all that it says upon the subject that is pertinent here:

"No person shall be a Senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."

Senators will observe that these are negative statements; they are exclusive, every one of them. It is not declaring who shall be admitted into the Senate of the United States. It is declaring who shall not be eligible to election to this body; that is all. It is the same as to the House of Representatives and as to other officers—always in the negative, always exclusive, instead of in the affirmative and inclusive. And upon what principle was this Constitution founded? Will lawyers here deny that we have a right to look to the course of constitutional and parliamentary jurisprudence in that country from which we derive our origin and most of our laws to illustrate our own Constitution and to enlighten us in this investigation? By no means. And what was that? The House of Commons in Parliament, using the very language that in another section of the Constitution is used here, were the exclusive judges of the elections, returns, and qualifications of their own members. What was their constitutional power under that rule? It was that they were the sole and exclusive judges, not only of the citizenship and of the property qualification of persons who should be elected, but of everything that entered into the *personnel* of the man who presented himself at the doors of the House of Commons with a certificate of election for admission. And what were those rules? One was that an idiot could not be a representative in the Commons; another was that an insane man could not be; and a variety of other disqualifications, of which the Commons themselves alone were the sole and exclusive judges.

We declared in our Constitution that a certain class of persons should never, under any circumstances, whatever their other qualifications might be, be Senators of the United States; no alien should be a Senator. Did it therefore follow that every citizen, male or female, black or white, rich or poor, sane or insane, innocent or criminal, should be a Senator? Not by any means, I take it. We declared then that no person should be a Senator who was not a citizen, who had not a certain qualification of residence and of age, and there we stopped the rule of disqualification, leaving the common law exactly where it stood before; and that common law, in the very language of its immemorial time, was inserted in another section of the instrument, which declared that this body should be the judges of the elections, returns, and qualifications of its members. And that very word "qualifications," by the known history of jurisprudence, had the scope and signification that I have named; and that was, that it was the duty of the body to apply it to the candidate, to keep itself pure from association with criminals and incompetent persons.

The honorable Senator from Maine [Mr. FESSENDEN] tells us, while he admits this power, I believe, that it is a dangerous power. So it is. I know no power that is reposed in the discretion of anybody of men that is not dangerous. The idea of power is danger itself. But he must, indeed, be a timid statesman who refuses, in a case like this, justly to exercise the power he has, trusting to his fellows and to the future to see that that power in another case is not abused. The Senator from Maine has not painted too highly the danger of exercising powers of this description; but they must be reposed somewhere. Government cannot exist unless you repose power, which is liable in every instance to abuse, in some officer or official or body. And are we to be told that we must never exercise a power in a proper case because it is a power which involves in it the danger of abuse? Sir, let us rather wisely and bravely exercise the power in a case that can be made clear and risk the consequences with those who may hereafter exercise it, trusting that they, like ourselves, will not use it unwisely.

Then I will endeavor to convince my friend from Maine—for I know he is open to convic-

tion—that this is such a case; and that brings me to the real question. There is no constitutional difficulty; there is no legal difficulty. We are the first, last, and sole judges of the question; and that question is, whether it is plain, as my friend from Maine says, that this man possesses the disqualification which we have a right to judge of, under the Constitution and the laws, of having given any aid, counsel, or encouragement to the enemies of his country. That is the question, sir.

This statute, Mr. President—for I must say a word upon that—was not intended to be a mere mummery, a solemn kind of a sham, by which we had tied ourselves up to sit here in patient silence and disgust at seeing a man, who clearly was committing perjury when he took that oath, walk up to your desk and take it.

It would be disgraceful to our common sense to suppose that this body and the other body and the President had enacted a law which was to leave the first, last, and exclusive test of itself to the decision of the party to whom it was to apply. It is true in the case of most official oaths, I confess, that we cannot judge in advance whether the oath is to be violated or not; and the reason is obvious enough to every intelligent man that most official oaths are merely promissory; they are only the pledge of fidelity of future good faith on the part of the persons who take them. What is this oath? This contains a recitation of the history of a man—a matter of fact, of which others can judge quite as well and often much better than himself, as to the true nature and effect of the facts that he professes to recite. Therefore, when Senators remember that in this oath there is contained not merely the promise of fidelity in the performance of his duty, but also the solemn denial of his having committed certain crimes against the United States, is it to be said that we are to sit here, knowing that he has committed those crimes upon his own confession before a committee, upon proof of his accomplices, patient and dumb, waiting to see him swear that he has not? Sir, it would be monstrous.

Then the question is, what has he done? We may take it to be now confessed or proved that if he has given aid, counsel, or encouragement to persons engaged in armed hostility to the United States he has denounced upon himself the penalties of this law and the just exercise of our high constitutional powers of exclusion, and does not become entitled to admission here. About the middle of December, 1860, he became the Secretary of the Treasury, and he took then, as I suppose, the oath that the Constitution requires such officers to take, that he would faithfully maintain that Constitution and perform his duties as an adviser of the President. He promised then fidelity to it and fidelity in the performance of his official duties. What was the condition of the country at that time when he went into the Department? It will repay the patience of the Senate to recall, after these six or seven years, the events that were going on at that time, and especially those that were taking place in immediate connection with the fact of this man's conduct prior to and his resignation of that office on the 11th of January, 1861. On the 2d of December, 1860, which was a little before this gentleman went into the Treasury Department, the secession ordinance passed the convention of South Carolina by a unanimous vote, and this is the account that the Rebellion Record, made up from the papers of the time, gives of it:

"In the midst of a crowd of over three thousand people collected in Secession Hall at Charleston this evening the ordinance of secession was duly signed and sealed by the members of the convention. The occasion was one of the greatest solemnity at some of its periods, and of the wildest excitement at others."

Under date of December 22, 1860, I find the following:

"The Charleston Mercury insists that the President will not reënforce the garrison at Fort Moultrie. 'The reënforcement of the forts at this time and under present circumstances,' says that paper, 'means coercion—war. When the forts are demanded and refused to be delivered up to those in whom is vested the title of eminent domain, and for whose protection and defense alone they were ceded and built up; and when, the Federal Government showing a hostile purpose, it shall become necessary and proper for us to obtain possession, then it will be right for the world and black Republicanism to expect that the State, by her authorities, will move in the premises. The people will obey the call for war and take the forts.'"

I should say here—and I hope the honorable Senator from Wisconsin [Mr. DOOLITTLE] is not out of the Chamber, for I have something to say to him—that on the 21st of December, after what I have now read had transpired, Mr. Edwin M. Stanton became a member of the Cabinet in place of Attorney General Black, who had been transferred to the State Department to succeed General Cass, who before that time was Secretary of State. Under date of the 24th of December, 1860, there appears this paragraph, and it has relation to the conduct of the Cabinet:

"Excitement at Pittsburg, Pennsylvania, in consequence of a report that the artillery at the Allegheny arsenal was to be transferred to new forts in the Southwest. A call is in circulation, addressed to the mayor, to convene a meeting of the citizens to take action in the matter. The call is signed by prominent men of all parties. The feeling against allowing a gun to be removed South is almost unanimous."

The papers of the time—and I wish my friend from Wisconsin, if he is in the Chamber, to know it—show that that meeting was called and that that action was taken with the knowledge—I will not say at the instigation, but with the assent—of Mr. Stanton, who, it is said or insinuated by the honorable Senator, was at that time in treasonable complicity with a gentleman named Brown, a Senator, who was about going out. On the 26th of December, 1860, Fort Moultrie was evacuated; and this has some bearing also upon what my friend from Illinois said on the subject of whether war existed at the time when Mr. Thomas resigned his position as Secretary of the Treasury.

"*December* 26.—Fort Moultrie was evacuated to-night. Previous to the evacuation the guns were spiked and the carriages destroyed by fire. The troops have all been conveyed to Fort Sumter."

It was done, as you all know, in the night time. On the 28th of December, 1860, it is stated:

"Early this afternoon the palmetto flag was raised over the custom-house and post office at Charleston; and to-night Castle Pinckney and Fort Moultrie have been taken possession of by the South Carolina military. These forts are held under instructions from Governor Pickens, who authorizes their peaceable possession, for the protection of the Government property. Castle Pinckney and Fort Moultrie were held by a very small force, which surrendered without collision."

Under date of December 29, 1860, it is here stated—it was a little earlier than that; I think on the 27th of December—

"John B. Floyd resigned his position as Secretary of War, owing to the refusal of the President to withdraw the Federal troops from the forts at Charleston."

Under date of December 31 it is stated:

"The South Carolina troops took possession of the arsenal at Charleston. The arsenal contains many thousand arms and military stores. Military preparations are actively and zealously progressing."

In another place, just about this date, it is stated:

"It is now well known that military companies have been organized and drilled for months past in Maryland and Virginia—some of them under the eye of an officer of the regular Army—and that the distinct object of their organization is to aid in the seizure of Washington city, in the interests of the disunionists, or the prevention by force of Lincoln's inauguration."

Under date of the 2d of January, 1861, appears this paragraph:

"The steam frigate Brooklyn and another vessel at Norfolk are ordered to be in readiness for immediate departure to Charleston. The secession leaders discovered the intention to start these vessels, and notified their sympathizers at Norfolk to have minute-men ready to seize them if they attempted to go to sea. The Administration is on the watch to prevent it."

Again:

"A letter received in Washington from Alabama states the secession sentiment to be utterly uncontrollable, and says that, in the event of the firing of a single gun in opposition to disunion 'Mr. Lincoln's life will not be worth a week's purchase.'"

Under the same date is the following:

"Intelligence is received in Washington that Fort Sumter is besieged; that all Major Anderson's communications are cut off; that Fort Moultrie has been completely repaired and the guns remounted"—

That is, by the South Carolina military—

"and that everything is in readiness to open a fire on Major Anderson. New batteries are being erected around him by the secessionists."

Under date of the 7th of January, 1861, there is this paragraph:

"Steamship Star of the West, Captain McGowan, cleared at New York for Havana and New Orleans. Two hundred and fifty artillerists and marines, with stores and ammunition, were put on board in the lower bay by steam-tug, and in the night the ship went to sea, supposed to be destined for Charleston."

Under date of January 9, 1861, two days before Mr. Philip F. Thomas resigned his position in the Treasury, I find the following:

"At half-past seven a.m. the steamship Star of the West was signaled at the entrance of Charleston harbor. As she made her way toward Fort Sumter a shot was sent across her bow from a battery on Morris' island, when she displayed the United States flag, and was repeatedly fired into from the Morris' island battery and from Fort Moultrie. Her course was then altered, and she again put to sea. Guns were run out at Fort Sumter, but none were fired. At eleven o'clock Major Anderson sent a flag, with a communication, to Governor Pickens, to inquire if this act had the sanction of the State government; was informed that it had, and thereupon sent a special messenger to Washington with dispatches."

"*January* 10.—An intense excitement at Charleston on account of a rumor that the sloop-of-war Brooklyn was dispatched for that place. Great preparations are made to receive her. The buoys in the harbor are removed and threats are made to fire on the ship."

On the 11th of January Mr. Thomas appears on the scene in a public way:

WASHINGTON, D. C., *January* 11, 1861.

MY DEAR SIR: It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina; nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority under existing laws to enforce the collection of the customs at the port of Charleston.

Under such circumstances, after mature consideration, I have concluded that I cannot longer continue in your Cabinet without embarrassment to you and an exposure of myself to the just criticism of those who are acquainted with my opinions upon the subject. I therefore deem it proper to tender my resignation of the commission I now hold as Secretary of the Treasury, to take effect when my successor shall be appointed and qualified. In doing so I avail myself of the occasion to offer you the assurance of the high respect and regard which, personally, I entertain for you, and with which,

I have the honor to be your friend and obedient servant,

PHILIP F. THOMAS.

The PRESIDENT.

The Cabinet at that time was composed of six members. General Dix at that time had not yet entered the Treasury Department, and there was one vacancy. Mr. Holt was performing the double duty of Postmaster General and Secretary of War, I think, at that time. Mr. Floyd went out on the 28th of December. There were Mr. Toucey, Mr. Black, Mr. Holt, Mr. Thomas, Mr. Thompson, and Mr. Stanton. Anybody who will look at the newspapers of that day, the daily papers of this city, will see that during that week of excitement and of crisis, when the great question was whether the Government should fall to pieces or be turned over to the rebels before President Lincoln could be inaugurated, the daily papers of that time here in Washington will show you just how and where every member of that Cabinet stood upon that great and important question. Upon one side there were Mr. Stanton, Mr. Holt, and Mr. Black, devoting all the energy that they had to induce the President of the United States to defend the flag of his country—the symbol of its sovereign law. Upon the other side were Mr. Thomas, Mr. Thompson, and about half-way Mr. Toucey, doing all that they could do to prevent his defending that flag, to prevent his reënforcing Fort Sumter, to prevent his lifting a finger in any manner to maintain the laws of the United States, when already a rebellion had broken out in South Carolina, the forts of the Government, its arsenals, its treasure, and its public stores had been seized,

and its ship of supply had been fired upon by the rebels.

Well, sir, vigor and patriotism prevailed. The Star of the West was sent out and she was repulsed, and then, as this record that I have read shows you, the next question was whether a ship of war that could give blows as well as take them should be sent to that beleaguered fortress. And then, it having been decided that the Brooklyn should go, although unhappily she drew so much water that she could not get over the bar, Mr. Thomas on the very next morning publishes to the country, rebels and all, that it is not in his power to defend the Constitution of the United States and support the President of the United States in the measures that, by dint of great exertions, Mr. Stanton and Mr. Holt and Mr. Black had succeeded in getting carried to relieve that fortress. He threw up his commission in the face of the enemy and told the President boldly to his face that the reason why he would not continue at his post was the fact that a ship of war was on its way to Charleston to relieve that fort. And yet my honorable friend from Illinois [Mr. TRUMBULL] has just told us that when Mr. Thomas resigned there was nothing but peace!

But, then, Senators say treason and rebellion and that sort of thing are very different from theft and from murder, and so on; it is rather a sentimental crime on the whole; and it is not worth taking much notice of. Why, Mr. President, we ought not to consider things of this kind as a joke, as a mockery. There is, after all, something real in that bond of society which makes it a crime to undertake to overthrow it. Do Senators forget that it is the bond of society, the disruption of which is treason, that upholds everything else? Where is property, where is life, where is virtue, where is progress or prosperity of any kind save that you hold fast to the rock of the Constitution and the bond of society? And yet Senators tell us that we must not look with very criticising eyes upon conduct of this character, because, after all, it was only making part of a great war, as the Senator from Illinois tells us, rather a large thing that shook the continent with the tread of its armies; and, so far as it affects the propriety of personal conduct, it is rather trifling to descend into a criticism of individual men. I had supposed that it was otherwise. I had really been brought up in the faith that underlying everything that was good and substantial and safe was this love of country and this determination that fills the law and makes treason the highest crime; that we could descend to the individual citizen who, being in no seceding State, although that would make no difference to my mind, who, not having even the wretched pretext of standing up for State rights, being a citizen of a loyal State, that is now represented by a loyal Senator, throws up his commission in the face of such events as those, because, in spite of his resistance, the weak President of the United States had been galvanized into activity enough to reënforce that fort.

But this is not treason! Oh, no; it is not even misprision of treason; or, if it were, that is a very small offense; it is rather ridiculous to take notice of it, Senators say! Mr. President, I am astonished at such arguments. The Senate must have forgotten, as this debate has gone on and as events have drifted so rapidly, the precise circumstances under which this man left his post in that Cabinet on the morning of the 11th of January, 1861. My friend from Maine is mistaken, I think he will confess himself, when he supposes that in the face of these events this letter only refers to the question of stationing a ship and collecting the customs outside of the harbor of Charleston. It must clearly, I think, refer to that great drama, or rather tragedy, in which Mr. Thomas was an actor on the wrong side, and which went against his views on the night before, when he threw up his commission. Here is the proof of it. The daily papers of that time, as I have said, from night to night and from morning to morning, rang all the changes of this great contest over the possession of this Government; and he was upon one side and Edwin M. Stanton (whom the Senator from Wisconsin drags into this debate as if to give him a taste of that slander which that Senator himself experienced not long ago) was fighting upon the other.

If one was supporting his country the other could not have been, for they were striving in opposite directions. So acting and so retiring, this man went over to Maryland, to the Eastern Shore—a land famous in the annals of this war as being a country that furnished more stalwart young men to the rebel side than any loyal State ever did or ever will again—and there he stayed. And what did he do? He seems to have lived on his farm in comfortable circumstances, and the first that we hear of him is in the testimony of his son as to his specific acts; and that was upon a memorable occasion; many in the North have not forgotten it; it was when Maryland and Pennsylvania were invaded by the rebel army. This son was determined to join the rebel army at that time, while their banner was raised over loyal soil. Then the father said to him—and not at other times, as gentlemen would have you suppose—"Why, you are making war upon Maryland if you go into this war; Maryland has not gone out of the Union." There is a remarkable coincidence in point of time with this constitutional, or legal, or patriotic objection, if you can call it such, that this man advanced. It was when the stars and bars were over the soil of Pennsylvania and of Maryland that it was done; and at no other time.

But we know something more of this gentleman during this period of time. The book of the testimony shows that while at his own residence, surrounded by his old family associates and friends, the lines, as they always are in these civil wars, and as they always must be so long as there is a distinction between right and wrong, were tightly drawn; social affinities were given up. The men who were upon the loyal side and stood by the Union associated together by themselves; the others by themselves. They had no topics in common that they could talk about. They had many secret schemes undoubtedly that could not be communicated to each other. The Unionists were endeavoring to protect themselves and to aid the country; the sympathizers with the rebellion were endeavoring to protect themselves and to aid the rebellion. Where was Mr. Thomas? He, unhappily, was on the rebel side. His most intimate friends and associates, with whom he had grown up from boyhood, and he ceased to be even on speaking terms. They bow as they meet in the streets and pass by silently. And yet this patriotic man lives still upon his farm and blandly advises his son, when his own State is invaded, that he rather thinks he had better not join the enemy at that time. That is what they call loyalty to-day!

Sir, is there any dispute about this? You can read the testimony. Mr. Thomas himself was present in the committee during the whole of this investigation, and heard the whole of this testimony, examined the witnesses, was free to be a witness himself, did make statements as a witness, whether under oath or not I do not remember; but he was careful to let no word drop from his lips to correct any false impression, if it had been false, that we might have got from this chain of testimony as to where he stood during this great struggle. He was silent when he was accused of associating exclusively with the sympathizers of the rebellion. He was silent when a word from him, if it had been true, could have shown us that from some other motive or some other misfortune it was that he appeared in this questionable light. There was not a word from him. Must we not, then, take it that he was where his act in 1861 showed him to be continuously through that struggle?

What then? At last the rebels were defeated in Maryland and Pennsylvania and went back, as it is written of the evil spirits, to the place from whence they came; and this young man, still under the legal and moral control of his father by the laws of Maryland, a mere child in the hands of his father for everything that parental authority or constitutional duty could require, wanted to join the rebel army. Did he try to run away, to escape in the night? Was he afraid that his father would turn him over to the authorities, or shut him up, or restrain him in any physical way? Oh, no. They talked of it frequently. He wanted to go; and what kind of advice did his father give him? Did he say, "My son, we are on the loyal side; if you are to go at all you had better go to Washington and enlist in the Maryland line that is fighting under the stars and stripes instead of exposing yourself to death in getting through the Union lines to join your comrades who are fighting on the other side?" Oh, no. He said, "You are going to be a doctor, and you will slip up in your studies; you are my only son, and will be exposed to privation; you will not get any credit for it"—the old gentleman was right about that; he will not get any credit for that—"and I do not think you had better go; I implore you not to go; but if you, on the whole, think you will I will furnish you the means to do it with."

Now, Mr. President, when I say "the means to do it with" I use substantially the language of the father himself. I do not draw from my imagination at all. It was the effort of the defense, if I may so call it, conducted by my honorable friend from Maryland—and no man knows better how to keep an ugly truth out of sight than he—to show that this money was advanced upon the mere sympathetic spur and emotion of the moment, and, therefore, although it might be a crime in a strict and severe sense, yet it was a venial one that the sympathy of the moment would almost turn into a virtue. The son had a little property of his own, as most sons have, a sail-boat and all those other utensils of pleasure that young men like to enjoy; and in his desire to join the enemies of his State as well as of his country he proposed to dispose of all that he had, not to give it to the poor exactly, as the Scripture says, but to buy a gray suit and army boots and a gun and a blanket, with which to join his comrades from the Eastern Shore in the rebel lines. The father wanted to make it out that he was not ignorant of the fact that the son could have gone without his assistance. I did not see the point of his making it out. If he did it would make it a little worse, to my mind; but that is what he wanted to do, and in so trying he alludes to this contribution by unmistakable language as the essential outfit of the enterprise.

But, sir, why do we dwell upon the mere use of language by this man after what we know of his history and of the transaction itself? What was the fact, without weighing language precisely? Here the boy himself was a notorious rebel, if it is not uncivil, if it would not offend the ears of my friend from Illinois, who believes this to be a great man. He was a notorious rebel; he was a traitor within the language and spirit of the Constitution and the laws; and his father, knowing that treason, and knowing that he was setting on foot an expedition to join the enemies of his country, knew also that this boy could not take a step either personally or legally without his voluntary consent. He was in his power perfectly and absolutely. Instead of taking any step whatever, as has been so well said by my friend from Massachusetts, to give notice to the authorities when a war was on foot, that this young man also was about to join with his musket and bayonet the enemies of the Constitution and of the country, he is silent. Instead of his taking any step himself to restrain this young man, who was absolutely under his legal and parental control, he coolly advances to him the money, which the young man himself confesses he needed—to do what with? To keep him from starving? Was he hungry then? No. Was he naked? No. He wanted the $100

to travel to the enemy's lines with, to pay his railroad fare, to buy the gray homespun suit that he did buy, the army boots that he did buy, to get through the lines with. He set out upon the expedition furnished with that money, for which it was really and actually used. As the boy himself says, he set out with the money. He bought these things with it in Baltimore. He endeavored to get through the lines on the upper Potomac, which, as we all know, were guarded with our sons. For three or four weeks he was occupied with his comrades in trying to get across. How many there were of them I do not know; but we all know, as a matter of history, that there were hundreds pressing from Maryland of the same class as this boy to get through the lines all the time. How many of our soldiers fell during those three or four weeks that he was making a hostile attack from this side to get out we do not know; but we have a right to infer that a young man of the spirit and ability and strength that this young man had, with his comrades, and furnished with all the material necessary to make this warfare, having the sinews of war, the purse full in his pocket, we have a right to suppose that the time was not made any easier for our poor lads along the Potomac than it would have been if the old gentleman had kept his boy at home.

And yet my friend from Illinois [Mr. TRUMBULL] says, and my friend from New Jersey, [Mr. FRELINGHUYSEN,] whose heart is as tender as his head is clear, says, and others say, "Why, after all, this is an honorable man; he only yielded to the sympathies of the moment; it was rather an affectionate kind of treason, after all." I do not know but that it was. It was, probably, loyal! I think we had better call it loyal!

Mr. DRAKE. Patriotic!

Mr. EDMUNDS. Patriotic! I think it was! Now, I wish to call the attention of the gentlemen who are of that way of thinking to what is a fine description of a traitor. We have found out that this man by this course of conduct was demonstrating his fidelity to the Constitution, and was doing no act which gave any encouragement or aid or assistance of any kind to this young man or to any other man who was engaged in hostility against the country. This man, as clearly demonstrated by our friends, is loyal! Now listen to a sworn description of what is, therefore, a disloyal and a traitorous man:

"Richard H. Butler, of lawful age, who, being duly sworn according to law, deposes as follows:

"*Question.* Please state if you are the son of R. R. Butler, member-elect to Congress, and if you were connected with the rebel army; if so, state how you became so connected, and how long you remained with said army, and how you came to leave the said army?

"*Answer.* I am the son of R. R. Butler, member-elect to Congress. In the spring of 1863 there was a rebel company stationed near the residence of my father, in Johnson county."

This was in Tennessee.

Mr. WILLIAMS. What are you reading from?

Mr. EDMUNDS. I will tell you presently.

"The officers of said company persuaded me to go off with said rebel company, and in their persuasion with me to join the rebel army they said they would furnish me a horse and necessary equipments, except saddle and bridle. I consented to go with said rebel company unbeknown to my father, who was bitterly opposed to the rebels in every manner conceivable. And further, when said company was ordered away from this, Johnson, county, my father had gone to Taylorsville, and I had carried my saddle away and concealed it, and as the company passed my father's house I went off with said company. The officers of said company told me, when I started away with them, that if my father followed them they would protect me and not let him take me away from them. After we started away my father, hearing of the company taking me with them, followed the company of rebels that I was with and overtook them about six miles from home, and took me out of the company and made me carry my saddle and bridle on my back the whole of the distance back home, and whipped me several times on the road home; and after I got home he whipped me so severely that my mother had to intercede for me. My father stated that he had rather see me with my throat cut from ear to ear than for me to have gone into the rebel army."

This is from the evidence in the case of Mr. Butler. There is a traitor for you: Thomas is a patriot. They are not at all alike, you can see from the testimony; and I infer from the argument of my friend from Oregon, and my friend from Illinois, and my friend from New Jersey, that the world has got upside down in some way or other, and that this Mr. Butler, of Tennessee, is a tremendous traitor for his conduct toward his son who was joining the rebels, and that Mr. Thomas is clearly the person mentioned in the Constitution and in this law as the man who has given no aid or encouragement to the rebellion. I think even the Senators themselves will be able to see that there is, to say the least of it, a slight distinction between the conduct of those two gentlemen.

Mr. President, is it possible that we are to be told by sensible men that conduct such as this Mr. Thomas is, by his own confession, proved to have been guilty of, gave no countenance or aid or encouragement to that son who was himself, as I have said, a traitor and liable to the penalties of treason the very moment that he set on foot this expedition?

But Senators say that the motive is the great thing that runs all through criminal law, and if the man has a good motive, if his motive is not hostility to the country, if that is not his real purpose and design, then he is perfectly innocent. Let us test that a little. I hope I shall not shock anybody's nerves when I take the case of theft for illustration. A hungry man (and there are a great many in this District) breaks into your house at night to steal. He does not know you; he does not intend to do you any harm; but he takes a little pork out of your pork barrel and carries it home to his children, and he is arrested the next morning. Does any lawyer pretend to say, does any publicist pretend to say, does any moralist pretend to say that that is not the crime of theft? It may go a great way with the judge who is to pronounce sentence after he is convicted as to the degree of punishment that he will inflict to know that this was the motive of that poor man. Did he design to do any wrong to anybody? Not at all. It was the highest motive that can appeal to a well-regulated mind—that of love and affection for his children in present need and suffering—not as this young man was, in the pride and strength of manhood, with his sail-boats and shot-guns about him; but the suffering of hunger impelling the thief to break into your house and steal, and yet you convict him and send him to the penitentiary.

But these new doctors of philosophy would have you believe that that has always been a great mistake, and that stealing, where anybody was hungry, or where it was for any other purpose than to destroy the stolen goods, ought rather to be encouraged of the two. Sir, I do not believe it. It is not the law, and it never was; it is not ethics. Senators have forgotten the distinction between that great class of crimes where it is the injurious act to the community or to the person that is the essence of the crime, and those which rest, as murder does, upon what is called malice prepense, a malicious determination beforehand to do injury. And yet Senators all know that even in a case of homicide, as manslaughter, there may not be any such motive in it, but it may be the result of a sudden gust of passion or of frenzy, even in the defense of a child, which, I take it, is a much stronger case than being afraid that your child will get short of rations some months hence in the rebel service—a prospective state of starvation and want, indeed.

Now, take treason itself. Is it any necessary ingredient in the crime of treason that it should be stirred up and promoted by a desire to destroy the people against whom you make war or from whom you secede? By no means. Aaron Burr—a name not unknown to Senators, I take it—when he conceived the magnificent scheme of founding an empire in the Southwest, had no design to overthrow the Government of the United States, at least his friends said he had not, and he was tried upon that basis. He only wished to lop off a portion of the then redundant territory of our country and set up an empire of his own; and yet the learned counsel who defended him with a vigor of intellect and a breadth of fancy that have never been excelled, failed to discover this new light that has dawned upon the modern doctors of law, that it is necessary in order to convict a man of treason to prove, in addition to the injury and the fact of his levying war, that he did it for the purpose of overthrowing the Government itself. Senators forget when they are discussing this question that it is the very act itself of levying war against the country or of giving aid or countenance voluntarily that constitutes the crimes. Why should it not? For the reason that the crime is of that nature that it is injurious to society, and it is just as injurious whether it is committed with one motive or another. The law only makes one exception, and that exception is characterized by the very definition that is contained in this law and this oath; that is, that it must be voluntary, because a man who is acting under duress is not supposed to be the master of his own actions any more than an insane man; it is not his act. But what is duress? How far must a man go to excuse himself from an act of treason by law and by morals? The law-books all lay it down in this way, and I need not take time to read much, that a man in order to excuse himself from an act of war against his country, or an act of furnishing money or troops, or giving intelligence to the enemies of his country, must stand in danger of instant death. That has been decided a thousand times from the sources of the common law down through all history to this day, in this country and every other. And yet gentlemen tell us that this man, who having an affection for his son furnishes him with money to guard against prospective want when he is fighting against his country, has committed no crime. To show that I have stated the law correctly let me refer to a work of admitted authority:

"The same principle is to be applied in construing the phrase 'adhering to the enemies of the United States' as is adopted in the interpretation of the phrase 'levying war.' Both were taken from the same English statute, and the rule laid down by Marshall, C. J., in Burr's case, that the common law definitions were to be considered as authoritative, bears equally on either. Under the English statute every assistance yielded by a citizen to the enemies of the Government under which he lives, unless given from a well-grounded apprehension of immediate death in case of a refusal, is high treason within this branch of the statute. Therefore, if citizens of the United States join public enemies in acts of hostility against this country, or even against its allies, or deliver up its castles, forts, or ships of war to its enemies through treachery or in combination with them, or join the enemy's forces, although no acts of hostility be committed by them, or raise troops for the enemy, or supply them with money, arms, or intelligence, although such money, intelligence, &c., be intercepted and never reach them, all these are cases of adhering to the enemies of the United States, and the parties are guilty of high treason under the Federal Constitution. It has been ruled by a learned judge that delivering up prisoners and deserters to the enemy is adhering to them, giving them aid and comfort, and is treason against the United States. Nothing will excuse the act but a well-grounded fear of life."—*Wharton's American Criminal Law*, section 2737.

Why, sir, we had in this country for a good while a law which until recently has been enforced, called the fugitive slave law; and men have been tried and convicted time and again for harboring fugitive slaves, concealing them from their masters. What was their motive, do you suppose? Did they want to make slaves of them? Did the Quakers in Pennsylvania, the State of my friend over the way, who were rather in the habit of giving aid and comfort to these runaway people, want to make slaves of them, does he think? Was their motive very evil? I suspect not. Now, let us see what sort of fate reached them; and it was the law, unhappily, even in a case as extreme as that. Says Mr. Justice Washington, a name, too, historic, in the case of Hill *vs.* Low:

"Connected with the preceding subject, the charge proceeds to state, that 'the intention, the *mala mens*, was not here inquirable into;' by which I do not understand the judge to mean that an unintentional obstruction would render the person an offender under the law; but that if the defendant knowingly and willingly obstructed the plaintiff in seizing the fugitive, he could not allege in his defense ignorance of the law, or even an honest belief that the person claimed as a fugitive did not, in fact, owe service to the claim-

ant, and that such matters were unfit for the inquiry of the jury; and that it was sufficient to bring the defendant within the provisions of the law, if, having notice, either by the verbal declaration of those who had the fugitive in custody or were attempting to seize him, or by circumstances brought home to the defendant, that the person was a fugitive or was arrested as such."

Ignorance of the law, an honest belief that the person whom you are harboring, whom you are endeavoring to save from the clutch of the slave-hunter, does not owe the service that is named, is no excuse at all. Why? Because the fugitive slave law says that if any man voluntarily resists this hunter, if any man voluntarily harbors or conceals the fugitive, he is denounced with the penalties that the law provides. Where the law undertakes to control his voluntary actions instead of his malicious motives, as in the case of murder, the law does does not allow a man to judge of the fitness of the law itself, and to screen himself behind a barrier, be it ever so fine or affectionate or sympathetic of motives, in testing the character of his act. Therefore, sir, it is entirely immaterial, in any legal or just sense whatever, whether this man's motive really was affection for his son or whether it was something more, because the act which the law says he shall not do is voluntary; it is an act of the will, not of the heart, if I correctly understand language. He has voluntarily given aid, counsel, countenance, or encouragement to persons of the description that his son was. He knew his son was a rebel. He knew that his heart was full of hostility to the country. He knew that the comrades and friends of his son were in organized hostility to the country only a few miles away; and in the face of all that, the son comfortably at home under his control, he advances to this son, as he substantially characterizes it himself, the means to go and join his comrades in the rebel lines.

As I said in the beginning, Mr. President, this is a case of more importance than Senators seem to suppose. If a man standing as this man does is to be admitted into this council Chamber of the States, where all the States have interests as deep as those of Maryland, and where they under the Constitution have just as good a right to say what sort of a man shall come here as she has to say what sort of a man she will send, and indeed, a paramount right and duty, I say it is of the greatest moment that, in this first case—a man who, if there is any truth in testimony, or any truth in the history of his conduct, is as much a rebel as any man who raised his arms in hostility to the Government—we should stand behind the strong barrier of the Constitution and the law and resist this perilous encroachment upon the national safety. It is useless, as things are going on in this country, for us to be raising our voices month after month and year after year against the enactment of this same scene over and over again if the Senate is ready to take up the position that it will readmit into the Government of the country—not into the protection of its laws; they have that now—the men who undertook to overthrow it and those who counseled and aided them in that work. If they are the counselors that the States and the people wish to rule over them and to make laws for them, say so; here is an excellent opportunity; if they do not, let us say so now and forever.

Mr. YATES. Mr. President, at the beginning of this debate I certainly had no intention to take part in it. I was almost entirely unacquainted with the facts. After I listened to the eloquent speech of the Senator from Massachusetts I was still not satisfied. I was only satisfied when I heard the argument of my colleague. I hesitate to speak now, after the very able speech of the Senator from Vermont, but I wish to make a few points in reply to the argument of my colleague.

As has been well remarked, this is a question of more importance than at the first glance we are disposed to suppose. By the Constitution of the United States each House of Congress is made the judge of the qualifications of its own members; and, sir, if a duty devolves upon us which is higher than any other, more sacred than any other, it is that we shall preserve these bodies, which represent the sovereignty of the American people, pure and undefiled from the stain of disloyalty.

Mr. President, we have had the sad experience of a long, fearful, destructive war, wasting the blood and treasure of the nation, all because there were a few revolutionary spirits seeking the establishment of a new empire and the extension of an odious institution, the institution of slavery, that they might establish a government in which they would have complete power. This was the cause of the war; and now if the Congress of the United States shall admit, one by one, disloyal Senators and Representatives upon the floors of the two Houses, what can we expect but a repetition of this bloody and cruel war? What can we expect but a new rebellion? This country cannot stand another rebellion. Anarchy, to result in military despotism, must be the result of another such war. I have not, however, risen to enter at length into any argument of this case. It is only upon the testimony as detailed by my colleague that I venture to make any remarks.

The question is, did the applicant for admission as a Senator upon the floor of the Senate render assistance or give aid or countenance to the rebellion? Can he take the oath that he did not do so?

I agree with the distinguished Senator from Massachusetts that if we suffer an applicant for admission to this floor to go and take the oath administered by the Presiding Officer, in which he swears that he has not given assistance, when we know that he has given assistance, to rebellion; we compromise ourselves, we are *particeps criminis;* we commit the same offense that he does; because we suffer him knowingly and voluntarily to take an oath which we know ourselves to be false. I was one who voted against the admission of the Senator from Tennessee. While we had a test-oath which required a man to swear that he had never held an office under the rebellion, when he rose in his seat and admitted that he had held such an office, and when Senators permitted him to go to the stand, and, he appealing to Almighty God to witness the truth of what he said, to swear that he had never held an office under the rebellion, I think that we, knowing that he had, must have participated in the crime, if crime it be, which he himself committed.

The question is did Mr. Thomas render assistance, did he give aid and comfort to the rebellion? This is a question of fact. I will always yield to my colleague upon a question of law. His opinions upon law are convincing with me; they are conclusive with me; but in this case I act as a juror; the Senate is a jury; and it is a question of fact which we are called upon to decide. The question now is did the applicant give aid or countenance to this rebellion? What is the testimony as detailed by my colleague? Suppose this was a case before a jury, and a witness testified in behalf of Mr. Thomas before a jury that he advised this son not to go in aid of the rebellion; he said he was no secessionist; the son had better stay at home; "but then, if you do go, I will furnish you with the money to go." Was not that aid; was not that countenance, given to the rebellion? How would a jury decide such a question—a mere question of fact, on this testimony as detailed by my colleague himself?

But, says my colleague, it was a father; it was a parental feeling that prompted him to give the son that money. O heavens; it was a parental feeling which prompted him to give money to his son to go out and stab at the life of the nation! That was a beautiful specimen of the warm parental feeling which animated the man! I confess that there is no tie stronger than that which binds the father to the child. I confess, moreover, that whenever my child is in distress to the utmost extent of my ability he shall have all my means and my assistance; but if my child comes to me and says "I am going out to fight against my country, I am going to stab the life of the mother who bore me," then I will say, "Sir, you shall starve, you shall go naked the rest of your life, you shall die in my sight, before you shall have one dime of money with which to prosecute your unholy purpose."

Sir, no man would say that sooner than my colleague. He would say to his son in such a case that he would not furnish him with one cent, that being his treasonable, unholy, wicked, and damnable purpose.

Sir, the facts are admitted. There is no question as to the facts. There is no law about it. The question is did he give aid and countenance to the rebellion. Suppose, Mr. President, that my son had come to me in the State of Illinois and told me that he had joined a conspiracy to take the life of President Lincoln, to assassinate President Lincoln, and I had said to him, "You ought not to do any such thing; it is wrong, it is a wicked purpose; but if you must go I am a father, my son must not starve on the way to do this deed; I have paternal feeling; he must not go naked;" and I furnish money, and with that money he buys the dagger which he plunges into the heart of the greatest statesman of the age! Would I be held guiltless in such an event? Money, sir, is the sinew of war, as we know from the vast amounts, millions upon millions, which we have expended in the prosecution of this war. Money is also the sinew of the soldier. Without money this young man could not have carried out his purpose in opposition to his country.

The truth is that he was one of the Hotspurs of the South—one of the pinks of southern chivalry—one of those who believed that one southern man could whip five northern men in a fair and equal fight; he was one of the slave-bred oligarchs; and too many young men not only in the South but in the North thought it a peculiar glory and took peculiar credit in declaring themselves the chivalrous sons of the South. This young Hotspur of the South goes to the applicant for a seat on this floor, who says to him, "You know I am no secessionist; I do not want the rebellion to succeed; but you are my son, and here are $100." That is the whole state of the case. I, sir, would have said to him, "Starve before you raise your hand against the mother who bore you and who has protected you." The facts are admitted; and now shall the American Senate upon such a case as this—upon a case as plain as this—commence the work of readmitting the men who compassed the life of the nation—who sought the murder of this glorious nation of ours, and by giving them seats upon this floor allow them again to plant the seeds of a new rebellion and of another disastrous civil war?

Mr. SHERMAN. Mr. President, I will not detain the Senate long by the few observations I desire to make on this case. Until the last hour I have not designed to say anything about it but to cast a silent vote. I will ask the Secretary to read the pending amendment offered by the Senator from Massachusetts.

The Secretary read the amendment, as follows:

Strike out all after the word "resolved" and insert:

That Philip F. Thomas, Senator-elect from Maryland, cannot be admitted to take the oaths of office required by the Constitution and laws, inasmuch as he allowed his minor son to leave the paternal house and serve as a rebel soldier, and gave him at the time $100 in money, all of which was aid, countenance, or encouragement to the rebellion, which he was forbidden to give; and further, inasmuch as in forbearing to disclose and make known the treason of his son to the President or other proper authorities, according to the requirement of the statute in such cases, he was guilty of misprision of treason as defined by existing law.

Mr. SHERMAN. I have concluded that it is my duty to vote against the admission of Mr. Thomas, but I cannot vote against him for the reasons stated by the Senator from Massachusetts, and I shall, therefore, vote against his amendment. It is always a bad thing to attempt to give reasons when there is no neces-

sity for them. The reasons given by the Senator from Massachusetts in his amendment, if they stood alone, would not, in my judgment, justify the exclusion of Mr. Thomas. The mere fact of his having given to his son a sum of money, without all the surrounding circumstances being stated, and his mere neglect to disclose the fact that his son was going into the rebel lines would not, in my judgment, be sufficient ground of exclusion, because much may be forgiven to parental feeling, and we can hardly sustain ourselves in assigning such reasons for excluding a man from position as a Senator of the United States. While, therefore, I concur with the Senator from Massachusetts in the result at which he arrives, I shall certainly vote against his amendment proposing to give reasons for it.

I base my vote mainly upon the conduct of Mr. Thomas in the winter of 1860-61. The events of that winter are as indelibly impressed upon my mind as any events of my life. I remember every day of the terrible month of January, 1861. I remember the depression that rested upon the minds of members of Congress and the whole people of the United States. I remember the anxiety with which every event from the 1st of December, 1860, until the 1st of February, 1861, was marked by the people of the United States. Every day in that memorable period was equivalent to an era in ordinary times.

When the message of the President of the United States came to us in December, 1860, declaring that although secession was unconstitutional there was no power to resist it, that was a yielding by the head of the Democratic party in a great measure to the doctrine that then was endangering the Union. We all knew then that a conspiracy had been formed in our own midst, in this Senate Chamber, and in the House of Representatives, to break down this Government of ours by force of arms. No one then contemplated that this Government would be dissolved without battle and war. After the election of Mr. Lincoln the men who inaugurated the rebellion organized war; they contemplated war; they provided for war; they prepared for war; they bought arms and ammunition and made all the arrangements for battle, and they appealed to the god of battles to maintain them in that contest. Step by step this organization progressed. Here in the Senate men met together and by telegrams advised the people of the southern States to resist by arms and by war the authority of the United States. They environed Fort Sumter, garrisoned by a little band of less than a hundred men, with more than three thousand armed men. They seized upon Fort Moultrie; they seized upon every place occupied by the United States that they could possibly seize upon. They seized upon our arsenals. Step by step they proceeded, and every act was an act of war.

We were engaged in careful and anxious watching for the progress of these events; but the first, perhaps the most open, act of war occurred on the 9th day of January, 1861. Up to that time there was probably no organized resistance to the authority of the United States, or none so organized as to amount to war. The previous seizures of arms and ammunition had been in the nature of mobs and riots; but on the 9th day of January, 1861, this war commenced by the firing of organized troops, consisting of infantry, artillery, and cavalry organized, upon the Star of the West on its way to Sumter to relieve a garrison then environed by hostile arms. This was the first act of war; and it occurred on the 9th day of January, 1861. On the 10th day of January we had the news here in Congress. We knew then that war had commenced. The debates on the 10th day of January will show how this matter was felt. If you will refer to the record you will find that at once a debate sprang up in the House of Representatives in which the gage of battle was offered and accepted. It was there stated by members of the House of Representatives that if the South would persist in this mode of resisting the authority of the United States war must be the result. It was on the 10th day of January, if I recollect aright, when that issue was first made, and war was accepted by the southern members. They knew, then, from the spirit aroused among the people of the northern States that we would not allow this Government to drift into anarchy and to be broken into atoms without an appeal to arms. Every man in Washington knew it. The feeling aroused by the firing on the Star of the West was only a premonitory symptom of what occurred when Fort Sumter was fired upon. There was the same resolute determination, the same invincible courage manifested then by the people of the North and the people of the South that was more manifest afterward; men took their sides; the old bonds that bound men together in party alliances were snapped into atoms. Then it was for the first time that Mr. Stanton, Mr. Holt, and other leading members of the Democratic party sided with the great body of those against whom they had been opposed for life; then it was that Douglas and his patriotic associates announced their purpose, if war must come, to resist war with war.

Mr. President, what at that time was the condition of Mr. Thomas? He was then a member of the Cabinet of Mr. Buchanan. These facts were known. By his implied assent, although against his vote, as it came out afterward in the history, the Star of the West was sent there with these provisions. He was dissatisfied with this act of relief; and what did he do? The 9th of January was the day of the firing on the Star of the West; the 10th came; it was known what had been the fate of this expedition; and on the 11th day of January, in the midst of the war, after the first gun had been fired, he did all that he could to break down this Government of ours; he committed an act which, in my judgment, although perhaps not technically an act of treason, was yet an act of assistance to the public enemy more marked and distinct than if he had at a subsequent stage taken a musket and shouldered it and gone into the rebel ranks. On the 11th day of January, after this act of war was known here, and its effect all over the country was known, when men had arrayed themselves for or against the Union, and for or against the preservation of the Union by force of arms, this gentleman, then occupying the high position of Secretary of the Treasury, abandoned the Government; and not only that, he gave as his reason for its abandonment that this Government had no power to maintain itself. But in order that I may not do him injustice I will read from his letter written after these facts were known to every citizen of the United States within reach of the telegraph. Under date of January 11, 1861, he writes to President Buchanan:

"My Dear Sir: It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina; nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority under existing laws to enforce the collection of the customs at the port of Charleston."

Here is the point presented under the cover of a good many words. What is the point made by Mr. Thomas? Was there a mere technical defect in the laws by which the collection of the customs could not be made? Not at all. The defect was in the Constitution of the United States, according to his theory, that there was no power in the Government against the ordinance of secession of South Carolina to do one single thing in maintaining the authority of the United States. The ground taken by him, although not expressly stated, was that against the ordinance of South Carolina a United States officer could not collect the customs in a port of South Carolina; and if the doctrine then maintained by him was true the South was right and we were wrong; all the blood that was shed in this war should properly be charged to the people of the United States. Here this man, then, after the war had commenced, holding a high position of trust under the Government of the United States, abandoned that position, left his post of duty, and gave as his reason for it the very ground which justified, if anything could, the war waged by the South against the nation.

It seems to me that neither Mr. Thomas nor any of his friends can doubt where he stood then. No man doubts that then Mr. Thomas was a secessionist, an enemy to his country, a man who would not use the necessary means to maintain the authority of the country; and here he deserted, not the Republican party, for I would not vote against Mr. Thomas because he is a Democrat, but he deserted all that loyal mass of the Democratic party who felt as I did when the Star of the West was fired into and when Fort Sumter was fired upon. He took his place with Robert Toombs and Jefferson Davis and all those men who threw their lives into the contest, and he is as guilty as they. The act of Mr. Thomas two days after the Star of the West was fired into was an act of assistance as open, direct, palpable, and influential as any act by any of those leading and prominent traitors. He took his place with them, and since that time to this hour he never has wavered from that line.

I have no doubt that Mr. Thomas is a gentleman. Certainly he is a man of kindly manner and pleasing address; and I have no doubt he is a gentleman in every sense of the word; but it is not for that we should allow him to take a seat here. If he has, in plain violation of the law and of the oath of office, aided or assisted in this rebellion, from its incipient stage to this hour, he is not entitled to take the oath of office and he is not entitled to a seat here.

I say he has done that; and from that first act to this hour he has never shown that he regretted the act; and all that he has done since that time is perfectly consistent with the position which he took two days after the Star of the West was fired into. What did he do? He went to his farm in Maryland and was quiet there, and gentlemen say that is an evidence of loyalty; but his neighbors, many of them leading men of Maryland, testify that all his moral influence, whatever it was, was against the cause of the Union; and one significant fact is testified to by two or three witnesses, that he applied two or three times to vote at the elections in Maryland, and when the prescribed oath was put to him he refused to take it and vote. Why? Senators may say that he had constitutional scruples about the power of the Legislature of Maryland to prescribe an oath. If he had refused to vote at the first two or three elections he might have shielded himself by this pretense; but he refused to vote after the people of Maryland, in their new constitution, had prescribed the oath. He still refused to take the oath then, and never, by act or word or deed, showed loyalty to the people of the United States or loyalty to the Union.

I do not wish to go into the matter in regard to his son, because we all know very well the strength of the parental feeling. Undoubtedly he did not resist the desire of his son to go into the rebel army as a true and loyal man would have done. But if I were called upon to decide the question on that alone I might forgive him, because I know that none but the old Roman was expected to sacrifice his son for the benefit of his country. We must not expect impossibilities of men; and therefore I do not place upon the fact of his having given money to his son the great stress that other gentlemen do. Let us look, however, at the reason for his doing it. The mere giving of money to his son for any purpose whatever might not be sufficient; but what was the *animus*? Gentlemen say he resisted his son's going, and tried to persuade him not to go; urged him not to go. Why? Did he tell his son that it was wrong to fight against the Union, against the country, against the invader of his State, and the enemies of his nation?

Not at all. No such pretense is made. Why did he dissuade his son from going into the rebel army? His son gives the answer:

"When the raid was made into Maryland after the battle of Gettysburg I was then anxious to leave and join the rebel army; and he told me that I ought not to do it, and as a citizen of the State of Maryland, and that State in the Union, I had no right whatever to do it."

But take the other case. Suppose the State of Maryland had seceded, who doubts that Mr. Thomas would have been in the rebel congress, if he could have got there? Who doubts where Mr. Thomas would have been if Maryland had seceded? Does any Senator here doubt? Does my honorable friend, [Mr. JOHNSON,] whose life is a distinguished example of loyalty, doubt where, if Maryland had seceded, if the secessionists of Maryland had been able to carry out their original view and seize on the power of that State, Thomas would have been? His advice to his son shows that the only reason he urged against his joining the rebel army was first a feeling of natural affection; and second, the fact that Maryland had not seceded. This was an only son, and he desired to retain him at home; but, if the State of Maryland had gone out of the Union, it is apparent that he would have advised his son to join the rebel army; and no man can read this whole testimony without thinking so. The *animus* was there, the spirit of hostility and rebellion to this Government was there, as shown by the whole testimony.

But, sir, there is another small shred of testimony produced by the Committee on the Judiciary which, although it is not conclusive against Mr. Thomas, yet, as an indication in harmony with all that has gone before, is a very strong item. I allude to the speech made by him when he was elected a Senator of the United States. I would excuse a good deal to the hilarity and joy of such an occasion as that, when Mr. Thomas probably attained the desire of his cherished ambition. But the testimony of the two correspondents who reported what was said then shows very clearly, I think, that Mr. Thomas, in the very acceptance of the office for which he now seeks to take the oath, charges you, who he supposed were to be his associates here, with being traitors to the country.

I know it is said that the reporter of the Baltimore American wrote out his report after the event, but he has given the original notes from which he wrote it out, and in those notes, written at the time, with every opportunity, he has Mr. Thomas saying:

"Now bent on establishment of military despotism. Goes there to face these men who are now and always were traitors to Union."

These are the words in the original, abbreviated notes; and in the expanded notes he represents Mr. Thomas thus:

"He said they were now bent upon the establishment of a military despotism. He would go to the Senate to face these men, who are now and always were traitors to the Union."

There is another report which agrees with this up to this point, and then there is a flourish of trumpets instead of what is here stated, looking very much like a different style, and no doubt inserted by the correspondent. If this matter stood alone by itself I would not place much weight upon it, because there is the chance of being misreported, there is the natural hilarity of such an occasion, and much might be forgiven to it; but as a straw, to show that this man's mind was always in the same direction after he commenced, after the first gun was fired in hostility to this country, that he continued from that hour to this, that he no doubt regards us as traitors to the country, it seems to me to show that he is in his heart a disloyal man, who has done all he could, occupying his position, to resist the authority of the Government of the United States and to overthrow it.

Now, sir, the only question left for me is this: shall the Senate of the United States break down the barrier by which we have excluded these men from office, by which all the guilty agents and leaders in this rebellion have been excluded from the honors of high position? I would not forgive myself if I thought the vote I cast against Mr. Thomas were cast against him because he differs with me in politics. I would not as cheerfully, to be sure, but as a matter of duty, admit a man who disagreed with me in political opinion if he was elected by the Legislature of a State, as soon as I would a man of my own political views. This is a question higher than and above party politics. Here is the case of a man who two days after an act of war had been committed upon our flag deserts his post as Secretary of the Treasury, deserts it because there is no power in this Government, in his opinion, to enforce even the custom-house laws; who then goes home, retires to his farm, and there gives all the moral sympathy and all the moral aid to this rebellion that a man can in his sphere at home; who only awaits the secession of Maryland to cast his active physical force into the scale; who only dissuades his son from going into the rebel army because Maryland has not seceded; who is not excited by the fact that Maryland was invaded, that the Union was endangered, but only assigned the fact that Maryland had not seceded as a reason why his son should not go into the rebel service; and who, when elected to high office and sworn to maintain the Constitution of the United States, declares that these men, who have been engaged in defending it, by whose wisdom and councils the country has been saved through a terrible war, are traitors to the Union! I say, with the evidence thus presented to me, my mind is irresistibly drawn to the conclusion that we ought not to throw down the barriers to admit Mr. Thomas; and if we do I can know no distinction hereafter. If Mr. Thomas is a loyal man in the true sense, if he has not aided the rebellion, I do not know who has. If we admit him and break down the barrier, then, one after one, all those red-handed rebels who plotted treason in these Halls may come back to their former places.

Sir, it is a remarkable spectacle that at the end of a war like that which we have gone through, after four hundred thousand men have laid down their lives in our service, after we have spent $4,000,000,000 to maintain the authority of this Government, a State in the Union should send here to the Senate Chamber from among all her citizens, nearly one million, a man who, during this whole war, if he did anything, always did it against his country. It is one of the saddest spectacles of the time that a State which has been defended by the blood of heroes, which has on its soil many of the battle-fields and some of the most glorious battle-fields of this war, where thousands and tens of thousands of patriotic dead are now buried, when they, for the first time after the war is over, have the power to send representatives here to the Senate Chamber, should send a man who, two days after the Star of the West was fired upon deserted his post, and said that the Government had no power to enforce its laws, and then went home to his farm in Maryland to brood over "the lost cause," to give his son to "the lost cause," and who denounces us here as traitors when he is elevated to a seat in this high council Chamber.

Sir, I have no feeling in regard to this matter; I did not intend to take part in this debate; but I shall feel it my duty to vote against Mr. Thomas, and I have no doubt that in doing that I do what is right.

Mr. CORBETT. Mr. President, I deem it my duty to express my views, as other gentlemen have expressed theirs, upon the question of the admission of Mr. Thomas. I have tried to relieve my mind from the conviction that Mr. Thomas was one of the original conspirators in this rebellion; but I have been unable to do so. The evidence presented, I think, clearly shows that he was one of the original conspirators in Washington who attempted to overthrow the Government of the United States. The facts are that Mr. Thomas withdrew himself from the service of the Government at the time of its greatest peril, when it was threatened by six or seven States which had already assumed to withdraw from the Union, and had confederated themselves together for the overthrow of the Government. It was at a time when, in consequence of that secession and confederation, South Carolina had taken possession of the custom-houses and all the armaments of the Government within her limits. In view of all these facts, which were well known, when Mr. Thomas was applied to in Cabinet council to decide whether the revenue laws should be enforced in the collection district of South Carolina, I think the evidence plainly shows that all his influence was to defeat the laws there. I cannot divest my mind of the opinion that if Mr. Thomas be admitted upon this floor as one of the Senators of the United States he will vote hereafter for the admission of those men who acted and coöperated with him in endeavoring to overthrow the Government of the United States at that time in case they should come here for admission. I cannot but believe that he must consider those with whom he acted as being as little responsible as himself and as being also loyal and true men!

Sir, we have a solemn duty to perform as loyal Senators of the United States. We are supposed to be the representatives of the loyal States who fought for this Government, maintained the Union, and put down this great rebellion. The people look to us to guard most sacredly the interests of the loyal States and loyal people who have fought for the Union, who have put down the rebellion, who have created a national debt which we must protect. Now, who doubts that if Mr. Thomas is admitted, with the views he entertains of the illegality of our efforts to put down the rebellion, that he will vote against paying the debt of the nation which was contracted for enforcing the laws and putting down the rebellion?

I have no doubt that his political education taught him to believe that the States had a right to secede; but is there any reason why the loyal States should concede that right, or place themselves in the hands of those who entertain such opinions? Is there anything in the past history of the Government, or in the history of its formation, which gives any one a right to claim that a State can withdraw from the Union at any time it may see proper? On the contrary, from the first formation of any union between the States the idea of its indissolubility has always been maintained. In the first confederation which was entered into by the several States, South Carolina being one, it was declared in the most solemn manner that the Union should be perpetual. To refresh the minds of Senators upon that point I will read from the Articles of Confederation. Their title is "Articles of Confederation and Perpetual Union." Article thirteen provides that "the Union shall be perpetual;" and the attesting clause reads:

"And whereas it hath pleased the great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress to approve of and to authorize us to ratify the said Articles of Confederation and Perpetual Union, know ye that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents that they shall abide by the determinations of the United States in Congress assembled on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual."

This was the condition of things under the confederation. Then, when the Constitution was formed, its preamble declared:

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Here it is expressly declared that one of the objects of the Constitution was to form a more perfect Union, a stronger Union, one that

should be more enduring; and yet States whose representatives had signed, agreed to, and indorsed this declaration have since attempted to withdraw from the Union of the United States, under pretext of the right of sovereignty in the States to withdraw from the Union. Their people have been taught that false doctrine for which the Constitution gives no warrant; and it seems to me that a man possessing these views is not entitled to a seat here. He must be disloyal if he possesses such views. He cannot maintain them if he be a loyal man. I regard Mr. Thomas as one of these, and therefore I cannot vote to admit him to a seat.

Sir, we are about to reconstruct the rebel States, and we are about to reconstruct the Senate of the United States. Shall we reconstruct by conferring power on rebels who have given aid and comfort to the rebellion, and who have attempted by every means in their power to overthrow this Government?

Mr. SAULSBURY. Will the honorable Senator allow me to ask whether I understand him correctly as saying that any person who entertains the opinion that the States possess sovereignty is a disloyal man?

Mr. CORBETT. Any one who entertains the opinion that the States have a right to withdraw from the Union.

Mr. SAULSBURY. That is another question. I thought the Senator spoke of persons entertaining the opinion that the States possess sovereignty.

Mr. CORBETT. That they have such sovereignty as to entitle them to withdraw from the Union.

Mr. SAULSBURY. That is a wholly different question; but supposing that I understood the Senator aright, I was going to ask him whether Mr. Madison and Mr. Hamilton were loyal men.

Mr. CORBETT. We have a loyal Senator here from the State of Maryland, [Mr. JOHNSON.] When war came did he refuse to represent that State? Did he refuse to take part in the legislation necessary to put down this rebellion and to use every means in his power to overthrow the gigantic effort that was being made to overthrow the Government? When the young men were gathering from portions of his State to overthrow it and to establish a southern confederacy did he give them aid and comfort? Did he say that he would not retain his seat in the United States Senate for the reason that the young men of his State were joining the southern confederacy? No; he stood forth here like a giant to maintain the rights of the Union. Contrast the conduct of Mr. Thomas as compared with his, and what a marked difference is manifest. Mr. Thomas abandons his position in the Government at the time of its greatest peril. I do not place so much stress as others do upon the fact of his having furnished aid to his son to join the rebel army; but I think that the position he occupied in the earlier history of the rebellion is the true starting-point to enable us to ascertain how and in what manner he identified himself with those men who were confederated together and formed a conspiracy here to overthrow the Government.

Maryland had her part to perform, and it was assigned to her. Virginia had her part to perform, and it was assigned to her. The loyal men of the Union flew to arms, and men from Massachusetts at once started for the national capital. Massachusetts did all she could to equip her men and send them forth for the protection of the capital; and when those troops passed through Maryland the scenes there enacted showed very plainly the feeling of at least many of the people of Maryland, and I think no one here can doubt that if there had not been a large number of loyal troops within the borders of Maryland she would have attempted to withdraw, following the example of the other southern States. If Virginia had had time to march her troops to the national capital before the men of the loyal States who rushed to its rescue had been able to reach here, so that she could obtain possession of the seat of Government, I think very likely Maryland also would have joined the rebellion.

Mr. President, my duty to the nation at large compels me to guard sacredly the interests of those who united in putting down this rebellion, to guard their property and the debt which has been contracted and which they hold. I think that we cannot with safety admit to this Chamber men who were conspirators in this rebellion. I believe that Mr. Thomas was one of them, and I shall, therefore, vote against admitting him to his seat.

Mr. BUCKALEW. Mr. President——

Mr. ANTHONY. I suppose my friend hardly wishes to address the Senate at this hour. Will he give way to a motion to adjourn or for an executive session?

Mr. BUCKALEW. If the Senator wishes to move an adjournment I will give way for that purpose; but I am indifferent about it.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. RAMSEY. I think we had better adjourn, and I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 13, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SHIPPING INTEREST.

Mr. PIKE, by unanimous consent, submitted resolutions of the Legislature of Maine, relative to the shipping interest; which were referred to the Committee of Ways and Means.

AMOS ARMSTRONG.

Mr. SPALDING, by unanimous consent, introduced a bill (H. R. No. 721) to increase the pension of Amos Armstrong, who was wounded in the battle of Queenstown during the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

ORDER OF BUSINESS.

Mr. DAWES. The Kentucky contested-election case was postponed till after the morning hour at my suggestion. I am pressed very hard by the chairman of the Committee on Appropriations to allow the legislative appropriation bill to be resumed. I therefore suggest that it may be taken up at this time, so as to give the Committee on Appropriations more time.

The SPEAKER. The regular order in the morning hour is the bill reported from the Committee on Foreign Affairs relative to the rights of American citizens abroad, on which the gentleman from Rhode Island [Mr. JENCKES] is entitled to the floor.

Mr. DAWES. I make the suggestion in the interest of the business of the House. I have no choice myself.

Mr. JENCKES. The morning hour has been taken up so long with the business of the Committee on Foreign Affairs that I feel that I should be doing injustice to other committees if I consented to any postponement of the pending subject.

The SPEAKER. The Chair will state that the House having refused to second the previous question yesterday, and there being various amendments pending and others to be proposed, the bill will probably take all the morning hours of next week unless an arrangement is made for a night session.

Mr. WILSON, of Iowa. I suggest to the gentleman from Rhode Island [Mr. JENCKES] to give way to a motion to refer the bill and pending amendments to the Committee of the Whole. That will take it out of the morning hour.

Mr. JENCKES. After some remarks which I propose to make I will yield for that purpose.

TENURE OF CIVIL OFFICE.

On motion of Mr. JENCKES, by unanimous consent, Senate bill No. 269, in addition to an act entitled "An act to regulate the tenure of certain civil offices," was taken from the Speaker's table, ordered to be printed, and returned to the Speaker's table.

VENTILATION OF THE HALL.

The SPEAKER. Before the gentleman from Rhode Island proceeds the Chair desires to lay before the House, at the request of the Committee on Public Buildings and Grounds, a statement in regard to the ventilation of this Hall. The committee have made some experiments during the last two days and nights, and they ask the attention of members to the subject, that the House may see whether the ventilation is improved.

The Clerk read the statement, as follows:

The Committee on Public Buildings and Grounds, who were "directed to examine and report by what means a sufficient supply of pure air might be obtained for the Hall of Representatives, and also empowered to use the present means of ventilation to the best advantage," wish to state this morning that as a temporary expedient they have, at the request of Mr. Leeds, had the steam kept up last night until twelve o'clock, and heated the Hall up to about eighty-seven degrees, so as to thoroughly warm the walls, and this morning at half past seven had most of the external windows opened for two hours. It is thought by thus having the walls and floors well warmed that a much cooler, fresher, and more invigorating air may be supplied to the Hall and corridors, the balance of the heat being made up by direct radiation from the warm walls. They desire members to observe whether the building is more comfortable or not.

The SPEAKER. Members can confer upon the subject with the chairman of the Committee on Public Buildings and Grounds, the gentleman from Pennsylvania, [Mr. COVODE.]

RIGHTS OF AMERICAN CITIZENS ABROAD.

The House then resumed the consideration of the bill (H. R. No. 584) concerning the rights of American citizens in foreign States, upon which Mr. JENCKES was entitled to the floor.

Mr. JENCKES. Mr. Speaker, I desire to submit the remarks which I have to make on the subject now before the House at the present time because the character which was attempted to be given by the gentleman from Massachusetts [Mr. BANKS] to the bill which I offered heretofore has gone to the country without the explanation and contradiction which was given by me yesterday morning. It is asserted here that there is an attempt being made to incorporate into our laws declarations borrowed from the laws of England on the subject of expatriation. Now, if I understand the proposition which I have submitted to the House, and the laws of England on the same subject, the main proposition in this bill is diametrically opposed to those laws.

Mr. Speaker, the importance of this subject seemed to me to demand that it should not be disposed of after a brief discussion under the control of the committee which reported it, in a few morning hours, but should be opened to general discussion in this House. It is one of the most important subjects upon which we can act. It is one upon which this nation must act at some time, and declare and preserve a settled policy. That action has been studiously avoided ever since the organization of the Government. Whatever we may do upon this subject we do it not merely in the presence of our own citizens, and for their guidance, but we do it in the presence, in the hearing, and before the eyes of all the world, and whatever we do or say will be criticised more severely than any act which relates only to our internal affairs and the government of our citizens at home.

The occasion for this action is the complication that has arisen in our diplomatic correspondence and negotiations with other countries concerning the status of citizens of this country while abroad who did not have their birth in this country. I do not admit that there is any difference in the quality of citizenship once acquired, whether it be by birth within the jurisdiction of the United States or by the

naturalization of persons born in any other part of the earth. Our laws admit all to citizenship equally by complying with certain requisitions of laws passed under the Constitution; and when once a person born in any other part of the earth is touched by those laws he assumes the quality of a citizen, of which he cannot be deprived except by his own act. These complications have arisen principally in our negotiations with Great Britain and Prussia, not from the same cause or the same claim on the part of each of those nations, but from very different and, in some respects, opposite reasons. The laws of Prussia admit of expatriation, and a declaration to that effect is incorporated in the fundamental law of that nation. A qualification is also annexed to the declaration that the person who seeks to expatriate himself shall not leave his country for the purpose of avoiding military service within certain ages and after certain orders have been given under laws passed for conscripting that class of persons into the army of that nation.

The law of England does not admit of expatriation under any circumstances. "Once a subject always a subject" is the doctrine of the English law. "*Nemo potest exuere patriam*" is a maxim of that law. And hence, although a subject, natural born or naturalized, under the British Crown, may become naturalized in the United States, or perhaps in two or three other foreign countries, and may possess and exercise all the rights and privileges of those countries, yet still his allegiance is claimed for the Crown of Great Britain, and there is no principle in the English law or the English constitution which will enable him to absolve himself from that allegiance. It seems to me astonishing that the chairman of the Committee on Foreign Affairs [Mr. BANKS] should state, as he did yesterday, that the declaration in the bill I proposed was to introduce into the law of our country the English law of expatriation, when from the earliest history of the law of that country, from its feudal origin down to the present time, they have always denied to their subjects the right of expatriation. In respect to naturalization they have always been most liberal. I find a good exposition of that practice made two hundred and fifty years ago, by Lord Bacon in his great argument for the *post nati*, and which is as applicable to the law of England now, as it was then. I will read a passage of that argument. After explaining how a person was to become a subject, he says:

"For it is not much to make a subject naturalized by the law of England: it should suffice either place or parents. If he be born in England, it is no matter though his parents be Spaniards, or what you will; on the other side, if he be born of English parents, it skilleth not though he be born in Spain or in any other place of the world. In such sort doth the law of England open her lap to receive in people to be naturalized, which, indeed, showeth the wisdom and excellent composition of our law, and that it is the law of a warlike and a magnanimous nation fit for empire; for look and you shall find that such kind of estates have been ever liberal in point of naturalization, whereas merchant-like and envious estates have been otherwise."

From the time when England became a maritime nation she has yielded protection to her subjects, whether natural born or naturalized, whenever they have suffered injury in any part of the world. One of the most instructive cases in our own time is to be found in the conduct of the English Government toward the Government of Greece, in the case of Finlay and of Pacifico, during Lord Palmerston's administration of foreign affairs, about the year 1850. In that case, although one of the parties had been born in Portugal, was a Jew of mean estate, with nothing to recommend him to the protection of the Government of Great Britain except the fact that he was a naturalized subject of Great Britain, Lord Palmerston threatened war with Greece unless justice was done him by the authorities of that country according to the ideas of the English nation, and even sent a fleet which anchored in the port of Athens to enforce his demands.

On the other hand, while admitting the right of naturalization and all its consequences to the fullest extent ever claimed by us or as established by the Roman law, they go to the utmost extreme in denying the right of the subject to change his nationality; nor is that law of recent declaration. I find also a most excellent exposition of it in the argument, to which I have already referred, of the same celebrated lawyer and author. He describes the allegiance due by the subject to the British Crown as being in fact perpetual, as relating not only to one generation but to all the descendants of the natural-born subject. He goes on to put a case in which a subject owing allegiance to the Crown of Great Britain went to Spain, and there his descendants remained for many generations; yet it was held that they were still subject to the English Crown. And he then adds:

"So of reward, privilege, or benefit we need seek no other instance than the instance in question; for I will put to you a case that no man shall deny where the law of England doth work and confer the benefit of naturalization upon a birth neither within the dominions of the kingdom nor king of England. By the statute of 35 E. III, which, if you will believe Hussey, is but a declaration of the common law, all children born in any part of the world, if they be of English parents, continuing at that time as liege subjects to the king, and having done no act to forfeit the benefit of their allegiance, are *ipso facto* naturalized. Nay, if a man look narrowly into the law on this point he shall find a consequence that may seem at the first strange, but yet cannot be well avoided, which is that if divers families of English men and women plant themselves at Middlesborough or at Rouen or at Lisbon, and have issue, and their descendants do intermarry among themselves, without any admixture of foreign blood, such descendants are naturalized to all generations; for every generation is still of liege parents, and therefore naturalized, so as you may have whole tribes and lineages of English in foreign countries."

Nor, Mr. Speaker, have the Committee on Foreign Affairs in their report exaggerated the extent to which this allegiance may be claimed among American citizens. Estimating, as they do, that six million persons have emigrated from the dominions of Great Britain to this country since the peace of 1783, their descendants would amount to the relative proportion, as stated in that report, to the rest of the whole population. The laws which have been passed in England since Lord Bacon's time, especially those in the reign of George II and George III—the latter about the year 1773—do not merely declare the extent to which this allegiance may be demanded of descendants of subjects of Great Britain abroad, but they make that allegiance obligatory upon those descendants; and a recent English writer puts the case strongly, but not too strongly, when he says that the General-in-Chief of the American armies, if his ancestors had emigrated from any of the dominions of Great Britain since the peace of 1783, might, if he came within the territory of the British Crown, have no defense to the suit of a common informer for penalties under the foreign enlistment acts for fighting the battles of Vicksburg, Chattanooga, and Petersburg. To such an extent may the Crown of England, under the British laws, demand allegiance of the descendants of its subjects abroad.

But it may be said that Great Britain does not and will not make this demand. It is true. The very magnitude of the claim makes it preposterous. Such a claim would be entirely ineffectual and so monstrous as to become ridiculous. But let me state where we meet the difficulty. Great Britain not recognizing the right of expatriation in her subjects, they are, when they return to England, held to reassume all the duties and obligations of natural-born subjects, as if they had never quitted the realm, and are made subject to the municipal laws of England exactly as if they had remained all their lives upon its soil. Well, for some purposes, in the exercise of the municipal authority of England or of any other nation, it matters not whether the person who has become subject to those laws was born within the realm or out of it. Whoever is within the power of the law of any nation must be subject to that law according to its provisions. The person who commits crime in England, whether he be native born or foreign born, cannot claim the protection of any other nation, although he may claim that he has absolved himself from his nationality and his allegiance to England and assumed allegiance to another country. He must exhaust the relief to which he is entitled in the courts of England before he can appeal to his Government for protection. But there are cases frequently arising in which the subjects of other nations are entitled to different treatment from that to which subjects of the British Crown may be obliged to submit. Hence arise complaints, bickerings, and in some cases acts of violence, which create differences that sometimes threaten to become too great for settlement by the ordinary methods of diplomacy.

Mr. Speaker, it is for the purpose of clearing up this difficulty in our diplomacy, to meet these questions which constantly arise and must increase in number as this country increases in growth and population, that this bill is introduced. It declares not only that subjects of Great Britain or any other nation may expatriate themselves, renounce their allegiance to the Crown under which they were born and assume a national character in this country, but also that citizens born or naturalized in this country may lose that nationality by the performance of certain acts.

It is said, and for this we have the high authority of the President of the United States, that when we attempt to negotiate or interfere in regard to the rights of American citizens abroad, we are met by the authoritative expositions of our own law by the courts of this country to the effect that we have adopted in this respect the law of England; and that until by some authentic declaration by law or solemn adjudication we have proclaimed that such is not the law of this country we have no right to demand from foreign nations the recognition of the principle for which we contend. And every one must see the force of this suggestion. It is alleged, however, that this is not quite true. I was surprised to hear this asserted by the chairman of the Committee on Foreign Affairs, and by his associate [Mr. ORTH] who addressed the House on the day before yesterday. What is the law upon that subject as proclaimed by the courts? It is the plain declaration which they make in all other cases arising under the common law of this country. When we separated from Great Britain, we took with us as a part of our heritage the common law of England; and until that common law is altered by statute it remains in force in the several States of this country which have adopted it; some by the declaration of their Legislatures and some by their constitutions. And how else can the courts decide the question of allegiance except by declaring, unless they find a statute, fundamental or legislative, which alters the law of England, that that law in this respect still remains in force?

Such I understand was the point of the argument of the learned gentleman from Pennsylvania [Mr. WOODWARD] who sits before me; and I find produced in the report of the Committee on Foreign Affairs no single case in any single court where the contrary doctrine is held. Well, therefore, may the President of the United States, in the performance of his high duties, call the attention of Congress of the United States to this deficiency in our laws.

The state of the American law on this subject of expatriation is summed up as follows:

"But the Supreme Court have not admitted the distinct right of expatriation, independently of an act of Congress to authorize it. On this point, Chancellor Kent remarks: 'From an historical review of the principal discussions in the Federal courts the better opinion would seem to be, that a citizen cannot renounce his allegiance to the United States without the permission of Government, to be declared by law; and that there is no existing legislation in the case; the rule of the English law remains unaltered.'" * * * * "In all countries where the English common law does not prevail the presumption, in accordance with the uniform doctrine of the publicists, is in favor of the right of expatriation."—*Lawrence's Wheaton*, p. 919, note on Naturalization and Expatriation.

It is not strange, sir, this deficiency has existed. This Government was commenced as

an experiment. Its citizens were composed of emigrants from foreign nations or the descendants of those emigrants. The peace of 1783 severed the allegiance of all persons within the territory of the United States to the British Crown. From that time the question began to arise, as well with other countries as with Great Britain, and Congress began cautiously to exercise the powers the Constitution conferred upon it in this respect. It was not until 1802 that a uniform rule of naturalization was adopted by law. Since that time we have had a uniform naturalization law throughout the country, while before the adoption of the Constitution each State naturalized citizens for itself. We made that rule more strict from time to time. In 1813, I think, a law was passed refusing naturalization to any foreigner who did not remain five years consecutively in this country. That was repealed in 1848, and the rule of naturalization now is, as it was in 1802, requiring five years' residence in the country, a declaration of intention within two years and renunciation of allegiance by oath in order to entitle the subject of a foreign country to citizenship in this.

We have carried this right of expatriation as regards other countries and the right of protection to which a foreigner may be entitled when domiciled here almost to the extreme. The case of Martin Kozsta I hold to be an extreme one, which was well decided on the facts, but those facts can hardly ever arise again. It was found that Kozsta had been made an outlaw by decree of the emperor of Austria. He was among the Hungarians exempted from pardon and amnesty, and to whom even the promise of amnesty in future was refused. He was found in a neutral port and seized by Austrian authority, and the representatives of the United States on the spot interfered in his behalf. They were sustained by this Government afterward on the ground that being an outlaw from his own native country, and not having become a citizen of another, he had acquired domicile in this country, which entitled him to the protection of this Government—not that he was a citizen, or that his declaration to become a citizen was sufficient to entitle him to that protection; but that that declaration, accompanied by proof of the fact of his domicile in this country, was sufficient to make him a citizen of the United States for the purpose of being protected abroad.

And in that decision of our Government I find a phrase used in the commencement of the second section of the bill offered by me—"the national character" of citizens—which, perhaps, is not a legal and technical phrase; but it was on that explicit ground, declared by Mr. Marcy in his report and adopted by the Government in sanctioning that report, that he had acquired by obtaining a domicile here in this country "the national character," equivalent to that of citizen to entitle him to protection.

Now, Mr. Speaker, in view of this state of things, I wish to call attention to the bill reported by the Committee on Foreign Affairs and see whether it meets the classes of cases which arise before us. I find on the face of it, in the first place, no declaration of the two great rights which are involved in this act of legislation; no recognition of the right of expatriation in any form; and I find, too, it makes a distinction never made by any nation which protected its citizens, and which should never be made by this nation in the presence of the world, a distinction between native-born citizens and those who were born abroad but had acquired citizenship by naturalization. Citizenship, as I claim, is indivisible. It is a right when once acquired to be protected, and that protection is to be given irrespective of the character of the person, irrespective of the place of his birth, irrespective of the nation to which he belonged, if he has once become an integral part of the Republic of the United States of America.

Let us pass to the clause which promises protection. It seems to me illusory and nugatory. The President is empowered "to employ all the resources of the Government" in just efforts to secure the recognition by other Governments of the principles of public law announced in the bill. Passing by the uncertain declaration of these principles, what are *all the resources* which the President can use? What but diplomacy? Nothing more. What right has he to make threats in the name of the American nation when he has no authority of law behind him to support those threats by deed? What authority has he to send a ship of the Republic that carries cannon into the ports of neutral nations to enforce the rights of citizens of the United States unless he is backed up by the law of the Republic? If it means anything it is that the President may indulge in vaporing and idle threats, or else continue to use the same kind of diplomacy which has prevailed heretofore, producing no result. Or does it mean that this clause of the first section shall incorporate into itself the clause of the second section which authorizes reprisals? That is a resort to the remedies of a barbarous people, unworthy of the legislation of a civilized nation in this era of the nineteenth century. It is one that has been abrogated by all civilized nations years ago.

Who does not remember the indignation that fell upon the first emperor of the French for detaining the subjects of Great Britain within his territories traveling on business or pleasure upon the rupture of the peace of Amiens, detaining them without the means of support in poverty and misery until the peace of 1814? It was a stain upon his administration. It was contrary to the spirit of his own laws. It never met the approval of any of his historians or biographers. It goes down in history as a blot upon his name and fame.

Mr. Speaker, if the Committee on Foreign Affairs will turn to the celebrated treaty negotiated by Jay in 1794, they will find that the twenty-sixth article of that treaty especially provides against reprisals. It says in plain terms that in case of a rupture between the two nations the citizens or subjects of each shall have one year in which to depart from the territory where they might happen to be and take their effects with them or to remain in peace so long as they commit no offense against the laws. That was the true, just, and Christian principle introduced into that treaty and made a part of the law between the two nations. It should be, and to some extent is, the recognized doctrine of other nations, and should be incorporated in the law of nations if war is to continue to be their last resort.

But look further at our treaties with semi-civilized nations, and you will find in the protection secured to American citizens in those nations the principle I have already enunciated. Where a citizen or subject of one nation finds himself aggrieved by the courts of law or by the conduct of executive officers in another nation his first course is to resort to the laws of the nation in which he may be and to exhaust the remedies of the courts; and if he does not obtain justice there, which it is to be presumed he will in every civilized nation, then he may appeal to his Government for the aid to which he is entitled, and it is bound to come to his relief. Such was the course in the English case to which I have already referred. And in order that justice may be done to our citizens in these semi-civilized nations it will be found that we have incorporated into every one of these treaties a provision that disputes between American citizens in those countries shall be adjudicated by our consuls; that our consuls and ministers shall be associated with the courts in cases where the rights of person or property of our citizens are called in question; and that the laws of those nations, barbarous to us, though wise to them, shall not be enforced to the injury, even in the course of the trial, of the citizens of this country.

Look at both our treaties with the Ottoman empire, and you will find that those rights are carefully guarded; also, in the treaties with China and every other nation of that grade of civilization with which we have made compacts. Therefore, it seems to me that this bill, if it affords any relief at all, is a relief to be given in a manner which we should not incorporate in our laws, thereby setting a pernicious example to other nations to incorporate it in theirs.

Nor, Mr. Speaker, do I view with any more favor the propositions made by the gentlemen from Ohio and from Massachusetts amendatory of this bill. The one proposes to declare that the detention and unjust treatment of our citizens abroad would at once be *casus belli*, and that the President should take measures to act in behalf of the citizens as if war existed between the two nations. The other proposes that the President, as the head of the nation, shall at once declare non-intercourse with such nation. Why, Mr. Speaker, both of these remedies have dropped out of the list of remedies to be resorted to in the first instance by civilized nations for wrongs done by other nations. They have not been known in history for a long time. They never have been known in this country. The Constitution of the United States does not, under any circumstances, contemplate giving to the President of the United States the power to declare war or even to proclaim that an act of a foreign nation is an act of war. The great issues of war and peace by that Constitution must be decided in these Halls and by the Representatives of the people; and to no executive officer, however exalted, and to no representative of this nation abroad, however wise and intelligent, is that power in any degree intrusted. They must be met, determined, and decided here. In the substitute which I propose to offer it is required that the Executive shall at once transmit to Congress the details of any case which cannot be mastered by negotiation, with the evidence, so that action may be taken at once here, and, as the phrase of the proposed bill is, "with effect."

Nor, Mr. Speaker, do I favor the proposition of the gentleman from Massachusetts [Mr. BUTLER] of non-intercourse. The time has passed for this great nation to be attitudinizing in the presence of other nations for wrong done to one of its citizens. If it be flagrant wrong, deserving of redress, it is time to act, not to take merely the position of acting. The deed should be prompt upon the word if negotiation shall fail. Nor do I find, Mr. Speaker, in the qualifications of the bill of the committee that clearness and explicitness of statement which seems to me to be required in a law declaring the duties and rights of citizens. In that which I have proposed, after declaring the rights of citizens and the protection to which they are entitled, it goes on to state clearly how that right of citizenship may be lost. When we require other nations to admit the right of expatriation it is but just to ourselves and due to them that we should at the same time proclaim how we consider expatriation can be made, and what terms we are willing to incorporate into our law in order that we may meet other nations on the same ground.

These qualifications which are included in this section are taken word for word from the Code Napoleon, the law framed after two thousand years' experience of the nations of the Latin race, incorporating into the fundamental law of France and adopted into that of almost every nation of Europe, the provisions under which Rome became great and powerful. For the Roman law, as I have stated it, was not exclusively the law of the empire; it was the law also of the republic. That great, wise, and magnanimous republic admitted citizens born in whatever city or State. It permitted even some of the wisest and best of its own citizens, disaffected at home, ruined by faction, or disgusted by the politics of the city, to seek some other State in which to grow great and prosper. It never interfered with the right of expatriation. These qualifications had their origin in the Roman law; they are clearly and definitely expressed in the French law; and they are proposed here because they have been adopted into the codes of all Euro-

pean nations with the exception of Russia. Examine that of Prussia and you find it the same, with a single qualification concerning deserters and those who leave to avoid conscription. And with regard to that exception which is also incorporated into this bill, it leaves the Government, it seems to me, a most narrow margin for diplomacy. In looking over the diplomatic correspondence it seems strange to me that the matter has not been settled heretofore.

That requirement may be urged with peculiar force against us, because upon our statute-book stands the law regulating the military duties which our citizens owe to the State in the same language which I have incorporated in the bill proposed by me, and almost identical in phrase as well as substance with the Prussian law. The differences are so small that it seems to me they can be easily accommodated, if there be any real intent to do so.

The next class of exceptions are those by which a citizen of this country may, when abroad, lose the right of protection accorded by the first and third sections of the bill. There are cases where citizens may voluntarily renounce their allegiance to this country, and cases where, without renouncing citizenship, they can by their acts forfeit any right they may have to the protection of this Government. And then there are those who while abroad do not perform their duties to this Government and are not entitled to its protection. These classes may be included in the law. It may be wise to leave something to the regulation of the executive department and not have all these classes of exceptions incorporated in the statute. Rules of this kind should be more flexible than a statute. Our representatives abroad might be embarrassed by the strict letter of the law, where, if liberty is accorded to the executive department, an arrangement might be made of each difficulty as it arises upon its own circumstances and merits.

We should place our declaration of what constitutes citizenship and of the rights of citizens before the world in clear and unmistakable language; we should give to the Executive the power and discretion to carry out the requirements of the statute in the spirit in which they are enacted. Let it not be as the Committee on Foreign Affairs desire, to make reprisals or commit any other act of barbarism; not to declare war, as proposed by the gentleman from Ohio, [Mr. SPALDING;] not to break off intercourse with foreign nations, as proposed by the gentleman from Massachusetts, [Mr. BUTLER;] but let our negotiations with foreign nations respecting the rights of citizens be so conducted as not to disturb the operations of commerce, not to shock industry in our own country, not to interfere with the prosperity of any section or any class. Let them be carried on entirely outside and beyond the commercial and industrial relations and be confined to the settlement of particular cases as they arise upon the principles which we recognize as a part of the public law. Let those who conduct the negotiations of the executive department have the assurance that there is a power behind them to enforce their claims; and let those who are abroad seeking the protection of the Government feel that that protection, backed by that power, will in all proper cases surely be given them.

Mr. WILSON, of Iowa. I now move that this bill, with the pending amendments and the amendments of which notice has been given, be referred to the Committee of the Whole on the state of the Union, and that it be made a special order until disposed of.

Mr. BANKS. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. Certainly.

Mr. BANKS. I desire to state that the Committee on Foreign Affairs had a regular meeting this morning, and have instructed me to inform the House that they desire this bill, with the pending amendments, should be recommitted to that committee. I therefore ask the gentleman from Iowa to yield to me to make that motion, or to substitute it for his own.

Mr. WILSON, of Iowa. I will yield to the gentleman to move that as an amendment to my motion, and let the sense of the House be taken upon it.

Mr. BANKS. I move to amend the motion of the gentleman from Iowa so that this bill, with the pending amendments, shall be recommitted to the Committee on Foreign Affairs.

Mr. WILSON, of Iowa. I now call the previous question.

Mr. BROOKS. I desire to propound a parliamentary question. Will not the effect of referring this bill to the Committee of the Whole be to indefinitely delay action upon it, and in point of fact to kill the bill?

Mr. WILSON, of Iowa. There is no such purpose as that on my part. I do not suppose any gentleman in this House will seek to put any obstacle in the way of the advancement of the bill.

Mr. BROOKS. Is it the purpose of the gentleman to have this bill made a special order in the Committee of the Whole?

Mr. WILSON, of Iowa. It is.

Mr. BROOKS. To have action on it continuously?

Mr. WILSON, of Iowa. Until disposed of.

The SPEAKER. The Chair will say that the general appropriation bills in Committee of the Whole will take precedence of this bill, unless set aside, which they may be by the Committee of the Whole.

Mr. WILSON, of Iowa. There will be no difficulty, I presume, in doing that.

Mr. BANKS. It will be very difficult for the House to control this question if it goes to the Committee of the Whole. Every member knows that.

Mr. HIGBY. With the consent of the gentleman from Iowa, I would like to ask him whether he will not adopt the suggestion I have made heretofore, that we hold an evening session, or so many as may be necessary, for the discussion of this subject. We may as well get to work in the evenings. If we do not do it now we shall have to do it in the heat of summer.

Mr. WILSON, of Iowa. I care not what arrangement be made, so that this bill can be left open to discussion and amendment either in Committee of the Whole or in the House.

Mr. CULLOM. I desire to inquire of the Chair whether under the rule the motion of the gentleman from Iowa, to refer the bill to the Committee of the Whole, must not be voted on first?

The SPEAKER. That motion must be voted on first, having priority of the motion to refer to a standing committee.

Mr. CULLOM. If that motion fails then the motion of the gentleman from Massachusetts [Mr. BANKS] will be next in order?

The SPEAKER. It will be.

Mr. CULLOM. I hope, then, that the motion made by the gentleman from Iowa will not prevail, and that the motion of the gentleman from Massachusetts to recommit the bill will be adopted.

Mr. WILSON, of Iowa. I will modify my motion so as to provide that the bill and pending amendments be referred to the Committee of the Whole on the state of the Union, and made a special order for next Tuesday evening at seven o'clock.

Several MEMBERS. Oh, no.

Mr. BANKS. The appropriation bills must take precedence of this bill in Committee of the Whole.

Mr. WILSON, of Iowa. Not if we make the order I propose.

Mr. CULLOM. I hope that the motion of the gentleman from Iowa will not prevail.

Mr. JUDD. I desire to ask the Chair whether the recommittal to the Committee on Foreign Affairs will carry before that committee all the propositions which were yesterday ordered to be printed?

Several MEMBERS. All of them.

Mr. JUDD. I mean those propositions that did not technically come in as amendments to the bill.

The SPEAKER. The Chair will answer that a motion such as that made by the gentleman from Iowa would not, except by unanimous consent, refer to the committee anything more than the bill and pending amendments, being the three amendments which the gentleman from Massachusetts [Mr. BANKS] permitted to be offered, and the substitute presented by the gentleman from Rhode Island, [Mr. JENCKES.] But the House can, if it chooses, order all these propositions to be referred.

Mr. BANKS. My object was to include in my motion all the propositions which have been presented.

Mr. WILSON, of Iowa. I will modify my motion so as to include all those propositions.

Mr. JUDD. I desire to ask one other question. If the gentleman from Iowa, [Mr. WILSON,] who is holding the floor, will allow me, I desire to ask the honorable chairman of the Committee on Foreign Affairs within what time, according to the practice under the rules of the House, that committee can possibly report back this bill.

Mr. BANKS. If the bill be recommitted to the Committee on Foreign Affairs, I shall ask the consent of the House to report at any time and take the wish of the House as to when it will be ready to consider the subject. We do not wish to restrict the debate at all.

Mr. WASHBURNE, of Illinois. I shall object to giving the committee leave to report at any time.

The SPEAKER. Then leave can be granted only by a suspension of the rules, which can be moved on Monday after the morning hour.

Mr. BANKS. I shall make the motion at that time.

Mr. WILSON, of Iowa. My object is to hasten the passage of the bill, and to have it put in a shape that will effect the object the committee and the House have in view. The course I have suggested will, I think, result in earlier action than any other course that can be taken.

Mr. CULLOM. In that, I think, the gentleman is mistaken.

Mr. BOUTWELL. I ask consent that an amendment which I propose to offer to this bill may be ordered to be printed.

The SPEAKER. That order will be made if there is no objection.

There was no objection.

Mr. BOYER. I simply desire to suggest to the gentleman from Iowa that this bill is of sufficient importance to be discussed by daylight and in the ordinary business hours of the House. If it is referred to the Committee of the Whole on the state of the Union the bill can be better perfected and perfected in a reasonable time; and I trust, therefore, the gentleman will so modify his motion as to move it be referred to the Committee of the Whole on the state of the Union, to be discussed in the ordinary way. I have no doubt in a reasonable time we shall be able to get through with it.

Mr. WILSON, of Iowa. I have no objection to that, and that it be made a special order.

Mr. WASHBURNE, of Illinois. I object to its being made a special order.

Mr. BAKER. Whether the subject be referred to the Committee on Foreign Affairs or to the Committee of the Whole on the state of the Union, I wish to submit the following modification of my substitute, so it may be ordered to be printed and referred with the other papers:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of expatriation, like the rights of life, liberty, and the pursuit of happiness, is a natural and inalienable right.

SEC. 2. *And be it further enacted*, That when, in the *bona fide* exercise of the rights of expatriation and naturalization, citizens or subjects of any foreign State have heretofore become, or shall hereafter become, citizens of the United States, such naturalized citizens are citizens of the United States to all intents and purposes whatsoever, and as such are of right entitled to receive from this Government, and shall receive, the same protection of life, liberty, and property that is accorded to native-born citizens of the United States in like situation and circumstances; and the foregoing principles are alike applicable to

all American citizens exercising the right of expatriation.

SEC. 3. *And be it further enacted*, That the United States will, at all hazards, extend full and complete protection to its native-born and naturalized citizens, and will exercise the same jealous care and put forth the same measure of energy in the protection of the rights of its naturalized as of its native-born citizens.

SEC. 4. *And be it further enacted*, That to the end that the rights of American citizens in foreign countries may cease to be questioned, and that the peace of nations may be preserved, it is hereby declared to be the duty of the Executive of this Government to insist energetically and without delay upon the recognition of the foregoing rights by other Governments, and particularly to interpose with like promptitude and energy, upon the basis of the principles declared in this act, in the behalf of all American citizens whose rights may be infringed by or under the authority of any foreign State, and to lay before Congress as early as practicable, and from time to time, the results of such interposition, together with the facts involved in the cases which may now exist or hereafter arise of infringement of the principles of this act by or under the authority of any foreign State.

Mr. WILSON, of Iowa. The gentleman from Illinois objects to this being made a special order. I understand by the rules of the Committee of the Whole on the state of the Union, the bills having precedence of this may by laid aside by a majority of the committee.

Mr. BANKS. If it goes to the Committee of the Whole on the state of the Union it will be lost.

Mr. WILSON, of Iowa. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. ROBINSON. Sending this to the Committee of the Whole on the state of the Union I consider will be consigning this subject to its grave, and I therefore move that that motion be laid on the table.

The SPEAKER. That cannot be done. It would carry with it the bill and amendments.

The motion of Mr. WILSON, of Iowa, was disagreed to.

The question then recurred on Mr. BANKS's motion, to refer the bill and pending and proposed amendments to the Committee on Foreign Affairs, and it was agreed to.

Mr. BANKS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BANKS. I give notice that on Monday next I shall move to suspend the rules in order that the Committee on Foreign Affairs may have leave to report at any time.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds; and

Joint resolution (S. R. No. 101) referring the petition and papers in the case of James Crutchett to the Court of Claims.

The message also announced that the Senate had passed House bill of the following title, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes.

WAR OF 1812.

Mr. MILLER, from the Committee on Revolutionary Pensions and of the War of 1812, reported back House bill No. 603, granting pensions to certain soldiers and sailors of the war of 1812, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place on the pension-rolls the names of such of the surviving officers and enlisted men of the military and naval service of the United States who served consecutively for three months in the war with Great Britain of 1812, and who were honorably discharged, and who at no time during the late rebellion have adhered to the cause of the enemies of the Government, giving them aid and comfort, but who were constantly and continuously loyal to the Government, and can truthfully take and subscribe the oath contained in the act of July 2, 1862, and who are in circumstances which render them dependent on others for support.

The second section provides that this act shall not apply to any person who is dependent upon others for support in pursuance of any contract for such support based upon a valuable consideration, nor to any person who is receiving a pension at the rate of eight dollars per month, nor shall it be construed so as to allow more than one pension to the same person. Pensions under this act shall be at the rate of eight dollars per month, and shall be paid to the persons entitled thereto at that rate for and during the term of their natural lives.

The third section provides that before the name of any person shall be placed on the pension-rolls under this act proof shall be made, under such rules and regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of this act. The loss of a certificate of discharge shall not deprive an applicant of the benefits of this act, but other proof of services performed and of an honorable discharge, if satisfactory, shall be deemed sufficient.

The fourth section provides that the pension herein allowed shall not be liable to seizure, levy, attachment, or other process to satisfy any debt, demand, promise, or other liability; nor shall any contract, bargain, or agreement in relation thereto be valid or binding upon the pensioner, nor shall the same be paid to any one having any claim upon such pensioner or interest in the fund, but the same shall be paid to the pensioner in person or to a disinterested agent or attorney thereto authorized by a power executed subsequently to the accruing of the sum to be received; provided, that when an agent shall be employed to prepare the necessary proofs and make the application, he shall be allowed for his entire service in and about the prosecution of the claim the sum of ten dollars, and no more, which sum shall constitute a valid charge upon the first payment after the issuance of the certificate. And if any person concerned as aforesaid shall for his services, or as a gratuity, or under any pretext whatsoever, demand, accept, or retain a greater sum than ten dollars, he shall be guilty of a misdemeanor, and on conviction shall refund the same and shall be fined not exceeding $1,000 and imprisoned not exceeding six months.

Mr. MILLER. I move to amend the bill by inserting in the first section, after the word "men," the words "including militia and volunteers," so that it will read, "enlisted men, including militia and volunteers of the military and naval service of the United States."

The amendment was agreed to.

Mr. MILLER. I now demand the previous question.

Mr. HOLMAN. I ask the gentleman to yield to me for a suggestion?

Mr. MILLER. What is it?

Mr. HOLMAN. I suggest that instead of ten dollars as the compensation of officers who draw up the pensions it should be reduced to five dollars. That is certainly very ample compensation for that service.

The SPEAKER. The morning hour has expired, and the bill goes over till Tuesday next.

COMMERCIAL RELATIONS WITH SPAIN.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a draft of a bill, relative to the commercial relations of the United States with Spain and her colonies; which was ordered to be printed, and referred to the Committee on Commerce.

REDUCING EXPENSES OF WAR DEPARTMENT.

Mr. KETCHAM, by unanimous consent, reported from the Committee on Military Affairs a joint resolution (H. R. No. 203) reducing the expenses of the War Department, and for other purposes; which was read a first and second time.

Mr. KETCHAM. I ask the House to act upon it now.

The joint resolution was read in full. It authorizes the Secretary of War to take immediate measures for the reduction of the expenses of the Army and of the War Department at and in the vicinity of New York city at as early a day as practicable by concentrating the business of the quartermaster, commissary, clothing, ordnance, and medical bureaus and recruiting service in said city; that for this purpose there shall be hired and used at some convenient and proper point in said city one suitable building, in which shall be accommodated all the offices connected with and required for the transaction of such public business, at a cost to the Government not exceeding $25,000 per annum, and also a suitable building or property within the harbor of New York, or on the navigable waters thereof, which shall have sufficient accommodation, warehouse, piers, docks, and basin-room for the safe and convenient receiving, storing, and care of all Army stores of every kind and description belonging to either of said bureaus or branches of the service, at an annual cost to the Government not exceeding $50,000; provided, however, that nothing herein contained shall be construed to prevent the storage or keeping of ordnance stores or other property at Governor's island, or the use in any way for the purpose of the Government of any property or building which actually belongs to the United States.

Mr. WOOD objected, but afterward withdrew his objection.

Mr. KETCHAM. I desire to state, in explanation of this joint resolution, that early in the session, in compliance with a resolution of the House, General Grant, while acting Secretary of War, submitted a statement showing the number of buildings, their location, and cost of each, used by the different bureaus of the War Department at New York city. It appears that the commissary, quartermaster, ordnance, and medical bureaus, paymasters, and recruiting agents occupy thirty-three different buildings and rooms at a cost of $126,000 per annum. Soon after that report was submitted, at the request of the gentleman from Ohio, [Mr. SCHENCK,] the House directed the Committee on Military Affairs to inquire into the expediency of concentrating the business of those bureaus, with a view of reducing the expenses. The committee, after careful consideration of the resolution, unanimously directed me to report this joint resolution. By it, instead of thirty-three buildings, there are but two to be used, and the cost is limited to $75,000 per annum. The leases of many of the buildings at present occupied by the War Department expire at the pleasure of the Adjutant General or will expire on the 1st day of May next. By this resolution over fifty thousand dollars will be saved to the Government per annum. Suitable docks and piers will be provided, making a great saving of transportation. In addition there to the public service will be greatly promoted by the increased facilities for the transaction of business.

It is proper to state that the resolution offered by the gentleman from Ohio [Mr. SCHENCK] was submitted to General Grant, and that he approves the principle of this joint resolution, and thinks the expenses can be reduced to the extent proposed without detriment to the service. The Secretary of War also approves the principle of concentration embodied in this measure.

Mr. CHANLER. I desire to ask my colleague if he has stated in what part of the city this is to be located?

Mr. KETCHAM. It is left to the discretion of the Secretary of War.

Mr. CHANLER. I certainly think we should know where it is to be located. It is rather a high rent. This is a very serious question.

Mr. KETCHAM. The resolution explains itself. Of course the Secretary of War will rent the buildings as cheaply as possible, but in no event can he pay to exceed $75,000 per annum. I call the previous question.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KETCHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SALLY C. NORTHROP.

Mr. HOPKINS, by unanimous consent, introduced a bill (H. R. No. 722) for the relief of Sally C. Northrop; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLLECTION DISTRICTS.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 723) to create the collection district of Island Pond; which was read a first and second time, and referred to the Committee on Commerce.

He also, by unanimous consent, introduced a bill (H. R. No. 724) to extend the boundaries of the collection district of Champlain; which was read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes by which the bills were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POST ROADS.

Mr. EGGLESTON, by unanimous consent, introduced a bill (H. R. No. 725) supplemental to an act approved July 14, 1862, entitled "An act to establish certain post roads;" which was read a first and second time, and referred to the Committee on Roads and Canals.

EQUALIZATION OF BOUNTIES.

Mr. EGGLESTON. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Military Affairs be, and are hereby, instructed to make a report on House bill No. 12, in regard to equalizing bounties of soldiers and marines.

Mr. GARFIELD. I wish to say that the committee are doing all they can in regard to that matter, and I hope the resolution will not be adopted.

Mr. WASHBURNE, of Illinois. It is a very unusual resolution.

The SPEAKER. It is mandatory in its character. The committee cannot report unless by unanimous consent, except when called in regular order.

Mr. GARFIELD. It will probably be three or four weeks before the committee is called, and we shall probably be ready to report by that time.

Mr. PILE. I object to the resolution.

Mr. EGGLESTON. I do not withdraw the resolution.

The SPEAKER. It is not before the House. It would require unanimous consent to consider it and unanimous consent for the committee to report. The committee could not obey the resolution except by the unanimous consent of the House.

INDIAN AFFAIRS.

Mr. JULIAN, by unanimous consent, presented sundry memorials from societies of Friends in the West, in relation to Indian affairs; which were referred to the Committee on Indian Affairs.

FORT RANDALL RESERVATION.

Mr. GLOSSBRENNER. I ask unanimous consent to introduce a joint resolution relating to settlers on that portion of the Fort Randall reservation vacated by order of General Grant in 1867.

Mr. WASHBURNE, of Illinois. I object unless it can be read.

Mr. DAWES. Objection being made, I must resume the floor.

ELECTION CONTEST—SMITH VS. BROWN.

The House then resumed the consideration of the report of the Committee of Elections in the case of Smith *vs.* Brown from the second congressional district of Kentucky.

Mr. DAWES. This case was postponed when it was last before the House for the purpose of hearing the claimant, Mr. Brown, in behalf of his right to the seat. That gentleman is now present in the House, and I yield the floor to him for that purpose.

Mr. BROWN, the claimant, then addressed the House. His speech will be published in the Appendix.

Mr. DAWES. Mr. Speaker, it becomes my duty, as representing the Committee of Elections, to close this debate and to make such reply as they deem necessary to what has been said in opposition to the report they have made; and as I may find it necessary to occupy more than an hour I hope that I may be relieved from the embarassment of compressing my remarks within the hour allowed by the rule of the House. I will endeavor not to consume the additional hour.

Mr. CHANLER. I move that the gentleman be allowed the additional time he requires.

The SPEAKER. Is there objection to the gentleman's being allowed two hours if he shall desire it? The Chair hears none.

Mr. DAWES then addressed the House. His remarks will be published in the Appendix.

Mr. UPSON. I demand the previous question on the resolutions.

The previous question was seconded and the main question ordered.

The question was first upon the following amendment, offered by Mr. KERR as a substitute for the resolution reported by the committee:

Resolved, That John Young Brown, not having voluntarily given aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, and having received a majority of the votes cast in the second district of Kentucky for Representative in this House, is entitled to admission and to take the oath of office as a Representative from said district.

The question being put on agreeing to the substitute, there were—ayes 43, noes 84.

Mr. KERR. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 108, not voting 38; as follows:

YEAS—Messrs. Adams, Axtell, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Jones, Kerr, Knott, Mallory, Marshall, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Phelps, Poland, Pruyn, Randall, Robinson, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—43.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Bingham, Blaine, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Donnelly, Eggleston, Ela, Eliot, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Price, Raum, Sawyer, Schenck, Shanks, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—108.

NOT VOTING—Messrs. Archer, Bailey, Barnes, Barnum, Benton, Blair, Boutwell, Cary, Reader W. Clarke, Dixon, Dodge, Driggs, Eckley, Farnsworth, Finney, Garfield, Harding, Hawkins, Asahel W. Hubbard, Hulburd, Moore, Morrissey, Nunn, Polsley, Pomeroy, Robertson, Ross, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Stewart, Stone, Taffe, Thomas, Ward, and Woodbridge—38.

So the substitute was disagreed to.

Mr. UPSON moved to reconsider the vote by which the resolution was disagreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BURR moved that the House adjourn.

The motion was disagreed to—ayes thirty-six, noes not counted.

The question recurred on agreeing to the resolution reported by the committee, as follows:

Resolved, That John Young Brown, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative.

The resolution was agreed to.

Mr. UPSON moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAWES. Before the House adjourns I desire to enter a motion that the remaining two resolutions be recommitted to the Committee of Elections.

RAILROAD LAND GRANTS.

Mr. DONNELLY, by unanimous consent, introduced a bill (H. R. No. 726) to regulate the disposition of lands that may be hereafter granted to aid in the construction of railroads; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Colonel MOORE, one of his Secretaries, announcing that House bill No. 320, making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction acts, for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, had become a law, not having been returned within ten days, Sundays excepted.

FORT LEAVENWORTH RESERVATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a communication from the Quartermaster General, relative to the sale of the Fort Leavenworth military reservation; which was referred to the Committee on Military Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for two weeks for Mr. DONNELLY and for one week for Mr. BARNES and Mr. CAKE.

And then, on motion of Mr. ALLISON, (at four o'clock and fifty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of John E. George, of Danville, Montgomery county, Texas, to be relieved from disabilities incurred by participation in the rebellion.

Also, the petition of John E. George, of same place, relative to a mail route from Danville to Huntsville, Texas.

By Mr. BEATTY: A memorial of John W. Hughes, for a pension.

By Mr. FERRY: The petition of E. P.

Royce, Richard Mason & Co., and 45 others, citizens of Michigan, praying for an appropriation for a harbor at the mouth of Menomonee river.

By Mr. GOLLADAY: The petition of Robert B. Taylor, of Cumberland county, Kentucky, asking for payment of a horse pressed under orders.

By Mr. HALSEY: Resolutions of the common council of the city of Newark, New Jersey, asking Congress to make an appropriation to improve the navigation of the Passaic river.

By Mr. JULIAN: The petition of W. H. Wilkerton, of Indiana, for allowance as pay for services as an officer in the late war for the Union.

By Mr. KITCHEN: The petition of William M. Phares and 84 others, citizens of West Virginia, praying for the establishment of a mail route from Holly Meadows, in Tucker county, by Black Fork, Pleasant Run, Mouth of Pheasant, and Taylor's Mill, to New Interest, in Randolph county, West Virginia.

By Mr. MAYNARD: The petition of J. K. Clingan, of Cleveland, Tennessee, praying reimbursement for expenses incurred in recruiting.

By Mr. PERHAM: A memorial of Mr. Francis O. Dorr, for pension.

By Mr. SHANKS: The petition of certain Miami Indians of the State of Indiana.

By Mr. STOKES: The petition of Major J. A. Brents, of Clinton county, Kentucky, asking for relief.

IN SENATE.

FRIDAY, *February* 14, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of manufacturers of bitters and tonics in the city of Lancaster, Pennsylvania, praying a modification of the laws relative to the tax on the manufacture of bitters; which was referred to the Committee on Finance.

Mr. TRUMBULL. I have been requested to present to the Senate a remonstrance signed by William Stewart and others, officers in the late volunteer service, against the passage of a bill introduced by the Senator from Massachusetts [Mr. WILSON] relative to commutation for servants' pay. These officers set forth in their remonstrance that these claims grow out of laws Congress itself enacted, and that they are just and equitable in all respects, and the nation is as fully pledged to their payment as it is to redeem its five-twenty bonds. They state that a case involving the right to this commutation is pending in the Supreme Court of the United States; and they remonstrate against the violation of the national faith which will be involved in the passage of the bill taking away rights which they insist belong to them. I move the reference of the remonstrance to the Committee on Military Affairs.

The motion was agreed to.

Mr. CONKLING. I have a remonstrance of precisely the same kind as that presented by the Senator from Illinois; I will not repeat its contents, but I move that it take the same reference. It is signed by a large number of officers.

The motion was agreed to.

Mr. WILSON. I have three remonstrances on the same subject, which I present, and move their reference to the Committee on Military Affairs. I will simply say, in regard to the matter, that it is now in court, and whatever the court may decide as to any claim in the case the positive intention of the law of Congress was otherwise than as these parties claim. I do not know that it is necessary to have any legislation; but the matter will be left to the decision of the court; I am perfectly willing that the court shall pass upon it; but I know what the intention of Congress was, and what the law intended to do. The construction of the Department was according to the intention of Congress in passing the law. I move that these remonstrances be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. WILSON. I present the petition of Matthias Harris, chaplain United States Army, in which he sets forth that he was removed from the Army eight or nine months on certain charges, and has since been restored, and he asks his pay during that time. I move its reference to the Committee on Claims.

The motion was agreed to.

Mr. WILSON also presented a memorial of a committee appointed by the Clerks' Association, praying the establishment of a library and reading-room for the employés of the Government in the city of Washington; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN. I present a memorial of A. A. Low & Co., and numerous other importing merchants of the city of New York, a long list, asking Congress to pass a law legalizing all written contracts for payment in gold coin. I move that this take the same course with the other memorials on the same subject and be laid on the table, a bill having been reported by the Committee on Finance carrying out the prayer of the memorialists.

The motion was agreed to.

Mr. HOWARD presented a memorial of J. M. Arnold, Silas Farmer, and numerous other citizens of Michigan, praying the reduction of the Army and Navy of the United States, and a general reduction of the expenses of the United States, and at the same time expressing their willingness to contribute their share of taxes to any amount that may be necessary for the support of the Government; which was referred to the Committee on Finance.

Mr. CAMERON presented a memorial of the Philadelphia Board of Trade, praying such a change in the revenue laws as shall authorize the immediate forwarding of goods and merchandise imported at Boston, New York, Philadelphia, and Baltimore, to the customs officers of either of those ports, without entry, warehousing, bonding, or other delay at the port of arrival; which was referred to the Committee on Finance.

He also presented a petition of B. F. McDonough, praying compensation for services rendered as assessor of internal revenue in the first district of Texas from the 18th August, 1865, to September 22, 1866; which was referred to the Committee on Claims.

He also presented a petition of manufacturers of bitters and tonics in the city of Lancaster, Pennsylvania, praying a modification of the tax on bitters; which was referred to the Committee on Finance.

He also presented a memorial of late soldiers and officers of the Union army, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars a month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. CATTELL. I present a petition similar to the one first presented by the Senator from Pennsylvania, signed by the most prominent merchants of the city of Philadelphia, asking a change in the revenue laws so as to admit the large importations arriving at New York, intended for other cities on the sea-board and in the West, being delivered at the place of destination in bond and the duties there paid. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. MORRILL, of Maine, presented additional papers in relation to the claim of Harriet W. Pond; which were referred to the Committee on Claims.

Mr. HARLAN presented a petition of Samuel Merrill, Governor of Iowa, and other State officers and citizens of that State, praying that a pension be granted to James A. Guthrie; which was referred to the Committee on Pensions.

He also presented a memorial of honorably discharged officers of the late army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. BUCKALEW. I present a memorial, signed by manufacturers and dealers in refined coal oil in Western Pennsylvania, representing that the present mode of ascertaining the quantities of refined coal oil by gauging with the calliper or straight rod is unreliable and the source of much dissatisfaction, and praying that the system of ascertaining quantity by weighing may be authorized and established in the department of internal revenue, and assigning various reasons for the proposed change. I move the reference of the memorial to the Committee on Finance.

The motion was agreed to.

Mr. YATES presented a memorial of the Legislative Assembly of the Territory of Dakota, relative to a United States land office in the Red river valley; which was referred to the Committee on Public Lands.

Mr. PATTERSON, of New Hampshire, presented the petition of Hannah Cutter, executrix of the estate of Jacob Cutter, deceased, and Mary Cutter, Frances C. Bassett, Matilda M. Cutter, Cornelia E. Cutter, and Ralph C. Cutter, children of Jacob Cutter, deceased, praying to be released from claims or demands against them or the estate of their father in consequence of his being security for Charles W. Cutter, late navy agent at Portsmouth, New Hampshire; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Henry H. Cuppy and Elizabeth, his wife, praying to be allowed an increase of pension, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of citizens of West Virginia, praying that a pension be granted to Edmund J. Hays, late a private in company B, sixth regiment West Virginia volunteers, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his papers and petition; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 333) for the relief of Julia M. Molin, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Louisa Fitch, widow of E. P. Fitch, deceased, submitted a report, accompanied by a bill (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the petition of Mrs. George D. Simpson, praying compensation for the use by the Government of a submarine telegraph cable invented by her husband, submitted an adverse report; which was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes, reported it without amendment.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred the bill (S. No. 334) additional to an act to establish a uniform system of bankruptcy throughout the United States; the bill (S. No. 278) to provide for the appointment of a marshal for the District of Columbia; and a bill (S. No. 218) for the creation of a southern judicial district in the State of California, have instructed me to report them back to the Senate with a recommendation that they be indefinitely postponed.

Mr. CONNESS. I hope that the report of the committee will not be concurred in.

Mr. TRUMBULL. I do not propose to ask its consideration now.

Mr. CONNESS. At this time, at least.

The PRESIDENT *pro tempore*. It cannot be considered now except by unanimous consent.

Mr. CONNESS. I know that, sir; but I hope the Chair will permit me to say one word. It will not occupy time. I had hoped, before the committee acted upon the bill in regard to the judicial district in California, to have an opportunity to see some of the Senators who compose the committee, that I might be able to make such representations of the facts to them as I thought would influence their minds. That opportunity I have not availed myself of, because I did not know that it was immediately under consideration by them; and I should like, if the committee will consent, to have it recommitted, that I may have that opportunity, and then let them report as in their judgment shall seem best to them.

Mr. TRUMBULL. I have no objection if the Senator from California desires to present any facts on the subject.

Mr. CONNESS. I desire to say, in this connection, that I have no disposition to create an office at all.

The PRESIDENT *pro tempore*. The bill referred to will be recommitted, no objection being made.

LIEUTENANT COMMANDER TREVOTT ABBOTT.

Mr. ANTHONY. The Committee on Naval Affairs, to whom was referred the memorial of Lieutenant Commander Trevott Abbott, praying to be transferred from the retired to the active list of the Navy, have instructed me to report a bill; and, as it is unobjectionable and will take but a moment, I ask for its present consideration.

By unanimous consent the bill (S. No. 358) providing for the restoration of Lieutenant Commander Trevott Abbott to the active list of the Navy was read twice, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Navy to order Lieutenant Commander Trevott Abbott before the retiring board of the Navy for examination, and to authorize the Secretary, if he shall be pronounced by the board morally, professionally, and personally competent for active service, to restore him to the active list of the Navy.

The bill was reported to the Senate without amendment.

Mr. ANTHONY. I find that an amendment is necessary, to add the words "with the same grade as if he had not been retired."

Mr. HENDRICKS. I ask the Senator from Rhode Island if that amendment was agreed to in the committee?

Mr. ANTHONY. It was.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading; and it was read the third time, and passed.

BILL INTRODUCED.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 360) to prevent and punish the unlawful use of public money and property; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

NEW MILITARY DEPARTMENT.

Mr. WILSON submitted the following resolution for consideration:

Resolved, That the President of the United States be requested to report, for the information of the Senate, whether any new military department, division, or district has been authorized under orders issued by the President of the United States, and if so, under what authority of law.

VACANCIES IN THE DEPARTMENTS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the bill (S. No. 352) to authorize the supplying of temporary vacancies in the Executive Departments.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

The first section provides that in case of the death, resignation, absence from the seat of Government, or sickness of the head of any executive Department of the Government, or of any officer of either of those Departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize the head of any other executive Department or other officer in either of those Departments whose appointment is vested in the President, by and with the advice and consent of the Senate, at his discretion, to perform the duties of the respective offices until a successor be appointed or until such absence or inability by sickness shall cease; but no one vacancy is to be supplied in this manner for a longer term than thirty days.

The second section repeals all acts heretofore passed on the subject of temporarily supplying vacancies in the Executive Departments, or which empower the President to authorize any person or persons to perform the duties of the head of any executive Department, or of any officer in either of the Departments, in case of a vacancy therein or inability of such head of a Department or officer to discharge the duties of his office, and all laws inconsistent with the provisions of the present act.

Mr. FESSENDEN. I will ask the chairman of the committee if thirty days is not unnecessarily long; if ten days would not be sufficient to get all the action necessary to supply a vacancy?

Mr. TRUMBULL. When this matter was under consideration in the Judiciary Committee it escaped, I think, the attention of the committee, as we agreed upon the bill that there was no limitation as to the length of time the President should be authorized to detail a person to perform the duties of an officer who was absent or ill, and in consequence of such absence or illness unable to perform the duties of his office; and I do not know that there should be any limit in that respect. The intention of the bill was to limit the time within which the President might supply a vacancy temporarily in the case of the death or resignation of the head of any of the Departments or of any officer appointed by him by and with the advice and consent of the Senate in any of the Departments. As the law now stands, he is authorized to supply those vacancies for six months without submitting the name of a person for that purpose to the Senate; and it was thought by the committee to be an unreasonable length of time, and hence they have limited it by this bill to thirty days.

The bill also has another object. By the second section it is intended to repeal all previous laws on this subject. I do not myself think there was any conflict in the previous laws; in my opinion the act of 1863 did repeal the act of 1795 on the same subject; but lest there should be any misapprehension about it the second section is intended to be very full and to repeal all other laws on this subject, so that the whole law in regard to supplying vacancies temporarily will be in this one act.

The Senator from Maine asks if thirty days is not an unnecessarily long time. I think it might be made shorter. I do not know that the President should be allowed thirty days to select a successor in case of a vacancy in any of the Departments. I should think that a less number of days would be sufficient. However, the committee agreed upon thirty days, and it is not, perhaps, an unreasonable length of time. If a vacancy occurs during the recess of the Senate the President can appoint a person without consulting the Senate, who holds his office, under the Constitution, until the end of the next session of the Senate; or, as this bill now stands, he may detail an officer from some of the other Departments to perform the duties of the vacant office for thirty days, and take that period of thirty days in which to select a permanent officer. If Congress is in session he would have the same right to take thirty days in which to select the head of a Department and obtain the consent of the Senate to his appointment. I am not strenuous about the thirty days. Perhaps it might properly be less. If the Senator from Maine thinks it ought to be less I do not know that I shall object.

Mr. FESSENDEN. My impression is that all these vacancies ought to be filled just as quick as the President can have reasonable time to turn round and fill them. I think that ten days would be enough, and I move to amend by striking out "thirty" and inserting "ten."

Mr. TRUMBULL. Before the vote is taken on that amendment, by the consent of the Senator from Maine, I think in the sixteenth line of the first section there is a verbal alteration which should be made. The word "one" should be stricken out and the word "such" inserted to make it more definite. It will then read:

Provided, That no such vacancy shall be supplied in manner aforesaid, &c., for a longer term.

The PRESIDENT *pro tempore*. That modification will be made if there be no objection. The question now recurs on the amendment of the Senator from Maine, to strike out "thirty" and insert "ten" in the seventeenth line of the first section, so as to reduce the number of days from thirty to ten.

Mr. FESSENDEN. I suggest whether the word "such," if inserted, would not occasion a little doubt whether it was not intended to make the absence from the seat of Government or sickness a vacancy. Suppose we should say "that no vacancy shall be supplied in manner aforesaid," leaving out both the word "one" and the word "such;" or say "no vacancy occasioned by death or resignation," &c.

Mr. HOWE. Then the limitation of time would apply only to cases of death or resignation, and not of absence.

Mr. FESSENDEN. My suggestion is whether the use of the word "such" would not leave it to be a matter of dispute or doubt whether the act of absence from the seat of Government or sickness would be a vacancy. Therefore I think it would be better to say "no vacancy occasioned by death or resignation." That would be definite.

Mr. TRUMBULL. That would make it entirely certain: "provided that no vacancy occasioned by death or resignation," &c. That is what I mean, and what the committee, I think, understand by the bill; and of course I have no objection to the insertion of those words. I ought, however, to say to the Senate that there will be no limitation upon the length of time during which the President may be authorized to supply a person to discharge the duties of the office in case of absence or inability.

Mr. FESSENDEN. There ought not to be.

Mr. TRUMBULL. If the Senate thinks there ought to be a limit on that it would require a still further change of phraseology. At the instance of the Senator from Maine, who desires that that should be more specific, I see no objection to his amendment to the proviso. I am willing to omit both the word "one" and the word "such," and let it read, "provided that no vacancy occasioned by death or resignation," &c.

The PRESIDENT *pro tempore*. The clause will be so modified, if there be no objection, and the Chair hears none.

Mr. FESSENDEN. On the other branch of the subject, I said just now in my seat that I did not think there ought to be any limitation on absence occasioned by sickness or by permission, because it is impossible to tell what may occur. In my own experience when I was in the Treasury Department there was a gentleman who had been sick for six months or a year still in office. I allude to Mr. Solger, then Assistant Register of the Treasury, a very estimable and very learned man, a foreigner by birth, one of our friends. While holding the office he was thrown from his horse, and very badly injured. He was suffered to remain in the Treasury until he died in the office, receiving his pay for something over a year or two years, although he was perfectly helpless. He had a large family depending upon him. Colonel Graham, who is one of the kindest men in the world, who was at that time the chief clerk, discharged the duties of his office for nothing, doing double work all that time.

There was another strong instance where I gave leave of absence to a gentleman whom we all knew and all respected—Professor Bache. He had absolutely ruined his health by close attention to his duties. He was absent at the time, and on my own suggestion I wrote him a letter giving him a leave of absence for six months, and told him that I hoped he would go abroad and see if he could not recover his health. Unfortunately, however, he died.

There may be cases of this description. We all know that sometimes the head of a Department gets worn out absolutely by the labors of his office, and wants to be away for a time, perhaps for a month, perhaps a little longer. We cannot tell exactly what may be needed. It may be absolutely necessary and for the good of the service to allow men to be absent. I do not think it is liable to any abuse, because the heads of Departments and bureaus are naturally careful about these things; but when these cases do occur, the officers who have broken down in fact in the service of the Government ought to be relieved, and I think the matter should be left to the discretion of the Departments.

Mr. HOWE. The reasons assigned by the Senator from Maine are entirely satisfactory to me upon the proposition he submits; but I wish to ask the chairman of the committee who reported this bill if there ought not to be a provision in it denying the right of any substituted officer to the pay of the office into which he is placed *ad interim?*

Mr. TRUMBULL and Mr. CONKLING. There is such a provision of law already.

Mr. HOWE. I know, but this second section, I think, repeals it. There was a usage at one time in the history of the Government, I happen to know, to put a clerk, for instance, in the place of the head of a Department and give him both his pay as clerk and the pay of the Secretary during that time.

Mr. FESSENDEN. Never both. The practice has been, I think, in some cases—I am not aware that there is any law against it, and I do not think it is at all out of the way—to allow the officer discharging the duties of a higher office to receive the pay of the higher office for the time he performs the duties, not receiving at the same time his own proper pay, but merely an addition of the difference between the pay of the two offices. I am very confident that has been the practice. Now, there is a bill pending—I do not know that it has been reported yet—of which I am strongly in favor, and of which we all admit the justice, to give to the family of Mr. Dickins, our late Secretary, the pay of Secretary of State during the time he absolutely discharged the duties of that position when he was chief clerk of the State Department, that is, the difference between the pay he actually received and the pay of Secretary of State for the time he served in the latter capacity. I think the principle is a correct one. Men ought not to discharge that sort of duties without compensation. It is generally for a very short period, and the Government can afford to pay them. If men fill places of responsibility they should be paid accordingly.

Mr. HOWE. The Senator is mistaken about the usage; and he is mistaken about the claim in the particular case, as I happen to know, because it is pending before a committee of which I am chairman. The claim is for the pay of a clerkship that he held during the time he acted as Secretary of State.

Mr. FESSENDEN. I beg the Senator's pardon, but the bill referred to the committee, which passed the Senate once, expressly provides that he is only to receive the difference; and I know the members of his family who have spoken to me since about it have said that all they asked for was the difference in the pay.

Mr. HOWE. I do not know what the bill is; I know what the committee are urged to do, and what the debate is now with the committee. It is upon the question whether, under the usage——

Mr. FESSENDEN. I will state to the Senator that I am acquainted with the usage in the Treasury Department. The Secretary who preceded me, Mr. Chase, was frequently obliged to be absent while he was Secretary, and I was obliged to be absent several times, to go to New York on business, and would be gone ten days or longer. During that time the President, under the law, appointed Mr. Harrington, the Assistant Secretary, as acting Secretary, and he received the pay of the Secretary for the days that he officiated as such; that is to say, the difference between his pay as Assistant Secretary and the pay of Secretary.

Mr. HOWE. I will not speak very positively about the law. Of course what the Senator says is indisputable as to the usage in those cases. But I was under the impression that there was at that time a positive law prohibiting all extra compensation.

Mr. FESSENDEN. I was not aware of it.

Mr. HOWE. I think the fact is so, and I think this second section repeals that law; but I am not certain about it. The precedents, however, which were enforced upon us were where both the pay of a clerk and the pay of the head of a Department was given to the same individual at the same time.

Mr. FESSENDEN. Was it not by special law?

Mr. HOWE. No, sir, by no law; at least, as I think, by no law; but of course they claimed that there was a law for it. There were two instances in which that was done. Now, I do not think myself that there should be this extra pay. You take an officer who is employed in one capacity: his whole time is given to the Government; you simply put him in another position. It requires only his whole time; he cannot give any more than that. Mr. Cass, when he was Secretary of State, was examined upon this very question. He decided that no such substituted officer ought to have any increase of pay.

Mr. FESSENDEN. In that case of Mr. Cass perhaps it was improper, as his Assistant Secretary was in fact Secretary about all the time, and did all the work, whether Mr. Cass was there or not.

Mr. HOWE. Mr. Cobb, when he was Secretary of the Treasury, was examined upon the same point, and he gave the same opinion. Since you only have the service of an officer whose whole time is employed and paid for there is simply a change of duty, and I think he ought to be content with the pay which belongs to the office he really holds. Under the law as it stands to-day no extra pay, as I understand, can be given; but I think if this bill passes with this second section in it that law will be repealed, and then it will raise the question which has heretofore been up, where some Secretaries have given the full pay in addition to the pay of the clerk.

The PRESIDENT *pro tempore*. The amendment will be reported as it now stands.

The Secretary read the amendment, which was in section one, line sixteen, to strike out the word "one" before the word "vacancy," and after the word "vacancy" to insert "occasioned by death or resignation," and in line seventeen to strike out "thirty" and to insert "ten;" so that the proviso will read:

Provided, That no vacancy occasioned by death or resignation shall be supplied in manner aforesaid for a longer term than ten days.

Mr. TRUMBULL. Is that all one amendment?

The PRESIDENT *pro tempore*. It was proposed and modified in various forms; but that is the way it all reads together. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WILLIAMS. I understand that this bill repeals all laws that now authorize any officer to discharge the duties of an office that may become vacant by death, resignation, or otherwise; and then it provides that it shall be lawful for the President, if he shall deem it necessary, to fill those offices by a temporary appointment. I wish to inquire of the chairman of the committee if it ought not to be made the duty of the President forthwith to designate some person to fill these offices. Otherwise the duties of the office can in no way be performed if this bill passes.

Mr. FESSENDEN. He will do that, as a matter of course, because he will nominate somebody to fill them.

Mr. WILLIAMS. I submit the suggestion; but if the bill is sufficient in that respect that is all I require.

Mr. TRUMBULL. That is exactly the way the law now stands. I do not see any difficulty in that regard. This bill only applies to the Cabinet officers and the heads of bureaus—those officers appointed by the President, by and with the advice and consent of the Senate. In case of vacancy or inability to discharge the duties of the office by any of these parties the President is authorized to detail some other officer to perform the duties for ten days in case of a vacancy, and during those ten days, of course, it will be his duty to nominate to the Senate, if the Senate is in session, some person for the office, and if the Senate is not in session it will be his duty to appoint under the temporary power conferred by the Constitution. I see no difficulty in that respect.

In regard to the suggestion made by the Senator from Wisconsin, it certainly is not the intention of the Judiciary Committee in reporting this bill to repeal the law that prohibits the taking of double pay.

Mr. FESSENDEN. That is a general law applying to all officers, that no person shall receive the salaries of two offices at the same time.

Mr. TRUMBULL. I do not think the provisions of the bill would repeal that law. This bill repeals all acts on the subject of temporarily supplying vacancies in the Executive Departments. That is all it repeals. It does not repeal other provisions of law on other subjects fixing the pay. Certainly, if it is liable to such a construction, it was not intended.

Mr. FESSENDEN. It cannot be applicable to it. That is a general law applicable to all offices.

Mr. TRUMBULL. I think it is not obnoxious to that objection, as the Senator from Wisconsin will see if he looks at the language of the bill. It only repeals the laws on the subject of temporarily supplying vacancies. What the Senator refers to is a law on the subject of the pay of officers. I have not the statute before me and cannot refer to it at this moment, but I am confident there is a general provision of law, not in any one of those acts, which refer to temporarily supplying vacancies, but in another general law, which declares that no person shall receive double pay who discharges

the duties of two offices; and I do not think this section would repeal it.

Mr. HOWE. Not that, but there is another law which declares that the officer rendering this substituted service shall not receive any extra pay. That is the law which I think this second section repeals. I think the officer rendering this substituted service should not receive any increase of pay.

Mr. FESSENDEN. There is no such provision in any of the laws referred to in this general repealing clause.

Mr. HOWE. That is a question of fact.

Mr. FESSENDEN. That is the fact.

Mr. HOWE. I think the Senator is mistaken about it. However, I will propose an amendment to add to the second section of the bill these words:

But nothing herein shall be construed to give to any officer authorized as aforesaid to perform the duties of another officer any compensation beyond that to which he would be entitled without such assignment.

Mr. DAVIS. I do not think that amendment is just. If a man occupying an inferior office is assigned to the performance of the duties of a superior one he ought to have the salary of but one office certainly; but he ought to have the salary of the higher office. That is my opinion. If a man is required to do the duties and assume the responsibilities of a higher office to which is attached a larger salary than is attached to the lower office whose duties he ordinarily performs, it seems to me he ought to have the higher salary. I do not think, therefore, the provision now pending is a just one. I move to strike out the words which limit such an officer to the salary of his stated office, and to allow him the salary of the higher office to the duties of which he is assigned.

Mr. FESSENDEN. To accomplish the Senator's object he should vote against the proviso now moved as an amendment to the bill.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky move an amendment to the amendment?

Mr. FESSENDEN. The Senator need not move an amendment, because this is an amendment, and if it is rejected the bill will stand as the Senator thinks it ought to be.

Mr. DAVIS. Very well.

Mr. HOWE. The only question is just this: under the law as it will stand without the amendment you may have a double set of officers under pay in every office in the Government, two Secretaries of State, and two Secretaries of War, and two clerks in every one of the clerkships. I think we ought to provide against that. If this amendment is adopted that cannot be done; you will have to pay but one officer in each of the offices created by law. That is the object aimed at by the amendment, and I hope it will be adopted.

Mr. CONKLING. If I felt sure that the construction put upon the words of the second section as it stands by the Senator from Maine were borne out I should be against this amendment; and I wish he would enlighten me a little upon the words of the second section repealing "all acts heretofore passed on the subject of temporarily supplying vacancies in the Executive Departments." My recollection is that the provision restricting pay in these cases to which reference has been made, and which, by the by, has a long history connected with it, is found in one of the actswhich relate expressly to supplying temporarily vacancies; and if we repeal "all acts heretofore passed on the subject of temporarily supplying vacancies in the Executive Departments," do we not at least raise a question as to the continuance of that provision?

Mr. FESSENDEN. My recollection is not accurate enough to enable me to say that it is not so; but my impression is otherwise. I believe there are only two acts on the subject, and I think the chairman of the Judiciary Committee is sufficiently familiar with them to be able to answer the question in a moment after looking at the statutes.

The PRESIDENT *pro tempore*. The morning hour having expired, the resolution of the Senator from Maryland, to admit Philip F. Thomas, Senator-elect from the State of Maryland, to his seat in the Senate, is before the body, and on that resolution the Senator from Pennsylvania [Mr. BUCKALEW] is entitled to the floor.

Mr. FESSENDEN. I hope the Senator from Pennsylvania will give way for a few moments to enable us to finish this bill.

Mr. BUCKALEW. If it can be disposed of shortly I will give way.

Mr. FESSENDEN. There will be no further debate about it. We wish simply to ascertain a fact as to the state of the existing law.

Mr. BUCKALEW. Very well.

The PRESIDENT *pro tempore*. By unanimous consent the Senate will continue, as in Committee of the Whole, the consideration of Senate bill No. 352, the pending question being on the amendment of the Senator from Wisconsin, [Mr. HOWE.]

Mr. TRUMBULL. I have but a moment to refer to the statute; but I find that by an act passed in 1842 it is provided:

"No officer in any branch of the public service, or any other person whose salary, pay, or emoluments is or are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or any other service or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation." * * * * "No allowance or compensation shall be made to any clerk or other officer, by reason of the discharge of duties which belong to any other clerk or officer in the same or any other Department; and no allowance or compensation shall be made for any extra services whatever which any clerk or other officer may be required to perform."

It is hazardous to express an opinion, I know, without having before me all the statutes upon this subject; but it would seem to me, without having time to examine all those statutes, that the provision I have just read would clearly prevent any claim for additional pay. That is a general law, and I will read it again:

"No allowance or compensation shall be made to any clerk or other officer"—

That embraces all—

"by reason of the discharge of duties which belong to any other clerk or officer in the same or any other Department, and no allowance or compensation shall be made for any extra services whatever which any clerk or other officer may be required to perform."

Unless there be some specific act passed for it he cannot obtain extra pay. Now, we repeal a law here which relates to the supplying of vacancies temporarily and all laws that relate to the subject of supplying vacancies temporarily.

Mr. CONKLING. Is not the act from which the Senator read the act of 1842?

Mr. TRUMBULL. Yes, sir; the act of 1842; and I wish to say to my friend from New York that I have but this moment taken it up, and I have already said that it is hazardous to express any confident opinion about it without time to examine it.

Mr. CONKLING. That is the case with both of us, and I merely rise, by way of inquiry or suggestion, to refer the Senator to another act. The eighteenth section of an act passed in 1852 provides:

"No person hereafter who holds or shall hold any office under the Government of the United States, whose salary or annual compensation shall amount to the sum of $2,500, shall receive compensation for discharging the duties of any other office."

Now, without time to look into the statutes further, it would seem that in 1852 it was deemed that without this provision all officers might receive extra compensation for discharging extra duties, and this act confined it to those whose salary should be less than the amount fixed.

Mr. TRUMBULL. That would embrace all the officers included in this bill, because there are no officers in the Departments appointed by the President who do not receive that much salary.

Mr. CONKLING. Possibly it would; but I was aiming at the question whether the other act the Senator read covered the point. It could not have been understood at the time that it did, and I should think without this it was doubtful whether the act of 1842 covered the point. It seems to me that, if we are to vote now—there is so much doubt about this—the only true way for Senators who think there should be no extra compensation is to vote for this amendment, for it can do no harm; it is very innocent surplusage if that be the law now. I shall therefore vote for it, for one.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent; in which it requested the concurrence of the Senate.

ADJOURNMENT TO MONDAY.

On motion of Mr. CAMERON, it was

Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 13th instant, a statement showing the comparative rates now paid by the United States for the transportation of troops and military stores to the Union Pacific Railroad Company, to the Union Pacific Railroad Company eastern division, and to the Chicago and Northwestern Railroad Company; which was referred to the Committee on Pacific Railroads, and ordered to be printed.

He also laid before the Senate a report from the Secretary of War, communicating, in compliance with a resolution of the Senate of the 13th instant, a report of the Commissary General of Subsistence, showing the quantity and money value of subsistence stores issued to Indians under charge of the Indian Bureau, and for which payment has not been made to the War Department by the Department of the Interior; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a report from the Secretary of the Treasury, communicating, in compliance with a resolution of the 12th instant, copies of communications from the Commissioner of Internal Revenue relative to the removal or appointment of assessors and collectors; which was referred to the Committee on Finance, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent was read twice by its title, and referred to the Committee on Patents and the Patent Office.

SENATOR FROM MARYLAND.

The Senate resumed the consideration of the following resolution, submitted by Mr. JOHNSON on the 18th of December, 1867:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

The pending question being on the amendment of Mr. SUMNER, to strike out all after the word "resolved" and insert:

That Philip F. Thomas, Senator-elect from Maryland, cannot be admitted to take the oaths of office required by the Constitution and laws, inasmuch as he allowed his minor son to leave the paternal house and serve as a rebel soldier, and gave him at the time $100 in money, all of which was aid, countenance, or encouragement to the rebellion, which he

was forbidden to give; and further, inasmuch as in forbearing to disclose and make known the treason of his son to the President or other proper authorities, according to the requirement of the statute in such cases, he was guilty of misprision of treason as defined by existing law.

Mr. BUCKALEW. Mr. President, on a former occasion I submitted to the Senate an argument upon the legal questions involved in the subject now before us. I am still satisfied with the argument then made, and I do not propose to repeat it. I rise to speak at this time because I think that gross injustice has been done to Mr. Thomas in the debate; that his motives have been misunderstood and misrepresented, of course not intentionally; and that the general effect of the debate upon the minds of those who have listened to it is to produce unfavorable and unjust impressions regarding him. Now, sir, whatever may be the decision of the Senate on his case, it is but an act of simple justice to him as an individual that personal assaults upon him should be repelled; at least so far as to place him in a reasonably fair attitude before the people of the country as well as before the members of the Senate.

Mr. President, this gentleman has not been here pressing his case personally, with pertinacity and diligence, as is sometimes the case with persons desiring seats in legislative bodies. He has behaved throughout with perfect decorum, with due regard to his own position before the Senate, and to the dignity and character of the Senate itself. The subject of his right to a seat was sent to a committee, and then, when called upon, he responded; he and his son appeared, and underwent examination by that committee more or less searching and somewhat protracted. But with regard to the action which the Senate has been called upon to take in his case, Mr. Thomas has not interfered in any offensive or objectionable manner; he has behaved throughout like a true gentleman, as he is, and has left his case to the judgment of the Senate upon the report of our own committee, which comes to us with such sanctions that it ought to be accepted, so far as it decides his case, as conclusive.

In view of his position and of the nature of the issue which has been debated before the Senate, I say it is but reasonable and just that the Senate should accept what has been decided by the committee in the case, and only determine the question which the committee has left undetermined and submitted to the Senate for its judgment. Well, what is that question? It is the question of Mr. Thomas's intent in furnishing his son with the sum of $100 under the circumstances stated in the evidence which accompanies the report. The committee did examine the charge against Mr. Thomas of disloyalty in all the other respects or particulars on which the charge was made. They investigated his conduct as Secretary of the Treasury, the circumstances attending his resignation of that office, the character of the speech he was alleged to have made on the evening of his nomination to the caucus which nominated him, and his conduct generally throughout the war.

Upon all these points which were raised before the committee they did make full examination and they did pronounce their judgment. They say in their report to the Senate, explicitly, that there is no ground upon which to refuse Mr. Thomas his seat unless it be taken upon the one transaction in regard to his son. Is it necessary, then, for the Senate, in view of this report from a competent, intelligent, and able committee, to go back over other controverted questions beside the single one which is submitted to the Senate? And to do this, Mr. President, when the applicant for the seat is not here, when his own statement of his conduct is not to be heard by the Senate, and when a reinvestigation of those points which were determined by the committee was not foreseen by him? If we should go into an examination of the position of Mr. Thomas at the commencement of the war and during the war we should get a very different idea, I am confident, from that which was given us yesterday by the Senator from Ohio, [Mr. SHERMAN.]

When he was in the Treasury it was a known fact that he differed with Mr. Floyd in regard to what should be done by the Treasury Department, and incurred the hostility of that man. That fact has not been submitted here to the Senate, nor have other facts important to his vindication against renewed assault been shown. They have not been shown by his friends or by himself, because it was supposed not to be necessary considering the position in which the case was placed before the Senate by the committee. They had decided in his favor upon all the points involved except the single one to which I have referred.

Mr. President, at the end of 1860 and the commencement of 1861, during the last months of Mr. Buchanan's administration, I was absent from the United States, but from the newspapers which I then received and read and from subsequent intercourse with persons at home, I suppose I have a correct idea of the situation of things, and I believe I have also a just idea of the position of Mr. Thomas at that time. He, like many other men, true and honorable men in this country, was opposed to the measures which were proposed in regard to the port of Charleston and the forts there. He thought it was inexpedient to make any demonstration of force by the Government at that time, regard being had to the surrounding circumstances, because it would precipitate a conflict between the people of the southern States and those who adhered to the Federal Government. He then, like thousands and thousands of our countrymen, believed that the dispute might be settled. We know that proceedings were going on for adjustment; a peace conference was held here at Washington in which the representatives of most of the States participated. There were proceedings also in Congress with reference to the same object.

Sir, it does not impeach the patriotism of a gentleman to say that at that time he was opposed to particular measures which might precipitate hostilities upon the country. When Mr. Thomas said in his letter of resignation that he had been opposed to the proposed policy with regard to the port of Charleston, he simply expressed his concurrence with thousands of good and true men in the country who were opposed to the immediate use of force. They may have been very much mistaken; their views may have been very short-sighted; their policy may have been bad. That is nothing to the purpose. What we are to determine is a question of guilt, of criminal conduct; and there was no criminality, so far as I can perceive, in the conduct of Mr. Thomas at that time. He resigned the office he held in part because he did not concur in the proposed measures by which a collision would be immediately produced at the port of Charleston. He hoped for peace, he hoped for an adjustment, he hoped for a settlement of the difficulties between the North and the South, and an avoidance of war.

This explanation removes from that transaction whatever of odium might have attached to it upon the one-sided, unfair statement which has been made concerning it. But there was another fact in connection with his resignation which has been lost sight of, but which appears in the proof. A committee from the city of New York waited upon the President of the United States and informed him that the moneyed men and capitalists of that city would not furnish money to the then Secretary of the Treasury. They were not satisfied with him because there had been calumnious charges made against him with reference to some financial orders which it was said he had issued in regard to the public funds in the city of New York. These charges have been proved to be false; they are proved so by the evidence of Mr. Cisco and other gentlemen. And yet, because of these false and unjust imputations, some of the moneyed men of New York waited upon the President and alleged that they could not loan the Government money while Mr. Thomas held his position as Secretary of the Treasury, and advised the President to appoint another Secretary in whom capitalists would have confidence. Whatever of imputation might have arisen from this transaction against Mr. Thomas is dispelled by the proof taken by the committee, by which it is shown that he gave no order of an unpatriotic or improper character. He is completely vindicated against the charges which then injured his reputation in the money circles of New York. But the evidence shows us that when the President listened to this committee, received their statement against his own Secretary, Mr. Thomas very naturally became indignant, and he said to the President promptly that if he was to entertain accusations against him in that way, to give them encouragement and countenance, it was a good reason for his leaving the Department; and that was in fact one of the controlling reasons with Mr. Thomas for resigning his office. That is apparent on the face of the testimony. In his letter of resignation to the President, although this was a prevailing motive upon his mind, and one which a man of spirit would entertain under such circumstances, he did not state it. In order to avoid unpleasant matter he simply alluded to the difference of opinion between himself and some other members of the Administration in regard to measures which had been proposed for the port of Charleston.

Taking into view all these circumstances, can any gentleman say that the resignation of Mr. Thomas was evidence of disloyalty, much less that it is to be cited as a case of giving aid and comfort to the public enemy? The charge appears to me to be quite groundless and unjust.

But, sir, let us come to the resignation itself, independent of the motives or causes which induced it. What did Mr. Thomas do? As I stated before, this charge that he aided the rebellion by resigning that office seems most absurd and preposterous when judged by its results. If he had remained in the office of Secretary of the Treasury and used the powers which the laws conferred upon him to aid the rebellion, that would have been criminal conduct. If he had remained in that office of Secretary, and had failed to execute the laws, that also would have been open to objection and to condemnation. What did he do? Instead of aiding the rebellion, or attempting to aid the rebellion, (which, by the way, had not broken out into open war,) he resigned the office into the hands of the President and gave way to General John A. Dix. Was that giving aid to the rebellion, aid and comfort to the enemies of the United States? Why, sir, I should think gentlemen who would gravely make that assertion, and after duly considering it, repeat it, might be classed among the most unreasonable of men. He did not resign the office and go away abruptly; but he tendered his resignation and awaited the filling of the office, and when the President had selected General Dix, passed over to him the powers which he had exercised, and the Treasury was conducted by a patriotic man and able officer, against whose administration not one word of objection has been made.

After the resignation of Mr. Thomas he retired to the State of Maryland; he went upon his farm; he pursued his proper home pursuits during the war; and now there is no imputation upon his conduct during the war or since except on account of the gift of money to his son. It is not necessary for him to bring evidence in his vindication; for there is no evidence that from the moment when he resigned the duties of the office of Secretary of the Treasury down to the time when he was elected by the Legislature of Maryland to a seat on this floor that he did any act tending to aid the rebellion against the United States, unless the gift to his son should be so described.

Well, sir, a few words upon that. It has been argued, as if in endeavoring to dissuade his son from going into the confederate service, he confined himself to a single argument,

which was the argument that the State of Maryland had not seceded; that, inasmuch as it continued one of the States of the Union it was not a proper thing for him, being a citizen of Maryland, to join the confederate forces. Now, sir, that is not the evidence. The evidence is that he used various arguments to dissuade his son. He pointed out to him the personal danger which he incurred, and pointed out to him that it was a violation of his public duty as a citizen of the United States. But gentlemen say that his putting such an argument as that which they mention to his son proves his own disloyalty. Why, Mr. President, that is a most unreasonable assertion. Of course, in arguing with his son against going into the confederate service he would use those arguments which he would think most effective. Taking into account the sympathies which his son had for the confederate side in the war, the most powerful argument which could be made to the son to influence him against following his sympathies would be an absence of right on his part as a citizen of Maryland. The argument was appropriate to the occasion. It was well calculated to effect the object for which it was made—to reach the judgment and the convictions of the son and dissuade him from the act which he proposed to perform.

The Senator from Vermont [Mr. EDMUNDS] objects to the rule of law which has been maintained by several gentlemen in this debate, that the essence of the offense, if offense was committed by Mr. Thomas in furnishing his son money, was in the intent with which the act was committed. The Senator from Vermont says that is bad law. I do not know whether he impeaches the logic of the reasoning, but he asserts that it is bad law, and to convince us that it is bad or faulty law, he supposes a case of larceny committed by some person who is suffering the pains of hunger, or whose family dependent upon him are brought to the lowest point of suffering for want of food. He says that a man under such circumstances obtaining surreptitious access to some species of food and taking it, might be convicted of larceny, and it would be said that his motive in seizing the property and appropriating it to his own use or that of his family was wide of the question for trial before the court when the case was heard. No matter what his motive was, the act would be criminal, and therefore punishable.

The Senator does not perceive the fallacy which lurks in his illustration. In the case supposed the very point of the offense, the essential element of the offense, would be the intent with which the property is taken. If it were taken with the intent of depriving the owner of its enjoyment and feloniously converting it to the use of the man who takes it the offense would be complete. The intent with which he takes it in that case is the fact which constitutes the offense, just as the intent in a case arising under this statute or under any other statute of a similar description would constitute the offense forbidden. The Senator mistakes the motive which influences a man's intent, which creates the intent, with the intent itself. He confounds two things which are perfectly distinct.

Mr. EDMUNDS. My friend will permit me to correct him. I took exactly the opposite ground, and undertook to distinguish the other day between the motive and the intent, between the voluntary act of the will in doing a specific thing and the motive which produced that action of the will; and my friend from Indiana [Mr. HENDRICKS] thought that was such a metaphysical distinction that nobody could understand it. I am glad my friend from Pennsylvania perceives it.

Mr. BUCKALEW. I am not concerned in the Senator's metaphysical difference with the Senator from Indiana. I am concerned with his argument, that the intent with which an act is committed is, or may be, an indifferent question in defining or fixing crime.

Mr. EDMUNDS. I did not say that.

Mr. BUCKALEW. In the case which we are discussing it has been, on the side of Mr. Thomas, argued throughout that the intent with which an act is done gives a color and complexion to it, assigns to it its just character, and that if his act was done simply with the intention of befriending his son it was not criminal, that it would be only criminal if the act was done with the intent of aiding the rebellion against the United States.

Mr. YATES. I wish to ask the honorable Senator a question. If the father gave the son $100, knowing that he was going into the rebel service, can he excuse himself upon the ground that he did not intend to do a criminal act himself? If he knew the fact that the son was going into the rebel service, and then gave him $100, whereby he might get into the rebel service, is he not *particeps criminis?*

Mr. BUCKALEW. The Senator has suggested the very point raised by the report of the committee, which we have debated throughout, the question of fact—what was his intent when he gave that money? The Senator simply states the proposition we are debating.

Mr. YATES. Allow me to explain the point I am suggesting. A man gives money to a person whom he knows is going to commit a crime. Suppose, for instance, there was a conspiracy to murder the President of the United States and money was given to one of the parties who proposed to commit the murder, the man giving the money knowing that the intention of the person to whom he gave it was to commit the crime; would he not thereby become *particeps criminis?* That is the question. Here, where the party proposed not to kill the President but to stab the life of the nation, this man gave him $100 with knowledge of that fact, without which money it is reasonable to presume he could not have committed the offense; is not the man giving the money clearly an accessory before the fact?

Mr. BUCKALEW. I repeat, Mr. President, that the Senator simply brings us again to the point we have been debating from the beginning; the question recurs back continually, however the proposition may be stated, what was the intention with which the act was done? Was it to aid the enemies of the United States, or was it for another purpose, which was innocent? And we are to judge of that intention according to the evidence which is before us. Of course, a naked act of this kind shown, without explanation, without anything further than its mere statement, would justify us in inferring that it was done with the intent of aiding the rebellion. I do not see that the Senator's suggestions have changed the point for debate and for decision by the Senate, as I stated it before.

Mr. President, when we come to the decision of this case it resolves itself into a single point, the point which arises upon what has been just stated by the Senator from Illinois. Upon that there has been sufficient discussion, and I shall not much prolong it.

As a matter of course, if the Senator from Illinois will reflect a moment he will see that the question in this case relates to the act of a father toward his son. It is not the case of an act by a man towards a stranger or to a neighbor or to one disconnected from him altogether by ties of blood or association. It is a question with regard to an act performed by a father to his son. It relates to the family circle. It brings into consideration all those passions and affections which characterize the social circle. It brings also into view illustrative examples which were occurring throughout the war in all parts of the country of disobedience and insubordination of children to their parents, their being entrapped into the Union armies as well as into the southern army, the difficulties which were felt under the peculiar condition of things in the country in exercising parental control.

Mr. YATES. Will the Senator allow me to make a suggestion?

Mr. BUCKALEW. Certainly.

Mr. YATES. Therein consists the enormity of this offense. If this $100 had been given to some other person the offense would not have been so great; but that a man should give to his own son $100 to raise his parricidal arm against the Government of the United States makes the offense far greater.

Mr. BUCKALEW. The Senator begs the very question.

Mr. YATES. He had power of constraint over his son.

Mr. BUCKALEW. The Senator again begs the very question in debate. The very question in debate is: did he give money to his son with the intent and design and purpose of having him raise his arm in rebellion; or did he give it to him for the purpose of relieving his immediate and temporary necessities? Is it not the fact that when he found that the son was here in Washington some time afterward, he had his mother write to him an urgent and affectionate letter urging him by all the considerations which could influence his mind to come home and to abandon his enterprise? That is undisputed.

Be it remembered, Mr. President, that this transaction between father and son is not proved by any witness independent of the family circle. The public knew nothing about it. The country knew nothing about it. It was simply suggested that this man's son had gone into the rebellion, and therefore he was called before the committee, and upon his examination he frankly stated the whole case. Now, the only evidence we have against Mr. Thomas that he gave money to his son is the voluntary acknowledgment of Mr. Thomas and the testimony of the son; but in taking the testimony of the one and the admission of the other you must take them altogether; in fairness you cannot take a fragment of the testimony of a witness and reject the rest. While the only proof you have that the father gave the money to the son is the testimony of the son and the admission of the father before the committee, that testimony and that admission were accompanied by statements of the circumstances under which the act was done and of the motives which influenced the parties. You can hardly take the testimony of the fact and strike out of the case all the attendant circumstances which accompanied it. In courts of justice and under the rules of law you are not permitted to do that, to call a witness and then take a part of his testimony which tells against him and reject the remainder which tells in his own favor. This is so plain a principle of justice that I do not see that gentlemen can ignore it in this case, although we may not be bound by strict rules of law.

But, sir, the Senator from Illinois says the fact that this was done in the case of a son makes the act worse. I will read for his edification an anecdote which perhaps may show him what a great and good man in this country thought in reference to the relations between father and son in a case of great delicacy and difficulty. This is an anecdote told by David Paul Brown, of Philadelphia, a celebrated criminal lawyer, of what occurred in his early professional life. He was present upon one occasion in the State of New Jersey at a bar dinner or meeting where Judge Bushrod Washington was present, and where leading and distinguished members of the bar of New Jersey were also present. In the course of the conversation which occurred Mr. Stockton, addressing the Judge, inquired:

"Have you seen the account of the melancholy position in which Governor Desha, of Kentucky, has been placed by the crime of his son?" "It is a sad affair," said the judge. "But," rejoined Stockton, "the worst of it is, that the son, having been convicted, the Governor, his father, must now decide between signing the death-warrant or a pardon." "And that you consider a difficulty," said the judge. "Certainly," replied the interlocutor. "Why, I would like to know, now, what you, an upright, impartial, and inflexible judge, would do in such a case?" "Do!" was the reply. "Do you doubt, Mr. Stockton, what I would do?" his eye sparkling and his little figure expanding by the side of his gigantic friend; "why, sir, I would pardon him at once; the time has long gone by when it was deemed either natural or honorable to play the Roman father."

Mr. YATES. If that anecdote was read for my edification I should like to reply to it. I presume, as a father, I would be weak enough to pardon my son for whatever offense he might have committed, were I Governor of the State. But that was a matter after the fact. This was a matter before the fact. The question in this case was, whether this boy was going out to fight against his country. It was not whether he had committed an offense and had been convicted of that offense, and whether executive clemency should be extended; but it was a question before the fact. It was after this man had himself gone out with those other men who had organized secession and civil war and raised the flag of rebellion against this country, after he had himself left the Cabinet because Mr. Buchanan proposed to send a force to the relief of Major Anderson, and it was before the crime had been committed by this boy. The donation of the $100 was in direct aid of the rebellion, just as much so as if I had got a soldier to enlist and paid him a bounty or compensation for going to the war. There can be no distinction, there is no distinction, except that the offense was greater in the fact that he permitted his own son, blood of his blood, to assist in the rebellion against the country. I am very familiar with the case of Governor Desha. I do not say that I would have acted differently from what he did, although his conduct, you will remember, was very severely censured by a very large portion of the intelligent people of Kentucky and Ohio and the Northwest.

Mr. BUCKALEW. I read this anecdote for quite a different purpose from what the Senator supposes. I did not read it as a case exactly analogous to the present; I read it for the purpose of showing the Senator the manner in which a great and good man, justly distinguished in the history of this country, viewed the relations of parent and son; how he distinguished them from the relations which might exist between the parent and a stranger. In the one case it would be his duty to discharge upon the culprit the utmost vengeance of the criminal law; in the other case he would be excused for giving way to those natural feelings of humanity and of affection which have their place in the human breast.

The application of the illustration to the present case is this: that whereas gentlemen complain that Mr. Thomas did not exert himself more than he did to prevent his son from going into the rebel service, that he did not use those powers of coercion and of resistance which possibly, by extreme diligence, he might have called into requisition, he is nevertheless to be excused because this was the case of his son, and because he only yielded to natural affection and to natural feelings instead of a feeling of rebellious enmity to the Government of the United States. If we were to be judged by an abstract and severe rule in all the relations of domestic life no man could stand free from censure and condemnation.

I have but one other suggestion to make, and that is this: I understand that a man elected by a State of this Union to a seat on this floor is entitled to his place here and to vote here equally with ourselves unless he is excluded by some law of the United States, either fundamental or statute. Now, sir, where is there a law of the United States excluding Mr. Thomas from a seat on this floor, or excluding him from the privilege of taking an oath at your table which will admit him to this floor, upon any one of the leading points which have been suggested in this debate? It was not an offense against any law of the United States, past or present, that Mr. Thomas should disagree with other patriotic persons with reference to the proceedings in Charleston harbor. It was no offense against any statute of the United States that he made a speech at Annapolis, in which he used terms of political denunciation or unfriendliness toward the majority in either or both Houses of Congress. It was not a criminal offense of his that he resigned the office of Secretary of the Treasury of the United States under the circumstances and impelled by the motives which I have described.

What, then, can the opposition to Mr. Thomas be placed upon? What is its foundation? It must be an appeal to the passions and to the feelings of the members of the Senate. If he shall stand acquitted of having had a criminal intention in giving his son $100, which is the single point the committee have reported to us for judgment, there is nothing remaining in this case upon which the Senate can predicate an honest and legal judgment against him; there is nothing which comes within the purview of any statutory enactment.

I go further, and I say that no matter whether Mr. Thomas was in favor of the late war which we waged against the people of the rebellious States or not, in either case he is entitled to his seat upon this floor under the Constitution and laws of the United States. Even if shown to have been opposed in sentiment and speech to the war, he is no more disqualified from a seat on this floor than Mr. Cobden or Mr. Bright were disqualified for a seat in the British Parliament because they denounced the Chinese war. Even if he had openly opposed by speech and vote the prosecution of the war in the midst of it and throughout the whole of it, he would be no more disqualified for a seat in this Senate than was Mr. Burke for a seat in the House of Commons or the Earl of Chatham for a seat in the House of Lords during the American Revolution, when they hurled the thunders of their denunciation at the ministry for prosecuting a war against the American colonies. He would be no more disqualified for a seat in this Senate than would the Whig members of Congress and the Whig editors of newspapers who opposed the Mexican war with all those terms of vituperation which can be gleaned from our political annals. He would be no more disqualified, in short, for a seat in this Senate than any other citizen of the United States who in any one of the public wars in which we have been engaged had exerted himself to prevent the war being begun or from being carried on, but who did not break or violate the laws of the country in opposing the Government while the war was being conducted. There is the point. I have the right to oppose and to denounce any war in which this country may be engaged, to oppose it throughout, in Congress, if I am in Congress, or to oppose it as a citizen at the polls; but I have no right to give aid and comfort to the enemy by furnishing them arms, by furnishing or encouraging persons to enlist in their service, or by doing any positive act which will enable them to resist my own Government in the struggle.

That is the point; that is the principle upon which we can argue this case. If Mr. Thomas did any act or thing in the late war in aid of the enemies of the country such as is condemned by the law of the land I have nothing to say. But for gentlemen to stand upon this floor, and by simple denunciations of this gentleman as a rebel sympathizer, or as an opponent of the war politically, and upon such ground as that to exclude him from his seat, is to outrage every principle which ought to be held sacred with regard to membership in this body, to outrage every principle of free government, which secures the free speech and the free action of the citizen so long as he keeps within the limits of the public laws of the land, which have been enacted by competent authority.

Sir, go back to the war of 1812, when Federalism thundered against "Jim Madison's war," as it was nicknamed, and in Congress and out of it sympathized with the enemy. Was that criminal? Were any of those engaged in that unpatriotic conduct in or out of Congress disqualified for seats in Congress? No, sir. They were responsible only at the bar of public opinion, and there they were held responsible, and that for two or three successive generations.

The true condemnation upon political heresy or political misconduct in this country is to hold it up at the bar of the people, to bring it up for judgment at the polls which have been established to try questions of this kind. It is not that members of Congress shall overstep the limits of law and of duty here and try and punish these persons by excluding them from the public offices of the country established and regulated by law. The remedy is in the popular forum. It is in the tribunals where the judgment of the people is pronounced, where their sovereign voice is uttered, where men who misbehave themselves politically can be called to account and can be judged and condemned.

I protest against the justice and the legality of such an argument as that submitted yesterday by the able Senator from Ohio, in which, by appeals to our feelings against unpatriotic men in the late war, we are to torture and pervert the laws of this country which relate to representation in Congress. I say it makes no difference whether a man in the North was or was not a rebel sympathizer, so far as the legal question, which is the only one we can decide here, is concerned. If he sympathized with that rebellion and desired its success he had and has my judgment and emotions against him; and everywhere, upon proper occasion, I would brand him as heretical and unpatriotic. But I know that under the free institutions which were established for us by our ancestors, and under which we live, we are to tolerate opposing opinion, even when we think it mischievous and wrong and evil. We must tolerate each other, or we must give up our system of government; we must take some despotic form, we must have a dictatorship or some other system or form which will enable intolerance to do its work. It is not possible under our republican institutions to have such laws of action marked out for public men as that proposed yesterday by the Senator from Ohio, that because a political opponent may think a man has been unpatriotic in a war, that he has even sympathized with the rebellion, that he has not been a patriot in his emotions or in his soul, therefore he is to stand condemned, without law, too, without the production of a statute to warrant the jurisdiction you are to exercise over him.

No, sir; go with your impassioned appeals to the people; there is your true forum of debate; there is the tribunal to which you are to appeal; but do not come here to us who are acting under oath to administer the laws of the country, to apply the Constitution, and to give the law, and the true law, of this land to every man who comes before us; do not come here and ask us to trample upon those laws and upon that Constitution, to do here a work which may be done by the people, and can be done only by them—to condemn a man for his political opinions and political conduct while he has kept within the limits of the law.

Independent of this, however, Mr. President, I insist that Mr. Thomas stands before us free and clear from any imputation of unpatriotic conduct, unless it is predicated upon this donation of money to his son under extreme circumstances which remove the badge of guilt from the transaction. I insist that he resigned the office of Secretary of the Treasury because he was embarrassed by this committee from New York, and because at that time he thought that, by preventing a collision at Charleston for the time being, the country could be kept together; that some treaty or negotiation would succeed; that we would not be plunged into war and tug at each other's throats, and this land be deluged with blood. No matter whether he was mistaken or not, his act was not criminal in its motive, nor was it in its effect. He resigned the Treasury and gave it over to General Dix, a man who carried your flag in the war, and whose name is honorably identified with it. Was that aiding the rebellion? Can you pretend it without most arrant hypocrisy? Did he aid the rebellion by resigning the Treasury to a statesman and general of the late war, thus enabling all the powers

of that Department to be wielded by energetic and able hands in your behalf?

And so of the controverted report of his speech made in a caucus or meeting at Annapolis. An unfriendly reporter giving one version of that speech says that Mr. Thomas spoke of some men in Congress as traitors to the Union; and he is to be kept out of Congress for that! "Traitors to the Union!" Why, sir, that is sometimes said of gentlemen belonging to the majority, in reply to a different attack, the very one which has been leveled by the Senator from Ohio against Mr. Thomas and his political friends, that they are rebel sympathizers; that they have been rebels or traitors in spirit. That is one form of political accusation, and it is leveled against men identified with Mr. Thomas in position; and the answer which the latter make to the other side by way of retort is, "You yourselves are traitors to the Union." Why? Because you do not bring the States together. Now, sir, this is not a favorite mode of discourse with me. I do not believe in this violent language in political debate. I endeavor to abstain from it myself, and I endeavor to discourage it in others. But, sir, I believe there is just as much of this extreme speech upon one side as upon the other; and it is a question, perhaps, rather of good taste than of anything else whether a man ought to indulge in it. Certainly it is a burlesque upon all principles of reason to bring an observation of that kind, even if it were made, which is disputed, into grave debate here to affect the right to his seat of a Representative of one of the States of this Union.

Mr. President, I have said much more than I intended. I repeat, I rose to speak again in this debate, not so much to extend the argument upon the real points involved as to perform, in some imperfect degree, an act of justice to this applicant, who, in my opinion, has been greatly and grievously misrepresented to the Senate and to the public.

Mr. HOWARD obtained the floor.

Mr. SHERMAN. I trust my friend will allow me a moment in reply to one or two remarks of the Senator from Pennsylvania.

Mr. HOWARD. If the Senator wishes to make an explanation I will give way for that; but I do not yield the floor except for a mere explanation.

Mr. SHERMAN. Certainly; I shall occupy but a few minutes of time. I desire to reply to one or two remarks made by the Senator from Pennsylvania.

Mr. President, I really did not desire to participate in this debate, and, as I stated last night, I did not intend to do so until a few moments before I rose; but as no Senator had seemed to base his vote upon the special points that I did, I deemed it my duty to state them briefly. I will say now to the Senator from Pennsylvania that I do not disagree with him in the principle of law involved in this case. We have no right to exclude Mr. Thomas for political reasons, or because he differs with us in political opinion. Whether his opinions are erroneous or not is for the tribunal which elects us to determine, not for us.

But the grounds upon which I base my opposition to the admission of Mr. Thomas are distinctly different. The Senator from Pennsylvania himself admits that when we were in war any act of aid to the public enemy would be a proper ground of exclusion of a person from a seat in the Senate Chamber. Every legislative body has an intrinsic power inherent in itself to exclude from it any person who would bring disgrace or contumely upon the body itself. The English House of Commons have repeatedly excluded persons and expelled persons who have participated in rebellion, who have been guilty of crimes, as perjury, forgery, &c. The book now before me contains a great number of cases of that kind. Where persons have committed some act either in hostility to the Government itself or to the laws of the country which makes them obnoxious to the body the body has a right to expel them and even to exclude them, if necessary, from its deliberations. There is no doubt about the true rule of law.

The only question in this case is, whether Mr. Thomas did do such an act as in the opinion of just men should exclude him from participating in the councils of this nation in the Senate Chamber. I say he did.

I say that the act of his when he resigned his position as Secretary of the Treasury, taking all the attendant circumstances, was an act in aid of the rebellion. It must have had that design. The Senator from Pennsylvania and I differ, it seems, as to the motive of this act. The Senator now says it was on account of a dispute with Mr. Buchanan about the negotiation of loans. The Senator thinks that was the cause of the resignation. My recollection is that Mr. Cobb did actually conspire to destroy the credit of the United States as a preliminary to war and as an act of war; and this conspiracy by Cobb has been denounced in this country and in Europe as one of the most disgraceful elements of the rebellion. The attempt by Floyd to steal and rob the trust funds of the United States; the attempt by Cobb to break down the credit of the Government by issuing bonds bearing ten, eleven, and twelve per cent. interest—all these things have been held up both in this country and Europe as acts of hostility just as much in aid of the rebellion——

Mr. HOWARD. The Senator from Ohio must pardon me. I did not yield the floor for the purpose of enabling him to make another speech. I supposed his purpose was to make an explanation.

Mr. SHERMAN. If the Senator desires to go on now I can reply to the Senator from Pennsylvania afterward. I will not claim his courtesy.

Mr. HOWARD. I wish to treat the Senator with perfect courtesy, but I am not willing that he should occupy the time that properly belongs to me.

Mr. SHERMAN. Go on.

Mr. HOWARD. Mr. President, as I was the first to interpose an objection to the admission of Mr. Thomas to the oath on his application here, it may, perhaps, be well enough for me to be the last or among the last to speak on the subject, as I suppose the debate is about drawing to a close. I shall detain the Senate but a few minutes; but I wish to express some ideas I entertain, and shall do it with becoming brevity.

It is plainly the purpose of the oath contained in the act of 1862 to banish from this Chamber all treason, all guilt arising from having participated in the rebellion by rendering it direct aid and comfort in the technical, practical sense, and also to exclude all persons who have given countenance or encouragement to persons engaged in armed hostility to the Government of the United States; for such is the language of the oath.

I was not a little surprised yesterday to hear the learned Senator from Illinois [Mr. TRUMBULL] declare that, whatever may have been the character justly to be attached to the resignation of Mr. Thomas, there was not at that time any armed hostility against the Government, and, therefore, if he then resigned, it was not, of course, in order to give encouragement or countenance to persons engaged in "armed hostility" to the Government. In order, however, that I may not do that Senator any injustice, I will read a portion of his remarks as they are reported in the Globe. He says:

"If he [Mr. Thomas] cannot properly take the oath it is because he cannot swear that he has not voluntarily given aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States. Whether he has done so is a question of fact; and there are two allegations against Mr. Thomas. One is in regard to his course as Secretary of the Treasury for about thirty days in the winter of 1860-61, before the rebellion had broken out in armed hostility,"—

Mark the language—

"before a gun had been fired, or rather that he resigned his position as Secretary of the Treasury, and resigned under such circumstances that his resignation is construed by some into an act giving aid and comfort to persons engaged in armed hostility to the United States. It perhaps would be a sufficient reply to this allegation to say that at that time no persons were engaged in armed hostility to the United States. He resigned early in January, 1861. I think the attack upon Fort Sumter, when the first guns were fired, was in April of that year."

Now, sir, I take direct issue with the Senator from Illinois, who, I regret, is not now in his seat, and with all those who concur in this assertion. I assert that at the time Mr. Thomas resigned his commission as Secretary of the Treasury there was flagrant civil war in the United States; that at that time—that is, on the 11th of January, 1861—there had been between fifteen and twenty direct acts of war committed against the Government by rebels in arms against that Government. I assert that from the 20th of December, 1860, down to the date of his resignation, January 11, 1861, there was flagrant war—war in every practical sense of the term—existing in the southern States of this Union. I assert that Mr. Thomas well knew all and each of these acts of war, and that when he resigned he resigned with a perfect knowledge that war was already existing in fact against the Government. Sir, let it not be forgotten that Mr. Thomas was Secretary of the Treasury; that he was a member of President Buchanan's Cabinet; that, as his duty required him, he, without doubt, attended habitually all the meetings of that Cabinet. He was, therefore, informed, as we have a right to assume, as fully and completely as any other officer of the Government, including Mr. Buchanan himself, of each and every act demonstrating the existence of the war.

I think the assertion made by the honorable Senator from Illinois was made incautiously and without due regard to the record in the case; for I am quite sure, if the events which I am about to narrate had been at the time he made his speech in his recollection, he would have greatly varied the assertion, and perhaps have omitted it entirely. Let me call the attention of Senators to a series of historical facts in their chronological order; facts just as notorious as the revolution of the seasons, as perceptible and indisputable as the shining of the sun at noon-day; facts of which the humblest citizen of the Republic on the remotest boundary of the Republic was cognizant almost at the moment they transpired.

On the 20th of December, 1860, the South Carolina convention passed an ordinance of secession. On the same day a grand ratification meeting in honor of that disgraceful and criminal proceeding was held at Memphis, in the State of Tennessee. On the same day a similar meeting for rejoicing over the same event took place in Mobile. On the same day a like meeting, for exactly the same purpose, took place in New Orleans. Mr. Thomas had then been in the office of Secretary of the Treasury for exactly ten days. Were these facts unknown to the members of the Cabinet? Can Mr. Thomas assert that he was ignorant of them? Of course he cannot.

On the 22d of December the Charleston Mercury, published in the very city in reference to which Thomas afterward wrote his letter of resignation, announced to the world that "the people of South Carolina would obey the call for war and would take the forts in Charleston harbor." Was Thomas ignorant of this threat of the leading secession paper of the South? Certainly not.

On the 23d a company of eighty men came down from Savannah to Charleston and offered their services to the Governor of South Carolina for the purpose of prosecuting the war. Was Thomas ignorant of this offer on the part of the Georgia volunteers to the Governor of South Carolina?

On the next day, December 24, the Representatives of South Carolina in the other House of Congress withdrew from the House and retired to their homes. Was Thomas ignorant of this?

On the same day, the 24th of December, the Richmond Inquirer, in a long article, urged the immediate capture of the city of Washington. Was Thomas ignorant of this? Was he

he also ignorant of the perfectly notorious fact that the rebels were at that moment endeavoring to raise a military force and to beleaguer the city of Washington with the design of seizing it, and, at all events, preventing the inauguration of President Lincoln in the succeeding March? He could not have been ignorant of these military and warlike preparations. It is impossible to believe for a moment that he was ignorant of the extent and malignity of the traitorous preparations made to capture the very capital of the nation, where he was acting as one of its principal public functionaries.

On the 26th of December Fort Moultrie was evacuated.

On the same day the South Carolina commissioners arrived at Washington; they came here for the purpose of putting themselves in negotiation with the executive branch of the Government of the United States and for the purpose of settling the question of "property" in the forts and other public works in the State of South Carolina—for the purpose of entering into a treaty by which the Government was to cede and transfer to South Carolina the public property within her limits. Was Thomas ignorant of their mission? Is it not likely that he was as well acquainted with the object of this strange mission as was the President of the United States? It must be presumed that he well understood the object and well understood the fact that those commissioners were in the city of Washington for that purpose.

On the 27th of December the United States revenue-cutter known as the "William Aiken" was treacherously given up to the South Carolina rebel authorities at Charleston. Was Thomas ignorant of this?

On the 28th of the same month the palmetto flag was raised over the custom-house and post office in Charleston, and Fort Moultrie and Castle Pinckney were taken psosession of by the South Carolina military, under the order of Governor Pickens, the rebel Governor of the State. Was Thomas ignorant of this? Did he not know that it was as distinct an act of war against the Government of the United States as could well be perpetrated?

On the 29th Floyd, the Secretary of War, resigned his commission because the President refused to withdraw the troops from Charleston harbor. Was Thomas ignorant of this? Was he ignorant of the motive which led Floyd to withdraw from the Cabinet? Did he not know that Floyd was at heart a traitor? Did he not know that during his whole administration he had been fomenting the rebellion and secretly and artfully giving it aid and comfort in every possible form of which he was capable, and in every nook and corner of the land where it was possible for him to operate? Of course he knew it. No man could be so ignorant and be in the Cabinet of Mr. Buchanan as not to understand the tergiversations, the twistings, and the windings of John B. Floyd.

On the 30th of December the South Carolina troops took possession of the arsenal in Charleston. Was Thomas ignorant of that?

On the 31st of December Governor Pickens, by a formal military order, directed that strong fortifications should be erected around Charleston harbor for the purpose of firing upon the troops of the United States and defending the occupation of that harbor by South Carolina. Was Thomas ignorant of that order?

On the same day, the 31st of December, Benjamin, a Senator of the United States, declared in his place that the South would never be subjugated, and the galleries applauded that traitorous declaration of that most artful of all the traitors. Was Thomas ignorant of this mark of approval in response to this traitorous declaration? No, sir; such a supposition is absurd and impossible.

On the 1st of January, 1861, Commander Pettigru ordered that no vessel should approach the wharf-head at Castle Pinckney, in Charleston harbor, on pain of destruction; and on the same day guards were stationed all along the river front at Charleston in military array, and this fact was published to the whole world. Was Thomas ignorant of it?

On the 2d of January the South Carolina convention declared that treason should consist only in levying war against the State of South Carolina, and passed an ordinance by which that sort of treason should be punished with death without benefit of clergy.

On the same day, January 2, intelligence reached Washington that Fort Sumter was besieged by the South Carolina rebels and Major Anderson's communications all cut off. Was Thomas ignorant of this fact? Did he not know perfectly well that this was an act of war—formal, venomous, traitorous war, the object of which was the destruction of the Government of the United States? Was he ignorant of the fact that the conspirators at Charleston were coöperating with the conspirators at and around Washington for the purpose of overthrowing the Government? Could he have been ignorant of this state of things and have been a member of Mr. Buchanan's Cabinet?

On the same day, January 2, Governor Ellis, of North Carolina, dispatched troops to seize Fort Macon, at Beaufort, and the forts at Wilmington and the United States arsenal at Fayetteville, in the State of North Carolina. Here was another series of acts of war in North Carolina.

On the 3d of January Fort Pulaski, at Savannah, Georgia, was taken possession of by the orders of the Governor of Georgia.

On the 4th of January the United States revenue-cutter Dolphin was fired upon and seized at Savannah.

On the same day South Carolina appointed seven delegates to the southern Congress.

On the same day the United States arsenal at Mobile was taken possession of by the rebels.

On the same day Fort Morgan was seized in Mobile bay.

The next day, January 5, there was a great popular meeting at Norfolk, Virginia, urging the Legislature of that State to prepare for war, and denouncing contemptuously the idea of ever submitting to be coerced by the Government of the United States. Was Thomas ignorant of all these proceedings?

On the same day, the 5th of January, the steamship Star of the West cleared from the port of New York with stores and ammunition for Charleston and other ports South.

On the 6th of January, a caucus of southern Senators at Washington advocated separate and immediate secession.

On the same day Governor Hicks, of Maryland, Mr. Thomas's own State, in a public address to the people of that State, refused to call together the Legislature for the purpose, if we are to believe the history of the times, of enabling that Legislature to pass a law calling together a convention for the purpose of passing an ordinance under which the State of Maryland should be withdrawn from the Union.

On the 8th of January the North Carolina troops seized Forts Caswell and Johnson.

On the same day Secretary Thompson resigned his place as Secretary of the Interior because he could not agree with Mr. Buchanan that there was any propriety in making war in defense of the public property, the fortifications in the harbor of Charleston. Thompson was bold. There was no hesitation, quibbling, or shuffling about him. He told Mr. Buchanan in so many words why he could no longer remain in the Cabinet, and that it was because Mr. Buchanan had resolved to use military force to vindicate the honor of the Government and protect the property of the United States in the harbor of Charleston.

On the same day, January 8, South Carolina seized the money in the sub-Treasury at Charleston, South Carolina. That very money was by the law under the control of the Secretary of the Treasury, Mr. Thomas. Mark this fact. I call upon the friends of Mr. Thomas, if there are any such in this Chamber, to note this significant fact: that only three days before he resigned his place as Secretary of the Treasury, the sub-Treasury at Charleston, South Carolina, was deliberately robbed by the rebels, plundered, taken into the possession of the rebel government there, while Thomas here at Washington stands by quietly, utters no rebuke, makes no effort to defend the public treasure; but three days afterward resigns his place because he would not do the duty imposed upon him by law to protect that treasure intrusted to his safe-keeping.

On the next day, the 9th of January, the Star of the West was fired upon in Charleston harbor. That is a fact so notorious that I need say no more about it. Mr. Thomas well knew it. It is idle for him to deny that he knew it.

On the 11th day of January, the day of Mr. Thomas's resignation, the Louisiana State troops seized the United States marine hospital, two miles below the city of New Orleans, and removed the patients from it in order to accommodate the State troops, who were then being rallied and disciplined at New Orleans.

Here I have detailed to you, Mr. President, no less than sixteen direct acts of war against the United States while Mr. Thomas was Secretary of the Treasury; and nine of these acts were committed within the limits of the State of South Carolina; and if I recollect rightly, every one of them at or near the harbor of Charleston. On that day, the 11th of January, Mr. Thomas, then Secretary of the Treasury, knowing these facts (for it is perfectly idle, worse than vain for him or his friends to deny it,) on that day he threw up his commission as Secretary of the Treasury, not because he was suspected of infidelity or improper conduct in regard to the bankers in New York, as the honorable Senator from Pennsylvania states, but because he did not concur with Mr. Buchanan in the propriety of Buchanan's policy, or, rather, determination to defend the public property in Charleston harbor.

Let me call your attention, sir, to the letter of resignation which Mr. Thomas wrote. Let us see what construction it will bear and what construction it will not bear. Like other documents, this must be understood according to its terms. Mr. Thomas, in this letter of resignation, does not say to the President that he resigns because the President distrusts his fidelity or because there are persons in New York who are endeavoring to cast a stigma upon his reputation. As to all this he is entirely silent; and the honorable Senator from Pennsylvania, it seems to me, goes entirely out of the record and endeavors to drag into it what does not properly belong there when he insists that Thomas's motive in resigning was, that he was found fault with by New York bankers. Sir, this is a mere afterthought.

Mr. BUCKALEW. If the Senator will allow me to explain, I said he did not allude to it in his letter of resignation, but the whole matter is stated in the evidence which accompanies the report, showing that that really operated on his mind, although he did not intrude it, being a matter of personal difference, in the letter of resignation.

Mr. HOWARD. Yes, I understand the honorable Senator very well. But the testimony itself is an afterthought. We are trying this case now upon the evidence, not as it has been got up before the Judiciary Committee, but as it existed at the time of the transactions themselves. It is to that period of time to which we are to look for a just and fair interpretation of the language and acts of Mr. Thomas, and not to 1868, seven years afterward, when he has exhausted his ingenuity, if I may be allowed that expression, in making up a case in his own behalf. What does he say in his letter of resignation? Addressing the President, under date of January 11, 1861, he says:

"MY DEAR SIR: It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina."

I have shown what the condition of things in South Carolina actually was; that it was made up of a series of acts of war; that South

Carolina and other States were at that time in flagrant rebellion against the Government; that the leaders of the insurrection, far and near, were rallying their forces, enlisting men, collecting arms, ammunition, supplies, and all the implements of war; and that at the harbor of Charleston the war was distinct, flagrant; and that Thomas perfectly well knew it. He could not agree even with the "old public functionary," who, after a long struggle between partisanism and duty, finally made up his mind, slowly, cautiously, timidly, to make, at least, one small endeavor in the way of dispatching the Star of the West to vindicate the national honor and to save the public property at Charleston. He could not go even so far as James Buchanan could go and did go; and because he could not he resigned his place as Secretary of the Treasury. That is the plain English of it. I trust the Senator from Illinois is now satisfied that he was mistaken in saying that at the time of this resignation there was no war, no "armed hostility" against the United States. There was "armed hostility" and numerous and flagrant instances of it.

Again, Mr. Thomas remarks:

"Nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority under existing laws to inforce the collection of the customs at the port of Charleston."

That is a very distinct subject-matter from that which precedes it in the letter. The first paragraph of the letter alludes to Buchanan's policy of defending the public property and repelling the assaults of the rebels in South Carolina. That was his "view," to use the language of Mr. Thomas, in reference to South Carolina. The latter paragraph relates simply and solely to the collection of customs at Charleston habor. The letter embraces two subjects, the one entirely distinct from the other; and yet my honorable friend from Maine, [Mr. FESSENDEN,] in commenting the other day upon this letter, insisted that the whole of it related to the question of the statutory power of the Secretary of the Treasury or of the President to collect the customs at Charleston by means of armed vessels out at sea, beyond the limits of the harbor. Sir, it is only necessary to read the letter to perceive the mistake into which the honorable Senator from Maine fell. One portion of it related to the protection of the public property there by military force; while the other relates only to the collection of the customs by the extraordinary means of armed vessels out of the harbor.

Now, sir, a public officer, a member of the Cabinet, in daily intercourse with the highest Executive Magistrate of the nation, sitting with him in daily council, knowing, as he was bound to know and as he did know, each and every one of these transactions as they took place from time to time, having it in his power to encourage the loyal people of the country in maintaining the Government and defending its honor, at such a moment as this, when rebellion was rife, sees fit to resign his place because he is unwilling to fight the rebels; and the honorable Senator from Illinois and others tell us very complacently that this is not lending countenance or encouragement to the rebellion. Sir, I deny it. With the utmost respect for those gentlemen upon the opposite side who entertain that opinion, I must say that this construction of the plain evidence in this case is entirely unsatisfactory, and, indeed, I must be permitted to use a term from which I would ordinarily refrain; I must be permitted to say that this interpretation of this testimony is puerile. Sir, he resigned because he wanted to encourage the enemy; he resigned because he countenanced the rebellion; and who will say that that resignation did not inspire redoubled courage and confidence in the multitudes then engaged in the rebellion?

Did it or did it not, let me ask my honorable friend from Illinois, encourage "armed hostility" against the United States when the Senators from the rebel States left this body and went off to join their constituents? Was it or was it not an encouragement to the rebellion when Jefferson Davis left this Chamber declaring his purpose to quit the Government of the United States and to break it up? Was it or was it not an encouragement to the rebellion, was it not giving "countenance" to "armed hostility" against the United States, when Breckinridge, long afterward, did the same thing? Sir, we know, the world knows, and history will record the fact, that these men who went out from us and refused to do their duty as loyal Senators were the leading promoters of the rebellion; and when they severed their connection with the Government the rebellion took additional heart. The secession from the Chamber of one rebel Senator was equal to ten thousand men in the ranks of the rebellion, and the world knows it.

Now, sir, as I said on a former occasion, I do not feel disposed to comment with severity upon the other branch of this case. I refer to the circumstance of Mr. Thomas giving money to his rebel son when he was leaving the paternal mansion and about to wend his way to join the rebel armies. I cannot, however, suffer this branch of the case to pass without an additional remark or two.

It is to be remembered that the excusatory testimony reported by the Committee on the Judiciary comes before us and before the public four years after the transaction, for the boy went off into the rebellion in November, 1863. It is not, therefore, to be presumed that the evidence given by him in the interest of his father—given for the very purpose of enabling the father to obtain a seat in the Senate, given under motives as strong as it is possible to conceive on the part of the son in favor of the father—it is not possible, I say, to look upon the testimony of this boy as impartial. Sir, I go so far as to declare that it is morally impossible that it can be true.

On that eventful morning when the young man left his home, the father may well be supposed as he parted with him and gave him the money, to have passed in review in his own mind all the criminal facts which had taken place, and of which he had had a knowledge before the time he resigned his place in the Cabinet. At that moment there could not have been absent from his mind the fact that he, on the 11th of January, 1861, had refused to do his duty as a sworn officer of the United States, or to take a single step to check the advance of the armed rebellion inaugurated against us. It was then in his mind as fully as ever that, instead of being a friend of the old Government, he was its enemy; for the facts show that he was its enemy. His sympathies were in favor of the rebel cause. His whole course of conduct had proved it indubitably; because there is as much significance in a crime which is called a crime of omission as in an act denominated a crime of commission.

Now, sir, the naked, exterior fact, if I may so call it, is this: that the boy was determined to go off into the rebellion; that he was without means to enable him to reach the rebel army. The father knew it. The father knew perfectly well that the purpose of his son was to commit the highest crime known to the law. At that moment, upon the request of his son, and for the purpose as the son announced to him, of committing that crime, he contributed to the son the sum of $100; the son put it in his pocket and left for the rebel lines. That is the plain, unvarnished tale thus far. This the world well understands. The whole community understands for what purpose, under these circumstances, the money was contributed; there could have been but one verdict had the question been left even to the rebels by whom he was surrounded in the place of his residence, and that verdict would have been that he gave him the money to enable him to make war upon his country. He did this knowingly, because the boy told him that such was his purpose. He did it willfully, because he might have withheld the aid. He did it maliciously and criminally, because he well knew that he gave it for the purpose of enabling the boy to perpetrate a crime, the crime of treason. Such would have been the verdict before any impartial jury. The facts were too plain to allow any other conclusion; too simple to permit any doubt as to the father's motives. The purpose of getting and using the money was fully more known to the father. That purpose was to enable the son to commit treason, and the father handed him the money knowing it would be used to effectuate that purpose.

Now, sir, some five years afterward—after Mr. Thomas has resided, as it is said, "on his farm" in Maryland so quietly, and has been elected by the rebel vote of that State to a seat in this body—the question arises, pointedly, distinctly, "with what purpose and with what intent did you, Mr. Thomas, give this money to your son? The Senate will believe that you gave it to him to enable him to accomplish his criminal purpose." What more obvious than to call the son as a witness in behalf of the father to mitigate and soften down the original motive which prompted the father? Accordingly we find that son now testifying, and Mr. Thomas also testifying, that he gave him the money, not to enable him to prosecute treason, but to guard and protect him, the son, against want and destitution. Sir, this will not do.

What was the most simple, the most obvious means of protecting this boy against destitution? He was a minor, eighteen years old. He was completely in the power of his father. The father had, as we all know, the legal right to restrain him personally; and, under the circumstances, knowing that the boy was about to commit a crime, is it not useless verbiage to say to a lawyer or a body of lawyers that it was the duty of the father to exercise this parental authority and his physical force, if necessary, in preventing the perpetration of this crime? If he wanted to protect his son against "want and destitution" the means were immediately at hand. He had but to put his own parental hand upon the person of the boy and tell him, "You must go into confinement in my house, and you must be there shut up until you have either abandoned your mad scheme of crime, or until the war itself is over; in this way, my son, I shall protect my own honor; in this way I shall protect your honor, and prevent you from the commission of the most heinous of all offenses." That was the simple mode of treating the subject.

There was no danger of the boy's coming to want, destitution, or starvation in the abode of his father and in his custody. It was the most obvious means of preventing the commission of the crime. But instead of exercising this parental authority, which the law placed in his hands, the father gave him $100 to enable him to join the rebel army. Mr. President, let me say for one it is in vain that Mr. Thomas tells me that he gave his son this money for the purpose of protecting him against want and destitution. The motive now alleged is utterly inconsistent with the facts that existed at that time. It is utterly inconsistent with the conduct of the father himself on that occasion and on other occasions.

There are certain acts to which the law irrevocably attaches a criminal intention. A sane man cannot go into the street and deliberately shoot down a passer-by, and then go into a court and allege for his defense that he shot his neighbor to death because he feared that, on some future occasion, the man might shoot him. In the course of a somewhat long practice in criminal trials I have not failed to observe the peculiar ingenuity, the tact, the talent, the original inventive genius with which accused persons set up by way of defense or justification some motive or intention which is different from that under which the act itself was prompted. It is always and everywhere the trick of roguery to get up a false excuse; and without intending to say anything disrespectful toward Mr. Thomas, I feel constrained as a Senator to declare here in my place that I believe the substance of this whole story, so far as it tends to his exculpation, is an inven-

tion—that it is not true. The temptation to false swearing in this case is too strong not to be noticed—too plain not to influence our judgment.

The evidence in the case shows clearly enough that this boy, after making two or three attempts to cross the lines on the upper Potomac, came to the city of Washington and stayed here for the space of about four weeks, and that while he was here his father knew perfectly well that he was here. The family were informed of the fact that the boy was in the city of Washington. What he was doing is immaterial to inquire; but he was here. The father might at any time within six hours have come to Washington in person, seized him by force, if that was necessary, and taken him back to his home; or, if he found himself unable to do that, he might have applied at the provost marshal's office in this city and caused the lad to be arrested and detained. He might easily have restrained his boy from going across the river and joining the rebels. He omitted to do any such thing. Why did he not come here and exercise his parental authority, and carry him back? And yet he omitted to do so. Whatever, therefore, he may pretend as to his motive on the occasion of giving him the money, his whole conduct from beginning to end is, according to my judgment, inconsistent with the excuse he now sets up. Sir, if he gave the boy the $100 for the purpose of enabling him to commit treason, and he himself was guilty of a crime, though not, perhaps, technically treason; but I need not repeat to the Senate that where any person, whether a father or a stranger, is present at the commission of a felony, and refuses or neglects to interfere to prevent its consummation, he himself is held amenable to the law, at least for a misdemeanor.

The honorable Senator from Pennsylvania remarks, with a great deal of earnestness, that Mr. Thomas resigned his commission because he was unwilling to precipitate a conflict. I have said enough, I trust, about that already. His remaining in the office of Secretary of the Treasury had no tendency to precipitate a conflict. The conflict had long since been precipitated, and was then flagrant, evidenced by a score of direct acts of war against the Government. But Mr. Thomas does not allege any such excuse as this in his letter of resignation.

Mr. President, I have said all that I choose to say upon this question. I close as I began, that it is the policy of the act of 1862 not only to exclude from this body all taint of treason, but to prohibit any person who has given "countenance or encouragement" to persons engaged in armed hostility to the United States, from occupying a seat in the Senate of the United States. I believe that legislation to be salutary, and I will never consent to throw down the barriers which loyalty has erected against the invasions of rebelism while I retain a seat in this body or while I live upon the earth's surface. Sir, let these men who have committed war upon the Government of the United States do penance; let them "bring forth fruits meet for repentance;" let them show by their acts as well as their declarations that they have given up secession and rebellion as a bad job, and feel deep and true contrition for their crimes; and then it will be time to address to me their entreaties to be readmitted to a full participation in the privileges and powers of the Congress of the United States.

Mr. MORTON. Mr. President, I shall detain the Senate but a very little while; but the importance of the vote which is about to be taken and the issues involved, it seems to me, justify a very full discussion of this case.

In the argument made yesterday by the distinguished Senator from Illinois, the chairman of the Committee on the Judiciary, [Mr. TRUMBULL,] it seems to me there were several errors—not only errors of law, but errors of fact, which ought to be considered. In endeavoring to explain the letter of resignation of Mr. Thomas of the 11th of January, 1861, the Senator from Illinois felt himself constrained to say that that was not an act giving countenance to the rebellion within the oath, because at that time there was no armed hostility against the Government of the United States. Mr. President, that is not true in point of fact. The Senator is mistaken. There had been various acts of hostility performed before the 11th of January, 1861, which have been enumerated to-day by the Senator from Michigan, and some of them yesterday by the Senator from Vermont. But, sir, I will suppose, for the sake of the argument, that up to that time there had been no acts of armed hostility toward the United States; how then stands the argument of the Senator from Illinois? There were certainly acts of armed hostility after that time; and when they were committed they related back to and covered all the preparations, all the previous steps, which led to the subsequent acts of armed hostility. If the rebellion was in a state of preparation on the 11th of January, 1861, although there had been no actual outbreak, no conflict of arms up to that time, still, when the conflict afterward took place, it related back and made every act of preparation criminal and treasonable. Can that proposition be doubted for a single moment? Suppose a man places a barrel of gunpowder under a building and it afterward explodes and destroys the house and the lives of the inmates, and he is put upon trial. He says, "At the time I put the gunpowder there there was no explosion; the explosion took place afterward." Certainly; and if when these preparations were being made there had been no acts of armed hostility, but those acts occurred subsequently, they make the previous preparations criminal, just as the subsequent explosion made the placing of the barrel of gunpowder under the building criminal and the consequences murder.

Mr. President, another position assumed by the Senator from Illinois struck me as being somewhat remarkable. He said that Mr. Thomas, in giving this money to his son, who by means of it went, or tried to go, into the rebel army, was guilty of a criminal act not more than members of Congress were in voting money to carry on the school at West Point, because some of the cadets subsequently went into the rebel army. I submit that that is a most extraordinary comparison. If we voted money to carry on the school at West Point, knowing at the time that the young men there to be educated would go into the rebel army, then it would be a parallel case. But if we voted money to educate men to become officers in the Union Army, and they subsequently became traitors and went into the rebel army, then we are not responsible. But, sir, in this case the father gives the son money, knowing at the time that he was going into the rebel army, and for the express purpose of paying his expenses and taking care of him. And yet it is by illustrations of this kind that the chairman of the committee seeks to smooth away the guilt of this applicant and make him a proper person to be admitted on the floor of the Senate.

But, Mr. President, there are one or two other things in the argument of the Senator from Illinois that I wish to refer to. For example, when he comes to the letter of resignation, written in January, 1861, he says that the difference of opinion there referred to is simply as to the question of the right of the Government to collect the revenue on board a ship in the harbor of Charleston, instead of collecting it at the custom-house. It has been shown that it did not refer to that, that that was the subsequent matter alluded to in the letter, and that the reason given for the resignation was that he could not agree with the President in regard to the measures taken in reference to Charleston harbor; and he goes on subsequently to say, "nor do I think it at all probable that I shall be able to concur" with Mr. Buchanan in regard to the collection of the revenue; but the resignation is placed upon the ground of what the Government had already done, the conclusions come to "in reference to the present condition of things in South Carolina;" and what were they? First, that we would not obey the demand made by South Carolina to evacuate Fort Sumter; and secondly, because two or three days before that time the Brooklyn, a ship-of-war, had been ordered down there for the purpose of reënforcing the garrison in Fort Sumter.

But, Mr. President, there is one proposition stated by the Senator from Illinois that I agree to, and I will read it from his speech. He says:

"I quite agree with the Senator from Massachusetts, that where the Senate is satisfied that the applicant for a seat cannot truthfully take the oath he ought not to be permitted to take it."

That is a true statement of the law, that where the Senate is satisfied that the applicant cannot truthfully take the oath he ought not to be permitted to take it. We agree upon that proposition, but we differ in regard to the application of it to this case. Now, the question is presented here, can this applicant truthfully take this oath, for the chairman of the committee agrees that if he cannot we should not let him in. What does this oath require? That every person coming here shall swear "that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States." If he voluntarily gave aid, no difference what his motive may have been, he comes within the exclusion of the oath. Did Mr. Thomas voluntarily give the $100? He certainly did. The son did not compel him to give the $100. Nobody compelled him to do so. It was his own act. It may have sprung from parental feeling; but the question is, did he voluntarily give the $100, and was that $100 aid to the rebellion? It was aid, material aid, that kind of aid without which war cannot be carried on, aid of the utmost importance to the son, at that time just about to embark in military life; and he did it voluntarily.

Ah! but it has been argued that it was because he had the feelings of a father. Sir, does that make any difference? Does the motive make any difference if he voluntarily gave aid? It has been argued here very complacently and very ingeniously that the motive goes to make up the crime. Ah, sir, but the law presumes motive from the act. You cannot administer criminal law upon any other principle. I will read to you a brief statement from a high authority which states that principle clearly and unmistakably; it is from Bishop's Criminal Law, where the rule is thus laid down:

"That if a man intends to do what he is conscious the law, which every one is conclusively presumed to know, forbids, there need not be any other evil intention. It is of no avail to him that he means at the same time an ultimate good."

If a man does what he is conscious the law forbids, that is all the evil intention that is required; he may do it because of his affection for his son, or because of his affection for his family, but that does not excuse him, nor does it change the character of the act. The question is, does he do that which he is conscious the law forbids him to do? If he does he is held responsible by every criminal code in the world. Every man is presumed to know the law, and when he willfully violates the law, no difference what his motives may be for doing it—it may be a motive of affection for his wife or his child or his neighbor—still, if he willfully violates the law, by every criminal code in the world he is held responsible.

To carry this illustration a little further, suppose I find my son engaged in a quarrel with another man; as a father I take his part involuntarily, without stopping to inquire into the cause of the quarrel; I am afraid my son is about to get hurt, seriously hurt, or be killed; and having no object of murder in my own mind, but simply the protection of my son, I place a pistol in his hand, and by that means he kills, without proper provocation, his antagonist. There I had no object to murder any one; I was inspired simply by those feelings which belong to every parent by a desire to

protect my son; but I am guilty under the law, and I cannot escape the responsibility. If this father, from parental considerations or from any other motive, has voluntarily given him aid to go into the rebellion by furnishing him $100 to go into the rebel army, the case is made out, and he cannot take the oath. I ask the Senator from Illinois how he can take the oath? The Senator agrees with me that if he cannot take it truthfully he should not be allowed to take it at all. I say that no man can insist that he can take it truthfully, because he has voluntarily given the $100. That money was aid, and therefore, although it may have been given because he was a father, or from other considerations, he voluntarily gave aid, and he cannot take the oath; and therefore, according to the Senator from Illinois, we should not allow him to take it.

But, Mr. President, the oath goes further than that. He is required to swear that he has not voluntarily given countenance to the rebellion. He need not have given aid; he need not have given money or arms or provisions, for these things are aid; but he must swear furthermore that he has not given countenance to the rebellion, or to persons engaged in armed hostility to the United States. That comes short of material aid; it does not mean aid or comfort within the meaning of the clause of the Constitution or of the act of Congress defining the crime of treason. Countenance may come far short of that, and this man is required to swear that he has not voluntarily given countenance to the rebellion.

Mr. President, I appeal to the honorable Senator from Illinois if this man can truthfully take the oath, can hold up his hand truthfully and swear that he has not voluntarily given countenance to the rebellion? I say he cannot; first, because he gave aid and comfort to his son when that son went to join the rebel army, material aid; and secondly, because, at a time when our Government seemed to be crumbling to pieces, when Cabinet minister after Cabinet minister was deserting the Government, and it seemed to be tottering to its fall, and all the Governments of Europe came to the conclusion that it was about to tumble down from its own inherent weakness, only two days after the Star of the West had been fired upon, after the property of the Government had been seized, the arsenals and the mints had been robbed, the sub-treasuries had been plundered, forts had been seized—at this time he resigned his place in the Cabinet, and said he did it because he could not agree with the President, inasmuch as the President had come to the conclusion that he would not longer allow the public property to be seized by the enemies of the Government. Was this giving countenance to the rebellion? I might submit it to any impartial man. I wonder that the clear and powerful mind of the Senator from Illinois does not at once admit the fact that here is countenance to the rebellion voluntarily given.

I ask you, sir, what could encourage the rebels more at that time? When was it? It was when they were organizing their government at Montgomery, or beginning to do it; it was at the time when a convention had been called to meet in the city of Montgomery; when State after State was preparing to go out; when fort after fort had been seized at Charleston, New Orleans, and Mobile; at a time, too, when our ships had been burnt at Norfolk. At such a time this man leaves the Cabinet, publicly publishes to the world the reason, says that he cannot stay there because Mr. Buchanan has come to the conclusion that he will not order the evacuation of Fort Sumter, and because he has sent a ship-of-war there to reënforce our small garrison. I ask you, Mr. President, if you can conceive an act, short of giving money or arms or provisions, that could afford more direct countenance, within the meaning of the oath, to the rebellion? What could encourage them more than to find that the very Cabinet of the President, his constitutional advisers here in the capital, were deserting him from day to day because they denied his power to prevent South Carolina from seizing the forts and hauling down our flag in dishonor?

Sir, these things did give countenance to the rebellion. We talk about Great Britain having prematurely recognized the rebel government. There was much to excuse Great Britain for her act; there was much to dishearten our own people; we had seen the Government crumbling almost to its fall; we had seen those high in authority, who were sworn to maintain the Constitution and preserve the Union, abandoning the Government in its hour of peril and giving countenance to the rebellion. Sir, this man is required to swear that he has never voluntarily given countenance to it. Can he do it truthfully? If he cannot do it truthfully, then, according to the Senator from Illinois, he should not be admitted upon this floor. Sir, he cannot do it truthfully, and we all know it. Now, Mr. President, take this case altogether, and what is it? It was said by the Senator from Michigan in his speech a few minutes ago that he looked with suspicion upon the whole evidence exculpating Mr. Thomas. I do, too, and I said as much four weeks ago in this body on that subject. It was the son who had gone to the rebel army, who had received the $100, who was swearing for his father's seat in the Senate, and who swore in the same testimony that he did not know what his father's politics were, never had heard him say which side he was on—a thing that was unnatural and improbable, a thing that could not be testified truthfully by any son who lived at the hearthstone of his parents!

But, Mr. President, this act of giving the son $100 to aid him in going into the rebel army is in the same direction with the letter of resignation.

The whole conduct of this man tends to the same point. The case of Colonel STOKES in the House of Representatives has been referred to, both by my colleague on a former occasion and by the Senator from Illinois yesterday. They have said that Colonel STOKES wrote a disloyal letter, and yet he was admitted into the House of Representatives. I ask where is the parallel between this case and that of Colonel STOKES? Colonel STOKES was a Union man, as was conclusively shown, before he wrote that letter; he was a Union man immediately after writing it, and went into the Union Army, and was distinguished for his valor and patriotism. Before the letter ever saw the light he was in the service of his country in the Union Army. Is there any parallel between the cases? Here is a man who writes a disloyal letter, and his whole life afterward is disloyal; there is no palliating circumstance; and we find him more than three years after the letter is written giving his son $100 to go into the rebel army. Every act of his is in the same direction. He was disloyal in the beginning and disloyal in the end.

Then there is his speech at Annapolis. That was slurred over and disposed of in a very summary way by a Senator the other day; but it cannot be disposed of in that way with me. On the 11th of March last, when this man was elected to the Senate, or had just received his nomination, which was equivalent to an election, in the excitement of the moment he spoke the feelings of his heart, and what did he say? Allow me to remark that this report of his speech was not disproved; the man who made the report was before the committee, and swore to its truth, and no person was brought to contradict the fidelity of that report. In that speech he said of Congress:

"That the men now assembled at Washington, before the war occurred, were bent upon dissolving the Union, and they went to war believing it tantamount to its dismemberment."

The very talk of the rebels before the war, through the war, and since the war—that the men who stood by the Union were traitors; that they violated the Constitution because they would not allow the Constitution to be destroyed. That has always been the rebel argument, and we find it in the mouth of this man on the night of his nomination to a seat in this body, on the 11th of March last, and he does not stop there.

"He said they were now bent upon the establishment of a military despotism."

That is not true, but we will let it pass.

"He would go to the Senate to face those men who are now, and always were, traitors to the Union."

My distinguished friend from Illinois should remember that he is here embraced as one of the "traitors" to the Union; and if this individual comes here to face these men whom he denominates traitors it will be by the votes of the men whom he thus stigmatizes. I refer to this speech to show that the rebel *animus* of this man has not changed. It was said yesterday by the Senator from Illinois that the question is, is he loyal now, not was he disloyal six years ago. Sir, that is not the question under the oath. He may be now as loyal as you please and he cannot take the oath.

I refer to this speech to show that his feelings have not changed, that he is to-day, at heart, the same rebel that he was when he resigned his place in Mr. Buchanan's Cabinet because Mr. Buchanan would not order the evacuation of Fort Sumter and surrender South Carolina and the whole South to the rebels. This little speech of his shows that he has not changed, that there has been no repentance, no contrition on his part, that he is not sorry for what he said or for what he did, and in the excitement of his triumph he declares that the Union men of Congress made the war because they wanted to destroy the Union; that they are traitors now, as they have ever been, and that he is coming here to face them. Sir, the vote will show whether he comes here to face them or not.

Mr. President, upon the ground on which the case has been placed by the chairman of the Committee on the Judiciary, that if the applicant cannot take this oath truthfully he ought not to be allowed to take it at all, I say that he ought to be excluded. He cannot swear truthfully that he never voluntarily gave aid to the rebellion; he cannot swear truthfully that he never voluntarily gave countenance to those engaged in armed hostility to the United States; and for that reason he ought not to be received upon this floor.

Mr. STEWART. Mr. President, I do not wish to detain the Senate or to prolong this debate; but I desire to make a single remark. I wish to ask the Senate how this gentleman would appear if he were defending his property from a suit in the South for confiscation? They confiscated in the South the property of men who were loyal to this Government.

Now let us see where he would stand before a rebel court in such a case; or before a rebel congress, if he were applying there for admission to a seat. Suppose he had moved over there, and was elected to their congress, and they had a rule preventing any one who had been faithful to this Government from taking a seat with them. What kind of a plea could he make then? Could he not remind them of the fact that when the war commenced he took his position with Jeff. Davis, with Cobb, with Toombs, and the rest of them; that there was no power in this Government to sustain itself, and so declared in a letter in which he resigned an important office, so as to cast the moral force of his character with them, so as to give his indorsement to the movement they were about to inaugurate! Could he not say, "I associated with your patriotic leaders; I was a friend in the darkest hour of the rebellion of Jefferson Davis; I, too, resigned a high office under the Government of the United States to give aid and countenance to your movement?" Could he not say that after the rebellion had been inaugurated, after he had resigned this high office, he went to Maryland and there associated with rebels; that he gave them his moral support; that he denied any sympathy or aid to the Union men of his State; that he refused even to vote under the Yankee Government; that he refused to take any of their oaths of loyalty; that he refused to recognize

the late United States in any form? Could he not say further, "I did more than that. Being myself past the age to do military duty, I furnished my only son to aid you in gaining your independence; although poor, I gave him $100—all the money I could raise—to send him, my only son, to you to aid you in achieving your independence. Will you, therefore, take from me my property? Was I disloyal to you? Have I not aided you?" Would not the argument be unanswerable?

But it is said by the Senator from Pennsylvania that we must tolerate differences of opinion. Sir, there are some differences of opinion that we cannot tolerate and will not tolerate. We will not tolerate any man in the opinion that this Government has no power to maintain its own existence. We will not tolerate the opinion that the Union ought to be dissolved. We will not tolerate secession. We will not tolerate the opinion that secession is a constitutional right. We fought against this doctrine, and we fought against those who acted upon it. The verdict of the war has established, if it has established any fact, that no such opinion shall exist in this country.

Now, if you can show me that Mr. Thomas entertains only a difference of opinion with us on questions of politics—only a difference of opinion on those subjects where we can tolerate such a difference—we will tolerate it; but if he believes to-day that secession was right, if he believes to-day that he was right in surrendering his great office and giving his influence in favor of that movement, if he believes to-day that he was right in associating with rebels and refusing to aid the Union organization in Maryland, if he believes to-day that he was right in giving his son to the rebellion, it is an opinion that the safety of this Government denies us the power to tolerate. We cannot tolerate a difference of opinion if that different opinion be in favor of treason and rebellion. It has cost too much to suppress the rebellion for us to allow a man to be tolerated in such notions.

It seems to me that this is an exceedingly plain case; I do not wish to multiply words. I am certain that if it were an ordinary criminal case there would be no defense. I have illustrated that once on this floor. It seems to me that if you look at a criminal conspiracy organized for the commission of any other crime, leaving out of view "the late unpleasantness," there could be no difficulty in the case. If we look at it as the commission of any other crime, if we admit that rebellion is a crime, this man would be an accessory before the fact, and so treated by the law everywhere as a principal. He certainly knew what was going to be done; he certainly knew that his son was going into the rebellion; he certainly gave him $100 which was necessary to enable him to go. He knew all this; he gave the money knowingly.

If it was a case of larceny, and he had given the son a horse to go and commit a larceny, or if he had furnished him any other means, even on a pretext that it was from a feeling that he did not wish his son to suffer, he would be convicted before any jury of the country. The only way to get out of it is to say that rebellion is not a crime. Apply these facts to any offense, to any common crime, even that of petty larceny, and there can be no doubt that a person who, knowing that a crime was to be committed, knowing the purpose of the party to be to commit a crime, aided him by giving him $100, would be held guilty; that fact alone would be deemed conclusive in any case as a matter of law, and the court would so instruct. The jury might acquit, but that does not affect the question. The court would so instruct the jury as a matter of law. We are to act as judges of the law, and because a jury in Maryland of his friends might acquit him, or a jury in Massachusetts of his enemies might convict him, neither should influence us. But what, upon this state of facts, would a court be bound to say? We are to determine the law. The court would be bound to say that he was an accessory before the fact, simply and plainly. When it is known what is to be done, when all the facts are known, and the money is given with a deliberate intention and purpose, there is no question of motive left. The law presumes the motive. The law presumes that every man intends the legitimate and necessary consequences of his own acts.

To say that a man who gives $100 to his son to go into the rebellion does not intend that that money should be used for the purposes of the rebellion is to stultify every principle of law, to deny every principle in the administration of justice with which we are familiar. He knew what would be the consequence of his act, and when he aided his son to get to the rebel army it is to be presumed that he intended that he should go there or he would not have done the very thing the necessary and legitimate consequence of which was to secure his getting there.

I hope Senators will reflect upon his whole conduct, and see if it would not have made him a pretty good rebel in the estimation of the rebels before they whitewash him a Union man. I believe that if on this record he were to claim a seat in the rebel Congress he would be successful and would stand before them with a spotless rebel character. He would be hailed as one of the originators of the movement; he would be taken by the hand by Jeff. Davis and the whole crew as one of those who had the manliness in the beginning to pronounce in favor of the right of secession, one of those who had the manliness to stand the persecution of the Yankee Government in Maryland, one of those who would sacrifice his own son to aid the rebellion, and they would give him a high place in the rebel synagogue.

Mr. FOWLER. Mr. President, I shall say but a few words on this occasion; and I would not detain the Senate at all if the name of a citizen of my State had not been dragged into the discussion; and it is to some extent for the vindication of that eminent citizen of my State that I now rise to present the facts in his case.

The question for the Senate to decide on the present occasion is whether the applicant for a seat from Maryland can take the oath prescribed by Congress. The only clause of the oath to which I shall refer is that which requires a man to swear that he has never given aid or countenance to the rebellion. I do not understand the object of the oath to be precisely what it was represented to be by the Senator from Illinois, [Mr. TRUMBULL,] that is, to prevent persons who were in arms at the time it was prescribed from coming into the Congress of the United States. I understand the object of that oath was to prevent disloyal persons from coming into Congress, not only at that time but after the rebellion should have closed. And by "loyalty" I do not mean simply obedience to law; but I understand loyalty to be love, affection, reverence for the Government; and the individual must be directed in his actions by motives of that kind if he is strictly loyal.

Starting from these premises, I shall review briefly the facts of the case of my colleague in the other House, General STOKES, to whom reference has been made. When the rebellion commenced General STOKES was a member of the Thirty-Sixth Congress; and at the very time this applicant left his position as Secretary of the Treasury of the United States Mr. STOKES was in the House of Representatives, acting with the loyal portion of that body for the preservation and maintenance of the Government of the United States. His term of office expired on the 4th of March, 1861. On the 7th of March, 1861, he met his fellow-citizens in the city of Nashville, and addressed them plainly, boldly, bravely, manfully, in defense of the country, notwithstanding the fact that a storm of rebellion and fury was then sweeping over that portion of the country, which, in the end, carried down before it every leading man in middle and western Tennessee except General STOKES himself.

He continued to defend the Government until near the period of the date of his letter which has been read, the 10th of May, 1861. During that time, all through that region, amid a fierce population, there was a storm of rage and violence sweeping over it, which, as I have said, carried away almost every leading man, and, indeed, I may say every one there except STOKES himself. And it would have swept away as brave and bold men even as the Senator from Illinois himself; and I have no doubt it did. For a moment, for two days only, Mr. STOKES, enthusiastic as you all know him to be, became unmanned; I admit he lost his manhood for a short time, and wrote not only an improper but a very bad letter, one which he will regret as long as he lives. But, sir, in two days he recovered his manhood; he acknowledged his error; he did that which few men are capable of doing, and which very few through all that region of country have ever done.

I wish to make another remark in reference to this letter, which I condemn, and ever have condemned, just as earnestly as does that gentleman himself at the present time, and as earnestly as the Senator from Illinois or any other Senator. I have always condemned the letter, and always regretted, for the sake of General STOKES himself, that he permitted himself to be thus unmanned even for a time.

It was written under the circumstances which I have stated, amid a storm of revolutionary violence. A storm of burning rage against the Government of the United States was sweeping over the southern country, the like of which was never witnessed, and which no one here will witness, unless it is his misfortune to be placed in the midst of a rebellion of that kind and that magnitude. I confess that I had no conception of what an infuriated people were capable of until I passed through that stormy time. General STOKES was a marked man. It was understood by the rebels that he was for defending the Union and that he was a dangerous man to them; that he must be removed out of the way. He was visited by a rebel with a message from the Mr. Duncan to whom the letter was addressed, warning him that he must give them some evidence that he was favorable to the South and against its invasion from the North, or that he would be put out of the way. Under these circumstances, for a few days only, General STOKES permitted himself to lose his manhood; but within two days he recovered it and went on defending the cause of the Union throughout Tennessee, and continued to defend it against the ablest men of the State up to the time the vote was taken on secession, on the 8th of June, 1861. After that he remained partially quiescent, although he was driven even during this period from his home and forced to seek the protection of the woods and find refuge in hiding-places until General Buell arrived in the city of Nashville, when he promptly hastened to assist the Government, offered his services, raised a regiment, and on many a battle-field showed his valor in defense of the country; and from the time that letter was written to this hour no individual can point to a single instance of a disloyal word, a disloyal act, or a disloyal sentiment on his part. I believe myself, from what I know of him, that from the time he wrote this letter and throughout the whole period of the war he loved and venerated the Government of the United States as much as any one of her children, or the bravest, the truest, the most faithful does now. I know his earnest, truthful, warm-hearted nature. Sometimes, in the flush of his sentiments and under peculiar circumstances, he may have done improper acts, as who has not?

I have stated the facts of that case. Now, what is there in this form which a parallel can be drawn between STOKES and Thomas? This gentleman was a high officer in the Government of the United States. What was his course of conduct? I do not condemn him so much for the letter he wrote or for the $100 he gave to his son as fort he fact that the testimony shows that he had no position, or but a silent one, during the whole war, the fact

that you can place him upon no side of the great issue. On the 12th of January, 1861, when the war was flagrant, when hostile acts had been perpetrated against the Government of the United States, when some of the States had already consummated the act of separation from the Union, so far as their own action could effect it, this man withdrew from the Cabinet at a time when other conspirators withdrew from it, because he could not join with the Administration in its feeble and almost cowardly act of reinforcing Fort Sumter by sending there the Star of the West with provisions and men. He resigned because he could not agree with Mr. Buchanan in the servile, disgraceful, and cowardly course even that he pursued—a course that would have disgraced the humblest boy who waits on this House if he had proposed measures so insignificant and so trivial, but yet so well calculated to destroy the country. I can tell you, Mr. President, that the feeble efforts of this Government at that time were in a great measure the cause of the secession of many of the southern States. More than to any other one thing I can trace the secession of the State of Tennessee to the fact that the people heard no response here from the Administration, or even from the Congress of the United States. There was no word uttered, no act done, to show that there was going to be a bold, brave, manful, patriotic defense of the Government and the Union.

I remember well when the different members left the Cabinet and the effect which it produced. I remember the influence that Mr. Thomas's resignation produced in my region of the country. It caused men who had before been firm and steadfast for the Government to tremble and to leave the positions they had occupied. They believed that all was gone; that the dissolution of the Union was already consummated, and they submitted to what seemed to be inevitable.

But that is not all; this gentleman retires to his farm; he remains tranquil amid one of the greatest convulsions that ever shook this earth. Not only does he remain tranquil, but you cannot distinctly trace his action in any manner except that he seems to have separated entirely from all intercourse and association with his neighbors and former companions who were friendly to the Government of the United States.

One other act of his I will refer to. He had a son who had abstained from going into the army for a long time until the war had spread over the whole country. He then proposed to go into the army of the enemies of his country, and his father knew his intentions. Now, recollect, sir, the act of giving that son money under those circumstances is no act of paternal affection; it is an act committed by an individual giving favor, aid, facilities to his own son, who is going to commit a crime against his country. There is no father who has proper regard for the feelings and interests of his son who would give him aid and assistance in perpetrating a great crime. I do not consider that it requires the stern patriotism of the elder Brutus to abstain from contributing to the wants or necessities of a son who is about to join the enemies of his country and fight against his Government. To do that is not a paternal act, is not an act of affection. On such a subject my decision would be this: that if, knowing the act the son was about to do, and knowing that he was about to go from home with the purpose of joining the enemy, a man giving him aid and comfort to accomplish that purpose must be regarded as committed to the act itself. He undoubtedly did aid his son to go. Then, when the son came back was he not received at home? Certainly, and he remains in his father's house at the present time, as far as we know, without reproach or censure.

Mr. President, let me tell you an occurrence which took place in my own State. There was an aged and patriotic father there who had two sons. One of them went into the rebel army and the other joined the Union Army. They both returned home at the end of the war. The old gentleman said, "Boys, I am very glad you have come back, I am glad to see you;" and then, turning to the one who had fought for his country, he said to him, "My son, you obeyed the wishes of your father; you served the cause of your country; you fought for it; and there is always a place beneath my roof for you;" and then, turning to the other, he said, "You disobeyed my orders; you disobeyed my wishes; you were the enemy of my country and of me; there is no place for you in this house." That was the language of a patriot, and the separation then effected continues to the present time. I do think that at least this father was a patriotic man, and that he had kind, paternal affections also.

Now, sir, is there any similarity between the case of General STOKES and the one before the Senate? Not one particle. I then return to the point with which I started, that this oath was prescribed by Congress for the purpose of securing loyalty in this and the other House; that this individual did give aid and encouragement to rebellion by his resignation of his position in the Cabinet, and more by his silence during the war, being a prominent man, a man of great talents and great influence, who had held high position. He chose to stand apart and witness this wonderful convulsion with perfect tranquillity and with as much calmness and disinterestedness as a naturalist takes up the bodies of insects and pins them to his paper. He seems to have had no other interest in it than that of a placid spectator. There is perhaps no character throughout the country more censurable than one who pretended to stand neutral in the great contest; as I find the condition of such a man better described by another, I shall simply read a description which I find in the third canto of Dante, who has sounded all the depths of human good and human ill:

"The groans which thou hast heard
Proceed from those who, when on earth they were,
Nor praise deserved, nor infamy incurred.
Here with those caitiff angels they abide
Who stood aloof in Heaven—to God untrue,
Yet wanting courage with his foes to side.
Heaven drove them forth, its beauty not to stain:
And Hell refuses to receive them too;
From them no glory could the damned obtain."

Mr. DRAKE. Mr. President, I do not propose to add anything in the way of arguments or assignment of reasons to those which I presented when this subject was up before, but to suggest one point which has not yet been noticed. The honorable Senator from Illinois, [Mr. TRUMBULL,] in his remarks yesterday, referred to the action of the House of Representatives in the case of Mr. STOKES, concerning which the Senator from Tennessee has just spoken. Mr. STOKES, it appeared, early in the rebellion, wrote a letter of a suspicious character; and yet the House of Representatives admitted him to his seat there. Now, I wish to point the attention of the Senator from Illinois and of the Senate to a much later act on the part of the House of Representatives than that to which he referred in the case of Mr. STOKES; I refer to its action yesterday in the case of John Young Brown, who, when elected by the people of a congressional district in Kentucky to the House of Representatives, was objected to on account of disloyalty in 1861, which disloyalty consisted in using these words then:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern Army should attempt to cross our borders we will resist it unto the death, and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State."

Yesterday the House of Representatives, after full discussion, adopted this resolution:

"*Resolved*, That John Young Brown having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative."

Now, sir, in referring to the precedent which the honorable Senator from Illinois presented on the part of the House of Representatives, I counteract it with this last expression of the sentiment of that House, and I ask Senators in what essential particular consists the difference between the acts manifesting disloyalty on the part of Mr. Thomas and those of John Young Brown in consequence of which the House of Representatives have refused to allow him to take the oath which Mr. Thomas, of Maryland, has to take if he is admitted here?

Mr. TIPTON. Mr. President, I propose to follow the example of several Senators who have believed it proper that they should add another remark to what they had previously uttered on this subject. I regret that I feel impelled at this late hour, and at this point in this protracted debate, to say anything further; and but for the fact that others have said much, I certainly should now remain silent. I have already defined my position on this question in the remarks which I submitted to the Senate on a former occasion; but I deem it proper to say a few words now in view of the subsequent discussion which has occurred.

I take it for granted that the friends of the Government, the true loyal men of this country, who have always been true, are just as honest and as true to-day as they have ever been. I hold that there is enough in this case to justify an honest difference of opinion and action, and yet some Senators seem to come to the conclusion, as though they desire to prejudge this case in regard to every man who shall not be able to see it and understand it just as they do, that there is no possibility of an honest Senator coming to any other conclusion than that to which they have come themselves.

When this case was before the Senate on a former occasion I argued it from the testimony. I believed the testimony to be true. I relied upon the unimpeached testimony reported by the committee, as I should have done in a court of justice. I supposed that it was to be taken as true until it was attacked by testimony equally worthy of credit. I undertook on that occasion to show by the testimony that this father never consented for one single moment that his son should enter the rebel service. I undertook to show by the testimony that in all his conversations to his son he protested against it. The evidence is that he protested against his son's going into the rebel service; he assigned reasons for it which, perhaps, he considered sufficiently weighty. I would have considered that his opposition was better sustained if some additional reasons which I would have volunteered had also backed up his advice to that son; but nevertheless the testimony is that he discouraged him. Not only that, but it is in the testimony that he discouraged all young men whenever the question was raised from entering the rebel service. It is in testimony that he persisted in discouraging his son from going into the rebel army and that he never consented to aid him in any way for the purpose of putting him in a position to go into the rebel army; but that finally, when the son told him that nothing he could say or do would induce him to remain at home, he then yielded so far as, under a protest that he was not willing to aid that cause or to aid him in entering the rebel army, to give him $100 rather than that he should suffer.

Now, sir, I ask Senators to hear one proposition, and then they may relapse into conversation, if they please, and I shall not complain. I wish simply to put this one proposition to Senators: there may be a giving that is not in spirit a giving of aid and comfort to the rebellion. If Senator Thomas knew that the streams were up, and that such was the condition of the fords over which that son was about to undertake to pass, that in his heart he felt convinced that his son would be drowned if he undertook to make a passage of those streams for the purpose of going in the direction of the rebel army; and if under those circumstances he had given him a horse which would carry him over those streams, with the distinct under-

standing that he should turn the horse loose after he crossed the streams; and if, believing in his heart that it was necessary for the son to have that aid or else he would drown in his effort to cross the stream—I say, under those circumstances, he might have given him a horse to carry him over the stream, believing, as he did, that that was the only way in which his life could be preserved, and then he would not have been guilty before God and man of undertaking to give aid or comfort to the enemies of his country.

And, sir, if I stood in his place, with, I trust, as much of patriotic emotion as any other man here or elsewhere possesses in behalf of this country, and my son, in utter disregard of my wishes, would go, and if I believed in my heart that under the circumstances he would be drowned, I would say to him, "Take the best horse I have, the best swimmer I have, cross the stream, save your life, turn him out and let him return back to me again." That would have been giving aid; but aid to what? Aid to a recreant child who was determined to seek the enemies of his country; aid to him so far as to save his life under circumstances in which I felt he must lose it if he did not receive the aid. Suppose he takes the horse and crosses the stream and then turns the horse loose and he returns to me again. I would have the consolation of believing that whatever fate might thereafter befall my child, I should not be charged with having been so infernally hard-hearted as to tell him to go with death staring him in the face when he started, and not have saved the life of my child as long as I could. I say that if Senator Thomas, under the circumstances, had given his son the aid of a horse to cross the swollen streams, with a declaration on his part that he should take him and use him, though he might turn him back again that the father might receive him, he would have been justified before God and man for having done an act, not to aid the enemies of his country, but to preserve the life of his child under circumstances in which he felt that the boy recklessly and foolishly was about to peril his life. It is a false assumption, therefore, that the giving of aid to a person under all circumstances necessarily implies a desire and a corrupt intent to give assistance to the enemies of the country.

Mr. FOWLER. Would the Senator pronounce that an act of loyalty to the Government of the United States?

Mr. TIPTON. I should term it an act performed by a man thoroughly loyal.

Mr. FOWLER. Would the act in itself be a loyal act?

Mr. TIPTON. The act itself would be a loyal act if there was no intent whatever that any use should be made other than this: that I should be the instrument of preserving the life of my son until such time as he had crossed the stream where he was determined to cross. The mere giving, under those circumstances, would not be aid to the enemies of my country. I have no sympathy with that mawkish sentiment that talks about laying your hands upon your son and restraining him by physical force.

Mr. FOWLER. I wish to know whether I understand the Senator correctly. Do I understand him to state that such an act would be a loyal act, an act of loyalty to the Government of the United States? Suppose the son, instead of going into the armies of the confederacy, had been going to destroy the life of the President of the United States, would the Senator still say "take the $100 and go, and do your act although it is contrary to law?"

Mr. TIPTON. Mr. President, I asserted before, and I assert again, that as a parent, I being opposed to the rebellion, (and supposing that Mr. Thomas might have been opposed to the rebellion,) under those circumstances, when I performed an act of that kind, believing that if I did not perform it for my son, he would immediately lose his life, it was the act of a loyal man, and no such thing can be drawn from the act as an intent on my part to aid him either to strike the President of the United States or to strike those who are engaged in defending the country in the South or anywhere else.

Mr. FOWLER. I know that the Senator is a perfectly patriotic and loyal man, no man in this House more so; but suppose that the son leaves his father with the intention of taking the life of the President of the United States, suppose his object was to destroy Mr. Lincoln's life, and the father, although he dissuades him—I will admit the dissuasion—still, knowing what his object is gives him the money, is that act loyal or disloyal to the Government of the United States? Is that act morally right in itself or morally wrong? Is it at all excusable? Is not the act of the father a more terrible crime than the act of the son?

Mr. TIPTON. The cases are not parallel. In the one case, the father would have the distinct understanding that the son intended to commit murder, the object of his murder would be specified, pointed out; and under those circumstances the Senator asks if that is a parallel case with that in which he says he will join the southern confederacy. If, perhaps, he had pointed out to his father a Union recruit that had gone from that neighborhood, and told his father "I will follow him for the purpose of taking his life;" if he had specified the man and the crime that he intended to commit, it would be a parallel case with the one which the Senator cites when he refers to a conspiracy to assassinate the President of the United States. But he tells his father that he is about to start. He had no specified object before him. The father tells him, "You will wander about; you will not be able to reach the armies of the South; where are they? In what capacity will you enter them?" The father tells him that if he intends to make an effort to get to them he cannot get through the lines; there is no certainty at all upon the subject; and therefore he says, "rather than that you should suffer by hunger, I will administer to your wants, although I protest, and have always protested against your giving aid or comfort to the enemies of your country." The cases are not parallel by any means.

Mr. FOWLER. With the permission of the Senator from Nebraska I wish to ask him another question. I know his kindness of heart and his patriotism, but I will ask him this question: As the rebellion was contrary to the laws of the United States, and I will say contrary also to the laws of human nature and of humanity, I ask him if every man who engaged in the rebellion was not guilty, morally and legally, of the crime of murder, and if the individual who left home for the purpose of engaging in this unlawful rebellion did not participate in the crime of murder, and is not quite as guilty as if he had had in view when he started the specific purpose of killing one single man?

Mr. TIPTON. The Senator from Maryland looks upon this just in the light in which the Senator from Tennessee would look upon it. That son undertook a mission in which he told him he did not believe he could succeed; that he did not believe he could get through the lines; and that father knew enough of human nature to understand that when the son came into suffering, and when he met with want, if he was not utterly destroyed by disease contracted in his peregrinations, there would be a probability of his repentance, and his inability to get through the lines might cause his return again. Therefore, under these circumstances, he might be innocent in giving him this amount or any other amount, not expecting him to get through and not desiring him to get through.

Mr. CONNESS. I rise to ask the honorable Senator whether he will not give way to a motion to adjourn at this time, or at least to go into executive session, and continue his remarks to-morrow?

Mr. TIPTON. I shall not consume long, and I prefer to continue at this time. I have a word to say in regard to the parallel which has been drawn between the case of Senator PATTERSON, of Tennessee, and the case of the Senator from Maryland now applying for admission. I think I can see a difference between the cases, and the difference is not much in favor of the Senator from Tennessee. The Senator from Tennessee occupied and held, as I understand, the position of judge under the southern confederacy, and now I want to know what that confederacy was in its constitution? The confederacy in its constitution was lifeless; it had no power; it was inert; it was on paper, without anything to give it efficacy and force; but when its offices were filled, when its judges were appointed, then the confederacy was in working order. A Senator comes into this Chamber who has been an officer of that confederacy, who took the oath it required, who swore before God to sustain that confederacy, who administered the law under that confederacy. When he comes here what is the result? The first effort is to modify the test-oath in order to suit an ex-officer of the confederacy, but that failing in the House of Representatives, it is considered by the Senate that if the gentleman himself is conscious of having committed no wrong, if he is conscious of not having committed perjury in holding office under the confederacy, he being a good Union man, a loyal Union Republican, he shall have the privilege of taking the oath in the Senate, and he is allowed to do so and take his seat as a Senator from Tennessee. The case to-day is that of a man who never held an office under the confederacy, who never swore to sustain the confederacy, who never gave aid and comfort to sustain the confederacy, as even the Senator from Tennessee did; and admitting the good intentions and the pure motives of the Senator from Tennessee during all the time that he occupied a judicial position in the State of Tennessee, I cannot see how we can be consistent in advocating the entrance of the one into this Hall and rejecting the other who never took an oath to sustain the confederacy, and who never was a judicial officer of the confederacy. I propose, therefore, to leave this question to be decided between the Senator and his conscience, just as you left the question before my entrance into this Hall to be decided between the Senator from Tennessee and his conscience and his God when you administered the oath to him at the desk. I feel that there is a necessity for consistency, and when we know with how much difficulty all these cases are hedged in, and will continue to be hedged in, and when we know that this country will be organized and must be organized, where there is a case of this kind, where there is a presumption that humanity might have controlled the giving of the money, if I have a doubt on the subject, I will give it to the applicant for a seat and permit him, as you have permitted other Senators here, to take the oath, if in his conscience he feels that he can take it rightfully and truthfully before God and man. When the report of the committee came in here, when I understood that the Committee on the Judiciary had decided that there was nothing in the case to exclude the Senator, unless it was in the testimony presented, I felt that I was precluded from going outside of the case as they presented it. I thought it would be pettifogging if I went and took all there was preceding and all that there was collateral and all that there was following. I thought that I ought to stick to the testimony and to abide by the testimony. I supposed there was no privilege for taking the whole field of discussion. Other Senators have, however, taken it. I shall not enter into it at this late hour; but before I cast my vote on this subject I feel that if I were, with the views I entertain from this testimony, to cast that vote against the admission of the applicant, I would do it in violation of those principles that shall ever control me in regard to the discharge of my duty toward my country, toward my sons, and toward this body of which I am a member.

Mr. FOWLER. As the Senator from Nebraska did not designate the Senator from Ten-

nessee to whom he referred, I should like to know before he sits down if he alluded to me.

Mr. TIPTON. Of course I made no reference to the Senator.

Mr. COLE obtained the floor.

Mr. ANTHONY. It is manifest this vote cannot be taken to-day, and I ask the Senator from California to yield to a motion to adjourn.

Mr. WILSON. Why can we not get a vote?

Mr. ANTHONY. Because several Senators are going to address the Senate.

Mr. POMEROY. There is some little executive business, and if the Senator from California yields the floor I should like to make a motion for an executive session.

Mr. COLE. I yield to that motion..

Mr. POMEROY. I move, then——

The PRESIDENT *pro tempore*. There is a motion already pending. The Senator from Rhode Island moves that the Senate adjourn.

Mr. ANTHONY. I withdraw the motion.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business.

Mr. JOHNSON. I rise merely for the purpose of saying that I hope the Senate will agree to vote upon this question on Monday. There are only one or two speeches to be made, I believe, and I feel it my duty, if the Senate will permit me, to close the debate. I am very anxious to close it, was anxious to close it today, and I shall be especially anxious to close it on Monday, because of engagements in the Supreme Court of the United States which I am obliged to attend to. I hope, therefore, the Senate will come together on Monday with a determination to bring the discussion to a close.

EXECUTIVE SESSION.

The motion of Mr. POMEROY was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 14, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

GENERALS GRANT AND HANCOCK.

Mr. WOOD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the General of the Army be requested to transmit to this House any correspondence, by telegraph or otherwise, between himself and Major General Hancock relating to the removal by the latter of councilmen in the city of New Orleans.

Mr. WOOD moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOLDIERS' AND SAILORS' ORPHAN HOME.

Mr. SPALDING. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Appropriations be directed to inquire into the expediency of making an appropriation for the next fiscal year of $10,000, or some other sum, for the benefit of the National Soldiers' and Sailors' Orphan Home in the city of Washington, and that said committee have leave to report by bill or otherwise.

Mr. HARDING. I hope that resolution will be referred to the Committee on Military Affairs.

Mr. SPALDING. I hope the gentleman will allow the matter to go to the Committee on Appropriations.

Mr. HARDING. I am not opposed to it; but I desire to have it considered by the Committee on Military Affairs. I move to amend the resolution so as to refer the matter to that committee.

Mr. SPALDING. I withdraw the resolution.

NEW JUDICIAL CIRCUIT IN ILLINOIS.

Mr. LOGAN, by unanimous consent, introduced a bill (H. R. No. 727) for an act to establish a new judicial circuit in the State of Illinois, to be held at Galesburg; which was read a first and second time, and referred to the Committee on the Judiciary.

TAXATION OF UNITED STATES BONDS.

Mr. LOGAN also, by unanimous consent, introduced a joint resolution (H. R. No. 204) providing for the taxation of United States bonds.

The joint resolution was read. It provides that from and after the 1st day of June, 1868, all United States bonds shall pay an internal tax of two per cent. per annum, to be collected by deducting from the coupons of said bonds at the rate of one per cent. on half of said tax semi-annually when said coupons are presented at the Treasury of the United States for payment.

The joint resolution was read a first and second time, and referred to the Committee of Ways and Means.

ROYALTY FOR INVENTIONS.

Mr. LOGAN. I ask unanimous consent to introduce for reference a bill prohibiting officers in the United States Government from receiving pay, royalty, or allowance on any invention or patent while in said service.

Mr. CHANLER. I object.

WASHINGTON, ETC., INDIAN WAR CLAIMS.

Mr. FLANDERS, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of the Interior be requested to inform this House the amount of Indian spoliation claims now on file in his Department, growing out of the Indian war of 1855 and 1856, in Oregon and Washington Territory.

Mr. CAVANAUGH. I ask the gentleman to modify his resolution, so as to include a list of the Indian claims for Montana.

Mr. FLANDERS. Very well; I will modify my resolution accordingly.

The resolution, as modified, was adopted.

BUREAU OF STEAM ENGINEERING.

Mr. VAN HORN, of Missouri, by unanimous consent, introduced a bill (H. R. No. 728) relating to the bureau of steam engineering in the Navy Department; which was read a first and second time, and referred to the Committee on Naval Affairs.

WHISKY FRAUDS IN NEW ORLEANS.

Mr. COVODE, by unanimous consent, presented the following communication; which was ordered to be printed in the Globe, and referred to the Committee of Ways and Means:

NEW ORLEANS, *January* 29, 1868.

SIR: I take the liberty of inclosing to you a copy of a communication forwarded by me to the Secretary of the Treasury on the 27th instant. It explains itself as far as it goes; but when I wrote it I had no idea of the extent of the frauds in whisky. Only last night did a whisky man explain them to me. I give you a copy of his estimate, and as you are a practical man you will at once understand that it is a low estimate, perhaps not one half enough, as there are stills here capable of running fifty to sixty barrels daily.

30 distilleries licensed.
15 barrels daily on an average, and a low one.

450 barrels per day.
40 gallons per barrel.

18,000 gallons per day.
250 days running per annum, allowing much, too much, lost time.

4,500,000 gallons.
$2 tax per gallon.

$9,000,000 tax per annum, and only twenty-three and one half barrels returned from 1st May to 1st November, 1867.

I have no doubt that a careful investigation by Congress would save to the Government not less than twelve million dollars annually in cotton, whisky, and bonded warehouses in Louisiana. Can a committee employ their time more profitably?

I would be pleased to hear from you at your convenience in relation to this matter.

I am, sir, very respectfully, your obedient servant,
MILES N. CARPENTER.

Hon. JOHN COVODE, M. C.

Copy of a statement made to Hon. H. McCulloch, Secretary of the Treasury, on the 27th January, 1868, of the frauds committed by Government officials and the "whisky ring" in New Orleans, Louisiana.

On the 2d day of November, 1867, at the instigation and urgent solicitation of Captain William M. Robinson, agent for Dr. James Ready, assessor of internal revenue, first district, Louisiana, I gave to Dr. James Ready and his agent, Captain William M. Robinson, the following information:

1. That every license distillery in this district was running under what was known as the rules of the "whisky ring."

2. That no license was granted to persons who did not belong to this "ring."

3. That owners of distilleries, in order to join this "ring" and get license, had to agree to the following terms, namely, to pay $1,000 monthly to the collector of internal revenue; to pay monthly $300 to the assessor of internal revenue; to place in a bonded warehouse one out of every fifteen barrels of spirits distilled, and to pay no tax on the other fourteen barrels; brands and papers sufficient for them being furnished on one dollar a barrel being paid to the inspector.

4. That every gallon of spirits manufactured in this district was contraband or had not paid the revenue tax.

5. That on the seizures being made at once and simultaneous I would show how the spirits was pumped out of the receiving tub, and also show how the barrels were branded without troubling an assessor, collector, or inspector.

6. That the books of the collector, assessor, and inspector would show how many gallons had been returned and paid the tax since the 1st of May, 1867, to the 1st of November, 1867.

This statement was deemed ample by Dr. Ready, who appeared astonished at such rascality being perpetrated under his very nose. He said he was well aware that frauds were being committed, but could not tell how they were done. The above facts were subsequently sworn to by Mr. J. W. Elder, in presence of Dr. Ready, and more could have been proven, if necessary. (See accompanying paper marked "A.")

Dr. Ready promised to have seventy-five or one hundred and fifty men if required to seize all the distilleries, rectifying establishments, and spirits in the city simultaneous and at once. After waiting a day or two Dr. Ready said he could not get men enough to seize all at once, and proposed seizing some of the largest on the 15th November, 1867. Between the 2d of November and the 15th November a few seizures had been made. On the 15th November, 1867, he did not comply with his promises in any way. Seizures were made in such a manner as to alarm the members of the "ring," who had time to destroy the evidence at each of the distilleries and rectifying establishments of the manner by which the frauds were perpetrated. Since that time some of them that were seized (as per paper marked "B") were released without a trial and are now running as usual.

Dr. Ready has in no instance complied with his promise. He has asserted that he was offered a bribe of $25,000 to resign but that he refused it, since which time he has discontinued ordering the seizures of distilleries and rectifying establishments, and appears to make light of the information which he once thought so important and sought so eagerly.

The following is a list of the property liable to seizure under the information given by me:

25 licensed distilleries, valued at $300 each	$75,000
25 rectifying establishments, valued at $300 each	75,000
10,000 barrels of spirits, valued at $80 each	800,000
25 bonds for license of distilleries (forfeited) $20,000	500,000
Total	$1,450,000

Verbal and written notices have repeatedly been given to Dr. Ready by me since the 2d of November, 1867, of the violation of the internal revenue laws of the United States, and also to Captain William M. Robinson, inspector of internal revenue, who made a few seizures of spirits as per accompanying paper marked "C," a portion of which, namely, one hundred and sixty barrels and fourteen half-barrels of whisky, has been returned to Mr. Alonzo Clarke, the claimant, on the grounds that his papers were all right, although in giving the information and evidence to Dr. Ready and Captain William M. Robinson it was distinctly explained how papers were fraudulently obtained, an explanation of which would be too lengthy for this statement.

The names of several witnesses to confirm Mr. J. W. Elder's testimony were furnished to Dr. Ready. These gentlemen did not wish to proffer and voluntarily come forward to give evidence but would and will, on the stand in court or before a properly authorized committee, on being regularly subpœnaed, testify to the facts as stated by Mr. J. W. Elder. Had the seizures been made simultaneous and at once, and information not been given to the distillers and rectifyers, the evidence at each distillery or rectifying establishment of the manner in which the frauds were perpetrated would have been convincing proof of itself without any additional corroborating testimony.

Dr. Ready has repeatedly said that he had sufficient proofs in his office of those frauds; and such must necessarily be the case, as only on twenty-three and a half barrels of spirits has the tax been paid from the 1st of May to the 1st of November, 1867.

I was induced and influenced to engage in this matter by the agents of the Government, and in no instance have they fulfilled their promises to me.

Instead of being assisted by the assessors and collectors of internal revenue in this city in exposing the frauds perpetrated against the Government, I have been abused, traduced, and in one instance, on the 9th day of January, 1868, at the custom-house, while engaged in this business, I was attacked and beaten by one of General Steadman's deputies, a man whom I never knew, nor whose name I had

ever mentioned, until he came behind me and struck me, without saying a word until he did it.

To you, sir, I make this statement, hoping that you will have an examination made and have justice done the Government. I was innocently led into this matter, and hope that it will be thoroughly ventilated.

There is not an official in this district connected with the internal revenue department that cannot vouch, if they will, for those frauds being committed.

Efforts have been, and are now being, made to throw discredit on the evidence on which this information was based; and, also, endeavors are made to convey an idea to the world that it is a black-mailing operation.

In reply to the first I would say that the returns of distilled spirits from the 1st of May until the 1st of November, 1867, of only twenty-three barrels and a half on which the tax had been paid is a sufficient answer, together with the facts of the evidence at each distillery and rectifying establishment, and that whisky is being daily sold here at from one dollar and twenty-five cents to two dollars per gallon, on which, according to law, two dollars a gallon tax should be paid. In reply to the black-mailing charge, the publicity given by me, both here and in Washington city, as well as all over the country, will disprove such a charge. From the 2d of November until to-day I have endeavored to enlist as many honest men in exposing these frauds as I could.

On being induced to engage in this matter, almost against my will, I was well aware of the difficulties I would have to surmount, arraying myself against distinguished officials and any amount of money that would be furnished by the "whisky ring."

I learn from officials that if the one thousand barrels of spirits were seized none could be libeled or confiscated unless the twenty-three and a half barrels on which the tax was paid could be designated; this would be an impossibility when all are marked alike, as you will at once perceive; and I imagine such would not be the ruling of the department at Washington, and it only shows how far the officials will go to protect their protegés of the "whisky ring."

One fact more in reply to the black-mailing, which must disprove that charge, is, that Dr. Ready, assessor of internal revenue, promised me one half of the proceeds of what would be confiscated for my information and the evidence to sustain it, and that reward I expect from the proceeds of any distillery, rectifying establishment, or spirits that is or may be condemned since the 2d day of November, 1867.

On the 24th of January I offered to show Inspector Robinson a distillery which still retained all the evidence of how the law was violated, but he refused to seize it unless I would make the information and submit the proofs in writing. This I refused, fearing that the information would be conveyed to the proprietor and the evidences be destroyed; but I offered to go with him, Dr. Ready, Mr. John J. Anderson, special Treasury agent, or any one they would select, and other witnesses, and show evidences of fraud at the distillery.

In the trial of these cases it is especially important that the Government should be represented by a special solicitor of the Treasury Department, to "aid" the United States district attorney, and it is important that no case should be tried until all the seizures are made. I cannot urge this too strongly on your attention, as the officials and their protegés of the "whisky ring" will no doubt resort to every means to defeat the ends of justice. In addition to the testimony alluded to, I have in my possession a copy of an affidavit proving that money collected for a license of a distillery, namely, $1,000, was placed in the hands of General J. B. Steadman, collector of internal revenue, first district, Louisiana, before the license would be granted.

I trust, sir, that you will take such steps in the prosecution of this matter as will insure justice to the department of the Government over which you preside.

Great care should be used in the selecting of the special solicitor to "aid" the United States district attorney.

Hoping that you will take immediate and energetic action on the subject contained herein, I have the honor to be, sir,

Very respectfully, your obedient servant,

MILES N. CARPENTER.

A.

Copy of John W. Elder's Affidavit, New Orleans, November 14, 1867.

John W. Elder, being duly sworn, states as follows: That I am a member of what is called the "Whisky Ring;" that the amount required to be paid to, namely, $1,000, on entering this association, was paid by my partner, Mr. Peale, to Mr. Irwin, deputy collector of the first district of Louisiana, in the month of July, 1867; that after said $1,000 was paid I was further required to pay $1,000 monthly thereafter, with the privilege of running my distillery upon the further condition of my turning over one barrel out of every fifteen to be placed in bond.

I further state that Mr. Carnel, assistant assessor of my division, was to have $300 a month in addition to the amount paid by me monthly to the "Whisky Ring." Mr. Carnel further stated that $300 was the least amount that any distiller in his division paid him; he further stated that Mr. Lusse, a distiller at No. 88 Commerce street, paid him $150 a month when he was not running; he further stated that Mr. Crooks paid him $300 a month.

I refused to pay the amount, to wit, $300, claimed by Mr. Carnel, whereupon he afterwards informed me that I could not run the still without paying the tax on every gallon manufactured by me, stating that if I could not pay him I should pay the Government; that my distillery was the only one that had ever beat him.

I further state that I had to pay Mr. Boland, United States inspector, one dollar for every barrel branded by him, which amount was paid by my clerk, Mr. Cotton, to Mr. Boland. And I further state that this is the plan upon which all the distilleries work in this district that pay their $1,000 into the "Whisky Ring;" that I have conversed with a great many of them and they all state that this is the plan upon which they work, never paying any tax to the Government on the whisky manufactured by them. Most all of the distillers have rectifying establishments near by, so as to get their whisky from the still to these rectifying establishments, which is done by means of false pipes put down in the receiving cisterns, with a pump and hose attached thereto; in this way they can run the whisky into these rectifying establishments without much trouble.

I further state that a three hundred gallon still will make from eight to ten barrels of spirits in twenty-four hours, and I do not think that any smaller than an eight barrel still can pay the $1,000 required to be paid by this "Whisky Ring" and make any money and pay no tax. In fact, I do not know of any small stills that have license.

I further state that this "Ring Whisky" can be identified by the rectifier's brand, which is in all cases placed on the head of each barrel rectified by the rectifiers. There is no tax paid on whisky manufactured and rectified in this city. J. W. ELDER.

Sworn to and subscribed before me, this 14th of November, 1867. JAMES READY, *Assessor.*

B.

List of Distilleries and Rectifying Establishments seized, as published by Dr. James Ready, Assessor First District of Louisiana.

Distillery, No. 198 New Levee street, licensed in name of Joseph Marristany.

Distillery, No. 3 Fouché street, licensed in name of J. L. Maillot.

Distillery, No. 98 Commerce street, licensed in name of Casper Lusse.

Distillery, No. 37 Thalia street, licensed in name of John Henderson.

Distillery, No. 35 Commerce street, licensed in name of Pat. Hannon.

Distillery, No. 266 New Levee street, licensed in name of John Myers.

Distillery, Nos. 159, 161, and 163 Tchoupitoulas street, licensed in name of Peter Heft.

Distillery, No. 8 Delord street, licensed in name of George Wiset.

Rectifying establishment, No. 22 New Levee street, licensed in name of Henry Lusse.

Rectifying establishment, No. 178 New Levee street, licensed in name of Jacinto Gill.

Rectifying establishments, Nos. 159, 161, and 163 Tchoupitoulas street, licensed in name of Peter Heft.

Rectifying establishment, No. 96 Tchoupitoulas street, licensed in name of Pat. Hannon.

C.

List of spirits seized by Captain William M. Robinson, United States Inspector, First District of Louisiana.

December 28, 1867, 10 barrels whisky, rectified by Hammond.

December 30, 1867, 22 barrels whisky, rectified by Hammond.

December 30, 1867, 69 barrels whisky, rectified by Hammond.

December 30, 1867, 5 barrels whisky, rectified by Warner.

December 30, 1867, 12 barrels whisky, rectified by Estlin.

December 30, 1867, 54 barrels whisky, rectified by Olmstead.

December 30, 1867, 8 barrels whisky, rectified by Nelson.

December 30, 1867, 100 barrels whisky, rectified by Parmele.

January 2, 1868, 8 barrels whisky, rectified by Henderson.

January 2, 1868, 3 barrels brandy, rectified by Henderson.

January 2, 1868, 2 barrels gin, rectified by Murphy.

January 2, 1868, 59 barrels whisky, rectified by Berthlot & Brooks.

January 2, 1868, 101 barrels whisky, rectified by M. J. Ryan, returned to Alonzo Clarke.

January 2, 1868, 14 half barrels whisky, rectified by M. J. Ryan, returned to Alonzo Clarke.

PROHIBITION OF PEONAGE.

Mr. CLARKE, of Kansas, by unanimous consent, presented a bill (H. R. No. 729) to forever prohibit the system of peonage and Indian slavery in the Territory of New Mexico and other parts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois. I move to reconsider the various votes for referring bills, &c.; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND OFFICE IN UTAH.

Mr. HOOPER, of Utah, presented the memorial of the Governor and Legislative Council of Utah Territory, praying for the establishment of a land office in said Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

POST ROUTE IN PENNSYLVANIA.

Mr. MILLER, by unanimous consent, introduced a bill (H. R. No. 730) to establish a post route from Noxelsville to Beaver Springs, in Snyder county, Pennsylvania; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The SPEAKER. The first business in order during the morning hour of Friday is the call of committees for business of a private nature.

Mr. WASHBURNE, of Illinois. I move that the rules be now suspended, and the House resolve itself into Committee of the Whole on the appropriation bills.

The SPEAKER. The proper motion is to move to postpone the private business of to-day.

Mr. WASHBURNE, of Illinois. I make that motion. I hope there will be no objection to it, for it is very necessary to go on with the appropriation bills.

The motion to postpone was not agreed to.

CHARLES G. PAGE.

Mr. MYERS, from the Committee on Patents, reported, with the recommendation that the same do pass, a bill (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It authorizes the Commissioner of Patents to receive and entertain a renewal of the application of Charles Grafton Page, for letters-patent for his induction apparatus and circuit breakers, now on file in the United States Patent Office, including therewith his circuit breakers described by him prior to said application; and if the Commissioner shall adjudge said Page to be the first inventor thereof he shall issue a patent to him, which shall be valid, notwithstanding said Page's invention may have been described or in use prior to said application, and notwithstanding the fact that said Page is now an examiner in the United States Patent Office; provided, that any person in possession of said apparatus prior to the date of said patent shall possess the right to use and vend to others to use the said specific apparatus in his possession, without liability to the inventor or patentee, or any other person interested in said invention or patent therefor.

Mr. MYERS. Mr. Speaker, accompanying the bill which has just been read there is a very full report, with ample references to authorities and the evidence taken by the committee, and with drawings also of the invention in question. But, as this report covers seven closely printed pages, I do not propose to have any portion of it read, unless, after the statement I am about to make, the reading should be demanded by the House.

Mr. WASHBURNE, of Illinois. I desire to have the report read.

Mr. MYERS. Very well. I desire to make my statement first; and I think after that statement my friend will withdraw the demand. I will state as briefly as may be, in order to avoid consumption of time in reading the report, the reasons why the Committee on Patents unanimously favor the measure which has been reported.

The bill is to protect the rights of an American inventor against the claims to originality unjustly and mistakenly awarded to a foreigner by the high authority of a foreign Power. It allows Dr. Charles G. Page, formerly of Salem, Massachusetts, and for many years an examiner in the Patent Office, to apply for and receive a patent for his induction coil, if the Commissioner of Patents shall adjudge him to be the first inventor of it; that is all. On its

face the bill is a private one; but its passage, especially at this time, should be a matter of national pride, as it will be of national interest.

Dr. Page was the first to develop and apply the principles of inductive electricity in a practical working machine for the production of effects of the greatest value in a medical and scientific point of view. No one before him had suggested its embodiment in a definite form, as a remedy or for philosophical illustration. The particulars of this scientific invention would scarcely be interesting at the present time, and are not necessary for the purposes of this bill. A statement of the case will be sufficient. It is, however, well to mention here, in order that it may go upon the record, that the invention of Dr. Page embraces three elements never before brought into connection and practice. The first is the compound magnet or bundle of wires, to augment the intensity of the induced current of electricity by the magnetization it undergoes. The second consists of the separate coils of wire to produce greater insulation between the primary coil of coarse wire and the outer or induction coil of fine wire, from which the spark is taken and light exhibited. Thirdly, the several mechanical contrivances; first, a rasp; second, the mercury and spur wheel; third, an interruptor or automatic vibrating break-piece to interrupt the galvanic current and create the induced current; all known as the induction coil. That is all I propose to say on that point.

Many years ago, as early as 1838 to 1842, Dr. Page exhibited this apparatus in colleges, using it for igniting gunpowder, lighting vacuum tubes, charging Leyden jars, and for medical effects. In the year 1852 the emperor of the French offered a prize of 50,000 francs to be given after five years to the author of the most important discovery and application relating to electricity. Five years elapsed, and no one was adjudged worthy of this great prize. The time was extended; and in the year 1864 a commission of thirteen scientific men, of whom the celebrated Dumas was president, reported that a man by the name of Ruhmkorff was entitled to the prize, being the inventor of what is now known as "the Ruhmkorff coil."

Now, Mr. Speaker, the Committee on Patents, after close investigation, find that the Ruhmkorff coil is substantially identical with, and a copy of, Dr. Page's invention. Thus to a foreigner, as I have said, by the high authority of a foreign Power, is adjudged the merit of this invention. The identity once established, the importance of the invention will be best understood when I state the importance which has been ascribed to it in Europe. Dumas and the commission, in their report, say, in speaking of Ruhmkorff and his character:

"Mr. Ruhmkorff will ever remain the type of his class, a model for the numerous intelligent workmen who fill the higher order of workshops of Paris. To those who, like him, know how to control their desires and faithfully strive for perfection in work and clearness in conceptions, who bend their attention to one object and labor untiringly until a high superiority is gained and also for themselves the satisfactions of a ripe age, the compensation for the services and privations of youth will not be lacking in a country where more than ever merit finds recompense."

I claim, Mr. Speaker, that this country will be no less eager than France to reward so important a discovery. The report proceeds, and I call the attention of the House to this sentence:

"Since 1851 M. Ruhmkorff has devoted himself to the construction and perfection of his apparatus, and he has ended by securing for it his own name, by giving it a scientific value which no one contests, and by rendering it of so great power as to become a means of numerous practical applications."

This act directs that if the Commissioner of Patents finds what the committee report to be true, that Dr. Page is the real inventor, he is worthy of a patent. Now, in his old age, feeble and in bad health, let him, in declining years, receive the national award which his discovery deserves at our hands, and what has been known as the Ruhmkorff coil become, as it should, the "Page induction coil." While we reward merit in this way and make his name historic we at the same time vindicate our own nationality in the paths of science.

I shall not occupy the time of the House much further. Only this morning I am in receipt of Count du Moncel's work of four hundred pages, issued at Paris, devoted to the Ruhmkorff coil, and describing it as one of the most important discoveries ever made known to the world—one which we find by the scientific men of England, such as Sturgeon and Golding Bird, by the testimony of the best of the savans in this country, and by the examination of Ruhmkorff's own description, to belong to Dr. Page. I have stated the matter fully, and I hope the gentleman from Illinois will not insist on the time of the House being consumed with the reading of the report.

The bill, sir, does not propose to take one dollar from the Treasury or to infringe upon the rights of a single man. We had before us the testimony of the chief scientific men of this country who construct this apparatus, and they desire us to give this patent to Dr. Page, who they say is justly entitled to it. Nor has Dr. Page slept upon his rights; he made application before, but because of his being an examiner in the Patent Office he was disqualified under the act of 1836, and the application rejected. The invention did not go into public use "with his knowledge and consent."

Mr. UPSON. I have noticed by the reading of the bill that it is made compulsory on the Commissioner to issue this patent.

Mr. MYERS. No, sir.

Mr. UPSON. It says "shall issue this patent."

Mr. MYERS. No, sir. If he finds Dr. Page to be the first inventor, then he is to issue the patent. He is to institute an investigation into the facts, and if he finds them as the committee report them then he is to issue a patent.

Mr. WASHBURNE, of Illinois. I demand the reading of the report.

The report was read.

Mr. MYERS demanded the previous question.

The House divided; and there were—ayes 64, noes 10; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. MYERS and Mr. WASHBURNE, of Illinois.

The House again divided; and the tellers reported—ayes 86, noes 10.

So the previous question was seconded.

The main question was then ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MYERS. I believe this matter is fully understood. It is a question of national interest, and I hope there will not be one vote against it.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

The bill was passed.

Mr. MYERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PATENT FOR CUTTING SCREWS, ETC.

Mr. BROMWELL, from the Committee on Patents, reported a bill (H. R. No. 732) to extend certain patents for the benefit of the heirs of the late Thomas W. Harvey; which was read a first and second time.

The bill empowers the Commissioner of Patents to hear the application of the widow and heirs of Thomas W. Harvey for the reëxtension of the patent heretofore granted to said Harvey on 30th May, 1846, for improvement in machinery for cutting screws, and reissued 28th December, 1858, and also the application of the heirs of Thomas W. Harvey for the reëxtension of the patent heretofore granted to said Harvey on the 18th August, 1846, for improvement in machinery for dressing screw heads, and reissued on the 4th January, 1859, and to grant an extension of said patents for a period of seven years, respectively, from 30th May, 1867, and 18th August, 1867, when said patents by law expired.

It is then provided that said patents shall be extended only for the benefit of the widow and legal heirs of said Harvey, and that this extension shall not be valid for the use or benefit of any corporation or person whomsoever claiming any right or interest in said patents, or either of them under or by virtue of any alleged agreement, transfer, or assignment heretofore executed by said heirs, or by any arbitration or award heretofore made between said heirs and any other person whomsoever; and that the rights at law and equity of all persons lawfully in possession of machines covered by said patents shall be fully protected and exempted in all cases from any operation of said patents so reëxtended; provided that said Commissioner after full hearing, with due notice to all persons desiring to contest said reëxtensions, shall be of opinion that said patents should be so extended.

Mr. BROMWELL. Mr. Speaker, I will move the previous question, and if it is seconded I will explain the bill very briefly.

Mr. VAN WYCK. Let the report be read.

Mr. BROMWELL. I will withdraw the call for the previous question for the present.

The report was read.

Mr. FARNSWORTH. Will the gentleman allow me to ask if this is not the same case that was before the House a year ago?

Mr. BROMWELL. It is the same.

Mr. FARNSWORTH. And was defeated by the House at that time?

Mr. BROMWELL. It was lost, of course.

Mr. WASHBURN, of Massachusetts. I hope the gentleman will not insist on the previous question.

Mr. BOUTWELL. I desire to ask whether the committee have received any estimates of the amount of money which this inventor or his heirs and representatives have received from the invention, and the amount of expenditures actually incurred on account of it, and whether the money so received was expended in perfecting the invention or whether it went as property often goes?

Mr. BROMWELL. I will say, in answer to the gentleman, that the committee took evidence in relation to the amount of compensation derived by Mr. Harvey for this invention and they found it very insignificant, compared with the value of the invention, as the report showed last year and as it shows this year. They found further that the nature of this invention was such that it must necessarily consume many years, and did consume many years of time; that it involved the outlay of a large private fortune, and Mr. Harvey never received enough money to make him even, letting alone any compensation for his invention. The committee have no doubt these are the facts. They have no doubt further that the invention was of such a meritorious character as to entitle the inventor to the favor of the community and of the Government, and to entitle his heirs to the highest benefit which the usage of Congress will permit in similar cases. He died several years ago.

Mr. BOUTWELL. I would like to know when he died.

Mr. BROMWELL. He has been dead at least seven years, because an extension of seven years was obtained in the name of the heirs.

Mr. BOUTWELL. If these heirs have had the benefit of the invention for seven years and have not derived a fortune from it it must be their own fault.

Mr. WASHBURN, of Massachusetts. I ask the gentleman whether the patent has not been extended once, so that the patentee has had the benefit of it for twenty-one years already?

Mr. BROOMALL. Mr. Speaker, there are no patents that I know of ever proposed to be extended by Congress that have not been once extended. The Commissioner of Patents exer-

cises jurisdiction and discretion in the extension of patents once.

Mr. VAN WYCK. Will the gentleman allow me to ask what company has been having the use of this patent and is having the use of it to-day?

Mr. BROMWELL. The company which has had the use of it is called the American Screw Company.

Mr. VAN WYCK. What dividends have been declared?

Mr. BROMWELL. I do not know what dividends they declare, nor does it appear to me to be of any consequence to the widow and heirs of the inventor whether the men that have had control of this patent for seven years have made a profit out of it or a loss.

Mr. VAN WYCK. I do not understand that the gentleman has answered the question of the gentleman from Massachusetts [Mr. BOUTWELL] relative to the amount of receipts from this patent and the amount of expenses incurred. The gentleman says this patent is valuable compared with the receipts. Undoubtedly it has been valuable by reason of the monopoly which has enabled this company to earn two or three hundred per cent. in dividends. It will, of course, be valuable in the future if this Government shall still keep the monopoly in their hands. They have enriched themselves beyond all calculation, and it is in their power to render redress to the heirs of Harvey, but it is not proper for this Government to continue this monopoly.

Mr. BROMWELL. Mr. Speaker, if the House will second the previous question before the morning hour expires I will then yield to all the gentlemen as much time as the House may wish to spend on this matter.

Mr. VAN WYCK. I trust the House will consider this of sufficient importance to give more than an hour to its discussion.

Mr. BROMWELL. I am entirely willing to allow a week, if necessary.

Mr. VAN WYCK. It has been running already twenty-one years.

Mr. BROMWELL. I yield to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. I only want to say one word. When I was a boy I knew Thomas W. Harvey in Western New York. He was a poor man, a hard-working, industrious blacksmith, and an honest one. He was an ingenious man, and he directed his attention to inventions. Invention after invention in this same line was originated and put before the world by him. He would make something on one invention, but instead of saving it, as he might and ought to have done probably, his love of his peculiar art or talent induced him to invest it in something else. That something else failed. He would then get a good invention and make something out of that, and reinvest it. And so he went on during all his life, benefiting the world, but very little benefiting himself or family. He died poor. I know his children now—some of them, at least; I know they are poor, and I am going to vote for this bill.

Mr. INGERSOLL. All right; so will I.

Mr. BROMWELL. I now move the previous question, and if the House second it, as I before remarked, gentlemen shall have abundant time.

Mr. VAN WYCK. We can have only an hour.

Mr. BROMWELL. An hour is quite enough.

The question was put upon seconding the previous question; and there were—ayes 60, noes 37.

So the previous question was seconded.

Mr. FARNSWORTH. I move to lay the bill on the table.

The question was put; and there were—ayes 44, noes 62.

Mr. BEAMAN. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 89, not voting 57; as follows:

YEAS—Messrs. Allison, Ames, Beaman, Boutwell, Butler, Churchill, Cobb, Dawes, Eckley, Eliot, Farnsworth, Garfield, Glossbrenner, Harding, Hawkins, Holman, Hotchkiss, Richard D. Hubbard, Hunter, Kelsey, Ketcham, William Lawrence, Marvin, McCullough, Niblack, Paine, Pike, Plants, Price, Randall, Raum, Sawyer, Shanks, Spalding, Stone, Twichell, Van Auken, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, and William Williams—43.

NAYS—Messrs. Adams, Anderson, Arnell, Delos R. Ashley, Axtell, Baker, Baldwin, Banks, Beatty, Beck, Boyer, Bromwell, Broomall, Buckland, Burr, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Cornell, Covode, Cullom, Donnelly, Eldridge, Ferriss, Ferry, Fields, Getz, Golladay, Grover, Haight, Halsey, Higby, Hill, Hopkins, Asahel W. Hubbard, Ingersoll, Jenckes, Johnson, Judd, Julian, Kerr, Kitchen, Knott, Koontz, George V. Lawrence, Loan, Logan, Loughridge, Mallory, McCarthy, McClurg, McCormick, Mercur, Miller, Morrell, Mullins, Mungen, Myers, Newcomb, Nicholson, Nunn, O'Neill, Orth, Peters, Pile, Poland, Polsley, Scofield, Sitgreaves, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, John T. Wilson, Wood, and Woodbridge—89.

NOT VOTING—Messrs. Archer, James M. Ashley, Bailey, Barnes, Barnum, Benjamin, Benton, Bingham, Blaine, Blair, Brooks, Cake, Cary, Cook, Dixon, Dodge, Driggs, Eggleston, Ela, Finney, Fox, Gravely, Griswold, Hooper, Chester D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Laflin, Lincoln, Lynch, Marshall, Maynard, Moore, Moorhead, Morgan, Morrissey, Perham, Phelps, Pomeroy, Pruyn, Robertson, Robinson, Ross, Schenck, Selye, Shellabarger, Smith, Aaron F. Stevens, Taber, Ward, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—57.

So the House refused to lay the bill on the table.

The main question was then ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 355) providing for the restoration of Lieutenant Commander Trevett Abbott, of the United States Navy, to the active list of the Navy; in which he was directed to ask the concurrence of the House.

PATENT FOR CUTTING SCREWS—AGAIN.

Mr. BROMWELL. Mr. Speaker, before I yield to those gentlemen who have anything to say against this bill, I will make a brief explanation for the information of those who have not paid any attention to the subject. The inventions for which Thomas W. Harvey obtained these patents were not such inventions as a man makes in a moment, such as may accidentally come to a man's mind in machinery or apparatus already in common use; but they are inventions that revolutionize the mode of a manufacturer. Necessarily, from the nature of the manufacture, there must be a vast number of these machines in operation at the same time—not less than two hundred; and in order to provide a full assortment for the necessities of the trade not less than four hundred machines would be necessarily operating at the same time. The machines are costly; they are not all of one kind, for it requires four separate and distinct machines for each screw which is finished by machinery. Every piece of wire out of which a screw is to be formed must pass through four of these automatic machines, every one of them requiring great ingenuity in its invention, repeated experiments, and unbounded perseverance before the experiments could be made satisfactory to manufacturers.

Any man can see at a glance, without any argument, that for such inventions as these the pathway of the inventor must be encumbered by every obstacle. It is no wonder that in this class of inventions the first fourteen years allowed by the patent law and the additional seven years allowed by an extension frequently pass away and the inventor finds himself almost ruined in fortune, broken down in health, and his means and strength exhausted in his old age. Such was the fate of Thomas W. Harvey. His lifetime, or at least the prime years of his lifetime, were spent in the task of getting this machinery into the hands of those who had the capital to put it into operation. He died in his old age with his private fortune entirely expended in the perfection of these inventions.

Now, sir, it is astonishing to my mind that the ancient Commonwealth of Massachusetts is represented here to-day by those who are opposed to this extension, not only opposed to it, but who wish, as it were, to signalize their opposition. Let me ask this House where would Massachusetts be to-day if it were not for inventions and patents? I have always been taught to believe that a Massachusetts man, or a New England man, if he had a patent, believed that "all other things should be added unto him;" that a patent was, as it were, the opening of the door to progress and success in life. What has been the policy of New England? What has been the policy of this Government? It has been to protect inventors, and to give to the man who had the heart and the brain to bring about these results, which have been so remarkable and beneficial in the progress of this country, all the protection which could possibly be thrown around him, without actual detriment to the substantial interests of the common people.

Now, who oppose this patent? Where are the men, the companies, the corporations, the monopolists in this controversy? Is there one opponent of this bill, outside of this House in any portion of the community, seeking the overthrow of this bill except they be themselves interested as a corporation or otherwise in this machinery, the possession of which merely has given them the monopoly? I will say further that the monopoly in this case does not arise from having the patent right to the machinery, but from the fact that the machinery can never be used without an immense capital. Any corporation or that manufacturer possessed of capital, having procured this machinery, is at once in possession of a monopoly. The widow and heirs have neither money or machinery.

Mr. BUTLER. Will the gentleman yield to me for a moment?

Mr. BROMWELL. I will, for a question.

Mr. BUTLER. If the gentleman is correct in saying that these companies, by means of the machinery they already have, possess a monopoly, what is the use of passing this bill? How is the widow to get anything from it?

Mr. BROMWELL. I will answer the gentleman candidly, according to my understanding of these matters. There are a great many varieties of these machines. The machinery invented by Thomas W. Harvey is not the only machinery used in this manufacture. And, moreover, many other machines invented by Thomas W. Harvey are in common use all over the United States where there are manufactories of wood screws.

The particular patents here sought to be extended are of some value; not of great value, for they are not now the controlling patents. Other inventions of Thomas W. Harvey, prior to this, contain in themselves controlling principles, upon which new machinery has been constructed. But to-day every single screw factory in the United States can carry on this work, and let these machines be stricken out of existence.

The whole case is simply this: that to this widow and these heirs this patent may be of some value. That is to say, the screw companies now organized and in successful operation care nothing about it any further than as it may go into the hands of some new organization. They have enough machinery of their own. But, since the business has been revolutionized, since machinery must make the screws, this widow and these heirs will stand a chance of getting among the business men of this country some royalty upon this patent from new parties who may seek to engage in the manufacture of screws.

Sir, if this patent is not one which should justly be extended, then in my opinion it is in vain to speak of any patent being properly extended. Why should any patent be extended except for the reason that the party making the invention has received no adequate reward for the outlay, the expenditure of time, the mental and physical labor involved in bringing such inventions into use for the benefit of the community? In this case, I maintain, Thomas W. Harvey died without having had any opportunity to reimburse himself, and left his chil-

dren the heirs of nothing but what they may derive from the interest which the common justice and equity of this Government may give them in the inventions to which he devoted his life.

Mr. BAKER. Will my colleague permit me to ask him a question?

Mr. BROMWELL. Yes, sir.

Mr. BAKER. I wish to ask my colleague this question: will the benefit of the proposed renewal of this patent inure substantially to the widow and heirs of Mr. Harvey or not?

Mr. BROMWELL. Mr. Speaker, this bill is expressly drawn so as to provide that the intention shall be for their benefit only, and shall not be valid for the purpose of carrying out any alleged transfer, arbitration, or award heretofore made between the heirs and any other person whomsoever. This provision has been inserted because this bill, when before the House on a former occasion, was defeated upon the sole ground that if the extension should be granted it would inure to the benefit, not of the widow and heirs, but of the American Screw Company, in consequence of some alleged transfer or arbitration. I take it as a principle of law, well settled by the decisions of the Supreme Court of the United States, that the bill was not liable to that objection, that the benefit would not have inured to any transferee whomsoever.

Mr. STEVENS, of Pennsylvania. Will the gentleman permit me to ask him one question?

Mr. BROMWELL. Certainly.

Mr. STEVENS, of Pennsylvania. We have for several years had before us, in connection with the tariff and tax bills, questions in regard to the screw company located in Rhode Island, which was represented as making annual profits of several hundred per cent. I wish to know whether that company is interested in this patent, and whether it is worked by them?

Mr. BROMWELL. Mr. Speaker, as I understand, this particular machinery is not used by the company of which the gentleman speaks; nevertheless, I understand it has been used by screw companies, and made profitable to them. But, going back to the question raised by my colleague, [Mr. BAKER,] I will say that I hold it to be a principle of law admitting of no dispute, that this Congress, being the grantor of this patent extension, which is entirely *ex gratia* on the part of the Government, we have the unquestionable right to say that the grant shall not be valid for the benefit of A, B, or C; that it is made for the benefit of D, E, and F, and shall not be valid to carry out any alleged transfer or assignment heretofore made.

Mr. BUTLER. Will the gentleman permit me to ask him one question?

Mr. BROMWELL. Yes, sir.

Mr. BUTLER. Will the gentleman say, substantially, that if this bill be passed the widow and heirs may not the next day transfer their interest to the company that has been mentioned; and, if so, can the gentleman say affirmatively that there is no understanding, express or implied, between the company and the widow that she shall make such a transfer?

Mr. BROMWELL. Mr. Speaker, I do not know what understandings there are between any widow and anybody else. [Laughter.] I do not know of my own knowledge but that to-morrow every man in the world may sell all he has got. But, sir, so far as this committee know, so far as they have reason to believe, there is no understanding except that these heirs and this widow shall have the benefit of this grant, if it be made, precisely as you or I would have it, with, of course, the full right to dispose of it to-morrow to any person who may offer a proper equivalent for it.

Manifestly, Mr. Speaker, it is in vain to urge this as an argument against the bill, for it would apply to every patent in the world.

Mr. BUTLER. I ask the gentleman to yield to me for a moment.

Mr. BROMWELL. Certainly, sir.

Mr. BUTLER. I am informed this is a fact, and I wish to know whether it came before the committee. Mr. Harvey some years ago sold to a large iron proprietor in Massachusetts the right to manufacture screws under his patent, and gave a bond in the sum of $10,000 that this manufacturer should enjoy that privilege. But afterward, and while the machinery was being set up to manufacture these screws, Mr. Harvey sold his patent to this Providence company for $125,000, and then came forward and paid the $10,000 bond rather than carry out his contract with the Massachusetts manufacturer. That, I am informed, is the fact, and it may explain why Massachusetts is not in favor of paying any more money as a royalty to this Rhode Island company.

Mr. BROMWELL. Mr. Speaker, I do not know what information gentlemen are in possession of, but I know this, that this committee required these representatives of Harvey to give notice to every manufacturer of screws in the United States to come forward and show that committee why this thing should not be done, and no man came before the committee appointed to investigate this matter. But instead of this they sent statements and arguments here, how or when I know not, to be used when the case should come up for hearing in this House. I undertake to say a party who sleeps upon his rights during all the long investigation gone through with by the Committee on Patents, knowing that that committee required the petitioners to notify every screw factory in the United States, and that notice having been given in newspapers and in writing, of which we had evidence of service, ought not to raise any objection here now. It is very easy, Mr. Speaker, to stand up and cry monopoly. It is very easy to do this, but who have the monopoly, the capitalists or the inventors?

Mr. JENCKES. I ask my colleague on the committee to yield to me to make a correction.

Mr. BROMWELL. I yield to the chairman.

Mr. JENCKES. I simply wish to correct a statement made by the gentleman from Massachusetts, [Mr. BUTLER.] I have a personal knowledge of how the company in Providence became possessed of the right to use Harvey's patent. It was under no such contract and for no such consideration as that stated by the gentleman from Massachusetts; and he may be mistaken in his other facts as in the one he stated.

Mr. BUTLER. I can only say I gave the information to the House on the statement of a member of this House who made the bargain himself and received the $10,000 on the forfeiture of Harvey.

Mr. STEVENS, of Pennsylvania. While I was a member of the Committee of Ways and Means for three years we investigated this matter. It appeared that there was but one solitary screw factory in the United States, which made enormous profits, and that when the English sent over here to establish a factory it was bought off under heavy penalties never to establish another.

Mr. BROMWELL. I yield now for a few minutes to the gentleman from Massachusetts.

Mr. WASHBURN, of Massachusetts. I have but a few words to say on this question. It will be recollected at the last Congress this same question was before the House and I opposed it. I then presented facts which seemed to me to convey the idea the benefit of this renewal would go to certain other parties. I am informed by the applicants there is no such understanding or contract made. Now if that be so, whatever may be my opposition to the extension of this patent, I do not desire to make any false statements.

The gentleman who reported this bill asks why is Massachusetts opposed to this extension? I do not know she is. I do not believe in robbing any man of his invention. I believe in protecting him in his rights and guarantying them to him to the fullest extent. We have passed patent laws guarantying the rights of the inventor for fourteen years, and this inventor has had that benefit to the fullest extent.

Again, he has applied for an extension for seven years, and the Government has given it to him. Now, what we say, so far as this patentee is concerned, is that his claims upon the Government have been answered to the fullest extent, and the simple question comes up shall this guarantee be carried any further? But, says the chairman of the committee, where are all these monopolies that have been engaged in the same manufacture for the last few years? I answer him by repeating the inquiry, where are they? Why, when this question was before this House one year ago these monopolists were here opposing this extension. Why? Because they said if it was granted this American Screw Company would get all the benefit of it. In regard to this same company it will be remembered by members of the last Congress, when our internal revenue bill was before the House and we were placing a specific duty of five per cent. on every other manufacture, that an amendment was proposed putting a duty of ten per cent. upon the manufacture of screws. Why? Because it was said they were a monopoly and were making over fifty per cent. annually on their investment, and they could as well pay ten per cent. as five. And the gentleman from Rhode Island [Mr. JENCKES] did not oppose it. He knows very well that they had the entire control of the patent.

But, says the gentleman, where are these monopolies? Why, they have been engaged for the last year running night and day in manufacturing these machines, so that they can carry on the business; and they know quite well if this patent is extended they have a monopoly for seven years to come, because, as has been well said, they have their machines and the manufacture, so that they can carry on the business, and they have no royalty to pay under this bill, nor is it claimed by the chairman of the committee or any member of it that they will have to pay a royalty. Well may this monopoly unite with these other companies that have been pressing upon members of Congress to go for this extension when they will reap the benefit of it.

But, says the gentleman from Pennsylvania, [Mr. SCOFIELD,] I have been acquainted with Mr. Harvey. He has sold this invention and derived a benefit from it, but he has taken the proceeds and invested them in other business and has lost his money. Is that a reason why this House should grant this extension—because, having made money out of his patent, he has lost it in outside operations?

I wish gentlemen to consider this question before they vote for this bill. Grant this extension, and these individuals sell out their right for $100,000 and go into an outside operation, just as it is claimed that Harvey has done, and they fail. At the end of seven years the same argument comes before this House, namely, that the applicants are poor. Did you ever hear of an application for an extension of a patent where the claimant did not plead poverty—that he had made nothing out of his invention? And yet this has been one of the greatest monopolies this country has ever seen. It is one of those questions which concerns not a few individuals. This is an article which is used by every rank and class. There is not a manufacturer or mechanic or farmer who is not interested in the extension or non-extension of this patent.

All I have to say, then, is, so far as this Government is concerned, it has fulfilled its obligation to the furthest extent to this patentee in protecting him in the enjoyment of it for twenty-one years. I oppose the extension on the same ground that I oppose the extension of other patents by the legislative branch of the Government, and further on the ground that this has been one of the greatest monopolies that this country has seen. It has been well said that if this is not extended it will take at least five years, throwing it into general competition, for the public generally to enjoy the benefit of the invention. I say, then, granting all the arguments which have been used in favor of the extension, the same argument will

apply to almost every extension before the House.

Mr. BROMWELL. I yield to the gentleman from New York [Mr. VAN WYCK] five minutes.

Mr. VAN WYCK. Mr. Speaker, we ought if possible to get at the merits of this matter, irrespective of the guise of monopoly or of aid and sympathy for the poor, suffering heirs of Harvey. The facts, as I understand this case, are substantially these:

"The administrator of the estate of General Harvey assigned to the American Screw Company of Providence all the patents of General Harvey, and obligated himself to assign all extensions to the same company. The Providence Company, by arrangement between the two parties, are to keep silent and seemingly oppose the reissue, and, if the attempt be successful, are to pay a certain sum to Hayward A. Harvey and his sister.

"Inclosed is a copy of a letter in my possession, one of many similar sent to stockholders and others interested in the Continental Screw Company of New Jersey, of which the writer, Charles Bilven, is president. It speaks for itself. Hayward A. Harvey, the needy son of General Harvey, invented the machinery of the Continental Company, for which he received $325,000, $100,000 in money and $225,000 in the stock of the company, of which he is the head and front."

Now, here is this confidential letter:

"NEW YORK, *March* 20, 1866.

"DEAR SIR: Hayward A. Harvey, in behalf of himself and the other heirs, is about to apply to Congress for a congressional extension of two patents which were issued in 1846 to his father, General Thomas W. Harvey, for his invention of screw machinery."

* * * * * * * * *

"The object of this letter is to request you, as a personal favor, to write and send to me by early mail a letter of introduction to Hayward A. Harvey, to your Representative in Congress, or such other members of both Houses from other districts as you may be able to influence, vouching, as far as your confidence in me will admit, for the truthfulness of this statement, and requesting him or them to not only vote for the extension, but to use all influence to forward the measure. You have my assurance that the passage of this bill will promote your interest as a stockholder in the Continental."

So that these "needy heirs" of Mr. Harvey make their application to Congress, and come before the committee and ask the aid of this Government, not to the heirs, but to this wealthy corporation, who started with $57,000 and whose capital is now $1,000,000, and who are said to have made $10,000,000 from these inventions, running up the price of screws, with all the aid of machinery, four hundred per cent. from what they were before the company was organized, and enjoyed the monopoly, so that now a share in this company that was worth at one time fifty dollars can be sold in the market for $10,000. They come now and ask the American Congress to fill fuller this company already plethoric with the fortune they have made by this monopoly. Now, let not the industry and labor of the country be taxed any more to feed this corporation which has made its millions, but let these heirs fall back on their $100,000; and if they have foolishly and needlessly expended that, then let the bowels of compassion of these wealthy companies yearn to reward the inventor and his heirs, whose invention has made them rich and wealthy. There is no reason when they have enjoyed this patent for twenty-one years why the country should be longer taxed to feed this corporation.

Mr. BROMWELL. I will now yield ten minutes to my colleague on the committee, [Mr. MYERS.]

Mr. MYERS. Mr. Speaker, as the attention of the House has, I hope, been fully given to this whole discussion, I ask that it may be given to me for a few moments in reply to what several gentlemen have alleged against this bill. Last year, when this bill was before the House and was about to pass, a paper was read in this House, a copy of which I have here, which said that the widow and heirs had assigned all their interest in this patent and in the renewals and extensions thereof to the American Screw Company. A motion was made to lay the bill on the table, and it failed; but the morning hour having expired between night and morning the representatives of the American Screw Company and the monopolists that are so defended upon this floor induced a number of gentlemen—five of whom, at least, I know—to change their votes, because they honestly believed that the widow and heirs were not to get any portion of the money.

Now, sir, when this bill is about to pass again, at this late moment, verbal statements are made here, of course properly and fairly uttered by those who make them here, but upon information from others—verbal statements that affect the character of this bill and that are intended to defeat it. How? Why, by once more alleging that the benefit is to go to the screw company. Sir, it is not. The Committee on Patents gave due notice to everybody, and no man and no corporation and no person has been before that committee endeavoring to prove the allegation made here last year and upon which the bill was defeated.

A few words more. It is alleged by parties who say they wish to do what is right and, if the widow and heirs can get the benefit of the extension, desire this bill to pass; it is alleged as the only ground left for their opposition that these parties have had the possession of this patent for twenty-one years.

Now, I ask the attention of the House when I state that from the evidence before the Committee on Patents neither Mr. Harvey, the inventor, nor his heirs have had these patents for one day. Mr. Harvey was the inventor of numerous machines. In 1830 he invented a rivet machine; in 1831 he invented a spike machine; in 1833 he invented a stock-loom machine; in 1834 he invented a brick machine; in 1835 a coining machine, and in 1836 pin machinery—the first solid-headed pins. Those machines, which are shown to be good ones, resulted in such benefit to him that he made $100,000 out of them.

Very well; just about that time Mr. Harvey commenced the invention of screw machinery. He first invented a machine for nicking the heads of screws; another for shaving the heads of screws; and another for threading the screws. In the course of these inventions, and in order to perfect them, all of those I have mentioned having become public property, and the ones in which an extension is asked alone remaining, he not only spent the $100,000 he had made, but he borrowed $75,000 more of a Mr. Ely. Now, gentlemen, you who want to do what is right, mark this; Mr. Harvey never owned these patents; but following out the solemn agreement he made, he executed a mortgage or assignment in advance to pay Mr. Ely the money he thus borrowed. This money was being repaid at the time when the patents were about to expire. An arbitration took place, when the value of the patent was determined for the term of the extension asked for from the Committee on Patents. There were $40,000 still unpaid to Mr. Ely; and Mr. Ely and those who received from him held the possession of the extension of the patent, to the exclusion of the inventor, the widow, and representatives. Mr. Ely never was fully repaid the $70,000 which he had loaned to Mr. Harvey, but was satisfied from the profits of the extension of the patent.

Now, for the first time, those who represent the inventor, who has added so much to the industrial wealth of this country, if it can be added to by scientific inventions, as I take it is the case, these people now, for the first time, come forward and ask for this grant to them and for their own benefit. The gentleman from New York [Mr. VAN WYCK] says that instead of these inventions being a benefit to the people they have increased the price four hundred per cent. To the contrary I know that to be not so. I say the price is not now one half of what it was; and of that I have full proof.

Whether this invention has been held by monopolists or not, whether or not they have sent some one here to defeat this application by handing newspaper statements to gentlemen, the real parties are before us; these representatives of the inventor, for the first time asking that they be allowed to make something out of this invention. I do not know whether Mr. Hayward A. Harvey, the son, has invented and been paid well for his inventions. If he has he had a right to do so. I do know, however, that the statements from newspapers which have been read here are not true. Why did not these opponents come before the Committee on Patents and present proof that the son had made some money, though the father had not? because if true it would not have been to the point.

If there is anything in this country of which we boast, it is our advancement in the development of mechanical art. The Patent Office is filled with these inventions. We boast of inventors such as Morse, Whitney, Day, Howe, and Page, and have granted patents and extensions of patents for matters of daily use, and the blessings of the people follow their names, because of their saving of labor and the cheapening of necessary articles by reason of these inventions. I think the name of Harvey is worthy of being classed with the distinguished ones I have mentioned.

As my colleague [Mr. SCOFIELD] has said, the evidence is that these representatives of this inventor have never received one dollar for these inventions. And these statements which have been read here come as the fraudulent paper of last year did from monopolists who, if this extension is not granted, will continue to have their monopoly through their wealth and the machines they have set up. I hope this bill will pass.

Mr. BROMWELL. I now yield for two or three minutes to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, I desire to suggest one view of this case which has not been presented to the House. We have here a proposition to tax the labor and industrial interests of this country for seven years, to the extent of millions of dollars annually, for the purpose of bestowing what is at best a charity upon a widow and her grown-up children. That is the proposition. Now, if the Committee on Patents or any other committee believe that these people are proper objects of national charity, and will bring in a bill here to give them one hundred or five hundred thousand dollars, it will be greatly to the advantage of the industrial interests of this country to take the money out of the Treasury than to pass this bill.

From the manner in which this bill is drawn, in connection with the fact that the screw manufacturing interest of the country does not oppose its passage, the character of this transaction is plain enough. The bill provides, as it must provide, that all machines now in existence may be used by the present owners of those machines, or their assignees, free of royalty to the owners of the patent proposed to be created by this bill. During the interval of time since this bill was before Congress on a previous occasion these companies have manufactured vast numbers of these machines at comparatively small cost. They are, as I understand, very enduring machines, calculated in their nature to outlast the life of the patent which it is proposed here to grant.

Hence the companies have the power in their own hands to make screws with the advantage of this patent; and they will have substantially the power to exclude everybody else, because this widow and these children are in the power of these companies, who can afford to give them more money than any new organization can afford to pay. Hence these companies will just club together and induce the widow and children to relinquish the right which it is proposed to bestow upon them; and then the companies will, by taxing the people of the country, remunerate themselves a hundred fold for whatever they may expend in buying up the patent. Thus the business of manufacturing screws will be limited to the men at present engaged in it. The patent which we are asked to grant will be used for the purpose of extending the existing monopoly during the next seven years, making it absolute in the hands of the present manufac-

turers. Now, if it is a matter of national charity or justice to give the heirs of this inventor one hundred or five hundred thousand dollars, let us do it; but let us not tax the industrial interests of the whole country for seven years to come for the benefit of the existing monopoly.

Mr. BROMWELL. Mr. Speaker, one year ago the machines of which the gentleman from Massachusetts [Mr. BOUTWELL] speaks had not been made. One year ago these heirs asked this Congress to let them have the patent at that time. But then these gentleman opposed the application on the plea that the patent would go to the benefit of monopolists. Now, a year has elapsed and the same gentlemen say, "The monopolists have filled their factories with these machines and this patent ought not to be extended for the very reason that, taking advantage of the delay, the parties interested in the existing monopoly have put it beyond the power of the family of the patentee ever to obtain justice."

Now, Mr. Speaker, I want to know whether our patent laws are of any utility? Does a Committee on Patents in this House serve any valuable purpose? If such a committee is useless; if every time it presents a meritorious case we are to be told that a term of twenty-one years is long enough for any invention, then let us relieve this committee of further labor and dispense with consuming these morning hours in useless disputation. The House imposes on the Committee on Patents the duty of investigating these cases. They come before the committee in regular course of law. They involve private rights. I am as unwilling as any other member to press upon this House mere private considerations; but the House must bear in mind that these cases are presented in pursuance of its own authority and direction, the rules having provided the method in which these questions involving private rights shall come up. This being the case, every member is as much bound to give proper attention to these cases as to any other concerns of the Government.

Now, sir, the question still recurs shall the inventor receive from this Government a recognition of the value of the work of his hands and brain? Shall the invention which he gives to the public receive the protection of the Government, at least until his helpless children realize some return? I know it is said here that the son of Mr. Harvey has invented machinery and has had good fortune with it. Let that be as it may, there are two daughters who have received nothing from all their father's inventions, and who, under existing laws, can receive nothing.

The gentleman from Massachusetts [Mr. BOUTWELL] speaks as if these applicants were public paupers. Sir, I do not speak for them as objects of public charity. I maintain that if our patent laws and our patent committees mean anything, the granting of the relief asked for in this case is as much an act of justice as any that the Government can be called on to perform. I now desire to yield to the gentleman from Pennsylvania [Mr. SCOFIELD] for a couple of minutes.

Mr. BUTLER. My friend will allow me first to make a single correction. I stated on information that Mr. Harvey paid his bond. I find now I was incorrect in that. He did not pay it. In every other part, I believe, I was correct.

Mr. SCOFIELD. Mr. Speaker, I only wanted to correct a misapprehension which the gentleman from Massachusetts seems to be under. I should have said nothing in favor of this bill, and probably would not have voted for it, if it had not been for the fact I knew some of these parties. Last year when the bill was up I came to the House, without knowing what it was, and voted against the bill, as I almost always do vote against such propositions. When I came to learn this year it was for this man Harvey, whom I knew when he was a poor mechanic, working in his shop like other blacksmiths, and having followed his fortunes with my personal information after he had left the village where he lived at an early day, knowing something of his family and history, I thought it was my duty to vote for this bill, and to say so in advance.

The gentleman misunderstood me when he thought I said Mr. Harvey made large fortunes, invested them unfortunately, and lost them. Not at all. He made some money—I will say large fortunes—out of some of his inventions, but instead of investing in land, or in a profitable business, or in stocks, as, perhaps, a prudent man would, out of his love of invention, following the bent of his genius, he invested his money in new experiments, many of which were unsuccessful, and the fortunes he had made were gone. Then he hit on something which was a success; but he made little out of it. He was poor all his life, and he died poor at last, and left his children poor.

I should have voted for the bill last year if I had known these facts, as I have said. I voted against it because I did not know it was this family. I believe if this bill is passed we will do but justice to the children of an industrious and ingenious mechanic, who has done more to benefit the industry of this country than almost any one man of whom we have ever heard.

Mr. BROMWELL. Mr. Speaker, the gentleman from New York [Mr. VAN WYCK] read a newspaper article here concerning this matter which, to the best information I have from parties who I am certain know what they are talking about, is altogether filled with misrepresentations. It is thrust into a newspaper in New York when it might have been brought to the committee, if there was any truth in it, and submitted to the test of examination. I repeat, sir, it is evident to my mind that the attempt is made by parties outside of this House to create a public opinion against the rights of these heirs by crying out monopoly and that the price of screws have been increased by this machinery. On the contrary, the machinery has saved to the people of the United States thousands and hundreds of thousands and even millions of dollars. This invention is of that class in which the inventor has never been paid for the value the country has received from his invention. If he had been made a millionaire it would not have been an equivalent for the stupendous results produced by revolutionizing the whole mode of manufacturing an article which enters into common use in every building of the land as well as all kinds of implements and machinery. The benefits have been incalculable. It is nothing that certain parties may have made fortunes by using the inventions of this inventor without compensation to him and held a monopoly of the business.

But, sir, had this bill been passed at the time it ought to have been, and when it would have been probably but for a paper being presented in this House, which attempted to show that it would inure to the benefit of a monopoly—had it been passed at that time there would have been none of this machinery piled up and ready for use, of which the gentleman from Massachusetts [Mr. BOUTWELL] has spoken. Sir, if the inventor has been pushed aside until a monopoly has seized all the benefit to which he is justly entitled, is that a reason why this Government should refuse to recognize his claim? The question for us to consider is: Has this party, according to the usage of this Government, a right to come here and ask for this extension, not having realized a sufficient or adequate remuneration for an invention which has been of such great benefit to the people of this country? I trust the bill will pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Massachusetts. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 71, not voting 61; as follows:

YEAS—Messrs. Arnell, Banks, Beatty, Beck, Benjamin, Bromwell, Broomall, Chanler, Sidney Clarke, Coburn, Ferriss, Getz, Gravely, Haight, Halsey, Higby, Hill, Hopkins, Asahel W. Hubbard, Ingersoll, Jenckes, Johnson, Kerr, Knott, Koontz, George V. Lawrence, Loan, Logan, McClurg, McCormick, Mercur, Miller, Mullins, Mungen, Myers, Newcomb, Nunn, O'Neill, Orth, Peters, Pile, Poland, Polsley, Scofield, Sitgreaves, Starkweather, Stewart, Stokes, Taffe, John Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Henry D. Washburn, Windom, and Woodbridge—57.

NAYS—Messrs. Ames, Baker, Beaman, Bingham, Blaine, Boutwell, Buckland, Butler, Churchill, Reader W. Clarke, Cobb, Cornell, Covode, Cullom, Dawes, Eckley, Ela, Eldridge, Eliot, Farnsworth, Ferry, Garfield, Glossbrenner, Golladay, Grover, Harding, Hawkins, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Hunter, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, William Lawrence, Lincoln, Loughridge, Marvin, McCarthy, Niblack, Nicholson, Paine, Perham, Phelps, Pike, Plants, Price, Pruyn, Randall, Raum, Sawyer, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Taber, Twichell, Van Auken, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, James F. Wilson, John T. Wilson, Wood, and Woodward—71.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Barnes, Barnum, Benton, Blair, Boyer, Brooks, Burr, Cake, Cary, Cook, Dixon, Dodge, Donnelly, Driggs, Eggleston, Fields, Finney, Fox, Griswold, Hooper, Chester D. Hubbard, Hulburd, Jones, Lynch, Mallory, Marshall, Maynard, McCullough, Moore, Moorhead, Morgan, Morrell, Morrissey, Pomeroy, Robertson, Robinson, Ross, Schenck, Selye, Shanks, Shellabarger, Smith, Taylor, Thomas, Lawrence S. Trimble, Burt Van Horn, Van Trump, Ward, Welker, Thomas Williams, William Williams, and Stephen F. Wilson—61.

So the bill was rejected.

During the roll-call,

Mr. VAN HORN, of New York, said: I have paired with Mr. ASHLEY, of Nevada. He would have voted for the bill and I against it.

The result having been announced as above recorded,

Mr. VAN WYCK moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed a bill (S. No. 352) authorizing the temporary supplying of vacancies in the Executive Departments, in which the concurrence of the House was requested.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. KOONTZ for ten days.

SOUTHERN MILITARY DISTRICTS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in answer to the resolution of the House of the 3d instant, a communication from the Adjutant General, inclosing copies of all orders by the commanders of the five military districts in the South for the execution of the reconstruction acts.

Mr. BROOKS. I move its reference to the Committee on Reconstruction, and that it be printed.

Mr. WASHBURNE, of Illinois. I move to refer it to the Committee on Printing, for the purpose of having them examine and see whether it is necessary to print the communications or how much should be printed.

Mr. BROOKS. It seems to me, upon an official document of so much importance as this, the House is as capable of judging as the committee.

Mr. WASHBURNE, of Illinois. I only propose that the chairman of the Committee on Printing shall look over the documents, and if they are deemed of importance enough to incur the expense report in favor of printing them. The gentleman from New York can himself confer with the chairman of the committee.

The communication was accordingly referred to the Committee on Printing.

TOBACCO TAX.

The SPEAKER also laid before the House resolutions of the constitutional convention of Virginia relative to the tax on tobacco; which were referred to the Committee of Ways and Means, and ordered to be printed.

HEIRS OF GENERAL RICHARDSON.

On motion of Mr. TROWBRIDGE, by unanimous consent, bill of the Senate No. 302, for the relief of the heirs of Major General I. B. Richardson, deceased, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NAVAJO INDIANS.

Mr. BUTLER. I desire to ask the unanimous consent of the House to report a bill from the Committee on Appropriations for the relief of the Navajo Indians, and to make a brief statement of the necessity of the bill.

Mr. DAWES. I shall be obliged to object if there is to be any debate.

Mr. BUTLER. I do not think it will lead to any debate.

Mr. DAWES. I will allow the gentleman three minutes.

Mr. BUTLER. Say five.

Mr. DAWES. Well, five minutes.

Mr. BUTLER. The bill is rendered necessary under these circumstances: the Navajo Indians were captured in 1863-64, and placed by the Government on a reservation which is not of lands susceptible of cultivation. They have been kept by the War Department until last November. By a law of the last Congress they were turned over to the Department of the Interior and $100,000 was appropriated for feeding them. That sum has been expended and more which was taken from another appropriation. The Secretary of the Interior now asks Congress to appropriate a very large sum for the purpose of feeding these Indians in their present condition, which is simply that of prisoners of war. He informs us, and we are informed from other sources, that if these Indians were returned to their own lands they would be, as they were before, substantially self-supporting. We have, therefore, prepared a bill appropriating $150,000 for supporting them temporarily and removing them to their old homes, under the auspices of the peace commission, as it is called—the commission authorized last year to compose the difficulties with hostile Indians.

If this is done, and done at once, thousands, aye, hundreds of thousands, of dollars will be saved to the Government, and after a most careful examination I have been instructed to report this bill and to ask the House to put it upon its passage. I hope there will be no objection. Time is a large element, because if this thing is not done pretty soon they cannot be removed in time to give them an opportunity to commence cultivating their lands this season, and we shall have to support them at an expense of about fifty thousand dollars a month for another year. I hope the bill will pass.

Mr. BROOKS. How much does it appropriate?

Mr. BUTLER. One hundred and fifty thousand dollars instead of the $800,000 asked for, if we have to keep them where they are.

The SPEAKER. The bill will be read for information.

The bill was read. The first section appropriates, for the purpose of removing the Navajo Indians, now held against their will on the Bosque Redondo reservation, as soon as possible to their own lands, and locating them upon such part thereof as may be selected for that purpose and to subsist them meanwhile, $150,000, or so much as may be necessary.

The second section provides that the sum appropriated, or as much thereof as may be necessary, shall be expended under the direction of the commission authorized by the act of July 20, 1867, which commission is authorized to select and establish a sufficient reservation on the lands belonging to said Indians, and to remove and locate them thereon and do all necessary acts in the premises.

Mr. BROOKS. I would ask if the commission recommend this appropriation?

Mr. BUTLER. They recommend this course, but they have nothing to do with the appropriation. The Secretary of the Interior asks for a much larger appropriation—$800,000—to keep them for a year where they now are.

Mr. BROOKS. Are the persons who are to have charge of this appropriation those who compose the commission created by the last Congress?

Mr. BUTLER. The same commission.

Mr. BROOKS. Then I see no objection to the bill.

No objection was made.

Mr. BUTLER accordingly reported from the Committee on Appropriations a bill (H. R. No. 733) for the relief of the Navajo Indians, at Bosque Redondo, and to establish them on a reservation; which was read a first and second time.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WEEKS'S TORPEDO MACHINE.

Mr. DONNELLY. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Committee on Naval Affairs of the House be instructed to inquire into the expediency of purchasing, on behalf of the Government of the United States, the exclusive right to use a certain machine, invented by Asa Weeks, of Minnesota, for the purpose of operating torpedoes, and which has already been examined and favorably reported upon by a board of examiners duly appointed by the Navy Department, consisting of Commander K. R. Breese, Lieutenant Commander J. D. Marvin, and Master Mechanic G. R. Wilson, and report by bill or otherwise.

Mr. BALDWIN objected, but subsequently withdrew his objection; whereupon

Mr. HUMPHREY renewed the objection.

ELECTION CONTEST—SMITH VS. BROWN.

Mr. DAWES. I now call up the question of privilege contained in the report of the Committee of Elections, to whom were referred the credentials of John Young Brown, claiming to be a Representative in the present Congress from the second district in Kentucky, and the memorial of Samuel E. Smith, claiming to have been duly elected as such Representative.

The House accordingly resumed the consideration of the following resolutions:

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That the Speaker be directed to notify the Goverpor of Kentucky that a vacancy exists in the representation in this House from the second congressional district of Kentucky.

Mr. BLAINE. I desire to ask the gentleman from Massachusetts [Mr. DAWES] whether it is the intention of the Committee of Elections to bring the House to a vote on these resolutions to-day?

Mr. DAWES. That is their intention, if they can do so.

Mr. BLAINE. If that is not done will the gentleman consent to go on with this subject to-morrow?

Mr. DAWES. It is my desire to close this case to-day. For one, I am willing to take the vote, after having made the statement which the committee feel called upon to make, and after the gentleman who now claims the seat has been heard.

The SPEAKER. The Chair will say to the House that some ten members have notified him of their desire to speak on these resolutions.

Mr. WASHBURNE, of Illinois. I would inquire of the Chair if a motion to lay these resolutions on the table would be in order, if one could get the floor to make that motion?

The SPEAKER. It would be; but the gentleman from Massachusetts [Mr. DAWES] is now entitled to the floor.

Mr. MAYNARD. This is a very important question, involving consequences very far beyond this case. I hope the gentleman from Massachusetts will allow it to be fully discussed.

Mr. DAWES. That is in the control of the House.

Mr. BLAINE. With the leave of the gentleman from Massachusetts, I desire to say that the question I wish to have settled is whether we are to have a session for business to-morrow or only for debate. I understand that the gentleman from Illinois [Mr. WASHBURNE] wishes to go on with the appropriation bill to-morrow. If it be the intention of the House to have a session to-morrow for business I think it should be understood now, so that members may govern themselves accordingly.

Mr. DAWES. I feel it my duty to insist upon the present consideration of this case until it shall have been disposed of.

Mr. WASHBURNE, of Illinois. I hope the gentleman will close this case to-day, in order that the Committee on Appropriations may have to-morrow for the consideration of the legislative appropriation bill. I desire to state to the House that if to-day is taken up in the consideration of this case it will be the duty of the Committee on Appropriations, in the present condition of business, to insist upon a session to-morrow for business.

Mr. DAWES. I am entirely willing to submit this case to the House to-day, feeling that members have read the views of the committee upon this subject, and perhaps are just as well prepared to vote upon it now as they will be hereafter. I agree with the gentleman from Tennessee [Mr. MAYNARD] as to the importance of this case; and if I am called upon to make any statement I will endeavor to point out that importance. If the House shall think they have heard enough, after they shall have heard the statement on behalf of the committee and the argument of the gentleman from Kentucky, [Mr. Smith,] who claims the seat, I shall be entirely content to then take the judgment of the House upon it. I feel myself that the path of duty in this matter is so plain that I should be willing to trust the case entirely to the House without any debate.

Mr. MAYNARD. Well, Mr. Speaker, I feel the path of duty to be in this case so entirely plain that I should be willing to trust the matter to the House without any discussion, if the gentleman's path were not diametrically opposite to the one that opens before my view. When gentlemen speak of things being so plain they ought to recollect that in some cases what is plain to them is not equally obvious to other gentlemen.

Mr. DAWES. I did not intend by my remark to reflect upon any gentleman.

Mr. COBURN. Will the gentleman from Massachusetts [Mr. DAWES] yield to me for a moment?

Mr. DAWES. Yes, sir.

Mr. COBURN. Mr. Speaker, I hope that the House will not close the discussion of this question hurriedly. Four days were allowed for the discussion of the claims of a gentleman known to be disloyal, or one whom the House, by its vote yesterday, declared to be disloyal. Now, here we have a claimant who is a loyal man, who has been a soldier in the Union Army, a gentleman against whom no word of reproach has ever been uttered here or elsewhere. Yet we are now asked to close up this discussion with a single speech by the chairman of the committee and another by the claimant. It seems to me ordinary fair dealing requires that we should allow to a Union man at least as much opportunity to assert his right to a seat on this floor as we have allowed to a man whom this House has voted to be disloyal.

The SPEAKER. The Chair will state that

as this matter from the Committee of Elections, a question of privilege, is antagonizing public business, the Chair will be governed by the chairman of the Committee of Elections as to the course which the debate shall take.

Mr. FARNSWORTH. If I understand this case, it is a very important one, involving the right of this House to elect a member of Congress—to declare entitled to a seat a man who comes here with confessedly a very small proportion—one fifty or one sixth, I believe—of the votes of the district.

A MEMBER. More than one third.

Mr. FARNSWORTH. This being a very important question, I suppose we had better devote three or four days to its discussion; for if this House should decide that it may exercise the prerogative of electing members of Congress for the people in the various States it is well that the decision should be made intelligently.

Mr. WOOD. I would suggest to the gentleman from Illinois [Mr. FARNSWORTH] the appointment of a committee to designate the members who shall be admitted. That would be a short way of doing the business.

Mr. MAYNARD. Mr. Speaker——

The SPEAKER. Does the gentleman from Massachusetts [Mr. DAWES] yield to the gentleman from Tennessee, [Mr. MAYNARD?]

Mr. DAWES. I believe I must resume the floor.

BEACON AT LONG BEACH BAR.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a report of the Light-House Board, upon the subject of a beacon at Long Beach bar, Peconic bay; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence after Monday next for Mr. BENJAMIN.

INTERNAL REVENUE ASSESSORS, ETC.

Mr. LOGAN. The gentleman from Massachusetts [Mr. DAWES] yields to me that I may ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be instructed to forthwith furnish this House with copies of all communications from the Commissioner of Internal Revenue since June 1, 1867, relating to the removal or appointment of assessors or collectors, and how many have been removed on the recommendation of said Commissioner of Internal Revenue.

Mr. HOLMAN. I object.

Mr. LOGAN. I expected the gentleman would object. I give notice to the House that I will present this matter every day till I get the resolution adopted.

ELECTION CONTEST—SMITH VS. BROWN.

Mr. DAWES. This case, Mr. Speaker, of the claim of Mr. Smith to his seat, like the case of Mr. Brown, is an unusual one. This, like that case, is without precedent, but for a very different reason. If I could be led to believe that it was my duty, or the duty of this House, to decide this question on the ground suggested by my estimable friend from Indiana [Mr. COBURN] a moment since, namely, the personal character, the merits, and the services of the gentleman who claims this seat, my path would be easy and my duty would be cheerfully performed. For, sir, I say at once that gentleman has no friend in this House who esteems him more highly, or appreciates his services to the country more than I do, or more than every member of the Committee of Elections. But, sir, I submit the claim he makes to this seat is an unusual one and without precedent. It is the first time in the history of the country that a gentleman, with only a minority of the votes cast in his district, claims the right to represent that district in Congress. It has often been the duty of the Committee of Elections, amid great difficulties, to ascertain who had received a majority of the votes cast in a district in order to determine who was entitled to the seat, but never before in the history of the country, so far as I know, has the House or any other legislative body been asked to give a seat to a person with an acknowledged minority of the votes cast. The actual vote cast will be found on page 5 of this report, which I flatter myself every gentleman in this House has read, and is as follows:

For Mr. Brown	8,922
For Mr. Smith	2,816
For Mr. B. C. Ritter	1,555

The majority for Mr. Brown over Mr. Smith was, therefore, 6,106 votes, and his majority over all other candidates was in the neighborhood of five thousand. This claimant, admitting this state of facts, calling in question no single vote cast, admitting each voter to have been a legal voter and to have cast his vote in all respects in conformity to law, yet bases his claim upon a legal fiction. That fiction is stated in his own words. He says that it is a conclusion of law that when the candidate who has received the highest number of votes is ineligible, and that ineligibility was known to those who voted for him before casting their votes, that those votes thus cast for him are to be thrown away and treated as if never cast, and consequently the minority candidate would be elected. He holds that, as this House decided yesterday, Mr. Brown was not entitled to take the oath of office; that he was not eligible to office as a member of this House, and as this ineligibility of Mr. Brown was known to the 8,922 voters who cast their votes for him, those votes are to be considered as a nullity, and the canvass is then to be made between the 2,816 votes cast for him and the 1,555 cast for Mr. Ritter; and that he would, therefore, be entitled to a seat. Sir, I have been engaged somewhat in this business of ascertaining, as well as I knew how, who were elected to Congress; and I must say, if I am tired of anything, it is of any process of reasoning or any endeavor that has for its object, directly or indirectly, or that will in its consequence result in circumvention of the will of the majority in any district in these United States. I have found it necessary, Mr. Speaker, sometimes to make up my mind that I could not ascertain the will of the majority in a particular precinct or in a particular district, and I was bound, therefore, to set aside the vote of a precinct or the votes of a whole district, and say to them, "You either have not conformed to the law in your effort to elect a Representative, or if you conformed to the law you have failed to produce evidence of it, so I, for one, can be able to tell what is the legal will of the district, and you must try again."

But, sir, I have no patience myself, and I speak for myself only, with any process of reasoning the result of which is to circumvent the majority. I do not mean to say that any gentleman in advocating the claim of Mr. Smith is disposed to take that course. I desire to follow out the thread of this claim and see whether it does not result in that.

Mr. HARDING. Will the gentleman allow me a question?

Mr. DAWES. Yes, sir.

Mr. HARDING. I ask him if we are to understand him as maintaining the position that if a constituency shall persistently send to this Congress a disloyal man to represent them the gentleman would deem it unfair to attempt to circumvent the result of that practice.

Mr. DAWES. Mr. Speaker, I have not reached that point in the discussion yet. When I do the gentleman shall have my views upon it for whatever they are worth. I spent some time yesterday in trying to demonstrate to the House that we had a right to insist that whoever was elected from a district should be a loyal man, and the House sustained me in that position. I do not suppose that it followed from that that we had a right to go beyond and select from that district some other man.

This fiction of law, Mr. Speaker, upon which the claim of this gentleman to a seat is based, has not originated in this country and has no foothold here. It originated in the British Parliament. It is a very old fiction of law, and was the method by which the old Parliaments from the Praise God Barebones down to within a few years, were in the habit of regulating the majorities in that body. It was a simple and easy method which came into use in the British Parliament nearly two hundred years ago, and has been kept up until within a few years. I do not know that it has been resorted to in that body lately, for since the power of the ballot has been growing more efficient, and reform has marched, as Macaulay, says, over Parliament, because it could not go through Parliament, there has been less said, and there has been no attempt to substitute a selection in the House of Commons for the people of any borough or county there.

We heard Mr. Smith upon this claim, and although the committee were divided upon the question whether Mr. Brown was entitled to his seat or not they were entirely unanimous upon the question that it was not in their power or in the power of this House to substitute in his place a man who had received only a minority of the votes. The gentleman brought before the committee very many cases from the British Parliament and the British courts in olden time wherein this doctrine which he maintains is laid down and acted upon, coming down to a period more or less late. I am not disposed to controvert the existence of the rule in Great Britain precisely as he has stated it down to about twenty years ago, namely, that when a man was voted for who was known to the voters at the time to be ineligible to the office the votes were thrown away and the minority candidate installed in his place. They carried the doctrine in extreme party times to great lengths; they carried it beyond what this claimant asks us in this case.

In the case of Wilkes, for the offense of a libel, he was expelled from the House of Commons and then returned time after time until that body, as this House did yesterday, by a vote excluded him from it, and attached to their vote a declaration of his ineligibility to the office. He then went before the people of his county and they returned him as before with a very large majority, and the House of Commons substituted in his place a man who had not received a tithe of the votes which were cast at the election. That was the extremity to which they had gone, and it so shook the Parliament of Great Britain and the people that in a very short time the Parliament itself, by a solemn vote, rescinded the whole proceeding and restored this man to his place in that body. Since then there has been no instance in the British Parliament where a man has been put into a seat by a minority of the votes cast simply upon a resolution of the Commons itself.

There were in the English courts of law, following the rule laid down by Parliament, several instances in which they did install in office men who received a minority of votes; but in this country, so far as I am aware and so far as my investigation has led me and the committee, there is no case in any legislative body where that rule has been adopted. I may be mistaken. Since the report of the committee in this case, in which it is stated that there was no case and none was claimed before the committee, it has been ascertained that nearly seventy years ago, in one of the counties of Maryland, before a court in that county, it was decided that a sheriff was elected upon this principle. And later on, some ten or fifteen years ago, it was decided by a court in Indiana that a sheriff in a county in Indiana was elected upon this principle. So far as I know the courts of law in this country have followed the example in England to that extent and no further. There have been, however, other cases in the country in which judgment has been rendered in direct opposition to these cases. I have before me a judgment rendered in 1852 in the State of Georgia, in which Chief Justice Lumpkin, who was a very distinguished

jurist in his day, delivered the opinion of the court, in which he scouts this idea. The syllabus of the case is this:

"A person receiving the minority only of the legal votes polled is not entitled to be installed into an office, notwithstanding the incumbent be removed on account of some personal disqualification. Under such circumstances a new election will be ordered."

Mr. PAINE. I should be glad to ask the gentleman a question, for the purpose of drawing out the true character of the decision to which he has just referred. In this case it is claimed, as I understand, in the first place, that the man who received the majority of votes was ineligible, and in the second place, that his ineligibility was known to the voters. Now, I would like to ask the honorable chairman of the Committee of Elections whether in the case to which he has just referred there existed, in the first place, any ineligibility on the part of the person chosen or either of the candidates, and whether, if there was, there was any claim made that the voters knew that such ineligibility existed?

Mr. DAWES. I shall endeavor to cover the whole ground as well as I may. I have a case from the gentleman's own State.

Mr. PAINE. Will the gentleman be kind enough to answer my question?

Mr. DAWES. I cannot answer it now because it comes directly in the course of my argument at a later period. I certainly shall answer it.

I have a case before me from the gentleman's own State. He knows better than I do the value of the opinions of the supreme court of that State. I read from the syllabus of that case:

"In case of the ineligibility of a person to hold a particular office, and who receives the greatest number of votes, such votes are not mere nullities, but should be counted by the canvassers. A contestant for the same office receiving a less number of votes, though eligible, cannot be regarded as elected, and does not thereby become invested with a right to the office."

Some forty years ago, soon after the State of Maine separated from the State of Massachusetts, when an absolute majority over all others was required to elect a man to office, it did sometimes happen that a few scattering votes would defeat an election; and there arose a case in the State of Maine in which a few scattering votes cast for an ineligible person would, if counted, defeat an election, not secure an election; and the question was put by the canvassers to the supreme court whether they ought to count those votes or not; and the supreme court, without giving any reasons, but as briefly as categorically, said no. Since then the supreme court of Maine has taken some different views of this subject, as they are cited in this case from Indiana, as supporting the opposite doctrine at the present time; so that, according to the Indiana case, I should infer that the position of the courts of Maine would be just the opposite at this time. I think, however, that the Indiana court was mistaken, and that there is nothing in the decisions of the courts of Maine from that time down upon the subject.

Sir, this fiction of law is based upon two principles, has two grounds upon which it rests. The first is that the voter had knowledge when he cast his vote that the vote he was casting was for a person ineligible to the office; and second, that the act of so casting his vote was an offense which might be punished. This is the express stipulation of the grounds upon which this principle or fiction of law is based, namely: you must show that the voter knowingly cast his vote for a person who was ineligible, and then you visit punishment upon him for his obstinacy, is the expression of the law, his willful misconduct, as the gentleman from Illinois [Mr. HARDING] suggests; his vote should be treated as a nullity, and the body to whom it is referred should select for him a representative. That is the ground upon which this thing stands. Now, it becomes necessary to ascertain what was the amount of the notice to the voters.

These decisions are all at heads and points upon this question of notice, and some of them pay not the slightest regard to it. The court in Maine, in their opinion delivered more than forty years ago, did not take any notice at all of it. They treated it entirely as a matter not entering into the case. And the case to which I have referred in the county in Maryland did not allude to the idea that there must be a known ineligibility. And in the two cases I have cited from Georgia and from Wisconsin, where the broad principle is laid down that the law does not authorize treating as a nullity a vote cast for a person who is ineligible, no attention is paid to this element.

The case in Indiana, however, treats this element as essential upon the rejection of the vote, but claims that notice may be constructive, and that everybody being presumed to know what the law is, the voter is therefore clothed with a full knowledge of the ineligibility. Therefore, if the holding of the court in Indiana is correct, this question of the knowledge of or notice to the voter amounts to nothing. But if the cases in Wisconsin and Georgia and Maryland and also in Maine can be taken as a guide, these matters enter into them as an element.

Mr. KERR. Will the gentleman yield to me for a moment?

Mr. DAWES. Very well.

Mr. KERR. In Indiana the ineligibility resulted from a provision of the constitution of that State.

Mr. DAWES. I was about to call the attention of the House to that point. I have spoken of these questions in the courts of law in this country. I submit there is no rule in those courts that anybody can claim as the governing rule, so far as the authorities have as yet been produced. The gentlemen from Indiana on this side of the House and on the other [Mr. COBURN and Mr. KERR] can tell me how acceptable to the voters in Indiana was the decision of 1853. I do not know to which political party the successful or the unsuccessful candidate belonged; but I venture the assertion—and any gentleman from Indiana can correct me if I am mistaken—that the party that gained by the decision was satisfied with it, and the party that lost by the decision denounced it.

Mr. COBURN. The Democratic party gained by it.

Mr. DAWES. Then I venture to say that every man in Indiana opposed to the Democratic party denounced the decision as unsound.

Mr. COBURN. Will the gentleman allow me a moment to explain?

Mr. DAWES. Certainly.

Mr. COBURN. In relation to the case in Indiana I desire to say this: that case arose in this way: one of the claimants had been the mayor of the city of Indianapolis, and he received the largest number of votes. The election was contested by his opponent on the ground that he was holding a judicial office at the time of the election. The State constitution of Indiana provides that no one holding any judicial office shall be eligible for election to any other office during the term of the judicial office which he may be holding. The supreme court of the State decided that the office of mayor was a judicial office; and in addition to that the court decided that the contestant, who received a minority of the votes, was duly elected. The supreme court of Indiana was denounced by the opposite political party because it was supposed they had strained the law or violated it or gone beyond it in deciding that the office of mayor was a judicial office. So far as I remember, the other point was not discussed at all.

Mr. DAWES. This is all I care to say in reference to the position of this matter before the courts of this country. I desire now to ask the attention of members to the position of this matter in our legislative bodies. I submit that the claim of Mr. Smith to a seat in this House, upon a minority of the votes cast, involves a departure from all the precedents set in both Houses of Congress. There has been no case in either House of Congress, so far as I know, where any person has ever even set up a claim to office upon the ground taken by the claimant in this case.

The very first contested-election case in the very first session of the very first Congress in 1789 was a case involving the question of ineligibility—a case where the seat of a man who had received a majority of votes was contested upon the ground that by the Constitution of the United States he was ineligible to the position, and where, if this doctrine had been admitted, his opponent had the authority to set it up. That case arose in a Congress of which many of the framers of the Constitution were members; and the alleged ineligibility of the sitting member was discussed with marked ability by Mr. Madison and others of the framers of the Constitution. Yet, throughout the whole of that debate, no man suggested that, whatever might be the decision as to the eligibility of the sitting member, the man who had received a minority of the votes had the slightest claim to the seat.

Mr. MAYNARD. Will the gentleman tell us how that question of eligibility was decided?

Mr. DAWES. It was decided in favor of the sitting member.

Mr. MAYNARD. In favor of his eligibility.

Mr. DAWES. I have said nothing that requires the gentleman to interrupt my remarks in regard to this point. I have said that throughout all the discussion on that question no man intimated that, whatever might be the result of the investigation as to the right of the sitting member, the man who had received a minority of the votes could under any circumstances be entitled to the seat.

Mr. MAYNARD. What I wished to show was that this question could not possibly have arisen in that case.

Mr. DAWES. The next case which arose, Mr. Speaker, was that of Albert Gallatin in the Senate, in 1793. He had been elected by the State of Pennsylvania to the Senate before he had been nine years a citizen of this country. That case, owing to the distinguished character of Mr. Gallatin, and the questions arising in regard to naturalization, then a new subject in this country, was discussed at great length, engaging the best talent of the Senate. Yet in this case, as in the other, no man during the whole debate intimated that the minority candidate had any claim to the seat; and the minority candidate himself set up no such claim.

The next case, one arising in the House, was that of Philip Barton Key, whose seat as a Representative from the State of Maryland was contested on the ground of his ineligibility. And the same may be said in regard to this case that I have said with reference to the others. There was about the same time another contested election from the State of Maryland, the case of McCreery *vs.* Barney, in which arose for the first time the question whether a State could prescribe qualifications for a member of Congress in addition to those specified in the Constitution of the United States. The man who had received the minority of the votes contested the eligibility of the man who had received the majority of the votes on the ground that the latter did not possess certain qualifications which had been prescribed by the State as necessary for a member of Congress. Yet the contestant said nothing about his own right to the seat; and the able discussion of that question, continuing for nearly two weeks, brought out during the whole of it but one intimation, that in any event the candidate who had received the minority of the votes could be entitled to the seat. That single intimation brought back a reply of Mr. Randolph, that so long as he should have a seat upon the floor no man receiving a minority of the votes should with his con-

sent represent a constituency in this House; and that ended the matter. That view of the case was never afterward alluded to.

The next case was that of John Bailey, whose seat as a Representative from Massachusetts was contested upon the ground of ineligibility by citizens of his own district. In that case the minority candidate made no appearance for himself and raised no claim in his own behalf. And during all the discussion of that case no man intimated that the result which followed, the vacation of the seat for want of eligibility on the part of Bailey, gave the minority candidate any claim to the seat. The seat was declared vacant and a new election ordered.

The next case was that of James Shields in the Senate. His seat was vacated by a vote of the Senate on the ground of his ineligibility, and no other man set up a claim to the seat. A new election was ordered, and under that new election by the Legislature of Illinois the seat was filled.

The next case in order was that of Mr. Brown himself in the Thirty-Sixth Congress. He came here with a majority of votes when he was less than twenty-five years of age. Yet, sir, in a House where parties were so nearly divided that Congress was, I think, twelve weeks in organizing, more than seventy ballots for Speaker being taken, there being needed time and again only a single vote for the decision, no one claimed that the minority candidate in that case was entitled to the seat. Mr. Brown stood at the door during the whole of the first session, a long session, and at the second session, having then attained the age of twenty-five years, he took his seat without objection upon the strength of votes cast for him when he was ineligible. That is a case for him. Brown was ineligible, but nobody objected.

Now, Mr. Speaker, let me allude to what is going on in the Senate at the present time. There has been for four long weeks the time of that body engaged in the discussion of the ineligibility to a seat in that body of a gentleman from the State of Maryland. Who has heard in all that discussion that any gentleman rose and proposed to put in his place the man who had received the minority of the votes cast? That has not yet been suggested, so far as I am aware, in the whole discussion in the other branch touching the right of that gentleman to his seat.

Sir, it may be said that the question was never raised. That is true; it never was raised. Is it possible it never occurred to anybody? Is it possible these brilliant decisions in 1799, over here in Maryland—one in reference to a sheriff of a county, and the other in Philip Barton Keys' case—I say is it possible, Mr. Speaker, in all these cases, it passed unnoticed that anybody knew anything about this fiction of law? It is passing strange, Mr. Speaker; and I think if we go a little further it will lack only in marvelousness to that claim which is now set up, that the House of Representatives by resolution can inflict a penalty on voters in the second district of Kentucky because they have not voted as the majority in this House desired.

My colleagues from Massachusetts will remember within the last two years the seat of a Senator in that State was declared vacant, and another election was ordered, although the minority candidate came within a hundred votes of him. It never occurred to him or to that body to say thereby that man was elected by declaring the ineligibility of the other to a seat; that is on the principle set up in Indiana that everybody must know the law. Every voter in Massachusetts knows what the law is as well as the voters in Indiana. They are presumed to know it. That seat was declared vacant, and nobody has suggested from that day to this the man who received the minority of the votes cast at that election was entitled to be admitted. There is now in the Massachusetts Senate a question touching the eligibility of one of the Senators, and I have not seen as yet any intimation of that kind. I suggest to my friend that he send his brief to them and let them know what they did in England in the days of Praise God Barebones, and what they did in Maryland in 1799, that they may not sleep upon their rights any longer.

Now, Mr. Speaker, there is another view of this case. Whatever might be the law or power of any State to declare beforehand that votes cast for a man who is ineligible shall be treated as a nullity, it is not necessary to discuss it, nor is it necessary to discuss the further question whether, under that clause of the Constitution which gives this Congress power over the times, places, and manner of electing members of Congress, we could not pass such a law; for neither in the State of Kentucky was there ever such a law touching the ballot, nor has Congress ever passed such a law.

There is a provision in the constitution of Illinois, and I believe there is the same in the constitution of Michigan, and perhaps the same is in the constitution of Indiana. There is this provision in the constitution of Illinois, that no man shall be eligible to any other office while he is a judge. I do not state it with accuracy, but that is the substance of it. There is also an express provision that every vote cast for such a man shall be a nullity. That is the express organic law of Illinois. I do not know it is within the constitutional power of a State, but I do not doubt when a man casts his vote under that law he casts it with a full knowledge that the law has disposed of his vote, provided how it shall be counted and what shall be the power of it.

Let me put a question to this House. According to the law as it was in Massachusetts a few years ago, and as it may be in some of the States now, for aught I know, it required a majority of all the votes cast to elect. Now, suppose A comes here from Ohio with 4,000 votes. His competitor B has received 3,000, and his competitor C 1,300. A similar case comes here from Massachusetts. A having 4,000 votes, B 3,000, and C 1,300. This House declares the one elected and the other rejected. Why? Because the statutes of Massachusetts and of Ohio have both fixed the power of the ballot. The statute of Massachusetts has prescribed that the 1,300 votes for the minority candidate C shall count, and the statute of Ohio has declared that they shall not count, and we here count according to the statute in each case.

Now, it is perfectly plain to my mind that if the State of Ohio has enacted a law that if you vote for a man known to be ineligible your vote shall be thrown away, that must be the force and effect of the ballot. When a man casts it he does so under the law, and the law governs it accordingly, just precisely as the law of Massachusetts has declared that 1,300 votes cast for C shall count, and the law of Ohio has declared that it shall be treated as a nullity.

But, sir, what is asked by my friend from Kentucky is, that without any law in that State, and without any law of Congress governing the subject, we shall, by a resolution of this House, declare that the votes cast for an ineligible candidate shall be treated as a nullity. I say, Mr. Speaker, that this House can do no such thing. The power and effect of the ballot must be gathered from the statutes of Kentucky, at least until the Government of the United States, by statute under the power to prescribe the time, places, and manner of election, shall take it upon itself to prescribe a rule. In the absence of any law in Kentucky declaring that the votes cast for a man known to be ineligible shall be thrown away; in the absence of any legislation of Congress that they shall be thrown away, it is not in the power of this House, by resolution, to undertake to count these votes in any other manner than prescribed by the law under which they were cast, and to do it would be to violate the law.

That is the difference between this House and the British Parliament. The British Parliament has no limitation upon its power but its fear of the people. It has no written constitution to govern it; it derives its authority in theory, not from the people at all, but from the king, whose right is divine. All that the people get of voice or share in the Government of Great Britain in theory comes by concession from the crown. I know it is true that, in point of fact, the people wrenched it from the monarch, but in theory it comes from the crown, and the Parliament assumes omnipotence, as it is called in the old law books that are before my friend here, as old as the oldest man living. The Parliament assumes that it is omnipotent and can do what it pleases. And what does it do? When a county or precinct votes differently from what the majority in Parliament desire they impose a fine upon it, and then if it is refractory they disfranchise it altogether. Time and again by a vote of Parliament they have disfranchised whole counties and whole boroughs, and they have set up a borough with only three votes in it to counteract some influences in another place. Are we to take precedents drawn from such a course? Are we to go back and bring out the old, musty, black-letter law of England to govern us in this day in deciding upon the question of an election to this body? Are we to abandon all the precedents of the history of this country in all its legislative bodies and to set up at this day a new law, a new theory, departing from the old, established, and beaten path, namely, to give, if possible, to the majority of the voters in the district their voice, and if it be not possible, then to send the election back to the people and let them try again? Time and again has that precedent been established; and why are we called upon now to depart from it? My friend from Indiana on my right [Mr. COBURN] has unfolded the reason why; it lies in the personal merit of the distinguished gentleman who claims this seat.

Mr. COBURN. Mr. Speaker——

Mr. DAWES. I cannot be interrupted.

Mr. COBURN. The gentleman misrepresents me.

Mr. DAWES. I am not misrepresenting my friend. I would not do it for the world. Mr. Speaker, I know the process of reasoning—it is derived from the old wigs of England—by which you undertake to make a man believe that these are not legal votes because they are not cast for a legal candidate. But if anything is apparent as the result of the election in the case before us it is that the votes have at the ballot-box decided by a majority that this man, Mr. Smith, they do not want.

Now, sir, I agree with gentlemen that they ought not to want a disloyal man; I agree with gentlemen that they shall not have a disloyal man; but I do not agree with gentlemen that because they have preferred a disloyal man I may set up for them such a Representative as I say they ought to have. Now, I say, Mr. Speaker, that they would do themselves great honor if they did want my friend Mr. Smith here; but they have declared as emphatically as it is possible for the voters of that district to declare that, whoever may be their choice, they do not want this man to represent them. And, sir, it is quite enough for us, in my opinion, to say to these people: We pass upon the qualifications of the man you send here and we stop there. Sir, let us look at this as a question of medicine, if you please. If I am permitted, as a member of the Committee of Elections or as a judge of elections here in this House, to inquire beyond the simple questions of law for a moment, let me ask what sort of medicine is it with which to treat the diseased and perverted minds of the majority in that district, what better medicine to administer to them than to say to them, "Gentlemen, all we ask of you is to send a loyal man here; we do not attempt to say to you who you shall choose; we only say to you that if you send a disloyal man we will send him back, but we do not make his place vacant in order that we may put a friend of ours in."

Now, sir, you may go to the polls and before the people as much as you have a mind to with these old law books; you may go upon the stump as long as you please. The people have

strong common sense, and I tell you plainly that the people of the United States know what a majority of six thousand is, and you may talk to them about the black-letter law of the Praise God Barebones Parliament as much as you please; they all turn upon their heels and ask you to answer this question: "Did not you put a man into that seat who was in a minority of more than six thousand of the votes?" and that question you have got to answer. I inquire of you whether you are willing, whether you desire, to take this additional load upon your shoulders? I for one am willing to go to the people and say "I made vacant John Young Brown's seat solely because John Young Brown was a disloyal man, and I told his people that I did not desire to select for them a representative; that is their business, confined within the limitation which the Constitution has imposed upon them, namely, that he shall have the qualifications of a member."

[Here the hammer fell.]

The SPEAKER. The claimant, Mr. Smith, is now entitled to the floor if he desires it.

Mr. SMITH, the claimant, took the floor.

Mr. PAINE. The hour at which we usually adjourn has arrived, and now, with the consent and in accordance with the wishes of the gentleman who has the floor, I move that this matter be postponed until Monday next after the morning hour.

Mr. DAWES. I ask the gentleman to withdraw that motion for a moment.

Mr. PAINE. I withdraw it.

Mr. DAWES. During the discussion of Mr. Brown's case I submitted, at the request of the member of the Committee of Elections who is absent on account of sickness, [Mr. SHELLABARGER,] his views upon the question of Mr. Brown's right to the seat. I have here, sir, his views upon the question now under consideration, which, with the leave of the House, I will send to the Clerk's desk, that they may be read.

Mr. PAINE. I will yield for that purpose, and then I move a postponement of the case until Monday next.

Mr. MAYNARD. I wish the gentleman would move to postpone it until Monday week.

Mr. WASHBURNE, of Illinois. I wish so, too.

Mr. PAINE. Very well; I will modify my motion and move a postponement until Monday week.

The SPEAKER. Before that motion is put the gentleman from Massachusetts [Mr. DAWES] asks the consent of the House that the views of the absent member of the Committee of Elections, the gentleman from Ohio, [Mr. SHELLABARGER,] be read. If there be no objection they will be read.

No objection was made, and the Clerk read the views of Mr. SHELLABARGER, as follows:

"In deciding upon Mr. Smith's title to a seat I assume that the evidence shows:

"*First*, That Brown received a large majority of the legal votes cast in the district at that election.

"*Second*, That Mr. Brown's ineligibility or disqualification to take the office of representative under the Constitution and laws of the United States, if such disqualification existed at all, (which I assume for the purposes of this point,) was not so plain and notorious as to raise the presumption that the electors who voted for him, or such numbers as, being deducted from his vote, would change the result, knew that he was by law disqualified to hold this office, and I think the weight of the evidence requires this to be assumed, all of it being considered. These two things being assumed, Mr. Smith's right to the seat seems to rest on this single question, When a majority of the votes cast at an election for a member of the House was cast in good faith for one in fact incapable of taking the office, the electors not being shown to have known when they voted that their votes were being cast for one incapable of holding the office, shall these votes so cast not be counted as votes at such election, and shall they be treated as votes voluntarily thrown away?

"This question I answer in the negative. I do not mean to say anything as to what would be done with votes cast for one notoriously ineligible, but simply to say that where the majority of electors appear to have voted in good faith for one of two candidates and their choice turned out, contrary to their expectations, to be incapable of taking the office, then the office must be declared vacant, and the one receiving a minority of votes cannot take the seat.

"Assuming the facts to be as above stated, and which I do assume, on the right of Mr. Smith to the seat in said case, I vote no."

Mr. DAWES. Let me answer one of the inquiries made of me. The gentleman from Wisconsin [Mr. PAINE] desired me to speak upon the question of notice. Now, what sort of notice had the voters in this district? The question is, did these 8,900 voters vote for Mr. Brown, knowing him to be ineligible? What is the evidence upon that point? The testimony upon record in the book of evidence is, that at four of the public meetings during the canvass Mr. Brown was called upon to answer in regard to his letter of April, 1861. And a question was put yesterday by the gentleman from Indiana [Mr. COBURN] to Mr. Brown, I suppose for the purpose of this hearing. Mr. Brown was asked if he was not questioned all over his district about that letter, and he answered that he was. Now, assuming that Mr. Brown has a right thus to compromise the voters of his district by his statements upon this floor, what does it all amount to? It makes out this: that Mr. Brown was charged with being the author of this letter; that he admitted that he wrote it; that he said he was a Union man, and had been a Union man all the time, was a Union man when he wrote the letter, and could take the oath prescribed by law for members of Congress.

This is the first case that has ever been brought before the House under the law of 1862; and after all the evidence that was given in the case, after hearing everybody on both sides, the committee of this House appointed to pass judgment upon it were just as equally divided upon the question of the eligibility of Mr. Brown as they possibly could be; were divided just as equally as nine members can be divided. How can you say, then, that 8,922 voters knew when they cast their votes that they were casting them for a man who was ineligible, when the Committee of Elections could not come to that conclusion, and when it is only by a resolution of this House, not by any act of Congress, that he is made ineligible, if at all? And yet the whole matter rests upon the previous knowledge of the voters.

Now, suppose the voters of that district send Mr. Brown back here, I am asked. Suppose they do. If you cannot keep him out in any other way, you can pass a law, as the Constitution gives you the power to do, defining the power of the ballot; you can let the elector know when he casts his ballot just how it will be counted. This Congress has the power, under the Constitution, to pass such a law, and the State has the power to do so. That is the answer I give to that. But I complain of two or three things here which I will briefly state, and then I will sit down.

Mr. COVODE. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. COVODE. My point of order is, that the pending question is upon the motion to postpone, and the discussion should be confined to that motion.

The SPEAKER. The motion to postpone is susceptible of very limited discussion; it does not open up the whole question.

Mr. DAWES. I am obliged to my friend from Pennsylvania, [Mr. COVODE;] he is, indeed, very kind. Of course this is a very pleasant task, which I have enjoyed very much; it is mere pastime on my part.

Now, upon the question of postponement, I desire to say that I think this case involves an important question. It is a marvelous idea that the House of Representatives should be called upon in this way to put at naught all its own precedents and all the precedents of all the Legislatures of this country. I submit that the House ought to address themselves to this question until they have disposed of it. I am, therefore, opposed to any postponement of this case. I want to have it decided. I want the Committee of Elections to be instructed now, if they are to be so instructed at all, that the voice of the majority is no voice at all. And I will say further—of course that is of no consequence—that it will be impossible for me to attend to this case next week, for I shall be compelled to be absent.

Mr. WASHBURNE, of Illinois. I now call the previous question on the motion to postpone.

Mr. PAINE. The gentleman from Massachusetts says that he cannot attend to this case next week. The motion is to postpone this case to a week from next Monday.

Mr. DAWES. I am willing to come here to-morrow to attend to this case.

Mr. ASHLEY, of Ohio. Very well; let us dispose of it to-morrow.

Mr. DAWES. The Committee of Elections have four cases ready for a hearing.

On seconding the demand for the previous question there were—ayes 38, noes 38; no quorum voting.

Tellers were ordered; and Mr. PAINE and Mr. ASHLEY, of Ohio, were appointed.

The House divided; and the tellers reported—ayes fifty-seven, noes not counted.

So the previous question was seconded and the main question ordered; which was upon postponing the pending resolutions until Monday, the 24th instant, after the morning hour.

The motion was not agreed to; there being—ayes 41, noes 63.

Mr. WASHBURNE, of Illinois. I move to lay the whole subject on the table.

The SPEAKER. The claimant [Mr. Smith] is entitled to the floor, having yielded to allow the motion to postpone to be made.

Mr. DAWES. I hope the claimant will be heard.

Mr. WASHBURNE, of Illinois. We will hear him with a great deal of pleasure.

Mr. DAWES. It is right that every man who makes a claim of this kind should be heard.

The SPEAKER. The claimant is entitled to the floor, and cannot be taken from it by a motion to lay on the table.

Mr. PAINE. I think it would be a great hardship upon the claimant to compel him to speak at this late hour; and with his permission I move that the House adjourn.

Mr. WASHBURNE, of Illinois. I hope the House will not adjourn.

On the motion to adjourn there were—ayes sixty-five, noes not counted.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays.

On ordering the yeas and nays there were—ayes eleven, noes not counted.

Mr. WASHBURNE, of Illinois. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

So the motion was agreed to; and the House (at four o'clock and ten minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. BECK: The proceedings of and resolutions adopted by a convention of distillers held at Lexington, Kentucky, on the 7th day of February, 1868, petitioning Congress to modify the present law regulating the collection of taxes on distilled spirits, because of its ruinous effects, and to reduce the tax to fifty cents per gallon thereon; also, the indorsement thereof by the United States collector in that district.

By Mr. CHANLER: The petition of Wilson G. Hunt, Peter Cooper, Marshall O. Roberts, and others, citizens of New York, in behalf of midshipmen who may hereafter graduate from the United States Naval Academy.

By Mr. CHURCHILL: The petition of B. F. Green and others, citizens of Oswego, New York, asking for the passage of an amendment of the act extending the jurisdiction of the district courts to certain cases upon the lakes and navigable waters connecting the same.

By Mr. CLARKE, of Ohio: The petition of C. B. Edwards and others, of Highland county, Ohio, for a post route from Hillsboro', by Samantha and Careytown, to New Vienna.

By Mr. ELDRIDGE: A memorial of 150 citizens of Washington and Ozaukee counties, in the State of Wisconsin, for an appropriation for a harbor at Port Washington, in said State.

By Mr. ELIOT: The petition of Whitney & Sampson and others, merchants and shipowners, praying for erection of a light-house at southerly end of Block island.

By Mr. HUMPHREY: The petition of General E. W. Benson and 500 others, asking for pensions to soldiers of the war of 1812.

By Mr. McCARTHY: The petition of the workmen in the Syracuse Iron Works, asking for a reduction of the Army and Navy, the expenses of Government, and the passage of revenue laws protecting and encouraging the industry of the country.

By Mr. MILLER: The petition for the establishment of a post route between Troxelville and Beaver Springs, in Snyder county, Pennsylvania.

Also, the petition of sundry citizens of Pennsylvania, asking that the revenue laws may be so adjusted as to keep the balance of trade in favor of this country, that the products of our mines of gold and silver, and our bonds, will remain at home.

By Mr. PLANTS: Sundry depositions in support of the petition of Daniel Sheets, for a pension.

Also, the petition of George P. Sandford, of Meigs county, Ohio, with accompanying papers, asking for a pension.

Also, the petition of Jacob A. Bowers, of Washington county, Ohio, with accompanying papers, asking a pension.

By Mr. POLAND: The petition of C. P. Clever, sitting Delegate from New Mexico, praying an extension of time for taking testimony in election contest.

By Mr. SCHENCK: The remonstrance of Adams, Gibbs & Co., and 56 others, dealers, jobbers, and commission merchants in tobacco, of Chicago, Illinois, against the adoption of the recommendations of the manufacturers of tobacco.

By Mr. WASHBURN, of Massachusetts: The petition of Sidney Strong, and 40 others, manufacturers, of Northampton, Massachusetts.

Also, the petition of S. Harris & Sons, and 32 others, manufacturers, of Clinton, Massachusetts.

Also, the petition of George C. Davis, and 14 others, manufacturers, of Northboro', Massachusetts, asking for reduction of the expenditures of the Government, and that the internal tax may be removed from our manufactures.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 15, 1868.

The House met at twelve o'clock m. Prayer by Rev. M. P. KINNEY, of Rockford, Illinois.

The Journal of yesterday was read and approved.

HARBOR AT BLOCK ISLAND.

Mr. JENCKES, by unanimous consent, presented resolutions of the Legislature of the State of Rhode Island relative to the construction of a harbor at Block island; which were referred to the Committee on Commerce, and ordered to be printed.

ORDER OF BUSINESS.

Mr. DAWES. I call for the regular order.

The SPEAKER. The first business in order is the consideration of reports of a private nature, commencing with the Committee on Patents.

Mr. JENCKES obtained the floor.

Mr. DAWES. I thought the unfinished business of yesterday would come up immediately after the reading of the Journal.

The SPEAKER. The Kentucky contested-election case was, on the motion of the gentleman from Massachusetts, [Mr. DAWES,] made the special order after the morning hour for every day until disposed of.

Mr. DAWES. I ask the gentleman from Rhode Island to give us the morning hour for the contested election case.

Mr. JENCKES. I will give way after a few minutes.

The SPEAKER. If the Committee on Patents use any part of the morning hour it will be charged against the committee, as if they had occupied the whole hour. If they waive now the privilege of the morning hour they will be entitled to the morning hour next Friday.

Mr. WASHBURNE, of Illinois. I hope that will be done, so that, after this election case is disposed of, we may go into Committee of the Whole on the general appropriation bill.

Mr. JENCKES. I waive, on the part of the Committee on Patents, the privilege of the morning hour to-day.

ELECTION CONTEST—SMITH VS. BROWN.

The SPEAKER. The first business in order, then, is the consideration of the resolutions reported from the Committee of Elections, relative to the election contest of Smith *vs.* Brown, from the State of Kentucky.

The House accordingly resumed the consideration of the following resolutions, on which the contestant, Mr. Smith, was entitled to the floor:

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That the Speaker be directed to notify the Governor of Kentucky that a vacancy exists in the representation in this House from the second congressional district of Kentucky.

Mr. DAWES. I wish to make a suggestion. I do not desire to curtail the time to be occupied by the contestant, [Mr. Smith.] But, in view of the pressure of the public business, I ask that, after the contestant shall have concluded his remarks, the speeches may be limited to twenty minutes each.

Mr. WASHBURNE, of Illinois. I give notice that after the speech of the contestant I shall, if I can get the floor, move to lay this whole subject on the table. If that be not done I hope the House will get through with the case as speedily as possible, that we may proceed with the public business.

The SPEAKER. Is there objection to limiting speeches on this question to twenty minutes after the remarks of the contestant, [Mr. Smith?]

Mr. CHANLER. I object; and I will state the reason for my objection. I am sure the chairman of the Committee of Elections will appreciate it. One of my colleagues on the committee requested me to take charge of his debate in this matter. He is now absent, and I must object to his being cut off.

Mr. DAWES. I think he will be satisfied with twenty minutes. There is not much ground to be covered in this discussion.

Mr. CHANLER. I withdraw my objection on that statement.

Mr. HIGBY. I hope the chairman of the Committee of Elections will call for the previous question after the claimant has concluded his speech.

Mr. DAWES. I will press this as far as the House will allow me; of course I cannot cut off anybody.

Mr. HIGBY. It would be a pity to cut off anybody in these contested-election cases! But, sir, I think it is our duty to go to the public business as soon as possible.

Mr. DAWES. Some gentlemen have expressed their desire to engage in this debate, and I cannot consent to cut them off.

There was no objection; and it was then ordered that at the conclusion of the claimant's speech the debate should be limited to twenty minutes to each member.

RIGHTS OF ADOPTED CITIZENS.

Mr. WASHBURNE, of Illinois. I rise to make a privileged motion; that is, to reconsider the vote ordering the printing of certain documents, on motion of the gentleman from Massachusetts, [Mr. BANKS.] The time has passed for the entering of the motion to reconsider.

The SPEAKER. Then the motion to reconsider cannot be entered.

Mr. WASHBURNE, of Illinois. Then I ask unanimous consent to introduce a resolution.

Mr. CHANLER. Let the gentleman explain to what documents he refers.

Mr. WASHBURNE, of Illinois. I refer to a very large correspondence in relation to foreign and international questions. It may be proper to print it hereafter, but I wish first to have the matter examined as to the necessity for its being printed. Let it go to the Committee on Foreign Affairs for examination.

Mr. ELDRIDGE. Is it not now before the Committee on Printing for examination?

Mr. WASHBURNE, of Illinois. It is not in the hands of the Committee on Printing, but it has been ordered to be printed. I think the House should take the action I propose, so that we may fully consider it.

Mr. CHANLER. I object, because it will cause unnecessary delay in our action on this important subject.

Mr. WASHBURNE, of Illinois. I give notice I will on Monday next introduce a resolution to rescind the order for the printing of this large correspondence. I do not suppose that gentlemen want a great book printed at an enormous expense unless there is some good reason for it.

ELECTION CONTEST—SMITH VS. BROWN.

Mr. SMITH, (contestant.) Mr. Speaker, had I thought at the beginning of this contest that there was nothing more involved in it than merely a seat in this honorable body I should not have begun it, and if I could to-day feel that the only question to be settled is whether the honorable gentleman holding the certificate from the second district of Kentucky or myself should represent that district I should not to-day claim the attention of this House, however much I might appreciate the right to represent that district. But, sir, I regard this contest in a much more important light; I can but think that this House, in settling this and other cases from the State of Kentucky, is called upon to establish a precedent that must not only seal the fate of my State but must tell upon the peace and happiness of our common country; that it is called upon to settle a question that will give to the spirit of treason its final stab or breathe into it anew the breath of life; that it is called upon not only to enforce a long-established principle of law, but by enforcing that law to make treason odious, or by virtually repealing it to offer a reward to rebellion; that by its decision in this case it will offer to the loyal men of my State, who stood true to the Government of the United States in her hours of peril, who nobly raised their arms in her defense when she was bleeding at every pore and trembling to her very center, protection in life, liberty, and property, or it will banish them, with their wives and children, from their homes and their State. And, sir, regarding this contest in this light, I should have felt had I not entered it that I had been untrue to my country, to my State, to my district, and to myself; and, having begun the contest, I should feel equally remiss in my duty if I did not use all honorable means to conduct it to a successful termination.

In order that we may arrive at a just conclusion of the importance of the question under consideration it is necessary that we carefully consider the present condition of our country and the effect which the decision of this case is most likely to have upon the country. It is necessary that we remember that we have just passed through one of the most causeless and bloody wars that ever cursed this or any other land or nation; through a war that has laid waste a large portion of our country, and that has cost us the lives of over three hundred thousand of our citizens, that has whitened our hill-tops with bleaching bones of our noblest sons, and that has made our valleys run, as it were, crimson with their gore; through a war that has filled our entire land with maimed and wounded soldiers and with weeping widows and wailing orphans; that has left almost

every hearth-stone in our land desolate and every heart bleeding; that has engendered in the hearts of our people an animosity hitherto unknown in our country, and that has left upon us the burdens of an immense debt; and, now that the war has closed, it becomes the duty of every patriot not only to do everything in his power to heal the bleeding wounds and restore our country to her former state of peace and prosperity, but to guard well against a recurrence of the same evils. We cannot, sir, close our eyes to the fact that, notwithstanding the roar of the cannon and the rattle of musketry has ceased in our land, there is much to be done before our country can move forward in that manner in which every true man desires to see her move. If we look around us to-day we see many seats in this Hall vacant; if we look abroad we see that part of our country once represented by the men who occupied the chairs now vacant in this House under military government, and that ere these seats can again be filled many questions growing out of this war that are of vital importance to our country must be met and settled.

And, sir, if we examine the records of past ages, if we peruse the history of any war that has laid waste any part of this earth, or if we only consult our own observations, we shall find that he who marshals and leads to battle his hosts and conquers for his country an honorable peace has little to do in comparison with those men upon whom devolves the arduous duty of clearing away the smoke and dust of battle and of harmonizing the contending elements that invariably exist after a civil war of any considerable magnitude; and it is upon the manner in which these men discharge this duty that depends the success or failure of a war, let it have closed however gloriously. It is for them to determine whether the fruits of victory are to be preserved or thrown away. And, sir, upon the Congress of the United States rests the responsible duty of settling the great questions growing out of our late unfortunate difficulties. If these questions are wisely and patriotically settled we secure to ourselves and hand down to coming generations the fruits for which so many of our countrymen have bled. But if not so settled we lose for ourselves and our posterity the fruits of their blood; and in view of these things the question will naturally arise who are to settle these great and important points—the men who bared their bosoms to the storm of war in defense of their country and honor, or those who enlisted under the banner of her enemies and unsheathed their swords against her? From the close of the war to the present the Government has acted upon the principle that her friends were the only safe custodians of her honor. Her every step at reconstruction has been based upon this principle. To that end she has guarded the entrance to her Council Chambers and to all her offices of trust and profit by requiring aspirants to her favors to swear to their devotion to her integrity and her honor.

But, sir, she is to-day called upon, in the settlement of the case under consideration, to virtually remove these guards or to strengthen them by sustaining them. She is called upon to enforce or virtually repeal many laws which, in this our country's hour of peril, are her "strongholds;" and it is in this light that I regard the precedent to be established in this case as one of vast importance to the country. The effect which this decision is to have upon my State is too obvious to need a remark. If men who have "aided and abetted, counseled and encouraged" those engaged in a treasonable war against the Government are to be admitted to the Council Chambers of the nation as members from Kentucky, or if the rebels of the State are to be permitted, by electing men who are ineligible to take their seats, to keep the State or a large portion thereof out of representation in Congress—which is all the protection the loyal men of the State have, the State government being in the hands and under the control of disloyal men—they will soon make the State, what she is fast becoming, a "Botany Bay" for all the traitors in the Government, and Union men will be compelled to seek homes in some more congenial clime; and it was this view of this contest, and not the honor, pleasure, or emoluments of a seat in this House, that led me to enter the arena in this contest.

But, sir, without further general remarks upon the complexion of this contest, I propose to notice briefly the ground upon which I claim a seat in this House as a Representative from the second district of Kentucky. First, I claim that I received a majority of all the legal votes cast at the election held on the 4th day of May, 1867, for the purpose of electing a member to the Fortieth Congress of the United States, and in support of this claim offer the following propositions with the evidence sustaining them: first, that the honorable gentleman holding the certificate of election from the second district of Kentucky is, under the laws of the United States, disqualified, on account of his disloyalty to the Constitution and laws of the same, to take his seat as a member of this body; second, that the electors who voted for him had due notice of his ineligibility to hold the office for which he was a candidate, and that they voted for him in a captious and rebellious spirit and in violation of law and order; third, that if the honorable gentleman holding the certificate is and was ineligible, and the electors had notice of his disqualification before they cast their ballots for him, that they threw their votes away, and must be considered as consenting to my election, and that I should have been returned as duly elected. In support of the first proposition I deem it hardly necessary to offer proof, as it is sustained by the report of the committee. I will, however, call the attention of the House to one point in the evidence in this case, which I deem sufficient to establish my first proposition, and which will, perhaps, aid me in discussing the second. I will send to the Clerk a letter, which is made part of a number of depositions taken in this case, which I desire to have read.

The Clerk read as follows:

[From the Louisville Courier, May 15, 1861.]

ELIZABETHTOWN, *April* 18, 1861.

Editor Louisville Courier:

My attention has been called to the following paragraph, which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South, 'I would not send a solitary man to aid that Government, and those who volunteer should be shot down in their tracks.'"

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States! What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern Army shall attempt to cross our borders we will resist it unto death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will, be shot down before he leaves the State."

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is nothing more than I frequently uttered, publicly and privately, prior to my debate with him.

Respectfully, JOHN YOUNG BROWN.

Mr. SMITH, (contestant.) That the honorable gentleman is the author of this letter there is ample proof, but it is unnecessary to refer to it, as that fact was admitted before the committee to which this matter was referred and has not nor will not be controverted before this House. It will be observed that this letter was published on the 15th day of May, 1861, after the war had actually begun and after recruiting for both the confederate and Federal armies had commenced in Kentucky, and more than a month after the flag of our country had trailed in dust before a victorious enemy; that it was published when the "tocsin of war" was being sounded throughout all our land and when our heroes were bidding farewell to the endearments of home and rushing to the "tented field" to mingle in the blood and dust of battle in defense of their country's flag. If we peruse with care this remarkable document we shall find that on the 18th day of April, 1861, there had appeared in the Louisville Courier—a paper noted from the beginning of the war to its close for its treasonable proclivities, and the acknowledged organ of the rebel party in Kentucky—an article in which the gentleman was represented as having made use of the following remark:

"I would not send a solitary man to aid that Government, and those who volunteer should be shot down in their tracks."

Now, it would seem that this remark was sufficient to have fixed the gentleman's political status, yet it is equally apparent that he was fearful that his remark might be construed in such a manner as to discourage enlistment in the confederate army, and to avoid this he publishes, a month afterward, the following:

"This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States. What I did say was this:

"'Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern Army shall attempt to cross our borders we will resist it unto death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will, be shot down before he leaves the State.'"

Now, sir, had the honorable gentleman closed his letter here it would, in and of itself, have been sufficient to have established his disloyalty; it would have been nothing more nor less than an overt act of treason against the Government of the United States. But he is still not content, and concludes his treasonable document thus:

"This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is nothing more than I frequently uttered, publicly and privately, prior to my debate with him."

Thus by his own testimony he convicts himself of divers acts of disloyalty to, if not of treason against, the Government; and upon an examination of the deposition of E. G. Neel, of Greenville, Kentucky, and of various other depositions taken in this case, it will be found that during the late canvass for Congress in the second district of Kentucky the gentleman attempted to defend the writing of this letter, and stated "that he was proud that he had said nothing therein that he was not fully prepared to defend." There are many other points in the evidence in this case to which we might call attention, but I deem it a useless waste of the time of this House to do so, and will pass to a consideration of our second proposition. Before doing so, however, I would remark that I was surprised to see in the majority report of the committee the following:

"The most that can be claimed by way of notice is the alleged notoriety of certain facts, namely, the publication of this letter, which, it is claimed, was evidence from which ineligibility could be inferred by the voter. But how notorious were even these facts? The letter was published in 1861—six years before the elections. It was reproduced on the stump; but in how many of these counties—in the hearing of how many of the very men who afterward, on election day, cast their votes for Mr. Brown—does not appear."

I will, Mr. Speaker, answer the questions thus propounded by calling attention to the evidence on this point; and in support of this would call attention to the following language, which may be found in the deposition of Walter Evans, on page 25 of the printed evidence in this case:

"I have examined the said printed copy of said letter and refer to it, as attached by Mr. Land and marked with his signature, as part of my deposition. In a discussion which I heard in Hopkinsville, Kentucky, early in April, 1867, between Mr. Brown and his then only opponent, Mr. Ritter, Mr. Brown, in answer to Mr. Ritter's inquiry, avowed its authorship, amid the wildest cheers of his admiring friends in the audience. No one of these friends, that I observed, had for a long time been accused of any sympathy for the Government in her arduous trial of war, and many of them I know to be late rebel soldiers; all were rebels in sentiment, so far as I know, and I scanned the crowd as closely as was necessary to ascertain this. Hon. John Young Brown was known and recognized during the whole canvass as having been a rebel sympathizer, that gave him applause here and was the basis of his strength. But of those who voted for him in this county I doubt if there be ten men who can truthfully claim to be Union men.

"I never heard him express a regret for having written the letter and from the manner in which it

was treated I entertain no doubt that he regarded it as perhaps his most efficient campaign document; it certainly did him no injury."

Also, to the deposition of G. H. Chisum, of Owensboro, Kentucky, (page 16, printed evidence,) in which will be found this statement:

"He admitted that he was the author of that letter, and was loudly applauded by a part of the audience. The only excuse he made or offered for the wish was that other men had done the same thing. He did not modify or recant the wish therein expressed."

Also, to the deposition of Thomas C. Jones, found on page 16 printed evidence in this case:

"*Question.* Did not Mr. John Young Brown, in his public harangue in our city in April last, admit his authorship of the letter dated at Elizabethtown and published in the Louisville Courier, in which it was stated substantially that any man who volunteered in defense of the Federal Government ought to be, and he hoped would be, shot down in his tracks?

"*Answer.* I understood him to admit the authorship of the letter read by Mr. Smith of the same substance as above. Do not know whether said letter was published in Louisville Courier or not."

Also, to the deposition of Joseph Land, of Christian county, Kentucky, proving the same fact, (page 23.)

Also, to the deposition of Mark Weding, of Ohio county, Kentucky, who swears substantially the same thing, (page 26.)

Also, to the deposition of Benjamin Duvall, (page 29:)

"I heard J. Y. Brown speak in the Union church at Hartford about one week before the election. I heard the Union candidate, Smith, read a letter that Brown had written to the Louisville Courier about the beginning of the war, in which letter J. Y. Brown said that if one man could be found in this Commonwealth who would join Lincoln in his unholy war against the South he ought, and I believe will, be shot down before he leaves the State; but said that he had reference to some questions propounded by ex-Governor Helm concerning Kentucky's neutrality. Brown did not deny any part of that letter, as I heard."

Also, to the deposition of S. W. Langly, (page 90 printed evidence:)

"Mr. Brown made a speech at Hebbardsville, in Henderson county, in the latter part of April, 1867, in which his attention was called to a letter purporting to have been written by him in April, 1861. He justified that letter as containing his sentiments at the time it was written. I did not understand him as retracting it at all in his speech."

Also, to the deposition of Finis H. Little, of Calhoun, Daviess county, Kentucky, (page 92,) in which will be found substantially the same statements.

Also, to the deposition of H. S. Park, of Henderson, Kentucky, (page 94,) in which is found the following:

"Mr. Smith had read a letter of Mr. Brown's, published in the Louisville Courier in 1861. Mr. Brown said he wrote that letter, and indorsed that policy at the time; and, if I am not mistaken, he said he was in favor of it yet. I understood the merits of the canvass to be which was the greatest rebel and which the greatest Union man; it was charged against Mr. Brown, both by Mr. Smith and Mr. Ritter, that he was a rebel in 1861 and had been one ever since. I do not recollect Mr. Brown's reply.

"*Question.* Is it not a notorious fact in the second district of Kentucky, and particularly in the county of Henderson, that Mr. Brown is and has been disloyal to the Government of the United States? All Union men there look upon him as belonging to that party."

Also, to the deposition of John R. Reno, of Greenville, Kentucky, (pages 94 and 95,) in which it is proven that at the discussions in Muhlenburg county the letter referred to in the report of the committee, together with the test-oath, was read to the voters, and their attention called to the fact that Mr. Brown was ineligible to take his seat if elected. Also, to the deposition of H. S. Hicks, of Hebbardsville, Kentucky, (pages 96, 97, and 98,) in which the same facts are proven with regard to Henderson county. I should, Mr. Speaker, like to read to this House these depositions in full, but time will not permit, and I shall consequently content myself with merely calling attention to them. I would also call attention to the deposition of James P. McIntire, found on pages 99, 100, and 101 of the printed evidence in this case, in which deposition the witness states that in the discussions which took place in his county the attention of the electors was called to the fact that Mr. Brown was ineligible, and in which is also found the following:

"*Question.* Is it not notorious through the second district of Kentucky that Mr. Brown, since 1861, has been a member of the disloyal party of Kentucky, and has been acting in concert with it.

"*Answer.* In my county, Muhlenburg, and in McLane county, so far as I have correspondence, and in a portion of Daviess, and, in fact, wherever his statements have been brought before the people, either in conversation or otherwise, the current opinion is that he was a rebel sympathizer; that his feelings and sympathies were for the success of the rebellion."

And indeed, sir, nearly every one of the many witnesses sworn in this case state, either directly or indirectly, that the honorable gentleman is, and has been since 1861, disloyal to the Government of the United States, and that his disloyalty was and is notorious throughout his district; and, sir, they might have truthfully added throughout the State of Kentucky. The proof is clear and conclusive that the voters in each and every one of the twelve counties composing the second district of Kentucky had notice of the gentleman's ineligibility, and that their attention was directly called to the very act which the committee deems sufficient to render him ineligible. Nor is this all. It is not only conclusively proven that the gentleman is disloyal, and that the electors of his district had notice of his disloyalty, but it is also proven, as will be seen by reference to the depositions of William Miller, Mark Wedding, William E. King, and Benjamin Duvall, found in Report No. 6, that Mr. Brown made the late race for Congress as a disloyal person and as the candidate of a disloyal and treasonable party, and that the electors who supported him boasted of his treason and voted for him because he was a traitor; and it is apparent from all the proof in this case that his treason against the Government of the United States was the basis of his strength.

But I answer the committee on this question of notice by quoting from their report, and if the House will give attention they will see, and I think the honorable chairman of the committee will agree, that in this question the report of the committee is in itself conclusive as to notice. On page 4 of the report is found this language:

"The committee cannot avoid the force of another consideration in this connection. Mr. Brown himself, so far as is shown, never, till the hearing before the committee, put upon this letter the construction now claimed for it. As late as during the canvass for the seat now claimed, in April last, it was publicly charged upon him as a treasonable document, and nowhere, as far as the committee can learn, did he disavow the plain import of the words or claim for them any other interpretation, but, on the other hand, received the plaudits of rebel sympathizers upon his announcement that the letter still expressed his sentiments."

And, sir, the honorable chairman of the committee, in contending that the notice in this case was not complete, contends for what neither Mr. Brown nor his attorney would contend for before the committee, and for what Mr. Brown refused to contend before the House on Thursday last.

And, sir, if the proof intended to sustain my second proposition closed here I should consider it conclusive; but unfortunately for the honorable gentleman it does not. And here permit me to remark that I had not expected to be compelled to argue this point in this cause, as it is not only in proof in the case, but was admitted by Mr. Brown himself before the committee of this House, that the letter which I have read and had read, together with the oath which each and every member of Congress is required to take, was read to a majority of all the electors in the second district of Kentucky, and their attention called to the fact that he (Mr. Brown) was ineligible to take his seat if elected. And, sir, he not only admitted in a speech made before the committee that I had read this letter in each and every discussion during the late canvass, but also stated that I and his other opponent, (Hon. B. C. Ritter,) for the purpose of prejudicing his claims before the people, had caused this letter to be republished in various newspapers of the State, and had caused thousands of copies of it to be printed and scattered broadcast from one end of the district to the other; and in his concluding remarks before the committee he said that I had not only charged him in this Hall, but all over his district, with being guilty of the high crime of treason, and he appealed to the committee, by their report in this case, to relieve him of the infamy of such a charge. I say, in consideration of these facts, I had not expected to be compelled by the report of the committee to discuss this feature in this contest.

Nor was I more surprised at this feature in the report of the committee than I was to hear the chairman of the committee, after Mr. Brown's admissions on this floor on Thursday last, contending that the notice in this case was not complete. The gentleman takes the very novel position that the admissions made by Mr. Brown before the committee and before this House cannot be used as evidence in this case. I shall not, Mr. Speaker, insult the intelligence of this House by consuming time in attemping to show that such a position is untenable. But the gentleman asserts that, outside of Mr. Brown's admissions, there is nothing in the testimony to show that this letter was ever read in but four of the twelve counties composing the second district of Kentucky. Sir, if the House has paid close attention to extracts from the testimony in this case which I have read, it is unnecessary for me to remark that if the gentleman had paid the attention to the testimony that his duty as chairman of the Election Committee required that he should have done that he would not have made such assertions. And while upon this subject I would ask the honorable chairman of the committee a question; it is this: in case all the resolutions of the committee are adopted, a vacancy declared, and Mr. Brown should be returned, and the contestant or any other loyal man should at the same time be voted for, and appear here claiming the seat, would the chairman of the committee then hold that this House should again declare a vacancy for said district?

Mr. DAWES. I think that "sufficient unto the day is the evil thereof," and therefore I would not anticipate. It has been my experience and that of every one, I think, during this war. It is very difficult to lay down a rule very far in the future. My own impression is this, however—I have nothing to conceal about it—I have an idea of the beauty of our system, and I have a great regard for the free play of it; and, sir, the most beautiful part of it is that it rests on the will of the majority. But there are constitutional provisions and provisions of law——

Mr. SMITH, (contestant.) I did not yield for a speech to the gentleman.

Mr. DAWES. I will give the gentleman my answer. There are constitutional provisions and provisions of law ample enough to protect the House and the country from the introduction of any rebel into Congress.

Mr. SMITH, (contestant.) I asked the gentleman a question, and it was sufficient for him to say yes or no. I did not wish any long explanation; I did not want a speech; I simply wanted him to say whether or not, if the people of the second district of Kentucky should return Mr. Brown to this House, and the contestant or any other loyal man should appear and claim a seat, he would again favor the declaration that the seat was vacant? Let him answer the question yes or no. I would be pleased to have an answer; but I decline to yield for a speech.

Mr. DAWES. I am not particular about it.

Mr. SMITH, (contestant.) The honorable gentleman need not tell us that he is not particularly anxious to answer the question; we know he is not; he dare not answer it. His course in this case has been such that he cannot answer it without committing himself. If he says that he would admit the contestant under such circumstances, then he admits the law contended for in this case. If he says that he would favor declaring a vacancy, then he condemns himself of a contemptible begging of the questions involved in this contest.

I had, Mr. Speaker, hoped that the gentleman would have manliness enough to have taken one or the other horn of the dilemma; but I

find he has not, and I will not spend further time with him, and without dwelling longer upon this proposition I will pass to the third and last, which is purely a question of law, and in noticing it will assume my first and second propositions, namely, that Mr. Brown is and was at the time of the election ineligible to take his seat as a member of Congress, and that the people had notice of his ineligibility at the time they cast their votes for him are sustained by the proof in the cause.

In support of this proposition I will call attention to Haywood on Elections, a work published in 1812, on page 335 of which will be found this language:

"It must be remembered, however, that in case a candidate laboring under disabilities should be returned, the election will be avoided on petition, and that if before the election comes on, or a majority has polled, sufficient notice has been publicly given of his disability, the unsuccessful candidate next to him on the poll must ultimately be the sitting member."

Also, to Roe on Elections, published in 1818, pages 25–26:

"If there be no other candidate than the person incapacitated the election will necessarily be void; but if besides such incapacitated person there be also one or more candidates, it is a very important question whether, in consequence of the incapacity of the former the electors are to be called upon to reconsider their choice, or whether they are to be represented by the second in number upon the poll, he in reality being regarded the first by reason of the nullity of the franchise given to the other candidate. It will be seen that the latter proposition is that which constitutes the law in cases where misapplication of the franchise by the electors was willful, and therefore made in their own wrong, but that it is confined to such cases."

I do not contend for more than this; I do not for a single moment pretend to claim that the simple fact of Mr. Brown's being ineligible entitles me to the seat, but I do contend that if the electors, when they cast their votes for him, knew that he was ineligible, that they were guilty of an illegal act in voting for him, and that their votes were absolutely void, and that I should have been returned as duly elected; in other words, I claim nothing more than is embodied in the principle of law just stated.

Male on Elections, page 336, states the law to be this:

"If the election is made of a person or persons ineligible, such election is void, either in toto or of one only according as the ineligibility applies to all or one only, where that ineligibility is clear and pointed out to the electors at the poll. It has been held that the votes given to such ineligible candidate after notice are thrown away, and a competitor, though chosen by the smaller number of votes, has in such case been duly elected. But such ineligibility ought to be clear and grounded upon some known and settled rule of law. The same doctrine holds at law in the election to offices in which, after notice of the ineligibility of any particular candidate, the votes given for him are held to be thrown away."

Lord Ellenborough, in pronouncing the judgment of the Court of the King's Bench in the case of the King *vs.* Hawkins, said:

"The general proposition that votes given for a candidate after notice of his ineligibility, are to be considered the same as if the persons had not voted at all, is supported in the cases of the Queen *vs.* Boscawin, (E. T. 13 Anne,) King *vs.* Withers, (E. T. 8 George II.) Taylor *vs.* Mayor of Bath, and King *vs.* Mondey. In the case of Boscawin *vs.* Robert the two candidates had an equal number of votes, but because Boscawin was ineligible the votes given for him were considered as thrown away and the other duly elected.

"In the case of King *vs.* Withers, Withers had five votes out of eleven, and the other six refusing to vote at all the court held Withers duly elected, and that the six who refused to vote were virtually consenting to the election of Withers.

"In the case of Taylor *vs.* Mayor of Bath—Taylor, Biggs, and Kingston were the candidates—Biggs was objected to as a disqualified person, notwithstanding which, Biggs had fourteen votes, Taylor thirteen, and Kingston one. Then Lord Chief Justice Lee, at *nisi prius*, directed the jury, if they were satisfied that the electors had notice of Biggs's want of qualifications, they should find for the plaintiff, because Biggs, not being qualified, was to be considered as a person not *in esse* and the voting for him a mere nullity. The jury found for the plaintiff, and the court, on a motion for a new trial, agreed with the law as laid down by Lord Chief Justice Lee, and refused a new trial. All the judges held that the verdict was right. They held that as the fourteen electors who voted for Biggs had notice that he was not qualified their votes were thrown away; that when electors vote for a person not qualified it is the same thing as if they had given no votes at all, in which case it was not disputed that silence was a constructive consent."

And, sir, if a case involving this question had been settled every day from the time a court of justice was first organized; if legislative bodies from the beginning of time to the present had done nothing else than decide this question, it would be impossible to find a case covering more fully the case under consideration to-day than does this one. And, sir, notwithstanding it has recently been asserted on this floor by men of talent and of great legal attainments that there never had been in the world but one case favoring the doctrine for which I contend, and that that case had been expunged from the journals of the English House of Commons within two years after its decision, I say that, notwithstanding this, the case to which I have just referred is not an isolated one. We can scarcely find a single volume of the journals of the House of Commons of Great Britain—the land of scholars, statesmen, and jurists, the land to which the world looks for legal lore—that does not contain one or more decisions of the same character. We can scarcely find a single volume of reports of cases decided in English courts of law that does not abound with decisions favoring the doctrine contended for in this case. The same doctrine was settled in the case of Claridge *vs.* Evelyn, (5 Barnwell and Alderson, page 81,) where an infant having been elected to office of clerk of a court of requests, notice was given at the time of election of his ineligibility on the ground of non-age, and action was brought for a false return by the unsuccessful candidate and verdict given for the plaintiff, subject to the opinion of the court of the king's bench. At the close of his judgment, and after argument, Abbott, C. J., said:

"I am of opinion, therefore, that he (the infant) was ineligible, and due notice of his incapacity having been given to the electors at the time of the election their votes were thrown away, and consequently there must be judgment for the plaintiff."

The same grounds were taken in the cases of King *vs.* Coe, (Haywood on Elections, page 538;) King *vs.* Perry & Phillips, (14 East., page 548,) and King *vs.* Bridge, (1 M. and S., 74.) In Clerk on Election Committees, a work published in 1852, (page 156,) will be found this language:

"Whenever a candidate is disqualified from sitting in Parliament, and notice thereof is publicly given to the electors, all votes given for such disqualified candidate are thrown away, and the other candidate, with a minority of votes, will be in position to claim the seat on proof of the existence of the disqualification and that sufficient notice has been given of it to the electors. The principle that votes given for an ineligible candidate, after notice of his ineligibility, are to be considered the same as if the persons had not voted at all, is as well recognized by the courts of law as it is by the committees of the House of Commons."—*King* vs. *Hawkins*, (10 *Eastman*, 211;) *Claridge* vs. *Evelyn*, (5 *B. and A.*, page 81.)

And, sir, the principle of law thus laid down by Mr. Clerk at so late a period as 1852 is not only sustained by the two cases just cited, both of which I have before in the course of my remarks referred to, but also by the Malden case, decided the 20th of May, 1715, and found in 18th Journal of the House of Commons, pages 126 to 129. In this case Sergeant Comyn, the candidate having the highest number of votes on the poll, was declared ineligible, and Mr. Tuffnell, who had the next highest number on the poll, was declared duly elected and given the seat. Also, by the Cockermenth's case, decided on the 18th of January, 1717, and found in the 18th Journal of the House of Commons. In this case Sir Wilford Lawton had the majority of votes. Lord Percy Seymour was the candidate next upon the polls, and upon proof that at the time of the election the candidate returned as elected was a minor, the House gave the seat to Lord Percy Seymour. Again, by the Fife county case, decided in 1779, and reported in 1 Luder, page 455. In this case General Skene and Mr. Henderson were candidates. General Skene had the majority of votes and was returned. Mr. Henderson petitioned, alleging that General Skene was disqualified by reason of holding another office. Skene admitted holding another office, but denied that this disqualified him. Upon a hearing of the case the House gave the seat to Mr. Henderson, who had a minority of votes. Also, by the Kircudbright case, decided in 1780—1 Luder, page 72, and 38th Journal of the House of Commons, pages 15, 245, 415, and 689. In this case Mr. Gordon and Mr. Johnstone were candidates. Mr. Gordon had a majority of the votes, was declared incapacitated, and Mr. Johnstone given the seat.

Again, in the case of Mitchell, decided in 1690, 10th Journal of the House of Commons, pages 469 and 470, the House resolved that H. Rowe, Esq., and his agents were guilty of bribery, &c.; that he was not duly elected, notwithstanding he had received a majority of the votes cast, and that the petitioner who had received a minority of votes was duly elected. This principle of law is also sustained by the Canterbury case, which occurred in 1796 and 1797. In this case Mr. Baker and Mr. Sawbridge received a majority of the votes cast, and were returned as duly elected. Mr. Gipps and Sir John Honeywood petitioned against them, alleging that they were disqualified on account of having been guilty of bribery in a former election between the same parties, and also that the electors had notice of their incapacity. These charges having been sustained by proof, the committee rejected Messrs. Baker and Sawbridge and seated Mr. Gipps and Sir John Honeywood, who had a minority of votes. (See Clifford's Reports.) It is also sustained by the decision in the celebrated Southwark case, decided in 1796, reported at length in Clifford's Reports, pages 131, 222, 261, 342, and 343. Mr. Thellusson and Mr. Tierney were candidates. Thellusson received a majority of the votes cast, and was duly returned as elected, but was found to be ineligible, and the seat awarded to Mr. Tierney. And in the Flintshire case in 1797, reported in 1 Peck, page 526. In this case Sir Thomas Mosteyn was elected and returned. Mr. Floyd petitioned against him, alleging Sir Thomas Mosteyn to be a minor, and that he had given notice to the electors. Sir Thomas Mosteyn was declared not duly elected, and Mr. Floyd given the seat. Again, by the Leominster case, in 1819. In this case Sir William Cunningham Farley and Mr. Harcourt were candidates; Farley received a majority of the votes cast, was found by a committee to whom the case was referred not to have the necessary property qualification. His election was declared void, and Mr. Harcourt seated. (Male on Elections, page 60.) In the second Leominster, in 1827, Mr. Bish and Mr. Stephenson were candidates; an objection was taken that Mr. Bish was ineligible by reason of being a Government contractor, and notice was published to the electors. Mr. Bish had the majority and was returned. The committee resolved that Mr. Bish was not duly elected, but that Mr. Stephenson, who had the minority was, and gave the seat to Mr. Stephenson. (Rogers on Elections, pages 10 to 13; Clerk on Election Committees, page 160.) In the Hersham case, decided in 1848, the candidate having the majority of votes was rejected on account of ineligibility, and the seat given to his opponent.

By an examination of the authorities referred to it will be found that for a period of two hundred years the principle for which we contend in this case has been sustained by the best jurists the world ever produced. It will be seen that in almost every instance where the charge of ineligibility against the candidate receiving the majority of votes is made and is sustained by proof, and it is also proven that the voters had notice of this ineligibility, that the seat or office has been given to the candidate having the next highest number of votes. And, sir, I to-day assert, without fear of successful contradiction, that there is no principle of law better established than that for which I contend in this case. It will be observed that all the authors cited and all the decisions referred to are English. I have been unable to find any case settled by the American Congress bearing upon this question. It is true that the committee in their report in this case

refer us to several cases decided in this House in which the same question involved in this case might have legitimately arisen; yet, as this question was not mooted in any of these cases, they cannot (as the committee admit) have any bearing upon this case. Yet the committee urge that if any such law existed in this country as they admit exists in England that some of the defeated candidates in the cases referred to would certainly have known of its existence and would have availed themselves of it. I do not think that this objection to the position contended for is well taken, for a great many reasons; and, among others, there is nothing in any of these cases that goes to show such a state of facts as would bring them under the law contended for in this case; nor is there anything in any one of the cases referred to that indicates that the defeated candidates were ignorant of the law on the subject; but if we admit that they were ignorant of the existence of the law the argument proves nothing, particularly when we remember that one half of the men elected to Congress are not from the legal profession, and are not expected to be conversant with the law and with parliamentary usage; but, sir, the argument dwindles into insignificance when we recollect that the honorable chairman of the election committee, who has the honor to be one of the oldest members of this House, and who has been for twelve long years a member of that committee, and whose duty it is to be thoroughly conversant with all the law bearing on contested elections, was himself, six weeks since, ignorant of the existence of the very law to which the committee refers, as we will find he was by comparing a statement made by him on this floor on the 5th day of December last, in a speech made in the case of Blakey *vs.* Golladay, with the report in this case.

In that speech he stated, in speaking of the principle of law that I am contending for:

"It never was sanctioned, so far as I know, in the world but once, and then by the British House of Parliament in a single instance; but they were convinced within two years that they had made a mistake, and by a solemn resolution they reversed their decision."

In the report in this case he admits that the principle has been settled in a large number of cases both in the Parliament and courts of Great Britain. Now, sir, the statement made in that speech and the report in this case are conflicting, and we can only account for this conflict by supposing that the honorable gentleman from Massachusetts was ignorant of the action taken by the Parliament and courts of Great Britain on this subject; and, if we are right in this, the gentleman certainly ought not to seek to hold us responsible for the ignorance of others.

But the honorable chairman of the committee, in his speech of yesterday, advised me to send a copy of the very imperfect brief prepared in this case to Massachusetts that the citizens of that State might no longer be ignorant of the law. I am sorry to say to the gentleman that I must decline to follow his advice. If the citizens of his State will not learn the law from their own gifted son who has so thoroughly explored the hidden and labyrinthian mazes of the temple of legal knowledge, who has climbed so high the steps of fame as a lawyer that he looks down with contempt from his high position upon the decisions of such men as Mansfield, Lee, Abbott, and Blackstone, and all the decisions of the English Parliament, the only source from which we derive our parliamentary law, as mere legal fiction, unworthy the attention of this House, it would be a hopeless task for an illiterate boy to attempt to instruct them. Yet, if the honorable gentleman will permit me, I would say to him look well to your laurels, or the name of Mansfield, whose decisions you call fiction, will stand forth the land-mark of his country's genius and learning—a beautiful pyramid in the solitudes of time, in whose shades your name and fame will molder in dust, and around whose summit eternity itself shall play.

But, sir, enough upon this point. Again, we are told by the committee, in their report in this case, that the law contended for is really the law of Great Britain, but that owing to our peculiar form of government it is not applicable to this country.

Now, sir, if this question was open for discussion we should certainly contend that this law never has been nor never can be as applicable to England under her form of government as it is to this country. Indeed, sir, we regard such a law as absolutely necessary under our system of Government. But, sir, this question is not, at this age in our country's history, open to discussion, as will be seen by a reference to a few American authorities. Cushing, (an American writer, from the honorable chairman's own State,) in a work on "The Law and Practice of Legislative Assemblies," published in 1856, pages 66 and 67, says:

"If an election is made of a person who is ineligible, that, is incapable of being elected, the election of such person is absolutely void, even though he is voted for at the same time with others who are eligible, and who are accordingly elected; and this is equally true whether the disability is known to the electors or not, or whether a majority of all the votes or a plurality only is necessary to the election, and whether the votes are given orally or by ballot.

"In this country it is equally true that the election of a disqualified person is absolutely void; and in those States where a plurality elects and the votes are given orally, as in England, votes given for a candidate after notice of his disqualification are thrown away, and the candidate having the next highest number of votes is elected."

From this extract it will be seen that Mr. Cushing fully sustains and lays down as the law of this country the doctrine set forth in the English decision and by the English jurists to whom I have referred.

But I would also call attention to a decision of the supreme court or court of appeals of the State of Indiana, in the case of Gulick *vs.* New, in which decision the court lays down this as the law:

"It being conceded that the votes cast for Wallace, 97, were powerless and fruitless in effecting the main end arrived at, that is, in electing him, we are still asked to decide that they were so far effective as to prevent the election of any other person; that they were, so far as affirmative results were involved, thrown away, but that negatively they were operative. We are reminded that in our form of government the majority should rule, and that if the course indicated is not followed a majority of the voters may be disfranchised, their voice disregarded, and their rights trampled under foot, and the choice of a minority listened to. True, by the Constitution and the laws of this State, the voice of a majority controls our elections; but that voice must be constitutionally and legally expressed. Even a majority should not nullify a provision of the Constitution or be permitted at will to disregard the law.

"In this is the strength and beauty of our institutions. Suppose a majority should persist in voting for a man totally ineligible to take the office of sheriff, what would be the result? As he could not hold the office, either the one capable of holding receiving the next highest vote would, as contended by the appellant, be entitled to the office, or there would be a vacancy, as insisted by the appellee. Suppose the proceedings should result in creating a vacancy, then it would remain greatly to the detriment of public and private interests, or it would, under the statute, have to be filled by the action and choice of, perhaps, two men, which might be, possibly, in direct conflict with the choice of that majority in every respect. Then, while it is true that the votes of a majority should rule, the tenable ground appears to be that if that majority should vote for one wholly incapable of taking the office, having notice of such incapacity, or should perversely refuse or negligently fail to express their choice, although a minority, those who should legitimately choose one eligible to the position should be heeded. Suppose that eight years ago, at the first election under our new Constitution, when nearly all the offices in the State were to be filled, a majority of the voters in the State and in the several districts and counties had voted for persons wholly ineligible to fill the several offices, would those offices have thereby remained vacant? Could that majority, by persevering in that course, have continued the anarchy that might have resulted from such action? Or rather, is it not the true theory that those who act in accordance with the Constitution and the law should control even a majority who fail to so act?"

This decision was rendered in 1860, and, sir, it would be impossible for a decision to answer more fully every objection taken in a case than this does the objections made by the committee in this case. I regard this decision, in and of itself, as sufficient to sustain the position I have taken and to answer the objection made by the committee—that no such law as that upon which I base my claim exists in this country, and, consequently, will not consume further time by citing other authorities.

But the honorable chairman of the committee says, in his speech, "If anything is made clear in this case it is that the people, the voters of the second congressional district, do not want Mr. Smith to represent them." It has been equally clear to this House, if it has not to the honorable gentleman, that the people, a large majority of the people in the southern States, have not desired the rule of the nation since 1861. They have manifested their distaste for it even to the extent of resisting its authority by armed force; and through all this time this House has aided in compelling that majority to yield its convictions and submit to the laws which this House has aided in passing I have not heard that the honorable gentleman's voice has been once raised against this. It was right that he should demand that majority to submit to the law. The voters of the second Kentucky district have defied the law. They have persisted in sending to this House a man whom they knew to be a traitor; a man who had urged the shooting down of Federal soldiers in the face of the statute which says such a man shall not hold Federal offices; a man whom they were told in advance this House would reject. The chairman of the committee declares him to have violated the laws of the country, and the House by a vote of nearly three to one pronounce him a traitor. You by your own act have defied the will of the majority in said district. You have said to them, we treat your votes as null and void; they are utterly powerless, and we do not recognize them as votes at all. They shall not be counted, and shall not put Mr. Brown in his seat as your chosen Representative, no matter by what majority you send him here, and because he is a traitor. But they are good against a loyal man, and though we will not recognize them to secure a place for a traitor, yet they are good and answer all our purposes to count against and defeat a loyal man. The vote polled in the second district of Kentucky on the 4th day of May last does not prove more conclusively that the people of the second district do not wish me to represent them than it does that they do wish Mr. Brown to do so. Yet this House, upon the recommendation of the honorable chairman of the committee, on Thursday last, by solemn resolution, rejected him. Now, sir, if the votes cast for Mr. Brown were not void, this House has been guilty of just what the honorable gentleman charges me with attempting to do, namely, with attempting to trample upon the rights of the people; and if the votes cast for him were void, then I ask the gentleman by what course of reasoning he will justify counting them for the purpose of defeating me?

And here, Mr. Speaker, I should, under ordinary circumstances, close my argument; but the questions involved in this contest are, as I have before remarked, new to this House, and the decision which is made in this case will become a precedent by which this House will be bound in settling other cases. Hence I am solicitous that every point in this case shall be understood by each and every member in this House before he is called upon to take any action in the matter and, as a question will probably arise in the minds of many as to what is legal notice to electors of the disqualification of a candidate, I propose to address myself for a few moments to this point, not, sir, with the belief or even the vain hope that I may be able to instruct this the assembled wisdom of the nation, or that I, in and of myself, will be able to shed any light upon the question, but for the purpose of calling attention to the decisions of men whose opinions this House is bound to respect, the opinion of the honorable gentleman to the contrary notwithstanding.

Male, in his work on Elections, page 111, says:

"In principle it seems not to be distinguishable whether the circumstances of disqualification be

within the knowledge of the electors from its general publicity and notoriety, or whether it is brought within their observation from actual notice given them, and that their votes would be thrown away in the former case equally as in the latter."

In the Malden case no notice was given to the electors, and the same in the Cockermouth case; in both the candidate receiving the highest number of votes was rejected and the seat given to the candidate having the minority of votes. In the Wakefield case (Bar. and Aust., 210) it was contended in argument that the returned member was eligible, and this had been stated to the electors. It was decided that he was ineligible. It was then contended that the ineligibility was a doubtful question of law and could not be notorious; but the committee gave the seat to the petitioner having the minority of votes.

Haywood, in his work on County Elections, pages 533–537, said:

"When the disability of the candidate is notorious it should seem that it is not necessary to give notice to the electors. Reasoning by analogy to the election of corporate officers, it might be doubted whether more can ever be required than merely to give notice without producing any proof of this fact, notwithstanding the electors may not have the power of satisfying themselves whether the objection is well founded or not. King *vs.* Blissell was a motion for a new trial on an information in the nature of a *quo warranto* against the defendant for acting as alderman of Portsmouth, and a verdict had been given for the crown on two material issues. Pike and Blissell were adverse candidates; at the election the mayor only voted for Blissell, while three aldermen voted for Pike, but the mayor gave notice to the aldermen that Pike was incapacitated to be elected, because he held the office of chamberlain which was incompatible. Lord Mansfield addressing the counsel for the crown who was arguing that the disqualification was not notorious, said: 'Do you doubt that if he is really disqualified, whether such disqualification is notorious or not, that the votes given for him are thrown away?' In another jurisdiction, if the disqualification is notorious, it does more—it elects the other party, but of the law in this case you can have no doubt."

Grant, in his work on Corporations, page 208, says:

"As has been stated, a disqualification, patent or notorious, at once causes the votes given for the candidate laboring under it to be thrown away; the same would probably be held to be the case where the electors had the means of knowledge of the candidates, qualification or the contrary, and might have ascertained the fact if they had pleased. The same is undoubtedly the case where the electors had express notice of the incapacity, and nevertheless perversely gave their votes for the ineligible person."

From these references it will be seen that votes given for a candidate who is ineligible are absolutely void, and that all that is necessary to entitle the opposing candidate to the seat or office is that a majority of the voters who gave their votes for him should have known of the act or acts that make such candidate ineligible. It is not a matter of any consequence through what channel they receive their information, whether through notice from the opposing candidate or his friends, or from the notoriety of the act or acts themselves; nor is it of any importance that the electors should know that the act or acts complained of really render the candidate ineligible. If they knew of the act or acts, it is sufficient; they are presumed to know the law and are held responsible for their violation of it. But in this case, the proof is conclusive that the electors not only knew of the acts which make the honorable gentleman from the second district of Kentucky ineligible to take his seat as a member of this House, but that they also knew the effect of those acts. Hence they voted for him willfully and knowingly, and must be presumed to have thrown away their votes intentionally. And, sir, if this is true, I received at the late election held in the second district of Kentucky for the purpose of electing a member to the Fortieth Congress of the United States a majority of all the legal votes cast, and I presume it will not be contended that it is necessary for me to have received a majority of all the votes cast, whether legal or illegal, to entitle me to a seat in this House.

But I will not discuss this point further; and, sir, it is due Mr. Brown that I should remark that while I charge him with being ineligible to take his seat as a member of Congress or to hold any other office under the Federal Government, I cheerfully concede to him, socially and intellectually, all the richer qualities which usually adorn the character of the true gentleman and ripe scholar, eminently worthy the admiration of an appreciative public. Yet, sir, while I admit him to be one of Kentucky's most gifted sons, I cannot forget the fact that he, like many others, suffered his love of party to obliterate every vestige of that patriotism that once inspired his youthful bosom; and when I remember that the nation is hung in black; when I remember the many thousands of our noble sons who to-day sleep beneath the sands of the South, with nothing to mark their final resting-places except little hillocks, upon which the grass grows in wild luxuriance; when I remember a loved brother whose form to-day rests in an unknown grave, far from the home of his childhood; when I remember the friends that I have seen fall upon the field of battle, or sink to an untimely grave from hardships in the ranks of the blue; when I remember the many widows and mothers who to-day in our land weep the loss of loved ones; when I remember the wide-spread desolation, ruin, and misery that to-day exist in our country, and reflect that all this has been caused by Mr. Brown and such as he, I cannot, sir, forget, in my admiration of his social qualities and his talent, that he has been guilty of treason against the Government, and only lives through the mercy of the Government.

But, sir, I will no longer trespass upon the time of this House, but will in conclusion remark that I come not before this House asking at its hands any favors; I come not as a mendicant begging a seat and expecting to receive it on account of the large Union Republican majority in the House; but, sir, I come claiming a seat as my right under the Constitution and law of my country, and believe my claim to be based upon the eternal principles of justice. Yet, sir, if this House, in its wisdom and patriotism, shall decide, as the committee has done, that my claim is not legitimate and that I am not entitled to my seat, there is no man in this House who will bow more submissively to the decision than I will; yet in the name of my constituents I must respectfully protest against such a decision.

Before yielding the floor I would remark that I am profoundly grateful to the House for its courtesy in admitting me to a seat on this floor pending this controversy, and for the privilege of being heard to-day in my own behalf and in behalf of my constituents; and, sir, I would say that when I begun this contest I believed, as I to-day believe, that I am legally entitled to my seat in this House as a member from the second district of Kentucky; and, sir, I believe if this House will extend me the courtesy it has extended to my opponent in the argument of this case it will sustain me. Yet, sir, if my opponent and his friends are allowed four days in which to discuss the merits of their side of the case, and I am to be cut down with a few hours, I can expect nothing else than defeat. And, sir, while I will ever gratefully remember the assistance I have received at the hands of many members of this House, I will equally feel that I have not received at the hands of this House that justice which I, as an American citizen, had the right to expect at the hands of an American Congress.

The hour having expired before Mr. Smith had concluded his remarks, by unanimous consent he was allowed further time. At the conclusion of his remarks,

Mr. WASHBURNE, of Illinois, said: I move to lay this subject on the table.

Mr. HARDING. On that I demand the yeas and nays.

Mr. TRIMBLE, of Kentucky. I hope the gentleman from Illinois [Mr. WASHBURNE] will not press that motion.

Mr. WASHBURNE, of Illinois. As it is intimated to me that gentlemen desire a direct vote, I will withdraw the motion to lay on the table and move the previous question.

Mr. DAWES. Before that motion is made I withdraw the motion to recommit.

Mr. WASHBURNE, of Illinois. I demand the previous question.

Mr. TRIMBLE, of Kentucky. Will the gentleman yield?

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. TRIMBLE, of Kentucky. I desire to make a single remark in vindication of my colleague, who has no voice on this occasion.

Mr. WASHBURNE, of Illinois. How long?

Mr. TRIMBLE, of Kentucky. But a moment.

Mr. WASHBURNE, of Illinois. I yield two minutes.

Mr. TRIMBLE, of Kentucky. I desire to say in vindication of my colleague, [Mr. Brown,] whatever may be said upon this occasion that imputes to him dishonor, disloyalty, or treason to the United States Government, that while he had the floor on this question he hurled that insinuation back as unmanly and false; and I hope that gentlemen on the opposite side will respect that declaration. I repeat it for him upon this occasion, believing, as I do, from the bottom of my heart, that he spoke the honest sentiment of his heart when he uttered it.

Mr. PETERS. Will the gentleman from Illinois yield to me a moment?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. PETERS. I wish to say that we have heard the appeal of the gentleman claiming this seat that this debate should not be cut down. There are a few of us here who believe that he has a legal right to a seat, and would like to have about twenty minutes apiece. It will take less than an hour, and I hope the gentleman will not choke us off by the previous question.

Mr. WASHBURNE, of Illinois. That is for the House to determine. I withdraw the motion for the purpose of saying that the House has taken up ample time in discussing this election case, and the public business is suffering at this time. And, further, the gentleman claiming the seat has no right to reflect upon us. We have heard him patiently for the length of time he desired, not insisting upon the rule confining him to an hour. The chairman of the committee has spoken on one side and the claimant has spoken on the other. It is for the House to determine whether it will second the previous question, and settle this matter now, or delay the public business by continuing the discussion.

Mr. UPSON. I think the gentleman misunderstood the remark of the claimant. It was simply that others desired to speak on this question. He did not make it for himself.

Mr. COBURN. I desire to offer a substitute for the resolution of the committee.

Mr. WASHBURNE, of Illinois. Of course I will yield for that.

The SPEAKER. The Chair understands that the gentleman from Indiana [Mr. KERR] has offered a substitute.

Mr. KERR. It was the same that was offered by the majority of the committee, and is therefore unnecessary.

Mr. COBURN. I offer the following as a substitute for the resolution reported by the committee:

Resolved, That Samuel E. Smith, having received a majority of the votes cast in conformity with law, is entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky.

Mr. WASHBURNE, of Illinois. I have no objection to that. I renew the demand for the previous question.

On seconding the previous question there were—ayes 43, noes 49; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. WASHBURNE, of Illinois, and COBURN.

The House divided; and the tellers reported—ayes 57, noes 50.

So the previous question was seconded and the main question ordered.

Mr. DAWES. It is not my intention to occupy the time of the House, but there is an anxiety on the part of gentlemen to speak, and

I will yield to allow them an opportunity to do so. I first yield fifteen minutes to the gentleman from Indiana, [Mr. COBURN.]

Mr. COBURN. In the very limited time allowed me to discuss this question I feel that I cannot do myself or the subject justice. The gentleman from Massachusetts [Mr. DAWES] saw fit yesterday in his speech to state twice that I had said that the claimant to this seat was entitled to it because he was a loyal man. I remember to have said nothing of that kind. What was said was that Mr. Smith should be allowed to discuss this question and his friends should be allowed to discuss it, because he was a loyal man. That was all. At the time an attempt was made, as I supposed, to cut off debate, and I stated that because he was a loyal man and a good Union man I thought the same justice should be done him, in allowing full and free and fair discussion on this subject, as had been done to a man who had been voted by the House to be disloyal.

The Committee of Elections have seen fit to make a report in connection with this matter *in extenso*, and I am not now able from want of time to refer to the remarks of the gentleman from Massachusetts, [Mr. DAWES.] But I will state the positions which the Committee of Elections have assumed as nearly as possible, and show in what they have failed to state the law and the facts.

In the first place, they say that no notice was given. In the next place, they say that the notice which was given to the voters of Kentucky was mere common rumor, matter of public notoriety, no special notice such as the law required; that it was a letter published some six years before; that, in addition to that, the people did not necessarily understand that that letter was treason; in addition to this, that it was a doubtful case, and not within the rule as to "willful obstinacy and misconduct," as laid down in the British law; in addition to that, they say that there is no law under which a man receiving only a minority of votes has ever been declared eligible in this country. They say, further, that the cases in Congress are in support of the committee and authority on the subject. In addition to that they say that the power of the British Parliament is greater in cases of this kind than that of Congress, and that its action in such cases is no precedent; in addition to that they say that the State laws regulate elections generally; that Congress recognizes them as the basis of action when such laws prescribe a mode of action; that some States require a majority and some a plurality, but that Kentucky requires a majority, to elect to Congress, and that Kentucky has made no law giving a minority vote the election, as Parliament has; that the right of representation cannot be taken away, but representation can, and that, if Congress wants a minority to be represented, legislation is necessary; and that the will of the majority, as expressed in conformity with established law, is the basis of free government.

Now, sir, it would seem that the committee in this matter have made several mistakes. In the first place, they did so in asserting that no notice was given. The proof is—and we have the acknowledgment of Mr. Brown himself—there was a most extensive notice. The committee assert a very singular principle when they say that a particular formal notice should be required in this matter. What is there in the law in relation to elections that requires that notice of the ineligibility of a candidate should be given in any particular form or manner? There is nothing of that kind in the law, not by posting, not by publication, not by announcement at the polls. The law requires notices of this kind in other cases, as sheriff's sales, as of the holding of elections, as to certain business meetings of corporations, trustees, and boards of officers, special terms of court, and the like. But here is a case in which no form is prescribed, no mode pointed out, nothing provided by law, for the giving of notice. And we must resort to the ordinary means of obtaining information through the press, by public addresses, by social intercourse, and all the means men use for communication with each other.

Now, sir, did not these people in Kentucky know just as well as they knew anything in the world, that John Young Brown had written this disloyal letter? Was not their attention called to it on every stump and in every newspaper in the district? His letter had been printed six years and more before the election in the Louisville Courier. In this letter he said:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in this unholy war against the South. If one man volunteers he should be shot down in his tracks."

Was this not as good notice as the publication in a weekly newspaper four successive weeks and posting in five of the most public places in the country, or any other form of legal notice?

Was it not a ten times more complete and effective notice than any legal notice ever devised? He is totally ignorant of the method of conducting a Kentucky electioneering campaign who asserts the contrary.

It is safe then to assert that the people of the district had full, fair, complete, and ample notice upon this subject, and that the committee make a mistake when they say there was no notice.

But the committee say, in addition, that the people did not necessarily understand that it was treason. Why, sir, about the time that this notice was given another citizen of the United States, (General Dix, then Secretary of War,) in language almost of this character, telegraphed to New Orleans that any man who should haul down the Union flag should be shot down in his tracks. Did anybody know from that announcement whether General Dix was a Union man? When John Young Brown said that any man who should join the Union army should be shot down in his tracks it would seem that he at the same time asserted his disloyalty and treason in the broadest terms. Can it be possible that the Committee of Elections declare officially that the Kentucky voters do not and did not understand the letter of Mr. Brown? The language is plain, pure, simple, unadulterated, undefiled, unqualified treason, spoken and printed when every man's attention was called to the subject at the opening of the war; when every man looked around and asked his neighbor what side he was on. Spoken and printed when every man was marked; when every man took sides; when the whole people, as if charged with electricity, stood erect, waiting for the first outburst of the storm; when the people were all ear and all eye. Then it was that John Young Brown spoke and wrote to the attentive community.

The committee say, in addition, that this is a doubtful case and not within the rule in regard to willful obstinacy and misconduct. I ask, could the people of that district have any doubt upon the subject? After the events that had occurred, after the marching of the armies which had taken place, after all the facts of the war, after all their losses, all their suffering, all their sacrifices, all their strifes, did the people have any doubt as to his position? Could they doubt the meaning of such language? They could and they did understand that it was nothing else than treason, and for this they supported and elected him.

The committee say that there is no law under which one receiving a minority of votes has ever been declared elected. The case in Indiana, the case in Maine, the cases in England, show that persons receiving minorities have been given the election. But this is not the fair way of stating the case. It is not a question involving the rights of a mere minority, but a case involving the rights of a majority of those acting in this matter of an election in conformity to law, who come within its provision, and recognize it in all its bearings. Now, we do not insist that a minority shall rule in this matter, but that a majority of those who voted in conformity with law shall control it.

The gentleman from Massachusetts [Mr. DAWES] says the cases in Congress are authority in support of the committee, and then he goes on to cite them. Sir, those cases are no authority whatever, for this question was not raised then. The rule of law is, that if a question is not raised, which might have been, in the trial of a case it is not considered as settled—is not considered, as the lawyers say, *res adjudicata*. And no lawyer will assert that it is ever too late to make a question although it might have been properly raised in some other cause decided a hundred years before. This question is then without a precedent or a parallel, except in the recent cases from Kentucky, and they cannot be cited as parallels, for they were hurried through under the lash of the previous question. The question then comes to you fairly and for the first time.

In addition, most of the cases cited occurred in the United States Senate, and, being elections by Legislatures, with fixed numbers and quorums, established by law, are in no sense parallel with this case.

In England the precedents are in favor of Mr. Smith, the claimant. They have been read and expounded. The powers of Parliament over cases of this kind are no greater than those of Congress.

The committee first assert the omnipotence of Parliament, and then go on to say that it is not the theory of the British Government that power originates with the people. But our Constitution does give to Congress all-sufficient power over this subject. It is clothed with all the legislative power required to make all laws necessary and proper for carrying into execution all powers vested in the Government, or in any department or officer thereof.

What do the Committee of Elections mean when they assert that the action of the British Parliament is no parallel or precedent for this House, because it has no limitation of written constitution upon its powers? Do they mean to say that the British Parliament have any more power to do wrong by virtue of their unwritten constitution than our Congress has? To this I say that the legislative power of Parliament and Congress both alike are bound up and restricted by the general principles of free government. Do they mean to say that Congress has not just as full and ample power to judge of the election returns and qualifications of its members as the British Parliament? Or that Congress has not as completely a sovereign, absolute, despotic power over these subjects as any legislative body can have? I assert that the power of Congress over these subjects is unlimited and uncontrollable.

But the committee go on still further and make an additional mistake. They say that the majority rule is the rule in Kentucky. Sir, that is not so. The plurality rule is the rule in Kentucky. I will read a clause from a late statute of the Legislature of Kentucky:

"If two or more persons shall be found to have received the highest and an equal number of votes for the same office, so that the election cannot be determined among the candidates by a plurality of votes, it shall be determined by lot in such manner as the court may direct," &c.

Therefore, the rule in Kentucky is not the rule of the majority, but the rule of a plurality; and wherever the plurality rule governs, the election is not void because a majority of votes were not given for any one particular candidate; and I say that in this case the plurality who did vote in compliance with the law voted for Mr. Smith, who is therefore entitled to the seat. The election of President Lincoln in 1860, when he was in a minority of 947,289 votes, and of Governor Bullock, of Massachusetts, in 1865, when he received but 67,000 votes out of 174,000 in the State, are glaring instances of minority elections. The true principle is that those who, in conformity to law, participate in elections shall control them, be the number great or small, and the majority of that number prevails.

In the case before us the majority of those who, in conformity to law, participated in the election, voted for Mr. Smith. Those who voted for Mr. Brown did so in no legal sense, but threw away their votes on an ineligible person; and the effect of their conduct is precisely the same as if they had stayed at home and not attempted to vote.

The committee go on to say that the right of representation cannot be taken away—another useless and groundless position. The right of representation cannot be taken away in this case by rebel votes or by disunion votes. Congress might do it. The committee do not ask that Congress by their votes shall disfranchise the people of that district. But they do ask Congress to vote an indorsement of the action of the rebels in that district. The rebels, by their own contumacy and refusal to comply with the law, have disfranchised themselves. And now we are asked by a solemn vote to say that they have done so; and not only disfranchised themselves, but every Union man, also, in the district.

Mr. Speaker, in the brief time allotted to me—I must glance quickly from one point to another—I wish to call attention to some of the elements necessary to a legal participation in an election.

1. The person voting must be entitled to vote.

2. The vote must be cast according to law, at the time and place and in the manner directed by law.

3. The elector must give his vote in good faith for a person entitled to hold the office.

4. A vote is illegal if the elector is not entitled to give it; and if he knowingly thus gives it he commits a crime. In either event the vote is void, not the election. Illegal voters cannot thus disfranchise legal voters, and a new election is not necessary.

5. A vote is illegal if given at a wrong time or place or in a wrong manner, and is void; and an election held at the wrong place and time and conducted in a wrong manner is void. Mistakes in good faith and frauds of this kind render both votes and elections void, and a new election, to be held in conformity to law, should be ordered.

6. A vote is illegal if knowingly and wilfully cast for an ineligible person; the vote is void, not the election. I desire to call the attention of the House to this distinction. Where a vote is knowingly given for a person who is ineligible the vote is illegal and void, but the election is not necessarily void. And therefore, in a case of that kind, a new election is not necessary. Where illegal votes are cast no new election is properly to be ordered; the illegal votes are to be thrown out, and those cast in conformity with law are to be counted, and the majority or plurality of those, as the statute may provide, are to control the election.

7. Where an election is held at the time and place and in the manner prescribed by law and the returns are duly made it is a valid election, and the person who receives the majority or plurality (as the statute may prescribe) of legal votes is entitled to hold the office.

8. In this case the election was held regularly and the returns were made properly, and the majority of legal votes were given to Samuel E. Smith, who is therefore entitled to the certificate of election.

I desire to call the attention of the House to the plurality rule. In this case we are not called upon to resort to the majority rule, the effect of which, where it prevails, is that unless some one candidate receives a majority of the legal votes cast the election is void. But where the plurality law prevails, if the candidate receiving the greatest number of votes was known by those voting for him to be ineligible, the candidate receiving the next highest number of votes, votes cast in compliance with the election laws, is elected. As an authority on this subject I refer to Cushing's Law and Practice of Legislative Assemblies, page 44, section one hundred and eighteen. I cannot go into a discussion of the authorities in detail. As my time is about to expire, I will close.

Mr. DAWES. I now yield to the gentleman from Maine, [Mr. PETERS.] How much time does he desire?

Mr. PETERS. Not less than twenty minutes.

Mr. DAWES. I cannot yield the gentleman more than fifteen minutes.

Mr. PETERS. Mr. Speaker, John Young Brown received 8,922 votes for a Representative to this Congress. Samuel E. Smith, who contests his right to the seat, received 2,816 votes; and a Mr. Ritter received 1,555 votes. The objection to Brown was that he had aided and countenanced rebellion in Kentucky in the beginning of the war by "publicly and privately" declaring his views in the following language:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern Army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will, be shot down before he leaves the State."

For this the House has decided that Brown was not by the act of Congress requiring the "test-oath" an eligible candidate, and is not entitled to the seat. Mr. Smith was an out and out Union man all through the war, and is the only eligible candidate who received a plurality of votes. Bear in mind that Mr. Brown has everywhere, here and elsewhere, admitted that his constituency knew he had frequently uttered the words quoted, that notice of it was widely published in the newspapers and in handbills during his canvass, and further, that his opponents proclaimed against him upon the stump that those words were disloyal and treasonable, and that if elected he could not take the test-oath and would never be allowed his seat. Mr. Brown, however, maintained then, as he now maintains, that no treasonable intention wes entertained, that he was really a Union man and only conspired to keep his State in a position of neutrality, and that his position was so regarded by those who voted for him. The question now is, inasmuch as Brown has been voted out, shall Smith be voted in?

Mr. Speaker, I am irresistibly brought to the conclusion, after such examination and reflection as I have been able to give this case, that Mr. Smith, the contestant, is legally entitled to the seat; and the only question, in my view of the case, is whether the House will follow the law or whether it will, under the circumstances of the case, exercise a discretion which it has a perfect right to exercise in the premises, and decide that Mr. Smith is not entitled to the seat. Now, sir, I proclaim here that I am for giving this Union man from Kentucky all his legal rights, however strict they may be.

I am afraid, Mr. Speaker, we are almost ready to forget, even at this early day after the rebellion, the great value of the genuine and unflinching patriotism of the men of Kentucky, who, when the soil of their State was reddened with the track of war, stood by the flag against such terrible odds. And although, I confess, there may be strong reasons of policy in favor of departing in this case from the strict, legal, technical, common-law rule, I for one say boldly that, believing the position maintained by the contestant to be a legal one, I am ready to put it into effect by my vote in behalf of this Union man from Kentucky and the glorious Union constituency who have sought to send him here as their Representative.

But, sir, I have no time for a speech; I must improve the short period allotted me by stating as clearly as I can a few salient points bearing on the conclusion arrived at. In the first place, it seems to be admitted in the report of the committee that the English precedents are all in favor of the right of my friend to a seat if it were not for a single qualification, and that is, that the voters must have notice of the want of eligibility in the candidate for whom they vote. If those who voted for Brown had notice that he was not eligible, then British precedents would give the place to Smith.

Had the constituency who voted for John Young Brown notice of his taint of rebellion? Can a proposition in this world be more plainly established? They had the same evidence before them to prevent their voting for him that we have had here. They had the same evidence against him at the time they persistently voted for him as this House had against him, upon which we have voted to exclude him from his seat. The same facts were within the knowledge of every voter there as have been within the knowledge of every member here. It seems to me, sir, the real proposition in this case was on the admission of Brown. I was deeply impressed with the many patriotic sentiments in his speech, at least, apparently such—his fervid and very eloquent appeal in his own behalf; but when we turned him out because he was not an eligible candidate we ought to follow the clear deduction of both law and logic and allow Mr. Smith to come in.

But gentlemen say that Brown in the canvass told his friends and constituents that he was a Union man. Has he not told this House he was a Union man? Did he not make the statement upon this floor, in his very able and eloquent speech, that he always was and always would be a Union man. I ask this House how it can consistently turn that man out and say that the evidence which was conclusive on him shall not be also conclusive upon his constituents who sent him here, with their eyes as open as ours and with the same knowledge on the subject? In order to make these precedents applicable the only question is, had that constituency notice? What notice? How is it to be obtained? Does any gentleman suppose that a direct notice could be served upon each and every one of ten thousand voters? It is to a reasonable notice, not an impossible one, and not absolute knowledge. It is to be such notice as they are presumed to have, of acting with their eyes open; for, sir, voters have a careful duty to perform as well as anybody else. A notice to a body-politic, and usually any corporation, is at most but constructive, however given, and may be shown by inferential or circumstantial testimony. If you are to go so far as to say every voter should have absolute knowledge, though you shall prove notice had been directly given him, if he did not believe the notice so far as he was concerned he might be without belief or knowledge. It seems to me in any view, when you apply to Brown's constituency the same rules of evidence which you have applied to Mr. Brown, then Mr. Smith is entitled to the seat.

The gentleman from Massachusetts [Mr. DAWES] stated that the American congressional precedents are not in favor of Smith. Neither are they in favor of the opposite doctrine. No decision was ever made, nor was the question even ever discussed, in any case like this in Congress, although cases have arisen where it might have been. There is reason enough for that. No question of fraud was alleged in the cases. No great question of public policy was at stake. There was not sufficient personal ambition in some minority candidate to ask for a seat. There has been a great deal of toleration, and there should be on the part of minorities.

But the gentleman instanced the case of Brown, who was allowed, several Congresses ago, to remain here and be sworn in after he had arrived at the age of twenty-five years, having been elected before he was as old as the Constitution required. That was a case of mere toleration upon the part of the House. The same principle involved in our vote putting Brown out now would have put him out then. If he is ineligible now and not entitled to a seat he was ineligible then and not entitled to a seat. That was no precedent against Smith now more than in favor of Brown at this time.

The gentleman from Massachusetts admits that Cushing (who is an undisputed authority) lays down in broad terms, without qualification, a doctrine which, when applied to Smith, would give him his seat. But it is said he does not cite any authorities in support of it. Allow

me to say when a legal writer announces a principle which is undoubted, it only shows the strength rather than the weakness of his text that he fails to cite authorities. I undertake to say he knew all the legislative examples in Massachusetts, where he lived, and of other States. If he had known that his text contained a doubtful proposition he would have arranged his authorities in support of his text.

Mr. Speaker, the legislative and judicial authority of the State of Maine is in favor of giving Smith his seat. There is an opinion of court in 7 Maine Reports which is of more significance than the gentleman from Massachusetts, [Mr. DAWES,] in his allusion to it, seems to have supposed, which is directly in point, and does not even require notice to the voters of the ineligibility.

The opinion was signed, among other judges, by Chief Justice Mellen, a man who had experience in Massachusetts Legislatures as well as in the Congress of the United States. He does not go into any lengthy argument, because none seemed to be required. But it was the solemn and unanimous declaration of the court to the Legislature under a call from that department upon the judges according to a provision contained in the constitution of that State. That decision has never been reversed, but from that day to this has been by all parties acquiesced in. It is a strong reason, in my mind, for presuming that such was also the Massachusetts doctrine, that our judges had, shortly before the date of that decision, had so much to do in the law and politics of that State——

Mr. DAWES. Do I understand the gentleman to say that that is the doctrine of Massachusetts?

Mr. PETERS. I only mean to say that I infer from the fact that the Chief Justice, having been long in the Massachusetts Legislature, and having given that opinion in the State of Maine shortly after it became a State, he must have founded it in some degree upon his legislative experience before that time.

Mr. DAWES. If the gentleman will allow me, this Luther S. Cushing was a very faithful compiler of books and collector of reports. He put this case down in the books. Does the gentlemen suppose there existed any authority in New England that he did not know about?

Mr. PETERS. I have no doubt, if the gentleman will go into the legislative annals of Massachusetts, he will find them, as I have found them to be in Maine, in favor of putting a man into the seat who had the most votes of any of the eligible candidates.

Mr. DAWES. I have the book of reports of election cases in Massachusetts, which purports to contain every case. I will lend it to the gentleman.

Mr. PETERS. Do you say it contains all the legislative cases?

Mr. DAWES. It purports to; it was compiled by this very Cushing.

Mr. PETERS. Very well; my time is too short for delay at this point. I hold in my hand a report which shows a late legislative precedent from the State of Maine. It was a case which arose in 1865, and the question was between two parties claiming a seat in the lower branch of the Legislature. One received a few votes more than the other. Mr. Ichabod G. Jordan received 382 votes and Mr. Lord 341. It was contended that Mr. Jordan was not eligible because he had not lived in the State a year immediately preceding the election. He had lived in the State more than twenty years consecutively, and was a resident for three months immediately prior to the election. The Constitution prescribed that he should be a resident of the place where he lived three months at least and of the State at least one year, to be eligible; and the question was whether that year was to be reckoned immediately preceding the election or at any time preceding it. The Legislature adopted the following resolutions:

"*Resolved*, That Ichabod G. Jordan, at the time of his election not being eligible to a seat in this House, is not entitled to hold the same.

"*Resolved*, That William F. Lord, having received all the votes in the district of Berwick and North Berwick thrown for any eligible candidate, is entitled to a seat in this house."

That is the Maine precedent: that Jordan was not entitled to hold the seat because he was not eligible, although he received a majority of the votes, and that Lord, who received a minority of the votes, but who was eligible, should have the seat. He was accordingly voted in and took his seat in the Legislature of 1865. There were eight votes in the Committee of Elections in favor of the report and one against it, the latter on the ground that a residence of a year was not necessary to be the year immediately preceding the election. No issue was made upon the point here pending, although plainly and directly involved. The Republican and Democratic doctrine in Maine has always been the same; that the person was elected who received a majority of the votes cast for candidates who were eligible, and all other votes are thrown away.

Now, Mr. Speaker, I believe some of my colleagues have rather foreclosed their minds in this case. But, sir, what is good law in Maine is good enough law for either Union men or rebels in Kentucky, and I am willing to stand by this authority. And mark you, upon the question of notice there is no evidence that these voters for Jordan in the Maine case had the least notice that he was not eligible. Probably there was not a man who voted for him who did not suppose he was eligible. Jordan himself did not know to the contrary. Even the existence of notice was not raised. This, sir, is a purely common-law doctrine, as my friend from Pennsylvania, [Mr. WILLIAMS,] in my front, will affirm. The doctrine in that case is that the elector must inquire and be put on his guard—he must know about his candidate—he must use due diligence not to throw his vote away.

Mr. DAWES. But the English doctrine is different.

Mr. PETERS. Yes, sir; it is different. The Maine doctrine goes further than the English precedents and further than necessary to have an application in this case.

Mr. Speaker, there are many points upon my mind if I had time to express them. Fraud vitiates everything. If Brown was as disloyal as we have resolved he was, as we think we know he was, then his constituents knew it also, and in voting for him have attempted to commit a fraud upon us. The ballot of every voter was thrown with this spirit as if indorsed on its back, "This vote is for John Young Brown. He opposed the war, not with arms, but much more potently, by eloquent words and powerful political and personal influence. I know it, and know that the law of Congress forbids his election, but I have no respect for the law or test-oath and mean to show my disrespect for it in this ballot."

Another point springs directly from this, Mr. Speaker, and that is public policy. What is the object of the law? Is it not to get loyal Representatives? If you admit Smith you will get them. If you do not admit him you will be constantly liable to have pushed on you men whom by your enactment you have tried to exclude.

It seems to me that all this backwardness in admitting Smith is a shrinking from the law itself, the statute alluded to. Supposing Jefferson Davis had been voted for instead of Brown, would you in such case admit Mr. Smith? But there would be no difference upon principle. The doctrine of the law is founded in common sense, though in many cases as a matter of policy I would not apply it; but here I would apply it. Some gentlemen are horrified with the idea of admitting a person who has not received a majority of the votes thrown. Many persons are elected who do not receive a majority of all the votes; and many have been elected without receiving a majority of all votes thrown, where legal votes have been rejected when thrown in an illegal or unofficial manner. A person can stay away from the polls and then his vote will not count. He can go to the polls and neglect to vote or cast a blank vote, and then his vote does not count, or he can vote for a person whom he knows or ought to know is not eligible. What difference whether he throws away his privilege in one way or the other. In either manner his vote is thrown away.

[Here the hammer fell.]

Mr. DAWES. I yield to the gentleman from Maine [Mr. BLAINE] five minutes.

Mr. BLAINE. Mr. Speaker, if the doctrine laid down by my colleague [Mr. PETERS] be the one to be applied to elections of Representatives to this House, it seems to me it ought to be called "a trap to catch the unwary." Let us look very briefly at the essential facts of the case. Ever since July we have had an able committee of this House diligently at work on the question of loyalty or disloyalty of John Young Brown, and after seven or eight months' investigation the committee reported that his record was disloyal. It took nine astute men, with all the powers of investigation that this House could clothe them with, studiously at work a large portion of that time to find out that fact, of which my colleague [Mr. PETERS] says the constituency in Kentucky ought to have been instantaneously, instinctively, and responsibly cognizant.

Mr. FARNSWORTH. And the committee could not agree.

Mr. BLAINE. And then, as my friend from Illinois remarks, the committee did not agree. Now, Mr. Speaker, I desire to know, if this doctrine be laid down, how any constituency, in the disturbed condition of the southern States, could ever be sure that they were to have a foothold in this House by giving this man or that man a certificate of election if this doctrine prevails. The power of the House is ample; it has been exercised, and exercised with tremendous power, in refusing to let John Young Brown take the oath and assume a seat in this House, and I—one among the majority—voted to refuse him the right to sit here; but I am not going to turn round thereafter and with this House elect a man to represent that district. Let them have another chance. If they send a loyal man here with a majority vote he shall take the oath. If they send a disloyal man here we will send him back, and we can stand that just as long as the second district in Kentucky can stand it.

It seems to me, Mr. Speaker, that if there was anything decided by the election in this district in Kentucky, it was that they did not want Mr. Smith to represent them. What they decided affirmatively I do not say, but I say these voters honestly voted that they did not want the gentleman who appears here as a claimant to represent them. Now, it appears to me to be stretching technical construction to the last point, where it cracks and where it breaks, if you are going to hold up nine, ten, or twenty thousand men to an accurate knowledge of the precise political record of the various candidates asking their suffrage. We have a peculiar case pending now, I believe, before the Committee of Elections. One of the gentlemen from Tennessee, who is in sympathy with this side of the House, Mr. Butler, was arrested at the Speaker's desk on the first day of the session and was not allowed to take the oath because he had once taken the oath to support the confederate constitution. If the Committee of Elections shall report that he is ineligible on that account, why, of course, then his copperhead competitor by this construction comes immediately in.

Mr. ELDRIDGE. I rise to a question of order. I insist that the term "copperhead" is not parliamentary.

Mr. BLAINE. I recall the word; I never used it before in debate here; I will say his Democratic competitor.

The SPEAKER. The Chair overrules the point of order. The gentleman from Maine [Mr. BLAINE] is not speaking of any gentleman in the House, but of Mr. Butler's competitor

in Tennessee, in regard to whom the Chair knows nothing.

Mr. ELDRIDGE. I understand that the gentleman of whom he speaks is an applicant for a seat in this House, and that he acts with this side of the House.

Mr. BLAINE. I did not withdraw the word as a question of order. I should have told the gentleman from Wisconsin that he had made no point of order. As a question of taste I confess that I transgressed, and as a question of taste I change the word.

Mr. ELDRIDGE. I accept the apology. [Laughter.]

Mr. BLAINE. As a matter of taste I have made the change.

The SPEAKER. The gentleman referred to is not a member of the House, and therefore the Chair overrules the point of order.

Mr. ELDRIDGE. The gentleman has made an apology which is entirely satisfactory.

Mr. BLAINE. It is a question of taste for myself, and not for the gentleman from Wisconsin. It was in bad taste, as it always is, to use offensive political epithets in debate here.

Mr. ELDRIDGE. Well, I say the same thing.

Mr. BLAINE. To resume the line of my argument. I am unwilling, I say, to lay down a precedent affecting the other side of the House that I would not be willing to follow for this side of the House. I do not propose to mete out justice to gentlemen on the other side that I am not willing to have commended to my own lips over here. And it does seem to me that it is a most extraordinary proposition—and I say it with all due respect to the admirable arguments that have been made on that side—the most extraordinary proposition that I ever knew advanced here in an election case, that the House should deliberately declare that a man who has a pitiful minority of the votes in the district shall be declared here entitled to the seat.

[Here the hammer fell.]

Mr. DAWES. The gentleman from Wisconsin [Mr. PAINE] wants unanimous consent to make a personal explanation. I have no objection if it does not come out of my hour.

Mr. WASHBURNE, of Illinois. I have no objection to the gentleman making his explanation; but I object to his taking anything beyond the hour to do it in.

The SPEAKER. Objection being made to the gentleman from Wisconsin, the gentleman from Massachusetts [Mr. DAWES] will proceed.

Mr. BLAINE. I ask the gentleman from Massachusetts to yield me one minute more.

Mr. DAWES. Very well.

Mr. BLAINE. I desire to say that this question of loyalty, which it is now assumed is so distinctive a ground of eligibility, was decided in the Committee of Elections by a vote of only five to four; and they had to send to a sick member in Ohio to get the fifth vote, by which Mr. Brown was excluded. This conclusively proves that the disloyalty was not of that patent, notorious character which was presumed to be known by all the voters of the second district of Kentucky.

Mr. PETERS. That, I take it, is a reason why Mr. Brown should have been let in here; not why Mr. Smith should be kept out.

Mr. DAWES. I hope the gentleman from Illinois [Mr. WASHBURNE] will withdraw his objection to the gentleman from Wisconsin [Mr. PAINE] having five minutes for a personal explanation.

Mr. WASHBURNE, of Illinois. I will not object to the gentleman having five minutes.

PERSONAL EXPLANATION.

Mr. PAINE. I hold in my hand a copy of the New York Tribune of yesterday, containing a communication, dated the 13th instant, from this city. The communication purports to contain a statement of facts which occurred during the session of the Committee on Reconstruction. I send to the Clerk's desk and ask to have read the portion which I have marked.

The Clerk read as follows:

"Before the vote was taken Mr. PAINE, who voted for impeachment last year, attempted to dodge the question in committee, and moved toward the door to leave the room. Mr. STEVENS, observing his movements, said, shaking his finger at him, 'PAINE, come back; you have got to face the music. Go on either the one side or the other.' PAINE hesitated, and then STEVENS said, 'Clerk, put him down against impeachment,' and Mr. PAINE was so registered."

Mr. PAINE. Now, Mr. Speaker, of course I have no knowledge as to the source of the information obtained by the writer of that communication. But it so happens that every single statement purporting to be a statement of fact, relating to my conduct in that committee, is without the slightest shadow of foundation in fact. There is not even a scintilla of truth in any one of those statements; every one of them is incorrect.

I did not attempt to dodge the question. It is, perhaps, improper for me to state here what I said or did there. But I can assure the House that I went very wide of any attempt to dodge the question. I did not "move toward the door to leave the room." Mr. STEVENS did not shake his finger at me, and say, "PAINE, come back." He did not say to me, "You have got to face the music." He did not say to me, "Go on either the one side or the other." PAINE did not hesitate, and STEVENS did not say, "Clerk, put him down against impeachment."

No one of these things happened, nor anything which in the remotest degree resembled any of them. There is not only no truth in them, but they are not allied to fact. There is nothing upon which to found any such statements. My friend from Massachusetts [Mr. BOUTWELL] was present. I ask him to state his recollection of what took place.

Mr. DAWES. That is not at all necessary.

Several MEMBERS. No need for that.

Mr. ELDRIDGE. Does the gentleman know what source of authority there was for any such statement in regard to him?

Mr. BINGHAM. Nobody knows or cares.

Mr. PAINE. I do not know.

Mr. WILSON, of Iowa. Does the article give the authority for the statements?

Mr. PAINE. Not that I know; I have not read the entire communication.

Mr. ELDRIDGE. I desire to say, from what my colleague [Mr. PAINE] states, that these statements in regard to him are lies.

ELECTION CONTEST—SMITH VS. BROWN.

The House resumed the consideration of the resolutions reported from the Committee of Elections in relation to the election in the second congressional district of Kentucky, upon which Mr. DAWES was entitled to the floor.

Mr. DAWES. I now yield a moment to the gentleman from Illinois, [Mr. BAKER.]

Mr. BAKER. Mr. Speaker, the question appears to me to come substantially to this:

1. It appears to me to be error to assume, in this case, that the voters knew Mr. Brown was not eligible, for the reason that the question of his eligibility, as raised here, was a mixed one of fact and law, and of such a nature as not to be prejudged *ex parte* and conclusively upon the voter—each man for himself—but to be determined by this House upon full hearing—a determination that has just now been made by the House.

2. We are invited in this case to accept the ugly fact of a Representative without a constituency, such as is contemplated by the democratic principle of government, a majority of 6,106 competent votes—competent so far as we have any proof to the contrary—having been cast against Mr. Smith. I must, therefore, certainly vote no on the question of his admission.

Mr. DAWES. I now yield the remainder of my time to the gentleman from Vermont, [Mr. POLAND.]

Mr. POLAND. I yield three minutes to the gentleman from New Hampshire, [Mr. BENTON.]

Mr. BENTON. Mr. Speaker, I desire briefly to explain the reasons which shall influence my vote on this question.

It has been said here by the gentleman from Maine [Mr. BLAINE] that if we allow the claim of Mr. Smith to a seat such action on the part of the House would be equivalent to setting a trap for the purpose of catching voters unawares. I do not think, Mr. Speaker, that the charge can be made against this or any former Congress of setting traps in which to catch rebels. A former Congress enacted a law declaring that every individual who deserted the flag of his country and went to a foreign country to avoid military service forfeited thereby his right to vote. But Congress omitted to enact the more just and necessary provision that the man who deserted the flag of his country, rallied to the flag of its enemies and fought against his Government, should be disfranchised. If such a provision, as just as the laws of Heaven, had been enacted, we should not have been in the dilemma in which we are to-day. For is there a gentleman on this floor who entertains any doubt in his own mind that a majority of those who cast their votes for Mr. Brown were disloyal to the flag of the country—that they were rebels in sympathy? I question, Mr. Speaker, whether a majority of those voters did not actually enlist and serve in the rebel army. Hence I regard the question of notice which has been raised in this case as a merely technical question. Does any gentleman on this floor doubt that the men who voted for Mr. Brown knew as well what his sympathies and his sentiments were as any man here who has derived his information from the investigation and report of the committee in this case? We have obtained our evidence from the same sources of information that were possessed by the people of that district, and on this evidence we have decided that Mr. Brown was inelegible to the office for which he was supported. Sir, believing as I do that those who voted for Mr. Brown knew the character of their candidate, I regard this objection with reference to notice as a merely technical one; and I can see no other logical conclusion than to admit Mr. Smith to the seat which he claims.

Mr. POLAND. I had not expected, Mr. Speaker, to mingle at all in this debate. I do so at the request of the chairman of the Committee of Elections, of which I am a member. My purpose in what I shall say is to treat the question purely as a question of law, for as such I regard it. I do not propose to enter at all into the history of the rebellion; I do not propose to consider how many men were killed upon the one side or upon the other. All that has been said upon that subject, although very well in itself and very beautifully said, may be disposed of by the single observation that it has nothing whatever to do with the question which the House is now called upon to decide.

My friend from New Hampshire [Mr. BENTON] who has just spoken has a very easy way of solving this question. He says it is a fair presumption that every man who voted for Mr. Brown (who, though he received a majority of the votes, was yesterday declared by a large vote of this House to be not entitled to a seat) was a rebel in sympathy, served probably in the rebel army, and was not entitled to vote for anybody. This is a very good theory. The only difficulty in reference to it is that there has not been produced a particle of evidence that such was the fact.

Mr. BENTON. Is not the evidence before the country?

Mr. POLAND. Mr. Speaker, we try election cases upon the proof that is introduced. Besides, sir, in reference to the citizens of this particular district, I am not aware of any such proof before the country. Indeed, within the last five minutes, it has been stated to me by one of the Representatives upon this floor that more than five thousand men from that very congressional district were in the Union Army.

Mr. DAWES. Seven thousand.

Mr. POLAND. Whether that statement be true or not, I apprehend that no such violent

presumption, no presumption so contrary to the ordinary legal presumption, arises in this case.

Mr. EGGLESTON. I want to ask the gentleman from Vermont whether he is aware there are six newspapers published in that district, and that in every one of them this letter was published as it was published in the Louisville Journal.

Mr. POLAND. Mr. Speaker, without taking up any of the little time I have remaining with these outside questions, I will come directly to the question of law—a pure, dry question of law, that should not be affected at all by any political preference we have in reference to one of these men or the other. I frankly confess, as between John Young Brown and this man Samuel E. Smith, if I had been a voter in that district I should undoubtedly have cast my vote for Smith.

I regret that Smith did not have a majority of votes in that district, so as to be entitled to be a Representative on this floor. I should greatly prefer him to the other man; but as a member of a committee of Congress, as a member of this House, when the evidence as to the facts in reference to his election is not such as, in my judgment, to entitle him to a seat upon this floor, however he may be in accord with me on political questions, however much I may respect him personally, I cannot, consistently with the oath I have taken as a member of this House, give him my vote. I always like to have my friends in office. I am, sir, much inclined to think always they are the best men; but when the case comes to be determined as a question of law, whether we shall hold our office or a man of opposite opinions shall hold it, I have but one rule by which I can be governed. My course of life hitherto, my profession has been such, my official life has been such, my mode of reasoning and forming my judgment has become such, that it would be impossible for me to vote on any other reason than what I believed to be the law.

Now, sir, the rule in England, the rule in the English Parliament, the rule in the English courts, undoubtedly is, that where a person receives a majority of votes who is ineligible to hold office, and that ineligibility was known to the persons voting for him, those votes are thrown out, and the person who receives the next largest number of votes is entitled to hold the office. That is the English rule of law, but is it the rule of law in this country? I say that rule has never been adopted in this country. It has never been adopted by the judicial tribunals of this country. It is not reported in any of the books of law in this country where the question has been well and thoroughly considered. There are decisions on both sides of the question. So it cannot be regarded as ever having received solemn judicial determination in this country.

Now, I say, Mr. Speaker, that rule of the English courts, of the English Parliament, is entirely inapplicable to our country, to our institutions, to our form of government. Ours is a Government of the people. The right of voting is the right of the people. It is not so regarded in England. There the people are not considered as having any right to participate in elections except so far as it may be granted to them by Parliament. But I cannot take any time on that point.

It seems to me whoever will read the report of the committee on this subject, drawn up by the chairman, [Mr. DAWES,] will say the English law is entirely inapplicable to our institutions. There is no legislative precedent on the one side or the other. I know gentlemen say: did not Mr. Madison and the men who were in Congress, from the first Congress down to the present time, did not those eminent men, sir, know what the English law was? Did it never occur to those men, if a man was thrust out of his seat on account of incligibility, the minority candidate, by the English law, would have been entitled to the seat? Is not the very fact that this doctrine was never set up in Congress equal to a solemn determination of the question? It shows the great sense, the general understandings on this subject. If the English rule was regarded as the law in this country it is impossible that the question should not have been raised in the very many cases in which minority candidates might have profited by it to take seats in Congress and other places made vacant by the declared ineligibility of those receiving a majority of votes.

Without taking any more time on that, conceding the English law is in force in this country, I say this case is perfectly clear on the question presented in reference to this claimant to a seat. Now the English decisions, both in Parliament and in the courts, on this question, all say it is necessary the ineligibility should be known to the voter. That is the very foundation, the very corner-stone upon which the whole doctrine rests, that the voters when they gave their votes knew the party for whom they voted could not hold the office for which he was a candidate. Now, in England, where the voting is in single boroughs, cities, or towns, where it is fair to presume that the candidate is generally personally known to all the electors, or nearly all of them, there is some fair reason for applying it; but when you come to apply it to our congressional districts, covering a large extent of country, sometimes containing hundreds of thousands of people, where the candidate is personally known to very few, it would be utter folly to apply the doctrine.

But concede that it is applicable in this country. We have declared that John Young Brown was ineligible to a seat in this Congress because he had committed acts of such a character that he could not take the test-oath. Now, was this known to the people of that district? My friend from Ohio [Mr. EGGLESTON] asked me the question if I did not know that this letter of Mr. Brown was published in a certain number of newspapers in that district. I will admit, for the purpose of my argument, that it was published in every newspaper in the district, and read by every man in it, if the gentleman desires me to make the admission, though it is not proved that any considerable number, or anything like a majority of the electors of the district had ever read it. Mr. Smith and his friends say that in consequence of the reading of that letter Mr. Brown cannot take the test-oath. But what say Mr. Brown and those who speak for him? He and his friends declare that he stood with Mr. Guthrie, Mr. Speed, and all the Union men of Kentucky; that they all went with him upon this doctrine of Kentucky neutrality, saying that they were not going to take any part either way. And they claim, further, that this letter was written not for the purpose of inducing persons to aid the rebel cause, but for precisely a contrary purpose. That is what Mr. Brown and all his newspapers and all those in his interest said to the people.

Now, then, a majority of this House have decided that when Mr. Brown declared to the people that he was a Union man, and that this letter was written in the interest of the Union cause instead of the rebel cause, he was not telling the truth. But, sir, how were the people to judge? It was claimed on the one side that this was a rebel letter, and on the other that it was a Union letter—on one side that he was a rebel, and the other that he was a Union man. How was the question to be determined?

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to ask him this question? I desire to know whether the people were not bound to know as matter of law that neutrality was substantial treason? I know the committee in their report have suggested that the law is in doubt in regard to one point of the case.

Mr. POLAND. As that is a question which is not at all involved in this discussion I cannot take time to answer it in the very short time allowed me. I say it was claimed on one side that he was a Union man and on the other that he was a rebel; and it was claimed on one side that this letter was a Union letter and the other that it was a rebel letter. Now, let us look at this letter, and, conceding all that may be claimed for it, admit that it was the expression of a treasonable sentiment.

But, sir, the test-oath does not require a man to say that he has not expressed a treasonable sentiment. A man may maintain a treasonable opinion and still take the test-oath. He has to swear that he has not given any aid, counsel, or encouragement to the rebellion. It becomes a question of fact to be determined whether the expression of his opinion was under such circumstances as made it giving aid, counsel, and encouragement to the cause of the rebellion. Therefore, I say it became a question of fact to be determined from all the circumstances surrounding the transaction whether that letter was treasonable or not.

Now, how did the people of that district—and it is a different district from the one in which he lived at that time, another part of the State—how did they know anything in relation to the circumstances surrounding that transaction? This matter came up before Congress. The question was raised here and went before the Committee of Elections, composed of nine members, one of whom was sick and at his home in Ohio, [Mr. SHELLABARGER.] After a careful hearing of all the evidence in relation to it, after careful consideration of the arguments of counsel and everything that was brought to bear upon the subject, the committee were equally divided; and I apprehend that it will not be claimed that all the four members who voted in favor of John Young Brown were actuated in that vote by political prejudice in his favor, or by special love for the rebellion. The question finally came before this House for determination. More than forty members of this House, with all the evidence before them, with all the aid that could be given them by the reports of the majority and the minority of the committee, after all the argument upon both sides of this question before the House, more than forty members of this House, upon their oaths, voted that John Young Brown was eligible to a seat upon this floor as a member of this House. And when gentlemen turn round and say that the people of this district, without any of these opportunities, without knowing anything upon this subject except this common fame and rumor about it, and these contradictory claims upon the one side and the other in reference to whether he was eligible to a seat in Congress, and could take the test-oath or not, voted at their peril. I say, with due respect to gentlemen who have expressed these opinions, they are perfectly foolish and absurd; to say that the inhabitants of this district are to be disfranchised, are to be cut off really from representation in Congress upon any such doctrine as this, is perfectly nonsensical and absurd.

Mr. BENTON. I call the gentleman to order.

Mr. POLAND. I did not apply that remark to the gentleman from New Hampshire, [Mr. BENTON,] because he stands upon separate and independent ground, upon the presumption that the inhabitants of that district are all rebels. What I say, therefore, has no reference to him, and if any gentleman ought to call me to order it is not the gentleman from New Hampshire.

The SPEAKER. The Chair did not understand the gentleman from New Hampshire as seriously calling the gentleman from Vermont to order. If he does he must state the language to which he takes exception.

Mr. BENTON. I called the gentleman to order because I thought he was out of order. I do not insist on it, however. He characterizes everybody's argument not in line with his as absurd and ridiculous. Now, that is a very short way of answering an argument.

The SPEAKER. The gentleman does not insist on the point of order?

Mr. BENTON. No, sir.

Mr. POLAND. I say when the Committee of Elections of this House, with all the evidence before them, with every means of determining

both the law and the facts of the case, was as equally divided as a committee can be, and when a very large proportion of this House, upon full consideration of the case and full debate, said when they came to vote that John Young Brown was eligible to a seat here—when there is this difference of opinion among men competent to judge, and with every means and facility of coming to a correct judgment—to say that the population of twelve counties, with no other knowledge upon this subject except that which floats about in the community by newspapers and otherwise, were bound to vote at peril of being disfranchised, I say again, is nonsensical and absurd.

[Here the hammer fell.]

The question was upon the following substitute offered by Mr. COBURN for the resolution reported by the Committee of Elections:

Resolved, That Samuel E. Smith, having received a majority of the votes cast in conformity with law, is entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky.

Mr. CHANLER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 102, not voting 57; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Beatty, Benton, Sidney Clarke, Cobb, Coburn, Covode, Driggs, Eckley, Ferriss, Fields, Harding, Hunter, Kelsey, William Lawrence, Loan, Mullins, Paine, Peters, Pile, Polsley, Raum, Shanks, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, and William Williams—30.

NAYS—Messrs. Adams, Allison, Ames, Arnell, James M. Ashley, Axtell, Baker, Banks, Beaman, Beckwith, Bingham, Blaine, Boutwell, Bromwell, Brooks, Broomall, Buckland, Barr, Chanler, Churchill, Reader W. Clarke, Cornell, Dawes, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Garfield, Glossbrenner, Golladay, Griswold, Grover, Hawkins, Higby, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Judd, Julian, Kerr, Ketcham, Kitchen, Knott, Laflin, Lincoln, Logan, Loughridge, Mallory, Marshall, Marvin, McCarthy, McCormick, Mercur, Moorhead, Morgan, Mungen, Orth, Perham, Pike, Plants, Poland, Pruyn, Randall, Robertson, Sawyer, Schenck, Scofield, Smith, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stokes, Stone, Taber, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Stephen F. Wilson, Windom, Wood, and Woodward—102.

NOT VOTING—Messrs. Archer, Bailey, Baldwin, Barnes, Barnum, Benjamin, Blair, Boyer, Butler, Cake, Cary, Cook, Cullom, Dixon, Dodge, Donnelly, Ela, Finney, Fox, Getz, Gravely, Haight, Halsey, Hill, Asahel W. Hubbard, Kelley, Koontz, George V. Lawrence, Lynch, Maynard, McClurg, McCullough, Miller, Moore, Morrell, Morrissey, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Phelps, Pomeroy, Price, Robinson, Ross, Selye, Shellabarger, Sitgreaves, Thaddeus Stevens, Taffe, Ward, Thomas Williams, James F. Wilson, John T. Wilson, and Woodbridge—57.

So the substitute was not adopted.

During the call of the roll the following announcements of pairs were made:

Mr. LAWRENCE, of Pennsylvania. I am paired on this question with Mr. BENJAMIN, of Missouri. He is in favor of this substitute; I am opposed to it.

Mr. NIBLACK. Upon this question I am paired with the gentleman from Tennessee, Mr. MAYNARD. He would vote for this substitute if he were present; I would vote against it.

Mr. WILSON, of Iowa. I desire to state that my colleague, Mr. PRICE, is detained from his seat by illness. On this question and on all others involved in this case I am paired with him. If he were present he would vote in the affirmative and I in the negative upon this substitute.

Mr. WOODWARD. I desire to state that my colleague, Mr. BOYER, is paired with another colleague, Mr. KOONTZ, upon this question. Mr. BOYER, if present, would vote against this substitute.

The vote was announced as above recorded.

The question recurred upon the following resolutions, reported from the Committee of Elections:

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That the Speaker be directed to notify the Governor of Kentucky that a vacancy exists in the representation in this House from the second congressional district of Kentucky.

The resolutions were adopted.

Mr. DAWES moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF NEW ORLEANS COUNCILMEN.

The SPEAKER, by unanimous consent, laid before the House a communication from the General of the Army, transmitting, in compliance with the resolution of the House of the 14th instant, correspondence with General Hancock relative to the removal by General Hancock of councilmen in New Orleans.

Mr. BROOKS and others called for the reading of the communication, with the accompanying correspondence.

The Clerk read as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, *February* 15, 1868.

SIR: In compliance with resolution of the House of Representatives of February 14, 1868, I have the honor to transmit herewith copies of the correspondence between General Hancock and myself relative to the removal by General Hancock of councilmen in the city of New Orleans.

Very respectfully, your obedient servant,
U. S. GRANT, *General.*

Hon. SCHUYLER COLFAX,
Speaker House of Representatives.

Telegram received at Washington February 7, 1868, *from Headquarters Fifth Military District.*

NEW ORLEANS, *February* 7, 1868.

General U. S. GRANT:

I have removed nine (9) members of the city council—two white and seven colored—for contempt of the orders of the military commander in proceeding to an election for a recorder for the second district, and which is an elective office under the laws by the people and not by the council. The attempt to hold the election was made while I was absent in Texas, but the council was referred to General Sheridan's order forbidding elections until reconstruction was completed without the authority of the commanding general. Nevertheless, these members voted for an immediate election, and the project was carried. The election was about to be completed, when one or two members, more timid than these, left and broke the quorum. A case in point is the order of General Mower, S. O., of October 15, 1867, removing the Jefferson city council for a like offense. My action in this matter was in accordance with the power granted by the reconstruction act, which allows the district commander to suspend or remove persons from office, and provide, from time to time, for the performance of the duties of persons removed by appointment, &c.

WINFIELD S. HANCOCK,
Major General United States Army.

HEADQUARTERS ARMY UNITED STATES.
Official copy: GEORGE K. LEET,
Assistant Adjutant General.

[Telegram.]

WASHINGTON, *February* 8, 1868.

Major General W. S. HANCOCK,
New Orleans, Louisiana:

Suspend your order removing city council of New Orleans until full report of reasons is sent. Answer by mail. U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.
Official copy: GEORGE K. LEET,
Assistant Adjutant General.

By telegram received Washington, D. C., 9 a. m., February 11, 1868, *from New Orleans, Louisiana, 2.30 p. m., February* 6, 1868.

General U. S. GRANT, *Commanding Armies United States:*

Your dispatch of the 8th February, directing me to suspend my order No. 28 of 7th December, removing certain members of the city council of New Orleans until full report of the reasons therefor should be sent to you, was received at ten p. m. to-day. I request that you may reconsider your action, and that my order in the premises be not suspended until you have the full report of the reasons called for by you. I telegraphed you at the moment the order was issued, giving as full a statement of my reasons for action as I thought could be made.

I referred you to the orders of General Sheridan forbidding elections which you have on file at your headquarters, and stated that the city council had been previously notified of this order by me. I also referred you to an order of General Mower, issued in October last, which set forth a parallel case, and which you have on file. In that case an appeal was taken to you for a reinstatement of the council removed by General Mower, which appeal you have not sustained; the present case was in defiance of that example of General Sheridan's order and of my own letter cautioning the council to desist in this election, and forwarded to you, printed copy, January 26; it was also illegal under the law by which they claimed to act. I was astonished at the action of the council, and could not account for it except in the fact that they had been instigated to it by designing men, who believed, if I dared to make those removals, that it would end in my own removal from this place and that they would be protected. At any rate, my self-respect as commander of this district made it absolutely necessary that I should take summary measures, regardless of the consequences with which partisans might threaten me. I do not know what fuller report could be furnished in this case, for all the papers explaining my action have been sent to you. To suspend my order would be to destroy my usefulness here, and in such event a sense of what I consider due to me and my position in this matter would necessitate a respectful request to be relieved from my present command. Although I have been here seventy days, this is the second occasion I have taken on my own responsibility to make a removal, the first one two days previous to this, both for grave causes reported to you in detail by telegraph; and, while I fully recognize the power of the General-in-Chief to disapprove my action, I respectfully request that, as I have acted upon a full knowledge of the facts, the General-in-Chief may delay his action until he can inform me what further papers or information he may desire in addition to what has been already furnished for a full understanding of the case under consideration. My action in the premises was originally based on the first supplementary reconstruction act of July 19, 1867.

I await your reply before issuing the order.

W. S. HANCOCK,
Major General Commanding.

HEADQUARTERS ARMY UNITED STATES,
Official copy: GEORGE K. LEET,
Assistant Adjutant General.

[Telegram.]

WASHINGTON D.C., *February* 11, 1868.

Major General W. S. HANCOCK,
New Orleans, Louisiana:

If your order removing city council has been executed and new appointees are in you need not suspend orders as directed.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES,
Official copy: GEORGE K. LEET,
Assistant Adjutant General.

Telegram received February 11, 1868, *from New Orleans, February* 11, 1868.

General U. S. GRANT, *Commanding United States Army:*

The change in the city council was an accomplished fact when your dispatch of February 9 was received. Several of the appointees had already filed copies of their oaths of office. In my selections I have appointed the best men to office without regard to their political sentiments. All must take the required oath, for the change will be of immense advantage to the city, as the poor, of which the city is principally composed, are dependent upon the public confidence. WINFIELD S. HANCOCK.
Major General United States Army.

HEADQUARTERS ARMY UNITED STATES,
Official copy: GEORGE K. LEET,
Assistant Adjutant General.

The SPEAKER. This communication is in response to a resolution offered by the gentleman from New York, [Mr. WOOD.] If no objection is made, it will be referred to the Committee on Reconstruction, and ordered to be printed.

Mr. WOOD. That reference will be entirely satisfactory to me.

The communication, with the accompanying papers, was accordingly referred to the Committee on Reconstruction, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. It is now so late that I will not ask the House to go into Committee of the Whole upon the legislative appropriation bill, as it contains some items of interest which may elicit considerable discussion. I hope, however, they will be good enough to take up and consider in the House, as in Committee of the Whole, the consular and diplomatic appropriation bill. It is a short bill of only about seven pages, and contains nothing to which I think any one will object.

Mr. ELDRIDGE. Will not the gentleman consent to an adjournment? To-day is Saturday, and it is now nearly half past three o'clock.

Mr. WASHBURNE, of Illinois. I think we can get through the consular bill in half an hour. I will consent to an adjournment at four o'clock.

Mr. ELDRIDGE. Will the gentleman object to taking the sense of the House upon the

question of adjournment? If he does not, I will move that the House do now adjourn.

The SPEAKER. The motion to adjourn is in order.

Mr. ELDRIDGE. Then I make that motion.

The question was taken; and upon a division there were—ayes 52, noes 51.

Mr. WASHBURNE, of Illinois. I call for tellers.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. ELDRIDGE were appointed.

The House divided; and the tellers reported—ayes 53, noes 61.

So the motion to adjourn was not agreed to.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union and proceed to the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair,) and proceeded to the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The CHAIRMAN. If there be no objection the first reading of the bill will be dispensed with.

Mr. CHANLER. I object.

The bill was read.

The CHAIRMAN. The bill will now be read for amendment.

Mr. WASHBURNE, of Illinois. Before that is done I wish to make a statement. The provisions of this bill are simply to carry out existing laws. The bill contains no appropriations for any new subjects. The aggregate amount which the bill proposes to appropriate is, as will be seen by the note appended to the bill, $1,268,934; being $154,520 less than the amount estimated for the next fiscal year, and $156,520 less than the amount which was appropriated for the present fiscal year. This reduction has been made by cutting down various items, as I will explain when we reach those particular items.

Mr. WASHBURN, of Indiana. I desire to ask the gentleman whether there is not a change from the bill of last year by including Portugal in this bill?

Mr. WASHBURNE, of Illinois. No, sir.

Mr. BROOKS. I desire to suggest a single inquiry. The estimates sent in by the Departments are, as I understand, founded upon existing laws, the heads of the Departments in this respect acting in point of fact as mere clerks. They are bound, as I understand, to submit estimates of such appropriations as are required to carry out existing acts of Congress. Am I not right?

Mr. WASHBURNE, of Illinois. The gentleman may be right in his statement. The heads of Departments are bound to do that. But I think that in some instances they do not confine themselves to that.

Mr. BROOKS. I presume that they have done it with regard to this bill; and I suppose that so far as regards any curtailments they are to be made by Congress. The gentleman having stated that this bill proposes a reduction of expenditures, I congratulate the House upon this step in the direction of economy. I welcome every possible curtailment of our public expenses.

Mr. WOOD. I desire to inquire of the acting chairman of the Committee on Appropriations [Mr. WASHBURNE, of Illinois] whether the salaries embraced in this bill are payable in coin or in currency?

Mr. WASHBURNE, of Illinois. They are payable in coin. Greenbacks, unfortunately, do not circulate in foreign countries.

Mr. WOOD. I desire, then, to call attention to the fact that there is no such provision in the bill. The only specification that any sum is to be paid in coin is in the provision for the fulfillment of our treaty stipulations with respect to the capitalization of the Scheldt dues. If it is the design that all these salaries shall be paid in coin, and if there is any existing law to that effect, this bill fails to make the necessary provision on the subject.

Mr. HOLMAN. The gentleman from Illinois has stated that this bill proposes a reduction of the appropriations made last year, and in considering our appropriation bills recently there have been frequent comparisons with the amounts appropriated at former sessions. Now, I desire to call attention to the fact that this bill proposes to appropriate $222,372 more than was appropriated for similar purposes in 1861, the last session of the Thirty-Sixth Congress. These salaries were then, as they are now, paid in coin; and the rates of exchange are less now than they were then. How does it happen that this bill proposes this heavy increase upon the appropriations made in 1861?

Mr. WASHBURNE, of Illinois. There are now a great many additional consuls.

Mr. HOLMAN. Does not the bill propose substantially to cut off the additional consulships and the increased salaries that have been authorized since 1861?

Mr. WASHBURNE, of Illinois. No, sir; it does not.

Mr. HOLMAN. The increased amount of the appropriations, then, is due alone to the additional number of consuls?

Mr. WASHBURNE, of Illinois. The additional number of consuls and the increase of salaries.

Mr. HOLMAN. Is it not the fact this increase has been occasioned by giving salaries to consuls who were not salaried in 1861? Is not the number of consuls the same now as then? Our commerce has not increased. Before these consuls were paid salaries were they not paid by fees?

Mr. BLAINE. I will tell the gentleman from Indiana that the United States has saved a great deal of money by adopting the system of paying salaries. There is an excess of fees over expenditures, and that excess goes into the Treasury. The fees of some of the large consulates gave the consuls fortunes in a single year. We have put them upon a salary, and the Government now gets the excess of fees. To be sure, in some of the small consulates the salary is more than the fees; but the receipts from the larger consulates more than balance any loss on the small ones.

I am glad, Mr. Chairman, that the gentleman has asked the question. It affords me the opportunity of stating to the House that our consular system is now self-supporting, and more than self-supporting. The receipts in the shape of fees are more than this bill appropriates to sustain the consuls.

Mr. WASHBURNE, of Illinois. And let me add that our receipts are in gold.

Mr. HOLMAN. Does the gentleman state that the fees paid into the Treasury amount to $230,000? Does the gentleman assert that to be true? I do not suppose the gentleman will make any such assertion.

Mr. WASHBURNE, of Illinois. There is no amendment before the committee. Read the bill.

The Clerk read as follows:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Republic of Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Belgium, Holland, Denmark, Sweden, Turkey, Ecuador, New Granada, Bolivia, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Japan, and Salvador, $301,000.

Mr. HIGBY. I should like to inquire why Portugal is included? I remember it was struck out last year, and I should like to have the gentleman from Illinois explain the reason for its being included now.

Mr. WASHBURNE, of Illinois. If the gentleman will refer to the law he will find it is in the consular and diplomatic bill; but there is also a provision that no part of the money thereby appropriated should be paid to the then minister to Portugal. That provision still exists.

Mr. HIGBY. It still exists?

Mr. WASHBURNE, of Illinois. It does. That is the condition of the question in reference to the minister to Portugal.

Mr. CHANLER. I do not see that Greece is named in this bill; and yet I see by the press that the President has sent in to the Senate the name of a representative to the kingdom of Greece. While I do not propose any action in this matter now, still I think it is due to the feeling of the country in reference to Greece and to the connection between Turkey and the Island of Crete that we should have some information from the Secretary of State through this committee as to the reason for the exclusion of Greece in this bill.

Mr. WASHBURNE, of Illinois. At the time this bill was prepared the committee had no information that a minister had been appointed to Greece, and according to the rule of the committee it was not included. Since then we learn that a minister has been appointed, and the gentleman from Massachusetts [Mr. BUTLER] has been instructed to submit an amendment providing for the minister to the Kingdom of Greece.

Mr. BUTLER. In the twelfth line, second page, I move to strike out "Ecuador" and insert "Greece." The reason why Greece has been omitted has been stated by the gentleman from Illinois. There is now a necessity for this appropriation.

Mr. SPALDING. Let me correct the gentleman. The committee agreed to insert Greece, but not to strike out Ecuador. On a reconsideration it was decided that Ecuador should not be stricken out.

Mr. BUTLER. I am half right there, and that is as near as I hope to be.

Mr. SPALDING. The committee reconsidered the matter, and agreed to keep Ecuador in.

Mr. BUTLER. I was saying that we agreed to insert Greece, and I understand the committee had agreed to a motion to strike out Ecuador. The reason why we wished to insert Greece was, there is now a war going on between the Sultan of Turkey and some rebels, as he claims them, in the Island of Crete, and our citizens are very much interested in that war in various ways. It affects our interest, and we must have some minister in Greece to protect them. Greece, too, has sent a minister here, and it is but according to the usual courtesy of nations to reciprocate.

I was instructed to move to insert Greece and strike out Ecuador, for the further reason that it is difficult to state anything that a resident minister at Ecuador has now to do. We have settled our difficulties by commission with that country. We have very little commerce with her, and our consular agents there can take care of all our commercial relations, which do not involve any questions of international law, as in the case where war exists. Therefore, as it would not add much to the expense or to this appropriation, I have made this motion. The Department of State have seen the necessity and have recommended, and the President has appointed, a minister to Greece, who, I believe, is entirely unexceptionable, and we are only now to provide for his salary.

Mr. CHANLER. Mr. Chairman, I call for a division of the motion. While I do not oppose the appointment of a minister to Greece, for the very cogent reasons given by the gentleman who made the motion, I certainly do not see the necessity of breaking off our commercial relations—for so I look upon our diplomatic relations, practically speaking, between this country and foreign nations—with Ecuador in order to establish new relations with a Power so remote as Greece. The position of Ecuador upon this continent or upon that unbilical cord which binds the two continents, is certainly too important to admit of a surgical operation at this time without danger of some

serious consequences. But, besides that, we stand toward these republics in Central and South America in the relation of a guardian. It is true that the condition of these countries at times and our relations with them continuously may call for the withdrawal of our minister for the very excellent reason, as suggested in a former debate on this question, that it would take a whole presidential term to find the seat of Government. But those are cases not likely to occur hereafter. In view of the necessity of strengthening these States of Central and South America I certainly must enter my protest, with all deference to the committee which is charged with this special matter, and urge the necessity of continuing to strengthen ourselves with those nations which belong more strictly to our family as republican States or States which adhere to the principles at least, if not directly, indirectly of a democratic system of government. It is our duty, as the representatives of European civilization upon the continent of North and South America, to sustain those States that are weak at all hazards and maintain our supremacy in the administration of their foreign affairs, or at least our interest in the control of their foreign relations with Europe.

The course of Great Britain in this respect is wise and worthy of imitation. Her relations with the most insignificant States not only in South America but Central America become a source of great national wealth, and open up to the manufacturing interest of that country new markets in those countries. The necessity, therefore, of withdrawing our diplomatic relations from this neighbor of ours, in order to extend our relations with a remote Power, is to me not at all apparent. I think it is the duty of this House to leave Ecuador in this bill; and if the Committee on Foreign Affairs feel that it is proper, in view of the fact that the king of Greece has sent a minister here, to return the compliment, or if they think our commercial relations with the island of Crete and the interests of our citizens in that island demand that we should have them protected by a mission in Greece, let the gentleman have the boldness to appeal to this House for an appropriation in that direction, and I doubt not it will be granted.

Mr. WASHBURNE, of Illinois. Well, let us vote on it.

Mr. CHANLER. Very well; as the gentleman in charge seems to desire a vote, I hope he will vote to sustain my position, and that his influence will carry it.

Mr. BUTLER. I was so unfortunate as not to understand the amendment of the gentleman.

Mr. CHANLER. It is to put on Greece and let it slide. [Laughter.]

Mr. BUTLER. I modify my amendment so as to move to insert after the word "Turkey" the word "Greece," and I will follow that up with another amendment.

Mr. ELDRIDGE. The gentleman from Illinois [Mr. WASHBURNE] said he would only insist on half an hour's work. The half hour has expired, and I hope the committee will rise.

Mr. WASHBURNE, of Illinois. I said that in order to induce the gentleman from Wisconsin to withdraw his motion to adjourn, and he declined to withdraw it. But as members are evidently impatient I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. DAWES having taken the chair, as Speaker *pro tempore*, Mr. WELKER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally and particularly bill of the House No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th of June, 1869, and for other purposes, and had come to no conclusion thereon.

And then, on motion of Mr. SPALDING, (at four o'clock and four minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Federal officers, members of the Legislature, and citizens of Dakota Territory, relative to setting apart of a portion of said Territory as an Indian reservation.

By Mr. BALDWIN: The petition of J. H. Nelson and others, of Shrewsbury, Massachusetts, for a reduction of taxes on manufactures.

Also, a petition of citizens of Massachusetts, for a reduction of expenses and taxes.

Also, the petition of Erastus Thompson and others, of Hopkinton, Massachusetts, for a reduction of taxes on manufactures.

Also, a petition of citizens of Hopkinton, Massachusetts, for a reform in the method of making appointments to the civil service.

By Mr. BROMWELL: The petition of John Boyle, James A. Edds, and 96 others, citizens of Edgar county, Illinois, praying for retrenchment in the public expenditures.

By Mr. CHANLER: A petition of certain mahogany dealers of the city of New York, for the repeal of the income tax.

By Mr. COVODE: The petition of Peter McGough, for relief.

By Mr. ELIOT: The petition of Edward L. Baker and Charles B. Perkins, and 31 others, tax-payers and producers of the United States, praying for reduction of taxes and of expenses.

By Mr. FERRISS: The application of John Huestis, for bounty allowed to reënlisted veterans under act of Congress of 1863.

Also, a similar application of Benjamin F. Hall.

By Mr. HOOPER, of Massachusetts: A petition of merchants and others, of Boston, for a law to legalize written contracts for the payment of gold coin.

By Mr. PIKE: A memorial of the Governor and council and Legislature of Maine, in favor of restoring Commander Cilley to the active list of the Navy.

Also, the petition of Eugene Hale and others, for an appropriation to improve Union river, Maine.

Also, the protest of D. L. Braine and others, against the passage of naval insurance bill.

By Mr. ROBERTSON: The memorial of Charles W. Whitney, for relief in building the iron-clad battery Keokuk twenty-five per cent. larger than agreed upon when price was named, and for which no compensation has been paid.

By Mr. WASHBURN, of Indiana: The petition of officers of the Army during the late war, now residing at Worcester, Massachusetts, against the passage of Senate bill depriving them of pay now due.

IN SENATE.

MONDAY, *February* 17, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

SENATOR FROM MARYLAND.

The PRESIDENT *pro tempore*. The Chair will inform the Senate that he has received this morning from the Senator from Maryland [Mr. JOHNSON] a communication stating that he is too unwell to be here to day, and while he does not wish to arrest the debate upon the question of his colleague's right to a seat, when it shall come up at one o'clock, he would like to have the vote postponed so that he can close the debate to-morrow. That is the request which he desired me to state to the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the constitutional convention of Virginia, in favor of the removal or reduction of the tax on tobacco; which was referred to the Committee on Finance.

He also presented a memorial of J. M. Miller, in relation to an improvement in steam engines; which was referred to the Committee on Commerce.

Mr. DIXON. I present the petition of Major General Horatio G. Wright, Major General George W. Getty, Major General Truman Seymour, and Major General Frank Wheaton, and as the petition is brief I will read it:

To the Senate and House of Representatives of the United States:

We, your petitioners, a committee charged by the sixth corps of the Army of the Potomac with the completion of a monument, in bronze, to the memory of its commander, the late Major General John Sedgwick, United States volunteers, who was killed in battle at Spottsylvania, Virginia, respectfully ask that your honorable body will empower and direct the Secretary of War to place in their charge, and for this sole use and purpose, sufficient of the bronze cannon, (not to exceed three,) preferably of those captured by the sixth corps in battle, to construct the statue designed to perpetuate the memory of Major General Sedgwick. And your petitioners, &c.

In presenting this petition I ask leave briefly to state the circumstances under which it is offered.

Major General Sedgwick, as every member of the Senate must remember, was killed at Spottsylvania on the 9th of May, 1864. The surviving officers of the sixth Army corps, of which at the time of his death he was in command, have raised by subscription among themselves the sum of $10,000 for the erection of a statue to the memory of their beloved and illustrious commander. By their contract with the artist employed the statue is to be placed in position for this sum, the metal for the same to be supplied by the subscribers, and any excess of funds to be applied to embellishing the base on which the statue is to stand. It was the wish of those interested in this honorable and patriotic tribute to the memory of General Sedgwick that the statue should be cast from cannon captured by the sixth corps, of which between twenty and thirty were taken on the 2d of April, 1864; but as it may be impracticable at this time to distinguish captures by the different Army corps the petition only expresses a preference in this regard.

I would further state that the modeling of the statue is nearly completed, and the artist will be ready to commence the casting in two or three weeks. It is therefore important that early action should be had upon the petition. That Congress will cheerfully aid the brave officers of the sixth corps in their generous purpose cannot be doubted. I move the reference of the petition to the Committee on Military Affairs.

The motion was agreed to.

Mr. CONKLING presented resolutions adopted at a mass meeting of citizens of Troy, New York, in relation to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

Mr. CHANDLER presented a petition of citizens of Michigan, praying that officers' pay be allowed to enlisted men while they performed the duties of officers; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of Nelson A. Miles, praying the removal of the political disabilities imposed upon ex-Governor W. W. Holden, of North Carolina, by the reconstruction acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Michigan, praying that $1,000 be granted to Greenburg Hodge, a colored citizen of Detroit, for valuable services to his country during the rebellion; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of late officers of the fifteenth regiment Michigan volunteers, praying that a pension be granted to John Haley, late a private in company G in that regiment; which was referred to the Committee on Pensions.

Mr. RAMSEY presented a memorial of Clement Wetle, praying for damages for depredations by the Sioux Indians in 1861; which

was referred to the Committee on Indian Affairs.

Mr. FRELINGHUYSEN. I present a petition, signed by the senators and members of Assembly of the New Jersey Legislature, representing that by reason of the encroachments of the sea the valuable harbor at Absecom inlet is in great danger of being destroyed, and that Atlantic City, near that harbor, is already flooded at high tides with water; buildings have been carried away, and those who moved further inland are again surrounded with water, and that the light-house is surrounded with water, and unless a breakwater of stone is erected the light-house and other property of the Government will be swept away. Accompanying this petition is a letter from the Governor of the State of New Jersey, addressed to the Senate and House of Representatives, which I ask permission to have read.

The Secretary read as follows:

STATE OF NEW JERSEY EXECUTIVE DEPARTMENT,
TRENTON, *February* 13, 1868.

GENTLEMEN: I forward herewith the petition of Senators and Members of the House of Assembly of the State of New Jersey, requesting that measures be taken to protect the Government property, as well as that of citizens at large, now threatened with destruction by the inroads of the ocean at Absecom inlet, on the coast of this State. The close approximation of the breakers to the light-house is represented to be truly alarming, and during the prevalence of violent winds from the east or northeast the grounds surrounding the light-house are wholly submerged, and the employés of the Government thus imprisoned. Large buildings, erected by private enterprise for public accommodation, have been partly washed away, and further removals inland have been rendered necessary. Without some action to prevent this result the valuable harbor of Absecom inlet will materially suffer.

Atlantic City, located upon the southerly point of this inlet, has of late years become a favorite and popular place of summer resort for citizens from every part of the Union.

I would respectfully call your attention to the petition referred to, with the hope that you will grant the prayer of the petitioners.

Respectfully, MARCUS L. WARD.

To the Senate and House of Representatives in Congress assembled.

Mr. FRELINGHUYSEN. I move the reference of the petition and the accompanying papers to the Committee on Commerce.

The motion was agreed to.

Mr. FRELINGHUYSEN also presented a petition of one hundred and twenty-four colored citizens of Georgia, praying an appropriation to the Colonization Society of $100 to each person, to enable that society to send them to Liberia; which was referred to the Committee on Finance.

He also presented a petition of the Trenton Locomotive and Machine Manufacturing Company, praying to be allowed damages for not being permitted to complete the Marine Hospital at New Orleans, as contracted for with the Secretary of the Treasury; which was referred to the Committee on Claims.

He also presented the petition of Emma M. Moore, widow of Commodore E. W. Moore, deceased, praying the payment to her of the sum of $5,000 due to her late husband, as an officer of the navy of Texas before its annexation; which was referred to the Committee on Claims.

Mr. HOWE presented a petition of brewers of Milwaukee, Wisconsin, praying a repeal or a reduction of the duty on imported barley; which was referred to the Committee on Finance.

Mr. FESSENDEN presented a petition of H. Ryan, pastor of the Methodist Episcopal Church, Columbus, Mississippi, praying an appropriation for the purpose of sending the colored citizens to Liberia; which was referred to the Committee on Finance.

Mr. SUMNER presented a memorial of late officers of the United States Army, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I also offer a petition from J. S. Powell, of Georgia, in which he sets forth the dependent condition of the freedmen there, and particularly on lands of his own, and he prays Congress to loan to him $2,000; the loan to be paid from the proceeds of the crop, and a mortgage executed on the crop. He asks this in order to enable him to manage the farm and to benefit the freedmen. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I also offer what is entitled a memorial to the Congress of the United States regarding the abolition of the Presidency, signed by Karl Heinzen, the eminent German journalist in our country, and many other Germans, in which they set forth reasons why there should be no such office as President. They say "the Presidency is a copy of royalty; it is an essentially unrepublican institution;" that "it is thoroughly anti-democratic in nature;" that "it maintains the false, illogical, disorganizing theory—born of Monarchy and principally denying Democracy—of the 'partition of powers;'" that "it is a constantly menacing, growing cause of danger to the Republic;" that "if it do not cause such ruin by direct, violent subversion, it must effect the same through corruption, for the presidential office is the source—the constantly growing source—of universal corruption." In offering this petition, of course, I do not undertake to express any judgment upon its prayer, but I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. PATTERSON, of Tennessee, presented a petition of John Jones, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WILLEY presented a petition of James M. W. Virto, praying compensation for expenses incurred in recruiting men for company B, independent Loudoun Virginia rangers; which was referred to the Committee on Claims.

Mr. COLE presented a resolution of the Legislature of California, asking Congress to make Sacramento river between Sacramento and Princeton a mail route; which was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN presented a memorial of citizens of Cincinnati, Ohio, praying that all contracts made payable in gold by the parties thereto shall be payable in gold according to the contract; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, praying such legislation as will give protection to American labor and industry; which was referred to the Committee on Finance.

He also presented a petition of manufacturers of tonics and bitters in Lancaster, Pennsylvania, praying that the laws taxing the same may be amended; which was referred to the Committee on Finance.

He also presented two petitions of citizens of Ohio, praying a repeal of the tax on annual gains, profits, or incomes; which were referred to the Committee on Finance.

He also presented a memorial of honorably discharged officers of the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. FERRY presented a petition of H. Trowbridge's Sons, of New Haven, Connecticut, praying that an American register be granted to the bark Golden Fleece; which was referred to the Committee on Commerce.

Mr. YATES presented a petition of William Sumner Dodge Mayor, of the city council, and of citizens of Sitka, in the Territory of Alaska, praying the establishment of civil government in that Territory; which was referred to the Committee on Territories.

Mr. POMEROY. I present a memorial from the constitutional convention assembled in the State of South Carolina. This memorial is signed by all the members of the convention that were present, making one hundred and seven, and each man signs it for himself, showing, as over one half of the convention are colored men, that they can at least write very well. The memorial relates to aid proposed to be granted to the Port Royal Railroad Company by a bill which is before the Committee on Public Lands and now under consideration. They set forth the advantage it will be to the State to have the road completed. They also set forth that there was a general failure of the crops on the coast of South Carolina last year and great destitution among the freedmen. They ask that Congress may, on that account, consider the proposition favorably. As this memorial comes from a constitutional convention, I move that it be printed for the use of the Senate and referred to the Committee on Public Lands.

The motion was agreed to.

Mr. POMEROY presented an additional paper in relation to the claim of Clara Wood; which was referred to the Committee on Claims.

Mr. ROSS presented concurrent resolutions of the Legislature of Kansas, in favor of the extension of the Union Pacific railway, eastern division; which were referred to the Committee on the Pacific Railroad.

Mr. TIPTON presented a petition of citizens of Nebraska, praying that treaties be made with the Sac and Fox and Iowa Indians whereby said Indians may be removed and their lands disposed of for the building of railroads; which was referred to the Committee on Indian Affairs.

Mr. TRUMBULL. I have received and been requested to present to the Senate a memorial signed by T. Lyle Dickey and Stephen A. Hurlbut, commissioners on the part of the State of Illinois, appointed for the purpose of laying before Congress an act of the Legislature of that State making provision, as far as the State was able to do so, for the improvement of the Illinois river, the enlargement of the existing canal, and the extension of the same to the Mississippi river, at or above Rock island, and the improvement of Rock river, so as to make a deep water communication between the waters of Lake Michigan and the Mississippi river. This memorial sets forth at length the action of the Legislature of Illinois, and states the importance of these works being constructed, the amount of commerce that passes over these channels of trade, and asks the assistance of the Government of the United States to aid in the construction of the works. I move the reference of the memorial to the Committee on Military Affairs.

The motion was agreed to.

Mr. CAMERON. I am requested by the Governor of the State of Pennsylvania to present to the Senate certain resolutions passed by the Legislature of that State, approving of the restoration of Hon. Edwin M. Stanton to the office of Secretary of War. I move that the resolutions be read—they are very short—and lie on the table.

The Secretary read as follows:

Joint resolution on the restoration of the Secretary of War.

1. *Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met*, That the loyal men of this Commonwealth hail with joy the restoration of Hon. Edwin M. Stanton to the office from which he has been illegally excluded, and that the thanks of the people of Pennsylvania are hereby tendered to the Senators who have by their action in this case vindicated a meritorious officer and rebuked an apostate President.

2. *Resolved*, That it is the universal wish of the loyal men of Pennsylvania that Hon. Edwin M. Stanton shall retain the office he now holds; that he will sink his personal wishes for the public good, and that the country, more than ever requiring his services, may again rest in security with the unflinching Secretary at the head of military affairs.

3. *Resolved*, That while the suspension of Mr. Stanton for a time so unnecessarily and unjustly from the War Office is lamented, it is cause of congratulation to the country that the great leader of the Union armies, General U. S. Grant, was the Secretary *ad*

interim, who brought to the administration of that office that courage, energy, ability, and loyalty that delighted the heart of the nation in the darkness of rebellion in the past, and directs it to him with hope and confidence in future.

4. *Resolved*, That the Governor of the Commonwealth be requested to forward copies of these resolutions to the Secretary of War and the Senate of the United States.

ELISHA W. DAVIS,
Speaker of the House of Representatives.
JAMES L. GRAHAM,
Speaker of the Senate.

Approved the 11th day of February, A. D. 1868.
JOHN W. GEARY.

The resolutions were ordered to lie on the table.

Mr. PATTERSON, of New Hampshire, presented the petition of True Putney, of the city of Washington, praying an amendment to the act approved February 23, 1865, relative to having carriage-ways in that city, so that the cost thereof may be more justly and equally divided among property-holders; which was referred to the Committee on the District of Columbia.

Mr. MORRILL, of Maine, presented a petition of Wylly Woodbridge, praying compensation for cotton seized by the United States military forces, on or about March 13, 1865, on account of the Treasury Department; which was referred to the Committee on Claims.

Mr. SPRAGUE. I present two memorials of late officers of the Army, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865. I know enough of the gentlemen who signed these memorials to believe that they would not sign a paper which they did not believe to be true. I move that these remonstrances be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWE, it was

Ordered, That the petition and papers relating to the claim of Joshua Hill be withdrawn from the files of the Senate, and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," reported it with an amendment.

Mr. HENDRICKS. The Committee on the Judiciary, to whom were referred resolutions of the Board of Supervisors of Jackson county, Iowa, relative to declaring the Magnokita river an unnavigable stream, report a joint resolution (S. R. No. 107) in relation to the Magnokita river, in the State of Iowa; which was read twice, and postponed until to-morrow.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No 311) to provide for a gradual reduction of the military forces and to discontinue certain unnecessary grades, reported it with amendments.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 105) authorizing the Secretary of War to cause surplus or condemned property to be issued to the Indians, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the memorial of the American Board of Immigration, praying to be granted a charter, asked to be discharged from its further consideration; which was agreed to.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of D. H. MacDonald, reported a bill (S. No. 361) for the relief of D. H. MacDonald, late acting United States consul at Cape Town, Cape of Good Hope; which was read, and passed to a second reading.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom were referred a bill (S. No. 228) for the further security of equal rights in the District of Columbia, and also a message from the President of the United States communicating, in compliance with a resolution of this body, the fact that a bill of the same title had not been signed by him and had not been delivered to the Secretary of State, with his reasons therefor, to report a bill upon that subject entitled "A bill (S. No. 366) regulating the presentation of bills to the President and the return of the same." I may state in this connection that I believe the bill meets with the unanimous approval of the Judiciary Committee.

The bill was read a first time by its title, and passed to a second reading.

Mr. COLE, from the Committee on Claims, to whom was referred the petition of Albert Grant, submitted a report, accompanied by a bill (S. No. 367) for the relief of Albert Grant.

The bill was read and passed to a second reading, and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 362) to amend the usury laws of the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 363) defining the jurisdiction of the courts of the United States in certain cases; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 364) for the protection of the settlers within the Fort Ridgely military reservation, Minnesota; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 365) to prevent abuses of the franking privilege; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 108) relating to the survey of the northern and northwestern lakes; which was read twice by its title.

Mr. CHANDLER. I ask the unanimous consent of the Senate to consider that joint resolution now.

Mr. FESSENDEN. I should like to hear it in full first.

The PRESIDENT *pro tempore*. It will be read for the information of the Senate.

The Secretary read the joint resolution, which provides that the second section of an act entitled "An act making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the fiscal year ending June 30, 1868," approved March 2, 1867, shall not apply to the appropriation for the survey of the northern and northwestern lakes.

Mr. CHANDLER. Permit me to state, Mr. President, that this appropriation for the survey of the lakes unfortunately came in among the appropriations for fortifications. It reads in these words:

For survey of northern and northwestern lakes, $155,000."

Then the second section provides:

That there shall not be over fifty per cent. of the foregoing appropriations expended during the fiscal year ending 30th June, 1868, and the residue thereof shall not be expended until otherwise ordered.

This appropriation for the lakes has simply got into bad company, and I wish to take it out from there.

Mr. FESSENDEN. The measure ought to be referred to a committee, I think. I must object to its consideration at this time.

Mr. CHANDLER. Very well; I have no objection to its reference.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Commerce, if there be no objection.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 109) authorizing the Secretary of the Treasury to issue an American register to the bark Golden Fleece; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 110) to further define the meaning of the act of February 19, 1867, in relation to the jurisdiction of the Court of Claims in cases of claims for quartermasters' stores; which was read twice by its title, and referred to the Committee on Claims.

CONSUL AT ROME.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if not incompatible with the public interest, whatever information has been received on the subject of the alleged interference of our consul at Rome in the late difficulties, and especially during the late attempted invasion of the Roman States.

RIGHTS OF COLORED PERSONS IN CARS.

Mr. SUMNER. I offer another resolution, and ask for its present consideration:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the treatment of colored persons on the railroad from Washington to Baltimore, and to consider what additional legislation is needed to prevent abuses on that road and to secure in its administration equal rights for all.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. BUCKALEW. Because the Senator from Maryland is absent to-day I object to that resolution.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. SUMNER. I have no objection to its lying over; I wish to make a statement in regard to it when it is called up. There is no time now to do so.

MILITARY AFFAIRS IN DISTRICT OF COLUMBIA.

Mr. MORRILL, of Maine submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the number of military districts or headquarters established in the District of Columbia, the number, name, rank, and duty of each officer connected therewith, and the aggregate expense of the same, and whether officers of the Army are detailed for duties other than military, and if so, what and by whom detailed, the name and rank of such officer and by what law or Army regulation the same is authorized.

DENNISTOUN COTTON CASE.

Mr. STEWART. I move that the resolution of inquiry that I offered the other morning be now taken up and passed. I believe there is no objection to it.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. STEWART on the 13th instant:

Whereas the Secretary of the Treasury, in his letter of January 18, 1868, in reply to a resolution of the Senate adopted December 9, 1867, reports, among other things, that certain suits in New York, known as the Dennistoun cotton suits, were compromised by him under the advice of eminent counsel:

Resolved, That the Secretary of the Treasury be requested to furnish to the Senate the name or names of the "eminent counsel" referred to in his communication, with copies of their opinions; also, that he be requested to inform the Senate whether the Attorney General of the United States gave any opinion on the subject of compromising said suits; and, if so, that he furnish a copy of the same; also, that he inform the Senate whether James W. Denver was at any time counsel in said case for the Treasury Department, and that he furnish to the Senate a copy of the letter of said Denver to him, dated August 14, 1867, objecting to any compromise of said suits; and further that the Secretary be requested to report to the Senate what officer or agent of the Treasury Department superintended or made said compromise; and, also, specifically the terms of the same, and, if in writing, that he furnish a copy thereof.

The resolution was agreed to.

SENATOR FROM MARYLAND.

The PRESIDENT *pro tempore*. The morning hour having expired, the business regularly in order is the resolution of the Senator from Maryland [Mr. JOHNSON] relative to the seat of his colleague.

Mr. SHERMAN. I move that that lie over until to-morrow at one o'clock.

The PRESIDENT *pro tempore*. The Senator from California [Mr. COLE] is entitled to the floor on this resolution.

Mr. SHERMAN. I have no objection to the Senator going on if he desires to do so.

Mr. COLE. I should prefer to go on now, because I have an engagement in the Supreme Court to-morrow.

Mr. SHERMAN. Very well; I withdraw the motion.

The PRESIDENT *pro tempore*. Perhaps the Chair ought again to state that the Senator from Maryland [Mr. JOHNSON] is unwell and unable to attend the Senate to-day, but hopes to be able to do so to-morrow, and wishes the vote on this resolution postponed until to-morrow, when he expects to make the closing argument; but he has no objection to the debate going on his absence to-day.

Mr. FESSENDEN. I think the debate had better go on, at any rate.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

The Senate resumed the consideration of the following resolution, submitted by Mr. JOHNSON on the 18th of December, 1867:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

The pending question being on the amendment of Mr. SUMNER, to strike out all after the word "resolved" and insert:

That Philip F. Thomas, Senator-elect from Maryland, cannot be admitted to take the oaths of office required by the Constitution and laws, inasmuch as he allowed his minor son to leave the paternal house and serve as a rebel soldier, and gave him at the time $100 in money, all of which was aid, countenance, or encouragement to the rebellion, which he was forbidden to give; and further, inasmuch as in forbearing to disclose and make known the treason of his son to the President or other proper authorities, according to the requirement of the statute in such cases, he was guilty of misprision of treason as defined by existing law.

Mr. COLE. Mr. President, the question of the right of Philip F. Thomas to a seat in this body is one of the gravest that can ever come before it. There is much more in the question than the mere personal wishes or convenience of the applicant; and it is to be decided upon other grounds than those of friendship or dislike towards him personally, sociably, or politically. It makes little difference whether those feelings grow out of his conduct as a public functionary in Mr. Buchanan's Cabinet, or out of his conduct as a private citizen of Maryland. The case must not turn upon these unless his action has been such that it will not endure the test of existing laws, fundamental or other. It would be manifestly unfair to test his eligibility by new rules laid down for this particular case. It would be at least a violation of the spirit of that provision of the Constitution which forbids *ex post facto* laws.

But this question merits all the attention it has received for another and broader reason. It lies at the foundation of our republican institutions. It involves the whole theory of delegated or representative government, and, if I mistake not, liberty itself is entangled in the question.

In this discussion, Mr. President, I have "charged myself with a part in which I did not consult my own convenience," but a sense of duty. The practices of the Government, the laws of the country, and the safety of the Republic seemed to require it at my hands. If a decision adverse to this applicant could be made with entire justice and honor it would, no doubt, be gratifying to a large majority of the members present, and to the people of the nation at large; and in that feeling I would perhaps myself participate, for I do not by any means regard Mr. Thomas as having been a faithful and hearty sympathizer with the Republic in its recent struggles. But, sir, there is danger, great danger, that such a decision will come back to plague us when we least desire to encounter it. Bad precedents are always precedents for bad men, and that such, in a political sense, abound in this country, is proven by the events of the last ten years. Should we set an example that could not endure the test of other and far different circumstances from those which surround us at this time, we might well expect it to arise, like the ghost of Banquo, to trouble us hereafter. Political changes are both rapid and radical in this country, and it is not the part of wisdom for a majority, however large, to establish unsound precedents. In fact, sir, nothing more speedily and more inevitably works the destruction of majorities than untenable precedents. No party can long endure them.

But, Mr. President, this is not a matter of taste, not a matter of feeling or sympathy, not a matter of politics; it is a matter of law, of justice, and of principle. Mr. Thomas has been duly elected a Senator of the United States for the State of Maryland, one of the original thirteen, and always a loyal, adhering State, and his case is to be considered the same as if he came from New York or Ohio, instead of Maryland, The fact that Maryland furnished many recruits to the rebel army ought not to weigh against him on this question. She also furnished many gallant defenders of the Union, and numbers among her distinguished patriots a host of such names as Henry Winter Davis, Creswell, Francis Thomas, and that of her worthy and able representative who usually sits on my right, [Mr. JOHNSON.] It will hardly do to require more patriotism of a Senator for Maryland than is required of one from Ohio or New York, and yet it is not unlikely that applications may be made here, on behalf of men from the latter States, who have done much more to encourage the rebellion than Philip F. Thomas has done. The certificate of the election of Mr. Thomas has been read at your desk and is in due form on file among the records of the Senate. There is no dispute about its regularity, and this is not a case of contest; the seat is vacant. I have not heard it affirmed by any Senator that he ought to be excluded by reason of any disqualification found in the letter or text of the Constitution; but it is alleged that he cannot truthfully and innocently take and subscribe the oath exacted of him by the law of July 2, 1862. That oath is a most searching and binding one, insomuch that it is called iron-clad, and is required of all Federal officers before entering upon duty, and before being entitled to any of the emoluments of office. This "oath so taken and signed, shall be preserved," says the law, among the files of Congress. "And any person who shall falsely take the said oath shall be guilty of perjury and, on conviction, in addition to the penalties now prescribed for that offense, shall be deprived of his office and rendered incapable forever after of holding any office or place under the United States."

The naked question before us now, and upon which we are about to vote, is: shall we permit Mr. Thomas to take and subscribe the oath to which these conditions and penalties are attached? Whether he will take it or not I have no positive knowledge. That he will if he can I doubt not; but whether he can or not is for him alone to decide. His conscience is the only tribunal that can rightfully entertain original jurisdiction over that question. There you have placed it by your enactments, and there it remains written upon your statutes. To go outside of the Constitution and the laws in search of restrictions upon the qualifications of Senators or a Senator it seems to me is arbitrary and exceptional; and I know of no guide or chart in a case like this beyond the law and the Constitution. Nor do I know what other guide the Legislature of a State can have in selecting a representative in this body. If some unwritten, unpublished test can be set up, to the exclusion of a Senator elected from Maryland, it is not unlikely that at some other time some other State, whose people have been more loyal, may find itself, to use the language of the Constitution, "without its consent" "deprived of its equal suffrage in the Senate."

Anticipating difficulties similar to this we have now encountered I brought in a bill nearly a year ago (No. 87, Senate files) "to further define the qualifications of members of Congress." I suppose Congress may do directly what has been attempted indirectly by the passage of the test-oath bill; that is, may prescribe other qualifications besides those "negative ones," as they are called by the Senator from Vermont, [Mr. EDMUNDS,] which are laid down in the Constitution. This power would seem to be inherent and necessary for self-protection. At all events, there would be no authority on earth to gainsay such action, since each House is the judge of the election, returns, and qualifications of its own members. The advantages of it would be a positive rule—which is now wanting—to determine the eligibility of members to the two Houses.

The necessity for such a law, however, has been partially obviated since by the ratification of the fourteenth article of the Constitution of the United States. That article affords adequate protection against the incursion of rebels and traitors into these Halls. The third section of it reads as follows:

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

The language used in this amendment is less definite and comprehensive than that embodied in the test-oath; but it will certainly exclude nearly all the leading characters engaged in the late rebellion. There is no good ground, therefore, for the apprehension that enemies of the country will find their way into this Chamber. If the exception should occur it must be through the medium of perjury, and under such circumstances as would deprive the person of all influence and power for evil. If Mr. Thomas should prove to be that exception, which I by no means expect, he will stand alone here, a monument of perfidy to deter others from a like course. Better even to run some risks of this result than to do an act of injustice toward a correct man, as he is conceded to be in all the relations of life, or better than to martyrize and immortalize a bad one, should he be such in fact.

But it is alleged against Mr. Thomas that he sympathized with secession, and was, therefore, disloyal. If, at the outbreak of the rebellion or during its progress, such were his sympathies, the same cannot be the case now, for there is no longer any secession to call for his sympathy. The right of secession was the very question settled by the wager of battle, and settled probably forever against that hateful doctrine. If he was ever disloyal, of which, in my opinion, there is no valid proof, there is no reason to believe him to be so still. The charge dates back a good number of years, and the statute of limitations ought to run upon the very slight evidence of it at that time.

But, sir, if his disloyalty was not of a character to find a definition in any of the provisions of the Constitution against it, how unreasonable it will be to refuse to submit it to the scrutiny of this terrible oath! It is called most properly a test-oath, and is made expressly to test, to prove, the fidelity, the loyalty, of a man to his country. Observe its provisions:

"I, Philip F. Thomas, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pre-

tended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God."

And this has to be subscribed by him and filed away with the secure records of the Senate, so that hereafter, if it shall prove to have been in any particular untrue, it may be a swift witness and unimpeachable evidence against him.

So many Senators who seem to be opposed to Mr. Thomas have discarded the idea that his giving at last $100 to his son was voluntarily giving aid "to persons engaged in armed hostility" to the United States, that I hardly feel it to be worth while to add that his "countenance and counsel" were in direct contradiction of any such purpose in giving the money. And so far as his son was concerned, instead of "encouragement" it was nothing but discouragement and opposition to the young man's purpose. Such is the testimony, such the fact; and I submit that it is hardly fair now to say that the sole ground of his opposition was paternal affection.

Again, it is alleged in opposition to Mr. Thomas that he left Mr. Buchanan's Cabinet. But he went not into the rebellion; he retired to his quiet Maryland farm. Going out of Mr. Buchanan's Cabinet was, of itself, a very innocent act. If it was not even a commendable one it must be because of the motive that induced it. He had been there but a little while, having been called to succeed the traitor, Cobb. It is hardly to be presumed he would have been called to the place, under the circumstances, had he also been a traitor. On retiring he gave his reasons for doing so, which were far from disloyal reasons. And I would inquire of Senators, by what rule of ethics they ascribe to Mr. Thomas other motives for his conduct than those he himself alleges, and other than such as are clearly indicated by his actions. If Mr. Thomas was a traitor, which word is the synonym for everything that is vile, he would hardly have exchanged the Cabinet of Buchanan, where he could have done infinite mischief, for the more quiet pursuits of his home.

The heaviest charge against Mr. Thomas is that he abandoned Mr. Buchanan's Cabinet on the 11th of January, 1861, a few months before the breaking out of the rebellion. Had this act taken place sixty or ninety days later I might possibly agree with the Senator from Ohio [Mr. SHERMAN] that it "was an act in aid of the rebellion." But, sir, it will be remembered that at that early day many of the very best friends of the country entertained exceedingly crude ideas as to what course should be pursued toward the malcontents and hotheads of the South. But if it was in aid of the then impending rebellion there is hardly sufficient evidence to show, as that Senator alleges, that "it must have had that design."

Mr. Thomas in his letter to the President of that date gives two reasons for his course; first, that it had not been in his power to agree in the measures adopted in reference to the condition of things in South Carolina; and second, that he could not concur in the authority under existing law to collect the revenue in a manner proposed in the port of that State. A great many uncharitable inferences are drawn from these statements; but when the time and the circumstances of their utterance are considered they afford but a feeble pretext for the most important action that is too likely to hinge upon them. They possess about as much weight as the little political speech attributed to Mr. Thomas at Annapolis—offensive enough to political ears to be sure, and in exceeding bad taste if properly reported, but certainly no good foundation for the grave action of this body in his exclusion.

Mr. President, if a State is entitled to representation at all she must be accorded all the liberty consistent with the Constitution and laws of the country in making the selection, otherwise the privilege of representation is gone, the principle fails. In a case like this, to restrict that liberty is, in effect, to deny the right. It in a measure transfers the selection of the representative from the parties to be represented to the body in which the representation is to take place. That practice is common in some other countries, but in none where a spark of liberty is left.

While I admire the patriotic zeal and jealous care with which Senators guard the portals of this Chamber, I fear that the heat of passion excited by war may lead to the perpetration of an act of injustice toward the State of Maryland and her chosen representative.

Mr. POMEROY. I understand that the Senator from Maryland does not desire to vote on this question to-day, and if nobody else wishes to speak on it now I move that its further consideration be postponed until to-morrow at one o'clock, and that the vote be taken at that time.

The PRESIDENT *pro tempore*. The Senator from Maryland in his communication to the Chair expressed a wish that he should be allowed to close the debate to-morrow.

Mr. POMEROY. I make the motion to postpone, with the understanding that the Senator from Maryland shall have the floor to-morrow at one o'clock.

Mr. DRAKE. I should be glad if the Senator from Kansas would withdraw his motion for a moment, to enable me to offer an amendment to the pending resolution.

Mr. POMEROY. I withdraw my motion for that purpose.

The PRESIDENT *pro tempore*. There is an amendment pending, offered by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. DRAKE. If there is an amendment pending I do not wish to offer this now.

Mr. SUMNER. Let it be read.

Mr. DRAKE. I will give notice of my intention to offer this amendment, which is to strike out all after the word "resolved" and insert:

That Philip F. Thomas, having voluntarily given aid, countenance, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Senator of the United States from the State of Maryland or to hold a seat in this body as such Senator.

Mr. HENDRICKS. Before the Senator from Kansas proposes his motion, I desire to say a very few words upon this case.

Mr. POMEROY. I withdraw the motion if any one desires to speak.

Mr. HENDRICKS. I did not expect to add anything to what on a former occasion I felt it to be my duty to say as a member of the Committee on the Judiciary that examined this question; and I think I would not now except for the character of the argument made by the Senator from Vermont, who is also a member of that committee, [Mr. EDMUNDS.] I may have been mistaken, but I thought the committee was unanimous upon the report made by the distinguished Senator from Maryland representing the committee. I thought it was the unanimous decision of the committee that there was no ground for the exclusion of Governor Thomas from his seat to be found in any charge brought against him, unless it might be upon the charge that he furnished to his son some money at the time he was leaving his home to enter the rebel army. But the Senator from Vermont has based much of his argument upon the accusation that for bad purposes he resigned his seat in Mr. Buchanan's Cabinet, and that he acted badly in the Cabinet. I thought that those questions were considered in the committee, and that the Senator from Vermont concurred with the committee in the report they made.

Mr. EDMUNDS. Will the Senator allow me an explanation?

Mr. HENDRICKS. Certainly.

Mr. EDMUNDS. I concurred in the report of the committee as made in exactly this way: by voting positively and openly against it.

Mr. HENDRICKS. That is a very square explanation, an explanation that had escaped my notice. There was no minority report made. The Senate was not advised of any difference of opinion in the committee on the report. But, sir, I am the last person who will raise here a question of veracity of that sort. All I have to say is that I was taken by surprise in the line of the Senator's argument, and I think he would not have resorted to that argument except for the fact that he felt he could not well stand upon the only question that the committee as a committee submitted to the consideration of the Senate—the question whether, under the circumstances, the payment of that money to his son ought to exclude him from his seat.

Now, Mr. President, what is there in the charge that is now brought up by the Senator from Vermont that Governor Thomas resigned his seat in the Cabinet of Mr. Buchanan? I submit to Senators, as candid men, what is there in that? Suppose that in fact his sympathies were with the South; suppose that he thought the South had cause and ground of secession and had the right to secede. I ask any Senator, ought he, thus feeling, to have remained in that Cabinet? If he did not cordially sympathize with the Government in the struggle that was then impending, as a conscientious man ought he to have stayed in the Cabinet? If he were not ready, by his advice and by the management of his Department, to favor the cause of the Government in that contest, ought he to have stayed in the Cabinet? Then, on the other hand, if he did sympathize with the Government in the impending contest, but was unable upon questions of policy to agree with the administration of Mr. Buchanan, ought he, then, to have stayed in?

I submit to Senators, as a question of fairness to this man, upon either hypothesis ought he to have stayed in? If he did not sympathize with the Government in any efforts necessary to maintain the Union, I say it was an act of virtue, so far as virtue can attach to a transaction of that sort, that he should leave the Cabinet; and, on the other hand, if he could not conscientiously and according to his judgment agree with the President upon questions of administration, he was justified in leaving, and perhaps it was his duty to leave the Cabinet.

Then, sir, there is the single proposition that he resigned his office, and that is brought up as an accusation against him, and he has not assigned in his letter of resignation any unpatriotic reason. He has said that he could not agree with the Administration in the policy agreed upon, and therefore he resigned. Do all Senators not recognize that as a sufficient reason for the abandonment of an Administration? Is there a Senator here who would occupy a seat in the Cabinet council when, upon great and important questions touching his own Department, he was overruled? I know there is no Senator here who would occupy a seat under such circumstances, and Senators would feel it to be due to their personal position, their personal honor, as well as to the public service, that they should resign.

Mr. President, I am sure that Senators who will allow this matter to influence their judgment have not considered the whole case. Suppose that Governor Thomas disagreed upon the proposition that the customs could be collected on board ship outside the harbor of Charleston; suppose he thought that there was no law authorizing the Administration thus to collect the revenue; that is a question of law, a question of power in the Department; and is that to be brought up against him now as a charge upon which he should be excluded from the Senate, that he upon a question of law thought the customs could not be collected except at the custom-house? I know not how the law stands upon that question; I have not examined it, nor will I examine it with a view to decide in my own judgment whether a man ought to be admitted here. I may think the

customs could thus be collected, and yet I would not condemn a man who believed the law to be otherwise.

Suppose he differed with the Administration upon that other question whether the forts at Charleston ought to be reënforced, is he to be excluded from his seat upon that ground? Is he the only man in the country who thought it was best not to reënforce the forts at Charleston at that time? Suppose he thought the time for reconciliation had not fully passed; suppose he thought, in his judgment and conscience, that war could be avoided, and that it was better not to reënforce the forts at that time, with a view to some peaceable reconciliation between the sections, in that case would he not be acting properly to give such advice to the Administration, and if overruled upon a question like that had he not the right to resign his seat in the Cabinet?

Why, Mr. President, I think that some two or three months afterward that same question was considered in another Cabinet. Was it not telegraphed to Charleston, after Mr. Lincoln's Cabinet was organized, that the forts were not going to be reënforced? Was there not a letter written by Mr. Harvey, the present minister to Portugal, in which he said he knew what were the counsels of Mr. Lincoln's administration upon that question? Did he not, in that letter, say that he was authorized by that Cabinet to inform the authorities of Charleston or of South Carolina that the forts would not be reënforced or supplied? What was the policy of Mr. Lincoln's administration at that time upon that question? It was, as published at the time, to avoid bloodshed, to avoid the immediate clash of arms, hoping yet, I presume, to avoid the war that seemed so imminent.

Mr. GRIMES. The Senator, doubtless, desires to be accurate. I think the telegram was exactly the reverse. The telegram that was sent by Mr. Harvey to the parties in Charleston was that Fort Sumter was going to be reenforced; and it was on the strength of that telegram that the attack was made upon Fort Sumter.

Mr. HENDRICKS. I do not recollect it so. I have not read it for some time. If so, what occasion was there for Mr. Harvey to write his letter explaining that?

Mr. GRIMES. I do not know anything about any such letter. I never knew he did write such a letter. Mr. Harvey telegraphed—and, as was afterward stated, and, I believe, truly stated, with the knowledge of the Secretary of State—to the effect that Fort Sumter was about to be reënforced, and as soon as that telegram was received in Charleston the attack was made upon Fort Sumter.

Mr. HENDRICKS. Either in writing or by telegraph Mr. Harvey informed the authorities at Charleston that Mr. Lincoln's Administration would not reënforce the forts. He may have corrected that by a subsequent dispatch; but there was a communication of that sort made, which he explained in a letter which was published; and I ask the Senator from Iowa if it was not understood at that time that Mr. Montgomery Blair was the only member of Mr. Lincoln's Administration who insisted upon reënforcing the forts.

Mr. GRIMES. I have heard that assertion made, but I have no knowledge on the subject myself. I have understood that many members of the Cabinet at that time were opposed to reënforcing Fort Sumter, but that the President and some other members of the Cabinet were in favor of reënforcing the fort, and the President's counsels prevailed and the attempt was made. I know nothing about it, though, of my own knowledge. I only rose to correct the Senator as to the statement of fact; that the telegram that was sent by Mr. Harvey was, not that the Government were not going to reënforce the forts, but exactly the reverse; that they were intending to reënforce them, and that a vessel was about to sail that day from New York with that view.

Mr. HENDRICKS. Yes, sir. I think there was such a dispatch, but I think that was subsequent to a communication Mr. Harvey had before made, assuming to speak for the Administration. Anyhow, it was the subject of discussion in that Cabinet, and Cabinet officers took the ground—I think there is no question of that; I think the Senator from Iowa will not question it—as late as the month of April that there should not be a reënforcement of Fort Sumter. Who questioned the patriotism, who questioned the fidelity to the Government, of the members of that Cabinet who opposed a reënforcement for the reasons then assigned? The reasons were, that if possible we should avoid bloodshed; if possible, avoid the first shot of the war, hoping that the war might be avoided. If any member of Mr. Lincoln's Cabinet who took that view of the subject were before this body for confirmation to an office, or for admission to a seat as a member of this body, would it be brought up in judgment against him that he held even as late as April, 1861, that there ought to be no affirmative action on the part of the Administration which might possibly bring on an immediate conflict?

Mr. DAVIS. If the honorable Senator will permit me, I will state a fact. I was here early in the year 1861. I went to see Mr. Lincoln on the subject of our difficulties, and Mr. Lincoln stated to me most distinctly that when Mr. Baldwin and one or two other gentlemen came here from the Virginia convention he had made the proposition to Mr. Baldwin and his colleagues distinctly that if the Virginia convention would adjourn without doing anything he would withdraw the troops from Fort Sumter. The honorable Senator behind you [Mr. WILLEY] I think will confirm me in that.

Mr. HENDRICKS. I do not allude to this part of the history of Mr. Lincoln's administration for the purpose of any criticism, but to suggest to Senators that the criticism they make upon the action of Governor Thomas is not that which they would make upon any member of Mr. Lincoln's Cabinet for the action that was adopted by that Cabinet or any member of it. I think it is much in favor of Governor Thomas's action in the comparison that what he favored took place in the month of January and the action to which I referred was three or four months later.

The Senator from Ohio referred to the speech made by Governor Thomas the night he was nominated. I think that is the weakest ground upon which a Senator is to be excluded from his seat that I have ever heard suggested in my life. In the first place, the speech as reported and relied upon by the Senator from Ohio does not purport to give the language of Governor Thomas. It purports simply to give a synopsis. The same morning that that appeared an account of his speech appeared in another paper of equal respectability, to say the least of it, and no Senator can take exception to any word that is found in that other report.

Mr. EDMUNDS. Will the gentleman permit me to interrupt him?

Mr. HENDRICKS. Certainly.

Mr. EDMUNDS. I wish to mention to him the fact, which he has probably forgotten at the moment, that the account which is most adverse to Governor Thomas is sworn to, and the account which is most favorable to him is not.

Mr. HENDRICKS. I was stating the fact that on the same morning there appeared two accounts of this speech, one appearing in the Baltimore Sun and the other in the American. There is no objection made by any Senator to that speech as reported in the Sun. That speech is reported in a paper friendly to Governor Thomas. The purpose of that reporter would be to give his language as accurately as possible, because it was the act of a friend. The report in the other paper appearing the same morning is objected to because of the style adopted. I think I could disclaim that report for Governor Thomas. I think every member of the Judiciary Committee has seen enough of Governor Thomas to be satisfied that he never used the style of debate that is reported in the American. He seems to be a smooth, polished, pleasant gentleman. There is nothing in the intercourse of our committee with him that would incline any Senator to believe that he could use any such language, and I understand him, everywhere and always, to disclaim it. But, sir, perhaps within two or three days after that speech was reported he wrote a letter accepting the nomination. That letter has been examined; it is known to Senators. There is not a word, there is not a sentiment, perhaps, in that letter which Senators object to. That is the deliberate expression of his views. But suppose that in the excitement of the moment when nominated for the office, in the midst of a caucus, he did use language that Senators feel is such as he ought not to have used toward them, is that to be cherished against him?

Mr. President, so far as I am concerned I have a great loathing for the style that, to some extent, has obtained in political debate for the last few years. By many it is considered a sufficient answer to an argument to say that the argument is made by a "secession sympathizer" or a "traitor." With others it is considered a sufficient answer to an argument to say that it has been made by some "Black Republican" or "Abolitionist." I like neither style. It is not the style of address that ought to be made to the American people, upon whose judgment rests the stability of the Government. But even if you did believe that Governor Thomas used this language, and said of the majority here that they were traitors as against the Union and the Constitution, does that exclude him? There are some people in the country who, perhaps, would believe what he said, that there was treason against the Constitution, treason against the Union in the policy that the majority in Congress adopted. But suppose he believed it and uttered it, it is an offensive mode of expressing a thought. All that that could mean would be that the majority in Congress were not standing by the Constitution; that the legislation which they adopted was in violation of the Constitution. Do not I myself believe that in part? But I do not believe that any Senator is a traitor or false to his convictions. I believe that some of the legislation of Congress is in violation of the provisions of the Constitution, and it would be impossible for me to change my judgment upon that question with the information that I now possess. If I express that belief at home, as I certainly have done and certainly will do again, ought you to turn me out? Because I believe that your legislation is in violation of the Constitution ought you to exclude me from the seat that a sovereign State has conferred upon me? Have we, as Senators, our seats here by sufferance, or do we hold these seats by right? If by sufferance of the majority, I am prepared to take my hat and leave this Hall; but if by right, because my State has sent me here, I stand by it to the last. Is any Senator ready to say that I ought to be excluded from my seat because I do, in my judgment, believe your legislation is in violation of the Constitution? Certainly not. You concede to me the right to hold and express that opinion and to present arguments in favor of it. Even if Governor Thomas should express it in bad taste, if it even were so expressed, by saying that this is treason to the Constitution, do you desire to exclude him because he used that language? Offensive as it may be, it is not a ground for excluding him from the seat to which the proper authorities of Maryland have elected him.

But, Mr. President, that report of the speech I do not believe myself. I know the reporter has testified on the subject; but I know, at the same time, that it does not purport to be a statement of the language used by Governor Thomas; and in a very short report, perhaps the eighth of a column, the reporter undertakes to give the body of the speech. Is any Senator here willing to be held to such a re-

port? Is the Senator from Ohio willing to be held to such a report? If he should address his constituents for an hour, and some reporter of a newspaper should undertake to represent the views he expressed in the space of two squares in a newspaper, would the Senator be willing to be held to that report, when on the next day, he expressed deliberately, in a letter at full length, his views and sentiments? Sir, such evidence as that would not convict a man in the lowest court in the land. Before a justice of the peace you could not introduce that report as evidence, because it does not purport to give the language used by Governor Thomas—not even the substance of the language. It undertakes to give the substance of the speech; and every lawyer knows that such evidence could not be received. Then, sir, I claim for Governor Thomas the support of his letter written shortly afterward, and the report that was made in the Sun the same morning that the other report appeared.

I was astonished that Senators referred to the American's report of that speech. I think I am sure that no member of the committee thought there was anything in that matter which ought to raise a question as to Governor Thomas's right to a seat. I think I cannot be mistaken in that, that this report in the newspaper of what he said furnished no ground to question his right to take his seat. I always thought the only real question presented by the committee to the Senate was, whether the payment of that money to his son under the circumstances should exclude him. Now, I admit the rule of law that is laid down, that a man is presumed to intend the consequences of his own conduct. That is a rule of law; but if a man, at the time he does an act, uses language which shows what he intends, what he means, that is the evidence that controls on the subject. There is no construction, then, because his language accompanying the act and a part thereof defines its character. What did Governor Thomas say? Senators say he cannot swear that he did not give aid, countenance, counsel, or encouragement to persons engaged in armed rebellion. His son was not engaged in armed rebellion at the time; but what did he say to his son? That is not questioned. What did he say to his son? Right here I wish to say that I have heard criticisms upon the testimony of this young man that I did not expect to hear in the Senate. This young man was brought before the committee, not upon the motion of his father, but because information had come to the committee about that matter, and he was summoned. There was no effort to avoid his presence. He was brought, then, by the committee before it. Senators start out with the proposition that he stands before the committee of the Senate as a questionable witness, swearing for his father's sake. It is possible that when hard pressed in a law suit I have used such arguments, but generally I have tried to be more just than that. If this young man did not wish to testify truly, why did he testify anything about the giving of the $100? That could have been proven by no other witness, perhaps. If he was willing to swear falsely for his father, and his father was willing to have him swear falsely, why did he swear to the receiving of the money at all? He tells you plainly—there is no equivocation about it—that his father gave him the $100. Why should Senators doubt the honor and veracity of that witness who is brought here by the committee?

But, sir, the evidence then shows that, instead of giving countenance and encouragement to the southern cause, Governor Thomas did, by every appeal that he could reasonably make to his son, dissuade him from going into this service. All the influence that he could use short of physical force he used to prevent his son going. Do Senators believe that? There is no evidence to the contrary, and it stands as a part of the testimony the committee brought out, that whenever the subject was mentioned the father attempted to persuade him, and appealed to him as a citizen of Maryland, a State remaining in the Union without resistance to the Government, that it was his duty to remain at home, and not to join the enemies of the country. This was the appeal, honestly and earnestly made. The son resisted it. The testimony is, that because of this controversy between the father and the son a coolness sprang up between them. Finally the son informed his father that he was going. Then, in that condition of the business, the father said to him, "If you will go, though I think you will never reach the rebel lines, I do not wish you to suffer; I will give you this money." Then, sir, upon the testimony fairly considered, considered as judges ought to consider testimony, it stands thus: the father gives his son $100, not to aid him to go into the rebellion, not because he desired him to go into the rebellion, but that he should not suffer; in other words, he was governed in that act by his affection for his son, and not by a desire to promote the cause of the rebellion. That presents the question, what rule of construction will the Senate adopt? I attempted to show, some days since, that the Senate, as well as the House of Representatives, had adopted a rule on this subject. The Senate adopted a rule in the case of Senator PATTERSON from Tennessee. In that case the Senate certainly, in admitting Senator PATTERSON, did allow that the intent of the party at the time the act is done shall be considered in deciding whether he can take this oath. There was no doubt that Senator PATTERSON had held an office under the State authority of Tennessee during the rebellion. There was no question of the fact; it was admitted to the Senate; but the Senate was satisfied that his purpose and his design were not to give aid and comfort to the rebellion, but to support the Union men in that part of Tennessee. I believe that the Senator from Tennessee could as conscientiously take the oath as any other Senator in this Hall. Perhaps he was the only Senator who had the opportunity of showing his fidelity to the cause of the Union by such acts and sufferings as characterized his conduct.

But, sir, the House of Representatives has also adopted a rule at this session; and I submit to Senators whether it is proper that the Senate and House should differ upon the construction that shall be given to this rule. The House at the present session in the report upon one of the Kentucky cases has laid down the rule that there must be an act of giving aid and comfort to the rebellion or encouragement to the cause, and that that act must be accompanied by a design to aid that cause, and in the absence of a design the act does not come within this law. That is the report on our tables of the committee of the House, and acted upon, as I understand, by the House.

To maintain their cause, however, Senators have felt themselves called upon to apologize for the case of Mr. STOKES in the House of Representatives. They say that that was right; and why? Because after he wrote the letter that has been referred to he served in the Federal Army; he remained in the service for several years, and proved himself to be a loyal man. I am willing that Senators shall satisfy themselves in that way with that case, because it establishes just this doctrine: that the motive which has governed a man throughout this controversy shall be considered in deciding upon the quality and character of his act. But I wish Senators to notice now what they do apologize for when they attempt to draw a distinction favorable to Mr. STOKES in a case like this. In the first place, his letter was written on the 10th of May, 1861, nearly a month after the commencement of actual hostilities. It was written for the purpose, as he says, of letting the men of Tennessee know his views—not a letter written to a friend which he supposed would be placed in the secretary of that friend and not seen, but, as he says himself, for the purpose of placing himself right before the people in whose opinion he took an interest. Then he says:

"I commend Governor Harris for his course, and for arming the State and resisting Lincoln to the point of the bayonet"—

Recollect, sir, this was a month after the war commenced, about the commencement of which, at that time, there was no question—

"And have enrolled my name as a volunteer to resist his usurpation."

Again, he says:

"I have always opposed secession, but claim the right of revolution, and the right to resist the oppression of the Federal Government, and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come."

I shall not read further from this letter. The letter being known to the House of Representatives, where there was a large majority of the friends of the Senators on the other side, Colonel STOKES was admitted to his seat. Upon what ground? That the letter is to be read in the light of his subsequent conduct. Upon no other ground can it be sustained. I might have some difficulty now in understanding how a man, after having written such a letter during the war, could take the oath that he had given no countenance, given no counsel, given no encouragement to persons engaged in armed hostility to the authority of the United States. It is not a question of purgation; it is a question of fact. Did he give encouragement, counsel, or aid to persons engaged in armed hostility, when he said: "I desire the people of Tennessee to know that I support the act of Governor Harris in arming the men of Tennessee to resist Mr. Lincoln at the point of the bayonet," and that the time had come to resist Federal usurpations by force?

My reference to the case of Colonel STOKES is not for the purpose of making any criticism upon the House of Representatives, or any criticism upon a political party in admitting that man to a seat in the House; nor, indeed, am I going to make myself a committee to investigate his conscience in taking the oath; but I refer to it that Senators may see what precedent has been established. You said that this man now being of your party it is right to allow him to take his seat, although he wrote a letter the tendency and influence of which would be to call into the rebel army all the young men of Tennessee who had confidence in Colonel STOKES. Is any Senator able to say how many men enlisted as rebel soldiers because they saw this publication from this member of Congress from that State? How much aid was given to the cause of the South by that letter no man can tell; and yet you are willing that he should take his seat in the House of Representatives because his motives have been since shown by conduct that you approve. Then when Governor Thomas gives to his son at leaving the family door $100 and implores him not to go, at the same time stating to him that he ought not to go, being a citizen of Maryland, how is it that you bring that up as a cause for excluding him? If you allow room for Colonel STOKES to repent, will you not allow Governor Thomas the same right of repentance? If there was anything wrong in the giving of this money the repentance was shown in the letter of the mother, written at the suggestion of the father, while the son was yet in Washington and had not crossed the Potomac.

Sir, I take an interest in the admission of this Senator, not because I believe it has any political bearing in one way or another, but because I believe he is entitled to his seat; and if the same facts were presented as against a gentleman of the opposite party, if I can judge of my conscience and judgment at all, I should not hesitate a moment to vote for his admission.

Finally, however, in the course of this debate the most powerful appeal that is made to the Senate and the country is expressed in the language of a poet:

"I hear a lion in the lobby roar!
Say, Mr. Speaker, shall we shut the door
And keep him out, or shall we let him in
And see if we can get him out again?"

It is a little singular that the inspiration that was felt at that very hour in the Senate was experienced in the House of Representatives

on a like question, and that at the very same hour and minute the same yellow lion was roaring at the door of the Senate and at the door of the House of Representatives. [Laughter.] It is not for me to express any opinion how a thing of that kind could occur. It is enough to know that a distinguished Senator and a distinguished Representative heard the lion roaring at the same time. [Laughter.]

Mr. CONNESS. Perhaps it was no lion.

Mr. HENDRICKS. Well, they thought there was a lion there.

Mr. SUMNER. Probably there were two of them. [Laughter.]

Mr. HENDRICKS. Some Senator suggested that it was not a lion roaring; that perhaps it was something else roaring; that there was no roaring outside, but that the roaring was inside. [Laughter.] I shall not express any opinion on that question. There was a good deal of appeal to passion and to prejudice on that occasion, closing up by the poetic appeal to the Senate.

Mr. President, it is better to discard poetry, to discard passion, to discard party interests and prejudices upon a question of this sort, to do just what we would do if we were judges upon the bench. Sitting as judges upon the bench you would give to the meanest criminal in the land the benefit of his own explanation of his conduct when that explanation accompanied the act. That is a principle of the common law as old as the oldest writers, that a man shall have the benefit of the views and purposes that governed him and which accompanied the act done by him. I think that Governor Thomas is entitled to his seat. Upon that question I have no doubt. It will make no difference in political power in the Senate. I look with great interest to see what shall be the vote on this question. If there be no other Senator desiring to address the Senate I will renew the motion made by the Senator from Kansas, to postpone the further consideration of it until to-morrow at one o'clock.

Mr. MORTON. I do not desire to make a speech, but I desire to say a few words.

The PRESIDENT *pro tempore*. Does the Senator from Indiana withdraw his motion?

Mr. HENDRICKS. Certainly.

Mr. MORTON. The argument, so far as I have heard it, in behalf of Mr. Thomas, is an argument of technicalities; that although the moral evidence of this man being disloyal is overwhelming and irresistible to every impartial mind, yet that there must be such technical proofs as would convict him before a justice of the peace, or else he must be admitted upon this floor. Mr. President, I cannot sit here patiently and listen to arguments which tend to smooth away all the guilt of this rebellion. Why, sir, if we are to believe the arguments that are made in the Senate in behalf of Mr. Thomas, this rebellion was simply an error of opinion; there was no criminality about it. We are told that if Mr. Thomas believed in the right of secession and did not agree with Mr. Buchanan in refusing to evacuate Fort Sumter he ought to have left Mr. Buchanan's Cabinet, just as though it was the most innocent thing in the world that a man should entertain the opinion and act upon it that this Government ought to be surrendered at the command of traitors. And how did the thing go on? One member of the Cabinet left and then another left, publicly upon the ground that secession was right and that southern States ought to be allowed to break up this Union and form a new government without opposition. Those things went on until the 4th of March, 1861, when there was scarcely anything left of this Government, as we all know. General Scott at that time could not get more than six hundred troops to protect the inauguration of President Lincoln. Collect them from where he might, he could not get more than six hundred, and had to make up a portion of them by two or three independent companies in the city that were not worth anything for an actual contest. The President had to come here by stealth and in secrecy, by night, through the city of Baltimore. Every place had been surrendered to the traitors, every fort, every dock-yard, every arsenal, every southern city; and we held but one little spot, and that was Fort Sumter. All this had been brought about by just such men as Philip F. Thomas—men who had given the rebellion the most powerful aid and encouragement by leaving the Cabinet publicly for reasons that were treasonable in themselves. When Mr. Lincoln came into office he was here without an Army, without a Navy; he was without power; and if he did not immediately reënforce Fort Sumter it was because he had not power to do so. And yet we are told that these consequences, thus brought about by such men as Mr. Thomas, were mere differences of opinion—that as an honest man he could not stay in the Cabinet of Mr. Buchanan holding different opinions from him!

A Senator has placed in my hands a letter written by Jefferson Davis just three days before Mr. Thomas wrote his letter, and as it agrees perfectly in spirit with Mr. Thomas's letter I ask the Secretary to read it.

The Secretary read as follows:

WASHINGTON, D. C., *January* 8, 1861.

MY DEAR SIR: We are advancing rapidly to the end of "the Union." The cotton States may now be regarded as having declared for secession. South Carolina is in a *quasi* war, and the probabilities are that events will hasten her and her associates into general conflict with the forces of the Federal Government. The Black Republicans, exultant over their recent success, are not disposed to concede anything; and the stern necessity of resistance is forcing itself upon the judgment of all the slaveholding States.

The Virginia Legislature met yesterday, and took promptly and boldly the southern ground. Mississippi is now in convention.

I may leave here in a few days, though it is also possible the State may choose to continue its Senators here for the purpose of defense against hostile legislation.

The confidence heretofore felt in Buchanan has diminished steadily and is now nearly extinct. His weakness has done as much harm as wickedness would have achieved. Though I can no longer respect or confer with him and feel injured by his conduct, yet I pity and would extenuate the offenses not prompted by bad design or malignant intent.

With great regard, I am, as ever, your friend,

JEFFERSON DAVIS.

Mr. MORTON. I ask the attention of the Senate to the coincidence between this letter and that of Mr. Thomas, written but three days afterward. They breathe the same spirit and they are from the same secret council. Davis says that he has lost confidence in Mr. Buchanan; that his weakness is equivalent to wickedness. Mr. Thomas tells the country in his letter of resignation that he can no longer agree with Mr. Buchanan about the measures he has taken in regard to South Carolina. Mr. Davis tells us three days before that South Carolina is in a *quasi* state of war, and South Carolina being thus in war and Mr. Buchanan refusing to surrender the last portion of territory Mr. Thomas leaves the Cabinet. I tell you, sir, that he belonged to the same school, the same nest of conspirators. He was one of the men who begot this rebellion, who brought it into being originally, as wicked as Mr. Davis himself. The moral evidence on this point is overwhelming; and yet the argument is made here that there must be a technical proof; that all doubts must be cast in his favor to bring this man upon the floor. It is said that the lion is heard to roar in the lobby, and they wish to admit him. Sir, we have enough lions of that character here.

Mr. President, we have heard much said about making treason odious. We have heard the President condemned upon this floor and all over the country for having conferred appointments upon men who were tainted with treason. Sir, the mouth of this Senate must be closed after Philip F. Thomas shall have been admitted to a seat upon this floor. There is not much use of talking about making treason odious after you have brought one of the original conspirators and placed him in a seat on the floor of the Senate. Sir, the evidence, taking it altogether, is overwhelming. It may not be sufficient to convict a man before a justice of the peace, one of the most technical courts, I believe, in the world, but it carries conviction to the mind of every man that this individual was a secessionist in the beginning, a secessionist throughout the war, and that he is one to-day. The evidence in regard to the letter, in regard to his son, in regard to his course throughout the rebellion, all points in the same direction and brings us overwhelmingly to the same conclusion.

Reference is again made to the case of Mr. STOKES. Need it again be said that Mr. Thomas was a loyal man in the beginning? It was said the other day with great propriety by the Senator from Tennessee [Mr. FOWLER] that he lost his manhood for but two days. He wrote the letter; but before it had been received by the man to whom it was sent he was embarked in the Federal Army, and a more gallant soldier was not found. How can you compare Mr. STOKES to Mr. Thomas? For a single moment that man lost his manhood and lost his loyalty; but it was immediately regained. In the other case it was lost in the beginning, has never been regained, and he has never repented.

Mr. HENDRICKS. I do not know exactly what my colleague means when he says that the lion was heard in the lobby, and that we have got quite too many here already of that style. Between him and myself I have no explanation why or how I am here. It is enough to know as to the credentials that entitle me to a seat that I am here with the voice of the people of Indiana; and if my colleague referred to me all the reply that I deign to make is that I am here by the same high right that gives him a seat upon this floor. He will never induce me to go into a controversy of a personal sort. I make none with him, and shall only reply to any allusion of that sort in such language as, in my judgment, becomes the Senate of the United States.

I am glad the Senator has read the letter of Jefferson Davis written on the 8th of January, 1861. From this time forth the mouths of all honest men will be stopped in the repetition of this slander, that Mr. Buchanan and his Cabinet were in secret association and counsel with the traitors. Now, by evidence presented to the Senate, it stands that on the 8th day of January the Cabinet, so far as Mr. Buchanan was concerned, and so far as the rest of his Cabinet then in were concerned, was not in sympathy, had no association and no counsel, with the leaders of the rebellion. It is a vindication such as I have not expected for that Administration from such a source.

My colleague says that the argument presented here in favor of Governor Thomas is a technical one. Why, sir, all penal laws are technical in their character, and especially a law that in its nature is *ex post facto*. When Governor Thomas resigned his seat in the Cabinet there was no law to exclude him from a seat in the Senate for any act of that sort. In 1862 the law was passed which requires the taking of this oath. Such a law, penal in its character, excluding from common rights, narrowing, in other words, the rights of a man, based upon that which is charged to be criminal in its nature, such a law of necessity, receives a strict construction; at least, it does in all the courts, and I presume it must here. A strict construction is given to any law which imposes a penalty or a forfeiture of rights. Mr. Thomas presents himself here as the elected Senator from the State of Maryland, and if you undertake to exclude him according to penal law you must bring his case technically within that law; but it will not do to make the charge all along the line that he was one of the original conspirators. If so, prove it—prove it by that evidence which will sustain a case under penal or criminal law. I am glad that it is technical. That it shall be strictly construed is understood to be the rule necessary for the preservation of personal rights and civil liberty.

My colleague also says that this question is

argued as if it were a question of opinion whether the rebellion was right or wrong. Who has so argued it? Not I. I made no such argument. I made the argument that it was a question of opinion and of personal judgment whether, under the circumstances, Governor Thomas ought to leave that Cabinet. I say upon either hypothesis he ought to have left it, and neither my colleague nor any other Senator will controvert it, in my judgment. If he was not in sympathy with Mr. Buchanan in Mr. Buchanan's course against the rebellion he ought not to stay in it. If Mr. Buchanan was adopting such a policy as he thought necessary to put down the insurrection that was then showing itself and developing itself in the South, and Governor Thomas could not sympathize with that, of course he could not stay in the Cabinet. On the other hand, if he did sympathize with the cause of the Union, and with the cause of the nation, then I ask Senators, if he differed upon the question of the collection of the taxes at Charleston, and it was a material question—a question that involved the management of his own Department—had he not a right to resign? Can any man bring it up as a charge against him? If he thought the duties could not be collected on shipboard outside the port, and Mr. Buchanan required it to be done, does any Senator say that he was bound to remain there and execute that order, in violation of the laws, as he supposed? It is a question of opinion, not upon the right of rebellion and secession, but a question of opinion upon the collection of the duties under the Secretary of the Treasury.

Mr. EDMUNDS. Is that all the letter contains—the subject of revenue?

Mr. HENDRICKS. No, sir. I thought I had discussed the other question quite enough. It is claimed that in this letter there is the other proposition that he could not agree with the Cabinet in regard to the policy in South Carolina. I understand that to refer to the question of reënforcing the forts. Have I not spoken of that as much as is necessary? Have I not referred to the conduct and condition of the subsequent Cabinet? Have I not called the attention of Senators to the fact that they do not arraign the members of that subsequent Cabinet because of a difference of judgment on that question? Suppose that Governor Thomas, being in that Cabinet, really believed that hostilities could be avoided by not reënforcing the forts at that time and that peace might be preserved in the country, and Mr. Buchanan insisted upon an opposite course: had he not a right because of that difference of opinion to resign his seat? The resignation of a seat in the Cabinet, except bad motives are assigned, is an innocent transaction, to be governed by a man's own judgment at the time.

Mr. MORTON. I simply rise for the purpose of vindicating myself from the charge made by my honorable colleague of my having vindicated Mr. Buchanan from the charge of treason and combination in behalf of the rebellion in 1860 and 1861. Sir, this letter does not vindicate him, nor do I. Mr. Buchanan was himself privy to this rebellion in the beginning; and in his message in December, 1860, he took the broad and treasonable ground that this Government had no power to coerce a State to remain in the Union, an act which gave aid and comfort and countenance to the rebellion. He told those men that they could go forward with impunity; but afterward Mr. Buchanan became alarmed; the storm was gathering around him, and perhaps remorse caused him to fall back from that advanced position; and now what does Jefferson Davis say? "The confidence heretofore felt in Mr. Buchanan." When "heretofore?" When he sent his message and throughout the month of December, 1860, "The confidence heretofore felt in Mr. Buchanan has diminished steadily and is now nearly extinct." When Mr. Buchanan ceased to be under the influence of Mr. Davis and Mr. Thomas and Mr. Cobb and Mr. Toombs and others, and passed under the influence of Judge Holt and Edwin M. Stanton, then they did lose confidence in him, and then it was that Mr. Thomas left the Cabinet, and then it was that Mr. Davis wrote that letter.

It is said that we must make out the case technically! The evidence must be technically complete under the penal laws against this man! Sir, he is not on trial under a penal law. We do not have to make out the case beyond reasonable doubt. The question is, is he entitled to a seat on this floor; and we are to be governed by such evidence as there is before us and such as will satisfy the minds of patriotic, loyal, impartial men. We are not required to make out this case beyond a reasonable doubt according to this doctrine; nor is the man standing upon trial here. He is the applicant himself. He is pressing his own claims. We have not put him at the bar. He puts himself there; and the question is whether he is entitled to a seat on this floor. There is no technical evidence required. He is not being tried upon a penal statute, and the rules that are sought to be brought in as applicable to a case of that kind have no place here. Need I argue a proposition of that kind?

Mr. FOWLER. Mr. President, there are three precedents in reference to this case: one is that of my colleague, Judge PATTERSON, of East Tennessee. In 1862, Judge PATTERSON ran for the office of judge in East Tennessee and was supported by the Union people there, and he took that office in obedience to the wishes of the Union people to protect them and prevent their having a rebel judge instead of a Union judge; and, as was reported here by the Judiciary Committee, he took the office for the purpose of protecting the Union men and the Union cause in eastern Tennessee, and he held it for that purpose. The Senate acted on the case, regarding it in that way, and permitted him to take the oath on that hypothesis. That is his case. He has been subsequently paid by the State of Tennessee for his services as judge.

The case of Colonel STOKES I discussed the other day, and I wish now simply to make another statement in regard to it to show that it is entirely different from the one before the Senate. I stated that he lost his manhood momentarily, but recovered it in two days' time, an unexampled case. He would have done everything in his power to bring back that letter; but it had passed out of his hands, and it was impossible for him to bring it back. It was published contrary to his wishes. He intended when he wrote it that it should be shown to some friends about McMinnville, but it was not intended to be put in the public press. Colonel STOKES immediately entered on the duty of doing everything he could to counteract the effects of that letter, and he traversed his district from one end of it to the other showing that the sentiments expressed in the letter were wrong, and he counteracted them entirely.

There is another point of difference. Mr. Thomas, of Maryland, has done nothing to counteract the effects of his letter; he has shown throughout by his conduct that he approves the sentiments of the letter and that they had his cordial approbation throughout. Both had sons; both men put their sons into military service. One went into the Federal Army and fought throughout the war. Colonel STOKES's son served in his regiment gallantly during that period of time with him. Mr. Thomas's son went into the confederate army and served in that. I cannot see from the proof that he disapproved of his son's going into that service, that he disapproved of his son going into the war at all; it was rather a desire that his son should abstain from war then, that he should not go into the service of the confederate government. Here is, then, another distinction between them.

There is one other case, and that is the case of John Young Brown, recently decided in the House of Representatives. It was decided solely on the fact of his having written a letter, a very bad letter, which his subsequent conduct showed expressed his sentiments throughout the war, sentiments disloyal to the Government of the United States. There is one other remark I wish to make in regard to Mr. Thomas's case. It has been stated here that he did not give the money to his son for the purpose of aiding and encouraging the rebellion, but that it was to prevent him from suffering. Here is a singular distinction indeed, and one that I cannot apprehend by any means. I deny that the motive or the intention sanctifies the action in this case or in any other case. I repudiate and repel that doctrine. There is not a crime in history that you could not sanctify on such morals as that. The embodiment of the action, the manifestation of the action, must harmonize with the motive, or it is not correct. I have no doubt that John Wilkes Booth could offer a good motive in his own mind for the assassination of the President of the United States. Such a doctrine would sanctify every crime that has been committed. There is no truth in it in morals, there is no truth in it in law; but in all cases the embodiment, the action, must be in harmony with the spirit of the man at the time it is committed, and if so the action is proper, not otherwise.

Mr. WILSON. I move that the further consideration of this question be postponed until one o'clock to-morrow.

The motion was agreed to.

SOLDIERS' BOUNTY.

Mr. WILSON. There is lying on the table a bill of the other House relative to bounty, which the Senate some time ago passed with an amendment, which was a substitute for it. The House of Representatives has now made some slight amendments to our amendment. I move that the Senate proceed to the consideration of these amendments.

The motion was agreed to; and the Senate proceeded to the consideration of the amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 127) in relation to additional bounty.

The Secretary read the amendments of the House of Representatives, which were in line two of the Senate amendment after the word "person" to insert "or persons;" in lines two and three to strike out the words "as a soldier;" and in line six to strike out the word "has" and insert "shall have."

Mr. GRIMES. I desire some explanation of these amendments. I should like to know who is included by striking out words "as a soldier." What class of men are included as being entitled to bounty?

The PRESIDENT *pro tempore*. The amendment of the Senate, as amended by the House of Representatives, will be read.

The Secretary read as follows:

That if any person or persons entitled to the bounty provided by sections twelve and thirteen of the act making appropriations for the civil service, approved July 28, 1866, shall have died, or shall die, before receiving said bounty, it shall be paid to the heirs of the soldier as designated in said act, in the order therein named, and to none others.

The House amendments were concurred in.

WILLIAM H. MURPHY.

Mr. DRAKE. I move to take up Senate bill No. 253. It is a little bill for the relief of a mail-carrier, which has been favorably reported by the Committee on Post Offices and Post Roads.

The motion was agreed to; and the bill (S. No. 253) for the relief of William H. Murphy, of Farmington, Missouri, was read the second time, and considered as in Committee of the Whole.

It proposes to direct the Postmaster General and the proper accounting officer of the Treasury to settle the account of William H. Murphy for carrying the United States mails twice a week on the route No. 10686, in the State of Missouri, from July 1, 1862, to April 30, 1864, and to pay him at the rate of $900 a year for the whole length of route, deducting therefor

pro rata compensation for any portion of the service not performed.

Mr. DRAKE. I will simply state that this matter has been fully investigated by the Committee on Post Offices and Post Roads, and after a conference with the Post Office Department they find that this bill is right and proper in principle and in fact, for the relief of this individual, and I ask that it be put upon its passage. The committee have made a report, which has been printed.

Mr. MORRILL, of Maine. I should like to hear the report read.

The Secretary read the following report, made by Mr. HARLAN on the 16th of January:

The Committee on Post Offices and Post Roads, to whom were referred the petition and evidence of William H. Murphy, a mail contractor of the State of Missouri, having had the same under consideration, report:

That William H. Murphy, of Farmington, Missouri, in answer to an invitation of the Postmaster General to carry the mail on post route No. 10686, from Fredericktown Court-House to De Soto, in the State of Missouri, a distance of fifty-five miles, proposed to carry the said mail once a week at the rate of $592 per annum. The following is a copy of the advertisement inviting said proposals:

"10686. From Fredericktown, by Mine La Motte, Cross Roads, Locust Ridge, Farmington, Big River Mills, Hazel Run Mills, and Avoca, to De Soto, fifty-five miles and back, twice a week. Leave Fredericktown Monday and Thursday at eight a. m., arrive at De Soto next days by twelve m. Leave De Soto Tuesday and Friday at one p. m., arrive at Fredericktown next days at six p. m. Bids for one trip a week only invited."

The claimant was notified by the Post Office Department of the acceptance of his bid, under date of April 24, 1862, and after being so notified proceeded to perform the service in order to avoid the statutory penalties imposed upon bidders failing to make their bids good.

Upon the receipt of the bond subsequently he discovered that he would be required to carry the mail twice a week; but after protesting against this requirement by letter to the Department he signed the said bond to avoid the legal penalties, and expecting from Government a just and proper compensation for the additional services required.

The claimant was naturally misled by the last clause of the advertisement; its want of punctuation giving it the meaning placed upon it by him, and leading fairly to the conclusion that the contractor would be required to carry the mail but once a week.

In proof of such a construction being placed upon it by him he furnishes the depositions of Milton Sebastian and Lewis J. Cundiff, who were present at the time of the making out of the bid, and one of whom assisted him in making an estimate of the cost of carrying the said mail on the basis of its carriage but once a week.

It appears from a letter of the Second Assistant Postmaster General that the service was curtailed, at the contractor's request, to begin at Farmington, twenty miles less distant, at a reduction of $241 per annum, from September 30, 1863, and the service on the remainder of the route was discontinued April 30, 1864, and one month's pay extra on $351 allowed as usual in such cases.

The distance traveled to carry the mail on the said route was, for round trip, about one hundred and ten miles.

From the communication of the Assistant Postmaster General it appears that the lowest bid for the twice-a-week service was $900 per annum, which sum the committee, in view of the long distance traveled and of the fact of the claimant's being misled by the note or last clause of the advertisement, would recommend as the basis of calculation for the equitable compensation of the claimant, and for that object report the accompanying bill for the payment of this claim.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 733) for the relief of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation, in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 127) in relation to additional bounty, and it was signed by the President *pro tempore*.

CAPTURED AND ABANDONED PROPERTY.

Mr. EDMUNDS. I move that the Senate take up for consideration House joint resolution No. 19, in relation to the covering of certain cotton money into the Treasury.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer as special agent of the Treasury Department be covered by warrant into the United States Treasury, the pending question being on the amendment of Mr. EDMUNDS, to substitute for the joint resolution the following:

That all moneys which have been received by any officer or employé of the Government, or any Department thereof, from sales of captured and abandoned property in the late insurrectionary districts, under or under color of the several acts of Congress providing for the collection and sale of such property, and which have not already been actually covered into the Treasury, shall be immediately paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

And be it further resolved, That if any officer or person having the custody, possession or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding resolution, shall convert the same to his own use, or shall refuse or neglect for a space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in any way pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States, and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

Mr. FESSENDEN. I suppose I may as well say at this time, before there is any further action of the Senate on the amendments, what I have to say on the subject. I understood, however, that there was a motion pending, made by the Senator from Ohio, to refer the joint resolution to the Committee on Retrenchment.

Mr. SHERMAN. I made that motion.

Mr. FESSENDEN. I thought that was the pending motion.

Mr. SHERMAN. I do not know whether the motion was entered, but I at least gave notice of my intention to make it.

The PRESIDENT *pro tempore*. The Secretary says there is no such motion entered on the record.

Mr. FESSENDEN. Very well; that makes no difference. It is so long since this question was under consideration and since I examined it with a view to make some remarks in reply to my friends, the Senator from Illinois [Mr. TRUMBULL] and the Senator from Wisconsin, [Mr. HOWE,] that I have forgotten now the great part of what I designed to say, or, at any rate, the order in which I designed to say what I might have to say on the subject. That, probably, will be to the advantage of the Senate by shortening my remarks. What I have to say has no reference to the passage of this joint resolution; for to that I have no objection, especially if an amendment shall be adopted which I understand is to be proposed by my friend from Vermont, [Mr. EDMUNDS.] What I have to say will be in defense of the views which I submitted before, and which were replied to at considerable length by the Senator from Illinois.

In the course of the discussion, an inquiry was made of me what the phrase "covering into the Treasury" meant. I attempted to give an explanation, but stated at the time that the explanation was probably imperfect, as I was not entirely ready to exactly explain the process by which moneys are technically covered into the Treasury. I suggested at the time that I could get an explanation at the Treasury Department, when my friend from Illinois in his peculiar way, said, "Oh, yes, he supposed I could get an explanation of anything there," meaning, that they were ready there to explain any bad thing in any bad way.

Mr. TRUMBULL. Did I say exactly that?

Mr. FESSENDEN. That was substantially what the Senator said. Now, sir, I am ready to give the explanation. It is a matter which arises under a statute which may be found on page 66, of the first volume of the Statutes-at-Large. The fourth section of the original act to establish the Treasury Department provides—

"That it shall be the duty of the Treasurer to receive and keep the moneys of the United States, and to disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for moneys received by him shall be indorsed upon warrants signed by the Secretary of the Treasury, without which warrant, so signed, no acknowledgment for money received into the public Treasury shall be valid."

You see, therefore, that the Treasurer may receive money and have it in use; it may be perfectly and strictly in his possession for the Government, and yet it may not be technically in the Treasury. It is an every-day transaction. For instance, a certain sum of money is sent to the Treasurer from a public officer; he sends his receipt for it, and he is in possession of the money; but that money is not in the Treasury because this statute provides that no money shall be in the Treasury without a warrant signed by the Secretary of the Treasury, and acknowledged in the way here prescribed. In order to bring it into the Treasury after it has once been received in that way—and it is received from various sources every day—a warrant must be drawn by the Secretary of the Treasury technically. I have the form here which explains how the business is done. Suppose, for instance, that Mr. Draper, or the collector of New York, sent a certain amount of money to the Treasurer of the United States, and he receipted for it. Mr. Draper would have that receipt, but that money would not be in the Treasury. To get it into the Treasury there must be a warrant drawn upon Simeon Draper, directing him to pay to the Treasurer of the United States so much money—$100,000, if you please—and upon that warrant the Treasurer of the United States signs a receipt that he has received it, and it goes through the accounting officers, countersigned by the Comptroller, according to the statute. That is, to have a check drawn by which it is paid, and by which a regular receipt for it is obtained from the Treasurer of the United States in that way. The form of doing it is before me; that is called covering moneys into the Treasury.

It not unfrequently happens that money lies in the hands of the Treasurer for a very considerable time, small sums of money, because they cannot ascertain to what particular account to carry it. As soon as they do the warrant is drawn. These covering warrants are not drawn every day, but once a week or once a fortnight or once a month, as the case may be, including a very large amount—several sums received from several persons. They are drawn in this way and receipted by the Treasurer. And that is technically called covering money into the Treasury. By the law it is not in the Treasury, so to speak, until that form has been gone through with. It is a mere matter of form and takes place in the Treasury Department for the purpose of getting the money technically into the Treasury. I have given this explanation because I failed to give an exact explanation before.

Now, sir, to come to the matter with regard to which I designed to address the Senate, I wish to call the attention of Senators to the fact that at a very early period of the rebellion it became manifest to the Government that it was of great consequence to get the control of the cotton in the South. It was important, in the first place, to prevent the rebels having control of it, and in the next place, important to us to get as much of it out of the South as possible. Various modes were resorted to for this purpose, even under the direction of Congress, as I shall show. It was deemed important to affect our exchanges, and to get cotton for the use of our own people. The more of it we could get out of the southern country, it was conceived, the better we were off. Every gentleman will recollect that it was esteemed to be a matter of great consequence, and the attention of the Government and of the officers of the Government was turned in that direction. It was with that view, in part, that the provision which I will now read was inserted in one

of the earliest laws passed after the rebellion began. I refer now to the law regulating commercial intercourse with the insurrectionary States, the act of July 13, 1861, the title of which is "An act to provide for the collection of duties on imports, and for other purposes." The great object of that law was to regulate intercourse with the southern States, and to provide by law for the collection of the duties on imports where they could not be collected in the ordinary way. In this connection I desire to call particular attention to the fifth section of that law, and to the proviso contained in that section. Section five provides:

"That whenever the President, in pursuance of the provisions of the second section of the act entitled 'An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for that purpose,' approved February 28, 1795, shall have called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said State or States, then and in such case it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from said State or section into the other parts of the United States, and all proceeding to such States, or section, by land or water shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States."

Now comes the proviso to which I invite special attention:

"*Provided, however,* That the President may, in his discretion, license and permit commercial intercourse with any such part of said State or section, the inhabitants of which are so declared in a state of insurrection, in such articles, and for such time, and by such persons as he, in his discretion, may think most conducive to the public interest; such intercourse, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury; and the Secretary of the Treasury may appoint such officers, at places where officers of the customs are not now authorized by law, as may be needed to carry into effect such licenses, rules, and regulations; and officers of the customs, and other officers, shall receive for services under this section, and under said rules and regulations, such fees and compensation as are now allowed for similar service under other provisions of law."

Under this section the Secretary of the Treasury made rules and regulations by which certain persons might be licensed to trade in cotton and other articles—the particular provision was directed to cotton; that was the thing most had in view. These regulations were approved by the President. Under them the Secretary of the Treasury appointed many officers to attend to the duties imposed by the act; gave many licenses to trade; and the officers themselves, under the regulations, were authorized to give licenses in certain cases. The President, himself, under the authority conferred by this act, was in the habit of giving licenses to certain persons to get out cotton.

Gentlemen have said that wherever cotton was seized it should have been immediately sold under another act which was afterward passed, and the proceeds paid into the Treasury, when, in fact, the law to which they referred in that particular did not cover or attempt to cover these licenses; and many cases which are set forth in the list to which Senators have alluded, and which has been shown here, are cases where individuals had under a license obtained cotton by purchase or otherwise, and that property had been seized for breach of the regulations, or something of that sort; and those questions whether the regulations had been broken were questions submitted to the Secretary of the Treasury for decision. These constitute a large number of the cases which are found in that list. Senators will see that the law on which they rely does not cover such cases at all. They have insisted here that the law is positive, and requires all proceeds of cotton to be at once paid into the Treasury. They will see, on examination, that that related to an entirely different subject. Hence they are mistaken in supposing that there was no case where, when property was seized by an agent, the Secretary of the Treasury had a right to revise his action, and deliver up the property or the proceeds of the property, if it had been wrongfully seized. The matter of the breach of his rules and regulations was altogether under his supervision.

The law to which I have called attention was the first law on the subject, and I have referred to it to show the fact that there were a great number of cases arising under these rules and regulations alone where property had been bought or had been possessed in some way by individuals under licenses granted by the President, by the Secretary of the Treasury under the regulations that he made, or by some other person, and where that property had been seized by the officers for breach of the regulations or fraud upon the regulations, and those cases were revised by the Secretary of the Treasury. The next act to which I shall refer is the act of March 12, 1863, upon which the gentlemen to whom I have alluded have especially relied.

Mr. HOWE. I should like to understand the Senator with reference to the act he has just quoted. I wish to know if under that act the Secretary of the Treasury made rules under which cotton purchased by a licensed trader, so to speak, might be forfeited by the action of his agents, and the proceeds got into the Treasury and received from the purchasing agent without any trial or condemnation.

Mr. FESSENDEN. I cannot remember the rules specifically. I know that the Secretary of the Treasury made rules and regulations, and that very frequently personal property was seized from persons who had permits, as they were called, for a breach of these regulations or fraud on the regulations or something of that kind. Then the question would come up for examination whether the person had a permit, and whether, if he had a permit, he had not violated it in some way, whether he had not broken the rules and regulations which the Secretary had laid down for his action, and in those cases the question was referred very frequently to the Secretary of the Treasury himself, and he decided on them.

Mr. HOWE. But, if I understand the act, it only authorized the Secretary or President or other party to license men to purchase cotton.

Mr. FESSENDEN. The proviso to the fifth section is:

"*Provided, however,* That the President may, in his discretion, license and permit commercial intercourse with any such part of said State or section the inhabitants of which are so declared in a state of insurrection, in such articles and for such time and by such persons as he in his discretion may think most conducive to the public interest; and such intercourse, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury."

Mr. HOWE. Now the Senator will understand the point to which my inquiry goes. Under that act certain parties were licensed to purchase cotton. I understand him to assert that the proceeds of some of the cotton so purchased by licensed parties on their own account got out of the pockets of the purchasers and got into the Treasury. I want to know if the Senator means to be understood so.

Mr. FESSENDEN. I said nothing of that sort. I said the question arose whether property seized by the officers for breach of these regulations had been correctly seized. The question came up before the Secretary of the Treasury to decide whether it had or had not been. I suppose there may have been cases in which he decided that it had been erroneously seized, and therefore gave it up. Probably there were other cases in which he decided that it was properly seized, and in such cases the property was sold, and its proceeds form part of this fund.

Mr. HOWE. But the report which we have been considering goes to show the disposition of money which had been put into the Treasury. I want to know how any part of the money which was received from cotton purchased by individuals could have got into the Treasury.

Mr. FESSENDEN. If it got into the hands of an officer of the Treasury Department and he sold it and received the money that money makes part of the fund. What you complain of is that it did not get into the Treasury until a long time afterward; but it makes a part of that fund that went into the hands of the Treasurer, remaining for some time in the hands of the officer perhaps, not being paid over at once as it might be. I have no particular recollection of such cases; but if cotton was seized for a breach of the regulations of course it was sold and the proceeds make part of the fund—the $34,000,000 which has been spoken of.

The act of March 12, 1863, is the act which has occasioned so much comment. I have no hope of convincing my honorable friends from Illinois and Wisconsin upon this point, because they have both laid it down in very decided terms that there is no dispute about it, that it is so, that every dollar of the fund ought to have been paid into the Treasury, that nothing ought to have been given up, that that is the object of the act and the only construction possible. I say that I have no hope of convincing my honorable friends because they have both been distinguished ornaments of the bench in their respective States, and I know gentlemen who have been on the bench for a time and in the habit of deciding questions, especially on the construction of statutes, never can be convinced that their construction is erroneous. I have a little more hope of my friend from Vermont, because he is a plain counsellor at law, as I was myself, and his opinions are not so definite and fixed.

The honorable Senator from Illinois says that the third section of this act of 1863 was expressly passed to provide for cases of erroneous seizure; that the appeal to the Court of Claims there provided for was in order to have the errors reversed and corrected. There I take issue with him most distinctly and decidedly. That was not the object of it. The plain language of the statute is otherwise. It is not to correct errors at all, because property may be properly seized, properly sold, the money properly disposed of, and yet, although everything has been done properly under the law, the party claiming it may go to the Court of Claims and recover notwithstanding. The object of the section was not solely and particularly, as my friend supposes, to correct errors, but to give parties whose property has been rightly taken under the law a chance to recover back their property or its proceeds by going to the Court of Claims. He is wrong, in my judgment, in the very first construction he puts upon the law so hastily. Let us look at the language of the law and see if it is not so. It provides for the taking of certain property in the insurrectionary States, abandoned and captured property, how it shall be taken care of in a certain way, and then comes the provision with regard to the Court of Claims. It is in these words:

"And any person claiming to have been the owner of any such abandoned"—

That is, where it was really abandoned—

"or captured property"—

Where it was really captured—

"May at any time within two years after the suppression of the rebellion prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

That last clause, permit me to say, shows that my friend from Illinois adopted the true construction when he said that all the expenses

of these proceedings were first to be taken out before the money was paid into the Treasury. This law says, "that it shall be lawful for the Secretary of the Treasury, from and after the passage of this act, as he shall from time to time see fit, to appoint a special agent or agents to receive and collect all captured and abandoned property," and provides that it may be sold and the proceeds paid into the Treasury. Then the third section, which I have just read, provides that where it has been abandoned or where it has been captured in reality the proceeds may be recovered by application to the Court of Claims, the owner proving his property and that he was a loyal man and had a right to it. What becomes, then, of the honorable Senator's argument that this particular portion of the statute was made expressly and solely to provide for errors or mistakes in the seizing of property? It says no such thing and it contemplates no such thing.

Then, as I stated before in the remarks which I had occasion to make, the act went further; it provided that all property which had been taken as captured or abandoned or any other way by the military forces of the country, under any circumstances, should be passed over to the agents of the Treasury Department, putting such property under the control of the Treasury Department. Now, what is the construction the Secretary of the Treasury then put upon it? Here was a provision of law that his agents should take possession of all captured and abandoned property, and though it might have been regularly captured, though it might have been property abandoned, yet this statute being made simply to preserve it from destruction, to rescue it from the hands of plunderers and take it into the possession of the Treasury Department, allowed anybody who could prove that it was actually his, and that he was a loyal man, to come to the Court of Claims and receive the proceeds, after making a proper deduction for expenses. Then comes the question which I stated, and it is a very simple one: suppose it to be manifest that the property was neither captured nor abandoned, what was to be done? The Secretary of the Treasury is authorized to take by his agents but two classes of property—captured property and abandoned property; that he is authorized to take and sell and put the proceeds into the Treasury. That he did, as I contend.

But, suppose a particular piece of property is neither captured nor abandoned, but has been wrongfully or fraudulently seized by a military officer, if you please, who turned it over to an agent of the Treasury Department, and that becomes perfectly evident; is it essential, or does it follow that because it is provided that where it has been rightfully seized or rightfully abandoned he must take a certain course with it, and that the party may go to the Court of Claims for redress, therefore where it has been wrongfully seized as captured or wrongfully taken as abandoned he must pursue the same course and sell it at all events and put the proceeds into the Treasury, and put the perhaps innocent party who owned the property to the necessity of going to the Court of Claims within a certain specified time and have a law-suit to recover his property? Gentlemen say that it is frequently manifest, clear as anything can be, that there is no dispute about it, that such is the case. I humbly beg leave to differ with them. That is not the construction which the Secretary of the Treasury who made these regulations and who drew this law originally put upon it. He came to the conclusion that what must necessarily go into the Treasury, what he could not adjudicate upon, was the proceeds of property which was rightfully captured or rightfully taken as abandoned, because he was directed by the law to take no other, and if his agents took property which was neither captured nor abandoned, took it wrongfully or by a misapprehension, it was not only his right but his duty to investigate the transaction, and if he was perfectly satisfied of the fact to deliver it up. It was best for the claimant, it was best for the Government itself, to save the Government a multiplicity of claims which might be established hereafter, and the necessity of contesting them before the Court of Claims.

Under these two acts, as I stated, various questions came up. I decided some of them myself. In the first place, property had been taken by persons who had obtained possession of it under permits, had purchased it, and it was seized by our officers and taken from them. In such cases it came to me to settle the question whether there had been any breach of the regulations, whether the seizure was not erroneous; and I decided several cases of that kind. It became my duty, also, to decide on the question what was abandoned property and what was captured property, in cases where it was perfectly manifest that the property seized was neither abandoned nor captured, and that the persons claiming it had a right to it. I will state a case by way of illustration, and it is one of the cases stated by the interesting witness that my honorable friend from Wisconsin alluded to as giving him an account of certain claims. There was one Mr. Elliott, whom that person represented as a captain in the rebel army, and a notorious rebel. It so happened that I decided that case myself. I did not know it at the time the Senator mentioned it; but I have since looked it up. My friend, I think, has a little tenderness for me. Most of the cases he cited were decided by me, and he only picked them out without alluding to the Secretary who made the decision. I am very much obliged to him; but I am responsible for the whole.

Mr. HOWE. Let me state right here, that there may be no mistake about it, that I not only had no tendency——

Mr. FESSENDEN. "Tenderness," I said.

Mr. HOWE. I do not know that I am prepared to contradict that assertion so completely as I was about to do.

Mr. FESSENDEN. It does not need any explanation. I took it as a great kindness.

Mr. HOWE. I will say, then, that I did not know nor suspect nor have the least idea that any one of the cases to which I referred was decided by the Senator now on the floor. I did not have the slightest reference to the dates at which the decisions were made, and I did not name a single individual whose claim was represented to me to have been urged by disloyal men; and it is not a matter within the knowledge of my friend from Maine—it is only a matter of inference—that the name of Elliott was one of those names: it was not given.

Mr. FESSENDEN. No; the name was not given, but the particular allowance and the page in which it was contained was pointed out. The Senator specified the sum.

Mr. HOWE. The sum was specified.

Mr. FESSENDEN. And that sum I found, and that sum designated the individual. The individual as designated by the Senator's witness was a man who had been a captain in the rebel army. There is only one sum of that description in the list. The Senator pointed out where it was, and therefore by taking the sum I found out who the person was. I decided that case myself, and what were the facts? A Mr. Elliott of New York, one of the commissioners of the Central Park, went down to New Orleans for his health, and being there he took a notion that he would go up with General Banks's expedition to Alexandria with other persons, and while he was there he purchased a few bales of cotton of some negroes and paid them for it, and the cotton was put on board with other cotton purchased by other persons under like circumstances to be brought down to New Orleans. Before it got there Mr. Elliott had been obliged to go home, and when the cotton got to New Orleans it was seized by an agent of the Treasury Department. All the rest of the property purchased and brought down to New Orleans under like circumstances was delivered up at once to the parties who were there to demand it, but Mr. Elliott not happening to be there and having no agent there his cotton was retained. These facts came before me. This man bought the cotton to accommodate the negroes more than for any speculation of his own. He was a perfectly loyal man, a New Yorker. On investigation I decided to give the proceeds of that property up to him. It was neither captured nor abandoned; and yet my friend would argue that because under those circumstances that mistake happened, this gentleman who went there from these motives and with these intentions should have been obliged to go to the Court of Claims and that the money must necessarily be paid into the Treasury at once. I decided otherwise, and I think I decided right. There are other cases of like description.

I have given what I considered to be the proper construction of the act. The Secretary of the Treasury who preceded me, Mr. Chase, gave it that construction, and acted accordingly. He doubted with regard to captured property or property which was said to be captured and delivered over by a military or naval officer. He referred the matter to the Solicitor of the Treasury for his opinion. The Solicitor of the Treasury gave in writing the opinion which has been read here, that the revisory power of the Secretary applied to all property, whether abandoned or captured, that was taken by mistake; that the Secretary of the Treasury had a perfect right and power to reëxamine and decide upon those questions. When I came to look at it I concurred with that opinion, that it did apply to both; that the power was ample. I acted accordingly so far as I did act, but not on many cases. The question was afterward referred to Attorney General Speed, and his opinion has been read, sustaining the opinion of the Solicitor of the Treasury throughout. The extracts from his opinion read by the honorable Senator from Illinois were on a totally different question, and a question that arose under different circumstances.

After the great amount of the Savannah cotton was ascertained President Lincoln suggested—the suggestion came from him—whether there was not some way in which these claims could be settled without requiring the claimants to go through the Court of Claims, and he suggested to the Secretary of the Treasury whether a commission might not be appointed to examine them. The Secretary of the Treasury referred the matter to the Attorney General for his opinion, and the Attorney General decided that no commission could be then appointed; that under the law as it stood property clearly captured, as the Savannah cotton was, must be sold and the proceeds paid into the Treasury, and then the claimants must go to the Court of Claims; but he decided in a case shortly afterward, where the papers were sent to him, that the Secretary of the Treasury had full power in regard to abandoned property, and property which was not, in fact, captured, to act according to his discretion with reference to reëxamining the cases. I have his opinion here, delivered in a very striking case, and that was in the case of the money captured when Jeff. Davis was taken. It was claimed by the Richmond banks, and the Attorney General gave an opinion that that property was not captured property, that the Richmond banks were entitled to it, and that the Secretary should give it up; but the Secretary holds on to it to this day on the ground of some further evidence afforded to him with regard to it. In this opinion the Attorney General says that property taken by the military authorities is not necessarily captured property because taken by the military authorities.

I can give the Senator an illustration taken from another case involving a considerable amount of money which I acted upon, and which was a very difficult question. It was the case of certain New Orleans cotton. Under one of the permits to which I have referred a

large amount of cotton was got out from the rebel territory. I have forgotten the particular circumstances, but it was seized by the naval authorities. The claimants came forward and claimed the cotton. I remember the name of one of them—a Mr. Mansfield. They said it was cotton purchased under the authority of a permit. They satisfied the naval officers of that fact so thoroughly that they gave it up to them, and it was put upon the bank of the Mississippi river in the hands and possession of the claimants themselves. After that some negroes went to General Canby and reported that as rebel cotton, and General Canby again seized it and it was sent to New Orleans and the matter was brought before the courts. A claim was made in the courts for this cotton, and I have before me the papers giving an account of the case. It came up while I was Secretary of the Treasury. The Treasury Department employed counsel, although I believe the principal counsel was the United States district attorney. The counsel for the Government took the ground very decidedly that the courts had no jurisdiction; that the property having been seized, captured in that way by General Canby, no court could take jurisdiction; that it must be sold by the agents of the Treasury Department, and the proceeds paid into the Treasury. The court overruled the point and took jurisdiction. Then letters were addressed to me, as Secretary of the Treasury, by the supervising agent down there, stating the facts, and that he had examined the testimony. I believe that gentleman is as honest a man as was ever employed by the Government. I refer to Mr. Flanders, a man of perfectly good reputation, so far as I know.

The Treasury agent acquainted the Secretary with the proceedings and requested specific instructions, stating that General Canby would probably support him by the military power against the decision and process of the court, but deprecated a conflict between the branches of the Government. Before the Secretary had replied the claimants of the cotton appealed to him by petition for the release of the property, supported by proofs of their legal ownership, and that the same had never been the property of the confederate government. Upon examination of the papers the Secretary refused to order a release of the cotton; and on the 28th of September, 1864, instructed the agent that he had so refused; that he was not willing to decide whether the property was captured or not, or whether it should be regarded and proceeded against as confiscable on account of the character of those heretofore owning it, or as forfeitable for violation of one of the laws concerning commercial intercourse between the loyal and insurrectionary States. He was, therefore, directed to report the case to the United States district attorney for such action as he should think proper with regard to the legal proceedings instituted for the purpose of determining the questions of law and fact arising in the case, submitting to competent judicial authority having jurisdiction over the subject-matter, and taking care that, so far as he is concerned, the interests of the Government are protected.

On the 3d of November following the agent wrote the Secretary, submitting copies of correspondence, by which it appears that on receipt of the Secretary's instructions he wrote the district attorney, inclosing a copy of the same, with the evidence which had been furnished by General Canby, and requesting his action thereon as indicated by the Secretary. He also wrote General Canby, informing him of the Secretary's instructions, and that he had accordingly placed the matter in the hands of the district attorney.

On October 19, 1864, the district attorney wrote the agent that he was unable to take proceedings against the cotton for want of sufficient testimony to make out a case of forfeiture. That he had examined the papers furnished by General Canby, but could find no evidence therein to justify the filing of a libel. The agent then sent a copy of this letter to General Canby, and requested that he would furnish any further evidence of which he might be in possession.

The general accordingly sent the district attorney copies of telegrams which had been captured from the rebels; but upon an examination of all the proof extant the district attorney and Mr. Horner, Mr. Flanders' counsel, united in a letter to him on October 24, in which they stated that, having carefully examined the documents and papers connected with the cases, they are of the opinion that if the parties will relieve the United States, its officers, and agents from all responsibility for their acts in seizing and detaining the cotton and pay all costs and give the bonds the form of which is prescribed by the Treasury Department, the agent will be justified in delivering the cotton in question to the claimants.

Mr. Flanders then states that, regarding the Secretary's letter as instructing him to be guided by the opinion of the district attorney, he has acted according to his opinion as expressed in his letters of October 19 and October 28; the claimants having given the required bonds, &c., he has released the cotton to them severally in proportion to the amount claimed by each. This action of the agent was approved by the Secretary November 14, 1864.

There is a specimen. Would my honorable friends contend that it would be the duty of the Secretary of the Treasury to fight that out under all circumstances when his own agents and his own officers and counsel said that there was no case—no evidence that it was anybody's cotton but that of the claimants who had taken it and bought it under a permit, and who, when it had been once seized by the naval authorities, satisfied them of the facts and induced them to release it, and which having been subsequently seized by General Canby, he could not furnish any testimony to justify the seizure? That is only one of a class of cases upon which the Secretary of the Treasury undertook to act under this law, and I cite it as but one.

But my friend, the Senator from Illinois, goes still further, and, to my very great surprise, endeavors to make out a case upon the statute of 1864. About that statute it may be well to say something. The argument of my friend from Illinois is based on the third section of that act, which I will read:

"That all moneys arising from the leasing of abandoned lands, houses, and tenements, or from sales of captured and abandoned property collected and sold in pursuance of said act or of this act, or from fees collected under the rules and regulations made by the Secretary of the Treasury and approved by the President, dated respectively the 28th day of August, 1862, the 31st day of March and the 11th day of September, 1863, or under any amendments or modifications thereof, which have been or shall be made by the Secretary of the Treasury and approved by the President, for conducting the commercial intercourse which has been or shall be licensed and permitted by the President with and in States declared in insurrection shall, after satisfying therefrom all proper and necessary expenses, to be approved by the Secretary of the Treasury, be paid into the Treasury of the United States; and all accounts of moneys received or expended in connection therewith shall be audited by the proper accounting officers of the Treasury. That the first section of the act to provide for the collection of abandoned property and for the prevention of fraud in insurrectionary districts in the United States, approved March 12, 1863, is hereby extended so as to include the descriptions of property mentioned in an act entitled 'An act further to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, and an act entitled 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' approved July 17, 1862, respectively; and that the sales provided for in said act first mentioned may be made at such place as may be designated by the Secretary of the Treasury."

Now, if you turn back to that act you find—what?

The act of July 17, 1862, to suppress insurrection, &c., designates a list of persons whose property may be seized. There are six classes of them, principally officers of high rank in the rebel service or under the rebel government. Then section six provides:

"That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the Government of the United States or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof."

What is the argument of the honorable Senator? That by the act of 1864, a portion of which I have just read, it is the duty of the agents of the Treasury Department to take possession of the class of property named in this act of July 17, 1862. The act of July 17, 1862, provides how property taken under its provisions shall be dealt with. It shall be dealt with by legal process; a libel may be filed against it in court, and the seventh section provides the mode of condemnation. It is to be proceeded against after the manner of proceedings *in rem* in admiralty cases. It is not to be disposed of without due adjudication; and the act provides the mode in which adjudication may be held on all such property. And yet the honorable Senator argues that under the act of 1864 the Treasury agents are to take it without any adjudication, to hunt it up, take the property, sell it, and put the proceeds into the Treasury. Once there, they cannot be got back again. There is no adjudication, because these persons can never prove their loyalty. Therefore, the Senator must argue necessarily, though he does not expressly, that all those parts of the act of 1862 which provide for an adjudication and mode of settling the question are repealed, and that the property is merely to be seized by the Treasury agents. That was not the construction the Treasury upon it. The construction of the Treasury was simply that where any property of that description came within their possession, where they had taken possession of it, or it was brought to them or came in their way, to take it—for it not only covers this but another act, to which I have not yet alluded, but will in a moment—that they must take posssesion of it; they would not refuse to do that; but their duty was at once to proceed against it or have it proceeded against according to the act of 1862, which had made provision for the manner of adjudicating upon it. The consequence was that a rule was made by which, when any property of that description under that act came into the possession of the Treasury agents, they turned it over to the marshal of the proper district, to be proceeded against in court.

They did not undertake to sell it. They did not consider the act of 1864 as repealing the act of 1862 in regard to the mode of adjudication. They did not consider that they had a right to take it wherever they could find any property they could lay their hands on upon the ground that they considered the owner a rebel, at once put it up at auction, and sell it and put the proceeds into the Treasury, and then send the owner before the Court of Claims. They held simply that, the act of 1862 having provided for the seizure of the property and for a certain mode of proceeding in regard to it, and the subsequent act having made it the duty of the Treasury agents to receive such property, the effect was simply to impose the duty of receiving it upon them, to be proceeded against according to the act of 1862 when taken. To strengthen that view I may refer to another act which was passed in reference to commercial intercourse, where property was seized for adjudication for a breach of the commercial intercourse regulations between the loyal States and the States in insurrection. What is that provision? The provision is that it shall be libeled in court the same as property seized for a violation of the revenue laws. The Treasury agent could just as well take it here, setting aside all the laws in regard to proceedings against property seized for a violation of the revenue laws, sell it, and put it into the Treasury. That was not the object of the pre-

vious act nor of that act, because both of them provide for an adjudication; and the act of 1864, when it provided that the Treasury agents might take a species of property under it, did not take away the right or the propriety of their sending it to the courts for adjudication; and none of that kind of property ever was, to my knowledge, and I do not believe it ever was, decided upon by any Secretary of the Treasury. They simply sent it to the courts. So I think that that point which the honorable Senator made, and made with a great deal of force apparently, as if he believed in it—and I dare say he did at the time, and probably does now—is entirely untenable. Then after that came another act to which I wish to call your special attention, the act of 1864. Gentlemen say this money must all go into the Treasury post haste, every bit of it, under all circumstances, and it must go immediately, right or wrong. The act of 1864 made a new and special provision, and that was for the purchase of cotton. It repealed all former acts in point of fact, and provided substantially that nobody should be a purchaser of cotton in the rebel States but the United States Government. You will find this provision in section eight of the act of 1864:

"That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market value thereof in the city of New York at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act."

Now, I wish to ask my honorable friends from Illinois and Wisconsin whether they consider that this section makes an appropriation? Does it appropriate so much money out of the Treasury which would authorize the Secretary of the Treasury to take it out? There is a proviso "that no part of the purchase money for any products so purchased shall be paid or agreed to be paid out of any other fund than that arising from property sold as captured or abandoned." What was necessary to be done? The first thing I had to do after I went into the Department was to provide regulations under this act for the purchase of cotton through all those States. Agents must be appointed to go and purchase cotton at a certain fixed price and deal with it in a certain way. I was obliged to make regulations for that purpose. If they were to purchase cotton they must have money; they must have something to do it with; they could not purchase it without; they had to make advances and to make agreements. "I will take so much cotton and I will pay you so much." The agents must be put in possession of the money to accomplish the purpose. Where was the money to come from? That act was drawn up by my predecessor, and I infer that he knew at that time that the fund arising from the sale of captured and abandoned property was not technically in the Treasury, and that his object was to devote that fund to the purpose of purchasing cotton. Part of it, undoubtedly, had been paid into the Treasury; but a part had not been; and here was a provision of law which made it imperative upon the Treasury Department to enter into the business of purchasing cotton, specifically pointed out the fund they should use for that purpose.

Now, unless you say that the eighth section makes an appropriation of so much money, which would authorize the Secretary of the Treasury to take it out of the Treasury, how was he to pay for the cotton? If once in, he had nothing to do with it; he could not get at the fund in any shape whatever. It so happened that I was not as familiar with the mode of doing business in the Treasury then as I am now, and I am none too familiar now. I went in there perfectly green as to the course of its ordinary business transactions. I found this law; I found that I was required to purchase cotton, and I was authorized to use money for that purpose; and I was told where I was to get that money from, and I found that money there, not in the Treasury technically. What was I to do? I just laid my hand on a certain amount of it, and put it into the hands of the agents, properly guarded of course. I do not think I ever did a thing in my life with so much care, such anxious, particular care to guard every avenue to fraud or mistake; and I am glad to say that none took place in that branch of the business. It was eminently successful as long as it lasted. I sent $1,000,000 to New Orleans, and it was used in the purchase of cotton. I sent $500,000 to another point—Natchez, I think—and it was used in purchasing cotton; and the United States derived great benefit from this. They made some millions out of the business of purchasing cotton at twenty-five per cent. discount from the prices in New York. The sales were successful, and no losses occurred in that part of the business. So much money was saved to the Treasury.

Do honorable Senators say that this fund should not have been touched; that I should have paid it into the Treasury, where I could not get it? I did not know at that time exactly how it was situated, I confess; I had not looked into it; but I found the money there, and I found that I could use it, and I took it because the law told me, as I thought, to take it out of that fund, and I did not go to work to have it covered into the Treasury beforehand and then raise the question as to whether I could get it out, as was the question about the lion of whom we have heard. [Laughter.]

I have explained these things to gentlemen that they may see that, after all, it is one thing to have these matters to do, and to have them carefully to do yourself, and have the responsibility upon you, and to get up here in the Senate, and, without a thorough examination of all the laws, and without inquiring as to what has been done, to find fault because something has not been done, and to denounce those who have the administration of the laws under such circumstances for not doing, perhaps, what they could not do.

Now, sir, I have explained at greater length, perhaps, than is necessary what these laws are and what duties they imposed, and the construction the several Secretaries of the Treasury put upon them with reference to their own action. The fact is that the question did not assume very great importance until the large amount of the proceeds of the Savannah cotton came to be considered, and that was only delayed for the purpose of getting an opinion as to whether it could properly be adjudicated upon in any other way. That was not done by me, and therefore I cannot answer specifically with regard to it.

Then we have as a justification—I really plead it as something for myself and the construction which I put on these laws and the action I had upon them—that my distinguished predecessor in the Treasury put the same construction upon them; that the Solicitor of the Treasury put that construction upon them; that that construction met my own best judgment as to what the laws really meant, and the Attorney General has repeatedly decided that that construction was the correct one; and when all these things have taken place, I really think that my friend from Wisconsin speaks with a little too much confidence when he says it is plain, that there is no doubt about it, that all this money ought to have gone at once into the Treasury. He will pardon something to a difference of opinion upon that subject. My friend knows that I have very great respect for his opinions on any question, whether it is of law or of fact.

I have before me a memorandum of some of the cases that my friend from Wisconsin alluded to with regard to the release of cotton. I did understand every one of them two or three weeks ago and trusted to my memory. I allude to the cases which were referred to by my friend on the authority of the witness that he spoke of, as being unjustified. I have examined them all, and I find that that witness of his was wrong in every instance. There was not a single instance in which the person was correct. I think every case referred to was decided by myself, and in every one that individual was entirely wrong. There was not one about which there was the least question. I have before me a list of the cases decided by myself when in the Department, and I examined them all to see precisely how they stood. Here, for instance, is the case of Temple Clark, an Illinois man, a man who had been an officer in our Army and was badly wounded. He came here, and got out a permit to get out some cotton.

Mr. HOWE. I did not refer to that case.

Mr. FESSENDEN. I know that, but I refer to it as one of the cases I decided, as an illustration of what I have been saying. In this case twenty-four bales and thirty-one bales were seized by the military as captured, as those gentlemen called it, because it had been purchased without a permit. Proper authority, however, was shown, and I directed the cotton to be released. Temple Clark was one of our own officers, who had been badly wounded. He came to this city, being poor, and got a permit to go down South and get out some cotton. He got this cotton, and it was seized by the military and taken from him, on the ground that he had no permit. He brought before the Secretary of the Treasury the permit, and the testimony of officers showing that he had had it. Under these circumstances I ordered the cotton to be delivered to him. How could I do otherwise? Must I have had that property sold and the poor fellow sent to the Court of Claims when he purchased it on our authority?

Mr. EDMUNDS. It all depends on the law.

Mr. FESSENDEN. Undoubtedly it depends on the law, and I am putting it under the law. Does the law cover, was it intended to cover, a case of that description? Does it necessarily in its language cover such cases when it says that all captured and abandoned property shall be sold and the proceeds paid into the Treasury, this being neither captured nor abandoned, as the proof shows, and as it shows in many other cases?

I will cite one case more of those which were alluded to by my friend from Wisconsin, and that is a case of eighty-three bales of cotton taken by the military authorities where the witness represented that the person to whom they were delivered was a person who had followed the rebel army. What were the facts? In the first place, she was the wife of a perfectly loyal man, who died a short time ago. She had a plantation by the river. When the rebels came there they ordered her back from the river, would not allow her to stay. She went back into the country to another plantation. Before she went she hid her cotton, and, as she thought, all of it, to prevent its being seized or being burned. After the rebels were gone she went back again and hunted up a few bales of cotton. Most of it, however, was gone, but she found eighty-three bales, and after she found them they were taken possession of by the commander at New Providence—I think that is the name of the place—to help him construct a breastwork for his fortifications. The property was borrowed, not seized as captured or abandoned, but taken from the necessity of the case, and after that post was abandoned the commander put it on board a vessel to be sent down somewhere to be sold. The owner came forward and proved that it was her cotton and had been used by the Government, and that she was a perfectly loyal person. There was a case where the property was neither captured nor abandoned; it was in the owner's possession when it was taken, not taken adversely, but taken, from the necessity of the case, for the Government, and

afterward, before she could claim it, it was seized by the Treasury agent as being supposed to be either captured or abandoned, but, turning out to be otherwise, I adjudicated the case and ordered the proceeds to be delivered up.

I think I have given illustrations enough to show how the construction of the law contended for would operate, and to show, at any rate, some excuse for the officers of the Treasury for taking this view of the law, especially when they were backed up by the law officer of the Treasury and by the Attorney General himself as to the correctness of the construction. And I do think that my honorable friends, on looking at these laws from the beginning, taking the first one and going through, are under a very great error when they suppose that the third section of the act of 1863 rendered it imperative upon the officers of the Treasury in all cases, without exercising any discretion or any revisory power to sell the property whenever it came into the hands of an officer and put it into the Treasury and send the owner to the Court of Claims.

I have said more than I should have said on that subject. I think, when I began, I said that I thought the Senate would find an advantage in the fact that I had forgotten a good deal of the argument or statement I was disposed to make, but I believe it has worked rather the other way, and obliged me to speak at greater length than I otherwise should. Before I take my seat, however, I desire to reply to another point which has been made. My friend from Illinois dwelt with a great deal of force upon the fact that there were over thirty-four million dollars received from cotton sold, and that the net receipts were only about twenty-four million dollars; and my friend says, "Here are $10,000,000 spent in obtaining $24,000,000;" and my friend from Wisconsin repeated several times, "What has become of that $10,000,000? we know nothing about it; we cannot tell." These remarks were made as if there was no explanation given and as if none could be given. I stated at the time that I thought it could be explained. If my friend from Wisconsin will turn to the message of the President of the United States in answer to a resolution of the House of Representatives of May 28, 1866, requesting information relative to captured cotton, &c., which message is House Executive Document No. 97, Thirty-Ninth Congress, second session, he will find the whole matter explained at greater length and with more particularity than in the document to which he referred. That shows precisely how this amount was made up.

Out of that $10,000,000, as I said at the time, a certain amount was paid as purchase money for cotton bought under the eighth section of the act of 1864. On page 6 of this document it will be seen that the amount paid as purchase money for cotton was $3,490,695 21. There is nearly three millions and a half of the $10,000,000. Then on the next page you will find that repeated with some other items. The total amount received by the United States from these various sources was $34,052,809 54, and the total amount released to claimants was $1,332,803 71. That accounts for so much; and if it was rightly released, if we were right in our construction, there is no objection to that. The total amount of purchase money paid for property, was $3,508,608 27.

The total amount of expenses paid, including salaries, expenses of collection, transportation, and all other expenses of every description connected with the execution of the various acts, so far as adjusted or as ascertained, was $4,469,345 01. That is the total amount of all the expenses connected with the business. The Senator from Wisconsin may say that this is a very large amount; but when he considers that these agents were all over the rebel States; that they had to pay out large amounts for transportation for themselves from New York or Chicago or wherever they went, and then had to pay for the transportation of the cotton from where it was seized to points of shipment and thence to New York, he will not think it so surprising. And if he will turn over to a table on another page of the same document he will find all the facts stated in regard to it. The balance left to the Government is $24,742,022 55.

I need not go over the items in detail; it is sufficient for me to say that every item, constituting the amount of about four and a half millions of expenses, went through the accounting officers of the Treasury Department, and the accounts have been settled precisely as all other accounts are settled; the accounting officers have made the examination, and have allowed the accounts under the rules established by the Secretary of the Treasury for the management of this business. Then how unreasonable it is to talk about $10,000,000 unaccounted for, when an exact account is given in reference to the whole of it, not only with regard to the bales of cotton returned, but the amount of money which has been given up to claimants, and the expenses have been regularly audited, regularly examined and allowed by the accounting officers of the Treasury Department.

Mr. President, I had made several other points in my own mind in answer to the statements which have been made by Senators and which I thought needed an answer, but not having put them on paper they have now escaped my attention, and perhaps they are of very little consequence; otherwise I should have remembered them. I had an impression when I was at the bar that anything that I forgot when I was arguing a case was not of sufficient importance to be remembered, or otherwise I should not have forgotten it, and perhaps that rule will apply to the present case. What I was anxious to do with reference to this matter was to show that the Treasury Department throughout had endeavored to obey the law, and that the Treasury Department throughout had tried hard to make the most money it could out of these purchases of cotton and these seizures of cotton. I have no doubt that was the case with all the officers who stood at the head of that Department during the time this subject was under consideration.

The new matter that came in the other day, the answer made to the call of the honorable Senator from Illinois for additional information, is entirely outside of these laws. It has been printed and I have looked at it. After the rebellion was suppressed these laws were considered to be at an end; but the Secretary of the Treasury, believing that much property might be saved to the Government, of his own authority undertook to send agents to seize property belonging to the rebel government, and scattered throughout the rebel States. There was no particular law with reference to it; but it—like other property belonging to the rebel government—was forfeited. He understood that they had bought a great deal, that they had a great deal in the possession of different agents; and of his own motion and for the benefit of the Government he undertook to seize it where it could be found. In the execution of this order the agents very frequently took property that was not the property of the rebel government. He had no authority to take any other; he had no authority to take private property; and, of course, when property taken was shown to him to be the property of individuals he ordered it to be given up, as he should have done, as he rightfully did, in my judgment, and it cannot be made ground of accusation against him. This matter was long after my day, and I have nothing in particular to say about it. I only give this explanation which is perfectly satisfactory to my own mind.

Now, Mr. President, upon the whole I must say, from my examination of what the Department has done in respect to this general subject, that with regard to all the Secretaries of the Treasury—I can speak positively for myself and I have just as much faith in the other two in this particular as I have in myself—I have no doubt that all their action has been directed with a single eye to get the most they could rightfully out of this property for the benefit of the Government in all cases. That there may have been and that there have been individuals in minor places, agents among the vast number of agents employed who have been guilty of fraud, who have made misrepresentations, who have deceived not only the Secretary but others whom they may have encountered, is undoubtedly true. But with regard to the present Secretary, I have no doubt that he has taken a great deal of responsibility and infinite pains to see what he could do with reference to securing this property to the Government of the United States, and as a whole he has been eminently successful. All the insinuations made against him with reference to it are, in my judgment, and I may almost say, to my own knowledge, entirely unfounded.

The charge is that he has been violating the law. As I said before, if the charge holds against him, it holds against me and against my immediate predecessor; and you will judge from the exposition I have given of our understanding of the laws and the facts that we were supported by the law officer, not only of the Treasury, but of the United States, in our construction of these laws, whether we are liable to the very serious imputations which would seem to follow from the remarks made by my honorable friends from Illinois and Wisconsin. I have no doubt they said what they thought to be their duty, as they always do; but in this matter they have gone off on a false scent, as I think, and have been misled by statements made to them outside, of which the statements made here by the honorable Senator from Wisconsin of what was told him in his committee-room are a very striking illustration, incorrect in every instance in point of fact. Mr. President, I shall not detain the Senate longer.

Mr. CONNESS. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 17, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the call of States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by motions to reconsider, commencing with the State of Maine. Under this call the resolutions of the Legislatures of States or Territories may be presented.

WASHINGTON AND NORFOLK STEAMBOAT CO.

Mr. PIKE introduced a bill (H. R. No. 734) to incorporate the Washington and Norfolk Mail Steamboat Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DISPOSITION OF FINES, ETC.

Mr. ELIOT introduced a bill (H. R. No. 735) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes;" which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

POST ROUTE IN NEW YORK.

Mr. VAN AERNAM introduced a bill (H. R. No. 736) extending a post route from Chapelsburg to Humphrey's Centre, Cattaraugus county, New York; which was read a first and

second time, and referred to the Committee on the Post Office and Post Roads.

FORT RANDALL RESERVATION.

Mr. GLOSSBRENNER introduced a bill (H. R. No. 737) relating to settlers on that portion of the Fort Randall military reservation vacated by the order of General Grant in 1867; which was read a first and second time, and referred to the Committee on Public Lands.

SALARY OF A COLLECTOR.

Mr. THOMAS introduced a bill (H. R. No. 738) to fix the salary of the collector of customs for the district of Annapolis, in the State of Maryland; which was read a first and second time, and referred to the Committee on Commerce.

POST ROADS IN MARYLAND.

Mr. STONE introduced a bill (H. R. No. 739) to establish post roads in Montgomery and Howard counties, Maryland; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAXATION OF UNITED STATES NOTES.

Mr. LAWRENCE, of Ohio, introduced a joint resolution (H. R. No. 205) relative to State taxation of United States notes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

POST ROUTES IN OHIO.

Mr. MORGAN introduced a bill (H. R. No. 740) to create post routes in the counties of Muskingum, Coshocton, Licking, and Knox, in the State of Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

READMISSION OF ALABAMA.

Mr. BINGHAM introduced a joint resolution (H. R. No. 206) to restore the State of Alabama to representation in Congress; which was read a first and second time.

Mr. WILSON, of Ohio. I ask that the joint resolution be read.

The joint resolution was read, as follows:

Whereas a large majority of the votes given at an election held on the —— day of February, 1868, were given for a constitution presented by a convention of the people of the State of Alabama; and whereas certain combinations of citizens within said State refused to vote, with intent thereby to defeat the efforts of the friends of the Union to restore said State to its proper relations to the Union: Therefore,

Be it resolved, &c., That the Legislature elect under the new constitution of Alabama be convened at the capital of said State as soon as practicable, by order of the United States military commander within said State of Alabama; and that upon the ratification by said Legislature of the fourteenth article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and the establishment by law of impartial suffrage within said State as authorized by said constitution of Alabama, the said State shall be admitted to representation in the Congress of the United States in accordance with the laws of the United States.

Mr. BINGHAM. I move that the joint resolution be referred to the Committee on Reconstruction, and ordered to be printed.

The motion was agreed to.

WILLIAM HAYNIE.

Mr. STOKES introduced a bill (H. R. No. 741) for the relief of William Haynie, administrator of Ann Haynie; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

ELIZABETH YANCEY.

Mr. STOKES also introduced a bill (H. R. No. 742) for the relief of the heirs of Elizabeth Yancey, widow of John Yancey; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

FORT CLEVELAND LABORERS.

Mr. STOKES also introduced a bill (H. R. No. 743) for the relief of colored laborers on Fort Cleveland, near Carthage, Tennessee, in 1864; which was read a first and second time, and referred to the Committee of Claims.

PETER J. BURCHELL.

Mr. FARNSWORTH introduced a bill (H. R. No. 744) for the relief of Peter J. Burchell, of Kane county, Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

ARKANSAS AND MISSOURI LOW LANDS.

Mr. LOGAN introduced a bill (H. R. No. 745) to provide levees to secure the low lands of Arkansas and Missouri from inundation, and to encourage the settlement thereof; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

S. S. BAILEY.

Mr. FERRY introduced a joint resolution (H. R. No. 207) for the relief of S. S. Bailey; which was read a first and second time, and referred to the Committee of Claims.

CLERKS OF IOWA DISTRICT COURT.

Mr. WILSON, of Iowa, introduced a bill (H. R. No. 746) authorizing the United States district judge for the district of Iowa to appoint clerks at the several places where terms of the district court for said district are provided by law, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

DISCHARGED SOLDIERS.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 747) giving relief to soldiers whose discharges are dated previous to their actual discharge, and who, in fact, served the full term of their enlistment; which was read a first and second time, and referred to the Committee on Military Affairs.

MINNESOTA AND MISSOURI RIVER RAILROAD.

Mr. HOPKINS presented a memorial of the Legislative Assembly of the Territory of Dakota, praying for a grant of land to the Minnesota and Missouri River Railroad Company to aid in the construction of a railroad from the Minnesota State line to the Missouri river, at Yanckton, Dakota Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

INDIAN DEPREDATIONS IN NEW MEXICO.

Mr. CLEVER introduced a bill (H. R. No. 748) providing for the examination of claims for Indian depredations in the Territory of New Mexico; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

HEZEKIAH DUNN.

Mr. LAWRENCE, of Ohio, introduced a bill (H. R. No. 749) granting a pension to Hezekiah Dunn, father of La Fayette Dunn, late of company E, one hundred and twenty-third Ohio volunteer infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JURIES IN DISTRICT OF COLUMBIA.

Mr. WELKER introduced a bill (H. R. No. 750) to provide for juries in certain cases in the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

BUILDINGS IN BROOKLYN, NEW YORK.

Mr. ROBINSON introduced a bill (H. R. No. 751) for the erection of buildings in the city of Brooklyn; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

POST ROUTES IN OHIO.

Mr. MUNGEN introduced a bill (H. R. No. 752) to establish a post route from Van Wert, Ohio, to Celina, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

He also introduced a bill (H. R. No. 753) to establish a post route from New Bremen to Dinsmore, in the State of Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

HENRY EVRETT.

Mr. HARDING introduced a bill (H. R. No. 754) for the relief of Henry Evrett; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM W. WILCOX.

Mr. HARDING also introduced a bill (H. R. No. 755) for the relief of William W. Wilcox; which was read a first and second time, and referred to the Committee on Military Affairs.

CENTAL STANDARD OF MEASUREMENT.

Mr. PRUYN introduced a bill (H. R. No. 756) to establish the cental standard of measurement for grains, seeds, and cereals; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

BRANCH MINT IN MONTANA.

Mr. CAVANAUGH introduced a bill (H. R. No. 757) to establish a branch mint of the United States in the Territory of Montana; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

MILITARY ROAD IN WASHINGTON TERRITORY.

Mr. FLANDERS introduced a bill (H. R. No. 758) to reopen the military road over the Cœur d'Alene mountains; which was read a first and second time, and referred to the Committee on Military Affairs.

JEWELS IN THE TREASURY.

Mr. O'NEILL introduced a joint resolution (H. R. No. 208) directing the Treasurer of the United States to open a certain wooden box, marked "jewels," which has been many years in the vault of the Treasury, and to report the contents thereof to Congress; which was read a first and second time, and referred to the Committee on Commerce.

CANALS, ETC., THROUGH PUBLIC LANDS.

Mr. JOHNSON introduced a bill (H. R. No. 759) extending the provisions of an act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes;" which was read a first and second time, and referred to the Committee on Public Lands.

LAND TITLES IN CALIFORNIA.

Mr. JOHNSON also introduced a bill (H. R. No. 760) to amend an act entitled "An act to quiet land titles in California," approved July 23, 1861; which was read a first and second time, and referred to the Committee on Public Lands.

WAGON ROAD IN NEW YORK.

Mr. VAN WYCK introduced a bill (H. R. No. 761) to construct a wagon road from West Point, in the county of Orange, State of New York, to Cornwall Landing, in said county; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CALL OF STATES FOR RESOLUTIONS.

The SPEAKER stated the remainder of the morning hour would be devoted to the calling of States for resolutions in reverse order, commencing with the State of Wisconsin, where the call rested on Monday last at the expiration of the morning hour.

PAY TO CLAIMANTS TO SEATS.

Mr. PAINE submitted the following resolution, on which he demanded the previous question:

Resolved, That there be paid out of the contingent fund of the House to G. G. Symes, Samuel E. Smith, John Young Brown, and Thomas H. Birch, each, the sum of $2,500 in full, for time spent and expenses incurred in prosecuting their respective claims to a seat in this House.

Mr. GRAVELY. I desire to offer an amendment.

Mr. PAINE. I offer this at the request of the Committee of Elections, and do not feel at liberty to allow any amendment to be offered.

The SPEAKER. The State of Missouri will probably be called this morning, as the call is proceeding in reverse order.

Mr. PAINE. This resolution is recommended by the Committee of Elections, and is the result of a vote of that committee. I offer it as such.

The previous question was seconded and the main question ordered.

Mr. WILSON, of Iowa, demanded the yeas and nays.

The House divided; and there were—ayes eighteen; not a sufficient number.

Mr. WASHBURNE, of Illinois, called for tellers.

The House divided; and there were—ayes twenty-five.

The SPEAKER. That is enough to order the yeas and nays, and if there be no objection they will be considered as ordered.

There was no objection, and it was ordered accordingly.

The question was taken; and it was decided in the negative—yeas 35, nays 90, not voting 64; as follows:

YEAS—Messrs. Archer, James M. Ashley, Axtell, Barnum, Bingham, Bromwell, Cary, Chanler, Dawes, Higby, Holman, Hotchkiss, Asahel W. Hubbard, Jenckes, Johnson, Loan, Lynch, Mallory, McCormick, Mungen, Myers, Paine, Peters, Poland, Robertson, Robinson, Scofield, Sitgreaves, Stone, Thomas, Trowbridge, Upson, Henry D. Washburn, Woodbridge, and Woodward—35.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Baker, Baldwin, Beaman, Beatty, Boutwell, Broomall, Buckland, Burr, Butler, Churchill, Reader W. Clarke, Cobb, Cornell, Covode, Cullom, Dodge, Driggs, Eckley, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Glossbrenner, Gravely, Griswold, Harding, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jones, Judd, Julian, Kelley, Laflin, George V. Lawrence, William Lawrence, Loughridge, Marvin, McCarthy, Mercur, Moorhead, Morgan, Mullins, Newcomb, Nicholson, Nunn, O'Neill, Orth, Perham, Phelps, Pike, Plants, Polsley, Sawyer, Schenck, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taber, Taffe, Taylor, John Trimble, Lawrence S. Trimble, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Wood—90.

NOT VOTING—Messrs. Adams, Bailey, Banks, Barnes, Beck, Benjamin, Benton, Blaine, Blair, Boyer, Brooks, Cake, Sidney Clarke, Coburn, Cook, Dixon, Donnelly, Ela, Farnsworth, Finney, Fox, Garfield, Getz, Golladay, Grover, Haight, Halsey, Hawkins, Hill, Hooper, Richard D. Hubbard, Humphrey, Kelsey, Kerr, Ketcham, Kitchen, Knott, Koontz, Lincoln, Logan, Marshall, Maynard, McClurg, McCullough, Miller, Moore, Morrell, Morrissey, Niblack, Pile, Pomeroy, Price, Pruyn, Randall, Raum, Ross, Shellabarger, Thaddeus Stevens, Stewart, Twichell, Van Auken, Robert T. Van Horn, Ward, and William Williams—64.

So the resolution was rejected.

PACIFIC RAILROAD RATES.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I introduce a joint resolution to provide for the regulation of fare on the lines of the Pacific railway.

The joint resolution was read a first and second time. It is as follows:

Be it resolved, &c., That the Secretary of War, the Secretary of the Interior, and the Attorney General of the United States are hereby constituted a board of commissioners, whose duty it shall be, on the 1st day of July in each and every year, to fix and establish a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just, and shall not exceed double the average rates charged on the lines of railroad between the Mississippi river and the Atlantic ocean on parallels of latitude north of St. Louis, Missouri; and the said railroad companies shall not charge a sum in excess of the rates fixed by said board, nor said railroad companies make any contract to give terms and privileges to any express company which are denied to any other express company.

Mr. WASHBURN, of Wisconsin, demanded the previous question.

The SPEAKER. The question is on seconding the previous question on ordering the joint resolution to be engrossed and read a third time.

The House divided; and there were—ayes 30, noes 54; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. CHANLER, and Mr. WASHBURN of Wisconsin.

The House again divided; and the tellers reported—ayes 36, noes 65.

So the previous question was not seconded.

Mr. HOLMAN. I move, in order to test the sense of the House, that the joint resolution be laid on the table; and on that motion demand the yeas and nays, intending to vote against it myself.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 65, not voting 51; as follows:

YEAS—Messrs. Adams, Ames, Anderson, Archer, Arnell, James M. Ashley, Axtell, Baldwin, Barnum, Beck, Benton, Bingham, Brooks, Buckland, Burr, Butler, Cary, Chanler, Cornell, Dodge, Eliot, Farnsworth, Ferriss, Golladay, Gravely, Griswold, Grover, Harding, Hooper, Humphrey, Ingersoll, Johnson, Jones, Kelley, Kerr, Knott, George V. Lawrence, Lincoln, Mallory, Marvin, McCarthy, McClurg, McCormick, Mercur, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Phelps, Poland, Robertson, Robinson, Scofield, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Stewart, Stokes, Stone, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Aernam, Robert T. Van Horn, William B. Washburn, Welker, John T. Wilson, Stephen F. Wilson, and Woodbridge—73.

NAYS—Messrs. Allison, Delos R. Ashley, Baker, Banks, Beaman, Beatty, Bromwell, Broomall, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cullom, Driggs, Eldridge, Ferry, Fields, Glossbrenner, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Judd, Julian, Kelsey, Kitchen, Laflin, William Lawrence, Loan, Logan, Loughridge, Moorhead, Morgan, Mullins, Orth, Paine, Perham, Pike, Pile, Plants, Polsley, Pruyn, Raum, Sawyer, Schenck, Shanks, Spalding, Taffe, Thomas, Trowbridge, Van Auken, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Windom, and Wood—65.

NOT VOTING—Messrs. Bailey, Barnes, Benjamin, Blaine, Blair, Boutwell, Boyer, Cake, Cook, Covode, Dawes, Dixon, Donnelly, Eckley, Eggleston, Ela, Finney, Fox, Garfield, Getz, Haight, Halsey, Hawkins, Hill, Asahel W. Hubbard, Richard D. Hubbard, Ketcham, Koontz, Lynch, Marshall, Maynard, McCullough, Miller, Moore, Morrell, Morrissey, Mungen, Peters, Pomeroy, Price, Randall, Ross, Selye, Shellabarger, Thaddeus Stevens, Taber, Taylor, Ward, Thomas Williams, William Williams, and Woodward—51.

So the joint resolution was laid on the table.

During the roll-call,

Mr. HUNTER stated that his colleague was confined to his room by sickness.

The result having been announced as above recorded,

The SPEAKER stated that the morning hour had expired during the roll-call.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BANKS. I ask the consent of the House that the bill concerning the rights of American citizens in foreign States, which was recommitted last week to the Committee on Foreign Affairs, may be reported at any time after the morning hour.

Mr. WASHBURNE, of Illinois. I object.

Mr. BANKS. I move to suspend the rules, to allow the Committee on Foreign Affairs to report the bill at any time after the morning hour.

The motion was agreed to—ayes 84, noes 25.

LEAVE OF ABSENCE.

Mr. VAN HORN, of Missouri, and Mr. GARFIELD were granted leave of absence for ten days.

PERSONAL EXPLANATION.

Mr. WASHBURNE, of Illinois, obtained the floor to make a motion that the House resolve itself into the Committee of the Whole on the consular and diplomatic appropriation bill, but yielded to

Mr. WASHBURN, of Massachusetts, who said: I desire to occupy a single moment for a personal explanation. I ask the Clerk to read the following paragraph from the report of the House proceedings by the Associated Press.

The Clerk read as follows:

"Mr. BUTLER said he had his information from a member of the House, [Mr. WASHBURN, of Massachusetts,] who had himself made the bargain and received the $10,000 forfeit from Harvey."

I simply wish to say that I know nothing about the transaction referred to. I had nothing to do with it. I opposed the extension simply on the ground which I stated in my remarks, that the Government had done all that it was under any obligation to do to this patentee, and believing that it would do away with the monopoly and throw the improvement open to the public to use. The statement, so far as I am concerned, is wholly false. I never had any interest directly or indirectly, and my colleague did not mention my name. How the press should have given my name I do not know.

Mr. BUTLER. Allow me one moment. I did not make the statement that I received the information from my colleague, [Mr. WASHBURN.] I did not receive it from him. I did receive it from my colleague from the second district of Massachusetts, [Mr. AMES,] and it was correct in every respect.

Mr. MYERS. Will the gentleman from Illinois yield to me a moment?

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. MYERS. The explanation made this morning, in my opinion, renders it necessary for me to make a statement.

Mr. WASHBURNE, of Illinois. I do not yield.

Mr. MYERS. I move to suspend the rules.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] has the floor to make that motion for the purpose of taking up the consular and diplomatic appropriation bill.

Mr. WASHBURNE, of Illinois. I will yield when the House comes out of the Committee of the Whole.

Mr. MYERS. Now is the proper time.

Mr. WASHBURNE, of Illinois. I do not see that the gentleman is involved.

Mr. MYERS. I am the judge of that. It is on behalf of the Committee on Patents I wish to make the statement.

The SPEAKER. How long a time does the gentleman ask?

Mr. MYERS. Not more than five minutes.

Mr. WASHBURNE, of Illinois. I suppose I shall have to yield.

Mr. MYERS. Mr. Speaker, the House will recollect that on Friday a bill, reported unanimously by the Committee on Patents, was defeated in this House. One year ago a bill to the same effect was defeated in this House by the production of a paper forged by somebody. The highly honorable gentleman who presented it upon this floor, now no longer a member, knew nothing of its character when he presented it. But the bill was defeated by that false statement purporting that the patent would not inure to the benefit of the parties whom the Committee on Patents had drawn it to inure in favor of, but of some monopoly; it was a paper sent here by the monopolists themselves. On Friday, in spite of the unanimous recommendation of the Committee on Patents, in spite of the fact that they had examined the testimony and these parties had declined to come before the committee, statements were again made upon this floor. One by the gentleman from Massachusetts [Mr. BUTLER] and another a statement read from a newspaper by the gentleman from New York, [Mr. VAN WYCK.] Those statements the Committee on Patents do not believe to be correct; and, sir, I give notice now that I shall introduce that bill substantially as it was with this proviso, that if ever the patent shall come into the possession of the American Screw Company the extension shall be void. That will protect the widow and heirs if anything else will protect them upon this floor, and then those gentlemen who make newspaper statements to defeat parties who come here with a proper case, against the unanimous recommendation of the committee, can be heard before that committee. I give notice now that I will introduce that bill in order that these parties shall have justice. If an explanation had not been made by one of the gentlemen who defeated the bill I would not have made this statement. It is not an explanation, but a justification of the Committee on Patents.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union, and proceed to the consideration of the bill (H. R. No. 718) making appropriations for the

consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes; and pending that motion I move that all general debate on the bill shall close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I now move that all debate on the pending paragraph of the bill shall close in five minutes after the committee shall resume the consideration of the same.

The motion was agreed to.

The question was then taken on the motion to go into the Committee of the Whole on the state of the Union, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair,) and resumed the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The CHAIRMAN stated the pending question to be upon the amendment offered by Mr. BUTLER on Saturday, to insert the word "Greece" after "Turkey," on page 2, line twelve.

The question was taken; and the amendment was agreed to.

Mr. PRUYN. I move to insert after "Greece" the words "the Papal States." The mission to Rome, one of the most important in Europe in many respects, was terminated very abruptly in the Thirty-Ninth Congress on information which was proved to be wholly unreliable, or in which the House had been totally misled, no doubt very honestly, by parties who supposed occurrences had taken place at Rome which really never happened. The difficulty grew out of the observance of religious worship by certain persons connected, I think, with the Scotch Presbyterian Church, who had been molested, as they claimed, by the Roman Government, but who, as soon as the facts were understood by the American minister, had their place of worship protected by American arms and their rights were thenceforth respected as fully as those of other Protestants in Rome.

There was another reason for it. I was not a member of the Thirty-Ninth Congress, but, if I recollect aright, the debate shows that Congress was willing at that time to discontinue the mission to Rome for the reason that the effort to unite Italy under one Government might and probably would be successful. That effort has been thwarted by the Italian Government itself during the last year, and the independence of the Pontifical States has been guarantied, as it were, so far as the Italian Government can secure it, for some time to come.

Now, sir, we certainly do not want to throw any barrier in the way of forming a united Italy. But as long as Italy itself has taken the position she has in relation to the matter it seems to me that we should continue, or, if you please, provide for a mission to Rome. I have therefore moved the amendment I have indicated; and if it is adopted I will then move the necessary increase of the appropriation. The brief time allowed me will not permit me to go into detail, or I could go very much more into the subject.

Mr. WASHBURNE, of Illinois. As debate is to be closed after five minutes I desire to say only one word in reply to the gentleman from New York, [Mr. PRUYN.] The Committee on Appropriations purposely omitted the appropriation for the Papal States from the bill because it was omitted by the last Congress for good and sufficient reasons.

Mr. PRUYN. That was done under a misapprehension.

Mr. WASHBURNE, of Illinois. I think there was no mistake. The action of Congress was founded upon the action of the Papal States against our own citizens in Rome. Our minister there has now returned home and is now in this country. I think there is no necessity for re-establishing this mission, and I hope it will not be done.

Mr. WILLIAMS, of Pennsylvania. I desire to say a word or two.

The CHAIRMAN. All debate on this paragraph has been closed by order of the House.

The question was then taken upon the amendment of Mr. PRUYN, and upon a division there were—ayes fourteen, noes not counted.

So the amendment was not agreed to.

Mr. BROOKS. I suppose I must move an amendment in order to get the opportunity to say anything. I therefore move to amend by inserting "the Borghese Gardens, in the vicinity of Rome."

The CHAIRMAN. The Chair will state that, by order of the House, all debate on this paragraph has closed.

Mr. BROOKS. Then there is no use in moving an amendment.

No further amendment being offered to the pending paragraph,

The next paragraph was read as follows:

For salaries of secretaries of legation, as follows: At London and Paris, $2,625 each.

Mr. WILLIAMS, of Pennsylvania. I desire to move an amendment to the paragraph in relation to envoys extraordinary, &c.

The CHAIRMAN. That paragraph has been passed, and the next paragraph has been read by the Clerk.

Mr. WILLIAMS, of Pennsylvania. I desired to offer an amendment, and tried several times to do so.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania [Mr. WILLIAMS] will be allowed to offer his amendment without objection.

Mr. WOOD. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WOOD. I think the House did not intend to cut off all opportunity for gentlemen to move any amendment they please to the paragraph in relation to envoys, &c. I understand the ruling of the Chair to be that all amendments and opportunities to move amendments to that paragraph have been cut off by order of the House.

The CHAIRMAN. The gentleman misapprehends the ruling of the Chair. The House ordered that all debate upon that paragraph should be closed after the Committee of the Whole resumed its consideration. But the clause having been passed, it is not in order to go back except by unanimous consent.

Mr. WOOD. Several gentlemen desire to offer amendments to that paragraph, even though they may not debate them.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WILLIAMS] will be allowed to offer his amendment if there be no objection.

No objection was made.

Mr. WILLIAMS, of Pennsylvania. I now move to amend the paragraph providing for "salaries of envoys extraordinary, ministers, and commissioners" by striking out the words "Ecuador, New Granada, Bolivia, Venezuela, Guatemala, Nicaragua, Costa Rica, Honduras, Argentine Confederation, Paraguay, and Salvador." Now, I desire to say a word or two upon this amendment.

The CHAIRMAN. The House has ordered all debate on this paragraph to be closed in five minutes after the committee resumed its consideration.

Mr. WILLIAMS, of Pennsylvania. I have always understood the construction of that rule to be that so much time was allowed to each amendment moved in Committee of the Whole. In that I may be mistaken.

The CHAIRMAN. The gentleman is correct when the House orders all general debate to be closed. But in this case the House ordered that all debate, including debate under the five minutes' rule, upon this paragraph, shall be closed.

Mr. BROOKS. I desire to say that it seems to be the opinion of gentlemen about me that debate was closed only upon "Greece" and "Ecuador." It is not to be presumed that the House would close debate on all these important missions. Here are a dozen of them, all of them important. My impression was that debate was closed only upon "Greece" and "Ecuador," and upon nothing else.

The CHAIRMAN. The Chair can only enforce the order of the House. The proposition was made in the House by the gentleman from Illinois [Mr. WASHBURNE] to close all debate upon the pending paragraph in five minutes after its consideration was resumed by the Committee of the Whole, and that proposition was adopted by the House.

Mr. BROOKS. In order that we may have an understanding on this subject I move that the committee rise.

On the motion there were—ayes 37, noes 17; no quorum voting.

Tellers were ordered; and Mr. WOOD and Mr. WASHBURNE, of Illinois, were appointed.

The committee divided; and the tellers reported—ayes sixty-two, noes not counted.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally and particularly bill of the House No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th of June, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which debate on the pending paragraph was limited to five minutes. I desire to move that the limit be fifteen minutes, and I hope this will be agreed to by unanimous consent.

Mr. BROOKS. Fifteen minutes is too small a time. It does not allow three minutes to each nation. Here are ten or twelve different nations, and some of them of a good deal of importance. I have never known the House to impose such a limit upon debate on this subject. This is the only opportunity we have to discuss the foreign relations of the country or to ascertain anything about them.

The SPEAKER. The question is upon the motion to reconsider the vote by which debate in Committee of the Whole on the pending paragraph was limited to five minutes.

The motion was agreed to.

The SPEAKER. The question now recurs, on the motion of the gentleman from Illinois, [Mr. WASHBURNE,] to limit debate in Committee of the Whole on the pending paragraph to five minutes.

Mr. WASHBURNE, of Illinois. I withdraw that motion, and move that all debate in Committee of the Whole on the pending paragraph be closed in fifteen minutes.

Mr. BROOKS. That is too short a time.

Mr. WASHBURNE, of Illinois. How much time does the gentleman desire?

Mr. BROOKS. Five minutes on each amendment.

Mr. WASHBURNE, of Illinois. I withdraw the motion to limit debate. Let gentlemen take their own time.

The SPEAKER. The motion to limit debate being withdrawn, debate in Committee of the Whole will be governed by the five-minute rule upon amendments.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union and resume the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair.) and resumed the consideration of the bill (H. R. No. 718) making appropriations for the consu-

lar and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The pending amendment, offered by Mr. WILLIAMS, of Pennsylvania, was read as follows:

Strike out in the pending paragraph the following: Ecuador, New Granada, Bolivia, Venezuela, Guatemala, Nicaragua, Costa Rica, Honduras, Argentine Confederation, Paraguay, and Salvador.

Mr. WILLIAMS, of Pennsylvania. Mr. Chairman, the amendment which I have offered contemplates a modification of our diplomatic relations with some of these so-called republics of Central and South America—designated "republics" only by courtesy, for they are anything else than republics, and they never will become republics. I think that in regard to this matter there is a great leak here. My friend, the acting chairman of the Committee on Appropriations, [Mr. WASHBURNE, of Illinois,] has acquired a large reputation throughout the country as an economist. He is supposed to sit here as the guardian of the Treasury chest. Now, I agree with him in his desire for economy, and I generally vote with him on his amendments. I am rather surprised that the gentleman should have overlooked a matter of this sort, which calls so loudly for action at the hands of Congress.

Now, sir, what are these so-called republics? What is the extent of their commerce and their population? And what is the character of their population? Why, some of these States to which we send ministers resident have a population of about three hundred and fifty thousand souls, few of them over a million. Even Peru, Chili, Mexico, and Brazil, to which we send these more expensive missions, have populations of no considerable numbers.

What is the commerce of these countries that we should indulge in this large expenditure for the purpose of keeping up with them relations of this sort? Is there any necessity that we should have there any higher representatives than consuls? Cannot the case be fully provided for in that way? I believe that for all these little Central American States—Guatemala, Nicaragua, Honduras, Bolivia, &c.—I cannot undertake to name them all—one or two consuls could do all that is required for the interests of this nation. The commerce in this case is of small consequence. It amounts to nothing. Who are the people? Generally wild Indians. An embassador may find the capital after some difficulty; but if he find a court, if he find a people, he must be a fortunate man. Most of them are native Indians. There are three races there. There is the Spanish race, there is the negro race; then there are endless intermixtures which would puzzle the ingenuity of Humboldt to name. I am sure it would baffle the ingenuity of my ethnological friend from New York [Mr. BROOKS] to assign to them names. Yet, sir, we send full embassadors to these people. Now, I propose to supply their places with consuls. I have not changed the amount of the appropriation, for I have not had the time to make the necessary reduction if my proposition should be adopted. That can be done hereafter. I suggest now that we strike out these missions and make provision for commercial agencies. They will answer all the purposes we have for representatives there. I do not see why we should send them full missions when we do not send them to kingdoms in Europe.

I call on the gentleman from Illinois [Mr. WASHBURNE] to stand by me in this matter. He can here really save something to the Government. The saving by putting the hand upon the spigot and letting it run out at the bung, thus wasting away the resources of the country, is not what I advocate. I ask him to come up now and aid me with his vote in this matter, so when he returns to his constituents and they complain of extravagance in Government expenditures he can say "Thou canst not say I did it."

Mr. WASHBURNE, of Illinois. Mr. Chairman, I have only one word to say in reply to the gentleman from Pennsylvania, [Mr. WILLIAMS.] The Committee on Appropriations found all these little republics represented by ministers to the United States, and that our ministers were there representing this great Republic in those smaller republics.

Mr. WILLIAMS, of Pennsylvania. That is the trouble—that they are there.

Mr. WASHBURNE, of Illinois. Finding that to be the case the committee reported under the law the necessary appropriations. I tell the gentleman from Pennsylvania I am utterly indifferent to what the House does. I do not care whether our country is represented there or not. It is for gentlemen to determine whether they will strike out the appropriations for our representatives to these sister republics.

Mr. BANKS rose.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. BANKS. I move to amend by providing it shall not take effect until after the present fiscal year.

Mr. Chairman, I have only one word to say in opposition to the proposition of the gentleman from Pennsylvania. I concede there may be some question about the excellence of the Governments to which he refers, but we do not send ministers to foreign Governments because of the peculiar excellence of these Governments. It is with reference to the interests of our own—our own national interests. However imperfect the Government may be it may still be important that our Government should be well represented.

The commerce of the United States—indeed, I may say, of the world—will center ultimately at the isthmus, and our representation there is affected by the gentleman's proposition. The control of the commerce of the eastern and western world will ultimately be across this isthmus. In sending ministers, able men, there to represent the Government of the United States, we send men not to meet the people of those States, but the representatives of other Governments and other nations in other parts of the world. We send ministers there to cope with them in regard to this most important part of the continent of North and South America; and it will be in the last degree unwise to cut off this appropriation for our representatives there. We want the best men we can have there to represent the political and commercial interests of the United States. I hope the amendment will not be adopted.

One word in regard to the South American States. They have a population of some twelve or fifteen million people. Their commerce will be of vast importance to the people of the United States hereafter, because we are in closer proximity to them than any other nation.

Mr. WILLIAMS, of Pennsylvania. That is the population of all South America?

Mr. BANKS. Yes, sir. I speak of our general commercial interests in this part of the country. Great Britain, France, and other nations have had their ablest men there and have had the entire control. We ought never to cease our vigilance over this part of the country. We ought to be represented there by our best men.

Mr. WILLIAMS, of Pennsylvania. What is the commerce of these States?

Mr. BANKS. I know the commerce has been constantly diminishing. While that of Great Britain and France, in those States lying at the very threshold of our country, has been doubling, trebling, and quadrupling, ours has almost entirely disappeared, and it is necessary that we should obtain, by fitting and proper representation, not only that commercial power which we heretofore have enjoyed, but should increase it in accordance with the growing commerce of this country. To send a consular agent there is to dwindle the representation of the United States to a mere trading agency, whereas our interest is not only commercial in its largest sense, but in a very great degree political, and of the highest importance.

Mr. BUTLER. I rise to oppose the amendment. I think the argument of my colleague is suicidal in this: he says that the commerce of these nations has been constantly diminishing. Well, sir, if while we have had ministers there our commerce was constantly diminishing, let us try awhile without a minister and see if it will not increase. I think we ought to have some change if the statement of my colleague is correct, as I have no doubt it is.

Mr. BANKS. I say that our commerce has been swept from the sea by other nations, and we want to regain our power. Therefore it is important that we have resident ministers there.

Mr. BUTLER. The fact of having ministers resident there or not has no effect upon our commerce. I cannot go as sweepingly into this amendment as my friend from Pennsylvania, [Mr. WILLIAMS.] I desire that we shall take the vote separately on each one of these States. I do not understand that there is any necessity for having a minister at Ecuador or Bolivia or Guatemala, and I do not believe there is any necessity for a mission at the Argentine Confederation. But as regards Costa Rica, Honduras, and Nicaragua, I would concur with my colleague. In the present state of our commerce I think there is a necessity for covering these States of Central America. I hope, therefore, that the different countries will be voted upon separately.

The CHAIRMAN. Debate is exhausted on the pending amendment, and the Chair understands it is withdrawn.

Mr. PIKE. I renew it. It seems to me the diminution of missions is made in the wrong place—that we should rather diminish the number in Europe than in Central America. I have no objection to a partial diminution. I notice that several of these countries have no minister resident here now. Ecuador is one. But if I understand the theory of sending ministers abroad, it is this: that a minister resident or plenipotentiary, or whatever name you may give him, is a man who attends to the political relations of this Government abroad. A consul is a man who attends to commercial relations.

Now, I do not know what political relations we have with several of the European Governments. I do not know what we have with Belgium or Holland or Denmark or Sweden that makes it a matter of the slightest consequence whether we have a minister there or not; but it is of consequence that we should have some commercial agents there. Our commerce with those countries is very small. Our European commerce, under our infamous navigation laws, has been diminishing constantly until we have scarcely any importations from Europe in American bottoms. Nine tenths of our foreign importations come in foreign bottoms, and whatever change there may be it should rather be in the political representation abroad than in the commercial relations. I see not the slightest objection to economizing in the matter of political representation abroad. It is of vast consequence to the material interest of this Government that we should take care of our commercial representation by beginning to take care of our commercial laws at home.

Mr. WOOD. I rise to oppose the amendment. I hope the House will hesitate before it takes any step toward curtailing representation abroad. Neither in South America nor in any part of Europe exists any Government or any people where the interests of the United States may not be found. Therefore, in our efforts to economize the expenditures of the Government, let us devote our attention to some other things than curtailing the representation of this country in foreign lands, where not only our institutions are now and may be of grave interest to the people resident there, but where we have commercial and political interests of very great importance.

The gentleman from Pennsylvania [Mr. WILLIAMS] moves to strike out certain representatives to the South American republics, and he specifies the Argentine Confederation. Is he not aware that the city of Buenos Ayres, located in that country, is one of the principal seaports

from which we derive three fourths of the foreign hides that come to this country, that we have a very extensive American interest there, that there are probably from three to five million dollars of American capital invested in the city of Buenos Ayres, and that that great city is located on a harbor that is connected with a river that leads up into the interior of South America, opening new avenues of commerce and new objects for the investment of American capital, and where are being established interests that require the grave protection and care of the Government of the United States?

So, sir, with reference to Valparaiso, on the Pacific. It is proposed to cut off our representative to that country. This is all wrong. While, upon the one hand, it may be said that our commerce—that is, our tonnage—is decreasing, yet American commerce, I submit, is not decreasing. The same amount of commerce which existed before exists yet and is increasing, the only difference being that it is carried on in foreign bottoms and not in American bottoms; but there is no part of the world where we had any foreign intercourse ten years ago where we have it not now. On the contrary, our intercourse with all parts of the globe is constantly increasing and enlarging, and therefore it is that we require these embassadors. We require them, not only for the purpose of protecting American capital there, not only for the protection of American commerce, but for the purpose of explaining the institutions of this country to the thousands and hundreds of thousands and millions of the residents of these countries who are looking to this great nation to find homes, to find freedom, to find republican safety, and to come here and become Americans and help develop the greatness of this land. I hope, therefore, that the proposition to strike out these appropriations will not be adopted by the committee.

Mr. PIKE. I withdraw my amendment to the amendment.

Mr. KELLEY. I renew it for the purpose of saying that I am very much surprised that my colleague [Mr. WILLIAMS] should have made a proposition of this kind at this time. The idea of extending the influence of our country over this continent never possessed the people more fully than it does at this time. We are about to be called upon—we are called upon—to make an appropriation of over seven million dollars in gold for buying the coldest and wettest point of the continent upon the theory of extending American influence. If we withdraw our ministers from these republics, made up of different races as they may be, speaking different languages as the people may do, but lying upon our borders, upon our own continent, we leave them open to the machinations of European influence; and I believe, sir, that an able minister, speaking the language of the court, the church, and the market-place of these countries, located at Guatemala, could exercise in behalf of our country in that whole region the power that Great Britain has exercised and is exercising in Turkey, through the influence of Sir Stratford de Redcliffe.

Our commerce, having been paralyzed by war, is again reviving with these countries. We had lost entirely our export trade of cotton goods into Mexico and these countries. Within the last three months we have sent about thirty thousand packages. The number we were sending into these countries per annum before the war was about seventy-five thousand packages. I know the amendment does not embrace Mexico, but the countries lying conterminous or south of Mexico enter into that trade.

I would rather, sir, as has been suggested by the gentleman from Maine, [Mr. PIKE,] see our ministers withdrawn from a number of European States than from any one of these neighboring republics that should find moral support in our example, and should be influenced by that example. I call them republics because they so call themselves, and they will sooner become pure republics if American influence is permitted to pervade them than if it is withdrawn from them and they are surrendered to the manipulations of ministers from the other side of the water. I believe it is right by every means in our power to promote the political influence of this people and of this Government in every part of Central and South America.

Sir, the natural course of international trade is across degrees of latitude. These southerly States produce an infinite number of commodities that we need; we manufacture an infinite number of articles that they need. We now make our exchanges with them through London. Now, I want to maintain our national influence through prompt direct exchanges between New York and the ports in those States, and between San Francisco and the ports of such of them as lie upon the Pacific. I hope that every one of these missions will be maintained. I believe in the Monroe doctrine, and that is the way to maintain it.

[Here the hammer fell.]

Mr. CHANLER. I would support the amendment originally introduced by the gentleman from Pennsylvania [Mr. WILLIAMS] if he had made it universal, or if he had provided to withdraw our ministers from the courts of those nations with whom we have real cause of grievance, and had not based it upon a vague attack upon republican Governments, while he makes no assertion in behalf of a consular system in England, France, and Germany, or those countries against which we have at this moment serious charges for delinquencies during the late war and for serious injuries done by them to our commerce. I am astonished by the silence of the gentleman on that subject.

Now, if we are to institute a new system of diplomacy, it will require a new organization of our Government. It cannot be brought in here piecemeal by cutting off our communications with the States in South America and Central America. Nor can it be done by adding on in piecemeal a remote kingdom like Greece, while we are cutting off a republic like Venezuela or Guatemala.

Now, one gentleman says he sees no use for ministers to these South American States because our commercial relations with them are very limited. I hold in my hands McCulloch's Commercial Dictionary for 1866, from which, under the heading "Greece," showing the total number of vessels entered at ports in Greece in the foreign and coasting trade during the year 1860 for the nations named in the table:

Nationality.	*Number.*	*No. of tons.*
British	307	137,835
American	2	693
Austrian	612	195,722
Egyptian	7	1,213
French	307	145,181
Dutch	17	2,675

In 1860 the United States had two vessels in all the ports of Greece. Yet, on the decks of those two vessels the gentleman from Massachusetts [Mr. BUTLER] floats into this House and calls for an appropriation for a minister to Greece, while at the same time he turns around and assails the American republics. Greece was once a republic; and it may be that the glory of republican institutions which still haunts the ruins of the Parthenon and of Acropolis nightly visits the distinguished gentleman from Massachusetts, [Mr. BUTLER,] and this has produced this discrepancy in his estimate of the importance of our commercial relations with republics on the one side and kingdoms on the other.

I do not oppose an appropriation for the appointment of a minister to Greece. The inconsistency of this assault, this one-handed, broken-backed assault upon the republics of South America, in order to excuse the interpolation of a new kingdom among the Powers to which we are to send ministers, is not only wrong but unreasonable.

With regard, however, to the general merit of a reform of the system of diplomacy in this country I have this to say: European diplomacy is based upon the idea that the royal person is represented by a minister. We do not recognize that principle in our Government. The law of European diplomacy is simply this: that whenever the king dies his representative to any other Government ceases to have any official existence until reappointed by his successor. This is, therefore, it seems to me, introducing in a republic a recognition of a monarchical system.

[Here the hammer fell.]

The question was upon the amendment offered by Mr. KELLEY to the amendment offered by Mr. WILLIAMS, of Pennsylvania.

The amendment to the amendment was withdrawn.

Mr. LOGAN. I renew the amendment to the amendment. I desire to say that I have prepared an amendment which I propose to offer at the proper time. I think it will settle the difficulty in reference to the appellation of these men who are sent to the small republics, inasmuch as my friend from Pennsylvania [Mr. WILLIAMS] mentioned the fact of the purchases we have been making recently, and being as I am in favor of extending our area I ask that the amendment I have proposed be read by the Clerk.

The Clerk read the amendment, as follows:

Insert the following:

That the Secretary of State shall be empowered to appoint some suitable person to become the agent of the United States, under the advice and instruction of the State Department, to at once enter into negotiations for the purchase of empires, kingdoms, rebellions, wars, volcanoes, icebergs, snow and rain storms, earthquakes, or submerged and undiscovered islands; and that he be first instructed to negotiate for the purchase of the kingdom of Great Britain. In the event the said kingdom shall not be for sale, he will negotiate for a war: *Provided*, Said war shall not cost or exceed $15,000,000, and shall not last over sixty days. The amount contracted to be paid by said agent for any purchase made in pursuance hereof shall be liquidated in the following manner, to wit: Russian bears at ten dollars each, the purchaser to take them as they run; walruses at one dollar each, purchaser to catch them at his own expense, (Sitka Indians to be thrown in without cost;) icebergs at twenty-five cents per ton, purchaser to break his own ice; rain storms one cent per barrel, purchaser to furnish his own barrels; volcanoes at fifty dollars each, with a stipulation that said volcanoes shall not throw up the contract. Earthquakes at ten dollars each, with a stipulation that they shall not shake our confidence in the State Department. The title to all of which shall be certified by the Secretary of State.

Mr. WILLIAMS, of Pennsylvania. I have a statistical table which I desire to read, that the House may know a little of the condition of some of the countries named in my amendment.

Mr. WASHBURNE, of Illinois. I rise to a question of order, that the amendment of my colleague [Mr. LOGAN] is not in order.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania [Mr. KELLEY] as withdrawing his amendment. The gentleman from Illinois [Mr. LOGAN] then renewed it, and had read for the information of the committee another amendment. The pending amendment is that originally offered by the gentleman from Maine; and the gentleman from Pennsylvania, [Mr. WILLIAMS,] as the Chair understands, rises to oppose the amendment.

Mr. WILLIAMS, of Pennsylvania. Mr. Chairman, gentlemen cannot be expected to be familiar with the statistics of these countries, and they will, I think, be a little surprised when they hear what I am prepared to show them. I submit the following table, exhibiting the population and commerce of these Central and South American States, the commerce being indicated by the imports, in which we are most likely to be interested:

	Population.	*Imports.*
Venezuela	1,361,386	$6,996,000
New Granada	2,363,054	3,255,000
Ecuador	1,108,074	2,626,000
Bolivia	1,957,352	1,359,000
Brazil	7,677,800	127,268,000
Argentine Republic	821,800	2,310,000
Buenos Ayres	303,355	11,394,000
Paraguay	7,337,431	1,113,000
Uraguay	177,300	4,586,000
Chili	1,439,120	26,764,000
Peru	2,106,492	15,319,000
Guatemala	850,000	1,529,000
Salvador	394,000	1,306,000
Honduras	350,000	762,000
Nicaragua	300,000	160,000
Costa Rica	125,000	1,000,000

I wish now to say a word in reference to the argument which has been used by my colleague, [Mr. KELLEY.] He puts this case, not on the ground of political relations, nor on the ground of commercial necessity, but merely upon the general idea of propagandism. He holds that we must spread our republican institutions or ideas, in conformity with the Monroe doctrine, all over this continent. In that view of the case, I beg leave to say to my colleague that he must find another class of people to be indoctrinated upon these questions. He must settle with a new race, one more akin to our own, that vast portion of the continent of America, if he desires to have the people there understand what republican institutions are. There have been large experiments in that direction in all of those States; and what have been the results? Have they republican governments? Have they any governments at all except mere dictatorships? What conception have the people there of the republican ideas upon which this nation is founded? None. And let me say here, taking history and the experience of the past as my guide upon this subject, that you cannot impose upon that race of men or upon any other a civilization that does not belong to them, that is not evolved from the very genius and character of the race itself. That is my notion.

Mr. Chairman, if this were a new question, would any gentleman in this House, in the present condition of those so-called republics, vote a dollar of appropriation in this direction, or consent to the establishment of missions of this sort in those little States? They are not republics. But, sir, they are now occupied by decayed politicians. They are mere lazar houses, or hospitals for that purpose. All these gentlemen have their friends here; for he is an unfortunate man who has not some friends in the Congress of the United States. Therefore I will consent when the vote is taken, by way of dividing the aggregate force of the friends of these embassadors, that the vote shall be taken separately in regard to each one of these several provinces.

Mr. WASHBURNE, of Illinois. I ask for a vote on the amendment of the gentleman from Pennsylvania.

Mr. MUNGEN. I rise to a question of order. I wish to inquire whether it is in order to strike out two words in line thirteen?

The CHAIRMAN. What are the words?

Mr. MUNGEN. Sandwich Islands.

The CHAIRMAN. It is in order.

Mr. MUNGEN. I move to strike out the words "Sandwich Islands."

Mr. Chairman, I cannot for my life see how my friend from Pennsylvania [Mr. WILLIAMS] takes the position he does. He strikes down the representatives to these republics and yet favors the keeping up a full diplomatic connection with the petty monarchy of the Sandwich Islands. He says you cannot force a republican Government upon the mongrel people of the Central American States and republics. I am glad to know that the gentleman has been converted to my ethnological views of the distinction in the human races. [Laughter.]

But, sir, jesting aside, I insist that the New Granada ports are the most important ports on this continent next to New York. It is in importance second only to the port of New York. Aspinwall has thirty steamers a month. The gentlemen who represent the Pacific slope and are interested in the trade of San Francisco will tell you that New Granada is a most important point to them in a commercial point of view. I do not, therefore, understand why we should not have a representative at New Granada, as we have had before.

Mr. Chairman, it will not take more than $50,000 to pay for all of these diplomatic representatives to our sister American republics. To refuse to appropriate it is like saving at a gimlet-hole while it is running out at the bung. It is a system of economy I am not in favor of. If we are to cut them off for San Salvador, Guatemala, Ecuador, New Granada, the Argentine Confederation, and all the others, then we ought, to be consistent, to cut off the Sandwich Islands, which is a monarchy represented by Queen Emma or some other Hottentot. I beg her Majesty's pardon.

The gentleman referred to the population of Costa Rica. I venture the assertion it has a greater population than the Sandwich Islands, and that it is more valuable to our commercial interests than are the Sandwich Islands. I know we have a consul now to the Sandwich Islands, at Honolulu, and I believe him to be a good man, in a Pickwickian sense.

I agree that these smaller republics are occupied by a mixed people. That should be no objection to the gentleman from Pennsylvania. In less than six months, by the efforts of his party, we will have mixed races upon this floor. We will have sand color, coffee color, black, white, and all the other colors. But, in justice to the people of these republics of Central America, I must say they are far superior to the blacks we are now asked to admit to an equality with us. If we cannot force a republican form of government upon the Central American States, as the gentleman claims, then why favor negro suffrage and equality at the South, as well as on this floor, and in the North? Why give suffrage in our own country to a far inferior race, while it is admitted that the mixed and, as admitted, inferior races are not capable of self-government, or at least of maintaining a republican form of government, in Southern and Central American republics?

Mr. WILLIAMS, of Pennsylvania. On the principle that the gentleman favors the introduction of the Celtic Irishman.

Mr. MUNGEN. The gentleman declared in some remarks last July, in answer to my ethnological remarks on the reconstruction bill, that the Celts had never estabished a republic. Let me call his attention to the fact that the republic of San Marino was Celtic; the Roman republic was Celtic; Greece was Celtic; the maritime Phœnicians were Celtic. All history contradicts him. Now, I want to know where the Anglo-Saxon, as such, has ever established a republic.

Mr. WILLIAMS, of Pennsylvania. In this country.

Mr. MUNGEN. I claim they did not. When the Declaration of Independence was pronounced in this country the author of that immortal instrument, Thomas Jefferson, was a Celt. There was then in these Colonies the Iberian Celt, the Cimbrian Celt, the Caledonian Celt, the Irish Celt. They all combined with some Anglo-Saxons against a Government, not a republic, which boasts that it was and is Anglo-Saxon. There were gallant Celts, such as McDonald——

[Here the hammer fell.]

Mr. MUNGEN. I withdraw the amendment.

Mr. HIGBY. I renew it. There have been several speeches made in reference to this paragraph. Some gentlemen are in favor of striking out some countries and others for striking out others, and in view of all the circumstances I suggest that it would be as well for those who are in favor of such strict economy to vote to strike out the whole. But, as they do not seem to agree as to any one of these missions, I think it would be better for the committee to leave them all in as they stand.

Now, sir, as regards the amendment offered by the gentleman from Pennsylvania, [Mr. WILLIAMS,] I wonder very much that a gentleman of his information, ability, and position should have made so sweeping a proposition as to include the States of Nicaragua and New Granada. We who live on the Pacific coast cannot go to our homes by the ocean except through one of those countries. The whole line of travel of our population to the Pacific coast is through one or the other of those countries; and yet by the amendment it is proposed to cut off all political and commercial relations with them through the diplomatic department of our Government.

Mr. WILLIAMS, of Pennsylvania. If the gentleman will allow me, he is mistaken if he so understood me. I suggested that these political embassies might be dispensed with and commercial agencies substituted, which will accomplish the whole object at a much smaller expense.

Mr. HIGBY. Well, sir, I am utterly opposed to having any change made at this time in the relations existing with those countries. I think the better way is, as has been said here this morning, that we keep up these relations with all the countries on this continent as they have existed heretofore. They claim to be republics. They are trying to pattern after and to assimilate to our own Government, and it is to help these people as well as ourselves that we continue these relations. I trust none of these amendments will be sustained by the committee, but that we will leave this paragraph as it comes from the Committee on Appropriations. I hope we will not eviscerate this paragraph by amending it in any particular.

Mr. WASHBURNE, of Illinois. I rise for the purpose of opposing the amendment *pro forma*; and now I move that the committee rise for the purpose of closing debate.

Mr. NIBLACK. Before that I desire to ask a question.

Mr. ROBINSON. I have been waiting for the pending amendment to be disposed of for the purpose of offering an amendment.

The motion of Mr. WASHBURNE, of Illinois, was agreed to—ayes 36, noes 19.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, and had come to no conclusion thereon.

Mr. ROBINSON. I raise the question of order that the committee rose without a quorum.

The SPEAKER. The Chair does not decide a question of order that arose in Committee of the Whole, when he does not preside. He presumes what the chairman of the Committee of the Whole reports is correct.

Mr. ROBINSON. I desire, then, to know what action is required to enable the chairman of the Committee of the Whole to make a report to the House?

The SPEAKER. If upon a vote on an amendment there should not be a quorum that amendment cannot be reported until there shall be a quorum, and if necessary the roll may be called and absentees sent for.

Mr. WASHBURNE, of Illinois. I move that when the House again resolves itself into the Committee of the Whole all debate on the pending paragraph be terminated in five minutes.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I now move that the House resolve itself into the Committee of the Whole on the state of the Union, and proceed to the consideration of the consular and diplomatic appropriation bill.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union and resumed the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

Mr. BROOKS. What is the state of the question?

The CHAIRMAN. The question is on the amendment of the gentleman from Pennsylvania, [Mr. WILLIAMS.]

Mr. BROOKS. Before the question is taken on that amendment I move to insert after "Salvador" the words "Papal States."

Mr. WASHBURNE, of Illinois. I shall have to make a point of order on that amend-

ment. The committee has already passed upon it and rejected it. There can be no motion to reconsider in the Committee of the Whole.

The CHAIRMAN. The amendment is not offered at the same point in the bill.

Mr. WASHBURNE, of Illinois. The proposition is precisely the same that was offered in another part of the section, and it is certainly out of order.

The CHAIRMAN. The amendment having been offered to the same paragraph and once voted down it is not in order.

Mr. BROOKS. I do not renew the amendment offered by my colleague, [Mr. PRUYN.] His proposition was to insert "Rome." Rome is but a city. I propose to insert the "Papal States."

Mr. PRUYN. The gentleman is mistaken. I moved to insert "Papal States."

Mr. BROOKS. Mr. Chairman, the House has for some years past indulged in a refusal to send a minister to Rome. I hope the House will no longer indulge in that gratification, because the cause which then inspired it no longer exists, and that this minister to Rome, the ancient capital not only of the religious but of the old imperial classical world, will be restored by this bill; and I urge it upon the attention of the House, not alone for religious and political reasons, but for great reasons of state. The Roman Catholic religion, which is spread throughout all parts of our country, in all the States more or less, is a powerful religious denomination whose connection is close and material with Rome, whose priesthood are annually visiting Rome in great numbers, and who receive their inspiration from the Papal States, and hence the Government of the Papal States stands, not only from its political position, entitled to a representative from this country, but above all from its religious position and its close religious connection with this country. I know that Congress hitherto, from causes which I did not understand, for the gratification of passion, abolished this ministry at Rome. I indulge the hope that that feeling, whether it be good or bad, has ceased any longer to interest or to agitate this House, and that the ministry will be restored. The same causes which inspired the establishment of this mission at first now more than ever inspire its continuance. Rome is in the heart of Italy. Rome represents and is the heart of the religious world throughout all parts of the earth. Whatever may be our religious or political opinions Rome has more influence over this earth to-day than it ever had in its palmiest days. A State like that, spreading its influence far beyond its own limited dominions, reaching throughout the whole earth, affecting more or less the whole human population, certainly has a right, or if it has not a right—for no foreign nation has a right—it is our highest political as well as religious interest to maintain a representative at Rome. I repeat that I hope the House will cease any longer to indulge in that passion, or whatever it may be, but will consult the best interests of this country by having a representative at Rome.

The CHAIRMAN. Debate on the pending paragraph is now closed by the order of the House.

Mr. WASHBURNE, of Illinois. I hope the amendment of the gentleman from New York [Mr. BROOKS] will be voted down, and that we will take a vote on the amendment of the gentleman from Pennsylvania, [Mr. WILLIAMS.]

The CHAIRMAN. The amendment offered by the gentleman from Pennsylvania [Mr. WILLIAMS] is the only amendment now pending.

Mr. WILLIAMS, of Pennsylvania. I ask for a division of the question, so as to take a separate vote upon striking out each State.

The CHAIRMAN. A division of the question being called for, the first question before the committee is on striking out "Ecuador."

The question was put; and that portion of the amendment was disagreed to—ayes fifteen, noes not counted.

The next question was upon striking out "New Granada;" and being taken, it was not agreed to.

The next question was upon striking out "Bolivia;" and upon a division, there were—ayes ten, noes not counted.

So it was not agreed to.

The next question was upon striking out "Venezuela;" and being taken, it was not agreed to.

The next question was upon striking out "Guatemala;" and upon a division, there were—ayes nine, noes not counted.

So it was not agreed to.

The next question was upon striking out "Nicaragua;" and upon a division there were—ayes seven, noes not counted.

So it was not agreed to.

The next question was upon striking out "Costa Rica;" and being taken, it was not agreed to.

The next question was upon striking out "Honduras;" and being taken, it was not agreed to.

The next question was upon striking out "Argentine Confederation;" and being taken, it was not agreed to.

The next question was upon striking out "Paraguay;" and being taken, it was not agreed to.

The next question was upon striking out "and Salvador;" and being taken, it was not agreed to.

Mr. BROOKS. I move to amend by inserting "Rome" after "Turkey."

The question was taken; and upon a division there were—ayes 40, noes 42; no quorum voting.

Under the rule tellers were ordered; and Mr. BROOKS and Mr. BLAINE were appointed.

The committee again divided; and the tellers reported that there were—ayes 48, noes 59.

So the amendment of Mr. BROOKS was not agreed to.

No further amendment being offered to that paragraph,

The Clerk read the following:

For contingent expenses of foreign intercourse, $30,000: *Provided*, That this sum shall be expended for purposes of foreign intercourse only.

Mr. SPALDING. I move to amend this paragraph by striking out "$30,000" and inserting "$65,000." The sum named for this item in the estimates which were sent to the Committee on Appropriations was $65,000. Being anxious to economize in all the departments of the Government, the Committee on Appropriations have claimed and exercised the prerogative of cutting down the estimates of the Department from $65,000 to $30,000. I have been informed at the State Department that they cannot carry on these matters of foreign intercourse without the full sum called for, and that they are especially in want of this sum at this time to aid our citizens who are in foreign prisons. I now yield the remainder of my time to the gentleman from New York, [Mr. ROBINSON.]

Mr. ROBINSON. Mr. Chairman, I trust the amendment of the gentleman from Ohio [Mr. SPALDING] will be adopted. The only regret I have in supporting his proposition is that it is not half large enough; I think the sum should be made over one hundred thousand dollars. There is a great contest going on in the world which must be settled. As we stand now, we are in the advanced rank in fighting the battle of the rights of citizens. No nation, no person, has ever attained any great object without cost; and one of the costs which we have to encounter is the imprisonment of our citizens. The defense of those prisoners must be paid in some way, and for that purpose it is proposed to appropriate the pitiful sum of $30,000. Sir, I say here, that is not enough to defend Colonel Warren and Colonel Nagle alone, if we detend no others. We have been blaming the Secretary of State, have been opposing him here, because he did not go to the rescue of our imprisoned citizens with proper aid and counsel. If I thought it would be adopted I would move to amend the amendment so as to increase the sum to $100,000. But as I cannot hope that would succeed I will support the amendment of the gentleman from Ohio. Every person who votes to cut down the amount asked for by the Department, who does not vote in favor of the proposition of the gentleman from Ohio, votes here solemnly, beneath the dome of the Capitol, to send no aid to our citizens in fetters, but to leave them to eternal imprisonment.

Mr. BLAINE. I hope this amendment will not prevail. I would call the attention of the committee to the preceding paragraph, in which we appropriate $50,000 for the contingent expenses of our missions abroad.

Mr. SPALDING. "Contingent expenses of all the missions abroad."

Mr. BLAINE. The $30,000 proposed to be appropriated by the paragraph under consideration is for what is known as "the secret-service fund." Now, if the Secretary of State wishes this fund to enable him to employ counsel for distressed Americans abroad, let him say so. But this amount is given to the State Department and it is never audited; or, if it is audited at all, it is simply upon the order of the President or of the Secretary of State. Nobody knows what becomes of it. If they want it for the purpose of defending and aiding distressed Americans abroad, it need not be secret. There is no necessity of making any secret of that. I think we ought not to have in this Government any such thing as a secret-service fund. At all events, we ought not to have a large fund of that kind; and I strained my convictions when I consented in the committee to support an appropriation of $30,000.

Mr. SPALDING. I desire to state that the estimates included $30,000 for transmitting information backward and forward over the Atlantic telegraph. We have reported no appropriation for that purpose. We propose to appropriate this contingent fund of $30,000, and we make no appropriation whatever for transmitting intelligence by the Atlantic telegraph.

Mr. PRUYN. I move *pro forma* to amend the amendment by striking out "sixty-five" and inserting "seventy," so as to make the appropriation $70,000.

In regard to certain expenses of a miscellaneous character pertaining to the Department of State, we must of necessity intrust that Department with a large discretion. It is impossible for that Department to report to this House in advance the amounts which may be needed for purposes which it cannot foresee. If we are to have a Department of State at all, if we are to keep up our relations with the outside world and maintain the dignity of our national character, we must place in the hands of the officers of the Government a sufficient amount for that purpose. I am sorry that the gentleman from Maine, [Mr. BLAINE,] who opposes this amendment, has failed to manifest on this occasion his usual liberality. I trust that the House will vote the amount which the gentleman from Ohio, [Mr. SPALDING,] who has investigated this subject, names in his amendment as the proper sum to be appropriated. I withdraw my amendment, and will support that of the gentleman from Ohio.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I rise to oppose the amendment. I trust that the committee will not adopt it but will vote the amount reported in the bill. I have before me a document (Executive Document, No. 59, Thirty-Ninth Congress, Second Session) which shows how this fund has been expended heretofore; and for the information of

the committee I submit the statement embraced in this document:

Statement of expenditures from the fund for the contingent expenses of foreign intercourse, from December 1, 1865, to November 30, 1866, inclusive, made agreeably to the second section of the act of May 9, 1836, entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year 1836."

To whom paid.	For what object.	Total.
W. H. Dice	Boxes	$76 50
American Tel. Co	Dispatches	466 44
Derby & Miller	Expenses	910 29
Alfred Herrisse	Translation	25 00
Adams Express Co	Freight	60 95
City post office	Foreign postage	382 53
Jonathan Amory	Dispatch agent.	612 00
J. C. Derby	Dispatch agent.	1,862 72
National Republican	Advertising	397 00
Boston Daily Advert'r.	Advertising	83 25
National Intelligencer.	Advertising	110 00
N. Y. Daily Times	Advertising	77 56
Washington Chronicle.	Advertising	511 00
T. B. Peddie	Mail bags	75 00
George Stoker	Dispatches	916 23
C. M. Allen	Expenses	200 00
Thomas Taylor	Dispatch agent.	211 51
W. C. Johnson	Law expenses	1,000 00
Philp & Solomons	Stationery	3,326 52
Philp & Solomons	Presents for Tunisians	881 50
Evening Star	Advertising	170 00
Washington Chronicle.	Advertising	190 00
Harnden Express Co	Freight	48 00
President's approval		3,235 30
Evening Star	Advertising	295 00
Washington Chronicle.	Advertising	2,079 20
National Intelligencer.	Advertising	268 00
National Republican	Advertising and paper	1,999 80
George L. Berdan	Traveling expenses	34 70
Allen Francis	Expenses	80 00
H. de Mareil	Subscription	15 00
J. C. Derby	Dispatch agent.	1,528 87
Jonathan Amory	Dispatch agent.	604 50
Thomas Taylor	Dispatch agent.	304 77
Morgan, Rhinehart & Company	Freight	70 00
City post office	Foreign postage	311 80
New York Times	Advertising	25 35
George F. Seward	Expenses	221 65
F. Wassman	Castings	50 00
Wm. R. Riley & Bro	Bagging and thread	101 13
E. A. Faherty	Labor	52 50
W. H. Dice	Boxes	416 25
Harnden Express Co	Freight	85 76
President's approval		5,800 26
Philp & Solomons	Stationery	2,118 00
E. G. Eastman	Dispatch bags	82 28
J. C. Derby	Dispatch agent.	1,959 50
Jonathan Amory	Dispatch agent.	638 38
Thomas Taylor	Dispatch agent.	238 06
City post office	Foreign postage	262 10
Washington Chronicle.	Advertising	900 00
John Wilson	Expenses	350 00
George F. Seward	Expenses	291 10
H. C. Pratt	Portrait	200 00
American Tel. Co	Dispatches	191 62
Harnden Express Co	Freight	109 50
M. B. Brady	Photographs	139 00
Steamship Thames	Freight	25 00
New York Times	Advertising	45 00
Evening Star	Advertising	330 00
M. McMichael	Advertising	35 60
H. de Mareil	Subscription	20 00
R. S. Chilton	Queen Emma	233 50
W. C. Hazel	Livery	255 00
C. McCarthy	Amnesty oaths	387 80
H. McGraw	Amnesty oaths	387 80
J. C. Derby	Dispatch agent.	1,378 86
J. C. Derby	Dispatch agent.	1,229 45
Jonathan Amory	Dispatch agent.	594 50
Jonathan Amory	Dispatch agent.	597 00
Thomas Taylor	Dispatch agent.	195 49
E. G. Eastman	Dispatch bags	62 92
A. Daggett	Amnesty oaths	224 00
Baltimore & Ohio railroad	Cars	230 00
Philp & Solomons	Stationery	1,815 75
Philp & Solomons	Stationery	2,352 00
City post office	Foreign postage	276 06
Evening Star	Advertising	635 00
Washington Chronicle.	Advertising	131 50
Western Union Tel. Co.	Dispatches	739 77
Harnden Express Co	Freight	138 40
Sykes, Chadwick & Co.	Board of Queen Emma	1,867 03
George L. Berdan	Expenses	22 45
Navy Department	Expenses	3,939 90
C. McCarthy	Amnesty oaths	125 00
H. McGraw	Amnesty oaths	125 00
President's approval		$106,610 09

Now, sir, the Committee on Appropriations examined this matter. They found that last year the sum of $65,000 was appropriated for this item, which includes the secret-service fund; and the estimates proposed the same appropriation for the next fiscal year. The committee thought that $30,000 would be abundantly sufficient for all the contingent expenses embraced in this item. We trust that the Committee of the Whole and the House will sustain our action.

Mr. BANKS. I move to amend the amendment by striking out "sixty-five" and inserting "fifty," so as to make the amount $50,000. I desire to ask the gentleman from Illinois, [Mr. WASHBURNE,] who has the management of this bill, whether the reduction proposed by the committee has been agreed upon after conference with the State Department or with the knowledge that the sum proposed to be appropriated will be sufficient for the coming year?

Mr. WASHBURNE, of Illinois. I will state that the committee acted upon their own information. They do not intend to permit the Departments to legislate for the committee or the House. We examined the whole subject. We know what appropriations have been made heretofore; we have seen how those appropriations have been expended; and we believed that $30,000 would be entirely sufficient for this purpose.

Mr. SPALDING. On the contrary, I have information that the whole sum proposed in my amendment is needed.

Mr. BANKS. Mr. Chairman, while I would not, of course, advise or consent that any Department should be permitted to legislate here, it appears to me it is always well, in making our appropriations, to ascertain what are the necessities of the Departments. In years past there has been an appropriation for this service of sixty-five or seventy thousand dollars. Now the Committee on Appropriations propose to cut down the amount suddenly without, as the gentleman from Illinois gives us to understand, any knowledge whether or not the sum proposed in the estimates will probably be necessary. It is certain that during the next fiscal year the State Department will be called upon in its intercourse with other Governments, in looking after the protection of American citizens——

Mr. WASHBURNE, of Illinois. I will state to the gentleman that that is provided for in the preceding paragraph, "for contingent expenses of all the missions abroad, $50,000."

Mr. ROBINSON. That is for the contingent expenses.

Mr. BANKS. They are for contingent expenses regularly established, but this is for extraordinary expenses incurred in the manner I have indicated. They must necessarily be added to those contingent expenses heretofore provided by the Government. I am sure, sir, during the present year there will be an urgent demand made by our citizens abroad, whose claims are sustained by a large number of people in this country, and they cannot be met unless we make an appropriation of a more liberal character.

Mr. BLAINE. If anything of that kind be provided let it be put in for that specified purpose, and not put in as a secret-service fund. If money be needed for Americans who get into trouble abroad let the appropriation be so limited.

Mr. BANKS. I have a communication from the State Department giving the estimates of appropriations needed for the protection and defense of American citizens abroad. It is there estimated that $40,000 will be needed.

Mr. WASHBURNE, of Illinois. Let the gentleman bring in a bill for that purpose, and I have no doubt the House will pass it.

Mr. ROBINSON. I hope the amount of appropriation will be made $100,000 for the purpose of paying these necessary expenses.

Mr. BANKS. I think the sum of $20,000 is too low, and I therefore move to make it $50,000.

Mr. LOGAN. Has the Committee on Appropriations any information as to the amount of secret-service fund that the Secretary of State has now on hand?

Mr. WASHBURNE, of Illinois. That is a matter which is not communicated to the House or the committee.

Mr. LOGAN. I understand he has a large amount now on hand. I do not know anything about it myself, but I have reason to believe, as I think others have, that he has a large amount of secret-service money now on hand. This $30,000 is intended for the same purpose—for the purpose of paying spies. I am willing that the Secretary of State shall have a proper amount for a secret-service fund needed in intercourse with foreign nations, but I am opposed to any extravagant sum being allowed to remain in his hands, to be expended we know not how, and of the expenditure of which we are to have no information. I am opposed in principle to the employment of spies by the Government except in time of war. I am opposed to the keeping of secret agents at every court of Europe for the purpose of purchasing worthless property at enormous prices. I am opposed to giving any Department of this Government a large secret-service fund to be disbursed as it may think proper, without the least check upon it. That is the way in which the country is robbed of its money. In each Department is a sort of secret-service fund for the pay of spies and informers. We appropriated the other day $100,000—to pay for what? Why, sir, for secret agents of the Treasury Department. The head of that Department sends these agents all over the country. I know one of them in New York has been in the penitentiary and was appointed shortly after his release. These men go through the country and give information upon which people are charged with crimes. That is the way this secret-service fund is expended. I do not know but Mr. Seward may employ better men, but I have little confidence in trusting any man with the use of a large secret-service fund. I am opposed to the spy system. I am opposed to it anywhere. I am opposed to the system inaugurated of recent years of giving the War Department, the Treasury Department, the State Department, and other Departments sums of $60,000 and $100,000, to be expended at their option, and of which no account is ever to be rendered to the Congress of the United States. If they are to have that money then let us know what it is for. Do not let us have any more secret agents sent to Russia or to Denmark for the purchase of worthless property. I am opposed to the amendment.

[Here the hammer fell.]

Mr. SPALDING. I accept the amendment of the gentleman from Massachusetts, [Mr. BANKS,] and modify my proposition accordingly.

The question being put on agreeing to the amendment of Mr. SPALDING as modified, namely, to strike out $30,000 for contingent expenses of foreign intercourse and insert $50,000, there were—ayes 16, noes 51; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. SPALDING and LOGAN.

The committee divided; and the tellers reported—ayes twenty-four, noes not counted.

So the amendment was disagreed to.

Mr. ROBINSON. I move to amend by inserting after line thirty-three, "for the protection and defense of the rights of American citizens abroad, $100,000."

Mr. WASHBURNE, of Illinois. I rise to a point of order. This is not carrying out any existing law, and it is making a new law.

Mr. ROBINSON. It is as much in order as many other amendments.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ROBINSON. I appeal from the decision of the Chair. If it is sustained I wish to object to everything else that comes in. I will meet the gentleman from Illinois [Mr. WASHBURNE] on this subject.

The question being taken on sustaining the decision of the Chair, there were—ayes seventy-four, noes not counted.

So the decision of the Chair was sustained.

Mr. KELSEY. I move to amend by in-

creasing the amount $1,000 for contingent expenses of foreign intercourse, making it $31,000. I do it simply for the purpose of explaining what does not seem to be very well understood by the House in reference to the secret-service fund. It seems by reference to one of the Miscellaneous Documents, which I hold in my hand, that all this money appropriated for contingent expenses of the State Department, as well as for contingent expenses of foreign intercourse, is subject to be expended under the President's approval without rendering any vouchers at all therefor. My colleague on the Committee on Appropriations [Mr. WASHBURNE, of Illinois] read several items of expenditures that were reported. They were stated to be expenditures of the fund for the contingent expenses of foreign intercourse. It is true that for a large portion of these items vouchers are rendered. It is also true that very large items are passed and appear in the printed documents marked simply with the President's approval. There is marked in the document I have here, under the first item of $9,564 38, "President's approval." There is another item of $7,283 04 marked in the same way. I have made some little examination into the amount of moneys expended during the last fiscal year that have been passed in the Auditor's office and marked "President's approval," and it appears that the sum of $115,645 30 has been passed in that way.

My only purpose in moving this amendment is to call the attention of the House to the manner in which these contingent expenses are paid out and the vouchers upon which they are allowed. I will only add that in Executive Document No. 59 there is a single item marked with the President's approval of $106,610 09.

Mr. SCHENCK. Mr. Chairman, I am sorry I could not hear the explanation of the gentleman from New York, [Mr. KELSEY,] but I presume I can understand the purport of it, and as it seems to be in favor of increasing the amount of the appropriation, and as I would rather diminish than increase it, I suppose I am in order in taking the floor in opposition to his amendment, whatever it may be.

Every one knows, perhaps, what this secret-service fund is—a sum of money appropriated by Congress in blind faith to be used at the discretion of the Government in aiding the carrying on of our intercourse with foreign nations in cases where secrecy may be desirable. In consequence of this secrecy it is provided by law that no voucher shall be needed in order to pass any item of the account except the certificate of the President that he is satisfied.

Now, sir, heretofore for a number of years—at least for two years past—there has been $65,000 estimated for and appropriated for this purpose. It is proposed now to decrease the appropriation to $30,000. One would naturally suppose that the amount now proposed to be given would depend somewhat, among other circumstances, upon whatever amount might remain for this purpose unexpended. Can anybody tell how much there is unexpended? Our public records do not show; and, as we are in the day of reform, I desire to call the attention of this committee to the fact that there is in these records and communications made from the Treasury Department to Congress an habitual violation of the law tending to conceal what appropriations are needed rather than to explain the wants of the Government. It is provided now by law that they shall not only send estimates from the Treasury Department of what is needed for each specific purpose, but that they shall show what is the unexpended balance of appropriations in every case, so that Congress, in acting, may know, among those things to be taken into the calculation, in every instance what money remains on hand for any particular object.

Now, if you look at the communications made for the present year, you will find that for the civil service there is an unexpended balance of $7,341,529. That is all we know about it. Whether it is an unexpended balance for legislative purposes, for foreign intercourse, for the pay of clerks——

Mr. BLAINE. That does not relate to foreign intercourse, because that is included under another head.

Mr. SCHENCK. In looking over all the accounts of unexpended balances I can find but that one item that might include this. In the case of the War Department and the Navy Department it is given in a lump. Let me take an example. The unexpended balance of appropriations for the War Department is $82,000,000; but whether it is for the payment of soldiers, the purchase of cannon or other munitions of war, or for service in the quartermaster's department, or for whatever else it may be, you know nothing from this communication. The law requires that there shall be shown to Congress not only what estimates are made for each successive year for the different objects and subjects in relation to which appropriations are to be made, but what are the unexpended balances of the several appropriations; and it is no compliance with the law, but a violation of it, to cover up the whole in a general statement that there is such and such a balance.

Now, sir, I do not know what the fact is, but I have been told by an authority which I am not disposed to question—and I think the Committee on the Expenditures of the State Department, if they ever do anything at all, might discover whether it is so or not—that there is actually in London at this day a large accumulation for the last two years, not yet lapsed into the Treasury, that is at the control of the State Department and of the President for just such purposes as these. I am unwilling, believing that that is the case from information I have, until I can know how much they have on hand for this purpose, to appropriate as large a sum as $30,000.

[Here the hammer fell.]

Mr. KELSEY. I withdraw my amendment.

The Clerk read the following:

II. CONSULATES.

Schedule B.

Acapulco, Aix-la-Chapelle, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Bankok, Basle, Belfast, Beirut, Buenos Ayres, Bordeaux, Bremen, Brindisi, Boulogne, Barcelona, Cadiz, Callao, Candia, Canton, Chin Kiang, Clifton, Coaticook, Cork, Demerara, Dundee, Elsinore, Fort Erie, Foo-Choo, Funchal, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Guaymas, Halifax, Hamburg, Havre, Honolulu, Hong-Kong, Hankow, Jerusalem, Kanagawa, Kingston, (Jamaica,) Kingston in Canada, La Rochelle, Laguayra, Lahaina, Leeds, Leghorn, Leipsic, Lisbon, Liverpool, London, Lyons, Malaga, Malta, Manchester, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Naples, Nassau, (West Indies,) Newcastle, Nice, Nantes, Odessa, Oporto, Palermo, Panama, Paris, Pernambuco, Pictou, Ponce, Port Mahon, Prescott, Prince Edward Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Saint John, (Canada East,) Santiago de Cuba, Port Sarnia, Rome, Singapore, Smyrna, Southampton, Saint John, (Newfoundland,) Saint Petersburg, Saint Pierre, (Martinique,) Saint Thomas, Stuttgardt, Swatow, Saint Helena, Tampico, Tangier, Toronto, Trieste, Trinidad de Cuba, Tripoli, Tunis, Turk's Island, Valparaiso, Vera Cruz, Vienna, Windsor, Zurich.

Mr. WASHBURNE, of Illinois. I move to insert after the word "Canton" the word "Chemnitz."

The amendment was agreed to.

Mr. PETERS. I move to add to the paragraph the following proviso:

Provided, That hereafter the compensation of consuls whose annual salaries do not, under existing law, exceed $1,500, and the fees collected at the consulates where they are located and paid into the Treasury of the United States amount to $3,000, shall be $2,000 per annum.

Mr. WASHBURNE, of Illinois. I raise a question of order on that amendment. It changes existing law, and is out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PETERS. I think if the Chair will refer to the rule he will see that my amendment comes within the express exception in the rule relating to the salaries of officers.

The CHAIRMAN. The Chair is of the opinion that under the rule to which the gentleman refers the amendment is not in order.

Mr. PETERS. I do not think the Chair has looked at the rule to which I have reference.

The Clerk resumed the reading of the bill.

The following paragraph was read:

Amoor River, Apia, Gaboon, Saint Paul de Loando, including loss by exchange thereon, $425,000: *Provided*, That no consul general, consuls, consular agents, or commercial agents shall be paid except those specified in this act; and all laws and parts of laws providing for the appointment or payment of any other consular officers than those in this act specified are hereby repealed; and all moneys received for fees at any vice consulate or consular agency of the United States beyond the sum of $1,000 in any one year shall be accounted for and paid into the Treasury in the same manner as other moneys received by consular officers for the United States.

Mr. BLAINE. I desire to say, in answer to an inquiry made by the gentleman from Indiana [Mr. HOLMAN] on Saturday last——

Mr. WASHBURNE, of Illinois. What is before the committee?

Mr. BLAINE. I desire to make an explanation, and in order to get an opportunity to do so I move to amend by striking out the last word. The gentleman from Indiana, [Mr. HOLMAN,] on Saturday last, asked me a question, which I did not fully understand at the time, in regard to consular fees. I desire to state, in answer to him, that for the fiscal year ending June 30, 1867, the amount of consular fees of the United States was $424,099 17; there were paid for salaries $371,292 63; there was lost in exchange $10,717 17; and the net receipts paid into the Treasury of the United States in excess of the amount allowed for salaries and exchange was $42,089 77. That shows what I then stated to be the fact, that the consular system of the United States is to-day not only self-supporting, but actually a source of revenue, to a small extent, to the Treasury of the United States.

I will refer to the fees and expenses of a few of the consulates, to show the extent of the revenue derived by the United States from some of them. In Paris the salaries allowed amount to the sum of $7,084; the fees amount to $47,700. In London the salaries amount to $7,500; the fees amount to $38,500. A large number of the consulates pay a considerable excess of fees over expenses, while there are a considerable number that do not yield any excess at all.

Mr. FARNSWORTH. If the gentleman will allow me to interrupt him for a moment I will say that I do not think his statement agrees with the report of the Fifth Auditor. According to his report the fees from consulates over exchange and salaries was $91,000.

Mr. BLAINE. The gentleman is referring to the report for the year ending the 30th of June, 1866. For the year ending June 30, 1867, the amount of excess is more than $42,000.

Mr. FARNSWORTH. I believe the gentleman is correct.

Mr. BLAINE. The Fifth Auditor states that if the proviso proposed by the Committee on Appropriations is inserted in the law, in his judgment, the excess in favor of the United States will amount to one hundred and fifty or two hundred thousand dollars. I now withdraw the amendment I offered.

Mr. WASHBURNE, of Illinois. I move to amend the proviso of this paragraph by inserting before the words "consular agents" the words "except those consuls whose compensation is by fees, and no;" so that it will read:

Provided, That no consul general, consuls—except those consuls whose compensation is by fees—and no consular agents, or commercial agents, shall be paid except those specified in this act, &c.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to further amend this proviso by striking out "and all moneys received for fees at any vice consulate or consular agency of the United States beyond the sum of $1,000 in any one year shall be accounted for and paid into the Treasury in the same manner as other moneys received by consular officers for the United States," and inserting in lieu thereof the following:

And all moneys received for fees at any vice consulate or consular agency of the United States,

beyond the sum of $1,000 in any one year, and all moneys received by any consul or consul general from any consular agencies or vice consulates, in excess of $1,000 in the aggregate from all such agencies or vice consulates, shall be accounted for and paid into the Treasury of the United States; and no greater sum than $500 shall be allowed for the expense of any vice consulate or consular agency.

Mr. PETERS. I move to amend the amendment by adding thereto the following:

Provided, That hereafter the compensation of consuls, whose annual salaries do not under existing law exceed $1,500, and the fees collected at the consulates where they are located and paid into the Treasury of the United States, amount to $3,000, shall be $2,000 per annum.

I feel some interest in the adoption of this amendment, as I have one or two friends holding official positions imposing upon them a large amount of consular business while they have next to no compensation. I have investigated the subject in their behalf, and have come to the conclusion that by the plan proposed in my amendment the compensation of these consuls can be regulated with a nearer approach to equality and justice than in any other way. There are some consulates which have next to no business and a large compensation, while there are other consulates which have an immense business bringing in many small fees, while there is very little compensation attached to the office. In drawing this amendment I have had in my mind these two classes of consulates: those in which the salary is large and the business small, and those in which the business is large and the salary small. For instance, during the last year the consul at Liepsic collected as fees $7,710, and his compensation is but $1,500. The consul at Matamoras collected $8,000 as fees, and his compensation is $1,500. The consul at Toronto collected $8,000 as fees and received but $1,500 as compensation. The consul at Fort Erie collected over five thousand dollars as fees, while his pay was but $1,500. In each of these cases the consul is obliged to employ a clerk for his assistance. Hence it will be seen the compensation is extremely small. My amendment proposes that the pay of these officers shall be dependent upon the amount of their business; that wherever the consuls now receive $1,500 they shall, if their fees amount to $3,000, receive a salary of $2,000. I send to the Clerk's desk to be read a recommendation from the Fifth Auditor in relation to this subject.

The Clerk read as follows:

"I solicit your attention to the gratifying fact that during the last year, for the first time in the history of the Government, our consular system was self-supporting—the statement showing an excess over all expenses of $91,906 62. In view of this condition of things, so long aimed at, but hitherto unattained by the Government, I respectfully submit to you, hoping that the subject may be brought before Congress, the propriety of increasing the salaries attached to many of our principal consulates. It is a notorious fact that our consuls receive less compensation than those of any other considerable Power in Christendom, and, as a consequence, the dignity and credit of the country are often made to suffer abroad. Many of our foreign representatives are wholly unable to maintain an equality with those of other Powers by reason of their insufficient salaries, which, so far from supplying means to sustain any social or official consequence, are hardly adequate to support the consul's family in the plainest manner. It is believed that a just and liberal increase of consular salaries as above suggested would in many respects inure to the essential advantage of the Government."

The amendment of Mr. PETERS to the amendment of Mr. WASHBURNE, of Illinois, was adopted; there being—ayes sixty, noes not counted.

The question recurred on the amendment of Mr. WASHBURNE, of Illinois.

Mr. WASHBURNE, of Illinois. I modify my amendment by adding to it the following:

Insert after the word "specified," in line one hundred and eight, the words "except those above named receiving fees;" so as to make the first part of the proviso read:

Provided, That no consul general, consuls, consular agents, or commercial agents shall be paid except those specified in this act; and all laws and parts of laws providing for the appointment or payment of any other consular officers than those in this act specified, except those above named receiving fees, are hereby repealed.

Mr. HOLMAN. I move to amend the amendment by adding the following additional proviso:

Provided further, That the sums authorized to be paid as salaries by this act shall be paid on the basis of the lawful money of the United States, as other salaries of officers of the United States are paid, adding thereto only the sums necessary for exchange.

Mr. WASHBURNE, of Illinois. These consuls collect their fees in coin in the foreign countries where they are stationed.

Mr. BLAINE. They pay themselves from the moneys which they collect.

Mr. HOLMAN. There is nothing, Mr. Chairman, in the suggestion of the gentleman from Illinois [Mr. WASHBURNE] which militates against the proposition I have presented. My amendment simply proposes that the salaries of the officers provided for in this bill shall be put on exactly the same footing as all other salaries of officers of the United States; that in fixing these salaries we shall legislate with reference to the existing currency of the country. Why should the salary of the consul general of Canada, $4,000, be paid in coin, while another officer receiving a salary of $4,000, and stationed, perhaps, just this side of the Canada line, is obliged to receive his salary in currency? There is certainly no good reason for this discrimination; and there is a reason based on economy for putting all these salaries on the same footing. I say, further, that no class of salaries paid by the Government are in the main so high as those paid to the officers representing this country abroad—our ministers resident, consuls general, and consuls. These salaries are now greatly beyond the salaries for corresponding service of officers within the limits of our country. I think our officers abroad who occupy mere sinecures should not be placed on a higher salary.

Mr. WASHBURNE, of Illinois. I am opposed to the amendment, and ask for the vote.

The amendment to the amendment was disagreed to.

Mr. WASHBURNE'S amendment, as amended, was adopted.

The Clerk read as follows:

For salaries of commissioners and consuls general to Hayti and Liberia, $11,500: *Provided*, That any officer of the Army or Navy of the United States, who shall, after the passage of this act, accept or hold any appointment in the civil service of the Government, shall be considered as having resigned his said office, and the place held by him in the military or naval service shall be deemed and taken to be vacant, and shall be filled in the same manner as if said officer had resigned the same: *And provided further*, That no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post, by leave or otherwise, if such absence shall exceed sixty days in any one year.

Mr. PIKE. I make the point of order those provisos are not in order, because they are independent legislation upon an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order, and the provisos will be stricken out.

Mr. BUTLER. I move to amend in line one hundred and twenty-seven, by striking out the word "commissioners" and inserting in lieu thereof "ministers resident;" and further, to insert after "Liberia," in line one hundred and twenty-eight, the words "Dominican republic." The reason why I desire to change from "commissioners" to "ministers resident" is this: that commissioners have no diplomatic station; and I desire there shall be made no difference between the republic of Hayti, the Dominican republic, and the republic of Liberia and other nations in their diplomatic relations. If we are to have ministers resident anywhere they ought as well be stationed there, so they can send ministers resident here who shall be entitled to the same diplomatic and other courtesies as ministers from other countries.

As to the Dominican republic we have now no minister and no consul general there; and it is of importance we should have somebody there, for the protection of our citizens. The republic of Hayti and the Dominican republic are at war, and wherever war is raging between two nations, whether large or small, there should be somebody representing us with both, to protect the political and other rights of our citizens. Therefore, I have moved to add the Dominican republic.

I am more anxious, however, on the question of putting these Powers upon an equal footing with the other Powers of the earth as to their representatives. If we mean what we say here as to the equality of men and nations in their rights then let it be so understood; if we do not, let that also be understood.

ADDITIONAL BOUNTY.

The committee informally rose; and the Speaker having resumed the chair, Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 127, in relation to additional bounty, when the Speaker signed the same.

The committee then resumed its session.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. BROOKS. The gentleman from Massachusetts has been rather late in making his discovery about these ministers to Hayti and San Domingo. Why did he not insert the proposition in connection with the Sandwich Islands? Does it make a difference as to the color? He must be aware, too, he is increasing the expenses of the Government by establishing this minister resident at the Dominican republic. No matter what is the color of its people—I will not discuss that—it has never, by its position or population, been entitled to a minister resident. It is a place no bigger than Liliput. It is a place of no importance. Why send two ministers resident to the Island of San Domingo, Hayti being at one end and the Dominican republic at the other? Why this increased and unnecessary expense? Is it because there happens to be colored people there? There are hundreds of places where there are white people of far more importance to us than Hayti or Liberia, but they are not included. This is due, I presume, because these people are negroes and without regard to the increased expense.

[Here the hammer fell.]

Mr. BANKS. I move *pro forma* to strike out the last word of the amendment. I approve of the proposition of my colleague, [Mr. BUTLER.] I recognize what may be by some considered a valid objection, which has been stated by the gentleman from New York, [Mr. BROOKS,] that the condition of the Government may not be such as to justify a mission of the class proposed. It is possible, as in the other cases presented to the committee, that the people of Hayti and San Domingo are not such as we can recognize as upon an entirely equal footing with those of other and more advanced States. I say nothing about that. Let every gentleman express his own opinion in that regard. It is possible there may be objections of that kind. But, sir, we do not send ministers to any people on the ground that they are good or bad, black or white. We send them to represent the interests of this country, and the position which States occupy is sometimes more important to us than the character of the people or the success of the Government. I think this country ought to be represented in Hayti and San Domingo with a view to the future destiny of that part of this continent. It must be perfectly evident to every member of the committee that a new destiny is opening upon the West India Islands. That political power that has held them together and controlled them for so many generations is gradually breaking up, and they are about to form new and important relations with other States of the world, and in that regard our interest in them is of vast importance. It is known, it has been declared over and over again by almost every Administration of this Government for the last fifty years, that no European Power is to be permitted by this country to strengthen its territorial or political interests in the West Indies, and that we must resist the acquisition of power by States which have not yet obtained a foothold in that quarter.

We have now a proposition from San Domingo to part with a portion of her territory, and a similar proposition from Denmark. There are rumors also, I know not upon what foundation they rest, that Spain is not unwilling to part with its territory in the West Indies to this Government or some other. I know nothing of the facts of the case; whether we change our relations with these islands or not is of great importance. But we should know what changes are proposed and what are likely to take place in season to prevent any action that may endanger the interests of this Government or be in contravention of the principles it has so boldly and constantly declared. It is clear that the power which has so long controlled this part of the continent is breaking up, and that our action is of great importance in view of the future destiny of those countries. I accept with favor, therefore, the proposition of my colleague to make the representation of this Government as respectable and as strong in point of rank and ability as it is possible for us to make it, and I hope the committee will sustain the amendment he has proposed.

Mr. BUTLER. I oppose the amendment of my colleague. I desire, in the first place, to answer the remarks of the gentleman from New York, [Mr. BROOKS,] who says by making a minister resident I propose to increase the expense. I have not asked to add a single dollar to the appropriation. I have only proposed to appropriate so much money for a given number of officers by another name. I propose, it is true, to add another officer for the Dominican republic, and only because war is going on down there now between Dominica and Hayti. I put the motion to change the officer upon the exact ground of the present appropriation, calling the officer a minister resident and giving him the sum appropriated as the commissioner would have. I do not oppose the sending of a minister to the Sandwich Islands. I am only looking to correct this part of the appropriation bill at the present moment. If the gentleman from New York [Mr. BROOKS] wants the Sandwich Islands to have a minister resident I will talk about that when it comes. If the exhibit made by my friend [Mr. WASHBURNE, of Illinois] is correct that country had a sovereign resident here at our expense for a very considerable time. What I am anxious about, and the only thing, is that to these Powers there shall be ministers resident sent, so that they can send back to us ministers resident according to the well recognized courtesy among nations. I trust this amendment will prevail.

Mr. BANKS. I withdraw the amendment to the amendment.

Mr. HOLMAN. I rise to a point of order. The amendment pending is an alteration of existing law.

The CHAIRMAN. The objection is raised too late.

Mr. WASHBURNE, of Illinois. I call for a division of the amendment. I am in favor of the first proposition to substitute "ministers resident" for "commissioners," but opposed to the increase of the appropriation for salaries.

The question being taken on the first part of the amendment, it was agreed to.

Mr. BROOKS. I move to amend by inserting after "Liberia" "Bologna, Italy." I hope, sir, it will never go forth to the country that this House to-day has refused to send a minister resident to the representative of a hundred million Catholics from any feeling of passion, while from an adoration of the negro, or worship of the colored race, it proposes to send a minister resident to a little end of an island where there are not so many white people as there are in the factories in the city of Lowell or Lawrence, from which the honorable gentleman who has offered this amendment [Mr. BUTLER] comes. There are more white people in Lawrence or Lowell than there are in this tip-end of the island of San Domingo, aggrandized and dignified by the name of "republic of Dominica." I hope it will go forth to the country that the gentleman from Massachusetts this day has voted against the representation of this country in Rome, while he proposes because there is a colored race in Dominica that we shall be represented there. He votes to deprive us of a representative in the imperial capital of the world, while at this little Lilliputian, almost unknown republic of Dominica, because it is a colored people, he proposes to have a representative of the United States dignified with the name of "minister resident!"

Mr. BUTLER. I trust the gentleman from New York [Mr. BROOKS] will permit every other gentleman in the House to furnish his own motives for his own votes. I voted against sending a minister to Rome because she has ceased to be a temporal power, and not because she is a Catholic power.

Mr. PRUYN. That is not so.

Mr. BUTLER. The Pope has now no temporal power, and I am opposed to sending any minister to an ecclesiastical court. That is the ground I put it on, and no other. I have nothing to do with the "imperial city of Rome." She no longer holds sway in Italy. When he asks me to send a representative to a Government in Italy established by Garibaldi, whether it is Catholic or Protestant, I will be there to respond. But I am glad that a change has come over the spirit of the gentleman's dream. I am glad to see the Know-Nothing; I am glad to see the Catholic church-burner; I am glad to see the man who represents those who murdered in the name of Know-Nothingism the orphan children of Catholics and sacked convents in Massachusetts; I am glad to see him in favor of the holy imperial city of Rome. [Laughter,]

[Here the hammer fell.]

Mr. BROOKS. I withdraw my amendment, and move to insert "the city of Terni, in the Papal dominions."

Mr. Chairman, if the honorable gentleman from Massachusetts and I had ever been associated together in any sphere of political life whatsoever, if instead of consorting with others he had consorted with me, he would have known that I never was a Know-Nothing, that I was in no Know-Nothing association whatsoever, and in no Know-Nothing organization. He is indebted to his invention in order to indulge in his rhetoric, and the power and force of that rhetoric lies altogether in his capacity to invent—not even to discover.

The gentleman is mistaken in me and in all my associations, and though he may have been connected with the burning down of convents in Massachusetts—he or his people—it has never had any sympathy in my heart; and on all occasions and at all times, in public and in private, as every gentleman in New York knows, I have been opposed to the Know-Nothing organization, If the gentleman had been on the floor of the House he would not have repeated it, for he would have heard me deny it once before. While the gentleman was consorting with Jeff. Davis and voting some forty or fifty times to make him President of the United States, I was in the Whig organization and only in that organization, and in no other organization whatsoever. While he was consorting with those whom he often denounces as rebels at the South, in close compact and association with them, hand to hand, heart to heart, laying the train which was to blow up this Republic, laying the foundations of civil war, organizing treason and the shedding of each other's blood, I was in opposition to him and all those who were associated with him.

My record is clear; his is stained with treason and with blood throughout. I have had nothing of his companionship until he became a leader of those on the other side who are now laughing at his invention and his wit. Those upon that side of the House who are now most distinguished as the leaders of that party, are those whom the Democracy have ejected from their association and their bosom as unfit to associate with them. He has become the leader of others when none on this side would consort with him. [Applause on the floor and in the galleries, promptly checked by the Chairman.]

Mr. BUTLER. It is quite true, Mr. Chairman, that the gentleman from New York [Mr. BROOKS] and myself never were associated in any political party. When I went out of the Democratic party because of its corruption and treason he came into it. When I repented of going any further in the line in which my party obligations seemed to carry me, when Fort Sumter was fired upon, and therefore left the Democratic party, it then became the party of treason and scooped up those who now sympathize with it, as does the gentleman from New York, [Mr. BROOKS.] He says truly that I then left the Democratic party, and that is all I have to say upon any matter personal to myself.

The gentleman says he never was a "Know-Nothing." I only know what were the utterances of the New York Express, which I supposed were his utterances; and if he was not a "Know-Nothing," then the New York Express cheated the "Know-Nothing" party during its entire existence. [Laughter.] They supposed that paper spoke as its editors thought: they believed it represented its editors' opinions; they understood it to be an organ of that party. I opposed "Know-Nothingism" then; I oppose it now. I oppose anything of illiberality, injustice, and unfairness in legislation, and wherever it is to be found. Now, for the first and last time to deal with this question of leaving the Democratic party. Sir, I never yet repented, nor had cause to repent, of anything I did in the Democratic party. When that party became the party of treason, as I said before, I left it. I stood in that party firmly for the Union, as I understood, while I was in it. I voted——

Mr. PRUYN. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PRUYN. My point of order is this: any personal differences between the gentleman from Massachusetts [Mr. BUTLER] and the gentleman from New York [Mr. BROOKS] they may settle as they please; but the gentleman has no right to turn around here and call the Democratic party traitors.

The CHAIRMAN. The gentleman will proceed.

Mr. BUTLER. I was about saying——

Mr. MUNGEN. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MUNGEN. The gentleman says the Democratic party is a party of treason and he left it for that reason.

Several MEMBERS. That is right.

Mr. HIGBY. Let him tell the truth.

Mr. MUNGEN. My point of order is this: he says the Democratic party is a party of treason. I want him to understand that I belong to that party, and I will not stand any such language. [Laughter.]

The CHAIRMAN. If the gentleman from Massachusetts [Mr. BUTLER] had applied those remarks to any one on this floor in particular the Chair would have ruled them to be out of order; but as they are applied to a party generally the Chair overrules the point of order.

Mr. BUTLER. I was about saying that when the Democratic party became a party of traitors I left it, because I did not any longer support its doctrines. When it became the party of treason these old line hacks, these old Whigs, came into it, because it suited them. And from that time to this these men—who were first Whigs, then "Know-Nothings," and then Whigs again; these men, who were first abolitionists, then Whigs, then "Know-Nothings," and then back again—became Democrats. Then brains went out and treason came into the Democratic party. [Great laughter.]

Mr. WASHBURNE, of Illinois. Unless by unanimous consent debate can be closed on the pending paragraph. I move that the committee rise.

The CHAIRMAN. Is there objection to closing debate on the pending paragraph?

Mr. MUNGEN. I object.

Mr. WASHBURNE, of Illinois. I move, then, that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally and particularly bill of the House No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on the state of the Union on this bill all debate on the pending proposition be closed in one minute.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union and resume the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair,) and resumed the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

The pending question was upon the amendment of Mr. BROOKS to the amendment of Mr. BUTLER.

Mr. BROOKS. I withdraw my amendment to the amendment.

The question recurred on the amendment of Mr. BUTLER.

Mr. WASHBURNE, of Illinois. I hope that the committee will reject the amendment of the gentleman from Massachusetts, [Mr. BUTLER.] I trust we shall not establish this new mission and create the additional expense.

Mr. BUTLER. I withdraw the amendment.

The Clerk resumed the reading of the bill, and read the last paragraph, as follows:

For the payment of the second annual installment of the proportion contributed by the United States toward the capitalization of the Scheldt dues, to fulfill the stipulations contained in the fourth article of the convention between the United States and Belgium of the 20th of May, 1863, the sum of $55,584 in coin, and such further sum as may be necessary to carry out the stipulation of the convention providing for payment of interest on the said sum and on the portion of the principal remaining unpaid.

Mr. WASHBURNE, of Illinois. There is a mistake in this paragraph in speaking of the "second annual installment." I move to strike out "second" and insert "fourth."

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move that the committee rise, and report the bill and amendments.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally and particularly the bill of the House No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, and had directed him to report the same with sundry amendments.

Mr. WASHBURNE, of Illinois. I move the following amendment, to come in as the second section of the bill:

And be it further enacted, That any officer of the Army or Navy of the United States who shall, after the passage of this act, accept or hold any appointment in the civil service of the Government, shall be considered as having resigned his said office, and the place held by him in the military or naval service shall be deemed and taken to be vacant, and shall be filled in the same manner as if said officer had resigned the same; and that no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post, by leave or otherwise, if such absence shall exceed sixty days in any one year.

Mr. PIKE. I raise the point of order on this amendment that it is independent legislation, and is not proper, under the rules, in an appropriation bill.

The SPEAKER. The Chair sustains the point of order. The Clerk will read Rule 120, as given on page 14 of the Digest, which applies to all amendments whether in Committee of the Whole or in the House.

The Clerk read as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuations of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."—*Rule* 120. [It has been decided that under this rule it is not in order to propose an amendment to a general appropriation bill, which changes an existing law.—*Journal* 1, 38, pages 598, 599.]

Mr. WASHBURNE, of Illinois. As the Chair decides the amendment out of order under the rule, I move to suspend the rules for the purpose of offering the amendment.

Mr. PRUYN. Is that motion in order?

The SPEAKER. The motion is in order, and is not debatable.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I did not suppose that any technical objection would be made to this amendment. I did not suppose that any member would raise the point of order upon it. I desire to call the attention of the House for one moment to the provisions of the amendment, and then I desire to see whether any gentleman here will declare himself opposed to it.

The amendment provides, in the first place, that any officer of the Army or Navy of the United States who shall, after the passage of this act, accept or hold any appointment in the civil service of the Government shall be considered as having resigned his said office, and the place held by him in the military or naval service shall be deemed and taken to be vacant, and shall be filled in the same manner as if said officer had resigned the same.

I wish to call the attention of the House to what at present exists. These military and naval officers get these foreign appointments and go abroad without sending in resignations of their positions in the Army or Navy, still holding on to them, thus preventing their vacancies from being filled and the promotion of those under them.

Mr. HIGBY. Has the gentleman been instructed by the Committee on Appropriations to press this amendment, or is it offered on his own motion?

Mr. WASHBURNE, of Illinois. It was put into the bill by the instruction of the Committee on Appropriations. That committee believed it to be a proper one, and did not believe any member here would object to it.

Now, what is the last part of the amendment? It provides that no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post, by leave or otherwise, if such absence shall exceed sixty days in any one year.

Mr. SPALDING. I rise to a point of order, that a motion to suspend the rules is not debatable.

The SPEAKER. The Chair sustains the point of order.

The rules were suspended.

Mr. WASHBURNE, of Illinois. I demand the previous question.

Mr. PIKE. I wish to state to the House, in a few minutes, why this should not be put upon the bill without proper discussion.

Mr. WASHBURNE, of Illinois. The gentleman would not permit it to be discussed in the Committee of the Whole on the state of the Union. He made the point of order on it, and now I object.

Mr. PIKE. I hope the House will not second the demand for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER stated the question would first be taken on the amendments of the Committee of the Whole on the state of the Union.

First amendment:

Page 2, line twelve, after "Turkey" insert "Greece."

The amendment was concurred in.

Second amendment:

Page 4, line sixty-seven, under heading of "Consulates, schedule B," insert "Chemnitz."

The amendment was concurred in.

Third amendment:

Page 5, line one hundred and five, after the word "consuls" insert "except those consuls whose compensation is by fees and no," so that it will read:

V. COMMERCIAL AGENCIES.

Schedule C.

Amoor river, Apia, Gaboon, Saint Paul de Loando, including loss by exchange thereon, $425,000: *Provided*, That no consul general, consuls, except those consuls whose compensation is by fees, and no consular agents, or commercial agents shall be paid except those specified in this act, and all laws and parts of laws providing for the appointment or payment of any other consular officers than those in this act specified are hereby repealed.

The amendment was concurred in.

Fourth amendment:

Line one hundred and eight, same page, after the word "specified," insert "except those above specified who are paid by fees."

The amendment was concurred in.

Fifth amendment:

Page 5, strike out "and all moneys received for fees at any vice consulate or consular agency of the United States beyond the sum of $1,000 in any one year shall be accounted for and paid into the Treasury in the same manner as other moneys received by consular officers for the United States," and in lieu thereof insert the following:

And all moneys received for fees at any vice-consulate or consular agency of the United States beyond the sum of $1,000 in any one year, and all moneys received by any consul or consul general from any consular agencies or vice consulates in excess of $1,000 in the aggregate from all such agencies or vice consulates, shall be accounted for and paid into the Treasury of the United States; and no greater sum than $500 shall be allowed for the expense of any vice consulate or consular agency: *Provided*, That hereafter the compensation of consuls, whose annual salaries do not under existing law exceed $1,500 and the fees collected at the consulates where they are located and paid into the Treasury of the United States amount to $3,000, shall be $2,000 per annum.

The amendment was concurred in.

Sixth amendment:

In line one hundred and forty-eight strike out "second" and insert "fourth," so that it will read "fourth annual installment."

The amendment was concurred in.

The next question was upon the amendment proposed by Mr. WASHBURNE, of Illinois, under a suspension of the rules, to add a new section, as follows:

SEC. —. *And be it further enacted*, That any officer of the Army or Navy of the United States who shall, after the passage of this act, accept or hold any appointment in the civil service of the Government, shall be considered as having resigned his said office, and the place held by him in the military or naval service shall be deemed and taken to be vacant, and shall be filled in the same manner as if said officer had resigned the same.

The amendment was concurred in.

The next amendment proposed by Mr. WASHBURNE, of Illinois, under a suspension of the rules, was to add the following as a new section:

SEC. —. *And be it further enacted*, That no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post, by leave or otherwise, if such absence shall exceed sixty days in any one year.

The amendment was concurred in.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

KATE WRIGHT ADAMS.

On motion of Mr. CORNELL, the petition of Kate Wright Adams was withdrawn from the Committee on Invalid Pensions, in order that the same might be referred to the Pension Bureau.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had agreed to the amendment of the House to the bill (H. R. No. 127) in relation to additional bounty.

The message further announced that the Senate had passed a bill (S. No. 253) for the relief of William H. Murphy, in which the concurrence of the House was requested.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. GRISWOLD. I move to suspend the rules for the purpose of offering the following preamble and resolutions, which I send to the desk.

The Clerk read as follows:

Whereas the principles which underlie the foundation of the American Republic, as an independent nation, recognize "the right of all men to life, liberty, and the pursuit of happiness;" and whereas the duties of allegiance and protection being reciprocal, the Government of the United States are bound to protect this right equally in the persons of all citizens, whether native or naturalized; and whereas all judicial opinions or pretended judicial opinions to the contrary notwithstanding, this is, and has always been, the fundamental law of this country, and one which the President and all other authorities of the country are, and always were, bound to enforce; and whereas the right of all American citizens to equal protection has been, or is reported to have been, lately violated in frequent instances by certain foreign Governments, especially by those of Great Britain and Prussia: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this right to equal protection of person and property, on the part of all citizens of the United States, is now, as it has always been, and shall forever be, the law of this country.

2. That in every instance, ascertained in the manner hereinafter prescribed, of the violation of the rights of an American citizen, by any foreign Government whatever, it shall be the duty of the Executive of the United States to demand the instant release of such citizen, with adequate reparation for the insult and injury sustained by him; or, on failing to obtain such release and reparation, the Executive shall immediately report the facts to Congress, by and with whose advice and authority he shall employ all the power of the country to maintain its honor and the rights of its citizens.

3. That in every instance, either at present existing or which may hereafter occur, of the arrest or imprisonment of an American citizen in any foreign country, it shall be the duty of the President, or of his representative in such foreign country, to demand a certified copy of the charge laid against such citizen, to require that he be brought to trial within ten days after his arrest, to secure to him the benefit of an impartial jury, with the necessary legal assistance; and in case of the refusal or delay of such trial, or, on its being had, of the acquittal of the accused, it shall be the duty of the President to demand his instant release, or to employ the whole power of the country to enforce it.

Mr. GRISWOLD. I will yield to the gentleman from Ohio.

Mr. RANDALL. I call for the regular order.

The SPEAKER. The regular order being called for, a vote must be taken on suspending the rules.

Mr. FARNSWORTH. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty-five minutes,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of Richard Kitson and others, and of C. H. Weston and others, of Lowell, Massachusetts, in reference to taxation and expenditures.

By Mr. CHILCOTT: The petition of J. F. Gardner and 100 others, asking the establishment of certain mail routes in the Territory of Colorado.

Also, the petition from citizens of Colorado Territory, asking an additional land district in said Territory.

By Mr. CLARKE, of Ohio: The petition of W. R. Van Winkle, of New Vienna, Ohio, asking for pay for services as second lieutenant in the Army.

By Mr. COBB: The petition of Amos Devoe, of Grant county, Wisconsin, late of the fiftieth regiment Wisconsin volunteer infantry.

By Mr. EGGLESTON: The petition of Solomon Langdon, administrator of Bassett Langdon, for compensation for services rendered as assessor of internal revenue in the first Ohio district.

Also, the petition of S. H. Burton and 50 others, merchants of the city of Cincinnati and State of Ohio, praying that contracts made payable in gold shall be paid in such coin.

Also, a memorial of 15 Army officers of Ohio, in regard to payment of their servants.

Also, certain testimony in regard to the claims of the crews of certain steamboats therein named.

By Mr. FERRISS: Two petitions of citizens of Black Brook and Jay, for the repeal of the laws establishing bonded warehouses.

Also, the petition of same citizens, for reduction of the Army and Navy, revision of the tax and revenue laws, and for other reforms.

By Mr. HARDING: The petition of William W. Wilcox, of Peoria, Illinois, for relief.

By Mr. HOLBROOK: The petition of 150 citizens of Idaho City, Territory of Idaho, for Congress to define the rights of naturalized citizens and to protect them therein.

Also, the petition of 100 citizens of Pioneer City, Idaho Territory, for Congress to define the rights of naturalized citizens of the United States in foreign countries and to protect them therein.

By Mr. HUBBARD, of West Virginia: The petition of George Kaiser, of Parkersburg, West Virginia, asking payment for labor and materials furnished in building a hospital at Parkersburg, West Virginia, in July and August, 1861.

By Mr. LAFLIN: The petition of Charles Grant and others, of Pillar Point, for the establishment of a post route between the former point and Dexter, Jefferson county, New York.

By Mr. LYNCH: The petition of volunteer officers relative to commutation for servants' hire.

By Mr. MOORHEAD: A memorial of Colonel John L. Boyd and others, citizens of Pittsburg, Pennsylvania, praying that the law establishing bonded warehouses for foreign commerce be repealed and the system abolished.

Also, a memorial of W. Dewees Wood, esq., and others, citizens of McKeesport, Alleghany county, Pennsylvania, praying that the law establishing bonded warehouses for foreign commerce be repealed and the system abolished.

By Mr. MULLINS: The petition of Joseph Ramsey, a citizen of Bedford county, Tennessee, and collector of internal revenue, praying a modification of the internal revenue laws with regard to the distillation of spirituous liquors.

By Mr. NIBLACK: The petition of Cyrus M. Allen and sundry others, practicing lawyers, of southwestern Indiana, praying the establishment of a United States district court at Evansville, Indiana.

By Mr. PAINE: The petition of Major E. Cramer, late surgeon first Wisconsin cavalry, and others, relating to compensation for officers' servants.

By Mr. PLANTS: Depositions in support of the petition of Captain Daniel Sheets, for a pension.

By Mr. SCHENCK: The petition of Bridget Travis, mother and guardian of the minor children of Michael Travis, late private company I, seventy-fourth regiment Ohio volunteers, praying Congress to grant a pension to the children.

By Mr. SELYE: The petition of over 1,000 of the tax payers of the city of Rochester, New York, asking that the expenses of the Government in the naval, military, and civil service be reduced, that taxes be taken from necessaries and retained only on luxuries.

By Mr. STOKES: A memorial from the officers of Tennessee, that justice be done them in the way of compensation.

Also, the petition of William Bass, for pay as first lieutenant in first regiment Tennessee light artillery United States Army.

By Mr. WOODWARD: A remonstrance of officers of the Army against the Senate bill relative to commutation for servants' pay.

IN SENATE.

TUESDAY, *February* 18, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 733) for the relief of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation, was read twice by its title, and referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the common council of the city of Washington, in favor of granting an extension of the city charter, with such amendments as may be advisable; which was referred to the Committee on the District of Columbia.

He also presented a memorial of Rowland Cromelien, praying the right of way on an avenue or main line of railroad, for the privilege of testing his patent for an improvement in railroads; which was referred to the Committee on Patents and the Patent Office.

Mr. CATTELL presented a petition of citizens of New Jersey and Pennsylvania, praying the adoption of measures for the protection of Government property at Absecom inlet, on the coast of New Jersey; which was referred to the Committee on Commerce.

He also presented a petition of Benjamin W. Curtis praying compensation for property taken and used by the United States Army; which was referred to the Committee on Claims.

He also presented the proceedings of the Anti-Monopoly State convention, held at Trenton January 22, 1868, to oppose the extension of the monopoly privileges of the Camden and Amboy Railroad Company and to secure the passage of a general railroad law; which were ordered to lie on the table.

Mr. SUMNER presented a petition of Asa E. Stratton Jr., of Texas, praying to be relieved from civil disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. HOWARD presented a petition of vessel owners, shippers, and insurance agents of Chicago, Illinois, praying an appropriation for the completion of the harbor at New Buffalo, Berrien county, Michigan; which was referred to the Committee on Commerce.

Mr. ANTHONY. I present a memorial of Wilson D. Burlingame, on behalf of himself and twelve others, setting forth that they were the crew of the cutter Shamrock, composing part of the expedition under Lieutenant Cushing to capture the rebel ram Albemarle, and representing that they shared in all the dangers and hardships of the expedition, and are ruled out of any portion of the prize money, and asking that their rights may be granted. I move the reference of the memorial to the Committee on Naval Affairs.

The motion was agreed to.

Mr. HENDERSON presented a memorial of certain Miami Indians in the State of Indiana on the subject of their rights in lands belonging to the band of the Miamis in that State; which was referred to the Committee on Indian Affairs.

Mr. CAMERON presented a petition of Richard Dennis, praying a pension for services in the war of 1812; which was referred to the Committee on Pensions.

Mr. MORRILL, of Vermont, presented a petition of the superintendent of meters and lamplighters in the city of Washington, praying an addition of twenty per cent. to their present pay; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of Mrs. J. M. Hockaday, praying compensation for property of her deceased husband, destroyed by the Mormons in 1856; which was referred to the Committee on Claims.

Mr. MORRILL, of Maine, presented a memorial of late officers of the armies of the United States, protesting against the passage

of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. TRUMBULL, it was

Ordered, That the petition and papers of Charles Robidon be taken from the files of the Senate and referred to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (S. No. 276) to grant lands to the Northern Michigan Railroad Company in extension of the Northern Pacific railroad, reported it with amendments.

Mr. CATTELL, from the Committee on Finance, to whom was referred the bill (H. R. No. 450) to regulate the deposits of the public moneys, reported adversely thereon.

DIRECT TAX OF DELAWARE.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware, to report it without amendment. As this bill must be passed promptly to be effective, and as it is agreed to by the local authorities and also by the officers of the revenue, I ask for its present consideration. It will only need to be read to be passed at once.

By unanimous consent the bill was considered as in Committee of the Whole.

The first section declares that the valuation enumerated in the assessment list for direct tax in the State of Delaware, completed April 19, 1867, being the valuation of real estate as owned at or near the time of the completion of the assessment, shall be a lawful assessment of the direct tax of $74,683 33¼ apportioned to the State of Delaware, by virtue of an act of Congress entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, upon the valuation therein enumerated, with the same force and effect as if made with reference to the date mentioned in the thirteenth section of that act, and provides that all existing provisions of law for the collection of the direct tax in the loyal States, except as provided in the fifty-third section of that act, shall be applicable to the collection of the tax therein assessed. The notification of the time and place where appeals would be received and determined relative to that assessment, given by the assessor immediately after its completion, is to be deemed a lawful notice, and all proceedings under that notice, and in general in relation to the assessment, are made as valid and legal as they would have been had the assessment been valid from its commencement.

The second section makes the time within which the assessor is required to deliver the assessment list to the collector twenty days from the passage of this act.

Section three makes the lien provided for by the thirty-third section of the act of August 5, 1861, remain in force during two years after the taxes assessed in accordance with the first section of this act shall become due and payable.

All necessary expenses in procuring copies of the State assessment lists, and for advertising connected with the assessment and collection of the tax are to be paid out of the accounts thereof; being first approved by the Secretary of the Treasury.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MEDICAL HISTORY OF THE REBELLION.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (S. R. No. 97) to provide for the publication of the medical and surgical history of the rebellion and the medical statistics of the Provost Marshal General's Bureau, have directed me to report it back without amendment and recommend its passage. I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that the appropriation made in the act approved July 28, 1866, for publishing the medical and surgical history of the rebellion and the medical statistics of the Provost Marshal General's Bureau may be expended under the direction of the Secretary of War for the purpose of preparing those works for publication, and it directs the Congressional Printer to print the same under the direction of the Secretary of War.

Mr. CONKLING. I should like to hear an explanation of the joint resolution.

Mr. ANTHONY. An appropriation was made for printing the medical history of the war and the statistics of the Provost Marshal General's Bureau. The bill, as it was originally reported, authorized the Surgeon General to make this publication wherever he chose. It was amended and required to be published at the Government Printing Office, under the direction of the Secretary of War, and a part of the statistics, I think, were to be prepared under the direction of Surgeon Baxter. But when the amendment transferring the printing from the Surgeon General to the Government Printing Office was made there was not a corresponding amendment made, as there should have been, limiting the appropriation to the preparation of the work itself. As it reads now the appropriation is for the printing of the book. The Congressional Printer does not feel authorized to print it except by drawing the money specially appropriated for that purpose. The amount appropriated was reduced to cover the cost of preparing the work, but as the law reads the Congressional Printer feels bound to expend no money except the amount of the appropriation, and he calls upon the Surgeon General or the Secretary of War for that appropriation to carry on the printing. This is to apply the appropriation to the preparation of the work as the reduced amount was intended and leave it to be printed, as all other documents are, at the Government Printing Office.

Mr. CONKLING. I ask the Senator from Rhode Island whether there is any objection to allowing this resolution to lie over until to-morrow?

Mr. ANTHONY. Not the least. There is no objection to its lying over, but it ought to be disposed of pretty soon, if at all, otherwise it delays the work.

Mr. CONKLING. I think that length of time will enable everybody to make inquiries who wishes to do so, and I confess I should like to make an inquiry about it.

Mr. ANTHONY. I have no objection.

The PRESIDENT *pro tempore*. The joint resolution will be postponed until to-morrow, if there be no objection, and it is so postponed.

PRINTING OF A BILL.

On motion of Mr. POMEROY, the bill (S. No. 312) granting lands to aid in the construction of a railroad and telegraph line from Fort Scott, Kansas, to Santa Fé, New Mexico, was ordered to be printed.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 368) to amend the postal laws and increase the efficiency of the postal service; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 369) to provide for mail service between Abercrombie, Dakota Territory, and Helena, in Montana Territory; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

SOLDIERS' CERTIFICATES.

Mr. RAMSEY. I move that the Senate proceed to the consideration of the joint resolution (H. R. No. 104) authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Hampshire. The members from that State say they desire its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which had been reported from the Committee on Post Offices and Post Roads, with an amendment to strike out all after the resolving clause, in the following words:

That the adjutant general of New Hampshire be authorized to transmit through the mails, free of postage, certain certificates of thanks awarded by the Legislature of said State to the soldiers thereof, under such regulations as the Postmaster General may direct.

And to insert in lieu thereof the following:

That the adjutants general of the several States and Territories be authorized to transmit through the mails, free of postage, any medals, certificates of thanks, or other testimonials awarded or which may be awarded by the Legislatures of said States and Territories to the soldiers thereof, under such regulations as the Postmaster General may direct.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

Mr. SAULSBURY. I have no doubt that the proposition now before the Senate is a very important one, especially at this time; but it is very strange that the importance of such a measure as this should never have suggested itself to the minds of Senators until this particular time. Doubtless, in the opinion of honorable Senators, there is something about to transpire in the State of New Hampshire that may render it particularly proper that the greatest facility may be afforded by the action of the Federal Congress for communication with the gallant soldiers of New Hampshire, who so distinguished themselves on the field of battle. A gross injustice, a gross wrong, has heretofore been done, I protest, to the soldiers of New Hampshire, that they have not been allowed to receive medals and resolutions of thanks from the Legislature of their State, and from the adjutant general, without incurring the expense of paying the postage upon the communications which ought to have been made. I cannot suppose that the approaching election in New Hampshire can have the least connection with the proposition now before the Senate; but that honorable Senators, finding that they have been so wanting heretofore in the manifestation of gratitude to the gallant soldiers, whose votes they do not want in the approaching election in that State, have suddenly woke up, and are now determined to show to those devoted patriots that the heart of the American Senate beats warmly to the defenders of the country's honor upon the field of strife!

Mr. President, I suppose every State in the Union has a contingent fund out of which the postage of its public officers is paid. I presume that the State of New Hampshire, rich, great, grand, magnificent, is not without a fund. Even the little State of Delaware provides for her public officers out of which to pay postage. I do not, however, object very seriously to the passage of this resolution. I only rise to express my appreciation of that gratitude which the Senate seems to feel for the patriotic soldiers of New Hampshire, and to suggest—lest the soldiers might think there was something behind the curtain which they could not understand!—that the approaching election in New Hampshire has no possible connection with this proposition. [Laughter.]

Mr. RAMSEY. Mr. President, if the honorable Senator from Delaware had read carefully the joint resolution as it came from the committee he would have discovered that it is applicable as well to the gallant soldiers of the State of Delaware as to those of the State of New Hampshire, which was the purpose of its first introduction. I hope that in its present

large and catholic spirit he will be entirely gratified with the measure and give it his hearty support.

Mr. SAULSBURY. I am aware of that; but the honorable Senator will observe that as first introduced the resolution was for New Hampshire, and New Hampshire alone. Probably honorable Senators may have supposed that if it were passed in reference to New Hampshire alone there might be some motive suspected, and therefore it was made general. I do not know that any other State desires to avail itself of the munificence of Congress in this respect.

Mr. RAMSEY. The committee were apprised of the fact that the authorities of the State of Delaware were eager to send these testimonials to her gallant troops, and so made the measure large enough to cover their case.

Mr. SAULSBURY. That State provides a fund for the purpose.

Mr. CONNESS. It is only astonishing to me that an honorable Senator who so warmly espoused the cause of the war while it prevailed, and voted for every appropriation to carry it on, and in all cases from his place spoke encouraging words to the brave men who were engaged in fighting the battles of their and his country, should at this time fail to give his support to a measure providing for sending them those rewards which they have earned so well! I cannot understand the inconsistency of the Senator from Delaware this morning. [Laughter.]

Mr. SAULSBURY. A very distinguished writer has observed that there are many things 'twixt heaven and earth not dreamed of in our philosophy. If the honorable Senator from California cannot understand, I am not to be held responsible for that. I have made no record a line of which I would erase. If the honorable Senator is proud of his, I am glad that he is in good opinion with himself, and I hope his opinion and himself may keep company a great while in that respect. I believe that the honorable Senator, during the war and since, has acted according to his judgment of what patriotism demanded of him. I suggest to him, however, that whatever may be my respect for his judgment, I do not recognize him as a proper judge to sit upon my action or to scan my motives. I am not going to oppose this measure. I only congratulate the Senator that he and others have at last woke up at this day, and that before the 10th of March such valuable services as the soldiers of New Hampshire rendered upon the field of battle will be recognized, and that before that day those soldiers shall know that honorable Senators are grateful for their services.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time. The resolution was read the third time, and passed.

On motion of Mr. RAMSEY, its title was amended so as to read: "A joint resolution authorizing the transmission through the mails, free of postage, of certain testimonials by the adjutant generals of the several States."

LIBRARY FOR THE SENATE.

Mr. MORRILL, of Vermont, submitted the following resolutions; which were read:

Resolved, That one or more of each of the books and sets of books, maps, charts, atlases, and printed bound documents in the possession of the Senate be collected together by the Secretary from the various rooms and apartments set apart for the Senate, so as to form one complete set or copy of each and all of the same, which shall be properly arranged in classes and sections, and which, together with such other books and matters as may from time to time be directed to be procured by the Committee on the Library of the Senate for that purpose, shall be formed into a library of the Senate, for the special use of its members and committees and the business of the Senate in the Secretary's office, under such regulations as may be prescribed by the Committee on the Library of the Senate for the time being, which regulations shall be printed and furnished to the members, committees, and officers of the Senate at the commencement of each session, and shall be observed and conformed to by them until modified or changed by the committee or by order of the Senate.

Resolved, That a librarian shall be appointed by the Secretary of the Senate to take charge of the said library, whose duty it shall be to keep a complete and faithful record of every book, map, atlas, and article received or placed in such library, and diligently to make himself acquainted with the same, so as to be able whenever called upon by a member, or on the part of a committee of the Senate, or the office of the Secretary, to furnish any such book or other article for use in the library, or any information in tabular or other form that may be required from them, and to take a particular account of every book or other article delivered out of the library to any member, or committee, or the Secretary, and to require its return to the library according to the regulations prescribed by the said Committee on the Library, or the Senate, and also to perform such other duties in the said library as may be prescribed by the said committee, the Senate, or the Secretary of the Senate; and the compensation of the said librarian shall be $2,000 per annum, with the same official qualification, under oath, and subject to the same penalties for neglect or violation of the rules as are the other officers of the Senate.

Resolved, That the arrangement made for the occupation of the rooms of the north extension of the Capitol, set apart for the Senate, be so far changed that such rooms shall be appropriated for this library as may be assigned by the Presiding Officer of the Senate for the time being, unless otherwise ordered by the Senate.

Mr. MORRILL, of Vermont. These resolutions are nearly identical with some resolutions introduced by the predecessor of my colleague, the late Senator Foot, some four or five years ago. I think it must strike Senators with surprise that there is no library here to which Senators can resort to find any complete set of documents published by the Senate, neither reports nor debates nor anything else. They are scattered throughout all the rooms of the Senate, and some of them are piled up where they are utterly inaccessible even to the committees for which they were designed. There are a sufficient number of these documents to form a library according to the plan suggested in these resolutions. It will cost nothing if they can be gathered together. It is a matter of such great convenience to Senators and to the various committees that I trust the Committee on the Library will report favorably. I move that the resolutions be referred to that committee.

The motion was agreed to.

MILITARY OFFICES IN NEW YORK.

Mr. WILSON. I move to take up House joint resolution No. 203. I think it will not occupy much time, and it is somewhat important to pass it.

The motion was agreed to; and the joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes, was considered as in the Committee of the Whole. It is a direction to the Secretary of War to take immediate measures for the reduction of the expenses of the Army and of the War Department at and in the vicinity of New York city, at as early a day as practicable, by concentrating the business of the quartermaster, commissary, clothing, ordnance, and medical bureaus, and recruiting service in that city; and for this purpose there are to be hired and used at some convenient and proper point in that city one suitable building in which shall be accommodated all the offices connected with and required for the transaction of such public business, at a cost to the Government not exceeding $25,000 per annum; and also a suitable building or property within the harbor of New York, or on the navigable waters thereof, which shall have sufficient accommodation of warehouse, pier, dock, and basin room for the safe and convenient receiving, storing, and care of all Army stores of every kind and description belonging to either of the bureaus or branches of the service named, at an annual cost to the Government not exceeding $50,000. Nothing herein contained is to be construed to prevent the storage or keeping of ordnance stores or other property at Governor's island, or the use in any way for the purposes of the Government of any property or building which actually belongs to the United States.

The joint resolution was reported to the Senate, and ordered to a third reading.

Mr. HOWE. I wish the Senator from Massachusetts would inform the Senate what is the military force now stationed in New York for which this provision is to be made.

Mr. WILSON. We have in New York, I believe, twenty-one different stations used for the purposes mentioned in this resolution, and the expense now is $126,000. This resolution provides for its reduction to $75,000. It is believed that this reduction can be made, although there are some of the officers of the Government who doubt whether it can be brought about. The object is to concentrate into one place, instead of twenty-one places, the different offices in that city connected with the War Department. We have a large number of places in New York hired here for one purpose, there for another, and the expense is very large. They are scattered over the city, whereas it would be a great convenience to have them brought together. New York is a very important point, and it is important to reduce the expenses if we can.

Mr. HOWE. I agree to the importance of reducing the expenses; but the Senator has not answered my question. I want to know what number of troops are stationed in New York. This resolution proposes to spend $75,000 in providing accommodations and rooms for the quartermaster's and commissary departments, in addition to the property we own there and all we occupy on Governor's island. It would require a pretty large military force to be stationed in that town to justify the spending of $75,000 for commissary and quartermaster's quarters. I should like to know what the force is.

Mr. WILSON. I cannot tell the Senator precisely the amount of military force stationed there, but he should remember that the forces are changing at different times, and that New York is a great depot of supply from which supplies are sent by water and by rail to other portions of the country. Clothing, for example, is purchased at New York and sent all over the country to the different places where the Army is stationed. Commissary and quartermaster's supplies of the various kinds are not used in New York to any great extent, but purchased there, and sent to the Army throughout the country. At the present time there are twenty-one stations in New York city, used for one purpose and another connected with the Army, and this resolution proposes to get them together and to reduce the expense of carrying on this Government business in the city of New York from $126,000 to $75,000. The Secretary of War thinks it is doubtful whether we can cut the expenses down quite as low as this resolution provides, as I am informed by the gentleman who introduced it into the House of Representatives, and who has consulted the Secretary of War in regard to it.

Mr. HOWE. The Senator cannot tell what the force is that is employed there. Can he tell me what legal difficulty there is in the way of the Secretary's doing just this thing now without this law? If he finds one building that will furnish the accommodations required cheaper than twenty-one will, is there any legal obstacle in the way of his doing it?

Mr. WILSON. I do not think there is any legal obstacle in the way, but I think it helps the matter along very much for Congress to pass a resolution like this, and lay it before him. I have no doubt that it will hasten the thing forward. It will show the disposition and will of Congress to do this thing. The Senator ought to remember that we cannot approach any branch of this Government for reduction that we do not have protests from this man at one place, and that man at another, and a pretty general effort made to keep things about as they are. I think, myself, we ought to legislate wherever we can, and make our officers and agents feel that we intend to reduce the expenses of the Government to the lowest possible point, and that their accommodation must give way.

Mr. HOWE. I agree to all that; but, after

all, if the Secretary is authorized to do it now, and will only be authorized to do it after this law is passed, I do not really see the importance of it; but I will not protest against it.

The joint resolution was read the third time, and passed.

REDUCTION OF MILITARY FORCES, ETC.

Mr. WILSON. I move to take up Senate bill No. 311, to provide for a gradual reduction in the military forces and to discontinue certain unnecessary grades therein.

The PRESIDENT *pro tempore*. The morning hour has expired, and the unfinished business of yesterday is House joint resolution No. 19, relative to covering into the Treasury certain moneys now in the hands of the Treasurer.

Mr. WILSON. I ask that that matter be laid aside for the present, to go on with the bill I have named.

The PRESIDENT *pro tempore*. That may be done by unanimous consent. The Chair hears no objection.

The bill (S. No. 311) to provide for a gradual reduction in the military forces and to discontinue certain unnecessary grades therein, was considered as in Committee of the Whole.

The first section proposes, for the purpose of instituting a gradual reduction in the military forces, to suspend the appointment of second lieutenants, except graduates of the Military Academy, until otherwise ordered.

The second section provides that the grade of regimental commissary in the several cavalry regiments shall be abolished so soon as the same shall become vacant, and any vacancy occurring in cavalry regiments shall be filled by assignment of a regimental commissary thereto, if of the same grade, instead of by a new appointment, and the vacancy of regimental commissary shall not again be filled by promotion, appointment, or assignment; and that each cavalry regiment shall hereafter have but one veterinary surgeon, whose compensation shall be $100 per month.

The third section abolishes the grades of regimental commissary sergeant and regimental hospital steward, and reduces the number of corporals in each company of cavalry, artillery, and infantry to four, and these non-commissioned officers are to have the privilege of receiving an honorable discharge, with full pay and allowances to the actual date thereof, if they shall so elect, in preference to remaining in the service in such other grades as may be assigned to them by the Secretary of War.

Section four directs fourteen of the bands authorized by section seven of the act to increase and fix the military peace establishment, approved July 28, 1866, (not to include the band at the Military Academy,) shall be honorably discharged without delay, and their discharges shall take effect so as to entitle them to receive full pay and allowances to the actual date thereof.

Section five provides that nothing in this act shall be so construed as to authorize the discharge of any commissioned officer and repeals all inconsistent provisions.

The bill, having been referred to the Committee on Military Affairs and the Militia, was reported with amendments. The first amendment was to strike out all of the second section after the enacting clause and in lieu thereof to insert:

That the grade of regimental commissary in the several cavalry regiments shall be, and it is hereby, abolished; and the lieutenants now holding the appointments of regimental commissary may be assigned for duty to companies of their regiments, and shall fill the first vacancies that may occur in their respective grades of first or second lieutenant in the regiments to which they now belong; and nothing herein contained shall affect their relative rank with other lieutenants of their grade.

The amendment was agreed to.

The next amendment was in section three, to strike out in line two the word "and," and after "steward," in line three, to insert "and veterinary surgeon;" so as to make the section read:

That the grades of regimental commissary sergeant, regimental hospital steward, and veterinary surgeon are hereby abolished.

The amendment was agreed to.

The next amendment was in section five, to strike out the words "and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed" and in lieu thereof to insert "and officers of the Army on leave or on the retired list shall not be considered as changing station when obeying an order for duty;" so as to make the section read:

SEC. 5. *And be it further enacted*, That nothing in this act shall be so construed as to authorize the discharge of any commissioned officer, and officers of the Army on leave or on the retired list shall not be considered as changing station when obeying an order for duty.

The amendment was agreed to.

The next amendment was to add the following as a new section:

SEC. 6. *And be it further enacted*, That no bounty shall be paid to a deserter from the Army or the Navy in any case whatever, unless the Secretary of War or the Secretary of the Navy, as the case may be, shall previously order the charge of desertion to be canceled, solely on the ground that it had been erroneously made, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

CAPTURED AND ABANDONED PROPERTY.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury.

Mr. SHERMAN. I hope that, without further debate, that resolution will be referred to the Committee on Retrenchment, and I make that motion.

Mr. TRUMBULL. Why not act upon it, I would inquire of the Senator from Ohio. Why not adopt it?

Mr. SHERMAN. The Senator from Vermont is not here, and he has some amendments which he desires to offer.

Mr. TRUMBULL. Then let it be laid aside for the present. I do not see any object in referring it.

Mr. SHERMAN. I think a reference is the best course.

Mr. TRUMBULL. It is a plain proposition, and I see no necessity for a reference. It has been debated long enough.

Mr. SHERMAN. I would prefer that it should be referred, and I make that motion. I will state that the resolution was originally reported by the Committee on Finance, and I wish to be relieved from the care of it, so that the Senator from Vermont may take charge of it and call it up when he can and pass it. I trust my motion to refer may be adopted without debate, and then the Senator from Vermont will have charge of it and can call it up when he desires.

Mr. TRUMBULL. I hope it will not be referred. It has been certainly delayed long enough, and the Senator from Vermont can take charge of it just as well without a reference as with. I move that it be postponed until to-morrow, so that the Senate may proceed with the case of the Senator from Maryland.

The motion to postpone was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1869, and for other purposes;

A bill (H. R. No. 763) for the relief of American citizens abroad;

A joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of receiver for the Farmers' and Citizens' National Bank of Williamsburg, and to restore said bank to its owners under certain conditions; and

A bill (H. R. No. 603) granting pensions to certain soldiers and sailors of the war of 1812.

SENATOR FROM MARYLAND.

The Senate resumed the consideration of the following resolution, submitted by Mr. JOHNSON on the 18th of December, 1867:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

The pending question being on the amendment of Mr. SUMNER, to strike out all after the word "resolved" and insert:

That Philip F. Thomas, Senator-elect from Maryland, cannot be permitted to take the oaths of office required by the Constitution and laws, inasmuch as he allowed his minor son to leave the paternal house and serve as a rebel soldier, and gave him at the time $100 in money, all of which was aid, countenance, or encouragement to the rebellion, which he was forbidden to give; and further, inasmuch as in forbearing to disclose and make known the treason of his son to the President or other proper authorities, according to the requirement of the statute in such cases, he was guilty of misprision of treason as defined by existing law.

Mr. JOHNSON. Mr. President——

Mr. TRUMBULL. As the Senator from Maryland has charge of this matter, and desires to close the debate upon it, I propose, if he will allow it, to reply briefly to some observations that have been made in the Senate since I had occasion to address the body upon this subject before he proceeds. I submit it, however, entirely to him.

Mr. JOHNSON. I have no objection in the world; and if the honorable Senator wishes to address the Senate further in support of the resolution I prefer that he should do so now. My desire is to close the debate.

Mr. TRUMBULL. Mr. President, when this report was brought in from the Judiciary Committee it did not receive my assent, but it did receive the assent of a majority of the committee, and was reported by them to the Senate for its consideration. The reason it did not receive my assent was that I thought it the duty of the committee to whom the matter had been referred to express an opinion upon it one way or the other. However, a majority thought otherwise, and that majority submitted the following report:

"That they have taken the evidence submitted herewith, and that they find nothing sufficient, in the opinion of the committee, to debar said Thomas from taking his seat, unless it be found in the fact of the son of said Thomas having entered the military service of the confederacy and in the circumstances connected with that fact or relating to it, and without the expression of an opinion in regard to this point they report the whole evidence to the Senate."

The committee reported upon all the case, including the resignation of Mr. Thomas, which was before them, except upon the point of the son having entered the rebel service and the circumstances connected with it; and they reported the whole testimony to the Senate. I wish to say that my friend from Nevada [Mr. STEWART] agreed to this report. The Senator from New York, [Mr. CONKLING,] the Senator from Nevada, and other Senators upon the Judiciary Committee carried this report. In their opinion, after a full investigation, there was nothing in this case to prevent Mr. Thomas taking his seat except this matter connected with his son; and yet here, in the Senate, we find that the objection to Mr. Thomas is put upon entirely different grounds, and he is sought to be excluded by the most extraordinary course that I have ever known adopted upon such a question since two Senators from the State of Indiana were admitted to seats here some years ago without having been elected to the Senate by a majority vote of the Legislature. I think that

was quite as extraordinary as anything I have witnessed on the present occasion.

Mr. President, this case is not to be decided according to our feelings. We are acting here in a judicial capacity, and are to decide the case according to the law and the facts as applicable to the law under which we act. The question is not whether Mr. Thomas is a proper man to be selected as Senator by the State of Maryland; it is not whether he was in sympathy with the rebellion; whether he did his duty as a patriot. The State of Maryland has a right to send any one of her citizens here as a Senator who possesses the constitutional qualifications and those prescribed by the oath of office. That Mr. Thomas has the constitutional qualifications nobody questions. Whether he can properly take the oath is the only question, and on that the committee reported that there was no question except in regard to what occurred with his son. What do we find here in the Senate? My object in rising is chiefly to reply to some observations that have fallen from Senators during this discussion. I have been referred to as the chairman of the Judiciary Committee, as if I was responsible for the report and as if I had some feeling about this question. I certainly have none. Mr. Thomas is not a person of my selecting. The most extraordinary observations have fallen from Senators on this subject. I am sorry that the Senator from Vermont [Mr. EDMUNDS] is not here. I read from his speech, as reported in the Globe. In speaking of Mr. Thomas's son, he says:

"Here the boy himself was a notorious rebel, if it is not uncivil, if it would not offend the ears of my friend from Illinois, who believes this to be a great man."

Now, I submit to the Senate what has that to do with Mr. Thomas's right to a seat. I do not know any warrant the Senator from Vermont had to say that I believed him to be a great man or a small one. I had expressed no opinion in regard to him in that respect. Why speak of its offending me to speak of the boy as a rebel? I claim no superior patriotism and loyalty above my fellow-Senators, and I do not know that the term "rebel" is to me more offensive than it is to them. Sir, this question is not to be decided by denunciation of traitors and rebels. That would do very well in an appeal to a popular assembly if you desired to arouse its feeling against treason and traitors and make them infamous. While I make no superior pretensions, I claim to be as loyal and true to the Government as any of these gentlemen who denounce treason in such high-sounding words; and I have no more respect for traitors or treason than any of them.

The chief point dwelt upon in the Senate to exclude Mr. Thomas from his seat is his resignation from the Cabinet of Mr. Buchanan; and the Senator from Michigan, [Mr. HOWARD,] the Senator from Vermont, [Mr. EDMUNDS,] and the Senator from Indiana [Mr. MORTON] go back to the circumstances preceding the war and hold them up in the Senate and excite against the treasonable acts of that period the just indignation of all their hearers. I share with them in their abhorrence of treason and of the acts of the men who inaugurated it. But what of that? Is Mr. Thomas, Senator-elect from Maryland, therefore not entitled to his seat? If he is or was a traitor show the fact, and I apprehend there is not a Senator here that would vote to give him a seat. Treason is justly odious; but the question is, is Mr. Thomas connected with this treason? That is the point. How is he connected with it? To show the character of these accusations let me read what the Senator from Vermont said:

"And then, it having been decided that the Brooklyn should go"—

To the relief of Fort Sumter—

"although unhappily she drew so much water that she could not get over the bar, Mr. Thomas on the very next morning publishes to the country, rebels and all, that it is not in his power to defend the Constitution of the United States and support the President of the United States in the measures that, by dint of great exertions, Mr. Stanton and Mr. Holt and Mr. Black had succeeded in getting carried to relieve that fortress. He threw up his commission in the face of the enemy and told the President boldly to his face that the reason why he would not continue at his post was the fact that a ship of war was on its way to Charleston to relieve that fort. And yet my honorable friend from Illinois [Mr. TRUMBULL] has just told us that when Mr. Thomas resigned there was nothing but peace!"

If I believed that Mr. Thomas threw up his commission and told the President boldly to his face that the reason why he would not continue at his post was the fact that a ship of war was on its way to Charleston to relieve that fort I should agree with the Senator from Vermont. But is the statement true? Is there any evidence to support it? What is the testimony? Let us compare the testimony with the declaration, for if Mr. Thomas is to be denied his right to a seat it should be on the facts of the case and not on declarations and high-sounding words against treason. What does Mr. Thomas say? Does he say to Mr. Buchanan to his face, "I throw up my commission because I cannot agree with you in sending the Brooklyn to the relief of Fort Sumter?" I will read what he says before the committee. After stating that he went to see the President, he continues:

"When I entered the room I was informed by him that there were persons from New York who said that as long as I was Secretary of the Treasury money could not be obtained for the use of the Government in the way of loans, and I forthwith said, 'Then, sir, I resign the place. If you are determined to allow people to come here and discuss my management of the Treasury Department and say such things of me I cannot stay in that relation to you;' and I told him I would furnish my resignation next morning, and I did so. I resigned the office on that account, and none other."

Is that what is put in his mouth by the Senator from Vermont when he says he "told the President boldly to his face that the reason why he would not continue at his post was the fact that a ship of war was on its way to Charleston?" He says he resigned on account of this committee coming here from New York. And who were this committee? Mr. Vail, cashier of the Bank of Commerce, who testified before this committee, tells us:

"Mr. John C. Green, Mr. Moses Taylor, and Mr. A. A. Low, of New York, came here as a committee and waited on the President." * * * *
"I know that these gentlemen came to Washington, and I have heard from them the result of their interview. They came here and had an interview with Mr. President Buchanan. They said to him that if he desired money to be raised for the use of the Government he must appoint some one to the Treasury Department who had the entire confidence of the mercantile and financial men. Mr. Buchanan was a good deal exercised in the matter, and asked them if they came to Washington to dictate who should comprise his Cabinet."

That committee came on here, Mr. Thomas tells you, some time before his resignation, and Mr. Vail says:

"It was not many days afterward when it was announced—I think on the morning of the 12th of January—that Mr. Dix had been made Secretary of the Treasury."

It was not many days afterward, but some days afterward. That committee came on here and urged upon Mr. Buchanan to change his Secretary of the Treasury. Mr. Thomas tells you that when he went up to the President's in obedience to a summons the President told him of this, and Mr. Thomas then told the President he should resign his office, and he says:

"I resigned the office on that account and none other. When I did resign I was endeavoring to make arrangements to secure the balance of the loan under the act of December 17, 1860, to be taken on better terms than the first portion of it was, and I had the assistance and advice and counsel of other persons, loyal men, too, to enable me to do it. I would also like to refer the committee to a letter which has been filed, I think, showing my official action as Secretary of the Treasury, when I received the resignation of an officer in the revenue-cutter service, Mr. Costé, who was in charge of the revenue cutter at Charleston which was surrendered to the South Carolina authorities. I considered it a great outrage, a great wrong to the Government, and a most dishonorable act, and I dismissed him from the service."

How does that compare with such statements as are made in the Senate by the Senator from Vermont and the Senator from Indiana and others? Mr. Thomas, as Secretary of the Treasury, considered the resignation of a man in command of a revenue cutter in Charleston harbor, to assist in collecting the revenue, under the circumstances, as a dishonorable act, and refused to receive his resignation and dismissed him dishonorably from the service. This is an official fact. I am surprised to find such language put into the mouth of Mr. Thomas when his statements and the official record so flatly contradict them.

But that portion of his letter of resignation is commented upon in which he says that he cannot agree with the President in the measures which he has adopted. I should like to know of the Senator from Indiana if he agreed with the President in the measures which were adopted in the winter of 1860–61? Did you, sir? Did I? No truly loyal man agreed with the President in the measures which were adopted. Why, sir, he took no steps to protect the public property. Did he not suffer the custom-houses, forts, and arsenals from New Orleans to the Potomac to be taken possession of by the enemies of the country without lifting a finger?

But the worst construction is put upon Mr. Thomas's conduct. It is said he did not agree with the President—not because the President did not discharge his duty as he ought to have done, but because Mr. Thomas wanted him to do less than he did do. I say there is not in this testimony one particle of evidence to sustain such an accusation; and according to all the rules of evidence, you are not to draw from a fact an evil intent and purpose when you can just as legitimately draw a good intent and a good purpose. I have as much to right to say that he disagreed with Mr. Buchanan for the same reason that the Senator from Indiana and the Senator from Nevada disagreed with him, as they have to say that he disagreed with him because he did not surrender the Government totally up into the hands of the rebels. Sir, I have a better right to assume that he disagreed with Mr. Buchanan because he was not more efficient when I show you by the testimony that he struck from the rolls of the revenue service a man who sought to resign. Take the facts as they are. Do not pervert the testimony. Do not put words into Mr. Thomas's mouth that he never uttered. If satisfied that what he did constituted the offense of giving aid and comfort to the rebellion, I shall vote with the gentlemen who think he ought not to be permitted to qualify.

The Senator from Vermont says:

"He was silent when he was accused of associating exclusively with the sympathizers of the rebellion. He was silent when a word from him, if it had been true, could have shown us that from some other motive or some other misfortune it was that he appeared in this questionable light."

The Senator from Vermont is speaking of his presence before the Committee on the Judiciary. He says Mr. Thomas was there, and he was silent. Was he silent? Have I not just read to you what he said? I will read something more that he said:

"A great many other things occurred which illustrated my manner of administration of the Treasury Department, without reference to the coming troubles. I should have considered myself dishonored if I had allowed any considerations to influence me in the conduct of the business of the Department other than what was due to the Government."

Was his mouth shut? Did he not speak out before the committee? There is his language. What becomes, then, of this far-fetched, this manufactured testimony? for it is not here. It is not true that he stood there silent when the witnesses were being examined against him. He made a statement which is reported here by the committee. If the Senate is disposed to act upon imagination, upon fancied opinions, upon what they supposed he might have said, that is one thing; but if they act upon what actually occurred they must take it as it did occur.

But the Senator from Michigan took a good deal of time to show that war, "flagrant war," existed at the beginning of January, 1861. He says that the statement which I made that at the time of his resignation——

Mr. HOWARD. "Not a shot had been fired."

Mr. TRUMBULL. Was that the language I used? I do not have it before me. Not a shot had been fired, certainly upon our part; and yet the Senator says flagrant war existed! Can you have war when there are no contending parties? War existed, if at all, on one side only. That imbecile President suffered your forts and arsenals and custom-houses to be surrendered up without striking a blow. That imbecile President, for not coöperating with whom the Senator from Michigan now denounces the claimant to a seat here, gave them all up. I am not going over the whole history of the transactions that occurred in the winter of 1860 and 1861; but I might refer the Senator from Michigan to the decision of the Supreme Court on this question in the prize cases. There the question was as to when the war began; whether it began when the President issued his proclamation and call for seventy-five thousand men in April or not until Congress met and recognized the existing conflict. The court were unanimous in the opinion that war existed after Congress acted; but nobody contended that war existed before the firing upon Fort Sumter. Nobody insisted, and no member of the court held that war existed before the calling out of the seventy-five thousand men. I say now there had been no conflict when Mr. Thomas resigned, and his resignation had nothing to do with the sending of the Brooklyn to Charleston harbor. There is not a particle of testimony in this record that Thomas knew anything about it. The Senator from Michigan says:

"I assert that at the time Mr. Thomas resigned his commission as Secretary of the Treasury there was flagrant civil war in the United States."

Mr. HOWARD. Very flagrant.

Mr. TRUMBULL. How flagrant? Had the United States fired a gun?

Mr. HOWARD. Yes.

Mr. TRUMBULL. Had your imbecile President fired a gun in protection of the honor of the country?

Mr. HOWARD. Yes.

Mr. TRUMBULL. He had? Where?

Mr. DRAKE. Suppose he had not; it had been fired on the other side.

Mr. TRUMBULL. It was not much of a war; fighting in peace on one side and war on the other, I suppose. That is flagrant war!

Mr. DRAKE. It was war began on the other side and not responded to yet on our side.

Mr. TRUMBULL. Then it had not got to be very flagrant, I take it, according to the opinion of the Senator from Missouri. It would not be a very flagrant war where the fighting was all on one side.

Mr. DRAKE. Very flagrant on that side.

Mr. TRUMBULL. That is a modification of what the Senator from Michigan said. Now, if you are to take the statement of Mr. Thomas, and it is here in the record, he gives you the reason why he resigned, and he says that was the sole reason. The Senator from Michigan and the Senator from Indiana say, "I do not believe him." There is no reasoning with gentlemen who say they do not believe the testimony. It is in the physical power of a man to say he does not believe anything, in the existence of a Supreme Being even; but we are to act upon the facts disclosed in the case. Suppose that the shot fired at the Star of the West had been the last gun that was fired, as it was the first—that the States had returned to their allegiance, and no civil war had followed—would the firing of that gun have constituted flagrant war? Mr. Thomas, in resigning in January, 1861, cannot be held responsible for what occurred months or years afterward, although the Senator from Indiana sought to hold him responsible by way of relation. A man may have done an act in 1860 or 1861 entirely legitimate and proper, which, if it had been done with a view to, or a knowledge of, what was afterward to occur, might have been very criminal. The act is to be judged of by the circumstances surrounding it at the time.

So much for this "flagrant war." The Senator from Michigan says further:

"With the utmost respect for those gentlemen upon the opposite side who entertain that opinion, I must say that this construction of the plain evidence in this case is entirely unsatisfactory; and, indeed, I must be permitted to use a term from which I should ordinarily refrain; I must be permitted to say that this interpretation of this testimony is puerile."

Then the interpretation put upon it by those who made this report, the Senators from Nevada, from New York, and others, is puerile in the opinion of the Senator from Michigan who saw this "flagrant war" before a single soldier upon our side had fired a gun or even been marshaled for war! I take none of the Senator's charge of puerility to myself, for I did not agree to the report for reasons already stated, but the facts reported are exactly what occurred; they were taken down by a stenographer at the time, and are reported to the Senate.

I believe I have said about all I designed in regard to the resignation of Mr. Thomas. I take the record; I take what is before us. Gentlemen go outside and ring the changes upon the measures taken to inaugurate the rebellion and then say that Mr. Thomas is responsible for them. If he is responsible for them, it must be because the evidence connects him with them; but there is no such evidence unless the simple fact of his resigning his office as Secretary of the Treasury when it seems he did not have the confidence of the moneyed men of the country furnishes it. I should like to ask my friend from Michigan if he would not have advised him to resign under the circumstances? Did not the public interests require it? Though he had been as loyal and as patriotic and as true as the Senator from Michigan himself, was it not best that he should resign and let somebody take his place at that critical time in our public affairs who had the confidence of the moneyed men of the country? I put it to the Senator from Ohio, who condemns him for his conduct at that time, if he had been asked the question by Mr. Thomas whether he had not best resign, would he not have said, "Yes, resign." And I say here to-day there was no one act that transpired in January, 1861, which did more to encourage the hearts of patriots than his resignation and the appointment of John A. Dix as his successor, who issued that memorable order to a revenue officer in New Orleans to shoot down the man who should attempt to haul down the American flag.

It is unfortunate that Mr. Thomas did not have the confidence of the moneyed men of the country; but I say that that act of resignation of his and giving up the Treasury to a man who did possess their confidence, so far from giving aid and comfort to the rebellion, was a blow at the rebellion. But Mr. Thomas gave $100 to his son who went into the rebellion, and it is said that the motive with which or the purpose for which he gave it has nothing to do with the case. I agree—and let there be no dispute between us on that point—if Mr. Thomas gave $100 to his son to aid him in going to join the rebel army he ought not to be permitted to take the oath which would qualify him as a Senator. This case is argued as if that was so, as if it was established that he gave his son the means to go into the rebel army, that he gave him $100 to enable him to buy an outfit to join the rebels. If he did I am against him. I would not vote to allow him to take his seat if the testimony satisfied me that that was so, and we should have no dispute on this matter. But did he do that? Did he give money for any such purpose? What is the evidence? The evidence is that he tried to dissuade his son from going; that he told him not to go; that after the son came here to Washington, had spent all his money, and did not get into the rebel lines, Mr. Thomas induced the boy's mother to write to him and appeal to him to come home. It is evident that he did not want him to go from all the circumstances.

But it is said he gave him $100, and if the boy had not had the $100 he would not have been as well qualified to go. Now, let us test this argument for a moment. All of us in this body voted money to feed rebel prisoners. I do not know that the Senator from Indiana [Mr. MORTON] was here at that time, but if he had been here he certainly would have voted with us to tax our constituents to raise money to feed the rebel prisoners in our hands. We fed them better than many of them were ever fed in their lives before. Many of those prisoners were afterward exchanged, fought us, and slew our friends, our relatives, our brothers. If we had not fed them, if we had done as the rebels did with the Union prisoners at Andersonville, if we had starved them to death, they never could have fought against us a second time. When the Senator from Michigan voted with me to take money out of the Treasury to feed eighty thousand rebels and keep them in health did he thereby give aid and comfort to the rebellion? Many of those very rebels that you taxed your constituents to feed afterward fought against us.

Mr. HOWARD. They were prisoners of war, I suppose.

Mr. TRUMBULL. Yes, they were prisoners of war; but you kept them alive and fed them, and when exchanged let them go into the rebel ranks; whereas if you had done as the rebels did with our Union men at Andersonville you would have starved them to death, and they would never have fought you any more. Why, sir, how is it on the field of battle? How was it with the Union soldiers when they captured rebels in arms, and when they took as prisoners their wounded, their famishing, and their dying rebel enemies? The Union soldier emptied his canteen and gave the rebel a drink of water; he divided with him his loaf of bread to prevent him from starvation. Was that giving aid and comfort to the rebellion, because it turned out afterward that that rebel thus saved from starvation and death by the magnanimity of that patriotic soldier was enabled to fight us again?

I cite these cases by way of illustration merely to show that it is not the act, but the purpose with which the act is done, that constitutes crime. If Mr. Thomas gave $100 to his son, not as the Union soldier gave half his loaf of bread to the rebel he had captured, and who, perhaps, in the next hour afterward was released by an onset of the rebel army; if he did not give it in that sense, but for the purpose of enabling his son to fit himself out to join the rebels, then he did give aid and comfort to the rebellion. But I say it is a perversion of terms to declare that you are giving aid and comfort to the rebel when you are simply answering the calls of humanity and saving a dying man from starvation. Our surgeons were all over the battle-fields of the war caring alike for the wounded of both armies. They saved the lives of many wounded rebels, and thereby enabled them afterward again to enter the rebel ranks and fight against us. It was the purpose with which they did it which takes from the deed all semblance of crime, and makes it a noble, a praiseworthy, and a magnanimous act. So in regard to the $100—if it was given by Mr. Thomas to clothe and feed the boy it was an innocent act; if to enable him to join the rebels it was criminal. The testimony shows it to have been given for the former purpose. But Mr. Thomas is guilty of misprision of treason, says somebody, because he knew that an act of treason was about to be committed and did not give notice of it. As I said the other day, we are all of us guilty in that respect.

Mr. DRAKE. I would ask the honorable Senator from Illinois if we all had sons going into the rebel army, minors, whom we could have restrained if we would, and to whom we need not have given money unless we chose.

Mr. TRUMBULL. I do not know that we had. I do not think that is any answer to the argument which I am making, or has, if I may be permitted to say so, anything to do with it.

Mr. DRAKE. I am sorry the honorable Senator from Illinois does not see it.

Mr. TRUMBULL. We were referred the other day to the statute in regard to misprision of treason, which provides that—

"If any person or persons having knowledge of the commission of any of the treasons aforesaid shall conceal, and not as soon as may be disclose, make known," * * * * "to the President of the United States, or some one of the judges thereof, or to the President or Governor of a particular State, or some one of the judges or justices thereof, such person or persons, on conviction, shall be adjudged guilty of misprision of treason."

What is necessary to constitute the offense? First, a knowledge of a treason committed. When the $100 was given by Mr. Thomas treason had not been committed by the son; the boy proposed to go into the rebel lines, but he had not yet gone, and it was months afterward before he joined the rebels; so that technically there was no misprision of treason in not arresting the boy at the time. But upon the theory that it is every man's duty to arrest traitors every traitor should now be arrested, tried, and executed for his treason. Does anybody propose now—does the Senator from Missouri propose—to bring to trial, condemnation, and execution every person engaged in arms against this Government during the last seven years?

Mr. FERRY. But would the Senator admit them into the Senate, although he would not try and execute them?

Mr. TRUMBULL. Not at all; I am opposed to admitting them. Let my friend from Connecticut not be misled himself nor mislead me. The question I am discussing is misprision of treason. I am not for admitting anybody here who was engaged in treason. That is not the point. The point is made that you are to exclude a man from the body who knew of a treason and did not complain of the traitor. That is the point; and I put it to my friend from Connecticut, are you for keeping out of this body every man who, knowing that a person had committed treason, failed to go to the President of the United States or to the courts and make complaint of the traitor? If you are you will have very few members here. That is the point, and let us not be misled by such a question as the Senator puts whether I am for admitting traitors here. I answer that I am not.

As I have said, it will not do to act upon such a rule as that in the Senate that a party is to be excluded from a seat because he has known of the commission of treason, or has known a party who has committed treason and has not given notice thereof to the authorities. I think the Senator from Connecticut, who put that question to me, will hardly be willing to lay that down as the rule.

Mr. FERRY. If the Senator will give way for a moment I will explain what seems to me to be the most difficult point in the case of Mr. Thomas. In order to understand it we must see the situation of affairs at the time when this transaction took place. The young man left his father's house on the 23d of November, 1863. The rebel lines were a few miles south of the city of Washington, and the rebel cavalry were raiding right under the walls of Alexandria. Moreover, immediately on the west of the national capital rebel cavalry raids were taking place up to the Potomac and over into the State of Maryland. This young man, under his father's control and authority, against the wishes but with the permission of his father, left the father's house with intent to become a recruit to the rebel army. He lurked for two months within the American lines, all the while entertaining that intent; and the father knew that the young man was here in the city of Washington, intending secretly to escape through the American lines for the purpose of becoming a recruit in the rebel army. No affection for the son need have operated upon the father's mind to prevent him from disclosing this intent of his son to the Federal authorities. He had but to come a few hours' journey to the city of Washington and say to the provost marshal, "I have a headstrong son that is trying to escape through the Federal lines and join the rebel army; I wish you would arrest him and send him home or stop him in this treasonable journey." Without harm to the son the act would have been done, and the son have escaped junction with the rebel army. And yet the father held back a knowledge of this fact from the Federal authorities during this whole period of two months, during which he knew that this son was lurking along the American lines endeavoring to escape through them to become a rebel recruit.

Now, I say that such an act as that, whether the father was a sympathizer with the rebellion or not, and I take the very question put to me the other day by the Senator from Maine, [Mr. FESSENDEN,] and I say that if the Senator from Illinois himself, within a few miles of the lines of the two armies, had permitted his minor son to lurk close by the American lines, seeking an opportunity to escape through them, lurking, moreover, according to the laws of war, as a spy, he would have fallen within the statute of misprision of treason, and upon his own showing, and upon the showing of the Senator from Pennsylvania [Mr. BUCKALEW] the other day, would be unworthy of a place in this body; for both Senators have admitted that if a crime against the law of the land is fixed by the evidence upon Mr. Thomas he ought not to be permitted to take a seat among us. It is not because Mr. Thomas left the Cabinet of Mr. Buchanan, it is not because Mr. Thomas gave his son $100, but it is because, himself within a few miles of the Federal lines, he knew for two long months that his son was lurking in those lines, seeking to escape through them and join the rebel army, and failed to disclose the fact to the Federal authorities, that I think, as at present advised, he is not entitled to take his seat among us.

Mr. TRUMBULL. Mr. President, each Senator will, of course, act upon his own individual responsibility, and take his own view of this case; and it is only because I desired to state the reasons for the vote which I expect to give, that I have occupied the time of the Senate this morning. I should not have done that, but that some of the remarks which I made the other day, had, as I thought, been rather severely criticised. Now, the Senator from Connecticut attaches no importance to the resignation which governs other Senators; and he attaches no particular importance to the giving of $100, which governs another class of Senators; but he thinks that Mr. Thomas was guilty of giving aid and comfort to the rebellion by not notifying the authorities that his son was seeking to go into the rebel lines, and that therein, under the particular circumstances of this case, he was guilty of misprision of treason.

I do not understand him to say that he would exclude every one from this body who might technically be guilty of misprision of treason in not communicating to the authorities the knowledge which he had that a person had been guilty of treason, but under the circumstances of this case he would do it. Well, sir, I have no fault to find with the position assumed by the Senator from Connecticut; I have no fault to find with the position assumed by any Senator for his own guidance in this matter; and as I have said, I have taken up the time of the Senate this morning chiefly for the purpose of explaining my own position, and stating what I conceive to be the proper conclusion that the Senate should arrive at. I wish to act in this case, as I presume every other Senator does, just as I would act in every other case, to adopt a rule for our government which we can apply to other cases.

When the Senator from Connecticut interrupted me I was commenting upon the point that it would not do to lay it down as a rule that every person technically guilty of misprision of treason should be excluded from the body. I do not know that the Senator from Connecticut means to lay down any such rule, but he applies his judgment to the particular facts of this case. I should object, however, to such a rule, and I think we ought to act with some uniformity in these cases. I referred the other day to the case of Colonel STOKES, who I know did good service in the Union Army. I know that he turned out to be a patriotic citizen, and performed his whole duty to his country after he joined the Union Army. But the fact stares us in the face that he wrote the letter from which I read an extract the other day. What does the Senator from Indiana say about it? He makes no objection to Mr. STOKES being received; he justifies that. Mr. STOKES wrote a letter in which he declared that he had enrolled himself as a volunteer to fight against the Government. Mr. Thomas resigned his seat in Mr. Buchanan's Cabinet. Now, the Senator from Indiana says "Come in Mr. STOKES; you declared that you had enrolled yourself as a volunteer with the enemies of the country; you said the time had come for fighting; you said that you approved the course of the rebel Governor Harris, of Tennessee; walk in, take the oath, and swear that you never gave any aid or comfort, countenance or support to the rebellion. But you, Mr. Thomas, resigned your seat in the Cabinet of Mr. Buchanan, and by that act you gave aid and comfort to the enemy; you cannot come in, and shall not take the oath; you shall not be admitted to your seat."

These are the cases. The fact that Mr. STOKES afterward became loyal and true to the country does not alter the case. What says the statute? It says that a person before being admitted as a Senator or Representative shall swear that he has given no aid, countenance, counsel, or encouragement to rebels in arms against the Government. Was it giving no aid, countenance, counsel, or encouragement to rebels to enrol yourself as one of them? I allude to this not for the purpose of casting any reflection upon Mr. STOKES, but for the purpose of calling the attention of Senators to the importance of acting with some uniformity in regard to these cases. I come back as I began, to the case of Mr. Thomas, and conclude what I have to say in regard to it by stating that I regard it as a matter of fact to be determined by the testimony, whether he has given aid, countenance, or encouragement to persons engaged in armed hostility to the United States. The testimony shows that he resigned his seat in the Cabinet because he was not satisfactory to the moneyed men of the country in the position of Secretary of the Treasury. That is what he states; that is the testimony. Senators have said that was not the reason; they have said that he resigned for some other reason. There is no evidence of that, but they imagine it to be so. The Senator from Michigan thinks that is so; he thinks that Mr. Thomas ought to have known what was done in the Cabinet, and that he ought not to have resigned, that it was giving aid and comfort to the enemy to do so; and he attributes his resignation for other reasons than those he himself states.

The Senator from Connecticut does not attach much importance to this; the Senator from Nevada does not attach much importance to this resignation; but it is all important with the Senator from Michigan, and it is all important with the Senator from Indiana. Now, sir, I take the testimony as it was before the committee, and I see no evidence of his having thrown up his office because he disapproved of the Brooklyn going to Charleston harbor, or because he disapproved of the course of Mr. Buchanan in trying to protect the Government. He says he did the best he could to sustain the credit of the country while he was Secretary of the Treasury. The Senator from Michigan does not believe him.

Mr. HOWARD. I said nothing about that.

Mr. TRUMBULL. I understood the Senator to say that he resigned for different reasons. Of course, then, he does not believe Mr. Thomas. I may have confused the Senator from Michigan with one of the other Senators who spoke, perhaps with the Senator from Vermont; but I understood him to say

that Mr. Thomas threw up his commission because he could not agree with the measures the President was taking to sustain the Government. If the Senator from Michigan did not assume that position some other Senator did.

Mr. HOWARD. What I said, Mr. President, was very brief and was this: that he resigned because he was unwilling to carry on a war against the rebellion. That is what I said.

Mr. TRUMBULL. He states that that was not the reason.

Mr. DRAKE. Will the honorable Senator from Illinois allow a word of interruption here?

Mr. TRUMBULL. Certainly.

Mr. DRAKE. The honorable Senator seems to assume that all other assignment of reasons for the resignation of Mr. Thomas than that which he assigned verbally before the committee is imaginary; that there is no foundation for it. As the Senator said he was about to conclude his remarks, I would be glad if, before he concludes them, he would give some little attention to an explanation of the reasons assigned by Mr. Thomas in his letter of resignation, dated the 11th of January, 1861, as well as to his declarations made before the committee in 1867, more than six years afterward. I call the honorable Senator's attention to the terms of that resignation as contained in the letter which is printed on page 54 of the report of the committee. And with the honorable Senator's permission I will read to the Senate the first sentence of that letter of resignation.

"It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina."

That is one clause of the sentence; he cannot agree with the President and the rest of his constitutional advisers as to the measures which have been adopted in reference to the then condition of things in South Carolina, and those measures were adopted after acts of war had been committed by South Carolina and in other quarters. And then he goes on to say an entirely different thing:

"Nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston."

Two reasons are assigned in his letter of resignation for tendering it; one of them covering the whole ground of the actually existing war in South Carolina, the other covering merely the ground of the collection of revenue; and for these reasons he resigns; not for the reasons stated by him six years afterward before the committee in defense of his resignation and in order to enable him to get a seat in this body. Sir, I would be glad if the astute Senator from Illinois would show us how it isthat he gives all the effect he does to the mere talk of this man before the committee in 1867 and utterly ignores the reasons assigned in writing by him for his resignation in 1861.

Mr. TRUMBULL. Mr. President, I should like to be permitted to ask the Senator from Missouri if he approved of the measures which were adopted by President Buchanan in reference to the "present condition of things in South Carolina."

Mr. DRAKE. I certainly approved of the attempt to relieve Fort Sumter by sending food for its soldiers, and it was in that attempt made by Mr. Buchanan's administration, before Mr. Thomas's resignation, if I remember aright, that the Star of the West was fired upon. Am I not right?

Mr. HOWARD. You are right. That was on the 9th of January, 1861.

Mr. DRAKE. On the 9th day of January, forty-eight hours before he resigned, the flag of the United States was fired upon by the rebels there. That attempt to relieve that fort was a measure which the loyal men of the whole country approved, and the whole country was only restrained by considerations of prudence from immediately making war upon the rebels that then dared to fire upon that flag. But, sir, with the sound of that gun fired upon the rebel side still rolling over the land, and when the least exhibition of weakness or disorder in the Administration would necessarily inspirit the rebellion, Mr. Thomas, unable to approve the measures taken by that President to relieve the condition of things at Charleston and in South Carolina, throws up his commission before the whole country, and thereby signified to the rebels that he, at least, would have nothing to do with any such measures.

And if the Senator from Illinois will allow me one word more—I beg his pardon for interrupting him—let us look at the position of things that he spoke of just now with regard to the resignation of Mr. Thomas. He spoke of the thrill of joy that went through the country when he resigned and John A. Dix was appointed, and gave that memorable order to the revenue officer at New Orleans, that if any man undertook to haul down the flag of his country he should be shot down on the spot. I will ask the Senator from Illinois why it was that the country felt as it did if it were not that when Mr. Thomas resigned it was known that one unfriendly to the country had left the seat of its money power and one friendly to it had taken the keys of the Treasury. Ah, the gentleman turns upon us and asks: did he under those circumstances give aid and comfort to the enemy? Yes, sir; he did give aid and comfort to the enemy. How? By refusing to manage the finances of the nation to put down their rebellion; and he gave aid and comfort to the loyal men of the country, too, by getting out of the way and giving the keys of the Treasury into the hands of a loyal man, who would order a revenue officer to shoot down any man that undertook to pull down the American flag. This is the way that his resignation gave aid and comfort in both directions; and in both cases it was because of his disloyalty, his known disloyalty, known North and known South. He comforted the rebels in the South by refusing to help the Government against them, and comforted the loyal men of the North by getting out of the way and giving the Treasury into the hands of a loyal man.

Mr. TRUMBULL. Mr. President, it has taken my friend a long time to reply to my question.

Mr. DRAKE. There was a great deal in the question.

Mr. TRUMBULL. It seems so; the answer is somewhat longer than the question. My question was whether the Senator from Missouri approved of the measures adopted by the then Administration, and he goes off into a very eloquent speech to assure us that he approved of one thing. He had just before said that in the first part of this letter of resignation Mr. Thomas spoke generally of the measures of the Administration. Now, what right has the Senator from Missouri to say that he did not approve of the same measure that the Senator did?

Mr. DRAKE. What measure?

Mr. TRUMBULL. The one that you have been eulogizing so much—the effort to relieve Fort Sumter.

Mr. DRAKE. Just because he went out of the Cabinet forty-eight hours afterward.

Mr. TRUMBULL. But that does not show that he did not approve of it. He may have been like the Senator from Missouri, who, I know, disapproved of a good many acts at that time. Would you have allowed a garrison to be cooped up in Sumter? Would you have made a treaty with the rebel commissioners from South Carolina that Sumter should not be reënforced, as President Buchanan did? Did you approve it?

Mr. DRAKE. When did he do that?

Mr. TRUMBULL. He did it about that time.

Mr. DRAKE. Suppose he did?

Mr. TRUMBULL. Did you approve it?

Mr. DRAKE. No, sir.

Mr. TRUMBULL. Then you did not approve the measures of Mr. Buchanan. I did not approve them.

Mr. DRAKE. Does the Senator call that a measure for the suppression of rebellion?

Mr. TRUMBULL. That is not the language of the letter. The letter says:

"It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina."

One of the measures adopted was to enter into a treaty of peace with rebels that your forts should not be garrisoned or protected. That, I suppose, is one of the measures which he did not approve, and I should like to know if the Senator from Missouri approved it or if any loyal man approved it.

Mr. DRAKE. May I ask the honorable Senator from Illinois whether he is now going to undertake to show that Mr. Thomas resigned from President Buchanan's Cabinet because the President made that treaty with those South Carolina men, and thereby prove Mr. Thomas a tip-top loyal man?

Mr. TRUMBULL. I say, Mr. President, it is just as legitimate for me to argue that as it is for the Senator to urge that he disapproved of furnishing supplies to Sumter. I say one inference is just as legitimate as the other; there is no testimony as to either. I could have signed the letter of Mr. Thomas declaring that I did not agree with the measures adopted by Mr. Buchanan in regard to South Carolina. Gentlemen pick out one good act that Mr. Buchanan did and say that that is the one which Mr. Thomas did not agree to. How do they know that? He does not say so. There were many acts of that President which no patriotic man could agree to.

Now, let me read what Mr. Cisco says in regard to the complaint which is made about Mr. Thomas as Secretary of the Treasury. Mr. Cisco, it will be remembered, had been the financial agent of this Government for a long time in the city of New York, and continued to be so for some time after Mr. Lincoln became President; and I believe nobody ever questioned his integrity, his honesty, or his fidelity to the Government. He was before the committee, and let me read what he testified in regard to Mr. Thomas's conduct in the Treasury Department:

"*Question.* State if you know any foundation for the statement which I have substantially read to you, and the further statement in this report to the Bank of Commerce, alluding to the statement already read: 'This was evidently a wicked and treasonable plot to dishonor the credit of the United States by default in the payment of interest on its stocks, by neglecting to provide for the arrears due to the Army and the Navy and the civil and diplomatic list, including those due to the members of Congress then in session.' State if you know any fact to sustain this statement, or upon what it was based.

"*Answer.* I know of no fact which would warrant any such statement—none whatever. I was very much surprised that any such statement should ever have been made. The first time my attention ever was called to it was on the occasion of its reading in the Senate by Mr. HOWARD, of Michigan. It was the first time I had seen the statement. It was contained in a report made by the officers to the shareholders of that bank, and of course only circulated privately, that is, circulated among their shareholders. I did not receive one; I was not one of their shareholders. I was certainly very much surprised at any such statement. There was nothing, in my judgment, to warrant any such charges; nor do I know of any act of Mr. Thomas, while he was Secretary of the Treasury, which would at all justify the charge of a treasonable plot in relation to that matter. On the contrary, I think that Mr. Thomas did all that he possibly could under the circumstances. It is true there were some notions in New York in relation to Mr. Thomas's sympathies which affected our financial people very seriously. Whether they were true or not I cannot say."

And again:

"*Question.* Then, so far as you know, Mr. Thomas, as Secretary of the Treasury, did all in his power to meet the interest?

"*Answer.* I think so, and it seems to me that the very fact of his being willing to take this offer of a million and a half at that exorbitant rate of interest was evidence that he was desirous that the interest on the public debt should be paid. He knew there was no other source, because I had already informed him that the money which I held could not be used for that purpose, and in that he acquiesced."

The whole testimony of Mr. Cisco goes to

exonerate Mr. Thomas entirely from any charge, imputation, or suspicion of improper conduct as Secretary of the Treasury. I think it is unjust to impute to Mr. Thomas a wrong motive in his letter of resignation when you may impute a right one just as well. The fact about it is, as he stated in the committee, that a committee of bankers' men came on here from New York and stated to the President that the moneyed men had not confidence in Mr. Thomas, and hearing that he told the President that he would resign; and that was the real cause of his resignation. It may be, as the Senator from Missouri says, that he ought to have been a man who had the confidence of the moneyed men of the country. But it is not every individual that has it. He was not that person. General Dix had more of it; and the country undoubtedly was very much rejoiced when Mr. Thomas went out and General Dix came in. I think that the act of his resignation benefited the country, because the moneyed men had not confidence in Mr. Thomas.

Mr. President, I have said a great deal more than I intended to say when I rose, and I shall conclude by remarking that in regard to this case I have no sort of feeling. I have no interest in having Mr. Thomas admitted or rejected any more than any other individual Senator. And, if I know myself, I only wish to vote upon his case as the testimony and the law and the Constitution will warrant. If I believed, as some Senators do, the statements that are made in regard to his disloyalty, I certainly should vote against receiving him here; but, so far as I am able to understand the testimony, the impression it makes upon my mind is that there is no such proof of his having done any act which gave aid and comfort to the rebellion as would warrant our refusal to allow him to take his seat on taking the oath prescribed by law.

Mr. JOHNSON. Mr. President——

Mr. STEWART. I wish the Senator from Maryland would give way to me for a few moments.

Mr. JOHNSON. I cannot.

Mr. STEWART. I deem it a personal privilege to myself, after what has occurred, that I should be allowed to be heard for a short time.

Mr. JOHNSON. I claim as a personal privilege to occupy the floor when I have got it. I gave way to the honorable member from Illinois because I supposed at the time that he would not find it necessary to occupy the floor more than a few moments. He has, however, exhausted nearly all that portion of the day which I supposed would be left to me.

Mr. President, the importance of the question before the Senate cannot be overstated. This is manifest from the manner in which it has been debated by some members of the body. I propose, therefore, to examine it, with a view to ascertain the principles upon which it should be decided. And this I shall endeavor to do, uninfluenced, as I believe I am, by any feelings of State pride, which under other circumstances might perhaps influence my judgment. The Constitution makes me, upon this question, a judge, and I feel bound to bring to its consideration the calmness and impartiality which belong to that position.

There are some propositions connected with the subject upon which I suppose there can be no difference of opinion. These are, to state them in general terms, that the legislative department of the Government, and especially this branch of it, depends for its existence upon the States. Senators are chosen, and can be chosen in no other way than by the Legislatures of the States. The only qualifications required by the Constitution are that the party to be chosen shall be at least thirty years of age, a citizen of the United States for nine years, and an inhabitant of the State. Subject to these limitations the Legislature of the State has the unrestricted right of choice. No department of this Government of the United States has any jurisdiction over it. The Constitution, whether we regard its terms or its evident scope, as manifested by its nature, creates a Government of delegated powers, and that Government has consequently no authority to interfere. The obvious purpose was to leave the election of members of this body to the Legislatures of the States exclusively, without any other restrictions than those of age, citizenship, and inhabitancy. No provision is made for compelling the States to elect Senators. The only security for the performance of this duty is in the fact that the members of the Legislature are bound to take an oath to support the Constitution of the United States, and in the presumption that the people of the States will be true to their allegiance to the Government of the Union.

This being the authority of the States, whenever in the performance of it they act within its limits it would seem to follow that their decision is conclusive. If there could be any doubt upon the point it is removed by what is the obvious limitation upon the power of the Senate when the election of a Senator, as in the present instance, comes before it. The Constitution in such a case gives to the Senate no power except that of judging of the election, return, and qualification of the person elected.

There is another provision which shows that it was not intended to authorize the Senate to refuse admission to a Senator-elect for any other reason than his not having the specific qualifications mentioned in the Constitution, and that is the one which denies to it the power to expel a Senator except by a vote of two thirds of its members. The framers of the Constitution evidently anticipated that political parties might exist, and that they might at times, for the sake of party success, adopt measures inconsistent with the rights of the States. They believed, however, that such measures would rarely receive the assent of two thirds of the body. And while willing to submit to the decision of a bare majority whether the person elected possessed the constitutional qualifications, (in its nature a simple inquiry,) they were not willing to leave to such a majority the power to deny such a person admission. To guard against the mischief which might result from having a Senator who should prove by his conduct, either morally or otherwise, that he was unfit for the position, they gave to the Senate, by a vote of two thirds, the authority to expel him. Such a vote they supposed could never be obtained for a mere party end, and would, therefore, never be had, so as to interfere with the rights of the States to select their own Senators.

From these views the result is that when the election has been legally held, and has been legally returned, the Senate has no right, as far as the words of the Constitution are concerned, to deny admission to the person elected, if he possesses the qualifications required—aye, citizenship and residence. As it is not pretended that the election of my colleague and its return are not right, or that he does not possess all the qualifications required, the only ground upon which he can be denied admission is that there are additional qualifications than those contained in the Constitution which he has not. If this be so, it is upon the doctrine of implied powers. It is true that powers not expressly delegated are in Congress and in each House; but these are only such as are necessary to carry out the powers expressly granted. The extent of such powers is found in the Constitution itself; it is in the authority "to make all laws which shall be necessary and proper for carrying into execution" the delegated powers. No one has at any time contended that Congress has unlimited authority under that clause. The very words of the clause are inconsistent with any such pretense. In terms, nothing can be done under it except what is necessary and proper to the exercise of the granted powers; nor, indeed, does the clause confer upon Congress any authority that they would not have had without it, it being a well-established principle that the authority to do an act involves the authority to do everything that is necessary and not prohibited to its performance. It would, indeed, be an absurdity that under any such power, whether implied or granted, the extent of a granted power could be enlarged or that some distinct and independent power to that granted was conferred.

It follows from this that the Senate, under the authority to judge of the qualifications of a Senator-elect, is limited to those required by the Constitution.

If I be right in these views my colleague is entitled to admission, unless he has done some act which, although having the constitutional qualifications, legally deprives him of it. What has he done, then? is the inquiry to which I propose next to address myself, and what is the law, in addition to the Constitution, which bears upon the point?

1. As to the law. The only one upon the subject is that which requires an oath in addition to the one contained in the Constitution. In my opinion Congress had no authority to pass that act; but it is not my purpose now, to dispute its validity. The object of passing it was the same as that which the convention had in providing the constitutional oath. If in relation to the last the taking of it was to be conclusive on the Senate, leaving it no power to inquire into the sincerity with which it was taken, it would seem that the taking of the statutory oath was equally conclusive. That the former has ever been held conclusive is evident from the fact that no Senator has been excluded from his seat, either before or after taking it, upon the ground that he could not do so, or had not truthfully done so.

But conceding that the taking of the oath is not left entirely with the Senator-elect, and that the Senate may deny him his seat if they shall be of opinion that he could not in good faith take it, then the question is has my colleague done any act which will justify such a conclusion in his case? To this question I propose next to speak.

Before doing so I must say that I think, indeed, I know, and I therefore concur in what was said by the Senator from Pennsylvania, [Mr. BUCKALEW,] that great injustice has been done in the debate to my colleague. It has been said, and particularly by the honorable member from Indiana, [Mr. MORTON,] that my colleague cannot with truth take the statutory oath, and he has, indeed, gone so far, contrary to his accustomed courtesy, as to say that Senators must know it. Speaking for myself, I say to the honorable member that I know no such thing. The facts to which he is to swear are that he has not voluntarily given aid, encouragement, or countenance to the rebellion. The term "voluntarily" has no technical meaning. The Senator, therefore, in such a case, if he is an intelligent man, knows best whether he did the act imputed to him willfully and freely, and whether he did it for the purpose of aiding, encouraging, or countenancing the rebellion. My colleague, as demonstrated by the tenor of his entire life, is a man of honor. He enjoys and has enjoyed that character from his manhood to the present hour. Whatever opinions he may have had upon the nature of our Government, the extent of its powers, and the rights of the States, and however, if at all, he sympathized with the South during the war, these have not in any degree, in the estimation of all who personally know him, affected his reputation as a man. He is, indeed, what the honorable member from Ohio could not avoid saying, "a gentleman," which of itself, with gentlemen, should be considered a guarantee of his veracity. When, therefore, I find him willing to swear that the acts charged were not done by him voluntarily for the purpose of aiding, encouraging, or countenancing the rebellion, I am sure he speaks the truth.

I have not the right, nor will I assume the liberty, to be the keeper of his conscience. I am certain that if he does take the oath it will be because he has designedly done nothing within its true meaning. As far, therefore, as his purpose is involved, the fact that it was an

innocent one is, in my mind, satisfactorily established by his willingness to take the oath. Indeed, Mr. President, an illegal and criminal purpose is alleged against him upon technical grounds alone; and these are, that as the acts charged were of themselves evidence of such a purpose he is not at liberty to show that they were not done with that purpose; that they constitute a case of law and of fact *presumptio juris et de jure*, which cannot be rebutted. The proposition, to the extent to which it is here carried, is wholly unfounded. Killing a human creature unexplained is evidence of malice, and therefore murder; but the party is at liberty to show that it was done in self-defense or under circumstances which make it justifiable or excusable, and thereby disprove the presumption of malice. Why is it, then, that the presumption of guilt, or of disloyalty in any sense of that term, which gentlemen suppose the law infers from the acts done by my colleague, may not be also rebutted? Is there anything in the nature of those acts which makes the presumption of guilt more conclusive than in the case of killing? In truth, the theory is altogether unwarranted, either by reason or authority.

Crime, necessarily, involves intent. Congress may, but it would be harsh and merciless legislation, make the doing of an act, independent of intent, a crime; but they have not done this by the statute in question. Indeed, as far as that statute is concerned, the acts embraced by it are not made crimes at all. It only provides that a Senator shall swear, before being admitted, that they were not done by him. And this requires two things: first, that they were not done voluntarily; second, that they were not done to aid, encourage, or countenance the rebellion. The one is a purpose of the will, the other of intent. The statute, then, itself assumes that the rebellion may be aided, &c., by acts innocent in themselves, because not voluntarily done; and secondly, that acts may be voluntarily done which are innocent, although in fact aiding, &c., the rebellion, because not done with that view. The statute, then, does not admit of the conclusive presumption contended for, but, on the contrary, repels it. To bring a party within its operation it requires both will and intent.

Mr. President, I have now said all that I design to say upon the law applicable to the case before us, and I proceed to inquire what are the facts relied upon by Senators who dispute the right of my colleague to admission into this body.

The honorable member from Massachusetts [Mr. SUMNER] places his objection upon the ground that my colleague was guilty of misprision of treason in the giving of $100 to his son on the evening preceding his departure from the house and in concealing the fact that the son had departed for the purpose of joining the confederates. The honorable member, before he stated either in his speech or in his amendment that proposition, no doubt read the statute of the 30th of April, 1790, and considered it with all the care which is his habit; but I am greatly mistaken if he has not wholly misapprehended it. The Constitution of the United States defines in what treason shall consist; and it is sufficiently cautious and guarded in saying that it shall never at any time be held to consist in any other acts. Those are levying war upon the United States or adhering to their enemies, giving aid and comfort. The Constitution, of course, did not impose the penalty for such a crime, and it was for Congress to provide that penalty. That was done by the act to which I have referred. The first section of that act defines, as Congress was obliged to do, treason in the words of the Constitution, and provides that it shall be punished with death. The offense provided against in the first section, therefore, consists in levying war upon the United States or in adhering to their enemies, giving them aid and comfort. The second section intended to make the protection of the United States still more secure than it would have been by the first section, and provided that whoever shall know of the crimes stated in the first section and shall fail to disclose them shall be guilty of misprision of treason. The words of the second section, therefore, refer to the offense described by the first, and to no other. Whatever crime a party may commit against morality or against any statutory law, as far as the act of 1790 is concerned, any one may conceal without being subject to the penalties of that statute. To bring Mr. Thomas within the meaning of that statute it is necessary to prove that the son, when he proposed to leave his father's house and when he left his father's house intending to join the armies of the rebellion, committed the offense of treason. I think the honorable member from Massachusetts, if he had remained at the bar, to which at one time he practically belonged, and had been called upon to frame an indictment against Mr. Thomas under the provisions of the second section of the act of 1790, would have given up the task, for he must have averred that his son, on the evening before he left his father's house, levied war upon the United States or adhered to their enemies, giving them aid and comfort. Can it be contended that, if he did not so offend on the evening of the day when the $100 were given to him or on the morning when he left his father's house, he was guilty of the offense by what occurred thereafter within the knowledge of the father? What did occur then is the question. He left, intending to join the enemy, intending, therefore, to be one of those who were levying war against the United States; but that is not treason.

War must be levied in fact, and not merely intended to be levied, to constitute treason. And when he left his father's house, if he did not, in point of law, fall within the provision which defines treason as an act of levying war upon the United States, he did not at that time, upon that occasion, give to the enemies of the United States any aid, encouragement, or countenance. He attempted to cross the lines. That was not levying war or giving encouragement to the enemy. He failed in the attempt; he came to Washington; he was here for some three or four weeks doing nothing, but, I suppose, watching an opportunity to get beyond the lines of the loyal States. Was that levying war? Does any man in his senses—the honorable member from Massachusetts will pardon me for using so strong a term in reference to any opinion of his own—maintain that he had, up to that period, levied war or aided and encouraged the enemies of the United States? If he had not levied war, although what he intended to do was known to the father, the father was guilty of no violation of the provisions of the second section of the act of 1790, for that only made a party criminal who concealed from the proper authorities the fact that some person was levying war or giving aid and encouragement to the enemies of the United States.

I am not standing here for the purpose of vindicating the conduct of the son; he did what I am sure I never could have been induced to do; nor is it necessary that I should vindicate the conduct of the father. It is possible—but I doubt very much whether I should have had the Roman fortitude to go to that extent—it is perhaps doubtful whether I would not by some means or other have prevented a son from going upon his intended enterprise. It is possible that I never would have given him $100 under the circumstances which induced my colleague to give that amount to his son. But I am perfectly certain that my colleague never for a moment imagined that he was offending against the laws of his country by advancing to his son that amount. All the circumstances attending the conduct of the son and the conduct of the father repudiate any such presumption.

From the period when the war commenced to 1863, when the advance was made, this youth, with hundreds of others in my State, was anxious to unite himself with the cause of the South; and from day to day, from week to week, from month to month, and up to the very moment that he left his father's household in the pursuit of his intent, the father used every means which affection could suggest to frustrate his purpose except that of positive force. He used every term of entreaty which a father under such circumstances could use. He implored him by the duty which he owed to him, by the love which he should bear to his mother, by the duty which he owed to his State, by the duty which he owed to the Government, to forbear; and these appeals were sufficiently persuasive to detain the young man within the father's house from the commencement of the war in April, 1861, to November, 1863, when the father is supposed to have given him this $100 for the purpose of enabling him to engage in an enterprise which he, the father, had done everything to prevent.

Mr. President, it has been stated by several of the members who have engaged in the debate that the only ground upon which the father informed the son that he could not legally engage in the enterprise was, that Maryland was still in the Union. The honorable member from Indiana [Mr. MORTON] and one or two of the honorable members who have spoken against his admission have told us that that demonstrates that the father himself was a secessionist, and that if the State had been carried out of the Union he would have shared his fate with her. I know not upon what evidence these honorable gentlemen state that my colleague was ever, or is, a secessionist. If he was or is it has never been known to me. I have no doubt—but of that there is no evidence, as I think, sufficient to satisfy the mind of any Senator—that he believed the southern States, excluding his own State of Maryland, had rights which were being violated in point of fact, or which were threatened with violation by a party in the northern States, and that he deeply regretted it; but that he entertained the doctrine that under the Constitution of the United States a State has the authority to leave the Union whenever it shall think that the purposes of the Union, as far as the State is concerned, have not been accomplished, is what I never heard until this debate commenced, and what, with due deference to the honorable gentlemen who suppose that that was his conviction, I do not believe.

But, sir, the honorable member from Indiana is mistaken in his statement that the reason assigned by the father to the son why he was not at liberty to engage in the rebellion was, that his State had not seceded from the Union. Let me read the answers to two or three questions propounded to the son by his father during the investigation before the Judiciary Committee:

"*Question.* Did I not present the objection to your going there in every conceivable shape of which I was competent?

"*Answer.* I think so.

"*Question.* Did I not tell you, besides your not having the right to go into the rebel service, or any service against the Government, and besides getting no thanks for anything you might do, that by entering it you would lose all opportunity of obtaining a profession?

"*Answer.* Yes, sir.

"*Question.* Were you not engaged then in studying medicine?

"*Answer.* I was.

"*Question.* Had you not made an arrangement with me by which you were to go into the study of the profession of medicine?

"*Answer.* Yes, sir.

"*Question.* Did I not tell you that your going there, if you survived it, would destroy all your future prospects in life?

"*Answer.* Yes, sir.

"*Question.* Did I not constantly, on all occasions, in conversation with you on the subject insist upon it that there was no reason to justify your going?

"*Answer.* You did.

"*Question.* You had resolved, you say, to go to Gettysburg and enter General Lee's army?

"*Answer.* Yes, sir.

"*Question.* Did I not appeal to you, on the ground of your duty to the State and the Government, not to do so?

"*Answer.* You did."

In the first of these answers, as well as in the last, it appears that the father placed his opposition to the son's going upon the ground of right; not simply because the State had not seceded, but that what he was about to do was

to war upon the Government, which he had no right to do, whether the State seceded or did not secede. It was the Government, then, of the United States that my colleague wished to protect, as far as it could be protected by keeping his son from engaging in the traitorous enterprise which was then going on. He tells him almost in words, "What you propose to do is illegal, because it is to war against your Government. What you propose to do cannot be excusable, not only because your State continues to be one of the States of the Union, but because it is treasonable against the Government composed of all the States of the Union. The act which you are about to perpetrate is, in my judgment, treason against the United States, and I implore you to desist." The appeal was in vain, as we know. The boy went.

Now, Mr. President, I have said all that I propose to say in relation to the advance of the $100 and the conduct of the father in not disclosing the purpose of his son. I deem it unnecessary to say more, if I was able to say more, because the honorable member from Ohio, [Mr. SHERMAN,] and one or two other members of the Senate have told us that they see nothing in the advance of the $100 and the concealment of the purpose of the son which should deny to my colleague his right of admission into this Chamber.

Now let me, as briefly as I can, refer to the other facts, and the evidence relied upon in support of them, upon which his right to admission is denied. In the first place, before the 12th of December, 1860, my colleague was in his bureau in this capital discharging legally and honorably and ably the duties of Commissioner of Patents. No evidence has been given, and I am sure that none could have been obtained, to show that he participated at all in any conspiracy, if there was a conspiracy formed in this city or elsewhere, looking to the organization of the rebellion. He, in the strict discharge of his duty, without suspicion upon the part of citizen or of Government, was there from the time when the horizon became darkened with the clouds which afterward broke upon us with such destructive fury, discharging every obligation as a man of honor and of intelligence. The Secretary of the Treasury at that time was Mr. Cobb, between whom and my colleague there was no intimacy whatever. He had—I will not charge it to have been done with a view to the rebellion, for I do not so know—depleted the Treasury, and after it was depleted resigned his office as Secretary of the Treasury. Without seeking it, without any knowledge that the President contemplated offering it, the place was tendered to my colleague, and he accepted it. What for? For a criminal purpose? To assist in the levying of war upon the United States? To encourage and aid those who might thereafter be found engaged in such a crime? Let his conduct give the answer.

He took the oath of office on the 12th of December, 1860. The interest upon the public debt of the United States was to fall due on the 1st of the succeeding January, less than a month. All who were acquainted with the actual condition of things were alarmed lest the credit of the Government should almost be fatally destroyed, just upon the breaking out of a rebellion which then seemed to be imminent, by the failure to meet its engagements on the 1st of January; and no man can tell what would have been the consequence of such a thing. It is difficult to imagine to what extent the public credit would have been destroyed, and how injurious, if not fatal, the destruction of that credit, which would have been the consequence, would have been to the cause of the Union. What did he do—traitor in heart, as is alleged; false to his duty to the Government, as is alleged; a party to the conspiracy out of which the war grew? What was his first act? Upon ascertaining the actual condition of the Treasury, and finding that there were no means there to meet the engagements to mature on the 1st of January, and learning from the Assistant Treasurer in New York that he had then in his hands actually some million and a half of money upon which drafts had been drawn in favor of disbursing agents, he wrote to him to know, apprehending that he might not be able to get funds in time to meet the exigency, whether he could not with propriety use the fund alluded to. He was so solicitous to save the public faith that he suggested to the Assistant Treasurer:

"You have so much money in your hands, an amount sufficient to meet the payment of the interest on the public debt; it is true that drafts have been drawn upon the faith of it; but cannot I, in order to save the national honor, use the money, and afterward return it out of funds which I hope to be able to raise, by loan or otherwise?"

The Assistant Treasurer told him he could not; and in that he was legally correct.

What next? Application was made to Congress for authority to negotiate a loan of $10,000,000. An act was passed at once giving the authority. It came into his hands on the evening of the day of its passage; and on the next morning—as early a period as possible—he advertised for $5,000,000 of the loan, a sum adequate for his purpose, and it was obtained in time, obtained through him. He might, if he had been the man he is represented here, have delayed the issuing of proposals for one or two or three days. He might have refused to take the offers. They were exorbitant; the lenders exacted an interest of twelve per cent.; and he might well have said, as Mr. Cisco has said in the evidence, a part of which has been read by my honorable friend from Illinois, that it was exorbitant. But, sensibly alive to the honor of the nation, determined at almost any sacrifice to do all that he could to maintain it, he accepted the bid; and on the 1st of January, 1861, out of the proceeds of the loan, the interest maturing on that day was met.

Does this conduct show any purpose to assist those who were supposed at that time to be engaged in levying war upon the United States, to encourage or aid those who at that time, in his opinion, may have intended thereafter to levy war upon the United States? Unquestionably not. He sins against proof, in my judgment, who affixes to such conduct any other interpretation than that of a loyal and patriotic motive.

What next did he do? Soon after the negotiation of that loan some gentlemen from New York, naturally, I suppose, somewhat suspicious of Mr. Thomas because of his southern origin, although they had obtained a loan at the extravagant rate of twelve per cent., out of which they made hundreds of thousands of dollars, came to Washington, obtained an interview with the President, and alarmed him by telling him that as long as my colleague remained at the head of the Treasury the Government would be unable to obtain funds. The interview became known to him, and then, as a man of honor, as he tells us in the testimony, he informed the President that if his character is virtually to be assailed by persons admitted by him to an interview and doubts are to be cast upon his integrity as Secretary he resigns the office. Mr. President, I honor instead of censuring him for such conduct.

Then he resigned—when? On the 11th of January, 1861. Now, say honorable members, although there is nothing in what he had done prior to the 11th of January proving, but, on the contrary, there may be everything in his antecedent conduct disproving, the charge of disloyalty, the charge is made good by the terms of his letter of resignation. What are they? The letter is dated on the 11th of January, 1861. He states in the first clause of the letter, substantially, "Not being able to agree with you in the measures which you have adopted in relation to South Carolina, and not being able to agree that the revenue of the Government can be collected on board ship, I resign." Let me speak first of the last clause. The laws of the United States at that time, and now, gave no authority to collect revenue except at certain specified places on land, and no President or Secretary would now be at liberty, but, on the contrary, would offend against the express provisions of the statute if he undertook, to collect them anywhere else. What, then, did Mr. Thomas suppose? Whether he was mistaken or not is not the question. Whether he was not honest in his opinion is the question. What did he suppose? That without additional legislation he, as Secretary of the Treasury, would have no authority to enforce collections anywhere else or on ship-board.

Was that an opinion then for the first time stated by the Secretary of the Treasury to the Government? When South Carolina passed her ordinance of nullification, and that man of iron mold was the President of the United States, and surrounded by a Cabinet who partook very much of the same character, it was not thought that they had the authority to collect the imposts, which might otherwise be collected at the port of Charleston and in some of the other ports of South Carolina which were made ports of entry, on ship-board, unless Congress would authorize it; and they passed a statute for that purpose. Everything that was done during that period in relation to the collection of the revenue outside of the city was done, and done exclusively, under the authority of that legislation.

But that is not all. When this war broke forth and assumed the startling dimensions which alarmed the country and astounded the world, when it became necessary that the Government should collect all the revenue possible, at a time when Mr. Lincoln became the President of the United States, and was surrounded by men who claimed to be almost exclusively loyal, they thought the revenue could not be collected on board ship except under the authority of an act of Congress; and such an act was passed.

Then, sir, it would be cruelly unjust to assign any dishonorable motive, any traitorous motive to my colleague because he said he was unable to agree with the administration that the duties or imposts might be collected on board ship, unless gentlemen are willing to charge Jackson and his administration with a dishonest and traitorous purpose, or Mr. Lincoln and his Administration with a like purpose, in entertaining precisely the same opinion.

Now, what is the other clause in the letter? I am by no means sure that the honorable member from Maine [Mr. FESSENDEN] has not correctly construed that part of the letter; whether it is not to be taken in connection with the second branch of it, and whether it does not all relate exclusively to the authority to collect revenue. But, for the sake of the argument, suppose that my friend from Maine is, in that particular, mistaken. What was the state of things on the 11th of January, 1861? There was no war in any sense which I have heard imputed to that term. There was an insurrection in part which threatened to culminate into war; but not a gun had been fired except in the particular to which I shall advert in a moment. Major Anderson, whose name can never be mentioned but in honor as a brave and patriotic soldier, who stood by the flag of his country until he was nearly burnt up in the effort to maintain it, and is suffering now from the gallantry and indomitable courage he displayed upon the occasion, was at Sumter with a few men. Mr. Buchanan, by a policy which I forbear to characterize as I think it should be characterized, because he is an old man and has rendered service to the country, by a policy of imbecility and inactivity had permitted the authorities of the State of South Carolina to encircle Sumter with a range of forts. He permitted them from day to day, without any resistance to gird Sumter whenever they should think proper to use their power, with a circle of fire. The small but glorious garrison were not only unable to resist by force of arms, but they were in a starving condition. Mr. Buchanan had received—an act for which I think he deserved reprehension—commissioners from South Carolina, and he entered into an engage-

ment with them that no additional men or force of any kind should be thrown into Fort Sumter. After that it was proposed that an effort should be made to reënforce it, at least with provisions, by sending the Star of the West to the almost starving garrison. I speak in part what I know when I say that the then gallant and venerated chief of the armies of the United States was opposed to the movement. He thought it an enterprise certain to fail and certain to involve all engaged in it in destruction. He ridiculed, as far as he could consistently with the respect which he owed to the President of the United States, the making of such an attempt; and he was not alone. There were many men here and in New York loyal throughout the war, when the war commenced in point of fact, who looked upon it as Scott did. Mr. Lincoln himself, in the beginning, gave no countenance to it. The first purpose was to send the Brooklyn, a vessel of war, which it was thought might be able to withstand the cannon of the enemy; but she had left our waters and could not be obtained. The Star of the West was an unarmed steamer, a wooden steamer, through which every ball fired from the forts which she would be compelled to pass would go; and her sinking, therefore, was just as certain as anything could be certain if she made the attempt.

What said Mr. Thomas, if that part of the letter referred to that particular effort? "I cannot agree with you. I think it was wrong; I think it was ill-judged; I think it was cruel to subject loyal citizens of the United States to certain destruction. You have an understanding, it is said, that the fort shall be left in the condition in which it was, without aid of any kind, either of provisions or of men. Peace yet is possible. All hope is not lost. Measures may yet be adopted which will prevent the effusion of blood spilled in a conflict between men of the same race and men of the same country, between men who, in many instances, will be found to stand in the relation of father to son and brother to brother. I am opposed, therefore, to any measure which in any way may throw additional difficulties in the way of the restoration of harmony, and I leave your Cabinet."

What did he do when he left the Cabinet? The honorable Senator from Indiana supposes that he left the Cabinet with a view to encourage the enemy. There was no enemy, in the proper sense of that term, at that time. There were some persons in insurrection in South Carolina; no other State had seceded. No other State had raised an arm through any one of its citizens. The road to compromise was still open; and to compromise such a threatened struggle was at that moment a purpose dear to the heart of every true American citizen. What did Mr. Thomas do? Did he go to South Carolina? To nowhere else could he have gone for going to which he could be charged with disloyalty. No, sir; he went to his retired home on the Eastern Shore of Maryland, and there he remained a calm but solicitous observer of the war. The unhappiness which was specially his was caused exclusively by the traitorous design of a son to leave his home and engage in the war. He was willing to await the conflict of arms, at an age when he could not well have engaged in any military service. He neither raised an arm nor spoke a word calculated to encourage the rebellion, nor did an act of that kind, unless that act is to be found in the giving of the $100 to which I have referred, and which my friend from Ohio says amounts to nothing. Did he want to aid and encourage the rebellion, to assist in the levying of war which was then looming in advance? Is he a man of intelligence? All who know him know that he is. Is he a man of firmness? All who know him will testify that he is. And being a man of intelligence and of firmness, if he had not been a man of honor, desiring the destruction of the Union, he, instead of resigning his office, would have remained in it and thrown, as he would have been able to throw, many difficulties in the way of the President. But he said, "I can do no such thing; if I cannot assist you in your policy, I tell you frankly I will not stay in your way; I leave the important office so vital to the prosecution of the war upon the part of the Union, should war ensue, that you may place somebody in my stead, who will be able to assist you, and aid in the prosecution of the war;" and that he did.

But, sir, what else did he do? While this man of alleged traitorous purpose was Secretary of the Treasury what did he do besides negotiating a loan and saving the honor of the Government? There was a cutter belonging to the revenue service posted at Charleston, commanded by a captain in that service named Costé; and on the 29th of December, 1860, my colleague, then being the Secretary of the Treasury, was advised that Costé had surrendered his vessel to the authorities of South Carolina, by his sending to him his letter of resignation of the office that he held under the United States. Upon the receipt of that letter my colleague issued the following order:

TREASURY DEPARTMENT, *December* 29, 1860.

A letter from N. L. Costé, tendering his resignation as a captain in the revenue-cutter service of the United States, having this day been received at the Department, it is hereby directed, in view of the circumstances connected therewith, that the same be not accepted, but that the name of N. L. Costé be at once stricken from the rolls of said service, and his commission thereby vacated.

PHILIP F. THOMAS,
Secretary of the Treasury.

He says that his resignation, under the circumstances in which he tenders it, cannot be accepted, and that his name, because of his resigning under such circumstances, should be stricken in dishonor from the rolls. This is the supposed traitor! Why, Mr. President, it is admirably in keeping with the order afterward issued by his successor, General Dix, which directed a person having control of some of the vessels of the United States on the waters of the Mississippi, when he was informed that the flag would be hauled down by the captain of one of those vessels, if such an attempt was made, to shoot him on the spot. The two speak their own loyalty. The one said, "Abandoning his command and surrendering the ship to the insurrectionists is sufficient to make me, as Secretary of the Treasury, refuse his resignation and to dismiss him from the service;" the other, who was able to go a little further, directed the person who might see an attempt made to tear down the flag of the Union to shoot the party making the attempt on the spot. Was Dix disloyal in the giving of this order? And if he was not, why, in the name of common sense and of charity, is it that we can impeach the loyalty of my colleague? It is said now that he wanted the rebellion to succeed. It was a strange mode he resorted to to accomplish his purpose when he dismissed from command, as a dishonor to the service of the Union, a man who undertook to lower his flag or to surrender to those who were engaged in resisting the rightful authority of the United States.

But, Mr. President, I have a word to say as bearing upon the particular question with which I am now dealing. War was flagrant, say honorable Senators, on the 11th of January, 1861; my colleague, having abandoned his office on the 11th of January, encouraged those who engaged in it. What was done by others? You know, Mr. President, the country knows, it was a fact which caused the most lively sensibility and solicitude throughout the entire land, that Virginia, "faithful among the faithless found" during all the antecedent wars, looking to the contingency of such a war as afterward broke out, desirous if possible to arrest the movement, proposed a convention of the States to be held in this city; and the invitation which came from her was accepted by twenty-two States. What did they do? When did they meet? They met on the 4th of February, 1861, nearly a month after Mr. Thomas's resignation. They continued in session until the 27th, and on that day communicated to Congress the result of that convention. I have not time to trouble the Senate with reading the several amendments which they proposed to the Constitution of the United States. It is sufficient for my purpose to say that one of them looked to making what was called the compromise agreed on by them a constitutional provision; another, in order still more to secure the rights which the States of the South supposed they had, was to prohibit the obtaining of any territory other than that then belonging to the United States, unless it was done by a majority of all the votes of all the Senators from each section, North and South. There were one or two others to which it is immaterial to refer. Did the members of that convention suppose that by suggesting provisions of that sort it would be alleged as against them that they were aiding and encouraging the movements of South Carolina? That would be gross injustice. My honorable friend who sits near me [Mr. MORRILL, of Maine] was one of that convention, and I am sure he will do the members of that convention, his associates upon that occasion, the justice to say that for the most part they manifested throughout an anxious desire to preserve the peace of the country; that they had no view whatever of encouraging disloyalty, but that their sole purpose was to obviate, if possible, without seriously affecting the character of the Government, the contingency which it was supposed might occur of a war between the people of the United States.

But that is not all. What did Kentucky do in a convention of her sons, or rather in a meeting of some of the most intelligent and patriotic of her people? What did Kentucky do after the war commenced? President Lincoln made his call for seventy-five thousand men in April, 1861. The mistake that he made, as I thought then and think now, was that he did not call for four or five hundred thousand; but that is immaterial now. He was unable to anticipate—what seemed to me to be inevitable, and what the very distinguished soldier who has thrown so much credit upon the military renown of the United States, the brother of the honorable member from Ohio, [Mr. SHERMAN,] thought—that the war would assume a dimension much greater than seemed to be imagined by the authorities in Washington. Mr. Lincoln called for seventy-five thousand men. He apportioned that number among the States, and appealed to Kentucky, among the other States, for her quota; and now I will read to the Senate a few sentences from an address issued by some of the leading men of Kentucky at that time to the people of that State:

"Kentucky could not comply with the appeal of the Government without outraging her solemn convictions of duty and without trampling upon that natural sympathy with the seceding States which neither their contempt for her interests nor their disloyalty to the Union has sufficed to extinguish." * * * * "The present duty of Kentucky is to maintain her present independent position, taking sides, not with the Government and not with the seceding States, but with union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, making the declaration good with her strong right arm. And to the end that she may be fully prepared for this last contingency and all other possible contingencies, we would have her arm herself thoroughly at the earliest practicable moment. What the future duty of Kentucky may be we, of course, cannot with certainty foresee; but if the enterprise announced in the proclamation of the President should at any time hereafter assume the aspect of a war for the overrunning and subjugation of the seceding States, through the full assertion therein of the national jurisdiction by a standing military force, we do not hesitate to say that Kentucky should promptly unsheathe her sword in behalf of what will have then become the common cause."

Among other names appended to this address is the honored name of our late associate in this Chamber, Mr. Guthrie, and the name of Mr. Speed, late the Attorney General of the United States, both of them loyal afterward throughout the war; and yet in April, 1861, after the call was made by the President for seventy-five thousand men, you see what the determination of the State of Kentucky was. She declared her soil to be neutral and dared the Government to violate her neutrality—I

say "dared," because this Government was told by the leading men "that neutrality we will maintain by our own strong right arm." Was not that encouraging the enemy in point of fact? What is there in the resignation of Mr. Thomas, what is there in his giving $100 to his son, or in any other portion of his conduct, calculated to encourage rebellion at all; or, if at all, what must have been the encouragement given by the publication of this address? And yet you have received Mr. Guthrie into this Chamber, and you regret his loss; and Mr. Speed has been the Attorney General of the United States, loyal in the estimation of everybody, and, as it is supposed by some, what may be called ultra-loyal. Now, deal with Mr. Thomas as you have dealt with Mr. Guthrie; deal with Mr. Thomas as you have dealt with Mr. Speed.

Mr. President, I could say much more; but I am admonished that I am not able to speak any longer, and I am still more admonished to close what I have to say in a very brief time by what I am sure must be the exhausted patience of the Senate. I have, therefore, but a word in conclusion to add.

At the termination of the masterly speech delivered some days since by the honorable member from Maine, who sits by me, [Mr. MORRILL,] in which he spoke with much severity of that portion of the people of my State which now controls her government, and of its supposed anti-republican character, I said that I would at a future time vindicate both, and this continues to be my purpose. But the present occasion does not necessarily call for it. I therefore content myself with saying in conclusion, that what has been asserted of her people in the present debate does them, I think, much injustice. That many of her sons in common with thousands in every State of the Union sympathized with the South during the late war is no doubt true. That many of them went into the confederate army because of that sympathy is equally true. But it would be doing great wrong to them and be inconsistent with the fact to suppose that they did so except from a conviction that the cause of the South was a just one. This conviction was, I believe, entertained either upon the ground that a State had a right to secede from the Union when, in her opinion, it had not only ceased to be promotive but destructive of her interest and subversive of her rights, or upon the ground that the conduct of the northern States and their having obtained possession of the General Government was good cause of a revolution against its authority. Upon both they were, I think, greatly and lamentably in error. The resort to the sword, however, has failed them, and resulted in the extinction of the doctrine of secession, and in convincing all reasonable men that the happiness and prosperity of each State are inseparably connected with the continuance of the General Government.

In the struggle of arms the men of Maryland were true to their lineage. In either army their daring and impetuous courage was strikingly exhibited. Hundreds and thousands of them now sleep upon the fields which were the scenes of their valor. In this I feel, and as I hope, an honest and blameless pride. I can point to them as demonstrating that the sons of Maryland have not degenerated, that they are the worthy descendants of ancestors who, in the war of the Revolution, when under the command of Williams, Smallwood, or Howard, never turned their backs to the foe, and rarely ever met him but to conquer; and who, in 1781, at the battle of Cowpens, led on by Howard, by a brilliant charge threw the enemy into confusion, and, snatching victory from defeat, changed the fortunes of the day and achieved historic and deathless fame for the Maryland line and its gallant leader.

Mr. STEWART. Mr. President, I do not desire to prolong this debate; but inasmuch as the Senator from Illinois [Mr. TRUMBULL] criticised my position rather severely, as I thought, and stated what occurred in the committee in such a manner as to leave the impression that members of the committee have acted in the Senate inconsistently with what they did in committee, and alluded to me several times in that connection, I feel it necessary to call the attention of the Senate to a few matters.

It is true that I agreed to the making of the report which was presented in this case. It is also true that committee did not agree upon any general recommendation in the case, and owing to the conflict of opinion it was thought best to report the matter to the Senate without expressing an opinion on the merits of the case. The matter with regard to the giving of $100 to the son and the son's going into the rebellion, was regarded as the most striking feature, and but for that circumstance we probably could have made a report one way or the other; but there was a difference of opinion in regard to the effect of this fact and it was thought best, as the case involved questions of fact mostly, to submit it to the Senate. The language of the report is this:

"The Committee on the Judiciary, to whom were referred the credentials of Hon. Philip F. Thomas, Senator-elect from the State of Maryland, beg leave to report:

"That they have taken the evidence submitted herewith, and that they find nothing sufficient, in the opinion of the committee, to debar said Thomas from taking his seat, unless it be found in the fact of the son of said Thomas having entered the military service of the confederacy, and in the circumstances connected with that fact or relating to it, and without the expression of an opinion in regard to this point, they report the whole evidence to the Senate."

It was the intention of the committee to leave the Senate entirely free to judge of the whole case. It will be seen that this was a compromise report, bringing the whole matter back before the Senate. I do not think a member of the committee who voted for this report, which was substantially to refer the whole subject back to the Senate, can be accused of inconsistency for taking the same view before the Senate that he entertained in the committee. I do not think we are foreclosed as to any point. I think the report opens the whole question, because, although we say that certain acts, isolated of themselves, might not be sufficient to exclude, still there is one particular circumstance that may be sufficient, and we refer that and every other matter throwing light on the transaction to the Senate.

I believe everything Mr. Thomas did, from the beginning to the end, has a tendency to determine the question of motive as bearing upon what I regard as an overt act. To show that it is regarded as material by the Senators who have argued the other side of the question, it will only be necessary to call attention to the very ingenious argument of the Senator from Illinois and of the Senator from Maryland, wherein they attempted to prove, and deemed it important to prove, that Mr. Thomas left the Cabinet from patriotic motives. This is a new idea, and I think if his case is so badly off that it is necessary to show that he left the Cabinet because of patriotic reasons, we shall have no difficulty in determining it. Still we have had long arguments to show that Mr. Thomas left from patriotic motives. Then, if his motives are important in any sense, they certainly throw light on his whole conduct; and that brings in this matter legitimately for discussion.

To show the fallacy of that argument it will only be necessary to ask how Mr. Buchanan stood when Mr. Thomas entered the Cabinet. He entered the Cabinet on the 11th of December, 1860, eight days after the annual message of the President had been delivered to Congress, in which he denied the power of this Government to suppress the rebellion. Eight days after Mr. Buchanan sent in that message to Congress, and when Mr. Jefferson Davis, as his letter read yesterday shows, entertained confidence in Mr. Buchanan and supposed that he would stand by the South, when it was believed that he would not enforce the laws in the rebel States, Mr. Thomas entered his Cabinet. Did he indorse that position when he entered it? But when Mr. Davis said that Mr. Buchanan had become weak and would not stand up to them; when he had become so weak that, in Mr. Davis's estimation, he was criminal; when he was allowing the laws to be enforced, though, I will admit, in a very weak and feeble manner; when he was showing some symptoms of loyalty, it appears that there was a Cabinet meeting at which some loyal resolutions were adopted, and one was establishing a policy by the Government to feed our soldiers in the southern forts, to send supplies to them; and within a few days after that determination was arrived at Mr. Thomas resigns and informs the President that it has not been in his power to agree with him and a majority of his constitutional advisers "in the measures which have been adopted in reference to the present condition of things in South Carolina."

I say, then, that the administration of Mr. Buchanan, when Mr. Thomas entered his Cabinet, was supposed by Mr. Davis and his associates to be entirely friendly to secession. The President had substantially so announced. By the time Mr. Thomas went out there had been a change of measures. Now, gentlemen say that Mr. Thomas went out from pure motives because Mr. Buchanan's administration was not sufficiently vigorous.

I will not weary the Senate by reviewing the arguments upon the question of treason. I will simply say this: it is certain that Mr. Thomas's son committed treason, and it is certain that the father knew it. The statute makes that knowledge and its concealment misprision of treason; and yet Senators say he has not committed treason!

Mr. WILLIAMS. Does the Senator mean to say that his intention to go to the war was treason?

Mr. STEWART. The intention executed was treason, and the father knew it.

Mr. WILLIAMS. When the $100 were given he had only declared an intention to go to the war. A mere intention is not treason.

Mr. STEWART. If we are going to be technical about this, and avoid what would be otherwise conceded to be as guilty complicity by every fair-minded man, let us look into the matter a little further. Treason is first defined to be adhering to the enemy. The boy adhered to the enemy. The father knew it, knew it from the inception of the thing, and never revealed it; and it does not make any difference at what point it became an overt act of treason. He knew it in every stage from the time the son proposed to enter the army until he was captured by the United States forces. It is true you would not punish a man for not disclosing the fact if he did not know it till it was out of his power to do any good by telling of it; but he knew of it in time to stop it; he knew it in the start, and knew every stage of it. The boy came here, bought his supplies, his kerseys, &c. He then made an attempt to cross the lines, was here a month or two trying to cross. His father knew he was in Washington, knew he wanted to cross and did not stop him. It does not make any difference at what point you say his offense actually became treason; the father knew it all. He knew the intention of the boy when he started; he knew where he was going; he gave him the $100; he used no means to restrain him within a month or two afterward while he was endeavoring to get through the lines.

Now, I say that you cannot judge of this man's conduct from any one particular act; you must take the whole conduct from beginning to end, and that gives character and consistency to every act. It is consistent in itself. As I have before remarked, he entered Buchanan's Cabinet when that Cabinet had declared that this Government had no right to exist; and he left that Cabinet, and said he could not agree with it when that Cabinet had declared that the Government had a right to struggle a little for its existence. Then he went to Maryland and associated only with those who were hostile to the United States. He refused to take the oath which was necessary to entitle him to vote in his own State, or to participate in any loyal government therein. His only son proposed

to go to the rebellion. He tried to dissuade him, and his principal argument, according to his own using, was that the son would get hurt, the very argument that would send a spirited young man into the war. The young man did go there. The father remains quiet and refuses to participate in public affairs until Maryland is in the hands of those in sympathy with the rebellion, and then he is elected to the Senate. Immediately after his election he takes the stand to return thanks to those who had elected him, and, by the sworn statement of a reporter, which is not fully denied and only slightly qualified by Mr. Thomas, he made a speech in which he denounced the Union members of Congress as traitors, as men who had always been traitors.

Then, taking his whole conduct, from beginning to end, it needs no refinement of reasoning to show that this man was from the beginning unfriendly to this Government; that he did give aid and comfort to the enemies thereof; that he is not yet friendly to it; that he shows no disposition to coöperate in sustaining this Government. You may talk about tolerance of opinion, but I say that there are certain opinions which the very existence of the Government denies us the right to tolerate. We cannot tolerate opinions that, if carried into effect, would destroy the Government itself. The Government must require of all who are loyal to it obedience to its laws, and it must require those in high places to vindicate the right of the Government to exist. I would be as tolerant as any one; but there is nothing in the case of Maryland now asking for indulgence or extreme tolerance. They have not learned to do justice that they may seek mercy. They have the iron heel upon many loyal men to-day. They have not submitted to the situation.

I say Maryland is not in a position to appeal to our sympathy. And, although I would not exclude a man on the ground of sympathy, still the defiant attitude in which his State appears, and in which he appears immediately upon his election, are matters to be taken into consideration; and they warn us to beware that we do not admit within these walls men whose education and sentiments will permit them to contemplate the destruction of this Government. We must have no more conspiracies within these walls to let this Union fall to pieces. If we have no right to protect it in that regard we have no right to exist. We must be extremely careful so long as there is a large body of men in this country who can coolly contemplate the termination of this Government by dissolution, by secession. So long as they have those sentiments the history of the past appeals to us with a thousand trumpet tongues to beware of these sentiments, to watch them, not as a matter of punishment but as a matter of safety. If Maryland had submitted, if Maryland was in full sympathy with this Government, if nobody believed in the right of secession, if there was no war upon loyalty and justice in the South, if the war had indeed ended, then we might say that one man in the Senate can do but little harm; but while the war is in progress, as it is to-day, while the ballot-box is denied to the loyal unless protected by the bayonet, while force is resorted to throughout this country, while the nation is still trembling, we must guard jealously the power of this Government to protect itself from enemies without, and we must keep the enemies without.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN and others. Let us finish this question.

Mr. WILLIAMS. Why can we not take the vote to-night?

Mr. CONNESS. On my motion I wish to say to the Senate one word. It is evident that we cannot get a vote to-night.

Mr. SHERMAN. Why not?

Mr. CONNESS. For the reason that there are Senators to speak. That is a very good reason, the Senator knows; for there is no means of bringing a debate to a close until Senators who desire to speak have been heard.

Mr. SHERMAN. With the consent of my friend, I wish to make one prophecy, that we shall never get a vote on this question until after six o'clock in the evening. We shall have to sit it out at some time, and we may as well commence to-night.

Mr. CONNESS. If the Senate will agree to sit it out, I am in favor of economizing time and will help to do that.

Mr. SHERMAN. I am willing to do it for one.

Mr. CONNESS. I apprehend the Senate will not do that, and therefore I submit the motion which I have made. I have not said anything on this subject. It may not be of importance, and probably it is not, that I should say anything; but I had intended to submit a few remarks. If we can get to a vote to-night, as the matter stands, I will, with great pleasure, forego saying anything, and will content myself with my vote and let my vote explain my reasons. If it is the determination of the Senate to vote to-night by setting out the question, I will agree to that. If not, I think there are a sufficient number of Senators who desire to speak upon it, briefly, perhaps, to justify its postponement until to-morrow. It was with that view that I made the motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California.

Mr. ANTHONY. I can confirm what the Senator from California says with regard to the impossibility of taking a vote to-night. I know several Senators who intend to address the Senate on this subject; and if we continue in session now we shall only sit here until seven or eight o'clock, and then adjourn without taking the question. I think we may as well go into executive session now.

Mr. SHERMAN. I think we may as well test the question on this motion. It was understood, if anything ever can be said to be understood in the Senate, that the Senator from Maryland should have an opportunity, as he ought to have the right, to close the debate on this question. He has stated here, over and over again, that he had to leave this Chamber to go into another tribunal to try a cause. He notified the Senate that he desired to close the argument. He has made his argument. I do think that under the circumstances we ought to take the vote at once, or if other Senators still desire to speak we ought to close debate to-night. I shall ask for a division of the Senate upon this motion, and those who desire to conclude this matter to-night can vote against the motion. That will be an indication of the sense of the Senate. I think myself the debate will exhaust itself in the course of an hour or two.

Mr. ANTHONY. I know that there are several Senators who have left the Chamber supposing that there would be no vote taken this evening, knowing that others wish to speak.

Mr. CONNESS. I rise to object for one to any understanding or to any custom or usage such as has been stated by the Senator from Ohio, or to any rule giving any one the right to close a debate. There is no right here to either open or close a debate. There is no right to close the mouth of any Senator. A Senator who desires to be heard has his privilege to be heard unimpaired. I simply object to any such understanding as that, either now or hereafter.

Mr. TIPTON. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The motion of the Senator from Nebraska takes precedence. The question is on that motion.

The question being put, the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from California that the Senate proceed to the consideration of executive business.

Mr. HOWE. There probably never was a man in the Senate who wanted to speak again as much as I do, [laughter;] but I am willing to forego that if the Senate will go on and close this debate and take a vote and get rid of the question. But if the Senate sees fit to go into executive session now and throw this debate over until to-morrow, I wish to give notice that I am not to be held responsible for my conduct to-morrow. [Laughter.]

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California.

The motion was not agreed to; there being, on a division—ayes 12, noes 25.

Mr. HOWARD. If it be the purpose of the Senate to go on with this discussion this evening I have a further word to say in respect to the case of Mr. Thomas now before us, and I suppose I may as well proceed at this time as any other, if the Senate desires.

Mr. FESSENDEN and Mr. POMEROY rose.

Mr. POMEROY. If the Senator from Michigan desires to address the Senate and will yield the floor I will move an adjournment. I did not know that the Senator wished to address the Senate.

Mr. FESSENDEN. I was about to make the same suggestion.

Mr. CONNESS. I am perfectly willing that that should be done; but the purpose I had in view was to say something myself to-morrow in case the Senate now went into executive session. I suppose, however, the true interpretation of the vote just had is that the Senate does not want to do any executive business to-night.

The PRESIDENT *pro tempore*. The Senator from Michigan is entitled to the floor.

Mr. FESSENDEN. With the consent of the Senator from Michigan I was going to move an adjournment. I supposed it, however, to be unnecessary, because it was generally understood all over the Senate, and not only the understanding, but was expressed, that the honorable Senator from Maryland was to close the debate. He expressed a wish to be allowed to close the debate, and it was understood to be so.

Mr. SHERMAN. It was so announced by the Chair.

Mr. FESSENDEN. It was so understood, and announced by the Chair; and therefore this debate springing up after he has finished is altogether a new thing, and there is no knowing to what extent it may go. Usually, as a matter of controversy simply, when a Senator having particular charge of a thing, has expressed a wish to close the debate and has omitted to speak until the end, it has been customary to accord to him that privilege, and nobody has spoken after him. But the Senate has entirely disregarded that in this particular instance. If, therefore, Senators are disposed to go on with the debate, I shall move an adjournment.

Mr. STEWART. Inasmuch as I am the Senator who broke over this alleged rule, I must say in the first place that I did not know there was any such rule, and I was not aware of any such arrangement; and in the second place I requested the Senator from Maryland to allow me to make a personal explanation before he proceeded, which he denied me the opportunity of doing. For these two reasons, first, because I did not know of the arrangement, and second, because I was denied the opportunity of speaking before the Senator from Maryland, I claimed the right to address the Senate after he concluded. I should not have made a speech if I had been allowed to go on at the time I asked the privilege of doing so.

Mr. FESSENDEN. I have only to say that it has been always the understanding in the Senate, and has always, within my observation, been acceded to when a Senator having charge of an important matter has expressed a wish to close the debate, to allow him that privilege by common consent; and it has not been customary under such circumstances for

any one else to speak afterward. But if gentlemen are going on with this debate I move that the Senate adjourn.

Mr. HOWARD. I wish to make one observation in response to what has been said by the honorable Senator from Maine, if the Senate will allow me. In the first place, I was not aware of any understanding by which the honorable Senator from Maryland was to close the debate. I may, however, have been mistaken in this respect, but if that had been his purpose I must be allowed to say that it does occur to me that he ought to have proceeded directly with his speech this morning when he first obtained the floor. Having obtained the floor, the honorable Senator from Illinois begged it as a privilege, as I understood, to be allowed to say something in reply to arguments which had been used against him; and the honorable Senator from Illinois proceeded to speak at great length and to use the time which properly belonged to the honorable Senator from Maryland. The character of the remarks of the Senator from Illinois was such as seemed to me then and seems now to require some response at the hands of those Senators to whom he alluded in his speech. But he having taken his seat, the honorable Senator from Maryland rose and proceeded with his remarks, thus cutting off all possibility of a reply to the honorable Senator from Illinois, and availing himself of the courtesy, if you please so to call it, of closing the debate by shutting the mouths of all further opponents. I do not know but that this is courtesy, but it seems to me that it is the right of other Senators to respond to the observations which have been made by his indulgence while he was entitled to the floor.

Mr. WILSON. It seems very doubtful that there are Senators here who desire to speak on this question, and we shall not be likely to press it to a vote to-night, and we can do a little executive business. I therefore move that the Senate proceed to the consideration of executive business.

Mr. CAMERON. It seems to me that this debate has exhausted itself. I do not think any speech that can be made now will change a single vote. It is an embarrassing question, which has occupied the Senate for the last month or six weeks, and I think we can just as well dispose of it now by coming to a vote at once. I do not want to prevent any gentleman who desires to make an explanation or who desires to make a speech from doing so. I speak so seldom myself that I do not, perhaps, appreciate the importance of making speeches; but to accommodate gentlemen, I hope it will be understood, informally, if you like, that to-morrow we will sit this question out, and then I will agree either to adjourn or go into executive session, as our friends may desire. But we ought to fix some day to dispose of this subject. One speech provokes another, and we shall go on probably for weeks yet discussing this question if we continue to go on as we are. It is due to the gentleman who expects to have a seat here that this question should be decided. It is due to the sovereign State of Maryland that the question should be decided, so that if he is not admitted she may elect another proper representative. I do not know how to put the proposition exactly, but I wish it understood that if we do not take the vote to-day we shall sit it out to-morrow until it is disposed of.

Several SENATORS. Very well; to-morrow.

The PRESIDENT *pro tempore*. The question is, on the motion of the Senator from Massachusetts, that the Senate proceed to the consideration of executive business.

The motion was not agreed to—ayes nine, noes not counted.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. SHERMAN. Before the Senator submits that motion, I will propose that at three o'clock to-morrow the vote shall be taken. This has been done several times before, and I trust that by three o'clock to-morrow we shall be ready to vote. I will, with the consent of the Senator from Maine, move that at three o'clock to morrow——

Mr. FESSENDEN. We never take a vote of that sort, but there is sometimes an understanding to that effect. I think, however, there is no debate allowed on a motion to adjourn.

The PRESIDENT *pro tempore*. The Senator from Maine moved that the Senate adjourn. Does he withdraw the motion?

Mr. FESSENDEN. No, sir.

The PRESIDENT *pro tempore*. The question is on that motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 18, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The morning hour has now commenced.

FARMERS' AND CITIZENS' BANK.

Mr. HUBBARD, of West Virginia. I ask unanimous consent to report back from the Committee on Banking and Currency joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of a receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under certain conditions. The committee have instructed me to report a substitute for the joint resolution. I will state that there is a written report detailing the circumstances under which the receiver was appointed, and also the reasons why the Comptroller should be authorized to revoke that appointment. The case demands action at the present time, and I hope there will be no objection.

No objection was made, and the report was received.

Mr. RANDALL. I call for the reading of the report.

The Clerk read the report.

The substitute for the joint resolution reported by the Committee on Banking and Currency was then read. It authorizes the Comptroller of the Currency, with the approval of the Secretary of the Treasury, to revoke the order for the appointment of a receiver for the Farmers' and Citizens' Bank of Williamsburg, New York, and restore said bank and the management thereof to the directors for the purpose of enabling the association to continue the business of banking; provided that the said banking association shall first present to the Comptroller satisfactory assurances that the public interests will be promoted thereby, and shall secure in such manner as the Comptroller shall direct full payment of all creditors of the association, and shall restore the capital stock to its original amount in case the capital has been impaired by losses.

The substitute was adopted.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HUBBARD, of West Virginia, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REPORT OF ELLIOT C. COWDIN.

Mr. KELLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to transmit to this House a copy of the report of Elliot C. Cowdin, esq., commissioner to the Paris Exposition of 1867, on silk and silk manufactures.

NATIONAL BANKS.

Mr. BUTLER, by unanimous consent, introduced a bill (H. R. No. 762) to amend the act establishing the national banks; which was read a first and second time and referred to the Committee on Banking and Currency.

RELIEF OF AMERICAN CITIZENS ABROAD.

Mr. STARKWEATHER, by unanimous consent, introduced a bill (H. R. No. 763) for the relief of American citizens abroad; which was read a first and second time.

The bill was read at length. It appropriates the sum of $50,000, which amount, or so much thereof as may be necessary, the Secretary of State is authorized to use for the relief of the personal wants or for the return to this country of American citizens who are destitute of means; who have been or may be imprisoned in foreign countries without just cause; who have been or may be discharged without trial or acquitted on trial; and it is made the duty of the Secretary of State to report in detail to Congress all the disbursements made under this bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STARKWEATHER. I wish to say a single word. This bill proposes to provide for certain men who have been arrested in foreign countries—our own citizens; those who have been imprisoned without cause, or who have been acquitted on trial or released without trial, and who are entirely destitute of means. It proposes that this sum shall be appropriated for their return to this country. The matter was referred to yesterday during the debate on the consular and diplomatic appropriation bill, and within a few days my attention has been called to the cases of some soldiers who served during the entire war in the Union Army, one of whom, in particular, went abroad and was arrested, confined in prison for six months without any cause, then finally discharged, his health broken, no means whatever in his possession, and now he desires to return to this country. On application the Secretary of State says that he has no means for this purpose. This bill provides a limited sum to meet just such cases as I have described.

Now, it seems to me, after what was said here yesterday, and taking into consideration the fact that the Secretary of State is required to report in detail in each case, we should pass this bill without opposition. There are many cases of extreme hardship where men have been imprisoned for months without any cause, and discharged without trial, or if tried not convicted, and now are without means to return to this country. I trust this bill will pass, and upon it I call the previous question.

Mr. WASHBURNE, of Illinois. I hope the bill will be referred to the Committee on Appropriations.

The SPEAKER. That motion will be in order if the previous question is voted down.

Mr. STARKWEATHER. There are so many pressing cases of this kind, and this bill is so well guarded, I think there should be no objection to it.

The previous question was then seconded, upon a division—ayes 70, noes 26; and the main question was ordered.

The question was upon the passage of the bill.

Mr. WASHBURNE, of Illinois. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 29, not voting 46; as follows:

YEAS—Messrs. Adams, Allison, Archer, Arnell, James M. Ashley, Axtell, Baker, Banks, Barnum, Beatty, Beck, Bingham, Boutwell, Brooks, Buckland, Burr, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clark, Cobb, Coburn, Cornell, Cullom, Dodge, Eckley, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson,

Judd, Julian, Kelsey, Kerr, Ketcham, Kitchen, Knott, Laffin, William Lawrence, Lincoln, Loan, Logan, Lynch, Marshall, McCarthy, McCormick, McCullough, Mercur, Miller, Moorhead, Morgan, Morrell, Mungen, Newcomb, Niblack, Nicholson, Orth, Paine, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Selye, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taber, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Auken, Burt Van Horn, Van Wyck, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—114.

NAYS—Messrs. Ames, Baldwin, Beaman, Bromwell, Broomall, Butler, Covode, Farnsworth, Harding, Hawkins, Higby, Asahel W. Hubbard, Kelley, George V. Lawrence, Marvin, Moore, Mullins, Myers, Nunn, O'Neill, Perham, Scofield, John Trimble, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, and Windom—29.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Bailey, Barnes, Benjamin, Benton, Blaine, Blair, Boyer, Cake, Cook, Dawes, Dixon, Donnelly, Driggs, Ela, Finney, Fox, Garfield, Halsey, Hill, Hooper, Jones, Koontz, Loughridge, Mallory, Maynard, McClurg, Morrissey, Peters, Pomeroy, Raum, Ross, Sawyer, Schenck, Shanks, Shellabarger, Sitgreaves, Thaddeus Stevens, Stewart, Stone, Taffe, Van Aernam, Robert T. Van Horn, Van Trump, and Ward—46.

So the bill was passed.

Mr. STARKWEATHER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OHIO FALLS SHIP-CANAL.

Mr. KERR, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the President be requested to communicate to this House any report that may have been made, in pursuance of joint resolution No. 20, approved March 29, 1867, in reference to a ship-canal around the falls of the Ohio river.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, House bill No. 510, to facilitate the collection of the direct tax in the State of Delaware.

WAR OF 1812.

Mr. ELIOT. I insist upon the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 603, granting pensions to certain soldiers and sailors of the war of 1812. At the conclusion of the morning hour of Thursday last the previous question was pending, having been called by the gentleman from Pennsylvania, [Mr. MILLER.]

The first section of the bill directs the Secretary of the Interior to place on the pension-rolls the names of such of the surviving officers and enlisted men, including militia and volunteers, of the military and naval service of the United States who served consecutively for three months in the war with Great Britain of 1812, and who were honorably discharged, and who at no time during the late rebellion have adhered to the cause of the enemies of the Government, giving them aid and comfort, but who were constantly and continuously loyal to the Government, and can truthfully take and subscribe the oath contained in the act of July 2, 1862, and who are in circumstances which render them dependent on others for support.

The second section provides that this act shall not apply to any person who is dependent upon others for support in pursuance of any contract for such support based upon a valuable consideration, nor to any person who is receiving a pension at the rate of eight dollars per month, nor shall it be construed so as to allow more than one pension to the same person. Pensions under this act shall be at the rate of eight dollars per month, and shall be paid to the persons entitled thereto at that rate for and during the term of their natural lives.

The third section provides that before the name of any person shall be placed on the pension-rolls under this act proof shall be made, under such rules and regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of this act. The loss of a certificate of discharge shall not deprive an applicant of the benefits of this act, but other proof of services performed and of an honorable discharge, if satisfactory, shall be deemed sufficient.

The fourth section provides that the pension herein allowed shall not be liable to seizure, levy, attachment, or other process to satisfy any debt, demand, promise, or other liability; nor shall any contract, bargain, or agreement in relation thereto be valid or binding upon the pensioner, nor shall the same be paid to any one having any claim upon such pensioner or interest in the fund, but the same shall be paid to the pensioner in person or to a disinterested agent or attorney thereto authorized by a power executed subsequently to the accruing of the sum to be received; provided, that when an agent shall be employed to prepare the necessary proofs and make the application, he shall be allowed for his entire service in and about the prosecution of the claim the sum of ten dollars, and no more, which sum shall constitute a valid charge upon the first payment after the issuance of the certificate. And if any person concerned as aforesaid shall for his services, or as a gratuity, or under any pretext whatsoever, demand, accept, or retain a greater sum than ten dollars, he shall be guilty of a misdemeanor, and on conviction shall refund the same and shall be fined not exceeding $1,000 and imprisoned not exceeding six months.

Mr. MILLER. I withdraw the call for the previous question.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WASHBURNE, of Illinois. We want to know how much money this bill will take from the Treasury before we vote for it.

Mr. MILLER. Mr. Speaker, this bill embraces several sections. The first section provides that such of the surviving officers and enlisted men, including militia and volunteers of the military and naval service of the United States, who served consecutively for three months in the war with Great Britain of 1812, and who were honorably discharged, and who at no time during the late rebellion have adhered to the cause of the enemies of the Government, giving them aid and comfort, but who were constantly and continuously loyal to the Government, and can truthfully take and subscribe the oath contained in the act of July 2, 1862, and who are in circumstances which render them dependent on others for support, shall receive a pension of eight dollars per month during their natural lives.

This bill does not provide for giving anything to those who served less than three months, nor does it embrace the widows of those who thus served.

The second section provides that any person, in order to come within the provisions of the bill, must be dependent upon others for their support. It will be seen that no provision is made for those that served less than three months and the widows of deceased soldiers. Such is the bill that is now presented for the action of the House at this time.

The third section provides that before the name is entered upon the pension-rolls the Secretary of the Interior shall prescribe rules as to the mode of proof that the applicant is entitled to a pension under the provisions of this act; and in case the certificate of discharge should be lost proof of service shall suffice; and the fourth and last section provides that the pension of such soldier shall not be subject to seizure, levy, attachment, or other process to satisfy any debt or demand, nor shall any contract respecting the same be valid, and that no agent or attorney shall charge a greater fee, under any pretext whatever, than ten dollars for his services in procuring such pension, under the penalty of a fine not exceeding $1,000 and imprisonment not exceeding six months.

I find by referring to the records that the whole number engaged in the war of 1812 in the Army and Navy of the United States was 527,654, who served as follows:

Soldiers who served twelve months in the regular Army	38,186
Sailors and marines who served in the Navy	17,846
Militia who served twelve months	7,147
Militia who served six months but less than twelve	66,325
Militia who served three months but less than six	125,643
Total serving three months	255,147
Number who served one month but less than three	125,307
Number who served less than one month, some of whom were in battle	147,200
Total of soldiers who served in the war of 1812	527,654

We propose by this bill to pension those who served not less than three months; and the whole number coming within this class was two hundred and fifty-five thousand one hundred and forty-seven; and of course but a small portion of those men are now surviving. We propose to grant these men a pension of but eight dollars per month during their natural lives.

Mr. Speaker, the first provision made in the way of pensions was for our soldiers of the Revolution, and by an act of Congress passed in 1818, thirty-six years after Great Britain conceded the independence of these United States. Afterward, in 1828, another law was passed extending the provisions of the former act and making more liberal provision. In 1832 another act was passed, followed by a number of supplements. Those acts extended not only to the surviving soldiers, but to another meritorious class, to wit, widows of those who had died. Now, in regard to those soldiers who served during the revolutionary war, it appears by a report of the Secretary of the Interior that but two of the veterans who have been placed on the pension-rolls survive.

Now, fifty-six years from the time the war of 1812 was declared we propose by this bill to make provision for the surviving soldiers of that war. That war was declared June 18, 1812, and was truly denominated the second war for independence. It lasted some two years and a half, the treaty of peace being signed at Ghent, December 24, 1814. Since that time these men have been knocking at the door of Congress again and again for relief.

In the first session of the Thirty-Fifth Congress a bill was introduced giving these men a pension; and it proposed to give them a pension without regard to their circumstances. That bill was passed in this House by a majority of 55; and I am glad to find that among those who voted for the bill were a number of honorable gentlemen now occupying seats on this floor, among them our distinguished Speaker, and the gentleman from Ohio, [Mr. BINGHAM,] the gentleman from Massachusetts, [Mr. DAWES,] the gentleman from Illinois, [Mr. FARNSWORTH,] the gentleman from Tennessee, [Mr. MAYNARD,] the gentleman from Iowa, [Mr. WILSON.] For that noble vote, among others, we now find the Speaker in his present exalted position, and perhaps higher honors await him.

Now, Mr. Speaker, as I have already remarked, it is fifty-six years since the war of 1812 was declared; and these old soldiers are many of them in necessitous circumstances. They are applying to Congress for support; and the question is, shall their prayer be granted? I ask the Clerk to read a letter which I have received from one of these old soldiers residing in the State of Michigan.

The Clerk read as follows:

"This session of Congress I find you have not forgotten us, for which may God bless you and yours. Do you think we shall ever obtain pensions, and if so, when? I am an old man. This present winter counts seventy-nine that I have seen, and a little help from my country would be thankfully received. By answering the above questions you will greatly oblige your friend, HARRY TEALL."

Mr. MILLER. Let the Clerk now read a

circular from New York, which I send up to him.

The Clerk read as follows:

NEW YORK, *January* 8, 1867.

SIR: The undersigned, appointed under the above resolution, beg leave to submit the same to you and to solicit your advocacy of a bill, now in the hands of the Committee on Invalid Pensions of the House of Representatives, "granting pensions to the officers and soldiers of the war with Great Britain of 1812 to 1814, and their widows."

The claims of those soldiers are so eloquently set forth in the report accompanying the bill that the undersigned would not venture to add a word, but that having participated in that struggle, and having, from natural sympathy, watched the subsequent fate of their brethern in arms, they deem it proper to state facts in relation to them which should impart additional force to these claims upon a grateful and prosperous country, and to which prosperity, they may be allowed to add, the services here alluded to have, in their opinion, greatly contributed. It must be remembered that the largest proportion of these men were, at the time of their being called upon to defend their country and to sustain the honor of her flag, in comfortable circumstances, pursuing the various arts of agriculture, manufactures, mechanics, and commerce, and were transferred to all exposures and dangers of the camp and the garrison under mere nominal pay, and without a provision either of arms or clothing. How well their duties were performed let the battles of Queenstown, of Bridgewater, of the Thames, of New Orleans, of Lundy Lane, and other fields, respond. At least ninety-five per cent. of those who did not fall in battle have been summoned to another world in the regular course of nature, many from the operation of wounds and diseases entailed upon them by their patriotic services, leaving to their widows and children no other legacy than that of poverty and suffering.

Many of our surviving brethren are now experiencing the same miseries. Some of them are living in garrets, subsisting on the cold charity of friends and neighbors. Some are dependent on their children, who in many cases are unable to support them, and some are now inmates of our alms-houses, eating the pauper's food. These are facts which our own eyes have witnessed, and are daily witnessing.

It must be kept in mind that no man now living who shared in these events can be short of three score and twelve years, while many greatly exceed that age, and of course, if now in dependent circumstances, can hope for no beneficial change except through this act of national faith and public justice.

Mr. MILLER. I also hold in my hands resolutions from the State of Wisconsin asking Congress to pension these soldiers, and various letters from all parts of the United States, with which I will not take up the time of the House, but will say that the language they contain ought to soften the hardest heart.

Now, Mr. Speaker, the whole number of those we propose to pension amounted at the time of the war to two hundred and fifty-five thousand one hundred and forty seven. It is not probable that more than one twentieth of these men are now surviving and in needy circumstances. Suppose there are one twentieth of them. Then twelve thousand six hundred and fifty-seven at ninety-six dollars, would amount to $1,224,672. Suppose it will reach one tenth, not at all probable, that would amount to $2,449,344. I do not think there can be more of these men surviving in needy circumstances than one twentieth, who will come under the provisions of this pension law, and if that be so, it will amount to little more than one million dollars per annum, and of course lessen each year, as they are rapidly passing into eternity.

Sir, can we not afford that? When we can vote twenty per cent. additional compensation to our Government employés, which amounted to over a million dollars, cannot we pay this pension to our soldiers who now survive and come up here and ask us for this relief, saying they want a crust of bread from the nation which they defended in the time of its extremity? Shall we, the Congress of this great Republic, turn a deaf ear to their prayers? In the revolutionary war we had three million population, of which a half million were slaves. In the war of 1812 we had a population of eight million, and then about five hundred thousand men, from all classes and conditions of life, turned out to defend the country against one of the most powerful nations of the earth. In 1868 we have a population of about thirty-seven million. We have a country with resources unparalleled in history. The question is shall this be postponed? Shall we not pass it now? I know it may be said by some of our friends on this floor we cannot afford it; that we must have retrenchment. Retrench where? Upon these defenders of the country, when we can give railroad corporations Government bonds to the amount of $60,000,000, besides millions of acres of land? I see by the last report of the Pacific Railroad Company that is the amount we have given to it. The gentleman from Illinois [Mr. WASHBURNE] says we have given $90,000,000 to all these railroads. I referred to one railroad. We can vote millions to keep inhabitants in the late rebellious States from starving, and as high as $25,000 in one year to support the destitute of this city, and a large sum of money to have the grandeur of the nation represented at the great French Exposition, so that it ill becomes us as a nation to say we cannot feed our destitute soldiers in their old age.

The only thing I do not like about the bill is that it does not go far enough; it has not provided for those who served less than three months and the poor and desolate widows of our veterans; but in order that something should be done the committee have agreed to go this far. There is not one of these men who is not over seventy-five years of age; many of them are over eighty. According to the rate of longevity adopted by insurance companies, we cannot expect them to live longer than five or six years further. In a very few years they will trouble Congress no longer, (if a trouble it can be called,) and then we will hear no more of economy on their account.

It is said if we give to these soldiers, these survivors of the war of 1812, then we ought to pension those of the war of 1861. If, fifty-six years after this war, the survivors come here and ask for relief, I have no doubt Congress will give them a pension. If they do not they are not worthy of their sires, nor of the great Republic transmitted to them. And now the question is, shall these old men who are in poverty, some of them inmates of alms-houses, have the small pittance proposed by this bill? Why, Mr. Speaker, I think it would be a reproach to this nation, if not bring a curse upon us, if we should refuse this paltry sum to these defenders of the country, and I hardly think there is a member of the House who will record his vote against the bill. If there is I shall look upon it as a sad calamity, and one that the historian will make sore comments about. I now yield to the chairman of the committee, [Mr. LOAN.]

Mr. LOAN. After the very eloquent and, I may say, conclusive remarks of the gentleman from Pennsylvania, [Mr. MILLER,] it is perhaps unnecessary for me to add anything in behalf of this measure. There are some sixty or seventy special applications now before the committee for pensions on the ground of infirmity or indigence or something of that sort. To report these bills in detail would require a vast amount of labor of the committee and would take a great deal of the time of the House. Therefore the committee thought it would be better, for the purpose of covering all these cases, to report a general bill restricting its operation to persons who are dependent upon others for support. Having reported such a bill, I am not willing to believe there is a member on this floor who will refuse to grant the mere pittance of $100 to a soldier of the war of 1812 who, by reason of age or infirmity, is unable to support himself and is dependent upon the charity of others for a bare sustenance.

We have passed bills of a like character giving thousands of dollars in this direction, and that almost without question. But here comes before us the case of soldiers who fought the battles of the Republic fifty-six or fifty-seven years ago, and who are now unable to support themselves, dragging out a miserable existence at the close of their lives, dependent upon the charity of others for support. They now make this appeal to the generosity of their country to sustain them in the last days of their existence. If there is a man here who has the heart to refuse this appeal let him vote in the negative on this bill; but I will not insult the intelligence of the House by supposing that such a one is here.

Mr. MILLER. I yield to my colleague on the committee.

Mr. WASHBURN, of Massachusetts. I wish to offer an amendment to the bill by striking out of the last section the words "which sum shall constitute a valid charge upon the first payment after the issuance of the certificate." The object of this amendment every member of the House will see. As the bill now reads it places this pension in the hands of the claim agent and gives him the first claim upon the payment. By striking out the words indicated you simply authorize the agent to make his charge against the applicant of ten dollars.

Mr. WASHBURNE, of Illinois. I desire to know of the gentleman from Pennsylvania [Mr. MILLER] when he proposes to close this discussion. I wish to say to the House that it involves an appropriation of nearly one hundred and seventy-two million dollars. I have the statement here in a report of a committee on this subject, and I desire an opportunity to discuss the matter, particularly as a sort of challenge has been thrown out by my friend from Missouri [Mr. LOAN] that no man here dare oppose this bill—a bill which has been opposed successfully for the last twenty years and has never yet passed Congress. I desire to know of the gentleman who reported this bill, [Mr. MILLER,] and who has exhibited such earnestness and patriotism in this matter, if he will give us a little time to discuss this bill.

Mr. MILLER. I will yield after the previous question is seconded.

Mr. WASHBURNE, of Illinois. I do not want that. I hope it will not be seconded.

Mr. O'NEILL. I ask the gentleman from Illinois [Mr. WASHBURNE] to read that portion of the report to which he refers, which states that the $172,000,000 is the aggregate of the pensions to all the soldiers. It is not the aggregate of the amount to be paid under this bill, which applies especially to the indigent soldiers of the war of 1812.

Mr. WASHBURNE, of Illinois. I have read it.

On seconding the previous question there were—ayes 49, noes 35; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. MILLER and SCOFIELD.

The House divided; and the tellers reported—ayes 61, noes 49.

So the previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Pennsylvania, [Mr. MILLER,] who reported the bill, is entitled to the floor for one hour to close the debate.

Mr. LOAN. I ask the gentleman from Pennsylvania if he will yield me a moment to make an explanation.

Mr. MILLER. Certainly.

Mr. BAKER. I desire to ask the gentleman from Missouri, who is a member of the committee reporting this bill, what amount of expense will be involved under the operation of this bill?

Mr. LOAN. It would be utterly impossible to tell precisely; but I have no hesitancy in saying, from all the information that has been accessible to the committee, that it cannot give pensions to exceeding twenty thousand persons, which, at $100 each, would not exceed $2,000,000 a year. And that statement of the gentleman from Illinois [Mr. WASHBURNE] is so absurdly incorrect upon its face that it is perfectly amazing that any gentleman in this House could be induced to make such a statement to the House as a member of it. If he understands the number of men that were engaged in the service during the war of 1812, and will make any kind of estimate of the number of those persons probably living after a period of from fifty-three to fifty-seven years, he will find that by no estimate ever adopted by any one of the period of human life could there possibly exist more than twenty thousand persons at this day who could have any claim under this bill.

But that is not all. This bill only provides for those who are so indigent as to be entirely dependent upon others for their support. The estimate to which the gentleman from Illinois has referred is one that was made by a former member of the Committee on Invalid Pensions. It includes all the probable survivors and all widows of soldiers and sailors, and then it makes an estimate of the probable time they will live in the future. There is no back pension provided for in this bill. The pension is to commence from the time the application is made.

Mr. WASHBURNE, of Illinois. Will the gentleman allow me a moment?

Mr. LOAN. I yield for a question.

Mr. WASHBURNE, of Illinois. We see, Mr. Speaker, the result of enforcing upon the House the call for the previous question without being enabled to examine into the matter before it.

Mr. LOAN. I yielded to the gentleman for a question, and not a speech.

Mr. WASHBURNE, of Illinois. One moment; the gentleman may have an hour, and I hope he will not cut me short. The gentleman from Pennsylvania [Mr. MILLER] introduced this bill on the same subject for which a bill was introduced at the last session of Congress. The bill, when you come to examine it, differs in some material respects from the bill which was introduced a year ago. The Committee on Invalid Pensions of the last Congress, when the bill similar to this was introduced, made a report to this House, and I tried to get the attention of the House to that report, which, I believe, was adopted by the House; at any rate, the House never passed the bill, which was introduced by the gentleman from Pennsylvania, [Mr. MILLER,] who now has charge of this bill.

Mr. LOAN. As I hold the floor by the courtesy of the gentleman from Pennsylvania, [Mr. MILLER,] I cannot yield to the gentleman from Illinois for a speech. If he wishes to propound a question to me I will yield to him.

Mr. WASHBURNE, of Illinois. The gentleman certainly does not wish to prevent the House from having the information, which is in this report, upon which my statement was based. I referred to that report, believing that this bill was substantially the same as the bill of last year, and I said that it would involve an expenditure of $172,000,000. I followed the estimate which was made by the chairman of the committee who made the report and who is now before me, [Mr. PERHAM.] That report was got up on the fullest examination. The whole number of officers, soldiers, and sailors who would be entitled to pensions under that bill was one hundred and fifty thousand; the annual expenditure $14,400,000; the aggregate expenditure for an average of twelve years—the time the committee estimated these soldiers would probably live—was $172,800,000. I was not making this statement myself; I was making it from an official document which I believed applied to the present bill. The gentleman from Missouri [Mr. LOAN] says that this bill does not go as far as the bill upon which this report was made. If it does not, I would like to have the committee make a report showing to the House how much money we shall be voting away when we pass this bill.

One word more. The estimated expense of agents is $1,200,000, the extra expense for Pension Bureau $1,500,000, making altogether, according to this estimate, $175,500,000; and the amount that would have been due in April, 1867, if we had passed that bill, would have been the sum of $28,800,000.

Mr. LOAN. The gentleman has answered his own statement, and has shown that it was well calculated to deceive this House when it was thrust upon them in the manner it was.

Mr. WASHBURNE, of Illinois. Will the gentleman give his own figures and state in detail the difference between the two bills?

Mr. LOAN. I have given the figures once already. I say that under no circumstances under this bill can the expenditure exceed $2,000,000 per annum. I cannot tell how much less it will be, for I do not know how many of these men may be able to support themselves. This bill excludes from the operation of its provisions all those who are able to support themselves, all those who sustained in any way the late rebellion——

Mr. PAINE. Will the gentleman point out the provision of this bill which excludes all those who are able to support themselves?

Mr. LOAN. I will, if there is any doubt about it. At the close of the first section of the bill the gentleman will find a clause to the effect that those to receive the benefits of this bill are to be persons "who are in circumstances which render them dependent on others for support."

Mr. PAINE. And now will the gentleman allow me to ask him one more question?

Mr. LOAN. Certainly.

Mr. PAINE. I am disposed to vote for this bill, and I wish to have the House clearly understand its provisions. I would ask the gentleman if it was the purpose of the committee to pay these survivors of the war of 1812 from and after the date of the passage of this bill or from some earlier period?

Mr. LOAN. From and after the date of the application made under this bill.

Mr. PAINE. Is there any objection on the part of the committee to make that clear and definite in this bill?

Mr. LOAN. None whatever, if you can make it any clearer than it now is. But the general pension law fixes the time when the pension shall commence, if there is no particular time fixed in the bill. We specify no time in this bill, but leave it dependent upon the date of the application under the general pension law. A man may not be in dependent circumstances to-day, but he may become dependent hereafter, and if so, he will have the right then to make application for a pension under this bill.

Now, I desire to say in a few words to this House that it is a matter of perfect indifference to me what action the House may take upon this bill. They have referred to the committee, of which I have the honor to be the chairman, some sixty or seventy applications based upon this idea. I was not willing to go to the record and search the muster-rolls and see if the services there claimed were rendered, and ascertain other facts, which duty belongs rather to the executive department. Nor was I willing to throw upon this House the amount of labor necessary to examine each case in detail.

Now, if these soldiers, who are in dependent circumstances, are not entitled to the generosity of the Republic, are not worthy to receive the poor pittance of a few dollars to smooth their pathway to the grave, then let the House say so and I will be content. I will comply with the order of the House if they will make it and report adversely upon all these applications. We exclude from the benefits of this bill all widows of the soldiers and sailors of the war of 1812 who were included in the other bill, we exclude all who favored the late rebellion, and we exclude all who can support themselves. We have thus brought the matter down to the narrowest possible limits by which aid can be granted to these soldiers. Now, if it is the judgment of this House that the soldiers and sailors of the war of 1812 have no claim upon the bounty or gratitude of this Government I will yield to it, though I think the action of the House in that particular would be wrong. But if they think otherwise, then I say they cannot get a more restricted bill, individual or otherwise, than the one now under consideration.

Mr. LOGAN. Will the gentleman from Pennsylvania [Mr. MILLER] yield to me for a few minutes?

Mr. MILLER. Yes, sir.

Mr. LOGAN. Mr. Speaker, I am in favor of this bill; and, like the gentleman from Missouri, [Mr. LOAN,] I have been somewhat surprised at the remarks of my colleague [Mr. WASHBURNE, of Illinois] in reference to the amount of expenditure which the passage of the bill would involve. The report which has been read to the House was made by the Committee on Invalid Pensions when it was proposed to pass a bill pensioning not only the soldiers and sailors of the war of 1812, but their widows and orphans, thus proposing a much larger number of pensions than those contemplated by this bill. That bill was defeated. According to an estimate made at that time by the Interior Department, and reported to this House by the Committee on Pensions, it appeared that an expenditure of $172,000,000 would be necessary to carry out the provisions of that bill—not that that amount would be necessary to pay the pensions for one year, but that it would require that amount to pay the pensions to the soldiers, sailors, and officers, their widows and orphans, provided that all then surviving should live twelve years after the passage of the bill.

Mr. PERHAM. The gentleman will allow me to correct him. That calculation was based on the supposition that the average duration of their lives should be twelve years; not that all should live for that period.

Mr. LOGAN. Very well. The calculation was based on the estimate that the average life of all the officers, soldiers, and sailors, all the widows and orphans, would reach, after the passage of the bill, twelve years; and it was estimated that there were one hundred and fifty thousand of those classes then living. And thus the aggregate of $172,000,000 was reached. Now, Mr. Speaker, I ask any candid man on this floor whether that is a fair statement to be adduced in this House in opposition to this bill? What does this bill provide? It provides that the soldiers and sailors of the war of 1812, not their widows or orphans, shall be entitled to pensions, if they prove, under regulations to be prescribed by the Secretary of the Interior, that they are in destitute circumstances. Thus it appears that this bill is as different from the one with reference to which that report was made as day is from night. There is a vast difference in the relative amount of expenditure.

From the best data that we can get there are very few of the soldiers of 1812 now surviving. The survivors must average seventy or seventy-five years of age. Forty-eight years, I believe, after the close of the revolutionary war pensions were granted to the soldiers who had defended the country in that war. A pension was granted to each and every one of the soldiers then surviving. Why was it granted? Not because it took but a small sum of money out of the Treasury. I ask gentlemen of the House to reflect for one moment upon the principle on which we grant a pension to a soldier. In granting pensions do we vote with reference to the amount of money, small or large, that the payment of the pensions will take? No, sir; we pass such acts upon the principle that the soldier has done his duty to his country, and that the country is under an obligation to provide for him for the remainder of his life, if he needs such provision. When we grant pensions to wounded soldiers we do not inquire how many wounded soldiers there are and how much money it will take to provide a pension for all of them. We do not determine the question upon any such considerations. We vote pensions because we believe that a man who, in defending his country, has met the shock of battle and has thus received wounds deserves the gratitude of his country and is entitled to its protecting care in his declining years.

I say, then, in reference to this bill, that the men for whom it is intended to provide are entitled to pensions. Why? Not because they are few or because they are many, but because they defended the liberties of this country at a time when their defense was needed. These men are now old, and they need the protection and succor of the country. They ask the Congress of the United States to give them a small

pittance that will assist them in their declining years. I, for one, am willing to grant it.

More than fifty years have passed since these men met the storm of battle in defending this Government against the Britons who were invading our soil. For that they are entitled to relief; for that they are entitled to protection; for that they are entitled to the gratitude of this country as much as if they had served in our recent war. If we intend to act properly, as the soldier grows old, as he declines in years, as he fades away toward the shadow land, it is our duty that the hand of this Republic shall be stretched out to him in relief. We should say to him, "In your manhood, in your youth, in your vigor and strength of life you put forth your efforts to support an imperiled Government, to save from wreck our free institutions, and now, in your old age, feeble and dependent, we will give you this small pittance, that your path to the grave may be smoothed and made pleasant with the recollection that your glorious deeds are held an grateful memory by the Republic." [Applause in the galleries.]

Mr. MILLER. I now yield to my colleague on the committee from Illinois, [Mr. BURR.]

Mr. BURR. Mr. Speaker, I did not anticipate saying anything on the subject embraced in this report, from the committee of which I am a member, for the reason that I thought there would be no opposition to the passage of this bill for the benefit of the surviving soldiers of the war of 1812.

Sir, as a member of the committee having this matter in charge, I was in favor of a bill more comprehensive in its character and more generous in its terms than the one now pending. I was favorable to granting a pension to all the survivors of the war of 1812 without reference to condition or circumstance in life, and was prepared to support a proposition to pension the widows and orphans of those of that gallant band who died leaving their families in destitute circumstances.

But, sir, much patient investigation has convinced the committee that the present bill is perhaps as free from objections as any that could be reported, and contains at the same time as small an offering and as light an acknowledgment of gratitude as we can afford, unless we intend to ignore entirely the merits of those whose patriotism prompted them in the earlier days of the Republic to offer their lives in defense of its honor.

I have said, sir, that this bill contains as little as we could offer to the beneficiaries under its provisions. We propose only to pension those survivors of the army of 1812 who are in destitute circumstances and dependent on others for support. Further, it is in its terms limited to those who adhered to the Government during the late struggle in the field. Before one of those silver-haired veterans who followed Jackson and Perry and humbled our ancient enemy on land and water can obtain the benefits of this bill he must prove to have been at least three months in continuous service, he must be true in allegiance to his country during the past, in destitute circumstances and dependent on others for support. And, sir, when a man makes proof of these requisites it is not an American heart that can disregard his appeal or turn him empty-handed away.

The policy, sir, and justice of pensioning the needy survivors of all great struggles is recognized and adopted by nearly all the nations of the world. It is so closely interwoven in our framework of legislation as to have become generally understood and acquiesced in by all. My colleague from the Galena district [Mr. WASHBURNE] has hurriedly, and I think inconsiderately, appealed to the economic argument, if I may use that expression, and has paraded figures and statistics showing that the cost of this bill will be many million dollars; but, as has been already suggested, those figures are based on another and entirely different bill, once reported from this committee, providing pensions for all survivors of the struggle of 1812, as also to the widows and orphans of all deceased soldiers of that war.

I have been asked, sir, since this debate commenced, about how many of these destitute and meritorious veterans remain to us to-day. But gentlemen will realize the difficulty of answering even approximately that question. True, the Commissioner of Pensions did last year make a calculation of some sort as to the number of survivors of that struggle, but who can without close investigation or actual personal correspondence with each tell the proportion of those survivors who are embraced within the very narrow limits of the pending bill? The question has been further raised, how much will it cost to put this bill in operation? Hardly a fraction, sir, of the sums so often and so eagerly voted out of our Treasury for purposes of doubtful constitutionality by the same men who cry out in favor of economy whenever a veteran of a former war approaches the Treasury of the country, whose honor he defended from the assaults of a foreign foe.

Sir, if gentlemen will not support this bill until they know just how many names it will put on our pension-rolls and how many dollars it will cost yearly while they remain there they will be compelled to oppose it without such information. But, sir, the highest estimate by any one puts the cost at $2,000,000 per year. I think that is high; but suppose it should exceed that by $1,000,000. Compare it, then, with the enormous outlay under the Freedmen's Bureau, the Army bill, reconstruction, or any of the many great measures of recent legislation.

Mr. PRUYN. I should like the gentleman to tell us the total number engaged in the war of 1812.

Mr. BURR. The committee had that information so far as the estimates of the Commissioner of Pensions were reliable. I have not that estimate now by me, but my colleague [Mr. WASHBURNE] was quoting from it a moment ago, and my friend from New York can readily obtain what information it gives.

But, sir, that struggle was more than half a century ago, when the Republic was young, and assuming the average age of those participating in it to have been twenty-five years at its commencement, which is, I think, a very low estimate, the survivors of that struggle would now average three quarters of a century of earthly existence, and from the very nature of things cannot be much longer witnesses of the glory and strength of the nation they defended in its hour of peril. Some of them, sir, are not in need of assistance from the Republic. Its protection in days past has enabled them to amass sufficient of this world's wealth to ease the pathway of life, so far as wealth can ease it; but others of equal merits, equal bravery, equal patriotism, and equal claim to their country's gratitude are to-day wearing out a lonely and comfortless existence because poverty and destitution are troubling their last days, and to them it doubtless seems that individual suffering is and has been the heir of national glory.

When we compare this bill with the liberal terms of the laws awarding pensions and bounties to soldiers of the war of 1861 we are impressed with the thought that in the estimation of members the soldiers of the recent struggle are much more meritorious than those of 1812, and that the few remaining heroes of that earlier war are hardly entitled to the thanks of those who to-day manage the affairs of the Republic.

One thought more, sir, and I am through. In voting on this bill let us remember the cause of the war of 1812 and the results produced by the valor of our troops on land and our tars on the sea. That struggle grew out of the identical questions that are to-day threatening again to disturb the harmony between ourselves and that same insolent Power which the young Republic then brought to terms; it was the insolent claim of Great Britain to search our vessels and seize such of their occupants as she chose for service under her flag. And to-day she is insolently claiming the right to decide all questions of citizenship and to make arrests of our citizens in the mere wantonness of power. That power, sir, may require to be again humiliated by the valor of our citizen soldiery; and, should the time come when we call on our young men to gird on their armor and resent a long and almost unbroken series of national insults and individual outrages perpetrated by that arrogant Power, let those young men understand that their country will as highly appreciate the valor of those who chastise a foreign foe as those who suppress a domestic insurrection.

I trust, sir, there will be no further opposition to this bill, but, whether it cost a million and a half or swells to three millions, that we will say to those defenders of our country in a former struggle: your pathway shall be made smooth, your declining days shall be full of honor, and you shall annually receive some slight token of the gratitude of a people who have not forgotten your efforts and achievements in behalf of our flag and our honor in the early days of the Republic.

Mr. MILLER. I yield to the gentleman from Indiana.

Mr. WASHBURN, of Indiana. The question has been raised whether we have given pensions to the soldiers of the war of 1812. No pension has been given to them as yet, and until we shall pass this bill they are not entitled to any.

I am surprised to find after the almost unanimous vote by which we gave to the Secretary of State $50,000 to go hunting over Europe for paupers to bring to our shores, or to relieve people there, that anybody can be found here, especially of those who voted for that $50,000 for Fenian purposes, to object to giving to these old men who, when these Irishmen were yet in Ireland, fought to maintain our flag, the small pittance of eight dollars per month.

Mr. BENTON. Mr. Speaker, I am astonished to find any opposition to this just and proper measure from any quarter, and especially from the able gentleman who sits as the guardian and protector of the Treasury of the United States. Sir, is it economy for this great and powerful Government to do injustice to those men who periled their lives in its defense? Can any great and powerful nation afford to be unjust to those upon whom it has depended for its protection and support? The question is asked: how much will it cost this nation to be just to these men who served in the war of 1812? Some estimate the amount to be $2,000,000 annually. I cannot believe it would require any such amount as that. The estimate is doubtless made on the probable duration of the lives of those who were called into the service. But the number now living is probably less than that estimate would justify, taken as it is from life insurance tables, because many of those soldiers sacrificed their lives in the service, and many more have died from diseases contracted in the service.

Mr. WASHBURNE, of Illinois. I understand the tables show that there were two hundred and fifty-five thousand of these three months' men, and the estimate is made of the number now living who would be benefited by this bill. The chairman of the Committee on Invalid Pensions [Mr. PERHAM] has made an accurate calculation, and he estimates that it will cost $2,000,000 a year, and, taking the average of their lives, the total will be $24,000,000. Now, it is for the gentleman from New Hampshire, [Mr. BENTON,] as well as any other gentleman, to determine whether he will impose at this time this additional burden upon the people by voting for this bill.

Mr. BENTON. I will answer the gentleman by saying that if it may be considered a burden I will assume it most cheerfully, if it is necessary to do justice to these deserving men. I do not, however, believe it will involve the expenditure of any such sum as the gentleman supposes. But even if it should be $2,000,000 the first year, it would be less the next year. You can hardly find a surviving

soldier of the war of 1812 who is not eighty years of age, and all of them have reached the allotted period of human life. Now, what is asked is that we shall do justice to these men who saved our liberties.

Mr. MILLER. I now yield five minutes to my colleague on the committee from Tennessee, [Mr. MULLINS.]

Mr. MULLINS. Mr. Speaker, I positively in my own mind feel that I am doing injustice to the intelligent body of men around me when I address their sense of honesty and their integrity of purpose in advocacy of the bill now before us for consideration. I speak in behalf of a people who, under the influence of God, when they were the youth of the country, were called out fifty-six years ago, and you cannot make it less than fifty-six years, amid the canebrakes of the West, where it was my fortune or misfortune to live; I stand before you and advocate the cause of the trembling limbs and emaciated forms of those who went out like giants and fearlessly faced the enemy of our country, though he roared as a lion coming up from the waters of Jordan. [Laughter.] I can announce to you that I am one of the descendants of those who thus went out. Well do I remember the beautiful bright morn when my father was summoned to go forth to battle. Then it was that the mother who bore me was down upon her death-bed with a blood wen in her neck. My father went to her: "Wife, I am summoned at the call of my country; my country is assailed by a dreadful enemy—a foreign Power that is opposed to our Republic. And he has assailed our borders; our friends are giving way and the Indians are coming in; what shall I do, wife?" "O my dear husband," she answered, "God will take care of me and these while you go out and fight the battles of our country and help maintain the flag which my father traveled seven years with Washington to plant as the standard of liberty." My parents have passed away. The last one is buried. But four of the family remain, and thank God none of us would come within the provisions of this bill, for the old adage has come true and the righteous is not forsaken; neither is his seed begging bread, though I am very unrighteous. [Laughter.]

And now I am here calling upon this Congress to do justice to these men. Where were you when these men with athletic arms stood and shook the British lion by his mane, and made him bite the dust? [Laughter.] Many of your fathers were out in battle, and others were in these Halls. They have handed down to you this glorious temple of liberty, which the sunlight of liberty breaks through and illuminates. They have placed you in this strong rampart. The services of these men have been beautifully, oratorically pointed out to you by the gentleman from Illinois, [Mr. LOGAN,] whom God endowed with power to point them out. [Laughter.] And can you, in view of such arguments and facts, refuse this pittance to these old men who are tottering almost on the verge of the grave? Oh, I cannot believe it. I believe that this bill will go through with perfect triumph. I cannot believe that one member of the House will vote against it.

Before I close, allow me to say that I am ashamed that we have not provided for the widows. I say it with all due respect to the committee, but we did it for the sake of meeting the objections of that great man from Illinois, [Mr. WASHBURNE,] whom I have stood by all the time. [Laughter.] He is for retrenchment, and I like him for it; but if he trenches upon this he trenches on the future honor and glory of our country. Where will you get men to fight your battles if you disgrace their fathers? Great God! my good man, when you go back to Illinois they will dig a pit for you so deep that you will never get out of it. [Great laughter.]

[Here the hammer fell.]

Mr. MILLER. I now yield three minutes to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. I am perfectly aware that in the three minutes allotted to me by the gentleman from Pennsylvania, it will be impossible for me to discuss this bill. I shall vote for the bill, and I should feel that I had not performed my duty if I were to sit silent and not say something in its behalf. There are but two subjects presented for consideration and they are these: first, do these needy soldiers of the war of 1812 deserve the pensions proposed by this bill; and secondly, are we able to pay them.

Mr. Speaker, I scarcely need discuss the question whether these soldiers deserve this bounty. I know no reason why we should distinguish between the needy revolutionary soldier, the soldier of the war of 1812, and the soldiers who saved the life of the Republic during the great rebellion. Sir, it has become a part of our civil policy to provide for the men who, upon the field of battle, have periled their lives for the safety of the Republic. These soldiers deserve the pensions which this bill provides for them. Now, are we able to pay them? According to the best estimates which we can get, this bill will not take from the Treasury a million dollars per year. But if the sum were even greater, it would be a solemn duty on the part of this Government to pay to these soldiers the pensions they so richly deserve.

I have been somewhat surprised to find gentlemen here preaching economy upon this subject who voted for the joint resolution of the 28th of February, 1867, which took some two million dollars from the public Treasury to give an increased compensation of twenty per cent. to the civil employés of the Government at Washington. Now, as between the civil employés at Washington and the soldiers of the war of 1812, I will go for bounties rather than for increased compensation; and if gentlemen urge economy, as I trust they will—and I will join with them in it—let them economize by refusing to increase the pay of any officer until we have first done justice to the soldiers of the war of 1812. There is ample room for economy; there are ample opportunities for retrenchment of the expenditures of this Government to an extent greater than would be necessary to provide all the money to be taken from the Treasury to give pensions to the soldiers of 1812. I am in favor of economy, and will go as far as the farthest of any gentleman upon this floor to accomplish it. I would retrench the expenditures of the Government, and by that means save the money necessary to pay to these soldiers the pensions which they so richly deserve and so long since fully earned.

[Here the hammer fell.]

Mr. MILLER. I now yield five minutes to the gentleman from Illinois, [Mr. BROMWELL.]

Mr. BROMWELL. I think that is a longer time than I shall want for the purpose of discussing the merits of this bill, for this reason: the United States have always had money enough to pay these soldiers, who, through age or destitution, are left without friends and means at the close of life. It is not a question with the American people how much it will cost.

My colleague [Mr. WASHBURNE] raised a question here which I do not think the people will thank him for. The people I represent are for economy, and they will stand by this House in making up this money by diminishing the outlays of this Government in a great many cases in which we are now very lavish with our money. They would even be willing to take enough for these pensions out of the prices we are paying for such territories as Alaska and the islands which may be thrown up by the next earthquake in the Caribbean sea. [Laughter.] They would be willing to see Congress provide these means by withholding the appropriation of vast sums for secret service or for sending an Assistant Secretary of the Navy around the world or for keeping a naval squadron on exhibition all along the coasts of Europe, and in a thousand other ways. Regard for the honor of my country will not permit me to argue here as to the cost.

Now, in regard to the question raised by the gentleman from Illinois, [Mr. WASHBURNE,] in regard to the expenditure under this bill, which he fixes at $172,000,000. Now, I have seen such estimates before, but I should not think any man raised in my State, who was not brought up in the woods to be scared by an owl, would ever be frightened by estimates of that kind in regard to the bounties of these soldiers. Now, what prevented this House from voting a proper bounty to the soldiers of 1861 was, that estimates were brought in here showing that it would take seven or eight hundred million dollars for that purpose. Will the House be scared out of this measure by estimates so preposterous that I cannot see for what purpose they were quoted on this floor?

[Here the hammer fell.]

Mr. MILLER. I now yield three minutes to the gentleman from New York, [Mr. PRUYN.]

Mr. PRUYN. Mr. Speaker, I always regret to see questions so important as this brought before the House under the operation of the previous question; and I am very glad that the gentleman in charge of this bill has consented to this brief discussion of its merits.

I listened with interest to the statement of the gentleman from Illinois [Mr. WASHBURNE] as to the number of persons who would probably be entitled to the benefits of this bill if it should become a law. The problem presented is simply this: out of two hundred and fifty-five thousand persons, all of whom were over eighteen years of age fifty-six and a half years ago, how many now survive? This can be definitely and distinctly ascertained by the rules applicable to ascertaining the average duration of life among a given number of persons, and by the application of those rules we might have been furnished with precise data. Having given some attention to this subject for many years, my own impression is, that if we estimate twenty thousand as the number now surviving, the estimate is quite large; and I believe that $2,000,000 would cover the whole appropriation, even if all the survivors were entitled to pensions.

My own impression is, that with the qualifications and restrictions embraced in the bill the amount necessary to pay these pensions will not be more than twelve or fifteen hundred thousand dollars per annum. On this side of the House many of us, if not all of us, are willing to vote for this appropriation; and should the bill become a law, then, when the Freedmen's Bureau appropriation bill shall come before us, a motion will be made on this side of the House to deduct this amount from that appropriation.

Mr. MILLER. I now yield to my colleague, [Mr. O'NEILL.]

Mr. O'NEILL. I have found in my experience in this House that a wrong statement forcibly made is very apt to have considerable influence; and when my friend from Illinois [Mr. WASHBURNE] urged that the amount necessary to pay these pensions would be $172,000,000 he perhaps did this very just measure much harm, and I think the statement should be corrected.

Mr. Speaker, I rose mainly to make a suggestion with regard to the number of men who are likely to be the recipients of these pensions if this bill should be passed. The gentleman from New York [Mr. PRUYN] has said that they would not exceed twenty thousand. My impression is that the number of these veterans who, being in indigent circumstances, would make application would not average many more than one hundred in each of the loyal States, and would probably not equal in the aggregate anything like five thousand in the whole country.

I know, sir, that this House would not measure by money the value of that patriotism exhibited in by-gone days. The men for whose benefit this bill is intended sustained our nationality in their day just as zealously and efficiently and patriotically as did our soldiers in the war for the Union through which we have lately passed, to whom we have given

bounties. I hope, however, that my colleague who has charge of the bill will be able to inform us as to the number of those who will be likely to claim pensions under the proposed legislation.

I feel confident there will not be found more than five thousand of these gallant soldiers and sailors living, and scarcely three thousand who will apply for the benefit afforded by the bill, and that it will not require an expenditure, even in the first year, of more than $300,000. The second year the amount will probably fall to $200,000; and in the following years to comparatively nothing. Why, sir, it is known beyond doubt that the survivors of the war of 1812 would not average less than seventy-five years of age. The gentleman from Missouri [Mr. LOAN] states to me that four of these veterans have died within his knowledge since the bill was introduced into Congress. I know that two or three have died within my own neighborhood during the last month or two. Thus they are dropping off rapidly nearly day by day; and it will not be long before there will be none remaining of the gallant army and navy of that war to ask Congress for this pension. Then let us do justice to those who are left. The country will sustain us in our efforts to bring joy to the hearts of the few who survive that contest which ended so gloriously for the Republic.

Mr. MILLER. I yield two minutes to the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. Mr. Speaker, as is usual with gentlemen who undertake to suggest that the House should examine into matters involving vast appropriations, I have been assailed by almost every gentleman who has spoken here to-day.

Mr. PRUYN. Not by me.

Mr. WASHBURNE, of Illinois. No; the gentleman from New York is an exception. I have been thus assailed because I desired the House to have an opportunity to investigate a bill which was attempted to be thrust through under the gag of the previous question. I made a statement from an official report, a statement which I believed (gentlemen would not give me the time to examine) applied to this bill. But it did not apply to it in this question, and I made the correction.

I am arraigned here, sir, by every man as standing against the old soldiers. The gentleman from Tennessee [Mr. MULLINS] predicts that a big hole is to be dug in the prairies of Illinois in which the old soldiers are to inter me. I will tell the gentleman I have lived in Illinois more than a quarter of a century, and more than half of that time I have represented them upon this floor; and although others, like the gentleman, have undertaken to dig a hole for me, they have always failed.

Mr. MULLINS. I said you were digging your own hole.

Mr. WASHBURNE, of Illinois. I understand, sir. Whenever I have resisted these appropriations here gentlemen have undertaken to appeal to my constituents. I know, sir, when I undertook here to resist the raid of whisky speculators, by which $60,000,000 were taken from the Treasury and put into the pockets of whisky gamblers, they proposed to raise $1,000,000 to defeat my nomination in my district, as the gentleman now proposes to have a hole dug in which to bury me.

Mr. MILLER. How many minutes have I left?

The SPEAKER. Seven minutes.

Mr. MILLER. I cannot yield any further.

Mr. RANDALL. I hope by unanimous consent the gentleman from Illinois will be permitted to go on.

Mr. BINGHAM. Let him have ten minutes.

Mr. WASHBURNE, of Illinois. I am very anxious to get through with this bill, so as to proceed to the consideration of the appropriation bills.

The SPEAKER. The Chair hears no objection, and the gentleman's time will be extended for ten minutes.

Mr. WASHBURNE, of Illinois. I do not want that length of time.

Mr. RANDALL. Take what you want.

Mr. LOAN. I give notice I shall ask for five minutes to reply.

Mr. WASHBURNE, of Illinois. I will not take up further time of the House. I merely wish to call the attention of the House and the country to the fact that no man can get up here and ask for information in regard to the expenditures of the Government but he is assailed as I have been by the gentleman from Tennessee. When he shall represent Tennessee for sixteen years and come back with majorities ranging from five thousand to thirteen thousand it will be time for him to talk to me.

Mr. MULLINS. If I failed to give this relief to the soldiers who battled for my country I would never ask my constituents to reëleet me.

Mr. WASHBURNE, of Illinois. I have never failed in my duty to the soldiers, and my people know it.

Mr. MILLER. If the House will extend the gentleman's time I have no objection.

The SPEAKER. The gentleman declined it.

Mr. WASHBURNE, of Illinois. I only want three minutes more.

Mr. RANDALL. I understood the House gave the gentleman ten minutes.

Mr. WASHBURNE, of Illinois. I say, sir, I have never done injustice to the soldier, here or elsewhere. I have been in favor of sustaining the soldier, giving him pension and bounty whenever these questions have been brought before the House. I desired to know what was in this bill. I had the right and my constituents had the right to know. While we are voting for soldiers I think there are some other people behind the soldiers who have some claims upon us. I think the soldiers of the late war to suppress the rebellion, the soldiers who followed the victorious flag of my colleague, have some rights as well as the soldiers of the war of 1812. I think the laboring people of this country, those who are famishing and crying for relief, have some rights as well as the soldiers of the war of 1812.

I have not stated I will vote against this bill. I do not know but I will vote for it. I wanted to know what the bill is. I had the right to know that it is. For that I am arraigned. Gentlemen need not give themselves uneasiness about my record and my status at home. My constituents have never yet failed to sustain and protect me, for I have never yet in my service here misrepresented their interests or their opinions.

Mr. BENTON. I did not attack the gentleman; I am with him in favor of economy.

Mr. WASHBURNE, of Illinois. The gentleman yielded to me as being in opposition to this bill. He has reflected upon me, as I understood, for calling the attention of the House to the amount which this bill appropriates. I say, according to the estimates of the gentleman from Maine, [Mr. PERHAM,] it is $2,000,000 for the next year, and will be nearly that for the following year.

Mr. MILLER. I yield to the gentleman from Maine, [Mr. PERHAM.]

Mr. PERHAM. I wish to make a correction. The gentleman from Illinois [Mr. WASHBURNE] has stated that I have made an estimate of the amount that would be required by this bill, and that it will be $2,000,000 a year, amounting in the aggregate to $24,000,000. What I did say was, that taking the estimate of the committee that the number of pensioners would be twenty thousand, under this bill the amount would be $2,000,000 annually.

Mr. LOAN. I ask unanimous consent to be allowed five minutes to reply to the gentleman from Illinois, [Mr. WASHBURNE.]

The SPEAKER. Is there objection? The Chair hears none.

Mr. LOAN. The gentleman from Illinois says that he desired to have this bill explained to him; that he wanted information in regard to it, and that he had a right to that information. Now, I would ask him if he has given due attention to the progress of this bill in the House? It has been on file since the 31st of January last.

I would also suggest to him that he has a strange way of seeking information, by making a statement to the House as to the gross expenditures that would be incurred under this bill. I apprehend he was not seeking information, but made his statement for the purpose of defeating the bill, believing that if he made such an assault the weight of his character might be sufficient to defeat the bill. That seemed to me to be the object he had in asking for the information; and I was so astonished and amazed that I could not forbear referring to it. It is a statement of such a character that the gentleman will pardon me for saying that he could hardly have us believe in his sincerity in making it except at the expense of his intelligence and judgment. He now concedes that we shall spend no such amount of money as he stated, and he intimates it is even possible that he may vote for the bill. The amount is now reduced to less than two million dollars, as I stated, with a constant reduction of the amount from year to year. I hope, therefore, we shall not have the negative vote of the gentleman from Illinois on this measure.

Mr. MILLER. I am very glad to hear that the gentleman from Illinois [Mr. WASHBURNE] is being converted to the support of this measure, and for it, no doubt, will receive a blessing from these old survivors of the second war of independence. A great deal has been said by him in reference to the estimate made by the chairman of the Committee on Invalid Pensions [Mr. PERHAM] in 1867. In that estimate the gentleman does not pretend to accuracy. He says it is impossible to make any definite estimate, and in that estimate he includes not only all the soldiers of 1812, without regard to the time of service, but also all the widows of soldiers who have died. He says in that report that there are so many young widows of the soldiers of 1812. [Laughter.] I am sorry the gentleman should have included those young women who, instead of marrying young men, married these poor old soldiers so as to take care of them in their declining years.

Mr. PERHAM. I believe I said some very young women very often and very wisely chose to marry these old persons who had seen such honorable service rather than those who were not so old. There are a great many young widows.

Mr. MILLER. They certainly have done a very worthy act in taking care of the old soldiers who have served their country. They have toiled and sweat for them, they have watched faithfully and stood around the couch of the dying soldier, wiping the cold sweat from his brow, and followed them to the grave and seen the clods of the valley fall upon their plain coffins, but we have excluded all these meritorious claimants in this bill.

Now, let us look for a moment again at these estimates. The gentleman says it will cost $1,200,000 for agents. I have no doubt we can get fifty clerks to do the entire work. Yes, a dozen would be able to attend to this whole business of pensions for the soldiers. Then the estimate is not made on a correct basis, and, of course, little reliance can be placed upon it. If the gentleman from Illinois [Mr. WASHBURNE] had examined it carefully he would not have been so much troubled about the enormous expenditures. The estimate I have here of the number of soldiers who served less than three months is two hundred and fifty-five thousand one hundred and forty-seven, and the total amount will not exceed the sum I have heretofore stated, which in no event can exceed $2,000,000, but I am inclined to think it will not exceed $1,000,000.

Now, sir, cannot we afford to pay this? Cannot we afford to pension these men now who have waited fifty-six years and at this late period ask it with a belief that their claim is

meritorious? They were, of course, not less (a greater part of them) than twenty years old then, and, therefore, none of them can be less than about seventy-six years old, and a large proportion of them are over eighty years of age.

Sir, I think this bill is meritorious, and I trust that it will meet the approbation of this House, and, for the honor of the nation, that there will not be a single vote cast against it. I trust that this House will not turn a deaf ear to these soldiers who served their country fifty-six years ago, and who are now between seventy-five and eighty years of age, and who in their poverty are calling upon their country for a little aid in their declining years, and say that we cannot give them any aid. I hope that this House will give it them.

Before I ask for a vote let me say to the gentleman from Illinois, [Mr. WASHBURNE,] who complains of the "gag law," that there is no one in the House who calls the previous question sooner than he does on his appropriation bills and cuts us all off.

Mr. WASHBURNE, of Illinois. I beg the gentleman's pardon. Every appropriation bill is fully considered, and every member has five minutes to speak upon amendments. I have no control over that. When a bill has been passed upon by the Committee of the Whole and everything has been discussed, then when it comes into the House, as a matter of course, I demand the previous question.

Mr. MILLER. I know that some of us who want to get in speeches on those bills can get no chance because the gentleman moves to close debate.

I have, Mr. Speaker, endeavored to discharge my duty to this meritorious class of our citizens, and rejoice that it is about being brought to a vote. For the last two years I have been trying to have the subject-matter brought to a square vote. Since I first introduced the bill many have died without receiving that to which, in my opinion, they were so justly entitled; and as I feel that I have discharged my duty in their behalf and that of my country, I now call for a vote on the bill.

The amendment offered by Mr. WASHBURN, of Massachusetts, was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF INDIAN AGENT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, asking for an appropriation to pay an agent for paying the annuities to the Cherokee Indians of North Carolina; which was referred to the Committee on Appropriations, and ordered to be printed.

SALARY OF UNITED STATES OFFICERS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting letters from the United States appraisers at the port of Savannah and Assistant Treasurer at Charleston, South Carolina, asking for an increase of salary; which was referred to the Committee on Commerce, and ordered to be printed.

CHARTER OF WASHINGTON.

The SPEAKER also, by unanimous consent, laid before the House resolutions of the board of common council of Washington, District of Columbia, in relation to the city charter; which were referred to the Committee on the District of Columbia.

WITHDRAWAL OF PAPERS.

On the motion of Mr. KITCHEN, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of James Shields, copies being left.

Mr. WASHBURNE, of Illinois, obtained the floor.

Mr. INGERSOLL. I ask my colleague to yield to me for a moment. My colleague [Mr. JUDD] has a bill in the desk——

Mr. WASHBURNE, of Illinois. My colleague must excuse me now. After we come out of Committee on the Whole I will yield.

Mr. INGERSOLL. Very well.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, House joint resolution of the following title:

Joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes.

The message also announced that the Senate had passed House joint resolution of the following title, with an amendment, in which the concurrence of the House was requested:

Joint resolution (H. R. No. 104) authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Hampshire.

The message further announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 311) to provide for a gradual reduction in the military forces and to discontinue certain unnecessary grades therein, and for other purposes.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union on the legislative, &c., appropriation bill, and pending that motion I move that all debate on the pending proposition in the committee, which is the amendment of the gentleman from Minnesota, [Mr. DONNELLY,] in regard to the Department of Education, shall close in fifteen minutes after the committee shall resume the consideration of the bill.

Mr. PHELPS. I hope the gentleman will extend the time to half an hour.

Mr. WASHBURNE, of Illinois. The matter was discussed for more than half an hour the other day.

Mr. PAINE. It is a very important provision.

Mr. WASHBURNE, of Illinois. I will modify my motion and say in twenty minutes.

Mr. BOUTWELL. We ought not to be limited to fifteen or twenty minutes on a matter of this importance.

The SPEAKER. An amendment is in order.

Mr. BOUTWELL. I move to amend so as to close debate in thirty minutes.

Mr. WASHBURNE, of Illinois. I hope that will not be adopted.

The amendment was agreed to; and the motion to close debate as amended was agreed to.

The motion to go into the Committee of the Whole was then put and agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, [Mr. WILSON, of Iowa, in the chair,] and resumed the consideration of the special order, being the bill (H. R. No 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The CHAIRMAN. The pending question is the amendment moved by the gentleman from Minnesota [Mr. DONNELLY] upon which debate, by order of the House, has been limited to half an hour.

The amendment was to insert as follows, before the portion relating to "United States Mint and assay office:"

Department of Education:

For compensation of the Commissioner of Education, $4,000; for chief clerk, $2,000; for one clerk of class four, $1,800; for one clerk of class three, $1,600.

For stationery, blank books, and miscellaneous items, $2,000

Mr. PHELPS. I rise to advocate the amendment.

The CHAIRMAN. Debate upon the amendment has been exhausted. The gentleman can propose an amendment to the amendment.

Mr. PHELPS. I move to amend the amendment by striking out "for one clerk of class three, $1,600." I do this in order that I may have the opportunity to say a few words in support of the amendment of the gentleman from Minnesota, [Mr. DONNELLY,] and in behalf of the important and valuable Department which a majority of the Committee on Appropriations have very unadvisedly, in my judgment, undertaken to suppress. That amendment designs simply to continue an appropriation for an established department under an existing law. If it contained anything which, in my opinion, in the slightest degree impaired State prerogatives or infringed upon reserved popular rights, those who are familiar with my views upon that subject might be sure that I would be the last to support it. But I have carefully considered all the objections which have been urged against this Department of Education upon the ground of alleged conflict with the Constitution of the United States, and I am bound to say that in my opinion they are entitled to very little, if any weight. If the organization of this Department contemplated anything like supervision or control over the several school systems of the various States, if it undertook to interfere with them in any way, to dictate the selection of their teachers or the building of their school-houses, the choice of methods or of books, or tended to come in collision in any degree with school systems as established in the several States, then, and to that extent I should consider it unquestionably a case of usurped power, in clear violation of the Constitution of the United States. But the bill establishing that Department provides for nothing of the kind. It requires the Department of Education to limit its operations to two specific objects: first, the collection of statistics and other facts bearing upon the general subject of education; and, secondly, the diffusion of the information thus collected to aid the people of the several States to promote the cause of education therein. But it has been objected that this duty, conceding the constitutional right, would be more conveniently left to the several States; that the subject of education is one with which it is not proper that the General Government should concern itself, even in this merely auxiliary or ancillary way. A moment's reflection, Mr. Chairman, will suggest certain aspects of the subject in which, from the very nature of the case, the several States cannot satisfactorily perform the duties which it is contemplated this Department shall exercise, or which they cannot exercise to so efficient and thorough a degree as a Department under the auspicies of the General Government.

It is obvious, for instance, that a collation of the laws and comparison of the systems of the several States, accompanied with that information as to their practical operation which is not derived from the representative men of those States, can be conducted to much better advantage at the seat of the Federal Government than elsewhere. Such a comprehensive view of the whole field of education in this country is one of the first steps toward improvement, by enabling each of the States to acquire and profit by the experience of all the rest.

But this view of the case is insignificant when compared with the infinitely greater value of a Department of Education established at Washington in its relation with foreign Governments, and particularly those of Europe. No State, however liberal might be its appropriations, could enjoy the facilities for correspondence with those Powers, or possess the advantages for establishing a focus of intelligence from all quarters of the civilized world, which belong to a national department at the headquarters of the Government.

It has been further objected that there has been no appreciable result from the operations of this Department, though it has now

been in operation for several months. This objection touches the qualifications of the Commissioner, a point in which I have but one word to say. The gentleman who has been selected by the President and confirmed by the Senate as the head of this Department has for more than a quarter of a century earned by his zeal and practical accomplishments in the cause of education, not only a national, but a European reputation.

[Here the hammer fell.]

Mr. PHELPS. I withdraw my amendment to the amendment.

Mr. HARDING. I object to the withdrawal of the amendment to the amendment until I have had an opportunity to say a few words upon this subject.

Mr. PHELPS. Then I will not withdraw the amendment to the amendment. But I will ask the gentleman from Illinois [Mr. HARDING] to yield to me a moment, until I can have an extract read by the Clerk.

Mr. HARDING. I will yield for that purpose.

Mr. PHELPS. In connection with the character of the Commissioner of Education and his qualifications for the position he holds, I ask the Clerk to read an extract from a note to the second volume of Kent's Commentaries, page 196, to show the estimation in which the labors of that gentleman were held by Chancellor Kent in 1845.

The Clerk read as follows:

"The report of the board of commissioners of common schools, instituted in 1838, and made to the Legislature of Connecticut in May, 1839, was accompanied by the report to that board of Henry Barnard, secretary of the board, containing a laborious and thorough examination of the condition of the common schools in every part of the State. It is a bold and startling document, founded on the most painstaking and critical inquiry, and contains a minute, accurate, comprehensive, and instructive exhibition of the practical condition and operation of the common school system of education."

This is the testimony of Chancellor Kent, given more than a quarter of a century ago. Without trespassing further upon the courtesy of my friend from Illinois, [Mr. HARDING,] I shall seek an opportunity to produce other evidence to the same point.

Mr. HARDING. I cannot yield further to the gentleman.

Mr. Chairman, I desire to make a few remarks in reference to this Department of Education, because I have been pointed at even by my constituents for the course which I took at a former session, when the bill establishing this Department was passed by this House. I opposed that bill not from any want of interest in the subject of the education of the people of my country. I hold as firmly and earnestly as any man on this floor the doctrine that intelligence is the life of liberty, that without universal education we cannot hope to maintain our Republic. But, sir, I am jealous of national establishments for purposes of this character, which may, perhaps, in the end, accomplish a control of public opinion. I would as soon vote for a bureau that should have the supervision of the public press of the country or of the religion of the country as I would for a bureau that should control the subject of education throughout the nation.

My colleague [Mr. BAKER] said the other day that he wanted to "unitize" the nation by means of education. Sir, that word appropriately applies to monarchies. Under a monarchical Government you will find in every communication from the throne to its agents some such declaration as this: "Unitize public sentiment in favor of the throne by instilling into the minds of the masses uniform sentiments which shall sustain the throne."

Sir, it is by the untrammeled exercise of the motive-powers of education, such as philanthropy, patriotism, and morality, that we shall best accomplish the education of the people. Our existing system, of which we are proud, has given us schools and seminaries and colleges which are competing with each other, and in this competition we shall find the best means of educating the people.

[Here the hammer fell.]

Mr. PHELPS. I withdraw my amendment to the amendment.

Mr. BAKER. I renew it. Mr. Chairman, I said the other day that I desired, in a certain sense, to unitize the mind of the Republic. I certainly do so desire, and that for a high and a sound reason. In a certain important respect the mind of the nation should be one. For the want of this unity we have recently been subjected to the terrible baptism of blood through which the country has passed.

Sir, I have due respect for the rights of the States. There are certain great parts of our liberties which can be best protected and nurtured by the States; but there are certain great ideas of nationality which should pervade the public mind of the entire Republic.

Now, sir, we have statistics of commerce; we have statistics of agriculture; we have statistics of every species of trade and of every material interest, and, sir, it is appropriate that we should have statistics of the mind, of the mental culture of the Republic.

It is a total misapprehension of the intent and bearing of the bill which was passed during the Thirty-Ninth Congress to suppose that it can have no substantive and valuable operation. There is nothing more appropriate to lay before the intelligent readers and educators of the country than a summary statement from time to time of the condition of culture in every part of the Republic.

As I intimated the other day, there are two great ideas which ought to enter into the statesmanship of our country. One is the encouragement of intercommunication, by which all commercial commodities and the people in masses may be transported cheaply to and from every part of the country and by which provincial centers may be prevented from forming and seeking to segregate themselves in the very bosom of the Republic. The other great idea, tending to the same result, is the encouragement of national culture in certain important respects—in harmony, however, with that diversified culture which should grow up and be fostered by the respective parts. I think the committee will commit a great mistake if they expunge from the statutes of the Republic this first recognition of the grand idea of a national culture——

[Here the hammer fell.]

Mr. PHELPS. I rise to oppose the amendment in order to make a few additional remarks. In reference to the expense of this Department I feel it my duty to say, in order to relieve the minds of gentlemen who profess to be disturbed by economical scruples, that the whole annual expense for the support of this Department according to the original estimate was just $30,760, and by the proposed amendment is considerably less than that sum. The majority of the committee has saved that $30,000 by destroying the Department of Education, and reported for contingent expenses of the House an appropriation for a much larger sum for the single items of newspapers and stationery for members. That will do very well for economy.

I now ask the Clerk to read the following additional paragraph from Kent's Commentaries, which I had not time before to get in.

The Clerk read as follows:

"Since the last edition of these Commentaries I have examined the Connecticut Common School Journal, published under the direction of the board of commissioners of common schools at Hartford, between 1839 and 1842, in four volumes; also, the third and fourth annual reports of the board of commissioners of common schools in Connecticut, and also the several reports of Henry Barnard, Esq., secretary of the board, the most able, efficient, and best informed officer that could, perhaps, be engaged in the service, and pamphlets from the same source on school-house architecture, and on legal provision respecting the education and employment of children in factories, and they contain a digest of the fullest and most valuable information that is readily to be obtained on the subject of common schools both in Europe and the United States."

Mr. PHELPS. In reference to the character and quantity of the work already accomplished by the Department of Education within the first year of its establishment, I ask the clerk to read the following items, of the value of which each gentleman will judge for himself without comment of mine.

The Clerk read as follows:

Memoranda as to work completed within the first year of the establishment of the United States Department of Education.

I. Report on the system of public schools of the District of Columbia, together with an account of the system and statistics of public instruction in the principal cities of the United States. A document of 400 pages.

II. Report on school codes of the United States, embracing the first school act of each State, with all the subsequent modifications of the same, and the law as it stood on the 1st of January, 1868, with the provisions which have been introduced into the successive constitutions of each State on the subject of schools and education.

III. Report on the national land grants to the several States for educational purposes:

PART 1. Grants for colleges of agriculture and the mechanic arts, with an account of the institutions which have been established on the basis, or with the aid of these grants.

IV. Report on institutions and agencies for the professional education of teachers in the several States, including the State normal schools, city training schools, teachers' institutes, and State teachers' associations in each State.

V. Report on the principles of school architecture, and plans for the internal arrangement, ventilation, and warming of buildings designed for educational uses.

PART 2. Plans for graded schools, with two hundred and fifty wood cuts of buildings recently erected.

VI. Report on national education in Europe:

PART 1. Germany.

PART 2. Switzerland.

Mr. PHELPS. As gentlemen who wish to vote intelligently may not have found the time to visit the Department and satisfy themselves by a personal examination of the results already attained, as to the competency of the Commissioner to handle the subjects intrusted to his administration, I desire to offer some other opinions on the point than my own, whose authority, I presume, will not be disputed.

The Westminster Review for January, 1854, says:

"Mr. Barnard in his work on 'national education in Europe,' has collected and arranged more valuable information and statistics than can be found in any one volume in the English language. It groups, under one view, the varied experience of nearly all civilized countries."

The following are from continental writers of recognized educational authority:

"The new school-houses in the United States, so well adapted to their objects, both in their exterior and interior, are visible marks of his zeal. His 'School Architecture' has been widely influential in America; and, since the Edinburgh Review called attention to its merits, the results of his suggestions are already manifest in England, 'I have often had occasion to admire the magic influence of Dr. Barnard, his brilliant powers of eloquence, and his great administrative talents.'" *Dr. Wimmer's Die Kirche und Schule in Nord Amerika. Leipzig*, 1853.

"Dr. Barnard, by his writings on school architecture, has created a new department in educational literature." *Dr. Vogel. Leipzig.*

"When I contemplate the picture of the immense mental labor accomplished in this way (by Mr. Barnard, in his labors to build up a system of public schools in Rhode Island,) when I think of what a mass of information has thus been spread, and how conviction has, as it were, been made to force itself upon every home, every head, and every heart; when I behold a people awakened to the consciousness of a great public evil, and in a manner driven out of their houses to correct it; when I see all this, I confess I am more affected by this crusade against dilapidated school-houses, inefficient schoolmasters, and faulty methods of instruction, than by many of the enterprises that are more lauded in history." *Siljstrom's Educational Institutions of the United States. Stockholm*, 1852.

Mr. WOODWARD. I would like the gentleman to point out in the Constitution the clause which authorizes the Government to do this.

Mr. PHELPS. In the qualification or definition of the taxing power in the eighth section of the first article, expressly empowering Congress to collect taxes to pay the debts and provide for the general welfare of the United States; and, further, to make all laws which shall be necessary and proper for carrying into execution the foregoing powers. It is in that clause that I find the authority, not as construed by myself, but as construed by the Supreme Court of the United States in McCulloch *vs.* Maryland in 4 Wheaton.

The amendment to the amendment was disagreed to.

Mr. BOUTWELL. I wish merely to say that the necessity for this appropriation is greater than when the bill was passed. It was not contemplated by the law establishing a Bureau of Education that the national Government was to take control of education in the several States; but the purpose of the bureau was to gather from the reports the experience of all the States of the Union and the countries of Europe, where a system of public instruction is best understood and practiced, and lay this information before all the people of the country. And when we consider that ten States are to be reorganized and restored to the Union, in which it is no injustice to say that the cause of public instruction has not been understood or practiced in times past; when we consider that all these people, white and black, are hereafter to be pupils to inaugurate and maintain a system of public instruction, if popular liberty is ever to be supported in those States, the information which is to enable these people to do this work during the experimental period of the system of instruction in these States will be of inestimable value. It is, therefore, of the highest importance that this Government should furnish the means by which that experience is to be perfected; and the trifling sum of ten or fifteen or twenty thousand dollars a year is of no consequence compared with the evils that will result from the absence of the information which it is in the power of this Government, through this bureau, to furnish.

I am therefore in favor of the appropriation. I generally go with the chairman of the committee in all these economical measures; but here is an economy which portends waste and extravagance in the consequent ignorance of twelve million people, whose ability to bear the burdens in coming generations depends to the extent of one half upon the fact whether they are educated or ignorant. For it is a truth which the history of the world in all ages and at the present moment, from China to Alaska, sustains, that people produce the necessaries, the conveniences, and the luxuries of life just in proportion to their intelligence. The most intelligent people always produce every article for the comfort, convenience, or luxury of mankind cheaper than the same articles are produced by ignorant people. Sir, we shall get $5,000,000 of revenue from the South if it is occupied by an intelligent people easier than we get $2,000,000 of revenue if it is inhabited by an ignorant people.

Mr. WOODWARD. I submit, Mr. Chairman, that the question before us does not involve the value of education nor the economy of a system of national education, as the gentleman from Massachusetts [Mr. BOUTWELL] argues, nor the comparative merits of a system of national education, as compared with a system of State education, in regard to which I should be very much inclined to agree with my friend from Maryland, [Mr. PHELPS.] But the primary and fundamental question which we have to meet before we go into these subjects has reference to our power in the premises. Have we the constitutional power to vote the money proposed by this bill to any system of education whatever? That is a question to be answered, not by an appeal to the Westminster Review, as my friend from Maryland [Mr. PHELPS] does, nor by an appeal to the generous and philanthropic considerations which the gentleman from Massachusetts [Mr. BOUTWELL] suggests; but it is to be answered by a simple reference to the text of the Constitution which we have sworn to support. Now, if gentlemen will show me that any provision in that instrument authorizes Congress to vote away money for the purpose of education—I mean, of course, general education, and not that technical military education which is necessary for the defense of the country; I take the word in the general, comprehensive sense in which it must be taken in this debate—I say if gentlemen will show me any provision in the Constitution which authorizes us to establish, or foster and encourage a system of general education, I will then be willing to give due weight to other considerations.

Mr. PHELPS. Will the gentleman please inform us where the authority is derived for establishing a Department of Agriculture or of Statistics.

Mr. WOODWARD. The gentleman ought not to ask me such a question. I have never yet voted a dollar to establish a bureau of agriculture or of statistics. There is a proposition before one of our committees to tunnel the Rocky mountains, and we have divers other propositions of that kind presented, but I am not committed to any one of these matters. I do not choose at present to look any further than to the subject immediately before us, and that is the subject of education.

Mr. PHELPS. Will the gentleman allow me to ask him where he gets the power to take a census? It has been taken every decade since the foundation of the Government.

Mr. WOODWARD. I believe the Constitution provides for that expressly. Mr. Chairman, obviously such questions as these do not answer the question which I ask. When I ask gentlemen to point out to me our constitutional power to do what they ask us to do they accomplish nothing by asking me what power we have to do something else.

Mr. SPALDING. If the gentleman will pardon me, I will answer him from the Constitution itself:

"That Congress shall have power to lay and collect taxes, duties, imposts, and excises"—

To do what?—

"to pay the debts and provide for the common defense and general welfare of the United States."

I suppose that education is a part of "the general welfare of the United States;" and the Constitution gives us a right to collect taxes to promote that general welfare. There, I suppose, we find power enough in the Constitution.

Mr. WOODWARD. I submit to the gentleman from Ohio whether in the Federalist or in any exposition of the Constitution by any constitutional writer, or by any judge of any court or by any lawyer, that grant of power is understood to include education?

Mr. SPALDING. I answer the gentleman by saying that I know from my boyhood days it has been a mooted question whether Congress had a right to establish a national university under the Constitution, but, at the same time, there has been no adjudication on the subject. The writers in the Federalist said nothing about this clause, so far as it is applicable to education; but I suppose they left it for the good sense of members of Congress to give a construction to that power; and if that is not a fair construction, why then the gentleman has the advantage of me. That is all.

Mr. WOODWARD. Then, if I understand the gentleman, he admits that neither Madison, nor Hamilton, nor Jay, nor any judge of the Supreme Court, nor Story, nor Kent, nor any other commentator has affirmed that the power of this Government extends to the subject of education.

The CHAIRMAN. All debate is closed on the pending paragraph.

The amendment to the amendment was disagreed to.

The question recurred on Mr. DONNELLY'S amendment; and being put, there were—ayes 33, noes 45; no quorum voting.

Tellers were ordered; and Messrs. PHELPS and WOODWARD were appointed.

The committee divided; and the tellers reported—ayes 40, noes 61.

So the amendment was rejected.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to go back to page 12 of the bill to offer an amendment. It is a provision which generally goes in the civil or miscellaneous bill, but the Committee on Appropriations think it had better come in in this bill. It is for the compensation of parties connected with the public buildings and grounds.

No objection was made.

Mr. WASHBURNE, of Illinois. I then offer the following amendment:

On page 12, after line two hundred and sixty three, insert:

Public buildings and grounds:

For salary of the warden of the jail in the District of Columbia, $2,000.

For compensation of laborer in charge of water closet in the Capitol, $538.

For compensation of four laborers in the Capitol, $2,880.

For compensation to the public gardener, $1,440.

For compensation of foreman and twenty-one laborers in Capitol grounds, $16,080.

For compensation of two watchmen at President's House, $1,900.

For compensation of doorkeeper at President's House, $720.

For compensation of assistant doorkeeper at President's House, $720.

For compensation of one night watchman at public stables and carpenter's shop, south of the Capitol, $1,000.

For compensation of five watchmen on Reservation No. 2, $3,600.

For compensation of drawkeeper at Potomac bridge, and for fuel, oil, and lamps, $5,000.

For compensation of two drawkeepers at the two bridges across the Eastern Branch of the Potomac, and for fuel, oil, and lamps, $1,396.

For compensation of furnace-keeper under the old Hall of the House of Representatives, $720.

For compensation of furnace-keeper of President's House, $720.

For clerk in the office of Public Buildings, $1,200.

For messenger in same office, $1,000.

For two policemen at President's House, $2,640.

For compensation of person in charge of heating apparatus of Library of Congress, $1,000.

For electrician for Capitol, $1,200.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the committee to go back to page 19, line four hundred and fifty-five, and strike out the two words "and sub-Treasuries" where they occur in the following paragraph, "for furniture, carpets, and miscellaneous items for the Treasury bureaus and sub-Treasuries, $35,000." That is provided for in another part of the bill.

There was no objection; and the amendment was considered and agreed to.

Mr. WASHBURNE, of Illinois. The gentleman from Maine [Mr. PIKE] desires permission of the Committee of the Whole to go back in order to move some amendments, to which I have no objection, as they do not increase the aggregate amount of the expenses.

The CHAIRMAN. That will be done if there is no objection.

Mr. HOLMAN. I will not object to going back, but I reserve any points of order that may be made upon the amendments when offered.

No objection was made.

Mr. PIKE. I move to amend the paragraph under the heading "Navy Department," relating to the compensation of the Assistant Secretary of the Navy, &c., by striking out "four" and inserting "six," so that it will read "six clerks of the fourth class, $10,800."

The amendment was agreed to.

Mr. PIKE. I move to further amend the same paragraph by striking out "three clerks of the second class, $4,200."

The amendment was agreed to.

Mr. PIKE. I move also to amend the bill by striking out the following:

For compensation of the chief of the Bureau of Construction and Repair, $3,500; chief clerk, $1,800; one draughtsman, $1,400; five clerks of the second class, $7,000; one clerk of the first class, $1,200; one messenger, $1,000; one laborer, $720.

And inserting in lieu thereof the following:

For compensation of the chief of the Bureau of Construction and Repair, $3,500; chief clerk, $1,800; one draughtsman, $1,400; one clerk of class four, two clerks of class three and two clerks of class two, $7,800; one messenger, $1,000; one laborer, $720.

The amendment was agreed to.

Mr. PIKE. Then I desire to amend the paragraph relating to the Bureau of Equipment and Recruiting, so as to make it correspond with the present force of that bureau.

Mr. WASHBURNE, of Illinois. I cannot consent to that amendment.

The Clerk resumed the reading of the bill.

The following paragraphs were read:

Mint at Philadelphia:

For salaries of the Director, treasurer, assayer,

melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, $36,500.

For wages of workmen and adjusters, $125,000.

For incidental and contingent expenses, $25,000.

Mr. HIGBY. I move to amend the clause in relation to "incidental and contingent expenses" by striking out "$25,000" and inserting "$10,000." I do this for the purpose of inquiring why $15,000 more is appropriated in this bill than was appropriated last year. I know nothing about it; but by referring to the law of last year I find there was appropriated only $10,000.

Mr. WASHBURNE, of Illinois. The reason is that there have been extended repairs and new machinery, which make the additional appropriation necessary.

Mr. HIGBY. I withdraw the amendment.

The Clerk resumed the reading of the bill.

The following paragraphs were read:

Branch mint at San Francisco, California:

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, $30,500.

For wages of workmen and adjusters, $100,000.

Mr. HIGBY. I move to amend the clause relating to "workmen and adjusters" by striking out "$100,000" and inserting "$191,450." I find that the amount appropriated last year was $205,450. The amount of coinage in that mint for the last year was a little more than for the year before, a little over nineteen millions. The estimates that come from the Treasury Department ask for the amount I have named in my amendment. I know of no reason why this mint should not be kept in operation. I find that the Mint at Philadelphia coined about twelve millions, or a little less than seven millions difference between the two.

Now, it may be possible that the Committee on Appropriations can explain why they have made this wonderful reduction upon the appropriation of last year. I know of no reason why there should be this vast amount taken off the sum appropriated last year.

By reference to the estimates that come from the Treasury Department I find this item:

For superintendent and treasurer, assayer, melter and refiner and coiner and six clerks, $30,500.

That amount is reported in this bill by the Committee on Appropriations. Then there is this item in the estimates:

For wages of workmen and adjusters, $191,450.

The amount appropriated last year for workmen and adjusters was $205,450. I have moved to increase the amount here reported $100,000, to $191,450, as called for by the estimate sent in from the Treasury Department.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I will explain why the Committee on Appropriations cut down the appropriations for this branch mint at San Francisco. They found, by referring back for a number of years, that the expenditures of this mint had been extravagant to the last degree, and that it was unnecessary to appropriate for that mint any larger sum than we propose to appropriate in this bill. We appropriate all that is necessary to pay the salaries of all the officers. The only question is in regard to the payment of wages for workmen, adjusters, &c. We propose an appropriation of $100,000. Last year $205,450 were appropriated for the same purpose for the present fiscal year; and the estimate for the next fiscal year was $191,450.

Now, sir, I desire to call the attention of the committee to a table showing the expense of the mint at San Francisco as compared with the expense of the Mint at Philadelphia. By this table it appears that in 1865 the value of the gold coined at the branch mint at San Francisco was $19,144,875 58, the number of pieces coined (which really shows the amount of work done) being 1,775,116. What do you suppose, Mr. Chairman, was the expense of that mint for that year? It was $550,513 07. Let us look at the expenses of the Mint at Philadelphia, the parent Mint, for the same year. The number of pieces coined was 85,548,735, and the expense was only $250,000—just about one half. We considered this discrepancy most alarming, and one that could not be justified. We believe that the amount which we propose to appropriate in this bill will be sufficient to carry on the operations at that mint to the fullest extent if it is managed with honesty and economy, as I hope and believe it will be if we put this limit upon the expenditure. Let me refer again to the facts exhibited by the table I have mentioned.

In 1862 the expense of coining 2,345,000 pieces at the branch mint at San Francisco was but $275,556 37; but in 1865 the expense of coining only 1,775,116 pieces reached the enormous sum of $550,513 07. And that, too, with less earnings. Besides, they expend in addition to the amount appropriated what they call "available profits;" that is, the amount the mint charges for parting, refining, and toughening the metals. From these statements the committee will understand why we believed that the expenses of this mint at San Francisco should properly be limited to the amount named in the bill. I submit, for the information of the committee, the statement to which I have referred, exhibiting the comparative expenses of the mint at San Francisco and that at Philadelphia:

Exhibit contrasting the present with the former management of the Branch Mint, San Francisco, California—and showing the immensely greater amount of work done then and at the Parent Mint at Philadelphia, at half the expense.

Branch Mint, San Francisco, California—Former Superintendency.

Fiscal year ending—	Estimates in addition to available profits.*	Amount of work done. Value.	Amount of work done. Number of pieces coined.	Expenditures.	Earnings.
June 30, 1862	$194,438 09	$16,187,978 65	2,345,000	$275,556 57	$342,957 69‡
June 30, 1863	180,540 00	18,551,598 68	2,872,173	299,619 95	257,913 14‡

Present Superintendency.

Fiscal year ending—	Estimates in addition to available profits.*	Amount of work done. Value.	Amount of work done. Number of pieces coined.	Expenditures.	Earnings.
June 30, 1864	190,438 00†	19,536,809 02	1,869,120	550,513 07	239,469 96
June 30, 1865	403,658 68	19,144,875 58	1,775,116		
June 30, 1866	431,479 29	18,940,562 04	1,929,881		
June 30, 1867	382,256 60	19,005,048 54	2,551,133	558,242 32‖	
June 30, 1868	293,297 00	-	-	-	-

* Available profits consist of parting charge, charge for toughening, and all other charges except the coinage charge. † Calendar year 1862. ‡ The comparison of the last year of the former with the last year of the present superintendency, shows a summary in favor of the former of nearly twice the work done at half the expense with far greater earnings. § Estimate of Stevens, the former superintendent. ‖ Estimated.

Parent Mint, Philadelphia.

	No. of pieces.
1862	25,951,899
1863	49,108,402
1864	45,114,276
1865	85,548,735
1866	36,498,042
1867	51,759,055
Annual expenditure about	$250,000

	No. of pieces.	Value.
Total work of Parent Mint to June 30, 1867	987,189,666	$544,653,773 08
Total work of Branch at San Francisco, June 30, 1867	23,057,233	$242,086,613 98

Mr. HIGBY. Mr. Chairman, I withdraw my previous amendment, and move another to make the amount of the appropriation $191,400. It is very easy, sir, to make charges of great "extravagance," &c.; but the gentleman from Illinois [Mr. WASHBURNE] should bear in mind that during the year 1865, to which he has referred, all the expenses of the employés at the San Francisco mint had to be paid in gold. Everything they bought they bought with gold. Everything done in that establishment was done on the gold basis, because the State of California recognized no other circulating medium than gold. Let me state a fact for the information of the House. When I went to my State in 1865 I sold currency for forty cents on the dollar; and the articles and commodities generally cost at that time as much there in gold as they cost here in paper.

Sir, the apparently large expenditures at the mint at San Francisco were not owing to the extravagance of the individuals who carried on that mint, but to the circumstances in which we were then placed as a nation.

Mr. UPSON. Do those circumstances exist now?

Mr. HIGBY. No; and the expenses of conducting that establishment have been reduced nearly or quite one half. Last year the expenses were reduced nearly forty thousand dollars on account of the diminished difference between paper and gold as compared with previous years. But let me state, for the information of gentlemen, that there is now as great a difference, if not a greater difference, between currency and gold as there was last year. I think the difference is a little more at this time than it was last year. This, Mr. Chairman, explains, I think, the wonderful "extravagance and dishonesty" which, as the gentleman from Illinois thinks, have been exhibited in the management of that mint at San Francisco.

I am well aware where the gentleman gets a large portion of his information. I understand all about that. I have an authority which is paramount to the source from which he quotes his information, and that is the Secretary of the Treasury. I have read to the House already the estimates as they come in from the Secretary of the Treasury. The superintendent himself puts the estimates at a lower amount than they were the year before, very little, however—about three thousand dollars. The Secretary of the Treasury estimates as the amount necessary to carry on this mint for the ensuing year the amount appropriated in this bill. Next is $191,450, the amount I asked for in the amendment I submitted. This comes from the Secretary of the Treasury. Yet the Committee on Appropriations tell us there is a wonderful dishonesty in the extravagance with which they have carried on that mint. If the gentleman understood how I have had to make up what I get here when I reach the other coast he would not make such remarks as those he has made in respect to this institution. I know that there was complaint during the Thirty-Ninth Congress on the part of many of the employés in that mint that they could not live on the salary they received. Why? Because the difference between gold and paper was so great that when they came to reduce their pay to a gold basis it would not support them. It was such considerations that induced the Department to send us the estimates as we have them.

I should like the gentleman to explain how he makes out there is extravagance of expenditure in that mint? I should like him to explain to us why it is this committee put this Mint at Philadelphia, which did not coin so much last year, at a higher rate than that at San Francisco. There is a little inconsistency about that, and I should like to have some explanation of it. I presume it is all right enough about the estimates for the Mint at Philadelphia. I want to know why the mint at San Francisco, the only place for coinage upon the Pacific coast, is the only one that is struck at by the committee.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. The statements I have made to the committee I believe to be entirely correct, and I do not know the gentleman from California has challenged any one of them. If he does I ask the Clerk to read a letter from Colonel Taylor, the Comptroller

of the Treasury, dated in 1866, which bears precisely on this matter.

Mr. HIGBY. That is what you ought to have done before.

The Clerk read as follows:

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *July* 12, 1866.

SIR: I transmit herewith the information (requested by the letter of the 10th instant) relative to the United States branch mint at San Francisco, California:

1. The liabilities incurred prior to May 1, 1863, but paid subsequently, amounted to $27,399 75.

2. The salaries of officers and clerks and wages of workmen comprised about two thirds of the said liabilities.

3. The appropriation for the fiscal year ending June 30, 1863, was not overdrawn on the 1st May, 1863.

4. For the calendar year 1862:
The expenditures amounted to.....$275,556 57
The earnings amounted to..... 242,957 60
The number of pieces coined were..... 2,564,923

5. For the fiscal year ending June 30, 1863:
The expenditures amounted to.....$299,619 95
The earnings amounted to..... 257,913 34
The number of pieces coined were..... 2,772,173

6. For the fiscal year ending June 30, 1865:
The expenditures amounted to.....$550,513 07
The earnings amounted to..... 239,469 96
The number of pieces coined were..... 1,775,116

Very respectfully, &c., R. W. TAYLOR,
Comptroller.

Hon. THADDEUS STEVENS, *Chairman Committee on Appropriations, Box* 250, *House of Representatives.*

NOTE.—The above statement shows for the year 1863 nearly twice the work done at about half the expense and with far greater earnings as compared with the year 1865 under the new and present superintendency.

Mr. WASHBURNE, of Illinois. Now, Mr. Chairman, the gentleman from California is certainly mistaken if he supposes the committee has discriminated against the branch mint at San Francisco. We give them a vast amount more than we give the Mint at Philadelphia in proportion to the amount they coin, as will be seen by the figures I have read to the committee. I now hope we will have a vote.

The amendment was disagreed to.

The Clerk read as follows:

For incidental and contingent expenses, repairs, and wastage, in addition to available profits, $50,000: *Provided*, That hereafter all the "available profits" of the United States Mint and branches shall be covered into the Treasury.

Mr. WASHBURNE, of Illinois. I propose to amend this paragraph by adding after the word "Treasury" the words "to be expended only by a specific appropriation." I will state to the gentleman from California [Mr. HIGBY] that if this amendment shall be adopted I will ask the committee to go back and correct the appropriation "for wages of workmen and adjusters" by increasing it from $100,000 to $150,000; and also by increasing the appropriation "for incidental and contingent expenses, repairs, and wastage" from $50,000 to $80,000.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now move to strike out the words "in addition to available profits." I will state that there are certain profits in the operation of the Mint, for toughening and hardening metals, which are considered as available profits and which do not go into the Treasury, but are used by the superintendent of the Mint. We think that is a wrong principle; that these profits should be covered into the Treasury, and should not be expended except by a specific appropriation. Hence I have offered the amendment which has just been adopted. I now propose to take away these available profits; but if these officers have not these available profits it is right we should increase the other appropriation from $50,000 to $80,000.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now ask unanimous consent to go back to the preceding paragraph and increase the appropriation "for wages of workmen and adjusters" from $100,000 to $150,000.

No objection being made, the amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now move to increase the appropriation "for incidental and contingent expenses, repairs, and wastage" from $50,000 to $80,000.

Mr. ASHLEY, of Nevada. I would like to ask the gentleman why it is that in the appropriation for the Mint at Philadelphia the phraseology is different from what it is in the appropriation for the branch mint at San Francisco? For the branch mint at San Francisco it reads: "For incidental and contingent expenses, $25,000." For Philadelphia it reads: "For incidental and contingent expenses, repairs, and wastage, $80,000."

Mr. WASHBURNE, of Illinois. That is the same question the gentleman from California [Mr. HIGBY] asked me, and I explained it.

Mr. ASHLEY, of Nevada. I have not got through. I wish to inquire if the intention is to afford a fund to provide for the disappearance of public moneys in San Francisco which do not disappear in Philadelphia—if it is intended to cover cases where clerks in San Francisco have failed to make correct returns and where money has disappeared from the mint to the amount of $30,000? Is that what the contingent expenses are expected to cover? Such I understand to be the state of affairs at the San Francisco mint. Only a little more than a year since $30,000 disappeared with one of the clerks. He went away but has since gone back, and all prosecutions have been dropped. Is this appropriation intended to cover such cases as that?

Mr. WASHBURNE, of Illinois. I can answer that it is not.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Appropriations to offer the following amendment, to come in at the end of line eleven hundred and twenty-three, at the close of the appropriations for the Territories:

Provided, That the several amounts herein appropriated for expenses of the Legislative Assemblies shall only be expended in payment for biennial sessions after the 1st day of July next.

The amendment was agreed to.

The Clerk proceeded with the reading, and read down to the following paragraph, under the head of "Justices of the Supreme Court of the United States:"

For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, $1,000.

Mr. LOUGHRIDGE. I move to insert after that clause the following paragraph:

For traveling expenses of the judge assigned to the ninth circuit for attending sessions of the circuit court in said circuit, $800.

Mr. WASHBURNE, of Illinois. I must raise a question of order on that.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WASHBURNE, of Illinois. It is legislation in an appropriation bill.

The CHAIRMAN. The Chair overrules the point of order. The amendment is in the nature of an increase of salary, which has uniformly been held to be in order both by the Speaker of the House and the chairman of the Committee of the Whole.

Mr. LOUGHRIDGE. Mr. Chairman, Judge Miller, the judge assigned to the ninth circuit, travels about eight thousand miles, and no other judge, except Judge Field, has to travel more than two thousand miles. We give Judge Field $1,000 mileage. I can see no reason why Judge Miller, who travels six thousand miles more than any judge on the bench except Judge Field, should not have this allowance. I send to the Clerk's desk to be read a statement of the amount of travel actually performed during the year by Judge Miller.

The Clerk read as follows:

The following is the average of travel actually performed during a year by the judge of the ninth judicial circuit:

From Keokuk:	*Miles.*
To Washington and return	2,000
To Little Rock and return	2,000
To St. Paul and return	1,200
To Topeka and return	900
To Omaha and return	800
To St. Louis and return	400
To Des Moines and return	300
	7,600

As there are sometimes two terms a year at St Louis and Des Moines, it may be said to average 8,000 miles. No other judge except the judge assigned to the tenth circuit travels over 2,000 miles per annum.

Mr. MULLINS. I would ask the gentleman if it is necessary for the judge in making these trips to go to one place and then go right back home? Could he not make a circuit of the different places?

Mr. LOUGHRIDGE. In the way in which we have to travel in the West it is much more convenient for him to come back to his home, and naturally after holding a term of court a man desires to return to his home. And the terms of his court are so arranged that they do not immediately succeed each other.

Mr. MULLINS. It certainly ought to be made more convenient in that way.

Mr. SPALDING. What is the question before the committee?

The CHAIRMAN. The question is on the amendment of the gentleman from Iowa to allow the judge assigned to the ninth circuit $800 for traveling expenses.

Mr. SPALDING. That will not answer.

Mr. WASHBURNE, of Illinois. I desire to oppose the amendment.

Mr. LOUGHRIDGE. I still have the floor, but I will yield for a question.

Mr. WASHBURNE, of Illinois. I will wait until the gentleman gets through.

Mr. PRUYN. At the proper time I shall move to allow each of the other judges $500.

Mr. SPALDING. And I shall move to strike out the allowance to the judge from California. I think it is all wrong.

Mr. LOUGHRIDGE. I hold that if we give the judge assigned to one circuit $1,000 for expenses of travel, we should for the same reason give some allowance to another judge who has a great amount of travel to perform.

Now, as I said before, Judge Miller, who is assigned to the ninth circuit, travels, in the performance of his duties in holding the courts of the circuit, eight thousand miles; and I say that no other judge upon the bench travels more than two thousand miles except the judge from California, and he receives $1,000 mileage. I ask, as a matter of right and justice, that the judge of the circuit west of the Mississippi river shall have $800. That is all I ask, and I think it is but just and right. The salary of a judge of the Supreme Court is small—only $6,000 a year—but the office is a high one. A man with a family can scarcely save anything at the end of the year, and Judge Miller has the expense of traveling eight thousand miles in a new country.

Mr. SPALDING. How many practicing lawyers make $6,000 a year?

Mr. LOUGHRIDGE. I have no doubt a great many practicing lawyers in Iowa save more at the end of the year than the judge can.

Mr. SPALDING. That may be, but I do not believe you have five lawyers in Iowa who make $5,000 a year.

Mr. LOUGHRIDGE. I would like to know how much the gentleman saves out of his pay as a Congressman?

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I would certainly desire to deal liberally and justly with so able and learned and patriotic a jurist as Judge Miller, and if we are to legislate for any man specially, I would be as willing to legislate for him as for any man I know.

This provision "for traveling expenses of the judge assigned to the tenth circuit"—the California circuit—is exceptional, but it is a matter of law. On account of the long distance which the judge of that circuit resides from the seat of Government the law provides that a portion of his traveling expenses shall be paid, as he has to travel so much more than any other judge does. That is the law, and that is the reason why this item is put in this bill. Now, if we go into this business of giving these judges compensation for traveling expenses we should deal justly by them all and pay them mileage according to the number of miles they travel. I do not see how it is possible to make

this exceptional amendment in favor of Judge Miller.

Mr. PRUYN. I move to amend the amendment by adding to it the following:

For traveling expenses of each of the other judges, $500.

The amendment to the amendment was not agreed to.

The amendment of Mr. LOUGHRIDGE was not agreed to.

The Clerk resumed the reading of the bill.

The following paragraph was read:

For compensation of the district marshals, $14,600; and it is hereby provided that the number of officers, clerks, and employés employed and paid in the several Departments, bureaus, and offices mentioned in this act shall be limited to the number herein specified and provided for; and all laws and parts of laws by which any other officers, clerks, or employés in said several Departments, bureaus, and offices are created or provided for, beyond such as are in this act specified, are hereby repealed.

Mr. DAWES. I raise the point of order that a portion of this paragraph is independent legislation, and therefore not in order in an appropriation bill. I refer to the portion which reads as follows:

And it is hereby provided that the number of officers, clerks, and employés employed and paid in the several Departments, bureaus, and offices mentioned in this act shall be limited to the number herein specified and provided for; and all laws and parts of laws by which any other officers, clerks, or employés in said several Departments, bureaus, and offices are created or provided for, beyond such as are in this act specified, are hereby repealed.

Mr. WASHBURNE, of Illinois. I thought the gentleman was in favor of economy.

Mr. DAWES. I am; I always go with the gentleman as far as I can; sometimes I shut my eyes and go with him.

Mr. WASHBURNE, of Illinois. Then the gentleman goes right.

Mr. DAWES. But this I consider to be out of order, as being independent legislation in an appropriation bill.

Mr. WASHBURNE, of Illinois. Of course everything that saves expense is out of order, and everything that makes expense is in order.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Massachusetts, [Mr. DAWES,] on the ground that the portion of the paragraph to which he refers is in violation of Rule 120 of the House, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."—*Rule* 120. [It has been decided that under this rule it is not in order to propose an amendment to a general appropriation bill which changes an existing law.—*Journal* 1, 38, pages 598, 599.]

Mr. WASHBURNE, of Illinois. I move that the committee now rise and report this bill with amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and that he had been directed to report the same back to the House with sundry amendments thereto.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, reported that the Committee on Enrolled Bills had examined and found truly enrolled a bill (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware; when the Speaker signed the same.

CREEK INDIAN REFUGEES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting estimate of appropriation for the removal of the Creek Indian refugees to their old home in the Creek country; which was referred to the Committee on Appropriations, and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The House resumed the consideration of the legislative, executive, and judicial appropriation bill.

The SPEAKER. The question is upon concurring in the amendments reported from the Committee of the Whole.

Mr. WASHBURNE, of Illinois. I propose to move some additional amendments to this bill, and then to call the previous question on the bill and amendments.

Mr. SPALDING. I hope the gentleman will allow us the poor privilege of having a separate vote upon that part of the amendments limiting the jurisdiction of the Court of Claims. Several gentlemen here desire to have a separate vote on that, and I hope the gentleman from Illinois will not object to it.

Mr. WASHBURNE, of Illinois. I will object to nothing to which the gentleman has a right. [Laughter.]

The SPEAKER. That is a separate amendment, and any member has a right to call for a separate vote upon it.

Mr. SPALDING. I have received from the gentleman from Illinois [Mr. WASHBURNE] all that I had a right to expect from him.

Mr. WASHBURNE, of Illinois. I move the following as an additional section:

SEC. 2. *And be it further enacted*, That the number of clerks, officers' clerks, and employés employed and paid in and about the Capitol and the several Departments, bureaus, and offices mentioned in this act, and the salaries and emoluments paid to them, or each of them, shall be limited to the numbers and to the amounts herein specified and provided; and all laws and parts of laws by which any other officers, clerks, or employés employed in and about the Capitol and the said several Departments, bureaus, and offices are created or provided for, or salaries beyond such as are in this act specified, are hereby repealed.

Mr. DAWES. I raise the same point of order in regard to this amendment that I raised in Committee of the Whole in regard to a portion of the last paragraph of this bill; that it is independent legislation, and therefore not in order in an appropriation bill.

The SPEAKER. The Chair will state that the amendment in two different parts clearly proposes independent legislation. The provision that "all laws and parts of laws by which any other officers, clerks, or employés in said several Departments, bureaus, and offices are created or provided for beyond such as are in this act specified are hereby repealed" is the very highest character of independent legislation.

Mr. WASHBURNE, of Illinois. The first part of the amendment is certainly in order. The only question that can arise is on the last part.

Mr. ELIOT. I think the point of order made by my colleague [Mr. DAWES] applies to the whole amendment.

The SPEAKER. It does. The Chair, therefore, rules the amendment out of order.

Mr. WASHBURNE, of Illinois. I modify my amendment to read as follows:

SEC. 2. *And be it further enacted*, That the number of officers, clerks, and employés employed and paid in and about the Capitol and in the several Departments, bureaus, and offices mentioned in this act, and the salaries and emoluments paid to them, or each of them, shall be limited to the number and to the amount herein specified and provided.

The SPEAKER. The Chair cannot at this time decide whether the amendment in its present modified form does or does not propose the repeal of any existing law. If any gentleman makes a point of order, and cites the provision of law which, in his judgment, the amendment proposes to repeal, the Chair will decide the point.

Mr. DAWES. I have nothing to conceal. My object was to save, if possible, the Department of Education. That Department, I believe, is not mentioned in the bill, and therefore the amendment will not affect it.

Mr. PIKE. Will the gentleman from Illinois accept an amendment to his amendment, to add the words:

Provided, That this shall not affect existing laws?

Mr. DAWES. It is impossible for the gentleman to abolish the Department of Education without changing existing laws.

Mr. WASHBURNE, of Illinois. This does not touch the Department of Education.

Mr. ASHLEY, of Ohio. Then I would like to ask the gentleman what it does touch?

The SPEAKER. The Chair, having examined this amendment, rules that, unless it be still further modified, it is not in order. One effect of the amendment would be to cut off all payments out of the contingent fund of the House to persons who are not specified in this bill. But the gentleman can make his amendment clearly in order, under the ruling which has been adopted for many years in the House and in the Committee of the Whole, by modifying the amendment so as to provide that the appropriations of money paid under this bill shall be limited to the persons specified in the bill. Such propositions as that have always been ruled in order; but anything beyond that has been regarded as independent legislation.

Mr. WASHBURNE, of Illinois. I think the amendment as I have offered it is in order. It is intended to accomplish the object the committee had in view, and if adopted it will save hundreds of thousands of dollars to the Government.

Mr. DAWES. Let me test this matter by putting an interrogatory to the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I should like to have the question of order decided upon the amendment as it stands.

The SPEAKER. The Chair has decided that the amendment is not in order, unless with the modification which the Chair has suggested.

Mr. WASHBURNE, of Illinois. I ask the Clerk to modify the amendment in accordance with the suggestion of the Chair.

The SPEAKER. The clerk of the gentleman's own committee is not specified in this.

Mr. WASHBURNE, of Illinois. I will take the chances as to that.

The SPEAKER. The amendment will be modified.

Mr. MULLINS. In regard more particularly to the bearing and merit of this question——

The SPEAKER. Discussion is not in order.

The amendment, as modified, was read as follows:

And be it further enacted, That no money appropriated in this act shall be expended in paying salaries of clerks, officers, and employés employed and paid in and about the Capitol and in the several Departments, bureaus, and offices mentioned in this act; and the salaries and emoluments paid to them or each of them by virtue of the appropriation herein made shall be limited to the number and amount specified and provided.

The SPEAKER. According to the usage the amendment is in order.

Mr. LOGAN. If the Chair will examine he will find it does affect existing law. It applies to the salary as well as to the number.

The SPEAKER. It is in order.

Mr. DAWES. Does it not cut off all the appropriations we have made?

The SPEAKER. That is a matter for the House to determine.

Mr. WASHBURNE, of Illinois. If the gentleman from Massachusetts had examined it he would not have made the assertion.

The SPEAKER. The Chair thinks it will not accomplish the gentleman's purpose.

Mr. WASHBURNE, of Illinois. We differ in opinion on that point. I demand the previous question. If the House do not like it they can vote it down.

The House divided; and there were—ayes 31, noes 36; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. WASHBURNE, of Illinois, and Mr. LOGAN.

The House again divided; and the tellers reported—ayes sixty, noes not counted.

So the previous question was seconded.

The main question was ordered.

Mr. WASHBURNE, of Illinois. I have an hour in which to close this debate. I do not

propose to make a set speech, but only to explain the amendments as they are read.

The SPEAKER. If the House commences action the gentleman will lose his hour.

Mr. RANDALL. Let this go over until to morrow.

Mr. WASHBURNE, of Illinois. I do not wish to trespass upon the indulgence of the House this evening, and if it be the wish to let it go over until to-morrow I will now yield the floor.

The SPEAKER. It will go over until to-morrow after the reading of the Journal, there being no objection.

EXPORTERS OF DISTILLED SPIRITS.

Mr. SCHENCK, by unanimous consent, introduced a bill (H. R. No. 764) for the relief of certain exporters of distilled spirits; which was read a first and second time.

The bill is as follows:

Be it enacted, &c., That the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits," be so construed as to permit alcohol and rum, which at the date of the passage of said act were already prepared and intended for export or actually contracted for to be delivered for exportation, to be withdrawn, removed, and exported from the United States under such transportation and export bonds and regulations as were required therefor immediately prior to the passage of said act: *Provided*, That all such spirits shall be actually exported within thirty days from the passage of this act; and upon failure to so export the same within said thirty days the tax thereon shall become due and payable, and the bonds given for the transportation and export thereof shall be forfeited and collected as in case of such bonds not canceled according to law.

The bill was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. RANDALL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTINGENT FUND OF STATE DEPARTMENT.

Mr. SCHENCK submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to inform this House what amount of money appropriated at any time heretofore by law for the contingent expenses of foreign intercourse remains unexpended; whether there is any fund of any description, anywhere, subject in any way to his control or order, or to be used or expended by him or by the State Department, which has come from any other source than appropriation by law, and if so, what is the amount of such fund, from what source or sources it was derived, where and with whom it is deposited, and by whose order and under what authority of law; and that he also furnish a detailed statement of all money and amounts which on the 1st day of July, 1867, and on the 1st day of January, 1868, respectively, were on deposit and subject to his order, or the order of the State Department, in the hands of Baring & Brothers, bankers, at London, or in the hands of any other bankers or banks or persons anywhere, and a further and particular statement of every deposit made to the credit of such fund anywhere, and of every amount withdrawn therefrom except for the payment of the salaries of regularly accredited diplomatic agents, since the 1st day of April, 1865, with the names of each depositor or drawer and the date of each deposit or draft.

Mr. SCHENCK moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PEORIA A PORT OF DELIVERY.

Mr. INGERSOLL. I rise to a privileged question. When my colleague [Mr. WASHBURNE, of Illinois] moved that the House resolve itself into the Committee of the Whole I was about to ask him to yield in order that I might have considered a bill which he has in his drawer, and is ready to report as chairman of the Committee on Commerce, declaring Peoria, Illinois, a port of delivery, or in other words reviving a former act. There can be no objection to the bill. The committee have considered it, and it will take but a few minutes to pass it. I ask the Speaker if there was not an understanding at that time that I had the privilege of calling this up.

The SPEAKER. It may have been a private understanding between the gentlemen, but none on the part of the House.

Mr. SPALDING. I object.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BANKS, by unanimous consent, presented resolutions of citizens of Wooster, Ohio, upon the rights of American citizens in foreign States; which were referred to the Committee on Foreign Affairs.

And then, on the motion of Mr. FARNSWORTH, (at four o'clock and twenty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BENTON: The petition of David Glynn, of Plymouth, New Hampshire, for a pension.

By Mr. COOK: The remonstrance of soldiers of Illinois, against the passage of a bill forbidding the payment of judgments of the Court of Claims until the same are passed upon by Congress.

By Mr. COVODE: The petition of citizens of Westmoreland county, Pennsylvania, to extend mail route No. 2304, from Lycippus to Ridge View.

By Mr. HUBBARD, of Iowa: The petition of officers of volunteer forces in relation to pay for servants, &c.

By Mr. MOORHEAD: The petition of Park Brothers and others, citizens of Pittsburg, Pennsylvania, praying that the law establishing bonded warehouses for foreign commerce be repealed and the system be abolished.

Also, a petition from the select and common councils of Pittsburg, Pennsylvania, praying that the powder magazine of Alleghany arsenal be removed beyond the city limits.

By Mr. MORRELL: The petition of 65 citizens of Pottsville and vicinity, asking for increased protection to American industry by a modification of the tariff laws.

Also, the petition of 605 citizens of Johnstown, Pennsylvania, representing that the imprisonment of American citizens by the British Government, guilty of no violation of the laws of England, demands the immediate attention of Congress, and that the long delay in the settlement of the Alabama claims, and the timorous, wavering, hesitating, and cowardly course of our Government in its feeble attempts to have the claims settled, deserves the condemnation of the American people, and requests that Congress take such measures as will be calculated to redeem the honor of our Government.

By Mr. PIKE: The petition of James D. Whelpley and others, for detail of engineers to examine pulverized fuel.

Also, the petition of Benjamin Buggel and others, soldiers in the war of 1812, for passage of law for bounty.

Also, the petition of A. M. Roberts and others, of Bangor, Maine, for repeal of St. John and St. Croix river bills.

By Mr. SPALDING: Numerous petitions from the eighteenth congressional district of Ohio, praying for a reduction in national expenditures and a diminution of the taxes upon manufactures and an increased tariff upon imported goods.

Also, the petition of A. B. Stone and others, citizens of Cleveland, Ohio, asking to have bonded warehouses abolished.

By Mr. UPSON: The petition of P. Haslet and 35 others, citizens of St. Joseph county, Michigan, praying Congress for a reduction of expenses and taxation.

By Mr. VAN WYCK: The petition of citizens of Walden, Orange county, New York, asking that the expenses of the Government in the civil, military, and naval departments be reduced; that taxes be removed from necessaries and retained only on luxuries.

By Mr. WARD: The petition of 300 citizens of Hornellsville, New York, and vicinity, in favor of a law defining the status of our naturalized citizens abroad, and to compel foreign Governments to extend to those citizens the protection due American citizens.

IN SENATE.

WEDNESDAY, *February* 19, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The following bills and joint resolution, received from the House of Representatives yesterday, were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1869, and for other purposes—to the Committee on Appropriations.

A bill (H. R. No. 763) for the relief of American citizens abroad—to the Committee on Foreign Relations.

A bill (H. R. No. 603) granting pensions to certain soldiers and sailors of the war of 1812—to the Committee on Pensions.

A joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under certain conditions—to the Committee on Finance.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating an estimate from the Commissioner of Indian Affairs of appropriation for the removal of Creek Indian refugees to their homes in the Creek country; which, on motion of Mr. POMEROY, was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions adopted at a meeting of cigar-makers' protective union, Columbus, Ohio, February 11, 1868, protesting against the present mode of taxing cigars; which were referred to the Committee on Finance.

Mr. SUMNER. I present a petition of citizens of Washington, in which they protest against any imposition upon them of what they call the rule of a board of commissioners, and they pray for the speedy passage of a bill rechartering the city of Washington. As the present charter expires on the 17th day of May next, action on the subject must be had very promptly, and I now give notice that I shall to-morrow, or as soon thereafter as possible, introduce a bill rechartering the city of Washington. I ask the reference of this petition to the Committee on the District of Columbia.

It was so referred.

Mr. DRAKE presented a petition of Henry S. Turner and others, of St. Louis, Missouri, praying that taxation may be reduced and the Army and Navy brought to a peace standard; which was referred to the Committee on Finance.

He also presented a petition of Eveline Jameson, of Johnson county, Missouri, praying that her pension may be extended back to the date of her husband's death; which was referred to the Committee on Pensions.

Mr. YATES presented a remonstrance, signed by William H. Anderson and twenty-nine others, late officers in the volunteers, representing seventeen regiments of Illinois soldiers, now residing at Aurora, Illinois, against the passage of the Senate bill prohibiting payment of certain military claims; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS presented the petition of Brevet Major Theodore J. Eckerson, praying that certain officers of the Army may be allowed the additional ration for every five years of service provided by the act of Congress of August 23, 1842; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORTON presented a petition of Levi Ferguson, late captain of the one hundred and forty-sixth regiment Indiana volunteers, praying that he be allowed the three months' pay

proper provided by act of Congress of March 3, 1865, he not having been mustered into service till March 4, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. ANTHONY presented the petition of J. S. Cunningham, paymaster in the Navy, praying that the accounting officer of the Treasury be directed to allow him a credit of $1,671 07 in the settlement of his accounts as paymaster of the frigate Colorado; which was referred to the Committee on Naval Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DAVIS, it was

Ordered, That the memorial and accompanying papers of Joseph Wilson, on the files of the Senate, be referred to the Committee on Claims.

BILL RECOMMITTED.

On motion of Mr. RAMSEY, the bill (H. R. No. 328) to establish certain post routes was recommitted to the committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. TRUMBULL. The Committee on the Judiciary have had under consideration the petition of Cincinnatus W. Harper and others, praying compensation for the use and occupation of their land at Norfolk, Virginia, by officers under the Navy Department. It seems they allege that this property has been taken possession of by the Navy Department. The committee have instructed me to report the petition back to the Senate, and ask to be discharged from its further consideration, and recommend that it be referred to the Committee on Naval Affairs, that has jurisdiction of that class of matters.

The report was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 161) to amend an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts amendatory thereof, and an amendment to the same offered by the Senator from Wisconsin, [Mr. DOOLITTLE,] have instructed me to report them back, and recommend the indefinite postponement of the bill and amendment. The same matter is provided for in the report submitted by the committee yesterday.

Mr. SUMNER. Which bill is that?

Mr. TRUMBULL. The bill introduced by the Senator from Massachusetts, [Mr. WILSON.] The only thing in that bill was a provision that a majority vote should control in voting upon these constitutions. We have reported the same thing as an amendment to a House bill. This being a Senate bill, we thought it better to report the matter as an amendment to a bill that has already passed the House.

I am also instructed by the same committee to report back the bill (S. No. 210) supplementary to the several acts in relation to the reconstruction of the rebel States, and to recommend its indefinite postponement. This is the bill that was introduced by the Senator from Missouri, [Mr. DRAKE.]

Mr. DRAKE. Is the matter of that provided for in the other bill?

Mr. TRUMBULL. No, sir; one of the provisions is not. There are two provisions in the bill which I have just reported. One is to prevent any correction of the registration lists, and the other to declare that a majority vote shall control on the ratification of the constitution. The Committee on the Judiciary, not agreeing to the first provision, and having provided for the other in an amendment reported to a House bill yesterday, instructed me to report this bill back, and recommend its indefinite postponement.

Mr. TRUMBULL also, from the Committee on the Judiciary, to whom was referred the bill (S. No. 243) regulating the service of final process in suits at law, and of orders and decrees in equity of courts of the United States in places out of their jurisdictional limits, reported adversely thereon.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the memorial of citizens of Ohio, praying a change in the mode of appointments and removals, and in the qualifications of officers who were selected to execute the laws for the collection and disbursement of the moneys belonging to the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Retrenchment; which was agreed to.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the petition of Annie E. Bronaugh, reported adversely thereon.

Mr. FESSENDEN, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 54) to enlarge the public grounds surrounding the Capitol, reported it with amendments.

BILLS INTRODUCED.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 370) to remove political disabilities from William W. Holden, of North Carolina; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 371) relative to the military reservation at Fort Dalles, in Oregon; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. TIPTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 372) granting lands to aid in the construction of a railroad from Brownsville, Nebraska, and for aiding other railroads in the State of Nebraska to intersect the Union Pacific railroad; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 373) to amend an act entitled "An act to provide for recording the conveyances of vessels, and for other purposes," approved July 29, 1850; which was read twice by its title.

Mr. HENDRICKS. The bill is introduced with the approval of the Judiciary Committee, but still I ask its reference to that committee.

It was so referred.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 111) providing for the issue of clothing to soldiers and others, to replace clothing destroyed to prevent contagion; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 112) to restore Alabama to representation in Congress; which was read twice by its title.

Mr. WILSON. I move that the joint resolution be printed, and laid on the table. I wish to say that I will call it up to-morrow or at a very early day, and move its reference to a committee; and I desire when I do so to briefly state the outrages that have been perpetrated in that State in violation of the law that guarantied to all the right to vote without fear or restraint.

The PRESIDENT *pro tempore*. The bill will be printed, if there be no objection.

DUBUQUE AND SIOUX CITY RAILROAD.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 208.

Mr. ANTHONY. If the Senator from Iowa will allow me, there is a resolution on the table which was reported from the Committee on Printing yesterday and laid over at the request of the Senator from New York, whom I now see in his seat, which I should like to dispose of.

Mr. GRIMES. That will take time.

The PRESIDENT *pro tempore*. The motion of the Senator from Rhode Island can only be entertained by unanimous consent, there being another motion pending.

Mr. HARLAN. I will state to my friend from Rhode Island that this is a bill for an extension of time in relation to a land-grant railroad.

Mr. ANTHONY. Very well; I will not press my motion against the wishes of the Senator.

Mr. HARLAN. It will require the action of the Legislature, and the Legislature of Iowa is now in session and probably will not be in session very long. I am anxious therefore to have the bill disposed of.

The motion of Mr. HARLAN was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad.

By the first section the time for completing a line of railroad from Dubuque to Sioux City, in the State of Iowa, for the construction of which lands were granted in alternate sections to that State by the act approved May 15, 1856, will be extended until the 1st day of January, 1872, but the road is to be constructed on the most practicable route on or near the surveyed line along which lands have been selected under the grant, by way of Webster City and Fort Dodge to Sioux City, crossing the Little Sioux river not further south than at or near the south line of Cherokee county; and is to be completed to Fort Dodge on or before the 1st of January, 1869, and thereafter at the rate of not less than forty miles each year; and the road is to be constructed, operated, and maintained as one continuous and unbroken line of road from Dubuque to Sioux City.

The remaining sections of the bill make provision as to the manner of disposing of the lands granted, the resurvey of the road, &c.

The first amendment of the Committee on Public Lands was to insert after "1872," in line ten of section one, the words "subject to the reverter mentioned in said act at the expiration of the time herein limited."

The amendment was agreed to.

The next amendment was to strike out in line thirteen of section one the words "the most practicable route on or near."

Mr. HARLAN. I propose to amend that amendment and the succeeding amendment so as to make the proviso which begins on line twelve read:

Provided, That said road shall be constructed on the most practicable route by way of Webster City and Fort Dodge to Sioux City, which route shall be at all points within the limits of said land grant, and the same shall be completed to Fort Dodge on or before the 1st day of January, 1869," &c.

The amendment to the amendment was agreed to.

Mr. POMEROY. Let me inquire of the Senator from Iowa what is the effect of his amendment to the amendment? I may not understand it.

Mr. HARLAN. The effect of the amendment to the amendment will be to permit the company to locate the road within the limits of the land grant. They may vary from the old line within the limits of the grant and construct it from the points named to the terminus at Sioux City.

Mr. POMEROY. The limits of the land grant are twenty miles. Does the Senator mean that they may deviate twenty miles from the line?

Mr. HARLAN. No, it is not twenty miles. The original grant was six miles, but I believe they have a right to go outside of that to the extent of fifteen miles on each side. The object of this amendment is not to confine the company that may construct the road to the exact line surveyed. It was surveyed many years ago and when the topography of the country was not so well understood as it is now; and we have been compelled in several other cases to grant the same privilege that this amendment proposes to allow them, to swing a little within the limits of the grant, in order to secure the most eligible line, without varying,

however, materially from the two termini of the road.

Mr. POMEROY. There can be no objection to such a variation as the surveyors may find necessary.

Mr. HARLAN. I think the phraseology is sufficient to guard the point the Senator has in view.

Mr. POMEROY. But when settlers have taken land, if you vary the line very much, it always works a hardship upon those who have taken lands when the line has been duly located and the map returned and filed. The Senator proposes an amendment that the line shall be located within the grant, which is some ten or fifteen miles. I do not know, however, that it changes the location of any settlers.

Mr. HARLAN. The amendment, as I propose it, requires the company to build the road on the most available route within the limits of the land grant, permitting them to vary from the old line as originally laid down in their maps filed in the land office.

Mr. GRIMES. Precisely what they could do if the committee's amendment were not adopted.

Mr. HARLAN. What they can do now under this law if this amendment proposed by the committee be not adopted. The objection I have to the committee's amendment is that it requires them to build exactly on that line; they cannot vary a hair's breadth; and they may find it very inconvenient, that is, very expensive, to build on that exact line, when by varying half a mile or a mile, more or less, from that they might avoid very serious obstructions.

Mr. POMEROY. The only objection I can see to the amendment is that I think they may vary ten miles.

Mr. HARLAN. I will say to the Senator that I have consulted with my two colleagues in the House of Representatives who represent the two districts through which this road is proposed to be built, and they concur in this amendment. There is a perfect agreement between them and myself and my colleague here, as I understand.

Mr. POMEROY. The amendment of the Senator then leaves the provision substantially as it passed the House before.

Mr. HARLAN. That feature of it substantially as it passed the House.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

Mr. HENDRICKS. I do not think I can support that amendment, and I examined this question with some care in the committee. This grant was made in 1856; under the instructions and regulations of the General Land Office the route was located by the company, after which the State made the grant of land to the company. That route under the law was reported to the General Land Office. It had to be on the most direct practicable line. The General Land Office never requires that it shall be on the direct route, but that the engineers of the company shall locate the route upon the most direct practicable line. That construction was given to the acts of Congress. But when the company reported a final location, and that location was approved by the Commissioner of the General Land Office and by the Secretary of the Interior, it became, in the judgment of that office, a fixed thing; and the effect of it was to vest in the State, subject to the forfeiture provided, the lands granted, six miles on each side of the line, and then the right to select within fifteen miles on each side. Of course, as soon as the grant was adjusted in the land office the outside and remaining lands were restored to market. Now you change the location of this road five miles, and you change the lands granted altogether.

Mr. HARLAN. Not at all.

Mr. HENDRICKS. I think you do. If you do not you have this effect—and I wish the Senator from Iowa to consider it, because, in my judgment, it affects the landholders and farmers that he represents—Congress has provided that the persons purchasing the remaining sections shall pay $2 50 an acre upon the proposition that the construction of the railroad will make that land worth $2 50 an acre. When a purchaser sees the location of the road he knows how near to that road his lands will be; he knows that according to the present location land that he pays $2 50 an acre for cannot be more than six miles from the railroad. Now, you change the location of this road to the extent you propose, which will be fifteen miles, and he may be thrown twenty-one miles from the railroad; or if you claim that your construction of your language will be that you may change it six miles, he may be placed twelve miles from the railroad instead of six miles, making a very material difference in the value of the land which he paid $2 50 an acre for.

I submit to the Senate whether that is right. If you leave the grant as now adjusted, but change the location of the road, you make some men's lands worth $2 50 when they paid but $1 25 for them, and you make other men's lands worth $1 25 who have paid $2 50 for them. I do not think the principle is right. It is also suggested, and it ought to be considered, I think, by the Senators from Iowa, that in the mean time the proposed construction of this road has induced the laying out and building up of towns, perhaps, along the proposed route. These are investments based upon the action of Congress, based upon the report from the State, and approved by the executive department of the Government. I do not think that this proposition is right.

Mr. HARLAN. Much that the Senator says is perhaps true, worthy of some consideration at least. I would state, however, that the Senators from the State and the two members of the other House who represent these districts perhaps are as competent to judge of the local disadvantages and advantages that may arise from a possible change as the Senator from Indiana. I am willing myself to take the chances of my judgment about that individually. I will say, also, that this part of the road not yet constructed runs through the least populated part of the State. It is a very sparsely populated part of the State; there are no large towns on that part of the line, and no towns, you may say, that count any very considerable number of people. This is precisely what Congress did, at the request of myself and my colleague, here in the Senate, three or four years ago, with relation to lines that run through the populous parts of Iowa, and we have not been annoyed by any complaint from our constituents along those lines. They all appreciate the necessity of giving the constructing company an opportunity to vary their lines somewhat from the original location when they find serious obstructions in the way; and this does not require them to change the line of the road, but permits them to vary it somewhat. They may build it on the precise line surveyed, but it grants them the same privilege that has been granted by Congress to each of the other parallel lines of road being constructed across the State, of which no complaint has been made.

Mr. GRIMES. I can assure the Senator from Indiana that, according to my knowledge, all of the towns that are on the line of the road are embraced as points through which the road shall be run, so that there cannot be any obstacle of that kind; and, from what I know of the topography of the country and what I have heard of it, my only fear is, that unless the company is permitted to make some slight deviations from the route established in 1857 the road will never be built, and that the State will be injured by its non-construction, and the parties who bought the alternate sections at $2 50 an acre will be injured to a still greater extent. As has been said by my colleague, this road runs through the most sparsely settled portions of the State of Iowa. In some counties along its line there is hardly any population at all. It is very desirable that the road should be built. It was located at a time when the topography of the country was very little understood; it is much better understood now, and all that is sought is that the company shall be permitted to make such slight deviations from the route established in 1857 as shall be necessary, confining themselves all the time within the original grant. This is just what was done in regard to the Rock Island road, just what was done in regard to the Burlington and Missouri river road in my State; and, I think, a similar thing has been done in regard to other roads in other States.

Mr. HENDRICKS. I do not wish the Senator from Iowa to think that I desired to place any inconvenience in the way of the construction of the road.

Mr. GRIMES. I did not so understand.

Mr. HENDRICKS. If he will provide in the amendment, although I think it is now the law, that the Commissioner of the General Land Office may give his approval to such change of location as experience and engineering show to be necessary to secure the construction of the road, I will not object to it; but to give the president, the engineer, and the other operators of the road the right to change the route, so as to run by some proposed town site or city site that they intend to establish, I will not vote for. I know, Mr. President, that these grants have become in some localities offensive because of the speculation that has grown up under them, and I do not intend, so far as I am a member of the Public Land Committee, to be responsible for an extension of the possibility of that. I am willing to waive the forfeiture, to give them further time to build the road, but I am not willing in general terms to say that they may change the location, which will enable the men who have these roads in charge to speculate at the expense of the public.

Mr. HARLAN. I will state to the Senator that this bill and the bill it proposes to amend make a grant of this land to the State of Iowa, not to any land-grant company; and I consider that the Legislature of that State are competent to take care of the local interests of the people within the limits of this grant, and if they should conclude that the road ought to be built on this precise line doubtless in making a grant to some company they will guard that point. It clothes the Legislature of the State with the power to make this variation, and I deem them perfectly competent to take care of the interests of the locality.

Mr. HENDRICKS. Does the Senator say that this is a grant to the State now?

Mr. HARLAN. Certainly it is.

Mr. HENDRICKS. The State has already disposed of the grant to a particular company, as I recollect now, and that company is the owner of the grant.

Mr. HARLAN. Not at all. The time has expired limited in the State law granting the land to the company, and the State has resumed, or is about to resume, the grant, and this is the reason that I desire the speedy action of the Senate, in order that the State may again be clothed with full power to dispose of the land for the construction of the road.

Mr. HENDRICKS. I do not think the construction of the road has anything to do with this; it is a question whether the land is forfeited to the United States, not to the State. The Government of the United States now proposes to waive the forfeiture and to say that the grant may be as perfect as if it had been four years longer in the first place, and I say that that will go to the benefit of the State's grantee.

Mr. HARLAN. The Senator would hardly contend that the State could not make a contract with a third party which should become void at a given period for a failure to comply on its part.

Mr. GRIMES. I will simply observe that, in so far as the interest of this company is concerned in relation to these lands, it is their interest to run where the route was originally located, because their lands are about equally divided on each side of that original line, it having been run there in 1857; and now, when

they deviate off to the north or to the west or to the south, they depart just to that extent from their line and diminish the value of the lands granted. Their interest, therefore, will impel them to keep as near as possible to the center of their grant.

Mr. MORTON. I shall vote against this amendment, because I think it is not proper, at the end of some twelve years after a railroad grant has been made, and when lands have been entered and improvements made with a view to being near the line of a railroad, to allow it to be changed five or six miles or perhaps a greater distance. It might in many cases work great injury and hardship. A man who had bought his land and made improvements, supposing he was to be upon the line of a railroad or within half a mile or a mile of it, may find himself, by a change of route, to be six miles off, after, as my colleague suggests, having paid $2 50 an acre to the Government for his land in the first place, on the supposition that he was on or near the railroad line.

But, Mr. President, I desire further to say in this connection that until better advised I shall vote against this bill, not that I have any special objection to this grant, but it is one of a system; they come in here day after day, either asking original land grants or the extension of time of those which were made years ago. Here is a bill asking the extension of a grant made some twelve years ago. Whether that legislation was right originally or not I do not know, and I have no means of knowing. There is no report of a committee from which I can learn whether it is proper now or was proper twelve years ago. In voting for this bill, therefore, I have to assume that the action twelve years ago was right, whereas I believe that a great deal of this action six, eight, ten, or twelve years ago, granting land to railroad companies, was wrong, and an immense fraud on this nation. I do not say that there are not cases where such grants ought not to be made, but it is the system to which I object. We have bill after bill, first for one State and then for another, and with no means of checking this system except to oppose the whole of it until such time as the Senate shall be informed in regard to each particular measure, or have the means of information to know what they are doing. Here I am called upon to vote substantially a new grant. This railroad cannot be built by the 15th of May, so that this is in effect a new grant.

I am called upon to vote away a large body perhaps of the best lands in the State of Iowa, and I know absolutely nothing about the merits of the case, and I have no means of knowing, unless I be at great pains and effort in hunting up the data and the information in regard to this particular case. I certainly have no special antipathy to this bill. I have voted against two or three such bills, and I expect to continue to do so until such a case shall be presented as that I shall be reasonably informed upon the subject and be enabled to satisfy my mind that I am doing right in voting a grant. Without saying that there are not cases where lands should be granted for the construction of railroads, I think it is an open question to-day whether, when you take into consideration the lands that are withheld from market in the States of the Northwest and elsewhere by being granted to railroad companies, there is any beneficial result. I say they are withheld from market; they are withheld from the operation of the homestead laws; they are kept in an unimproved condition for five, ten, twelve, and sometimes fifteen or twenty years in consequence of being granted to corporations, so that it is after all, in my judgment, an open question whether the country gains the most from having railroads constructed a few years earlier, or whether it loses more by having a large body of lands kept from entry and improvement.

It is a fact which has fallen under my observation that very few of these railroads are built from the proceeds of the public lands granted for the purpose. In most cases the lands that are granted to railroad companies are not even mortgaged to secure the payment of the bonds. They are held until after the roads are completed—until the Government has sold lands around them and improvements have been made all around the lands held by these railroad companies, and thus the railroad lands are made valuable. They are made valuable by the improvement of the country around them, by the settlement of alternate sections reserved by the Government and sold to settlers. They are kept out of the market until after the railroad is completed, and sometimes for years after that is done, and generally their proceeds are a net profit to the railroad company, resulting in immense fortunes to a few individuals.

I will not say that in the case of the Pacific railroad and others it may not be proper to grant lands; but I think the general, indiscriminate system of land grants to railroad companies has operated as a great fraud upon the nation; that a large portion of the lands of the West and Northwest have been given away without proper consideration, and that they have perhaps in a majority of cases failed to bring to the public that corresponding benefit which was expected and intended by the grant. In this case, until I am better informed, I expect to vote against this bill. I do not suppose that that will make any difference. These bills have been passed without opposition for years, and perhaps they will be carried now, but not with my approbation.

Mr. CONNESS. Mr. President——

Mr. GRIMES. Question!

Mr. CONNESS. Very well.

Mr. GRIMES, (to Mr. CONNESS.) I did not know you were going to speak. Go ahead.

Mr. CONNESS. No, Mr. President, if we can get a vote on this bill, I will not speak; but I desire very much, and shall take some other occasion to reply to the remarks made by the Senator from Indiana. I hope we shall get a vote on this bill.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

The amendment, as amended, was agreed to.

The next amendment of the committee was to insert at the end of the first section the following:

And no lands shall be disposed of, or patented, or certified for said purposes more than twenty miles in advance of the point to which said road may be constructed from time to time.

Mr. HARLAN. I move to amend the amendment by striking out "twenty" and inserting "forty."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was to strike out sections two, three, and four, in the following words:

SEC. 2. *And be it further enacted*, That the lands granted to said State, to aid in the construction of said road, liable to revert to the United States on the 15th day of May, 1868, shall be disposed of for the purposes of said grant only, and in manner following, namely: When the Governor of the State of Iowa shall certify to the Secretary of the Interior that any section of twenty consecutive miles of said road, not constructed on the 15th day of May, 1868, has been completed in a good, substantial, and workmanlike manner as a first-class railroad, then the Secretary of the Interior shall issue patents conveying to the said State the lands granted by said act aforesaid, lying on each side of the completed section of said road continuous therewith; and in case it is found when said certificate of the Governor is made, as aforesaid, that of the odd-numbered sections and parts of sections situate on each side of said completed section of road within the limit of fifteen miles, a portion or all of the same have been disposed of so as not to leave six sections per mile remaining to be patented, the Secretary of the Interior may include in the patents to be issued such of the lands as the State may be entitled to under said grant, lying nearest said completed section on each side of the permanently located line of said road, within the limits of fifteen miles, for a distance of not more than forty miles in advance of the terminus of the same, so much thereof as will make up the six sections per mile to which the State may be entitled for the road completed. And patents shall in like manner be issued as each twenty miles of said road is completed and certified to. And when the whole of said road is completed, all of the lands to which the said State may be entitled under said grant for the completion of that portion of said road remaining uncompleted on the 15th day of May, 1868, shall be patented to said State.

SEC. 3. *And be it further enacted*, That should the said State fail to complete said road or cause the same to be completed to Fort Dodge, and at the rate of forty miles a year as herein provided, immediately upon the happening of such failure the lands embraced in said grant unpatented and to which said State at the date of such failure is not entitled to a title therefor, shall revert to the United States and become subject to sale and entry as other lands not granted.

SEC. 4. *And be it further enacted*, That the route of said road between Fort Dodge and Sioux City shall be resurveyed and permanently located, and a map of such location filed—one with the Commissioner of the General Land Office, one in the local land office at Fort Dodge, and one in the local land office at Sioux City. And until said location is made and maps filed, the lands granted by said act, liable to revert to the United States on the 15th day of May, 1868, shall be subject to homestead settlements under the homestead laws, in quantities not exceeding eighty acres each; and in lieu of the lands thus taken as homesteads, the State shall be entitled to select other lands from any of the vacant lands then belonging to the United States, within fifteen miles on each side of said road so located, and the same are hereby granted to said State for that purpose.

The amendment was agreed to.

Mr. HARLAN. I move to amend the bill in the eighteenth line of the first section by striking out the word "January" and inserting "July," so that it will read: "And the same shall be completed to Fort Dodge on or before the 1st day of July, 1869," &c.

The amendment was agreed to.

Mr. CONKLING. Is there any written or printed report accompanying this bill?

Mr. HARLAN. I think not.

Mr. POMEROY. No, sir; there is no written or printed report that I know of.

Mr. CONKLING. May I inquire of the Senator having it in charge whether this is the bill reported by the Senator from Vermont [Mr. EDMUNDS] some time ago?

Mr. HARLAN. It was reported, as I understand, by the chairman of the Committee on Public Lands.

Mr. POMEROY. No; it was reported from the committee by the Senator from Vermont.

Mr. CONKLING. If I may make another inquiry, are all these amendments upon which we have been voting printed?

Mr. HARLAN. The amendments are all printed except those offered by me this morning.

Mr. CONKLING. Like the Senator from Indiana, I have no antipathy to this bill in particular——

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call the attention of the Senate to the unfinished business of yesterday, which is now before the Senate.

Mr. HARLAN. I ask the unanimous consent of the Senate to pass that over informally in order that we may come to a vote on this bill.

The PRESIDENT *pro tempore*. The consideration of this bill will be continued unless objection is made.

Mr. CONKLING. I feel very reluctant to make an objection to anything in the line of accommodation to the honorable Senator from Iowa; but I was about to say when the Chair announced the expiration of the morning hour that I would like to vote intelligently, if possible, upon the bill. I confess I do not understand from its reading several of the provisions, and particularly as they are now since the amendments have been acted upon. The general design to extend the time, of course, I comprehend; but the particulars of the bill I confess my ignorance of in several respects. I do not intend, for one, to give my vote in favor indiscriminately of railroad projects. I should not like to vote at large for the fifty bills—there are about fifty—now pending in the House of Representatives, nor for the number—somewhere between ten and twenty, I think—which have been introduced recently into the Senate. I imagine that other Senators feel much as I do on this subject; and it is possible there may be other Senators who have as little

information touching the details of this particular bill as I have; and I suggest to the Senator having it in charge whether there be objection to allowing it to be printed as it stands now and to lie over until some day to be fixed—to-morrow, if the Senator insists upon it, or some other day soon—when, if not for the purpose of debate, at least for the purpose of voting, we may understand better than we can now what it is. As I said before, I do not wish to interpose absolutely any objection, but I make the suggestion to the Senator.

Mr. HARLAN. I think the Senate has taken all usual care to inform itself on this subject. In the first place, this bill was referred to the Committee on the Pacific Railroad and reported back unanimously with a recommendation that the bill pass. Then, on the suggestion of a Senator who had not examined the bill, it was recommitted to another committee, the Committee on Public Lands, and they have examined it thoroughly and reported it back with some amendments which the Senate has concurred in. It seems to me it is hardly treating the people of Iowa fairly to postpone this bill further unless the Senator desires personally to inform himself on the subject.

Mr. CONKLING. The honorable Senator does not remember that the bill was reported back by an absent Senator; that in his absence it has been so far amended as to be very materially changed, changed so far that negative votes have been cast on those amendments by Senators who supported the bill as it was reported. It seems to me that the Senator who reported the bill should be here; he is temporarily absent, detained by a passing indisposition. It seems to me, also, that having undergone the changes that it has now by the amendments upon which we have voted, several of which have not been printed, and only passingly explained, we do not derive much advantage from the previous references of the bill as it then stood; and I should be very glad now to have it lie over.

Mr. HARLAN. There would be much in what the Senator says if the bill had emanated from the absent Senator; but he acted merely as the organ of a standing committee of this body, whose chairman is here on the floor of the Senate, and I believe nearly all the other members of that committee are here; so that the views of the committee are represented on the floor, and, as I stated a few minutes since, there is a reason for reasonably prompt action. This is extending the time during which the State of Iowa may complete the construction of a railroad of which they have already completed the construction of one hundred and forty or one hundred and fifty miles. The Legislature are now in session, and approaching the close of the session, and it is desirable that they should have an opportunity to act previous to their adjournment. If the circumstances were different I would not object to a compliance with the suggestion of the Senator; but under present circumstances I should prefer very much that a vote should be taken.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

ORDER OF BUSINESS.

Mr. WILSON. I ask the Senate to take up and dispose of now a little bill only eight lines in length. It is a bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial.

The PRESIDENT *pro tempore*. The Chair must call attention to the unfinished business.

Mr. WILSON. I move to postpone that for a few minutes in order to pass this bill.

Mr. HENDRICKS. I think we had better go on and finish the case under discussion. I object to the postponement.

Mr. WILSON. The only chance we have to get any business done is at this time before the speaking commences, and I should like to have an opportunity to dispose of this bill.

Mr. HENDRICKS. Governor Thomas's case ought to be decided, and as the business regularly before the Senate it has priority, and it is a peculiar class of business and ought to be disposed of.

The PRESIDENT *pro tempore*. I understand the motion pending is to postpone the order of the day for the purpose of taking up the bill mentioned by the Senator from Massachusetts.

Mr. WILSON. I move to postpone it for ten minutes for that purpose.

Mr. POMEROY. I should like to know what bill is to be taken up; whether it is a bill of any national importance?

Mr. WILSON. It is entitled "A bill declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial." I have been waiting day after day for four weeks for an opportunity to call up this bill.

Mr. POMEROY. I am in the same situation in regard to other bills.

Mr. WILSON. I should like to put it on its passage now.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was not agreed to—ayes nine, noes not counted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, announced that the House had passed a bill (H. R. No. 719) for the surrender of persons convicted of certain crimes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware; and the enrolled joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes; and they were signed by the President *pro tempore*.

SENATOR FROM MARYLAND.

The Senate resumed the consideration of the following resolution, submitted by Mr. JOHNSON on the 18th of December, 1867:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

The pending question being on the amendment of Mr. SUMNER, to strike out all after the word "resolved" and insert:

That Philip F. Thomas, Senator-elect from Maryland, cannot be permitted to take the oaths of office required by the Constitution and laws, inasmuch as he allowed his minor son to leave the paternal house and serve as a rebel soldier, and gave him at the time $100 in money, all of which was aid, countenance, or encouragement to the rebellion, which he was forbidden to give; and further, inasmuch as in forbearing to disclose and make known the treason of his son to the President or other proper authorities, according to the requirement of the statute in such cases, he was guilty of misprision of treason as defined by existing law.

Mr. HOWARD. Mr. President, yesterday the honorable Senator from Illinois, the chairman of the Committee on the Judiciary, [Mr. TRUMBULL,] exclaimed to us who are opposed to the admission of Mr. Thomas in a tone of accusation and admonition, "Adhere to the evidence; do not pervert the evidence in the case;" plainly intimating, in not very delicate terms, I must be allowed to say, that the opponents of Mr. Thomas's admission here were seeking to pervert the evidence in his case to his prejudice and to the prejudice of the law of the land. I hope I shall not furnish any just foundation for the accusation. I hope I have not done so; and I am not aware, although I have listened very attentively to this discussion from the beginning, that any other gentleman who opposes that admission has perverted or sought to pervert the evidence in regard to Mr. Thomas, or that they have advanced anything as proof in this case which is false and to his prejudice. Sir, I deny that there is any just foundation to this accusation of the Senator from Illinois.

I do not intend to occupy the attention of the Senate for any considerable length of time; but I do propose to present a few additional considerations—another brief analysis of the testimony—in order that the Senate and the public may know and well understand who it is here who seeks to pervert the testimony or to suppress the truth in regard to the applicant.

The honorable Senator from Illinois will have it that the only motive of Mr. Thomas for resigning his position as Secretary of the Treasury on the 11th of January, 1861, was such as he, Mr. Thomas, in his verbal statement before the Judiciary Committee, has set forth. In order that we may clearly understand this statement upon which the Senator from Illinois so much relies I beg leave to read it. It comes from the mouth of Mr. Thomas himself, and is addressed to that committee in their committee-room where he is on examination. I read from page 35 of the report of the committee:

"I think, as I said before, I met him (Secretary Cobb) one evening at a gentleman's house."

Very cautious language, as the sequel will show; a very delicate, very circumspect phrase.

"It was the house of Mr. Thompson, Secretary of the Interior. I called there merely to pay a visit in the evening. I had known Mr. Thompson for many years, and I found there Mr. Cobb and Governor Floyd."

Rather suspicious company to be in just on the eve of the civil war, and at a time when repeated acts of war had been committed against the Government of the United States. Mr. Thomas proceeds:

"I do not recollect that there was any conversation on the subject of the impending troubles in the country."

At such a moment as this, in the company of Cobb, Floyd, and Thompson, Mr. Thomas declares that he does not recollect that there was any conversation respecting the impending troubles of the country.

Mr. SUMNER. What is the date of that?

Mr. HOWARD. The exact date is not given, but it was very near the time of his appointment to the office of Secretary of the Treasury. It was, at any rate, during the incumbency of Mr. Cobb, and in the fall of 1860, after the presidential election:

"I did not stay there very long; if there was any conversation, it was of some very unimportant character. I never heard either of those gentlemen express an opinion on such subjects."

Sir, who can believe this? Mr. Thomas, in intimate relations with those traitors, and in almost daily intercourse with them, comes forward and says to us that he never heard either of them express an opinion on such subjects; that is, the subject of the troubles then impending over the country:

"I yielded to the desire that I should go into the Treasury Department against my own judgment and my own interests, from circumstances growing out of the relations between the President and myself."

It was, then, contrary to his inclination and contrary to his interest to become Secretary of the Treasury, according to his statement, but he entered upon the important duties of that Department on account of circumstances growing out of his relations with President Buchanan himself. We have a right, therefore, to presume from this language of Mr. Thomas that he was in very intimate and very friendly relations with President Buchanan, because those relations had induced him to accept the seals of that Department. Then he is asked by the Senator from Maryland, [Mr. JOHNSON:]

"Did you hear that gentlemen from New York had been with the President, and had made objections to your continuing in the Department?"

And here is his answer:

"Mr. Thomas. Yes, sir. I was told of the fact by a gentleman in the street. The first time I met the

President afterward I told him that I understood that there were persons here from New York who were saying in the hotels that they would not loan money to the Government as long as a disloyal man was Secretary of the Treasury. I repeated that to the President, and the thing was passed over without any comment."

The "thing was passed over without any comment" on the part of the President, his old friend. It is not surprising, as I shall show, that the President was silent as to this accusation; but Mr. Thomas proceeds:

"I do not recollect that he made any comment upon it, but I suppose that the visitation of the committee from New York to the President, referred to by Mr. Vail, and his conversation with those gentlemen, was followed by events which did take place."

It is very probable it was "followed by events which did take place."

"I received an invitation to go to the President's House, that he wished to see me on business. When I entered the room I was informed by him that there were persons from New York who said that as long as I was Secretary of the Treasury money could not be obtained for the use of the Government in the way of loans, and I forthwith said, 'Then, sir, I resign the place. If you are determined to allow people to come here and discuss my management of the Treasury Department, and say such things of me, I cannot stay in that relation to you;' and I told him I would furnish my resignation next morning, and I did so. I resigned the office on that account, and none other."

Mr. Thomas thus solemnly states before the committee of which my honorable friend from Illinois is chairman, and in his presence, as I suppose, that he resigned his place because certain bankers from New York had called upon President Buchanan and told him that money could not be raised by the Government at that time if Mr. Thomas remained in the office of Secretary of the Treasury. Mr. Thomas does not assume to say, however, in his statement that President Buchanan sympathized in the slightest degree with this story told him by the New York bankers; there is no proof that Mr. Buchanan believed one word these bankers said; there is an utter absence of all proof that he distrusted Mr. Thomas in the slightest degree. On the other hand, the proof is clear that Mr. Buchanan, notwithstanding this complaint, now regarded as so injurious to Mr. Thomas, was still his friend; and the proof from Mr. Vail is that on that very occasion on which the bankers called upon Mr. Buchanan the latter severely rebuked them to their faces, and asked them "if they intended to dictate to him who should compose his Cabinet."

Such is in proof. The President is still friendly to Mr. Thomas; Mr. Thomas still enjoyed his confidence, attachment, and friendship. This cannot be denied. Mr. Thomas has not assumed to deny it, or to intimate the slightest doubt of the fidelity and confidence of Mr. Buchanan toward himself; and yet, although that intimate and friendly state of things existed between them, although Mr. Buchanan was his warm and confiding friend, when Mr. Buchanan tells Mr. Thomas that these men had come from New York and spoken thus, he is suddenly seized with resentment, and declares to Mr. Buchanan, "If you suffer men to come and talk against me in this way I will resign my place!"

Sir, this statement of Mr. Thomas, so far as it tends to evolve his motives in sending in his resignation, is not to be relied upon. It is inconsistent with his confessed friendship for Mr. Buchanan; inconsistent with the fact that Mr. Buchanan still had confidence in him; and totally inconsistent with, and contradictory of, the letter of resignation he sent in a few days afterward to the President. Let it be remembered at the same time, that this *arriere pense*, this after-thought, or, if I may be pardoned the expression, this contrivance of getting up a new motive by which the one expressed in his letter of resignation was to be entirely hidden from our view, is, after all, but a pretext; a manifest artifice to do away with the stubborn facts which previously existed, and which were before the Committee on the Judiciary, in the shape of his letter of resignation, and other documentary evidence.

I hold in my hand a volume known as the Annual Cyclopædia for 1861. Here I find a letter from Jacob Thompson, dated the 8th of January, 1861, tendering his resignation to the President as Secretary of the Interior, for the reason that the President had made up his mind to send reënforcements to Fort Sumter and had refused to evacuate all the forts in Charleston harbor. That letter of Thompson was very accusatory in reference to the President, so much so that the latter thought it his duty, on the next day, to answer it at length. In the course of his reply to Thompson, dated the 9th of January, 1861, speaking of a Cabinet meeting which was held on the 2d day of January, 1861, at which Mr. Thomas was present, as well as the other five members, for there were only six at that time, he says:

"In order to carry it"—

Referring to his former promise for a suspension of his orders—

"In order to carry it into effect I called a special Cabinet meeting on Wednesday, January 2, 1861, in which the question of sending reënforcements to Fort Sumter was amply discussed both by yourself and others. The decided majority of opinions was against you." (Thompson.) "At this moment the answer of the South Carolina 'commissioners' to my communication to them of 31st December was received and read."

Here we have a Cabinet in council, consisting of six gentlemen, and during the sittings of that Cabinet meeting on the 2d of January the impudent and defiant letter of the South Carolina commissioners addressed to Mr. Buchanan was laid before them and read, read and discussed by them in the hearing of Mr. Thomas certainly, if not by himself as a member of the Cabinet; and Mr. Buchanan says:

"It produced much indignation among the members of the Cabinet. After a brief conversation, I employed the following language."

Now, I ask Senators to listen to the language which President Buchanan addressed to his Cabinet, including Mr. Thomas, on that 2d of January:

"It is now all over, and reënforcements must be sent. Judge Black said, at the moment, to my decision, that after this letter the Cabinet would be unanimous, and I heard no dissenting voice. Indeed, the spirit and tone of the letter left no doubt on my mind that Fort Sumter would be immediately attacked, and hence the necessity of sending reënforcements there without delay.

"While you admit 'that on Wednesday, January 2, this subject was again discussed in Cabinet,' you say, 'but certainly no conclusion was reached, and the War Department was not justified in ordering reenforcements without something more than was then said.' You are certainly mistaken in alleging that 'no conclusion was reached.' In this your recollection is entirely different from that of your four oldest colleagues in the Cabinet."

Who were the "four oldest colleagues in the Cabinet?" They were the following: Black, Secretary of State; Toucey, Secretary of the Navy; Holt, Secretary of War; and Thomas, Secretary of the Treasury. So that we have the authority of Mr. Buchanan for saying that Mr. Thomas was then in Cabinet Council and heard him declare "it is now all over, and reenforcements must be sent" to Charleston. It is very true that the President does not say which side of the question Mr. Thomas took; that was not necessary; it is sufficient for my purpose to show that Mr. Thomas well understood the order of the President on that day, that reënforcements must be sent. But Mr. Buchanan proceeds:

"Indeed, my language was so unmistakable that the Secretaries of War and the Navy proceeded to act upon it without any further intercourse with myself than what you heard or might have heard me say."

On the 8th of that month, as I have already remarked, Thompson resigned on account of this order having been made—for that reason, and for that sole reason. On the 11th, three days after, Mr. Thomas, his mind being still fresh in its recollection of this Cabinet meeting, and his memory in full and complete possession of the fact that his chief had ordered reënforcements to be sent to Charleston, states in his letter of resignation:

"It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina."

What were the measures already "adopted," referred to in this letter? Why, sir, the great measure of all other measures was the order to reënforce Fort Sumter. That was the measure, and it was that measure in which Mr. Thomas could not concur with his chief, and he says so in the plainest terms. He leaves no doubt or uncertainty in the matter. The fact was that he could not concur in the reënforcement of Fort Sumter, and he declares this solemnly in an official letter which was immediately published to the world; and the whole world knew on the next day what was the real motive of Thomas for resigning his place.

But this is not all the evidence contained in in this letter of resignation. He goes on in the next paragraph to declare:

"Under such circumstances, after mature consideration"—

Not hastily, not without a full and complete knowledge of all the facts and circumstances, but after "mature consideration"—

"I have concluded that I cannot longer continue in your Cabinet without embarrassment to you and an exposure of myself to the just criticism of those who are acquainted with my opinions upon the subject."

He cannot remain with his old friend any longer without exposing himself to the just criticism of whom? Of those who were well acquainted with his opinions. Who composed the class of persons who took so much interest in Mr. Thomas's opinions? There can be but one answer to the question, and that is that the persons referred to were the secessionists then launching the thunderbolts of war against the Government of the country over which he was presiding as one of its principal magistrates. Sir, it is impossible, as it seems to me, for language itself to make a fact plainer or more unmistakable than the language here used by Mr. Thomas in assigning the motives of his resignation.

The honorable Senator from Illinois [Mr. TRUMBULL] in his declamation of yesterday insisted that the evidence in this case is wrapped up in the verbal statement of Mr. Thomas, to which I have already referred, that he resigned for no other reason and upon no other motive than that he had been slandered by the New York bankers in the presence of Mr. Buchanan, and Mr. Buchanan had tolerated the presence of persons who spoke ill of him. This pretense is got up six years after the event, and we are asked now, in the face of this conclusive documentary proof to the contrary, to credit afterthought. We are asked by the honorable Senator from Illinois to believe that this verbal statement of Mr. Thomas is the whole of the evidence in the case touching the reasons of his resignation; and because we choose to rest our objections upon the previous documentary evidence furnished by Mr. Thomas we are accused of suppressing the evidence, of torturing it, "perverting" it. Sir, what was the honorable Senator from Illinois thinking of when he made that speech? while he carefully and ingeniously avoided all allusion to this letter of resignation and to the facts connected with it? Did he intend to suppress from the knowledge of the Senate and the country the main evidence in the case? Was he himself seeking to suppress and pervert the truth? His own conscience must answer that question. I will not undertake to do it. I would prefer to take the charitable course and say that even the honorable chairman of the Judiciary Committee of the Senate was ignorant of that important letter of resignation, and therefore did not refer to it.

Mr. TRUMBULL. Does the Senator mean to say that I did not refer to it and comment on it?

Mr. HOWARD. I mean to say that the Senator from Illinois said over and over again in his place that this statement of Thomas made before his committee was the whole of the testimony in the case on that subject.

Mr. TRUMBULL. The Senator will find no such statement in my remarks. I referred to the letter and commented upon it in my

remarks, as the Senator will see by the report in the Globe. There is no such statement there as the Senator says I made, and I made none such as he alleges in declaring that I said that there was no other evidence in the record except what Mr. Thomas stated before the committee.

Mr. HOWARD. I know not what the reported speech of the Senator may contain or what it may omit. I have not read it. I know what he said in his place, and I know this, and so do other Senators, that he rested his defense of Thomas, so far as his motive for resigning was concerned, not upon the letter of resignation, but wholly and absolutely upon his verbal testimony before the committee.

Mr. TRUMBULL. I presume, if the Senator from Michigan will allow me to interrupt him, that he does not mean to misstate me. I wish no question of fact with the Senator; but he cannot have forgotten, I think, what occurred yesterday. The testimony of the Senator from Missouri [Mr. DRAKE] is here in the record; he read that portion of the letter which the Senator now speaks of, and I commented upon it, and here are the comments which I made upon it in the Globe of to-day. Attention having been called to it by the Senator from Missouri who read it in his remarks, not in mine, I thereupon commented upon it; whether satisfactorily or not I will not say; but when the Senator says that I made no allusion to it he certainly must have forgotten what occurred.

Mr. HOWARD. I have not said that you made no allusion to it.

Mr. TRUMBULL. I took down the Senator's words that he uttered a moment ago; he said that I "carefully avoided all allusion to this letter."

Mr. HOWARD. I meant by the word "allusion" anything like a discussion of the motive, intent, and meaning of the letter; and the Senator from Illinois knows as well as I do that he did evade all discussion of the motive which led to the writing of that letter.

Mr. TRUMBULL. The Senator will allow me to say, once for all, as I do not wish to interrupt him, that after I have told him that he misunderstood me he still insists upon attributing to me what I did not say. I shall take occasion to reply hereafter; I will not do it by way of interruption. I wish, therefore, to say to the Senator, once for all, that the inferences which I drew from the letter to which he alludes may not have been the proper or the correct ones, but they were such as I deemed proper and correct. I did allude to the letter and drew from it such inferences as seemed to me to be legitimate. Of course the Senator from Michigan will attempt to show that they were not legitimate if he thinks they were not. All I mean to say is that it is not true that I did not allude to the letter and did not draw my own inferences from it. Whether they were the legitimate or proper ones or not will be for each person who paid any attention to what I did say to decide. They were such as seemed to me proper.

Mr. HOWARD. Mr. President, I have no disposition to start a question of veracity between the honorable Senator and myself. I have stated what I understood to be his remarks, what I understood to be the drift of his argument, what I understood from him to be the main evidence in the case; and that was the verbal statement of Mr. Thomas. He did not at all rely upon this letter as evidence to show his motives in leaving the Cabinet. Let me say further to that honorable Senator, that it is not always safe to commence with hurling accusations at his fellows here. He may discover in the end that that sort of warfare will not turn out to be profitable, even to himself. It is not entirely agreeable to sit here and be accused by the Senator of a disposition to pervert the evidence in a solemn proceeding before us. I promised when I commenced to endeavor to show who it is here that has perverted or suppressed the evidence; at all events I shall endeavor to make it tolerably clear that I have not done so, and that my colleagues who have acted with me in this matter have not done so.

Then, sir, Mr. Thomas, according to the statement which he makes in his own letter of resignation, read in the immediate light of surrounding circumstances and events which had passed within the nine preceding days, resigned his place because he could not agree with Mr. Buchanan in the propriety of sending reënforcements to Charleston harbor. That is settled. You cannot argue the seal off the bond; you cannot argue this fact out of the case; you cannot argue that Mr. Thomas in sending that letter meant one thing, while at the same time he meant another, and a very different thing. He now pretends that his only motive was that the New York bankers had told stories against him to his friend, Mr. Buchanan. I cannot credit this statement. Mr. Buchanan had lost no confidence in him; he felt kindly toward him; he did not say a word that was disagreeable to him in the interview; he found no fault with him; yet Mr. Thomas would have us believe that he resigned because several gentlemen came into Mr. Buchanan's room and told him that money could not be borrowed by the Government while Mr. Thomas remained at the head of the Treasury Department. Could Mr. Buchanan prevent those gentlemen from coming to him? Was it an offense on his part toward his friend, Thomas, that he had admitted the New York bankers to his presence? Is it usual for Presidents of the United States to shut the door against gentlemen of eminence and influence in the country, who call upon them on public business? No, sir. It would have been an act of rudeness to have closed his doors against these New York gentlemen. The interests of the country required him to admit them to a conference; but because he did so, because he observed toward these bankers the usual courtesy of a President of the United States toward his fellow-citizens, and suffered them to talk to him openly about Mr. Thomas, Mr. Thomas will now have us believe that it was a just ground of offense to him, and that he therefore threw up his commission.

Sir, as I stated before, this is incredible. Had it, on the other hand, been the purpose of Mr. Thomas to get up testimony in order to do away with the plain expressions of his letter; if he had been so anxious to obtain a seat in this Senate as to induce him to get up a case in his own favor, or to invent facts and evidence in support of his claim, I could have expected him to resort to this precise artifice, if it was one, of pretending that he resigned because he was slandered to Mr. Buchanan. But, sir, such was not the case. Such could not, in the nature of things, have been the case. The pretense is inconsistent with his then situation and utterly inconsistent with the declarations in his letter. Which of these two is to be believed, the letter written at the time in an official capacity, written "after due deliberation," published at once to the world, binding upon him as a public officer? Shall we believe the statement of this letter, or shall we credit his verbal statement made six years afterward in his own interest, in the committee, when he is seeking to obtain a seat upon this floor? That is the question. Which will the world believe? If one of these statements be true, the other is untrue, so that in either case Mr. Thomas has been guilty of an untruth and prevarication. It is for the Senate and for every reflecting man to determine which of these inconsistent statements is true.

Mr. President, I have to call attention to another portion of the testimony of Mr. Thomas. He made himself a witness before the committee. If we find him contradicting himself or making improbable statements upon any subject, we all know that less weight is to be given to his evidence. It was sworn to before the committee that immediately on his nomination as Senator of the United States by the caucus in Maryland he made a speech, in which he allowed himself—speaking of the so-called Radical members of Congress—to call them "traitors." The person who reported his speech was called as a witness before the committee, and in the course of his testimony he produced the original short notes he took of the speech. The name of this witness is McGarrigle. Here are the notes of the speech which McGarrigle took at the time it was delivered:

"Honor conferred fills with profound sensibility. Owe debt gratitude never be able to repay. Pledge himself, if permitted to take his seat, to assert rights native State and maintenance Federal Union. Need not remind scenes of blood and estrangement of war. Men now assembled at Washington who, before war occurred, were bent upon dissolving Union. Went to war, believing it tantamount to dismemberment. Now bent on establishment of military despotism. Goes there to face these men, who are now, and always were, traitors to Union."

Now, sir, it is pretended here that Mr. Thomas never made any such speech, and his advocates on this floor insist that this point is an entire mistake. This witness swears positively that he sat directly under Mr. Thomas while he was making the speech, there made these short notes of it, and that it is substantially a true report. On the examination of the witness Mr. Thomas put to him the questions and received the answers which I will read:

"*Question.* When I came down that night from the Speaker's chair of the House of Delegates, from which I spoke, did you not meet me and ask me if I would write out my speech?

"*Answer.* Yes, sir.

"*Question.* What reply did I make?

"*Answer.* You said you had not time; it was a matter of surprise to you; and you would see about it in the morning.

"*Question.* Did I not rather say that I never was in the habit of writing out speeches; that I did not know what I had said, and did not know that I could write out what I had said?

"*Answer.* I do not remember that as the conversation, but I am not positive about it."

Now, let us turn over a few pages and read the deliberate statement of Mr. Thomas in respect to that speech. He states before the committee in his own person:

"There is another matter which has given me great concern and pain. I was met on my coming to the Senate with a report in the Baltimore American of a speech made by me in a Democratic caucus, and language was imputed to me which I am incapable of uttering in reference to any gentleman, and which indicates a state of opinion that I never entertained, and do not now entertain. I have conversed with gentlemen who heard my speech, and asked them if they understood me to indulge myself in such wholesale denunciation of gentlemen in Congress."

He had called them "traitors."

"I never dreamed of such a thing. I entertained no such opinions, and it is impossible that I could have given utterance to them. It would be contrary to the whole tenor of my life if I did. The committee will remember that last summer the person who made that report was examined."

I have just read from the testimony of that witness.

"I asked him about the circumstances, but he seemed to have forgotten them. The facts are, that when I got off the stand, where I was speaking, he asked me if I could write out the speech for him. I told him that I really did not know what I had said, and did not know that I could do it.

Now, sir, with what face can a man come forward and declare that he did not use a particular expression in a particular speech, in the face of positive testimony of an eye-witness and ear-witness to the contrary, and in the same breath affirm that "he did not know what he said?" Sir, this is not a very weighty reply to the positive testimony of the witness McGarrigle. Thomas, by his own confession, did not know what he said, and yet he still comes out with a plump denial that he made a statement which a disinterested witness on the spot swears he did make. I should call this, under ordinary circumstances, careless swearing; but it only tends to carry out and confirm the idea which I have already advanced, that this defense of Mr. Thomas is an afterthought, and that he has been driven by his own consciousness of the weakness of his case to resort to contrivances which truth and consistency condemn. He "did not know what he said," and still he swears positively that he did not say what the witness declares he did say.

Mr. President, one word further about the

Charleston matter. The learned Senator from Maryland, [Mr. JOHNSON,] to whom I always listen with great pleasure, has hit upon a very ingenious and a very novel explanation of Mr. Thomas's resignation. If I understood him correctly, he says that Mr. Thomas's opposition to Mr. Buchanan's policy of reënforcing Fort Sumter arose from the fact that the Government was employing the Star of the West, an unarmed steamship, to take soldiers and marines thither, and that it had no means of defending them, and that the danger was very great should that steamship reach the harbor of Charleston; that the crew would all be destroyed by the enemy's fire; and he would persuade us that it was from motives of pure humanity toward them that Mr. Thomas objected to sending the Star of the West. There was danger that they would be killed by the rebel fire, and this was the reason why Mr. Thomas objected to the movement.

This benevolent motive, however, is not stated in the letter of resignation, and, strange enough, it slipped out of the memory of Mr. Thomas while making his statement before the Judiciary Committee; for in that statement he alleges no such reason. I must presume, inasmuch as Mr. Thomas himself has never alleged any such reason, that it was not the reason, and that, therefore, the honorable Senator from Maryland is entirely mistaken when he undertakes to assign that reason in behalf of Mr. Thomas. The latter gives his own reasons in very clear language. He says that he resigns because he is opposed to Buchanan's scheme of reënforcing the forts, and because if he remained longer in the Treasury he would expose himself to the "just criticisms" of the secessionists. Those reasons cannot now be argued out of existence or out of the letter. They are as weighty now as they were then, and we just now have use for them.

The honorable Senator from Illinois, in some of his allusions yesterday to my previous remarks, denied that there was any war existing in the United States at the time of Mr. Thomas's resignation. I had shown that there had been nearly a score of acts of war deliberately committed by the rebel authorities of South Carolina or by other rebels upon the Government of the United States; I thought I had proved the existence of something like a state of war; and I did it in all kindness for the purpose of correcting the statement which the Senator had made that there was no war. What does the honorable Senator from Illinois understand by the term "war?" There are in a general sense two kinds of war. The books describe what is known as a "defensive war" and what is known as an "offensive war." Vattel, with whom the honorable Senator, of course, must be assumed to be entirely familiar, though the passage had probably escaped his recollection, says:

"War is either defensive or offensive. He who takes up arms to repel the attacks of an enemy carries on a defensive war. He who is foremost in taking up arms and attacks a nation that lived in peace with him wages offensive war. The object of a defensive war is very simple; it is no other than self-defense. In that of offensive war there is as great a variety as in the multifarious concerns of nations; but, in general, it relates either to the prosecution of some rights or to safety. We attack a nation with a view either to obtain something to which we lay claim, to punish her for an injury she has done us, or to prevent one which she is preparing to do, and thus avert a danger with which she seems to threaten us."—*Vattel's Law of Nations*, book 3, chapter 1, section 5.

Such is the definition of war. Yet, according to the honorable Senator from Illinois, there was no war. The State of South Carolina by a solemn ordinance of secession had withdrawn from the Union; had declared her absolute independence as one of the nations of the earth; had gone so far as to enlist men; had surrounded the harbor of Charleston with a long line of batteries, on all sides round; her streets were filled with armed men, and long lines of glittering bayonets were glancing through them. Fort Moultrie, Castle Pinckney, the property of the United States, had been seized and were in the occupation of the troops of South Carolina in battle array; men were pouring into Charleston from every quarter of the South; Georgia had already sent her bands of recruits; Florida was wide awake; and the rebels far and near were rallying to Charleston to offer their services to the sovereign power of South Carolina, with Pickens, the Governor, at its head. Was this no war? No, says the honorable Senator from Illinois; all these things may be done, even the Star of the West may be fired upon in Charleston harbor by rebel artillery, while the whole country round about swarms with armed men, marching under the palmetto flag, threatening slaughter and destruction to the forces and the property of the United States; and still, according to the Senator from Illinois, there was no war. And so far does the honorable Senator go as to insist, if I understand him rightly, that, properly speaking, there was no war in the United States until after President Lincoln had issued his proclamation of the 16th of August, 1861, in pursuance of the act of Congress of July 13 of the same year. If I misunderstood the honorable Senator I should be glad to be corrected; but I certainly so understood him, and he referred to a decision of the Supreme Court as tending to show that that proclamation, or at all events the act of 1861, was the first formal recognition of the existence of war in the United States.

Mr. TRUMBULL. The Senator misunderstood me if he understood me as referring to any proclamation in August. I referred to the decision of the Supreme Court in the prize cases, where one of the questions was as to the validity of the blockade which was promulgated by Mr. Lincoln some time before Congress met in July, 1861. I do not remember the precise date of the proclamation.

Mr. HOWARD. In April.

Mr. TRUMBULL. A majority of the court were of opinion that at that time, after the firing upon Sumter, there was a sufficient recognition of the existence of war. Some of the court, however, were of opinion that war did not exist until Congress met in July and recognized it. I said nothing about a proclamation in August.

Mr. HOWARD. I take it that the existence or non-existence of war is not a judicial question, and, whatever the decision of the Supreme Court may have been, we are not to look to it for historical truth. War is a matter of fact. It is the arraying of one community against another for the purpose of exercising violence by the one party upon the other by means of the ordinary means recognized as instruments of war among civilized nations; and to all intents and purposes war, offensive war, had been existing in the State of South Carolina against the United States for nearly a month before the resignation of Mr. Thomas. This cannot be denied, and Thomas well knew it. He knew that our forts had been seized. He knew that Charleston was full of armed men. He knew that the Star of the West had been deliberately fired upon by rebel batteries. He knew that the sub-Treasury in the city of Charleston, under his control as Secretary of the Treasury, had been rifled and the money carried off by the rebel authorities. He knew that he had made no effort to prevent its seizure nor to recover it.

Now, sir, there is no use in setting up, in mitigation or by way of defense of Mr. Thomas's conduct, a false allegation of fact, such as that war did not exist at that time. That is an endeavor to suppress evidence; and I commend to the Senator from Illinois a careful consideration of the question whether in the course of his argument yesterday he did not expose himself seriously to the truthful charge of having endeavored, almost from the beginning to the end of his speech, to keep out of view and suppress the real and reliable and incontestible evidence in this case.

There was one portion of the Senator's speech which I confess gave me pain. For what purpose was it that the honorable Senator from Illinois, the chairman of the Judiciary Committee of this body, compared the case of Mr. Thomas giving $100 to his rebel son to enable him to go into the rebellion to the case of Union Senators voting money in this body to support rebel prisoners of war honorably captured by the Union arms? That, sir, was a severe reflection. I am willing to believe that the ardor, the zeal of the Senator in favor of Mr. Thomas led him to the use of an illustration which was unfortunate in its bearing and very painful to his colleagues upon this floor. Sir, it is true that I voted money, as did the Senator from Illinois, to raise the means of supporting rebel prisoners captured by our arms and honorably in our hands as the result of hard-fought fields. Will that Senator tell me to my face that my act in doing this office of humanity, my vote in carrying out the recognized laws of war in reference to prisoners, is just as guilty as the conduct of Thomas in giving his son $100 to enable him to join the rebel ranks and put to death his countrymen? Sir, this is "crowding the mourners." I do not propose now to review the conduct of Mr. Thomas in regard to his son; I have already said as much on that subject as I ought to say; but I must be allowed to add that this comparison was in exceedingly bad taste. Let him say this to the "boys in blue" who spent years in fighting down the enemies of the country, who were fed by the same hand which fed the prisoners whom they captured, and what response would the patriotic Senator from Illinois receive from them? He can anticipate their response.

Mr. President, I have now, as I supposed I had done the other day, finished what I have to say upon the case of Mr. Thomas. I look upon his resignation under the circumstances as an act of disloyalty to the United States, and especially as an act giving "countenance and encouragement" to the rebellion which was then raging, as affording that rebellion more actual strength, efficacy, and vigor than ten thousand men mustered into the rebel ranks would have done. I look upon his conduct in giving money to his son to enable him to join the rebel army at a time when the son was completely within his control, when he might have restrained him and confined him in his own house or in some other place of security, as having been in itself an act of treason against the United States, by giving aid and comfort to the rebels. I look upon the exculpatory testimony which he has introduced before us in the report of the Committee on the Judiciary as being entirely unworthy of credit, as being in the main a mere afterthought, a mere contrivance resorted to to enable him to obtain a seat upon this floor.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. SUMNER. I have accomplished my purpose in offering that amendment; I have presented to the Senate the single point which is stated in the amendment, and as my desire is that the question when taken shall be in such form as to unite the largest number of votes, I shall withdraw my amendment that the vote may be taken on the original proposition or on some other substitute. I therefore withdraw it.

Mr. CONKLING. Mr. President, is the amendment of the Senator from Massachusetts now deemed withdrawn?

The PRESIDENT *pro tempore*. It is withdrawn.

Mr. CONKLING. Then I move to amend the resolution proposed by the Senator from Maryland by striking out all after the word "resolved" and inserting:

That in the judgment of the Senate Philip F. Thomas, Senator-elect from Maryland, cannot with truth take the oath prescribed by the act of Congress approved July 2, 1862.

Mr. HOWE. Is that offered as a substitute for the original resolution?

Mr. CONKLING. Yes, sir.

Mr. HOWE. It seems to me that we shall be about as much embarrassed if we pass that and then pass the resolution as amended as if we had no resolution before us. Suppose we are of opinion that he can take that oath with truth, the question before the Senate is whether we will let him take the oath or not. I understand he is sent here by the State of Maryland for the purpose of taking the oath. I do not know whether he is willing to take it or not, but of course he will not take it unless we allow him to do so. If we believe that he cannot take it with truth, it still remains with us to inform Mr. Thomas whether we will allow him to take it or not. I do not see that we have made much progress toward the decision of the question submitted to us in this manner.

Mr. CONKLING. If the Senator from Wisconsin, holding that this oath as an additional qualification becomes void by the Constitution, is embarrassed in voting upon this amendment, I see a fair objection to it; but I see none at all in the direction which he indicates. If it turns out after the Senate shall have recorded this expression that Mr. Thomas proposes to take the oath, or if any Senator thinks it possible that he would present himself to take it, a resolution will follow as a matter of form, and as a matter of course preventing his taking the oath. But for all practical purposes such an expression as this shuts the door, for I think nobody will do Mr. Thomas or any other applicant for a seat here the injustice to suppose that, in the face of the recorded judgment of the Senate that the taking of the oath would be perjury, he would present himself and propose to brave that judgment and brave the oath.

Now, sir, I have a motive for offering this amendment, but I did not intend to state it, because if the vote can be had, for one I am quite content to abstain from debate. But there has been a great deal of difference of opinion here as to the construction to be placed upon this statute. One Senator holds that it prescribes an additional qualification, and is, therefore, void by the Constitution. Another Senator holds that the applicant may be allowed to take the oath, and that measures of expulsion may be resorted to afterward, or that he may be indicted if he takes it falsely, as, I think, one Senator suggested. Other Senators hold that he is the sole referee to hear and determine his own case and to pass upon the question whether he shall take the oath or not. This amendment presents a naked question of fact. We have been in this case informed in advance, and the conscience and the judgment of the Senate are enlightened as far as they can be, and the amendment, as I propose it, presents the simple question whether the Senate will advise Mr. Thomas to take this oath; whether the Senate will consent to his taking the oath; whether, the issue being presented to the Senate, it is or is not the judgment of the Senate that the oath can conscientiously be taken. That, I think, all can vote upon without a violation of any opinion as to the law of this issue. It is simple and direct, and covers the whole ground, I submit to the honorable Senator from Wisconsin; but if it does not, a formal resolution of denial will follow as a matter of course.

Mr. HOWE. Then if I understand the honorable Senator from New York——

Mr. DRAKE. With the permission of the honorable Senator from Wisconsin I would suggest that there has been lying on the Secretary's desk for two days an amendment which I proposed to offer to the original resolution, which contemplates a refusal of the Senate to allow Mr. Thomas to take the oath and hold a seat in this body. I would like to have that amendment read in connection with the one which has just been read, so that the honorable Senator from Wisconsin may have the whole matter before his mind in the remarks which he is about to make.

The PRESIDENT *pro tempore*. The amendment submitted informally by the Senator from Missouri some days ago will be read for information.

The Secretary read as follows:

Strike out all after the word "resolved" and insert: That Philip F. Thomas, having voluntarily given aid, countenance, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Senator of the United States from the State of Maryland, or to hold a seat in this body as such Senator.

Mr. CONKLING. Allow me to suggest that that amendment was offered, of course, as an amendment to the amendment of the Senator from Massachusetts. The Senator from Massachusetts withdrew his amendment, and then the amendment of the Senator from Missouri fell.

Mr. DRAKE. The honorable Senator from New York is mistaken, I think, as to the position of the matter. This amendment of mine was laid on the Secretary's desk as an amendment intended to be offered to the resolution of the honorable Senator from Maryland in the event of the amendment of the honorable Senator from Massachusetts being disposed of otherwise than by adoption. I happened to be out of the Senate Chamber at the moment the honorable Senator from Massachusetts withdrew his amendment, and therefore could not present this until after the Senator from New York had presented his.

Mr. CONKLING. It is in order now as an amendment to my amendment; and if I may intrude for another instant upon my friend from Wisconsin, in order to meet his view, I will modify my amendment by adding, "and that therefore said Thomas is not entitled to his seat," or "that therefore he be not allowed to take said oath." I will put it in either form the Senator from Wisconsin prefers.

Mr. HOWE. I think I never was more indifferent upon any question in the world than I am upon the question, which of those two forms this amendment shall take. As it would not exactly meet my views in either form, I ought not to be particular which of the two forms it shall assume. As a mere question of parliamentary proceeding I am inclined to think that the form last suggested is the better, because it does seem to conclude something; it reaches a conclusion; and, more fortunate still, it reaches a conclusion upon the very question which has been under debate ever since we were so young as we were when this debate commenced. [Laughter.] In the form in which the Senator first moved it, and with the view which he professed as controlling the moving of it, I was inclined to regard it not as a resolution to exclude Mr. Thomas from a seat in this body, but as a sort of primer or easy introduction to the art of keeping Mr. Thomas out of his seat. It was the first lesson, which if we took kindly, as I understood him to say, the Senator would offer the second series, or the conclusion.

Mr. President, I should not have taken the floor at all, in spite of the threat I held out last night, if the amendment had been originally moved by the Senator from New York as it is now moved; but, being on the floor, I want to say two or three things; and I think the Senate ought to indulge me in saying them, because, looking over the whole field, not only of the late discussion, but of all the discussions that I ever examined at all, I do not think I ever knew a man so completely out of joint, out of fellowship with everybody, as I am on this very topic; and I have a right to appeal to the prayers of the Senate, if I cannot get any of its votes.

I certainly have no fellowship from my friends the chairman of the Judiciary Committee [Mr. TRUMBULL] and the Senator from Maine [Mr. FESSENDEN] and from others of our side of the political question, although they will probably vote with me on the resolution in whatever shape it may be submitted. They do not fellowship with me, because, as I understand it, I will not agree that I have jurisdiction to hear, investigate, and determine the question of Mr. Thomas's personal and political fitness for a seat on this floor. And the Senator from Vermont [Mr. EDMUNDS] and the Senator from Indiana [Mr. MORTON] and other Senators, Republicans with myself, will not fellowship with me because I will not affirm the same thing, and also affirm that Mr. Thomas is not fit, personally or politically, or both, for a seat on the floor. And my friends, the Democratic members of the Senate, will not fellowship with me for reasons too numerous to mention; I will not go into the consideration of those. And so I think I am to be excused if I feel somewhat out in the cold. [Laughter.]

After all, Mr. President, I am not so much distressed because nobody will fellowship with me on this question as I am to think that somebody will suppose that I fellowship with some of the rest of my friends. I should be very sorry to have the world suppose that I sympathized with the views of the honorable Senator from Illinois or the honorable Senator from Maine, that I charged myself with the duty of passing upon the fitness of Mr. Thomas for a seat upon this floor and pronounced him all right. I would not like to have my constituents think that I charged myself with such a jurisdiction and so exercised it. Mr. Thomas is not exactly the man I would like to have for a Senator here if I felt myself responsible for admitting none but the right men here, none but men who were not only legally qualified but men who, as the Senator from Vermont stated it, are personally fitted. Then I should want a different kind of man. I cannot agree that Mr. Thomas has developed that sort of loyalty which I think ought to animate a Senator of the United States. I do not propose to argue that question; it has been abundantly argued. I simply content myself with the remark that a citizen of the United States who could not find in the Constitution authority for doing the little that Mr. Buchanan while President did do, for doing, I may say, the nothing that Mr. Buchanan while President did attempt to do, to suppress the rebellion, and who could not find in the authority of a parent or in the authority of a loyal State the power to prevent his own minor son from going into the army of the rebellion; a man of that kind, I am obliged to think, is not animated by that high and flaming patriotism which I believe ought to control a Senator of the United States; and so I do not wish my constituents or anybody else to believe that I vote for the admission of Mr. Thomas because I agree that he is the kind of man who ought to represent any State in the Senate of the United States.

And I do not want my constituents or the world to believe that I sympathize with the sentiment which, as I understand, has been avowed here by the Senator from Vermont, and has been advocated by the Senator from Indiana and by other Senators around me, that we are judges not only of the legal qualifications of a candidate for the Senate, but that we are judges of his personal and political fitness also; because if I agreed to that sentiment and held myself responsible to that extent, and assumed such a jurisdiction, I am afraid my constituents would want to know of me some day why I voted to admit the Senator from Pennsylvania, [Mr. BUCKALEW,] for really if I had been in the Legislature which elected him, and which Legislature was clothed, as I understand, with all the authority which is claimed for this body—authority not only to pronounce upon legal qualifications, but also upon personal fitness—well, I do not like to say what I should have done, but it is a matter of great doubt whether I should have voted for the Senator from Pennsylvania.

Mr. BUCKALEW. Oh! do not be delicate about it. [Laughter.]

Mr. HOWE. Of course I do not want my constituents to feel that I sympathize with the views of those Democrats who will vote with me on this resolution. I will state the reasons

for that at some future time. But, Mr. President, this question has been argued from the beginning as if the parties to the controversy were Mr. Thomas and the Senate of the United States. I do not so regard it. It seems to me the higher and truer parties are the State of Maryland and the Government of the United States. The question, as it presents itself to my mind, is not so much whether Mr. Thomas has a fixed right to take a seat here as it is whether the State of Maryland has the authority to elect him and send him here. If he is legally qualified, legally competent to take a seat here, then it seems to me Maryland, being a State, can elect and send him here. If he has not those legal qualifications Maryland has no right to send him here. If he has those legal qualifications—Maryland, passing upon the question of his personal qualifications, thinks them sufficient, thinks them proper—and we still exclude him, in spite of the wish of Maryland, we must exclude him upon consideration of something besides his legal qualifications, and we do undertake, as it seems to me, to revise the decision of the State of Maryland upon the question of his personal qualifications. These, too, it seems to me, constitute the sum of the qualifications of everybody.

It was argued by the Senator from Vermont that we have jurisdiction over the whole question of a man's legal and personal qualifications. If we have, it seems to me we are the elective body. He has cited no clause from the Constitution which confers that power upon us. He argues it from the usage of the House of Commons. The House of Commons is sitting as a legislative body in a country without a written constitution or a written law which imposes any limits upon the powers of that body. We are sitting and legislating under a Constitution which does impose limits, restrictions upon the power of each House, upon the power of both Houses, upon the powers of the different States; and I cannot conceive that we have all the authority vested in us in the two Houses which does exist in the Parliament of Great Britain, or that either of these Houses has all the authority which belongs to the several Houses of that legislative body.

A great many questions have been put; extreme cases have been suggested; and I was asked when I offered a few suggestions upon this point before whether I would admit this man or that man or the other man who had been engaged in flagrant rebellion against the Government of the United States. Gentlemen said to me, suppose Mississippi were again to be admitted to the right of sending Senators here, and should send Mr. Davis, would you admit him? I said, yes. I do not very often avow a principle that I am not willing to follow to its legitimate consequences. I said yes. I say when you remit to Mississippi the right to choose Senators you make her the judge of the men who are best qualified to represent her. It is your act; you remit to her the constitutional prerogative of selecting her own Senators, subject to the conditions which the Constitution imposes. That is my idea; and if you would wish to be secure and mean to be secure against the entrance of that class of men you must not remit these prerogatives to those rebellious communities until those rebellious communities resolve to be represented by loyal men.

But I meet the question by another answer. Suppose Mr. Davis should remove from Mississippi to some of the new Territories that you may admit hereafter as States, or suppose he should remove to the State of Massachusetts, and Massachusetts should become of the opinion a few years hence that Mr. Davis was the best fitted of all the men in that State to advocate her peculiar ideas of labor, of industry, and of society in the Senate of the United States, and should elect him, and send him here; would the Senate exclude him? Clearly, if you acted upon the ideas avowed here, you would have to exclude him; and upon whom would the punishment fall then for Mr. Davis's treason committed years ago? Upon him or upon the State of Massachusetts?

Mr. CONNESS. Upon him, of course.

Mr. HOWE. Upon Massachusetts, I say; necessarily, because you punish Massachusetts by disabling her from sending here the man she deems best capable and the best qualified to represent her. She asks the right to select him; she does select him; and you deny her the right to be represented by him, and shut the door of the Senate Chamber against the man whom Massachusetts chooses. It seems to me that Massachusetts is punished, and not Mr. Davis, unless you hold the right of the individual to sit here to be paramount to, and more sacred than, the right of a State to be represented here.

Mr. CONNESS. With the indulgence of my friend, I will suggest to him at this point that in the utmost of the case he presents the punishment of the State would extend to the denial of the right of her first choice to enter here. That would be the extent of the punishment; and if she had a million of population all the rest might be selected from to furnish the material for another Senator.

Mr. HOWE. The Senator has stated the extent of the punishment very accurately; but, then, as he states it, it goes to the whole extent of disqualifying Massachusetts, of disabling her, of depriving her of the constitutional right, which is to have her first choice, and not her second or her third. But when the Senate has assumed to itself the power under the Constitution, or rather an inherent power not named in the Constitution, of denying to a State its first choice, can you not find in the same cellar the power to deny the second and the third choice? And can you not find in the same depository, uncertain as it is, undefined as it is, the authority to say that she shall be represented of course, because she is a State, but shall be represented only upon the condition that she shall not take Jones nor Davis nor Brown, but shall take only White?

Mr. CONNESS. My friend again permits me to say a single word. I am glad he has given his attention to the point which he calls the inherent power. Now, he and I will agree if he will only admit that that inherent power exists in this Government and in this body as a part of this Government, for the protection and safety of the Union and of the people, that there is such a thing as an inherent power and the right in us to exercise it.

Mr. HOWE. Mr. President, I have not admitted any such inherent power, and I am not prepared to admit any such inherent power, because I do not believe in any such inherent power. I believe this body and the other House are created by written laws, by a written power of attorney, and that every authority we have or can rightfully exercise is defined in that instrument; and when in our eagerness to do a good or a bad thing we go outside of the powers prescribed to us in that letter of attorney, we are acting without authority and without warrant. Whenever I see a Senator, or a Senate, or a Legislature, going outside of the written authority to do what I conceive to be a good thing, I do not make much fuss about it, to be sure, but after all the fact is just the same that you have only certain authorities to do either good or bad things, and you are outside of the letter just as much if you do not find the particular authority named in it when you attempt to do a good thing as when you attempt to do a bad thing. I am not finding any fault with those who are trying to keep out Mr. Thomas, because I have no hungering or thirsting after Mr. Thomas as a representative here. I am trying as well as I can to call special attention to the reasons which have hitherto precluded me from going very closely and very carefully into the consideration of Mr. Thomas's personal or political fitness for a seat here.

Mr. President, Mr. Thomas is arraigned before the Senate upon a general charge of disloyalty. That the Constitution means to have loyal men in the Senate and in the other House, I admit. It was a special point made by the framers of the Constitution that we should have such men. They did not take any particular security to have men of good character here, but they did provide some security for having men who were loyal and true to the Government and Constitution. What was that? They provided in the Constitution that every man before he should take a seat here should swear before the Senate and before his Maker that he would be loyal and true, that he would support the Constitution of the United States, not that he had done so.

The makers of the Constitution did not seem to think it of the utmost importance or of vital importance that a man always should have been loyal in order to be a Senator or a Representative, but that it was of vital importance that he should be loyal after he had taken his seat, and therefore they required him to take an oath that he would be loyal. The men who made the Constitution seemed to think that that was security enough; and I judge that they thought so, because that is all the security they took; but the Legislature of the United States seems to have thought that was inadequate, and therefore the Legislature has provided that in addition to the oath that the member shall support the Constitution he shall swear, in substance, that he always has supported it, or that he has always been loyal, or that he has never adhered to the enemies of the country, or given them aid and comfort. I raise no question now upon the power of Congress to so enact; but there is where the Constitution has left the question; there is where Congress has left it; there is the only security that both those bodies, the framers of the Constitution and Congress, have seen fit to ask for the loyalty of a Senator or Representative.

Mr. CONNESS. I desire, with the Senator's leave, to put a case to him briefly. Jesse D. Bright was once a Senator of the United States and sitting in this body; he was a Senator from the State of Indiana. He was expelled from this body for a specific cause known by every one. Within a few days he was a candidate for the United States Senate in the State of Kentucky, where he has recently taken up his residence, and he came very near an election, as the newspapers tell us. If he had been elected by the State of Kentucky what would the Senator do, under the existence of, if you please, an inherent power, if there be any such in this body, which, however, the Senator denies, to keep itself purged against such men? Suppose he had come here with a commission from Kentucky, I ask the Senator to reconcile his present position with the refusal to him of admission into this body. I do not cite this case for the purpose of puzzling my friend, because I have great respect for his judgment, and I know that he always brings to a good judgment a clear and independent conscience. But I desire to call his attention to the necessity of a little more liberality of construction than he is now engaged in giving us, under the Constitution of the United States, upon questions of this character.

Mr. HOWE. I can well conceive that the Senator did not put that question with any view of puzzling me, because it is impossible that I could be puzzled by it. When Mr. Bright was expelled from the Senate I voted for his expulsion; but I have no more doubt that if Mr. Bright were to come here to-morrow with credentials from Kentucky in his pocket I should vote to let him in, if the question were put to me, than I have——

Mr. SUMNER. He could not take the oath.

Mr. HOWE. I would let him try, as I said the other day; I would refer that question to him whether he could take the oath or not. What I might do then, upon a question of expulsion, is another matter. The point to which I wish Senators to give their attention is that the power of expulsion is one thing and rests in one tribunal, and the authority to admit or to try these questions of legal qualifications is

a very different thing and is submitted to a different tribunal. The question of legal qualification is submitted always to a majority of the Senate. The question of expulsion is not submitted to a majority of the Senate, and I think it would not be safe to submit it to a majority of the Senate. That is the distinction that I make.

I was, however, calling attention to the fact that the Constitution had only taken one security for a man's loyalty and Congress has added another, and now the Senate is appealed to to add another. The Constitution has said that a candidate for admission shall take an oath that he will support the Constitution. Congress has said that he shall take an oath that he always has done so. The Senate is unwilling to rest upon both these securities, but is appealed to to exclude a man whom, it is said, Maryland has sent here, and who, it is said, is ready to take both of these oaths. The Senate is appealed to to say that if he takes one of these oaths he will swear falsely, and therefore we will not let him take it.

Mr. President, why can we not improve upon the principle a little further, and when a man, without this new oath being offered to him, comes forward and offers to take the old oath that he will support the Constitution, somebody object, that he is not going to do so? The question whether he will do so or not is, perhaps, more difficult to try than the question whether he has been loyal or not; but after all human ingenuity may be capable of trying the question and coming to a conclusion whether he himself is not likely to violate that oath hereafter, and deciding that if he takes that oath he will not keep it a single session, but will embark in the business of rebellion, and therefore we will not permit him to take it. It is the difference between trying a prospective criminal and a retrospective one. Of course, the last is much the easier to try; but the question of sentiment and opinion enters so largely into the composition of both classes of criminals that it is a little difficult to try either.

But, Mr. President, I did not rise to go over this ground again. I believe most firmly and most conscientiously that the principle which guides my vote and controls it on this very question is essential to the true dignity of every State in the Union, and will at one time or another become essential to the rights of every State; and that I believe the doctrine which is avowed here upon which to exclude Mr. Thomas from his seat is one which may be urged hereafter to exclude better men than Mr. Thomas ever was from a seat, and may be urged hereafter to derogate from the rights which I think, under the Constitution, belong to the State that I represent and belong to the State that every one of my colleagues about me represents. It is for that reason that I am obliged to stand upon this principle, and for that reason that I cannot acquiesce in the views or reasons which guide my friends about me.

Mr. DAVIS. Mr. President, I do not rise to make a speech or to submit any extended remarks; but it occurs to my mind that the Senator who has just taken his seat has touched the true principle that ought to govern this case, and the only principle that ought to control it. Who is Mr. Thomas the representative of if he be admitted into the Senate? He is to represent the State of Maryland; he is elected by the Legislature of that State, and according to the argument of the Senator from Wisconsin [Mr. HOWE] it is a clear constitutional right of the people of Maryland to send whom they please to the Senate, provided he has the qualifications required by the Constitution. I believe that no more important principle has been announced during this session of Congress, and no more important principle exists in and under the Constitution than that every State shall send whom she pleases to the Senate of the United States, provided the person so chosen has the constitutional qualifications required by the instrument, and, if you please, by the test-oath, which is another qualification that has been imposed by congressional legislation. Conceding, for the present, (which I do not admit,) that the test-oath is constitutional, and that a Senator before he is permitted to take his seat may be required to take that oath, I maintain that the position of the Senator from Wisconsin, according to a just construction of the Constitution, is invulnerable, and that whenever a man presents himself here as a Senator from a State who has the qualifications required for a Senator by the Constitution and is willing to take that oath he has an indubitable right to be admitted to a seat in the Senate.

This is one of the great and fundamental State rights retained by the people of the different States in the formation of the Constitution. The States themselves are entitled to representatives in the Senate; each State is entitled to two representatives, and these representatives are to be chosen by the Legislatures of the respective States as their constituents. That is one of the essential fundamental State rights retained by the Constitution to the States. The question, as the honorable Senator from Wisconsin stated, is between the State of Maryland and the Senate of the United States, and not between Mr. Thomas and the Senate of the United States. It resolves itself into this: has the State of Maryland the constitutional right to send any of its citizens as its Senators to this body who have the qualifications required by the Constitution, and who are willing to take the test-oath? The whole point in relation to Mr. Thomas's case, in my judgment, resolves itself into that question; but the Senate are endeavoring to give it a different consideration, and what consideration? They are attempting to make the qualifications and admissibility of Mr. Thomas as a Senator in the United States Senate depend upon his politics and nothing but his politics.

Can any gentleman doubt, from the spirit of this debate, that if Mr. Thomas had been an adhering Republican for twelve months before his being chosen by the Legislature of Maryland to be a Senator from that State this body would have admitted him as a Senator upon this floor? I do not doubt it. It is only necessary to recur to the case of his predecessor, who in the commencement of our troubles was a secessionist, and who at a public meeting submitted a series of secession resolutions which he afterward retracted, and became a Union man and adhered to the Union, to the Government, and to the party in power, and he was admitted to his seat in the Senate. If Mr. Thomas had taken the same course in reversing his politics that his predecessor did, who can doubt that Mr. Thomas would have been accepted as a Senator upon this floor? Mr. President, what does that resolve itself into? That not the constitutional qualifications which are required to fit a man to be a Senator, not the choice of the Legislature of Maryland, upon whom devolves the right to choose her Senators, shall gain him admission to a seat on this floor; but his politics is the key, the open sesame, by which he is to be admitted.

Sir, a more mischievous precedent, in my judgment, and one more fundamentally unfriendly to our system of government and to all the reserved rights of the States, has never been attempted to be established in the proceedings of the Senate. That is the simple question, whether the politics of a man who presents himself as a Senator from any State shall be allowed to determine the question whether the Senate will admit him as a Senator from the State or not. It is only necessary to recur to the history of our country. All the members of this body recollect, from their reading, the course of the eastern States in relation to the war of 1812, and especially the course of the Governors and Legislatures of Massachusetts and Vermont. These Legislatures passed resolutions condemning the war, condemning the principles upon which that war was waged, condemning the whole policy of the Administration in the declaration of that war and in conducting it. According to the new light that has dawned upon the mind of the Senator from Massachusetts, this opposition of the members of the two Houses of Congress from that State who adhered to the predominant policy of the State in its opposition to and denunciation of the principles upon which that war was declared and waged would have been sufficient to exclude them from their seats in the two Houses. Well, sir, that would have been simply an exclusion of members because of their politics.

I come down to a more recent case. The honorable Senator from Massachusetts has never denied that he stood up in open opposition to the execution of the fugitive slave law, and that he encouraged open efforts to resist the execution of that law by force of arms. Suppose, when that honorable Senator presented himself here for admission as a Senator upon this floor, such an objection had been made to his admission; it would have been made with more force than the objection is now made against the admission of Mr. Thomas, and yet it would have been simply an objection to him on account of his politics. He was elected by the appropriate constitutional power, the Legislature of his State; he had all the constitutional qualifications required to be possessed by a Senator; and it would have been an outrage upon the rights of his State and upon the Constitution of the United States to exclude him upon any such ground. But it might as well have been done as the exclusion of Mr. Thomas in the present case.

It seems to me, Mr. President, that Senators ought to look carefully to the nature and effects of the precedent which they are about to set. What will be its consequences in the future administration of the Government? The time may come when the party in power will have to become the minority, and when its opponents will have the same power of judgment and exclusion that the Republican party now has in the two Houses. If that altered condition of things should come about there will be many men with a disposition to tender the poisoned chalice to their lips, and to subject them to precisely the same principles and precedents which they are now making their opponents submit to. All this would be wrong; all this would be violating the principles of the Constitution; all this would be subversive of the rights of the States and of our mixed system of Government. You ought, in my judgment, to come to the plain, simple provisions of the Constitution and its principles. When the question is whether a Senator shall be admitted or not, the only matters into which you can make legitimate inquiry are, does the man who presents himself possess the qualifications of the Constitution and is he willing to submit to the laws? If he is, I think he is clearly entitled to his seat; and I think the honorable Senator from Wisconsin has pressed the only principle upon which this controversy should be determined.

Mr. CONNESS. Mr. President, when the Senator from Wisconsin [Mr. HOWE] made his first speech upon this question I listened to him with some care. As I said when up before, he has always secured all of my personal respects for his judgment and his character. He entered upon the discussion of this case by stating the ground that he has restated to-day—the inherent right of a State to select whom it chooses to represent it; and he denied the right on our part to enter into an examination of the personal fitness or qualifications of the person so sent. Following that position out to its legitimate and logical consequences, he demonstrated clearly that Jefferson Davis might be sent here by any State in the Union that chose to send him, and that we would have no right to deny him admission; that Dr. Blackburn, of infected clothing notoriety, might come into this Chamber, take the oath of office, and, unless there were two thirds of this body who believed in the enormity of his crimes, he would be enabled to take his seat as a law-maker of this nation; that, in fine, a State might send any person here, whatever, no matter what his personal

character might be. I was more convinced after I had heard the honorable Senator that he was wrong by the sincerity of his own argument than I ever have been on any occasion on which he has spoken in the Senate. He told us when he was up that his position was so singular that he found fellowship from none or with none in this body on this subject. He has evidently found some since. That has occurred since the honorable Senator took his seat.

Mr. HOWE. I expect to find more.

Mr. CONNESS. The Senator says he expects to find more. I have no doubt that he may find more. I did not rise to criticise the Senator or his speech, but to say what I have, that he succeeded more nearly in convincing me that the power existed and must by right exist in this Senate to judge of the qualifications of the persons sent by the States than anything else that has been said on the subject.

But the honorable Senator from Kentucky rises now and follows that line of argument presented more clearly and more at length by the Senator from Pennsylvania [Mr. BUCKALEW] when he discussed this subject, particularly when he spoke some days ago, in charging the action upon it on this side of the Senate, particularly on those who are unwilling to receive Mr. Thomas, to partisan motives and purposes. I regretted very much while I listened to that Senator that he should deliberately accuse the members of this body of being actuated by such purposes and motives, and in proof of it cite the celebrated case from New Jersey, in which a Senator from that State, Mr. Stockton, was excluded from a seat here. The Senator denounced it as a case of "expulsion." That was the term, I think, that he applied. A Senator, he said, was expelled by a party vote.

Mr. BUCKALEW. Will the Senator permit me to interrupt him?

Mr. CONNESS. Certainly.

Mr. BUCKALEW. The Senator is mistaken in his reference. He is referring to some remarks made by me on the subject of reconstruction, not to any remarks made upon this question, nor any application of my ideas to the present case.

Mr. CONNESS. I shall be very much mistaken if what I state is not to be found in the first speech made by the Senator on this subject.

Mr. BUCKALEW. The Senator will find it in my speech on the 29th of January, on the subject of reconstruction, in that general debate.

Mr. CONNESS. Very well, be it so; but, Mr. President, I am right in stating that the Senator took that view, and presented it in a late speech in this body. Sir, it is a pretty serious accusation to bring. It is particularly a serious accusation for the honorable Senator from Pennsylvania to bring against this side of the Senate. I think that what is called the Republican party could scarcely be regarded as a political party during the war, nor can it be yet. Why, sir, I never was a Republican; I never belonged to the Republican party. I was a Democrat when this war began. I believed in Democracy. I believe in Democracy to-day. I think it is a good thing when it is pure and simple.

Mr. FESSENDEN. The genuine article.

Mr. CONNESS. The genuine article. But, sir, when it encouraged, as it did encourage, when it aided by every means in its power, by the political organization that it had in the States of this Union, the men who engaged first in a conspiracy against the integrity and existence of the nation and then engaged in actual and overt acts of war, it was nearly time to part with it; but I did not become a Republican. I as heartily detested the institution of human slavery then as I do now. To my mind, it was nothing but a crime—a great, monstrous crime. It was not a party question. And when out of that question the war grew and took its place, and the issue became this, whether this Republic should be continued or blotted out in night, that was not a party question. It rose above and beyond all party questions or considerations, and it summoned every man that had not simply a love for this country, but a love for human freedom and a belief in the right of the masses of the human kind to govern themselves, to the nation's standard in its defense. Were they partisans? Were they Republicans? If it were only the Republicans who took that position and the Democracy so called did not, then more is the shame of the Democratic party. It was they who became partisans; it was the Republicans in that condition who became patriots and were no longer partisans.

But the honorable Senator from Pennsylvania and the honorable Senator from Kentucky talk of a party, and the latter Senator cites a parallel case, as he says, of the Senator from Massachusetts, who at one time opposed the execution of the fugitive slave law, a direct statute of the country, and did not conceal his opposition. Well, sir, it only proves, if it proves anything, that the Senator was a courageous man. He had the defense in his own conscience of opposing a gross wrong. But, sir, what was the position of the men who engaged on the other side to destroy this nation? Was it in defense of a right? Oh, yes, they will reply; they imagined it was a right. Certainly they did. The thief who proposes to possess himself of your property or mine imagines that it is a right he has got. He certainly loses regard for the right we have, and he proposes to possess himself of it. Gradually and by degrees he is in favor of a general division of property and thinks that one man has about as much right to it as another. And so they gradually began to think until they believed that the States had rights. What class of rights, sir? A right to withdraw from this nation, from the United States; a right to make war against it? And Democracy at that time, through its national representative, the President of the United States, made a decision in their behalf that the nation had no right to make war in return against a State. And, sir, the honorable Senator from Illinois argued that when that occurred there was no war. There could be no war then, he says, because war means that two parties are engaged in it, one against the other; there can be no war where one side alone is fighting; so that during a considerable portion of the history of this great contest there was no war, though the forts were taken; there was no war, though the treasure of the nation was taken; there was no war, though the laws of the nation were trampled under foot, because Mr. Buchanan decided that we could not engage in making war upon a State!

Mr. President, what I desire to remark here is, that those Senators who talk of party on this side of the Senate occupy a very bad position before the country. They belong to a party, an organization of men for ordinary political purposes, who continued that organization against the nation. Will any one deny that? What measure was proposed during the war for the purpose of conducting it and carrying it on with effectiveness and power that they did not oppose? In the beginning, in their view, our President was wrong in making the first call for seventy-five thousand men; there was no constitutional power to do it. We were wrong, said they, in passing laws to provide our armies with soldiers. We were wrong again when we employed blacks to fight, as if they had not arms and hearts like other men. We were wrong at every step. Who said we were wrong? The rebels, and those who, as partisans, aided and abetted them, the Democratic party of the free States. Certainly they were the partisans, and they remain the partisans.

But, sir, we come to this case. Maryland, a State of this Union, elects Mr. Thomas to represent it here. It is found that he filled a very high office when this war began, and that he resigned it because he disagreed with the President in the policy that was then supposed by the President to be the proper one to be pursued. Those who favor his admission argue that that resignation did not show any proclivities of his; that there was nothing in the act which we are authorized to examine or determine his case here by. But he went further at a later period in the history of the war—he gave a certain amount of money to his son, who informed him that he was going to join the rebel army. We are told that after reasoning with him and finding that he could not convince him, under parental feeling he gave this amount of money so that his boy should not suffer, and that he did not get directly into the rebel army; he used the money in going into a county in Maryland, remaining in covert for a while. Why, Mr. President, a man who could at that time dally with such a case, who could take time to consider, lacks the essential quality of a citizen, which is, that his first inspiration should be to defend the flag; as General Dix said on one occasion, to feel that the man who pulled it down should be shot upon the spot. Reason with his son! We are told that all Roman virtue is at an end; that it belonged to a period not like this. Well, sir, it seems almost true; but, for one, I have an opinion about it. The man is not a good man, in my opinion, nor a good member of society, who loves a single individual better than he loves God's kind. The first, greatest, and deepest love must be for his fellow-men in the aggregate.

It is under that inspiration, it is under that feeling that men make sacrifices on earth that make them heroes in the estimation of men, and fit them for seats in heaven. Ah, he cannot violate his feelings to his son! Sir, if he had blotted out the disgrace that he was to his name, his nation, and his nature, the world would have applauded the act; but he temporizes with him; and it is no matter to me, and I will not stand here to consider it, whether he invested the $100 he got in a suit of gray, in medicines to be carried over to supply the necessities, if you please, of the rebels on the other side, or in a rifle to take deadly aim upon our people; it was money that contributed to his departure, to his preservation and care, until he lodged himself with the enemies of the country.

But, say Senators, if all this be true, you have no right to consider the case or to pass any personal judgment upon Mr. Thomas. Well, Mr. President, for myself, for one, while I shall have a seat here, this place shall be preserved from taint and contact with men who by word or deed were engaged in and a part of the rebellion. Senators, of course, will determine this question under their own consciences. In my opinion, there is safety on the one side of the question, and danger, and nothing but danger, on the other.

We are reminded that there is danger of setting a precedent and making an example under which parties will exclude each other. Sir, we belong to a country and to a period of time when political differences run high, and there is sometimes great exasperation and great effort made to make up majorities of political parties in a representative body; but does anybody imagine that I take issue with such a representative from a State, as I will say, the honorable Senator from Kentucky, [Mr. DAVIS,] though he differs so essentially in some leading opinions from mine? Certainly not; for I believe that there never was a moment in that Senator's life since this war began when he would not have dealt an effective blow at the rebellion. He might think as he chose, differ with me as widely as he chose, I would accept him at any time as an associate if a question was raised here upon such a Senator as he, or such a citizen as he.

Therefore this is not a question of political difference. It is a question of whether we shall preserve and defend the integrity of this Chamber against the invasion of whom? Existing, living rebels. I am in favor of that exclusion and preservation. Let this generation of leaders, who are still in their hearts

against the peace of this country and against the establishment of freedom here, be kept out of power. If the fragmentary constituency of the people of a State shall at any time so far forget what is due to the whole or to the peace of the Union as to send them here or elsewhere, let them be excluded. Let them take the choice that they so endeavored to take during the war when in their conspiracies with foreign nations they tried to destroy this country and put it under a foreign yoke, provided they could only gain their points by it; let them go among these foreign conspirators and to other nations; but let them not come here to dictate policies again.

Senators discuss this subject in part, it appears to me, as if they had forgotten that we live in another era. Why, sir, there has been change enough in the fundamental policies of this nation and the people who constitute it within the last ten years, it seems to me, to have attracted more attention. Then the intellect and power of this nation were given to the preservation of a system that is looked upon now, and will be looked upon forever hereafter, as the greatest blot to civilization. Now, happily, we have in a short period passed through it, and we live in a Republic free from that incubus and its influences. Shall we go on legislating subject to its influence and control? No sir; I object.

I have no feelings in this matter of a political partisan character. I have no feelings to be gratified by opposition to Mr. Thomas. We are told, indeed, that if we reject him and refuse him admission we shall get a man less acceptable perhaps. Let it be so, sir. Let a citizen of Maryland less acceptable be sent here, and we will determine that question when it comes. We have no right to-day to take that into consideration.

The present status of Maryland has been discussed, and the honorable Senator who represents that State here has been complimented for his loyalty, and the treatment by the State of Maryland of him has been discussed. I will not continue that theme; but it is a fact known to us—perhaps I may be expressing it in uncouth language—that at the beginning of this war the devil had a mortgage upon all Maryland, or nearly all; that owing, as some of our literateurs have said, to a "little unpleasantness" that took place for five or six years the mortgage could not be enforced to be foreclosed; but when that "unpleasantness" had its end, did not the old fellow come in and foreclose the mortgage and take the property, and is not this one of its consequences?

Mr. President, it is time indeed that we preserve ourselves; and for one, by my vote and act, this nation will be preserved against such invasion. There shall be no change of policy which will admit of such a condition of things as has been foreshadowed if we pursue the course that is pointed out by many Senators here.

Mr. BUCKALEW. I desire, at the conclusion of the remarks submitted by the Senator from California, to disclaim having expressed the sentiments which he imputed to me just now. In my remarks on the 14th of this month I made no party observation; I made no fling at any party. All that I said in that speech (and it is lying on my desk and the Senator can examine it) was to deprecate the tone of remark which had been used by the Senator from Ohio and some other gentlemen, by which passion and prejudice, as I supposed, had been appealed to instead of the legitimate considerations that belonged to the question. I said nothing about the motives which would actuate gentlemen in this Chamber if Mr. Thomas should be rejected. I said nothing of the interests of party as involved in the discussion. I think that a member who introduces considerations of that kind into debate departs from the legitimate line of remarks, unless he does it under provocation and in reply to some other gentleman. Certainly, for my part, I would not commit an indiscretion of that kind, especially where the interests of a claimant to a seat here and a State of this Union were concerned. I would not assist to introduce foreign and irrelevant matter into the debate. I could only wish that all the members upon this floor would approach this subject in the same way, governed by the same considerations which are just and legitimate. I desire this case to be tried as a question of law and as a question of right under the Constitution and under the statutes which relate to the subject, and that all considerations which relate to the positions of parties should be excluded altogether. Certainly, I have not committed what I must think the impropriety of introducing them.

Of course I do not wish to impute to the Senator from California any intentional misrepresentation of my remarks. I suppose he was misled by having done me the honor to listen with some attention to the speech which I made on the 29th of January upon the general political situation of the country in connection with reconstruction, in which I, from the necessity of the occasion, and appropriately then, undertook to discuss the action of political parties in this country. But, sir, I think we ought not to introduce anything of that sort in this debate. If we are not sitting as a court and under oath, still we are acting in a judicial capacity, and we ought to approach this subject most seriously and calmly, to consider that the reputation and standing of a distinguished gentleman is involved in our vote; that the right of one of the oldest and most honorable States of this Union is involved in this vote. We ought to remember that although there may have been citizens of Maryland who did not do their duty to the country in the war, there were thousands and thousands who did under great difficulty and discouragement, and that in casting general imputations upon a State, supposing that the prince of darkness had a mortgage upon it, you do injustice at least to a great portion of the inhabitants of the State. We have nothing to do with these things. For my part, I disclaim having introduced them.

Mr. CONNESS. I wish simply to say that I would not misrepresent any Senator here, perhaps least of all, my friend from Pennsylvania. If I have made the mistake that he suggests, I regret it very much.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

Several SENATORS. No, no; let us vote.

Mr. SUMNER. I hope we shall not go into executive session. I hope we shall have a vote on this question.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New York.

Mr. CONKLING. Upon reflection it is thought better that the amendments, both of them, to the original proposition be withdrawn. The honorable Senator from Missouri assents to that, I assent to it very cheerfully, and in my own behalf I withdraw the amendment which I offered, to the end, his being withdrawn, that a vote may be had first, at all events, on the original resolution.

Mr. DRAKE. On that question I call for the yeas and nays.

The PRESIDENT *pro tempore*. The question is on the original resolution offered by the Senator from Maryland, on which question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. MORTON. I should like to hear the resolution read.

The Secretary read it, as follows:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

Mr. JOHNSON. Before the vote is taken I hope the Senate will indulge me in continuing the discussion a few moments longer. I do this because of some points taken to-day by the honorable member from Michigan, [Mr. HOWARD,] which were not embraced in the remarks which I had the honor to submit yesterday, to which I deem it proper to attempt a reply.

In the first place, the honorable member has again indulged in terms (if he will permit me so to designate them) of vituperation against my colleague which I had hoped he would not repeat. He has represented him as a man devoid of all honor, willing to perjure himself in the face of this Senate, and even willing for the sake of a seat on this floor to be guilty of, if possible, the higher crime of suborning his son to commit that offense. He has said that all the explanations which my colleague gave to the committee of the reasons which governed his conduct during his connection with the administration of Mr. Buchanan were but artifices, untrue in point of fact, but resorted to for what with honorable men will be considered a base and a dishonorable purpose—of obtaining a seat on this floor, to be the associate of gentlemen.

Mr. President, the honorable member does not know the character of the man whom he asperses. I use that term in no motive of unkindness to the member from Michigan. He knows I am incapable of entertaining any such feeling. I estimate him at his real worth of intellect and of heart, and I can only attribute, therefore, the course he has thought proper to adopt to a sort of temporary madness. Temporary I know it will be, for in the end, if he shall become acquainted with the true character of the man whom he assails, he will be sure to regret having made the assault. As I stated yesterday, my colleague, in every station which he has held in the public service of his State or of his country, won the esteem and almost the admiration of all who knew him. He is a frank and an able man, an honest and an intelligent man, and, notwithstanding all that has been said of him, a patriot in the true sense of that term, as pure and perfect as is the honorable Senator from Michigan or the honorable Senator from California.

I could not have said less of that matter without doing violence to my own feelings; and now a word or two further upon the case which actually exists. It is not, as I think, one which calls for any party conflict. It is not one which demands any reference to the war and to the parties who were on either side of that contest, except for the purpose of showing that my colleague is unable in point of truth to take the oath prescribed by the act of 1862. As I said yesterday, I assume the constitutional validity of that act; I am not here to call it in question. What I do say is, that, speaking from my own conscience and from my knowledge of the man who has been assailed, I have no doubt that he can take it with as much truth as it has been taken by either of the honorable members who have assailed him.

I referred yesterday to an act prior only but a week or two to that which for a time rendered the name of Dix a word of honor in every homestead in the United States where patriotism had its dwelling. What my colleague did in anticipation of the act of Dix was done from the same motive, the love of country and the detestation of him who would abuse the trust confided to him. But he did in the course of his administration something in addition. The honorable members have thought proper to intimate, or rather to charge, that he was one of the conspirators who were engaged in the inauguration of the rebellion; that he was with Cobb and Thompson and Floyd; and the honorable member from Michigan has told us that the three were at his own house, and that they must have been there for the purpose——

Mr. HOWARD. No; the three were at Mr. Thompson's house.

Mr. JOHNSON. At Thompson's house for the purpose of effecting the conspiracy; and he does that (oh! charity!) although the gentleman assailed denies that one word was spoken by either of the parties present on the subject of the impending troubles in the coun-

try, because, as he says, he does not believe he tells the truth; it was still but an artifice in advance of his application for his seat in this body! There is a fact to which I propose to call the attention of the Senate which I hope will satisfy even the honorable member from Michigan that he has done my colleague great injustice. I do not know that the Senate remember it; perhaps many of them may when I recall the fact to their notice. There was a claim against the Government of some four or five hundred thousand dollars made by a man by the name of De Groot for bricks furnished to the aqueduct in the neighborhood of this city. That work was then under the charge of the Secretary of War, Floyd. De Groot presented a claim of four or five hundred thousand dollars—I forget the exact amount—and it was allowed. The President of the United States was startled when he understood that such a claim had been audited, and he demanded a readjustment of the account by the Secretary of War. He undertook what he called a readjustment, and he ascertained, as he said, that the balance due to the contractor was $119,000, and drew his warrant upon the Treasury for that amount. Rumors were afloat during the whole period the claim was pending—whether true or not Heaven only knows, and I mention them not for the purpose of treading unkindly upon the grave of Floyd—that he was interested in the claim. My colleague—a coconspirator with Floyd, as it is supposed—found the warrant on his table on the 15th of December, 1860. He supposed that the claim had been disposed of before, and so did the President. He refused to sign it. Floyd became evidently incensed and writes to him a letter, the original of which I have in my hand, desiring my colleague to sign the warrant, as will be seen by the reading of the letter. It is as follows:

WAR DEPARTMENT, *December* 15, 1860.

SIR: Upon a careful and very minute reinvestigation of the De Groot case from the beginning to the end, I have felt constrained to adhere to my first decision. The requisition for the amount that is due to De Groot, with all the papers in the case, have been returned to the Treasury, and I shall be glad to know that it is paid, and thus be relieved from any further annoyance in regard to the subject.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

HON. PHILIP F. THOMAS, *Secretary of the Treasury.*

But Mr. Thomas was firm. He received on or about that day a letter from New York inclosing a short editorial in the New York Tribune charging fraud in the adjustment of that account, and he said to himself, and he acted upon that determination, "It never shall receive my sanction." Floyd was naturally incensed. My colleague, the coconspirator of Floyd, the man charged at the time in the papers of the day with having an interest in this claim, (and by many the charge was believed to be true,) anxious evidently to have the amount of the claim adjusted, tells him to his face, "Never through me shall the claim be paid." That is the dishonest man; that is the man devoid of honor, in the estimation of the honorable gentleman from Michigan!

Sir, my colleague was in the Treasury from the 12th of December, 1860, until, I believe, the 11th of January, 1861. He came into the service of the General Government a poor man, as far as wealth is concerned, but rich in integrity; and with all the advantages of which he might have availed himself during the twenty or thirty days that he was at the head of the Treasury, no man ever dreamed that he had not faithfully accounted for every dollar of the public money and faithfully guarded the Treasury against unjust demands.

He left the Treasury as poor as he entered it. And that is the man whom the honorable member from Michigan would have us believe is devoid of honesty! He had under his charge three or four million dollars, the proceeds of a loan, and what was in the sub-Treasury from time to time; and not one dollar was ever known to soil his hands. He had the power to transfer all the funds under his charge to the South. Not a dollar did he transfer. The only places to which he made a transfer were Washington and Pittsburg; and, with a view of making good the account in the sub-Treasury at New York to meet calls, while the transfers which he was obliged to make were being made in order to carry on the Government, he transferred from St. Louis, in Missouri, a State then trembling in the balance, a State then which it was supposed would become one of the States of the confederacy, $350,000 to New York to meet the wants of the Government there. That is the man that the honorable member from Michigan supposes to be dishonest and faithless to his trust! And from the time he left the Treasury to the period when he was elected by the people of his district a Representative in the State Legislature, no man ever heard him utter a word against the Government of his country in any sense which could be considered as disloyalty.

The honorable member from Michigan ought to be cautioned by what has actually occurred in this case to himself. He presented to the Senate—it having been transmitted to him for that purpose—a report of the directors of the Bank of Commerce in New York made in 1862, after my colleague had left the Treasury Department, in which it was charged that he had transferred the funds of the Government to the South in a treasonable conspiracy with Cobb. I say the honorable member ought to be warned from indulging in mere suspicion by the result of the examination into the truth of that charge. The honorable member from Illinois [Mr. TRUMBULL] read to the Senate yesterday what the officer in charge of the public funds in New York, the Assistant Treasurer, said in relation to that charge. "I heard it," he told that committee, "for the first time when it was presented in the Senate by the honorable member from Michigan. No man could have been more surprised at such a charge than I was, for I know, and I knew then, that Mr. Thomas did everything that he could do while Secretary of the Treasury to preserve the credit of the Government." And yet that was one of the grounds, and the main ground apparently, upon which the honorable member from Michigan objected to his being admitted into the Senate upon his credentials. It turned out to be wholly unfounded. I do not mean to say that the officers of the bank or the directors who were parties to that charge knowingly intended injustice to my colleague; but the fact is that they stabbed him in the dark—stabbed him without the slightest provocation.

The honorable member from California has told us that as long as he has a seat in this body he will not consent to come into contact with any man who was not loyal to the Union at the beginning or during the progress of the late war.

Mr. CONNESS. The Senator is mistaken; that was not my exact language.

Mr. JOHNSON. I stand corrected.

Mr. CONNESS. I did not say that I would refuse to come into contact with such a person; but that he should not come in contact with this branch of the legislative department and make laws for the country.

Mr. JOHNSON. That I understand. That is the contact the honorable member meant. I suppose he would be willing to associate with him in private life; but it is here that he apprehends some great mischief may be done to the country, or, perhaps, that he himself may catch the disease of disloyalty.

Now, Mr. President, the honorable member from California and the honorable member from Michigan have told us, and so spoke the honorable member from Connecticut the other day in the short speech that he made while interrupting the honorable member from Illinois, that war at the time of the resignation of Mr. Thomas was flagrant.

Mr. FERRY. If the allusion is to me, I will state that I said nothing whatever about the occurrences at the time of the resignation of Mr. Thomas. I placed no stress whatever on that subject in the remarks which I made.

Mr. JOHNSON. Well, I have done the honorable member injustice by the fact of not having clearly understood him. I thought he said so; but somebody said so.

Mr. TRUMBULL. The Senator from Michigan.

Mr. JOHNSON. The Senator from Michigan said that war was flagrant. That, when it was first stated, amazed me very much and in part for the reasons which I gave yesterday, that even as late as the 27th of February, 1861, men whose honor will not be impeached, whose loyalty will not be called in question, supposed that war might be prevented by measures of compromise. But what occurred afterward? That man who stands high, and no doubt justly in the estimation of those who admired his course as President of the United States, and whose private character is beyond reproach, the circumstances of whose death, if nothing else, have embalmed his memory not only in the minds of his countrymen but in the heart of the world, in his inaugural address, delivered on the 4th of March, 1861, concludes the affecting appeal which he made to the American people, by a sentence or two which I will read:

"In your hands, my dissatisfied fellow-countrymen, and not in mine, is the momentous issue of civil war. The Government will not assail you. You can have no conflict without being yourselves the aggressors. You have no oath registered in heaven to destroy the Government, while I shall have the most solemn one to 'preserve, protect, and defend it.'

"I am loth to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection. The mystic chords of memory, stretching from every battle field and patriot grave to every living heart and hearthstone, all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature."

Mr. President, do the honorable members who tell us that war was flagrant know better the condition of the country than did their chosen President? Is it not, on the contrary, evident that so far from considering war to be actually waged, he looked, as every patriotic man in the country looked, anxiously to the adoption of measures on either side that would avert so dire a calamity? Was it not a dire calamity to anticipate? Look at the result of its occurrence. Almost every house throughout our immense domain still wears the badges of mourning for the loss in battle or by disease in the Army of a father, a brother, or a son. Look at the South. Desolation reigned at the moment of its termination. The tread of armies on either side brought as it progressed ruin to the survivors and death to hundreds of thousands. President Lincoln, therefore, and every man of generous heart, every man with a heart in his bosom which God can honor, looked to the occurrence of a civil war in the future, on the 4th of March, 1861, with horror, and resolved, as he resolved, to avert it as far as depended upon him by everything short of abandoning duty to the Government.

There was another reason to fear. Gentlemen, now that the war is over, may complacently tell us that the result, from the first, was certain. There was a time when some of those who tell us that story did not so think. I remember not only in my own case, but in the case of several members now in the hearing of my voice, that we trembled for the result of the conflict. I remember—and I suppose no man felt it more sensibly than the honorable chairman of the Committee on Foreign Relations—with what solicitude we listened to the news wafted across the Atlantic by every vessel that arrived, whether England or France, either or both, would interfere in the contest; not because of any unmanly fear, not because the men of the North were not willing to meet the combined force of England, France, and the confederate States, but because of an apprehension that in such a conflict the Union might be dissolved and the Government destroyed. And now we know that there were good grounds for entertaining the apprehension of interference upon the part of the two Governments that I have mentioned. France

was anxious to interfere. Our escape from the danger was, as I believe, more owing to the tender nature, the humane character, and the intelligent wisdom of the Queen of England than to any portion of her Government. Dreading the shedding of blood by children of the same descent, proud of the descendants of the men of England, whose deeds gave to England renown years and years ago, she resolved, by using the whole extent of the power within her reach, that she would do nothing, and would permit her Government to do nothing, that might lead to a continuance of the conflict and the further effusion of blood. No man can tell what might not have been the result. I believed—but I know that I was subjected then to the charge of being oversanguine—that in the end all would be right again; but when the end would come, and what would be the destruction of life and the loss of property in the meantime, I was unable even to anticipate. One thing we all knew: that come whenever it might we should be found involved in a crushing debt demanding all the resources of our country and invoking, in order to the salvation of our honor, all our undeveloped means of wealth.

It was in view of such a period as that that in advance the President of the United States told the South, his dissatisfied countrymen, "We will wage no war upon you unless you first wage war upon us. What you have done is not war; what you may do will become war or not, just as you may choose to go further than you have done. Raise your arm to destroy the Government which I have an oath registered in heaven to support and defend, and then, and not before then, will you receive anything like war upon the part of the Government." But that is not all. The language of that inaugural was differently interpreted. By some members of the Senate it was said to announce a war policy; by others (who were, as I think, clearly right) a policy of peace. Not despairing of the Republic, as he never did from the time he came into the public service up to the period of his death, Mr. Douglas, then a Senator from Illinois, offered the following resolution in the Senate on the 15th of March, 1861:

"*Resolved*, That the Secretary of War be requested to inform the Senate what forts, arsenals, navy-yards, and other public works within the limits of the States of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas are now within the actual possession and occupation of the United States, and by what number of men each is garrisoned and held, and whether reënforcements are necessary to retain the same; and if so, whether the Government has the power and means, under existing laws, to supply such reënforcements within such time as the exigencies and necessities of the case may demand; and whether the defense and protection of the United States and their interests make it necessary and wise to retain military possession of such forts, places, and other property except at Key West and Tortugas, and to recapture and reoccupy such others as the United States have been deprived of by seizure or surrender, for any other purpose, and with a view to any other end, than the subjugation and occupation of those States which have assumed the right to secede from the Union, and within whose limits such forts and other public property are situated," &c.

Listen to that, Senators, coming from the pen of a man whose loyalty to the Government was never disputed—a Democrat to be sure, if that be a crime; but as a Democrat, as did thousands and hundreds of thousands of others, the moment it became certain that a war against the Union was to be carried on for the purpose of destroying the Government by the southern States, he at once rallied himself under the flag of that Government; and yet, in March, 1861, he proposes an inquiry of the Secretary of War, one portion of which was to inform the Senate whether, under the circumstances, it was advisable for the Government to retain the forts. Was that treason? He made a speech upon the occasion in support of his resolution, from which I will read a sentence or two:

"The public mind now is greatly disturbed by apprehensions of civil war. The inaugural address of the President is understood by many in both sections of the Union as indicating a war policy. If we allow these apprehensions to ripen into a conviction that the Administration does meditate a war policy to reduce to subjection the seceded States by military force, I apprehend that we shall find a terrific issue precipitated upon us in a shorter time than many of us imagine. I do not believe such to be the policy of the President. I do not so understand his inaugural."

What else occurred? The honorable member from Pennsylvania [Mr. CAMERON] was the Secretary of War. Nobody doubted then, or has doubted since, his loyalty. What did he do, or rather what did he omit to do? Whether he acted upon his own judgment or under the advice and control of his chief I know not; but, if either, the purpose for which I use the fact is the same. What did the Secretary of the Navy do? One of your navy-yards was in the command of Captain Buchanan, supposed at the time, and, I imagine, correctly supposed, to be one of the best officers in the Navy. He sent or delivered in person his resignation to the Secretary of the Navy, and the Secretary received it. I thought at the time he ought to have been arrested. Nobody dreamed that the Secretary was disloyal.

Mr. CAMERON. Will the Senator allow me to interrupt him for a single moment?

Mr. JOHNSON. Certainly.

Mr. CAMERON. I believe he alluded to me, but I did not understand what he said. I should be very glad to hear what the reference was.

Mr. JOHNSON. I have not said anything yet about the honorable member, except to mention his name. I propose to say a word or two, and if I am incorrect in my facts he will set me right. What did the honorable member do as Secretary of War? I think that I am not mistaken in saying that General Robert E. Lee, who afterward became general-in-chief of the confederates, delivered his resignation to him by his own hand; and so did several other officers of the Army. Why did he not arrest them? What must he not have known was the purpose which governed them? Lee in the Army stood as high and even higher than Buchanan in the Navy. Each was permitted to resign, and each, a few days afterward, was found in the confederate service.

Mr. CAMERON. Will the Senator now allow me to interrupt him for a moment?

Mr. JOHNSON. Certainly.

Mr. CAMERON. The Senator has not exactly placed the resignation of General Johnston in its proper light. The facts are about these: General Johnston was, as the Senator from Maryland says, a most valuable officer. Officers of the Army were resigning or running away daily, almost hourly. The largest portion of the men who were considered the most valuable had left the service. The Secretary of War at that day was told that this gentleman was going to leave the service because he believed that he was suspected by the Administration of not being faithful. He was sent for by the Secretary of War, who said to him that he had entire confidence in his ability and integrity, and begged that he would not leave the service with any wrong impression. He immediately said to me that he regretted that he had decided to leave; that this rebellion was wrong; that everybody engaged in it was acting improperly and unfaithfully to the Government, and that he never intended to take part against the Government. But he said he was controlled by influences which he could not counteract; that he was compelled to resign. I believed at the time that the influences referred to were those of his wife's family; but I have been told since that that was not so. At all events I should have arrested him, if I had not sent for him into my room, and in some measure got him to commit himself to me. I have always regretted that I did send for him, and that I did not wait until he had committed the overt act, and then arrested him.

Mr. JOHNSON. It is as I supposed, Mr. President; the honorable member gave no orders to arrest him.

Mr. CAMERON. No.

Mr. JOHNSON. Now, suppose my honorable friend was an applicant for admission upon this floor, and he was to fall under the suspicion of the Senator from Michigan and the charge against him was that he had failed to arrest a man whom he could have arrested before he went into the confederate service, and who became after he went into it the tower of its strength, and he had made the explanation that he makes now. The honorable member from Michigan would say, "it is all an artifice got up for the purpose." My friend is not to suppose that I entertain any such suspicion. I know better. I have no doubt that he was governed by the motives which he has just stated to us; but, in my judgment, he made a great mistake. I was here at the time, sensibly alive to the dangers. I had no conversation with the honorable member on that subject.

Mr. CAMERON. Will the Senator allow me to interrupt him once more?

Mr. JOHNSON. Certainly.

Mr. CAMERON. I think it was a mistake; but I corrected the mistake afterward by arresting the Legislature of Maryland to keep them from taking that State out.

Mr. JOHNSON. I know you did; but that was not much of a correction, for the Legislature of Maryland could not have done any harm, but General Lee did an immense deal. But, sir, General Lee was only one of many. The archives of the office of Secretary of War are filled with the resignations; and in no single instance that I know of, was there an arrest. I mention it not for the purpose of charging any want of loyalty to the Government on the part of the honorable member from Pennsylvania, for I know ——

Mr. CAMERON. I am afraid there has been a mistake here.

Mr. JOHNSON. Not at all.

Mr. CAMERON. I thought the Senator mentioned the name of Johnston, General Joseph E. Johnston, who was quartermaster general of our Army. I referred to him.

Mr. JOHNSON. No; Lee.

Mr. CAMERON. The circumstances about Lee are very different. If the Senator wants that story I will tell it, but I do not think it will add much to his case.

Mr. JOHNSON. He was not arrested. That was all I wanted to bring out.

Mr. CAMERON. I will tell you why he was not arrested. General Lee called on a gentleman who had my entire confidence, and intimated that he would like to have the command of the Army. He assured that gentleman, who was a man in the confidence of the Administration, of his entire loyalty, and his devotion to the interests of the Administration and of the country. I consulted with General Scott, and General Scott approved of placing him at the head of the Army. The place was offered to him unofficially, with my approbation, and with the approbation of General Scott. It was accepted by him verbally, with the promise that he would go into Virginia and settle his business and then come back to take command. He never gave us an opportunity to arrest him; he deserted under false pretenses. I should have arrested him in a moment if I had had a chance at him, and I have always regretted that I never did get that chance. I thought the Senator referred before to the case of Joseph E. Johnston, who was the quartermaster general, and it was of him I spoke first. In regard to General Lee's case, I think he behaved worse than any of the men who acted so treacherously to the Government.

Mr. JOHNSON. Did I understand the honorable member to say that General Lee made the statement which he now mentions to him, or that he got it through a third party?

Mr. CAMERON. Through a gentleman who had my confidence and in whom I relied entirely.

Mr. JOHNSON. That is another matter. The statement was not made to the honorable member.

Mr. CAMERON. I have no doubt of its truth.

Mr. JOHNSON. That I am equally sure of; but I doubt very much its truth. It is not

in keeping with the character of General Lee. [Laughter.] Gentlemen may laugh, but I say to the honorable member from California, who indulges in merriment, that General Lee is as honorable a man as any man to be found in the State of California. He has offended; that I admit.

Mr. CONNESS. I suppose the honorable Senator will permit me to reply to him, as he has just now replied to the Senator from Pennsylvania——

Mr. JOHNSON. Certainly I will.

Mr. CONNESS. I reply that I have no doubt that is the Senator's opinion, but it is not mine.

Mr. JOHNSON. That I understand. The honorable member need not have interrupted me for that, for he said so in advance.

Mr. CONNESS. I ask the Senator's pardon; I had heard just such an answer from him.

Mr. JOHNSON. I am perfectly willing that my opinion and his shall go before the country to be judged of by the great tribunal of the people.

Now, Mr. President, we have been told that Mr. Thomas is obnoxious to objection upon the ground that he concurred with Mr. Buchanan in saying that there would be no war waged against a State. That is nothing new. Nobody ever supposed that there could be, by Congress or by any department of the Government, war waged against a State; and the error, the capital and the fatal error of the President of that day, was in confounding the authority to declare war against a State with the duty of enforcing—as against the citizens of the State—obedience to the Constitution and laws of the land. Sir, when gentlemen charge Mr. Thomas with doing what I have no knowledge at all that he did do—concur with the President in the opinion that war could not be carried on against a State—they should remember what the Supreme Court said, while the war was going on, in the cases known as the prize cases, upon that point:

"By the Constitution, Congress alone has the power to declare a national or foreign war. It cannot declare war against a State or any number of States by virtue of any clause in the Constitution."

That is what President Buchanan said; and even supposing that my colleague concurred in that doctrine, he has a right to refer for an authority in support of it to the unanimous decision, as far as that point is concerned, of the Supreme Court of the United States that under the Constitution of the United States neither Congress nor any department of the Government has any authority to declare war against a State.

Mr. CONNESS. Will the honorable Senator permit me to interrupt him for a moment?

Mr. JOHNSON. Certainly.

Mr. CONNESS. In speaking I spoke of the doctrine of the Government not having the right to declare war against a State, only because that language had been so used generally. For my own part I regarded it always, and do now, as one of the meanest fictions and pretenses ever gotten up, when Mr. Buchanan presented it in the first instance as a fiction, not a reality.

Mr. JOHNSON. In that "meanest of pretense," the Supreme Court seems to have participated.

Mr. CONNESS. The Senator does not understand me. I say that in my opinion it was a pretense, as stated by Mr. Buchanan. Everybody admits the proposition as stated by the Supreme Court, but that condition of things did not exist.

Mr. JOHNSON. Then the proposition is true that no war can be carried on against a State, and that is what Mr. Buchanan said. The motive for saying it, whether it was resorted to for the purpose of avoiding his constitutional obligation to enforce, as against the citizens of the States, obedience to the Constitution and laws of the United States, is another question. I refer to it now merely to satisfy the honorable member and the Senate that, under the Constitution of the United States, a State cannot be in a state of war with the United States.

Mr. President, I implore Senators maturely to consider the principle which they will establish if they reject my colleague from his seat. His present loyalty nobody calls in question. He is said, however, at one time to have entertained opinions inconsistent with a true loyalty. Suppose he did; is he to be excluded on the ground that he entertained opinions not in consonance with those entertained by the majority of the Senate? Where are you to stop if difference of political opinion is to be sufficient ground of exclusion? May not difference of moral character also be sufficient ground? When you leave the standard of the law you are at sea, and no man can tell where you will stop.

Mr. President, in the judgment of a large portion of the people of the United States, supposed by many to be a large majority of the people of the United States, the legislation which has been already adopted by a majority of this body and of the other branch of Congress, and that which it is proposed to adopt, violates the Constitution in several of its most important provisions. It subjects ten of the States of the Union to what in the opinion of many is esteemed to be a mere military despotism. I charge no such thing as intended on the part of Senators; but that is the charge, and that is the impression which is evidently fastened upon the minds of a large number of the people.

Now, suppose that the predominance of party power shall be changed, and that the men who entertain the opinion I have just stated shall constitute a majority of the members of this body, if any member of the present majority who has voted for these laws and who proposes to vote for the measures upon the table shall be reëlected and demands admission under this precedent, if you shall establish it, he may be excluded; and I greatly fear that it will lead to dangers unheard of. I repeat, I implore honorable gentlemen, instead of adopting a harsh measure of this kind, to avoid any and every thing which looks to the continuance of the present disorganized condition of the country, its almost total demoralization, and as far as possible to let by-gones be by-gones, and show by their conduct, wherever they can do it without a violation of obvious duty, that they desired to again take by the hand those who differed with them during the late civil war.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution offered by the Senator from Maryland, on which question the yeas and nays have been ordered.

Mr. HOWE. Before the vote is taken I desire to say that on this question I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If I voted I should vote for the resolution; and if the Senator from Vermont voted he would vote against it.

The question being taken by yeas and nays resulted—yeas 21, nays 28; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Davis, Dixon, Doolittle, Fessenden, Frelinghuysen, Grimes, Hendricks, Johnson, Norton, Patterson of Tennessee, Ross, Saulsbury, Tipton, Trumbull, Van Winkle, Willey, and Williams—21.

NAYS—Messrs. Cameron, Cattell, Chandler, Conkling, Conness, Corbett, Cragin, Drake, Ferry, Fowler, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Wade, Wilson, and Yates—28.

ABSENT—Messrs. Edmunds, Guthrie, Howe, and Nye—4.

Mr. DRAKE. I offer now the resolution which I previously laid on the desk, and which I ask to have read.

The Secretary read the following resolution:

Resolved, That Philip F. Thomas, having voluntarily given aid, countenance, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Senator of the United States from the State of Maryland, or to hold a seat in this body as such Senator; and that the President *pro tempore* of the Senate inform the Governor of the State of Maryland of the action of the Senate in the premises.

Mr. DRAKE. On that resolution I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 20; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Conkling, Conness, Corbett, Drake, Ferry, Fowler, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Wade, Wilson, and Yates—27.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cole, Davis, Dixon, Doolittle, Fessenden, Frelinghuysen, Hendricks, Johnson, Norton, Patterson of Tennessee, Ross, Saulsbury, Tipton, Trumbull, Van Winkle, Willey, and Williams—20.

ABSENT—Messrs. Cragin, Edmunds, Grimes, Guthrie, Howe, and Nye—6.

So the resolution was agreed to.

ORDER OF BUSINESS.

Mr. YATES. Not for the purpose of its being considered now, but that it may be left as the unfinished business to come up to-morrow, I will move that the Senate proceed to the consideration of the bill (S. No. 11) for the admission of the State of Colorado into the Union.

Mr. SHERMAN. I move that the Senate adjourn; and I give notice that I shall to-morrow move to take up the funding bill. We can hardly settle the question of precedents now; and therefore I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 19, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the unfinished business pending at the adjournment last evening, under the operation of the previous question on the amendments reported by the Committee of the Whole to the legislative and executive appropriation bill, on which the gentleman from Illinois [Mr. WASHBURNE] is entitled to the floor one hour.

Mr. WASHBURNE, of Illinois. I will yield to the gentleman from Ohio, [Mr. LAWRENCE.]

LAW DEPARTMENT.

Mr. LAWRENCE, of Ohio, by unanimous consent, from the Committee on the Judiciary, reported a bill (H. R. No. 765) to establish a law department; which was read a first and second time.

Mr. LAWRENCE, of Ohio. The Committee on the Judiciary have had under consideration a resolution sent to them in these words:

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
December 12, 1867.

On motion of Mr. WILLIAM LAWRENCE,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law that solicitors in the Departments of the Government and other law officers shall all constitute a part of the Attorney General's department.

Attest: EDWARD McPHERSON. *Clerk.*

In pursuance of that resolution a bill has been prepared, which I am directed to report to the House. It proposes to establish a law department of the Government.

It is a fact perhaps not generally known that while there is a War Department, a Navy, Interior, Treasury, Post Office, and State Department, there is no law department. The Attorney General is a mere "officer," and, unlike the other Cabinet officers, is not the "head" of a department. Every one of the Departments has one or more law officers responsible to no common head, each giving different constructions frequently to the same laws, thus creating a constant conflict between the Departments. The law officers of the different Departments are some or all of them engaged in construing the same laws, thus requiring the same work of different officers at the same time. These offices have been created from time to time as the public necessity seemed to require. They are presented in the following table, showing the names of the officers, their salaries, and the annual expense of the law officers of the Government at Washington:

Name of Officer.	Acts of Congress creating office and fixing salary.	In what volume U. S. Statutes-at-Large.	Page of Brightley's Digest.	Present salary per year.	Total salary.	Officers under the bill.	Salary.	Offices abolished.	Salary of abolished offices.
1. Attorney General	Sept. 24, 1789, sec. 35; March 3, 1853, sec. 4	1 Statutes, 93; 10 Statutes, 212	92; 818	$8,000	$8,000 00	Attorney General	$8,000		
2. Assistant Attorney General	March 3, 1859; March 3, 1865	11 Statutes, 420; 13 Statutes, 516	1089; 50 sup.	3,500	3,500 00	Assistant Attorney General	3,500		
3. Chief clerk	March 3, 1865	13 Statutes, 516	50 sup.	2,200	2,200 00	Chief clerk	2,200		
4. Two clerks	March 3, 1865	13 Statutes, 516	50 sup.	1,800	3,600 00	Two clerks	3,600		
5. Two clerks	March 3, 1865	13 Statutes, 516	50 sup.	1,600	3,200 00	Two clerks	3,200		
6. Temporary clerks	March 3, 1865	13 Statutes, 516	50 sup.	1,200; 1,000	2,200 00	Temporary clerks	2,200		
7. Examiner of claims in the State Department	July 25, 1866, sec. 2	14 Statutes, 226		3,000	3,000 00	Solicitor in the Bureau of International Law	3,500		
8. Solicitor of Treasury	May 29, 1830; March 3, 1863, sec. 11	4 Statutes, 414	883	3,500	3,500 00	Solicitor in the Bureau of Revenue Law	3,000		
9. Three clerks	March 3, 1863, sec. 2	12 Statutes, 739	182 sup.	1,600	4,800 00				
10. Seven clerks	March 3, 1853, sec. 3	10 Statutes, 209	134	1 at 1,200; 2 at 1,400; 3 at 1,600; 1 at 1,800	1,200 00; 2,800 00; 4,800 00; 1,800 00	The clerks in the office of the Solicitor of the Treasury are transferred	15,400		
11. Messenger	May 29, 1830, sec 11	4 Statutes, 414	884	500	500 00	One messsenger	900		
12. Assistant Solicitor of the Treasury	July 23, 1866, sec. 5	14 Statutes, 207		3,000	3,000 00	Assistant Solicitor in Bureau of Revenue Law	2,500		
13. Solicitor of Internal Revenue	July 12, 1866	14 Statutes, 170		4,000	4,000 00			Solicitor of Internal Revenue	$4,000 00
14. Solicitor of the Court of Claims	Feb. 24, 1855, sec. 2; March 3, 1863	12 Statutes, 765	198; 98 sup.	3,500	3,500 00	Solicitor in Bureau of the Court of Claims	3,500		
15. Assistant Solicitor	August 6, 1856, sec. 2	11 Statutes, 30	200	3,500	3,500 00	First Assistant Solicitor in the Bureau of the Court of Claims	3,000		
16. Deputy Solicitor	August 6, 1856, sec. 2	11 Statutes, 30	200	2,500	2,500 00	Second Assistant Solicitor in Court of Claims	2,500		
17. Messenger				750	750 00	One messenger	750		
18. Auditor of the Post Office Department*	July 2, 1836, sec. 8-14; July 3, 1836, sec. 44	5 Statutes, 80; 5 Statutes, 84	762; 761	3,000	3,000 00	Solicitor in the Bureau of Postal Law	3,000		
19. Judge Advocate General, as head of the Bureau of Military Justice, a part of the War Department "during the continuance of the present rebellion," made permanent by act of July 28, 1866	June 20, 1864, sec. 5; July 17, 1862, sec. 5 and 6; July 28, 1866, sec. 12	13 Statutes, 145; 12 Statutes, 598; 14 Statutes, 334	26 sup.	Rank, pay, and allowance of Brigadier General	4,273 19†; 1,400 00‡			Judge Advocate General after April 1, 1869	5,673 19
20. Assistant Judge Advocate General	July 28, 1866, sec. 12	14 Statutes, 334	26 sup.	Rank, pay, and allowance of Colonel of Cavalry	3,075 20‖; 1,400 00‖			Assistant Judge Advocate General after April 1, 1869	4,475 20
21. One fourth-class clerk, one third-class, one second-class, two first-class clerks	July 28, 1866, sec. 12	14 Statutes, 334	26 sup.	1,800; 1,600; 1,400; 2 at 1,200	1,800 00; 1,400 00; 1,600 00; 2,400 00	One fourth-class clerk ¶; One third-class clerk ¶	1,800; 1,600	One second-class clerk; Two first-class clerks	1,400 00; 1,200 00; 1,200 00
22. "Solicitor and Naval Judge Advocate General," an "officer in the Navy Department" "for service during the rebellion and one year thereafter" **	March 2, 1865; March 2, 1867, sec. 1	13 Statutes, 468; 14 Statutes, 450		3,500	3,500 00			Solicitor and Naval Judge Advocate General	3,500 00
23. Solicitor of the War Department	Feb. 20, 1863, sec. 3; Repealed by act of July 28, 1866, sec. 26	12 Statutes, 656; 14 Statutes, 337		2,500	2,500 00	Solicitor of Bureau of Military and Naval Law	3,000	Solicitor of the War Department abolished and Solicitor of Bureau of Military and Naval Law created. Sundry messengers.	
24. Solicitor of the General Land Office††	July 4, 1836, sec. 5	5 Statutes, 662				Solicitor of the Bureau of Land Law	3,500		
25. The amounts paid for legal assistance for the Attorney General in the United States Supreme Court were as follows: For the fiscal year ending June 30, 1865—To Mr. Coffee $2,000; To Mr. Wills 3,000; To Mr. Eames 1,500; Total 6,500. For year ending June 30, 1866: To Mr. Coffee $4,000; To Mr Wills 3,000; To Mr. Stanbery 3,500; To Mr. Butler 2,500; Total 13,000. For year ending June 30, 1867: To Mr. Wills $3,000; To Mr. Coffee 1,000; To Mr. Avery 300; To Mr. Russell 3,500; Total 7,800. Total for three years 27,300. Average each year $9,100				Average of amounts paid assistant counsel in the Supreme Court of the United States for three years, ending June 30, 1867	9,100 00	Solicitor General; Solicitor of the Bureau of Patent Law; Stenographic clerk for Attorney General	6,000; 3,000; 2,000		
				Total annual expense of the system heretofore in force	$97,798 39	Expenses of the new system	$81,650		

*The legal duties of this office under section fourteen of this act are performed by a fourth-class clerk, called "Solicitor of the Sixth Auditors' office," though no law creates such office. See, also, act of March 3, 1825, 4 Statutes, 102.
†This includes the thirty-three and one third per cent. increase by act of March 2, 1867. ‡Commutation for fuel and quarters. ‖Including increase by act of March 2, 1867. ¶To be transferred from the Bureau of Military Justice to the Bureau of Military and Naval Law. ** He continues in office now. †† Abolished June 12, 1844, but its duties are devolved upon the Recorder or such employé in the General Land Office as the Commisssoner shall designate.

This does not include expenses of counsel employed by the various Departments in the Court of Claims and for services otherwise at Washington, which would probably reach $10,000, and which, with the additional twenty per cent. to civil employés, authorized by the joint resolution of Congress of February 28, 1867, amounting to about eight thousand eight hundred and fifty dollars, makes the total annual cost $116,648 39.

The Secretary of the Treasury, in his last annual report, referring to the accounting officers of his Department, says:

"The Secretary respectfully recommends the reorganization of the accounting offices of the Treasury Department, so as to place this branch of the public service under one responsible head, according to what seems to have been designed in the original organization of the Department, and followed until the increase of business led to the creation of the office of Second Comptroller, and subsequently to that of Commissioner of Customs. There are now three officers controlling the settlement of accounts, each independent of the others, and, as a consequence, the rules and decisions are not uniform where the same or like questions arise. In the judgment of the Secretary the concentration of the accounting offices under one head would secure greater efficiency, as well as greater uniformity of practice, than can be expected under a divided supervision. It is believed, also, that it would be advantageous to relieve the Commissioner of Customs of the duty of settling accounts, and to confine his labors to the supervision of the revenue from customs, now sufficiently large to demand his whole time. It is therefore recommended that the office of Chief Comptroller be created, having general supervision of the accounting officers and appellate jurisdiction from their decisions, to which should be transferred the duty of examining and countersigning warrants on the Treasury and of collecting debts due the Government, now constituting a part of the duties of the First Comptroller; and that the adjustment of accounts pertaining to the customs be restored to the latter office."

The reasons here presented apply with greater force to the law officers of the Government. The law officer of the internal revenue department is required to decide questions affecting the business interests of the whole country without the sanction or approval of the Attorney General. To remedy the defects of the present system this bill proposes to establish a "law department," of which the Attorney General shall be the "head." It provides for bureaus in the law department of "international law," "revenue law," "military and naval law," "postal law," "patent law," "land law," and of the "Court of Claims;" with a principal officer, to be called a solicitor, for each of said bureaus. Assistant solicitors are provided in the bureau of revenue law and of the Court of Claims.

It provides for the transfer to these bureaus of the solicitors and assistant solicitors and other law officers now in the different Departments, and leaves them in office until April 1, 1869, when new officers may be appointed by and with the advice and consent of the Senate. It proposes to abolish the office of Judge Advocate General and of Solicitor and Naval Judge Advocate General. It proposes to abolish the office of Solicitor of Internal Revenue, devolving his duties on the solicitors of the bureau of revenue law. It requires the approval of the Attorney General to all opinions, and thereby secures uniformity in the construction and administration of all laws. It requires an annual report from the law department of its operations, including the statistics of crime, national and State. It requires the officers established by the bill to perform all legal duties of the Departments and of the Government at Washington, and puts an end to the favoritism and expense heretofore existing of employing extra counsel in cases. In some cases the Attorney General or Solicitor General may manage cases in the circuit courts, and thus save the expense of employing assistant counsel there. The whole expense of the law department is estimated at about one fourth less than the expenses now incurred. I move that the bill be printed, and recommitted to the Committee on the Judiciary.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SURRENDER OF CRIMINALS.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from Iowa.

Mr. WILSON, of Iowa, by unanimous consent, from the Committee on the Judiciary, reported back a bill (H. R. No. 719) for the surrender of persons convicted of certain crimes.

The bill was read. It enacts that no person who may have been duly convicted and adjudged guilty of murder, piracy, assassination, arson, robbery, or forgery, and whose conviction has not been reversed, shall be allowed to enter or remain in the United States.

Section two authorizes the President of the United States, upon the production of satisfactory proof that the person so convicted of either of the said crimes as aforesaid has entered, or is about to enter, the United States, to return, or to cause to be returned, such convict to the country from which he came or in which he may have been so convicted.

Mr. WILSON, of Iowa. I am directed by the Committee on the Judiciary to report two amendments to this bill which I think will remove any objection that might be brought against it. The first amendment is to insert after the word "duly," in the first section, the words "arrested, tried." The second amendment is to insert in the second section, after the word "so," the words "arrested, tried, and."

Mr. CHANLER. I desire to ask if there is anything in the bill which changes the usual practice of insisting upon conviction before surrender?

Mr. WILSON, of Iowa. It provides that the party shall have been arrested, tried, and convicted.

Mr. CHANLER. I did not hear the words.

Mr. WILSON, of Iowa. The purpose of the bill is simply this, to prevent persons in foreign countries who have committed the crimes of murder, robbery, arson, or one or two other of the higher grades of crimes mentioned in the bill, from seeking an asylum in the United States.

I will state that the particular case which gives rise to this bill is one which demands immediate action, but I do not feel authorized to state the circumstances of the case, because such a statement might defeat the object. In that particular instance it is of pressing importance that it should be passed, and it interferes with no person except a person who has been arrested, tried, and duly convicted of one of these high crimes and has escaped from the jurisdiction which convicted him and is seeking an asylum in the United States.

Mr. CHANLER. I would ask the gentleman the further question, if this bill touches those cases which have arisen in our intercourse with foreign nations relating to desertion under the military laws of foreign countries?

Mr. WILSON, of Iowa. Oh, no; it has no reference to cases of that kind.

Mr. CHANLER. Does it directly and practically protect our citizens from foreign laws in that respect? That is a question of some importance.

Mr. WILSON, of Iowa. It has no reference to cases of that kind nor to the protection of citizens of the United States in any foreign country. It merely operates to protect the United States against the presence of persons duly convicted of these high crimes, and who seek an asylum within the United States. That is all.

Mr. CHANLER. My object is simply to prevent any construction of this law by implication which would bring our citizens under any charge of the kind I have mentioned.

Mr. WILSON, of Iowa. There can be none whatever.

Mr. WILLIAMS, of Pennsylvania. I was not present at the meeting of the Judiciary Committee when this bill was considered. I have no objection to it except in one particular. It strikes me that its phraseology needs correction. If I heard it correctly, it provides for the surrender, not only of persons who have entered the country, but of such as are "about to enter" it. Now, we cannot do that; we cannot return parties who are about to come into the country.

Mr. WILSON, of Iowa. I do not think the gentleman's point is well taken against the bill, because it merely authorizes the President to act, and the President can only act within the jurisdiction of the United States. But the gentleman will at once see that a person may be on board an American ship and before he sets foot upon American soil—except that which is practically American soil, the deck of an American ship—he may be surrendered by the President under the operation of this bill. I ask the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ROBINSON. I would ask the gentleman from Iowa if this bill would include persons convicted of treason?

Mr. WILSON, of Iowa. That crime is not mentioned in the bill.

Mr. ROBINSON. If that is so I have no objection to the bill. But there might be such a thing as shutting out an Emmet or a Kossuth.

Mr. JUDD. I desire to ask the chairman of the Judiciary Committee if this bill would not, by its terms, exclude from this country a party who may have been convicted of these crimes and afterward pardoned by his own Government?

Mr. WILSON, of Iowa. Why, not at all.

Mr. JUDD. I so understand the language; perhaps I am mistaken.

Mr. WILSON, of Iowa. The gentleman is entirely mistaken. The President cannot surrender, under the terms of this bill, the subject of any other country seeking an asylum in the United States unless the conviction is still operating.

Mr. JUDD. I desire to ask an additional question. Suppose a party has served for the term for which he was convicted, and he comes to this country twenty years afterward; is this bill intended to exclude such a person?

Mr. WILSON, of Iowa. Certainly not; and it could not by any possibility be so construed.

The question was upon the passage of the bill.

Mr. WILSON, of Iowa. Upon that question I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. MYERS. I desire to make a statement in regard to my vote upon the bill passed yesterday appropriating $50,000 for the relief of American citizens abroad. My vote is recorded in the negative. I voted in the affirmative, and then changed my vote under a misapprehension. I am in favor of the bill.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CHANLER. I call for the regular order.

The SPEAKER. The regular order is the legislative, executive, and judicial appropriation bill, which has been reported from the Committee of the Whole with sundry amendments. The previous question has been ordered, and the gentleman from Illinois [Mr. WASHBURNE] is entitled to the floor for one hour.

Mr. WASHBURNE, of Illinois. I am instructed by the Committee on Appropriations to ask consent of the House to withdraw the

additional section which I moved yesterday as an amendment, and upon which the point of order was raised.

The SPEAKER. The gentleman has a right to withdraw the amendment, no action having been taken upon it.

Mr. WASHBURNE, of Illinois. I believe it was the understanding that I should take my hour as we went over the amendments; I hope not to take the fifth part of it. I would, therefore, ask the Clerk to read the amendments for action at this time, and if I think it necessary to make any statements I will do so as they are read.

The SPEAKER. All time taken up by acting upon these amendments will come out of the gentleman's hour.

Mr. WASHBURNE, of Illinois. Very well.

The first amendment was to the clause making appropriations for the compensation and mileage of Senators, by striking out "$430,000" and inserting "$320,000."

Mr. WASHBURNE, of Illinois. I hope that amendment will be adopted.

The amendment was agreed to.

The second amendment was to add to the same clause the following:

In addition to any unexpended balance of appropriation for that purpose in the Treasury.

Mr. WASHBURNE, of Illinois. I hope that amendment will be adopted.

The amendment was agreed to.

The third amendment was to strike out the following:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, namely: Secretary of the Senate, $3,600; officer charged with disbursements in the Senate, $480; chief clerk, $2,500; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at $2,160 each; eight clerks in office of the Secretary of the Senate, at $1,850 each; keeper of the stationery, $1,752; two messengers, at $1,080 each; one page, at $500; Sergeant-at-Arms and Doorkeeper, $2,000; assistant doorkeeper, $1,700; postmaster to the Senate, $1,750; assistant postmaster and mail carrier, $1,440; two mail boys, at $1,000 each; superintendent of the document-room, $1,500; two assistants in document-room, at $1,200 each; superintendent of the folding-room, $1,500; three messengers, acting as assistant doorkeepers, at $1,500 each; seventeen messengers, at $1,200 each; clerk or secretary to the President of the Senate, $1,752; clerk to the Committee on Finance, $1,850; clerk to the Committee on Claims, $1,850; clerk of printing records, $1,850; clerk to the Committee on Appropriations, $1,850; superintendent in charge of the furnaces, $1,200; assistant in charge of furnaces, $864; three laborers, (one in charge of private passages,) at $864 each; Chaplain to the Senate, $750; one special policeman, $864; making $84,745.

And to insert in lieu thereof the following:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, namely: Secretary of the Senate, $4,320; officer charged with disbursements of the Senate, $576; chief clerk, $3,000; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at $2,592 each; eight clerks in office of the Secretary of the Senate, at $2,220 each; keeper of the stationery, $2,102 40; two messengers, at $1,296 each; one page, at $720; Sergeant-at-Arms and Doorkeeper, $2,400; assistant doorkeeper, $2,040; postmaster to the Senate, $2,100; assistant postmaster and mail carrier, $1,728; two mail boys, at $1,200 each: superintendent of the document-room, $1,800; two assistants in document-room, at $1,440 each; superintendent of the folding-room, $1,800; three messengers, acting as assistant doorkeepers, at $1,800 each; seventeen messengers, at $1,440 each; clerk or secretary to the President of the Senate, $2,102 40; clerk to the Committee on Finance, $2,220; clerk to the Committee on Claims, $2,220; clerk to the Committee on Printing Records, $2,220; superintendent in charge of the furnaces, $1,440; assistant in charge of furnaces, $864; laborer in charge of private passages, $864; two laborers, at $864 each; Chaplain to the Senate, $900; one special policeman, $864; making $98,704 80.

Mr. WASHBURNE, of Illinois. That amendment involves the twenty per cent. question. Now, in order to have the question fairly settled, I appeal to gentlemen who are interested in this amendment to agree to modify it. As I have already stated more than once, twenty per cent. has been added to all salaries of less than $1,000. This amendment proposes to add the twenty per cent. twice. I suppose it was not the intention of the gentleman who offered the amendment in Committee of the Whole [Mr. WOODBRIDGE] to double the twenty per cent. on the laborers, for instance.

Mr. WOODBRIDGE. I did not so intend. I do not want to add twenty per cent. to those who have already had twenty per cent.

Mr. WASHBURNE, of Illinois. Then I would suggest the adding the following proviso to the amendment:

Provided, None of the twenty per cent. hereby appropriated shall be applied to the salary of any person whose pay is not $1,000.

Mr. LOGAN. I would suggest to my colleague to say "where it has been otherwise allowed."

Mr. WASHBURNE, of Illinois. I presume we all want to accomplish the same thing, not to double the twenty per cent. to any of these parties. I would suggest to those who favor this amendment to prepare some provision to secure that object while the yeas and nays are being taken upon the original amendment. I ask for the yeas and nays on that amendment.

I do not propose to take up any time in discussing this question any further. It was discussed very fully in committee. I believed then, as I believe now, that we cannot, as consistent and just legislators, vote for the payment of this twenty per cent. It will take some forty-six thousand dollars to pay the twenty per cent. upon the salaries of the officers of the House and the Senate; and if this amount be appropriated I say to gentlemen that we must vote the twenty per cent. to all the employés of the Government, not only here but everywhere else.

Mr. WOODBRIDGE. Will the gentleman yield to me a moment for an explanation?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. WOODBRIDGE. The bill as reported by the Committee on Appropriations provided for the payment of the employés of the House and the Senate, designating the sums which they should receive. Now, I understand from the gentleman that in all cases where the salary was below $1,000 the committee added the twenty per cent.

Mr. WASHBURNE, of Illinois. Yes, sir; the bill was reported in that way.

Mr. WOODBRIDGE. My amendment does not affect that proposition one way or the other, because by the amendment the entire paragraph providing for these salaries is stricken out of the bill and the corresponding paragraph from the act of last year is inserted.

Mr. WASHBURNE, of Illinois. If that be so there is no necessity for the modification which I have suggested. I understood that the gentleman's amendment was to add twenty per cent. to the amount specified in the bill. I ask that the amendment be again read.

The Clerk again read the amendment.

Mr. WASHBURNE, of Illinois. I see that the statement of the gentleman from Vermont [Mr. WOODBRIDGE] is correct. There is no necessity for the modification which I have suggested. I demand the yeas and nays on the amendment of the gentleman from Vermont.

The yeas and nays were ordered.

Mr. WASHBURNE, of Illinois. I wish it understood by the House that a vote ay on this question is to add twenty per cent. to the salaries provided for by the bill. For instance, the salary of the Secretary of the Senate as named in the bill is $4,600. The amendment of the gentleman from Vermont, if carried, will make the salary $4,320.

Mr. LOGAN. Will the gentleman from Illinois [Mr. WASHBURNE] allow me one word by way of explanation?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. LOGAN. The amendment of the gentleman from Vermont, if adopted, will give the Secretary of the Senate just what the law now gives him.

Mr. WASHBURNE, of Illinois. The same argument would apply with regard to many other things which were stricken out.

Mr. LOGAN. That does not make any difference. I want it understood that the amendment of the gentleman from Vermont simply carries out the existing law.

Mr. FARNSWORTH. Will my colleague [Mr. WASHBURNE, of Illinois] yield to me a moment?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. FARNSWORTH. I only desire to say that, as the House in Committee of the Whole voted down the amendment offered by myself to increase the pay of night watchmen from $700 to $900, (these men now get only $700,) I shall, in order to be consistent with that, vote against this amendment; for when the House refuses to give $900 a year to men who serve from twelve to fifteen hours a day the whole year round, I certainly will not vote to pay these large salaries to the employés of the House and Senate who serve only during the sessions of Congress. I desire to increase, in the first place, the pay of the men receiving small salaries, who have families as well as others. When the House will be consistent and increase their pay I will go for increasing the pay of those receiving larger salaries. As much has been said here with regard to soldiers, I will say that it is among the night watchmen in the Department that you will find the soldiers, not among the employés about the Capitol.

Mr. HIGBY. Mr. Speaker——

Mr. WASHBURNE, of Illinois. I have only one hour to explain all these amendments, and I call for the vote.

The question was taken on agreeing to the fourth amendment reported from the Committee of the Whole, and it was decided in the affirmative, there being—yeas 89, nays 45, not voting 55; as follows:

YEAS—Messrs. Adams, Anderson, Archer, Arnell Delos R. Ashley, Banks, Barnum, Bingham, Blair, Boyer, Burr, Cary, Chanler, Reader W. Clarke, Coburn, Dodge, Driggs, Eckley, Eldridge, Eliot, Ferriss, Ferry, Getz, Glossbrenner, Golladay, Gravely, Griswold, Hopkins, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenckes, Jones, Judd, Kerr, Ketcham, Knott, Laflin, George V. Lawrence, Lincoln, Logan, Mallory, McCarthy, McCullough, Mercur, Miller, Moore, Moorhead, Morgan, Morrell, Mungen, Myers, Newcomb, Nicholson, Nunn, O'Neill, Paine, Peters, Phelps, Poland, Polsley, Robertson, Robinson, Schenck, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stokes, Stone, Taber, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Auken, Burt Van Horn, Van Trump, Van Wyck, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—89.

NAYS—Messrs. Allison, Ames, Baker, Beaman, Beatty, Boutwell, Bromwell, Broomall, Buckland, Sidney Clarke, Cobb, Cook, Cullom, Farnsworth, Fields, Haight, Halsey, Harding, Higby, Holman, Chester D. Hubbard, Humphrey, Hunter, Julian, William Lawrence, Loan, Loughridge, Mullins, Orth Perham, Pike, Plants, Price, Sawyer, Scofield, Shanks, Taylor, Trowbridge, Upson, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, and James F. Wilson—45.

NOT VOTING—Messrs. James M. Ashley, Axtell, Bailey, Baldwin, Barnes, Beck, Benjamin, Benton, Blaine, Brooks, Butler, Cake, Churchill, Cornell, Covode, Dawes, Dixon, Donnelly, Eggleston, Ela, Finney, Fox, Garfield, Grover, Hawkins, Hill, Hooper, Richard D. Hubbard, Hulburd, Johnson, Kelley, Kelsey, Kitchen, Koontz, Lynch, Marshall, Marvin, Maynard, McClurg, McCormick, Morrissey, Niblack, Pile, Pomeroy, Pruyn, Randall, Raum, Ross, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Van Aernam, Robert T. Van Horn, and Henry D. Washburn—55.

So the amendment was agreed to.

Fourth amendment:

Page 4, lines seventy-four and seventy-five, strike out the following:
For packing boxes for Senators, $3,500.

Mr. WASHBURNE, of Illinois. I hope that will not be concurred in. We have voted the same item for ourselves. It will only be a matter of conference between the two Houses.

The amendment was non-concurred in.

Fifth amendment:

Page 4, line eighty-one, strike out the following:
For miscellaneous items $25,000.

Mr. WASHBURNE, of Illinois. I hope that will be rejected. It is necessary the Senate should have this for miscellaneous items. We have voted it for ourselves.

The amendment was non-concurred in.

Sixth amendment:

Strike out from line eighty-six to line one hundred and twenty-three inclusive, as follows:
For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, namely:

Clerk of the House of Representatives, $3,600; chief clerk and one assistant, at $2,160 each; twelve assistant clerks, (including the Librarian,) at $1,800 each; one chief messenger; and the clerk to the Speaker, each at $4 80 per day; for three messsengers, at $1,200 each; one engineer, $1,500; three assistant engineers, at $1,200 each; six firemen, at $2 40 each per day; clerk to Committee of Ways and Means, $2,160; clerk to Committee on Appropriations, $2,160; clerk to Committee of Claims, $1,800; Sergeant-at-Arms, $2,160; clerk to Sergeant-at-Arms, $1,800; messenger to the Sergeant-at-Arms, $1,200; Doorkeeper, $2,160; first assistant doorkeeper, $2,160; Postmaster, $2,160; first assistant postmaster, $1,740; four messengers at $1,440 each; two mail boys, at $900 each; Chaplain, $750; two stenographers, $3,650 each; superintendent of folding-room, $1,800; superintendent and assistant of the document-room, at $4 80 per day each; eleven messengers, five at $1,500, and six at $1,200 each; twelve messengers during the session, at the rate of $1,200 per annum, $5,416 67, making a total amount of $107,530 67.

And in lieu thereof insert the following:

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, namely: Clerk of the House of Representatives, $4,320; chief clerk and one assistant, $2,592 each, $5,184; twelve assistant clerks, (including the Librarian,) at $2,160 each, $25,920; one chief messenger and messenger to the Speaker, at $5 76 per day each, $4,204 80; for three messengers, at $1,440 each, $4,320; one engineer, $1,800; three assistant engineers, at $1,440 each, $4,320; five firemen, at $2 40 each per day, $4,380; for clerk to Committee of Ways and Means, $2,592; clerk to Committee on Appropriations, $2,592; clerk to Committee on Public Lands, $2,160; clerk to Committee of Claims, $2,160; Sergeant-at-Arms, $2,592; clerk to the Sergeant-at-Arms, $2,160; messenger to the Sergeant-at-Arms, $1,440; Doorkeeper, $2,592; first assistant doorkeeper, $2,592; Postmaster, $2,592; first assistant postmaster, $2,088; five messengers, at $1,728 each; two mail boys, at $1,080 each; Chaplain of the House, $900; stenographers, $4,380; superintendent of folding-room, $2,160; superintendent and assistant of the document-room, at $5 76 per day each, $4,205 80; eleven messengers, five at $1,800 and six at $1,440; twelve messengers during the session, at the rate of $1,440 per annum, $11,520.

Mr. WASHBURNE, of Illinois. That is the twenty per cent. over again. The other was the test question. It is the same amendment for the House that was agreed to for the Senate.

Mr. LAWRENCE, of Ohio. I demand the yeas and nays.

Mr. WASHBURNE, of Illinois. We will gain nothing by that. We have already had the yeas and nays. I hope the gentleman will withdraw his demand.

Mr. LAWRENCE, of Ohio. I want them once more.

The yeas and nays were not ordered.

The amendment was concurred in.

Seventh amendment:

Page 6, line one hundred and twenty-five, strike out "five" and insert "six;" so it will read:

For the Capitol police, $6,000.

Mr. WASHBURNE, of Illinois. That is right.

The amendment was concurred in.

Eighth amendment:

Page 8, line one hundred and sixty-two, strike out "fifty" and insert "forty-two;" so it will read:

For folding documents, including materials, $42,000.

Mr. WASHBURNE, of Illinois. I hope that will not be agreed to. I have made some inquiries and find it will take $50,000 for the purpose designated. Every dollar of it will be required.

The amendment was non-concurred in.

Ninth amendment:

Amend lines one hundred and sixty-six and one hundred and sixty-seven so as to read:

For furniture and repairs and packing boxes, $30,000.

The amendment was concurred in.

Tenth amendment:

Page 8, lines one hundred and sixty-eight and one hundred and sixty-nine, strike out the following:

For packing boxes for members, $13,500.

The amendment was concurred in.

Eleventh amendment:

Page 8, strike out lines one hundred and seventy and one hundred and seventy-one and insert:

For horses and carriages for the transportation of mails and for the use of messengers, $10,000.

The amendment was agreed to.

Twelfth amendment:

At the end of line one hundred and seventy-nine insert the following proviso:

Provided, That the Postmaster of the House shall account to the Clerk of the House at the end of each session of Congress for all stationery by him received and distributed.

The amendment was agreed to.

Thirteenth amendment:

Page 9, amend lines one hundred and ninety-five and one hundred and ninety-six so as to read:

For paper for the public printing, $400,000.

The amendment was agreed to.

Fourteenth amendment:

In lines two hundred and seven and two hundred and eight strike out "$2,160" and insert "$2,592;" so that it will read:

For compension of Librarian, $2,592.

The amendment was agreed to.

Fifteenth and sixteenth amendments:

In lines two hundred and nine and two hundred and ten strike out "$1,800" and insert "$2,160;" also strike out "$5,400" and insert "$6,480;" so that it will read:

For three assistant librarians, at $2,160 each, $6,480

The amendment was agreed to.

Seventeenth, eighteenth, and nineteenth amendments:

In line two hundred and eleven, after "$1,000" insert "$200;" also strike out "$960" and insert "$1,152;" also strike out "$1,960" and insert "$2,352;" so that it will read:

For two assistant librarians, one at $1,200 and one at $1,152, $2,352.

Mr. WASHBURNE, of Illinois. That is wrong; the salary ought not to be $1,000. The twenty per cent. only carries it up to $1,000.

Mr. WOODBRIDGE. The amendment provides for precisely what these librarians now have by law. It is only in accordance with the principle we adopted in voting compensation to the employés of the House and Senate.

Mr. WASHBURNE, of Illinois. I ask the gentleman what the law is?

Mr. WOODBRIDGE. I have not the law with me; but it is in accordance with the amendments just read by the Clerk.

Mr. WASHBURNE, of Illinois. This twenty per cent. was allowed on all sums under and up to $10,000. If this amendment is carried it gives this particular assistant librarian an advantage over others.

Mr. WOODBRIDGE. Not at all. It does not give him any advantage whatever; it is precisely what the law provides he may have.

The amendments were agreed to.

Twentieth amendment:

Page 10, line two hundred and fourteen, strike out "$1,440" and insert "$1,728;" so that it will read:

For one messenger, $1,728.

The amendment was agreed to.

Twenty-first and twenty-second amendments:

Line two hundred and seventeen, strike out "$1,200" and insert "$1,440;" also, strike out "$2,400" and insert "$2,880;" so that it will read:

For two assistant librarians, at $1,440 each, $2,880.

The amendments were agreed to.

Twenty-third amendment:

At the end of line two hundred and forty-four insert the following proviso:

Provided, That no judgment of said court for any sum exceeding $5,000 shall be paid out of this appropriation.

So that it will read:

For judgments which may be rendered by the court in favor of claimants, $100,000: *Provided*, That no judgment of said court for any sum exceeding $5,000 shall be paid out of this appropriation.

Mr. POLAND. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 64, not voting 53; as follows:

YEAS—Messrs. Allison, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Blair, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dodge, Driggs, Eliot, Farnsworth, Ferriss, Ferry, Fields, Getz, Glossbrenner, Halsey, Harding, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Julian, Kelsey, Laflin, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Marvin, McCarthy, McClurg, Moore, Orth, Paine, Pike, Plants, Price, Sawyer, Scofield, Selye, Shanks, Sitgreaves, Taylor, Twichell, Upson, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—72.

NAYS—Messrs. Anderson, Archer, Arnell, Delos R. Ashley, Bingham, Boyer, Brooks, Chanler, Churchill, Sidney Clarke, Eckley, Eldridge, Fox, Golladay, Gravely, Griswold, Grover, Haight, Richard D. Hubbard, Ingersoll, Jenckes, Judd, Kerr, Knott, George V. Lawrence, Logan, Marshall, McCormick, Moorhead, Morgan, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Perham, Peters, Phelps, Pile, Poland, Poisley, Randall, Schenck, Smith, Spalding, Starkweather, Stewart, Stokes, Stone, Taber, Taffe, Thomas, John Trimble, Trowbridge, Van Auken, Van Trump, Thomas Williams, James F. Wilson, Wood, Woodbridge, and Woodward—64.

NOT VOTING—Messrs. Adams, Ames, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Beck, Benjamin, Blaine, Burr, Butler, Cake, Cary, Cornell, Dixon, Donnelly, Eggleston, Ela, Finney, Garfield, Hawkins, Hill, Hooper, Asahel W. Hubbard, Humphrey, Johnson, Jones, Kelley, Ketcham, Kitchen, Koontz, Lynch, Maynard, McCullough, Mercur, Miller, Morrell, Morrissey, Pomeroy, Pruyn, Raum, Robertson, Robinson, Ross, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Ward, and Stephen F. Wilson—53.

So the amendment was agreed to.

Twenty-fourth, twenty-fifth, and twenty-sixth amendments:

On page 11, lines two hundred and fifty-seven and two hundred and fifty-eight, strike out "assistant secretary;" in lines two hundred and fifty-eight and two hundred and fifty-nine, strike out "clerk of pardons, three clerks of first class;" and in lines two hundred and sixty and two hundred and sixty one strike out "$18,800" and insert "$6,600" in lieu thereof; so that the paragraph will read:

For compensation to the private secretary, shorthand writer, steward, and messenger of the President of the United States, $6,600.

Mr. WASHBURNE, of Illinois. These are the amendments offered by the gentleman from Massachusetts [Mr. BUTLER] in regard to the compensation of the Private Secretary and other persons connected with the presidential establishment. I voted for the amendments in Committee of the Whole, but I believe the gentleman from Massachusetts has been satisfied that the force there is not more than is necessary and is not disposed to press the amendments in the House. I hope, therefore, the amendments will be disagreed to, leaving the matter in accordance with existing law.

The amendments were severally disagreed to.

Twenty-seventh amendment:

At the end of the paragraph insert the following proviso:

Provided, That no officer of the Army or Navy shall be detailed or assigned to duty as a private secretary or clerk or for other civil service at the Executive Mansion.

Mr. WASHBURNE, of Illinois. I hope that amendment will not be agreed to. I do not think any damage will be done by allowing the law to remain as it is.

The amendment was disagreed to.

Twenty-eighth amendment:

Page 12, line two hundred and sixty-three, strike out "three" and insert "one" in lieu thereof; so that the paragraph will read:

For contingent expenses of the executive office, including stationery therefor, $1,000.

The amendment was disagreed to.

Twenty-ninth amendment:

On page 12, after line two hundred and sixty-three, insert the following:

Public buildings and grounds:

For salary of the warden of the jail in the District of Columbia, $2,000.

For compensation of laborer in charge of water closet in the Capitol, $538.

For compensation of four laborers in the Capitol, $2,880.

For compensation to the public gardener, $1,440.

For compensation of foreman and twenty-one laborers in Capitol grounds, $16,000.

For compensation of two watchmen at the President's House, $1,900.

For compensation of the doorkeeper at the President's House, $720.

For compensation of assistant doorkeeper at the President's House, $720.

For compensation of one night watchman at public stables and carpenter's shop, south of the Capitol, $1,000.

For compensation of five watchmen on reservation No. 2, $3,600.

For compensation of drawkeepers at the Potomac bridge, and for fuel, oil, and lamps, $5,000.

For compensation of two drawkeepers at the two bridges across the Eastern Branch of the Potomac, and for fuel, oil, and lamps, $1,396.

For compensation of furnace-keeper under the old Hall of the House of Representatives, $720.

For compensation of furnace-keeper at the President's House, $720.

For clerk in the office of Public Buildings, $1,200.

For messenger in same office, $1,000.

For two policemen at the President's House, $2 640.

For compensation of person in charge of heating apparatus of Library of Congress, $1,000.

For electrician for the Capitol, $1,200.

Mr. LOGAN. In reference to the appropriation of $5,000 for the Potomac bridge, I am informed that the amount appropriated

will reduce the pay of the men employed there to $1 66 a day.

Mr. WASHBURNE, of Illinois. The committee thought that there was a larger number of drawkeepers employed there than is necessary. We do not propose to decrease the pay, but to reduce the number.

Mr. LOGAN. This amendment does not say so.

Mr. WASHBURNE, of Illinois. It appropriates a certain amount for this purpose, which the committee think is quite sufficient. The committee did not think that so large a number of them was necessary to take care of the draws.

Mr. LOGAN. Then I suggest that the number be diminished, because, under this amendment, the same number of men will be retained but their pay will be reduced.

Mr. WASHBURNE, of Illinois. That will depend on the party having the matter in charge. The committee thought it advisable to appropriate a given amount for the purpose of carrying out the object.

Mr. LOGAN. Their pay will be cut down to $1 66 a day, while the pay of others similarly employed is two dollars a day. You ought to mention the number that shall be employed.

The SPEAKER. Does the gentleman suggest any amendment to be received by unanmous consent?

Mr. LOGAN. I do not; I merely call attention to the reduction. I do not know what amendment I could offer. I only desire that they shall be paid the same amount they have received heretofore.

The amendment was agreed to.

Thirtieth amendment:

Strike out "$100,000" and insert "$40,000" in following clause:

For publishing the laws in pamphlet form and in newspapers of the States and Territories and in the city of Washington, $100,000.

The amendment was agreed to.

Thirty-first amendment:

Insert "rent" after "fuel" in following clause, under heading "For the general purposes of the building occupied by the State Department:"

For contingent expenses of said building, namely, for fuel, lights, repairs, and miscellaneous expenses, $10,000.

The amendment was agreed to.

Thirty-second amendment:

In same clause strike out "$10,000" and insert "$25,000."

The amendment was agreed to.

Thirty-third amendment:

Add to clause relating to Bureau of Internal Revenue the following:

Provided, That until a solicitor is appointed in accordance with law no part of the moneys hereby appropriated shall be applied in payment of services properly pertaining to such office.

The amendment was agreed to.

Thirty-fourth amendment:

Strike out "and sub-Treasuries" in the following clause:

For furniture, carpets, and miscellaneous items for the Treasury bureaus and sub-Treasuries, $35,000.

The amendment was agreed to.

Thirty-fifth and thirty-sixth amendments:

Strike out "additional" and insert "temporary;" also strike out "per acts of April 7 and July 23, 1866," in the following clause:

For additional clerks in the Pension Office, per acts of April 7 and July 23, 1866, $20,000.

The amendments were agreed to.

Thirty-seventh amendment:

Strike out "$22,000" and insert "$40,000" in the following clause:

Office of the Commissioner of Pensions:

For stationery, engraving, and retouching plates for bounty land-warrants, printing and binding the same, office furniture, and repairing the same, and miscellaneous items, including two daily newspapers, to be filed, bound, and preserved for the use of the office, and for detection and investigation of fraud, $22,000.

The amendment was agreed to.

Thirty-eighth amendment:

Strike out the following:

For enabling the Secretary of the Interior to rent such rooms in the vicinity of the Department, for the use of the Pension Office, as may be deemed necessary for the transaction of business of that office, from November 1, 1867, to June 30, 1869, $3,000.

The amendment was agreed to.

The thirty-ninth amendment was merely verbal, and was agreed to.

Fortieth amendment:

Insert in the portion of the bill relating to "office of Paymaster General" the following:

For three clerks of class three, authorized by clause in the act of February 25, 1863, $4,800: *Provided*, That said clerks shall not be continued after the 30th of June, A. D. 1869.

The amendment was agreed to.

The forty-first amendment was merely verbal, and was agreed to.

Forty-second amendment:

Strike out "$6,400" and insert "$5,600" in the following clause under the heading "office of Commissary General:"

For four clerks of class two, $6,400.

The amendment was agreed to.

The forty-third amendment was merely verbal, and was agreed to.

Forty fourth amendment.

Strike out the following:

Signal Office:

For two clerks of class two, $2,800.

Mr. WASHBURNE, of Illinois. This amendment was moved in Committee of the Whole by the gentleman from Indiana, [Mr. COBURN.] I have here a letter from the officer in charge of the Signal Office, indorsed by General Grant, in which it is stated that this appropriation is absolutely necessary. The War Department is furnishing these signals to all the different Departments of the Government, and a very large amount of work has accumulated and it is necessary to have this appropriation. The gentleman from Indiana has read the correspondence to which I have referred, and I think he is now satisfied this amendment should not be made.

Mr. COBURN. The correspondence is satisfactory to me.

The amendment was not agreed to.

The SPEAKER. The hour of the gentleman from Illinois [Mr. WASHBURNE] has now expired. If there is no objection his time will be extended so as to allow him to explain any amendment when necessary.

No objection was made.

Forty-fifth amendment:

Strike out "$7,500" and insert "$15,000" in the following clause:

Office of the Paymaster General:

For blank books, stationery, binding, and miscellaneous items, $7,500.

The amendment was agreed to.

Forty-sixth amendment:

Strike out "four" and insert "six" before the words "clerks of the fourth class" in the following clause:

For compensation of the Assistant Secretary of the Navy, $3,500; chief clerk, $2,200; one fourth-class clerk, (also as disbursing clerk,) $2,000; four clerks of the fourth class, &c.

The amendment was agreed to.

Forty-seventh amendment:

On page 31 strike out in lines seven hundred and fifty-eight and seven hundred and fifty-nine the words "three clerks of the first class, $3,600."

The amendment was agreed to.

Forty-eighth amendment:

On page 32 strike out in line seven hundred and sixty-one the words "seven hundred and twenty" and insert in lieu thereof the words "eight hundred and forty."

The amendment was agreed to.

Forty-ninth amendment:

On page 33 strike out the following:

For compensation of the chief of the Bureau of Construction and Repair, $3,500; chief clerk $1,800; one draughtsman, $1,400; five clerks of the second class, $7,000; one clerk of the first class, $1,200; one messenger, $1,000; one laborer, $720.

And insert in lieu thereof the following:

For compensation of the chief of the Bureau of Construction and Repair, $3,500; chief clerk, $1,800; one draughtsman, $1,400; one clerk of class four, two clerks of class three, and two clerks of class two, $7,800; one messenger, $1,000; one laborer, $720.

The amendment was agreed to.

Fiftieth amendment:

On page 36, in line eight hundred and sixty-nine, insert after the word "thousand" the word "dollars."

The amendment was agreed to.

Fifty-first amendment.

On page 36, after line eight hundred and seventy-three, insert the following paragraph:

For twenty-five clerks in dead-letter office, under act of July 21, 1862, $20,000.

The amendment was agreed to.

Fifty-second amendment:

On page 37, at the end of line eight hundred and ninety-nine, insert the following:

Statistician, $2,000; assistant chemist, $1,600; assistant superintendent of experimental garden and grounds, $1,200; assistant superintendent of seed-room, $1,200: disbursing clerk $1,800.

The amendment was agreed to.

Fifty-third amendment:

On page 37, in line nine hundred and two, strike out "six" and insert "ten;" so as to make the paragraph read as follows:

Agricultural statistics:

For collecting statistics and material for annual report, $10,000: *Provided*, That hereafter the accounts of the Agricultural Department shall be audited by the Fifth Auditor of the Treasury Department.

The amendment was agreed to.

Fifty-fourth amendment:

On page 39, at the end of line nine hundred and forty-five, insert "and fifty;" so as to make the paragraph read:

For wages of workmen and adjusters, $150,000.

The amendment was agreed to.

Fifty-fifth amendment:

On the same page, after the word "wastage," in line nine hundred and forty-eight, strike out the words "in addition to available profits;" so as to make the paragraph read as follows:

For incidental and contingent expenses, repairs, and wastage, $50,000: *Provided*, That hereafter all the "available profits" of the United States Mint and branches shall be covered into the Treasury.

Fifty-sixth amendment:

In the same line strike out "fifty" and insert "eighty," so as to make the appropriation $80,000.

The amendment was agreed to.

Fifty-seventh amendment:

On page 39, at the end of line nine hundred and fifty-one, insert the words "to be expended only by a specific appropriation;" so as to make the paragraph read:

For incidental and contingent expenses, repairs, and wastage, $80,000: *Provided*, That hereafter all the "available profits" of the United States Mint and branches shall be covered into the Treasury, to be expended only by a specific appropriation.

The amendment was agreed to.

Fifty-eighth amendment:

On page 46, after the word "expenses," in line eleven hundred and twenty-three, insert the words "of the Assembly;" so as to make the paragraph read:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, $20,000.

The amendment was agreed to.

Fifty-ninth amendment:

On the same page, at the end of same paragraph, insert the words, "*Provided*, That the several amounts herein appropriated for the expenses of the Legislative Assemblies shall only be expended in payment for biennial sessions after the 1st of July next."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill,

Mr. WASHBURNE, of Illinois, called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I rise to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, to proceed to the consideration of the Army appropriation bill.

The SPEAKER. It is the duty of the Chair to state that the morning hour would now com-

mence if the House should not go into the Committee of the Whole.

Mr. WASHBURNE, of Illinois. I hope the House will agree to waive the business of the morning hour.

Mr. FLANDERS. I ask the gentleman to yield to me for a moment that I may present a resolution.

Mr. WASHBURNE, of Illinois. Very well.

REGISTRATION OF VOTERS IN TERRITORIES.

Mr. FLANDERS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of providing by law for a uniform system of registration of the legal voters in all the Territories of the United States, and that said committee be instructed to report by bill or otherwise.

EGYPTIAN LEGISLATIVE ASSEMBLY.

The SPEAKER laid before the House, by unanimous consent, a translation forwarded by the United States consul general at Egypt of the rules and orders of the first Legislative Assembly ever held in Egypt—a communication brief and novel in its character; which was referred to the Committee on the Rules, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. McCARTHY was granted leave of absence for three days.

ARMY APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the Army appropriation bill.

The SPEAKER. It is the duty of the Chair to state that if the House does not go into committee the morning hour will commence for reports from committees.

The House divided; and there were—ayes 62, noes 36.

Mr. WILLIAMS, of Pennsylvania, demanded tellers.

Tellers were ordered; and Mr. WILLIAMS and Mr. PHELPS were appointed.

The House again divided; and the tellers reported—ayes 68, noes 36.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Wisconsin, in the chair,) and proceeded to the consideration of the special order, being House bill No. 658, making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes.

The bill was read *in extenso* a first time for information.

The bill was then read by paragraphs for amendment.

The Clerk read as follows:

For expenses of recruiting and transportation of recruits, $100,000.

Mr. DODGE. I move to increase that to $150,000, and I do so for the purpose of asking the committee who have this bill in charge upon what ground they have placed the reduction here made? I should like to know the ground upon which they placed their action.

Mr. BLAINE. On the ground of the figures that came to us from the General of the Army. They have been made in accordance with the specific recommendation of General Grant. I suppose that is sufficient.

Mr. WOOD. I should like to ask the gentleman who reports this bill whether any portion of the amount proposed to be appropriated by this bill, making an aggregate of over thirty-three million dollars, is for the purpose of reconstruction in the southern States; and also whether this amount of $33,000,000 is to be appropriated on the recommendation of the General of the Army, without any details by which the House may be instructed whether this expense is necessary or not?

Mr. BLAINE. I cannot hear the gentleman or I would be glad to answer him.

Mr. WOOD. My question is, whether this $33,000,000 it is here proposed to appropriate for Army purposes is in addition to that appropriated for the five military departments?

Mr. BLAINE. There has been nothing appropriated for that purpose except by the deficiency bill for the current fiscal year. This is for the expenses of the Army for the ensuing fiscal year. There is no specific appropriation for reconstruction otherwise than as pay for the troops in those States, and they would be paid if they were elsewhere.

Mr. WOOD. Another question. I wish to know whether I understood him to say that the amount called for by this bill is the amount recommended by General Grant?

Mr. BLAINE. Yes, sir.

Mr. WOOD. Does he consider that is a disposition toward economy in expending $33,000,000 at a time of profound peace for one department of the Government?

Mr. BLAINE. I have to say in reply to the gentleman from New York, so far as the question of the extravagant cost of the Army and its reduction is concerned, it will be brought before this House on a proposition for its gradual and immediate reduction.

So far as the support of the present Army goes, I wish to remind the gentleman from New York there has never been a time anything like the economy or like the small sum has been asked for as is now asked by General Grant.

I have further to say—and in this I am only repeating what I said a few days since—that there is little more than half a million dollars appropriated for a regiment by this bill, whereas the old Army almost uniformly cost a million or more for a regiment; and I do not make any allowance for the difference between currency and gold. It used to be a million in gold; now it is only half a million in paper.

Mr. WOOD. Do I understand the gentleman from Maine to say that in time of peace at any time in the history of this Government before 1861 $33,000,000 have been called for to support the Army alone?

Mr. BLAINE. I have this to say: before the war there was $25,000,000 asked for the Army consisting of nineteen regiments, while to-day there is $32,000,000 asked for the Army consisting of sixty regiments.

Mr. WOOD. Then I am right; this is the largest sum ever asked for.

Mr. BLAINE. The gentleman is right, also, in saying that a regiment under the Democratic administration preceding the war cost more than double in gold what it costs now under General Grant in paper.

Mr. WOOD. We will see as to that when the debate goes on.

Mr. WASHBURN, of Indiana. I call the attention of the gentleman from Maine to the estimate that is placed on our tables, which is evidently unfair to the House, inasmuch as General Grant has revised it. Why have we not had the revised estimate printed?

Mr. BLAINE. If the gentleman at the time this additional revised estimate was sent to the Committee on Appropriations by order of the House had asked for its printing it would undoubtedly have been done. I do not see any special advantage in having it printed, because it is now printed in the bill which members have had laid on their desks.

Mr. WASHBURN, of Indiana. If the committee wished to deal fairly with the House they would have had that estimate printed, and not placed on our tables a false estimate.

Mr. BLAINE. The gentleman is very loose in his language or does not understand what it means when he talks about the committee dealing unfairly with the House in presenting a false estimate. In the regular estimates sent to the Treasury Department there was about sixty-one million dollars proposed for the Army. It is well known that afterward General Grant sent to this House a revised estimate in which he cut down the expenses some twenty odd million, and that was referred to the Committee on Appropriations, who have reported this bill in express and literal compliance with the recommendation of General Grant. If the gentleman thinks that fact can be made any more manifest in print by being printed in one form than another he is welcome to his assertion.

Mr. WASHBURN, of Indiana. The point I make is this: that the printed estimate laid on our tables differs very materially from the estimate upon which this bill is based. The gentleman says that members of the House know that a new estimate was made. How do we know it? Perhaps we ought to know it, but we have had no estimate before us.

Mr. BLAINE. The gentleman will find it here in the bill, which agrees with the revised estimate.

Mr. WASHBURN, of Indiana. Then the gentleman says he has in his hands the written estimate. I say it is unfair to the House. Every member ought to have it.

Mr. BLAINE. What does the gentleman propose to do about it?

Mr. WASHBURN, of Indiana. I propose to see that estimate.

Mr. BLAINE. Here you have it.

Mr. DODGE. I withdraw the amendment.

The Clerk read as follows:

For pay of the Army, $15,000,000: *Provided*, That the expenditure of the money herein appropriated shall be limited and controlled by the following condition, namely: until the military force is reduced to twenty-five regiments of infantry, seven regiments of cavalry, and five regiments of artillery no new commission shall be issued in any regiment except to those who are by law entitled to appointments as second lieutenants by graduation at the United States Military Academy; and the Secretary of War is hereby directed to consolidate regiments as rapidly as the requirements of the public service and the reduction in the number of officers will permit, until the aforenamed minimum is reached. But this provision shall not be construed to deprive any officer in commission of whatever promotion may be open to him by the occurence of vacancies among his superiors in rank, such promotion, however, to be always made so as to facilitate and not obstruct the consolidation of regiments.

Mr. BLAINE. I propose to modify the proviso to that section.

Mr. PILE. I rise to a point of order. I submit that that proviso is new legislation, and is not in order in an appropriation bill.

Mr. BLAINE. I have no objection to that proviso being stricken out on the point of order, and then I will move to insert a different proviso.

The CHAIRMAN. With the consent of the committee, the proviso will be stricken out.

No objection was made, and the proviso was stricken out.

Mr. BLAINE. I now move to insert the following proviso:

Provided, That the expenditure of the money herein appropriated shall be limited and controlled by the following condition, namely: until otherwise ordered by law no new commission shall be issued in any regiment except to those who are entitled by law to appointment as second lieutenants by graduation at the United States Military Academy. But this provision shall not be construed to deprive any officer of whatever promotion may be open to him by the occurrence of vacancies among his superiors in rank.

I desire to make a brief statement to the House. The House has voted once, I think, with almost entire unanimity in favor of a reduction of the Army to a peace establishment, both sides of the House vying with each other in their unanimity in its favor. Now, the Army can only be reduced in one of two ways. We may wait and take no gradual measure for it until we reach a point where we have got to muster out a very large number of officers *en masse*. That is a contingency which I do not for one wish to see us come to. It is a hard thing after a man has been commissioned in the Army and has made all his arrangements for an army life, and cut himself loose from every other channel and aspect and prospect of business, to have him mustered out. But of course it must be done rather than keep up an expensive military establishment. We cannot afford to run an army for anybody's benefit, but we can strike the golden mean and reduce the Army by simply stopping appointments. If there be no appointments made in the Army from this time forward until Congress shall otherwise direct, the Army will

reduce itself as rapidly as any gentleman upon this floor would desire. The casualties of the last year—and under the word casualties I include resignations, deaths, dismissals, and all the causes which take a man out of the Army—would have taken ten regiments out of the Army; and if you take the average duration of officers' lives it would have amounted to ten regiments. In the old Army before the war, where we have a good estimate of army longevity, it was found that the average duration of a commission was not more than ten years, so that in the course of two or three years, under the operation of this proviso, the Army would be reduced as far probably as any gentleman would desire to see it reduced, and it leaves it wholly within the control of Congress to say when reappointments in the Army shall begin. But until Congress shall say so, this proviso means to direct that the appointment of officers shall be suspended, because it is nothing less than a cruelty, a delusion, to keep appointing officers in an army of sixty regiments when every gentleman knows that within a very brief period that army will have to be reduced and every man you now muster in will have to be mustered out.

Mr. PILE. I make the same point of order on this proviso which I made on the proviso in the bill, and I wish to say that the question of the reduction of the Army is before the Committee on Military Affairs.

Mr. CHANLER. The gentleman has no right to debate the point of order. He can only state it.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BLAINE. The amendment is entirely in order. It merely limits the appropriation, as has been done a thousand times.

Mr. PAINE. I oppose the amendment, and I do it for the purpose of obtaining some information from the gentleman from Maine, [Mr. BLAINE.]

The amendment proposed by the gentleman from Maine embraces substantially these words:

"That no new commission shall be issued in any regiment except to those who are by law entitled to appointment as second lieutenants by graduation at the United States Military Academy."

Now I will read to the committee the only provision of law that I know of in relation to commissioning graduates from the Military Academy. It is this:

When any cadet shall receive a regular degree from the academical staff, after going through all the classes, he shall be considered as among the candidates for commission in any corps, according to the duties he may be adjudged competent to perform; and in case there shall not at the time be a vacancy in such corps he may be attached to it at the discretion of the President of the United States, by brevet of the lowest grade, as a supernumerary officer, with the usual pay and emoluments of such grade, until a vacancy shall happen.

Now, if that is the only provision of law upon that subject—and I know of no other—then there is no provision of law which authorizes a graduate of West Point to receive a commission because he is such graduate. And the provision of the gentleman from Maine [Mr. BLAINE] actually cuts off from commission every graduate from West Point. If there is any other provision of law upon the subject than that to which I have referred I would be glad to have the gentleman refer me to it.

Mr. BLAINE. I think it is quite idle to argue that the law and usages of this Government have been, and are, and will be until the Military Academy is abolished, that all Military Academy graduates, as well as all Naval Academy graduates, are entitled to be commissioned in the service of the United States. If they are not, then we had better abolish the Military Academy. If the men educated in the Military Academy are not educated there for service in the Army, then the whole design of the Academy is frustrated and of no account. We might just as well abolish the Military Academy at once.

Mr. PAINE. It is all very well to say that the usage has been so and so. The amendment moved by the gentleman provides that commissions shall be given only to graduates of the Military Academy who are by law entitled to commissions. If the gentleman can show me any law other than that to which I have referred which will entitle them to commissions, then all very well.

Mr. BLAINE. Let me state one fact. When a cadet enters the Military Academy he has to come under an obligation to eight years in the Army—four years as cadet and four years as a commissioned officer.

Mr. PAINE. That does not provide that he shall have a commission.

Mr. BLAINE. I am inclined to think that very few gentlemen are aware how small a proportion of officers of the Army of the United States to-day is made up of graduates of West Point. I made an examination of the Army Register this morning, and I find in the ten regiments of cavalry in the Army there are three hundred and twenty-eight officers from civil life and sixty officers from the Military Academy. In the five regiments of artillery there are one hundred and sixty-two officers from civil life and one hundred and forty-one from the Military Academy. In the infantry regiments, forty-five in number, there are one thousand three hundred and thirty-six civil appointments and only one hundred and eighty-six from the Military Academy among the officers. And in the entire sixty regiments composing the Army of the United States there are one thousand eight hundred and twenty-six officers appointed from civil life and only three hundred and eighty-seven officers appointed from the graduates of the Military Academy. There are regiments in the service of the United States to-day in which there is not, as a commissioned officer, a single graduate from West Point. In the thirty-ninth, fortieth, and forty-fifth regiments there is not one West Point graduate; in the thirty-second and forty-second regiments there is only one in each regiment; and in the twenty-third, twenty-seventh, and thirty-sixth regiments there are only two in each regiment.

Mr. WOOD. How is it in regard to the major generals in the Army?

Mr. BLAINE. The major generals are all graduates of West Point, as are all the brigadier generals except two.

Mr. WASHBURN, of Indiana. I desire to ask the gentleman whether this proposition is intended to cut off from the chance of promotion all the sergeants now authorized by law.

Mr. BLAINE. The gentleman asks me whether this is intended to prevent sergeants from being promoted. I answer, only until the Army is reduced to the peace basis. I want gentlemen to understand this point: that within the next one or two years we must reduce the Army, either by absolute dismissals or by suspending appointments; and it is for Congress to say which method shall be pursued.

Mr. CHANLER. Will the gentleman from Maine [Mr. BLAINE] define what he means by a peace establishment, so that we may know definitely on what basis he proposes to proceed?

Mr. BLAINE. Well, I am quite sure that I to-day should be altogether unable to answer that question. The gentleman, if he should be a member of the Forty-First Congress, will be much better able to assist in determining that question than any member of the present Congress can do to-day. But this proviso will, at all events, be a step toward placing the Army on a peace foundation. Gentlemen who wish a movement made in that direction will, of course, support the proviso; those who do not so desire will vote against it.

Mr. CHANLER. The gentleman has not answered my question. He will remember that he declared he would demonstrate this reduction to the satisfaction of every member on this floor. When he makes an assertion so broad as that he should be able to give a definite answer to such a question as I have put.

Mr. LOGAN. Mr. Chairman, inasmuch as it has been decided that this amendment is in order, as a matter of course I have no right to discuss that question. I move to amend the amendment by striking out the last word, so that I may have an opportunity to state the reasons for my opposition to the amendment. This amendment, like the provision in place of which it is offered, appears to me as embracing new legislation; and I object to it, in the first place, because it is in conflict with former legislation which was just and right. A previous Congress, respecting the rights of men who were as much entitled to these appointments as any others, provided by its legislation that two thirds of the appointments in the Army of the United States should be made from civilians who, on proper examination, should prove themselves qualified.

Mr. BLAINE. Three fourths of the appointments have been so made.

Mr. LOGAN. Then it is because the officers so appointed have passed an examination according to the laws of the land, and they are entitled to the appointments. But, sir, the amendment of the gentleman from Maine is nothing but an ingenious mode of undercutting the officers of the Army appointed from civil life, by providing, as was provided in former years, that no man except a graduate of West Point shall have a commission in the Army of the United States. This amendment is, as I have already remarked, calculated to strike at the officers now in the Army. It provides that no new appointments as officers of the Army shall be made except from—whom? From graduates of West Point, though the law upon our statute-book to-day provides that two thirds of the officers of the Army shall be made up of civilians who pass a certain examination. This amendment repeals that law.

Mr. BLAINE. I beg the gentleman's pardon; put he does not state the case correctly.

Mr. LOGAN. Will the gentleman be kind enough to state it for me?

Mr. BLAINE. There is no such law on the statute-book. The law merely provided that two thirds of the appointments under the Army bill of 1866 should be made in the manner the gentleman has stated. And that provision has been complied with.

Mr. LOGAN. Very well, sir; I understand that perfectly. And if we have any Army to-day except under that act I should like the gentleman to point it out. It was under that act that the Army was reorganized; and the gentleman attempts here, by an amendment, to deplete that Army so far as civilians are concerned and supply their places by the appointment of men who, under the law, have no more right in the Army than those whom they will displace. The fact is as I stated. Under the existing law civilians are entitled to appointments after passing an examination. This amendment would prevent any appointment hereafter being made in the Army except from the graduates of the Military Academy at West Point. Under the bill reorganizing the Army all kinds of civilians have to go before a commission to be examined before receiving their appointments.

That is one reason why I am opposed to the amendment. So long as the Army stands as it does under this bill, until reduction shall be made as gentlemen desire it, I want the same provision in regard to all officers, whether from the ranks of civilians or from the ranks of the Army.

But, sir, I insist this is new legislation. It is a piece of outrageous legislation against the rights of men protected under the bill passed two years ago reorganizing the Army of the United States. My friend from Maine, [Mr. BLAINE,] not being a graduate of West Point himself, has fallen into the error, together with many other persons, that everything belongs to the graduates of West Point and that nothing dare be claimed for civilians in this land. He has fallen into that error and seems to be willing to kiss their shoes and untie their shoe latchets for them. Sir, I insist the legislation of this country should be fair and just. We have civilians in this land who have been given commissions in the Army. Now, sir, four years of experience in the Army is worth ten

years of experience within the walls of West Point. I insist those civilians who have thus served in the Army shall have the same rights and privileges under and by virtue of our legislation as these West Point men who have been protected, fostered, and sustained by every law Congress has ever passed in regard to this subject.

Mr. BLAINE. Mr. Chairman, I do not think I am afflicted with such extraordinary devotion as to kiss the shoes of the graduates of West Point, which the gentleman from Illinois intimates, nor am I afflicted with any extraordinary jealousy of West Point, which the gentleman himself seems to entertain, judging by his style of speech.

Mr. LOGAN. No, sir. I say to the gentleman I have no jealousy of any human being on earth.

Mr. BLAINE. I am quite free of both sentiments. I have no extraordinary devotion to West Point, and I thank God I have no extraordinary jealousy of West Point. I appreciate what West Point has done, and I appreciate what volunteers have done; and, sir, I would be the last man to do injustice to either. I want to impress upon the attention of this House one fact. If we are to reduce this Army from sixty regiments we must do it in one of two ways. We have to muster men out whether they be civilians or graduates of West Point, or we have to stop appointing men to these offices. If you appoint men to the Army you will appoint them only to be mustered out in the course of a year or two; and I maintain the gentleman from Illinois could do no greater injustice, could commit no greater cruelty, than to delude an officer who gets a commission that it is to be a life affair, because I say the people of this country, and I say it boldly, will not continue an army of sixty regiments. They will not continue an army of sixty regiments as much as the gentleman thinks they will.

Mr. LOGAN. Let me ask the gentleman a question.

Mr. BLAINE. Very well, sir.

Mr. LOGAN. Why not provide there shall be no appointments until the Army is reduced? Why provide they shall be conferred upon a certain class and not upon another?

Mr. BLAINE. I answer that by saying we have appropriated $300,000 for the education of young men picked from civil life, perhaps one or two on the nomination of the gentleman from Illinois. We have appropriated $300,000 for the education of certain young civilians for the Army, and if the gentleman provides that they shall not be appointed into the Army then that sum of money has been thrown away. But when we appropriated that $300,000 we did it intelligently, that it was to educate, as we have been educating, young officers to enter upon military duty. The gentleman from Illinois would have us throw that appropriation away, that these men shall not be retained in the Army, and this money shall be literally lost to the Treasury of the United States. I am opposed to it.

Now, Mr. Chairman, it does seem to me that we go very far astray from the line of common sense sometimes when we talk about West Point. Of whom is the West Point Academy made up? Of young civilians from sixteen to twenty years of age, nominated by gentlemen on this floor. In what respect is their civil life when they are appointed different from that of anybody else? When you talk about two classes, West Pointers and civilians, you are talking about a distinction which is entirely shadowy—which does not exist. These young men are just as much civilians as any other men in the Army. The only difference between them and others is, they enter the Army between the ages of sixteen and twenty, others enter it between the ages of twenty-one and thirty. Now, if you vote this down you have failed to provide any way whatever for the reduction of the Army, and it brings you within the course of a year or two right up to the point where you have got to muster out eight hundred or a thousand men from a position they have chosen for life.

Mr. LOGAN. I desire to ask the gentleman whether the Secretary of War is making any appointments in the Army whatever under this law.

Mr. BLAINE. The Secretary of War is not making any appointments in the Army; he has no more right to make any than I have.

Mr. LOGAN. Well, then, the President.

Mr. BLAINE. The President may not be making any just now. What I want to do is to prevent him from making any hereafter. I yield to the gentleman from Ohio.

Mr. SCHENCK. I do not rise to discuss this question of the merits of West Point officers as compared with volunteer officers, but I do wish to submit a remark or two in relation to this legislation which is now attempted, and the manner in which it is attempted. This committee, in the first place, proposes that there shall be attached to the appropriation bill a clause which conflicts with and virtuality, if not directly, repeals the law of the land. That is pronounced to be out of order. What then? The gentleman from Maine [Mr. BLAINE] modifies his proposition by inserting a proviso that the money shall be appropriated upon condition that a certain law of the land, as it now stands on the statute-book, shall not be regarded. Do I understand that this is decided to be in order?

Mr. BLAINE. It has been.

Mr. SCHENCK. Well, with due deference, then, to all, I cannot understand the difference between tweedle dum and tweedle dee. The money is to be appropriated on condition that certain things shall be done which are not according to law.

The CHAIRMAN. The Chair did not understand that it was conceded that the amendment that was stricken out was out of order.

Mr. BLAINE. I did not so concede. I merely intimated that I was willing to have it stricken out.

The CHAIRMAN. There was no ruling.

Mr. SCHENCK. I thought there was a question raised by the gentleman from Missouri that this was not in order.

The CHAIRMAN. The Chair ruled on the last amendment.

Mr. SCHENCK. I understand, then, that the amendment pending, offered by the gentleman from Maine, [Mr. BLAINE,] who waived the other, is decided to be in order. I hold that the amendment now pending amounts to the same as the other. It is only put in a very ingenious way. It is equivalent to saying "that the money which is hereby appropriated shall not be expended unless certain provisions of the law which now prevail shall be altered." What is that but a virtual repeal of the law? "You shall have the money if the law is set aside; you shall not have it if it is not set aside." That, the gentleman says, is not a repeal. I say it amounts to something so near it that I am unable to distinguish the difference.

Let it go, however; suppose it to be in order; suppose it to be what it really is, only an attempt at legislating upon this subject of a reduction of the Army. Then, I say, it only illustrates another of the disadvantages arising from this attempt at general legislation in an appropriation bill. I think the House ought to set its face against all this. It has been an abuse through many years, increasing continually, until, as I had hoped, the present House was going to maintain the position that no such thing should be foisted into an appropriation bill, affecting the general law of the land, in order to bring about a reform so much desired. But here is an attempt at legislation. Now, what is it in the form in which it is at present presented? Let me say a few words which I think will satisfy the gentleman from Maine himself that he proposes an impracticable mode of reducing the Army, and therefore had better reserve the whole subject for general legislation outside of the appropriation bill. His proposition is this: that hereafter no person shall be commissioned in the Army except graduates of West Point, who are to be made second lieutenants; but that is not to interfere with the regular promotion of officers.

Mr. BLAINE. Until otherwise directed by law.

Mr. SCHENCK. Just what I said. You repeal the present law, and until you pass a new law this is to stand as the rule. Well, what is the rule proposed? Why, that there shall be none commissioned except second lieutenants, and they only from West Point; but it shall not interfere with regular promotions. Now, how many are graduated from West Point each year? Only about sixty. What has the gentleman told us about the annual casualties in the Army? He says that more than three hundred officers, by death, resignation, or otherwise, go out annually. What then happens?

Mr. BLAINE. I beg the gentleman's pardon. I did not say annually. I stated that last year it was so, and that the tables of Army longevity preceding the war show that the average length of service is ten years, which would make it one tenth of the Army. That is an essential difference.

Mr. SCHENCK. Very well; last year is not to be taken as the rule.

Mr. BLAINE. No.

Mr. SCHENCK. Then we will go back to what the Army was before the war, and it was found that in a time of profound peace immediately preceding the war one tenth of the officers were consumed, as it were, in the service each year. Now we have, the gentleman tells us, nineteen hundred and fifty-two officers. Let us suppose, having no war, that they go back to the old ratio which existed before the war, then at that rate one hundred and ninety-five will go out every year, which is about one tenth of the gentleman's own figures. Then one hundred and ninety-five will be used up every year, and sixty will be the annual supply. What will be the consequence? Why, in a very little time all your second lieutenants will become first lieutenants to supply vacancies, the first lieutenants will become captains, the captains majors, and so on, until within a year or two after your law has gone into operation you will have no second lieutenants at all, for as fast as they are commissioned from West Point they will be entitled to promotion, perhaps on that day or the next, and may get two or three commissions in quick succession and run right up to be a captain or major; and thus this great snake of an Army will wither away at the tail, as it were, and that process will continue until it is all head; we shall have an Army of privates with nothing but field officers to command it. Now, is there any answer to that?

Mr. BLAINE. Yes, a complete answer. The moment that process begins the consolidation of regiments takes place, as was provided in the original proviso which I withdrew, and the reason why I withdrew it was that it is not, in the opinion of those best advised in Army matters, competent at this time to say just the proportion of the three arms of the service they want.

The whole bugbear which the gentleman from Ohio has so ingeniously presented here is dispelled in a moment by the suggestion that as the officers grow thin in a regiment you put two regiments together, and that is exactly what we want to attain.

Mr. LOGAN. Where is your law for that?

Mr. BLAINE. We can provide for that when the time comes. We want to bring about that exact state of affairs when they will be compelled to make fewer regiments by there being fewer officers.

Mr. SCHENCK. I thank the gentleman for that explanation. What does it prove? Why, that he proposes some legislation now which very soon will require some other legislation.

Mr. BLAINE. Yes, and Congress is in session two thirds of the time and is quite competent to attend to it.

Mr. SCHENCK. He thus illustrates just

what I say, the impropriety of undertaking to thrust into an appropriation bill what may be needed as a general law, when every man with his eyes open knows that it will entail consequences which will render necessary other and further and still more general legislation immediately after. All I rose for was to insist that this whole mode of legislating upon general subjects in appropriating bills is all wrong, and the gentleman's illustration has helped me to establish my proposition.

Mr. BLAINE. Before the gentleman sits down I desire to ask him one question, or two questions, probably.

Mr. SCHENCK. Certainly, three of them, if the gentleman wishes.

Mr. BLAINE. The first question is, does the gentleman favor maintaining an army of sixty regiments as a permanent peace establishment?

Mr. SCHENCK. I am for maintaining our Army as it is just now until certain matters shall have been disposed of not likely to be settled in less than a year. I see no necessity for decreasing the Army until these matters are disposed of. But I am not putting myself on that ground at all, and the gentleman need not cross-examine me on that point.

Mr. BLAINE. I thought the gentleman expressed himself willing to be questioned.

Mr. SCHENCK. Not on that point. I believe there is a general disposition, as soon as the circumstances of the country will permit, to resort to some system for the reduction of the Army which shall be fair to those who are now in it and shall at the same time take care of the public interest and of the public Treasury. What I object to is that this piece of a reform of that kind, carrying with it consequences which will hereafter render something else necessary to be done, should be thrust into an appropriation bill. Now, all I ask is that every general provision of this kind, providing for a partial reduction of the Army upon any such incomplete or lame plan as this, shall be kept out of this appropriation bill, and that the proper committee of this House, or any member of the House who has a scheme upon that subject, shall bring forward a bill to be taken up for consideration and disposed of in the way of general legislation.

Mr. BLAINE. Members perfectly understand this question, I think, and there is no need for any further discussion of it. Therefore I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Wisconsin, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 658, making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, with amendments, House bill No. 208, extending the time for the completion of the Dubuque and Sioux City railroad, in which amendments the concurrence of the House was requested.

ENROLLED JOINT RESOLUTION.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes; when the Speaker signed the same.

INDIAN AFFAIRS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, relative to the transfer to the Interior Department of jurisdiction over certain Indian matters now exercised by the Treasury Department; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ARMY APPROPRIATION BILL.

Mr. BLAINE. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the special order, the Army appropriation bill; and pending that motion, I move that all general debate upon the bill be closed at once, and that all debate upon the pending paragraph be closed in ten minutes after the Committee of the Whole shall have resumed the consideration of the subject.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Wisconsin, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending the 30th of June, 1869, and for other purposes.

The pending question was upon the amendment to insert the following:

Provided, That the expenditure of the money herein appropriated shall be limited and controlled by the following condition, namely: until otherwise ordered by law no new commission shall be issued in any regiment except to those who are entitled by law to appointment as second lieutenants by graduation at the United States Military Academy; but this provision shall not be construed to deprive any officer of whatever promotion may be open to him by the occurrence of vacancies among his superiors in rank.

Mr. BLAINE obtained the floor, and yielded five minutes to Mr. WASHBURN, of Indiana.

Mr. WASHBURN, of Indiana. Mr. Chairman, the whole subject of the reduction of the Army was, by order of the House, referred to the Committee on Military Affairs. That committee has had the subject under investigation, and whenever it has an opportunity will report the result of its action. The same committee has in its charge, and will, I trust, be ready soon to report another bill having a material bearing on this subject—I mean the bill which is known as the military education bill, a measure which the War Department has submitted to us—proposing that in various colleges throughout the States professorships, with the view to military education, shall be established, and that, with regard to appointments to vacancies in the Army, graduates of those colleges shall stand on an equality with the graduates of West Point. The amendment now pending would entirely preclude any provision of that kind. Sir, by establishing military professorships we can educate in colleges in the various States men who will be as well qualified for officers of the Army as the graduates of West Point. I hope that we shall not upon the present bill take any action which will preclude the House from adopting such a measure, by which our system of military education will be distributed throughout the States among various colleges, instead of being localized in a single institution. I trust that this amendment will not be adopted.

Mr. BLAINE. I now yield three minutes to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. Mr. Chairman, this proviso is a very shrewd attempt at doing just what it says it does not do. It is an attempt to introduce new legislation under the guise—I had almost said the Yankee guise—of limiting an appropriation. If this proviso should be enacted, with no other provision of law on the subject, then no commission in the Army can be issued except as there directed; and it will become a standing provision of law, extending beyond the term of this appropriation bill into the next year, and the next, and so on until repealed. That the proposition is out of order seems to me very clear. It proposes to legislate upon the subject of issuing commissions in the Army—a subject foreign from the matters embraced in these appropriations. It is independent and absolutely new legislation.

As has been remarked by the gentleman who preceded me, [Mr. WASHBURN, of Indiana,] this whole subject is before the Committee on Military Affairs. A bill which is intended to be homogeneous in its character, covering the whole question of reducing the Army, consolidating the regiments, regulating the process of appointment, the classes from which appointments shall be made, and introducing new features into our system of military education, is in process of preparation, and will be ready to be reported to the House when the committee shall be called. This piecemeal legislation in regard to the reduction of the Army in an appropriation bill appears to me unwise and uncalled for. I trust and believe that the Committee on Military Affairs, whenever it shall be called, will report a bill on this subject which will be satisfactory to the House and to the country. I hope that this new legislation will not be introduced into this appropriation bill.

Mr. BLAINE. Mr. Chairman, in the few minutes remaining of my time I desire to say that this Army appropriation bill contains less of what the gentleman from Missouri [Mr. PILE] stigmatizes as independent and obnoxious legislation than any Army appropriation bill which has been brought before the House within the last ten years. By looking back over our statute-book, gentlemen will see the large amount of independent legislation that has been put upon Army appropriation bills. The committee, in preparing this bill, have been exceedingly careful in regard to that matter. But let me call the attention of the committee to this fact: that when gentlemen earnestly desire to put through any measure, they can, by putting it on an appropriation bill, make sure of it. I do not know what kind of a bill the Committee on Military Affairs will bring forward in regard to the reduction of the Army. I understand that one of its provisions will be to hand over the control of Indian Affairs to the War Department. That measure was defeated in this House last winter, although I voted for it.

Mr. PILE. The gentleman will permit me to correct him. No such measure is before the committee.

Mr. BLAINE. You do not know what will be bound up in the bill which the Military Committee will introduce. Here we have a naked, direct, plain issue, whether the Army shall be maintained at sixty regiments or whether we shall provide for its gradual reduction from this time forward until it is reduced to a point where Congress says it shall stop.

Mr. PILE. Let me ask the gentleman a question.

The CHAIRMAN. The time for general debate has expired.

The committee divided; and there were—ayes 34, noes 33; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. LOGAN and Mr. BLAINE.

The committee again divided; and the tellers reported—ayes 54, noes 34.

So the amendment was agreed to.

MESSAGE FROM THE PRESIDENT.

The committee informally rose.

A message in writing was received from the President of the United States, by WILLIAM G. MOORE, one of his secretaries.

The committee then resumed its session.

ARMY APPROPRIATION BILL.

Mr. VAN WYCK. I ask to go back in order to move to strike out the seventh and eighth lines. They ought to be stricken out in view of the statement made by the gentleman from Maine.

Mr. BLAINE. I object to going back.

Mr. VAN WYCK. Let me make a suggestion. I think the committee has resolved the Army shall be reduced from sixty to thirty-seven regiments.

Mr. BLAINE. We have done no such thing.

Mr. VAN WYCK. We have in effect, and I would like to know what necessity there is for recruits and transportation if that be done?

The Clerk read as follows:

For commutation of officers' subsistence, $2,133,413.

Mr. WOOD. I move to reduce it to $2,000,000.

Mr. Chairman, I do that for the purpose of referring to a remark made by the gentleman from Maine at the commencement of the discussion on this bill. I understood him to say the aggregate amount of the appropriation called for by this bill is no more than heretofore appropriated under Democratic administrations. Now in referring to the appropriations for the year ending the 20th of June, 1861, I discover the whole aggregate amount of appropriations in the Army appropriation bill was $10,489,033. The amount required for the pay of the Army at that time was $3,591,000 as against $15,000,000 called for by this bill.

It is apparent, therefore, that the gentleman was laboring under a very grave misapprehension as to the amount of money expended for military purposes heretofore. I repeat, if the House earnestly desires the reduction of the expenditures of the Government it does appear to me that they should begin at once with a department which in one item calls for an expenditure equal to what was almost the entire expenditure of the Government at a not very remote period. If we are to have economy here is where we should begin.

The gentleman says this is for the support of sixty regiments. Now, there is not one regiment that is nearly full. I will give the gentleman an opportunity to answer me that question, whether these sixty regiments are full, or anything like full? I ask him whether there are sixty thousand or fifty thousand or forty thousand men who are proposed to-day to be provided for by this bill? I pause for a reply. Are they full or nearly full?

Mr. BLAINE. They are not.

Mr. WOOD. How near full are they?

Mr. BLAINE. By General Grant's order, excepting cavalry, the service has been reduced to the minimum.

Mr. WOOD. What is that?

Mr. BLAINE. Fifty men to a company.

Mr. WOOD. That would make in the aggregate?

Mr. BLAINE. About forty-two thousand men for the Army.

Mr. WOOD. Here is a proposition to appropriate $33,000,000 for forty-two thousand men. By the deficiency bill next year it will be run up to an aggregate of $50,000,000 for the purpose of keeping up forty-two thousand men.

Mr. BLAINE. I hold in my hand the estimate of the expenses of the War Department for the fiscal year ending June 30, 1861, and it is over twenty-three million dollars. I ask for a vote.

Mr. SCHENCK. I move to amend the amendment by reducing the amount from $2,133,413 to $1,800,000, and I will give my reasons, founded upon the premises furnished by the gentleman from Maine, [Mr. BLAINE.] The gentleman informs us that the reduction of the number of officers will be one hundred and ninety-five for the present year. About sixty graduate at West Point. Taking the sixty from one hundred and ninety-five leaves one hundred and thirty-five officers. That is a reduction of just fifteen per cent. from the whole number of officers. Now, here is an appropriation "for commutation of officers' subsistence, $2,133,413" in the face of the amendment just made, which is to reduce, during the coming year, the number of officers fifteen per cent. I take the gentleman's own figures, and taking off fifteen per cent. from the whole amount appropriated I reduce it to $1,813,000. It is a mere matter of arithmetic, about which the committee can satisfy themselves. We have adopted a rule by which one hundred and thirty-five officers less than we have now are to be provided for in the next fiscal year. I propose to reduce the appropriation accordingly.

Mr. BLAINE. I oppose the amendment. The gentleman's figures are not correct in regard to the total number of officers in the Army.

Mr. SCHENCK. I took your own figures.

Mr. BLAINE. You took the wrong column. I ask for a vote.

Mr. WOOD. I withdraw the amendment.

Mr. SCHENCK. Then I move mine as an original amendment, to strike out $2,133,413 and insert $1,800,000.

The question being taken on the amendment, there were—ayes 50, noes 20; no quorum voting.

Mr. BLAINE. Let it be considered as adopted.

The amendment was accordingly adopted.

The Clerk read as follows:

For commutation of forage for officers' horses, $20,000.

Mr. SCHENCK. I move to reduce that amount fifteen per cent. I move to strike out $20,000 and insert $17,500.

Mr. BLAINE. Does the gentleman intend to apply the same rule to all officers in the Army? Does he propose to apply his arithmetic to all the captains and lieutenants of infantry who are not entitled to horses?

Mr. SCHENCK. This general legislation is thrust upon us without an opportunity to cipher; therefore we have to arrive at the result upon such bases as we have. As the committee have decided to reduce the number of officers for the next fiscal year at the rate of fifteen per cent., I propose to reduce the appropriation for the officers that amount. I know it will not come out exactly right, but we have not time to cipher out these things as they are forced upon us in these appropriation bills.

Mr. BLAINE. If the committee wish to indulge the gentleman with this pleasantry——

Mr. SCHENCK. No pleasantry.

Mr. BLAINE. Or factiousness, if you please; whatever any one may choose to call it, of course they can delay the passage of this bill. I desire to state that this bill has been reduced with the utmost possible care, in view of the fact of this amendment, and reduced on the basis of this amendment. Every calculation that could be made at Army headquarters by those who furnish supplies has been made with the utmost exactness.

Mr. RAUM. Will the gentleman allow me to ask if General Grant recommends this proviso?

Mr. BLAINE. Yes, sir; he did.

Mr. HIGBY. I ask the gentleman if there was not over one hundred thousand dollars appropriated last year?

Mr. BLAINE. Yes, sir; over one hundred thousand dollars.

Mr. PILE. I desire to know if General Grant directly recommended this proviso. I want the answer to that question on record.

Mr. BLAINE. If the gentleman is so desirous of putting it on record, I will state that at his headquarters to-day at twelve o'clock I submitted the proviso that appears in the printed bill. He objected to having the number of regiments reduced as was proposed; he objected to specifying the number; and then I wrote, according to his dictation, the exact and literal—*verbatim, et punctuatim, et literatim*—amendment which I have proposed. Is the gentleman satisfied? Does he mean to raise a question of veracity with me on that statement?

Mr. PILE. Oh, no.

Mr. BLAINE. And more than that: the very provision to all intents and purposes which has been voted by this House to-day is now on the Speaker's table from the Senate, having been put into a bill by the chairman of the Committee on Military Affairs of the Senate with the concurrence and advice of General Grant. The difference is just this: the bill from the Senate simply says that there shall be no further second lieutenants appointed, and this proviso says that no new commissions shall be issued.

Mr. RAUM. I understood the gentleman to state to the House that the estimates on which this bill is based were made with reference to the adoption of this proviso, and he also states that this bill contains the estimates as General Grant gave them.

Mr. BLAINE. Yes, sir.

Mr. RAUM. And then, in answer to my question, he says that General Grant to-day at twelve o'clock approved of his proviso.

Mr. BLAINE. Yes; and it has had the approval of General Grant for the last six or eight days.

Mr. RAUM. How is it possible, if General Grant only gave his concurrence in the proviso to-day, that he made his estimates with reference to the proviso?

Mr. BLAINE. General Grant gave his concurrence six or eight days ago. I was merely speaking as to the literal form of the amendment.

Now, what difference does it make? Who in the world is it who is guilty of the bad taste of obtruding General Grant's name here at all times, as though we could not legislate about an Army bill or have any independent legislation in the House without asking whether General Grant approves it? I never proposed to use the name of General Grant in legislating here. I have too much respect for General Grant to be obtruding his name in that way into this House. It was introduced by the gentleman from Missouri [Mr. PILE] and the gentleman from Illinois, [Mr. RAUM.]

Mr. SCHENCK. I move to amend the amendment by striking out the last word. In the estimates from the War Department laid before the House I find, "For commutation of forage for officers' horses, $20,000," and in this bill I find that same item. That estimate was made for the whole Army as it is, counting all the regiments full of men and officers.

Now, what do I propose? I do not arraign the House for what they have done or for the peculiar mode in which they propose to reduce the Army, but I say that in reducing it in that way, by the admission of the gentleman himself who represents the committee that reported this bill, they have provided for reducing the number of officers fifteen per cent. of the whole number, and I propose, as a consequence of that, to reduce each of the appropriations in the same ratio.

Now, it will not do to say that this is "pleasantry," that it is "faction." I want it understood that I stand here as a Representative of the American people, with precisely the same right to offer an amendment to this bill and to give my reasons for it and to insist on the soundness of those reasons as the committee have under the order of the House to report the bill; and I say that if this House wants to be consistent, when it has adopted a scheme for a reduction of the number of the officers of the Army, they ought not to go on afterward by one item and another of appropriations appropriating for the full number of officers estimated for without taking that reduction into account. If that is not plain English, and separate from anything like "faction," I do not understand what it is; and as to pleasantry, this matter of dollars and cents is too serious a matter to be dealt with in any light manner by anybody. I want to cut our coat according to our cloth, and if gentlemen reduce the size of the cloth, why we must make the coat a little less, or if, to reverse the figure, we do not require so large a coat, we must not use so much cloth. That is all.

Mr. BLAINE. I desire to state that the appropriation for this same object last year was $104,600. We this year propose to appropriate less than one fifth of that amount.

Mr. SCHENCK. What is the amount called for in the estimate?

Mr. BLAINE. The estimate is cut down to a very low figure, and after we had revised and rerevised that matter and had discussed the point fully the general opinion was that the amount had been placed too low in the original estimate, and that this item would probably be found deficient, the only one, I suppose, that will be deficient. I am quite sure the Committee of the Whole will not think $20,000 too

much for this purpose this year, when $104,000 was appropriated last year for a similar purpose.

Mr. LOGAN. I move to amend the amendment of the gentleman from Ohio [Mr. SCHENCK] by decreasing the amount one dollar.

The CHAIRMAN. That is not in order, as there is already an amendment to an amendment pending.

Mr. SCHENCK. I withdraw the amendment to the amendment.

Mr. LOGAN. I renew the amendment to the amendment. I desire, since the remarks made by the gentleman from Maine, [Mr. BLAINE,] merely to say one word. His remarks were made upon another amendment, but what I have to say will come in here just as well. He said that I seemed to have a jealousy of and was always fighting the Military Academy at West Point. Now, in answer to that, I have this to say: I have been educated and taught to fight tricks wherever I find them, and when I see a trick palmed off on this House, as was done in the bill which passed here a year or so ago, and then when I see another trick attempted here this morning, I justify myself in any remarks I may see fit to make, without asking any gentleman to be a censor on what I may say.

This House passed a bill a year or more ago in reference to the Army providing that brevets might be given. Brevets were given by the Secretary of War to volunteers and regulars, side by side; some captains were made major generals by brevet. As soon as the Army bill passed what was the construction placed on that law? It was that an officer in the regular Army who received a brevet retained his brevet rank and took position in accordance therewith. But how was it with the volunteer? The construction was that his brevet fell with his volunteer commission, and that he stood as before, outranked by these other officers with their brevets.

Mr. SCHENCK. Who gave that construction to the law?

Mr. LOGAN. I do not say who gave it; but that was the construction given to the law, and that is the construction to-day, and when I saw this proposition introduced here this morning to cut the throats of all civilians that might apply for commissions while this law existed, I then, and only then, made the remarks I did in reference to West Point.

I have no prejudice against West Point. I acknowledge, as much as anybody else does, what West Pointers have done. But I protest that neither West Point, nor East Point, nor North Point, nor South Point, nor Maine Point, nor any other point shall introduce a trick of legislation in Congress. Nor, if I happen to oppose it, do I admit that I shall be liable to censure for that opposition. I say that this is a trick of legislation which no man expected, or had a right to expect, in this appropriation bill.

And I say to the gentleman that when he talks about consulting this man or that man I have had independence enough, thank God, since I have reached manhood, to have my own views and my own opinions, and to act upon them without slipping into the office of any one and asking him whether this or that thing is right. And I say further that I am as good a friend of General Grant as he is; and I am as good a friend of Army officers as any one. And I want gentlemen to stop their insinuations that I am fighting the officers or soldiers of our Army. But if certain gentlemen in this country are going to control all the legislation of Congress, then in God's name let us refer all our legislation to them, and let them tell us what they want to have done. We have a Committee on Military Affairs, a Committee on Appropriations, and various other committees. But if we must pass legislation of this kind, poked into this House from day to day from some officer or bureau of the Government, without any explanation or reason given for it, just let us understand it. But I say that if you will look into it closely, and get to the bottom of it, you will find that it is for the benefit of a certain class in this country to the exclusion of others.

We have had men in every Congress who have been disposed to pet this institution, who have almost gone on their knees to it, and who, whenever any legislation in regard to the Army has been proposed, have been ready to ask those connected with or coming from the institution, "what shall we do in the name of West Point?"

[Here the hammer fell.]

Mr. BLAINE. Mr. Chairman, the gentleman from Illinois [Mr. LOGAN] speaks of "tricks" in legislation. He is perfectly at liberty to select his own expressions to characterize the measures coming from the Committee on Appropriations. Here is a direct, explicit, double-leaded, plainly-printed proviso, on which the sense of this House was asked after deliberate debate. The gentleman from Illinois starts off in a great deal of temper about something which he says I attributed to him.

Mr. LOGAN. I hope the gentleman will withdraw the word "temper."

Mr. BLAINE. I say "a great deal of temper." I never alluded to the gentleman as having a jealousy toward West Point. Not at all. I simply said that I thanked God that while I had no prejudice against West Point I had no jealousy toward it. I have the charge of this bill as the organ of the Committee on Appropriations; and the gentleman cannot, no matter how much he may try or how much temper he may exhibit, get me into a quarrel with him. The gentleman may, as a matter of taste, apply to the Committee on Appropriations just what phrases he pleases. They apply to the whole committee as much as they do to me personally; and I am quite sure that I can take his indignation whenever he may choose to put it upon my innocent head. [Laughter.]

Mr. LOGAN. I hope that in the report "laughter" will be inserted after the speech of the gentleman from Maine. [Laughter.] I withdraw my amendment.

Mr. BUTLER. I renew the amendment. I wish to say, after the exposition of the gentleman from Maine [Mr. BLAINE] that this proviso, as voted upon by the House, was written at twelve o'clock to-day in the office of the General of the Army of the United States, and has been thence reported to the House, "*verbatim, et literatim, et punctuatim*," that I, as one member of the Committee on Appropriations, do not propose to be made responsible for it; I never saw it; it never was communicated to me or to the committee. Therefore I do not take any portion of the praise or abuse, the sneers or good nature which may be bestowed upon the Committee on Appropriations in regard to this proviso. I was out of the House when it was adopted; and I want, as one member of the committee, wholly to wash my hands of it.

I desire further to say that we have fallen on evil times indeed when the Army of the United States is to be raised up or cut down at the request or under the dictation of any officer of the United States. The legislation for the Army of the United States has been intrusted to the Representatives of the people of the United States; and the last man that ought to influence the Representatives of the people as to how large or how small our Army should be kept, or how large or how small an appropriation should be made for it, is the General of the Army of the United States. We should keep distinct the civil and the military power; and I trust I may say thus much without any imputation of bad taste or bad feeling toward any man. Because, sir, we may have hereafter another General of the Army of the United States; and in good times with good men precedents are set of which bad men in bad times always take advantage; and when we have a General in whom everybody seems to have confidence except those who have not, [laughter;] when we have at the head of the Army a General in whom everybody has confidence, and we defer our opinions to his as to how much we shall appropriate to the Army, how large an Army we shall keep up, who shall be officers and who shall not, we set a precedent which hereafter, in the change of a very few years, when a strong and bad man is at the head of the Army, may be fatal to the liberties of the country. The dictation to Congress by executive officers, civil or military, is an evil which our fathers were careful to guard against, by allowing nobody—I repeat, allowing nobody—to communicate his opinions to the House to give it advice or instruction except the President of the United States alone.

Mr. BLAINE. Mr. Chairman, I desire to say, in reply to the gentleman from Massachusetts, [Mr. BUTLER,] that I for one hope it will never be considered derogatory to the character of the first officer of the Army of the United States to submit to Congress, as his right, a recommendation for the reduction of our military force.

Mr. BUTLER. The gentleman will allow me to ask him where in the Constitution of the United States he finds the right of the General of the Army of the United States to recommend anything to this House?

Mr. BLAINE. I am not speaking about the Constitution. If the General of the Army were to ask for a larger military force, I can very well imagine the House might at least be sensitive; but when the General at the head of the Army asks for a reduction of the military force, I certainly can see no cause for sensibility and no cause whatever for alarm.

Mr. PILE rose.

Mr. BLAINE. I cannot yield. I move that the committee rise, to close debate on this paragraph.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the Chair, Mr. WASHBURN, of Wisconsin, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 658, making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

PARDON OF COUNTERFEITERS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report of the Attorney General, in answer to a resolution of the House of the 26th of November, 1867, requesting "a list of all pardons that have been by him granted since the 14th day of April, 1865, to any person or persons charged with, or convicted of, making or passing counterfeit money, or having counterfeit money, or tools or instruments for making the same in his or their possession, or charged with or convicted of the crime of forging or criminally altering papers, accounts, or other documents, or of the crime of perjury; and that such list be accompanied by a particular statement in each case of the reasons or grounds of the pardon, with a disclosure of the names of the persons, if any, who recommended or advised the same;" which was referred to the Committee on the Judiciary, and ordered to be printed.

RUSSIAN AMERICA.

The SPEAKER, by unanimous consent, also laid before the House a message from the President, transmitting, in answer to a resolution of the House of the 19th December last, calling for correspondence and information in relation to Russian America, reports of the Secretary of State and the Secretary of the Treasury; which were, on motion of Mr. BANKS, referred to the Committee on Foreign Affairs, and ordered to be printed.

SURVEY OF PENOBSCOT RIVER.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with law, a report from the chief of

engineers with the report of Brevet Brigadier General Thom on the survey of the Penobscot river; which was referred to the Committee on Commerce, and ordered to be printed.

ARMY APPROPRIATION BILL.

Mr. BLAINE. I move the House resolve itself into the Committee of the Whole on the state of the Union, and pending that motion I move all further debate on the pending paragraph be closed in five minutes after its consideration shall be resumed.

The motion to close debate was agreed to; and also the motion to go into committee.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Wisconsin, in the chair,) and proceeded to the consideration of the special order, being the Army appropriation bill.

The CHAIRMAN stated that debate on the pending paragraph had been limited to five minutes.

Mr. PILE. I only desire to say, sir, in reference to the recommendation said to have come from the General of the Army, I understood the gentleman who has charge of this bill, in answer to a question of the gentleman from Illinois, to say that General Grant approved of the proviso in the bill, including the consolidation of regiments.

Mr. BLAINE. The gentleman misunderstood me. I said that in reference to the consolidation of regiments he distinctly disapproved of it.

Mr. PILE. Then the gentleman and I understand his position precisely alike.

I wish to say this, further, so far as allusions to General Grant are concerned, as to the taste of bringing in Grant's name, I have only to say the gentleman from Maine used his name before I did. Out of his own mouth do I condemn him. The gentleman from Maine and the gentleman from Illinois both alluded to General Grant before I did.

Mr. BUTLER. I want the gentleman to state what General Grant did recommend, as he understands it?

Mr. PILE. It is before the Committee on Military Affairs, and it is not proper for me to state what takes place there.

Mr. BUTLER. I beg pardon; these papers belong to the House, and not to the committee.

Mr. PILE. I wish merely to say that since the proviso has been adopted reducing the number of officers fifteen per cent. we should, of course, reduce the other appropriations accordingly. I hope, therefore, the amendment of the gentleman from Ohio [Mr. SCHENCK] will prevail.

Mr. BUTLER. I have not been answered yet. What did General Grant recommend?

The question being taken on the amendment of Mr. SCHENCK, there were—ayes 41, noes 50; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. SCHENCK and WASHBURNE, of Illinois.

The committee divided; and the tellers reported—ayes fifty-eight, noes not counted.

So the amendment was agreed to.

The Clerk read as follows:

For payments in lieu of clothing for officers' servants, $250,000.

Mr. SCHENCK. I move to strike out "$250,000" and insert "$160,000." I am not going to enter into any explanation about General Grant or the Army in any general way, but I desire to put this thing directly before the committee. General Grant, it seems, recommended the proviso which has been adopted, and by that proviso the number of officers will be reduced at the rate of fifteen per cent. during the present year. Now, we have had from the War Department, when he was Secretary of War, an estimate for the coming year, and in that estimate this item does not agree with the same item in the appropriation bill. His estimate is $277,368 for payments in lieu of clothing for officers' servants. In the bill it is $250,000 for this item. Thus the Committee on Appropriations have agreed to throw off some twenty-seven thousand dollars. That is not, however, fifteen per cent. of the whole. Now, I propose to cut it down fifteen per cent. from what was originally estimated for with the whole number of officers. That will reduce the appropriation to about one hundred and sixty thousand dollars.

Mr. BLAINE. The gentleman's arithmetic is sadly at fault. A reduction of fifteen per cent. would bring it down to about $225,000.

Mr. SCHENCK. The gentleman proposes to reduce it to $225,000. Very well; if it is reduced to that sum I am willing. That will probably cover the percentage. I discover such a discrepancy between the estimates we have here and the new estimates that, like other gentlemen here, I am somewhat confused by them. I will withdraw my amendment to allow the gentleman from Maine [Mr. BLAINE] to move to make it to $225,000.

Mr. BLAINE. Very well.

Mr. SELYE. I move to amend the amendment by making it $200,000. I simply wish to know from the committee whether this appropriation in lieu of clothing for officers' servants is a usual appropriation?

Mr. BLAINE. It is, and is entirely in accordance with the Army regulations and the laws. I have consented to the reduction proposed by the gentleman from Ohio, [Mr. SCHENCK,] merely to expedite the passage of the bill.

Mr. SELYE. I wish to say that this idea of servants is a very obnoxious thing to the tax payers of this country. They do not like it. They would rather have these officers paid by a direct appropriation, allowing a specific amount of pay, without putting in any of these allowances for servants. I have no servants; no member here has servants that I know of. Even the President of the United States, you did not allow him servants. Now, if the committee will put in a specific amount sufficient to cover all the pay of these officers it will suit me better.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. SELYE. I withdraw it.

Mr. PILE. I move to amend the amendment by striking out $225,000 and inserting $212,500. Fifteen per cent. on $250,000, as I make it, is just $37,500, deducting the latter sum from the former leaves $212,500. It is stated that the original estimate was $277,000. Perhaps it was made, as most of these estimates are made, too large, more than was needed, with the expectation or understanding that it would be reduced by the Committee on Appropriations. Does the gentleman say that the $250,000, as it is in the bill, was not intended to meet this expense for the Army as it now stands? If it was, then it can be reduced fifteen per cent., in accordance with the ratio of reduction adopted by the House in the number of officers in the Army, and that would make exactly $212,500. It is no answer to say that the original estimate was $277,000. The appropriation made by the committee was $250,000, and that was intended to cover this expense for the Army as at present constituted, with the present number of officers, and if we reduce the number fifteen per cent. of course we can reduce this appropriation fifteen per cent.

The amendment to the amendment was disagreed to.

The question was then taken on Mr. BLAINE's amendment, and it was agreed to.

Mr. VAN WYCK. I move to strike out line thirty-six, which is "for contingencies of the Army, $60,000." I do not understand the necessity for such an appropriation as this of $60,000 or of any other amount for contingencies of the Army. The committee will see by examining the appropriations in this bill that they are very liberal, and meet every possible want of the Army, even its stationery and postage. And when these liberal appropriations are made for the officers for servants, for transportation of men, for transportation of baggage, for stationery and postage, why is there any necessity for an appropriation for contingencies to the amount of $60,000? It is getting to be time that these appropriations to the different Departments for contingencies should be discountenanced by Congress. We should not place large sums in the hands of any Department that they can use without any accountability. I can see no necessity for this item, as every want of the Army is provided for by a special appropriation, and therefore I move to strike it out.

Mr. BLAINE. This appropriation is $40,000 less than that made last year for the same purpose and $40,000 less than is asked for. It is quite obvious that in administering so large an appropriation as $33,000,000 for so large an Army as ours it is almost impossible to foresee and classify every little item that may come up. If you send to the War Department for an extraordinary amount of information, which necessitates a large amount of copying, they have to hire extra clerks. Sometimes legal questions arise in which extra counsel have to be employed; and there are various other unnamable and altogether unforeseen circumstances arising in which it is impossible to classify the expenditures. And $60,000 is regarded as a very small appropriation to meet such expenditures. I hope the item will not be stricken out. If it is not altogether out of order to say that anybody has conferred with an officer of the Government, I will say that I conferred with the War Department this morning with reference to this appropriation, and it is regarded as the smallest amount with which they can possibly get along. I should say, however, I did not confer with the Secretary personally, lest that might be an offense, but with the gentleman who represents him on this point.

Mr. VAN WYCK. After the organization has been so long in existence it is perfectly evident that the Secretary of War and the General of the Army can report to Congress for what they wish specific appropriations. I do not understand that there is any necessity for the Army organization to employ counsel anywhere; and the only other reason for this appropriation suggested is that they may be called upon to copy some documents. I think if you will go through the Department of the Army and nearly every other Department you will find that one half of the persons employed as clerks are really much of the time doing nothing at all. But the gentleman suggests that in the future, during the coming year, we may ask the General of the Army to give us copies of documents. Well, Congress is in session two thirds of the time, as the gentleman says, and it is perfectly competent for Congress, when it asks for information, to vote them additional supplies, if it is impossible for them to furnish it without. But these appropriations are liberal, and cover every possible contingency.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. This includes the expense of burying men and officers.

Mr. VAN WYCK. No; that is provided for by giving the quartermaster's department millions of dollars.

The CHAIRMAN. No further debate is in order.

The question was taken on Mr. VAN WYCK's amendment, and it was disagreed to.

The Clerk read the following paragraph:

For medical and hospital department, $200,000: *Provided*, That all sums that have accrued to the credit of the medical and hospital department from the sale of medical and hospital stores, or from any other source, are hereby covered into the Treasury.

Mr. BLAINE. I move to amend the paragraph just read by striking out the proviso and inserting in lieu thereof the following:

Provided, That all balances to the credit of the medical and hospital department accruing from the sale of medical and hospital stores, or from any other source, shall be covered into the Treasury at the close of the current fiscal year; and thereafter all such balances shall be likewise covered into the Treasury as rapidly as they accrue.

Mr. DODGE. I raise the point of order that the amendment of the gentleman from Maine [Mr. BLAINE] is independent legislation, and therefore out of order in this appropriation bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BLAINE. I can only say to the gentleman from Iowa [Mr. DODGE] that by his point of order he is keeping nearly two million dollars out of the Treasury.

Mr. DODGE. I also raise the point of order that the proviso in the pending paragraph is independent legislation, and not in order in this appropriation bill. That proviso is as follows:

Provided, That all sums that have accrued to the credit of the medical and hospital department from the sale of medical and hospital stores, or from any other source, are hereby covered into the Treasury.

Mr. BLAINE. I raise the point of order on the gentleman that he is too late, having waited until I had offered an amendment.

The CHAIRMAN. The Chair overrules the point of order raised by the gentleman from Iowa, [Mr. DODGE,] and rules that the proviso is in order.

Mr. BLAINE. Very well.

Mr. SCHENCK. May I be allowed to inquire whether the effect of this proviso will not be to change the law which now covers unexpended balances of appropriations into the Treasury at the end of two years?

Mr. BLAINE. This is not an unexpended balance.

Mr. SCHENCK. It will be.

The Clerk read the following paragraph:

For expenses of the signal service of the Army, $5,000.

Mr. WOOD. I would inquire of the gentleman from Maine [Mr. BLAINE] what necessity there is for this appropriation for the signal service of the Army?

Mr. BLAINE. I will say that the amount asked for was $27,000, which the Committee on Appropriations considered to be too large. But merely to keep up the establishment, to keep the signal ball in motion, so to speak, the committee thought the sum here appropriated none too much.

Mr. WASHBURNE of Illinois. I ask to have read a letter from the chief signal officer, which I send up to the Clerk's desk.

The Clerk read as follows:

OFFICE OF THE CHIEF SIGNAL OFFICER,
WASHINGTON, D. C., *February* 18, 1868.

GENERAL: I beg to represent to you, with the view of bringing the subject before the committee, the necessity for the appropriation for the two clerks in this office. These clerks have been in this office ever since it was established, and their duties have been most onerous. They now have the experience which cannot be given new clerks in a year of practice, and they are thoroughly reliable.

One of these clerks is the accounting clerk, before whom all accounts pass. These are for the issues, under your orders, of equipments and apparatus to the whole Army, to each company post, and to West Point. There will be for the ensuing year over nine hundred separate accounts; and the United States may lose, if there is an incompetent clerk, more in one day than the whole of his salary for a year.

The correspondence clerk has had charge of the records of the office since it was established, and knows the history of almost every correspondence. This correspondence is extensive: it relates often to those who have served in the past war, and it needs the memory of one who was then serving that it may be rightly conducted. The actual daily correspondence of the office will require the constant labor of one man to record it and keep the books as they ought to be for the protection of the United States.

I judge, from the Globe, that this appropriation ($2800) was stricken out because there was no one in the House informed as to its necessity, and I hope the estimate may be permitted to remain. It cannot be lost without seriously embarrassing the duties of this office under your orders.

I am disposed to reduce every expenditure I can, but this is not real economy.

I have the honor to be, General, very respectfully your obedient servant,

ALBERT J. MYER,
Brevet Brigadier General and Chief Signal Officer of the Army.

General U. S. GRANT, *Commanding Army United States.*

Indorsement by General Grant.

The statement herein of Brevet Brigadier General A. J. Myer is approved.

U. S. GRANT, *General.*

February 18, 1868.

The Clerk resumed the reading of the bill.

The paragraph was read commencing as follows:

For general and incidental expenses of the quartermaster's department, consisting of postage on letters and packets received and sent by officers of the Army on public service; expenses of courts-martial, military commissions, and courts of inquiry, including the additional compensation of judge advocates, recorders, members, and witnesses while on that service, under the act of March 16, 1862; extra pay to soldiers employed under the direction of the quartermaster's department in the erection of barracks, quarters, storehouses, and hospitals, in the construction of roads, and other constant labor for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters, &c.

Mr. DODGE. I move to amend the paragraph by striking out after the words "August 4, 1854," the words "including those employed as clerks at division and department headquarters." I see no necessity for the employment of civilians at division and department headquarters while we have plenty of soldiers competent to perform the duty. They performed the duty for the whole Army during the war, and they can do so now.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

For the ordnance service, required to defray the current expenses at the arsenals of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage, and vehicles; incidental expenses of the ordnance service, including those attending practical trials and tests of ordnance, small arms, and other ordnance supplies, $200,000.

Mr. VAN WYCK. I move to amend by adding to the paragraph just read the following:

Provided, That no money appropriated by this act shall be used to pay for any new cannon or small arms.

Several MEMBERS. That is all right.

The amendment was agreed to.

Mr. SELYE. I move to amend the pending paragraph by striking out "two" and inserting "one," so as to make the appropriation $100,000. I find, by referring to the estimated balances of appropriations for the year ending June 30, 1868, that the balance of appropriations for the War Department is $82,000,000. Now, I wish to know what it is proposed to do with that money. Does any gentleman know anything about it? I do not believe that the people will sustain this House in appropriating at this time $33,000,000 for the Army when the report of the Secretary of War shows that the War Department has a balance of $82,000,000 on hand.

Mr. Chairman, in days gone by it was said by a very distinguished gentleman that the further you remove power from the people the better. Sir, that principle might do in those days, but it will not do at this time. Why would it do then? Simply because the Government did not depend directly upon the people for money. Its revenue was derived principally from customs and duties; there was no direct taxation. Now, we are obliged to call upon the people to pay these appropriations, and they will not respond unless we show a fair hand. I would like to have some member of the committee inform me, or rather inform the people—for I care nothing about it on my own account—what the War Department is to do with these $82,000,000.

Mr. BLAINE. A very large portion will, no doubt, go to the payment of bounties under existing laws.

Mr. SELYE. Do we appropriate for that in this bill?

Mr. BLAINE. No, sir; and in regard to the particular amendment which the gentleman has offered I desire to say that any gentleman who will examine the subject will find that the appropriations for the ordnance service are cut down to an exceedingly low figure. There is certainly no room for reducing them a single dollar. I hope, therefore, the amendment will not be adopted.

The amendment was not agreed to.

The Clerk, resuming the reading of the bill, read the following:

For purchasing three acres of land adjoining Federal Square, at Springfield armory, $3,000.

Mr. VAN WYCK. I move to amend by striking out the paragraph just read. I make this motion for the purpose of obtaining an explanation of the necessity of purchasing this land adjoining Springfield armory. It may be all right, but I would like to understand the necessity for the purchase at this time.

Mr. BLAINE. I will tell the gentleman. Adjoining the armory grounds at Springfield, Massachusetts, there is an exceedingly valuable piece of land, about three acres in extent, which the Government has long been desirous of obtaining. It is now offered for what is at this day a very low price for land in that city—$1,000 an acre for the three acres. What renders the land particularly desirable to the Government is the fact that there is upon it a valuable supply of water. This ground is considered very essential to the completeness of that armory. The Government is now directing its energies to the establishment of one great armory in the East and another equally great, or perhaps greater, in the West; and for the latter very liberal appropriations are proposed in the very next paragraph of the bill. It is hoped that the appropriation embraced in the pending paragraph, which is very reasonable in amount, will be granted.

Mr. VAN WYCK. I withdraw the amendment.

The Clerk read as follows:

For arsenal and armory at Rock Island, Illinois, $380,000: *Provided*, That $80,000 of said sum shall be devoted to the development of the water power to carry out existing contracts.

Mr. BOUTWELL. How much has been expended on this Rock Island armory and arsenal?

Mr. WASHBURNE, of Illinois. Not half as much as for that at Springfield.

Mr. WELKER. I would ask the gentleman having charge of this bill what water power it is that the Government undertakes to develop at Rock Island? What is it that will cost $80,000?

Mr. WASHBURNE, of Illinois. The water power is the whole Mississippi river so as to carry on the works of this armory and arsenal. It is done under a special contract with the Government.

Mr. VAN WYCK. That is a big thing. I move to strike out the last word of the paragraph, so as to get a chance to be heard. Will the gentleman from Maine tell me how much has been appropriated for this Rock Island armory and arsenal previously?

Mr. BLAINE. Six hundred and eighty-six thousand dollars.

Mr. VAN WYCK. And now we propose to appropriate $380,000 more, over a million dollars in all. We have spent $750,000 there already, and I think it is about time to stop. It is not necessary, I take it, that we should appropriate nearly half a million now to continue this Rock Island arsenal. It is not necessary to continue the construction of these arsenals anywhere in the country at this time. And, sir, those who manage the building of the Rock Island arsenal are rather expensive. Ten thousand dollars is not a modest sum to ask for a clock to be put up at Rock Island. It is time, sir, in the midst of these extravagant expenditures, that the American Congress should stop when $750,000 have been spent on this Rock Island arsenal. How much more is to be spent we know not.

Will it do any harm to suspend work there for a year? I think not. Will it do any harm to stop further appropriations for one year for any of these arsenals throughout the country? I think not. Will it not be better to let the people rest from taxation for a year? Will it not be better to let the people see there is, at least, some sincere effort on the part of Congress to resist any further pressure of taxation upon them? The arsenals in New York, in Massachusetts, in Illinois, will not suffer injury by waiting for a year. Neither will the

interests of the country be put in jeopardy by suspending this work. I think that the House should stop making appropriations for works that will not suffer injury by this suspension for a year. I am opposed to the people's money being taken from the Treasury and so lavishly scattered broadcast all over the country as is here proposed.

Mr. JUDD. Mr. Chairman, I believe I have never troubled the committee in relation to any of these appropriations, but I think it is due to the House, though this armory is not in the district I represent, that some explanation should be given of this appropriation.

And, sir, I desire now to reply to the interrogatory of the gentleman from New York [Mr. VAN WYCK] in relation to this water power to which reference is made in the bill. At the head of Rock Island there is a dam across the slough, which formed, before the Government commenced this armory, a water power by means of which the town of Moline, a manufacturing town, containing now a population of five thousand people, was created and built up. When the plans were adopted for the location of this armory at Rock Island, water power was absolutely necessary, and under a previous act of Congress the War Department was authorized to arrange with the proprietors of that water power for its control by the Government. Under that arrangement the owners and proprietors of that water power conveyed the title in fee-simple absolutely to the Government of the United States, retaining nothing for themselves but a contract on the part of the Government to perfect that water power and enable them to use one half of it. That title has been vested in the Government of the United States, and this manufacturing village, with a population of five thousand people, with flour-mills, woolen-mills, paper-mills, and like manufacturing establishments, is dependent upon it for its existence. There is one flour-mill which employs two hundred men, and there are large paper-mills there. Moline is dependent upon the business carried on in connection with this water power. In consideration of the Government getting the control of this water power it bound itself to perfect it. That is the position of the matter now.

Mr. HARDING. I desire to correct my colleague. The former owners of the water power have the right under this contract to use one fourth of that power.

Mr. JUDD. Then I stand corrected to that extent. I knew the general terms of this arrangement, but I do not pretend to the accuracy of my friend, who represents that district. And now, if it would not be too much trespass on the time of the committee, I would like to say a few words on the general question.

[Here the hammer fell.]

Mr. FARNSWORTH. I move to strike out the last word. It may not be known to all the members of this House that this island of Rock Island is probably the best situation for an arsenal in the United States. I believe it is so adjudged and recommended by those best acquainted with this subject. I know something of this water power, as this island was formerly in a district which I represented. I have frequently visited the town of Moline, and I can indorse every word my colleague has said in regard to that town, a thrifty and flourishing manufacturing village. They retained under this contract, of which I also know something, about one fourth of this water power.

Mr. EGGLESTON. I wish to ask the gentleman a question. He states that he formerly represented the district of Rock Island. I wish to know if Rock Island has been removed. [Laughter.]

Mr. FARNSWORTH. No, sir; but my district has been removed. I was about to say to the gentleman from New York, [Mr. VAN WYCK,] who opposes this appropriation, that the citizens of Moline will be very glad indeed if the Government would relinquish the water power to them. They do not ask any appropriation; they only ask that the Government shall carry out a solemn contract which it has made with them. If we will release all control and ownership of the water power to the people who improved it before the Government asserted its right to a portion of it they will not ask for any appropriation to carry on the improvement. The Government entered into a contract by virtue of which the owners of that power conveyed all their rights and interest to this Government. The Government undertook on its part to go on and perfect the water power in a certain manner. It has not yet performed that part of the contract. It has commenced to do it, and the appropriation of $80,000 in this paragraph is for the purpose of continuing to perform the agreement on the part of the Government.

I propose, before we leave this paragraph, to offer an amendment, by way of a further proviso, for the appointment of a commission to visit Rock Island and examine the location of the building. In reference to that point I am not quite certain but we are going on a little blindly in the expenditure of this money. I withdraw the amendment.

Mr. JUDD. I renew it for the purpose of saying a few words in reply to the gentleman from New York, [Mr. VAN WYCK.] A few years ago this Government became involved in a civil war, in which the gentleman himself participated. Every man who had any connection with that war knows that if there was any one need this country had greater than another it was the manufacture of arms. I know, Mr. Chairman, that our soldiers were furnished with muskets bought at fifty cents apiece by the cord in Europe, which were not fit to put in their hands, for the simple reason that we had no sufficient means of manufacturing arms in our own country. And, sir, there is not now in the Northwest any manufacture of arms adequate to the demands of the Government. The Government has entered upon a plan of establishing a manufactory there that shall meet the wants of that portion of the nation. It is no trifling matter to do that, nor is it a waste of money.

The gentleman from Ohio has asked me what the Government had to do with this water power. I would reply simply that the whole foundation of the power there, the whole success of the machinery for the manufacture of arms, is this water power at the head of Rock Island; and while there may have been extravagance in relation to other matters, about which I know nothing, I know this: that the country will give a proper and adequate appropriation to establish on the Government's own property such a manufactory as will supply in future the wants of the country whenever the necessities of war shall demand that supply.

Mr. VAN WYCK. I oppose the amendment for the purpose of saying that much which has been said by these gentlemen we do not dispute, but we say that now we should pause a little while and stop some of the leaks from the Treasury. The gentleman from Illinois on the other side [Mr. FARNSWORTH] says that we are going it a little blind in this matter. I think so, too. We have appropriated $700,000, and now we are asked to appropriate $400,000 more, making over one million dollars, and the gentleman says we are going it blind. I think we can get through the year without this immense expenditure upon the arsenal at Rock Island. Let us build it in more prosperous times. We went through a long war without an arsenal at Rock Island. Let it be built when we have more money in the Treasury than we now have.

Mr. LOGAN. I desire to say a few words in reply to the gentleman from New York, [Mr. VAN WYCK.] Let me say that a failure on our part to complete the works already commenced for the development of the water power at the arsenal at Rock Island would involve a greater loss to the Government than the amount of money we are asked to appropriate, and five times that amount. We have various departments that are necessary there in process of construction; the foundations have been laid, and one large house has been built. We have already expended a large amount of money for arranging the island ready to receive the buildings and commencing them. A great proportion of the expenditure has already been made, and this amount, in my judgment, will complete the work.

Mr. VAN WYCK. The appropriation asked for by the Department to complete the work was $700,000, and after you have paid this they will come here for other appropriations to continue the work.

Mr. LOGAN. Very well; I say to the gentleman that in my judgment this appropriation will be sufficient at least for some time, until the Government shall require an extension, if they ever do, of the buildings there.

Then in reference to the water power; it is as necessary for a saving to the Government that we should develop that water power and complete the contract as any thing can be. If the gentleman will look at the expense of manufacturing all the machinery necessary for the purpose of making arms, both large and small, and manufacturing projectiles, and for all the other work done at an arsenal, he will find that the machinery and the coal for running that machinery will cost more every year than the amount which it is now proposed to appropriate for the purpose of preparing this water power so that it can be used by the United States Government.

Now, sir, I make this statement to the House after having examined the matter myself and made the calculation. I say that this appropriation is less than the cost of the machinery and the coal that will be required to run it for the operations of the Government for one year, and hence I say that this appropriation will be a vast saving to the Government.

Mr. JUDD. I withdraw the amendment.

Mr. HARDING. I renew it. Rock Island is in the district that I have the honor to represent, but I desire to say to the committee that my constituents, at least those of them who have an interest in the water power, will very readily consent to relinquish all interest in the proviso to this clause of the bill and be restored to the possession of the water power which they possessed before this contract was in a manner forced out of them.

Sir, they made their contract with the Government of the United States through the agency of the War Department. The War Department, acting under an act of Congress, sent a commission to that island to examine into the value of this proposed purchase. Those commissioners reported; their report was sanctioned; and under authority of law a contract was made and signed. It was not concluded until a short time since, when orders were issued to go to work under that contract. But little money has as yet been expended.

I desire the attention of the committee to one fact. The improvements that are being made in the navigation of the river at this point have thrown up a vast quantity of rock which can be profitably used in the construction of the dam which is required to develop this water power.

At the present time a vast quantity of this rock has accumulated there, and unless it is used in the construction of those dams it will be thrown away, and the Government will have to pay four times as much for rock quarried elsewhere, and transported a great distance. I have prepared an amendment which I hope the committee will accept, relinquishing all claim to this water power.

Mr. WASHBURNE, of Illinois. I object to that. I will not give up any more rights of the Government.

Mr. SELYE. I am surprised to see gentlemen whom I know to be economists and anxious to save everything to the Government they possibly can, trying to push this thing through. Now, I want them to understand it, for I think I can tell them something that they know nothing about. I am a mechanic myself. I can make water power [laughter] and steam power

and almost any other kind of power. I tell you that there is no part of the Mississippi river with fall enough to it to make a good water power. It is no more fit for water power than I am, [laughter] than any small stream; and those gentlemen who talk about a water power on the Mississippi river, know just as much about water power as Nicodemus knew about the new birth. I am opposed to the Government building these factories for the purpose of making guns, munitions of war, or anything else.

Mr. HARDING. I withdraw the amendment to the amendment.

The question was upon the amendment of Mr. VAN WYCK.

Mr. MULLINS. I propose to move an amendment to the amendment, and I shall do so in good faith, for this is one of the most knotty questions that we have come up with. I move to amend by providing for an additional arsenal at Ducktown, in Tennessee. [Laughter.] I move this amendment in order to get over this knotty question. What is it we have before us! "Illinois!" "Rock Island!" Just look at that for a moment. There is the first thing, "Ill;" then "nois;" then "Rock," and then an "Island" of rock. [Laughter.] Now, who can understand what all that means; what we are driving at? Now, I make this amendment in good faith; and in order to ameliorate the whole thing, I will move that Ducktown, in Tennessee, be made a——

A MEMBER. Port of entry. [Great laughter.]

Mr. MULLINS. No, not that; but that it be made an arsenal, also.

Mr. WASHBURNE, of Illinois. I rise to a point of order, that the amendment of the gentleman from Tennessee [Mr. MULLINS] is out of order.

Mr. MULLINS. Not quite so fast, if you please. I can tell the gentleman that Tennessee can show more iron and more brass than this Rock Island can. Now it is proposed to make water power and steam power. Well, sir, there is water enough and steam enough up here; and if you will only insert my amendment you will get over this knotty point of Rock Island.

But, in regard to this paragraph of the bill which it is proposed to strike out, it is a moral impossibility for us to stop work there at the present time. If you do, then, as every man knows, the whole past expenditure of the Government will go to waste, will dwindle down, and come to naught. Sir, when you have a matter of this sort on its way to completion, the better way is to push it ahead, put a roof on it, and cover it in.

[Here the hammer fell.]

Mr. MULLINS. I withdraw my amendment to the amendment.

The question was upon the motion of Mr. VAN WYCK, to strike out the following paragraph:

For arsenal and armory at Rock Island, Illinois, $380,000: *Provided*, That $80,000 of said sum shall be devoted to the development of the water power, to carry out existing contracts.

The question was taken; and upon a division there were—ayes twenty-seven, noes not counted.

So the motion to strike out was not agreed to.

The Clerk read the following:

For Watervliet arsenal, West Troy, New York, $20,000.

Mr. PILE. I move to amend by adding after the paragraph just read, "for arsenal at St. Louis, Missouri, $20,000."

Mr. BLAINE. There is no objection to that, I presume.

Mr. VAN WYCK. I am opposed to that appropriation.

Mr. BLAINE. I desire to say, in reference to this amendment of the gentleman from Missouri, [Mr. PILE,] that the committee struck out the appropriation for the St. Louis arsenal on the ground that the arsenal, as we then understood, was to be abolished and the property sold by the United States. That project is, however, postponed, perhaps indefinitely, if not rendered altogether uncertain. It therefore becomes necessary that the usual appropriation for the support of that arsenal should be made.

I desire to say further in regard to all these appropriations that, as gentlemen will observe by casting their eyes over them, they have been cut down to the lowest amounts which were deemed at all sufficient for the preservation and repair of the public property at the points named; and if we strike out these appropriations we might just as well throw the property open for the cows and the hogs to run in and to ruin.

Mr. WASHBURN, of Indiana. I do not know, Mr. Chairman, what is the probability with regard to the sale of the arsenal at St. Louis; but the bill providing for the sale of that arsenal passed this House by a large majority, being advocated by the gentleman from St. Louis, [Mr. PILE,] and that bill is now pending in the Senate. Yet we are asked to make this appropriation for the continuance of that arsenal. If we are to sell it why need we appropriate one dollar for it?

Mr. PILE. I move *pro forma* to amend the amendment by striking out the last word. In answer to the gentleman from Indiana, [Mr. WASHBURN,] I desire to say that the effect of my amendment is simply to carry out existing law. The arsenal at St. Louis has been established by law and is in operation by virtue of law. The machinery is at work there and the hands are employed. It is true that a bill introduced by myself, providing for the sale of that arsenal, has been passed by this House; but the time for the sale was left to the discretion of the Secretary of War. Even should that bill become a law, it is not certain that the arsenal will be sold during the coming year. The Secretary of War may not deem it conducive to the interest of the Government to make the sale during the coming year. He may think the property will bring more during the year following.

Mr. WASHBURN, of Indiana. Will the gentleman allow me to ask him one question?

Mr. PILE. Yes, sir.

Mr. WASHBURN, of Indiana. Will the arsenal sell any better if we expend $20,000 upon it?

Mr. PILE. If this appropriation be made and the arsenal should be sold the appropriation will not be expended. If the appropriation be not made and the arsenal should not be sold the Government will have the property on its hands without any provision for the expense of taking care of it. I withdraw my amendment to the amendment.

Mr. WASHBURNE, of Illinois. I move to amend the amendment of the gentleman from Missouri [Mr. PILE] by striking out "twenty" and inserting "five," so as to make the appropriation $5,000, which will be more in proportion than we apply to any other arsenal.

Mr. BLAINE. It now lacks twenty minutes of five o'clock; and I find it will be impossible for the committee to get through the bill this evening. I therefore move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union having had under consideration the Union generally, and particularly the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, had come to no resolution thereon.

ACCOUNTS OF SERGEANT-AT-ARMS.

Mr. BROOMALL. I rise to make a privileged report. The Committee on Accounts, to whom were referred certain charges against the Sergeant-at-Arms, have directed me to submit a report, accompanied with a resolution, which I desire to have acted on at the present time.

Mr. WOOD. I understand there is also a minority report.

Mr. BROOMALL. I ask the Clerk to read the resolution appended to the report.

The Clerk read as follows:

Resolved, That the committee be discharged from the further consideration of the subject.

Mr. BROOMALL. I ask that the report be printed and the resolution passed. The gentleman from Maryland, [Mr. MCCULLOUGH,] who is absent on account of sickness, does not agree to the report. He told me perhaps he would ask to submit a minority report.

Mr. SCHENCK. Let the report be read.

Mr. NIBLACK. We ought to have it read if we are to act on it to-night.

Mr. BROOMALL. I move the report be printed in the Globe, so gentleman can see it, and that it go over until to-morrow.

There was no objection, and it was ordered accordingly. [See Appendix.]

BREVET GENERAL SHERMAN.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House all correspondence in relation to the conferring upon Lieutenant General Sherman the brevet rank of general, as well as all correspondence in relation to the establishment of a new military division of the Atlantic.

SALE OF GOVERNMENT SECURITIES.

Mr. LOGAN, by unanimous consent, introduced a bill (H. R. No. 765) to revoke the authority of the Secretary of the Treasury to pay percentage for the sale of Government securities or bonds, and repealing all laws or parts of laws authorizing the appointment of an agent for the purpose of negotiating or selling Government securities or bonds; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. DRIGGS, (at four o'clock and forty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of Reuben Denny, of Pulaski county, Kentucky, for pay for property taken and destroyed by the military forces of the United States.

By Mr. BEAMAN: The petition of John S. Newberry and many others, citizens of Detroit, Michigan, asking that the Navy may be reduced from one hundred and thirty vesels now in commission to thirty or less; demanding that the great naval pageant now on exhibition in Europe be ordered home; the reduction of the Army to twenty thousand men; the reduction of the sum asked for civil service to $20,000,000; that the Navy appropriations be reduced to $12,000,000; and the war appropriations to $35,000,000 or less.

Also, the petition of C. H. Beebe and others, of the same place, to the same effect.

Also, the petition of Milton Frost and others, of the same place, to the same effect.

Also, the petition of H. P. Baldwin & Co. and others, of the same place, to the same effect.

Also, the petition of L. P. Knight and others, of the same place, to the same effect.

Also, the petition of Homer W. Chandler and others, of the same place, to the same effect.

By Mr. CLARKE, of Kansas: A concurrent resolution of the Legislature of the State of Kansas, memorializing Congress for aid for the Leavenworth, Lawrence, and Galveston railroad.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress for aid in bonds, &c., to assist in the construction of the St. Joseph and Denver railroad.

Also, a concurrent resolution of the Legislature of the State of Kansas, requesting the Senators and Representatives in Congress from the State of Kansas to secure the passage of an

act of Congress changing the southern boundary line of the State of Kansas from the 37th parallel of latitude to the parallel of 36½° north latitude, to correspond with the southern boundary of Missouri.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress to grant the invalid soldiers of the war of 1812 pensions from the date of injury or from the date of discharge.

By Mr. FARNSWORTH: The petition of citizens of Lake county, Illinois, for a harbor at Waukeegan, Illinois.

By Mr. HARDING: The petition of Henry Evrett, for an honorable discharge.

By Mr. HUBBARD, of West Virginia: The petition of Lee Haymond and others, late officers in the Army of the United States, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 8, 1865.

By Mr. McCARTHY: The petition of several citizens of Syracuse, New York, asking for the abolishing of bonded warehouses.

By Mr. MOORE: The petition of citizens of Philadelphia and New Jersey, setting forth that the harbor at Atlantic City and Absecom Inlet, New Jersey, is endangered by encroachment by the sea, and praying action on the subject.

By Mr. MYERS: The petition of leading saddlery and harness manufacturers of Philadelphia, for the repeal of internal revenue taxes now levied on such products.

Also, the petition of manufacturers of wooden materials in the third congressional district of Pennsylvania, asking a repeal of all taxes upon such articles for building purposes or otherwise.

Also, the petition of ten officers of North Carolina and Tennessee regiments who are excluded from the benefits of the act of March 4, 1865, asking "three months' extra pay" to all officers mustered into the service in March and April, 1865.

By Mr. ORTH: The petition of Theresa Weise, for pension.

By Mr. TROWBRIDGE: The petition of Neil Gray, A. B. Rawles, and 72 others, citizens of Romeo, Michigan, praying for such revision of the revenue laws as shall restore the balance of trade to this country, and thus give work to our now unemployed workmen.

By Mr. UPSON: The petition of T. P. Sheldon and 31 others, citizens of Kalamazoo county, Michigan, praying Congress for a reduction of expenditures and taxation.

Also, the petition of E. O. Humphrey and 30 others, of the same place, for like purpose.

Also, the petition of John P. Clark and 11 others, of same place, for same purpose.

Also, the petition of John Mills and 73 others, for same purpose.

By Mr. WINDOM: Resolutions of citizens of St. Cloud, Minnesota, asking aid to the Northern Pacific railroad.

IN SENATE.

THURSDAY, *February* 20, 1868.

Prayer by Rev. S. PECK, D. D., of Boston, Massachusetts.

The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 719) for the surrender of persons convicted of certain crimes was read twice by its title, and referred to the Committee on the Judiciary.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 3d instant, information in relation to the existing laws regulating the carriage of passengers in steamships and other vessels; which was referred to the Committee on Commerce.

He also laid before the Senate a message from the President of the United States, transmitting a report from the Attorney General, prepared in compliance with a resolution adopted by the Senate on the 2d of December last requesting "a full list of the names of all persons pardoned by the President since May 1, 1865, who have been convicted of counterfeiting United States bonds, greenbacks, national bank currency, fractional currency, or the coin of the United States, with the date of issuing it, and by whom recommended;" which was referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented a petition of Amos Clark, of Texas, praying to be relieved from all civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a petition of citizens of New York, praying for the repeal of the tax upon annual gains, profits, and income; which was referred to the Committee on Finance.

Mr. MORGAN. I also present a petition of citizens of New York, asking for a reduction of taxes, and especially that the Navy may be reduced from one hundred and three vessels now in commission to thirty or less, and that the Army be reduced to twenty thousand men, and that the expenses of the civil service be reduced to $20,000,000, that the Navy appropriations be reduced to $12,000,000, and the war appropriations to $35,000,000 or less. They also ask that the useless steam revenue cutters at sea and on the lakes be laid up and their wasteful expenses stopped. I move that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. CAMERON presented a memorial of late officers of the Army, protesting against the passage of the bill relative to commutation for officers' servants' pay; which was referred to the Committee on Military Affairs and the Militia.

He also presented four petitions of citizens of Pennsylvania, praying the repeal of the law establishing bonded warehouses; which were referred to the Committee on Commerce.

He also presented a resolution of the councils of the city of Pittsburg, Pennsylvania, praying that the Government powder magazines may be removed from the Alleghany arsenal to some proper place outside the limits of the city; which was referred to the Committee on Military Affairs and the Militia.

Mr. STEWART presented the petition of Alexander J. Atocha, praying the passage of an act authorizing the Court of Claims to reserve certain evidence in the examination of his claim; which was referred to the Committee on the Judiciary.

He also presented fourteen petitions of citizens of Nevada, praying the organization of a land district to be composed of the county of Esmeralda, in Nevada, and the counties of Mono and Inyo, in the State of California, and the establishment of a land office at Aurora, Nevada; which were referred to the Committee on Public Lands.

Mr. DOOLITTLE presented the memorial of John Beeson, protesting against the payment of the Oregon Indian war bonds to speculators, and praying the appointment of commissioners to take the testimony of sufferers by Indian depredations, with a view to the payment of what is due to them; which was referred to the Committee on Appropriations.

Mr. NORTON presented resolutions adopted at a meeting of citizens of northern Minnesota, held at St. Cloud February 12, 1868, in favor of granting aid to the Northern Pacific railroad; which were referred to the Committee on the Pacific Railroad.

Mr. HOWE presented petitions of Sydney L. Fontaine, R. Lawson Fulton, and James B. Simpson, citizens of Texas, praying the removal of the disabilities imposed upon them by acts of Congress; which were referred to the Committee on the Judiciary.

Mr. CONKLING presented the memorial of H. M. Tiller, of Colorado, remonstrating against the admission of Colorado as a State into the Union; which was ordered to lie on the table, and be printed.

Mr. BUCKALEW. I present the memorial of Dr. Thomas Antisell, of the District of Columbia, on the subject of the ventilation of the Senate Chamber, and proposing certain changes in the arrangements connected with that subject.

First, That the glass portion of the roof should be raised at least eight feet, and that an air-tight ceiling should be placed beneath the present copper roof.

Second, That the illumination of the Chamber by gas should be made by lanterns and reflectors, with chimneys to carry off the heated products of combustion.

Third, That the air-ducts under the floor of the Chamber be remodeled in shape so that they may deliver the heated air effectively at various parts of the Chamber floor.

This memorial sets forth sundry proceedings that have taken place under the direction of the Sergeant-at-Arms in connection with this subject. I desire to accompany this memorial with a former report made by the same gentleman to the Committee on Ventilation. As there is no committee charged with this particular subject at present, I move that these papers be referred to the Committee on the Contingent Expenses of the Senate.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the memorial of J. M. Miller, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. SPRAGUE, from the Committee on Commerce, to whom was referred the letter of James Park, jr., asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. SPRAGUE. I am also instructed by the same committee, to whom was referred the petition of George S. Fisher, late United States consul at Kanagawa, Japan, praying relief for losses sustained by fire on the 26th November, 1866, to report it back. The committee have had the subject under consideration, and they find no precedents that would warrant them in recommending an appropriation to relieve the losses sustained for this consul, some twelve thousand dollars. They therefore ask to be discharged from the further consideration of the subject.

The report was agreed to.

Mr. STEWART, from the Committee on Mines and Mining, to whom was referred the bill (S. No. 156) to establish a national school of mines, reported it without amendment.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869, reported it with amendments.

BILLS INTRODUCED.

Mr. GRIMES. I have had placed in my hand a bill which I have not had an opportunity to read, and therefore I do not feel myself at all responsible for anything that is in it. I present the bill now without notice, and ask to have it referred to the Committee on Public Lands.

By unanimous consent, leave was granted to introduce the bill (S. No. 374) to amend an act entitled "An act for a grant of lands to the State of Iowa in alternate sections to aid in the construction of a railroad in said State," approved May 12, 1864; and it was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 375) to provide for retiring Army officers for wounds received in the volunteer service in the

late war; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 376) to facilitate the settlement of paymasters' accounts; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

FALLS OF THE OHIO.

Mr. MORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate the result of the survey of the falls of the Ohio river recently made by the corps of engineers, under the direction of the Secretary of War.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. ANTHONY. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. DOOLITTLE. I hope my honorable friend will withdraw that motion. I desire to address the Senate, and I do not wish to take up time when other matters are pressing, and I was about to ask the Senate, by courtesy, to allow me to address them on Saturday in reply to Senators who have spoken in answer to me, with the understanding that there be no business done on that day and no votes taken, and I can do so without interfering with the other business of the Senate. I ask my honorable friend to consent to that, as I desire to address the Senate. I am prepared to do so now or to go on to-morrow or any other time, but I thought of asking the Senate to allow me to proceed on Saturday so as not to interrupt business.

Mr. ANTHONY. I should like very much to oblige my friend from Wisconsin, but I would rather submit this motion to the judgment of the Senate.

Mr. SHERMAN. I trust that the Senate will not adjourn over from Thursday to Monday. We have a great variety of business constantly pressing upon the Senate. I have one or two bills that I desire to present to the Senate as soon as I can, but which have been crowded off by other matters. After we have been here nearly three months, with the great number of bills now pending, and which demand the consideration of the Senate, it seems to me it would be rather extraordinary to adjourn over from Thursday until Monday. There are several Senators who desire to make speeches in regard to bills that are pending here, and they might as well be made at this period. I have no objection to adjourning over Saturday, because that is the birthday of Washington, the 22d of February, and perhaps we ought not to sit on that day out of respect to the memory of the Father of his Country, but I think we ought to meet to-morrow and make progress in whatever business is pending.

Mr. CAMERON. I think we had better adjourn over. During this session the Senate have sat more hours daily than I ever remember before. I presume every Senator here has a great deal of correspondence to bring up. I have myself, and I judge others by myself. A great number of us have business at the Departments that we have not been able to attend to. We ought to have a day or two for that. I have found in my experience that we generally do more business by occasionally adjourning over, so as to get these unofficial matters off our hands. They are always embarrassing; they are always annoying. Now, I am called out of the Senate a dozen times a day by people who desire me to attend to matters for them at the Departments. When I get them off my hands I shall be in much better condition to attend to my duties here, and I suppose it is so with others. I trust, therefore, that we shall adjourn over.

Mr. DAVIS. I presume that the Senate recollect that I was in the midst of a speech some days ago when I gave way for the case of Mr. Thomas to come up. I am in a state of catalepsy, to be sure, [laughter;] but I desire to give notice that at one o'clock to-day I intend to claim the floor, so that Senators may know, when they act on this motion to adjourn over, that I am entitled to the floor at one o'clock.

Mr. MORTON. I should like to know the object of having the Senate adjourn over from Thursday until Monday, when there is so much important business to do. What is the object of it? If the Senate can do its business better by adjourning than by remaining in session it would be all right. I do not object to adjourning over Saturday, but I do object to adjourning from Thursday until Monday. Sir, it will be three months to-morrow since Congress met, and yet on the subject of finance not a single step has been taken in this body. We have had bills introduced, but the question has not been considered and no formal vote has been had. I understand that the chairman of the Committee on Finance is ready to address the Senate upon his funding bill, and I am certain that the whole country is anxious to hear him, anxious to have that question opened; and there are so many important questions pressing for consideration that I cannot understand why there should be a desire to have the Senate adjourn from Thursday until Monday.

Mr. ANTHONY. I am entirely indifferent to the fate of this motion. I made it; and having made it, I prefer to let the Senate pass its judgment upon it. I think, considering the very profitable way in which we have passed the last three or four weeks, and the exceedingly interesting way in which it is proposed to take up the next two days, we ought almost to sit on Sundays. [Laughter.] I thought it might facilitate the public business somewhat if we adjourned over; but whatever may be the judgment of the Senate will be quite satisfactory to me. As some Senators have expressed a desire that the motion should prevail, if I should withdraw it, it would be renewed, and the question may as well be taken on my motion.

Mr. STEWART. I think the request of the Senator from Wisconsin a very reasonable one; I think we may as well occupy all the time we can in attending to the public business. There is one bill in charge of the Senator from Illinois [Mr. TRUMBULL] which we ought to pass this morning, and that is the bill allowing a majority of the votes cast in the coming elections in the unreconstructed States to determine the result. That bill has been pending for a long time. The election will soon come off in Arkansas, and it is important to have it known what rule is to be established. I presume there will be no disposition on that bill to discuss the general question. I presume all will concur in the propriety of a bill of that kind. I really think, with such matters pressing upon us, we ought to sit, not only to-morrow, but Saturday.

Mr. GRIMES. I agree with the Senator from Nevada that the request made by the Senator from Wisconsin is exceedingly reasonable. I understand it to be this: that to-morrow shall be dedicated to the continuation of the speech of the Senator from Kentucky, and that the Senator from Wisconsin shall have an opportunity to be heard on Saturday, and that no business shall be transacted on those days except the speeches of those gentlemen. With that understanding I trust we shall all be satisfied.

Mr. ANTHONY. That is perfectly satisfactory.

Mr. DAVIS. I hope the understanding is that I may finish my speech this evening. ["Oh, no."] Will it suit the Senate better to-morrow? ["Yes, to-morrow."] I will think about it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Rhode Island, that when the Senate adjourns to-day it be to meet on Monday next.

The motion was not agreed to.

VOTING IN UNRECONSTRUCTED STATES.

Mr. TRUMBULL. That matter being disposed of, I move now to postpone all other business and take up for consideration House bill No. 214.

Mr. DAVIS. I ask the Chair whether I am not privileged in calling up the orders of the day and resuming the argument, if argument it can be called, which I was making when I gave way for a special case which has now been decided?

Mr. TRUMBULL. I should not be willing to make an understanding at this moment. We all, of course, take pleasure in listening to the Senator from Kentucky; but I rather think he has been off the floor too long now to claim it as a matter of right at any particular moment. No doubt he will have an opportunity that will be agreeable to himself to address the Senate; but I think we had better have no understanding at this moment.

Mr. YATES. I wish to inquire of my colleague whether he proposes to continue the consideration of this bill beyond one o'clock?

Mr. TRUMBULL. I hope it will not take so long, but I cannot be responsible, of course, for what may occur in the Senate. The bill is pretty well understood, I think, and I hope it will lead to no protracted debate, but then I cannot say in reference to that. I think we ought, after taking up the bill, to proceed with its consideration until we get a vote upon it, and I shall be in favor of continuing its consideration to the exclusion of all other business until the Senate shall come to a vote. If it is to be passed at all, I would say to my colleague it is important that it should be passed before the election is held in Arkansas, which is set for some day about the middle of March, I think. Therefore I shall not be willing when the bill is taken up to yield to anything else until we dispose of it.

Mr. YATES I appreciate the importance and necessity of entertaining the proposition my colleague speaks of. It is important, and it ought to be acted upon now, but yesterday I made a motion to proceed to the consideration of the bill to admit the State of Colorado into the Union. I shall not antagonize that with the proposition of my colleague, but I shall insist upon voting on that motion at the expiration of the debate on the question he proposes to take up.

Mr. DAVIS. If I am entitled to the floor I shall insist upon having it. If I am not entitled to it under the rules of the Senate, I yield of course.

The PRESIDENT *pro tempore*. The Senator will be entitled to the floor whenever the bill on which he had the floor shall be taken up. It has lost its place now, because it is not the unfinished business of yesterday.

Mr. DAVIS. I beg to remind the Chair of the fact that the reconstruction bill was the order of the day; I was addressing the Senate upon that subject; and the Senator from Maryland asked me to suspend my argument that the case of his colleague might be taken up and disposed of, and I made a special agreement that I would suspend my argument until the case of Mr. Thomas should be decided. I yielded solely for the purpose of having the case of Mr. Thomas disposed of. When the case of Mr. Thomas was disposed of, of course, according to the rules of the Senate, as I understand them, and according to the special arrangement made when I yielded the floor, I am entitled to the floor when the orders of the day are in order. I therefore insist upon my right to the floor.

Mr. JOHNSON. The statement made by the Senator from Kentucky is strictly correct. I requested him to yield the floor for the purpose of taking up and continuing to consider the case of my colleague until it was finally decided, and I certainly understood that the Senate agreed that he was to resume his argument upon the question which was then before the Senate the moment the case of Mr. Thomas should be disposed of. I hope, therefore, the honorable member will be permitted to conclude his remarks.

Mr. TRUMBULL. I can only say that I knew

nothing of any such agreement. If the Senate came to such an understanding and agreement I would not be one to depart from it; but perhaps I was not in the Senate at the moment. I certainly never knew of any such agreement myself.

Mr. DAVIS. I presume the honorable Senator from Illinois was not in the Senate when that agreement was made.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, that the Senate proceed to the consideration of the bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration."

The motion was agreed to; there being, on a division—ayes 19, noes 10.

Mr. DOOLITTLE. I understand from what has occurred that on Saturday the Senate will be in session, and that I shall then have the privilege of submitting my remarks.

Mr. CRAGIN. I do not think the action of the Senate gives the Senator a right to suppose there is any such understanding. That is a matter which will be decided hereafter. Next Saturday is the 22d day of February, and for one I shall not vote to remain in session on that day.

Mr. DOOLITTLE. If it is understood that we are to sit on Saturday I shall be content.

The PRESIDENT *pro tempore*. The Chair can take no cognizance of such agreements; he can only enforce the rules. As the Chair understands, according to the rules, the matter stands thus: the business which was pending so long—the motion of the Senator from Wisconsin to refer to the Judiciary Committee, with instructions, House bill No. 439, has lost its place by reason of other matters having intervened. It never was made a special order, but continued from day to day because it was the unfinished business constantly. When we reach the expiration of the morning hour it will be under the control of the Senate, and they can take up what they choose.

Mr. DOOLITTLE. I know very well that the Chair cannot take any cognizance of arrangements of that kind; but I wish to say that I shall appeal to the courtesy of the Senate to allow me the privilege of addressing them on that question on Saturday at one o'clock, and therefore I hope the Senate will not adjourn over that day.

Mr. HENDRICKS. I wish to suggest to the Senator from Wisconsin and also to the Senator from Kentucky that as the bill which the Senate has decided to take up is on the subject they were discussing there is no difficulty in their continuing their arguments, as I conceive. They seem to have supposed that there was a necessity for postponing this bill in order that they might present their views; but, as the same subject is before the Senate, there is every propriety in continuing the debate.

The PRESIDENT *pro tempore*. The bill (H. R. No. 214) to amend an act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," is before the Senate as in Committee of the Whole. The Committee on the Judiciary have reported a substitute for the bill.

Mr. TRUMBULL. The original bill need not be read unless some Senator desires it. I ask that the amendment reported by the Committee on the Judiciary be read.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause and insert the following:

That hereafter any election authorized by the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration," shall be decided by a majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted, any person duly registered may vote in any part of the State in which he shall have been registered, where he may reside at the time of such election upon presentation of his certificate of registration, under such regulations as the district commanders may prescribe.

Mr. TRUMBULL. Mr. President, before the body proceeds to act on this bill I consider it due to the Senate and to myself that I should make a brief statement in regard to it. Numerous publications have been made with regard to the action of the Senate upon this question, and in some quarters great blame has been attached to the Senate. I will read a paragraph which I find in a newspaper, and I have seen many such paragraphs:

"The original act of March 2, 1867, provided that the constitutions should 'be ratified by a majority of the persons voting on the question of ratification.' The act of the 22d of March passed the House with the same provision; but the Senate, by a small but decided majority, insisted upon putting in the words, 'at least one half of the registered voters voting on the question of such ratification.' The House held out against this provision for some time, but finally gave way rather than lose the measure." * * * * "I am stating facts, that you may see where the responsibility for this reverse lies. The House would not have had it so; from the beginning that body has protested against this clause requiring a majority of all the registered votes for ratification."

Now, Mr. President, that is an entire misapprehension. The House of Representatives insisted not only that a majority of the registered voters should vote upon the question of ratification, but they disagreed with the Senate three times before we went to a committee of conference, insisting all the time a constitution should only be ratified by a majority of all the registered voters voting in its favor. It was the House, and not the Senate, that insisted upon having this large vote. The Senate proposition required less than that of the House. That there may be no mistake about this I will read what occurred in the House of Representatives on the 11th day of March, 1867, when the supplementary bill was pending:

"The next question was upon the amendment proposed by Mr. BINGHAM to the fifth section of the bill.

"Mr. WOOD. I call for the reading of that fifth section.

"The Clerk read as follows:

"'SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling.'"

You will observe that that section required "a majority of the votes of the electors qualified as herein specified." In order that there might be no mistake as to what that meant Mr. BINGHAM proposed an amendment, which I will now read, with the action upon it:

"The amendment of Mr. BINGHAM was to strike out the word 'of' after the word 'votes,' and to insert in lieu thereof the words 'given at said election by;' so that the clause would read as follows:

"'If according to said returns the constitution shall be ratified by a majority of the votes given at said election by the electors qualified as herein specified,' &c.

"The question was taken upon the amendment; and there were—ayes 38, noes 70.

"Before the result of the vote was announced,

"Mr. BINGHAM called for the yeas and nays on agreeing to his amendment.

"The question was taken upon ordering the yeas and nays; and there were—ayes sixteen.

"So (the affirmative being not one fifth of the last vote) the yeas and nays were not ordered.

"The amendment was not agreed to."

So that Mr. BINGHAM could not even get the yeas and nays in the House of Representatives upon his proposition to require only a majority of the votes cast to adopt the constitution when it should be submitted. When the bill came into the Senate, and was pending here, the Senator from Indiana [Mr. MORTON] moved an amendment, which was thus stated:

"Mr. JOHNSON. Will the honorable member read the section as it will stand if amended?

"Mr. MORTON. I will read the section as it will stand as I propose to amend it:

"'That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, cast at said election, the president of the convention shall transmit a copy of the same, duly certified,' &c.

"My amendment is to insert the words 'cast at said election.'"

That was the motion of the Senator from Indiana, and on that motion a vote was had, and the amendment was adopted by the close vote of 22 to 21, a majority of one, requiring a majority of the votes cast in order to ratify the constitution which should be submitted. As soon as that was adopted, however—and there was considerable discussion on it in the Senate—the Senator from Vermont [Mr. EDMUNDS] moved to amend still further. His proposition was:

"I now move to amend by adding after the words that have been just inserted these words:

"'At least three fifths of all the registered voters voting upon the question of such ratification.'"

That was voted down by the close vote of 19 in its favor to 21 against it in the Senate; and then—

"Mr. EDMUNDS. I now move the amendment which has just been voted down, changing it by striking out 'three fifths' and inserting 'one half.' This amendment is to insert the words 'at least one half of all the registered voters voting upon the question of such ratification.'"

And on that vote the yeas were 24 and the nays 14. That was adopted, and the bill went back to the House of Representatives with their provision requiring a majority of all the registered voters in favor of the constitution to adopt it stricken out, and a provision inserted that at least one half must vote on the question one way or the other, which was requiring less than the House had required. Mr. WILSON, of Iowa, when the Senate amendment was under consideration in the House, offered to amend our amendment which required that a majority of all the registered voters should vote, not for the constitution, but take part in the election:

"Mr. WILSON, of Iowa. The second amendment which I am directed by the Committee on the Judiciary to offer is upon page 10, in section five, lines three, four, and five, to strike out the words 'cast at said election, at least one half of all the registered voters voting upon the question of such ratification;' so that it will read:

"'SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified,'" &c.

Putting it back as the House had it originally, Mr. SHELLABARGER then suggested that the word "registered" be put in to make it more specific, which Mr. WILSON accepted, and the vote was taken on requiring that the constitution should be ratified "by a majority of the registered votes of the electors qualified as herein specified," disagreeing to the Senate amendment which required less, and on that question the yeas were 98 and the nays 29 only. The House refused to agree to our amendment.

It is unnecessary to take up time in reading all these votes. The bill came back to the Senate and the Senate again refused to agree to this House proposition requiring a majority of all the registered voters to vote in favor of a constitution. It then went back to the House with this other disagreement on our part. The House refused still to agree to the Senate proposition, which was the one adopted on the motion of the Senator from Vermont, requiring that a majority of the registered voters should take part in the election; they insisted that there must be a majority of the registered voters voting for the constitution; and they asked for a conference. In the committee of conference we succeeded in getting the House conferees to agree to the Senate amendment, which is the law as it stands, requiring that a majority of the registered voters should vote on the question of adopting the constitution. So that the House persistently required, in every one of their votes, until they came to vote on the report of the committee of conference, that there should be not only a majority of the registered voters taking part in the election, but that a majority should absolutely vote for the constitution. I trust, sir, that I have put that point right.

Mr. DAVIS. I do not rise to annoy the Senator from Illinois or to trouble the Chair unnecessarily. I rise, though, to make a question upon the order of business, whether I am not entitled to the floor upon the other bill at this time. I wish to say at the same time that

if it is understood that I can make my speech on this bill that will be as agreeable to me as to take up the other.

Mr. TRUMBULL. I think that question has already been decided by the Chair.

The PRESIDENT *pro tempore*. The time has arrived when it becomes the duty of the Chair to announce that the morning hour has expired, and the unfinished business of yesterday is the motion of the Senator from Illinois, [Mr. YATES,] to take up the bill for the admission of Colorado.

Mr. TRUMBULL. But the Senate did not take it up. The entering of a motion, I apprehend, does not make a bill the unfinished business.

The PRESIDENT *pro tempore*. But pending the motion to take up the bill the Senate adjourned.

Mr. TRUMBULL. I am aware of that; but I suppose such a motion falls with the day unless the bill is taken up.

Mr. YATES. Oh, no.

Mr. TRUMBULL. The motion falls with the adjournment, as I understand. If the bill were taken up then the bill would be before the Senate; but I never heard before of a motion being before the Senate the next day; it falls with the day.

The PRESIDENT *pro tempore*. The Chair does not so understand it. A motion not determined, a debatable motion, I suppose, like anything else, may stand over.

Mr. TRUMBULL. To avoid any difficulty I move to postpone it and all other subjects and proceed with the bill under consideration.

Mr. DAVIS. Mr. President——

Mr. TRUMBULL. If the Senator from Kentucky will allow me I will say to him that as soon as we get through with this measure I have certainly no objection to his occupying the floor, or he can occupy the floor on this measure. Of course he has the right to do that; but I suppose I am entitled to the floor upon it until I conclude the observations I desire to make, which will be brief.

Mr. DAVIS. But there is another motion now pending before the Senate—the motion to dispense with all other orders of the day and continue the subject upon which the Senator has been addressing the Senate. When the Senator from Illinois [Mr. YATES] made his motion last evening to take up the Colorado bill I intended then to make the question of order upon it, but the honorable Senator from Ohio [Mr. SHERMAN] immediately moved an adjournment, which cut off my question of order on the Senator from Illinois. All that I desire is, that to-day or to-morrow, I do not care which, I shall be allowed to conclude my speech. If the Senate will come to that understanding it is as agreeable to me as any course that can be adopted.

Mr. YATES. I do not propose to contest with my colleague in regard to proceeding with this question if the order of the day is passed over informally and the Colorado bill will come up next in order; or, if he will yield the floor for a moment, I will move that to-morrow at one o'clock the Senate proceed to the consideration of the bill for the admission of Colorado into the Union.

Mr. TRUMBULL. I should have no objection to that motion if we could get a vote at once, but I am afraid it will lead to discussion again. I suggest to my colleague that I presume the Senate will take up that bill very soon. I know my own disposition will be to aid him in getting up the Colorado bill as soon as we can; but it would relieve us from this embarrassment if he would withdraw the motion he made yesterday and let us proceed with this bill and not waste time in discussing the order of business. That will probably lead to debate again and take up time. I appeal to my colleague, therefore, under the circumstances, to withdraw his motion at this moment and let us proceed with the bill we have before us. That will relieve us from any complication about it.

Mr. YATES. With the understanding that this will be the next motion in order I will withdraw my motion.

Mr. SHERMAN. I can assent to no such understanding.

Mr. TRUMBULL. Then this bill is before the Senate.

Mr. DAVIS. I do not enter into any such understanding.

The PRESIDENT *pro tempore*. The Senator from Illinois withdraws his motion.

Mr. TRUMBULL. That leaves House bill No. 214 now before the Senate without a vote, as I understand.

Mr. CONNESS, (to Mr. TRUMBULL.) Ask a vote on your motion.

Mr. TRUMBULL. No; the bill is before the Senate without any motion now.

The PRESIDENT *pro tempore*. The Chair does not so understand. By the rules, when the morning hour expires, the special order or the unfinished business is before the Senate without a motion. That suspended the bill that was under consideration, and I suppose it will require a motion to proceed with it.

Mr. TRUMBULL. Then I make that motion, if it be necessary, to resume the consideration of House bill No. 214. I supposed, the other motion being withdrawn, this would go right on.

Mr. DAVIS. If the unfinished business comes up, as a matter of course it comes up, I being entitled to the floor; and consequently whenever the unfinished business is called up and a member of the Senate is in the midst of a speech upon it he is entitled to the floor as a matter of right.

Mr. TRUMBULL. When the question on which the Senator has the floor comes up undoubtedly that will be the rule, but that question does not come up as the unfinished business according to the Chair's decision.

Mr. DAVIS. I understand that to be the ruling of the Chair.

Mr. TRUMBULL. I did not so understand.

Mr. DAVIS. Well, let us have an understanding of the decision of the Chair.

The PRESIDENT *pro tempore*. The Chair understands this to be the condition in which the matter stands: when we met here this morning the unfinished business at the expira- of the morning hour was the motion that the Senator from Illinois [Mr. YATES] made yesterday, and on which we adjourned. That was a debatable motion, and the Chair considered that it was the unfinished business when the morning hour expired. The bill to which the Senator from Kentucky refers, which was debated so long on a motion to refer with instructions, was superseded by other business, and is not unfinished business at all. When the unfinished business of one day is interrupted the next day by any other matter it is gone; it loses its place entirely. So the Chair understands.

Mr. GRIMES. In other words, there is no unfinished business now. The reconstruction bill was cut off.

The PRESIDENT *pro tempore*. No; there is no unfinished business when the Senator from Illinois [Mr. YATES] withdraws his motion, which he has withdrawn.

Mr. GRIMES. Now then, the Senator from Illinois [Mr. TRUMBULL] is entitled to the floor.

Mr. YATES. The Chair misunderstood me, perhaps. I will now withdraw the motion, but I give notice that as soon as this bill is disposed of I shall move, if I can get the floor, to proceed with the consideration of the Colorado bill.

The PRESIDENT *pro tempore*. I understood that the Senator had already withdrawn his motion, and my observations were predicated upon that fact. Now, I suppose, technically, it requires a motion to proceed with the other bill.

Mr. TRUMBULL. If that is the opinion of the Chair, I make that motion; but I supposed, being on the floor and the other motion being withdrawn, I would be entitled to go on. If not, I make the motion.

The PRESIDENT *pro tempore* put the question, and declared the motion carried.

Mr. BUCKALEW. I have been trying to catch the eye of the Chair. I intended to make a motion that the Senator from Illinois be permitted to conclude his speech. I did not suppose when he called this bill up he intended to ask the Senate to act finally upon it to-day. I have never read it or heard it read until this morning. It is a very important measure. So far as I am concerned I desire to hear the Senator from Illinois in advocacy of his bill, and that then we shall fix it, say as the special order for to-morrow, and then conclude it. I think we should probably abbreviate debate upon it by giving members a reasonable opportunity to understand it. I do not make a motion, as he has a different one pending, and in either case he will be heard; but I hope that after he has concluded his remarks the Senate will agree to fix to-morrow for the consideration of this bill, and enable members to examine it before they are asked to vote upon it.

The PRESIDENT *pro tempore*. That is all under the control of the Senate. The Chair understands the Senate have agreed to proceed with the consideration of the bill in the charge of the Senator from Illinois, [Mr. TRUMBULL,] being House bill No. 214.

Mr. TRUMBULL. Mr. President, having stated so much in regard to the previous action of the two Houses on this bill, I desire to say a word, which I believe will be the first I ever did say to the Senate, personal to myself. I read from another paragraph in a newspaper:

"Many of the extreme Radicals complain very bitterly of the disposition manifested by Senator TRUMBULL to stifle the bill passed by the House and referred to his committee in the Senate, making a majority of actual votes cast sufficient to adopt the new constitutions in the southern States." * * * * "Mr. TRUMBULL has kept the bill in the committee for over three weeks without asking any action on it, which complaints are assuming a threatening form toward Mr. TRUMBULL, and Senator MORTON, among others, will make an attack on him in open Senate within a few days unless he causes some action to be taken regarding the bill. Mr. TRUMBULL's course is accounted for by his known opposition to the bill, and his action may result in an open outbreak."

Now, without waiting for the "attack" of my friend from Indiana—of course he understands me; I know there is no truth in the report; I am merely alluding to this for the purpose of putting myself right in regard to my former action.

Mr. MORTON. Allow me to say, as a matter of justice to myself, that I have never made any threat of that kind or contemplated any purpose of that kind.

Mr. TRUMBULL. Of course not. I wish, however—I shall be very brief—to put myself right on this question.

Mr. FESSENDEN. What paper is that?

Mr. TRUMBULL. It is taken from a Chicago paper. I saw it in more than one paper. The same dispatch went out from Washington to several papers.

When the motion was made by the Senator from Indiana [Mr. MORTON] that a majority vote should decide this question considerable discussion took place, and while the subject was pending in its various forms, on the motion of the Senator from Indiana and the subsequent motion made by the Senator from Vermont, I took part in the discussion. My remarks are reported on different pages of the Globe. In opposition to the requirement of the House bill that the constitution should only be adopted by receiving a majority of all the registered voters in its favor, and also in opposition to the proposition of the Senator from Vermont, which required that a majority of all the registered voters should take part in the election, I used this language in speaking upon those questions:

"This allows a minority to prevent the organization of a government, for there never was an election held where all were able to get to the polls. It makes a man's vote who stays at home count more than the vote of a man who goes to the polls and puts it into the ballot-box. I am unwilling to sanction any such principle. It gives the opposition the advantage of all the stay-at-homes, while those in favor of conforming to the law and organizing a State government must be well, able to get to the polls, and put

in ballots to count as much as those who are opposed to it and who stay away."

I read but a single sentence. The discussion on this subject was protracted in the Senate. When the vote was taken on the motion of the Senator from Indiana, requiring only a majority of the votes cast to adopt a constitution, it was by yeas and nays. Those who voted in favor of requiring only a majority of the votes cast—the very proposition that is now before the Senate—were:

"Messrs. Cameron, Cattell, Conness, Corbett, Cragin, Drake, Ferry, Hendricks, Howe, Johnson, Morton, Patterson of Tennessee, Pomeroy, Ross, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—22."

Those who voted in the negative were:

"Messrs. Anthony, Buckalew, Chandler, Cole, Conkling, Edmunds, Fowler, Frelinghuysen, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Sumner, Thayer, Wade, and Yates—21."

So that we adopted the majority principle in this body on a vote, after discussion, by barely one majority. The moment that was adopted the Senator from Vermont [Mr. EDMUNDS] made his motion to amend by adding these words:

"At least three fifths of all the registered voters voting upon the question of such ratification."

The Senator from Ohio [Mr. SHERMAN] made some remarks in favor of this proposition, to which I replied as follows:

"Allow me to ask the Senator from Ohio if it is possible that it is a right proposition that two fifths by staying away from the polls, can defeat a constitution which they could not defeat by voting, every one of them against it? You will teach men to stay away; that is the whole effect of the proposition. It is an encouragement for them not to come to the election."

After some further debate the vote was taken upon that proposition of the Senator from Vermont, and it was lost by the close vote of 19 in its favor to 21 against it. Nineteen members of the Senate voted in favor of requiring three fifths to take part in the election. Their names were:

"Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Corbett, Edmunds, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Sherman, Sumner, Thayer, and Wade—19."

Those who voted in the negative were:

"Messrs. Cattell, Conness, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Hendricks, Howe, Johnson, Morton, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Wilson—21."

So that that motion failed. Then it was that the Senator from Vermont moved the other proposition, which was afterward incorporated into the act and is now the law, to add to the provision which we had carried by one majority, allowing the constitution to be adopted by a majority vote, a requirement that at least one half of all the registered voters should vote on the question. That was carried in this body by the decisive vote of 24 to 14, and that is as the law now stands. Those who voted for it were:

"Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Drake, Edmunds, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Stewart, Sumner, Thayer, Wade, Williams, and Yates—24."

I think there are in that list some of the gentlemen whom this writer in this paper calls "Radicals." I recognize no such division myself in the Senate as Radicals and not Radicals. We are all here acting together as one body of men for the Union and to reconstruct these States and bring them into relations with the Union, and I recognize no such distinction among our friends. But if there were such a distinction you will find as many of those who, in this newspaper parlance, are called "Radicals" voting for that proposition as you do voting against it.

Mr. CONNESS. Read the negative vote.

Mr. TRUMBULL. The negative vote was:

"Messrs. Conkling, Conness, Cragin, Ferry, Frelinghuysen, Morton, Pomeroy, Ramsey, Ross, Tipton, Trumbull, Van Winkle, Willey, and Wilson—14."

Now, sir, I am charged with being opposed to this majority principle. I was denounced at that time because I was in favor of the majority principle. I was denounced by the Senator from Michigan [Mr. HOWARD] as violently as the newspapers now denounce me. Let me read a sentence or two from what was said by the Senator from Michigan at that time:

"I am opposed to the establishment of State governments in the rebel States, unless it is perfectly clear that the assent of a majority of the voting population has been given upon the great question of organizing State governments and returning to the Union."

Then, sir, in replying to something which I had said in favor of this majority principle, he used this language, and we all know the Senator from Michigan does not deal in mild terms when he speaks of an opponent upon a question:

"Now, sir, the Senator from Illinois tells us for the tenth time at least, that he looks upon all such propositions as this as obstacles to reconstruction, as if we were under some great and obvious obligation to pass some act for the reconstruction of the rebel States and their immediate admission into the Union."

* * * "Now we are told by the Senator from Illinois and those who adhere to the principles of his bill, that a mere minority of the people themselves, constituting a majority of those actually voting upon this most important question, will answer the requirements of the bill, and that this will be entirely republican.

"Sir, I am opposed to this minority principle entirely."

That was the language used toward me for defending the majority principle, while I am now, it seems, denounced in the newspapers because I am opposed to the majority principle.

But, Mr. President, I do not wish to take up the time of the Senate with these personal matters: I simply desired to put the Senate right with regard to this measure, and to show that the Senate originally put in a proposition to submit the adoption of the consitution to a majority of the votes cast on the question of its ratification; and when afterward, on the motion of the Senator from Vermont, that was changed so as to require a majority of all the registered voters to vote on the question, we adhered to that and refused to agree with the House in their proposition, which required a majority of all the registered voters to vote in favor of the ratification of the constitution; and I have read the yeas and nays to show that, so far as I was concerned, I contended from the beginning for the majority pinciple. I believed then, and believe now, that the right principle upon which to settle an election is to let it be settled by those who take part in it; and that it was wrong to give to the rebels and those who were unwilling to reconstruct the State governments the advantage of all who should die between the time of registry and the time of voting, of all who should be sick and unable to come to the polls, of all who should move away from the district where they were registered and be in other parts of the State where they were not entitled to vote, and of all who from any cause were unable to participate in the election. I am reminded by my friend from Massachusetts, [Mr. WILSON,] who was with me upon the committee of conference, that we tried to adopt that principle in the committee of conference and were unable to do it.

The amendment reported by the Committee on the Judiciary strikes out the House bill. It is not necessary, perhaps, to refer to the particular provisions of the House bill, unless some Senator would like an explanation of the reasons why we reported the amendment. I will, however, state that the bill as passed by the other House, in referring to the law already in existence, alleges that that law requires that a majority of all the registered votes of the district shall be cast in favor of the ratification of the constitution before it becomes valid. That is not the law; it does not require a majority of all the registered votes to be cast in favor of the constitution, but only that a majority of the registered voters should participate in the election on the question; and, therefore, it was necessary to change that language. The second provision of the House bill was providing for an election of members of Congress according to the districts as they existed in 1858–59. I apprehend that would hardly be just and proper, as we took a census after that time, and a new apportionment took place after the census of 1860.

The amendment reported by the Committee on the Judiciary contains simply two propositions. The first is to change the law so as to permit the constitutions submitted by the conventions in the rebel States to be ratified by a majority of those voting on the question of their ratification, which, in my judgment, is a right principle. It has been fully discussed in the Senate, however, and I do not propose to discuss it again to-day. The second proposition contained in the amendment is that at the election in which the question of the adoption or rejection of any constitution is submitted, any person duly registered may vote in any part of the State in which he shall have been registered where he may reside at the time of the election, upon the presentation of his certificate of registration, under such regulations as the district commanders may prescribe. The object of this is to allow persons to vote upon the question of the adoption of a fundamental law for the State in any portion of the State where they may happen to be. The necessity for that arises out of the peculiar character of the southern people to whom these constitutions are submitted. It is known to every one that there is a great change of the population in those States from one locality to another. The laboring men go from one county, where they are registered, to another county to seek labor and employment, and are deprived of their right to vote on a fundamental law that is to govern the whole State because at the time of voting they cannot get to the polls in the district where they were registered.

Mr. WILSON. I desire to make a statement to the Senator on that very point, and to ask him whether he thinks the amendment will meet the case? I am told that there are only two of these States where certificates of registration have been given to the persons registered—Virginia and Louisiana—and that in the other States certificates were not given. This provision, therefore, will not cover the case in the other States, and I ask the Senator if it is not necessary to make some modification of it so as to cover them.

Mr. TRUMBULL. The suggestion of the Senator from Massachusetts is quite correct. The attention of the members of the committee was called to that matter after the amendment was reported; and my friend from Nevada, [Mr. STEWART,] I think, has an amendment prepared which he will suggest at the proper time, to change this provision so as to dispense with the production of a certificate, the committee having been informed that certificates were not furnished, as is now stated by the Senator from Massachusetts, in some of the States. We acted on the assumption that a certificate had been given when the registration took place. That not being so, it is necessary to change our amendment so as to authorize the person to vote on furnishing evidence of his having been duly registered.

I am not disposed, Mr. President, to occupy time in regard to the measure; it is one understood in a moment, and which the Senate discussed at very great length last March, and upon which we had various votes by yeas and nays, as I have already shown to the Senate.

Mr. DAVIS. Mr. President——

Mr. BUCKALEW. The Senator yields to me for the purpose of making a motion to amend. I move to amend the amendment of the committee by striking out all after the word "vote" in the twenty-sixth line, and inserting, as a substitute for that part of the amendment:

In the election district where he offers to vote when he has resided therein for ten days next preceding such election.

So as to read:

And at the election in which the question of the adoption or rejection of any constitution is submitted, any person duly registered may vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election.

I only took the floor for the purpose of offering the amendment. I will not interrupt the Senator from Kentucky.

Mr. DAVIS. Mr. President, I move the instructions offered by the Senator from Wisconsin to the previous bill as instructions to the committee in relation to this bill, with my amendment to his instructions. I move that the bill be recommitted, with the instructions proposed by the Senator from Wisconsin, as amended by my amendment to those instructions.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the bills be recommitted to the Committee on the Judiciary, with the instructions mentioned by him.

Mr. DAVIS. Mr. President, my objections to the first bill and my motion to instruct the committee in relation to that bill are entirely and properly applicable to the present bill; and therefore I shall proceed with my remarks on this occasion.

Mr. DAVIS proceeded to conclude the speech commenced by him on the 11th instant. It will be published in the Appendix.

Mr. CONKLING. Mr. President, I wish to make a few remarks upon this bill; but I should like, before doing so, to understand, if I may, whether it is the purpose of the Senate to proceed with its consideration to-night to any length or to let it pass over. I inquire of the honorable Senator who has it in charge, if I may be allowed to do so, what the purpose is, so that we may see whether we can come to any understanding about it.

Mr. TRUMBULL. I have endeavored to consult with some of our friends as to the best mode of proceeding in regard to the bill, and there seems to be a disposition to take action upon it. The discussion which has been had has been upon another subject entirely, and has not been with regard to this bill. If such speeches are to be made, it seems to be the impression of such of our friends as I have been able to converse with that we shall have to sit it out sometime and hear these speeches, if gentlemen insist upon making speeches upon another question while this bill is pending, and we may as well do it to-night as ever. I think the feeling of the members of the Senate is that we had better hold on to the bill, and if gentlemen insist upon making these general speeches on this bill to continue its consideration now. That is the impression, so far as I can obtain it. If, however, the Senate think differently, I shall acquiesce in any course that may be adopted.

Mr. SUMNER. I would ask why the elaborate speeches cannot be made on some other bill.

Mr. TRUMBULL. I should hope they could be.

Mr. SUMNER. And then let us proceed to vote on this bill at once.

Mr. TRUMBULL. I should be very glad if we could do that; and I suggested that to some of the gentlemen who designed making speeches, but they seemed disposed to speak on this bill.

Mr. WILLIAMS. They can speak on the other bill just as well.

Mr. CONKLING. I infer that the Senator from Massachusetts, at all events, will stay here, if we conclude to remain to deal with the bill to-night.

Mr. SUMNER. Certainly.

Mr. CONKLING. He seems to be the only volunteer, however, that has made himself manifest publicly to do that.

Mr. POMEROY. If the Senator from New York desires to address the Senate I will certainly stay to hear him.

Mr. CONKLING. No, sir. I wish to be heard for a very few minutes, not about other matters, but about this very measure.

Mr. BUCKALEW. Will the Senator from New York allow me to make a suggestion?

Mr. CONKLING. Certainly.

Mr. BUCKALEW. When this subject was taken up this morning I suggested that we might have an explanation of the bill from the chairman of the committee, and then postpone it until to-morrow, and take it up to-morrow, act upon it, and decide it. I do not suppose there is any general disposition to talk on this bill at length or to prevent its being fairly considered. I wish to refer back to the record in the Congressional Globe of what was done last winter and spring, not to speak at length on this bill, but to explain my position. I suppose the remaining speeches on reconstruction will be made upon the particular proposition on which that debate began, and that we can conclude action to-morrow upon this bill, so far as the gentlemen against it are involved. I hope, therefore, the Senator from New York will not be forced to make his explanatory remarks to-night, but that he will be heard to-morrow, and it will not be understood that we are going into the general debate upon reconstruction on this measure.

Mr. TRUMBULL. I found it impossible to hear, where I sit, what the Senator from Pennsylvania said, but I am told that he made a suggestion that we take the vote on this bill to-morrow. If that can be understood I shall have no objection, but if speeches upon the general subject are to be made on this bill of course we must sit it out at some time and hear those speeches, and we may as well do itnow.

Mr. BUCKALEW. What I stated, so far as my own views were concerned, corresponds with the idea of the Senator from Illinois. I suggested that this bill should be taken up and explained by the chairman of the committee, and that then we should proceed to-morrow to consider it and act upon it.

Mr. FESSENDEN. And let the speeches be made on the other bill, which shall be taken up afterward.

Mr. BUCKALEW. Yes, sir.

Mr. FESSENDEN. I think that is right; but it was quite excusable in the Senator from Kentucky to speak to-day because he has waited a good while, and he had a right to push in his remarks wherever he could; but that does not apply to anybody else.

Mr. DAVIS. I was glad of any opening. [Laughter.]

Mr. SAULSBURY. The Senate is aware that there are a few members on our side of the Chamber who have not expressed their opinions on the measure, the debate of which began on the 22d of January. I am also informed that there are a number of gentlemen on the opposite side of the Chamber who wish to express their views on that subject. The proposition which has come up for consideration to-day, on the motion of the honorable Senator from Illinois, [Mr. TRUMBULL,] opens up the whole question of reconstruction, and especially the motion made by the honorable Senator from Kentucky, that the Judiciary Committee be instructed to report a bill repealing all the reconstruction acts heretofore passed. We have been notified by the honorable Senator from Illinois, [Mr. YATES] that he intends to-morrow to call up the bill for the admission of Colorado. Now, sir, if it can be understood that after the bill before the Senate is disposed of the reconstruction bill proper can be taken up, and those members of the Senate who have not had an opportunity to be heard upon the subject shall be heard, without the interposition of any other matter, I have no doubt it will be perfectly satisfactory to those who intend to speak on the general subject of reconstruction. But if that general subject is to be delayed, and other matters are to be taken up for consideration, it is nothing but just to those members, both of the Republican side of this Chamber and of this side of the Chamber, who have not been heard on that subject, that they should have the privilege of being heard at an early day. I am told that the Senator from Nebraska [Mr. THAYER] wishes to be heard on that subject; I entertain that wish myself. With the understanding that after the vote is taken on the pending bill the reconstruction measure proper will come up, so that we may have an opportunity to speak once, not twice, on the same subject, I shall be perfectly satisfied.

Mr. FESSENDEN. There will be no difficulty about that.

Mr. CAMERON. I desire to say that the proposition of the Senator from Delaware, as I understood it, seems reasonable and proper. It is that he and his friends are willing that we shall dispose of the bill now before the Senate to-morrow, provided they have an opportunity to make their speeches afterward upon the general question of reconstruction. That is fair and right, and I think there ought to be no objection to it. Then we can meet to-morrow morning, sit out this bill during the day, if necessary, dispose of it, and then let the other measure come up.

Mr. STEWART. With that understanding is there any difficulty about taking the vote on this subject now?

Mr. FESSENDEN. Certainly there is, because some gentlemen wish to speak on this very bill.

Mr. HENDERSON. I rise for the purpose of moving an adjournment. I am a friend of this bill and intend to vote for it, but we are not likely to arrive at a vote this evening. I therefore move that the Senate do now adjourn, and I do so with the hope that we shall arrive at a vote to-morrow.

Mr. TRUMBULL. I hope the Senator from Missouri will withdraw his motion long enough to allow me to make an observation.

Mr. CAMERON. I gave way to the Senator from Missouri, and I hope I shall have an opportunity of saying a word which may, perhaps, induce him to withdraw his motion until we decide this question. I think it is really understood now that we shall dispose of this bill to-morrow, ["yes,"] and with that understanding I will myself move an adjournment.

Mr. HENDERSON. I understand it so. I understand that Senators who desire to be heard upon reconstruction are perfectly willing that we shall take the vote to-morrow on this bill, provided the bill we have heretofore been discussing on that subject shall then be taken up and an opportunity given to them to be heard. ["Certainly."] That is right, nothing but right. I therefore renew the motion that the Senate do now adjourn.

Mr. TRUMBULL. If that is the understanding I shall make no objection to the adjournment.

Several SENATORS. It is the understanding.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869;

A bill (H. R. No. 769) granting a pension to David Howe;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 771) granting a pension to John D. Lay;

A bill (H. R. No. 772) granting a pension to Robert McCrory;

A bill (H. R. No. 773) granting a pension to William H. McDonald;

A bill (H. R. No. 774) granting a pension to Amos Witham;

A bill (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel;

A bill (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania; and

A bill (H. R. No. 616) extending the provisions of the act of July 17, 1862, relating to the naturalization of soldiers, to those who enlisted in the naval and marine service of the United States.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the Senate do now adjourn.

Mr. DOOLITTLE. I hope my honorable friend will withdraw the motion to enable me to make an observation.

Mr. HENDERSON. I insist on my motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 20, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ACCOUNT OF SERGEANT-AT-ARMS.

The SPEAKER stated the first business in order was the consideration of a resolution reported from the Committee on Accounts in reference to certain charges against the Sergeant-at-Arms of the House, being the unfinished business of yesterday, on which the gentleman from Pennsylvania [Mr. BROOMALL] was entitled to the floor.

CORRECTION.

Mr. EGGLESTON. I ask unanimous consent to make a brief statement in reference to a vote.

There was no objection, and it was ordered accordingly.

Mr. EGGLESTON. Last Friday, on the vote for extending the patent for wooden screws, I am recorded as not voting. I wish to correct that. I was present in my seat and voted against the extension.

The SPEAKER. The correction will be made.

NEW MEXICO CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege, and report from the Committee of Elections the following resolution:

Resolved, That in the contested-election case from New Mexico the time for taking testimony be, and the same is hereby, extended for the period of ninety days from and after the expiration of the last extension in this case, said testimony conforming in all things else to existing laws.

I wish to put upon the record that this has been done by agreement between the parties, without including any laches on the part of either of them.

The resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD LANDS.

Mr. HOPKINS, from the Committee on Public Lands, by unanimous consent, reported a bill (H. R. No. 767) to regulate the disposition of lands, that may be hereafter granted to aid in the construction of railroads; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Public Lands.

BRANCH MINT AT SAN FRANCISCO.

Mr. ASHLEY, of Nevada, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to this House information as to the present condition and management of the affairs of the United States branch mint at San Francisco, California. Whether the controversy between the superintendent and treasurer of that institution that has existed for some four years past still continues; also what has been done with the case of the United States *vs.* Harasztthy (former melter and refiner of the branch) for an alleged embezzlement of a larger portion of the sum of $263,590 43, deficit in his department in 1856, for which for a time the Government held property trusteed, belonging to said Harasztthy; and also as to what disposition has been made in the more recent case of robbery perpetrated previous to or in the month of December, 1866, in the treasurer's department; whether the treasurer, D. W. Cheeseman, has yet made good all or any part of the $9,600 in greenbacks, the $9,355 30 also in greenbacks, or the $20,000 in gold coin stolen; and also if the Secretary still entertains the proposal of said Cheeseman to throw the responsibility of the loss of the latter sum upon the coiner's department of the branch mint; also information of the still more recent fraud perpetrated prior to and about the month of December last in the treasurer's department, namely, the alterations in the reported fineness of deposits of gold and silver, and how long continued, and how extensive this last fraud has proven to be.

HENRY A. SMYTHE.

Mr. HULBURD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Expenditures be instructed to inquire into the receipts of Henry A. Smythe, collector of the port of New York, in his official capacity, whether such receipts have been derived from fines, penalties, or forfeitures, or otherwise; and that for this purpose they have power to send for persons and papers and examine witnesses under oath.

Mr. HULBURD moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CHANLER. I call for the regular order.

ACCOUNTS OF SERGEANT-AT-ARMS—AGAIN.

The House resumed the consideration of the unfinished business at the adjournment yesterday, being the report from the Committee on Accounts in regard to certain charges against the Sergeant-at-Arms, upon which Mr. BROOMALL was entitled to the floor.

The concluding resolution reported by the committee is as follows:

Resolved, That the committee be discharged from the further consideration of the subject.

Mr. BROOMALL. Mr. Speaker, I will not occupy much of the time of the House on the resolution now. It will be seen by the report of the committee, which appears in the Globe this morning, and which I suppose every member has read who desires to read it, that the committee acquit the Sergeant-at-Arms upon all the charges made against him. I stated yesterday that the report was not a unanimous one, that the gentleman from Maryland [Mr. MCCULLOUGH] would probably ask to make a minority report. I am inclined to think that the gentleman does not materially differ in opinion with the rest of the committee about the resolution which we have reported. As the gentleman is present, I will yield to him such time as he may desire to state what he wishes.

Mr. MCCULLOUGH. Mr. Speaker, I have not as yet determined that I will make a minority report. I asked the chairman of the committee yesterday morning to give me a little time to consider this matter. I could not see at that time why there was so much haste about it. That privilege was, however, declined. I may or may not determine to make a minority report. As my colleague has said, I do not know that I shall differ with the majority of the committee except in regard to the argument in the case. I have not been able to investigate the case as fully as I would like to do before making any report, if I do make one. If I conclude to make a minority report I hope the House will grant me that privilege.

Mr. BROOMALL. Mr. Speaker, the majority of the committee have not, of course, intended any discourtesy to the gentleman from Maryland. It was because, as he himself states, he does not appear to differ materially from the rest of the committee, probably not at all upon the final resolution, that we thought it not necessary to detain the committee or the House further upon this matter. If no gentleman desires to ask a question in relation to the report I demand the previous question.

Mr. MCCULLOUGH. Will the gentleman yield to me for a moment?

Mr. BROOMALL. Certainly.

Mr. MCCULLOUGH. I do not think that the testimony has cleared up one charge made against the Sergeant-at-Arms. I do not impute to Mr. Ordway any willful intention to defraud the Government or to charge more than he was entitled to receive for the services performed. The difficulty in my mind is this: as I understand the act of March 3, 1859, the Sergeant-at-Arms has no right to charge for constructive mileage. The act of 1859 is, in my opinion, very plain on that point, not only in the spirit of the law, but in the letter of it; and, as I understand, it was passed for the very purpose of preventing the Sergeant-at-Arms from charging constructive mileage, which had been the practice up to that time. Now, as I said before, I do not charge that more money has been paid than perhaps the Sergeant-at-Arms was entitled to receive for the services performed, because, as the testimony shows, he was required to go to the city of New York and to remote parts of the country, and to send messengers there at a heavy expense; but the accounts, as I understand the matter, show that he has charged for travel and mileage which the testimony does not substantiate. That is the difficulty in my mind, and I would like if the House will grant me the privilege for a little further time to consider the matter, and I may be able to change my mind upon that point. Hence it was that I desired the chairman of the committee yesterday morning to give me a little time to consider the matter, which I thought I was entitled to.

Mr. BROOMALL. I suppose there will be nothing to hinder the gentleman from Maryland from making a minority report at any time, so that his views may accompany the remainder of the papers in the case. It is not with the design of cutting off anything of that kind that this resolution is now pressed by the committee. The gentleman himself has defined very clearly the difference between him and the rest of the committee, and he has very properly stated it. It is not a difference upon any material point, but rather on a question of regularity.

I think the committee all agree that the Sergeant-at-Arms has not received more money than he was entitled to, though upon certain bills it may have been improperly apportioned in regard to the items. The charge is fraud; and upon that point every member of the committee, I believe, agrees to exonerate the Sergeant-at-Arms. Before calling the previous question I desire to move an amendment to the resolution reported by the committee, which does not stand by itself, as I supposed it would. I move to strike out the words "of the subject" and to insert instead thereof the words "of the charges against the Sergeant-at-Arms referred to them;" so that the resolution will read:

Resolved, That the committee be discharged from the further consideration of the charges against the Sergeant-at-Arms referred to them.

The amendment was agreed to.

Mr. MCCULLOUGH. What will be the effect of discharging the committee? I have no objection in the world to the committee being discharged. I do not think there is anything further for the committee to do.

The SPEAKER. With consent given to the gentleman to make a minority report, he can make it at any time during the session; but if the committee be discharged they cannot resume the investigation until further order of the House. If there be no objection, the gentleman from Maryland will have leave to present a minority report. The Chair hears no objection.

Mr. ALLISON. What will be the effect of the adoption of the resolution? Will it have the effect of making a final disposition of this case?

The SPEAKER. It will.

Mr. BROOMALL. So far as these charges are concerned, certainly.

The SPEAKER. If other charges are made of course they will be investigated; but it will settle the question so far as these charges are concerned.

Mr. RANDALL. I would like to ask the chairman of the committee a question.

Mr. BROOMALL. Certainly.

Mr. RANDALL. I would like to know whether all the money has been paid to the Sergeant-at-Arms which is alleged to have

been improperly charged? I want to know whether the money has been actually paid for the charges which the Sergeant-at-Arms has made against the Treasury?

Mr. BROOMALL. The gentleman refers to the charges made by the clerk against the Sergeant-at-Arms?

Mr. RANDALL. Yes, sir.

Mr. BROOMALL. The charges are so vague that it is impossible to tell. So far as the money has been awarded to the Sergeant-at-Arms by the proper authorities it has been paid.

Mr. RANDALL. That is what I wanted to know.

Mr. BROOMALL. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BROOMALL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. LAWRENCE, of Ohio. I ask leave to make a brief personal explanation.

No objection was made.

Mr. LAWRENCE, of Ohio. I notice in the report of my remarks, as published in the Globe this morning, upon a bill to establish a law department, that I am reported as saying:

"In pursuance of that resolution a bill has been prepared, which I am directed to report to the House."

Now, this remark, without explanation, may possibly be construed so as to place the members of the Committee of the Judiciary in a wrong position. I desire simply to say that I was directed by the committee to report the bill and have it ordered to be printed and recommitted, so that it could be examined by the members of the committee. They have not yet examined the bill. The committee directed me to report it and have it printed and recommitted, so that it could be examined more conveniently. I deem it proper to make this explanation in order that no injustice may be done the members of the Committee on the Judiciary.

SACRAMENTO RIVER, CALIFORNIA.

Mr. HIGBY, by unanimous consent, presented resolutions of the Legislature of the State of California, asking that Sacramento river, in that State, be made a post route; which were referred to the Committee on the Post Office and Post Roads.

OVERLAND MAIL CONTRACTS, ETC.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Postmaster General is directed to furnish, for the information of the House, copies of all contracts with Benjamin Holliday for the transportation of the overland mail; also copies of all contracts with said Holliday to carry the mails from the end of each branch of the Union Pacific railroad to Denver City; also to report all changes that have been made since the contracts with Holliday were executed, either in service or compensation, the whole amount of money paid during the last two years to Holliday and others for overland mail service west of the Missouri river, and whether any portion of said mail service is performed by railroad transportation, and the amount and character of mails transported; and the Postmaster General is also directed to communicate to this House any information in his possession in reference to the obstruction of the mails by Wells, Fargo & Co., the sale of United States stamped envelopes by the agents of said company, and the transportation of the same by express.

NATIONAL BANKS IN LIQUIDATION.

Mr. BARNES. I ask unanimous consent to introduce, for consideration at this time, a joint resolution respecting the national banks in liquidation.

Mr. ELIOT. I object, and call for the regular order.

Mr. BARNES. Will the gentleman allow the joint resolution to be reported?

Mr. ELIOT. The committees will never be called if we do not get rid of some of these pending questions. I am, therefore, under the necessity of insisting upon the regular order.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BANKS, by unanimous consent, reported from the Committee on Foreign Affairs a bill (H. R. No. 768) concerning the rights of American citizens in foreign States; which was read a first and second time, recommitted to the Committee on Foreign Affairs, and ordered to be printed.

FRAUDULENT MAIL CONTRACTS.

Mr. McCLURG. I rise to a privileged report. I present a report from the select Committee on Southern Railroads, and ask that it be read by the Clerk. I ask members to give their attention to the reading of the report, as it is short, and concludes with a resolution upon which I shall ask for action at this time.

The report was read as follows:

The select Committee on Southern Railroads respectfully report that in the course of the examination of witnesses in the prosecution of the duties imposed by order of the House, certain statements were made which indicate corruption in, or at least throw suspicion upon, the Post Office Department.

They (this committee) had not the power, under instructions, to pursue the investigation.

The testimony relates to the transportation of the mail on certain roads.

Extracts from the testimony are now given, merely to show that the statements made demand further investigation by some standing or select committee, that suspicion may be removed if it be groundless, or that if official trusts have been prostituted and abused, the guilty may be exposed and the public Treasury protected.

The testimony is conclusive that there is no settled policy in the Post Office Department regulating contracts for mail transportation on southern railroads.

On page 57 of Report No. 3, second session Fortieth Congress, George H. Hazlehurst, president of the Macon and Brunswick railroad, testifies:

"*Question.* Do you carry the mail over your road?

"*Answer.* Yes.

"*Question.* How much do the Government pay you for doing so?

"*Answer.* Eight thousand dollars a year for fifty miles."

It will be perceived that this is a local mail; that is, it cannot be so large and important as the mail on the roads constituting the through route from Washington city to New Orleans, and that for the transportation of this local mail $160 per mile are being paid.

On page 99, same report, Thomas H. Callaway, president of the East Tennessee and Georgia railroad, testifies: "We have only received $100 a mile for one hundred and twelve miles, and for twenty-eight miles on the branch road we get seventy-five dollars a mile. If the price has been raised recently, I have not had any notice of it."

On page 114, John R. Brauner, president of the East Tennessee and Virginia railroad, and it will be perceived one of a continuous through line from Washington city to New Orleans, testifies: "The road receives $100 per mile now."

On page 99, the above-named president of the East Tennessee and Georgia railroad testifies:

"*Question.* Has there been any correspondence, orally or in writing, between you and the Post Office Department lately on this subject?

"*Answer.* In June last I had an interview with the Postmaster General. I was one of a committee appointed and sent here by the southern roads. The other two members of the committee were Mr. Barbour, of the Orange and Alexandria railroad, and Mr. J. R. Brauner, of the East Tennessee and Virginia railroad. We made a proposition direct to the Postmaster General to carry the mail at $200 a mile for single daily service, or at $300 a mile for double daily service. The Postmaster General treated us very courteously, and told us that he and Mr. McLellan, his assistant, had had a good deal of conversation on that subject, and had about made up their minds to make us a proposition. It was not very different from the one we had made to him, and that he would let us know the result. But since then I have had nothing from him.

"*Question.* Have you had anything from any Government official on the subject since then?

"*Answer.* No, sir; I cannot say that I had anything from a Government official.

"*Question.* Have you since then been approached, either orally or in writing, by other parties than officers of the Post Office Department in reference to that subject?

"*Answer.* I have.

"*Question.* State by whom, and what that correspondence has been.

"*Answer.* It was a pretty bold proposition. I was told in New York by certain parties there that there was a man in New York who could get pay for us for carrying the mail—that is, get such pay as we had been asking. I first told the party who talked to me about it that I would have nothing to do with it, and that I did not wish to see the gentleman. After having a conference with Mr. Brauner and other parties, who had talked to me about it, I was persuaded to see the person anyhow, 'to see his hand,' and that then I could act as I pleased. This party who approached me first introduced to me next day a man named John F. Pickrell, of 58 Wallstreet, New York. Pickrell told me that he could get for the whole line of road $200 per mile for a single daily service, and $300 a mile for a double daily service, provided we would give to him and his party fifty dollars a mile. He said that he could get a contract for four years, and to date back to the time that the roads were turned over. He said that half of this fifty dollars a mile had to be left in Washington; that he himself could do nothing, but that he had a friend in New York who was an intimate friend of the Postmaster General, and he could effect this thing. I told him that our road was one hundred and forty miles long; and I then asked him if he would take from me $7,000, and get me a contract for the four years. He said he would not, that he must have fifty dollars a mile for the four years. I had no intention of giving him a cent, but I wanted to draw out of him what I could learn. There the matter ended.

"*Question.* That statement was made to you by Mr. Pickrell?

"*Answer.* Yes, sir.

"*Question.* Did Mr. Pickrell give you to understand that this arrangement could be made through a Government official—one connected with the Post Office Department?

"*Answer.* Yes, sir.

"*Question.* You understood that person to be who?

"*Answer.* My understanding was that it was the Postmaster General himself.

"*Question.* He did not propose to exact any money from you unless he got the contract?

"*Answer.* None at all; and then he wanted his portion of the pay as we received it.

"*Question.* Did Pickrell in that conversation mention any other name to you?

"*Answer.* He gave me no name, not even that of the man with whom he would do this thing. He said the Postmaster General was then in New York, and that the matter could be fixed while he was there."

On pages 118 and 119, same report, the above-named president of the East Tennessee and Virginia railroad testifies:

"*Question.* Have you ever been approached, either orally or in writing, by other parties than officers of the Post Office Department in reference to the transportation of mails?

"*Answer.* Yes, sir; I have.

"*Question.* State to the committee the names of those parties, or of that party, whoever they may be?

"*Answer.* Last September I met Mr. Burns, president of the Nashville and Chattanooga railroad, at this place, and he showed me a letter from a gentleman in New York—I cannot say who wrote that letter—making a proposition to have the mail pay increased by paying a commission to have it done. I told Mr. Burns I did not know anything about it, but that I was going on to New York and would investigate it and see what it meant. I did not want to pay a commission for what we ought to have. I went to New York, and was introduced to a gentleman named Pickrell—I think that was his name—who made a proposition to me that we could get $200 per mile for carrying a single daily mail, and $300 per mile for a double daily mail, but that we would have to pay a commission to get it. I asked him 'how much?' He said we should pay $50 a mile per annum, and that the contract would go back to the time the road was turned over by the Government, and be for four years from that time. I told him I did not see much money in that for the road; that they were going to give us $150 a mile for single daily service, and $250 for double daily, and I could not see why we should go into an arrangement of that sort and make nothing by it, and be defrauding the Government to pay other parties. 'Well,' said he, 'you never will get it done except you make this arrangement. And, said he, 'You get your back pay now; that is another inducement; and except you make this arrangement you will never get your increase of pay.' In connection with that, he said every other road of the line had agreed to this except Mr. Callaway's and mine. I said, 'I will see you to-morrow.' I saw Mr. Callaway, who flew all to pieces at me. Said I, 'Hold on, and we will find out about this thing, and we will get all we can out of him.' Mr. Callaway and I met him in the morning, and he made the same proposition to us both that he had made to me the day before. We both said we would see about it. He said, then, it was important that this thing should be done right now; that there were parties in New York who were interested in it, and parties in Washington, and the whole thing could be finished right now. We declined to go into it. He said half the money went to Washington, and half of it stayed in New York. This was a gentleman I never saw before, and may have been working for a set of brokers or claim agents. I know nothing about that. I know he falsely misrepresented to me by saying all the lines had gone into it except Mr. Callaway's and mine, because I saw Mr. Barbour, and he indignantly refused it; and Mr. West also denies having had anything to do with it. Mr. Barbour said the whole thing ought to be exposed; that the roads should get their just rights without paying a commission for it.

"*Question.* Did Mr. Pickrell name any other party?

"*Answer.* Yes, sir, he did.

"*Question.* Who did he name?

"*Answer.* He said to me that the Postmaster General was there, and the whole thing could be arranged right now; that he was hard pressed for money, and now was the time to do it.

"*Question.* That is, the Postmaster General was 'hard pressed for money?'

"*Answer.* Yes; and that he was to get I forget how much of the money. He said half of it was to remain in New York, and the other half to go to Washington. I want to do justice to all. I saw Governor Randall, who was stopping at the same hotel with me, and I am well acquainted with him, and he never intimated such a thing to me at all.

"*Question.* About what month was that?

"*Answer.* I believe it was last September, or the first of October.

"*Question.* What other railroad presidents were with you at the time?

"*Answer.* Mr. Callaway and I were together.

"*Question.* Did you go from Washington together?

"*Answer.* No; he came on after me. I was in New York ten days before he arrived there.

"*Question.* Do you know how long the Postmaster General had been in New York when this proposition was made to you by Mr. Pickrell?

"*Answer.* No, sir; I do not. I know he was there all the time, that is all."

On pages 129 and 130, same report, John F. Pickrell, of 58 Wall street, New York, the person alluded to by the two railroad presidents above, testifies as follows:

"*Question.* You then utterly deny having at any time told these railroad presidents you had peculiar facilities for getting this increase?

"*Answer.* I certainly deny it. On the contrary, I have invariably told them I had no means whatever, no knowledge, no acquaintances at Washington at all. I introduced West to Gould, and then took no further part; only listened to the conversation.

"*Question.* You have never told any railroad president they had better settle the matter at once?

"*Answer.* Not that I have the slightest recollection of.

"*Question.* As an official of the Post Office Department was then there?

"*Answer.* No.

"*Question.* That conversation never took place at any time or place?

"*Answer.* I never had any conversation such as you say.

"*Question.* Or similar to that?

"*Answer.* No.

"*Question.* Had you a conversation last September with Mr. Brauner?

"*Answer.* I do not recollect having any conversation with him last September.

"*Question.* In which you told him $200 per mile for single daily and $300 per mile for double daily could be got, but that they would have to pay a commission out of it; that that commission would be fifty dollars a mile, and that the contract must go back to the time the road was turned over by the Government, and be for four years from that date: and you further said, 'You will never get it done except you make this arrangement, and you get your back pay now, which is another inducement; and except you make this arrangement you will never get your increase of pay?

"Did you not, in the presence of Mr. Callaway next morning, renew this proposition to him, and in that conversation say, 'it is important this thing should be done right now, as there are parties in New York interested in it, and in Washington, and the whole thing can be finished right now?'

"Did you tell him half the money went to Washington and half of it stayed in New York; and that the Postmaster General was there then, and the whole thing could be arranged right now; that he was hard pressed for money, and now was the time to do it?

"*Answer.* I have not the slightest recollection of any such conversation.

"*Question.* You would recollect it if you had it?

"*Answer.* I think so. I have never in my life spoken to Mr. Randall.

"*Question.* Did you have this conversation in the presence of Mr. Callaway?

"*Answer.* Mr. Callaway knew perfectly well that Mr. Gould was the party.

"*Question.* Answer my question—did you or not?

"*Answer.* I have not the slightest recollection of any such conversation.

"*Question.* You would recollect it if you had it?

"*Answer.* I think it very likely I should.

"*Question.* Do you not know it?

"*Answer.* No, sir; I do not know it. I could not have mentioned Mr. Randall's name. I am quite sure I never mentioned his name.

"*Question.* Could you have mentioned that half of it was to go to Washington?

"*Answer.* No, sir. Even if they put themselves in a position to make a contract, the compensation was uncertain. It was not fixed at all. They might draw any inference they pleased; but I do not see how they could fairly do it in my case, because I told them I could accomplish nothing."

Comment on this testimony is unnecessary. Sufficient has been read to satisfy the committee that further investigation should be had. The Committee on Southern Railroads respectfully present the above facts to the House for its consideration, and ask that the testimony taken before them in regard to the facts presented be referred to some other committee, the subject-matter herein mentioned not being germane to the subject referred to them.

The adoption of the following resolution is therefore recommended:

Resolved, That the Committee on ——— examine into the subject of contracts by the Post Office Department for the transportation of the United States mail, and report to the House of Representatives such facts as may be deemed of importance, and particularly whether or no there are any evidences of corruption.

The committee shall be authorized to send for persons and papers, and, when thought necessary by them, may employ a clerk.

All testimony heretofore taken on the subject named is hereby referred to such committee.

J. W. McCLURG,
ULYSSES MERCUR,
H. D. WASHBURN,
JOHN W. CHANLER,
PHILETUS SAWYER.

The question was upon the resolution appended to the report.

Mr. VAN WYCK. Will the gentleman from Missouri [Mr. McCLURG] yield to me a moment, that I may move to fill the blank in the resolution as reported by inserting "the Committee on Southern Railroads?" It must strike the House that this is by far the most appropriate committee. It has already examined somewhat in detail into all this matter, and is provided with all that is necessary to continue this investigation. It has a clerk at its command.

Mr. WILSON, of Iowa. And a stenographer.

Mr. VAN WYCK. This committee has already investigated the facts to a considerable extent, and has ascertained what further is necessary to be done. I insist that this committee should be named in the resolution. It is true that the testimony already taken may be passed into the hands of another committee; but we all know that no other committee of the House can continue this investigation to its completion so judiciously, with so little expense, and so satisfactorily to this body, as the committee that has commenced the investigation. I therefore move that the blank in the resolution be filled by inserting "the Committee on Southern Railroads."

The SPEAKER. Does the gentleman from Missouri [Mr. McCLURG] yield for that motion?

Mr. McCLURG. Yes, sir; but I wish to remark on behalf of the committee that we ask to be discharged from the further consideration of the subject. We prefer that the matter shall go to some other committee. I yield for a moment to my friend from Pennsylvania, [Mr. KELLEY,] who wishes to offer a substitute for the motion of the gentleman from New York, [Mr. VAN WYCK.]

Mr. KELLEY. Mr. Speaker, there is among the committees of this House one to which this business legitimately belongs. I have no objection to having the subject confided to the Committee on Southern Railroads; but that committee has expressly reported a request to be discharged from its consideration. I move, therefore, to substitute for the committee named by the gentleman from New York [Mr. VAN WYCK] the Committee on Expenditures in the Post Office Department. If any question properly belongs to that committee this question does. It is a question as to the integrity of the expenditures in the Post Office Department. I can see no reason for raising and maintaining a special committee to investigate that which falls so directly within the line of the duties of one of the standing committees of the House. I hope, therefore, that my motion will be adopted.

Mr. McCLURG. I now yield to my colleague on the committee, the gentleman from New York, [Mr. CHANLER.]

Mr. CHANLER. Mr. Speaker, I hope that the motion of the gentleman from Pennsylvania [Mr. KELLEY] will prevail; and I desire to call for the reading of the resolution reported by the Committee on Southern Railroads, that the House may understand explicitly what is the wish of the committee in this matter. The reason has been stated in the report; but the House may not have heard it. It is simply that the duties of the committee at present render it impossible for them to prosecute this particular investigation as it should be conducted. The appropriate committee is that named in the motion of the gentleman from Pennsylvania. [Mr. KELLEY.] Under the regular organization of the House this work properly belongs to that committee. Moreover, the Committee on Southern Railroads has no clerk; and an extra expense would be incurred by the employment of one for this particular business. It is, therefore, in every way proper that the motion of the gentleman from Pennsylvania should be adopted.

Mr. McCLURG. I now yield three minutes, to the gentleman from Pennsylvania, [Mr. O'NEILL.]

Mr. O'NEILL. I hope the motion of my colleague [Mr. KELLEY] will be adopted, and that this subject will be referred to the Committee on Expenditures in the Post Office Department. This committee will have ample time to consider the subject. I believe that during this winter nothing has been referred to that committee. I, as one of its members, would be delighted to take hold of this or any other business properly coming within our jurisdiction. Let that committee be made, if possible, a prominent committee of this House. I hope the motion of my colleague will be adopted.

Mr. McCLURG. I yield for a moment to the gentleman from New York, [Mr. VAN WYCK.]

Mr. VAN WYCK. This is not a matter legitimately belonging to the Committee on Expenditures in the Post Office Department, because the subject is not necessarily an expenditure. Now, there are, I understand, members of this select committee who have time and are willing to assist in this investigation. I again submit that, as this committee has already gone partly through the investigation and has ascertained a portion of the facts, the continuation of the investigation should be intrusted to its hands.

Mr. WASHBURNE, of Illinois. I trust that the motion of the gentleman from New York [Mr. VAN WYCK] will be adopted. It seems to me we ought not to take this matter away from the committee that has already had charge of it. I trust the gentleman will demand the previous question, so we may vote on the question.

Mr. McCLURG. I yield now two minutes to the gentleman from Illinois, [Mr. FARNSWORTH.] chairman of the Committee on the Post Office and Post Roads.

Mr. FARNSWORTH. Mr. Speaker, I am not very particular what committee this is referred to, but I suppose any committee to which it may be referred will do it justice. It seems to me, however, if it is to go out of the hands of the committee which has made the report, it should go to the Committee on the Post Office and Post Roads. The Committee on Expenditures of the Post Office Department is not the proper committee. It is the duty of those committees to examine into the expenditures of the several Departments and see whether the expenditures have been made upon sufficient vouchers. It is the duty of the Committee on the Post Office and Post Roads to inquire into all matters appertaining to post offices and post roads. This is a matter pertaining to post offices and post roads. It is in reference to a mail route and the carrying of the mail.

Now, sir, while I am no great stickler in reference to the committee of which I happen to be a member, and have no great anxiety to multiply my labors, still, it seems to me, the standing committee is the proper one to take the matter in charge if it is to go out of the hands of the present committee. Therefore, if it is not to be referred back to the Committee on Southern Railroads, I move it be referred to the Committee on the Post Office and Post Roads.

The SPEAKER. Does the gentleman yield for that motion?

Mr. McCLURG. I do.

Mr. FARNSWORTH. Then I submit it.

Mr. McCLURG. I yield now to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I only rise for the purpose of advocating the amendment of the gentleman from New York. This committee has been diligently and faithfully employed in the consideration of this question for many months. It does not shrink from it. It was only a matter of delicacy with them in not filling the blank in the resolution with its own name. It is willing to serve, and I hope the House will not hesitate from referring it back to the same committee.

Mr. McCLURG demanded the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER stated the first question

would be on referring it to the Committee on Expenditures in the Post Office Department.

The House divided; and there were—ayes 64, noes 62.

Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and Mr. FARNSWORTH and Mr. PILE were appointed.

The House again divided; and the tellers reported—ayes 61, noes 52.

So the blank was filled with the name of the Committee on Expenditures in the Post Office Department.

The SPEAKER stated the part of the resolution granting leave to the committee to report at any time required unanimous consent.

Mr. WASHBURNE, of Illinois, objected.

The resolution, as amended, was then adopted.

Mr. CHANLER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. ELA was granted indefinite leave of absence.

RIGHTS OF ADOPTED CITIZENS.

Mr. PHELPS, by unanimous consent, presented resolutions of the Legislature of Maryland, in regard to the rights of adopted citizens abroad; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

JAMES W. BOSWELL.

On motion of Mr. STONE, leave was granted for the withdrawal from the files of the House of the papers in the case of James W. Boswell, on condition that copies were left.

PERSONAL EXPLANATION.

Mr. PAINE. I ask unanimous consent to make a brief personal explanation.

There was no objection.

Mr. PAINE. I send to the Clerk's desk to be read a passage from the Washington correspondence of the New York Tribune, under date of February 17.

The Clerk read as follows:

"In last Friday's Tribune was printed in these dispatches a statement concerning General PAINE and the part which he took in the impeachment project before the Reconstruction Committee. It was furnished your correspondent by one whom he deemed trustworthy, and who represented that Mr. STEVENS, the chairman of the committee, said to him all that was printed in the Tribune. Yesterday, in the House, General PAINE, having had the report read by the Clerk, pronounced it incorrect. Notwithstanding General PAINE'S denial, my informant still persists that the conversation as published is substantially true as related by Mr. STEVENS."

Mr. PAINE. I now send to the Clerk's desk a written document signed by all the members of the Reconstruction Committee, except the chairman [Mr. STEVENS, of Pennsylvania,] and myself, and ask that it may be read.

The Clerk read as follows:

The following communication concerning General PAINE and the action of the Reconstruction Committee of the House of Representatives on the proposition to impeach the President, appeared in the correspondence of the New York Tribune, under date of 14th February:

"Before the vote was taken Mr. PAINE, who voted for impeachment last year, attempted to dodge the question in committee, and moved toward the door to leave the room. Mr. STEVENS, observing his movements, said, shaking his finger at him, 'PAINE, come back, you have got to face the music. Go on either one side or the other.' PAINE hesitated, and then STEVENS said, 'Clerk, put him down against impeachment;' and PAINE was so registered."

The undersigned members of the Reconstruction Committee, each of whom was present on the occasion referred to, deem it but justice to say that the foregoing statement of what Mr. STEVENS said and did in relation to Mr. PAINE is in every particular untrue and without the least color of truth. We further say that General PAINE neither attempted to leave the room nor manifested any desire to evade the question of the impeachment of the President, but, on the contrary, stated his opinion and voted without one word of reproof or dictation from Mr. STEVENS or any other member of the committee.

JOHN A. BINGHAM,
J. F. FARNSWORTH,
GEORGE S. BOUTWELL,
JAMES BROOKS,
C. T. HULBURD,
F. C. BEAMAN,
JAMES B. BECK.

February 19, 1868.

Mr. PAINE. This, Mr. Speaker, disposes of the only issue of fact in this case to which I am a party. I will simply add that I have had no conversation on the subject of this correspondence, either with the correspondent himself or with the chairman of the committee, [Mr. STEVENS, of Pennsylvania.] I thank the House for the courtesy extended to me on this occasion.

Mr. STEVENS, of Pennsylvania. I desire to say a single word. That whole statement by the correspondent is false from beginning to end. I had no conversation of the kind with any human being.

Mr. ELDRIDGE. I desire to know whether that makes out the correspondent to be something less than a human being? [Laughter.]

The SPEAKER. The morning hour has now commenced, and reports of committees are in order, commencing with the Committee on Invalid Pensions.

SOLDIERS OF 1812.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Stephen Wolverton, of Detroit, Michigan, requesting some provision by Congress for the pensioning of soldiers of 1812; and the same was referred to the Committee on Revolutionary Pensions and of the War of 1812.

A. F. HAWTHORN.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the petition of A. F. Hawthorn, praying for additional bounty; and the same was referred to the Committee on Military Affairs.

DAVID HOWE.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 769) granting a pension to David Howe; which was read a first and second time.

The bill, which was read at length, directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of David Howe, late special agent in the provost marshal's office for the fourth Massachusetts district, commencing April 21, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN H. FINLAY.

Mr. NUNN, from the Committee on Invalid Pensions, reported a bill (H. R. No. 770) granting a pension to John H. Finlay; which was read a first and second time.

The bill, which was read at length, directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of John H. Finlay, late a member of company G, second Illinois cavalry, commencing October 6, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NUNN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. POLSLEY, from the Committee on Invalid Pensions, reported adversely on a petition for a pension to Mrs. Henrietta Burns, widow of Dr. Barnard Burns, of Missouri, and upon the petition of citizens of Warren county, Ohio, praying that a pension may be granted to Henry Woodward; and the same were laid on the table.

JOHN D. LAY.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 771) granting a pension to John D. Lay; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of John D. Lay, a citizen of Davis county, Missouri, commencing the 1st day of January, 1862.

From the report it appears that John D. Lay enlisted in a company of six months' militia in the State of Missouri, under the authority of a proclamation of the Governor of the State, and on the 13th of December, 1861, while forming in line for company drill, his gun was accidentally discharged by another soldier, the contents entering his right hand, and injuring it to such an extent as to render amputation necessary.

Mr. WOODWARD. I would like to move an amendment to that bill. There is a soldier of the war of 1812 in my district whose name I propose to add to the bill.

The SPEAKER *pro tempore*, (Mr. WASHBURNE, of Illinois, in the chair.) The Chair holds that that would not be in order.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ROBERT M'CRORY.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 722) granting a pension to Robert McCrory; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Robert McCrory, late third assistant engineer of the steamer John Raine, commencing on the 19th of May, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM H. M'DONALD.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 773) granting a pension to William H. McDonald; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of William H. McDonald, late of company F, sixtieth regiment New York volunteers, commencing March 11, 1862.

It appears from the report that McDonald, who was a private soldier in company F, sixtieth New York volunteers, while on guard duty on the Baltimore and Ohio railroad had his right foot crushed by the cars, and so injured that amputation became necessary. His application for a pension was rejected by the Commissioner on the alleged ground that the evidence in the case developed the fact that he was asleep on guard at the time the injury was received. The committee deem the evidence insufficient to support this allegation.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AMOS WITHAM.

Mr. POLSLEY, from the same committee, also reported a bill (H. R. No. 774) granting a pension to Amos Witham; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pen-

sion-rolls, subject to the provisions and limitations of the pension laws, the name of Amos Witham, father of Amos O. Witham, late a member of company A, thirtieth regiment Maine volunteers, commencing August 3, 1864.

Mr. HOLMAN. I call for the reading of the report.

The report was read. It states that Amos O. Witham was a private in company A, thirtieth Maine volunteers. He died at Natchez on the 3d of August, 1864, leaving neither wife nor children. His father has made application to the pension department for a pension, and has been refused, that department ruling that inasmuch as at the death of the soldier he left a mother living the father has no claim to a pension on his account. Mrs. Witham, the mother of the deceased soldier, has since died, and the father is still refused a pension by the pension department. Believing the evidence of dependence sufficient, the committee recommend the passage of the accompanying bill.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

ERASTUS KINSEL.

Mr. POLSLEY, from the same committee, also reported a bill (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Erastus Kinsel, late a private in company A of the one hundred and twenty-fifth regiment of Pennsylvania volunteers, commencing April 7, 1863.

The report was read. It states that Christine Kinsel is the widow of Erastus Kinsel, late a private in company A, one hundred and twenty-fifth regiment Pennsylvania volunteers. Erastus Kinsel was wounded at Antietam, and in consequence of the severity of his wounds he obtained a furlough to return home until his recovery. Upon recovering from his wounds he was attacked with small-pox and died. It is testified by several physicians of good standing that had it not been for the reduced condition of his system in consequence of his severe wounds he would probably have recovered. The committee accordingly recommend the passage of the accompanying bill.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ZEPHANIAH KNAPP.

Mr. MILLER. I ask unanimous consent to report a bill from the Committee on Revolutionary Pensions and of the War of 1812 for action at this time.

No objection was made.

Mr. MILLER accordingly reported a bill (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place the name of Zephaniah Knapp on the pension-rolls, at the rate of eight dollars per month, to be computed from the 1st day of January, 1867, and continued during his natural life.

Mr. MILLER. Mr. Speaker, I will say, in explanation of this bill, Zephaniah Knapp was a soldier in the war of 1812 with Great Britain. He was a private in Captain Caleb Wells's company of New York infantry, and in an engagement near Dead Creek, in the latter part of September, 1814, in a retreat to Plattsburg, State of New York, Mr. Knapp received four wounds—two on the right arm, one in the hand, and one through the thigh—since which time he has almost lost the use of his right arm and is very poor. The reason he has not long since been placed on the pension-roll is, that by some mistake the muster-roll on which his name was inscribed has not been returned. He, however, satisfied the Department of his service, as he was granted his land warrant under the provisions of the act of Congress of 1855, giving land to soldiers of the war of 1812, &c. The old man is now of the advanced age of near seventy-seven years. The evidence is clear that he performed his duty to his country faithfully in the Army and was wounded in the line of duty, and justice demands that the relief provided in the bill should be granted, which is a pension of but eight dollars per month during his natural life, to be computed from the 1st day of January, 1867. I trust there will be no opposition to this meritorious claim. I now, Mr. Speaker, demand the previous question.

The report was read. It states that upon careful examination by the committee it appears that Zephaniah Knapp was a private in Captain Caleb Wells's company of twenty-third regiment New York infantry, in the war of 1812, with Great Britain, he having entered as a volunteer about the 1st of August, 1814, at Warren, Warren county, New York, for the war; that in an engagement with the enemy at or near Dead Creek, in the latter part of September, 1814, on the retreat to Plattsburg, he received four wounds—two in the right arm, one in the hand, and one through the thigh—since which time he has been, in a great measure, an invalid; that, in consequence of the wounds received as aforesaid, he is now almost entirely deprived of the use of his right arm; that he is now about seventy years old, and very poor; that the reason his name was not placed on the pension-rolls, under existing law, on account of wounds received in the service of his country, seems to be that by mistake his name was omitted upon the muster-roll; that the Department must have been satisfied that he rendered military service, as he was granted his land warrant under the law giving land warrants to the soldiers of the war of 1812.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATURALIZATION OF ALIEN SAILORS, ETC.

Mr. MILLER, from the Committee on Invalid Pensions, reported back a bill (H. R. No. 616) extending the provisions of the act of July 17, 1862, relating to the naturalization of soldiers, to those who enlisted in the naval and marine service of the United States.

The bill, which was read, provides that the provisions of the twenty-first section of the act of July 17, 1862, relating to the naturalization of soldiers, be extended to those who enlisted in the naval and marine service of the United States.

Mr. MILLER. I will state that, by an act approved July 17, 1862, it was provided in the twenty-first section that "any alien of the age of twenty-one years and upward, who has enlisted or shall enlist in the armies of the United States, either the regular or the volunteer forces, and has or shall be hereafter honorably discharged, may be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become a citizen of the United States, and that he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and that the court admitting such alien shall, in addition to such proof of residence and good moral character, as is now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States, as aforesaid."

In that act provision for those who were in the naval and marine service was, by some inadvertence, omitted; and the object of this bill is to put those who served in the Navy on the same footing as those who served in the Army.

Mr. PIKE. Will the gentleman permit me to ask one question?

Mr. MILLER. Yes, sir.

Mr. PIKE. I would like to inquire how this bill came before the Committee on Invalid Pensions.

Mr. MILLER. The bill was presented and referred to the Committee on Invalid Pensions. Although the bill does not strictly relate to pensions it was thought preferable to refer it to this committee, as thereby the bill would be sooner reached.

Mr. PIKE. I will state that the Committee on Naval Affairs, to which this bill properly belongs, now has before it a proposition to the same effect as that now pending. How, under the rule constituting the Committee on Invalid Pensions, that committee can properly have jurisdiction of a bill to provide for the naturalization of sailors I do not understand.

Mr. MILLER. This bill simply proposes to extend to those in the naval and marine service the same provision that was extended to those who served in the Army. There certainly cannot be any objection to this proposition. These two classes ought certainly to be placed upon the same footing. If the bill is such a one as ought to be passed it makes no difference, I presume, whether it be reported from the Committee on Invalid Pensions or the Committee on Naval Affairs. It is just as good coming from the Committee on Invalid Pensions as coming from the Committee on Naval Affairs.

Mr. PIKE. I do not object to the object of the bill at all; I only want to know by what powers it happens to come from the Committee on Invalid Pensions.

Mr. MILLER. It was referred to that committee by the gentleman who introduced it.

Mr. UPSON. I see the bill makes provision applying to all persons who enlisted in the service. It does not say they shall have served or been honorably discharged. I think it is more liberal than the gentleman intends.

Mr. MILLER. The bill only confers the same privilege upon the persons named as are conferred upon those by the law in reference to the Army.

Mr. UPSON. The other act provides for service and honorable discharge.

Mr. MILLER. So it is here.

Mr. UPSON. No, sir. It says enlisted, and does not provide for honorable discharge.

Mr. MILLER. Well, I will let the amendment be offered to remove that objection.

Mr. ELIOT. I think the gentleman from Pennsylvania is right when he says this does not extend the provisions of the present law to sailors beyond what are now allowed to honorably discharged soldiers to become naturalized. It is equally necessary that these sailors shall have all the requisites contemplated in the present law for soldiers. I do not think the amendment of the gentleman from Michigan is called for, as it seems to me the bill is now sufficiently well guarded.

Mr. PAINE. If the gentleman will yield to me for a moment I beg leave to say I differ from my friend from Massachusetts as to the purport of the bill on this point. The most that can be said is that the bill is open to the construction the gentlemen puts upon it, but it is clearly open to the other construction, be-

cause there is not a single word in the bill providing that the sailor shall have been honorably discharged. I therefore trust the gentleman from Pennsylvania will not abandon his purpose to amend the bill so as to make it certain.

Mr. PIKE. I hope it will be referred to the Committee on Naval Affairs. The gentleman from Pennsylvania himself introduced it and had it referred to the Committee on Invalid Pensions, which, under the rules, has no cognizance of it. I make the motion it be referred to the Committee on Naval Affairs.

The House divided; and there were—ayes 51, noes 42.

Mr. RANDALL. I demand the yeas and nays. If gentlemen want to kill the bill let them do it over their own signatures. It is before the House and can be passed now as well as at a future time.

The yeas and nays were ordered.

Mr. MILLER. I am willing to agree to the proposed amendment.

Mr. PIKE. The bill is imperfect as it is, and does not carry out the object designed.

The question was taken; and it was decided in the negative—yeas 48, nays 79, not voting 62; as follows:

YEAS—Messrs. Arnell, James M. Ashley, Beaman, Broomall, Churchill, Cobb, Cullom, Dawes, Dodge, Farnsworth, Ferriss, Ferry, Fields, Hawkins, Higby, Hopkins, Richard D. Hubbard, Hulburd, Jenckes, Kelley, Kitchen, George V. Lawrence, Logan, Loughridge, Lynch, Mercur, Moore, O'Neill, Orth, Paine, Peters, Pike, Schenck, Scofield, Selye, Smith, Starkweather, Aaron F. Stevens, Stewart, Stokes, John Trimble, Twichell, Upson, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, and James F. Wilson—48.

NAYS—Messrs. Adams, Anderson, Archer, Baker, Barnes, Barnum, Beatty, Bingham, Boutwell, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Cornell, Covode, Eggleston, Eldridge, Eliot, Fox, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Harding, Holman, Hotchkiss, Humphrey, Hunter, Ingersoll, Jones, Judd, Julian, Kelsey, Kerr, Ketcham, Knott, Laflin, William Lawrence, Loan, Mallory, Marshall, McCormick, Miller, Moorhead, Mullins, Newcomb, Niblack, Nicholson, Perham, Pile, Poland, Polsley, Price, Pruyn, Randall, Robertson, Sawyer, Stone, Taber, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Van Wyck, Ward, William Williams, Wood, and Woodbridge—79.

NOT VOTING—Messrs. Allison, Ames, Delos R. Ashley, Axtell, Bailey, Baldwin, Banks, Beck, Benjamin, Benton, Blaine, Blair, Bromwell, Butler, Cake, Cook, Dixon, Donnelly, Driggs, Eckley, Ela, Finney, Garfield, Griswold, Halsey, Hill, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Johnson, Koontz, Lincoln, Marvin, Maynard, McCarthy, McClurg, McCullough, Morgan, Morrell, Morrissey, Mungen, Myers, Nunn, Phelps, Plants, Pomeroy, Raum, Robinson, Ross, Shanks, Shellabarger, Sitgreaves, Spalding, Thaddeus Stevens, Thomas, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—62.

So the bill was not referred to the Committee on Naval Affairs.

Mr. MILLER. I yield to the gentleman from Missouri [Mr. PILE] for an amendment.

Mr. PILE. I move to amend the bill by striking out the words "in" and "an" in the first section and inserting in lieu thereof the words "and have been, or may hereafter be, honorably discharged from;" also, to strike out the word "and" after the word "naval" and insert the word "or;" so that it will read:

To those who enlisted and have been, or may hereafter be, honorably discharged from the naval or marine service of the United States.

Mr. MILLER. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. PILE was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL PENSION FUND.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 777) to provide for the payment of certain pensions out of the Navy pension fund; which was read a first and second time.

The bill was read at length. It enacts that the provisions of section eleven of an act entitled "An act for the better government of the United States," approved July 17, 1862, be extended to and made to include the widows and other dependents of officers, seamen, firemen, marines, and coal-heavers of the naval service of the United States, who are by law entitled to pensions, and all that such pensions shall be paid out of the Navy fund.

Section two provides that the amount paid out of the general appropriation to the widows and other dependents named in the foregoing section since the passage of the act of July 17, 1862, shall be reimbursed to the Treasury of the United States.

Mr. PERHAM. I wish to call the previous question on this bill, but I promised to yield to the gentleman from Massachusetts [Mr. BUTLER] for an amendment.

Mr. BUTLER. I desire to offer the following amendment as an additional section:

SEC. —. *And be it further enacted*, That all moneys and securities appertaining to the fund now known as the naval pension fund, and all other moneys and securities which, by law, have been heretofore paid into such fund, and which, if this act had been passed, would hereafter accrue thereto, shall be covered into the Treasury of the United States, and become a part of the surplus fund of the Treasury; and all Navy pensions shall be hereafter assumed by the United States, to be paid from the Treasury in accordance with appropriations made by law.

Mr. PERHAM. I desire that the previous question shall be seconded; I will then give an opportunity for discussion if it is required.

Mr. ELIOT. I raise the question of order that the amendment of my colleague is not germane to the bill.

The SPEAKER. The Chair sustains the point of order. The title of the bill is "A bill to provide for the payment of certain pensions out of the Navy pension fund." The amendment provides for something else.

Mr. BUTLER. I move to amend the title of the bill.

The SPEAKER. That motion is not in order until the bill has passed. The title governs the character of the bill and amendments. The amendment, therefore, is not in order.

Mr. BUTLER. It is for the purpose of having the pensions paid out of the Treasury, and having the naval fund put into the Treasury.

The SPEAKER. That may be a very important act, and proper to be reported from this committee or some other.

Mr. BUTLER. Would it be in order as a substitute?

The SPEAKER. It would not. It would be proper to refer it to the Committee on Naval Affairs. The morning hour has expired and the bill goes over.

WILLIAM W. HOLDEN AND OTHERS.

Mr. BINGHAM, from the Committee on Reconstruction, by unanimous consent, reported a bill (H. R. 778) to relieve William W. Holden and others from disabilities; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Reconstruction.

Mr. RANDALL moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SALE OF GOVERNMENT BONDS.

Mr. BLAINE. I rise to move that the House resolve itself into the Committee of the Whole on the Army appropriation bill.

Mr. LOGAN. I ask the gentleman to allow me to make a report from the Committee of Ways and Means and to make an explanation.

The SPEAKER. Before the report is made or afterward?

Mr. LOGAN. I prefer to make the explanation before.

Mr. BLAINE. I yield twenty minutes.

Mr. LOGAN. It will be remembered that on the 21st of January last a resolution was introduced into this House calling on the Secretary of the Treasury for certain information. To that resolution he responded, and I ask that the resolution and the report of the Secretary of the Treasury be read by the Clerk.

The Clerk read as follows:

Letter from the Secretary of the Treasury, in compliance with a resolution of the House of the 21st instant, relative to the amount of United States ten-forty bonds issued or disposed of by the Treasury Department since October 1, 1867, to whom sold, &c.

TREASURY DEPARTMENT, *January 23, 1868.*

SIR: I have the honor to acknowledge the receipt of the following resolution, adopted by the House of Representatives on the 21st instant:

"*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to furnish, for the use of this House, as soon as practicable, a statement showing the amount of United States ten-forty bonds issued or disposed of by the Treasury Department since the 1st day of October, 1867, the dates and prices at which they were sold, the names of the persons to whom they were sold, and the amount of commissions, if any, paid for such sales, and the names of the persons to whom they were paid, together with the reasons which, in the opinion of the Secretary, rendered it expedient to withdraw so large an amount of currency from the business of the country. And that he be further requested to report to this House what action has been taken by his Department concerning the withdrawal of any five-twenty United States bonds held by the United States Treasurer to secure the circulation of the national banks, and the substitution therefor of United States ten-forty bonds, and his reasons for such action."

In compliance with the requirements of said resolution, I hand you herewith a statement prepared in the loan branch of this Department, showing the amount of ten-forty bonds issued and disposed of by the Treasury Department since the 1st day of October, 1867, up to the 21st day of January, 1868, the dates and prices at which they were sold, the names of the persons to whom they were sold, the amounts and commissions paid on such sales, and the name of the agent to whom the commissions were paid.

I also hand you a statement prepared by the Comptroller of the Currency, exhibiting the action which has been taken by his bureau in regard to the withdrawal of five-twenty bonds held by the United States Treasurer to secure the circulation of the national bank notes, and the substitution therefor of United States ten-forty bonds, together with a statement of the authority under which he has acted in making such exchanges.

In further answer to said resolution, I have to say that these bonds have been sold for the purpose of putting the Treasury in funds for the payment of lawful requisitions, and for the redemption of maturing obligations of the Government, and because they could be sold at better prices, taking into consideration the difference of interest, than the five-twenty six per cents.

I have further to say, in answer to said resolution, that the sale of these bonds has not tended to withdraw currency from the business of the country, and that the operations of the Treasury Department for some months past have been such as to diminish, rather than to increase, the currency balance in the Treasury.

I have the honor to be, very truly, your obedient servant,

H. McCULLOCH,
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. LOGAN. Now read the letter of the Comptroller.

The Clerk read as follows:

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
WASHINGTON, *January 23, 1868.*

SIR: I have the honor to return herewith the copy of the resolution of the House of Representatives passed January 21, 1868, referred to me "for report upon the last paragraph," which is in these words, to wit:

"And that he be further requested to report to this House what action has been taken by his Department concerning the withdrawal of any five-twenty United States bonds held by the United States Treasurer to secure the circulation of the national banks, and the substitution therefor of United States ten-forty bonds, and his reasons for such action."

In compliance with this request, I beg leave to state that from the 1st day of June, 1866, to this date $1,573,000 in five-twenty six per cent. bonds, held as security for the circulation of national banks, at the rate of ninety cents on the dollar, have been surrendered; and $1,665,600 in ten-forty five per cent. bonds have been deposited with the Treasurer as such security, at the rate of eighty-five cents on the dollar, in lieu of the five-twenty bonds surrendered. During the same period $3,605,500 in ten-forty five per cent. bonds, held as security for the circulation of national banks, at the rate of eighty-five cents on the dollar, have been surrendered; and in lieu thereof $3,405,200 in five-twenty and six per cent. bonds of 1881 have been deposited with the Treasurer as such security, at the rate of ninety cents on the dollar.

These changes in the bonds deposited with the

Treasurer of the United States as security for the circulating notes of national banks have been permitted by virtue of the following provision in section twenty-six of the national currency act, to wit:

"And said Comptroller, upon terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by an association for other bonds of the United States authorized by this act to be received as security for circulating notes, if he shall be of opinion that such an exchange can be made without prejudice to the United States."

Very respectfully, H. R. HULBURD, *Comptroller.*

Hon. HUGH McCULLOCH, *Secretary of the Treasury.*

Sale of Ten-Forty Bonds, Act of March 3, 1864.

To whom sold.	Date.	Principal.	Rate.	Premium.	Total.
F. Suydam and others, executors	October 16, 1867.	$40,000	¼	$150 00	$40,150 00
William B. Lawrence	October 16, 1867.	15,000	¼	56 25	15,056 25
T. C. Ward	October 16, 1867.	15,000	¼	56 25	15,056 25
Mary S. Whitney	October 16, 1867.	9,000	¼	33 75	9,033 75
W. H. Halsey	October 16, 1867.	5,000	¼	18 75	5,018 75
T. K. Butler	October 16, 1867.	2,000	¼	7 50	2,750 00
Vermilye & Co	October 16, 1867.	63,700	¼	238 87	63,938 87
Catharine C. Baker	October 16, 1867.	300	¼	1 13	301 13
Andrew Johnston	October 24, 1867.	7,000	¼	26 25	7,026 25
James Rozell	October 24, 1867.	7,000	¼	26 25	7,026 25
Vermilye & Co	October 26, 1867.	250,000	¼	625 00	250,625 00
Smith, Randolph & Co	October 26, 1867.	50,000	½	250 00	50,250 00
Union National Bank, Philadelphia	October 29, 1867.	100,000	½	250 00	100,250 00
Raleigh National Bank, North Carolina	October 29, 1867.	50,000	¾	187 50	50,187 50
Vermilye & Co	October 30, 1867.	150,000	¼	375 00	150,375 00
Richards & Co	October 30, 1867.	100,000	¼	250 00	100,250 00
Vermilye & Co	November 1, 1867.	250,000	¼	625 00	250,625 00
First National Bank, Cleveland	November 1, 1867.	14,000	¾	52 50	14,052 50
First National Bank, Freeport	November 4, 1867.	21,000	¾	80 62	21,580 62
Belding, Keith & Co	November 5, 1867.	20,000	½	100 00	20,100 00
Bank of the Metropolis, Boston	November 5, 1867.	10,000	½	50 00	10,050 00
Vermilye & Co	November 5, 1867.	350,000	7-16	1,531 25	351,531 25
Vermilye & Co	November 6, 1867.	150,000	5-16	468 75	150,468 75
Lounsberry & Fanshawe	November 6, 1867.	300,000	½	1,500 00	301,500 00
Vermilye & Co	November 6, 1867.	500,000	¾	3,125 00	503,125 00
First National Bank, Washington, small sales	November 7, 1867.	120,000	1	1,200 00	121,200 00
National State Bank, Missouri	November 7, 1867.	98,000	1	980 00	98,980 00
Morgan & Keene	November 7, 1867.	100,000	23-32	718 75	100,718 75
Frank & Gans	November 7, 1867.	75,000	⅝	468 75	75,468 75
Tower, Giddings & Torrey	November 7, 1867.	25,000	½	125 00	25,125 00
R. K. White	November 7, 1867.	20,000	½	100 00	20,100 00
Frank & Gans	November 8, 1867.	25,000	⅝	156 25	25,156 25
Fisk & Hatch	November 8, 1867.	100,000	⅝	625 00	100,625 00
Marx & Co	November 8, 1867.	50,000	¾	375 00	50,375 00
C. A. James	November 8, 1867.	5,000	¾	37 50	5,037 50
Fisk & Hatch	November 8, 1867.	200,000	⅞	1,750 00	201,750 00
Turner Brothers	November 8, 1867.	50,000	27-32	421 88	50,421 88
Mott & Justh	November 8, 1867.	10,000	⅞	87 50	10,087 50
Vermilye & Co	November 8, 1867.	125,000	15-16	1,171 87	126,171 87
Bridge, Schiff & Co	November 8, 1867.	100,000	1	1,000 00	101,000 00
Fisk & Hatch	November 8, 1867.	250,000	1	2,500 00	252,500 00
H. C. Carter	November 8, 1867.	10,000	1⅛	112 50	10,112 50
R. K. Spangleburg	November 8, 1867.	5,000	1⅛	56 25	5,056 25
Turner Brothers	November 8, 1867.	200,000	1⅛	2,250 00	202,250 00
First National Bank, Washington, small sales	November 9, 1867.	100,000	1	1,000 00	101,000 00
P. M. Myers & Co	November 9, 1867.	7,750	1	77 50	7,827 50
First National Bank, Syracuse	November 9, 1867.	1,200	1	12 00	1,212 00
Fisk & Hatch	November 9, 1867.	250,000	1¼	3,750 00	253,750 00
Turner Brothers	November 9, 1867.	100,000	1¼	1,500 00	101,500 00
Robbins, Powell & Co	November 9, 1867.	200,000	1¼	3,250 00	203,250 00
Robbins, Powell & Co	November 9, 1867.	50,000	1¼	875 00	50,875 00
Turner & Co	November 9, 1867.	25,000	1¼	437 50	25,437 50
I. & W. Seligman & Co	November 9, 1867.	50,000	1 13-16	906 25	50,906 25
I. & W. Seligman & Co	November 9, 1867.	50,000	1⅞	937 50	50,937 50
Marx & Co	November 9, 1867.	100,000	2	2,000 00	102,000 00
Lounsberry & Fanshawe	November 12, 1867.	50,000	2	1,000 00	51,000 00
T. Abbott	November 12, 1867.	50,000	2	1,000 00	51,000 00
Gibson, Belston & Co	November 12, 1867.	14,000	2¼	297 50	14,297 50
C. A. Collins	November 12, 1867.	50,000	2¼	1,062 50	51,062 50
C. Unger & Co	November 12, 1867.	36,000	2¼	765 00	36,765 00
August Belmont & Co	November 12, 1867.	100,000	2¼	2,125 00	102,125 00
Andrew Quinn	November 13, 1867.	100,000	2¼	2,125 00	102,125 00
C. A. James	November 13, 1867.	75,000	2¼	1,593 75	76,593 75
A. G. Myers & Co	November 23, 1867.	100,000	1½	1,500 00	101,500 00
Robbins, Powell & Co	November 23, 1867.	50,000	1 23-32	859 37	50,859 37
Robbins, Powell & Co	November 23, 1867.	100,000	1 15-32	1,468 75	101,468 75
I. & W. Seligman & Co	November 23, 1867.	100,000	1 23-32	1,718 75	101,718 75
Munroe & Dougherty	November 23, 1867.	100,000	1 19-32	1,593 75	101,593 75
Bridge, Schiff & Co	November 23, 1867.	100,000	1⅝	1,625 00	101,625 00
Marx & Co	November 23, 1867.	50,000	1 17-32	765 62	50,765 62
Charles T. Stagg	November 25, 1867.	2,000	¾	15 00	2,015 00
Mechanics' Savings Bank, Rochester	November 25, 1867.	25,000	¾	187 50	25,187 50
A. H. Gregor	November 27, 1867.	100,000	1¾	1,750 00	101,750 00
C. H. James	November 27, 1867.	50,000	2	1,000 00	51,000 00
Ribon & Murtz	November 27, 1867.	50,000	2¼	1,125 00	51,125 00
Kearsage National Bank, Warrentown	November 29, 1867.	15,000	1	150 00	15,150 00
Tower, Giddings & Torrey	December 18, 1867.	25,000	¾	187 50	25,187 50
H. Flegenhein	December 18, 1867.	5,000	¾	37 50	5,037 50
W. Painter & Co	December 18, 1867.	20,000	¾	150 00	20,150 00
Bridge, Schiff & Co	December 18, 1867.	50,000	¾	375 00	50,375 00
Munroe & Dougherty	December 19, 1867.	15,000	27-32	126 57	15,126 57
Johnston Brothers & Co	December 19, 1867.	5,000	⅞	70 00	8,070 00
Fisk & Hatch	December 19, 1867.	20,000	⅞	175 00	20,175 00
Foote & Walker	December 19, 1867.	22,000	⅞	192 50	22,192 50
Tower, Giddings & Torrey	December 19, 1867.	10,000	⅞	87 50	10,087 50
E. W. Clark & Co	December 19, 1867.	25,000	⅞	218 75	25,218 75
Clark, Dodge & Co	January 2, 1868.	100,000	1⅛	1,875 40	101,875 00
A. N. Dimick & Co	January 3, 1868.	11,000	1⅛	206 25	11,206 25
Smith, Randolph & Co	January 3, 1868.	5,000	1¼	87 50	5,087 50
C. Allardice	January 4, 1868.	100,000	1¼	1,750 00	101,750 00
Rodman Fisk & Co	January 4, 1868.	15,000	1⅛	281 25	15,281 25
E. E. Chase	January 6, 1868.	50,000	1 23-32	859 38	50,859 38
George Bend	January 6, 1868.	10,000	1¾	175 00	10,175 00
H. A. Heiser's Sons	January 6, 1868.	25,000	1¾	437 50	25,437 50
J. W. Gray	January 8, 1868.	10,000	2¼	225 00	10,225 00
People's Savings Bank, New York	January 9, 1868.	27,000	2¼	607 50	27,607 50
N. B. Keekuck	January 9, 1868.	5,000	2¼	112 50	5,112 50
Beekman Brothers & Hollins	January 9, 1868.	4,000	2¼	90 00	4,090 00
Munroe & Dougherty	January 10, 1868.	50,000	2⅜	1,187 50	51,187 50
H. Heyward	January 10, 1868.	5,000	2½	125 00	5,125 00
Foote & Walker	January 13, 1868.	11,000	2¾	302 50	11,302 50
Jay Cooke & Co., Washington	January 13, 1868.	30,000	2½	750 00	30,750 00
H. A. Heiser's Sons	January 13, 1868.	110,000	2⅝	2,887 50	112,887 50
Cowing & Sons	January 13, 1868.	20,000	2⅝	525 00	20,525 00
Hatch, Foote & Co	January 13, 1868.	10,000	2⅝	262 50	10,262 50
John Pendir	January 13, 1868.	350,000	2 19-32	9,078 13	359,078 13
National Bank of the Republic, New York	January 13, 1868.	10,000	2¾	275 00	10,275 00
Carried forward		$7,456,450		$86,415 44	$7,542,855 44

TABLE—Continued.

To whom sold.	Date.	Principal.	Rate.	Premium.	Total.
Amount brought forward		$7,456,450		$86,415 44	$7,542,855 44
Kearsage National Bank, Warrentown	January 13, 1868.	10,000	2¾	275 00	10,275 00
A. W. Dimmock & Co.	January 15, 1868.	52,950	2⅝	1,389 93	54,339 93
Jay Cooke & Co.	January 17, 1868.	15,000	2⅝	393 75	15,393 75
Whitehouse, Morrison & Co.	January 17, 1868.	106,000	2¾	2,915 00	108,915 00
Marx & Co.	January 18, 1868.	250,000	2¾	6,875 00	256,875 00
Bridge, Schiff & Co.	January 18, 1868.	50,000	2¾	1,375 00	51,375 00
H. Clews & Co.	January 18, 1868.	100,000	2¾	2,750 00	102,750 00
Vermilye & Co.	January 20, 1868.	50,000	2⅞	1,437 50	51,437 50
H. A. Heiser's Sons.	January 20, 1868.	50,000	2⅞	1,437 50	51,437 50
Flour City National Bank, Rochester	January 20, 1868.	1,200	2⅞	34 50	1,234 50
Total		$8,141,600		$105,298 62	$8,246,898 62

On the above principal ($8,141,600) there was paid to the First National Bank, Washington, D. C., a commission of one eighth of one per cent., amounting to $10,177

Mr. LOGAN. It will be seen that the sales of ten-forties from the 1st of October to the 21st of January last amounted to $8,141,600. For the sale of those bonds he paid a commission of one eighth of one per cent. to the First National Bank of Washington—Jay Cooke & Company's bank—which amounted to $10,177. Now, sir, I will say to the House that I have taken the sales every day and have aggregated them; I have computed the premium; I have shown what they sold for, and at the same time I have got the reports of the stock sales from the board in New York every day from the 1st of October up to the 21st day of January; and I assert to the House that except five sales that were made, which were for small amounts, the Secretary of the Treasury never made a sale of one of these bonds at the amount they brought at sales in the boards in New York. I state to the House that every one of these sales except five were made at a less premium than the premium on our bonds in the market. I will here append a table to my remarks, which will show that the small amount of $8,000,000 of ten-forty bonds, sold by the Secretary of the Treasury between the 1st of October and the 21st of January was a loss to the Government of the United States, less the premium that they were selling for in market, of $24,264 49, to which add the commission paid of $10,177, making a loss to the Government of $34,441 49 less than the market value of the bonds.

The following is the table referred to:

1867.	Principal.	Washington.		New York.		Gain.	Loss.	Difference.
		Rate.	Premium.	Rate.	Premium.			
October 16	$150,000	⅜	$562 50	⅜	$562 50	-	-	
October 24	14,000	⅜	52 50	⅜	52 50	-	-	
October 26	250,000	½	625 00	1/2	1,250 00	-	$625 00	
October 26	50,000	½	250 00	½	250 00	-	-	
October 29	100,000	½	250 00	½	500 00	-	250 00	
October 29	50,000	½	187 50	½	250 00	-	62 50	
October 30	250,000	½	625 00	½	1,250 00	-	625 00	
November 1	250,000	½	625 00	½	1,562 50	-	937 50	
November 1	14,000	⅜	52 50	⅝	87 50	-	35 00	
November 4	21,500	⅜	80 62	⅝	80 62	-	-	
November 5	30,000	½	250 00	⅝	187 50	-	37 50	
November 5	350,000	7-16	1,531 25	⅞	2,187 50	-	656 25	
November 6	150,000	5-16	468 75	⅞	1,312 50	-	843 75	
November 6	300,000	⅝	1,500 00	⅞	2,625 00	-	1,125 00	
November 6	500,000	⅝	3,125 00	⅞	4,375 00	-	1,250 00	
November 7	218,000	1	2,180 00	1⅛	2,725 00	-	545 00	
November 7	100,000	23-32	718 75	1¼	1,250 00	-	531 25	
November 7	75,000	⅜	468 75	1¼	937 50	-	468 75	
November 7	45,000	⅛	225 00	1¼	562 50	-	337 50	
November 8	125,000	⅝	781 25	1¾	2,187 50	-	1,406 25	
November 8	55,000	¾	412 50	1¾	962 50	-	550 00	
November 8	210,000	⅞	1,837 50	1¾	3,675 00	-	1,837 50	
November 8	50,000	27-32	421 88	1¾	875 00	-	453 12	
November 8	125,000	15-16	1,171 87	1¾	2,187 50	-	1,015 63	
November 8	350,000	1	3,500 00	1¾	6,125 00	-	2,625 00	
November 8	215,000	1⅛	2,418 75	1¾	3,762 50	-	1,343 75	
November 9	108,950	1	1,089 50	1⅞	2,042 81	-	953 31	
November 9	350,000	1¼	5,250 00	1⅞	6,562 50	-	1,312 50	
November 9	200,000	1⅜	3,250 00	1⅞	3,750 00	-	500 00	
November 9	75,000	1¼	1,312 50	1⅞	1,406 25	-	93 75	
November 9	50,000	1 13-16	906 25	1⅞	937 50	-	31 25	
November 9	50,000	1⅛	937 50	1⅞	937 50	-	-	
November 9	100,000	2	2,000 00	1⅞	1,875 00	$125 00	-	
November 12	100,000	2	2,000 00	2¼	2,250 00	-	250 00	
November 12	200,000	2¼	4,250 00	2¼	4,500 00	-	250 00	
November 13	175,000	2¼	3,718 75	2¼	3,937 50	-	218 75	
November 23	100,000	1⅛	1,500 00	1⅛	1,625 00	-	125 00	
November 23	50,000	1 23-32	859 37	1⅛	812 50	46 87	-	
November 23	100,000	1 15-32	1,468 75	1⅛	1,625 00	-	156 25	
November 23	100,000	1 23-32	1,718 75	1⅛	1,625 00	93 75	-	
November 23	100,000	1 19-32	1,593 75	1⅛	1,625 00	-	31 25	
November 23	100,000	1⅛	1,625 00	1⅛	1,625 00	-	-	
November 23	50,000	1 17-32	765 62	1⅛	812 50	-	46 88	
November 25	27,000	¾	202 50	2¼	607 50	-	405 00	
November 27	100,000	1¾	1,750 00	2¼	2,125 00	-	375 00	
November 27	50,000	2	1,000 00	2¼	1,062 50	-	62 50	
November 27	50,000	2¼	1,125 00	2¼	1,062 50	62 50	-	
November 29	15,000	1	150 00	2⅛	318 75	-	168 75	
December 18	100,000	¾	750 00	⅞	875 00	-	125 00	
December 19	15,000	27-32	126 57	1	150 00	-	23 43	
December 19	82,000	⅞	743 75	1	820 00	-	76 25	
1868.								
January 2	100,000	1⅞	1,875 00	2	2,000 00	-	125 00	
January 3	11,000	1⅞	206 25	1⅞	206 25	-	-	
January 3	5,000	1⅜	87 50	1⅞	93 75	-	6 25	
January 4	100,000	1¾	1,750 00	1¾	1,750 00	-	-	
January 4	15,000	1⅞	281 25	1¾	262 50	18 75	-	
January 6	50,000	1 23-32	859 38	2	1,000 00	-	140 62	
January 6	35,000	1¾	612 50	2	700 00	-	87 50	
January 8 and 9	46,000	2¼	1,035 00	2¼	1,035 00	-	-	
January 10	50,000	2⅜	1,187 50	2¼	1,250 00	-	62 50	
January 10	5,000	2½	125 00	2½	125 00	-	-	
January 13	11,000	2⅜	302 50	2⅜	302 50	-	-	
January 13	30,000	2½	750 00	2¾	825 00	-	75 00	
January 13	140,000	2¾	3,675 00	2¾	3,850 00	-	175 00	
January 13	350,000	2 19-32	9,078 13	2¾	9,625 00	-	546 87	
January 13	10,000	2¾	275 00	2¾	275 00	-	-	
January 13	10,000	2¾	275 00	2¾	275 00	-	-	
January 15 and 17	67,950	2⅝	1,783 68	2⅝	1,783 68	-	-	
January 17	105,000	2¾	2,915 00	2¾	2,915 00	-	-	
January 18	400,000	2¾	11,000 00	2⅞	11,500 00	-	500 00	
January 20	101,200	2⅞	2,909 50	3	3,036 00	-	126 50	
Totals			$105,298 62		$129,563 11	$346 87	$24,611 36	$24,264 49

Total loss	$24,264 49
To which add the commissions paid on $8,141,600 at one eighth of one per cent..	10,177 00
Total	$34,441 49

Now, sir, the Secretary of the Treasury says in this report that he was compelled to sell these bonds for the purpose of meeting requisitions upon the Treasury. I have made this report from the Committee of Ways and Means to show the transactions going on in the Department during three months. If you go back three or four years you can make an estimate yourselves of the losses incurred and the wrongs perpetrated on the tax-payers of the country. I now call the attention of the House to the report of the Secretary of the Treasury made over his own signature on the 1st day of this month, only three days after he made that other report. He had then in the Treasury in coin $98,491,162 70, and in currency $25,578,150 61, a surplus after paying the requisitions on the Treasury; and yet he tells this House, in answer to the resolution which I introduced, that he sold these $8,000,000 of bonds to get money to pay requisitions when he had a surplus of $25,000,000 on hand three days after he made that report. He says in this report that he has not contracted the currency by doing this.

Mr. KELLEY. Will the gentleman allow me to ask a question?

Mr. LOGAN. Certainly.

Mr. KELLEY. I would inquire whether the $25,000,000 he speaks of embraces the average $30,000,000 on deposit in the banks?

Mr. LOGAN. I do not know; the Secretary does not say so; I should think not.

Mr. PRUYN. What was the rate of commission paid?

Mr. LOGAN. The rate was one eighth of one per cent., amounting to $10,177. I only asked information in reference to these ten-forty bond sales for ninety days. It is very easy to get at the balance by another resolution. These facts to which I have called attention are stated by the Secretary in his report, showing a loss of over $34,000 to the Government of the United States by the management of this man, the Secretary of the Treasury. Now, he says he did not contract the currency; over his own signature he says he did not intend to contract the currency. Now, I want to have him explain how it is he could put bonds upon the market and sell them for currency and yet say he did not contract the currency.

Mr. WOOD. I would ask if there is any proposition before the House.

Mr. LOGAN. There is; I am speaking upon a resolution I have submitted. And I will call the attention of the House to another fact. On yesterday I introduced a bill to repeal all laws allowing any commission for selling bonds for the Government. I have talked with gentlemen connected with the Treasury Department—I will not give their names—whose statements I would take sooner than I would take the statements of gentlemen who make reports like this. They tell me that the sale of these bonds can be made at the Treasury Department without any interference with the other business of the Department and without any cost to the Government; the Treasurer of the United States told me so himself. If that is the case, then I hope this House will pass the resolution I have offered and call upon Mr. McCulloch to explain how it is that he did not contract the currency by the sale of $8,000,000 of bonds; how it is he did not sell them at the highest market price, and how it is that he had to sell those bonds at all when he had $25,000,000 surplus in the Treasury, besides some thirty odd millions on deposit in the national banks, as stated by the gentleman from Pennsylvania, [Mr. KELLEY.] I want these explanations given to the House by the Secretary of the Treasury.

I desire to state further to this House that an examination by a sub-committee brought to light a copy of a letter which was in the hands of a banker in New York, dated the 30th of December last; a letter purporting to be written to a gentleman controlling a national bank, in which it was stated that the Secretary of the Treasury would accept ten-forty bonds in lieu of five-twenty bonds at 87½. In this report he says that none has been received at a higher rate than 85. Now, I propose to send a copy of that letter with this resolution to the Secretary of the Treasury. One of his own clerks has sworn that it is a correct copy from the office books of a letter signed by Secretary McCulloch. A copy of it was obtained from New York, where it was circulated in order to put up the price of bonds in January. It may possibly explain why these $8,000,000 of bonds were sold to a few pet banks. I send a copy of that letter with this resolution in order that the Secretary may have an opportunity to explain.

I make no charges against the Secretary of the Treasury; I only state the facts as they appear in his report to this House, and I propose to ask him to explain this report and the letter of which we have a copy, to state why it was written, if it was ever complied with, and, if it was complied with, why he did not report that he had taken eighty-seven and a half cents for these ten-forty bonds.

Mr. NIBLACK. Will the gentleman allow me to make a single suggestion?

Mr. LOGAN. Certainly.

Mr. NIBLACK. I beg to inquire of the gentleman whether it would not be better to abstain from any comment upon the action of the Secretary of the Treasury until we get his answer to the proposed resolution?

Mr. LOGAN. That is exactly what I propose to do. I have made no comments except upon what is contained in the resolution. I have only stated to the House my reasons for offering the resolution. My object is that the Secretary of the Treasury shall have an opportunity to explain the facts. I have said all that I desire to say. I ask that the resolution be read, and then I will ask the vote of the House upon it. Gentlemen can then say whether or not they want Mr. McCulloch to furnish this information.

Mr. PRUYN. Will the gentleman allow me to make an inquiry?

Mr. LOGAN. Certainly.

Mr. PRUYN. I understood the gentleman to say that on the amount of securities he has named the difference between the price at the New York stock board and the price actually realized is about twenty-four thousand dollars.

Mr. LOGAN. Yes, sir.

Mr. PRUYN. Has the gentleman in his calculation taken into consideration the percentage?

Mr. LOGAN. What percentage?

Mr. PRUYN. The percentage of difference.

Mr. LOGAN. I have.

Mr. PRUYN. At what rate has it been assumed on the average?

Mr. LOGAN. I am glad the gentleman has asked me that question ——

Mr. PRUYN. The reason I make the inquiry is this: we all know that large amounts of bonds cannot be sold at the same rate at which small amounts can be sold. The purchaser of a large amount must take the risk of the market.

Mr. LOGAN. I will explain that matter. I will state to the gentleman that in taking the prices at the New York stock board I did Mr. McCulloch the justice to take, not the highest price at which bonds were sold, but the lowest price. If I had taken the highest price it would have made a difference of over twenty-seven thousand dollars in the premiums. But I took the lowest price, and that makes the difference more than twenty-four thousand dollars. And further, in taking the prices at the stock board I have not taken the price offered or the price bid, but I have taken the price in sales absolutely made. More than that, I have taken the lowest price at which sales were made. Reaching the result in this way, I find the difference to be more than twenty-four thousand dollars. This difference I desire the Secretary of the Treasury to explain, because if the same thing has gone on for two or three years with regard to all the bonds sold by the Government it is easy for us to understand how many men have got rich and why the Government has been getting poor. I now ask that the resolution be read.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be directed to inform this House whether the original letter, of which the annexed is a copy, dated December 30, 1867, was signed by him; if so, to whom it was addressed, and whether the propositions therein contained were complied with by the parties to whom it was addressed. Also, to inform this House whether the sale of ten-forty bonds from October 16, 1867, to January 20, 1868, were at rates equal to the quotations of sales in New York city on those several days respectively; why the amount paid into the Treasury for the sale of said bonds did not withdraw currency from the business of the country; and why the operations of the Treasury Department for some months past have been such as to diminish rather than increase the balance in currency in the Treasury of the United States, as stated in his communication dated January 28, in reply to a resolution of the House of Representatives of the 21st of January last.

December 30, 1867.

SIR: I am in receipt of your letter of the 24th instant in reference to substituting ten-forty bonds for five-twenty bonds now held by the Treasurer as part security for the circulation of your bank, and saying you would like to make the exchange upon the basis of dollar for dollar.

The current market value of ten-forty bonds is not even now quite par, registered bonds selling at 101⅜ including four months accrued interest in gold, which, at thirty-three and one third premium, would reduce the bonds to 99⅛.

As, however, the current market value of these bonds has for some months been within one or two per cent. of par, I shall have no hesitation to receive them in exchange for your five-twenties at 87½. If you conclude to make the exchange on these terms it will be necessary for you to forward to this office a properly authenticated copy of a resolution of your board of directors authorizing yourself or your cashier to make the exchange, and also the treasurer's receipt for the bonds you wish to withdraw.

The amount of ten-forties required to release $611,000 five-twenties (the amount held for account of your bank) is $628,500.

Very respectfully, ——— ———.

The SPEAKER. This being a call for executive information, it requires unanimous consent on this day.

Mr. HOLMAN. Will it not be fair to the Secretary of the Treasury also to propound to him the inquiry whether the instructions given to Jay Cooke & Co. were different from those heretofore given on the same subject? It is a well-known fact these gentlemen have made the sale of most of our bonds since the beginning.

Mr. LOGAN. I do not know anything about who makes them. Mr. McCulloch has not informed the House the name of any individual. He only refers to the First National Bank. Hence I do not propose to put in anybody's name.

Mr. HOLMAN. I understand the gentleman has named Jay Cooke & Co. as the parties who made the sale.

Mr. LOGAN. Yes, sir; but he does not say so in his report.

Mr. HOLMAN. Let him be asked whether the instructions given to Jay Cooke & Co. were the same as those formerly given.

Mr. LOGAN. If the gentleman proposes to have the Secretary answer that question I do not object to the amendment of the resolution.

Mr. HOLMAN. It is only fair.

Mr. LOGAN. We ask the Secretary why he did certain things. That is all.

Mr. BROOKS. I will object to save all further trouble. This appears to be a New York broker's Wall street affair, and I object.

Mr. LOGAN. I want to know what the gentleman's remark is.

Mr. BROOKS. The gentleman will address me less offensively.

Mr. LOGAN. I do not address the gentleman offensively.

Mr. BROOKS. The gentleman's tone and manner are a little terrible.

Mr. LOGAN. Not at all, sir. I understand the gentleman to say this is a Wall street broker's game.

Mr. BROOKS. There seem to be no names in the inquiry. There is a letter from the Secretary of the Treasury, I suppose, to some Wall street broker. I do not know; I cannot tell from the resolution; but it looks like one of those numerous fights existing among the brokers in Wall street as to ten-forty and five-twenty bonds.

Mr. LOGAN. No, sir.

Mr. BROOKS. Permit me to go on. I have no idea that the gentleman from Illinois is in any way concerned in it whatsoever; but there are numerous impositions to which all of us are more or less subject, and it is not wise to inquire into these things without reference to some committee.

Mr. LOGAN. I will explain how it is.

Mr. SPEAKER. The gentleman from New York has objected to the resolution.

Mr. LOGAN. I hope he will withdraw his objection until I can explain about this matter.

Mr. BROOKS. I withdraw the objection.

Mr. LOGAN. I will say this, in reference to this letter being a Wall street broker dodge—

Mr. BROOKS. I did not use the word "dodge."

Mr. LOGAN. It is no Wall street affair. It has nothing to do with a Wall street broker, nor have I any connection with any Wall street broker. The letter was obtained in this way: a clerk from the banking bureau—I believe that is the term; at least of the bureau where all the bonds of the national banks are kept—came before our sub-committee, the gentleman from Massachusetts [Mr. HOOPER] and myself; we swore him, and then examined him about this letter which has been read. I have not stated, and do not propose to state, all I have heard about it. I wish the Secretary of the Treasury to answer for himself. The clerk testified this was a verbatim copy of a letter placed upon the records by the Secretary of the Treasury, a copy of which was furnished to a banker in New York. Now, sir, I propose he shall state why he furnished this information to New York brokers. That is the object of the resolution. It is not to aid brokers, but to give the Secretary a chance to explain why the copy of such a letter should be furnished to a New York broker when there had been no action on it.

Mr. BROOKS. Do I understand the gentleman to say this is the report of a committee?

Mr. LOGAN. It comes from the Committee of Ways and Means, all being present except the gentleman himself.

Mr. BROOKS. Then I withdraw my objection.

The SPEAKER. The resolution is then before the House unless further objection be made.

There was no objection.

Mr. RANDALL. I desire to say to the House that I consider this resolution is in a very right direction, and calculated to do great good to the country in breaking up root and branch this system of secret sales by the Secretary of the Treasury with favorite brokers throughout the country. I think this House should, as speedily as the business will permit, break up this whole system of making the people of the country pay commissions for the sale and conversion of bonds.

I further desire to remind the gentleman from Illinois, [Mr LOGAN] that some three weeks ago, when my attention was called to an article in the New York Evening Post, wherein it was stated that during ten months of the last year $94,000 was paid by the Secretary of the Treasury for the conversion of our bonds unnecessarily, I introduced a bill, which was referred to the Committee of Ways and Means, to break up the whole system of paying commission and in lieu thereof to compel the Government to advertise whenever it wanted to make sales, transfers, or conversion of its bonds, so that every man in the country could see the ins and the outs, and the trickery could be exposed in that particular.

Mr. LOGAN. I desire to amend the resolution in one word. I believe it reads "whether he signed a copy;" I intended it should read "whether he signed the original of which this is a copy."

The SPEAKER. It can only be done by consent of the House, as it comes from a committee.

Mr. RANDALL. I do not know whether the gentleman intends to take me off my feet or not.

Mr. LOGAN. I thought the gentleman had got through.

Mr. HOLMAN. I desire the gentleman from Pennsylvania [Mr. RANDALL] to hear me. There is no objection to this information being furnished, and undoubtedly the Secretary of the Treasury will furnish any information the House may require, as he has done heretofore whenever he has been called upon. I submit, inasmuch as this is a question involving the position of the Secretary of the Treasury, it is hardly fair to prejudge his case until he can have an opportunity to be heard. A gentleman of his high character ought not to be impugned and his conduct called in question, at least until he has been heard in his own behalf by a report to this House. I therefore suggest that entering upon the discussion in the spirit the gentleman does he may be doing injustice to a high officer of the Government.

Mr. RANDALL. Not at all. I have made no charge of any corruption whatever as against the Secretary of the Treasury; but I do assert the fact that $94,000 have been unnecessarily paid out of the Treasury of the United States for the conversion of these bonds. I say further that it is the duty of this Congress forthwith to put the ax to the root of this evil, and the mode of doing it is through the Committee of Ways and Means.

Mr. SPALDING. I suppose the gentleman will admit that this did not originate with the present Secretary of the Treasury?

Mr. RANDALL. I have made no aspersion upon any Secretary of the Treasury. I find fault with the law which allows this practice.

Mr. HOLMAN. The gentleman will bear in mind that this same agency, the national banks, has sold these bonds from the beginning on the same terms. These sneers are rather against the banks.

Mr. RANDALL. Two wrongs do not make a right.

Mr. LOGAN. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LOGAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ARMY APPROPRIATION BILL.

Mr. BLAINE. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ALLISON in the chair,) and resumed the consideration of the special order, being House bill No. 658, making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes.

The pending question was on the amendment of Mr. PILE, to insert after line one hundred and sixty "for arsenal at St. Louis, Missouri, $20,000," with the further amendment by Mr. WASHBURNE, of Illinois, to reduce the appropriation to $5,000.

Mr. BLAINE. I hope that will be adopted.

Mr. VAN WYCK. I hope it will not be adopted. This House has already voted to sell the arsenal grounds at St. Louis, and the bill is merely waiting the action of the Senate. There was no opposition to it in the House and I presume there will be none in the Senate. There is no necessity for this arsenal, and where is the necessity of making an appropriation of even $5,000 for the repair of that arsenal?

Mr. SCOFIELD. If this is thrown in it will sell better.

Mr. VAN WYCK. We were told that it was necessary to sell these grounds because they were within the limits of the corporation of St. Louis, and we have passed a bill authorizing their sale.

Mr. PILE. The bill which has passed the House, and is now before the Senate, leaves it discretionary with the Secretary of War as to when the arsenal shall be sold. If that bill becomes a law it is not at all certain that the arsenal will be sold within the coming year, and if it is not so sold there will be no provision even for taking care of the property. Moreover, there is a doubt about the passage of that bill as amended by the House. The War Department are opposed to the passage of the bill as it was amended, and there is a question about the bill becoming a law. If the arsenal shall be sold, this appropriation will not be expended, so the Government will lose nothing. It is simply making provision to carry out the law as it now exists, so as to provide for taking care of the arsenal if the law authorizing its sale does not pass.

Mr. VAN WYCK. Is the arsenal in such a dilapidated condition that it will go to pieces unless we appropriate $5,000 to-day?

Mr. PILE. I ask the gentleman if he proposes to leave the property, the material, the ammunition, and the tool-shops there without even a watchman to look after them? If we make no appropriation there will be nothing even to employ a watchman or anybody to take care of the arsenal.

Mr. BLAINE. I desire to state, before the debate closes, in regard to these arsenals, that the appropriations have been cut down to the lowest possible point. For the arsenal at Augusta, Georgia, the estimate was $30,100, and we cut it down to $10,000; the estimate for Baton Rouge was $9,500, and we cut it down to $7,500; the estimate for the Benicia arsenal was $101,000, and we cut it down to $10,000; for the Vancouver arsenal the estimate was $10,000, and we cut it down to $5,000; for the Watertown arsenal, Massachusetts, the estimate was $41,000, and we cut it down to $15,000; and so on throughout. There is a mere bagatelle reported in comparison with the estimates.

Mr. HOLMAN. I desire to ask the gentleman a question. I find that in 1861—the year preceding the war, which has been so often referred to—the appropriation for this purpose was $1,800. Will the gentleman explain how it happens if this appropriation of $1,800 was sufficient in 1861 that it is now necessary to appropriate $5,000 to preserve the property? There has been no increase of the property, and we are not carrying on the construction of arms there. It is simply necessary to appropriate money enough to preserve the arsenal from injury, and an appropriation of $1,800, the amount appropriated in 1861, is certainly sufficient for that purpose in case the arsenal is not sold.

Mr. BLAINE. The Department does not think so. That is all I have to say.

Mr. WASHBURNE, of Illinois. I desire to say a single word in regard to the St. Louis arsenal. In view of the uncertainty of the passage of the House bill authorizing the sale of that arsenal I think it is wise and proper to make a small appropriation to protect it in the event it is not sold, and I think $5,000 ought to be appropriated for that purpose.

Mr. VAN WYCK. We have already appropriated $60,000 for "contingencies" of the Army. If it is necessary to have a watchman to look after this arsenal why cannot he be paid out of that contingent fund?

Mr. PILE. He cannot be; that is for other purposes.

The CHAIRMAN. No further debate is in order.

The question was on the amendment offered

by Mr. WASHBURNE, of Illinois, to the amendment of Mr. PILE, to strike out "twenty" and insert "five;" so that it would read: "For arsenal at St. Louis, Missouri, $5,000;" and being put, the amendment to the amendment was agreed to—ayes 66, noes 32.

Mr. PILE'S amendment, as amended, was then adopted.

Mr. VAN WYCK. I now move to strike out lines one hundred and fifty-nine and one hundred and sixty, as follows:

For Watervliet arsenal, West Troy, New York, $20,000.

Mr. PRUYN. I hope that amendment will not be adopted.

Mr. BLAINE. I hope not.

Mr. VAN WYCK. I see no necessity for the appropriation.

The CHAIRMAN. No debate is in order.

The question was taken on the amendment of Mr. VAN WYCK; and upon a division there were—ayes twenty-nine, noes not counted.

So the amendment was not agreed to.

The Clerk read the following:

For Augusta arsenal, Augusta, Georgia, $10,000.

Mr. VAN WYCK. I move to strike out that paragraph.

The question was taken on the motion to strike out; and there were, upon a division—ayes twenty-nine, noes not counted.

So the motion to strike out was not agreed to.

The Clerk read the following:

For Baton Rouge arsenal, Baton Rouge, Louisiana, $7,500

Mr. VAN WYCK. I move to strike out that paragraph.

The motion to strike out was not agreed to.

The Clerk read the following:

For Benicia arsenal, Benicia, California, $10,000.

Mr. VAN WYCK. I move to strike out that paragraph.

The question was taken on the motion to strike out; and upon a division there were—ayes sixteen, noes not counted.

So the motion to strike out was not agreed to.

The Clerk read the following:

For Vancouver arsenal, Vancouver, Washington Territory, $5,000.

Mr. VAN WYCK. I move to strike out that paragraph.

The motion to strike out was not agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. COBURN. I move to amend the bill by striking out the last paragraph, as follows:

For the preservation and necessary repairs of the fortifications and other works of defense, $200,000.

I desire to inquire of the gentleman in charge of this bill, [Mr. BLAINE,] what this appropriation is to be used for?

Mr. BLAINE. I am glad the gentleman has made the inquiry. It is not the intention of the Committee on Appropriations, unless they are directed so to do by the House, to report a fortification appropriation bill. As members will see, by referring to the Book of Estimates on their tables, one item asked for is $2,245,000 for the various fortifications of the country. We do not intend to recommend the passage of a bill making any such appropriation. But there is a certain amount of money needed to keep the fortifications from going to rack and ruin. And an investigation, made in connection with the Engineer Bureau, led the committee to believe that $200,000 was about the smallest amount that could safely be allowed for that purpose. That is more than two million dollars less than the estimate.

Mr. COBURN. How many fortifications and what are they that are to be preserved?

Mr. BLAINE. There are fortifications all over the country. The gentleman from Indiana, [Mr. COBURN,] who has himself been a distinguished officer of the Army, certainly ought to know more about them than I do. There are fortifications all along the Atlantic coast, all along the lake coasts, and all over the country. It is not intended to build any new fortifications, but simply to make the necessary repairs upon and to preserve those already in existence.

Mr. COBURN. I see by the estimate submitted, calling for $2,245,000 for fortification purposes, that some thirty-five fortifications are named. Now, I do not think it would be a difficult matter for the War Department to submit to this House detailed estimates for the repairs of those fortifications.

Mr. BLAINE. I do not see what good it would do for General Humphreys, the chief of engineers, to send here a detailed statement of where the brick and mortar of this fort, or the wall of that fort are in decay. We propose to give him $200,000, and trust the matter where it must be trusted—with those who must have the expenditure of the money.

Mr. COBURN. I am not willing to vote $200,000 away in this manner. I ask a vote on my motion to strike out.

The motion to strike out was not agreed to.

Mr. NIBLACK. I move to amend this paragraph by decreasing the amount $1,000. I make this motion, Mr. Chairman, in order to get some information, if I can, about some of the items in this bill which we have already passed upon and adopted. The gentleman from Maine, [Mr. BLAINE,] in opening the argument yesterday assured the committee that the Army was now costing the country, man for man, much less than in years gone by, when we paid gold for all the expenditures of our Army. That struck me as being a most extraordinary statement; and before this debate is closed I am anxious to hear what the estimates of the Committee on Appropriations are as to the comparative cost of supporting the Army now and heretofore. Everything else is costing us much more than formerly, and I would like to understand why the Army is costing us proportionably so much less. I would like also to be informed what assurances the committee have that the amount appropriated by this bill, being so much smaller than previous appropriations, will be sufficient for the purpose of sustaining the Army during the coming fiscal year. For my own part, I confess my incredulity on the subject; and my interpretation of the action of the committee is that in view of a pending presidential election, in view of the many-well founded charges of extravagance made for several years past in regard to public expenditures, the committee yielding, perhaps, to those influences which affect too many men in public positions, had not the moral courage—I say it with all respect to the committee—to report and recommend the appropriations absolutely necessary for the support of the Army as at present organized and distributed for the coming fiscal year. I here in my place to-day predict that if this appropriation bill shall become a law, without any increase of the items which we have already passed in the Committee of the Whole, we shall next year, after the elections are over, be met by the largest deficiency bill that was ever reported to any Congress which ever assembled under this Government.

Mr. SPALDING. Will my friend from Indiana allow me to ask him a question?

Mr. NIBLACK. Certainly.

Mr. SPALDING. The gentleman was a member of the Committee on Appropriations in the last Congress; I well recollect that I had the pleasure of being associated with him on that committee; and I desire to ask him whether he proposes to add to these appropriations for the support of the Army?

Mr. NIBLACK. I do not propose to do so myself. It would not be becoming in me to do that. I have offered an amendment simply for the purpose of calling the attention of the committee to this subject, and of inviting an examination of it.

Mr. SPALDING. Then, as the gentleman does not propose an increase of the appropriations, we agree on this point.

Mr. NIBLACK. I want to call the attention also of the country to the fact that, in my judgment, the appropriations as they stand in this bill are insufficient for the purpose of carrying our Army establishment through the coming fiscal year; and that we shall be met hereafter by a demand to pass a vast deficiency bill to make up the deficit, created merely to make a show of economy just now. Therefore, though we may flatter the country with the idea that we are cutting down appropriations, and that the Government is going to be carried on very much more cheaply during the coming year than in times past, yet this idea will prove to be an illusory one, as the facts will hereafter demonstrate. I submit that so long as we keep up our Army to its present standard, so long as we continue to maintain an immense standing army in time of peace, so long as we support at a vast outlay a Freedmen's Bureau and so many other unnecessary and expensive systems and offices, we cannot economize by simply failing to appropriate money in advance to meet the expenses of them. We shall be obliged to appropriate it hereafter. These expenses and salaries are always, sooner or later, paid, and we shall not accomplish any economy in the end by simply withholding appropriations now.

Mr. SPALDING. We can try.

Mr. NIBLACK. Yes, we can try; but the effort will, I fear, be a merely spasmodic one. This effort, I apprehend, only looks well on paper. It has no other advantage that I see.

Mr. ELDRIDGE. I desire, with the consent of the gentleman from Indiana, [Mr. NIBLACK,] to call his attention to a single point. I believe he has heretofore served upon the committee having charge of appropriations, and I wish to know from him whether it is not a fact that this appropriation bill is framed, throughout all its provisions, for the mere purpose of bridging over the next election; whether the whole bill does not show this design; whether each item of appropriation is not framed with the direct object of making, for present political effect, a show of economy without regard to the real demands of the public service?

Mr. NIBLACK. While I do not, perhaps, use the very words of my friend from Wisconsin, [Mr. ELDRIDGE,] it will be seen from what I have already said that I substantially agree with him in the inferences he draws from the action of the committee in reporting this bill. I certainly do charge that this bill does not appropriate sufficient money to carry on this branch of the public service under existing laws, but will permit unpaid bills for supplies and other expenses to accumulate against the Government, which will have to be eventually met by future appropriations. If we really desire to economize in the appropriation of the public money let us strike at the root of the evil by repealing all laws which create unnecessary charges on the Treasury, by reducing the Army to a strictly peace establishment, by dispensing with a large number of unnecessary public offices, bureaus, and systems of administration, which we must, some time or another, dispense with if this country shall ever be brought back to its original purity and simplicity. A mere failure to appropriate money now to meet charges on the Treasury, which will, nevertheless, continue to accrue, is no economy, and I hope the country will not be misled by this specious talk about cutting down appropriations.

Mr. BLAINE. Mr. Chairman, I do not think we can afford time now for any political discussions on this bill. The Committee on Appropriations have done their best to furnish the facts on which they have based their action. They cannot furnish confidence or credulity to my friend from Indiana, [Mr. NIBLACK.] He may go on doubting and distrusting to the end. But we on this side of the House are determined to cut down the expenditures of the Government, and we have succeeded measurably, though not, I fear, with the good will or active coöperation of gentlemen on the other side. I move that the committee rise.

Mr. NIBLACK. I hope the gentleman will allow me a moment?

Mr. BLAINE. For a question, certainly.

Mr. NIBLACK. I only wished to place

upon the record my prediction we will next year have to meet a great deficiency bill.

Mr. BLAINE. The gentleman is one of the wise ones who wants the advantage of saying "I told you so." I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ALLISON reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 658, making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

Mr. BLAINE. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the special order, the Army appropriation bill; and pending that motion, I move that all general debate upon the bill be closed in ten minutes after the Committee of the Whole shall have resumed the consideration of the subject.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into Committee of the Whole, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ALLISON in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending the 30th of June, 1869, and for other purposes.

Mr. NIBLACK. I withdraw my amendment.

Mr. SCHENCK. I move to add the following to the bill:

And it is hereby provided that sums appropriated for each of the several items contained in this bill shall be made up only by computing the unexpended balance for such item which may remain in the Treasury on the 30th day of June, 1868, and adding thereto so much more from the Treasury as will give the sum for each of said items appropriated by this bill.

Mr. Chairman, I will briefly explain the purpose of the amendment I offer. It is required now of the Treasury Department to communicate to Congress, at each session, an estimate of the expenditures for the different Departments of the United States Government for the next succeeding fiscal year; and by law it is also required there shall be sent in at the same time the estimated balance, if any, that may be remaining in the Treasury at the commencement of the next succeeding fiscal year of every appropriation or subject of appropriation. We have that estimated list of balances before us now along with the estimates, but I complain for this year, as for a number of years past, there has gradually grown up a vicious practice of non-compliance with the law in this, that, instead of giving the balance of each distinct subject of appropriation, they lump those balances together so it is impossible to discriminate what sum for one subject and what for another has been expended, and how much remains unexpended under each subject of appropriation.

Now, sir, specific appropriations by law are the greatest possible safeguards of the Treasury. It is a protection particularly in a country like ours, with departments of Government divided as ours are; and the object of Congress in passing a law of that kind appears to have been to know at all times when an appropriation for a particular object was asked for, how much of unexpended balance there would be by that act of appropriation when the year should commence. I do not complain of the course pursued from year to year by every appropriation committee, but it seems to me, when the Committee on Appropriations is called upon to report so much for any particular subject connected with the operations of the Government, the first inquiry should be, how much remains over from last year; and then there should be appropriated, not all that is asked for in the shape of a full appropriation, but just so much more as may be necessary, when added to that which remains over, to make up the amount required for the coming year. That is precisely the object of my amendment. Take, for instance, these appropriations for the War Department. Instead of telling us how much it is estimated will remain on the 30th of June next to begin a new year with for each particular subject of appropriation they say in general terms there will remain an unexpended balance of $82,876,506 94. Now, that gives us no information at all. We do not know whether that is for ordnance, for soldiers' pay, for transportation, or for what subject it is. It is therefore no guide to us in legislation. But, if you look back through this list of balances reported to us you will find an addition to the $82,000,000. There remains or will remain on the 30th of June next—

For extra pay to officers serving on the Pacific, $5,000.
Medals of honor, $100,000.
Medical and hospital department, $1,000,000.
Collecting, drilling, and organizing volunteers, $13,000,000.
Draft and substitute fund, $8,000,000.

These and other items make altogether, at this very time, by the report of the Treasury Department, more than one hundred million dollars unexpended, or that will be unexpended on the 30th of June next.

[Here the hammer fell.]

Mr. BLAINE. If I understand the amendment of the gentleman from Ohio [Mr. SCHENCK] correctly, I do not know that there is any objection to it; but I desire to make in connection with it a brief explanation. The attention of the House has been called to the $82,000,000 of balances reported in the estimate from the Treasury Department as having connection with the War Department. I was at the Treasury Department this morning and I find that this is a very unreliable and—I hardly know how to characterize it—a slap-and-go-easy sort of a guess. The War Department estimate is about twenty-three million dollars, but the Treasury Department thought they wanted more, and so, because the figures look well, they threw in $82,000,000. Now, there is no reliability in the estimate whatever.

Here is the whole point. If the appropriation is two years old it goes into the Treasury by force of law. If the gentleman, by his amendment, wishes to cut off the payment of expenditures incurred during the present fiscal year, after this fiscal year shall have closed, then it ought not to be adopted. Because, in the way the Army is paid in distant fields, it is impossible on the 30th of June to have the books balanced by millions of dollars. Therefore, I wish, with the gentleman's consent, to put in this proviso:

Provided, however, That this shall not be construed to prevent the payment from the proper appropriation of expenditures made during the current fiscal year after such year shall have closed.

That I consider absolutely necessary. Does the gentleman object to it?

Mr. SCHENCK. I do not object to it. What does the gentleman mean by the current fiscal year? If it is approved during this fiscal year, it applies to the present fiscal year.

Mr. BLAINE. The current fiscal year is when this bill is approved by the President. If it is approved before the 30th of June that is during this fiscal year. The act conforms to the date of approval.

The amendment of Mr. SCHENCK, as modified by the amendment of Mr. BLAINE, was agreed to.

Mr. SELYE. I move to amend by adding to the bill the following:

Provided further, That the appropriation herein made for the Rock Island armory and arsenal shall be sufficient to complete the same in all its parts, and that no further appropriation shall be required or estimated for the same.

Mr. BLAINE. I hope that will not be adopted.

Mr. SELYE. I wish to have an end of the Rock Island arrangement.

Mr. BLAINE. I believe debate is out of order.

Mr. SELYE. I believe not; the ten minutes are not expired.

The CHAIRMAN. The gentleman has one minute.

Mr. SELYE. This water power where the water is level is a thing I do not understand. I do not suppose this appropriation would have been made had it not been understood that it was stated by those interested, those gentlemen from the West who have everything their own way, that the appropriation would be sufficient to complete the work. Now, sir, I wish to have it closed up.

Mr. SPALDING. Does the gentleman know how much this is going to cost?

The question was taken on Mr. SELYE's amendment; and it was disagreed to—ayes fifteen, noes not counted.

Mr. BLAINE. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ALLISON reported that the Committee of the Whole on the state of the Union having had under consideration the Union generally, particularly the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, and had directed him to report the bill to the House with sundry amendments.

Mr. BLAINE. I move the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

Mr. BLAINE. I now yield for a moment to the gentleman from Pennsylvania, [Mr. MORRELL.]

REVENUE SYSTEM, ETC.

Mr. MORRELL. I ask the unanimous consent of the House to report from the Committee on Manufactures the preamble and resolution which I send to the Clerk's desk.

The Clerk read the preamble and resolution, as follows:

Whereas the depressed condition of the productive industries of the country is largely due to the burdensome taxation to which it is subjected, and whereas such taxation is no longer necessary for the credit of the Government, and under the operations of increasing foreign competition must be chiefly borne by the producer, and thus come out of the wages of labor; and whereas the true interests of the people demand an early declaration by Congress of the policy which its maturer legislation will secure to the country; Therefore,

Be it resolved, That the Committee of Ways and Means be, and it is hereby, requested to report for the action of this House at the earliest practicable date, bills providing for the removal of the internal revenue tax from all useful productions, for the adjustment of import and tonnage duties so as to equalize the disparities in the cost of capital and labor between our own and competing nations, to encourage the importation of the skilled laborer instead of the product of his labor, secure the balance of trade in favor of this country, and thus insure to the nation financial solvency, a safe and permanent return to specie values, industrial prosperity, and true independence.

Mr. SPALDING. I demand the regular order of business.

ARMY APPROPRIATION BILL—AGAIN.

The SPEAKER. Objection is made. The regular order of business is the consideration of the Army appropriation bill, upon which the gentleman from Maine, [Mr. BLAINE,] is entitled to the floor for one hour.

Mr. BLAINE. I have no desire to make a speech in regard to the bill. I ask that the Clerk read the amendments, and I will indicate what the desire of the Committee on Appropriations is.

The SPEAKER. The gentleman, instead of making an hour speech, asks that the amendments be read, and he will comment on them as they are read. The Clerk will read the amendments.

The CLERK read the first amendment reported by the Committee of the Whole on the state of the Union, as follows:

Page 1, at the end of line nine insert the following proviso:

Provided, That the expenditure of the money herein appropriated shall be limited and controlled

by the following condition, namely: until otherwise ordered by law no new commission shall be issued in any regiment except to those who are entitled by law to appointment as second lieutenants by graduation at the United States Military Academy. But this provision shall not be construed to deprive any officer of whatever promotion may be open to him by the occurrence of vacancies among his superiors in rank.

Mr. LOGAN. I raise a question of order on that amendment. It is clearly out of order as it repeals an existing law.

The SPEAKER. The amendment is reported by the Committee of the Whole on the state of the Union, and the Chair, therefore, rules that the House must consider it, as in the case of amendments from the Senate, whose rules are entirely different from ours, allowing independent legislation to be offered from every committee as amendments to the appropriation bills. An appeal should have been taken in the Committee of the Whole, and then the point would have been decided by the committee. Having been acquiesced in by the committee, the amendment is before the House.

Mr. LOGAN. The point of order was made in the Committee of the Whole, and it was overruled.

The SPEAKER. Then the gentleman could have appealed from the decision of the chairman of the Committee of the Whole, and the committee would have determined the question. In not appealing he acquiesced in the decision.

Mr. LOGAN. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 67, nays 62, not voting 60; as follows:

YEAS—Messrs. Adams, Ames, Archer, Barnes, Barnum, Beaman, Beatty, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Reader W. Clarke, Farnsworth, Ferriss, Getz, Glossbrenner, Golladay, Griswold, Grover, Halsey, Holman, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Kerr, Ketcham, Knott, Latlin, William Lawrence, Mallory, Marvin, McCormick, Mercur, Moorhead, Morrell, Mullins, Niblack, Nicholson, Perham, Peters, Pike, Price, Pruyn, Randall, Scofield, Selye, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Lawrence S. Trimble, Trowbridge, Van Auken, Elihu B. Washburne, William B. Washburn, Thomas Williams, John T. Wilson, Woodbridge, and Woodward—67.

NAYS—Messrs. Allison, Anderson, Arnell, Baker, Benton, Boutwell, Broomall, Burr, Butler, Cary, Sidney Clarke, Cobb, Coburn, Cornell, Dodge, Eckley, Ela, Ferry, Fields, Fox, Gravely, Haight, Harding, Hawkins, Higby, Hill, Hopkins, Humphrey, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, George V. Lawrence, Logan, Marshall, Miller, Myers, Newcomb, O'Neill, Orth, Paine, Pile, Poland, Raum, Sawyer, Shanks, Aaron F. Stevens, Stokes, Taffe, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Wood—62.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Benjamin, Bromwell, Cake, Chanler, Churchill, Cook, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Finney, Garfield, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Johnson, Jones, Koontz, Lincoln, Loan, Loughridge, Lynch, Maynard, McCarthy, McClurg, McCullough, Moore, Morgan, Morrissey, Mungen, Nunn, Phelps, Plants, Polsley, Pomeroy, Robertson, Robinson, Ross, Schenck, Shellabarger, Thaddeus Stevens, Stone, Thomas, John Trimble, Twichell, Robert T. Van Horn, Van Trump, Van Wyck, and Cadwalader C. Washburn—60.

So the amendment was agreed to.

The second amendment reported from the Committee of the Whole was to strike out "$2,133,413" and insert "$1,800,000" in the clause making appropriation "for commutation of officers' subsistence."

The amendment was agreed to.

The third amendment was to strike out "20,000" and insert "$17,500" in the clause making appropriation "for commutation of forage for officers' horses."

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which these amendments of the Committee of the Whole have been agreed to; and also move to lay the motion to reconsider on the table.

Mr. BLAINE. I hope the gentleman will not make that motion now.

The motion to reconsider was laid on the table.

The fourth amendment reported from the Committee of the Whole was to strike out "$250,000" and insert "$225,000" in the clause appropriating "for payments in lieu of clothing for officers' servants."

The amendment was agreed to.

The fifth amendment was to the following paragraph:

For the ordnance service, required to defray the current expenses at the arsenals of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage, and vehicles; incidental expenses of the ordnance service, including those attending practical trials and tests of ordnance, small arms, and other ordnance supplies, $200,000.

The amendment was to add to the paragraph the following:

Provided, That no money appropriated by this act shall be used to pay for any new cannon or small arms.

The amendment was agreed to.

The sixth amendment was to insert the following under the heading "For repairs and improvements of armories and arsenals:"

For arsenal at St. Louis, Missouri, $5,000.

The amendment was agreed to.

The seventh and last amendment was to add to the bill the following:

And it is hereby provided that the sums appropriated for each of the several items contained in this bill shall be made up only by computing the unexpended balance for such item which may remain in the Treasury on the 30th June, 1868, and adding thereto so much more from the Treasury as will give the sum for each of such items appropriated by this bill: *Provided, however*, That this shall not be construed to prevent the payment from the proper appropriations of expenditures made during the current fiscal year after said year shall have closed.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. BLAINE. Upon that question I call the previous question.

The previous question was seconded and the main question ordered.

Mr. PAINE. I call for the yeas and nays upon the passage of the bill.

The question was taken upon ordering the yeas and nays; and upon a division there were eleven in the affirmative, not one fifth of the last vote.

Before the result of the vote was announced,

Mr. LOGAN called for tellers on ordering the yeas and nays.

The question was taken upon ordering tellers; and there were—ayes fifteen, not one-fifth of a quorum.

So tellers were refused, and the yeas and nays were refused.

The bill was then passed; there being upon a division—ayes 65, noes 39.

Mr. LOGAN. I move to amend the title of the bill so as to read, "An act making appropriations to defray the expenses of the Army and to deprive every non-commissioned officer in the Army of the United States of promotion under existing laws."

Mr. BANKS. Does not the bill exclude all volunteer officers?

Mr. LOGAN. Certainly it does. I will modify my amendment by inserting after "non-commissioned" the words "and volunteer."

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the bill was passed; and also move that the motion to reconsider be laid on the table.

Mr. PAINE. On the motion to lay on the table the motion to reconsider I demand the yeas and nays.

The SPEAKER. That question will be reserved till the House acts on the title.

Mr. WASHBURNE, of Illinois. I demand the previous question on the amendment and on the title.

The previous question was seconded and the main question ordered.

Mr. BLAINE. I desire to amend the amendment of the gentleman from Illinois, [Mr. LOGAN.]

The SPEAKER. The previous question is operating, and an amendment cannot be offered except by reconsidering the vote by which the main question was ordered.

Mr. BLAINE. I move to reconsider.

Several MEMBERS. Oh, no.

Mr. BLAINE. I merely wish to state——

Mr. PILE and others objected to debate.

The SPEAKER. The gentleman from Maine [Mr. BLAINE] has the right to speak an hour.

Mr. BLAINE. I desire to state, Mr. Speaker——

Mr. PAINE. I rise to a point of order. When the gentleman from Maine took the floor he expressly waived, as I understood, his right to speak for an hour.

Mr. BLAINE. That was not at this stage.

The SPEAKER. The Chair overrules the point of order upon the ground that at every stage, in the consideration of a bill, the gentleman having charge of it is entitled to the floor for an hour after the seconding of the previous question, the object of the rule being, as the Chair has repeatedly explained, that no hostile majority in the House should prevent the gentleman having charge of a bill from closing debate at each particular stage. It is not usual to move to amend the title of a bill; but that motion having been made, and the previous question having been seconded, the gentleman having charge of the bill has the right to the floor at this stage.

Mr. BLAINE. I propose to exercise that right, if the gentleman from Wisconsin [Mr. PAINE] will not interrupt me with points of order.

Mr. PAINE. That depends on whether the gentleman observes the rules.

Mr. BLAINE. Mr. Speaker, those who have made such strenuous opposition to the amendment adopted in the Committee of the Whole to this bill have, I will not say misrepresented, but entirely misapprehended its scope and meaning; and I charge upon those gentlemen that if they succeed to-day in what they are attempting to do they make a stab at the officers of thirty regiments now holding commissions. The question before the country to-day is whether we are going to keep up, as a permanency, an army of sixty regiments. For one, I understand that we are not. If we are not going to keep up an army of sixty regiments what is the most feasible, the most humane, the most beneficent, the fairest mode of reducing that army?

Mr. LOGAN. Mr. Speaker, I wish to ask the gentleman——

Mr. BLAINE. I cannot consent to be interrupted at this stage. In reducing this Army shall we continue to commission men who, in one year or two years from this time, will have to be mustered out in connection with hundreds of others who to-day regard the Army as their life profession? I say, that gentlemen who are taking the ground so strenuously maintained by the gentleman from Illinois, [Mr. LOGAN,] the gentleman from Ohio, [Mr. SCHENCK,] and the gentleman from Wisconsin, [Mr. PAINE,] will bring the Congress of the United States, in less than two years, to the necessity of providing for mustering out the officers of thirty regiments. These gentlemen who are so great friends of the volunteers——

Mr. PAINE. Why not do it?

Mr. BLAINE. Why not do it? You will have to do it if you insist on that necessity, but if you stop to-day appointing officers that question regulates itself without interfering with a solitary commission now held by an officer. The gentleman says we want "to weed" out the volunteers. I wish to explain by what method this attacks volunteers.

Mr. LOGAN. Will you allow me?

Mr. BLAINE. I will give the gentleman five minutes.

Mr. LOGAN. I will show it. It attacks them in this way. As the law now stands a volunteer soldier or private who becomes a

non-commissioned officer has the right to be promoted to a lieutenancy in the Army, by passing an examination. That is the law. Is it not? This provides, however, that hereafter no appointment to a commission shall be made except of graduates from West Point.

Mr. BLAINE. It does no such thing. It says until otherwise ordered by law.

Mr. LOGAN. Ah! [Laughter.]

Mr. BLAINE. That is hereafter——

Mr. LOGAN. My five minutes are not out. Until otherwise ordered by law. When is it to be otherwise ordered by law? When you stick in this amendment, which has never been investigated before the committee. When is it to be repealed?

Mr. BLAINE. On what authority does the gentleman make the statement it was never considered before the committee?

Mr. LOGAN. The gentleman stated it yesterday; on your own authority, sir.

Mr. BLAINE. Not at all.

Mr. LOGAN. I give the gentleman as authority. He made the statement. He said he brought it from General Grant's headquarters "*verbatim, et literatim, et punctuatim*," as he introduced it into the House, and that it was never passed on in the committee. I give the gentleman as authority. [Laughter.]

Mr. BLAINE. The gentleman is captious. There was a larger amendment——

Mr. LOGAN. My five minutes are not out.

Mr. BANKS. "Dictated" was the word. The gentleman from Maine said it was *dictated* at General Grant's headquarters.

Mr. LOGAN. Yes, sir. I declare before this House that under this proviso no appointment in the Army can be made except from those who have graduated at West Point. I say it deprives every poor non-commissioned officer in the Army, who has served his four years and carried his musket, who by virtue of present law is entitled to promotion, of the right of examination for that promotion in the Army as a commissioned officer. I assail the proviso upon that ground as a brand upon the poor non-commissioned officers of the Army.

I assert here, sir, the soldier has the same right to promotion after examination—the non-commissioned officer has the same right to appointment as the graduate at West Point. This proviso does deprive him of that right, and hence I say it ought to be stricken out. It is an effort to cut the throat of every civilian in the Army. It was struck at the volunteers. It is a blow at the gallant and patriotic men who carried their muskets in the war. It is to help a class, an aristocratic class, at the expense of the unfortunate men who hold no commissions; no matter what their education may be; no matter what their service may have been to the country; no matter how much blood they may have shed to give nourishment to the great tree of liberty in this land. Yet these brave men are deprived of all right under this bill to be promoted to a commission in the United States Army.

That is this bill, sir. That is this amendment. It was the intention of this amendment, and the gentleman knows it, his assertion to the contrary notwithstanding, if he can understand his own writing.

I ask this House, Mr. Speaker, not to pass this amendment. It was only passed before by two majority. I appeal to the Democrats and Republicans here to-day to tell me what justice there is in voting that no man shall ever receive a commission in the Army unless he has passed the ordeal for graduation at West Point? I ask you to tell me whether the men who fought the country's battles and were crimsoned with their gore in its defense are not entitled to as much favor as the men who come out of this institution at West Point?

Take your million of men officered by volunteers, men who did their duty throughout the war; to-day you have stabbed that class of men; you have deprived them of their rights under the law.

[Here the hammer fell.]

Mr. BLAINE. I think if the five minutes had not expired, the gentleman himself would have expired. [Laughter.]

Mr. LOGAN. It would not have cost you a cent. [Laughter.]

Mr. BLAINE. With reference to the point I made I have this to say: the original amendment which the Committee on Appropriations authorized me to report went very much further than this does. The modification I made was far inside of that; so that, to all intents and purposes, while the gentleman may be technically correct as to the mere language employed, the amendment was really and directly authorized by the Committee on Appropriations.

Mr. BUTLER. Oh, no.

Mr. BLAINE. The gentleman need not say "Oh, no."

Mr. BUTLER. Give me ten minutes and I will show you why I say "Oh, no."

Mr. BLAINE. If the gentleman was not present he has no right to contradict the statement. In spite of all this howl about stabbing volunteers, I say that to-day there are two thousand men in the staff corps and in the regiments of the United States Army who were appointed for gallant and meritorious services in the late war; and the question comes up—and I cannot make my point any stronger than by merely repeating it—whether you are going to maintain an Army that will necessitate the mustering out of one half of these men, or whether you are going now to take such prudent precaution for a year and a half or two years as will leave every man who is to-day commissioned in the Army in the enjoyment of his commission, when he has made his arrangements for remaining in the Army for life. I am perfectly willing to risk that question before the volunteer officers of the country or before a jury of twelve men who will impartially examine the subject.

In regard to West Point there is no exception in this bill in favor of the graduates of that institution that has not always been made. This bill makes no exception that is not in accordance with usage and law ever since that institution was established. Is not that so? Gentlemen may say that technically it is not required that they should be appointed, but I ask the gentleman from Ohio [Mr. SCHENCK] if he ever knew a graduate of West Point refused an appointment in the Army?

Mr. SCHENCK. I answer that I do not, nor do I expect to know of such a case. I will say further that there is no law now requiring that a commission shall be issued to him, but this bill makes it imperative that they shall be selected. I say if the object be to reduce the Army it will be sufficient to provide that no more than fifty or sixty or any given number shall be appointed in any one year, without making this invidious distinction as to where they shall come from, but leaving the law as it is.

Mr. BLAINE. Will the gentleman consent to a reduction of the Army on that basis?

Mr. SCHENCK. As a partial reduction.

Mr. BLAINE. Will he consent to it?

Mr. SCHENCK. Yes. I have no objection to beginning in that way.

Mr. BLAINE. It has been the law and the usage unbroken from the foundation of the Military Academy that the graduates of that institution should be officers of the Army. And we are throwing away our money unless we make them officers. Let us abolish the institution or keep it up to its original size. If it is not to educate Army officers, in the name of God what is it for? Is it a charity school?

Mr. PRUYN. This is only to operate one year, I understand.

Mr. BLAINE. Only till Congress chooses to authorize differently. I take issue on the point the gentleman from Ohio [Mr. SCHENCK] makes. This bill does not change the law nor does it change the custom. Why to such an extent was the recognition made that the Military Academy should be used to educate and graduate officers for the Army that when there were more graduates than places Congress made a provision that they should be attached to the various regiments as brevet second lieutenants; and they were brevet second lieutenants for years and years. Graduates at West Point, when the regiments were not large enough to receive them in full commission, were attached to them with brevets of the lowest grade, a thing quite anomalous in any other condition of affairs. Now, let us either maintain the character and maintain the purpose of the United States Military Academy or else abolish it. It is a very clear question. We cannot afford to spend $300,000 a year in educating the young gentlemen whom the gentleman from Illinois and myself and others nominate as cadets if we are to have no advantage from it to the Government. I respectfully submit to gentlemen that we had better abolish the institution.

Mr. PRUYN. I wish to make an inquiry of the gentleman. This proviso, as I understand it, is attached to an appropriation of $15,000,000. Now, when the $15,000,000 are spent, the proviso falls, as I understand it. It cannot operate for more than a year?

Mr. BLAINE. That is a question of construction.

Mr. SCHENCK. Will the gentleman allow me one minute?

Mr. BLAINE. Yes, sir.

Mr. SCHENCK. With the permission of the gentleman, I am allowed to state what the amendment is and what the law is, and a question has been raised with regard both to the one and the other.

The proviso which has been adopted into this bill will be best understood if I read it distinctly to the House. It is as follows:

Provided, That the expenditure of the money herein appropriated shall be limited and controlled by the following condition, namely: until otherwise ordered by law no new commission shall be issued in any regiment except to those who are entitled by law to appointment as second lieutenants by graduation at the United States Military Academy. But this provision shall not be construed to deprive any officer of whatever promotion may be open to him by the occurrence of vacancies among his superiors in rank.

Appointments hereafter are to be limited to those who, by law, by reason of being graduates at West Point, are entitled to be commissioned into the Army. Now, what is the law? I read it:

When any cadet shall receive a regular degree from the academical staff, after going through all the classes, he shall be considered as among the candidates for commission in any corps, according to the duties he may be adjudged competent to perform; and in case there shall not at the time be a vacancy in such corps he may be attached to it at the discretion of the President of the United States, by brevet of the lowest grade, as a supernumerary officer, with the usual pay and emoluments of such grade, until a vacancy shall happen: *Provided*, That there shall not be more than one supernumerary.

But it is understood that there is no compulsory requirement to commission him, but that he may be regarded as a candidate for any of these places. We do not dispute what the usage has been, but we do say that having an Army now made up in part by appointments from civil life, generally of those who have served their country in the field and proved themselves worthy of appointments, and in part from West Point, if you are going to reduce it upon this system, it is enough to say that not more than fifty or sixty or eighty, as the case may be, shall be appointed second lieutenants in any one year, and let your system stop there without defining from whom they shall necessarily and compulsorily be taken. That is all.

Mr. BLAINE. I now yield five minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. Mr. Speaker, we have not had an opportunity to examine this proviso in the Committee on Appropriations. I still insist that this was never before the Committee on Appropriations; and it was not on account of my absence that I did not see it; because the gentleman from Maine said yesterday that this particular proviso was written at the office of the General of the Army of the United States at twelve o'clock yesterday, and at twelve

o'clock yesterday the Committee on Appropriations adjourned, and no meeting was had until this morning; and in the meantime the proviso was reported to this House.

Now, the difference between the proviso agreed to by the committee and this I find to be: the proviso agreed to by the committee was to consolidate regiments and reduce them in number, and that would operate in this way: if you consolidate two regiments, the new one from the minimum to the maximum, then you have thirty-six officers to one thousand men; but if you keep these skeleton regiments of five hundred each then you have thirty-six officers to five hundred men, and you double the expense without increasing the force.

If you have thirty thousand men in thirty regiments you will have thirty times thirty-six officers, or ten hundred and eighty officers, not-to speak of staff officers and non-commissioned staff officers. If you have thirty thousand men in sixty regiments, you will have sixty times thirty-six officers, twenty-one hundred and sixty officers to the same number of men. You are, therefore, not reducing the expenses of your Army by this amendment, for the officers' pay and allowances are a great portion of the expense. The only reduction made by it is a *reductio ad absurdum*. You thereby keep an immense army of officers and leave out the men.

A further difficulty I find is in this—and to that I wish to call the attention of the gentleman from Maine [Mr. BLAINE]—his amendment changes what has always been the law heretofore. By the law, hitherto, any citizen may be appointed to any office in the Army by the President of the United States, by and with the advice and consent of the Senate. But by this provision, prepared in the office of the General of the Army, no citizen, a volunteer officer or soldier, can be appointed in the Army; but all appointtments hereafter to be made must be from those already in the Army or from graduates from West Point. And behold such a sweeping provision as that put in an appropriation bill.

Let me repeat the statement I have made: by the law as it now stands any civilian may be appointed into the Army. If this proviso shall become a law no civilian can be appointed into the Army to any grade; all appointments must be made from old Army officers or from graduates from West Point so long as this remains the law.

One thing further. I do not myself see the exact necessity for the institution at West Point just now to educate officers for military service. We have now in this country some eight thousand officers between the ages of twenty-one and thirty years in civil life who for four years received an education in the field service. I venture to say they received as good an education in that service as they could have received at West Point in the same time. Now, why we should take young men from schools and colleges and put them at school at West Point, at the expense of the Government, to make officers is a question which I propose to discuss at some time, but not on a proviso to an appropriation bill. Why should we prevent by laws any one of all these educated officers, educated by years of fire and blood, from having a chance to get commissions in the Army? That is a question I want this House now to answer by rejecting this bill if necessary.

Again, by this bill you cut off all non-commissioned officers and soldiers in the Army now from any hope of promotion. You bring your Army to the English system, by which no man, unless he be the son of a nobleman or by purchase, can get into the Army as an officer. Indeed, our system, under this proviso, would be even worse than the English, because instead of having an educated aristocracy of noblemen from which to draw our officers we would have a bastard aristocracy of caste. What hope of promotion, what inducement to perfect himself in his profession, would the soldier in the ranks have held out to him? You would never get a Junot or a Murat from your Army, because under this law he could never get promoted from the ranks.

Now, while I am sorry to be obliged to oppose the whole Army bill on account of this amendment, yet my duty to myself, to my own convictions of right and justice, to the volunteer soldier and to the citizen and to the country, compels me to oppose it.

[Here the hammer fell.]

Mr. BLAINE. I now yield two minutes to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. I desire to make this suggestion to the House. My impression is very strong that this bill, in its present form, ought not to pass with the provision to which so much objection has been made, and which was adopted by only four or five majority. I would inquire of the Chair whether, after disposing of this matter of amending the title, it is not competent for the House to reconsider the vote by which the bill was passed, and to recommit the bill to the Committee on Appropriations with instructions to report it back as passed by the House, with the exception of the proviso which has given rise to all this discussion?

The SPEAKER. In the first place, the amendment itself cannot be reconsidered, because, upon the motion of the gentleman from Illinois, [Mr. WASHBURNE,] the motion to reconsider was laid on the table. The only way now to review the action of the House is to reconsider the vote by which the bill was passed, and then to recommit the bill to the Committee on Appropriations with or without instructions.

Mr. BOUTWELL. I hope that will be done.

Mr. BLAINE. If the members of the House desire to have the Army reduced, and think that some step should now be taken for that purpose, I would propose a modification of the amendment which has been so strongly objected to, if it can be done by general consent, which will obviate the point which has been so angrily made against the other amendment.

Mr. LOGAN. A word right here.

Mr. BLAINE. Not now. I suggest this amendment in place of the other:

And, until otherwise ordered, no more than one hundred commissions for the Army shall be issued in any one year.

Mr. PRUYN. Excluding those from West Point?

Mr. BLAINE. I do not exclude anybody; I do not say to whom they shall be issued.

Mr. PAINE. I think I can suggest an addition to the proposed amendment of the gentleman from Maine [Mr. BLAINE] which will be satisfactory. Add to his amendment the following:

Provided, That these hundred commissions shall be distributed among volunteer officers, officers of the regular Army, and West Point cadets, in accordance with the provision of the existing law.

A MEMBER. That provision has ceased to operate.

Mr. PAINE. I am informed that that provision has ceased to operate; and I therefore withdraw my suggestion. But the effect of the proposed amendment of the gentleman will be to leave this provision of the bill just as it is now.

Mr. BLAINE. How?

Mr. PAINE. Because——

Mr. BLAINE. I withdraw the suggestion; I made it only to meet the objections of gentlemen. I will not object to a reconsideration of the bill.

Mr. LOGAN. I will say that if the passage of the bill is reconsidered I will withdraw my amendment to the title.

Mr. BLAINE. I would prefer rather that this objectionable proviso should be entirely struck out and have the bill pass without it.

Mr. LOGAN. There is a proviso of the same character in the printed bill. Does the gentleman's proposition apply to that also?

Mr. BLAINE. Of course it does.

The SPEAKER. The proviso in the printed bill was stricken out. The Chair understands the gentleman from Illinois [Mr. LOGAN] to withdraw his amendment to the title of the bill.

Mr. LOGAN. Certainly, in order that the bill may be reconsidered.

The SPEAKER. If there is no objection the vote by which the bill was passed will be regarded as reconsidered, in order to enable the gentleman from Maine [Mr. BLAINE] to move an amendment to the bill.

Mr. ELDRIDGE. I object.

Mr. BLAINE. What is the condition of the question now?

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] objects to the arrangement proposed by the gentleman from Maine, [Mr. BLAINE.] The motion to amend the title having been withdrawn, the pending question is upon the motion of the gentleman from Illinois, [Mr. WASHBURNE,] to lay on the table the motion to reconsider the vote by which the bill was passed. Does the gentleman withdraw that motion?

Mr. WASHBURNE, of Illinois. I withdraw both motions—the motion to reconsider and the motion to lay on the table.

Mr. BANKS. I renew the motion to reconsider the vote by which the bill was passed.

The motion to reconsider was agreed to.

Mr. BLAINE. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

The motion to reconsider was agreed to.

The SPEAKER. The bill is now open to amendment.

Mr. BLAINE. I move to amend the bill by striking out the following proviso:

Provided, That the expenditure of the money herein appropriated shall be limited and controlled by the following condition, namely, until otherwise ordered by law no new commission shall be issued in any regiment except to those who are entitled by law to appointment as second lieutenants by graduation at the United States Military Academy; but this provision shall not be construed to deprive any officer of whatever promotion may be open to him by the occurrence of vacancies among his superiors in rank.

The SPEAKER. That requires unanimous consent, the motion to reconsider the vote by which that proviso was adopted having been laid on the table.

No objection was made, and the amendment was agreed to.

Mr. BLAINE. I now move to further amend the bill by restoring the sums changed on motion of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I have no objection. I was only following up his own amendment.

The SPEAKER. They will all be reported as one amendment.

The Clerk read as follows:

Strike out the following:
For commutation of officers' subsistence, $1,800,000.
For commutation of forage for officers' horses, $17,500.
For payments in lieu of clothing for officers' servants, $225,000.

And in lieu thereof insert the following:

For commutation of officers' subsistence, $2,133,413.
For commutation of forage for officers' horses, $20,000.
For payments in lieu of clothing for officers' servants, $250,000.

The SPEAKER. That restores the bill to what it was when reported from the Committee on Appropriations.

Mr. BLAINE demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. FARNSWORTH. I rise to a question of order, that it is not in order to strike out what has been inserted by the House.

The SPEAKER. The Chair overrules the point of order, or else the House would be powerless to correct an error.

Mr. RANDALL. The amendment does away with the reductions in the appropriations which we had agreed to. I hope it will not be adopted.

The House divided; and there were—ayes 80, noes 22.

So the amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVY APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I hope the House will consent to go into the Committee of the Whole on the state of the Union, and take up the Navy appropriation bill. After it has been read for information I will move that the committee rise. I make the motion that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was disagreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for ten days for Mr. TRIMBLE, of Tennessee; Mr. WASHBURN, of Indiana; and Mr. WILLIAMS, of Indiana.

And then, on motion of Mr. WASHBURNE, of Illinois, (at four o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of John Beeson, praying the establishment of a more humane and efficient system of managing Indian affairs.

By Mr. DRIGGS: The petition of H. S. Gibbons, former paymaster at St. John's, Michigan, praying Congress to refund to him $500, post office funds stolen from his room by burglars; also, a letter of the Postmaster General, recommending the same to Congress.

By Mr. ELA: The petition of John L. Platts, of Dover, New Hampshire, and 222 others, for a system of examination into the moral and educational fitness of all candidates for appointment in the civil service.

Also, the petition of C. C. Mooney, of Alton, New Hampshire, and 46 others, for the same object.

Also, the petition of E. O. Curtis, of Farmington, New Hampshire, and 16 others, for same object.

Also, the petition of S. J. Laughton and 64 others, for same object.

Also, the petition of Ezekiel Hurd, of Dover, New Hampshire, and 9 others, for the reduction of expenses to a peace standard.

By Mr. GOLLADAY: The petition of Melinda Ferguson, of Clinton county, Kentucky, for pension.

By Mr. HIGBY: The petition of colored citizens of East Tennessee, asking aid of Congress to emigrate to Liberia.

By Mr. MOORHEAD: Six petitions, signed by a large number of citizens of the United States, manufacturers, consumers, and underwriters, praying the act of Congress known as the steamboat bill be so amended as to exempt oil of vitriol, sulphuric acid, muriatic acid, and ammonia from the provisions of said act.

By Mr. MOORE: The petition of senators and members of the New Jersey Legislature, representing that by reason of the encroachments of the sea the valuable harbor at Absecom Inlet is in great danger of being destroyed, together with valuable property, including the light-house and other Government property.

By Mr. RAUM: The petition of Captain Henry P. Ingram and Second Lieutenant John H. Askins, late of company B, sixty-second regiment Illinois volunteers, for pay and allowances from January 15, 1862, to April 10, 1862.

By Mr. ROBERTSON: A memorial of Charles W. Whitney, for relief in building the iron-clad battery Keokuk twenty-five per cent. larger than agreed upon when price was named, and for which no compensation has been paid.

By Mr. SPALDING: The petition of William Backus, of Cleveland, Ohio, for increase of pay while in military service.

By Mr. STOKES: The petition of Peleg Cornell, for relief.

By Mr. VAN AERNAM: The petition (with six enclosures) of William Bliss, of Chautauqua county, New York, praying Congress to grant him relief for the destruction of his property at the battle of Gettysburg, Pennsylvania, by order of Brigadier General Hays, commanding a division of Union troops.

IN SENATE.

FRIDAY, *February* 21, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The following bills received from the House of Representatives yesterday were severally read twice by their titles and referred to the Committee on Pensions:

A bill (H. R. No. 769) granting a pension to David Howe;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 771) granting a pension to John D. Lay;

A bill (H. R. No. 772) granting a pension to Robert McCrory;

A bill (H. R. No. 773) granting a pension to William H. McDonald;

A bill (H. R. No. 774) granting a pension to Amos Witham;

A bill (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel; and

A bill (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania.

The bill (H. R. No. 616) extending the provisions of the act of July 17, 1862, relating to the naturalization of soldiers to those who enlisted in the naval and marine service of the United States, was read twice by its title, and referred to the Committee on Naval Affairs.

The bill (R. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, was read twice by its title, and referred to the Committee on Appropriations.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 24th of January last, information in relation to an increase of the employés in the New York custom-house; which was referred to the Committee on Finance.

MR. HARVEY'S ACTION IN 1861.

Mr. GRIMES. Mr. President, I rise to a personal explanation. On the 17th of this month the Senator from Indiana, [Mr. HENDRICKS,] in some remarks which he was addressing to the Senate, used the following language:

"Was it not telegraphed to Charleston, after Mr. Lincoln's Cabinet was organized, that the forts were not going to be reënforced? Was there not a letter written by Mr. Harvey, the present minister to Portugal, in which he said he knew what were the counsels of Mr. Lincoln's administration upon that question? Did he not, in that letter, say that he was authorized by that Cabinet to inform the authorities of Charleston or of South Carolina that the forts would not be reënforced or supplied? What was the policy of Mr. Lincoln's administration at that time upon that question? It was, as published at the time, to avoid bloodshed, to avoid the immediate clash of arms, hoping yet, I presume, to avoid the war that seemed so imminent."

It was very evident from this remark that the Senator from Indiana referred to some letter written by Mr. Harvey at that time, shortly after the inauguration of Mr. Lincoln, because he said:

"Was there not a letter written by Mr. Harvey, the present minister to Portugal, in which he said he knew what were the counsels of Mr. Lincoln's administration upon that question? Did he not, in that letter, say that he was authorized by that Cabinet to inform the authorities of Charleston or of South Carolina that the forts would not be reënforced or supplied?"

I then interposed, and the following remarks were made by the gentleman from Indiana and myself respectively:

"Mr. GRIMES. The Senator, doubtless, desires to be accurate. I think the telegram was exactly the reverse. The telegram that was sent by Mr. Harvey to the parties in Charleston was that Fort Sumter was going to be reënforced; and it was on the strength of that telegram that the attack was made upon Fort Sumter.

"Mr. HENDRICKS. I do not recollect it so. I have not read it for some time. If so, what occasion was there for Mr. Harvey to write his letter explaining that?

"Mr. GRIMES. I do not know anything about any such letter. I never knew he did write such a letter. Mr. Harvey telegraphed—and, as was afterward stated, and, I believe, truly stated, with the knowledge of the Secretary of State—to the effect that Fort Sumter was about to be reënforced, and as soon as that telegram was received in Charleston the attack was made upon Fort Sumter."

I think I need not here say that in that statement is expressed the universal sentiment of this body at that time. I remember very distinctly that a majority of the members of this body undertook to ascertain what were the facts, and to that end appointed a committee to investigate the subject, and their report was that a telegram had been sent through the agency of Mr. Harvey to the South Carolina authorities at Charleston notifying them that the forts were about to be reënforced, because the Administration or some members of the Administration conceived that they were under some sort of a pledge to the authorities of South Carolina to inform them if an attempt should be made to reënforce them. But it seems, Mr. President, that the impression which was so universal in the Senate was erroneous, according to the statement of Mr. Harvey, which he has furnished me this morning in a letter that I send to the Chair and ask to have read.

The Secretary read as follows:

WASHINGTON CITY, *February* 20, 1868.

SIR: It was not until this morning that I became aware of my name having been introduced into a debate in the Senate on Monday last and of the comments which you felt called upon to make in that connection.

Upon referring to the Globe of the 18th instant I find the following remarks attributed to Mr. GRIMES:

"Mr. Harvey telegraphed—and, as was afterward stated, and, I believe, truly stated, with the knowledge of the Secretary of State—to the effect that Fort Sumter was about to be reënforced, and as soon as that telegram was received in Charleston the attack was made upon Fort Sumter."

Believing that you have no wish to do me injustice, or to state the facts inaccurately, I beg leave to correct an error into which you have doubtless fallen by the lapse of time and unrefreshed recollection.

By consulting the historical data of that critical period it will be found that, so far from there having been any secrecy in the effort to succor Anderson's gallant garrison at Fort Sumter, when that measure had been resolved upon, the action of the Government was frank, friendly, and considerate.

President Lincoln sent Captain Talbot and R. S. Chew, Esq., of the State Department, to Charleston for the express purpose of notifying the authorities of his intentions, and of thus giving them a final chance to reflect and halt before the fatal leap was taken. This is made manifest by the expressions of the leading organ of secession in that city at the date of the occurrence, which may be found cited in the National Intelligencer of the 13th of April, 1861, and which may be easily verified by a formal inquiry. The two official agents reached Charleston at six o'clock on Monday evening, the 8th of April, and their arrival is thus noticed in the Mercury of the next morning:

"Captain Talbot came as bearer of dispatches to Major Anderson, and upon making known his mission to General Beauregard was promptly refused permission to communicate with Fort Sumter.

"Mr. Chew, we understand, came as special messenger to the authorities here, with an official notification from the Lincoln Government that Fort Sumter was to be provisioned—peaceably if practicable, forcibly if necessary. It is almost needless to add that Mr. Chew received no information of a very cordial nature. Both he and Captain Talbot departed on their return to Washington by the eleven o'clock train."

It is thus demonstrated beyond all doubt that the information which you suppose to have been communicated by me, and to have immediately led to the attack on Fort Sumter, had been made known to the authorities of South Carolina by a direct mission from the President, and that no attack was made until after the lapse of three days. More than this, the telegraph was then, and had been for some time previously, in possession of the Government, and no

communication was allowed to go South, for wise public reasons, without approval and consent.

The correspondence which passed during several days afterward between Major Anderson and General Beauregard shows that the notice given to the authorities in no manner influenced the firing on Fort Sumter, which was ordered from Montgomery.

As my conduct in this matter has been misrepresented in various quarters through ignorance or malice, the occasion is a fitting one to put at rest all such unjust reflections.

Whoever will recall the eventful and painfully anxious period preceding the outbreak of war in Charleston harbor cannot fail to remember how this city was agitated with exciting rumors of an impending attack on the national forts. A convention was then in session at Montgomery, counseled and directed by infatuated and reckless conspirators, who subsequently precipitated the conflict of arms. It was against their mad and wicked designs that the friends of peace who desired to avert the threatened calamity had to contend.

Every man who loved his country contributed what he could to prevent an explosion, which seemed imminent from hour to hour. There were but few who had a thorough appreciation of the consequences that would follow the firing of the first gun or of the terrible sacrifices that were required, even after the dreadful gage of battle had been rudely thrown down. The horrors that have since come to pass impressed themselves then with an awful solemnity upon my mind, and in an humble way I labored earnestly, faithfully, and constantly, up to the last hour, to stay the parricidal arm which was uplifted against the national life. Having kindred and friends on the spot of most pressing danger, I addressed myself urgently to them in every possible way, in the hope, at least, of postponing the catastrophe and of saving the border States from being ingulfed in secession.

The conspirators at Montgomery defeated those efforts and others still more important, but they none the less deserved the respect and consideration which they received from those in authority, who valued their motive and encouraged them with advice and aid.

If there be one act of my life which I prize more highly than any other, and which I may venture to recall with patriotic pride, it is that in which I devoted my best energies and zeal to arrest the beginning of that civil strife which has desolated so many homes, stricken with anguish so many hearts, and, worse than all, loosened so sadly the bonds of this still glorious Union.

I inclose herewith a brief correspondence which has connection with the subject of this note, and which needs no commentary.

I am, with high respect,

JAMES E. HARVEY.

Hon. J. W. GRIMES, *United States Senator.*

Mr. GRIMES. The correspondence alluded to by Mr. Harvey I send to the Chair, and although not very material, yet I desire that it be read, in order that he may have as full and ample vindication as it shall be able to furnish him.

The PRESIDENT *pro tempore.* The correspondence will be read, no objection being made.

The Secretary read as follows:

WASHINGTON CITY, *February* 20, 1868.

MY DEAR SIR: You will doubtless remember that I addressed a letter to you from Lisbon in July, 1861, requesting an inquiry to be made by the House of Representatives into various newspaper reports concerning a correspondence of mine with certain persons in Charleston, and that I also requested you to verify the facts therein stated by calling upon President Lincoln, in whose hands I had placed the correspondence referred to.

Will you do me the favor to state your knowledge of these circumstances, in order that I may be better able to correct a misrepresentation which seems still to exist on this subject?

Very truly, JAMES E. HARVEY.

Hon. J. COVODE, *House of Representatives.*

HOUSE OF REPRESENTATIVES,
WASHINGTON, *February* 20, 1868.

MY DEAR SIR: I have received your note of this date, and in reply beg to state that you did address me a letter from Lisbon in July, 1861, of the character mentioned, soon after the publication of the calumniatory reports to which reference is made.

You also inclosed to me a copy of a private letter to the then Secretary of War, which I took the responsibility of having read to the House, and which at once not only silenced every malicious utterance on that subject, but convinced everybody that your whole conduct had been eminently patriotic, and inspired singly by the earnest and upright desire to prevent the inauguration of civil war and the terrible calamities which followed.

The fullest investigation by myself and others at the time strengthened that conclusion, which Senator WADE manfully and properly expressed on the floor of that Chamber when this matter was revived to your prejudice a year or more ago.

I called upon President Lincoln with your letter, who confirmed with precision all its statements, and after examination of his papers he handed to me the telegraphic dispatches which you had delivered to him, while expressing his gratification at being able to do that act of justice toward you, and at being disembarrassed himself from erroneous interpretations on the part of those who were ignorant of the true facts of the case.

Very sincerely, JOHN COVODE.

Hon. JAMES E. HARVEY.

Mr. GRIMES. All I have to say in addition is that I am exceedingly gratified that Mr. Harvey is able to vindicate himself from the charge that has been current in the country and been universally believed here, and, so far as I know, has never been contradicted even by the President of this body. I have always understood that it was not controverted, that a dispatch was sent of the character which I have stated, but that it was sent with the knowledge and approbation, as was afterward discovered, of the Secretary of State, if not of the President of the United States. I understand now that Mr. Harvey denies having sent any such dispatch at all.

Mr. CAMERON. I know a little of the history of that time. Mr. Harvey did send a dispatch giving information of what was doing here, and I had the original dispatch, but it was stolen out of my pocket only last year.

Several SENATORS. Speak a little louder.

Mr. CAMERON. I say that Mr. Harvey did send a dispatch to the Governor of South Carolina telling him what was doing here in regard to Fort Sumter. I had the original dispatch in my pocket only last year. I showed it to the Senator from Maine [Mr. FESSENDEN] one day in the Senate, but my pocket-book was stolen last year, and thus I lost the dispatch.

Mr. ANTHONY. What was the nature of the dispatch?

Mr. CAMERON. Informing him, I think, that the Government had determined not to reprovision Fort Sumter.

Mr. ANTHONY. Was not that sent with the assent of the Government?

Mr. CAMERON. I do not know with whose assent it was sent. It was not with my assent. I got it as Secretary of War. The dispatches in different parts of the country were brought to the War Office, and I got it there. I mentioned it to the Cabinet and to Mr. Lincoln, and nobody approved of it there, though there was not much said about it.

Mr. SUMNER. I will add a word to what the Senator from Pennsylvania says. I had at the time a copy of the dispatches of Mr. Harvey put into my hands by the Secretary of War, who at the time was our present colleague from Pennsylvania. There were some four or five of those dispatches from Mr. Harvey, directly, I think, to the Governor of South Carolina. After this lapse of time I will not venture to state precisely their contents; but I have reason to believe, according to my recollection, that they were substantially as indicated by the Senator from Pennsylvania. On the point whether Mr. Harvey had authority from the Secretary of State or from the President himself I say nothing; but the dispatches were sent. I have an impression that I have at home the official copy which was furnished to me at the time, but of course it was some time ago, and I did not anticipate this inquiry; and I do not know that even on search I could find it.

Mr. CONKLING. I, too, had copies of these dispatches at the time, and I felt bound in the House of Representatives to cause them to be read with letters which I thought vindicated Mr. Harvey; and I only wish now to say that, with a pretty full knowledge of the facts at the time of their occurrence, I have always regarded this charge against Mr. Harvey as one of the most cruel injustice. There was no evidence that he did anything in the world except what he was requested to do, and what he had abundant reason for supposing he was doing with the approbation and at the instance of the Administration; and when he had left the country, when he was in a distant land, the press was made to ring with accusations that he had been guilty of traitorous practices, and the specification was the very thing that he had done at the instance of those who ought to have been the last to allow him to be aspersed.

Mr. CAMERON. Mr. President, I think it is due to say that I knew nothing of any employment which Mr. Harvey had. When I got the dispatch I, as a member of the Cabinet, was astonished to find that information was communicated to the South Carolina authorities which I supposed it was considered vastly important to the Administration should be kept secret. There were several dispatches, and one in particular, which I carried in my pocket for some time. I was surprised when I received that particular dispatch, and I carried it over to Mr. Lincoln, and he expressed great surprise at it. It was certainly communicating that which I, as a member of the Cabinet, thought the Administration desired to keep from the knowledge of anybody except themselves. He was very intimate with Mr. Seward, and it is possible, and perhaps probable, that Mr. Seward employed him; but if he did it was a strange act for one member of the Cabinet to do without consulting other members of the Cabinet. I can only say that if Mr. Seward did employ him it was a most remarkable case of employment.

Mr. ANTHONY. Mr. President, my recollection of this transaction corresponds with what has been stated by the Senator from Iowa, that there was complaint that Mr. Harvey had sent a certain dispatch to Charleston, and that upon an investigation made on the subject there was a formal report that what he did he did with the assent of the Administration.

Mr. SUMNER. No, not of the Administration.

Mr. CONKLING. Of members of the Administration.

Mr. CAMERON. Not members.

Mr. FESSENDEN. Of the Secretary of State.

Mr. ANTHONY. My recollection has not been refreshed on this subject; but if I had been called upon to state how it stood I should have said it was with the assent of the Secretary of State and the President. I did not suppose it would be done without the assent of the President, at all events. I agree with what the Senator from New York has said. My knowledge of Mr. Harvey protected him, in my mind, from the suspicion of any course that was not entirely patriotic; and I did believe, and must still think, that the clamor which has been raised against him has been unjust. There must be some explanation even of what my friend from Pennsylvania states.

Mr. JOHNSON. I am sure the honorable member from Pennsylvania is right when he says that Mr. Harvey's agency in the transmission of these dispatches was without his knowledge; but I am equally sure that it was with the knowledge and at the instance of the Secretary of State and with the knowledge of the President of the United States, as Mr. Harvey supposed. I was here at the time, upon terms of friendship with Mr. Harvey, and I think I know that what he did in the transmission of those dispatches was done with a pure purpose and under the full conviction that he had the authority of the Administration. I am sure the honorable member from Pennsylvania is not to be told now for the first time that a great many things were done at that period which were not made known to him. I had reason to believe at the time, and that impression has been more than confirmed since, that the Secretary of State, from patriotic motives, I have no doubt—I am not disposed to censure him—really, for a time, carried on the War Department, acting, in many particulars, without the knowledge of the Secretary of War, and in many other particulars relating to the Navy Department, carried on that Department without the knowledge of the Secretary of the Navy; and that no persons in the country were more astonished at what they found afterward had been done in matters pertaining to their respective Departments than were the heads of those Departments. Mr. Harvey, I am satisfied, acted

under the impression, as I have stated before, that he was doing what was considered to be the best for the Government, carrying out what he had reason to believe was the peaceful policy of the President of the United States.

Mr. CAMERON. Mr. President, the Senator from Maryland has just made a most remarkable assertion, namely, that Mr. Seward conducted the War Department——

Mr. JOHNSON. Without your knowledge, I mean, in some particulars.

Mr. CAMERON. I do not think he did, with or without my knowledge; and I think I have sufficient manliness to know that if I had caught him at it he would not have committed an act of interference with me more than once. That Mr. Seward did meddle outside and talk a great deal about what he did I dare say may have been the case; and he may have said very often to the Senator from Maryland things which probably were not exactly correct. That I know nothing about. If he told him what the Senator has just stated he certainly said what was not true. I say this openly here, and of course he will hear it.

Now, as to Mr. Harvey; I know he was not employed by the Administration. He may have been employed by Mr. Seward in his policy of ending the war in sixty days. I never believed that by temporizing or flattering or coaxing the rebels you could make peace. I believed then, as circumstances have since proved, that the only way to end the war was to treat them with the most perfect rigor.

As to what the Secretary of State may have done with the Navy Department I know not, but I do not believe he had anything to do with the management of Mr. Welles' Department.

Now, sir, I think the better way to settle this business about Mr. Harvey is to pass a resolution asking Mr. Seward if he did authorize Mr. Harvey to give that information to the Governor of South Carolina at that time. I think that will settle the question.

Mr. HENDRICKS. I should like to ask the Senator from Pennsylvania a question, with his permission, whether the information communicated with regard to the views of the Cabinet was correct?

Mr. CAMERON. That I am not able to state just now, because the policy was changed.

Mr. HENDRICKS. I understand so; but was the information as communicated by Mr. Harvey true as to the state of the opinion of the Cabinet at any time?

Mr. GRIMES. Mr. Harvey denies having communicated it.

Mr. HENDRICKS. I am not particular about that; but the Senator from Pennsylvania recollects having seen the dispatch, and now I want to know the material thing, whether that dispatch correctly represented the opinion of the Cabinet?

Mr. CAMERON. The Senator from Pennsylvania is not willing just now to give an opinion on that subject.

Mr. HENDRICKS. I will ask the question of the Senator from Pennsylvania, and he can do precisely as he likes about answering it, inasmuch as he has given a part of the conversation between him and the President upon this question. He stated that he took that dispatch to the President, and the President expressed some surprise about it. Now, in addition to that, I want to know of the Senator, who was a member of the Cabinet, whether that dispatch did not truly represent the judgment arrived at by the Cabinet?

Mr. CAMERON. I have already said that the policy of the Cabinet in regard to that matter was changed; at a certain time it was one policy, and at another time another; so that I cannot answer the Senator's question; nor do I think I would do so if I could. It is a Cabinet secret which it is not my business now to communicate.

Mr. JOHNSON. It was very far from my purpose to do injustice to him who was Secretary of War at that time; and under no circumstance would I do anything like injustice knowingly to the honorable member from Pennsylvania. I did not mean to say, and I do not think I said, that the War Department was carried on without the knowledge of the then Secretary of War. I am sure it was not, and I am equally certain that every time he found the Secretary of State, or any other member of the Cabinet, if there was any other who was interfering with the proper province of his Department, he rebuked it as it deserved. What I intended to say was that a great many things were done through the Secretary of State which properly belonged to the War Department, without the knowledge, at the time they were done, of the head of that Department.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions adopted at a meeting of the Union League of Greenville, Hudson county, New Jersey, approving the action of the Senate in restoring Secretary Stanton to his position in the War Department, and the conduct of General Grant in his prompt withdrawal from the position of Secretary of War *ad interim*; which were ordered to lie on the table.

Mr. FESSENDEN presented a memorial of late officers of the armies of the United States, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented two memorials of late officers of the armies of the United States, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which were referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition of Maria Schweitzer, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SUMNER. I also offer the petition of the colored people of the Commonwealth of Kentucky, assembled in convention, and who now address Congress through their delegates—the petition being signed by W. F. Butler, as president, and R. G. W. James, as recording secretary—in which they petition Congress to grant to them the right of suffrage. They set forth that in Kentucky they are not permitted to testify in the courts of the Commonwealth against white persons, and that in consequence many persons who commit murder, rape, arson, and all manner of outrages upon the colored race are permitted to go unpunished. They then further represent that inasmuch as the Constitution of the United States has abolished slavery everywhere within the jurisdiction thereof, so that all conditions, laws, or regulations growing out of the same are null and void; and inasmuch as the same Constitution, in another provision, declares that no State shall make or enforce any laws which shall abridge the privileges and immunities of citizens of the United States; and inasmuch as Congress is empowered, by appropriate legislation, to enforce these several provisions, which they believe cannot be done without securing the elective franchise to the citizens of color, on that account they ask the action of Congress. They further ask Congress to declare practically the principles of the Declaration of Independence, which promise the equality of all men, and also to carry out the guarantee of a republican form of government, which is one of the special provisions of the Constitution of the United States. They ask that Congress shall, by virtue of these various powers, proceed to enact laws, or if, in their judgment, it be better, to amend the Constitution so as to secure to every citizen in Kentucky who may have been a slave or is the descendant of a slave, or by reason of race or color is deprived of equal rights, the liberty to vote at all elections for members of Congress, for presidential electors, for representatives in the State Legislature, and for all State, city, town, and other officers of every kind, and upon the same terms and considerations as white citizens of the State are now or may hereafter be allowed to vote.

In presenting this petition I desire to say that, for one, I have never seen any argument or any answer meeting these points. I know there have been various attempts sometimes; I do not know that any has ever been made in this Chamber, but there have been various attempts somewhere to meet the arguments of these colored people. I am glad to say that I believe their arguments cannot be answered, and that under the Constitution of the United States they are entitled to have their prayer granted by Congress. I move the reference of their petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. CONKLING. I present the memorial of William W. Wood and John L. Lay, stating that they are the inventors of the improved torpedo and apparatus for applying and exploding the same, by which the rebel ram Albemarle was destroyed. I know one of these memorialists. I know him to be a man of merit. I move that the memorial be referred to the Committee on Naval Affairs, and I venture to express the hope that it will have, as I know it will have, an attentive hearing.

The motion was agreed to.

Mr. SHERMAN. I present the petition of a number of officers of the schooner Arago, employed by the Coast Survey, praying to be reimbursed for losses of personal property, caused by the sinking of the schooner Arago in the river Neuse, on the coast of North Carolina, while they were in the discharge of their official duties. It is an ordinary case of loss by the perils of navigation. They set out specifically the relief they are praying for, and the property that was lost. They say that a like loss in the naval service would be promptly compensated by a general law, and the same privileges ought to be extended to the Coast Survey. As this relates to matters of commerce, I move that the petition be referred to the Committee on Commerce, with a view to have some legislation on the subject.

The motion was agreed to.

Mr. RAMSEY presented the petition of Clinton G. Stees, praying that he may be reimbursed for expenses incurred in recruiting two volunteer regiments under the President's proclamation, during the late rebellion; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented a petition of J. W. Medberry, praying compensation for property taken from him by officers of the United States Government on or about the 1st of January, 1865; which was referred to the Committee on Claims.

Mr. MORGAN presented the memorial of marine insurance companies, steamship companies, and others, praying a removal of the obstructions which impede the navigation of the East river approach to New York harbor at Hurl Gate; which was referred to the Committee on Commerce.

Mr. SPRAGUE presented the petition of Lieutenant Henry A. Bartlett, of the Marine corps, praying to be reimbursed for losses sustained by him by the wreck of the United States steamer Sacramento in June last; which was referred to the Committee on Naval Affairs.

Mr. CAMERON presented three petitions of citizens of Philadelphia, publishers of weekly newspapers in the county of Philadelphia, Pennsylvania, praying relief from unequal taxation in the rates of postage on weekly newspapers; which were referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred

the petition of J. F. Caldwell, submitted an adverse report thereon; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the joint resolution (S. R. No. 109) authorizing the Secretary of the Treasury to issue an American register to the bark Golden Fleece, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of H. and S. French, reported a joint resolution (S. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary; which was read, and passed to a second reading.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 362) to amend the usury laws of the District of Columbia, reported it with an amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Emma M. Moore, widow of Commodore E. W. Moore, deceased, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred a petition of citizens of Iowa, praying that a pension be granted to Orson Young, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 332) granting a pension to John W. Harris, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Moses Olmstead, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

He also, from the same committee, to whom was referred the petition of David D. Porter, vice admiral United States Navy, praying for the grant of a pension to the widow and children of Major D. P. Heap, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Emily Hooe, widow of Brevet Major Alexander T. Hooe, reported adversely thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with an amendment:

A bill (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry;

A bill (H. R. No. 411) for the relief of Almira Wyeth;

A bill (H. R. No. 518) granting a pension to George F. Gorhan, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 522) granting a pension to W. W. Cuningham;

A bill (H. R. No. 523) granting a pension to James S. Todd; and

A bill (H. R. No. 524) granting a pension to Austin M. Partridge.

He also, from the same committee, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 152) for the relief of the widow and children of Henry E. Morse;

A bill (H. R. No. 246) granting a pension to Milton Anderson;

A bill (H. R. No. 257) for the relief of James L. Dickerson;

A bill (H. R. No. 258) for the relief of Mary E. Craig;

A bill (H. R. No. 280) to grant a pension to Margaret Huston;

A bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers;

A bill (H. R. No. 519) granting a pension to Eliza J. Rennard, widow of William K. Rennard, deceased, late a private in tenth Ohio volunteers of the war of 1861;

A bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-rolls;

A bill (H. R. No. 526) increasing the pension of Susan A. Mitchel; and

A bill (H. R. No. 455) granting a pension to David Van Nostrand.

He also, from the same committee, to whom was referred the petition of Rosa Lenker, submitted a report, accompanied by a bill (S. No. 381) granting a pension to Edward Hamee, minor child of Edward Hamee, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Obadiah T. Plum, submitted a report, accompanied by a bill (S. No. 382) granting an increase of pension to Obadiah T. Plum. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Susan Overlees, submitted a report, accompanied by a bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

RULES OF THE SENATE.

Mr. ANTHONY. The select committee appointed to revise the standing rules of the Senate have instructed me to make a report, which I ask to have printed. This report has been delayed somewhat, partly on account of the constant occupation of the members with other committees. As the period of the session is now approaching when the inconveniences which made, in the judgment of the Senate, a revision of the rules of the Senate necessary, are certain to arise, I shall, as soon as Senators have had an opportunity to examine the report, ask the indulgence of the Senate to call it up.

The PRESIDENT *pro tempore*. The order to print will be entered, no objection being made.

COMMITTEE SERVICE.

Mr. EDMUNDS. I ask the Senate to excuse me from further service upon the Committee on Public Lands. The pressure of my duties on two or three other committees, of one of which I am the chairman, takes so much of my time that I am entirely unable to give the attention to the business of the Committee on Public Lands that its great importance deserves; and I feel that it is due to the Senate and to that committee also that I should be excused, and that my place may be supplied by some one who can attend the meetings of the committee and aid in its important business.

The question being put, Mr. EDMUNDS was excused.

ABDUCTION OF A. M'DONALD IN CANADA.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if compatible with the public interest, a copy of any correspondence on the subject of the abduction of one Allan McDonald from the township of Moore, in Canada.

BILLS INTRODUCED.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 377) to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee. In the same connection I desire to present a letter of Hon. Connolly F. Trigg, United States district judge, which I ask to have referred to the Committee on the Judiciary with the bill.

The letter was so referred.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 378) organizing a commission for the examination and decision of claims in the War Department; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. YATES asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 379) for the relief of Thomas Wolfe, of Macoupin county, Illinois; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 380) to amend an act to modify certain laws imposing duties on imports, and for other purposes; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 384) to provide for the registration of electors in the Territories of the United States; which was read twice by its title, and referred to the Committee on Territories.

ORDER OF BUSINESS.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the resolution that was under consideration in the morning hour the day before yesterday, for completing the publication of the report of the Surgeon General.

Mr. CONKLING. There is an amendment to be offered to that, I will suggest to the Senator, and the morning hour has almost expired.

Mr. ANTHONY. I presume it will lead to no discussion; I suppose it will be passed in five minutes. I think there is no amendment to be offered to which the committee will object.

Mr. CONKLING. I have an amendment to offer. I do not object to taking up the resolution.

Mr. ANTHONY. I only wish to say about it that all resolutions ordering public printing ought to be considered immediately for the public economy and public convenience. I have no particular desire about this matter.

The PRESIDENT *pro tempore*. The morning hour having expired, House bill No. 214 is before the Senate.

Mr. ANTHONY. Will the Senator from Illinois give me five minutes?

Mr. TRUMBULL. What is it about?

Mr. ANTHONY. A resolution in regard to printing the Surgeon General's report. It is in type, and this matter ought to be settled.

Mr. TRUMBULL. I have no objection to the special order lying over informally if a vote can be taken on the resolution.

Mr. CONKLING. I wish to say to both Senators that there is a matter connected with this resolution which will take some little time to adjust. I am quite willing to have it taken up now, but not with the understanding that we shall act upon it without debate. There is a matter of substance that ought to be arranged.

Mr. ANTHONY. How long does the Senator wish to occupy?

Mr. CONKLING. Personally, but a very few minutes. I wish to offer an amendment, and I wish to explain it; and one or two other Senators want to make a suggestion about it.

Mr. TRUMBULL. That being the case, I trust the Senator from Rhode Island will not press it.

VOTING IN UNRECONSTRUCTED STATES.

The PRESIDENT *pro tempore*. The bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," is before the Senate as in the Committee of the Whole. The pending question is the motion of the Senator from Kentucky, [Mr. DAVIS,] to recommit the bill to the Committee on the Judiciary, with instructions to report a bill repealing all the reconstruction laws passed by Congress. On this question the Senator from New York is entitled to the floor.

Mr. CONKLING. Mr. President, the Senator having this bill in charge has ushered in its consideration by a somewhat particular narration of the positions held by the two Houses and by individual members of this body upon a question which he seems to regard as identical in all its bearings with the one now presented. The Senator read from a newspaper some criticism upon himself, alleging, if I understood it aright, that there was cause of blame in the fact that the bill had passed the House of Representatives on the 18th of December last, had been referred to the committee of which he is chairman on the 19th of December, and had but now been reported back to the Senate. In connection with this statement he read from the Globe repeated lists of the yeas and nays, showing how Senators voted upon a question which he treats as identical with this. I confess I did not understand the purpose of the Senator in these citations. I could hardly see how they met the newspaper allegation or the fact upon which it was founded; and I am sure the Senator did not intend to convict of inconsistency those of his party associates who, having voted for a particular feature of the act of March 23, may now support this bill. I feel equally sure that he did not intend to repel votes from the bill before us by directing attention to an allegation that one half the Senate recently and deliberately held a position in conflict with the pending measure.

Mr. TRUMBULL. The Senator has not stated the portion of the article to which I replied. The part of the article to which I replied stated that I would vote individually against the proposition allowing a majority of those voting to control the question. It was that I replied to.

Mr. CONKLING. I have the extract before me, and I confess I do not get that idea from it.

Mr. TRUMBULL. I made no allusion to the action of the Judiciary Committee.

Mr. CONKLING. The extract the Senator read is this:

"Mr. TRUMBULL has kept the bill"—

Referring to this bill—

"in committee for over three weeks without asking any action on it."

Mr. TRUMBULL. The Senator will allow me to interrupt him again. I do not think I read that.

Mr. CONKLING. It appears in the Globe.

Mr. TRUMBULL. I see it does, but I read the portion that referred to myself. The reporter took the paper out of which it was cut, and has published more of the article than I read.

Mr. CONKLING. The Senators on both sides of me, the Senator from Wisconsin [Mr. DOOLITTLE] and the Senator from Nebraska, [Mr. THAYER,] concur with me in saying that they not only heard but remarked the portion which I now read. It is not very important, however.

Mr. TRUMBULL. I wish not to be misunderstood about it. Of course I do not remember precisely how much of the article I read, but I read it for the purpose of commenting upon the part that related to myself. I made no remark in reference to that part of it which referred to the action of the Judiciary Committee, and I think the Globe will show that. If you look at it you will see that I made no allusion whatever to any portion of the article except that which related to myself.

Mr. CONKLING. I understand the Senator, then, to have read it in reference to this statement:

"Mr. TRUMBULL'S course is accounted for by his known opposition to the bill, and his action may result in an open outbreak."

That is an allegation that the Senator is now opposed to this bill, opposed to the bill before us upon the present state of facts; and I must still confess my inability to see how even the Senator's own record made upon the act of March 23, and much less the record made by his associates on that occasion, bears upon the point. However, sir, I make no point upon the recitation of these records, but I think it is fair to complete the history of this matter, to the end that justice may be done to all alike.

The bill which became a law on the 23d of March was a House bill. It was referred on the 12th of March to the Judiciary Committee of this body, and by that committee it was reported back with a provision that a majority of all the registered votes should be necessary to ratify a constitution. It was reported back by a committee which deemed that a proper and expedient provision, and the Senator from Illinois, as a member of that committee, reported and agreed to that provision. I will state the authority on which I make this statement, lest I may be suspected of indulging in a practice which I have learned with some surprise is not a stranger here. I heard, a day or two ago, a statement made on the floor as to my vote and my action in the Judiciary Committee touching the case of Mr. Thomas. I had not understood that it was the privilege of any member of a committee to state in the Senate the position taken or the arguments adduced by others in committee. However that may be, I do not venture upon it; but I call attention to the Globe, where the record of this matter appears. When the bill of March 23 was under consideration the Senator from Maine asked the Senator from Illinois this question:

"Mr. FESSENDEN. I ask him whether, when he reported this bill, he did not understand himself as reporting that on the adoption of the constitution a majority of the registered votes should be required?

"Mr. TRUMBULL. I did.

"Mr. FESSENDEN. I should like to ask the further question: did he understand himself, when he was doing that and supporting that idea, that he was obstructing reconstruction, which he now accuses everybody else of?

"Mr. TRUMBULL. I understood the bill to require a majority of all those registered to vote in favor of the ratification. That was the House bill."

So it was, Mr. President, the House bill, and the Senator and the other members of the committee might have felt constrained to agree to it in all its parts in order to prevent the necessity of sending the bill back to the House of Representatives. I say they might have done so, but in this case no such thing is true. I have here the original bill as it came from the House and the bill as it was reported back by the Judiciary Committee. The committee, so far from agreeing to this or any other proposition, in order to hasten the final passage of the bill and prevent the necessity of sending it back to the House of Representatives, made virtually a new bill throughout, reported it back with a recommendation that the whole bill of the House should be stricken out and a new bill, which appears in italics in the print before me, be submitted. Section four of the amendment proposed by the Judiciary Committee of the Senate was in these words:

"That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same duly certified," &c.

So that the Senate will see that it was the judgment of the committee, as an independent and original proposition, unconstrained by the fact that the House had taken ground one way or the other, that we should require in the establishment of governments in the rebel States the affirmative concurrence of a majority of the ascertained elective body. That was the proposition. It was supported, as I have a right to say, without appealing to the undisclosed proceedings of the committee, by every member of the committee who supported the bill. We came into the Senate, and the Senator from Massachusetts [Mr. SUMNER] moved, in order to make the requirement more certain, to introduce the words "and registered," to the end that there might be no doubt that a majority of those actually registered were required. I beg to turn to that amendment and the vote upon it:

"Mr. SUMNER." * * * * "I move in section four of the committee's substitute to insert the words 'and registered' after the word 'qualified' in line three; so that the section shall read: 'that if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified and registered as herein specified.'"

Thus he proposed to require a majority of the qualified voters, and also a majority of the registered voters if there could be any distinction in point of fact between the two. Upon that amendment a vote was taken, and I find that up to that time no division of the committee had occurred such as afterward was revealed, for among the yeas in favor of this amendment, to make it more certain, I find the name of the Senator from Illinois, as well as my own, and those of others who were acting together.

When the amendment spoken of yesterday was offered by the Senator from Indiana, [Mr. MORTON,] quite late in the progress of the bill, nearly a majority of the Senate voted in the affirmative, and the Senator from Illinois was one of those voting in the affirmative, and other members of the committee voted in the negative. The case, then, is this: a majority of the Judiciary Committee having perfected a bill and agreed to it, some of them felt bound to stand by it. Those who felt bound to stand by their action in the committee did stand by it, and those who felt otherwise did otherwise. Being one of those who voted for the proposition in committee, being one of those whose names have been read here as having voted for it in the Senate, I am one of those who believe now that the action of the committee was right and that my vote in the Senate was right; and in a very few words I will assign my reasons in part.

It has been said—and the remarks of the Senator from Illinois, although without any such intention on his part, take the same direction—that Congress committed a great blunder on this subject; a stupid blunder is the intimation in the newspapers—a blunder which, upon the facts as they then stood, it is extraordinary that any intelligent body of men should have fallen into. Let us see, Mr. President, how that is.

On the 2d of March last an act had become a law which divided the territory of the South into five districts, military districts, as they have been called, and a military police was provided, the object of which was to keep men from cutting each other's throats and burning each other's houses while they were engaged in constructing governments. It was a bill, as those who voted for it believed, demanded by considerations of humanity, and warranted by considerations inside and not outside of the Constitution. But a clamor went out against it. Why? Because, first, it was "unconstitutional." Of course! That was the be-all and end-all of the arguments which had for years been encountered by every measure asserting the national power.

But, more than that. It was said to be anti-republican, an absolutism. An honorable member of this body indulged himself in the remark that it was the government of the bayonet; the accusation was that we were erecting a despotism too manifest to be justified, too oppressive to be endured. The allegation was that the people of the South, groaning under the weight of the yoke to be imposed upon them, would "pant, as the hart pants for the water brooks," for civil government, for the rights of American citizens, the right not only to govern themselves, but to come here by representatives and be heard in the central Government and take part in the administration of the nation's affairs. It was said that they would leap at the opportunity of exchanging this hateful iron-heeled despotism for the constitutional rights of American citizens. Everybody did not believe that; but I want, if I can, to vindicate the act of the 23d of March, by showing that it was right when squared by both classes of public opinion on the subject of reconstruction.

If it were true, as was alleged on the one hand, that the whole southern community would rise up in aversion, in restive intolerance of military government, so called, and in love with

the opportunities to erect civil government, certainly no man acting upon such premises could be truly or even plausibly accused of obstructing the process of reconstruction because he required that one quarter of the political body should pronounce in its favor. Certainly he could not have been accused of hindering reconstruction if he had even insisted that one half of that ascertained elective body should be found by the forms of law to acquiesce in the establishments of government.

With a general wish to make haste in inaugurating regular State governments the provision as it stands, or even as it was first adopted by the House, would have been wholly harmless in every way. This is too apparent to be argued. The whole mass of the southern people were to flock to the ballot-box, we were told, and this, of course, would have disposed of all questions touching the particular proportion of votes required by the enabling act.

But, sir, the merits and the utility of this provision are not, in my estimation, to be looked for wholly, or even chiefly, in the direction to which I have adverted. Far from it. Seen from the opposite direction its merits are still more apparent. There were men who at the outset and all the time did not believe, as the Democratic press of the country would have had us believe, because Representatives from the South were not immediately, upon the cessation of arms, allowed to come here and make speeches and vote, that therefore and thereby we were starving or freezing the southern people or laying waste their fields. There were those who believed that the right of representation or the exercise of that right would not clothe nor feed nor warm a single human being, and who believed that in point of time the latest material want of the South was representation in this Chamber and the other.

There were those who believed that the southern people, conscious of their real condition and wants, were not, in truth, as eager for representation as northern politicians represented; that the Union people knew better than to hope for a solution of their troubles by gaining instantaneous representation, and that the rebels would positively forbid any plan of fair restoration.

Having, by rebellion and by unsuccessful rebellion, forfeited all their rights of life, of liberty, and of property, precisely in what measure or to what extent I will not stop to inquire, the insurgents suddenly found themselves in all things restored—life, liberty, and the pursuit of happiness, all were given back. No one was punished; no attempt at punishment was made, except that a few ringleaders were disqualified for two elections from voting and a few ringleaders were disqualified from holding office; and this was the only badge of blame attached to the authors of the greatest, guiltiest rebellion ever known in the lifetime of the human race. This seemed to some the most magnanimous spectacle of the kind in all history, and it seemed the duty and the mission of the southern people to plant, to sow, to build, to mend, to recreate, rather than to act as if the panacea for every woe was immediate representation in Congress.

But, besides the practical futility of the thing, there was another reason for doubting whether the southern people would make regaining representation their first chief business. There was great doubt about the truth of the assertion that, "accepting the situation," as we were told, in the phrase of the day, the people of the South did, they would come frankly, honestly, manfully to the point, at the first invitation or at any invitation, of reorganizing their governments upon the principle that a land ransomed by loyal blood shall be ruled by loyal men. Many doubted with good reason the willingness of the dominant classes of the South to accept any proposition which would lead to a just result. I will ask in a moment how the result has justified these doubts. Therefore, in the enactment of the 23d of March, a disposition was evinced to frame a law which in either event should be useful and efficient in its workings—an act which, if in truth the great body of the people of the South were ready to accept it, would stand in the way of no one's right, and which, if the reverse turned out to be true, would afford some safeguards and precautions.

The first thing, the foundation of all action with a view to popular reconstruction—and by that phrase I mean reconstruction to be carried on by the people generally who of right might participate in it—the first step in that direction was to ascertain and establish a basis of political population; to fix in some way the elective body by whom the work was to be done. How was this to be accomplished? By a registration, by making lists for future security and future proceedings, of all those entitled to take part in laying the foundations of government. How was this to be done, carefully, guardedly, and surely done? That is the important and urgent question now for those who would honestly and correctly judge whether Congress made a mistake in the provision which I am considering.

Let us see. Look at the case of Alabama. There was no difficulty there in accomplishing the registration. We will see in a moment why. But how has it been with the election just held in that State? Great interest attached to this election. It was the pioneer experiment. The eyes of the whole country were upon it. Great precautions had been taken to make it a fair election. One faithful general followed another in Alabama. The State was canvassed, and nothing left undone by the friends of restoration to guard and provide everything essential to a fair popular expression.

What is the result? Many have chosen to refrain from the polls; but what in other respects is the result? Twenty or twenty-five thousand men, it seems, entitled to the elective franchise, were excluded from the polls, kept away or driven away.

No such thing happened when the registration took place, and the only reason it did not happen then is to be found in the now abused provision of the act of 23d March. By that provision an inducement was created with the enemies as well as the friends of restoration to promote and aid full registration. A large body of men, dominant not only in numbers but in position and intelligence, would have it that thousands should not come to the polls and exercise the right which we had sought to guaranty to them. This exclusion might vitiate the election. Suppose, now, that for the purpose of hastening a result, for the purpose of rendering it certain that no election should be a failure by reason of absentees, we had in the beginning adopted a provision that a majority of the votes cast, however small that vote might be, should control and consummate the election, what do Senators think would have been the result upon the process of registration? Would it have been successfully and quietly effected as it has been in ten States?

You see, Mr. President, that the act of March 23 held out every inducement to all the white disloyalists who were allowed to register themselves to do so, and held out an equal inducement to the freedmen and the Union men of both colors to register themselves; held out every inducement to the disloyal population of the South to aid, assist, encourage all classes of men to put their names upon the register also. And why? To the end that with a large registration they might the better reap the advantage held out by the act, and be able, if, when the time came, they were disposed, and if it turned out that they could do so, to leave the election destitute of the number of votes required to make it effectual. With a provision in the beginning such as is now proposed, with the whole power placed in the hands of a bare majority of the votes actually cast, however small a fraction of the whole body of electors might participate, it may be doubted whether the motive for intimidating and preventing the helpless from voting would have been less than it is now, but there can be no doubt that such a provision would have been a most damaging blow at registration. The success in obtaining a fair registration under existing law is quite remarkable. It refutes, among other things, the extraordinary statements lately made as to disfranchisement.

I have before me a brief table, to which it will take but a moment to refer, showing the wholesome action of that provision of the act of March 23 which made it for the interest of all men, as well the partisans of reconstruction as the opponents of reconstruction, to swell the registry, to throw open the avenues, to give every man a fair opportunity. This table shows the white registration merely in the ten formerly insurgent States; I will read the returns for but two and hand the paper to the reporter. In 1860, the last year in which votes were cast under the old *regimé*, there were cast in Virginia 115,257 votes. Now there are registered in Virginia of white voters 116,988—a larger registration of white men, notwithstanding those disqualifications, which my distinguished friend before me, [Mr. BUCKALEW,] looking, as I think, through the prismatic colors of fancy, indulged himself in saying might go to 300,000 throughout the South.

Mr. BUCKALEW. Over that.

Mr. CONKLING. I beg to say to my friend that I do not believe it will reach 300,000 nor 200,000 nor 100,000 nor 50,000, and I think in proper time I shall be prepared to justify my faith on that point.

Mr. BUCKALEW. If the Senator will not deem it an interruption——

Mr. CONKLING. Not at all.

Mr. BUCKALEW. I wish to mention to him that there is a very important consideration which he overlooks, and that is the amazing change of the qualifications of suffrage introduced by the reconstruction laws. In Virginia and the other States under the reconstruction acts every male citizen over twenty-one years of age is a voter if he has resided in the State one year; whereas the constitutions of Virginia and the other States abound with disqualifications, both those which relate to residence and to other points. I have the constitution of Virginia here, and if the Senator will permit me I will read the clause.

Mr. CONKLING. I know its tenor.

Mr. BUCKALEW. If the Senator objects I will not read it.

Mr. CONKLING. I will not object; but I have, first of all, to thank the Senator for reminding me that we have enfranchised a considerable number of white men. I am obliged to him for the suggestion that, in place of seriously disfranchising and narrowing the basis of popular political power, we have, as he says, laid the foundations even broader and deeper than they were before, and have swept away a number of arbitrary disqualifications which shut out white men from the privilege of voting. The suggestion, however, is foreign to the point upon which I was engaged.

I stated that in Virginia 115,257 men, white men, voted in 1860; that in 1865, under the system called the Johnson policy, of which the distinguished Senator from Indiana [Mr. HENDRICKS] has become so enamored, as he understands it, there were cast in Virginia 42,095 votes; and that now, on this "narrow-minded," "illiberal," "despotic" registration, there appear in Virginia 116,988 white men—many hundred more than exercised the right of suffrage before the war, and more than twice as many as did so under the reign of Andrew Johnson. Take North Carolina: in 1860 there were cast 96,230 votes; in 1865, under the auspices of Mr. Johnson, only 41,000 votes were cast; and now there are registered in North Carolina 103,060 white men. In the other States the result is less marked, but sufficiently marked

in all, as will appear from the table I now send to the Secretary's table:

Table of the votes cast in the southern States at the elections of 1860 and 1865, and the number of white registered voters.

States.	1860.	1865.	White registered.
Virginia	115,257	42,095	116,980
North Carolina	96,230	41,000	103,060
South Carolina	†45,000	*19,000	45,751
Georgia	106,365	37,200	95,214
Florida	14,347	*4,000	11,100
Alabama	89,572	44,850	74,450
Mississippi	69,120	44,916	48,926
Louisiana	50,560	*28,000	44,732
Texas	*63,000	*28,000	*56,000
Arkansas	*54,000	*34,000	*33,000
Total	714,451	323,061	638,173

* In round numbers. † Estimated.

It appears from this table that there are in all these ten States only about seventy-five thousand less white voters registered than cast their votes in 1860; and it appears also that much less than one half the number of votes cast in 1860 were cast in 1865 at the elections held under the President's policy. The particular point, however, which I wish to illustrate, is that the act of the 23d of March, 1867, did its work well, performed effectually a wholesome mission by removing impediments and creating inducements in reference to registration. I wish to illustrate the point that if at that time we had adopted the idea that a majority of votes cast should be final and conclusive and that as the tree fell under that arrangement so it should lie, we should have offered bounty to every disloyalist in the South, whether disfranchised himself or not, to conspire with every other disloyalist to exclude all Union men of both colors from registration. Why? To the end that when they themselves came to cast their votes there should be the smallest element possible in opposition to them. Is not that plain to the apprehension of every Senator? And if it is, how have we blundered upon this question when the leading purpose was to place the men of the South, of both colors, in condition and position to stand by each other, and to take part from the first in the erection of that government under the shadow of which they were to stand? For myself I have nothing to take back on that subject. I voted in committee for the proposition as it stands in the law; I voted for it at all stages in the Senate; and if I had had then before me all the lights that are before me now I should have voted as I did.

Now, Mr. President, we have come a new stage in this history; a new phase is presented to us. Registration in all these States is completed. It has been accomplished not in full, not with the fullness which the Senator from Pennsylvania attributes to it when he talks of registration as showing the whole recognized or enfranchised political population of the South, because great numbers of disloyalists have refused still to embrace the opportunity to be registered; great numbers of Unionists have been unable to embrace that opportunity. Still, registration has been accomplished with some degree of fullness, and with some measure of fairness throughout all the insurgent States, and we come now to the next proof and trial of this system.

We find, as I said, in Alabama, as far as tidings have reached us, that under the inspiration of the Executive of the nation, united with the hostile action of disloyalists on the spot, by fraud, by force, by terrorism, at the late election great numbers, said not to fall short of twenty-five thousand qualified electors, have been hindered and prevented from the discharge of their political duties, and the exercise of their political rights. We find that in some counties no election more than a mockery was held, and the act of Congress and its guarantees openly trampled under foot. We find that in other places the election was little better than a caricature, a burlesque, a fraud. I am told that in one large county only one ballot-box was open for one day to accommodate the whole body of electors. And there were other acts of lawlessness equally flagitious.

In order to meet such dangers as these, in order to take from the men who stay at home and prevent others from going to the polls, and from those who destroy the form and substance of the election itself, the power to do so, it is proposed now to do—what? Having a basis to act upon, having ascertained by means of our registration the elective numbers of the South as far as we have been able, it is proposed to commit to that community on the same terms on which organized and peaceful communities have acted, the business of ratifying or rejecting their constitutions.

Is that the same question with the same bearings, and depending upon the same elements, as the one presented a year ago? Not at all, as I understand it; not at all, as the House of Representatives regards it, because, as we remember, and as we have heard from the reading of the record on yesterday, the House by majorities far more prevailing than were found here, insisted originally that a majority of all the registered votes should not only be cast one way or the other, as now required, but should be cast affirmatively, and now by a majority equally decisive, upon the present facts and upon this measure as it is presented, the House has pronounced in favor of applying to the future a different rule.

I confess I have doubt of the utility, at least of the efficacy even now, of this measure. I have doubt, looking at it as a mere practical question, whether we by any means close the door against danger when we provide that a majority of those who do dominate at the polls, and who do cast their ballots there, shall decide the elections, and the fate of constitutions. It is an experiment. It is thought by numbers of discerning persons, who have studied the subject, that the experiment is at least worth trying, that the probabilities are that we shall advance the cause of order and restoration by adopting this act. I am ready, therefore, to accede to the proposition; I am ready to try it as an experiment; and I hope earnestly that it will work out all the results which are promised; but I do so on considerations which have arisen since the passage of the act to which this is supplementary, and upon considerations which, I repeat, did not, in my judgment, at all enter into the prudent disposition of the question when it arose upon the original act. An experiment it is, but whether it succeeds or fails there is to be no failure in the cause which Congress has maintained since the military power of the rebellion was broken.

The American people, and the American people in Congress assembled are determined that the men who drenched the land with blood and covered it with mourning shall not resume their old sway. They are determined that the country, having been rescued from traitors, shall not be delivered over to traitors, but shall be preserved by friendly and faithful hands. And while I vote for this measure as an expedient which I hope will avail, I reserve to myself the right of doing hereafter, whatever, be it different from this or be it in addition to this, shall turn out to be necessary to protect the Union people of the South, and to preserve the Government and the country from the domination of men who have forfeited not only their right to dominate, but their right to be.

Mr. President, the Senator from Pennsylvania has offered an amendment which, if I understand it, provides that no vote shall be cast except by those who for ten days have resided in the immediate precinct in which that vote is to be cast. I ask the Senator if I am right in my understanding of his amendment?

Mr. BUCKALEW. I use the term "district," which is a general one. I copied it from the constitution of my own State.

Mr. CONKLING. Does the Senator mean by "district" a voting district?

Mr. BUCKALEW. Election district.

Mr. CONKLING. That is, the district for which a poll is held?

Mr. BUCKALEW. Yes. I presume the orders of the different commanders have something to do with the regulation of the districts. Generally, I presume, they are those that existed formerly in the States; but the commanders have the power to modify them.

Mr. CONKLING. I do not understand, in fact, that those controlling the matter have adopted the old districts at all. On the contrary, I understand the districts have been generally altered. The suggestion, however, which I wish to make to the Senator and to the Senate is this: we are told that by concert of action freedmen have been moved in large numbers upon the eve of the election in Alabama from one district to another, in order to displace them and deprive them of their right to vote. Of course, in addition to this, from ordinary motives men have moved, or removed more properly, from one district to another. But the speaking fact is, as we understand it, that organized efforts have been made, and made effectual by dismissing from employment or by offering employment elsewhere, to transfer men in considerable numbers from one district to another suddenly on the eve of the election, by which their votes have been lost. If this be true, I can hardly see how a ten days' provision is less likely to be abused than is the act as it stands now. Ten days is just as effectual for the transfer of any number of men with a view to depriving them of the right to vote as twenty days or thirty days would be. The provision in itself, when intended, as it is in the organized States, to operate against fraud, against repeated voting, is, no doubt, a good one. The constitutional provision in my own State is that every elector shall be a resident of the State for a year, of the county in which he votes for four months, and of the election district for ten days. The latter provision, I understand, is also in the constitution of Pennsylvania. It is a good provision, no doubt, in general. The question is, whether, if we apply it here to prevent fraud of a different species, we do not defeat the object in view. Some such provision may be well; but when we are legislating in view of the particular fact which I state it seems to me that we may render nugatory or may greatly impair the very provision that we adopt.

I did not intend, Mr. President, to extend my remarks so far; it seemed to me right, however, to say a word at least in my own behalf, in answer to suggestions so rife in regard to the supposed blunder made in this legislation, and the inconsistency of those who propose now, in the face of present facts, to change it. I do not think that inconsistency in political action is a charge about which any man need necessarily be nervous. Inconsistency is often wisdom. It must always continue often to be wisdom until man attains to infallibility and perfection. Therefore, if there were no changed state of facts, but only new light upon old facts, indicating the wisdom of a change, I should feel no nervousness or hesitation in making the change. But it so happens that the elements which enter into the question are themselves so far changed, the question itself is so different, as to render the legislation now proposed harmonious with that which has already received the sanction of Congress.

Mr. TRUMBULL. I have only to express my regret that the Senator from New York should have construed any remarks which fell from me as an attempt to show his inconsistency or to accuse him or anybody else of having made any blunder in the legislation which occurred in March last. I certainly made no such accusation. I charged nobody with inconsistency. I had two objects, which I stated, in view: one was to correct what I thought was a misapprehension; and to that I believe the Sen-

ator from New York has taken no exception. The misapprehension was this, as I read yesterday to the Senate:

"The House would not have had it so; from the beginning that body has protested against this clause requiring a majority of all the registered votes for ratification."

I read the proceedings of the House for the purpose of showing that the House, so far from protesting against the clause requiring a majority of all the registered votes for ratification, had insisted upon it by vote after vote, and that the Senate refused to agree to that, but put in a clause, at the instance of the Senator from Vermont, [Mr. EDMUNDS,] requiring less, which was, that a majority of the votes cast only should be necessary to ratify the constitution, provided at least one half of all the registered voters took part in the election. Now, a vote which is against the constitution goes to make up the number requisite to take part, according to the Senate amendment. The House insisted upon more than that: that there should be a positive majority of all the registered votes in favor of a constitution in order to adopt it. I corrected that misapprehension, or sought to do so, yesterday.

The other matter was more personal to myself, and grew out of some statements I had seen in the papers that I was opposed to this majority principle; that is, to allowing a majority of the votes cast to decide the question. In order to correct that misapprehension I read from the Globe to show my votes upon that point, to show that I had consistently voted, wherever I had had an opportunity, in favor of allowing the question of the ratification of the constitutions in the rebel States to be decided by a majority of the votes cast upon that question. I voted so on the amendment offered by the Senator from Indiana, [Mr. MORTON,] and we carried it by one majority, I think. I then voted against all amendments to change it. The Senator from New York seems to regard that as an attack upon his consistency, and makes an allusion to a remark made by me the other day, as if he had some desire to make a point upon me in reference to the explanation I had given in regard to my own course upon this subject. I certainly made no charge of blunder against the Senator from New York, no charge of inconsistency against him, and had no desire to make any such charge.

He further makes a complaint that it was not understood by him as the privilege of any member of the body to refer to what had occurred in committee, and refers to something that was said when the question in regard to Mr. Thomas's right to a seat was up; and evidently aims that remark, from the connection in which it is made, at me. Now, sir, I know nothing that should have called forth the censure of the Senator from New York; but I wish to say to him it is the first time I ever knew, when a report was brought into this body, that it was not proper to assume that the members of the committee were for it who did not disagree to it. I disagreed to that report, and if the Senator from New York means the allusion for me I will remark that I said nothing except what it was legitimate and proper to say. I had a right to assume that he agreed to the report unless he dissented from it. Any member of the Senate has that right. When a report of a committee is made, and no member dissents, it is legitimate and proper to treat as assenting to it every member who does not disagree.

Mr. CONKLING. Will the Senator allow me to make a remark?

Mr. TRUMBULL. Certainly.

Mr. CONKLING. The statement of the Senator was this: that the Senator from New York with another Senator, whom he named, carried that report in the Judiciary Committee. Now, while I did not mean to give him any offense at all, I say to him very frankly that I did refer to his remark, which surprised me. I did not understand, and I do not understand now, that it is my right to state with regard to the Senator what he carries or what he seeks to carry in committee; and, of course, if it be not my right to make that statement as to him, it is not his right to make it as to me. I took, however, not the slightest offense at it, and I merely alluded to it for the purpose of saying that I did not intend on this occasion or any occasion to state what took place in committee; that I was merely speaking from the record which the Senator had made himself in the Senate.

Mr. TRUMBULL. It was known and stated that two members of that committee disagreed to the report. I stated that in reference to myself. Of course it was legitimate and proper to assert that the other members were for the report and they must have carried it. It is not stating what is done in a committee to say that a report is carried by a majority of the committee when certain members dissent from that report.

Mr. CONKLING. No; but when the Senator picks out two Senators and says that they carried the report in committee I submit to him it is going a good deal further.

Mr. TRUMBULL. I submit to the Senator from New York that I do not see that it is going any further to assume that every Senator on a committee is for it that does not dissent, and he has a right to be counted for it and as carrying the report. When there is a division of a committee, and a portion of that committee come into the Senate and disagree to the report, those who do not disagree to it are legitimately and properly to be taken as assenting to it and as having carried it. That is my understanding, notwithstanding the censure of the Senator from New York.

But the Senator from New York goes further, and seeks to place me in the position of being against allowing a majority of the votes cast to settle the question of the ratification of a constitution, and refers to the Globe for the purpose of showing that I reported the provision as it came from the House on this subject in the form of an amendment; but the Senate will understand how that was. It was the House bill almost *verbatim*, with a number of immaterial amendments. It was thought better to have it in one. But this provision of the bill was reported as it came from the House. The Senator knows very well, if he has read my record, that I stated on that occasion—my attention was called to it—that I reported this because it was agreed to in committee. I report many measures, as the organ of a committee, all the features of which do not meet my approbation. Here is what I said:

"That provision of the bill I voted to change. It was thought best in committee not to do it; and I was for carrying out the views of the committee."

I was instructed to make the report as it was. I made it so. I was willing to vote for the bill with the House provision in it. I voted for the bill with the provision of the Senator from Vermont in it as it now stands in the law. I was opposed to that provision. I spoke against it. I voted against it. But, sir, I voted for the bill when I could not have it as I wanted it. I reported the bill from the committee with this clause in it, and I should have voted for the bill as it passed the House. Why, sir, there has not been a single reconstruction measure passed from the beginning that was just as I would have preferred to have it; but I have learned by my experience here and my experience in life that I cannot have things just as I would prefer them. I have learned that in a legislative body, in order to accomplish anything, we must be practical and have some deference and respect to the opinions of our associates, who know just as much as we do, and are entitled to their views as well as we are to ours. But I consistently voted and spoke upon every occasion when I had an opportunity to vote, and when I deemed it proper to speak—so often even that I was reproved for it—in favor of the majority principle. My position in that respect cannot be misunderstood; and my object in referring to it was to show that I had always thought that it was better to adopt the principle that a majority of those voting should decide the question.

But the Senator from New York was of a very different opinion; and now he says that it was right at that time to adopt the principle as it was adopted. I am not going to argue that over with him. I did not think it was right then, and I do not now. The Senator from New York thought so, and he said in very strong language why he thought so. I will now, as he has referred to this record, read what he did say on that occasion:

"I have failed entirely to discover where the House of Representatives made its blunder, when by a decided majority, the question being put and discussed, it insisted that, whatever else this bill should contain, it should not omit to require that a majority of that fraction of the people whose names are to be borne upon the registry shall assent to a restoration of representation. We all know that of the number of persons whom it is intended shall be registered by no means the whole in any State will obtain registration. We know that in most of the States a very large per cent. will not. And now the idea seems monstrous to me, that we are by the use of military agency to bring into relations with this Union any State in which, taking all sorts and conditions, black and white, loyal and disloyal, you cannot, even at the end of all these proceedings, obtain the consent of a majority of the registered people." * * * *

"I hope sir, for one, that this amendment will fail; and that if the language of the bill does not mean now, as the Senator from Maryland seems to think it does not, that a majority of the registered voters shall be required." &c.

It will be remembered that there was some doubt as to what the meaning of the bill was as it came from the House, the phrase being, "a majority of votes." It was contended by some, and suggested by the Senator from Maryland, that possibly nothing more than a majority of those voting might be required under the provisions of the bill as it was; and that was why I voted for the proposition of the Senator from Massachusetts, [Mr. SUMNER.] He proposed to insert the word "registered" to make it definite. I was in favor of making it definite, as I am always in favor of making every law distinct and definite, that there may be no misunderstanding about it. If we were to require a majority of all the registered voters I was willing to say so and make it clear, and obviate the doubt which was thrown upon the bill as it stood by the suggestion of the Senator from Maryland.

I should not have said this much on the present occasion—I had no idea of saying anything more in regard to this matter—but for the remarks which fell from the Senator from New York. I have no right to complain of his consistency or inconsistency. I said nothing about it the other day. I referred simply to my own course. I read the vote for the purpose of showing how I voted. I could have stated it perhaps without reading the other names; and if I had done that probably I should not have fallen under the censure of the Senator from New York; but inasmuch as I read the other names he seems to have regarded that as an attack upon his consistency. Now, sir, whether he was right at that time or not we discussed then. He spoke upon that subject then and so did I, and I am willing to leave it with the discussion that then took place. My judgment then was, as it now is, that the constitution should be submitted for ratification to a majority of the persons voting on that question. The Senator from New York then thought differently; but now thinks, under the changed circumstances that he relates, that it may be proper to submit it to a majority of the persons voting on the question. I shall be very glad indeed to have him vote with me now in favor of this bill. If he is satisfied with the course that he adopted last March in putting the feature into the bill which he is now willing to take out, that is for him and not for me. I have found in my experience often that it is necessary to change our legislation to meet the changing circumstances of the country, and I should have considered it no reflection upon me if I had thought proper to change my course in

reference to this matter if the condition of the country had been such, in my judgment, as to require it. Upon principle it seemed to me right that a majority of those voting upon this, as well as every other question, should decide it. I thought so then; I think so still; but I make no charge of inconsistency upon anybody else, nor of blundering against anybody else. Those terms were not used by me. I made no such insinuation against the Senator from New York or anybody else.

Mr. CONKLING. Mr. President, the Senator from Illinois, if he feels no unkindness himself, seems to suppose that some feeling of unkindness led me to say what I did. Not at all, sir. My point was and my point is this: some newspaper writer put at the Senator that a number of weeks had elapsed with this particular bill lying before his committee and he had not brought it forward. In responding to that, the Senator without intention, as I assume, made a statement clearly calculated to show, if it showed anything, that, while the Senator had been perfectly consistent throughout, his brother Senators, some of them, had been very unfortunate, to say the least. I do not think, as I said, the Senator intended to create that impression; but that was the fair deduction from his remarks; and in so far it was a contribution to this accusation which has been made in the country of the blunder that we had all committed.

Now, in response to that, I said, and I say again, and the Senator will not gainsay it, that the Senator from Illinois, the chairman of the Judiciary Committee, was, in committee, in favor of this provision as we reported it. We came here and stood by the bill, I believing, for one, that I was expressing not only my own judgment but his in the votes that I gave, and never discovered the contrary until after the Senator had voted with the rest of us upon the amendment of the Senator from Massachusetts and then voted in a different direction upon the amendment offered by the Senator from Indiana. That is my proposition, and that I say in the presence of the members of the Judiciary Committee and in the presence of the record of the Senator himself, who said that he agreed to that provision in the bill in committee—not merely that he agreed to report the bill, but that he agreed to that particular provision. That was the fact; and therefore I say that in the judgment of all of us at that time it was a good provision.

The Senator has read from my remarks made at the time. I reiterate them. I say, in my judgment, it was monstrous to propose at that time to set all this machinery in motion, and then to show that we were afraid to trust ourselves to the issue of being able to get one fourth of the registered population in favor of reconstruction, for the bill never required a majority of the registered votes. It required simply that a majority of the registered votes should be cast one way or the other, and that of that half a majority should be controlling; so that it need not necessarily have been the expression of more than one fourth. I stand by everything that I said in that regard; and, while I impute nothing to the Senator by way of intention, I repeat that I think his remarks were calculated to create an injurious and an incorrect impression as to the position which the rest of us had held.

Mr. MORTON. I move that the Senate now proceed to the consideration of executive business.

Mr. TRUMBULL. I trust not. Let us go on with the bill. I think the understanding was that we should vote on this bill. The discussion that has sprung up this morning probably will not continue.

Mr. MORTON. There are messages received from the President which I think it important for the Senate to consider without naming them.

Mr. HOWARD. I think so, too; and I hope we shall go into executive session.

Mr. SUMNER. There can be no question about it. Our executive session may be brief, and then we can proceed with the bill.

Mr. TRUMBULL. The understanding yesterday was that we should come to a vote on this bill to-day. If we go into executive session I apprehend we shall lose the benefit of our understanding.

Mr. FESSENDEN. If it is of more importance, in the judgment of the Senate, to proceed with business in executive session, of course the Senate will so decide, and will not be bound by any such understanding.

Mr. TRUMBULL. The Senator from Maine does not understand me as objecting to the decision which the Senate shall come to. I was only reminding the Senate that I thought the understanding was to vote on this bill to-day.

Mr. FESSENDEN. So it was, if they could get at it; but there may now be something else requiring attention at once.

Mr. TRUMBULL. I hope the Senate will carry out that understanding; but I certainly shall acquiesce very cheerfully in the decision of the Senate.

The motion of Mr. MORTON was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1867, and for other purposes;

A bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones; and

A bill (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business at half-past two o'clock, and after seven hours spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 21, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

INTERNATIONAL COPYRIGHT.

Mr. BALDWIN, from the joint Committee on the Library, by unanimous consent, reported a bill (H. R. No. 779) for securing to authors in certain cases the benefit of international copyright, advancing the development of American literature and promoting the interests of publishers and book-buyers in the United States; which was read a first and second time, and, with the accompanying report, ordered to be printed, and recommitted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PRUYN, by unanimous consent, was granted leave to present and have printed the views of the minority.

WASHINGTON'S BIRTHDAY.

Mr. WOOD. I rise to a privileged question. To-morrow will be the anniversary of the birthday of Washington, and I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WASHBURNE, of Illinois. I hope not. There are very many gentlemen who want to make speeches, and I hope they will have an opportunity to do so to-morrow.

Mr. WOOD. I accept that proposition instead of my own, that to-morrow shall be devoted to debate.

There was no objection, and it was ordered accordingly.

MORNING HOUR.

The SPEAKER stated the morning hour had commenced, and reports were in order (this being private bill day) of cases of a private character, beginning with the Committee on Patents.

HORACE SMITH AND D. B. WESSON.

Mr. JENCKES, from the Committee on Patents, reported back, without amendment, Senate bill No. 229, for the relief of Horace Smith and D. B. Wesson, or their assigns, with a recommendation that it do pass.

The bill provides that Horace Smith and D. B. Wesson, or their assigns, have leave to make application to the Commissioner of Patents for an extension of the letters-patent for improvement in repeating fire-arms issued to said Horace Smith and D. B. Wesson for the term of fourteen years from the 14th day of February, 1854, and reissued on the 10th day of October of the same year, in the same manner as if the petition for said extension had been filed at least ninety days prior to the expiration of said patent; and that the Commissioner be authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of the said patent.

Mr. JENCKES. I move the previous question.

Mr. WASHBURNE, of Illinois. I hope such a bill as this will not be put through under the previous question.

Mr. JENCKES. If the gentleman wishes an explanation I will withdraw the motion for that purpose. This bill is simply for the purpose of correcting a mistake of the patentees. It enables them to proceed and preserve their rights under the law in the same manner as if the mistake had not been made. That mistake was in registering an erroneous date in the application for an extension, so that when they came to file their application they found they were within the limit in which the law prohibits a petition being filed, that is to say, it was sixty days before the expiration of the original term of the patent, when the law requires it to be ninety days before its expiration. This bill simply allows the petitioners to go on before the Patent Office in the same manner as if the petition had been filed more than ninety days before the expiration of the original term. Of course the petitioners will have to give the notice required by law. They have to make out their case before they can have the extension to which they believe themselves to be entitled. There is no mode of correcting the mistake except by act of Congress. If no one wishes to discuss the matter, I demand the previous question.

On seconding the previous question there were—ayes 49, noes 24; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. SPALDING and JENCKES.

The House divided; and the tellers reported—ayes 67, noes 29.

So the previous question was seconded.

The main question was then ordered; and, under the operation thereof, the bill was read the third time.

Mr. JENCKES. I move the previous question on the passage of the bill.

Mr. SPALDING. Is this an application by an assignee?

Mr. JENCKES. No, sir; it is by the patentees themselves.

Mr. SPALDING. Strike out the word assigns and we will vote for it.

Mr. JENCKES. I have no objection to that. It is intended for the patentees themselves.

Mr. DAWES. Will the gentleman allow me to say a word?

Mr. JENCKES. Certainly.

Mr. DAWES. This is simply asking leave for the patentee to file his application in the

Patent Office, which he would have filed if he had not made a mistake as to the time when the application should be made.

Mr. SPALDING. We understand the mistake; but we want the application made in the name of the patentee and not the assignee.

Mr. DAWES. Why should it not be according to their own arrangement?

Mr. SPALDING. Because we do not think it proper to give it to the assignee.

Mr. DAWES. The rule of the Patent Office and the law permit the patentee to assign his invention to another and have the patent issued in his name.

Mr. SPALDING. I do not like to encourage speculation.

Mr. DAWES. A word further. Every man has a right to apply to the Patent Office for an extension of his patent, but he must apply ninety days before the expiration of the original term. This patent was marked on the outside with the date of one of two patents expiring at a particular day. The parties took that for their guide, not looking at the inside, and consequently failed to make their application in time. There were two patents, one of which expired before that time. All they ask is what was granted in the last Congress half a dozen times, leave to file an application which they would have been by law allowed to file if they had not made this mistake as to the date.

Mr. UPSON. At what time did the patent expire?

Mr. DAWES. I have not the exact date. The application was filed only a few days too late.

Mr. WASHBURNE, of Illinois. I wish to inquire if these parties have not already had the benefit of the patent laws as every other man has?

Mr. DAWES. No; they have not.

Mr. WASHBURNE, of Illinois. Not at all?

Mr. DAWES. No; they have had the benefit of the first issue.

Mr. WASHBURNE, of Illinois. That is enough.

Mr. DAWES. They have not had the benefit of the extension which the law allows.

Mr. WASHBURNE, of Illinois. Then let the law be repealed and let everybody come in. Why this special legislation?

Mr. DAWES. This is to correct a mistake.

Mr. WASHBURNE, of Illinois. Let the whole thing be wiped out.

Mr. DAWES. Would you not correct a mistake?

Mr. WASHBURNE, of Illinois. I do not know whether I would or not.

Mr. DAWES. Well, I would.

Mr. WASHBURNE, of Illinois. Let the report of the Committee on Patents be read.

The report was read. It sets forth the following facts: On the 14th of February, 1854, letters-patent were issued to Horace Smith and Daniel B. Wesson for an improvement in firearms, which letters were shortly afterward surrendered and canceled, and new letters issued to them, on an amended specification, on the 10th of October, 1854, and were subsequently assigned to the Winchester Repeating Arms Company, who are now the sole and exclusive owners thereof. Subsequently to that assignment O. F. Winchester, president of said company, for the purpose of seeing readily when said letters-patent would expire, indorsed upon the same "expires October 10, 1868," supposing the same to have been issued October 10, 1854, the date of the reissue, and inadvertently overlooking the date of the original issue of February 14, 1854. The said letters-patent had not been, until recently, remunerative; and when application was made to the Commissioner of Patents for the renewal of the same it was discovered that they would expire on the 14th of February, 1868, and not on the 10th day of October, 1868, as was indorsed on the same, and that it was too late to file the application for such extension "at least ninety days before the expiration thereof," as required by law.

The committee report that the letters-paten have not been remunerative, but are capable of being made so, and that there was no negligence on the part of their owners in making an application for a renewal.

Mr. JENCKES. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 38, not voting 63; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Baker, Baldwin, Banks, Barnes, Barnum, Beck, Blair, Boutwell, Boyer, Burr, Butler, Cary, Chanler, Churchill, Coburn, Cook, Cornell, Cullom, Dawes, Eckley, Eldridge, Eliot, Ferriss, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Higby, Hill, Hotchkiss, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Kelley, Kelsey, Kerr, Knott, Laflin, Lincoln, Loughridge, Lynch, Mallory, Marshall, Marvin, McClurg, McCormick, Mercur, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Myers, Newcomb, Nunn, Paine, Perham, Peters, Phelps, Plants, Poland, Pruyn, Sawyer, Sitgreaves, Starkweather, Stokes, Stone, Taylor, Twichell, Van Aernam, Van Auken, Ward, William B. Washburn, Thomas Williams, John T. Wilson, Wood, and Woodward—88

NAYS—Messrs. James M. Ashley, Beaman, Beatty, Bingham, Broomall, Buckland, Cobb, Covode, Eggleston, Farnsworth, Ferry, Hawkins, Holman, Hopkins, Chester D. Hubbard, Judd, Julian, Ketcham, George V. Lawrence, William Lawrence, Orth, Pile, Polsley, Price, Raum, Ross, Scofield, Spalding, Taffe, Trowbridge, Upson, Burt Van Horn, Van Wyck, Elihu B. Washburne, Henry D. Washburn, Welker, James F. Wilson, and Woodbridge—38.

NOT VOTING—Messrs. Adams, Allison, Bailey, Benjamin, Benton, Blaine, Bromwell, Brooks, Cake, Reader W. Clarke, Sidney Clarke, Dixon, Dodge, Donnelly, Driggs, Ela, Fields, Finney, Fox, Garfield, Griswold, Halsey, Harding, Hooper, Asahel W. Hubbard, Humphrey, Johnson, Jones, Kitchen, Koontz, Loan, Logan, Maynard, McCarthy, McCullough, Morgan, Morrell, Niblack, Nicholson, O'Neill, Pike, Pomeroy, Randall, Robertson, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taber, Thomas, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, William Williams, Stephen F. Wilson, and Windom—63.

So the bill was passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MARTHA M. JONES.

Mr. JENCKES, from the Committee on Patents, also reported a bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones, deceased; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The preamble states that the Commissioner of Patents on the 23d of February, 1866, on the petition of Martha M. Jones, administratrix of the estate of Samuel T. Jones, deceased, extended for the period of seven years from the 24th of February, 1866, letters-patent of the United States granted to Samuel T. Jones on the 24th of February, 1852, for an invention in the manufacture of white oxide of zinc, for which letters-patent were granted to him by the Government of Great Britain on the 23d of July, 1850; yet doubts exist as to the power of the Commissioner of Patents to grant the said extension of the expiration after fourteen years from the date of the foreign letters-patent.

The bill provides that the said extension of the letters-patent of the United States for seven years from and after the expiration of fourteen years from the date of said foreign letters-patent shall be valid and binding; and the power of the Commissioner of Patents to make the same is in all respects affirmed, and the said letters-patent of the United States are hereby declared to be, and to have been, by force of the certificate of extension thereon indorsed, duly extended for the period of seven years from the 23d of July, 1864.

Mr. WASHBURNE, of Illinois. Has this bill been printed?

The SPEAKER. It has not.

Mr. JENCKES. Let the report be read.

Mr. WASHBURNE, of Illinois. I hope the gentleman will not press this bill until it is printed.

Mr. JENCKES. I think I can explain it, after the report has been read, to satisfy even the gentleman from Illinois, [Mr. WASHBURNE.]

The report was read. It states that Samuel T. Jones, deceased, a citizen of the United States, obtained letters-patent of the United States bearing date 24th of February, 1852, for the invention of an improvement in the manufacture of white oxide of zinc; that he died in 1858, during the term of his original patent; that the petitioner, his widow and administratrix, made application for an extension of said letters-patent in due season under the law, prior to the expiration of the original term; that after a full hearing of the merits of the application before the Commissioner of Patents an extension of said letters-patent was granted by him for a further term of seven years from the 24th of February, 1866; that after the granting of said extension, it was discovered that the said Samuel T. Jones, in his lifetime, and prior to obtaining letters-patent of the United States for the said invention, had obtained letters-patent in England for the same invention on the 23d of July, 1850, which fact was unknown to the petitioner, and, so far as can be ascertained, to all parties interested for or against the extension of said patent and to the Commissioner of Patents; that in consequence of the existence of the said English patent, of a date prior to the American patent, doubts have arisen whether the Commissioner had jurisdiction over the application for said extension at the time when it was filed, heard, and granted as aforesaid, by reason of the provisions of an act in addition to the act to promote the progress of the useful arts, approved March 3, 1839, which required that when a patentee in this country has obtained foreign letters-patent of prior date for the same invention the American patent shall be limited to the term of fourteen years from the date of the publication of the foreign letters-patent; that the whole value of said extension is thereby in danger of being lost to said petitioner. Being satisfied of the value of the invention to the public, and of the propriety of its extension to the petitioner by the Commissioner; and also being satisfied that the failure to refer to the foreign letters-patent was entirely through inadvertence and mistake, and not with the intent to secure the benefit of the protection of an American patent for a longer period than the patentee was entitled to, the Committee on Patents recommend the passage of the accompanying bill validating the extension of the letters-patent and limiting the term thereof to the period to which it should have been limited, according to the provisions of the act of March 3, 1839.

Mr. WASHBURNE, of Illinois. I would like to have some explanation of this bill.

Mr. JENCKES. This is a bill to correct a mistake which was purely accidental. The committee was satisfied that the original patentee had made a very valuable invention for the manufacture of the white oxide of zinc. As was natural, he went first to that country where this manufacture was carried on to the greatest extent and there took out his patent. He went to England, and in the year 1850 obtained a patent there for his invention and put it into successful practice. He soon after returned to this country and made application here for a patent for the same invention; and in 1852 letters-patent were issued to him from the United States Patent Office. Those letters-patent were regularly issued, and are upon their face for the term of fourteen years from the date of their issue. A few years afterward the patentee died. When fourteen years from 1852 had expired his widow and administratrix made application to the Patent Office for an extension for the term of seven years, to which she was entitled under the law, if the

invention was genuine and was valuable to the public. After a severe contest that extension was granted; but neither at the time of granting that extension nor at the time of granting the original letters-patent was it known to the Commissioner of Patents that letters-patent had been granted in England prior to the date of the letters-patent issued here. If that fact had been known it would have been the duty of the Commissioner to antedate the American patent to the date of the English patent. He did not do so. It was proved conclusively to the Commissioner that the fact was not known to the petitioner here, the administratrix of the inventor. Hence, the extension was for the term of seven years from 1852. The act of March 3, 1839, provides that where a patent has been granted in a foreign country previous to the application for a patent in this country, the American patent shall bear the same date as the foreign patent, and the original term shall be for fourteen years from the date of the foreign patent.

Mr. WASHBURNE, of Illinois. This bill is not printed, and we cannot get anything like a perfect understanding of it from the reading of it in this confusion. I desire the gentleman from Rhode Island [Mr. JENCKES] to state whether the bill is not *ex post facto* in its operation——

Mr. JENCKES. Not in the least.

Mr. WASHBURNE, of Illinois. And whether the patentee or his representatives will not be able to collect back royalty for two years.

Mr. JENCKES. Not at all.

Mr. WASHBURNE, of Illinois. I hope the bill will be read again.

Mr. JENCKES. If the gentleman will listen a moment he will find all his objections answered. I can make an explanation which certainly ought to satisfy the gentleman. This petitioner, in order to protect her rights, was compelled to enter into litigation against infringers who had commenced the use of this invention after the death of her husband and during the term for which the patent had been extended. She was then for the first time advised, by the course taken in the defense, that the infringers would take the ground that the Commissioner of Patents had no jurisdiction over the application for the extension, because it was not filed within fourteen years from 1850, the date of the English patent, although it was filed within fourteen years from 1852, the date when the American letters patent were issued. This question has never received the decision of the courts. It arose in the celebrated telegraph case of Morse *vs.* O'Reilly; and the Supreme Court of the United States avoided its decision by saying that the patent, whether rightfully issued or not, was in effect during the time for which the infringement was claimed in that case, and that, therefore, that question was not necessarily involved in the decision. But this point in regard to the jurisdiction of the Commissioner does not appear to have been taken in that case at all. The point rests upon the provision of the patent law that no patent shall be extended after the term for which it was originally granted. This patent was not extended after the term for which it was originally granted, but was extended after the expiration of the term to which by law it shall have been limited. It is within the letter of one provision of the statute and within the spirit of the other, although not within its letter.

Now, this petitioner comes here and says, "Pass an act validating my patent exactly as it should have been at the outset, and as it should have been when the extension was granted, and I will surrender two years of the time for which I hold letters-patent; I relinquish the claim for the antecedent time and take the patent for the term for which, under the law, it ought to have been granted originally." That is the effect of the bill, and it is a just and meritorious measure.

Mr. WASHBURNE, of Illinois. I understand the gentleman to say that this bill will have no retroactive effect.

Mr. JENCKES. None whatever.

Mr. WASHBURNE, of Illinois. I think the gentleman is mistaken.

Mr. JENCKES. It cuts off one end of the term.

Mr. WASHBURNE, of Illinois. Will the gentleman object to inserting in the bill a proviso, that it shall not have any retroactive effect?

Mr. JENCKES. Certainly I will consent to a proviso that it shall not have any effect from 1850 to 1852; that is all it can be necessary to guard against.

Mr. WASHBURNE, of Illinois. I ask the gentleman how much this would add to every pound of zinc bought by the people?

Mr. CHANLER. It gives it to the people two years sooner and diminishes the price two years sooner.

Mr. JENCKES. If the gentleman will send the bill here I will add the proviso.

Mr. WASHBURNE, of Illinois. Very well.

Mr. JENCKES. I move to add the following proviso:

Provided, This act shall not operate during the period between the date of the English patent and the date of the original American patent.

I now demand the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JENCKES. I now call for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. CULLOM. I demand the yeas and nays.

The yeas and nays were not ordered.

The bill was then passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNIFORM SMALL COINS.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 781) to establish a uniform system of coins; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

MONTANA POST ROUTE.

Mr. CAVANAUGH, by unanimous consent, introduced a bill (H. R. No. 782) to provide for mail service between Fort Abercrombie, Dakota Territory, and Helena, in Montana Territory; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

RAILROAD LANDS.

Mr. HOPKINS entered a motion to reconsider the vote by which House bill No. 767, to regulate the disposition of lands that may be hereafter granted to aid in the construction of railroads, was recommitted to the Committee on Public Lands.

SAMUEL PIERCE.

Mr. PETERS, from the Committee on Patents, reported a bill (H. R. No. 783) for the relief of Samuel Pierce; which was read a first and second time.

The bill provides that letters-patent heretofore granted to Samuel Pierce on the 6th December, 1845, for improvement in stoves, and which was subsequently extended for the term of seven years 6th December, 1859, by the Commissioner of Patents, and which was reissued in two patents on the 3d December, 1860, numbered 136 and 137, so far as and to the extent of the improvement described and claimed in said reissued letters-patent No. 136, shall be extended for the term of seven years, commencing 6th December, 1866, and ending on the 6th December, 1873, for the benefit of said Samuel Pierce and his heirs and legal representatives, upon the condition hereinafter set forth. The Commissioner of Patents is directed upon the presentation of said patent, or in case of loss of a duly certified copy thereof, and the payment of the fees and charges provided by law, to extend said patent by making a certificate thereon of such extension in the usual manner in cases of extension by said Commissioner in the name of said Samuel Pierce, if, in his judgment upon full hearing, the same should be granted. The Commissioner is further directed to cause said extension, if perfected, to be entered upon the records of the Patent Office.

It is further directed the said patent so extended shall have the same effect as if originally granted for the term extending to the end of the term to which it is extended by this act; provided, however, that said extended patent shall be open to legal inquiry and decision in the same manner as if issued under the general law in relation to patents. It is provided, further, that all persons enjoying the lawful use of the improvement secured by said patent, and the purchases of any article made under said patent, may continue to use the same as if this act had not been passed. And it is still further provided, that all persons who shall have purchased said improvement after the 6th December, 1866, and before the day of the extension of said patent, shall be entitled to use the same without license under said patent, and that all persons who shall have made use of said patent between the time of its expiration and its extension shall be relieved from all liability therefor.

Mr. WASHBURNE, of Illinois. Read the report.

Mr. PETERS. I demand the previous question; after it is seconded the report can be read.

Mr. WASHBURNE, of Illinois. I have the right to have the report read.

The SPEAKER. Under what rule?

Mr. WASHBURNE, of Illinois. The universal rule that members of the House are not required to vote until they can hear reports read.

The SPEAKER. There is no rule authorizing the demand for the reading of a report if the gentleman who has charge of a bill demands the previous question.

Mr. WASHBURNE, of Illinois. I hope the previous question will not be seconded. This is voting through these patents on the double quick. We do not know how much we are taxing our constituents.

Mr. PETERS. I will inform the gentleman how much we are taxing them if the previous question is seconded.

On seconding the previous question there were—ayes 41, noes 32; no quorum voting.

Tellers were ordered: and the Chair appointed Messrs. PETERS and WASHBURNE, of Illinois.

Mr. CHANLER. I understand there is an impression that there are two reports on this bill. There is only one.

Mr. WASHBURNE, of Illinois. If there is only one we want that read.

The House divided; and the tellers reported—ayes 48, noes 50.

So the previous question was not seconded.

The SPEAKER. The morning hour has expired, and the bill goes over till Friday next.

FRAUDULENT MAIL CONTRACTS.

The SPEAKER. The Chair lays before the House the following letter from the Postmaster General, in regard to a matter discussed in the House yesterday:

POST OFFICE DEPARTMENT, *February* 21, 1868.

SIR: I have just read with astonishment a detail of some testimony in the Daily Globe tending to implicate me in a fraudulent connivance in letting contracts for carrying southern mails. I never heard

of some of the men named in this testimony before. No man has approached me with any such propositions as are indicated in the testimony. I never heard of such a project before. I never do business in that way or any of that kind of business. I ask a thorough, searching investigation not only into the matter indicated in that testimony, but into every other official transaction of the Post Office Department since I have been connected with it. I also ask that this investigation be open and public before the world. If this is the proper mode of presenting my wishes to the House of Representatives, I will be obliged if this letter can be laid before that body.

I am, very respectfully,
ALEXANDER W. RANDALL,
Postmaster General.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. PILE. I move that the letter be printed and referred to the Committee on Expenditures of the Post Office Department.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, obtained the floor.

Mr. DAWES. I ask the gentleman to yield.

Mr. WASHBURNE, of Illinois. I will yield only to two gentleman now. After the committee rise I will yield to all the others. I yield to the gentleman from Pennsylvania, [Mr. COVODE.]

JAIL IN THE DISTRICT.

Mr. COVODE. I desire to make a unanimous report from the Committee on Public Buildings and Grounds, which I desire to have printed and made the special order for Thursday next. It is a bill (H. R. No. 784) to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

Mr. WASHBURNE, of Illinois. I cannot consent to making it a special order.

Mr. COVODE. Then let it be printed and recommitted to the committee.

The bill was accordingly read a first and second time, ordered to be printed, and recommitted to the committee.

Mr. WASHBURNE, of Illinois. I now yield to my colleague, [Mr. INGERSOLL.]

HANNIBAL AND PEORIA PORTS OF DELIVERY.

Mr. INGERSOLL. I desire to have reported a bill which is in the desk of my colleague, [Mr. WASHBURNE, of Illinois,] ready to be reported. It is a bill (H. R. No. 785) to revive the second section of an act to establish Hannibal, Missouri, and Peoria, Illinois, ports of delivery. The object of the act of 1856 establishing these ports of delivery was to facilitate the building of certain railroads then in course of construction, so that the iron might be imported and delivered at those towns respectively, and taken out of bond from time to time as the railroads progressed, without being required to be taken out all at once at New Orleans, and the duty paid in gold there. In 1863 Congress passed an act authorizing the Secretary of the Treasury to discontinue certain ports of delivery in his discretion, and in the exercise of such discretionary power he discontinued Peoria as a port of delivery. At this time the Peoria, Toledo, and Logansport Railway Company are extending their road to Warsaw on the Mississippi, and have on the way from Europe some six thousand tons of iron. Unless this bill becomes a law the duty upon this iron must be paid in New Orleans, and the company would be obliged to pay the duty there immediately upon the arrival of the iron, in order that they might have the advantage of the high water of March and April to ship it without reshipment from New Orleans to Peoria. If this bill is passed the iron will be shipped to Peoria in bond, and the duties paid by the company on such portions of it as they desire to withdraw from bond from time to time as it may be required for completing the road.

Mr. WASHBURNE, of Illinois. One moment. I will state that my colleague asked to have this port in his district reëstablished. The committee declined to do it as a permanent thing; but for the reason stated they have prepared a bill reëstablishing it for two years, with which he is satisfied, and I presume there is no objection to the passage of the bill in that shape.

Mr. INGERSOLL. I presume not. The Treasury Department recommend it. We are now building railroads running from Peoria to the Mississippi river and need this port of delivery. In fact, it is indispensably necessary to facilitate the early and economical completion of the roads, and will impose the most trivial and insignificant outlay upon the Government.

Mr. WASHBURNE, of Illinois. I report back the bill with a substitute.

The SPEAKER. The substitute will be read, and the Chair will ask for objections, if any.

The substitute reported by the Committee on Commerce was read. It provides that the second section of the act of April 5, 1856, entitled "An act to constitute the cities of Hannibal, Missouri, and Peoria, Illinois, ports of delivery," shall be revived and declared to be in full force and effect for the term of two years from the passage of this bill.

Mr. DAWES. I object to the consideration of this bill unless I can have an opportunity to introduce a resolution.

Mr. INGERSOLL. Oh, I hope not.

Mr. DAWES. My friend from Illinois [Mr. WASHBURNE] yields to his colleague and he would not yield to me.

Mr. INGERSOLL. That is not my fault. If this bill is not passed soon it will be of no avail.

Mr. DAWES. Well, I withdraw the objection.

The substitute was agreed to. The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. Before moving to go into Committee of the Whole, I will say, in reply to the gentleman from Massachusetts, [Mr. DAWES,] that he desired to introduce a matter which had been already considered in the House, and which would give rise to discussion, in relation to the payment of contestants. I do not think I was unreasonable in declining to yield for that purpose.

Mr. DAWES. Let me say as a ryder to what my friend has said that he is entirely mistaken about the resolution which I propose to offer. It has not been considered in the House.

MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President were delivered to the House by Colonel WILLIAM G. MOORE, his Secretary, who also informed the House that the President had approved and signed the following bills and joint resolution:

An act (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river, and establish a post route;

An act (H. R. No. 127) in relation to additional bounty;

An act (H. R. No. 452) for the relief of Captain C. P. Johnson;

An act (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware; and

A joint resolution (H. R. No. 203) for reducing the expenses of the War Department, and for other purposes.

NAVAL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the naval appropriation bill; and pending that motion I move that, by unanimous consent, all general debate in the Committee of the Whole on the bill be closed in thirty minutes after the committee shall proceed to the consideration of the same.

Mr. WOOD. I hope the gentleman will extend the time. That is too limited a time to debate a bill of such importance.

Mr. WASHBURNE, of Illinois. There will be the five minutes' debate on everything.

The motion to close debate was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869.

The CHAIRMAN. If there be no objection the first reading of the bill will be dispensed with. The Chair hears no objection.

Mr. WASHBURNE, of Illinois. I only desire to say a few words, and then I will yield the floor to the chairman of the Committee on Naval Affairs, [Mr. PIKE.]

Mr. WOOD. I call for the reading of the bill.

The CHAIRMAN. The gentleman is too late.

Mr. WOOD. I think the usual course is to read the whole bill, and then read it by paragraphs for amendments.

The CHAIRMAN. The Chair asked if there was any objection to dispensing with the first reading, and the Chair heard no objection, and in the opinion of the Chair it is too late to call for the reading now.

Mr. WASHBURNE, of Illinois. Mr. Chairman, by reference to the last clause of the bill it will be seen that the amount appropriated by this bill is $18,096,045. The amount of the original estimates of the Secretary of the Treasury was $47,373,183 95. Afterward, as the committee knows, the Secretary of the Navy sent in a revised or amended estimate, as he calls it, calling for appropriations amounting to $24,924,478 03, himself making a reduction of $22,392,705 92; and the net reduction in the bill as reported, upon the reductions of the Secretary of the Navy, is $3,854,060. As the committee shall progress in the discussion of the various items of the bill I will give such explanations as I hope may be satisfactory; but I desire to state here that there is in this bill some new legislation, which, if the point of order is made, will undoubtedly be ruled out. The Committee on Appropriations knew that to be the fact, but to make up a bill cutting down the expenditures to a point to which they supposed they could be cut down without any injury to the public service it was necessary to couple the legislation which is in this bill with these appropriations. Let me say that if we adopt either the recommendations of the Secretary of the Navy in his amended estimates or the appropriations provided for in this bill it is equally necessary that this legislation shall be adopted.

I think there will be no objection to those sections, and I trust no gentleman will make the point of order on them. They are precisely the same as were introduced in a bill in the Senate of the United States by the distinguished gentleman from Iowa, [Mr. GRIMES,] so long the able and efficient chairman of the Committee on Naval Affairs. He deemed that this legislation was necessary in order that the expenses of the Navy Department might be cut down. I trust when we come to consider those sections there will be no objection to them.

Mr. KELLEY. Will the gentleman yield to me for a question?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. KELLEY. Can the gentleman inform us of the amount of unexpended balances in the hands of the Navy Department?

Mr. WASHBURNE, of Illinois. Yes, sir; I can answer that question. By referring to page 13 of the book of estimates the gentleman will find the amount of estimated balances of existing appropriations which will be unexpended on June 30, 1868, is $16,462,291 44. It is

stated that part of that will be required for the payment of the liabilities of the present fiscal year, but it will not be drawn from the Treasury until after June 30, 1868.

Mr. KELLEY. Will the gentleman say how much will probably remain unexpended when all demands shall have been fully met?

Mr. WASHBURNE, of Illinois. Probably there will not be a dollar. If the gentleman will refer to page 97 of the book of estimates he will see a statement of estimated balances of existing appropriations which will be unexpended on June 30, 1868, the total of which is given at the enormous sum of $114,778,472 25. It is estimated, however, that all of that sum, except $1,870,155 85, will be needed for the payment of the liabilities of the present fiscal year, though not to be all drawn from the Treasury until after June 30, 1868; and that amount of $1,870,155 85 will be carried to the surplus fund, under the act of May 1, 1820.

Mr. PAINE. I would inquire of the gentleman whether these unexpended balances would be taken to answer requisitions on the Navy Department, made in accordance with appropriations already made.

Mr. WASHBURNE, of Illinois. I will read from the letter of the Secretary of the Treasury to the Speaker of this House, which will answer that question. In referring to this matter he says:

"The estimated balances of existing appropriations which will be unexpended on June 30, 1868, part of which are required for the payment of the liabilities of the present fiscal year, but which will not be drawn from the Treasury until after June 30, 1868, as follows."

And then the items are given. There are liabilities existing under the laws which will not be drawn from the Treasury until after June 30, 1868.

Mr. PAINE. Are these payments to be made under appropriation laws?

Mr. WASHBURNE, of Illinois. They are to be made under appropriations already made by law. I now yield to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. I have no general remarks to make upon this bill, though I may desire to say something upon the items of the bill as they are read. I hold in my hand a letter from the Secretary of the Navy relating to the general provisions of this bill. That letter contains statements of fact which are of interest to every one who is interested in the Navy. I commend it to the attention of members, and ask that it be read by the Clerk.

The Clerk began the reading of the letter, and subsequently concluded it, as follows:

NAVY DEPARTMENT, *February* 14, 1868.

SIR: I respectfully invite your attention and that of the Committee upon Naval Affairs to some of the provisions of a "bill making appropriations for the naval service for the year ending 30th June, 1869," reported by Mr. WASHBURNE, from the Committee on Appropriations, and made a special order for the 18th of February.

As soon as it was ascertained that Congress was disposed to stop improvements and to reduce naval work at the navy-yards—to suspend labor on vessels that had been commenced before the close of the war, and were slowly being carried forward to completion—to cut down the service from fifteen thousand men, as authorized by the last Congress, to eight thousand five hundred men, the Department took prompt and efficient measures to make its estimates for the ensuing year conform to the new policy about to be initiated, and on the 22d ultimo I had the honor to transmit to the House of Representatives revised estimates of this Department conforming to this new policy, reducing the estimates submitted by the several bureaus which accompanied my annual report over twenty-two million dollars, and making the net amount asked for $24,924,473 03 on the basis of a depreciated currency. This amount is believed to be as low as the appropriations can be reduced in justice to the service or with economy to the Government, and at the true standard of value is not largely in excess of appropriations prior to the war, when we had not an extensive steam navy. To decline to make the necessary appropriations for indispensable improvements in the navy-yards, and especially to refuse to keep the buildings, docks, channels, wharves, and grounds in proper condition and repair, can be hardly considered good economy.

In the revision of the estimates submitted to the House of Representatives on the 22d ultimo (House Executive Document No. 111) the evident desire of Congress not to increase but to diminish the effective force of the Navy and to make no essential additions to the facilities for work in the navy-yards was considered. It is not believed by this Department that our squadrons upon foreign service can with just regard to our national character be reduced below their present limit and maintain the honor of our country and protect our commercial interests abroad. The annexed table will show the number, armament, and tonnage of vessels in squadron service in the month of January for four years preceding the recent rebellion and at the present time:

	Squadrons.	Vessels.	Guns.	Tonnage.
1858.	Home	6	132	9,007
	Brazil	3	76	2,709
	African	5	96	4,258
	Mediterranean	2	72	3,319
	East India	7	137	11,517
	Pacific	5	104	7,087
		28	617	37,897
1859.	Home	6	124	9,349
	Brazil	11	163	7,434
	African	4	76	3,558
	Mediterranean	2	62	4,541
	East India	4	82	8,246
	Pacific	6	127	7,745
		33	654	40,873
1860.	Home	13	238	14,378
	Brazil	6	63	3,252
	African	9	113	7,655
	Mediterranean	2	28	2,357
	East India	6	83	7,189
	Pacific	8	144	12,349
		44	664	47,280
1861.	Home	11	179	12,696
	Brazil	3	56	3,063
	African	8	95	6,792
	Mediterranean	4	38	5,722
	East India	5	65	5,024
	Pacific	7	104	8,152
		38	541	42,738
1868.	North Atlantic	10	99	9,188
	South Atlantic	7	65	7,948
	European	7	83	10,343
	Asiatic	12	96	11,830
	North Pacific	11	104	12,741
	South Pacific	6	50	6,775
		53	497	58,525

Included in the fifty-three vessels noted as in the squadron service upon the 1st of January last are six store and hospital vessels, besides the Mahaska, which can never again go to sea, and is used as a guard and living ship for officers and men in charge of iron-clads at New Orleans; also, the Yantic, which has been detained for months above the bar at Tampico; so that the effective naval force was actually 45 vessels, 451 guns, and 51,876 tonnage. All of the cruising vessels are steamers, though most of them can and do move with sails when speed or the circumstances of the case do not require steam. The expense of keeping the squadrons in commission is greater now than when nearly all the ships were sailing vessels, for fuel has become a large item of expenditure, and incidentally the depreciation of our currency adds largely to the expense, thereby necessarily increasing the estimates.

Besides the protection of our commerce and the advancement of the general interests of our countrymen abroad, with which our naval officers are charged, special services are constantly being required of them. Without refreshing my memory by an examination of the records, I may instance, as occurring within a few months, calls for naval vessels at Alaska, including an urgent appeal from the military authorities to have one or more permanently stationed there; a telegraphic request, seconded by General Grant, to send a naval vessel into the Gulf of California to release Government stores destined for our troops in Arizona, which were there detained by local Mexican authorities; a request for the location and survey of an island midway between California and Japan; for a vessel at the Sandwich Islands; a request from the British admiral in Chinese waters, seconded by Rear Admiral Bell, for a joint and special effort to suppress and punish piracies; to send to the Feejee Islands to enforce compliance with agreements which have been entered into; to inquire into the facts, and, if possible, rescue the survivors of wrecked merchant vessels from the savages of Formosa and also of Corea; to bring from a desert island in the Pacific the officers and crew of a wrecked whaling vessel; to send one or more vessels to St. Thomas to look after special interests; to the African coast to look after mutineers; to send a vessel for the protection of, and, possibly, to take on board our minister to Paraguay; to send additional vessels, in view of apprehended difficulties, to Aspinwall and Panama, at each of which ports one is constantly stationed, &c. To discharge all these duties and such others as are demanded by the Government the Navy must be in constant readiness, as, in every case, prompt action is required: vessels cannot be prepared and sent to the Pacific coast, to Asia, Africa, or Europe, and reach their stations in season to effectually meet emergencies after information has been received that the emergencies have arisen. It is only by the presence of naval vessels upon such occasions that our countrymen are saved from embarrassment and loss and the country often from humiliation.

In this connection it may not be out of place to refer to the foreign naval policy of Great Britain and other nations. During the last year Great Britain had in commission 320 vessels, 17 of which were armor-plated, having an aggregate tonnage of 350,000 tons, and a force amounting to more than 52,000 men. One hundred and fifty of these vessels were on home stations, including coast-guard, flag, training, and block-ships, but abroad there were 133 ships and nearly 22,000 men upon nine stations. Upon the coast of North and South America and in the West Indies there were 40 vessels; upon the west coast of Africa, 17 vessels; upon the Cape of Good Hope and Australian stations, 10 vessels; and the remainder, amounting to 76 vessels, in the Mediterranean and upon the China and East India stations. The number of seamen and marines authorized for the last year by the British Government was 60,700. The navy of France consists of 340 steamers, 40 of them iron-clads, and 136 sailing vessels. The number of sailors is 32,854, and the entire *personnel* of the navy 39,254.

The navy of Spain consists of 78 steamers, carrying 556 guns, and 35 sailing vessels, carrying 641 guns. The Spanish navy is being rapidly increased under a bill passed in 1860, at which time it had but 86 vessels, carrying 834 guns. The sailors and marines number 20,966.

The Russian navy in 1865 consisted of 258 steamers and 36 sailing vessels. Fifteen of the steamers are iron-clads, and several formidable vessels of this description have since been constructed. The *personnel* of the navy is over 60,000.

The smaller European Powers, and those even without large commercial interests, have extensive navies. Italy has 106 vessels, all steamers, carrying 1,468 guns, and 11,193 sailors. Austria has 39 steamers, carrying 639 guns, 20 sailing vessels, carrying 145 guns, and 13,991 men. Prussia is rapidly becoming a naval Power, having at the present time 98 vessels, some of them iron-clads, carrying 539 guns. Netherlands, in 1864, had 58 steamers, carrying 785 guns, and 81 sailing men-of-war, carrying 926 guns.

The appropriations which may be made by Congress will indicate whether our present naval force shall continue to be maintained or whether it shall be largely reduced and the vindication of our national honor and the protection of our commerce and countrymen abroad shall be left to such contingency or chance visitation of naval vessels as a small naval force at long intervals may permit. To preserve the Navy in anything like its present proportions it will be necessary to make the appropriations for "pay," "construction and repair of vessels," and "provisions and clothing" equal to the amounts named in the revised estimates by this Department, and which have also been indicated upon the accompanying bill.

It should be borne in mind that whatever wars we may hereafter have with foreign Powers will, in all probability, be of a maritime character, and our future battles are to be fought upon the ocean instead of the land, by squadrons instead of by armies.

I have upon several occasions, in my annual reports and otherwise, dwelt upon the necessity for increased accommodations in the navy-yards for building and repairing vessels of war. During the recent struggle our deficiencies were sadly apparent, embarrassing, and expensive. I do not propose to repeat the arguments so often urged. If we are wise provision will be made in time of peace for any contingency that may hereafter arise.

In view of the apparent disposition of Congress not to authorize permanent improvements in the navy-yards at present, as is evident by its refusal to make appropriations at the last session, and the fact that the estimates are this year stricken out by the committee, I shall not urge the retention even of such items as appear for this purpose in the revised estimates. We have less accommodations and facilities in all our navy-yards than are to be found in single dock-yards in Europe and France. The Department has twice indicated, in detail, improvements which are needed and the amounts required to place the yards in an efficient condition. It is for Congress to determine whether to make the necessary appropriations in accordance with those estimates, or to take upon itself the responsibility of restricting the yards to their present limited means for maintaining a Navy. If anything is to be appropriated the objects specified in the revised estimates are the most needed. I do advise, however, and urge that appropriations for repairs may be made in ac-

cordance with the estimates furnished. These estimates have been prepared with care at the different yards, and when the large number of buildings, wharves, docks, ships in ordinary, &c., are considered the amounts are not extravagant, and will, it is believed, favorably compare in point of economy with those of any maritime Power.

In the bill reported by the committee the estimates have been reduced about one half, and, in the opinion of the Department, the amounts are in many respects entirely inadequate to sustain the establishments and keep the property in repair. I do not believe it economy to commence or to partially repair buildings or other public property and leave it unfinished or not properly protected. I have accordingly indicated in the accompanying bill the amounts considered necessary, and I sincerely hope that the appropriations may be made in conformity therewith.

The estimates for the civil service of the several bureaus at the navy-yards have also been reduced about one half. The items entering into the estimates for the naval and civil service are all given in the reports of the several bureaus and in the "estimates of appropriations" prepared by the Secretary of the Treasury. What particular items the committee propose to strike out are not stated. The Department is furnished with no data. An arbitrary reduction, without basis and without consultation with the Department or regard for the service, appears to have been made. Unless the appropriations asked under this head are granted that thorough system of accounts and accountability necessary to protect the Government from loss by fraud, omission, and otherwise cannot be maintained. A noticeable instance of this reduction is found in the amount reported for the support of hospitals—the care of the sick and wounded of the entire Navy. The whole amount asked for all the hospitals is $72,365; but this has been cut down in the bill to $35,000. The items upon which the estimates are based will be found upon pages 216, 217, 218, and 219 of my report, and consist of small salaries, none of them over $1,000, and generally from two hundred and fifty to five hundred, for the services of nurses, washerwomen, laundresses, chambermaids, &c. At the Boston hospital $8,790 is divided among twenty-eight employés; at the New York hospital $12,076 is divided among thirty-nine persons; at Philadelphia $7,590 is apportioned between twenty-five individuals—the whole amount ($72,365) being the entire compensation of two hundred and nine persons. I cannot believe that it is the wish of Congress that any of our hospitals should be closed and the invalids turned adrift, or that by reducing the number of attendants the sick should not receive proper care, yet such will be the effect of the proposed reduction of the estimates if carried into effect.

There are many other items upon which similar comments might be made. I will allude, however, to but two or three—the amendments I have marked upon the accompanying bill sufficiently indicate their object. The estimate for books for war vessels is wholly omitted. They are as necessary a part of an outfit of a naval vessel as anything else placed on board. Naval officers are liable at any time to be called upon to act under treaties, local and international law, and must have the authorities at hand. An existing law provides that no more professors be appointed in the Navy. Those now in the service, whom it is proposed to dismiss, have a commission the same as other officers, and several of them have held it over a quarter of a century. Is it just to them to now abolish the office which they have had as much reason to suppose permanent as that of any other grade in the Navy? The "aids" to the Observatory (line 163) do not attach to the personal staff of the superintendent, but are the computers of the work done at the institution.

The estimates submitted at the commencement of the present session were made pursuant to law last October, and so far as the *personnel* of the Navy was concerned was based on the policy of the present and preceding year, which had received the sanction and approval of Congress.

The appropriations made by Congress one year ago were based on the employment of fifteen thousand men in the service. At that time there was no intimation from any quarter that a less number would be required, nor had there been any wish expressed that there should be a reduction of the force when the estimates for the ensuing year were made. Consequently, the policy of Congress and the Government, so far as it had been indicated, were made the basis of estimates by the Department and the bureaus. It did not follow that because estimates were made for the same force which Congress authorized one year ago that the present Congress would be prevented from decreasing or enlarging the number of men in the service. But being the number which Congress had authorized it was the proper basis on which to make the estimates that were to be submitted. When Congress convened it was supposed that consultation would be had with the Department, as heretofore, as to what the public necessities required, and what could be dispensed with, and that the appropriations would be made to conform to intelligent and specific results ascertained after such consultation.

No interviews or consultations, however, were had with the Department by the Committee on Appropriations, but a resolution of the House of Representatives, on the 25th of November, directing the discontinuance of work on new vessels at the navy-yards, and suggestions incidentally communicated from other sources, that the authorized force would be reduced from fifteen thousand to eight thousand five hundred afforded sufficient data to justify a revision of the estimates adapted to the new and reduced policy of Congress.

That reduction, like the original estimates, was carefully prepared on specific data, and the revised estimates embraced only such objects as are necessary, or the best interests of the country demands.

The policy of the Department since my connection with it has been to present full and fair estimates for necessary repairs and improvements, together with suggestions from the chiefs of the bureaus, the commandants at the several yards, and such other naval officers as were on duty, deemed worthy of consideration. It has been the steady aim of the Department to limit expenditures within the appropriations, and to avoid the expedient sometimes practiced of making restricted and narrow estimates, and resorting at a succeeding session to deficiency bills to supply the absolute necessities of the service.

Although the last Congress authorized by appropriations the enlistment of fifteen thousand men the Department, in the exercise of the discretion which was given it and a judicious economy in its administration, reduced the actual force four thousand below this number, and employed but about eleven thousand men.

I may add that large appropriations were made by Congress for the construction of vessels in the last years of the war, but on the suppression of the rebellion and the restoration of peace I deemed it inexpedient to carry forward to immediate completion the work which had been commenced with the sanction of Congress. In consequence of the reduction and stoppage of work which took place from this action of the Department large unexpended balances remained in the Treasury at the close of the fiscal year ending June 30, 1866. In my annual report, December 3, 1866, at the commencement of the second session of the Thirty-Ninth Congress, I called attention to the subject of these large balances on hand, and stated that "it is not believed to be in accordance with sound public policy in time of peace to continue such large amounts at the disposal of the Department"—that "it has heretofore been deemed essential to correct administration that there should be annual estimates for proposed expenditures and specific appropriations therefor, after examination by Congress, and this Department has no desire to evade this annual scrutiny."

Congress took no notice, however, of these suggestions, but continued the funds in the hands of the Department without legislative action. In consequence of this omission or neglect of Congress and of my continued conviction of the impropriety of retaining so large an amount of money subject to the control and at the disposal of the Department, I, on the 30th of September last, requested the Secretary of the Treasury to carry to the surplus fund $65,000,000, being the avails of sales of vessels and other war property and the balance of appropriations already referred to.

On what data or basis the appropriations proposed by the committee are made, and for what specific purpose many of them are to be expended, the Department is unapprised. The Committee on Appropriations have had no consultation or conference with the Department on the subject, nor does the act itself specify in many particulars.

I have deemed it my duty to call your attention, as chairman of the Committee on Naval Affairs, to the impolicy of impairing and crippling the public service, as proposed in the bill reported by the committee. The Department has no personal ends to serve in seeking to have suitable appropriations made—only the best good of the country and the keeping of that arm of the military service with whose administration I am charged in condition to maintain everywhere and upon all occasions the honor of our flag and the interests of our country, has been considered. If Congress withholds the means, and the power and efficiency of the American Navy is thereby impaired, I shall at least have the satisfaction of reflecting that it is through no neglect of mine; and if upon a change of Administration it shall be said, as was remarked soon after the last ministerial change in Great Britain, that "the present Government upon taking office were alarmed when they saw the appearance of decrepitude which our national defenses bore—everything had been apparently pared down to the exact border-line dividing efficiency from inefficiency," I shall feel that no part of the censure attaches to me and those associated with me in the administration of this Department.

Very respectfully, GIDEON WELLES,
Secretary of the Navy.

Hon. F. A. PIKE, *Chairman Committee on Naval Affairs, House of Representatives.*

Before the reading of the report was concluded,

Mr. PIKE said: I see that members would perhaps rather read this document in print than hear it read, and as the reading of the entire communication would doubtless consume the whole of my time I waive the further reading, and ask that the entire document be printed in the Globe.

The CHAIRMAN. If there is no objection it will be so ordered.

There was no objection.

Mr. LOGAN. I do not desire to discuss this question; but I wish to ask the acting chairman of the Committee on Appropriations [Mr. WASHBURNE, of Illinois] or the chairman of the Committee on Naval Affairs [Mr. PIKE] for an explanation. I find, by examining the report made by the Secretary of the Navy for the fiscal year ending June 30, 1867, that there was at that time a surplus fund of $50,000 to his credit; and he did not appear to know what to do with this surplus, for he speaks of "appropriations to the amount of about fifty million dollars that can be relinquished to the Treasury or may be otherwise disposed of by Congress. It has heretofore," he says, "been deemed essential to correct administration that there should be annual estimates for proposed expenditures, and specific appropriations therefor after examination by Congress, and this Department has no desire to evade this annual scrutiny," &c. It thus appears that there was at that time in the hands of the Secretary of the Navy $50,000,000—not an appropriation, but a surplus—which he says may be relinquished to the Treasury, or of which Congress may dispose as it may deem proper. I want to know whether this $50,000,000 is any part of the $65,000,000 that was covered into the Treasury in September last.

Mr. PIKE. I believe there is a small surplus after paying the current expenditures, although it is quite impossible to say how much it will be. The Navy Department keeps a very large number of accounts with the Treasury Department, some sixty or seventy, each distinct from the others. A surplus in one account cannot be transferred to another in which there is a deficiency. Consequently there are in many of the accounts amounts that go along from year to year. In addition to that, the very largest sums appropriated in this bill do not go through the Navy Department at all. Some eight millions of the amount appropriated in this bill will not go into the Navy Department at all, but into the Treasury, to be drawn on the requisition of the paymasters, and the paymasters settle their accounts with the Third Auditor.

Mr. LOGAN. Yes, I understand that; but I want to know what the Secretary of the Navy means in this report. I do not wish to impede the progress of the bill, but I want to understand this matter that I may vote on the bill intelligently. By referring to the report of the Secretary of the Navy for the fiscal year ending June 30, 1867, I find that he has in his his hands unexpended balances amounting to $117,944,060 48, a tolerably large amount; and he asks for this appropriation of $23,000,000 in addition. Then he says:

"The large unexpended balance in the Treasury at the close of the last fiscal year is embraced in appropriations under more than one hundred different heads. Many of these are continuous, have been made for years, their expenditure will be protracted through years to come, and, though assisting to make up a large balance, cannot be dispensed with."

It seems that these balances of appropriations are not taken into the estimate that is made here of these $117,000,000. He goes on to say:

"There are large amounts, however, under the heads of 'construction,' 'steam engineering,' 'ordnance,' 'provisions and clothing,' and 'fuel,' which can with propriety revert to the Treasury. No appropriations under these heads were made for the current year, and for the ensuing year none are asked. In the course of time the appropriations would be exhausted, but it is not believed to be in accordance with sound public policy in time of peace to continue such large amounts at the disposal of the Department."

What then does he say?

"Liberal appropriations for the naval service were made during the existence of the war, but the funds of the Department were always carefully and economically expended."

I do not know about that. He goes on:

"This fact is attested by the numerous claims of contractors for relief now before Congress; and the result is, that the Department is able to complete all the vessels and engines contracted for before the close of the war, and designate appropriations to the amount of about fifty million dollars that can be relinquished to the Treasury, or may be otherwise disposed of by Congress."

This $50,000,000 is not enumerated in the $117,000,000 of unexpended appropriations. I call the attention of the chairman of the committee to this point, that there is an appropriation of $117,000,000 outside of $50,000,000 of unexpended balance. You will remember at the last session I offered a resolution——

Mr. PIKE. Will the gentleman allow me?

Mr. LOGAN. Certainly.

Mr. PIKE. The available resources at the beginning of the present fiscal year were $117,000,000. The expenditure was $31,000,000, leaving a balance of $86,000,000. Then the current appropriations were $16,000,000, leaving $103,000,000. Then there was covered into the Treasury $50,000,000.

Mr. LOGAN. You are speaking of his last report.

Mr. PIKE. That covers the amount you give there.

Mr. LOGAN. I will show you it does not. I maintain that the $50,000,000 which the Secretary of the Navy mentioned last year as an amount that Congress could dispose of is not enumerated in this $117,000,000. It is an excess over and above that which he enumerates. Why? Let us see. It belongs to unexpended appropriations under certain heads which have not been enumerated. That is what he has told us. Then he says that with this amount of $50,000,000 Congress can do what it pleases. Now, sir, what does that arise from? Read the report and examine fully. Here are sales of property which belonged to the Navy Department. I wish to call the attention of the gentleman to the next report. You will find by his last report that he does not dispose of that $50,000,000 at all. The Secretary of the Navy in that report does not dispose of that $50,000,000 in any way whatever, but he does dispose of $65,000,000. He states that he returned $65,000,000 to the Treasury. That is $65,000,000 of surplus fund. It is not the $50,000,000 which he asked Congress to dispose of. Congress has never disposed of that $50,000,000. It has never been covered into the Treasury. The resolution that covered that into the Treasury went into the pocket of the Finance Committee of the Senate, and has never since seen daylight. That I assert here. This is $65,000,000 that the Secretary of the Navy himself has covered into the Treasury outside of $50,000,000. That leaves $38,465,000 in his hands for the current fiscal year; that is, after having covered $65,000,000 into the Treasury. Now he asks for $37,000,000.

Mr. PIKE. For the next fiscal year?

Mr. LOGAN. He asks for $37,000,000 and yet does not account for the $50,000,000 which he alludes to in the report for the year ending June 30, 1867. I ask the chairman of the Committee on Naval Affairs or the Committee on Appropriations to tell us what has become of it. We should know what has become of it before we appropriate $37,000,000 more.

Mr. WASHBURNE, of Illinois. He cannot use it unless it is appropriated.

Mr. LOGAN. Who cannot?

Mr. WASHBURNE, of Illinois. The Secretary of the Navy cannot use this amount unless we make specific appropriations.

Mr. LOGAN. The Secretary of the Navy, however, does say he is using it. I was told the other day, and I will state it for the information of gentlemen, by an ex-Secretary of the Interior, that whenever he wanted, while Secretary, an amount of money to be used for any purpose, he always called up a clerk and found an unexpended balance for another purpose and transferred it. You will find that is the rule with the heads of all the Departments. I therefore ask Congress shall cover all unexpended balances into the Treasury.

The CHAIRMAN stated that general debate had closed.

The Clerk read as follows:

That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the 30th of June, 1869:

For pay of commission, warrant, and petty officers and seamen, $8,000,000, or so much thereof as may be required by existing law.

Mr. PIKE. I move to add $1,000,000. I wish to say, if I understand the matter the gentleman from Illinois [Mr. LOGAN] has spoken about, that this balance of $50,000,000 results from the large amount of appropriations unexpended. The Secretary says in his report of last year:

"There are large amounts, however, under the head of construction, steam engineering, ordnance, provisions, clothing, and fuel, which can with propriety revert to the Treasury."

Then the report winds up by saying:

"The result is, the Department is able to complete all the vessels and engines contracted for before the close of the war and designate appropriations to the amount of about fifty million dollars that can be relinquished to the Treasury, or may be otherwise disposed of by Congress."

Mr. LOGAN. He refers it to Congress.

Mr. PIKE. He referred it to Congress, and it appears that Congress failed to take any notice of it.

Mr. LOGAN. No; this branch did not.

Mr. PIKE. This branch is not the whole of Congress. Congress having failed to notice it, the Secretary next year, of his own motion, covered into the Treasury $65,000,000. That included the $50,000,000 referred to.

Mr. LOGAN. That is the gentleman's report of the facts. The Secretary's report does not bear him out. The Secretary says he covered into the Treasury $65,000,000. He does not say from what it came.

Mr. PIKE. From these various sources—the sale of vessels——

Mr. LOGAN. No, sir.

Mr. PIKE. He had no others. I withdraw the amendment.

Mr. PAINE. I move to make it $7,000,000 instead of $8,000,000, for the purpose of asking the gentleman who reported this bill a question, and I shall be glad to have an answer before this committee. I wish to know whether since the year 1861 the Secretary of the Navy has reported to Congress the amount of expenditure in any of the bureaus of the Navy Department?

Mr. WASHBURNE, of Illinois. I cannot answer the gentleman fully in regard to that matter.

Mr. PAINE. I have then to state to the committee this: that I have carefully examined and I can find only in regard to one or two bureaus of the Navy Department any report of the expenditures actually made by the Secretary of the Navy or his subordinates since 1861. I have asked the chairman of the Committee on Naval Affairs whether any such reports had been made, and after an examination which I believe was rather extensive he has informed me that he cannot find that any such accounts have been rendered. Now we are called upon to make large appropriations this year for the several bureaus of the Navy Department. I do not know that any law requires the Secretary of the Navy to inform us how he has expended the moneys which we appropriated for the last year. It may be there is no law, but I believe—and if I am mistaken in this I shall be glad to have any gentleman on the Committee on Naval Affairs or the Committee on Appropriations correct me—that we have not now any accessible information as to the manner in which the sums appropriated for the last fiscal year have been expended in more than one or two of the bureaus of the Navy Department.

Mr. WOOD. Mr. Chairman, I think that the misapprehension of the gentleman from Illinois [Mr. WASHBURNE] and the gentleman from Wisconsin [Mr. PAINE] with reference to the question propounded, arises from the fact that the Committee on Appropriations, as stated by the Secretary of the Navy in the communication presented by the chairman of the Committee on Naval Affairs, have never had any consultation with the Department, with reference to the proposed reduction, but the Committee on Appropriations have proceeded to make up their estimates from their own information. They have reported this bill without asking or receiving the slightest information from the only Department that could give it.

Mr. PAINE. Allow me one word. Mr. Chairman, the best source of information is the report of the Secretary of the Navy, which I hold in my hand. I believe that the committee had a right to consult that document and were bound to do it. And I am compelled to say here that if you examine that report from begining to end, you will fail to find any such account of the expenditures in those several bureaus as I think ought to be made to this House.

Mr. WOOD. Mr. Chairman, so far as this immediate point which is presented by the gentleman from Wisconsin [Mr. PAINE] is concerned, it may be to some extent correct, but I do insist upon it that if the communication which the Secretary of the Navy sent to the Committee on Naval Affairs had been read through, the gentleman from Illinois [Mr. LOGAN] would have been answered and the gentleman from Wisconsin [Mr. PAINE] may have been answered, and the Secretary would have presented to Congress, as he evidently intended to do, his objections to this wholesale curtailment of the expenses of the naval Department of the Government. It is very obvious that if we are to extend our possessions on the Northern Pacific seas, if we are to extend our commercial relations with the Indies, if we are to protect American interests and American tonnage and shipping, it is necessary that we shall have those vessels of war with which to do it; and as this bill may interfere with the proper exercise of power necessary for the protection of our marine and commercial interests I hope that the Secretary of the Navy, who it is to be presumed is properly instructed upon this question, may be heard. I now ask that the communication from the Secretary of the Navy, presented by the chairman of the Committee on Naval Affairs, may be read, so that the committee may be instructed on these several questions. I desire the completion of the reading as a part of my remarks.

Mr. SPALDING. I desire to say, in behalf of the Committee on Appropriations, that the gentleman is misinformed. Although we do not rise here to combat all the propositions of gentlemen around us, we still may be permitted to say that we acted upon the estimates sent in to us by the proper authorities—the printed estimates, in the first place, and then we sent a sub-committee from our body to visit the Navy Department and obtain all the necessary information in respect to the different items which make up our bill. I went there myself two or three times.

[Here the hammer fell.]

Mr. WOOD. I hope the document will be read by unanimous consent.

Mr. SPALDING. I have no objection to that, but gentlemen must not charge the committee with being remiss in their duty.

Mr. BANKS obtained the floor.

Mr. WOOD. I hope gentlemen on the other side will consent to hear the document read through. They want the information it proposes to give them.

The CHAIRMAN. Is there objection to the further reading of the letter from the Secretary of the Navy?

Mr. WASHBURNE, of Illinois. I object to it.

Mr. BANKS. I move to amend so as to reduce the amount to $5,000,000.

It is not my wish to oppose any necessary appropriations for the support of the Navy Department. I wish to make the most liberal appropriations that the exigencies of the country may demand at this time, and I certainly should be glad to hear any statement from the Navy Department on this subject; but I agree with gentlemen who have spoken that we have not that information in regard to the application of previous appropriations which is necessary to enable us to act properly at this time. Heretofore it has been the custom, and I believe it was in pursuance of law, that every appropriation not expended at the end of two years from the time it was made should lapse into the Treasury. I believe that to be the law now. There ought to be some limit of that kind. If that law has been repealed, then some similar provision ought to be reënacted.

Now, the gentleman from Illinois [Mr. LOGAN] says that there are appropriations to the

amount of $60,000,000 which have not been expended, or the expenditure of which has not been properly accounted for. That certainly ought to be explained before we vote even the greatly reduced estimates of the Committee on Appropriations which are asked for this branch of the service.

Mr. SPALDING. With the permission of the gentleman from Massachusetts, I desire to ask one question. Suppose it be true that the Secretary of the Navy has stolen $60,000,000, must we not make the appropriations needed for the efficiency of the naval service?

Mr. BANKS. I acknowledge that. I am willing to follow the Committee on Appropriations in their suggestions on that subject.

Mr. SPALDING. Let me say further that this document explains the whole.

Mr. BANKS. But when the Secretary asked for a large sum, much larger than that reported by the committee, and tells us as the reason of that increase which he recommends that, instead of employing fifteen thousand men, he will be obliged to reduce the force to eight thousand men, which I believe is the statement first made in his letter, then it becomes of great importance to us to know whether this enormous sum heretofore appropriated and not expended or accounted for still remains in the Treasury subject to future orders of the Navy Department.

Now, Mr. Chairman, my reason for suggesting this is of a practical character. I am not instructed by anybody connected with this Department of the Government in the district I represent as to the condition of affairs in the several navy-yards, because the orders of the Government forbid any man in the employ of the Department to give any information whatever to a member of Congress upon this subject. I understand that there has been an entire reorganization of the departments in the various navy-yards, and a system has been adopted which is not only not authorized by law, but which is in contravention of both the traditions of the Department and the laws of the country. Instead of there being but one navy-yard at Charlestown, Massachusetts, there are in fact four or five, each having separate heads, separate corps of officers, separate equipments of machinery, and calling for distinct and separate expenditures of the same general character in each of these departments or bureaus.

I am informed, upon what I believe to be entirely reliable, though not official, authority, that in fact there are employed in the engineer department or bureau a chief engineer, a storekeeper, painters, masons, blacksmiths, boilermakers, founders, coppersmiths, patternmakers, and house joiners. And it is an impression, whether well or ill founded I cannot say, among the people that there is a very large sum of money, some say as large as $50,000,000, unappropriated in the engineer department out of which is taken the amount necessary for the expenditures made in this and other departments of that yard. Is it not possible that this impression which obtains among outsiders there, and which grows out of the fact that large expenditures are constantly made which are not provided for in the annual appropriations made by Congress, which are always carefully examined by the people in the vicinity of these yards; may be the very fund to which the gentleman from Illinois has referred, as the unexpended balances of former appropriations which, by the laws of the land, ought to have lapsed into the Treasury? In other departments it is said the same classes of officers and mechanics are employed as in the engineer department. In the naval construction department there are ship-carpenters, ship-joiners, painters, spar-makers, boat-builders, block-makers, coopers, caulkers, plumbers, tin-workers, coppersmiths, blacksmiths, a storekeeper, a machinist, iron-platers, riggers, and pattern-makers, and separate shops are, or will be, required for these workmen, and an expenditure of some forty or fifty thousand dollars for machinery for the separate use of this department.

In the bureau of yards and docks, in the same yard, there are masons, carpenters, joiners, painters, plumbers, turners, coppersmiths, blacksmiths, a storekeeper, riggers, &c. I have been informed that nearly one hundred thousand dollars have been expended to move material from one shed in this yard to another, in consequence of this unauthorized and apparently inexpedient reorganization to which I have alluded. And it is supposed that separate shops, sheds, or yards are to be provided for all these different classes of workmen.

In the ordnance department in the same yard there are these—a storekeeper, a blacksmith, a rigger, carpenters, joiners, gun-carriage makers, painters, coopers, masons, engineers, machinists, leather workers, and sail makers for making bags, with a separate engineer.

In the bureau of equipment there is a full captain in charge as superintendent, sail-makers, riggers, a storekeeper and rope-makers. And in the bureau of navigation there is a storekeeper, who keeps his own goods.

Each of these bureaus employs a clerk to call the rolls of laborers, as though it was a separate department of the Government. They borrow at times workmen from each other; they apply money to expenditures without responsibility to any other Department of the Government, the work in each department being charged to the particular ship upon which it is expended. Each of these departments must have its distinct head and its separate machinery. A board or a plank to be planed for one department is carried directly past a planing machine on the ground floor into the upper stories of the same building because the work to be done is for a different bureau and under orders of a different officer. For each one of these departments there must be separate machinery prepared, costing large sums of money. It is said, I know not with how much truth, that the completion of estimates for machinery already made will cost three or four hundred thousand dollars.

Under the old system there was but one master-blacksmith for the yard, one master-joiner, one master-carpenter, &c., instead of all these separate departments. There are but one blacksmith-shop and one machine-shop for all departments. Each master-workman was responsible for the work done in each class, and one shop sufficed for the same purpose. Now the master-workmen are disrated; they are unjustly and unwisely reduced in rank and in pay, and their places supplied by warrant officers of the Navy. There are but few exceptions to this rule; and those exceptions, it is said, relate mainly to the relatives or favorites of those in authority in the bureaus of the Navy Department. These changes must lead to an unnecessary and inexcusable increase in the number of officers and an enormous and wasteful increase in the expenditures of public money. The mere statement of the case shows that there are unexpended appropriations of some character existing somewhere out of which these extraordinary expenses are paid; because it is well known to members of the House, as to all persons elsewhere interested or well informed as to the condition of public affairs, that they are not and never have been provided for in the annual appropriation bills for the Navy Department. For whose benefit are these expenditures incurred? Not for the people, for their taxes are increased and their work not as well or as cheaply done as formerly. It is not for the benefit of mechanics, either in the employ of the Government or of private contractors, for their calling is discredited if not dishonored by the supervision of naval officers, and their rank and pay unjustly diminished. It is not for the benefit of the Government, because the efficiency of the service is in no sense improved in proportion to the increased expense.

As to economy, a statement relating to one department alone—the machine shop—is sufficient to show what must be the general operation of this new system. With about the same number of men employed and the same amount of work done in 1860 and 1866 the difference in the number and the per diem compensation of what are familiarly called "overlookers" or superintendents in chief and in ordinary was—in 1860 there were sixteen, with compensation each day amounting to $52 75; in 1866 the number of men employed of the same class and for the same purposes was sixty-two, with a daily compensation of $205 25. The increase in the number of men employed under the different systems of labor existing in 1860 and 1866 was forty-six and the increase in the cost to the Government was $152 50 each day.

In 1867 there were forty-six naval officers employed in the yard at Charlestown. I do not know that these figures are exactly correct, but they are given to me by men whom I know to be honorable men, believing what they say to be true, and who have no other interest in the matter than that which is the true interest of the public service. This is but a single illustration of the relative economy of the new system as compared with the old in but one of several departments.

Another relates to the comparative cost of sail-making under the superintendence of civilians as compared with that conducted by warrant officers of the Navy. I am informed, upon what I can scarcely doubt to be reliable authority, that the cost of making sails for the frigates Merrimerreck and Hartford, required for sea service, prepared at Charlestown under the direction of a master sailmaker from civil life employed for nearly twenty years at that yard, was $6,857 08, while the same work for the frigates Ohio and Richmond, fitted out at other yards under the management of warrant officers, cost the Government $19,732 85—an excess in the cost of sail equipment for two frigates of $12,876 83. This is a specimen of economy in another department. If it be not correct it ought to be known, for such statements are made by those who ought and who profess to know, and are believed by many of the best friends of the Government, and especially of the Navy Department.

There is one sample of economy introduced at Charlestown last year, I believe, in the mode of conveyance of one of the officers and his assistant from the upper to the lower part of the yard, in the shape of a steamboat, kept expressly for their use, which was fired up and manned by an engineer, a fireman, and one deck hand, at an expense of about fifteen or twenty dollars per day. Two trips per day is the extent of their day's work.

There are other considerations relating to the recent discharge of mechanics from the navy-yards to which I would like to refer, but time is not allowed me for that purpose at this moment. I hope before the consideration of other parts of the bill is completed to have the opportunity. What I desire to say in conclusion is this: that I am not only willing but desirous to give to the Navy Department liberal appropriations for the next fiscal year. Any imputation from any quarter, here or elsewhere, of a different character, so far as it applies to me, is without any justification whatever.

But I desire, as the House manifestly desires, to know the exact character of the unexpended balances of previous appropriations, and also to be satisfied that appropriations now made, besides being necessary for the public service, are to be so applied as to secure the largest amount of work for the lowest price, and to give employment to worthy, skillful, deserving, and patriotic workingmen, instead of being used to bolster up wasteful and novel systems of labor and to compensate naval officers for superintending mechanical enterprises and mechanics, when they ought, in justice, and no doubt would be glad, to be engaged in attending to the legitimate duties of their profession as officers of the Navy. If this information

can be given and this change be made in accordance with that continued since the foundation of the Government, I do not doubt that Congress will cheerfully accord any assistance that may be necessary; at any rate, it shall have my vote.

Mr. SPALDING. Does that report come from the Charlestown navy-yard?

Mr. BANKS. It is information I received from gentlemen in my district, honorable and well-informed men.

Mr. SPALDING. It is not a report?

Mr. BANKS. It is not a report; no such reports are made to this House.

Mr. WASHBURNE, of Illinois. I rise merely to say that I am glad to hear the *exposé* which the gentleman from Massachusetts [Mr. BANKS] has made of the abuses at the navy-yard at Charlestown, and which, I understand, extend through all the navy-yards of the country. I will say here that the Committee on Appropriations fully understood all these abuses. So far as I am concerned I do not feel like characterizing in the terms which I think it should be characterized the conduct of the Navy Department for the last six or seven years. I say the Committee on Appropriations understood all these things, and in the discharge of their duty they have endeavored, so far as possible, to make the appropriation bill conform to a reformed state of things, and have fixed the appropriations in all these cases at the very lowest limit.

One word in reply to the gentleman from New York, who states that the committee did not call upon the Navy Department for any explanation. Why, sir, the Committee on Appropriations had before them the report of the Secretary of the Navy. They had before them the estimates of the Treasury Department, which embraced all the items upon which appropriations are called for. In fact, the committee had before them sufficient information to enable them to judge fully of all the subjects upon which legislation is asked.

Mr. WOOD. Will the gentleman permit me to say that my information on that point comes from the Secretary of the Navy in this written communication which has not been read. He says distinctly in this communication that the Committee on Appropriations have had no communication with him whatever upon this subject.

Mr. WASHBURNE, of Illinois. Well, sir, the committee had no communication from him except official communications which he sent to the House, and which were referred to the committee. In point of fact, the committee did not believe they could get from the Secretary of the Navy much information of any value to them. For, sir, when Congress met, the Secretary of the Navy sent in an estimate of the appropriations which he demanded to carry on the Navy Department for the next fiscal year; and, as the gentleman from New York well knows, he made an estimate of forty-seven millions and over in round numbers. It went all over the country that the Republicans in Congress were proposing to expend more than forty-seven millions to keep up the Navy Department. After that estimate was in what next is done by this Secretary, who comes here and complains that we do not ask information from him? Why, sir, he sends in an amended estimate amounting in round numbers to $24,000,000, making thus a slight difference of $23,000,000 between his original estimate and his amended estimate. We went over the whole subject, and we have amended the amended estimate by cutting it down about four millions. Under these circumstances we did not think that any information we might get from the present Secretary of the Navy would be sufficiently reliable to guide us in our action.

Mr. BANKS. I withdraw my amendment.

Mr. PIKE. I renew the amendment. Mr. Chairman, I have no purpose whatever to defend the political character of the Secretary of the Navy. But I wish to state, in relation to the remarks of the gentleman from Wisconsin, [Mr. PAINE,] that the reports of the Navy Department are made as they have always been made heretofore, and with the same detail, and that in the course of a few days the Secretary of the Navy will, in reply to the resolution offered by the gentleman from Illinois, [Mr. WASHBURNE,] send in a detailed statement of the great expenditure of his Department in the construction of vessels, (which, as we all know, has been the great expenditure for the last five or six years,) giving the items, the names of the vessels, the number of days' work, the amount of money expended, and all the details to the satisfaction of the most critical gentlemen on this floor.

Now, a word in reply to the gentleman from Massachusetts, [Mr. BANKS.] He speaks of a new system inaugurated at the navy-yards, which is a system of division of labor, making each branch of labor responsible to the head of the bureau under which that labor is performed. The gentleman is aware, I suppose, that this subject has been under consideration in the Senate, and that there reports have been presented from the commandants of the various yards, giving the details of the workings of this new system, exhibiting its advantages and disadvantages. I cannot say whether the system has proved beneficial or otherwise. Some gentlemen, with the gentleman from Massachusetts, complain of it very greatly, while others say that upon the whole, if fairly conducted, it tends to economy.

In reply to the gentleman from Illinois, [Mr. WASHBURNE,] I will say that if he will examine these reports he will find that, however much we may disagree with the Secretary of the Navy, the expenditures of his Department have been economically made. We had during the progress of the war committee after committee investigating in relation to the expenditures of the Navy Department, and no one at any time found in those expenditures anything worthy of the notice of the House as a matter of complaint, with the exception of the contracts made by Morgan in the purchase of vessels; and when that subject was brought up for the action of the House the House refused to censure the Secretary of the Navy; and it was found that of the various expenditures made during the war those of the Secretary of the Navy are, for economy, equal to those of any branch of the Government. I may say generally, so far as the purchase of vessels during the war is concerned, and so far as the use of vessels is concerned, there was not so much money expended by the Navy as by the War Department. The great expenditure in the charter of vessels was in the War Department. I have no doubt it was all necessary. The rate of expenditure for the four years of the war, under the Secretary of the Navy, was $72,000,000 annually. That compassed all the expenditures of the Navy Department, an expenditure which created the Navy that carried on the war, and it was not so much per year as the annual expenditure for the navy of Great Britain on a peace establishment.

Mr. LOGAN. Mr. Chairman, in order to be better understood in reference to these $50,000,000, I wish to call the attention of the chairman of the Committee on Naval Affairs to a fact.

The CHAIRMAN. The time of the gentleman from Maine has expired.

Mr. LOGAN. Then I oppose the amendment. I do not want to inquire as to the political opinions of the Secretary of the Navy. I do not know what they are. I do not know whether I agree with him or not. That cuts no figure in this discussion. If gentlemen will read the report they will find that the $50,000,000 referred to in the report of the Secretary of the Navy has not been covered into the Treasury. Now, let us see whether I am correct. After speaking of large amounts appropriated under the several heads he designates, of construction, of steam engineering, of ordnance, of provisions, clothing, fuel, &c., saying under these heads there are large unexpended balances, he goes on to say:

"Liberal appropriations for the naval service were made during the existence of the war, but the funds of the Department were always carefully and economically expended. This fact is attested by the numerous claims of contractors for relief now before Congress; and the result is, that the Department is able to complete all the vessels and engines contracted for before the close of the war, and designate appropriations to the amount of about fifty million dollars that can be relinquished to the Treasury, or may be otherwise disposed of by Congress."

He says, after building all of these vessels and completing all these engines, he had left $50,000,000. If he has complied with the law then that $50,000,000 still remains as a surplus. Now, let us see what he has covered into the Treasury. I will read from his last report:

"As no action was taken by Congress on the 30th September last, in accordance with the provisions of the act approved May 1, 1820, I requested the Secretary of the Treasury to carry to the surplus fund appropriations to the amount of $65,000,000, leaving under these several heads an amount only sufficient for the expenditures of the current fiscal year. In this sum of $65,000,000 are embraced the amount received from the sales of vessels and other war property of no service in time of peace; the amount refunded to the Government by the builders of the Dunderberg and Onondaga, as well as the balance of appropriations under the heads for which nothing has been asked for the last two years, not required for the current year."

What heads are they for which nothing has been asked for the last two years? The heads of construction, ordnance, clothing, fuel, &c. Look at them and you will see. He says these heads have sufficient money to run two years. Now, sir, I ask the committee to take these two reports together and see whether any man can arrive at any other conclusion than that this $50,000,000 is not embraced in the $65,000,000 that the Secretary of the Navy has covered into the Treasury. If it is embraced, then I confess I cannot understand these reports. If gentlemen will turn to the next page they will find there are several hundred thousand dollars from the sale of ordnance stores.

[Here the hammer fell.]

Mr. PIKE, by unanimous consent, withdrew his amendment.

Mr. RANDALL. I renew the amendment for the purpose of devoting five minutes to the continuation of the reading of the letter of the Secretary of the Navy. I think it desirable it should be read through. It is an extraordinary procedure here to be appropriating money for the Navy Department without having the benefit of executive views on the subject.

The CHAIRMAN. The gentleman can have it read as a part of his speech.

Mr. RANDALL. I desire to have that done.

Mr. WASHBURNE, of Illinois. The chairman of the Committee on Naval Affairs, who presented it, moved to have the balance of it printed, and that was agreed to.

Mr. PIKE. Will the gentleman yield for a moment?

Mr. RANDALL. I have the floor for the purpose of having the report read, and I do not want to lose any time from interruptions. I decline to yield.

The CHAIRMAN. The Clerk will proceed with the reading of the report.

The Clerk resumed the reading of the report as above printed until the expiration of the five minutes, when the hammer fell.

Mr. RANDALL. I withdraw the amendment.

Mr. MYERS. I move to amend by inserting $24,000,000. I desire to say that for one I cannot vote understandingly to-day upon the bill that has been reported. The Secretary of the Navy in his report desired an appropriation of $47,000,000. The Committee on Appropriations allege that this should be cut down to less than $20,000,000. But the Secretary of the Navy, when he finds this House disposed to retrench, writes a letter stating that he cannot proceed properly with the work required by the Navy Department with less than $24,000,000. The Committee on Appropri-

ations have therefore succeeded in forcing a retrenchment of $23,000,000, a great economy which the country will take note of, showing the disposition of the dominant party to reduce expenditures. Now, sir, if those having the matter in charge find they cannot, with due regard to the honor of the Navy, to the wants of our squadrons abroad, and the proper completion of the vessels now on the stocks in the various navy-yards, do with less than $24,000,000, I am in favor, before I vote on the question, of at least having the letter of the Secretary of the Navy printed, in which he sets forth his reasons. I think a saving of $23,000,000 is enough until I hear something to the contrary.

I wish to say further, that I find in the report of the Secretary of the Navy that there are, among several others now on the stocks, four vessels of the smaller or Algoma class, namely: the Algoma, at Kittery; the Alaska, at Charleston; the Kenosha, at New York; and the Omaha, at Philadelphia. These are necessary. I read from the Secretary's report:

"To replace vessels of the permanent Navy which have been lost, or were so much damaged during the war, that their further repair is inexpedient."

We have skilled workmen employed in finishing them, and while I do not care to hasten their completion I believe the work should not be stopped, as the Secretary of the Navy says he wishes to do. I do not want to have all the men from the navy-yards discharged, and I believe, with the few million more which my amendment includes, we can go on and send the vessels to Alaska or Japan, as desired, and also procure the necessary stores and make the proper repairs to the various squadrons that we have in the north and south Atlantic, north and south Pacific, East and West Indies, Mediterranean and elsewhere. We should give to the officers of the Department having these matters in charge the proper appropriations, and for that purpose I think the reduction I propose is enough. At all events the acting chairman of the Committee on Appropriations has not as yet shown good reason for the diminution he proposes, and until he does I hope we shall not be called upon to vote on the proposition of the Committee on Appropriations.

Mr. PIKE. I desire to state why I asked to have the reading of the letter of the Secretary of the Navy arrested. It was simply for the purpose of having the rest of it printed, as there was not time during the half hour assigned to general discussion to read the whole letter.

Mr. RANDALL. Will not the gentleman agree by general consent to have the balance of it read?

Mr. PIKE. I shall be very glad, indeed, to have it done.

Mr. WASHBURNE, of Illinois. I do not believe any member was paying any attention to it.

Mr. PIKE. One word further, in reply to the gentleman from Illinois, [Mr. LOGAN.] I think if the House will examine the report of the Secretary of last year they will come to this conclusion: that not only was the account correctly stated by him, but that with unusual frankness, enough to rid himself of the responsibility, he asked Congress to take the money out of his hands. He had it at that time under his control, and, presenting an example to the heads of all the other Departments situated in like manner, he volunteered to ask Congress to take it out of his control. And now, for an act for which he should receive the compliments, at least, of the members of the House, he is, with great ingenuity, arraigned here by the gentleman from Illinois, [Mr. LOGAN,] who still insinuates that he has this $50,000,000 under his control.

Mr. LOGAN. No. Will the gentleman allow me?

Mr. PIKE. Certainly.

Mr. LOGAN. I do not insinuate any such thing. I only say that I can understand it in no other way from the reports, and I ask the gentleman, the chairman of the Naval Committee, to explain to me those reports, or if he knows what has become of that $50,000,000?

Mr. PIKE. Well, then, to change the phraseology, instead of insinuating, he alleges that a fair construction of the report is that that amount remains in the Secretary's hands. That is what I understand him to say, when the plain fact upon the Secretary's report is that he states how those appropriations were made; that there were large sums necessarily appropriated for constructing, steam engineering, ordnance, provisions, clothing, and fuel; those were the large items of appropriation during the war; very large sums were necessarily appropriated, and mainly from the excess of appropriations for these five different departments resulted this surplus of $50,000,000, of which the Secretary himself says, in language as distinct as any man can use—and in the use of language the Secretary is remarkable for his perspicacity—"from these various funds large sums can be drawn and properly revert to the Treasury;" and he winds up with this congratulation as an administrator of the Department, that he congratulates himself that he was able to pay these large war appropriations and go through with the construction of vessels and finishing of steam-engines and still have $50,000,000 left which can be covered into the Treasury, and not wishing to control it, he asks Congress to take control of it. And if the gentleman from Illinois had listened to the letter which the Secretary sent here to the House to-day, he would have found that he explains still further that the $50,000,000 which he mentions in his report of last year is a part and parcel of the $65,000,000 covered into the Treasury, the remainder of it being gathered from the sale of vessels, part of which are specified in his report, and others that can be known by applying to him.

[Here the hammer fell.]

Mr. MYERS. I withdraw the amendment.

Mr. ARCHER. I renew it. A good deal of comment has been made on the two estimates sent in by the Secretary of the Navy. I think that can be explained very easily by the adoption of the resolution which was passed by this House, saying that the policy of the Government should not be to increase the Navy. After the adoption of that resolution the Secretary of the Navy made reduced estimates, which were furnished this House; and the Secretary of War did the same thing. This only shows how quickly the Secretary of the Navy adjusts himself to the legislation which has taken place by this Congress. Let me say further, that if this House is in earnest with regard to the protection of the rights of our naturalized citizens this of all other times is the time when there should be no reduction in the Navy of the country. If we are in earnest in the speeches which have been made here and the resolutions which have been offered to protect the naturalized citizens of this country, I say that we ought to present to the world a stronger Navy than we presented even during the rebellion. We have got to protect them either by the exhibition of such a force or else by declaring war itself with foreign nations. I hope that their rights will be protected, even if it leads to a declaration of war. But, sir, my main object in rising was to give the time to which I am entitled to a continuation of the reading of the letter of the Secretary of the Navy, and I now call for the reading of that letter as a part of my remarks.

The Clerk resumed the reading of the letter of the Secretary of the Navy as published above.

Before the letter was concluded the hammer fell.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. ARCHER] has expired.

Mr. ARCHER. I withdraw my amendment.

Mr. BANKS. I hope there will be no objection to having the reading of the letter concluded.

The CHAIRMAN. The Chair is informed that there are nine pages of the letter not read.

Mr. WASHBURNE, of Illinois. I object to the further reading of it; no one is listening to it.

Mr. BUTLER. I desire to move an amendment to the following paragraph:

For pay of commission, warrant, and petty officers, and seamen, $8,000,000 or so much thereof as may be required by existing law.

I move to add to it the following proviso:

Provided, That all moneys now under control or subject to the order of the Secretary of the Navy, whether arising from appropriations or from sales of public property or otherwise, which shall be unexpended on the 1st day of July, 1868, shall be covered into the Treasury; so that no amount hereby appropriated shall be expended or drawn while any other unexpended moneys shall be subject to the control of the Secretary of the Navy.

Mr. BOYER. I rise to oppose the amendment, and ask the Clerk to read, as a portion of my remarks, the remainder of the letter of the Secretary of the Navy.

The Clerk resumed the reading of the letter as printed above.

Before the letter was concluded the hammer fell.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. BOYER] has expired. The question is upon the amendment of the gentleman from Massachusetts, [Mr. BUTLER.]

The amendment was agreed to.

Mr. WOOD. I move to amend the pending paragraph by striking out the last word, and ask the Clerk to read, as a part of my remarks, the remainder of the letter of the Secretary of the Navy.

The Clerk resumed and concluded the reading of the letter as printed above.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

Many MEMBERS. Oh, no.

Mr. WASHBURNE, of Illinois. If we can proceed without further debate on this paragraph I will withdraw the motion.

Mr. WOOD. I withdraw my amendment. I merely wanted to have the reading of the letter of the Secretary of the Navy concluded.

No further amendment was offered to the pending paragraph.

The Clerk read as follows:

For preservation of wood and iron vessels and ships in ordinary and for those that are on the stocks; vessels for the Naval Academy; for purchase of material and stores of all kinds; tools, transportation of material, repair of vessels, and maintenance of the Navy afloat, $3,000,000.

Mr. MYERS. I move to amend this paragraph by striking out "$3,000,000" and inserting "$4,000,000." The Secretary of the Navy, in his second letter to Congress, says that he cannot well get along with a less sum for this purpose than $4,690,000. I do not propose by my amendment to give him the full amount he asks for; but I think he should have the sum I have named.

Mr. WASHBURNE, of Illinois. I am sorry the gentleman from Pennsylvania [Mr. MYERS] has joined the advocates of increased expenditure on the other side. I oppose the amendment and hope it will not be adopted.

The amendment was not agreed to.

The Clerk read as follows:

Navy-yard at Boston:
For repairs of buildings and repairs of all kinds, $100,000.

Mr. BANKS. I move to amend this paragraph in relation to the Boston navy-yard by striking out "$100,000" and inserting "$200,000." The estimate called for something like seven hundred thousand dollars for this yard. I do not know but the amount recommended by the Committeee on Appropriations will be sufficient; still it is a very great reduction, and ought not to be insisted upon by the committee unless the subject has been carefully examined. I am aware that in the present condition of public affairs and the desire of the House for the reduction of public expenditures—a very laudable desire if kept within reasonable limits—it will be futile for

me or any other member not on the Committee of Appropriations to attempt the increase of this appropriation. I am not without hope that this bill will be returned to us hereafter with such amendments as will enable us to give a more reasonable, not to say generous, appropriation for this object.

But I rise at this time more particularly to call the attention of members to a passage in the letter of the Secretary of the Navy the reading of which has just been concluded. He states that, from the resolution of the House of Representatives, passed on the 25th of November, 1867, and from information gained from other sources the nature of which he does not indicate, he understood that the purpose of Congress was to reduce the force employed in the navy-yards of the country from fifteen thousand to eight thousand five hundred men. Now, I have only to say that the resolution of the House of Representatives referred to by the Secretary of the Navy had not and was not intended to have the force of law. It was but the expression of a general opinion by only one of three branches of the law-making power. I remember the resolution well. It was submitted by the gentleman from Maine, [Mr. PIKE,] who had just been appointed chairman of the Committee on Naval Affairs by the Speaker. It was adopted by the House upon his recommendation, without any debate and almost without consideration, as a mere expression of opinion relating to the general business of the Department, and not as having or intended to have the force of law. To have had this effect it must have had the concurrence of the Senate and approval of the President, or have been passed by a two-thirds vote over the Executive veto. Certainly it could never have received such sanction.

Mr. PIKE. Will the gentleman allow me to make a correction in some of his figures?

Mr. BANKS. Certainly.

Mr. PIKE. The reduction made is from ten thousand to seven thousand five hundred.

Mr. BANKS. I made my statement upon the passage in the letter of the Secretary of the Navy. He gives the resolution of the House as his reason for reducing the number from fifteen thousand to eight thousand five hundred. Now, sir, it was never the intention of the House of Representatives that this should be taken by the Secretary of the Navy as an order, and his alacrity in acting upon it was certainly a cause of surprise to those who had sustained it, as it was to the country, and especially to the workmen who were so deeply injured by it. Now, I want to say that while he was thus ready on the instant, without requirement of law and without justice, to accept the merest intimation of the necessity of economy and reduce, without any law at all, the forces employed, he comes in here and asks in his estimates of appropriations nearly a million dollars for this very same yard! I want to know from the acting chairman of the Committee on Appropriations, [Mr. WASHBURNE,] or from the chairman of the Committee on Naval Affairs, [Mr. PIKE,] or whoever can give me the information, why the Secretary of the Navy was thus ready on the instant to reduce the forces employed, throwing out of employ the soldiers and sailors who had served all through the war in the Army and the Navy, when he, upon his own motion, applies to the House for an appropriation of $47,000,000, and nearly one million dollars for purposes of a similar character in the single yard at Charlestown.

This unjust and hasty action on the part of the Secretary has thrown many good men out of employment and brought many worthy and patriotic families to extreme distress. They tell me that of two hundred and fifty-eight workmen dismissed since December, 1867, more than eighty were soldiers and sailors who had defended this Government during the rebellion in the Army or Navy, and that of four hundred and twenty-five men who were retained a majority were civilians who had never seen military or naval service.

The orders of the Government as well as the law of Congress required that soldiers and sailors should have preference. How was it that the Secretary, who was so swift in accepting an intimation conveyed by a resolution, without authority, and not intended to convey authority, should throw upon the world, without employment and without means of support, in dead winter, a hundred families of soldiers and sailors, and at the same time wantonly disregard an express order of the President and a well-considered, wise, humane, and patriotic law of Congress, enacted expressly for the purpose of avoiding this public wrong and preventing this suffering. It is scarcely possible to believe that it was for the purpose of discrediting the action and character of the House of Representatives, to which he was so soon to apply for such large appropriations; and yet it is difficult to find another sufficient reason for his action. It seems to me that there is a gross inconsistency between the estimate of appropriation which he presents and his action upon the opinion expressed in the resolution of the 25th November, and other information, the sources of which he has not given us in his letter, which cannot in any view be regarded as entirely satisfactory to the committee or to the House.

Mr. PIKE. Mr. Chairman, the Secretary of the Navy, in sending in the amended estimates, sent in a letter which I hold in my hand, printed by the House as Executive Document No. 111, giving in detail the original estimates and the amended estimates. These deductions ran through all the items, partly, he says, in obedience to the resolution and partly because the Senate had also intimated its disposition to cut down the naval force from about twelve thousand men to eight thousand five hundred; and in obedience to the idea which was apparently ripe in both branches of Congress, he reduced these estimates. In addition to that, he merely estimates now for money enough to keep the navy-yard property in its present condition without depreciation. Upon this ground he asks the appropriation.

Mr. WASHBURNE, of Illinois. I oppose the amendment; and as the gentleman from Massachusetts [Mr. BANKS] has addressed to me a question in regard to the action of the Secretary of the Navy I will say that I am not answerable for that officer. His ways are past finding out. [Laughter.]

Mr. BANKS. I withdraw the amendment.

Mr. RANDALL. I renew the amendment. The gentleman from Massachusetts [Mr. BANKS] complains of the alacrity of the Secretary of the Navy in reducing the forces in the navy-yards, in obedience to what was the literal language of the resolution as offered by the gentleman himself. I want to ask the gentleman what would have been his judgment of the Secretary of the Navy if that officer had paid no attention whatever to the opinion of this House as expressed in that resolution, and had continued a large force of laborers in the yards in violation of the wish of this House?

Mr. BANKS. If the gentleman from Pennsylvania [Mr. RANDALL] will allow me, I will give him an answer. The Secretary of the Navy, when we passed here a deliberate, well-considered law, that master mechanics should be employed to superintend the different departments of the yards all through the country, set it aside deliberately, paid no attention to it whatever. Now, sir, if, when we passed this resolution, he thought the public service required that this work should be continued, he should have sent a message to the House of Representatives, saying that he understood the public service required the continuation of this work, that the resolution had not the authority of law, and that he would delay compliance with the intimation of the House of Representatives until it should be put in an authoritative form. That would have been a proper and a perfectly satisfactory answer, and aided him certainly in obtaining the appropriations which are now withheld by the bill before us. I regret, for one, that this course had not been adopted.

Mr. RANDALL. I will say to the gentleman from Massachusetts that I called upon the Secretary of the Navy and complained of the hardships of discharging these workmen; but, warmly as I felt upon the subject, I became convinced that the Secretary had no other course to pursue, unless he chose to take the responsibility of putting himself in collision with the judgment of this House, which he did not wish to do, and which I did not feel called upon, in justice to him, to urge him to do, knowing the malignity of the public press, if not the malignity of some of the gentlemen of this House, as manifested toward that officer. And let me say here that from a careful examination of the expenditures of the Navy Department during the entire period of the war, I venture to affirm, without the fear of successful contradiction, that the Navy Department has been managed with more economy and more honesty than any other Department of the Government.

Mr. WASHBURNE, of Illinois. For the purpose of closing debate in five minutes on all these paragraphs relating to the navy-yards, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, particularly the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, had come to no resolution thereon.

CLAIMS AGAINST CHINA.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, in answer to a resolution of the House calling for information in regard to the execution of the treaty of 1858 with China for the settlement of claims, transmitting a report from the Secretary of State with accompanying papers; which, on motion of Mr. ORTH, were referred to the Committee on Foreign Affairs, and ordered to be printed.

SHIP-CANAL AROUND THE FALLS OF THE OHIO.

The SPEAKER, by unanimous consent, also laid before the House a message from the President of the United States, in answer to a resolution of the House, transmitting a communication from the chief of the engineer corps of the Army, accompanied by a report, in reference to a ship-canal around the falls of the Ohio river; which, on motion of Mr. KERR, were referred to the Committee on Roads and Canals, and ordered to be printed.

ESTIMATES FOR LAND OFFICE.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office relative to estimates of appropriations required for the next fiscal year; which, on motion of Mr. WASHBURNE, of Illinois, were referred to the Committee on Appropriations, and ordered to be printed.

WAR DEPARTMENT.

The SPEAKER, by unanimous consent, also laid before the House the following communication from the Secretary of War:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 21, 1868.

SIR: General Thomas has just delivered to me a copy of the inclosed order, which you will please communicate to the House of Representatives.

E. M. STANTON, *Secretary of War.*

Hon. SCHUYLER COLFAX,
Speaker House of Representatives.

—

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers,

and other public property now in your custody and charge.

Respectfully yours,

ANDREW JOHNSON.

To Hon. EDWIN M. STANTON, *Washington, D. C.*

Mr. WASHBURNE, of Illinois. I move that be referred to the Committee on Reconstruction and ordered to be printed; and on that motion I demand the previous question.

Mr. BOUTWELL. With leave to the committee to report at any time.

Mr. MUNGEN. Let it be referred to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois. I do not yield for that motion.

Mr. LAWRENCE, of Ohio. I move that it be referred to a select committee.

Mr. WASHBURNE, of Illinois. The Committee on Reconstruction is a competent committee, and is the one it should go to. I insist on the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the papers were referred to the Committee on Reconstruction.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the papers were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MUNGEN moved to adjourn.

The motion was disagreed to.

NAVY APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the Navy appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being House bill No. 601, making appropriations for the naval service for the year ending the 30th of June, 1869.

The Clerk read as follows:

For furniture and repairs of Naval Asylum at Philadelphia, $1,000.

Mr. SPALDING. I move to strike out "$1,000" and insert "$5,000."

Mr. WASHBURNE, of Illinois. One thousand is what was estimated.

Mr. SPALDING. No, sir; the estimate was $6,000. Five thousand dollars is wanted, and I hope we will not cut down the charities of the Navy Department.

The amendment was disagreed to.

The Clerk read as follows:

For pay of superintendents and the civil establishment at the several navy-yards and stations under the control of the Bureau of Yards and Docks and at the Navy Asylum, $50,000.

Mr. BANKS. I move to amend by adding to the paragraph just read the following proviso:

Provided, That the civil engineer and naval storekeeper at the several navy-yards, and that the persons employed at the several navy-yards to superintend the mechanical department, and heretofore known as master-machinists, master-carpenters, master-joiners, master-blacksmiths, master-boilermakers, master-sailmakers, master-plumbers, master-painters, master-calkers, master-masons, master-boatbuilders, master-sparmakers, master-blockmakers, and the superintendents of the rope-walk, shall be appointed by the President with advice and consent of the Senate, shall be men skilled in their several duties, and appointed from civil life, and shall not be appointed from the officers of the Navy.

Mr. SPALDING. I raise the question of order that this is independent legislation.

Mr. BANKS. It is not; it is a reaffirmation of the law, and is of the same character as a proviso attached to a statute of last year. It is consistent with the uniform provisions of the laws of the country, and it is to correct a change introduced by the Navy Department without any authority of law whatever.

Mr. WASHBURNE, of Illinois. A question of order must be decided without debate.

The CHAIRMAN. The Chair is not instructed upon the law in this case. If the gentleman from Ohio [Mr. SPALDING] will point out the law the Chair will decide the question.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Ohio will withdraw the point of order.

Mr. SPALDING. I can only say that this appropriation is made in compliance with the law, and the amendment is against the law.

The CHAIRMAN. The Chair is ignorant on the subject.

Mr. BANKS. In reply to the point of order urged against the amendment I have offered, I send to the Chair, first, a statement of the practice of the Government upon this subject in the several navy-yards of the country until a very recent period; second, two articles from the regulations of the Navy Department issued in 1859; and third, a similar provision in the law of 1867, inserted upon my own motion in the appropriation bill of that year.

Prior to and during the late civil war a master-workman stood at the head of every mechanical department of this yard. The following are among the instructions concerning master-workmen issued in 1859 by Hon. Isaac L. Toucey, the Secretary of the Navy:

ARTICLE 4.

They shall have the immediate control of and be vigilant to insure constant diligence from all those who may be employed under their special direction.

ARTICLE 6.

They will be allowed the selection of the workmen to be employed in their respective branches of labor, subject to the approval of the commandant. The nominations to be made through the chiefs of the respective departments, and will be held accountable for the proper execution of the work under their charge, and that none but efficient and competent men be employed; when a reduction is required they shall select for discharge those whose services can best be dispensed with consistently with the interest of the Government.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SPALDING. I appeal from the decision of the Chair.

The CHAIRMAN. The Clerk will read from the statute of last year referred to by the gentleman from Massachusetts, [Mr. BANKS.]

The Clerk read as follows:

"*Provided*, That the civil engineer and naval storekeeper, when required at any of the navy-yards, shall be appointed by the President, by and with the advice and consent of the Senate, and the persons employed in the several navy-yards, the master-machinists, master-carpenters, master-joiners, master-blacksmiths, master-boilermakers, master-sailmakers, master-plumbers, master-painters, and master-calkers, shall be men skilled in their several duties, and appointed from civil life."

Mr. WASHBURNE, of Illinois. There is no necessity of reënacting that law.

Mr. BANKS. There is a necessity; it has been totally disregarded.

Not to enter into any debate upon this amendment, I desire to state briefly some of the reasons which lead the workmen themselves to believe that the removal of existing impediments to the proper exercise of skill, workmanship, and economical performance of duties by master-workmen and foremen recently established will be for the benefit of the service as well as for the workingmen.

First. By the reduction of master-workmen to the rank of foremen they are denied a most important privilege of selecting workmen, independent of dictation by incompetent judges, either for employment or discharge.

Second. By being deprived of the immediate control of those admitted to be employed under their special direction.

Third. By having watchmen placed over those who are ignorant of the mechanical duties to be performed, who, through ignorance, whim, or caprice, report negligence of duty, while the man so reported is entirely innocent of the charge, nevertheless, though he may be the most faithful and efficient man in the gang, he is forthwith discharged, without inquiry or consultation with the master-workman, thereby destroying the proper influence which very essentially conduces to the advantageous and economical performance of his duties.

Fourth. By an injudicious rule which prohibits the employment of men under any circumstances until they are by requisition placed officially upon the muster-roll, which causes many times a delay equal to the time necessary to perform the labor for which they were required.

Fifth. By oftentimes preventing transportation of men and materials from one job to another without a written pass from a naval officer, thereby many times causing much delay, with a corresponding increase of expense to Government.

Sixth. By not being allowed to muster their own men, thereby causing much unnecessary delay with great increased expense.

Seventh. By a late injudicious practice of preventing master-workmen of so economizing their business as to prevent as little loss of time on account of stormy weather as possible, an economy which is always practiced in private yards both to the advantage of the employer and employed.

Eighth. By doing away with an old-established economical rule which has the universal sanction of all practical mechanics (as a premium for first-class men) of keeping steadily employed, as far as practicable, only such number of workmen as will meet the demands of time for the performance of the work to be accomplished, thereby multiplying the variety of workmen, which naturally impairs the quality of workmanship, together with the frequent changes; a lack of inducements to the faithful performance of duty is the natural result, consequently inferior workmanship and an increase of cost is the final result.

Ninth. By making unjust distinctions between the naval and civil authorities, while the badge of the first secures and protects all the rights and privileges belonging to him, while the rights and privileges of the latter are subject to the control of the former, and as their respectability and duties are of equal value to Government, such unjust distinction allows them to withhold confidences and lowers the dignity of master-workmen, hence the necessity, for the interest of all concerned, of bestowing the badge of honor and protection on master-workmen as their equals in the interest of Government.

Tenth. By holding them responsible to the faithful performance of duties, regardless of the many obstacles of which the foregoing catalogue is but a faint outline, thereby discouraging them in their efforts to render an equivalent which Government demands for the position they hold.

Mr. WASHBURNE, of Illinois. If the Secretary of the Navy has disregarded that law he will still disregard it again.

Mr. SPALDING. I withdraw the appeal.

The amendment was agreed to.

The Clerk read as follows:

Bureau of Equipment and Recruiting:

For the purchase of hemp and other material for the navy; for the purchase of coal and the transportation and other expenses thereon; for the purchase of various articles of equipment, namely: wire rope and machinery for its manufacture, hides, cordage, canvas, leather, iron cables and anchors, furniture, galleys, and hose; and for the payment of labor for equiping vessels, and manufacture of articles in the navy-yards pertaining to this bureau, $1,000,000.

Mr. COVODE. I move to strike out "$1,000,000," and insert "$600,000."

Mr. SPALDING. I oppose the amendment. The estimate is $1,600,000, and we have cut it down to $1,000,000, and I hope the committee will not reduce it any lower.

The amendment was disagreed to.

The Clerk read as follows:

For expenses of Naval Academy, namely:

For pay of professors and others, $73,001: *Provided*, That the professorships of mathematics, astronomy, natural and experimental philosophy, drawing, and ethics shall be abolished at the end of the fiscal year 1868, and filled by naval officers, to be detailed by the superintendent of the Naval Academy, with the approval of the Secretary of the Navy.

Mr. PIKE. I make the point of order on that proviso that it is independent legislation.

Mr. WASHBURNE, of Illinois. Well, I move to strike it out.

The CHAIRMAN. The Chair sustains the point of order, and the proviso will be stricken out.

The Clerk read as follows:

For wages of one instrument maker, one messenger, and two watchmen; for keeping grounds in order and repairs to buildings and inclosures; for fuel, light, and office furniture; and for stationery, chemicals for batteries, postage, and freight, $10,000.

Mr. SPALDING. I move to amend that paragraph by inserting after the word "messenger" the words "one porter."

The amendment was agreed to.

Mr. SPALDING. I now move to strike out "two" and insert "three;" so that it will read "three watchmen."

Mr. WASHBURNE, of Illinois. I object to that.

Mr. SPALDING. I hope the gentleman will not object.

Mr. WASHBURNE, of Illinois. It was as much as I could do to give the porter, but when the gentleman asks for an additional watchman I am opposed to it.

Mr. SPALDING. I have a letter from Commodore Sands, who has charge of the Observatory, saying that it is indispensably necessary that they should have three watchmen. It is a very small matter. I send the letter to the Clerk's desk to be read.

The Clerk read as follows:

UNITED STATES NAVAL OBSERVATORY,
WASHINGTON CITY, *January* 31, 1868.

MY DEAR SIR: I perceive in the H. R. bill No. 515, "For the expenses of the Observatory," that the porter and one watchman are omitted, possibly by oversight. See lines one hundred and fifty-four and one hundred and fifty-five.

These are men actually required—the porter for keeping up the fires night and day and cleaning lamps and rooms of the instruments and offices. The watchman left out would place the duties of night and day watching upon two, which would be pretty severe work. Again, in lines one hundred and sixty-three, one hundred and sixty-four, and one hundred and sixty-five, the three "aids" are taken from us. These "aids" are the computers and assistant observers, and the work of the Observatory would be seriously crippled if they were taken from us.

Very truly yours,
B. F. SANDY, *Commodore,*
Superintendent United States Naval Observatory.

Hon. WILLIAM FAXON,
Assistant Secretary of the Navy.

Mr. WASHBURNE, of Illinois. I desire to say one word about this amendment. I suppose that the gentleman from Ohio [Mr. SPALDING] would be satisfied with the amendments with regard to this Naval Observatory, which were agreed to by the Committee on Appropriations. We agreed to give them a porter and to strike out that in regard to the assistant astronomer, and put in three aids at $4,000, and I did not suppose there was going to be an application for a third watchman. I consider it entirely unnecessary. I considered the provisions in the original bill sufficient, but I was willing to allow them the porter and the three aids.

Mr. SPALDING. Three watchmen are needed. It requires two to divide the twenty-four hours, day and night, and they want one for a relief. They must have it. Human nature cannot stand it. They must have three watchmen; two will not answer.

The question was put on the amendment; and there were—ayes 24, noes 44; no quorum voting.

Tellers were ordered; and Messrs. SPALDING and WASHBURNE, of Illinois, were appointed.

Mr. SPALDING. This only involves about four hundred dollars, and they say it is indispensable.

The committee divided; and the tellers reported—ayes twenty-seven, noes not counted.

So the amendment was rejected.

Mr. WOOD. I suggest to the gentleman from Illinois [Mr. WASHBURNE] that an amendment should be made in the amount appropriated in the paragraph so as to provide for the salary of the porter that we have voted for.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio, [Mr. SPALDING,] who moved to insert the words "one porter," should move to insert the amount necessary. His salary will be $600, which will make the amount $10,600.

Mr. SPALDING. That is right, I believe. I move to strike out "$10,000" and insert "$10,600" in lieu thereof.

The amendment was agreed to.

The Clerk resumed the reading of the bill.

The following paragraph was read under the heading "For expenses of Naval Observatory:"

For salary of assistant astronomer, $2,500.

Mr. WASHBURNE, of Illinois. I have consented to strike out this paragraph and insert in lieu thereof the following:

For three aids, $4,000.

Mr. SPALDING. It should be $4,500.

Mr. WASHBURNE, of Illinois. If the gentleman will refer to the book of estimates he will see that $4,000 is the amount asked for.

The question was upon the amendment of Mr. WASHBURNE, of Illinois.

Mr. WASHBURNE, of Illinois. I will withdraw the amendment and offer it to the next paragraph, where it will be more appropriate.

The Clerk read as follows:

For salary of clerk, $1,500: *Provided*, That so much of the act of May 25, 1864, as provides for three aids is hereby repealed.

Mr. PIKE. That proviso should be stricken out.

Mr. WASHBURNE, of Illinois. Certainly. I move to strike out the proviso, and to insert in lieu thereof the following:

For three aids, $4,000.

The amendment was agreed to.

The Clerk read as follows:

For preparing for publication the American Nautical Almanac, namely: for pay of computers, $10,000.

Mr. PIKE. I move to amend this paragraph by striking out "$10,000," and inserting "$15,000." That amount is absolutely necessary, and if it is not appropriated the almanac cannot be issued at the proper time.

Mr. WASHBURNE, of Illinois. I am disposed to yield in this matter to the chairman of the Committee on Naval Affairs, [Mr. PIKE.]

Mr. WOOD. I desire the gentleman from Maine [Mr. PIKE] to explain the necessity for increasing the amount here named. As I understand, this Nautical Almanac simply contains things which our merchants and sailing masters of the merchant service already have, and this is merely to give to the Navy officially information which the merchant service is already in possession of.

Mr. PIKE. I will say to the gentleman, who represents a commercial district, that this American Nautical Almanac must be issued or our navigators must purchase the English Nautical Almanac. You cannot make calculations at sea by which to determine latitude and longitude without a nautical almanac. About four thousand copies are annually sold to merchants and the public at a low price. And unless the Government provide it at a low price for our sailing masters and merchants they will be compelled to purchase the English Nautical Almanac at a much higher price. No navy vessel or merchant vessel sails without a nautical almanac for the current year.

Mr. SPALDING. This $10,000 is said to be "for pay of computers." I am informed that the three aids for whose pay we have just appropriated $4,000 are the "computers" and nothing else.

Mr. WASHBURNE, of Illinois. That is not so.

Mr. PIKE. The gentleman is mistaken.

Mr. SPALDING. I have information from the Navy Department to that effect.

Mr PIKE. At the head of this bureau is Professor J. H. C. Coffin, who has been there for twenty years. Originally this almanac was got out at Cambridge, but now it is got out here. It is a small matter, and as it is for the benefit of the commerce of the country I hope it will not be objected to.

Mr. WOOD. The gentleman has not answered my interrogatory. Admitting all that he says about the establishment of this bureau and the publication of this almanac why should the appropriation for this purpose be increased to $15,000?

Mr. PIKE. The amount called for in the estimate was $20,000. The Committee on Appropriations cut it down to $10,000. The bureau states that if it is made $15,000 they can get along with it.

The amendment was agreed to.

The Clerk read as follows:

Bureau of Ordnance:

For guns, gun-carriages, shot, shell, magazine and laboratory stores, and equipments of all kinds; for gunpowder, small arms, equipments and ammunition; for fuel and materials necessary in carrying on the mechanical branches of the ordnance department at the navy-yards and stations, $250,000.

Mr. VAN WYCK. I move to amend this paragraph by adding to it the following:

Provided, That no part of the money appropriated by this act, or of the moneys now in the hands or under the control of the Secretary of the Navy, shall be used in paying for new guns, gun-carriages, or small arms.

Mr. WASHBURNE, of Illinois. So far as that applies to this appropriation it is in order, and I have no objection to it. Beyond that, I submit it is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURNE, of Illinois. So far as regards this appropriation the amendment is in order.

The CHAIRMAN. Does the gentleman from New York [Mr. VAN WYCK] modify his amendment?

Mr. VAN WYCK. I modify the amendment to read, as follows:

That no part of the money appropriated by this act shall be used in paying for new guns, gun-carriages, and small arms.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois, obtained the floor.

Mr. BOUTWELL. I move that the committee rise, in order that we may make an order for a regular session to-morrow—a session for business.

Mr. WASHBURNE, of Illinois. The gentleman can do that when we get through with this bill.

Mr. BOUTWELL. It may take some time to get through it, and then we may not have a quorum present.

Mr. WASHBURNE, of Illinois. We can get through the bill in ten minutes.

Mr. MYERS. I do not see why the bill should be hurried through in such hot haste.

Mr. BOUTWELL. In view of the fact that the Government is so far subverted as to have two Secretaries of War, I think we ought to have a business session to-morrow. I move that the committee rise.

The CHAIRMAN. The gentleman from Illinois [Mr. WASHBURNE] is entitled to the floor.

The Clerk resumed the reading of the bill, and read the next paragraph.

Mr. BUTLER. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, had come to no resolution thereon.

ORDER OF BUSINESS TO-MORROW.

Mr. BUTLER. I move to reconsider the vote by which the House ordered that the session of to-morrow be for debate in Committee of the Whole, not for business. I make this motion because of the communication made in this House by the Secretary of War. We have, it appears, two Secretaries of War, one by law and one by usurpation——

Mr. ELDRIDGE. I raise the point of order that this motion is not debatable.

The SPEAKER. The Chair sustains the point of order.

Mr. RANDALL. Does it not require a two-thirds vote to rescind the order in regard to business to-morrow?

The SPEAKER. It does not. Any such order of the House can be rescinded by a majority vote, unless a motion to reconsider has been made and laid on the table, in which case a suspension of the rules would be necessary.

On the motion to reconsider, there were—ayes 85, noes 22.

Mr. BROOKS. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 29, not voting 56; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Baker, Banks, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Driggs, Eckley, Eggleston, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Mallory, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Perham, Peters, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, and Windom—104.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Haight, Holman, Hotchkiss, Kerr, Knott, McCormick, Niblack, Nicholson, Phelps, Pruyn, Randall, Taber, Lawrence S. Trimble, Van Auken, and Wood—29.

NOT VOTING—Messrs. Ames, James M. Ashley, Bailey, Baldwin, Beaman, Benjamin, Bromwell, Burr, Cake, Chanler, Cornell, Dixon, Dodge, Donnelly, Ela, Eliot, Finney, Garfield, Griswold, Grover, Hawkins, Richard D. Hubbard, Humphrey, Johnson, Jones, Koontz, Loan, Lynch, Marshall, Marvin, Maynard, McCarthy, McCullough, Morgan, Morrissey, Mungen, Paine, Plants, Pomeroy, Robinson, Ross, Selye, Shellabarger, Sitgreaves, Thaddeus Stevens, Stewart, Stone, Thomas, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William Williams, Stephen F. Wilson, Woodbridge, and Woodward—56.

So the motion to reconsider was adopted.

The SPEAKER. The question now recurs on granting unanimous consent that to-morrow's session shall be devoted to debate alone.

Mr. WASHBURNE, of Illinois. I object; and move the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the Navy appropriation bill.

Mr. RANDALL. I move that the House adjourn. It is after four o'clock, and we are all tired and want to go home.

The House divided; and there were—ayes 43, noes 63.

Mr. RANDALL demanded the yeas and nays.

The yeas and nays were ordered.

Mr. FARNSWORTH. I hope, by unanimous consent, the House will agree to adjourn.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania will withdraw the demand for the yeas and nays. It will take less time to get through with the bill than to call the yeas and nays.

Mr. BROOKS. You cannot get through with the bill in an hour.

The question was taken; and it was decided in the negative—yeas 42, nays 86, not voting 61; as follows:

YEAS—Messrs. Adams, Axtell, Barnes, Barnum, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Haight, Higby, Holman, Hotchkiss, Jenckes, Jones, Kerr, Knott, George V. Lawrence, McCormick, Niblack, Nicholson, Phelps, Pike, Pruyn, Randall, Spalding, Stokes, Taber, Lawrence S. Trimble, Van Auken, Ward, Thomas Williams, Windom, Wood, and Woodbridge—42.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Beatty, Benton, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Cobb, Covode, Cullom, Dawes, Dodge, Driggs, Farnsworth, Ferriss, Ferry, Gravely, Harding, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, William Lawrence, Lincoln, Logan, Loughridge, Lynch, Mallory, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Starkweather, Aaron F. Stevens, Taffe, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, and John T. Wilson—86.

NOT VOTING—Messrs. Archer, Bailey, Baldwin, Beaman, Benjamin, Bromwell, Burr, Cake, Chanler, Sidney Clarke, Coburn, Cook, Cornell, Dixon, Donnelly, Eckley, Eggleston, Ela, Eliot, Fields, Finney, Garfield, Griswold, Grover, Halsey, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Koontz, Loan, Marshall, Marvin, Maynard, McCarthy, McCullough, Morgan, Morrissey, Mungen, Nunn, Plants, Pomeroy, Robinson, Ross, Selye, Shellabarger, Sitgreaves, Thaddeus Stevens, Stewart, Stone, Taylor, Thomas, John Trimble, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William Williams, Stephen F. Wilson, and Woodward—61.

So the House refused to adjourn.

During the vote Mr. WASHBURNE, of Illinois, moved that the reading of the roll be dispensed with.

Mr. FOX objected.

The vote was then announced as above recorded.

NAVY APPROPRIATION BILL—AGAIN.

Mr. WASHBURNE, of Illinois. I move the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the Navy appropriation bill.

Mr. RANDALL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 41, not voting 72; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Banks, Beatty, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Farnsworth, Ferriss, Ferry, Gravely, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Laflin, William Lawrence, Lynch, Mallory, McClurg, Mercur, Miller, Moore, Moorhead, Mullins, Newcomb, Orth, Paine, Perham, Peters, Pile, Poland, Polsley, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Starkweather, Aaron F. Stevens, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Van Wyck, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, and John T. Wilson—76.

NAYS—Messrs. Adams, Barnes, Barnum, Beck, Bingham, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Haight, Holman, Hotchkiss, Jenckes, Jones, Kerr, Knott, George V. Lawrence, Loughridge, McCormick, Myers, Niblack, Nicholson, O'Neill, Phelps, Pike, Pruyn, Randall, Stewart, Stokes, Taber, Lawrence S. Trimble, Van Auken, Ward, Thomas Williams, Windom, Wood, and Woodbridge—41.

NOT VOTING—Messrs. Archer, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Beaman, Benjamin, Bromwell, Burr, Butler, Cake, Chanler, Sidney Clarke, Cornell, Covode, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Fields, Finney, Garfield, Griswold, Grover, Hawkins, Hill, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Ketcham, Koontz, Lincoln, Loan, Logan, Marshall, Marvin, Maynard, McCarthy, McCullough, Morgan, Morrell, Morrissey, Mungen, Nunn, Plants, Pomeroy, Robertson, Robinson, Ross, Selye, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stone, Thomas, John Trimble, Burt Van Horn, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William Williams, Stephen F. Wilson, and Woodward—72.

So the motion was agreed to.

The rules were accordingly suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES, in the chair,) and resumed the consideration of the bill (H. R. No. 601) making appropriations for the naval service for the year ending 30th June, 1869.

The Clerk resumed the reading of the bill, and read as follows:

SEC. 3. *And be it further enacted*, That the fourth section of an act entitled "An act making appropriations for the naval service for the year ending the 30th of June, 1848," approved March 3, 1847; the second section of an act entitled "An act to increase the pay of midshipmen and others," approved March 3, 1865; the second section of an act entitled "An act to regulate the appointment and pay of engineers in the Navy of the United States," approved August 31, 1842; the ninth section of an act entitled "An act to amend certain acts in relation to the Navy," approved March 2, 1867; and the first section of an act entitled "An act to establish the office of solicitor of naval and judge advocate," approved March 2, 1865, be, and the same are hereby, repealed.

Mr. PIKE. I raise the point of order that the foregoing section and the two succeeding ones propose independent legislation.

Mr. WASHBURNE, of Illinois. The gentleman is too late; section three has been read.

The CHAIRMAN. The Chair sustains the point of order, that section three, which has just been read, and the two following sections propose to change existing law.

The remaining sections of the bill which were included in the point of order and which were ruled out, are as follows:

SEC. 4. *And be it further enacted*, That each and every seaman, ordinary seaman, or landsman who shall perform the duty of a fireman or coal-heaver on board of any vessel of war, shall be entitled to and shall receive a compensation at the rate of eight dollars per month for the time they shall thus be employed as firemen and coal-heavers, and which shall be in addition to their compensation as seamen, ordinary seaman, or landsmen, as aforesaid.

SEC. 5. *And be it further enacted*, That the number of non-commissioned officers, musicians, and privates authorized and allowed to be enlisted into the Marine Corps of the United States be, and the same is hereby, fixed and declared to be the number established by the act of Congress entitled "An act for the better organization of the Marine Corps," approved July 25, 1861; and all acts or parts of acts authorizing a number to be enlisted in excess of the number in act of July 25, 1861, are hereby repealed; and the total amount appropriated by this bill is $18,096,045.

Mr. WASHBURNE, of Illinois. I ask the committee to go back and strike out "$30,000" and insert "$60,000" in the paragraph in regard to hospital repairs and improvements of hospitals. It is the same amount as was inserted last year, and information has come to the committee since the bill was reported that that sum will be required this year.

Mr. RANDALL. I object.

Mr. WASHBURNE, of Illinois. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being House bill No. 601, making appropriations for the naval service for the year ending 30th June, 1869, and had directed him to report the same to the House with various amendments.

Mr. WASHBURNE, of Illinois. I now move that the bill be postponed till Monday next after the morning hour.

The SPEAKER. The Chair will state that on Monday morning, after the morning hour, the gentleman from New York [Mr. GRISWOLD] is entitled to the floor on a motion pending at the adjournment last Monday to suspend the rules to allow him to offer some resolutions in regard to the rights of American citizens abroad.

Mr. WASHBURNE, of Illinois. Let this come up after the vote shall be taken on that matter.

The motion of Mr. WASHBURNE, of Illinois, was agreed to; and the further consideration of the bill was accordingly postponed till Monday next, after the morning hour.

The SPEAKER. The Chair will state that as the House has rescinded the order that to-morrow be assigned to debate in Committee of the Whole on the President's message, the first business in the morning hour to-morrow will be the consideration of the bill reported by the gentleman from Maine, [Mr. PETERS,] from the Committee on Patents, which was pending at the expiration of the morning hour to-day.

ADMINISTRATION OF JUSTICE IN TEXAS.

Mr. BUTLER. I ask unanimous consent to present a communication from the Governor of Texas, and have it referred to the Committee on Printing.

Mr. HOLMAN. What is the character of the paper?

Mr. BUTLER. It is in regard to the administration of justice in that State.

Mr. BOYER. I object.

IMPEACHMENT OF THE PRESIDENT.

Mr. COVODE. I rise to a privileged question. I offer the following resolution:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

Mr. WOOD. I object.

The SPEAKER. It is a privileged question.

Mr. BOUTWELL. I move to refer it to the Committee on Reconstruction.

The motion was agreed to.

Mr. COVODE moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BLAINE. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Christian Keil, of Washington, District of Columbia, for relief.

Also, the petition of the board of registration of Comal county, Texas, for the removal of disabilities incurred by participation in the rebellion from Jacob Schmitz and T. H. Hamock.

By Mr. BARNUM: The petition of John Brooks and others, of Fairfield county, Connecticut, with accompanying documents, praying for a light off Black Rock.

Also, the petition of Major General Horatio G. Wright, Major General George W. Getty, Major General Truman Seymour, and Major General Frank Wheaton, a committee charged by the Sixth corps of the Army of the Potomac with the completion of a monument in bronze to the memory of its commander, the late Major General John Sedgwick, United States volunteers, who was killed in battle at Spottsylvania.

By Mr. BASHFORD: The petition of John W. Sweeney, relating to his claim against the United States.

By Mr. BOYER: The petition of citizens of Catasaqua, Pennsylvania, for the abolition of the "warehousing system" and the repeal of the law establishing "bonded warehouses."

By Mr. DRIGGS: The petition of E. Sales, and 50 others, of Waughton, Michigan, asking for an extension of time for completing the military wagon road from Fort Howard, in Wisconsin, to Copper Harbor, in Michigan.

By Mr. FERRISS: The petition of S. P. Bowen and others, tax-payers and producers, praying for the reduction of the expenses of the Government to a peace basis, for the reduction of the Army and Navy, revision of the tax and revenue laws, and other reforms.

By Mr. HALSEY: The petition of Anson Atwood, of the city of New York, asking Congress to extend his patent for cast-iron car wheels.

By Mr. HARDING: The petition of 200 people of Quincy, Illinois, that citizens of the United States in foreign countries be protected in their rights.

By Mr. HOOPER, of Massachusetts: A memorial of officers of the Army, asking that the pay of servants in the Army shall not be reduced below that of privates.

By Mr. HUBBARD, of West Virginia: The petition of J. H. Duval and others, late officers in the Army of the United States, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865.

By Mr. JUDD: The petition of Frank Lawler and others, ship-builders, of Chicago, asking the removal of internal tax from ship-building materials.

By Mr. KITCHEN: The petition of George W. Corner and 150 others, citizens of West Virginia, praying for a pension for Charles Hampstead, late of the West Virginia State guards.

By Mr. MOORE: The petition of D. B. Belisle, for pension to Martin Belisle, one of the heroes of the war of 1812.

By Mr. PAINE: The petition of Murray, Slawson & Co. and others, of Racine, Wisconsin, for a reduction of taxation.

By Mr. RAUM: The petition of Adjutant W. McEvoy, late of the third regiment Illinois cavalry volunteers, asking pay from March 14 to May 10, 1865, and three months' extra pay.

By Mr. SHANKS: The petition of Lot S. Bayless, administrator of Marcus Bayless, deceased, praying compensation for the military services rendered by said officer.

By Mr. UPSON: The petition of J. A. Stevens, G. A. Colby, and 400 others, citizens of Berrien county, Michigan, praying Congress for a reduction of expenses and taxation.

By Mr. VAN TRUMP: The petition of J. Wait, and 77 others, citizens of Adelphi, Ohio, praying Congress to pass an act to authorize the issuing of a sufficient amount of United States legal-tender Treasury notes to pay the bonds of the United States.

Also, the petition of Morris Reed and 78 others, citizens of Ross county, Ohio, praying Congress to pass a law to authorize the issuing of a sufficient amount of United States legal-tender Treasury notes to pay the bonds of the United States, and thereby stop an enormous amount of interest, and have a safer currency without interest.

By Mr. WILLIAMS, of Indiana: A memorial of the officers of the Northern Central Michigan Railroad Company.

IN SENATE.

SATURDAY, *February* 22, 1868.

The following prayer was offered by Rev. E. H. GRAY, D. D.:

O God! amid the tumults of the people Thou art our strength and our refuge and the tower of our defense. Thy hand is on the helm of the universe. Thou rulest among the affairs of men. Thou settest up one and puttest down another. Thou raisest up kingdoms and overturnest thrones and powers and dominions. All things are subject to Thy control, and we bow before Thy divine sovereignty. We ask, O Lord, that Thy blessing may be upon Thy servants the Senators and upon the members of the House as they shall come to the consideration of grave and important matters. May they have foresight and sagacity and determination; and a spirit of wisdom and a disposition to do right give them. Preside over all of their deliberations and guide and direct them to safe conclusions and enactments, such as shall result in promoting the greatest good of this people and secure the glory of God. And now we ask that Thou wilt have the executive and the legislative and the judicial and the military arm of Government under Thy control and superintendence to-day and forever. Amen.

On motion of Mr. ANTHONY, and by unanimous consent, the reading of yesterday's Journal was dispensed with.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives yesterday, were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes—to the Committee on Appropriations.

A bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones—to the Committee on Patents and the Patent Office.

A bill (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery—to the Committee on Commerce.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, in answer to a resolution of the Senate of the 18th of December last, requesting information in regard to the Island of San Juan, on Puget's sound, transmitting a report from the Secretary of State on the subject; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, communicating an estimate from the Commissioner of Indian Affairs of additional appropriations for various bands of Sioux Indians of the Upper Missouri agency; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs relative to the Navajo Indians on the Bosque Redondo reservation in New Mexico; which was referred to the Committee on Indian Affairs.

ADJOURNMENT.

Mr. ANTHONY. We had a very long and exhaustive session yesterday; and to-day, I need not remind you, is the anniversary of the birth of Washington, on which it is not customary to transact public business. The Departments are all closed, I believe. It has always been customary for the Senate to adjourn over this day, unless where a pressure of business at the short session compelled us to sit. There seems to be no pressing business to-day. I move, therefore, that the Senate do now adjourn.

Mr. DOOLITTLE. I ask the honorable Senator to allow me a moment——

The PRESIDENT *pro tempore*. The question is not debatable.

Mr. ANTHONY. I will not withdraw the motion; but if the Senator asks unanimous consent to make a statement while the motion is pending I shall not interpose an objection. I will not, however, withdraw the motion, because I should lose the floor, and not be able to renew it.

Mr. DOOLITTLE. I shall yield the floor to the honorable Senator when I make the remark which I wish to make. I supposed that, by the unanimous consent of the Senate, I was to address the Senate to-day in reply to other Senators who have spoken on the subject which was so long under consideration, not expecting that any vote would be taken or that any business would be insisted upon. With that understanding I came here, expecting to address the Senate.

The PRESIDENT *pro tempore*. The motion is not debatable, and it is not withdrawn.

Mr. DOOLITTLE. I do not propose to debate it. I simply state to my honorable friend that that was my understanding, and I supposed it was the universal understanding of the Senate. I did not expect to insist that Senators should remain here if they did not desire to remain.

Mr. ANTHONY. The Senator will have the floor at any time when the question on which he is entitled to the floor comes up. We do not wish, however, to remain here to-day, and we do not wish to lose his speech. We prefer to have the speech at some time when we can listen to it.

Mr. DOOLITTLE. I do not desire to stand in the way of the decided wish or opinion of the Senate, and I will therefore ask unanimous consent to have House bill No. 439 taken up, so that I may take the floor on it on Monday at one o'clock. There are various reasons why I wish to have that understanding. I do not desire to press anything against the wish of the Senate, but I understood I was to speak to-day.

Mr. CONNESS. I ask consent to be allowed to make one remark. Unless greater and more important business shall demand the attention of the Senate on Monday, of course there will be no objection to the Senator then going on. If that should be the case, of course the Senator will be expected to give way and give precedence to that class of business.

Mr. DOOLITTLE. I suppose (if the Senate will allow me to make a remark) that there is no greater or more important business than

the question of reconstruction. I supposed it was the great question.

Mr. EDMUNDS. I object to any debate, and object to any understanding.

The PRESIDENT *pro tempore*. Debate is out of order. The question is on the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 22, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the consideration of a bill (H. R. No. 783) for the relief of Samuel Pierce, reported from the Committee on Patents and pending at the close of the morning hour yesterday, on which the gentleman from Maine [Mr. PETERS] is entitled to the floor.

WASHINGTON'S BIRTHDAY.

Mr. ELDRIDGE. I rise to a privileged question. I offer the following resolution:

Resolved, That in honor and commemoration of the Father of his Country, this being the anniversary of his birthday, his memorable Farewell Address be read by the Clerk of this House, and that upon the conclusion thereof this House adjourn.

The SPEAKER. That resolution requires unanimous consent. Does the gentleman from Maine [Mr. PETERS] yield for that purpose?

Mr. PETERS. I decline to yield.

Mr. ELDRIDGE. Then I move that the House do now adjourn.

The SPEAKER. The gentleman from Maine [Mr. PETERS] is on the floor, and the gentleman from Wisconsin [Mr. ELDRIDGE] cannot take him off the floor and move to adjourn except with his consent.

Mr. PETERS. I do not yield for that purpose.

Mr. HOLMAN. I appeal from the decision of the Chair, that this is not a privileged question.

The SPEAKER. The Chair rules that this order which the gentleman from Wisconsin [Mr. ELDRIDGE] desires the House to make, that the Clerk read the Farewell Address of Washington, and that thereafter the House adjourn, is not in order except by unanimous consent, for two reasons. The first is, that the State of Wisconsin has not been called regularly for resolutions, and the second is that the gentleman from Maine [Mr. PETERS] is upon the floor and cannot be taken from the floor, except by his own consent, even for a motion to adjourn, and much less for the reading of a document from the Clerk's desk. From this decision the gentleman from Indiana [Mr. HOLMAN] appeals, and the question is: "Shall the decision of the Chair stand as the judgment of the House?"

Mr. WASHBURNE, of Illinois. I move to lay the appeal on the table.

The question was taken; and there were—ayes 98, noes 12.

So the appeal was laid upon the table.

Mr. PETERS. I will yield for a moment to the gentleman from Massachusetts, [Mr. ELIOT.]

Mr. ELIOT. I ask leave to report from the Committee on Commerce a short bill which is called for by the public interests at this time. I think there will be no objection to it.

Mr. BARNES. I object.

Mr. ELIOT. There will be no objection to it.

Mr. BARNES. The gentleman from Massachusetts [Mr. ELIOT] yesterday objected to a resolution having the same public interest, and I object to his resolution to-day.

Mr. ELIOT. All right. I hope the gentleman feels better now.

LIGHTING THE HALL.

Mr. PETERS. I yield now to the gentleman from New York, [Mr. KELSEY.]

Mr. KELSEY. In view of the accident which happened here yesterday, I offer the following resolution:

Resolved, That the Committee on Accounts be instructed to inquire into the expediency and expense of causing the gas over this Hall to be lighted by electricity from the battery now used for lighting the rotunda and dome.

Mr. ELDRIDGE. Since the gentlemen on the other side object to my resolution, I shall object to anything coming in by unanimous consent.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman from Maine [Mr. PETERS] yield to me for a few moments?

Mr. PETERS. I am willing to do so.

Mr. WILLIAMS, of Pennsylvania. I desire to report from the Committee on the Judiciary a Senate bill which is short, easily comprehensible, and will give rise to no debate. It is important that it should be passed as soon as practicable. The Committee on the Judiciary, of which the gentleman from Wisconsin [Mr. ELDRIDGE] is a member, and a very worthy one, recommend the passage of this bill, and I hope he will not object.

Mr. ELDRIDGE. There is no member of this House to whom I would extend a courtesy so soon as to the gentleman from Pennsylvania, [Mr. WILLIAMS.] But the resolution I offered should have been received, but it was objected to, and I must, therefore, object to any other business being done by unanimous consent.

The SPEAKER. Then the House will proceed with the consideration of the special order.

Mr. ELDRIDGE. I am informed that the gentleman from Maine [Mr. PETERS] will yield to me to offer the resolution and let the House vote upon it. If the House vote it down I will yield to its decision, of course.

Mr. PETERS. I will yield for that purpose.

Mr. HARDING. I object.

SAMUEL PIERCE.

The House then resumed the consideration of House bill No. 783, for the relief of Samuel Pierce.

The bill was read at length. It provides that letters-patent heretofore ganted to Samuel Pierce on the 6th December, 1845, for improvement in stoves, and which was subsequently extended for the term of seven years from the 6th December, 1859, by the Commissioner of Patents, and which was reissued in two patents on the 3d December, 1860, numbered 136 and 137, so far as and to the extent of the improvement described and claimed in said reissued letters-patent No. 136, shall be extended for the term of seven years, commencing 6th December, 1866, and ending on the 6th December, 1873, for the benefit of said Samuel Pierce and his heirs and legal representatives, upon the conditions hereinafter set forth. The Commissioner of Patents is directed, upon the presentation of said patent, or in case of loss of a duly certified copy thereof, and the payment of the fees and charges provided by law, to extend said patent by making a certificate thereon of such extension in the usual manner in cases of extension by said Commissioner in the name of said Samuel Pierce, if, in his judgment upon full hearing, the same should be granted. The Commissioner is further directed to cause said extension, if perfected, to be entered upon the records of the Patent Office.

It is further directed the said patent so extended shall have the same effect as if originally granted for the term extending to the end of the term to which it is extended by this act; provided, however, that said extended patent shall be open to legal inquiry and decision in the same manner as if issued under the general law in relation to patents. It is provided, further, that all persons enjoying the lawful use of the improvement secured by said patent, and the purchases of any article made under said patent, may continue to use the same as if this act had not been passed. And it is still further provided, that all persons who shall have purchased said improvement after the 6th December, 1866, and before the day of the extension of said patent, shall be entitled to use the same without license under said patent, and that all persons who shall have made use of said patent between the time of its expiration and its extension shall be relieved from all liability therefor.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. PETERS. I now ask that the report accompanying this bill be read.

The report was read. It states that the petitioner, Samuel Pierce, of Cambridge, Massachusetts, sets forth that he is the first inventor of an improvement in anthracite cooking stoves, for which he received a patent, dated December 6, 1845; that after certain reissues he procured said patent to be extended for seven years from the 6th of December, 1859; that in 1861 he surrendered that patent and took out two letters-patent covering different patterns of his invention; that he now seeks an extension of that one of his last reissued patents that covers the improvement known and described as the "curved oven-plate;" that said improvement has been of great value to the public, and that he has not been adequately rewarded for his labor and expenses in making said invention and bringing the same into use.

The report further states that the petitioner produced in support of his petition the evidence of many witnesses, prominent for many years in the business of manufacturing stoves, who unanimously pronounce the improvement invented by Mr. Pierce to be an essential pattern in good anthracite cooking stoves, and a saving to the public of from three hundred thousand to seven hundred and fifty thousand dollars annually; that the witnesses further assert that the petitioner has not derived from said improvement what would fairly compensate him for his labors in making and introducing the same to the public, but on the other hand that his compensation has been but little, if any; more than the wages of a laborer.

The report further states that it was shown that the petitioner was the first inventor of a practical apparatus for burning anthracite coal for cooking purposes, and that his labors in that field, extending over the time embraced between the years 1825 and 1845, had been substantially unrewarded until they culminated in this improvement patented in 1845.

The report concludes by stating that the committee are satisfied that the invention of the petitioner has been and is of great importance to the public, and that justice demands that the Commissioner of Patents have power to extend this patent seven years longer, under the provisions of the general patent law, and therefore unanimously recommend the passage of the accompanying bill.

Mr. PETERS. Mr. Speaker, there seemed to be an impression in the House yesterday that there were two reports from the Committee on Patents on this subject-matter. The fact is there is but one report, and that is made by the committee unanimously; and the same committee in the last session of the Thirty-Ninth Congress came to a unanimous conclusion upon the same petition. The bill was not at that time presented to the House because there was no time for the call of the committee before the session expired. I will say but a word or two in further explanation of this matter, which I feel confident will commend itself, if understood, to the judgment of the House. The petitioner is an old gentleman in indigent circumstances now residing in Cambridge, Massachusetts. He was formerly a mechanic in the cities of New York and Troy, where he lived the greater part of his life. In, I think, the year 1825 he invented the cooking-stove to be used for anthracite coal. He never had a patent for it. The twenty years following that time were spent by him in getting up inventions and devices in relation to stoves, ranges, and all that branch of business, for none of which did he ever receive any patent or extra com-

pensation whatever, until in 1845 he invented the curved oven-plate, which he patented, and he has had the use of that patent for twenty-one years. It is an ingenious invention and valuable to the public.

The only question to be considered in this case is: has the patent been sufficiently remunerative? The remunerativeness of a patent can be measured by no absolute standard. The usual rule, as adopted in the law of Congress, is that the inventor receives sufficient compensation for his invention by enjoying a patent for twenty-one years. There are, however, exceptions; sometimes this term may be too long and sometimes it may be too short. And there are numerous precedents upon which this bill may well rest. I wish to state briefly to the House why the inventor in this case has not received a sufficient remuneration for his patent. In the first place, he was for twenty years engaged upon the subject-matter. For two years he was engaged wholly upon this branch of his invention. He encountered many difficulties and was obliged to prosecute a great many suits. He has received in gross, under all his issues, only the sum of fifteen thousand and some hundred dollars. He has expended at least four or five thousand dollars in meeting the expenses of the suits and other difficulties attendant upon the maintenance of his rights. During the first fourteen years of his patent he received only the sum of $3,500. Now, a great reason why there should be an extension is that the patent was almost worthless to the inventor during the first fourteen years. The reason of this was in a measure that the invention was in advance of the state of the arts; and any gentleman can well understand this when he bears in mind that in 1825 only thirty-five thousand tons of coal were marketed in the whole United States, while now the annual sum total is at least a million, if not millions of tons.

The petitioner has asked to have two patents or reissues extended. The committee have proposed to give him but one. While he has asked for bread, we do not propose to give him a stone—but half a loaf. The bill is carefully guarded in all respects. So far from there being in the committee any opposition from any source to this extension, there is a vast deal of testimony in depositions from leading gentlemen interested in the manufacture of and trade in stoves of this kind in New York, Boston, Providence, Troy, and other places, commending this man to the attention of Congress. In order to exhibit the hearty and sympathetic character of this testimony, I send it to the Clerk, that he may read a few extracts.

The Clerk read as follows :

Affidavit of Moses Pond.

"I, Moses Pond, of Boston, in the State of Massachusetts, on oath depose and say:

"I have been in the business of making and selling stoves and ranges in Boston and its vicinity for more than fifty years, including my apprenticeship. The firm of which I am now senior member has been, I presume, one of the largest concerns in the trade in this city for the past twenty years.

"I remember very well the first exhibition of the burning of anthracite coal in Boston. I, with other citizens, witnessed it at the invitation, I think, of Mr. James Wilson, of New York, who asked me to come to the City Hotel and see some 'rocks' burning. This coal came into use very gradually. It was a long time after this experiment before it was used for cooking purposes." * * * * * *

"I remember the first appearance in Boston of the coal-burning stove known as the 'American Air-Tight,' believed to be the invention of Samuel Pierce, and one of the features of which was the curved front oven plate. It was manufactured by Johnson & Cox, of Troy, New York, and sold in Boston by Gardner Chilson.

"This stove proved to be a very valuable one. It had contrivances in it that caused it to excel any thing of the kind then in use. Its leading novelty was the curved plate already spoken of."

* * * * * * * * * *

"I have known Samuel Pierce, the inventor, for many years as an industrious man, of good character and habits, engaged in designing forms of stoves and devising improvements in their construction; and my impression is strong that he is not, pecuniarily, forehanded, and has not derived from his inventions that remuneration for which he might reasonably have looked and which he well deserves."

* * * * * * * * * *

"Nearly all the cooking stoves made by our firm have the 'curved plate' in them. There are thousands and thousands of them, in which this plate is used, made in the United States; probably many thousand every year."

Affidavit of Jacob H. Shear.

"I, Jacob H. Shear, of Albany, in the State of New York, on oath depose and say:

"I am fifty-six years of age, and a stove manufacturer by occupation. I have been engaged in said business for twenty-eight years past, and my firm, Shear, Packard & Co., is one of the leading houses in the stove trade in Albany and its vicinity."

* * * * * * * * * *

"I have known Mr. Pierce for twenty years, have observed his way of life, and am able to speak from personal knowledge of his habits and character. He is and has been an industrious, frugal, temperate, and moral man, of high reputation as an honest, Christian citizen. I believe I should know his pecuniary condition from my relations to him, and I have no reason to believe that he is not now in quite straitened pecuniary circumstances. I do not think he has received in any way a fair compensation for the invention of this curved plate. Since this invention has been in use by the public Mr. Pierce has been all the time industriously at work; he has lived providently and what would be called very sparingly; he has not lost money by speculation or wasted it in extravagance or folly, and yet he is to-day a poor man. In my opinion the stoves having this curved plate will do the same work twenty per cent. cheaper than stoves not having it, in view of the saving in fuel, wear and tear, and labor in managing and working them."

Affidavit of David B. Cox.

"I, David B. Cox, of the city of Troy, in the State of New York, on oath depose and say:

"I have been in the stove business in said Troy for the most of the time since the year 1837. I was a member of the firm of Johnson & Cox in 1845. We were at that time among the largest dealers in stoves in the country, and the largest in Troy."

* * * * * * * * * *

"Mr. Pierce went into our employment in the year 1845, and continued therein for about ten years. At the time he first engaged with us he was very poor. He was employed while in our service in making improvements and getting up patterns in stoves, and in our general business. I was very familiar with his way of life at this time. I think he rather 'leaned' on me. When he first came with us he was overwhelmed with debts I know.

"He lived economically, and was industrious and temperate. He had no vices, but did not seem to know how to manage and make the most of his inventions.

"We paid him, from time to time, compensation enough to furnish him a respectable support. We had no agreement with him, by which we were to pay him any definite sum after our purchase of his patent, as aforesaid. Whatever improvements Mr. Pierce made while with us we had the advantage of, as well as of his general services, and we gave him his living, paying some of his old debts that were more pressing, in addition.

"In view of the value of the curved plate (for it is almost indispensable in cooking stoves) I am of the opinion that Mr. Pierce has not received a remuneration at all commensurate with his invention."

Affidavit of George W. Walker.

"I, George W. Walker, of the city of Boston, in the State of Massachusetts, on oath depose and say:

"I have been for nine years past, or thereabouts, in the stove business in Boston, and was for about five years preceding in the same business in Troy, New York, in the employ of Johnson, Cox & Fuller, and their successors.

"I know Samuel Pierce to be a straightforward, square man, temperate and frugal. He has had a large family, and, since I knew him, has been devoted to this branch of invention. I am confident he is in humble circumstances, and has not, I am sure, been compensated for his time and ingenuity in and about this invention and giving it to the world. He ought to have realized from it, beyond his expenses of living, at least $100,000.

"The value of this improvement in communities where anthracite coal is used can hardly be reckoned in dollars and cents. A man who had the means to make the outlay would be better off in the end to pay the price asked for a stove with Pierce's plate in it than to take a high hearth stove without it as a gift.

"Comparing two large-oven stoves—the one built with the curved plate and the other without it—I should say the stove with the curved plate would save thirty per cent. of the fuel, and that the cost of repairs in the stove without it would, unless in very careful hands, be six times that of the other.

"It is my candid belief and deliberate estimate that not less than one hundred and twenty-five thousand stoves are made in the United States annually with this curved plate for their ruling principle, and that there is a saving effected by the use of this device in those stoves of not less than five dollars per stove on an average each year."

Affidavit of Lewis P. Mead.

"I, Lewis P. Mead, of the city of Providence, and State of Rhode Island, on oath depose and say:

"I am over fifty years of age, am an iron founder, and a part of my business is the manufacture of stoves. I have been, as clerk and principal, so employed over thirty years.

"I remember when the 'American Air-Tight' stove, the invention, as I suppose, of Samuel Pierce, first came out, and am familiar with its distinguishing feature, the curved front plate for the oven.

"This stove became a very popular stove, and, though other patterns have since taken its place, the curve plate is still regarded, I think generally, as a necessary part of a good cooking stove, and is in extensive use.

"I do not know how it could be dispensed with, or what other thing there is that will answer the same purpose in stoves that this does."

Affidavit of Joseph Pratt.

"In the matter of the petition of Samuel Pierce for an extension of his patent,

"I, Joseph Pratt, of Boston, in the State of Massachusetts, on oath depose and say:

"I have been since the year 1837 in business, principally in Boston, as an iron founder, and almost exclusively as a manufacturer of stoves and stove furniture." * * * * * * * *

"As before stated, in 1837, when I began business, the public had just commenced to burn anthracite coal, and only in the simplest contrivances. It very soon became a common fuel in cooking stoves, after the introduction of 'Pierce's Air-Tight.'

"I have known Samuel Pierce intimately for the last five or six years, and during that period have had business relations with him. I have known him for a much longer period as an 'expert' in stoves, and an eminent inventor of improvements therein. I believe him to be an honest, industrious, frugal and temperate man, but not shrewd in matters of business. Since I first knew him, in 1847, his manner of living has been, so far as I know or believe, simple and economical. He has neither been extravagant in expenditure for himself or family; nor has he been inattentive to business: on the contrary, he has always seemed to be, and for some years I know he has been, faithfully devoted to the interests of his employers. While by no means heedless in the expenditure of his earnings, he has been too earnest in making improvements to attend properly to the protection of his own interests. And he has not, in my opinion, received anything like a fair remuneration for his time and ingenuity expended by him in making and perfecting said invention.

"The firm of Pratt & Wentworth, of which I am senior member, is one of the largest, if not the largest, manufacturer of stoves in Massachusetts. We now make annually about five thousand stoves, in nearly all of which the curved plate of Pierce is introduced. I estimate the number made annually in the United States, in which said plate is used, at not less than one hundred thousand."

Affidavit of B. W. Dunklee.

"I, B. Wells Dunklee, of the city of Boston, on oath depose and say:

"That I have been a manufacturer and dealer in stoves and other heating apparatus in Boston since the year 1842, and am familiar with the various improvements that have been made during that period in cooking stoves." * * * * * *

"In 1846 the 'The American Air-Tight' stove, the invention of Samuel Pierce, came out. I was then in the employ of Gardner Chilson, of Boston, who had the agency of the stove for this vicinity. I believe I made the first fire that was ever kindled in one of these stoves in Boston. It burned anthracite coal. The curved oven plate was one of its leading features." * * * * * * * *

"Mr. Pierce's course of life has been one of extreme prudence, and his habits of the purest order of a Christian man. I have known him intimately for over twenty years. So far as I am able to judge, I should say he had received only a pittance, compared to what he ought to have received for this invention.

"I estimate the number of stoves made annually, in the United States, with the curved plate in them, at not less than one hundred thousand."

Mr. PETERS demanded the previous question.

The previous question was seconded and the main question ordered.

PORTS OF DELIVERY.

Mr. PETERS. On an understanding I yield the floor first to the gentleman from Massachusetts, [Mr. ELIOT,] and then to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELIOT. I ask unanimous consent to report from the Committee on Commerce a bill (H. R. No. 786) declaring St. George and Boothbay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinal Haven, in the State of Maine.

Mr. LOGAN. I should like to know what this bill is?

Mr. ELIOT. It will occasion no expense to the Government, and its passage is now wanted for commercial purposes.

Mr. LOGAN. I have no objection to the bill if it be necessary for the public interest. Does it provide under the law for private bonded warehouses for internal revenue?

Mr. ELIOT. It has nothing to do with the internal revenue. It is in reference to collection districts for duties on imports.

The object of the bill, sir, is really to put revenue into the Treasury of the United States. These shipping ports have no bonded ware-

houses, and the consequence is that men sending vessels to sea cannot procure salt at their own homes, and they have to go elsewhere from home or to Halifax. The result is they do go to Halifax and get salt. The object of the bill is to enable the Secretary of the Treasury to provide for these men getting salt at their own homes, and to save to the Treasury money which would otherwise be lost.

The bill was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON'S FAREWELL ADDRESS.

Mr. ELDRIDGE. I ask unanimous consent to submit the following resolution:

Resolved, That in honor and commemoration of the Father of his Country, this being the anniversary of his birthday, his memorable Farewell Address be read by the Clerk of this House, and upon its conclusion, this House adjourn.

Mr. BROOMALL. I object.

Mr. WASHBURNE of Illinois. Let it be postponed until three o'clock.

Mr. ELDRIDGE. It was the understanding with gentlemen on the other side I should have unanimous consent to offer that resolution.

Mr. BROOMALL. I withdraw my objection.

Mr. SPALDING. I renew it.

The SPEAKER. The gentleman from Maine having yielded, the latter part of the resolution, that the House adjourn, is in order.

Mr. ELDRIDGE. I make that motion. It was the understanding with gentlemen on the other side who knew the feeling there that when I withdrew objection to the bill of the gentleman from Massachusetts unanimous consent should be accorded to the submission of my resolution.

Mr. SPALDING. They had no right to speak for all the members on this side.

Mr. ELDRIDGE. Then, in honor of the day, I move the House adjourn.

Mr. PETERS. I wish to state that it was the understanding that all objection was to be withdrawn, and I did not suppose any gentleman was going to object to the introduction of the resolution of the gentleman from Wisconsin. I was assured that the understanding was pretty general. Of course any gentleman can object.

Mr. ELDRIDGE. Then I move that the House adjourn in honor of Washington.

Mr. MILLER. I give notice that I shall demand a separate vote on the reading of the Farewell Address and the motion to adjourn.

Mr. PIKE. I hope the objections will be withdrawn. Let the gentleman present his resolution and have a vote upon it.

Mr. BLAINE. He merely wants a vote on it.

Mr. INGERSOLL. I would like to address a question to the Chair: if this resolution is brought to the consideration of the House without objection will it not be in order then to postpone it, or so to amend it that the reading of the Farewell Address of the Father of his Country can be listened to next week, as there will be business of more importance before the House to-day? [Laughter.]

Mr. BLAINE. Or at a later hour of the day.

Mr. INGERSOLL. If that is satisfactory to the gentleman——

Mr. ELDRIDGE. I hope the gentleman will not cast contempt on this question by any such suggestion. It is disgraceful to him as well as the House.

The SPEAKER. The Chair will answer the question of the gentleman from Illinois. If the House receives the resolution by unanimous consent the gentleman from Pennsylvania [Mr. MILLER] has demanded, as it is his right to do, a separate vote on the reading of the Farewell Address, and after that on the motion to adjourn. But if the resolution shall be introduced by unanimous consent, and the gentleman from Wisconsin does not demand the previous question on agreeing to it, then a motion to postpone or lay on the table, or any other parliamentary motion, would be in order.

Mr. ELDRIDGE. I do not intend to call the previous question.

Mr. DAWES. If the resolution is introduced by unanimous consent cannot any member insist on the Farewell Address being read?

The SPEAKER. If it is introduced and agreed to he can.

Mr. SCHENCK. I objected, and I do not withdraw the objection.

Mr. ELDRIDGE. I then move that the House adjourn in honor of Washington.

The question being put and appearing to be lost,

Mr. ELDRIDGE demanded the yeas and nays.

Mr. PETERS. I believe I did not yield the floor for a simple motion to adjourn.

The SPEAKER. The Chair understood distinctly that the gentleman did yield.

The yeas and nays were ordered.

Mr. KERR. I move that when the House adjourns to-day it adjourn to meet on Tuesday next at twelve o'clock.

The SPEAKER. That motion is in order.

Mr. KERR. And on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 117, not voting 53; as follows:

YEAS—Messrs. Adams, Axtell, Barnes, Barnum, Burr, Chanler, Fox, Getz, Glossbrenner, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Pruyn, Ross, Sitgreaves, Van Auken, Van Trump, and Woodward—29.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Beatty, Benton, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Golladay, Gravely, Halsey, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Perham, Peters, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Randall, Raum, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taber, Taffe, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—117.

NOT VOTING—Messrs. Archer, Bailey, Baldwin, Beaman, Beck, Benjamin, Bingham, Boutwell, Boyer, Brooks, Cake, Dixon, Donnelly, Ela, Farnsworth, Finney, Garfield, Griswold, Hulburd, Jenckes, Koontz, Maynard, McCarthy, Morrissey, Niblack, Nicholson, Paine, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Thaddeus Stevens, Stewart, Stone, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, and William Williams—53.

So the motion was disagreed to.

The question recurred on the motion to adjourn, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 106, not voting 47; as follows:

YEAS—Messrs. Adams, Axtell, Barnes, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Van Auken, Van Trump, Wood, and Woodward—36.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Beatty, Benton, Bingham, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Driggs, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Gravely, Halsey, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Perham, Peters, Pike, Pile, Poland, Polsley, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taffe, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—106.

NOT VOTING—Messrs. Archer, Bailey, Baldwin, Barnum, Beaman, Beck, Benjamin, Boutwell, Boyer, Brooks, Cake, Dawes, Dixon, Donnelly, Ela, Farnsworth, Finney, Garfield, Griswold, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Jenckes, Koontz, Maynard, Morrissey, Niblack, Nicholson, Nunn, Paine, Plants, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Thaddeus Stevens, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, and William Williams—47.

So the House refused to adjourn.

SAMUEL PIERCE.

The SPEAKER. The question recurs, under the operation of the previous question, on ordering the bill for the relief of Samuel Pierce to be engrossed and read a third time, on which the gentleman from Maine [Mr. PETERS] is entitled to the floor for one hour to close the debate.

ADMISSIONS TO THE HALL.

Mr. PETERS. I yield for a moment to the gentleman from Pennsylvania, [Mr. BOYER.]

Mr. BOYER. I ask unanimous consent that the families of members, who are unable to procure seats in the galleries, be allowed to occupy the cloak-rooms on this day.

Mr. COBB. I object. [Cries of "No, no."]

UNLAWFUL USE OF PUBLIC MONEY.

Mr. WILSON, of Iowa. Will the gentleman from Maine yield to me?

Mr. PETERS. I yield to the gentleman.

Mr. WILSON, of Iowa. I desire to introduce, that it may be put upon its passage, a bill to prevent and punish the unlawful use of public money and property.

The bill was read for information. It provides that if any officer of the United States or any other person having possession or control of any public money or property of the United States, or any person in the employ or subject to the direction of any such officer or other person, shall, by loaning, depositing, or otherwise, use or dispose of the same or any part thereof for his own benefit or for the benefit of any other person without authority of law, he shall be deemed guilty of felony, and, on conviction, shall be punished by a fine not exceeding double the amount so unlawfully used or disposed of and by imprisonment at hard labor not less than one year nor more than fifteen years.

Mr. HOLMAN. How does that bill come before the House?

The SPEAKER. It is not yet before the House. The gentleman from Iowa asks consent to report it from the Committee on the Judiciary.

Mr. WILSON, of Iowa. The Chair misunderstands the position of the bill. I do not ask to report it from the Committee on the Judiciary. I ask leave to introduce it.

The SPEAKER. Then the Chair will ask for objections.

Mr. WILSON, of Iowa. If the gentleman from Indiana [Mr. HOLMAN] will hear my statement he will see that it is substantially the same as that made by the Speaker.

I submitted this bill to the Committee on the Judiciary. It was not referred to them by the House because I have had no opportunity to introduce it, but upon its being submitted to the committee they unanimously concurred in its provisions and asked me to present it to the House. It grows out of a defect in the law of August 6, 1846, to provide for the better organization of the Treasury and for the collection, safe-keeping, transfer, and disbursement of the public revenue. That portion of the sixteenth section, to which this bill relates, is as follows:

And be it further enacted, That all officers and other persons charged by this act or any other act with

the safe-keeping, transfer, and disbursement of the public moneys other than those connected with the Post Office Department are hereby required to keep an accurate entry of each sum received and of each payment or transfer; and that if any one of the said officers or of those connected with the Post Office Department shall convert to his own use, in any way whatever, or shall use, by way of investment in any kind of property or merchandise, or shall loan, with or without interest, or shall deposit in any bank, or shall exchange for other funds, except as allowed by this act, any portion of the public moneys intrusted to him for safe-keeping, disbursement, transfer, or for any other purpose, every such act shall be deemed and adjudged to be an embezzlement of so much of the said moneys as shall be thus taken, converted, invested, used, loaned, deposited, or exchanged, which is hereby declared to be a felony; and any failure to pay over or to produce the public moneys intrusted to such person shall be held and taken to be *prima facie* evidence of such embezzlement; and if any officer charged with the disbursements of public moneys shall accept or receive or transmit to the Treasury Department, to be allowed in his favor, any receipt or voucher from a creditor of the United States without having paid to such creditor in such funds as the said officer may have received for disbursement, or such other funds as he may have received for disbursement, or such other funds as he may be authorized by this act to take in exchange, the full amount specified in such receipt or voucher, every such act shall be deemed to be a conversion by such officer to his own use of the amount specified in such receipt or voucher; and any officer or agent of the United States and all persons advising or participating in such act, being convicted thereof before any court of the United States of competent jurisdiction, shall be sentenced to imprisonment for a term of not less than six months nor more than ten years and to a fine equal to the amount of the money embezzled, &c.

Now, the difficulty is this: on a case which has been tried in the courts, and which came to the Supreme Court on a writ of error, the Supreme Court were equally divided upon the question as to whether a clerk, in the employ of the person charged with the custody of the public money, was included in the terms of that portion of the section of the act of 1846 which I have read. Therefore, in order to avoid any difficulty of that kind in the future or any possibility of loss to the Government, I have presented this bill so as to include clerks and all other persons in the employ of persons charged with the custody of public moneys.

Mr. HOLMAN. I have not distinctly understood all that the gentleman has said. I would ask him to state in what way this bill proposes to affect the provision of law which he has read.

Mr. WILSON, of Iowa. It is intended simply to settle the question as to whether a clerk in the employ of any person charged with the custody or disbursement of the public money is or is not included in the provisions of that act.

Mr. HOLMAN. I withdraw all objection to the introduction of the bill.

No other objection was made.

Accordingly the bill (H. R. No. 787) to prevent and punish the unlawful use of public money and property was introduced, and read a first and second time.

The question was upon ordering the bill to be engrossed and read the third time.

Mr. WILSON, of Iowa. Upon that question I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PETERS. I yield for a moment to the gentleman from Ohio, [Mr. EGGLESTON.]

APPRAISEMENT OF IMPORTS.

Mr. EGGLESTON, by unanimous consent, reported from the Committee on Commerce a bill (H. R. No. 788) to regulate the appraisement and inspection of imports in certain cases, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAIL IN THE DISTRICT.

Mr. PETERS. I yield to the gentleman from Pennsylvania, [Mr. COVODE.]

Mr. COVODE. I move to reconsider the vote recommitting to the Committee on Public Buildings and Grounds a bill (H. R. No. 784) to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

LIGHTING OF THE HALL.

Mr. PETERS. I yield to the gentleman from New York, [Mr. KELSEY.]

Mr. KELSEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Accounts be instructed to inquire into the expediency and expense of causing the gas over this Hall to be lighted by electricity from the battery now used for lighting the rotundo and dome.

OFFICE OF ADJUTANT GENERAL.

Mr. PETERS. I yield to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. I ask unanimous consent to introduce for consideration at the present time a bill to abolish the office of Adjutant General.

Mr. GLOSSBRENNER. I object.

PROTECTION OF WITNESSES, ETC.

Mr. PETERS. I yield to the gentleman from Pennsylvania, [Mr. WILLIAMS.]

Mr. WILLIAMS, of Pennsylvania. I ask unanimous consent to report from the Committee on the Judiciary for consideration at the present time a bill (S. No. 306) for the protection in certain cases of persons making disclosures as parties, or testifying as witnesses.

The SPEAKER. The bill will be read for information, after which there will be an opportunity for any gentleman to object.

The bill, which was read, provides that no answer or other pleading of any party, and no discovery or evidence obtained by means of any judicial proceeding from any party or witness in this or any foreign country, shall be given in evidence, or in any manner used against such party or witness, or his property or estate, in any court of the United States, or in any proceeding by or before any officer of the United States, in respect to any crime, or for the enforcement of any penalty or forfeiture by reason of any act or omission of such party or witness. But nothing in this act is to be construed to exempt any party or witness from prosecution and punishment for perjury committed by him in discovering or testifying as aforesaid.

The second section provides that this act shall take effect from its passage, and shall apply to all pending proceedings, as well as to those hereafter instituted.

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, this bill will speak for itself. I will only say that it has the approbation—the unanimous approbation, I believe—of the Committee on the Judiciary. There are reasons of state requiring its passage, and I trust there will be no objection to its immediate consideration.

Mr. PRUYN. I desire to ask the gentleman from Pennsylvania whether he is at liberty to disclose the reasons of state to which he has just referred, and also whether he will be good enough to state what will be the operation of the bill in reference to litigation pending between individuals?

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, it is of course well known—at least to all professional men—that as the law now stands—and this as well in courts of equity as at law—no party or witness can be compelled to answer any questions which may have a tendency to subject him to a criminal prosecution or to expose him to the infliction of a forfeiture or a penalty. The effect of this bill is to provide that where a party answers, as he may decline to do under this rule, the testimony shall not be used against him for either of these purposes; that is to subject him to criminal prosecution or to penalty or forfeiture; so that nothing is lost, at all events, by it.

Now, I do not know there is any mystery about this matter. I suggested there were reasons of state for the passage of the bill. Perhaps I may be allowed to state upon this floor there are cases pending in other countries. There is one now pending in England, at the instance of the Government, in reference to the assets of the dead confederacy, where the testimony of parties who acted as agents of that Government, and owning property here, is necessary to make out the case. A bill was filed in equity, but it was pleaded by the party holding this relation that being a citizen of the United States he would be subjected to forfeiture under acts of Congress with which members are familiar. An answer would necessarily involve the disclosure of his relation to the rebel government. On demurrer it was decided by the vice chancellor, and afterwards by the chancellor, that the party could not be held to answer. This testimony is important, and this bill is to put the party in such position that he shall be relieved from the liability to which he is now subject.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WILLIAMS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SIOUX INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, inclosing estimates of additional appropriations required for various bands of Sioux Indians of the Upper Sioux agency; which was referred to the Committee on Appropriations, and ordered to be printed.

BOSQUE REDONDO.

The SPEAKER, by unanimous consent, also laid before the House a communciation from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs relative to the Navajo Indians upon the Bosque Redondo reservation, New Mexico; which was referred to the Committee on Appropriations, and ordered to be printed.

UNITED STATES MAILS.

Mr. LAWRENCE, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That all testimony taken before the Committee on Southern Railroads referring to contracts for carrying mails in the South be referred to the Committee on Expenditures in the Post Office Department.

CHANGE OF REFERENCE.

Mr. JULIAN. I ask unanimous consent to report back from the Committee on Public Lands Senate bill No. 166, for the relief of the owners of land within the United States survey No. 3217, in the State of Missouri, and to move that it be referred to the Committee on Private Land Claims. It was referred to the Committee on Public Lands by mistake.

There was no objection, and it was ordered accordingly.

RIGHTS OF ADOPTED CITIZENS.

Mr. MILLER, by unanimous consent, presented joint resolutions of the Legislature of the State of Pennsylvania, instructing the Senators and requesting the Representatives from that State in Congress to urge upon the Secretary of State of the United States to demand from England the release of persons imprisoned upon mere suspicion of having committed offenses, and insist upon the adoption of a fixed policy in reference thereto; which were referred to the Committee on Foreign Affairs and ordered to be printed.

SAMUEL PIERCE—AGAIN.

Mr. SPALDING. I insist on the regular order.

The SPEAKER. The regular order is the passage of the bill for the relief of Samuel Pierce.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PETERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The morning hour then expired.

INVALID PENSION BILL.

Mr. WASHBURNE, of Illinois, moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and proceeded to the consideration of the special order, being House bill No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869.

The CHAIRMAN. If there be no objection the first reading of the bill will be dispensed with.

Mr. HOLMAN. I object.

The bill was accordingly read through for information, after which it was read by paragraphs for amendment.

The bill appropriates for invalid pensions, under various acts, $10,000,000; for pensions of widows, children, mothers, fathers, brothers, and sisters of soldiers, as provided for under various acts, $20,000,000; and for pensions of invalids, widows, and children, and other relatives of officers dying in the line of duty, $350,000.

The Clerk read the second and last section of the bill, as follows:

SEC. 2. *And be it further enacted*, That all moneys and securities appertaining to a fund now known as the "naval pension fund," and all other moneys and securities which by law have been heretofore paid into such fund, and which, if this act had not been passed, would hereafter accrue thereto, shall be covered into the Treasury of the United States and become a part of the surplus fund of the Treasury; and all Navy pensions shall be hereafter assumed by the United States to be paid from the Treasury in accordance with appropriations made by law.

Mr. PIKE. I raise the point of order that that is independent legislation, and changes existing law.

The CHAIRMAN. The Chair is informed that when this bill was referred to the Committee of the Whole on the state of the Union there was no point of order reserved. Therefore the point cannot now be entertained.

Mr. PIKE. I then move to strike out that section. I will state the reasons why I do so. It is proposed here, upon an appropriation bill, to abolish the pension fund of the Navy. Gentlemen are aware that this pension fund is now in the Treasury of the United States, entirely without the control of anybody but the Treasurer of the United States; that its accumulations can only be reached under the authority of the Congress of the United States, as it from time to time designates who shall share in its proceeds. That pension fund has arisen thus far from the sale of prizes. I will read the law under which that fund was established. It is the act of July 17, 1862, section eleven, and it provides—

"That all money accruing or which has already accrued to the United States from sale of prizes shall be and remain forever a fund for the payment of pensions of officers, seamen, and marines who may be entitled to receive the same."

If anything can constitute a contract on behalf of the United States it is such language as that. The Congress of the United States by that act said that whatever money should be received from this source should be and forever remain a pension fund for this special purpose. It is proposed now to take that pension fund and carry it with the other public moneys into the Treasury. Whatever may have been the policy at that time of creating such a fund, whether wise or unwise, it is a fund created by contract, and I submit to the House that now, upon an appropriation bill, without further consideration to change the existing law and to enact that hereafter the Government shall pay out of any of its moneys, whenever it may have the money, whatever pensions it deems best to pay, is simply and only a breach of faith on the part of the Government.

Mr. BUTLER. Mr. Chairman, it becomes my duty to give the reasons why this section was reported. As early as 1800 a pension fund was made by this Government, almost in the language of the act of 1862, which my friend from Maine [Mr. PIKE] has just cited. That fund, made out of prizes taken in war, became insufficient before the year 1840, I think, and thereupon the Navy asked for the payment of their pensions out of the general Treasury of the United States. They were willing to have a contract to have a fund as long as the fund was enough to pay them, but they were not willing to have a contract on the other side, so that when that fund was not enough then they would not have any pensions. It was like many other contracts made by the United States, all on one side. Then, at the beginning of the late war the act of 1800 was substantially renewed, and it was agreed that one half the prize money should go into the pension fund, and the other half should be distributed to the Navy. Now, then, the other half has been distributed to the officers and men of the Navy, over thirteen million dollars, as their own, which they have gone away with. I do not know that it is germane to this subject to enter into any discussion of that distribution. Certain it is, however, that the officers and men under the glorious Farragut, who did more fighting than any other officer of the Navy having like command during the late war, did not get any considerable portion of this money. Those who did the most fighting got the least money.

Now, the other half of this fund of $13,000,000 remains in the Treasury. But how in the Treasury? I have the report of the Secretary of the Treasury, and he puts it down as a debt against the United States. It remains as a standing debt against the United States, interest payable in coin, and there is now required to be paid for naval pensions only the sum of $319,878 25, while the interest of that fund is $780,000 in gold.

This pension fund, therefore, is continually rolling up as a sinking fund. Three hundred and fifty thousand dollars in currency is needed out of it to pay pensions, and $780,000 in gold is every year to be paid into it. My friend from Maine [Mr. PIKE] says that there is no objection to that. With your leave, Mr. Chairman, I will tell you the objection. Whenever there is any sinking fund or other fund remaining in the Treasury, there are always being devised ways and means to get it out. That has been the universal history of all sinking funds. Every Administration that could not get through a proposition to tax the people to raise money always plunged at the sinking fund, when there was one. When there was a sinking fund to redeem the national debt, the Administration of that day took it all to themselves, and that was as much a contract with the public creditors as this is, although I object to the use of the word "contract" in either case.

The Secretary of the Navy himself in his report of this year proposes, as this fund is becoming too large for the payment of the existing pensions, to pension the admiral and vice admirals and rear admirals and all others on the retired list. He says:

"I recommend, therefore, that the pension laws applicable to the Navy be revised, and such an increase in the rates of pension be authorized as the fund will warrant."

That is to say, the pension list is not to be guided by what they ought to have, but by the amount of the fund, and that would be three times the present rate. But, as that would be a little too strong, he goes on to make the following recommendation:

"In this revision provision should also be made for pensions for the admiral, vice admiral, rear admiral, commodore, and other grades, both of the line and staff, now wholly omitted."

Now, I agree that these are very meritorious officers, but these men have got one twentieth part of this fund already in the shape of prize money, and, as I said before, the most deserving have not got the most.

He says further:

"It may also be well to consider whether the family of a person dying in the Navy after a specified time of service should not derive some benefit from this surplus fund, even though the death should not have occurred in the strict 'line of duty.'"

This is a proposition that after a man has served so many years in the Navy then we shall take care of his family whenever he may die, under any and all circumstances. Are we ready for this?

For these reasons the committee instructed me to report this section so as to put this fund into the Treasury of the United States, so that naval pensioners shall stand precisely where military pensioners stand. The soldier who has not had any prize money, the soldier who has not had any comfortable ship to be in all the time, but has slept in the muddy trenches, must look to the general Treasury for his pension, and I think the sailor and seaman, to say nothing against the Navy and the sailors—certainly not the fighting part of them—but I think the sailor should look to the same source for his pension.

Now, it is said that we propose to take this fund away from the sailors. We propose that not only this fund shall be pledged for their pensions, but that all the other moneys of the United States shall be pledged; that it—

"Shall be covered into the Treasury of the United States and become a part of the surplus fund of the Treasury, and all Navy pensions shall be hereafter assumed by the United States to be paid from the Treasury in accordance with appropriations made by law."

Therefore, instead of taking away this fund, we pledge the entire Treasury of the United States for this purpose. I hope there will be no objection to this section.

Mr. PIKE. I was curious to know what reason the ingenious gentleman from Massachusetts could give for violating a statute of the United States. The Congress of the United States says that "all money accruing or which has already accrued to the United States from the sale of prizes shall be and forever remain a fund for the payment of pensions." That is what the Congress of the United States said. Now, the gentleman from Massachusetts says that he would take this away, because, for the most ingenious of all reasons, he is afraid that the recommendations of the Secretary of the Navy will prove so potent with this House as to draw from this fund large sums for improper purposes. That I understand to be the reason for this section. All I wish to do in relation to this matter is simply to advertise members of what they are requested to do by the gentleman from Massachusetts, [Mr. BUTLER.] It is a fund in which I have no more interest than they have, and they no more than I. I merely wish to state to them what the proposition is, and leave it to them to say whether it shall be done.

The question was upon striking out the section; and, being taken, it was not agreed to.

Mr. BUTLER. I now move that the committee rise and report this bill back to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, and had directed

him to report the same back to the House without amendment.

Mr. BUTLER. I now call the previous question upon the bill.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. BARNES asked and obtained leave of absence, for an indefinite time, for Mr. ROBINSON, on account of his illness.

IMPEACHMENT OF THE PRESIDENT.

Mr. STEVENS, of Pennsylvania, obtained the floor.

The SPEAKER. The Chair desires, before proceeding further with the business of this House, to repeat the announcement he made early in the session to the spectators in the galleries, that if there shall be any manifestation of approbation or disapprobation among them at the proceedings or actions of this House the Chair will instantly order that portion of the galleries in which that manifestation shall occur to be cleared and the doors thereof to be closed and locked until the House shall order otherwise. The Chair has requested the Capitol police to act as auxiliaries of the doorkeepers in preserving order, and any person observed disobeying the order and rules of the House will be arrested by the officers. The Chair regrets to be compelled to make this announcement, because he knows that in such a case the innocent as well as the guilty must suffer the consequences of a disobedience of the rules of the House. But in no other way with such a large audience can order be preserved. The Chair desires also to say to members of the House, that if any manifestation of approbation or disapprobation or any disobedience of the rules of the House shall be observed on the part of any of them, the Chair will be compelled to call the person by name, the effect of which will be to bring the case before the House, for such action as the House shall adjudge to be necessary for this contempt of its rules by a member.

Mr. STEVENS, of Pennsylvania. I am directed by the Committee on Reconstruction to present to the House a report with an accompanying resolution, which I ask the Clerk to read.

The Clerk read as follows:

The Committee on Reconstruction, to whom was referred, on the 27th day of January last, the following resolution:

"*Resolved*, That the Committee on Reconstruction be authorized to inquire what combinations have been made or attempted to be made to obstruct the due execution of the laws; and to that end the committee have power to send for persons and papers and to examine witnesses on oath, and report to this House what action, if any, they may deem necessary; and that said committee have leave to report at any time."

And to whom was also referred, on the 21st day of February, instant, a communication from Hon. Edwin M. Stanton, Secretary of War, dated on said 21st day of February, together with a copy of a letter from Andrew Johnson, President of the United States, to the said Edwin M. Stanton, as follows:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

Hon. EDWIN M. STANTON, *Washington, D. C.*

And to whom was also referred by the House of Representatives the following resolution, namely:

"*Resolved*, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors;"

Have considered the several subjects referred to them, and submit the following report:

That in addition to the papers referred to the committee, the committee find that the President, on the 21st day of February, 1868, signed and issued a commission or letter of authority to one Lorenzo Thomas, directing and authorizing said Thomas to act as Secretary of War *ad interim*, and to take possession of the books, records, and papers, and other public property in the War Department, of which the following is a copy:

EXECUTIVE MANSION,
WASHINGTON, *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office. Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General of the United States Army, Washington, District of Columbia.*

Official copy respectfully furnished to Hon. Edwin M. Stanton. L. THOMAS,
Secretary of War ad interim.

Upon the evidence collected by the committee, which is herewith presented, and in virtue of the powers with which they have been invested by the House, they are of the opinion that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors. They therefore recommend to the House the adoption of the accompanying resolution. THADDEUS STEVENS,
GEORGE S. BOUTWELL,
JOHN A. BINGHAM,
C. T. HULBURD,
JOHN F. FARNSWORTH,
F. C. BEAMAN,
H. E. PAINE.

Resolution providing for the impeachment of Andrew Johnson, President of the United States.

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors in office.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, it is not my intention in the first instance to discuss this question; and if there be no desire on the other side to discuss it we are willing that the question should be taken upon the knowledge which the House already has. Indeed, the fact of removing a man from office while the Senate was in session without the consent of the Senate, if there were nothing else, is of itself, and always has been considered, a high crime and misdemeanor, and was never before practiced. But I will not discuss this question unless gentlemen on the other side desire to discuss it. If they do, I shall for the present give way to them and say what I have to say in conclusion.

Mr. BROOKS. Mr. Speaker, I had hoped to have an opportunity, at least, to submit a minority report before we entered upon this august proceeding of impeaching the chief executive officer of this Government. But after a session of the Committee on Reconstruction, hardly an hour in length, violating an express rule of this House by sitting during the session—for Rule 72 provides that no committee shall sit during the session of the House without special leave—we have been summoned upon a very partial submission of facts, without any comprehension, in reality, of the charges which are made against the President of the United States, upon a new indictment, in a new form once more, and in a more alarming manner than ever, in this but a partial Congress, representing but a section of a portion of the people—in my judgment not representing the people of the United States at all—to act as a grand jury, with a large portion of that grand jury excluded from the jury-room here; and suddenly, impromptu perhaps, a vote is to be forced this very day—to impeach the President of the United States!

I am utterly inadequate to discharge the duty which has devolved upon me on this august day, the anniversary of the birthday of the Father of his Country. I am utterly unable upon this occasion either to do my duty to the people or to express myself with that deep solemnity which I feel in rising to resist this untoward, this unholy, this unconstitutional proceeding. Indeed, I know not why the ghost of impeachment has appeared here in a new form. We have attempted to lay it hitherto, and we have successfully laid it, upon the floor of this House. But a minority of the party on the other side, forcing its influence and its power upon a majority of a committee of this House, has at last succeeded in compelling its party to approach the House itself in a united, and therefore in a more solemn form, and to demand the impeachment of the President of the United States.

Sir, we have long been in the midst of a revolution. Long, long has our country been agitated by the throes of that revolution. But we are now approaching the last and the final stage of that revolution in which, like many revolutions that have preceded it, a legislative power not representing the people attempts to depose the executive power, and thus to overthrow that constitutional branch of the Government.

There is nothing new in all this. There is nothing new in what we are doing, for men of the present but repeat the history of the past. We are traversing over and over again the days of Cromwell and Charles I and Charles II, and we are traversing over and over again the scenes of the French revolution, baptized in blood in our introductory part, but I trust in God never again to be baptized by any revolutionary proceeding on the part of this House.

The President of the United States, we have been told on other occasions, has deserved impeachment if for nothing else than that he was an obstruction in the way of restoring certain States to this Union; or rather, in better phrase, an obstruction to the party which would be, but is not yet, in full power. Sir, we are all obstructions to that party. My associates, I myself—we all have been and intend to be through all time obstructions in the way of their high-handed proceedings; and if the President of the United States is to be removed as an obstruction and as in the way of the party in power it is equally within that power, by the exercise of a tyrannical majority on the floor of this House, to remove every obstruction here and to have the sole control of the Government themselves. But I bid them beware, and in no spirit of defiance, but from love to my country and the institutions of my country—I solemnly bid them beware before they proceed further in their revolutionary steps.

Suppose you should succeed in passing your resolution of impeachment; suppose you achieve a majority in this House and obtain all you want in the Senate—what then? You can impeach the President of the United States for the hat he wears or for the color of his coat, if you choose, and can arraign him before the Senate, before the judicial tribunal of the Senate, under the merest forms and pretense whatever. You have the power if not the right. But I speak in behalf of those who have sworn to support the Constitution, in behalf of my associates here upon this floor of this House, in behalf of those thundering majorities whose voices are roaring outside of this Capitol and waiting but for a constitutional opportunity to enter herein. And I bid you beware that in so doing you follow every form of the Constitution and every form of the common law, or your impeachment will avail you nothing. The President is to be tried before the Senate of the United States through all the forms of law whatsoever, and before you can thus reach your final result he will be removed from your authority by ceasing any longer to be the constitutional President of the United States. If you proceed further; if, as threatened, you suspend him; if you throw him out of office by any other process than impeachment, I tell you in behalf of thousands and tens of thousands and hundreds of thousands and millions of the people of this country we will never, never, so help me God! never, never submit. [Derisive laughter on the Republican side of the House.]

Sir, (said Mr. BROOKS, as if in reply to this derisive laughter,) we have the physical power of this country with us. The labor, the industry, the bone, the muscle of the country are ours. The Democratic bone and muscle, the

heroic labor of the country is ours. Four fifths of the Army of the United States now are composed of the Democracy of the country; and if you proceed to introduce politics into the Army the Democratic soldier will follow the Democratic instinct and stand by the Constitution and laws of his country.

I therefore, Mr. Speaker, bid you beware of unconstitutional, of illegal, of extraordinary proceedings. Proceed in your forms of impeachment through all the manipulations, all the sinuosities and tergiversations of the law, and we shall submit, because it is our duty so to do as constitutional, obedient men, but step an inch further and over the bounds of that Constitution and proceed, as is often proposed, in a violent and revolutionary manner, and again you precipitate this country upon the verge of violence and revolution.

I know not, because I have not heard, nor has there been any argument given by the introducer of the resolution, upon what law or upon what facts it is founded, unless it be, and of that I am obliged to guess, the tenure-of-office act, which in the sixth section the President is said so to have violated as to be guilty of these high crimes and misdemeanors which, under the Constitution, subject him to impeachment.

Before I proceed to the discussion of this portion of the act—and I regret that it has not been left to some lawyer; I trust it will hereafter be examined in detail and in a more legal manner than a mind organized like mine can do it—before I proceed to that discussion I will call the attention of the House to the issue presented here. What is that simple issue? It is an issue for office—only an issue for office. Who has the right to-day to act as Secretary of War, Mr. Stanton or Adjutant General Thomas? Which of them now holds that office? Which of them rightfully occupies that place? It is a mere question of law. The right of trial of a title to office is like the right of trial to property—that and nothing more. In that respect this case presents nothing extraordinary, for over and over again the question who shall be the legal possessor of an office has hitherto been tried by the courts of law. But now for the first time it is proposed to take from the courts of law the control of this question and remove it from judicial investigation and direction. The Reconstruction Committee steps in here and proposes to adjudicate the question for itself and to impeach the President of the United States.

Why, sir, has the gentleman from Pennsylvania [Mr. STEVENS] or have his associates forgotten the case of Marbury *vs.* Madison, almost at the very origin of this Government, in the year 1800, when John Adams went out of office and Thomas Jefferson came in? Here in the District of Columbia Marbury was appointed a justice by Mr. Adams, the outgoing President, and a commission executed, but its delivery was refused by Mr. Madison, the Secretary of State who succeeded under Mr. Jefferson. What was done then? Was the House of Represesentatives called upon to interfere? Was an impeachment demanded then, as now? Was Mr. Madison or Mr. Jefferson arraigned before the bar of the Senate on the grand inquest of this House for not enforcing an act upon his Secretary of State? No. All parties then cheerfully resorted to the supreme tribunal of the land, and by the simple process of a *mandamus* all asked for an adjudication of the question there. And here is a like legal question—who is and who is not now the legal acting Secretary of War? in order to settle which question this House proposes to snatch the case from the courts and to adjudicate it here by the removal of the President of the United States.

Sir, the President of the United States has as much right to judge of the constitutionality of a law as has the Congress of the United States. The Executive is as much a branch of the Government, aye, is as much the Government, and in some respects more the Government, as the Congress of the United States. And yet, because he has exercised what in good faith he has believed to be his constitutional authority as President of the United States, under an act of Congress, to put in the Department of War a gentleman to act *ad interim*, the honorable gentleman from Pennsylvania [Mr. STEVENS] and those associated with him, upon the instant, impromptu, in a single day, in utter violation of the rules and ordinances of this House, summon us here to settle at once, not whether this or that person legally and constitutionally holds the office of Secretary of War, but to convict the President of crimes and misdemeanors because he honestly holds to one construction of the law while you hold to another.

I have not and never have been a defender of all the opinions of General Jackson, but those on the other side who pretend to hold him as authority and those on this side who have ever held him as authority will find that in uttering the opinions which I have I but reutter the opinions which he advanced in his veto of July 10, 1832, when he said:

"The Congress, the Executive, and the court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes the oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others."

The President of the United States has given his opinion upon the official tenure-of-office act and upon the Constitution of the United States by the appointment of Adjutant General Thomas as Secretary of War *ad interim*, and because of the exercise of that constitutional right we are called upon here at once to pronounce him guilty of high crimes and misdemeanors and to demand his deposition and degradation therefor.

Sir, all the offices of the departments of this Government are trusts. Congress has a high and august trust reposed in it; the judicial tribunals have also high and august trusts reposed in them. So, also, has the President of the United States an equally high trust reposed in him to maintain his constitutional powers, and to act and adjudicate upon those powers, subject to appeal to the Supreme Court of the United States. If he should throw away that trust; if he should abandon the powers and prerogatives given with that trust; if he should allow the executive department of the United States to be overthrown or disorganized, he would be guilty, not only of a high offense against the Constitution of the United States, but a high crime against the people of this country in not maintaining all the powers which the Constitution has given him.

The President is a primary judge of the Constitution. It is not only his right, but it is the right of every citizen, to judge of the Constitution of the United States, taking the penalties to which he may be subject when his opinions or his judgment are not found to be the opinions of the courts of his country. What I mean to say more explicitly is, that the President of the United States has a primary right to judge of the Constitution of the United States and the laws passed under the Constitution, subject to all the penalties to which he may be liable if he violates any law when that law is adjudged to be constitutional by the Supreme Court of the United States. But here at this moment, at this period of the history of the case, before any adjudication whatsoever, when he is in the exercise of his legal right of construing the Constitution of the United States and the official tenure act, you step in, pronounce him guilty of high crimes and misdemeanors, you impeach him, and attempt his deposition. You make a rule violating the Constitution, and you then impeach the President because he wishes to test the constitutionality of your rule. In other words, you claim the right to throw the President out of office, to abrogate or change the executive department of the Government, to strip it of its prerogatives and power, whenever, by a mere act of Congress, you can overrule a veto; and when you have thus done, unless the Executive obeys your act implicitly, without any investigation or legal adjudication, you claim the right to snatch the case in contest from the Supreme Court of the United States and adjudicate it here in this House and in the Senate through the impeachment power, which destroys that Executive, even if he could afterward rule that all that has been done is right. You have a right, you contend, to pass any illegal and unconstitutional laws; you have a right to disfranchise all of the people of the United States, if you so choose, that are not of your party; you have a right to eject every Democratic member upon the floor of this House by some disqualifying law that you have passed; and if the President of the United States maintains and executes the laws as they have been adjudged by the courts hitherto you have a right then to impeach and depose him because in the exercise of this trust he has been executing what he deems to be the laws and the Constitution of the United States.

Sir, in my judgment, these doctrines and these principles are not maintainable, or if they are then we have ceased to have a written Constitution, and the whole Government which we have is an arbitrary majority on this floor or some arbitrary majority in the Senate. What is the Government? What is the Constitution? What is the law? What is the beauty of our free institutions? The arbitrary rule of a temporary House of Representatives or a temporary Senate? The mere will, the caprice, the tyranny of a majority of members of Congress elected two or four or six years ago?

Sir, these illimitable, uncontrollable forms of legislative government have been tried elsewhere, and everywhere they have been found to fail. A mere majority is often more tyrannical than a king or a despotism. An oligarchy such as you are creating is the worst form of government man ever devised. The worst of all tyrannies ever created, far more odious than any one-man despotism in history, was the illimitable, uncontrollable will of a legislative majority in the French revolution, acting from passion and caprice, beyond any law or written constitution whatsoever. In the whole history of despotisms and monarchies throughout the whole world—in the worst tyrannies of Asia or of Europe—no one-man power has ever inflicted as much mischief on the human race, ever lawlessly destroyed so many lives, ever lawlessly shed so much blood, as the arbitrary, uncontrolled, illimitable majority of the revolutionary legislature of France; yet here, in this House, overriding our written Constitution, paying no regard whatsoever to its provisions, overthrowing the whole executive authority to-day, and but yesterday destroying an august tribunal of the judiciary—the last resort of conflicting opinions short of arms—here, on this floor, in this House, misrepresenting the people in point of fact—for you do not represent the majority even of the people of the North, as the votes will show hereafter—representing now but the passion, the caprice, and the power of the past, not of the present—you are attempting to concentrate here in a majority uncontrollable and illimitable that absorption of power which destroys the two other branches of the Government, the Supreme Court of the United States, and the Executive of the United States, and which thus makes you not only supreme, but the worst sort of an oligarchy and despotism that ever cursed, unhappily, men.

Sir, the history of all such acts as this has been written by many historians and illuminates many pages of the past; but here, for the first time in the history of our country; here, on the natal day of Washington, whose farewell address invokes peace, quiet, forgetfulness of party, and devotion to the public good, whose very presence should inspire us on a great occasion like this, you, by a mere party majority, in order to obtain possession of the Executive of the United States and to have the distribution of a few offices—you propose to depose the President of the United States and to substitute a President of your own, the present President of the Senate, in his stead.

Sir, the people will understand this. They expect party struggles and struggles for power; they comprehend what are the legitimate authority and prerogatives of a party; but now, for the first time in the history of our country, does a party, in order to maintain itself in power, without which it could not be in power, attempt to overthrow a judicial tribunal of the country, to overthrow the executive department, and thereby to abolish two coördinate and component departments of the Government, for a few miserable offices, for the control of a few wretched places. Here, on the anniversary of the birthday of Washington, by a mere party vote, you propose to impeach the President of the United States of high crimes and misdemeanors, upon the action of a committee after a session of but a single hour and in a single day, without any mature deliberation or any necessary consultation whatever.

Go on; go on, if you choose. If I were your trusted adviser and wished to accomplish your overthrow I would hurry you on. Andrew Johnson has no power now as President of the United States. He is without authority or influence or patronage, you have so manacled whatever influence or patronage that he has. By your violent acts, by your unconstitutional proceedings, by your revolutionary overthrow of executive rights, you may succeed, if not in reëlecting him to that office, at least in immortalizing him on the pages of history as the most glorious defender of liberty that ever lived under any constitutional Government. You may strip him of his office, but you will canonize him among those heroic defenders of constitutional law and liberty in whose ranks it is the highest glory of human ambition to shine. You may sacrifice him as a President, but long, long after the very name of President—a free President—shall have been forgotten in the clouds of the past his will be blazoned forth in the foreground of the present as the Pole star of liberty and law to be reverenced among men.

But why is this attempted? Because it is believed that the northern people of this country are now with the Democratic party; because it is believed now, previous to a presidential election, it is necessary so to manipulate and control the executive and judicial departments of the Government, by the annexation of some African states of the South, that the so-called Republicans of the North, in spite of the majority of the northern people, shall obtain control and possession of this Government. The sacrifice of two of the three branches of Government is deemed indispensably necessary to keep the Republican party in power.

I now ask the attention of this House to a few of the acts of Congress which sustain the President in the position which he has taken. From the very foundation of this Government, settled at an early period of our history, and resettled over and over again, the power of the President to remove from office has been held inviolable, subject to much discussion, but settled by the fathers of the Constitution, and settled by the most enlightened and cultivated minds of our own era, upon a discussion in the Senate of the United States in 1834.

The act of Congress of 1789—and I go back to that because it was the begining of our legislation upon that subject—the second section of that act provides:

"That there shall be in the Department an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and to be called the chief clerk in the Department of War, and who, whenever the said principal officer shall be removed from office by the President, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers appertaining to the said Department."

This is the first action of Congress upon that subject. The act of 1792, section 2, is more explicit still, and I read it in further illustration of our legislation upon this subject:

"*And be it further enacted*, That in case of the death, absence from the seat of Government, or sickness of the Secretary of State, Secretary of the Treasury, or of the Secretary of the War Department, or of any officer of either of the said Departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons at his discretion to perform the duties of the said respective offices until a successor be appointed, or until such absence or inability by sickness shall cease."

Mr. STEVENS, of Pennsylvania. Will the gentleman from New York [Mr. BROOKS] permit me to ask him a question?

Mr. BROOKS. I will yield to the gentleman for a question.

Mr. STEVENS, of Pennsylvania. To supply which of the contingencies named in that act was Mr. Thomas appointed?

Mr. BROOKS. I am approaching that subject.

Mr. STEVENS, of Pennsylvania. Oh, very well. I beg pardon for interrupting the gentleman.

Mr. BUTLER. Will the gentleman from New York allow me to ask him a single question?

Mr. BROOKS. I would rather not yield now.

The act of February 13, 1795, provides in its first section as follows:

"That in case of vacancy in the office of Secretary of State, Secretary of the Treasury, or of the Secretary of the Department of War, or of any other officer of either of the said Departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed or such vacancy be filled."

This clearly justifies the President in the course which he has pursued in this case, in placing Adjutant General Thomas in the office of the War Department as Secretary of War *ad interim*; not as Secretary of War, but as Secretary of War *ad interim*. By this act the President had conferred upon him, beyond all dispute, the power to fill any vacancy in this office, whether arising from a removal or other cause, whether in the session of the Senate or during the vacation.

Now, here are three acts of Congress in the early periods of our history, passed by the fathers of the Republic, which not only recognize the power of removal, but authorize the President of the United States, in case of vacancy in the War Department, to appoint any person whom he chooses, as he appointed General Grant, to act as Secretary of War *ad interim*.

In the later period of our history, on the 20th of February, 1863, there was passed this act:

"That in case of the death, resignation, absence from the seat of Government, or sickness of the head of any Executive Department of the Government, or of any officer of either of the said Departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize the head of any other executive Department or other officer in either of said Departments whose appointment is vested in the President, at his discretion, to perform the duties of the said respective offices until a successor be appointed, or until such absence or inability by sickness shall cease."

This act of 1863 does not apply to a case of vacancy by removal. Such vacancy is to be filled under the general power conferred by the act of 1795, which is not repealed. The act is cited to show the general course of legislation upon this subject.

Now, under these acts of Congress, three of them passed in the earlier days of our Republic and one in our own day and era, the President of the United States has exercised a constitutional and legitimate power given him not only by these acts of Congress, but by all the precedents of the Government, to appoint Adjutant General Thomas Secretary of War *ad interim*.

But I am told that the act of 1867, the tenure-of-office act, repeals prior enactments, and binds and ties up the President of the United States, depriving him of any power of removal or appointment. Now, I challenge the gentlemen on the other side (though it may seem like audacity in me to challenge their astute legal minds)—I challenge them to show in the act of 1867 anything that repeals these prior acts of Congress so far as regards the office of Secretary of War and the appointment of Adjutant General Thomas as Secretary of War *ad interim* to fill the vacancy created in the War Department. There is no such repeal of authority. Acknowledging, then, the tenure-of-office act, for the purpose of the argument, to be a constitutional law, I say there can be no pretense that the President has violated that act in creating a Secretary of War *ad interim* to succeed Mr. Stanton, who was holding office only at the pleasure of the President. I now call the attention of the House to the first section of the tenure-of-office act of 1867, which gives the President authority to exercise the power which he has exercised in this case. The first section provides:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

Now, I need not advance my own opinion upon that section; and that opinion would have but little weight upon the other side of the House. But I propose to give gentlemen on the other side the very highest authority upon their part to show that by the proviso in the first section of that act the President had power to do what he has done, and that this act does not in any manner prohibit him from appointing a Secretary of War *ad interim*.

But before I proceed to that I wish to say, under that section the Secretary of War held his office, as did all the Secretaries appointed by Mr. Lincoln, solely at the will of the President and only by the will of the President. That act, if it had any application, was intended only to apply to appointments made by President Johnson himself; and the Senate of the United States is upon the record as giving the construction I have given. The conference committee, in reporting that act to the Senate, gave the same construction I have given, and which has been the construction of the country until a recent period.

All gentlemen are conversant with the history of this tenure-of-office act. It will be recollected in the Thirty-Ninth Congress it was contended in the Senate that it was unjust and wrong as well as impolitic and unwise to strip the President of the United States of all power to appoint members of his own Cabinet and political family. Not only are Republicans upon the record, but General Sherman and General Grant; certainly General Sherman is upon the record that the possession of this office by Mr. Stanton, in defiance of the President—this thrusting of this person into the President's consultation and family—is impolitic, unwise, if not illegal.

Sir, I have heard of insolence, I have heard of impudence, and read much and often in history of arrogance and impertinence, but of all the arrogant, impertinent, insolent acts of which I ever knew a man to be guilty in this or in any other country, this impertinent interference of the alleged Secretary of War in the President's consultations and deliberations, when his own personal presence is offensive to the President and every person with whom he is associated, is about the worst. The ordinary intercourse of social life among gentlemen teaches us all never to thrust ourselves into the companionship of others with whom we are not forced to associate, and when there is no express legal authority for that interference. The natural modesty of every man's nature, except the nature of Mr. Stanton, would have induced a man to retire from that De-

partment, and leave the President and his Cabinet to their own responsibility. And this is not only my opinion; it is the highest military opinion of the other side of the House. It is the opinion, too, of the Senate of the United States, certainly of the conference committee that acted as the organ of the Senate when the tenure-of-office act was passed.

It will be recollected this House, under the inspiration of the gentleman from Ohio, [Mr. SCHENCK,] insisted that Cabinet officers should be subjected, among others, to this tenure-of-office act. It will be recollected, too, that the Senate of the United States resisted this throughout, and it was only to save the act itself that the Senate consented to compromise. A committee of conference between the two Houses was appointed; on the part of the Senate consisting of the following gentlemen, as appears by the report which I have before me: GEORGE H. WILLIAMS and JOHN SHERMAN; and ROBERT C. SCHENCK, THOMAS WILLIAMS, and JAMES F. WILSON, on the part of the House; and when this report was made to the Senate, in order to induce the Senate to submit to the law thus framed, I will read what was said by the members of the conference committee. It will be found on page 1515 of the Congressional Globe for the second session of the Thirty-Ninth Congress. Mr. WILLIAMS, a member of the committee of conference on the part of the Senate, stated:

"This amendment provides that when the term of office of the President expires the office of the members of the Cabinet shall also expire, with a provision that they may continue in office for one month, so as to enable the incoming President to arrange his new Cabinet."

Further on he says:

"I will add that I have from the beginning of this controversy regarded this as quite an immaterial matter, notwithstanding the fact that the two Houses have been very tenacious in the respective positions they have taken, for I have no doubt that any Cabinet minister who has a particle of self-respect—and we can hardly suppose that any man would occupy so responsible an office without having that feeling—would decline to remain in the Cabinet after the President had signified to him that his presence was no longer needed. As a matter of course, the effect of this provision will amount to very little one way or the other; for I presume whenever the President sees proper to rid himself of an offensive or disagreeable Cabinet minister he will only have to signify that desire and the minister will retire and a new appointment will be made; but it was considered by the committee of conference that this report was in accordance with the spirit of the bill, and the only one upon which we could agree."

NOW, Mr. SHERMAN, who is the father of all your recent reconstruction measures, more or less, in the Senate, and to whom, therefore, a certain amount of deference is due beyond that of any other Senator in Congress, not only as a Senator but as a member of the committee on conference, says:

"I take it that no case can arise or is likely to arise where a Cabinet minister will attempt to hold on to his office after his chief desires his removal. I can scarcely conceive of such a case. I think that no gentleman, (Mr. BROOKS repeated the word,) no man with any sense of honor, (Mr. BROOKS repeated the sentence, and emphasised the words 'sense of honor,') would hold a position as a Cabinet officer after his chief desired his removal, and, therefore, the slightest intimation on the part of the President would always secure the resignation of a Cabinet officer. For this reason I do not wish to jeopard this bill by an unimportant and collateral question."

I will not detain the House by a further reading of this debate. It will be found throughout that it was the general opinion of the Senate, and upon that the Senate acted, and the House has understood it that, so far as the existing officers were appointed by Mr. Lincoln, they continued to hold office at the pleasure of the President, and that the provision of the first section of the act exempted them from its general provisions.

And now, Mr. Speaker, after these solemn acts of Congress, unrepealed too, and after at best, if you choose to construe it, this doubtful exposition of the meaning of the tenure-of-office act, what is proposed to be done on this 22d of February, 1868, but to remove the President from office because he has followed the advice of Mr. SHERMAN and Mr. WILLIAMS in the Senate, the official exponents of that body on the committee of conference, and because he has obeyed preceding acts of Congress of 1795. I say that ingenuity must be weak, powers of invention must be small, their faculties of imagination must be poor, and their logic worse, if they cannot contrive a better cause of impeachment than this, after having previously refused by a large majority of this House to impeach the President on the former report of the Judiciary Committee when "crimes and misdemeanors" twenty thousand times stronger, if possible, could be found against him than are to be found against him here. Why this late discovery, at this late period, but to maintain Mr. Stanton in office? Why this overthrow of acts of Congress? Why this perversion of the official tenure-of-office act? Why this repudiation of the construction which the Senate gave to this law? Why all this, when better reasons could have been invented, imagined, or devised to impeach the President of the United States?

And now, Mr. Speaker, having, in the brief time that has been allowed me, very imperfectly discussed the law and the facts in the case, and with no knowledge of it save the few moments that I have had to examine it this morning, because of the precipitancy with which it has been hurried forward, I beg the House to consider the higher duties which it owes to this country and to itself than this impeachment of a President of their own choosing, because he has not construed the laws as they understand them. We have higher, nobler, and better duties to discharge than those due to party. We who may be here now will not be here hereafter, but what we are doing will be remembered through all time. Our children will come after us. History will make the record of our startling proceedings. Above all, we establish a precedent which will be used in republican forms of Government throughout all time to the injury and overthrow of free institutions. It is a beautiful fact in the history of our country in times past that whatever party might be in power, Republican or Democratic, Federal or Whig, which ever had the control of the Government, hitherto the institutions of the country have been respected by the party in power. No party has ever attempted to obtain power in the overthrow and destruction of our form of Government. No Administration was more odious than that of Adams prior to the year 1800, but the Democrats of that day, though denounced, traduced, and imprisoned even, awaited the verdict of the ballot-box. They never attempted to destroy the institutions of the country.

The Federalists in their day had control of this House—men of intellect but of violent character, but men, nevertheless, who respected the institutions of their country, men whom the country respected because of their intellect and of their weight of character—the Ameses, the Otises, the Quincys of Massachusetts, and the renowned men of other States. But those men, in order to obtain possession of party power, never attemped to overthrow the framework of the Government or the institutions of their country. The Democracy have been in power and have been out of power, but, overthrown and trodden down for the time being, they have always respected the authorities, the decisions, the precedents, the departments of this Government, and have never obtained or attempted to obtain power by the the overthrow of its institutions. Here, for the first time in the history of our country, a party committee comes before a party Congress and demands the deposition of the President of the United States because of two definitions and two constructions which are given in good faith to a certain act of Congress.

I beg the party upon the other side to consider the fatal danger of establishing such a precedent as this. Suppose you succeed, suppose you make the President of the Senate President of the United States, you settle that hereafter a party having a sufficient majority in the House and the Senate can depose the President of the United States. You establish a precedent which all future parties in all time to come will look to. The curse of all other countries, the curse of France, the curse of the South American republics, has been that they have followed such a precedent as you call upon us to establish here—the overthrow of their executive, not by law, not by Constitution, but by the irregular and arbitrary and revolutionary exercise of power, in order merely to obtain a temporary possession of the Government. Is the possession of this Government, the possession of these offices from now until March, 1869, worth the sacrifice of our country, the sacrifice of our institutions we are called upon to make by the report of the Committee on Reconstruction? I beg you, then, to desist from that precedent with more than common earnestness and with a horror of the future if you follow on in this wild, revolutionary course. In the name of all history as well as all right, in the name of the present, in the name of the future, in the name of your children and of mine and of our children's children, I implore you to respect the institutions of your country and to fly from and beware of this terrible, fatal precedent of the deposition of the executive branch of the Government.

Mr. BINGHAM obtained the floor.

Mr. SPALDING. Will my colleague yield me five or ten minutes?

Mr. BINGHAM. I yield my colleague ten minutes.

Mr. SPALDING. Mr. Speaker, I feel myself to be in no proper frame of mind or heart to attempt rhetorical display on this occasion. I can appreciate the sentiments of the gentleman from New York [Mr. BROOKS] when he says the question before us is filled with solemnity; but when he attempts by gasconade to deter members on this side of the House from the conscientious discharge of their duty I say to my friend that he has "mistaken his calling." Sir, no more important duty could be devolved upon this House of Representatives than that of considering the question whether articles of impeachment shall be preferred against the Chief Magistrate of the United States; and for long months, ay, for more than a year, sir, I have resisted, with all my efforts and all my personal influence, the approach of that crisis which is now upon us and before us. The President has done many, very many, censurable acts; but I could not, on my conscience, say that he should be holden to answer upon a charge of "high crimes and misdemeanors" until something could be made tangible whereby he had brought himself in open conflict with the Constitution and laws of the Union.

It has seemed to me, sir, for weeks, that this high officer of our Government was inviting the very ordeal which, I am sorry to say, is now upon us, and the dread consequences of which will speedily be upon him. He has thrown himself violently in contact with an act of Congress passed on the 2d day of March last by the votes of the constitutional two thirds of the Senate and two thirds of the House of Representatives over his veto assigning his reasons for withholding his assent. Now, it matters not how many acts can be found upon the statute-books in years gone by that would sanction the removal of a Cabinet officer by the President; the gentleman from New York numbers three. He may reckon up thirty or three hundred and still if, within the last six or nine months, Congress has, in a constitutional manner, made an enactment that prohibits such removal, and the Executive wantonly disregards such enactment and attempts to remove the officer, he incurs the penalty as clearly and as certainly as if there never had been any legislation to the contrary. That subsequent enactment, if it be constitutional, repeals, by its own force, all other prior enactments with which it may conflict; and in nothing is that enactment more significant than in this, that the President shall not remove any civil officer, who has been appointed by and with the advice and consent of the Senate, without the concurrence of that body, when it is itself in session. It is true that the right of suspension was given to the Executive during

the recess of the Senate. But that poor right of suspension ceased so soon as the Senate convened.

But now, not only in face of the decision of the Senate, saying that the suspension of the Secretary of War made during the late recess was without good cause; and in the face of the penalties of the act of March 2, 1867, entitled "An act regulating the tenure of certain civil offices," the President on yesterday sent into the Senate a message declaring in terms that he had removed Edwin M. Stanton, Secretary of War, and that, too, in defiance of the sixth section of the act which declares—

"That every removal, appointment, or employment, made, had, or exercised, contrary to the provisions of this act, shall be deemed, and are hereby declared, to be 'high misdemeanors,'" &c.

Mr. STEVENS, of Pennsylvania. Will the gentleman also read the penalty?

Mr. SPALDING. Certainly.

"And upon trial and conviction every person guilty thereof shall be punished by a fine not exceeding $10,000, and by imprisonment not exceeding five years, or by both said punishments, in the discretion of the court."

Mr. WOODWARD. Will the gentleman yield to me for a moment?

Mr. SPALDING. I cannot, for I am holding the floor now for a limited period, by the courtesy of my colleague, [Mr. BINGHAM.]

The SPEAKER. The gentleman from Ohio [Mr. SPALDING] has three minutes of his time left.

Mr. WOODWARD. I merely wanted to ask the gentleman a question.

Mr. SPALDING. I cannot listen to the question of the gentleman just now.

Now, Mr. Speaker, in my apprehension, if there be any efficacy in an enactment of Congress, we are not called upon to ascertain through a committee whether the President has, in fact, committed a high misdemeanor, because Congress has already, upon the face of its enactment, declared the alleged act of removal to be such. And the President, as if to do despite to the action of Congress, has thrown down the gauntlet, and has assumed the boldness to say to the Senate: "Notwithstanding your reasons to the contrary, that I had not the right to suspend the Secretary of War, I do assume to have the constitutional right to remove that officer from his position altogether, and I do it in contempt of your law and in disregard of your advice."

Sir, I do not care whether Andrew Johnson be in the presidential chair, or my friend, the gentleman from New York, [Mr. BROOKS,] or any other man, so that we can have rest and quiet in this great country. But I am brought to the conclusion that so long as we submit to these rude and violent assaults by the Executive upon Congress and upon all the action of Congress we never can have peace. Hence the conviction that the public good demands the adoption of the resolution this day reported by the Committee on Reconstruction.

[Here the hammer fell.]

Mr. BINGHAM resumed the floor.

Mr. PRUYN. Before the gentleman from Ohio [Mr. BINGHAM] proceeds I would like to inquire of him what will be the probable course of this debate, and whether members will be allowed full opportunity to express their views upon this important question?

Mr. BINGHAM. I am unable to answer the question further than to express my wish and hope that the House will deliberate upon this question fully, and not exclude reasonable discussion on each side of the House.

Mr. STEVENS, of Pennsylvania. May I say to the gentleman from New York [Mr. PRUYN] that, so far as I have anything to say about the matter, I hope that discussion will be allowed to the last moment of to-day.

Mr. PRUYN. Of to-day?

Mr. STEVENS, of Pennsylvania. But we desire to have the vote taken before we adjourn.

Mr. BARNES. Are we to understand——

Mr. BINGHAM. I cannot yield the floor further.

Mr. PRUYN. The gentleman from Pennsylvania [Mr. STEVENS] says "the last moment of to-day." Does he mean sunset, midnight, or the usual hour for adjournment?

Mr. BINGHAM. I object to any further discussion.

Mr. STEVENS, of Pennsylvania, (to Mr. PRUYN.) I will say five o'clock.

Mr. PRUYN. Then we must discuss this great question all that we are to discuss it between now and five o'clock to-day.

Mr. BINGHAM. I have no desire myself, as I intimated in reply to the gentleman from New York, [Mr. PRUYN,] to place any unreasonable restriction upon this discussion.

Mr. Speaker, all right-minded men must concede that the question under consideration is one of supreme moment to all the people of the Republic. I protest for myself, sir, that I am utterly incapable of approaching the discussion of this question in the spirit of a partisan. I repel, sir, the intimation of the gentleman from New York, [Mr. BROOKS,] that I am careless of the obligation of my oath or unconcerned about the supremacy of the Constitution and the laws. I look upon the Constitution of the country as the very breath of the nation's life. I invoke this day upon the consideration of this great question the matchless name of Washington, as did the gentleman, and ask him, in the consideration of the matter now before us, to ponder upon those deathless words of the Father of our Country, wherein he declares that "the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all"—upon all, sir, from the President to the humblest citizen—standing within the jurisdiction of the Republic. Washington but echoed the words that himself and his associates had imbedded in the text of the Constitution, that "this Constitution and the laws passed in pursuance thereof shall be the supreme law of the land." It shall be supreme over every officer; it shall be supreme over every State; it shall be supreme over every territory; it shall be supreme upon every deck covered by your flag in every zone all round the globe. Every man within its jurisdiction, official and unofficial, must bow to the supremacy of the Constitution.

The gentleman says that the issue involved is an issue about an office. I beg the gentleman's pardon. The issue involved is whether the supremacy of the Constitution shall be maintained by the people's Representatives. The President of the United States has assumed, sir, to set himself above the Constitution and the laws. He has assumed to defy the law; he has assumed to challenge the people's Representatives to sit in judgment upon his malfeasance in office. Every man who has considered it worth while to observe my conduct touching this question that has so long agitated this House and agitated this country may have discovered that I have kept myself back and have endeavored to keep others back from making any unnecessary issue between the President and the Representatives of the people touching the manner in which he discharged the duties of his great office. I had no desire, sir, to have resort unnecessarily to this highest power reposed by the people in their Representatives and their Senators for the vindication of their own violated Constitution and violated laws. Notwithstanding there was much in the conduct of the President to endanger the peace and repose of the country, yet, so long as there was any doubt upon the question of his liability to impeachment within the text and spirit of the Constitution, I was unwilling to utter one syllable to favor such a proposition or to record a vote to advance it. With my past conduct on this question, sir, I am entirely satisfied. I am responsible for it alone to those who sent me here, to my conscience, and to the common Father of us all. I have said no word heretofore, I have given no vote heretofore, touching this question which, dying, I would wish to change.

I stand here, however, to-day, filled with a conviction as strong as knowledge that the President of the United States has deliberately, defiantly, and criminally violated the Constitution, his oath of office, and the laws of the country. I propose, sir, to make clear, in the short time which I shall occupy, the proposition which I have just uttered; and in attempting to do it I desire to say that it is a moment of pain and sorrow with me to be compelled, as a Representative of the people, (for I am compelled to it,) to make the utterance that the President of the United States has set this bad example to all the people of this country of trampling the Constitution and the laws defiantly under foot.

The offices of the United States are the gift of the people. They are held subject to the Constitution of the United States and to the statutes passed in pursuance of it. The President of the United States holds his own office by that tenure, as well as every other official known to the Constitution and the laws. He himself must have regard to what is written in the Constitution. When he comes to inquire about the right of any person to hold and exercise an office he must have regard, one would suppose, to the plain letter of the Constitution, which declares, touching the very class of offices involved in this discussion, that the President "shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." Does not this provision, by necessary implication, declare that the President shall only have power to fill vacancies by a limited commission which may happen during the recess of the Senate. Can he appoint and commission to fill a vacancy which may happen when the Senate is in session? Is it not clear that such vacancies can only be filled with the advice and consent of the Senate? Are not these words in the Constitution: "The President shall have power, by and with the advice and consent of the Senate, to appoint all officers of the United States, which shall be established by law," and whose appointment is not by the Constitution otherwise provided for? There is no provision for the appointment of a Secretary of War in any other way than with the consent of the Senate, to fill a vacancy arising during its session.

Who is there to say that the President of the United States, touching an office of the character now in question, can by his own act create a vacancy by removal when the Senate is in session, and fill the vacancy thus created by himself in presence of the Senate and without its consent, when the Constitution, as I have just said, declares that the office shall be filled only by and with the advice and consent of the Senate.

The gentleman has endeavored to read statutes on the subject. The statutes read throw no light upon the point which I now make, to wit: the power of the President to create by his own act a vacancy in an office of this character and fill it *ad interim* by appointment of his own while the Senate is in session. Did the gentleman read a line recognizing any such power as that, or conferring any such power as that on the Executive, in the act of 1789? Did he read a line conferring any such power in the act of 1792? Did he read a line conferring any such power in the act of 1795? Did he read a line conferring any such power in the act of 1863? Not at all. The provisions of the statutes which he read were wise provisions to make temporary appointments by which the offices could be filled during the temporary incapacity of the person appointed under the Constitution.

In case of absence he might make temporary appointment. In case of sickness he might make temporary appointment; but by the act of 1789 the appointment was limited to the chief clerk of the War Department. But the question involved here is, can he create a vacancy while the Senate is in session, fill the vacancy thus created without the consent of the Senate, and thereby repeal the Constitution? It needs no argument, sir, to show the

force and effect of the position assumed by the President and by his volunteer advocate this day to be this: that he may repeal the Constitution of the country, and fill all the executive offices known to the laws without the advice or consent of the Senate during every hour that remains to him of the term of the presidential office.

The House doubtless anticipated the method by which I have arrived at this conclusion. He creates a vacancy, the Senate being in session. He creates a vacancy and makes the appointment *ad interim* of General Lorenzo Thomas, having appointed General Lorenzo Thomas in the presence of the Senate, and without consulting the Senate, to fill the vacancy created by himself. Sir, how does the gentleman arrive at the conclusion he may not to-morrow, in order to have the satisfaction of making another appointment *ad interim*, remove Lorenzo Thomas, and repeat the operation every alternate day of the week until the end of his official term, taking no notice of the requirement of the Constitution that these offices shall be filled, when the Senate is in session, only "by and with the advice and consent of the Senate?" If President Johnson may assume and exercise this power over all the executive officers of the country may not his successors in all future time follow the bad example, and thus fill all the offices without the consent of the Senate?

Your statute makes it a crime, a high misdemeanor, for the President of the United States to arrogate to himself such power as this to vacate offices, the terms of which were not specially limited by law, and fill the vacancies at his own pleasure while the Senate is in session, and without their advice or consent. That act makes this offense punishable by imprisonment in the penitentiary and by forfeiture or fine. The gentleman says the Secretary of War is not within the operation of the law. Well, sir, so far as the President is concerned, it seems to me to be a closed question that the Secretary of War is within the act of 1867, as the President of the United States has solemnly so proclaimed the fact to be. He did so proclaim when he suspended the Secretary of War in August, 1867, from his office and appointed the General of the Army Secretary of War *ad interim*. He declared him suspended. There is no law which authorizes the President of the United States to suspend the Secretary of War or any other head of Department and appoint a temporary successor until the meeting of the Senate save the act of 1867. The President recognizes that act as embracing the Secretary of War, and as conferring upon him the power of suspension for good and sufficient cause to him appearing.

But, sir, that we might not be in doubt as to his full recognition of the operation and effect of this statute, he returned to the Senate within the time limited by the very letter of that law, in December last, the reasons which operated upon his mind in the suspension of the Secretary of War, and referred the question to the Senate under the act of 1867, to determine whether the Secretary of War was suspended for good and sufficient cause, or whether the reasons assigned by the President were insufficient. The President thereby submitted, under the act of 1867, to the judgment of the Senate whether the Secretary of War should be suspended or retained in the office of the Department of War. The Senate decided the question, and by its judgment the President and every other person is concluded. It is his duty to respect the judgment of the Senate and abide by it.

So much, then, for the President. He has solemnly decided the question against his advocate under the obligation of his oath. Let him be concluded by the decision of the Senate, a decision which he invoked, as was his duty.

And I beg gentlemen, when they talk about upholding the Constitution, to remember upon a question of this kind, it is true, as the gentleman from New York [Mr. BROOKS] has stated, that the Senate of the United States is the tribunal of last resort, and from their judgment there is no appeal save to the people who created the Constitution and established the Senate of the United States. Let gentlemen and the country consider not only the judgment of the Senate upon the suspension of the Secretary of War, but consider also the solemn judgment of the Senate pronounced but yesterday upon this act of removal, as follows:

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
February 21, 1868.

Whereas, the Senate have read and considered the communication of the President, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act as Secretary of War *ad interim*: Therefore,

Resolved by the Senate of the United States, That under the Constitution and laws of the United States the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that officer *ad interim*.

Sir, neither the Supreme Court nor any other court can question or review this judgment of the Senate. To entertain such a doctrine as that would be to inaugurate anarchy in the name of the Constitution, under the Constitution, and by virtue of the Constitution. If that be the character of that great instrument it is not worth the paper on which it was written.

The Senate were compelled under this act of 1867, by the President's official act, to pass judgment upon the question whether the Secretary of War was within the operation of the act of 1867; whether the causes assigned by the President for his suspension from office were sufficient. The Senate deliberated upon it; they pronounced their judgment upon it, and the whole country is advised what that judgment is, namely: that the President's reasons were insufficient; and they solemnly decided that by force of the act of 1867 Edwin M. Stanton was the Secretary of War, the suspension of the President to the contrary notwithstanding. That judgment of the Senate the country approves.

Now, sir, upon that state of the case it must be apparent to the mind of every candid and intelligent man that it was the duty of the President to bow to this decision of the Senate; and if he desired to signify his wish for a change of the war officer, to make a nomination to the Senate, under the Constitution and laws, of a successor to Mr. Stanton. That is just what he refused to do; and in refusing to do it, and taking the bold step of disregarding the plain letter of the Constitution and the plain letter of the act, the obligation and force of which he had solemnly acknowledged, he has dared to commit the offense defined in the sixth section of that act, and to challenge the representatives of the people to hold him to account for it.

The gentleman tells us to beware, beware, beware. Beware of what, sir? To beware of rendering a faithful obedience to our oaths as the Representatives of the people? To beware of taking the steps authorized by the Constitution and demanded by the public safety to put this usurper of authority and criminal violator of public trusts on trial before the only tribunal on earth authorized to try him for his crimes? Did the gentleman from New York [Mr. BROOKS] not know when he uttered his warning, and his great swelling words about the Democratic party coming to the rescue, that it is written in the Constitution of the country that the President and Vice President, and every other civil officer of the United States, shall be removed from office upon impeachment for, and conviction of, high crimes and misdemeanors? Did he not know that it is further written in the Constitution that the Representatives of the people shall have the sole power of impeachment; that it is no divided power; that the sole power should rest in the House of Representatives? Did he not know that it is written in the Constitution that the Senate shall have the sole power to try impeachments? And yet he tells us to beware, beware of putting the President on trial. Beware, you Representatives of the people, if mindful of your oaths, you faithfully discharge the duty enjoined upon you by the Constitution.

The gentleman assumed—and I thank him for the assumption; his warning would have been wholly unintelligible without it—that this is not the House of Representatives. He ventured to say, in order to find some justification for his significant words of warning, that this was but a partial Congress. And yet he affects to be the friend of the Constitution. I aver, and I challenge contradiction of any man living whose opinion is entitled to any respect, that a partial Congress can neither impeach anybody nor pass any law. It is a Congress composed of a Senate and House of Representatives of the United States, which alone, by the Constitution, is vested with legislative power under that great instrument. A partial Congress is unknown to the Constitution. I protest against the gentleman's pretended affection for the Constitution when he stands here before the country warning us against the discharge of our duty, and in the next breath, in order to justify himself in his strange position, telling us that we have no Congress. If we have no Congress—if this be not the House of Representatives of the United States—of course our legislation is void; if we have no Congress, but only a partial Congress, of course the President of the United States is not responsible for his usurpations and crimes in office to any tribunal on earth by way of impeachment, nor can he be held to answer for crimes by a proceeding in impeachment by anybody, neither for what he has done nor for whatever he may hereafter do or attempt to do. If there be no Congress to impeach and remove this recusant President, there is no remedy left but for the great people themselves to come to the rescue.

But, Mr. Speaker, I have said enough in reply to that assertion of the gentleman. I undertake to say that there is enough in the facts already disclosed in the correspondence between the President and the Secretary of War and his appointee as Secretary *ad interim* to justify this House in drawing the inference—and inference is for the grand inquest of the nation—that the President of the United States was by that act guilty of another crime under another act of Congress additional to that defined in the sixth section of the act of 1867. I refer to the act of 1861, which makes it a high crime, punishable by fine and imprisonment, for two or more persons to conspire together by force or by intimidation or by threat to attempt to prevent any person from accepting or holding any office under the United States. I undertake to say that, upon a full investigation of this case, the President of the United States will be found to have been guilty, in conjunction with Lorenzo Thomas, of attempting, by threats, by intimidation, and, if need be, by force, to prevent the Secretary of War from holding or executing the duties of the office to which he had been appointed under the Constitution, and to which he was entitled by the solemn judgment of the Senate. That is the position I assume in regard to this matter. I say again that it pains me to make such an utterance. If I had had control over the President so as to have been able to suspend the operation of his faculties without doing violence to any of his rights as a man or a citizen I would have prevented him from uttering any such word as that which he uttered to his Adjutant General. It is fit in this discussion that some facts not spread upon our record, but which have come to the knowledge of your committee, should be stated in debate for the consideration of the House, for there may be hereafter further inquiry touching it.

Mr. BROOKS. There are no facts that have come to the knowledge of the committee beyond its record. I do not know what facts may have come to the knowledge of the gentleman, but no facts came to the knowledge of the committee beyond its record.

Mr. BINGHAM. I say facts which have come to the knowledge of the committee and which are not in the report. The gentleman need not undertake to raise an issue of veracity

with me, for I will not consent that any such issue shall be made. I do not know whether the gentleman was present or not—the committee might exist whether he was there or absent—but I do say that facts came to the knowledge of the committee about the truth of which those who heard them, I presume, have no doubt whatever.

Mr. BROOKS. Mr. Speaker——

Mr. BINGHAM. No, sir; not at present; I must decline to yield. I say facts came to the knowledge of the committee about which, I apprehend, no doubt exists in the mind of any gentleman who heard them that on this very day, and before the committee reported, Adjutant General Thomas, declaring that he acted under the orders of the President, appeared in person at the War Office; demanded a surrender of the office; notified the Secretary of War that he would not obey his orders; notified him that he would not recognize him as Secretary of War; notified him that he held himself to be Secretary of War; notified him that he would retain the place and not retire to his own office; notified him that he would take possession of the mails for the War Department; and all this by the order of the President.

Mr. BROOKS. Now I appeal to the gentleman to yield to me.

Mr. BINGHAM. I will hear the gentleman now.

Mr. BROOKS. I do not doubt the gentleman's veracity. I have too much respect for him to doubt his veracity. All I have to say upon that subject is, that I was present from the beginning to the end of the session of the committee, and such facts never were laid before me or before my colleague from Kentucky, [Mr. BECK.] I do not think such facts have been proven before the committee. Certainly it is the first I ever heard of them.

Mr. BINGHAM. They are not yet sworn to.

Mr. KERR. Then they are not facts.

Mr. BINGHAM. Yes, facts may exist without being sworn to.

Mr. ELDRIDGE. Was there proof before the committee of the facts which the gentleman has stated?

Mr. BINGHAM. I stated before that I did not claim they were proofs, but facts may exist although not proved by any method whatever known to the courts of justice. I did not offer it as evidence. I stated that it was fit these facts should be communicated to the House.

I state that there was a member of the House present who heard this communication of the Adjutant General in the War Office, and who made this matter known to the committee. I have the right to believe that his statement was true. And I go a step further: I undertake to say, not upon any fact proved before the committee, but upon knowledge that has been communicated to me through original sources, that this appointee of the President was giving it out in the streets of your capital on yesterday that on this day he would demand a surrender of the War Office, and if it were refused and the doors closed against him he would take it by force.

Mr. ELDRIDGE. Will the gentleman yield to an inquiry?

Mr. BINGHAM. Certainly.

Mr. ELDRIDGE. I ask the gentleman from Ohio [Mr. BINGHAM] if he is going to insist or ask this House to act upon the rumors that are afloat in the streets of Washington, and which he states here, in his capacity of a member of a judicial body, to decide upon so grave a question as is presented here for this House to consider? Will he, as a lawyer—and I have no doubt he is a good lawyer—say that this House has the right to act, and ought to act, upon upon idle rumors that float around the capital upon no responsible authority?

Mr. BINGHAM. I do not ask the House to act upon anything but matter of record. But I claim for myself the right to say all that I am informed of touching this matter, as a Representative of the people, and as a member of this grand inquest, notifying the gentleman that the House, after it shall have acted upon the resolution now before it, is not concluded, but, standing upon precedents which no man can challenge, may authorize its committee to inquire further of the guilt of this great criminal, and to take further and additional testimony in support of such articles of impeachment as they may hereafter present and consider in the House and present at the bar of the Senate.

Mr. Speaker, I would consider myself faithless to my duty, having information of these facts, if I did not state them to the House. I am ready to produce the witnesses, for I have no doubt of their character and integrity or of the truthfulness of their statements.

Mr. BARNES. Will the gentleman allow me to ask him a question?

Mr. BINGHAM. No, sir, not now; please excuse me. Sir, with facts like these before us, there is but one course for the House of Representatives to pursue. The President, first having recognized the obligation of the law of 1867, and having availed himsef of its provisions, making a suspension which he was not authorized to make and never could have made but by force of that law, reporting his reasons to the Senate, and submitting to the judgment of the Senate under the same law, the Senate overruling him and restoring the Secretary of War, giving him a certified copy of their proceedings, deciding that the Secretary of War was by force of this statute restored to his office—the President now comes in here and tells us, and tells the country that he is to construe the Constitution for himself; and his advocate takes his place upon this floor and reiterates the offensive assumption of the President, declaring that it is the right of the President to determine for himself the constitutionality of every act we pass, and to reject, disobey, or repeal it at his pleasure, and in defiance of the power of Congress. The law-making power is the supreme power of the Republic, and its acts may only be reviewed by the civil tribunals of justice. Your Constitution nowhere gives to the President the power claimed to defy and repeal the laws of Congress at his pleasure.

Sir, I protest that the Constitution is no such weak and wicked invention. Why, sir, the highway robber or murderer might as well arrogate to himself the power to construe the Constitution or laws of your country as he pleases, and proceed in his unholy work of robbery and murder, and interpose the plea to the jurisdiction of your courts of justice that he is a law to himself, that he is to obey the Constitution and laws only as he understands them. The President of the United States has no color of excuse for assuming any such position. Does not the gentleman know that there is no room for argument on the subject, in the light of the Constitution itself and its plain and clear words, wherein it is provided that the judgment of the President as to the unconstitutionality of an enactment of Congress is exhausted by the exercise of his veto power—a power vested in him by the Constitution. I notice that the gentleman from New York [Mr. BROOKS] expresses his dissent. I beg the gentleman to ponder upon the clear words of the Constitution, and see how he can get away from them. The language of it is that—

"Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House it shall become a law."

A law to whom, sir? A law to the Congress, a law to the great people who send the Congress here, and not a law to the President? I insist, sir, that the President himself is as much the subject of law as the humblest citizen of the Republic; and God save the Republic when he may assert the prerogative of declaring what is law and what is not law at his own pleasure, and defy the power of the people to call him to account for it.

Sir, I have no apprehension, none in the world, that any plea of that sort will avail the President. I agree that an executive officer who, without any intention to set the law at defiance, but by mere misconception of its requirements, does really violate it, is not guilty of an impeachable offense, because such an offense under the Constitution must be a crime or a misdemeanor. But can it be, in the light of the President's past conduct touching the obligations of this law, that he did not recognize its obligation? Can it be, sir, that he did not intend to trample it under foot and defy the people's power? For one, sir, I would be willing to delay indefinitely, if you please, the final action of the House upon this question, if I were fully assured that the President from this time forth would have respect to the obligations of law, and not undertake to usurp the authority of this Government in defiance of the people's Constitution and the people's laws. But, sir, I have had evidence enough in the transaction, as it is spread upon your record, to satisfy me that the President of the United States is so bent upon his own destruction, or upon the destruction of the peace of this great country, that he is capable of rushing to any extreme of madness whatever. I propose to curb him at the threshold. I propose to do it, as I said before, not in the spirit of a partisan, but in the spirit of a Representative of the people, acting under the obligations of his oath, and having due regard to the requirements of the Constitution and the laws.

No one in this land would rejoice more than myself to know that when this case shall have been presented to the Senate of the United States as a high court of impeachment it shall become clear to the satisfaction of that body that the President of the United States has only erred in judgment, and has not intended to invade the Constitution or to defy the authority or set aside the supremacy of the laws. I would rejoice at his acquittal thus honorably, for his own sake and for the sake of the Constitution of my country. But, sir, as I said before, in the light of what he has already declared and placed upon the record, I am precluded from the conclusion that he meant anything else than to defy your power and say to you, in the language of his advocate, "Whatever laws you have passed or whatever laws you may pass I will disregard them on my own judgment whenever I see fit as being not in pursuance of the Constitution of the United States, and let you do your worst." That is his position. The gentleman from New York himself so understood it. The President having taken that position, and criminally violated the Constitution and laws, I propose to put him on trial.

The gentleman talks about liberty. Liberty, sir, is as dear to me and mine as it can be to the gentleman or to his. I stand here to-day for that liberty which is regulated by law, that liberty which belongs alike to us all, and which is not the exclusive right of those who hold high official station. As for this lawless liberty, the liberty which the kite shows to the dove, the liberty which the wolf shows to the lamb, I will have none of it. The people of the United States, I trust, will have none of it. They will insist upon it that in this country men shall enjoy the liberty of obedience and subjection to law—law just in itself and protective of all.

There was surely nothing in this statute that operated oppressively upon the President of the United States. It was simply a statute under the Constitution of the United States, enabling the people of the United States to exercise their own powers as to the mode and manner of executing their own laws. I ask the President to submit to it, to submit to it gracefully, to submit to it decently, to obey it, and to set the example to all the people of the land that the first duty of the citizen is obe-

dience to the people's laws, as it is the first duty of their Chief Magistrate to see that they be faithfully executed.

If the President will thus deport himself we will have no contest with him; but if, on the other hand, he exercises powers of office in criminal violation of the Constitution as well as of the statute, I, for one, ask the question may be tried, tried before that tribunal which alone can, under your Constitution, decide it. If the law be valid, the act of 1867, clearly, upon the record, the President is guilty of crime. If the law be not valid and the Constitution does not have the operation and effect which I have given it, and which I believe belongs to it; if, on the contrary, the President of the United States has really the power, notwithstanding the act of 1867, notwithstanding the provision of the Constitution to which I have referred, to create vacancies in every office of the Republic at his own pleasure during the session of the Senate, and fill them at his pleasure without the consent of the Senate, doubtless that high tribunal will be equal to the task of so asserting and so deciding the law to be. That being done, the President goes uninjured and only his accusers are condemned.

No wrong, then, can come to the President, no wrong can come to the House, no wrong can come to the country if the House shall see fit to pass the resolution and send its Representatives to the bar of the Senate in the name of all the people of the United States to demand the impeachment of Andrew Johnson for high crimes and misdemeanors, in that he has in violation of the letter of the Constitution itself, in violation of the statute passed in pursuance of that Constitution, created vacancies in offices while the Senate was in session and filled them again without the advice and consent of the Senate.

For myself I can entertain no doubt as to the legal question. I have stated my own conclusions, and it abides with members of the House to state theirs, either by the words they may utter in this debate or by the vote they may finally give when they come to decide that question, whether the President shall be permitted to go on in his usurpations and take charge of all the executive offices of this land by creating vacancies in the presence of the Senate and filling them without the consent of the Senate with agents of his own, who go through the streets of the capital and declare their purpose to execute his orders in violation of the Constitution and the laws by force. I have no fears myself of the people interfering with this matter. They are just and impartial on this question.

The gentleman talks about the Democratic party interfering with it in some way. There was a Democratic party once in this country that undertook to interfere with the supremacy of your Constitution and your laws, and there was an uprising of the people from the rock-bound coast of New England to the golden gates of California. A million and a half of men mustered to the field and stamped out in fire and blood this treason of that Democratic party; and so it will be with any party that sets itself above the supremacy of the people's laws. The people have written in the Constitution that we should be the sole judges first, as to whether crime or misdemeanor has been committed by the President. They have provided in the Constitution, if we so find upon our oaths it shall be our duty in their names at the bar of the Senate to demand his impeachment. They have provided further, having presented the accusation and proofs at the bar of the Senate, the Senate shall be the sole body to determine the question, and all men shall be bound by their judgment.

Why talk about the Democratic party or any other party daring to lift its hands against this constitutional proceeding? But the gentleman answers, of course, that we are not acting under the obligations of our oath; that we are not acting intelligently; that we are not acting in the light of evidence; that there are no facts to sustain us. I must judge for myself whether there are facts to sustain us or not. The gentleman's judgment must suffice for him, my own judgment must suffice for me; and, so help me God, I will surrender it to no man, or number of men, whether they call themselves Democrats or secessionists. [Laughter.]

Now, Mr. Speaker, I think I have said all I have occasion to say. I desire this question may be discussed fully and fairly. I ask that gentlemen may say all they desire in reference to the rightfulness of this proceeding. I will be glad to allow anything that they may say, in view of all the facts, to have due weight with me in the final judgment I may pronounce. I will be glad, in short, to review the judgment which I have already formed upon this case, and to set it aside and acquit the President if possible. But, sir, I wish to hear the argument in some other shape than that in which it has come from the gentleman from New York, [Mr. BROOKS.]

I wish to hear no more warnings of the uprising of the Democratic party. I wish to hear no more proclamations of that party being a majority of the people of this country. I recognize no party by any party name in this proceeding, but the people themselves, of whatever political party. I take it the people of this country upon the question of the supremacy of the law are the party of the country, and in the majority upon that question to-day as they were in the late conflict with armed rebellion, the men who lifted their hands in madness against the holy temple of our liberty. I leave the issue with the House, I leave it with the country, satisfied that it is our duty to proceed firmly, impartially, honestly, to judgment in this House, and I leave the final issue where it belongs under the Constitution—with the Senate—to determine whether the President has been guilty of a violation of the law, of willfully, deliberately, criminally violating it, and violating as well the Constitution of his country, and disregarding as well the obligation of his oath. With that final decision I shall be content, and I doubt not the gentleman from New York, [Mr. BROOKS,] upon reflection, will be content, and I doubt not the people of the United States will be content, for the simple reason that it will be their judgment, speaking through their duly-appointed agents, who are clothed with the power to decide it and to bind all the parties concerned by their decision.

Mr. FARNSWORTH. Mr. Speaker, the gentleman from New York [Mr. BROOKS] who opened this debate told the House that if the impeachment of Andrew Johnson sent him to the Senate for trial, and upon his trial he should be convicted, the Democratic party would not submit to it; and in a most dramatic, sensational manner he called God to witness that they "never, never, never" would stand it. I thought for a moment that we were carried back nearly ten years, and that I was listening to the same threats which I used to hear upon this floor just preceding the rebellion. Then I listened to similar threats when the galleries of this House were thronged as they are now, but with a different class of people, people who applauded to the very echo the threats and menaces which were hurled into our ears. Sir, I tell the gentleman from New York that when we impeach Andrew Johnson in the mode pointed out by the Constitution for high crimes and misdemeanors in office—and if it were not profane I would call God to witness the prophecy—he shall submit to it.

When Democratic secessionists told us if we raised an army to conquer the rebellion and maintain the Government they would not stand it we told them they should, and we made them, both upon this floor and in the field. And I say to gentlemen now, that when that same party attempts to array itself against the Constitution and laws of the land there were only half a million slain in the last war and there are a million of the old soldiers left, who will come as the waves come when the tempest is blowing, thick as autumn leaves, to maintain the supremacy of the Government and the laws; they'll "rally round the flag, boys; yes, rally once again."

The gentleman tells us that the Army is made up in great part now of the Democracy. So it was then, but they left it and went with the disunionists. The Army was cleansed and purified. It may be that since the muster-out of the loyal volunteer troops of the country the ranks have been recruited from the rebels again. But whether it is so or not will make no difference in this controversy; for, if need be, we will cleanse the Army again and again.

I have heard enough of these threats from the Democratic party; the same old party that threatened us ten years ago; the same old party that we met in the field and vanquished; the same old party that we have met repeatedly at the polls and vanquished; the same old party that we meet here to-day and shall vanquish again, both here and at the other end of the Capitol, as I trust.

What is there of this question? A great deal. It is a vast question, and I trust that I come to the discussion of it with a proper spirit, fully realizing the importance of the issues involved. It is not merely whether Andrew Johnson shall be removed from the office of President of the United States. There are other and greater and deeper questions depending upon it—the question whether the Union sentiment in the ten disorganized States of this country shall be crushed out; whether the rebel power shall be restored in these States and shall be given the supremacy for all time to come; whether the Government shall be maintained, and whether the fruits which we gathered and earned so richly and so well during four years of bloody war shall be wrested from the hands of the liberty-loving people of this country, or whether they shall be kept and enjoyed. I care little for Andrew Johnson. I have never had a doubt for a month past that he would yet be impeached; that the evil which was in the man would come out, would develop itself, and from step to step it has been developing itself until he caps the climax by these most flagrant and palpable violations not only of the law, but of the supreme law, the Constitution of the United States. In his correspondence with General Grant a few days ago he said that his action with reference to the suspension of Mr. Stanton and the appointment of General Grant *ad interim* was not under the tenure-of-office law, but under the Constitution outside of the law—that he was only exercising his constitutional right. Well, sir, what does he say now? Is he acting now under the tenure-of-office law or under the Constitution? The Constitution says that the President—

"Shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

Mr. BARNES. May I ask the gentleman likewise to read the first two lines of the second section of that article of the Constitution?

Mr. FARNSWORTH. The gentleman has the book before him and may read them himself.

Mr. BARNES. I will do so.

"The President shall be Commander-in-Chief of the Army and Navy of the United States."

[Laughter.]

Mr. FARNSWORTH. I would inquire of the gentleman if the Secretary of War is a part of the Army or Navy of the United States?

Mr. BARNES. I contend that the Secretary of War is a part of the Army of the United States.

Mr. FARNSWORTH. Very well; I think that is news to this House. I never knew that the head of a Department of this Government was any part of the Army or Navy of the United States; he is a civil officer.

Now, Mr. Speaker, does the President remove the Secretary of War by virtue of his constitutional power? Nobody ever pretended that I ever heard of that the President during the session of the Senate could remove an officer. The thing was never done in the history of this Government except by the advice and consent of the Senate. No President ever removed a member of his Cabinet before during the session of Congress. President Jackson removed his Secretary of the Treasury, Mr. Duane, but that was during the recess of Congress, and even at that the whole Whig party of the United States, of which my friend from New York [Mr. BROOKS] was not only a useful but a leading member, cried out in protestation against the right of President Jackson to do so. But now, while Congress is in session, and only a few days after the Senate have passed upon the reasons Mr. Johnson gave them for suspending Mr. Stanton under the tenure-of-office act, and after they had solemnly decided that his reasons were not sufficient, and he had been restored to office, he removes him. He does not suspend him, as before, under the tenure-of-office law. No; but by a mere letter he proposes to remove him from the office of Secretary of War.

And here let me notice another objection that is made, to wit: that the heads of Departments appointed by Mr. Lincoln, under the tenure-of-office law, could only hold their offices for one month after his term expired. To say nothing of what constitutes the "term" of a President, Mr. Stanton certainly was, and continued to be, Secretary of War in fact and in law. Mr. Johnson, in this very communication to the Secretary of War, denominates him "Secretary of War," and tells him that his functions as such shall cease from and after the reception of that letter. That is a plain, distinct recognition of Mr. Stanton's official capacity as Secretary of War up to yesterday.

Why, sir, does the Constitution mean anything? Has it any virtue? Has it any power? Is it to be observed by anybody? Gentlemen seem to suppose that it is to be observed by everybody but the President of the United States. Yet he of all men in this country professes to be the greatest stickler for the Constitution and the observance of all its provisions. Yet he has acted in flagrant and direct violation of its provisions as well as the tenure-of-office act. I will read to the House, for I desire that to be incorporated in my remarks, the sixth section of that law. It is as follows:

"*And be it further enacted*, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any provision or letter of authority for or in respect of any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or by both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions to all officers whose appointments have been advised and consented to by the Senate."

I read that for the benefit of those gentlemen of this House who are of the opinion that the President cannot be impeached of high crimes or misdemeanors unless the act complained of has been so described and designated by the statute.

It seems to me that, if Andrew Johnson had hunted the laws over to find a fit and proper place for him to commit an act which should bring down upon him this remedy of impeachment, he could not have hit upon a better method or a more apt plan; for he has violated most flagrantly the Constitution and the statutes of Congress.

The gentleman from New York [Mr. BROOKS] refers to various statutes passed in the early history of the country providing for filling temporarily these Departments in case of a vacancy. Who questions those acts? Who denies them? Who denies the authority of the President, in case of a vacancy, to fill temporarily or by nomination, and with the advice and consent of the Senate fill permanently, these places. The acts of Congress to which the gentleman refers cut no sort of figure in this case; they have no more applicability to this case than they would have to an appropriation bill; not a particle.

Indeed, throughout the gentleman's speech, I heard no argument, no fact, no law referred to by him which in any manner bore upon the case now before this House. It was the rambling talk of a member who is disposed to oppose impeachment, right or wrong. It was a very good speech, I will say, so far as words and sentences and periods and oratory were concerned, for that gentleman always talks well. But as an argument it has no bearing whatever upon the question of impeaching Andrew Johnson of high crimes and misdemeanors. I suppose it is in order, at the present time, to discuss not only the particular matters mentioned in this report, but others which are officially before the House.

I do not propose to refer to the testimony taken by the Judiciary Committee, which was discussed somewhat briefly a few weeks ago, but I wish to refer a moment to those official documents which were transmitted to this House and referred to the Committee on Reconstruction a few days since. I allude to the correspondence between the President and General Grant. In my opinion then and in my opinion now there was enough in that to justify the impeachment of the President. Why, sir, we find this President issuing an order directly to the General of the Army commanding him not to recognize any orders issued by the Secretary of War which purported to be issued by the authority of the President, requiring a subordinate to come to him and ask him if he authorized the Secretary of War to issue an order, when the order itself purports to be by his authority. Orders like that, if carried out, would disorganize the entire Army of the United States. Suppose a major general commanding a division should pass over the brigadier general commanding a brigade, go down to one of his colonels, and say to him, "Do not recognize or obey any order issued by that brigadier general unless you first come to me and ascertain that it is by my authority." Suppose that the colonel, jumping over his majors, should go to a captain and tell him the same thing; the captain, passing over his lieutenants, should give the same order to a sergeant and say, "Do not obey the order of the lieutenant." That order of the President inculcated mutiny, insubordination, and disorganization. It would disorganize and render insubordinate every officer of the Army. There is no escape from it.

It was to prevent the Secretary of War from exercising his legal functions and rights—to prevent the execution of the law. Why, Mr. Speaker, we have a law of the United States that if any two or more persons shall conspire to prevent the due execution of a law, or if any person shall attempt by force or intimidation to prevent its execution, they shall be guilty of a misdemeanor. What was that but an attempt by Andrew Johnson to conspire with General Grant to prevent the execution of the law when he told General Grant, if you will but disobey this law and retain by force the Department of War I will suffer whatever imprisonment may be imposed upon you and pay the fine.

Gentlemen say that the President is the judge of the constitutionality of a law, and the gentleman from New York cites the precedent of President Jackson's veto message. Who doubts that a President may exercise his prerogative of vetoing a law when in his opinion it is unconstitutional, notwithstanding the fact that the courts may have pronounced such an enactment constitutional. That was all that Jackson did, but when he has done that and the act is passed notwithstanding his veto his right of judgment is exhausted.

While the President takes an oath to support the Constitution, it is also made his duty by the same Constitution to see that the laws are faithfully executed. You will sometimes hear of a sheriff, when he is doubtful about his right to do an act, being indemnified; he does it and says to the party who deems himself aggrieved, "Sue me, and we will test the question. Bring your action of trespass against me, and we will try the constitutionality of the law." Who would ever think of a President doing such a thing—he, who has sworn that he will see that the laws are faithfully executed, telling the people of the United States, "I will violate this law deliberately; if you think it is constitutional sue me, and we will test that question." Would we not have a very delightful state of things, Mr. Speaker, if the officers whose sworn duty it is to see that the laws are faithfully executed should take this position, and with impunity, upon the exercise of their puny judgments, overthrow and violate the laws of the land?

Who is this Andrew Johnson who thus sets himself up in defiance of the people of the United States and against their laws? A gentleman here says, "a Republican President."

Mr. ELDRIDGE. A President that you elected.

Mr. FARNSWORTH. My colleague here [Mr. ROSS] said a Republican President. I deny it. He is your President, not mine. We were cheated; I admit that I voted for him. Very true; the Republican party were cheated into his support by the loud professions and lying promises of this ungrateful, despicable, besotted, traitorous man, who now turns his back upon the men who elected him; turns his back upon the friends who rallied around him; turns his back upon the loyal men of Tennessee who supported him, and goes over to the party against whom we fought, not only at the ballot-box, but in the field.

Who, I say, is this Andrew Johnson, that he should set himself up above courts and Congress and people? By what right does he arrogate to himself the exclusive right to judge of the unconstitutionality of laws that have been duly, according to the forms of the Constitution, enacted? Is it because God gave him more brains than other men? Is it because he has more moral honesty than the rest of the people? Has he a cooler judgment? Is he a man of more character? I will not point to the facts developed by the Judiciary Committee in that long examination of the acts and doings of Andrew Johnson, for his character and conduct are known of all men. Let this House and let the Senate teach Andrew Johnson there is a power higher and greater and stronger than the President—the power of the people. The gentleman talks of the feeling of the people. The people, sir, are here by their representatives. The people are speaking to-day by their representatives.

I stated, Mr. Speaker, I had no doubt Andrew Johnson would be impeached many months ago. It seemed to me evident, whatever the House might do, however we might ignore and pass over acts proved to the House to have been committed by Andrew Johnson, and which to my mind were ground for his impeachment, the evil which was in him would so develop itself that the House of Representatives would be called upon to impeach him. This thing, I feel, he has done now, and I congratulate the House and country that he has done it in such manner as to require but little testimony outside of the official letters and documents in his trial.

The gentleman from New York [Mr. BROOKS] said if he entered upon the trial his term of office would expire before we concluded it. I think not. Here in two letters of Andrew Johnson, one to Secretary Stanton and one to General Lorenzo Thomas, we have a complete, compact, and perfect case. We need swear no witnesses; we need take no further testimony. Read the letters, read the Constitution, and read the law, and the case is all there as clear and plain as if he confessed the crime.

I trust the House of Representatives will

do its duty fairly, fully, and completely. As I said in the outset, it is not a question whether Johnson shall have the emoluments of this office for the remainder of his term. That is not all. If that were all I would not stand here to argue the question one moment. It is of small consequence; but when we look at the future, fraught as it is with so many consequences of the longer continuance of the official character of this man, it becomes a very important question. For, sir, if he can remove the Secretary of War he can remove any member of his Cabinet. He can remove every officer in the United States except the judiciary, and he may remove even the judges with as little violation of law as in this case. We saw by the papers a day or two since an order had been issued by the President erecting what he called the Department of the Atlantic, to the command of which he ordered Lieutenant General Sherman. When he failed to make a tool of that gallant soldier or to seduce him with brevet titles, given, doubtless, to spite the General of the Army, after Sherman refused to be his tool, he revokes so much of the order as designates him to command the department, and we now hear that he has found a pliant tool for the purpose of putting in command of that department.

What necessity is there for this new military department at this time? The law provides that the General of the Army shall keep his headquarters in the city of Washington. It further provides that all military orders shall be issued through those headquarters. Notwithstanding that he issues his orders directly through his subordinates. If he will do that, what next will he do? When he has a pliant tool in command of this department he will do what he has already threatened, order General Grant in arrest. In his correspondence he accuses him of insubordination. Who doubts his purpose, then, when he has control of the Army here, to put General Grant in arrest? Where, then, will he pause? If he can turn out the heads of Departments he may turn us out, and with the Army at his back he is determined to do it. What follows? With the entire control of the Army, we are in the hollow of the hand of this unscrupulous usurper—this man who stops at no constitutional impediment, and who either knows or fears no law. No reconstruction of the disorganized States. Their agony is to be prolonged; they are to be kept out an indefinite period, while traitors are restored to power. The offices of the country are to be filled with the pliant Democratic tools to force the Democratic party into his nomination for the Presidency. He expects to keep warm the seat he occupies in the White House for another term——

Mr. GETZ. Oh, no.

Mr. FARNSWORTH. My friend says "Oh, no." If I were a betting man I would make a small wager that his party will nominate him.

Mr. GETZ. I do not think the Democratic party can be forced with a nomination of anybody for the presidency.

Mr. FARNSWORTH. Does my friend say he will not support him if he is nominated?

Mr. GETZ. If he is nominated I will support him or any other nominee.

Mr. FARNSWORTH. That is good old Democratic doctrine. I have heard it a great while; "Go it blind, right or wrong."

Mr. MULLINS. Black or white. [Laughter.]

Mr. FARNSWORTH. Well, Mr. Speaker, with the liberties of loyal men and freedmen in the southern States crushed out, as they will be, with unwashed rebels and unrepentant traitors restored to power, with the President on their side, with the Army in his hands and Congress at his mercy, what will be the condition of the country, especially when, if what my friend from New York [Mr. BROOKS] says be true, that Army is recruited from the ranks of the rebels, or, what amounts to the same thing——

Mr. HOLMAN. I hope the gentleman will not misstate the remarks of the gentleman from New York.

Mr. FARNSWORTH. I understood him to say—and if I am wrong I hope he will correct me—that two thirds of the Army were made up of rebels.

Mr. BROOKS. Oh, no; Nothing of the sort. The gentleman is dreaming. [Laughter.]

Mr. FARNSWORTH. Will the gentleman tell me what he did say?

Mr. BROOKS. Nothing like that; that has not even romance for a foundation.

Mr. FARNSWORTH. If the gentleman will correct me I will stand corrected. What did he say?

Mr. BROOKS. I spoke something like an hour, but I said nothing like that in the hour.

Mr. FARNSWORTH. Will he tell me what he did say?

Mr. BROOKS. You will find it in the reported speech. I will not change it.

Mr. FARNSWORTH. Very well, then; I shall not take it back. If the gentleman will not tell me what he did say I assume that I am correct in my statement.

Mr. BROOKS. Of course I will do anything the gentleman wishes me if I can understand what he claims I did say.

Mr. FARNSWORTH. That two thirds of the Army were made up of rebels.

Mr. BROOKS. Oh, no. I said a larger number than two thirds I thought was made up of Democrats. [Laughter.]

Mr. FARNSWORTH. If that is a correction I stand corrected. [Laughter.] But I supposed they were convertible terms. I knew they were in 1860. The Army then was largely made up of Democrats; we found when the pinch came that they were rebels and they left us. The gentleman now makes use of the same threat they did then, namely, that the Democrats will resist our constitutional right to impeach the President.

Mr. BROOKS. Oh, no; nothing of the sort. The gentleman has been dreaming during my whole speech if he fancies I said any such thing.

Mr. FARNSWORTH. If the gentleman will correct me I will be obliged to him.

Mr. BROOKS. I said that in the matter of impeachment whatever this House might choose to do, if they chose to impeach the President for the cut of his coat or the color of his hair it was our duty to submit.

Mr. FARNSWORTH. Why, Mr. Speaker, I understood the gentleman to declare in the most dramatic manner, "so help me God he never would submit."

Mr. BROOKS. Oh, no; the gentleman has been dreaming, dreaming, dreaming.

Mr. FARNSWORTH. Will the gentleman say he did not declare that he would not submit if the President was impeached?

Mr. BROOKS. I said we should submit if he was impeached, because you have the constitutional right to impeach him.

Mr. FARNSWORTH. Well, what did the gentleman mean then when he was talking about Democrats having the muscle, the strength, the fighting power, and that two thirds of the Army were made up of Democrats, and they would resist impeachment?

Mr. BROOKS. I did not say resist impeachment. What I did say in substance was this: that so long as the majority in this House followed the Constitution and the law in the impeachment of the President, it was our duty to submit. I said, further, that in case they resorted to measures independent of and beyond the Constitution and against the law we would not submit.

Mr. FARNSWORTH. Against the law! But the gentleman proposes to set up his judgment of what is and what is not against law. That is the very thing the rebels did in 1860. They said, "If you elect Abraham Lincoln President of the United States we will not submit." They said, "He is not a national candidate; he is a local, sectional candidate; he will not be a constitutional President, and we will not submit; we have got the fighting strength, and we defy you to elect him." That is what they said here upon the floor of this House and at the other end of the Capitol when they were being cheered and egged on by galleries of secessionists armed to the teeth. Over and over again they said that they would not submit if we elected a President according to the constitutional forms of the country; and they told us then that they had the muscle, the fighting strength, that one Democrat was as good as five Republicans, and all that. I tell my friend from New York that I come here from a district which gives me fourteen thousand majority, and I will pit every man of them against any two of his secession, anti-constitutional Democrats.

Mr. GETZ. Does the gentleman intend to inaugurate another civil war?

Mr. FARNSWORTH. No; I propose to put it down.

Mr. PRUYN. I desire to make an inquiry of the gentleman. He has spoken very much here about opposition to the law, whatever it may be, as a thing not to be tolerated. I wish to ask the gentleman this question: if this Congress should pass an act which should affect his person and his property—take away his property and forfeit it without any color of right or law—would he submit to it or not, it being upon the statute-book as the law of the land? Where is the operation of the doctrine of resistance to commence? What does the gentleman mean when he undertakes to say in substance that no person is at any time to resist a law which is upon the statute-book?

Mr. FARNSWORTH. The gentleman's question is a contradiction upon its face. He asks me what I would do if Congress should pass a law to deprive me of my property without any color of law.

Mr. PRUYN. I meant to say without any color of constitutional right, but yet in due form on the statute-book. Would the gentleman resist it?

Mr. FARNSWORTH. I would appeal to the courts.

Mr. PRUYN. Ah! That is it exactly.

Mr. FARNSWORTH. I would appeal to the courts. That is not resisting the law, because the Constitution and laws afford me that remedy. My colleague behind me [Mr. ROSS] says, why not appeal to the courts now? Appeal to the courts for what? How? To know who is Secretary of War, says my colleague. I know who is Secretary of War. The Constitution and laws of my country tell me who is Secretary of War. Andrew Johnson yesterday told us who was Secretary of War when he wrote his letter to Edwin M. Stanton and told him he was Secretary of War, but should not be after the reception of that notice. The gentleman asks me when are we to resist a law? Never by force except in the resort to the final right of revolution, but never until you reach that point. The courts afford us an opportunity. I reiterate the question of my colleague—why does not Mr. Johnson go to the courts? The Constitution of the country has given us a court; the Constitution provides for a high court of impeachment. We are bringing our suit in that court to-day. We are appealing to that court—the only court that the Constitution has provided for a case like this—and we are going to press our suit in this court to final judgment, and when that judgment is pronounced then comes the question mooted by the gentleman from New York, whether they will stand it or not.

Mr. PRUYN. Then I understand that the gentleman does not censure the President for differing in opinion with him as to this law and acting accordingly.

Mr. FARNSWORTH. I do not understand from anything the President says that he differs with me about the law or the Constitution at all in this transaction. I cannot find anything in his letter to Stanton, or in that to Thomas, indicating that he has any opinion, one way or the other, with regard to this law.

Mr. PRUYN. Then what is the question?

Mr. FARNSWORTH. I know that in his

correspondence with General Grant the other day he intimated that he was acting without reference to the tenure-of-office law, but solely with reference to the Constitution. But I know that in this matter he cannot possibly have acted in reference to the Constitution, because his acts are in flagrant violation of that instrument.

Mr. KELLEY. Will the gentleman from Illinois [Mr. FARNSWORTH] yield to me, that I may move that the House take a recess for an hour and a half at the close of the gentleman's speech, and hold a session this evening for the discussion of this subject?

Mr. FARNSWORTH. I will be through in a few minutes

Mr. KELLEY. I do not mean to take my friend from the floor at this time, but simply to have the question settled now, whether at the conclusion of his speech we will take a recess for an hour and a half.

Mr. FARNSWORTH. I will yield for that purpose.

Mr. KELLEY. Then I will move that, at the close of the remarks of the gentleman from Illinois, the House take a recess until seven o'clock this evening.

Mr. WASHBURNE, of Illinois. For what purpose does the gentleman propose the session of to-night?

Mr. KELLEY. For debate only.

Mr. ASHLEY of Ohio, Mr. BUTLER, and others objected.

The SPEAKER. It requires unanimous consent of the House to order a session for debate only. But a majority can take a recess until such time as they see fit for the transaction of business.

Mr. KELLEY. Then I will modify my motion, and move that, at the conclusion of the speech of the gentleman from Illinois, [Mr. FARNSWORTH,] the House take a recess until half past seven o'clock to-night.

Mr. FARNSWORTH. I would prefer to have the recess taken at once.

The SPEAKER. The Chair understands the gentleman from Illinois to yield at this time for a recess.

Mr. FARNSWORTH. Yes, sir.

Mr. BOUTWELL. I desire to say, so far as I am concerned, that I should be glad to have an understanding about the course of proceeding upon this subject and the termination of debate upon it. It seems to be pretty apparent that we cannot close the debate to-night with satisfaction to the different members of the different parties in this House. But I think we should be able to close this debate on Monday next, and then take the sense of the House upon this resolution.

Mr. BINGHAM. Will my friend from Massachusetts [Mr. BOUTWELL] allow me to make a suggestion?

Mr. BOUTWELL. Perhaps I had better make my own suggestion and let the House act upon it. My suggestion is that we continue the debate to-night, so far as it may seem desirable to the House, without taking any recess, and that on Monday the consideration of the subject be resumed immediately after the reading of the Journal.

The SPEAKER. That would require unanimous consent, because, by the rules of the House, there is a morning hour set apart on Monday, during which time the Chair cannot even ask the House for unanimous consent to any proposition.

Mr. BOUTWELL. I think that members will consent to forego the morning hour on Monday, and that the question be taken upon this resolution at four o'clock p. m., and that speeches in the meantime be limited to thirty minutes each.

Several MEMBERS. Say twenty minutes.

Mr. BOUTWELL. I am willing to fix the limit at twenty minutes.

Mr. PRUYN. And adjourn this afternoon.

Mr. BOUTWELL. I shall not object to the House adjourning whenever it shall wish.

The SPEAKER. The Chair will state to the House the proposition of the gentleman from Massachusetts, [Mr. BOUTWELL.] It is that the House, by unanimous consent, agree that Monday next, at four o'clock, be fixed for the close of the discussion upon this subject, at which time the House shall proceed to vote directly upon the pending resolution; and that the House remain in session this evening until such time as they may see fit to adjourn, and that speeches be limited to twenty minutes each. Is there objection to that proposition?

Mr. ELDRIDGE. I object.

Mr. BINGHAM. I move to amend the proposition so as to make the time for taking the vote five o'clock on Monday, and to limit speeches to thirty minutes.

Mr. HOLMAN. I object to any proposition fixing the time when the vote shall be taken.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that if, by reason of the arrangement made for Monday, there be no opportunity afforded on that day for suspending the rules, we shall have that opportunity on Tuesday.

Mr. KERR. I object.

The SPEAKER. The Chair will state that on Monday next the first business after the morning hour will be a motion to suspend the rules made on Monday last by the gentleman from New York [Mr. GRISWOLD] upon resolutions with regard to the rights of American citizens abroad. That question, being a motion to suspend the rules, has priority even of a question of privilege. After that is disposed of, either by the action of the House upon the question or by its postponement to some other time, a succeeding Monday, then this question of privilege would be resumed.

Mr. KERR. I withdraw my objection to the proposition of the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. STEVENS, of Pennsylvania. As we can come to no agreement about the mode of proceeding, I hope we shall proceed with the debate.

The SPEAKER. Is there objection to the proposition of the gentleman from Illinois, [Mr. WASHBURNE?]

Mr. ELDRIDGE. If the proposition simply means that there shall be, with regard to the suspension of the rules, the same power on Tuesday as there would otherwise be on Monday, I do not object; otherwise I do.

Mr. BOUTWELL. I object, unless the proposition I have made, or that which has been made by the gentleman from Ohio, [Mr. BINGHAM]—I am not particular which—shall prevail. Unless one of those propositions be assented to, I object to the proposition of the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I do not desire that my proposition shall be adopted, unless one of the other propositions be adopted.

The SPEAKER. The gentleman from Massachusetts [Mr. BOUTWELL] states that he objects to the proposition of the gentleman from Illinois [Mr. WASHBURNE] unless it be agreed that the vote shall be taken upon the pending proposition at five o'clock on Monday, and that speeches be limited to thirty minutes. If that proposition be assented to, then he consents to the proposition that the rules may be suspended on Tuesday.

Mr. HOLMAN. I objected to fixing a time when the vote should be taken. I now withdraw that objection.

The SPEAKER. The Chair will again state the proposition of the gentleman from Ohio. It is that debate continue this evening till such time as the House may think fit; that on Monday next the discussion be resumed as soon as it may be in order under the rules; that at five o'clock the vote be taken on the proposition, and that from this time till the close of the debate speeches be limited to thirty minutes.

Mr. COVODE. Mr. Speaker, as no arrangement can be made for taking the vote at any specified time, I move the previous question, and ask that the vote be taken now.

The SPEAKER. The gentleman from Pennsylvania [Mr. COVODE] is not entitled to the floor. The gentleman from Illinois [Mr. FARNSWORTH] is still entitled to the floor for fifteen minutes.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] will proceed.

Mr. BUTLER. Mr. Speaker——

The SPEAKER. Does the gentleman from Illinois [Mr. FARNSWORTH] yield to the gentleman from Massachusetts, [Mr. BUTLER?]

Mr. FARNSWORTH. I will for a moment.

Mr. BUTLER. I desire to state the ground of the objection which I made. I will occupy but a moment.

Mr. WILSON, of Iowa. I object, unless the gentleman will agree, after stating his objection, to withdraw it.

The SPEAKER. The gentleman from Illinois has the right, under the rule, to yield a portion of his time to any gentleman for explanation of the pending measure.

Mr. BUTLER. I was about to say, as the reason of my objection, that when this subject of impeachment was up before the gentleman from Iowa [Mr. WILSON] would allow us only one hour in which to debate it.

Mr. WILSON, of Iowa. The House, not "the gentleman from Iowa."

Mr. BUTLER. The House, under the lead of the gentleman from Iowa; and every man on the opposite side voted with him to cut off debate. Therefore, I am not very anxious to give them a chance to air their vocabulary now. That is the reason.

Mr. WILSON, of Iowa, made some remark inaudible at the reporter's desk.

Mr. BUTLER. I am not to be interrupted from behind. [Laughter.] I am content to withdraw the objection, having achieved my purpose. I want to show gentlemen on the other side we are willing to give them a different rule of fairness from that we had from them. I withdraw my objection.

Mr. BINGHAM. I renew my motion, that the vote be taken on this resolution on Monday at five o'clock, the debate to continue until then, and speeches to be limited to thirty minutes each; and that on Tuesday motions to suspend the rules shall be in order as on Monday.

Mr. JOHNSON. I object.

Mr. BINGHAM. Then I move that the House adjourn.

Mr. JOHNSON. I withdraw my objection.

The SPEAKER. The Chair hears no objection, and it is so ordered. The debate on the pending resolution will continue until five o'clock Monday next, when the vote will be taken. Speeches are limited to thirty minutes each. On Tuesday motions to suspend the rules will be in order as on Monday. If there be no objection the resolution of Mr. GRISWOLD, relating to the rights of adopted citizens abroad, will be postponed until Tuesday, so as to give further time for this debate.

There was no objection, and it was ordered accordingly.

Mr. WASHBURNE, of Illinois. I ask that a like postponement shall be made of the Navy appropriation bill.

There was no objection, and it was ordered accordingly.

The SPEAKER. If there be no objection the morning hour of Monday will also be transferred to Tuesday.

There was no objection, and it was ordered accordingly.

The SPEAKER. This debate will continue this evening so long as the House may see fit, and on Monday it will be resumed after the reading of the Journal and continue until five o'clock, when the vote is to be taken.

Mr. EGGLESTON. There is to be no business other than debate this evening?

The SPEAKER. That is all.

Mr. BLAINE. The States are to be called for resolutions on Tuesday?

The SPEAKER. Tuesday is in every respect to be considered as Monday.

Mr. WASHBURNE, of Illinois. It is the understanding there is to be no further business to-day?

The SPEAKER. It is. The gentleman from Illinois has the floor.

Mr. FARNSWORTH. I yield to the gentleman from Pennsylvania.

Mr. STEVENS, of Pennsylvania. At what hour can we call the previous question?

The SPEAKER. The vote is to be taken at five o'clock. If the gentleman from Pennsylvania claims the floor as near as may be to half past four o'clock, the Chair will accord it to him to make the closing speech.

Mr. MUNGEN. Let me ask a single question in regard to the limitation of time; and it is whether the gentleman from Illinois, who now holds the floor and who says he can whip any two Democrats, [laughter,] will be allowed thirty minutes in addition to the time he has already occupied.

The SPEAKER. He will not; he has fifteen minutes left.

Mr. GLOSSBRENNER. I move that the House take a recess until half past seven o'clock this evening.

Mr. SCHENCK. Is not that a violation of the agreement?

The SPEAKER. It is not. The House can adjourn or take a recess whenever it pleases.

Mr. JOHNSON. I move that we take a recess until ten o'clock on Monday morning.

The SPEAKER. That is in order. It will be a continuation of the legislative session of Saturday.

The House divided; and there were—ayes 68, noes 58.

Mr. ASHLEY, of Ohio, demanded tellers.

Tellers were ordered; and Mr. JOHNSON and Mr. WILSON, of Pennsylvania, were appointed.

The House divided; and the tellers reported —ayes 59, noes 66.

So the motion was disagreed to.

Mr. GLOSSBRENNER's motion was agreed to; and thereupon (at five o'clock and ten minutes p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., (Mr. BLAINE in the chair as Speaker *pro tempore,*) and resumed the consideration of the report of the Committee on Reconstruction in regard to the impeachment of the President.

Mr. FARNSWORTH. Mr. Speaker, I propose to occupy but little more time. I desire to say after what was said this afternoon in reference to the Army of the United States, lest the impression should be made upon the House and the country that I believed the Army of the United States was disloyal, that I entertain no such idea. I believe we have a loyal Army; I know that it was thoroughly sifted during the war, and in its reorganization since the war, in the main loyal men have been appointed as officers, and I have no doubt loyal men have enlisted in the ranks.

Nor do I wish anybody to understand from what I may have said in reference to Democrats, that I mean to charge that every Democrat is a disloyal man. Any Democrat who fought for the Union is a man and a brother, and I am ready to take him by the hand. It is only those Democrats who, before the war, struck hands with the secessionists; who constantly protested against our right to coerce obedience to the law; who threw obstacles in the way of recruiting or paying the Army, and in every conceivable method endeavored to hinder, delay, and prevent the reënforcement of the Army during the war, and who, following up that policy since the war, have struck hands with Andrew Johnson and the enemy in opposition to the work of reconstruction and regeneration.

There are now in the United States, as there were before and during the war, thousands of good, loyal, whole-hearted Democrats. There are, no doubt, many still left in the Democratic party who will strike hands with us in upholding the Constitution and the laws and coercing obedience thereto. While I regret that some good men have been led astray—from what cause I know not, error of judgment probably —and are now acting, as I think, very erroneously with that party, (I am denouncing the secession Democrats,) therefore I say I do not wish to be understood as applying my remarks to every man who acts with the Democratic party, or who has acted with it.

I have said this much to prevent a wrong impression that might possibly be created from my remarks. There are in the Army, no doubt, notwithstanding all that has been done, notwithstanding the care that has been taken by Secretary Stanton, General Grant, and a loyal Congress to officer it with loyal men, some pliant, serviceable tools, who like to bask in the sunshine of power, who have great facility for crooking

> "The pregnant hinges of the knee,
> Where thrift may follow fawning"—

in spite of all the loyal men of the country can do, but they do not constitute the Army; they are but a fraction of it, and but an exception to the general rule.

Now, sir, I have said about all I propose to say either now or hereafter upon the question before the House. I am willing to trust it to the good sense, sound judgment, discretion, and patriotism of my fellow-members; and when the House shall have done its duty and voted the resolution which has been reported to the House by the Committee on Reconstruction, I believe the Senate has the firmness, patriotism, and wisdom to put this man, Andrew Johnson, on trial for high crimes and misdemeanors in office, try him according to the rules which should govern in such cases, and upon the evidence presented convict him, and when he is convicted remove him from the office which he has so long disgraced; and the country will breathe freer, the loyal people will take new heart and courage, the tree of liberty will become green again, the great swelling heart of liberty will beat with a new impulse, and the nation will go on in its career of greatness and glory, which the President now obstructs and hinders.

Sir, this nation has been too long disgraced by this man, this accidental President, made so by the assassin's pistol, this man who, in an evil hour, was thrust upon the country. Too long has he been an incubus and a disgrace to this great and glorious nation. Let him be removed. I would say, if it were the last day but one before the termination of his term, and my vote would remove him, remove him. If it would but cut short his term one hour I would cut it short and send him down to the future incapable hereafter of holding any office of honor, trust, or profit under the Government of the United States, thus proving his own words, that there is power enough in a Republic to punish a traitor. Let traitors understand, let the world understand, that this is a Government of the people, that this is a Republic where the governed are the Government; that the people are mightier and stronger than Presidents, and that the people's representatives are not afraid to do their duty.

Messrs. BAKER and PHELPS next addressed the House. [Their speeches will be published in the Appendix.]

Mr. KELLEY. Mr. Speaker, I congratulate the country upon the fact apparent to-day that Congress is about to rise to the dignity of the great duty devolved upon it by the turpitude of Andrew Johnson. I will support by my vote, as I do by my voice, the report of the committee, and the adoption of the resolution by which it declares him worthy of impeachment for high crimes and misdemeanors. The committee's arraignment, sir, is too circumscribed for me. It presents, however, a single point all-sufficient for the purpose—a gross violation of the Constitution, which he has sworn to maintain and defend; a crime clear, specific, and broad enough to constrain the gentlemen who united in the majority report of the committee on this question some weeks ago to approve and prefer this with its opposite conclusion. But, sir, I hold and assert that, however concise may be the official arraignment, we are about to bring to trial the great criminal of our age and country, a man who for two years has been plotting with deliberate and bloody purpose the overthrow of the institutions of our country.

This day two years ago will ever be notable in the history of our country, because the President of the United States then appeared in the streets of the capital of the country, surrounded by its rabble, by those who had applauded the murderers of his illustrious predecessor, by men who, clad in confederate gray, had fought the armies of the nation, and, denouncing as an illegal and usurping body the Representatives of the States and people, pointed out by name a distinguished member of the United States Senate and my venerable colleague, [Mr. STEVENS,] the then illustrious leader of the House, as objects of the just vengeance and violence of the lawless mob he hailed as patriots and friends. He was at that time, as is known to those who were in the habit of visiting him and as his language on that day announced to every student of history, engaged in familiarizing himself with the worst precedents furnished by the history of the revolutionary eras of France. On the evening of that day, as I have been informed by gentlemen who are still his confidential friends, he called the attention of one of them to the fact that Robespierre had in his early life been an advocate of colored suffrage, and intimated by envenomed innuendo that the distinguished gentlemen toward whom he had in the afternoon directed the violence of the mob were bloody-minded as the cowardly Robespierre had become when his power departed and dangers environed him. In the course of his seditious harangue to the mob he spoke of the Reconstruction Committee, which was composed of distinguished members of each House, and which was then so carefully probing the difficulties of our country, deliberating so wisely and patiently, and seeking by every accessible means the just remedy for the ills rebellion had brought upon us, as the "central directory," by the use of which phrase, borrowed from the most fearful pages of revolutionary story, he doubtless hoped to inflame the passions of the bloody-minded people with whom he was consorting, and induce them to believe that the committee was assuming the powers of the Government in defiance of the Constitution, the laws, and the usages of the country.

Sir, before God and the people, I affirm my belief that it was then his intention to overthrow the Government and execute the purpose he had intimated before leaving Tennessee, to wit: that should he become President, and believe it to be necessary to save the life of the nation, he would perpetuate his power. Possessed by the thought of the Presidency and the possible perpetuation of his power, there stood between him, Vice President elect, and the position in which it would take but his own selfish interest to persuade him that the perpetuation of his power was essential to the life of the nation, but one life, that of Abraham Lincoln, and that life, a few days after Mr. Johnson was inaugurated as the President's constitutional successor, violence removed; and I charge that on the 22d of February, two years ago, he sought to bring the wildest passions of the violent and disappointed men of the South to bear upon both branches of the national Legislature for the purpose of perpetuating his power. And last night, as I sat in the War Department, contemplating the fact that but for the unassailable virtue of one man Andrew Johnson would have had his St. Arnaud in control of the American Army as Louis Napoleon had his in control of the army of the French republic on the 1st of December, 1852, and you will pardon me for saying so, that I felt I had been gifted with the spirit of prophecy when, on the 15th of March, 1866, nearly two years ago, I warned my own people, and, so far as my feeble words would go, those

of the country at large, that he contemplated a *coup d'état*, and that it was his purpose to effect it through the War Department. Permit me, as I am more familiar with the language than the Clerk, to read a brief extract from the address I then delivered, and to remark that, but for Edwin M. Stanton's hardy virtue, the sketch with a change of names and minor incidents could now in all probability be read as part of our country's history. On that occasion, in illustration of the ease by which republics are overthrown when executive power controls an army through a corrupt Secretary of War, I said:

"When the sun went below the horizon on the 1st of December, 1851, France was under the constitution of 1848, a republic. It was Monday, the evening on which the President, whose inaugural oath bound him to maintain the republic, held his reception at the Elysée. There was nothing unusual in the number or character of the guests. They were, probably, each in a general way known to the others; but could each have looked into the hearts of all, and beheld their secret workings, the story of the night would not have read as it does. The brilliant assemblage embraced some of the most loyal friends of the republic. Count de Morny was not seen by the guests who first departed. He had manifested his devotion to the drama, and the *habitues* of the theaters had seen him among them early in the evening; but the company separated early, and at eleven o'clock there were but three guests with Louis Napoleon. They were De Morny, Maupas, and St. Arnaud, and, attended by Colonel Beville, an orderly or subordinate officer of the President, they followed him to his Cabinet. It was almost midnight, and the republic still lived. Let us contemplate its dying hours. It will not detain us long, for when the first beams of the ascending sun lit the spires of Paris the empire was in embryo and the republic, with the preceding day, was a thing of the past.

"Colonel Beville was soon dispatched to the State printing office with a sealed packet. It contained the copy of proclamations with which the streets of Paris were to be placarded before daylight and the outgoing mails burdened. One of them asserted that the Assembly (the Congress of France) was a hot-bed of plots and conspiracies, announced its dissolution, and placed Paris and the twelve surrounding departments under martial law. About twelve o'clock word was brought the conspirators that a battalion of *gendarmie* surrounded the printing office and that under the supervision of the Director the overawed printers were putting the proclamations in type. The President executed letters removing his Cabinet and appointing Morny to the secretaryship of the interior. He had some days before recalled from Algeria St. Arnaud, the John B. Floyd of France, and made him minister or Secretary of War, the officer whose order, within the range of military duty, was law to the generals of the republic. At two o'clock St. Arnaud signed an order that bodies of troops which he had put under command of his corrupt partisans should occupy the garden of the Tuileries, the Quai d'Orsay, the Place de la Concordé, and be so posted in the vicinity of the Elysée as to protect its inmates if necessary. Maupas, prefect of the police, in another apartment held separate interviews with a number of commissaries, and, under the pretext that he apprehended an arrival of foreign refugees, made arrangements for the simultaneous seizure and incarceration of seventy-eight of the most distinguished generals, most trustworthy officers and members of the Assembly, (Congress,) and most courageous and most eloquent popular orators of France. With the execution of this order the revolution was accomplished. When day broke the army was without generals who loved the republic more faithfully than Lee and Johnston love ours, and the assembly (Congress) was without the officers to bring it to order or a fearless representative of the people to demand that the constitution be maintained and treason made odious by the punishment of conspiring traitors."

I repeat, sir, that when I heard that Andrew Johnson, in disregard of the provisions of the Constitution which he had sworn to maintain, had, in express violation of that provision which limits his power to appoint heads of Departments by the phrase "by and with the advice and consent of the Senate," and to the filling of vacancies occurring during the recess of the Senate, appointed a Secretary of War; and remembered his persistent efforts to seduce the General of the Army and his puerile offer of a pledge to that virtuous citizen and illustrious soldier to endure vicariously the punishment of his crime if he would become his coconspirator against the liberties of the people and the Constitution of the country; and thought of the dazzling bribes with which he had tempted the no less illustrious soldier who had led the armies of the Republic from Atlanta to the sea, among which was a department, the headquarters of which should be at the capital of the country; and remembered again that he was at that very moment resorting to the inducements indignantly rejected by Grant and Sherman to corrupt "Corinthian Thomas," the noble Virginian who never forgot his duty to his country, and which have doubtless been spurned by him, I was forced to believe that the arch criminal had found among the hitherto honored officers of the Army one who, knowing how utterly in disregard of the Constitution and the laws was the order under which he was acting, and who knew as well as Adjutant General Lorenzo Thomas does the penalties the law provides for such an offense, was still ready to become his instrument and take upon himself the first functions of St. Arnaud, I believed the dream which has possessed Andrew Johnson for years was about to be illustrated amid renewed strife and bloodshed. And as at midnight I sat in the War Department I thanked God that as from the time He had decreed that the purification of our country should be wrought in strife and blood He had in every great crisis given us the right man in the right place, He had not failed us now, as Edwin M. Stanton was there to speak in the name of the people and the Constitution and to maintain their rights and its sacred inviolability.

The mere violation of law does not, I repeat, constitute my arraignment against the acting President of the nation. But the suggestion has been made on this floor that his conduct involves a mere question of the construction of a law. Sir, it is the question of the construction of vital provisions of that which is antecedent to and underlies the law—the Constitution of our country and of its express provisions. Nor, even if the arraignment depended upon the provisions of the tenure-of-office act, would the issue be a mere question of the construction of law. That question was referred to the Senate yesterday, and that body advised the President that they regarded his action as unconstitutional. It was again referred to-day to the courts of the country, and is marked for adjudication for Wednesday next, and the offender, who, I fear, will hereafter be known as the St. Arnaud of our Army and country, is under $5,000 bail to respond to the demands of the law and abide its peaceable determination. And yet, sir, after the action of the Senate and the reference of the question to the judicial tribunals of the country—and let me say in passing that I speak not from the report of the honorable gentleman from Ohio, [Mr. BINGHAM,] who referred to the fact, but from my own observation—escaping from the magistrate's office and coming, as I am informed, through the office of the President and his Attorney General, Adjutant General Lorenzo Thomas appeared in the War Department at noon to-day, and in my presence demanded to exercise the functions of Secretary of War; and when ordered courteously but positively to take his place in the office of the Adjutant General and attend to his duties he protested that he was Secretary of War *ad interim*, and was there in obedience to the orders of the President of the United States, and in his name demanded possession of the mails of the Department, with all its books and papers.

Sir, this extraordinary procedure on the part of the President is not necessary for the adjudication of a legal question. The question gentlemen attempt to raise can be decided very speedily. These proceedings are necessary only for a usurper whom the people have repulsed and thwarted time and again, but who hopes by the absolute possession of the War Department to use the Army and thus overcome the contumacy of the people, and who attempts on the 22d of February, 1868, to execute by cunning that which he hoped mob violence would execute for him on the 22d of February, 1866.

It is not well, Mr. Speaker, that the institutions of this broad but infant nation should depend upon the virtue or life of one or two of its citizens. Lincoln was murdered, and other distinguished patriots may be. It is known that men ascend to power over bloody steps, and that they may do it in this country and yet be tolerated. Therefore, the hour has come when Congress owes it not only to itself, but to the safety of the country, to warn Mr. Johnson that he cannot perpetuate his power, and bring to him as hastily as the forms and spirit of law will permit to trial and degradation. The army of France obeyed the orders of St. Arnaud as Minister of War, and the Army of the United States owe obedience to the orders of the President, issued by the Secretary of War. On the integrity of that officer in this crisis depends the peace and life of the nation!

I rejoice, inasmuch as the country has come thus far through with safety, at the delay the hesitancy of the majority of the Judiciary Committee has caused, for no student of our Constitution, no citizen—nay, no foreigner who has at all imbued his mind with the spirit of our institutions or the letter of our Constitution—can now doubt that Andrew Johnson, acting President, has been guilty of a flagrant violation of the Constitution and of a high crime, which is justly impeachable.

The gentleman from Maryland [Mr. PHELPS] sustains the theory of the President, and argues that the President is free to interpret the Constitution for himself. That was also the argument of the gentleman from New York, [Mr. BROOKS,] who cited precedents in support of the proposition that each officer who swears to support the Constitution must support it according to his own construction of its provisions. But there are clauses so express, Mr. Speaker, as not to admit of construction, and such are the clauses and provisions with the violation of which the committee arraign President Johnson.

Mr. PHELPS. I wish merely to say that what I said on the point of the right of construction was applicable and confined to this particular act, and no other law.

Mr. KELLEY. Give the President the power, Mr. Speaker, to interpret the Constitution and laws for himself, and then give him the further power demanded for him by the gentleman from Maryland, to wit: that he cannot execute the laws unless he has agents in sympathy with him, and you not only invite him to act as a usurper, but make him a dictator, with undisputed power to execute his basest and most sanguinary purposes. What! has it come to this, that each President is free to put his own interpretation upon the Constitution and laws, to disregard precedents, decisions, and long-continued lines of action, and set up his own will, his private, individual judgment, his personal wishes and interests, and then find gentlemen on the floor of Congress demanding that in addition to all this he shall have the power to select agents who are in sympathy with him, and that they who resist such lawlessness, such invitations to violence, shall be denounced as assailants of the Constitution and foes of popular rights?

The lead of bad men in exalted positions of power is dangerous to young men and very dangerous to ambitious men; and I fear that some of those who have spoken on the other side to-day had better exercise the privilege of revising their words; and I think it will be well for others to pause before they speak in defense of the great criminal whom the American people arraign for thousands of crimes.

Is there want in the homes of industrious labor; is there care, anxiety, and distress in the great commercial centers of the country? They who suffer know to whom, under God, to ascribe their ills. Sir, the bloody and untilled fields of the ten unreconstructed States, the unsheeted ghosts of the two thousand murdered negroes in Texas—I say two thousand, because that number is reported on authority—cry, if the dead ever invoke vengeance, for the punishment of Andrew Johnson. There is not a suffering Union man, white or black, in the South who does not know that he was safe from the malignity of his neighbors, who dreaded the penalties due to their crimes, until this man set up his arrogant pretensions, denounced the legislative branch of the Government as an unconstitutional body, intimated that it might become his duty to disperse it, and found a party on this floor to sustain him.

Yes, sir; but for his perfidy rebels, with

hands teeming with gore, would have had to treat Union men with respect if they hoped to escape with their own lives. But when Andrew Johnson gave them impunity; when he denounced the men who had fought for the flag; when he let the rebels know more frankly than he did the people of the North his purpose to restore them to power, and to hand over the Sumners, the Stevenses, and other radicals of the North to popular vengeance, he let loose upon the southern loyalists the passion of their old masters, infuriated by their defeat and the overthrow of the confederacy.

[Here the hammer fell.]

Mr. BECK. Mr. Speaker, disguise it as we may, and call this proceeding by what name we will, it is at last apparent that the leaders of this Congress are prepared to take the fatal plunge into the sea of revolution, and, fearing that the more timid or conservative of the members of the majority may halt before they leap, the leaders are determined to lash them on while they are yet blind with rage, lest the sight of the frightful precipice should make them shudder and retrace their steps. Defeated twice in their impeachment schemes since this session began, once in the House, after all the acts, public and private, of the President had been ferreted out for six months through perjured spies and informers, and again before the Reconstruction Committee, with all the acts and correspondence between General Grant and the President before it, the foiled and baffled leaders, desperate and reckless, have now taken advantage of the insane *furore* created by a legitimate effort of the President to test before the courts of the country his constitutional and legal right to remove an obnoxious and, as he asserts, faithless subordinate, who is a spy upon his actions and an obstacle in the way of the faithful performance of his constitutional obligation to "see that the laws are faithfully executed"—to remove him from his high position, and place there a pliant tool of the dominant faction; and this, too, is to be done with an indecent haste that would be disgraceful to the proceedings in the lowest and most insignificant magistrate's court in the country. The matter was referred to the Reconstruction Committee late yesterday evening. A sub-committee of three, all of whom were known to favor the scheme, were to-day charged by that committee to take proof and prepare the report, carefully excluding therefrom either of the members who were known to oppose it. Sitting after this House met, in violation of the rules of the House and against the protest of the minority of the committee, the articles of impeachment are now hurried before this body.

And the gentleman from Ohio [Mr. BINGHAM] stated on the floor to-day that the committee were in possession of testimony which he recapitulated here, but which no member of the minority of the committee had ever heard of.

Mr. BOUTWELL. Will the gentleman yield to me a moment?

Mr. BECK. Certainly.

Mr. BOUTWELL. The gentleman is in error in stating to the House that the committee acted upon any testimony except that which was submitted to all the members of the committee, including the gentleman himself.

Mr. BECK. I say that the gentleman from Ohio [Mr. BINGHAM] alluded to other testimony as being in the hands of the committee to-day.

Mr. BOUTWELL. Not to other testimony, but to information which he individually possessed, which was not the property of the committee—not testimony taken by the committee.

Mr. BECK. I know it was not the property of the committee, but it was alluded to in the debate here for the purpose of influencing the action of this House, as I understand the gentleman.

It was used in the argument by the gentleman for some purpose, and it could have been used by him for no other legitimate purpose. Now, I want this House to understand that there is no evidence before this House taken by that committee except what is there in the record, as the gentleman from Massachusetts admits; and I want this House and the country to understand that while this, the most important matter which ever engaged the attention of the American Congress, was referred to a committee of this House only yesterday, and was considered by that committee and reported upon to this House to-day, my colleague upon that committee [Mr. BROOKS] and myself, constituting the minority of it, have been limited, in the discussion of this question, he to one hour before he had heard one word of the argument upon the other side, and I to thirty minutes, being obliged to present our views in that time, while two members of the majority of the committee [Mr. BINGHAM and Mr. FARNSWORTH] have each been allowed an hour for discussion, and an hour belongs of right to the chairman to close the debate; and that is done in order that this matter may be rushed through this House before the country can fully understand it and make their wishes known to their Representatives here.

Mr. FARNSWORTH. Will the gentleman allow me to make a suggestion to him at this point of his remarks?

Mr. BECK. Certainly.

Mr. FARNSWORTH. While the gentleman is thus reflecting upon the action and judgment of this House, does he reflect that no objection was made to the course which he now condemns?

Mr. BECK. I objected in every manner I could.

Mr. FARNSWORTH. It was by the unanimous consent of the members of this House that debate upon this question was limited to speeches of thirty minutes.

Mr. BECK. I merely say that I did object in every form I could. But I must make the most of it and proceed. What I was about to remark is this: that the single question upon which the decision of this House is now to be made is that the President has attempted to test the constitutionality of a law which he believes to be unconstitutional. All the testimony heretofore presented upon which to base an impeachment of the President was decided by even a majority of the Republican members of this House to be insufficient to justify impeachment. All questions growing out of the combinations and conspiracies lately charged upon the President were ruled by the Reconstruction Committee to be insufficient, and were not brought before this House. And the sole question now before us is, is there anything in this last act of the President removing Mr. Stanton and appointing Adjutant General Thomas Secretary of War *ad interim* to justify his impeachment by this House?

I maintain that the President of the United States is in duty bound to test the legality of every law which he thinks interferes with his rights and powers as the Chief Magistrate of this nation. Whenever he has powers conferred upon him by the Constitution of the United States, and an act of Congress undertakes to deprive him of those powers, or any of them, he would be false to his trust as the Chief Executive of this nation, false to the interests of the people whom he represents, if he did not by every means in his power seek to test the constitutionality of that law, and to take whatever steps were necessary and proper to have it tested by the highest tribunal in the land, and to ascertain whether he has a right under the Constitution to do what he claims the right to do, or whether Congress has the right to deprive him of the powers which he claims have been vested in him by the Constitution of the United States, and that is all that he proposes to do in this case.

Now, if that is the object, and the only object, of the President, as I contend the facts show, then I can hardly bring myself to believe that any set of sane men can seriously entertain the opinion that in anything the President has done in the removal of Mr. Stanton he has been guilty of either a high crime or misdemeanor. But "whom the gods wish to destroy they first make mad;" and if ever a party was stricken with judicial madness and blindness the action of this party now proves that they are the victims of it.

That the President should be considered guilty of a high crime or misdemeanor for desiring and attempting to bring to the test of judicial decision one of the powers with which he considers that the Constitution has clothed him, and of which power an act of Congress has attempted to divest him, and that, too, in regard to an officer who agrees with him in regard to that constitutional power, seems to me an idea too preposterous to be entertained outside of a lunatic asylum.

The humblest citizen has the undoubted right to try judicially his constitutional rights. In regard to an officer whose office is created by the Constitution it is not only the right but the official duty of the President to bring to the test of judicial decision every power of which Congress endeavors to deprive him and which he believes is vested in him by the Constitution. He cannot obey the Constitution nor faithfully fulfill his oath of office without vindicating in a legal, orderly, and judicial mode those powers. A void act of Congress is no excuse before a court or even before the bar of enlightened public opinion for a failure to attempt in a constitutional, legal, and orderly manner to fulfill his constitutional duties. If, therefore, the President is guilty of a crime, that crime consists in his believing that the tenure-of-office bill is unconstitutional or that it does not apply to the case of Mr. Stanton, for if he does so believe, it is a duty he cannot, without violating his oath, decline to bring to the test of judicial decision whenever the duties of his office require him to remove an officer under his constitutional authority.

By the Constitution the President is made the Commander-in-Chief of the Army and Navy of the United States. Suppose that Congress by a law should seek to deprive him of his power as such Commander-in-Chief? Would he not have the right to make removals and appointments and to issue orders for the purpose of testing the constitutionality of that law? The Constitution says that every man shall have the right to a trial by a jury of his country. Suppose Congress should pass a law taking away that right in all cases, would not any man have the right to test its validity, and would not the President be bound to see that every facility was afforded for the purpose of ascertaining and vindicating the constitutional rights of the citizen? The right to the writ of *habeas corpus* is the right of every person in time of peace. Is it not the duty of the President to see that the right is not withheld, and to protect the citizen if Congress attempts to deprive him of it? Every law which seeks to deprive the Chief Executive of the nation of any of his constitutional powers as such he has a right to test in every way the law will permit. Gentlemen on the other side from the beginning to the end of this argument assume that this act of the President removing the Secretary of War is a clear violation of the Constitution, and that he knew he had no right to interfere with Mr. Stanton under the tenure-of-office act.

Just the reverse is the fact. All the leading authorities in the country have declared that the right to remove executive officers was vested solely in the President of the United States—that this was a power of which he could not be deprived by any act of Congress. Mr. Madison says:

"The Constitution affirms that the executive power is vested in the President. Are there exceptions to this proposition? Yes, there are. The Constitution says that in appointing to office the Senate shall be associated with the President, unless in the case of inferior officers, when the law shall otherwise direct. Have we (that is, Congress) a right to extend this exception? I believe not. If the Constitution has invested all executive power in the President, I return to assert that the Legislature has no right to diminish or modify his executive authority. The question now resolves itself into this: is the power of displacing an executive power? I conceive that if any power whatever is in the Executive it is in the power of

appointing, overseeing, and controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office by associating the Senate with him in that business, would it not be clear that he would have the right by virtue of his executive power to make such appointment? Should we be authorized, in defiance of that clause in the Constitution—'the executive power shall be vested in the President'—to unite the Senate with the President in the appointment to office? I conceive not. It is admitted that we should not be authorized to do this. I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first is authorized by being excepted out of the general rule established by the Constitution in these words: 'The executive power shall be vested in the President.'"

Mr. BOUTWELL. Will the gentleman allow me to ask him a question?

Mr. BECK. Yes, sir.

Mr. BOUTWELL. The gentleman will, of course, observe that, in the extract which he has just read, Mr. Madison states that in the appointment of officers the Senate is associated with the President. Does the gentleman recognize the fact that the conduct of President Johnson yesterday, in appointing Lorenzo Thomas to the control of the Department of War, was without the consent and advice of the Senate?

Mr. BECK. I have only this to say: The President has the right of removal. So says Mr. Madison. Having the right to remove, he has the right to do what he did do—to communicate to the Senate that he had removed the officer, and to place some person in the office to act *ad interim*. He had a right to lay before the Senate the fact of the removal of Mr. Stanton, and to ask its concurrence in that act. If the Senate concurred in the removal then no wrong was done. Some officer had to be there *ad interim* to take charge of the public affairs until it should be seen whether the removal of Mr. Stanton was or was not concurred in by the Senate, and until another appointment was made. Therefore this House, even if it has the right to impeach for such an act, admitting the validity and applicability of the tenure-of-office bill, acts prematurely in taking up the question before it knows officially that the Senate has refused to concur in the act. If the communication of the President to the Senate is before this House I have never seen it; but I believe it will not be denied that the President has sent to the Senate a communication informing that body of what he has done—that he has merely appointed an officer *ad interim*. So far as this House knows the Senate has not refused its concurrence in the act of the President. But, as my time is brief, I cannot stop to make further reply to the gentleman from Massachusetts.

Chancellor Kent takes the same ground as Mr. Madison, and uses this language:

"On the first organization of the Government it was made a question whether the power of removal in case of officers appointed to hold at pleasure resided nowhere but in the body which appointed, and, of course, whether the consent of the Senate was not requisite to remove. This was the construction given to the Constitution while it was pending for ratification before the State conventions by the author of the Federalist. But the construction which was given to the Constitution by Congress, after great consideration and discussion, was different. The words of the act (establishing the Treasury Department) are: 'And whenever the same shall be removed from office by the President of the United States, or in any other case of vacancy in the office, the assistant shall act.' This amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as decisive authority in the case. It applies equally to every other officer of the Government appointed by the President whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of the department, because he is invested generally with the executive authority, and the participation in that authority by the Senate was an exception to a general principle and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfill it."

Mr. Justice Story, in his Commentaries on the Constitution, also adopts the same view, that the right to remove and appoint executive officers is vested in the President as the Chief Executive, except where the Constitution requires him to act in his appointments by and with the advice and consent of the Senate; and when the Constitution does not prohibit the President from removing any officer not having associated the Senate with him in the right of removal he has the sole right to remove. It is further held by the highest authorities that any law which Congress may attempt to pass preventing the President from exercising this executive authority is unconstitutional, null, and void, and that it is his duty to test such an act in the courts of the country. The language of Mr. Justice Story is as follows:

"After a most animated discussion the vote finally taken in the House of Representatives was affirmative of the power of removal in the President without any coöperation of the Senate by the vote of 34 members against 20. In the Senate the clause in the bill affirming the power was carried by the casting vote of the Vice President. That the final decision of this question so made was greatly influenced by the exalted character of the President then in office was asserted at the time, and has always been believed; yet the doctrine was opposed as well as supported by the highest talent and patriotism of the country. The public have acquiesced in this decision, and it constitutes perhaps the most extraordinary case in the history of the Government of a power conferred by implication on the Executive by the assent of a bare majority of Congress which has not been questioned on many other occasions."

The commentator adds:

"Nor is this general acquiescence and silence without a satisfactory explanation."

Sir, I hold in my hand a message of the President of the United States to the Senate giving his reasons for the suspension of Mr. Stanton in the first instance. What does he say? The statement he there makes has never been contradicted, and cannot be contradicted. He says:

"That tenure-of-office law did not pass without notice. Like other acts it was sent to the President for approval. As is my custom, I submitted its consideration to my Cabinet for their advice upon the question whether I should approve it or not. It was a grave question of constitutional law, in which I would, of course, rely most upon the opinion of the Attorney General, and of Mr. Stanton, who had once been Attorney General.

"Every member of my Cabinet advised me that the proposed law was unconstitutional. All spoke without doubt or reservation, but Mr. Stanton's condemnation of the law was the most elaborate and emphatic. He referred to the constitutional provisions, the debates in Congress, especially to the speech of Mr. Buchanan when a Senator, to the decisions of the Supreme Court and to the usage from the beginning of the Government through every successive Administration, all concurring to establish the right of removal as vested by the Constitution in the President. To all these he added the weight of his own deliberate judgment, and advised me that it was my duty to defend the power of the President from usurpation, and to veto the law.

"I do not know when a sense of public duty is more imperative upon a head of Department than upon such an occasion as this. He acts then under the gravest obligations of law: for when he is called upon by the President for advice, it is the Constitution which speaks to him. All his other duties are left by the Constitution to be regulated by statute; but this duty was deemed so momentous that it is imposed by the Constitution itself.

"After all this, I was not prepared for the ground taken by Mr. Stanton in his note of August 12. I was not prepared to find him compelled, by a new and indefinite sense of public duty under 'the Constitution,' to assume the vindication of a law which, under the solemn obligations of public duty, imposed by the Constitution itself, he advised me was a violation of that Constitution. I make great allowance for a change of opinion, but such a change as this hardly falls within the limits of greatest indulgence. Where our opinions take the shape of advice, and influence the action of others, the utmost stretch of charity will scarcely justify us in repudiating them when they come to be applied to ourselves."

He then goes on further with his statement:

"I was so much struck with the full mastery of the question manifested by Mr. Stanton, and was at the time so fully occupied with the preparation of another veto upon the pending reconstruction act, that I requested him to prepare the veto upon this tenure-of-office bill. This he declined on the ground of physical disability to undergo, at the time, the labor of writing, but stated his readiness to furnish what aid might be required in the preparation of materials for the paper.

"At the time this subject was before the Cabinet it seemed to be taken for granted that as to those members of the Cabinet who had been appointed by Mr. Lincoln their tenure of office was not fixed by the provisions of the act. I do not remember that the point was distinctly decided, but I well recollect that it was suggested by one member of the Cabinet who was appointed by Mr. Lincoln, and that no dissent was expressed.

"Whether the point was well taken or not did not seem to me of any consequence, for the unanimous expression of opinion against the constitutionality and policy of the act was so decided that I felt no concern, so far as the act had reference to the gentlemen then present, that I would be embarrassed in the future. The bill had not then become a law. The limitation upon the power of removal was not yet imposed, and there was yet time to make any changes. If any one of these gentlemen had then said to me that he would avail himself of the provisions of that bill in case it became a law, I should not have hesitated a moment as to his removal. No pledge was then expressly given or required. But there are circumstances when to give an express pledge is not necessary, and when to require it is an imputation of possible bad faith. I felt that if these gentlemen came within the purview of the bill it was as to them a dead letter, and that none of them would ever take refuge under its provisions."

That is all I have time to read of it.

From all the authorities I have read I contend that the President has the right to assume that he has the power to remove his Cabinet officers, and Mr. Stanton more than any other, no matter what the tenure-of-office bill provides. Still further. When the bill was before the Senate of the United States, and the subject of discussion in that body as to its intent and effect, I assert that it was declared that the bill did not cover the case of Mr. Stanton; that it was so understood when the bill was passed, and was so decided by the Senate. Mr. Stanton was appointed by Mr. Lincoln during his first term, and was never reappointed after Mr. Lincoln's reëlection. He was continued in office, and was never appointed by Mr. Johnson. His only commission was issued, and the oath of office administered to him during the first term of Mr. Lincoln. The tenure-of-office bill provided that Cabinet officers should hold their offices only during the term of the President by whom they were appointed and for one month afterward. In the discussion of that bill, after the Senate had a conference with the House in which Mr. WILLIAMS and Mr. SHERMAN were the managers on the part of the Senate, Mr. DOOLITTLE contended that the facts were as I have stated them, and applied to Mr. SHERMAN to know whether some of his friends did not intend to keep Mr. Stanton in office, and Mr. SHERMAN replied the Senate had no such purpose and no such power. Mr. DOOLITTLE, said:

"I suppose it is aimed at the present head of the executive department, to bind him to keep certain members of his Cabinet, for it was openly avowed in the discussion of this bill when it was up before that it would be intolerable to allow the present Executive Magistrate to have the power of removal over certain members of the Cabinet, mentioned by name. Now, this project does not reach those members at all. The terms of this provision are:

"'That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month longer.'

"Now, let us look at the facts. The Secretary of War was appointed by Mr. Lincoln during his first term; he never has been appointed since; he has never received any appointment since. Mr. Lincoln gave him no appointment during his second term, but he held over. Mr. Johnson has given him no appointment, but he has held over. So of the Secretary of the Navy, and so of the Secretary of State. The Secretary of the Interior, to be sure, and the Postmaster General and the Attorney General have been appointed by Mr. Johnson since the presidential office devolved on him; and by the terms of this law the Secretary of the Interior, the Postmaster General, and the Attorney General must remain during Mr. Johnson's term; but the Secretary of State, the Secretary of War, and the Secretary of the Navy, according to the terms of this provision, may be removed by him to-morrow."

Again:

"Mr. DOOLITTLE. I referred not to the committee of conference, but I referred to the debate on the original bill when it was pending, in which debate it was openly stated by some friends of this restriction on the President's power over the Secretaries that it was not to be tolerated that the present Chief Magistrate should have the power to remove the Secretary of War by name.

"Mr. SHERMAN. Some Senator may have had that purpose.

"Mr. DOOLITTLE. I heard it in debate; I speak not of what may have been the views of individual Senators not expressed on the floor of the Senate. I allude to what was openly stated in debate.

"Mr. SHERMAN. That the Senate had no such purpose is shown by its vote twice to make this exception. That this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of the

Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly as a Senator, would consent to his removal at any time, and so would we all."

There is the assertion of a Senator of the United States, the manager of the committee of the Senate, made in his place before the passage of the bill. There the fact is admitted that he was not an appointee of the present President, and was not protected by the tenure-of-office bill. The managers on the part of the Senate asserted that this officer could be removed by the President at once, because the act did not apply to his case at all. In view of all this, surely the President had a right to test the validity and applicability of the act by the removal of the officer without being guilty of a high crime or misdemeanor, when he had the language of the fathers of the Constitution itself, the views of the most distinguished commentators thereon, the views of Mr. Stanton himself, and the unanimous voice of his Cabinet that it was unconstitutional. And when he had the views of the Senate of the United States which passed that law declaring that Mr. Stanton's case was not covered by it, but left him subject to removal whenever he pleased, surely, I say, with all these things before him he had right legitimately, honestly, without intending to violate any laws, but simply to test his right and power to remove that officer under these circumstances.

And what did he do? Why, sir, he exercised this power by virtue of the Constitution and laws of the United States, as he asserts. What was his right even under the tenure-of-office bill when the Senate was not in session? He had the right to suspend Mr. Stanton and appoint a Secretary of War *ad interim*. That he did in the case of General Grant. Now the Senate is in session what has he a right to do under that bill? He has the right to remove by and with the advice and consent of the Senate. What does he now do? He removes Mr. Stanton and communicates the fact to the Senate of the United States. What reasons he gave to the Senate this House does not know. They have never been laid before us so far as I am aware. That he had a right to do. He alone can remove an executive officer. In this case he does it, and communicates the fact to the Senate. He appoints a Secretary of War *ad interim* temporarily, to take care of the office. Somebody must do it until the Senate acts and either confirms or refuses to confirm what he has done. He has been guilty of no illegal act. There is no charge that he has done anything except to remove an officer, a thing which he has a legitimate right to do even if his action is governed by this law. The fact was communicated to the Senate and laid before them, it is to be presumed in the absence of proof, for their acquiescence. That is the history of this case.

Sir, in my judgment gentlemen have traveled out of the record in discussing this matter, for what purpose it is not for me to say. My colleague on the committee, from Illinois, [Mr. FARNSWORTH,] announces the fact that he cares nothing for Andrew Johnson—that the issue is not whether he should be impeached but whether the loyal sentiments of ten States should be developed. The gentleman undertakes to denounce the conduct of the President. He says that Mr. Johnson has left the loyal men and joined their enemies. I have no doubt that the secret spring which moves the whole machinery of this impeachment lies right there. The dominant party cannot use the President for their purposes, and are therefore determined to remove him. That was the view of the minority of the Committee on the Judiciary when this question was first up, from which I will read a sentence or two, as it expresses fully and more concisely than I now can my views:

"His greatest offense, we apprehend, will be found to be that he has not been able or willing to follow those who elected him to his office in their mad assaults upon and departure from the constitutional Government of the fathers of the Republic; and that, standing where most of his party professed to stand when they elevated him to his present exalted position, he has dared to differ from a majority of Congress upon great and vital questions. He has believed in the continuing and binding obligations of the Constitution; that the suppression of the rebellion against the Union was the preservation of the Union and the States comprising it; and that when the rebellion was put down the States were all and equally entitled to representation in the Congress of the United States. Planting himself firmly and immovably upon this position, he has incurred the fierce and malignant hatred and opposition of all those who claim, by virtue of the alleged conquest of the territory and the subjugation of the people of the lately rebellious States, the power and right to dictate to them the constitution and laws they shall live under and the liberties they shall be permitted to enjoy. In this difference between Congress and the President, and the desire of each for the adoption by the country of their respective views, is, we suspect, to be found not only the cause for the movement to impeach the President, but of his censure and condemnation." * * * * "And can we possibly be mistaken when we assert that however honest may be the majority of the committee, the verdict of the country and of posterity will be that the crime of the President consists not in violations of, but in refusals to, violate the law?—in being unable to keep pace with the 'party of progress' in their rapidly advancing movements, or to step 'outside of and above' the Constitution in the administration of the Government?—in preferring the Constitution of his country to the dictation of an unscrupulous partisan cabal, in bravely daring to meet the maledictions of those who have aimed at the accomplishment of a most wicked and dangerous revolution, rather than to encounter the reproaches of his own conscience and the curses of posterity through all time?"

When you come to look calmly over the ground for impeachment, now presented, it seems to me that the views of the minority of that committee, in the light of the admissions of the gentleman from Illinois, apply with ten thousand fold more force than they did then. Then there were many facts about which men might differ. Now we have but the naked, isolated proposition that the attempt by the President to assert his right to remove Mr. Stanton, who, if aggrieved, can test his right to the office before the courts of the country, is a high crime and misdemeanor, for which he is impeachable. Beyond all question there is some purpose beyond and behind this, and the gentleman from Illinois admits it. There is no pretense in any proof before this House that he has violated any law other than to assert a legal and constitutional right, which he honestly and conscientiously believes pertains to his office as President of the United States, the validity of which claim, Mr. Stanton, if aggrieved, can speedily test before the judicial tribunals of the country, but with which Congress has nothing to do. The courts alone can settle controverted questions of that sort. It seems strange, indeed, for gentlemen on the other side to seek to influence the mind of this House by telling it what an obstacle the President has been in the way of reconstruction, and alluding to the reconstruction acts of Congress as being based on the Constitution, when I hold in my hand the three celebrated opinions of the Supreme Court of the United States in the Milligan, Cummings, and Garland cases, delivered within the last year or fifteen months, in which the Supreme Court decide that every principle of the Constitution has been violated in all those acts of reconstruction passed, as they were, after those decisions were rendered, by depriving citizens of the right of trial by jury; by depriving them of the benefit of the writ of *habeas corpus*; by making the military superior to the civil authority; by depriving the people of the benefits of the pardons and amnesties granted and accepted; in short, by putting the people of ten States under the heel of a military despotism, the existence of which the Supreme Court declares to be utterly inconsistent with civil liberty.

And yet gentlemen speak now of standing by the Constitution, and seek to impeach the Chief Executive of the nation because he has dared to exercise his constitutional right to remove a member of his Cabinet; willing, as he asserts, for the courts of the country to determine whether he has vested in him the executive authority which he claims, which the framers of the Constitution claimed was in the President, and which his constitutional advisers, Mr. Stanton being one of them, asserted he had; and when he further claims, what the Senate said he had, the right to remove Mr. Stanton because his case is not covered by the tenure-of-office bill. I assert before this House and the country that he has proceeded throughout legally in all these matters; but gentlemen here, who seek to impeach him and claim that they are standing by the Constitution in so doing, are sustaining and carrying out laws inconsistent with all its principles, as has been decided by the Supreme Court. Sir, are the decisions of that court to be of no avail? We have all been taught to believe that the decisions of that highest judicial tribunal are binding alike upon the President and the lowliest man in the land; and I say that it does come with a bad grace from gentlemen who are advocating measures all the principles of which that tribunal has declared unconstitutional, to be seeking to impeach the President and remove him from his high office because he is earnestly and honestly endeavoring in a legal and orderly way to maintain his legal and constitutional rights as Chief Magistrate of these United States.

[Here the hammer fell.]

Mr. LOGAN. Mr. Speaker, I have no desire to detain the House but for a very short time, that I may as concisely as possible present my views of the law, accompanied with a few statements of fact. I cannot, nor will I attempt to, enter into a general discussion of the subject, or encumber myself with authorities, inasmuch as in the thirty minutes allotted me it is impossible to elaborate the subject to that extent that would to me be desirable.

I do not, nor can I, understand this question as some of the gentlemen seem to who have discussed it. It certainly is not material in the decision of this question whether or not articles of impeachment shall be preferred against the President, that he may be put before his triers, the Senate; whether he is a Democrat or a Republican, or what he may be politically. It is not material whether this is the third time that he has been presented to this House for articles of impeachment or whether it is the first time. It is not material whether he may or may not have violated the laws before. The material question before the House is this: has the President of the United States of America violated a penal statute, a statute of the United States, the violation of which has been declared a high crime or a misdemeanor, and, having done so, is he impeachable by the Congress of the United States? We should try this case as would the goddess of justice, blindfolded, without regard to the person whose case is to be weighed in the scales, but merely ascertaining the facts, and upon those facts and the law pronounce our decision as to whether there has been a violation of law or not, and, if so, whether that violation of law was a high crime or misdemeanor.

Now, sir, how do we determine whether an act is a high crime or a misdemeanor? How do we determine whether the law was violated? We must first examine and understand what the law is, and, having ascertained what the law is, we must then examine the acts of the party, and see whether those acts are in contravention of that law, and whether those acts, being in violation of law, are declared by law to be a high crime or misdemeanor.

Now, sir, what is the law? The act of March 2, 1867, known as the act regulating the tenure of certain civil offices, provides the mode and manner of suspending persons in office; and that if the Senate shall concur in such suspension he may then appoint, with the advice and consent of the Senate, a successor. But if the Senate shall not concur in such suspension such officer so suspended shall forthwith resume the functions of his office. And in no other way can he remove from office any person where the consent of the Senate is required to the appointment. He may fill a vacancy that may happen during the recess of the Senate by death or resignation; but such appointment ceases or expires at the end of the

next session thereafter. He may, with the advice and consent of the Senate, remove from office. How? By presenting charges against the officer to the Senate. If those charges are deemed sufficient by the Senate to remove or suspend said officer they notify the President of their action. He in that way obtains their assent to said suspension or removal. In this way he may suspend or remove; but in none other can he do it. He may nominate to the Senate a person for an office, and ask the consent of the Senate that said person may be appointed and inducted into office; but without such consent affirmatively given by the Senate he can neither appoint to nor remove from office. This law was passed in pursuance of, and is in accordance with, the following provision of the Constitution of the United States, (section 2, article 2:)

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

It is plain to be seen that all the authority and power that the President has under and by virtue of this provision of the Constitution is carefully reserved to him by this law. In framing this law, in order to preserve the Constitution from violation, the Congress of the United States thought proper to add a penal section, which I will read:

"SEC. 6. *And be it further enacted, &c.*, That every removal, appointment, or employment made, had, or exercised, contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors. And upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

Now, Mr. Speaker, let us examine this question for a moment. It seems to me very plain and easy of solution. It is not necessary, in order to decide whether this action of the President of the United States comes within the purview and meaning of this statute, for us to talk about revolutions or what this man or that man has said or decided. What has been the act of the President is the question. The law is plain. If the President shall appoint or shall give a letter of authority or issue a commission to any person, without the consent of the Senate, he is guilty of—what? The law says of a high misdemeanor. And, under and by virtue of the Constitution, the President can be impeached—for what? For high crimes or misdemeanors. This law declares the issuing a commisssion to, or giving a letter of authority to, or appointing to or removing from office, any person, without the advice and consent of the Senate of the United States, shall be a high misdemeanor, which is within the meaning and within the pale of the Constitution of the United States.

Now, what is the evidence presented to this body by one of its committees? It is of this character: The Secretary of War, Edwin M. Stanton, has been declared by a solemn vote of the Senate to be the Secretary of War, by virtue of—what? By virtue of an appointment to that office; by reason of the fact that Andrew Johnson did not relieve him from office when he had the right to present the name of somebody else—soon after his taking the presidential chair—not the right to turn him out, but the right to nominate some one else to the Senate and ask them to confirm him to that office. That the President failed to do. Then, acting under the provisions of this statute, the President suspended Mr. Stanton as Secretary of War, but the Senate passed upon that act, and decided that the reasons given by the President for suspending Mr. Stanton were not satisfactory; and accordingly, by virtue of this law, Mr. Stanton was confirmed and reinstated in his position as Secretary of War.

Now, all this having been done, it cannot certainly be claimed that the President, in his recent course in regard to Mr. Stanton, has acted without any intention of violating the law. Nor can it be claimed that the President is ignorant of the law. The gentleman from Kentucky [Mr. BECK] is too good a lawyer not to be aware of the fact that the law presumes every man to be acquainted with the laws. That may be a violent presumption in the case of Andrew Johnson, yet that is an axiom of the law. [Laughter.]

That being, then, the presumption, that the President knows the law, having been notified by the Senate of its action and of the consequent operation of the law, then if, in violation of that same law, Andrew Johnson did issue an order removing Secretary Stanton from the War Office, and, in the language of this statute, did "issue a letter of authority" to Lorenzo Thomas to take possession of that office and act as Secretary of War *ad interim*, I ask the gentleman from Kentucky or any other lawyer in this House to tell me, under this statute, what has the President done? Sir, he has violated its provisions, he has committed a high misdemeanor. Look at the evidence and then read the law. Here is the order furnished General Lorenzo Thomas. If any man can read this in connection with the law and come to any other conclusion than that the President is guilty I cannot understand the workings of his mind:

EXECUTIVE MANSION,
WASHINGTON, *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been removed from office as Secretary of the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all records, books, papers, and other public property intrusted to his charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Official copy respectfully furnished to Hon. Edwin M. Stanton.

L. THOMAS,
Secretary of War ad interim.

Here is the order showing the removal of the Secretary of War, and a letter of authority to General Lorenzo Thomas to act as Secretary *ad interim*. Now, sir, again examine the law and tell me if this order is not a palpable and open violation of its provisions? The language of the statute is:

"That every removal, appointment, or employment, made, had, or exercised, contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court; *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

Has Mr. Johnson, then, issued a letter of authority? If he has, to whom? He did issue a letter of authority to Lorenzo Thomas, and that authority was to take possession of the War Office; to assume the authority which had been vested in Mr. Stanton; to take possession of the books and papers, and to exercise the functions of that office under and by virtue of the laws and the Constitution as he himself had construed them. This is the purport and meaning of that letter of authority. That letter of authority is in violation of this statute, and it being in violation of the statute Mr. Johnson is guilty of something. What is it? I ask gentlemen to tell me of what he is guilty. Is it a mere indiscretion? Is it a mere political trick? No, sir. It is an open, palpable violation of the statutes of the United States of America; statutes plain upon their face, that have been decided and passed upon in connection with one of his own acts prior to this. He had knowledge of the law; he had opposed the enactment of the law. It having been enacted, he has violated that law; he has trampled it under foot; he has appointed a man in violation of law; he has attempted to cause him to exercise authority which the law did not warrant him in exercising. He did this as President of the United States, and he stands before this country to-day a violator of public law, a violator of a statute—subject to its pains and its penalties in the same way as any other individual, having been criminal in his action—not negligent, but acting criminally and intentionally in violation of the laws of the country. In view of this state of things it is your duty and mine to decide—what? Not to decide whether Andrew Johnson is a Republican or a Democrat; not to decide whether he is this man or that, but to decide the question whether Andrew Johnson has violated that law. This is the question before us. The question is not whether in the Mulligan case this or that principle—having no bearing on the question here involved—were decided. And when the gentleman from Kentucky [Mr. BECK] tells this House that the Supreme Court has decided these reconstruction laws, and all laws akin thereto, unconstitutional, I am only sorry to see a man of his character stand up in this House and make a statement which is not borne out either in law, word, or spirit by any decision that the Supreme Court has ever made.

Mr. BECK. Will the gentleman allow me to correct him?

Mr. LOGAN. Certainly.

Mr. BECK. If I said that the Supreme Court had decided those acts unconstitutional, I did not intend to say so. I intended to say that that court had decided the great principles involved in those acts.

Mr. LOGAN. Ah, that is the great question as to what principles were involved. [Laughter.] There is one thing very sure: the principle of this statute and its violation was not involved; and the Milligan case has no bearing upon this question whatever. The gentleman, as a lawyer, must know that.

Now, let us examine this question a little further. If I know anything about the rules of law, (I do not claim to know more than others,) the rule, according to the best legal authority in this country is that when a man is accused of a crime or a misdemeanor, you first examine the fact of the violation of the law; you then ask yourselves the question, what was the intention of the party charged with the offense? The gentleman says there must be an intentional violation of law. But how do you arrive at the intention of a man who violates a penal statute, who commits a misdemeanor? I answer, from all the circumstances surrounding the perpetration of the act, you gather the intention of the perpetrator. That is the established rule of law. Let us see, then, whether the intention is in any way embodied in this violation of law. Let us see whether we cannot gather that intention from all the circumstances surrounding this act of violation of the law?

In gathering the evidence of the President's intention, I may be permitted (as every one else has been allowed a wide range in this debate) to go back and examine his previous course. I say that of the various laws passed by the Congress of the United States for the purpose of reorganizing, reconstructing, or rehabilitating the disloyal and disrupted States with robes of Unionism, and giving them again a seat in the family of States, not one has been passed by the Congress of the United States that Andrew Johnson has not laid his ruthless hand upon and obstructed in its effort to work out the liberties and the high destiny of the American people. Not one act has been passed by your Congress in the direction of peace, union, and prosperity, that he has not vetoed; and when passed over his veto, by a constitutional majority, that he has not attempted to prevent the execution of the same. He has advised and encouraged rebels and traitors in the South to disobey the laws; he

has removed military commanders that the reconstruction laws might be disregarded and opposed; he has, out of a vile nature, insisted against positive law, destroying the fabric of reconstruction you were raising as the safeguard and protection to the loyal people of the whole South. He has not only insulted the nation by his conduct as President of the Senate, but he has disgraced that high office in which he was placed by the death of his illustrious predecessor; he has dragged, as a demagogue, the robes of his high official position in the purlieus and filth of treason; he has permitted, through base officers, the revenues of the country to be plundered and applied to base political purposes. I do not believe there can be any settled quiet or permanent peace or obedience to law until he has been impeached and removed from the office he has disgraced and dishonored.

Mr. PHELPS. Will the gentleman let me ask him a question?

Mr. LOGAN. I will yield for a question.

Mr. PHELPS. Is it not the object and effect of this proceeding to clinch negro suffrage in this country in violation of the will of the people? [Laughter.]

Mr. LOGAN. What?

Mr. PHELPS. The impeachment of President Johnson.

Mr. LOGAN. Why, sir? I do not know. I hope that will not discourage us from impeaching him. [Laughter.] I did not know negro suffrage was a question in this trial. I did not know that negro suffrage cut any figure in this tenure-of-office bill. [Laughter.]

Mr. PHELPS. It has as much to do with the impeachment of the President as anything you were discussing when I interrupted you.

Mr. LOGAN. I am obliged to the gentleman for the information he has imparted to me, but I confess I do not know that it troubles me in this case in the least.

Mr. PHELPS. When gentlemen on the other side wish to carry out their objects they do not let anything like law trouble them.

Mr. LOGAN. A good many things trouble us, and if some of them could get into the gentleman's head they would trouble him. [Laughter.]

Mr. Speaker, I was speaking of the circumstances which surround this man and which prove it was his deliberate intention to perpetrate a violation of the law. I was saying he had disgraced the high office he held. I do not propose to go into a history of his many and grievous offenses. They are patent to the whole country. He has appointed to office disreputable persons. He has done every act which can be enumerated in the English language which is an obstruction to the prosperity of this nation and the preservation of the harmony of its people. He has done everything to prevent the reorganization of the rebel States and the reconstruction of the Union. He has done every act a man can conceive, not only calculated to degrade himself, but to destroy the rights of the American people.

Mr. Speaker, I believe before my God this bad man's intention is and has been to reinaugurate revolution in this country. He sees that he is a disgraced man. He sees that the last revolution has failed, and he can only look for the perpetuation of his power to the inauguration of another. I know this may be foreign to this issue; but I have been led to make these remarks because of the remarks that have been made by others. The gentleman from New York [Mr. BROOKS] made to-day nearly the same speech he delivered when once before the case of Andrew Johnson was before the House for impeachment. I listened to it then; I listened to it to-day. It was full of revolution then; it was full of it to-day. It was full of the history of Greece and Rome then; it was the same to-day. It was full of the rise and progress of republics and the downfall of empires then, and was replete with the same to-day. It was full of the heads and horns of Radical misrule and the fall of dynasties then, and was the same to-day. And to-day more than then he treated us to dark and bloody scenes and many warnings and threats that unless we were careful blood, blood, Mr. Speaker, would flow. [Laughter.] But, sir, if we must wait until blood shall flow on his account we must wait, I fancy, a very long while. [Renewed laughter.]

I know, sir, the time was when these Halls rang with just such threats of revolution, but the revolutionists were driven from the seat of power. Nobody is afraid now. We have passed through the fiery ordeal of rebellion once, and we are not to be alarmed by threats of it again. I do not want to see another revolution. I do not want to see bloodshed. God knows I have witnessed enough of it. But while the gentleman is giving us warning let me give him a warning. The law says Andrew Johnson shall not do a certain thing. He has done it. If we impeach him it is for violation of law, and while we stand by the law he can go on with his revolution, and nobody will be hurt and very few alarmed. You cannot get the people of this country to sustain him in a disloyal or unlawful act. If he finds anybody to sustain him I think it will be the rebels, and I do not think they have any advantage just now over us that I can conceive of in particular. [Laughter.] If he has nobody to sustain him but these Democrats I do not think they want war again, because they themselves might be forced into it the next time. [Laughter.]

Now, I have no threats to make. God knows I am not a fighting man of my own choice, and I do not want to fight. [Laughter.] But, as the gentlemen talk about fighting, let me ask them, how many men can you muster to stand by Andrew Johnson in a revolution? Why, he would desert them in a week after they had rallied around him. [Laughter.] You cannot get people to go to war on such uncertainties.

Mr. MULLINS. He would not stand fire a minute. [Laughter.]

Mr. LOGAN. I never saw him under fire, so I cannot tell. But, sir, though gentlemen talk about rebellion, there will be none. The people of this country are not going to get up a rebellion on Andrew Johnson's account. If they ever do get up one on account of any man it will be somebody who stands higher than Andrew Johnson. I venture the assertion, that if we do our duty in this Congress and stand by the law, in one week after Mr. Johnson is hurled from the seat of power the loyal people in the land will have new strength, new energy, new vigor, and their hearts will well up with joy and gratitude to God that there has been found backbone enough in this Congress to do right and stand by the law. They will rejoice that a man will succeed to the presidential chair who will see that the laws of the land are not obstructed and that the work of reconstruction goes on. Whenever you convict a criminal justly no man sheds a tear on his behalf on account of the execution of the law, but their sorrows are that the law has been violated.

Sir, the conviction of Andrew Johnson cause this country to be alarmed! Why, sir, your Secretary of the Treasury and some of his friends may raise a storm in Wall street and cause gold to go up one or two per cent. just at this time, but I tell you the moment Andrew Johnson is impeached it will go down twice as fast as it went up. The confidence in the Representatives of the people will be restored, and thereafter they will see pursued a straightforward course of rigid justice and economy in conformity to law, and that being done there will be no danger to apprehend of the liberties of the people being taken from them.

These gentlemen who cry out against impeachment say this is a solemn occasion. Why solemn? I know if you arraign a man for any high crime the attorney who defends him will put on a serious look and talk about its being a solemn occasion. Sir, this is not a solemn occasion to me. It never alarms me when I know that I am doing my duty conscientiously before my God and sustaining the law and the Constitution of my country. It only nerves me and fills me with new hope and energy. But while gentlemen are deploring the decapitation of Mr. Johnson, a man that is an obstruction in every possible way to the peace, prosperity, union, and happiness of this great people, I tell this House, be of good cheer; we will yet be a happy and harmonious people. There will be no revolution. A country that in time of war and excitement can stand the assassination of as good and just a President as Abraham Lincoln can and will stand the impeachment of as bad a President as Andrew Johnson.

[Here the hammer fell.]

Mr. HOLMAN. We have listened to much excited eloquence upon this question. It is too manifest that Congress, moving on with that impetus which is ever the result of excessive political power, seeks to usurp those powers which are by the Constitution vested in the other Departments of the Government. I do not propose to discuss this subject or answer the speech of the gentleman from Illinois [Mr. LOGAN] with any words of my own. I have before me a paper which is full of mature wisdom and patriotic counsel, a speech that comes from the solemn past, yet speaks to every heart that beats for the Union of these States, and the prosperity of the American people; a voice that is answered back from every battle-field of the Revolution, and from the grave of every soldier who has fallen in defense of American liberty. I ask that this speech may be read to the House, as appropriate to this day, the 22d of February, a day once so venerated. I ask that this immortal address to the American people, a speech that needs no revision; a speech in which there can be no interruptions, may, in this moment of passion, be read to the American Congress, for I can well afford to be silent while that great voice speaks to the Representatives of the people of this Republic.

The Clerk commenced the reading of Washington's Farewell Address.

Mr. PETERS. I rise to a question of order. I insist that that address is not germane to the question before the House.

Mr. HOLMAN. I insist that it is exceedingly germane.

Mr. LAWRENCE, of Ohio. Allow me to suggest that it is germane, for the reason that it relates to retirement from office. [Laughter.]

Mr. PETERS. That is too remote.

The SPEAKER *pro tempore*, (Mr. BLAINE, in the chair.) The Chair sustains the point of order.

Mr. HOLMAN. I hope no gentleman will object to the completion of the reading; it will only occupy the time I am entitled to.

Mr. PETERS. It is doubtless very instructive, and so would a chapter of the Bible be, but it has nothing to do with the question before the House, and I insist upon the point of order.

The SPEAKER *pro tempore*. Up to this point the discussion has been pertinent and germane to the question—very closely so—and the Chair is compelled to rule, the question of order being raised, that this is not germane or in order. The gentleman from Indiana will proceed in order.

Mr. HOLMAN. I suppose, Mr. Speaker, the Constitution of the United States would scarcely be in order. I will not ask to have it read.

Whatever may be the opinion of gentlemen here of the Farewell Address of Washington, I am still hopeful that the great mass of the American people still love and venerate the name and memory of Washington, and that there are those who listen still to his counsels. When it shall be otherwise the love of liberty will have perished. There are portions of this Farewell Address—his last utterance to the American people—which I assert are clearly in order, and to them I shall refer, for they are most pertinent to this occasion. It is proposed, on a doubtful question of construction, not only with reference to the constitutional

powers of the national Executive, but with reference to the interpretation of a law, that the President of the United States shall be impeached for high crimes and misdemeanors. You propose to impeach the President upon a mere question of opinion, when, in fact, no crime or misdemeanor has been committed, nor, indeed, any material step taken toward the commission of any offense under any interpretation of law. It can only be said that the President of the United States has assigned a military officer to a given duty, to the same duty to which he recently assigned the General of the Army, and that officer has sought to enter upon the discharge of that duty, but has failed to do so, and the incumbent remains in his office. It cannot be said, no matter what interpretation you place on the tenure-of-office law, that an offense has been in fact committed; for, if Edwin M. Stanton was Secretary of War he is still the Secretary of War; he is still in fact as he was in possession of his office; for the Senate has declined to confirm a successor. Here, sir, are your articles of impeachment:

"At twenty minutes past two, Mr. STEVENS, of Pennsylvania, chairman of the Reconstruction Committee, presented a report to the House, as follows:

"That, in addition to the papers referred to the committee, the committee find that the President, on the 21st day of February, 1868, signed and ordered a commission or letter of authority to one Lorenzo Thomas, directing and authorizing said Thomas to act as Secretary of War *ad interim*, and to take possession of the books, records, papers, and other public property in the War Department, of which the following is a copy:

"EXECUTIVE MANSION,
"WASHINGTON, D. C., *February* 21, 1868.

"SIR: Hon. Edwin M. Stanton having been removed from office as Secretary of the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

"Mr. Stanton has been instructed to transfer to you all records, books, papers, and other public property intrusted to his charge.

"Respectfully yours, ANDREW JOHNSON.

"*To Brevet Major General Lorenzo Thomas, Adjutant General United States Army, Washington, D. C.*

"Official copy, respectfully furnished to Hon. Edwin M. Stanton. L. THOMAS,
"*Secretary of War ad interim.*

"Upon the evidence collected by the committee, which is hereafter presented, and in virtue of the powers with which they have been invested by the House, they are of opinion that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors. They therefore recommend to the House the adoption of the accompanying resolution:

"THADDEUS STEVENS,
"GEORGE S. BOUTWELL,
"JOHN A. BINGHAM,
"C. T. HULBURD,
"JOHN F. FARNSWORTH,
"F. C. BEAMAN,
"H. E. PAINE.

"*Resolved*, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors."

And for this the President of the United States is to be impeached. Here, sir, party spirit, with its rancor and passion, is the master. It is the reckless passion of party spirit which is seeking here, through Congress, to usurp the powers which belong to the national Executive, as it has already sought to seize upon those powers which belong to the judicial Department of the Government as established by the Federal Constitution. Every step in this proceeding has been marked by the reckless haste and aggressiveness of party spirit.

Mr. Speaker, let me invite the attention of gentlemen to the language of this rejected address. How wisely this illustrious patriot counseled us against the evil effects of party and of the dangers of its supremacy:

"I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party generally.

"This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all Governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

"The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads, at length, to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

"Without looking forward to an extremity of this kind, (which, nevertheless, ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

"It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one party against another, foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

"There is an opinion that parties in free countries are useful checks upon the administration of the Government and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in Governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose. And, there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of Government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern; some of them in our own country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can at any time yield."

These, sir, are the wisest counsels from the purest patriot of the world's history. But why Washington speak? The very spirit of party which he deplores renders its votaries deaf to every appeal.

But to resume, sir. What are the relations of the President of the United States to the executive powers of the Government, and especially, sir, what are his relations to the members of his Cabinet? The Constitution itself clearly defines these relations and renders him directly responsible for the manner in which the executive power of the Government is exercised. In the language of the Constitution, "the executive power shall be vested in a President of the United States of America." "Before he enters on the execution of his office he shall take the following oath or affirmation: I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States;" and "he shall take care that the laws be faithfully executed." And again, "he shall nominate, and by and with the advice and consent of the Senate shall appoint embassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for." Is it possible, after these eighty years of experience, that any gentleman can believe that the President of the United States can well execute the duties of his high office and properly "take care that the laws be faithfully executed" without any control of the chief agencies—the heads of Departments—by which the executive power is to be exercised?

Can the country justly hold the Chief Executive responsible and yet render him powerless by filling the high offices of his Department with persons hostile to the success of his Administration? During these eighty years of our history, through all these Administrations has it ever been dreamed, sir, that the President of the United States could properly exercise his high functions and successfully administer the Government without a Cabinet in harmony with himself? No matter what party has been in power, Democrat or Federalist, Whig or Republican, and no matter whether the Congress and the Executive were in harmony or not, the common interests of the country has secured to the President a body of friendly counselors, who as heads of Departments have given unity and efficiency to the Administration. The public good demanded it, and hitherto party spirit has never been so intense or vindictive as to seek partisan advantages at the expense of the interests of the country. The framers of the Constitution could not have intended, while imposing such high responsibilities on the President, that the very duties imposed upon him might be defeated by the unfriendly officers executing high official trusts. Mr. Madison, therefore, claimed the power of removal of an executive officer. The appointing power is in the President, with the right of the Senate to reject or confirm, but if the Senate refuses to confirm the nomination the powers of the office have been uniformly performed by some other officer of the Government.

The first section of the tenure-of-office law, which was passed on the 2d day of March, 1867, and manifestly intended to embarrass the administration of Mr. Johnson, is as follows:

"SEC. 1. Every person holding any official office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Edwin M. Stanton was appointed Secretary of War and the appointment confirmed by the Senate during the first term of Mr. Lincoln. He was never reappointed either by Mr. Lincoln or by Mr. Johnson. If the tenure-of-office law had been enforced when Mr. Lincoln's first term expired it is manifest that the term of Mr. Stanton as Secretary of War would have expired one month after Mr. Lincoln's second term commenced, and would have expired one month after Mr. Lincoln ceased to be President.

This whole question, as I have already remarked, is therefore a question of construction. The proviso of the first section of this tenure-of-office law certainly involves the very point here in dispute; the very question involved in this attempt at impeachment. I again call attention to this proviso:

"*Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Here, then, is an express limitation. The Secretary of War held his office during the term of the President by whom he was appointed, subject to be removed at an earlier period by the advice and consent of the Senate. If, then, Mr. Johnson had appointed Mr. Stanton Secretary of War he would have held during that term and for one month thereafter. He was entitled to hold during the term of the President who appointed him.

"During the term of the President by whom they may have been appointed," is the language of the act. Nothing is clearer than that

Congress, by the passage of that law, intended to respect the relation which the President must necessarily sustain toward the heads of the Departments. Congress knew that it was impossible that the President could successfully administer the Government if not in friendly relations with his advisers, with the members of his Cabinet, with his political household, the heads of the Departments. The appointment is given to him by the law to secure the harmony of his Administration, and with reason this proviso only applies to the Cabinet officers. They go out of office, no matter when appointed, with the President who appointed them, giving the succeeding President one month in which to organize his own Cabinet—a wise and reasonable provision. Was Stanton entitled to hold the office through President Johnson's term? No, sir.

I insist, sir, that there is not a lawyer in this House who can answer to his own conscience and take the ground that the appointments of the heads of the Departments appointed by Mr. Lincoln would not have expired one month after the national misfortune by which Mr. Lincoln ceased to be President of the United States, if this tenure-of-office law had then been in force. It is clear, sir, they would have ceased to be heads of Departments by virtue of this law. That the President possessed the power of removal before the passage of this law is notcalled in question; and by a fair construction of this law, it either did not affect the power previously possessed by the President at all, or it terminated the terms of the heads of Departments a month after its enactment. And the tenure-of-office of the Secretary of War ceased at the end of one month after the law itself went into effect; and on the 21st day of February, when General Thomas was nominated to the Senate the office of Secretary of War was vacant. The reason for this is manifest. I have already stated it. The President must have the coöperation of his Cabinet; he must have the power to organize it in harmony with himself, or there can be no harmony in the Government and no successful administration of the public affairs. This is not for the benefit of or as a courtesy to the President, but an absolute public necessity, and so recognized from the beginning of the Government until now.

What a monstrous proposition it is that the President, charged with the duty of seeing that the laws are faithfully executed and responsible for their due execution, shall be surrounded by counselors who are opposed to him in every matter of public policy! Therefore this tenure-of-office law wisely provided that the term of office of a head of a Department should expire one month after the expiration of the term of the President by whom he was appointed. If the tenure-of-office law does not apply to Edwin M. Stanton because he was appointed by Mr. Lincoln before the law was enacted, would not the unrepealed enactments by which President Johnson possessed unquestionably the power of removal apply? If the tenure-of-office law did apply to him, did it not terminate his office? In either view, is there a shadow of foundation for this impeachment?

By this law Andrew Johnson, President of the United States, became vested with the power to fill the vacancy thus provided for subject to the approval of the Senate. He possessed that power before under early enactments. I should like to hear the lawyers of this House meet that proposition by other arguments than passionate eloquence. If the President had this power, by virtue of this law, to nominate to the Senate to fill vacancies and the law itself provided for the vacancy in the office of Secretary of War, or if there was only a reasonable ground for such construction, what a miserable pretense that the President is guilty of a high misdemeanor under this very law which admits of this construction!

I say, sir, that nothing but the vindictiveness of party spirit could suggest the impeachment of the President of the United States or any officer of the Government on a question of the construction of a statute—an obscure statute even if a judicial interpretation would lead to different conclusions. Especially is this true when it is remembered that this is a penal statute.

It is said that there are other matters upon which the President is to be impeached. Sir, I heard the report of the committee read at your desk, and there was in it no other charge against the President than that he had assigned General Lorenzo Thomas, the Adjutant General of the Army, to perform the duties of Secretary of War *ad interim*. That is the charge that is made against him; no other offense has been charged against him upon the floor of this House. After the deliberate action of the House in rejecting as unworthy of consideration the long array of charges heretofore preferred by heated politicians, the President is now to be impeached for construing a law contrary to the interpretation placed upon it by this House, an interpretation that justified him in assigning a high military officer to the position of Secretary of War for the time being, he himself assuming, as he had the right to assume, that the office was then vacant by virtue of the law itself, or that the law was in conflict with the Constitution which he and Congress and the judiciary are alike sworn to maintain.

But, Mr. Speaker, there is one fact which ought to arrest the attention of gentlemen. It is impossible in the nature of things that any one party should continually control the destinies of this country; and if, after eighty years of comparative success in republican Government upon this continent, the precedent is to be established that the dominant party, the party which has the physical power is, at its will, to displace the Chief Executive, assume all power to itself, diminishing the powers of the judicial department and usurping that of the Executive, so as to make Congress virtually the one uncontrolled department of the Government—if such a precedent be furnished to be practiced upon by every successive party that comes in power, I ask you how much more stable will be this Republic and the administration of its powers than even the republics beyond the Rio Grande, where liberty trembled with every change of administration, and finally perished, ending in successive military despotisms? Can you hope for a different result if you once set the precedent for such usurpations?

Sir, fortunately for this Republic there has been firmness and stability in the Government through all changes of administration. But you threaten to establish, by your action in this impeachment, and by your assaults on the judiciary, the policy which has everywhere proved fatal to republican government, the policy that one department, invested by the Constitution with limited powers, shall tolerate no deviation from its judgment, but compel the submission of the other departments to its absolute will, making the Government, in fact, in spite of the Constitution, one department with absolute power.

Sir, the division of governmental power into the legislative, executive, and judicial departments—coördinate departments—is the palladium of our liberties. In this wise division of power lies the safety of the people. It is the very foundation upon which this Republic stands. The three departments are the great pillars of the Constitution.

The Congress that shall weaken the public fabric by restricting the Supreme Court that it shall not pronounce judgment on its enactments, and appointing, through the agency of impeachment, from its own body, the President of the United States, will be held responsible by history for the fate of the Republic.

Yet, sir, we are drifting toward that result. Expressions made to-day upon the floor of this House indicate clearly the intention of the majority, in a moment of passion, blinded by partisan resentment, to push forward this impeachment, and the judges who are to pronounce solemn judgment on this impeachment now have already uttered sentiments which show that judgment is already pronounced!

The newspapers tell us that gentlemen exult in the belief that the President has been entrapped into a position that will excuse an impeachment. Gentlemen seem gratified that the President is placed in what they deem a false position, that thereby they may establish on this side of the Rio Grande a principle which has overthrown republican liberty on the other side of the Rio Grande! And all this that Congress may place in the presidential office a politician, a partisan favorable to the interests of Congress, thus doubly usurping to Congress the powers which our fathers delegated to the different departments of the Government. And all this for partisan power!

My friend from Maryland [Mr. PHELPS] calls my attention to the opinions of Judge Story in his great work on the Constitution, on the dangers to be apprehended from these fatal measures, this attempt of Congress to arrogate to itself unlimited power. But nothing, sir, which has heretofore been established seems any longer to command respect. That that illustrious judge should have warned the people against the step we are now taking, is of no moment; that the Father of his Country warned you against the danger of usurping powers belonging to other departments commands no interest. The new era in its arrogant sufficiency rejects the wisdom of experience. It falls upon ears deafened by the spirit of party.

No, sir; it is not in the spirit of the better days of this Republic that this grave question is approached. Andrew Johnson, President of the United States, is to be impeached of high crimes and misdemeanors because he stands in the way of the partisan purposes of this Congress. He is an obstacle to the absolutism of Congress. He stands in the way of the vaulting ambition of aspiring statesmen. And the pretense of a mistake in the interpretation of a law of doubtful import must subserve the purpose of impeachment in the absence of a substantial reason. In other days the question would be submitted to the courts of justice, but this would not subserve the purpose designed to be accomplished—the absolute power of Congress. If their designs of ambition shall be consummated and the executive and judicial departments of the Government are made subservient to the absolutism of Congress, then, sir, the fate of this Republic is in the hands of its people. In their patriotism and devotion to constitutional liberty there is enduring hope.

Mr. SCHENCK. I desire to inform the gentleman from Indiana [Mr. HOLMAN] that, in order to relieve the House, I have prevailed upon the gentleman from Maine [Mr. PETERS] to withdraw his objection to the reading of Washington's Farewell Address. [Laughter.]

Mr. HOLMAN. I am glad of it as it is so much better than anything I could say.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. HOLMAN. I ask it be read nevertheless.

Mr. SCHENCK. The gentleman can print it with his remarks.

Mr. HOLMAN. I hope out of consideration for its illustrious author and the noble sentiments it embodies it will formally be understood to have been read to this House to completion, and go into the Congressional Globe in connection with these debates.

There was no objection, and it was ordered accordingly.

The address is as follows:

Farewell Address of George Washington, President, to the people of the United States, September 17, 1796.

FRIENDS AND FELLOW-CITIZENS: The period for a new election of a citizen to administer the executive Government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more

distinct expression of the public voice, that I should now apprise you of the resolution I have formed to decline being considered among the number of those out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence, in my situation, might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference of what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations and the unanimous advice of persons entitled to my confidence impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that, in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust I will only say that I have, with good intentions, contributed toward the organization and administration of the Government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes—perhaps still more in the eyes of others—has strengthened the motives to diffidence of myself; and every day the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that, under circumstances in which the passions, agitated in every direction, were liable to mislead; amidst appearances sometimes dubious, vicissitudes of fortune often discouraging; in situations in which, not unfrequently, want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows, that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free Constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and the adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop; but a solicitude for your welfare which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation and to recommend to your frequent review some sentiments which are the result of much reflection of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be afforded to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel; nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government, which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest; here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common Government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The South, in the same intercourse, benefiting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and, while it contributes in different ways to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in like intercourse with the West, already finds, and, in the progressive improvement of interior communication by land and water, will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort; and, what is perhaps of still greater consequence, it must, of necessity, owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign Power, must be intrinsically precarious.

While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find, in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government; which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments, which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty; in this sense it is that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation, in such a case, were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to Union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those, who, in any quarter, may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as a matter of serious concern that any ground should have been furnished for characterizing parties by geographical discrimination, northern and southern, Atlantic and western, whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our Western country have lately had a useful lesson on this head; they have seen in the negotiation by the Executive, and in the unanimous ratification by the Senate, of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government and in the Atlantic States unfriendly to their interests in regard to the Mississippi; they have been witnesses to the formation of two treaties—that with Great Britain and that with Spain—which secured to them everything they could desire in respect to our foreign relations toward confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union a Government for the whole is indispensable. No alliance, however strict between the parts, can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances, in all time, have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a Constitution of Government better calculated than your former for an intimate Union and for the efficacious management of your common concerns. This Government, the offspring of our own choice, uninfluenced and unawed, adopted, upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government; but the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish Government presupposes the duty of every individual to obey the established Government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive to this fundamental principle and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common counsels and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of Government; destroying afterwards the very engines which had lifted them to unjust dominion.

Toward the preservation of your Government and the permanency of your present happy state it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country; that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a Government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a Government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name where the Government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all Governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads, at length, to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose

in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which, nevertheless, ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the Government and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in Governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose. And, there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern; some of them in our own country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles.

It is substantially true that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a Government gives force to public opinion it is essential that public opinion should be enlightened.

As a very important source of strength and security cherish public credit. One method of preserving it is to use it as sparingly as possible; avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding, likewise, the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned; not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to our representatives, but it is necessary that public opinion should coöperate. To facilitate to them the performance of their duty it is essential that you should practically bear in mind that toward the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the Government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice toward all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who could doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent inveterate antipathies against particular nations and passionate attachments for others should be excluded; and that, in place of them, just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred or an habitual fondness is, in some degree, a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill-will and resentment, sometimes impels to war the Government, contrary to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts, through passion, what reason would reject; at other times it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

So, likewise, a passionate attachment of one nation to another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions; by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill-will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interest of their own country without odium, sometimes even with popularity; gilding with the appearance of a virtuous sense of obligation a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the art of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak toward a great and powerful nation dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence—I conjure you to believe me, fellow-citizens—the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial; else it becomes the instrument of the very influence to be avoided instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another cause those whom they actuate to see danger only on one side, and serve to veil, and even second, the arts of influence on the other. Real patriots who may resist the intrigues of the favorite are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient Government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war as our interests, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony and a liberal intercourse with all nations are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences, consulting the natural course of things, diffusing and diversifying, by gentle means, the streams of commerce, but forcing nothing; establishing, with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinions will permit, but temporary and liable to be, from time to time, abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view that it is folly in one nation to look for disinterested favors from another, that it must pay, with a portion of its independence, for whatever it may accept under that character; that by such acceptance it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations; but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigues, to guard against the impostures of pretended patriotism, this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both Houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take, a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent Powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity toward other nations.

The inducements of interest, for observing that conduct, will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration, I am unconscious of intentional error; I am, nevertheless, too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this, as in other things, and actuated by that fervent love toward it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate, with pleasing expectation, that

retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good laws under a free Government—the ever favorite object of my heart—and the happy reward, as I trust, of our mutual cares, labors, and dangers.

GEORGE WASHINGTON.

UNITED STATES, 17*th September*, 1796.

Mr. INGERSOLL obtained the floor, and yielded to

Mr. BROOMALL. I move that after the speech of the gentleman from Illinois, the House take a recess until ten o'clock on Monday morning.

Mr. PRUYN. I hope that will prevail.

The motion was agreed to.

Mr. INGERSOLL. Mr. Speaker, the gentleman from New York, [Mr. BROOKS,] in his remarks to-day, took especial pains to inform this House and the country that the people were in favor of and would sustain the President of the United States in his opposition to the policy of Congress. He said the people would sustain the Democratic party in their opposition to the impeachment of the President proposed by the Committee on Reconstruction. Now, I propose to take issue with the gentleman. I wish to place upon the stand a witness from Illinois. It is no other than our honored and patriotic Governor, and one whose statement upon this question will carry as much weight, to say the least, as that of the gentleman from New York.

I now send to the Clerk to have read a telegram from him received this day.

Mr. NIBLACK. How is that in order if Washington's Farewell Address is not in order?

The SPEAKER *pro tempore*, [Mr. BLAINE in the chair.] The Chair will withhold his decision until it is read. [Laughter.]

Mr. NIBLACK. Why did you not do the same thing when my colleague asked that the Farewell Address should be read?

The SPEAKER *pro tempore*. The Chair knew its contents and could decide without hearing it read.

The Clerk read as follows:

SPRINGFIELD, ILLINOIS,
EXECUTIVE DEPARTMENT, *February* 22, 1868.

The usurpations of Andrew Johnson have created a profound sensation in this State. His last act is the act of a traitor. His treason must be checked. The duty of Congress seems plain. The people of Illinois attached to the Union, I firmly believe, demand his impeachment, and will heartily sustain such action by our Congress. The peace of the country is not to be trifled with by this presumptuous demagogue. We know the national Congress will proceed wisely and cautiously, but let it proceed. Millions of loyal hearts are panting to stand by the stars and stripes. Have no fear. All will be well. Liberty and order will again triumph.

R. J. OGLESBY, *Governor*.

The SPEAKER *pro tempore*. The Chair overrules the point of order raised by the gentleman from Indiana.

Mr. NIBLACK. I expected as much. [Laughter.]

Mr. INGERSOLL. Mr. Speaker, the telegram from the Governor of Illinois is but the voice of the loyal people of the whole country on this question. There has been grave doubts with regard to the policy and the right of impeaching the President upon the facts as presented heretofore. But, sir, at the present hour I know of no man who loves his country more than party who will not pronounce a verdict against the President, declaring him guilty of a violation of the Constitution and of the laws, for which act he deserves to be presented for trial before the high court of impeachment. And, sir, I shall, for one, be grievously disappointed if, within ten days from this time, honest old Ben Wade is not the President of the United States.

Mr. PRUYN. I reckon you will be disappointed.

Mr. INGERSOLL. It is possible, but not probable.

Not more than ten days ought to be consumed in the trial of this case; for there is but one single issue, and the President has been considerate enough to furnish the evidence of his guilt. And, sir, when that issue shall have been tried and a true verdict rendered, I expect to see a degree of peace, security, and confidence all over the length and breadth of the land such as we have not seen since two years ago this day, when Andrew Johnson declared in effect that he had forever separated himself from the party that had given him power and position in this country, and allied his political fortunes to that party which he himself had denounced as being composed of traitors and rebels, worthy of nothing but to illustrate the odiousness of treason and the condemnation of the loyal people.

But, sir, painful as this duty is, much as I regret the necessity that is now forced upon Congress to take action on this question, it is not to be postponed; we cannot avoid it. I would much rather that the President should have continued in the exercise of his office, keeping himself within the limits of the Constitution and taking care that the laws be faithfully executed, until the expiration of his term, than that this momentous issue should be forced upon us. But, now that it has come, forbearance ceases to be a virtue, and we have either got to submit to his dictation and usurpation, as though he were an absolute monarch, or we have got to assert the supremacy of the Constitution and the laws over the President, and give him to understand that he is as amenable to the Constitution and to law as the humblest citizen of this Republic, and thus vindicate and sustain the fundamental principles of our republican form of government. That is all I desire to do.

I here admit freely that it is a painful duty imposed upon me as a Representative to be called upon to vote under the solemn obligations of my oath for articles of impeachment against the Chief Magistrate. I bear no ill-will or malice toward the President. I am actuated by no unworthy motive. I am actuated only by a high and conscientious sense of duty. Heretofore, when this question was presented to this House, I voted no, for the reason that I did not believe the evidence sustained the charges; neither did I believe that a conviction would follow if the articles were adopted and sent to the Senate. But here is a plain, simple case, as I understand it. The President has, in my opinion, willfully violated the letter and spirit of the Constitution, as well as the tenure-of-office law. I hold that his offense is complete, even if there had been no tenure-of-office law in existence, for under the Constitution the President has no authority whatever, while the Senate is in session, to remove a Cabinet officer or any other who has been confirmed by the Senate in the manner in which he has removed Mr. Stanton from the Department of War. We do not need the tenure-of-office act in this case. The offense of the President is complete independent of that act. There is no provision in the Constitution giving to the President authority to make removals at all; he has, however, exercised that power upon the implication that the power to appoint carries with it the power to remove. Upon this point I refer to the only provision of the Constitution bearing upon this subject, which is the second and third paragraphs of section two of article two, which reads as follows:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

It will be seen that the Constitution expressly confines the power of the President to appoint in cases when the vacancy happens in the recess of the Senate. There is no clause in the Constitution giving the President authority to create a vacancy for his purposes or for any purpose. He has no such authority. The language of the Constitution is:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

His power hath this extent, no more. This is a wise and just limitation of that power.

Mr. ROSS. I would like to ask my colleague if the President has the right to appoint a Cabinet?

Mr. INGERSOLL. Most unquestionably he has, with the consent of the Senate, and not without, unless it be during the recess of the Senate.

Mr. ROSS. Has Andrew Johnson ever appointed a Secretary of War?

Mr. INGERSOLL. Why there can be no issue made there. He has for more than two years recognized Mr. Stanton as his Secretary of War. President Johnson has a right, where a vacancy exists, to nominate to the Senate a Secretary of War, but he has no right to remove a Secretary whom he has recognized in that office in order to create a vacancy, or for any other purpose, during the session of the Senate. Does my colleague hold that he has?

Mr. ROSS. I think every President has a right to appoint his Cabinet, and Andrew Johnson never has appointed a Secretary of War.

Mr. INGERSOLL. I hold that under the Constitution, independent altogether of the tenure-of-office law, in order to remove a Secretary during the session of the Senate, the President must send a nomination to the Senate and await the action of that body, and if that nomination is confirmed the incumbent vacates the office and his successor takes possession; but if the nomination is rejected the incumbent continues in office——

Mr. PRUYN. With the permission of the gentleman, I would like to inquire how the President could nominate if there were no vacancy?

Mr. INGERSOLL. He does it by simply sending a nomination to the Senate.

Mr. PRUYN. Where there is no vacancy?

Mr. INGERSOLL. Of course, where there is no vacancy, and where the term has not expired.

Mr. SCHENCK. It is always done.

Mr. INGERSOLL. Certainly; there is no exception to it.

Mr. PRUYN. That implies a removal in the first place.

Mr. INGERSOLL. No, sir; it does no such thing.

Mr. PRUYN. The practice of the Government has been uniform on that point from the case that arose in Washington's day down to this time. A vacancy is supposed to exist, or the President cannot nominate.

Mr. SCHENCK. Oh, no.

Mr. INGERSOLL. That is not so, and never was so. I will give the gentleman an illustration on this point, and could give him many. General Wisewell was nominated to the Senate by the President perhaps a month ago as Commissioner of Internal Revenue, was he not?

Mr. PRUYN. I have been told so.

Mr. INGERSOLL. Well, it is a fact. Now, who was exercising the functions of the office at that time and is at this day?

Mr. PRUYN. I do not know.

Mr. INGERSOLL. Mr. Rollins is, and the gentleman must know it.

Mr. PRUYN. I suppose he is.

Mr. INGERSOLL. Well, there is a case precisely in point. If the Senate confirms the nomination of Wisewell—which I have no idea they will do—then he takes his commission and walks into that office, and Mr. Rollins walks out, and not until then. If the Senate reject him—as I think they will—Mr. Rollins continues Commissioner as before, and so it is with regard to every office under the Government where a concurrence of the Senate is required.

Mr. TRIMBLE, of Kentucky. Will the gentleman yield for a question?

Mr. INGERSOLL. Yes, if it is a short one.

Mr. TRIMBLE, of Kentucky. From the tone of the gentleman's remarks it appears that he proposes to impeach Andrew Johnson for removing the Secretary of War, Edwin M. Stanton. I ask him this question, whether it is not a fact that Edwin M. Stanton is yet in the War Office, performing the functions of that office, and not removed at all? You propose to impeach him for doing a thing you say yourself he has not done, and has not the power to do. Mr. Stanton is still exercising the functions of the office.

Mr. INGERSOLL. I need make no distinction between the attempt to remove Mr. Stanton and an actual removal. I do not know whether Mr. Stanton is still exercising the functions of that office or not. If he is not he ought to be. I do know that the President ordered him to vacate the War Office. It is a removal in the eye of the law.

Mr. TRIMBLE, of Kentucky. Then the ground of impeachment is attempting to do a thing which he failed to do?

Mr. INGERSOLL. By no means; but I suppose there is criminality in the willful attempt to violate the Constitution and the laws. In all criminal codes provision is made for the punishment of those who attempt with the intent to commit a crime. But in this case it s more than an attempt on the part of the President; it is an accomplished fact, so far as his act is concerned. In my opinion, the President would be liable to impeachment if he should attempt to violate the law he has sworn to execute.

Mr. LAWRENCE, of Ohio. Or attempts to subvert the Constitution.

Mr. INGERSOLL. Most assuredly he would be. What the President has no right to do he has no right to even attempt to do. Under the Constitution he has no right to remove the Secretary of War during the session of the Senate, which he has done in this case, therefore he has no right to attempt to remove him; and if he has done no more than attempt to remove the Secretary of War he has committed an offense which should subject him to trial in the high court of impeachment, and that is what we propose now to do.

The gentleman from Indiana [Mr. HOLMAN] dwelt upon the point that the President had committed no offense in appointing Lorenzo Thomas to the office of Secretary of War, because he was an Army officer, and had been detailed to that duty by the President. Sir, that is outside of the issue in this case, and has nothing to do with it. So far as the criminality of the President is concerned, it makes no difference whether he has appointed any one Secretary *ad interim;* whether he appointed to the place a child incapable of exercising any of its duties or whether he left the office vacant makes no difference; the offense consists in his removal of Edwin M. Stanton in violation of the Constitution.

Mr. HOLMAN. Will the gentleman yield for a question?

Mr. INGERSOLL. I will, if it take but a moment.

Mr. HOLMAN. The gentleman has spoken of the removal of the heads of the Departments. The question is not of the special power to appoint. Is the power to appoint limited just as much and no more in regard to heads of Departments as to other officers? Or does the gentleman assume that there is no distinction between the power of the President over the heads of the Departments, under this proviso of the tenure-of-office law, and his power over other officers and their appointment?

Mr. INGERSOLL. I do assume that.

Mr. HOLMAN. Then let me say——

Mr. INGERSOLL. I cannot consent that the gentleman shall argue his side of the case during the time allotted to me. He has asked me a question and I have answered it.

I assume that there is no substantial difference between the heads of the Departments and other officers, so far as the right or authority of the President is concerned in his power of removal. So far I have based my argument upon the unconstitutionality of the act of the President, independent of the tenure-of-office law.

I now desire to call the attention of the House to the law itself. And it is important that we should inquire what is law. I will define it to be an enactment of the supreme legislative power of the State—the Congress of the United States—in pursuance of the Constitution. That is law, and it is law to the President of the United States just as much as it is to you, or to me, or to any other citizen of this Republic. And I hold that the President has no more discretion in regard to obeying a law, and has no more right to question it in reference to its constitutionality, than the humblest citizen of the Republic—none whatever. He has do discretion or authority in himself to determine whether a law he finds upon the statute-book be constitutional or not.

Mr. ROSS. If it shall turn out that this law is unconstitutional, will the gentleman still hold that the President is guilty?

Mr. INGERSOLL. We are not to suppose that the law is unconstitutional. There is but one court that can determine the guilt or innocence of the President, and that is the Senate of the United States when it shall have been constituted a court to try this case under the Constitution. My proposition is that the law is a law unto the President as well as unto any other citizen.

Mr. PRUYN. Who ever denied it?

Mr. INGERSOLL. The President and his supporters here deny it. In this particular case they hold that the tenure-of-office act is unconstitutional, and therefore have the right to ignore it and trample it under foot.

Mr. PRUYN. Is not the Constitution law as well as an act of Congress, and is not the President bound to obey it?

Mr. INGERSOLL. The Constitution is the fundamental law, the supreme law of the land, and the President ought to obey it. The import and scope of the constitutional oath which the President takes before entering upon the discharge of the duties of his office require him to take care that the laws be faithfully executed.

Mr. PRUYN. The gentleman is wrong?

Mr. INGERSOLL. That is one of his duties under the obligations of his official oath.

Mr. PRUYN. The oath is to preserve, protect, and defend the Constitution.

Mr. INGERSOLL. Exactly so. Then, I ask, how can the President violate any provision of the Constitution without violating his oath? He is bound to "take care" that the laws be faithfully executed.

Mr. PRUYN. By Congress as well as by the people.

Mr. INGERSOLL. And primarily by himself. The direct mandate of the Constitution is to him. "He (the President) shall take care that the laws be faithfully executed." And how, I ask, can the President "preserve, protect, and defend the Constitution" if he violates the law himself and takes no care that the laws be faithfully executed? Why, sir, he swears (does he not?) in his official oath to preserve, protect, and defend the Constitution. And is not a faithful execution of the laws included within his oath?

Mr. PHELPS. He does not swear any such thing as the gentleman said.

Mr. INGERSOLL. I do not say that he swears it; I say it is part of the Constitution binding upon the President and covered by his constitutional oath when he swears to preserve, protect, and defend the Constitution of the United States. He swears to do this.

Mr. PHELPS. The words the gentleman quoted are not in the oath.

Mr. INGERSOLL. I do not say, and have not said, that the words in relation to the faithful execution of the laws are in the body of the oath, but that they are covered by the oath to the same extent in fact as though they were included in the body of the oath itself. The gentleman has certainly misapprehended me.

Mr. Speaker, these gentlemen upon the other side of the House who seek to justify the action of the President in this case, upon the ground that he has the constitutional power to pass judgment upon a law of Congress and determine for himself whether or not the law is constitutional, certainly do not understand the principle involved in this case. What has the Constitution provided? It has provided that the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session. The Constitution will be searched in vain to find any clause wherein authority is conferred upon the President, even by implication, to create a vacancy at any time, much less when the Senate is in session. Even if the tenure-of-office act is unconstitutional, the President cannot be justified in the removal of Mr. Stanton in the manner in which he has effected it. The limit of the President's authority is in the Constitution of the United States and the laws made in pursuance thereof. The Constitution nowhere confers the power to remove a Secretary during the session of the Senate, neither is there any law conferring this power upon the President. He has acted in entire disregard of the Constitution, and in direct opposition to the requirements of the tenure-of-office law. The President is merely an executive officer and cannot rightfully exercise any of the functions belonging to a judicial officer. The mode provided in the Constitution for the removal of civil officers of the United States is by impeachment. There is no other mode known to the Constitution.

Mr. PRUYN. Will the gentleman allow me to read from the Constitution the oath which the President takes?

Mr. INGERSOLL. I have not the time to spare; and if I had I cannot see what effect or bearing it would have on the point I am now discussing. I know what the oath of the President is as well as the gentleman does. I know that he swears to preserve, protect, and defend the Constitution of the United States; that is a part of his oath.

Mr. Speaker, in the course of my remarks I made the inquiry, "what is a law?" I answer, a law is an enactment of the Congress—the supreme legislative power of the Republic in pursuance of the Constitution of the United States. There is a certain power conferred upon the President by the Constitution in regard to the enactment of laws—the veto power. He may, when a bill is presented to him to sign, refuse to sign it or give his assent to it. He may exercise the veto power if he desires to. If he believes the bill passed by the legislative power to be unconstitutional he returns it, with his objections, to the House in which it originated. Congress then, under the provisions of the Constitution, must proceed to reconsider the bill; and the question is, shall the bill become a law, the veto of the President to the contrary notwithstanding? If both Houses of Congress agree to pass the bill by a two-thirds vote, and do so pass it, it becomes a law, and a constitutional law, too, so far as the President is concerned, and he is bound to execute it. The power of the President to interfere with that act ceases when he has exercised his veto power—when the Congress of the United States has vetoed his veto; then he is bound to execute the law precisely the same as though he had, in the first instance, given his assent to the act and signed it. It is too late for him to say that the law is unconstitutional after Congress by a two-thirds vote has passed it over his veto.

I have given substantially the history of the passage of the tenure-of-office law. That the President has committed a gross and palpable violation of that law no one here has denied. His friends assume that that law is unconstitutional, and the President assumes it. Sir, that,

upon the part of the President, is an unconstitutional assumption, and he must answer for it.

Sir, the Constitution does not say that the President shall see that the laws be faithfully executed, provided the Supreme Court shall have first declared them constitutional, or if, in his (the President's) opinion, the laws are constitutional. The Constitution gives him no discretion on the subject. I defy the gentleman from New York [Mr. PRUYN] to show where the Constitution gives the President the least discretion as to whether he will or will not execute a law passed by Congress in pursuance of the Constitution.

Mr. PRUYN. I can show it to the gentleman if he will give me permission.

Mr. INGERSOLL. Very well, I will yield to the gentleman for that purpose if he will be brief.

Mr. AXTELL. I ask the gentleman from Illinois [Mr. INGERSOLL] whether the Supreme Court has not decided——

Mr. INGERSOLL. I did not yield to the gentleman from California, [Mr. AXTELL,] but to the gentleman from New York, [Mr. PRUYN.]

Mr. PRUYN. It is provided in article sixth of the Constitution that "this Constitution and the laws of the United States which shall be made in pursuance thereof," "shall be the supreme law of the land."

Mr. INGERSOLL. That is exactly what I said.

Mr. PRUYN. "Laws of the United States which shall be made in pursuance thereof." It does not say any law which Congress may choose to put upon the statute-book shall have supreme authority; it is limited to laws made "in pursuance" of the Constitution.

Mr. INGERSOLL. Well, sir, the authority which the gentleman has cited simply sustains my position. That provision of the Constitution applies to the President of the United States as well as to you or to me.

Mr. PRUYN. Certainly.

Mr. INGERSOLL. The Constitution provides in the article which the gentleman just read that the "Constitution and the laws made in pursuance thereof" "shall be the supreme law of the land." And it is supreme to the President also.

Mr. PRUYN. Not any law passed by Congress, but those passed in pursuance of the Constitution.

Mr. INGERSOLL. I was not talking about any law; I was talking about law enacted in pursuance of the Constitution of the United States.

Mr. PRUYN. That was not quite the case the gentleman stated.

Mr. INGERSOLL. Yes, sir; that was it precisely. A law made otherwise than in pursuance of the Constitution would be no law. I was not talking of what we call in the West "chimney-corner law." I was talking about law such as we find on the statute-book, such as this tenure-of-office law which was passed by a two-thirds vote of both Houses of Congress over the veto of the President in pursuance of the Constitution.

Mr. PRUYN. But that law is unconstitutional.

Mr. INGERSOLL. I deny it; but if it is unconstitutional the President has no business or right to regard it so. He cannot regard it as being unconstitutional, and he is a usurper when he assumes it to be so.

Mr. PRUYN. Who does know?

Mr. INGERSOLL. Well, sir, we know, I know, [laughter,] and everybody ought to know, that when Congress passes a bill by a two-thirds vote over the President's veto it becomes to him absolutely a law—and a constitutional law, too—and he is bound to respect and obey it.

Mr. ROSS. Has not the President as good a right to construe the acts of Congress as Congress has?

Mr. INGERSOLL. No, sir. It was never intended that the President should exercise any such power. The President is purely an executive, not a judicial officer, and the Constitution confers no such power on the President if my colleague means the power to "construe" the law to be unconstitutional. The exercise of such a power by the President would be usurpation, rank usurpation. He is not a judicial officer, and he has no right to pass judgment on the constitutionality of any law.

Mr. PRUYN. Has a member of Congress that right of judgment?

Mr. INGERSOLL. Certainly, he may have his opinion as an individual. As a Congress we have the right, and often exercise it, to declare the meaning and intent of a law. We passed the tenure-of-office law. The President vetoed it. We passed it over his veto; then it became his sworn duty to execute it. Instead of doing that he defies the law. He executes his veto and not the law. Is it not an alarming condition of affairs when the President of this great country goes deliberately at work to carry into execution his veto in defiance of that law, and all law? The President must learn that it is his duty to execute and obey the law, and that he must suffer his defunct vetoes to sleep undisturbed in that sleep which should know no waking. For the commission of this great offense by the President I shall vote for the resolution of impeachment.

We must not be surprised to find a party here or in the country ready to stand by and defend the President. All history shows that so long as a man possesses great power and greater patronage he will have a party who profess to be his friends. When that monster of Roman history—Nero—poisoned his brother, his party declared that he had saved Rome. When he procured the assassination of his wife, they praised him for his justice. And when he had assassinated his mother they kissed his bloody hands and returned thanks to the gods. No matter, then, what the President may do, he will have a party so long as he retains power and patronage. But let us not falter in our plain duty. To forgive the President now would be to betray the Republic.

Mr. ASHLEY, of Ohio, obtained the floor, and yielded to

Mr. NIBLACK, who moved that the House take a recess until Monday morning at ten o'clock.

The motion was agreed to; and thereupon the House took a recess until the time designated.

AFTER THE RECESS.

The House at ten o'clock a. m. [Monday, February 24,] resumed its legislative session of Saturday.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The House will now resume the consideration of the resolution reported from the Committee on Reconstruction, in reference to the impeachment of the President of the United States, on which the gentleman from Ohio [Mr. ASHLEY] is entitled to the floor.

Mr. ASHLEY, of Ohio. Mr. Speaker, in approaching this subject I hope I do so in any other spirit than the spirit of a partisan. In the few minutes I shall occupy the time of the House I desire to call attention first to the statute which the President, in his removal of the Secretary of War, has set at defiance, and second to the provision of the Constitution which he has also violated.

This act, sir, was passed and took effect on the 2d of March, 1867.

The section reads thus:

"SEC. 6. *And be it further enacted*, That every removal, appointment, or employment, made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

This provision of law, passed by the Congress of the United States over the veto of the President, he has deliberately violated. On last Friday, in utter defiance of it, and as if to challenge this House to resort to its constitutional powers, he notifies the Senate that he has, on the authority vested in him by the Constitution, removed the Secretary of War. Now, sir, while I regard this as one of the smallest of the many offenses of which this man has been guilty, yet it is clearly an offense brought within a narrow compass—one which is easily comprehended and will satisfy that class of gentlemen in the House, who hold that the President cannot be impeached except for a violation of some statute law. His dismissal of the Secretary of War and the appointment of Mr. Thomas on Friday, without the consent of the Senate, brings him within that technical rule. Sir, I regret that this House should not before to-day have put itself upon the record in condemnation of this most indefensible assumption that public officers, especially the Chief Magistrate, cannot be impeached except for the violation of some statute law or some clearly-defined provision of the Constitution. Sir, the impeaching power in the Constitution, as defined by the honorable gentleman from Pennsylvania, [Mr. WOODWARD,] I accept as the only rational definition. It is, he told us a few weeks ago—

"A popular power; a power designed for the protection of the rights and liberties of the people against their rulers, and one that ought to be liberally construed, and in proper cases freely used."

To assume that the President can be impeached only for "treason" or "bribery" is practically to assume that he cannot be impeached. In Curtis's History of the Constitution he thus refers to the impeaching power of Congress:

"Among the separate functions assigned by the Constitution to the two Houses of Congress are those of presenting and trying impeachment. An impeachment, in the report of the Committee of Detail, was treated as an ordinary judicial proceeding, and was placed within the jurisdiction of the Supreme Court. That this was not in all respects a suitable provision will appear from the following considerations: although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime; nor is there any necessity in the case of crimes committed by public officers for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offenses against positive law. The purposes of an impeachment lie wholly beyond the penalties of a statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed, as where an individual has from immorality or imbecility or maladministration become unfit to exercise the office."

But I cannot now pursue this point further.

Sir, if there were no law on the statute-book, if there were only the simple provisions of the Constitution, to which I shall in a moment refer, I would hold that this House might, under the authority vested in it, impeach the President for the removal, without the consent of the Senate, of an officer, when the Senate is in session. I refer now to the clause vesting the power of appointment in the President with the consent of the Senate:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers as they may think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session."

Mr. PRUYN With the consent of the gentleman I wish to ask him whether I correctly understand his position on the question to which he has just referred, (removal from office,) and to state briefly my view of it. It was alluded to in the discussion on Saturday evening. When the gentleman from Illinois [Mr. INGERSOLL] was on the floor I made a remark which was immediately controverted by several members on the other side, and particularly by the gentleman from Ohio, [Mr. SCHENCK,] with whom I understand the member from Ohio now on the floor to concur. My statement was to this effect: that from the time this question as to the power of removal was discussed and decided by Congress at its first session in 1789 to the present day, the practice has been uniform that the President, and the President only, had made removals from office, and that without the concurrence of the Senate, although that body might be in session. This necessarily results from the nature of the power which, under the Constitution, is indivisible. I make this point now most distinctly, as it is fundamental in this discussion and has been so treated from the outset.

Mr. ASHLEY, of Ohio. Mr. Speaker, I regret exceedingly that my thirty minutes will not allow me to enter into a colloquy with the gentleman; but I do not now call to mind a single instance in which any President of the United States has ever removed an officer confirmed by the Senate without the consent of the Senate if it was in session. And I go further, and deny the power of the President, under the Constitution, to remove any officer, even during the recess of the Senate, without cause.

Sir, the power of appointment is vested in the President by special grant, and not by implication. The President, I know, claimed in a message to the Senate on Friday last, that, by virtue of the power vested in him by the Constitution, he had authority to dismiss from and appoint to office without the consent of the Senate. If the power to dismiss and appoint without the consent of the Senate is possessed by the President it must be an implied and not an express grant of power. Gentlemen may examine the Constitution and nowhere will they find such an express grant of power. I deny, therefore, that it exists, that any authority to appoint can be delegated to the Executive by implication. The clause providing that the President shall "take care that the laws be faithfully executed, and shall commission all officers of the United States," does not confer the power to appoint or dismiss; nor does the fact that all executive power is vested in the President clothe him with any implied power, or power which may be necessary or proper to carry into effect any power which is expressly granted to the Executive. Sir, I can find in the Constitution no authority authorizing the President to dismiss a faithful public officer without cause.

"All power necessary and proper to carry into effect any power vested in the President or in any department or officer of the Government is vested in the Congress of the United States."

I desire to call the attention of the gentleman from New York to that paragraph in the Constitution which clothes Congress with the power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers"—

Meaning those vested in Congress—

"and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

Whatever power may be vested in the President by express grant, he cannot assume to exercise a power merely because it is appurtenant to another power, and necessary, in his opinion, to carry out some provision of the Constitution. The right to clothe any officer of this Government with power not specially delegated is reserved to the Congress of the United States as the law-making power of this nation. Congress alone is clothed by the Constitution with authority to confer by law whatever power they may deem proper which is not specially delegated, either to the President, the judiciary, or any department or officer of the Government. Sir, this power does not exist in the President, nor in any department or officer of the Government. It exists only in Congress by express provision of the Constitution.

The Constitution has lodged the law-making power in the Congress in conjunction with the President, but sometimes the law-making power without the concurrence of the President. Then, sir, if there were no statute such as I have read, I would hold that the President was amenable to the high court of this nation for a deliberate and willful infraction of the Constitution in the removal of Mr. Stanton.

Now, sir, I hold, as I said a moment ago, that this is one of the smallest of the crimes of the President. That he has clearly set at defiance the statute I have quoted will not be denied. His act of Friday last reduces his offense to a narrow compass. It is all official and upon paper. In the trial of this case we need not wade through a thousand pages of evidence which must be sifted in all cases to get at the few grains of wheat. Nor need we consume much time in the trial. Here the offense is presented within a small compass and is within the comprehension of all. But few, if any, witnesses are needed. Sir, I am sure that when this trial shall take place before the high court of the nation, if the evidence taken before the Judiciary Committee of this House shall be reproduced there, it would establish many of the crimes of which this man has been charged, and the verdict of the people of this country would be that this charge is one of the smallest crimes of which he has been guilty. If Mr. Johnson had been guilty of no impeachable offense until his removal of Mr. Stanton, no one believes that a majority of this House could be induced to vote for his impeachment now.

Sir, what has been the logic of the conflict between this man and Congress? From the outset it has been his deliberate purpose, so far as his acts can indicate a purpose, to usurp to himself the law-making, the judicial, and the executive powers of this Government. Starting out with loud professions of loyalty, he assumed first the entire authority of providing for the reorganization of the States lately in rebellion, and in doing so he conferred the entire power upon that class of citizens who were but a paroled army of rebels to the exclusion of the great body of loyal citizens. To this paroled army he confided the power of reorganizing State governments and returning those States to their constitutional relations in the Union. Then, sir, he made an alliance with the late rebel leaders and they became his champions.

He pardoned thousands of public enemies guilty of the blackest of crimes, and to many of them, in violation of law, he gave official positions. He repeatedly authorized the payment of money from the public Treasury in violation of law. He gave the property of the United States to the amount of millions to unrepentant rebels. He connived at, if he did not consent to, the massacres of Memphis and New Orleans, and he is justly held responsible in history and before God for the murder of thousands of southern Union men.

Now, sir, the logic of this contest, so far as his acts develop it, is simply that the Congress of the nation and all the Departments should submit to his domination in this Government, and no man can have watched the vain efforts of this Congress to tie his hands by statutory enactments without feeling a sense of shame. Every effort of Congress to secure a restoration of the Union by the passage of reconstruction acts and supplementary reconstruction acts has failed thus far because of this man, who, with the immense patronage which he has in his hands, and with an entire disregard of Constitution, laws, and oaths, has been able to evade them all, and eventually, if not removed, he will bring on a conflict which can end only in civil war unless Congress surrendered. Sir, his purpose has been, and it will continue to be, unless he is arrested and brought to the bar of the Senate for trial, to usurp the whole power of the Government, and to clothe the late rebel States with authority to cast their electoral votes in the pending presidential election either for himself or some candidate of his choice, and if, when the electoral votes come to be counted, there were enough loyal States voting for the candidate of his choice, whether it be himself or some one else, to make up a majority with the illegal vote of the rebel States, he and his friends would insist on their being counted, and if Congress refused he would inaugurate a civil war and at the same time the man whom they would claim to have elected. Thus we should have inaugurated in the capital of the Republic two Presidents and probably two Congresses.

This, in my opinion, has been from the start the deliberate purpose of this man, and I am amazed that gentlemen on the other side should have felt it to be their duty to give this man even a *quasi* support and to apologize for his acts for the sake of the feeble aid which he gives them politically and the spoils of offices which they have been able to secure for their friends. Sir, I want gentlemen to remember that by their defense of this man, whose violations of the Constitution and laws of the country is unquestioned, they go into history as a party to his crimes.

We attempted to tie this man's hands by putting a clause in the Army bill, to which I wish for a moment to call your attention. I refer to the second section of the Army appropriation bill, passed March 2, 1867, which the President signed, but returned it with a protest. The section reads thus:

"SEC. 2. *And be it further enacted*, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

This was designed to keep the General of the Army at his headquarters here as a measure of precaution against any attempt of the President to disperse Congress by force and to provide that every military order of the President should go through the General-in-Chief and meet his approval before subordinates should obey it. We all know how this act has been violated both in letter and spirit. Sickles Pope, Ord, Sheridan, and almost every officer within the President's reach have been removed from their commands, and he has attempted to humiliate them because of their obedience to the law of the land and their faithful execution of the duties assigned them. Experience has demonstrated the fact that there has not been wisdom or sharpness enough in this Congress to tie the hands of this man. And at last there appears to be nothing left but to bring him to trial either for the acts of Friday last, or to include with them every other act of which he has been guilty since his accession to power.

Mr. Speaker, the House of Representatives is again to be brought to a direct vote upon a question the importance of which cannot well be overestimated, a vote which shall test the fidelity of every Representative to his constitutional obligation. Again we are to be brought face to face with a man who is recognized by every loyal citizen, and by every rebel, as a public enemy; a man who, if not before, certainly since, his accession to power has been recognized as the friend and the ally of the late con-

spirators against the nation's life and against the life of the nation's chosen chief; a man who has proven himself a more faithful representative and a more formidable ally of "the lost cause" than could any general of the late rebel armies, had he been in his place. Duplicity, usurpations of power, and violations of law have marked the public and private career of this extraordinary man from the time of his unfortunate accession to the presidential office.

I may be pardoned if I repeat what I said on the 7th of March last, when introducing into this House, by direction of the caucus of the Republican members, a resolution to continue this impeachment investigation:

"If any loyal man had doubted before, he could doubt no longer, that while this man remains in the presidential office there can be no tranquillity in this country, no security for property, liberty, and life to loyal citizens in the South, no such restoration of this Government as the Union Army and the Union citizens of this nation have decreed, no safety for a single hour from rebellion or revolution."

Sir, if this be true—and I challenge any gentleman to controvert it—if this be true dare we longer postpone, dare we longer shrink from the exercise of that power with which the Constitution has clothed us, to rescue the Government from the hands of this usurper, and thus proclaim to the world that this is a Government of law and not an irresponsible despotism, beyond the control of law, and in the hands of an ignorant, cunning, and unscrupulous man, who was thrown to the surface by the waves of the late rebellion, and elevated to the chief executive office of the nation, not by the voluntary suffrages of a free people, but by the hands of a rebel assassin.

Mr. Speaker, time and truth evermore vindicate the right. When this House, but two short months ago, voted down this proposition, I said let the loyal men of the nation keep heart and await the logic of events. I know that by the vote which this House is to give today I shall be vindicated, as will be every man who has been from the first for impeachment. But though I shall be thus vindicated, this is not to me an hour of exultation and triumph, but of sadness, rather. Far rather would I that every charge which I have made against the acting President of the United States should fall to the ground if untrue, than that I should be sustained if wrong. Far rather would I that the dark suspicions which have taken possession of the public mind should be dispelled by unquestioned evidence than that they should be true.

For my country's honor, and for the sake of human nature itself, I could hope that it were otherwise than as I believe. Rather would I that this man, after his accession to the Presidency, had so conducted himself as to have commanded the confidence and respect of the country; that he had so administered the Government as to bring the country, torn and bleeding as it has been, back to the paths of peace, and thus secured its unity and prosperity.

But he has failed in all this, and not only failed, but has so conducted himself that from the evidence before me I am compelled, upon my conscience and upon my judgment, to declare that I believe him guilty of usurping powers not delegated to him and of violating deliberately the Constitution and the laws of the land.

In that he has conspired with the late public enemy and attempted, by a usurpation of the legislative authority, to organize State governments in the late insurgent States and to restore the late rebel leaders to all the rights and privileges which they forfeited by rebellion;

In that he has corruptly, and in violation of law, used the appointing power;

In that he has corruptly used the pardoning power;

In that he has corruptly used the veto power;

In that he has corruptly disposed of public property of the United States;

In that he has corruptly interfered in elections, and committed acts and conspired with others to commit acts which, in contemplation of the Constitution, are high crimes and misdemeanors.

Believing that Andrew Johnson is guilty of all this and more, I feel that it is our duty, I think it to be a necessity of our condition, for the safety of the nation and of our institutions, that he should be impeached. I hold that it is necessary, if not for our safety to-day, at least to teach those who shall come after him a lesson; a lesson which shall vindicate the majesty of the law and test the practical working of our matchless Constitution.

For these reasons, sir, and others which I might give if I had time, I give my voice and my vote to arraign and put on trial before the high court of the nation, Andrew Johnson, acting President of the United States.

Mr. Speaker, I now yield to the gentleman from Illinois, [Mr. COOK.]

Mr. COOK. Mr. Speaker, in the time allowed me I can only say this: that in voting to sustain the resolution reported by the Committee on Reconstruction I hold that not only has the tenure-of-office law been violated, but that, if that law had not been in existence, the President has exercised a power entirely unwarranted by the Constitution and laws of the United States. I would like to have gentlemen who are discussing this question from the opposite point of view tell us whence, independently of the tenure-of-office act, the President of the United States derives any authority to remove a public officer or a member of his Cabinet during the session of the Senate and against its consent? If there is anything in the Constitution that gives him a power of removal except as incident to and a part of the power of appointment, I have failed to see it. I believe there is no such power. The Constitution gives the power to the President to nominate, and by and with the advice and consent of the Senate to appoint, public officers. This clause of the Constitution gives no right to the President to remove any officer, except as are incident to the power of appointment, and during the session of the Senate the removal could only be made by the appointment and confirmation of a successor, and no greater power of removal than this has ever been used or claimed by any President of the United States.

If the attempt now made by the President to remove the Secretary of War without the advice and consent of the Senate, and to authorize another officer to perform his duties be successful, that clause of the Constitution which requires the advice and consent to be given to the appointment of one officer and the removal of another becomes a dead letter.

It is claimed that the power of removal is given by the second section of the act of August 7, 1789, which provides that whenever the Secretary of War shall be removed from office by the President of the United States, or in any other case of vacancy, the chief clerk shall perform the duties of Secretary. This section recognizes some power of removal as then existing by the Constitution, not as created by that act. What was the power of removal thus recognized? Simply this: if the President made an appointment during the recess of the Senate, he could commission his appointee, who would hold his office until the end of the next session of the Senate. If, however, the Senate refuse to confirm the appointee a vacancy has occurred by the removal of the officer by the President, and this is the contingency contemplated by that act, and this is the only power of removal by the President that was ever claimed during the history of our Government by any President, and the only vacancy by removal that can exist as a mere incident to the power of appointment given in the Constitution.

In perfect accord with this view is the provision of the Constitution which provides "that the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions" to expire at the end of the next session. If the power to make a vacancy by removal is vested in the President alone by the Constitution as well during the session of the Senate as during a recess of that body, this clause of the Constitution is an absurdity.

It is clear that the act quoted gives no power to make a vacancy by removal that did not exist before, and that the power to create a vacancy by removal was not enlarged by either act above referred to, but depends wholly upon the power of appointment given in the Constitution and is only incidental thereto. Setting aside, therefore, the tenure-of-office law as not limiting the power of removal, the act of the President, in attempting to remove the Secretary of War without the consent of the Senate, was an act of gross usurpation, a violation of the Constitution, and, if submitted to, dangerous to the liberties of the people. But the act is also a clear violation of the tenure-of-office law. This is scarcely denied. The pretense that Mr. Stanton never was appointed by the President is unworthy of consideration. The President for three years recognized Mr. Stanton as Secretary of War by a great multitude of official acts, each of which was tantamount to an appointment by him. If Mr. Johnson is not serving out the term of Mr. Lincoln, and if that term expired when Mr. Lincoln died, and if the President did not appoint Mr. Stanton as Secretary of War, then the office became vacant by law in one month after Mr. Lincoln's death, as also did the office of every other member of the Cabinet, and the President has been guilty of recognizing the acts of men who were holding the highest offices of the Government for three years in clear violation of law.

But the great claim insisted upon with so much earnestness is, that the tenure-of-office law is unconstitutional in this: that it seeks to limit the right of the President to appoint officers of the Government, a right which is secured by the Constitution. That this construction of the law is not the true one was conceded by the President July 13, 1866, when he approved and signed an act which provides:

"That no officer in the military or naval service shall in time of peace be dismissed from service except upon and in pursuance of the sentence of a court-martial to that effect or in commutation thereof."

The right of removal of a military or naval officer is given by the Constitution in the same words as the right to remove a civil officer, it being in each case only an incident to the power of appointment; and if it be constitutional to limit the power of the President to remove a military or naval officer, as he affirmed when he signed the bill referred to, then the tenure-of-office bill is also constitutional. No sophistry or ingenuity can point out a distinction in principle between them.

Believing that the President has been guilty of a flagrant violation of the Constitution and the laws by an act fraught with incalculable danger to the Republic unless the usurpation of power be promptly resisted by the Representatives of the people, I shall vote for the resolution proposed by the committee, that he be impeached of high crimes and misdemeanors.

Mr. BOYER. Mr. Speaker, the majority in this House, by overwhelming force of numbers, are able to accomplish any purpose upon which they are united. The minority can generally do little else than protest. It is not always permitted to us to argue. But we should be recreant to our duty if we did not embrace this opportunity, however restricted, to repeat our warnings to the people and to direct their attention to the perils of the impending crisis. Day by day the action of this Congress is signalized by some new aggression against one or the other of the coördinate branches of the Government; and at this moment the measures pending before Congress for the destruction of the independence of the judiciary and the Executive are many and varied.

Twice before during the present session of Congress the removal of the President has been threatened by attempted impeachment. But this Congress has been compelled to declare by its own unwilling verdict that, up to within

the last few days at least, the President has so conducted himself in the administration of his high office that even this hostile Congress, after the most searching scrutiny, were unable to find any ground justifying his impeachment. If there be this hour any ground upon which he can be lawfully impeached it must have arisen within the last few days. I do not intend to consume my time by answering the charges revamped and again preferred by the "original impeacher," the gentleman from Ohio, [Mr. ASHLEY,] who has just taken his seat. I maintain that this Congress is concluded by its judgment in reference to all those charges which were before this House upon the former occasion. It is not pretended, it cannot be pretended, in view of the former action of this House, that there was any cause for the impeachment of the President until, on the 21st day of the present month, he removed from the office of Secretary of War Edwin M. Stanton and appointed General Lorenzo Thomas in his stead. This is the "head and front of the offending." And for this, and upon no other pretext, Congress is preparing to convulse this nation by the immediate trial and removal of its Chief Magistrate. It remains to be seen whether the people of this country are prepared patiently to endure the perils of this new adventure in order that Edwin M. Stanton may continue his reign in the War Department, and in order that every further obstacle to the enforcement of the policy of this Congress may be removed. I do not believe that the people of this country are so much in love with Edwin M. Stanton, nor so wedded to that congressional policy which, during three years of profound peace, has kept willing States asunder and sought to perpetuate the worst consequences of revolution.

Mr. Speaker, I shall endeavor to discuss the pending resolution with all due respect to all parties. I do not mean to speak as a partisan, but as a lawyer and as a Representative of the people; and I should be glad if I could have the ear of the lawyers of this House, for it is to the legal aspect of the case that I intend chiefly to address myself. It is claimed by those who advocate the passage of the resolution of impeachment that the President of the United States has violated the law in that he offended against the provisions of what is commonly known as the tenure-of-office act, and has rendered himself amenable to the penalties imposed by the sixth section of that act, which provides as follows:

"SEC. 6. *And be it further enacted*, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

I shall not before this tribunal discuss the constitutionality of the act itself, although I affirm, and if the time will allow before I conclude I shall endeavor to show, that the President is bound to obey the Constitution rather than the statute which conflicts with it; and if, in the exercise of his judgment, he should err, that he cannot be held criminally responsible or made the subject of impeachment by Congress. Supposing, then, that the act in question is constitutional, I maintain that neither its letter nor its spirit has been violated by the President in the case which is complained of. This question is twofold in its character. Let us first consider whether there is any violation of law in the removal of Mr. Stanton, and afterward whether there was any violation of law in the appointment of General Thomas.

If Mr. Stanton had been appointed by President Johnson his removal would present another and very different case. As it is I maintain that he was himself but Secretary of War *ad interim*, that his term of office had expired by the very provisions of the act which is invoked for his protection, and that he was a mere tenant at sufferance, removable at any time at the pleasure of the President. The Cabinet ministers are expressly excepted by the very act in question from its general provisions, which require the consent of the Senate for removals by the President. By the express terms of the act their tenure of office is limited to the term of the President by whom they may have been appointed and for one month thereafter. After that they hold their offices only by sufferance. The act reads in its first section as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified"—

Now mark the exception—

"except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

That is, subject during the continuance of the term for which by this act they are to hold their office to removal by and with the advice of and consent of the Senate. But after the expiration of that term the advice and consent the Senate is no longer required. Mr. Stanton was not appointed Secretary of War by President Johnson. He is the appointee of Abraham Lincoln; he was appointed during his first term; and, if this act had been in existence one month immediately after the expiration of Mr. Lincoln's term of office, Edwin M. Stanton, by the operation of that act itself, would have ceased to be Secretary of War. If he remained in office exercising its functions after that it would have been simply during the pleasure of the President; he would have been to all intents and purposes a Secretary of War *ad interim*.

President Lincoln died; Andrew Johnson became his successor; but by no act of his did he reappoint Mr. Stanton to the office of Secretary of War nor renew his authority, except that he acquiesced in his continuance in the office and in the exercise of its functions. But President Johnson never till this day exercised his constitutional right to appoint and commission a Secretary of War. I defy any gentleman on the other side to point out to me now and here a section or clause or sentence in this tenure-of-office act under the provisions of which Edwin M. Stanton is this day Secretary of War. I will yield the floor to any gentleman for the purpose of indicating upon what clause of this act he bases such a proposition. There is no reply, and I affirm that this civil tenure act left the authority of the President of the United States with reference to the Secretary of War precisely where it stood before that act was passed.

There is no doubt—there can be none—in relation to the intention of the tenure-of-office act to leave the appointees of President Lincoln removable at the pleasure of President Johnson. Upon this point the contemporaneous evidence is overwhelming. The proviso limiting the terms of the Cabinet officers and excepting them from the general provisions of the act was inserted as an amendment in the original act by the conference committee upon the disagreeing votes of the two Houses of Congress. The managers on the part of the Senate were Senators WILLIAMS, SHERMAN, and BUCKALEW. All of these gentlemen explained the meaning of the proviso in remarks which are published in the Globe.

Mr. BUCKALEW, who did not sign the report, said, alluding to the Cabinet ministers:

"These officers from the foundation of the Government have held their offices at the pleasure of the President; they have been removable at will. Now, however, they are to have a duration assigned to their office similar to that which is assigned by the Constitution to the President himself. If appointed by an incoming Chief Executive they are to hold their offices for a period of four years, unless they shall be sooner removed by and with the advice and consent of the Senate. And then, sir, they are to hold their offices for one calendar month after the term of the President has expired."

Mr. WILLIAMS said:

"I think there is no difficulty in understanding this report, as it amounts to the adoption of the amendment proposed by the House of Representatives, with certain qualifications. It will be remembered that the House put the heads of Departments on the same footing with other civil officers, and provided that they should not at any time be removed without the advice and consent of the Senate. Objection was made to that, because it was said that when a new President came into office he might be compelled to have a Cabinet not of his own selection. This amendment provides that when the term of office of the President expires the offices of the members of the Cabinet shall also expire, with a provision that they may continue in office for one month, so as to enable the incoming President to arrage his new Cabinet.

Mr. SHERMAN, who, like Mr. BUCKALEW, was opposed even to the restrictions upon the President imposed by the proviso as reported, said:

"I agreed to the report of the conference committee with a good deal of reluctance. The Senate had by two deliberate votes declared its purpose not to make the duration of the Cabinet officers fixed by any time, but that they should hold their offices at the pleasure of the President; and that was the original design in the creation of their offices; but the general purpose of this bill is so very important, it establishes so salutary a reform, that I thought it ought not to be endangered by a dispute on a collateral question." * * * * * * *

"The proposition now submitted by the conference committee is that a Cabinet minister shall hold his office during the life or the term of the President who appointed him. If the President dies the Cabinet goes out; if the President is removed for cause by impeachment the Cabinet goes out; at the expiration of the term of the President's office the Cabinet goes out; so that the Government will not be embarrassed by an attempt by a Cabinet officer to hold on to his office despite the wish of the President or a change in the Presidency. The great danger that might have arisen from the bill as it stood amended by the House is relieved by this amendment, and I think it is much better for us to agree to this modification rather than endanger the passage of the bill. I therefore signed the report of the conference committee, though with some reluctance. I think, under the circumstances, the Senate had better agree to it. If it shall be found to work badly at any time it will be very easy, by a law or joint resolution, to change it.

"Mr. FOGG. I should like to ask the Senator one question. Suppose the President should die during the session of the Senate, would the Cabinet still go out without their successors being nominated to the Senate and confirmed?

"Mr. SHERMAN. The Cabinet would continue for one month to enable the new President to arrange a Cabinet.

"Mr. FOGG. But would they go out at the end of that month, though the Senate was in session?

"Mr. SHERMAN. The appointment of a new Cabinet might be made immediately, and they would take their offices at the end of the month. I think the provision is a very wise one.

"Mr. FOGG. The question which I wished to ask and have answered is, whether at the end of that month the Cabinet must go out, though the Senate were in session? Would that Cabinet go out till the new Cabinet had been confirmed by the Senate?

"Mr. SHERMAN. Oh, yes."

What, then, is there in the tenure-of-office bill, I ask, which deprives the President of his right to terminate the relations of Edwin M. Stanton with the Department of War? Every day he has exercised the functions of Secretary of War since one month after the expiration of Mr. Lincoln's term of office was simply by the acquiescence of the President. The moment he signified his pleasure to the contrary the authority of Mr. Stanton ceased and a vacancy existed.

Whether that vacancy was lawfully filled by the President's appointment of another Secretary of War *ad interim* in the person of General Thomas is the next question for determination.

The gentleman from Ohio, [Mr. BINGHAM,] in his speech in reply to the gentleman from New York, [Mr. BROOKS,] asked, as if in triumph, that there should be pointed out to him the line of law from which the President derived his authority to appoint any one in place of Edwin M. Stanton. I respectfully refer the gentleman and this House to the act of February 13, 1795, which, in its first section, declares as follows:

"That in case of vacancy in the office of Secretary of State, Secretary of the Treasury, or of the Secre-

tary of the Department of War, or of any other officer of either of the said Departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed or such vacancy be filled."

I ask, in return, in what act or in what line of law are the provisions of the act which I have just quoted repealed. I challenge contradiction. The act which I have last quoted has not been repealed, and it provides that in case of a vacancy in the office of the Department of War the President shall, at his discretion, appoint some one to discharge the functions and duties of that office.

Mr. MYERS. Will the gentleman yield?

Mr. BOYER. For a question only.

Mr. MYERS. The gentleman has invited a response from this side.

Mr. BOYER. I have not invited a speech, but I have asked any gentleman to indicate to me in what law or clause of any act the authority which I have just referred to has been repealed.

Mr. MYERS. I propose to answer that.

Mr. BOYER. I will allow the gentleman to point out the law; not to make a speech.

Mr. MYERS. I do not intend to make a speech. I shall only occupy the gentleman's time a moment.

Mr. BOYER. Let us see the law.

Mr. MYERS. I say, Mr. Speaker, that, rising above and beyond the tenure-of-office law, the President has violated the Constitution in that there is no power of removal there, a power which is simply incident to the power of appointment. And I say that the tenure-of-office act which he cites——

Mr. BOYER. I want an answer to my inquiry; not a speech.

Mr. MYERS. I am about to answer.

Mr. BOYER. The gentleman has cited the Constitution of the United States and the tenure-of-office act. I resume the floor.

Mr. MYERS. I ask the gentleman to allow me——

Mr. NIBLACK. I rise to a point of order. The gentleman from Pennsylvania [Mr. BOYER] has the floor.

Mr. MYERS. Mr. Speaker——

The SPEAKER. The gentleman from Pennsylvania [Mr. BOYER] has a right to refuse to yield. He says that he declines to yield, and he must be allowed to proceed without interruption. The Chair will protect him.

Mr. BOYER. The gentleman was about to make what appeared to me to be an unfair use of the privilege I extended to him to point out to me his authority by attempting to inject a speech into my limited time. I expressly stated that I did not yield for that. He has cited the Constitution of the United States. I propose to come to that presently and consider it if I have time.

Mr. MYERS. Will my colleague yield to me now?

Mr. BOYER. I do not yield further. In view of the operation of the act of 1795, the only material question is, was there a vacancy in the office of Secretary of War? If there was the President had a right either to allow Mr. Stanton to exercise for the time the functions of the office or he had a right, at his pleasure, to give him notice to quit and to fill his place by another man, for Edwin M. Stanton was simply a tenant on sufferance, having overstayed his term by the terms of the very act upon which gentlemen base their charges of violation of the law against the President. If there has been any violation of the law it has been on the part of that man who now holds possession of the War Office by force, and if there is any man who can be held criminally responsible for a violation of the civil tenure act that man is Edwin M. Stanton, who is guilty of a high misdemeanor and subject to fine and imprisonment under the fifth section of that act, which provides:

"That if any person shall, contrary to the provisions of this act, accept any appointment to or employment in any office, or shall hold or exercise, or attempt to hold or exercise, any such office or employment, he shall be deemed, and is hereby declared to be, guilty of a high misdemeanor; and upon trial and conviction thereof he shall be punished therefor by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

If his term has expired and he holds over against the will of the appointing power, then he is amenable in the manner in which I have indicated and under the section which I have quoted.

But it is said that the President acknowledged the status of Mr. Stanton as Secretary of War, and admitted that he had no right to do otherwise than to suspend him temporarily subject to the action of the Senate, because when he suspended him he sent in his reasons to the Senate in the manner indicated by the act of 1867. But what of that? Independent of the act of 1867, the right to remove includes the lesser right to suspend; and if the act of 1867 had never been passed the President might still at his discretion have given his reasons to the Senate for the suspension of an officer. Though there was nothing to compel him to do it, he had a right surely to exercise his judgment and discretion in the matter. Secondly, the validity and applicability of the statute are not to be construed by the acts of any individual, but must be judged and construed by themselves without reference to the understanding of the President or his subordinates.

Again, if the President chose in this way to do an act which he was not required by law to do, it was not in his power as a high official to waive any of the rights which belonged to his office under the law. They were not his to give away. They belonged not to Andrew Johnson, but to the President of the United States.

Let us now look at this case from another point of view. The gentleman from Ohio [Mr. BINGHAM] admitted in his speech that the President could not be lawfully impeached for an error of judgment alone. Unless, therefore, the President, in his denial of the binding force or applicability of an act of Congress, is intentionally and perversely a violator of the law, he is not liable to its penal provisions. Supposing Stanton to be protected by the act in his present position, there still remains the question in relation to its constitutionality. If the President denies its validity upon that ground in what companionship do we find him?

Madison, the father of the Constitution; Jackson, the founder of that democratic school in which Andrew Johnson was educated; the members of the earliest Congress that ever sat under the Constitution—among whom were many of its framers—all believed and maintained that the constitutional right of the President to remove from office his Cabinet ministers was a right vested in him by the Constitution, and his absolutely beyond legislative control. The greatest commentators on the American Constitution, Story and Kent, speak of this as the settled construction of the Constitution. It is judicially announced as established constitutional law by the Supreme Court in *ex parte* Heenan, reported in 13 Peters, page 139, in which the court, alluding to the power of removal by the President, says:

"But it was very early adopted as the practical construction of the Constitution that this power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution. For, in the organization of the three great Departments of State, War, and Treasury, in the year 1789, provision is made for the appointment of a subordinate officer by the head of the Department, who should have the charge and custody of the records, books, and papers appertaining to the office when the head of the Department should be removed from the office by the President of the United States."

In 1789 there was a debate in Congress upon this subject, in which Madison said:

"But let us not consider the question on one side only; there are dangers to be contemplated on the other. Vest this power in the Senate jointly with the President, and you abolish at once that great principle of unity and responsibility in the executive department which was intended for the security of liberty and the public good."

When, in 1834, the question was again revived, Mr. Madison, in a letter to Edward Coles, dated October 15, 1834, said:

"You are at a loss for the innovating doctrines of the Senate to which I alluded. Permit me to specify the following:

"The claim on constitutional ground to a share in the removal as well as appointment of officers is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation would not only vary essentially the existing balance of power, but expose the Executive occasionally to a total inaction, and at all times to delays fatal to the due execution of the laws."

Again, in a letter to Charles Francis Adams, dated October 13, 1835, the same expounder of the Constitution he had so large a share in making said:

"The right of suffrage, the rule of apportioning representation, and the mode of appointing to and removing from office are fundamentals in a free Government and ought to be fixed by the Constitution. If alterable by the Legislature the Government might become the creator of the Constitution of which it is itself but the creature."

I will quote but one more extract from the same author. In a letter to John M. Patton, dated March 24, 1834, he says:

"Should the controversy on removals from office end in the establishment of a share in the power, as claimed for the Senate, it would materially vary the relations among the component parts of the Government and disturb the operation of the checks and balances now understood to exist. If the right of the Senate be, or be made, a constitutional one, it will enable that branch of the Government to force on the executive department a continuance in office even of the Cabinet officers, notwithstanding a change from a personal and political harmony with the President to a state of open hostility toward him. If the right of the Senate be made to depend on the Legislature it would still be grantable in that extent; and, even with the exceptions of the heads of Departments and a few other officers, the augmentation of the senatorial patronage and the new relation between the Senate directly and the Legislature indirectly with the Chief Magistrate would be felt deeply in the general administration of the Government. The innovation, however modified, would more than double the danger of throwing the executive machinery out of gear, and thus arresting the march of the Government altogether." * * * * * * *

"The Constitution of the United States may doubtless disclose, from time to time, faults which call for the pruning or the ingrafting hand. But remedies ought to be applied, not in the paroxysms of party and popular excitements, but with the more leisure and reflection, as the great departments of power according to experience may be successfully and alternately in and out of public favor, and as changes hastily accommodated to those vicissitudes would destroy the symmetry and the stability aimed at in our political system."

President Jackson, in his protest, dated April 15, 1834, against the assumption of any power on the part of the Senate to interfere with his power over removals from office, said:

"The executive power vested in the Senate is neither that of 'nominating' nor 'appointing.' It is merely a check upon the executive power of appointment. If individuals proposed for appointment by the President are by them deemed incompetent or unworthy they may withhold their consent, and the appointment cannot be made. They check the action of the Executive, but cannot, in relation to those very subjects, act themselves nor direct him. Selections are still made by the President, and the negative given to the Senate without diminishing responsibility furnishes an additional guarantee to the country that the subordinate executive as well as the judicial offices shall be filled with worthy and competent men.

"The whole executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle the power of removal, which like that of appointment, is an original executive power, is left unchecked by the Constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible. In the Government from which many of the fundamental principles of our system are derived, the head of the executive department originally had power to appoint and remove at will all officers, executive and judicial. It was to take the judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behavior. Nor is it conceivable why they are placed in our Constitution upon a tenure different from that of all other officers appointed by the Executive unless it be for the same purpose.

"But if there were any just ground for doubt on the face of the Constitution, whether all executive officers are removable at the will of the President, it is obviated by the contemporaneous construction of the instrument and the uniform practice under it.

"The power of removal was a topic of solemn debate in the Congress of 1789 while organizing the administrative departments of the Government, and it was finally decided that the President derived from the Constitution the power of removal, so far as it regards

that department for whose acts he is responsible. Although the debate covered the whole ground, embracing the Treasury as well as all the other Executive Departments, it arose on a motion to strike out of the bill to establish a Department of Foreign Affairs, since called the Department of State, a clause declaring the Secretary 'to be removable from office by the President of the United States.'"

He then proceeds in explanation of the subsequent proceedings on the bill alluded to as follows:

"This change having been made for the express purpose of declaring the sense of Congress that the President derived the power of removal from the Constitution, the act as it passed has always been considered as a full expression of the sense of the Legislature on this important part of the American Constitution.

"Here, then, we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the Convention which framed the Constitution, and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is 'beyond the reach of legislative authority.' Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of executive officers, from the heads of Departments to the messengers of bureaus."

I forbear only for want of space to quote still other authorities upon this point of the vested constitutional rights of the President to remove from office without the advice and consent of the Senate. I have not made any citations upon this point in the vain hope of making any impression upon a Congress by whom the Constitution has too often been violated any longer to be revered.

I have fortified this position only to enable me to make clear this other point, namely, that when the President resists by peaceful means the unconstitutional operation of the civil-tenure act he is only defending the ancient and long-established prerogatives of his office, and that it ought not to be held a criminal offense to maintain the constitutional convictions of a Madison, a Story, a Kent, or a Jackson.

If the President entertains these convictions his oath of office compels him to resist the usurpations of Congress. He is singled out from among all other men by the Constitution itself as its peculiar defender. We as Representatives in Congress are enjoined to swear obedience to the Constitution. The President alone swears that he will to the best of his ability "preserve, protect, and defend the Constitution of the United States." How is he to defend it? By veto messages only? Or is he to defend it by all those means known to the law by which the law itself may be lawfully tested.

Members have spoken upon this floor as if they thought that acts of Congress must be blindly obeyed be they ever so subversive of constitutional rights. They declaim as if the law were one thing and the Constitution another, when the Constitution is not only a law, but the supreme law. The gentleman from Illinois [Mr. INGERSOLL] maintained that the President had no right to question the constitutionality of an act of Congress before it had been judicially decided to be unconstitutional. How, I should like to know, could its invalidity ever be decided by a court until it had been questioned, and a case for adjudication made by resistance to its operation? How else could it ever come before a court? We must decide at our peril between two conflicting statutes, why not between a statute and the supreme law of the land?

The humblest citizen in the land may peacefully test his rights in the manner resorted to by the President in the removal of Stanton and the appointment of Thomas. To bring a case into court there must be some actual denial of a right. How else could the right of Stanton be brought into practical legal question except by a demand that he should surrender the War Department into the hands of another. What else did the President do? He used no violence, nor attempted any. His appointee, instead of taking Stanton by the nape of the neck and landing him beyond the curbstone, as I think might lawfully have been done under the circumstances, simply demanded possession, was refused, and went away. There has been no breach of the peace—Stanton is still in possession. But Thomas is under bail, and the President is, in hot haste, about to be impeached! Why could not Congress wait a few days until, upon a *habeas corpus* or a *quo warranto*, the case would be brought into court, the questions of law decided, and the rights of all parties peacefully settled? These are questions this Congress must answer—not here, perhaps, but before the supreme tribunal of the people.

Mr. KELSEY. Mr. Speaker, there are two ways in which the defenders of the acting President attempt to avoid the charges made in the report of your committee. No one denies that he has done just what the committee charge, nor can it be successfully denied that the acts charged are in violation of a statute duly passed in accordance with the forms prescribed in the Constitution.

But it is said the statute does not apply to this case, because Mr. Stanton was appointed Secretary of War by President Lincoln; that the Secretaries are only protected from removal without cause during the term of the President by whom they were appointed, and this is the substance of the argument submitted by the gentleman who has just taken his seat, [Mr. BOYER.]

If it is conceded that this is a correct exposition of the statute, there are some other points to be considered before it can be claimed that it amounts to a defense in the case before us. And here let us mark the terms of the statute. The proviso upon which the gentleman has commented is in these words:

"*Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Andrew Johnson has no term as President of the United States. He is not, never has been, and, I trust, never will be President. He is merely Vice President, acting as President during the unexpired term of President Lincoln. True, he has assumed the title of President, and no one has thought it worth while to make an issue with him on that point, and, as a matter of convenience, the title of President has been conceded to him. But when it becomes necessary to define his exact status in order to construe a statute his true position and title must be given him. The argument of the gentleman from Pennsylvania, [Mr. BOYER,] who has just taken his seat, falls to the ground; there is nothing for it to rest upon; there is no force in the point which he makes.

There is another way in which an attempt is made to defend the acting President, and that is by declaring the office-tenure law unconstitutional. This is certainly a very convenient way of establishing a defense, but that is all that can be said in its favor.

This proposition, if it is adopted, will establish the precedent, so far as we are concerned, that the President may disregard and disobey a law passed by Congress, and justify himself by assigning as a defense of his conduct that, in his opinion, the law was unconstitutional. If this plea is allowed and established it makes the President an irresponsible despot. There can then be no law but his will. He may disobey any and all laws at his pleasure. This will never do. All the enactments passed by Congress in the manner prescribed in the Constitution must be obeyed as law by all officers of the Government until such enactments are declared unconstitutional by the proper tribunal. No mere ministerial or executive officer has any right to raise the question of its constitutionality when called upon to execute it. Such officer can only question the constitutionality of an enactment when it affects his individual rights.

With this brief notice of the two points made in behalf of the acting President, I pass to the consideration of a point made on Saturday last by the member from the city of New York, who opened this debate on behalf of the defendant.

That eloquent member, after giving us permission to impeach and try the acting President, gave us solemn warning, in behalf of hundreds and thousands and millions of Democrats, that if we attempted to suspend the acting President during his trial they would never, never, never submit to it. And he told us they had the physical power to resist successfully because they had four fifths of the Army.

These impressive warnings naturally call attention to an important legal question that must be met and settled at an early stage of these proceedings, if the resolution now under consideration shall be adopted by the House. In submitting my views upon this question, I do so with great deference to the opinions of distinguished gentlemen on this side of the House whose opinions differ from mine. The question is, as the law now stands, what effect does the finding of an impeachment by this House have upon the officer impeached?

The Constitution of the United States provides that the House of Representatives shall have the sole power of impeachment, and that the Senate shall have the sole power to try all impeachments; and it also declares that the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors; but the Constitution is silent as to the effect the mere finding an impeachment by this House shall have, and it is also silent as to all the proceedings to be had on the trial except that the Senate, when sitting to try an impeachment, shall be on oath or affirmation, and when the President of the United States is tried the Chief Justice shall preside.

To determine what effect an impeachment has upon the officer impeached we must ascertain what an impeachment is. At the time this word impeachment was used in the Constitution the leading features of the proceedings known by that name were well understood by the men who put it there. It was a criminal prosecution against a man in office for acts done while in office. As a criminal proceeding it was adopted by name and put into our Constitution. In article three, section two, the Constitution provides that "the trial of all crimes except in cases of impeachment shall be by jury," thus constitutionally recognizing the proceeding as a criminal proceeding, and nothing else. I concede that an impeachment may be maintained for an action upon which an indictment would not lie, and could not be sustained. But the punishment to be inflicted upon a person found guilty was materially modified, so that under our Constitution the judgment cannot extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States. But further punishment may be inflicted upon the offender, if convicted, after indictment, before a competent criminal tribunal.

The proceeding by impeachment is a purely criminal proceeding, and is designed to punish, to some extent, crimes and misdemeanors already committed, and to deprive the offender of all power to commit offenses of like character in the future.

In adopting the criminal proceeding of impeachment into our Constitution by name it was of course necessarily modified by other provisions of that instrument besides those which relate expressly to the subject of impeachment. In England the chief executive officer of the Government cannot be impeached—here he can be. This, however, is by an express provision of our Constitution.

Another position that I take (and which I think will not be controverted) is that the articles of impeachment take the place of an indictment, and that the same rules of evidence gov-

ern the trial that are of force in the criminal tribunals of the country.

The trial is to all intents and purposes a criminal trial, and the court having jurisdiction to try the offense must necessarily have jurisdiction of the person of the alleged offender; and it must have the power to control him absolutely in all respects as courts of criminal jurisdiction have power to control all persons accused of crime, or the power to try him is a nullity. As soon as an officer impeached is summoned to answer by the Senate, or is arrested by order of the Senate, he is in custody of the law, and is of course incapable of discharging the duties of any office.

The effect, then, of an impeachment, as the law now stands, is to deprive the officer impeached of the power to do any official act.

But this proposition has been denied, and it has been asserted that the impeachment has no effect whatever upon the status of the officer until after he is convicted; that the officer impeached may appear for trial or not according to his own pleasure; and if he does not appear that he may be tried in his absence. If the impeached officer shall flee, undoubtedly he may be tried in his absence; but if he remains within the territorial jurisdiction of the court, the court has power to arrest and imprison him previous to and pending the trial, if it shall be deemed necessary to do so.

To show the unsoundness of the assertion that the impeachment has no effect upon the status of the officer impeached until after conviction, and the absolute necessity of a different rule, it is only necessary to see what might be done by an impeached officer even while on trial.

Suppose the President, in time of war, is impeached for treason, and during his trial he, as Commander-in-Chief of the Army, should propose to surrender this capital of the nation to the enemy, including himself and his judges, and all the archives of the Government, is there any lawful power to prevent his doing the act? Or suppose a justice of the Supreme Court should be impeached for receiving a bribe to decide a cause in a particular way, what shall prevent him from going on to the bench and carrying out his part of the criminal agreement even after he has been put upon his trial?

The power and the right to prevent the consummation of these crimes must exist somewhere, and that power can be found nowhere unless it is in the power to impeach and try the offenders and in the power necessarily given by implication to restrain and control the alleged offender after he is impeached and during his trial. The Constitution expressly gives the power to impeach and to try, and it also gives to Congress the power to make all laws which shall be necessary and proper for carrying into execution all powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

In the debates, resolutions, and other proceedings in the convention of the State of Virginia, on the adoption of the Federal Constitution, Mr. Madison says:

"There is one security in this case to which gentlemen may not have adverted: if the President be connected in any suspicious manner with any persons, and there be grounds to believe he will shelter himself, the House of Representatives can impeach him; they can remove him if found guilty; they can suspend him when suspected, and the power will devolve on the Vice President. Should he be suspected also, he may likewise be suspended till he be impeached and removed, and the Legislature may make a temporary appointment."—Vol. 2, page 367.

It is nonsense to say that a court can try a criminal unless it has both jurisdiction and the right to control his person. And how can it be said that the court, while trying the President, has jurisdiction and control of his person, if that officer, at the same time, controls the executive branch of the Government, commands the Army and Navy, and thus holds the power to bribe by patronage all parties connected with the trial, and to disperse by force or imprison or destroy both his judges and accusers?

Such a trial would be nothing but a farce, and could not be expected to result in a conviction, no matter how clearly the guilt of the accused might be established. But suppose that such a trial should, contrary to all human probability, result in a conviction; how is the judgment of the court to be enforced? Will the man who has been guilty of treason, bribery, or other high crimes and misdemeanors, quietly surrender his office at the command of his judges?

It must be assumed that he will by those who contend that he is not suspended by the impeachment, for the court has no more power to enforce the judgment after it is pronounced than it had in the beginning to control the defendant's person by arrest. But it may be said that all acts done by or under the authority of an officer, after he is found guilty, and the judgment is pronounced, are illegal and void, and that therefore the judgment executes itself. Are not all acts done by him, or under his authority, while he is in custody of the law, after being impeached by this House, equally illegal and void? Can an officer, impeached for crime, while in custody of the law, repeat the very acts for which he is impeached? If the impeachment itself has no effect upon his official standing, most certainly he may.

It seems, therefore, to be very plain, that when an officer is impeached and summoned to answer the impeachment before the Senate, his power to do any official act is necessarily suspended. He is still an officer, but he is not an acting officer. In the naval and military service the verbal order of a superior officer to an inferior to report himself under arrest, deprives the officer so ordered to report of all power to act as an officer until he is released from arrest.

The Constitution has given to Congress the power to make all laws which shall be necessary and proper to carry into effect the power of impeachment, as well as the other powers granted by that instrument; and if the impeachment does not, by itself, suspend the officer from acting, it would clearly be within the power of Congress and manifestly its duty to pass a law suspending the impeached officer until he should be tried and acquitted; because such a law is clearly necessary and proper for the purpose of carrying into execution the power of impeachment, but such a law ought to be passed before the officer is impeached, although it may reach a class of cases that cannot be reached by indictment. But it seems to me that by the law, as it now stands, an impeachment necessarily suspends the official power of the person impeached for the reasons I have stated, and which I will restate in a more condensed form:

First. Because the proceeding by impeachment is purely a criminal proceeding.

Second. A criminal cannot be tried before any tribunal unless that tribunal has both jurisdiction and control of the person of the accused.

Third. No person can be properly tried while he has the power to intimidate, overawe, or control his judges, or any one of them.

Fourth. The power to try any person for an alleged criminal offense necessarily includes the power to control his person during the trial.

Mr. CAKE. Mr. Speaker, leaving to other Representatives of the people here the discussion of the constitutional question involved in the impeachment of the acting President, it is my purpose to advert, and that but briefly, to the effect it will have upon the public mind.

It has been my privilege to spend the last week among those who sent me here to represent them. The conduct of Andrew Johnson was freely discussed by men of all parties, and not in one single instance did I find an apologist for him. Leading Democrats insist that he must be thrown overboard in order to save their party, and many Republicans think he might be left alone in safety as the best card to be played against copperheads in the coming canvass. But, politics aside, all agree that he is a dangerous man, and that the country would be calmed by his suspension from the duties of his high position. His impending impeachment has opened up the whole question of the rebellion. Nowhere except upon this floor have I heard threats of renewed hostilities. If the obstructionists mean that, let them begin as soon as they please.

Just seven years ago the people of the free States were called upon to stand by the nation. Disregarding the cries of their partisan leaders, they mustered in defense of their country, and from first to last helped to crush the rebellion. What was the cry of those who sought the life of the nation seven years ago? The same that we hear to-day. "The Constitution is disregarded; the Constitution is in danger!" Vote as they may, when the drum beats to arms the loyal men of the land will be found upon the side of the Union, and the majority of the blue over the gray will be counted by millions. The northern followers of Breckinridge in 1860 are the copperheads of 1868, and the masses understand all about their love for the Constitution.

Sir, if it were not for the coincidence connected with it, I should not mention the fact that Pennsylvania furnished the first volunteers who occupied this Hall in April, 1861. These soldiers all came from Democratic counties. Schuylkill, with her two thousand Democratic majority, sent two companies numbering over two hundred and thirty men. Berks, always good for from five to seven thousand, sent her grand company of artillerists. Lehigh, steadily voting wrong by nearly two thousand, furnished her company, and Mifflin, always counted against us upon election day, her hundred gallant hearts. The blood of this advanced battalion has sprinkled every battle-field of the rebellion. Not one of them thought it necessary to look up the Constitution in order to see whether what they were about would square with its provisions. They realized the danger that threatened their country, and, forgetting even how they voted, they came to fight, and did fight, on the right side. Disregarding the Constitution-shriekers in their rear, they put their heads and hands to the work of saving it and their country. Upon every battle-field, with the blaze of the enemy's fire in his face, the Union soldier always heard this cackle about the Constitution from the secession sympathizers at home. That instrument was made to seem in his eyes to embody the conditions of death and not the principle of life to the nation. Andrew Johnson himself cautioned the people against those who prate about the Constitution in times of public danger. This cry, so disgusting to the soldier in arms, is stale and flat and without effect. The millions read and interpret the Constitution for themselves. They find in it the strength and security of the Union. They cannot believe in any interpretation that insures its own destruction. By its plain letter no man is too high to escape the penalty of its violation or the violation of laws enacted under it.

The people, believing that Congress had reason months ago to impeach the President, await impatiently for the issue. The public mind is ready for the event.

Mr. Speaker, it has become the fashion, when discussing this question of impeachment and other kindred measures, for the obstructionists to style the majority here an accidental majority, and to anticipate the day when the power upon this floor will be transferred to the other side of the dead line. The elections of 1867 are referred to with great glee, and we are told to behold in them Belshazzar's warning. Sir, I see a different meaning in those elections of 1867. If the people faltered in the autumn it was because Congress had faltered in the spring. The expectations of the loyal voters of the Union have been far in advance of the action of their Representatives.

Appreciating the character of Andrew Johnson with a keenness and correctness that seemed to have forever departed from the members they elected in 1866, they had much reason to believe and fear that a majority of the Fortieth Congress had surrendered; and, in view of the fact that every department of the Government but one had been utterly debauched, they began

to think it easier to let the enemy in without the trouble of a battle than to win the victory only to see themselves sold out to the public enemy. But, sir, the expectations of the vast Republican majority of the land are being met this day, and let him who falters now beware! The electric spark that kindled the political fires of 1860 and 1864 has been struck, and from every State comes the shout of the Republican hosts preparing for victory. Let us go right on and complete the work, and we have nothing to fear. To trifle longer with this question is to trifle with the just demands of the Union-loving people of the nation.

To the work of debauching the Departments Andrew Johnson has brought all the cunning of the practiced demagogue. The public fully understand this, and await his punishment with solemn expectation. If Congress should fail in its great duty now the heart of the people, made sick by procrastination, would be crushed with grief and dismay.

Around Edwin M. Stanton are gathering the sympathies of an outraged people. In him they are to be vindicated. Through him was saved about all that was saved to the Union from the wreck of Buchanan's administration. His heart of oak sustained the martyr Lincoln through many a trial, and now his fidelity and loyalty have saved the War Department from the hands of the reviving rebellion.

The public mind is bent upon the expulsion of the obstructionist. Had it not been for his attempt to destroy the great captain who is to succeed him the people might have patiently waited until the 4th of March, 1869, but the violent attempt to seize the War Department has rendered it criminal to longer disregard his madness.

It may be that the will of the majority is to go for naught—that the defeated rebels will "never, never, no, never, never submit."

Every member can speak best for his own district. In mine it matters not how they vote, I will vouch for the loyalty of my neighbors. And I know that they will not only submit to the majority but that they will fight to compel the submission of others who may resist. I have an abiding faith in the loyalty and patriotism of the people. Gentlemen may assert that their constituency mean to rebel against the law, and mean to uphold a bad public officer in his effort to destroy the Government. Let us do their constituency justice in not quite crediting all this until we find it substantiated, but let us prepare for whatever befalls. The gentleman who so maligns his neighbors ought to know the truth of that which he utters. I would rather believe that the free men of the nation, who ground slavery and rebellion into the dust together, will buckle on the knapsack and fight and vote upon the right side, as they have always done, and keep the majority upon the right side of national issues.

Sir, it may be that these threats may mean something. It may be that the slaveholders' rebellion is again to be precipitated upon us. I do not believe it.

Let this, however, be understood, that if, in their opposition to the will of God that this nation shall indeed be great and grand and free, the obstructionists mean to interpose again the dismal prospect of another civil war, I, speaking for myself and the men of all parties that I know at home, say this, that for Grant and Stanton against Johnson and the nullifiers, that for the Union and the Constitution, for Congress and the people, as against the monstrous heresies of the enemies of equal rights, a grand division of drilled soldiers can be mustered in six hours in my district, while not a corporal's guard could be obtained for the nullifiers and obstructionists in as many weeks.

Messrs. PILE, WINDOM, NEWCOMB, and BEAMAN addressed the House. [See Appendix.]

Mr. PRICE. Mr. Speaker, for two years the loyal people of this country and their Representatives in Congress have been keeping watch and ward at the gates of the citadel of liberty. In this time of watchfulness these guardians of the public welfare have not only been willing but anxious to avoid all unnecessary measures which might seem to be harsh in their character—willing to bear all evils and irregularities so long as these evils and irregularities did not endanger the life of the Republic.

To such an extent had this spirit of forbearance gone that thousands of true and tried men, who had risked their all for the suppression of the rebellion, began to fear that the fruits of hard won victories were to be turned over to the enemy, and that the bloodiest war recorded on the page of history was to result in worse than a failure.

In attempting to furnish safeguards for the welfare of the nation the law-making power of the land, in March last, placed upon the statute-book of the nation a law which, not by inference, not by implication, but in express terms, declared that certain things should not be done, and that if these things were done the act of so doing would be a high misdemeanor. This law, Mr. Speaker, left nothing to surmise, nothing to conjecture; it was and is as free from ambiguity as the English language can make it.

Andrew Johnson, with this law thus plainly written before him, with this statute in his hand, deliberately and intentionally strikes at the majesty of the law and attempts to trample it beneath his feet. This act, sir, aroused the suspicions of the most unsuspicious. This attempt to set at defiance the sovereignty of the law removed the mask from the man who was made President by the act of an assassin, and proclaimed in language not to be misunderstood that Andrew Johnson would not hesitate to set the laws at defiance where they interfered with his plans, and if an opportunity offered to proclaim himself dictator upon the ruins of the Republic.

As the law-making power of the nation, as agents of a people jealous of their liberties, we cannot, sir, we dare not, longer shut our eyes to the danger that surrounds us. We cannot, sir, at this moment say that we have not had warning. No, sir. Andrew Johnson and his Democratic friends in and out of Congress, and all the unrepentant, red-handed rebels of the South, have for months and years denominated us as a "Rump Congress," as "an unconstitutional body," as a "body hanging upon the verge of the Government;" and now, to prove that these things were not said in jest, he boldly sets at defiance a law passed by the Representatives of the people in the high council chambers of the nation, and is applauded and indorsed by all the parties before referred to.

Yes, Mr. Speaker, the trial hour of this question is upon us. We cannot avoid it if we would, and, with my confidence unshaken in the courage and integrity of my colaborers, I dare assert we would not if we could.

We are told by the eloquent gentleman from New York, [Mr. BROOKS,] who now comes to the aid of the President in his onslaught upon the sanctity of law, that the Army is largely composed of Democrats, and that the Army is with the President, and that in the happening of certain events "they will never, never, so help him God, never, never submit." Well, Mr. Speaker, that is the stereotyped language of 1860–61. If it ever had any power it has long since passed, and I tell that gentleman that the men with whom he now has to deal are not to be scared from their propriety or their duty by the reverberations of any such home-made thunder. No, sir; the people, the depositories of power, both civil, political, and military, all over this land, are in favor of the supremacy of law, as against any man or any set of men; and in that fact, sir, rests the hope of the nation. No man ever did, no man ever will, carry the American people against law, and if it becomes necessary to call upon the people to support the laws against the usurpations of Andrew Johnson now, or any other man in the future, they will rally to do battle for the right. Yes, sir, they will

"Come as the winds come when forests are rended,
Come as the waves come when navies are stranded."

Mr. Speaker, while we talk the nation waits in breathless silence; waits, sir, not for the speeches, but for the vote. The nation is satisfied, now, and has been long since; they know the character of the man we have to deal with, and their only fear is that we shall not prove equal to the duty devolving upon us. As the sun of to-day sinks behind the western hills, as the hands of the clock point to the hour of five, when, in accordance with the order of the House, the vote is to be taken upon this momentous question, there will be more anxious hearts in this land than at any one moment since the thunder of cannon and the groans of the dying were silenced upon the battle-field.

And, sir, when on to-morrow the sun rolls up the eastern horizon and walks through the opened gates of the morning he will, if the vote be such as I confidently look for, witness among the loyal people of the Republic joy and gladness, and among the special friends of the President weeping and wailing and gnashing of teeth.

Mr. BLAIR. Mr. Speaker, if I am not mistaken, the House of Representatives is about to impeach the President of the United States of "high crimes and misdemeanors." The House is about to do this under the plain authority granted to it by the Constitution of the United States. The sole power of impeachment resides in this House. It is, therefore, not at all necessary for gentlemen upon the other side to be alarmed, to warn us to beware of anything, for we are not about to do anything which we have not the clear power and right to do under the letter of the Constitution itself. I say to them, therefore, that they need have no apprehension, for we shall not overstep the limits of the Constitution and the laws of the country. On the contrary, the House is here engaged to-day in this high debate, solely for the reason that it intends to vindicate and execute the authority of the Constitution and laws of the United States. It is the violation of both these of which we complain.

I do not underestimate, I think, the importance of the occasion. I know very well that it will challenge the attention of the whole country; I know we enter upon a new field. Under the blessing of God, it has so happened heretofore in the United States that we have never had a President whom it was necessary for us to impeach and to try. But, sir, I am not apprehensive, as some gentlemen have been, that it will convulse the people of this country at all. They see the authority and they see the reason for the exercise of that authority. Why, sir, I take occasion to say that I have been among those who have hesitated long before resorting to this measure—not, indeed, because I did not perceive that there was strong reason for its exercise heretofore, but because I thought it better, as I know many other persons did, that we should bear much and suffer very much rather than resort to this extreme measure. I had constantly hoped that we had got to the end of the usurpations and the defiances which have been hurled at Congress from time to time by the President of the United States; but at last I am convinced, as I believe all at least upon this side are, that there is to be no end of this course of conduct. I am glad, too, that we have delayed thus long. I was not willing, and should not be now, that this measure should be undertaken upon any doubtful case. I desired that we should have a complete and perfectly clear case upon which to present the President of the United States for trial, so that there should be no honest man in the United States that could look upon this case and not say that there was abundant reason for what the House of Representatives was doing.

Why, sir, the gentleman from Pennsylvania, [Mr. BOYER,] only a little while ago, told us

that this was one of many persistent assaults made by Congress upon a coördinate branch of the Government. So far is this from being true that Congress has borne everything from the President of the United States. Need I turn the attention of gentlemen back to the 22d of February, two years ago, and call their attention to what was then said by President Johnson? Need I remind them of what happened upon that long tour, which was familiarly called "swinging-round the circle," during which the mouth of the President was constantly vomiting forth the foulest abuse against the Representatives of the people of the United States. "An assault upon a coördinate branch!" Why, sir, I have heard that phrase here so often that I begin to ask myself what it means. The Executive a coördinate branch of the Government! Does it mean that he is the equal of the Congress and has a right to defy it?

Do gentlemen mean to tell us that he is entirely independent of the legislative will—that the representatives of the people have no power over him? Do they mean to say that we are to sit like dumb dogs whenever he undertakes to overthrow the laws? Why, sir, the sovereignty of this country for the time being is in the Congress of the United States and nowhere else. It has been rested here expressly by the Constitution of the United States. It can rest here securely, and it could rest securely nowhere else. The President of the United States is the servant of the people of the United States; and because he is the servant of the people of the United States he is the servant of the Congress of the United States for the time being, which represents the people, and he must obey the law. And, in order that there should be no mistake about this result following, the power to impeach him has been given to the Representatives of the people, and the power to try and remove him has been given to the Senate of the United States.

Now, sir, I shall not undertake here, in the brief time allotted to me, to discuss at any length the questions of law which may be supposed to be involved; for I submit to the House that there is no question of law involved at all. The President has openly and clearly violated the law. He has thrown down the gauntlet to the Congress, and says to us as plainly as words can speak it: "Try this issue now betwixt me and you; either you go to the wall or I do." And there is nothing left to Congress but to take it up. Can there be any difference of opinion as to this? Most assuredly I can see none.

Where do gentlemen rest the authority of the President to make this removal of the Secretary of War in the face of the Senate while that body is in session—not only in the face of the Senate, sir, while in session, but to make the removal over and against the express interdict of the Senate of the United States? The President, when he suspended Mr. Stanton under the tenure-of-office act and submitted the reasons for that suspension to the Senate of the United States, took his own ground; and, I submit, he must stand upon it. It is too late for him to say he appeals to the Constitution of the United States. It is too late, for he has submitted this whole question—he has given his reasons to the Senate of the United States, and the Senate have passed upon it, declaring his reasons insufficient and restoring the Secretary of War. What then? He has foreclosed the question, and he cannot be allowed to come in now and say the act is unconstitutional and he overrules it. I say he has chosen his ground and he must stand there; and, even if we were to go to that extent, it is not for him to decide whether the law is constitutional or unconstitutional.

Sir, he has no greater authority in this regard than the meanest lieutenant in the Army of the United States or any officer of the Government in the land. If any one of them may decide our laws to be unconstitutional and violate them, then, sir, there is an end to all Government, and an end to it at once. This cannot be allowed, cannot be admitted. Even gentlemen on the other side who undertake to justify the action of the President have been unable to take this ground; and I do not wonder at all they fail to do it. The palpable absurdity of it is too great for them.

Then upon what ground is it to be placed? Where is the authority? We have been referred to certain statutes, but they do not authorize it. We have been referred to the Constitution. Under what clause of the Constitution is it to be found? Most assuredly the Constitution authorizes only the power of appointment by and with the advice and consent of the Senate. If it were a new question I would say most unquestionably it precludes entirely the power of removal except by and with the advice and consent of the Senate.

It is an absurdity, and always was, to say the President cannot appoint but by and with the advice and consent of the Senate, and yet can remove in defiance of the Senate. But that question has been settled by the law of 1867. It has placed it upon the ground where the Constitution placed it before. It reverses previous acts of the Government by which it was held there was the power of removal included within the power of appointment, and that the latter power was not subject to the control of the Senate; but I do not think that even under this interpretation it has ever been exercised or claimed to be exercised when the Senate was in session. So far I have heard no case cited, so far I have heard no argument made, that while the Senate was in session the power of removal remains in the President alone. Gentlemen will not attempt to sustain such a doctrine.

It is immaterial, therefore, what construction may be given to the different statutes referred to, for the power exists nowhere, in the opinions of any men, on the part of the President, to remove in the presence of the Senate and against its prohibition. The Secretary of War in this case is occupying his office in accordance with the law. The President, against the law, attempts to thrust him out. Has he done this maliciously and knowingly? When we come to examine this question we must look back to what occurred before this event. We find from the beginning the President has been unwilling to yield when fairly beaten by the Representatives of the people. He has been determined to maintain himself in opposition to them. Let me refer to a document from General Grant which contains good advice to the President. It was given as long ago as in August last, in the celebrated private letter:

"In conclusion, allow me to say, as a friend desiring peace and quiet, the welfare of the whole country, North and South, that it is, in my opinion, more than the loyal people of the country—I mean those who supported the Government during the great rebellion—will quietly submit to; to see the very man of all others who they have expressed confidence in removed. I would not have taken the liberty of addressing the Executive of the United States thus but for the conversation on the subject alluded to in this letter, and from a sense of duty, and from feeling that I am right in this matter."

I think this was good advice at the time, and it would have been well if the President had heeded it. We have all been desirous of peace. When this question of impeachment has arisen heretofore we were told constantly that we must preserve the peace of the country, and many were disposed to submit to much for the sake of the preservation of peace. Now, then, in the name of that same demand for peace which we have heard heretofore, I call upon the Representatives of the people of the United States to remove this man from the place which he occupies, whereby he disturbs the public quiet and renders peace impossible. We are compelled to this, indeed. It is a sad day for the country. We have fallen into the hands of a man occupying this high position, which enables him to be the disturber instead of the preserver of the public peace. We have had war enough, we have had strife enough. It goes on in the ten unreconstructed States to-day. I have seen this morning a letter from Alabama which says that the rebels, expecting to defeat the constitution there, are becoming again "as murderous as devils," and begs that something may be done for the protection of Union men. Such is the appeal that comes to us from all parts of the southern country. It is owing to the conduct of the President that this contest still goes on. I shall vote for the pending resolution and invoke the judgment of the high court of impeachment upon this presidential malefactor.

Mr. DRIGGS. Mr. Speaker, in view of the caution that was administered to us the other day by the gentleman from New York, [Mr. BROOKS,] I trust that, though the whole Democratic party or any other party in the country should clamor at this door to-day, threatening vengeance to every man who supports this measure, there is not a man in this House who will not vote to-day on this great question without regard to any such threat.

Mr. Speaker, I had hoped with others a short time since, when the vote was taken on the question of impeachment, that that would be the last necessity that would arise for meeting that question. But, sir, I am convinced now that we have but one course left, and that is to remove this great disturber of the public peace. Then, indeed, we shall have peace, and not before. Has it come to this, that one man in the United States can set at defiance the will of the people and destroy the peace and happiness of the country? I trust not.

Yes, Mr. Speaker, I had hoped that the President would offer no further opposition to the laws of Congress; that he would cease his efforts to embarrass the faithful execution of the will of the people expressed through their Representatives; but in this hope I have been sadly disappointed. When the gentleman from New York referred to told us the other day what the Democratic party would do if we carried our intentions into effect and impeached the President I wanted to tell him then, and I do tell him now, that if every member of the great Democratic party and those of every other party in the land were here to-day, knocking at these doors and seeking vengeance against those who dare to vote for impeachment and for maintaining the majesty of the laws, I do not believe one man upon this floor would be deterred from voting according to his convictions by such threats and efforts to intimidate. I know, and can assure the gentleman, that at least there is one who would not be.

Mr. Speaker, I have asked the question whether there is one man in this country who dares set at defiance the will of the people, the Congress of the United States, and the laws of the land made in pursuance of the Constitution thereof? If it has come to this is it not time that we decide, and decide quickly, whether this country is to be ruled by the will of a dictator above the law or by the people, through their Representatives, under the law? Yes, sir, it is time the question was settled, and I, for one, am ready to settle it to-day by declaring by my vote that Andrew Johnson be impeached of high crimes and misdemeanors; and to the end that we may have peace in the land I trust that he may speedily be removed from office.

Mr. Speaker, it is of no use to argue the question. We have before us the law, and upon the Speaker's desk the President's admission that he has violated the law. The crowded condition of these galleries shows that the people understand the question; and every intelligent man and woman in my district and throughout the land who have had the simple proposition flashed to them over the wires understand what we are doing, and expect us to do our duty, and that duty, sir, I expect, will be performed without regard to any consequences that may follow.

Mr. Speaker, as I have been permitted by the courtesy of the House to print the few concluding remarks, I will not encroach further

upon the time of the gentleman who has so kindly yielded me the privilege of the floor.

Messrs. LOUGHRIDGE and MUNGEN made some remarks, for which see Appendix.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I shall vote for the resolution before the House. Acting on this subject hitherto with a majority of the Republican members of this body, I have not favored the presentation of articles of impeachment against the President of the United States; not because I did not believe him morally guilty of impeachable offenses, not because I did not condemn and execrate his administration of the Government, but because I felt that in the case as heretofore presented there might be a doubt of his conviction by the august tribunal before which he would have to be arraigned. Rather than launch out on a doubtful experiment and venture on the exercise of powers never before appealed to, and thus open up a great popular excitement, injurious to the material interests of the country, without a certainty of conviction, I was disposed not to push the matter of impeachment, hoping that the President, warned of our power but indebted to our forbearance, would so conduct himself in his great office as to spare us the necessity of resorting to the extreme remedy provided by the Constitution.

But, sir, whatever hopes and expectations may have existed in that regard, they have signally failed of being realized. Every act of forbearance exercised toward him has only been a fresh invitation to further and more flagrant aggressions upon the rights of the people, until at last he has flung himself against the very bulwarks of the Constitution, defying the laws and overriding a coördinate branch of the Government. In my judgment, Mr. Speaker, the time has arrived when the Representatives of the people, acting under the solemn obligations of their oaths to support and uphold the Constitution, can no longer delay the vindication of that Constitution in the manner therein provided. I trust we shall meet the grave responsibilities thrust upon us in a manner becoming the Representatives of a free people. To me the pathway of duty is now plain. For one I scorn the threats and denunciations we have heard here. For eight years I listened to just such threats made by men with treason in their hearts and on their lips; men who afterward made war upon the Government and imbrued their hands in the blood of their fellow-countrymen. You and I, Mr. Speaker, go back in our recollection to the time when these spacious galleries were filled with ruffians and assassins belching forth threats of violence, resistance, and blood; when every treasonable sentiment was applauded to the echo and every sentiment of loyalty and patriotism was received with hisses and scorn. I fear no appeal to the people. I court it. Gentlemen have not read history if they are not advised that in all contests between an Executive and the Commons the people's representatives have triumphed in the end. That great party which, by its patriotism, its energy, its heroism, its courage, its fidelity, carried the country in triumph and glory through so many years of war and carnage and blood will not now fail in its mission of completing the work in hand. That party which overcome the undivided and compacted strength of all the rebels in arms, sustained by the moral support and sympathy of two fifths of all the voters in the States not in open rebellion, will not now be overcome by a band of mercenary cohorts and camp followers of a corrupt and treasonable administration.

In my judgment the safety of the country, the cause of good government, the preservation of constitutional right and of public liberty depend upon the prompt impeachment of the President of the United States. Let him be impeached for his last great crime that he has committed against the Constitution and laws of his country. Let him be promptly tried, and, if found guilty, let him be removed from the office he has disgraced. His longer retention in office is a perpetual and enduring menace against the peace and happiness and prosperity of the nation. His whole official career as President has been marked by a wicked disregard of all the obligations of public duty and by a degree of perfidy and treachery and turpitude unheard of in the history of the rulers of a free people; his personal and official character has made him the opprobrium of both hemispheres, and brought ineffable disgrace on the American name. As mendacious as he is malignant, he has used his high position in attempting to break down and destroy the noblest, the bravest, the best in the land. His administration has been a constant and prolonged warfare against all the material interests of the country; it has prostrated business; it has oppressed labor; it has destroyed values; it has impaired the public credit and sapped the public morals. Surrounded by red-handed rebels, advised and counseled by the worst men that ever crawled, like filthy reptiles, at the footstool of power, the President has used all the vast authority of the Government to prevent a reunion of the States, the restoration of harmony and peace and happiness to the country. He has brought the loyal men in the unreconstructed States to a condition from the contemplation of which all men must recoil with horror. Sustained and supported by the Administration, murder, rapine, incendiarism, robbery, and all the crimes stalk through that whole land with a bloody step; and every day he remains in office adds to the long list of victims of rebel vengeance, cruelty, and hate.

Under such a President nearly every department of the Government has become demoralized and corrupt to an extent which can find no parallel in the history of any country in any age. The Attorney General, not satisfied with being the medium through which so many counterfeiters, mail robbers, and public plunderers have been pardoned and turned loose upon the country, has, with ostentatious and boastful audacity, proclaimed in the very presence of the highest judicial tribunal of the land that he will not vindicate the laws of the country passed by a vote of two thirds of both branches of Congress. Look, sir, at the Navy Department attempting, in the first instance, to impose upon this House fraudulent estimates of nearly twenty-five million dollars in order to render a Republican Congress amenable to the charge of extravagance; look at its imbecile management, its profligacy, its extravagance, its jobberies, and its corruptions and persecutions, under color of law, of some of our bravest and most distinguished naval officers. Look at the administration of the Treasury Department, characterized by the most monstrous and appalling frauds, with countless millions of revenue stolen to go into the pockets of thieves, partisans, and plunderers, or to make up a vast political fund to demoralize and corrupt the people and to secure the election of a Democratic and semi-rebel President. Look at the Interior Department, with its land and railroad jobbing, its profligate Indian expenditures, and its fraudulent and corrupt extensions of patents; and the Post Office Department, arraigned before the House by a committee of the House on charges of corruption; and the State Department, arraigned before the nations of the world for not vindicating the rights of the nation and of the citizens of the nation!

Confronted as we are this day, Mr. Speaker, by this state of things, so threatening to our national existence and so destructive of all that is held dear by all good citizens, can there be any patriotic man of any political organization who does not call upon Congress to sternly do its whole duty and purge this Capitol of the crimes which defile the nation?

Mr. WOODWARD (at one minute before twelve o'clock m.) moved that the House adjourn, so that the session of Monday might commence.

The motion was agreed to; and thereupon (at eleven o'clock and fifty-nine minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CLARKE, of Ohio: The memorial of Colonel A. W. Doan and others, officers in the war for suppressing the rebellion, remonstrating against the passage of any law depriving them of compensation now authorized by law.

By Mr. CLARKE, of Kansas: A concurrent resolution of the Legislature of the State of Kansas, instructing the Senators and requesting the Representatives in Congress from the State of Kansas to use their influence to procure the enactment of a law by which officers and soldiers wounded or disabled in the late war shall be entitled to pension from date of discharge or resignation, the same as if they had made application at that time.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress for aid in behalf of the extension of the Missouri river, Fort Scott, and Gulf railroad.

By Mr. HALSEY: The petition of James R. Thompson & Co. and Walter Gregory & Co., of Jersey City, New Jersey, asking Congress to abolish the warehousing system.

By Mr. LAFLIN: The petition of Cornelius E. Stephens and others, citizens of Lewis county, New York, in favor of diminishing taxation, public expenditures, &c.

By Mr. MOORE: The petition of mayor, recorder, city council, and citizens of Atlantic City, New Jersey, setting forth that the harbor at Atlantic City and Absecom Inlet, New Jersey, is endangered by encroachment by the sea, and praying action on the subject.

By Mr. MYERS: A joint resolution of the Pennsylvania Legislature, urging such change in the tariff laws as will promote and encourage American art and American artists.

Also, a joint resolution of the Pennsylvania Legislature, requesting a demand from the British Government of the release of American citizens imprisoned on mere suspicion of political offenses, and urging a fixed policy for the protection of Americans abroad.

By Mr. PHELPS: The claim of Frederick Brossene, of Maryland, for timber, &c.

By Mr. TWICHELL: Memorials of A. B. Sargent and others; of W. H. Cary & Son and others; of D. Thoyer, jr., and others, New England manufacturers, for revision of revenue laws, &c.

By Mr. WILSON, of Ohio: The petition of H. A. Towne and twenty-one others, citizens of Portsmouth, Ohio, for the abolition of the warehousing system, and the repeal of the law law establishing bonded warehouses.

IN SENATE.

MONDAY, *February* 24, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 306) for the protection, in certain cases, of persons making disclosure as parties or testifying as witnesses.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869;

A bill (H. R. No. 783) for the relief of Samuel Pierce;

A bill (H. R. No. 786) declaring St. George and Boothbay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine; and

A bill (H. R. No. 787) to prevent and punish the unlawful use of public money and property.

PETITIONS AND MEMORIALS.

Mr. MORRILL, of Maine, presented a memorial of late officers of the Army, protesting against the passage of the bill prohibiting the payment of commutation of pay for officers' servants; which was referred to the Committee on Military Affairs and the Militia.

Mr. FERRY presented a memorial of late officers of the Army, protesting against the passage of the bill prohibiting the payment of commutation of pay of officers' servants; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented a memorial of Mark Miller, of Texas, praying the removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of Benjamin Bloomfield, of Louisiana, praying the removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. STEWART presented resolutions of the Legislature of California, in relation to the establishment of a national school of mines; which were ordered to lie on the table.

Mr. SHERMAN presented a memorial of late officers of the Army, protesting against the passage of the bill prohibiting the payment of commutation for officers' servants; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Ohio, praying the adoption of measures for the reduction of the taxes and a reduction of the expenses of the Government to a strictly peace basis; which was referred to the Committee on Finance.

He also presented a memorial of Israel Hall, Egbert Judson, and others, owners of the Island Yerba Buena, in the bay of San Francisco, California, protesting against the passage of the bill which proposes to transfer to the Pacific Railroad Company more than nine tenths of the rights and franchises of that island; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. CATTELL presented a memorial of citizens of New Jersey, praying a repeal of the law establishing bonded warehouses; which was referred to the Committee on Commerce.

Mr. JOHNSON presented resolutions of the Legislature of Maryland, in relation to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. RAMSEY presented a memorial of the Council and House of Representatives of the Territory of Colorado, in favor of making the rates of postage uniform throughout the country; which was referred to the Committee on Post Offices and Post Roads.

Mr. SAULSBURY presented a petition of Burton Wapples, a soldier of the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. YATES presented a petition of J. Newton Crittenden, of Chicago, Illinois, praying Congress to lighten the burdens of taxation, and to remedy the tendency toward a moneyed aristocracy; which was referred to the Committee on Finance.

Mr. COLE presented a resolution of the Legislature of California, in favor of the establishment of a daily mail from Oroville, in the county of Butte, via Humbug Valley and Taylorsville, to Susanville, in the county of Lassen, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of California, in favor of the establishment of a daily mail from the town of Oroville, in the county of Butte, via La Porte and Gibsonville, to Quincy, in the county of Plumas, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions of the Legislature of California, in relation to the establishment of a national school of mines; which were referred to the Committee on Mines and Mining.

Mr. ROSS presented resolutions of the Legislature of Kansas, in favor of granting aid to the Atchison, Hayes City, and Santa Fé Railroad Company; which were referred to the Committee on the Pacific Railroad.

He also presented resolutions of the Legislature of Kansas, in favor of granting aid to the St. Joseph and Denver railroad; which were referred to the Committee on the Pacific Railroad.

He also presented resolutions of the Legislature of Kansas, in favor of granting aid to the Missouri river, Fort Scott, and Gulf railroad; which were referred to the Committee on the Pacific Railroad.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for the improvement of the Chippewa river in that State; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a mail route from Neillsville, in the county of Clark, to Graves's Mills, in that county, in the State of Wisconsin; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for the construction of a harbor at the mouth of Menomonee river, in that State; which was referred to the Committee on Commerce.

Mr. TIPTON presented a memorial of the Council and House of Representatives of the Territory of Colorado, in relation to the Las Animas land grant; which was referred to the Committee on Public Lands.

Mr. FOWLER presented a memorial of late officers of the Army, protesting against the passage of the bill prohibiting the payment of commutation for pay of officers' servants; which was referred to the Committee on Military Affairs and the Militia.

He also presented two petitions of late officers in the volunteer service, praying that all officers of volunteers below the rank of brigadier general who were in service on the 3d day of March, 1865, and who were honorably discharged after April 9, 1865, may be allowed three months' pay proper; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I offer a petition of Elijah G. Raiford, a citizen of Georgia, in which he sets forth that he is disqualified under the acts of Congress from taking a part as a citizen, and he asks to be relieved. I ask the reference of this petition to the Committee on the Judiciary.

It was so referred.

Mr. SUMNER. I also offer resolutions, which are in the nature of a petition addressed to Congress, adopted at a public meeting of the Republicans in the counties of Choctaw, Marengo, Sumter, Green, and Hale, all of the State of Alabama, held at Demopolis, Alabama, on the 14th day of February, 1868, in which they set forth that at the late election for the ratification of the constitution of the State of Alabama nearly all of the votes polled were in favor of its ratification, that there were violence and threats, which kept a large number of people away from the polls, and they request and earnestly urge Congress to declare the constitution ratified, and to admit the Senators and Representatives from Alabama to their respective seats without delay. I ask the reference of this paper to the Committee on the Judiciary.

It was so referred.

Mr. POMEROY presented resolutions of the Council and House of Representatives of the Territory of Colorado, in favor of the appointment of commissioners to examine, survey, and set apart to that Territory the land known as the Upper Plateau land; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Council and House of Representatives of the Territory of Colorado, in favor of granting such additional compensation as will secure an early survey of the public lands in the mountain regions of that Territory; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Council and House of Representatives of the Territory of Colorado, in favor of opening the Fort Collins military reservation and subjecting it to the preëmption and homestead laws; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas, in favor of the payment of the expenses incurred by that State on account of the militia called out, by order of Major General Curtis, for the purpose of repelling the rebel raiders of Sterling Price from the States of Kansas and Missouri; which were referred to the Committee on Military Affairs and the Militia.

He also presented a petition of settlers on the Shawnee Indian lands, in Kansas, praying that they may be allowed the right to purchase the land which they occupy when the same shall be offered for sale; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILSON, it was

Ordered, That the memorial and papers of Daniel Jay Browne, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Claims, to whom was referred the memorial of William L. Adams, submitted an advance report thereon; which was ordered to be printed.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 328) to establish certain post roads, reported it with amendments.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 312) granting lands to the State of Kansas to aid in the construction of a railroad and telegraph line from Fort Scott, Kansas, to Santa Fé, New Mexico, reported it with an amendment.

NARRATIVE OF WILKES'S EXPEDITION.

Mr. MORGAN. I am instructed by the Committee on the Library to report a joint resolution directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition.

Mr. SUMNER. Let that be passed.

Mr. MORGAN. I think there will be no objection to it. I ask for its present consideration.

The joint resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition was read a first and second time by its title, and considered as in Committee of the Whole. It directs the Librarian of Congress to deliver to the Secretary of State a set of Dana's Crustacea, being volumes thirteen and fourteen of the narrative of the exploring expedition under Captain Wilkes, and that the Secretary of State deliver them to the Government of Great Britain.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

SPIRITS SENT TO CALIFORNIA.

Mr. COLE submitted the following resolu-

tion; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate with any information in his possession as to the amount of distilled spirits shipped from Atlantic ports of the United States to California during the year 1867; and also what amount of distilled spirits from other States was landed in San Francisco during that year.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 385) in part execution of section four of article four of the Constitution; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. SUMNER. I would like to introduce a bill, and I have given notice of it. I beg leave to introduce a bill to renew the charter of the city of Washington; I gave notice of it the other day.

Leave was granted to introduce a bill (S. No. 386) to renew the charter of the city of Washington; and it was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. SUMNER also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 387) concerning the liability of shipowners, maritime liens, salvage, and the jurisdiction in admiralty; which was read twice by its title.

Mr. SUMNER. I move the reference of the bill to the Committee on Commerce. On some grounds I should move its reference to the Judiciary Committee, but it seems to me, all things considered, it had better first go under the eye of the Committee on Commerce. I therefore move that reference, and that it be printed.

The motion was agreed to.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 388) to remove political disabilities from Perry G. Wall, of Florida; which was read twice by its title, and referred to the Committee on the Judiciary.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read by their titles, and referred as indicated below;

A bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869—to the Committee on Appropriations.

A bill (H. R. No. 783) for the relief of Samuel Pierce—to the Committee on Patents and the Patent Office.

A bill (H. R. No. 786) declaring St. George and Boothbay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine—to the Committee on Commerce.

A bill (H. R. No. 787) to prevent and punish the unlawful use of public money and property—to the Committee on the Judiciary.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating maps necessary to complete the report by General McAlester relative to the survey of Bayou Manchac, made in compliance with a resolution of the Senate of March 11, 1867; which was referred to the Committee on Commerce, and a motion to print it was referred to the Committee on Printing.

CONSTITUTION OF ALABAMA.

The PRESIDENT *pro tempore* presented a letter from E. W. Peck, president of the constitutional convention of Alabama, communicating a copy of the constitution of the State of Alabama, as revised and amended by the convention assembled at Montgomery on the 5th day of November, 1867; which was referred to the Committee on the Judiciary, and ordered to be printed.

PRESENTATION OF BILLS TO PRESIDENT.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill (S. No. 366) regulating the presentation of bills to the President and the return of the same, which was reported by me a few days ago from the Committee on the Judiciary.

The motion was agreed to; and the bill was read a second time, and considered as in the Committee of the Whole. It provides that the ten days mentioned in section seven of article one of the Constitution, within which the President of the United States is required to return to the House in which it originated any bill not approved by him, shall be held and construed to be ten calendar days (Sundays excepted) next after the day of the presentation of any such bill to him; and the adjournment of Congress, which shall prevent the return of any such bill by the President to that House in which it originated, is to be held and construed to be the final adjournment of a session, and not an adjournment of either or both Houses, of Congress, acting by themselves or with the consent of each other, as provided for in the Constitution, to a particular day. And if at any time within those ten days the President shall desire to return a bill to the House in which it originated, or to send a message to such House that he has signed the same, when such House is not sitting, it is to be lawful for him to return such bill or send such message to the office of the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and the Secretary or Clerk is to indorse thereon the day on which the return shall be made or the message received, and make entry of the fact of such return or the receipt of such message in his Journal of the proceedings; and such return or sending of such message is to be deemed and taken to be a return of the bill to the House in which it originated, or a sending of the message to that House, to all intents and purposes. Every bill which, having passed both Houses of Congress and having been presented to the President as provided in the Constitution, shall not have been returned by the President with his objections thereto to that House in which it originated within the time herein defined and declared is to be a law; and it is to be the duty of the President in such case immediately to deliver such bill so having become a law to the Secretary of State, who shall receive and proceed with the same in the same manner as may be provided by law for bills signed by the President, and to certify thereon and in the promulgation thereof that such bill has become a law for the cause stated. The time mentioned in the act is to be computed by excluding the day on which a bill may be presented to the President and including the tenth day (Sundays excepted) thereafter.

Mr. DRAKE. I am not prepared to offer an amendment to this bill, but I desire to make a suggestion in regard to it to the gentleman who reported it which, it seems to me, is entitled to consideration. The second section of the bill leaves the ascertainment of the fact that a bill has become a law by the failure of the President to sign or return it to some person outside of Congress, to wit, to the Secretary of State; and it also leaves it with the President to deliver or not deliver the bill to the Secretary of State, with information that the same has become a law without his signature. In the early part of this session I took occasion to mention to the Senate what seemed to me to be a defect in our laws as to the mode of authenticating a law which had become such by failing to receive the President's signature. I desire to call the attention of the gentleman who presented this bill to the importance of the two Houses of Congress themselves providing for the authentication of an act under those circumstances, and for their authoritative declaration as to when the act goes into effect. Suppose that the President does not choose to deliver a bill that has been in his hands more than ten days to the Secretary of State with the information; suppose he says that the bill has got lost and he cannot do it, how is it to become a law? How is it to be authenticated as a law? I suggest to the honorable Senator who has brought in this bill that the law should provide for the authentication of an act, when it has become a law by reason of the President's not signing it or returning it within the time, by the Presiding Officers of the two Houses of Congress. I am not prepared with an amendment, because I did not expect that this bill would come up this morning; but I submit these remarks to the consideration of the honorable Senator, basing them upon the principle that these two Houses should be the bodies and their officers the officers who should declare that a bill had become a law under those circumstances without the signature of the President.

Mr. EDMUNDS. Mr. President, it did not appear to the committee that there was any practical or theoretical difficulty upon the subject named by my honorable friend from Missouri. There has never been any practical or theoretical difficulty on the subject since the foundation of the Government, when it was provided by law that the Secretary of State should receive bills left in the hands of the President unreturned at the end of ten days and promulgate them. One difficulty, and a very serious difficulty to me, in arranging the matter as my honorable friend proposes, would be this: that there would be the same trouble in getting back the bill from the President to the House of Representatives or the Senate, a much greater trouble, than there would be in the Secretary of State receiving it, because the Constitution clearly implies that the President need not, if he chooses not to do so, return such a bill. Now, then, it will not do to say—at least it is treading upon dangerous ground to say—that the House of Representatives or the Senate may take some copy that they have left and reënroll the bill, and send that to the Secretary of State as the law; because the Constitution declares that the bill which is presented to the President and not returned shall be the law. It is that identical piece of paper and the inscriptions thereon that become, like a bill that is signed, a law; and we all know the danger, after a bill has been enrolled and examined by the Committee on Engrossed Bills and the Committee on Enrolled Bills and is presented—we all know the danger, if you intend under the Constitution to have what that bill says literally the law, as the Constitution says, in taking any other. I think there is no difficulty in practice, no danger that we need so much apprehend as to provide against in advance, that the President will put any bill out of the way; that he will be any more careless with it than he is with any other bill that he signs and returns to the Secretary of State, not to us. The bills that he sends he does not send back to us. So it appears to me, in unison with the practice that has always transpired without evil or difficulty, the safest and really the only constitutional method is to cause that bill which we have passed, certified, and sent to the President to be handed over to the proper depository of all our laws.

These considerations led the committee to put the bill in this form. It was satisfactory, I believe, to all the members of the Judiciary Committee, without respect to party, color, or race, I might add. [Laughter.]

Mr. HENDRICKS. The particular case that it was desirable to provide for by this legislation was the case of the expiration of the ten days after a bill has gone into the hands of the President, during a recess of both Houses of Congress or of the House in which the bill originated. There was no provision of law regulating the management of the business in such a case. I agreed with the committee that it ought to be provided for by law. The effect of this bill is, perhaps, to recognize as a law a bill which passed at the July session, and then again at this session, although the President did not sign it, nor did he return it to

Congress, because of the fact that in both instances the ten days expired when Congress was not in fact in session, although the session continued, there being a recess. It would be a very serious question if that bill had passed—if it is the bill to amend the laws of the District of Columbia so as to allow colored people to hold office—I forget what the title of the bill was—it would be a very serious question but for the fact that that bill passed in both Houses by more than two thirds of a majority, so that, although the President did not have the opportunity to veto the bill, it has become a law by a vote of each House sufficient to make it a law notwithstanding a veto. Practically, therefore, that question is not an important one; but I think it important to fix the law on this subject. Therefore I concurred with the committee, and now shall vote for this bill, thinking that a case of this sort ought to be provided for.

Mr. DOOLITTLE. I understand the committee are unanimous in favor of the bill.

Mr. HENDRICKS. I do not recollect any dissenting voice in committee. I think it was.

Mr. TRUMBULL. I think so; I believe all the committee agreed to it.

Mr. BUCKALEW. If this measure is to validate one of those former bills, it may perhaps be a serious question to know which one is to be the law; whether the one first passed or the second. It may possibly be that they are not identical in terms. I do not know how that fact may be.

Mr. SUMNER. They are.

Mr. BUCKALEW. I think we are to reach a vote in this case in rather a singular manner, to say the least of it. I have not examined this question and know nothing about it except what has been stated by the Senator from Indiana; but the idea that the bill alluded to is to become a law under that clause of the Constitution which authorizes Congress to repass bills after a veto, and considering the reasons of the President, seems to me to be quite unfounded. His reasons are to be sent to us. We are to consider those reasons. We are to vote upon them in giving validity and force to our bill. How all that can be accomplished in this manner I confess I cannot understand.

Now, Mr. President, I have another thought in connection with this subject. The Constitution itself provides for this very case; it provides that when a bill has been sent to the President he shall return it within ten days; otherwise, it shall become a law unless Congress by its adjournment prevents its return. I cannot understand how, by statute, you can change the operation of this provision, meddle with it, or affect it in any way whatever. There stands the fundamental law; there stands the regulation which is made by it. It is impossible for us to extend this period of ten days beyond the intention of the Constitution itself. It is impossible for us to validate a bill after ten days by statute in this manner.

Mr. HENDRICKS. I should like to ask the Senator from Pennsylvania—I have so much respect for his judgment that I desire to know what he thinks on this particular subject—whether the time will continue to run provided the Senate be not in session at the expiration of the ten days? Suppose that we adjourn from Friday until Monday, as is frequently the case, and the ten days expire on Saturday, and the bill originated in this body, is the Saturday not to be counted, under the Constitution? Congress is in session.

Mr. BUCKALEW. That is supposing another case; I am taking the present case. Of course I have not given, perhaps, the same amount of reflection that members of the committee have to it. It seems to me, however, that passing a statute for the purpose of regulating the proceeding under this clause of the Constitution is quite a novel thing. If it be the judgment of Congress that either one of the former bills became laws by the expiration of time, not having been returned by the President, let us pass a resolution such as we do in ordinary cases, directing the bill to be filed with the Department of State. When we pass a bill after it has been returned by the President, and give it constitutional sanction, I believe the practice is to direct that it shall be filed in the Department of State with a certificate that it has received the constitutional vote. Now, if we intend to validate one of those former bills, if we intend to hold that our last bill which went to the President before the recess in December is a law, we should follow the accustomed practice, it seems to me, in such cases; provide that that bill shall be certified in a proper manner by our officers and filed with the Department of State; but for us deliberately to enact a law here to declare when a bill shall become a law and when it shall not, and send it to the President in order to amend the Constitution of the United States, to render it more clear, seems to me a very improper proceeding. Although it may have no pernicious effect in this case, it is a bad precedent.

Mr. DAVIS. I would prefer myself, as a member of the Senate, that this matter should lie over for another day, that Senators may have an opportunity of examining it. I have no desire myself to make any invalid or unimportant objection to the bill; but it seems to me it is a bill of a good deal of importance, and should receive more mature consideration than it is likely to receive this morning. I therefore hope that the honorable Senator from Vermont will allow the bill to pass over until to-morrow.

Mr. WILLIAMS. I wish to ask the Senator who has charge of this bill whether it provides for a case of this kind: suppose the ten days expire during a temporary adjournment of Congress, and the President has prepared a veto message which he desires to send to the House in which the bill originated; what course, under this bill, is then to be taken?

Mr. TRUMBULL. That is provided for.

Mr. WILLIAMS. I did not observe any distinct provision on that subject.

Mr. EDMUNDS. It gives him leave to return the bill, and if he has objections he returns them.

Mr. WILLIAMS. The bill says:

> And if at any time within the aforesaid ten days the President shall desire to return a bill to the House in which it originated, or to send a message to such House that he has signed the same when such House is not sitting, it shall be lawful for him to return such bill or send such message to the office of the Secretary of the Senate or Clerk of the House of Representatives, as the case may be.

Is that intended to include a veto message?

Mr. EDMUNDS. Of course, because the only case in which he can return a bill is returning it with objections.

Mr. WILLIAMS. I simply wished to understand the bill.

Mr. DOOLITTLE. As the honorable Senator from Pennsylvania and the honorable Senator from Kentucky have expressed some doubt about this bill and desire that it should lie over, and as probably there is no great necessity for pressing its consideration to-day, I will ask the honorable Senator from Vermont to allow it to lie over, and I desire to take up for consideration the question which was pending, upon which I expected to address the Senate.

Mr. EDMUNDS. That will be in order at one o'clock.

Mr. DOOLITTLE. I understand that it is not the unfinished business. One day having intervened since it was under consideration without having been taken up by the Senate it is not before the Senate as unfinished business. It is necessary, therefore, to ask the Senate to take it up. If the bill could pass without debate I myself should have no objection to it.

Mr. EDMUNDS. I was in hopes that this bill, which has been very maturely considered, and which does not make anything the law that is not the law now, except the bill itself, if it should pass, could be disposed of this morning. It merely ascertains that these other bills that have passed are laws already by force of the Constitution, and we are only providing for a simpler means, regulating the means by which the President may return such bills, if he wishes to do so, with his objections, or send a message that he has signed them, when we do not happen to be in session. That is the upshot of the whole thing; and I should be very sorry to have the bill go over unless the Senator from Kentucky feels a very deep desire to examine it. There is nothing at all frightful or revolutionary in it.

Mr. DAVIS. I do not know that the honorable Senator from Vermont, in his present mood and habits, is the best judge of what is "revolutionary." I think he is so familiarized with that matter that he has lost some sensibility on that point.

Mr. EDMUNDS. That is true; I have listened to my honorable friend from Kentucky for a considerable time lately. [Laughter.]

Mr. DAVIS. Yes, sir; and the Senator might have listened with profit if he had given me a more attentive ear. I think the honorable Senator is about as good a subject to be talked to as we have in the Senate. [Laughter.]

However, Mr. President, my objection to this bill is not a trifling objection, in my judgment. I assure the Senate that I have no disposition to delay unnecessarily the passage of the bill; but there are some provisions in it which I do not approve. I had considered with the Senator from Pennsylvania that this was a matter regulated by the Constitution, and that probably legislation would not be necessary; but in that conclusion I do not have any confidence. Now, what is an adjournment of Congress, it seems to me, is an idea fixed by the Constitution at the time it was adopted. Whatever idea that term imparted at the time the Constitution was adopted is the meaning and intent of the Constitution. I know that it is inconvenient and a little difficult to decide what is an adjournment and what is not an adjournment; but the principle as established by the Constitution, in my judgment, cannot be changed by legislation. Whatever is the idea, the meaning of the Constitution by the term "adjournment," as it was understood at the time the Constitution was framed, is the principle which is to govern the matter; and Congress by its legislation has no power whatever to change the idea or the sense of that term as it was understood by the framers of the Constitution.

Here is an objection that occurs to me at present to this bill: the Constitution requires that if the President does not approve a bill he shall return it with his objections to the House in which it originated; this bill provides a different mode of disposing of that bill in case Congress has temporarily taken a recess or an adjournment. It dispenses with the requisition of the Constitution that the bill shall be returned to the House, and directs that it be returned to the officer of the House, if the body is not then in session. I do not believe it is competent for Congress to make any such change as that. I believe that the Constitution is mandatory in that respect; that the bill, where the President vetoes a bill, must be returned to the House, and not to the officers of the House. Of course, if he is to return the bill to the House, the House must be in session, because it is not a House unless in session in the sense in which the Constitution requires the bill to be returned to the House by the President with his objections. I may be wrong in these views. They may be crude and incorrect. I only want an opportunity to examine the matter; and I assure the Senator from Vermont I am not disposed to make unnecessary opposition to his measure, and it may be that I shall coincide in the judgment of the committee. All I desire is a little time to examine it. If the Senate do not choose to grant that time I submit.

Mr. HENDRICKS. I should like to ask the learned Senator from Kentucky what would be his construction of the Constitution in this case: where the Senate adjourns over two days, which it may do under the Constitution, and is not in session when the ten days expire after a bill which originated in the Senate has gone

into the hands of the President, what is the President practically to do with the bill? Congress evidently has not adjourned; Congress is in session; but the body in which the bill originated is not in session for that day. The Constitution, as I thought, made no provision for a case like that, and I thought it was proper for Congress, if I may so express it, to execute the Constitution in that regard and give it practical force and meaning.

Mr. DAVIS. I will answer the Senator. I have not formed an opinion upon that point. It is one of very great difficulty with me, and always has been, and I have not yet formed an opinion upon it. But here is a feature of the bill to which I have a decided objection and upon which I have an opinion:

"And if at any time within the aforesaid ten days the President shall desire to return a bill to the House in which it originated, or to send a message to such House that he has signed the same when such House is not sitting, it shall be lawful for him to return such bill or send such message to the office of the Secretary of the Senate or clerk of the House of Representatives, as the case may be, and such Secretary or Clerk shall indorse thereon the day on which such return shall be made or such message received, and make entry of the fact of such return or the receipt of such message in his Journal of the proceedings; and such return or sending of such message, as aforesaid, shall be deemed and taken to be a return of such bill to the House in which it originated, or a sending of such message to such House, to all intents and purposes."

I believe that that is an innovation upon the Constitution. I believe it is not competent for Congress to pass a bill directing that that shall be the mode in which the President shall return a bill with his veto. Here is the provision of the Constitution:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve he shall sign it; but if not he shall return it with his objections to that House in which it shall have originated."

He shall return it "to that House." Now, is the direction of this bill, that a bill vetoed by the President shall be returned to the Secretary of the Senate in his office or to the Clerk of the House, a return of that bill to the House in which it originated according to the demand of the Constitution? In my judgment, it is not. I think it is the duty of the President, in the plain language of the Constitution, to return the bill, not to the Secretary or Clerk of either House, but to the House itself. That is the unambiguous and plain language of the Constitution. Then the question is, what is returning the bill to the House? It is returning it to the Senate or the House of Representatives in session, because when it is returned it is to be at once considered again. The Constitution contemplates that simultaneously with the return of the bill to the House in which it originated the House may take up the matter for consideration. But, sir, I think there cannot be any doubt whatever as to the effect of the language. The language is, that the bill shall be returned to the House in which it originated. I take the position that to return the bill to the Clerk of the House of Representatives, if it originated there, or to the Secretary of the Senate, if it originated in the Senate, when those bodies are not in session, is not a return of the bill to the House in which it originated. I think the matter deserves more consideration.

Mr. DOOLITTLE. If my honorable friend will allow me, as this bill is leading to discussion, I will ask that it be laid over for the purpose of taking up the subject on which I wish to address the Senate, the morning hour having expired.

Mr. HENDRICKS. Before the Senator's motion is put, I wish to make one remark lest I may have been misunderstood in the statement I made at first. I do not wish to be understood as saying that this bill makes valid the bill to which I referred, but that this bill rests upon such a construction of the Constitution as, I think, will probably have that effect.

Mr. EDMUNDS. I think I must ask the Senate to go on with the consideration of this measure. It is a matter of a good deal of practical importance, and this very question has been considered by the Senate in various ways at several times, and I perceive that my friend from Kentucky is very familiar with the subject already. I hope the Senate will go on with it until it is finished.

Mr. DOOLITTLE. I ask the Senate to lay this bill aside and to take up the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, for the purpose of enabling me to address the Senate on that subject.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves to postpone the present and all prior orders for the purpose of taking up the bill mentioned by him.

Mr. SUMNER. Before that motion is put, I should like to have the attention of my friend from Vermont——

Mr. EDMUNDS. Let us have a vote on this motion and vote it down.

Mr. SUMNER. If it is understood that the motion of the Senator from Wisconsin will not be agreed to——

Mr. DOOLITTLE. I make the motion for the purpose of my being allowed to address the Senate on that subject, according to what I supposed was the understanding of the Senate on Saturday.

Mr. SUMNER. I have no objection. I wish merely to make a remark on the pending bill.

The PRESIDENT *pro tempore*. That cannot be done in order, pending the motion to take up the other bill.

Mr. SUMNER. I hope the other bill will not be taken up until this one is put at least in frame for a vote. I think we had better come to a conclusion on the pending bill.

Mr. HENDRICKS. I support this bill; yet I think when two or three Senators say they wish to examine it, and as it is evidently an important one, it ought to lie over until to-morrow. There will be no difficulty in taking it up at that time. I say this as a friend of the bill.

Mr. SUMNER. I wish to know whether, in the opinion of the Senator from Vermont, the bill now before us is applicable to the bill that has already twice passed this Congress, but which has failed down to the present moment to become a law because it has not been returned to the House in which it originated by the President. I wish to know whether this bill covers that case. Reading the section, it seems to me at least doubtful. The section in question is as follows:

SEC. 2. *And be it further enacted*, That every bill which, having passed both Houses of Congress and having been presented to the President as provided in the Constitution, shall not have been returned by the President with his objections thereto to that House in which it originated within the time herein defined and declared, shall be a law; and it shall be the duty of the President in such case immediately to deliver such bill, so having become a law, to the Secretary of State, who shall receive and proceed with the same in the same manner as may be provided by law for bills signed by the President, and to certify thereon, and in the promulgation thereof, that such bill has become a law for the cause aforesaid.

Now, on this section I have to remark—I may be mistaken, but it is for that point that I wish to direct the attention of my friend—it seems to be prospective in its operation; it is not retroactive. It leaves, therefore, the bills that have already passed this Congress in *statu quo*, if I may so say. It does not give them the benefit of this act. I submit to my friend whether it would not be expedient while legislating on the subject to remove all doubt by adding a clause something in these words:

It being understood that this section is applicable to any bill already passed by both Houses of the present Congress and not returned by the President with his objections thereto.

Such an addition as that would remove all ground of doubt. The bill for the further security of equal rights in the District of Columbia would then become one of the acknowledged statutes of the land. Without some such provision I fear that we should have to proceed still further; reënact it again; go through the same process which we have already gone through twice before. I wish to supersede that. I should like to know the view that my friend takes upon this point, and whether, in his opinion, there is any objection to adding to that section the words which I propose, or something equivalent thereto.

The PRESIDENT *pro tempore*. The question is on taking up the bill mentioned by the Senator from Wisconsin.

Mr. EDMUNDS. That being the question I do not know whether the merits of this bill are under debate.

The PRESIDENT *pro tempore*. They are not under debate strictly, the motion being to take up another bill; but the Chair cannot decide what arguments are pertinent on such a motion.

Mr. EDMUNDS. I suppose the proper form would be "to postpone this and all prior orders," and stop there.

The PRESIDENT *pro tempore*. That is the motion.

Mr. EDMUNDS. I will only say, therefore, with the unanimous consent of the Senate, to my friend from Massachusetts, that the committee, all of them, thought that the bill to which he refers is already the law, and that it is the duty of the Secretary of State to receive it and put it on the files, and if he does not he is subject to punishment. I will not enlarge on the reasons now, because it is said to be out of order. I will say now on the pending motion, that of postponement, that the appeal of my friend from Indiana, my brother on the committee, is too strong for me to resist, and I, for one, shall not object to this bill going over in order that Senators who have objections to it may be heard.

The PRESIDENT *pro tempore*. The question is on postponing this bill and all prior orders for the purpose of taking up the bill mentioned.

Mr. TRUMBULL. I will inquire if that is House bill No. 214? What bill is it?

Mr. DOOLITTLE. House bill No. 439 is the one I move to take up, and upon that I desire to reply to Senators who have referred to me in the course of the debate.

Mr. TRUMBULL. Has the Senator any objection to our taking up House bill No. 214 and acting upon it, and then taking up the bill to which he refers?

Mr. DOOLITTLE. I propose to go on now and speak on that bill.

Mr. TRUMBULL. I take it there will not be likely to be any discussion on House bill No. 214. The Senator from Kentucky spoke at great length while that bill was up a day or two ago, but we all know his speech was upon the general subject of reconstruction.

Mr. DOOLITTLE. It will not make a very material difference to me whether bill No. 214 or bill No. 439 is taken up. I shall move the same amendment to bill No. 214.

Mr. TRUMBULL. Is not the Senator willing that we should act on that at this time and dispose of it?

Mr. DOOLITTLE. I propose to speak at this time. I proposed to do so on Saturday. I came prepared to speak on the question this morning, and I can speak on that bill if the Senator prefers that that bill should be before the Senate.

Mr. TRUMBULL. The Senator did not understand me. What I prefer is to take up bill No. 214 and get it out of the way, and then let the Senator from Wisconsin make his speech.

Mr. DOOLITTLE. I will state to my honorable friend that it will be impossible to dispose of that bill without some discussion.

Mr. TRUMBULL. I was not aware that anybody wanted to discuss the features of that bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin.

The motion was agreed to.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and sup-

plementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto.

Mr. DOOLITTLE. Mr. President, all persons must feel the gravity of the present situation, and it is in that feeling that I come to the consideration of the question before the Senate.

It will be remembered that when this bill which has passed the House of Representatives was about to be referred to the Committee on the Judiciary, I moved to instruct that committee to report the following amendment by way of proviso:

Provided, nevertheless, That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely:

1. He shall have served as a soldier in the Federal Army for one year or more.

2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,

3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of $250.

In reference to the propriety of attaching some qualifications to the suffrage of the great mass of freedmen, who, by the acts of Congress, are made to take part in the reorganization of the State governments in the ten States of the South, I might content myself with reading a single extract from a speech of the honorable Senator from Maine, [Mr. FESSENDEN,] when speaking, perhaps, not more for himself than for the Committee on Reconstruction, two years ago. This speech was made in part in reply to the honorable Senator from Massachusetts, [Mr. SUMNER,] and in it the honorable Senator from Maine said:

"The power exists now, at the present time, in al these States to make just such class or caste distinctions as they please. The Constitution does not limit them. The Constitution, in terms, gives us no power; it leaves to the States, as everybody knows, the perfect authority to regulate this matter of suffrage to suit themselves."

That was the view then expressed by him, not simply for himself but for the committee which he represented, that the States themselves, under the Constitution, had complete control over the question of suffrage. He also stated, in answer to the honorable Senator from Massachusetts, his views of the propriety of universal suffrage being extended to the colored people of the South, in the following language:

"I take it no one contends, I think the honorable Senator from Massachusetts himself, who is the great champion of universal suffrage, would hardly contend that now, at this time, the whole mass of the population of the recent slave States is fit to be admitted to the exercise of the right of suffrage. I presume that no man who looks at the question dispassionately and calmly, could contend that the great mass of those who were recently slaves, (undoubtedly there may be exceptions,) and who have been kept in ignorance all their lives, oppressed, more or less forbidden to acquire information, are fit at this day to exercise the right of suffrage, or could be trusted to do it, unless under such good advice as those better able might be prepared to give them."

In addition to that, I hold in my hand a memorial, addressed in very strong and eloquent terms, to the Congress of the United States, signed by a thousand or more of the able men in the State of Alabama.

Mr. POMEROY. The Senator says able men. Does he mean loyal men?

Mr. DOOLITTLE. I say the able men of the State. Some of them were loyal and some of them were rebels, as appears from the statement of the memorial itself. The signatures appear here. It is a memorial which I wish every Senator would read and consider. It is as follows:

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

The white people of Alabama send this their humble petition.

We beseech your honorable bodies to withdraw yourselves from the influence of the passions and contests of the hour, and contemplate for a brief period our miserable condition, and the yet more wretched state which is already prepared for us. Surely it is only such influences that have prevented you from bestowing upon us a single ray of beneficent regard.

According to the last census taken by the Federal Government, the white people of Alabama largely outnumbered the negro or colored population. And we think we arrogate nothing which your honorable bodies will not concede to us, when we say that nearly all of the education, intelligence, and civilization of the State, are found in our race. But poverty prevails throughout the land. We are beset by secret oath-bound political societies. Our character and conduct are systematically misrepresented and maligned to you and in the newspapers of the North. The intelligent and impartial administration of just laws, is obstructed. Industry and enterprise are paralyzed by the fears of the white men and the expectations of the black, that Alabama will soon be delivered over to the rule of the latter; and many of our best people are for these reasons leaving the homes they love, for other and strange lands.

Before the late unhappy war, the white people of the South contributed their whole just proportion of the great and good men, whose acts and characters constituted the chief renown of the Republic. Those of us who endeavored to withdraw the South from its partnership therein, did not do so in order to make war upon the northern States or their institutions, but for the purpose (vain hope!) of peacefully establishing another, not unfriendly, independent confederacy, in which, under almost identical constitutions, we might be more free from discord. And however criminal, in your opinion, we may in this have been—yet neither our sins nor our sufferings have reduced us to uncivilized barbarians.

On the other hand, it is well known to all who have knowledge on the subject, that while the negroes of the South may be more intelligent and of better morals than those of the same race in any other part of the world where they existin equal density—yet they are in the main ignorant generally, wholly unacquainted with the principles of free governments, improvident, disinclined to work, credulous, yet suspicious, untruthful, incapable of self-restraint, and easily impelled by want, or incited by false and specious counsels into folly and crime. Exceptions, of course, there are, and chiefly among those who have been reared as servants in our domestic circles and in our cities. But the general character of our colored population is such as we have described. Whose fault it is that they are so, whether ours, under whose control they have certainly become better than their brethren in their native Africa, or the fault of anybody, it is needless now to inquire. We have to deal with the incontestible fact that in the main they are unlettered and capricious barbarians, turned suddenly loose from the condition of slaves, and eager to avail themselves of freedom to indulge and gratify their desires and passions.

Are these the people in whom should be vested the high governmental functions of enacting and enforcing laws, and establishing institutions to prevent crime, protect property, preserve peace and order in society, and to promote industry, enterprise, and civilization here, and the power and honor of the United States? Without property, without industry, without any regard for reputation, without control over their own caprices and strong passions, and without fear of punishment under laws, by courts, and through juries which are created by, and composed of themselves, and those whom they elect—how can it be otherwise than that they will, to the great injury of themselves as well as of us and our children, bring blight, crime, ruin, and barbarism on this fair land?

Does any one say that your laws do not make them rulers over us? What difference does it make except to increase jealousy and intensify antagonism, that white men are also allowed to vote with the black, when it is so contrived that the black shall have the predominance and dominion? We entreat you to pause and observe how your reconstruction acts are being executed here.

Of the negro population, whose numbers are many thousands less, the registered voters are over eighteen thousand more than those of the white race. And white men who hate us, and others, from sordid motives, coöperating with them, have, by their own procurement or the procurement of others, and not by the intelligent choice of the negro voters, been elected as their delegates for the purpose, and have framed and now presented for ratification to those registered voters a constitution of government, all of whose best clauses are contained in our present constitution and in every other instrument of the kind. But these are made delusive and useless by the diabolical ingenuity of other provisions made to disfranchise us even beyond the enactments of Congress, and to insure over us and our children and all who shall come among us the ascendancy of the negro race. And these same designing and malignant enemies stand prepared, so soon as that constitution shall be ratified, to organize, arm, and invest with power, under the forms of law, a militia, to be composed chiefly of those same negro voters, in order to perpetuate their lordship over us by the aid of bullets and bayonets. We cannot believe that the majorities of your honorable bodies intended by your enactments to effect such a reconstruction as this.

Will you, nearly three years after the war has ended—when the passions it kindled should have died out in the magnanimity which great success ought to inspire—suffer a whole State, full of your kindred, civilized, white inhabitants, not only those who had opposed the Government, but women and children and loyal men who had adhered to it, to be thus delivered over to the horrid rule of barbarian negroes? Do not compel the honorable officers and brave men of the armies of the Republic to hold us down while such fetters are forged in our view and yours and then ignominiously fastened upon us. We are compatriots of Washington and Henry and Jefferson and Madison and Marshall and the Pinckneys and Marion and Jackson and Clay and Taylor. Are there no names among these potent enough to arouse any respect for us in your legislative Halls?

It is said—and by frequent repetition you are made to believe it true—that the negroes and self-styled loyalists cannot have justice done them and are unsafe among us, and that we are still in a state of rebellion. The charges are false. Ever since the war our courts and upright judges in them have administered justice as impartially as anywhere else in the Republic; and toward the negro—who aided the South as cheerfully while he was in the confederate lines as he afterward aided the northern armies when and where they had power—we have been, both from inclination and interest, humane and kind. The slanderers, who say otherwise, are of those who are seeking to enslave us by your aid. They arrogate to themselves the majesty of the Government of the United States, and call our opposition to them in their nefarious endeavors to subject us to a new and unheard of despotism disloyalty to the United States.

When our people surrendered their arms they did so absolutely and without any purpose of ever again employing them against the Government. Upon its requirement we also emancipated our slaves, and thus reduced ourselves from wealth to poverty. Not only this, but in every negro we set free we placed over us and our families a guard for the Government upon the fidelity of our allegiance. This, it was supposed, would be the extreme demand of the conquerors. Yet, although by reason of our impoverishment and the terms of the instruments creating the war debts of the South, it became impossible that they should ever be paid, and therefore the demand that we should repudiate them was useless, we thought, for any other purpose than that of humiliating us, that demand was made. And we submitted, not without anguish, to the enforced humiliation of expressly repudiating these debts. Standing thus, stripped of arms, stripped of property, stripped even of credit and honor, and with negroes at our doors to strike us down whenever your officers shall command them to do so, who can believe that the people of the South contemplate anything else than submission to the United States? What higher evidence besides this could be given of the universal good faith and entireness and frankness of our surrender than the fact that, notwithstanding the great provocations of intruding political adventurers, not a single guerrilla band has existed and been kept up against your authority since the abdication of the confederate authorities under whose orders the war was waged?

Continue over us, if you will do so, your own rule by the sword. Send down among us honorable and upright men of your own people, of the race to which you and we belong; and, ungracious, contrary to wise policy and the institutions of the country, and tyrannous as it will be, no hand will be raised among us to resist by force their authority. But do not, we implore you, abdicate your rule over us by transferring us to the blighting, brutalizing, and unnatural dominion of an alien and inferior race; a race which has never exhibited sufficient administrative ability for the good government of even the tribes into which it is broken up in its native seats, and which in all ages has itself furnished slaves for all the other races of the earth.

January, 1868.

Mr. President, the question which has forced itself upon me again and again, as I have listened to this long debate, is:

Are we at peace? or,

Are we still at war?

It is almost three years since the last armed soldier of the rebellion surrendered, when war in fact ceased; and on the 20th day of August, 1866, the President, by proclamation, declared peace restored?

Does some one say he assumed to do that without authority of Congress, and therefore it is not binding upon Congress?

To close all controversy on this point, my honorable friend from Connecticut [Mr. DIXON] read a section from a law of Congress of March 2, 1867, in which that proclamation is recognized, and its validity sanctioned by Congress itself. It is section two of an act entitled "An act to provide for a temporary increase of the pay of officers in the Army of the United States, and for other purposes," and is in these words:

"That section one of the act entitled 'An act to increase the pay of soldiers in the United States Army, and for other purposes,' approved June 20, 1864, be, and the same is hereby, continued in full force and effect for three years from and after the close of the rebellion, as announced by the President of the United States by proclamation bearing date the 20th of August, 1866."

Sir, we have peace in fact, and peace proclaimed in due form of law.

Peace—blessed peace has come, God grant she has come to stay!

Mr. President, when this measure, in a time of profound peace, as if to combine all that preceded it into one act of concentrated despotism; to sweep away at one blow all civil law, and civil government even, from the Potomac to the Rio Grande, and to put it beyond the power of the Executive, and beyond the power of the Supreme Court to recognize the existence

of either in ten States of this Union, and among eight million people; when that measure came from the House and asked the approval of the Senate, I know not how others felt, but I could feel the very foundations of republican government giving way under my feet—the columns, reared to constitutional liberty, crumbling around me.

Sir, not in anger, but in sorrow, I appealed to the Senate to arrest it and to modify its policy. My duty as a Senator, as a citizen, and as a friend constrained me to do so. What gave deeper earnestness to that appeal was the fact that I feared the majority were so intent upon securing a party ascendency as to be unable or unwilling to see that this measure, and the kindred measures now pending, tend to produce, and are, of themselves, a revolution in the Government.

Under the influence of the siren song of party necessity the majority seemed to sleep while Rome was on fire; to be drugged with the same fatal poison which has destroyed all the republics of the world, and prepared the way for Cæsarism—for the *imperator*.

That was the simple Roman word for general. When Julius Cæsar bore that title it meant no more, no less, than general. But now it is the title aspired to by all the absolute monarchs of the earth, for *imperator* is emperor now.

Sir, this bill on your table, in addition to laws already in force, clothes our General with all the powers of Cæsar, in a country larger than ancient Gaul, Britain, and Germany.

The majority, unconscious or unwilling to be awakened to the fact, seemed to press on into the very jaws of a revolution which threatens to ingulf all worth having in republican institutions. They are sleeping upon the sides of Vesuvius, and are not awakened by the first jets of its eruption.

Sir, by this bill all power over the Army, and over the execution of the laws in nearly one third of the States, and over eight million people, is taken away from the President in open, palpable violation of the Constitution. The Constitution vests all executive power in the President. It requires him to take an oath to see that the laws are faithfully executed. In express words, also, it makes him Commander-in-Chief of the Army. This bill makes it a crime in him to perform the duties of either.

All power, also, is to be taken away from the Supreme Court, to take any appeal or to recognize the existence of any civil government, in those States.

Not only the President but the Supreme Court is to be manacled, and made to wear the ball and chain.

The lives, liberty, and property of eight million people are to be placed under the absolute control of a military dictator.

And all that usurpation and all that despotism is—for what? For the purpose of forcing universal negro suffrage upon ten States and six million of our own race and people against their will, in order, as some of the bolder Radical leaders avow, to secure through negro votes the electoral votes of those States for the Radical candidate for the Presidency; and that candidate, as many think, is to be the very General into whose hands this despotic power is to be placed enabling him to secure for himself, if he will, seventy electoral votes.

Pass the measure and General Grant may well say "Save me from my friends." It is hardly possible to believe that able General will consent to take this power and at the same time be a candidate for President. I can hardly believe his sense of propriety will permit that. Can he take absolute military control over seventy electoral votes, and be himself a candidate for those very votes? Pass this bill and it seems to me he must resign as General, or renounce as candidate for President. Could Chief Justice Chase be a candidate for President if a case were pending in the Supreme Court to determine the validity of seventy electoral votes without first resigning his office as Chief Justice? If he could, or would, we have fallen upon evil times indeed!

Mr. President, when this measure came from the House, and was about to be referred, I offered an amendment of instructions to the committee according to the rules of the Senate, and earnestly appealed to the majority if they would not arrest, at least to so far modify their policy as to leave the government of those States in the hands of our own civilized race.

And how was that appeal received?

First of all, the Senators from Ohio [Mr. SHERMAN] and from New York [Mr. CONKLING] were unwilling to extend to me the usual courtesies of this body; the former saying I had violated the rules of the Senate—a mistake in point of fact—and the latter, that my speech was offensive to the majority, which perhaps was true, if offense there be in strong and determined, though courteous and parliamentary opposition.

To these gentlemen I have no reply, except when they address the Senate upon any grave question upon which they as Senators shall deem it their duty to speak, I shall not deny them the usual courtesy of this body, however much they may differ from me or oppose the measures I advocate.

The Senator from Illinois [Mr. TRUMBULL] fell into a strain of violent denunciation, charging me with effrontery for saying these measures of Congress are unconstitutional, when that Senater must know that Congress is unwilling to allow their constitutionality to be passed upon by the Supreme Court until after the chain now forging for that court shall be placed upon it; until after Congress shall subjugate the very tribunal created by the Constitution to negative the usurpations of Congress; and to save from those usurpations the other departments of the Government, the rights of the States and the liberties of the people, which mainly depend upon them; in short, to save us from the danger of all others most feared by our ancestors, namely: the centralization of power in Congress. I may refer to this subject again before I close.

The Senator from Massachusetts [Mr. WILSON] denounces my speech as "unpatriotic, inhuman, and wicked" as anything which ever fell from the "dominating Davis," the "blustering Toombs," the "pompous Mason" the "unscrupulous Slidell," the "insincere Benjamin," the "plausible Breckinridge," and "their compeers in crime."

I confess I was not a little surprised at the language of that Senator, representing as he does the highly civilized State of Massachusetts. Such epithets admit of no reply worthy of a Senator, or of the Senate. I pass them by.

But, in entering upon a reply to Senators upon the other side, I shall address myself first to the logic; and then; if I have time, may give a passing notice to some of the denunciations, of this debate, which are not, of themselves, beneath the dignity of this body.

The Senator from Indiana, who may, without discourtesy to any other Senator, be said to represent the logic of the other side, opens his speech, one of great ability, in these words:

"The issue here to-day is the same which prevails throughout the country, which will be the issue of this canvass, and perhaps for years to come. To repeat what I have had occasion to say elsewhere, it is between two paramount ideas, each struggling for the supremacy. One is, that the war to suppress the rebellion was right and just on our part; that the rebels forfeited their civil and political rights, and can only be restored to them upon such conditions as the nation may prescribe for its future safety and prosperity. The other idea is, that the rebellion was not sinful, but was right; that those engaged in it forfeited no rights, civil or political, and have a right to take charge of their State governments and be restored to their representation in Congress just as if there had been no rebellion and nothing had occurred."

Sir, I love to meet men who reason, who state their premises and logically draw their conclusions. My honorable friend from Indiana [Mr. MORTON] has maintained the dignity and the courtesy of the Senate; and in his speech has presented, in as logical form as it is capable of being presented, the argument on the other side.

In addressing myself to that it is not my purpose to go over the whole ground in reply, especially where the honorable Senators from Maryland, [Mr. JOHNSON,] Pennsylvania, [Mr. BUCKALEW,] Connecticut, [Mr. DIXON,] and his colleague [Mr. HENDRICKS] have already gone. There is no necessity for me or for any one else to go over the ground where they have trod.

But I propose, for a brief period, to examine this foundation upon which his speech rests; the groundwork upon which he builds his argument. If his premises are found to be false, if his foundation rests upon the sand of error, his column falls of course.

Sir, what is that foundation as stated by himself? What is that paramount issue here which is to be the issue of this canvass, and, it may be, for years to come? What are the two paramount ideas thus struggling with each other for supremacy, one of which is maintained on his side and the other on ours?

He says upon the one side of that issue the ruling idea is that the war to suppress the rebellion was right; upon the other side the paramount idea is that the rebellion itself was right.

These, he says, are the two paramount ideas struggling for supremacy. This, he says, is the issue here, will be the issue of this canvass, and perhaps for years to come.

Sir, which of these two paramount ideas does he maintain, and which does he assign to me? Upon this all-absorbing issue, overriding all others—like Aaron's rod, swallowing all the rest for years to come—upon which side does he stand, and upon which side does he place me?

Upon the question whether the rebellion was right or wrong, and whether its suppression was right or wrong, the honorable Senator may take his own position; but he has no right to thus make up a false issue in order to place me or those acting with me upon the wrong side of that issue. I admit, if the Senator has stated the true issue to be whether the suppression of the rebellion was right or wrong, and if he and those acting with him maintain that it was right, and if I and those who act with me maintain that it was wrong, his side is already victorious, ours already vanquished.

But, Mr. President, there is no such issue here or before the country. With all courtesy he will allow me to say that in thus stating it he has based his speech upon a very grave and material misstatement. He says the ruling idea on his side of that issue is that the war to suppress the rebellion was right. Sir, that is the ruling idea on our side also. I not only admit it to be true, but, with all the power God has given me, I maintain that it is true; the rebellion was wrong; its suppression was right. Therefore, when he says or implies that the ruling idea on our side is that the rebellion was right and its suppression wrong, he states what is not only untrue, but without shadow of foundation. With equal truth he might say if a man assault me without cause, and after a fierce encounter, in which he is beaten and severely punished and surrenders, if I should then refuse to strike him when he is down and be disposed to make peace upon his pledge of honor for future good behavior, that by so doing I would admit that his attack upon me was right.

Sir, I will not do him the injustice to suppose that he could attribute to me any such idea as that the rebellion was right. He could not have forgotten my language of the day before, in which I deplore as deeply as any other the monstrous folly and crime of that rebellion which brought upon us so much of blood and agony and tears; which draped almost every house in mourning, and left at almost every family table its vacant chair. No, sir; no. The Senator knows the cup many have been compelled to drink was too bitter, the anguish too deep, for that. I felt as much as he could feel the wrong of that rebellion, and not only the right, but the imperious necessity of its suppression. I felt, as I have no doubt he did, that all that we have and all that we are were staked upon the issue of suppressing that rebellion and of maintaining the union of

States under the Constitution. He felt as deeply as I could that if this Union was once overthrown all that we can hope for of constitutional liberty would perish; because if that Union were once broken up into petty States, discordant and belligerent, sure as night follows day anarchy would come first and tyranny afterward. On the other hand, if the Constitution be overthrown by the centralization of power here; if the rights of the States which that Constitution designed to guard and defend shall be trampled down and give place to the doctrines of absolutism in Congress, whether claimed under the clauses of the Constitution or found outside the Constitution, it is equally certain as effect follows cause that republicanism will give place to imperialism; the days of the Republic will soon be numbered and the days of the empire begin.

Sir, at no period in the history of man, upon no other continent upon the globe, has constitutional liberty had so fair a trial or so good a chance for success as with us. The Senator from Indiana knows and feels this as well as I. He knows, if either by secession leading to anarchy and tyranny, or by centralization leading to imperialism, we now fail, the noblest aspiration of man from the beginning of time—the aspiration for constitutional liberty; for liberty guarded by law; for liberty of the citizen secured against the oppression of overbearing majorities as well as against the tyranny of a single despot—will prove after all to have been a delusion—a fitful, bloody, and hideous dream; and that dream is over!

Sir, while I willingly concede to that honorable Senator all the devotion any man can have for the maintenance of the Union, and I hope, also, for the maintenance of the rights of the States under the Constitution, by which the liberties of the individual are mainly secured and defended, I cannot allow him to attribute to me for one instant the idea which he now says is the ruling idea upon our side in the struggle, namely, that the rebellion was right or that its suppression was wrong.

It is not only untrue as to me personally; it is equally untrue as to every other Senator who has spoken on this side of the Chamber. Does the honorable Senator attribute that idea to his colleague, [Mr. HENDRICKS;] to the Senator from Maryland, [Mr. JOHNSON;] to the Senator from Pennsylvania, [Mr. BUCKALEW;] to the Senator from Connecticut, [Mr. DIXON;] to the Senator from Kentucky, [Mr. DAVIS?] I feel sure he cannot do so.

If we go among the masses of the people in all the States represented here how does it stand? I call attention to the following table:

States.	1866.		1867.	
	Democrat and Conservative.	Radical.	Democrat and Conservative.	Radical.
California	26,245	33,221	49,005	42,447
Connecticut	43,423	43,974	47,575	46,585
Iowa	56,453	90,926	58,880	90,798
Kansas	8,151	16,370	19,421	10,483
Kentucky	93,979	58,055	103,392	33,939
Maine	41,947	69,637	45,644	57,462
Maryland	40,204	27,351	63,739	22,110
Massachusetts	26,671	91,980	79,360	98,306
Michigan	67,708	96,746	55,805	80,819
Minnesota	15,755	25,983	29,543	31,837
New Hampshire	30,491	35,137	32,063	35,809
New Jersey	64,756	67,525	67,458	51,114
New York	352,526	366,315	378,029	321,999
Ohio	213,606	256,302	240,022	223,605
Pennsylvania	280,096	307,274	267,751	268,324
Rhode Island	2,816	8,197	3,340	7,554
Vermont	11,202	34,117	11,510	31,094
West Virginia	14,093	20,573	13,393	14,674
Wisconsin	50,414	79,318	68,873	73,057
Total	1,458,536	1,731,991	1,622,973	1,567,886

By that table it appears that in the great State of New York there were three hundred and seventy three thousand men who voted for the Democratic and Conservative Republican, (or, to use a shorter name, the one applied to the party which supported General Jackson) the Democratic Republican candidates last fall. Among all these, how many could be found who would now say, or who have ever said, the rebellion was right? Not one in a hundred. In the whole sixteen hundred and twenty-three thousand who voted against the Radical Republican policy last fall, not sixteen thousand, if even five thousand, men can be found in all the States represented in Congress, not native-born citizens of slave States, who, even for one hour of their lives, believed the rebellion was right.

That such an idea did once prevail at the South under the radical teachings of Calhoun I do not deny. But with the great mass of that people it has been surrendered, and that surrender was sealed with the blood of half a million of men.

Sir, not for myself alone, but for those who act with me here, I reject as untrue, as logically and historically false, the issue thus stated by the Senator from Indiana, [Mr. MORTON.]

In the name of more than one million six hundred thousand men in the States represented here who sustain the Democratic Republican party, I protest against this false issue thus sought to be forced upon them.

I will go further, and in the name of nine tenths of all the people of all parties in the States not represented, as manifested by all their conventions, by all their public meetings, by all their newspapers, by all their private letters, and by three years of peaceful submission, as well as by their solemn oaths of future allegiance, I affirm that they have surrendered forever all claim of right to secede and all thought of rebellion against the authority of the Constitution and the laws of Congress in pursuance thereof.

The issue thus stated by him is untrue in fact. The foundation upon which he builds his speech is unsound. For we maintain as earnestly as he does or can that the rebellion was wrong and that its suppression was right. There is no such issue in fact. He can make no such issue either here or before the country. His paramount idea that the war to suppress the rebellion was right is our paramount idea also. Here we stand side by side.

But what consequences flow from that idea? That's the real question. There we begin to differ. There is the point of departure. He states his idea of those consequences in these words: "that," by their rebellion, "the rebels forfeited their civil and political rights, and can only be restored to them upon such conditions as the nation may prescribe for its future safety." Here we begin to differ. This statement is partly true and partly false. It speaks of two things: first, of forfeiture of rights; second, of conditions of restoration. As to forfeiture let us first inquire what was forfeited by treason or rebellion? The Constitution declares in what treason shall consist, and that "the Congress shall have power to declare the punishment of treason." It also declares "no bill of attainder or *ex post facto* law shall be passed," and therefore, by the express words of the Constitution as well as by the enlightened conscience of civilized man in all ages, the forfeitures and penalties of an offense must be declared before the offense is committed—before, not afterward.

Pursuant to this power and in performance of its duty Congress did properly declare by law the punishment of treason and rebellion, and the precise forfeitures and all the forfeitures to which the guilty party should be subjected when convicted of that offense. The law of July 17, 1862, provided that every person who should thereafter commit the crime of treason against the United States and should be adjudged guilty thereof should suffer death, and all his slaves, if any, should be declared and made free; or, at the discretion of the court, he should be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, should be declared and made free. And it further provided that if any person should thereafter incite, set on foot, assist or engage in any rebellion against the authority of the United States, and be convicted thereof, he should be imprisoned not more than ten years and fined not exceeding ten thousand dollars, or both, at the discretion of the court, and his slaves should be set free. And it was further provided that for either the offense of treason or rebellion he should also be forever incapable and disqualified to hold any office under the United States.

Here, sir, are the forfeitures, and the only forfeitures, incurred by treason or rebellion. These forfeitures do not attach except upon conviction. By the very language of the law declaring these forfeitures a conviction is made a condition precedent to any forfeiture taking effect.

The Constitution declares that no person not in the land or naval forces, or the militia in actual service in time of war or public danger, shall be held to answer for a capital or otherwise infamous crime unless upon a presentment or indictment of a grand jury, and that he shall be entitled to a fair and public trial by an impartial jury, and, confronting his accusers, shall have compulsory process for witnesses in his favor and the assistance of counsel for his defense.

The indictment, the public trial, the testimony of witnesses, the assistance of counsel, the verdict of the jury, and the judgment of the court are all necessary to convict the accused. Until that judgment is pronounced no forfeiture whatever takes effect upon the accused.

I have spoken thus clearly in order, if possible, to ascertain the precise truth upon this matter of forfeiture. This view leads logically to this result. The forfeiture incurred by the people of the South has been precisely what Congress by law declared it should be before the offense was committed, and Congress has no power, by *ex post facto* laws or bills of attainder, to declare any new or any other forfeiture.

And now, sir, secondly, as to the conditions of restoration.

The same law of Congress, in the thirteenth section, authorized the President, at any time thereafter, by proclamation, to extend to persons who participated in rebellion pardon and amnesty, with such exceptions at such time and on such conditions as he should deem expedient for the public welfare.

By virtue of this express authority of Congress, as well as by his paramount authority under the Constitution, President Lincoln and President Johnson, following his example, restored hundreds of thousands to their civil and political rights, which Congress has no power to take away by bills of attainder or *ex post facto* laws. As to what is meant by those forbidden acts of Congress we are not left to conjecture, for the Supreme Court say, in the case of Cummings *vs.* Missouri, "a bill of attainder is a legislative act, which inflicts punishment without judicial trial. If the punishment be less than death the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties." The court also say, upon the authority of the great commentator upon the common law, that "a disability to hold office" is a punishment.

If there could be any doubt upon that point, whether disability to hold office is to be deemed as a punishment within the meaning of the Constitution, that doubt vanishes instantly as we call to mind the fact that such disability is declared by Congress to be a part of the punishment of treason and rebellion; and therefore after the offense has been committed for Congress by law to impose any such disability is an open, palpable, violation of the Constitution, which forbids *ex post facto* punishments and bills of attainder, including bills of pains and penalties.

And now, sir, as to the effect of those par-

dons granted by the Executive, allow me to adopt as my own the language of Justice Field in pronouncing the opinion of the Supreme Court in the case of Garland, when speaking of the pardoning power of the President:

"The Constitution provides that the President shall have power to grant reprieves and pardons for offenses against the United States except in cases of impeachment.

"The power thus conferred is unlimited, with the exception stated. It extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency, or after conviction and judgment. The power of the President is not subject to legislative control. Congress can neither limit the effect of this pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions.

"Such being the case, the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction it prevents any of the penalties and disabilities consequent upon conviction from attaching; if granted after conviction it removes the penalties and disabilities and restores him to all his civil rights; it makes him, as it were, a new man, and gives him a new credit and capacity."

This power to pardon thus vested in the President, beyond the power of Congress to limit or take away, of necessity lies at the very foundation of all restoration or reconstruction at the South. In this is the power to wipe out the offense; in this is the power to blot out of existence the guilt of the offenders, as well as to release from forfeiture. It is a power vested in the Executive which Congress, in every effort it makes to take it away, makes a new war upon the Constitution itself.

There is another power vested in the Executive, under the Constitution and the laws of Congress, of no less importance—I mean the power to make war and to make peace; to put down the rebellion and then to disband the army. If the Constitution had not done so the laws passed by Congress authorized and directed him to do both. From time to time Congress authorized him, first, to raise two millions of armed men and to expend $5,000,000,000 to put down the rebellion; and second, when he had done that work, to disband that immense army, return them to their homes, and cease that expenditure. In a word, the President was clothed with the power to make war and make peace, granting amnesty upon such terms and to such persons as he deemed proper. By the decision of the Supreme Court, as Commander-in-Chief, he was vested with all the authority necessary to establish provisional governments. He had no power, Congress has no power, to establish constitutions for States, for it is of the very essence of a republican Government that the people themselves should form their own constitutions. The President, however, before he withdrew the Army from those States, had the power, indeed it was his duty, to know that the governments left behind him should not raise a new rebellion; and therefore it was that he prescribed an oath of allegiance and excepted certain leading rebels from taking part in their reorganization. He did not assume to fix the qualifications of voters nor to form constitutions, but only to see that those who voted and took part in restoring the machinery of government under their constitutions had renounced their rebellion. This was a proper exercise of his discretion, under the Constitution and under the laws of Congress, both in granting pardon and amnesty as the organ of clemency, and in judging and deciding when the rebellion was suppressed, when it was safe to withdraw and disband the Army as Commander-in-Chief; in short, to make peace and then to sheathe the nation's sword.

But the Senator from Indiana says he has been "educated." Perhaps he has been educated up to the point of maintaining with the Senator from Massachusetts that the States of the South as States rebelled. If that assumption be true it does not change or lessen the powers of the President under the Constitution nor under the laws of Congress at all; it would give them a wider meaning. If he was dealing with States as rebels when, as Commander-in-Chief, he was directed by Congress to draw the sword to put the rebels down, and when he had done that to sheathe the sword, his power to take the surrender of States, if States were the rebels, was, of necessity, implied. The work he was directed to do was to put down the rebels, and when that was done to return the sword to its scabbard. If States were rebels in arms he had as much power to take their surrender as he had to take the surrender of their armies.

But, sir, I shall not go over the whole ground now. I did on a former occasion discuss these questions at considerable length, in January, 1866. What I then maintained has not been answered, and every day has confirmed me in the opinion of the soundness of the views then expressed. I will not trespass on the time of the Senate to restate them now. All I desire further to say upon this point is, the reconstruction policy of Congress which assumes to annul the pardons legally and constitutionally given is an intolerable injustice, a palpable violation of the Constitution which no principle can justify and no good policy excuse. Impartial history will record it as a violation of the national faith.

When I spoke of the great injustice of forcing negro suffrage upon the States of the South against their will the Senator hardly attempts to answer that. He puts it aside as an appeal to the prejudice of race. Sir, does not the Senator know that if Congress should attempt to force negro suffrage upon the States represented here against their will it would probably overthrow the Government? Does not that Senator know that in some things the sentiments, the instincts, the prejudices even of men are stronger and truer than reason? Does he not know that in legislating, especially in efforts to pacify a country disturbed by civil war, nothing is to be more carefully considered than the sentiments and feelings of a people? In pacifying the Indian territory we provided by treaty that if the Choctaws and Chickasaws would not allow the negroes among them to have the right of suffrage the negroes should have a Territory set apart for themselves. Can we not have equal respect for the deepseated prejudices of white men in the States of the South, if prejudices they are?

Making peace is, of necessity, an executive duty; after war with a foreign Power, by a treaty of peace negotiated with the representatives of that Power by the President and ratified by the Senate; after war against our own States or citizens to suppress rebellion, not by a new treaty—for the Constitution is a treaty and more than a treaty—but by executing the laws made in pursuance to the Constitution and compelling obedience thereto; for obedience to the laws is peace. He is clothed by the Constitution with the power to pardon, and, as we have seen by the decision of the court, that power is not subject to legislative restriction. In that is involved the whole power to make peace with all citizens or persons within the jurisdiction of the United States amenable to its laws. In addition to that, by his power as Commander-in-Chief, under the Constitution and laws he was made the judge of the time when the rebellion ceased, whether the rebels are to be regarded as States, as the Senator from Massachusetts contends, or as citizens levying war against the United States, as I have always maintained.

The Senator's speech of 1865 [Mr. MORTON's] demonstrated the identity of Mr. Johnson's policy with that of Mr. Lincoln, and in all things justified the policy of restoration commenced by Mr. Lincoln, and continued by Mr. Johnson until the meeting of Congress in December, 1865.

But the Senator says that the Senate has been educated, and led to the adoption of new ideas and new policies. I admit the fact, right or wrong, they have been educated; they have made great progress in the new school of radical reconstruction; and I propose to show by the record when the Senate took its first great lesson and the master who gave it. I pass over the protest of Messrs. WADE and Davis against Mr. Lincoln's reconstruction policy. I pass over the convention at Cleveland, called to defeat that policy by defeating his reëlection. The call itself denounced that policy as "imbecile and treacherous to justice and to freedom." It called upon the people "in thunder tones to come to the rescue of the cause of impartial justice and universal freedom, threatened with betrayal and overthrow" by Mr. Lincoln. I pass over the scenes in the convention which renominated him, when the great master in the radical school of reconstruction of the other House, sought to commit that convention to the same radical policy which rules Congress to-day. I pass over all that because in the nomination and reëlection of Mr. Lincoln, the people, by overwhelming majorities, repudiated that new policy as utterly false, and sustained the reconstruction policy of President Lincoln. But I propose to come at once to the school of reconstruction opened here, in this Senate. I shall call up scenes of which most of us are living witnesses, and of which the Globe is an imperishable record. On the 25th of February, 1865, just before the end of the session after the reëlection and just before the inauguration of Mr. Lincoln, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution recognizing the government of the State of Louisiana, organized by the people of that State under the proclamation of President Lincoln.

It was then the Senator from Massachusetts began to play his grand *rôle* as master in the radical school of reconstruction in the Senate. He then practically applied his first lesson. It was the same idea for which the Senator from Indiana now so ably contends; the same idea which now controls the majority, namely, that under the guarantee clause of the Constitution Congress has power to impose negro suffrage as the basis of republican State governments. Then the Senator from Massachusetts stood almost alone. Now every Senator then here and who supported Mr. Lincoln's Administration except three have renounced Mr. Lincoln's policy and adopted the policy of the Senator from Massachusetts. They have gone over to him and stand by his side.

I go too far, perhaps, when I say he stood alone, for he was supported by the allied forces of the Senator from Ohio [Mr. WADE] on his right, and of the Senator from Kentucky [Mr. Powell] on his left. His right wing, including himself, consisted of five Radical Senators, and his left of six or eight members of the Opposition. Sustained by this small force the Senator from Massachusetts [Mr. SUMNER] gallantly and successfully led the assault upon this vital measure of Mr. Lincoln's Administration, and thereby administered his first lesson to the majority. The progress they have made will be seen hereafter.

The Senator from Illinois then, as now, was the chairman of the Judiciary Committee. He stood then as the champion of the Administration, surrounded and sustained by a solid phalanx of eighteen Senators, all determined supporters of Mr. Lincoln's policy, and fully resolved to admit to representation the State of Louisiana. For weeks, with his usual ability, earnestness, and pertinacity, he had struggled to bring the Senate to a vote. The first lesson in this educating process, administered by the Senator from Massachusetts, was in the form of a long amendment offered as a substitute for the joint resolution. It contained nine sections.

The first asserted the power of Congress under the guarantee clause to reëstablish by act of Congress republican forms of government, the very clause under which the honorable Senator from Indiana [Mr. MORTON] now asserts the power to establish negro suffrage in the States of the South.

In the second he asserted that this power

was to be exercised by the United States; not by the President alone, nor by Congress alone, but by the President and both Houses of Congress. The same idea now stated in other words by the Senator from Indiana.

In the third section, in substance, he insisted that there could be no government republican in form unless suffrage should be extended equally to the blacks as well as to the whites. The other sections in no way qualify the first three.

But in order to simplify this first lesson in its application, to reduce it to a single idea of easy comprehension, and to bring the Senate to a vote upon the precise point, and, I will add, the very point of controversy which then began, but has since raged with more and still more intensity down to this very hour, the honorable Senator from Massachusetts offered the following amendment:

"*Provided*, That this shall not take effect except upon the fundamental condition that within the State there shall be no denial of the elective franchise, or any other rights on account of color or race, but all persons shall be equal before the laws."

I do not mean this was the first time that Senator had advocated the same idea; I mean this was the first time it was applied to the question of reconstruction. During the debate, in answer to a question of the honorable Senator from Missouri, [Mr. HENDERSON,] the Senator from Massachusetts insisted that the constitution of Louisiana was not republican in form, because it did not give suffrage to the colored men of Louisiana. A dialoguge ensued. I read as follows:

"Mr. HENDERSON. Now, Mr. President, I desire to ask the Senator if the Congress of the United States can interfere with the right of suffrage in any of the States of this Union; I put the question to him as a constitutional lawyer.

"Mr. SUMNER. I answer at once as a constitutional lawyer, that at the present time, under the words of the Constitution of the United States declaring that the United States shall guaranty to every State a republican form of government, it is the bounden duty of the United States, by act of Congress to guaranty complete freedom to every citizen, and immunity from all oppression, and absolute equality before the law."

A long struggle ensued. Many votes were taken, disclosing the fact, as I have said, that in his right wing he could muster but five Radical Senators, including himself, and in his left sometimes four and sometimes seven.

Mr. DAVIS. If the honorable Senator will allow me, I will make an explanation.

Mr. DOOLITTLE. I hope my honorable friend will wait until I get through. I intend no discourtesy, but if I yield I shall be compelled to continue my remarks much longer than I desire.

Mr. DAVIS. I only wanted to say that the position of the "left wing," as the honorable Senator terms it, was equally hostile to both projects.

Mr. DOOLITTLE. I understand that. The issue then was precisely the issue now, except that now is superadded to negro suffrage military despotism to enforce it. The argument then was the same as now. The Senator from Indiana has restated the argument in another, perhaps in more condensed form. But I mean no discourtesy when I say that in the amendment and speeches of the Senator from Massachusetts he will find every substantive proposition taken by him, or advocated by his friends, upon the power and duty of Congress during this debate. The only difference is, the Senator from Massachusetts then stood in a feeble minority, now the great majority stand by his side. While the Senator from Connecticut, [Mr. DIXON,] the Senator from Maryland, [Mr. JOHNSON,] and myself, who then stood with the large majority, now, of all who were then here and supported the Administration of Mr. Lincoln, stand alone, battling in the same cause, against the same ideas, and against, if possible, still more palpable usurpations of power by Congress than even the Senator from Massachusetts dared then to advocate. Has he changed his ground? If he has, it has been only to advance to keep up with the advancing education of his Radical friends. He is fighting on that same line, and so are we. But why is the majority then with us now with him? What reason can be given for this great change of base? My friend from Indiana [Mr. MORTON] gives the true reason. He says the majority have been educated.

My friend from Massachusetts ought to feel a sense of profound satisfaction to see the progress they have made. I mean no discourtesy when I say the ideas advanced by him that night, rejected then by a majority of four to one, rule the Senate now. Not only have they educated, they have Sumnerized the Senate.

And now, Mr. President, for the specifications. In order to show how, when, and where this great work was done, I shall read from the records. They are both amusing and instructive. Before doing so, I must remind the Senate that my honorable friend from Kansas, [Mr. POMEROY,] who assails my speech so vigorously now, was then with me battling for the rights of Louisiana and Arkansas to representation as well as for the rights of all the States to determine each for itself the qualifications of suffrage.

The little rebellion against Mr. Lincoln's Administration, which he joined when he signed the call for the Cleveland convention, had been suppressed. He had renewed his allegiance, received amnesty, and been restored to full fellowship.

Mr. POMEROY. I never signed any call for the Cleveland convention.

Mr. DOOLITTLE. If that be true I stand corrected. I understood my friend favored the call.

Mr. POMEROY. I never signed it.

Mr. DOOLITTLE. Perhaps not, but I understood he was one of the originators and favorers of it. I say he was restored to full fellowship. He proved himself a good and faithful soldier on the memorable occasion to which I shall refer. He protested as earnestly as I did then against that fatal heresy that under the power to guaranty a republican form of government Congress has power to impose universal negro suffrage upon the States in this Union against their will, and thus to trample down the sacred right of every State for itself to fix the qualifications of its own electors, a right without which a State ceases to be republican at all.

In language clear, strong, and to the point he said, (February 25, 1865:)

"Mr. President, I am opposed to this amendment. I usually vote for everything that the Senator from Massachusetts brings forward on the anti-slavery question, but I am opposed to this amendment in the first place because I do not suppose we have a right to say what shall be the qualifications of voters in any State of the Union. The people of my own State are supposed to be loyal. They are as radical as the citizens of Massachusetts, but they are not loyal enough to allow Congress to dictate to them what kind of qualifications for voting they shall have." * * * * * * * * *

"For one, sir, I am for leaving this question of suffrage to the citizens of the States, and I claim it is their right to admit whoever they choose to the ballot-box. I am not loyal enough myself to allow my own rights as a citizen of a State to be trampled upon in that way. I would not be dictated to as a citizen of a sovereign State by Congress or any other power as to what kind of citizens of my State should be allowed to vote. If they choose to let all the citizens, including the women, to vote, it is not a matter for Congress to interfere with." * * * * *

"But so far as I am concerned I shall vote against all amendments that look like dictation on the part of Congress to any State whether they shall let the right of suffrage be enjoyed by a whole or a part of the people."

Sir, this argument is unanswerable. The claim that under the power of the United States to guaranty republican forms of government in the States, Congress can impose negro suffrage, would give Congress power also to impose woman suffrage, or restrict suffrage to men over fifty years of age, or impose any other qualification. This argument of my friend from Kansas against this power was conclusive then when he so ably urged it. It is now when I repeat and adopt it as a part of my own. He fails entirely to answer it now. Within his reasoning then the Constitution gave Congress no power to regulate suffrage in the States. To do so then was to destroy and trample under foot the rights of the States. He declared that, loyal as he was, he was not loyal enough to submit to that. But now, when Congress forces negro suffrage upon ten States against their will, by military power; when Congress now, as it does in this bill, at one blow, not only destroys the State government of Louisiana, for which he and I then struggled, but destroys all civil government in nine other States, including four of the old thirteen, and including also the State government of Virginia, which he knows the Supreme Court, both Houses of Congress, and President Lincoln sustained by the written opinions of his Cabinet, including Mr. Stanton, and the Chief Justice recognized in every form, and which he very well knows had Senators on this floor during the whole war; now, when he sees Congress, in a time of profound peace, usurp the power to do all that, the Senator from Kansas sees no wrong at all! What shall I say? what can I say? He has, indeed, been educated! He is, indeed, an apt scholar! He has made marvelous proficiency in the school of Sumnerism. He no longer protests against—he advocates the usurpation; now, when he sees the Constitution trampled down by a usurpation upon the rights of the States, to which neither he nor his State would then submit, he no longer raises his voice against the outrage, but urges it on. When he sees constitutional liberty herself bound and scourged and crowned with thorns here—here in her own sacred temple—he joins his voice among the loudest to cry, "Away with her; crucify her, crucify her."

Mr. STEWART. I desire to know, as a matter of fact——

Mr. DOOLITTLE. If the Senator desires to correct me I hope he will do it when I am through. I do not wish to trespass too long on the time of the Senate, and I have a great deal more to say.

Mr. STEWART. I presume the Senator does not intend to misrepresent the Senate. The position——

Mr. DOOLITTLE. I have not referred to the Senator at all. He knows that I intend no discourtesy to him; but I must decline to yield.

Mr. STEWART. But the position attributed to——

Mr. DAVIS. I call the Senator from Nevada to order.

The PRESIDENT *pro tempore*. The Senator from Wisconsin has the floor, and cannot be interrupted without his consent.

Mr. DOOLITTLE. I am arguing with my friend from Kansas.

Neither has the education of my colleague in this respect been altogether neglected. Side by side with me and with the majority he stood around the Administration of Mr. Lincoln, ready to raise his strong arm in its support, both upon the ground of principle and of policy. I remember on one occasion he volunteered to be its champion against all comers. Where does he stand now? What progress has he made? What is the state of his radical education? We find him high advanced, if not at the very summit, I will not say in the school of Sumnerism, for I have sometimes thought he was setting up a school of his own. But any one will see his position when I read a most explicit declaration made here on the 6th of January last. I doubt whether he has not gone even beyond the Senator from Massachusetts. He said:

"Over and over again, Mr. President, I have argued to the Senate and to the country that the authority is given to the national Legislature to disfranchise a State. It is not given to the Senate; it is not given to the House; it is given to the Legislature, plainly given, and if it ought to be exercised in any case, if it is authorized to be enforced in any case, it is whenever you are convinced that the community is disloyal and traitorous."

Has the Senator from Massachusetts ever said as much as that?

My colleague maintains that Congress has authority to disfranchise a State. Whenever a majority of both Houses choose to exercise that power they may expel a State from rep-

resentation in the Union. Is that power to be found in the guarantee clause also? The Constitution gives Congress the power to admit new States. Does my colleague maintain that the power is implied, or, in his own language, "plainly given," to expel old ones?

The Senator from Massachusetts should look carefully to his laurels. He has given us "State abdication," "State forfeiture," "State suicide," "the lapsing of States into territories," and "negro suffrage under this guarantee clause," as essential to a republican form of government; but I think he has never yet, with all his tendency to centralize power in Congress, broached the idea that Congress in time of peace has power to disfranchise States once admitted as such to the equal rights and dignity of the old thirteen. He may have said that States which by insurrection have withdrawn their representation shall not be restored to it until Congress should so determine, but never has he said that Congress, under the power to admit new States, can disfranchise old ones.

Sir, what a vast power over the States is thus claimed by my colleague. What becomes of the rights of the States or of the liberties of the people under a doctrine which can expel their representation at the will of a majority of Congress? Majorities change. In times of high political excitement majorities sometimes abuse their power.

Suppose a majority of Congress should be of opinion that the radical doctrines of the Senator from Massachusetts are as dangerous to liberty and as much at war with the Constitution as secession, and that the people of Massachusetts are disloyal to the Constitution because they send as a Senator here one who is distinguished as their great teacher, ought Congress to have the power to disfranchise Massachusetts?

In the assertion of this power my colleague, I think, stands entirely alone. He is less supported than was the Senator from Massachusetts three years ago when he claimed the power under the guarantee clause to force negro suffrage upon the States of the South as the basis of republican State governments.

What progress two years more of radical education may produce in the Senate I know not. Should the majority then adopt it there would be no greater progress than it has made during the last three years.

Without discourtesy to Senators of the junior class, (many of whom, it is due to them to say, are quite well advanced,) who entered the Senate since the Senator from Massachusetts applied his first great lesson, I shall confine myself to Senators of the older classes, and mainly to the honorable Senator my friend from Illinois, [Mr. TRUMBULL.] I insist upon calling him my friend, although a stranger might suppose, from his tone and bearing toward me the other day, he was really hostile. I know it to be otherwise. It was only the appearance of hostility into which he fell in the excitement of debate.

I think I shall be able to satisfy the Senate, however, that apt, diligent, and progressive as the Senator from Kansas and my colleague have been, my friend from Illinois [MR. TRUMBULL] in some respects, at least, has made greater progress in that education referred to by the honorable Senator from Indiana, [Mr. MORTON.] Not many years ago he contended on the floor of the Senate that the Creator had stamped an indelible difference between the white and black races, and that he would not admit the latter to equal political rights or admit as a State of this Union a community of negroes. He did not believe the two races could live together on terms of equality.

To avoid all ambiguity it is proper that I should remind the Senate that upon the great issue of the negro and the rights of the States to deal with him there have been three distinct schools:

First. The school of the southern radicals, which I will call the school of Calhoun.

Second. The school of the northern radicals, which I will call the school of SUMNER; and

Third. The school of Jefferson and Madison, based upon the true philosophy of man and of human government.

The two first schools are radical, both, in some respects, radically wrong. The third, or the school of Jefferson and Madison, and at a later period of Webster, Clay, Ewing, Benton, Wright, and General Jackson, standing midway between, rejecting the errors and embracing the truths of both, is, in my judgment, the true school of the statesman.

In the first or Calhoun school negroes have no rights which white men are bound to respect; their normal and true condition is that of slavery. And in that school, also, the Federal Government has no power to enforce a State to obey the Constitution against its will, and a State may secede at its own pleasure.

In the second or SUMNER school negroes in a community of white men have not only a right to their liberty and person and property, but a right to be placed upon a footing of political equality, including the right of suffrage and to hold office, and, as a matter to follow inevitably, social equality. In that school, also, the new doctrine of centralization of all power in Congress over the States under the clause to guaranty republican forms of government has arisen, as dangerous to liberty as secession itself. Opposed to both of these radical schools is the true school of Jefferson and Madison. It maintains the right of all men to be free, and that their persons, liberty, and property should be secured by just and equal laws. It rejects, however, upon all the teachings of history, the idea that two races so distinct as the negro and the white man can live together upon a footing of political and consequent social equality. It rejects secession, upon the one hand, as utterly destructive to the Union, and consolidation as dangerous to republican institutions as it is to liberty itself. It is in this latter school that I was reared from my youth up; I remain its disciple still. When the Democratic party, under the influence of the radicals of the Calhoun school, seemed to me to shape its action and control its policy, I was compelled to separate from it and act with the Republican party until the rebellion was suppressed; and now that the radicals of the SUMNER school have got control of the councils and action of the Republican party, and are driving it on to absolutism and to the destruction of the rights of the States, I cannot go with them. To do so would be to abandon the whole teachings of my life. As the Democratic party is reorganizing upon the same grounds where the old Democratic Republican party stood half a century ago, at least as I think it is, we shall stand together and do battle in the same cause. When I entered the Senate the honorable Senator from Illinois was an able disciple and powerful advocate of the doctrines of the school of Jefferson. He then belonged to the same school with myself. In a speech at Chicago, August, 1857, he used such expressions as these:

"I want to have nothing to do with the free negro or the slave negro. We, the Republican party, are the white man's party. [Great applause.] We are for free white men and for making white labor respectable and honorable."

Speaking of the negroes, he said:

"I would colonize them. We colonize Indians on our western frontier; why cannot we colonize the negro as well as the Indian?" * * * * "We believe it is better for us that they should not be among us. I believe it will be better for them to go elsewhere."

But it may be said these were casual expressions in a popular speech, and I ought not to refer to them in the Senate. To leave no doubt upon this subject I read a few extracts from the Globe to show his views as expressed in the Senate, December 8, 1859. (Congressional Globe, page 58.)

Mr. TRUMBULL said:

"When we say that all men are created equal we do not mean that every man in organized society has the same rights. We do not tolerate that in Illinois. I know that there is a distinction between the two races, because the Almighty himself has marked it upon their very faces, and, in my judgment, man cannot, by legislation or otherwise, produce a perfect equality between those races so that they will live happily together."

Again, page 60, he quoted the famous declaration of Mr. Jefferson:

"Nothing is more certainly written in the book of fate than that these people (the negroes) are to be free. Nor is it less certain that the two races, equally free, cannot live in the same government. Nature, habit, opinion have drawn indelible lines of distinction between them."

And he quoted also the phrase in which Jefferson expressed, in his own strong words, the dangers of a war of races. After quoting this the Senator from Illinois went on to say:

"I trust the Republican party will make it part of its creed that this Government should procure some region of country, not far distant, to which our free negro population may be taken. I fear the consequences which Jefferson so eloquently prophesied unless that is done. I agree with the sentiment of Mr. Jefferson, that two races which are marked by distinctive features cannot live peaceably together without one domineering over the other, especially when they differ in color. The free negro population of this country is a great evil now."

And again, sir, to show that this was no casual declaration, made in the heat of sudden debate, but an earnest and settled conviction of that honorable Senator, I read also from page 102:

"There is a distinction between the white and black races made by Omnipotence himself. I do not believe these two races can live happily and pleasantly together and enjoy equal rights without one domineering over the other, and therefore I advocate the policy of separating these races by a system which shall rid the country of the black race as it becomes free."

These were his declarations, these were his convictions then. He may say the war has educated him and he has changed his opinions; but the war can no more change the fact of a "distinction between the white and black races made by Omnipotence himself" than the leopard can change his spots or the Ethiopian his skin.

But, sir, I do not wish to be drawn far from the great question of reconstruction, and will therefore confine myself mainly to the education of the majority of the Senate on that subject. I shall refer to the Senator from Illinois more than to any other, because he was then our champion, as he is now the champion of the other side. To do him no injustice I shall be obliged to read from the proceedings of the Senate when he received his first lesson from the great master in the school of radical reconstruction. I will quote the very language in which that lesson was given and in which it was received. I do this because it is impossible for me to abridge it and do justice either to the disciple or to the teacher, to the lesson given, to the manner in which it was given and received, or to the wonderful progress made in learning it.

Call to mind, sir, a scene in this Chamber at ten o'clock at night of the 25th of February, 1865. There sat Mr. Clark, of New Hampshire, in the chair. The resolution for the recognition of the State government of Louisiana, a vital measure of the administration of Mr. Lincoln, had been pending for several weeks. The friends of the measure desired to bring it to a close, and placed themselves under the lead of the honorable Senator from Illinois. The Senator from Massachusetts led the Opposition. He was supported upon his right by the Senator from Ohio [Mr. WADE] and upon his left by the Senator from Kentucky, (Mr. Powell.) The discussion of the measure upon the merits was over, and the simple question was whether the Senate should come to a vote. Our champion had given notice in open Senate during the day that it would be pressed to a final vote that night. A recess had been taken, and the Senate was convened in the evening for that very purpose. The struggle began:

[Congressional Globe, Feb. 25, 1865, page 1107.]

"The PRESIDING OFFICER (Mr. CLARK, in the Chair.) The question is on motion of the Senator from Ohio [Mr. WADE] to postpone the further consideration of the joint resolution until the first Monday of December next."

This, of course, was to kill the bill.

"The question being taken by yeas and nays resulted—yeas 12, nays 17; as follows."

To save time I will only read the names of the friends of the administration of Mr. Lincoln:

"YEAS—Messrs. Brown, Chandler, Howard, Sumner, and Wade.

"NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, Willey, and Wilson.

"So the motion was not agreed to.

"The PRESIDING OFFICER. The question returns on the amendment to the amendment."

Mr. HOWARD, one of the faithful supporters and advanced scholars of Mr. Sumner, rose and said:

"I move that the Senate do now adjourn."

Everybody knew that if the bill did not pass that night it would probably be lost, it was so near the end of the session.

"Mr. TURUMBULL and Mr. FOSTER called for the yeas and nays; and they were ordered, and being taken, resulted—yeas 12, nays 19.

"YEAS—Messrs. Brown, Chandler, Howard, Sumner, Wade, and Wilson.

"NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey."

Mr. HOWARD, after some remarks, said:

"I move that the whole subject be laid on the table."

This was another motion to defeat the bill.

Mr. CHANDLER, another advanced disciple, said:

"I ask for the yeas and nays on that question.

"And the yeas and nays were ordered.

"YEAS—Messrs. Brown, Chandler, Howard, Powell, Riddle, Sumner, Wade, Wilson, and Wright.

"NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey.

"So the motion was not agreed to."

Then Mr. SUMNER arose to inculcate his first lesson against the reconstruction policy of Mr. Lincoln:

"I agree with the Senator from Michigan in the impropriety of pressing a measure of this importance. Perhaps it is the most important measure, as he says, we have had before us. I shall regard its passage as a national calamity. It will be the political Bull Run of this Administration"—

Whose administration? Not Mr. Johnson's. Mr. Lincoln's, of course. This was eight days before his second inauguration.

"Sacrificing as it will a great cause and the great destinies of this Republic."

What cause? The cause of negro suffrage guarantied by Congress as the foundation of republican State governments.

"I think the Senate is not now in a condition to vote finally upon it.

"Mr. FOSTER. I will ask the honorable Senator if he is not fully prepared to vote on the question?

"Mr. SUMNER. I certainly am prepared to vote on it.

"Mr. FOSTER. I will merely say I am.

"Mr. SUMNER. I think the honorable Senator is not prepared to vote.

"Mr. FOSTER. I think the honorable Senator is."

Mr. SUMNER, by way of a short special lesson to the Senator from Connecticut, and to prepare him to vote properly, continued:

"I know I am prepared to vote upon it; but when the Senator from Connecticut speaks as he does after voting as he has I cannot but think but a little more study of the question and a little more examination of its consequences would enable him to vote with more intelligence. I think, on his account, it would be well that the question should be postponed for another day, to give him an opportunity of a little more reflection on this important matter. It is never too late to mend, and I think it not impossible that even the Senator, coming as he does from New England, representing, as I doubt not he does, liberal ideas, devoted as he ought to be to the cause of human freedom and of his country, may think there is something in this question which will justify the most mature consideration. I therefore move an adjournment, and on that motion I ask the yeas and nays.

"The yeas and nays were ordered."

* * * * * * * * * * *

"YEAS—Messrs. Brown, Howard, Powell, Riddle, Sumner, Wade, Wilson, and Wright.

"NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougal, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey—18.

"So the Senate refused to adjourn."

Mr. TRUMBULL, who had charge of the measure, and not yet being sufficiently educated to receive this instruction very kindly, rose and said:

"It is manifest now, by the course being pursued by the Senator from Massachusetts, who takes upon himself to lecture other Senators, telling them they do not know how to vote, that he is in a combination here of a fraction of the Senate to delay the important business of the country. We find him now, near the closing days of the session, uniting with a very few persons acting with him, associating himself with those whom he so often denounces"—

Evidently referring to Senators Powell, Riddle, Wright, and others—

"for the purpose of calling the yeas and nays, making dilatory motions to postpone the action of this body upon what he says is a very great public measure, when he knows that next week other public measures are to be pressed upon the attention of the Senate; when he knows that in full Senate they were told the intention was to press this bill, if possible, to-night, and yet we find the Senator from Massachusetts here declaring to the Senate that no vote shall be taken. Does he hold in his hand the Senate of the United States, that in his omnipotence he is to say when votes shall be taken and public measures shall be passed? Has it come to this?

"In this time of war is he setting the example here of delaying public business by dilatory motions, refusing either to discuss the measure or allow it to be voted upon? And then he appeals to the Senate that they shall put this over for somebody else to get ready. If Senators are absent they are absent on their own responsibility. They knew this measure was up; the Senator has fought it day after day to prevent it coming up, and when a large majority has overruled him time and again and decided that it should come to a vote, he stands here at half past ten o'clock on Saturday night making dilatory motions to prevent the action of this body on what he denominates 'this great, important measure.' Sir, there can be no excuse for such action." * * * * "It is a matter that has been before the Senate of the United States for a number of weeks. It was discussed to some extent before it was referred to the Committee on the Judiciary. It was reported to this body a week ago. It has been discussed for several days. I should have been glad if it must go over until next week, that it could have gone over without these manifestations of a determination to browbeat the Senate on the part of the minority."

Sir, I do not think any one would say the Senator from Illinois was a very docile scholar that night, however much he has progressed since. To this speech Mr. SUMNER at once replied:

"The Senator from Illinois draws upon his imagination, which is upon this occasion peculiarly lively I know not that anybody has undertaken to brow beat unless it be himself. Certainly nobody on the side with which I am associated has done any such thing, or, I believe, imagined doing such a thing.

"Mr. TRUMBULL. I have heard it said that there should be no vote to-night.

"Mr. SUMNER. Well, sir; is that brow-beating?

"Mr. TRUMBULL. I think it is undertaking to decide for the Senate.

"Mr. SUMNER. Is that brow-beating? No, sir. It is only undertaking to decide the conduct of an individual Senator with regard to an important public measure. The question between the Senator from Illinois and myself is simply this, he wishes to pass the measure and I do not wish to pass it? He thinks the measure innocent; I think it dangerous; and, thinking it dangerous, I am justified in opposing it, and justified, too, in employing all the instruments I can find in the arsenal of parliamentary warfare. But, sir, I mean to employ them properly and in a parliamentary way. In no other way can I act in this Chamber. The Senator from Illinois is entirely mistaken if he supposes that this measure can be passed to-night. I tell him it cannot. Parliamentary law is against him, and the importance of the measure justifies a resort to every instrument that parliamentary law supplies. The Senator knows it well. I need not even suggest it. And now, sir, I have to counsel the Senator—perhaps he would say I am taking too great a liberty, and even dictating—but I would counsel the Senator first to look at the clock. He will see that it is twenty-five minutes to eleven, that it is approaching Sunday morning. Then let him think that we have been here all day; and then I would counsel him to ask himself whether, all things considering, it is advisable to press this revolutionary measure?"

What revolutionary measure? The carrying out of Mr. Lincoln's policy; the recognition of the State of Louisiana, without guarantying negro suffrage by Congress. But to resume, Mr. SUMNER continued:

"After this protracted session and at this late hour, I think his better judgment will come to the conclusion that it is not. At any rate, should he not come to that conclusion, I think he will make a mistake, and that all his efforts will be fruitless. There is a certain character of antiquity who was found sowing salt in the sand by the sea-shore and plowing it in; and the Senator will be engaged in an occupation just about as profitable."

* * * * * * * * * * *

"Then I move that the Senate adjourn.

"Mr. CHANDLER. On that question I ask for the yeas and yeas.

"The yeas and nays were ordered; and being taken, resulted as follows:

"YEAS—Messrs. Brown and Wilson.

"NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey—19."

Among the absent I find the names of Messrs. CHANDLER, HOWARD, SUMNER, and WADE.

So the Senate refused to adjourn.

The whole right wing, including himself, refused to vote except Brown and WILSON, hoping to break up a quorum. That failed, however. Mr. CHANDLER then said:

"I move that the further consideration of this subject be postponed until next Saturday, and made the special order for twelve o'clock on that day"—

Another motion to kill the bill—

"and on that I ask the yeas and nays."

As the gay will sometimes mingle in the gravest matters, Mr. Foster said:

"I rise to a point of order.

"The PRESIDING OFFICER. The Senator will state his point of order.

"Mr. FOSTER. It is this: that the Senator from Michigan is not present. [Laughter.] His name was called a few minutes ago and the vote showed that he was not present, and he has not since come into the Chamber. I object, therefore, that he is not in the Chamber.

"Mr. CHANDLER. I have got back.

"Mr. FOSTER. The Senator has not left the Chamber. He refused to answer to his name, when, by the rules of the Senate, if a Senator is present he is required to vote, and that, of course, shows he has seceded, and is, therefore, not one of the body. [Laughter.] Having seceded from the body and not yet returned to it, he ought not, as I submit to the Chair, be recognized to make a motion. [Laughter.]

"The PRESIDING OFFICER. The Senator from Michigan moves that the further consideration of this subject be postponed until Saturday next.

"Mr. CHANDLER. At twelve o'clock; and made the special order for that day.

"Mr. WADE. Let us have the yeas and nays on that motion.

"The yeas and nays were ordered."

After some other discussion, Mr. SUMNER said:

"The Senator from Illinois made in a certain sense an appeal to me. When he made it I said to myself: There was a Senator from Illinois once in this Chamber; his name was Douglas. He, too, brought forward a proposition calculated to bring discord upon the country." You know it was a Kansas-Nebraska bill. I had the honor of a seat here at the time. He brought that proposition in precisely as my friend from Illinois now brings this in, proudly, confidently, and almost menacingly, saying that he was to pass it—was it not in twenty-four hours?

"Mr. WADE. Yes.

"Mr. SUMNER. Right off, precisely, as the Senator from Illinois now speaks. The Senator tears a leaf out of that hateful book, and now with another question, kindred in character to that which was once introduced by the other Senator from Illinois, he undertakes to press it upon the Senate. He takes a copy from that English officer who, in the time of the stamp act, said he would cram the stamp act down the throats of all the American people with the hilt of his sword, if need be. He is going to cram his resolution down the throats of the Senate, and he appeals to us to enter into some compact or understanding that we will allow the operation to proceed without the least resistance; that we will quietly consent to the cramming process."

Mr. President, I do not often read from my own speeches, but as I was here, and what I said was a part of the *res gesta*, I will read a few sentences:

"Mr. President, I have not been an indifferent spectator to the scenes we have witnessed here to-night. They are scenes which I wish the whole country could look upon. I wish they could analyze these proceedings and read over the names of the men who have been voting on the dilatory motions to prevent the Senate coming to a vote upon what all regard as a very important measure. Men differ in their opinions, it is true, as to this measure, whether it should or should not pass, but all concede that it is an important measure. Now, sir, not to speak of those gentlemen who usually vote with the Opposition, and of whom we have no right to complain, but to confine myself entirely to those gentlemen who usually vote with the friends of the Administration, what do we see? There are but five who usually act with the Administration who are making and voting for these dilatory motions, and there are eighteen of the friends of the Administration opposed to them. These five, a small minority—not a third, not a fourth of the friends of the Administration on this floor—are making these ditatory motions and complaining because my friend from Illinois, who stands here in charge of this measure, and we may say the representative of the friends of this measure, who, when he speaks upon it, speaks the voice of the Senate by a majority of almost three to one, desires to obtain a vote upon it. These men are presenting themselves here in this attitude. They say in substance there shall be no vote to-night; the Senator from Massachusetts says he will draw upon the whole arsenal of parliamentary opposition; that the Senator from Illinois, in asking a vote to-night, is but sowing salt upon the sand and plowing it in." * * * * *

"And the honorable Senator from Massachusetts, though he says he is prepared to vote, because other

Senators differ from him presumes they are not prepared to vote. What arrogance, what assumed superiority on the part of one man over his equals and his peers on this floor, to say that he is prepared to vote, but that other Senators are not prepared because they do not agree with him! Sir, I would to God the whole American people could look in upon this scene and upon the Senator from Massachusetts. That Senator more than once, because I have urged the admission of the free State of Louisiana with a constitution which has been adopted by a large majority of her loyal people; a constitution which sets free in districts which were excepted in the President's proclamation, almost ninety thousand slaves, has charged me with standing in the march of human freedom. And yet he, here in season and out of season, is against the recognition of the free State of Louisiana, and against a constitution which gives freedom to ninety thousand slaves and to all the slaves of Louisiana, whether the emancipation proclamation reached them or not, because as he avowed last evening on the floor of the Senate, the constitution of Louisiana is not republican in form inasmuch as it does not give universal suffrage to all the colored men of Louisiana.

"And what else do we see? The Senator from Kentucky [Mr. Powell] declares that this election of the people of Louisiana was carried by military power, by military authority, and is the result of military dictation and military despotism over the people of Louisiana. The Senator from Ohio [Mr. WADE] responds to this with all his heart.

"Mr. President, we look upon a strange spectacle here when the two extremes of this body come together in this way. One would suppose that Pilate and Herod had joined hands to attack the Administration in its policy on this subject, and, if they can, to crucify the free State of Louisiana."

As the Senate has no previous question, it was found impossible to bring the measure to a final vote. The adjournment of that night thus forced upon the Senate by the Senator from Massachusetts and his allies, killed the bill. No man not most intimately acquainted with President Lincoln can realize how deeply wounded his spirit was by this fatal stab at his cherished policy in the house and at the hands of his friends. He encouraged the people of Louisiana to stand fast. He had full faith to believe the next Congress would recognize their State and admit its representatives. Had he lived I have no doubt his prediction would have been realized and the government of Louisiana recognized. He had a majority in the Senate of at least two to one. But he did not live to see the next Congress assemble. He died at the hands of an assassin. His last public utterance, however, was a speech upon that subject here in Washington. In gentle but earnest tones he showed the sad mistake of Congress in refusing to recognize the State of Louisiana, and he pleaded for the adoption of his policy in all the other States of the South with the eloquence of an angel trumpet-tongued as the true basis of peace and restoration.

Sir, had Congress then recognized Louisiana all the other States, two years ago, would have been restored to representation here; their practical relations in the Union harmoniously resumed; the credit of this Government placed in a position so strong that our six per cent. bonds would now command gold at a premium in any money center of the world.

Senators, it is a sad commentary upon that fatal mistake. The four per cent. bonds of Brazil command over ninety per cent. in gold, while the six per cents of the United States sell at seventy-three. What reason can be given except that one third of the States, nearly three years after war has ceased, are denied by Congress all representation, and Congress seems determined to impose upon them such unbearable degradation that white men from other States will not go there to reside, and those who are now there are driven to despair.

Had Congress then recognized the State of Louisiana there never would have been any such riot at New Orleans. By refusing to recognize it doubts as to the validity of the existing government were at once engendered. An effort was made to extend negro suffrage in that State by revolution against the existing government there by calling together the old convention which formed the constitution to amend it in such a manner as to disfranchise large classes of white men and enfranchise the blacks. But for the failure of Congress to recognize Louisiana at that time no such attempt would have been made or dreamed of; and but for that attempt no such riot would have been provoked or incited to the sorrow and mortification of every true American.

Mr. President, let me not be misunderstood. When the Senator from Illinois and the majority of the Senate stood with me, contending so earnestly for Mr. Lincoln's policy, their purpose as well as mine was the reëstablishment of the Union fully and constitutionally and the restoration of harmony and good accord between the North and the South. That was my purpose then, and is still. I think that may be the purpose of the majority still, although under the educating process referred to by the honorable Senator from Indiana they have come to think the cause of the rebellion will triumph in some way unless the party in power is sustained, and therefore they will consent to no restoration which will not secure their party ascendency. In this I do not participate. Here, though always painful to separate from political friends, we must separate. Besides, there is another fundamental element of division between us. The manner in which Congress now pursues its policy of reconstruction necessarily defeats the main purpose in which in the beginning we all agreed, peaceful and cordial reconstruction, or restoration on a constitutional basis. Congress now makes it a question of arbitrary power on one side, of abject submission or stubborn resistance on the other.

England has tried both policies. She extended equal rights to Scotland, conquered after centuries of cruel and desolating war, and Scotland has been for the last hundred and fifty years a peaceful and loyal part of the British empire.

She tried the other course with Ireland; proscribed her citizens, persecuted her, heaped contumely and reproach on all who loved her people and whom her people loved, and all has been and continues to be anarchy, disorder, mutual hatred and mutual violence, and the end is not yet.

Men, high-spirited men, are the most difficult of all creatures to beat or drive into submission. They cannot be brought to love those who habitually insult and degrade them.

We differ in this. Now that the rebellion is over I am in favor of lawful, kind, and conciliatory measures, and, as far as may be consistent with my own convictions, of paying due respect to the long-cherished feelings, opinions and prejudices in the South, the course in short which England pursued toward Scotland, and which so happily united her.

While the majority in Congress speak of the South as still in rebellion; denounce their characters; spurn their oaths of allegiance; treat as null their pardons granted by the President; favor wholesale proscription; military government first then negro government; humbling the intelligent white men of the South to a condition politically below the most ignorant plantation negro. They are, as I understand them, prepared to adopt the course which England took against Ireland, and for the sake of the brief continuance of power which they may hope it will give them, take, or rather let the country take, its terrible consequences. Fenianism is not confined to Ireland; it is contagious, for human nature is the same in all ages of the world.

It is never wise to humiliate an adversary whom the fortunes of war have placed in our power. When in the early days of Rome the army, embracing the flower of the Roman youth, being led into a defile were captured by the Samnites under command of a youthful general, he sent to inquire of his aged uncle, a great man as well as a great general, what should be done with the prisoners, received for answer, "Set them at liberty upon a pledge of peace for the future. Send them home with honor; do not humiliate them." This advice was too wise, too far-seeing and magnanimous to be comprehended by the young Hotspur in the flush and pride of his great victory. He did humiliate them. From that moment peace became impossible between Rome and the Samnites; it was war to the death, which did not cease until the name of that people perished.

Sir, if we would have peace, a peace worth having, let us give to the people of the States of the South the same Constitution, the same laws, the same rights which we claim for ourselves. As States let us not humiliate them, and because they are now weak and we are strong place them upon a footing inferior to other States. They are sisters of the same family, and though they have been in deadly feud with us, in which the wrong has been with them, now that the feud has ceased, now that they have renounced their error, let us treat them as sisters and equals once more. You know, sir, that the States represented here would not consent to have Congress force upon them negro suffrage against their will.

Shall we humiliate six millions of our own race, brave, high-spirited men, wrong though they once were, by forcing upon them what we will not take upon ourselves? And what makes the degradation of this policy so much more to them is the fact that from the wholesale disfranchisement of the whites and the universal suffrage of the blacks, forced upon them by military power, in several of those States, if not in all, they are to be subjected in fact to a negro government; to the government of their late negro slaves. No humiliation can be conceived so great as that, or so utterly destructive of their interests, present and future. It is a state of things which cannot be imposed and cannot be upheld except by military power at enormous cost to the Government.

Some Senator in this debate complained because I read a statement of Alexander H. Stephens and Mr. Fitzpatrick upon the condition of the South since the adoption of the new policy by Congress. I did so because the South has no voice here; because Congress closes the door and refuses to let her speak for herself. We do not understand and we cannot realize her true condition. I read the statements of those gentlemen because there is not a man on this floor who will not admit their knowledge and their veracity. I now appeal to the Senate to listen for a moment to the words of one of the ablest men of our country, Governor Perry, of South Carolina. He was a true friend of the Union during the whole war. I would he were here on this floor to speak for her and for himself.

He would state the effects of this new congressional policy in words so terse and clear, and in tones so earnest as to reach the judgment and move the heart.

Of the effect of radical policy,

First, on the negroes, he says:

"When slavery was abolished in the southern States, if the people had been let alone in their State legislation and restored to the Union, all would have been well. They would soon have recovered from their exhausted and crushed condition, and been once more a happy and prosperous people. They would have added hundreds of millions annually to the wealth of the Republic instead of costing it, as they now do, $100,000,000 every year, through the Freedmen's Bureau and a standing army. But the unjust, unconstitutional, and suicidal legislation of Congress has paralyzed them forever, I fear. The negro is no longer that industrious, useful, and civil laborer which he once was, but an idle drone and pest to society. Inflated with his new and marvelous political importance, he has abandoned his former industrious habits and spends his time in attending public meetings and loyal-league gatherings by day and by night. The whole race seem disposed to quit their work and resort to the towns and villages, where they may eke out an idle and wretched existence in pilfering and begging."

Second, on property:

"Property of all kinds, and especially real estate, has depreciated in value one half or two thirds during the past year. No one is disposed to purchase anything, and foreign capital has been driven out or deterred from coming here for investment. Property sold by the sheriff brings nothing. The marshal of this State told me the other day that he sold a plantation, well-improved, containing two thousand acres, in Horry district, at public auction to the highest bidder for five dollars."

Third, on population:

"A great many persons are moving from the lower country, where there are so many negroes, and that section of the State is destined to become a wilder-

ness. The same thing must occur in many portions of Mississippi and other States. A gentleman just returned from Mississippi tells me that lands which rented last year for fourteen dollars per acre were now offered at two dollars per acre, and no one would take them.

Unless there is a reaction at the North, and better legislation for the southern States, they will be an incubus to the Union, utterly destructive of the whole Republic."

Fourth, on crime or pauperism:

"The consequences are that our fields and plantations are uncultivated, the country pauperized, at the point of starvation, and filled with every grade of crime. Not a day passes over our heads that we do not hear of some theft, houseburning, robbery, rape, or murder. I will mention one or two instances out of thousands which might be enumerated. Five negro men, last week, in Darlington district, went, armed with guns, to a country store, robbed the store, killed the clerk, shot a woman in the house, and went to the dwelling of the owner and killed him. A short time since a parcel of negroes placed obstructions on the South Carolina railroad, which threw off a train of cars in the night time. Again, at another point on the same road, a parcel of negroes fired into the train, and came very near killing several passengers. Last fall, at Pickens court, seven or eight negroes were convicted of murder, and seventeen or eighteen others sent to the penitentiary. Highway robbery, an offense which was scarcely ever heard of in South Carolina for years past, has become a very common crime in the neighborhood of towns and villages. Theft and burglary are of constant occurrence."

Fifth, on war of races:

"The present military force will have to be kept up to maintain peace between the two races, and there is no certainty of their ability to do this long. I have for some time thought that when the negro government went into operation it would be impossible to preserve the peace of the country. A war of races must ensue, and it will be the most terrific war of extermination that ever desolated the face of the earth in any age or country."

Who can describe, who can conceive, the horrors of such a war as that? Terrible as our late civil war was, it was nothing in comparison.

In a war of races there is nothing sacred, nothing holy, nothing respected. All the charities of the heart and all the ordinances of God and of man are trampled down before the passions of demons incarnate. Fire, rapine, and death encompass you on every side. The flames of your dwellings, the shrieks of the virgin, and the groans of the matron break your midnight repose. The dead lie unburied in your houses and in your highways. The priest is slain at the altar—feeble age upon its crutch—the infant in its cradle.

What will you do? Where will you fly? Alas! you know not, for

"Which way I fly is hell."

And because I would save the South from the adoption of a policy which tends to produce such a war as that, am I to be charged with cruelty and inhumanity? Sir, I am pleading for the peace, for the lives, for the existence even of the people of the South. Because as an American and as a man I love the people of the South of both races, the whites with all their errors and enmities, now severely punished and deeply atoned for, and the blacks with all their present ignorance and as a class their entire incapacity to govern themselves much less to govern others; because I am pleading with all my might to save them from a policy which will certainly destroy one if not both races, is it right to say I am wanting in Christian charity? This charge has too little foundation to require further notice. I return to my argument.

This statement which I have just read from Governor Perry, corroborated, as it is, by the universal testimony of intelligent men of the South, it should be carefully considered and not thrust aside by the Senate.

Mr. President, will the South live or die under such treatment? To prevent a war of races a large standing army will be required if political power is placed in the ignorant mass of half civilized negroes.

Bad as military despotism is, the mass of white people would prefer that to negro government, and that can only be upheld by military power.

The best lands of the South are returning to a wilderness; production is paralyzed; negro suffrage is to be maintained by a standing army at hundreds of millions of expense; and republicanism is to be trampled down by military despotism at the South. And, sir, what will be the effect of all that upon the States and upon the institutions of the North? Can the North bear all that immense expenditure to sustain negro supremacy at the South? What will become of our credit, of our resources? What will become of our republican institutions? Can we live as a republic bound to a despotism; can we, as a nation, live at all, chained to a dead body?

The Union for which we struggled was a union of equal States under the Constitution, a union with the living, not with dead. If this radical policy shall be pursued until death ensue, the Republic, to save itself, may yet cry out in agony, who shall deliver from this body of death? who will cut the cord which binds us to a corpse?

I appeal once more to the Senate to arrest, or at least to modify, this policy, and to leave the States of the South in the control of its civilized people. If you will not leave the question of suffrage entirely to them, as we claim it for ourselves, to be determined each State for itself, do not, I implore you, humiliate the intelligence and civilization of the South by forcing upon them against their will, against their long-cherished sentiments, the universal suffrage of their late ignorant and as yet but half-civilized African slaves.

For the elevation of the negroes themselves I implore the Senate to place some restrictions upon negro suffrage; some qualifications which the more worthy may now have, and to which the mass may, perhaps, hereafter aspire.

Adopt substantially the amendment which I propose, and I have no doubt in sixty days the people of those States would carry it out in good faith. Order and civil government would take the place of anarchy and military despotism. A great part of the Army could soon be withdrawn, and our expenses reduced by $50,000,000 per annum. Hope would revive, and prosperity begin to smile upon all parts of the Republic.

If the majority would adopt that and except from disfranchisement all who have received pardon according to law, with all the great errors it has committed during the last two years, I think it might still hope with confidence that the people of the United States would continue them in power.

But if they will insist upon the disfranchisement of thousands upon thousands to whom the nation's plighted faith has given pardon; if they will force universal negro suffrage upon ten States and six millions of our own race and people against their will, the party in power, whoever may be its candidate for President, ought to be, and I think will be, overthrown.

Mr. President, as I said in the beginning, when this measure came here from the House, a measure which, upon its face, in a time of profound peace, creates, as it seems to me, an absolute, unqualified military despotism over ten States, eight millions of our people, and over a territory larger than England, France, and Germany all combined, I confess I was filled with emotions which no language can express.

I have accustomed myself to look upon the United States, with its written Constitution, forming a union of many States into one nation, and yet so defining and limiting its powers as to leave the States thus united independent, each for itself, under its own constitution, to guard the more sacred rights of its citizens, as the realization of all that is great and good in human government—as the true ideal.

As a citizen and as a Senator I have looked upon this great Republic in this New World not only as the outgrowth of the civilization of the ages, but as the realization of the highest aspiration of all who have preceded it and prepared the way for its coming; as that higher and better Republic for man upon the earth, for which the great and good of all ages have longed and prayed, and for which the brave have struggled and have not feared to die.

With the eye of an humble faith I have looked upon it, also, as that very Republic which the prophets of old foresaw was to come—the Manchild of prophecy, the Faithful and True, in righteousness judging and making war; and if faithful and true to its high mission that heaven with all its omnipotence stands pledged for its success. Will the great Republic be faithful and true to that mission? For its hour of trial has come. Two dangers alone threaten it. They come, not from without; they come from within. Secession on the one hand; centralization, to be followed by imperialism, on the other.

We have overcome the one. That danger is already past. Are we equal to the struggle necessary to resist and to overcome the other which threatens now? That depends upon the people themselves. God grant they may be!

Mr. PATTERSON, of New Hampshire. I move to postpone the further consideration of this subject until to-morrow.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 306) for the protection in certain cases of persons making disclosure as parties or testifying as witnesses; and

A bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns.

MESSAGE FROM THE PRESIDENT.

The following message was received from the President of the United States by Mr. W. G. MOORE, his Secretary:

Mr. PRESIDENT: I am instructed by the President of the United States to inform the Senate that the joint resolution (S. R. No. 99) to authorize the Secretary of War to employ counsel in certain cases, which originated in the Senate, having been presented to him on the 11th day of February, 1868, and not having been approved or returned by him to the Senate within ten days, (Sundays excepted,) has become a law under the Constitution of the United States.

The President's Secretary also presented several executive messages.

EXECUTIVE SESSION.

On motion of Mr. JOHNSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 24, 1868.

The House met at 12 o'clock m.

By unanimous consent the reading of the Journal of Saturday last was dispensed with.

The House, pursuant to order, resumed the consideration of the resolution reported by the Committee on Reconstruction, Mr. WOODWARD being entitled to the floor.

IMPEACHMENT OF THE PRESIDENT.

Mr. WOODWARD. Mr. Speaker, this is the third attempt to impeach the President. The first, founded on his alleged usurpation of powers which the Constitution had delegated to the legislative department, was crushed to death by the ponderous volume of testimony of more than twelve hundred pages which was brought in with the impeaching resolution. The second attempt, founded on the Johnson-Grant correspondence, was strangled in the birth, and the issue of fact raised between those distinguished correspondents was left to be decided by each man for himself upon evidence that was altogether favorable to the President.

Now comes, for the third time during our present session, another resolution of impeachment, founded on the President's removal of E. M. Stanton from the War Department, in violation of the sixth section of the act of the 2d of March, 1867, entitled "An act regulating the tenure of certain civil offices."

I shall call the attention of the House very particularly to that section in connection with

other sections of the same statute for the purpose of showing that this resolution is founded in a mistake, and that any impeachment of the President on the idea that Secretary Stanton is within the protection of the tenure-of-office bill is what Fouché, the chief of the old French police, would have called worse than a crime—a blunder. But before examining the enactment I beg leave to remind the House that the President removed Mr. Stanton by virtue of powers he derived from the Constitution, which is a higher law than the pet statute on which the impeachers have placed themselves. The President's constitutional powers in the premises must be stated. The Constitution distributes the powers delegated to the Federal Government among three great and coördinate departments—the legislative, the executive, and the judicial. To the legislative department are given "all the legislative powers herein granted." Article two, section one, reads:

"The executive power shall be vested in a President of the United States of America."

And, says article three:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

The power is vested—all the power delegated to the Federal Government. What powers these are must be seen in the Constitution or learned from political science as applicable to a confederacy of States in union under a Federal Constitution.

But whatever executive power the Federal Government possesses is vested in the President. He is made the sole trustee of the people in this regard. In the matter of appointments to office and the treaty-making function a check is imposed upon the President by the provisions which require the consent and concurrence of the Senate; but even in these instances the power exercised is the President's. The concurrence of the Senate is only a regulation for the exercise of the power. It is a mere advisory discretion—not an executive power. The Senate possesses not an iota of executive power. Its functions are all legislative, except when it sits upon impeachments, when they are judicial. The separateness and completeness of this executive power in the hands of the President are a doctrine that is very essential to the harmony of our system and to the responsibility of the President to the people. He is a trustee for them, and that he may be held to a strict account of his stewardship the individuality and exclusiveness of the power with which he is clothed are not to be questioned. And if Congress meddle with it they become trespassers—their act is an impertinent nullity, and the President is not to be impeached for disregarding it.

Now, sir, see what the Constitution says about his appointing power. Article two, section two, says:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

He is to nominate, and, by and with the advice and consent of the Senate, appoint, the officers designated and all other officers established by law whose appointment the Constitution does not otherwise provide for. But the appointment of "inferior officers" may be vested by law in the President alone, in the courts of law, or in the heads of Departments.

In the first Congress that assembled under this Constitution several questions were settled as a contemporaneous construction of the above provision that has been acquiesced in ever since, or at least until this ill-contrived tenure-of-office law came upon the statute-book. For instance, on the 19th May, 1789, in the debate upon the Executive Departments, it was agreed that the "inferior officers mentioned in the Constitution are clerks and other subordinate persons." (See Debates of First Congress, page 86.) They could not be heads of Departments, for the power to appoint inferior officers might be vested in heads of Departments, and the Constitution was not guilty of the solecism of making heads of Departments appointable by themselves.

And in the same debate upon the Executive Departments it was settled that the President's power of appointment included the power of removal as to all officers except judges. On an amendment declaratory of this power Mr. Smith, of South Carolina, said "he had doubts whether the officer could be removed by the President." To which Mr. Madison replied:

"I do not concur with the gentleman in his interpretation of the Constitution." * * * *

"I think it absolutely necessary that the President should have the power of removing from office; it will make him in a peculiar manner responsible for their conduct and subject him to impeachment himself if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States or neglects to superintend their conduct so as to check their excesses. On the constitutionality of the declaration I have no manner of doubt."

Let me observe, *en passant*, for the benefit of those gentleman who doubted the statement of the law of impeachment which I had the honor of submitting to the House some weeks since, that the above extract shows that Mr. Madison entertained the same view, and a reference to the debates, which I have before me, will show that every gentleman who touched the point agreed with Mr. Madison.

But on the point now before us, the power of the President to remove civil officers without the concurrence of the Senate, I beg leave to read a short extract from the speech of Mr. Goodhue, a distinguished member of that First Congress:

"Mr. Goodhue was decidedly against combining the Senate in this business. He wished to make the President as responsible as possible for the conduct of the officers who were to execute the duties of his own branch of the Government. If the removal and appointment were placed in the hands of a numerous body the responsibility would be lessened. He admitted there was a propriety in allowing the Senate to advise the President in the choice of officers; this the Constitution had ordained for wise purposes; but there could be no real advantage arising from the concurrence of the Senate to the removal, but great disadvantages. It might beget faction and party, which would prevent the Senate from paying proper attention to the public business. Upon the whole, he concluded, the community would be served by the best men, when the Senate concurred with the President in the appointment; but, if any oversight was committed, it could best be corrected by the superintending agent. It was the peculiar duty of the President to watch over the executive officers; but of what avail would be his inspection unless he had a power to correct the abuses he might discover?"

Mr. Clymer, of Pennsylvania, also said in the same debate:

"The power of removal is an executive power, and belongs to the President alone, by the express words of the Constitution—the executive power shall be vested in a President of the United States of America. The Senate are not an executive body, they are a legislative one. It is true, in some instances, they hold a qualified check over the executive power, but that is in consequence of an express declaration in the Constitution; without such declaration they would not have been called upon for advice and consent in the case of appointments. Why, then, shall we extend their power to control the removal, which is naturally in the Executive, unless it is likewise expressly declared in the Constitution."

The question on adding the words "by and with the advice and consent of the Senate" was put and lost. On the 24th June, 1789, when the War Department was being formed, Mr. Benson proposed, with respect to the Secretary's being removable by the President, a similar amendment to that which had been obtained in the bill establishing the Department of Foreign Affairs.

Mr. Sherman thought it unnecessary to load the bill with any words on that subject. Mr. Page was of the same opinion, but the question was taken on the amendment without further debate and carried in the affirmative, 24 to 22. (See Debates of First Congress, 1 vol., pages 88, 89, 108.)

There, Mr. Speaker, in the very formation of the Executive Departments, and especially that of War, the First Congress settled it that the power of removal was absolute in the President without consent or concurrence of the Senate. And they settled it, not as a legislative principle which a subsequent legislature might change, but as a constitutional principle which the legislature could not change, but were bound to respect and uphold. They were forming the great Departments of Government, the heads of which were to be the principal ministers of State—a collective body of confidential advisers of the President, and therefore called his Cabinet, and over whom it was all-important he should possess the unchecked power of removal. Without this he could not execute the trust confided to him by the people. Without this he could not be held to just accountability. Without this the impeaching power would become what Jefferson declared it had become in respect of the judges, less than a scarecrow. Without this the Departments would rush into confusion and conflict as certainly as the planets if not held strictly to their orbits. Without this the disgrace, the danger, the injury which now impend over our beloved country, from the divided counsels which the Senate insist on maintaining in the executive department, would be of frequent recurrence.

Mr. Speaker, the words I have quoted from the First Congress settle this question absolutely, and demonstrate the utter unconstitutionality of the act of 2d March, 1867. And they were not the "big, swelling words" of fanatics and demagogues, full of sound and fury, signifying nothing, but the grave utterances of venerable men, some of whom had assisted to form the Federal Constitution, and all of whom were very competent witnesses to its contemporaneous construction. They were the words and thoughts of men whose purpose it was to build up a fabric of free Government instead of tearing down every landmark and safeguard of human liberty.

This subject of removal came up again in General Jackson's administration in 1834, and in his protest of April 15 of that year there is the same luminous statement of the argument and conclusive reasoning which characterized all his State papers, showing that the concurrent authority of Washington, of the Senate, and the House had fixed the sense of the Constitution and the practice of the Government from the year 1789 up to that time. To that period we have now to add the years that elapsed from 1834 to the passage of the act of 1867, making in all seventy-eight years of uniform practice upon this interpretation of the Constitution.

Having now, sir, demonstrated from the highest authority the world can afford that the tenure-of-office bill is a gross violation of the Constitution and an impeachable usurpation of executive power by the legislative department, I now say that, if the palpable unconstitutionality of the enactment were not a reason for the President disregarding it, it is a final and conclusive reason against impeaching him. But a void law binds nobody; and in the first instance the President must determine what laws he is bound to execute. The judicial department is the final arbiter of the constitutionality of statutes, but necessarily the Executive must primarily pass upon the question, subject always, of course, to the just responsibilities of his office. If Congress, by a constitutional majority, should require him to abdicate the office, or to do any other thing which all sane men would agree was *ultra vires*, I hold it would be his right and duty to disregard it in advance of a judicial decree. Nor would a mere mistake in such a matter subject him to impeachment, much less a disregard of a statute so manifestly unconstitutional that there is no room for mistake. He would rather have been impeachable for executing such a law.

I proceed now to show that Mr. Stanton is not within the purview of that enactment. He was appointed Secretary of War by Mr. Lincoln, and continued in office under Mr. Johnson without reappointment by him. He was the incumbent when this law was enacted. I have seen it stated without contradiction that he advised the President it was unconsti-

tutional, and I can credit the statement, for if he were far less a lawyer than I well know him to be I would expect him to be of that opinion. If it were carried around to every lawyer in the country, absolute unanimity of opinion on this point might be expected. Indeed, from the course of events in Congress, I conclude no lawyer in either House doubts its unconstitutionality, else the nervous dread of the Supreme Court would not be so apparent.

But constitutional or unconstitutional is of no consequence if Mr. Stanton be not within it, and that he is not, is what I have undertaken to show. The report of the committee and gentlemen in debate put the impeachable offense of the President upon the sixth section of the act. I quote it:

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

Now, sir, observe it is the removal of Mr. Stanton that is complained of, but the removal which the sixth section condemns is every removal "contrary to the provisions of this act." If Mr. Stanton is not within the act then the removal of him is not contrary to it. Is he within it? The first section reads:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

The first clause of this section continues every civil officer appointed by and with the advice and consent of the Senate in office until his successor shall have been in like manner appointed and qualified, except the Cabinet ministers. They are expressly excepted, because they are named in the proviso which directly follows the first clause. As to them a different rule is provided, and what is it? They shall hold their respective offices during the term of the President by whom they were appointed and for a month thereafter, subject all the while, however, to removal by and with the advice and consent of the Senate. Such is the tenure of Cabinet officers. A month after the expiration of the term of the President by whom they were appointed their tenure expires, and they become tenants at sufferance. Until that time they are removable by advice of the Senate; after that time they have no title, and their possession can be ousted at the pleasure of the President.

Such is the plain letter of the enactment, and the only question that remains is whether Mr. Lincoln's term has ended and a month has elapsed. This is not a difficult question. Nearly three years ago he was cruelly assassinated, and Mr. Johnson, as Vice President, succeeded, or, in the language of the Constitution, "the powers and duties of the said office" devolved on him. What was the power and duty of the office in respect to tenure? Again the Constitution shall answer: "he shall hold his office during the term of four years." It was Mr. Lincoln's power and duty to hold his office for the term of four years, and at his death this power and duty, as far as they were unperformed, devolved upon the Vice President by the very words of the Constitution. The term became Mr. Johnson's term for its unfinished period, as much so as the right to possession of the White House, the right to the salary, or to any of the perquisites and functions of the office. It would be as unreasonable to call Mr. Johnson's possession of these Mr. Lincoln's possession, or Mr. Johnson's administration Mr. Lincoln's administration, as to call Mr. Johnson's term of office Mr. Lincoln's term. Neither in popular language nor in constitutional phrase can such a misnomer be found. It would be as absurd as to confound their names, or the identity of their persons.

Thus, then, it stands: the sixth section punishes removals contrary to the act; but Cabinet ministers can only be removed contrary to the act by the President who appointed them. Mr. Stanton was appointed by President Lincoln, and his title to office expired a month after Lincoln's death; from that time he retained his portfolio at the pleasure and will of him upon whom all the powers and duties of the office had devolved; he was a mere *locum tenens;* and when Mr. Johnson removed him he acted within strictest bounds of the Constitution, and offended not against the statute; he went not "contrary" to it, and so incurred not the penalties of the sixth section.

To this it may be answered that President Johnson removed him in the first instance, confessedly, under the provisions of the statute. Sir, the fact that the President conformed himself to the statute proves nothing more than a desire to silence cavils by complying with a law whose validity he at all times denied. It does not make that a law which was no law; but it is a curious reason to urge in favor of impeachment that the President tried to execute the very law, void though it was, which you set up to condemn him.

An idea has got possession of gentlemen's minds, inspired, no doubt, by the tenure-of-office law, that the peculiar enormity of the President's act consisted in removing Stanton while the Senate was in session. The Constitution does not forbid him to do so, but leaves him free at all times to rid himself of an unacceptable Cabinet minister. It is better done when the Senate is in session than when it is in recess, because the new nomination can be immediately considered without prejudice to the public interests from delay of a confirmation; and such has been the practice of the Government from its foundation. Indeed, the Senate is always in session when a new Administration comes in and substitutes new Cabinet officers for the old ones. The Senate passed resolutions of violent censure against General Jackson for removing Duane from the Treasury in 1833, but they did not question his right to remove officers during the session. (See Benton's Thirty Years' View, vol. 1, pages 369 and 408.) And other officers than Cabinet ministers have been removed during the sitting of the Senate, as, for instance, Isaac V. Fowler, postmaster of New York, who was removed 10th May, 1860, during the session of Congress, and an agent of the Post Office Department placed in charge. Neither in Duane's or Fowler's case was the Senate consulted, nor are they ever consulted about removing officers by a new incoming Administration.

The conceit, then, that Stanton could not be removed at this time, because the Senate is in session, has no foundation in the Constitution or any law or usage of the Government, except the tenure-of-office act, and that is so plainly void and so certainly does not apply to Stanton that it can furnish no rule for the occasion. The idea is baseless.

Having now shown, on authority that you are bound to respect, that the tenure-of-office law is an unconstitutional aggression upon the executive power, and that Mr. Stanton's case is not within its purview, I clinch my conclusions by quoting the speech of Senator SHERMAN, of Ohio, when this bill was on passage in the Senate, who urged, and it is fair to presume obtained, the passage of the bill on the ground that it would not touch Mr. Johnson's control over any of his Secretaries whom he had not appointed:

"That the Senate had no such purpose is shown by its vote twice to make this exception. That this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly, as a Senator, would consent to his removal at any time, and so would we all."

Mr. Speaker, Ohio is a great State, and fertile in great legislators. Here we have an Ohio Senator pleading for the legal-tenure bill on the ground that Stanton is not within it, and two Ohio Representatives on this floor [Mr. SPALDING and Mr. BINGHAM] pleading for the impeachment of the President because Stanton is within it. But what makes this display more rich is that these gentlemen take great credit to themselves for resisting impeachment hitherto, but now they are constrained to surrender. They could not go with the venerable chairman of the Reconstruction Committee when he had a colorable case to urge against the President—Oh, no, they were too conservative for that—but they can go with him now, when he has not the shade of a shadow of a case. They can eulogize a law as worthy of reverence and obedience above all laws that have been enacted since Sinai thundered, which Stanton himself pronounced unconstitutional, and which was passed because it did not include the very case which has converted these conservative Representatives of Ohio. Well, sir, we see and hear strange things now-a-days, and special wonders overcome us in this House frequently.

But let me ask, will not the majority pause long enough in their hot pursuit of the President to discover that they are being misled by cross-lights and false lights? That they are blundering in law and fact? I suppose not. Probably not one single man among the intelligent gentlemen who make up that majority can be persuaded to the truth of this case. They will not reverence the sages of 1789 who laid the foundations of our Government, while they fall down and worship this Dagon of impeachment. They will not respect the text of the Constitution, nor even the necessary construction of this tenure-of-office law in their frenzied pursuit of the executive patronage. If it be so it is very, very sad, for it betokens the ascendency of party passions over reason and law. I could wish this House were better employed. What with the distractions and alienations of our day, our debt and taxes which are eating out not only the substantial wealth, but the moral sense of the country; the prostration of labor and trade which are crying for help from all quarters, we might find something to do which would be more useful to the country than impeaching President Johnson. He is the man of your own choosing, and I verily believe he is trying to restore the Union, to pacificate the country, to administer his high office with a faithful regard to the obligations of the Constitution and the best interests of the people. I am no partisan of his. I never voted for him, and never saw him till I came to this Congress. I have had but little intercourse with him, and know nothing of his political likes or dislikes. But he seems to me to be a true friend of the whole of his country, a faithful public officer, and entitled to Cabinet advisers who are his friends and not his enemies. We had far better sustain such a man in his constitutional rights, and address ourselves to the relief of the suffering country, than to waste our time and the people's money in impeaching a faithful public servant on charges that are both false and foolish.

Mr. Speaker, I shall not feel that my whole duty to the House and the country is done unless I allude to another objection to this impeachment movement, which my friend from New York [Mr. BROOKS] glanced at, and for which the gentleman from Ohio [Mr. BINGHAM] and the two gentlemen from Illinois [Mr. FARNSWORTH and Mr. LOGAN] poured out upon his head a flood of vituperative eloquence. At the risk of similar denunciations I take it upon me to deny your right to impeach anybody, and the present Senate's right to try any impeachment.

Says the Constitution: "The House of Representatives shall have the sole power of im-

peachment," and the "House of Representatives shall be composed of members chosen every second year by the people of the several States." This House of Representatives is not so composed; but, on the contrary, the Representatives chosen from ten of the "several States" have been and are excluded from these Halls. I do not say if they were absent voluntarily they could prevent your exercise of the impeaching power; for then they would form, though personally absent, a part of the composition of the House: but so long as you prevent their entering into its composition, you are not the House of Representatives to whom the Constitution commits the "sole power of impeachment." Our functions in this regard have been likened to those of a grand jury which consists of twenty-three men. And suppose, sir, a majority of a grand jury should get possession of the jury-room and bar the door against a minority of their fellows, as well entitled to be there as the majority, would the findings of such a jury be respected? By no court in Christendom. On the contrary, their acts would be set aside, and very likely themselves punished for their contempt of the law.

Then, as to the Senate, the Constitution says "the Senate shall have the sole power to try all impeachments," and that the "Senate of the United States shall be composed of two Senators from each State." The ten excluded States are entitled to twenty Senators upon that floor, and until they are admitted and incorporated into the body I deny that it is the Senate to whom the Constitution commits the power to try impeachments. What criminal was ever before arraigned before a court from which twenty of his legal triers had been excluded? Yet you propose to arraign the man who represents in his person thirty-five millions of freemen before just such a dismembered bench. You have no right to do it. Your might makes it not right. A giant's strength is good, but it is tyrannous to use it as a giant.

The flippant reply to this grave suggestion is that we pass laws, and therefore we are a House and Senate to impeach. But the answer is, your legislative powers have not been questioned, your impeaching powers are. I am not bound to take even a valid objection to the jurisdiction of a court who sits to adjudicate my civil rights, nor is my objection to its jurisdiction to try me for crimes and misdemeanors impaired by my failure to make timely objection in behalf of my civil rights. The question of jurisdiction is raised now, and now is the time to decide it. It was never raised as to our legislative powers, and the time has gone by for that. But this is the very time to raise it as to our criminal jurisdiction. It could not be decided before it was raised, and hence I conclude all the legislation we have done does not constitute us the court to originate and try impeachments which the Constitution contemplates.

Mr. Speaker, so sure I am that the American people will respect this objection that I will say, if I were the President's counselor, which I am not, I would advise him, if you prefer articles of impeachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that while he held himself impeachable for misdemeanors in office before the constitutional tribunal, he never would subject the office he holds in trust for the people to the irregular, unconstitutional, fragmentary bodies who propose to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers.

Mr. CLARKE, of Ohio, and Mr. FERRISS addressed the House. [See Appendix.]

Mr. JOHNSON. Mr. Speaker, filled with alarm and mortification at the proceedings now being had in this House, I feel compelled to do something more than cast my vote. Yet while I feel so much anxiety I still know that I can say nothing that will change the purpose of this Congress to pass the resolution in question. Aside from my conviction that this is a high-handed and unwarranted political scheme, against law, against justice, and against the best interest of the country, I believe also that it is one of a number of measures which will follow fast for the overthrow of our institutions.

The first section of the act regulating the tenure of certain civil offices reads as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided; *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Now, it is well understood that Mr. Stanton was appointed Secretary of War during Mr. Lincoln's first term of office, and that he never was appointed for Mr. Lincoln's second term, but was allowed to remain in the office *ad interim*, or until a Secretary of War should be appointed according to the forms of law. His term of office ceased long ago, and when he refused to yield the office to General Thomas he became a usurper. He has never been appointed and confirmed to the office of Secretary of War for the term that he now pretends to hold. Therefore his displacement by the President cannot be a violation of the tenure-of-office act or any other law. His term of office expired on the 4th of March, 1865; had the tenure-of-office law then been in force his term would have expired on the 4th of April, 1865. But it is a fact that Mr. Stanton has not been Secretary of War by appointment and confirmation since March 4, 1865; therefore the President has not violated any law by his displacement. It is unnecessary, however, for me to discuss this question in its legal aspect and bearings.

The gentleman from New York, [Mr. BROOKS,] in opening the argument of this question for our side of the House, remarked that the people would not stand any high-handed proceedings of this Congress, proceedings not warranted by the Constitution and laws; and warned the majority, as I understood him, to let all their acts be within the circle and limits of the Constitution. In these remarks I could see nothing of threat or defiance, unless the majority admit, for the purpose of giving the remarks applicability, that it is their deliberate intention to proceed outside of the Constitution. Upon these well-timed and statesmanlike remarks of the gentleman from New York nearly all the gentlemen on the other side have felt called upon to read us lectures about civil wars, the horrors of civil wars, &c. They tell us that the old Democratic party said in these Halls that if Abraham Lincoln was elected President of the United States civil war would certainly follow. I admit that the Democratic party, seeing the danger, sounded the alarm and gave the country warning. But do not charge us with advocating or countenancing your civil war; the true Democracy of this country opposed that unfortunate civil war. I believed it to be patriotic to oppose a civil war in my own country—I shall continue in the same mind. No good man or patriot can ever justify civil war in any land, except the liberties of the people shall be the prize fought for.

With the words of the gentleman from New York [Mr. BROOKS] as a foundation, or rather claiming them to be provocative, gentlemen upon the other side have proceeded in most high-sounding style and terms to proclaim the prowess of Republicans on the field of battle. Gentlemen, of whatever party, who come into the Halls of Congress in these exciting times—times when our institutions are showing such manifest signs of decay and dissolution—and use such expressions, do so without weighing well their words or the effect which might be produced by their speeches, and entitle themselves to the severest terms of condemnation. My worthy friend from Illinois [Mr. FARNSWORTH] asserts that one Republican can whip two Democrats. Now, being a peace Democrat, as against civil wars in my own country, it is becoming in me to say yes, in the arts of carnage, rapine, and murder, in the arts of burning and destroying, one Republican is more mighty than two Democrats.

But, to be serious, I have grave doubts as to the individual patriotism of gentlemen who, upon so slight a provocation as that offered by my friend from New York, would rush to the front and declaim so vehemently as to what the Republican party can do in case of civil war. By civil war the Republican party can now destroy our institutions. They tried it once before and only broke up the Union, but now, if as successful as then, they can complete the ruin of the country.

The gentleman from Pennsylvania [Mr. KELLEY] arraigned the President in a deep, tragic tone, in a voice-from-the-grave style of speech, for all the crimes known to the law. He seemed to forget the fact that the President was only charged with violating the tenure-of-office law; no matter as to that, however. But I was provoked to laughter when the gentleman charged that the President had intended to commit a *coup d'etat*, and for that he should be punished. Now, I do not know that there is any crime in the President's intending to commit a *coup d'etat* or a *coup d'main*. If such intention in the President is criminal, a high misdemeanor, then I assert that the making of a *blanc mange* speech on this floor is felony, and I say to honorable gentlemen beware!

The gentleman from Illinois, [Mr. LOGAN,] who is always fair, always earnest, and always eloquent, denied, when asked by the gentleman from Maryland [Mr. PHELPS] if the impeachment of the President would not fasten negro suffrage upon the country, that there was any such issue involved in this matter. But in less than five minutes thereafter he thundered it through these Halls and galleries that the impeachment of the President would settle the question of reconstruction according to the congressional plan, and forever fix and settle the question of the liberties of the people. The same position has been taken by all others, I believe, who have touched upon the question.

Now, one word here, not as a threat, not defiantly, not boastingly, but in sorrow. I tell you if you appear to impeach the President of the United States simply for partisan purposes, for the purpose of fixing upon our institutions the curse of negro and Chinese citizenship and equality, that you will fail; and the very civil war you so boastingly speak of will come as sure as it may be necessary for the people to resort to such extreme measures for the protection of their rights and for the keeping of our institutions in the hands of men of Caucasian blood. The people cannot be deceived as to the real motive of the Republican party in seeking to impeach the President. In fact, I do not know that any one is trying to deceive the people. Members seem to speak plainly upon this question. You have been trying to find some excuse for nearly a year to impeach the President, and never offered any reason to the country for your desire so to impeach him but those weighty reasons contained in the assertions that he was opposing your reconstruction schemes, and that he had asserted the country could only be saved through the instrumentality of the Democratic party. His removal of Mr. Stanton from the War Office was not the beginning of your desire for his impeachment nor this the beginning of your efforts to impeach him. The best interests of our country, if not the stability of our institutions, are involved in the matter now before the House. I will not ask to discuss the legality of the proceedings now about to be had; but I will say that the act creating the office of Secretary of War leaves that officer entirely under the command of the President. I allude to the act of August 7, 1789. Now, in addition to this, I say that the first section of the tenure-of-office bill makes an exception in Mr. Stan-

ton's case in favor of the President; and more, that the debates on the passage of the bill show clearly that the Senate of the United States so understood it.

But let this pass. I will attempt no argument on the law of this case. Is it wise, is it desirable, is it necessary to impeach the President of the United States? Is there an uprising of the people demanding the impeachment of this high officer? One word answers all these questions: No. There is not a man in the United States outside of Congress who desires the impeachment of the President, except those who desire it on political grounds, and those speculators and agitators who hope to make capital out of their country's misfortunes, and hope that by possible convulsions they may be shaken to the surface and may profit by the general ruin. No possible advantage not attainable other ways will be gained by this impeachment, and untold misfortunes may result from it. Whatever tends to weaken the respect of the people for high official station, for our courts and laws, weakens the force of the Constitution—this proceeding has such tendency. Whatever tends to make uncertain our laws and institutions certainly should be regarded as against good policy. Whatever tends to render uncertain and above the courts any tenure, whether of constitutional and lawful place, of property, or of life, should be avoided as dangerous to liberty, and as leading to chaos and anarchy on the one side, or a despotism on the other. The unrestrained bad passions of hot and hasty politicians involved us in a fearful civil war seven years ago, the horrors of which can never be written. By it ten States of this Union have been reduced from happy, prosperous, and rich Commonwealths to a state bordering upon starvation, to misery, despondency, and the most terrible condition of poverty, with their governments turned over to the keeping of ignorant and lawless bands of degraded negroes. Desolation and ruin have swept over that portion of our common country. Where the torch and the sword passed by, and left a little green, fertile spot with its happy cultivator undisturbed, the speculator has since gone; the happy tiller of the soil has been turned out penniless and homeless, and the little green spot, by a convenient mode of confiscation, has become the property of some political thief who prayed for a civil war in his own country, his own land.

In the North we have not suffered so much yet, but our sufferings are now shaping into a beginning. I will not prophesy evil to my country while I can act for its welfare. But this impeachment scheme, whatever its results may be, is nothing but one of the evils drawn by the train of that civil war. I appeal to my colleagues, to my countrymen, to do nothing in this direction which they in their best judgment believe not to be absolutely necessary for the salvation of our institutions. Recollect with sorrow and bear in mind, as I do, with profit, that less than three years ago Abraham Lincoln, President of the United States, whose memory I revere and respect, and at whose shrine you worship, was stricken down here in the capital city of the Republic by the hand of an assassin. Now let us strike down and politically kill his constitutional successor, and then tell me if there is any stability or certainty in our Government? It will weaken our institutions in the hearts of the people and thereby set us another full move toward chaos or despotism. It will show such uncertainty as to weaken the public credit to such extent as to ruin commerce and paralyze every branch of industry. The insane policy of the party that now threatens this impeachment locked up or shipped from the country all the money in it and issued worthless rags instead, which must necessarily be affected by the slightest troubled pulsation at this capital. Your action to-day will be a loss to the country of $1,000,000,000 directly, and will indirectly not retard, but break up and destroy, every hope of prosperity. You are shaping things so as to fasten the odious doctrine of repudiation upon us, and I fear you will succeed. With a debt of nearly three thousand millions, with no merchant marine, with a balance of nearly a thousand millions a year against our people in taxation and tribute to foreign countries, can we afford to create such commotion in the country?

Am I unnecessarily frightened at the condition of our country? Am I right in my fears that our best statesmen have not given us their advice, or that to do so they would have to speak from the grave? I wish the other side of the House to understand me as meaning that they are wrong in judgment, not as charging them with wrong intentions. I believe every honorable gentleman on this floor will vote as he thinks is right. I impugn no one's motives. But I fear gentlemen have not sought out from the deep well-springs of their hearts the real reasons they have for their action in this matter.

In conclusion, I only have to say, I pray God we may have no more civil war, no anarchy, no despotism in our unhappy land. I oppose civil war as leading to every evil and as being too terrible even for anticipation. While I fear every evil, I will hope for good, and stand firm in the discharge of the high duty assigned me by my constituents; would to God I could discharge that duty better.

Messrs. MOORHEAD and LYNCH addressed the House. [See Appendix.]

Mr. JULIAN. Mr. Speaker, I do not propose to discuss the question of law involved in the resolution before the House. That has been ably done by the gentleman from Massachusetts, [Mr. BUTLER,] and is, in fact, unnecessary. The President, as if to leave Congress wholly without excuse, has done an act which on its face settles the question of law, and shuts us up to the absolute necessity of taking the recreant usurper by the throat. In the name of the country I thank him for it. I do not agree at all with those gentlemen on this side of the House who have expressed their regret at what has happened, and their desire to escape the duty it entails upon us to impeach the President of the United States. On the contrary, I rejoice in the madness of this last act of his brazen defiance of the Constitution and the laws, and that in this, as in all the previous trials of our country since the year 1861, the devil has come to our rescue just at the point where the courage and virtue of men gave way. We are indebted to the enlightening influence and saving grace of Jefferson Davis and the villains at his heels for the policy of arming the negroes against them, the abolition of slavery, the enfranchisement of the colored race, and the reconstruction of the rebel States on the basis of humanity and justice; and now, under a later extremity, we are indebted to the stupid rebel malignity of Andrew Johnson for the courage which at last shall hurl him from the White House, and consign him once more to the fond embrace of his rebel confederates in the South and their faithful allies in the North. Will any friend of his country grieve over all this? Shall not the logic of treason work out its appointed results through its fitly chosen instruments? If this House, in December last, was not ready to impeach the President because it feared the Senate would not convict, or dreaded its effect upon the finances, or feared it might injuriously complicate the presidential issue, or because of the pitiful legal quibble that he had not committed an indictable offense, is it not most fortunate that this single act of lawlessness has been evoked, which so beautifully consolidates into a unit all the friends of the country in this House and throughout the nation? It is true, the removal of the Secretary of War is relatively a small matter. It is scarcely a peccadillo when considered by the side of the New Orleans massacre and many other wholesale enormities of which he has been known to be guilty for many months past; and I believe it would be regarded as scarcely a sufficient ground for this proceeding, if not considered in the light of far greater previous offenses. But it happily summons to the side of impeachment every man who has thus far hesitated or halted, and thus settles the long delayed movement as an absolute success, and insures the future peace of the country.

Mr. Speaker, on the 11th day of December last, soon after the question of impeachment was voted down, I used the following language in some remarks upon the subject in this House:

"That the President will pause in his course of maladministration and crime I do not for a moment believe. His capacity for evil stands out in frightful disproportion to his other gifts. He is a genius in depravity, and not simply 'an obstinate man who means honestly to deal with the problem of reconstruction.' His hoarded malignity and passion have neither been fathomed nor exhausted, and will not be during his term of office. If I may judge of the effects of the President's late message of defiance, acting on the inflammable temper of southern rebels, and followed swiftly by the strong vote of this House renouncing its jurisdiction over his crimes, I can have no hesitation in believing that a new dispensation of rapine and misrule will be the result. This will be morally and logically inevitable."

That, sir, is what I then said, and every word of it stands vindicated by time. That "new dispensation of rapine and misrule," as every one knows, *has* been the result. I said further, in behalf of the Indiana delegation, that we had "no apologies to make" for the votes we had cast, "nobody's pardon to beg," and "no favors to ask in any quarter." Sir, I repeat these words here in the light of the present hour; nor can I forbear to say, in the great and priceless interests of the truth—and I say it in sorrow—that Congress is not wholly innocent. The organized victory of treason over loyalty in the rebel districts within the past few months, which we have seen, with the whole train of mischiefs that have thus been visited afresh upon their people, could only have been born of the criminal hesitation and delay of Congress, through which the evil spirit of the Executive was pampered into renewed life, and breathed with new power, into his rebel followers. But, turning from these sad facts of the past, let us rejoice in the glorious present, and in its sure prophecy of speedy deliverance for our country from its weary and sore bondage. After the long political night which has so fearfully enshrouded us, let us thank God for the dawn which at length salutes our vision, and reveals to us the beauty and glory of a redeemed and disenthralled Republic.

Mr. WILSON, of Iowa. Mr. Speaker, the public peace is again disturbed by the President of the United States. He denies to the nation that repose which it so much needs. He will not obey the law, and by it he must be judged.

I do not approach this case under the spur of haste or the heat of passion. Its presence I deplore, but its demands I will respect and obey. As a Representative it is my duty to see that the laws of the Republic are not defied by a criminal in office, if within the terms of the Constitution a remedy may be found. The presence of the criminal is a palpable fact, the remedy is plain and indisputable, and from the performance of the duty imposed I will not shrink. An impeachment of the President of the United States is made inevitable by his own deliberate criminal conduct, as presented to us by the case which now commands our attention. We cannot escape this conclusion if we would; for the President would hedge us about with new acts of greater enormity, if there be any logic in his course of procedure, which would at last compel us to take up the gage that he has now defiantly cast at our feet.

Heretofore his challenges have not been, in my judgment, in due form of law, or stamped with the character of real crimes or misdemeanors, and therefore I have resisted a resort to the extreme remedy which the Constitution has placed in our hands. Perhaps I have been more cautious than most men would have been, but no regrets come to me on this account, for I still believe that I but did my duty. The considerations which weighed upon my mind and molded my conduct in the case with which the Committee on the Judiciary of this House was charged are not to be found in the present case. The logic of the former case is

made plain, not to say perfect, by its sequence in the present one. The President was working to an end suspected by others, known to himself. His then means were not known to the law as crimes or misdemeanors, either at common law or by statute, and we so pronounced. He mistook our judgment for cowardice, and worked on until he has presented to us, as a sequence, a high misdemeanor known to the law and defined by statute. If we permit this to pass unchallenged by that high power with which the Constitution has clothed us no man can measure the future troubles of this Republic. For one I am not willing to wait for an ascertainment of the unknown quantities of future presidential crimes and misdemeanors.

We have one before us, its elements known and its quantities ascertained, and I am in favor of wiping it from the executive black-board by an impeachment of the criminal who placed it there. Its presence is a source of regret to me, as it must be of mortification to the people of this Republic; but I will face it as they will meet it, by asserting the subordination of the President to the law of the land. He is not a maker of law, nor a judge thereof; and it is enough for him to know that the Constitution which he is sworn to "preserve, protect, and defend" says that "he shall take care that the laws be faithfully executed." What laws? Those which are passed in pursuance of the terms of that Constitution which he is sworn to "preserve, protect, and defend." And how are these laws to be passed? By the two Houses of Congress, with the approval of the President, or in such case as he do not approve, "he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it;" and "if after such reconsideration two thirds of that House shall agree to pass the bill it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House it shall become a law." What kind of a law? One which the President "shall take care" that it "be faithfully executed."

The Constitution does not make him a judge of the law, but an executor thereof, and he is bound to execute that which the law-making power decrees to be the law of the land. Whatever may be his opinion of the law as a mere individual member of the national family he is bound to yield it to that higher duty which the Constitution imposes on him as an officer of the State. If his conscience forbid he may resign the trust, but he has no right to retain the power of a public officer and subordinate that to the judgment of a mere individual member of the community or nation which has clothed him with executive power for the enforcement of its laws. As an individual he may be justified in an assumption of the risks attendant upon a disobedience of the law; as a public officer no such plea can be properly entered in his behalf, for he is not only sworn to execute the law but he also possesses the right of resignation. If his conscience will not permit him to execute a given law he may resign his trust, and leave to his successor the performance of a duty which his judgment, as an individual, will not surrender to his obligations as a public officer. A willingness to submit to the penalty prescribed for the violation of a law may, to some extent, excuse disobedience on the part of a private citizen, and at the same time avail nothing to the public officer. The latter may at any time, by resignation, become a private citizen, but the former cannot become a public officer in this country except by the suffrages of his fellow-citizens. If he accept the result of their suffrages he merges his individuality into that official creature which binds itself by an oath as an executive officer to do that which, as a mere individual, he may not believe to be just, right, or constitutional. Such an acceptance removes him from the sphere of the right of private judgment to the plane of the public officer, and binds him to observe the law, his judgment as an individual to the contrary notwithstanding.

The Constitution invests the President with executive power in order that he may "take care that the laws be faithfully executed." Every abuse of this power, whether it be by an improper exercise of it or by neglect or refusal to exercise it at all, is a breach of official duty. But it is not every breach of official duty that can be charged as a crime or misdemeanor against the delinquent officer. Whatever doubt may have arisen in other cases of the criminal character of the official conduct involved in them the one we are now considering presents no basis on which to rest a doubt. Deliberately, not to say defiantly, the President has violated a penal statute of the United States, and has thereby committed a high misdemeanor which the law says "shall be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court." (Act of March 2, 1847, section six.) All of the circumstances attendent upon this case show that the President's action was deliberate and willful. There is not a shade of excuse or palliation in the case as it is presented to us. Perversely he has rushed upon his own destruction. Obstinately he has forced upon us an issue in which we must join or prove ourselves unworthy representatives of a free people. We have not sought this issue, but have resorted to every legitimate means to avoid it; we have manifested no undue desire to exercise the impeaching power which is vested in this House exclusively by the express terms of the Constitution.

Guided by a sincere desire to pass this cup from our lips, determined not to drink it if escape were not cut off by the presence of a palpable duty, we at last find ourselves compelled to take its very dregs. A decent respect for the executive office, a patriotic effort to avoid a collision between two departments of the Government, ever manifested by this House, seem to have been most strangely misunderstood by the President. Our refusal to abuse a power or to resort to it even while a mere doubt as to our right to exercise it could be urged in opposition thereto seems to have been construed by him into a license to trample on even the penal statutes of the nation. The result is before us. The President challenges the supremacy of the law and dishonors his constitutional obligation to "take care that the laws be faithfully executed." Substantially he affirms that his oath of office may be qualified by the conclusions of his private judgment. He defiantly casts before the representatives of the people his gage and declares that he will decide what laws are constitutional, and that such only as stand the test of his judgment will he respect, enforce, or obey. This is his case. He has elected to base it on a penal statute. It is for us to traverse this case and put it to the country. Anything less than this would be a shameful abuse of our high trust and a criminal abandonment of duty. To my charge shall neither of these offenses be placed.

Mr. Speaker, it has been urged in this debate that the President's sole object is to secure a judgment of the courts as to the constitutionality of the act regulating the tenure of certain civil offices. Such an intent will not justify the commission of a high crime or misdemeanor. Suppose the courts should hold the act to be constitutional, would the fact that his intent was to have that question decided be a good plea to an indictment for a violation of its provisions? Who is so insane as to assert so preposterous a proposition? Whoever acts in the way and for the purpose suggested does it at his peril. The work belongs to the President in this case, not to the law. This plea in his defense demonstrates that his action was not the result of inadvertence or of mistaken judgment, and that it is the fruit of cool calculation and deliberate purpose. He committed a high misdemeanor in order to secure a judgment of the court. Sir, we will gratify his desire by carrying his case to the highest court known to the Constitution of the Republic—the high court of impeachment. To that august tribunal we will present this case, and with it the law and the criminal. He shall have his day in court, and be taught, for his own good and that of his successors in office, that the President of the United States, clothed with all the great powers of his high official station, is as completely subordinate to the law of the Republic as is the humblest of its citizens.

The public welfare, the repose of the nation, the interests of our institutions, the safety of the Republic itself, require that all persons, official or otherwise, shall be solemnly taught that the law of this land is no respecter of persons; and that the high and low, the rich and poor, the public officer and the private citizen, are each alike amenable to its imperial demands, subject to its high commands, and subordinate to its supreme authority. The majesty of the law must be asserted, though it strike from his exalted position the Chief Magistrate of the nation. We may deplore the necessity, but we must obey the voice of the law. I speak not as a partisan, but as the custodian of a trust, the sacred character of which awes me into a strict observance of my duty. I will vote for the pending resolution to the end that the law may be vindicated by the removal of an unworthy public servant from an official position which he has dishonored by his perverse disregard of duty and his unjustifiable contempt for the supremacy of the law.

Mr. WOODBRIDGE. Mr. Speaker, it is known to the House and the country that when the Committee on the Judiciary, being charged with the subject of impeaching the President of the United States, finished their labor and reported to the House, I was one of the minority who found that under the testimony presented before the committee there was not sufficient to justify the intervention of the impeaching power. I have never changed that opinion, and I now say that in my judgment there was not then before the House sufficient evidence, whether we confined ourselves to the laws of the United States or resorted to the common law to ascertain what a high misdemeanor is, upon which a respectably logical argument could be framed, showing that the President had committed a high crime or misdemeanor. During the progress of that investigation, whenever any opportunity arose, certain zealous and sensitive gentlemen upon the floor, who seemed determined that the President should be impeached under any circumstances, intimated that the committee charged with the matter were dilatory, if not derelict in the discharge of their duty; that if you would have a healthy child, you must not place it in the hands of its enemy to nurse; and many statements were made tending to prejudice the public mind against members of the committee.

Upon one occasion, sir, in reply to some thrust at the committee, or a portion of them, I took occasion to say that they were actuated by a sense of duty; that while the investigation was proceeding they would neither form or express an opinion; that regardless of party policy or public prejudice or personal popularity they would do their whole duty, and that if the time ever came when under the testimony and the law when President Johnson should be impeached, every one of them would stand up as firmly and as boldly as the foremost of those particular champions, who at the time, as it seemed to me, were determined to precipitate this grave and solemn matter upon the country without law or sufficient evidence to justify them.

Sir, the day has come when I shall make my statement good. I believe in my soul that Andrew Johnson, President of the United States, should be impeached. In no other way can we maintain the majesty of the law and the future safety of our Republic. Within the last ten days he has committed three acts in direct and positive violation of law, and under such circumstances and surroundings as to convince

me that they were committed with an evil intent. The first act was the formation of a new military department; the second was the removal of Mr. Stanton as Secretary of War; the third was the appointment of General Thomas Secretary of War *ad interim*.

In the rules and regulations for the government of the Army, prepared and adopted while Mr. Cameron was Secretary of War, and under which the war of the rebellion was fought, it was distinctly provided that to the Secretary of War belonged the duty of making rules and regulations for the Army, under which was included the duty of establishing military departments. And by the law of 1864 it was provided that the Secretary of War should cause to be prepared a report or plan for the future government of the Army, and that until such report was presented and acted upon by Congress the then existing regulations should remain intact. That report is under preparation by a board of competent officers, and has never been acted upon. Hence there is no power in the President to create a new department. Now, sir, why was it created? The departments already existing were sufficient for all purposes during the progress of the most gigantic, unnatural, and terrible war which the world has ever witnessed; and when peace had come, and the Army been reduced from over one million to forty-two thousand men, it is difficult to conceive how the condition of the Army or the country demanded a new department. I am not prepared to say, sir, that the act of the President, in and of itself, furnishes ground for impeachment; but for a moment, sir, let me examine the motive which prompted him. During the recess of Congress Mr. Stanton had been suspended and General Grant been appointed Secretary of War *ad interim*. The reasons for the suspension of Mr. Stanton had been presented to the Senate and by them deemed insufficient. This action of the Senate restored Mr. Stanton. General Grant, in conformity with law and with his duty as a soldier and a citizen, permitted Mr. Stanton to resume his portfolio; and here we first find the motive which actuated the President; for in the correspondence between the General of the Army and the President, it is claimed by the President that General Grant had promised that in case he should deem it his duty to permit Mr. Stanton to assume the position of Secretary of War, if the Senate should judge the reasons for his suspension insufficient, he would deliver the keys of the War Office to the President in season for him to appoint another man Secretary *ad interim*, who would resist by force, if necessary, an attempt by Mr. Stanton to enter upon the duties of the position. General Grant, in the line of that straightforward honesty which crowns his character as a man, of that unyielding fortitude which makes him the greatest living hero, of that strong common sense and judgment and intuitive perception of the right which gives him great intellectual and moral power, obeyed the law rather than follow what seemed to be the improper wishes of the President. The President found in the General of the Army sterner stuff than he anticipated, and some plan must be devised for the execution of his plans. With the old Roman in the War Office and the law-abiding Grant at the head of the Army the President was "bottled up." By the law creating the grade of General of the Army his headquarters are confined to Washington. To send him away was impossible; to have illegal orders executed through him was equally impossible. Hence the necessity of creating a new military department, with headquarters at Washington. Now, some general must be placed in command. There are plenty of them of sufficient rank, but that will not answer the purpose, for the General of the Army would be chief, and orders must go through him. To obviate this difficulty the plan was devised to give to the Lieutenant General the brevet rank of General, for under Army regulations an officer may be assigned to a command in accordance with his brevet rank. Now the drama is complete. But, thanks to the gallant and heroic Sherman, he spurned the gilded bait, and the play failed. Hamlet had dropped out. Another general was approached. The old pet and bosom friend of the President, the hero of Nashville, General George H. Thomas, who believes in Congress and the law, and two brevets were offered him, and he, too, declines the honor. Is it a wonder that our Army clothed themselves all over with laurels under lead of such noble men? Why should the President be unwilling to execute his orders through General Grant? Has he done wrong? Has he been insubordinate? What court was to judge whether Edwin M. Stanton was Secretary of War? The Senate of the United States, and from their decision there was no appeal. He executed the behests of the highest court for that purpose in the land, and simply did his duty. Now, sir, the only hypothesis upon which I can account for the creation of this new military department and the conferring of brevet rank of General is that the President must have a department, with Washington for headquarters, and some general of the highest grade known to the law, always present, and pliant or devoted enough to execute his orders, whether lawful or unlawful; ready at the word of command to prevent by force a man declared by the solemn judgment of the Senate to be Secretary of War from entering his Department, or who by force will eject a Secretary of War when he will not abdicate at the illegal summons of the President. If this is not a high misdemeanor then I do not know what a misdemeanor is.

We next come to the removal of Mr. Stanton during the session of the Senate. I have not time, sir, to discuss the legal question, whether by the Constitution the President has the power of removal during vacation. Great diversity of opinion has always existed upon that subject, and a respectable argument may be made either way. But, sir, to my knowledge, it has never been contended that the Executive had the power of removal during the session of the Senate. The only course which he can pursue is to send a nomination to the Senate, which, if confirmed, displaces the person in office, and which, if rejected, leaves the officer in possession. Sir, the whole difficulty is solved and the whole question settled by the act of March 2, 1867, which repeals the laws of 1789, 1792, and 1795, and declares that certain officers, and among them the Secretary of War, shall not be removed except by and with the advice and consent of the Senate; and that every removal, appointment, &c., shall constitute a high misdemeanor. Gentlemen say the act is unconstitutional and the President had a right to disregard it. But the President is precluded, for he has already acted under it, thereby recognizing its binding force, in suspending Mr. Stanton, and sending his reasons therefor to the Senate. He could not justify that action under any other law. He also recognizes the validity of the law and the action of the Senate in Mr. Stanton's case, in the order for Mr. Stanton's removal, when he declares that he is removed from the Department of War.

He has also committed a misdemeanor in the appointment of General Thomas *ad interim;* but time will not permit me to pursue the subject.

Sir, it is a solemn duty that we are called upon to perform. No man regrets its necessity more than I do. The President's best personal friend would not have been more pleased than I to have seen him remain in the Executive chair until the end of his constitutional term of office. My political sentiments would have differed from his; but, sir, diversity of political faith never affects my personal relations. I should have respected and befriended him as President, though he disagreed with me, had he not assumed a prerogative dangerous to the liberty of the people. It is the beauty and the power of our system that the highest and the lowest are alike protected by and amenable to the law. There is but one body which can pronounce a law made by the Representatives of the people unconstitutional. That body is the Supreme Court of the United States. To high and low, to rich and poor, to the President and the beggar, the law must be sacred and supreme, and the President no more than the meanest beggar can be justified in saying that a law is unconstitutional.

The delicately adjusted system of our Government can never endure so violent a shock. The executive, the judicial, and the legislative each have their independent powers and duties, and in their execution each should be untrammeled. The President of the United States, assuming an unauthorized power, has knowingly and willfully and wickedly disregarded and violated the law of the land; and in view of it we must do our duty. The effect of our act upon the future of our country it is not for us to foresee. The present and its duties are ours; the future is in the hands of God. If we trust Him, as our fathers did, all will be well. The threats of the gentleman from New York do not intimidate me. Our constituents are looking upon us, and expect that every man will do his duty. The commercial centers for a few days may be ruffled. For a time our securities may be depressed abroad. But, sir, a people ever jealous and ever watchful of their liberties will thank God that their Representatives have courage enough to meet the emergency. The beat of the nation's heart is loyal to duty. I have no fear in doing what I believe to be right. As the eagle, emblem of our country, keeps his eye upon the sun and bears himself upward toward the sky, so shall our country, if we practice that eternal vigilance which is the price of liberty, rise safely through this and every trial, and perpetuate free institutions to our latest posterity.

If tumult and riot and bloodshed shall follow, they will not be caused by the execution of law. Popular harangues addressed to the passions of the ignorant, of which the gentleman from New York furnished a miniature specimen, may excite to opposition and violence, ay, even to the shedding of blood, and, if so, upon those who make them must rest the responsibility. But let me assure the gentleman that if such shall be the result, which may God forbid, ten thousand swords will leap from their scabbards, a million bayonets, at the first bugle-call, will glisten in the sunshine. Brave heroes will fill up the ranks; the honor of the old flag will be maintained; peace and quiet will be restored, and the nations of the earth will again learn that ours is a Government of law.

Messrs. BAILEY, HULBURD, and McCARTHY addressed the House. [See Appendix.]

Mr. VAN HORN, of New York. Mr. Speaker, under the pressure of the moments that are upon us and the important question that is before us, which makes them of great interest and solemnity, I shall detain the House but a very brief period in stating the reasons which will govern me in casting my vote upon the resolution now under consideration. This is no ordinary occasion upon which we have fallen, and the resolution before the House is of the gravest character. It seldom happens that the Representatives of the people are called upon to pass judgment upon a matter of such great import and filled with such importance. Never, under our Constitution, has the chief executive officer of the Government been impeached of "high crimes and misdemeanors," and never has the question presented those proportions or given evidence of that unanimity of feeling and action as are now apparent in this House, which is so soon to act upon it.

When the resolutions for impeachment were before the House on a previous occasion I was not present to vote upon them, for good reasons, but had I been, I should have voted with the majority, for reasons stated then by several who addressed the House, and which are so well known to the country. There was a want of definiteness in the evidence, a lack of

positive tangible testimony, which, upon such questions of great magnitude, to be precedents for all future time and help make the history of a great and just nation, should always stand out as indisputable and certain beyond a doubt.

My views as to the course of the President for the last two years have been well understood, and are clearly shown by my votes in this House during that time, and have suffered no change by the failure of the resolutions to which I have referred. I consider that the most of our difficulties spring from the unhappy defection of the Executive, his collision with the legislative branch of the Government, which more immediately represents the people, and the consequent abuses, frauds, and corruption which arise from a division of responsibility and a struggle for ascendency, which cannot be avoided under such a condition of things. And, further, his seeming fixed determination to take from the hands of those, who, during all our struggle of the last few years have known no flag but the one of "our fathers;" who have been loyal and true to the Government in the sunshine and in the storm, and bore the responsibility of the great conflict for the life of the Republic, the power, the control, the influence which were theirs by right, by the verdict of the loyal millions of our people, by the consent of the civilized world, and put all in the hands of the enemies of the country, and those who, in more ways than one, have sustained their cause, is of itself sufficient upon which to base the opinions we may hold of the President and his general policy and action.

But in the case before us we are not left in doubt. His gross violation of law, which makes the case we are now considering, is a matter of public record, and is not and cannot be denied. The manner in which it is done clearly shows, too, the spirit and intent of the act, which, taken in connection with all his recent course upon certain acts of legislation which have not been agreeable to him and which have encountered his veto, must leave no room for doubt as to his purpose and intent in the action which has induced the resolution now under discussion.

By the Constitution the President has the power to appoint, by and with the advice and consent of the Senate, certain officers named in that instrument, and such as may be created by law, and whose appointment is not otherwise provided for. He has also the power to fill vacancies that may happen during the recess of the Senate, but when that body is in session his duty is clear and has never been questioned. Congress, for the protection of good men in their rights, and for the best interests of the public service, provided by law, passed by a two-third vote in both Houses over the President's veto on the 2d day of March last, that the President should communicate the causes for any suspension made by him during the recess of the Senate to that body for their consideration. If the Senate approve his act it should be valid, if not it should be invalid, and the officer so suspended should again "forthwith resume the functions of his office, and the powers of the person performing its duties in his stead shall cease." This applies to cases of suspension during the recess of the Senate. The Constitution settles the question of appointment by the President when the Senate is in session, and there is but one way in which it can be done, and that is by and with the advice and consent of the Senate. Now, what are the facts? The President suspended Secretary Stanton while the Senate was not in session, and recognizing the law he vetoed, but which is nevertheless the law, having been passed by a constitutional majority over his veto, sent to the Senate after it convened, and within the number of days specified by the law, his reasons for such suspension. The Senate, after a careful consideration of the reasons presented, refused to concur with the President in the suspension of the Secretary of War; and upon such notice being promulgated in a proper manner, the Secretary resumed the duties of his office. In defiance of this action by the Senate he has since that notice not only failed to recognize Mr. Stanton as legally authorized to act as Secretary of War, but has at last attempted to, and declares over his own signature, in a communication addressed to the Secretary, and also to the Senate, that he has removed Mr. Stanton from his place and given letters of authority to Adjutant General Lorenzo Thomas to act as Secretary of War *ad interim*. This appointee, so called, has also, in obedience to the orders of the President, demanded the War Office, its papers, and all pertaining thereto, and has assumed, in obedience to such orders, to execute its functions. This is a direct, palpable, and indisputable violation of the sixth section of the law in question, with all the facts before him, without excuse, and purposely and willfully done. The following is the section referred to:

"SEC. 6. That every removal, appointment, or employment made, had, or exercised, contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

No argument is necessary here to show that the act in question is a violation of the law before us, and it is also unnecessary to attempt to show the nature of the act, for the law itself declares that its violation by any officer shall be "high misdemeanor." The Constitution provides that the President "shall be removed from office on impeachment for and on conviction of treason, bribery, or other high crimes and misdemeanors." It will not do in this case to plead the unconstitutionality of the law thus violated, as has been argued by several gentlemen upon the other side of the House, for if the President can do so, then any other citizen can do so, if, in his judgment, the law he violates be unconstitutional. The President above all others should be law-abiding, and act as the Constitution expressly provides, as the executive officer of the nation, and be careful that all the laws be faithfully executed, so long as they are not adjudged to be unconstitutional by competent authority, which the President is not. He may have his opinion upon measures of legislation like the law in question, as all citizens may, but when he takes upon himself the duties of the high office of chief executive officer of the nation, he can express that opinion in an official manner upon a measure as provided by the Constitution and veto it. When, under that same Constitution, it becomes a law notwithstanding his objections, it is as valid as though it had received his indorsement, and he is precluded from making any further embarrassment to its operation or full and complete execution.

The case is a plain one, and there can be but one conclusion arrived at by any candid mind. This act is also a willful violation of the law. It was done in defiance of the law and the Senate, which body the Constitution makes at least equal to the President in matters of appointment, and whose consent is absolutely necessary to make an appointment valid. It was done in the spirit of hatred and strife which has controlled him for a long time, and with the purpose to crush the rightful authority of the people's Representatives in this House, and wrest from them the execution of their great purposes of preserving this Government and keeping it in the control of its friends, and those who not only are, but have been loyal to it in the dark hours of its sorrow and peril. This act is a part of the usurpation and treachery of the President, which is and has been filling our land since the war with disquietude and suffering, which follows to-day the poor but faithful loyal man of the South with the relentless energy and hatred of treason, and seeks to bring to naught all the sublime fruits of the great conflict and victories we have won; which, too, rests with mountain weight upon the great loyal heart of this nation which is struggling to be free, as it has a right to be. Congress has been slow to act. For the sake of peace it has delayed and been willing to submit to almost anything. The loyal men of the South have been proscribed and persecuted—as they now are—beyond measure for being and having been loyal and favorable to the laws of Congress. The prosperity of the country has been diminished, and all its interests paralyzed by this wanton, unjustifiable crusade upon the rights and liberties of the people. Heretofore we have endured all, and left it to time to remedy the evils we were suffering; but now there is an obligation upon us we cannot throw off. We are called upon by every consideration of public duty, by the duty we owe to a faithful officer, who, with Roman firmness and sterling virtue, has faithfully executed the great trusts committed to him during years of bloody struggle for the nation's life, in obedience to law and in opposition to its violation, by the obligations we are under to see that the laws are respected and faithfully executed, so far as we may be able, and when their infraction comes under our jurisdiction; by all these considerations we are called upon to do our duty fearlessly and faithfully in the emergency which is now upon us.

Mr. Speaker, for these reasons I shall vote for the resolutions which have been reported by the committee, and feel that I have done my duty. The country will breathe freer when the greatest obstruction to its peace and harmony shall be removed, and the loyalty and devotion of a patriotic people will be vindicated. Since the beginning of the late war there have been many occasions when the representatives of the people in this House and the other branch of Congress have been placed under trying circumstances, and have felt that the future was dark and uncertain. Since the war uncertainty has still existed, darkness rests over the great sea, and, with an uncertain and corrupt head to the Government, it is impossible to anticipate the future, and idle to hope for repose and safety to the great interests of liberty and justice in the land. We owe it to ourselves to stand firmly by the law and its faithful defenders, to vindicate the integrity and patriotism of our people, to demand anew that loyalty shall be defended and protected, as it is not now, in ten States lately in rebellion, and that loyal men shall control and govern a country saved by loyal blood and the sacrifices of loyal hearts. I regret this occasion, Mr. Speaker, as much as any one can, for the good name of our common country, and wish it had not been forced upon us by the madness of the President. But it is too late to retrace our steps and go backward. I shall meet these resolutions with the clearest convictions of duty, and am willing that the vote I shall cast and the record I shall make by so doing may stand with that of my associates in this body as a part of the great struggle in this House and before the country for the supremacy of law and the vindication of the loyalty and virtue of the great people who have saved the Government from overthrow. The future will seal this act as an act of safety to the Republic, and one indispensable to the prosperity and happiness of our people.

Mr. HUNTER. Mr. Speaker, for two years Andrew Johnson, as President of the United States, has been a usurper of power, a supporter of treason, and a disturber of the public peace of the nation, and should have long since been brought to the bar of justice and dealt with for his crimes; but there were those among the people's Representatives who were disposed to forbear with him and apologize for his wrongs and outrages upon the people's rights rather than enforce the stern edicts of the law and compel him to suffer its penalty. This leniency, instead of softening his passions and winning him to the paths of virtue and

right, as was contended by many it would, has served only to stimulate and embolden him in his treasonable purposes, and in order to execute them he has at length set at defiance and trampled under his feet a law passed by the Congress of the United States.

Sir, it does seem to me that after the catalogue of crimes committed by him against the liberties of the people it is high time that their Representatives were taking him in hand and enforcing the decrees of justice against him. I am pained to see gentlemen on the other side of this Hall standing up in his defense and warning us that if we proceed in this case and impeach the President and remove him from power that it will inaugurate civil war, and again redden this land with blood. Sir, no speeches of that character can alarm or drive me from my duty. I know what war is. I have endured its hardships, seen its calamities, and tasted its woes. No man deplores it more than I; but, sir, I have no fears of war or bloodshed if we but go forward and do our duty and remove this man, if found guilty of crime, from power; but, on the contrary, we will relieve the country of the great disturber of its peace and happiness and the obstructor of its prosperity.

I hear it asked by some on the other side of this Hall what is it that Andrew Johnson has done that he should be impeached? I answer that he has, in violation of the Constitution of the United States, and of the tenure-of-office bill, undertaken to remove Edwin M. Stanton as Secretary of War and appoint his successor *ad interim* during the session of Congress without the advice or consent of the Senate of the United States. Why is it that he has undertaken thus to trample under foot the Constitution and laws of the country, and to remove from office the great war officer of this nation? It is because that officer thwarts his treasonable plans, and prevents his arming rebels and using the war power of this Government to perpetuate him in office, and to force upon the country his policy of reconstruction, which would again place rebels in power, put the loyal men of this country at their mercy, and thus render the war a failure. Sir, this country will never have relief until this usurper, this man of authority, is removed from his high office for his crimes. When that is done the people, instead of sinking under the great shock to the nation, will be seized with new hopes and energies, and hail their deliverance from the rule of Andrew Johnson as the proudest day since the surrender of Lee's army. Having but a few moments allotted to me I have no time further to discuss the question now pending for our consideration. In conclusion, let me ask every friend of liberty, law, and justice to stand fast, and not falter in the great duty before him. I approve the resolution, and hope that it will pass.

Messrs. BUCKLAND, LAWRENCE of Ohio, WELKER, ARNELL, and NUNN next addressed the House. [See Appendix.]

Mr. CLARKE, of Kansas. Mr. Speaker, it is not my purpose to occupy the time of the House in any elaborate defense of the vote I shall give in favor of the momentous question now submitted to the judgment and conscience of this body. The constituency I have the honor to represent upon this floor require no such defense at my hands. In common with a large minority I heretofore voted in favor of the impeachment of this great political criminal. Not alone, sir, because in this instance he has violated the express provisions of a statute, because he has placed himself in opposition on this point to the Constitution, shall I give my vote in the affirmative on the pending proposition. For many months I have been ready for this issue. For many months past, expressing not simply my own convictions, but those of the gallant people who sent me here, I have not doubted the plain duty that was before us as Representatives of the American people, nor for one moment swerved from a firm conviction that, sooner or later, "to this complexion must it come at last." The people of Kansas sent me back to the Fortieth Congress to vote for the impeachment of Andrew Johnson. The infamous record made by the President was presented to them.

In their name—that of a people in whose midst the first forcible usurpation was attempted; whose blood was the first shed in defense of liberty assailed by treason; whose State organization was barely recognized when the signal gun at Sumter proclaimed the opening of the slaveholders' rebellion; but who gave more men and lives proportionally to their numbers than any other of the loyal States for the suppression of that rebellion—in the name of a people thus educated and strengthened, I stand ready to vote for the impeachment of Andrew Johnson, not only for this latest "high crime and misdemeanor," but because he has been guilty of many others.

In the name of the people I represent I charge Andrew Johnson, acting President of the United States, with having usurped the legislative functions of this Government, and by means of the authority thus wrongfully obtained and for purposes inimical to the preservation of the integrity and security of the Union, sought to reëstablish in power the unrepentant enemies of the Republic.

Andrew Johnson is guilty before the bar of a loyal public opinion of having thus attempted to replace in power within ten States, whose governments had been subverted by armed treason, the man who had directed that treason.

I believe him guilty of a deliberate conspiracy to destroy by treacherous plots the fruits of the victory which patriotic sacrifices had won.

I believe him guilty of deliberately seeking the enlargement—with a purpose inimical to republican institutions—of the executive office, taking unto himself more than imperial powers, and insolently denying to the supreme and sovereign law-making function of the Government the right to examine into these acts.

I believe him guilty of seeking to control the exercise of the franchise; dictating, within the rebellious regions, who should or should not be voters; what laws should or should not be passed; what acts he required to be or not to be done.

I believe him guilty of appointing officers unknown to the law; of nullifying law in that he has caused the payment of persons thus illegally appointed by him who could not take the oath of office required by the statutes of this land; of corruptly using the pardoning power for the condonation of the crimes of traitors, and for the purpose of restoring them to political power and privileges; of having fraudulently restored property taken from rebels and properly held by the Government, alike by the laws of war and the statutes of the land.

I believe him guilty in denying to Congress the rightful exercise of its powers and prerogatives; in impeding the course of legislation by a corrupt use of the veto power, and in constant endeavors to bring the national Legislature into disrepute, and make it the subject of revolutionary violence by seditious and inflammatory harangues addressed to disorderly assemblages; in that he has sought to excite violence against the persons of members of the American Congress as well as against other equally honored citizens of the land; in that he has attempted to inflame the vilest passions of the disloyal and disorderly by allegations of fears of assassination and by the perversion of history; in that he has brought his high office into disrepute by making of himself a demagogue, seeking to arouse all the hateful passion which defeated treason and open sympathy therewith had left in the land. I believe him guilty of aiding and abetting in the murder of thousands of loyal citizens throughout the South; in that he has encouraged the spirit of rebellion and incited the hand of the traitor to renewal of persecution, mob law, and assassination.

In the eye of history and before the loyal people of this land Andrew Johnson stands convicted of the two hundred and more murders of loyal men which at New Orleans a year and a half ago startled the nation with their enormity.

Andrew Johnson, in my judgment, is guilty as inciter and provoker of the nameless crimes which have been inflicted upon the freedmen of the South; the two thousand murders known to have been committed in the State of Texas alone; and of the thousands of similar atrocities which have afflicted the loyal citizens, white and colored, throughout the rebel States.

He is guilty of aiding and abetting the conspiracy by which republican government has been overthrown in the State by which we are surrounded, and in the streets of whose principal city blood would long since have flowed if he could have corrupted the great soldier into whose hands the military power of the Republic has, so happily for its welfare, been committed.

For all these and many other acts of a similar character; for a long course of treacherous procedure, for transcending all mere partisan detrayal, and afflicting the land with disorder, unsettling all business, and making the hearts and homes of the patriotic heavier with suspicion and darker with dread than resulted from all the sorrows of the war, because Andrew Johnson has for his own vile ends, his mad and selfish ambition, his obstinate and perverted passions, been guilty of these and other crimes, I stand ready, as always, to vote for his impeachment. I do it with alacrity, because I believe that a successful removal of this political criminal is the surest means of preventing that renewal of civil war for which I believe and charge here in my place and in the name of the people I represent, the President of the United States to have been steadily working.

Mr. Speaker, the gentleman from New York, [Mr. BROOKS,] whose eloquence and learning we all admire as heartily as we contemn and oppose his principles, warned us, as he has often done before, that we are in the midst of a revolutionary epoch; that we are approaching its last stage and are traversing the same roads that history records of other representative Governments. The remarks that gentleman indulges in are similar to those used in a somewhat famous speech delivered in front of the White House just two years ago. It seems to me, sir, that, with but two or three exceptions, gentlemen on this side of the House have failed in realizing the philosophy of the great contest through which we are passing.

Sir, I deny that history nowhere shows that representative institutions have been overthrown by legislative bodies. The dangers to which representative Governments are exposed grow from the constant tendency of the executive office to enlarge its functions. The fact that there is a deliberate purpose persistently pursued to persuade the American people that their liberties are in danger from the popular branch of the Government demands that some reference should be made to the falsehood of the charge. Especially is this befitting when, in resisting the active encroachments of the Executive and the constant attempt to enlarge the powers of that branch, we are met to act upon the great prerogative of impeachment, placed in our hands as the final instrument of protection against such acts by the Constitution itself.

Gentlemen must not lose sight of the great fact surrounding all the events of the past two years, a fact which even subordinates the work of reconstruction itself. The battle we have been waging with a recreant and reckless President has meant more than the proper rehabilitation of the treason cursed and war-stricken South. It was more fundamental even. It was the struggle, sir, common, as I have remarked before, to all representative governments; that struggle sure to come between the executive and the legislative functions. The former, from its very nature, seeks to obtain power; the latter seeks to restrain power; the

one performs, the other protects. The conflict we are waging, and against which the gentleman from New York [Mr. BROOKS] warns us, is the same which has been waged in other lands. The regal and absolute pretensions of the British Crown received their first fatal defeat when the ax of the Commonwealth made the first Charles shorter by a head. It was finally killed when Parliament, speaking the voice of the English people, dethroned the Stuarts in the person of the second James. Since then, Mr. Speaker, the contests in Great Britain have not really been between Crown and people, but between classes in Parliament and classes without, with a slow but steady enlargement of the basis of representation. The men who framed our Constitution were wise in their day and generation. They were men who had studied history. Many among them had heard from the mouths of actors therein the great lessons taught by the events of the English Commonwealth times: that liberty was always more endangered by the few than the many; that the single chief was more apt to seize and hold power, profiting by the mistakes of the many, than the latter was to seek and maintain such authority.

That great body of men—the framers of our Constitution—foresaw and provided against this danger. They placed the legislative function first in the enumeration of powers. The reason was plain. It was nearest the people. They hedged in the executive and judicial with strong restrictions, and, more than all, they placed in the hands of this House the power we are now about to exercise, and in the hands of the Senate, after due and solemn trial, the power to protect the Republic against the usurpations of an unfaithful Executive, by removal from his high office. Impeachment, in our policy, is the safety-valve to prevent revolution, not to encourage it. The gentleman from New York [Mr. BROOKS] and his colleagues may talk of the revolutionary character of the times in which we live, and may threaten us with resistance, but the point has been reached when "forbearance ceases to be a virtue," and we must either impeach and remove an encroaching and usurping Executive or see go down the ordered balance of powers ordained by the Constitution.

I see, sir, in this power of impeachment, a great safeguard against the revolutionary elements abjured by gentlemen on the other side. I am glad to invoke it, because it will save the nation from worse evils. I do not fear the results, for I trust the people and the people's Representatives. That is the difference between the gentleman from New York and myself.

But, sir, it will thus be seen that it is not alone the technical acts of usurpation committed by the President which compels me to vote to impeach him of high crimes and misdemeanors. I have the undoubted right, and so have the whole body of the people of the United States, to judge of the degree of motive by which an unscrupulous, bold, and wicked magistrate is hurried on to the violation of lawful and constitutional duties. As was well said by the gentleman from Ohio, [Mr. BINGHAM,] the President is as much the creature of the law and as sacredly bound to obey it as the humblest citizen of the Republic. Sir, I declare it to be one of the controlling reasons for my vote that I believe the mind of the President to be filled with malice toward the law-making power of the nation, and seeking with hostile and revolutionary intent to defeat the legally expressed will of a majority of the people. The safety of republican government on this continent is thus imperiled by a lawless and malignant man, made the second officer of the Republic by the people's confidence, and intrusted under the forms of law with the execution of the people's will. Let the recreant magistrate fall in dishonor, but let the majesty of law and the supremacy of the Constitution be maintained as the life-blood of freedom and good government.

Messrs. NICHOLSON and MILLER next addressed the House. [See Appendix.]

Mr. BUTLER. Mr. Speaker, because of the action of its committee the House is convened for the exercise of its highest functions as the grand inquest of the nation primarily to sit in judgment upon the President. We are to determine judicially whether the case presented by the report of the committee contains the elements of such high crimes and misdemeanors as justifies the presentation of articles of impeachment for the judicial action of the Senate. In determining this question by the ancient usage in like proceedings of all legislative bodies, each Representative may have recourse to the history of current events for the purpose of ascertaining motives and establishing inferences of fact which define the quality and legal relations of the acts presented.

In brief, the facts may be stated thus: During the present session of Congress, and at an hour when the Senate was actually in deliberation, for his own purposes the President issued a peremptory order removing the Secretary of War from his office and forbidding his further exercise of the duties thereof, and by another order, at the same time, appointed the Adjutant General of the Army Secretary of War *ad interim*, and directed him to take possession of the office of Secretary of War, and forthwith to enter upon the discharge of its functions. That action is sent by message to the Senate, not asking its advice or consent thereto, or recognizing its right to participate therein. The President's action is complex, being the removal of one officer and the appointment of another, both with the same intent. If both were warranted by law then he is justified; if both or either were in contravention of law then he is liable to such animadversion as the character and purpose of his acts shall demand.

If either act is a willful violation of his constitutional duty and oath it is clear, that being the order of the Executive of the nation and the Commander-in-Chief of its armies, such acts are of themselves sufficient exhibitions of force, if done for the purpose of usurping to himself unwarranted power, or with the motive of contravening the constitutional laws of Congress, that they and each of them are high crimes and misdemeanors subversive of constitutional government and dangerous to the liberties of the people, the only remedy for which lies in the power of this House to present, and the only tribunal to adjudicate and determine them is the Senate of the United States, sitting in its capacity as a judicial tribunal, the highest court in the land.

This consideration seems to answer the suggestion which has been made by the gentleman from New York, [Mr. BROOKS] that the President undertook these proceedings complained of in order to bring the question of his powers and rights before the courts of the country. If this were his design he has fully succeeded. His acts are now being examined primarily by the grand inquest of the nation, and if we see cause their legal and constitutional quality will be presented for adjudication before the most august tribunal of the earth, the Senate of a free people, sitting in solemn judgment upon the misdoings of the executive head of a great nation. He is to be tried, indeed, by his peers, in the highest sense of that term, under the sanction of their oaths, presided over by the Chief Justice, to be saved from condemnation, if saved at all, by the doubts of one more, only, than a third of his judges.

We were also told in substance by the gentleman from New York, who leads the defense of the President on this floor, that if we attempted to exercise our constitutional right of impeachment under the forms of law we should fail, because taking advantage of those forms and of the delays which the clemency of the court might accord to so great a criminal in such a trial, that the justice of the nation in that the court would be so impeded by an abuse of that very clemency that the whole term of the official life of the offender would be consumed before we could get judgment upon a plain matter of fact, the sole needed proof of which is the criminal's own confession, under his own hand; or, in other words, that this solemn and august proceeding of the nation's justice was not to be opposed by force, but by fraud. True, the law's delay is the rogue's defense, but forewarned, forearmed.

The Senate will doubtless know how to treat the applications for delay and dilatory motions of an offender who has, by his advocate, informed the court that such applications and motions are fraudulent and intended to defeat the ends of justice. But we are further told by the same gentleman that if the Congress of the United States shall, in the exercise of the high powers vested in it by the Constitution attempt by law to meet these defects of remedial justice and suspend from exercising of office the confessed and presented criminal during his trial, so that he may not exercise his high functions during the fraudulent delays by which he himself advertises the people of this country that he means to hold it, then, I say, we are told that the people are to be aroused, revolution and an appeal to arms are to follow; and the gentleman from New York and those who act with him will "never, never, never submit to the operations of the laws of Congress." These threats, sir, have not even the poor merit of originality; they are an exact parody of the words of the traitor Judah P. Benjamin in the Senate of the United States on the 31st of December, 1860, when defying the power of the Union to conquer secession. True it is, Benjamin never did submit, but ran away and left his country for his country's good; and if the gentleman from New York shall ever choose to oppose the laws enacted by Congress, as he threatens us to do, he will do well to copy Benjamin's acts as well as parody his words and take to his legs.

The first question in the course of our present investigation, however, is, was the removal of Mr. Stanton, acknowledged by the President to be the legal Secretary for the Department of War, warranted by law? The Constitution of the United States by no express words gives the power of removal of any officer to the President. If appertaining to him at all it must be either by implication from the power of appointment vested in him by the Constitution or arising as a necessity to the performance of his executive duty that he should have entire control over the agents by whom he must fulfill his high functions.

If conferred upon him by the Constitution, then it can neither be taken away, limited, or added to, by any legislative action whatever, but is inherent and uncontrollable save by his own will as limited by the Constitution itself.

If it arise from the necessity for the prompt and faithful execution of the laws as an incident of office, then the power of removal is a political one, which may be regulated and defined by Congress under the clause in the eighth section of the first article of the Constitution, which vests in Congress the power—

"To make all laws which shall be necessary and proper for carrying into execution" * * * * "all powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof."

Let us first examine the question, what are the limitations of this power if implied from the power of appointment? Of course the power of removal implied from the power of appointment cannot be greater than the appointing power from which it is inferred, and must be limited to the person and in the manner that the power of appointment is limited by the Constitution. In other words, if the power of appointment is limited the power of removal implied from that power of appointment must have like limitations. By the second article of the Constitution, which alone treats on this subject, no power of appointment of any officer is given to the President while the Senate is in session, but the power of nomination only. The words are:

"He shall nominate and, by and with the advice and consent of the Senate, shall appoint embassadors" * * * * "and all other officers

of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

It would seem conclusively to follow, therefore, that, the Senate being in session, a like limitation must be put upon the power of removal, if such power can be implied from the power of appointment. It would seem that the Constitution intended that when in session the Senate should be a part, and a controlling part, of the Executive in the matter of appointments. The President can no more make an appointment in such case which shall be valid and effectual without the consent of the Senate than he could make a treaty which should be valid and effectual without the concurrence of the Senate constitutionally expressed. If he can remove the officer so appointed without the concurrence of the Senate, as an implied constitutional power, it is difficult to see why he has not a like implied power to change a treaty after its ratification. The Constitution, however, giving the President the uncontrolled power to fill up all vacancies that may happen during the recess of the Senate, it may be admitted without injury to the argument in this case that he may have a like qualified power of removal if not restrained by law.

The power of the President to make removals was much discussed by Congress at its first session upon the bill to establish the Department of Foreign Affairs, passed July 27, 1789, (the Department of War being established in like words of enactment on the 7th August following.) The debate was principally had upon a motion by Mr. White, to strike out after the title of the officer the words "to be removable by the President of the United States," which, after an exhaustive discussion in the House of Representatives—as able, perhaps, as any ever had—was determined in the negative—20 to 34, but afterward struck out by a vote of 31 to 19, and a clause inserted which provided that the Chief Clerk should have custody of the records "whenever the principal officer shall be removed by the President or in other case of vacancy." We have no record of the debates of the Senate upon this compromise proposition, as it was in secret session, but the Journal shows that this provision was carried in the Senate only by the casting vote of the Vice President himself, of course inclining to executive power.

In the debate no notice seems to have been taken of any distinction as to the power of the President to remove when the Senate was in session or in recess. This may be accounted for because of the ground taken by Mr. Madison, which appears to have the assent of the House, that—

"The power of removal was incident to the Executive as a necessary means of enabling him to perform his constitutional duties."

All seemed to agree with Mr. Madison that whenever Congress created an office (as in the case of Secretary of War) it was competent for it to prescribe its tenure, the manner in which and the power by which the officer might be removed. This decision, thus made, as to the power of removal by the President, has remained substantially the rule of practice for the Government until the passage of the civil tenure-of-office act of 2d March, 1867, with occasional sporadic instances of the limitation of the power of removal of specified officers, as the provisions in the office of Comptroller of the Currency. But it is to be remarked that no Cabinet officer has been removed or attempted to be removed by any President while the Senate was in session, except by the nomination of his successor, to be confirmed by the Senate, although numbers have left or have been ejected from the Cabinet because of differences with their chiefs; as Randolph, in the time of Washington, after a bitter quarrel; Pickering, Walcott, and McHenry, in the administration of the elder Adams, upon a like disagreement; Robert Smith, in the time of Madison; and W. J. Duane, relieved from duty by Jackson during recess.

It is to be remarked, however, as to showing that the First Congress asserted its right to control the power of removal by the President, that on the same 7th of August on which the Department of War was created Congress passed another act to adapt the ordinance of 1787 to the change made by the Constitution of the United States, and in it conferred the power of removal of the officers appointed under the ordinance upon the President. The result, therefore, of the discussion and the practice of the Government and the power asserted by Congress would seem to be that the legislative branch has the right to regulate all offices as to their tenure and limit the power of removal at pleasure, or, to state the proposition in other terms, that the power of removal of officers is not a power conferred by the Constitution and exclusively inherent in the Executive, but a political one, to be exercised by him, as necessary to his functions, under such limitations as Congress may prescribe.

It will be observed that the act of 1789, establishing the Department of War, in its second section provided that the Chief Clerk, "whenever the principal officer (*i. e.*, the Secretary) shall be removed from office by the President of the United States or in any other case of vacancy, shall during such vacancy" have charge and custody of all records, books, and papers appertaining to said Department, but does not provide that he shall act at all as Secretary. This omission, however, was supplied by the eighth section of the act of May 2, 1792, which provides that "in case of death, absence from the seat of Government, or sickness of the Secretary of a Department or any other officer therein appointed by the President, the President may authorize any person to perform the duties of the office until a successor be appointed or the absence or disability by sickness shall cease."

It will be observed that this provides for a case of vacancy by death only. The act of February 13, 1795, however, remedied the omission by enacting that in case of all vacancies whereby the Secretary cannot perform the duties of his office the President may authorize any person to perform such duties until a successor be appointed or the vacancy be filled, provided this shall not extend to a longer term than six months. It was found inconvenient and dangerous to allow persons to be appointed as heads of Departments at the will of the President who had not been passed upon by the Senate. It was, therefore, enacted, on the 20th February, 1863, that in the case of death, resignation, absence from the seat of Government, or sickness of the head of any executive department of the Government, whereby they cannot perform the duties of their respective offices, that the President may authorize the head of any other executive department or other officer in either of said departments (whose appointment is vested in the President) to perform the duties of said respective offices until a successor be appointed or until such absence or inability by sickness shall cease, provided that no vacancy shall be filled as aforesaid for a longer term than six months.

Now, the second section repeals all acts or parts of acts inconsistent with this act. Then, as the authorizations under the provisions of this tenure-of-office act to the head of another Department to do the duties of the absent officer or the vacant office are inconsistent with the second section of the act of 1789, which in case of all vacancies turns over the custody of the records, books, and papers solely to the Chief Clerk thereof, and which alone recognizes the power of the President to remove, it would seem to be clear that that section which provides for a vacancy, whether by removal or otherwise, is repealed, if it had not been already repealed by the provisions of the acts of 1792 and 1795, before cited, which are in *pari materia*, and enact inconsistent provisions.

But, however this may be, by the act of March 2, 1867, the tenure-of-office bill, it was specially enacted that the Secretaries should hold their offices subject to removal by and with the advice and consent of the Senate. This clearly repeals the act of 1789 upon every principle of construction of statutes, nor do I understand this to be denied by any person if that act is constitutional, *i. e.*, one that Congress has power to enact.

IS THE TENURE-OF-OFFICE ACT CONSTITUTIONAL?

The question of power of removal has been more than once before the courts and discussed at great length—in Marbury *vs.* Madison, (1 Cranch, 154,) in which it was decided that "where the tenure of office was fixed the President had no power over the officer."

And, again, in *ex parte* Hennen, (13 Peters's Report,) where, though it was argued, the point was not decided. Again, in United States *vs.* Guthrie, (13 Howard,) and although the question was not decided by the court, yet in an able dissenting opinion Mr. Justice McLean decides the matter for himself against the power of removal, Mr. Justice Curtis, Grier, Nelson, and Campbell not expressing an opinion upon the point.

So far as the courts have spoken their utterances have always sustained the right of Congress to limit the power of removal as to offices of its own creation; and, indeed, the very power given by the Constitution to Congress to vest the appointment of such officers, and of course their removal, in the heads of Departments, the courts, or the President would seem to compose all doubt on the question. Surely a practice for Congress so to do, for nearly eighty years, undisputed till now, would seem to be a warning to a President not to attempt to oppose it except for the highest purposes and such pure motives of patriotism as would palliate a violation of the Constitution itself.

The President himself has yielded to the validity of this law of Congress by the suspension under its provisions, with a report to the Senate of his reasons therefor, of the very officer he seeks to remove in contravention thereof. If he was correct then, or if we are right now in our conclusions, how can the removal of Mr. Stanton be justified?

Whatever question, however, may be raised as to the removal of Mr. Stanton, yet it is most confidently submitted, even if the President had that power and rightfully exercised it, there can be no justification for the appointment of General Thomas as Secretary *ad interim* under any law. If it be said that the right to appoint arose from a necessity that there should be no interregnum of executive action, to that it is answered, no man had ever claimed a right in the President for that reason to appoint a Cabinet officer until such officer was authorized by law. And, as we have clearly seen, there was no authority to appoint any *ad interim* officer from the creation of the War Department, August 7, 1789, till the enactment of May 8, 1792. It was provided only the records of the Department were to be left in the custody of the Chief Clerk, but no person to act *ad interim*; and then by that act an *ad interim* appointment could only be made in the case of death, absence, or sickness. There was an executive interregnum in every other case of vacancy, which continued until the 13th February, 1795, but in that act even there was no provision for an *ad interim* appointment, except in case of vacancy, "whereby the heads of Departments could not perform the duties of their respective offices," but there was no provision for other vacancies; and when General Jackson removed Duane during recess, thus creating a vacancy, he did not appoint Roger B. Taney Secretary *ad interim*, but by a nomination to the Senate, presented at its next session.

And so the law remained without any provision for a Secretary *ad interim* in case of vacancy other than by death, sickness, or absence down to 1863, when the act of February 20 provided that the head of another Department or an officer of either Department whose appointment was vested in the President, might be authorized *ad interim* to perform the duties in case of resignation, death, absence from the

seat of Government, or sickness only, and so the law stands at this day. There is yet no provision for appointment *ad interim* in case of removal from office of the head of a Department.

Now, how is Lorenzo Thomas appointed? Stanton is neither dead, sick, absent, nor resigned, "whereby he cannot perform the duties of his office." Again, we ask from what legal authority comes the appointment of Lorenzo Thomas? He is thrust into office as Secretary of War by usurpation of power by the Executive, and by that only.

Again, if the President pretends to have acted under the provisions of the act of February 20, 1863, which repeals all former acts of appointment *ad interim* not only by the substitution for them of its own enactments but by the express provision of its second section, which repeals all other acts and parts of acts inconsistent therewith, he is still acting without authority of law, because that act gives power to the President only to authorize the head of another executive department or an officer of either of the Departments to act *ad interim*.

Now, Lorenzo Thomas is an officer of the United States Army only, and in no just sense or legal language can be termed an officer of the War Department appointed by the President, who must be a civil officer, as the War Department is a portion of the civil service and not of the military, service of the United States. Feeling confidence in our conclusions as the palpable violations of law by the President, as well in the removal of Mr. Stanton as in the appointment of his successor *ad interim*, and standing impregnably as to the latter, there remains but one further question for discussion. Is such executive action, thus unwarranted by law, a high crime and misdemeanor within the meaning of the terms as used by the framers of the Constitution? To ascertain this one of the best sources of knowledge would be contemporaneous acts and declarations by those who framed it. In the discussion of the power of removal to which we have adverted, which took place immediately upon the adoption of the Constitution, even before Rhode Island (one of the original thirteen States) had been admitted into the Union under it, when it was objected that if this power of removal were put in the hands of the President he might use his power of removal—

"So as to render the officer a mere State-dependent, the abject slave of a person who may be disposed to abuse the confidence his fellow-citizens have placed in him"—

It was answered by Mr. Lawrence—

"If the President abuses his trust will he escape popular censure? And would he not be liable to impeachment for displacing a worthy and able man who enjoyed the confidence of the people"—

Like Mr. Secretary Stanton, for example?

Again, Mr. Madison says:

"The danger consists mainly in this: that the President can displace from office a man whose merits require he should be continued in it. In the first place he will be impeachable by the House for such an act of maladministration, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust."

Mr. Vining also remarked:

"If the President removes a valuable officer, which seems to be the great danger the gentleman from South Carolina apprehends, it would be an act of tyranny which the good sense of the nation would never forget."

And Mr. Baldwin declares—

"Such an act an abuse of power."

Not a single member of that Congress in the entire debate dissented from these views.

If the tenure-of-office act is the law of the land then the President has directly brought himself within its provisions as guilty of a high misdemeanor. For myself, I put very little stress on this latter suggestion.

I reject with the utmost unspeakable loathing, scorn, and contempt the pretended legal dogma that the President is only impeachable for indictable crimes, as unsound in law, fallacious in reasoning, and dangerous in principle.

The legal mind of the country has passed upon it, rejected it, and there is none now "so poor to do it reverence" save perhaps disconsolate legal abortion.

We have thus far discussed the quality of the acts complained of as pure questions of law; but we cannot shut our eyes to the precedent and surrounding circumstances which determine the purpose of these illegal doings of the Executive. If we were certain of purity of intention and patriotism of motive we might pass over, if we could not forgive, these violations of law now presented at our bar; but we mournfully remember the act by which the President was inducted into his high office; his change of purpose, which became so painfully evident in the summer of 1865; the men, fresh from the halls of treason and the fields of blood, whom he took for his friends and counselors; his attempt to usurp the powers of Congress in reëstablishing the governments of the rebellious States; his open defiance of the laws in restoring the southern railroads and other property to their rebellious owners, although justly forfeited by the outraged laws of the country; his appointment to office of those who dared not add perjury to treason by taking the test-oath prescribed by law, while he made public avowal (using his own chaste language) that he would "kick out of office" every true man who should sustain the Congress of the United States; the shameless brokerage in pardons which went on with his knowledge, if not by his connivance, extending not only to political offenses but to felons and murderers and the counterfeiters and forgers of the lawful money of the nation, which other rulers hold to be petty treason and worse than murder; his public attacks upon Congress and threats to overthrow it; the indiscriminate use of the veto power, to a greater extent than that of all other Presidents who have preceded him combined, to prevent the passage of wholesome laws; his obstinate opposition, both open and covert, to every law passed by Congress over his vetoes to reconstruct the Government and bring back the country to its former condition of peace and prosperity—for that purpose consorting and conspiring with, traitors and inaugurating the massacres and assassinations of Nashville and New Orleans; his refusal to allow a single murderer to be punished in the southern States, where Union men, under his rule and because of his non-execution of justice, have been slain by thousands; his attempt by military orders, backed by the opinion of his legal adviser, to thwart the execution of the acts of Congress by the military commanders who were charged therewith; his taking advantage of the provisions of the very civil-tenure act which he now declares unconstitutional to suspend the efficient officer whom he now seeks to remove, for no other reason than that he has opposed his nefarious designs; his compassing the removal of the faithful servant of the country, the gallant Sheridan; his attempt to draw into a conspiracy with himself the general officer of the armies of the United States, so as to get possession of the military force with which to execute his purposes of subverting the Government, a corrupt undertaking in which he was so nearly successful that we have to disbelieve his own plighted veracity and that of a majority of his Cabinet to doubt whether he did not in fact succeed; each and all point to the single conclusion that what we are now examining is but one act in the drama which, if performed to its purposed close, would be the overthrow of the Congress of the United States, the abrogation of its laws, and the restoration to power of that rebellion which the valor of our Army and Navy has subdued.

For a tithe of these acts of usurpation, lawlessness, and tyranny our fathers dissolved their connection with the Government of King George, for less than this King James lost his throne and King Charles lost his head; while we, the Representatives of the people, adjudge only that there is probable cause shown why Andrew Johnson should be deprived of the office he has desecrated and of the power he has abused, and if convicted by the court to which we shall send him be forever incapable of filling that office, the ambition to be again nominated to which has been the moving spring of all these crimes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition, in which he was directed to ask the concurrence of the House.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 306) for the protection in certain cases of persons making disclosure as parties or testifying as witnesses; and a bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns; when the Speaker signed the same.

ADMISSIONS TO THE FLOOR.

Mr. HOLMAN. I ask unanimous consent that the families of members be admitted upon the floor.

Mr. GLOSSBRENNER. I object.

IMPEACHMENT OF THE PRESIDENT—AGAIN.

Messrs. CHURCHILL, GOLLADAY, AXTELL, HUBBARD of West Virginia, MALLORY, and SMITH addressed the House. [See Appendix.]

Mr. PRUYN obtained the floor, but yielded for three minutes to his colleague, [Mr. WOOD.]

Mr. WOOD. This proceeding is as unwarranted as it is unprecedented. The President has been guilty of no legal nor moral offense under the Constitution and laws. The grounds on which this resolution of impeachment is sought to be maintained are frivolous, technical, and utterly unworthy of serious attempt at refutation. If any branch of the Government has been guilty of high crimes and misdemeanors it is that which would usurp all power and make the coördinate branches subservient to its will and to its selfish partisan designs. The President has been careful to maintain his oath of office, which requires him "to preserve, protect, and defend the Constitution to the best of his ability." And this is "the extent of his offending and no more." If this House, aided by a like spirit and for a like motive in the Senate, shall consummate this procedure and displace the Chief Magistrate of the nation under so slight a pretext, it will commit an offense greater in its effect than that attempted by the leaders of secession in 1861. Their effort was to accomplish territorial disintegration; this effort is to disorganize and disrupt the Government itself. If carried through the public credit receives a fatal blow, because the instability of our political institutions becomes manifest, and this basis upon which now rests all monetary and proprietory interests will be shaken.

As a consequence to this the great industrial pursuits will be paralyzed, taxation be materially enhanced, the currency yet further depreciated, trade and commerce deranged, and the people, taught by the example of Congress, will learn to disrespect and disregard the authority of official power, so necessary for the protection of life, liberty, and property. Thus would social and political evils follow alike subversive of private and public good.

Will the necessity for the removal of the President justify the probability of such results? Can the American people afford such experiments at this time? Is our national condition in that secure position as to warrant an experiment so fraught with possible dangers? If such considerations have no weight with the majority of this House, can that party bear the responsibility which it will thus incur? Can it take upon itself the odium of such an extraordinary and revolutionary proceeding? Can it escape from the consequences incident to so violent a remedy for imaginary wrongs when no motives of public good will sustain it?

I implore gentlemen to pause before these impending calamities. Let them reflect upon the personal consequences of the step they are about to take. If the danger to the welfare of the country and to the continued existence of their party can excite no alarm, let them remember their oaths of office, the constituency to whom each must render his account, and the individual liability thus incurred. In our position as members of this House we are not our own agents. We are here in representative capacities; nor do we reflect alone the voice and wishes of the politicians at home. Under the theory and laws of our country we are the servants of the whole people, whose wants and wishes we impersonate on this floor. To their happiness and prosperity let us devote ourselves, to their best interests let us be faithful, and to their bidding let us bow with obedience, so that we may hereafter meet them without fear and without reproach. The day will speedily come when all of us must render an account of our stewardship, not only to our friends and neighbors, but to God and our country. Let us try so to discharge this duty that, whether living or dying, in public or private life, in the presence of our families or of our Maker, we can conscientiously justify and maintain our conduct.

Messrs. PRUYN, ALLISON, McCORMICK, STEWART, COBURN, PAINE, and SITGREAVES addressed the House. [See Appendix.]

Mr. POLAND. Mr. Speaker, I desire to say a few words in explanation of my own position, and of the vote which I feel compelled to give upon the important proposition now before the House.

It is well known to the members of this House, to my constituents, and to the country, that I voted against preferring the articles of impeachment of the President which were reported by a majority of the Judiciary Committee at the commencement of the present session. It is not needful that I enter into any detailed statement of the reasons upon which that vote was given. But I will say that from a careful examination of all the evidence taken and reported to us by the Judiciary Committee I was not satisfied that the President had been guilty of any such express and specific violation of law, or of any such willful and corrupt official misconduct as would legally authorize a conviction by the Senate. The President and the Congress of the United States were diametrically opposed in their views as to the proper policy to be pursued in the restoration of the States lately in rebellion. The political party in the country opposed to the majority in both Houses of Congress had rallied to the support of the President's policy, and in opposition to that of Congress; and the President had joined his political fortunes with the party in opposition to that which placed him in office.

It did not appear to me that any such special and definite offense could be proved against the President as to give his impeachment or conviction any other appearance or character than a political one, and I greatly feared that we should thus establish a precedent which might seem to justify any future Congress in removing from office any President on account of mere political differences. It is known, too, that very great differences existed upon the law of impeachment, and whether the President could legally be impeached for corrupt misconduct in office when no law had been passed declaring such misconduct to be a crime, and enacting a penalty against it.

In the feverish exasperation existing between the President and Congress I thought it especially unfortunate that we should be called upon to establish a precedent that would have the force of a law upon that subject. The country had just emerged from a terrible war for the nation's life, which laid upon us a staggering debt which required all our efforts to meet; our national finances were in a precarious situation; the reaction in the business of the country, caused by the change from the immense demands of war to the lesser ones of peace, had created a general depression in all the industries of the country, which were laboring under a heavy but necessary burden of taxation.

Under these circumstances, when every effort and energy of every department of the Government was needed in aid of the business and industry of the country, it seemed to me unwise to add a new element of excitement to the financial eddies and whirlpools, and another cause to distract the attention of Congress from proper effort to ameliorate the condition of the country.

I was not, perhaps, as much affected by the political aspects and consequences of the question as some other persons, here and elsewhere; but I could not resist the belief that under the circumstances a prosecution of impeachment against the President would be regarded by the people as a political persecution, and prove disastrous to the party upon whom must rest its responsibility.

Besides these reasons, I desired, if possible, to avoid the disgrace and obloquy which such a proceeding would bring upon republican institutions and government among other nations and peoples of the earth.

I have not been able to approve the course of the President for the last two years more than other members of my political party. I considered that in Congress, as the law-making department of the Government, rested the power and the duty of prescribing the forms, terms, and conditions upon which the seceding and rebelling States should again be restored to their places in the Union, and when the determination of Congress had been expressed on that subject by the constitutional majority over the objections of the President, that it was his duty to forego his own private views and in good faith to execute their law as the will of the people. That he did not do so, but, on the contrary, (so far as was in his power without expressly violating the law,) desired and designed that the legislation of Congress should prove futile and unavailing, I was forced to believe. Notwithstanding this, I believed it safer and wiser to endure the evil for the short remainder of the President's term than to risk the perils incidental to this new trial of our system of government by an attempt to remove the chief officer of the nation.

I was gratified that my own view of the proper action to be taken proved to be in harmony with a majority of my political friends in this House. I have reason to believe, too, that my own immediate constituents (very few of whom are admirers of the President or of his policy) concurred in the judgment by which I was governed.

I am still fully satisfied with the reasons and conclusions of my own mind, and feel neither compunction or regret even when gentlemen who took the opposite view somewhat triumphantly and complacently vaunt their superior wisdom as demonstrated by more recent events.

I did most earnestly hope that no new cause of irritation would arise, and that at least no juster and more imperative reason for impeachment proceedings against the President would be afforded. But in this hope I have been disappointed. The President has openly and purposely defied and set at naught a law passed by ourselves according to all the forms and requirements of the Constitution. In attempting the removal of the Secretary of War and the devolution of his duties upon another without the consent of the Senate, he has committed an act which we have declared by a law of Congress to be a high misdemeanor, to be punished by severe fine and imprisonment. I do not understand that this has been done by the President upon any claim of doubt or doubtful interpretation of the law, upon which different minds might come honestly to different results as to his right and power under and by the law, but upon the broad ground that the law itself is invalid as contravening the presidential power to remove persons from office under the Constitution.

Since this discussion has been pending, I have heard it suggested by friends of the President that he claimed, and had been advised, that the Secretary of War was not within the provisions of the "tenure-of-office" act of March, 1867, because he was appointed to that office and confirmed by the Senate during Mr. Lincoln's first term in the presidential office, and had never been formally reappointed and confirmed since the commencement of his second term. I have not examined the question sufficiently to satisfy myself whether there is any reasonable ground to make such a question. I think it clear that the President has not in fact acted upon any such ground, but for the reasons set forth in his veto message—that the law itself was invalid. The President treated the Secretary of War as within the provisions of the act, and suspended him for alleged cause as he might properly do, and submitted his reasons for the suspension to the Senate. I have seen nothing from the President himself, either in his official utterances or those of a more private character, which have become public through the press, which claim any other justification for his recent action than that the law itself was not binding upon him. I feel very sure that if his action in this respect is allowed to pass unrebuked it will be claimed by him and his friends as a triumph over the law itself, and a surrender by Congress to the President of the constitutional question involved in the passage of the law. I cannot, therefore, allow myself to treat this as a question of honest difference of opinion between the President and Congress on the construction of the law, which I agree would not, in my judgment, be a good ground of impeachment. I treat it as I think the President has treated it, as involving the question whether the President is bound by the laws enacted by Congress by the constitutional majority over his constitutional objections.

I am aware that the extent of the presidential power to remove officers, to whose appointment the consent of the Senate was requisite, has been, from the formation of the Constitution, a much debated and controverted subject. In passing the tenure-of-office act, Congress attempted to settle and define the presidential power in this respect. They acted in the light of the Constitution itself, and all the discussions and practice and precedents under it. They determined that by the Constitution the power of removal was coextensive with the power of appointment, and that where the consent of the Senate was necessary to the appointment it was equally necessary in order to a removal; and the law was enacted in accordance with that view. The President honestly believed, I have no doubt, that the law trenched upon his constitutional power of removal, and he returned the bill to Congress, stating his views and his objections to its constitutionality. On solemn reconsideration of the bill, with the objections of the President before them, both Houses of Congress, by more than two thirds of each branch, reënacted it. The Constitution provides that in such event an act shall become a law notwithstanding the objections of the President. The President is not a part of the law-making power of the Government, except in this limited and qualified sense. If for any reason he refuses his assent to an act passed by Congress the act must be again considered and have the assent of two thirds of both Houses. When this has been obtained, the law then attains precisely the same force and validity as if it had the assent and signature of the President. When the President has performed his duty by returning the bill to Congress with his reasons for refusing his assent his power, as a part of the law-making department, is exhausted. If, notwithstanding his objections, it receives the sanction of two thirds of both Houses, it becomes a law, and a law which the chief executive officer of the Government is bound to see as faithfully enforced as any other.

The doctrine sometimes asserted that the

Executive is a coördinate branch of the Government and has the right to judge of the constitutionality of the laws of Congress and determine for himself whether he will enforce them or not as an executive officer, is utterly fallacious. The Constitution defines exactly the extent of his power to prevent the passage of laws which he regards as injudicious or repugnant to the Constitution. Beyond that he has no more power or right to judge of their validity than the humblest citizen in the land; his constitutional duty is to see that they are executed. The other doctrine would be utterly subversive of our whole constitutional system and frame of Government. That the President verily believes that this law is in derogation of the Constitution I am not prepared to deny. But is that any legal excuse to him for violating it? It is a settled principle, not only in civil, but also in criminal jurisprudence, that no one can be excused from the legal consequences of his acts on account of his ignorance of the law. With far less reason can any one claim exemption who has the fullest knowledge, but arrogates for his own constitutional learning and judgment a superiority and domination over that of two thirds of all the Representatives of the people in both branches of Congress, acting in view and upon consideration of his constitutional objections.

This very law has been one of the occasions of difference between the President and Congress. He denied, as he had the right to do, their constitutional power to pass it. Notwithstanding his views the law was passed over his veto by the constitutional majority. Could the President have expected that an open and palpable defiance and violation of that law would be or could be endured from him without an attempt to enforce its penalties against him? If so, he must have strangely calculated upon their personal and official forbearance.

But, in my judgment, there are involved in the consideration of this question far higher and more important consequences than by whom the duties of War Secretary shall be performed. I have a high personal regard for the Secretary of War; in common with all my countrymen I honor him for his invaluable services during the late rebellion; I should regret for any cause to see his place filled by another.

But all this becomes insignificant when we look at the principle involved in this violation of the law by the President. It is now to be decided whether the people, by their Representatives in Congress, are to make and establish the laws by which this country is to be governed, or whether they may be set at naught and defied by the Chief Magistrate of the nation. I feel that, as one of the Representatives of the people, there is but one course open. The only practicable and dignified course in such a case, against such an offender, is to present him before the high tribunal provided for in the Constitution for trial. No one will vote for this resolution with a deeper feeling of regret and sorrow than myself. If I saw any other practicable way of asserting and protecting what I regard as the rightful powers and prerogatives of Congress, as the Representatives of the people the same reasons which induced me to vote against the former articles would weigh with me now. But I do not, and feel that in voting against the pending resolution I should surrender that which, as a Representative of the people, I have no right to surrender—the right of the people, through their Representatives, to establish the laws for this nation. In this vote I feel sure that I am not actuated by any partisan feeling or any motive unworthy of judicial consideration. I have regretted that the debate has assumed, to any extent, a political or partisan aspect.

Much has been said as to the political consequences and the effect upon the people of putting the President upon trial for this violation of law. I confess I have spent very little time in considerations of that character, but I have very little fear of ill consequences from that quarter. The people of the United States, as an aggregate, are an intelligent and law-abiding people. If a man is fairly prosecuted and fairly tried, whether the result be conviction or acquittal, the people acquiesce. They will not tamely submit to see persecution or injustice under the forms and names of law; and upon any party who should attempt such a trial as a party measure for party purposes would fall a heavy weight of popular indignation. But if the people are satisfied that law and justice are fairly administered I feel not the slightest doubt but they will acquiesce in the result as readily as in the case of the smallest offense or the humblest offender. If the result of this day's vote shall be to present the President for trial at the bar of the Senate for this alleged violation of the law I cannot doubt that every member of that body will endeavor to divest himself of all partisan and political bias, and bring to the consideration of the case all the judicial fairness which any tribunal could exercise. Then, of course, the validity of the law which the President is charged with violating will be open to consideration as before any other judicial tribunal. If it should prove to be but a case of mistaken construction, so as to destroy any unlawful intent, that defense will be there properly available. If the result shall be a judicial trial before the Senate I trust it will be remembered that though the legal result may be final there upon their judgment and record, in a higher sense there is an appeal to the public judgment, not only of this nation, but to the whole world; and that for their own credit, now and in history, it behooves them that they see to it that their judgment stand upon such firm foundations that it may stand the test of the public judgment both now and hereafter.

Mr. STOKES. Mr. Speaker, I rise for the purpose of discharging a duty that I feel is due to my constituents, to the loyal people of my State, and last, but not least, a solemn duty that I owe to one of my fellow-citizens, to wit, Andrew Johnson, the now acting President of the United States. He is a citizen of my State, and therefore I am not willing to sit quiet in my seat and let the thing go by default. This is, Mr. Speaker, the last time that I expect to have an opportunity to speak of him as President of the United States. I am satisfied the handwriting is on the wall.

And, sir, in my action to-day I wish to be understood as taking a broad, liberal view of the present question before us, and what I say and do is in no factious spirit or malice toward the President; but on the contrary it is my deliberate judgment that it is best for him, and I am sure it is best for the whole people of the country, that the pending resolution should be passed by this body, and that the same be forthwith transmitted to the high court in the other end of the Capitol, from whose decision there is no appeal.

This, sir, is a resolution proposing to impeach the President of the United States and to expel him from the executive chair for a willful and deliberate violation of his oath, and a refusal to obey and execute the law. This is a grave charge, and if true there is, I hope, no member of this House who would for one moment hesitate to give the resolution his support.

It has been said that this resolution was offered by a dominant majority who were the political enemies of the President, and that it was the result of hostile feelings toward him. I can answer, for one, that no such feeling drives me to this course. For I may say here that it matters but little with me as to who is President or what his name is or to which political party he is allied, so he discharges the duties according to the Constitution and the laws. But, sir, my action is based on higher motives. It is that the dignity of the nation shall be maintained. That the three great departments of the Government shall be preserved, and kept separate and distinct from each other, to wit: the legislative, judicial, and executive; and that each one thereby may be able to perform its own functions without the interference of the others.

The Constitution, sir, is as plain as the English language can make it. Each particular branch of the Government has its duties specifically prescribed and marked out. The legislative department is empowered to pass laws, and neither of the others can do it; the Executive is required to see that these laws be faithfully executed, leaving him no discretion as to their constitutionality or justness. All that he can or is authorized to do in the matter is that when a law is presented to him for his approval he can, if he thinks it unconstitutional or unwise, veto it, and he is compelled to return it to the House in which it originated with his objections. Then, if the two Houses pass it by a two-thirds vote, it is by the Constitution declared to be the law of the land.

Sir, I hold that a law passed in this way, by a two-thirds vote, is entitled to more weight than by a bare majority and receiving the signature of the President. The judiciary has no power to enact laws or to execute, but to decide such judicial questions as may properly come before it, and beyond this they cannot go. Now, Mr. Speaker, gentlemen on the Democratic side of the House tell us this procedure is revolutionary; that if we persist in passing this resolution it will bring on war; that it will be resisted by tens of thousands. Why, sir, has it come to this, that the sworn Representatives of the people are to be deterred from discharging their duty? We do not propose to violate one jot or tittle of the Constitution, but, on the contrary, we propose to carry out an express provision of the same. The Constitution provides that when the President or other officers fail or refuse to obey the Constitution and the laws passed in pursuance thereof the House of Representatives may prefer charges of impeachment for high crimes and misdemeanors. Now, sir, what are we doing but simply discharging our duty in strict keeping with the Constitution?

Andrew Johnson, President of the United States, is charged with having willfully and deliberately violated the law of the land, and is thereby guilty of a misdemeanor. Now, Mr. Speaker, this is a plain, simple charge, and there is no difficulty in getting at the facts, for there are but few witnesses in the case. As I have but thirty minutes allotted to me I must necessarily be brief, and cannot stop to read, but simply state, the facts. It is well known that Congress passed what is known as the tenure-of-office bill, which prohibited the President from removing or appointing certain officers (and among those was the Secretary of War) without the advice and consent of the Senate. This act was presented to the President for his signature, and after a careful and lengthy examination he refused to sign it. Therefore he returned it to Congress with his carefully-prepared objections. Congress decided, by a majority of a two-thirds vote in each House, that it do pass. This, then, made it the law of the land, and he was then bound to obey it and to see that it was faithfully executed.

Now, sir, there can be no excuse rendered that he did not understand the law, as it is clear that he examined it when first presented to him, and that he again examined it when he suspended Mr. Stanton and put in General Grant Secretary of War *ad interim*. This was seen in his message to the Senate. It is clear that after the Senate said he had no right to suspend Mr. Stanton that he again run over the law to find a justification for this last and monstrous act of removing Mr. Stanton, and at the same time appointing General Lorenzo Thomas Secretary of War *ad interim*, without even intimating such a thing to the Senate. Now, sir, there is no getting around or sliding out of this. He has bid defiance to an act of Congress; he has done that which the law positively forbid him from doing. This he has willfully, deliberately, and intentionally done, and yet we are told that if we attempt to hold him to account for his crime and misconduct we are to have war. For one I say let us dis-

charge our duty by holding him responsible for the violation of duty, the same as any other man. Sir, if a commissioned or non-commissioned officer or private in the Army violates the law and disobeys the orders of his superiors he is held to a strict accountability and is tried by the proper tribunal, and, if found guilty, is punished severely or dishonorably dismissed the service, there to stand in disgrace. Now, sir, if we hold a poor private, and sometimes quite ignorant, to the strict letter of the law, why should we not hold the high officials to the same stricture? Sir, there is some excuse for the commission of high crimes and misdemeanors by many classes of our fellow-citizens, but there is none, and ought not to be, with the men who are in high places.

Now, Mr. Speaker, just think of it—a man charged with the execution of the law, a man in the highest position in the Government, a man sworn to support the Constitution, a man bound by his oath to see that the laws be faithfully executed, a man whose duty it is to see that all other persons obey the laws—then, to find this same man bidding defiance to a plain statute is monstrous. Yes, sir, setting himself up as a dictator. Yes, sir, as I heard him say in front of the White House, that he occupied the position of a Roman tribune; that he held the power in his hands, and as the head of the nation he intended to use it; further, that Congress, hanging on the verge of the Government, was nothing but a rump Congress, an unlawful and an unconstitutional body of men pretending to pass laws, and yet he himself engaging in this unholy and unconstitutional work by signing bill after bill, thereby making them valid laws of the land. Sir, since his notorious speech on the 22d of February, 1866, he has been settled in his wicked and hellish purposes. He has, as it is well known, thrown every obstruction in the way to prevent reconstruction. He has, as it is well known, turned his back upon the men who elected him. He has proved himself a traitor to those who honored him and stood picket and guarded him while he slept for three cold, dreary winters, and guarded him while, I will not say drunk, but quite unwell—so much so that it was not proper to receive company! He inaugurated the very government that we are living under to-day in Tennessee; after having got the loyal people committed to it and fastened down by the constitution, he then turned his back upon us and tried to tear it up, and thereby put rebels in power to again plant their heels upon our necks and crush the colored men into dust. He has no regard for truth; he will issue an order one day and violate the same before the ink is scarcely dry, as he did in the order of the 7th of April, 1866, in which he declared that the honorably discharged Federal soldier should have the preference for office. He turned his battery loose upon the poor negro, after having told him he would stand by him to the last, and that color should make no difference, that they were now free, and that merit, and merit alone, would be the test, and not the color of the skin. Never, Mr. Speaker, has any Government produced or put in high position, and, I might further add, kept in office so long, so desperately wicked a man as Andrew Johnson.

Sir, I did help to put him in, and, as God is my judge, I intend to help put him out; believing that God will forgive me for the commission of one wrong by coming forward and doing a righteous act—an act that will relieve the country of the worst tyrant and usurper that history was ever called on to record. Sir, this is a struggle between two great parties, one on the side of true loyalty to the flag of our fathers, and the other on the side of treason. The Republican party is striving by every means to bring those States lately in rebellion back in the Union with loyal State governments. The President is at the head of a party which is striving to thwart this and to have them recognized in the hands of traitors. Never, Mr. Speaker, in the history of this country, has there been so much moral courage required as at the present time.

The eyes and the hearts of the true loyal men of the South are directed to the Republicans in Congress. Let me say to my Republican friends this is no time for faltering, this is no time for compromise, this is no time for delay. Prompt action is what the loyal people want. The loyal men of the South and the boys in blue demand justice at your hands. Their appeals come up to you to stand by them as they have stood by you, and not let treason be made respectable and loyalty odious. They left their homes and bid farewell to wife, children, father, mother, and friends; entered the Union Army, suffering through heat and cold, breasting the hailstorm of shot and shell, that free government might be preserved and that the old flag, the emblem of liberty and freedom, might proudly wave over the entire land. Sir, many, yes, hundreds of thousands, of our comrades never returned to their homes and loved ones.

Sir, let the enemies and traitors get control of this Government? Never; no, never. The loyal men who were forced into the cliffs and caves cry aloud and say "No;" the poor widow and her little naked children cry out, "God forbid;" the Federal soldier cries out and says "No;" the spirits of the three hundred thousand who lie moldering under the cold clay answer in a loud tone and say "God forbid;" the honest, true-hearted colored man sends up his petition to you and says "God forbid."

Mr. Speaker, this reminds me of 1860 and 1861. I could but think of Barksdale, Davis, Hinman, and a host of others, on Saturday last, when the gentleman from New York [Mr. BROOKS] was lecturing the Republicans of the House. To hear his eloquent, warning voice, mingled with threats of resistance to the action of a majority of the legally elected members of this body, was but to remind me of former days. I sat here, as you and others who are now here did, and heard similar threats of blood and destruction by the same class of men, claiming to belong to this same old, defunct, disunion, Democratic party, and I believe from the very same desks.

Sir, it did not frighten or deter us then, and I am well convinced that it will scarcely cause a friction now. I was sorry to hear such violent language used, as it is calculated to stir up bad feeling in the country, where the gentleman from New York is not personally known. Sir, in many portions of the country, I have no doubt but he will be taken for the same fighting Brooks who was in Congress a few years ago, and I only allude to this at this time in order that the country may know that the fighting Brooks has been dead several years, and that the gentleman from New York is not the man, for that is a business he has never embarked in; but, should he and his friends, the minority, succeed in firing up the Democracy and the rebels so as to precipitate us again into another war, I hope the gentleman from New York will plant himself at the head of a regiment or brigade, and not lay back behind the lines to stir up mischief and retard the movement of the Union forces.

Now, Mr. Speaker, I tell you and this House that I want no more war. God forbid. But, sir, if the gentlemen, with the President at their head, force it upon us, we can only promise to do as we did before, to meet the enemy on the field of battle, face to face, and ask that a just God protect the right. I shall vote for the resolution, let the consequences be what they may.

Mr. JUDD. Mr. Speaker, I do not rise to make any speech on this occasion. I will simply say that when, with fifty-six other colleagues upon this floor, nearly two months since, I recorded my vote to depose this usurper so far as the action of the House could accomplish that result, I felt that I was doing my country a service. I feel that the present occasion is a full justification for that action.

I propose now to have read by the Clerk a telegram just received from my constituents. They shall speak for us on this occasion.

The Clerk read as follows:

CHICAGO, ILLINOIS, *February* 24, 1868.

The Republican press and party of the city of Chicago unanimously demand the impeachment of Andrew Johnson. A mass meeting is called for to-morrow evening to give expression to this feeling.

L. B. OTIS,
Chairman Preliminary Meeting.
HENRY M. SMITH, *Secretary.*

Mr. PAINE. I yield five minutes to the gentleman from Illinois.

Mr. HARDING. I thank the gentleman from Wisconsin for the courtesy by which I am enabled to announce that the constituency I have the honor to represent direct me to unite my voice and vote with those of the Representatives of the loyal millions of the North and South, the East and West, in demanding the impeachment of the high criminal who occupies the presidential chair. For two years since, his usurpation of power in 1865, they have demanded that this criminal should be brought to justice. They have seen the consequence of his misrule in the field where lately rebellion trod down thousands and millions of loyal people under foot. They have but little relief from the victories of Grant and Sherman. Blood still flows over that vast field, and either this Congress or the President are the criminals who are guilty of these consequences. Sir, I demand that this Congress shall take immediate steps to provide a remedy by placing a man at the head of this Government who shall execute the power of this Government in the suppression of this violence.

Mr. PAINE. I yield two minutes to the gentleman from Indiana.

Mr. SHANKS. Mr. Speaker, my opinion is that in this grave emergency this House should speak but one word and strike but one blow, and I desire that the blow should come first. I am tired, sir, of this protracted discussion, which postpones an hour that the people have long desired to see. I am in favor of the official death of Andrew Johnson without debate. I am not surprised that one who began his presidential career in drunkenness should end it in crime.

Mr. PIKE addressed the House. [See Appendix.]

Mr. ELDRIDGE. Mr. Speaker, I have been for several days very severely indisposed, and I think I never regretted physical inability more than I do now. I had hoped, from the disposition of gentlemen upon the other side of the House to discuss this most momentous question, that they would have rescinded the order of this House requiring the vote to be taken this afternoon, and given a reasonable time for its discussion. Never, I think, did the American House of Representatives present such a spectacle to the world as a majority of its members almost desiring to debate an important question, and yet the House itself, by its majority, depriving itself of that opportunity. Why, sir, why is it that so many of the gentlemen who were anxious to close the mouths of the Representatives of the people upon this question by fixing so early a time to vote have desired since to express themselves upon it? I ask why is it? Is it that gentlemen are willing to act first and to argue the question afterward? Is it that the minds of the people are made up and they wish simply to put upon record an excuse for conduct which they dare not defend in fair debate? Sir, it would seem that this is so. That we are to decide and then consider—decide and then deliberate.

Mr. LOGAN. Will the gentleman allow me?

Mr. ELDRIDGE. I cannot yield.

Mr. LOGAN. I wish to ask the gentleman a question.

Mr. ELDRIDGE. The gentleman occupies the floor more than any other member or I would yield to him.

Mr. LOGAN. Ah!

Mr. ELDRIDGE. The gentleman says "Ah!" I have often heard that "Ah!" from him before. It is a mark of respect from him, and I thank the gentleman.

Mr. LOGAN. You are very welcome, sir.

Mr. ELDRIDGE. Let me remark, before I proceed to say what I am able to say upon the question under consideration, that I feel confident I shall not be able to say what I would desire to say, and I shall, out of respect to those of my friends upon this side of the House who have solicited me, and who desire an opportunity of opening their speeches and printing the balance, to be read by the country as their excuse for this action, yield a portion of my time to them.

This proceeding to impeach the President is another wave of the war, of the surging passions it evolved. It is the third time it has threatened to overwhelm and submerge the present Executive in an effort to impeach him. It is an effort no more hostile to him and to his honor than to the exercise of the executive power as one of the constitutional powers of this Government. The President and the power will go down together. It is a war upon the Government itself, and it does seem as though these oft-repeated assaults will ultimately be successful. "The House is divided against itself." The once accordant and harmonious departments have become hostile and belligerent, and one only equal and coördinate branch is struggling for the destruction and absorption of the others. In my judgment this measure is devised solely for the purpose of merging the executive in the legislative department of this Government. It is to deprive the President of his right to exercise the executive power. Who believes that this is the movement of the lovers of the Constitution and the laws made in pursuance thereof for their defense and protection? Who believes that it is for the purpose of keeping the President in his legitimate executive sphere?

If any one doubts upon this point, let me ask him why it is that Mr. Stanton, who pronounces this tenure-of-office bill unconstitutional, is so anxious to hold on to this office? Why is it, when distinguished Senators declared that no gentleman, no man of honor, could hold on to a Cabinet office after an intimation from the President that he was not wanted, that his resignation was desired? Why is it, when the personal and official relations of the Secretary and the President are admittedly such that they can have no intercourse or communication with each other? Is it, I repeat, to strengthen and aid the Executive in the legitimate and proper exercise of the executive power?

It is admitted upon all hands that the party for impeachment desire to keep Mr. Stanton there to oppose and circumvent the President. He is kept there in the interest of the legislative and not the executive power. He is kept in the interest of Congress and not the President. He is expected to execute the will of Congress, to do its bidding, to strengthen its power, to oppose and not to aid the President.

Now, I put it to the gentlemen upon the other side of this House, if they expect or believe that it is possible for this Government of several and coequal departments to exist while not only warring with each other, but while the one has not only a spy, a common informer, in the confidential counsels of the other, but a known and determined enemy, holding his position against his own pronounced convictions of constitutional right and duty?

Sir, I believe this is the part of a great and organized plan to get rid of the Executive and to invest Congress with all the powers of Government. It is the execution of a great and determined purpose to subvert and overthrow the Constitution and destroy all the constitutional departments of the Government. It is the carrying out of a purpose long since formed by the most radical portion of this Congress to retain power, right or wrong—to hold on to the offices heretofore subject to the disposition of the Executive, even if by such holding the Government of the Constitution and all the great interests of the people shall be involved in one common ruin.

Mr. Speaker, I have here a letter containing some conversation with a leading Republican official, which has been sent to a gentleman in this House, which I will ask the Clerk to read, and which goes conclusively to prove that such a plan as I have hinted at does in fact exist, and that there are gentlemen in that party high in office who know and avow it.

The Clerk read as follows:

BALTIMORE, *February* 22, 1868.

DEAR SIR: I send herewith a memorandum of a conversation between an influential member of the Republican executive committee and a gentleman of this city, who, soon after it occurred, repeated it to me in the presence of Dr. Letterman.

It occurs to me that in this crisis of the country you may be able to use it for the public good. If you think so you can use it at your discretion.

Yours, &c., BEN. E. GREEN.

I have read the inclosed memorandum of the conversation above referred to, and find that it is reported with great accuracy, almost, if not entirely, verbatim.

W. H. LETTERMAN.

Hon. ——— ———, *Washington City.*

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The following conversation, in very nearly, if not precisely so many words, took place last fall between an influential member of the Radical executive committee and a gentleman who had been a zealous supporter of the Government and of the war, in which he proved himself a gallant soldier, but who is now a Conservative, although at the date of this conversation, September, 1867, his interlocutor supposed he was conferring with a Chase man as thorough-going and unflinching as himself:

Committeeman. Johnson is acting very foolishly in removing Sheridan and Sickles.

Conservative. Why so?

Committeeman. Because it will exasperate the Grand Army of the Republic and the masses of the Republican party, who will insist on his impeachment and removal. Heretofore we (meaning the Chase men) have opposed the impeachment scheme because it would place WADE in position to set up for himself, and he might use the power and patronage of the Government for himself and against Mr. Chase. But Johnson's action makes it more dangerous for Mr. Chase to hold back than to run the risk of placing WADE in position. In these times, if a man falls behind his party he ceases to be the leader. Others will push forward where he hesitates and will take his place as leaders.

Conservative. What news from the canvass in Ohio?

Committeeman. The result is doubtful. Some of the advices say we will be defeated. But Mr. Chase is going to Ohio himself, and is sanguine. If we maintain ourselves in the fall elections we can afford to let Johnson serve out his term. But if the indications are that the presidential elections are likely to go against us there will be no alternative. We must turn him out and put in his place some one who will use the Army, if necessary, to carry the elections. It was fully proved during the war here in Maryland, and in the last presidential election, that the party that controls the Army can control the elections, and we must have some man who will use the Army as may be necessary when the elections come off. In that event, if it becomes necessary to put WADE in the Executive office, we (the Chase men) must run that risk.

Conservative. What if Johnson should resist?

Committeeman. How can he? What can he do? In the first place, we have the control of the United States Army. He has let Stanton fill the Army from top to bottom with men on whom we can rely. Bowerman was the least reliable man to whom an appointment was offered. He declined, and we got an unquestionable man in his place, although I do not doubt but that we would find him all right when the emergency comes. Next, we have the Grand Army of the Republic thoroughly organized, and we have the Governors of all the States except Maryland and Connecticut. What can Swann and English do to help Johnson with their little squads of Maryland and Connecticut militia while we have the militias of the great States of New York and Pennsylvania, controlled by Fenton and Geary, interposed between them? Johnson has no organized means of resistance. We can do with him as we please and as our necessities require.

Conservative. But if the Republican party take that course to retain power, do you not think there will be a reaction that will be worse for them in the end?

Committeeman. With the control of the Army we can put down all reaction. We must use power to keep power. With the exception of Mr. Chase, Winter Davis was the wisest, because the boldest, statesman of our party. His motto was that we should use power to keep power. Therefore he declared for negro suffrage, and did not hesitate to avow that he advocated negro suffrage, because it was neeessary to the perpetuation of our party ascendancy. No one living more thoroughly detested and repudiated, as a man, the idea of negro equality, or of their fitness to exercise the franchise intelligently. But their very unfitness enables us more easily to control them; and their votes being necessary to enable us to keep power, as a statesman he would use them as a necessary means to accomplish that object.

Mr. ELDRIDGE. Mr. Speaker, the lover of the Constitution and of the laws and their defenders may well stand appalled when a high official in a party, omnipotent in power, and that has the control of the Government of this country—that assumes to be the Government—makes such a statement. I have no less doubt myself now than I had months ago that such is the purpose of the party attempting to impeach the President. They have long entertained the idea and had the settled purpose to retain power at all hazards—to keep themselves in power by right or by wrong—whether the Republic should stand or fall.

There have been from fifty to sixty members in this House who, it has been supposed, were ready, at all times and under any and all circumstances, to vote to impeach the President, right or wrong. They have insisted that he ought to be put out of office—out of the way; that he stood in the way of the party—in the way of its great and holy purposes. And the gentleman from Pennsylvania, [Mr. STEVENS,] the "great commoner," as he is called, whose power and influence we have felt and seen in this House, tells us that all his measures are outside of the Constitution. This is one of his measures, and by him considered outside of the Constitution and necessary to the perfection of his plans and the party he leads.

When a party is thus pledged and bound together by oaths, is supported by an army, called the "Army of the Republic," to carry out its measures, I say we may well suppose that that purpose will be executed.

Gentlemen tell us that the President must execute this tenure-of-office bill because Congress has declared that it was a law. I was amazed to hear the distinguished chairman of the Committee on the Judiciary, a gentleman for whom I have the highest respect, [Mr. WILSON, of Iowa,] aver that that is the law which Congress decrees to be the law. Sir, if that be true, then if Congress should decree that the President were not to be any longer Commander-in-Chief of the Army and Navy, and that General Grant should, from this time on exercise all the powers of Commander-in-Chief, according to that construction, that decree is the law of the land, notwithstanding the Constitution confers it as an original power upon the President only. The proposition itself demonstrates its own absurdity. Congress cannot determine or adjudicate the law. That power by the Constitution devolves upon the judicial department. The President has the same right in his legitimate constitutional sphere, in the exercise of the executive power, to determine what is the law as Congress in its sphere has to determine.

I have no doubt that this purpose to impeach the President will be carried out. Those who had a show of conservatism, who placed themselves upon grounds which are as inconsistent with their present action as they would have been had they voted in the first instance for impeachment; all those have gone over under the pressure of party power and party drill. They have sunk their individual judgment and lost their individual character by yielding to party demands. The party requires it, and the President must be impeached. The party requires it, and the Constitution must be subverted. The Republic may fall, but the Republican party, "so-called," must be saved.

You propose to impeach the President for not executing that which you call a law however violative of the Constitution. You demand of him that he shall execute the laws. Is not your Constitution law? And must he not execute the provisions of that instrument? Is that not what he has by his oath obligated himself and by his office became bound to execute? And when a duty is clearly prescribed by the Constitution is he not as much bound to execute that as law as though Congress had given expression to and required the power by an act of its own to be exercised, and placed it in the form of a law on your statute-book?

Gentlemen upon the other side have ignored this question altogether. They have argued as though the Constitution were not a part of the law which the President was to execute. Sir, it is the great law, the law from which the President derives his power, from which

you and I, as members of this Congress, derive our power, from which the Supreme Court derives its power. It is the great underlying law upon which all our laws are based. Yet gentlemen tell us that when Congress decrees that a law is a law it must be the law, and that without regard to the Constitution.

Mr. Speaker, I have occupied more time than I intended. I now yield five minutes of my time to the gentleman from Ohio, [Mr. CARY.]

Mr. CARY. Mr. Speaker, all I am permitted to say must be said in five minutes. I appreciate the momentous responsibilities of this hour, and hope that each man will divest himself of all party and partisan feeling and be governed solely by his honest convictions, inspired by a lofty patriotism. It becomes us to be cool and deliberate in our judgments and actions, for they are to constitute precedents to be acted upon when we and our constituents and our candidates for the Presidency have passed away.

If I comprehend the question it is not whether President Johnson is a traitor to the party which placed him in power, nor whether he has prevented the reconstruction of the southern States, responsible for the New Orleans riots and for the assassinations of loyal men, nor whether he is a bad man generally and unfit to be trusted. We do not arraign him before the high court of impeachment on the common counts, but for an unlawful effort to rid himself of a Cabinet minister, or, to state the case strongly, for an open and deliberate violation of the tenure-of-office law. The Cabinet of the President constitute his constitutional advisers, and should obviously consist of men with whom the President can have unreserved and confidential intercourse. To force upon the President a Cabinet minister who is openly and avowedly an enemy of his administration, and one with whom the President can have no intercourse, is manifestly so unfair and improper that fair-minded men, not influenced by a malignant partisan zeal, can or will justify it.

I must not be understood as impeaching the ability, integrity, and patriotism of Secretary Stanton. All these are fully established. As a war minister, history will accord to him the first place. I doubt whether his equal has lived in any age. Deeply as we may regret a rupture between the President and his minister of war, it did occur, and it is not our present duty to inquire who was in fault. The Senate restored Mr. Stanton to the office from which he had been removed by the President, and I do not arraign that body for their action. If at that juncture, when Mr. Stanton was vindicated by the Senate, he had gracefully bowed himself out of the President's household, he would have had the sympathy and confidence of the people and would have added magnanimity to his list of patriotic virtues. Either upon his own motion or acting by the advice of others, (most probably the latter,) he chose to remain unbidden as a confidential adviser of the President. There has been such a manifest want of courtesy, such a persistent and dogged determination to badger and bully the President, that the people will condemn Stanton and sympathize with, if they do not justify, the President, however much they may despise him.

In the present aspect of the case my desire is that the Supreme Court, our highest judicial tribunal, shall be invoked to decide the rights of the President under the Constitution and the constitutionality of the civil-tenure bill. If the Supreme Court shall decide that the civil-tenure bill is constitutional, and that it applies to the members of the Cabinet, and that the President must have a confidential adviser whom he never appointed and whom he does not want, then he must submit, or I will unite with you in an effort to hurl him from his position. I would vote for this resolution if the case could not be more properly adjudicated elsewhere. We have more important work than this. A million of men and women, able and willing to work, are to-day without employment, without food, and without shelter in this land of boundless resources.

We cannot afford to spend these precious days, these—to our constituents—very long and weary days, in deranging still more every industrial interest of the country in settling a difficulty between the President and his Cabinet minister which can be more satisfactorily settled by a judicial tribunal which has been organized, under our Constitution, for this very purpose. These proceedings will plunge the whole country into still deeper distress and paralyze still more every branch of business, and we will be deservedly held responsible for all the calamities which may follow. Mr. Speaker, I fear for the safety of the Republic, and my only hope is in the people, who are in authority over us, and in the God of nations, who will make the wrath of man to praise Him and restrain the remainder of that wrath.

Mr. ELDRIDGE. I now yield to the gentleman from New Jersey, [Mr. HAIGHT.]

Mr. HAIGHT then addressed the House. [See Appendix.]

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] has two minutes of his time remaining.

Mr. ELDRIDGE. I yield those two minutes to the gentleman from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. In the brief time allowed me I shall not attempt to enter formally into this debate. I can only express my regret that in the arrangements made for the distribution of time for the discussion of the pending resolution I was not fortunate enough to obtain a share of it. I hope, however, before this question of impeachment is disposed of, even if this resolution shall be adopted to-day, I shall have an opportunity of discussing at least some branches of it. No gentleman here, I trust, appreciates its transcendent and thrilling importance more than I do. The future peace, honor, and stability of the country may hinge upon it. Everything we hold dear in our political relations may be placed in peril by our action to-day. I should, then, have been gratified, Mr. Speaker, if the opportunity had been afforded me to have participated in this debate, and to have assigned some of the many reasons why I am opposed, utterly opposed, to the passage of the pending resolution and why I shall vote against it; but I cannot go on now. Thanking the gentleman from Wisconsin [Mr. ELDRIDGE] for his courtesy, I shall not occupy his time to-day.

Mr. ELDRIDGE. In the moment of my time which remains I will only say to the gentleman from Illinois [Mr. JUDD] representing the Chicago district that I have no town meetings or popular assemblies to back up my opinions and judgment, and do not desire any. My constituents expect me to deliberate, and on the case presented to the House decide. I shall cast my vote according to the dictates of my own judgment and conscience.

[Here the hammer fell.]

Messrs. BROOMALL, VAN AUKEN, PLANTS, GLOSSBRENNER, MORGAN, VAN TRUMP, STONE, HOTCHKISS, WILLIAMS of Pennsylvania, and BURR submitted remarks. [See Appendix.]

Mr. BENTON. I had not expected an opportunity of saying a word upon this question, even in explanation of the vote which I shall be called upon to give in this House upon this question, which I regard as so momentous, so far-reaching in its consequences, that it transcends in importance any other question which has been presented to the consideration of this body since I have been a member of it.

It will be seen, by referring to the record, that I was one of that number on this side of the House who felt it to be their duty to cast a vote in the negative at the time the question was before submitted to this House whether Andrew Johnson was so far guilty of high crimes and misdemeanors before the American people that it had become the imperative duty of the House of Representatives, acting as the grand inquest of the American nation, to present him before that high tribunal, the Senate of the United States, for trial for those offenses which he had been guilty of committing in the office of the Chief Magistrate of the nation, before a great and mighty people, who had wrested their Government from the perils of war when the issue had been distinctly joined between its friends and enemies whether this Government should be maintained or whether it should go down in blood.

I will not say I was not then satisfied that he had committed high offenses and great crimes before this nation. Nor do I believe at all in the doctrine that it is necessary to make out a charge against him which would justify an indictment before our courts; I have never entertained such an opinion of the law. I believed then, as I believe now, that the question was and is whether Andrew Johnson has been guilty of such malfeasance in office, such misuse of his authority, as the Chief Executive of this nation, that it has become the duty of this House to present him before the Senate of the United States in order that they may pronounce upon his conduct, and say whether he has so violated the Constitution and the laws of the country that they must pronounce judgment against him.

We all know what his acts have been since his accession to power. He has fraternized and struck hands with traitors whose hands and garments are imbued in the blood of the most patriotic people of this nation. We have seen him turn his back upon that great party who saved this country by crushing out the greatest civil war the world has ever seen. We have seen him employ the whole of the vast patronage of this Government to transfer the political power not only of the unreconstructed States, but of the whole country, to the control of the rebels. And can we entertain any doubt what his intentions and purposes are any more than we doubted before the war was finally commenced, when the rebels were making their arrangements, when they were gathering their armies, when they were taking possession of fort after fort, that their aim and their purpose was to destroy this Government? It was not until the fatal gun was fired upon Fort Sumter that the national heart was roused, that the spirit of the country was fired to that pitch of patriotism and determination that called forth hundreds of thousands to rally around the flag of their country and to save the life of the nation. Yet did we entertain any doubt of the purpose of the rebels then? Not at all. Neither do I now entertain any doubt of the intention of Andrew Johnson in the usurpation he has exercised and in his resistance to the law.

It has been claimed by the other side of the House that we are actuated by partisan feelings and partisan motives. God forbid that I should be influenced by a partisan spirit in passing upon this great and momentous question! I believe, sir, that I can lift myself above the smoke and clouds that surround the mere partisan into a higher atmosphere. But I appeal to the House to say whether certain men have not uniformly, through all the gross and wanton usurpations of Andrew Johnson, stood by him in every act.

[Here the hammer fell.]

Mr. BOUTWELL addressed the House. [See Appendix.]

Mr. MARSHALL obtained the floor, and said: I yield ten minutes of my time to my friend from Indiana, [Mr. KERR.]

Mr. KERR then addressed the House. [See Appendix.]

Mr. MARSHALL then yielded to

Mr. BARNES, who made remarks which will appear in the Appendix.

Mr. MARSHALL then addressed the House, and was followed by Messrs. CULLOM, STARKWEATHER, ORTH, and BROMWELL, whose remarks will appear in the Appendix.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] now rises to close the debate.

Mr. STEVENS, of Pennsylvania. I desire

to know whether I have an hour to close the debate under the rules?

The SPEAKER. By unanimous consent of the House, speeches, after a time fixed by the House, were limited to half an hour, and that included all speeches. There was no reservation.

Mr. BINGHAM. I move that the time be extended so as to allow the chairman of the committee his full hour.

Mr. ELDRIDGE. I object, if it requires unanimous consent.

Mr. BINGHAM. Then I move a suspension of the rules.

Mr. ELDRIDGE. If the gentleman will move to extend the whole debate I will be very glad, but I cannot consent that the gentleman from Pennsylvania alone shall have the right.

Mr. ROSS. I rise to a question of order. I understand that under the order of the House, to-morrow is the day on which the rules can be suspended and not to-day.

The SPEAKER. The Chair overrules the point of order. The Chair will state that the gentleman from Wisconsin drew the attention of the Chair to the language of the order in the Globe, and he finds that to-morrow the House is authorized to suspend the rules in addition to their power to suspend the rules to-day. The Chair was of the same opinion until the gentleman from Wisconsin [Mr. ELDRIDGE] called his attention to the exact words of the order of the House as printed in the Globe.

Mr. BROOMALL. I rise to another question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. BROOMALL. I wish to inquire whether or not the power to move to suspend the rules is not limited to after the morning hour on Monday? Now we have had no morning hour to-day.

The SPEAKER. The power to suspend the rules has been, by the rules, limited to Monday. The rules cannot be suspended during the morning hour on Monday, because by the rules of the House the Chair cannot entertain the motion or ask for unanimous consent during the business of the morning hour. It is for that reason that the rules are never suspended during the morning hour.

Mr. PAINE. I desire to ask a parliamentary question of the Chair.

The SPEAKER. The Chair cannot answer a parliamentary question, but will rule upon all points of order that may be raised. The gentleman from Ohio [Mr. BINGHAM] has moved to suspend the rules for the purpose of giving the gentleman from Pennsylvania [Mr. STEVENS] one hour instead of half an hour to close the debate.

Mr. ELDRIDGE. I move to amend the motion of the gentleman from Ohio.

The SPEAKER. The motion to suspend the rules is not amendable.

Mr. ELDRIDGE. Then I hope the gentleman will modify his motion so that the time for debate may be generally extended.

Mr. BINGHAM. I cannot modify my motion in that way.

The question was upon the motion of Mr. BINGHAM that the rules be suspended; and being taken, there were—ayes twenty-two, noes not counted.

Before the result of the vote was announced,

Mr. BINGHAM called for tellers on the motion to suspend the rules.

Mr. HOLMAN. I call for the yeas and nays on the motion to suspend the rules.

Mr. ROSS. I move that the House now adjourn.

The SPEAKER. The motion to adjourn is not now in order, because the House, by unanimous consent, has ordered that the vote on the pending resolution be taken to-day at five o'clock p. m.

Mr. BINGHAM. I withdraw the motion to suspend the rules.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is now entitled to the floor for half an hour to close the debate.

Mr. ELDRIDGE. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ELDRIDGE. I understood the Chair to state that the gentleman from Pennsylvania [Mr. STEVENS] was entitled to the floor for half an hour. Has not the House ordered that the vote shall be taken at precisely five o'clock this afternoon?

The SPEAKER. If the gentleman makes the point of order, the Chair will rule that the vote must be taken at five o'clock. But the Chair will state that heretofore, whenever any gentleman on either side of the House has been called to order, the Chair has not deducted the time so consumed from the regular time allowed him. As the point of order has been raised by the gentleman from Wisconsin, the Chair will rule upon it, and now states that the gentleman from Pennsylvania [Mr. STEVENS] is entitled to twenty-five minutes to close the debate.

Mr. STEVENS, of Pennsylvania. I now yield three minutes of my time to the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. I am indebted to the courtesy of my distinguished and venerable friend from Pennsylvania [Mr. STEVENS] for permission to finish the few remarks I intended to make, when I was interrupted by the close of Saturday's debate.

[Mr. WASHBURNE resumed and concluded his remarks, as published elsewhere.]

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I agree with those gentlemen who have gone before me that this is a grave subject and should be gravely treated. It is important to the high official who is the subject of these charges, and it is important to a nation of forty million people, now free, and rapidly increasing to hundreds of millions. The official character of the Chief Executive of this great nation being thus involved, the charge, if falsely made, is a cruel wrong; if, on the other hand, the usurpations and misdemeanors charged against him are true he is guilty of as atrocious attempts to usurp the liberty and destroy the happiness of this nation as were ever perpetrated by the most detestable tyrant who ever oppressed his fellow-men. Let us, therefore, discuss these questions in no partisan spirit, but with legal accuracy and impartial justice. The people desire no victim and they will endure no usurper.

The charges, so far as I shall discuss them, are few and distinct. Andrew Johnson is charged with attempting to usurp the powers of other branches of the Government; with attempting to obstruct and resist the execution of the law; with misprision of bribery; and with the open violation of laws which declare his acts misdemeanors and subject him to fine and imprisonment; and with removing from office the Secretary of War during the session of the Senate without the advice or consent of the Senate; and with violating the sixth section of the act entitled "An act regulating the tenure of certain civil offices." There are other offenses charged in the papers referred to the committee, which I may consider more by themselves.

In order to sustain impeachment under our Constitution I do not hold that it is necessary to prove a crime as an indictable offense, or any act *malum in se*. I agree with the distinguished gentleman from Pennsylvania, on the other side of the House, who holds this to be a purely political proceeding. It is intended as a remedy for malfeasance in office and to prevent the continuance thereof. Beyond that, it is not intended as a personal punishment for past offenses or for future example.

Impeachment under our Constitution is very different from impeachment under the English law. The framers of our Constitution did not rely for safety upon the avenging dagger of a Brutus, but provided peaceful remedies which should prevent that necessity. England had two systems of jurisprudence; one for the trial and punishment of common offenders, and one for the trial of men in higher stations, whom it was found difficult to convict before the ordinary tribunals. This latter proceeding was by impeachment or by bills of attainder, generally practiced to punish official malefactors, but the system soon degenerated into political and personal persecution, and men were tried, condemned, and executed by this court from malignant motives. Such was the condition of the English laws when our Constitution was framed; and the Convention determined to provide against the abuse of that high power, so that revenge and punishment should not be inflicted upon political or personal enemies. Here the whole punishment was made to consist in removal from office, and bills of attainder where wholly prohibited. We are to treat this question, then, as wholly political, in which, if an officer of the Government abuse his trust or attempt to pervert it to improper purposes, whatever might be his motives, he becomes subject to impeachment and removal from office. The offense being indictable does not prevent impeachment, but is not necessary to sustain it. (See Story's Commentaries, Curtis on the Constitution, Madison, and others.) Such is the opinion of our elementary writers, nor can any case of impeachment tried in this country be found where any attempt was made to prove the offense criminal and indictable.

What, then, are the official misdemeanors of Andrew Johnson disclosed by the evidence? On the 2d day of March, 1867, Congress passed an act entitled "An act regulating the tenure of certain civil offices." Among other provisions it enacted that no officer who had been appointed by and with the advice and consent of the Senate should be removed from office without the consent of the Senate, and that, if during vacation a suspension should be made for cause, such cause should be reported to the Senate within twenty days after their next meeting. If the Senate should deem the reason of the suspension sufficient, then the officer should be removed and another appointed in his stead; but if the Senate should refuse to concur with the President, and declare the reasons insufficient, then the officer suspended should forthwith resume the functions of his office and the powers of the person performing its duties should cease. It is especially provided that the Secretary of War shall hold his office during the term of the President by whom he may have been appointed, and for one month thereafter unless removed by and with the consent of the Senate as aforesaid. On the 12th day of August, 1867, during the recess of the Senate, the President removed the Secretary of War, whose term of office had not expired, requiring him to surrender the office with the public property, and appointed General U. S. Grant Secretary of War *ad interim*.

When Andrew Johnson assumed the office of President he took the oath to obey the Constitution of the United States and to take care that the laws be faithfully executed. This was a solemn and enduring obligation, nor can he plead exemption from it on account of his condition at the time it was administered to him. An attempt to obstruct the execution of the law, not a mere omission amounting to negligence which would have been a misdemeanor, but a daring and bold conspiracy, was attempted by him to induce the General of the Army to aid him in defeating the operation of this law; and when he had suspended the Secretary of War he appointed General Grant Secretary *ad interim*, with the avowed purpose of preventing the operation of that law, if the Senate should decide in favor of the Secretary; and he says that the General did enter into such conspiracy to aid him in obstructing the return of the rejected Secretary notwithstanding the Senate might decide in his favor. This is denied by the General, and a question of veracity, rather angrily discussed, has arisen between them. Those gentlemen seem to consider that that question is one of importance to the public. In this they are mistaken. Which is the man of truth and which the man of falsehood is of no

more public importance than if it arose between two obscure individuals. If Andrew Johnson tells the truth then he is guilty of a high official misdemeanor, for he avows his effort to prevent the execution of the law. If the General commanding tells the truth then the President is guilty of a high misdemeanor, for he declares the same thing of the President, denying only his own complicity. No argument can make this point plainer than the statement of the culprit. If he and the General told the truth then he committed willful perjury by refusing to take care that the laws should be duly executed.

To show the *animus* and guilty knowledge with which this law was violated we have only to turn to the proceedings of the Senate notifying him of his illegal and void conduct, and then to consider that he has since persevered in attempting to enforce it. Indeed, to show his utter disregard of the laws of his country, we have only to turn to his last annual message, in which he proclaims to the public that the laws of Congress are unconstitutional and not binding on the people. Who, after that, can say that such a man is fit to occupy the executive chair, whose duty it is to inculcate obedience to those very laws, and see that they are faithfully obeyed? Then the great beauty of this remedial and preventive process is clearly demonstrated. He is dull and blind who cannot see its necessity and the beneficial purposes of the trial by impeachment.

By the sixth section of the act referred to, it is provided:

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors; and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

Now, in defiance of this law, Andrew Johnson, on the 21st day of February, 1868, issued his commission or letter of authority to one Lorenzo Thomas, appointing him Secretary of War *ad interim*, and commanded him to take possession of the Department of War and to eject the incumbent, E. M. Stanton, then in lawful possession of said office. Here, if this act stood alone, would be an undeniable official misdemeanor—not only a misdemeanor *per se*, but declared to be so by the act itself, and the party made indictable and punishable in a criminal proceeding. If Andrew Johnson escapes with bare removal from office, if he be not fined and incarcerated in the penitentiary afterward under criminal proceedings, he may thank the weakness or the clemency of Congress and not his own innocence.

We shall propose to prove on the trial that Andrew Johnson was guilty of misprision of bribery by offering to General Grant, if he would unite with him in his lawless violence, to assume in his stead the penalties and to endure the imprisonment denounced by the law. Bribery is one of the offenses specifically enumerated for which the President may be impeached and removed from office. By the Constitution, article two, section two, the President has power to nominate and, by and with the advice and consent of the Senate, to appoint all officers of the United States whose appointments are not therein otherwise provided for and which shall be established by law, and to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session. Nowhere, either in the Constitution or by statute, has the President power to create a vacancy during the session of the Senate and fill it without the advice and consent of the Senate, and yet, on the 21st day of February, 1868, while the Senate was in session, he notified the head of the War Department that he was removed from office and his successor *ad interim* appointed. Here is a plain, recorded violation of the Constitution and laws, which, if it stood alone, would make every honest and intelligent man give his vote for impeachment. The President had persevered in his lawless course through a long series of unjustifiable acts. When the so-called confederate States of America were conquered and had laid down their arms and surrendered their territory to the victorious Union the government and final disposition of the conquered country belonged to Congress alone, according to every principle of the law of nations.

Neither the Executive nor the judiciary had any right to interfere with it except so far as was necessary to control it by military rule until the sovereign power of the nation had provided for its civil administration. No power but Congress had any right to say whether ever or when they should be admitted to the Union as States and entitled to the privileges of the Constitution of the United States. And yet Andrew Johnson, with unblushing hardihood, undertook to rule them by his own power alone; to lead them into full communion with the Union; direct them what governments to erect and what constitutions to adopt, and to send Representatives and Senators to Congress according to his instructions. When admonished by express act of Congress, more than once repeated, he disregarded the warning and continued his lawless usurpation. He is since known to have obstructed the reëstablishment of those governments by the authority of Congress, and has advised the inhabitants to resist the legislation of Congress. In my judgment his conduct with regard to that transaction was a high-handed usurpation of power which ought long ago to have brought him to impeachment and trial and to have removed him from his position of great mischief. He has been lucky in thus far escaping through false logic and false law. But his then acts, which will on the trial be shown to be atrocious, are open evidence of his wicked determination to subvert the laws of his country.

I trust that when we come to vote upon this question we shall remember that although it is the duty of the President to see that the laws be executed the sovereign power of the nation rests in Congress, who have been placed around the Executive as muniments to defend his rights, and as watchmen to enforce his obedience to the law and the Constitution. His oath to obey the Constitution and our duty to compel him to do it are a tremendous obligation, heavier than was ever assumed by mortal rulers. We are to protect or to destroy the liberty and happiness of a mighty people, and to take care that they progress in civilization and defend themselves against every kind of tyranny. As we deal with the first great political malefactor so will be the result of our efforts to perpetuate the happiness and good government of the human race. The God of our fathers, who inspired them with the thought of universal freedom, will hold us responsible for the noble institutions which they projected and expected us to carry out. This is not to be the temporary triumph of a political party, but is to endure in its consequence until this whole continent shall be filled with a free and untrammeled people or shall be a nest of shrinking, cowardly slaves.

The SPEAKER. There are two minutes remaining of the time of the gentleman from Pennsylvania, [Mr. STEVENS.] If there be no objection the Clerk will read the resolution upon which the House is about to vote.

There being no objection, the Clerk read, as follows:

Resolution providing for the impeachment of Andrew Johnson, President of the United States.

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors in office.

Mr. STEVENS, of Pennsylvania. On that resolution I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 47, not voting 17; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and the Speaker—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—47.

NOT VOTING—Messrs. Benjamin, Dixon, Donnelly, Ela, Finney, Garfield, Hawkins, Koontz, Maynard, Pomeroy, Robinson, Shellabarger, Thomas, John Trimble, Robert T. Van Horn, Henry D. Washburn, and William Williams—17.

During the roll-call, the following announcements were made:

Mr. BARNES. My colleague, Mr. ROBINSON, is absent on account of sickness. If he were here he would vote "no."

Mr. LOAN. My colleague, Mr. BENJAMIN, who is paired on this question with the gentleman from New York, [Mr. ROBINSON,] would, if present, vote "ay."

Mr. ORTH. My colleagues from Indiana, Mr. WASHBURN and Mr. WILLIAMS, who are absent, would, if they were present, vote for the adoption of this resolution.

Mr. PILE. My colleague, Mr. VAN HORN, of Missouri, has been called home by business. If he were here I have no doubt he would vote "ay."

Mr. ARNELL. My colleague, Mr. TRIMBLE, of Tennessee, is absent by leave of the House. If present, he would vote "ay."

Mr. LAFLIN. My colleague, Mr. POMEROY, is detained at home by sickness in his family.

Mr. WINDOM. My colleague, Mr. DONNELLY, is detained in New Hampshire. If he were present he would vote "ay."

Mr. LAWRENCE, of Pennsylvania. My colleague, Mr. KOONTZ, is absent by leave of the House. If he were here he would I have no doubt vote "ay."

Mr. MULLINS. My colleague, Mr. MAYNARD, is absent on leave. If here he would vote "ay."

Mr. WELKER. My colleague, Mr. SHELLABARGER, is detained at his home by sickness. If he were here he would vote "ay."

Mr. BROOMALL. My colleague, Mr. KOONTZ, who is necessarily absent, would, if here, vote "ay."

When the roll-call had been concluded,

The SPEAKER said: The occupant of the Chair cannot consent that his constituents should be silent on so grave a question, and therefore, as a member of this House, he votes "ay." On agreeing to the resolution, there are—yeas 126, nays 47. So the resolution is adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I submit the following resolutions, on which I demand the previous question:

Resolved, That a committee of two be appointed to go to the Senate and, at the bar thereof, in the name of the House of Representatives and of all the people of the United States, to impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office, and acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him and make good the same; and that the committee do

demand that the Senate take order for the appearance of said Andrew Johnson to answer to said impeachment.

2. *Resolved*, That a committee of seven be appointed to prepare and report articles of impeachment against Andrew Johnson, President of the United States, with power to send for persons, papers, and records, and to take testimony under oath.

Mr. HOLMAN. Is this a privileged question?

The SPEAKER. It is a question of privilege under the Constitution of the United States.

Mr. ELDRIDGE. I move that the House do now adjourn.

Mr. HOLMAN. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. I move that when the House adjourns to-day it adjourns to meet on Wednesday next.

Mr. HOLMAN. I demand the yeas and nays.

The SPEAKER. The Chair rules that the motion to adjourn to Wednesday next is not in order, as the House on Saturday, by unanimous consent, resolved to meet on Tuesday, and that that day should in all respects be like Monday as to the morning hour and suspension of the rules. The resolution of the gentleman from New York [Mr. GRISWOLD] was also postponed until to-morrow.

Mr. ELDRIDGE. I move that the House take a recess until to-morrow, at ten o'clock in the morning.

The SPEAKER. That is not in order pending a motion to adjourn, which latter motion is of a higher character.

The question was then taken on the motion to adjourn, and it was decided in the negative—yeas 45, nays 124, not voting 20; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—45.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Barnum, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—124.

NOT VOTING—Messrs. Benjamin, Dixon, Donnelly, Ela, Finney, Garfield, Hawkins, Hulburd, Koontz, Maynard, Morrell, Plants, Pomeroy, Robinson, Shellabarger, Thomas, John Trimble, Robert T. Van Horn, Henry D. Washburn, and William Williams—20.

So the House refused to adjourn.

Mr. WASHBURNE, of Illinois. I move the rules be suspended, so the House shall immediately, without dilatory motions, vote on the pending resolutions.

The SPEAKER. The gentleman from Pennsylvania withdraws his demand for the previous question.

Mr. BURR. I move that the resolutions be laid on the table.

The SPEAKER. The resolutions are not before the House.

Mr. ROSS. Is it in order to have a call of the House?

The SPEAKER. It would not be in order pending the motion to suspend the rules.

Mr. RANDALL. Is not the motion to adjourn in order?

The SPEAKER. Not pending this motion.

Mr. WASHBURNE, of Illinois. In order that there may be no mistake about my motion I have reduced it to writing, as follows:

Resolved, That the rules be suspended, so that the House may immediately, without dilatory motions, vote upon the pending resolutions.

The SPEAKER. The Chair rules that the motion for a call of the House is not in order. The Clerk will read a paragraph from page 170 of the Digest.

The Clerk read as follows:

Pending a motion to suspend the rules, so as to take an immediate vote on a proposition, a motion for a recess is not in order. This decision of the Speaker was sustained on appeal by the very decisive vote by yeas and nays of yeas 173, nays 4; and would seem to have settled the question, that pending a similar motion dilatory motions such as had been previously tolerated would not be entertained hereafter.

Mr. BURR. Why was my motion ruled out of order?

The SPEAKER. It was because the motion to suspend the rules, which is of a higher character, was made by the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. BURR. I renew it.

The SPEAKER. The motion to suspend the rules is still pending, and the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. ELDRIDGE. I move that the House adjourn.

The SPEAKER. The reason why the motion to lay on the table is not in order is evident from the fact that the motion pending is to suspend the rules, and that suspends the rule by which the right is obtained to move to lay on the table.

Mr. RANDALL. Is it not in order to move to postpone the resolution?

The SPEAKER. It is not.

Mr. ELDRIDGE. I believe it is in order to move to adjourn.

The SPEAKER. It is not. The Chair refers to the decision just read by the Clerk, also to the decision of this Congress.

Mr. ELDRIDGE. Is it a dilatory motion merely to move to adjourn?

The SPEAKER. The Chair will not argue the question, but refers the gentleman to the decision of the last Congress by a vote of 173 to 4, and of this Congress with 24 votes in the negative.

Mr. HOLMAN. I appeal from the decision of the Chair.

Mr. ELDRIDGE. I understood the decision merely to affect the recess.

The SPEAKER. The Chair ruled all dilatory motions out of order.

Mr. ELDRIDGE. I understood the Chair to decide the other day that a simple motion to adjourn was not a dilatory motion.

The SPEAKER. The Chair decided that it was a dilatory motion, and stated to the gentleman from Wisconsin [Mr. ELDRIDGE] the reason for it, which is this: by the rules, when a motion to adjourn is pending, a motion that when the House adjourns it adjourn to a time certain has priority, and a motion to amend by adjourning to another time certain would have priority still; so that there can be three motions on which the yeas and nays can be ordered in reference to adjournment if one motion to adjourn is at all tolerated. And furthermore, as an appeal has been taken, the Chair states that his decision to-day has been affirmed by the House by an overwhelming vote in two Congresses.

Mr. WASHBURNE, of Illinois. I move to lay the appeal on the table, and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 125, nays 31, not voting 33; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Beck, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—125.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Boyer, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Humphrey, Johnson, Jones, Knott, McCormick, Morgan, Niblack, Nicholson, Randall, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—31.

NOT VOTING—Messrs. Barnes, Benjamin, Brooks, Chanler, Dixon, Donnelly, Ela, Finney, Garfield, Griswold, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Koontz, Marshall, Maynard, McCullough, Morrissey, Mungen, Phelps, Plants, Pomeroy, Pruyn, Robinson, Ross, Shellabarger, Stewart, Thomas, John Trimble, Robert T. Van Horn, Van Wyck, Henry D. Washburn, and William Williams—33.

So the appeal was laid on the table.

The question recurred on the motion of Mr. WASHBURNE, of Illinois, to suspend the rules, upon which the yeas and nays had been ordered.

The question was taken; and there were—yeas 123, nays 42, not voting 24; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—123.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—42.

NOT VOTING—Messrs. Benjamin, Boyer, Chanler, Reader W. Clarke, Dixon, Donnelly, Ela, Finney, Garfield, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Koontz, Maynard, Plants, Pomeroy, Robinson, Shellabarger, Stewart, Thomas, John Trimble, Robert T. Van Horn, Henry D. Washburn, and William Williams—24.

So, two thirds voting in the affirmative, the rules were suspended, and it was ordered that the vote be taken immediately on the resolutions offered by Mr. STEVENS, of Pennsylvania.

Mr. RANDALL. I move that the House do now adjourn.

The SPEAKER. The Chair declines to entertain that motion.

Mr. RANDALL. That is what I expected.

Mr. HOLMAN. I demand the yeas and nays on agreeing to the resolutions.

Mr. ELDRIDGE. Did the Chair decide that he would not entertain a motion to adjourn?

The SPEAKER. The House has so decided, and the Chair, in conformity to that decision of the House, declines to entertain the motion.

Mr. ELDRIDGE. When the rules are suspended we cannot adjourn.

The SPEAKER. When the rules are suspended the House will act exactly as they have ordered by the resolution that they shall act. The Chair will state to the gentleman from Wisconsin that he might have declined to entertain the appeal which was taken a short time since—the third time an appeal had been taken on that point—on the ground that the right to appeal arises under the rules; and the Chair has decided in the last Congress and

again in this, and the decision has in each case been sustained by the House on a vote by the yeas and nays, thereby becoming a part of the parliamentary law of the House, that when a motion to suspend the rules so as to require immediate action is pending it suspends all other motions until the vote is taken, because otherwise it would practically require four fifths to suspend the rules instead of two thirds. That having been the decision of the House, the Chair could have declined to entertain the appeal on the ground that the appeal arose under the rules of the House which it was proposed to suspend; but he desired again to give gentlemen an opportunity to test the question by the yeas and nays, which they have done. He now declines to entertain any dilatory motion whatsoever.

Mr. WOOD. I desire to ask the Chair if he would entertain the point that the resolutions, upon their face, are out of order?

The SPEAKER. The Chair would not, the House having decided by a two-thirds vote that the resolutions shall be received and voted upon immediately.

Mr. ELDRIDGE. All we care for is to be forced. [Laughter.]

Mr. ROSS. As all the rules have been suspended, and there are none now in force, I desire to occupy an hour or two in making a speech.

The SPEAKER. Those rules have been suspended which it was necessary to suspend to accomplish a particular purpose. The question is upon ordering the yeas and nays upon the resolutions submitted by the gentleman from Pennsylvania, [Mr. STEVENS.]

The question was taken upon ordering the yeas and nays, and there were thirty-three in the affirmative.

Before the noes were counted,

Mr. ROSS called for tellers upon ordering the yeas and nays.

Tellers were ordered; and Mr. Ross and Mr. SCOFIELD were appointed.

The House again divided; and the tellers reported that there were—ayes thirty-five, noes not counted.

So the yeas and nays were ordered.

The question was then taken upon the resolutions of Mr. STEVENS, of Pennsylvania; and it was decided in the affirmative—yeas 124, nays 42, not voting 23; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—124.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Goiladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—42.

NOT VOTING—Messrs. Benjamin, Chanler, Dixon, Donnelly, Ela, Finney, Fox, Garfield, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Koontz, Maynard, Plants, Pomeroy, Robinson, Shellabarger, Stewart, Thomas, John Trimble, Robert T. Van Horn, Henry D. Washburn, and William Williams—25.

So the resolutions were adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER announced the following committees under the resolutions just adopted:

Committee to communicate to the Senate the action of the House ordering an impeachment of the President of the United States.—THADDEUS STEVENS, of Pennsylvania, and JOHN A. BINGHAM, of Ohio.

Committee to declare Articles of Impeachment against the President of the United States.—GEORGE S. BOUTWELL, of Massachusetts; THADDEUS STEVENS, of Pennsylvania; JOHN A. BINGHAM, of Ohio; JAMES F. WILSON, of Iowa; JOHN A. LOGAN, of Illinois; GEORGE W. JULIAN, of Indiana; and HAMILTON WARD, of New York.

And then, on motion of Mr. DRIGGS, (at six o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. BOUTWELL: The petitions of J. H. Sawyer and others; of John Holt; of Samuel Fay and others, all of Lowell, Massachusetts, and all relating to taxation and the public expenditures.

Also, the petition of F. J. Fenois and others, citizens of Boston and Roxbury, Massachusetts, relating to the abolition of the office of President of the United States.

By Mr. FARNSWORTH: A memorial of Daniel Wilson, a soldier in the war of 1812, asking that his pension may commence from the date of his disability.

By Mr. GLOSSBRENNER: A memorial of citizens of York county, Pennsylvania, praying for a reduction of the burdens of taxation and for economy in the expenditures of the Government in all its departments; also for a revision and such readjustment of the revenue laws as will diminish the army of spies and tax-gatherers who now invade the homes and work-shops of the American people.

By Mr. GRAVELY: The petition of citizens of Virginia, asking Congress to declare a certain road a post road.

By Mr. LAFLIN: The petition of Roxana Kimball, of Watertown, Jefferson county, New York, praying for arrears of pension.

By Mr. WILSON, of Ohio: The petition of Elias Crandall and others, citizens of Scioto county, Ohio, for the abolition of the warehousing system, and the repeal of the law establishing bonded warehouses.

IN SENATE.

TUESDAY, *February* 25, 1868.

Prayer by Rev. JOHN HALL, D. D., of New York.

The Journal of yesterday was read and approved.

MR. HARVEY'S ACTION IN 1861.

Mr. SUMNER. I have in my hand a copy of the missing dispatches of Mr. Harvey, to which reference was made the other day immediately after the reading of the Journal. It will be remembered that the Senator from Iowa [Mr. GRIMES] introduced a letter from Mr. Harvey, in which he denied sending certain dispatches from Washington to Charleston giving information with regard to the proposed withdrawal of our troops from Fort Sumter. The Senator from Pennsylvania, [Mr. CAMERON,] who at that time was Secretary of War, mentioned that he had for a long time carried in his pocket a copy of those dispatches, but that a year ago or so they disappeared. I mentioned that at the time I had a copy of the dispatches, and I thought I could find it, but I was not sure. Since then, on making a search, I found my copy. Before reading it I ought to say how I came to have it. It will be remembered by Senators that at an informal meeting a committee was appointed to wait on Mr. Lincoln and ask him to withdraw Mr. Harvey from Lisbon, on the ground that immediately before the attack on Fort Sumter he had open communications with persons in Charleston, through whom he sent important information. A committee was appointed to wait upon the President. Of that committee I happened to be the chairman. With me was Mr. DOOLITTLE—I name him for convenience sake—and Mr. Foot, of Vermont, now deceased. I will not mention what passed between the committee and the President; but it was at that time, and as a member of that committee, that I found it my duty to put myself in communication with the Secretary of War, who then put in my hands, confidentially, copies of dispatches which had been sent to him after he became Secretary of War from the telegraph office here in Washington. I will read them. The first has this date: "Sent from Washington telegraph office, March 7, 1861," and is as follows:

Hon. A. G. MAGRATH, *Charleston, South Carolina*—

I think Mr. Magrath was mayor of the city, but I am not sure—

Final order still reserved. No decision reached in Council yesterday, though six for withdrawal and one against. This is private. Is it true your people will oppose voluntary withdrawal and demand formal capitulation? If so, friends of peace here are powerless. JAMES E. HARVEY.

I am told Magrath was judge of the United States court. The next one has this date: "Sent from Washington telegraph office, March 11, 1861." It is as follows:

Hon. A. G. MAGRATH, JAMES L. PETIGRU, Hon. B. F. DUNKIN, and Miss S. C. HARVEY, *Charleston, S. C.:*
Orders issued for withdrawal of Anderson's command. Scott declares it military necessity. This is private. JAMES E. HARVEY.

The next one has written under it "no date." It is as follows:

Hon. A. G. MAGRATH, *Charleston, South Carolina:*
Great efforts making to reconsider withdrawal, but will fail. Final consultation to-morrow.
JAMES E. HARVEY.

The next is dated, "Sent from Washington telegraph office, March 13, 1861," and is as follows:

Hon. A. G. MAGRATH, *Charleston, South Carolina:*
My information is direct and positive. Nothing but forms delay consummation. Few days will verify this assurance. JAMES E. HARVEY.

The next is in a different form, and, it will appear, is not signed by Mr. Harvey. I read the memorandum as furnished from the telegraph office:

Copy memorandum made by Woodhouse, operator, at Washington office:
WASHINGTON, *April* 6, 1861.

Hon. A. G. MAGRATH, *Charleston, South Carolina*:
Positively determined not to withdraw Anderson. Supplies, &c., immediately, supported by naval force under Stringham, if their landing be resisted.
A FRIEND.

Then underneath:

To Charleston office. The above is by a responsible man. CALDWELL.

Then again:

Sent by James B. Harvey, by telegraph, last Saturday morning, Monday, April 8.

In this same collection of telegrams are four others, which were grouped with them by the Department of War at the time, and were furnished to me officially, as follows:

HENRY J. RAYMOND, *Times, New York:*
My nomination to Portugal was sent to Senate without my knowledge and unanimously confirmed. I did, however, expect to be offered a position. Have been associated with North American nearly twenty years. JAMES E. HARVEY.

Then again follows another, as follows:

HORACE GREELEY, or C. A. DANA, or ROBERT CARTER, *Tribune, New York:*
My nomination to Portugal was sent to Senate without my knowledge and unanimously confirmed. I did, however, expect a position, from what I had heard. May be able to serve you in another way. Will not leave abruptly. Have been associated as editor and correspondent for North American nearly twenty years. JAMES E. HARVEY.

Then comes another, as follows:

MORTON MCMICHAEL, *Philadelphia:*
My nomination to Portugal was sent to Senate without my knowledge and unanimously confirmed.
JAMES E. HARVEY.

Then still another, as follows:

C. C. FULTON, *American, Baltimore:*
My nomination for Portugal was made without my knowledge and unanimously confirmed. I have

been connected as editor and correspondent of the Philadelphia North American for nearly twenty years. The rest you know. Send me paper.

JAMES E. HARVEY.

This is all.

Mr. GRIMES. I desire, in this connection, to have read another note from Mr. Harvey bearing upon this same subject. It will be well enough for me, perhaps, to call the attention of the Senate to the occurrence, as it took place here the other day. In the course of the remarks of the Senator from Indiana [Mr. HENDRICKS] he alluded to a letter written by Mr. Harvey, our minister to Portugal, to the authorities of South Carolina, informing them that Fort Sumter would not be reënforced. I did not know of any such letter having been written by Mr. Harvey, and so stated. Mr. Harvey himself denies that he ever wrote such a letter. I presume, from the reading of one of the first dispatches which were read by the Senator from Massachusetts, that the Senator from Indiana must have confounded that dispatch with a letter, for there seems to have been a dispatch sent early in March, 1861, from Mr. Harvey to certain parties in South Carolina assuring them that Fort Sumter would not be reënforced. In order to correct the Senator from Indiana I stated that he must be mistaken; that Mr. Harvey had sent a dispatch informing them that Fort Sumter would be reënforced, and that thereupon the attack on Fort Sumter was made. Mr. Harvey wrote me a letter, which I laid before the Senate, denying that he ever sent any such dispatch. I understand now, from the note which I have in my hand and from conversations which I have had with him, that he does not deny that he attempted to send such a dispatch, but because of the telegraph line being in the possession of the Government of the United States here at Washington that dispatch never reached the parties at Charleston to whom it was addressed, and therefore that the attack on Fort Sumter was not occasioned by the dispatch from him being received by the parties in Charleston to whom it was addressed.

With these remarks I ask that the following letter from Mr. Harvey to myself may be read and spread upon the Globe, in order that justice may be done to all sides.

The PRESIDENT *pro tempore*. The letter will be read, if there be no objection.

The Secretary read the following letter:

WASHINGTON CITY, *Saturday Morning*.

SIR: The Intelligencer of this date reports you as having said yesterday, in connection with the correspondence which you were kind enough to lay before the Senate, at my request:

"He [Mr. GRIMES] now understood Mr. Harvey to say that there never was such a dispatch sent by him," referring to your statement on Monday that the attack was made on Fort Sumter in consequence of a telegram from me.

This is a misapprehension for which I may be partially responsible in a rapid verbal explanation. What I did say was, the dispatch had never been sent. I was so informed at the time, and the telegraph was in possession of the Government, so that no communication could go to the South without its knowledge and consent.

The principal object of my note of the 20th was to show that no secrecy had been practiced in regard to the succor of Fort Sumter, and that the South Carolina authorities had received notice from the President, according to their own admission, more than three days before the attack was made.

While upon this subject I feel it proper to say that all my efforts to preserve the peace were voluntary, and prompted by the single motive of averting a collision that would render a fierce war inevitable.

I held no communication of any kind, direct or indirect, with the then Governor of South Carolina, Mr. Pickens; but I did address myself, of my own accord, to the late Mr. Petigru, the most distinguished Union man in the State, to Chancellor Dunkin, and to Judge Magrath, to the last particularly, because I thought he could be most effective.

With high respect, JAMES E. HARVEY.

Hon. J. W. GRIMES, *United States Senate*.

IMPEACHMENT OF PRESIDENT JOHNSON.

The following message was received from the House of Representatives, by Mr. MCPHERSON, its Clerk:

Mr. President, I have been directed to inform the Senate that the House of Representatives has passed the following resolution:

Resolved, That a committee of two be appointed to go to the Senate, and at the bar thereof, in the name of the House of Representatives and of all the people of the United States, to impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office, and acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him and make good the same; and that the committee do demand that the Senate take order for the appearance of said Andrew Johnson to answer to said impeachment.

And that the House has appointed Mr. THADDEUS STEVENS and Mr. JOHN A. BINGHAM such committee.

COMMUNICATION FROM GOVERNOR CRAPO.

Mr. CHANDLER. I hold in my hand a communication from the Governor of the State of Michigan, addressed to the Michigan delegation, which I ask the Secretary to read.

The PRESIDENT *pro tempore*. The communication will be read.

The Secretary proceeded to read, as follows:

WASHINGTON, D. C.,
METROPOLITAN HOTEL, *February* 24, 1868.

To the Michigan Delegation in the Congress of the United States, now in session:

GENTLEMEN: In accordance with my own views and on behalf of the loyal people of the State of Michigan permit me, in the present crisis of our national affairs, and in this hour of peril to the cause of human liberty and free institutions, to express the most earnest hope that you will not for a single moment falter in the great work of maintaining this liberty and these institutions, as well against executive usurpation of every kind as against all those who still continue to sympathize with treason and disloyalty.

The Government established by our fathers to secure equal rights to all, and under the influence of which our growth and prosperity as a nation are without—

Mr. HENDRICKS. I wish to inquire, in connection with what proceedings of the Senate this sort of a communication is being read by the Secretary?

The PRESIDENT *pro tempore*. When I directed it to be read I supposed it was from the Legislature of the State; but I find it is from the Governor.

Mr. CHANDLER. It is a communication from the Governor of the State, addressed to the congressional delegation from Michigan.

Mr. HENDRICKS. I do not care who it is from. I object to it.

The PRESIDENT *pro tempore*. Objection being made to the reading of the paper, the question must be decided without debate.

Mr. CHANDLER. Let it lie on the table then.

Mr. POMEROY. I move that it lie on the table and be printed.

Mr. JOHNSON. What for? I object to that.

Mr. POMEROY. I want to see what it is.

Mr. HENDRICKS. I object to either motion.

Mr. POMEROY. I understand from the Senator from Michigan that it is from the Governor of some State.

Mr. GRIMES. It is not addressed to Congress.

Mr. HENDRICKS. It is a paper addressed to a member of the Senate, as I understand.

Mr. POMEROY. I understood that it was from a Governor of a State, addressed to the Senate.

Mr. HENDRICKS. No, sir.

Mr. CHANDLER. It is addressed to the Michigan delegation.

The PRESIDENT *pro tempore*. The understanding of the Chair was that it was from the Legislature of the State. The whole matter is under the control of the Senate.

Mr. HENDRICKS. I guess that had better be returned to the person who sent it here.

The PRESIDENT *pro tempore*. The Senator from Kansas moves that the paper——

Mr. POMEROY. I withdraw the motion to print the paper, as it is not directed to the Senate. I thought it was directed to the Senate. I now move to lay it on the table.

Mr. HENDRICKS. I raise a question of order for the decision of the Chair. I ask what that paper has to do with the business of the Senate, and by virtue of what rule of the Senate it is here, and what the Senate has to do with it? It does not come before the body, as I understand, as a memorial, nor a remonstrance, nor a resolution, nor a bill.

The PRESIDENT *pro tempore*. Does the Senator object to the reception of the paper?

Mr. HENDRICKS. Yes, sir.

The PRESIDENT *pro tempore*. Then it must be decided by the Senate without debate. The question is whether the paper shall be received and read.

The question being put, it was decided in the negative.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of Stockley Sadbury, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented a petition of citizens of Michigan, praying that a pension be granted to George Bennett, late a private of company E, sixth Michigan cavalry; which was referred to the Committee on Pensions.

Mr. FOWLER presented the petition of A. V. S. Lindsley and G. M. Fogg, executors of the estate of William B. Lewis, deceased, praying compensation for property taken for the use and subsistence of the military forces of the United States and for damages done to the estate by the erection of military works thereon; which was referred to the Committee on Claims.

Mr. MORTON presented the petition of Joshua Black, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. STEWART presented a memorial of the Council and House of Representatives of Colorado Territory, in favor of granting to the Denver branch mint the privilege of coining silver; which was referred to the Committee on Finance.

Mr. CAMERON presented a petition of citizens of Pennsylvania, praying that a tax of one and a half to two cents a gallon be imposed on vinegar; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, praying the repeal of the law establishing bonded warehouses; which was referred to the Committee on Finance.

Mr. HOWE presented a petition of citizens of Wisconsin, praying the adoption of measures for a reduction of the taxes, and that the expenses of the Government be reduced to a strictly peace basis; which was referred to the Committee on Finance.

He also presented a memorial of the Legislature of Wisconsin, praying Congress for a grant of land to aid in the improvement of Rock river; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Wisconsin, asking for a grant of lands to aid in the construction of the Minnesota and Missouri river railroad, in Dakota Territory; which was referred to the Committee on Public Lands.

Mr. FERRY presented a petition of Leonard Pope, praying compensation for damages done by the Government to his property adjoining Fort Hall, in East Haven, Connecticut; which was referred to the Committee on Claims.

Mr. YATES presented a memorial of the Legislative Assembly of the Territory of Dakota, relative to the survey of public lands on and near the Red river of the North; which was referred to the Committee on Public Lands.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of a grant of lands to aid in the construction of the Atchison, Hays City, and Santa Fé railroad; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. HENDRICKS presented a petition of James Jackson, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. TRUMBULL presented two memorials of late officers in the Army, protesting against the passage of the bill prohibiting the payment of the commutation for pay of officers' servants from May 1, 1864, to March 3, 1865; which

were referred to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred the petitions of M. F. Carleton, Clinton G. Stees, Charles Robidon, Willard W. Glazier, and Greenburg Hodge, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-rolls of the United States;

A bill (H. R. No. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, a soldier of the war of 1812;

A bill (H. R. No. 458) granting a pension to John Kelley;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-rolls; and

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 390) to create a superintendency of Indian affairs for Montana and Idaho Territories; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 391) to provide for the incorporation of religious societies in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 392) granting a pension to Ezra Rodgers, a soldier of the war of 1812; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 393) to authorize the construction of a bridge over the Mississippi river in Madison county, State of Illinois; which was read twice by its title.

Mr. TRUMBULL. I desire to say, in reference to this bill, that it has been prepared and handed to me with a request that I should introduce it. I have not had time to examine it carefully, and do not wish to be considered as committed to its provisions. I move its reference to the Committee on Post Offices and Post Roads.

The motion was agreed to.

REPRESENTATIVES OF NOAH SMITH.

Mr. MORRILL, of Maine, submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid, out of the contingent fund of the Senate, to the legal representatives of Noah Smith, deceased, late principal legislative clerk in the office of the Secretary of the Senate, $300 for funeral expenses, and three months' pay of the said Noah Smith.

BALANCES IN THE TREASURY.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of the bill (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It provides that the act of March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts," shall not be construed to authorize the heads of Departments to change or modify the balances that may be certified to them by the Commissioner of Customs or the Comptrollers of the Treasury, but that such balances, when stated by the Auditor and properly certified by the Comptroller as provided by that act, shall be taken and considered as final and conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts; but the head of the proper Department, before signing a warrant for any balance certified to him by a Comptroller, may submit to such Comptroller any facts, in his judgment, affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive.

The bill was reported to the Senate.

Mr. SPRAGUE. Will the Senator from Oregon state to the Senate the object of this change?

Mr. WILLIAMS. I will make a brief explanation of the bill, to satisfy the Senator from Rhode Island and others who do not fully understand its meaning and effect.

During many years there has been a controversy between the Treasury Department and the other Departments of the Government as to the construction of the act to provide for the prompt settlement of public accounts, passed March 3, 1817; and the object of this bill is to determine that controversy and confer upon the Treasury Department the exclusive right to settle and adjust all accounts. The act of 1817, after abolishing the accounting officers of the other Departments, provided by the second section—

"That from and after the said 3d day of March next, all claims and demands whatever by the United States or against them, and all accounts whatever in which the United States are concerned, either as debtors or as creditors, shall be settled and adjusted in the Treasury Department."

Manifestly intending, as the Committee on Finance construe this section of the act, and, as it has been construed by the officers of the Treasury Department, to give to that Department the exclusive right to settle and adjust all accounts to which the United States may be a party. To confirm that view of the subject, it is provided that, when any dispute arises as to any account, it is to be referred with the accompanying testimony to one of the Auditors; the account is to be considered by the Auditor, and he, if in his judgment it is necessary, takes testimony in reference to the correctness of the account. When he has duly considered the case, he makes his finding, either one way or the other, for or against the claim; and this finding of the Auditor is transmitted with all the accompanying evidence to the proper Comptroller, who reviews the action of the Auditor, and determines whether his finding is correct or not. If, in the judgment of the Comptroller it is correct, he affirms it; if not, he modifies, changes, or reverses it, as in his judgment may be proper and necessary. When the Comptroller has made his decision, if there be a balance fund due to the claimant, he certifies that balance to the head of the Department in which the account originated, for the purpose of enabling the head of that Department to make a requisition upon the Treasury Department for the necessary amount of money to pay that account; and it has been claimed by the other Departments, and particularly by the War Department, that this provision of the law authorizing the head of the Department to issue a requisition for the amount certified to by the Comptroller authorizes the head of the Department to renew and reëxamine the finding of the Treasury Department. According to the opinion of the Committee on Finance, this is an incorrect construction of the law; for the law only requires the Comptroller to certify a balance to the head of the proper Department, while all the papers pertaining to the case, and all the evidence that has been considered by the Auditor and by the Comptroller is filed with the Auditor, and the head of the Department in which the account originates has no legal access to those papers, and therefore is not competent to readjudicate the question involved.

Now, the object of this bill is simply to carry out the manifest intent of this law. I shall not proceed to state the very many reasons that might be suggested for putting this construction upon the act, because it is manifestly necessary that for the purpose of preserving regularity and system in the accounts of the United States they should be adjusted at the Treasury Department; and the object of authorizing the requisition to come from the head of the proper Department is not to enable that Department to review the action of the Treasury Department, but simply to enable the head of the Department to know the condition of the funds which have been appropriated to the use of that Department.

Many decisions and conflicting decisions have been made by the different officers of the Government as to the construction of this law. Several of the Attorneys General, including Wirt, Taney, and Critfenden, have decided in favor of the construction put on this act by the Committee on Finance, and their decisions have been affirmed by some of the Presidents. General Jackson and Mr. Fillmore both took this view of the act. I know that some of the other Attorneys General, including, I believe, the present Attorney General, have taken a different view of the question. It is desirable that there should be an end to this controversy, because persons who have accounts against the Government are compelled to suffer in consequence of the delay that is occasioned by it; and in the unanimous judgment of the Committee on Finance this bill should be passed to settle it.

The Senate will see that the bill provides that if there be any facts within the knowledge of the head of any Department that, in his judgment, will have any effect upon the finding of the Comptroller, he is to submit those facts to the Comptroller, and the Comptroller proceeds to review his decision in the light of the facts submitted to him by the head of the Department; but the finding, whatever it may be, by the Comptroller shall be conclusive, so that there may be uniformity, regularity, and system preserved in the accounts of the Treasury Department.

I do not know that any further explanation of the bill is necessary; but if it be so, of course any difficulties that occur to gentlemen will be suggested.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

PRESENTATION OF BILLS TO THE PRESIDENT.

Mr. EDMUNDS. I move to take up Senate bill No. 366, which was under consideration yesterday morning.

The motion was agreed to; and the Senate as in Committee of the Whole resumed the consideration of the bill (S. No. 366) regulating the presentation of bills to the President and the return of the same.

Mr. DAVIS. Mr. President, I expressed some doubts yesterday whether this bill ought to pass, and the slight reflection I have since given to the subject has confirmed me in the opinion that it ought not to pass. I believe that the rule established by the Constitution is about as plain as any legislation can make it, and certainly I think that the legislation proposed is improper.

It seems to me that every Congress and every President ought to be left free to construe the rule which the Constitution has adopted in relation to the passage of bills that may have been vetoed by the President. I think each Congress and each President have the right to

construe that rule for themselves, and that any act of Congress on the subject would not be obligatory on them. For example, when the next Congress meets, if there be a new Congress and a new President, I think, notwithstanding the passage of this bill, that President and that Congress will have the right to construe the Constitution in relation to this matter for themselves, and they will not be bound by any legislation of ours on the subject. They may repeal the bill; or they may, in my judgment, disregard the bill and resort to the Constitution directly for the rule established to govern the case.

But, Mr. President, the two objections to which I alluded yesterday, in my mind cannot be obviated. The Constitution directly and plainly requires that when the President shall veto a bill he shall return it with his objections to the House in which it originated. This bill proposes to obviate this provision, to disregard it, and to provide that, instead of returning it to the House in which it originated, he may return it to the Clerk of the House of Representatives or to the Secretary of the Senate, according as it may have originated in the House of Representatives or in the Senate. When the Executive communicates with either House, does he communicate with its ministerial officers when the House is not in session? Suppose the Constitution or the law requires the President to communicate to the two Houses or either of the Houses in the performance of that duty, when both Houses or the particular House to which he is directed to make communication be not in session, is he authorized to communicate to the Secretary or to the Clerk of that House? I conceive not. It is the duty and the right of the President to communicate to the House and not to a ministerial officer of the House. To enable him to communicate to the House it must necessarily be in session, because he cannot communicate with either House when it is in any other situation than in actual session. It must be assembled and in actual session. I think that that objection is fatal and conclusive.

But there is another. Suppose this Congress, near its adjournment, within the last ten days of its final session, pass a bill. According to the requisition of this bill the President, at the expiration of the ten days, must communicate to the Secretary of the Senate, if the bill originated in this body, whether he has vetoed or approved the bill. If the President vetoes the bill and communicates that fact to the Secretary of the Senate, is that a return by him of the bill, with his objections to it, to the House in which it originated? It is not. It seems to me that the effect of this provision of the bill is to obviate, to change essentially, a plain provision of the Constitution in relation to this matter.

I think, sir, that the Executive may not only claim it as a right, but the House in which a bill originates may claim it as the performance of a duty by him to that House, and the people of the country may claim it as the performance of a duty by him, that he shall return the bill with his objections, not, in vacation, to the Clerk or to the Secretary of the Senate or House of Representatives, but to the body itself, and to enable him to perform that duty that body must necessarily be in session.

But, Mr. President, I think that the bill is not in harmony with the Constitution in another feature. The provision of the Constitution is plain, reasonably plain, I think, on reading it:

"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."

The previous part of the clause establishes the rule that the President has ten days after a bill is presented to him for his signature within which to return it, with his approval or with his veto, to the House in which it originated.

Mr. POMEROY. I rise to inquire of the Chair if the unfinished business of yesterday is not in order at this hour.

The PRESIDENT *pro tempore*. There is no unfinished business of yesterday. The bill to which I suppose the Senator refers, the bill debated yesterday by the Senator from Wisconsin, was postponed by a vote, and, of course, can only be taken up on a motion.

Mr. POMEROY. I thought it went over as the unfinished business.

The PRESIDENT *pro tempore*. It did not. The Senator from Kentucky is on the floor upon the bill before the Senate.

Mr. DAVIS. The words of the Constitution allow the President ten days after a bill passed by the two Houses and signed by their Presiding Officers is presented to him within which to return it to the House in which it originated with his objections if he vetoes it. There is a plain, explicit provision that if he is prevented from returning the bill to the House in which it originated by the adjournment of Congress it shall not be a law. What is the meaning of an adjournment? It is a cessation of the business of Congress. The President has ten days, excluding Sundays, within which to return a bill with his veto. It results from the plain words and meaning of the Constitution that if, when the ten days elapse, Congress is not in session the bill falls. That is the plain effect of the constitutional clause. Let me read it again:

"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."

The adjournment, then, to prevent a bill becoming a law, must be an adjournment of both Houses. Both Houses must concur in the adjournment. Such an adjournment as Congress makes at Christmas occasionally, or at any time when the two Houses concur in the time and duration of adjournment, is such a suspension of the business of Congress as the Constitution contemplates when it says that an adjournment shall prevent the bill becoming a law. I think, then, that whenever the two Houses have agreed to an adjournment, and the ten days within which the President has had possesssion of a bill elapse during that period of time, the bill falls as a matter of course.

The bill under consideration is incompatible with this interpretation of the Constitution, and, therefore, I think, is not right. I will make a single further remark, and then take my seat. The great evil of American legislation is its haste and its frequency. We have too much legislation; we have too much inconsiderateness in our legislation. I think that the effect of this bill will be to increase that haste——

The PRESIDENT *pro tempore*. The Senator from Kentucky will yield.

IMPEACHMENT OF PRESIDENT JOHNSON.

Mr. Representative STEVENS and Mr. Representative BINGHAM appeared below the bar, and were announced as the committee from the House of Representatives.

Mr. STEVENS. Mr. President——

The PRESIDENT *pro tempore*. The committee from the House of Representatives.

Mr. STEVENS. Mr. President, in obedience to the order of the House of Representatives, we appear before you, and in the name of the House of Representatives and of all the people of the United States we do impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office; and we further inform the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same; and in their name we demand that the Senate take order for the appearance of the said Andrew Johnson to answer said impeachment.

The PRESIDENT *pro tempore*. The Senate will take order in the premises.

The Committee of the House thereupon withdrew.

Mr. HOWARD. I move the adoption of the following resolution——

Mr. DAVIS. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from Kentucky has the floor.

Mr. DAVIS. I simply yielded the floor to allow a message to be received from the House of Representatives.

The PRESIDENT *pro tempore*. The Senator from Kentucky has the floor, and will proceed.

Mr. DAVIS. I was about to conclude my remarks——

Mr. HOWARD. I ask the Chair whether this be not a question of privilege, to which all other proceedings must give way.

The PRESIDENT *pro tempore*. I do not know if there is any rule about it. The question is new to me, and, I presume, new to the Senate.

Mr. DAVIS. No privilege question can——

Mr. HOWARD. I am compelled to call the Senator from Kentucky to order on the ground that I suppose this to be a question of privilege.

Mr. DAVIS. I was merely stating the principle upon which I am entitled to the floor.

The PRESIDENT *pro tempore*. There is a question of order raised which the Chair will submit to the Senate for decision.

Mr. DAVIS. I will just ask leave——

The PRESIDENT *pro tempore*. The question of order must be settled before the Senator can proceed with his remarks.

Mr. JOHNSON. I should like to know what the question of privilege is.

The PRESIDENT *pro tempore*. The order of precedence, whether the Senator who had the floor must give way to what is said to be a privileged question.

Mr. GRIMES. We do not know what that is.

The PRESIDENT *pro tempore*. The Senator from Michigan said that he rose to a question of privilege. I suppose it is proper for him to state it.

Mr. JOHNSON. I should like to know what the question of privilege is.

Mr. HOWARD. The House of Representatives have sent to us a committee announcing that they will in due time present articles of impeachment against Andrew Johnson, President of the United States, and asking the Senate to take order in reference to that matter. The message of the House has been received and has been delivered by its committee. That subject-matter is, surely, before the Senate at this time, and my motion will be for an order for the appointment of a select committee to whom is to be referred the matter which has just been presented by the Committee of the House of Representatives. I take it this is a question of privilege.

Mr. DAVIS. If the honorable Senator is through I will make a single statement. I was occupying the attention of the Senate in debating a subject that was before it. According to the universal usage and courtesy between the two Houses, it was intimated that I should give way to receive a message from the House, which, in obedience to uniform usage and courtesy, I did. So soon as the message was delivered my right to the floor was resumed. I was entitled to the floor, and the honorable Senator from Michigan could not take the floor from me to make a privileged motion, or to raise a question of privilege or anything else, or to make any other motion. I am entitled to occupy the floor and to conclude my remarks before any other gentleman can take it for any purpose whatever. That is my interpretation of the rules.

Mr. EDMUNDS. Mr. President, I feel obliged to agree with the Senator from Kentucky as to his right. He did not surrender the floor at all; he merely, at the request of the Chair, suspended his remarks, having the floor all the time, while informally this message, like all other messages, should be received. I think, therefore, that he is entitled to go on, having the floor, until he shall have finished, when this question of privilege will come up. Having said that, I will add that I do not commit myself to the propriety, as a matter of taste and delicacy, of the Senator

from Kentucky insisting upon his right to the floor at this time.

Mr. DAVIS. Mr. President, I ask no such committal from the honorable Senator. I decide such questions for myself, without regard to his opinion or his judgment. If it had been suggested to me that I should yield the floor for the purpose I would not have hesitated an instant; but when the floor is claimed to be taken from me as a matter of right by the Senator from Michigan, and when he goes further and calls me to order, I controvert his authority; I deny his right to call me to order. I understand the Chair to have decided that I am entitled to the floor; and if so, I suppose I may proceed.

The PRESIDENT *pro tempore*. The Senator cannot proceed until the question of order is settled. The Senator from Michigan claims that the question raised by him is a question of privilege, even of such privilege as to justify taking the floor from a Senator on the floor. That question the Chair has already stated that he will submit to the decision of the Senate. That is now the question for the Senate to decide. The question is, is the Senator from Kentucky, under the circumstances, entitled to the floor?

Mr. CONNESS. I rise only to ask the Senator from Kentucky to yield the right that he feels he that is entitled to on this occasion. I think that is the way to settle it, and I hope the honorable Senator, always courteous, will take that course.

Mr. DAVIS. It must first be decided by the Senate whether I have the right to the floor or not. If the Senate decide that I have not the right there is an end of the question. If the Senate decide that I have the right it will be then my privilege to waive it or not, and I will exercise that privilege when the right is accorded to me, and not before.

The PRESIDENT *pro tempore*. The question is, has the Senator from Kentucky the right to the floor? The Chair will put the question to the Senate in that form, and as many as agree that he has the right will say ay, and those opposed will say no.

The question being put, it was determined in the affirmative.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor, and will proceed.

Mr. DAVIS. Mr. President, now, with much cheerfulness, I yield the floor for the purpose indicated by the Senator from Michigan.

Mr. HOWARD. Then, Mr. President, with the leave of the Senate, I beg to present the following resolution:

Resolved, That the message of the House of Representatives relating to the impeachment of Andrew Johnson, President of the United States, be referred to a select committee of seven, to consider and report thereon.

Mr. BAYARD. I have but one objection to make to that resolution. I am very indifferent as to the reference of the message to a committee; but I would call the attention of the Senate to the fact that this is a mere notice that the House of Representatives intend to impeach the President; impeachment cannot be without articles of impeachment presented; and the Senate have no authority as a legislative body to act in relation to a question of impeachment. The Constitution requires them to be organized into a court on every question of impeachment which comes before them, and over that court the Chief Justice of the United States is to preside when the President of the United States is impeached. In my view—and I submit it to the Senate with a very clear conviction in my own mind—we have no authority in our legislative capacity to act in reference to an impeachment. We can entertain no motion in relation to it. The first step is to resolve ourselves into a court, and the President being the party whose impeachment is proposed we are to call in the Chief Justice as presiding officer, and then it is competent for the court to make its own orders, according to the Constitution and the rules of law.

Mr. HOWARD. Mr. President, I believe the course pointed out by the honorable Senator from Delaware is not in accordance with the precedents in such cases, certainly not according to the precedent furnished by the case of Judge Peck, who was impeached in the year 1829. In that case, while the Senate was in session, a message was sent from the House of Representatives by Mr. James Buchanan and Mr. Henry R. Storrs, two of their members, and was in the following words:

"Mr. President: We have been directed in the name of the House of Representatives and of all the people of the United States, to impeach James H. Peck, judge of the district court of the United States for the district of Missouri, of high misdemeanors in office, and to acquaint the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same. We have also been directed to demand that the Senate take order for the appearance of the said James H. Peck to answer said impeachment."

And they withdrew.

Then follow the proceedings of the Senate on the same matter:

"The Senate proceeded to consider the last-mentioned message, and,

"On motion of Mr. TAZEWELL,

"*Resolved*, That it be referred to a select committee, to consist of three members, to consider and report thereon.

"*Ordered*, That Mr. Tazewell, Mr. Webster, and Mr. Bell be the committee."

That was the preliminary proceeding in that case, and this at present accords precisely with it in all its features.

Mr. POMEROY. The precedent that has been read has always been the practice of the Senate in these preliminary proceedings; but when managers appear on the part of the House of Representatives and present their articles they present them to the court of impeachment. This, however, is not the presentation of articles; it is only a presentation of notice, and that notice is always given to the Senate, and it is in order for the Senate to receive the notice; but when the managers appear, they appear before the Senate sitting as a court.

Mr. JOHNSON. I have no doubt that the mode proposed by the honorable member from Michigan is the correct one. As a preliminary movement, a committee is always appointed for the purpose of inquiring what steps it is necessary to take when an impeachment assumes a form which will make it the duty of the Senate to try the party impeached. I understand the resolution proposed by the honorable member is that a committee be appointed to take into consideration the message which we have received from the House of Representatives and to recommend such measures as may be deemed expedient by the committee. That, I believe, has been done in all antecedent cases, and I know no reason why it should not be done in this case, though perhaps it would be more advisable if the resolution had been delayed for a day; but that is a matter entirely within the control of the Senate.

Mr. CONKLING. Having before me the proceedings of the Senate in 1862 on the impeachment of Judge Humphreys, of Tennessee, I suggest to the Senator who offers this resolution for convenience sake that he include the words "to be appointed by the Chair," so that the resolution will read "a select committee of seven, to be appointed by the Chair," &c. It will save time to insert these words, and be within the precedents.

Mr. HOWARD. I accept the suggestion.

The PRESIDENT *pro tempore*. The resolution is so modified.

The resolution was agreed to; and the President *pro tempore* subsequently announced the committee to consist of the following Senators: Mr. HOWARD, Mr. TRUMBULL, Mr. CONKLING, Mr. EDMUNDS, Mr. MORTON, Mr. POMEROY, and Mr. JOHNSON.

PRESENTATION OF BILLS TO PRESIDENT.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor on the bill regularly under consideration, which is the bill (S. No. 366) regulating the presentation of bills to the President and the return of the same.

Mr. DAVIS. I had about concluded my remarks; I only wanted to add a single sentence further; I was remarking that one of the evils of our American system was too much and too hasty legislation both in the Federal Government and in the State governments, and that I thought both these evils would be more stimulated and promoted by this bill. If the bill should fail, I think the effect would be to give more tardiness, more time for deliberation to the legislation of Congress, and especially in cases where there should be a disagreement between Congress and the Executive as to whether a bill should pass or not, when the question upon the veto was pending. For the reasons I have briefly stated I am opposed to this bill, and shall vote against its passage.

Mr. PATTERSON, of New Hampshire. I move that the further consideration of the pending bill be laid aside, and that the Senate take up the bill which was postponed at the close of the session yesterday.

The motion was agreed to.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto; the question being on Mr. DAVIS'S amendment to the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary with instructions.

Mr. PATTERSON, of New Hampshire. Mr. President, a fatal fallacy underlies and vitiates all the anti-reconstruction literature which the fertile intellect of the double-headed Opposition has produced during the pendency of our great struggle. It is assumed that a population guilty of treason, and who have been in armed rebellion for the subversion of the Constitution and the disintegration of the Union, are entitled to all the political rights which a loyal people can claim, who have lavished wealth and blood in defense of the Government. That false premise sends its poison up through every branch of the ingenious and able arguments of the Democratic Senators, and the fruitage of their brains becomes apples of discord, which are thrown into every assembly and market-place of the nation. An argument which confounds innocence and guilt, loyalty and treason, is necessarily fallacious, and will be rejected by the strong sense of an intelligent people. The masses determine the logic of speech and events by the nature of its conclusions. The people will not be deceived by tricks of rhetoric nor accept a patch-work of temporary and petty issues for the vital questions which naturally spring from our civil war and connect themselves with the permanent welfare of the country. My faith, sir, in the perpetuity of republican governments rests upon the firm conviction that the average judgment of an intelligent people is more sagacious and wise than the deductions of their leaders, and that they will be true to the instinct of self-preservation in spite of the bewildering lures of a false but fascinating political philosophy. National welfare and the success of self-government now, more than at most periods of our history, are the paramount motives of popular action.

The learned Senator from Pennsylvania made the somewhat novel announcement in his late able speech that a desire on the one hand to secure, and on the other to perpetuate, political power sustained this protracted contest upon reconstruction. He is an authority for the Democracy, and I will not presume to question the correctness of his statement so far as it relates to his own party; to that extent I suspect his is the general impression, and will be the verdict of posterity. But, sir, I must deny his right to speak for the dominant party, a party which, in the brief administration of its martyred leader, has done more to advance and establish the rights of men than the great parties of the past did in a century of ordinary history.

The love of party power is a motive too feeble for such grand results. Sir, the splendid achievements of that party are destined to glow upon your records with a luster all their own, and have sprung from impulses mightier and loftier than the low aspiration for political aggrandizement. The historian who shall hereafter trace up these great events to the moral forces which produced them will find it was the old antagonism between popular liberty and arbitrary power which inspired the Titanic struggle, which rocked this nation for half a decade, and still agitates it from center to circumference. It is from the ashes of such revolutions that nations rise regenerated and free; there republics have their birth, and the guarantees of liberty are secured.

The Democracy now assume to be the special guardians of the Constitution, and clamor for the letter of the bond as Shylock did for his. With Pharisaic rigor they deny to the instrument any element of power not familiar to their school or brought into exercise in periods of profound peace.

Within the last five years they have plead the Constitution against the maintenance of the Union by force; against the raising of armies and the arrest of the abetters of treason; against the issue of a national currency and the emancipation of slaves; against the bestowal of civil rights and political privileges upon loyal citizens whose only hope and protection were in the national Legislature. They now deny the right of Congress to restore republican governments to insurrectionary States.

Sir, their policy in the past would have destroyed the Republic; in the future it would lead to incurable sectional animosity, the decline of business, and finally to national bankruptcy.

If the people have delegated to the national Government any power, they have laid upon it the obligation to perpetuate to the States their civil institutions. It is fundamental. The whole fabric of political rights rests upon this obligation. It is the correlative of allegiance, and can be demanded at our hands.

The Constitution was framed in the interests of liberty, and if it fails to secure these, as I believe it does not, there are unchartered rights which demand its amendment.

Sir, it is idle, nay, it is madness, to attempt to arrest a revolution which has sundered all the old ligaments of society by parchment restrictions. The tides of the sea were not arrested at the feet of royalty by the command of Canute, neither will the discords of this nation be still till you have satisfied the demands of universal liberty in which interest the storm was raised.

The popular will is the paramount authority. Constitutions are the legislation of the people, and like other laws must be conformed to national progress. You cannot restrain the phenomena of nature to fixed theories, but must mold your philosophy to meet an enlarged range and more perfect knowledge of facts. The science of one generation becomes largely the lumber of the next; so constitutions and laws which express the ideas and will of one age, if they do not change with the advancement of society will be crushed like dead leaves in the march of an army.

I was gratified in listening to the able speech of the honorable Senator from Indiana, to learn that even the Democratic party is being educated by events. They lag upon the stage and ridicule progress, but still are pressed on. State sovereignty, the right of secession, and the want of power in the national Government to coerce a State, have been rung abroad with such a clamor of Democratic oratory, that the din is still in our ears; and yet this master in the Democratic school denies "that a convention of the people, that the Legislature of the State, or any assemblage of the people whatever can voluntarily terminate the existence of a State government, and thus cut off their connection with the Federal Union." Why, sir, he stood up with the front of Jove, and fulminated thus with our thunder, as though it had been all his own. Do not these gentlemen see that they have pitched their camp in our territory and are handling our arms? Do they expect thus to demoralize our forces and secure our political possessions? If they do, they are destined to disappointment. Nevertheless, I am glad to see that they are advancing. It not only proves the strength and justice of our principles, but shows that "while the lamp holds out to burn the vilest sinner may return."

It was no part of the original design of the southern people to destroy their State governments, but to throw off and expel the General Government for the purpose of reorganizing their States into a new confederation, based upon slavery and made to harmonize with the industrial and social systems which had prevailed among them through all their history, and had molded the character and habits of the people. The State governments exhausted their admiration and fealty. They held that their allegiance to them was paramount; that it overrode their loyalty to the Federal Government, and rendered them innocent of the crime of treason in the violent and bloody issue. They desired to maintain State organizations, not simply to secure public order and the general ends of government, but that they might the better organize and wield the resources and power of the States. They desired only, but at once and forever, to become independent of the national Government. But sir, it is now conceded on all hands, I believe, that the people of a State cannot, by any ordinance, however passed, transfer nor withdraw their allegiance from the General Government, cannot sunder the umbilical cord which binds them to the parent State. This can only be done by common consent outside of constitutional provisions, or by violent and successful revolution.

But, sir, in the arbitrament of arms, the insurgent States did not prevail; they did not even succeed in so far protracting the war as to secure the recognition of their independence by any Christian Government. Hence, when the national power crushed the insurrrection, it was both its right and duty to reënter the South and protect society against the animosities, the violence, and disorder incident to the close of civil war. It was its duty to renew the functions of Federal authority in the conquered States, and this could only be done completely by a reorganization of the State governments.

Says Dana, in his notes on Wheaton:

"An entire political and civil restitution is not completed until the civil tribunals of the General Government can exercise their authority peacefully within the limits of each State and the functions of that Government be fully discharged. This requires, by the free system of the United States, a loyal cooperation of the people who exercise political power within each State, since they must hold many of the offices and compose the juries for the trial of all offenses. It is also necessary that the State governments should be in active operation in conformity with, and subordinate to, the Constitution of the United States, not only for the administration of the internal affairs of each State, but to enable the people of the State to have their share in the administration of the government of the Republic. Until these results are reached the regions of country lately in rebellion, with their inhabitants, are held under the forcible or military government of the Republic as far as is necessary, although that government is exercised to a great extent by civil officers and civil methods."

Not only did the constitutional guarantee to the people of the South of republican governments require an intervention of national power for the construction or reanimation of State governments, but the rights of loyal people of the North, who poured out their wealth and blood for the Union, demanded this more imperatively. Our interests require the protection of capital, the immunity of labor, the integrity of courts, and the income of unobstructed revenue, which well-ordered State governments alone can yield. If the South cannot or will not reorganize civil institutions upon a loyal basis for its own welfare, then Congress must do it in the interest of the rest of the country. Both the moral and material interests of the Republic require it. But, sir, it is asserted that legitimate State governments are now in existence, and that our work of reconstruction is all unconstitutional and injurious. That it has all been wise and judicious I am not sure; but that it has been constitutional I do not doubt.

It will hardly be contended, I think, by our political opponents, that the governments which existed in the rebel States during the pendency of the war were governments in the Union. No State government can lawfully exist within the territory of the Union outside of the embrace of the General Government, and yet no local government can come into the sisterhood of States except in the constitutional way, by an act of Congress.

The rebel State governments did not come in that way. They rejected the Constitution, denied the authority of the Government, and existed in defiance of and in opposition to Congress. They therefore had no legal existence and fell with the rebellion, leaving no authority in actual existence for the protection of society but that of the General Government. There was no lapse or hiatus, it is true, between the loyal and disloyal governments. They were the same in fact, but not the same in law. It was as if my friend from Maine should become a maniac. In both conditions of sanity and insanity he would be the same man, but he would die as a Senator with the loss of his reason, and could not enter upon his functions in this character again till he had been fully restored to his normal condition. He might play the Senator in his madness, but it would not be legitimate legislation. If his peerless faculties should be incurably shattered another would fill the place he fills. The Senatorship would not perish, the man would not die, but the political life of the Senator would cease. So, when the State of South Carolina fell into the madness of rebellion, the State did not perish, but its government ceased its legislative functions and was legally dead to the Union, though there was still a *de facto* organization playing the *rôle* of government in that State. It was as though the entire voting population of the State had been swept away by a plague. If it is any satisfaction, one may say the government still existed potentially, but it had no actual existence for want of men to uphold and administer it; they had forfeited their political rights, were politically dead, by the act of treason.

It is asserted the right to reorganize the old State governments reverted when the rebellion was crushed to the loyal white people of the several States. If the loyal white people had sufficient numbers to elect a Representative to Congress, or to organize a State and secure its admission into the Union, I think the position perfectly tenable. But then the right would still rest with Congress to say how it should be reorganized, when and upon what conditions it should be readmitted to the Union. He is a bold man who has the hardihood to assert that a State in which nine tenths of the people have been in open rebellion have renounced the Constitution, and defied Federal authority, through years of desolation and blood, can lawfully resume, when subdued, its original place in the Union, and claim all the rights of an innocent and unoffending people. Why, sir, such a position confounds right and wrong, outrages our natural sense of justice, and tends to bring both law and human reason into contempt. "The legal status of each person engaged in the rebellion," says Dana, "was that of a criminal under the municipal law." They were subdued traitors, and could have no political power until it was restored to them by an act of legislation; otherwise, if in the majority, the conquered rebels, on the restoration of peace, would be entitled, by the right of that majority, to rule the Republic and dictate to the conqueror terms which they could not secure by battle. The position is absurd upon its very face. Congress, which is the responsible guardian of public safety and the agent of political rights, could alone purge them of disloyalty and restore the privilege of suffrage.

Sir, it is a strange idiosyncracy that gentlemen will stand here and battle day after day and year after year against the admission of Territories with fifty or seventy-five thousand intelligent and industrious inhabitants, and still rise in their places and contend with equal zeal for the readmission of States which have not half that number of loyal citizens, and they surrounded by a ninefold majority who hate the Government and whose hands are red with the blood of its children. Such a minority have no right to organize or reorganize governments, and if they had it could not be done without armed intervention, nor could governments, when organized in the interests of liberty and loyalty, be maintained over such a population without the constant presence of military power.

In the absence of the muster-rolls of the disloyal States I cannot give absolute statistical proof, but I affirm what is well known and will hardly admit of contradiction when I say that the number of white voters in those States not in the civil or military service of the confederacy was less than the number required to construct a State out of a Territory or to elect a member of Congress. I contend, therefore, that there were not white men enough in the States at the close of the war who could claim the right of suffrage or any political existence to legally reorganize State governments.

I am aware that in the "prize cases" the court decided that—

"All persons residing within the territory occupied by the hostile party in this contest are liable to be treated as enemies, though not foreigners."

And that consequently the entire population were disabled of all political rights and could exercise no political function or power till rehabilitated therewith by an act of Congress, and, therefore, had no legal right to enter upon the work of reconstruction till we authorized them so to do. Yet, sir, I am willing to forego that line of discussion and build my argument upon the premises of my opponents.

Then, sir, I reaffirm there were not loyal white voters enough left in the southern States to whom the right to reorganize could revert to legalize an attempt on their part alone to rebuild their governments. This is a plain matter of fact.

It has been the boast of southern men that their whole male population, not exempting age or youth, were engaged in the civil or military service of the confederacy; and this boast of the South is confirmed by the testimony of the officers of our own Army. But it is claimed that amnesty and pardon by the President restored to the disloyal their political rights and legitimately devolved upon them the work of reorganization.

I am aware that there is a difference of opinion upon this point. The court ruled in the case of "*ex parte* Garland" that "it was not within the constitutional power of Congress thus to inflict punishment beyond the reach of executive clemency;" and that "the pardon relieved from all penalties and disabilities attached to the offense of treason committed by participation in the rebellion." But, sir, treason works a forfeiture of political rights, not as punishment upon the criminal, but that the Republic may suffer no detriment. The opinion of the Chief Justice and three of his associates, that "the presidential pardon relieves the party from all the penalties, or, in other words, from all the punishments which the law inflicted for his offense, but it relieves him from nothing more," is, I believe, approved by the highest legal authority, and generally accepted by the profession throughout the country. There can be no relief from political disabilities except by an act, not of the Executive, but of the Government, which is responsible for the life of the nation which treason endangers.

The ballot is the medium of all political power. More than arsenals and forts, it is the instrument of national defense, and it is as reasonable to argue that the pardon puts munitions of war and all the instruments of national destruction into the hands of a domestic foe as the ballot.

Sir, the good judgment of every community repudiates the doctrine of the court as at variance with public safety, which is the highest law. The life of the nation, which as a last resort places the cruel enginery of war at the disposal of Congress, reserves to the same body also—not for purposes of punishment, but of security—this equally potent and essential instrument of popular power. Surrendering then in this argument the settled principle of law that all the inhabitants of a rebellious State may be "treated as enemies," and admitting that the right of reorganization reverted, at the close of the war, to the loyal men in each State, I reach the conclusion, justified I am sure by facts, that there were not loyal white voters enough in any State at that time to legalize or justify such an attempt. Nearly the whole white population had been drawn into the movement for secession before the close of the war.

In this condition of affairs the first duty of the Executive was to detail a military commander with adequate forces to each State to restrain disloyalty and govern the inhabitants in the interest of loyalty and liberty till such time as civil authority could be restored. The second duty of the Executive was to call Congress together to provide for the reëstablishment of civil governments in the conquered States on such terms as public safety and personal liberty should dictate.

The President, professing to follow the plan of his predecessor, assumed the sole right and responsibility of reëstablishing civil governments in the insurgent States. Whatever may have been the theory of Mr. Lincoln, he distinctly recognized in his message of July 8, 1864, vetoing the reconstruction bill, the right of Congress to revise his action and dictate the policy of the Government in this regard. After giving his reasons for disapproving the bill on other than constitutional grounds, he says:

"I am, and at all times shall be, prepared to give the executive aid and assistance to any such people as soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States, in which cases military governors will be appointed with direction to proceed according to the bill."

But it makes little difference on so grave a question whether the President assented to or rejected the constitutionality of the measure, so long as the bill itself is evidence of the claim of Congress to the right to dictate the policy of reconstruction as early as 1864. And, sir, the claim has been adjudicated and established by every popular vote from that day to this. At first President Johnson recognized this right of Congress, but finally, by a grand usurpation of judicial and legislative authority, he ordered conventions and dictated constitutions and legislation, as though the three departments of government had been originally concentered by the fathers in the Chief Magistrate.

The organization of States is fundamental legislation, and to mold that legislation by the will of one man is *monarchia*—the very essence of despotism. But the state of the public mind was such at the time that this would have been acquiesced in, and very likely legalized by the action of Congress, if it had been done in the interests of loyalty.

Four distinct courses were then at the option of Government:

First. To govern the conquered States by military force until there should be a loyal white population sufficient to organize civil governments.

Second. To rehabilitate the rebels with political rights and put the work of reorganization into their hands.

Third. To enfranchise the freedmen, and thus create a nucleus of thoroughly loyal citizens, clothed with political power, who might begin the work of reorganizing republican State governments such as the Constitution guaranties.

Fourth. These three methods could be combined in an effort to satisfy the demands of both elements of southern society in the restoration of political institutions.

The first is repugnant to the genius of free institutions. The history of the early republics teaches the danger of employing armies for the government of rebellious provinces. It not unfrequently happened that they first corrupted the people over whom they were placed, and then returned home to usurp the reins of government and establish a military despotism upon the ruins of the State. Nothing but absolute necessity could justify this alternative.

The President without authority attempted to consummate reconstruction by the second method. The result was that power was restored to red-handed rebels, who, with their old-time arrogance and exclusiveness, instituted governments which neither respected nor protected the property, the happiness, or the lives of loyal men, black or white. These illegal governments Congress, in its policy of reconstruction, refused to recognize except as provisional and supplemental to the military power. We have adopted the fourth method of reorganization. It employs with many restrictions and limitations the military power as the agent of national authority and as a temporary means of maintaining order and the rights of the minority while the work is progressing. With a magnanimity and confidence of power without a parallel in history we have clothed anew with every civil and political right, and permitted to aid in renewing the institutions which their own hands have shattered, the populations of ten States, to subdue whom it has cost us the treasured wealth of generations and the precious lives of half a million of our sons. We have withheld for a season, from considerations of public safety, the right of suffrage from fifty thousand only of the prominent traitors who plotted for the life of the nation. That is the sum of our offending.

And then, sir, we have given the ballot to seven hundred thousand black native citizens of the United States; and why? Not because we recognize that they or white men have a natural right to vote, for we first offered to the South a scheme of reconstruction in which the freedmen might be excluded from the voting population; but because the blind obstinacy of the South in rejecting that system compelled us, in order to save them from a military rule, to create out of the black men of the South a loyal voting population, upon whom civil institutions might rest and find support. They who reject salvation should never complain when the bitter cup which they themselves have mixed is pressed to their lips.

But why, sir, should our opponents North or South object to the voting of black men? Is it because they are of another race? Why, sir, the question of a difference of capacity in the distinctive races is one so obscure and indeterminate that it can never be made the basis of legislation, and least of all by us who are a composite of all races. And this objection comes with a singular grace from our Democratic friends, who are naturalizing a hundred thousand foreigners of a different race every year. The voting black population of the South is seven hundred thousand. Within the brief period of the war your ranks have been swollen by an equal number of foreign voters of races more pugnacious and factious, and in the main as little fitted for the functions of freemen as these long-suffering blacks, whose unrequited toil for generations has been adding to the wealth, power, and glory of your country. But I have yet to learn that the liberties of your country have ever been assailed by any except the native aristocrats nurtured and educated by the genius of slavery.

Is it because a transmitted curse rests upon this unfortunate people that they are to be excluded from the polls? Why, sir, the blood

of the white man has been so generally transfused into their veins that it would baffle the double sight of a seer to decide whether they are entitled to the blessing of Shem or the curse of Ham. These are all the miserable shifts of a lame and halting logic, utterly unworthy of statesmen. And in this I can hardly fail to have the sympathy of the honorable Senator from Wisconsin. For in a speech upon the deportation and planting of the blacks in Hayti and Liberia, which his good genius must have inspired before it forsook these Halls, I find this noble and generous utterance:

"I believe that in so doing we may be instrumental, under the providence of Almighty God, in laying the foundation of an empire there, a great republic to be composed of these people and their descendants, and of the people already there, who stand ready and willing and anxious to receive them as a part of themselves, which, after a few generations, will contain a hundred million human beings: a republic which shall be in the tropics what this Republic is in the temperate zone of the North American continent."

And yet these people, so docile, so apt to learn, who had received nothing but hardships and wrong under the Republic, whose progenitors for six generations had raised children to an inheritance of hopeless toil, shame, and sorrow, in the terrible ordeal in which white men forswore their allegiance, were true to their Government and its defenders; and the ashes of thirty thousand of them are mingling to-day with the hallowed dust of your children on fields glorious forevermore in the annals of liberty. These are the men whom we are called upon to deprive forever of the primal privilege of self-government to appease the prejudice and hate of men whom our clemency has allowed to go unwhipped of justice.

Can any man tell me what it is except prejudice, pride, and hate, which keeps the enfranchised whites of the South from going quietly to the ballot-box, and from falling into the natural relations of labor and of society with the black man, as we of the North have always done? It is nothing else, sir. If there is to be any war of races it will spring from their disposition and not our action. They outnumber the blacks, and have wealth, habits of command, and the prestige of race; and it is absurd to argue that they may be outstripped and subordinated in a fair competition with the blacks, unless they have become too indolent to deserve, success. With an inequality of capacity, influence and social position cannot be measured by numbers.

It is charged upon the congressional system of reconstruction that it tends to the establishment of negro supremacy at the South. I repel the charge. It simply recognizes the political equality of the races according to the dogma of the fathers, and leaves both black and white at liberty to work out their position in society according to their capacities. Is not that right judged by any law, human or divine? If the white man complains of such legislation, he exhibits a cowardly want of confidence in his own abilities.

I do not stand here to defend universal manhood suffrage, either black or white, in a normal state of society, but I am here to defend the enfranchisement of the negroes of the South as a necessity as absolute as any which existed during the war. There was no other way in which Congress could revive and reform the governments of those States, which the gentleman from Indiana tells us survived the war, and so fulfill its guarantee to the loyal people of the South; I say the loyal people, for they alone could hold the Government to this constitutional pledge. It was to redeem the guarantee to them as against rebels and a military rule that colored men were added to the voting population of the States.

Whether the governments to be established shall be a new creation or a resurrection of the old I regard as of no practical importance. If new constitutions are to be framed they must be adapted to the times; if old ones revived they must be essentially reformed to meet the changed condition of affairs.

Who troubles himself to-day with the vexed question whether the Convention of 1787 framed a new Constitution or revised the old Articles of Confederation? So now it is not a matter of any practical importance to the country at large, nor, in my judgment, to the people of the South themselves, whether their conventions reform their old constitutions or frame new ones; whether they organize or reorganize State governments, provided the constitutions which they do frame secure the civil and political rights of every citizen, regardless of race or condition, and are adopted by the people.

Sir, the war was inaugurated to establish the right and perpetuate the existence of human bondage against the aggressive American theory of the equality of men in political rights. This bitter struggle over, reconstruction is a determined antagonism between the same principles. It is simply that, and nothing more. Put our reconstruction acts into the hands of any impartial European statesman who believes in political freedom, while he might possibly prefer suffrage based upon intelligence as the wisest policy for the Republic in the long run, he would tell you that they contain no element of injustice, and were wholly in the interests of personal and public liberty.

The essential hardship in these acts is the recognition of the political equality of man and the protection which they give to black citizens against perpetual subordination. The questions involved are purely political. The social status of men is determined by original capacity, and cannot be fixed or safely tampered with by legislation. A fair chance for all, leaving the rest to God and nature, is the fundamental axiom of free governments.

We cannot level the earth while its internal forces are at work; neither can we bring society to a social equality while the original forces of character are unequally distributed; but social and intellectual differences cannot be made an excuse for any class monopoly of political power. Equality before the law is the groundwork of our civil fabric. Every republic ignores race and class, and assumes sufficient knowledge and self-direction in the people to render them capable of establishing and administering their civil and political institutions. This universal experience proves to be impossible among uncivilized populations. The ballot is the instrument by which the people wield their political sovereignty, impress their will upon the Government, and determine the character and history of the nation. Political subordination is the inevitable condition of general ignorance and incapacity. Self-government and political supremacy are the right of an intelligent people. Now, naturalization laws and conditions of suffrage are the guards which a wise Government places at the entrance of political power, lest hate or incapacity, engendered at home or abroad, should enter in such force as to ruin the Republic. But it is only when the disqualified become a majority or a large minority that there is any practical danger to Government from manhood suffrage. And, sir, it is not simply arrant absurdity, but it is shallow and brazen hypocrisy, for men still panting with the unhallowed attempt to erect an aristocracy upon the ruins of the Republic to come here and warn us that the vote of the black man, the victim of their lust and cupidity, will be dangerous to liberty.

Our policy of reconstruction is the result of two years of incessant, patriotic, and intelligent labor; and I deem it an insult to the American Congress for any man to plead either the poverty or the rights of traitors, unwashed of the guilt of blood, as against a system which contemplates the uplifting of master and slave to the same inheritance of rights and prosperity which we enjoy. Sir, let them not claim the fatted calf, the robe, and the ring till they have returned from their rioting among the harlots and their feeding with swine to the old homestead with some show of contrition and some word of filial affection.

To maintain this great fabric we have been wielding with terrible effect the unlimited powers of war for years. Does not the same supreme law of public safety hold in time of peace and throw upon us Senators the solemn obligation to use the authority with which the popular will has clothed us to meet the exigencies of the time?

The Constitution cannot be urged against us, for it was framed in the interests of liberty, not to hamper and baffle its progress. When the disloyal are seeking to subvert the institutions of a State it guaranties to the loyal a republican Government and gives all necessary powers to fulfill the guarantee; and it should be remembered that these constitutional powers are to provide rather for the emergencies of peace than of war, for the framers of the Constitution knew well that in an effort to destroy the Republic by armed revolution the Government could assume the original right of every people to suspend civil authority and wield the unrestricted powers of war. They did not employ themselves in delegating to the Government powers which it possessed by virtue of its very existence.

I have fallen upon an eloquent piece of oratory, not to say logic, in the late speech of the honorable Senator from Wisconsin. He says:

"I ask, Mr. President, with all the earnestness of which the soul is capable, can any human being conceive of a measure so well calculated to make the whole white people of the South, men, women, and children, hate and loathe our Government, to hate it with a perfect hatred, to gather around the family altar upon their bended knees to curse it, and in the agony of prayer to call upon God to curse it, as this radical reconstruction which seeks to disfranchise the heart and brain of the South, and to subject at the point of the bayonet the white race to the dominion of their late half-civilized African slaves? Instead of peace it gives them a sword; instead of hope it fills them with despair; instead of civil liberty it gives them military despotism. White disfranchisement and negro domination was the idea which inspired and provoked the riot at New Orleans. It has arrayed everywhere the blacks and whites in hostility to each other, often resulting in bloodshed all over the South. It tends directly to bring on that war of races which in the West Indies enacted scenes of horror to sicken and appal the world."

Now, Mr. President, no man feels more kindly to the masses of the southern people than I, yet I feel constrained to say that the perfect hatred and loathing, the cursing and calling upon God to curse our Government—*minus* the family altar, the genuflexions, and the prayers—are little amusements in which the political leaders of the South have been in the habit of indulging as far back as I can remember. If, now, radical reconstruction will have the effect to bring in the omitted accompaniments, it will certainly improve the manners and give a touch of grace to the devotions of our southern brothers.

But it is to "disfranchise the heart and brain of the South." I do not know as I understand that, but I am inclined to believe the southern heart and brain will find a necessity for a little more activity and productiveness when our work is completed than during the existence of slavery. And the white race, whom it took the Government four years to subdue with a million and a half of men, are to be subjected at the point of the bayonet to the dominion of seven hundred thousand late half-civilized African slaves who are too stupid and ignorant to vote. I fear the chivalry will regard that as a very questionable compliment.

My friend goes on to inform us that—

"Instead of peace it gives them a sword; instead of hope it fills them with despair; instead of civil liberty it gives them military despotism."

I am inclined myself to think they begin to lose hope, possibly to be filled with despair of success in the line of their aspirations; but I had supposed they were more troubled with the loss than the gift of the sword; and as for civil liberty and military despotism our acts leave them to their own choice.

The honorable Senator says still further:

"White disfranchisement and negro domination was the idea which inspired and provoked the riot at New Orleans; that arrayed everywhere the blacks and whites in hostility to each other, often resulting in bloodshed all over the South. It tends directly to bring on that war of races which in the West Indies enacted scenes of horror to sicken and appal the world."

Now, substituting for the "bloodshed all over the South" the millennium of peace

descried in the beatific vision of my friend from Indiana, I acknowledge much truth in this last quotation. The pride and lust of domination in the late slave-master rebels against political power in the hands of his liberated chattels. He has no fears of negro supremacy, but feels humiliated in recognizing the political equality and accepting office of those divinely ordained to the yoke and the lash. This undoubtedly has provoked riots and intensified the white man's hostility to the race. The only question for us to settle is whether that pride and hate or the liberal spirit and principles which pervade northern institutions shall mold the reorganized governments of the South.

In a letter from Hon. Benjamin Fitzpatrick, which the Senator publishes in his speech, I find this passage:

"We wish to be left free to act for ourselves, and free from the intermeddling of those who do not live among us, but come here to foment discord and speculate upon our troubles."

Such language is not altogether new. In the address of the convention of South Carolina to the people of the South, in justification of secession, they say: "All we demand of other people is to be left alone to work out our own high destinies."

The dogma of Democratic leaders at the opening and through the war, from President Buchanan down to the grocery politician, was that we had no right to interfere with the South in her efforts at secession, and prominent rebels of the South took up the strain and demanded to be let alone. Our reply then was that the people of all the States had paramount rights and interests in each State, which the Government was bound to maintain to the extent of all its resources and power. That position was approved by congressional legislation and repeated popular votes.

Sir, if it was good then it is good to-day against this complaint of Southern men, that they are not left to reorganize State governments in absolute disregard of the people of the Union outside of their own borders. The claim to such a right has no validity, springing, as it does, from the exploded doctrine of State sovereignty, a theory oblivious to the historic fact that the States never possessed the elements of national sovereignty, and were themselves brought into independent existence by an act of the national Congress.

I agree entirely with the position of the distinguished gentleman from Indiana, that "when a State constitution is once formed, and the State, under that constitution, is admitted into the Union, that organization is not a separate and independent thing, but, in its organization, becomes a part of the Federal Union." And from that position I argue that, whenever the majority of the people of a State have risen in rebellion and temporarily overthrown their government, it becomes the right of the people of the whole Union, speaking through their Representatives, to say how and when the subverted governments shall be set up. If they have not this right how can they fulfill their guarantee to the minority of a republican Government? The right is the correlative of the obligation, and the majority of a State cannot frustrate the will of Congress in this regard. Without such a power in Congress it may be impossible ever to restore harmony to our distracted country, or to secure the loyal of both North and South against a repetition of the hardships and horrors of the past five years.

The loyal North can rightfully demand of us a speedy restoration at the South of governments resting upon a loyal basis; governments which will give security to capital and freedom to labor; governments which will encourage productiveness and open markets to the whole country. With business depressed and credit waning we stand patiently enduring the weight of debt and taxation which treason has thrown upon us while the traitors reject our proffered restoration, because we have provided that their governments should originate in the consent of the governed. That is he simple truth, stripped of pretexts. The South rejects reconstruction because she believes in class sovereignty, and her pride cannot accept the results of the war. Our generosity to the conquered must be limited by justice to the loyal. If enfranchised rebels will not allow a restoration of southern States to their proper relations in the Union the right of reconstruction must be given to those who never fell from their allegiance. We cannot safely consent to the exclusion of a race from a participation in the Government under which they live.

Governments are established not so much to enhance the power of the strong as to give security and encouragement to the weak. Monopolies and class exclusions exasperate society and fill it with discontent and faction. How to coördinate conflicting material interests, how to give homogeneity to a people of diverse origin, varied industries, and thrown asunder by differences of climate and education, and so deepen the patriotism and perpetuate the nationality of the Republic, is the most difficult problem which American statesmen are called upon to solve. Steamships and interoceanic railroads will mingle here the populations of Asia and Europe, and pour upon us the earliest and latest civilizations of the world. We cannot give order and unity of aim and interests to this discordant mass by practicing the repressions and restrictions of despotism. To do this we must not only increase the assimilating power of popular education, but the legislation of the country must be made to dispense an impartial justice to all. Love of country will be our strength and defense, and that must rest upon the general security of labor, property, and political rights.

How are the ten States of the South to be organized in harmony with these principles which are the foundations of our future prosperity? Southern leaders are blinded by passion and prejudice, and, if left to readjust the industrial policy and dispose the political privileges of the people, the States will be given over to a perpetual internal antagonism and sectional animosity left to corrode the bands of the Federal Union.

The masses of the South have no interest in this perpetual conflict, and, I believe, would gladly reorganize governments and return to their old allegiance, if they could be freed from the baleful influence of their leaders.

I would counsel nothing in anger or revenge, but would urge the intervention of national authority to protect the loyal against the influence and violence of the disloyal until such time as they can fully establish and maintain civil governments.

And why should we be more careful of southern than of northern rights? Constitutions have been adopted in loyal States by less than a third of the registered voters. If now indifference is not allowed to defeat the organization of State governments, why should the malice or ambition of a few pardoned ingrates anxious to pass from the criminal's box to the seats of power. If the web of affairs has become so tangled that southern society cannot unravel it we should cut it.

Reconstruction being defeated and our policy circumvented by fraud, I would bring the States into the Union if every man who voted for the constitutions had a face as black as the rayless void where reigns eternal night.

Are the loyal people of the country to be left to chafe and murmur through all our borders, under the stagnation of business and the weight of taxation, and we sit here scorned and baffled by the men to whom we are seeking to give order for disorder, prosperity for desolation? How long is it our duty to wait for the return of reason and loyalty to these people?

Sir, a decent respect for the opinions of mankind forbids that the reckless coterie of politicians whom the executive policy has revived and filled with their old lust for power, who are again dominating the press and public opinion of the South, should reject our laws with impunity and worry us into compliance with their schemes.

Sir, they must not be allowed to taboo loyalty, humiliate labor, and restore the *regimé* of the old aristocracy. They must not be allowed to rescue treason from the reprobation of history, cover our banner with shame, and give to traitors that place in the memory of mankind due to our own heroic sons.

Mr. SAULSBURY obtained the floor.

Mr. HENDRICKS. As the Senator from Delaware is not very well to-day, and prefers speaking on this subject to-morrow, and as there may be business which the Senate may think it desirable to take up in the meantime, I will move to postpone the further consideration of this bill until to-morrow at one o'clock,

Mr. TRUMBULL. I hope that may be done and that we shall take up House bill No. 214, the bill on which the Senator from Kentucky spoke the other day.

Mr. HENDRICKS. The Senator from Delaware yields to my motion.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 20th instant, a report by General Weitzel on the survey of a ship-canal around the falls of the Ohio river; which was referred to the Committee on Commerce.

He also laid before the Senate a letter from the Secretary of the Interior, communicating a report of Silas Seymour, chief engineer, on bridging the Potomac river; which was referred to the Committee on Commerce.

VOTING IN UNRECONSTRUCTED STATES.

Mr. TRUMBULL. Now I move that the Senate proceed to the consideration of House bill No. 214.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1857, and to facilitate their restoration."

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Kentucky, [Mr. DAVIS,] to recommit the bill to the Committee on the Judiciary with instructions.

Mr. TRUMBULL. I presume the Senator from Kentucky will withdraw that motion, as he interposed it, I suppose, for the purpose of making his speech upon it.

Mr. DAVIS. I will do so.

The PRESIDENT *pro tempore*. That motion being withdrawn, the pending question is on the amendment of the Senator from Pennsylvania [Mr. BUCKALEW] to the amendment reported by the Committee on the Judiciary as a substitute for the bill.

Mr. BUCKALEW. If there is to be further debate upon the general question involved in the bill I suggest that the vote be first taken on this amendment. It raises but a single point, and, so far as I know, there is no opposition to the amendment. We had better dispose of it, at all events, before we enter into any further general debate.

Mr. TRUMBULL. Let the amendment of the Senator from Pennsylvania be read.

The Secretary read the amendment, which was to strike out all of the amendment of the committee after the word "vote" in line twenty-six, in the following words:

In any part of the State in which he shall have been registered, where he may reside at the time of such election, upon presentation of his certificate of registration, under such regulations as the district commanders may prescribe.

And to insert in lieu thereof:

In the election district where he offers to vote when he has resided therein for ten days next preceding such election.

So that the amendment of the committee will read:

That hereafter any election authorized by the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient govern-

ment of the rebel States, passed March 2, 1867, and to facilitate restoration," shall be decided by a majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted any person duly registered may vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election.

Mr. TRUMBULL. The Senator from Pennsylvania will see that under his amendment a person from another State might vote on a ten days' residence. He does not mean that, I apprehend.

Mr. BUCKALEW. No, sir.

Mr. TRUMBULL. I think that would be the construction of his amendment. It seems to me we shall accomplish all that is desired if we leave the amendment as the committee reported it, striking out the words in the twenty-eighth and twenty-ninth lines, "upon presentation of his certificate of registration." An objection was made to the insertion of those words on the ground that no certificates of registration were given in some of the States, and therefore they could not be presented, and it would be attended with a great deal of embarrassment and delay and difficulty to obtain new certificates for every voter. The only difference between the proposition suggested by the Senator from Pennsylvania and the amendment which I suggest is this: his requires a residence of ten days. Now, I submit to the Senate, why should there be any residence of ten days required in voting on a fundamental law for the State? Why should not a party be permitted to vote anywhere where he happened to be on the day of election, where he resided at that time? If you are to allow him to vote away from the place where his fixed home has been I see no propriety in requiring that he should have been ten days in the place where he offers to vote. I hope, therefore, that the Senate will not adopt the amendment of the Senator from Pennsylvania in the form in which he has presented it.

Mr. BUCKALEW. I do not remember the particular provision in the former law on the subject of residence in the State; whether one year's residence in the State is necessary to a registration or only necessary to an actual exercise of the right of suffrage. If the former be the case there is no necessity certainly of reinserting a provision with reference to one year's residence or citizenship in the State, because the amendment, as I propose to amend it, would still require that the person shall be registered before he shall vote, and by adding the provision with reference to a residence in the election district for ten days we shall have both the requirements of residence, to wit, one year in the State and ten days within the particular district.

I have not troubled the Senate with an argument in favor of the adoption of this amendment. I am somewhat surprised that the chairman of the committee suggests objections to it, appears reluctant to accept it, it being a provision now contained in the constitutions of many, if not most, of the northern States. It is, at all events, contained in the constitutions of Pennsylvania and New York, and is a restriction which has been found to be absolutely indispensable to preserve the purity of elections. I offer the amendment for no other reason than to secure the elections that are to be held under this law from the intrusion of fraud and unfairness. Of all the provisions that are contained in the constitution and laws of Pennsylvania which secure fairness and honesty in elections in our State I think this requirement of a residence in the election district for ten days is the most important and the most salutary. It enables every one who chooses to inspect an election to know who are the persons voting, and form an intelligent judgment upon the question of their right to vote. It enables challenges to be made. It prevents attempts at colonization from one point to another. In short, it has seemed to me, in reflecting on this subject, that in our towns and cities in Pennsylvania our elections would break down utterly, become a scandal to the community, unless we had some provision of this sort. We have difficulties enough as it is in our cities, because colonization will take place from one district to another, although we have this limitation. Men will be carried into election districts and kept there ten days to procure a colorable residence for the purposes of the election; but as this is very expensive, as it costs enormously to support voters for this period of ten days, the amount of fraud and unfairness has a limit; it is comparatively small. In the interior, in our towns throughout the entire State, this ten days' provision as to residence is almost a specific against fraud.

I have no other motive in offering this amendment except to give the elections which are to be held under the legislation of Congress this indispensable guard against corruption.

Mr. WILLIAMS. I do not perceive any particular necessity for this amendment; and I think the evils which the Senator from Pennsylvania imagines will result from the passage of this bill without his amendment are not to be expected from the circumstances attending the elections. I know it is very desirable, where there are local officers to be elected in a State, that there should be some term of residence prescribed in the district in which those local officers are to be elected; but it does not necessarily follow that where the election relates to an officer for the entire State, or where the election concerns any question in which the whole State is interested, this rule should be applied. In the State in which I live a citizen has a right to vote anywhere in the State for a member of Congress, no matter where he may be, although there is a regulation in reference to the election of county officers requiring that before a person can vote for a county officer he shall have resided within the county where he offers his vote for a certain length of time.

Mr. FESSENDEN. You have but one Representative in Congress; so it makes no difference.

Mr. WILLIAMS. We have but one Representative in Congress, and for that reason it was not supposed it was necessary to prescribe any particular qualifications of residence to enable a man to vote for a Representative except that he should have resided within the State for a certain time. Again, the people of our State are to some extent a migratory people; they are traveling from one part of the State to another, and are not as much established as perhaps they are in some of the old States; and it was thought that it would be much to their convenience to enable them to vote anywhere in the State for a member of Congress.

Mr. HENDRICKS. I should like to ask the Senator from Oregon what are the qualifications for a voter for the most numerous branch of the Legislature in his State?

Mr. WILLIAMS. He is required to be a citizen of the State for six months and to have resided ninety days within the county where he offers to vote.

Mr. HENDRICKS. Then I will ask the Senator if he is not mistaken in his supposition that a man may vote anywhere in the State for a member of Congress, because the Constitution of the United States makes the qualification of a voter for a member of Congress the qualification of a voter for the most numerous branch of the State Legislature?

Mr. WILLIAMS. Our State constitution expressly provides that a man may vote anywhere in the State, wherever he may be, for a member of Congress; and it is not necessary that he should have resided in any particular election district for any given time in order to vote for a member of Congress, though he must have resided within the State for a certain length of time. Now, this bill provides that a person, before he can vote within a certain State, must have resided within that State for one year; so that there is no danger of any colonization from one State into another under it; and that is the evil which is to be anticipated, if there be any evil under this law. As this is a question that concerns the adoption of a constitution in which the people are all equally interested, and as the population of these States at this time is quite unsettled, it seems to me there is no particular necessity for the adoption of this amendment, and that it will work great inconvenience and hardship. No evil is to be prevented by it, and great harm may be done. The very reason for modifying the rule requiring the registered voters to vote in the particular locality where they are registered is that many of the registered voters, particularly the colored people of the South, are compelled, by their circumstances, to move from place to place in order to find labor; and they cannot, by reason of these circumstances, vote in the locality where they are registered; and they, therefore, ought to have an opportunity, on a question that relates to the whole State, upon the adoption or rejection of a constitution, to vote wherever they may be and offer their vote.

Mr. HENDRICKS. I think the Senator must be mistaken in regard to his own State, for he says that in order to qualify a man to vote for the must popular branch of the State Legislature he must have a legal residence, and I do not see how the constitution of a State or the law of a State can make a different qualification for a voter for Congress for the reason that the Constitution provides:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors of each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Now, if to qualify a man to vote for a member of the lower branch of the Legislature he must reside a specified length of time in the locality where he proposes to vote, he must have that same qualification to vote for a member of Congress. But that is a question of no importance here; and I do not care to discuss it.

The amendment proposed by the Senator from Pennsylvania is proposed with a view to secure the purity of the ballot-box. I think experience has shown that a provision of that sort is indispensable, and that to omit it will result in frauds at the election, whether so designed or not. The experience in almost the entire North has demonstrated the importance of a provision like this. In our community, where the population is somewhat stable, where men do not remove from one portion of the State to another in very large numbers, to have honest elections in nearly all the States of the North it has been found important to provide that a party proposing to vote shall have resided for a specified length of time in the election district where he proposes to exercise the privilege. Now, why omit it here? The Senator from Oregon says that this is a vote upon a question of interest to the whole State; that it is not local. Sir, that is not the consideration that governs this question. When you come to vote for electors for President, that is a question of interest, not to a locality nor to a State, but to the whole country; and yet a man must have his local residence to be entitled to cast his vote, so that the persons receiving the vote may know something about him. To omit it is simply to give an opportunity to commit fraud; it is to invite it; and I think this is the last time that we should propose such a thing when there are so many charges of fraud in regard to the elections in the southern States as have come up to us—charges of fraud on both sides. It is said that colored men have not been allowed to vote. On the other hand, it is charged that they vote without right, without being registered, and vote at different places upon the same question. Senators are not ignorant of the fact that charges are thus made.

Why omit this provision? You say that the colored people are migratory, passing from one part of the State to another. Do you not want a fair election? Do you not want these elections to be conducted honestly? If you

do, give us some guarantees, the ordinary guarantees, this plain guarantee that the experience of every northern State has demonstrated to be indispensable, that a man shall be known where he votes; a brief residence; ten days, perhaps, is the most brief you can find in the laws of any northern State. In most of the States it is from thirty days to a longer period. Now you propose to say that the vote may be received anywhere, whether the party is a resident there or not. For what purpose? I am not going to characterize any purpose here, but it invites the inquiry. If, in our northern States, where the population is somewhat stable, good government has proven to the people that a residence should be required to secure an honest election, why not have it in these States where the charges of fraud are coming to us from every quarter? These elections are held under such circumstances, in my judgment, as that you ought to secure the confidence of the country in them so far possible. They are questioned to start with. They are not satisfactory. They are held by officers not appointed by the people, under regulations not adopted by the people. Then, sir, in an election so extraordinary in its character, do you propose to break down all the barriers which have been found necessary to secure honesty and a pure ballot-box?

Mr. DAVIS. I think the amendment of the Senator from Pennsylvania should be adopted. The bill does not require a legal residence at all to enable a man to vote. If he has resided twelve months in a State, as I understand, he has the privilege to vote anywhere. Then it is not necessary that he should have a residence in the county or district where he proposes to vote, but that he should simply be present there. If this election was to continue but one day, the proposition of the Senator from Pennsylvania might not be so important; but we have seen that the recent elections in the South have continued through as many as five days. What facilities does that offer under this bill to emigrate? A man may vote at one point to-day; he may go to another point to-morrow and vote there, and so on through the five days; or he may vote at three or four places each day. It is to prevent the practicability of such repeated frauds as that, that I understand this amendment has been offered. Certainly no man ought to vote more than once. Any regulation that would give him the opportunity and the temptation to vote more than once ought to be reformed if possible. If it is possible to make a regulation that would prevent him from voting more than once that regulation ought to be made by Congress; and it seems to me the proposition of the Senator from Pennsylvania would certainly promote a single and a fair vote instead of allowing an opportunity and an incentive to vote frequently.

Mr. WILSON. Mr. President, this measure is proposed for the purpose of correcting a great evil, or, in other words, to give an opportunity to men to vote who have been forced by their necessities to change their place of residence. On the 1st of January probably thousands and tens of thousands of men were forced to change their place of residence in order to obtain employment. In but two of the States, I understand, did those who were registered receive certificates of registration. This measure is brought forward in order to give these men an opportunity to vote. I think the amendment offered by the Senator from Pennsylvania is just. We do not want to encourage fraud—to encourage men to move from one place to another to effect certain results—but we want to give men an opportunity to vote fairly and honestly. When registered electors have changed their place of residence ten days previous to an election into another county or another election district they will have an opportunity to vote according to this amendment. I think it will tend to prevent the carrying of men from one locality to another to affect an immediate result. What we want down there is an honest, fair, square vote. It seems to me the amendment offered by the Senator from Pennsylvania is a fair proposition, and we ought to accept it; that its tendency will be to prevent fraudulent action in certain cases.

Mr. BUCKALEW. I wish to suggest a modification of my own amendment. In the twenty-sixth line, after the word "registered," I propose to insert the words "in the State."

The PRESIDENT *pro tempore*. That is a modification of the Senator's amendment.

Mr. BUCKALEW. Yes, sir; that will meet the point made by the Senator from Illinois. My amendment, as it previously read, would not exclude a man registered in another State.

Mr. WILLIAMS. I wish to satisfy the honorable Senator from Indiana that I am not mistaken about the constitution of the State in which I live, and I will therefore read the clause to which I referred. Our constitution requires that every elector shall be a white male citizen of the United States of the age of twenty-one years and upward, who shall have resided in the State during six months immediately preceding such election, and then provides:

"All qualified electors shall vote in the election precinct in the county where they may reside, for county officers; and in any county in the State for State officers; or in any county of a congressional district in which such electors may reside for members of Congress."

So that for a State officer an elector can vote in any county where he may reside; no previous county residence is necessary; and so for a member of Congress. As we have but one member from our State, a citizen of the State can vote anywhere in the State for member of Congress.

Mr. HENDRICKS. The Senator is accurate in regard to the provisions of his own Constitution; but I suggest to him whether, in his State, they regard a member of the Legislature as a State officer; and further, whether he thinks the constitution of a State, or the Legislature of a State, can fix a qualification for an elector for a member of the most numerous branch of the State Legislature and another qualification for an elector for Congress?

Mr. WILLIAMS. I do not propose, and it is not necessary now, to determine whether there is any conflict between the constitution of Oregon and the Constitution of the United States. That is not the question before the Senate. I simply read this to show that in the State of Oregon people vote without having the qualification which the Senator from Pennsylvania proposes to prescribe for the people in the southern States. I think, with all deference to the Senator from Massachusetts, [Mr. WILSON,] that it would be unwise to adopt this amendment, for, if the black men are, as is represented, so much under the control of white men, they can transfer, induce, or compel any number of them to go from one county to another any time within ten days before the election, and then of course they will lose their votes. In that way great abuses may grow up, and there is an inducement to that action held out by this provision and by every single provision that you put into this law that only provides a new way in which those who have the control there may prevent a fair expression of the popular voice.

Mr. FESSENDEN. The great object of this bill, as I understand it, is to change the rule which we adopted before requiring that the constitutions in these States should be ratified by a majority of those voting, provided the whole vote cast should be a majority of the registered voters, and to require merely a majority of those who vote, without regard to their number. That undoubtedly will be adopted, if I may judge from the expression of sentiment on the part of the Senate. The result of that will be, or is expected to be, that instead of those who are opposed to the constitution—being probably the bulk of the white voters, or a very large number of them, at any rate—staying away from the polls, they must go to the polls and exert themselves with reference to the matter as other voters do. Now, sir, in a political point of view, if we are going upon the ground of getting an advantage one way or the other, I apprehend, especially if an election lasts over five days, that the opportunity to cheat will be greatly in advance on the part of those who are opposed to the Constitution, because the white voters can change their residences temporarily much more easily than the colored voters, and especially the classes of population who are understood to be opposed to the Constitution; so that in that point of view I do not think any party advantage will be gained on our side by insisting that they might go at any time, and fixing no time for residence. I merely allude to that to show how it would be likely to operate, provided we effect our purpose, and that is, compel those who are opposed to the constitution to vote or exert themselves with reference to the matter, and thus have a fair trial about it.

Now, sir, I understand that another amendment is proposed, and that is, that not only are they to vote at this election for the Constitution or against it, on the subject of the Constitution, when it would not make any great difference where they voted, so that they did not vote more than once, but it is also proposed to enact that they may be at liberty at the same time to vote for members of Congress and for State officers. If the election is to be extended over five days in voting for all those it would furnish a very great temptation for fraud on both sides unquestionably, and the elections might not be so fair as they ought to be, whereas the temptation, perhaps, would not be so strong with reference to the Constitution alone in that particular. Under the circumstances, therefore, it strikes me that it would be wise and fair to fix a time; you may limit it as you please, but it ought to be a somewhat longer time, at any rate, than the time over which the elections would be likely to extend; for instance, if the election is to last for five days the limit should be a longer time than the five days; how much longer it will be for the Senate to say. I do not like to establish a different rule, under the circumstances, from that which prevails to some extent in all of the States. I think it would be exposing us to the charge that we designed to make and to use an improper advantage and to avail ourselves of an improper advantage; whereas I do not think any great harm could be done by fixing the time at ten days. As the Senator from Massachusetts suggests, the greater number of changes of residence have already taken place. The business period of the year has effected for the most part those changes; they are already in existence; and the small percentage that would be likely to follow in consequence of a change of residence within ten days I do not think is worth considering, when you take it in connection with and in opposition to the advantage of fixing something like a principle with regard to residence.

Therefore, sir, taking all these matters into consideration, I shall vote for the amendment which is proposed by the Senator from Pennsylvania. I think it is fair and just, and certainly no great injury can come from it in any event.

Mr. TRUMBULL. I ask the Senator from Pennsylvania if he has any objection to letting the last line remain, "under such regulations as the district commanders may prescribe." As his amendment will strike out the necessity for producing the certificate of registration, certainly the voter ought to be required to produce some evidence that he has been registered. It can do no harm to leave those words in. I suppose the commander would have that power any way, but I think it ought to be left so that he could require some evidence that they had been registered somewhere before they voted.

Mr. BUCKALEW. I moved to strike out the whole latter clause because I supposed it was quite unnecessary. The provision as it will now stand will simply provide that an elector may exercise his right if he has resided within the district for ten days. That will

require no regulation from the commander. That will be the only antecedent to the concluding clause of the sentence.

Mr. TRUMBULL. How is the elector to furnish the evidence that he has been registered?

Mr. BUCKALEW. That is another question.

Mr. TRUMBULL. If the Senator will look he will see that the bill as it stands requires him to furnish that evidence by the production of his certificate. Now, the Senator's motion, if it prevails, will strike that out; but ought not some sort of evidence that he has been registered to be required? And, as we cannot very well fix that in the law, ought it not to be left to the regulations of the district commanders to prescribe some mode of ascertaining that fact?

Mr. BUCKALEW. I suppose these district commanders claim now to possess, and will doubtless exercise, all those powers of regulation which they think necessary. I believe the former law gives it. I do not think it necessary for us to put in an invitation to them to make any new regulations, to invite them to more of legislation than is absolutely indispensable. I think this provision will work without any regulation. They already possess power to form the election districts, and declare what they shall be; and I suppose they have already made provisions for the issuing of certificates and all that. If the Senator thinks those words are important, of course I shall not object to retaining them.

Mr. TRUMBULL. I think they had better be left in. Certainly they will do no harm if the district commander has the power now. But there should be some authority to ascertain whether there has been a residence of ten days or not.

Mr. HENDRICKS. I wish to ask the chairman of the committee whether the words "upon presentation of his certificate of registration" have been stricken out?

Mr. TRUMBULL. The Senator from Pennsylvania moves to strike them out; and I would say to the Senator from Indiana that it is necessary to strike them out, because, on inquiry, it turns out that in only two States was there any certificate given, and that was why I inquired of the Senator from Pennsylvania if he was not willing to leave the last line in. If he is, I shall not object seriously to his amendment.

Mr. HENDRICKS. The Committee on the Judiciary thought those words were very important. If we are going to stand upon a registration at all it ought to be shown that the party is registered. Although, if you allow parties to vote in a district—part of the State—personal identification will probably be impossible, yet this provision would be some guard; and I do not understand that the chairman was authorized to strike those words out, because I know the committee regarded them as very important.

Mr. TRUMBULL. The Senator from Indiana will understand me. I was not authorized to strike them out; I have not said so; but the motion of the Senator from Pennsylvania takes them out if it prevails; and I was speaking to his amendment, asking him to leave in the last line, so that, if it did prevail, we should have something of the clause in it.

Mr. HENDRICKS. I move to leave in the other words, so that there shall be evidence that the party has been registered. I do not vote on this question upon any consideration which side can do the most cheating. I shall vote so as to secure as pure an election as the nature of the case will allow. I think there ought to be a certified copy of the registration, or something that would show the fact that a man has been registered. If a man does not take interest enough in his vote to produce evidence of his right to vote he ought not to vote, no odds what his color is.

Mr. WILLIAMS. I had prepared an amendment which I intended to offer if none was proposed by the chairman of the Judiciary Committee to that part of the bill which requires the presentation of his certificate of registration, and the words that I would move to insert there would be these:

Upon presentation of his certificate of registration, affidavit, or other satisfactory proof, under such regulations as the district commanders may prescribe.

So that the elector may produce his certificate of registration if he has one, and if not, that he may be required to make his affidavit, or that the officer shall require some proof that satisfies him that the voter has been registered. I will move to amend, if it be in order, by adding those words after the word "registration."

Mr. TRUMBULL. There is an amendment to an amendment now pending.

Mr. BUCKALEW. I will simplify this question by changing the form of my amendment. I will modify my amendment to accord with this debate, and strike out only to the word "upon" in the twenty-eighth line. Then that will leave all the matter upon which this debate is progressing untouched, and we can proceed to consider it afterward.

The PRESIDENT *pro tempore*. Let the amendment be reported as now modified.

The Secretary read the amendment to the amendment, which was in line twenty-six, after the word "registered," to insert the words "in the State," and after the word "vote" to strike out the words "in any part of the State in which he shall have been registered, where he may reside at the time of such election," and insert "in the election district where he offers to vote when he has resided therein for ten days next preceding such election;" so that the clause would read:

And at the election in which the question of the adoption or rejection of any constitution is submitted, any person duly registered in the State may vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election, upon presentation of his certificate of registration, under such regulations as the district commanders may prescribe.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. Now I move to amend in the twenty-ninth line by adding after the word "registration" these words, "affidavit or other satisfactory evidence;" so that the clause will read:

Upon presentation of his certificate of registration affidavit, or other satisfactory evidence under such regulations as the district commanders may prescribe.

Mr. HENDRICKS. That is quite as good as the proposition for a "judicious tariff." It is just according to the judgment of the party. It submits the whole question to the officer receiving the vote. "Satisfactory evidence" may be the statement of some person standing beside the window and vouching that "this is a good sort of person and he ought to vote." If the party receiving the vote is opposed to the constitution his judgment is easily satisfied if a certain class shall come up; and the same will be true if the party is in favor of the constitution. Now, if certificates of registration have not been given I want to know where is the difficulty of getting them? Of course there is some record of them. Senators say that in only two States have certificates already been given. But where is the difficulty? If a man wants to vote, can he not get a certified copy of his registration?

Mr. TRUMBULL. If the gentleman from Indiana will allow me, I will tell him what the difficulty is. In many parts of the southern States which are sparsely settled, the communication between different counties is very inconvenient. There are not the same number of post routes as there are in his State and mine. If a man were living in one part of Georgia it would take three weeks for the mails to pass to another portion of it, and it would be very inconvenient to send and get certificates. Then if certificates have not been granted, there is no provision for them, and it would require new regulations to authorize somebody to make them; and then you would want evidence that they were authentic. It would be attended with a great deal of labor. That is the objection to it.

Mr. HENDRICKS. Well, Mr. President, this is a thing to make constitutions easy——

Mr. TRUMBULL. We do not want to put unnecessary impediments in the way.

Mr. HENDRICKS. I have heard of that in other matters, but not quite such grave matters as this. Are we thus to legislate on the mere fact that it is a little inconvenient to get a paper which will show the truth, instead of relying upon such vague assurances of the right to vote as are now proposed? Inconvenience is not an argument, in my judgment, that ought to prevail. I am not in favor of the system of legislation to which this belongs; but as a member of the Judiciary Committee I thought we ought to have the evidence that the committee required, a certified copy or the certificate of registration. If the voter has not the certificate now, there will be no difficulty in obtaining it. I suppose that registration is in each county, and it would be a matter of no considerable inconvenience to obtain it. Now, what is the effect of this amendment? The party's own affidavit is to be received—some who cannot read the affidavit when made; it is not to be in writing, perhaps, or such other evidence or testimony as will be satisfactory. Without being so designed on the part of the Senator from Oregon, for I would not attribute any such purpose to him, it is a mere machinery for fraud. The party himself, if he wants to vote, will go up and swear. I have a little more experience on this subject than perhaps some Senators. I have known elections where the frauds were startling. I have heard of voting in my State by men who were not citizens of Indiana, but citizens of the State of Massachusetts, and some of whom at one election voted thirteen times. We had no registration then. That state of case in Indiana brought about the enactment of a registration law.

Mr. THAYER. I will ask the Senator if he ever heard of any people from Kentucky going over to Indiana to vote there?

Mr. HENDRICKS. I never did. I do not say that some people in Kentucky would not do it if they had the same motives that the parties to whom I refer had. I do not know how that is. There happened to be no Kentucky soldiers in our State at that time that I know of. Now, sir, all that I ask in regard to this bill is that there shall be some respectable assurance of the right of the party to vote. If the Senator from Oregon would amend his proposition so as to say that the vote shall be received on the sworn testimony of others than the party proposing to vote, there would be some support, some data; but I say that a man who will offer a vote that he is not entitled to will swear it in. Experience everywhere, in my judgment, justifies the assertion. The man who has no right to vote in proposing to vote proposes to commit a fraud upon the entire community. The man who is willing to give a false vote is ready to support it by his own affidavit. In this case he would have no terror of punishment, because he is supposed to be at some distant point of the State where the contradiction between his affidavit and the registration cannot be detected.

Mr. EDMUNDS. They are all returned to the same headquarters.

Mr. HENDRICKS. Yes; but it is known to Senators how this is. Persons frequently propose to vote in the South who do not know their own names, and do not know what name they were registered under; but go by one name for awhile, and then go by another name. In that state of society, is it right to put in this loose, unsatisfactory provision which Senators know will enable any amount of fraud to be perpetrated? The best way is to require evidence such as would be received in court, a copy of the registration.

Mr. WILLIAMS. I understand the honorable Senator, or at any rate, if not the honorable Senator, those with whom he is politically associated, to be opposed to any registration law in any State. I know that in the State in which I reside they are all violently opposed to a registration law; they are so in the adjoin-

ing State, and I think they are generally so everywhere—opposed to any registration whatever for the sake of protecting the ballot-box from fraud. Now, sir, Congress, in providing for elections in these southern States, made a registration law, and it has been ascertained that, in consequence of the necessities imposed upon the laboring people of that region of country to move from place to place, if they are required to vote in the place where their names are registered they will be practically deprived of the elective franchise. A great proportion of the colored people will thereby be denied the right to vote. Some legislation is necessary to meet that condition of things. Will it be more satisfactory to the Senator to provide that a man may vote without any evidence of registration? He says that the voter should be required to produce a certificate of registration, when the fact is, as I am advised and believe, that certificates of registration were only issued in two of the ten southern States; so that in eight of those States these people are without any certificates of registration; and the consequence of providing that they should produce certificates of registration, and not be allowed to use any other kind of evidence, would be to disfranchise these people in eight States; for the Senator knows well enough that they cannot, in view of the circumstances in which they are placed, with their poor facilities for travel, with their poverty, go elsewhere to procure the necessary certificates. That being the condition of things, we must guard the ballot-box by such provisions as will, as nearly as possible, meet this requirement.

Now, I suggest that in those States where it is impossible to produce a certificate of registration the voter be required to make his affidavit that he has been registered; or, if the commanding officer or the person who has charge of the election is not contented with his affidavit, he may require such evidence as will satisfy him that the voter is entitled under this law to vote. Certainly it seems to me there can be no provision to meet this case more equitable or just than the one I suggest. You must either say that every man in the South shall vote without any evidence that he has been registered, which is practically to repeal the registration altogether, and provide that rebels and all who are disfranchised may vote, or you must adopt the policy suggested by the Senator, and require the production of the certificate of registration, which would practically disfranchise a majority of the colored people. I believe that naturalized citizens are allowed to vote on evidence that their certificates of naturalization have been lost.

Mr. BUCKALEW. I do not know how it is in other States, but in ours no naturalized citizen is permitted to vote until he produce the paper itself.

Mr. WILLIAMS. That may be so in the State of Pennsylvania, but it is not so in all the States.

Mr. JOHNSON. It is the case in Maryland.

Mr. BUCKALEW. And everywhere, I dare say.

Mr. WILLIAMS. I am confident that it is not, and that I can produce laws which authorize naturalized citizens to vote on satisfactory evidence that they have lost their papers.

Mr. POMEROY. I would remind the Senator, and he must be aware of the fact, that in many States foreign-born persons are allowed to vote on having simply declared their intentions to become citizens without having taken out any papers.

Mr. WILLIAMS. Certainly; and I submit that this is not a new rule to be applied in any particular case, but it seems to me that it is the only one adapted to the circumstances. It throws around the ballot-box all the guards possible. I know that there is room for fraud; it is impossible to prevent that; but the intelligent people of the South will be more likely to avail themselves of the opportunities for fraud than those who are so ignorant. The latter have not so many schemes and devices by which to defraud the ballot-box as the other class; they are not the parties who will avail themselves of this opening to which the Senator refers.

Mr. HENDRICKS. Allow me to ask the Senator if he will accept of this amendment, "that the affidavit or other evidence shall be under oath and in writing, and be returned with the returns of the election?"

Mr. WILLIAMS. I think I never heard of an affidavit that was not in writing.

Mr. HENDRICKS. I do not know but that the Senator is right in that.

Mr. WILLIAMS. But as to the satisfactory evidence I think that ought to be left to the discretion of the officer.

Mr. HENDRICKS. That satisfactory evidence need not be in writing.

Mr. WILLIAMS. Not necessarily.

Mr. HENDRICKS. I propose, then, that the Senator accept an amendment providing that it be under oath and be reduced to writing and be returned with the return of the votes. That is fair; there is no trouble about that if the Senator wants to have it merely fair and right.

Mr. WILSON. I have no doubt that at least one hundred thousand persons registered in these ten States have changed their places of residence since they were registered. Immense numbers in the beginning of this year moved from one county to another, from one portion of the same State to another, and a great many went from one State to another State, and of course, in that case, lose their votes entirely. I take it all that anybody here wants is to give these poor people a fair opportunity to vote once. For my part, I have a horror of the very idea of illegal voting. I live in a State where such a thing is never dreamed of. I have attended elections for more than thirty years, and I never knew an illegal vote given or a vote bought or a vote sold, and it is just about as impossible to give a double vote in my State as it is here in the Senate. A man has to live in the State a year, in the township six months, and to pay a tax assessed within two years and to be registered. There is never any trouble about it.

In the South many of those who have removed did not take their certificates of registration with them. Those certificates were only given in two States, and there will be tens of thousands of votes lost unless the people have an opportunity to prove their right by other evidence. The Senator from Pennsylvania has put in a good regulation, I think, requiring a residence of ten days, which is a check against interested parties transporting a voter from one place to another. But I think we ought to give a fair opportunity to these people to vote, and it seems to me their affidavits ought to be taken into consideration. If they have not a certificate of registration let them make oath that they have been registered, and that they have resided within the State and district the requisite length of time. I do not think there will be any trouble growing out of that. If you require certificates of registration to be obtained in that country, situated as things are there, it will be requiring what is almost an impossibility.

Mr. HENDRICKS. If the Senator from Oregon will not accept the amendment which I proposed I will offer it as an amendment to his amendment.

Mr. TRUMBULL. His proposition is an amendment to an amendment now, and we shall have to vote on it first.

The PRESIDENT *pro tempore*. The proposition of the Senator from Indiana is not now in order, because the pending amendment is an amendment to an amendment.

Mr. HENDRICKS. Let it be read again.

The SECRETARY. The amendment of the Senator from Oregon is to insert after the word "registration," in the twenty-ninth line of the amendment of the committee, the words "his affidavit or other satisfactory evidence."

Mr. BUCKALEW. I really do not know what the section will mean if amended in that manner. What this "satisfactory evidence" may relate to is not stated. It does not mean that it shall relate to the registration. It will certainly relate, I suppose, to the question of his residence in the district for ten days. It will be a very blind provision. I cannot satisfy my own mind as to what it will mean.

Mr. TRUMBULL. I wish to give notice that if the amendment of the Senator from Oregon shall not prevail, I shall move to strike out the words "upon presentation of his certificate of registration" and just put the responsibility upon the district commander of establishing proper regulations. I think that is the better way. We cannot fix the details of all these matters here without more information than we have. I think if you put the responsibility upon the district commander, who is there present, he will make a regulation that will be fair and will accomplish the object. I think the better way, if the pending amendment be not adopted, will be to strike out the words which I have mentioned, retaining the amendment which has already been agreed to on the motion of the Senator from Pennsylvania.

Mr. WILLIAMS. I will ask the Senator from Illinois if he does not suppose that the commanding officers would be bound to construe this law, taking it altogether, as requiring these persons to vote in the places where they are registered without some provision allowing them to vote elsewhere?

Mr. TRUMBULL. We have a provision in allowing them to vote elsewhere on a ten days' residence "under such regulations the district commanders may prescribe."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Oregon to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I move to amend the amendment by adding the following as an additional section:

And be it further enacted, That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution the registered voters may vote also for members of the House of Representatives of the United States and for all elective officers provided for by the said constitution; and the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress and give certificates of election to those having the largest number of qualified votes.

Mr. EDMUNDS. That seems to imply only one certificate of election to Congress, and seems to imply, also, that there shall be only one election officer or set of officers to certify. There ought to be some means in each congressional district, as of course they must vote by districts for members of Congress, of collating the returns from all the precincts, and having one general certificate of some kind.

Mr. SHERMAN. I suppose that will be done by direction of the district commander. I copied that part of the amendment from the House section. Under the existing law the persons charged with the election certify the returns to the authority at the seat of government. At the seat of government the commanding officer I suppose will certify to the election of members of Congress. He having the result of all the elections in all the counties will make perhaps one general certificate.

Mr. EDMUNDS. The language of the amendment is that the election officers who have charge of the election on the ratification of the constitution shall enumerate the votes for members of Congress and certify the votes given. That is right so far, but then it goes on to provide that they shall also give certificates of election, which would seem to imply that, for instance, eight or ten officers in a congressional district, as there certainly ought to be as many election officers as that, because there ought to be that many election places, would be called upon to certify an election. I suggest to the Senator from Ohio whether it would not be better to amend it so as to provide first that

the registered voters in each congressional district as they existed at the beginning of 1860, for instance, may vote for a member of Congress.

Mr. SHERMAN. I offered the amendment in such shape as to leave the convention to frame an apportionment, and did not propose to go into details, because some of these States are now entitled to more members of Congress than they had under the previous apportionment, and in many of these States they have had no apportionment under the census of 1860. Hence the matter must be left to the conventions.

Mr. EDMUNDS. If the object is to make an election at large in these States of members of Congress, so that they vote at large for a certain number to which the State may be supposed to be entitled, that would be one thing; but I can scarcely suppose that to be the object. If that be not the object, then they must vote by congressional districts, and it is a very serious question with me whether we can depute to the constitutional convention or any other body of men the ascertainment of the congressional districts by which they shall vote. We ought to take either one horn of the dilemma or the other. Of course, as we have done, we may allow members of Congress to be elected at large; but if we do not do that it appears to me we ought to prescribe the districts which shall elect members of Congress, and require the registered voters of each district to vote in their own district; and then, having done that, it will be easy enough to provide in this amendment, by striking out a few of the last words, that the election officers shall certify the returns, but that the commanding general, whoever it may be, shall give the final certificate upon the collation of the returns from the district. As it reads now, it certainly seems to me to require a kind of multitudinous certificate from a great many different officers to one single member of Congress. That is the way it strikes me; but of course I have not had an opportunity to look over it.

Mr. TRUMBULL. I think the criticism of the Senator from Vermont is a just one. It would involve a difficulty to require the persons who enumerate and certify the votes cast to give certificates of election, because there will be a great many of those, and the section will be complete if the Senator from Ohio will strike out the last two lines. This election is to be held under the direction of the convention, and the certificates of election are usually given by the Governor of the State. Let the conventions provide for them, and they will ascertain the proper way of giving a certificate. Let the officers certify the number of votes and of course, if the conventions provide for the election at all, they will provide for the proper way of certifying the result. I think the usual practice is for a member of Congress to obtain a certificate of election from the Governor of his State.

Mr. EDMUNDS. Certainly, that is the practice.

Mr. SHERMAN. I will modify the amendment at the suggestion of the Senator from Illinois, by striking out the last clause of it. I think that would be the legal effect of it.

The PRESIDING OFFICER, (Mr. POMEROY in the Chair.) The amendment of the Senator from Ohio will be read as modified.

The Secretary read as follows:

And be it further enacted, That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution the registered voters may vote also for members of the House of Representatives of the United States and for all elective officers provided for by the said constitution; and the same election officers who shall make a return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress.

Mr. BUCKALEW. Mr. President, this amendment takes me by surprise. I observed that the committee had struck out the second section of the House bill, which provided for the holding of elections for members of Congress, and our attention was called only to the matter contained in italics in the printed bill, reported by them as an amendment, consisting of a single section. Now, the Senator from Ohio proposes in another form to attain the object intended by the second section of the House bill. He proposes, as I understand, to authorize the members of the constitutional conventions to order elections for members of Congres and other officers if they choose. If I had known that such a proposition was to be presented for consideration I would have prepared for the action of the Senate an amendment calling attention to a much more important question than any one contained in this bill; and that is, the mode in which those members shall be selected. I think if the Senate will bestow its attention to the proposition which has been so much debated abroad, and has to some extent become understood in Congress and in our country—I mean a reform in the mode in which representatives shall be elected—they would embrace this opportunity to incorporate it in the present bill, and to secure at least a commencement of a much needed, if not an indispensable, reform in our political system generally.

By a simple provision authorizing the election of members of Congress in these several States according to the principle of the cumulative vote you will secure a representation of the political community in each State exactly according to its relative weight, and you will have removed from this system of reconstruction or reorganization a large part of those practical mischiefs and evils which will attach to it without such an amendment. You will doubtless recommend it very largely to those who object to it. You will make it operate equally and fairly upon those communities, and at the same time secure, as far as our Government is concerned, a much more satisfactory condition of things in that section.

I am unable at present to present such an amendment, because it would require some leisure to prepare it. I would propose that in the State of Georgia, for instance, where seven members are to be elected, each elector shall possess as many votes as the State is entitled to members of Congress, and that he may bestow his votes upon the whole number of candidates to which the State is entitled, giving one to each, or he may bestow them upon one half the number, or upon any other number less than the whole. The practical result would be that in a political division among those who are called upon to exercise the right of suffrage they can bestow their votes so that each interest will get its due share of representatives, and the opposite party cannot prevent their election.

Of course I am not now proposing to enter upon this argument. If, however, the amendment of the Senator from Ohio shall be put upon this bill at its present stage, I shall prepare such an amendment and call the attention of Senators to the subject when the bill is in the Senate.

Mr. SHERMAN. My only object in offering this amendment was to simplify the process of reconstruction, so that when Congress passes upon the constitution of each reconstructed State we may have a full-fledged State, and not send the matter back again to be the subject of contest at a future election. I suppose, as a matter of course, my friend from Pennsylvania will coöperate in this idea, because this simplifies the matter and will leave the organization of the new State government dependent upon no contingency whatever, except the approval by Congress of the constitution submitted to them in pursuance of the reconstruction acts. That, I believe, has been the general course adopted in several of the States who have provided by their conventions for the election of State, county, and general public offices; but there is some doubt whether, under the reconstruction acts, they can do this.

Mr. BUCKALEW. What objection can there be to permitting these conventions to hold their elections for members of Congress for the whole State, instead of binding them to a particular district? We can recall our legislation as far as those districts are concerned, and allow them to choose in an improved manner.

Mr. SHERMAN. There is no legislation that I am aware of requiring elections to be in districts. The whole matter is left to the conventions. Some Senator proposed to limit the election of members of Congress to the existing districts; but there are no existing congressional districts in these States.

Mr. BUCKALEW. The Senator will remember that a general act of Congress requires the election of Representatives to be by single districts.

Mr. SHERMAN. Then the conventions will make those districts, because there are none now under existing legislation.

Mr. BUCKALEW. What I want is to have the election without districts.

Mr. SHERMAN. I will come to that in a moment. There is no division of these States now into congressional districts for this Congress, because the rebellion occurred immediately after the census was taken in 1860, and before there was time to apportion these States according to the law of Congress founded on that census. It is therefore necessarily left to the conventions to provide for the election of members of Congress, and I propose that the election shall be held at the same time that the ratification of the constitution is submitted to avoid delay.

Mr. DOOLITTLE. Allow me to suggest that the apportionment was made, and made by law, and the law applied to the States of the South just as much as the States of the North.

Mr. SHERMAN. The Senator does not understand me. I am talking to the Senator from Pennsylvania. The Senator from Wisconsin does not understand me. I say that while Congress provided for an apportionment, assigning to each State its proper number of members, yet the States which are now reconstructing never divided themselves into congressional districts in accordance with the act of Congress. We all know that; because they went into rebellion before they had the opportunity to do it.

Mr. WILSON. Most of them have had Legislatures since, and they have districted the States.

Mr. SHERMAN. Where the Legislatures organized under the Johnson plan subdivided the States into districts this amendment does not affect it.

The objection I have to putting in this bill a provision for what is called the cumulative plan of voting is to attempting to apply it in a community in the condition of those southern States. I am rather pleased with the idea, and have always listened with pleasure to the remarks, of my friend from Pennsylvania in regard to the cumulative system of voting, by which minorities may be represented. In an old and established community like the New England States or the middle States I should like very much to see the experiment tried. In England it would undoubtedly be a vast improvement on their system, and has been recommended by some of the greatest men that country has produced. I should like to see it tried in some of the old, well-established States, where they have a system of registry, where there is no danger of election frauds; but it would be manifestly impossible to try a new, perhaps not complex, but at least novel, system in these States, which are in a condition almost of chaos. It would take them at least two years to understand what it means. In old communities they would understand it immediately, because they are accustomed to elections; but the large body of the people who will vote at these elections are very ignorant—scarcely know yet what the ballot is. I am sorry for it; but it is so. The Senator from Indiana says some of these people do not know their names. That is their condition of ignorance. It is not their fault; it is the result of

the system under which they were bred. It seems to me that to propose to them to vote on a novel system that is now being discussed by philosophers and sages and statesmen like my friend from Pennsylvania would be very absurd. It is better to let them take the most simple form of voting directly for a man that they desire to represent them rather than to adopt this system and ingraft it on a mere temporary reconstruction measure. The election we provide for is a single election, to be entirely dispensed with when the State is admitted, when all our machinery falls to the ground. I should, therefore, dislike very much to see any new machinery ingrafted on it. Indeed, I have always thought that the simplest form of reconstruction was the best; to say to these people in as few words as possible what we require of them as guarantees of future loyalty, and then let them take their own way to get back into the Union upon their compliance with those conditions.

The amendment I have offered is only in accordance with the action of several of these States; but there has been grave doubt as to it, and I believe it has been decided in one State that they have no right to go on and provide for the election of local officers. The result will be that, if we admit any of these States, we leave them in a disorganized condition after they are admitted and their Constitution is approved by Congress, unless they have local officers. They are then to have a new election without the necessary machinery to elect those officers and start their State in motion. I desire by this amendment to present a scheme by which, when we do act upon their constitutions, the State may be full-fledged, with local officers, with a Governor and Legislature and all the necessary machinery for a complete State government.

Mr. BUCKALEW. Mr. President, of course I am not going now to discuss the proposition I suggested. Whenever the opportunity arises—I hope to do it before this measure passes from the Senate—I think I can show the Senator from Ohio that he is in error in supposing that I desire anything complicated or intricate, anything that is not perfectly comprehensible, anything which will cause greater trouble than the proposition he submits in regard to districts. But, sir, I do not propose to discuss the matter now.

Mr. HENDRICKS. I am opposed to the amendment of the Senator from Ohio. I have always, upon questions that were not political in their character, pursued the course of standing by the action of the committee, and I am surprised that the chairman should depart from it on this occasion. It was not on my motion in the committee that this provision which the Senator from Ohio now proposes to insert was stricken out, but it was the decision of the committee that it ought not to be there, and, being a very humble member of the committee, I feel like standing with the committee on that question, whatever may be my views about other questions in their report. I think the action of the committee on this point is right in principle.

The Senator from Ohio says that these people are not much enlightened, scarcely competent to get along with this business. Then, sir, there ought to be a single question submitted to them, whether they want this form of government or not; and to complicate that with another question which involves the ambition of partisans and politicians at an election to secure office ought not to be allowed. I think upon that question the committee was right, and I had expected the chairman of the committee to vindicate its position upon it.

When the question is submitted whether the Constitution shall be adopted it ought to be submitted to the people as a single proposition, in my judgment. Whether it be in Alabama or in Indiana, a question of this sort ought not to be mingled with controversies incident to the election of officeholders. It ought to stand as a single, naked question. I believe that was the view of the committee, and I think that the Senate ought to stand by the report of the committee on that question. Why do you want to elect members of Congress and State officers at the same time that the constitution is voted on? First decide whether the State constitution is to be adopted and afterward elect the officers under it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. DOOLITTLE. I move to amend the amendment by adding to it the following proviso:

Provided, nevertheless, That upon an election for the ratification of any constitution or of officers under the same, previous to its adoption in any such State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote unless he shall possess one of the following qualifications, to wit:

First, he shall have served as a soldier in the Federal Army for one year or more; or,

Second, he shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,

Third, he shall be seized in his own right or in the right of his wife of a freehold of the value of $250.

Mr. WILSON. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. On that amendment I desire to say just one word. I am not ordinarily in favor of any property qualification or any intelligence qualification for electors, and I would not vote for it in the State in which I live; but I vote for this amendment because it is a restriction on what I regard as an evil, a limitation upon that evil. For that reason I vote for it.

The question being taken by yeas and nays, resulted—yeas 3, nays 33; as follows:

YEAS—Messrs. Dixon, Doolittle, and Hendricks—3.
NAYS—Messrs. Buckalew, Chandler, Cole, Conkling, Corbett, Cragin, Davis, Drake, Ferry, Fowler, Harlan, Henderson, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—33.
ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Conness, Edmunds, Fessenden, Frelinghuysen, Grimes, Guthrie, Howard, Johnson, Morton, Norton, Patterson of Tennessee, Saulsbury, and Sprague—17.

So the amendment to the amendment was rejected.

Mr. DAVIS. I offer this amendment as an additional section:

And be it further enacted, That the elections herein provided for shall take place and be closed the same day in each State.

The amendment to the amendment was rejected.

Mr. HENDRICKS. I move to add after the word "evidence," in the amendment which was adopted on the motion of the Senator from Oregon, [Mr. WILLIAMS,] the words "in writing and under oath, to be returned with the returns of the election." This is simply a guarantee against fraud, requiring that the "satisfactory evidence" shall be under oath; that it shall be reduced to writing; that it shall be returned with the returns of the election, so that the party shall have over him the possibility of a prosecution if he swears falsely.

Mr. CORBETT. It seems to me that if that amendment be adopted it will require a great deal longer time to cast the votes in the southern States than is commonly allowed. If the voters have to take an oath in writing and to subscribe to a long document, it will very much delay the election. We have seen the manner in which the votes have been cast in these States and the long time it has taken, and we know that in many States an extension of the time first allowed has been necessary. This provision will, in my opinion, very much embarrass the casting of the vote, and therefore I shall feel constrained to vote against it.

The amendment to the amendment was rejected.

Mr. DAVIS. All the gentlemen express themselves as willing to afford guarantees against fraud. I will now offer another proposition with a view to that end:

And be it further enacted, That in the elections referred to in this act every person shall vote *viva voce* and not by secret ballot.

I think, if fairness is the object of elections the *viva-voce* mode promises much better than the secret ballot. The opportunities for fraud by stuffing ballot-boxes and obstructing ballots and other means of fraud I think are incomparably greater in number and more facile under the system of secret ballot. I therefore propose this amendment.

The amendment to the amendment was rejected.

Mr. DAVIS. I will offer one more proposition in the same line:

And be it further enacted, That it shall be the duty of each commander of the several military districts to appoint four scrutinizers for each county of his district, capable and fit men, two of whom shall have voted for, and two against, the adoption of the constitution, who shall proceed to scrutinize and purge each poll-book of their respective counties of all illegal votes; and the votes so excluded shall not be counted in the question of the adoption of the constitution. Said scrutinizers shall be appointed within ten days after the termination of the election in each county; and the scrutinizing shall be closed within twenty days after scrutinizers shall have been appointed and notified of their appointment.

Mr. NYE. I should like to know what the Senator from Kentucky means by the word "scrutinizers." What is the exact significance of that term? What is the office that these scrutinizers are to perform?

Mr. DAVIS. If the honorable Senator would go into one of these States and were appointed one of the gentlemen to scrutinize the votes I suppose he would soon learn what it meant. I presume he knows what scrutiny is; and I presume he knows what the scrutiny of a poll-book is. If he does not, I propose to give him a new idea, to teach him a little on that subject. I propose that the poll-books in the southern States shall undergo that operation and that all the illegal votes shall be rejected from them.

Mr. NYE. I should like to know of the honorable Senator whether they have these scrutinizers in Kentucky?

Mr. DAVIS. We have them in Kentucky, but we call them by another name; that is all. We have officers who perform the same office.

Mr. NYE. What do you call them in Kentucky?

Mr. DAVIS. We call them revisers.

Mr. NYE. I think that is a better word. [Laughter.]

The amendment to the amendment was rejected.

Mr. DOOLITTLE. As the Senate have determined by a very decided vote that there shall be no qualification of negro suffrage in the States of the South, although the amendment which I submitted proposed in the alternative the qualification which Massachusetts applies, or the qualification which New York applies, or the further qualification that the person should have served in the Union Army; as the Senate have resolved that suffrage of the negroes shall be universal, I propose to enlarge white suffrage somewhat by offering the following amendment:

Provided, That at any such election no person shall be refused registration and the privilege of voting who had duly received pardon and amnesty under the laws previous to the passage of the act to which this is amendatory.

That is, previous to March 2, 1867. I hope the Senate will adopt this amendment.

Mr. DRAKE. On that amendment I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. CONKLING. I wish the mover of this amendment would inform us, that we may vote intelligently, to what he refers as the act extending pardon and amnesty?

Mr. DOOLITTLE. The amendment speaks of pardons and amnesties granted before the reconstruction act of March 2, 1867, was passed.

Mr. CONKLING. I know that; but I inquire what pardon the Senator refers to; granted how and where?

Mr. DOOLITTLE. Previous to that time.

Mr. CONKLING. I wish especially to know whether the Senator refers to a recent proclamation of amnesty by the President?

Mr. DOOLITTLE. I refer to pardons granted before the act of Congress which prescribed the voting in the South. I think March 2, 1867, was the date.

Mr. CONKLING. I believe that the alleged pardons and amnesties extended up to that time had at least some show of legality. The question with me was whether the Senator meant by his amendment to cover those more recent, which, I think, had scarcely the color of law.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment, reported by the Committee on the Judiciary, as amended.

The amendment, as amended, was agreed to. It was to strike out all after the enacting clause of the House bill and to insert:

That hereafter any election authorized by the act, passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration," shall be decided by a majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted any person duly registered in the State may vote in the election district where he offers to vote, when he has resided therein for ten days next preceding such election, upon presentation of his certificate of registration, his affidavit, or other satisfactory evidence, under such regulations as the district commanders may prescribe.

SEC. 2. *And be it further enacted*, That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution the registered voters may vote also for members of the House of Representatives of the United States and for all elective officers provided for by the said constitution; and the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress.

Mr. BUCKALEW. I desire to inquire of the Senator who has this bill in charge whether he will allow it to go over until to-morrow, or whether he desires final action to-day?

Mr. TRUMBULL. I desire to be rid of it, and I have hoped that we may reach the vote to-night. I really trust the Senator from Pennsylvania will not ask to have it go over in order to present the question which he suggested a short time ago. It is a matter which it would hardly be advisable to put on this temporary bill anyhow, it seems to me.

Mr. BUCKALEW. I do not desire to occupy much time, and if this measure can come up to-morrow I will present the proposition which I desire to submit and my explanation of it in a period of some fifteen minutes. I desire a vote on it, and it is my opinion that this is the most favorable occasion upon which the attention of the Senate can be drawn to that subject. It is a case where there are no embarrassing circumstances attending the discussion of the subject or action upon it. I propose to have my amendment put in such form that it will be voluntarily accepted. I may say to Senators that I have received a number of letters from members of the conventions that have been sitting in these States, Virginia particularly, stating that they have obtained information and have been considering this very question. An amendment which will simply permit them, in ordering congressional elections in connection with the adoption of the Constitution, to allow their citizens to vote in such manner that there will be fair representation cannot be open to objection. We shall not impose it. We shall confer upon them an additional privilege and an additional authority which they cannot exercise under the present legislation of Congress. What I would desire would be upon to-morrow, in the period of some fifteen minutes, to present my amendment and explain it, and I think after doing that the Senate will be disposed to accept it, as it will not involve any difficulty or embarrassment to the Senate, and will give a privilege to these conventions which they ought to enjoy; and in making this motion I conform to the wishes of some persons who are members of these conventions, and men, too, with whom I have no political accord, who have been attracted by the idea and desire to try it.

The Senator from Ohio supposes that there will be some difficulty in the way. Not the slightest. The proposition simply is that an elector shall possess as many votes as there are representatives to be chosen, and he can bestow his votes at his discretion upon the whole number or upon any number less than the whole. That is all. All that is necessary is that a party in one of the States—a Republican party or a Democratic party—shall print its tickets for the number of candidates to which it desires to give its support, and the tickets are passed to the electors, and there will be no question and no difficulty in trying the experiment.

Can there be any objection to permitting these conventions to hold this single election in this manner if they choose to order it? What will be the result? One race will not be voting down another; the whites will not be voting down the blacks, nor the blacks voting down the whites. If there is any proposition upon the face of the earth that can operate handsomely and properly it is just such a one as this. If the convention in Virginia, in which there are representatives of both races, chooses to try this experiment of voting there, which has high sanction abroad as well as strong indorsements at home, and enable the electors to vote so that the white voters of that State will elect their share of Representatives in Congress and the black voters their share, and one side will not vote down the other, pray what harm is done; what public interest is endangered; what political interest, even, is involved? This is not a question which can assume a party complexion. It has not assumed a party complexion abroad in the Parliament of Great Britain. The measure was there voted for by Tories, by Whigs, by Liberals, and by Radicals indiscriminately. It broke up parties utterly, both as to those who supported it and those who opposed it. It is a simple proposition by which an elector shall be emancipated from the burdens and inconveniences which have heretofore pressed upon him, by which he can be enabled to vote for men who will be elected instead of voting down somebody else or being voted down himself.

Why not try this, if we desire to enable these men who in good faith are carrying out your congressional system of reconstruction, who are endeavoring to build up this political structure in Virginia and the other States, to adopt a system of voting by which harmony will be established among themselves, by which white and black will each obtain its fair share of power in these States? Of course I foresee that if elections should be held in this manner in but one, two, or three States, and the result should be shown by a return to the House of Representatives of members chosen under this system, the system would be adopted throughout the country within a year or two years. It requires nothing except an illustration which the people can see and understand, and it will be adopted universally and applied everywhere. I have not a particle of doubt of it.

However, sir, as I said before, I did not anticipate that this subject was coming up, and therefore I had not prepared an amendment. I have, however, drawn hastily in my seat an amendment which I will now offer, to be added after the amendment which was adopted on the motion of the Senator from Ohio:

And be it further enacted, That such convention in any of the said States may authorize the election of Representatives in Congress from the State at large and upon the principle of the cumulative vote.

In the clause proposed by Mr. Lowe in the British Parliament the arrangement was this:

"That at any contested election for a county or borough represented by more than two members and having more than one seat vacant every voter shall be entitled to a number of votes equal to the number of vacant seats, and may give all such votes to one candidate or may distribute them among the candidates, as he thinks fit."

It would be convenient, perhaps, to add to my amendment the latter portion of this clause providing for the application of the idea which is contained in the amendment. I hope that the Senator from Illinois will permit us to take this vote to-morrow. I shall not delay him long.

Mr. HENDRICKS. If the Senator from Pennsylvania will yield the floor I will move that the Senate adjourn.

Mr. TRUMBULL. I fear that other measures will crowd this out to-morrow.

Mr. SHERMAN. I desire to-morrow to have the funding bill taken up.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate adjourn, and the question is not debatable.

Mr. HENDRICKS. I make the motion because the Senator from Pennsylvania wishes to submit some remarks.

Mr. SHERMAN. The Senator from Pennsylvania has already given his views at length on this subject, and very ably. Certainly he could not in ten or fifteen minutes now renew the speech he made some time ago on this subject.

Mr. BUCKALEW. I do not intend to do that.

Mr. SHERMAN. If this bill is left open until to-morrow it will lead to further debate. I have not trespassed on the Senate, but I desire to have the funding bill taken up to-morrow with a view of being heard upon it.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. BUCKALEW. Mr. President, I perceive that the Senator from Ohio and the Senator from Illinois are both indisposed to permit me to present this subject in connected form. I do not complain of it, although I regret it. Of course I shall not now occupy the attention of the Senate with the remarks, although brief, I should have felt it my duty and should be rejoiced in the opportunity of making on a more suitable occasion. I withdraw the amendment as, of course, under the circumstances, I cannot expect the Senate to adopt it.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. DAVIS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken resulted—yeas 28, nays 6; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Corbett, Cragin, Ferry, Harlan, Howe, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson and Yates—28.

NAYS—Messrs. Buckalew, Davis, Doolittle, Hendricks, Patterson of Tennessee, and Saulsbury—6.

ABSENT—Messrs. Anthony, Bayard, Cattell, Conness, Dixon, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Guthrie, Henderson, Howard, Johnson, Morgan, Morton, Norton, and Sprague—19.

So the bill was passed.

THE FUNDING BILL.

Mr. SHERMAN. I move now to take up Senate bill No. 207, with a view to leave it as the unfinished business for to-morrow.

Mr. SUMNER. What is that bill?

Mr. SHERMAN. The funding bill. I desire to address the Senate to-morrow upon it.

Mr. SUMNER. Has not the Senator from Delaware [Mr. SAULSBURY] the floor on the other question?

Several SENATORS. Certainly.

Mr. SUMNER. I think he took the floor on the other question.

Mr. HENDRICKS. That is true, and it was made the order of the day for to-morrow at one o'clock.

Mr. SHERMAN. I will move, then, to take up the funding bill for the purpose of postponing it until Thursday. I would prefer to have some day fixed for its consideration. I move now to take up Senate bill No. 207 with that view.

The motion was agreed to.

Mr. SHERMAN. The bill being up, I now move that it be postponed until Thursday at one o'clock, and made the special order for that time.

The motion was agreed to.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 25, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. By unanimous consent the House ordered that to-day business should be transacted as on Monday; therefore the first business during the morning hour will be the call of States and Territories, commencing with the State of Maine, for bills and joint resolutions for reference to appropriate committees, not to be brought back into the House by a motion to reconsider; during which call joint resolutions and memorials of State and Territorial Legislatures are in order.

COMMON CARRIERS.

Mr. BLAINE introduced a bill (H. R. No. 789) to limit the liability of common carriers of goods between the different States; which was read a first and second time, and referred to the Committee on the Judiciary.

FISHING LICENSE AND TONNAGE TAX.

Mr. PILE introduced a bill (H. R. No. 790) relative to fishing license and the payment of the tonnage tax; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HEIRS OF CAPTAIN JOSHUA CHAMBERLAIN.

Mr. VAN HORN, of New York, introduced a bill (H. R. No. 791) for the relief of the heirs of Captain Joshua Chamberlain, deceased; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York, also introduced a bill (H. R. No. 792) to provide for the construction of a ship-canal around the Falls of Niagara; which was read a first and second time, and referred to the select committee on the subject appointed at the last session.

MUSTERING OUT OF PAYMASTERS, ETC.

Mr. WARD introduced a joint resolution (H. R. No. 210) in relation to mustering out quartermasters, &c.; which was read a first and second time, and referred to the Committee on Military Affairs.

MARTHA J. LINDSAY.

Mr. GLOSSBRENNER introduced a bill (H. R. No. 820) granting a pension to Martha J. Lindsay; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ENCOURAGEMENT OF AMERICAN ART.

Mr. MILLER presented a joint resolution of the Legislature of the State of Pennsylvania, instructing their Senators and requesting their Representatives in Congress to procure such a change in the tariff laws as will promote and encourage American art and American artists; which was referred to the Committee of Ways and Means, and ordered to be printed.

EVENING STAR NEWSPAPER COMPANY.

Mr. WELKER introduced a bill (H. R. No. 793) to incorporate the Evening Star Newspaper Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

VIRGINIA MILITARY DISTRICT OF OHIO.

Mr. WILSON, of Ohio, introduced a bill (H. R. No. 794) to reopen the land office in the Virginia military district of Ohio, and for other purposes; which was read a first and second time, and, with a communication from the Commissioner of the General Land Office on the same subject, referred to the Committee on Public Lands.

JOHN W. POWELL.

Mr. ECKLEY introduced a bill (H. R. No. 795) for the relief of John W. Powell; which was read a first and second time, and referred to the Committee of Claims.

POST ROUTE IN KENTUCKY.

Mr. GOLLADAY introduced a bill (H. R. No. 796) to establish a post route from Olive Hill, via Epperhartz and Blair's Mills, to West Liberty, in the State of Kentucky; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LOCAL STEAMBOAT INSPECTORS.

Mr. NIBLACK introduced a bill (H. R. No. 797) to provide two local inspectors of steamboats at Evansville, in the State of Indiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES COURTS IN TENNESSEE.

Mr. NUNN introduced a bill (H. R. No. 798) to amend an act entitled "An act to change the time of holding the circuit and district courts of the United States in Tennessee;" which was read a first and second time, and referred to the Committee on the Judiciary.

BOUNTY LAND FOR SOLDIERS.

Mr. COBURN introduced a bill (H. R. No. 799) granting bounty land to soldiers who have been engaged in the military service of the United States in the war of the rebellion; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ELECTION OF REPRESENTATIVES.

Mr. COBURN also introduced a bill (H. R. No. 800) to provide for the rejection as void of all votes cast at any election for members of the House of Representatives of the United States for any person known to be ineligible by the persons casting them; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SUITS IN UNITED STATES COURTS, ETC.

Mr. COOK introduced a bill (H. R. No. 801) relative to suits in the courts of the United States, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ORGANIZATION OF TERRITORIES.

Mr. LOAN introduced a bill (H. R. No. 802) supplementary to the several acts for organizing certain Territories of the United States; which was read a first and second time, and referred to the Committee on Territories.

POST ROUTE IN IOWA.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 803) to establish a post route from Sigourney, Iowa, via Webster, White Pigeon, Millersburg, and Genoa Bluffs, to Marengo, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MAIL SERVICE IN WISCONSIN.

Mr. COBB presented a joint resolution of the Legislature of the State of Wisconsin, praying for additional mail service between Lone Rock and Ironton, in that State; which was referred to the Committee on the Post Office and Post Roads.

IMPROVEMENT OF ROCK RIVER, WISCONSIN.

Mr. ELDRIDGE presented the memorial of the Legislature of Wisconsin, for a land grant to aid in the improvement of Rock river; which was referred to the Committee on Public Lands, and ordered to be printed.

LAKE MICHIGAN SHIP-CANAL.

Mr. SAWYER presented a joint resolution of the Legislature of Wisconsin for a further grant of the public lands to aid in building the Sturgeon Bay and Lake Michigan ship-canal; which was referred to the Committee on Public Lands, and ordered to be printed.

IMPROVEMENT OF THE MENOMONEE RIVER.

Mr. SAWYER also presented a memorial of the State of Wisconsin, for an appropriation to construct a harbor at the mouth of the Menomonee river; which was referred to the Committee on Commerce.

IMPROVEMENT OF THE CHIPPEWA RIVER.

Mr. WASHBURN, of Wisconsin, presented a memorial of the State of Wisconsin to Congress, for an appropriation for the improvement of the Chippewa river, in the State of Wisconsin; which was referred to the Committee on Commerce, and ordered to be printed.

MINNESOTA AND MISSOURI RIVER RAILROAD.

Mr. HOPKINS presented a joint resolution of the State of Wisconsin, relative to a grant of lands to aid in the construction of the Minnesota and Missouri River railroad, in Dakota Territory; which was referred to the Committee on Public Lands.

EXTENSION OF PACIFIC RAILROAD.

Mr. CLARKE, of Kansas, presented a concurrent resolution of the Legislature of Kansas, instructing the Senators and requesting the Representative from that State to present to Congress the subject of the extension of the eastern division of the Union Pacific railway; which was referred to the Committee on the Pacific Railroad.

MRS. MARY CLARK.

Mr. HUBBARD, of West Virginia, introduced a bill (H. R. No. 804) for the relief of Mrs. Mary Clark; which was read a first and second time, and referred to the Committee of Claims.

GRADES OF NAVAL OFFICERS.

Mr. HUBBARD, of West Virginia, also introduced a bill (H. R. No. 805) to amend an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

RAILROADS IN NEBRASKA.

Mr. TAFFE introduced a bill (H. R. No. 806) granting lands to aid in the construction of a railroad from Brownville, and for aiding other railroads in the State of Nebraska, to intersect the Union Pacific railroad; which was read a first and second time, and referred to the Committee on Public Lands.

OCCUPANCY OF SAN JUAN ISLAND.

Mr. FLANDERS presented a joint resolution of the Legislative Assembly of Washington Territory, in regard to the joint occupancy of San Juan island; which was referred to the Committee on the Judiciary, and ordered to be printed.

COLORADO TERRITORY.

Mr. CHILCOTT introduced a bill (H. R. No. 807) declaring null and void a certain act of the Colorado Legislature therein named; which was read a first and second time, re-

ferred to the Committee on the Territories, and ordered to be printed.

STATE OF MONTANA.

Mr. CAVANAUGH introduced a bill (H. R. No. 808) to enable the people of the Territory of Montana to form a constitution and State government, and for the admission of said State into the Union; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

WASHINGTON MASONIC MUTUAL ASSOCIATION.

Mr. WOOD introduced a bill (H. R. 809) to incorporate the Washington Masonic Mutual Relief Association of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

HEIRS OF THOMAS W. HARVEY, DECEASED.

Mr. HAIGHT introduced a bill (H. R. No. 810) for the relief of the widow and heirs of Thomas W. Harvey, deceased; which was read a first and second time, and referred to the Committee on Patents.

HENRY S. GIBBONS.

Mr. DRIGGS introduced a joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. John's, Michigan; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CLAIMS IN KENTUCKY.

Mr. SHANKS introduced a joint resolution (H. R. No. 212) to provide for the examination of certain claims in the State of Kentucky; which was read a first and second time, and referred to the Committee of Claims.

JUDICIAL DISTRICTS IN ILLINOIS.

Mr. INGERSOLL introduced a bill (H. R. No. 811) to divide the State of Illinois into three judicial districts; which was read a first and second time, and referred to the Committee on the Judiciary.

INDIANA VOLUNTEERS.

Mr. HOLMAN introduced a bill (H. R. No. 812) granting a bounty of fifty dollars to the soldiers of the twelfth and sixteenth regiments of one year Indiana volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

INTERNAL REVENUE.

Mr. SPALDING introduced a bill (H. R. No. 813) declaratory of the meaning of a certain clause in section ninety-four of an act to provide internal revenue, &c.; which was read a first and second time, and referred to the Committee of Ways and Means.

POST OFFICE AND CUSTOM-HOUSE AT CAIRO.

Mr. RAUM introduced a bill (H. R. No. 814) to secure the completion of the post office and custom-house at Cairo, Illinois; which was read a first and second time, and referred to the Committee on Appropriations.

MARY MERCHANT.

Mr. MUNGEN introduced a bill (H. R. No. 815) for the relief of Mary Merchant, of Hancock county, Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HOMESTEAD ENTRIES IN OHIO.

Mr. LAWRENCE, of Ohio, introduced a bill (H. R. No. 816) to authorize homestead entries in the Virginia military district in Ohio; which was read a first and second time, and referred to the Committee on Public Lands.

The SPEAKER. The call of the States for bills having been concluded, the next business in order is the call of the States and Territories for resolutions.

PAY OF CLAIMANTS TO SEATS.

Mr. ELDRIDGE introduced the following resolution, and demanded the previous question thereon:

Resolved, That there be paid out of the contingent fund of this House to John Young Brown the sum of $2,500, in full for time spent and expenses incurred in prosecuting his claim to a seat in this House under and by virtue of the certificate of election of his State in due form.

The previous question was seconded and the main question ordered.

Mr. MULLINS. I rise to a point of order. This resolution has virtually been voted down once, and it is not now in order that it should be offered again.

The SPEAKER. The Chair overrules the point of order for two reasons. In the first place, it has not been voted down in its present shape. A resolution in favor of four contestants was voted down. In the second place, the objection was not made in time.

Mr. MULLINS. I raise another point of order. It involves an appropriation, and it must, therefore, go to the Committee of the Whole.

The SPEAKER. The Chair overrules that also. The payment being ordered out of the contingent fund, it is not an appropriation bill. The contingent fund is provided for by an appropriation.

Mr. MULLINS. I demand the yeas and nays.

Mr. DAWES. Will the House hear me on this question?

The SPEAKER. The Chairman of the Committee of Elections desires to be heard on this question. Is there objection? The Chair hears none.

Mr. DAWES. I really hope the House will adopt this resolution and two others that will be offered after it. It is a resolution to compensate a claimant to a seat. It proposes to pay about half or less than half the amount of the annual salary of a member to a gentleman who comes here with the certificate of his Governor and with six thousand majority, but who was refused admission upon a question that had never been decided anywhere, and upon which after examination and hearing of argument the committee to which the case was referred were equally divided.

Mr. WARD. I rise to a question of order. Debate is not in order.

The SPEAKER. The Chair sustains the point of order. The resolution is not debatable under the rules.

Mr. DAWES. I wish the gentleman would withdraw the point of order.

Mr. WARD. I am willing that the resolution shall go over so that we can debate it.

The SPEAKER. The gentleman insists on the point of order, and the Chair sustains it.

Mr. DAWES. Well, I hope the House will do justice in this case.

Mr. MULLINS. I withdraw the demand for the yeas and nays for the present.

Mr. ECKLEY. I renew the demand.

Mr. WARD. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. ELDRIDGE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. SAWYER. I offer the following resolution, upon which I demand the previous question:

Resolved, That there be paid to Samuel E. Smith out of the contingent fund of the House $2,500, in full for time spent and expenses incurred in prosecuting his claim to a seat in this House from the second congressional district of Kentucky.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SAWYER moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOPKINS. I offer the following resolution, upon which I demand the previous question:

Resolved, That there be paid to G. G. Symes out of the contingent fund of the House $2,500, in full for time spent and expenses incurred in prosecuting his claim to a seat in this House from the first congressional district in Kentucky.

Mr. WASHBURNE, of Illinois. How many more resolutions of this kind are there?

Mr. HOLMAN. I trust the gentleman will amend that resolution, so as to include the name of Judge Birch, of Missouri.

Mr. HOPKINS. I prefer that each case shall stand on its own merits.

The question was put on seconding the demand for the previous question; and there were—ayes 57, noes 36; no quorum voting.

Tellers were ordered; and Messrs. SCHENCK and HOPKINS were appointed.

The House divided; and the tellers reported—ayes 67, noes 36.

So the previous question was seconded.

The main question was then ordered, being upon the adoption of the resolution.

Mr. HAIGHT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 52, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Banks, Beatty, Bingham, Boutwell, Bromwell, Broomall, Buckland, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Dawes, Dodge, Driggs, Eliot, Farnsworth, Ferriss, Fields, Harding, Hawkins, Hopkins, Hunter, Ingersoll, Jenckes, Julian, Kelley, Kelsey, Laflin, Loan, Lynch, Mallory, McCarthy, McClurg, McCormick, Mercur, Miller, Moorhead, Morrell, Mullins, Mungen, Myers, Nunn, O'Neill, Paine, Pike, Poland, Price, Raum, Sawyer, Scofield, Shanks, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—78.

NAYS—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Baker, Barnes, Barnum, Beck, Benton, Blair, Boyer, Brooks, Burr, Covode, Cullom, Eckley, Eldridge, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hotchkiss, Chester D. Hubbard, Hulburd, Johnson, Ketcham, Knott, George V. Lawrence, William Lawrence, Loughridge, Marvin, McCullough, Niblack, Orth, Perham, Phelps, Plants, Pruyn, Randall, Schenck, Sitgreaves, Taber, Taylor, Lawrence S. Trimble, Van Auken, Van Trump, Ward, Elihu B. Washburne, Wood, and Woodward—52.

NOT VOTING—Messrs. Baldwin, Beaman, Benjamin, Blaine, Butler, Cake, Cary, Chanler, Dixon, Donnelly, Eggleston, Ela, Ferry, Finney, Fox, Garfield, Gravely, Halsey, Higby, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Judd, Kerr, Kitchen, Koontz, Lincoln, Logan, Marshall, Maynard, Moore, Morgan, Morrissey, Newcomb, Nicholson, Peters, Pile, Polsley, Pomeroy, Robertson, Robinson, Ross, Selye, Shellabarger, Smith, Thaddeus Stevens, Stone, Taffe, Thomas, John Trimble, Twichell, Robert T. Van Horn, Henry D. Washburn, William Williams, and Stephen F. Wilson—59.

So the resolution was adopted.

Mr. HOPKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORT SNELLING RESERVATION.

Mr. DODGE submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Military Affairs be instructed to ascertain what portion, if any, of the military reservation of Fort Snelling it is necessary or expedient to retain for military purposes, and upon what terms undisputed title can be acquired by the Government to the same, and what legislation, if any, is necessary to enable the War Department to make a full statement between the Government and the purchaser of said reservation, both as to the purchase of the same and the use or occupation thereof, since the purchase, by United States troops, and to report by bill or otherwise.

DUTIES ON IMPORTS.

Mr. ALLISON. I submit the following resolution, upon which I call the previous question:

Resolved, That it is the sense of this House that to the legislative power of Congress alone belongs the right to determine the rates of duties on importations, and that it is beyond the province of the President and Senate, as the treaty-making power, to authorize importation of the manufactures or products of foreign countries, except at such rates of duty as the tariff laws of the United States may prescribe.

The question was taken upon seconding the call for the previous question; and upon a division there were—ayes 64, noes 29; no quorum voting.

Tellers were ordered; and Mr. ALLISON and Mr. VAN TRUMP were appointed tellers.

The House again divided; and the tellers reported that there were—ayes eighty-four, noes not counted.

So the previous question was seconded.

The main question was then ordered, which was upon the adoption of the resolution.

Mr. BROOKS. I hope gentlemen will not make any record of their votes on this resolution, but that they will "go it blind."

The resolution was then adopted.

Mr. ALLISON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GOVERNMENT AID TO RAILROADS.

Mr. WILSON, of Iowa. I submit the following resolution, and upon it I call for the previous question:

Resolved, That the public welfare demands that the pecuniary obligations of the United States should be kept within the narrowest limits consistent with the necessary requirements of the Government, and therefore it is not expedient at this time to enlarge said obligations by extending aid to the Union Pacific Railroad Company or any other company, by granting, beyond the terms of existing laws, subsidies in the bonds of the United States, or by guaranteeing the payment of any stock or other liabilities of said company or any other corporations, and that the committees of this House be instructed to report no bill during this session of Congress in conflict with this resolution.

The question was taken upon seconding the previous question; and upon a division there were—ayes 48, noes 32; no quorum voting.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. GOLLADAY were appointed.

The House again divided; and the tellers reported that there were—ayes 47, noes 50.

So the previous question was not seconded.

The SPEAKER. The morning hour has expired, and this resolution goes over until the morning hour on Monday next.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER. The next business in order is the consideration of the motion made by the gentleman from New York, [Mr. GRISWOLD,] on Monday of last week, to suspend the rules in order to enable him to submit a preamble and resolutions in relation to the rights of American citizens abroad.

Mr. KELSEY. I ask that the preamble and resolutions be read.

The Clerk read as follows:

Whereas the principles which underlie the foundation of the American Republic, as an independent nation, recognize "the right of all men to life, liberty, and the pursuit of happiness;" and whereas the duties of allegiance and protection being reciprocal, the Government of the United States are bound to protect this right equally in the persons of all citizens, whether native or naturalized; and whereas all judicial opinions or pretended judicial opinions to the contrary notwithstanding, this is, and has always been, the fundamental law of this country, and one which the President and all other authorities of the country are, and always were, bound to enforce; and whereas the right of all American citizens to equal protection has been, or is reported to have been, lately violated in frequent instances by certain foreign Governments, especially by those of Great Britain and Prussia: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this right to equal protection of person and property, on the part of all citizens of the United States, is now, as it has always been, and shall forever be, the law of this country.

2. That in every instance, ascertained in the manner hereinafter prescribed, of the violation of the rights of an American citizen, by any foreign Government whatever, it shall be the duty of the Executive of the United States to demand the instant release of such citizen, with adequate reparation for the insult and injury sustained by him; or, on failing to obtain such release and reparation, the Executive shall immediately report the facts to Congress, by and with whose advice and authority he shall employ all the power of the country to maintain its honor and the rights of its citizens.

3. That in every instance, either at present existing or which may hereafter occur, of the arrest or imprisonment of an American citizen in any foreign country, it shall be the duty of the President, or of his representative in such foreign country, to demand a certified copy of the charge laid against such citizen, to require that he be brought to trial within ten days after his arrest, to secure to him the benefit of an impartial jury, with the necessary legal assistance; and in case of the refusal or delay of such trial, or, on its being had, of the acquittal of the accused, it shall be the duty of the President to demand his instant release, or to employ the whole power of the country to enforce it.

Mr. WASHBURNE, of Illinois. I ask the gentleman from New York [Mr. GRISWOLD] whether he does not propose to refer these resolutions to the Committee on Foreign Affairs? He will not, I hope, demand an immediate vote upon them under the previous question.

Mr. CULLOM. I was about to put the same inquiry to the gentleman from New York.

Mr. GRISWOLD. I prefer to put the resolutions on their passage now. I have no desire or intention to occupy the time of the House in discussing them. The questions embraced in them have already been elaborately discussed on this floor, and I presume every member has formed his views in regard to those questions. There is, Mr. Speaker, a feeling in the country that we have been remiss, that our Government has failed heretofore to discharge its entire duty in the way of expressing its interpretation of the rights of our citizens abroad. I have offered these resolutions with a view of getting a more emphatic and direct expression of this House, so that we shall have something more than mere diplomatic correspondence upon a subject that engrosses so much of the attention of the American people; and I desire, as I have said, that the resolutions shall be put on their passage now.

Mr. RANDALL. I do not like to interrupt the gentleman from New York, [Mr. GRISWOLD;] but I give notice that after he has concluded I shall raise the question of order whether the motion to suspend the rules is debatable.

The SPEAKER. A motion to suspend the rules is not debatable; but the Chair does not ordinarily arrest the remarks of gentlemen when that motion is pending unless the point of order be made.

Mr. RANDALL. I did not wish to interrupt the gentleman from New York.

Mr. WASHBURNE, of Illinois. I hope that, by common consent, the resolutions will be referred.

Mr. RANDALL. I object to debate.

The SPEAKER. Debate is not in order.

Mr. MULLINS. I hope the gentleman from New York will not insist on the suspension of the rules. This is a very important question.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] objects to debate.

Mr. MULLINS. Well, I ask the gentleman from New York to let the resolution be referred to the committee.

Mr. RANDALL. The gentleman from Tennessee [Mr. MULLINS] can make that motion himself.

The SPEAKER. If the previous question is not moved and seconded, that motion will be in order.

Mr. CULLOM. I desire to make a parliamentary inquiry. I wish to know whether, if these resolutions come before the House, it will be in order to make a motion to refer them to the Committee on Foreign Affairs?

The SPEAKER. That motion will be in order unless the previous question be called and seconded.

Mr. CULLOM. I hope the gentleman from New York will permit the House to vote on the motion to refer.

Mr. BAKER. I desire to inquire whether the gentleman from Pennsylvania [Mr. RANDALL] will not allow a single question to be addressed to the gentleman from New York?

Mr. RANDALL. I see that I have not the power to prevent gentlemen from asking questions. If the gentleman from Illinois [Mr. BAKER] desires to put a question to the gentleman from New York, I shall not insist on the point of order.

Mr. BAKER. I wish, then, to ask the gentleman from New York whether, in view of the fact that a bill upon this subject-matter has already been reported to the House and has been recommitted, he thinks it proper to bring the House to a vote upon resolutions that may not be consistent with the action which we may take when we come to act on that bill? I think the resolutions ought to be referred.

Mr. GRISWOLD. In reply to the gentleman from Illinois, [Mr. BAKER,] I can say with great sincerity that I always disapprove of forcing upon the House intricate and extended resolutions and demanding upon them an expression of the House without the opportunity for debate. Therefore, upon further reflection, I shall make no objections to having the resolutions referred to the Committee on Foreign Affairs.

The SPEAKER. If there be no objection, the rules will be regarded as suspended, and the resolutions introduced and referred to the Committee on Foreign Affairs.

There was no objection.

Mr. JUDD. I hope the resolutions will be printed.

The SPEAKER. If there is no objection, the resolutions will be ordered to be printed.

There was no objection.

NAVAL APPROPRIATION BILL.

The SPEAKER. The next business in order is the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, which was postponed till this day, which, by the order of the House, is regarded as Monday.

Mr. WASHBURNE, of Illinois. The gentleman from Maine, [Mr. PIKE,] who made the point of order on the three last sections of the bill, is not here at this moment. I think he would not insist upon the point of order this morning. But if the point of order be insisted upon I shall move to suspend the rules to introduce those sections.

Mr. KELLEY. I desire to say that the gentleman from Maine, if here, would insist on the point of order, and in doing so would act in pursuance of the determination arrived at by the Committee on Naval Affairs this morning. I therefore desire to reserve the point of order.

Mr. WASHBURNE, of Illinois. I agreed to give the gentleman from Maine, [Mr. PIKE,] what is satisfactory to him, part of my hour, to explain the objections he has to these sections.

Mr. KELLEY. I feel it is my duty, as a member of the Naval Committee, in the absence of the chairman, to insist on the point of order.

The SPEAKER. The amendments of the Committee of the Whole on the state of the Union are before the House.

Mr. WASHBURNE, of Illinois. I move the three sections at the close of the Navy appropriation bill, as printed, as an amendment. It is necessary they should come in to carry out the estimates of the Secretary and the appropriations of the committee.

The Clerk read the amendment, as follows:

SEC. —. *And be it further enacted*, That the fourth section of an act entitled "An act making appropriations for the naval service for the year ending the 30th of June, 1848," approved March 3, 1847; the second section of an act entitled "An act to increase the pay of midshipmen and others," approved March 3, 1865; the second section of an act entitled "An act to regulate the appointment and pay of engineers in the Navy of the United States," approved August 31, 1842; the ninth section of an act entitled "An act to amend certain acts in relation to the Navy," approved March 2, 1867; and the first section of an act entitled "An act to establish the office of solicitor and naval judge advocate," approved March 2, 1865, be, and the same are hereby, repealed.

SEC. —. *And be it further enacted*, That each and every seaman, ordinary seaman, or landsman who shall perform the duty of a fireman or coal-heaver on board of any vessel of war shall be entitled to and shall receive a compensation at the rate of eight dollars per month for the time they shall thus be employed as firemen and coal-heavers, and which shall be in addition to their compensation as seamen, ordinary seamen, or landsmen, as aforesaid.

SEC. —. *And be it further enacted*, That the number of non-commissioned officers, musicians, and privates authorized and allowed to be enlisted into the Marine corps of the United States be, and the same is hereby, fixed and declared to be the number established by the act of Congress entitled "An act for the better organization of the Marine corps," approved July 25, 1861; and all acts or parts of acts

authorizing a number to be enlisted in excess of the number in act of July 25, 1861, are hereby repealed; and the total amount appropriated by this bill is $18,096,045.

The SPEAKER. The point of order was made on these sections in the Committee of the Whole on the state of the Union, and they were ruled out, no appeal being taken from the decision of the Chairman. The gentleman from Pennsylvania now makes the point of order that they are not in order under the 120th rule, as they are independent legislation on an appropriation bill. The Chair sustains the point of order.

Mr. KELLEY. The Committee on Naval Affairs approve some of the general principles of these sections, but they desire to introduce a well considered bill aiming at what is here proposed very crudely.

Mr. WASHBURNE, of Illinois. I move to suspend the rules, so as to enable me to introduce these sections as an amendment. There is no quorum present, and first, perhaps, I had better move there be a call of the House.

Mr. MUNGEN. I ask the gentleman to yield to me.

Mr. WASHBURNE, of Illinois. I will yield for propositions that do not give rise to debate and upon which no votes are asked, and hope notice will be sent out that the House is without a quorum.

POST ROUTE.

Mr. MUNGEN introduced a bill (H. R. No. 817) to establish a post route from Findlay, via Benton Ridge, Bluffton, and Beaver Dam, to Lima, in the State of Ohio, and to abolish post route No. 9388; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

REDUCTION OF INTERNAL REVENUE TAX.

Mr. MORRELL. I ask unanimous consent to report from the Committee on Manufactures the following preamble and resolution:

Whereas the depressed condition of the productive industries of the country is largely due to the burdensome taxation to which it is subjected; and whereas such taxation is no longer necessary for the credit of the Government, and under the operations of increasing foreign competition must be chiefly borne by the producer, and thus come out of the wages of labor; and whereas the true interests of the people demand an early declaration by Congress of the policy which its maturer legislation will secure to the country: Therefore,

Be it resolved, That the Committee of Ways and Means be, and it is hereby, requested to report for the action of this House at the earliest practicable date bills providing for the removal of the internal revenue tax from all useful productions, for the adjustment of import and tonnage duties so as to equalize the disparities in the cost of capital and labor between our own and competing nations, to encourage the importation of the skilled laborer instead of the product of his labor, secure the balance of trade in favor of this country, and thus insure to the nation financial solvency, a safe and permanent return to specie values, industrial prosperity, and true independence.

Mr. WOOD. I object.

Mr. MORRELL. I move to suspend the rules.

The SPEAKER. There is a motion pending by the gentleman from Illinois [Mr. WASHBURNE] to suspend the rules.

RELIEF OF DESTITUTE IN THE DISTRICT.

Mr. INGERSOLL. I ask the unanimous consent of the House to report from the Committee for the District of Columbia, for immediate consideration Senate bill No. 270, for the temporary relief of the destitute people in the District of Columbia.

Mr. WASHBURNE, of Illinois. I will yield to nothing that will lead to any discussion.

The SPEAKER. A single objection will prevent its being considered. The bill will be read, after which the Chair will call for objection, if any.

Mr. WOOD. I shall ask leave to offer an amendment to the bill when it comes before the House.

Mr. INGERSOLL. That may be granted.

The bill was read. It appropriates $15,000 for the temporary relief of the destitute population in the District of Columbia, to be expended under the supervision and direction of the Commissioner of Refugees, Freedmen, and Abandoned Lands; provided that as far as practicable said sum shall be expended in the employment of persons upon the public grounds and works in the District of Columbia, for which appropriations have been heretofore made by Congress, such laborers to be under the direction of the officer acting as Commissioner of Public Buildings and Grounds.

The SPEAKER. Is there objection to allowing the committee to report this bill for passage at the present time without discussion?

Mr. WOOD. I desire to offer an amendment by adding after the words "Commissioner of Refugees, Freedmen, and Abandoned Lands" the words "and Provident Aid Society of the city of Washington."

Mr. INGERSOLL. I do not know that I shall object to that. Here is a document which I desire to have read.

The SPEAKER. Does the gentleman accept the amendment?

Mr. INGERSOLL. I would rather accept it than have the bill postponed.

The amendment was agreed to.

The bill, as amended, was read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

STATE GOVERNMENT OF TEXAS.

Mr. LOAN. I ask the gentleman from Illinois [Mr. WASHBURNE] to yield and allow me to offer a resolution.

Mr. WASHBURNE, of Illinois. I will yield.

Mr. LOAN. I ask leave to offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into and to report, without unnecessary delay, the law and facts involved in the following propositions:

1. Whether the State government of the State of Texas existing in 1860 yet exists; and if not, at what time it ceased to exist, and what government, power, or authority succeeded to the political and other rights of said State government.

2. Whether the rebel government that existed in Texas for several years during the late rebellion succeeded to any of the rights, political or others, of the former government of that State; and if so, to what rights did the rebel *de facto* government succeed; are any of the acts done or any laws enacted by its authority, valid; for instance—are marriages solemnized under and by virtue of laws of, or authority derived from, said rebel government valid, and the issue of such marriages legitimate.

3. Was the rebel government existing in Texas during the late rebellion a *de facto* government sufficiently established so as to acquire, under the law of nations or otherwise, the right to the land and other property owned by the State of Texas prior to the rebellion; and if not, what government, State, or power now owns the land and other property which belonged to the State of Texas at the time of the commencement of the rebellion; if the *de facto* rebel government succeeded as such to all the rights of the State of Texas existing at the time of the rebellion, what rights, if any, accrued to the Federal Government as conquerors of the rebel *de facto* government; has the Federal Government, by conquest or otherwise, since the time of the commencement of the rebellion, acquired any title to the land and other property which belonged to the State of Texas at that time; can the United States, as sovereign under the laws of war, acquire by conquest and succeed to the rights of property of a State of the Union by the suppression of a rebellion in such State, such as was that of Texas in the late war.

Mr. BURR. I object.

Mr. BROOKS. I hope not. It will keep the Committee on the Judiciary out of mischief for three months. [Laughter.]

IMPEACHMENT OF THE PRESIDENT.

Mr. STEVENS, of Pennsylvania, and Mr. BINGHAM, the committee appointed to communicate to the Senate the action of the House ordering an impeachment of the President of the United States, appeared at the bar of the House.

Mr. STEVENS, of Pennsylvania, said: Mr. Speaker, in obedience to the order of the House, we proceeded to the bar of the Senate, and in the name of this body and of all the people of the United States we impeached, as we were directed to do, Andrew Johnson, President of the United States, of high crimes and misdemeanors in office, and we demanded that the Senate should take order to make him appear before that body to answer for the same; and announced that the House would soon present articles of impeachment and make them good, to which the response was, "Order shall be taken."

SAMUEL H. MOORE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of the 7th instant, the papers in the case of Samuel H. Moore, late a private in company G, fifty-seventh regiment Ohio veteran volunteer infantry; which was referred to the Committee on Military Affairs, and ordered to be printed.

RIOT AT MARSHALL, TEXAS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of the 22d ultimo, a report by General Hancock on the riot at Marshall, Texas, December 31, 1867; which was referred to the Committee on Reconstruction, and ordered to be printed.

CONSTITUTION OF ALABAMA.

The SPEAKER also, by unanimous consent, laid before the House the constitution of the State of Alabama, as revised and amended by the convention assembled at Montgomery, November 5, 1867; which was referred to the Committee on Reconstruction, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817; in which the concurrence of the House was requested.

NAVAL APPROPRIATION BILL—AGAIN.

Mr. WASHBURNE, of Illinois. The gentleman from Maine [Mr. PIKE] is now here. He is willing to withdraw his point of order on the sections of the naval appropriation bill and to let them be received, on condition that he shall have a portion of my time to discuss them.

Mr. PIKE. On condition that time shall be allowed to discuss them.

Mr. WASHBURNE, of Illinois. I now ask for a vote on the motion to suspend the rules.

The question was taken on Mr. WASHBURNE'S motion to suspend the rules, to allow him to offer three sections which had been ruled out of order; and there were—ayes 62, noes 42; not two thirds voting in the affirmative.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. KETCHAM and BARNUM were appointed.

The House divided; and the tellers reported—ayes 67, noes 39; not two thirds voting in the affirmative.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays. If these amendments are not adopted we shall lose millions and millions of dollars.

The yeas and nays were ordered.

Mr. PIKE. Is it in order for me to say that I hope the rules will not be suspended?

The question was taken; and there were—yeas 88, nays 49, not voting 52; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Eckley, Eggleston, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Hawkins, Higby, Hill, Holman, Hooper, Hopkins, Hunter, Judd, Julian, Kelsey, Koontz, Laflin, William Lawrence, Loan, Logan, Loughridge, Marvin, McCarthy, McCormick, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, Nunn, Orth, Paine, Perham, Plants, Poland, Price, Raum, Sawyer, Scofield, Shanks, Spalding, Taylor, Thomas, Trowbridge, Upson, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, John T. Wilson, and Stephen F. Wilson—88.

NAYS—Messrs. Adams, Archer, James M. Ashley, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Chanler,

Driggs, Eliot, Getz, Glossbrenner, Golladay, Grover, Haight, Hotchkiss, Chester D. Hubbard, Humphrey, Jenckes, Johnson, Kelley, George V. Lawrence, Mallory, Marshall, McClurg, Mercur, Mungen, Myers, Niblack, O'Neill, Pike, Pile, Pruyn, Randall, Ross, Schenck, Sitgreaves, Starkweather, Stewart, Taber, Lawrence S. Trimble, Twichell, Van Auken, Van Trump, Wood, Woodbridge, and Woodward—49.

NOT VOTING—Messrs. Allison, Axtell, Banks, Benjamin, Butler, Dixon, Donnelly, Ela, Eldridge, Finney, Fox, Garfield, Harding, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Ingersoll, Jones, Kerr, Ketcham, Kitchen, Knott, Lincoln, Lynch, Maynard, McCullough, Morgan, Morrissey, Nicholson, Peters, Phelps, Polsley, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Smith, Aaron F. Stevens, Thaddeus Stevens, Stokes, Stone, Taffe, John Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Thomas Williams, William Williams, James F. Wilson, and Windom—52.

So, two thirds not voting in the affirmative, the rules were not suspended.

Mr. WASHBURNE, of Illinois. I now call the previous question upon the bill and the amendments reported from the Committee of the Whole.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] is entitled to the floor to close the debate, having reported this bill from the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. I regret that a sufficient number of gentlemen on this side of the House should have joined gentlemen on the other side of the House to prevent the carrying out of this great reform.

Mr. RANDALL. I raise the point of order that the gentleman from Illinois [Mr. WASHBURNE] has no right to reflect upon the action of the House.

The SPEAKER. The Chair does not think the remarks of the gentleman unparliamentary.

Mr. WASHBURNE, of Illinois. I suppose the gentleman from Pennsylvania [Mr. RANDALL] regards as unparliamentary the coupling of members on this side with members on the other side. These provisions, which members on this side of the House have refused to have introduced, were to carry out——

Mr. FARNSWORTH. I desire to interrupt my colleague, [Mr. WASHBURNE, of Illinois,] by saying that when he refers to "the other side of the House" I would inform him that there is a colony on that side of the House who do not vote with the "other side."

Mr. WASHBURNE, of Illinois. I do not refer to my colleague, [Mr. FARNSWORTH,] of course. These sections, which the House has refused to have incorporated in this bill, upon a question of order raised by the chairman of the Committee on Naval Affairs, [Mr. PIKE,] were to carry out the provisions of the bill in which the Committee on Appropriations struck down the estimates of the Secretary of the Navy from $47,000,000 to $18,000,000. This side of the House must be responsible for refusing to put in these sections here, so as to govern the appropriations the bill has made.

Mr. WOOD. They have a graver responsibility than that.

Mr. WASHBURNE, of Illinois. We are willing to meet every responsibility.

Mr. WOOD. You will do it, to your sorrow, in November next.

Mr. WASHBURNE, of Illinois. Gentlemen on this side of the House have refused to cut down these expenditures.

Mr. PIKE. Will the gentleman yield to me for a few words?

Mr. WASHBURNE, of Illinois. No, I will not.

Mr. PIKE. The gentleman agreed to do so.

Mr. WASHBURNE, of Illinois. I agreed to give the gentleman a portion of my time if he would not make a point of order on these sections, but let them come in.

Mr. PIKE. And I withdrew my point of order, or rather I did not make any to-day. I ask for ten minutes to refute this charge.

Mr. WASHBURNE, of Illinois. I do not yield.

Mr. MUNGEN. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. MUNGEN. My point is that the gentleman from Illinois [Mr. WASHBURNE] has no right to offer a bribe to a member of Congress by agreeing to do so and so if the member will do so and so.

The SPEAKER. The Chair does not think the statement made by the gentleman from Illinois [Mr. WASHBURNE] involves the offering of a bribe, in the meaning of the law.

Mr. PIKE. I have done exactly as I agreed with the gentleman from Illinois. I now ask him to do as he agreed with me to do.

Mr. WASHBURNE, of Illinois. If the gentleman from Maine [Mr. PIKE] had not raised the point of order in Committee of the Whole and in the House to-day these sections would have been received.

Mr. BLAINE. I desire to say, in justification of my colleague, [Mr. PIKE,] that he proposed to withdraw his point of order, or not to press it, if the gentleman from Illinois [Mr. WASHBURNE] would give him a portion of his time. He did refrain from pressing his point of order, and now he should have the time he asks.

Mr. WASHBURNE, of Illinois. I did not understand the gentleman as withdrawing his point of order, because if he had done so these sections could have come in.

Mr. PIKE. I submit to the Chair that I made no point of order to-day.

Mr. ELDRIDGE. I raise the point of order whether it is in order for three gentlemen to occupy the floor at the same time?

The SPEAKER. It is not. The gentleman from Illinois [Mr. WASHBURNE] is alone entitled to occupy the floor. The gentleman from Wisconsin [Mr. ELDRIDGE] insists that three gentlemen shall not occupy the floor at the same time.

Mr. PIKE. I understand that the gentleman from Illinois yields to me.

The SPEAKER. The Chair desires to take advantage of this occasion to make a statement with regard to a ruling made by him during the debate of yesterday, that some remarks of the gentleman from Illinois, [Mr. MARSHALL], where he spoke of certain parties being "whipped in," were unparliamentary. Upon reflection, the Chair is satisfied that those remarks, made in a general way as they were, are not offensively unparliamentary; and as he is always desirous to correct errors into which he may have fallen, he wishes to withdraw the decision. The phrase "whipped in" is a parliamentary phrase, derived from the country from which we draw all the fundamental principles of our parliamentary law; that in the British Parliament there are even certain persons recognized as "whippers-in," and that it is not recognized there as ungentlemanly and dishonorable to be approached by those persons to be "whipped in," or even to be a "whipper-in." No gentleman has suggested this matter to the Chair; but upon reflection he has become satisfied that his decision was too restrictive.

Mr. SCHENCK. I would inquire who are the recognized "whippers-in" here?

The SPEAKER. The foundation of all our parliamentary law is derived from England. In the British Parliament, to speak of members being "whipped in" would not be objected to as unparliamentary; and therefore such language when not used personally, but in a general way, cannot be regarded as so offensive as to require it to be ruled out here.

Mr. SCHENCK. I did not desire to take any appeal from the decision of the Chair. I simply rose to inquire who are the recognized "whippers-in" here?

The SPEAKER. The gentleman from Ohio is scarcely just to the Chair. The Chair has made no such decision as that to which the gentleman, perhaps sarcastically, refers. The Chair has stated that, on reflection, he thinks he was too stringent yesterday in ruling as out of order the general remarks of the gentleman from Illinois about a certain portion of the members having been "whipped in." The Chair, at the instant the point was made, thought the language might be regarded by gentlemen as offensive. The phrase, however, being derived from the British Parliament, whence we derive our parliamentary law, and to which we refer for the decision of all disputed questions, as the parliamentary practice there extends back seven hundred years, while in this country it goes back for less than one hundred. The Chair, on reflection, is satisfied that as it would not be offensive there to speak of members having been "whipped in," it cannot be considered offensive in a parliamentary point of view to use similar language here. The language may be such as gentlemen would not like to have applied to them; but when used broadly, and not individually, the Chair cannot regard it as offensively unparliamentary.

Mr. SCHENCK. The Chair will permit me to explain, as I did not intend any disrespect.

The SPEAKER. With a great deal of pleasure.

Mr. SCHENCK. My remark was not intended as sarcastic. I simply desired to know whether, as we have inherited the phrase, we are also to be presumed to have inherited the thing—the "whipper-in?"

The SPEAKER. The Chair cannot argue the question with the gentleman from Ohio. But he will again repeat that on reflection he has become satisfied that the remarks of the gentleman from Illinois, although ruled out of order at the time, was not intended to be unparliamentary. It was a remark which might have been omitted, but it was not personally and necessarily offensive in its character. This is all the Chair wished to say. He is always desirous to correct his rulings when they have been too strict.

Mr. PIKE. Mr. Speaker, I opposed the introduction of the third, fourth, and fifth sections into this bill, for two reasons: first, that it is entirely improper in an appropriation bill to attempt to regulate the internal concerns of the Navy; and secondly that the amendments themselves are highly improper. Section five provides for a force of twenty-five hundred marines. Now, I would ask the House why, when the bill provides for eighty-five hundred as the full force of the Navy, should we have twenty-five hundred marines? The whole force of marines when we had from fifty to sixty thousand of a full force was only thirty-six hundred. This bill provides for thirty vessels, and thirty vessels only, and still with that great reduction of the Navy it provides for twenty-five hundred marines! Why not go back to the force of marines before the war, thirteen hundred. The proposition goes further. It goes into the ship and strikes at the mates and at the firemen, while it leaves the whole force of the engineers untouched. There are five hundred engineers in the Navy.

Mr. WASHBURNE, of Illinois. I ask the gentleman's pardon. I propose to cut down the engineers.

Mr. PIKE. Here are the printed amendments.

Mr. WASHBURNE, of Illinois. There are other amendments I was going to offer.

Mr. PIKE. There are five hundred engineers in the Navy and only thirty ships allowed. Will the gentleman tell me why he would have eighteen engineers to each ship? That is his proportion. He strikes at the mates without giving any reason for it. He also strikes at the firemen without giving any reason for it.

It is fit and proper, as the House has determined to have but thirty vessels afloat during a time of peace, there should be a corresponding number of officers. But this bill is improper and unjust in its discrimination between the different officers of the line and staff. It is entirely too improper to be discussed in a five minutes' debate, and when, contrary to the rules of the House, it is tacked on to one of the general appropriation bills.

Let us reduce the force of these officers, and let us reduce it according to the number of vessels authorized; but, sir, let us do it properly, so as to be just to all the officers. It is for that reason—and not in the interest of the

Navy Department, or, as the gentleman from Illinois is fond of saying, in the interest of extravagance—in the highest sense of economy, sir, that I oppose the amendments which have been proposed to be attached to this bill. I was glad to see that there were more than one third of the House who agreed with me. I will say the Committee on Naval Affairs propose to report a bill on this subject.

I give the gentleman from Ohio the remainder of my time.

Mr. SCHENCK. I thank the gentleman from Maine for the courtesy of yielding to me a portion of his time, and will simply say there is no coalition between one side of this House and the other in order to defeat economical propositions that I know of. Believing the attempt at general legislation in appropriation bills to be wrong in principle, I opposed it the other day in the Army bill when it was admitted to be wrong. I place myself upon the same ground in objecting to it in regard to this Navy appropriation bill. For if in the appropriation bills there is to be inserted, at the pleasure of the Committee on Appropriations, matters of general legislation, we might about as well dispense with all the other committees of the House. Your Naval Committee, in this instance, is appointed to take care of naval matters. They advise us they are engaged in the preparation of a bill covering questions of the same character. They say these sections are crude and partial, and the committee having been appointed to look after naval matters are presumed to understand them, and ought to have the opportunity to present the measures they have matured, and not have portions of them wrested out of their proper connection and attached to appropriation bills.

We seem to be running into the vicious habit which has obtained for a long time in this House of inserting into appropriation bills matters of general and independent legislation, and I, for one, am determined to correct it. I say this because I feel that there has been an attempt here to denounce those who do not happen to agree in opinion with the gentleman who has the management of this appropriation bill. I believe I do agree with him in the general propositions contained in these sections, only I want them fairly considered in the proper committee and brought before the House in a regular manner, according to rule.

Mr. BLAINE. In regard to the criticism of the gentleman from Ohio [Mr. SCHENCK] of the conduct of the Committee on Appropriations I desire to make a single remark. He charges that the committee have fallen into the error of trying to fasten general legislation upon the appropriation bills. I disclaim, on behalf of the committee, any such intention or any such course. The committee reported the naval appropriation bill for seventeen or eighteen million dollars, which would defray all the expenses of the Navy, provided certain reductions are made which the bill carries with it. If you do not make these reductions you have got to appropriate more money. Therefore it was only consistent on the part of the committee to make a bill which would be self-supporting, which would provide a sum which would last through the year. If the House chooses to cut off one end of the bill the Committee on Appropriations are not responsible for the large expenditure it will entail.

Mr. WASHBURNE, of Illinois. I do not care about extending the discussion particularly on these sections which have been stricken out; but I desire to say, in regard to this matter of special legislation on appropriation bills, that gentlemen oppose it when they do not like the legislation, but when they do like it it is all right. And I believe there is no gentleman who has put in more legislation in appropriation bills than my distinguished friend from Ohio, [Mr. SCHENCK.] In the very last one that was passed he introduced independent legislation.

Mr. SCHENCK. You are mistaken; that is all.

Mr. WASHBURNE, of Illinois. I do not think I am. I think the legislation he introduced forbiding officers of the Army to be detailed for certain duties was independent legislation. Now he comes in and reads a lecture to the House and the Committee on Appropriations because they sought to couple legislation with this appropriation bill which would reduce the expenses of the Navy $5,000,000; and the gentleman from Maine [Mr. PIKE] has the honor of defeating this proposition. If the Senate does not put it in $5,000,000 will be added to the expenses of the Navy. I hope that is not too large an amount for my distinguished friend from Ohio.

Mr. SCHENCK. I ask the gentleman to yield a moment for an explanation.

Mr. WASHBURNE, of Illinois. I yield.

Mr. SCHENCK. The proposition I made was to confine the officers of the Army and Navy to their duty as officers. To that objection was made that it was independent legislation and not consistent with existing law. The point of order was overruled, as I claimed it should be, on the ground that instead of its being against law it was an amendment conforming to existing law, to keep Army and Navy officers at their appropriate work and leave civil officers to perform civil duties.

Mr. WASHBURNE, of Illinois. On the gentleman's own statement it was independent legislation.

Mr. PIKE. Will the gentleman yield to me?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. PIKE. I desire to say that the saving of money in these sections is not $300,000, and there ought to be a saving of $3,000,000, and that legislation I propose to introduce.

Mr. WASHBURNE, of Illinois. Ah, that will do very well. Why did not the gentleman come in here now when he had the chance to make a saving of $300,000?

Mr. PIKE. I can answer that in two words.

Mr. WASHBURNE, of Illinois. I decline to yield.

Mr. ROSS. I rise to a point of order. There is an unjust combination against my colleague, [Mr. WASHBURNE, of Illinois,] and I hope the Chair will protect him. [Laughter.]

Mr. WASHBURNE, of Illinois. I did not hear the point of order made by the distinguished knight of the golden circle. [Laughter.] But, sir, I do not propose, as I said before, to wrangle over these sections that have been stricken out, however much I may regret it. The Committee on Appropriations have endeavored, honestly and faithfully, to do something to reduce these expenditures here, and they have been prevented by the head of the Committee on Naval Affairs; and I predict now that unless the Senate shall put in these provisions they will not become law. Let me say to the gentleman from Maine that these sections are almost word for word the provisions of a bill introduced into the Senate by the distinguished chairman of the Committee on Naval Affairs of the Senate, the Senator from Iowa, [Mr. GRIMES.]

Mr. PIKE. The gentleman is not in order.

Mr. WASHBURNE, of Illinois. Why?

The SPEAKER. The gentleman from Maine will state his point of order.

Mr. PIKE. The gentleman is referring to what is doing in the Senate and to the language of a Senator.

The SPEAKER. Any gentleman has a right to refer to the action of the Senate, but has no right to refer to the debates in that body. The Chair understood the gentleman from Illinois to refer to the action of the Senate, and that is not unparliamentary.

Mr. PIKE. There has been no such action in the Senate. He is referring entirely to what a Senator from Iowa said.

Mr. WASHBURNE, of Illinois. I am sorry the gentleman did not understand me, and that the chairman of the Committee on Naval Affairs does not know that Mr. GRIMES did introduce into the Senate a bill containing these provisions almost word for word.

Mr. PIKE. The chairman of the Committee on Naval Affairs of the Senate agrees with me about this matter; and I will say further, that neither the Committee on Naval Affairs of the Senate nor the Senate has acted on these propositions. The bill was introduced by the Senator from Iowa, but he agrees with me and not with the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. All I can say is that these are provisions which the Senator from Iowa drew up himself in his bill, and the gentleman from Maine will not deny that.

Now, sir, the gentleman from Maine interposes here in regard to this fourth section in relation to the pay of firemen and coal-heavers. Does the gentleman know what we propose in that section? Does he desire that the country shall know that he is opposed to striking off this vast expense? Why, sir, in these new war steamers they have firemen and coal-heavers whose wages are fixed by law at thirty dollars a month; and every little steam vessel that goes out has a corps of firemen and coal-heavers drawing this large pay; and not one in ten of these vessels ever puts on steam at all during her whole voyage. In the case of a vessel that recently went out, she had one hundred and seventy-five of these men, with nothing to do, drawing their wages of thirty dollars a month, going at the public expense—you might say as second-class passengers.

We propose to cure that great abuse by this fourth section, and provide that, when it is necessary to apply steam, the sailors shall have eight dollars a month for doing this duty, which they will be very glad to do.

But the chairman of the Committee on Naval Affairs comes in here and prevents the House from making these great reforms. I have a slip before me in regard to this very matter which I will read:

"In these days of retrenchment, it is extraordinary to hear that the most extravagant ship in the Navy, and the one least adapted for the purpose contemplated, is to be made the flag-ship of the North Atlantic squadron. The Wampanoag is packed full of machinery, costing nearly a million dollars, and she has now on board nearly a hundred and eighty firemen and coal-passers, besides over twenty engineers and a large crew besides. There is no proper place for a flag-officer to transact his business, the accommodations being about equal to those of the ninety-day gunboats. The ship is so full of unnecessary machinery that she not only has no suitable quarters for officers, considering her size, but is the most extravagant ship to keep in commission in the entire Navy."

We want to have a provision of law so as to dispense with this large expense of thousands of dollars a day, but we are prevented by the gentleman from Maine.

Mr. PIKE. Will the gentleman yield to me?

Mr. WASHBURNE, of Illinois. No, sir.

Mr. PIKE. Then he should not make attacks if he will not yield for reply.

Mr. WASHBURNE, of Illinois. I do not attack the gentleman at all. I never make attacks.

Mr. PIKE. It can all be answered.

Mr. WASHBURNE, of Illinois. The gentleman can answer it, then, when he brings in the bill he speaks of.

Mr. PIKE. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. PIKE. My point of order is that it is contrary to the rules of this House for members to discuss subjects not before the House in connection with appropriation bills, and then not to allow a member who is attacked an opportunity to reply.

The SPEAKER. The Chair cannot sustain the point of order as stated by the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. That is the fact, any way.

Mr. WASHBURNE, of Illinois. That is one of the gentleman's double-enders.

The SPEAKER. The Chair cannot rule that refusing an opportunity to a member to reply would make words out of order that otherwise would be in order.

Mr. WASHBURNE, of Illinois. I ask that the amendments of the Committee of the Whole be now voted upon.

The first amendment reported from the Com-

mittee of the Whole was to the following paragraph:

For pay of commission, warrant, and petty officers, and seaman, $8,000,000, or so much thereof as may be required by existing law.

The amendment was to add the following:

Provided, That all moneys now under control or subject to the order of the Secretary of the Navy, whether arising from appropriations or from sales of public property or otherwise, which shall be unexpended on the 1st day of July, 1868, shall be covered into the Treasury; so that no amount hereby appropriated shall be expended or drawn while any other unexpended moneys shall be subject to the control of the Secretary of the Navy.

The amendment was agreed to.

The second amendment was to insert after line seventy, page 4, the following:

Provided, That the civil engineer and naval storekeeper, when required at any of the navy-yards, shall be appointed by the President, by and with the advice and consent of the Senate, and the persons employed in the several navy-yards, the master-machinists, master-carpenters, master-joiners, master-blacksmiths, master-boilermakers, master-sailmakers, master-plumbers, master-painters, master-calkers, master-masons, master-boatbuilders, master-sparmakers, master-blockmakers, and all superintendents of rope-walks shall be appointed by the President, by and with the advice and consent of the Senate, shall be men skilled in their several duties, and appointed from civil life, and shall not be appointed from officers of the Navy.

The amendment was agreed to.

The third amendment was to the following paragraph:

For expenses of Naval Observatory, namely:
For wages of one instrument maker, one messenger, and two watchmen; for keeping grounds in order and repairs to buildings and inclosures; for fuel, light, and office furniture, and for stationery, chemicals for batteries, postage, and freight, $10,000.

The amendment was to insert the words "one porter" after "messenger," and to increase the appropriation by the sum of $600.

The amendment was agreed to.

The fourth amendment was to strike out the following:

For salary of assistant astronomer, $2,500.

The amendment was agreed to.

The fifth amendment was to strike out the following:

Provided, That so much of the act of May 25, 1864, as provides for three aids is hereby repealed.

And to insert in lieu thereof the following:

For salary of three aids, $4,000.

The amendment was agreed to.

The sixth amendment was to strike out "$10,000" and insert "$15,000" in the following paragraph:

For preparing for publication the American Nautical Almanac, namely, for pay of computers, $10,000.

The amendment was agreed to.

The seventh and last amendment was in relation to the following paragraph:

Bureau of Ordnance:
For guns, gun-carriages, shot, shell, magazine and laboratory stores, and equipments of all kinds; for gunpowder, small arms, equipments and ammunition; for fuel and materials necessary in carrying on the mechanical branches of the ordnance department at the navy-yards and stations, $250,000.

The amendment was to add to the paragraph the following:

Provided, That no part of the money appropriated by this act, or of the moneys now in the hands or under the control of the Secretary of the Navy, shall be used in paying for new guns, gun-carriages, or small-arms.

Mr. WASHBURNE, of Illinois. That proviso is in contradiction of a part of the section to which it is attached. I think it entirely unnecessary, and I hope it will be voted down.

The amendment was rejected.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, reported from the Committee on Appropriations a bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made a special order for to-morrow after the morning hour.

APPROPRIATIONS FOR INDIAN DEPARTMENT.

Mr. BUTLER. I am directed by the Committee on Appropriations to report a bill (H. R. No. 819) making partial appropriations for the further expenses of the Indian department and for fulfilling treaty stipulations. I desire that the House shall at this time consider this bill as if in the Committee of the Whole, and I will state the reason. Our regular appropriations are, of course, for the fiscal year beginning July 1, 1868; but it is necessary, as we are informed by the Indian department, and as we learn from the best sources of information accessible to us, that the seeds and agricultural implements due to certain Indians by treaty stipulations should get to them as early in the spring as possible.

The appropriations for that purpose have always been six months behind. After full examination we have agreed to appropriate, if I remember rightly, $222,000, where the sum of $451,000 is asked for. The amount appropriated by this bill is only a portion of the appropriations for the fiscal year ending June 30, 1869. It is in anticipation of the regular appropriation, being rendered necessary by the state of affairs among the Indians, and it is simply in fulfillment of our treaty stipulations. The whole amount of appropriations for Indian affairs which will be reported after further examination will be between one and two million dollars.

The committee have added to this bill a section providing that the money appropriated shall be expended under the direction of the commissioners known as the Indian peace commissioners, embracing General Sherman and other well-known military officers, as well as several civilians. These commissioners will be obliged this spring to visit these very Indians, and can take out with them the necessary implements and seeds which this bill provides for. I trust, therefore, that no point of order will be raised upon the second section. It is designed to put the expenditure of this money under the control and supervision, not only of the Commissioner of Indian Affairs, who is one of the commissioners, but also of the other members of this very able commission. I trust there will be no objection to considering this bill in the House now.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that this bill shall now be considered in the House as in Committee of the Whole.

Mr. CHANLER. I do not know that I shall object; but I wish to ask the gentleman from Massachusetts [Mr. BUTLER] whether this bill does not practically take the whole management of our Indian system out of the hands of the Secretary of the Interior, and inaugurate a new system by which our Indian affairs shall be under the control of the military authorities. Is not this bill the first step toward a thorough change in our whole system in this regard?

Mr. BUTLER. In no form, sir; because the Commissioner of Indian Affairs, Mr. Taylor, is to-day a member of this commission. Three or four of the members are civilians. This bill proposes only a partial appropriation for a particular emergency.

Mr. CHANLER. I understand that there are civilians upon this commission; but does not this bill practically take the control of this matter out of the hands of the Secretary of the Interior and give it to this commission? In other words, would not the Secretary of the Interior, but for the second section of this bill, have full charge of the disbursements of this money for the purposes proposed?

Mr. BUTLER. Yes, sir.

Mr. CHANLER. I must object then.

Mr. CLARKE, of Kansas. I desire to ask the gentleman from Massachusetts whether this bill has been printed.

Mr. BUTLER. It has not been. But it contains only a few appropriations, and can very easily be understood when read.

Mr. CLARKE, of Kansas. I hope the gentleman will allow the bill to be printed before he presses its consideration.

Mr. BUTLER. If, after the bill has been read, the gentleman desires that it shall be printed, I will cheerfully consent that it shall go over.

Mr. CHANLER. I reserve my right to object after hearing the bill read.

The SPEAKER. The bill will be read for information, the right to object to its consideration being reserved.

The bill was read.

Mr. CLARKE, of Kansas. I hope the gentleman will allow this bill to go over and be printed, so as to be considered at some future time. This bill, as I understand it from the reading at the Clerk's desk, proposes to make appropriations for certain hostile tribes of Indians who have been engaged during the last year in committing depredations upon our frontier settlements.

Mr. BUTLER. If the gentleman will allow me I will save him further trouble. I move the bill be referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for to-morrow and from day to day until disposed of.

The motion was agreed to.

NEW RULE.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to report from the Committee on the Rules the following:

Resolved, That the following be added to the rules of the House:
Pending a motion to suspend the rules the Speaker may entertain one motion that the House do now adjourn, and after the result thereon is announced he shall not entertain any other dilatory motion until the vote is taken on the suspension.

Mr. ROSS. I object.

Mr. WASHBURNE, of Illinois. I move to suspend the rules.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 33, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Banks, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Eggleston, Eliot, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Hawkins, Higby, Hill, Hopkins, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Stewart, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, and Woodbridge—108.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Marshall, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Trump, Wood, and Woodward—33.

NOT VOTING—Messrs. Delos R. Ashley, Bailey, Beaman, Beck, Benjamin, Bromwell, Cake, Dixon, Donnelly, Driggs, Eckley, Ela, Farnsworth, Finney, Garfield, Glossbrenner, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Jones, Kerr, Knott, George V. Lawrence, Maynard, McCullough, Moorhead, Morgan, Morrissey, Newcomb, Peters, Phelps, Pike, Plants, Pomeroy, Robinson, Shellabarger, Starkweather, Aaron F. Stevens, Taffe, John Trimble, Van Auken, Robert T. Van Horn, Henry D. Washburn, William Williams, Stephen F. Wilson, and Windom—48.

So, two thirds having voted in the affirmative, the rules were suspended.

The question then recurred on the adoption of the resolution.

Mr. BROOKS. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 37, not voting 47; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clark, Cobb, Coburn, Cook, Cornell, Cullom, Dawes, Dodge, Driggs Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Hawkins, Higby, Hill, Hopkins, Hulburd, Hunter, Ingersoll, Jenckes, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Pike, Plants, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Smith, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—105.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Knott, Marshall, McCormick, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Taber, Lawrence S. Trimble, Van Trump, Wood, and Woodward—37.

NOT VOTING—Messrs. Bailey, Benjamin, Bingham, Bromwell, Cake, Covode, Dixon, Donnelly, Ela, Farnsworth, Finney, Garfield, Haight, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Jones, Judd, Kerr, Loughridge, Maynard, McCullough, Moorhead, Morgan, Morrell, Morrissey, Mungen, Newcomb, Peters, Phelps, Pile, Pomeroy, Robinson, Shanks, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Stone, Taffe, John Trimble, Van Auken, Robert T. Van Horn, Henry D. Washburn, Thomas Williams, William Williams, and Windom—47.

So the resolution was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to offer the following resolution:

Resolved, That the rules be suspended, and that it is hereby ordered as follows:

When the committee to prepare articles of impeachment of the President of the United States report the said articles the House shall immediately resolve itself into the Committee of the Whole thereon: that speeches in committee shall be limited to fifteen minutes each, which debate shall continue till the next legislative day after the report, to the exclusion of all other business except the reading of the Journal; that at three o'clock on the afternoon of said second day the fifteen-minute debate shall cease, and the committee shall then proceed to consider and vote upon amendments that may be offered under the five-minute rule of debate; but no merely *pro forma* amendment shall be entertained; that at four o'clock on the afternoon of said second day the committee shall rise and report their action to the House, which shall immediately and without dilatory motions vote thereon; that if the articles of impeachment are agreed on the House shall then immediately and without dilatory motions elect by ballot seven managers to conduct said impeachment on the part of the House: and that during the pendency of resolutions in the House relative to said impeachment thereafter no dilatory motions shall be received except one motion on each day that the House do now adjourn.

Mr. WOOD. I object.

Mr. WASHBURNE, of Illinois. I move to suspend the rules for the purpose of considering the resolution at this time.

Mr. SCOFIELD. Allow me to suggest an amendment, to strike out the words "fifteen minute" before the word "debate," where it says "the fifteen-minute debate shall cease."

The SPEAKER. That will be the same thing, because the first part says speeches shall be limited to fifteen minutes each.

Mr. SCOFIELD. It says "the fifteen-minute debate shall cease."

The SPEAKER. There are two kinds of debate known in the Committee of the Whole, namely, the hour debate and the five-minute debate. The resolution proposes to limit the speeches to fifteen minutes until a specified time, and then to allow amendments under the five-minute rule.

Mr. RANDALL. I desire to give notice at this time that I shall call for a division on the various propositions, so that by the mere suspension of the rules the House will not adopt the proposition in whole.

The SPEAKER. If the rules are suspended it suspends the rule that allows the gentleman to demand a division.

Mr. RANDALL. I do not desire a division for any captious spirit.

The SPEAKER. The Chair so understands it.

Mr. ELDRIDGE. I suggest if it would not be more in consonance with the practice of the House if it should so amend the rules as to allow members to print all their speeches, not making any at all in the House. It seems to me it would expedite business very much and save a great deal of time.

Mr. BLAINE. I hope everybody will have that liberty.

Mr. RANDALL. I desire to know if the gentleman will permit an amendment that speeches shall be limited to thirty minutes each and that an additional day be allowed, giving us two days instead of one.

Mr. WASHBURNE, of Illinois. I am willing to leave that to the sense of the House after the resolution comes before it for consideration.

The SPEAKER. A suspension of the rules makes the order. The gentleman can modify it.

Mr. RANDALL. That is not an unreasonable amendment.

Mr. WASHBURNE, of Illinois. I do not feel that I have authority on the part of the Committee on the Rules to modify the resolution.

Mr. BROOKS. As a member of the Committee on the Rules I never heard of that resolution before.

Mr. ELDRIDGE. I desire to know, if the rules shall be suspended and these several propositions shall be adopted, whether they do not in themselves become so absolutely binding on us that it will be out of the power of the House, should it find itself under the necessity of debating the matter further, to go on with the debate except by unanimous consent.

The SPEAKER. That is a legitimate parliamentary question and the Chair will answer it. If this shall be adopted, so far as resolutions and action in regard to the impeachment ordered by the House are concerned, these will be the rules of the House, but, like all other rules, they may be suspended by a two-thirds vote on Monday after the morning hour.

Mr. ELDRIDGE. But they cannot be suspended at any other time.

The SPEAKER. Like all other rules, they can only be suspended on Monday after the morning hour. Does the gentleman from Illinois [Mr. WASHBURNE] decline to accept the proposed modification?

Mr. WASHBURNE, of Illinois. I do, sir.

Mr. RANDALL. Will the Chair instruct me how I can get a separate vote on the rules reported?

The SPEAKER. Only by voting down the motion to suspend the rules. In order that there may be no misunderstanding, and that the House may see that the question will be decided by one vote, the motion will again be read.

The Clerk read the proposed order.

Mr. BURR. Under a rule adopted a few moments ago, I move that the House do now adjourn, and on that motion I demand the yeas and nays.

The SPEAKER. That is in accordance with the rule adopted to-day.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 111, not voting 44; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Knott, Marshall, McCullough, Mungen, Pruyn, Randall, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Trump, Wood, and Woodward—34.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Beaman, Beatty, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Mallory, Marvin, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Niblack, Nunn, O'Neill, Orth, Paine, Perham, Polsley, Price, Raum, Robertson, Ross, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, John T. Wilson, and Stephen F. Wilson—111.

NOT VOTING—Messrs. James M. Ashley, Bailey, Barnum, Benjamin, Bingham, Bromwell, Reader W. Clarke, Covode, Dixon, Donnelly, Ela, Finney, Garfield, Griswold, Harding, Hill, Asahel W. Hubbard, Jones, Kerr, Loughridge, Lynch, Maynard, Morgan, Morrissey, Nicholson, Peters, Phelps, Pike, Pile, Plants, Poland, Pomeroy, Robinson, Shellabarger, Spalding, Aaron F. Stevens, John Trimble, Van Auken, Robert T. Van Horn, Henry D. Washburn, Thomas Williams, William Williams, Windom, and Woodbridge—44.

So the House refused to adjourn.

The question recurred on the motion of Mr. WASHBURNE, of Illinois, to suspend the rules.

Mr. TRIMBLE, of Kentucky. I rise to a point of order. I hold——

The SPEAKER. The gentleman will state his question of order.

Mr. TRIMBLE, of Kentucky. It is this: that on the proposition before us we have a right to a vote upon the question of suspending the rules, and then upon the proposition as presented; and I call the attention of the Speaker to this paragraph on page 169 of the Digest:

"No standing rule or order of the House shall be rescinded or changed without one day's notice given of the motion therefor."

I hold that this is a change of the rules of the House, of which no notice has been given, and that the Speaker must decide under that rule.

The SPEAKER. The Chair is compelled to inform the gentleman from Kentucky that the Speaker cannot rule as he desires, and for this reason: the rule he has read is correctly quoted from the Digest, but the gentleman from Illinois moves to suspend that rule and all other rules that stand in the way, and the rules provide that on every Monday after the morning hour and during the last ten days of the session two thirds can suspend all the rules. The rule to which the gentleman refers is proposed to be suspended in connection with all the other rules, as the gentleman will see himself if he will read the chapter in the Digest in regard to suspensions of the rules.

Mr. ELDRIDGE. I suggest to the Chair, as a further point of order, that this has the effect to change permanently the standing rules of the House, and I understand that provision of the Digest to prevent that.

The SPEAKER. The Chair sustains that point of order, that it makes a change permanently, at least during the pendency of impeachment, in the standing rules of the House. The Chair sustains that point of order.

Mr. ROSS. Is it in order to move a call of the House?

The SPEAKER. It is not at this time.

Mr. RANDALL. I desire to ask a parliamentary question. I desire to inquire whether a suspension of the rules, for the purpose of introducing and acting upon this resolution, carries with it its adoption?

The SPEAKER. It does, by the express language of the resolution.

Mr. RANDALL. Then, in no way can we have a vote upon the motion to suspend the rules, and then a vote upon the adoption of the proposition?

The SPEAKER. There is no way, unless the gentleman from Illinois [Mr. WASHBURNE] will modify his proposition.

The yeas and nays were then ordered.

The question was then taken; and it was

decided in the affirmative—yeas 106, nays 37, not voting 46; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Baker, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Mallory, Marvin, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Pike, Poland, Polsley, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—106.

NAYS—Messrs. Adams, Axtell, Barnes, Beck, Boyer, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Knott, Marshall, McCormick, McCullough, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—37.

NOT VOTING—Messrs. Archer, James M. Ashley, Bailey, Baldwin, Barnum, Benjamin, Brooks, Butler, Reader W. Clarke, Dixon, Donnelly, Eckley, Ela, Finney, Garfield, Griswold, Asahel W. Hubbard, Jones, Kerr, Kitchen, Loughridge, Lynch, Maynard, Miller, Morgan, Morrissey, Newcomb, Peters, Phelps, Pile, Plants, Pomeroy, Price, Raum, Robinson, Shellabarger, Spalding, Aaron F. Stevens, Stewart, Stone, John Trimble, Robert T. Van Horn, Van Wyck, Henry D. Washburn, William Williams, and Windom—46.

So (two thirds voting in the affirmative) the rules were suspended, and the resolution was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KOONTZ. I move that the rules be suspended in order to allow me to record my vote on the resolution passed yesterday providing for the impeachment of the President.

Mr. THOMAS. I ask the same privilege for myself. In explanation of my absence yesterday, I will say that the cars were thrown from the track, and but for that accident I would certainly have been in my place yesterday and voted.

The motion to suspend the rules was agreed to.

Mr. KOONTZ and Mr. THOMAS accordingly recorded their votes in the affirmative.

Mr. SCHENCK obtained the floor, but yielded to

Mr. BOUTWELL, who asked unanimous consent to submit the following resolutions for consideration at this time:

Resolved, That the committee appointed to prepare and report articles of impeachment against Andrew Johnson, President of the United States, have leave to sit during the sessions of the House.

Resolved further, That the Committee on Reconstruction be authorized to sit during the sessions of the House.

Mr. WOOD. I object.

LEAVE OF ABSENCE.

Leave of absence indefinitely was granted to Mr. STEVENS, of New Hampshire.

WITHDRAWAL OF PAPERS.

On motion of Mr. BANKS, leave was granted for the withdrawal from the files of the House of the papers in the case of Mary Robertson and others, copies being left.

TENNESSEE ELECTION—R. R. BUTLER.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom were referred the credentials of Roderick R. Butler, claiming to be a Representative from the first congressional district of Tennessee, and the memorial of Joseph Powell, a citizen of said district, preferring charges against the loyalty of said Butler, have instructed me to report a joint resolution, accompanied by a report in writing. I move that the report be laid on the table, and be printed. If there is no objection, I would like to have the joint resolution considered at this time; if there is objection I will not press it now.

The joint resolution, which was read, provides that R. R. Butler, Representative-elect from the first congressional district of Tennessee, be admitted to his seat upon taking the usual oath to support the Constitution of the United States, and upon taking so much of the oath prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved February 2, 1862, as is not included in the following words: "That I have never sought nor accepted, nor attempted to exercise the functions of, any office whatever, under any authority or pretended authority in hostility, to the United States."

The SPEAKER. This resolution is before the House as a question of privilege; but the gentleman from Massachusetts [Mr. DAWES] states that he will not press its consideration now if there be any objection.

Mr. RANDALL. I do not rise for the purpose of making any objection, but to ask the yeas and nays on the passage of the resolution, as this is an important question.

Mr. SCHENCK. I desire to inquire whether this is a resolution proposing to waive in a particular case the requirements of the test-oath act.

Several MEMBERS. It is.

Mr. SCHENCK. I object, then, to its consideration at this time. Let it go over and be printed.

Mr. DAWES. I have already stated to the House that if any gentleman desired that the resolution should be printed and considered at a future time I would make no objection to that course.

Mr. LAWRENCE, of Ohio. I desire that the resolution shall be printed for consideration at a future time.

The SPEAKER. The resolution will be ordered to be printed, and will be laid on the table, subject to be called up at any time by the gentleman from Massachusetts when no other business is before the House.

PAY OF JOHN YOUNG BROWN.

Mr. SCHENCK. I offer the following resolution:

Resolved, That the rules be suspended, and that the following be made an order of this House:

Whereas John Young Brown, claiming to be a Representative in Congress from the State of Kentucky, was denied a seat as such by the judgment of this House, on account of his having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States: Therefore,

Resolved, That the resolution this day passed authorizing the payment to said Brown of the sum of $2,500, for his "time spent and expenses incurred in prosecuting his claim to such seat," be, and is hereby, rescinded and repealed.

Mr. RANDALL. I rise to a point of order. The resolution which it is now proposed to repeal was adopted by the House and a motion to reconsider was laid on the table. I submit, therefore, that it is beyond the power of this House to rescind that resolution.

The SPEAKER. The Chair rules that a motion to reconsider the resolution having been made and laid on the table, that action of the House cannot by a majority vote be reconsidered. But any order of the House embraced in a resolution can be repealed by another resolution, which may be offered at any time when resolutions are in order. It is not in order at this time for the gentleman from Ohio [Mr. Schenck] to offer a resolution, and therefore he moves to suspend the rules to adopt this resolution. The Chair desires to state that if, since the adoption of the resolution this morning, the money voted by it has been drawn, then it would be——

Mr. RANDALL. Gone!

The SPEAKER. It would be gone. [Laughter.]

Mr. SCHENCK. If the money has been drawn it has been paid in the face of a notice which I gave to the Clerk that I would introduce this rescinding resolution.

The SPEAKER. The Chair does not know whether the money has been drawn or not. He has no knowledge on the subject. His remark on that point was suggested by the point raised by the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. ELDRIDGE. When the resolution on this subject had been adopted this morning a motion to reconsider was made and laid on the table.

The SPEAKER. That point has already been suggested by the gentleman from Pennsylvania, [Mr. RANDALL,] and the Chair has stated that, while it is beyond the power of the House to reconsider that action, any order of the House embodied in a resolution can be rescinded by a subsequent resolution, unless some right accruing has been taken advantage of. Therefore the Chair stated that, if the money had been drawn under the resolution adopted this morning, this rescinding resolution, even if adopted, would be a nullity.

Mr. RANDALL. Would it be in order to move an amendment to the resolution, so as to embrace the other rejected members?

The SPEAKER. It would be if the rules were suspended and the gentleman from Ohio yielded for that purpose.

Mr. DAWES. I hope the gentleman from Pennsylvania will not do wrong because the gentleman from Ohio has.

Mr. RANDALL. I will do equal and exact justice to all.

Mr. SCHENCK. Immediately after the adoption of the resolution to pay John Young Brown gentlemen on the other side voted with perfect unanimity against paying loyal men who came here claiming seats. I voted against both.

Mr. DAWES. I do not expect to govern my conduct by any such rule as that.

Mr. RANDALL. I only want to do what is just, and I do not mean to be diverted from so doing by the remark of the gentleman from Ohio.

Mr. CHANLER. The gentleman from Ohio is mistaken; this side was not unanimous.

The SPEAKER. There is but one vote, the vote suspending the rules making the order at the same time.

Mr. ELDRIDGE. Would it not be better to suspend the rules and deprive the minority of this House of all rights whatever?

Mr. ROSS and Mr. RANDALL. That has been done already.

The yeas and nays were ordered.

Mr. ELDRIDGE. Does not the suspension of the rules also cut us off from calling the yeas and nays?

The SPEAKER. That is a provision of the Constitution of the United States, that one fifth of those present can demand the yeas and nays.

The question was taken; and it was decided in the negative—yeas 62, nays 75, not voting 52; as follows:

YEAS—Messrs. Arnell, Delos R. Ashley, Baker, Baldwin, Beatty, Benton, Bingham, Boutwell, Broomall, Butler, Cake, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Cullom, Dodge, Eggleston, Eliot, Farnsworth, Ferriss, Fields, Gravely, Harding, Higby, Hill, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Kelley, Kelsey, William Lawrence, Loan, McCarthy, Moore, Mullins, Orth, Paine, Perham, Pile, Polsley, Price, Raum, Sawyer, Schenck, Selye, Shanks, Spalding, Aaron F. Stevens, Stokes, Taffe, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, Thomas Williams, and Stephen F. Wilson—62.

NAYS—Messrs. Adams, Anderson, Archer, Axtell, Bailey, Banks, Barnes, Barnum, Beck, Blair, Boyer, Bromwell, Brooks, Burr, Cary, Chanler, Churchill, Cook, Dawes, Driggs, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Holman, Hopkins, Hotchkiss, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Mallory, McCormick, McCullough, Mercur, Moorhead, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Poland, Pruyn, Randall, Robertson, Ross, Scofield, Sitgreaves, Smith, Starkweather, Stewart, Taber, Thomas, Lawrence S. Trimble, Twichell, Upson, Van Auken, Van Trump, William B. Washburn, John T. Wilson, Wood, Woodbridge, and Woodward—75.

NOT VOTING—Messrs. Allison, Ames, James M. Ashley, Beaman, Benjamin, Blaine, Buckland, Reader W. Clarke, Dixon, Donnelly, Eckley, Ela, Ferry, Finney, Garfield, Griswold, Halsey, Hooper, Asahel W. Hubbard, Jones, Julian, Kitchen, Logan, Loughridge, Lynch, Marshall, Marvin, Maynard, McClurg, Miller, Morgan, Morrissey, Newcomb, Nunn, Peters, Phelps, Pike, Plants, Pomeroy, Robinson, Shellabarger, Thaddeus Stevens, Stone, John Trimble, Robert T.

Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, William Williams, James F. Wilson, and Windom—52.

So, two thirds not having voted in the affirmative, the rules were not suspended.

IMPEACHMENT OF THE PRESIDENT.

Mr. BOUTWELL. I ask unanimous consent to submit the following:

Resolved, That the committee appointed to prepare and report articles of impeachment against Andrew Johnson, President of the United States, have leave to sit during the sessions of the House.

Resolved further, That the Committee on Reconstruction be authorized to sit during the sessions of the House.

Mr. CHANLER. Is it not customary to take a recess during the progress of the impeachment?

The SPEAKER. That is anticipating a point which may arise hereafter. In the celebrated case of Judge Peck, which the gentleman will find referred to in the Digest, the House did go over as a Committee of the Whole during the pendency of the impeachment until the prolongation of the evidence induced them to rescind the order. That, however, is for the future action of the House.

There was no objection to the reception of the resolutions.

Mr. BOUTWELL demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. BURR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 36, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Beatty, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eggleston, Eliot, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Kelley, Kelsey, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Mallory, McCarthy, McClurg, Mercur, Moore, Moorhead, Mullins, Myers, O'Neill, Orth, Paine, Perham, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—105.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Kerr, Knott, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—36.

NOT VOTING—Messrs. James M. Ashley, Banks, Barnes, Beaman, Benjamin, Blaine, Reader W. Clarke, Coburn, Dixon, Donnelly, Eckley, Ela, Farnsworth, Finney, Garfield, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Johnson, Jones, Julian, Kitchen, Loughridge, Lynch, Marshall, Marvin, Maynard, McCullough, Miller, Morrell, Morrissey, Newcomb, Nunn, Peters, Phelps, Plants, Pomeroy, Robinson, Shellabarger, Spalding, Thaddeus Stevens, Stone, John Trimble, Robert T. Van Horn, Van Wyck, Henry D. Washburn, William Williams, and Windom—48.

So the resolutions were agreed go.

Mr. BOUTWELL moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER FOR EVENING SESSION.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to order an evening session for debate only on the President's message, this evening at seven o'clock.

No objection being made, it was ordered accordingly.

IMPORT DUTIES ON SEEDS, ETC.

Mr. SCHENCK. I move that the House proceed to business on the Speaker's table.

The motion was agreed to.

The first business on the Speaker's table was a communication from the Commissioner of Agriculture, transmitting a memorial of the Tennessee Horticultural Society, for the removal of import duties on agricultural seeds, &c., and approving the same; which was ordered to be printed, and referred to the Committee of Ways and Means.

UNION PACIFIC RAILROAD.

The next business on the Speaker's table was a communication from the Secretary of the Treasury, in response to a resolution of the House of the 4th instant, relative to the Union Pacific railroad having complied with section twenty of the act of July 1, 1862.

On motion of Mr. WASHBURN, of Wisconsin, the communication was ordered to be printed, and referred to the Committee on the Pacific Railroad.

RAILROADS IN MICHIGAN AND WISCONSIN.

The next business on the Speaker's table was the amendment of the Senate to joint resolution of the House No. 91, concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

The amendment was read, as follows:

Provided, That the provisions of this section shall apply only to the chartered and projected line of railway from the city of Fond du Lac, in the State of Wisconsin, northerly to Escanaba, in the State of Michigan; and the chartered and projected line of railway from Marquette, in the State of Michigan, westwardly to Ontonagon, in the same State.

Mr. SAWYER. I move that the House concur in the amendment, and on that I demand the previous question.

Mr. DRIGGS. Mr. Speaker, I see that this amendment extends the grant to another road. We did not want to extend it.

Mr. WASHBURNE, of Illinois. I hope it will be referred to the Committee on Public Lands.

Mr. DRIGGS. I hope so, too.

The previous question was not seconded.

Mr. DRIGGS. I move to refer the amendment to the Committee on Public Lands.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ISLANDS IN GREAT MIAMI RIVER.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 223) in relation to islands in the Great Miami river.

The amendment of the Senate was read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That in the case of such islands in the great Miami river, in the State of Ohio, as are undisposed of, or any vacant public lands adjacent thereto, which are in the actual and exclusive occupancy of any persons who have made improvements thereof or of their heirs or assigns, such occupants thereof shall have the preference right to enter the same at $2 50 per acre, on making proof of the facts to the satisfaction of the Commissioner of the General Land Office, and paying for the land within twelve months from the passage of this act, and patents shall issue for the tracts so entered, as usual in entries of public lands.

Mr. JULIAN. I hope the House will concur in that amendment.

Mr. LAWRENCE, of Ohio. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of the Senate was concurred in.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NEW ORLEANS, ETC., RAILROAD.

The next business on the Speaker's table was the amendments of the Senate to the bill of the House (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company as hereafter constructed a post route, and for other purposes.

Mr. FARNSWORTH. I call the previous question on the amendments. I believe there is nothing in them but what makes the bill better for the Government.

The amendments of the Senate were read, as follows:

First amendment:

Page 2, line three, after the word "reasonable" insert "and necessary."

Second amendment:

At the end of the bill add the following:

SEC. 2. *And be it further enacted*, That the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of said rivers, growing out of the construction of said bridges, is hereby expressly reserved.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. FARNSWORTH moved to reconsider the votes by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MAIL MATTER.

The next business on the Speaker's table was the amendments of the Senate to the joint resolution of the House No. 104, authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Hampshire.

Mr. FARNSWORTH. I demand the previous question on concurring in the amendments.

The amendments of the Senate were read, as follows:

Strike out all after the enacting clause and insert: That the adjutant generals of the several States and Territories be authorized to transmit through the mails, free of postage, any medals, certificates of thanks, or other testimonials awarded, or which may be awarded, by the Legislatures of said States and Territories, to the soldiers thereof, under such regulations as the Postmaster General may direct.

Amend the title by striking out all after the word "certain" and insert "testimonials by the adjutant generals of the several States."

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. FARNSWORTH moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DUBUQUE AND SIOUX CITY RAILROAD.

The next business on the Speaker's table was the Senate amendments to the bill of the House No. 208, to extend the time for the completion of the Dubuque and Sioux City railroad.

Mr. ALLISON. I move that the amendments be concurred in, and upon that motion I call the previous question.

Mr. BURR. I move that the House now take a recess.

Mr. ALLISON. I would inquire of the Chair what would be the effect upon the pending bill should the House now take a recess.

The SPEAKER. This subject would come up to-morrow the first thing after the reading of the Journal.

Mr. ALLISON. I will not object to a recess at this time.

The motion of Mr. BURR was then agreed to.

The House accordingly, pursuant to previous order, (at four o'clock and thirty-five minutes p. m.,) took a recess until seven o'clock p. m.

EVENING SESSION.

The House reassembled at seven o'clock p. m., (Mr. KELSEY in the Chair as Speaker *pro tempore.*)

The SPEAKER *pro tempore.* The House is now in session as in the Committee of the Whole, pursuant to the order of to-day, for purposes of general debate.

Mr. PRUYN addressed the House on the treaty-making power, and also as to the construction of the impeachment clause of the Constitution. [See Appendix.]

Mr. LAWRENCE, of Ohio, addressed the House on the subject of the national expenditures, the national debt, the mode and manner of national taxation, and the national currency. His speech will be published in the Appendix.

Mr. BURR and Mr. BENTON next addressed the House in remarks which will appear in the Appendix.

And then, on motion of Mr. LAWRENCE, of Ohio, (at nine o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of B. J. Burnett, of New York city, praying that his system of ventilation may be investigated by Congress.

Also, resolutions of a meeting of citizens of Jefferson ward, Richmond, Virginia, for the impeachment of the President of the United States, and sustaining Secretary Stanton in his patriotic course.

By Mr. CARY: The petition of R. H. Bailey and 300 others, workingmen of Cincinnati, praying for the passage of a bill introduced January 27, by Hon. S. F. CARY, to establish a uniform currency, provide for the management and liquidation of the national debt, and for other purposes.

By Mr. DRIGGS: The petition of John J. Webb and 2,000 others, citizens of Lake Superior, Michigan, praying Congress to grant protection against foreign copper importations, so as to save this vast American interest from ruin, and to that end asking that an increased duty be immediately placed upon imported copper.

Also, the petition of F. P. Mills and 50 others, of Marquette county, Lake Superior, Michigan, praying Congress to reduce the expense of the Army and Navy, and to give protection to American productions.

By Mr. EGGLESTON: The petition of 75 merchants of Cincinnati, praying that the Navy be reduced to thirty vessels, that the Army be reduced to twenty-five thousand men, and protesting against a large standing Army in time of peace.

By Mr. FIELDS: The petition of 400 citizens of Chenango county, New York, asking a reduction of the Navy, of the Army, and of the expenses of the Government; also a reduction of taxation.

By Mr. GOLLADAY: The petition of Jesse R. Rowe, of Cumberland county, Kentucky, asking payment for a horse.

Also, the petition of James D. Allen, of Cumberland county, Kentucky, asking payment for a horse.

Also, the petition of John F. Garrison, of Warren county, for his pay and emoluments.

By Mr. GLOSSBRENNER: Papers in support of the application of Martha J. Lindsey, widow of Ephraim Lindsey, late of Cumberland county, Pennsylvania, deceased, for a pension.

By Mr. INGERSOLL: A remonstrance of cigar dealers and manufacturers in Peoria, Illinois, against any change in the manner of stamping cigars.

By Mr. LINCOLN: The petition for the relief of Catherine Van Arder.

Also, the petition for the relief of Maria H. G. De Lano.

By Mr. MOORE: The petition of citizens of Philadelphia and New Jersey, setting forth that the harbor at Atlantic City and Absecom Inlet, New Jersey, is endangered by encroachment of the sea, and praying action on the subject.

By Mr. O'NEILL: The petition of Messrs. David S. Brown & Co., Shortridge, Borden & Co., Lewis Brothers & Co., H. P. & W. P. Smith, Pease & Baxter, Bangs & Maxwell, Brooks, Miller & Co., Pemberton S. Hutchinson, and English Brothers & Co., of Philadelphia, asking that the naval vessels now in commission may be reduced to thirty or less; that the Army may be reduced to twenty thousand men; the naval appropriations to $12,000,000; the war appropriations to $35,000,000 or less; appropriations for the civil service to $20,000,000; that our northern forts may be taken care of by disabled soldiers, and laid up ships by maimed sailors; that the fifty thousand able-bodied men now in idleness in the Army and Navy may be relieved to aid in the development of the nation's wealth, so that the burden of taxation may be reduced to the necessities of a mere peace basis.

Also, the petition of home producers and regular importers of the city of Philadelphia, setting forth the disadvantages of the warehousing system, whereby the refuse and surplus accumulations of the manufactories of Europe are thrown upon the markets of this country to their great detriment and loss; asking for the repeal of the law establishing bonded warehouses for imported goods.

By Mr. POLSLEY: The petition of Wm. H. Tomlinson, John W. English, and others, praying that the interest-bearing bonds of the United States may be paid in greenbacks, and greenbacks only.

Also, the petition of Henry J. Fisher and others, with the same prayer.

Also, the petition of Robert Alexander and others, with the same prayer.

By Mr. STOKES: The petition of Colonel Samuel W. Price, late colonel twenty-first Kentucky infantry, asking a joint resolution for remuster and pay for the time he was on duty.

By Mr. WOOD: The letter of B. J. Burnett, of New York city, relative to the proper method of ventilating the Hall of the House of Representatives, accompanied by a pamphlet setting forth Burnett's automatic system of ventilation for public buildings.

IN SENATE.

WEDNESDAY, *February* 26, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, praying an appropriation for the improvement of the Chippewa river, in that State; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, praying additional mail service between Lone Rock, in Richland county, and Ironton, in Sauk county, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, praying for the establishment of a mail route from Neillsville, in the county of Clark, to Graves' Mills, in the county of Clark, (via Hosley's Corners and George Huntsuer's,) a distance of twenty miles; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, praying for an appropriation to construct a harbor at the mouth of the Menomonee river; which was referred to the Committee on Commerce.

He also presented a memorial of the German Emigration Society, of Cincinnati, Ohio, praying an amendment to the passenger act of March 3, 1855, so as to give protection to emigrants on ship-board; which was referred to the Committee on Commerce.

Mr. YATES presented a petition of citizens of Utah, for the establishment of the territorial government of Wyoming, and to have portions of the Territories of Utah and Idaho attached thereto; which was referred to the Committee on Territories.

Mr. CONKLING. I present a petition of citizens of Buffalo, New York, in reference to retrenchments. The petitioners ask that the Army and the Navy be reduced, that superfluous officeholders be dispensed with, and that retrenchments occur in the naval service, which they point out, for the correction of abuses which they deem grievous and reprehensible. I move the reference of the petition to the Committee on Retrenchment.

The motion was agreed to.

Mr. RAMSEY presented the petition of Henry Carroll, ninth cavalry, United States Army, asking to be reimbursed for loss of his personal property by flood on Turkey river, Texas, in the month of August, 1867, when marching with his regiment; which was referred to the Committee on Claims.

Mr. PATTERSON, of Tennessee, presented the petition of Margaret Whitt, widow of Martin Whitt, deceased, of company B, fourth Kentucky volunteers, asking to be placed on the pension-rolls; which was referred to the Committee on Pensions.

Mr. ANTHONY presented additional papers in relation to the claim of Wilson D. Burlingame; which were referred to the Committee on Naval Affairs.

Mr. PATTERSON, of New Hampshire, presented a memorial of four thousand citizens of Louisiana, remonstrating against the reconstruction laws of Congress; which was referred to the Committee on the Judiciary.

Mr. CORBETT presented a petition of Richard Irwin and others, incorporators of the Corvallis and Yaquima Bay railroad, in the State of Oregon, praying a grant of lands in aid of the construction of the road; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 363) defining the jurisdiction of the courts of the United States in certain cases, reported it with amendments.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (S. No. 168) for the relief of George E. Glenn, additional paymaster United States Army, submitted an adverse report; which was ordered to be printed.

FARMERS' AND CITIZENS' BANK.

Mr. MORGAN. I am instructed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under certain conditions, to report it back without amendment and recommend its passage. As this is a joint resolution from the House of Representatives, which has passed that body with great unanimity, and is quite important to the locality, I ask that it may have the consideration of the Senate at this time. Prompt action is important, and I think when the resolution is read there will be no objection to it. I am ready to make an explanation, having examined the case.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the Comptroller of the Currency, with the approval of the Secretary of the Treasury, to revoke the order appointing a receiver for the Farmers' and Citizens' Bank of Williamsburg, New York, and restore [illegible] bank and its management to the directors, for the purpose of enabling the association to continue the business of banking; but the banking association is first to present to the Comptroller satisfactory assurances that the public interest will be promoted thereby, and to secure, in such manner as the Comptroller shall direct, the full payment of all the creditors of the association, and to restore the capital stock to its original amount in case the capital has been impaired by losses.

Mr. JOHNSON. I rise to ask the honorable member from New York why it is that the Comptroller has not this authority now, without legislation?

Mr. MORGAN. It has been found that he has not this authority. The national bank law does not give the Comptroller of the Cur-

rency this power. There is a report among the papers from the Comptroller of the Currency in which he takes that ground.

Mr. JOHNSON. Then I have no objection to the resolution; but I think the Comptroller is wrong; I think he has the power.

Mr. MORGAN. The Comptroller has decided that he has not the power, and the committee of the other House has so decided. There is a report from him in the papers. He is in favor of the measure, and the committee of the other House were unanimously for it.

Mr. JOHNSON. I am not objecting to it; but, speaking from recollection of the national bank law, my impression was that he had the power. If he thinks otherwise I have no objection to the resolution.

Mr. SHERMAN. I am not only satisfied that he has not the power, but the power was refused to be given, on the ground that if the Comptroller of the Currency had the right to withdraw a receiver it might subject him to all sorts of trouble. The power was denied him.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

SURRENDER OF CRIMINALS TO FOREIGN NATIONS.

Mr. STEWART. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 719) for the surrender of persons convicted of certain crimes, to report it back with amendments. As this bill is only to apply to those countries with whom we have no extradition treaties, and inasmuch as there is a necessity in certain cases now for the passage of the bill at once, if it is to pass at all, I ask for its consideration now.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment of the Committee on the Judiciary was in section two, line four, after the word "guilty" to insert the words "in any foreign country," and in the same line to strike out the word "assassination."

The amendment was agreed to.

The next amendment was in section two, line five, to strike out the words "or is about to enter."

The amendment was agreed to.

Mr. CORBETT. I should like to inquire whether it is the intention to send these men back at the expense of the Government of the United States.

Mr. STEWART. It will authorize their arrest.

Mr. CORBETT. The bill directs the President to send these men back to the country from which they came. I do not know how it can be done unless it is by paying their passage.

Mr. STEWART. They will be taken back by the authorities of the nation demanding them. It is only done on demand, of course.

Mr. MORTON. I should like to hear the bill read as it now stands amended.

The Secretary read the bill as amended, as follows:

Be it enacted, &c., That no person who may have been duly arrested, tried, and convicted and adjudged guilty in any foreign country of murder, piracy, arson, robbery, or forgery, and where conviction has not been reversed, shall be allowed to enter or remain in the United States.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, upon the production of satisfactory proof that a person so arrested, tried, and convicted of either of the said crimes as aforesaid has entered the United States, to return, or cause to be returned, such convict to the country from which he came, or in which he may have been so convicted.

Mr. MORTON. I should like to know from the Senator having the bill in charge why this prohibition is limited to a few offenses. There are many other infamous crimes which ought properly to exclude a criminal, as well as those that are named in the bill. Why should it not extend to all infamous crimes? If it is proper to exclude those who have been guilty of the four or five offenses named in the bill, it is proper to exclude those who have been guilty of many others.

Mr. STEWART. I will state that the offenses enumerated in the bill are those that are usually included in our extradition treaties, where we have treaties for the surrender of criminals. This bill follows the enumeration in those treaties, and this is recommended by the Secretary of State to apply to certain cases where we have no treaties.

Mr. MORTON. It occurs to me that the fact that these are the offenses usually enumerated in extradition treaties does not furnish a sufficient reason. If this bill is proper at all it should extend to infamous crimes generally. Now, this bill is not only applicable where a foreign Government is sending convicts to us, as has sometimes been done, but it applies just as well to a case of conviction where the punishment has been suffered and the man is lawfully at liberty, and, in the exercise of the right of expatriation, that we all insist upon, he proposes to come to this country. It occurs to me that this is an important provision; that there is an important principle involved in it, and it ought to be well considered before it is passed. If we propose to prevent all persons who have been guilty of infamous offenses, although they may have suffered the penalty of their crimes and are lawfully at liberty, and have a right to go where they please, from coming here, that is one thing; but to limit that to a few offenses may not be very important, except that it involves another principle upon which we are very sensitive in this country, even as applied to a man who has been once convicted of an infamous crime.

Mr. STEWART. In extending this bill so as to cover all offenses in other countries we might include in our general terms political offenses. This language has been used in all the extradition treaties. Our Government has been very careful not to use such terms as would include political offenses. We struck out the word "assassination" for that reason. I suppose that all assassination is murder; but it is not a legal phrase, and might, by the laws of other countries, be construed so as to include political offenses. It is not a definite term well understood. The terms in this bill are those that are commonly used in the treaties, and the bill is only intended to supply the defect where we have no existing treaties. If further legislation, more general in its character, is to be had outside of the common range of the treaties on this subject, it would require quite an extended examination; but this bill is simply to supply the place of extradition treaties where we have none, and follows those precedents.

Mr. SHERMAN. The second section of the bill, it seems to me, goes too far. It authorizes the President to return persons or cause them to be returned. It seems to me that language is not in accordance with the extradition treaties. I think it ought not to require him to surrender to the country the criminal. That might enable the President to involve us in considerable expense. I suppose the only object of the bill is to authorize the surrender of a criminal upon demand. I therefore move to strike out the word "return" and to insert the word "surrender."

Mr. WILLIAMS. I do not understand that to be the object of the section. As I understand it, it is to prevent these criminals from coming into the United States, to prevent any foreign Government from sending their criminals into this country. If I am not misinformed, it has been the practice in some countries in Europe, whenever a man was convicted of a crime, to furnish him with facilities to come to the United States, so that our country is filled up, to some extent, with criminals from Europe. I supposed the object of this bill was to correct that evil.

Mr. SHERMAN. It seems to me that is extraordinary, to expatriate people without trial. I do not think that is the object of the bill. I will, therefore, move, for the purpose of seeking explanation and light on the subject, to strike out the word "return" and insert the word "surrender," to conform to the object of the bill as stated by the gentleman who reports it, so that these persons may be surrendered on demand as in cases under the extradition treaties. That is the way I understand it. I take it the extradition treaties are based upon the right of a nation, when a great offense is committed such as those enumerated in the bill, to pursue the criminal into a friendly country and there take him, if they can, with the consent of the country in which he is harbored. The ordinary form of extradition is to apply to the proper tribunal for an order for arrest to try the case under the extradition treaty, and then surrender him to the country from which he fled, where the crime was committed.

Mr. WILLIAMS. I will ask the Senator what necessity is there for that after a man has been convicted. I understand this section to provide for persons who have been arrested, tried, and convicted in their own country. I think that most foreign countries would be very glad to get rid of their criminals in that way if they could banish them from the country or provide so that they should come to the United States. They would get rid of the expense of punishing the criminal and protect themselves at the same time.

Mr. POMEROY. I presume the object of this bill is a good one, and those who reported it know more about it than I do; but it occurs to me that it is a new and strange mode of procedure for us in this country to provide for sending out of the country men who have been convicted and served out their terms in other countries, paid the forfeit for whatever crimes they may have been convicted of, and then escaped into this country. If that is the bill, as it seems to be, I do not see any occasion for passing it.

Mr. STEWART. That is not the bill. I will explain it.

Mr. POMEROY. I was going to add that the chief offenders, I have noticed, do not get convicted in this country or in any country; and secondly, some of the very best men have been convicted and served out their times; and I do not suppose we mean to sit in judgment on those cases now and send any such men back. Men of whom the world is not worthy have suffered imprisonment in other countries for all sorts of crimes; I do not say it is so in this country. I do not propose to send parties back under all circumstances.

Mr. STEWART. This bill will not apply to Great Britain or any other country with which we have an extradition treaty. I believe we have such a treaty with Spain. It has reference to certain notorious criminals that are on their way to this country from countries with which we have neglected to make extradition treaties. It is recommended by the Secretary of State that we should pass a law of this kind, and the House of Representatives have acted on that recommendation. I think, however, the amendment suggested by the Senator from Ohio is pertinent; but I notice that the language of extradition treaties is that persons shall be "delivered up," and I think we had better employ that language now.

Mr. SHERMAN. I will modify my amendment by adopting the language suggested by the Senator from Nevada, and instead of "surrender" use the words "deliver up," so as to conform to the language of the extradition treaties.

Mr. POMEROY. The language of the amendment as now modified, "deliver up," is hardly applicable to that class who have already been convicted and served out their time.

Mr. SHERMAN. This bill is not meant to apply to them at all, I suppose.

Mr. POMEROY. The first section of the bill includes that class.

Mr. MORTON. The amendment now proposed changes the whole character of the bill. The bill contemplates sending criminals back where they come here voluntarily, or where

they are sent here by the Government of their own country, either directly or indirectly. The case put by the Senator from Oregon was that of the Government of the country of a criminal sending him here or furnishing facilities for his coming here. That has sometimes been done, and we have had cause of complaint on that ground. But this bill is not confined to cases of that kind; it covers every case where a man has been convicted, and perhaps has served out his time or escaped from his punishment; and what is the provision made? That the President "upon the production of satisfactory proof" shall send him back. What kind of evidence shall be sufficient to authorize the President to send a man from here to England or to Germany is not stated; there is no formula presented; no particular species of evidence is required.

Now, sir, in treaties for extradition the mode of proceeding is prescribed in the treaty; the rights of the criminal are not left to the discretion of the President or anybody else, but the mode of proceeding is pointed out. This bill does not provide any mode of proceeding. It says a man shall be returned if the evidence shall be satisfactory to the President. A mere *ex parte* affidavit may be satisfactory to the President; and upon that affidavit a man may be arrested here and sent back across the Atlantic to the utter destruction of his rights and perhaps the rights of his family. Sir, it is not right to put a power of that kind into the hands of the President. If we are to authorize the President to send any man back to the country from which he came we ought to throw about that power such limitations that it shall not be abused, and that the rights of persons shall not be trampled upon.

The amendment proposed makes it simply an extradition treaty in point of form, and only authorizes the President to send a man back when he is demanded; in other words, to deliver him back to the Government that is seeking him. That was not the original purpose of the bill. It was not to meet that case; it was to meet the other case where a man came here, not escaping from his Government, but by the connivance of his Government. But I am speaking of the bill in its original form, and I say that it is placing a power in the hands of the President without limitation, without means or formula, for the exercise of the power of sending a man back upon evidence that may be satisfactory to him. That may be, so far as the bill is concerned, a mere verbal statement; the bill does not even require an affidavit.

Mr. HENDRICKS. When this bill was examined by the Judiciary Committee it was very hastily examined, and I had no opportunity to look into the extradition treaties and to see what was the scope and meaning of the bill itself; but I do not think there is any such purpose as my colleague supposes. My understanding of the purpose of the bill was this: that where a man has been convicted according to the course of proceedings in his own country of any of these very high crimes, and escapes and comes to this country so as to avoid the punishment inflicted by the laws and courts of his own country, he shall be surrendered upon the demand of that country. The bill contemplates a case of conviction, no other case; and I understood that the bill was presented because of one particular case, a case of a very great criminal now coming to this country, to secure the return of that criminal upon the application of his Government. In this case there cannot be very much evidence to submit to the President or any of the authorities of this country; there can only be the question of identification. I believe the extradition treaties allow a man to be returned where he has not been tried, but where he is under charge of crime. There some inquiry may properly be made beyond the mere identification of the party. I will call the attention of my colleague to the difference between this bill in that respect and the extradition treaties. This bill only contemplates a case where a party has been arrested, tried, and convicted; and if a man has been convicted of murder in his own land, and has escaped the punishment which the laws inflict upon that terrible crime by coming to this country, and his own Government demands him that he may suffer the punishment prescribed by the laws of his own country, surely my colleague and no Senator would wish to refuse to return him.

Mr. MORTON. The bill does not put it on the ground that he has escaped punishment and that his Government wants him.

Mr. HENDRICKS. The committee never dreamed of any other construction being put on the bill than that which I have stated. My purpose certainly would be merely to return a man of the class here described that he might be punished. If a man has served out his punishment, if he has served for the period required by their law, and has answered the demands of their law upon him, of course I would not return him, and they would not pursue him.

Mr. STEWART. And would have no right to pursue him.

Mr. VAN WINKLE. With the permission of the Senator from Indiana, who is on the floor, I desire to make a suggestion.

Mr. HENDRICKS. Certainly.

Mr. VAN WINKLE. I think I am not mistaken in saying that there were reports laid before Congress within a couple of years showing that European countries were in the habit of pardoning men who had been duly convicted out of their jails and penitentiaries on condition of their emigrating, and that the Governments contributed to send those men to this country. My understanding of this bill, when I had it on my table some days ago, was that it was to meet precisely that case; it was to prevent European jails and penitentiaries being emptied into this country.

Mr. GRIMES. A townsman of mine two or three years ago visited his native country, one of the little principalities of Germany, and on his return came over in company with a police officer who had charge of several persons who had been convicted of high crimes in that country, and who were released and a part of their terms of imprisonment given them and a certain amount of money placed in the pocket of each of them when they reached the city of New York, provided they would consent to transfer themselves from that country to this. I laid these facts before the Senate in the shape of a statement from this townsman of mine. Now, if this bill is intended to cover such a case as that, I think it is a very excellent bill, and I shall be in favor of it.

Mr. STEWART. It does not cover it at all.

Mr. HENDRICKS. My purpose would not be to meet the evil that the Senator from Iowa complains of. Although that may be an outrage, I think it is a matter which must be regulated by treaty. This bill provides simply for a case where a party being convicted comes to this country to avoid punishment, and on the demand of his own Government he is to be returned, to suffer the punishment that the laws of that country adjudge against him. That is just as far as I would go, and no further.

Mr. FERRY. If the Senator will glance at the bill he will see that it goes much further than he has just indicated. The bill provides that any person in any foreign country who has ever been convicted of one of the crimes named, although he has served out the punishment years ago, shall not be allowed to enter the United States; and that the President, learning that he is coming here, may take him, and, as the bill is now amended, deliver him up to the country from which he came, which last expression, in connection with this bill, seems to me an absurdity.

Mr. SHERMAN. I saw the same absurdity upon the face of the bill, and it was for the purpose of calling out what the purpose of the bill was that I offered the amendment. The Senator who reported the bill says it is only to place countries with which we have no extradition treaties on the same footing with countries with which we have extradition treaties; that is, that upon the demand of either of those countries these great criminals may be surrendered up for trial and punishment. My reply was at once, if that was the purpose of the bill, its language did not carry out that purpose; but it proposed that we should discriminate and select out from among people who come to this country those who had committed crimes and to expel them from our country. That is the reading of the bill, and, as I did not propose to engage in an enterprise of that kind without some very full and ample legislation providing for a trial and a mode of adjusting the matter, I merely offered this amendment for the purpose of confining the operation of this bill to what was declared to be its purpose, that is, to extend the principle of the extradition treaties to those countries with which we have no such treaties.

Mr. EDMUNDS. I suggest to my friend from Ohio that we ought not to adopt the principle of extending the provision to those countries with whom we have no such treaties unless it be made reciprocal, and it can only be made reciprocal by treaty.

Mr. SHERMAN. Then, certainly, the bill ought to be recommitted. I do not wish to involve the country in the expense of selecting from among the immigrants who come to the United States those who have committed these great crimes, and, upon the mere allegation of private persons, allowing the President of the United States to export them to some foreign country. If that is the object it may involve us in very great expense. I thought it was a duty that I should propose to guard against that construction of the bill, and it seems to me it ought to be done.

Mr. HENDRICKS. I think that there was but one purpose on the part of the committee. This bill was really not considered as maturely as, perhaps, it ought to have been, and I think, in view of the suggestions that have been made, it had better now be sent back to the committee. I move, therefore, that the bill be recommitted to the Committee on the Judiciary for further consideration. I would not go further than to provide that where a party has been convicted in a foreign country, and has escaped the punishment which the law of that country inflicted upon him, he shall be returned on the demand of that country. I never dreamed that the bill went further than that, and I think that was the construction of the committee.

Mr. TRUMBULL. Before the vote is taken I will state that this is not a bill originating here, but a House bill, which was suggested by a communication from the Department of State. We were informed that there was on the way to this country a very noted criminal, who was expected shortly to reach our shores, and from a country with which we have no extradition treaty. The representative of that Government represented the facts here and sought to take measures to have him arrested. He has escaped, I understand, from one of their prisons, where he was under sentence for life. The Department of State sent a letter to the Committee on the Judiciary of the Senate, and I presume a similar letter was sent to the House committee. That letter will explain the origin of this bill, but I presume the bill goes further than the particular case which gave rise to it. I send the letter to the desk and ask to have it read.

The Secretary read as follows:

DEPARTMENT OF STATE,
WASHINGTON, *February* 8, 1868.

SIR: Since I have been Secretary of State the expediency of a general law to prevent persons convicted abroad of certain infamous crimes from settling in this country has often occurred to me. Such persons sometimes come hither after punishment, and at others when they have escaped from prison. In no case, however, can they be supposed to be welcome. A draft of a bill upon this subject is accordingly inclosed for your consideration, and that of the committee of which you are chairman.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. LYMAN TRUMBULL, *Chairman of the Committee on the Judiciary, Senate.*

Mr. TRUMBULL. Now, I have no objec-

tion to have the bill recommitted, if the Senate think it ought to receive further consideration, but I have stated what was the origin of the bill. Certainly the case that gave rise to it is a very proper one to receive attention, as we do not want such a person as that in this country, and there ought to be some means by which the Executive should be authorized to surrender him up to the country whence he came.

Mr. DAVIS. I think this bill ought to be recommitted. It is a principle of our Government as well as of the Government of England that political criminals shall have an inviolable asylum within our borders. Of course, the bill ought to be so guarded as that the rights of asylum of political offenders shall not possibly be infringed upon. But for the last thirty years it has been the practice of some of the German Governments, especially the smaller Governments, to make a general jail delivery from time to time, by liberating their criminals, on condition that they would come to the United States. Various of our consuls in the course of thirty years have made report of the smaller German Powers having sent sometimes as many as twenty or thirty criminals at a time. Of course, persons that are released from prison after having committed heinous offenses ought not to be allowed to come into our country. I think that the bill ought to be recommitted, with a view to being cautiously redrawn to embrace the latter class of cases, and not possibly to embrace the case of men who have committed a nominal crime abroad growing out of politics.

Mr. STEWART. I have no objection to the recommitment of the bill; but, so far as the objection suggested is concerned, I think it can be cured by the insertion of one word, by using the word "satisfied," so as to read, "where the conviction has not been satisfied." Then there would not be any one sent back who had served out his time. I think the bill, with that amendment, would answer the entire purpose, and probably would be in as good shape as we can get it.

Several SENATORS. Let it be recommitted.

Mr. STEWART. Very well; I have no objection to that.

Mr. MORTON. I desire to say one word on the proposed amendment suggested by the Senator from Nevada and the amendment of the Senator from Ohio. If we were to convert this into a general extradition treaty it would be in favor of Governments that do not accord the same right to us. We give the right of extradition now to Governments who accord that right to us, and we do not intend to extend it beyond such Governments.

Mr. TRUMBULL. Let me ask the Senator from Indiana whether he wants criminals here from other countries, whether they send ours back or not. Take the case which has given rise to this bill; he certainly does not want that person in the United States.

Mr. MORTON. We do not want criminals here; but we do not want a law on the statute book under which there may be gross oppression and outrage of individual rights.

Mr. TRUMBULL. Of course not.

Mr. MORTON. What does this bill provide? "That the President of the United States be, and he is hereby, authorized, upon the production of satisfactory proof"—that is, satisfactory proof to him—"that a person so arrested, tried, and convicted of either of said crimes as aforesaid has entered the United States," to seize and send that man back. This "satisfactory proof" may be an *ex parte* affidavit. It should not be done in any case except upon the production of the record of his conviction and proof of his identification, and that under rules and regulations prescribed by law. It does not refer merely to the case of a man who has escaped the punishment due to his crime; he may have suffered his punishment ten years ago and have come here without the connivance of his Government; and this second section authorizes the President to seize that man and send him back upon proof that is satisfactory to himself. The private testimony of one of his friends may be satisfactory to him; and upon this proof thus satisfactory to him the rights of a man are to be destroyed. We cannot afford to pass a law of that kind.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, [Mr. HENDRICKS,] to recommit the bill to the Committee on the Judiciary.

Mr. SUMNER. I desire to make a single remark on that. This subject is not new to this Chamber. It came up some two years ago on a bill reported by the Committee on Foreign Relations. That bill simply provided that our Government should protest to all Governments with which we were in diplomatic relations against sending their criminals to our shores, and it further declared that if any Government persevered in so doing we should regard such conduct as unfriendly in character. That at the time was all that the committee having the subject in charge thought that they could recommend to the Senate. That was adopted. If since then any such abuses have been continued it is easy to see that there is now occasion for some more active measure than there was formerly, though, I confess, from the examination I gave the subject at the time, I felt the intrinsic difficulty of dealing with it. According to the genius of our institutions, of course, every person is entitled to a trial in some form or other; and indeed our institutions, I need not say, contemplate a trial by jury, and it is only in peculiar cases and by virtue of extradition treaties that a person is taken into custody and handed over to justice without a trial by jury.

Mr. MORTON. He always has a trial, nevertheless.

Mr. SUMNER. I merely mention that to open to the Senate what seems to me to be the intrinsic difficulty of this subject. I hope, therefore, that the bill will be recommitted, and that the committee will look at it in the light of the present discussion. I think we all must be anxious to provide some remedy for this abuse.

Mr. SAULSBURY. I understood yesterday that House bill No. 439, additional and supplementary to the so-called reconstruction laws, was to be taken up at one o'clock to-day; and, if it be in order, I move now that that bill be taken up for consideration.

Mr. TRUMBULL. Will not the Senator allow us to vote on the motion to recommit the pending bill, so as to dispose of it? There will be no further debate, I think.

Mr. SAULSBURY. Very well, then; I withdraw my motion for that purpose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, to recommit House bill No. 719 to the Committee on the Judiciary.

The motion was agreed to.

IMPEACHMENT OF PRESIDENT JOHNSON.

Mr. HOWARD. I ask the indulgence of the Senator from Delaware to enable me to make a report from a select committee and ask for action on it at this time.

The select committee to whom was referred the message of the House of Representatives respecting the impeachment of Andrew Johnson, President of the United States, have had the same under consideration, and have instructed me to present the following resolution to the Senate for its action:

Whereas the House of Representatives, on the 25th day of the present month, by two of their members, Messrs. THADDEUS STEVENS and JOHN A. BINGHAM, at the bar of the Senate, impeached Andrew Johnson, President of the United States, of high crimes and misdemeanors in office, and informed the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same; and likewise demanded that the Senate take order for the appearance of said Andrew Johnson to answer to the said impeachment: Therefore,

Resolved, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

And the committee further recommend to the Senate that the Secretary of the Senate be directed to notify the House of Representatives of the foregoing resolution.

The resolution was considered by unanimous consent, and agreed to.

Mr. HOWARD. I ask that an order be made directing the Secretary to transmit the resolution just adopted, which is in the usual form, to the House of Representatives.

The PRESIDENT *pro tempore*. That will be done, as a matter of course, without any formal order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R No. 601) making appropriations for the naval service for the year ending June 30, 1869, in which it requested the concurrence of the Senate.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 223) in relation to islands in the Great Miami river.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company as hereafter constructed a post road, and for other purposes.

The message further announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 104) authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Hampshire.

The message also announced that the House had passed the bill (S. No. 270) for the temporary relief of destitute persons in the District of Columbia with an amendment, in which the concurrence of the Senate was requested.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto; the question being on Mr. DAVIS's amendment to the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary with instructions.

Mr. SAULSBURY. Mr. President, the bill under consideration and the act of which it is amendatory are, in my judgment, measures which, if administered in accordance with their intent and meaning, will abolish Government, destroy property, render liberty defenseless, and destroy society. As the enunciation of this proposition may subject me to the animadversion of those whose judgments in respect to public measures are formed without reflection, study, or investigation, and whose action is governed only by the spirit, however extravagant, of the passing hour, I will commend to such the words of Madame De Staël, who has very justly remarked that—

"Opinions which differ from the ruling spirit, be that what it may, always scandalize the vulgar; study and examination can alone confer that liberality of judgment without which it is impossible to acquire new lights, or even to preserve those which we have; for we submit ourselves to certain received ideas, not as to truth, but as to power, and it is thus that human reason habituates itself to servitude."

At the last session of Congress I discussed the then proposed reconstruction measure as fully as I considered necessary, and attempted to demonstrate the want of constitutional authority in Congress to enact it. I shall not repeat that argument now, but will briefly endeavor to show the correctness of the proposition I have announced. In approaching the discussion of this subject I am relieved from all embarrassment under which those who argue in favor of the reconstruction plan of Congress imagine its opponents to labor by their supposed advocacy of the policy of the President in reference to the same subject. While I am utterly opposed to the former I have never advocated or approved the principle in which the latter had its origin. Reconstruction by Con-

gress or by the President is usurpation. Destruction must precede reconstruction, and he or they who reconstruct must first destroy.

But it is said that the people of the seceding States destroyed their State governments by rebelling against the Government of the United States, and the question has frequently, during this debate, been asked, and with apparent sincerity, what State governments have those people—the governments which they recognized before the rebellion, those which they established during the rebellion, or those which they have formed since the termination of the war? It is asserted by the advocates of congressional reconstruction that the governments existing in those States prior to the war were subverted by those created during or in anticipation of the war, at least by rebellion; that the latter were absolutely null and void, because they were hostile to the Government of the United States, and that those set up, to use a congressional, although not very appropriate, expression, since the war are illegal, without authority, being set up under presidential dictation and without the consent of Congress, who alone, being the legislative power under the Constitution, can prescribe or authorize the formation of constitutions, and on their own terms and conditions, by the people of what were once the southern States.

I deny the correctness of every proposition thus asserted. The people of the ten States named in this bill have never at any time since they became States of the Union been without legal, binding, subsisting State governments. Some of the provisions of some of the constitutions of those States may have been repugnant to the Constitution of the United States, and therefore void, but the constitutions themselves, subject to this qualification, originating in the will of the people who framed and adopted them, were legal and binding; they were the supreme law of those States, and to them the people of those States owed obedience. That this is true in respect to the constitutions existing there prior to the war will not be questioned.

The proposition is equally true in respect to those formed or claimed to exist during the war. Suppose the convention now sitting at Albany for the purpose of revising the constitution of that State should incorporate in it an article declaring that New York was not and is not a State in the Union, and that the constitution of that State, being submitted to the people for their ratification or rejection, should be by them ratified, would that one article vitiate the whole instrument, render it void, and place the people of that State in a condition of having no constitution and State government at all? And would it be competent for Congress to frame or authorize, upon terms and conditions that they might deem proper, another and wholly different constitution for the people of that State? Suppose the constitution framed by that convention and ratified by the people should contain a further and more obnoxious provision, that the people of New York owed no allegiance to the Federal Government, were not citizens of the United States, but owed allegiance to the queen of Great Britain and were her liege subjects, would such a provision wholly vitiate such constitution and cause it to be wholly null and void? Assuredly not. And why? Because such a provision, being repugnant to the Constitution of the United States, which is the supreme law, anything in the constitution and laws of any State to the contrary notwithstanding, would be void; and the people of that State, being unaffected in their constitutional relations to the people and Government of the United States thereby, they would, notwithstanding such void provision in their constitution, continue citizens of the United States; and such constitution, in all other respects, being their voluntary act and deed, would be to them fundamental and organic law. A contrary doctrine admits the power of the citizen to destroy his citizenship and renounce his allegiance without expatriation and compliance with the naturalization laws of any foreign Power, and while remaining within territory included in the limits and subject to the laws and Constitution of the United States. It admits the doctrine of secession and the right of the citizen to determine for himself, without reference to the will of the Federal Government or of the people, whether that right shall or shall not be exercised.

But it may be said that if such a renunciation of citizenship and of allegiance, on paper, merely by an individual or by all the citizens of a State, unaccompanied by the use of force to make it effectual, would not change his or their legal or rightful relations to the Federal Government or destroy the constitution and government of a State, the use of such force, being an act of rebellion, would have that effect. How? Why? The Constitution of the United States gives to Congress the authority to suppress rebellion and to protect a State from domestic violence. It was never contended, and will not be contended, that the whisky insurrection in Pennsylvania and Shay's rebellion in Massachusetts, whether those combinations of the people were or were not too powerful to be suppressed by State authority unassisted by that of the United States, had the effect to destroy the constitutions and governments of those States. Rebellion, then, of a portion of the people of any State, cannot destroy the constitution and government to which they owed obedience. To have that effect, then, it must be necessary, I suppose, in your judgment, that the insurgents or rebels shall have usurped and possessed themselves of the machinery, so to speak, of the State governments. Is your authority to intervene, or its nature, character, and extent, to be affected by the mere fact of the degree of power and the extent of usurpation by the insurgents? The authority is conferred upon you to enable you to maintain and enforce the proper relations of the people and of the State to the Federal Union, not to destroy that relation or to assist or permit that relation to be destroyed. It is conferred that the existence of the State and the continuance of its government as a part and member of the Federal Union shall be assured and perpetuated, not that they shall be terminated and made to cease.

The same consequences and none other result to the people of a State and to the State itself as a body-politic, as a government being a constituent member of the Federal Union upon the suppression of a rebellion, whether the insurgents acted under or in defiance of the forms of law, whether they usurped or ignored, or allowed an opposing faction or party to retain or assume to exercise the governmental power in the State. The rebellion being suppressed either by State or Federal authority, the proper relations of the State to the Union exist, and the duty and obligations of its citizens, both to itself and to the Federal Government, remain unaffected and are determined in reference to itself by the constitution of the State, to the Federal Government by the Constitution of the United States. That relation is obedience to the constitution and laws of each to the extent to which that obedience is due, and protection by each subject to the right of each judicially to try and punish, according to law, individuals guilty of crime previously defined of treason or rebellion against either, if treason or rebellion has been committed. But suppose the insurgents have usurped the authority of the State, and have possessed themselves of its government, who, it may be asked, are to administer that government upon their dispersion or upon the suppression of their rebellion? I answer those, and those only whom the people of the State shall designate. If, during the existence of the rebellion, they have been subjected to a government *de facto*, established over them with power to protect those who yielded obedience to it, and to punish those refusing obedience, such government was obligatory upon them. They were justified, or at least excused, in yielding obedience to it, and they rightfully incurred all the consequences of disobedience to it. The Federal Government having vindicated its constitutional authority over the people of the State has discharged its duty and exhausted its authority, and the people of the State, in the exercise of their inherent and constitutional right of self-government, can alone determine whether they will continue to live under the constitution and laws in existence and in force at the time of the suppression of the rebellion or the overthrow of the *de facto* government, or whether they will amend them or form and enact others in their stead.

This, sir, is no new doctrine. It is as old as the existence of governments among men. Even in cases of foreign and aggressive war, a war of conquest, all the institutions and laws existing among the conquered at the time of the conquest not repugnant to the constitution or fundamental law of the conquering power, remain in force and continue to be binding upon the inhabitants of the conquered territory until they are abrogated by the only authority which has legal power to annul them, and to enact others in their stead. In the cases of civil war and in wars which have resulted in the change of dynasties and rulers the laws of the people in existence at the time of the change have remained in force as rules of action to be observed and obeyed by the people until such laws have been repealed or annulled by competent authority. Such was the case among the different republics and peoples of Greece. Such was the case in Rome, whose form of government and administration were subject to such frequent and different changes. The history of France, and of England, and of every other modern nation, attests the correctness of this proposition; and the bill under consideration furnishes the only anomaly and exception to the uniform practice and example of the different nations of the world, either in ancient or modern times. Prior to our late civil war, the views I have presented in reference to the binding force and authority of these constitutions would not have been seriously questioned by any intelligent and well-informed lawyer or statesman. That war has had the effect with many, at least, not only to debauch morals, but to destroy all just conceptions of fundamental law and of the essential and inherent principles of both civil and constitutional liberty. The principles which underlie and which constitute the basis of our Federal system of government are by many wholly misunderstood, grossly perverted, or willfully ignored. The doctrine or principle which I have asserted to be true, in reference to the existence and binding force upon the people of the southern States of the constitutions under which they professed to live during the war, is older than the discovery of the American continent. It is the uniform doctrine of all modern nations. It is the adjudged law both in England and in the United States. To the law and to the testimony on this subject I have had occasion heretofore in this body to cite the authorities to which I am now about to refer; but as they are pertinent to the question under discussion I will again call the attention of the Senate to them. Says Blackstone, volume 4, page 221:

"A usurper who has got possession of the throne is a king within the meaning of the statute, as there is a temporary allegiance due to him for his administration of the Government and temporary protection of the public, and therefore treasons committed against Henry VI were punished under Edward IV, though all the line of Lancaster had been previously declared usurpers by act of Parliament. When, therefore, a usurper is in possession, the subject is excused and justified in obeying and giving his assistance; otherwise, under a usurpation, no man would be safe if the lawful prince had a right to hang him for obedience to the powers in being, as the usurper would certainly do for disobedience."

This statute was only declaratory of what the law was before its enactment, and in accordance with the general practice and acknowledged law of all nations. It not only justifies obedience to existing law under a usurpation, but it recognizes the temporary validity of such law and exempts from punishment obedience thereto. It does more; it completely refutes and absolutely destroys the position taken by

some Senators in this debate, that the people of the southern States, who yielded obedience to the confederate government, which they were unable to resist, thereby were guilty of treason, incurred its penalty, and forfeited all rights, civil and political; which assumption has been made the basis of authority in Congress to declare that the governments of those States have been destroyed, have ceased to exist, and of establishing such governments over the southern people as Congress should absolutely will. But, sir, this doctrine has been solemnly adjudged to be true by the courts of this country, and has never been questioned by any judicial authority having the power of ultimate determination. In the case of Respublica *vs.* Samuel Chapman, (1 Dallas, pages 53 to 60,) decided in 1781, before the recognition of our independence, the court held, Chief Justice McKean delivering the opinion, that the State of Pennsylvania having declared its independence of Great Britain, and having established a government capable of affording protection to the citizen, high treason might have been committed against it by any person who was a subject or citizen of the Commonwealth. The court say:

"Allegiance being due from the 28th of November, 1776, when, as already observed, the Legislature was convened and the members of council were appointed, treason, which is nothing more than a criminal attempt to destroy the existence of the Government, might certainly have been committed before the different qualities were defined and its punishment declared by positive law."

And why? Because treason being a crime at common law, and protection and allegiance being reciprocal, the power—organized political power—that protects has the undoubted right to command the obedience of those whom it protects. The court in this case also observe:

"Pennsylvania was not a nation at war with another nation, but a country in a state of civil war, and there is no precedent in the books what might be done in that case; except where, indeed, a prince has subdued the people who took up arms against him before they had formed a regular government, which is likewise inapplicable here."

These cases, sir, recognize the binding force temporarily, at least, of governments erected or established over a people against their will. If this doctrine be true, who can question the validity of the constitutions of the southern States during the war so far, at least, as their provisions were not repugnant to the Constitution and laws of the United States made in pursuance thereof, those constitutions being freely formed by the people of those States respectively, who alone were to be governed by them, and who alone had authority to frame and adopt new constitutions or to remodel and change existing ones. When it is considered that all the powers possessed by Congress are delegated powers, not inherent or original powers, and that no such power as that to frame or revise a constitution for a State can be found delegated by the States in the Federal Constitution to Congress, it follows logically and conclusively that the formation and revision of such constitutions belong exclusively to the people of the States respectively. And as Congress has not the power of forming and revising State constitutions, it necessarily follows that it has not the authority to determine who of the people of a State shall or shall not participate in the formation or revision of such constitutions.

The people of each State, therefore, necessarily determine such questions for themselves. They are proper subjects of their cognizance and of their cognizance alone. If this be not true there is no authority anywhere to originate or give validity to State constitutions or to determine by whom they shall be made or revised. The Federal Government is not a consolidated Government. Its powers can only be exercised upon subjects exclusively committed to it by the Constitution, or which has been by that instrument vested in Congress, to be exercised concurrently with the States. The legislative authority of the General Government does not extend to all matters necessary for the government of the people or for regulating their intercourse among themselves. This authority can only be exercised upon subjects committed or delegated to it by the Constitution. Upon these subjects, and upon these alone, it can legislate, and the exercise of this delegated legislative authority must be direct by Congress itself, and cannot be delegated as the act of last session provides, because *delegatus non delegatus est.* These powers of the General and State governments have been very clearly stated by Mr. Madison in the forty-fifth number of the Federalist. He says the powers of the Federal Government "will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce." "The powers reserved to the several States," he says, "will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people."

I pass to the consideration of the question, are the constitutions which the people of the ten seceding States framed and adopted after the termination of the war valid and subsisting constitutions of those States. I affirm that they are. One reason alone is sufficient to demonstrate this fact. They were framed and adopted by the only authority, as I have already shown, which had the legal power to frame and adopt them—the people of the States respectively. But it is said by some that they were framed under executive dictation. Who raises this objection? Those who claim that the people have not the right to frame constitutions for themselves, however freely they may attempt or assume to exercise that right, but that it belongs to the objectors themselves. The people of those States elected delegates to conventions for the express purpose of forming State constitutions which conform in all respects to the Federal Constitution. Such constitutions were formed. The people say that these are their constitutions, and have organized and set in operation governments under them. They declare they wish to live under them, and they were enjoying the blessings of the governments thus established until you, the objectors, undertook to deprive them of them. It matters not how many telegrams of an advisory character the President or the Secretary of State may have sent them. They were at liberty to heed or disregard the advice. What they did was freely and voluntarily done, and the best evidence of the fact is that they themselves so affirm.

A second objection is, that these constitutions were never submitted to the people for ratification. Is that your business or theirs? Who that claims respectable intelligence will seriously urge this as a valid objection. The legality of such constitutions has been too long and too often affirmed to admit of question. The Senator from Pennsylvania has told you that the people of his State have long lived under constitutions which were never ratified by them at popular elections. Many of the existing constitutions of States which you admit to be in the Union and which are represented on this floor were never, I presume, thus ratified. Delaware has had three constitutions, none of which have ever been ratified by a popular vote. Is it possible that the people of that State have lived ever since 1832, when what they supposed was their constitution was formed, and have had no valid constitution of government? That they have lived under no law? That the judgments of their courts have been nullities? That the transfer of their estates have been illegal? That their contracts have been void? That the innocent have suffered when punishment has been inflicted upon murderers, robbers, and thieves, because inflicted without the authority of law? The rule of law and of common sense in reference to this subject is that the people of a State appointing or electing delegates to frame a constitution for them clothe them with the necessary powers to perform the duty for which they are elected, and a constitution formed and adopted by them is formed and adopted by the people themselves.

Having considered the objections urged against the validity of the constitutions adopted by the people of the seceding States since the termination of the war, I proceed to notice the grounds of authority claimed for Congress to pass this bill and the act of which it is amendatory as claimed by the friends of congressional reconstruction. These are three.

First. The authority is based upon that provision of the Constitution which declares that the—

"United States shall guaranty to each State a republican form of government."

It is said that the President and those who adopt his views claim that this provision authorizes his plan or policy of reconstruction, and that the executive and congressional plans are in unison in reference to the origin of power which is vouched by their respective friends to legitimate them, and much of this debate has been expended in consideration of their respective merits. I am not embarrassed by this controversy. I champion the cause of neither. I deny that the power of reconstruction resides either in the President or in Congress. I assert that the formation of the organic law which is to govern the people of any and every State that was ever in the Federal Union is rightfully and constitutionally the business of the people of that State, and that they may freely exercise it without the let or hinderance and in defiance of the President or Congress.

Let us test this question—the authority of Congress to pass this bill and the other so-called reconstruction measures—by virtue of this provision of the Constitution. What is it the United States shall do? They shall guaranty. What shall they guaranty? A republican form of government. To whom or what is this guarantee to be made? To each State; not to each Territory, not to each individual, not to any collective or aggregate number of individuals, but to each State. The existence of two parties, therefore, is necessary to the practical exercise of this duty; the United States as guarantor and a State as guarantee. If one of the parties does not exist the duty cannot be performed and is not imposed? What is a State within the meaning of the Constitution? It is a political body or body-politic governed by organic law; the whole body of the people united under one Government and within the meaning of the provision cited as authority, such a body-politic in principle and substantially in form as were the States of the Union at the time of the formation of the Federal Constitution. Indeed, this provision, as declared by Mr. Madison, had direct reference to the States which were parties to its ratification.

But the bill which you passed at the last session of Congress declares in its preamble, and the bill under consideration solemnly enacts in its first section, that there are no legal or valid governments existing in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas. Then there is no State to which your guarantee can apply. The duty required of you by the Constitution must necessarily fail of performance from the non-existence of the object in whose behalf it is to be discharged. There is no State to avail itself of the benefit of your guarantee or to agree to accept it. Hence I submit that your authority to pass this bill cannot possibly arise under this provision of the Constitution. Mark you, there can be no State where there is no body-politic, and there can be no body-politic where there is no government. If it be true, as your bill declares, that none of the governments of these States are legal and valid State governments, then in all the vast region included within the limits of your five military districts there are no governments at all. There are no territorial governments there. If your bill be true the people inhabiting those districts are living in a state of nature, without government and without law. If there be no governments there there is no law for the protection of life, liberty, or property. If there be no State governments there are no laws, for the so-called statutes

which were supposed to be laws were the enactments of bodies of men whose sole authority to enact them was derived from what they claimed to be State authority, which authority your bill declares not to exist.

Hence it follows necessarily that, there being no States and consequently no laws in the whole extent of that territory formerly divided into ten States, there is not, and cannot be, any such thing as property therein. Property is anything to which a person has the legal title, whether in possession or not. It is the creature of law. Where there is no law there can be no property. I speak not of that supposed right of property which some writers upon natural law contend exists in a state of nature, and which arises from first personal appropriation. A temporary possession of a thing, the right to the enjoyment of which absolutely determines with the actual possession, and which actual possession itself has no means of protection other than that of superior physical force, can in no just sense be considered property. Pass your bill and let it have the force of law, and there is no such thing as property in what were once ten States of the Union. Is this proposition denied?

Let us test its correctness. A is in possession of a plantation located in Fairfax county, or in what was once Fairfax county, in what was once the State of Virginia, which thirty years ago he inherited from his father. He traces his title back to his great grandfather, who received a patent for the same, which is still in existence. A and his ancestors, through whom he claims, have been in the peaceable, quiet, uninterrupted, and adverse posessions of this plantation, under a connected, clear, and unquestioned paper title, for one hundred and fifty years. Your bill, however, passes and becomes law. It declares there is no legal State government in what was once Virginia, and consequently there is no such county as Fairfax, which was one of the local subdivisions of Virginia; that there are no laws in Virginia for the security of title and the protection of property there; that there is, in fact, no such State as Virginia. B determines to possess the plantation of A, and enters upon it, and by force expels him. How, let me ask you, is A to regain possession? Shall he bring his action of ejectment? What attorney shall appear for him? In what court shall he file his declaration? What officer shall serve a copy of it upon the tenant in possession? By what authority shall a jury be summoned and empaneled to try the issue of title? What court shall award judgment or issue a writ of possession? There are no attorneys, no courts there, and no juries and no officers; for these are created or authorized by law, and your bill declares there is no law there.

Mr. FESSENDEN. My friend will allow me to ask him a question on the point of law he is now stating. I have listened to his argument with a great deal of interest. His argument applies to all Governments as well as to all States. Now, take a monarchical form of government. Suppose that by the constitution of the State there should be a king or a monarch of some sort. He dies; the existing line runs out; and there is no king for a given length of time until provision is made for another. There is no legal government, therefore, existing if no provision has been made for such an event. Does the Senator say that in that case, during the interregnum, no law is in existence; no titles are recognized; everything is chaos; because there is no political government according to the Constitution?

Mr. SAULSBURY. No; I do not say that in reference to the case which the honorable Senator suggests, because in all such Governments, according to the history of any which we have, there is always a constitution or form of government, either written or unwritten, and the government would exist and would be administered according to the laws in existence at the time, although there might be a vacancy in the throne. Here, by this act, you destroy the governments of the States.

Mr. FESSENDEN. But there is no existing legal political government of the State. What becomes of the laws of property, and so on, that theretofore existed?

Mr. SAULSBURY. The law of interregnum is, perhaps, as much a law as any other, and has its own principles; that is to say, that government and laws do exist under an interregnum, although the throne is vacant. However, sir, as I intend to confine myself to my notes, I will not go outside; but I contend for the correctness of the principle as applied to the States of this Union under our peculiar form and system of government.

I was remarking that there are no attorneys, no courts there, for these are created or authorized by law, and your bill declares there is no law there. There is no such thing as a declaration in ejectment, a writ of possession, or any other kind of process. These are all creatures of the law. It follows, therefore, necessarily, that B, having forcibly and wrongfully ejected A from his plantation, must remain in its possession, because there is no law affording the rightful owner a remedy in the premises. B also wrongfully takes the horse of A at the same time that he ejects him from his plantation. Will replevin lie to recover his possession? Not at all. Replevin is a local action, and must be brought in the county where the property was taken. But there is no such county as Fairfax, because there is no such State as Virginia, and there is no such thing as a writ of replevin, because there is no law. Pass your bill and deprive the Federal courts of the power to determine its constitutionality, and murder, rape, arson, and every species of crime may and will be committed with impunity. The individual who has forcibly possessed himself of his neighbor's plantation is not content with having done him this great wrong, but he determines to take his life for daring to question his right to dispoil him of his property. He murders him in cold blood. Shall he be punished? What has he done? He has only killed a man maliciously and in cold blood. There is no such crime as murder in what was once, but is not now, the State of Virginia. Murder is the willful killing of a reasonable being in the peace of the Commonwealth with malice aforethought, expressed or implied.

But there is no Commonwealth of Virginia now. No; she is not allowed to exist even in her ruins. She is blotted out. The land of Washington and Henry, of Jefferson, Madison, Wythe, Pendleton, Lee, Barbour, Monroe, and Marshall, and of the other mighty intellectual giants who have made our country respected at home and abroad, is now a portion of the vast empire of Ulysses the First. Shall the spirits of these illustrious patriots inquire why this mighty change? Listen, Jefferson. They say it is because you declared in the Declaration of Independence that all men are created equal; that your negro was a man, and that you meant that he was in every respect, civilly and politically, your equal and the equal of Washington and the rest of your noble compeers. Washington, they say you led the armies of the Republic to victory to make that declaration good. We are told, Monroe, that you were wounded in the battles of the Revolution to attest your devotion to the doctrine that the negro was equal to the white man. This it was, Henry, that inspired you when you exclaimed in the House of Burgesses of Virginia, "Give me liberty or give me death." This has been occasioned, Madison, they say, because the committee on style and revision in the constitutional convention of which you were so prominent a member, for the sake of simplicity and brevity, substituted in the preamble to the Constitution the words "we, the people of the United States," for we, the people of the States of Massachusetts, New Hampshire, Rhode Island Plantations, Connecticut, New York, New Jersey, Maryland, Delaware, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia united, as the draft of the Constitution had stood and been agreed to when it was committed to the committee on revision and style; and this substitution for the simplification of style has converted what you thought was a Federal Union of limited powers, and which you said would always be too feeble to encroach upon the rights of the States, into a consolidated, absolute nationality, which, through its legislative power, may destroy the States, which has blotted out your beloved and native Virginia, and which has erected over a territory larger than the thirteen original States, and over a people thrice as numerous as their inhabitants when they ratified the Constitution, an absolute military despotism under the rule of Ulysses the First. Do you ask where, then, were the warders upon the border? Where, then, were the watchmen upon the tower? Alas, they were gone. You men who laid the foundations of this Government deep in the principles of constitutional civil liberty had passed away, and your teachings, admonitions, and examples have been lost upon your sons.

> "Had you but lived, though reft of power,
> Great watchmen on the lonely tower,
> Your mighty voice had shook the land
> When fraud or danger were at hand."

But to return. Who shall punish the murderer and by what authority shall he be punished? Your bill sweeps out of existence all local government, and courts, juries, the definition and punishment of crime; and all laws for bringing the offender to justice are also swept away. It is by the State governments, and by these alone, that protection to life, liberty, and property is afforded. The Federal Government does not confer or protect title to property or secure protection to person or property within the States. It might be instantly dissolved and society would feel no shock while the State governments and laws continued in force and operation. Destroy the State governments and abolish the State laws, and society is dissolved into its original elements. Chaos rules supreme, and there is no restraint upon the lawlessness of men. Liberty is defenseless. For it millions of men have willingly sacrificed life, property, and everything that makes life desirable. A charter for its protection was extorted by our English ancestors with sword in hand from an English king on the field of Runnymede. To secure its possession to themselves and to us, their posterity, our fathers reddened the battle-fields of the Revolution with their blood. Pass your bill and my proposition is established. Government and law are abolished, property is destroyed, liberty is rendered defenseless, and society is dissolved. It is in vain to deny that these consequences will result from your action.

Now, Mr. President, an idea suggests itself to my mind which I present for the consideration of gentlemen who I know not only doubt, but have no faith in my position. If your bill passes and becomes a law, and a man is killed in Fairfax county, Virginia, maliciously and in cold blood, by his neighbor, I want to know how any lawyer in this body will draw his indictment? The forms of law are a part of the law itself, say the books; and how do your forms of indictment for murder conclude? The form is a legal consequence of the definition of the crime. A murder is the felonious killing of a human being in the peace of the State or Commonwealth. That is the reason why, in an indictment for murder, you conclude that it was done "against the peace of the State." But your act is passed and goes into operation. General Grant rules supreme. No law can be administered unless he wills it. While Virginia was a State its will would be and was that the act should be punished. Its peace and dignity demanded it. But the Commanding General of the Army declares that it is not against his peace and dignity, and he chooses not to allow the party to be tried. If you draw up, therefore, a bill of indictment for murder and have it consistent in all its provisions, instead of concluding it "against the peace and dignity of the State of Virginia," you should conclude it, "against the peace and dignity of Ulysses the First;" because the peace of Virginia is nothing;

it may be infringed with impunity so far as Virginia can have any say in reference to the matter. Her laws, if we may call them so, cannot be executed, because a power more potential than Virginia steps in and says they shall not be executed. Then do you tell me your indictment should conclude "against the peace and dignity of Virginia," when the peace and dignity of what was once Virginia are not paramount, but the will of a particular man is the paramount law?

It is in vain to contend that the State may exist though it may have no government. The word "State," in a political sense and as a governing power, is never applied to mere territory. Lands, houses, cattle, things corporeal, do not in law constitute a State. They may be within it, but are not the State itself. They afford no protection; they enact no rule of action. They are not the supreme power commanding what is right and forbidding what is wrong. No obedience is due to them; no protection can be afforded, and no punishment can be inflicted by them. They are property subject in their tittle enjoyment and regulation to law, which is a rule of action prescribed by the supreme power in the State or body-politic. If it be admitted that Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas are States in the Union, there is an end of the controversy; for, however extravagant has been much of the legislation of Congress for the last six years, it has never been seriously contended by any respectable number of its members that Congress can do within States recognized as in the Union the things contemplated by this bill.

Throughout the war it was universally conceded, and most vehemently and persistently asserted, that the seceding States were States in and of the Union. No one was bold enough then to declare that an ordinance of secession and even the making war to enforce it had the effect to take those States out of the Union. The man who had so proclaimed, unless he could have proved that he voted the Republican ticket and charged all Democrats with being secessionists and traitors, would have been pronounced disloyal, and would have been furnished, at Government expense, with accommodations in some bastile fitted up for the abode of traitorous spirits. You passed hundreds of acts in which you expressly designated them as States. During the war you extended your revenue laws over them, and allotted and apportioned among them their respective shares of the Federal taxes. You extended, or rather continued, your judiciary laws over them, and advised and consented to the appointment of district judges to reside within them. You admitted their Representatives from Louisiana, Tennessee, and Virginia into the other branch of Congress, and allowed my friend who sits on my left [Mr. WILLEY] to take his seat on this floor as a Senator from Virginia, and to share with you the burdens and duties of legislation. Your idol President issued numerous proclamations recognizing them as States in the Union, and as a political party you met in convention and nominated as a candidate for Vice President of the United States a man residing in Tennessee, thereby recognizing, not only in your legislative but in your party character, the fact that Tennessee was in 1864, and before she patched up, under your dictations and by aid of the military power, a constitution in harmony with your views, a State in the Union.

Since the war you have in many ways recognized these States as members of the Federal Union. You have submitted constitutional amendments to them for their ratification. It is in vain for you to deny this fact or to allege that it was only the act of the Secretary of State, for the substance of the amendment proposed shows that it was particularly designed for the ratification of these States; and one of the many reasons assigned in support of the reconstruction measures in the debates in this body is that they refused its ratification, and thereby proved themselves disloyal and unfit to be trusted with the formation of their own organic law and to be represented in the two Houses of Congress. They have since the war been recognized as States in the Union by the Supreme Court of the United States, who entertain and decide upon appeals and writs of error taken and sued out by their citizens, and upon motions and proceedings made and had in the name and on behalf of the States themselves. Your supreme judges hold their circuit courts among them, and hear and determine causes therein, in the same manner that they did before the war. They have been and are recognized as States in the Union by the President of the United States.

Thus all the departments of the Federal Government, legislative, executive, and judicial, have recognized them as States in the Union, and yet you have passed and are proposing to pass a series of reconstruction acts, so called, which, in effect, expels them from the Union. In July, 1861, while the war was raging, you passed a resolution proposed by Andrew Johnson, then a member of this body, declaring that the war was not waged on our part for any purpose of conquest or subjugation, but to restore the Union with all the rights and dignities of the several States unimpaired. States was the word used in that resolution. If they were States in July, 1861, after they had all passed their ordinances of secession and engaged in the conflict of arms, pray tell me, sir, when did they cease to be States? How long was it necessary for them to fight before they ceased to be States of the Union and to enable them to get out of the Union? If they were States in the Union while they were fighting and while the war continued, explain, if you can, how it was that upon ceasing fighting and submitting to your authority they lost their places as States in the Union? Is fighting necessary to Union, and is peace inconsistent and wholly irreconcilable therewith? To such absurdities are you reduced in your mad attempts to subject the white race of the South to the domination of the negro and to secure and perpetuate party supremacy at the expense and hazard of a violated Constitution.

But, perhaps, you have surrendered the position which you resolutely maintained throughout the war, and under the influence of new light have discovered that you were mistaken, and that these former States are no longer States in the Union, and that, in fact, they are no States at all, but only conquered territory, subject to your absolute authority independently of the Constitution. If such be your position now I regret it, for it is a position which I have always strenuously denied, that the people of any State have at any time, with or without cause, authority or power, at least, to withdraw from the Federal Union without the consent and in opposition to the will of the people of the other States. It converts the Federal Union from a Government, from a Union formed under and by virtue of a mutually obligatory compact or agreement upon stipulated terms and conditions, into a mere copartnership at will. It has not, in this view of the case, even the binding force of a league, and it renders the war which you waged professedly for the preservation of the Union more than questionable, because, if such be the effect of an ordinance of secession, the waste of life and treasure which you caused was caused in an aggressive and unjustifiable war, in a war to prevent a people from enjoying the supposed blessings of self-government and of an independent nationality.

But suppose this theory be correct, and that this is all conquered territory, held for the purpose of being erected into States—there being none there at present—then I hold that you have no authority to pass this bill, because you have no authority to create or establish a despotism. Had you conquered England or France, and annexed them to the United States, you would not have had authority to subject their inhabitants to the provisions of this bill. And why? Because the moment you conquer or purchase territory and it becomes a portion of the territory of the United States the Constitution of the United States is extended over it, and all legislation in respect to its inhabitants must be in conformity with its provisions.

The people inhabiting it, their allegiance being transfered to the United States, have all the rights to the enjoyment of life, liberty, and property which is secured to other citizens or inhabitants of the United States under the Constitution. Your authority to legislate in respect to them is derived solely from the Constitution, and is subject to all the limitations and restrictions imposed by that instrument. You shall "make no law respecting an establishment of religion" among them, nor shall you prohibit to them "the free exercise" thereof. You shall not abridge "the freedom of speech or of the press" or "the right of the people peaceably to assemble and to petition the Government for a redress of grievances," for the Constitution solemnly imposes these prohibitions upon you. "The right of" these "people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated" by you, "and no warrants shall issue" against them, "but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched or the persons or things to be seized," because the Constitution affords them this protection and guaranties to them these rights. "No person" among them, "shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger," for so the Constitution ordains. "In all criminal prosecutions" of any of them "the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed," for thus reads the charter of his liberty and the article imposing limitations on your power.

In violation of these provisions you have already enacted a measure, and propose further to pass the bill now before the Senate, which does and will deprive millions of your fellow-citizens of these rights, subject them to the infliction of these wrongs prohibited, and take from them the protection thus guarantied to them. The establishment, under the forms of law, of a military despotism over them is as direct and positive a violation of these provisions of the Constitution as would be the commission by Congress itself of the acts thus prohibited.

Pass this bill and let it have the force of law, and there is no act, however atrocious, which ambition, the love of power, the desire of gain, or the promptings of a wicked heart may tempt the great Ulysses to do that he may not do with perfect impunity. He may lay waste that whole territory with fire and sword; he may appropriate to himself the entire property, if property it be, of the whole people; he may murder every man, woman, and child, ten millions in number; and he is responsible to no authority on earth, incurs no penalty, and is subject to no punishment. Is it doubted? To whom is he responsible? You cannot impeach him, because he is not a civil officer. The President cannot, as Commander-in-Chief of the Army, cause him to be arrested and to be tried by court-martial, because by your bill you make him independent of the President, and the spirit and acts of insubordination which he has already manifested leave but little doubt that, clothed with the unlimited power proposed to be conferred upon him by this bill, he would bid defiance to executive authority should it be attempted to be exercised. He could not be tried in the criminal courts, because your bill abolishes courts and annuls all criminal statutes. Mighty military despot, if he chooses so to be and so to do, he

can sit majestically on his military throne and look down upon a desolated land, upon a heart-crushed people, smile at the ruin he has wrought, claim the desolated land as his own, and its inhabitants as his slaves.

What security have you that such will not be the case? Do you suppose him to be wiser and better than the military despots who have preceded him? Is he insensible to ambition? What position of power has he ever declined? Does he not even now cause it to be known that he favors the reconstruction acts of Congress, when the one last proposed clothes him with absolute power over ten million people and over an extent of territory greater than that of most of the empires on earth? The fact that he is willing to accept this vast power at your hands is the best evidence that he is unworthy to wield it. I do not wish to make any attack upon the General of the Army. I do not wish to do him injustice. I doubt not that during the late war he did what he believed to be his duty. Upon the surrender of the forces opposed to him he displayed a commendable magnanimity. Let him wear unsullied the laurels which can adorn the brow of the conquering hero in a civil war. But he is a man. The rule over an empire had not then dazzled his vision or tempted his ambition. He is supposed to know the history of an Alexander, a Cæsar, and a Napoleon. May he not imitate their example? Military power has been the agency employed in all ages of the world for the destruction of constitutional governments and for the crushing out of the liberties of the people. Go read in the fate of Greece what may be your own. Her orators were greater, her statesmen as wise, and her citizens as devoted to liberty as your own. Where is she to-day? Gone; numbered among the States that have been, that are not, and that are never again to be.

"He who hath bent him o'er the dead,
Ere the first day of death is fled—
The first dark day of nothingness,
The last of danger and distress;
Before decay's effacing fingers
Have swept the lines where beauty lingers.
Such is the aspect of this shore;
'Tis Greece, but living Greece no more;
So coldly sweet, so deadly fair,
We start, for soul is wanting there.
Shrine of the mighty, can it be
That this is all remains of thee?"

The republic of Rome planted her victorious banners upon the Euphrates and on the Thames, on the Danube and on the walls of Carthage. Her capital contained three million people. Her domain was more extensive and her power greater than that of any empire that has ever existed in Europe. In learning, in art, and science she far surpassed you. Her victorious legions were invincible by sea and land. How are the mighty fallen. Her proud capital is in ruins, her domain has been parceled out among her conquerors. Her existence as a nation is blotted out. Her military chieftains subverted the liberties of her people, and she, once the conquering nation of the world, became the easy conquest of vile barbarians. History is written for our instruction. Her pathway is illuminated by examples which supply us with warning. Happy are that people who heed that instruction and profit by those examples.

The second ground of authority in Congress to pass this act and the series of measures of which it is one is our nationality. The force of this proposition, I confess, I am unable to appreciate or its meaning clearly to discern, even when aided by the supposed luminous expositions it has received in this debate. But, sir, although the meaning of the proposition may not be apparent to others, I have no doubt it has been explained during this debate, if the exposition could only be understood, for those who have favored us with it well know—

"What's what, and that as high
As metaphysic wit can fly. Doubtless
They are in logic great critics,
Profoundly skilled in analytics;
They can distinguish and divide
A hair 'twixt south and southwest side."

The argument, if it means anything, means this: that the United States are one of the nations of the world. That it is a right inherent in every nation to do just what it pleases in respect to its own territory and people, and that the United States possess this right as fully as other nations. I am stating the effects, the consequences, of the proposition, not the terms, perhaps, used by others in its support.

What is nationality? Webster defines it thus: First. The quality of being national or strongly attached to one's own nation. Second. The sum of the qualities which distinguish a nation; national character. Third. A race or people as determined by common language and character, and not by political bias or divisions; nation. National he defines: First. Pertaining to a nation; common to a whole people or race; public; general; as a national language, dress, custom, calamity, and the like. Second. Attached especially to one's own country; devoted to the nation as distinguished from other nations, or from parts or sections of the country; bigoted, as too national to be fair or impartial. Nation from the Latin *natio*, from *nasci*, *natus*, to be born. First. The body of inhabitants of a country, united under the same Government; a people as distinguished from those of different descent, language, or institutions; race, stock. "A nation is the unity of the people." (Coleridge.)

A nation may also be defined as a separate and distinct people, living and united under one government, governed by no laws and subject to no political and civil authority, except that of the common government, and this, perhaps, is the best definition of it. The power and authority of a nation depend upon its organic law or constitution and the laws made in pursuance thereof. The United States may be considered in one sense a nation. They possess a Government and have laws distinct from other peoples or nations. The people of the several States, by their ratification of the Constitution, conferred upon or clothed the Federal Government established by it with certain powers relating principally to peace, war, negotiation, commerce, and taxation. In respect to foreign nations the United States may be considered a nation, because the States united act in respect to foreign Powers through their Federal Government, to which they have delegated the authority so to act. But in respect to the States themselves and their people respectively the United States are a federation, a federal or confederated Government. In the Convention which framed the Constitution propositions to form a national Government, with a national executive, a national legislature, and a national judiciary, were distinctly made, voted down, or wholly abandoned.

This is known to be true by every one familiar with the debates and proceedings of that convention. By the ratification of the Constitution by the States, a Federal Republic, not a nation was established. The Government created by that Constitution was in its origin and the extent of its powers Federal, not national, although the operation of those powers in respect to foreign nations may perhaps be considered analogous to those exercised by national Governments. The framers of the Constitution must be considered to know the character of their work. What have they said in reference to its character. Mr. Madison (Federalist, No. 39) says:

"The idea of a national Government involves in it not only an authority over the individual citizen, but an indefinite supremacy over all persons and things so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the national Legislature. Among communities united for particular purposes it is vested partly in the general and partly in the municipal Legislatures. In the former case, all local authorities are subordinate to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent portions of the supremacy, no more subject within their respective spheres to the general authority than the general authority is subject to them within its own sphere. In this relation, then, the proposed Government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only and leaves to the several States a residuary and inviolable sovereignty over all other objects."

This opinion being so different from that entertained by the majority of this body, as evidenced by their votes and speeches, I strongly suspect that if Mr. Madison were now living he would be regarded as disloyal, even as a copperhead. Again, says Mr. Madison:

"On examining the first relation (the foundation on which the Constitution was founded) it appears on one hand that the Constitution is to be founded on the assent and ratification of the people of America given by deputies elected for the special purpose; but on the other that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent State to which they respectively belong. It is to be the assent and ratification of the several States derived from the supreme authority in each State—the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national, but a Federal act."

The Federal character of the Constitution is also evidenced by the authority necessary to its ratification. That ratification was to be determined, and was determined, not by—

"The decision of a majority of the people of the Union, nor from that of a majority of the States, but from the unanimous assent of the several States that are parties to it." "Each State in ratifying the Constitution is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a Federal and not a national Constitution."

I will not multiply authorities. The United States under the Constitution are a Federal Republic. Its powers, duties, and authority are derived from and limited by the Constitution. It can exercise no power and authority other than thus derived. It has no inherent or original powers. These are all delegated. In the scope and in the exercise of those delegated powers it is sovereign, and to such exercise the people of all the States owe obedience. To this extent they owe it allegiance. Those making war upon the United States, adhering to their enemies, giving them aid and comfort, while the United States are in the discharge of their constitutional powers and duties, are guilty of treason.

I assert, Mr. President, that the States are also sovereign in all things over which they have not surrendered their sovereignty. While the United States are sovereign over matters and to the extent of their delegated authority, the States are sovereign over all matters not delegated by them to the United States and to the extent of their reserved rights. Allegiance is due to the States to such extent, and making war against a State, adhering to its enemies, giving them aid and comfort, while the State is in the exercise of its constitutional authority or the enjoyment or defense of its reserved rights, is treason against the State. There is no difference in the nature or character of the sovereignty of each, or of the allegiance due to each. Speaking of the fear of some that the Representatives of the people under the Federal Government might invade the rights of the States, Mr. Hamilton says:

"If the Representatives of the people betray their constituents there is no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government."—*Federalist*, 38.

Again he says:

"If the Federal Government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify."

Sir, our fathers were jealous of the sovereignty of their States, and cherished with patriotic devotion their State rights. It is popular now with the party in power to inveigh against these, of which the fathers were so justly proud. Are the State governments sovereign as I have stated and to the extent I have stated? Says Mr. Hamilton, Federalist, No. 31:

"The State governments by their original constitutions are invested with complete sovereignty."

Again, in No. 32, he says:

"But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had and which were not by

that act exclusively delegated to the United States. This exclusive delegation, or rather this alienation of sovereignty, would only exist in three cases: where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union and in another prohibited the States from exercising the like authority; and where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant."

Mr. President, some persons seem to suppose that the States, having abandoned the Articles of Confederation and ratified the Constitution, thereby created a government of vastly greater and different powers, one greater nationality, as it has been called in the debate, of unlimited powers. To such I would commend the opinion of Mr. Madison. In the forty-fifth number of the Federalist he says:

"If the new Constitution be examined with accuracy and candor it will be found that the change which it proposes consists much less in the addition of new powers to the Union than in the invigoration of its original powers."

Can treason be committed against a State? Who doubts it? I venture to say that treason against the State is defined in the constitution of every State in the Union. Trials have been had in many of them for this offense. If treason can be committed against a State, then allegiance is due by the citizens to the State, for treason is nothing but a violation of allegiance. Does history, sir, furnish an example of any consolidated Government or independent and absolute nationality where the subject could be tried and convicted of treason against the nation, and of treason against any of its parts as sovereign and independent communities? None! Away, then, with the boasted omnipotence of your nationality. Cease to deceive yourselves with the idea that you are a nation and have a national Government in the sense that you are an absolute Power and can exercise absolute authority. But even if you are a nation, and have nationality, you can exercise no power other than that you might exercise were you a Federal Republic, for the reason that the Constitution is and would be the charter and grant and limitation of your power and authority, whether you be one or the other. The power is not conferred upon Congress or upon the United States to make a constitution for the people of a State, to determine who shall make, or the terms and conditions upon which it shall be made; who shall vote and who shall not vote for or under the organic law of a State, or to do any other act and thing in relation to a State other than those specifically granted in the constitution. The right to do these things is reserved by the Constitution to the States respectively, and is inalienable and cannot be forfeited by insurrection or rebellion of any portion of their people.

The third basis of authority in Congress to enact this and other reconstruction measures is the assumed equality of races and men and the inherent right of the negro race to vote in the States and the duty of Congress to recognize and declare it and protect its exercise; and these assumptions are based on the expression contained in the Declaration of Independence that all men are created equal. Sir, it was permitted, in the providence of God, to the serpent to coil itself amid the beautiful trees of Eden and to whisper in the ear of unsuspecting innocence the fatal doctrine of equality—"Take eat of it and your eyes shall be open, and you shall be like unto the gods, knowing good and evil." Here, sir, was the origin of your much-lauded doctrine of equality. Here, for the first time on earth, was heard the suggestion the heeding of which brought "death into the world and all our woe." This doctrine, sir, is not heaven descended. It sprung from hell; and the messenger who first brought it to earth was the father of lies. The consequences resulting from it are in harmony with its origin and attest its inherent and essential falsity and wickedness. It is not true on earth; it is not true in hell; it is not true in heaven. "Go forth into the open air and list to nature's teaching."

Tell me, is that little mound from which feebly issue smoke and flame equal to Vesuvius, within whose bowels for centuries have raged those fires which, breaking forth in grand and awful eruptions, have laid waste towns and cities, and filled with consternation and alarm the inhabitants of the plains below? Is that little hill which the child so easily ascends, in its way to the house where it is to learn the rudiments of the language which it feebly lisps, equal to Chimborazo in its lofty grandeur or Mont Blanc in its lonely and awful solitude? Is that little rivulet at your feet equal to the Father of Waters, which, rising in the north, sweeps for more than three thousand miles through your territory, bearing on its bosom a commerce which enriches a continent? Is that river equal to the mighty ocean which divides continent from continent and encircles the globe? Is that tiny evergreen which adorns your yard, your garden, equal to the cedars of Lebanon? Is that twig which grows by the wayside, and scarcely attracts the notice of the passer-by, equal to the majestic oak which spreads its branches far and wide, and upon whose topmost boughs the birds of heaven gaily chirp and sweetly sing? Is the mousing owl equal to the eagle, which, rising heavenward, fixes his unflinching gaze on the meridian sun? Is the little ant which escapes unharmed under your foot equal to the lion as he roams majestically his native wilds? Is that miserable being, scarce man, scarce beast, that feeds on human flesh—the loathsome cannibal—equal to a Locke, a Newton, or a Bacon? And can you believe that the degraded and ignorant African, who has never, in the whole course of his existence on earth, made one useful discovery or materially improved his native condition, is equal to that race which has counted the stars, measured the distances, and told the dimensions of the planets, instantaneously flashed human thought around the world, and measurably redeemed our earth from the blighting curse imposed upon it in punishment for man's original transgression? Impossible! Reason, experience, and human observation, all exclaim impossible!

Sir, this doctrine is not true in nature; it is not true on earth; neither is it true in hell. "For I say unto you that it shall be more tolerable for the men of Sodom and Gomorrah in that day than for you." It is not true in heaven. "For as one star differeth from another star in glory, so, also, shall it be in the resurrection." And yet, sir, this bill is advocated by some upon this same pernicious and false doctrine, the absolute equality of men and races, while its purpose, doubtless, is the promotion of political party supremacy. Sir, in the same mysterious providence of God, it was allowed to that same serpent to coil itself amid the trees of our political Eden and to whisper in the ear of deluded men the same fatal doctrine of equality. Scarcely had the Government established by our fathers gone into operation before self-righteous humanitarians attempted to disturb the public peace by preferring their petitions to Congress praying for the abolition of slavery in the States. The question then was one of humanity, not political in its character. The wise men of that day refused to consider those petitions on the express ground that Congress had no constitutional authority in the premises. In 1819, owing to the nearly equal representation from the free and slave States, the question assumed a political character; and it was then that Rufus King avowed in the Hall of Congress the sentiment, which nearly forty years afterward was plagiarized and appropriated by Mr. Seward, that neither constitutions nor laws could give a binding sanction to slavery.

I will not trace the history of anti-slavery excitement and effort from that day until civil war, as a consequence, deluged the land in blood. This, however, I will affirm, that no party, scarcely any man, was bold enough at any time to avow the wish or purpose of admitting negroes into the governing class, of clothing them with the power of making or executing the laws, or of conferring upon them the right of suffrage at popular elections. The assumption now is that, having declared them citizens by act of Congress, they are entitled of right to the exercise of the elective franchise. I deny the correctness of this proposition. The right to vote is not a natural right. It is purely and simply a political right. The right does not exist unless conferred by society. Society has a right to confer or withhold it, and in determining its action in this respect it is bound only to consult its own interest and safety, and of that safety and interest it is the sole and exclusive judge.

Against all theorizing to the contrary I oppose the uniform and invariable practice of every people and every nation that have ever existed where the privilege has to any extent or in any manner been exercised. *Salus populi est suprema lex.* Of that safety that people, and that people only, who exercise political power by virtue of constitutional or legal authority as contradistinguished from the mass of the inhabitants, are the exclusive judges. Our power over the question of suffrage, however, must be determined by the provisions of a written constitution. No one has contended that the Constitution expressly and by distinct provision confers upon Congress an authority to control or regulate suffrage within a State. This authority by some is claimed to arise inferentially from provisions not expressly relating to suffrage, among which is that which declares that the United States shall guaranty to each State a republican form of government. The meaning of this provision has already been fully considered. It can have no possible reference to or connection with the subject under discussion. Says Mr. Madison, Federalist No. 43:

"But the authority extends no further than a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guarantied. As long, therefore, as the existing republican forms are continued by the States they are guarantied by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions, a restriction which, it is presumed, will hardly be considered as a grievance."

Sir, I shall enter into no discussion as to what does or does not constitute a republican government. No better definition of a republican government can be given than this: a government which derives all its powers directly or indirectly from the body of the people who, according to its constitution and laws, are allowed a participation in political power. The framers of the Constitution regarded the States which ratified it as republican in form, although negroes, Indians, women, all persons who were under the age of twenty-one years, and all who did not pay a tax, and, in some, all who did not own a freehold estate, were excluded from the privilege of voting.

Senators, be frank. Confess what everybody knows to be true, that you want an increase of votes to perpetuate your party in power; that you believe the negroes will, if allowed to vote, vote with you; and that if you believed they would vote against your party you would not desire to and would not extend to them the elective franchise. Confess that you know the administration of the government in the States would not be improved, but rendered infinitely worse, by the participation of this ignorant and degraded race in the making and execution of the laws; but that in your judgment the exigencies of party demand it, and that the interests of party far transcend those of the Republic. It is said that confession is good for the soul, and you are commanded to confess your sins. This confession made to the people will add to your character for frankness, while it will not detract, in the opinion of a majority of them, from your reputation for patriotism.

Mr. President, it was my fortune to come

into public life under a Government which was felt, not in the burdens which it imposed, but only in the blessings which it bestowed—a Government extending over a domain more vast than that ever inhabited by any free people. Against its eastern coast the mighty waves of the Atlantic rolled and fell back, while its western shore was laved by the milder waters of the Pacific. Its northern frontier extended to the furthest abodes of civilized men, while its southern boundary was washed by that gulf whose waters sparkle in the rays of a tropical sun. The people who inhabited this vast domain enjoyed the priceless heritage of liberty regulated by law. Throughout the whole land there was no voice heard but that of rejoicing and praise. Peace, happiness, and contentment everywhere prevailed. How changed the scene! To-day that Government is the same only in name. To one third of the people who acknowledge its legitimate authority its blessings are wholly denied, and all are in danger of losing forever the enjoyment of the rights and liberties which it was intended to secure. That territory is divided by a geographical line into the territory of the conqueror and the conquered; and the bill under consideration deliberately proposes to erect over the conquered territory, greater in extent than that of the three most powerful nations of Europe, and over the people inhabiting it, a purely military despotism, more absolute and galling than that which has ever oppressed any people since the institution of Governments among men.

What has caused all this? I answer, a departure from the principles, teachings, and examples of the founders of the Republic. Twelve years ago a party arose which planted itself upon the false and pernicious doctrine of the absolute equality of races and of men. Cautious at first, it professed only opposition to the extension of slavery and its exclusion from all the territory of the United States not included in the limits of the States where slavery did already exist. Failing in its first attempt to gain possession and control of the Government, in 1860 it renewed its efforts and nominated for President a man who declared that the "States could not exist half slave and half free;" and who, of course, was pledged, by the utterance of his opinions at least, to cause them all to become free through the action of the Federal Government and in violation of the Constitution and laws of the States. Owing to the divisions among those opposed to the misnamed Republican party, it triumphed; and, flushed with success and greedy for the exercise of power, it heeded not the mutterings of the gathering storm—refused to listen to the expression of the apprehensions of those whose fears had become aroused, whose interests were endangered, and whose safety was threatened by that success. Disregarding the example of the fathers and founders of the Republic, the representatives of that party spurned all compromise of differences, refused to give any guarantees for the protection of person and property, and claimed absolute obedience to their will as it should be manifested in legislative and executive action. War was the consequence. This party waged three wars at one and the same time. A war against the southern States, a war against their political opponents, and a war against the Constitution of the United States. In the prosecution of these wars they were guilty of almost every offense for the commission of which our fathers declared their independence of the British Crown and made war to secure that independence. I will say nothing of their action in respect to the people of the South. Against those who adhered to the Union, and who were much more devoted to the Constitution and Government of the United States than they were themselves, they were guilty of the following offenses charged in the Declaration of Independence:

I. They dissolved Legislatures for opposing with manly firmness their invasions on the rights of the people.

II. They obstructed the administration of justice by imprisoning judges and officers of the law.

III. They attempted to make judges dependent on their will alone for the tenure of their offices and the payment of their salaries.

IV. They erected a multitude of new offices and sent among them swarms of officers to harass the people and eat out their substance.

V. They kept among the people, who were at peace among themselves, standing armies, without the consent of their Legislatures.

VI. They rendered the military independent of and superior to the civil power.

VII. They subjected the people to a jurisdiction foreign to their constitutions and unacknowledged by their laws.

VIII. They quartered large bodies of armed troops among them.

XI. They protected officers and troops from punishment for murders and other crimes committed by them.

X. They cut off the trade of the people among themselves and with other parts of the world.

XI. They deprived the people in many cases of the benefits of the trial by jury.

XII. Without authority of law their President exercised the following powers which belong exclusively to Congress and was thereby guilty of usurpation, which usurpation was approved by the Republican party, and thus it became their act:

1. He increased the Army.
2. He increased the Navy.
3. He appropriated the public money.
4. He regulated commerce with foreign nations.
5. He regulated commerce between the States.
6. He contracted debt on behalf of the nation.
7. He suspended the writ of *habeas corpus*.

XIII. The following powers, denied both to Congress and the President, their President exercised, which exercise of unauthorized power they approved, and thereby are guilty as a party of the usurpation themselves:

1. He proclaimed martial law.
2. He arrested without a legal warrant.
3. Imprisoned and punished without conviction and legal trial.
4. Punished under *ex post facto* or nonexisting law.
5. Introduced *lettres de cachet*, bastiles, and the midnight secret proceedings of the Inquisition.
6. Interdicted exports.
7. Favored some ports to the prejudice of others.
8. Regulated the commerce of a State within its own bounds.
9. Impaired the freedom of speech and of the press.
10. Infringed the people's right to keep and bear arms.
11. Made unreasonable searches and seizures.
12. Prohibited emigration and required passports.
13. Dismissed the police of cities in States not proclaimed in insurrection and appointed others in their place.
14. Interfered by the military force with the freedom of elections in the States.
15. Took private property for public use without just compensation.

XIV. This party has conferred the elective franchise upon the negroes in the District of Columbia against the will of the people.

XV. They have placed Governors over the people against their will and in violation of their laws by military force.

XVI. They have caused pretended Legislatures to be selected in the States against the will of the people in the same manner and by the employment of the same means.

XVII. They have by the same means appointed pretended conventions to form and revise the constitutions of the States.

XVIII. They have forced illegal State constitutions upon the people against their wills.

XIX. They have appropriated money out of the public Treasury for the support of negroes living in idleness and have levied taxes upon the white citizens for that purpose.

XX. They have attempted to deprive the people of the States of the power to determine evidence and regulate the judicial proceedings of their own courts in violation of their laws and constitutions.

XXI. They have deprived the State courts of the jurisdiction to hear and determine questions relating to the rights of person, liberty, and property within the State, and to pass and determine upon the guilt or innocence of those accused of crimes committed within the State.

XXII. They have authorized the arrest and punishment of judges for deciding questions of law against their enactments.

XXIII. They have annulled the constitutional authority and prerogatives of the Executive of the United States.

XXIV. They have banished the citizens from family and home without trial.

XXV. They have violated every one of the twelve amendments to the Constitution designed to protect the people in the enjoyment of their rights of person, liberty, and property.

XXVI. They have sacrificed the lives of half a million of men in a war which they might easily have averted and have burdened the industry of the people by the creation of a debt amounting to billions of dollars.

"And now there was no foe in arms
To unite their factions with alarms,
But all reduced and overcome,
Except their worst, themselves, at home,
Who 'ad compass'd all they pray'd and swore
And fought and preach'd and plunder'd for,
Subdued the nation, church, and State,
And all things but their laws and hate.
But when they came to treat and transact
And share the spoil of all they 'ad ransack'd,
To botch up what they 'ad torn and rent,
Religion and the Government,
They met no sooner, but prepared
To pull down all the war had spared.
Agreed in nothing but t' abolish,
Subvert, extirpate, and demolish,
And all conjoined to do their best
To damn the public interest."

And yet, Mr. President, this Republican party, with this record, instead of calling upon the rocks and mountains to hide them from the face of an outraged and indignant people, coolly charge the members of the Democratic party with being disloyal and with being unfaithful to the Constitution and laws of their country. Oh shame where is thy blush! But, sir, I will pursue the political partisan aspects of this controversy no further. Should the reconstruction policy which has been inaugurated be consummated by the enactment and practical enforcement of this measure now before the Senate, I can see nothing in reserve for my country but political ruin and death. Death, sir, in all and any of its forms is terrible. When the cherished one is laid in the cold and silent grave, the sorrowing and heart stricken mourner departs from the scene of woe, believing that that sorrow can never be assuaged and that that heart can never be renewed to gladness. But the soothing influence of time comes to his relief and in the exercise of a Christian faith he beholds the flower of immortality blooming on the fresh-made grave and is assured that corruption shall put on incorruption and that mortal shall put on immortality. But, sir, when a nation dies there is for it no resurrection.

When civil liberty expires, it ceases forever to exist. When the free institutions of a people are submissively and willingly surrendered they are never regained. It is then that the patriot, mourning over the desolation and ruin of his country, feels as did the children of Israel of old, that he must hang his harp upon the willow because he cannot sing the songs of his political Zion in a strange land. It may be, sir, that under the practical enforcement of arbitrary and tyrannical measures the American people will arouse themselves to the vin-

dication of their ancient liberties and strike one last blow in defense of their

"Altars and their fires,
God and their native land."

Should that final struggle come it will be the most terrible that the earth has ever witnessed. In it every mountain-top may become an altar upon which human life shall be offered up a sacrifice to embittered vengeance and unrelenting hate; every valley may be made red and every river run with blood. In it, should the friends of freedom be successful, liberty may be preserved for many generations to come. Should they fail, the leaden wings of despotism will overshadow the land, and some future Gibbon, sitting amid the crumbling ruins of this once proud Capitol, may record the history of the decline and fall of the great American Republic, while a dead silence shall prevail throughout a continent which had resounded with the world's debate.

Mr. HARLAN. I move that the further consideration of this bill be postponed until to-morrow, with a view of taking up Senate bill No. 170.

Mr. SHERMAN. I desire to say to the Senator from Iowa that the Senator from Nebraska, [Mr. THAYER,] who does not happen to be in his seat at present, wished to take the floor on this bill and to have it postponed until Monday next.

Mr. HARLAN. I have no objection to that modification of my motion.

Mr. SHERMAN. With the understanding that it shall be for the benefit of the Senator from Nebraska, I make that motion at his request. He would make it if present.

Mr. HARLAN. I have no objection to that modification, that this bill be postponed until Monday next with a view to proceeding to the consideration of Senate bill No. 170.

Mr. SUMNER. May I ask my friend what that bill is?

Mr. HARLAN. It is a bill to provide for deficiencies in the expenses incurred in surveying some Indian reservations.

Mr. STEWART. If it will take any time——

Mr. HARLAN. I think not.

Mr. STEWART. I want to complete a bill that has been up two or three times, the land bill for Nevada. We have agreed upon it all, except the amendment of the Senator from California, [Mr. CONNESS,] and I presume it will not occupy a moment. That amendment can be voted upon, and then the rest of the bill has been considered and agreed upon.

Mr. HARLAN. I think the bill I desire to take up will occupy but a short time.

Mr. SHERMAN. I move, in the name of my friend from Nebraska, that the bill under consideration be postponed until Monday next at one o'clock.

The motion was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had signed on the 25th instant the following bills of the Senate:

A bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns; and

A bill (S. No. 306) for the protection in certain cases of persons making disclosures as parties, or testifying as witnesses.

INDIAN RESERVATION SURVEYS.

Mr. HARLAN. I now renew my motion that the Senate proceed to the consideration of Senate bill No. 170.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 170) to provide for deficiency of expenses incurred in the survey of Indian reservations. It proposes to appropriate the sum of $26,862 93, or so much thereof as may be necessary, to pay balance due for the survey of lands embraced in the Osage Indian reservation and the Cherokee neutral lands in the State of Kansas, under contracts dated respectively August 14 and 16, 1866; this sum to be returned to the Treasury out of the proceeds of the sale of the lands, as provided by treaties with the Indians.

The Committee on Public Lands reported the bill with two amendments. The first amendment was to insert as an additional section the following:

SEC. 2. *And be it further enacted*, That the sum of $7,775, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay for the balance due for surveying several Indian reservations in Utah Territory, the survey of which was provided for by act of Congress approved May 5, 1864.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 3. *And be it further enacted*, That the sum of $62,015, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to pay for the survey of the Osage Indian trust lands, ceded to the United States under treaty concluded September 29, 1865, upon a contract made with the General Land Office under date of September 18, 1866, and another contract for another portion of said trust lands, dated May 28, 1867, which survey is according to the provisions of the second article of treaty concluded with said tribe September 29, 1865.

Mr. SHERMAN. It seems to me we ought to have some explanation of an item so large as this. I should like to hear a little more about it.

Mr. HARLAN. I cannot state from personal knowledge the necessity of the work done, which is provided for in the third section of the bill. I can only speak, personally, with reference to that included in the first section. That work was ordered from necessity. The country was being filled up; many thousands of people were occupying it, and counties were organized. It is situated in the southeast corner of the State of Kansas. The work was done more than a year ago; and I may say that enough, or nearly enough, money has been for this whole period lying in the Treasury which ought to have been applied on this work if it could have been without an appropriation.

The work provided for in the second section, I understand, was done in the Territory of Utah. Perhaps it was ordered by my predecessor in the Interior Department. That is a small item, however.

The third section, as I learn, is for work ordered by my successor in the Interior Department, for, I suppose, similar reasons to those which influenced me to order the first work done. The members of the Committee on Public Lands, perhaps, can give information in relation to it. The bill was referred to that committee, and comes back with these amendments. I suppose that committee were satisfied that these amendments ought to pass.

Mr. SHERMAN. What is the amount?

Mr. HARLAN. I do not remember the amount appropriated by the last section.

The PRESIDENT *pro tempore*. The Secretary will state the amount.

The SECRETARY. "Sixty-two thousand and fifteen dollars, or so much thereof as may be necessary."

Mr. SHERMAN. It seems to me that it is rather unusual to originate in this body this kind of an appropriation bill, covering expenditures made without authority of law.

Mr. HARLAN. The work was not done without authority of law. It was provided for in Indian treaties, which I suppose are the law of the land, and it was done under the direction of the Commissioner of the General Land Office, as is provided by general statute. The surveys have all been made in the usual way in which this work has been done, by the joint action of the Commissioner of Indian Affairs and the Commissioner of the General Land Office.

Mr. RAMSEY. I offer the following amendment to the bill, to come in as an additional section:

SEC. 4. *And be it further enacted*, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,362 03 to pay the balance due for the survey of lands embraced in the Omaha and Winnebago reservations, in the State of Nebraska, under contract, dated August 14, 1866, as provided by a treaty with the Omaha Indians and authorized by act of Congress, approved July 28, 1866.

I will say in explanation of the amendment that the appropriation is estimated for by the Secretary of the Interior in his communication to the House of Representatives dated December 17, 1867.

Mr. SHERMAN. Is that amendment reported from a committee.

Mr. RAMSEY. No, sir. No one appeared before the committee to induce them to make the appropriation or include it in the bill; but they have no objection to it. They knew nothing about it at the time the bill was considered; but it is eminently proper; and had the matter been presented in time the committee would have provided for it in this bill.

Mr. SHERMAN. It is rather officious in me to interfere, but I suggest, as the chairman of the Committee on Appropriations is now absent, that it seems to me these things ought to be referred to that committee, and the rule which we adopted at the last session expressly required that all these matters should be referred to that committee.

Mr. RAMSEY. If the Senator will hear a little explanation probably he will assent to this amendment.

Mr. SHERMAN. I have no doubt the Senator thinks it right, but I know the rule provides that all these matters shall be referred to the Committee on Appropriations. We adopted that rule as a guard. But without that it seems to me the Senate ought to hesitate in taking up an appropriation bill and adding to it here and there, without a recommendation of a committee, upon the statement of a Senator that he has a report in his hands on the subject. In the absence of the chairman of the Committee on Appropriations, I suggest whether we ought to legislate in that way and appropriate large sums of money?

Mr. RAMSEY. The sum is not very large. It is only $3,362. It is for work already done under a contract with the Secretary of the Interior.

Mr. WILLIAMS. If I understand this bill—I was not in the Chamber when it was taken up—it is a bill that is reported from the Committee on Public Lands. Is that correct?

Mr. HARLAN. Yes, sir; this is the bill.

Mr. WILLIAMS. The bill was carefully examined by the committee; and if the chairman was present he would be able to fully explain the different items of the bill to the satisfaction of the Senate. There were claims submitted to the committee in connection with these amounting to a very large sum of money. If I am not mistaken, the very identical claim which has been preferred here by the Senator from Minnesota was included in the claims submitted to that committee, and, upon examination, we decided that the items contained in this bill should be reported to the Senate, and that the committee should recommend their payment, but that there was no immediate necessity for the payment of the other items contained in the statement from the Interior Department, and, therefore, the committee declined to include those items in the bill. And it seems to me that it would be unsafe at this time to incorporate in this bill any appropriation of money that has not been examined by any committee The items that are embraced in the bill related to complicated accounts, and we had to confer with the Commissioner of Indian Affairs two or three times before we could obtain satisfactory information as to their correctness. I know nothing about this claim that has been presented by the Senator from Minnesota; I presume it is correct; I do not rise particularly to oppose that, but to indicate the course that the bill took in committee, to say that we examined all these different matters, and determined that the particular items contained in this bill were the only ones that ought to be paid at this time.

Mr. RAMSEY. Of course the account is all correct, or I should not present it here. I recollect distinctly that the matter was before the Committee on Public Lands; but they had not at that time the evidence before them, and

they were pressed with other business, and did not read fully the report of the Secretary of the Interior. The chairman of the committee subsequently stated to me that if he had had this paper before him at the time he would have reported in favor of the appropriation. The contracts for the survey of these Omaha and Winnebago lands were made by the Senator from Iowa, then Secretary of the Interior. The work has been done, and there is no dispute about the claim of the party who is entitled to it. The only question is whether he shall be postponed in the payment of this balance due him. The Commissioner of the General Land Office, in his communication to the Commissioner of Indian Affairs of October 7, says:

"Referring to our letter of the 17th August last, transmitting a portion of the plats and field-notes of the survey of the Omaha reservation, in Nebraska, for the purpose of being copied, I have the honor now to transmit the plats and field-notes of the remainder of the survey, embracing the following townships, namely: township twenty-four north, ranges ten and eleven east; township twenty-five north, ranges five to ten east; township twenty-six north, ranges five to ten east; and township twenty-seven north, ranges five to nine east, sixth principal meridian. Also a diagram showing the boundaries of the reservation and the exteriors of the townships embraced therein.

"In this connection I have to communicate to your office that the actual cost of the survey of the Omaha and Winnebago reservations has exceeded the amount estimated by $3,362 03, and there existing no means at the disposal of this office wherewith to pay the same, I have to request that you cause a deficiency estimate to be submitted to Congress at as early a day as possible, in order to meet the outstanding obligations incurred in the survey of the foregoing reservations."

And in pursuance of this the Secretary of the Interior estimates for the balance due for this survey. It is as proper as anything possibly can be, or any appropriation ever made by Congress. It is a pity to delay this small matter.

Mr. CONKLING. I ask the Secretary to read the portion of the thirtieth rule of the Senate which was incorporated in that rule in March last.

The Secretary read the last clause of the thirtieth rule, as follows:

"All amendments to general appropriation bills reported from committees of the Senate proposing new items of appropriation, shall, one day before they are offered, be referred to the Committee on Appropriations; and all general appropriation bills shall be referred to the same committee."

Mr. RAMSEY. This is not a general appropriation bill, I will say to the Senator from New York.

Mr. CONKLING. I anticipated that objection, and I want to know whether the rule needs revision. Certainly it was made to cover a case just like this. I think the whole of this bill ought to be referred to the Committee on Appropriations; and I think it was the design of the Senate in providing for a Committee on Appropriations to have a committee responsible for just such bills as this. Now, first an appropriation bill, which is general to all intents and purposes as to this objection, is reported by a committee other than the Appropriation Committee; and then in the Senate at large, one Senator after another, without notice, is permitted to offer amendments upon which the Senate is to vote, of course, without any safeguard beyond the assurance of the particular Senator moving the amendment. I do not mean that this amendment is not meritorious, and I do not mean that I would not be willing to vote, wherever a vote upon that ground should be given at all, upon the assurance of the honorable Senator from Minnesota; but it seems to me we ought to abandon the rule or we should adhere to it. One of the committees of this body was divided, and a separate Committee on Appropriations was formed, to the end that there might be a scrutiny of every appropriation, however meritorious it might be, which in any sense took the form of a general appropriation bill. Here the bill itself has had no scrutiny of that kind provided by the rule, and now amendments one after another are offered, I submit, in defiance of the very spirit and purpose of the rule itself. I think the amendment now offered should go to the Committee on Appropriations, and I think the bill itself should go to that committee.

Mr. SHERMAN. I wish, as we are starting off at this session of Congress with a view to economize in public money, to call the attention of the Senate a little more closely to this matter. I have no doubt the Senator from Iowa [Mr. HARLAN] has examined it and is right; but under the rule this bill should have gone to the Committee on Indian Affairs, because the original bill provides that money shall be taken out of the funds of the Indians. Now, the Senator on my right, who is chairman of the Committee on Indian Affairs, [Mr. HENDERSON,] says, as I understand, that there is no legal authority for this provision.

Mr. HENDERSON. Except as to trust moneys.

Mr. SHERMAN. The original bill I should have no objection to, because it seems to have undergone some scrutiny. Still, as the money comes out of Indian funds, it ought to go to the Indian Committee; but if the Senator from Iowa has examined it I would not make any objection to it. That bill is founded upon special reasons; and it may not be proper, therefore, to append it to an appropriation bill, strictly so called; but as it is to carry into effect a treaty it should go to the Committee on Indian Affairs. It seems to me, though, that sections two and three are ordinary matters of appropriation, the very kind of appropriations, indefinite in character, which ought to be acted upon by the Committee on Appropriations.

The rule which has been read was adopted on my motion, and the purpose of that rule was to prevent sudden action of the Senate upon matters of this kind without examination. I think the better way would be to allow this whole matter to go to the Committee on Appropriations, where it may be properly added to the Indian or some other appropriation bill; but to act upon it in this hasty way would, it seems to me, be setting a bad example, if we intend to economize or make any change in regard to the public expenditures.

Mr. POMEROY. I have no particular feeling about this bill going to the Committee on Appropriations or any other committee. It was sent by the Senate originally to the Committee on Public Lands, and that committee addressed a communication to the Secretary of the Interior, asking him whether the bill was right, whether the surveys had been made, and whether the money was due. The Secretary of the Interior replied to the committee, sending here the same letter that he sent to the House of Representatives. I have a printed copy of it before me. There are in that printed letter many items which are not contained in this bill. There were some estimates in that communication for expenses to be incurred, which we thought it best not to put into this bill, because the service had not actually been performed. We put into this bill those items as to which the Secretary of the Interior certified to us that the service had actually been performed under treaty stipulations in part and under acts of Congress for the rest.

I have in my hand the Osage treaty, which was concluded in January, 1867. It provides that the lands shall be "surveyed and sold, under the direction of the Secretary of the Interior, on the most advantageous terms, as other public lands are surveyed and sold." Then there is a provision in the second article in reference to the cession of other lands, but with the same general provision that they are to be surveyed and sold for the benefit of the Indians, under the direction of the Secretary of the Interior, and subject to such rules and regulations as he may from time to time prescribe. There is further provision that the Treasury shall be reimbursed for its expenditure when the lands are sold. The authority, then, for these appropriations is the treaty, except for that section relating to surveys in Utah Territory, and that is in accordance with a law that required these surveys.

The item contained in the second section of this bill is in pursuance of a law which is found in the thirteenth volume of United States Statutes-at-Large, page 63. The law provided for the survey and sale of the Indian reservations in Utah, and did not provide that the expense should be reimbursed out of what the Government should receive for the lands. But the appropriation contained in the third section of this bill is under a treaty which provided, so far as relates to the Indian lands, that the Government should be reimbursed out of the proceeds of their sale. The particular amendment before the Senate, however, as I understand, is the amendment of the Senator from Minnesota, which is to provide for an item contained in the communication from the Secretary of the Interior, to which I have referred. The committee did not put that in the bill, because they did not have the matter fully before them. I do not know but that that item is right. I have since received a communication from Mr. Wilson on the subject, in which he says that the service has been rendered, and that there is the amount due which is claimed.

Mr. CONKLING. I should like to ask the Senator a question before he takes his seat. One of the sections of the bill—I have it not before me—appropriates over sixty thousand dollars in round numbers, I infer from what the Senator says, under Indian treaties. Am I right in that?

Mr. POMEROY. Yes, sir.

Mr. CONKLING. Now, I inquire of the Senator how the Committee on Public Lands appropriately reports appropriations to carry out or arising under Indian treaties.

Mr. POMEROY. The Senator may not have read the treaty. That treaty extinguishes the Indian title, and puts the lands at the disposal of the Government, to be disposed of like other public lands. Those lands are now public lands, and they are to be disposed of and administered upon the same as any public lands of the United States. That is the reason the matter was considered by the Committee on Public Lands.

Mr. CONKLING. I would inquire whether the object of the survey is not to determine how much of these lands there are, what portion of them properly belongs to the public lands? Is that the purpose of the survey?

Mr. POMEROY. The purpose of the survey is to sectionize the lands for settlers and account to the Indians for the number of acres.

Mr. CONKLING. And to ascertain the boundaries, also?

Mr. POMEROY. The exterior boundaries are not to be paid for here.

Mr. CONKLING. But I speak of the treaty. I ask whether the treaty does not provide for ascertaining the boundaries of these lands which are thus to be turned over to the public lands?

Mr. POMEROY. Not the boundaries. The reservation was definitely located and surveyed many years ago, but this is for cutting it up into sections and quarter sections for settlers. That is what this survey is for.

Mr. CONKLING. For that alone, does the Senator say?

Mr. HARLAN. I can say to the Senator from New York that it is for that alone. The surveys are precisely like the surveys of other public lands.

Mr. CONKLING. Then, I inquire, out of what fund does this money come?

Mr. HARLAN. A part of the expenses of these surveys was paid for out of an existing appropriation of something like fifty thousand dollars, which, however, was not large enough to cover the whole expense; but ultimately this appropriation bill provides and the treaties provide that the Treasury shall be reimbursed from the proceeds of the sales of the land. The Senator will see very readily that the lands cannot be sold until they shall have been surveyed. The Government cannot give title to land until after it shall have been surveyed, and hence it becomes necessary to appropriate money to secure the survey, unless the sur-

veyors are to do the work and wait for their pay.

Mr. CONKLING. As well as I can understand, then, this is a deficiency bill.

Mr. HARLAN. In the nature of a deficiency.

Mr. CONKLING. Mr. President, I must say, as far as I can understand this bill—and I admit my understanding is quite imperfect—it seems to me more and more that the bill should be referred to the Committee on Appropriations, in order to preserve the rule of the Senate and to effectuate the substantial idea of that rule. Here is an appropriation which, in a certain sense, might come, perhaps, properly from the Committee on Indian Affairs, but I do not see how in any way it can come from the Committee on Public Lands. It is a deficiency bill——

Mr. POMEROY. The Senator should be aware that we have no rule requiring any bill to be sent to the Committee on Appropriations unless it be a general appropriation bill. Under our former rule a committee of the Senate might move an amendment to a general appropriation bill proposing additional appropriations. We have never operated much under the present rule, but all it requires is that for at least one day before a general appropriation bill is called up the amendments which any committee proposes to put upon it shall be submitted to the Committee on Appropriations.

Mr. CONKLING. It provides more than that; it provides that all general appropriation bills shall go to that committee, and that all amendments to general appropriation bills proposing additional appropriations shall go to that committee. My suggestion is that this bill, in spirit and in truth, the part of it to which the Senator now refers, is, for the purposes of the rule, a general appropriation bill. It is a deficiency bill.

Mr. POMEROY. This bill is in one sense an appropriation bill, inasmuch as it appropriates money. In that sense it is an appropriation bill; but we know technically what are meant by the general appropriation bills. Senators who had those bills in charge were embarrassed formerly because other committees, without their knowledge, would spring amendments to those bills. On that account we required last year that all amendments to those bills should be referred to the Committee on Appropriations one day before they were offered in the Senate, not that the Committee on Appropriations have any more facility for inquiring into the propriety of an appropriation than the particular committee which proposes it, not that they have any more authority, but that they shall have notice of it, so that it shall be examined by them. That is the rule.

Mr. FESSENDEN. I should like to inquire how that bill got to the Committee on Public Lands.

Mr. POMEROY. In this way: the Senator from Iowa introduced the bill and had it referred to the Committee on Public Lands.

Mr. FESSENDEN. It was a wrong reference.

Mr. CONKLING. And that committee reported the bill back with these amendments.

Mr. POMEROY. We reported back the bill referred to us and two additional sections, by way of amendment.

Mr. CONKLING. And those are the appropriation sections we are now discussing. Those are presented entirely by way of amendment.

Mr. POMEROY. The first section makes an appropriation also.

Mr. CONKLING. Yes; but one of these additional sections makes an appropriation of over $60,000, and that appropriation is proposed by an amendment which originated in the Committee on Public Lands.

Mr. POMEROY. Yes, sir; and it was on an estimate sent to us by the Commissioner of the General Land Office.

Mr. WILLIAMS. I am quite indifferent as to whether this bill is referred to the Committee on Appropriations or not, and perhaps, upon an examination of the rule, the Senate may think that it ought to go to that committee. I have not the rule before me, and have not examined it with that view; but it has been suggested here that the Committee on Public Lands assumed jurisdiction over a subject which did not belong to them. I respectfully beg leave to differ in opinion from those who take that ground.

The Commissioner of the General Land Office made certain contracts for surveying the public lands of the United States, and persons under those contracts proceeded and made those surveys, and now they solicit their pay for making surveys under those contracts; and the question whether or not there were any contracts made by the Commissioner of the General Land Office with those persons is a question to be examined, I suppose, by the Committee on Public Lands, as it certainly relates to the business of selling the public lands of the United States. Whether those persons performed their contracts or not is another question that relates to the sale of the public lands of the United States. Whether they are entitled to compensation under those contracts or not is another question which relates to the sale of public lands; and all these questions, it seems to me, are competent questions for the Committee on Public Lands to consider and decide. When this bill was referred by order of the Senate to the Committee on Public Lands they supposed that it was within their jurisdiction, as certainly the surveys of the public lands, the mode and manner in which they shall be surveyed, and all the circumstances attending their survey, are proper subjects for consideration by that committee. They considered this subject carefully. They referred the matter two or three different times to the Interior Department, and they obtained specific statements from that Department as to these contracts, and as to how and under what circumstances the work had been performed; and in the judgment of the committee, excluding many of the items from the account submitted to them, the particular items now included in the bill ought to be paid, as the work had been performed under a contract of the Commissioner, and the men are entitled to their money; and according to the treaties with the Indians the United States lose nothing by this appropriation.

The object of the committee was to see that these men were not paid more than they had actually earned under the terms of the contracts; and, after examination of the contracts and the statement of the account, the committee were satisfied that these men had earned this money according to the contracts with the Commissioner of the General Land Office and were entitled to their pay. And so the committee have provided in this bill for their payment. The treaties provide, as I understand, that out of the proceeds of these lands when sold the United States is to be indemnified.

Now, if it is thought proper that this bill should go to the Committee on Appropriations, I have no objection in the world. I simply wished to vindicate the action of the Committee on Public Lands. It may be proper enough now that the bill should go to the Committee on Appropriations. That is for the Senate to decide.

Mr. HENDERSON. The first section of this bill, which is all the original bill as presented by the Senator from Iowa, I think very properly went to the Committee on Public Lands. To have the matter properly understood by the Senate I should refer to the treaty with the Osage Indians. The treaty was originally made in 1865, but was not ratified by the Senate until January, 1867. The Osage Indians lived in the southern part of the State of Kansas. They had a district of land fifty miles wide by two hundred and forty miles long. It was two hundred and forty miles from east to west and fifty miles north and south. There are not more than about three thousand of those Indians, and of course they had no use for such an immense district of land. They were very poor. In 1865 a treaty was made with them by which they agreed to give thirty miles off the eastern end of the tract, that is, a district thirty miles by fifty miles. They made an absolute sale of thirty by fifty miles, making about nine hundred thousand acres, I believe, to the United States, for which we agreed to pay them $300,000. That was an absolute transfer, and the Indians have no further interest in those lands. It is not worth while to read the provision because I have stated it sufficiently.

After having in the first article of the treaty conveyed this thirty by fifty mile tract it was further provided in the same article that the lands should be surveyed and sold under the direction of the Secretary of the Interior on the most advantageous terms for cash, as public lands are surveyed and sold under existing laws; but no preëmption claim or homestead settlement shall be recognized; and after reimbursing the United States the cost of said survey and sale and the said sum of $300,000 be placed to the credit of said Indians, the remaining proceeds of sale shall be placed in the Treasury of the United States to the credit of the civilization fund, to be used under the direction of the Secretary of the Interior for the education and civilization of Indian tribes residing "within the limits of the United States."

The Indians, of course, have no further interest in these lands thus conveyed, unless it be the interest which they hold in what is termed the civilization fund. After all the expenses of the survey and sale of the lands are paid and the $300,000 are placed to the credit of the Indians in the Treasury, on which we are now paying five per cent. every year, the balance of the proceeds is to go to the credit of the civilization fund for the benefit of all the Indians.

After that was done it was supposed that the Indian reservation was still too large; that is, that the Indians had more land than they could use, and therefore it was further stipulated that twenty miles of the northern end of this Indian reservation should be given to the United States in trust, to be sold by the Secretary of the Interior, the funds to belong to the Indians.

Thus the Senate will see that the first grant of lands in the treaty was absolute, and the second was in trust. The lands they gave us in trust were twenty miles by two hundred and ten, which we were to sell for the benefit of the Indians. It was provided that this land was to be held in trust for said Indians, and to be surveyed and sold for their benefit by the Secretary of the Interior under such rules and regulations as he may from time to time prescribe, under the direction of the Commissioner of the General Land Office, as other lands are surveyed and sold. All proceeds of such sales as they accrue, after deducting all expenses incident to the proper execution of the trust, to be placed in the Treasury of the United States to the credit of said tribe of Indians, and the interest thereon at the rate of five per cent. per annum shall be expended for their use.

These Indians, as I say, have no interest in the first section of this bill, but in the third section they have a deep interest. They have some reason to complain if large appropriations, larger than they ought to be, are made for the survey of these lands. Now, I would inquire of the chairman of the Committee on Public Lands whether the entire survey of these lands has been made; or whether the survey of the Osage trust lands has been completed. I was upon this reservation in October last, and my information was that very little of the surveying of the twenty-mile strip, if any of it, had been done.

Mr. POMEROY. It has all been done. I have examined every one of those contracts myself, so as to see how they were made. The last contract was made on the 28th of May, 1867, with Samuel S. Smoot.

Mr. HENDERSON. That was for the survey of the thirty by fifty mile tract?

Mr. POMEROY. Yes, sir. When this com-

munication was sent to Congress, which was on the 17th of December last, Mr. Smoot had not completed the survey, and the Secretary of the Interior put this note at the bottom of his letter:

"The surveys under this contract are not yet completed, but will be probably by February 14, 1868."

I have called on him since, and he has informed me that the survey is completed. Indeed, Mr. Smoot is now here waiting for his money. The survey is entirely completed, and accepted.

Mr. HENDERSON. I know that in November that survey had not been entered upon. It seems to me that the appropriation in the third section of this bill is rather a large appropriation for the survey. I, however, know but little in regard to the expense and cost of such things.

Mr. POMEROY. That appropriation of $62,000 includes the survey of all the Osage reservation, both the trust lands and the others.

Mr. HENDERSON. The Senator is mistaken about the third section. The third section provides expressly only for the survey of "the Osage Indian trust lands," ceded under "the second article of the treaty" of 1865. If the Senator will turn to the printed bill he will find that he is mistaken in the observation he has just made. The entire sum of $62,015 is appropriated for surveying the trust lands ceded under the second, and not the first, article of the treaty.

Mr. CONKLING. How much is that per acre?

Mr. HENDERSON. I have not calculated that. I have calculated only the amount contained in the first article of the treaty, which is two hundred and ten miles by twenty.

Mr. POMEROY. The Department out of a previous appropriation paid for the survey of the lands mentioned in the first article of the treaty with the exception of $3,515. The contract for surveying the trust lands was $58,500, and the balance due on the former survey is $3,515, and putting the two items together makes the entire sum $62,015.

Mr. HENDERSON. I would inquire of the Senator how much has been paid upon the contract under the first section of this bill previously. The sum of $26,000 is appropriated here. How much was paid previously?

Mr. POMEROY. Twenty-seven thousand dollars have been paid. The whole contract was $30,000 under the first article of the treaty.

Mr. HENDERSON. I suppose the committee who had this bill under consideration investigated the matter. I have only looked into it so far as the Indian treaties are concerned. The second section of the bill refers to another matter, and that is the survey of some lands in Utah Territory.

Mr. POMEROY. That section is to carry out an act of Congress passed in 1864. I have that act before me, and it directed the Secretary of the Interior—

"To cause the several Indian reservations heretofore made or occupied as such in the Territory of Utah to be surveyed into tracts of land not exceeding eighty acres each, and to be sold under direction of the Commissioner of the General Land Office."

That surveying was done by virtue of that law. Now, sir, I have no objection to any other committee examining into this question. Indeed, I should prefer to have that done. If the Senator from New York makes a motion to refer it to the Committee on Appropriations I shall make no objection, although I have examined the matter very thoroughly myself. But that there is any necessity under the rules for referring a bill like this to the Committee on Appropriations I deny. I am aware that if a general appropriation bill was pending, and we were moving to amend that bill, under the rule we should be required to submit that amendment to the Committee on Appropriations one day before offering it in the Senate; but under our rules one standing committee of this body has just as much authority as another to report a bill; and the Committee on Appropriations have no more authority and are no more vested with the facts that will enable them to report than any other standing committee to which a subject is referred. I have, however, such implicit confid ence in that com mittee that I have no objection to this bill going there.

Mr. MORRILL, of Maine. It is undoubtedly true, as the honorable Senator from Kansas remarks, that there is no limitation on the right of any committee to report a bill making an appropriation; but I think he will agree with me that since the Senate has organized a new committee upon the subject of appropriations, whose only jurisdiction is appropriations, the propriety and fitness of things are that every measure which is in the nature of an appropriation simply should go to that committee, with a view of being put upon the appropriation bills. It is manifest that without that you never know when your appropriations are made. I suppose it was to avoid that difficulty that the Senate in its judgment thought it advisable to institute a committee of this character. Now, my honorable friend will not deny that this bill is simply and purely a bill for making appropriations. The Committee on Appropriations have thus far studiously avoided the consideration of any question which belonged to any other committee, or by the nature of it required the consideration of any other committee so as to keep our duties entirely distinct from those of any other committee. I hope, therefore, my honorable friend from Iowa, who introduced this bill, will consent that it may go to that committee, and I assure him that we shall give it as early consideration as the nature of the case will admit.

Mr. HARLAN. The only possible objection I could have to its being sent to another committee is the delay that must thereby necessarily be occasioned. I introduced this bill on the 6th of December, 1867, and it was reported back on the 28th of January, 1868. It has been lying here for about a month since it was reported, and I could not, consistent with my own conscience, permit it to lie any longer, because I knew that the original bill as sent to the Committee on Public Lands was right. I knew that personally; and I knew, moreover—and I wish the chairman of the Committee on Appropriations to hear this remark—that the work has been done for a full year. The men who did it are not rich men, have borrowed money to defray the expenses of the survey. I know personally that it is doubling upon them every sixty days, and will ruin them if it drags along, as I perhaps ought to accuse myself of permitting it to drag along thus far. Perhaps, however, the most speedy way to secure the passage of the bill is to refer it to that committee. Probably that course will secure its passage through the other House with less delay. My object in introducing it as a separate bill was to permit it to stand on its own merits, personally knowing it to be right. I shall not, however, object to the Senator's motion.

Mr. RAMSEY. I desire to inquire whether that motion will carry my amendment also to the committee, and whether this is the notice which the rule requires. ["Certainly."] I would also say to the chairman of the Committee on Appropriations that the work provided for in my amendment has been done as is set forth by the Secretary of the Interior in his communication. The party has finished it a good while ago, and has been waiting here in Washington for months past to procure his money, unable to meet the sacrifice which the delay in its payment involves. I hope it will meet the favorable action of the committee.

Mr. MORRILL, of Maine. I move that the bill be referred to the Committee on Appropriations.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration."

The message also announced that the House had passed the joint resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad.

HOUSE BILLS REFERRED.

The bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, was read twice by its title, and referred to the Committee on Appropriations.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the General commanding the Army of the United States, prepared in compliance with a resolution of the Senate of the 4th instant, requesting copies of all instructions relating to the third military district issued to General Pope and General Meade; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting, in further answer to the resolution of the Senate of the 13th of January last, relative to the appointment of Hon. Anson Burlingame to a diplomatic or other mission by the Emperor of China, a report from the Secretary of State; which was referred to the Committee on Foreign Relations, and ordered to be printed.

DESTITUTION IN THE DISTRICT.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia.

The amendment was after the word "lands," in line six, to insert the words "and Provident Aid Society."

Mr. HARLAN. I move that the Senate nonconcur in the amendment proposed by the House of Representatives.

Mr. BUCKALEW and Mr. JOHNSON. How will the bill read with that amendment?

The SECRETARY. The bill, if amended as proposed by the House of Representatives, will read:

That the sum of $15,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the temporary relief of the destitute population in the District of Columbia, to be expended under the supervision and direction of the Commissioner of Refugees, Freedmen, and Abandoned Lands, and Provident Aid Society, &c.

The amendment was non-concurred in.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. HOWARD. I move to take up the bill (S. No. 256) relating to the Central Branch Union Pacific railroad, with the view of making it the order of the day for Friday, at one o'clock.

The question being put, there were, on a division—ayes 14, noes 8.

Mr. MORRILL, of Vermont, called for the yeas and nays, and they were ordered.

Mr. WILLIAMS. Is this a motion to take up the bill or to make it a special order?

The PRESIDENT *pro tempore*. The question is on taking up the bill.

Mr. POMEROY. Merely to fix a day for its consideration.

Mr. FESSENDEN. I have no objection to a day being fixed, provided it is not made the special order for that day. I do not like special orders; and if I had been in the Senate yesterday when the finance bill was made a special order I should have objected to that.

Mr. SHERMAN. That bill was not made a special order. In the absence of the Senator

I did not insist on that portion of my motion. I simply asked that that bill be postponed until to-morrow, and I hope the Senate will indulge me with an opportunity to make my remarks upon it to-morrow. I did not wish to set the example of making special orders, and therefore I did not insist upon that portion of the motion which I first submitted yesterday.

Mr. POMEROY. If this bill is assigned for Friday, that is enough. We do not care about making it a special order.

Mr. FESSENDEN. I have no objection to the postponement, but I object to making the bill a special order.

Mr. HOWARD. Very well. I am content to take a simple order to postpone.

Mr. MORRILL, of Vermont. I withdraw the call for the yeas and nays.

Mr. FESSENDEN. If the finance bill comes up to-morrow there will be no objection to taking this bill up the next day, unless it will interfere with that.

Mr. SHERMAN. I have no objection to its coming up on Friday. I do not wish to stand in the way of considering the bill of the Senator from Michigan.

Mr. HOWARD. Very well; let us assign it for consideration on Friday, without making it a special order.

The PRESIDENT *pro tempore*. The Senator from Vermont asks leave to withdraw the call for the yeas and nays. It can only be done by common consent. The Chair heard no objection, and the call is withdrawn. The question now is on the motion of the Senator from Michigan, to take up Senate bill No. 256.

The motion was agreed to.

Mr. HOWARD. Now I move that the further consideration of the bill be postponed until Friday next at one o'clock.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 223) in relation to islands in the Great Miami river;

A bill (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed a post road, and for other purposes;

A bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad;

A bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration;"

A joint resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition; and

A joint resolution (H. R. No. 104) authorizing the transmission through the mails, free of postage, of certain testimonials by the adjutant generals of the several States.

SURVEY OF BAYOU MANCHAC.

Mr. HENDERSON. I submit a motion for the printing of three thousand additional copies of the report of General Macalester, together with the maps accompanying it, showing the survey of the Bayou Manchac and the Amité river. I have a statement from the clerk of the Committee on Printing showing that the reports and maps will cost $115 per thousand, that is $11 50 per hundred. The object of this survey was to show the practicability of a steamboat channel between the Mississippi river and Mobile direct, without going out into the Gulf through Lake Ponchartrain.

Mr. FESSENDEN. Why print extra copies?

Mr. HENDERSON. Because they will be very much in demand. The survey is a very valuable one, and I understand it shows the project to be practicable and feasible. The cost of the printing will be very little. I know the motion will necessarily go to the Committee on Printing, but I wanted to assure the Senate that I do not make it in ignorance of the cost.

The PRESIDENT *pro tempore*. The motion will, under the rules, be referred to the Committee on Printing.

LAND GRANTS TO NEVADA.

Mr. STEWART. I move that the Senate resume the consideration of bill No. 190, which is to further provide for giving effect to the various grants of public lands to the State of Nevada. The bill was amended and put in a satisfactory form to the whole Senate, I think, except an amendment offered by the Senator from California. That is the only question pending, and I have spoken to him about that, and notified him that I would call the bill up.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 190) to further provide for giving effect to various grants of public lands to the State of Nevada, the pending question being on the amendment proposed by Mr. CONNESS, to add as an additional section—

And be it further enacted, That the provisions of this act shall apply to the lands granted to the State of California by the act of July 2, 1862, known as the agricultural college grant.

Mr. HENDRICKS. I do not wish to be in the way of any measure that the Senator from Nevada or the Senator from California may severally or conjointly think important to their States; but the bill granting this special additional privilege to the State of Nevada was sent to the Committee on Public Lands, and that committee amended it in many important respects with a view to the state of facts in Nevada. Now the proposition is to extend all those provisions to California. That has not been considered in the Committee on Public Lands; I think it should be considered there; and although I doubt very much whether my proposition will be accepted by the Senate, inasmuch as it is a very easy thing to legislate in regard to public lands, and nobody here cares much about them, I will submit a motion that the bill, with the amendment, be referred to the Committee on Public Lands.

Mr. STEWART. I hope the Senator will not make that motion. I would rather there should be a vote on the amendment. I would not like to have the bill go back again to the committee. That would involve a delay, and it is absolutely necessary that this bill should pass. I can state to the Senate the object of the amendment. I understand it perfectly, and I think it is very plain; but I do not want this amendment to carry the bill back to the committee, because I have been about a month trying to get the bill through, and I do not wish any further delay.

Previous to the passage of the agricultural college grant, in 1862, the policy of the Government had been for a long time to offer its public lands at public sale after they had been subject to preëmption for a time; and after they were offered at public sale they became subject to private entry. The terms of that grant only gave lands subject to private entry. Since the passage of the homestead bill a case seldom occurs where lands are offered at public sale, so as to become subject to private entry; and in California they have not been able to get their agricultural college lands at all. The old practice has pretty much ceased, and so they need legislation. If the matter is to be considered by the Committee on Public Lands, I prefer that the Senator from California should draw up his proposition in a separate bill and submit it to the committee to be considered, so that this bill, which has been so long pending, may go through. If the Senate is not prepared to vote on this proposition now I think the suggestion I have just made is a fair disposition of the subject.

Mr. SHERMAN. Let us vote down the amendment.

Mr. HENDRICKS. I do not know that that proposition is exactly just to the Senator from California, who offered the amendment. The amendment is now quite as important a proposition as the original bill; and the Senator from California, I think, is as earnest for his amendment, as the Senator from Nevada is for his bill. Whether he ought to tack it on to the bill or not, is not for me to discuss. For myself, I am not particularly attracted to either proposition, but I acquiesced in the report of the committee. Whether the Senate ought to vote down this amendment without having it considered in committee is for the Senate to consider. I shall not vote on that question.

Mr. WILSON. I suggest that, as the Senator from California is absent, this bill had better be postponed to another day, if the Senator from Nevada is willing.

Mr. STEWART. That suggestion has been made so often in regard to this bill that I must really seem troublesome to the Senate. I have had it up repeatedly and have not yet been able to get a vote on it. It has been considered repeatedly, and on mere suggestions it has been brushed away so many times that I begin to look as if I was intruding on the Senate and getting nothing done.

Mr. HENDRICKS. We all know you are modest.

Mr. STEWART. On account of my extreme modesty, when I trouble the Senate I want to effect some purpose. Now, I am not able to see the objection that can be legitimately made to the amendment of the Senator from California. It is certainly proper that if, by a change of system, the lands in California do not become subject to private entry, that State should still have the benefit of this grant, the same as the other States. The eastern States, the States that have no public lands within their limits, got land scrip to the amount of the grant of land to them. Those States which had within their limits public lands subject to private entry took those lands as long as the custom of the Government continued to offer lands for sale, so that they should become subject to private entry.

But that custom having stopped, you surely will not deprive California of the opportunity of receiving her proportion of the grant, the same as the other States. That is the only effect of this amendment. I think the Senate can safely agree to it. If the bill passes with this amendment it will be considered by the Committee on Public Lands of the other House, and will there be examined. The principle no one will object to of allowing California to receive her quota of the agricultural college lands, the same as the other States. If it requires further legislation the Senate will undoubtedly agree to it, in order to carry out the original grant. If there is no more land in California subject to private entry which can be taken, certainly that State ought to be enabled by legislation to get her share of the grant, the same as the other States. The system of the Government, as the Senator from Indiana knows perfectly well, has changed within the last few years, since the passage of the homestead bill particularly; so that it is not now necessary to offer lands at public sale. I should like to have a vote on the amendment. I believe it is perfectly safe for the Senate to agree to it.

Mr. WILLIAMS. I do not approve of the practice of proposing in the Senate important amendments to bills that have been reported from a committee, and passing upon them without any considerable examination or consideration, for I think in that way the legislation of Congress is frequently inconsiderate and hurtful; and I do not wish to have this amendment proposed by the Senator from California voted down in his absence. I think he ought to be here to explain and defend his amendment; and it strikes me that it is due to him that he should be present while this subject is considered. He regards this as a very important amendment; and I would suggest to

the Senator from Nevada I am in favor of his bill. I know how much he has been troubled with suggestions of this kind; but I would respectfully suggest to him that he had better let it lie until the Senator from California comes in.

Mr. STEWART. I told him that I should call up the bill; but at the suggestion of Senators I will allow the bill to be passed over for the present. I hope to have an opportunity to call it up in the morning hour to-morrow, when I trust it will not occupy five minutes. This is about the fourth time I have had it up already.

The PRESIDENT *pro tempore*. Does the Senator from Indiana withdraw his motion to refer?

Mr. HENDRICKS. No, sir.

The PRESIDENT *pro tempore*. The question is on referring the bill.

Mr. HENDRICKS. I thought the Senator from Nevada proposed to postpone the bill until to-morrow. That can be done, leaving my motion pending.

Mr. STEWART. I hope the Senator will not insist upon his motion. I think he had better withdraw it.

Mr. HENDRICKS. If the bill cannot go over without my motion being withdrawn I shall withdraw it.

The PRESIDENT *pro tempore*. The bill can be postponed, and if that be done it carries the motion to refer with it.

Mr. WILSON. If this bill is to go over I move to postpone all prior orders and take up Senate bill No. 186.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Nevada to propose that the bill before the Senate be postponed until to-morrow. If there be no objection the order to postpone will be entered. The Chair hears no objection.

GOVERNMENT PROPERTY AT HARPER'S FERRY.

Mr. WILSON. I move to take up for consideration Senate bill No. 186.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at or near Harper's Ferry, in the county of Jefferson, West Virginia.

It proposes to direct the Secretary of War to make sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, in such parcels and on such terms as shall, in his opinion, be best adapted to secure the greatest amount of money therefor; and the proceeds of the sale are to to be applied by him as follows:

First. In defraying the expenses of making the sale.

Second. In refunding to the United States the principal sum of purchase-money paid for the lands and water privileges by the United States; and

Third. If any surplus remains, he is to deliver it to such agent as the Legislature of the State of West Virginia shall appoint to receive it; but upon condition that such surplus shall be received by the State of West Virginia, to be set apart, held, invested, used, and applied as a part of the school fund of that State, under, and by virtue of, and in manner and form as provided in section first of the tenth article of the constitution of West Virginia, and for no other purpose.

The Committee on Military Affairs and the Militia proposed to amend the bill by adding to it:

SEC. 2. *And be it further enacted*, That the Secretary of War shall have power to convey by deed all those certain portions of the aforesaid property which have heretofore at various times been set apart by proper authority for religious, charitable, educational, and town purposes.

Mr. WILSON. The committee propose to modify that amendment by striking out all after its enacting clause and inserting:

That the Secretary of War be authorized and directed to convey by deed to Storer College, an institution of learning, chartered by the Legislature of the State of West Virginia, all those certain portions of the aforesaid property and buildings, with the lots on which they stand, numbered thirty, thirty-one, and thirty-two, and also building No. 25, with enough of the lot on which it stands to give a breadth of ten rods on High street, otherwise known as Washington street; all of said buildings and lots being situate at Harper's Ferry aforesaid, being the same which have heretofore been assigned by the War Department to the Bureau of Refugees, Freedmen, and Abandoned Lands, for educational purposes; and also to convey by deed to the proper persons all such other lands and buildings, portions of the aforesaid property, as have heretofore been set apart by the proper authority for religious, charitable, and town purposes.

Mr. HENDRICKS. This seems to be rather a rich mine that is opening up here. I do not know why the Government of the United States should be giving its property to the State of West Virginia, improved property, on which the money of all the people has been expended. Nor do I know why it should be giving to some seminary of learning or college a portion of its improved property. Nor do I know sufficiently well why the Secretary of War should sell that property. It is not a valuable time now to sell it. There are no restraints in this bill upon the sale. There are no guards to secure an honest sale or a full price. There is no requirement that the property shall be exposed at public sale, no provision for securing a competition in the sale of this property, but a simple provision that the Secretary of War may sell it. How is it to be sold? To whom? To what favorites? On what bargains? With what speculations? How are all the people who wish to buy to be allowed an opportunity to buy? What notice is to be given? This bill is not such an order of sale as would sustain the disposal by a sheriff of a corner lot in an obscure village in the West. It provides for no public notice. It has none of the guards that experience has shown to be necessary in the disposal of public property by any public officer. What will not sell is to be given to a college. I suppose this is property that the Government has paid for and improved. I think we had better know something about it.

Mr. RAMSEY. I think I can make a suggestion that will meet the approbation of the Senator from Indiana. The provisions to which he objects are relative to the disposition of the surplus left after paying the expenses of the sale and the first purchase money. I think this was the scene of the sufferings of John Brown; and perhaps it would meet the approbation of the Senator from Indiana if we were to strike out the appropriation to the State of West Virginia and give it to the heirs of John Brown.

Mr. HENDRICKS. The Senator from Minnesota can do with his own money what he pleases. If he wants to make a donation of his funds to the heirs of John Brown I have not a word to say. When he proposes to give property that the people of Indiana, along with the rest of the people of the United States, have paid money to improve, then I question his right to give that property to John Brown's heirs, or to give it to any seminary of learning, or to give it to the State of West Virginia. The fact that the proposition is to give a surplus above a certain amount to the State of West Virginia makes no difference. The property belongs to the United States in its entire value. You can give the whole of it just as well as you can give a part.

Mr. FESSENDEN. It is, I think, rather late in the day for a Senator coming from one of the western States to object to giving a part of the lands of the United States, however acquired, for the benefit of learning in the several States. It is a "new wrinkle," as it strikes me. I had an impression that with reference to the public lands the Government of the United States had a perfect constitutional right to give them away if it saw fit; to dispose of them as it liked. It may "dispose of" the public lands. These lands, however acquired or however they may have been used, are a part of the public lands, because they are owned by the public. I believe that the State of Indiana has had a very respectable portion of the public lands for the benefit of education; and, if I recollect the history of the country aright, the old State of Virginia is said to have been exceedingly liberal in the matter of the public lands, and to have given what at least was supposed to be a good title to a vast territory for the benefit of the United States. Our friends at the West, by a system of laws to which I have not made any objection, have had large portions of the public lands given them for the benefit of education and for sundry public purposes in those States. I have never heard any horror expressed at the idea of giving a portion of the public lands for the benefit of education and for other public purposes in those States. The thing has gone so far that, as a general rule, what there was left after these grants has been given partly, under the homestead law, to individuals who would settle in those States, and partly, and in a very large degree, for the benefit of those States, in the way of railroads. The people have made railroads by the aid of public lands which have been granted for that purpose to an almost unlimited extent.

So far has this gone that I, for one, living in an old State "away down east," have finally, after my experience here, given up looking after the public lands at all. I take it they all belong to the States where they are and to the people of those States, and are to be used for their purposes; that they will have them anyhow, that we cannot help ourselves, and that it is no use to trouble ourselves about it, one way or the other; that it is interfering really when we ask a question about the the public lands in the new States; and it is considered an impertinence on our part, and as interfering with the rights they have to the lands within their limits, no matter how they were acquired, no matter if we bought them of Indians, no matter how we got them or what we paid for them, or anything of the kind.

This is a new break out from one of the old western States on the part of my friend from Indiana, I think, to raise a question with regard to giving away some of the lands of the United States for the benefit of education. Now, how is this matter? As I understand it, there is a certain portion of land belonging to the United States in West Virginia, a considerable territory. It has been occupied for purposes of the United States. They want it no longer for those purposes. The territory being situated as it is, the lands are more or less valuable, and it is proposed to sell them for the benefit of the United States. Whether the bill is sufficiently guarded so as to have them properly sold or not, is a question which may well be considered and well be raised. I had not looked at the bill with reference to that point; but the bill proposes that certain lands which, while they belong to the United States, were assigned heretofore for the use of certain institutions of learning and for certain other purposes in that region of country, municipal purposes some of them, may be deeded to those institutions which have been using them, and to which they may be valuable in aid of education.

This college, Storer College, as I understand, as, in fact I know, has been organized for the purpose of education in West Virginia, and large sums of money have been raised by the subscriptions of individuals for the purpose of founding the institution. One individual residing in my State gave $10,000 to raise a fund for it to be established in the State of West Virginia, that being considered a good place; and a school was begun there, and a certain number of lots, some three or four lots, of land were assigned by the Secretary of War for the use of that school, now become a college with good prospects; and the question is whether the Government of the United States can give out of these lands to the State of West Virginia, part of a State which gave the whole of the great Northwest, or was supposed to give very nearly the whole of the original lands of that great Northwest Territory, a few lots for the purpose of a location of such an institu-

tion in West Virginia. That is all the question. I do not see anything so very astonishing about it, anything so very remarkable about it; and certainly, as I said before, the objection against some public land being given for the benefit of education in West Virginia comes, I must think, with a very ill grace from any State which has had the benefit of public lands for these same purposes.

Mr. HENDRICKS. In my judgment, any criticism on western Senators, in regard to the public lands, comes with a bad grace from a Senator from the State of Maine. Did he ever reflect on the fact that the General Government never realized a cent of money from all the lands in the State of Maine?

Mr. FESSENDEN. The General Government never owned any there.

Mr. HENDRICKS. The General Government never owned any there, and yet it was a wilderness when this country was organized. Why did not the Government own it? Because the State of Massachusetts would not cede it when other colonies and other States were ceding territory for the purpose of paying off the national debt, and for other purposes. The Senator does not think it wrong that his State should be benefited by the enjoyment of all the lands in that State, and that Massachusetts and she should enjoy together the profits of all the sales that are being made from time to time. In addition to this he claims as a special benefit the fishing bounties; and that is all right. But when it comes to the State of Indiana, because the State of Indiana has received the sixteenth section, and because the State of Indiana has received some aid to her educational enterprise, a Senator from that State has no right to call in question the donation of property that the Government has purchased and paid for out of the public Treasury and improved at the expense of all the people!

Mr. President, I say that as a Senator from Indiana I can be free and independent in my whole policy and vote in regard to the public lands. The Senator from Maine, before he criticises a gentleman from Indiana or a gentleman from Ohio, had better examine into the facts. Does he know that the Government of the United States has made a clear profit off the agriculture of Indiana of many million dollars? Does he know the fact that the Government of the United States, for extinguishing the Indiana title for the purpose of the public surveys, and the expense of the sale of the public lands, expends less than twenty-two cents an acre, and that she has sold these same lands at the enormous speculation of $1 25 and $2 an acre to the people of Indiana; and that, including all the lands granted for roads and for education in the State of Indiana, the Government of the United States has realized from the farmers of that State $1 38 an acre? Including all that you have given, and striking the balance, counting what has been sold at $1 25 and what has been sold at $2, the entire lands of Indiana have realized to the Government of the United States $1 38 an acre—lands that cost the Government but twenty-one cents and a fraction. You made more than a dollar of profit off every acre in the State of Indiana. After you have made such an enormous profit off an enterprise and a pursuit of the people as no Government ever made in the world off an important interest and enterprise, then you say to the people of Indiana that her Senator cannot in good faith, or rather in good grace, comment upon a proposition to give away a part of her public lands! Who can, if a man from Indiana cannot? Who can, if a Senator from Ohio cannot? The lands in Ohio have realized to the Government of the United States a clear profit of millions of dollars. So of Illinois; so of Missouri. Strike the balance, ascertain what these lands cost the Government of the United States, and then what the farming people of the West have paid into the Treasury, and the balance is enormously, by millions, in favor of the settlers.

Then what is the reason I cannot raise a question here when you propose to give away to some seminary of learning, an institution I never heard of before, a portion of these lands? What has West Virginia got to do with the grant of the territory northwest of the Ohio in 1784? I never thought that the title of Virginia was the highest that ever was on earth to the public domain; but in 1784 she ceded that land to the Government of the United States to enable the Government to meet the public debt, and perhaps for other purposes; but the people of Indiana, the men who have improved that country, have given it its value.

Now, let me say to the Senator one thing that perhaps he has not reflected upon. A piece of land away out in the wilderness is of no value; but as farmers approach it, each farmer paying for and improving a quarter section of land, the Government of the United States can finally get $1 25 or $2 an acre for that land; then it becomes valuable. It is the people, the frontiersmen, the settlers that go there, who give the value to the land. The men who live in the eastern States and go and make their homes in the western States and make these improvements, are the men who give value to the land.

Sir, I have no regrets in regard to the votes I have given in favor of a liberal policy in the management of the public lands. I think it is but right. The Government of the United States, as a great land proprietor, should help to improve the country. When the farmers are willing to give us $2 50 an acre for the reserved sections it is but reasonable that the Government should give the alternate sections along the line of a railroad, and let the country be opened up. If the Senator had investigated the fact he would have seen that there were hundreds of thousands of acres in central Illinois, in the midst of the great prairies there, which never could have been improved and were worth nothing to the Government until the grant of alternate sections was made. The construction of the railroads by the aid of land grants has made that land what it is—valuable—and enabled the Government to sell the reserved sections at the double minimum.

But I do not care about discussing that at any length. The policy that western men have pursued on this subject can easily be vindicated. It stands, in my judgment, on a principle. I am as much opposed to the squandering of the public lands as the Senator from Maine. In the main, I think they should be secured to the people for homes. That is the first and important purpose of a wise policy. When you come to sell Harper's Ferry I think we had better know something about what is going to be done.

Mr. FESSENDEN. The Senator from Indiana has told me nothing in the remarks he has made that I did not know before, except one statement. He says that the province of Maine was a wilderness when our Government was formed. That is new to me, and will be new to the descendants of a great many people who lived there during the days of the Revolution at a very early period, in different parts of Maine. Some parts of it were among the very earliest settlements of this country. That statement is new. The fishing bounty remark was not new. That we meet on all occasions. Those bounties have been repealed now, and I supposed, therefore, that we had heard the last of that subject. But the Senator seems to have kept it in the recesses of his capacious intellect to be brought out on all such occasions, and much good may it do him. [Laughter.]

Now, sir, with reference to all this story about the western lands, we have heard it over and over and over again. I hope the Senator does not do so great a discredit to my observation as to suppose that I should have been here twelve years and not have been acquainted with the facts that he has stated with regard to the improvement of the country, with regard to the settlers who go there giving value to the adjoining territory—one might guess at that fact without going there—with regard to railroads improving the country, and the consideration that when you give away one section the next is worth double. All those things are known to most of us; they are not new; nor do I feel disposed to dispute them in any way.

I never have complained of the policy of the Government in giving lands to the western States for educational purposes. I approve it. I have always approved it. I approve, also, to a reasonable and proper extent, of giving alternate sections to railroads. I have voted for them. But, nevertheless, it is true, and it cannot be disputed by anybody who has had any experience here, that the moment an eastern man alludes to the question of public lands in the western States, he is considered as interfering with a matter that is none of his business. "Hands off; all that matter belongs to us." Why, sir, the Committee on Public Lands here has been made up of western Senators for years and years. They have almost thought it was a piece of impertinence to put a man on that committee from the eastern States; that it was exclusively theirs, and nobody must meddle with it in any possible way. I have not complained of that; and I have not complained for the reason that when I find complaint does no good, I stop. That is the amount of it. I gave public notice here three or four years ago that I was done talking about the public lands; and when my friend from Indiana gives public notice that he is done talking about fishing bounties, perhaps he will stand on the same footing that I do; but I would not deprive him of so powerful an argument!

Mr. HENDRICKS. I will make the bargain now. I know the Senator will suffer in the bargain, but I will make it. [Laughter.]

Mr. FESSENDEN. Then I have stopped that, at any rate from that quarter. Whether we shall have it from any other quarter I do not know. Probably we shall whenever occasion serves. But at any rate, we shall hear no more from the honorable Senator from Indiana on the subject of codfish. [Laughter.]

Now, sir, the question comes back to what I stated before: it is a question of land, and land, whether improved or unimproved, to be given for educational purposes. It is no more nor less than that. I say again that when the western States, under a policy of which, I repeat, I do not complain, have received their lands from time to time abundantly and generously for purposes of education in those States, (and I hope they have been used well for those purposes,) it does not become them to complain that a few lots are taken out of the public lands in the State of West Virginia for the same purposes. And you will allow me to say one thing, sir, with regard to the general scope of the honorable Senator's argument, that it does not follow because certain persons go into a new State and settle that therefore, after they have got there, they not only own the land that they have bought for $125 per acre, but own all the rest of the land that belongs to the Government. The Senator's argument goes to that. He says, "Who gives the value to these lands? The farmer who goes there and settles; they would not be valuable but for him." Ergo, he owns all the rest, is the natural conclusion.

Mr. HENDRICKS. I thought the Senator from Maine and I made a bargain a little while ago that if I would not say "codfish" he would not say "western lands" any more.

Mr. FESSENDEN. I did not understand so. [Laughter.] That would stop me in the midst of my argument. I thought the bargain was all on one side. [Laughter.] If the Senator will agree that the subject of western lands shall never be brought up here again, and will agree not to mention it on his part, I certainly will agree that the subject of codfish shall not come up in his day. [Laughter.] To make the bargain fair, we must have it equal all around. This, I know, is all very kind as between the honorable Senator and myself. But I repeat, sir, in my judgment, the thing is eminently proper. The Government owns a good deal of land there; how

much, I do not know; but here are a few lots which it desires to give, as they have been heretofore appropriated for the purpose of affording a location for this college.

Mr. HOWARD. What college is it?

Mr. FESSENDEN. I can give you the foundation of it. It is founded by the religious sect who are known in our section of the country by the name of Free-will Baptists—a very excellent set of people, who have been trying, of late years, to do all they can to educate their people. Their doctrine heretofore has been that their ministers must speak from the grace of God, and not from any human learning; and that if they gained anything from books it was rather an injury than otherwise. Lately a set of men have sprung up among them of contemplation, who have been indoctrinating their people with the idea that education was of advantage. They have established an institution which is a very promising institution. They became interested in the subject of education in these States in view of the many people to be educated, white and black, and they went to work to collect funds by contribution among themselves as far as they could, and among other people who would aid them, to found an institution for the benefit of learning in one of the States, (and they selected West Virginia,) which should be free to all persons, without distinction of color, white or black. They have raised, as I stated, a considerable sum of money. One man gave the amount of $10,000; and they have carried it up to some forty or fifty thousand dollars. They have bought a territory there. They began first by establishing a school, and were permitted by the Secretary of War to occupy certain lots on this territory and certain buildings that were there, which they improved for the purpose; and now the institution has been incorporated by the State of West Virginia, where it is situated. What they ask is that those three or four lots that have been set apart to them, with the buildings on them, may be given to them by the Government for the purpose of education. It is land which the Government has a right to give. It is a small matter. The other matters connected with the bill my friend from West Virginia can explain; and I believe my honorable friend from Indiana, when he comes to look at it, will see the propriety of the thing itself.

Mr. WILLEY. Of course, Mr. President, there can be no objection to any amendment or addition to this bill which will add to the security of the sale. I can have no objection to any suggestions in that direction made by the Senator from Indiana. I supposed, when I drew the bill and had it referred to the Committee on Military Affairs, that in a case like this it might well be submitted to the Secretary of War to devise what, in his opinion, might be the best means of obtaining "the greatest amount of money therefor," in the language of the bill, for it provides that the sale shall be "on such terms as shall, in his opinion, be best adapted to secure the greatest amount of money therefor." If, in the opinion of the Senator from Indiana or of the Senate, that is not sufficiently guarded, I am very willing to make other provisions that shall meet their views on that subject.

But, sir, I do not see the force of the objections made to the proposition in this bill by the Senator from Indiana. This land was purchased originally by the Government for a specific purpose; the Government went on and erected buildings there for the manufacture of arms, and in doing so attracted capital and skill and population to that place and its vicinity, and occasioned the people of Virginia in the vicinity to invest their capital in the erection of buildings there, and to make their homes there, and to commence their business there. When, unfortunately, the rebellion broke out, the Government works were destroyed, and now, in the opinion of the Government, it is not any longer proper to continue those works at that place. To ascertain what the opinion of the Government was in that respect I introduced a resolution in the Senate in May, 1866, referring the matter to the War Department to ascertain what the condition of things at Harper's Ferry was, and whether it was the purpose of the War Department any longer to carry on the construction of arms at that place. The matter was referred to the chief of the ordnance department, who made the following report to the Secretary of War, which was transmitted to Congress:

ORDNANCE OFFICE, WAR DEPARTMENT,
WASHINGTON, *May* 14, 1866.

SIR: In answer to the resolution of the Senate, requesting information in regard to the property of the United States at Harper's Ferry, West Virginia, I have to report:

The Government owns at that place about seventy-five acres of improved land, and has the right of cutting wood on a large tract of unimproved land on the south side of the Shenandoah river.

That is not included within the operation of this bill, because that is not in the State of West Virginia:

On the improved land there are twenty-five dwelling-houses, a powder-magazine, a public stable, a repair shop, nine store-rooms, and the ruins of the former armory shops. Eighteen of the dwelling-houses are in fair condition; the residue, as well as the main shops of the old armory, have been much injured during the war, and are in bad order. The powder-magazine, stable, repair shop, and store-rooms are all in good condition.

This department is now using, for the purposes of an ordnance depot for the storage and preservation of munitions of war, the powder magazine, five store-rooms, the repair shop, and a dwelling-house for quarters for the military store-keeper. This ordnance depot is only required for a temporary purpose, and will be broken up as soon as the supplies now stored there can be transferred to the arsenals.

All that has been done, and there is not a stroke of work going on at that place at this time, nor are there any supplies deposited there at this time. This report continues:

Harper's Ferry cannot, in my opinion, be ever again used to advantage for the manufacture of arms; the retention of the property of the United States at that place is not necessary or advantageous to the public interest, beyond the temporary use of so much as may be required for the ordnance depot; and I recommend that, as soon as that depot can be broken up, all the public land, buildings, and other property there be sold, and the proceeds of the sale be applied to the construction of the armory in the West, as now authorized and directed by law to be established.

The resolution of the Senate is returned herewith.

Very respectfully, your obedient servant,

A. B. DYER,
Brevet Major General, Chief of Ordnance.

Hon. E. M. STANTON, *Secretary of War.*

Now, Mr. President, this provides that the United States shall be reimbursed for all that it ever expended in the purchase of the land and for all the expenses it incurred in the improvements there. What more can be asked? It is not a gift on the part of the United States taxing its Treasury in the least. It is very possible, I am bound to admit, from my information, that the land there would now sell for perhaps one or two or three hundred thousand dollars more than the property originally cost and the amount of expenses originally incurred by the United States.

Mr. CONKLING. How much is it worth altogether?

Mr. WILLEY. I can only form an estimate. I suppose it is worth in the neighborhood of a million dollars. That is my estimate.

Mr. SHERMAN. The original cost to be refunded?

Mr. WILLEY. The original cost is to be refunded; and if there be any surplus, that is to be transferred to the West Virginia common-school fund, under an article of our Constitution, which, if Senators desire it, I will read. The article is referred to in the bill. It is as follows:

"All money accruing to this State, being the proceeds of forfeited, delinquent, waste, and unappropriated lands; and of lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed or sold to others than this State; all grants, devises, or bequests," &c.

Going on to show what shall enter into the school fund of the State of West Virginia, concluding as follows:

"And such sums as may from time to time be appropriated by the Legislature for the purpose shall be set apart as a separate fund, to be called the school fund, and invested, under such regulations as may be prescribed by law, in the interest-bearing securities of the United States or of this State; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever."

Mr. CONKLING. Has an act been passed by the Legislature to carry out that provision?

Mr. WILLEY. Yes, sir; there has been an act passed. Our school system is now going into operation. We are very poor in West Virginia; we are struggling with all our might to raise a school fund; we are ignorant in West Virginia; we had no schools; we were the "outside barbarians" of old Virginia, in our mountains, without any influence or power to appropriate any of the revenues of Virginia to our purposes. We have, in our necessities, in our extremities, gone to work, organized a free-school system, are building school-houses all over the State to-day, taxing our people to the utmost that they can possibly bear for the purpose of erecting school-houses, and I I am glad to know that, if you were to visit West Virginia to-day, you would see convenient and comfortable school-houses rising and showing their white surfaces among our hills all over the State, and children gathering there to receive instruction—a thing that has hitherto never been within our power. We have hoped, inasmuch as we asked from the United States nothing from its Treasury, but that they would simply reimburse themselves for the expenditures that they had made at Harper's Ferry, that if there was any surplus remaining they would graciously donate that surplus to West Virginia, to go into her school-fund, to help us to carry into effect our praiseworthy purpose. I had hoped that I should not have met with the objection which the Senator from Indiana saw proper to make.

Of course it was his right to do it; but when I shall go into the State of Indiana and into the five States created out of the territory donated by Virginia to the United States, and see their school systems flourishing there, and their children virtually educated in many of those States out of the proceeds of the liberality of the United States, and of Virginia originally, I shall refer to the objection of the Senator from Indiana to-day, and, unless he withdraws his objection, I shall entertain, not any malice, but I shall not think so well of his goodness of heart and kindness of disposition as I have been heretofore disposed to do.

Mr. HOWE. I wish to ask the Senator a question. I understand from him that whatever is left of the proceeds of this sale is to go to the common school fund of West Virginia?

Mr. WILLEY. Yes, sir.

Mr. HOWE. I understood the Senator from Maine to say that it was to go to support a university.

Mr. WILLEY. Let me explain. Some time ago some lots upon the hill—I have forgotten the name of the hill—above Harpers' Ferry, not at all interfering with the water power which constitutes the great value of the property at Harpers' Ferry, amounting, according to my examination to from six to eight acres, upon which there were some residences belonging to the United States at the time of the war, were assigned by the War Department to the Freedmen's Bureau for the purpose of organizing schools. That subject having attracted the attention of benevolent men in other portions of the country, liberal donations have been made, and under our corporation law of West Virginia, a college has been organized without distinction of color or race. As I understand, there is no distinction at all in the bill, one way or the other.

Now, sir, if men from abroad shall, in their benevolence, see proper to aid us in the establishment of schools in our territory, we shall only feel so much more obliged to them; and we propose and the bill will pay for the construction of those very buildings that are thus donated to this new college—Storer college, I believe, it is called. It is not proposed to donate those buildings to that college; but it is proposed by this bill that the United States shall reimburse themselves for the amount of

money paid out for the purchase of these lands originally, and for all expenses incurred in constructing buildings there, both for the manufacture of arms and for private dwellings, and that if any surplus remains, it shall be paid over to such agent as the Legislature of West Virginia shall appoint.

Mr. CONKLING. I should like to ask a question just here. Is there any objection to providing that the sale shall not only be public, but a competitive sale, and the terms of credit, if there are to be terms, known to everybody beforehand?

Mr. WILLEY. Not at all; and I have been drawing up amendments which will cover that.

Mr. CONKLING. I shall be very glad to vote for such an amendment. I do not think the example or the practice is wholesome of allowing any officer, however well he may be entitled to the confidence of Congress, to sell upon discretion, fixing himself the terms and the publicity, or the want of publicity, by which a sale can be attended. It never should be done.

Mr. BUCKALEW. I observe that the bill says the United States shall be reimbursed for the original cost of the land and water privileges. The Senator from West Virginia has argued this question as if the Government were to be reimbursed for all the outlay in the erection of Government buildings there.

Mr. WILLEY. That is the intention.

Mr. BUCKALEW. It is very important that it should be so stated in the bill, because it changes it essentially.

Mr. WILLEY. I will make a memorandum to amend it in that particular. It makes provision for the sale of the land and the reimbursement of the expenses.

Mr. CONKLING. All the outlays?

Mr. WILLEY. Yes, sir, all the outlays.

Mr. BUCKALEW. The language of the bill is "lands and water privileges."

Mr. WILLEY. I agree with the Senator that it should be amended in that respect.

Mr. BUCKALEW. The Government has certainly expended a very large sum of money at Harper's Ferry. We have no information about the amount. We have expended a prodigious amount in defending that point during the recent war. Now, we have a report from the War Department, in which an officer to whom this subject has been referred for investigation says that it is not necessary that the Government should continue to occupy that site for the purposes to which it has been heretofore devoted, and he advises that the Government shall sell this property and shall apply the proceeds received from the sale to the erection of a new armory, a new military post in some other section or portion of the country. That is one proposition made to us from the Department which has had charge of this property; but the bill presented here and upon which we are about to pass is a very different proposition. It is proposed that we shall sell this property, that the Government shall retain out of the proceeds the cost of the property, and then turn over the remainder to the State of West Virginia. We have no information about the amount of money involved; and I object to the principle upon which the bill goes. Property obtained in various sections of the country by the United States at an early period, when property was very low, when settlements were sparse, has increased enormously in value by the progress, settlement, and growth of the country. What relation there is between the original cost of property and the present disposition of it in cases of this kind, I cannot conceive. It is a device, a plan by which the State of West Virginia shall receive an appropriation from the Treasury of the United States for educational purposes. That is the whole of this bill; and it is predicated upon nothing except the mere fact that this Harper's Ferry property, or a portion of it, is located just within the edge of that State. What equity does that give the State of West Virginia? We have occupied that site and expended the public money there. Now we propose to withdraw from it and to sell it at a fair public sale to individual holders, who will hereafter go on and manage and administer it for their own purposes, the State of West Virginia receiving whatever revenue can be obtained through her tax laws upon this property, which is so transferred by the United States. It will be brought within the operation of her tax laws, and she will receive a revenue from it, which she has not heretofore done, because, I presume, that she has not taxed the property of the United States, and could not do so. For my part, until it is understood that Congress will appropriate the public money out of the public Treasury for the purpose of education in the several States, and that, not upon a general plan applicable to them all, like that upon which we proceeded in the case of agricultural colleges, where are appropriated the proceeds of the public lands in the West to the use of colleges in all sections of the Union, ditributed the fund equally, until, I say, we have adopted the plan of taking special appropriations of money from the Treasury for educational purposes in the several States upon this, that, or the other particular argument which may be presented to us, I must be obliged to withhold my vote from bills of this description.

Mr. WILSON. I should like to have a vote if the Senate is ready to vote, on the pending amendment, and then I propose to offer another.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. WILSON. I now move to amend the first section of the bill. In line six after the words "West Virginia," I move to insert "except as hereinafter provided;" in line seven after the word "parcels," I move to insert "at public sale;" and in the same line after the word "terms," I move to insert "as to the time of payment and after thirty days' notice of the time and place of sale;" so that the first section will read:

That the Secretary of War be, and he is hereby, authorized and directed to make sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, except as hereinafter provided, in such parcels, at public sale, and on such terms as to the time of sale, and after thirty days' notice of the time and place of sale, as shall, in his opinion, be best adapted to secure the greatest amount of money therefor; and that the proceeds of such sale shall be applied by him as follows, &c.

Mr. WILLEY. I suggest to the Senator from Massachusetts to allow the vote to be taken on the first branch of his amendment, to insert the words, "except as hereinafter provided," which is proper; and then I want to suggest a modification of his amendment as to the other purposes he designs.

Mr. WILSON. Very well; I will put it in that form. Let the question be taken on the first clause of the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment to insert in line six, after the words "West Virginia," the words "except as hereinafter provided."

The amendment was agreed to.

Mr. WILLEY. I suggest to the Senator from Massachusetts the following amendments, which I think will more properly and fully accomplish his purpose: In line four, after the word "sale," insert the words "at public auction;" in line seven strike out the words "and on such terms;" in line nine, after the word "therefor," insert "on a credit of one and two years, taking bond and security from the purchaser or purchasers for the payment of the purchase money;" and at the end of the section to add:

Provided, That no such sale shall be made until the time, terms, and place thereof shall have been published in one of the principal newspapers in each of the cities of Washington, New York, and Cincinnati for sixty days prior to the day of sale.

Mr. WILSON. I accept that amendment to the bill if it is thought to be more proper.

Mr. WILLEY. I move, therefore, that the words "at public auction" be inserted after the word "sale" in the fourth line.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Massachusetts to accept the amendment as a modification of his amendment.

Mr. WILSON. I will withdraw the latter clauses of the amendment that I proposed and let the Senator from West Virginia move his, which are probably in better form.

The PRESIDENT *pro tempore*. They are withdrawn accordingly. The question now is on the amendment offered by the Senator from West Virginia.

Mr. HOWE. I do not assume to know anything more about this matter than the Senator from West Virginia; of course, I do not know near as much; but I understood him to say that the property which is to be sold under this bill, if it passes, is property very large in amount, and which will realize many hundred thousand dollars, or we have a right to expect that it will if fairly disposed of. Now, this amendment proposes to put that property in a body up to sale at public auction.

Mr. WILLEY. Not in a body.

Mr. HOWE. I think, as the bill would stand, if that amendment should be adopted, the Secretary would be obliged to offer it in one parcel.

Mr. WILLEY. No, sir; it leaves that to his discretion. The bill reads now:

In such parcels and on such terms as shall, in his opinion, be best adapted to secure the greatest amount of money therefor.

I propose to strike out, as my next amendment, the words "and on such terms;" so as to leave it read: "in such parcels as shall, in his opinion, be best adapted to secure the greatest amount therefor;" and then to add: "on a credit of one and two years, taking bond and security for the payment of the purchase money from the purchaser or purchasers thereof."

Mr. HOWE. Taking what as security?

Mr. WILLEY. "Bond and security."

Mr. HOWE. Bond and mortgage?

Mr. WILLEY. No, sir; personal property, because it provides in another part of the bill that it shall not be conveyed until the whole purchase money is paid, which will be reserving a lien on the land for the payment of the purchase money.

Mr. HOWE. If the Secretary of War could himself superintend the making of the sale there is no doubt he would make it under the bill, as the Senator now explains it, and get the most money he could; but it is impossible for him to superintend it, and who will manage it I am sure I do not know.

Mr. FESSENDEN. It will be some one appointed by him.

Mr. HOWE. There is a great difference between the Secretary of War and a subordinate of the Secretary of War, although that subordinate may be selected by the Secretary. I know the Government in my own neighborhood had a reservation of some seven or eight hundred thousand acres for military purposes occupied as a fort reserve. When we undertook to dispose of that it was provided that there should be a subdivision of it into lots, and the character of that subdivision should be made known here before any sale was authorized at all, so that we knew just in what parcels the property was to be submitted to bidding; and I should suppose it would be a prudent step to take here. I can very well understand that in the sale of property consisting of a few acres of land, the great value of it consisting in water power, everything depends upon the subdivision of it, as to the amount of money it will bring.

Mr. WILLEY. There can be no question that this will bring more than enough money to reimburse the United States; and I take it for granted that the Governor of West Virginia or the authorities of West Virginia, if

this bill should pass, will see to it that all due means are adopted to make the property bring as large a sum as possible, so that, so far as the United States is concerned, it will be reimbursed, according to the terms of this bill, the full amount of its expenditure and outlay in the purchase of the property and in the erection of the buildings thereon. The United States can have nothing to complain of.

I now move that the words in the seventh line, "and on such terms," be stricken from the bill.

The PRESIDENT *pro tempore*. The question is on that amendment.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The Chair is informed that the first amendment offered by the Senator, to insert after the word "sale," in the fourth line, the words "at public auction," has not yet been acted on by the Senate.

Mr. WILLEY. I understood that it was. If it was not I hope it will be.

The amendment was agreed to.

Mr. WILLEY. I now move to insert after the word "therefor," in the ninth line, the following words: "on a credit of one and two years, taking bond and security from the purchaser or purchasers thereof for the purchase money."

The amendment was agreed to.

Mr. WILLEY. I now move at the end of the section to insert the following proviso:

Provided, That no such sale shall be made until the time, terms, and place thereof shall have been published in one of the principal newspapers in each of the cities of Washington, New York, and Cincinnati for sixty days prior to the day of sale.

The amendment was agreed to.

Mr. BUCKALEW. Now, I desire that the second clause of the section, relating to the proceeds of the sale and the reimbursement of the United States, be read.

The Secretary read as follows:

2. In refunding to the United States the principal sum of purchase money paid for said lands and water privileges by the United States.

Mr. WILLEY. I move to insert after the word "lands," in the thirteenth line, the word "tenements."

Mr. BUCKALEW. Tenements, of course, relate to land. I suggest the insertion of the words "and for the erection of buildings thereon" at the end of the clause.

The PRESIDENT *pro tempore*. Does the Senator from West Virginia accept that as a modification of his amendment?

Mr. WILSON. I believe if that is adopted, the State of West Virginia will get nothing out of it anyway. I think those buildings which were erected there at considerable cost will not bring ten cents on the dollar of what they cost originally. They cost large sums of money originally, and I have no idea that Harper's Ferry will sell for the cost of the buildings put upon it. I doubt very much whether West Virginia will get a great deal out of this bill anyway, and I think the bill ought to be allowed to stand as it is.

Mr. BUCKALEW. I do not know what the effect may be. I am speaking of the statement that was made as to the object of the bill.

Mr. WILSON. The cost of the water privilege and the cost of the lands of course were reasonable at that time; but when we consider that those buildings were erected a long while ago, that they cost a great deal of money, that they have been used up and worn out, that the place is not in a prosperous condition, I doubt very much whether we can get back the money we paid for them. I have no idea that we can.

Mr. BUCKALEW. Does the Senator know how much the land and water privileges cost?

Mr. WILSON. No, I do not; but you will find that the whole of it cost much more than we shall get for it.

Mr. HENDRICKS. I wish to suggest to the Senator having this bill in charge and responsible for it, whether he had not better provide power on the part of the Secretary of War or some officer to set the sale aside if the property should not sell for what it is really worth. There may be a combination among bidders. There ought to be some power of review as a precaution under the authority of the law.

Mr. WILSON. I think he would have that power now. It seems to me he has. I should be glad to get this bill through to-night if possible.

The PRESIDENT *pro tempore* put the question on the amendment, and declared it to be agreed to.

Mr. FESSENDEN. What amendment is that?

The PRESIDENT *pro tempore*. The amendment about the buildings.

Mr. FESSENDEN. That ought not to be put in. The Government ought not to be reimbursed for all the buildings. The buildings are pretty much destroyed.

Mr. CONKLING. But the Senator who has this matter in charge proposed that that should be done.

Mr. WILLEY. That was my proposition.

Mr. CONKLING. Certainly it was.

Mr. WILLEY. But it is a fact that the buildings are pretty much destroyed.

Mr. FESSENDEN. If the Government is to be reimbursed the original cost of the buildings there will not be much left, in my opinion.

Mr. HENDRICKS. I move that this bill be made the special order for to-morrow at half past twelve o'clock, and that the Senate adjourn.

Mr. CONKLING. I would not make it a special order.

Mr. WILLEY. I think we can get a vote on it.

Mr. CONKLING. It seems to me if we give the Senator from West Virginia all he wants, that is all that ought to be required by any other Senator.

Mr. FESSENDEN. If the Senator from West Virginia is willing to accept the amendment, very well.

Mr. CONKLING. It is his own proposition.

Mr. WILSON. In my opinion, if this amendment is adopted it settles the question, and not a farthing will ever go to West Virginia. We can never sell Harper's Ferry for what the water privileges, the land, and the buildings upon it cost.

Mr. CONKLING. If the Senator takes that position, then he accepts the suggestion of the Senator from Pennsylvania; this is a naked donation out and out so far. Now, the Senator from West Virginia himself made this proposition, himself spoke of it as a verbal amendment which he intended to offer, and which he hoped would be adopted. It seems to me if we give him what he asks, that is quite enough; and if he moves the amendment, as well as does not object to it, other Senators ought not to interpose.

Mr. FESSENDEN. I do not object to it.

Mr. WILLEY. The amendment was not proposed by me; it is not my amendment; but the Senator from New York represents me correctly. My proposition was that the United States should be reimbursed for its expenditures, though the fact is that the buildings erected upon this property, in their present condition, will sell for but a very small portion of what it cost to erect them. The principal buildings have been destroyed, and the other buildings are in a very dilapidated condition. I should be very glad if the Senate would take the view of the subject taken by the Senator from Massachusetts; but my proposition is correctly represented by the Senator from New York. If the Senate will do West Virginia the favor to take the present value of the buildings I shall be still more obliged to them.

Mr. WILSON. Let us have a vote on the amendment. I do not object to it.

Mr. BUCKALEW. I simply wish to observe that if there is no opposition to the amendment we can pass the bill to-night; if not, I shall suggest that it lie over for the purpose of getting the statistics and knowing something about it.

Mr. WILSON. Very well; we will take the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 26, 1868.

The House met at twelve o'clock m. Prayer by Rev. JOHN HALL, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed House bill No. 214, to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had passed, without amendment, joint resolution of the House No. 105, authorizing the Comptroller of the Currency to revoke the appointment of a receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under certain conditions.

TREATY WITH CHOCTAWS AND CHICKASAWS.

Mr. SHANKS, by unanimous consent, from the Committee on Indian Affairs, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to furnish to this House a copy of all the evidence and of the report of the commissioners appointed under the fiftieth article of the treaty with the Choctaw and Chickasaw Indians of 1866, together with the award of the Secretary of the Interior upon said report.

ABELARD GUTHRIE.

Mr. POLAND, by unanimous consent, from the Committee on Revisal and Unfinished Business, made a report on the memorial of Abelard Guthrie; and the same was ordered to be printed, and recommitted to the committee.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADMISSION OF ALABAMA.

Mr. MUNGEN. I ask unanimous consent to offer the following preamble and resolution:

Whereas the welfare of the country, and especially of the dominant party at this particular juncture, imperatively demands the admission of at least one State under the reconstruction acts of Congress; and whereas it has been authoritatively ascertained that many of the "trooly loil" freedmen of Alabama in voting upon the adoption of the constitution lately submitted to them for adoption, under and in accordance with said acts, deposited their ballots in the post offices instead of the ballot-boxes, and this without the consent and contrary to the instructions of the military commander of the district: Therefore,

Be it resolved, 1. That it is highly improper that said ballots be thus lost; that without further delay Alabama be admitted into the Union as a coequal State, in order that said "trooly loil" freedmen be represented in Congress as well as in the Freedmen's Bureau.

2. That any member of any party, or "any other man," voting against the foregoing be adjudged guilty of high crimes and misdemeanors and be immediately impeached.

Mr. WASHBURNE, of Illinois, and Mr. CHANLER objected.

REPAIRS OF NEW YORK CUSTOM-HOUSE.

Mr. WELKER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish to this House the amount of expenses incurred in repairs on the New York custom-

house for two years prior to the 1st day of February, 1868.

APPRAISER'S DEPARTMENT IN NEW YORK.

Mr. WELKER, by unanimous consent, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish to this House a copy of a contract made for labor in the public store or appraiser's department in the city of New York and the authority for making such contract; and whether the contractors furnish all the labor and all the coal necessarily used in the performance of the contract.

REPORT OF PARIS EXPOSITION.

Mr. GRISWOLD, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing under the law:

Resolved, That two thousand extra copies of the report of Abraham S Hewitt, commissioner to the Paris Exposition, be printed for the use of the State Department.

DUBUQUE AND SIOUX CITY RAILROAD.

The House resumed the consideration of the unfinished business pending at the adjournment yesterday, being the amendment of the Senate to House bill No. 208, to extend the time for the completion of the Dubuque and Sioux City railroad, on which Mr. ALLISON was entitled to the floor.

Mr. ALLISON. I withdraw the demand for the previous question, with a view of answering any question.

The amendments of the Senate were reported, as follows:

Page 1, line ten, after the word "to," insert "subject to the revertal mentioned in said act at the expiration of the time herein limited."

Page 1, strike out all after the word "route" in line eleven to the word "to" in line sixteen and insert in lieu thereof the following:

By way of Webster City and Fort Dodge to Sioux City, which route shall be at all points within the limits of said land grant."

Page 1, line seventeen, strike out "January" and insert "July."

At the end of section one insert "And no land shall be disposed of or patented, or certified for said purposes, more than forty miles in advance of the point to which said road may be constructed from time to time.

Strike out sections two, three, and four.

Mr. ALLISON. Inasmuch as no explanation of these amendments seems to be required by any gentleman on the floor, I will say that the amendments proposed by the Senate are restrictive in their character, except one, which simply extends the time six months for the completion of the first fifty miles of the road. I will say further that the amendments have been submitted to the Committee on Public Lands, and they concur in them. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. ALLISON moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POST ROUTE IN NEW YORK.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 821) to establish a post route from Gowanda, via Collins Center and Mourton's Corner, to Springville, Erie county, New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

HARBOR AT WILSON, NEW YORK.

Mr. VAN HORN, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War he directed to furnish to this House as speedily as possible such information as he may have in his possession, or can be obtained from the officer who recently made a survey for a ship-canal around the Falls of Niagara, relative to the harbor at Wilson, Niagara county, New York, and the importance and propriety of Congress making an appropriation for the improvement of said harbor.

HOMESTEAD LAW.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the homestead law that the fees now required of claimants shall not be exacted when such claimants have been soldiers in the late war for the Union and have been honorably discharged.

TRANSPORTATION OF MAILS.

Mr. VAN WYCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be directed to inform this House why the railroads between Baltimore and New York city receive for the transportation of the mails $100 per mile more than first-class roads, like the New York and Erie.

MRS. C. F. M'CALL.

Mr. HARDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions are hereby instructed to inquire and report to this House, by bill or otherwise, upon the expediency of granting a pension to Mrs. C. F. McCall—a pension for the sons of her son, George W. McCall, who was a member of company E, thirty-third Illinois volunteer infantry during the late war; the said Mrs. C. F. McCall being a widow in indigent circumstances in Warren county, Illinois.

BRIDGE ACROSS THE OHIO.

Mr. KERR, by unanimous consent, introduced a joint resolution (H. R. No. 215) concerning the bridge across the Ohio at the head of the falls of that river.

The joint resolution was read at length. It directs the Secretary of War to cause an inquiry and examination to be made by a competent and impartial officer of engineers to ascertain whether the Louisville Bridge Company has located and is constructing its bridge across the Ohio river, at the head of the falls of said river, in accordance with the provisions of the acts of Congress on the subject, approved, respectively, July 14, 1862, and February 17, 1865, and to have the same done and reported to Congress at as early a period as practicable, to the end that the interests of the public may be protected and no injustice done, by delay or otherwise, to said company.

The joint resolution was read a first and second time, and referred to the Committee on Commerce.

PUBLIC LANDS IN OHIO.

Mr. WILSON, of Ohio, by unanimous consent, submitted the following preamble and resolution; which were referred to the Committee on Public Lands:

Whereas it is estimated by the Commissioner of the General Land Office that there remains some forty thousand acres of land in the Virginia military district in the State of Ohio unsurveyed and undisposed of; and whereas said lands are mountainous and of so little value that it is doubtful whether they could be sold by the United States for a sum sufficient to defray the expenses incident to surveying and conveying the same; Therefore,

Resolved, That the Committee on Public Lands be, and they are hereby, directed to inquire into the expediency of ceding said lands to the State of Ohio, and report by bill or otherwise.

NAVAL PENSIONS.

The SPEAKER. When the morning hour expired on Thursday last the House had under consideration the bill (H. R. No. 777) to provide for the payment of certain pensions out of the Navy pension fund.

The first section provides that the provisions of section eleven of an act entitled "An act for the better government of the United States," approved July 17, 1862, be extended to and made to include the widows and other dependents of officers, seamen, firemen, marines, and coal-heavers of the naval service of the United States, who are by law entitled to pensions, and that all such pensions shall be paid out of the Navy fund.

Section two provides that the amount paid out of the general appropriation to the widows and other dependents named in the foregoing section since the passage of the act of July 17, 1862, shall be reimbursed to the Treasury of the United States.

The pending question was upon the following amendment, offered by Mr. BUTLER, to add the following amendment:

SEC. —. *And be it further enacted*, That all moneys and securities appertaining to the fund now known as the naval pension fund, and all other moneys and securities which, by law, have been heretofore paid into such fund, and which, if this act had been passed, would hereafter accrue thereto, shall be covered into the Treasury of the United States, and become a part of the surplus fund of the Treasury; and all Navy pensions shall be hereafter assumed by the United States, to be paid from the Treasury in accordance with appropriations made by law.

Mr. PERHAM. It will be recollected that a few days since a bill was passed, reported from the Committee on Appropriations, which provides that all this fund shall be covered into the Treasury of the United States. If that bill should become law, then it will supersede the legislation proposed by the bill under consideration. I therefore move that this bill and pending amendment be recommitted to the Committee on Invalid Pensions.

The motion was agreed to.

WAR OF 1812.

Mr. PERHAM moved that the Committee on Invalid Pensions be discharged from the further consideration of the following, and that the same be referred to the Committee on Revolutionary Pensions and of the War of 1812:

Concurrent resolutions of the Legislature of the State of Kansas, memorializing Congress to grant the invalid soldiers of the war of 1812 pensions from the date of injury, or the date of discharge;

The petition of Daniel Wilson, for arrears of pensions; and

The petition of Roxana Kimball, for arrears of pensions.

The motion of Mr. PERHAM was agreed to.

HAMPTON THOMPSON.

Mr. POLSLEY, from the Committee on Invalid Pensions, reported a bill (H. R. No. 822) granting a pension to Hampton Thompson; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of War to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Hampton Thompson, late a private in company G, sixty-third regiment Pennsylvania volunteers, commencing September 13, 1865.

Mr. WASHBURNE, of Illinois. Let the report be read.

The report was read. It sets forth the facts presented by the petitioner, which are that he is a native of middle Tennessee, was a member of a State regiment called into service by Governor Harris in May, 1861; that when the regiment went South he escaped June 6, 1862, and surrendered to the Union forces; that after having been kept some time in the military prisons at Jeffersonville and Indianapolis he took the oath of allegiance and returned home; that in April, 1863, he went to Pittsburg, where, some time after, he enlisted in a Pennsylvania regiment and served until discharged because of having lost his sight from exposure while in service.

The committee report that they have carefully examined the statements of fact made by Thompson and find them correct, being proved by evidence from the War Department, by the character of the Tennessee service under Governor Harris, and by statements of officers and soldiers. The evidence concerning his present character and sentiments toward the United States Government is satisfactory to the committee. He is unable to procure a pension from the Department because of his having been in the rebel service. The committee, therefore, recommend the passage of the bill.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE W. LOCKER.

Mr. POLSLEY also, from the Committee on Invalid Pensions, reported a bill (H. R. No.

823) granting a pension to George W. Locker; which was read a first and second time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension law, the name of George W. Locker, late a private in company G, fifteenth regiment Iowa volunteer infantry, the pension to commence June 17, 1862.

Mr. HOLMAN. I call for the reading of the report.

The report, which was read, states that George W. Locker enlisted in company G, fifteenth regiment Iowa volunteer infantry, October 24, 1861, and was discharged from the service June 17, 1862, near Corinth, Mississippi. There is abundant evidence to show that he was a strong and robust man at the time he entered the service. William T. Cunningham, captain of his company, states that he was a healthy person in every particular, able and ready for duty from the time he enlisted for about four months, after which he was seized with epilepsy, resulting from severe exposure while in service. The committee, after careful examination, believe Locker to be suffering from disability contracted in the military service of the United States.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMIE VAUGHM.

Mr. BEATTY, from the Committee on Invalid Pensions, reported a bill (H. R. No. 824) granting a pension to Amie Vaughm; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Amie Vaughm, widow of Daniel Vaughm, late a private in company A, fifty-eighth Pennsylvania volunteers, the pension to commence December 25, 1863.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN W. HUGHES.

Mr. BEATTY also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 825) granting a pension to John W. Hughes; which was read a first and second time.

The bill, which was read, proposes to authorize and direct the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of John W. Hughes, late a private in company I, nineteenth Iowa volunteers, the pension to commence February 21, 1863.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHAEL MELLON.

Mr. BEATTY also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 826) granting a pension to Michael Mellon; which was read a first and second time.

The bill, which was read, proposes to authorize and direct the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Michael Mellon, late of company H, sixty-second Illinois volunteers, the pension to commence May 13, 1863.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS SMITH.

Mr. BEATTY also, from the Committee on Invalid Pensions, reported adversely upon the petition of Thomas Smith, for a pension; which was laid on the table.

WILLIAM BRYAN.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported adversely upon the petition of William Bryan, for a pension; which was laid on the table.

ELIZA VAN BRENNSER.

Mr. VAN AERNAM, from the same committee, also reported adversely on the petition of Eliza Van Brennser; which was laid on the table.

MELINDA JONES.

Mr. VAN AERNAM, from the same committee, also reported adversely upon the petition of Melinda Jones, widow of Captain Theophilus Jones; which was laid on the table.

ANN WILSON.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 827) granting a pension to Ann Wilson; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Ann Wilson, widow of Michael Wilson, late of company F, seventy-first regiment New York volunteers, commencing December 20, 1865.

It appears from the report that Ann Wilson is the widow of Michael Wilson, late of company F, seventy-first regiment New York volunteers, who was pensioned for disability contracted while in the service of the United States; that subsequently he enlisted in the Veteran Reserve corps, and after serving some time was court-martialed and sentenced to hard labor, from which he was pardoned; and that afterward he died from the effects of the disability contracted while in the service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPTAIN WILLIAM M'KEAN.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 828) for the relief of Captain William McKean; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place upon the pension-rolls the name of Captain William McKean, late of company I, ninety-second regiment of New York volunteers, and cause to be paid to him the same pension allowed by the general pension laws to persons having lost the sight of both eyes in the military service of the United States, said pension to be paid under the provisions and limitations of the pension laws.

It appears from the report that William McKean was enrolled and mustered into the service of the United States as captain of company I, ninety-second New York volunteers, October 23, 1861, and while on recruiting duty between Potsdam and Gouverneur, New York, he was struck in the eye with a cinder from the locomotive. The cinder was removed by the acting assistant surgeon of the regiment, but ophthalmia set in and he finally lost the sight of both eyes. He was continued on the muster-roll of the company until December, 1862, when he was dropped and mustered out from the date of his muster in. On the record the Commissioner could not place his name upon the pension-rolls, and the action of Congress was rendered necessary.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. SUSAN TEN EYCK WILLIAMSON.

Mr. VAN AERNAM, from same committee also reported a bill (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place the name of Mrs. Susan Ten Eyck Williamson, widow of Charles L. Williamson, late captain in the United States Navy, on the pension-rolls at the rate of thirty dollars per month, to commence from and after the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LINCOLN MONUMENT ASSOCIATION.

Mr. VAN HORN, of New York, by unanimous consent, introduced a joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance; which was read a first and second time.

The joint resolution was read at length. It authorizes the Secretary of War to place at the disposal of the Lincoln Monument Association, incorporated by an act of Congress entitled "An act to incorporate the Lincoln Monument Association," approved March 3, 1867, damaged and captured guns and ordnance out of which to cast the statues of the principle figures surmounting, and to be incorporated in said structure; provided that no metal as aforesaid shall be thus appropriated until the voluntary contributions for said purpose, actually in the hands of the treasurer, shall amount to $100,000.

There being no objection the bill was considered.

Mr. VAN HORN, of New York. I have no desire to take the time of the House unless some one desires an explanation. It will be recollected during last Congress we incorporated what is called the Lincoln Monument Association. That association has proceeded in its work, and they only ask now that there be placed at their disposal broken cannon captured from the enemy to make the principal figures on the monument, when there shall be $100,000 of voluntary contributions in their treasury. There are plenty of these broken cannon on hand, and I think there will be no objection to the resolution.

Mr. BUTLER. With the consent of the gentleman from New York, [Mr. VAN HORN,] I move to amend by adding after "1867" the words, "and all other associations of a similar character."

Mr. VAN HORN. I will allow the amendment. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. CHANLER. I demand the yeas and nays.

On ordering the yeas and nays there were—ayes seven.

Mr. CHANLER. I demand tellers on ordering the yeas and nays.

Tellers were ordered.

Mr. UPSON. I move to reconsider the vote by which the amendment of the gentleman from Massachusetts [Mr. BUTLER] was agreed to.

Mr. NICHOLSON. Is it in order to move to reconsider during a division?

The SPEAKER. Tellers were ordered. A motion to reconsider has priority of all other questions except the motion to adjourn.

Mr. BUTLER. I withdraw the amendment if it is going to raise any opposition.

The amendment was, by unanimous consent, withdrawn.

Mr. CHANLER. I withdraw the demand for the yeas and nays.

Mr. COVODE. I renew the demand.

The yeas and nays were not ordered.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

E. V. BROOKFIELD.

On motion of Mr. EGGLESTON, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of E. V. Brookfield, former prisoner of war, copies being left on file.

CORNELIUS S. HAMILTON, DECEASED.

Mr. BEATTY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Sergeant-at-Arms be directed to pay to the order of the widow of Cornelius S. Hamilton, deceased, late a member of this House from the eighth congressional district of Ohio, the amount of compensation that would have been due to him on the 6th day of February, 1868.

Mr. ECKLEY moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AGENTS, ETC., OF THE TREASURY DEPARTMENT.

Mr. VAN WYCK. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to inform this House the number of general and special agents in the Treasury Department, the number of agents and inspectors in the internal revenue service, the compensation of such agents and inspectors and where doing duty.

Mr. UPSON. We have that information already returned and printed. I therefore object.

PACIFIC RAILROAD.

Mr. WASHBURN, of Wisconsin. I move to reconsider the vote by which the House yesterday ordered to be printed the report of the Secretary of the Treasury in regard to the Pacific railroad.

The SPEAKER. The motion will be entered on the Journal.

NARRATIVE OF EXPLORING EXPEDITION.

On motion of Mr. BALDWIN, by unanimous consent, joint resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the narrative of the exploring expedition, was taken from the Speaker's table, and read a first and second time.

The joint resolution directs the Librarian of Congress to deliver to the Secretary of State a set of Dana's Crustacea, being volumes thirteen and fourteen of the Narrative of the Exploring Expedition under Captain Wilkes, to be delivered by the Secretary of State to the Government of Great Britain.

Mr. BALDWIN. This joint resolution has been considered by the joint Committee on the Library, and action of Congress is necessary in order to secure the delivery of these books.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BALDWIN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OBSTRUCTIONS IN HARBORS.

On motion of Mr. ELIOT, by unanimous consent, the joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to take from the Speaker's table the reconstruction bill returned from the Senate, for the purpose of non-concurring in the amendments of the Senate, and asking a committee of conference.

The SPEAKER. The morning hour has not yet expired.

Mr. WASHBURNE, of Illinois. By unanimous consent it can be done.

Mr. HOLMAN. I object.

HORATIO G. RUSS.

Mr. PERHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That there be paid out of the contingent fund of this House to the widow of Horatio G. Russ, a sum equal to his salary to the end of December, 1867, and also his proper funeral expenses.

Mr. PERHAM moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

On motion of Mr. PILE, an extension of leave of absence was granted to Mr. GARFIELD.

APPROPRIATION FOR INDIAN DEPARTMENT.

Mr. WASHBURNE of Illinois. The gentleman whose committee is next in order on the call waives his portion of the morning hour; and I move that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department and for fulfilling treaty stipulations.

The bill was read through for information, and the Clerk then proceeded to read it by paragraphs for amendment.

The first paragraph of the bill was read as follows:

That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of fulfilling treaty stipulations with various Indian tribes, to be expended under the direction of the commissioners authorized by the act of July 20, 1867, entitled, "An act to establish peace with certain hostile Indian tribes," for purchase and distribution of seeds, agricultural implements, tools, provisions, blankets, and clothing, and not otherwise.

Mr. CHANLER. I move to strike out that paragraph, and I do so in opposition to the general character of this bill. The whole character of this bill is inconsistent with the historical policy of this Government as illustrated by the State of Massachusetts. When the chief of the Indian tribes in that Commonwealth sent the usual challenge of a sheaf of arrows, Bradford, then Governor of Massachusetts, returned the compliment with a rattlesnake's skin filled with gunpowder and balls. That opened hostilities.

That policy, which is the radical policy of the white man, has been pursued up to this moment with great success in Massachusetts. It is the only policy admissible logically with the position that the white race holds on this continent at this day. There is no other policy consistent with wisdom, honor, or economy.

Now, if this bill, coming as it does from one of the warriors of Massachusetts, is the snake skin filled with powder and ball, historic in the annals of his State, thrown to the Indian tribes of America, then we know what will follow. But, according to the wording of this bill, it is a mission of peace; it is limited to the purchase of agricultural implements, tools, provisions, blankets, and clothing.

Now, what is our position to-day in face of the savages upon our border? In the absence of any official statements upon that subject the reports floating through the country are to the effect that we have been checked there, if not defeated. The heroes of the war of the rebellion have been outmaneuvered and outwitted by the savages by the exercise of those peculiar artifices of war which they have practiced against the white man since he first put his foot on this continent; yet, in face of that information—which I hope will be modified hereafter by statements to the contrary—this House is called upon to make an appropriation in pursuit of peace.

We, the people of the United States in Congress assembled, with the record against us, are going to the red man to sue for peace with the implements of peace, when he has hurled at us nothing but defiance and war. The general policy of this bill unexplained cannot result in anything but persistent, eternal, dreadful warfare upon our borders. It is the craven purchase of quiet which Rome, in its downfall, sought from the barbarians. Savage though they be, ignorant of the arts of the printing press, ignorant of these very implements which you so generously offer them, they will, in a majority of cases, spurn to receive them. We come forward and promise to them what they do not want and know not how to use. For what? For their benefit?

Does the wily savage measure our proposition by our interests or by his own? Would he accept this as a gift, a bribe, or a threat? If he receives it as a bribe he should withdraw from his attitude of defiance. If he receives it as a bribe we should have some guarantee that he is worthy the purchase. If he receives it as a threat we should be sure that in giving to these men the implements of peace we are giving to our own men a double assurance of support in the field by the increase of our Army. The force which we have sent there has failed; hence this proposition.

We have endeavored, by every process known to civilization, to draw into the family of nations these outlying barbarians on our border, yet they still adhere to their old customs, to their love of idleness, to their preference for the pursuits of the chase and the implements of war over the implements of husbandry and the pursuits of peace. These savages are not ours, except we capture them. No bureau organized, with all the skill of past experience with regard to another race and another color, will shackle the red man in his hostile efforts to break down our efforts to proceed beyond the border.

Mr. BURLEIGH. Will the gentleman allow me to ask him a question?

Mr. CHANLER. Certainly.

Mr. BURLEIGH. Does the gentleman know that this bill is to fulfill treaty stipulations with some twenty tribes who have always been friendly to the whites?

Mr. CHANLER. I am glad to be informed on that point. The gentleman representing the border can speak for the border. I am speaking of the general policy of the past, and shall only yield my defense of that policy to statements broad and full, such as the gentleman has just made, and such as he must establish by proof. It is very well known that in every State, as we have advanced in our process of civilization, we have had to imbed this fossil barbarian within the amber of our own civilization. It never has been absorbed. It refuses to be amalgamated. To-day one of its most distinguished chieftains, the head of the Six Nations, in their day the most powerful civil and military organization that the red men reared in the northern continent of America, stands as an isolate exception to the habits of his own race in the State of New York. This is a fact, based upon the passions and preju-

dices of race, stronger than the arguments of intellect or the force of arms.

If, then, this bill is intended as a peace offering to men of peace, it must be supported by solid and positive proof that it is in the interest of the white man. I will waive debate on that question until it is answered. So far as I have heard, no statement upon that point has been made to this House previous to the one which has just been made by the gentleman from Dakota, [Mr. BURLEIGH.]

Now, sir, why is this change proposed in the control of Indian affairs? The subject was up in the Thirty-Ninth Congress. We have from time to time appropriated through the Interior Department sums for this identical purpose. I maintain that if the statement made by the gentleman from Dakota is true it is unreasonable and inconsistent, without the most cogent reasons, to take from a civil bureau the distribution of funds among friendly Indians. If these be friendly Indians, as the gentleman states, a good reason must be given why these appropriations, heretofore distributed among friendly tribes by the Indian department, should be expended by a commission partly military and partly civil. Why should this fund be put under the control of commissioners of peace sent to pacificate those tribes lately at war with us? It may be that satisfactory reasons can be given for this measure; but I have not yet heard any.

Sir, there is a glaring inconsistency in bringing this bill before the House in view of the retrenchment system so popular and so thoroughly practiced within the last few days in this House. A scientific department of this Government, the Navy, the Army, the Coast Survey, have all been made to fall down before this spirit of retrenchment. Men employed in honest labor, citizens of this Government, who sustain it by taxation, who defend it in war, and by the exercise of every right of freemen carry on the system of government under which we live, have, by a system of retrenchment wholesale and ruthless, been driven from the navy-yards of this country. You have stopped building ships and preparing for the defenses of the Government. You have taken upon yourselves the responsibility, under the lead of the Committee on Appropriations, of cutting off the channels of maintaining the families of the white race, in order that the economy which controls this departing political power shall not only be advertised in the press, but be ground into the bone and marrow of the poor. You have put your heel with all the force of party organization upon the back of the white laborer——

Mr. BUTLER. I rise to a point of order. This is a bill for appropriating certain moneys to the Indians. It has nothing to do with the white laborers of this country.

Mr. CHANLER. That is undoubtedly exactly what the gentleman thought when he introduced the bill; but his mind must expand. A limited intelligence outside of this House improves by experience.

The CHAIRMAN. The gentleman from New York [Mr. CHANLER] will suspend his remarks. The gentleman from Massachusetts [Mr. BUTLER] raises the point of order that the gentleman from New York is not speaking to his amendment. The gentleman from New York will confine his remarks to his amendment, which is to strike out the first paragraph of the bill.

Mr. CHANLER. I will do so. I will follow the ruling of the Chair. I support the Chair. I always do. And, sir, I hope this House will support the white man. The Chair is a white man. [Laughter.]

I argue, sir, upon the principle (which I maintain is logical and just) that when an appropriation bill is before us the question of the appropriation of money by this committee, past, present, and future, is a fair question for debate for the purpose of ascertaining whether we can spare this money and whether the particular appropriation proposed is consistent with the policy we have pursued in these appropriations. I have touched upon that, and nothing else. If the Committee on Appropriations propose to appropriate money for the purpose contemplated in this bill they are bound to answer to this House and to their constituents why they have been in pursuit of such rigid retrenchment heretofore.

That, sir, is my argument. Why, then, has the Committee on Appropriations curtailed the expenditures of the Government in every other department, and now come here with a commission appointed for war purposes and ask us to appropriate money through that war commission for peaceful Indians? Turn this thing over and look through it, and it is nothing more than an appropriation of money wrung from the white laborer for the purposes of keeping up the red men. And yet we are told that it is not in order for the Representatives of the people to speak of the additional oppressive burdens imposed upon tax-payers! It is proposed I shall be stopped in debate upon the wrong of taxing white men to pay red men.

When, sir, did any such principle spring up on this floor until it was introduced here by the distinguished hero of all the cities of the Union, who flies, upon the wings of his own imagination—for he could be carried by nothing else, so swift has been his flight, and so heavy is he—from New Orleans to New York in one effort? He must be under the special protection of Mercury, the god of eloquence and other things. Now, with another flight he is upon the far borders to make up a peace commission. The god of war he deserts, and now enlists under Mercury. But it will require the historic ability of the distinguished gentleman from Massachusetts, all his legal acumen, all his historic fame, from the earliest period of his coming into this House up to the present moment, to prove that a man is out of order upon this floor who speaks in behalf of white men, and against white men being taxed to pay red men. I hope I will not be interrupted. My argument, I believe, is legitimate, and, if necessary, I can prove every fact.

Now, sir, is this an economical appropriation? That is the question. I say it is not. Another question. Is there any overruling necessity for the passage of this act at this time? I say it is neither economical nor necessary.

Another point. Now, sir, is not the civil officer heretofore charged with this duty discharging it faithfully? All these are questions underlying this whole matter. Then there is another question, whether you will take this money from the white laborer or reduce the amount paid to the Freedmen's Bureau and convert it from use for one class of colored men to use for another class of colored men to meet the necessities of the case. The idea of economy runs through it, permeates it, makes it what it is. But it is not an economical measure. Certainly the Committee on Appropriations, which is the most economical body on the face of the earth, would otherwise never report it! Therefore it must be an economical measure. There is no extravagance except that of their imagination. So far as the interests of the people are concerned, North and South, East and West, the most rigid adherence is compelled to the most stringent rules of economy. They carry the principle of economy to its magnificent fulfillment!

Now I demand, however, this question shall be looked at from an economical point of view by this House before the bill is passed. If this is for peaceful Indians, against whom we have no question of war, can there be the least shadow of reason for taking it from the civil officer, who is an officer of peace? And my opposition to this bill and my undertaking to draw the attention of the House to its character arise from the answer I received yesterday from the gentleman who introduced the bill. My consideration is in good faith. I have no opposition to any effort that will bring the peaceful Indians within the influences of civilization. I make no attack upon the existing policy and the justice of a great Government like this being extended toward the half-civilized creatures whom God has placed upon the earth in common with ourselves. I believe this Government owes a great duty to the Indian tribes. I believe the policy heretofore pursued is liable to severe criticism. I am willing, on a full, fair, and broad statement of the facts, to go on and add to the strength of the labor of this country by increasing the number of its citizens from abroad.

I am further willing to recognize our duty toward these Indians as wards of the Government, these ancient proprietors of the soil, whom we, from a conviction of justice as invaders of their soil, have immemorially treated with a consideration sometimes more than was considered their due. In one word, I am not opposed to the Indian race, nor to any race. I would see the development of our form of Government as the emblem of our civilization carried among them if it were possible, and I greet with pleasure the tokens of capacity for self-government in some of those tribes in giving a new language and perhaps a new literature to the world, as among the Cherokees.

But, sir, the question comes back to the stand-point at the origin of this debate. Why transfer this matter from the bureau of a civil officer to a commission appointed in the summer to establish peace with certain hostile Indians? I maintain that this section must be stricken out or explained, or the bill deserves to be defeated. It is inconsistent, it is unjust either to the officer who has charge of this department, or to the people of this country, who believe that the organized system under which these Indians are managed and controlled is based upon some principle of justice and reason. This question has not been brought before the country through the press or the ordinary channels of notification and advertisement. It should be, as I stated before, plainly shown that this innovation in regard to the manner of distributing this money justifies the violation of the principle of economy heretofore practiced in every other department of this Government.

With these remarks I yield to the gentleman from Dakota, who has requested me to give him an opportunity to make some statements on this subject.

Mr. BURLEIGH. Mr. Chairman, I have very serious objection to this bill as it stands, for this reason. Some ten years ago there was a treaty made with the Yancton Sioux tribe by which they sold about nine million acres of land to the United States, for which they were to receive $1,600,000 in installments. I find by turning to that treaty that it provides that the moneys appropriated for their benefit are to be expended under the direction of the President of the United States. I will read a portion of that section of the treaty:

"Making $1,600,000 in annuities in the period of fifty years, of which sums the President of the United States shall from time to time determine what proportion shall be paid to said Indians in cash, and what proportion shall be expended for their benefit; and also in what manner and for what objects such expenditures shall be made, due regard being had in making such determination to the best interest of said Indians."

Now, this bill provides that that solemn treaty between the United States and these Indians shall be abrogated without their consent, and that other parties than those named in the treaty shall exercise the discretion of expending this money. And I will say here that a great deal of the difficulty that we have had with our Indians in the Northwest has arisen from a disregard of the treaty stipulations on the part of this Government. I knew that last year, when this commission went out—and I say nothing against the commissions, for I believe them to be made up of men of ability and the strictest integrity, and who have the best interest of the country at heart—into the Northwest to make treaties with hostile Indian tribes, they undertook to expend the moneys which had been appropriated by Congress under existing treaty stipu-

lations for the benefit of Indian tribes, instead of allowing it to be expended under the direction of the President.

I believe there is a law which provides, in the case of the Yancton Indians and several other tribes named, that no purchases shall be made except upon the requisition of the superintendent who has the immediate charge of those Indians, and he shall only make a requisition after the goods shall be estimated for by the Indians. It is important, especially with the friendly tribes with which treaties have been made in good faith on their part, that those treaty stipulations should be regarded on our part. It seems to me that the passage of this bill without striking out the preamble would be a direct violation of the treaty stipulations between the United States Government and the Yancton Sioux Indians and an outrage upon these friendly tribes. I think it ought to be stricken out. That is all I have to say.

Mr. BUTLER. I move that the committee rise for the purpose of moving in the House to close debate on this bill in fifteen minutes; and also for the purpose of allowing a bill to be taken from the Speaker's table.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the bill (H. R. No. 819) making partial appropriation for the expenses of the Indian department, and for fulfilling treaty stipulations, and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced the adoption by the Senate of the following preamble and resolution:

Whereas the House of Representatives on the 25th day of the present month, by two of their members, Messrs. THADDEUS STEVENS and JOHN A. BINGHAM, at the bar of the Senate, impeached Andrew Johnson, President of the United States, of high crimes and misdemeanors in office, and informed the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same, and likewise demanded that the Senate take order for the appearance of said Andrew Johnson to answer to the said impeachment: Therefore,

Resolved, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

The message was read at the Clerk's desk, and ordered to be entered on the Journal.

RECONSTRUCTION.

Mr. PAINE. I move that the House proceed to the business on the Speaker's table.

The motion was agreed to.

The first business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration."

Mr. PAINE. I move to concur in the amendment of the Senate, and on that I demand the previous question.

The amendment of the Senate was read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That hereafter any election authorized by the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration," shall be decided by a majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted any person duly registered in the State may vote in the election district where he offers to vote, when he has resided therein for ten days next preceding such election, upon presentation of his certificate of registration, his affidavit, or other satisfactory evidence, under such regulations as the district commanders may prescribe.

SEC. 2. *And be it further enacted*, That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution the registered voters may vote also for members of the House of Representatives of the United States and for all elective officers provided for by the said constitution; and the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress.

The previous question was seconded and the main question ordered.

Mr. WILLIAMS, of Pennsylvania. Would it be now in order to move to refer this bill and amendment to the Committee on Reconstruction?

The SPEAKER. It would not, pending the operation of the previous question.

Mr. RANDALL. I call for the yeas and nays upon the Senate amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 32, not voting, 61; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cornell, Covode, Cullom, Dixon, Dodge, Driggs, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Gravely, Griswold, Harding, Hill, Hooper, Hopkins, Hunter, Jenckes, Judd, Julian, Kelsey, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Polsley, Price, Raum, Sawyer, Schenck, Scofield, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, James F. Wilson, and John T. Wilson—96.

NAYS—Messrs. Adams, Axtell, Barnes, Barnum, Boyer, Brooks, Chanler, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Johnson, Kerr, Knott, Loan, Marshall, McCormick, Morgan, Niblack, Pruyn, Randall, Ross, Sitgreaves, Stone, Lawrence S. Trimble, Van Auken, Van Trump, Thomas Williams, and Woodward—32.

NOT VOTING—Messrs. Anderson, Archer, Bailey, Beatty, Beck, Benjamin, Benton, Burr, Cake, Coburn, Cook, Dawes, Donnelly, Ela, Eldridge, Farnsworth, Finney, Garfield, Haight, Halsey, Hawkins, Higby, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jones, Kelley, Kitchen, Mallory, Maynard, McCullough, Miller, Morrissey, Mungen, Nicholson, Nunn, Phelps, Pike, Pile, Plants, Poland, Pomeroy, Robertson, Robinson, Selye, Shanks, Shellabarger, Smith, Spalding, Stewart, Taber, Henry D. Washburn, Welker, William Williams, Stephen F. Wilson, Windom, Wood, and Woodbridge—61.

So the amendment of the Senate was concurred in.

Mr. PAINE moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW MEXICO ELECTION CONTEST.

The SPEAKER, by unanimous consent, laid before the House evidence in contested-election case in New Mexico; which was referred to the Committee of Elections.

APPROPRIATIONS FOR INDIAN DEPARTMENT.

Mr. BUTLER. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union upon the special order. And pending that motion I move that all general debate upon the pending appropriation bill be closed in fifteen minutes after its consideration shall be resumed by the committee.

The motion to close general debate was then agreed to.

The question recurred upon the motion to suspend the rules for the purpose of going into the Committee of the Whole.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of House bill No. 819, making partial appropriations for the expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes.

The CHAIRMAN. The House has ordered that all general debate upon this bill shall terminate in fifteen minutes.

The pending question was upon the amendment of Mr. CHANLER, to strike out the first paragraph of the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of fulfilling treaty stipulations with various Indian tribes, to be expended under the direction of the commissioners authorized by the act of July 20, 1867, entitled "An act to establish peace with certain hostile Indian tribes," for purchase and distribution of seeds, agricultural implements, tools, provisions, blankets, and clothing, and not otherwise.

Mr. BUTLER. I now yield ten minutes of the time allowed for general debate to the gentleman from Kansas, [Mr. CLARKE.]

Mr. CLARKE, of Kansas. I desire to amend the paragraph, before the question is taken upon the motion to strike it out, by adding thereto the following:

Provided, That it shall be the duty of the commissioners aforesaid to investigate, under such regulations as shall be prescribed, by the Secretary of the Interior, the claims of all persons who allege that they have lost property or sustained damages by reason of depredations committed since the 1st day of January, 1864, by any of the Indian tribes or members thereof with whom peace conferences have been held or may hereafter be held, and to make such awards for depredations and damages as shall be in accordance with equity, justice, and good conscience, such awards to be assessed against the tribe or tribes the members of which shall have been proven to have committed the depredations for which such damages or awards may be allowed.

SEC. 2. *And be it further enacted*, That as soon as practicable after said commissioners have completed their investigations they shall submit to Congress a report of the awards made by them as aforesaid, together with all the evidence upon which such awards for damages are allowed, which awards, when approved by Congress, shall be paid by the Secretary of the Interior out of any funds due, or to become due, from the United States as annuity or otherwise, to any tribe or tribes the members of which shall have committed the depredations for which said awards shall be made.

Mr. BUTLER. I raise the point of order that this amendment is out of order, as it proposes independent legislation.

Mr. ROSS. I object to this amendment unless provision be made to pay to the Indians what the Kansas people stole from them. There have been great depredations committed on the Indians by these Kansas people.

The CHAIRMAN. The point of order is not debatable. The Chair sustains the point of order, and overrules the amendment.

Mr. CLARKE, of Kansas. I move to amend by striking out the first paragraph of the bill and inserting what I send to the clerk.

The CHAIRMAN. A motion to strike out the first paragraph is already pending.

Mr. CLARKE, of Kansas. I move, then, to amend the amendment by inserting in lieu of the paragraph proposed to be stricken out the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the commission provided for by the first section of the act to establish peace with certain hostile Indian tribes, approved July 20, 1867, be, and the same is hereby, dissolved; and such of the duties imposed on said commission as have not yet been fully performed shall be discharged by the officers and agents of the Bureau of Indian Affairs under the direction of the Secretary of the Interior.

Mr. BUTLER. I must raise the point of order that this amendment proposes independent legislation.

The CHAIRMAN. The Chair sustains the point of order. The amendment clearly proposes new legislation, and is out of order.

Mr. CLARKE, of Kansas. I desire to say, Mr. Chairman, that I am opposed not only to the adoption of the first paragraph of this bill, but to the entire bill. When this question was submitted to the consideration of this House in July last, and when the commission was appointed under the act of July 20, 1867, to establish peace with certain Indian tribes, an appropriation of $450,000 being made to accomplish that object, I was hopeful that some good results would come from this commission. But, sir, after several months of effort, this commission, consisting of several very able gentlemen, some of them from military and some from civil life, have submitted their report to Congress. I have looked over that report from beginning to end, to find, if

possible, what results have been accomplished by the months of labor on the part of this commission; and, sir, I have searched in vain. I say here in my place that no practical good has been accomplished, while the sum of $450,000 has been taken out of the Treasury of the United States under the guise of securing peace with hostile Indian tribes.

Why, sir, not three weeks after this commission had left Medicine Lodge creek, the place where they had their last conference with these hostile Indian tribes, indignities and cruelties were heaped upon peaceful settlers upon the frontier, some being driven from their homes, some scalped, some murdered. Such has been the history of these Indian tribes ever since this peace commission left the border, and while this report which I now hold in my hand has been pending before Congress. I say that the $450,000 appropriated by Congress during the session of last July has been extravagantly expended—has been wasted. Yet now the Committee on Appropriations come in here and ask us to place nearly or quite that sum of money in the hands of this same commission, in violation of treaty stipulations with the very tribes of Indians to which these appropriations are to be made. I understood the gentleman from Massachusetts [Mr. BUTLER] to say yesterday, in reporting this bill, that it was intended to fulfill treaty stipulations; yet, on examining the estimates submitted to this House by the Secretary of the Interior, I find there is a wide difference between the amounts called for by these various treaties and the amounts reported by the gentleman from Massachusetts from the Committee on Appropriations. I find, further, that some of these treaties contain specific provisions that these expenditures of money shall be made under the direction of the Secretary of the Interior and the President of the United States. Yet it is claimed by the gentleman from Massachusetts that this bill must be passed, that this money must be taken out of the Treasury, to be squandered in the hands of this commission, and that this is in fulfillment of treaty stipulations, when the very provisions of the bill itself violate, in several instances, the treaty stipulations under which it is claimed the bill should be passed.

I say again, Mr. Chairman, that in my judgment the functions of this peace commission ought to be terminated at once. I say I have heard no good and substantial reason offered why a commission, composed of several gentlemen—I care not how good those men may be—should be intrusted with the expenditure of this money instead of the Commissioner of Indian Affairs and the Secretary of the Interior, who have special charge of this matter.

The CHAIRMAN. The gentleman's time has expired.

Mr. BUTLER obtained the floor.

Mr. CAVANAUGH. Will the gentleman allow me?

Mr. BUTLER. I have but five minutes. How long do you want?

Mr. CAVANAUGH. I certainly want five minutes. I have lived among the Indians for fifteen or sixteen years, and I know them.

Mr. BUTLER. The gentleman from Montana can have an opportunity hereafter.

Mr. Chairman, I shall not undertake to answer the speech of the gentleman from New York [Mr. CHANLER] on this subject, because I am of the opinion of the farmer of Vermont, "it wrenches a man terribly to kick at nothing." [Laughter.]

To my friend from Kansas I say that his opposition arises from a misconception of this bill. This bill is not for the purpose of carrying out all our treaty stipulations. The very title is that it is only a partial appropriation. All of the Indian treaties will require a million and better of dollars. This bill only calls for $220,000. It was in answer to the call of the Secretary of the Interior, Executive Document No. 134, for $451,900. The Committee on Appropriations concluded to give $220,000. The difference is this: this appropriation, which ought to be from June, 1868, to July, 1869, has to be anticipated in order to get out the tools, implements, clothing, and provisions for the exact fulfillment of treaties with certain Indian tribes. Otherwise the seeds and agricultural implements under the treaties would not get out there before next September. It is required an advance should be made out of what will come to the Indians hereafter of an amount necessary to enable them to issue seeds and agricultural implements which belong to them.

It is said we have provided for expending this under a commission. The great cry, the great difficulty, has been the wrong done to the Indians by Indian agents. John Randolph said in this House many years ago it would corrupt the Angel Gabriel to be an Indian agent, and there has not been any improvement I have heard of since. While I do not wish to make any general charge on Indian agents, for I know little of them, yet, I say, here is a commission in whom everybody has confidence, and we have given this special matter, which we have the right to do by law, to their special superintendence. If they can find honest Indian agents they will undoubtedly use them to distribute this money. If they do not find honest Indian agents they will use other means.

Mr. BURLEIGH. About the Sioux Indians?

Mr. BUTLER. The Sioux Indians, who have the right to this money under treaty next September or October, came here, indorsed by the superintendent, and asked us to advance this money to them. It is necessary, for the reason I have already stated.

[Here the hammer fell.]

The committee divided on the amendment; and there were—ayes 18, noes 64.

Mr. CHANLER demanded tellers.

Tellers were ordered; and Mr. CHANLER and Mr. BUTLER were appointed.

The committee again divided; and the tellers reported—ayes 25, noes 72.

So the amendment was lost.

Mr. BURLEIGH. I move to strike out the following:

For the Blackfoot band of Sioux, $7,000.
For the O'Gallala band of Sioux, $10,000.
For the Minneconjou band of Sioux, $10,000.
For the Sans Arc band of Sioux, $8,400.
For the Onepapa band of Sioux, $9,000.
For the Lower Brule band of Sioux, $6,000.
For the Two Kettle's band of Sioux, $6,000.
For the Lower Yanctonnais band of Sioux, $10,500.
For the Upper Yanctonnais band, $10,000.

The CHAIRMAN. It is not in order, those paragraphs having been passed.

Mr. BUTLER. I ask unanimous consent to go back to line ten, and insert after the word "implements" the word "cattle."

The amendment was agreed to.

The reading of the bill for amendments having been completed,

Mr. WASHBURNE, of Illinois, moved that the bill be laid aside to be reported to the House.

The motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the Committee of the Whole take up House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The motion was agreed to.

By unanimous consent the first reading of the bill was dispensed with, and the Clerk proceeded to read the bill by paragraphs for amendments. Having read the following paragraph:

Survey of the coast:
For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy and petty officers and men of the Navy employed in the work, $200,000.

Mr. PRUYN said: I would like to inquire of the gentleman in charge of this bill whether this is the amount asked for or what the estimates were for this service.

Mr. WASHBURNE, of Illinois. This is not the amount called for; it is about one hundred thousand dollars less.

Mr. PRUYN. I ask whether this arrangement is satisfactory to the Department.

Mr. WASHBURNE, of Illinois. I cannot answer that. The Committee on Appropriations endeavor to legislate so that it will be satisfactory to the country.

Mr. PRUYN. Yes, sir; I hope they will. It occurred to me that perhaps the whole arrangement or scale of appropriation had been made to answer either to the present state of the survey or to some proposed reduction of it. I would like the gentleman to explain.

Mr. WASHBURNE, of Illinois. I have no explanation to make.

Mr. PRUYN. I am not prepared to make any amendment; I am not sufficiently informed in regard to the matter.

The Clerk resumed the reading of the bill, and read as follows:

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, $30,000.

Mr. FLANDERS. I wish to know of the acting chairman of the Committee on Appropriations what amount the Superintendent of the Coast Survey had asked for to continue the survey on the Pacific coast for the next year?

Mr. WASHBURNE, of Illinois. There was an appropriation last year of $130,000, and there was asked for this year $175,000. The Committee on Appropriations believed in the present state of the Treasury, we were not in a condition to carry on the work there to the extent it has been carried on heretofore.

Mr. UPSON. I would ask if one half was not authorized to be expended last year and the other half this year?

Mr. WASHBURNE, of Illinois. No sir; the gentleman refers to another item. The Committee on Appropriations deemed it their duty to report only a sufficient amount to carry on the work on a very limited scale, and preserve what we had then.

Mr. FLANDERS. How then did it happen that the committee had cut the amount down to $30,000? Was it the purpose of the committee to discontinue the survey on the Pacific coast? for the practical effect of this was to discontinue the work there, and I do not believe it is the wish or the intention of this House to do that. The appropriations heretofore made for the coast survey on the Pacific coast had been honestly and judiciously expended, and the work already done was of incalculable value to the commerce of that coast, and I do not believe it is the wish of Congress to stop that work where it now is. The officers engaged in the coast survey had been long employed in that work, in fact they may be said to have been educated at the expense of the nation. We cannot afford to discharge these men now that their work is only half done, for we cannot replace them with others who are experienced in this business. Besides, this discrimination against the Pacific coast was unjust and uncalled for, and I certainly hope the committee will give us the amount asked by the Superintendent. But if the work is to be stopped, and only $30,000 appropriated, let the committee say where that amount is to be expended, at what point between the Gulf of California and Puget sound. If this sum of $30,000 is to be appropriated for that coast it amounts practically to an abandonment of the work. There are, I think, six or seven parties engaged in the coast survey on the Pacific coast, men who have been educated for the business, who have spent their lives in this work, and if you make this small appropriation they will be compelled to seek employment elsewhere, and their service cannot be replaced. I do not believe that this House is in favor of discontinuing this work. It seems to me that it is due to us on that coast that the survey now going on should be continued. We have one surveying party on the coast of my own Territory extending their survey to British Columbia, and it would be a misfortune to have it discontinued.

Mr. BANKS. I move, as an amendment, to strike out $30,000 and insert $67,000. I agree with the suggestion of the gentleman from Illinois, [Mr. WASHBURNE,] that no money should be appropriated this year for expenditures which are not especially necessary this year. That is to say, in regard to general appropriations for general surveys I am willing, and I concede to him a perfect right to postpone to another year everything that can be postponed. But if there be any appropriation or expenditure for a survey that is actually necessary this year, and which with proper regard to the condition of the country cannot be postponed to another year, it is for the survey on the western coast of our country. Every one knows that a treaty has been made between this country and Russia for the extension of our coast, of our territory on that line. We have, in connection with this, an extension of commerce, an increase of our population, the acquisition of most important and extensive rights of fisheries, and innumerable private and public interests, which are connected with that portion of the country, and which are to be strengthened and improved to this Government and to its people by a perfect knowledge of the nature of the coast itself. The expenditure of money for this purpose at any time would be of great importance. I believe, sir, that the advantages to be gained by the Government and its people from the coast survey are hereafter to be infinitely greater than they have ever been before, and to extend to a new class of interests, and that without increasing a single dollar the general expenditures for this purpose. But that is for the future, I will admit. What I have to say in this regard is, that I hope the House will not consent to a reduction of the expenditures this year for this purpose, but will even increase them beyond what they were last year with reference to the great and growing interests to which I have referred. The gentleman on my right [Mr. FLANDERS] informs me that the appropriation last year was $124,000. I think that a reduction of $104,000 in this expenditure at this particular time would be a great injury to the Government of the United States and special injustice to the people of the western coast.

Mr. WASHBURNE, of Illinois. I move that the committee rise, for the purpose of closing debate.

Mr. CHANLER. I hope the gentleman will yield to me for a moment.

Mr. WASHBURNE, of Illinois. The gentleman will have an opportunity of speaking under the five-minute rule.

Mr. CHANLER. Probably, and probably not.

Mr. BANKS. I have not yielded the floor.

The CHAIRMAN. The Chair understood that the gentleman had yielded.

Mr. BANKS. I will yield to the gentleman from New York [Mr. CHANLER] for an inquiry only.

Mr. CHANLER. I ask for five minutes.

Mr. BANKS. I do not wish to claim the floor for the purpose of extending the debate, but I will yield to the gentleman from New York for an inquiry.

Mr. CHANLER. I did not ask to be allowed to make an inquiry. I asked a courtesy of the gentleman. He can refuse it if he pleases.

Mr. BANKS. Mr. Chairman, I believe that one of the most important results of the labors of the coast survey that will be made on the Pacific coast will be to ascertain the character and extent of the fisheries. I am informed by the Superintendent of the Coast Survey and other gentlemen intimately acquainted with this subject, that the laws which govern the kingdom of the fisheries can be ascertained, studied, and clearly and satisfactorily ascertained by the officers of the Coast Survey without increasing the appropriations they have had heretofore to any extent whatever, and this not only on the Pacific, but on the Atlantic coast. If that be so, it will be one of the greatest services ever rendered to the Government by any officer connected with that department. I hope the gentleman from Illinois [Mr. WASHBURNE] will concede to us at least a liberal appropriation as applicable to the Pacific coast alone, and I will not press it for the Atlantic or any other portion of the coast.

Mr. WASHBURNE, of Illinois. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes; and had directed him to report the same to the House with an amendment, and with the recommendation that it do pass.

And also that the committee had had under consideration a bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no conclusion thereon.

APPROPRIATIONS FOR INDIAN DEPARTMENT.

The amendment reported from the Committee of the Whole to the bill making appropriations for the expenses of the Indian department, &c., was to insert the word "cattle" after the words "agricultural implements," in the following clause:

For purchase and distribution of seeds, agricultural implements, tools, provisions, blankets, and clothing, and not otherwise.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill; and being taken, upon a division, there were—ayes 68, noes 14; no quorum voting.

Mr. CHANLER. I call for tellers.

Tellers were ordered; and Mr. BLAINE and Mr. CHANLER were appointed.

The House again divided; and the tellers reported that there were—ayes 80, noes 28.

Before the result of the vote was announced,

Mr. CHANLER said: I call for the yeas and nays on the passage of the bill.

The question was taken upon ordering the yeas and nays; and there were twelve in the affirmative, (not one fifth of the last vote.)

Before the result was announced,

Mr. CHANLER called for tellers on ordering the yeas and nays.

The question was taken upon ordering tellers; and there were seven in the affirmative, (not one fifth of a quorum.)

So tellers were refused, and the yeas and nays were refused.

The bill was accordingly passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad;

An act (H. R. No. 223) in relation to islands in the Great Miami river;

An act (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes; and

Joint resolution (H. R. No. 104) authorizing the transmission through the mails, free of postage, of certain testimonials by the adjutant generals of the several States.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on the civil appropriation bill all general debate on the bill shall terminate in two minutes.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union upon the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The CHAIRMAN. By order of the House all general debate upon this bill will terminate in two minutes.

The pending paragraph was the following:

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, $50,000.

The pending question was upon the motion of Mr. BANKS to strike out "$30,000" and insert "$60,000."

Mr. WASHBURNE, of Illinois. As the gentleman from Massachusetts [Mr. BANKS] has stated that nothing will be asked for the Atlantic coast, I am willing the pending amendment should be adopted.

Mr. PRUYN. I hope the appropriation for this purpose will be increased to $75,000.

Mr. WASHBURNE, of Illinois. I hope not.

Mr. PRUYN. I move to amend the amendment so as to make the appropriation $75,000.

Mr. WASHBURNE, of Illinois. If the amendment of the gentleman from Massachusetts [Mr. BANKS] is not acceptable I hope all amendments to this paragraph will be voted down.

The question was upon the amendment of Mr. PRUYN to the amendment of Mr. BANKS.

Mr. PRUYN. I wish to make a few remarks upon this subject. As I understand the matter of the Coast Survey, vessels and men have been sent out to the Pacific coast at great expense, for the purpose of conducting the survey there. Now, if this appropriation is very much reduced, you will break up this work on that whole coast. The officers there must be assigned to other duties, and the men engaged there must seek other employment. In view of the interest attaching to that coast at the present time, to which the gentleman from Massachusetts [Mr. BANKS] has referred. I trust the appropriation for this purpose will be a liberal one. I agree with him that if we cannot afford to conduct the survey on the Atlantic coast with full vigor, we should conduct it on the Pacific coast on a reasonably liberal scale; and to do that there should be appropriated at least $100,000. I have proposed $75,000 as the smallest amount with which the work can be done.

Mr. WASHBURN, of Wisconsin. Can the gentleman tell us what portion of the Pacific coast has already been surveyed?

Mr. PRUYN. I cannot state exactly how much of it has been surveyed; but there is a vast amount of surveying still to be done there.

Mr. WASHBURN, of Wisconsin. I desire to ask whether there is any harbor, with any commerce, on the Pacific coast that has not been already surveyed?

Mr. PRUYN. I cannot answer that question positively; but I will say that it is not for the survey of the harbors alone that this appropriation is needed.

Mr. JOHNSON. I can answer the question of the gentleman from Wisconsin, [Mr. WASHBURN.]

Mr. WASHBURN, of Wisconsin. I should like to have it answered.

Mr. JOHNSON. There are more harbors than one on that coast that have not been surveyed; and there have been presented to this House resolutions from the Legislature of the State of California asking Congress to make appropriations for those surveys.

Mr. WASHBURN, of Wisconsin. Will the gentleman state what harbor on the coast of California has not been surveyed?

Mr. JOHNSON. I do not know that I can at this moment state the names of those harbors.

Mr. WASHBURN, of Wisconsin. So I supposed.

Mr. JOHNSON. But I can state as a fact that memorials on this subject from the Legislature of California are now before this House, having been referred to the appropriate committee.

Mr. PRUYN. If I have any time left, I simply wish to say that it is not for the harbors alone that this appropriation is needed, but for the whole line of the coast and for the triangulation of the rivers.

[Here the hammer fell.]

Mr. AXTELL. If it be in order, I would like to move to increase the amount of this appropriation to $134,000.

The CHAIRMAN. No further amendment is in order.

Mr. AXTELL. I wish, then, to state that an appropriation of $30,000 would be useless for the purpose contemplated. Members will bear in mind that $30,000 in currency, reduced to a coin basis, which is the basis of our business in California, would only amount to some $17,000—a sum altogether insufficient for that long line of coast. Our harbor for Los Angeles, the harbor of Wilmington, is now under survey. The survey has been commenced, and the Coast Survey desires to prosecute and finish the work as soon as possible. Then, going north, there is the harbor at Santa Barbara. And I desire to call the attention of the House to the fact that our coast commerce is rapidly increasing; that we have a line of steamers now making semi-monthly trips as far south as San Diego; and that, for the security of this commerce, it is necessary to perfect the survey not only at Wilmington, but further north, at Santa Barbara, and also at Monterey and Santa Cruz. It is a mistake to suppose that there are no important harbors on that coast except that at San Francisco. Within the district which I have the honor to represent, extending from San Francisco some five hundred miles south to San Diego, there are four or five harbors that must be used most of the year and in most weather, which are now being surveyed. The men are there, men experienced and skillful in their business, men whom it would be difficult to replace.

The meagre appropriation here proposed, amounting to only $17,000 in our money, would not be sufficient to prevent the abandonment of the work. Going north from San Francisco, the habor of Eel river needs a thorough survey. That harbor, opening up to the Humboldt region, the lumber region of our country, has been partially surveyed. These surveys have been but barely commenced. As we go further north we find continuous surveys necessary. It is not good economy to cut off the commerce of that coast, which is replenishing the Treasury of the country.

Allow me to remark that the Coast Survey has put in an estimate of $134,000 as necessary for the surveys on that coast. Now, either order that work to be stopped and call the men home or designate what harbors you will have surveyed.

[Here the hammer fell.]

Mr. PAINE. I ask the gentleman from New York to withdraw his amendment and I will renew it.

Mr. PRUYN. I withdraw it on that condition.

Mr. PAINE. I renew it. Mr. Chairman, I had no knowledge respecting this particular appropriation until this debate commenced in the House. I have listened to it during its progress, and it seems to me, after what I have heard respecting the estimates for last year and the appropriations made for last year, the estimates from the Department this year, and the allowance of the Committee on Appropriations, and the statement of facts by gentlemen representing the Pacific coast, it is entitled to graver consideration than this House appears likely to give it. I have the appropriations last year for the Pacific coast and the appropriations for our own coast. For our coast they were $250,000, and for the Pacific coast they were $130,000. The committee give four fifths of the appropriations last year for the survey of our coast for this year, and only give a little over one fifth for the survey of the Pacific coast. There should be some very strong reason for this discrimination against the Pacific coast and in favor of the Atlantic coast. Two hundred thousand dollars is appropriated for the survey of the Atlantic coast this year and only $30,000 for that of the Pacific coast, against $130,000 for the Pacific coast last year and $250,000 for the Atlantic.

I am in favor of retrenchment wherever retrenchment can be made. I am in favor of retrenchment in the case of surveys, but I am not in favor of an unjust discrimination in favor of any one portion of the country against another. I am not in favor of retrenchment on the Pacific coast and not upon the Atlantic coast. I believe it is our duty to give the same proportion of appropriation for the survey of the Pacific coast that we give for the Atlantic coast unless some very good reason for the difference can be shown.

Now, the committee has not given any good reason, to my mind, and has not shown why the survey of the Atlantic coast, in progress for many years, and which has already reached so high a state of completion, should require four fifths of the expenditure of last year and the Pacific coast barely one fifth. The gentlemen from the Pacific coast, however, give very good reason why this discrimination should not be made against the Pacific coast. They assure us that there are harbors to be surveyed on that coast. They assure us the commerce now in progress of development there on that Pacific coast imperatively requires the survey of these harbors. We propose to give for the survey of that coast only one fifth of the appropriation made last year, while we give four fifths of the appropriation made last year for the survey of the Atlantic coast. I think if we retrench at all we should retrench equally and fairly. And, sir, I know of no offense committed by the people of the Pacific coast which entitles the House to visit this punishment upon them.

Perhaps it is expected this appropriation is to be expended for a survey of Alaska. I am opposed to the acquisition of Alaska. I am opposed to the expenditure of anything for that purpose; but I cannot see any reason for the apprehension that any such thing will take place. We have the statement of the gentleman from the Pacific coast that it is needed for carrying on the surveys within the limits of our present Republic; and I hope the committee will consider gravely before they refuse to the Pacific what they give to the Atlantic coast.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment for the purpose of saying a few words in the way of reply to the gentleman from Wisconsin. He has not advised himself as intelligently in regard to this matter as he generally does in regard to other matters which come before the committee. If he will look at the estimates for the whole of the Atlantic coast he will find they were more than six hundred thousand dollars. We have cut them down by our bill to $200,000. Yet the gentleman says we have discriminated against the Pacific coast.

Mr. PAINE. If the gentleman will allow me. I do not know what he means by saying I am not correctly informed. I read the appropriation for last year $250,000 on the Atlantic coast and $130,000 on the Pacific.

Mr. WASHBURNE, of Illinois. The gentleman did not read far enough; if he had looked down further he would have found that was only one item, that there were others besides it, one of $40,000, another of $10,000, another of $60,000, and so on. So the gentleman is entirely mistaken as to the amounts of appropriation, and hence his argument does not apply.

Mr. PAINE. I only spoke of those things that concerned the committee. We had before us an appropriation for the Atlantic coast and now we have the appropriation for the Pacific coast. The gentleman cannot deny that I was right.

Mr. WASHBURNE, of Illinois. The gentleman certainly wished the committee to understand that we were discriminating against California to a much greater extent than is justified by the bill we have introduced from the estimates before us.

Mr. WASHBURN, of Wisconsin. Will the gentleman from Illinois tell me the progress made in the survey, when it will be likely to be completed, and how much it has already cost the Government?

Mr. WASHBURNE, of Illinois. It has only cost the country a mere bagatelle, some nine million dollars, and we were asked this year to add $600,000 more, but the committee did not believe that the House would sanction that, and hence we have reported accordingly. In regard to the survey on the western coast, as the Committee on Appropriations did not take into consideration the reduction in the value of greenbacks, I said to the gentleman from Massachusetts [Mr. BANKS] that I would not object to an increase of the appropriation so as to make it $60,000, taking at the same time his statement that no increase would be asked for the survey on the Atlantic coast. I was in hopes that would satisfy gentlemen.

Mr. WASHBURN, of Wisconsin. I ask the gentleman from Massachusetts [Mr. BANKS] to tell me how much it will cost to survey the coast of Alaska at the same rate we have paid for surveys already?

A MEMBER. We have paid already $7,500,000 for coast surveys.

Mr. WASHBURNE, of Illinois. I cannot answer the gentleman. I have not made the calculation, but I believe it has cost nearly ten million dollars, and we are not justified, in the present state of the Treasury, in making any greater expenditure for these coast surveys than we have provided for in this bill. And I am glad that the gentleman from Massachusetts, [Mr. BANKS,] representing the eastern coast, has magnanimously said that he will not ask for any increase of appropriation for the Atlantic coast.

Mr. CHANLER. On what authority does the gentleman from Massachusetts [Mr. BANKS] make that statement for the Atlantic coast?

The CHAIRMAN. Debate is closed on the pending amendment.

Mr. PAINE. I withdraw it.

Mr. BANKS. I renew it. I must have been misunderstood if gentlemen understood me as advocating this appropriation for any surveys on the coast of Alaska. Such was not my intention; and I say now for the information of the committee that not one dollar, as I understand, is or can be appropriated for any territory that is not now belonging to the United States, but the appropriation is to be limited substantially to the coast of California. My objection to the reduction of the appropriation is that the small sum proposed by the committee would break up the organization for the survey of the western coast, which would be a very great misfortune.

One word in regard to the Atlantic coast. I said before when I addressed the committee that of the two surveys, the Atlantic and the Pacific, if either was to be discontinued it certainly would be better to discontinue for this year the survey on the Atlantic coast. The reason is, that the harbors on the eastern

coast have all been more or less examined and surveyed for two hundred years past, and so far as the work of the Coast Survey department is concerned, it is much more complete in its progress on the eastern than on the western coast. Therefore, if there is to be a discontinuance in regard to either, we can better spare the survey on the Atlantic coast than the other. But I do not wish to be understood as saying on my own knowledge, that that ought to be discontinued, but I am willing to say I think it is of less importance this year than the survey on the coast of California.

And now one word in regard to the inquiry of the gentleman from Wisconsin, [Mr. WASHBURN,] backed, also, by the gentleman from Illinois, [Mr. WASHBURNE.] The amount of money expended for this interest is considerable—they say eight or nine million dollars. It may be more. But look at the interest itself. It concerns the whole coast line of the United States, twenty-five or thirty thousand miles. What would the United States be without its coast, its harbors, its outlets by its great rivers from the interior country? It would be of comparatively no political or commercial importance whatever. Therefore, in expending money for the survey of the harbors on the eastern and western coasts, we are expending money to give importance to this immense coast-line of the United States, which constitutes the great advantage which this country enjoys over every other country on the face of the globe. And if we close up these harbors and rivers by depriving ourselves of the means of knowledge necessary to navigate and control them, we destroy the great commercial and political power of this country, and that, I am sure, is not what gentlemen desire.

Now let me say a word in regard to the progress of the coast survey on the Pacific coast. I understand there is but one harbor that has been considered carefully or considerably surveyed, and that is the harbor of San Francisco. The harbors south of San Francisco have been but imperfectly surveyed, and the harbors north of San Francisco scarcely at all. Therefore, the appropriation for this work this year is imperatively necessary in order to complete the survey of the harbors upon the coast of California and Oregon, which are of vast importance with regard to the growing and opening commerce with the eastern portion of the world.

Mr. BUTLER. I oppose the amendment formally for the purpose of saying a word in answer to the question which has been raised here which would seem to throw some doubt before the country on the value of the Coast Survey. It is true it has cost $9,000,000, and perhaps more; I have no doubt fully that; but, sir, I know—having had opportunities of judging, perhaps better than anybody else on the Atlantic coast, during the late war—that it over and over again paid for itself. Without it the harbor of Charleston could hardly have been accessible to attacks by our troops, and so of Savannah and all the harbors South and all the sounds in North Carolina. Indeed, for all our operations on the coast and along the land within a short distance of the coast we were indebted to this Coast Survey, because there were in the southern country no maps, and, therefore, in the safety of our vessels, transports and others, and in facilitating the operations of troops, I am sure I speak the sentiment of every officer who was in command on the coast, and especially in the Gulf—and in this I shall be borne out by my colleague, [Mr. BANKS]—when I say that the Coast Survey has paid for itself over and over again. I feel bound to say this much, without taking any share in the discussion as to how much or how little should be appropriated to the western coast. Some time or other—and the sooner the better—that coast has got to be surveyed, and while I am for economy everywhere, yet I recognize the necessity of carrying on the great concerns of this country.

Mr. CHANLER. Mr. Chairman, I wish to present to the committee what I deem to be a question of some worth in this debate.

The CHAIRMAN. No debate is in order.

Mr. CHANLER. I move to increase the amount of the appropriation to $100,000. The Coast Survey is not limited to one continuous survey of the line of coast in a new country. That is not its only duty; but it has to keep up a perpetual survey of those fluctuations and changes along the coast consequent upon the course of streams and the laws of nature itself. It is impossible for the mariner to traverse any coast continuously, year after year, upon an old chart with any certainty that in following that chart he is avoiding existing dangers. The receding of the continent from the sea, the advance of the land into the sea, the raising of sand bars owing to the action of the currents of the ocean and the currents flowing from the rivers into the ocean—all these create and establish an absolute necessity for perpetual surveys.

That being recognized, it follows, of course, that, having established a Coast Survey for the purpose of surveying the coast and finding out its dangers, it is absolutely necessary to keep up a sufficient force to meet the growing dangers and the changes of nature.

So far, then, as abolishing this Coast Survey is concerned, it is impossible to do so if you would keep up your commercial relations with the rest of the world. To reduce the amount appropriated for that purpose is simply to imperil that establishment, which is of vital importance. That would be following the example of the rebels, who destroyed the lighthouses and other means of facilitating commerce on the coast.

Again, the Coast Survey does not confine its operations to the sea line, but it extends them to the land and up the river courses. It is well known to gentlemen on our side engaged in the late war that but for the knowledge which our Coast Survey gave us we would have been unable to have navigated many of our rivers, not only in tide water, but beyond. One of the greatest difficulties at the outbreak of the rebellion was to obtain the requisite knowledge to enable us to navigate the streams, &c., along a certain portion of the southern coast, because those in power there had kept that knowledge as much as possible to themselves.

This is a scientific question, a national question; and to debate here upon a question of $10,000, $50,000, or $100,000 for this work is to advertise to the world that this House is ignorant of the duties of its Coast Survey Department.

I insist upon my amendment, as founded upon common sense and reason, supported by the experience of the late rebellion. There is not a scientific man in the country to-day who will not indorse what I have said; and the proof they will give, derived from their knowledge and their science, will give you confidence in their opinions. And even now, in the lobby here, can be seen our most scientific men running around, hunting up members, and asking them to vote to give the poor pittance asked for this most valuable object.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and Mr. BLAINE having taken the chair as Speaker *pro tempore*, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the paragraphs relating to the Coast Survey be closed in ten minutes after the committee resumes the consideration of the same.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole; and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The CHAIRMAN. By order of the House all debate upon the portion of the bill relating to the Coast Survey will terminate in ten minutes. The pending paragraph is the following:

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, $30,000.

The gentleman from Massachusetts [Mr. BANKS] has moved to amend this paragraph by striking out "$30,000" and inserting "$85,000." The gentleman from New York [Mr. CHANLER] moves to amend the amendment by striking out "$85,000" and inserting "$100,000." The question is upon the amendment to the amendment.

Mr. WASHBURNE, of Illinois. We have but ten minutes for debate, and I wish to distribute that time between the gentleman from California, [Mr. JOHNSON,] the gentleman from Wisconsin, [Mr. PAINE,] the gentleman from Massachusetts, [Mr. BANKS,] and myself. As no further amendment is in order, and as no gentleman has a right to speak except upon an amendment, I ask the gentleman from New York [Mr. CHANLER] to withdraw his amendment, that the gentleman from California may renew it.

Mr. CHANLER. Certainly I will do so. I withdraw my amendment.

Mr. WASHBURNE, of Illinois. I yield five minutes to the gentleman from California, [Mr. JOHNSON.]

Mr. JOHNSON. I renew the amendment. I desire to state, Mr. Chairman, that this question involves, not only the interests of the commerce of the country, but the lives of our citizens who are engaged in that commerce. Gentlemen who pay any attention to the current news from California know that not a week passes but there is flashed across the wires from the city of San Francisco the sad intelligence of the loss of steamers or sailing-vessels upon the northern coast of California. I have lived fifteen years in the northern district of that State; and I believe that during all this long period there has not been one week in which at least one vessel was not driven ashore, with greater or less loss of life. These disasters could in many cases be avoided by a proper coast survey; for there are everywhere along the coast small inlets and harbors which would afford a safe refuge for vessels, and thus preserve the property and lives of our citizens.

Now, sir, one word as to the changes that are constantly being made in the harbors on that coast. That being a great mining country, we are tearing down mountains, and by hydraulic force driving them into the Bay of San Francisco and the other small bays along that coast, four or five hundred miles in extent. Now, I assert it as a fact that it will take more than fifty thousand dollars a year to keep up the survey of the Bay of San Francisco alone. That is the only harbor upon the whole Pacific coast that has ever had a thorough survey; and the survey of that harbor must be carried on constantly as long as the mining operations in that country continue.

[Here the hammer fell.]

The CHAIRMAN. The five minutes of the gentleman from California [Mr. JOHNSON] have expired.

Mr. WASHBURNE, of Illinois. I now yield two minutes to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. FLANDERS. I ask the gentleman

from Wisconsin [Mr. PAINE] to yield me a moment, that I may correct a wrong impression which has been conveyed——

Mr. PAINE. I cannot yield to the gentleman. I have not time.

Mr. Chairman, the gentleman from Illinois [Mr. WASHBURNE] thinks that I have unfairly represented the action of the committee by contrasting these two appropriations and leaving out of view the other appropriations for surveys in this bill. Why, Mr. Chairman, I selected those two items because they were before the House; but I am quite willing to look at the others; and I am sorry to say that when we come to examine the whole of these appropriations we find that the discrimination of the committee in favor of the Atlantic coast and against the Pacific coast is still more marked, still more indefensible.

Why, sir, the entire appropriation made last year for the Atlantic coast (leaving out of view the Pacific coast) was $320,000, while the appropriation proposed for this year is $270,000. In other words, leaving out of view the Pacific coast, the whole appropriation proposed for the Atlantic coast this year is almost seven eighths of the whole appropriation of last year; while the appropriation reported for the Pacific coast this year is much less than one fourth of the appropriation made for that coast last year, the amount this year being $30,000 against $130,000 last year. Hence, when we take into view the whole of these appropriations, the discrimination in favor of the Atlantic coast and against the Pacific coast is very much greater than when we consider only these two appropriations. Why, sir, the appropriation last year for the Florida Keys was $25,000, and the appropriation proposed this year is the same amount. All these appropriations except one are the same this year as last year.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. Mr. Chairman, I believe the coast of the Atlantic has some rights as well as the coast of the Pacific; and I say here to-day the appropriation in proportion to the work is much greater for the Pacific coast than for the Atlantic. What is the comparison between the Atlantic and Pacific? Let gentlemen look at the estimates made and the appropriation provided in this bill.

And, now, sir, I ask what are the particular privileges the Coast Survey has over anything else? We cannot make appropriations for rivers and harbors for the benefit of our constituents in the West. We do not propose to do so in the present condition of our finances. Yet this Coast Survey comes and asks we shall appropriate for them. We are to appropriate for them while our rivers and harbors get no appropriation at all. I say we have dealt liberally, we have dealt magnanimously with the Coast Survey, and I am surprised gentlemen should come in here and ask us to burden their constituents with still further expenditures.

[Here the hammer fell.]

Mr. BANKS. I am, sir, about to contribute to the surprise of the gentleman from Illinois, who has been so often surprised by what he calls these extraordinary appropriations.

Mr. FLANDERS. I ask for a moment to reply to the gentleman from Missouri, [Mr. WASHBURN,] who asks "what harbor there is on the Pacific coast which has not been surveyed;" and who, by the manner in which he puts this question, would imply that there is none, and who, by another remark, intimated that the amount asked for was intended for the purpose of extending the Coast Survey to Alaska. I would say, in answer to his question, that there is not, I believe, one harbor on the Pacific coast whose survey can be said to be complete, with the exception of the bay of San Francisco. On Puget sound we have at least sixteen hundred miles of inland water lines. Not one half of this magnificent inland sea has yet been surveyed. With the present force employed there it would take at least four years to complete the work. I am well acquainted with the gentleman who is in charge of that work, (Captain James S. Lawson,) and I know him to be a most energetic and persevering man, as well as a finished scholar and accomplished gentleman, who is devoted to his profession, and whose pay is in no proportion to the service which he renders the Government, especially when it is remembered that gold on our coast is the circulating medium and he is paid in currency. Should the amount asked for ($170,000) be appropriated it will not enable the superintendent to extend the coast surveys to Alaska, however desirable that might be, as there is not one vessel in the service which is fit to do that work. I hope the appropriation asked for will be granted, and the work of the Coast Survey, so much needed, will suffer no interruption.

Mr. BANKS. I only wish to say, sir, this committee will not object to any fair appropriation for river and harbor surveys which may be necessary this year; and all we ask for the Coast Survey is an appropriation which is necessary. The appropriation for the survey of the Pacific coast is reduced seventy-seven per cent. from that of last year. Only twenty-three per cent. of the appropriation last year is now proposed to be made. That contracts the operations of the work seriously. It does not suspend all operations, but it reduces it seventy-seven per cent. There is another point to which the Legislature of California has called special attention, and that is the survey of the mouth of Elk river, an important commercial point, and probably to be the outlet of one of the great railroads now being constructed from the Mississippi valley to the Pacific coast. It is of the last importance that it shall be surveyed, and promptly surveyed, without reference to these great improvements now being made. If it were not so the Legislature of California would not have asked it. I have the best information for saying if this appropriation shall be reduced—and I am glad to see this committee is not disposed to favor it—it will prevent the survey of this important harbor.

The CHAIRMAN. Debate is terminated on all the paragraphs relating to the Coast Survey by order of the House.

The committee divided on the amendment to the amendment; and there were—ayes 31, noes 65.

So the amendment to the amendment was rejected.

Mr. WASHBURNE, of Illinois. I move to amend the amendment by making it $60,000.

The amendment to the amendment was agreed to.

Mr. BANKS's amendment, as amended, was then adopted.

The Clerk read as follows:

For publishing the observations made in the progress of the Coast Survey of the United States, including compensation of civilians employed in the work, $5,000.

Mr. WASHBURNE, of Illinois. I move to insert the following:

For the pay and rations of engineers for steamers used in the hydrography of the Coast Survey, no longer supplied by the Navy Department, per act of June 12, 1858, $10,000.

The amendment was agreed to.

The Clerk read as follows:

For a fog signal at Eaton's light station, $3,000.

Mr. TABER. I move to amend by adding the following:

For the erection of a permanent buoy on Success rock, Long Island sound, $3,000.

I desire to say that there was an appropriation of $5,000 made last year for the erection of a spindle on that rock. The matter has been submitted to the Light-House Board and it has determined that that amount is not sufficient. Therefore, as I am informed, the board has recommended an appropriation of $3,000 for the work. This rock is in the line of all the vessels passing through the sound. It is at a point where the tide runs with great force, and where the ice and tide together would remove a buoy that is not permanently fixed. I know from my own observation that this appropriation is a very necessary and proper one. I am informed by Mr. Blunt, who probably understands as well as any other gentleman the amount of commerce passing through the sound, that it amounts on an average daily to not less than $15,000,000. The appropriation is so small that I hope there will be no opposition to it whatever.

Mr. WASHBURNE, of Illinois. I do not see that estimated for in looking over the list very cursorily. I will state to the committee this fact: the Committee on Appropriations called before them General Poe, of the Light-House Board, a very distinguished Army engineer, I may say, who has charge of this matter, and examined him, particularly in reference to all the items for which estimates were made, and all of those which he deemed necessary the committee reported on. But this is not among the number which were deemed necessary by them. Therefore I hope the committee will not adopt the amendment.

Mr. TABER. I only know that upon application at the Light-House Board I was informed that the recommendation was made. That is all I can say.

The question being taken on the amendment, there were—ayes forty-five.

Mr. WASHBURNE, of Illinois. Let it be considered as adopted, and take a vote on it before the House.

So the amendment was agreed to.

The Clerk read as follows, under the head of "Revenue-Cutter Service:"

For traveling expenses, $5,000.

Mr. CHURCHILL. I move to amend by adding the following:

And it is hereby provided, That the six steam revenue cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping.

Mr. WASHBURNE, of Illinois. I hope that will be adopted.

The question was put, and the amendment appeared to be adopted.

Mr. CHANLER. I rise to debate this proposition.

Mr. MULLINS. I rise to a point of order. The vote was taken, and it only waited the announcement of the Chair to determine the fact that it was adopted.

Mr. CHANLER. The gentleman is too cheerful by half.

Mr. MULLINS. We will not split hairs about that.

The CHAIRMAN. The Chair overrules the point of order.

Mr. CHANLER. This is a question that may be of great importance. I have no doubt the mover of the amendment can explain it, but it seems to me an exceedingly rash act to pass it without a word of explanation. I do not know how far these vessels are necessary, for the facts are not furnished, but, so far as smuggling and evasion of the revenue laws are concerned, it is exactly on the northern border that the evil has been the worst within the last few years. I have very positive information from the bureau which has charge of this matter at this Capitol—the smuggling bureau, I suppose it might be called—which has established a force of detectives along the line, that in the article of silks alone the most of the smuggling arises.

Mr. MULLINS. I rise again to the point of order that the vote has been taken on the amendment.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from New York [Mr. CHANLER] will proceed.

Mr. CHANLER. How much time have I left, Mr. Chairman?

The CHAIRMAN. Three minutes.

Mr. CHANLER. I thank the gentleman from Tennessee [Mr. MULLINS] for his courtesy in persisting in interrupting me. There is nothing clearer than that the object of the revenue service is to protect the interests of

the people, and it was for that purpose that these revenue cutters were established. It is utterly impossible, upon these northern coasts or any other coasts, to protect the revenues of the country without a proper revenue force. The laying up of these vessels carries with it the opening of the smuggling trade, and I charge upon the gentlemen who propose this amendment here that they will be guilty of opening that trade in all its force, as it existed during the war and before these vessels were put upon the lakes. If they are willing to assume that responsibility before the country without explanation they are welcome to do so; but I charge that upon them as the consequence of this vote.

As to economy, it is a perfect farce, in view of the immense quantities of silks that are smuggled over the Canada border through the British trade, cutting out all the commerce elsewhere along the Atlantic coast. Millions on millions of silks are thus smuggled in. That was the state of things that existed during the war, and this revenue service, which the gentleman now proposes to abolish, was brought in to check it.

Mr. UPSON. I would ask the gentleman if he ever knew a revenue cutter on the lakes to catch a smuggler?

Mr. CHANLER. I have never been on the lakes in that capacity. The gentleman speaks with authority. I refer the question to him.

Mr. UPSON. I never did.

Mr. CHANLER. The gentleman does not look as if he could catch a smuggler. I do not know whether he can or wants to. But I say that has nothing to do with the propriety of the measure before the House being passed without debate or information.

Mr. WASHBURNE, of Illinois. I move to amend the amendment of the gentleman from New York [Mr. CHURCHILL] by striking out the last word, and I yield for a moment to the gentleman from Michigan, [Mr. DRIGGS.]

Mr. DRIGGS. I only wish to say that the larger portion of the lake coast is in my district, and I approve of this amendment. I believe that only one of these vessels is necessary upon the lakes; but perhaps it would not be well to lay up all of them. I hope the gentleman from New York will accept an amendment to his amendment, so as to lay up all of these vessels except one.

Mr. WASHBURNE, of Illinois. I believe the amendment of the gentleman from New York only applies to the six new revenue cutters, leaving the old one. If that is not so I will move an amendment.

Mr. DRIGGS. If the gentleman from New York will accept the amendment I have suggested I will offer no opposition to his amendment, and I do not think our delegation will.

Mr. WASHBURNE, of Illinois. I will now yield to the gentleman from New York, [Mr. CHURCHILL.]

Mr. CHURCHILL. These revenue cutters to which my amendment refers were built, under an act passed by Congress in 1864, at a time when the war was yet in progress, and when Canada was occupied to a considerable extent by rebels, and when the cities and towns along the lakes, as well as the lake commerce, were endangered by the hostile enterprises which were being organized in Canada. For the purpose of resisting such enterprises six revenue cutters were ordered to be built. They are armed vessels, properly vessels of war, and are not at all fitted for revenue purposes.

Mr. HUMPHREY. Has there been any report from the Treasury Department recommending the laying up of any of these vessels?

Mr. CHURCHILL. I will read what the Secretary of the Treasury says on this subject in his letter of January 23, 1868:

"It is proper, however, that I should remark, in reference to the six steamers employed on the great lakes, that, although not of the character best suited to the wants of the revenue there, their services are by no means unimportant or valueless; and as they were placed there by Congress, in view, perhaps, of weighty considerations aside from the ordinary purposes of the revenue, I do not feel at liberty to recommend the sale of them unless they can be disposed of without great sacrifice. I would here suggest that if Congress shall be of opinion that these vessels are unsuited for revenue purposes, and shall deem it advisable to dispose of them, that in the bill authorizing their sale the minimum amount for which each shall be sold be inserted."

These six vessels cost, during the last year, $161,000; and I will venture to say that not a single gentleman upon this floor who represents a district on the lakes will say that they rendered service to the revenue worth one dollar during that time.

Mr. WASHBURNE, of Illinois. I withdraw my amendment to the amendment.

Mr. HUMPHREY. I renew the amendment to the amendment, for the purpose of saying that these vessels were built during the war, and that one of the purposes contemplated in building them undoubtedly was to protect our frontier from incursions that it was anticipated might be made by the rebels who were in Canada.

Since the war, however, these vessels have been used entirely for the purpose of protecting our revenue from the operations of smugglers. And I will say to this House, that if we lay up these vessels without providing some other vessels to take their places, there will be more loss to the revenue of this country for this year alone, than all these vessels have cost. I am acquainted with and know the uses of these vessels. There is no man who has any knowledge of the extent of the operations of smugglers upon our northern borders, and who also has any knowledge of the means used there for the purpose of protecting our revenue, but will say at once that there is no more important or efficient means of protection than these very vessels. And to lay them up, as proposed, thereby depriving the service of the use of them, it seems to me would be almost equivalent to giving a bounty to smuggling. There are none stationed at the city of Buffalo, but there is one stationed at Erie which comes down the lake and into the river once or twice a week. These vessels and the men engaged in them render most efficient and valuable services to the officers of customs—a class of services which can be rendered in no way but by vessels of this or of a similar character. It is true that, if the Government were now about to build vessels for this particular service, it would doubtless build vessels that would cost less money than these have cost. But if you undertake to sell these vessels you will not be able to obtain enough money for them to pay for building vessels of a different character—of the character which would answer the purpose that these now do. It would, therefore, be useless and inexpedient to sell these vessels in order to replace them with others that would be no more efficient, because you would gain nothing in the way of expense. I hope gentlemen will consider this subject carefully before they undertake to do that which will be so largely in the interest of the smugglers.

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment to the amendment. Let me state to this committee that these revenue cutters, as they are here called, are an exceptional class of vessels. They were never put on the lakes for revenue purposes or because of any recommendation made by the Treasury Department. That Department has never asked for the building of one of those so-called revenue cutters for the purpose of protecting the revenue. These vessels were built under the influence of a scare. A bill for the purpose was introduced and pushed through Congress in ten days' time, in the expectation that we might have a row with Canada. And, notwithstanding the causes which led to their construction have now passed away entirely, yet these revenue cutters have been kept there for four or five years at a cost of $161,000 a year. I have letters from gentlemen living at different points along the lakes, stating that there is no portion of the extravagant expenditures of the country so utterly inexcusable as the keeping of these revenue cutters on the lakes for the purposes for which they are now employed there; and I think they are gentlemen, quite as anxious to prevent smuggling as my distinguished friend from the smuggling district of New York, [Mr. HUMPHREY.] I say that a little tug or schooner that would cost but one or two thousand dollars would do more service than any of these revenue cutters; and we can obtain as many such craft as may be necessary if we only order that these revenue cutters shall be laid up. I now yield to the gentleman from Maine [Mr. PIKE] for one minute.

Mr. PIKE. The large vessels on the coast are found to be very convenient for picnic parties for distinguished gentlemen going from one point to another. Perhaps the gentleman from Illinois has not considered that these vessels on the lakes may be useful for similar purposes.

Mr. WASHBURNE, of Illinois. The gentleman from Michigan, [Mr. DRIGGS,] who represents a lake district, says that not a single one of these revenue cutters has ever made a seizure.

I now yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. Mr. Chairman, I desire to say only one word in relation to this matter. I have recently had a conversation with a distinguished officer of the revenue, who says that this whole revenue service is a fraud upon the Government. I believe the remark applies as well to the revenue service on the coast as to that on the lakes.

Mr. PIKE. The gentleman is quite right.

Mr. ALLISON. I believe that one half dozen vigilant men can do more to detect frauds upon the revenue than all these revenue cutters put together.

[Here the hammer fell.]

Mr. HUMPHREY. I withdraw my amendment.

Mr. DRIGGS. I renew the amendment. I desire briefly to say, in answer to the gentleman from Buffalo, [Mr. HUMPHREY,] that while these vessels may be of some service on the lakes, yet the detection of frauds upon the revenue by smuggling is accomplished almost wholly by the small coasting vessels, not by these revenue cutters. I was myself last summer upon a small steamer, the Huron, sailing upon the west coast of Lake Huron, when a smuggler was detected. He ran his boat up a small inlet, took his mast down, and skulked into the woods. His boat was captured. One of these cutters could never have got near enough to that boat to capture it. I think it is not necessary to keep more than one of these cutters on the lakes. Cases might arise of gangs of smugglers that could not be broken up by the small vessels engaged in commerce; and then one of these naval vessels might be sent for. If it were in order, I would move to amend the amendment so as to retain in service one only of these cutters. The one retained, however, should not be the steamer Michigan, an old worn-out craft. Let it be one of the new and fast-sailing steamers.

Mr. LYNCH. Mr. Chairman, it will be observed that the opposition to these revenue cutters comes from the borders of the country where the services of these vessels are required for preventing smuggling; and the gentleman from Illinois [Mr. WASHBURNE] has told us that he has numerous letters from that section advising him that these cutters are entirely useless. Now, it is not at all strange that those constituencies that are engaged in smuggling are opposed to revenue officers and revenue cutters.

My colleague [Mr. PIKE] says that these vessels are used for the purpose of carrying certain gentlemen on picnics.

Mr. PIKE. I said "may be useful."

Mr. LYNCH. Now, I suppose that my colleague alluded to the trip of the cutter Mahoning, which took the United States district attorney for the district in which I reside, and certain other official gentlemen, down to my colleague's district, interfering seriously with the business carried on there. [Laughter.]

Mr. PIKE. Mr. Chairman, there was no such instance, no such occurrence. The revenue-cutter Mahoning did not take the district attorney and high officials down to my district. I will tell you what it did. It took distinguished Congressmen aboard and went over to St. John's. Another revenue cutter, the Ashuelot, took a distinguished party of Congressmen from Boston and went down along the coast of Maine. They came to my town at ten o'clock at night and left at daylight next day. They enjoyed themselves, but there was little profit to the service.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. As the Maine law was in operation I ask whether they went over to the British provinces "to wet their whistles?" [Laughter.] I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had disagreed to the amendment of the House to the bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia.

ENROLLED BILL, ETC.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bill of the following titles:

Joint resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition; and

An act (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration."

MRS. MARIAN MULLIGAN.

Mr. JUDD, by unanimous consent, introduced a bill (H. R. No. ——) for the relief of Marian Mulligan, widow of Colonel James A. Mulligan, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

And then, on motion of Mr. MUNGEN, (at four o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of William McDaniel, of Laurel county, Kentucky, late private company H, twenty-fourth regiment Kentucky volunteer infantry, for the removal of certain disabilities which deprive him of the additional bounty provided by the act of July 28, 1866.

By Mr. ARCHER: Resolutions of citizens of Baltimore, in relation to rights of American citizens abroad.

By Mr. BLAIR: A memorial of 500 citizens of Calhoun county, Michigan, urging immediate action of Congress to remove the burden of internal revenue taxation from the productive industries of the country.

By Mr. BLAINE: The petition of citizens of Gardiner and sundry other petitions, praying the abolition of the duty on coal imported from the British North American provinces.

By Mr. BOUTWELL: The petitions of A. B. Chase and others; Andrew Moody and others; L. W. Faulkner and others; and O. H. Moulton and others, all relating to taxation and expenditures.

By Mr. BROOMALL: The petition of many citizens of the United States residing in Chester county, Pennsylvania, praying for a reduction of internal taxation, an economical administration of public affairs, and such an adjustment of the tariff laws as will secure the balance of trade in favor of this country.

By Mr. CARY: Resolutions of a mass meeting of Germans in Cincinnati, on the necessity of legislation for the protection of emigrants *en route* to the United States.

By Mr. CHILCOTT: A joint memorial and resolution from the Legislature of Colorado, asking additional compensation for the survey of the mountain regions of said Territory.

Also, a joint memorial and resolution from the Legislature of Colorado, relative to the military reserve at Fort Collins, in said Territory.

Also, a joint memorial from the Legislature of Colorado, relative to an appropriation of the public lands to said Territory, for the purpose of constructing canals for irrigating purposes.

Also, a joint memorial and resolution from the Legislature of the Territory of Colorado, relative to additional appropriations for the purpose of erecting a penitentiary building for said Territory.

Also, a joint memorial and resolution from the Legislature of Colorado, asking the repeal of the fourth section of an act entitled "An act to provide for carrying the mails of the United States to foreign ports, and for other purposes," approved March 25, 1864.

Also, a joint memorial from the Legislature of Colorado, praying for an appropriation of money for the erection of suitable Capitol buildings for the use of said Territory.

Also, a joint memorial from the Legislature of Colorado, relative to the coining of silver in the branch mint at Denver City, in said Territory.

Also, a joint memorial from the Legislature of Colorado, in relation to the Los Animos grant.

Also, a joint memorial from the Legislature of Colorado, relative to a subsidy of lands for railroad purposes in said Territory.

By Mr. COBB: The petition for a post route from Hurlburt's Corners, Crawford county, to Sugar Grove, Vernon county, Wisconsin.

Also, the petition for a post route from Casseville, by way of North Andover, to Bloomington, Grant county, Wisconsin.

Also, the petition for a post route from Excelsior, by way of Brady's, to Sylvan, Richland county, Wisconsin.

Also, the petition for a post route from Monroe, by way of Twin Grove, Wisconsin, and Duncannon, Illinois, to Dakota, Illinois.

By Mr. HUBBARD, of West Virginia: The petition of Mrs. Mary M. Clark, asking compensation for the services of her late husband, Leonard Clark, as guide and scout for the Army in western Virginia.

By Mr. HILL: The petition of citizens of Paterson, New Jersey, praying for a reduction of the Government expenses.

By Mr. HALSEY: The petition of citizens of Newark, New Jersey, asking Congress to reduce taxation and appropriations.

By Mr. LAWRENCE, of Pennsylvania: A memorial of Bryan Tyson, for relief.

By Mr. McCARTHY: The petition of citizens of Syracuse, New York, for reduction of the expenses of the Government, reduction of taxes, and an adjustment of the tariff so as to keep balance of trade in favor of this country.

By Mr. MERCUR: The petition of 16 citizens of Danville, Pennsylvania, asking that the law establishing bonded warehouses be repealed, and the system be abolished.

By Mr. ORTH: The petition for a post route from Kirk's Cross Roads to King's Corner.

By Mr. PRICE: The petition of citizens of Cedar Rapids, asking for a reduction of taxes, and a reduction of the Navy from one hundred and three to thirty vessels, and of the Army to twenty thousand men, so that the appropriations for the Army and Navy for the present year shall not exceed $47,000,000.

By Mr. ROBERTSON: The petition of Nesmith & Sons, and other shipping merchants of the city of New York, praying for the repeal of so much of any act of Congress providing for internal revenue as imposes any duty or tax upon the "annual gains, profits, or income" of the citizens of the United States.

By Mr. STONE: The petitions of James W. Boswell and Benjamin Cooley, for relief as mail contractors on routes from Washington to Rockville and Rockville to Poolesville, Maryland, on account of heavy additional service in carrying mails to United States troops.

By Mr. TROWBRIDGE: The petition of Eli Curtis, of Birmingham, Michigan, asking that certain religious publications may be sent through the mails free of charge.

By Mr. TWICHELL: The petitions of Johanna Connolly, Louisa M. Williston, Mary A. Falarde, and Mary Wheeler, for pensions, and Ann Shehey, for pension and bounty.

Also, the petition of James E. Beatty, for bounty.

By Mr. VAN TRUMP: The petition of John G. Snyder and 54 others, citizens of Ross county, Ohio, praying Congress to reduce the war vessels now in commission in the Navy to thirty vessels or less; a reduction of the Army to twenty thousand men; a reduction of the civil service appropriation to $20,000,000; naval appropriations to $12,000,000; Army appropriations to $35,000,000; and to so adjust the revenue laws as to keep the balance of trade with foreign countries in our favor, and in due time furnish a specie basis for our national currency.

IN SENATE.

THURSDAY, *February* 27, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the board of common council of the city of Washington, asking the passage of an act to compel the mayor of the city to pay to each member of the board of council and board of aldermen the amount due them for their services as such members; which were referred to the Committee on the District of Columbia.

He also presented resolutions adopted by the national commercial convention, held in Boston on February 8, in relation to currency and finance, taxation, inland communication and transportation, foreign commerce, agriculture and manufactures, a national board of trade, weights and measures, and relief to the South; which were referred to the Committee on Finance.

Mr. SPRAGUE. I present the petition of Charles H. Campfield and William Thorne Williams, appraisers of merchandise at the port of Savannah, Georgia, concurred in by J. Johnson, collector. The petitioners' prayer is that their compensation be increased. They say that the salary attached to the office at that place has not been changed since 1802, and that the business has increased to five times what it was at that time, and that the compensation of the appraisers of merchandise at the port of New York and elsewhere has been increased. They ask that their salary may also be increased. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

Mr. PATTERSON, of Tennessee, presented a memorial of honorably discharged officers of the Army, protesting against the passage of the bill prohibiting the payment of commutation of officers' servants; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDRICKS. I present a memorial of the officers of the Northern and Central Michigan railroad, a corporation organized

under the laws of the State of Michigan, in regard to the grant of land made to aid in the construction of one of the roads in that State, and asking that the grant may be enjoyed by that portion of the road south of Lansing on the same terms and conditions as it is enjoyed by the company north of Lansing. In presenting this memorial I ask the attention of the Committee on Public Lands to it, as it affects an interest extending into Indiana as well as Michigan. I move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. NORTON presented a petition of citizens of Minnesota, praying the establishment of a mail route from Le Sueur to Elysian, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. FOWLER presented a petition of colored citizens of Tennessee, praying an appropriation to enable them to remove to Liberia; which was ordered to be laid on the table.

He also presented a petition of Elizabeth J. Miller, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. MORRILL, of Maine, presented resolutions of the Legislature of Maine, in favor of an appropriation for removing the obstructions in the channel of the Penobscot river; which were referred to the Committee on Commerce.

Mr. JOHNSON. Mr. President, a meeting was held in the city of Baltimore on the 22d of last month to take into consideration what are alleged to be violations of the rights of naturalized citizens by some of the Governments of Europe, and particularly the Government of England. Resolutions were adopted by the meeting, which was very numerous and very respectable; and one of them contains a request that a committee should be appointed to present a copy of them to their Senators and Representatives in Congress, and take such steps as they might deem necessary to effect the object of the meeting. I present the resolutions, and move their reference to the Committee on Foreign Relations.

The motion was agreed to.

PAPERS WITHDRAWN.

Mr. POMEROY. I move that the papers in the case of M. D. Duffield, before the Committee on Claims, be withdrawn from the files of the Senate. I understand no report has been made in the case.

Mr. CONNESS. I think there has been a report made by the committee in that case.

Mr. POMEROY. I am told that no report has been made.

The PRESIDENT *pro tempore*. If there has been an adverse report, leave to withdraw cannot be granted.

Mr. POMEROY. If any report has been made, I hope the order will not be entered.

I also ask that the petition of Mary Thompson be withdrawn from the files of the Senate.

The PRESIDENT *pro tempore*. It will be withdrawn if there has been no adverse report.

On motion of Mr. HOWE, it was

Ordered, That Emily Hooe have leave to withdraw from the files of the Senate the pension certificates accompanying her petition.

On motion of Mr. HOWE, it was

Ordered, That Almira Thompson and others have leave to withdraw their petition and papers.

REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation, reported it with an amendment.

Mr. CORBETT, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 27) authorizing the corporation of Washington to make a loan and issue stock for building a market-house, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, reported to be considered as a substitute for the previous bill a bill (S. No. 394) to provide for the removal of the center market, in the city of Washington, and for the erection of a market building in a more suitable locality; which was read, and passed to a second reading.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills, reported them with amendments:

A bill (H. R. No. 659) granting a pension to Sarah E. Pickell;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 665) granting a pension to Susan V. Berg; and

A bill (H. R. No. 666) granting a pension to Henry H. Hunter.

He also, from the same committee, to whom was referred the bill (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery, reported it without amendment.

NORTHERN AND NORTHWESTERN LAKES.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the joint resolution (S. R. No. 108) relating to the survey of the northern and northwestern lakes, have directed me to report it back and recommend its passage; and I ask unanimous consent of the Senate to put it on its passage now.

There being no objection, the joint resolution was considered as in Committee of the Whole. Its object is to provide that the second section of the act making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the fiscal year ending June 30, 1868, approved March 2, 1867, shall not apply to the appropriation "for the survey of the northern and northwestern lakes."

Mr. CHANDLER. I will merely state that the fortification bill last year contained in one of its items an appropriation of $155,000 for the survey of the northern and northwestern lakes. That was intended for the present fiscal year, closing the 30th of June next, but in the second section of that act was this proviso, which was intended to apply solely to fortifications:

"*Provided*, That there shall not be over fifty per cent. of the foregoing appropriations expended during the fiscal year ending the 30th of June, 1868, and the residue thereof shall not be expended until otherwise ordered."

That was not intended to apply to the appropriation for the survey either of the coast or of the lakes, but was intended to apply to fortifications. The committee are unanimous in recommending that this appropriation be taken out from the effect of the proviso. One half of the appropriation has been expended, and of course nothing further can be done from now until the 30th of June unless this clause locking it up is repealed.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SURVEY OF BAYOU MANCHAC.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for the printing of additional copies of the report of the Secretary of War, communicating the report of Brigadier General M. D. Macalester, of a survey of the Bayou Manchac and Amité river, have instructed me to report it back without amendment and recommend its passage; and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That three thousand additional copies of the report of the Secretary of War communicating the report of Brigadier General M. D. Macalester, major of engineers, of a survey of the Bayou Manchac and Amité river, with the maps accompanying the report, be printed for the use of the Senate; and that the maps be also printed to accompany the regular edition.

Mr. RAMSAY. What river is that?

Mr. ANTHONY. The Amité river that runs into Lake Ponchartrain.

Mr. WILLIAMS. I should like to ask the chairman of the Committee on Printing how much that will cost?

Mr. ANTHONY. Three hundred and forty-six dollars and fifty cents.

The resolution was adopted.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 395) for the relief of the heirs of persons in the military or naval service of the United States who may have initiated claims to the public lands under the provisions of the homestead laws of the United States; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 396) for the relief of the citizens of Boisé City, Territory of Idaho; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 397) to dissolve the Indian peace commission erected by act of Congress of July 20, 1867; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

WESTERN PACIFIC RAILROAD.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate bill No. 159.

The motion was agreed to; and the Senate as in Committee of the Whole, proceeded to consider the bill (S. No. 159) relating to the Western Pacific railroad. The bill as originally introduced proposed to authorize the Western Pacific Railroad Company to locate the western terminus of its railroad and telegraph lines at Yerba Buena Island, on the Bay of San Francisco, and for this purpose to grant to the company, its successors and assigns, such portion of the island as shall not be required and selected within one year from its passage for the purpose of fortifications, by authority of the President of the United States. It also proposed to authorize the Western Pacific Railroad Company to locate and construct a railroad thence, by the shortest and most practicable route, to a point on its present line at or south of the city of Stockton, and to enfranchise them with all the grants, privileges, and benefits, and made subject to all the conditions of the several acts of Congress relating to the company and its railroad and telegraph line; but nothing herein contained was to be so construed as to increase the subsidies in bonds beyond that accruing under existing lines of location and laws heretofore passed providing for the construction of the Pacific railroad.

The Committee on the Pacific Railroad reported the bill with an amendment, to strike out after the word "that," in the third line of the bill, the following words:

The Western Pacific Railroad Company be, and is hereby, authorized to locate the western terminus of its railroad and telegraph lines at Yerba Buena Island, in the Bay of San Francisco, and for such purpose there is hereby granted to the said company, its successors and assigns, such portion of the said island as shall not be required and selected within one year from the passage of this act for the purpose of fortifications, by authority of the President of the United States.

And to insert in lieu thereof the following:

The Western Pacific Railroad Company of California be, and is hereby, permitted to occupy for the purposes of a depot, storehouses, and other necessary fixtures so much of the island known as Yerba Buena or Goat Island, in the Bay of San Francisco, California, as may, within one year from the time this act shall take effect, be designated by the General of the Army of the United States, with the approval of the Secretary of War, as not being required in time of peace for military purposes; which privilege shall, how-

ever, be suspended whenever the United States shall be engaged in war or in imminent danger thereof, and notice of such determination shall be given to said company, its successors or assigns, by the Secretary of War, with the approval of the President. And in case of such suspension of said privilege it shall be the right of the United States to take possession of the part of said island subject to said privilege, together with all buildings and other fixtures erected thereon by said company, and to occupy and use the same for military purposes during the war, and so long thereafter as shall be deemed necessary by the Secretary of War, with the like approval; and the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof.

Mr. SHERMAN. I did not know the Committee on the Pacific Railroad had reported this bill, but as I did not attend one or two meetings of the committee, I have no doubt it was considered by them then and reported. It was partially considered when I was present. Now, I wish the Senate to understand the condition of this matter. The island of Yerba Buena is an island of one hundred and fifty-four acres, in the Bay of San Francisco. It is an island of great value, according to the statement of General Humphreys, amounting to millions perhaps—anywhere between two hundred thousand and two or three million dollars. The United States have occupied a portion of it for fortifications, and it is contemplated to occupy a portion of it—how much is not yet ascertained—for the defense of the harbor of San Francisco. The title is disputed. I presented the other day a memorial from persons, one of whom resides in Ohio, claiming title to this land under some claim—perhaps the Senator from California will know it—at any rate a private claim. The claimants allege that they have title to this land under a grant from the Spanish or Mexican Government—I did not examine it carefully—that they had possession of the land for a long time, and had made improvements upon it. That memorial was referred to the Committee on the Pacific Railroad, and since that time no action has been had upon it.

Mr. WILLIAMS. No; it was referred to the Committee on Private Land Claims.

Mr. SHERMAN. The Committee on Private Land Claims. Whether there is anything in the claim or not I am not prepared to say, for I know nothing at all about it. They allege that they were in possession of this land; that they own the land. They claim the right to it, and they assert that they were forcibly ejected from it by officers of the United States without authority of law. Their claim is still pending in the War Department and in the courts, and now in Congress by their memorial. Now, it is proposed to give the Central Pacific Railroad Company, a railroad already endowed in the State of California with enormous land grants, and also with subsidies—a railroad from Sacramento to San Francisco, two of the largest cities on the Pacific coast, in a region of country with ample facilities to build their own railroads, endowed by the Government with a subsidy of $16,000 a mile—it is proposed to give to this company, without any price or reservation whatever, this island, or such portion of it as the General-in-Chief may say is not necessary to the Government of the United States for military defenses. In the first place, it seems to me, that this Government ought not to give this island to this company without compensation. In the second place, they ought not to give this island or any portion of it until private rights are settled and adjudicated by the courts or by our committee.

It does seem to me that we have already given to the Central Pacific railroad ample privileges, ample grants, and they ought not to come here and claim other privileges without compensation. When the subject was discussed in committee a letter was read—I cannot put my hands upon it—from the Engineer-in-Chief of the Army, in which he expressed his opposition to this measure, at least until steps were taken to ascertain how much was needed. The General-in-Chief does not pretend to pass upon the private claims of individuals; but they, of course, ought to be considered. Certainly, it seems to me the objections to the bill are such that it ought not to be passed without at least grave consideration. The amount involved I have no means of knowing anything about except from the statement of the General, who I think put it at a very large sum. Every person, however, must know that this island is intrinsically of great value, because it lies about two miles from the city of San Francisco directly in front of the harbor, occupying a much better situation than Staten Island does relatively to New York, because it is within two miles of the city of San Francisco. It contains one hundred and fifty-four acres of land. It seems to me that a grant of this kind should not be made, a privilege of this kind should not be given, without the gravest consideration, and certainly not until the rights of private parties are fixed by law and the decisions of the courts or the examination of the proper committees.

Mr. CONNESS. Mr. President, if the honorable Senator from Ohio had examined this question he would not have made this speech.

Mr. SHERMAN. I have examined it sufficiently to know what I say.

Mr. CONNESS. The Senator replies that he has examined it, so that he knows what he has said. I doubt that, not questioning the veracity of the honorable Senator. In the first place, he has discussed the bill as introduced in the Senate in the first instance, and not as reported, which is a license to occupy, which he said was without conditions, but which is in fact with exact conditions; so that the Senator was not right in his statement.

This bill has been reported by the chairman of the Committee on the Pacific Railroad for now four weeks or thereabouts. We have not pressed it upon the attention of the Senate, because of the precedence to which other business was entitled, in our opinion. I regret that the honorable Senator who is chairman of that committee is not in his seat this morning; but I did not expect to pass the bill this morning; yet I desired it discussed. We do not wish it passed without discussion.

It is strange that the honorable Senator from Ohio, usually very exact, should be so inexact as he is in regard to this matter. He tells the Senate that we propose making very valuable grants to a company already subsidized heavily by Government for the building of the railroad. What we propose to do, and what they ask for, is to get a place for the terminus at the waters of the sea, which is as valuable and as necessary to the commerce of the East as to the commerce of the West. What we want is to get such a depot for the great Pacific railroad, the great trans-continental railroad, as will provide for and facilitate the transmission of the great commerce of the East as well as the commerce of the Pacific slope across the continent—a subject that every consumer and every merchant on this side is as much interested in as the company, and more.

And do we ask for anything unusual in this? Certainly not. I can find the honorable Senator a dozen or a score of bills passed by Congress granting in fee parts of reservations belonging to the United States and public lands for railroad depots. I have before me one that the Senator should be acquainted with. It is an act granting a part of Rock Island, in the State of Illinois, a very valuable property indeed, to a railroad company for such purposes. There was no question raised, I apprehend, on the passage of that act as against the company touching the value of the land, because it was conferring or proposing to confer a right upon the company which would facilitate trade and commerce for which we legislate. This act that I have before me reads in the first section—"in order to effect this he" [the Secretary of War] "is authorized to grant" to the railroad company "for a permanent location and right of way on and across Rock Island, to be fixed and designated by him, such quantity of land to be occupied and held by the company for railroad purposes as may be necessary therefor."

Did that escape the scrutiny of my honorable friend when it passed? This act that we ask the passage of proposes that the company "is hereby permitted to occupy," not granted to them, "for the purposes of a depot, storehouses, and other necessary fixtures so much of the island known as Yerba Buena or Goat Island, in the Bay of San Francisco, California, as may, within one year from the time this act shall take effect, be designated by the General of the Army of the United States with the approval of the Secretary of War."

If not found consistent with the public interests none will be designated. It is essential that within that time the company know where their great western terminus is to be. Why? Because they have already made a contract for the grading and building of the entire road lying south and west of Sacramento city to San Francisco, and it is essential at this time that they know where they shall locate their great terminus at the sea.

I will not occupy much time, but I must allude to the Senator's expressions in regard to the value of this island. Its value, Mr. President, is entirely prospective, and more assumed than real. It rises out of the sea to an elevation at the center of about one hundred and fifty feet.

Mr. CONKLING. Before the Senator comes to that, if he will allow me, I should like to understand, if he will explain as the necessities of the company are now, where does their route run? How do they get to San Francisco?

Mr. CONNESS. The Central Pacific Railroad Company have become the purchasers of the franchises granted to the Western Pacific Railroad Company, to which this privilege is proposed to be conceded. The route of the Western Pacific Railroad Company lies from Sacramento south and westward to the city of Stockton, and thence to the town of San José.

Mr. CONKLING. Which is how far from San Francisco?

Mr. CONNESS. By that route it would be at least——

Mr. CONKLING. Fifty-four miles, is it not?

Mr. CONNESS. From Sacramento not less than one hundred and fifty-four miles, probably one hundred and sixty miles.

Mr. CONKLING. But San José is south of San Francisco some fifty odd miles?

Mr. CONNESS. Yes, sir.

Mr. CONKLING. Then they are to start and run back again north from San José to San Francisco, how far, on the coast route, as now proposed?

Mr. CONNESS. Fifty miles.

Mr. CONKLING. So, as I understand, as the road is now proposed, they run one hundred miles out of their way, that is fifty miles down and fifty miles back, to get to San Francisco.

Mr. CONNESS. Yes, sir; more than that.

Mr. CONKLING. That is the fact I wanted to know.

Mr. GRIMES. Do I understand that this bill is intended not only to confer the title, or the easement, if you please to call it so, of this island on the Western Pacific Railroad Company, but also to allow them to shorten their line?

Mr. CONNESS. Yes, sir.

Mr. GRIMES. It is intended to confer upon them that franchise, is it not?

Mr. CONNESS. Which one?

Mr. GRIMES. A franchise across another neck of land, so as not to compel them to go down to Stockton or San José.

Mr. CONNESS. No, sir; it compels and requires them to go to Stockton, but not to San José, because to come from San José is essential.

Mr. GRIMES. Do I understand that this Western Pacific Railroad Company is a company created by the State of California?

Mr. CONNESS. Yes, sir; it is a corporation organized under the State of California, but recognized and enfranchised by Congress. Now, Mr. President, as I was proceeding to say, the value of this island is entirely exaggerated, and for railroad purposes that portion

of it which is proposed to be authorized to be used will cost vast sums of money before it can be brought into use for the purposes for which it is asked; and these statements concerning the great value of it are simply statements made gratuitously outside by parties who pretend or profess to have an interest in the island. Now, as to the question of these claims, I undertake to say that there is not a color of a claim as against the United States.

Mr. SHERMAN. Allow me to ask my friend from California what does General Humphreys say about the value of this island? I know nothing about it myself.

Mr. CONNESS. General Humphreys makes some wild guess at it, a very wild guess, hardly creditable to him.

Mr. EDMUNDS. What is it?

Mr. CONNESS. He puts it at figures very much like those used by the honorable Senator from Ohio, from a few hundred thousand dollars to a few millions.

Mr. CONKLING. May I ask another question, if I am not too multifarious in my interruptions?

Mr. CONNESS. Not at all.

Mr. CONKLING. I should like to know whether from the State of California a right exists now to build across from what on the map before me is marked as Oakland to the point of the main land opposite this island? Has this company such a right now under the laws of California?

Mr. CONNESS. There is a small railroad, built for local purposes, near Oakland, and that company is authorized to run out into these shoal waters a certain distance toward the island.

Mr. CONKLING. So that by this bill there is no proposition to invade California and establish a right to build a road there?

Mr. CONNESS. Not at all. On the contrary, this whole subject has been discussed very freely by the press of California since the measure has been introduced here, and discussed with great approbation, as it is regarded as an essential and necessary link in the great Pacific railroad.

I do not wish to occupy the entire morning hour. I did not propose to ask a vote on this bill this morning, but I desired that it should be discussed, because the honorable Senator who is chairman of the Committee on the Pacific Railroad, who has investigated these so-called claims to the island, is absent. I will now yield the floor to any other Senator who desires to make remarks.

Mr. STEWART. I do not wish to enter at length into a discussion of this bill, but, inasmuch as private claims have been alluded to, I simply desire to state that there are no adverse claims against the title of the United States which have not been considered. There was a pretended Mexican grant.

Mr. HENDRICKS. I will ask the Senator from Nevada if a portion, at least, of the island has not been in private occupancy for nearly thirty years?

Mr. STEWART. I think not; but if it had been so that would amount to nothing for a reason which I shall presently state. As to the Mexican claim I will simply state in general terms that it was decided many years ago to be fraudulent by the land commissioners; the case was then taken up to the district court and it was there decided to be fraudulent, and the time for appealing to the Supreme Court has expired. There was, however, a telegram received here from San Francisco stating that an appeal had been taken after the five years had expired, and it was reported here by letter that that appeal was sent on the 10th of January. The papers in that appeal have not yet arrived here. The whole matter is of record, and it is apparent that the time has expired for taking an appeal in regard to that fraudulent claim. As to the claim of an alleged settler I will state that that island is not a piece of ground suitable for cultivation, and no settler can be there in good faith. It is an island in the bay, a rocky island, not fit for settlement and cultivation, and any person who has gone upon it and made any pretense of claim has done it merely as a matter of speculation. No laws that I know of, no land system of the United States ever encouraged this kind of settlement.

If the island is not wanted for military purposes it is certainly important for commercial purposes, and it is exceedingly important for the terminus of the Pacific railroad, as it is the only convenient place where without great expense they can come to deep water. To make the island available for railroad purposes will require a large expenditure of money. About one million five hundred thousand dollars in gold will make it exceedingly convenient for the commerce of the whole country. It is so situated that commodities arriving from China can be there reshipped at once without expensive cartage. The devotion of this island to railroad purposes will be of general benefit to the whole country. It is highly important to the country that it should be so used. It is proposed simply to confer on the company the privilege of occupying it, with full power in the Government to take what they need; and if it be true that it is all wanted for military purposes the right here granted will avail nothing, because the War Department has one year within which to say whether this privilege can be exercised without interference with what is necessary for military purposes. If the Department within a year concludes that the island is needed for military purposes the bill simply accomplishes nothing; but if it is found that it is not needed by the Government commerce can be accommodated by allowing the Pacific railroad to terminate at deep water on this island. It is of great public utility that it should there terminate, and it is important that it should be ascertained at once, so that the terminus can be located. If the bill be not passed at this session they have to find some other terminus, because they desire to construct that road at once, and there is no room for delay.

I think it may be taken for granted as a fact that this island belongs to the Government of the United States; I think no one will dispute the fact that it will be of great public utility to the Pacific railroad; and I think no one who will give the subject a careful consideration will regard it as of any value except for the terminus of the railroad. The values which are now placed upon it have got to be made by a large expenditure of money; and, I care not what estimate any one makes, the island cannot be utilized, so to speak, or made available for any purpose without the expenditure of a large amount of money, from a million and a half to two million dollars. Any one who assesses an arbitrary value on that point of rock in the bay has simply some speculative scheme on which he bases it. I do not say he has any scheme in which he himself is interested, but he must predicate his judgment upon the fact that the railroad is to be built to the island. To say that the island is worth several hundred thousand dollars without improvement by means of making it the terminus of that railroad or that it is useful for any commercial purpose or has any commercial value, without connecting it with the main land by means of a railroad and an expenditure of money probably far exceeding what the island could be sold for when the expenditure has been made, is a very incorrect notion. It is not desired by this company for speculative purposes. They do not desire any title to the island, but only the privilege to go upon it for the convenience of themselves and the public.

Mr. CONNESS. The honorable Senator, who is chairman of the Committee on the Pacific Railroad, who considered this matter, particularly in view of these questions of title, is now present.

Mr. SHERMAN. The hour to which the funding bill was postponed has arrived, and, leaving this bill as the unfinished business of the morning hour, I move to take up the bill which was assigned for one o'clock to-day.

Mr. CONNESS. It is not yet time for that, and I rose to make a very brief statement, which there is time to make, and then I shall consent, with great pleasure, to the Senator's motion.

Mr. SHERMAN. Very well.

Mr. CONNESS. I simply rose to state that the honorable chairman of the Pacific Railroad Committee is now in his seat, but one o'clock has so nearly arrived that I will not ask that this bill be proceeded with further this morning, except to make this brief statement, to which I desire to call the attention of the honorable Senator from Ohio, who appears to be the medium of these representative values that this island now has, that in 1864, in the passage of the Senate Pacific railroad bill of that year, this island was granted to the same company without a dissenting voice in this body. It was recommended, upon full investigation, by the committee of which the honorable Senator from Michigan was chairman, and there was no objection to it. These values have been given it since by persons who have speculative purposes connected with it. That is all there is of it. Now, I agree to the motion made by the honorable Senator from Ohio, to take up the other business.

Mr. SHERMAN. I renew my motion.

The motion was agreed to.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Thomas C. McCreery, elected a Senator by the Legislature of the State of Kentucky to fill the vacancy occasioned by the resignation of Hon. James Guthrie, which were read.

Mr. DAVIS. My colleague not having reached the city, I move that his credentials be laid on the table.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 822) granting a pension to Hampton Thompson;

A bill (H. R. No. 823) granting a pension to George W. Locker;

A bill (H. R. No. 824) granting a pension to Annie Vaughn;

A bill (H. R. No. 825) granting a pension to John W. Hughes;

A bill (H. R. No. 826) granting a pension to Michael Mellon;

A bill (H. R. No. 827) granting a pension to Ann Wilson;

A bill (H. R. No. 828) for the relief of Captain William McKean;

A bill (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson;

A bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department and for fulfilling treaty stipulations; and

A joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance.

ENROLLED RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under conditions; and it was thereupon signed by the President *pro tempore* of the Senate.

THE FUNDING BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

Mr. SHERMAN. I believe the amendment reported by the Committee on Finance, on the 6th of February, after the bill had been recom-

mitted, has not yet been read to the Senate. I ask that it be read.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That the Secretary of the Treasury is hereby authorized to issue registered or coupon bonds of the United States in such form and of such denominations as he may prescribe, payable, principal and interest, in coin, and bearing interest at the rate of five per cent. per annum, payable semi-annually, and bearing date so as to require the payment of an equal amount of the interest quarterly; such bonds to be payable in forty years from date, and to be redeemable in coin at the pleasure of the United States after ten years from date, to be issued to an amount sufficient to cover all outstanding or existing obligations of the United States other than the existing five per cent. bonds, and to be exchanged for such obligations or disposed of in such manner and on such terms, not less than par, as the Secretary of the Treasury may deem most conducive to the interest of the Government; and the said bonds and the proceeds thereof shall be exclusively used for the redemption of or in exchange for the existing securities of the United States.

SEC. 2. *And be it further enacted*, That the bonds issued under the first section of this act shall be known as the "Consolidated debt of the United States," and the same shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed upon other incomes; and in consideration of the reduction of the rate of interest provided for by this act, there is hereby appropriated out of the proceeds of the duties on imported goods, annually, an amount equal to one per cent. on the bonds issued under this act, which sum shall be reserved and annually applied to the purchase or payment of the national debt.

SEC. 3. *And be it further enacted*, That in addition to the sums necessary to pay the interest of the public debt and the maturing funded debt of the United States, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum which, including the said interest, maturing debt, and the one per cent. reserved as aforesaid, shall amount to $135,000,000 annually, which sum, during each fiscal year after the current fiscal year, shall be applied to the reduction of the public debt in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

SEC. 4. *And be it further enacted*, That the several bonds of the United States, bearing interest at the rate of six per cent. per annum, and redeemable at the pleasure of the United States after five years from their date, commonly known as the five-twenty bonds, shall after the expiration of five years from their date, at the option of the holder thereof, be exchanged for the bonds authorized by this act; and such as are now redeemable shall be presented for exchange on or before the 1st day of November next, and not thereafter, and the residue to be presented within six months after the expiration of five years from their date, and not thereafter; and such exchange shall be made at such places and under such rules and regulations as the Secretary of the Treasury may prescribe.

SEC. 5. *And be it further enacted*, That the holder of any lawful money of the United States, to the amount of $1,000, or any multiple of $1,000, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe; and any holder of any of the bonds provided for in the first section of this act may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accruing interest thereon, and the Treasurer shall redeem the same in lawful money of the United States, unless the amount of United States notes then outstanding shall be equal to $400,000,000; and such bond shall not be so redeemable after the United States have resumed the payment of coin for their notes.

SEC. 6. *And be it further enacted*, That any contract hereafter made, specifically payable in coin, shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

Mr. SHERMAN addressed the Senate for two hours in explanation of the measure. His speech will be published in the Appendix.

Mr. HENDERSON. I move to amend the amendment of the Committee on Finance, in section one, line seven, by striking out the word "five" and inserting "four," so as to make four per cent. the rate of interest of the proposed loan. As I did not anticipate this measure would be called up during this week, I am not prepared, and have not my notes with me so as to be able to proceed in submitting any remarks to the Senate this evening on the subject; but I desire to submit this amendment at present without making any motion in reference to the bill, so that, if any other Senator desires to address the Senate on the subject, he can do so.

Mr. MORRILL, of Vermont. I desire to obtain the floor at an early time for the purpose of submitting some remarks upon this bill, and another that belongs to it, and if the Senator from Missouri does not choose to go on now, or does not prefer to go on next, I will move that it be postponed until such time as shall be convenient to the Senate to take it up again, the earliest convenient time.

Mr. HENDERSON. Say Monday.

Mr. MORRILL, of Vermont. Very well; I will say Monday next, at one o'clock.

Mr. CATTELL. Before the question is put on that motion I desire to say a single word. The chairman of the Committee on Finance, in the course of the interesting speech to which we have just listened, has with great fairness stated that the committee are not a unit upon the various propositions contained in the bill now under consideration, and that in the expression of his views he spoke for himself and not for the committee. With this statement, perhaps, I ought to be content; and yet I differ so widely from one of the conclusions to which the Senator arrives that I do not feel at liberty to permit his remarks to go to the country, from which the inference might be drawn that on this point the committee were agreed, without expressing my decided dissent. I cannot concur in the opinion that we can either legally or morally redeem the five-twenty bonds in currency. This opinion I expressed fully in committee; and I desire to say now, inasmuch as the Senator from Ohio declares if the proposition contained in this bill is not accepted by the holders of the five-twenty bonds, he shall feel himself at liberty to vote for their payment in greenbacks, that so long as I have the honor of a seat in this Chamber I shall feel it my conscientious duty to cast my vote in the opposite direction. All I propose by the bill now before us, and I consider it a wise one in that view, is to submit the proposition for the exchange to the holders of the bonds at their option, giving them a longer bond, with positive and indisputable conditions, and freedom from taxation, as the equivalents for the lower rate of interest. If they choose to accept the offer, very well; but if not, they stand just as they do now, on the terms of their bonds, be they what they may.

Mr. SHERMAN. I hope that my friend and all the Senate understand me on that point; that as to what shall be done afterward we are all free, perfectly at liberty. I certainly did not commit anybody but myself.

Mr. CATTELL. The Senator very fairly stated that the committee did not concur in all the points in the bill, and now disclaims the intention of committing anybody but himself. I shall feel it my duty, perhaps, at some future time to address the Senate on the subject now before them, but I feel that I could not, as a member of the committee, say less than this on the present occasion.

Mr. WILSON. I believe the motion is to postpone the bill until Monday or Tuesday.

Mr. MORRILL, of Vermont. Monday next, at one o'clock.

Mr. WILSON. I hope the vote will be taken on that motion.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 822) granting a pension to Hampton Thompson;

A bill (H. R. No. 823) granting a pension to George W. Locker;

A bill (H. R. No. 824) granting a pension to Annie Vaughn;

A bill (H. R. No. 825) granting a pension to John W. Hughes;

A bill (H. R. No. 826) granting a pension to Michael Mellon;

A bill (H. R. No. 827) granting a pension to Ann Wilson;

A bill (H. R. No. 828) for the relief of Captain William McKean; and

A bill (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson.

The joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 819) making partial appropriations for the expenses of the Indian Department and for fulfilling treaty stipulations, was read twice by its title, and referred to the Committee on Appropriations.

Mr. THAYER subsequently said: I move that House bill No. 819, making appropriations in reference to Indian affairs, be referred to the Committee on Indian Affairs. I make that motion with the approbation of the chairman of the Committee on Appropriations, so that it may go to the Indian Committee first and then afterwards be considered by the Committee on Appropriations.

The PRESIDENT *pro tempore*. That change of reference will be made if there be no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fairways of bays and sounds, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 650) to amend act of 3d of March, 1865, providing for the construction of certain wagon roads in Dakota Territory;

A bill (H. R. No. 725) supplemental to an act approved July 14, 1862, entitled "An act to establish certain post roads;" and

A bill (H. R. No. 814) declaratory of the meaning of a certain clause in section ninety-four of the act entitled "An act to provide internal revenue," &c., passed March 3, 1865.

LAND GRANTS TO NEVADA.

Mr. STEWART. I move that the Senate proceed to the consideration of Senate bill No. 190, which was under consideration last evening and postponed on account of the absence of the Senator from California, [Mr. CONNESS.] There was no question on the bill, but only on his particular amendment. I presume it will take but a moment.

The PRESIDENT *pro tempore*. The title of the bill will be read.

The SECRETARY. A bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada.

Mr. SHERMAN. I call for the reading of the pending amendment.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. MORRILL, of Maine. I wish to say one word before the Senate takes action on that subject. I do not know how long this bill is likely to take.

Mr. STEWART. I presume but a few minutes.

Mr. MORRILL, of Maine. My object in rising was to say that to-morrow, after the morning hour, I propose to ask the Senate to consider the Military Academy appropriation bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nevada.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada.

The PRESIDENT *pro tempore*. The pend-

ing question is on the motion of the Senator from Indiana, [Mr. HENDRICKS,] to recommit the bill to the Committee on Public Lands.

Mr. STEWART. I hope the bill will not be recommitted. It has been thoroughly considered by the committee, and I trust the Senator from Indiana will not insist on that motion.

Mr. HENDRICKS. I believe I will not insist upon it. I think the Senate do not care anything about it. It only relates to the public lands; and as no other gentleman of the Committee on Public Lands seems to look after these reports I will let it go.

The PRESIDENT *pro tempore*. That motion being withdrawn, the question recurs on the amendment offered by the Senator from California, [Mr. CONNESS,] to add the following as an additional section:

And be it further enacted, That the provisions of this act shall apply to the lands granted to the State of California by the act of July 2, 1862, known as the agricultural college grant.

Mr. MORRILL, of Vermont. I think this amendment ought to be examined by a committee. The first proposition comes in here and is very innocent in itself. In the first place, it seems that we grant railroads a large amount of land on the supposition that we are to get double price for all the alternate sections. We have granted lands to agricultural colleges; but they do not come within the law so as to make a selection of the alternate sections.

Mr. STEWART. Certainly they do. The law of 1862 making agricultural grants provides that the States may take the alternate sections, if they will only take one half the quantity. The homestead law provides that the homestead settler may go there and take eighty acres instead of one hundred and sixty. All our land system right through carries out the principle that they shall be regarded as double minimum lands.

Mr. MORRILL, of Vermont. Then why does the Senator seek a new law on the subject?

Mr. STEWART. The reason why I seek a new law on the subject is because the Pacific railroad grant is considered by the Department here to exclude from any kind of entry the whole fifty miles, to exclude the even sections as well as the odd ones. A bill has already passed the House, and is now pending in the Senate, to allow homestead settlers and preemptioners to go within the fifty miles. There is no object to be gained by the Pacific railroad or any one else in excluding the even sections from settlement. They do not desire it; but the construction given to the Pacific railroad grant prevents throughout this whole line not only the agricultural college grants from taking effect, but it prevents homestead and preëmption. A bill has already passed the House, and will pass the Senate, to open these lands to settlement. There is a mistake in the wording of the law providing for the withdrawal of the land. It was intended, probably, and undoubtedly that was the intention of its framers, that only the lands granted should be withdrawn. There is no object in withdrawing a tract fifty miles wide from settlement, except that portion of it that was granted to the railroad. Now, the condition of former acts creates the necessity for this legislation. There are several things about it. It has been explained heretofore. I could go on and explain each provision of this bill; but, as I have said, it is only to give effect to grants already made. It does not increase the grants an acre, and it does not grant land in any manner not contemplated by the original law.

Mr. MORRILL, of Vermont. Well, Mr. President, I find, after all the Senator's explanation, that the law does not at present allow parties to go and take the alternate sections; and that is the very point to which I wished to call the attention of the Senate. Formerly we were in the habit of appropriating lands for the construction of railroads without any donation in addition thereto; but railroads have lately got to that point that they will not accept the lands unless we give them some money with them. It has been contended that in regard to many of the eariler grants the Government has never lost anything, because we have got double price for the alternate sections. Now, after making this very large and magnificent grant to the Pacific railroad, wherein this right on the part of the Government was expressly withheld, so that the Government should get the benefit of the increased price for the alternate sections, the Senator from Nevada comes in with a provision to do away with that so far as his State is concerned, and the Senator from California comes in with a proposition to do away with it generally, or so far as California is concerned; so that it would have been far better for the Government to have built the road and owned it all itself than it would to have made this grant. If the Government cannot have the benefit of the alternate sections the whole is a total loss to the Government. I call the attention of the Senate to the fact that it is attempted now and here to rob the Government of that benefit which Congress supposed they had when they made the grant.

Mr. STEWART. I deny that there is any attempt here to rob the Government or to change the system of laws heretofore adopted. The law of 1862 allowed the States to take the even numbered sections by taking half the quantity—the original law granting to each State a certain amount of land for agricultural college purposes. Vermont has got hers. She has got her scrip. We would be very glad to take the scrip. The eastern States have got it, but under existing laws it is impossible for us to get it at all.

Mr. FESSENDEN. Have you not got any lands yet?

Mr. STEWART. We have not got any lands.

Mr. FESSENDEN. Why can you not get them?

Mr. STEWART. Because the system is entirely changed. No more is offered at private sale, as I explained yesterday, under the new system.

Mr. HENDRICKS. Allow me to ask the Senator a question. I think he misleads Senators. I want to know if this bill does not extend far beyond the agricultural college grant.

Mr. STEWART. Several others.

Mr. HENDRICKS. Does it not allow your State to locate upon the reserved sections any of the grants that have been made since you have been a State, and some of the grants made while Nevada was a Territory? The amendment of the Senator from California does not go so far. His amendment is confined to the agricultural college lands. Therefore, on a casual observation, his amendment would not be liable to the objection that the original bill is. Still, I thought it was proper that it should be examined by a committee.

Mr. STEWART. The original bill only takes half the quantity, treats it as double minimum, when we take that land.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California.

Mr. MORRILL, of Vermont. I move to recommit the bill to the Committee on Public Lands.

Mr. STEWART. I hope that motion will not prevail.

Mr. FESSENDEN. I hope it will, so that we may get some information about it.

Mr. STEWART. I call for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. BUCKALEW. I have not bestowed much attention to our recent legislation on the subject of public lands, as that has been confined mainly, so far as examination is concerned, to the members from the West, but there is one thing which I think would be desirable, and that is, that we should have some uniform system. I shall vote to refer this bill to the proper committee, in order that they may report to us that this bill conforms to some policy or system. I am not so particular what it shall be as that there shall be a system; that we shall not have bills relating to particular Territories or particular States brought here and passed without a full understanding of their principles.

Mr. POMEROY. This bill is reported from a committee. I do not know what the amendment is; I have not had my attention called to that; but the bill, as reported, is entirely in harmony with our system. We never yet have deviated, that I know of, from that system. If we have, it is because we have made a mistake. We have established a system of administering upon the public lands, and I do not propose any deviation from it, and I do not know that any member of the Senate does.

Mr. CONNESS. I should have no objection on my part, and I think the Senator from Nevada ought to consent, with the misunderstanding in regard to this bill, that it be recommitted, because when it is reported, as it can be early, it can be taken up and passed without any difficulty. I rose more in this connection to protest against the manner in which the proposition contained in this bill has been characterized by Senators who have not investigated the question. We are put in the light of seeking advantages for our States. No advantage is sought. I never have sought since I have sat in the Senate for an advantage to the State that I in part represent here; but to aid in the passage of such laws as would give us the privileges granted to other States. As stated by the Senator from Nevada, the State of Vermont, near where the sun rises, has had its agricultural college scrip, and the case is settled. The State of California, near to where the sun goes down, has not; and when a proposition is made to enable us to take one acre in lieu of two, that we may establish our agricultural college, a Senator from Vermont rises and protests, not that we are seeking a wrong, but he is afraid there is something contemplated, and casts doubt upon the whole proceeding.

Now, Mr. President, I never ask a measure to be passed here that I have any interest in until Senators are at least satisfied that no advantage is sought. Therefore, I hope the Senator from Nevada will on this occasion consent to the recommitment of the bill in order that we may have an early report and action upon it. I think that would be the best plan.

Mr. STEWART. This bill has been thoroughly considered by the committee. In every provision it is so obviously just and so obviously within the rules of all our legislation that I am surprised that any objection is made to it. Nevada has never had a land grant to her at all. I have never asked a land grant or anything for Nevada. Other States come here for land grants and obtain them. We have received no lands except those granted under general laws. The only land that Nevada has had is the land that other States have had under general laws; but the legislation on the subject is in such a condition that we cannot avail ourselves of it. I am perfectly willing that this bill shall go back to the committee half a dozen times, provided I am not regarded as intruding on the attention of the Senate or being pertinacious when I attempt to get so plain a bill through. I ask those Senators who denounce this as a robbing bill, in justice to themselves, to examine it. I say it is unjust to their own good understanding to stand up here and venture such an assertion as that without examination. I would not do it to a Senator from any part of the country. I would not denounce his measure as a robbing bill or as an unjust bill until I had given it a decent examination. I think it is unjust. I protest against this denunciation of a measure which is simply to carry into execution a general law to enable us to avail ourselves of our school lands and other grants that have been made to the State, when we are laboring honestly to do that, and ask for nothing else. I never asked for a railroad grant for the State. I protest against being put in the category of those who are attempting to rob the Government. I am willing that the bill shall go back again to the

committee. All I ask is, that the next time we have a hearing of this bill Senators who know nothing of its provisions shall have the good sense and the justice to themselves to say nothing. [Laughter.]

The PRESIDENT *pro tempore*. The question is on recommitting the bill to the Committee on Public Lands.

Mr. CONNESS. There is no objection now to that motion.

The PRESIDENT *pro tempore*. The yeas and nays were ordered on the motion.

Mr. STEWART. I withdraw the call.

Mr. CONNESS. Let it be recommitted by general consent.

The PRESIDENT *pro tempore*. The call for the yeas and nays will be considered as withdrawn, no objection being made.

The motion to recommit was agreed to.

REPORT FROM A COMMITTEE.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 379) for the relief of Thomas Wolfe, of Macoupin county, Illinois, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

SOLDIERS' CLOTHING.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 111) providing for the issue of clothing to soldiers and others to replace clothing destroyed to prevent contagion, to report it back without amendment and recommend its passage; and I ask, as it is a small matter and will take but a moment, to put it on its passage.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Secretary of War at any time, on the recommendation of the Surgeon General of the Army, to order gratuitous issues of clothing to soldiers who have had contagious diseases, and to hospital attendants who have nursed and attended such soldiers, to replace the articles of their clothing which have been destroyed by order of the proper medical officers to prevent contagion.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAPTURED AND ABANDONED PROPERTY.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the House joint resolution that was reported from the Committee on Finance requiring the payment into the Treasury of certain money derived from the sale of cotton.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer as special agent of the Treasury Department be covered by warrant into the United States Treasury, the pending question being on the amendment of Mr. EDMUNDS, to substitute for the joint resolution the following:

That all moneys which have been received by any officer or employé of the Government, or any Department thereof, from sales of captured and abandoned property in the late insurrectionary districts, under or under color of the several acts of Congress providing for the collection and sale of such property, and which have not already been actually covered into the Treasury shall be immediately paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

And be it further resolved, That if any officer or person having the custody, possession, or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding resolution, shall convert the same to his own use, or shall refuse or neglect for a space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in any way pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States, and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

Mr. DRAKE. Is this amendment reported by a committee?

Mr. EDMUNDS. It was reported by a committee, in a certain sense, substantially. The amendment is the substance of a bill agreed to by the Committee on Retrenchment; but the House joint resolution having been reported on that subject from the Committee on Finance, the substance of the bill reported by the Committee on Retrenchment was offered as an amendment to this as a matter of convenience.

Mr. DRAKE. I suppose the honorable Senator from Vermont is the one that has this matter particularly in charge?

Mr. EDMUNDS. Yes.

Mr. DRAKE. I suggest to the honorable Senator the question for his consideration, whether a crime can be defined and a punishment inflicted under a joint resolution of the two Houses of Congress? This is a joint resolution. My own impression is that it requires that a law shall be passed, an act of Congress, not a joint resolution, to define a crime and inflict a punishment.

Mr. EDMUNDS. I submit to my friend from Missouri that a joint resolution is precisely the same thing as a bill except in name. It requires the same number of readings; it requires to be submitted to the President and approved; and when approved it becomes a law; and from the foundation of the Government down to now the statutes are full of instances of the kind. I therefore submit to my friend and to the Senate that there is no danger of infringing private rights in punishing disobedience to the requirements of the first section of the joint resolution.

Mr. DRAKE. With all respect to the honorable Senator from Vermont, I doubt very much whether he can find in the Statutes-at-Large of the United States another instance of a crime defined and a punishment inflicted by a joint resolution of Congress; and I suggest to him that it would be a great deal better to convert this joint resolution into an act and get rid of all questions that might arise in reference to so grave a matter.

The amendment was agreed to.

Mr. EDMUNDS. I offer the following amendment as an additional section:

And be it further resolved, That a sum of the proceeds of such sales, not exceeding $100,000, is hereby appropriated for the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury, for incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property; and for the necessary expenses of defending, in the discretion of the Secretary of the Treasury, such suits as have been brought against him or his agents in the premises.

Mr. TRUMBULL. I do not wish to take up time about this matter, but I desire that the Senate should pay attention enough to it to see what it is. I hope that the amendment will not be adopted. I do not know any reason why the Secretary of the Treasury should be put upon a different footing in this respect than other Secretaries, or on a different footing in reference to this property than in regard to other property. If the Secretary of the Treasury is sued we can make an appropriation at any time to protect him; and, for one, I am willing to say now that I will vote the necessary appropriations to protect the Secretary of the Treasury or any other of the Secretaries from prosecution arising out of the discharge of their duties where they have acted in good faith. I am willing to do that; but I do not see any reason for voting $100,000 in advance to be used for contingencies when this vast amount of money has been kept out of the Treasury as long as it has been. I think it is time this money was put into the Treasury; let it become a part of the common fund of the nation; and then, if it be necessary to appropriate money to protect the Secretary of the Treasury, I, for one, shall be ready to do it when the proper occasion arises; but I see no occasion to do it now, and I hope the amendment will not be adopted.

Mr. EDMUNDS. I am very sorry that my friend from Illinois should have carried his opposition to the Secretary of the Treasury to the extent that he now has. I am sure he cannot have forgotten that it has come out in the debates over this subject that there are a great many suits now pending against the Secretary of the Treasury and against his agents for this very cotton and for the proceeds of it in courts all over the country, principally, I believe, in the city of New York, where the State courts refuse to allow them to be transferred into the United States courts, in respect to which he has already been harassed and worried to death, which he is trying to defend to the best of his ability. In addition to that, I hope it will not be forgotten that the amendments already agreed to require every person in the country who has any of this money belonging to the United States to pay it into the Treasury, under heavy penalties. Now, I am informed, and believe the fact to be, that many of those persons are entitled to some drawback and allowance as agents in respect to their expenditures, the accounts for which have not been settled and passed. While we require them to pay in every dollar of the money, as I agree that we should, is it not right to make provision that these incidental expenses, when the accounts are settled and passed, should be paid out, as other incidental expenses of the Treasury are, upon the warrant of the Secretary of the Treasury, on the approval of the First Auditor and the counter-approval of the Comptroller of the Treasury. It is nothing but justice.

This amendment does not appropriate the enormous sum of $100,000; it only makes that the upward limit, and provides that so much of $100,000 as is necessary out of these proceeds is to be appropriated for this purpose; and it would be in the present state of things, when these suits are pending against him, which he is obliged to defend or suffer a judgment against himself in *personam*, a great injustice to put all this money into the Treasury and say to the Secretary of the Treasury, "We will not trust you, upon the report of the First Auditor and upon the counter-examination of the Comptroller, to draw out a dollar of it to defend yourself." The very case exists that my friend from Illinois has already stated that he would vote to appropriate for.

Mr. STEWART. I hope the amendment will not be adopted. I prefer first to know something about these suits. I think the statement of the Secretary of the Treasury on that subject in his report to Congress is very obscure. I offered a resolution some days since, calling for further information with regard to these particular suits, which has not yet been answered, although it was adopted some ten days since. I think, on investigation, it will be ascertained that a sufficient sum of money has already been paid out, and the payment had better be stopped. I think we had better see first how it has been paid. In a report of the Secretary of the Treasury made during this session he tells us that a compromise has been made in a case pending in the United States circuit court in New York, known as the Dennistown cotton case, where the agent of the United States was under a replevin bond for $400,000, and that that sum of money was deposited as his surety in the Farmers' Loan and Trust Company of New York. He proceeds to tell us that it was finally thought advisable, by eminent counsel, to pay the sum of $53,000 in that case, and have a final settlement and release of the money deposited.

In order to understand what he meant by this statement I offered a resolution some days ago, which the Senate adopted, inquiring of him with regard to the facts connected with this transaction, who the eminent counsel referred to were, what advice each particular counsel gave, asking for copies of their opinions, if they were in writing, and what advice the Attorney General gave. Before an appropriation is made to pay these various sums of money I think it proper to ascertain and have it passed upon what they are to be used for. I think the Secretary can well trust the Govern-

ment of the United States for the payment of any legitimate demands. I am opposed to appropriating money for the general settlement of these accounts for sums due to "eminent counsel," and for other matters in connection with legal proceedings, until we have a more full statement of the details of the business.

Mr. FESSENDEN. I should like to ask the Senator a question. Suppose he was an agent of the Government, had been doing their business, and had an amount of money growing out of his agency in his hands, and in consequence of his action in reference to that matter some sixty or a hundred suits were pending against him, would he think it right that the Government should compel him to defend those suits with his own money out of his own pocket, go through the whole process, pay all the expenses, pay the judgment, and then come to Congress and go through the ordeal here of asking Congress to settle his bill?

Mr. STEWART. I think it would be just right. I think this Government should have no such sets of agents, with indefinite amounts of money, to get involved in suits.

Mr. FESSENDEN. Not agents; the Secretary of the Treasury.

Mr. STEWART. I do not think the Secretary of the Treasury, in the execution of the laws, has any right to involve himself in suits where he is personally liable. If he has done so he must have gone outside of the law. I do not see that any agent of the Government should be authorized to get into troubles, and then keep back an unlimited amount of money in his hands to settle those troubles. I object to all this vast discretion. Why put a man in a condition where he may get sued and retain money in his hands to settle the case? It seems to me that when a public officer or agent collects money it should be paid into the Treasury. If he has incurred liabilities in the discharge of his duties, of course, in a proper case, he must be indemnified, and Congress will attend to that in this case, as it does in the case of all officers. Take the case of our revenue officers; may a tax collector retains in his hands money to settle any contingent liabilities that may arise? It will open a great door to fraud to allow any such proceedings. Suppose a sheriff has an execution in his hands; is he allowed to keep the money until he can settle on his own responsibility with every person who may complain about his action?

Mr. EDMUNDS. Will my friend permit me to remind him that that is not this case? This requires every cent of the money in everybody's hands to be paid into the Treasury, and then it can only be drawn out according to the regular routine of Treasury operations, upon the examination of Auditors and the counter examination of Comptrollers and the regular judicial investigation, which is the foundation of every warrant that takes money out of the Treasury. That is not like a man retaining money in his own discretion.

Mr. STEWART. Then this amounts to an appropriation, because you say that an amount not exceeding a certain sum shall be appropriated to this purpose.

Mr. EDMUNDS. Certainly.

Mr. STEWART. It is an ordinary appropriation for a purpose you do not understand.

Mr. EDMUNDS. I think I understand it.

Mr. STEWART. I do not think the Senate does.

Mr. FESSENDEN. The gentleman from Nevada must not judge the rest of us by himself.

Mr. STEWART. I suppose if the rest of the Senate understand it they can state definitely the items.

Mr. FESSENDEN. It has been stated once.

Mr. STEWART. I have not seen any statement of items. It has been simply said that there is various litigation going on. I think before we agree to such legislation we ought to understand thoroughly what it is about.

Mr. FESSENDEN. I ask the Senator whether in Nevada there is any practice by which the expenses of a trial can be ascertained before the trial takes place?

Mr. STEWART. I never knew a person employed with an unlimited amount of money to conduct litigation in Nevada or anywhere else and not be accountable to his principal. I never saw or heard of anything of that kind. This amendment is simply to appropriate whatever Mr. McCulloch may think is due to A, B, and C; and he is to settle it. Is there any limit to the amount that they shall be paid?

Mr. SHERMAN. I think the Senator is laboring under some misapprehension. The amendment provides, as I understand, that expenses which have been incurred in the suits now pending, which would be defrayed out of this fund if it were not directed to go into the Treasury, shall be paid in the ordinary way. The Secretary of the Treasury has nothing to do with them; they go to the Auditor and Comptroller in the regular way.

Mr. EDMUNDS. That is what I have repeated over and over again.

Mr. SHERMAN. Every account must go through the Treasury Department, and the money cannot be drawn except after it has undergone the examination of the Auditor and Comptroller.

Mr. STEWART. It seems that in the case to which I have referred $53,000 were paid to settle one suit. It seems to me that under this provision the Secretary may allow any amount he chooses to any attorney. Certainly these accounts ought to come here before there is an appropriation to pay them. Ought not the proposition to go to the Committee on Appropriations? I think so. I am asked to vote this appropriation without having before me the items of which it is composed. Surely it is an appropriation—an appropriation for counsel fees and expenses of litigation. Gentlemen say the expenses are to be determined at the Treasury and paid there. That is the proposition. I do not know where the suits are pending, or what the amount is, or what service those who are to get this money have rendered, or are to render, or how the expenditure has grown up. I am simply asked to authorize the Secretary of the Treasury to settle whatever expenses may have been incurred to that amount.

Mr. HENDRICKS. Where are the cases pending, and how many of them are there?

Mr. EDMUNDS. Nearly one hundred; most of them in the city of New York.

Mr. FESSENDEN. There are about sixty pending against one agent of the Treasury for operations down in Mississippi, I understand, or somewhere in that vicinity.

Mr. STEWART. We had better have the accounts of the agents and the facts submitted to us before we make the appropriation.

Mr. FESSENDEN. They are ordered by this measure to pay the money into the Treasury.

Mr. STEWART. And then, by this amendment, the Secretary is authorized to pay it out on a general appropriation, leaving it entirely to his discretion.

Mr. FESSENDEN. The accounts must go through the accounting officers of the Treasury.

Mr. STEWART. It seems to me that if this is an appropriation of money for expenses incurred in cotton transactions, it should go to the Committee on Appropriations.

Mr. JOHNSON. The amount is limited, I understand, and cannot exceed a certain sum. It is impossible to tell in advance what expenses may be incurred or will be incurred by the Secretary in the management of these cases. The cases may be pending in various States and in different courts. He may not be able to get counsel at the same rate of compensation. Some charge more and some charge less. In some cases, where the amount involved is very large, the charge is greater than in others where the amount is very small. It is impossible, therefore, to do anything more than to make a general appropriation to enable the Secretary to defray the expense which may be incurred. He cannot go beyond the limit.

Mr. HOWE. I am rather inclined to think, from what little experience I have had, that we had better agree to this amendment. It will put something in the Treasury, I suppose; and if we appropriate $100,000 as a condition for that I do not think that is much. But I will ask the Senator from Vermont why he takes the pains to appropriate this $100,000 out of this fund? Why not appropriate it "out of any money in the Treasury not otherwise appropriated?"

Mr. EDMUNDS. It might have been just as well; but the practice has been so far, ever since this business was begun, to keep this fund separate, by itself, so as to see how we should come out with it at the end. The practice has been to pay all the expenses of the business out of it, and to keep a separate account of the whole matter, instead of opening a new account in the books; and, therefore, it was following out that idea which had been practiced so far that I framed the amendment in that way.

Mr. HOWE. I could see that it was very sensible, while the Secretary carried this money in his pocket, that he should not confound whatever account he kept of it with the accounts that were kept of the funds in the Treasury Department.

Mr. EDMUNDS. But the largest part of it is already on the books of the Treasury and in the Treasury.

Mr. HOWE. But I understand the purpose of this resolution is to put it all in the Treasury, whatever there is left of it.

Mr. FESSENDEN. It will be carried to the account of the same fund.

Mr. HOWE. I do not see why there should be a separate account made of it. After it gets into the Treasury it is so much added to the assets of the Treasury Department; and then I suppose there will be a new account opened with this appropriation which you make in this bill, and whatever is charged to that appropriation will be on one side. Why you should take pains to distinguish that you get the appropriation itself from a particular source or out of a particular fund, I do not understand.

Mr. EDMUNDS. I have stated the only reason, that, so far, from the beginning of the business, these moneys have been kept separate.

Mr. CONKLING. The Senator from Vermont seems to be the fountain of light, not the fountain of money, on this point, and I should like to know from him something about it. What is the distinction, in point of necessity and convenience, between such a case as this and the instance of the Secretary of the Treasury employing counsel in various cases before the Court of Claims? An inquiry was made some time ago as to the employment of counsel there, the query in the mind of the Senate being, whether the Secretary had any right to do that? He sent us a communication saying that he had employed ex-Senator Cowan, and perhaps others; at all events Mr. Cowan. That was an answer, as I say, to the inquiry upon the point of authority; but nobody suggested, either on behalf of the Senate or the Secretary, that there was any inconvenience in employing counsel in a good many different cases without an appropriation being made beforehand. What is it, if there be anything, peculiar to this case which makes it necessary to arm the Secretary in advance with a round fund upon which he is to draw, as I interpret the amendment, for any expenditures which he himself may think are appropriate? I understand the provision is, that this $100,000, or a sum not to exceed that, is appropriated for incidental expenses, and other words rather vague, which, in substance, put at the discretion of the Secretary of the Treasury this amount of money. If there is anything peculiar to this case I should like to know it. I do not understand what it is, I confess. I do not make the suggestion in the spirit of criticising the Secretary of the Treasury at all.

Mr. EDMUNDS. If the Senator from New York had attended to the debate when it began with that pertinacity with which he usually

attends to things he would not have needed so much light as he seems to need now. I stated that the committee of which I have the honor to be a member had been investigating this subject of cotton and the state of this money for months, and I stated from that committee, as the Finance Committee can also state from their own knowledge of the affairs of the Treasury, that in the course of the necessary performance of these duties which the law imposed upon the Secretary of the Treasury to collect captured and abandoned cotton and to buy other cotton, and so on, he has been sued over and over again, to the extent of nearly one hundred lawsuits, in different parts of the country. That is a fact.

Mr. HOWE. Who has been sued?

Mr. EDMUNDS. The Secretary of the Treasury and the agents who, under his commission, have seized and taken cotton in various cases.

Mr. HOWE. When the Senator says the Secretary has been sued all over the country to the amount of one hundred times, will he tell us how the Secretary happened to be all over the country; how service was effected on him?

Mr. EDMUNDS. I will, so far as I can. It is probably not the law in Wisconsin, but it is the law everywhere else, that where an agent, acting for a principal, seizes a man's property, you can sue the agent and the principal both, and arrest whom you can and make them both parties to the suit; and then you can publish notice to the principal, and if you can ever find any of his property or himself in the State you can then get hold of his person: and that is the way this stands. In some of the cases the Secretary has been served; in others he has not been, they standing upon the docket waiting for him to come here or come there, as they can catch him going through the country, to complete the service. But it does not make any difference to the equity of this thing and the justice of it whether the Secretary of the Treasury personally has been served with process or whether some agent who holds his commission, which he, under the act of Congress, was bound to give, and did give, for the collection of this property, has been sued for taking it. I take it the equity and justice of the Government extend just as much to one case as to the other, and the honor and conscience of the Secretary of the Treasury are just as much bound to defend his agent and our agent, because he is the agent of the law, as it would be to defend himself or to defend any other officer of the Government who had been sued.

Therefore, this is not a prospective appropriation; but we are now withdrawing from the possession of the Secretary this remnant of the money that has been retained for the purpose of fixing up these expenses and putting it into the Treasury, there being a great difference of opinion as to whether it ought to go into the Treasury at all under the law settling these disputed cases, the Supreme Court, it being understood, being equally divided in opinion upon that subject in the case that came up from Missouri. In this state of the case we require that all this money shall be paid in, and impose upon our agents and everybody else heavy penalties if they do not pay in the last dollar of it, without waiting to settle their accounts and decide how much the balance is. They must pay it all in and settle it afterward. Now, what do we propose to do by this amendment? We propose to say that, in the regular and lawful way, subject to all the checks and guards that sworn Auditors and Comptrollers in the Treasury, in their method of accounting, can devise and act upon, this money, to the extent of $100,000 to the utmost, as far as shall be necessary, may be drawn out to defend these causes and pay these necessary expenses. Is there any more safe and feasible way of securing the public money? Do we not do it in the War Department every day? Have we not, in the reconstruction of the rebellious States, appropriated millions in round appropriations, to be paid out and accounted for in the regular way of settling accounts, for conducting election expenses? Does anybody ask us to wait until the election bills come in and we turn ourselves into an auditing body here to look over them item by item? I think not, sir. Therefore, there is nothing unusual in this proposition which I offer, but everything that is just.

Mr. CONKLING. The Senator from Vermont undoubtedly has answered the question which I put to him, because he rose for that purpose, and he has taken his seat; and if the answer is not satisfactory it is my fault of course, and not his. He seems to think there is some doubt as to the propriety of transferring this fund to the Treasury. If there is doubt enough on that point to enter into the consideration of this question it ought not to be transferred at all, because that doubt applies just as much to the first dollar that we propose to transfer as to the last. It is an independent proposition by itself; and if it be so doubtful as to have any weight whatever that doubt should be resolved before the bill is passed. I dismiss that, then, as a consideration bearing upon this amendment.

The Senator says that these expenses have been incurred, that this is not prospective. Then I ask why this should not be made in the way of ordinary general appropriations. If it be true that expenses have been incurred which are the appropriate subject of ascertainment and liquidation now, why should not they, like other such things, go, in so many dollars and so many cents, into the definite provisions of an appropriation bill? It seems to me that this amendment will not do at all presented in that light. If it will, then the constant practice of both Houses is erroneous, and the better way is to deposit, to make a bank, to make a general fund, and suffer all officers in their discretion to draw upon it.

But there is another view in which it is defended. It is said that there are undefined matters, that suits have been brought which are undetermined, and that, therefore, it is important that the Secretary should have spending money to carry on (by way of current payment) resistance to these suits; and although I doubt whether that part of the amendment would be quite defensible upon that ground, I object to it because it goes a great deal further than that. Let us see:

That a sum of the proceeds of such sales—

Like the Senator from Wisconsin, I do not see what the magic is in taking it out of this particular fund; but that, perhaps, is more an immaterial matter than a substantial one—

That a sum of the proceeds of such sales not exceeding $100,000 is hereby appropriated for the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury for incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property, and for the necessary expenses of defending, in the discretion of the Secretary of the Treasury, such suits as have been brought against him or his agents in the premises.

I ask what there is under that language, should it pass into an enactment, which the Secretary of the Treasury may not pay in his discretion, provided, by any construction, that payment was in reference, however remotely, to any of these laws and acts done under them? Do we mean that? Do we mean that out of this fund or out of any fund the Secretary of the Treasury shall be permitted to pay we know not how much—for what purpose, whether past, present, or future, we have no means of knowing? And, if we do mean that, do we also mean to put it upon the ground that we are permitting him to pay the expenses of defending suits, either past or prospective?

Mr. EDMUNDS. The suits described are pending suits; not those that may be brought hereafter, only where he is already sued. The "discretion" that is there referred to the Secretary of the Treasury is only a discretion as to the defense of suits already existing. That is, we do not compel him to defend every suit that is brought against every agent, because he might be satisfied that in some cases the agent had overstepped his authority and ought not to be defended. Therefore, the object of that language—and I think it is adapted to that end—is to give the Secretary authority, not to be bound to defend every suit that has been brought, but to defend such of the suits which are existing as he thinks ought to be defended. We must leave it to somebody.

Mr. CONKLING. I suggest to my learned friend to put a marginal note alongside of this amendment stating what it means in that respect.

Mr. EDMUNDS. I will improve on the suggestion of my friend from New York. I will get my friend to go along with the law and explain it without a note.

Mr. CONKLING. I was going to make that suggestion to the Senator from Vermont, that if he could not put in a marginal note he could accompany the law and interpret it. I have no doubt it means what he says among other things; but it means a great deal more. It implies that there is some particular reason—which, with great deference, I have not heard stated—why, in the first place, a parcel of this particular fund should be set aside for certain purposes; and then that that parcel of this fund, which may be $100,000, shall be committed to the hands and to the discretion of the Secretary of the Treasury, to do with it what he pleases, provided that the applications he makes resemble the applications which are stated here. That is what it means. I must say that I do not believe it wholesome as to the Secretary of the Treasury or any other officer of the Government.

The Senator from Vermont said that some other Senator who objected to this carried his opposition to the Secretary of the Treasury so far as to object to it. If an objection to it implies that those who make the objection must take that responsibility, I am entirely ready to say that I do not propose by my vote to clothe the Secretary of the Treasury with any such power; and if it is proposed to any other officer I will answer as to him.

Mr. EDMUNDS. Will my friend be kind enough to tell the Senate what the method of procedure is in providing the means of paying the expenses of collecting the external revenue, the revenue from customs, and paying the expenses of defending collectors where they are sued, and all the incidental expenses of that business?

Mr. CONKLING. My friend wants me to admit—and I do so with great cheerfulness—that the practice is to appropriate, in a certain sense, in round numbers and in advance upon estimates, and that then checks and drafts are made upon that fund. Everybody knows that; and everybody knows, in a general way, what the reasons are for doing it.

Mr. EDMUNDS. How does this case differ from that?

Mr. CONKLING. I think this differs very materially; and I have been indicating some of the respects in which I think it differs. It differs, in the first place, in saying that a parcel of a particular fund is to be taken and set aside up to a certain amount. It differs, in the next place, in being entirely wanting in whatever general provisions there are relating to estimates, relating to accounts, relating to the auditing of accounts, relating to the general matters which make up the machinery, loose and insufficient as I admit it is and as it must unavoidably be, by which we test, as far as we do test, these general matters of public expenditure. It differs in that; and now, as my friend is inquisitive, I wish he would gratify my curiosity.

Mr. EDMUNDS. Certainly.

Mr. CONKLING. I should like to have him tell us, if he will, how, under this provision as it will stand when carried into the law, anybody is to know hereafter—in season, I mean, to avail himself of the information—what becomes of this money.

Mr. EDMUNDS. I can state. They would know exactly in the same way and at the same time that you know about the expenditure of every dollar for the collection of the revenue.

That is, not a dollar can be drawn out of the Treasury except upon an account, upon a warrant, upon the certificate of the proper Auditor, upon the counter-certificate of the Comptroller, and, I believe, the counter-signature of the Register upon the final warrant. It is true that a member of Congress who is devoting himself to his country here may wake up some fine morning and find that $100 has been paid to a counsel for defending a suit down in Georgia, and that he has got the money; but if the member goes to the books of the Treasury he will find the vouchers, the warrants, the certificates of the Auditors and the Comptrollers, and the counter-signature of the Register, and everything which will enable him to take the proper steps to punish any misdeed in respect to the paying of that money, because it all has to go through the iron provisions that are set up as the guards for all appropriations, just as the appropriations for collecting the revenue do.

Mr. CONKLING. Suppose the amendment does not become a law, how does the Senator think these expenses will then be paid?

Mr. EDMUNDS. They never will be paid until Congress provides for their payment.

Mr. CONKLING. How does the Senator think, in the absence of this provision, that would be done, in the ordinary course of things?

Mr. EDMUNDS. I think the payment would be made by exactly such language as that contained in the amendment, unless it were done on the report of the Committee on Claims, each man bringing in his bill here. If that course is not pursued payment will be made by just such language as this provision contains put upon some bill at some time or other.

Mr. CONKLING. In other words, although we differ now as to the precise way in which it would be done, if the Senator be right, the action would be based upon the very data in the case; the appropriation would be made upon a presentation of the accounts properly made out and properly authenticated, which would be the basis of legislation. Now, the proposition is to provide a round sum in advance, and leave it to the discretion of an officer to determine what accounts, in the first place, are to be created, and, in the second place, what accounts are to be allowed and paid; and there is the point of objection, in part, it seems to me.

But, sir, I do not wish to detain the Senate. I cannot vote for the amendment, for one, in the case of the Secretary of the Treasury, nor will I in the case of any other officer.

Mr. HOWE. I do not propose to make any opposition to this amendment. I said in the first place that I thought we had better agree to it. Last March, I believe, the House of Representatives passed a joint resolution requiring whatever money was left from this fund in the hands of the Secretary of the Treasury, to be covered into the Treasury. That joint resolution has not yet got through the Senate. I have never understood that anybody in the Senate was opposed to it. I think that the Finance Committee found that the Secretary of the Treasury was not quite ready to yield it, and so it lingered along until finally the Committee on Retrenchment came to the support of the Committee on Finance to try to get this thing through and to get the assent of the Senate to a proposition that nobody objected to; and at last it comes to this, that the joint resolution had better go accompanied by an appropriation of a simple $100,000, conscientiously, however, taking it out of this particular fund rather than out of the general funds of the Treasury, to be disposed of in defending suits. And the Senator from Vermont says that it is very unfair not to make this appropriation; that the Secretary is being sued and harassed and worried to death all over the country; and that we should make an appropriation to take care of him. I agree with that statement just as it is made. I regret more than I can very well tell that the Secretary should be so nearly harassed to death, as it is said he is. I was astonished to hear it. I wanted the Committee on Retrenchment, or the Committee on Finance, or the two combined, to tell us how this was brought about, how it happened that the Secretary of the Treasury was being sued from one end of the country to the other. The Senator from Vermont undertook to explain that, and I am bound to suppose he has explained it. He explains it, however, upon a legal theory which he concedes does not exist in Wisconsin—is not recognized there. He admits that there persons do not sue principal and agent together, but he says they do everywhere else; and so I suppose we are bound to infer that the Secretary is sued jointly with all his deputies and assistants, or rather with these special agents all over the country.

I did not understand before that anywhere in the country it was the practice to sue principal and agent together; but if the Senator from Vermont says that is the law everywhere but in Wisconsin of course I shall not contradict him. So much I have learned in the progress of this debate. I still venture to state to the Senator and to others that I do not think these special Treasury agents are agents of Mr. McCulloch; and I think it would be a case of misjoinder to join Mr. McCulloch, the Secretary of the Treasury, with one of them, even if the principal ordinarily could be joined in a suit against the agent. I do not understand them to be agents of the Secretary of the Treasury; they are agents of the Government. Mr. McCulloch is another agent of the Government. If a Treasury agent is sued and the principal can be joined with him, then the plaintiffs in these suits should join the Government, and I suppose, upon the theory of practice suggested here by the Senator from Vermont, should take their chances of arresting either the agent or the Government. I wonder they have not adopted that kind of practice.

Mr. President, the Senator asks what difference does it make if the agent is sued, are we not under just as much obligation to take care of him as of the Secretary of the Treasury if he is sued? Perhaps we are. Perhaps we are under no obligation to take care of the suits against either; it would depend upon the circumstances under which they were commenced and the nature of the relief sought against them. But it makes this difference: I do not think it is a candid treatment of the Senate for gentlemen to get up here and tell us about the Secretary's being harassed and sued to death all over the country, and when asked to point out where the suits were commenced, when they were commenced, or how service was effected, to turn around and tell us it is just as important to defend the agent as to defend the Secretary. Accuracy of statement, I do think, should have required the Committee on Retrenchment, who we are told have been investigating this subject for months, to distinguish at least between suits commenced against the Secretary of the Treasury and suits commenced against a special agent. I do not think there is any such theory of practice recognized, at least in the rebellious revolting States, as that insisted upon by the Senator from Vermont. I do not think there men can sue an agent of the Government appointed under this law and join with him the Secretary of the Treasury and attach the property of the Secretary of the Treasury, or arrest the Secretary of the Treasury when he goes there.

Mr. EDMUNDS. Will my friend allow me to ask him whether he does not think we are bound to defend suits against the agents of the Secretary of the Treasury?

Mr. HOWE. I have already told the Senator from Vermont and the Senate, that in my judgment the Secretary of the Treasury has got no agents. These men are agents of the Government—ministers of the law—as much as the Secretary is, and are sued or not sued upon their own responsibility.

Mr. EDMUNDS. Are we not bound to defend them when sued for their official acts?

Mr. HOWE. I do not know whether we are or not. If the Committee on Retrenchment would have the goodness to tell us what agents are sued and where; if they would have the goodness to tell us for what they were sued, on what account, I could, perhaps, have some sort of opinion as to whether we were bound to defend them; but because men are, or have been, agents of the Treasury Department, or special agents, and because they are sued—from these two considerations alone I am not prepared to admit that the Government is bound to defend them.

Mr. EDMUNDS. Will my friend tell the Senate whether, in his opinion, supposing a properly and lawfully appointed agent to be sued for an act within the scope of his official duty, it is the duty of the Government to defend him or not.

Mr. HOWE. Yes, sir, I think it is.

Mr. EDMUNDS. Now, I wish to ask my friend whether he expects the Senate of the United States, with its other engagements, to have any committee furnish it a list of every one of these agents, with the precise circumstances under which he was sued, the nature of the action, the evidence on which it is going to be supported, the precise line of division as to whether he acted beyond his authority or kept within it, or whether he means to trust some tribunal of the Government, as we always have done, the Treasury Department, or the War Department, or whatever Department has charge of the subject-matter, and whether he will repose charge of this in the Secretary of the Treasury to adjust and settle it under the regulations that the law has prescribed for such cases? That is the question. If we are to go into these details, of course this amendment ought not to prevail, and we ought to be an auditing committee like the Committee on Claims, auditing each specific case. But if, on the other hand, we are to treat it as we do the other operations of the Treasury, under the same guards, then we must repose confidence in the Auditors and Comptrollers to see that no unjust claim goes through. That is all there is about it.

Mr. HOWE. I do not think it is a very grevious demand to make upon the committee, who say they have been examining this subject for months, to be able to tell the Senate, even if the list runs up to a full hundred, what these cases are; even the titles to the cases; even the parties to the cases; even the courts in which they are pending. It would not be a very grevious demand to make upon the committee of the Senate who had spent so much time in investigating this very important transaction.

Mr. EDMUNDS. We can give them to you to-morrow, if you think them important.

Mr. HOWE. I do not wish to use any extravagant adjectives here. I do not know that there is any importance attached to it. Somehow or other the Secretary of the Treasury has found himself, either by law or without law, in possession of some thirty or forty million dollars, subject, as he held, to his control.

Mr. President, Senators laugh at the statement. I like to amuse the Senate when I cannot instruct them. [Laughter.] I have before me his own document giving the figures, and I find on looking at it that he reports that out of this fund there was realized thirty-four million and some more dollars. He has not paid it all out. A good deal of it has gone into the Treasury; but I understand him and his friends here to contend that by the law he had the whole of this fund under his jurisdiction, and could determine for himself upon *ex parte* testimony whether it belonged to the Treasury or to me, to the Government or to individuals, as he pleased. If he was right, then it happened that by the law he had within his jurisdiction the power to dispose of more millions than this Government ordinarily expended up to within the last twenty-five years. I thought that was a pretty important matter; but others think it is not of much importance. I thought, even if the law clothed him with such jurisdic-

tion, that a prudent Secretary would be a little careful in the exercise of it; but perhaps I am wrong; perhaps I ought not to have made any such demand; perhaps he has been prudent. I do not now nor have I heretofore arraigned him very peremptorily upon his exercise of this most extraordinary jurisdiction. I saw features in his report that I thought very extraordinary, and I called attention to them.

I have not had them explained to my satisfaction; but I did not mean to make an attack. I do not think we have to-day the information before the Senate which enables us to understand this matter clearly; but the simple question now is, nearly the whole of this money having been paid out or gone into the Treasuary, there being only, as I believe, about a million withheld, and half of that, I think, in the hands of somebody or other as security for a law suit—the question being about paying in $500,000; since they only ask to appropriate out of that $100,000, or about twenty per cent. of it, I was trying to get in this one remark: that I have been on the Committee on Appropriations some little time—and I was on the Committee on Finance once when I was young—when that committee had charge of appropriations; and, as near as I can remember, it was not the practice of the Committee on Finance, and I distinctly remember that it is not the present usage of the Committee on Appropriations, to appropriate even so insignificant and utterly contemptible a sum as $100,000 without having some reason stated for doing it, without being able to know something about where it is going, or why it is called for. But here is a call immediately to appropriate $100,000; and when you ask why, what for, where is it going to, you are told the Secretary of the Treasury is being sued all over the country; and when you ask how he happened to be all over the country, how he happened to be spread out so extremely thin, you are told that if the Secretary has not been he has been there by agents of his, and his agents are being sued. When you ask what agents they are, in what courts they are sued—why, sir, I do not know what the answer will be; it has not come yet.

Mr. President, I hope I shall not be thought unreasonable; I am not really captious about it; I am willing to compromise on their own terms, willing to make the appropriation of $100,000, to get the balance into the Treasury; but I only do not want this to be regarded as a precedent. I wish this committee could be a little more explicit in their information; but as we live, I trust, we shall learn. If we do not know much to day we may hope to know something in the next century, if the Committee on Retrenchment go on with their work; and I know that whatever work my friend from Vermont engages in will be prosecuted to the end.

Mr. HENDRICKS. I suppose it is not desired to pass this bill to-night, as it is a subject of a good deal of controversy.

Mr. EDMUNDS and others. Let us vote on it and get rid of it.

Mr. HENDRICKS. If we are to go on in this way every day I have no objection; but we are appealed to in this way every day, and the result is that we sit beyond the usual hour of adjournment. If other Senators desire to do that always I shall not object; but I do not see that there is anything in this bill which requires us to sit unusual hours.

Mr. TRUMBULL. Does anybody want to discuss it further?

Mr. EDMUNDS. I think we can dispose of it in a few minutes.

Mr. HENDRICKS. It is insisted now that we shall not adjourn, but that we must stay here and pass this bill, and the Senator who asks us to pass it has not the records on which he proposes to appropriate $100,000. He tells us in general terms that there are a hundred suits in New York and that there are other suits here. I had heard that, sir; and there was a gentleman, a friend of mine, who wanted to be appointed a special agent of the Treasury Department. I made some inquiry about this matter. He told me that he had a good deal of information to bear upon these suits that were pending. I inquired about them at the Treasury Department, and I could not find where the suits were nor that there were such suits, and I went there on purpose to recommend his appointment, if there were such suits. The gentleman I inquired of told me there was one suit pending. Now, I should like to know something about these suits before we vote one way or the other. I think it is not inconsistent with the public business for us to adjourn at this hour, and it was upon that state of feeling in my own mind that I got up to move an adjournment, but Senators said "No; let us pass the bill."

Mr. FESSENDEN. We are ready to say "ay."

Mr. HENDRICKS. Then I move that the Senate adjourn.

Mr. EDMUNDS. I am sure the Senator will permit me to say one word.

Mr. FESSENDEN. I call my friend from Vermont to order. The motion to adjourn is not debatable.

Mr. EDMUNDS. I trust the Senator from Indiana will withdraw it to enable me to say a word.

Mr. HENDRICKS. I withdraw it.

Mr. EDMUNDS. I merely wish to say to my friend from Indiana that I have no disposition to push this matter through to-night if anybody desires further information about it. My friend from Wisconsin thinks the committee do not want to pass it, and now the moment we say "let us pass it" my friend from Indiana says "Oh, no; you have not got the material here to pass it." What am I to do? I am willing to do whatever the Senate says.

Mr. HOWE. I wish to say, for one, that I never suspected the Senator from Vermont of any disposition to crowd this through with unnecessary and unseemly haste, and I do not think anybody can accuse him of that. It has rested here ever since March last, and I think now, if the Senate will consent to adjourn on the motion of the Senator from Indiana, and this thing is managed ingeniously, we can keep this measure (to which nobody in the world objects except the Secretary of the Treasury) along here through this session of Congress.

Mr. EDMUNDS. We certainly can, if my friend from Wisconsin spends an hour a day speaking on it.

Mr. HOWARD. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 27, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

IMPEACHMENT OF THE PRESIDENT.

Mr. BOUTWELL. I am directed by the committee appointed to prepare and report articles of impeachment against the President of the United States to submit the following resolution:

Resolved, That the committee appointed to prepare and report articles of impeachment against Andrew Johnson, President of the United States, be permitted to report in print.

The resolution was agreed to.

TAX ON IRON.

Mr. MOORHEAD. I ask unanimous consent to report back from the Committee of Ways and Means House bill No. 813, declaratory of the meaning of a certain clause of section ninety-four of the act of March 3, 1865, entitled "An act to provide internal revenue," &c.

Mr. HOLMAN. Let it be read.

The bill was read. It provides that the true intent and meaning of the following clause in section ninety-four of the act entitled "An act to provide internal revenue," &c., passed March 3, 1865, to wit: "on railroad chairs, and railroad, boat, and ship spikes, and tubes made of wrought iron, five dollars per ton," was, and is hereby, declared to have been a specific tax of five dollars per ton upon the manufactured articles, inclusive of the tax upon rolled iron and exclusive of the tax upon pig iron, blooms, slabs, and loops.

Mr. SPALDING. It is a unanimous report from the Committee of Ways and Means, and I hope there will be no objection.

There was no objection, and the report was received.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MOORHEAD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPROVEMENT OF PENOBSCOT RIVER.

Mr. PETERS, by unanimous consent, presented a memorial of the Legislature of Maine, asking an appropriation to remove obstructions in the Penobscot river; which was referred to the Committee on Commerce, and ordered to be printed.

TEMPORARY HARBOR OBSTRUCTIONS.

Mr. ELIOT, by unanimous consent, from the Committee on Commerce, reported back, with an amendment, joint resolution (S. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds.

The joint resolution authorizes the Light-House Board, when, in their judgment, it is deemed necessary, to place a light-vessel or other suitable warning of danger on or over any wreck or temporary obstruction to the entrance of any harbor or channel or fair-way of any bay or sound.

The amendment reported by the committee was to add the following as a new section:

SEC. 2. *And be it further enacted*, That the Secretary of War is hereby authorized and directed to appoint a board of competent engineers, to consist of not less than three persons, to examine the condition of the wreck of the steamer Scotland, now in the waters of the city of New York, and ascertain whether the same is dangerous to navigation, and to report thereon at as early a day as practicable, with a particular estimate of the cost of the removal of said wreck.

Mr. ELIOT. I suppose there will be no objection to this. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The joint resolution, as amended, was read the third time, and passed.

On motion of Mr. ELIOT, the title was amended by adding the words, "and for other purposes."

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

On motion of Mr. LAWRENCE, of Pennsylvania, indefinite leave of absence was granted to Mr. MOORHEAD.

WAGON ROADS IN DAKOTA.

Mr. COOK, from the Committee on Roads and Canals, reported back House bill No. 650, to amend the act of 3d March, 1865, providing for the construction of certain wagon roads in Dakota Territory, with a recommendation that it do pass.

The bill enacts that the unexpended balance of an appropriation made March 3, 1865, for the construction of certain wagon roads in the Territory of Dakota, or so much thereof as may be necessary, be applied to the completion of the bridge on the Dakota river on the line of the Government road leading from Sioux City, in the State of Iowa, to the mouth of the Cheyenne river, in Dakota Territory.

Mr. COOK. This bill changes an appropriation made of about twelve thousand dollars. It is presented upon the recommendation of

the officers having the matter in charge, and indorsed by the Secretary of the Interior.

Mr. HOLMAN. It does not make any appropriation, I understand.

The SPEAKER. It only changes an appropriation.

Mr. HOLBROOK. I desire to ask the gentleman from Illinois [Mr. COOK] how it changes an appropriation, and what appropriation it was originally.

Mr. COOK. The appropriation is mentioned in the bill itself. The act is referred to.

Mr. HOLBROOK. It does not change an appropriation for a wagon road from Dakota Territory to the Columbia river?

Mr. COOK. It does not.

Mr. HOLBROOK. I have no objection to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COOK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD BRIDGE AT PADUCAH.

Mr. COOK, from the same committee, reported back House bill No. 384, to authorize the building of a railroad bridge across the Ohio river at Paducah, Kentucky, with a substitute.

The substitute was read. It authorizes the New Orleans and Ohio Railroad Company to construct and maintain a bridge across the Ohio river at Paducah, Kentucky, upon the same terms, in the same manner, under the same restrictions, and with the same privileges as are provided for the construction of the bridges at Quincy, Illinois, in the act to authorize the construction of certain bridges and establish them as post routes, approved July 25, 1866, said bridge, when constructed in accordance with the provisions of this act, to be deemed and taken to be a lawful construction and a post route of the United States.

Mr. RAUM. I wish to offer an amendment to the substitute.

Mr. COOK. I yield for that purpose.

Mr. RAUM. I move to add the following proviso:

Provided, That the construction of said bridge shall not be commenced until a railroad shall be constructed in the State of Illinois to a point opposite or near Paducah, Kentucky, of uniform gauge with the said New Orleans and Ohio Railroad Company.

Mr. COOK. This is a bill which, as originally referred to the committee, provided for the construction of a bridge across the Ohio river different from the one provided for in the substitute. The committee deemed it best to report back a substitute providing for the construction of a bridge across the Ohio river at Paducah of precisely the same kind and under the same restrictions that have been provided in regard to the construction of bridges across the Mississippi river—bridges constructed with two draws of one hundred and sixty feet on each side of the center pier and fifty feet between high-water mark and the lower cord of the bridge. Charters for the construction of about a dozen bridges across the Mississippi river have been granted precisely similar to this. It is a matter in which gentlemen from Kentucky and Illinois are locally interested, and I propose to leave the discussion of the question to those gentlemen. I yield now to my colleague from Illinois, [Mr. RAUM.]

Mr. RAUM. I know that in the legislation upon this subject there has been great liberality manifested on the part of Congress, and that the construction of a great many bridges has been authorized by various acts of Congress. It seems to me, however, that due caution and circumspection should be had by this body in passing upon bills of this kind. It is known that the Ohio river is one of the great navigable streams of this country, and that a very large amount of commerce passes down that river, and unless there are good reasons why a railroad bridge should be thrown across the Ohio river fifty miles from its confluence with the Mississippi as a matter of course authority should not be given for so obstructing the navigation of that river as would necessarily result from the construction of a bridge.

Now, sir, I hold that there are no reasons to justify the construction of this bridge across the Ohio river at Paducah. It is known to all persons who have had anything to do with or have traveled over the system of railroads south of the Ohio river that they have a gauge of five feet, while it is equally well known that the system of railroads north of the Ohio river have a gauge of four feet eight and a half inches. Now, I insist that these gauges are utterly irreconcilable, and that no kind of cars can be so constructed with trucks as to pass over those two conflicting gauges of railroads. Therefore, unless there are better reasons to be shown to this House why a bridge should be thrown over the Ohio river fifty miles above the mouth of that river than I think can be shown, under all the circumstances, I think that this bill should not be passed. It is known that Paducah is a small city with ten or twelve thousand inhabitants, and that there is no city or town on the opposite side of the river, except a very small town, three miles below Paducah. There are no great commercial relations existing between the State of Illinois and Paducah which would warrant the construction of a bridge for ordinary communication between Illinois and Kentucky. Then what reason is it that should prompt this House to authorize the construction of a bridge across the Ohio river at the town of Paducah? It is evident that the bridge could not possibly be used as a railroad bridge when we all know it is well understood that cars cannot be run from a track of five foot gauge upon a track of four foot eight and a half inches gauge.

There is another fact to which I wish to call the attention of the House. There is no railroad coming in to the Ohio river at a point opposite the city of Paducah. There is no railroad in process of construction coming in to the Ohio river at a point opposite Paducah. I undertake to say that the New Orleans and Ohio Railroad Company has no control of a railroad charter by which they can build a railroad to a point opposite Paducah. It so happens that my relation with the railroad system of southern Illinois is such that I know this to be true, and the company of which I had recently the honor of being president, and made a contract for the construction of the railroad from Cairo to Vincennes, now owns the charter of the corporation which formerly was to terminate its road at a town opposite Paducah. The New Orleans and Ohio Railroad Company has no control of that charter, and I undertake to say that under that charter a railroad will not be built to the town of Paducah, because it is not the policy of the Cairo and Vincennes Railroad Company at this time to build a branch to that city. Then what reason is there to prompt this House to pass this bill authorizing the obstruction of the navigation of the Ohio river? I hope this matter will be duly considered by the House before authority is given, by the passage of this bill, for the construction of this bridge across the Ohio river.

Mr. COOK. I now yield to the gentleman from Kentucky, [Mr. TRIMBLE.]

Mr. TRIMBLE, of Kentucky. Mr. Speaker, I have no disposition to detain this House by any extended argument upon the proposition now under consideration. I take it for granted that it is too late now to talk about obstructing the great internal improvements of the country that are necessary to carry on the commerce of one section with the others. I do not think this House will at this time by any legislation prevent any section of country, or any corporation operating any railroad anywhere in it, from building any railroad bridge over any stream where it would be to the mutual advantage of each and every section of the country, and particularly those most closely interested in it; especially when it is proposed to have it built in accordance with the laws controlling and governing every other railroad bridge authorized by Congress.

In my humble judgment this bill has merit in it. If the argument of the gentleman from Illinois [Mr. RAUM] be true, that this bridge will never be built, even if authorized by law, that there is no necessity for it, then why does he oppose it? Unless there shall be reasonable probability that this bridge will be built, and be of value to those who may invest their money in the undertaking, why does the gentleman oppose the passage of a bill authorizing the building of this bridge? This proposed bridge will connect the system of railroads from Paducah south with the contemplated line of railroad from Paducah via Vincennes, and there connecting with the railroads going north and to the lakes, and also with the line of railroad to St. Louis. That entire section of country is interested in this line of road, because when completed it will give communication to the Gulf with a saving of distance of from ninety to one hundred miles over any other route from the lakes to the Gulf and from the eastern to the southern States. There is not a railroad in the States of Indiana or Illinois connecting with any of the great trunk lines of the east that is not interested in this proposition. Now, will this House refuse to give to this railroad corporation the right to build this bridge when they ask nothing from the Government but the poor privilege that has been accorded to every other corporation which has applied for a like privilege?

In regard to the argument of the gentleman from Illinois [Mr. RAUM] upon the difference between the gauge of the roads south and the gauge of the roads north I can only say that this proposition is merely to build a bridge across the Ohio; and unless gentlemen who have put their means in railroads can find it to their interest to build this bridge it will not be built. And what use will the bridge be if the cars cannot run over it? No one will build a a railroad bridge unless he can select the lines of railroads north and south to be connected by that bridge. I have no objection to the amendment proposed by the committee to this bill; but I object to the amendment of the gentleman from Illinois [Mr. RAUM] to prevent the bridge being built until the road to the river has been built. So far as the gauge of the different roads is concerned, cars can be built with compromise wheels, and thus enabled to run on the different gauges; and, therefore, the objection of the gentleman on that score has no foundation.

Now, as to the objection that the State of Illinois is opposed to this, I do not suppose the great State of Illinois will seek to prevent capitalists from connecting the northern roads with the southern roads. The gentleman is mistaken in his view of the matter. By the general law of his own State we have the right to build a railroad from that point in Kentucky to connect with any railroad in the North. I hope, then, that the amendment of the gentleman from Illinois [Mr. RAUM] will not be adopted by this House, but that the substitute reported from the Committee on Roads and Canals will be passed. I have no disposition to detain the House by arguing a proposition so plain and so palpable, as it seems to me, to every member of it. We ask nothing but the poor privilege of building this bridge when we have the money to do it. I now yield to my friend from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. Mr. Speaker, I regret exceedingly to be obliged to do what may seem to be an illiberal thing in regard to a matter concerning one of the public improvements of the country. I am rather embarrassed, also, in the position which I feel compelled to take by the consideration that the erection of this bridge will no doubt forward the ulterior local interests of the city of Vincennes, in which I happen to reside. But, sir, there are involved in this bill other questions which are paramount to any local consideration. The amendments that have been proposed are perfectly immaterial in the view which I take of this matter.

I am disposed, however, to favor those amendments so far as I understand them, believing them to be an improvement upon the original proposition. But, sir, disguise or palliate the proposition as we may, these bridges are all obstructions to the navigation of these great rivers of the country. I never yet have seen a bridge that was not, at least to some extent, an obstruction, and very generally a very great and very serious obstruction, to navigation. The Ohio river, sir, in a national point of view, and in almost every other aspect in which you may view it as a channel of commerce, is of more value to this country than fifty ordinary railroads. Bridges, I know, have been thrown across that river at points above where it is proposed to erect this bridge. But, sir, those bridges are not so much an obstruction to the river as this bridge necessarily will be. They are above many of the most important tributaries to it. The next bridge above is the one now in process of erection opposite the city of Louisville. That is not so much an obstruction to navigation as this one would be, for the reason that the former is at the falls of the Ohio river, where there is naturally a break in the navigation.

Mr. COOK. I would like to ask the gentleman a question.

Mr. NIBLACK. I will hear it.

Mr. COOK. I would like to inquire whether the bridge across the river at Louisville must not necessarily from its position, being located at the rapids, be more of an obstruction to the navigation of the river than a bridge at Paducah, which will be located in still water and provided with two draws of one hundred and sixty feet, one on each side of the central pier.

Mr. NIBLACK. That is to some extent a scientific question, and one which, perhaps, could be decided only by actual experiment, or, at all events, by an examination of the proper drawings and the plans of the two bridges. But, as I was remarking, the bridge at Louisville is at all events at a break in the navigation of the Ohio river, around which a canal was constructed many years ago by the General Government. The steamboats navigating the river are unable at any rate to pass over those rapids during a large portion of the year. Hence, practically speaking, the bridge at Louisville cannot be so much of an obstruction as the bridge now proposed evidently will be. But, sir, that is no matter. This erection of a bridge across the Ohio river at Louisville is not now an original question. It has already been authorized, and it is unnecessary now to go into the particular merits of that proposition in the argument of this question.

Paducah, as is known to every gentleman who is familiar with the Ohio river or has examined the map of the country through which it passes, is below the mouths of all the important tributaries of the Ohio river. Between the city of Louisville and the city of Paducah the Wabash river, the Green river, the Tennessee river, and the Cumberland river all discharge into the Ohio river. If this proposed bridge, therefore, shall be erected, and shall in any manner obstruct the navigation of the Ohio river, it will operate as an obstruction to the navigation of all these other rivers, for many of the boats passing up and down these rivers will also want to pass through and under this bridge. Therefore, in view of the direct interest which the largest portion of my district have in the navigation of the Ohio river, I am not prepared to vote for this bill to-day. I regret to have to say so, as I said at the outset; but I am not sufficiently assured it will not be a serious obstruction to that river. And my apprehensions are sufficient to induce me to vote against it if I had no other reason for doing so.

I further submit there is no pressing present railroad interest that will require this bridge. It will be some time, as I think, before it can be really needed; and I submit the exigencies of travel and commerce must be very great, indeed, which would justify us in hampering to the least extent the navigation of the Ohio river. In doing this we also indirectly interfere with the navigation of the Mississippi below, for the reason that a large number of the boats which navigate the Mississippi river also pass up the Ohio river. The Ohio is one of the greatest tributaries of the Mississippi. I repeat, Mr. Speaker, the regret I have to oppose a proposition in which my friend from Kentucky [Mr. TRIMBLE] feels such a deep interest; to oppose the construction of a bridge which looks to the connection of his city and mine by railroad. I am compelled under a sense of duty, looking to this thing not in a local but in a general sense, to oppose it.

Mr. COOK. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. RAUM. I ask the gentleman to yield me five minutes of the hour to which he is entitled to close the debate.

Mr. COOK. I yield to the gentleman.

Mr. RAUM. Mr. Speaker, I do not propose to go into any general discussion. I only wish to present what I consider the main facts which will govern us in giving our votes. Now, sir, what is the object of the erection of a railroad bridge across a navigable stream? It certainly must be for the convenient transportation of railroad cars across the river so as to connect two systems of railroad, one on one side of the river and the other on the other side of the river. That must be the main reason which must influence persons in voting to authorize a railroad company or companies to erect a bridge across a navigable stream. Suppose that reason does not exist. Suppose the gauges of roads coming to opposite points are irreconcilable, and cars cannot be run from one road on to the other. It is a reason which, under ordinary circumstances, would prevail in influencing gentlemen to vote against the construction of a bridge.

Now, sir, how is it in the case of this proposed bridge? Those men in the southern States, when they projected their system of railroads in the South, intentionally made their gauges irreconcilable with the northern railroads, and for the obvious reason they looked forward to the time when they would cut loose from the national Government, when war might perhaps result from their movements in a political sense, and to the time when, if war did come, the northern States and the Government of the United States would be unable to use the cars coming from the northern roads transported across the river and placed upon the southern roads. Such was the result when we went down to conquer the South during the war and captured their railroads. It was found, if we failed to capture the rolling stock, we were bound to construct rolling stock of a suitable character to run upon them. The Mobile and Ohio railroad, with which the gentleman's road connects, has a gauge of five feet. That is a road, Mr. Speaker, extending four hundred and seventy-three miles down from the town of Columbus, in Kentucky, to Mobile. It is a great highway, and a road that cost millions of dollars, a road which has an immense amount of rolling stock upon it. It is not to be presumed for one moment that that road will change its gauge. When we took possession of that road and used it as far as Corinth and beyond we had to put rolling stock upon it made for the purpose. You could not use the Illinois Central railroad stock on the Mobile and Ohio railroad and you had to use other rolling stock of the proper gauge. What is the system of railroads with which this bridge would connect if the road is built? It would be with railroads in Illinois of four feet eight and a half inches gauge. I undertake to say that the ingenuity of the constructors of railroads and machinery has never yet devised a truck which can compromise between a gauge of four feet eight and a half inches and five feet. I undertake to say, further, that the reasons which have influenced the construction of railroad bridges over the Ohio and Mississippi rivers heretofore do not prevail in this case. Therefore not only should this amendment be ingrafted upon the bill but the bill itself should be voted down.

Mr. TRIMBLE, of Kentucky. I desire to ask the gentleman a question. The gauge of the Louisville and Nashville road is five feet. Now does not the same difficulty which the gentleman suggests in this case apply to the bridge at Louisville?

Mr. RAUM. No, sir. The gentleman from Indiana has sufficiently answered that question. That bridge is thrown across the Ohio river where there is a natural obstruction. But there is a distance of four hundred and fifty miles on river with no obstruction. The old southern system of railroads touching at Paducah will never, I trust, be able to obstruct the navigation of the river at that point, but that the Ohio may be allowed to run to the sea without any obstruction of this kind at that point.

Mr. COOK. I yield five minutes to the gentleman from Ohio.

Mr. EGGLESTON. Mr. Speaker, I have been astonished at the remarks of gentlemen in opposition to the passage of this bill. When gentlemen proclaim that there ought to be no bridge across the Ohio at Paducah, because they have one gauge of railroads in Kentucky and another gauge in Illinois, why, it strikes me that they take a very limited view of the commercial interests of the country. My distinguished friend from Illinois [Mr. RAUM] says that this bridge ought not to be built; and he proposes an amendment requiring a railroad on the Illinois side to be constructed down to the river before the bridge shall be built. Now, I ask what kind of improvements we would have in this country if we did not have a commencement? Kentucky has a town called Paducah, with over twelve thousand inhabitants. The State of Illinois, on the opposite side of the river, furnishes capital, and although you have the men and the means, and you get rich by your commercial intercourse with us, yet a member from the opposite side of the river says, "You shall not have a bridge, because your railroad gauges are different from ours. If you do not have gauges like ours you should not ask for a bridge."

Why, sir, if the gauge is four feet eight and a half inches in Illinois and five feet on the Mobile road, do they not need a bridge, even if they only run freight cars across alongside of each other, to change the freight? And how long do you suppose it will be before one or the other would lay down three rails if the business of the country demands it? But, even if they do not do that, how much more convenient and how much less it would cost to have the cars run over the bridge alongside of each other and change the freight there, instead of hauling it down the bank and hauling it up on the other side by horse power? The argument of the gentleman will not hold water at all. Now, as to obstruction to navigation, this would be nothing like the obstruction they have at Louisville. The water is still at Paducah, and this is a high bridge. The bill provides that it shall be fifty feet above high-water mark. What further guarantee do you want against obstruction? I would not vote for a measure to obstruct the Ohio river or any other navigable river of the United States. It is true it will be a little inconvenient to the steamboat men; but when we look at the great interest of the southern trade as well as the great commercial interest of the whole country, we must expect that one class of the community will have to forego a convenience to accommodate another. I say to Kentucky that we reach out our hand to meet you with a bridge anywhere where your capitalists propose to build it. We want your trade. If we had had more intercourse with the other side years ago we might have saved many precious lives. If you wish to build a bridge to reach over into the State of Ohio, Indiana, or Illinois, that will be no more obstruction than I am satisfied this will be. I will vote for it.

I hope that no gentleman upon this side of the House will vote against this proposition upon political grounds. The interests of the

State of Kentucky ought to receive the same consideration that the interests of every other State receive, and when they ask for a bridge at Paducah, to be just like the one at Quincy, Illinois, and when they propose to build it with their own capital, and tell you that they are going to connect their system of railroads with ours, I say give it to them. We have given the same privilege to the States of Illinois, Virginia, and Ohio; and I say let us give it to Kentucky. Let us say to the people of Paducah, you shall have a chance to cross over into Illinois by a bridge, and we will not guard it with bayonets either, and we hope and trust you never will guard the bridge at your end in that way; we want to connect our commercial interests with yours and go hand in hand with you. I hope that gentlemen upon this side of the House will vote for this bill.

Mr. COOK. I only want to say a word or two and then I shall ask a vote, for I think this discussion has had range enough. Twelve charters for bridges across the Mississippi river precisely similar to this have been granted already. The bridge which may be built under this law will have as large an opening, as wide a span, and be as high above high-water mark as any bridge which has been authorized to be built by any law of Congress. It is the opinion of the committee that in still water where this bridge is to be built the obstruction to navigation will be inconsiderable—if it will be any obstruction at all to navigation—less, perhaps, than at any other point on the Ohio river. Four or five bridges have been already built or are in process of construction across the Ohio river above this point. It is believed that no bridge across the Ohio river has been built or will be built which will be less obstruction to navigation than the one authorized by this act. If this bridge be built, it will connect the southern system of railroads with the system of railroads running through Indiana to the lakes. The amendment certainly ought not to be adopted, because no such qualification has been attached to any other charter. It is not necessary for the purpose of making a bridge a beneficial improvement that the proposition of this amendment should be attached. It has never been attached to any other bridge charter passed by Congress. It would be an exception made against this road and against this bridge if that amendment should be adopted. It is clear to the mind of every one that a bridge may be used profitably, even if the roads connecting with it are not of the same gauge.

Mr. PRUYN. I would like to ask how high the bridge is to be above the surface of the river?

Mr. COOK. If it is a continuous span, it is to be fifty feet above high-water mark to the lower side of the cord of the bridge.

Mr. PRUYN. So that steamers can pass under it?

Mr. COOK. Yes, sir; I now ask for a vote.

Mr. HOLMAN. I move to lay the bill on the table.

The question was put; and there were—ayes 22, noes 80.

So the House refused to lay the bill on the table.

The question recurred on the amendment offered by Mr. RAUM to the substitute reported by the Committee on Roads and Canals; and being put, there were—ayes 27, noes 69.

So the amendment was not agreed to.

The question was then taken on the substitute; and it was agreed to—ayes 75, noes 21.

The bill was then ordered to be engrossed and read a third time.

Mr. HOLMAN. I call for the reading of the engrossed bill.

The SPEAKER. The bill is not yet engrossed.

Mr. COOK. I yield to my colleague on the committee from New York, [Mr. CORNELL.]

Mr. TRIMBLE, of Kentucky. I desire to enter a motion to reconsider the vote by which the bill was ordered to be engrossed, and read a third time.

The SPEAKER. The motion will be entered.

ADVERSE REPORT.

Mr. CORNELL, from the Committee on Roads and Canals, made an adverse report on the memorial of the Legislative Assembly of the Territory of Dakota for aid for the building of roads; which was laid on the table, and ordered to be printed.

RAILROAD BRIDGES ACROSS THE OHIO.

Mr. DODGE, from the Committee on Roads and Canals, reported back, with an amendment, House bill No. 725, supplemental to an act approved July 14, 1862, entitled "An act to establish certain post routes."

The bill was read at length. The first section provides that the act of Congress, approved July 14, 1862, entitled "An act to establish certain post routes," shall be so amended as to authorize any railroad company or companies, whose line or lines of road may now or shall hereafter be built to the Ohio river, above the mouth of the Licking river, in accordance with the terms of the charter or charters of said company or companies, or the laws under which they are organized, to build a bridge across said river for the more perfect connection of any such roads, and for the passage of trains thereon, under the limitations and conditions contained in said act.

The second section provides that it shall be lawful for any bridge company chartered or organized under the laws of the States of Pennsylvania, West Virginia, Kentucky, or Ohio, for the purpose of building a bridge across the Ohio, to contract with any railroad company or companies for the use thereof by such company or companies, to construct such bridge across the Ohio river at any point above the mouth of the Licking river under the limitations and conditions contained in said act.

The third section provides that any bridge erected under the provisions of this act shall be a lawful structure, and shall be recognized and known as a post route.

The amendment reported from the Committee on Roads and Canals was to add to the third section of the bill the following:

Provided, That any bridge built under the provisions of this act, if a draw-bridge, shall have two openings of at least one hundred and sixty feet in the clear on each side of the pivot or draw pier, and if a high bridge shall have a span of not less than two hundred and fifty feet in the clear from pier to pier, over the main channel of the river, and shall leave a height of at least fifty feet from extreme high-water mark to the bottom of the lower cord.

Mr. DODGE. This addition proposed by the committee is the usual restriction in these cases. Unless some further explanation is desired, I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD FROM WASHINGTON TO CINCINNATI.

Mr. WILSON, of Ohio. I am instructed by the Committee on Roads and Canals to ask that they be discharged from the further consideration of the petition of John Murphy and other citizens of Washington, District of Columbia, praying for a charter to certain persons therein named for the construction of a railroad from Washington, District of Columbia, to Cincinnati, and to move that the same be referred to the Committee on Commerce, as that committee has jurisdiction of other subjects of a similar character.

The recommendation of the committee was concurred in.

ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same, namely:

A joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under certain conditions.

NEW YORK CITY POST OFFICE.

The SPEAKER, by unanimous consent, laid before the House communications from the Postmaster General and the Secretary of the Interior, transmitting, in compliance with the joint resolution approved June 22, 1867, a report of the committee to purchase a site for a post office and United States court in New York city; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

AID TO SOUTH CAROLINA FREEDMEN.

The SPEAKER, by unanimous consent, also laid before the House a preamble and resolutions of the constitutional convention of South Carolina, in reference to the condition of the freedmen in that State, and asking Congress to make an appropriation of $1,000,000 as a loan for their assistance; which were referred to the Committee on Appropriations, and ordered to be printed.

WASHINGTON CITY COUNCIL, ETC.

The SPEAKER, by unanimous consent, also laid before the House resolutions of the board of common council of Washington, District of Columbia, asking the action of Congress upon the refusal of the mayor of Washington to pay certain members of said board and of the board of aldermen their salary, now due; which was referred to the Committee for the District of Columbia.

FINANCE, TAXATION, ETC.

The SPEAKER, by unanimous consent, also laid before the House resolutions of the national commercial convention recently held in Boston on finance, taxation, &c.; which were referred to the Committee of Ways and Means.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia; and

Joint resolution (S. R. No. 108) relating to the survey of the northern and northwestern lakes.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on the civil appropriation bill all debate on the revenue-cutter service shall terminate in ten minutes.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union upon the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The pending question was upon the amendment of Mr. DRIGGS to the amendment of Mr. CHURCHILL, to add at the end of the portion of

the bill relative to revenue-cutter service the following:

And it is hereby provided, That the six steam revenue cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping.

Mr. DRIGGS. I withdraw my *pro forma* amendment offered yesterday.

The question recurred upon the amendment of Mr. CHURCHILL.

Mr. SPALDING. Mr. Chairman, I was not in the House yesterday when this amendment was offered. I feel very much opposed to it, and I am instructed by my constituents very generally to oppose it. About a year or a year and a half ago these cutters were launched upon the lakes. Two of them were built at ship-yards in the city where I reside when at home; and I suppose it is admitted that six finer craft do not sail upon the water anywhere, either upon salt water or fresh. But it is said that these vessels are not valuable for purposes of revenue, that is, as detectives in the revenue service. Mr. Chairman, I am not prepared to admit this charge to the fullest extent. I know the effect of having these vessels upon the lakes, each one having to run a line of coast of about two hundred miles. I say that the moral effect of these vessels, with their fine armaments, has prevented more smuggling than, perhaps, the cost of the whole. I do not hesitate to say that the amount thus saved by the prevention of depredations has exceeded the cost of that branch of the revenue service.

But it is said that a smaller class of vessels would better answer the purpose. Why, sir, we have just displaced that smaller class of vessels. We had little schooners there upon the lakes for a series of years. Those little schooners were sold out of the revenue service and these six steamers were put in. But, in addition to that, do the members of this House understand the importance of protecting that long line of coast, eight hundred miles in length, opposite the Canadas, and where there is so great an opportunity to commit depredations upon the revenue? There is no part of the United States that needs more vigilant guarding than this. Besides, sir, that portion of the country, having now a commerce and navigation almost equal to that upon the salt water, is entirely without any effective force of the nation to protect it; and if any difficulty should spring up suddenly between our Government and Great Britain we have nothing to rely upon but these six cutters, which would be somewhat effective as war vessels, for each of them carries two brass guns and a very fine armament of small arms. They are well managed, well conducted; they do honor to the nation; and they would be effective in preventing encroachments if a war or difficulty of any sort should suddenly spring up between us and Great Britain.

Now, sir, if I had been in the House when this amendment was offered, I should at once have raised a question of order upon it. I have voted for these legislative interpolations in appropriation bills on some occasions when I thought it best to act with my friend from Illinois in cutting down expenses; but I have resolved that hereafter I will not suffer any such proposition to prevail in an appropriation bill if my voice and opposition can prevent it. I am told that I am not now in season to object to this amendment; that it has been considered thus far in committee, and that it is too late for me to raise the question that the amendment proposes independent legislation. If the Committee on Commerce will, upon mature reflection, introduce a bill regulating this revenue service upon the lakes, I shall have no objection to it. Perhaps some substitute may be found for these steamers. But, sir, it will not do to put them aside to be sold. These vessels, that have cost the nation $150,000, ought not to be allowed to go into the hands of speculators for fifteen or twenty thousand dollars, as I know is the purpose of some of these men who are making objection to these revenue cutters. I have no doubt of it, sir. I object, then, to this amendment prevailing, which strikes these six revenue cutters from our service.

Mr. TROWBRIDGE. I represent a district which covers, perhaps, as much of this coast as any other district represented upon the lakes, and I have no hesitation in advising this House to adopt the amendment of the gentleman from New York.

Mr. SPALDING. I did not allude to any one in this House when I spoke of persons contemplating the purchase of these cutters. I meant outsiders.

Mr. WASHBURNE, of Illinois. This does not propose to sell any of them.

Mr. TROWBRIDGE. I am informed by revenue officers in my district that these revenue cutters are useless. During their entire existence on the lakes they have never yet made one seizure, and so we are appropriating, according to the statement of the gentleman from New York, $165,000 for these cutters, which do not accomplish any purpose whatsoever. Let us lay it up and use it in a more efficient way of protecting the revenue. I desire to say one word in reply to the gentleman from Maine, who served upon us the taunt that we represented districts engaged in smuggling. Sir, I hurl such imputation back upon any man from whomsoever it may come. I stand here to represent the interests of the Government on this subject, and I speak by the authority of the Government officers on that frontier when I say these cutters are useless for the purpose of protecting the revenue.

Mr. HULBURD. Mr. Chairman, one of these cutters is stationed on Lake Ontario, and I know personally it has been useful in preventing smuggling on the St. Lawrence river and elsewhere. It patrols those waters in the interest of the revenue. We have but just adopted this system. Shall we change it with no cause for the change? There is an interest there as great, as valuable, as the whole coast trade on the Atlantic, and yet you strew revenue cutters from the Gulf to the northernmost line of Maine. Whether they make seizures or not, you keep them up at a heavy expense. Here is a lake line as long as that, and yet you begrudge a single revenue cutter on Lake Ontario. I have seen it noticed in the papers that the Dominion of Canada will launch early in the spring a whole fleet of gunboats. These may be said to be for the purpose of protecting them from Fenian invasion from the States. It is not improbable we will get into complication before the summer closes, and we should have one steamer in commission capable of protecting the interests of the States. The expense of the S. P. Chase, the revenue cutter on Lake Ontario, is $30,000, and she may save us ten times that amount in one twenty-four hours. If there are to be but two cutters, I insist the one on Lake Ontario should be kept in commission and ready for service. If it is not I hope, while we are at it, we will also blot out the revenue service on the Atlantic coast, which is as corrupt and as useless as that on the lakes could be.

Mr. WASHBURNE, of Illinois. Let me ask the gentleman whether we have not a war vessel now upon the lakes?

Mr. HULBURD. We have a single old tugboat.

Mr. WASHBURNE, of Illinois. That is enough.

The committee divided on Mr. CHURCHILL's amendment, and there were—ayes 54, noes 41.

Mr. SPALDING. I demand tellers.

Tellers were ordered.

Mr. WASHBURNE, of Illinois. Let the amendment be adopted and we can have a vote on it in the House.

Mr. SPALDING. Very well.

So the amendment was adopted.

The Clerk read as follows:

For the construction of appraisers' stores at Philadelphia, $25,000.

Mr. O'NEILL. I move to amend that by inserting "$75,000" in place of "$25,000."

Mr. Chairman, I know the feeling which exists among all of us of limiting, in view of the immense expenditures of the Government, the appropriations we are requested to make; but in asking this increase for the appraisers' stores at Philadelphia, which is much more than has been reported by the Committee on Appropriations, I am convinced that I am doing what is absolutely required for the advantageous continuation of the work. Under the circumstances of this case I feel it to be a duty to my constituents and the commercial interests of the port of Philadelphia to urge upon the Committee of the Whole the increase of this appropriation to $75,000. The estimates of the Secretary of the Treasury were originally made in this way: $25,000 was the amount asked for in the deficiency bill, and $50,000 was to have been put into this bill.

Now, sir, I find under this general idea of striking out or cutting down appropriations for necessary purposes all over the country, the appropriation for this building, which is in an unfinished state, has been reduced to one third the sum actually required to go on with it during this year. Although I feel, as I believe most of the members of the committee feel, that economy must be exercised, yet I do not think it to be true economy to allow buildings which have been commenced and partially finished to go to ruin, simply because it is alleged that the Government is too poor to expend its money for its actual business necessities. I believe in economy, not only in public, but in private life. We should all practice it, but I do not imagine this great Government is to suffer by our increasing some of the appropriations which the Committtee on Appropriations has cut down in the bill now before us. I think the interests of trade and commerce, the general business interests of the country, have a claim upon the attention of this committee and this House and this Congress, and I, for one, whenever I perceive that by voting for an increase of appropriation it will benefit these interests which we are called upon to sustain, will not hesitate to offer such an amendment, and call upon my fellow-members to aid me in passing it. I hope for favorable action upon it, as I have offered it in good faith, believing it to be necessary, and believing that the true interests of the Government are involved in completing buildings of this character.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I desire to bear testimony to the zeal and fidelity of my friend from Philadelphia [Mr. O'NEILL] to the interest of his constituents. I give him this compliment so that he may have the benefit of it at home. He has made an effort to secure, and I hope it will secure, his renomination and reëlection, so that those of us who come here in the next Congress will have the pleasure of seeing him back again. But I must say I think his zeal outruns his discretion. He has moved to amend this appropriation by striking out $25,000 and inserting $75,000. Why, sir, he goes far beyond what the authorities of the Treasury Department required. We appropriated $50,000 for this purpose last year, and this year they asked for $50,000 more. The committee took up the whole of these different estimates, went through them very thoroughly, and determined that, in the present state of the Treasury, it was impossible for us to allow all the amounts that were asked for. So we cut down all these appropriations one half. There has been no objection to this thus far, and I was in hopes my friend from Pennsylvania [Mr. O'NEILL] would not have disturbed the harmony which has seemed to prevail among us on this subject.

Now, sir, we have dealt with Philadelphia precisely as we have dealt with Portland, New York city, and St. Paul, and there is no reason why we should make Philadelphia an exception to the rule we have laid down and which the committee have already passed upon. The gentleman not only asks us to make an excep-

tion, but he asks us to give Philadelphia $25,000 more than the Department says is necessary in the estimate for an appropriation to finish this building.

Mr. STEVENS, of Pennsylvania. One word on this question. Some few years ago Congress agreed to appropriate the money for this building. It was upon the foundation of the old Pennsylvania bank, a very solid work. There was great need for appraisers' stores. We were paying, as we are now paying, to General Patterson $6,000 a year rent for these stores. About ninety thousand dollars will complete this work and save us all that money. It is one of the most solid structures in the city of Philadelphia or elsewhere. A friend of mine who had a store adjoining it, offered to sell it for much less. It was fully examined by the supervising architect, and although he said the expense would be much less, yet he advised the completion of this building as being more enduring, and as being more likely to carry out the objects of the Government. So the sooner it is done the sooner we shall be rid of paying to a neighbor in the city—a very clever man, General Patterson—$6,000 a year for the appraisers' rooms alone. For that reason, deeming it economical, wishing to be economical, and knowing that before the summer is over, unless this appropriation be made, there will have to be a suspension of labor and a loss of time, I feel myself constrained to vote for the amendment of my colleague.

Mr. O'NEILL. I withdraw my amendment and move to make the amount $74,000.

Now, Mr. Chairman, let me say, in reply to the gentleman from Illinois, [Mr. WASHBURNE,] that I, as one member of this House, always feel myself privileged when I am able to vote with him—that event occurs so seldom. I believe his course here is satisfactory to himself, but when he talks to me, even in jest, about securing a renomination I tell him the people whom I represent do not look at an expense of a few thousand dollars when it is necessary. I despise that kind of personal or political consideration to which he refers, and seek only to do right; and if we are here to be governed by such motives as I must now believe govern my friend from Illinois in some respects, I think the members of this Congress had better be at their homes and attending to something else rather than the business of conducting the Government and suffering the uncompleted buildings necessary for trade to go to destruction upon the mere cry of economy.

If I had followed the advice of my colleague, [Mr. STEVENS,] the chairman of the Committee on Appropriations, I would have inserted in this amendment the full amount required to complete this building, which has long been wanted in the great commercial city of Philadelphia. We have been renting stores from private individuals at high rents, while this lot has remained unbuilt upon for ten or fifteen years, to the actual loss of the Government of ten or twelve thousand dollars a year. And now, when we come here and ask Congress to build an appraiser's store, a plain brick building, to cost $160,000, my friend from Illinois desires to cut down the appropriation asked by the Secretary of the Treasury, which is only a sufficient amount to carry on the work this spring and summer, and we are met by him with the objection that we are spending too much money.

I repeat, again, the first requisition made by the Secretary of the Treasury was for $25,000, to be put in the deficiency bill, and then, in addition, he asked that $50,000 should be appropriated to carry on the work until the meeting of the next session of Congress, when, I presume, he will ask for the few thousand dollars necessary to finish the building. I hope the committee will sustain my amendment.

Mr. WASHBURNE, of Illinois. I have only one word to say. It may be a very small matter to the constituents of the gentleman, representing, as he does, one of the wealthiest districts, I believe, in the country, whether we vote millions or thousands of dollars; but, sir, to my constituents and to the constituents of other gentlemen who are not fortunate enough to represent an aristocratic city district it is a matter of some importance. When the people are oppressed with taxes, when labor is depressed, when a voice is coming up to us from every source demanding that we shall retrench expenditures, I, for one, deem it my duty to heed that voice. Now, sir, there seems to be a discrepancy between my friend from Philadelphia [Mr. O'NEILL] and my friend from the Lancaster district, [Mr. STEVENS.] The gentleman from Philadelphia asks that we shall give $75,000; the Department only asks for $50,000; and my friend from Lancaster, who seems to be familiar with this matter, says that $90,000 would be sufficient to complete the building. Fifty thousand dollars was appropriated, and $50,000 more is asked for, which would be $10,000 more than my friend from the Lancaster district says is necessary. Now, I undertake to say that there is no necessity for this appropriation. I regret that a great many of these appropriations were made at the last Congress; I regret that we did not hold the strings more firmly in the last Congress, and not go forward in inaugurating these new works; but, as we had done so and as the works had commenced, the Committee on Appropriations thought it was proper enough to let the work go on slowly during the present year, and next year appropriate enough more to finish the building. I trust the gentleman from Philadelphia will be satisfied and let the appropriation go through as it is.

Mr. O'NEILL. I withdraw my amendment to the amendment and move to amend the amendment so as to make the sum $74,500. Now, I do not wish to detain the committee much longer on this point, although it is one in which I feel greatly interested. There is a local interest as well as a national interest involved in many matters that come before us. We are here to do our duty first to our country, and then we ought to be permitted to urge matters of local importance to our constituents, especially such as afford conveniences to the trade and commerce in which they are engaged.

While I have no doubt the citizens of the district represented by the gentleman from Illinois [Mr. WASHBURNE] feel the burdens of taxation, they feel them no more, perhaps, than those whom I represent. The people of the city of Philadelphia, like the people of all our districts, contribute to pay our taxes, and are willing to do so; but at the same time they expect Congress to show some regard for their particular wants in legislation, and we are always commended by them when they see us making proper appropriations to the Government for the facilities necessary to collect its customs and thus increase its revenue.

Mr. KELLEY. I rise to oppose the amendment of my colleague, [Mr. O'NEILL,] and to say to the chairman of the Committee on Appropriations, [Mr. WASHBURNE, of Illinois,] and to the Committee of the Whole that there are times when liberality is genuine economy, and this is just one of those cases. Under an Administration prior to 1860 the land on which this building is being erected was purchased for the purpose of such stores. We have been losing the interest on the amount of that purchase money during the whole of that time; and have also been paying from six to ten thousand dollars rent each year for private buildings for the purpose for which this was contemplated. By means of the appropriations already made there is erecting on that land, thus long held by the Government, a plain, substantial brick warehouse. And when it is so far advanced that we can occupy it we will escape from the rent which we are now paying, ranging from six to ten thousand dollars a year, for the Patterson block; while if we let the building remain unfinished we will be paying that rent and also losing the interest on our investment. I hope, therefore, that the amount necessary to complete this building will be appropriated; let $75,000 be appropriated, and let there be a clause added, "or so much thereof as may be necessary to its completion." I do not want one dollar of extra money for this purpose. But it will cost the Government this year at least $15,000 for rent of stores and loss of interest on money invested if we withhold the small amount necessary to complete this plain, substantial, but adequate warehouse.

Mr. O'NEILL. I withdraw the amendment to the amendment.

The question recurred upon the amendment of Mr. O'NEILL, to strike out "$25,000" and insert "$75,000" for the construction of appraisers' stores at Philadelphia.

Mr. WASHBURNE, of Illinois. That is $25,000 more than the Department asked for.

Mr. O'NEILL. That is not so, Mr. Chairman.

The question was taken upon the amendment; and, upon a division, there were—ayes 50, noes 46.

Before the result of the vote was announced,

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were ordered; and Mr. O'NEILL and Mr. KETCHAM were appointed.

The committee again divided; and the tellers reported that there were—ayes 60, noes 37.

So the amendment was agreed to.

Mr. RAUM. I move to amend this bill by inserting, immediately after the pending paragraph, the following:

For the construction of a custom-house and post-office, already begun, at Cairo, Illinois, $50,000.

I hope the Committee of the Whole will adopt this amendment. The custom-house and post office building at Cairo is now in the course of construction, and it will cost something like one hundred thousand dollars to complete the building.

The Committee on Appropriations fail to provide any means by this bill to continue the work on this building for the fiscal year ending June 30, 1869. My colleague [Mr. WASHBURNE, of Illinois,] informs me that it is proposed to appropriate a small sum in the deficiency bill to continue the work during the remainder of the current fiscal year. Now, I insist that this building having been well begun, and being now in process of construction, and being a necessary work which has been ordered by Congress, it would not be right to suspend operations upon it in midsummer. Therefore some provision should be made in this appropriation bill for continuing the work upon it during the next fiscal year. I trust the amendment I have offered will be adopted by this committee.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I do not know what the Committee of the Whole may determine to do on this question. It has already appropriated for building some appraisers' stores in Philadelphia $25,000 more than was asked in the estimate of the Secretary of the Treasury. Now, here is a work for my own State, in which I feel a great deal of interest and pride. But my colleague [Mr. RAUM] is entirely mistaken in presenting his amendment; he has offered it to the wrong bill. The Secretary of the Treasury does not ask the appropriation of anything additional in this bill for this work. He does ask, as my colleague will find by referring to the estimates, an appropriation of $50,000 in a deficiency bill, which has not been passed upon by the Committee on Appropriations or by the House. In the estimates of the Secretary of the Treasury for additional appropriations required to complete the service of the fiscal year ending June 30, 1868, and previous years, will be found an estimate "for erecting a custom-house at Cairo, Illinois, $50,000." But my friend who represents that district with so much vigilance, fidelity, and zeal, does not seem to be satisfied with the recommendation of the Secretary of the Treasury, who desires this appropriation to be put in a deficiency bill. My colleague proposes that we shall make provision for an expenditure for this object in the next fiscal year. I think my colleague is standing entirely in his own light in asking the appropriation in this

bill. I think it ought not to be put in this bill.

Mr. LOGAN. I move *pro forma* to amend the amendment by adding "one dollar." I hope the amendment offered by my colleague will be adopted. Some years ago an appropriation was made for building a court-house and post office at Cairo, Illinois. For some reason or other—I know not what—the work was for a long time never commenced; the appropriation lay in the Treasury without being used. Something more than a year ago the Secretary of the Treasury was induced to commence that building. It has been commenced; but only the $50,000 appropriated some years ago has been expended. And it is certain that the amount which the Secretary of the Treasury asks shall be appropriated in a deficiency bill is not going to complete the building, if it is to be a good one—such a one as was erected in Galena some years ago for similar purposes. I hope we shall appropriate $50,000, to be expended in the next fiscal year, that the building may be completed.

It is not my purpose to eulogize Cairo, but every one knows that there is a great deal of business done there. It is a great distributing point. The rental that has been paid for a post-office building since an office was established there would have paid by this time for the erection of a building. A United States court, I am satisfied, will be held there in a short time. The rental of buildings in our cities for post offices and courts is much more expensive to the Government than the erection of buildings for these purposes. I hope that in our desire to economize public expenditures we shall not overlook the public necessities. If this building at Cairo had not been already begun I would not urge its commencement at this time; but as it has been commenced I see no economy in withholding the appropriations necessary to complete it. We must either complete it or lose all the money that has already been appropriated for the construction of the building.

Mr. RAUM. Mr. Chairman, I desire to add that before the commencement of the work on this building a very fine piece of property upon which to erect it was donated to the Government. That property alone is worth $10,000. The building is now in course of construction. It is true that the work has been suspended during the winter months, but there is a very large amount of material on the ground. I was there a very few days before coming on to Washington city, and I know that the whole of the lumber, and a very considerable proportion, if not all, of the brick are now on the ground in readiness to have the work pushed forward. I have, on two or three different occasions, had interviews with the supervising architect in reference to this subject, and while it may not be in very good taste to state to the House what occurred at those interviews, yet I feel authorized to say that $100,000 is supposed to be sufficient, or about sufficient, to finish this building. Now, then, sir, after the sum of $25,000 has been appropriated in the deficiency bill to let that work drag along until the 30th of June, 1868, and then to suspend the work during the rest of this year and during the year 1869, would, it seems, be bad policy on the part of the Government. I do hope the appropriation will be made by the committee.

Mr. LOGAN. I withdraw the amendment.

Mr. WASHBURNE, of Illinois. I move a *pro forma* amendment.

According to my colleague it would require $150,000 to complete this building; and I am sure Congress never intended to vote any such sum. I hope this committee will not vote any such sum. I hope it will not vote for a sum that has not been asked for by the Treasury Department. They have now $50,000 which still remains as a deficiency.

Mr. LOGAN. I ask the acting chairman of the Committee on Appropriations whether the Secretary of the Treasury has not sent since this bill has been reported to the House a recommendation in form of an appropriation which was left out by accident?

Mr. WASHBURNE, of Illinois. He may have done so, but the fact has not been called to my attention.

Mr. LOGAN. I ask my friend to send to the committee-room to see whether there is not such a letter there. I do not know it is the fact, but I have such an intimation.

Mr. WASHBURNE, of Illinois. My colleague on the committee says he has never heard of any such letter.

Mr. BLAINE. There may be such a letter, but I have not heard of it.

Mr. LOGAN. It is my impression there is such a letter, but I do not know it is a fact.

Mr. WASHBURNE, of Illinois. I am informed by the clerk of the committee there is no such letter. I withdraw the amendment to the amendment, and hope the amendment will be voted down.

The amendment was rejected, only twenty-nine voting in the affirmative.

The Clerk read as follows:

For the construction of a court-house at Des Moines, Iowa, $15,000.

Mr. DODGE. I move to strike out "$15,000" and insert "$89,008," and ask the Clerk to read the letter I send up in support of the amendment:

The Clerk read as follows:

TREASURY DEPARTMENT, *February* 10, 1868.

SIR: I have the honor to inclose herewith a communication from the supervising architect, with an estimate of the cost of the United States court-house and post office at Des Moines, Iowa, from which it will appear that the sum of eighty-nine thousand and eight dollars ($89,008) will be required to finally complete the building according to the approved plans and specifications.

As it is so evidently to the interests of the Government that the work should be completed at the earliest possible moment, (which cannot be done if delays arise from the want of funds,) I would earnestly recommend that the above amount be included in the bill making appropriations for the fiscal year ending June 30, 1869.

Very respectfully, H. McCULLOCH,
Secretary of the Treasury.

Hon. THADDEUS STEVENS, *Chairman Committee on Appropriations, House of Representatives.*

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
February 8, 1868.

SIR: I have the honor to inclose an estimate of the total cost of the United States court-house and post office at Des Moines, Iowa, completed, and to say that the Department has succeeded in making contracts for the supply of material on advantageous terms, both as to price and promptness of delivery.

I believe that if sufficient appropriations for the completion of the building can be obtained, that the building can be put under roof before next winter, and finally completed before the close of the next fiscal year. I need not add that the cost of the building will depend in a very great measure upon the promptness with which it is completed.

The total estimated cost of the building completed is..... $174,008 00
85,000 00

Amount asked for..... $89,008 00

Very respectfully, A. B. MULLETT,
Supervising Architect.

Hon. HUGH McCULLOCH, *Secretary of the Treasury.*

Mr. DODGE. It will be seen the Secretary of the Treasury states that contracts have been made for the completion of this building. I have looked at these contracts, and I have some knowledge of these matters, and I undertake to say they are favorable to the Government. The delivery of this material under these contracts will take place in June, July, and August, all to be delivered in September. Now, sir, if this appropriation is cut down to $15,000 this building will be stopped, and if stopped these contractors can come in here and claim damages. The Government is now paying rent at Des Moines for the following offices: United States court, United States district attorney, United States post office, collectors and assessors internal revenue, United States marshal, registers and receivers, land office, United States pension agent, and United States inspectors. This building, when completed, will accommodate all these officers. Des Moines is the capital of the State of Iowa; and I think it is not asking too much for the committee to agree to the recommendation of the Secretary of the Treasury.

Mr. WASHBURNE, of Illinois. If we should agree to all the recommendations of the Treasury Department I do not know where we would be. At the second session of the last Congress the gentleman who represented the district now represented by my friend from Iowa [Mr. DODGE] asked for $85,000 for a public building at Des Moines. It was alleged that that would be all-sufficient to complete the building, and that we would not be asked to appropriate anything additional. I believe there is no misunderstanding about that. Congress upon that understanding appropriated the $85,000, which was a large sum for such a purpose. But now, at the first session of the Fortieth Congress, they come in and ask for $25,000 more. The Committee on Appropriations, looking over all these matters, have reported such sums as they deemed just and right in all these cases. Not having money enough to complete all these buildings at this time they have dealt a little more liberally with Des Moines than with the other custom-houses, allowing $15,000, which I hope will be satisfactory.

Mr. WILSON, of Iowa. I move *pro forma* to amend by increasing the amount appropriated five dollars. I do not know by what rule the Committee on Appropriations acted in fixing the amount reported in this bill for the court-house at Des Moines. The sum of $25,000 was asked for by the Department originally. The committee cut it down to $15,000. Certainly the committee had not before it when it reduced that appropriation the facts that are involved in this case, as stated by the supervising architect and Secretary of the Treasury in the letters which have been read. A contract has been made for the completion of this building. The material is to be delivered during the coming summer, and the building will be completed within the given time. It requires $89,008 to complete the building according to the contract. The Government is bound by the contract. These parties have a right either to complete their contract and receive their money, or, if the Government refuses to carry it out, to come here and ask for damages on account of a breach of contract on the part of the Government.

Mr. UPSON. I would like to know by what authority a contract was made for an amount beyond what was appropriated?

Mr. WILSON, of Iowa. That is a question which I hope the Committee on Appropriations will settle definitely before the close of the session.

Mr. WASHBURNE, of Illinois. We propose to settle it here now.

Mr. WILSON, of Iowa. The gentleman proposes no such thing, for he has told the committee that he thinks $15,000 will run this building through this year, and next year they will give something more for the purpose. But I understand the committee intend to report a bill by which it will be made an offense for contracts to be made beyond the amounts appropriated.

Mr. UPSON. Is it not illegal now?

Mr. WILSON, of Iowa. Perhaps it may be, but can the gentleman state a case where it has been questioned? It has been the uniform custom of the Government to allow these things, though I admit it ought to be an established rule of the Government, and I will gladly vote for a bill whenever it is reported, to declare all such contracts void. I understand from a member of the Committee on Appropriations that that will be the next bill reported. I am very glad to know it.

The Government of the United States is now paying about five thousand dollars rent for the office used by its officers who will be accommodated by this building when completed; so that the Government is paying now annually an amount equal to about six per cent. on the entire amount asked for to complete the building. Now, I suppose the gentleman from Illi-

nois does not intend to repudiate the contract that the Government has made, and it is merely a question whether this work thus commenced under plans approved by the Department, with the building half constructed, shall be completed, or whether it shall be permitted to remain as it is. I submit that true economy, whatever rule we may adopt for future cases, prompts us to make an appropriation to complete it, in order that the Government may have the use of its own building and be saved the payment of this rent.

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment. I understand from the gentleman that $89,000 additional will be required to complete the building.

Mr. WILSON, of Iowa. Eighty-nine thousand and eight dollars.

Mr. WASHBURNE, of Illinois. Then I want to call the attention of the committee to this fact: that at the last session of the Thirty-Ninth Congress we appropriated $85,000 to construct this building; and now, at the very first session of the Fortieth Congress, they come in here and ask us to give them $89,000 more, making in all $174,000, to complete the building. I ask this committee if they will tolerate, if the people's Representatives will tolerate, such an outrage upon law as it has been shown has been committed by the Treasury Department in this case? What authority had the Treasury Department to make a contract involving a sum more than double the amount we appropriated but a year ago?

Mr. WILSON, of Iowa. Will the gentleman allow me to ask him a question?

Mr. WASHBURNE, of Illinois. I will.

Mr. WILSON, of Iowa. Does the gentleman propose to complete this building?

Mr. WASHBURNE, of Illinois. I propose to give them $15,000 more. I do not propose even to follow the estimate of the Secretary of the Treasury, who only requires in his estimates $25,000, and yet the gentleman from Iowa acknowledges here in the face of the House that the building is to cost $89,000 more. He asks me will I break the contract. Sir, I say that any contracts made under such circumstances are illegal and void, and if they are not it would be far better for the interests of the Government to repudiate them and have to pay damages than to permit this thing to go on. I would ask gentlemen where we are to land when we make appropriations for these works and the Treasury Department pays no attention whatever to our laws, but goes on indefinitely and constructs just such buildings as it pleases and then comes in here and demands of us poor, weak serfs to sanction their outrageous and illegal acts?

Mr. WILSON, of Iowa. I withdraw the amendment to the amendment and move to reduce the appropriation to $89,000. I am willing to vote for a bill such an one as will probably come from the Committee on Appropriations—which will justify an exhibition of economical virtue such as the gentleman from Illinois displays on this floor from day to day. But, sir, the gentleman himself, in proposing this bill, countenances and approves the very act which he comes in here to denounce. If the making of this contract was unlawful, if it was an outrage, if it was a thing unfit to be done, why does he propose to appropriate $15,000 in order to carry on the work?

Mr. WASHBURNE, of Illinois. To preserve the work. That is all.

Mr. WILSON, of Iowa. To preserve the work on a building the walls of which are half completed! I suppose the gentleman from Illinois would shed the building in and let it remain there, with $85,000 expended, to be of no more use or account to the Government; and that is economy! The gentleman is urging this committee to throw away $85,000 and let the building go to the moles and bats, instead of going on in good faith, under the system which the Government has pursued for years, and completing the building in accordance with the contract made. The gentleman from Illinois says that the Treasury Department only asked for $25,000 in the original estimates. That is true; but that was before all the facts in relation to this building had been placed before the Treasury Department. After the complete estimates were put in his possession the Secretary sent a letter to the Committee on Appropriations, which has been read to this committee, asking, in behalf of the interests of the Government, the appropriation of a sum which will complete the building, and thereby save a rental of $5,000 a year to the Government. The gentleman proposes that we shall go on paying this rent of $5,000 year after year, and then close in this unfinished building by an expenditure of $15,000 more for that purpose—a building which is utterly useless and utterly worthless to the Government without completion. Now, let the gentleman's colleague on the Committee on Appropriations bring in a bill to stop for the future the making of contracts beyond the appropriations voted by Congress, and I shall most cheerfully vote for it; but I do not wish to have all of the gentleman's indignation vented upon this case when like cases have been running through a series of years, according to the uniform practice of the Government. I will venture to say that the gentleman's custom-house at Galena was not completed for the amount of the first appropriation, and I have yet to learn, and he has yet to state, that that case caused the amount of indignation which he has manifested here to-day. I withdraw my amendment to the amendment.

Mr. WASHBURNE, of Illinois. I move that the committee rise for the purpose of closing debate on this paragraph. [Cries of "Oh no," and "Vote now."] Well, if the question can be taken at once, I withdraw the motion. [Cries of "Agreed."]

The question was on Mr. DODGE's amendment, to strike out "$15,000" and insert "$89,008" in lieu thereof in the following paragraph:

For the construction of a court-house at Des Moines, Iowa, $15,000.

The question was taken; and there were—ayes 63, noes 34.

So the amendment was agreed to.

The Clerk resumed the reading of the bill.

The following clause was read:

For the construction of a court-house at Madison, Wisconsin, $25,000.

Mr. HOPKINS. I move to amend this clause by striking out "$25,000" and inserting "$50,000." I do not think it necessary for me to say much in support of this amendment, as the argument of my friend from Iowa [Mr. WILSON] upon a similar case applies fully to this case.

Madison is the capital of the State of Wisconsin. In 1857 Congress appropriated $50,000 to commence a court-house and post office in that city; but owing to the fact that the site first selected proved to have a defective title—and the red tape that pervades all these Departments took three years to ascertain that fact—the construction of the building was not then begun. The war of the rebellion commenced soon after the fact about the defective title was discovered, and during the war our people did not apply for the appropriation. After the war closed I applied to the Secretary of the Treasury to have the appropriation applied to the purpose for which it was intended. He said the amount appropriated was too small to begin the building with, unless the citizens of Wisconsin would donate a proper and suitable site for the building. I wrote home to my constituents on the subject, and they promptly obtained and donated a site for this purpose worth $14,000, and the building has been commenced.

Now, if the amount asked for by the Secretary of the Treasury, $50,000, is appropriated for this purpose, the walls of the building will be completed, and the roof put on by the 1st of November next. Every one at all acquainted with building knows that there are but two stages when a building can safely be left over winter; the first, when the foundation is completed as far as the water-table, and the other when the walls are covered in. This building is now completed as far as the water-table. We want this appropriation in order that the walls may be completed this year, so that the roof can be put on, and the building be placed in a condition in which it can be safely left over the winter. It is no economy on the part of the Government of the United States to be four years in completing a building of this kind.

I ask to have appropriated only the sum which the Secretary of the Treasury says is necessary for this purpose. That estimate is based not upon mere guess-work, not upon speculation, but upon accurate calculations made by the supervising architect. And I will say of him and his work that we have never had a building erected in the city of Madison, either by public or private enterprise, the foundations of which have been laid so carefully as those for this building. I know that he has placed his estimates at the lowest figure, and that they can be relied upon. If this building is to be completed we must have the amount appropriated which the authorities have asked for. This is the second appropriation only which we have ever asked from the Government of the United States for the erection of public buildings of any kind, and I hope it will be granted.

Mr. WASHBURNE, of Illinois. I do not know that there is any use in my attempting to oppose this amendment. I will not say—for that, perhaps, would not be in order—that there is any combination between Philadelphia, Madison, Des Moines, and Springfield, by which the majority of this House are to be got to vote away $246,000. I will not suggest that such is the case. But I desire to ask gentlemen whether or not they think it is right and proper and just to vote away this large amount of money when, as I declare, there is no necessity for it; when no interest of the Government demands it. The amount which the Committee on Appropriations propose to appropriate for the Madison court-house is $25,000, which is all that can be advantageously expended there until the next fiscal year.

Mr. HOPKINS. Then the gentleman sets up his judgment against the judgment of the Secretary of the Treasury, backed by the calculations and estimates of the supervising architect?

Mr. WASHBURNE, of Illinois. Yes, I do set up my judgment against that of the Secretary of the Treasury. I have a right as a Representative of the people to do so. I do not propose to be governed by the judgment of the Secretary of the Treasury. I examine for myself, and then I act for myself. The Committee of the Whole has increased the appropriations reported by voting $89,000 for Des Moines, $75,000 for Philadelphia, $50,000 for Madison, Wisconsin, and the same amount for Springfield, in my own State, making in all $264,000, which we are asked to vote away for these purposes; but an increased appropriation for Cairo, in my own State, is voted down.

Mr. LOGAN. Mr. Chairman, I am very glad that my colleague [Mr. WASHBURNE, of Illinois] does not include Cairo in the "combination" of which he speaks. I suppose the reason is that the amendment with reference to Cairo was voted down.

The CHAIRMAN. The remarks of the gentleman from Illinois [Mr. LOGAN] are not in order, unless he moves to amend the amendment.

Mr. LOGAN. I move to amend the amendment by striking out the last word.

Now, sir, this Committee of the Whole has voted down an amendment proposing to appropriate $50,000 for the completion of a necessary Government building at Cairo; and a few moments afterward it adopts an appropriation of $89,000 for another building of similar character in another place. Now, this is a proceeding which I do not understand. If it is

the result of prejudice, then we must submit to it as best we may. If it is because the committee believes there is no merit in the proposition to complete the building at Cairo, then there is no merit in the proposition to complete such a building anywhere. Now, I want to call the attention of my colleague [Mr. WASHBURNE, of Illinois] to the fact that this appropriation of $50,000 for the building at Cairo has been defeated because of his opposition as acting chairman of the Committee on Appropriations. I am in favor of completing buildings of this character when they have been commenced. As I have already said, I think it is not good economy to refuse money to complete a building necessary for Government purposes when that building has been already begun. Now, sir, my colleague and I are here as Representatives of the same State. I represent Galena as much as he does. He is one of my constituents; but I am not one of his. That is the difference between us. [Laughter.] Now, sir, appropriations have been made heretofore for Galena. I am glad of it, for I like the people of Galena very well; they are good people.

Mr. WASHBURNE, of Illinois. They vote for you. [Laughter.]

Mr. LOGAN. Yes, sir; they vote for me, and that is all right. [Laughter.] But, sir, I find that this Government paid $78,000 for building a post office at Galena, and it paid $59,000 in gold for building a marine hospital there.

Mr. RAUM. Will my colleague tell us how much that marine hospital can be sold for to-day?

Mr. LOGAN. It was offered for sale in 1867 and $3,100 was bid for it. [Laughter.]

Mr. RAUM. Will my colleague tell us also the number of patients there?

Mr. LOGAN. I do not know anything about that. I know what has been said on that subject, but I do not like to repeat it.

Now, sir, I do insist that equity should be done in this House to all parts of the country and all the people of the country. I am in favor of protecting the Government against extravagance and fraud and robbery; but I believe it to be for the interest of the Government that these necessary public buildings, wherever commenced, should be completed. When we have begun the construction of one of these buildings and have expended upon it large amounts of money, and which will be wasted unless appropriations be made for the completion of the work, I say that to refuse these appropriations is not economy, but is an injury to the interests of the Government. I believe it to be the duty of this House to appropriate money enough to finish all these buildings, no matter where located or what amount may be necessary. Either we ought not to make a contract for erecting a building or else we ought to complete it. If this is not the right course, then I say let us stop our appropriations for the completion of the Treasury building; let us stop our appropriations for the completion of this Capitol. Let us stop expenditures of this character right here in Washington. It would be just about as good policy as the other course which gentlemen seem to favor.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I endeavor to do my duty, and if an appropriation is asked for my State which I do not deem proper I will oppose it just as quickly as if asked for any other State. I desire to do my duty irrespective of States. In regard to the Galena hospital and the Galena custom-house and post office, my colleague may make the most he can out of them. They were built by a vote of both Houses of Congress when we had money enough to build them; and if it had not been taken to build them it would probably have been stolen.

Mr. LOGAN. I withdraw the amendment to the amendment.

The question recurred on the amendment.

The committee divided; and there were—ayes 40, noes 33; no quorum voting.

Mr. WASHBURNE, of Illinois. Let the amendment be adopted and go to the House, where we can have a vote on it by yeas and nays.

There was no objection; and the amendment was considered as adopted.

Mr. BARNES. I move to amend by inserting the following at the end of line two hundred:

For procuring a site for the post office and custom-house in the city of Brooklyn, New York, $100,000.

Mr. WASHBURNE, of Illinois. I make the point of order that that is new legislation, and is not therefore in order to a general appropriation bill.

Mr. BARNES. Brooklyn is a city of four hundred thousand inhabitants.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BARNES. Brooklyn has assessed real and personal property to the amount of $140,000,000, on which it pays tax to the General Government. The Government is without one dollar of land or public property in that city, except the navy-yard, which is there as is supposed for the general benefit of the adjoining city and which is a curse to Brooklyn by depreciating the value of real estate and demoralizing our political institutions. It is only just to the city of Brooklyn, to its population, to its property, to the tax it pays, and the support it gives to the General Government, that it should be recognized in this appropriation bill. The population of that city is increasing in a more rapid ratio than any other city in the United States, and between three or four times that of the city of New York, and property is increasing in value in proportion. What we can now purchase for $100,000, within five years cannot be bought for less than two or three hundred thousand dollars. The citizens of that locality have presented their claims before this Congress and before preceding Congresses without any attention being paid to them. That community has been more entirely neglected than any other in the United States, because of the overshadowing power of New York. It is not only just for the Government to allow this expenditure at this time, but it is a matter of necessity. The Government is paying $5,000 a year rent for a post office building, and I do not know how much for a court-room. We have not to-day any place in Brooklyn for the post office or for the United States courts where a paper can be safe from fire. I hope the amendment will be adopted.

Mr. BLAINE. I do not think the Chair correctly apprehended the point of order of the gentleman from Illinois. Let me read the rule of the House.

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuations of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

I think under that rule the amendment is clearly out of order.

The CHAIRMAN. The Chair was under the impression that the amendment was authorized by law. As the gentleman from New York has mentioned none, the Chair will rule the amendment out.

The Clerk read as follows:

For the construction of a court-house at Springfield, Illinois, $15,000.

Mr. CULLOM. I move to strike out $15,000, and in lieu thereof to insert $25,000. After the action of the committee in reference to these other appropriations I suppose it is scarcely necessary for me to take up the time in explaining why I desire this amendment to be adopted. But as my distinguished friend, the acting chairman of the committee, seems to be disposed to fight everything that comes in the order of legislation, it may be well for me to state that in 1856, I think it was, the Government purchased a lot of ground in the city of Springfield on which to erect a court-house and post office, for which it paid some seven or eight thousand dollars. The lot remained unoccupied by the Government until about three years ago. After I came here as a member of Congress from that district I ascertained that the appropriation which was made for the building on that lot, some fifty thousand dollars, had not yet been expended, but was yet to the credit of the building. Upon seeing the Secretary of the Treasury and stating to him what had occurred between myself and other citizens of Springfield and the late President Lincoln in reference to the building of a court-house in that town, which was to the effect that at the close of the war the President designed to use his influence to get that building erected for the Secretary of the Treasury, the building was allowed to be commenced. A plan of the building was agreed upon between myself and the architect of the Treasury Department, and the building was the least possible in size that could be built there and subserve all the purposes of the Government. The work went on and there have been $150,000 spent in the erection of the building. It is two thirds completed. A large portion of the stone, iron work, and other material are on the ground, and the architect in charge at Springfield, as well as the architect of the Treasury here, says there is no question but that if the necessary amount of money can be procured from the Government the building can be actually finished during the present year, and the Government offices of that city can be transferred from the rented houses into this new building. Now, it will not require—and when I say this I say it upon careful estimates made not only by the architect here, but by the superintendent there, who, I take pleasure in saying, is an honest and faithful man—it will not require over fifty thousand dollars to complete that building. We are to-day, as has been stated by other gentlemen representing the capitals of different States, paying over six thousand dollars rent for the accommodation of Government court-houses, post offices, revenue offices, land and pension offices. Now, the interest on the $50,000 necessary to complete this building, at ten per cent., will be less than the amount we are paying annually in the city of Springfield for the rent of the buildings that the Government is obliged to have, and which cannot be procured at any less sum than we are now paying. I can scarcely suppose, therefore, that gentlemen will oppose the amendment for an appropriation which is only $10,000 over and above what the committee reported, and which is in strict accordance with the estimate of the Treasury Department, when I say, upon my own knowledge as a Representative, that the money is needed to finish the building. There have been spent already $150,000, and we only need $50,000 more. We are now paying more than ten per cent. on that sum for rent in that city.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I am opposed to the amendment of my colleague notwithstanding it is in my own State, and I am, in the language of my colleague, depleting my own State to that amount. I am opposed to this amendment on precisely the same ground that I opposed the amendment of the gentleman from Iowa, [Mr. DODGE.] In the first place we appropriated $50,000 for this purpose, and the work was not proceeded with. Afterward, in order to provide for a building sufficiently large for the purposes demanded, we appropriated $50,000 more. But instead of going on and completing it I find by looking at the report of the Secretary of the Treasury—through the influence and at the urgent request of my distinguished colleague, [Mr. CULLOM,] who, I am glad to say, has a great deal more influence in that quarter than I have—it was decided to postpone the work in order to obtain an increased appropriation, so as to have a building that would afford ample accommodation. And now, we are called upon to carry out the wishes of my friend—very laudable so

far as he is concerned—to add to the beauty of this structure in that most beautiful city of the State of Illinois, by appropriating this additional sum.

Mr. BURR. I move to amend the amendment so as to make the amount $50,000. I do so for the purpose of saying that while I do not know the history of the early commencement of this building, nor am I familiar with the means resorted to to induce the authorities that be to undertake the work, yet I do know that its completion is a matter of great importance to the people of that region, as well as a matter of strict economy to the Government. As my friend from the capital district [Mr. CULLOM] has suggested, the post office, the land department, and all the various branches and machinery of the governmental departments can be accommodated in this building when it shall be completed. The amount being paid to-day for rent in the city of Springfield for Government purposes is more than ten per cent. upon the amount required to finish the building. The building contemplated is not one of those fine structures which are built for the embellishment of cities. It is not one that would grace the city of Boston or be an honor to the city of New York. It is simply a plain, substantial building, such as is requisite for national purposes, and necessary for the accommodation of those concerned in administering the affairs of the Government in the State of Illinois, and particularly in that part of the State. I may remark here, in passing, that this building is located on a corner lot, and that running upon two sides of that lot are two of the main avenues of the city which are to-day obstructed by blocks of marble and other building materials lying around ready to be adjusted in the structure if there were means on hand to pay for labor, but which are to some extent going to waste and receiving damage by lying in the streets instead of being placed in their appropriate positions.

Now, I am not particularly in favor of the amendment to the amendment which I have offered. I think the amount requested by my colleague from the capital district is modest, just, and necessary, and the increase asked for, of only $10,000, ought not certainly to meet with opposition upon this floor, and more particularly from my colleague from the Galena district, [Mr. WASHBURNE,] who, I am sorry to say, is too much in the habit of opposing appropriations without inquiring whether they are right and proper, or whether they are wasteful expenditures of public money.

Mr. BLAINE. I trust, since the increase has been voted in the last three cases, that the increase asked for by the gentleman from Illinois [Mr. CULLOM] will, without further debate, be granted, and that the other gentleman from Illinois [Mr. BURR] will withdraw his amendment.

Mr. BURR. I withdraw my amendment to the amendment.

The amendment offered by Mr. CULLOM was then agreed to.

Mr. WASHBURNE, of Illinois. I move that the committee rise for the purpose of closing debate.

The motion was not agreed to.

Mr. RAUM. I offer the following amendment to come in after line two hundred and two:

For construction of post office and custom-house at Cairo, Illinois, $49,000.

Mr. WASHBURNE, of Illinois. I make the point of order that the same proposition has been acted on by the committee once.

The CHAIRMAN. The Chair overrules the point of order. It is not the same proposition as the committee acted on before.

Mr. RAUM. It is with a great deal of diffidence that I offer this amendment, because the committee, with a great deal of unanimity, a few minutes ago voted down an amendment which I offered appropriating $50,000 for this purpose; but I do trust that gentlemen will consider the importance of this work and that this amendment will be adopted.

Now, sir, this post office and custom-house, as I remarked a while ago, is in process of construction. It is well advanced. All the bricks for the completion of the building are now upon the ground; all the lumber is there upon the ground ready to be put into the building; and it is estimated that $100,000 will complete the building. It has been intimated by my colleague, [Mr. WASHBURNE,] who has charge of this bill, that the Committee on Appropriations will probably recommend an appropriation of $25,000 in the deficiency bill. Why, sir, $25,000 will be of no consequence toward the construction of this building. It will not prosecute the work for two weeks. It is just as well that no appropriation shall be made as that the sum of $25,000 shall be appropriated. If it is the intention of Congress to complete this building—and I say to gentlemen that it is a necessary building for the wants of the Government at that place—let us go forward and make a reasonable appropriation to continue the work during the balance of this fiscal year and during the fiscal year ending in 1869.

Now, I want to call the attention of this committee, and of the country to the importance of the city of Cairo as a great commercial center. I say to gentlemen that Cairo is one of the rising cities of this Union.

Mr. UPSON. Has it risen above high water yet? [Laughter.]

Mr. RAUM. Cairo was the only point in that region that was above high water during the great freshet of last year. It is the great focal point in the West for the building up of a large commercial city. Last year there were four thousand eight hundred and thirty-two steamboats that arrived at and departed from the city of Cairo; four hundred thousand tons of freight were shipped from that place; and seventy-eight thousand passengers passed over the railroad there, besides those who arrived and departed on the nearly five thousand steamboats that landed there. Although Cairo has now but about twelve thousand inhabitants, it has an immense commerce which is increasing day by day, and year by year. And when we finish the great line of railroads designed to come in at that point, I predict that within five years it will have a population of fifty thousand. I ask members to deal with this matter in a just and liberal manner, and to adopt this amendment, which, in my opinion, is just and right in every sense of the term.

Mr. WASHBURNE, of Illinois. I rise to oppose this amendment. This committee have once already voted upon and rejected substantially this same amendment. I think the amendment of the gentleman [Mr. RAUM] will not accomplish the object he says he has in view. The Treasury Department does not want the money for the next fiscal year, but wants what it is to have before the 1st of July next.

The question was then taken upon the amendment of Mr. RAUM; and upon a division there were—ayes 35, noes 28; no quorum voting.

Mr. SPALDING called for tellers.

Tellers were ordered; and Mr. RAUM and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported that there were—ayes 54, noes 42.

So the amendment was agreed to.

The Clerk read the following paragraph:

For fitting up fixtures and furniture for the north wing of Treasury building, $25,000.

Mr. PRICE. I move to strike out that paragraph. I propose to get back all the money we have been voting away if my friend from Illinois [Mr. WASHBURNE] will help me. We have increased the different appropriations contained in this bill some $208,000. These items in this part of the bill may be all right, but they look very singular to me. I ask members to pay attention while I read two or three of these items. The one I have moved to strike out is, "for fitting up fixtures and furniture for the north wing of Treasury building, $25,000." Then there is this one a little further down, "For the north wing of the Treasury building and the approaches, including fittings and fixtures, $175,000." "Fittings and fixtures;" the same words that are in the other item. And not satisfied with that, we have in the very next item, "For repairs of the east front and incidental repairs of the entire building, $15,000." "The entire building" of course includes the north wing. Those sums, together with the item of $25,000 for the vaults of the north wing of the Treasury building, make $240,000 for this north wing, or just $32,000 more than we have just voted away to Pennsylvania, Iowa, Illinois, and Wisconsin. But that sum has been distributed over those several States for the erection of substantial buildings, utilitarian in their character and purpose.

It is now proposed by this bill to expend $240,000 for these palaces; not one palace only, but a hundred of them—large rooms, forty by sixty, with elegant mirrors reaching from the floor to the ceiling, with probably one clerk in each room. There is probably not a constituent of any member on this floor who would indorse that expenditure if he fully understood its purpose. Why all the cavil we have heard here about completing public buildings in the different States of the Union which are absolutely necessary, and the expenditure for completing which, I undertake to say, will be a saving to the Government, because the interest upon the sum required for that purpose will be less than we are now paying for rents? We have been wrangling for the last hour and a half, by the clock, over those appropriations, while it is now proposed to take $240,000 from the Treasury to build about a hundred palaces, with their "approaches, fittings, and fixtures." If I do not succeed in this amendment I propose to add to these items the words "tinselry and frippery." There is plenty of room in that building for the transaction of all the business connected with that Department. Rooms there which are now occupied by a single officer would accommodate twenty clerks just as well as not. With these facts before me I have made the motion to strike out this appropriation of $25,000, and I intend to follow it up by moving to strike out all these other items relating to the Treasury building.

Mr. WASHBURNE, of Illinois. I am utterly indifferent as to what the committee may do in this matter. The gentleman from Iowa [Mr. PRICE] supports an appropriation of $89,000 for a building in Iowa to carry out a contract which has been made without any authority of law. But when we have before us an appropriation for finishing an important public building here at the seat of Government he is against it. I leave the question to the committee. I care nothing about it.

Mr. BLAINE. I am not so indifferent about this matter as the acting chairman of the Committee on Appropriations, [Mr. WASHBURNE, of Illinois.] For the purpose of saying a word or two on this question I move to amend the amendment by striking out the last word.

Now, sir, in regard to these public buildings in the different States, it has been argued that by completing those buildings the Government will save large expenses in the form of rent. But, sir, the item of rent in those cases is a mere bagatelle compared with the amount to be saved in that way by the completion of this Treasury building. This north wing, when completed, is to furnish accommodations for the internal revenue department, now occupying a building for which the Government pays an annual rent of $28,000. What would the gentleman from Iowa [Mr. PRICE] have us do? Would he have us leave the Treasury building just as it stands?

It is undoubtedly true that we have spent millions of dollars on public buildings in Washington. This Treasury building has undoubtedly cost a large sum of money; but it is one of the most magnificent buildings in the world. The idea of stopping the progress of the work

now, when the building is almost on the eve of completion, by refusing the absolutely necessary appropriations, seems to me like the very height of absurdity.

Twenty-eight thousand dollars a year, as I have said, are now being paid as rent for the rickety, incomplete, unsafe tinder-box of a building in which the business of the internal revenue department is now administered. During the approaching summer or autumn that department will be transferred to this building, now on the eve of completion, unless the indiscreet motion of my friend from Iowa should prevail.

Mr. PRICE. Mr. Chairman, I may be "indiscreet;" probably I am. When I get to be perfect, sir, I shall remove to Maine and run for Congress. [Laughter.] I agree with my friend from Maine [Mr. BLAINE] in one thing—that the Treasury building is a "magnificent" structure. But I ask my friend from Maine or any other gentleman on this floor whether his constituents sent him here to vote money out of the Treasury to build "magnificent buildings?" Sir, I have learned long since that there is a very wide difference between a splendid Government and one which advances the best interests of the people.

The gentleman says that this extension of the Treasury building is necessary to avoid large outlays now made for rent; but I say to him, let the rooms in that Department be occupied as they should be. A room forty feet by sixty, or thirty by sixty, or thirty by fifty is a little larger than is absolutely necessary for the accommodation of one or two men. If the rooms in the Treasury building were occupied judiciously, occupied as rooms for public purposes are occupied in Maine, in Illinois, in Wisconsin, in Iowa, or any other State of this Republic, there would be plenty of room and to spare. There is no State in the Union that furnishes its officers with anything like such accommodations as are enjoyed by these gentlemen in the Departments here. In those Departments you can find large rooms with nobody in them, which are used for reception rooms. Let those rooms be occupied by clerks.

This is the fifth winter I have sat in this House as a Representative. The first winter I was here I attempted to arrest the expenditures for this Treasury building, and I was met with this very declaration that the appropriation was intended to complete the work. The second winter I heard the same story; and it was repeated the third and the fourth winter. Now, this fifth winter the same statement is made; and I expect to hear this story to the end of the chapter so long as I may be unfortunate enough to continue a member of this House. In this very bill we have appropriations for this Treasury building, amounting to $240,000 within two inches and a half on a single page, and this money is to be expended for purposes which, I venture to say, are of no more use than the fifth wheel to a coach.

The amendment to the amendment was withdrawn.

Mr. LAWRENCE, of Ohio. I renew the amendment to the amendment.

Mr. Chairman, I submit to the committee that the argument of the gentleman from Iowa [Mr. PRICE] in reference to the appropriation for the north wing of the Treasury building has not yet been answered. The question is not whether we should stop the work but whether we should continue these most extravagant appropriations for furniture and fixtures.

Mr. BLAINE. Is $25,000 extravagant?

Mr. LAWRENCE, of Ohio. No, sir; it is $240,000.

Mr. BLAINE. That is not for furniture at all.

Mr. LAWRENCE, of Ohio. Before we vote this amount of money we ought at least to know from some gentleman of the committee that he has seen some estimate of what furniture and fixtures this is for.

Mr. BLAINE. The gentleman is in error in saying this is for furniture and fixtures for the north wing. Twenty-five thousand dollars for the furniture of that large building is not too much.

Mr. LAWRENCE, of Ohio. Let me read some of the clauses from the bill. In line two hundred and nine we find $25,000 for fitting up, fixtures, and furniture for the north wing of the Treasury building. In line two hundred and fourteen we find $175,000 for the north wing of the Treasury building and the approaches, including fittings and fixtures. Now, the amount of it is, this bill has scattered in several clauses an immense appropriation. The aggregate amount is concealed by its being distributed in several parts of the bill. I ask any gentleman of the committee whether he has seen any estimate of the items of these appropriations, and whether he is prepared to say this large amount of money is really needed for furniture and fixtures?

Mr. BLAINE. Now, is not $25,000 a prodigious sum for furnishing the Treasury building?

Mr. LAWRENCE, of Ohio. That is not all. The appropriations sum up $240,000. It is an easy matter to say the appropriation is not too large, but the gentleman from Iowa has not yet been answered. I ask the acting chairman of the committee whether he has any estimates for these appropriations showing the items, and whether he can say they are proper? If he says they are, after having seen all the items, perhaps I shall have some confidence in the justness of these appropriations.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and Mr. INGERSOLL having taken the chair as Speaker *pro tempore*, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the paragraphs relating to the Treasury be closed in ten minutes after the committee shall resume the consideration of the same.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole; and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

Mr. WASHBURNE, of Illinois. Mr. Chairman, as I stated, I am very indifferent in regard to what the committee does with this appropriation of $25,000 for the furniture of this building. I think the estimate was $50,000. The committee deemed that very extravagant and cut it down one half, leaving it to the House to do what it pleased with it. We had the architect before us, who explained in relation to the whole matter. Perhaps my friend from Iowa [Mr. PRICE] desires this cut down in order to have a little more to furnish gorgeous rooms in that building at Iowa City which costs $170,000.

Mr. PRICE. In the first place, there has been no appropriation made for a building at Iowa City.

Mr. WASHBURNE, of Illinois. Well, at Des Moines.

Mr. PRICE. And in the second place, I am opposed to this because——

Mr. WASHBURNE, of Illinois. I think $89,000, in addition to what we have appropriated already, will make a pretty gorgeous affair at Des Moines.

Mr. PRICE. There is $240,000 appropriated here.

Mr. WASHBURNE, of Illinois. The gentleman was very zealous in regard to matters in his own State, but when it comes here in the great capital of the Republic, for great public purposes in which all the people are interested, he pitches into the appropriations.

Mr. PRICE. Particularly as you spend more money here than for all the other cities together named in the bill.

The question being taken on the amendment of Mr. PRICE, there were—ayes 15, noes 45; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. PRICE and NIBLACK.

The committee divided; and the tellers reported—ayes twenty-three; noes not counted.

So the amendment was disagreed to.

The Clerk read as follows:

Toward rebuilding the United States military asylum at Togus, near Augusta, Maine, destroyed by accidental fire, $25,000.

Mr. LAWRENCE, of Ohio. I move to add to the paragraph just read the following:

For continuing the work on the national arsenal at Columbus, Ohio, $25,000.

Mr. WASHBURNE, of Illinois. I rise to a point of order.

Mr. LAWRENCE, of Ohio. I hope the gentleman will allow me to make a statement.

Mr. WASHBURNE, of Illinois. This does not belong to this bill at all, but to the military appropriation bill.

Mr. LAWRENCE, of Ohio. In the clause immediately preceding is an appropriation for a military asylum.

The CHAIRMAN. Does the gentleman refer to any law authorizing this?

Mr. LAWRENCE, of Ohio. No, sir.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WASHBURNE, of Illinois. Where is the law?

The CHAIRMAN. All debate is closed on this paragraph by order of the House.

The question being taken on the amendment of Mr. LAWRENCE, of Ohio, it was disagreed to.

Mr. LAWRENCE, of Ohio. I rise to a point of order. I submit that debate was closed only on the clause relating to the Treasury Department.

Mr. WASHBURNE, of Illinois. It is too late. The gentleman should have appealed from the decision of the Chair.

The CHAIRMAN. It is too late; but the order of the House was, that debate was closed on all matters relating to the construction branch of the Treasury Department, which includes the next two paragraphs.

The Clerk read as follows:

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, $1,000.

Mr. LAWRENCE, of Ohio. I move to insert the following:

For continuing the work on the national arsenal at Columbus, Ohio, $25,000.

Mr. WASHBURNE, of Illinois. I raise the point of order that this amendment belongs to the military appropriation bill. All these appropriations have gone into that bill.

Mr. LAWRENCE, of Ohio. They go into any appropriation bill. This bill already contains an appropriation for rebuilding a military asylum near Augusta, Maine.

The CHAIRMAN. The Chair sustains the point of order; the amendment is not germane to the subject-matter under consideration.

The Clerk read as follows:

For continuing the work of the Capitol extension, $100,000.

Mr. SELYE. I move to strike out that clause. I understand this Capitol covers already

between three and four acres of land, and for heaven's sake I would like to know where it is to be extended to, [laughter,] and which end it is proposed to begin at. [Laughter.] Each end is finished and paid for by the tax-ridden people. But, if the gentleman from Illinois will tell me where he is going to begin, perhaps I will vote with him. Talk about your furniture at the Treasury; for God's sake look over your heads if you want to see extravagance. [Laughter.] I tell you, go on with your extravagance, and it will lead to repudiation. The people have got something to say about this matter, whether they will pay these taxes. They will pay them provided economy, prudence, and justice are subserved, but not otherwise.

Mr. VAN WYCK. I hope the gentleman from Illinois [Mr. WASHBURNE] will explain this matter. The inquiry of my colleague [Mr. SEYLE] is a very pertinent one; why it is proposed to expend $100,000 more upon this Capitol. I hope the gentleman will inform the committee where it is proposed to expend that money. If it is merely to keep a lot of men gathered and clustered about this Capitol merely to draw pay and eat up the $100,000, then I presume the committee will not feel it to be their duty to vote this amount. If the money is really necessary for any purpose we ought to know it.

Mr. WASHBURNE, of Illinois. I do not care about enlightening the gentleman at all if the enlightenment I give him will induce him to vote for the bill as it stands. I was opposed to this appropriation, and I hope it will be stricken out.

Mr. VAN WYCK. I hope so too, since no one can give us any information about the matter. We are called upon to appropriate $100,000, we know not for what. The evidence of our senses is that it is not necessary. My colleague [Mr. SEYLE] says that he has taken time to go round this building, long and tedious as the journey may be, and he cannot find where $100,000 more can be expended. I hope the apppropriation will be voted down, as no one can tell where the money is to go.

The question was taken on Mr. SELYE'S amendment, and it was agreed to.

Mr. DODGE. I move to strike out lines two hundred and fifty-six and two hundred and fifty-seven, which are:

For continuing the work on the new Dome of the Capitol, $5,000.

Mr. WASHBURNE, of Illinois. I hope that will be agreed to. Let it go to Des Moines. [Laughter.]

Mr. DODGE. That is the place I propose to put it.

Mr. PRICE. It is a good place for it to go to.

Mr. BLAINE. I merely desire to say that I think these appropriations for the Capitol ought not to be stricken out. If the gentleman from New York, [Mr. SELYE,] who is a practical man, will go down to the steam marble works here he will see where the $100,000 are to be swallowed up, and whether we put the appropriation in this bill or not it has got to come, or the Capitol will remain unfinished. We may as well look the fact in the face that this Capitol is a vastly expensive building and somebody has got to pay the bills. If you can find anybody besides Congress who will do it I hope you will do so.

Mr. WILSON, of Iowa. Will the gentleman state what work on the Dome is to be continued? Work on the Dome! I should like to know from the Committee on Appropriations what work on the Dome is uncompleted? My understanding is that the Dome is already completed; and the next paragraph of the bill is:

For the annual repairs, such as painting, glazing, keeping roofs in order, also water pipes, pavements, and approaches to public buildings, $15,000.

Now, is this for the commencement of the renovation of the inside of the Dome that I have heard talked about, which is to result in taking out the entire lower portion of the inside of the Dome and engaging in an improvement of the plan of the Dome which will cost us some two or three hundred thousand dollars before we are through? Is that the scheme?

Mr. BLAINE. No; it has nothing to do with that.

Mr. WILSON, of Iowa. Well, what is it for?

Mr. BLAINE. If the gentleman will go up to the Dome, which is rather a tedious operation, he will find that the work is not yet completed according to the design. Has the gentleman been there this session?

Mr. WILSON, of Iowa. Not this session.

Mr. BLAINE. Then the gentleman ought not to have asked his question with such an air of confidence.

Mr. WILSON, of Iowa. I only asked it to get information from the Committee on Appropriations, and I assert that the gentleman has given us no information.

Mr. BLAINE. We got our information from the architect of the Capitol extension, one of the most reliable, trustworthy, and economical officers that the Government has anywhere, and if we cannot take his estimates we cannot take anybody's. I am not a practical architect and I do not know where the money is to be expended. I only know that Mr. Clark, the architect of the Capitol extension, deems these appropriations absolutely essential. Of course, it is of no more interest to me than to any one else.

Mr. WILSON, of Iowa. I presume from what the gentleman says that he has not been to the top of the Dome.

Mr. BLAINE. No, not at all, and I do not propose to go.

Mr. VAN WYCK. I made that perilous voyage up the Dome a few days since and I do not remember seeing anything unfinished there.

Mr. BLAINE. Probably the gentleman had a swimming in his head, he got up so high, so that he could not tell what was around him.

Mr. VAN WYCK. If we continue to appropriate tens and hundreds of thousands of dollars in this way, our heads will swim more by and by.

The question was upon the motion of Mr. DODGE, to strike out "for continuing the work on the new Dome of the Capitol, $5,000."

The motion to strike out was agreed to.

The Clerk read the following:

Smithsonian Institution:
For the preservation of the collections of the exploring and surveying expeditions of the Government, $1,000.

Mr. POLAND. I move to amend the paragraph just read by striking out "$1,000" and inserting "$6,000." I apprehend that the Committee on Appropriations had not, probably, looked in the history of this annual appropriation to the Smithsonian Institution for taking care of these collections of the Government when they concluded to report this sum. These collections were kept in the Patent Office building up to 1857, and were then much smaller than they are now. An annual appropriation of $4,000 for the purpose of taking care of these collections, was made from 1842 to 1857. In 1857, the room occupied for that purpose in the Patent Office building was needed for other purposes, for models, &c., and these collections were then removed to the Smithsonian building where they have since been kept. An annual appropriation of $4,000 for their preservation was made from 1857 to last year, when the sum was increased to $10,000. These collections have been very largely increased; they have been doubled, in fact they have been quadrupled, since they were removed to the Smithsonian building; and the expense of taking care of them has been very largely increased in consequence of the general increase of the prices of labor, fuel, and everything that goes to make up that expense. Even if the amount of labor had not been increased in consequence of the increase of the collections, the appropriation which from 1842 to 1866 was $4,000, ought to be increased to at least $6,000.

The fund of the Smithsonian Institution, whatever it may be, is a fixed sum, and in consequence of the great increase in the prices of everything, it is not now worth more than half as much to the institution as it was formerly. A very large portion of the income from the fund of the institution, for the last two years, has had to be expended in refitting and repairing the building, rendered necessary by the destructive and ruinous fire that occurred there in 1865. It seems to me there can be no question but what the appropriation for this purpose should be at least $6,000.

Mr. UPSON. Who has the disbursing of this money, and what account is ever rendered to any one of the manner in which it is expended?

Mr. POLAND. It is disbursed under the care of Professor Henry, one of the most prudent men in the country, and it is all reviewed by the Board of Regents.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations thought that $1,000 a year was about as much as the people of this country desire to pay to preserve the collections of the exploring and surveying expeditions of the Government. The amount appropriated heretofore has been much larger, as the gentleman from Vermont [Mr. POLAND] has said. I had a conversation this morning with Professor Henry, who stated to me how this appropriation was to be used. From what he told me, I am willing to admit that there should be appropriated a much larger sum than the committee have reported in this bill, though not so much as $6,000, as the gentleman from Vermont has proposed. The professor himself expressed himself satisfied with $4,000; the usual annual appropriation for this purpose.

Mr. POLAND. It may be true that Professor Henry did not desire to have the friends of the Smithsonian Institution get into a controversy with the gentleman from Illinois, [Mr. WASHBURNE,] for he knew too well how much was involved in that; and, "to buy his peace," as lawyers say, he agreed to take $4,000 instead of asking for $6,000. He tells me, and I have no doubt tells the gentleman, that $6,000 is needed, and that he ought to have it.

Mr. WASHBURNE, of Illinois. I understood that he would be entirely satisfied with $4,000. And I will say that, instead of losing anything by any controversy with me, he would certainly obtain an additional amount here by getting into any such controversy. Will the gentleman from Vermont [Mr. POLAND] consent to modify the amendment by making the amount $4,000?

Mr. POLAND. No, sir.

Mr. PRUYN. Mr. Chairman, I move *pro forma* to amend the amendment by making the amount $7,500. I am prepared to corroborate in all substantial particulars the statement made by the gentleman from Vermont, [Mr. POLAND.] It is quite impossible that these collections can be taken care of for a less sum than five or six thousand dollars. They occupy the large hall of the Smithsonian Institution, the best part of the whole building. The rent of such a room anywhere else in this city would cost as much as the appropriation asked for. If the gentleman from Illinois will agree to an appropriation of $5,000, I will modify my amendment so as to name that sum.

Mr. WASHBURNE, of Illinois. No, sir; $4,000 is the usual appropriation, and I see no reason why, in the present condition of our finances, we should increase it.

Mr. PRUYN. I withdraw my amendment; but I hope the committee will agree to vote at least $6,000 for this purpose.

Mr. SELYE. Mr. Chairman, I rise to oppose the amendment. I would like to know of what this institution consists. I would like the gentleman from New York [Mr. PRUYN] or the gentleman from Vermont [Mr. POLAND] to tell us how many of his constituents ever saw this institution, or ever will see it, or ever want to see it? [Laughter.] It is enough to make any man or woman sick to visit that institution. [Laughter.] No one can expect to get any benefit from it. I am opposed, sir, to taxing my constituents $7,000 a year to keep up any such institution.

Mr. POLAND. In accordance with what

seems to be the wish of gentlemen around me, I modify my amendment so as to make the amount $5,000.

On the amendment of Mr. POLAND, as modified, there were—ayes 50, noes 53.

Mr. POLAND called for tellers.

Tellers were ordered; and Messrs. SPALDING and SELYE were appointed.

The committee divided; and the tellers reported—ayes 40, noes 55.

So the amendment was not agreed to.

Mr. TWICHELL. I move to amend by striking out "one" and inserting "four;" so as to make the paragraph read:

For the preservation of the collections of the exploring and surveying expeditions of the Government, $4,000.

The amendment was agreed to.

The Clerk read the following paragraph:

Metropolitan police:

For salaries and other necessary expenses of the metropolitan police for the District of Columbia, $211,050: *Provided*, That a further sum, amounting to $105,525, shall be paid to the said Metropolitan police force by the cities of Washington and Georgetown and the county of Washington, (beyond the limits of said cities,) in the District of Columbia, in the proportion corresponding to the number of patrolmen allotted severally to said precincts; and the corporate authorities of said cities and the levy court of said county are hereby authorized and required to levy a special tax, not exceeding one third of one per cent., to be appropriated and expended for said purpose only, for the service of the fiscal year ending June 30, 1869.

Mr. LAWRENCE, of Ohio. I move to amend by striking out in the first clause of the paragraph just read the sum of "$211,050." I desire to call the attention of the committee to a subject which I think deserves some consideration. It will be seen that this bill proposes to appropriate for the Metropolitan police $211,050. I see that in another part of the bill provision is made for an appropriation for the improvement of G street. I also find in the bill such items as the following:

For repairs of Pennsylvania avenue, including cleaning sewer-traps, new crossings, &c., $20,000.

For extra labor in removing snow and ice from the pavements and public walks, $500.

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, $12,000, or so much thereof as may be necessary.

For lighting the Capitol and President's House and public grounds around them, around the executive offices and Pennsylvania avenue, $50,000.

For lighting Four-and-a-Half street, across the Mall, and Maryland avenue west, and Sixth street south, $20,000.

Mr. INGERSOLL. I raise the point whether it is in order, in discussing the question now before the committee, to discuss the various subsequent appropriations relating to the city of Washington—appropriations which have not yet been read and are not before the committee.

The CHAIRMAN. It is not in order to discuss any of those propositions; but it is in order to refer to them for the purpose of showing that this is unnecessary.

Mr. LAWRENCE, of Ohio. That is my object. I propose to show what it is we are asked to appropriate for the city of Washington. I am not much surprised that the gentleman from Illinois, [Mr. INGERSOLL,] the chairman of the Committee for the District of Columbia, should be disposed to take especial care of the interests of this city; but I am amazed at the enormous appropriations which have been made by this and previous Congresses for this District.

Mr. Chairman, I direct attention to the following table, which was prepared for me at the Treasury Department. It shows, in detail, the appropriations made for purely local purposes in this District. We have appropriated in six years $2,385,047—nearly three millions—for purposes purely local. It will be seen we have appropriated to grade the streets, to light the city, &c. It is as follows:

Statement showing the amounts appropriated and expended for local purposes in the District of Columbia during the fiscal years commencing July 1, 1860, and ending June 30, 1867.

Appropriations made during the fiscal year ending	June 30, '61.	June 30, '62.	June 30, '63.	June 30, '64.	June 30, '65.	June 30, '66.	June 30, '67.	Aggregate.
Compensation of auxiliary guard (metropolitan police)	$32,400 00	$92,400 00	$100,000 00	$110,000 00	$110,000 00	$110,000 00	$194,504 67	$749,304 67
Support &c., of transient paupers, Dist. Col.	6,000 00	6,000 00	6,000 00	6,000 00	6,000 00	12,000 00	12,000 00	54,000 00
Completing the Washington Aqueduct	500,000 00	-	-	-	150,000 00	-	154,584 00	804,584 00
Insane Asylum, namely:								
Support, clothing, &c.	30,500 00	40,500 00	40,500 00	50,500 00	90,500 00	90,500 00	90,500 00	433,500 00
Furnishing, heating, purchase of site, &c.	55,454 00	-	7,000 00	5,000 00	7,500 00	10,000 00	5,000 00	89,954 00
Extension of workshops	-	-	-	2,000 00	-	-	-	2,000 00
Continuation of wall, &c.	-	-	-	10,000 00	10,000 00	10,000 00	10,000 00	40,000 00
Removing and repairing old frame buildings	-	-	-	-	-	6,000 00	-	6,000 00
Purchase of 55½ acres of meadow land	-	-	-	-	-	-	6,000 00	6,000 00
Columbia Institution for the Deaf, Dumb, and Blind, namely:								
Salaries, incidental expenses, &c.	3,000 00	3,000 00	4,400 00	4,400 00	7,500 00	12,500 00	20,700 00	55,500 00
Proper inclosure of grounds	-	-	-	-	-	3,500 00	4,500 00	8,000 00
Erection of brick barn, &c.	-	-	-	-	-	-	14,500 00	14,500 00
Erection, &c., of two additions to buildings	-	9,000 00	-	3,720 00	3,200 00	39,445 87	32,240 00	87,605 87
Maintenance and tuition, &c.	3,585 20	3,384 10	4,150 00	2,975 00	4,125 00	3,587 50	900 00	22,706 80
Purchase of tract of land, &c.	-	-	-	-	26,000 00	-	-	26,000 00
Penitentiary, District of Columbia, namely:								
Support, &c.	6,296 25	21,458 05	13,293 75	-	-	-	-	41,048 05
Compensation of wardens, &c.	13,640 00	13,640 00	16,080 00	-	-	-	-	43,360 00
Compensation of inspectors	750 00	750 00	754 00	-	-	-	-	2,250 00
Erection, furnishing, lighting, &c., a lodge for colored women	10,000 00	-	-	-	-	-	-	10,000 00
Support, &c., of convicts transferred from Dist. Col.	-	-	-	-	-	30,000 00	50,000 00	80,000 00
Construction of police telegraph	-	-	-	-	-	-	15,000 00	15,000 00
Erection of additional buildings to Providence Hospital	-	-	-	-	-	-	30,000 00	30,000 00
Construction of new jail	-	-	-	-	-	-	200,000 00	200,000 00
Support of Columbia Hospital for Women Lying-in Association	-	-	-	-	-	-	10,000 00	10,000 00
House of Correction for boys	-	-	-	-	-	-	12,000 00	12,000 00
Colonization of persons of African descent, &c., in District of Columbia	-	100,000 00	500,000 00	-	-	-	-	600,000 00
Repairs of Pennsylvania avenue	3,000 00	3,000 00	-	6,000 00	6,000 00	26,000 00	5,000 00	49,000 00
Repairs of water pipes	500 00	500 00	500 00	500 00	500 00	500 00	500 00	3,500 00
Repairing Delaware avenue, north of Capitol	-	-	1,000 00	1,000 00	-	-	-	2,000 00
Repairing fence around Armory square	-	-	-	-	533 00	-	-	533 00
Repairing culvert, &c., New Jersey avenue	-	-	-	500 00	-	-	-	500 00
Repairing arch, &c., New Jersey avenue, below Coast Survey	-	-	-	-	-	-	1,000 00	1,000 00
Purchase of trees and tree boxes	2,500 00	2,500 00	-	3,000 00	3,000 00	3,000 00	3,000 00	17,000 00
Cleaning out sewer traps on Pennsylvania avenue	300 00	300 00	300 00	300 00	300 00	300 00	300 00	2,100 00
Inclosing with iron railing, circle at intersection of Pennsylvania and New Hampshire avenues	9,018 47	-	-	-	-	-	-	9,018 47
Grading, &c., B street south from Seventh to Fourteenth streets	7,979 50	-	-	-	-	-	-	7,979 50
Inclosing Franklin square with a wooden fence	-	-	-	-	3,000 00	2,000 00	1,500 00	6,500 00
Grading, &c., Virginia avenue	-	-	-	-	-	-	10,000 00	10,000 00
Grading East Capitol street, and inclosing Lincoln square	-	-	-	-	-	-	15,000 00	15,000 00
Books of record, shelving, &c., officer of register of deeds, District of Columbia	-	-	-	-	-	-	600 00	600 00
Lighting Maryland avenue west and Sixth street south, with gas	-	-	-	15,000 00	-	-	-	15,000 00
Improvement of streets, avenues, &c., Washington city	-	-	346 13	-	-	32,070 00	48,755 81	81,171 94
Improvement of B street south, from Sixth to Seventh streets	-	-	-	6,940 00	-	-	-	6,940 00
Making improvements provided for in thirteenth section city charter	-	-	-	5,000 00	-	-	-	5,000 00
Curbing and paving footwalk, &c., Missouri avenue, from Third to Sixth streets	1,939 37	-	-	-	-	-	-	1,939 37
Paying one half of the expense of sewer-traps, &c., Fourth and E streets, north	-	-	200 00	-	-	-	-	200 00
Removing back the fence, &c., First, between Capitol grounds and Botanic Garden	-	-	-	1,200 00	-	-	-	1,200 00
New pave washers, Pennsylvania avenue	-	-	-	-	-	-	1,000 00	1,000 00
Sewer in rear of H street, between Sixteenth and Seventeenth streets	-	-	-	-	-	-	2,500 00	2,500 00
Grading portion of North Capitol street, &c.	-	-	-	-	-	-	8,140 00	8,140 00
Total	$686,862 79	$296,432 15	$694,519 88	$234,035 00	$428,158 00	$391,403 37	$959,724 48	$3,691,135 67

STATEMENT CONTINUED—EXPENDITURES.

Expenditures during the fiscal years ending	June 30, '61.	June 30, '62.	June 30, '63.	June 30, '64.	June 30, '65.	June 30, '66.	June 30, '67.	Aggregate.
Compensation of auxiliary guard, (metropolitan police)	$49,185 10	$90,024 17	$98,000 00	$108,000 00	$116,680 88	$110,000 00	$194,504 67	$766,394 82
Support, &c., of transient paupers, Dist. Col	6,000 00	4,381 15	5,154 00	6,000 00	6,000 00	12,000 00	12,000 00	51,535 15
Completing the Washington aqueduct	251,470 55	26,560 00	92,000 00	129,756 70	144,612 67	7,800 10	23,000 00	675,200 02
Insane Asylum of District of Columbia, namely:								
Support, clothing, &c	30,500 00	40,500 00	40,000 00	50,500 00	40,500 00	100,000 00	90,500 00	372,500 00
Furnishing, heating, purchase of site, &c	43,343 00	12,111 00	7,000 00	-	7,500 00	-	-	69,954 00
Extension of workshops	-	-	-	2,000 00	-	-	-	2,000 00
Continuation of wall, &c	-	-	-	10,000 00	-	-	-	10,000 00
Purchase of fifty-six and a half acres of meadow land	-	-	-	-	-	-	6,000 00	6,000 00
Columbia Institution for the Deaf, Dumb, and Blind, namely:								
Salaries and incidental expenses	3,000 00	3,750 00	4,400 00	4,400 00	7,500 00	12,500 00	20,431 14	55,981 14
Maintenance and tuition, &c	3,585 20	3,384 10	4,150 00	2,975 00	4,125 00	3,587 50	900 00	22,706 80
Erection, &c., of two additions to the building	-	1,900 00	7,100 00	3,720 00	3,200 00	39,445 87	32,240 00	87,605 87
Purchase of tract of improved land	-	-	-	-	26,000 00	-	-	26,000 00
Proper inclosure, grading, &c., of the grounds	-	-	-	-	-	3,500 00	3,500 00	7,000 00
Erection of brick barn, carriage-house, &c	-	-	-	-	-	-	14,500 00	14,500 00
Penitentiary, District of Columbia, namely:								
Support, &c	6,296 25	20,546 38	7,405 37	6,800 05	-	-	-	41,048 05
Compensation of warden, &c	12,643 00	13,966 57	7,401 23	8,046 88	1,981 89	-	-	44,039 57
Compensation of inspectors	562 50	921 52	375 00	494 92	-	-	-	2,353 94
Erection, furnishing, lighting, &c., lodge for colored women	10,000 00	-	-	-	-	-	-	10,000 00
Support, &c., of convicts transferred from Dist. Col	-	-	-	-	-	6,262 82	23,701 51	29,964 33
Construction of police telegraph	-	-	-	-	-	-	15,000 00	15,000 00
Erection of additional buildings to Providence Hospital	-	-	-	-	-	-	30,000 00	30,000 00
Construction of new jail	-	-	-	-	-	-	5,000 00	5,000 00
Support of Columbia Hospital for Women Lying-in Association	-	-	-	-	-	-	10,000 00	10,000 00
House of Correction for Boys	-	-	-	-	-	-	9,500 00	9,500 00
Colonization of persons of African descent, &c., in District of Columbia	-	100 00	28,420 00	10,691 15	-	-	-	39,212 15
Repairs of Pennsylvania avenue	3,000 00	3,000 00	10,000 00	6,000 00	6,000 00	26,000 00	5,000 00	59,000 00
Repairs of water pipes	300 00	700 00	500 00	500 00	500 00	500 00	500 00	3,500 00
Repairing Delaware avenue north of the Capitol	-	-	1,000 70	1,000 00	-	-	-	2,000 00
Repairing fence around Armory square	-	-	-	-	533 00	-	-	533 00
Repairing culvert, &c., New Jersey avenue	-	-	-	500 00	-	-	-	500 00
Repairing arch, &c., New Jersey avenue, below Coast Survey	-	-	-	-	-	-	15,000 00	15,000 00
Purchase of trees and tree-boxes	2,000 00	3,000 00	3,000 00	3,000 00	3,000 00	3,000 00	3,000 00	20,000 00
Cleaning out sewer traps on Pennsylvania avenue	600 00	300 00	300 00	300 00	300 00	300 00	300 00	2,400 00
Inclosing, with iron railing, circle at intersection of Pennsylvania and New Hampshire avenues	9,018 47	-	-	-	-	-	-	9,018 47
Grading, &c., B street south, from Seventh to Fourteenth streets	7,979 50	-	-	-	-	-	-	7,979 50
Inclosing Franklin square with a wooden fence	-	-	-	-	3,000 00	3,000 00	1,500 00	6,500 00
Grading, &c., Virginia avenue	-	-	-	-	-	-	10,000 00	10,000 00
Grading E. Capitol st. and inclosing Lincoln square	-	-	-	-	-	-	15,000 00	15,000 00
Books of record, shelving, &c., office of register of deeds, District of Columbia	-	-	-	-	-	-	485 85	485 00
Lighting Maryland avenue west and Sixth street south with gas	-	-	-	15,000 00	-	-	-	15,000 00
Improvement of streets, avenues, &c., Washington city	-	-	364 13	-	-	30,541 88	50,283 93	81,171 94
Improvement of B street south from Sixth to Seventh streets	-	-	-	1,828 43	1,221 81	-	3,889 76	6,940 00
Making improvements provided in thirteenth section of city charter	-	-	-	3,595 23	1,404 77	-	-	5,000 00
Curbing and paving foot-walk, &c., Missouri avenue, from Third to Sixth streets	1,939 37	-	-	-	-	-	-	1,939 37
Paying one half of the expense of sewer traps, &c., Fourth and E streets north	-	-	200 00	-	-	-	-	200 00
Removing back the fence, &c., First street, between Capitol grounds and Botanic Garden	-	-	-	1,200 00	-	-	-	1,200 00
New pave-washers, Pennsylvania avenue	-	-	-	-	-	-	1,000 00	1,000 00
Sewer in rear of H street, between Sixteenth and Seventeenth streets	-	-	-	-	-	-	2,500 00	2,500 00
Grading portion of Capitol street, &c	-	-	-	-	-	-	8,140 00	8,140 00
Salaries of—								
United States district attorney for Dist. Col	200 00	190 11	200 00	150 00	250 00	200 00	200 00	1,390 11
Warden of the jail, District of Columbia	-	-	-	-	1,740 65	400 00	2,354 21	4,494 86
Judges of supreme and orphans' courts, Dist. Col	15,750 00	15,750 00	14,315 99	14,781 27	13,982 50	13,925 00	17,491 77	105,996 53
Total	$457,372 94	$241,085 00	$331,267 72	$391,240 63	$390,033 17	$371,963 17	$627,422 84	$2,810,385 47

TREASURY DEPARTMENT, REGISTER'S OFFICE, *January* 30, 1868.

N. L. JEFFRIES, *Acting Register.*

I have taken pains to ascertain the rate of taxation in the city of Washington; and Mayor Wallach furnishes me with the following facts:

"1. The rate of taxation for all purposes on real estate in Washington from 1860 to 1867 was about one per cent., or one dollar on the hundred.

"2. The assessed taxable value is supposed to be about two thirds of its real value.

"3. The assessed value of real estate compared with sales made in 1867 presents a difference of quite fifty per cent. in favor of sale."

The collector of taxes states that the amount of assessed value of real and personal property in Washington city is as follows for the years indicated:

Year.	*Real and Personal.*
1864	$38,835,886
1865	40,106,736
1866	41,203,636
1867	42,483,536

He also states the following in reference to the rate of taxation in Washington:

Year.	*Rate of Taxation on each $100 of property.*	*Rate of Taxation.*
1859	$0.60	$0.006
1860	0.65	.0065
1861	0.50	.0050
1862	0.75	.0075
1863	0.75	.0075
1864	1.10	.011
1865	1.00	.01
1866	1.10	.011
1867	1.25	.0125

It will be seen from these statements that there is no city in the United States where the taxes are so light as they are in this. The rate of tax here is less than six mills on the actual value of the property assessed for taxation. And notwithstanding this we are now asked to tax our people still further than they are now taxed to pay for the local expenses of this city.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I am obliged to the gentleman from Ohio [Mr. LAWRENCE] for the interesting statement he has just given to us. I hope to have his earnest support, as I have not had it to the fullest extent to-day, to reduce the appropriations for this city. His statement will be useful when we come to them further on. I should not be displeased if the gentleman should convince the committee that it is very proper to strike out this appropriation for the Metropolitan police. In putting the appropriation in the bill the Committee on Appropriations has only followed the law. If gentlemen will look at page 198 of the estimates they will find how this amount is made up. The Government pays two thirds of the expense

and the cities of Washington and Georgetown pay the other third. I have no feeling on the subject one way or the other. I do not choose to move to strike it out, but if it is stricken out I think we can get along without them. So far as I am concerned, I think we can get along with a less expenditure and have a better police.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. INGERSOLL. I move an amendment *pro forma* in order to submit a few remarks on this question. I wish the committee to understand that the Government of the United States is as deeply interested in the administration of this city as the citizens themselves are. The Government possesses property here to the amount of $50,000,000, upon which it does not pay one cent of tax for the support of any part of this municipal government; and is it not to the interest of this Government to have that property protected? We have from five to eight thousand clerks here.

Mr. NIBLACK. Does not the gentleman under-estimate the value of the Government property? Is it not over one hundred million dollars?

Mr. INGERSOLL. I am estimating it in accordance with the customary valuation for the purposes of taxation. It is the relative value in comparison with the value of other property in the city belonging to the citizens. The Government owns as much property in value here as do all the citizens of Washington together.

Mr. NIBLACK. More, too.

Mr. INGERSOLL. It is about equal, according to the estimate I have made. Now, sir, the government of this city is administered as cheaply, I assume, as that of any city government in the United States, and as efficiently, so far as its police affairs are concerned. There is no body of men in that capacity in the United States who discharge their duties more faithfully than do the metropolitan police of this city. A more orderly and efficient body of men does not exist in this country.

Now, sir, it must be remembered that the Metropolitan police and the municipal authorities of this city protect the rights of from five to eight thousand citizens of the United States, clerks of Departments, members of Congress, heads of Departments, &c., besides foreign ministers and their legations. All these interests are directly under the protection of the municipal authorities at Washington, and it would be an outrage upon existing rights to strike out this appropriation. I want to remind gentlemen that this appropriation is made in accordance with existing law. This Metropolitan police force is working under the law of Congress.

Mr. BLAINE. With the consent of the gentleman from Illinois, [Mr. INGERSOLL,] I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having taken the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes, and had come to no resolution thereon.

NITRO-GLYCERINE.

The SPEAKER. The Chair will state to the House that he has placed in his possession, by the superintendent of the Metropolitan police of this city, a communication from the superintendent of the metropolitan police of New York, of so grave and important a character that he feels it his duty to lay it before the House.

The Clerk read as follows:

OFFICE OF THE SUPERINTENDENT OF THE METROPOLITAN POLICE, No. 300 MULBERRY STREET, NEW YORK, *February* 26, 1868.

SIR: I have just been called on by Colonel Tal. P. Shaffner, president of the United States Blasting Oil Company, with a request to look up five cans of nitro-glycerine which was delivered on an order from a regular customer, but which order is now pronounced to be a forgery. The quantity of the oil in the cans was about one hundred and sixty-five pounds—a quantity sufficient to blow up the St. Nicholas hotel in New York. He fears that it may have been obtained in the way it was for some foul purpose, as he latterly has had several applications by unknown persons for the purchase of the article, to whom he refused to sell, owing to their being strangers and would not explain satisfactorily the purpose for which they wanted it. He informs me that, although it is given out that the stone walls of the Clerkenwell prison were blown down with gunpowder, the material used was glycerine.

Now, sir, this one hundred and sixty-five pounds has disappeared from New York, and, if intended for mischief, it is more likely for use in Washington than elsewhere. I give you this information to put you on guard.

Very respectfully, JOHN A. KENNEDY,
Superintendent.

Major A. C. RICHARDS, *Superintendent of Metropolitan Police, Washington, D. C.*

The communication was laid on the table.

Mr. INGERSOLL. Abolish the police force in this city and see how soon we will be blown up. [Laughter.]

Mr. SPALDING. I move that the House adjourn.

The motion was disagreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed a joint resolution (S. No. 111) providing for the issue of clothing to soldiers and others to replace clothing destroyed to prevent contagion; in which the concurrence of the House was requested.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the following communication from the Secretary of the Treasury; which was referred to the Committee on Appropriations, and ordered to be printed in the Globe:

TREASURY DEPARTMENT,
February 27, 1868.

SIR: I inclose herewith a communication from the superintending architect of this Department in regard to an appropriation for the continuation and completion of the United States custom-house and post office at Cairo, Illinois, and have to say that, after a careful examination of the subject, I am satisfied that the amount is needed, and that the public interests demand an early completion of the building.

I therefore recommend the appropriation of $50,000 for the year ending June 30, 1869.

Very respectfully, H. McCULLOCH,
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
February 27, 1868.

SIR: I desire to call your attention to the necessity that an appropriation of the sum of $50,000 for the completion of the custom-house at Cairo, Illinois, should be included in the appropriations for the fiscal year ending June 30, 1869, in which case there will, in my opinion, be no difficulty in completing the building before the close of the year ending on that date.

I cannot too strongly urge the importance of this from the exposed situation of the work, the difficulty of obtaining competent workmen, and the cost of watching and preserving the work already done and the material on hand, which demand the completion of the building at the earliest possible moment.

The estimated cost of the building is $148,972:

Amount appropriated	$50,000
Amount estimated for in deficiency bill	50,000
Amount recommended for completion of building	50,000
Total	$150,000

Very respectfully, A. W. MULLETT,
Supervising Architect.

Hon. HUGH McCULLOCH, *Secretary of the Treasury.*

The SPEAKER also laid before the House a communication from the Secretary of the Interior, recommending an appropriation to meet certain liabilities on account of books of record furnished for the use of the register of deeds in the District of Columbia; which was referred to the Committee on Appropriations, and ordered to be printed.

CIVIL APPROPRIATION BILL.

Mr. BLAINE. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the pending paragraph be closed in eight minutes after the committee resumes the consideration of the same.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole; and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

Mr. BLAINE. I yield five minutes to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. I desire to ask my colleague, [Mr. WASHBURNE,] who has charge of this bill, if this appropriation is not necessary to carry out an existing law? Will he just state to the committee whether that is not so?

Mr. WASHBURNE, of Illinois. I think I stated that in answer to the gentleman from Ohio, [Mr. LAWRENCE.] I stated that the committee felt bound to submit this matter to the House under the existing law.

Mr. INGERSOLL. Then I understand that this appropriation is in pursuance of and in accordance with the statutes of the United States as they now stand; and I submit that it is not in order to strike out the appropriation so long as that law makes it obligatory upon us to carry it into execution by making this appropriation. That is all I desire to say.

Mr. LAWRENCE, of Ohio. My object was mainly to call the attention of the committee to the enormous appropriations which have been made and are being made for this District. I desire to say that I agree entirely with the gentleman from Illinois, [Mr. INGERSOLL,] that the police force of this city manage the affairs of this city as well as the police force of any city in the Union. I have nothing to say against them. I believe that they are not adequately paid, and if I had power the police force is one of the class of officers whose compensation I would increase. But the question I submit is not whether the police force shall be continued or whether they shall be paid, but who shall pay them. I insist that it is the duty of the Committee for the District of Columbia, of which the gentleman from Illinois is chairman, at the proper time to introduce a bill which shall make it the duty of the proper officers of this city to levy the necessary taxes and pay their own police force. Why, sir, in this city there are $15,000,000 annually paid out to officers of the national Government for salaries here; there are annually brought into this city $5,000,000 by travelers who visit this city, making an annual expenditure of $20,000,000 poured into the lap of this city. And yet, with all that immense treasure drawn from the people of the United States we are asked, as I have already remarked, to grade their streets, light their avenues, support their poor, pay their police force, and pay a large proportion of all the local expenses of the city. Sir, this ought not to be. A change should be made. We ought not to overburden the already oppressed tax-payers of this country to pay the expenses of this city when the taxes here are comparatively so small. The people here ought to be required to pay their own local expenses. In the town where I have the honor to live our taxation is at the rate of twenty-eight mills on the dollar; in New York it is two and six tenths per cent. on the assessed value of all the property, and in Philadelphia, as I learn, it is one and four tenths on the dollar.

Mr. INGERSOLL. Allow me to say that nine-tenths of the persons in this city who have been receiving charity for the last five or six years are freedmen, who were brought

here by the circumstances of the rebellion during the war.

Let me state another fact. The Government of the United States is not much the creditor of the city of Washington. Lands donated to the Government by the original proprietors of the city have been sold and the money has gone into the Treasury of the United States to the amount of more than a million dollars.

Mr. LAWRENCE, of Ohio. Mr. Chairman——

Mr. INGERSOLL. Let me state another fact.

Mr. LAWRENCE, of Ohio. Very well.

Mr. INGERSOLL. For the past five or six years there have been thousands of temporary sojourners in this city, men who have been brought here by the war and who have had the protection and assistance of the authorities here. That has been the reason for this additional expense.

Mr. LAWRENCE, of Ohio. I have only to say, in reply to the gentleman from Illinois, [Mr. INGERSOLL,] that if it had not been for the location of the capital here the place where this city is located would have been a desert. The location of the capital here has made this place what it is.

Mr. INGERSOLL. So much the greater necessity, then, for this appropriation.

The question was upon the amendment of Mr. LAWRENCE, of Ohio, to strike out "$211,050" and to insert "$100,000" in the following paragraph:

Metropolitan police:

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, $211,050: *Provided*, That a further sum, amounting to $105,525, shall be paid to the said Metropolitan police force by the cities of Washington and Georgetown and the county of Washington, (beyond the limits of said cities,) in the District of Columbia, in the proportion corresponding to the number of patrolmen allotted severally to said precincts; and the corporate authorities of said cities and the levy court of said county are hereby authorized and required to levy a special tax, not exceeding one third of one per cent., to be appropriated and expended for said purpose only, for the service of the fiscal year ending June 30, 1869.

The amendment was not agreed to.

The Clerk read the following paragraph:

Expenses of the collection of revenue from sales of public lands:

For salaries and commissions of registers and receivers of public moneys at sixty-six land offices, $244,800.

Mr. DRIGGS. I move to amend the paragraph just read by striking out "$244,800," and inserting "$100,000." We have sixty-six land offices, and we have one register and receiver in each office, with a salary of $500 a year, consequently nearly $200,000 of the sum proposed to be appropriated by this clause is for commissions. Now, I do not think this committee will vote any such sum.

Mr. WASHBURNE, of Illinois. If the gentleman from Michigan [Mr. DRIGGS] will examine the estimates he will find stated in detail the amounts which, under existing laws, make up this sum.

Mr. DRIGGS. How is the amount made up?

Mr. WASHBURNE, of Illinois. This amount includes the salaries and commissions to which these officers are entitled under the law. We have to estimate somewhat in regard to the amount to be allowed for commissions. But if there is any more appropriated than is necessary to pay the commissions, it will not be lost.

Mr. DRIGGS. What commissions? The commissions are paid by those who locate the lands. I hope my amendment will be adopted.

Mr. WASHBURNE, of Illinois. If the gentleman will examine the estimates, he will see every single item of the amount which the Committee on Appropriations have proposed here.

The question was then taken on the amendment of Mr. DRIGGS; and it was not agreed to.

The Clerk read the following paragraph:

Surveying the public lands:

For surveying the public lands in Minnesota, at rates not exceeding ten dollars per lineal miles for standard lines, seven dollars for townships, and six for section lines, $10,000.

Mr. INGERSOLL. I was requested by the gentleman from Minnesota, [Mr. WINDOM,] who is now confined to his room by indisposition, to move to amend this paragraph by striking out "$10,000" and inserting "$20,000." I therefore make that motion. He tells me, as also does one of the Senators from that State, that this amount is really needed in order to have lands surveyed to supply settlers who are coming in there.

Mr. WASHBURNE, of Illinois. As the gentleman from Minnesota [Mr. WINDOM] is detained from his seat by sickness, and has an interest in this matter, I will not object to the amendment; it can be voted upon in the House.

The amendment was agreed to.

The Clerk resumed the reading of the bill.

The following paragraph was read:

For surveying the public lands in Dakota Territory, including the lands along the Red River of the North, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, $15,000.

Mr. BURLEIGH. I move to amend this paragraph by striking out "$15,000" and inserting "$20,000." In order to make these surveys it is necessary to run base lines, and it will take the whole amount proposed by the committee to do that. I would not ask for this increase if it was not absolutely necessary in order to provide for the settlers who are coming into the Territory.

Mr. WASHBURNE, of Illinois. I hope the amendment will not be agreed to. The Committee on Appropriations thought they were very liberal in giving the amount named here.

Mr. SPALDING. It is only $5,000 more than is contained in the bill, and I think we should give it.

Mr. DODGE. The committee propose to give $15,000 to survey lands in Dakota Territory; one portion to be surveyed is three hundred by two hundred miles, while another portion is three hundred by one hundred and fifty miles.

Now, the amount proposed will survey fifteen townships one hundred miles square. I undertake to say the amount named in the bill will not be sufficient for both that portion of the Territory east of the Missouri river and that west of the river. The committee has probably paid no attention to the portion west of the Missouri river; but in that section there are already some twenty or thirty thousand inhabitants; and I believe that before the close of the year there will be at least one hundred thousand there. A pressing necessity exists for these surveys. The appropriation reported will suffice only for running one base line east of the Missouri river.

Mr. UPSON. I would inquire of the gentleman whether a large part of the Territory west of the Missouri river is not to be embraced within the limits of a new Territory?

Mr. DODGE. Even if that be so, there is no appropriation in this bill for surveying these lands.

On agreeing to the amendment there were—ayes 34, noes 23; no quorum voting.

Mr. WASHBURNE, of Illinois. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

MUNICIPAL OFFICERS IN REBEL STATES.

Mr. COOK. I ask unanimous consent to submit the following resolution:

Resolved, That the General of the Army be directed to communicate to this House copies of all correspondence in his office in relation to the removal of the city council of New Orleans, and copies of all correspondence not heretofore furnished in relation to the city council of Jefferson city, Louisiana.

Mr. RANDALL. I object.

ALEXANDRIA CANAL.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 831) relating to the Alexandria canal; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CUSTOM-HOUSE BUILDING, NEW YORK CITY.

Mr. VAN WYCK. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be directed to suspend work on the new clock and weather-vane on the custom-house at New York city until he reports to this House the estimated expense of the same.

Mr. JENCKES. I object.

IMPROVEMENT OF NAVIGATION.

Mr. COBB, by unanimous consent, presented resolutions of the Legislature of the State of Wisconsin, in relation to the project of connecting by navigable channels through the Fox and Wisconsin rivers the waters of the Mississippi with the waters of Lake Michigan; which were referred to the Committee on Commerce and ordered to be printed.

And then, on motion of Mr. RANDALL, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BARNUM: The petition of Munson Hawley and others, of Bridgeport, district of Fairfield, praying for an appropriation for the construction of a building to be used as a custom-house and post office at Bridgeport, Connecticut.

By Mr. ELDRIDGE: A memorial of William H. Angel, George Maloney, and 27 others, against oppressive taxes.

By Mr. FERRIS: The petition of 115 citizens of Glen's Falls, N. Y., praying for a reduction of the Army and Navy and for other reforms.

By Mr. HOLMAN: The petition of R. H. Swift and others, citizens of Franklin county, Indiana, praying that a pension be granted to Mrs. Ann Coskey, widow of James Coskey, a soldier of the war of 1812.

By Mr. INGERSOLL: A memorial of H. G. Anderson, A. W. Pinckney, W. Cockle, W. B. Lyon, Lewis Howell, and 200 others, business men in the city of Peoria, Illinois, demanding great reduction in the expenses of the Government and a corresponding reduction in the taxes.

By Mr. KELLEY: The petition of the Artists' Fund Society of Philadelphia and numerous artists, praying for a specific duty on works of art and a revision of the duties on the materials employed by artists.

By Mr. LAFLIN: A memorial of J. T. Helmick and 65 others, asking a reduction of the expenses of the Government, and to stop the revenue-cutter system.

By Mr. MOORE: The petition of citizens of Hammonton, New Jersey, setting forth that the lighthouse and Government property at Absecom inlet and Atlantic City, New Jersey, are endangered by encroachment of the sea, and praying action on the subject.

By Mr. PAINE: The petition of Charles H. Doerflinger and others, of Milwaukee, for an amendment of the Constitution abolishing the office of President of the United States.

Also, the petition of John Muschauer and others, cigar manufacturers, of Milwaukee, relating to the tax upon cigars.

By Mr. PHELPS: A memorial from the South Baltimore Coal Oil Works, in relation to the prevention of frauds upon the Government by manufacturers of coal oil.

By Mr. PERHAM: The petition of David V. Lovell, of company E, seventeenth Maine volunteers, for bounty.

IN SENATE.

FRIDAY, *February* 28, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The following bills received from the House of Representatives yesterday were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 650) to amend the act of 3d of March, 1865, providing for the construction of certain wagon roads in Dakota Territory—to the Committee on Territories.

The bill (H. R. No. 725) supplemental to an act approved July 14, 1862, entitled "An act to establish certain post roads"—to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 814) declaratory of the meaning of a certain clause in section ninety-four of the act entitled "An act to provide internal revenue," &c., passed March 3, 1865—to the Committee on Finance.

OBSTRUCTIONS TO HARBORS.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds. The first amendment was to add the following as an additional section:

SEC. 2. *And be it further resolved*, That the Secretary of War is hereby directed to appoint a board of competent engineers, to consist of not less than three persons, to examine the condition of the wreck of the steamer Scotland, now in the waters of the harbor of the city of New York, and ascertain whether the same is dangerous to navigation, and to report thereon at as early a day as possible, with a particular estimate of the cost of the removal of said wreck.

Mr. MORGAN. I move that the Senate concur in that amendment.

Mr. GRIMES. I will merely remark that it is rather singular to appoint a board of engineers of the Army to determine whether a wrecked vessel lying in a channel-way is an obstruction to navigation. I do not interpose any objection to it; but it does not belong to Army engineers to settle such questions as that.

Mr. MORGAN. It will be recollected that a year ago a bill was passed appropriating $100,000 to remove this ship, the Scotland, and that subsequently, on the suggestion of the War Department, that law was repealed. It is now proposed to ascertain in the same manner whether this vessel is or is not an obstruction, and the expense of removing it. It seems to me to be very proper.

Mr. MORRILL, of Maine. I suggest to my honorable friend from Iowa, that it does particularly belong to the War Department. It is in the nature of a survey for harbor improvement, and that question always go to the engineering department connected with the War Department.

Mr. GRIMES. No, sir; that is a mistake.

Mr. MORRILL, of Maine. With due deference to my honorable friend, he will allow me to say the practice is invariable in the Committee on Commerce, under whose jurisdiction these cases go. Everything touching a harbor or river improvement——

Mr. GRIMES. Not the surveys, however. The surveys are made by the Coast Survey of all the harbors.

Mr. MORRILL, of Maine. I beg that my honorable friend will excuse me. All improvements, the removal of obstructions, and everything of that sort in harbors always go to the engineering corps of the War Department.

Mr. GRIMES. That is not the question here. The question is to determine whether a certain thing is an obstruction or not, and now it is proposed that the War Department shall settle that rather than those who are in the habit of navigating vessels, and can determine whether or not there is water-way enough on each side of that obstruction for the commerce of the city to pass.

Mr. MORRILL, of Maine. It is simply an obstruction.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

The amendment was concurred in.

The next amendment was to add to the title of the joint resolution the words "and for other purposes."

The amendment was concurred in.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, in relation to the project of connecting, by navigable channels through the Fox and Wisconsin rivers, the waters of the Mississippi with the waters of Lake Michigan; which was referred to the Committee on Commerce.

He also presented a petition of William H. Banta, praying that a grant of land be made to Rev. Floyd Farrar, of Grass Valley, California; which was referred to the Committee on Public Lands.

Mr. WILSON presented the petition of the Union League Club of the city of New York, praying that a medal be struck in bronze to commemorate the preservation of the American Republic, to be presented in the name of the American people to every officer, soldier, sailor, and marine, who, by service and an honorable discharge, has earned such a tribute, and to the children of those who have fallen in defense of the country; which was referred to the Committee on Military Affairs and the Militia.

Mr. PATTERSON, of Tennessee, presented a petition of Benjamin Rodgers, of Hawkins county, Tennessee, praying to be allowed pay as second lieutenant of company M, eighth Tennessee cavalry, from July 25, 1863, to September 7, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented the memorial of the Legislature of Wisconsin, in relation to the project of connecting, by navigable channels through the Fox and Wisconsin rivers, the waters of the Mississippi with the waters of Lake Michigan; which was referred to the Committee on Commerce.

Mr. HARLAN presented a memorial of honorably discharged officers of the Army, residing in Mount Pleasant, Iowa, protesting against the passage of the bill prohibiting the payment of commutation for officers' servants; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of honorably discharged officers of the Army, residing in Columbia city, Louisa county, Iowa, protesting against the passage of the bill prohibiting the payment of commutation for officers' servants; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of E. Lockwood, agent for Charles Rosefield, praying that the claims of Charles Rosefield may be referred to the Court of Claims; which was referred to the Committee on Claims.

He also presented the petition of John W. Byram and others, of the city of Washington, trustees of Union Chapel, praying that they may be authorized to mortgage certain property for church purposes; which was referred to the Committee on the District of Columbia.

Mr. CAMERON presented a petition of citizens of Easton, Pennsylvania, praying that the present national-banking system be not abrogated or materially changed; which was referred to the Committee on Finance.

He also presented a petition of citizens of Philadelphia, praying that the surviving soldiers and sailors of the war of 1812, with the widows of such as have deceased, or may hereafter die, be placed on the pension-rolls; which was referred to the Committee on Pensions.

He also presented a joint resolution of the Legislature of Pennsylvania, in favor of such a change in the tariff duties upon foreign works of art and artists' materials as will tend to the protection and fostering of native art and artists; which was referred to the Committee on Finance.

Mr. CHANDLER presented a petition of citizens of Cheboygan county, Michigan, praying that the Cheboygan river, on the straits of Mackinac, be dredged out, so as to afford a safe and commodious harbor, such as is needed for the commerce of the upper lakes; which was referred to the Committee on Commerce.

Mr. YATES presented a memorial of late officers of the Army, protesting against the passage of the bill prohibiting the payment of commutation for pay of officers' servants; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOWLER presented a petition of late officers of the Army, praying that the benefits of the act approved March 3, 1865, may be further amended, so that the three months' pay proper may be given to certain officers discharged from the service after April 9, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I present the memorial of the American Philosophical Society of Philadelphia, one of the oldest of the learned societies of our country, in which they set forth that there is reason to believe that the northwestern territory, recently ceded to the United States by the Russian Government, possesses resources in productions and naval facilities of much greater value and importance than has heretofore been supposed, the early development of which, by explorations in geodesy and natural history, is deemed to be of high importance to the interests both of science and of commerce; and, therefore, they ask the earliest possible action for the commencement and execution of proper examinations upon the coast and within the territory of Alaska by the officers of the Coast Survey and others of competent and scientific ability and experience; and they pray that adequate means may be adopted to make the explorations of the Government productive in the interests of science as well as those of commerce, and the extension of the area of freedom and civilization. This memorial is signed by the president and secretary of the society. I move its reference to the Committee on Appropriations.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (H. R. No. 660) restoring lands to market along the line of the Pacific railroad and branches, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public money under the direction of the chief of engineers, reported it without amendment.

Mr. WILLIAMS, from the joint select Committee on Retrenchment, reported a joint resolution (S. R. No. 115) to abolish the present Bureau of Statistics and transfer the duties thereof to the Special Commissioner of Revenue; which was read, and passed to a second reading.

IMPEACHMENT OF PRESIDENT JOHNSON.

Mr. HOWARD. The select committee of seven, to whom was referred the message of the House of Representatives respecting the impeachment of the President of the United States, have had the subject under further consideration, and have instructed me to report, in further discharge of the duties incumbent on them, a series of rules for the regulation of the proceedings of the high court of impeachment; and I now present that report and ask that it may printed.

Mr. SUMNER. I should like to ask my friend when he proposes to proceed to the consideration of those rules?

Mr. HOWARD. I beg to say that I shall move to take them up for consideration tomorrow at the earliest possible moment.

The PRESIDENT *pro tempore*. The motion to print will be entered, no objection being made.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 398) to establish the right of way for a ship-canal on Lake Superior, Michigan; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 399) to incorporate the National Society for the Prevention of Cruelty to Animals; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 400) granting a pension to Maria Raftery, widow of Patrick Raftery, corporal company H, thirty-third Massachusetts infantry volunteers; which was read twice by its title, and referred to the Committee on Pensions.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 401) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States;" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 402) for the removal of causes in certain cases from the State courts to the United States courts; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 403) in relation to testimony in the Court of Claims; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 116) relating to the islands of St. George and St. Paul; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

NOTICE OF PATENT EXTENSIONS.

Mr. WILLEY. I move that the Senate proceed to the consideration of Senate bill No. 313.

Mr. CONNESS. There is unfinished business belonging to yesterday morning that I desire very much to get a vote upon. I hope the Senator will allow that to come up first.

Mr. WILLEY. This will not take three minutes, I think. If it leads to debate I will give way.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 313) requiring persons applying to Congress for the extension or renewal of patents to give public notice thereof.

It provides that whenever any patentee of any invention or discovery, or his legal representative, shall desire to make application to Congress for the extension or renewal of the patent for such invention or discovery beyond the term of its limitation, he shall, before making such application, cause to be published, for four weeks successively, in one of the principal newspapers of the city of Washington, and also in one of the principal newspapers published in the State wherein such invention or discovery is most extensively used, a notice of such application and of the session of Congress when the application will be made.

Mr. JOHNSON. I ask the honorable member who is to select the paper? Would it not be better to let the Department itself select the paper?

Mr. WILLEY. The Department has nothing to do with applications of this character. It is where an application is to be made to Congress for the extension or renewal of a patent by Congress, and of course it must be submitted to the discretion of the party making the application; and whether the notice was sufficient or not must ultimately be submitted to the judgment of the Committee on Patents and the Patent Office or of the Senate.

Mr. JOHNSON. As far as the committee is concerned and as far as the Senate is concerned, the provision will be complied with if the advertisement appears in any of the newspapers. My idea is that there ought to be some one newspaper selected for the purpose, so that parties who may be interested in the extension of the patent may know where to go to find such a notice. If, however, the honorable member thinks the bill proper in this form, I shall make no objection.

Mr. WILLEY. I do not see how any particular paper could be designated, for the law is designed to be perpetual and papers are not. There are a great many of them in existence, and I think the object designed to be accomplished by this bill will be accomplished by publishing the notice in any principal newspaper in the city of Washington and in the State where the invention is most extensively used. The object is to give notice to the parties interested in any invention, that they may also appear before Congress with their remonstrances. Our experience on the committee has shown us that parties, as quietly as possible, seek to present applications for renewals and take those interested in the improvement in the country by surprise, and get an extension through Congress without notice to the country or those interested on the other side.

Mr. JOHNSON. I am not opposing the bill. I do not wish the honorable member to understand me as opposing it. I think the object of it is all right. The only question is whether there ought not to be some mode of selecting the paper in which the notice is to appear.

Mr. CONKLING. What is the provision of the bill?

Mr. WILLEY. That the notice shall be published in one of the principal papers in the city of Washington and also in one of the principal papers published in the State in which the invention is most extensively used.

Mr. CONKLING. The point that more especially strikes me is this: which is the State in which the invention is most extensively used? Probably, in most cases, that State which contains the greatest number of people. Very likely the State of New York is that State in which the great majority of inventions are most extensively used. Unless it is determined by population I do not know by what it is to be determined nor by whose discretion it is to be determined. I do not mean to make any suggestion in opposition to the bill, but I suggest to the honorable Senator that perhaps it would be more satisfactory to fix that in some way which he deems most prudent.

Mr. WILLEY. That was under the consideration of the committee. It would be impossible to designate now any particular paper that would accomplish the purpose; and whether the law has been substantially complied with must be judged of by the Senate when the matter comes up for consideration. It must be shown that notice according to this bill has been made; and if the Senate or Congress are satisfied that it was not published in one of the principal newspapers, thus substantially failing to comply with the requisition of the law, of course they will take action accordingly.

Mr. CONKLING. I think in the State of New York there cannot be less (at a venture) than fifty newspapers, any one of which is entitled to be called one of the principal papers. Now, if a person wishing to make an application of this sort is at liberty to go into the central part of the State in which I live, and publish in a newspaper there—which is certainly one of the principal papers of New York, his notice, it may be just as effectual for the people concerned as if it were not published at all; whereas if a provision was made that in every month and in every year a notice should take place in a certain paper, every man interested in such things would know that he must direct his attention to that paper, whether he looked at it for any other purpose or not. It seems to me that there is some substance in the alteration proposed, and that it would be very difficult for Congress to say, in the language of the Senator, whether this law had been complied with or not. If they should find it had been substantially complied with, it would be nevertheless, in many cases, a compliance utterly fruitless of good and of the security intended by the bill.

Mr. CONNESS. I rise to ask the Senator from West Virginia if he had not better let this bill lie over to-day, in order that this point may be accommodated?

Mr. ANTHONY. I hope not.

Mr. WILLEY. I think the Senate is ready to vote upon the bill.

Mr. ANTHONY. I have received several letters on this subject from my constituents, who are considerably interested in mechanical pursuits. There have been numbers of patent extensions pushed through Congress without any sort of notice to those who are most interested in the use and manufacture of the article affected by them, and the present law affords great facility to do that. A paper in this city might be designated by an order of the Secretary of the Senate, or by any other officer of the Senate, or by the chairman of the Committee on Patents. The Senator from West Virginia might insert a provision of that kind in the bill, to meet the objection of the Senator from New York, which I think has some ground for it.

Mr. WILLEY. If Senators require time to make any amendment to meet the difficulty suggested I am very willing that the bill shall lie over, for the purpose of giving them an opportunity to do so.

Mr. ANTHONY. I hope it will not lie over, because I think we can just as well pass it now, if the Senator would accept an amendment. I have not the bill before me; but where it reads, "in a paper of the State where the patent is most extensively used," I suggest the addition of the words, "such paper to be designated by the Secretary of the Senate or the Clerk of the House of Representatives, in whichever body the petition may be presented." I think that would secure it.

Mr. WILLEY. I have no objection to that. It will accomplish the same purpose.

Mr. HENDRICKS. I did not think very much of the objection when made, although it was made by my distinguished friend from Maryland. The object of this bill is to put Congress on its guard, to see to it that notice is given; but when a case comes before the committee of this body are we not willing to trust that committee to see that this act is carried out in its very spirit? Senators have no fear of that. I think the amendment proposed by the Senator from Rhode Island is just carrying out the "job" sort of proposition of the measure adopted in the last Congress, which was intended to secure a little food to partisan papers. The last Congress used about the same language, and the object of that was apparent, and then they doubled the rate of compensation.

Mr. ANTHONY. The Senator does me great injustice. That is not my object, and I was opposed to that law myself.

Mr. EDMUNDS. It is evident that this bill wants some more consideration. I therefore move to postpone the present and all prior orders, to take up Senate bill No. 366, regulating the presentation of bills to the President and their return.

Mr. FERRY. I hope that will not be done. I do not think that the amendment suggested by the Senator from Rhode Island is either necessary or expedient. The bill in its present shape was maturely considered in the committee, and was intended to remedy a universally acknowledged evil—the presentation of petitions for the extension and renewal of patents to Congress, and slipping them through Congress without the knowledge of the parties interested therein. The mode of giving notice

was a somewhat difficult matter to decide upon, but after careful consideration the mode prescribed in the bill was adopted by the committee.

Now, in reply to the suggestion made by the Senator from New York, I will say that the existing evil is that no notice is given at all. The notice provided by the bill is certainly better than no notice whatever, and a notice published in one of the newspapers in the city of Washington, where the attorneys and agents of the parties interested in patents to a considerable extent reside and do business, would probably attract the attention of those attorneys or agents, and the designation of the State may be safely left to the party preferring his petition, in the belief that he will select such State and such newspaper as will entitle him to be heard upon his petition when he presents himself before the committee. The amendment is nugatory, because the petition is prepared before Congress meets, and the designation of notice is not intended by the bill to be made after the petition has been presented to Congress, but before. I hope that the Senator from Rhode Island will withdraw his amendment and let the bill pass as it now stands.

Mr. ANTHONY. I certainly will. I merely presented it to meet the objection of the Senator from New York. It did not strike me as at all necessary.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. EDMUNDS. Inasmuch as it was obvious that this bill was leading to great debate, and needed further consideration, and it is quite important that the measure I have alluded to, which is one of general importance, constitutional importance, should be acted upon, I moved to postpone this and take up that. I hope Senators will consent to let this go over.

Mr. WILLEY. I think we are just about to take the vote.

Mr. CONNESS. I think I have a little claim on the morning hour.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to postpone the consideration of this bill for the purpose of taking up the bill mentioned by him.

Mr. WILLEY. I hope the Senator will withdraw his motion and let us vote.

Mr. EDMUNDS. On the appeal of my friend from West Virginia I withdraw the motion, with the hope that we can get a vote on this bill.

Mr. SPRAGUE. Mr. President——

Mr. WILLEY. I am under obligation, if there is any further discussion, to let the bill go over.

Mr. SPRAGUE. Then I will not discuss it. There is but one word that I desire to say on the subject under consideration. I concur with the Senator from West Virginia in favoring the passage of this bill, not, however, for the reasons he has given, but that it will require of applicants for renewals of patents additional expenses in procuring them, because it is my experience in this matter of appropriations for patents and extensions of patents and procuring them, that there are more men made crazy in employing their brains on this subject than any other that I know of.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WESTERN PACIFIC RAILROAD.

Mr. CONNESS. I move now that the Senate proceed to the consideration of Senate bill No. 159—which was under consideration yesterday—being a bill relating to the Western Pacific railroad.

Mr. EDMUNDS. I appeal to my friend from California and to the Senate whether it is not more important to take up the bill on the subject of the proper method of presenting bills to the President of the United States when two or three are supposed to have been lost already on account of the doubt about it, and have that acted upon, than it is to take up this local bill about this railroad? Without any opposition to the bill, because I do not understand what it is, I ask that the Senate may refuse to take it up in order that we may take up the other bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California.

Mr. CONNESS. For more than a month this bill has been reported, and I have waited with some anxiety for its consideration. It is not of local but of general importance. It is of universal importance to this country, and I am a little surprised that my friend antagonizes it this morning with a bill that he knows we can come to the consideration of at a further advanced period of the day.

Mr. EDMUNDS. I have been trying time after time to get up the bill which I have indicated.

Mr. CONNESS. I will join my honorable friend in calling it up at any time, but I hope the Senate will now take up the bill which I have moved to take up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, (S. No. 159,) the question being on the amendment reported by the Committee on the Pacific Railroad, to strike out after the word "that," in the third line of the bill, the following words:

> The Western Pacific Railroad Company be, and is hereby, authorized to locate the western terminus of its railroad and telegraph lines at Yerba Buena Island, in the Bay of San Francisco, and for such purpose there is hereby granted to the said company, its successors and assigns, such portion of the said island as shall not be required and selected within one year from the passage of this act for the purpose of fortifications, by authority of the President of the United States.

And to insert in lieu thereof:

> The Western Pacific Railroad Company of California be, and is hereby, permitted to occupy for the purposes of a depot, storehouses, and other necessary fixtures so much of the island known as Yerba Buena or Goat Island, in the Bay of San Francisco, California, as may, within one year from the time this act shall take effect, be designated by the General of the Army of the United States, with the approval of the Secretary of War, as not being required in time of peace for military purposes; which privilege shall, however, be suspended whenever the United States shall be engaged in war or in imminent danger thereof, and notice of such determination shall be given to said company, its successors or assigns, by the Secretary of War, with the approval of the President. And in case of such suspension of said privilege it shall be the right of the United States to take possession of the part of said island subject to said privilege, together with all buildings and other fixtures erected thereon by said company, and to occupy and use the same for military purposes during the war, and so long thereafter as shall be deemed necessary by the Secretary of War, with the like approval; and the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof.

Mr. HOWARD. I have to suggest a verbal amendment of this amendment, to strike out in line twenty-one the word "determination" and insert "suspension." It is a clerical error in copying.

The PRESIDENT *pro tempore*. That modification will be made if there be no objection.

The amendment, as modified, was agreed to.

Mr. MORRILL, of Maine. I should like to hear some statement of this bill from the chairman of the committee who reports it, exactly what rights it conveys and what public rights are affected by it in his judgment, if any.

Mr. HOWARD. I was not in my seat yesterday when this bill was under discussion, and therefore had not an opportunity to make any explanation. The bill was referred originally to the Committee on the Pacific Railroad, and by them considered at great length, and, I think, very carefully. They reported it back to the Senate with the amendment which has just been acted upon.

Without going into details, I will take the liberty of saying that the committee investigated the title of Goat Island thoroughly, and they came to the conclusion, without any doubt or hesitation, that the title of the island is in the United States, and that no private person is entitled to any portion of the island or has any valid claim upon it. It is desirable that the Pacific railroad should have a terminus at some place as near the city of San Francisco as practicable. The object of this bill is to furnish that terminus, to enable the company to establish their depot at their terminus upon this little island, which is in the bay of San Francisco, directly east of the city of San Francisco, and midway between that city and the little town of Oakland, which is on the main shore on the east side of the bay. In order to occupy the island the company will find it necessary, of course, to make an erection extending from the main shore across to the island, supported, probably, upon piles. The bill, as originally introduced into the Senate, contemplated a cession of a certain portion of the island in fee simple to this company. The committee did not agree to that idea. They thought it not best to part with the title to any portion of the island, but simply give to this company the privilege of occupying such portion of the island as the Secretary of War and the General of the Army should not deem necessary for military purposes.

Mr. EDMUNDS. In time of peace.

Mr. HOWARD. Yes; in time of peace. In time of war the right is retained in the Government to take possession of the whole island and of all the buildings that the company may erect upon the island for military purposes, and to use them as such until the determination of the war or such further period as may seem to be necessary to the military authorities.

Mr. EDMUNDS. Paying for the use and occupation.

Mr. HOWARD. Yes, paying them simply for the use and occupation of their buildings. This arrangement will prevent forever all speculation in lots and trafficking of that kind, and confine the privilege simply and solely to the use of the island for the purpose of a depot and nothing else.

I corresponded with the Department of the Interior respecting the title of this island in the month of January last, and by the indulgence of the Senate I will read a brief note:

> DEPARTMENT OF THE INTERIOR,
> GENERAL LAND OFFICE, *January* 25, 1868.
>
> SIR: In reply to your inquiry of yesterday's date, I have the honor to state, in regard to the condition of the island of Yerba Buena, or Goat Island, in San Francisco bay, as follows:
>
> The island of Yerba Buena was reserved by the President October 12, 1866, for military purposes, as an exception from the relinquishment of lands to the city of San Francisco, under the 5th section of the act of Congress, approved July 1, 1864. (Statutes-at-large, volume 13, page 333.)
>
> The plat of the exterior limits of San Francisco contemplated by the aforesaid act to be returned to this office by the surveyor general, has not been filed here.
>
> I inclose herewith copy of letter from the Secretary of War to the President, dated October 6, 1866, on the subject of the Yerba Buena island reservation, with the President's order indorsed thereon, bearing date October 12, 1866.
>
> I have the honor to be, very respectfully, your obedient servant,
>
> JOS. S. WILSON, *Commissioner*.
>
> Hon. J. M. HOWARD, *Chairman Committee on Pacific Railroad, United States Senate*.

The inclosure is a copy of a letter from the War Department to the President:

> WAR DEPARTMENT,
> WASHINGTON CITY, *October* 6, 1866.
>
> SIR: I have the honor to request that Yerba Buena island may be designated as an exception to the relinquishment of land to the city of San Francisco, California, which was authorized by the act of Congress approved July 1, 1864. The island being of importance for defensive purposes, has been surveyed by the Government, and batteries have been projected for its occupation. It is the opinion of the United States district attorney for the northern district of California that, while the act above cited transfers Yerba Buena to the city of San Francisco, it yet clearly gives to the Government the right to secure the property and except it from the transfer, at any time within one year after a certain plot shall have been deposited in the General Land Office, by the following provision, being part of the act itself: "There being excepted from this relinquishment and grant all sites or other parcels of lands which have been or now are occupied by the United States for military, naval, or other public uses, or such other sites or parcels as may hereafter be designated by the President of the United States within one year after the rendition to the General Land Office by the surveyor general of any approved plat of the exterior limits of San Francisco, as recognized in this section in connection with the lines of the public surveys."
>
> It has been ascertained that the plot thus referred

to has not as yet been transmitted to the General Land Office.

I have the honor to be, sir, your obedient servant,
EDWIN M. STANTON, *Secretary of War.*

To the PRESIDENT.

This letter bears the following indorsement:

EXECUTIVE MANSION,
WASHINGTON CITY, *October* 12, 1866.

Whereas the island of Yerba Buena, in the bay of San Francisco, is needed for defensive purposes, and has been surveyed by the Government and batteries projected and planned for its occupation:

The within application is approved and referred to the Secretary of the Interior, with directions to except and reserve the island of Yerba Buena, in the bay of San Francisco, from the relinquishment and grant to the city of San Francisco, California, authorized by the act of Congress approved July 1, 1864, and to designate the said island as so excepted and reserved; and it is ordered that the said island be retained by the United States for military uses.

ANDREW JOHNSON.

The PRESIDENT *pro tempore.* The morning hour having expired, it is the duty of the Chair to call up the unfinished business of yesterday.

Mr. HOWARD. I hope we shall proceed with the consideration of this bill. It will take but a short time, I think, to come to a vote upon it.

Mr. EDMUNDS. I was treated with considerable severity by my friend from Wisconsin [Mr. HOWE] yesterday and sundry other friends because I did not push the measure which we were then considering to a vote, providing for the covering of the cotton money into the Treasury. I therefore call the attention of the Senate to the fact that that bill is now up, and I ask them to continue its consideration until it is ended.

Mr. SUMNER. I would ask my friend, the Senator from Michigan, if there is not another bill which was made the special order for one o'clock to-day, in which he is interested.

Mr. HOWARD. That bill was not, perhaps, made a special order. It was postponed until to-day.

Mr. EDMUNDS. But the cotton matter is the unfinished business of yesterday, and is now in regular order before the Senate.

Mr. HOWARD. I hope the order of the day will be informally laid aside.

Mr. EDMUNDS. I feel obliged to object to that. I must insist upon finishing the cotton matter, if Senators are desirous that it shall be finished.

Mr. POMEROY. I suppose, when a bill is specially assigned for a particular hour by a vote of the Senate, it becomes the special order for that hour, whether the motion included the making of it a special order or not.

Mr. EDMUNDS. But the unfinished business of yesterday is now up.

Mr. POMEROY. That takes precedence, I admit.

The PRESIDENT *pro tempore.* The unfinished business of yesterday is regularly before the Senate; but I understand the motion of the Senator from Michigan to be to postpone that and all prior orders for the purpose of continuing the consideration of the bill which has been pending this morning.

Mr. HOWARD. Until two o'clock, I will say.

Mr. HOWE. I must say that I do not think it will be fair in the Senate to postpone the regular order, considering the abuse to which it subjects the Senator from Vermont whenever that is postponed. I think the Senate ought to take a vote on that matter and get my friend out of the way. There is no security for him until that cotton fund is disposed of.

Mr. HOWARD. I have no doubt we shall finish the bill which we have been considering in a few minutes.

Mr. CONNESS. I hope the Senate will allow us to get a vote on this bill and get it out of the way. We have not been very persistent in presenting it for consideration, and I ask the Senate this morning to continue it for awhile. I hope Senators will not object to this.

Mr. CAMERON. I am not desirous of having this bill disposed of at once. We want to give the subject a little reflection, and, if nobody else will make a motion to that effect, I will, before the bill is disposed of, offer an amendment allowing all the railroads from the east and the west that terminate in San Francisco to occupy a part of this island as their terminus. It is a very valuable gift to the railroads, and may be very important to the commerce of the Pacific, but I can see no reason why one railroad should have a right to occupy it and other railroads that may be made should not have equal rights. I think it is better, for the interests of the public, that all railroads entering into so great a town as San Francisco should terminate at the same place. I would, therefore, prefer that the bill should be postponed until an amendment can be prepared to accomplish this purpose, which I hope will meet the approbation of the Senate.

Mr. HOWARD. Of course I am entirely willing that there should be discussion of this measure, but it seems to me we can accomplish our work on this bill within an hour, or less than an hour, if the Senate will consent to continue its consideration. It is a bill which really ought to be disposed of expeditiously for reasons which will suggest themselves to the mind of every Senator. The company concerned is anxious to know what it is to do with regard to its western terminus.

Mr. HENDRICKS. I was to a little extent responsible, perhaps, for defeating the purpose of the Senator from Vermont yesterday evening in getting a vote on his bill. Now, I shall stand by him, so far as my single vote is concerned, this morning, as it is the business in order before the Senate. I wish simply to add that I do not think there is any great haste in giving away property of the Government of the United States which is of prospective value of perhaps many million dollars, especially as the railroad is not constructed at all near that neighborhood at this time, as I understand.

Mr. HOWARD. With the indulgence of the Senator from Indiana, in order to put an end to this almost useless waste of time, I withdraw my motion.

Mr. HENDRICKS. I am glad the Senator from Michigan has concluded not to waste any more time.

Mr. CONNESS. I desire to say, before this subject passes from the consideration of the Senate, that at an early period I will ask the Senate to give it final consideration and get a vote. I say this so that Senators may be prepared to understand the question by that time.

CAPTURED AND ABANDONED PROPERTY.

The PRESIDENT *pro tempore.* The unfinished business of yesterday is House joint resolution No. 19.

Mr. MORRILL, of Maine. I gave notice yesterday that I would ask the Senate to consider at this time the appropriation bill for the Military Academy. If, however, this measure is not likely to occupy much time, I shall not interfere.

Mr. EDMUNDS. I think we can finish it in ten minutes. I do not believe there will be any more debate.

Mr. MORRILL, of Maine. Very well.

Mr. TRUMBULL. This is to get a little money into the Treasury; and then the Senator's bill will be in order to get it out.

Mr. MORRILL, of Maine. Very well.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, the pending question being on the amendment proposed by Mr. EDMUNDS, to insert the following additional section:

And be it further resolved, That a sum of the proceeds of such sales not exceeding $100,000 is hereby appropriated for the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury, for incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property; and for the necessary expenses of defending, in the discretion of the Secretary of the Treasury, such suits as have been brought against him or his agents in the premises.

Mr. BUCKALEW. I agreed to the report of this bill, and I think it a very proper one for enactment by Congress. It is a very singular and anomalous thing that the moneys of the United States should be lying around loose in different parts of the country without being subject to those regulations which we have provided for the Treasury of the United States. But, sir, these cotton moneys came into the hands of officers and agents of the United States under very peculiar circumstances and under legislation of a novel and exceptional character. I have been inclined to think that the construction which has been given to our legislation upon this subject by the different Secretaries of the Treasury is not entirely without cause, that it has a color of regularity and a color of authority to justify what they did, and which will excuse them to the people of the country against any criticism that may be directed to their conduct. But now, sir, there seems to me no reason why these moneys should be longer withheld from the Treasury of the United States. Believing this, I concurred very cheerfully, with a clear mind, in reporting this bill, and I shall give it my vote. It is, however, to be remembered that, in the administration of this special system with regard to the seizure of property in the southern country, there are many peculiar considerations which do not accompany and attend upon any ordinary action of the Government. There are a large number of individual interests that have grown up along with the administration of this peculiar system of seizure and of sale of property in that section, and in addition to that there are a large number of suits instituted and pending in different courts in different sections of the country in which the Government of the United States has a deep as well as a direct pecuniary interest. It seems to me that it would be very improvident as a public question to take all these moneys, which have undergone a particular course of administration, and from which from time to time have been withdrawn the small amounts necessary to cover the contingent outlays and the expenses of litigation, and place them in the Treasury of the United States, and then make no provision whatever for the payment of such additional expenses as may be necessary for carrying on, as far as may be proper, this litigation which has arisen on the part of the United States. The result of refusing to make a provision of this kind in the present law will be that a number of suits will be undefended which ought to be defended in view of the public interests. The consequence will be that a large amount of claims will be accumulated against the Government of the United States in various ways connected with the closing up of this business, and after a little they will appear here in the Halls of Congress as demands against the Treasury, and I venture to say that most, if not all, of them will eventually be paid. I apprehend that it will be an exceedingly expensive system to the United States—I mean the system or plan of action to which we are invited by gentlemen who object to this amendment.

When a suit is brought, there being no provision of law for the employment of counsel, no provision of law to meet the necessary expense of carrying on the suit, obtaining evidence, and the other expenses which are necessary, the result will be that large judgments will be rendered. Many of the agents of the United States are men without property, without means, and if the Government does not stand forward and assist them and uphold them in the controversy they will abandon it, judgments will go against them, and we shall be called upon to pay them. The Government of the United States is the real party in interest in all these cases; and to withdraw from the Secretary of the Treasury, who is charged with the management of our financial affairs, all immediate power to interpose in these cases, and to interpose efficiently—because that can only be done by an appropriation of money—is to put the public interest in jeopardy.

Sir, you are not, by rejecting this amendment, striking at the Secretary of the Treasury; you are not subjecting him to any inconvenience at all; you are expressing no disapproval as to his past conduct, nor putting any curb upon him as to the future. He would be very glad, indeed, to be released from this whole business. What the Committee on Retrenchment desire is that the duty shall be charged upon him to attend vigilantly to the interests of the United States in reference to all this business, and to close it up in such manner that the public interests will not be sacrificed. It seems, therefore, perfectly absurd, at least very unreasonable, to be arguing this question as if it was a question between the Secretary of the Treasury and some other interest in the Government, or outside of the Government. It is a question of imposing upon him inconvenient duties, which this appropriation will oblige him to perform. Withhold it, and he will simply stand and say, "Why, gentlemen of Congress, you have laid down the law on this subject; you have refused this appropriation; I am not responsible for the results, and let everything take care of itself; and after a little, when hundreds of claims are pouring into both Houses of Congress and the Treasury of the United States is bled, bled severely, you cannot charge me with the responsibility for what has taken place."

Mr. SPRAGUE. If I am correctly informed, these suits are against the agents of the Government, or rather agents of the Treasury Department, and not against the Secretary of the Treasury.

Mr. EDMUNDS. Against both.

Mr. FESSENDEN. There is a large number of suits against the Secretary and a number of suits against agents besides.

Mr. SPRAGUE. I had some knowledge of the collection of some portions of this property in the earlier part of the war, to the amount of upward of a million, collected by the Secretary of the Treasury without color of law; but, understanding that there was this property in the hands of various officers and followers of the Army, he obtained assistance to enable him to obtain it and to convert it into money. Thus a large portion of the money now under consideration was really saved to the Treasury which otherwise would have been distributed among various persons connected with Army operations; so that, in my judgment, whatever does finally come into the Treasury is really to a great extent clear gain to the Government of the United States.

Mr. EDMUNDS. I ask the indulgence of the Senate and of Senators who opposed this amendment last night particularly to the statement that I am about to make, which did not occur to me last evening, as the matter had been crowded off so long that some of the reasons upon which the amendment was founded were out of my mind It will be remembered that, by the act of 1863, providing for the application by claimants to the Court of Claims and ascertaining whether they are entitled to anything, they are to be paid out of the net proceeds of this very fund, after paying all the expenses which are attached to it in any way. That is the chance the law gives them. It is, therefore, essential and proper that this appropriation, if made at all, should be made out of that fund, so that the Government may not be a dead loser by it, and pay the balance back to the claimants. It is also essential that we should provide for the liquidation of these expenses, whatever they may be—law expenses and expenses of agents, &c.—by the proper officers of the Treasury, so as to have those claims that are just, whatever they may be, against the Government paid out of this fund before the balance is paid out on the judgments of the Court of Claims to the claimants. Otherwise the Government is involved in a dead loss, is out of pocket, if we refuse now to provide for the payment of it and let the claimants take it, when we shall have to make it up out of the general Treasury. I should hope that this consideration, which is plain upon the law, but which, I confess, was out of my mind last night, for the reason I have stated, will be satisfactory to all gentlemen as an inducement with them to permit this amendment to be adopted.

Mr. CONKLING. Will the Senator tell us whether the net proceeds, in any event, of this fund are very much more than enough to pay the claims he refers to?

Mr. EDMUNDS. That is not at all demonstrable, because there are millions and millions—I do not know how many—of claims filed in the Court of Claims. The claims urged, as stated and insisted upon, are probably in excess of the whole amount that was received, because the claimants go upon the ground, in asserting their claims, that they are entitled to value upon their estimate. This is a kind of trust fund, and out of the trust fund are to be paid, first, the expenses, and then, so far as a claimant can establish his ownership and loyalty, he is to be paid his proportion of the proceeds. That is the substance of it.

Mr. CONKLING. Take it so; will the Senator inform us what the difference would be in arithmetic between transferring the gross amount to the Treasury and then paying the expenses from the Treasury afterwards out of general funds and striking the balance and paying the expenses out of this identical fund? Does it not come to precisely the same thing?

Mr. EDMUNDS. It would come to the same thing if you kept a special account showing the gross amount that is paid in and the gross amount that is paid out. It comes to the same thing as keeping a special account of it, as has always been done.

Mr. CONKLING. Does the Senator propose that these payments shall be made out of this fund or any other, without any account being kept of them?

Mr. EDMUNDS. No; there is a separate account of this matter kept now.

Mr. CONKLING. I know; but, if there is any way of arriving at the total expense, what difference does it make whether you deduct that total from the whole sum or whether you pay the expenses originally from the particular fund?

Mr. EDMUNDS. Suppose it does not make any difference; the substantial point is that it is essential to liquidate these claims on the fund, the expenses, whatever they may be, (whether it is in the general account or a special account,) in order to strike the balance out of which the claimants are to have their pay.

Mr. CONKLING. That may be very satisfactory to the Senator, but I confess I do not see it. He says this is a trust fund; and, although I may excite the impatience of certain Senators by making the suggestion, I still venture to make it: I will suppose that the Secretary of the Treasury is assignee under a trust deed, acting strictly as trustee of a trust fund, and it is his business to pay from the net avails of that trust estate certain moneys. I submit to the Senate whether there is any difference between the trustee disbursing from his own money whatever may be necessary, and charging that afterward to the fund from which he is to pay, and gathering up the fund in the first instance and paying specifically from that. If there is any difference whatever as a matter of result I am entirely unable to see it. It is a mere question of book-keeping; it is a mere matter of addition and subtraction; and I submit that it is of no sort of moment, even as to the interest account.

There is one other suggestion I beg to make in answer more particularly to what was said by the honorable Senator from Pennsylvania. I should like to know in all this business, in the resistance of these suits, where the Attorney General and his staff appear. Suits, as the Senator says, commenced all about will go undefended, although he tells us that the United States is the real party in interest. Albeit the name of some other party may appear of record, yet the real party in interest is the United States. Wherever there is a court in which trials can take place there is a district attorney; there is an officer whose business it is to appear professionally for the United States and to represent the interest of the United States. If the United States is sued, or if an authorized agent representing for that purpose the United States is sued, for a fund in which the United States, and the United States alone, is primarily interested, I should like to know why it is that the district attorneys do not defend those suits, and why the Attorney General, through some one of his staff, does not appear in each one of those cases. There seem to be now a days a great many matters which belong to usual litigation to which the United States is a party which it is not the business of any Government officer to attend to. There is a fashion, there is a custom, there is an understanding that special counsel are to be employed for almost everything. If a great criminal trial is to take place, like that of Jefferson Davis, counsel are to be employed to conduct it. If cases of this sort are to be defended or resisted counsel are to be employed to do it. I might, if I felt disposed, but it is not worth while, enumerate a great many cases within the recent recollection of all of us in which it seems to be understood that it is the business of no officer connected with the Government to appear, and yet we have officers receiving their salaries, as I understand, for appearing and acting in these very cases. I do not believe that with the duties of these officers performed any of these cases will go undefended.

Mr. TRUMBULL. Did I understand the Senator from Vermont to say that the claims made in the Court of Claims were more than the proceeds of the cotton?

Mr. EDMUNDS. I said that, as I understood it, the money now in the Treasury which has been paid in is less than the claims that are made against this fund, taking the assertions of the claimants in their papers—not those in the Court of Claims alone, but in all the suits pending all around.

Mr. TRUMBULL. The Secretary's report shows in round numbers a balance of $24,000,000.

Mr. FESSENDEN. That has been put into the Treasury.

Mr. TRUMBULL. Yes, except a little of it, that is, perhaps, yet out. I presented to the Senate the other day—I have not got it with me now—an official statement from the Court of Claims, showing the whole amount of claims there presented, from which it appears the whole *ad damnum* laid in all the declarations is some seven million dollars. The real amount of the claims is not a quarter of that, probably. We all know that when parties file their declarations or complaints it is the practice to lay the amount of damages larger than is likely to be recovered; but the whole amount of damages laid is not a third of the amount that has been received, as stated by the official report.

Mr. FESSENDEN. I think it was about eight million dollars.

Mr. TRUMBULL. That would be just one third, because there is a balance, according to the official report, of $24,000,000.

Mr. FESSENDEN. I will state to the Senator that the large amount of proceeds from this cotton business, and very much the largest amount, comes from the sales of the Savannah cotton, as we all understand. Some portion of the proceeds of that cotton has been claimed before the Court of Claims, but the largest portion of it is covered in the suits which have been alluded to. I think there are about one hundred of them in New York commenced against Mr. Draper and the Secretary of the Treasury—actions of trespass. Those parties did not choose to go into the Court of Claims, and they commenced their suits elsewhere. I understand that the claims made in the suits pending cover pretty much all the proceeds. Probably all will not be admitted, and I hope it will turn out that not a large portion of these claims will be allowed; but the absolute claims made, I presume, cover pretty much the bulk of the proceeds.

Mr. TRUMBULL. I know nothing about

the damages laid in any other suits, but in the suits in the Court of Claims the *ad damnum* is not one third the amount of the fund, and as to the others I have no sort of information.

Mr. FESSENDEN. Nor have I; but I know there are about one hundred suits in number, and pretty much everything Mr. Draper had anything to do with was covered; and he was the general agent to receive that cotton and bring it to New York and sell it.

Mr. EDMUNDS. What I said or intended to say was, that all the claims of all descriptions against this cotton fund were, as I understood it, equal to or in excess of the money that is actually in the Treasury.

Mr. TRUMBULL. If the Senator has such information I should like to know what he bases it upon?

Mr. EDMUNDS. I base it upon the information I have received at the Department as to the nature of these suits, the amounts claimed, and the principles on which they proceed. Take the Savannah cotton, which was the largest, involving several millions.

Mr. TRUMBULL. There is no evidence of any such suits in the report sent to us by the Department.

Mr. EDMUNDS. That may be; but if the Senator would take the pains to investigate the matter himself a little personally, and ascertain what the nature of these suits is and how much is claimed, he would find that the amount claimed for the Savannah cotton is largely in excess of the gross proceeds of that very cotton, because these suits of trespass go for the full value of the cotton as claimed by the owner at the highest market price at the time of seizure, and we all know that those sales were made on a falling market. If the plaintiffs recover they will recover on that principle. I hope they will not, and I do not expect that they will recover; but it is a question that is to be determined in the courts. Now, inasmuch as when this question is determined, if it be determined against us, we have to pay out of this money, and thus reduce the sum which other claimants in the Court of Claims will have to draw upon, it is necessary, for the protection of the Government, that these claims for expenses against this fund should be liquidated by the accounting officers of the Treasury, and taken out of the fund we have to pay them out of, instead of out of our own general funds. But, sir, I do not wish to occupy the time of the Senate any more on the subject.

Mr. TRUMBULL. I ask for the yeas and nays on this amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Corbett, Cragin, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Hendricks, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Ramsey, Ross, Saulsbury, Sherman, Sprague, Van Winkle, Wade, Willey, and Williams—29.

NAYS—Messrs. Cameron, Chandler, Conkling, Conness, Fowler, Harlan, Morgan, Pomeroy, Stewart, Sumner, Tipton, Trumbull, and Yates—13.

ABSENT—Messrs. Cattell, Doolittle, Henderson, Howard, Howe, Johnson, Nye, Patterson of New Hampshire, Thayer, and Wilson—10.

So the amendment was agreed to.

The joint resolution was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. TRUMBULL. I forbore when this matter was in committee taking up much time in regard to it; but it does seem to me that the Senate cannot have understood the effect of this amendment. It is most extraordinary to me that, with the evidence which we have before us in regard to these cotton transactions, the Congress of the United States should pass its sanction upon what has been done. Now, I will state in general—and I should be very glad to have the attention of the Senate—what the condition of this matter is.

The Secretary of the Treasury reports, in round numbers, that he has received $34,000,000 of gross receipts from captured and abandoned property, chiefly from cotton.

He reports that there is left a net sum of $24,000,000. He has been adjudicating upon claims. If you will examine the laws—I shall not go into the examination now—I think it is as clear as any question can be that he had no authority whatever to adjudicate upon these claims; but in doing so, in adjudicating upon claims and in paying expenses in various ways, the amount of the fund has been reduced to $24,000,000. This money, which the law required to be paid into the Treasury of the United States, has been kept out of the Treasury, all of it, for some length of time. I introduced a resolution to ascertain when it was paid in, but it has not yet been answered. Will any Senator tell me that he had a right to hold this money year after year outside of the Treasury? In the resolution I inquired further where the money was during that time, and who had the use of it. The fact is, that the whole of that money is not covered into the Treasury to-day, and the object of this resolution is to get it into the Treasury.

A word now in regard to the claims. The Senator from Maine is very much in the habit, I know, of saying that we do not understand about these matters. The law provided that if a party's cotton or property has been taken which was not properly subject to be taken, he might at any time within two years after the suppression of the rebellion make application to the Court of Claims; and when he goes there what must he prove? He is required to prove that he owned the cotton and that he was loyal; and on making this proof he is authorized to recover back, less the expenses, the value of the property which had been taken from him. No man can get into the Court of Claims unless he is a loyal man. There is one tribunal erected in this country that a traitor cannot get into. The first thing a claimant in that court has to do is to file a petition alleging his loyalty, and then he has to prove it. But the Treasury Department, which undertook, as I insist, without the least authority of law to pass upon these claims, made no question of loyalty. I have before me a statement furnished by Mr. Mackay, who gives the names of the various persons to whom this property was restored through the Treasury Department.

Mr. FESSENDEN. Who is Mr. Mackay?

Mr. TRUMBULL. A brother of the president of the convention of South Carolina now in session. In 1866 Mr. M. T. Bonhain, a claimant, had restored to him $14,232 28, which is reported by the Secretary of the Treasury as "released." Mr. M. T. Bonhain was a South Carolinian, and "a brigadier general in the confederate States army." What chance would he have stood in the Court of Claims?

Mr. EDMUNDS. What evidence are you reading from?

Mr. TRUMBULL. I read from a statement made by a gentleman whose name I give you—Mr. Mackay.

Mr. EDMUNDS. Who is he?

Mr. TRUMBULL. You do not want to hear of him, I suppose?

Mr. EDMUNDS. Yes, I do; and that is why I ask about him.

Mr. TRUMBULL. I have given you his name.

Mr. EDMUNDS. Where does he live?

Mr. TRUMBULL. He has been in South Carolina, and connected with the Freedmen's Bureau; and this statement comes in answer to a letter addressed to that Department to know who these men are, and it is furnished by this gentleman.

Mr. EDMUNDS. Where can he be found?

Mr. TRUMBULL. He was in the city of Washington, and I presume can be found here now. Batturs & Co. had released to them six hundred and seven bales of cotton. They are of Georgia; they were blockade runners. One of these gentlemen—I have the proof here; I have had the papers furnished to me containing the testimony taken in a case pending in the Court of Claims, where one of these parties was put upon oath and confessed to being engaged in blockade running. Fitch & Metcalf had returned to them two hundred and sixty-six bales of cotton. They were also of Georgia, and were engaged in blockade running.

Mr. FESSENDEN. When was that?

Mr. TRUMBULL. In May, 1866. In April, 1866, twenty bales of cotton were released to S. DeBow, who was of South Carolina, and a violent rebel. Rev. Dr. Fuller had restored to him $3,507 02. These amounts will be found in the official report of the Secretary of the Treasury. Rev. Dr. Fuller was of Baltimore, an avowed sympathizer with the rebels, and the cotton was seized in South Carolina. The Louisiana State Bank had returned to it seven hundred and forty-nine bales of cotton, and it was the financial agent of the confederate States. R. Muir & Co. had returned to them sixty-eight bales of cotton. They were of South Carolina, and notorious blockade runners. Mrs. E. Miller had $8,558 56 restored to her. She is of Georgia, and the cotton was bought of the rebel Government. H. Spanier had fifty-three bales, of the value of $2,438, returned. He was of Louisiana, and was employed by the confederate States government.

Then follow several others, all of which are stated to be disloyal. J. W. Jones had one thousand two hundred bales of cotton restored. He is of the Choctaw nation. He was a member of the confederate States congress, equipped a regiment of Indians, and sold the cotton in question to the confederate States of America. Major Billups was of Mississippi. He had two hundred bales of cotton recovered, presenting his claim through Watterson & Crawford, of Washington city. Major Billups was of the confederate States army, and the property was sold to the confederate States government.

Mr. EDMUNDS. That was the case alluded to the other day.

Mr. TRUMBULL. That was the case alluded to the other day, and I can tell you something about the case. Major Billups came on here for the purpose of recovering this cotton, and went to parties, who told him that he could not recover it, that there would be no chance for him to get it; but by making transfers around he afterward succeeded in recovering some of the cotton.

But the worst case, I think, which has come to my knowledge is one which I will now state. The facts have been furnished to me in writing, and I have handed them to the chairman of the Committee on Retrenchment, and that committee, I hope, are investigating them. C. A. Weed & Co., according to the report of the Secretary of the Treasury, had returned to them thirteen hundred and thirty-seven bales of cotton. I do not know who they are, but that they are rebels, not entitled to the cotton. I cannot give their location, though I believe it has been stated to me who they are. C. A. Weed & Co. claimed some cotton. The Secretary of the Treasury employed two gentlemen, one by the name of Hovey, and the name of the other has escaped my recollection at this moment, though I furnished it to the chairman of the Committee on Retrenchment. General Hovey, of Indiana, was one of the two, and he furnished me a statement of the matter. I cannot at present recall the name of the other gentleman, but General Hovey and another person were employed by the Secretary of the Treasury to gather up rebel cotton in the southern States after the rebellion collapsed. They went South and gathered up five hundred bales of cotton. They gathered up five hundred bales belonging to the confederate States government, and furnished evidence of the fact that it did belong to that government to the Secretary of the Treasury. They were to be allowed twenty-five per cent. of the proceeds. The cotton had been marked as the property of that government, and the confederate States government took the cotton. They left it in different portions of the country, and had marked upon it the fact that it belonged to them. They made a warehouse of each building where the cotton was stored. The cotton that these gentlemen gathered up

was, of this character, five hundred bales. After gathering it up they came on to Washington to receive their twenty-five per cent. of its value. They remained here in Washington something like a year and could not get their pay. What the matter was they could not tell, but they could not get the Treasury Department to pay them their twenty-five per cent. for the five hundred bales of cotton they had delivered. Finally, after almost despairing of ever getting anything, they employed a gentleman here in the District of Columbia to ascertain for them what the matter was in the Treasury Department, and why they could not get paid. That gentleman, on going to the Treasury Department, having greater facilities than they had, ascertained that this cotton had been given up on a claim to C. A. Weed & Co., on the ground that it had been improperly seized. Then Mr. Hovey and his partner went to the Treasury Department and demanded that they should be paid, on the ground that they had the evidence that that cotton was rebel cotton, and that they had furnished it to the Treasury Department, and they threatened to expose the whole transaction. Then the Treasury Department paid them the twenty-five per cent. for seizing it as rebel cotton, and they got the money. They were only to be paid for gathering up cotton that belonged to the rebel government. That was the agreement. They gathered up five hundred such bales and could not get paid for it for a year, and the first they knew the Department, without informing them of it, surrendered the cotton to claimants. When they found it out they insisted still that they should be paid, and your Secretary of the Treasury paid them, not out of the Treasury; no, the money was not covered in, the money was kept outside. It was not money received from this particular cotton. Of course, this cotton having been restored to C. A. Weed & Co., the Treasury did not have the money from it, and the money was taken from the proceeds of other cotton, and Hovey and his partner were paid that money. These facts are furnished to me in writing, and I have handed them over to the chairman of the Committee on Retrenchment, giving the names of the parties.

Now, what is proposed after this money has thus been kept out of the Treasury for two years or more, some of it? How long all of it has been kept out I do not know. I asked that question of my friend from Maine [Mr. FESSENDEN] when we were discussing it the other day, and he told me that he could not tell; that it was covered in at different times; and all the information he could give me was that it had not all been covered in yet, but very nearly all. I then called on the Secretary of the Treasury by resolution to know when this money was received and when it was covered in, and where it was in the mean time. To that resolution I have had no answer; so I am unable to tell the Senate where this money was. The gross amount was $34,000,000, and the net proceeds $24,000,000. We have not yet got information as to where that money has been or who has had the use of it. And now a resolution is brought here to compel the Secretary of the Treasury to cover into the Treasury of the United States the proceeds of this cotton which the law required him to pay in at the time; and the law provided a tribunal where a loyal man who owned cotton could recover back the proceeds; but he has undertaken to decide upon these cases and pay the money back by holding it out of the Treasury. He could not have done that if the money had been paid into the Treasury of the United States; then he could only have taken it out to pay claims in pursuance of appropriations made by law; but by holding this money outside of the Treasury he had the vast amount of twenty odd million dollars under his control; and I have shown you how a portion of it has been disposed of. What sort of chance would these men have stood in your Court of Claims, who had been members of the rebel congress, who had been generals in the rebel army, if they had gone there? Now, when a resolution comes here to compel this money to be turned over into the Treasury, what is it proposed to do? It is proposed to put an amendment on it sanctioning all this that has been done, saying to the Secretary of the Treasury, "pay in the money, but keep out $100,000 yet to act on it."

Mr. EDMUNDS. That is not a fair statement of the proposition.

Mr. TRUMBULL. Yes, sir; I say the proposition goes to sanction this whole thing, and if the Senate adopts this amendment what is the effect of it? It says to the Secretary of the Treasury "You did right to keep this money out of the Treasury; you may keep $100,000 more out, and keep it out until in your discretion you think proper to pay it in." And for what purpose is it to be kept out? As the Senator from Vermont tells us, for the purpose of defending suits that are brought. Suppose a suit is brought against a revenue collector in my State or in Vermont, can he retain in his hands money that he has collected to defend himself with? No, sir.

All I desire is to bring these facts again to the notice of the Senate. I have no interest in this matter other than other Senators. I have an interest in protecting the Treasury of the United States, a common interest with all of them, but none other. In what I have said I have not been actuated by any hostility to any individual. I should not state that but that it seems so often to run into the minds of gentlemen that if you object to any course of proceeding in a Department you are attacking the head of the Department. I do not wish to attack the head of the Department; I attack the transaction, and if that reflects on the head of a Department I am not responsible for that consequence. The Senator from Vermont, the other day, spoke of hostility to the Secretary of the Treasury. I never had any personal hostility to the Secretary of the Treasury in the world; I never had any difficulty with him, and have no reason, personally, to have any difficulty with him. I have made these statements on evidence satisfactory to me, showing that this money ought to be covered into the Treasury, and I should be sorry to have the Senate sanction what has been done by adopting this amendment. I, perhaps, ought to say before I sit down, though it is but a repetition of what I said yesterday, that I shall always be ready to defend officers of the Government in suits brought against them for any act done by them in the proper discharge of their duties.

Mr. FESSENDEN. Mr. President, my friend from Illinois has given, I think, some justification of the remark which he imputes to me, that I was in the habit of thinking that gentlemen here sometimes did not know anything about what they were talking of. I think in the closing part of his remarks made now he has given an exceedingly good illustration of the truth of that remark, if I did make it in the particular instance; for, after listening to this debate all day yesterday and then again to-day, he states gravely that this is a proposition to keep money out of the Treasury, not to cover it in, but to leave it in the hands of the Secretary; and yet the amendment itself proposes to pay the whole of it into the Treasury, every dollar, and then simply to make an appropriation out of the Treasury of $100,000, or a sum not exceeding that much, for specific purposes. The Senator gets up here and repeats and repeats again in the face of that provision, and in the face of the declaration of the honorable Senator from Vermont to the same effect, that every dollar is to go into the Treasury, that this is a proposition to keep $100,000 out of the Treasury of the United States in the hands of the Secretary of the Treasury. Did the Senator make that remark because he did not know any better, or did he make it knowing that it was not the fact? One or the other is true, inevitably; and yet, after listening here for all this time, he gravely makes the statement and repeats it in the face of the proposition.

My friend has another very excellent way that surprises me and sometimes overcomes me. He gets up here and makes the most violent assaults against officers of the Government, accuses them of almost every imaginable crime under the sun, of willfully violating the laws of the land, of doing divers and sundry other things that are unjustifiable either in law or in morals; and then when he gets through, after speaking with great violence and great determination and great vigor, and with what, to a looker on, would appear to be considerable temper, although it may be mere manner, he closes in the most calm way, and with a beautiful smile on his countenance: "I do not mean to insinuate anything in regard to anybody; I only mean to do my duty." If the Senator would do his duty in a little calmer manner, and would use milder language and leave out the charges, it might be more easy to understand him. If that is his indifference, if such remarks as he makes here, and such attacks as my friend indulges in are his custom where he has no animosity against anybody, God save me from ever incurring his animosity. I do not know where the end of it would be.

My friend has done really great injustice in this statement. I beg him to consider whether he has not. Is this a proposition to sanction all that has been done? Not at all; for it does not keep a dollar out of the Treasury. Does he mean to convey the idea to the Senate that this is intended and must operate as a sanction? Is that his idea? What is it, Senators? This and nothing more: that all this money shall be paid into the Treasury at once where ever it may be found. That is no sanction certainly. Then the amendment, after it is paid in, allows a certain sum, or a sum not exceeding a certain amount, to be appropriated for the purpose of settling up the bills against the fund, to be drawn out of the Treasury on warrants, on approved accounts, certified in the regular order of things by the accounting officers of the Treasury and appropriated according to law. Is that sanctioning all that has been done? Could any man in his senses, who understood the matter, pretend that it was anything like a sanction? There is nothing in the whole measure either sanctioning what has been done or disapproving what has been done. It is simply saying, "Here is money that has not been paid into the Treasury; it shall be." Whether it has been rightfully or wrongfully kept out is another point. Upon that the proposition is silent; but it surprises me how anybody can construe a provision like that now before us, which, after compelling all the money to go in, says that a certain amount of it may be used for a certain purpose, in paying up bills, defending suits, &c., as sanctioning what the honorable Senator says is illegal in keeping it out. That is a most remarkable inference from the fact. I do not understand it to be so. So far as I was concerned in this transaction, I do not want the sanction of the Senate, and I do not fear the disapprobation of the Senate or of Congress. Knowing that what I did was right, I am perfectly willing to submit to anything that the Senate or the Congress chooses to say with regard to me. I neither fear them nor do I ask their sanction. I acted in a different office at that time on my own responsibility, and, as God is my judge, I shall try to stand on my own feet; and I do not fear anything that the Senator from Illinois can say or do. He may repeat his oft-told tale here as many times as he sees fit.

I do not suppose that the honorable Senator means really what he would appear to say with reference to this matter; I do not suppose that he has personal animosities to indulge in; but one thing I do suppose, and one thing everybody who knows him must suppose, and that is, when he has once taken an idea into his head he deems it a personal affront almost to differ with him, and he will cavil on the nine hundred and ninety-ninth part of a hair as long as he can stand in repeating what he believes to be true unquestionably. Notwithstanding that

it may be proved to the contrary by evidence as clear as daylight, he cannot see it.

The honorable Senator undertakes to tell us this morning that his construction of the law is so clear that no man can doubt it. Well, sir, I have argued that question twice in the Senate, in reply to the Senator, and I really have been told by several very respectable Senators, gentlemen of judgment and gentlemen of fairness, that they thought my argument was unanswerable on the subject, and they were perfectly convinced that I was right, and not that the honorable Senator was. So it is not so very clear, after all. As I repeated the other day, something is due to the legal opinion of the Chief Justice of the United States, then Secretary of the Treasury, who took one view of the law. He certainly is a man of respectable judgment and has a fair character for honesty and integrity. He never has changed his opinion, I have reason to believe, as to the true construction of these laws. I do not pretend to compare myself, to put myself on the same level, with the honorable Senator from Illinois as a lawyer, especially in construing statutes; and I gave the reason the other day: I never have been on the bench, and therefore my judgment is not as good as his, and cannot be; but such was my opinion, and such is my opinion now, and such was the opinion of the Attorney General of the United States, repeatedly given as the chief law officer of the Government, which I alluded to the other day. It seems to me, I repeat again, that all these things might make my honorable friend withhold for a little while the repetition of this assertion, to go out in the newapapers, that there cannot be any possible doubt as to the construction of these laws. I think we are certainly under some obligation to respect each other's opinions somewhat in relation to those matters, and to consider that it is possible we ourselves may be mistaken.

Now, sir, having explained what this proposition is, I hope the Senate will understand that they are not called upon to sanction anything that I did or anything that either of the Secretaries of the Treasury did. I do not ask for it, and I do not know that anybody else does. Fortunately for myself, perhaps, I am out of the way now, and cannot be punished for what I did unless it is found that I stole something while I was there, and perhaps the statute of limitations may save me even in that particular. [Laughter.] But there is one Secretary of the Treasury there now. He is within the hands of the Senate and the House of Representatives. If he has been meddling with the public money improperly, I think it would be a very much fairer mode of proceeding against him with reference to his official acts, very much more becoming, to examine the facts and file charges against him, rather than to get up and make them repeatedly here, to go into the columns of the Globe, perhaps unanswered. It would be quite as fair to deal with a public officer in that way.

With regard to the new cases that have been brought forward this morning by the honorable Senator, I do not know anything about them except one, and that is the Billups case, that was settled in this city. How was that? How do the papers show that? And that, perhaps, may be a sample of how the whole will turn out. That Billups case went before the Secretary of the Treasury, as I understand, and was rejected. It was then sent by the President to the Attorney General, and the Attorney General decided that it must be paid.

As to these other matters, they are all of late date. They are none of them old; they are all since the termination of the war, if I understood them rightly—the whole of them. They do not stand under these laws, any of them. But the Senator will not admit anything with regard to it. He takes them as if they were all under these laws of Congress. There is no one of the cases under these laws, because these laws expired with the termination of the rebellion. There was the end of them; the collecting of cotton under these laws stopped with the termination of the rebellion. But the Secretary of the Treasury undertook to say, of his own responsibility, from the desire that he had to get all he could for the benefit of the Government, that he believed, as everybody else did, there was a great deal of cotton in the confederate States that belonged to the confederate government, and what belonged to the confederate government he considered as belonging to the United States; and he, therefore, of his own motion, appointed agents to collect that cotton, but not to collect or take anything that belonged to individuals. That was of his own motion; it did not come under these laws in any way, and none of the claims could have been sent to the Court of Claims that I know of in any possible way if property was taken. He appointed agents. Some of them turned out to be mere speculators, mere knaves. Great rascality took place undoubtedly on the part of some of the agents appointed. They went down there and took property wherever they could find it, calling it the cotton of the confederate government. There was one place, in Mobile, I believe, where I am informed the agent stationed himself and took every bale of cotton that came into that city.

Mr. CONNESS. And the Secretary might have known he would have done it when he appointed him.

Mr. FESSENDEN. He took every bale that came into the city, whether it was in possession of one man or not; he seized the whole, calling it the cotton of the confederate government. He excused himself by saying it was a precaution; he did not know whether it did or not, but meant to find out. But the claims came here and the proof was ample, over and over again that vast quantities that belonged to individuals were thus seized. Suppose it belonged to a rebel; the agent had no right to take it. Suppose it belonged to a general in the rebel army; he had no right to seize it, not a particle, unless it belonged to the confederate government. Where those things took place and the agents thus disobeyed orders and undertook to lay their hands upon private property calling it confederate property, and that was proved, in many cases the Secretary ordered it to be delivered up at once.

Mr. JOHNSON. He could not help it.

Mr. FESSENDEN. No; he could not help it. He had no claim to it. He had no right to retain it.

Mr. EDMUNDS. He could not defend a law suit.

Mr. FESSENDEN. Certainly not. He could not defend himself for holding it. Those were the facts with regard to the large quantities of cotton delivered up since the war, of the date of which the Senator speaks. I do not know with regard to all those cases; but I presume every one of them is of that description from the dates the Senator gives.

Then where is the justice of this manner of attacking the Secretary and the action of the Secretary? The Senator goes out and inquires of A, B, C, and D, or A, B, C, and D come to him and say, "We know something about this." Outsiders, agents who have quarreled with the Treasury Department, come to the Senator and give him cases. What does he do? Does he go to the Treasury Department and look into the facts? Does he submit these statements to the Secretary of the Treasury and ask what answer he has to make to them? By no manner of means; but, on these statements of outsiders, disappointed men, agents—probably some of them men who have been turned out for their own frauds—he comes in here and reads the list, and it goes into the Globe as a list of gross cases where property belonging to the United States has been delivered up to rebels. That is the mode in which the argument is conducted. Sir, I do not think it just and fair. I do not know but that wrong has been done; I cannot tell; I know nothing about it. The cases come before me for the first time. I never before heard of them. But I say, in my judgment, this is no way to make charges against a Department of this Government on the mere stories of outsiders without knowing any of the reasons upon which the action of the Department took place; and it is not a fair way of deciding them.

But, sir, the principal motive of my rising was to convince the Senate, if I could, that the Senator was entirely mistaken in supposing that the passage of this amendment would in any way operate as a sanction of what had been done, or that the effect of it was to keep money out of the Treasury, in the hands of the Secretary.

Mr. TRUMBULL. Mr. President, I find the same difficulty in discussing a public measure in the Senate to-day that I have often experienced before. It seems to be the peculiar province of my friend from Maine to be unable to discuss the action of the Departments of this Government without making a personal matter with a Senator. A great portion of his speech is devoted to me and my manner. What has that to do with the joint resolution under consideration, or the propriety or legality of the action of the Secretary of the Treasury? Why turn his censure upon me? Why denounce me as not understanding anything about this matter, and as being ignorant or willfully misrepresenting it? He starts out with that declaration. He says that I state that this is an amendment to keep $100,000 out of the Treasury when it is a measure to put all the money into the Treasury, and is not any such thing. Now, see how plain a statement will correct that whole matter. Here is a resolution that says the Secretary of the Treasury shall cover into the Treasury this money that is now outside, and in the same resolution says he shall take $100,000 of it, of the same money; and that is not keeping $100,000 out! It directs in the same act that the money be paid in and the $100,000 taken out. Does the Senator from Maine believe that the Secretary will pay it in and take it out the next day?

Mr. FESSENDEN. Would the Senator like to have an answer?

Mr. TRUMBULL. What is the legal effect of that? Does it not leave $100,000 under his control? The Senator may answer if he wishes to do so.

Mr. FESSENDEN. It leaves it in his control just as all other moneys which are appropriated and which he must expend are left under his control—in no other way. But the proposition is, that it shall be paid in. It is not left in his hands.

Mr. TRUMBULL. It is $100,000 of this very money.

Mr. FESSENDEN. That does not make any difference.

Mr. TRUMBULL. Well, how inaccurate was my statement, and to what charge of ignorance and misrepresentation am I subject, when he has this amount of money outside, and the same law tells him to put it in and then take $100,000 out?

Mr. FESSENDEN. He has not got it outside.

Mr. TRUMBULL. It is not outside! Is not the law that we are now passing to compel him to put it in?

Mr. FESSENDEN. Yes.

Mr. TRUMBULL. Then is it not outside?

Mr. FESSENDEN. No.

Mr. TRUMBULL. If it is not the law will have no effect, I suppose. It is a law to compel him to put it in. Then I take it it must be outside, or else the law will have nothing to operate upon. Now, sir, with what justification can the Senator from Maine stand up in this Senate, and before the country, and charge me with ignorance and not understanding it, or willfully misrepresenting it, when the law says that of this very money that the Secretary is to pay over he may take $100,000 right out. Is not the legal effect of that the same? What is the substance of the thing? The accuracy of the language may not suit a person who speaks as correctly as the Senator from Maine always does; but in law what is the legal effect of it? Is not the $100,000

subject to his control after this law passes just as much as it is now? Can anybody deny that? I could have spoken with more circumlocution, and if I had known that my language would be so offensive to the Senator from Maine I certainly would have done so, and said that the resolution provided to put all the money into the Treasury and then take $100,000 out. I took a shorter way and said that it kept $100,000 out. That is the effect of the resolution. It does keep $100,000 out, because it takes it out in the same resolution that puts it in, and of the identical same money. Now, I submit, with all the fairness of the Senator from Maine, and his perfect accuracy and superior knowledge of everything, that his point is very peculiar at least.

Mr. FESSENDEN. I should like to ask my friend a question right here, if he will allow me.

Mr. TRUMBULL. Certainly. The Senator can ask me any question.

Mr. FESSENDEN. We appropriate here about one hundred and fifty million dollars, for instance, a year—more than that—but call it $150,000,000. According to the Senator's reasoning, after it is appropriated it is all out of the Treasury—not a dollar of it in the Treasury. If he can explain the difference between this case and that I should like to hear it.

Mr. TRUMBULL. The difference is this: This is a measure to take a particular fund, now supposed to be outside of the Treasury, and put that fund into the Treasury, and place $100,000 of that fund at the control of the Secretary, to be used in his discretion for certain general purposes, paying expenses, paying for defending suits, and so on. I think that is a very different thing from a general appropriation bill that takes money out of the Treasury.

But the Senator says he neither asks the sanction of the Senate nor does he fear the disapprobation of the Senate. Who supposes that he does? I think the Senator from Maine is a very bold gentleman; I do not think he fears anybody; but I do not know that anybody is disposed to attack him. I have known a great many bold men to put chips on their shoulders and ask somebody to knock them off; but I never supposed they were the only brave persons in the world. [Laughter.]

Mr. FESSENDEN. That is when there are bullies about. [Laughter.]

Mr. TRUMBULL. The Senator from Maine may have supposed he was in danger, and that there were bullies about. But, sir, I submit to you and to this Senate that I do not know of anybody that ever attacked the Senator from Maine. He put the chip on his shoulder when nobody was assailing him. I certainly never assailed him. I have always had the highest opinion of his integrity and of his ability, and of the entire honesty of purpose with which he administered the affairs of the Treasury Department. I did not say anything about his administration of those affairs. It is possible, however, that even the Senator from Maine might make a mistake. I do not know that he has done so. I am not examining his record or administration of the Treasury Department; but I should just as soon expect to find a mistake in the administration of any other person as in that of the Senator from Maine.

The Senator says he neither cares nor fears anything that the Senator from Illinois may do. Why, sir, he need not. He need have no apprehension of anything that I can say or do in reference to him.

Mr. FESSENDEN. The Senator is a little mistaken. I said I did not fear anything he might say or do; I did not say I did not care.

Mr. TRUMBULL. As I took down his language it was, "I do not care for anything the Senator from Illinois may say or do."

Mr. FESSENDEN. "Do not fear" was my expression.

Mr. TRUMBULL. Well, the Senator need not fear. I assure him he is in no danger from me whatever.

Mr. FESSENDEN. I am very glad of that. I did not mean to say that I did not care for what the Senator might do or might say, because my anxiety to answer him shows that I do care. I have too much respect for him not to care for what he may say or do; but I do not fear it.

Mr. TRUMBULL. No; the Senator need not. I will relieve him of any apprehensions that he may have had on that score by telling him that it is the farthest thing in the world from any intention of mine to injure him in any way whatever; and further, it would afford me pleasure at all times, as it always has, to bear testimony to his character and ability. Even now, notwithstanding his furious onslaught, I entertain none other than kind feelings toward him, and I am only sorry that he should be so sensitive in reference to the administration of the Treasury Department, and that he should constantly apply personally to himself everything that is said about the administration of that Department.

Now, the Senator says that when property belonged to a rebel there was no authority to seize it. I do not agree with him at all.

Mr. EDMUNDS. After the war; that was his proposition.

Mr. TRUMBULL. I do not know when this property was seized. The dates I read were the dates when the property was restored. When it was seized I do not know. Sir, I deny the proposition, if I may be permitted to disagree with the Senator from Maine. I say it was positively the duty of the President of the United States, under the confiscation act, which I read the other day, to seize the property of rebels; and where he did seize it it was subject to be sold and the proceeds to go into the Treasury.

The Senator says he has satisfied several gentlemen that his view of the law was correct. He may have satisfied them. He certainly satisfied himself.

But here is what the law says:

"Any person claiming to have been the owner of any such abandoned or captured property may at any time within two years after the suppression of the rebellion prefer his claim to the proceeds thereof in the Court of Claims; and, on proof to the satisfaction of said court of his ownership of said property of his right to the proceeds thereof, and that he has never given aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase money which may have been paid, together with the expenses of transportation, sale," &c.

That is what the law said, and I thought that was what the law meant. Another portion of the law said that the Secretary of the Treasury should sell "such property"—that is, the captured and abandoned property—"at auction to the highest bidder, and the proceeds thereof shall be paid into the Treasury of the United States." That is what the law says, and then the laws says that any person whose property is thus sold may file his claim within two years after the rebellion in the Court of Claims, and on proof of his loyalty and the other facts he may recover back the proceeds. If the Senator thinks the law did not mean that, but when it said the Secretary should pay the proceeds into the Treasury it meant that he might keep them out of the Treasury for two years; if he thinks that when the law said a person claiming the property might file his claim in the Court of Claims it meant that he might make his claim to the Secretary of the Treasury, and that he should have discretionary power over $24,000,000—if that is what the Legislature meant they certainly had a very unfortunate way of expressing their opinion.

The Senator refers to the Chief Justice. Why, sir, when I had the honor of addressing the Senate some weeks ago upon this question, I read from a decision of the Supreme Court, pronounced by the Chief Justice, in the case of Mrs. Alexander, whose cotton was taken, and who went into court and asked to be permitted to prove her loyalty, and that she was entitled to that cotton and to its proceeds. The Chief Justice, giving the unanimous opinion of the Supreme Court of the United States, said:

"We will not hear you; you lived in the enemy's country; the law regards you as an enemy; your cotton having been seized, the proceeds must go into the Treasury of the United States; and the United States has provided for you another tribunal—the Court of Claims—where, if you can prove your loyalty and that you were the owner of the cotton, you may go and recover its proceeds; but in this court, the highest court of the nation, the case coming up from a circuit court, you cannot be heard to allege your loyalty or to prove your ownership of the cotton."

That is the opinion of the Chief Justice, delivered in a case that was before him.

But it is said that outsiders and agents come in and we receive their statements. I should like to know, if it is possible—I do not know that I will be permitted to assume that it is—that we should have in any of the Departments of this Government a dishonest man. If that thing is conceivable how are we to find it out, unless we find it out from outsiders? How are we to know it? Does the Senator from Maine expect the head of a Department to lay before Congress the evidence of his dishonesty? How are we to find it out? Why, sir, we are to find it out as we find out all other crimes, not by the confession of the criminal usually, not by his proclaiming his crime, but from other sources.

The Senator says he does not know but that wrong has been done. I think there has been an improper administration of these laws; that the Secretary has assumed unwarranted authority.

But we are told that allowing $100,000 to be taken by the Secretary of the Treasury of this money does not give sanction, by any means, to what he has done. Is it not giving some sanction to it, when we are trying to get the money into the Treasury, to allow him to take a part of that money right out again? You are not appropriating this money to pay a debt; you are not appropriating this money for a specific purpose. It is a contingency; it is to defend him against suits that may be brought.

Mr. EDMUNDS. Suits that are brought.

Mr. TRUMBULL. Does it not go further than that?

Mr. EDMUNDS. No, sir; pending suits. We wait for those that are to come and see what they are.

Mr. TRUMBULL. The amendment is:

That a sum of the proceeds of such sales not exceeding $100,000 is hereby appropriated for the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury.

Now, sir, suppose that is an expense in the improper administration of these laws, does it not sanction it?

Mr. EDMUNDS. No, sir.

Mr. TRUMBULL. It does not?

Mr. EDMUNDS. No, sir.

Mr. TRUMBULL. I do not see why. The Senator from Vermont agrees with me that the Secretary of the Treasury did administer this law improperly. He stated that here that, in his judgment, these cases should have been turned over to the Court of Claims which the Secretary presumed to adjudicate upon. Now, we appropriate money here, $100,000:

For the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury, for incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property.

If he administered those laws improperly and incurred incidental expenses in doing so, does not this amendment sanction them? Does it not authorize their payment? I think it does. That is my construction of it.

Mr. EDMUNDS. My friend says the Secretary did not administer under the law when he did what was improper. This amendment only allows for what was done under the law.

Mr. TRUMBULL. He assumed to do so. That is a very nice distinction which the Senator would draw. This money is to pay "incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property." He was acting under those laws; but he acted improperly, as the Senator and I both think.

Mr. EDMUNDS. You say he was acting against the law.

Mr. TRUMBULL. I say he was acting under these laws partially. He seized the cotton under them undoubtedly. I think he did not properly administer them.

Mr. EDMUNDS. That part of it was right, was it not, seizing the cotton?

Mr. TRUMBULL. I think it was.

Mr. EDMUNDS. Then the expenses of that ought to be paid.

Mr. TRUMBULL. This amendment does not confine the payment to that. It says the incidental expenses in acting under those laws, and that would cover the incidental expenses incurred under those laws, properly or improperly, according to the terms of the amendment, as I understand it:

And for necessary expenses in defending, in the discretion of the Secretary of the Treasury, such suits as have been brought against him.

Now, let me ask the Senator from Vermont, suppose suits are brought against him for an improper administration of the law, are you not appropriating money to defend him in those suits? This money is to defend him against suits brought against him. Now, take the technical, nice distinction that the Senator seeks to draw, and I should like to know if here is not an appropriation of money to defend him against the suits. The suits are brought against him, I presume, on the presumption, at any rate, that he did not act in strict conformity to the law. So, sir, in my judgment, it carries with it a sanction of what has been done.

I have here the Secretary's own opinion about captured and abandoned property. I suppose this will not be regarded as outside, if I may be permitted to read it. Let us see what he says himself:

TREASURY DEPARTMENT, *June* 24, 1865.

SIR: I have examined the claims filed by you together May 15 last, on behalf of John & James Lynch, McNaught & Ormond, William Markham, A. Anstell, L. C. Wells, John Silvey, and Margaret Boyd, of Atlanta, Georgia, for the release of cotton voluntarily abandoned by them respectively to the United States quartermaster on receipts by him.

There is no evidence that the property thus receipted for by the quartermaster was ever turned over to the Treasury agents, without which action it is not subject to orders from this Department.

Again, in case it has been transferred to Treasury agents, the law of March 12, 1863, refers applicants for the release of abandoned property of every description to the Court of Claims.

Who do you think signed that?

H. McCULLOCH,
Secretary of the Treasury.

That is the answer he gave on the 24th of June, 1865, over his own signature. I suppose that is not outside; and yet he paid out millions of this money, the claimants for which, by his own statement; were to be turned over to the Court of Claims.

But, sir, I did not mean to go over this argument again, or to express my views in regard to the law again. I have not assumed, as the Senator from Maine would have it, that my construction of the law was necesssarily the only one that could be given. I have stated my views. If I have stated them earnestly it is because I believed in them. I usually am in earnest. I give a reason for the faith that is in me because it is in me. I read the laws; I refer to the statutes; and give the reason for the conclusion to which I have come. I believe it to be right. But, sir, I have not assumed, as the Senator from Maine would have it, that my construction is right and everybody else is wrong. I have assumed no such position. It has seemed to me that my construction of the law was right. The Senator from Vermont agreed with me as to the proper construction of the law in this particular. We both agreed, and all agreed, I believe, that this money ought to be covered into the Treasury. I do not know whether the Senator from Vermont thinks it ought to have been covered in long ago. I presume he does. But now what we disagree about is in keeping out—ah, but the Senator from Maine says, "No, that is not it; it is not keeping out"—well, taking out, if that is any difference, $100,000 of this same money, to be used, as it seems to me, in a way that would give sanction, or at least would give color, to the uses which have heretofore been made of the money, as the Senator from Vermont and I both think, in the improper adjudication of claims by the Treasury Department.

Mr. EDMUNDS. I ask the indulgence of the Senate for three or four minutes only to reply to the Senator from Illinois. I have nothing to do with the passage of arms; that belongs to him and the Senator from Maine. I only have to do with the propriety of this amendment. I am sorry that the Senator from Illinois should have so misrepresented the scope of it—not intentionally; he would not do that; perhaps I should rather say misapprehended the scope of this amendment. He seems to believe that it is leaving outside of the Treasury, in the pocket of the Secretary, a sum running up to $100,000, as far as it may be necessary. That is totally incorrect. Every dollar is to be paid into the Treasury. Then we merely provide that upon proper vouchers, according to the general regulations of the proper accounting officers, the necessary expenses of collecting this property, settling the accounts of agents who have honestly and faithfully administered it, that are not settled, shall be paid, and we appropriate an indefinite sum of money, with a limit as the maximum, for that purpose. The Secretary of the Treasury has no claim upon this money. He has not incurred any expense. He has not been an agent. Not a dollar of it, under any circumstances, can go into his hands or into his pocket—not a single penny.

As I said before, there are cases where the agents were honest and faithful. I have one in my mind, a late constituent of my friend from Minnesota, [Mr. RAMSEY,] a gentleman of the highest reputation, who was down in North Carolina, who has a just claim, as he has satisfied me, (but I am not the Auditor to pass upon it; the Auditor will pass upon it at the proper time,) yet unsettled, for large amounts of property that he gathered together and turned into the Treasury, of three or four thousand dollars that is due to him. Are we to say that this man who has faithfully exercised the duties that we imposed upon him and saved property to the Government shall not have some appropriation made by which the accounting officers having that matter in charge shall settle his accounts and pay him the little balance that is due him? That is only an illustration.

All this appropriation as to the incidental expenses is for expenses incurred in acting under the authority of these laws, and not against their provisions. There have been no expenses in giving up property. The whole expenses are in gathering it in; and whatever is due and right to be paid under that branch of the law, which is in accordance with what both the Senator from Illinois and myself believe to have been the duty of the Secretary of the Treasury to gather it together, ought to be paid, and no man can justly say it ought not. Then the question is, who is to pay it? Are you to drive all those accounts into a committee of the Senate or of the House of Representatives to be adjusted? We all know that is not a very safe way; it is not a usual way; it is not a just way.

Then the amendment provides for defending suits that now exist. But my friend says, "How do we know but what these suits are brought for his acting against the law and in violation of law, and therefore you are sanctioning his defense of suits where he was acting against the law?" What are the suits brought against him for? For giving up anybody's property? Not that we have heard of; but it is for taking it.

Mr. TRUMBULL. I have no evidence of that. There is no evidence of that before the Senate.

Mr. EDMUNDS. The evidence was satisfactory to me, and in the very nature of the thing—

Mr. TRUMBULL. The Senator has not been kind enough to furnish it to the Senate.

Mr. EDMUNDS. But I furnished a good deal better from the investigation of the committee than my friend does here in an anonymous document that he reads as evidence to show that the Secretary of the Treasury has been guilty of complicity in giving up property or money.

Mr. TRUMBULL. That is not anonymous.

Mr. EDMUNDS. It is not signed by anybody.

Mr. TRUMBULL. The name is there.

Mr. EDMUNDS. I see somebody has signed on a card here "T. J. Mackay."

Mr. TRUMBULL. And I gave his name.

Mr. EDMUNDS. Upon the statement of Mr. T. J. Mackay, who I believe has not been an acquaintance of the Senator a great while, has he?

Mr. TRUMBULL. I stated how I received it.

Mr. EDMUNDS. Did you ever see him?

Mr. TRUMBULL. I have seen him. I communicated with the Freedmen's Bureau to know if they could give me any information in regard to this question who had money and cotton restored to them. In reply to that communication I was waited upon by the gentleman whose name appears there with that paper, and I was told that this gentleman had been in South Carolina and was the brother of the gentleman who is the president of the State convention down there.

Mr. EDMUNDS. Did you ever know him before?

Mr. TRUMBULL. I never did.

Mr. EDMUNDS. Very well. Then the Senator is willing, while he criticises the investigation that we make at the Treasury among the books and in examining these papers——

Mr. HOWARD. If the Senator from Vermont will allow me, I will simply say that I am very well acquainted with a gentleman bearing the name just mentioned, and he is a very respectable, intelligent gentleman, on whose word I should entirely rely.

Mr. EDMUNDS. So am I acquainted with a Mr. Mackay, but it does not happen to be this man. This man may be very respectable. I am not attacking his respectability at all. I am only illustrating to the Senator from Illinois, the justice of his criticism upon my conduct in ascertaining the nature of these suits from an examination of papers at the Treasury and from the other necessary fact that suits brought against him would be, not for giving up cotton to claimants, but refusing to do so; and contrasting it with the evidence upon which the Senator from Illinois is willing to act, the unsworn statement, the unsupported statement of a gentleman, however respectable, whom he never saw before, and who himself, evidently, from this statement, has no personal knowledge of a single word that is contained in it. This statement may all be true; but is that the way you administer justice? Is that the way that you deal fairly by an officer of the Government or by any citizen of the United States, be he high or low? That is the question. I do not think it is.

Now, to return to the precise point. My friend says that we do not know but that we are sanctioning these proceedings by authorizing the payments of any money to defend suits that have been brought for seizing property, because, he says, how do we know but that the property was illegally seized? My friend did not read the last clause of the amendment:

Such suits as have been brought against him or his agents in the premises.

What premises? In respect to the seizure of captured and abandoned property under authority of law—the laws that provide for it. Any suit, therefore, that has been brought against him "in the premises—that is, in respect to his action under the authority of those laws—he is authorized to expend a proper sum of money to defend. Is not that right? My friend was, I will not say careful—my friend was negligent in not reading the limiting clause of the last part of the section, which confines the expenditure in defending these suits to those suits that have been brought against the Secretary of the Treasury and his agents under the authority of these laws and carrying out

the laws of Congress in making these seizures. If that is not just, I do not know what justice is. That is all I have to say.

Mr. STEWART. I cannot consent to let this vote be taken without stating to the Senate how this question still presents itself to me. It does not present itself to me in any favorable light but on the contrary, a very unfavorable one. With all the lights I have been able to get on the subject, I do not see my way clear to vote for this proposition. I cannot vote for it; and for a few very simple reasons. So far as my vote is concerned it makes very little difference whether the Senator from Illinois or the Senator from Maine is correct in the construction of the law and the power of the Secretary of the Treasury. It raises to my mind a very different question. It has been suggested here by the Senator from Illinois, it has been suggested in various quarters, that there were questionable transactions connected with this cotton business; that the Secretary had been imposed upon (and I believe that is admitted by all) by unfaithful agents. Some have intimated that the Secretary himself had employed persons that he ought to have known were not trustworthy. It has been suggested that large sums of money were paid out for counsel fees. In fact there is a great deal of scandal connected with this cotton business. That, I believe, everybody is prepared to admit. Everybody has heard of it.

Now, what is proposed to be done? Is it proposed to have an investigation, to establish some rule of law by which these accounts are to be settled? Is it proposed that the money shall be paid out under general rules of law, as it is in collecting the internal revenue? There you have the salaries of your officers fixed; you have persons whose duties are prescribed by law. Is it proposed to investigate this subject and establish a rule by which these accounts can be adjusted? Or is it proposed, on the other hand, to make an appropriation of $100,000, a jump in the dark, which, to my mind, is an indorsement of all that has been done; and perhaps neither we nor the Secretory can know whether it was well done. If he has been imposed upon from the beginning of this transaction until now he may be imposed upon again; for it is certainly a very charitable view of this question to say that he has been imposed upon and that there have been frauds. If he has been imposed upon, if he was unable to administer this trust without involving the name of the country in disrepute in consequence of these frauds, however honest he may have been, I say that we should have an investigation, and nothing more should be paid out except upon the report of a committee, and the settlement should take place in pursuance of fixed rules.

I am unwilling, for one, to make an appropriation to pay any portion of these expenses until this unpleasant talk is removed, until the subject shall have been investigated, and I know that no part of the money which I vote out of the Treasury shall go to an unworthy person, to a person who has deceived the Secretary of the Treasury. I tell you we have not the evidence before us upon which to vote out of the Treasury of the United States $100,000. He has contracts with A, B, and C, which he has made because he has been induced to make them through fraud; been imposed upon, as his friends admit; and if we vote this money now to pay those contracts with we ratify them; and hereafter we shall be estopped when we undertake to inquire into this expenditure of money.

I do not know how true the statement is, but I have heard of many expenditures connected with this cotton business—the employment of attorneys, the employment of special agents, the employment of witnesses and spies by sub-agents. I have heard of these things for the last three years; and if this money is to go to those unworthy persons certainly no Senator will want to vote for it. It seems to me every Senator who votes to pay any money on any of these contracts about which there is so much dispute should understand what the contracts are.

I have undertaken to investigate one of these cases. I offered a resolution the other day calling for information in relation to it. I am willing to undergo any amount of labor that the Senate may feel disposed to impose upon me in the investigation of these transactions, and I will do the work, if I can, and do it fairly. I say it is but just to the Secretary of the Treasury that these accounts should be examined; and we should know whether there was criminal negligence on his part in employing unworthy agents, or whether we had imposed upon him so much labor that he could not well perform it. In either case it is not proper for him to come forward and call upon us for an indorsement for all that has passed and an appropriation of $100,000 in the future.

It seems to me the Senate is not prepared to vote this appropriation. Appropriations of this kind should go to the Committee on Appropriations. It should be investigated, and we should know what it is. If it is to be paid out by the Secretary it should be done by laws covering the expenditure. The Secretary of the Treasury does not pay out the money that is appropriated for collecting the revenue arbitrarily. The salary of every officer is fixed by law. He does not pay your district attorneys and your judges sums arbitrarily out of the Treasury. Their salaries are fixed by law. But, as regards the secret agents, the cotton agents, the cotton brokers, and the attorneys employed in this service, you have no law; you have no limit; and the report is that that discretion has been abused, either willfully on the part of the Secretary, or because he has been imposed upon. I am inclined to think that he has been imposed upon; that we have devolved too much labor upon him, and that he has been unable to perform it. But, if that be the case, it is a reason why we should fix some machinery whereby there can be some investigation of these matters and the Secretary relieved.

Mr. HOWE. I want to say to my friends who are opposing this amendment here that I think they are mistaken about it. I commenced with them to help to get this money into the Treasury, where it would be under the protection of the law. We have prosecuted the effort up to this point with considerable diligence, and I think the country will be satisfied with what we have done in that direction. I believe all the standing committees of the Senate have been on our side and all the voters have been on our side; but we have not been able to get the money there yet. Now, I think there is a fair prospect that by relinquishing $100,000 we can get the rest in. I think, with the experience before us, that ought to impress itself upon the judgments of all as a very favorable arrangement to make, and I hope this opposition to the amendment will be abandoned.

I cannot quite acquiesce in the theory set up here that this is not a reserve of $100,000; that this is an ordinary appropriation, and does not put the money at the disposal of the Secretary of the Treasury. I think it does clearly. Ordinarily, when you appropriate money for the pay of Congress, or for the Naval Academy, or for the officers of the Army, it does not make any difference whether you appropriate $1,000,000 or $25,000,000, because the salary of every man who can draw a dollar and the name of every man who can draw a dollar is fixed by law, and the amount that can be paid to him is known.

Mr. EDMUNDS. Will my friend permit me to ask him if he does not know that in every Department and administration of the Government we have to appropriate every year a contingent sum for the payment of the incidental expenses of every one of these Departments?

Mr. HOWE. Oh, yes, sir.

Mr. EDMUNDS. Then why does my friend say the law fixes every dollar that is to be paid to an officer?

Mr. HOWE. I did not say any such thing; but I said when you were making appropriations for the pay of Congress, appropriations for the pay of the Army, appropriations for the support of the Naval or Military Academy, it did not make any difference whether you appropriated one sum or another, because there was no discretion left to the disbursing officers; but after we have made these specific appropriations it is ordinarily the case that there are small appropriations made for incidental expenses. We trust a certain sum to the discretion of the heads of Departments, and sometimes to the heads of bureaus. An appropriation is made each year to the Secretary of the Treasury.

Now, here is a proposition to appropriate $100,000 more. It stands in all respects, I think, upon all fours, like an additional appropriation to the incidental fund under the control of that Department. True, he may employ whom he pleases—we do not know anything about it; on what service he pleases—we do not know anything about it—and pay them such sums of money as the auditing officers think just. I do not suppose my friend from Vermont believes there will ever be any dispute between the auditing officers of the Treasury Department and the head of the Department as to what shall be paid to one of his attorneys. But, although I think it is the same as leaving $100,000 in his pocket, I insist again we had better do it. It is the best arrangement we can make. I am very sorry to leave my friends; I very rarely desert any cause in which I engage, and would not now but for a firm conviction that this is the best thing we can do. We are told how terribly the Secretary has been harassed by these suits; and if we do not agree to furnish him $100,000 now for lawyers I think in a very short time he will want $100,000 more for his physicians; and if we do not acquiesce in that he will want the balance for masses. [Laughter.]

Mr. STEWART. Let me suggest to my friend from Wisconsin, suppose we try him on $50,000, and say that the appropriation shall not exceed $50,000?

Mr. HOWE. No, Mr. President, we cannot afford to linger over this discussion any longer. He does not ask but $100,000 to-day. Let us close with him at once.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. STEWART. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. MORGAN (when his name was called) said: On this question I am paired with the Senator from Maryland [Mr. JOHNSON] who is called away from the Senate. If he were present he would vote "yea," and I should vote "nay."

The result was announced—yeas 23, nays 13; as follows:

YEAS—Messrs. Buckalew, Cattell, Cole, Cragin, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Hendricks, Morrill of Maine, Morrill of Vermont, Norton, Patterson of Tennessee, Ramsey, Ross, Saulsbury, Sherman, Sprague, Van Winkle, Willey, and Williams—23.

NAYS—Messrs. Chandler, Conkling, Conness, Howard, Nye, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Wilson, and Yates—13.

ABSENT—Messrs. Anthony, Bayard, Cameron, Corbett, Doolittle, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howe, Johnson, Morgan, Morton, Patterson of New Hampshire, and Pomeroy—16.

So the amendment was concurred in.

Mr. EDMUNDS. I now move to strike out the preamble to the joint resolution.

The PRESIDENT *pro tempore*. The Secretary will read the preamble.

The Secretary read as follows:

Whereas there is now in the hands of the Treasurer of the United States, as special agent of the Treasury Department, several million dollars, the proceeds of property captured during the rebellion, which money is under the control of the Secretary of the Treasury, and as it now stands may be disposed of in settling claims preferred by the alleged former owners of said captured property without the sanction of Congress; and whereas it is considered proper that such claims should not be settled and paid with-

out first receiving the approval of Congress: Therefore.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time. The resolution was read the third time, and passed.

On motion of Mr. EDMUNDS, the title of the joint resolution was amended so as to read: "A joint resolution requiring certain moneys of the United States to be paid into the Treasury, and for other purposes."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 269) for the relief of Charles Pitcher;

A bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin;

A bill (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress;

A bill (H. R. No. 836) for the better regulation of the custody and expenditures of the public moneys; and

A joint resolution (H. R. No. 217) for the relief of Beales & Dixon.

The message also announced that the House had passed the joint resolution (S. R. No. 108) relating to the survey of the northern and northwestern lakes, and the bill (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased.

The message further announced that the House had receded from its amendment to the bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia.

ENROLLED RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds, and for other purposes; and it was thereupon signed by the President *pro tempore*.

SENATOR FROM KENTUCKY.

Mr. DAVIS. As my colleague, Mr. McCREERY, is now present, I move that his credentials be taken from the table, and that he be sworn in as a member of the Senate and admitted to his seat.

The PRESIDENT *pro tempore*. The Senator will advance to the desk and take the usual oaths.

Mr. THOMAS C. McCREERY then advanced to the desk, escorted by Mr. DAVIS, and the oaths prescribed by the Constitution and the act of July 2, 1862, were administered to him, and he took his seat in the Senate.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. HOWARD. I move that the Senate now proceed to the consideration of the bill (S. No. 256) relating to the Central Branch Union Pacific railroad.

Mr. MORRILL, of Maine. I hope the Senator will not urge that at the present moment. I gave notice yesterday that I should ask the Senate to take up the Military Academy appropriation bill to-day at one o'clock. I gave way at that time, saying that I would again ask the attention of the Senate to that bill at the close of the measure which has just been passed upon. It will not occupy much time.

Mr. HOWARD. I think I had precedence of the Senator from Maine yesterday in reference to this bill. Would it not be better to take up the appropriation bill at an earlier hour of the day? It must necessarily lead to a considerable debate.

Mr. MORRILL, of Maine. No, sir; I do not anticipate much debate upon it. It is important that these bills should be considered by the Senate; and I have been waiting now for some days to get an opportunity to call up this bill.

Mr. HOWARD. What kind of an appropriation bill is it? I did not understand the Senator to say what it was.

Mr. MORRILL, of Maine. It is the appropriation bill for the support of the Military Academy. It will not occupy much time.

Mr. HOWARD. Very well; go on.

The PRESIDENT *pro tempore*. Does the Senator from Michigan withdraw his motion?

Mr. HOWARD. Yes, sir.

Mr. MORRILL, of Maine. I move then that the Senate proceed to the consideration of the bill I have indicated—House bill No. 599.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869.

The Committee on Appropriations reported the bill with several amendments. The first amendment was on page 2, line fifteen, to strike out "sixty" and insert "fifty;" so that the clause will read:

For current and ordinary expenses, $56,805.

The amendment was agreed to.

The next amendment was to insert after the preceding clause the following proviso:

Provided, That the second section of the act approved April 1, 1864, making appropriations for the support of the Military Academy for the year ending June 30, 1865, is hereby repealed.

Mr. BUCKALEW. I should like to know what that section is.

Mr. MORRILL, of Maine. The item under consideration appropriates for current and ordinary expenses $66,805, which we have reduced to $56,805. There will be found in the estimates the following item which goes in to make that general sum: "Compensation for enlisted men on extra duty as mechanics, laborers, &c., per act approved April 1, 1864, $10,000." It is an item of $10,000 for extra labor. The committee were of opinion that that was not necessary, and therefore reported in favor of repealing that provision of the law.

The amendment was agreed to.

The next amendment was on page 2, line twenty-one, to strike out the words "increase and expenses of," and to insert "purchase of books for the," and in line twenty-two to strike out "three," and insert "two;" so that the clause will read:

For purchase of books for the library, $2,000.

The amendment was agreed to.

The next amendment was on page 2, line twenty-three, to reduce the appropriation "for expenses of Board of Visitors" from $4,000 to $2,000.

The amendment was agreed to.

The next amendment was to add to the preceding clause the following proviso:

Provided, That the second section of the act approved August 8, 1846, making appropriations for the support of the Military Academy for the year ending June 30, 1847, be amended by striking out the first proviso in said section, and by inserting in lieu thereof the following: "*Provided*, That the whole number of Visitors each year shall not exceed seven."

Mr. MORRILL, of Maine. Perhaps I had better state to the Senate the effect of that amendment. I will read the proviso proposed to be repealed, and then the Senate will see what it means:

"*Provided*, That the whole number of visitors each year shall not exceed the half of the number of States in the Union; and that they shall be selected alternately from every second State, each member being a *bona fide* resident citizen of the State from which he shall be appointed; that not less than six members shall be taken from among officers actually serving in the militia; and that a second member shall not be taken from any congressional district, until every other district in the State shall have supplied a member."

This amendment it will be seen reduces the number.

Mr. JOHNSON. The whole number?

Mr. MORRILL, of Maine. The whole number of visitors, making the number of visitors seven instead of the number indicated by the statute.

Mr. JOHNSON. How are they to be selected?

Mr. MORRILL, of Maine. It does not change the manner of selection. They are to be appointed by the President.

Mr. JOHNSON. I know; but how are they to be selected locally?

Mr. MORRILL, of Maine. There is no reference to locality whatever. The President is at liberty to select the best men, the men best suited for the purpose. By the law as it now stands they are selected by localities.

The amendment was agreed to.

The next amendment was on page 3, lines forty-two and forty-three, to strike out the following clause:

For materials for quarters for subaltern officers $3,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. THAYER. Mr. President, I do not suppose I can arrest the passage of the bill. I have no such hope; but I desire to call the attention of the Senate to the condition of things which I have reason to apprehend exists at West Point, which is not creditable to that Academy, to the Government, or to the country. I have not a personal knowledge of the condition of things there, and the statement which I shall send to the Chair to be read may be exaggerated; but nevertheless I have reason to suppose that there is truth enough in the statement made to arrest the attention of Congress. The events of the last few years have not impressed me very favorably in regard to that institution. When I remember that nearly all the officers who organized and led the confederate armies in the late war were educated at that institution, were nursed and fed by this Government, I am not very favorable to voting supplies for that institution.

I had prepared a bill abolishing that establishment, or rather creating two or three military schools in different sections of the country to take its place. I had not anticipated that this bill was coming up to-day, and I am not prepared to offer such a proposition. I send to the Secretary's desk an article which I cut from the Chicago Tribune, which I ask to have read.

The PRESIDENT, *pro tempore*. It will be read if there is no objection.

The Secretary read as follows:

"*Morals at West Point.*—The Chicago Tribune publishes a private letter from a graduate at West Point which reveals a state of immorality in the Military Academy that imperatively calls for congressional interference. If the allegations of this letter are supported by facts, then the Academy is an Augean stable which needs thorough purification. The writer says:

"'At West Point there is no moral influence.'"

Mr. JOHNSON. What is the date of the letter?

The SECRETARY. No date is given.

Mr. JOHNSON. What is the date of the paper?

Mr. THAYER. It has been published within two months.

The Secretary continued the reading, as follows:

"At West Point there is no moral influence. Not even the common barriers of society are there to check and restrain the strong tendency toward vice. Religion there is not even a name, save to be scoffed at and derided. The natural result of all this is immorality, vulgarity, profanity, and licentiousness to a fearful degree. Much of this is checked by the strict confinement and rigid discipline, but it bursts forth at every opportunity, and nothing but a strong, thorough reorganizing of the whole course of training can ever change the moral atmosphere of West Point.

"Young men go there every year with good habits, with unsullied reputations, and ere six months have passed they are completely debauched—their ideas are all changed. The principles which were as dear to them as life are broken and forgotten. Morally, they are shipwrecked, and those who come after them imbibe their ideas and follow their bad example. In order to make their practice more distinctly known to you I will begin with the time the new cadet reports. He is put under the charge of the older cadets, who, under the pretense of teaching him discipline,

treat him with the greatest brutality, and those whose duty it is to care for him will assist the other cadets to heap insults and petty indignities upon him. He is made to repeat, from the mouths of his tormentors, the vilest and most indecent stories and songs, stand upon a mantelpiece and address (upon some vulgar subject) his audience of older cadets until his limbs are ready to fail of their duty, and many other harassing things (some of which it would not be decent to write) he is made to do.

"You may ask why an American youth of any spirit will endure such things, and why the officers allow it? First, when a new cadet arrives he is alone, without friends, and at once he is set upon by twenty or thirty old cadets, whom he hardly knows whether he ought to obey or not. If he dare to disobey he must fight, else the opinion of the corps will be that he is a coward. If he fights he is sure of being beaten, for a stronger man is always pitted against him, and it is a custom of the corps for the third class to go into 'training' about a month before the 'Plebes' arrive, so as to be able to flog the new comers. You may exclaim, 'What high-toned honor!' It is the honor which West Point cadets show to new cadets. After going into camp the new cadet, or 'Plebe,' as he is called, must do the work of the old cadets, make beds, clean guns, run errands, light pipes, and fill pails of water, which have been upset on purpose to make work for him; these and other things must he do, and at the same time hear the most brutal language addressed to him at all times. If he refuse to work he is struck, or a pail of water is thrown upon him, and then the public opinion of the corps requires him to fight, and with seconds, umpire, and all the equipments of the prize ring these affairs of honor come off. Even at the mess hall this petty tyrannical system is displayed; the 'Plebes' are allowed only what the older cadets do not wish to eat themselves.

"There are a certain number of the upper classes of the cadets appointed officers over the rest, and if they have any dislike for any of the fourth class (Plebes) they show their revengeful spirit by reporting them for deeds which they have never committed. The old cadets do not consider it dishonorable to treat a 'Plebe' in this manner. They are dead to every idea of justice."

Mr. SAULSBURY. I would suggest to my honorable friend from Nebraska, if he has never read it, that it would be well for him to purchase a book called "Burton Green, or Student's Life at Oxford," where he will see a great improvment upon the habits and practices at West Point, if the statement from the Chicago Tribune be true.

Mr. WILSON. I do not think the paper sent to the desk by the honorable Senator from Nebraska is entitled to any consideration. I am told that it professes to have been written, or is stated to have been written, by a graduate of that institution. When I received it I sent it to Professor Mahan, at West Point, and received in response from him a long letter, covering several pages, denying the whole matter, and with it a statement of some of the cadets of the institution. I have no doubt that there, as in many other institutions of the country, there are many things done by the boys that cannot bear examination, and I take it the same things have been done at some of the best literary institutions of the country. I know that at Cambridge, but a short time ago, there was quite an excitement growing out of some of these practices. I think that within a few days I have seen a statement in regard to another high literary institution of some misconduct of this kind. I regret that I have not the paper of Professor Mahan in my desk. I have it at my room, and will endeavor to put it on the record somewhere where it can be read. It is a very clear statement of the case.

I was sorry to hear the Senator say that a large portion of the graduates of this institution from the South went into the rebellion.

Mr. THAYER. What I said was that a large number and a great proportion of the officers who organized and led the confederate armies were educated at West Point.

Mr. WILSON. A large portion of the officers who led our armies were educated at West Point. It is a fact that a large number of the officers in our Army from the southern country who were educated at West Point remained true to the flag, and some of the ablest and best officers in the country.

Mr. JOHNSON. General George H. Thomas was one of them.

Mr. WILSON. Certainly; and it is the fact that a larger proportion of the Army officers born in the South who were educated at West Point remained true to the flag than of any other class of the southern people. The officers from the South who were in the Army who had not been educated at West Point generally went out and went into the rebellion, while many of the officers who had been educated at West Point remained true, and, I have no doubt, remained true because they were educated at West Point, where they imbibed something of the national spirit. I do not suppose that institution is perfect; I have no doubt it can be improved, and there have been some improvements made there; but I do not think it deserves a great deal that is said against it. I believe that the statements made here are not reliable statements, that there is no such condition of things there as is represented in this anonymous communication. Every effort has been made, as I understand, to find out who wrote it, but it cannot be ascertained. I think a man who puts forth a statement of that character against a national institution ought to let it be understood who he is and who is responsible for it.

Mr. MORRILL, of Maine. I see but one severe thing in that letter, and that is, that it purports to have been written by a graduate of the institution. If that could be proved on the institution I should think it very severe; but otherwise than that I do not think the institution needs any defense against that communication. I think my honorable friend from Nebraska will agree that it is not that sort of attack upon the institution which should arrest at this stage of proceedings this appropriation. I do not feel called upon to make a defense of the institution against that particular attack. When the honorable Senator brings in a bill for the abolition of the institution the matter will be open.

Mr. GRIMES. When this article was published in the Chicago Tribune it arrested my attention. Being an acquaintance and friend of two or three of the professors at West Point, I cut it out and sent it to one of them in an envelope, but without accompanying it by any note or letter. I received a reply from the gentleman to whom I addressed it, very satisfactorily showing that there was no truth in it; and that has been followed by letters from some young gentlemen who graduated with very great distinction last year, and who went into the Academy from the Army after having distinguished themselves in the war, and from some who are in the Academy at this time, and occupy very prominent positions, denying entirely the truth of the whole contents of the letter.

Mr. JOHNSON. I ask the honorable member if it is known that the letter was written by a graduate of the institution at all?

Mr. GRIMES. No, sir; it is only stated that it was written by a graduate. I can also state that in traveling with some of my friends, members of this body, last summer, about the time the long vacation began, when the students, after being there about two years, were permitted to go home and see their friends, in our company were some young graduates, all of whom told me, for I was the one who had special conversation with them, that this business of hazing, which is about the only charge that is alluded to in the communication, had been entirely stopped by a peremptory order. It had prevailed there to a considerable extent, as it has in all the colleges of the country; but the faculty have been warring against it in all the colleges for years; and I understand that now, by peremptory military rule, which is enforced by court-martialing the persons engaged in anything of this description, a stop has been put to the whole thing, and two years ago, at that.

Mr. THAYER. I stated, when I introduced this subject, that I had no personal knowledge in regard to it, and that I presumed the statements were exaggerated, for I do not believe all that I read in the newspapers; but I thought it was a proper subject to bring before the attention of Congress. My attention had been drawn to the Military Academy before I saw that article, and I had contemplated bringing up the subject, and proposing to substitute perhaps two or three military institutions in different parts of the country to take the place of it. I am aware that it is somewhat dangerous to touch upon any department of the Government if there is a representative of that department on this floor in position as chairman of a committee, because it seems to be regarded by the chairmen that a reflection may be cast upon them. I have no such purpose. I do not hold the chairman of the Military Committee responsible for the condition of things at West Point. I, however, do believe that there is some truth in regard to the charges that are made in that communication.

I will not take up the time of the Senate, but I desire to state that I have received a number of letters from officers in the Army—those who went into the service in the late war as volunteers, served faithfully through, and who have since been appointed to positions in the regular Army. A number of them I have known, and they have written to me making complaints of this character. They refer to the social ostracism to which they are subjected by their connection with the Army; and I am satisfied that the statements are true. They are subjected to a social exclusion which is anything but comfortable to them. The testimony has come to me in such a way and from such sources that I cannot doubt it.

Mr. GRIMES. I inquire whether they are infantry officers or cavalry officers?

Mr. THAYER. Both infantry and cavalry; it is confined to no particular branch. They are treated as though they belonged to a lower order of beings in the service. I was aware that such a condition of things had existed before the late war; but the West Point officers were swallowed up in the vast armies of volunteers that fought in the war, and this feeling was not then so apparent, but now it exists again. Officers with whom I was acquainted during the war have made known to me the condition of things which exists in camps, in garrisons, and in barracks. They are subject to this social tyranny simply because they were not educated at West Point. I regard that as a kind of aristocratic institution in that respect, as giving birth to a species of social tyranny to which volunteer officers are subjected simply because they are not graduates of that institution.

The bill was passed.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read by their titles and referred to the Committee on Claims:

A bill (H. R. No. 269) for the relief of Charles Pitcher;

A bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin;

A bill (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress; and

A joint resolution (H. R. No. 217) for the relief of Beales and Dixon.

The bill (H. R. No. 836) for the better regulation of the custody and expenditure of the public moneys, was read twice by its title, and referred to the Committee on Appropriations.

RESTORATION OF DISMISSED ARMY OFFICERS.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial. It declares that no officer of the Army of the United States who has been or shall hereafter be cashiered or dismissed from the service by the sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service except by a reappointment, confirmed by the Senate of the United States.

Mr. HENDRICKS. What question is up on that bill?

The PRESIDENT *pro tempore*. The bill has just been read, and is before the Senate as

in Committee of the Whole, and open to amendment.

Mr. HENDRICKS. I should like to know from the committee reporting the bill whether there is an evil complained of in the Army in connection with this matter which justifies general legislation, or whether this is intended to reach some particular case or cases. I had not heard of any evil of the sort that this bill would seem to meet and remove; but if it does exist I should like to know from the chairman in what cases; what wrongs have been done that call for legislation in this direction; in what cases have officers been restored where it ought not to have been done. I know of some cases where they ought to be restored and they have not been restored; one or two in my own State, as brave men as fought in the Army, against whom no truthful accusation could be offered, as I believe, and yet it has been impossible to secure their restoration, although most earnest efforts have been made by their military as well as their social friends. I do not believe that there is a general evil which calls for this legislation, and I want to know from the Senator from Massachusetts whether this bill is intended to meet any particular case. I have a case in my own eye, in which I expect yet to see justice done, where a brave colonel was most cruelly, wantonly, and, as I believe, wickedly dismissed the service upon a proceeding that does not command, when the record is examined, the judgment of a just man. I expect to see that young man restored to the service and his honor saved. Unless there is some evil of which we can rightly complain to be corrected by this legislation I do not wish to see it. If it is intended to meet any particular case, in my judgment, that is not worthy the American Congress.

Mr. WILSON. It is not to meet any one case, but to meet any case that may arise. Several cases have arisen where persons have been court-martialed and dismissed the service and have been restored, some of whom certainly ought not to have been. This bill does not provide that they may not be restored; but the provision is that if the President is satisfied that injustice has been done he can renominate them, send them to the Senate, and on the Senate confirming them they will, of course, be restored; and I have no doubt the Senate would be disposed to do justice to any man under such circumstances. I do not think the decision of a court-martial dismissing an officer from the service ought to be set aside on the partial representations that are made to the Executive. We know that the President cannot devote a great deal of time to the examination of cases of this character, and abuses have grown up under this power. Personal friends thus interested have interfered; and it is possible that in certain cases political friends have interfered to set aside the verdicts of courts-martial. There have been several cases of this kind within the last few years. I do not mean now merely, but running back through five or six years.

This bill does not make the decision of a court-martial final; but if the President is satisfied, and if the friends of a dismissed officer are satisfied, that injustice has been done him, the President may take the responsibility of sending his name to the Senate; and if a good case is made out I have no doubt the Senate will do him justice. For myself, I have no doubt that there are cases where injustice has been done and where it ought to be righted. What we want to get is substantial justice, and we do not want a case decided by a little pressure or outside influence by the Executive, and the decision of a military tribunal set aside. I have no doubt that during the war a great many hasty judgments were made, and perhaps some persons were dismissed that ought not to have been; though, I take it, a great many were not dismissed that should have been. Now, we are not in active hostilities, certainly, whatever may be the condition of the country. I think the military tribunals are entitled to their due weight and consideration, and their judgment ought not to be set aside in this way unless on thorough examination. I think this mode will do justice. The bill has passed the other branch, has been reported by the Committee on Military Affairs, and is now pending before us. I hope the Senate will pass it.

Mr. JOHNSON. Mr. President, it is not for me to say that the bill is intended to provide for a particular case, although the circumstances connected with it are such as would lead one who is more suspicious than I am to that conclusion. I will not refer to them, because it would not be in order, I imagine, to refer to anything which has occurred in the House of Representatives. The public, however, have been led to believe that it was intended to apply to the case of Major General Fitz John Porter. I was one of the counsel of that gallant soldier; and although perhaps I may have been wrong because the court came to a different conclusion, the opinion that I formed after all the evidence was given was that there was no ground for the prosecution at all; and that, I recollect when the case was closed, was stated by the public press to be the opinion of all who heard the testimony. It resulted, however, in a different way, and he was dismissed the service; and he has since, being sensibly alive to what he considered the injustice done him, endeavored in vain not to be restored to the Army by the President of the United States, but to get a reëxamination of his case by another board. His application for that kind of relief was recommended to the attention of the President by many of the best men of the country.

I am not certain, but I think I recollect correctly, that among others who recommended that he should have such a second trial, was the honorable member from Massachusetts himself, [Mr. WILSON.] I do not think I can be mistaken in that. All that he asked was that in consequence, as he says, of developments which were made subsequent to his conviction, and developments which, in his judgment and in the judgment of his friends, show conclusively (if that was not made good by the evidence before the court-martial) that great wrong was done him by the judgment at which the court arrived. The facts should be examined by a commission or board. One of the principal grounds on which I think he was convicted was that he failed on a certain occasion to make an attack when there was little or no force in his front, where the attack, if it had been made at that time, would have avoided the disasters of the day. Since that period the reports of General Longstreet and others of the occurrences of that day have been made known. They were published by Mr. Swinton, in a book written apparently with great impartiality, with the expression of his own opinion, too, since the trial; and so far from its proving to have been the fact that there were only a few men in Porter's front, as stated by some of the witnesses, among others by a certain General Roberts, the whole of Longstreet's column was in front, and if Porter had made the attack he would have lost, perhaps, his whole command. It is in consequence of that and other disclosures which, as he thinks, have been made since his trial, that he has asked the President of the United States to appoint another board. He has not asked to be restored; nor has he said that he will make the judgment which this other board may come to, if favorable, the ground upon which to ask restoration to the Army. All that he seeks is to have his honor vindicated.

There was nothing in his antecedent career to call in question his devotion to the Union, his love of its flag, and his skill and gallantry in maintaining its honor throughout the many battles in which he was engaged. He commanded at the battle of Malvern, which proved so disastrous to the enemy and so glorious to himself and his command; and if he had had ten thousand fresh men on that day, which he would have had but for the withdrawal of General McDowell's command, Richmond would have been captured the morning succeeding the day of the battle of Malvern. That battle, in all human probability, saved the Army. When afterward, under the command of General Pope—and it is not for me to speak unkindly of that officer—the disasters of the second battle of Bull Run occurred, he commanded the rear; he was placed in the command of the troops here for the purpose of protecting the capital; and as far as we have any knowledge he discharged that duty faithfully. He was ordered afterward to command his corps under General McClellan, and marched to Antietam with that command; and I have some reason to believe as coming from General Robert Lee, who commanded the forces of the enemy, and communicated to a friend of mine in Baltimore since the war terminated, he thought that but for the manner in which Porter's corps was managed he would have gained the battle of Antietam; and if he had, God only knows what might have been the result.

True, therefore, as he thinks and as I believe, to the honor of the nation and consequently alive to his own honor, he seeks, as every man who has honor in his bosom would seek, a reinvestigation, that he may stand vindicated against a judgment which he thinks has done him cruel wrong. I think he has written a letter to the honorable member from Pennsylvania, [Mr. CAMERON,] in which he informs that honorable member what his purpose is, and that it is not in any way to avoid an investigation, or to avoid, if he should make an application to the President, any inquiry which the Senate of the United States might think proper to make.

Mr. CHANDLER. Mr. President, I am rather anxious that the case of Fitz John Porter should be opened, for I think great injustice has been done Fitz John Porter. It will be remembered that Fitz John Porter was chief of staff to General Patterson two days before the first battle of Bull Run; that General Patterson's army was stationed at Bunker Hill threatening Johnston's army, and that, had that army remained at Bunker Hill, Johnston's army would never have reached the battle-field of the first Bull Run. Fitz John Porter was the chief of staff of Patterson at that time, and by the advice of Fitz John Porter Patterson moved his army away from Bunker Hill and left Johnston's army to come down and unite with that of Beauregard, who thus conquered us on the first battle-field of the war.

As to the battle of Malvern, the Senator from Maryland is mistaken. Fitz John Porter did not command at the battle of Malvern. He commanded our right wing when the first attack was made, but the battle of Malvern Hill was not commanded by Fitz John Porter.

On the second battle-field of Bull Run Fitz John Porter was peremptorily ordered to attack the enemy's flank when he was fully occupied in front by our other troops; and it was in testimony before the committee on the conduct of the war that Fitz John Porter said to the man who carried the order "if I make the attack it will bring on a fight." "Yes," said the man, "are you not here for a fight?" Fitz John Porter marched his corps off the field, when in one hour and thirty minutes Longstreet's corps would have been utterly destroyed.

Now, sir, my opinion is that injustice has been done Fitz John Porter, and that he should have been shot on that field of battle. I told General Pope that the only fault I found with him in the whole conduct of that campaign was that he permitted Fitz John Porter to leave that field of battle a free man. Jackson's corps had not come up; Longstreet's corps was alone contending and all but overwhelmed; and had Fitz John Porter obeyed his order Longstreet's corps would have been destroyed on Friday and Jackson's corps would have been destroyed on Saturday, and the war would have been ended on the second battle-field of Bull Run.

Great injustice, sir, has been done to Fitz John Porter, and I think if he were now to come before a court-martial of the men who closed the war, with the facts as developed before the Committee on the Conduct of the War——

Mr. CONNESS. Including the rebel reports now in our possession.

Mr. CHANDLER. His fate would not be to appear before us complaining of a court-martial.

But again, sir. The battle of Antietam, we are informed, was a glorious day for Fitz John Porter. Sir, Fitz John Porter was not within five miles of the battle-field of Antietam; he lay back with the finest corps in the whole Army, as was in testimony before the Committee on the Conduct of the War; and when General McClellan suggested to him that he go in, he shook his head; and not General Fitz John Porter and not one single man of his corps advanced to attack the enemy; and I am informed by one general wounded in that battle, one of the most gallant, that had Fitz John Porter's corps come up at the time that he sent back for reënforcements the battle of Antietam would have closed the war.

Mr. President, I do not desire to go into the history of Fitz John Porter or of the war; but these facts being fresh in my recollection, as they are in yours, having been given in sworn testimony before us in the Committee on the Conduct of the War, I simply say that I am not willing it should go out that Fitz John Porter was the hero of any except the first battle at Malvern, when our right wing was attacked. I do not say that he did not fight well; I think he did. He was attacked, and as a matter of course defended himself on that day; but aside from that Fitz John Porter's record is one of humiliation to every man acquainted with it.

Mr. JOHNSON. Mr. President, it is not for me to try conclusions with the honorable member from Michigan in military matters. He has had some experience, I believe, on the fields of battle. I think he was at the first battle of Bull Run——

Mr. CHANDLER. No, sir.

Mr. JOHNSON. Or in the neighborhood to witness that disaster. I therefore defer to his judgment in such matters as well as I can be expected reasonably to do; but when there are arrayed against the judgment of the honorable member some of the most gallant officers of the Army I cannot help thinking that perhaps the honorable member misunderstands his ability to form a judgment upon such matters. Fitz John Porter, in the testimony before the court-martial, was vindicated by every one of the officers under his command, men who have been upon every battle-field, evincing skill and gallantry never before surpassed; and it is a little hard to say that a man who himself has been in fifteen or twenty of the hardest fought battles, in the midst of danger, with the balls of the enemy whistling around his head, and never showed the slightest timidity or evinced anything but a desire to maintain the honor of the flag and support the cause of his country, is to be assailed upon the ground of testimony taken before the Committee on the Conduct of the War!

Who examined the witnesses? Who was there as the friend of Fitz John Porter? What counsel had he? In what relation did the men who assailed him stand toward him? What did they know about it? These are questions which will suggest themselves to every fair-minded man. The testimony taken before the Committee on the Conduct of the War—and they did it, I have no doubt, to the best of their ability and with perfect fairness—was taken comparatively in secret, and it was consequently in the power of any man to blast the reputation of the fairest officer of the Army. If, now, that committee was organized, and in the full possession of all the powers formerly committed to it, and the conduct of General Grant was brought in question before it, there would be men enough to swear that he, too, forgot his duty to the country and what was demanded by the honor of the flag. He would be assailed, as he has been assailed lately; and yet, if he was assailed, what man with a heart within his bosom would hesitate a moment to say that the assault was the result of prejudice or of a cause worse than prejudice?

Now, sir, the honorable member tells us that Porter did not command at the battle of Malvern. How did he get the information? From the General-in-Chief, McClellan? He recommended his being breveted as major general because he did command at the battle of Malvern, and because of the glorious triumph achieved by him and his corps on that day, and spoke of it as one of the most extraordinary battles on record. Now, the honorable member tells us that he did not command on that field except the right wing. Mr. President, it is bad enough for us in civil life, who labor in our vocations to promote the honor and subserve the interest of the country, to be assailed; but when a soldier has risked his life on twenty or more of the fields rendered glorious during the late war, to be told in the Senate of the United States that he ought to have been shot is what I never expected to hear!

I have no doubt that the honorable member has come to that conclusion; but his mind is rapid, and occasionally, perhaps, without his knowing it, prejudiced. I may be so, too, as far as the latter is concerned, but my mind is not rapid. I have not been able since the war terminated, with all the lights that its history has afforded, to tell why a battle was lost and why a battle was won, or how a battle that was lost might have been won, or how a battle that was won might have been lost. The honorable member from Michigan has that faculty; it is instinctive with him, because he is by nature martial. I am not blessed with any such admirable faculty. I form my judgment in such matters upon the judgment of others; and I repeat that, looking to others for the evidence upon which my own mind is to be made up, I prefer in this case, as I should in any other like case, to rely upon the judgment of experienced and gallant soldiers rather than upon the judgment of the honorable member from Michigan, whatever may be the extent of his experience during the last war.

Mr. CHANDLER. Mr. President, I do not wish to enter into a controversy with the Senator from Maryland, but he asks a question or two which I am prepared to answer.

In the first place he asks who the witnesses were. I can tell him that they were the bravest generals in the Army, and nearly all of them. The men who examined them were the honorable President of the Senate, now in the chair, and three or four of the ablest lawyers in the United States, who were upon that committee, and some perhaps not so able. At that time the present President of the United States, Andrew Johnson, was a member of the committee, and was, perhaps, as prominent as any other member in examining the witnesses. At all times we had upon the Committee on the Conduct of the War legal ability; and the witnesses were, I believe, almost without exception, the generals and officers of the Army.

With regard to the battle of Malvern, we took the testimony, as you, sir, remember, of every general in prominent command relative to that battle, and not one of them stated that Fitz John Porter was in command. We examined the lamented Richardson, who was killed at Antietam, Phil Kearney, who was killed at the second battle of Bull Run, Joe Hooker, who is now in France, and all who were in prominent command, and General McClellan, who was supposed to be in command at the battle of Malvern, but I believe he was on a gunboat, and was not on the field until after six o'clock in the afternoon; but Fitz John Porter was never represented until to-day by anybody to be in command at the battle of Malvern Hill.

Mr. CAMERON. I shall vote for this bill because I think it proper in itself. I have a letter from Fitz John Porter, which was written in consequence of his having seen the bill, and I send it to the desk to be read.

The Secretary read the following letter:

NEW YORK, *February* 20, 1868.

DEAR SIR: I am informed that there is now before the Senate, soon to be acted upon, a bill from the House of Representatives, forbidding the restoration to service, without reappointment and confirmation by the Senate, of any officer dismissed from the Army by sentence of a court-martial.

This bill, I understand, was introduced professedly to prevent my restoration, not because I had asked for it (which I have not) but lest the President, for reasons satisfactory to him, might reinstate me.

If all the papers relating to my appeal to the President have been laid before the Senate on Mr. SUMNER's call, you have doubtless seen, as you said you would examine, that I have made no such application as it is proposed to legislate against, but only presented a claim for a new hearing before a military commission of undoubted talent and integrity, suggested by Hon. HENRY WILSON, and coincided in by other honorable gentlemen.

Lest these papers may not have been before you, and my motive may be misconstrued, I desire to make known to you that I asked only for an examination and report of the facts in my case under the new light thrown upon them by recent developments, which report would be suggestive as to the advisability of future action in the rendition of justice and an aid to a correct understanding of the points involved both by the President and Senate. I could not suppose any fair-minded person would oppose such examination. In fact, the application leads to the very course which the bill proposes to establish, and which is, therefore, unnecessary so far as I am concerned.

I seek, and wish to be understood as seeking, justice only in an open, straightforward, and legitimate course, in a manner to meet the approval of those whose good opinion I know I deserve and desire.

I am, sir, very respectfully and truly yours,
FITZ JOHN PORTER.

Hon. SIMON CAMERON, *United States Senate.*

Mr. CAMERON. It happened that Fitz John Porter came under my notice very early in the war, when he was, I think, a lieutenant of the regular Army, and he made a most favorable impression on me; and I employed him in very delicate service, when the city of Washington was surrounded, and when the great city of the Senator from Maryland was in rebellion, as I thought, and when it was not safe for any Union soldier to pass through the city of Baltimore. It was at a time when the railroads refused to carry the troops of the Government, and when they were preparing in Baltimore, under the guidance of their mayor and marshal, to burn bridges and murder soldiers. At that time I employed Lieutenant Porter to go to Pennsylvania; and he rendered very important service indeed. I looked upon him as one of the most promising men of the Army who came within my notice. I made him a colonel because of his supposed ability, in my opinion.

During the battles on the peninsula and the battle of Antietam I was abroad; I was not in this country, and I knew nothing of his course. When I returned I was deeply pained and greatly disappointed to find that he had come under disgrace. It is true, I knew that he had advised General Patterson to retire from his position in Western Virginia. Patterson conceived the idea that Johnston had not joined Beauregard, but was going to attack him. He called a council of war, as he told me himself, and in that council was Colonel Porter. Porter advised him to retire from there, and he did so, as he told me himself, mainly on the advice of Porter. Having so high an opinion of Porter, I asked him myself if he gave that advice, and he said he did. He gave, however, what he thought were good reasons for it. My impression then was that we lost the battle of Bull Run in consequence of the conduct of Patterson there. I think if Patterson had attacked Johnston, which I believe he would have done if Porter had not advised differently, he would have destroyed Johnston; or, at all events, Beauregard would have been defeated at Bull Run.

Mr. CONNESS. He would have occupied Johnston, anyway.

Mr. CAMERON. Yes, sir; Beauregard was beaten when Johnston's troops came up. After that occasion I knew nothing of Porter's course, except that I think the history of the war shows that Porter's troops at the battle of Antietam were a reserve corps of some twenty thousand men, and if they had gone into the battle I have always believed we should have

gained that battle, so that I do not believe he deserves the encomium the Senator from Maryland passed on him.

Mr. JOHNSON. That was not his fault; I do not say he was in the battle; he was reserved under the order of General McClellan.

Mr. CAMERON. I think the Senator from Maryland stated that General Lee had said that if it had not been for Porter's corps he would have gained the battle.

Mr. JOHNSON. Yes; I did say that, and the reason was because it was held in reserve.

Mr. CAMERON. I cannot imagine how he saved the battle by not taking his troops into the battle. I believe, however, that the case of Porter was acted upon hastily, and perhaps injustice was done him. I for one would be willing and would aid by all the means in my power to give him a rehearing, and if he has been improperly treated, if injustice has been done him I would right it; but that is no reason why we should not pass this bill. I do not believe that the President should have the right to restore a man to service who had been fairly tried by a court-martial and dismissed. If Mr. Porter shall be found to have been improperly treated, he can be reappointed and then his case will come before the Senate and I shall be one of the first to vote for his nomination, and would gladly do it under such circumstances.

Mr. WILSON. I can assure Senators that so far as I am concerned, and I think so far as the Committee on Military Affairs are concerned, we had not in mind the case of General Porter. I had understood that General Porter had no desire or wish to be restored to the Army.

Mr. JOHNSON. He has not.

Mr. WILSON. I had supposed that his case would never come up in the form of an application for restoration. I knew General Porter early in the war, and believed him to be an accomplished officer and gentleman. There were many Massachusetts men under him, and he certainly won the respect and confidence of a large number of the officers of my State, who entertain for him a great deal of regard and affection. I heard of his case, as I certainly did of all other officers during the war who failed, with profound regret, for where a man was in the field trying to serve the country I always regretted any mistake he made or any misconduct of his. It was reported to me by active officers, by men of Massachusetts who served during the whole war, that General Porter desired, if possible, to have a review of his case, not for the purpose of going back into the Army, but for the purpose of presenting some new testimony that would mitigate the opinion of the country against him, and vindicate his character; and certainly if General Porter, or any other man who has been cashiered during the war, or who has in any way failed during the war, can be vindicated by the facts, or if the public opinion of the country in regard to his conduct can be modified by the presentation of the facts, I suppose every fair-minded man would be gratified to have it done.

Acting under this conviction I wrote a letter in favor, not of a court-martial to try Fitz John Porter again, but if it could be done allowing the case to go before able officers, who would hear the facts and pronounce their judgment, and modify the case if possible. But I understood he did not desire to be restored to the Army, and that he would make no application for restoration; that he was simply endeavoring, if possible, to modify the judgment of the country in regard to his conduct; and I suppose everybody would be glad to have it done if it can be done truthfully.

Now, sir, this bill has no special reference to his case. It has reference to all cases that may come up. There have been several cases of restoration that I do not think ought to have been made. This bill is a check upon that by simply providing that where an officer has been cashiered or dismissed by sentence of a court-martial, he shall not be restored unless he is reappointed and the reappointment confirmed by the Senate. I am sure that in cases where any error can be proved to have been committed the Senate will be disposed to deal justly with the officers of the Army. I hope that the bill will pass.

Mr. RAMSEY. It is not probable that this bill will be disposed of to-night, and there is yet time in which we can do some executive business. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I hope not.

Mr. WILSON. Let us vote on this bill. I think we can get a vote to-night.

Mr. RAMSEY. There is no probability of getting through with the bill, and I must, therefore, insist on my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 28, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

POST OFFICE APPROPRIATION BILL.

Mr. BLAINE, from the Committee on Appropriations, reported a bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made a special order for Tuesday next after the morning hour.

NAVAL DEPOT ON SANDUSKY BAY.

Mr. BUCKLAND, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing a naval depot and naval dry-dock on Sandusky bay, at or near Sandusky city, and that said committee report by bill or otherwise.

MORNING HOUR.

Mr. WASHBURNE, of Illinois. I demand the regular order of business.

The SPEAKER. The regular order of business is the call during the morning hour of committees for reports of a private nature.

JOHN F. KING.

Mr. BROOMALL, from the Committee on Accounts, reported back the petition of John F. King, for services rendered as assistant doorkeeper in the House of Representatives; and the same was referred to the Committee of Claims.

DOCUMENT FILE CLERK.

Mr. BROOMALL, from the same committee, reported back the following resolution without amendment, and with the recommendation that it do pass:

Resolved, That the Doorkeeper of the House of Representatives be authorized to appoint a document file clerk, whose salary shall be equal to that of messenger in his department, and shall be paid from the contingent fund of the House during the time actually employed.

Mr. WASHBURNE, of Illinois. I think we should have some explanation of this resolution before we pass it.

Mr. BROOMALL. The Committee on Accounts examined into this question with every disposition to save expense, and they have unanimously come to the conclusion that such an officer as is here indicated is necessary. It has been strongly recommended by the Doorkeeper. I do not know that it is worth while to go into detail, and I shall not do so unless gentlemen desire further information.

Mr. WASHBURNE, of Illinois. What duties has this party to perform that cannot be performed by some of the numerous and excellent employés we now have?

Mr. BROOMALL. His duty will be to take charge of the files of documents in the room appropriated to documents and in the House. The gentleman from Illinois knows that complaints have been made about the irregularity of our files. The appointment of this officer will obviate all such complaints in the future.

Mr. SPALDING. Is it difficult to find a person to discharge the duties of this office?

Mr. BROOMALL. It will not be difficult to get a competent person to take charge of these documents. The Doorkeeper has a person now whom he will appoint, and who is competent. I demand the previous question.

Mr. WASHBURNE, of Illinois. I certainly do not wish to interpose any objection to anything that is necessary to carry on the operations of this House properly. And I need not say that I have the most entire confidence in our Doorkeeper. He is one of the most excellent and efficient officers we have ever had. Still I think he can, with his present force, find some one properly to discharge these duties. And I would ask my friend from Pennsylvania whether he can tell the exact increase of force about this House since the years of 1860 and 1861? I know there has been a very large increase, and do not now feel any disposition to still further increase that force and to create another officer.

Mr. BROOMALL. It is not intended to increase this force beyond what it is now. This particular office has been filled by detail from the Doorkeeper's office. This will fix the place and authorize the appointment of a person whose duty it shall be to attend exclusively to the duties of taking care of the files of documents. The object of the resolution is merely to authorize that to be continued which already has been done. I do not know to what extent the expenses of this department have been increased since 1860, but I apprehend there has been no very material increase. The business has materially increased. If the gentleman from Illinois knew the pains taken by the Doorkeeper and by the committee to cut down the expenses of his department against a very considerable effort on the part of many gentlemen, who ought to aid us, to get them up higher, he would think we had done much in effecting a reduction, as we have done, of $1,000 a month since the commencement of the session, I do not think he would object to this resolution. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The House divided; and there were—ayes 53, noes 22; no quorum voting.

Mr. WASHBURNE, of Illinois, withdrew his demand for a further division.

The resolution was adopted.

Mr. BROOMALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HOOPER AND WILLIAMS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported adversely on the petition of Hooper & Williams, and the same was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendment of the House to the joint resolution (S. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds.

RUFUS M. HOLLISTER.

Mr. WASHBURN, of Massachusetts, from the same committee, reported a bill (H. R. No. 833) for the relief of Rufus M. Hollister, of Janesville, Wisconsin; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to the claimant $500 to reimburse him for that sum in seven-thirty bonds of the United States lost and destroyed by fire on the 16th of June, 1866.

The report in the case was read. It states that the petitioner had deposited for safety in the top part of the stove of his sitting-room in his dwelling-house at Janesville, Wisconsin, five United States seven-thirty bonds, second issue, of $100 each, also $480 in greenbacks, which were burned and destroyed by fire, the charred remains of which only were saved and were submitted in evidence before the committee and also to the Treasurer of the United States, who was able to identify the bonds. Of the greenbacks $249 were sufficiently identified by the Treasurer to cause him to redeem the same, and a draft has been issued therefor and delivered to the petitioner by one of the members of the committee. The committee are satisfied from the voluminous evidence that the claim for the seven-thirty bonds is just and that new bonds should be issued.

Mr. WASHBURNE, of Illinois. I would like to have some explanation. If we are going to do this business we might as well give up the Treasury. [Laughter.]

Mr. WASHBURN, of Massachusetts. I will state to the House the facts in reference to this claim, and if the House sees fit to vote down the report of the Committee of Claims they will consider it an instruction from the House that in no possible case shall the Government reissue bonds for those that are destroyed. The committee have been very cautious in regard to reporting favorably on any case of this kind. But if members of the House have given attention to the reading of the report they have seen that this case is not dependent upon the testimony of the party who has lost the securities, nor on the testimony of any party, but it is one of those cases in which the charred remains were presented to the Department, which certified to the amount of the bonds and the numbers, and the only difficulty is there is no authority on the part of the Department to reissue bonds to take the place of those destroyed. The case, therefore, is this: you present before the Department the charred remains of United States bonds; the Treasurer examines them and certifies that he is able to identify the bonds, the amount, and the numbers, and the simple question is, under these circumstances, is the House willing to authorize the reissue of bonds to take the place of those which have been partially destroyed. If the House takes the ground that in no case of this kind shall the Government reissue new bonds for those partially destroyed and identified the committee will consider it instruction hereafter in no case whatever to report a bill favorably. In this case the proof is clear and is not dependent on any testimony, but simply on identification by the proper officer of the Treasury Department. Under this state of facts the committee were unanimous in favor of reporting this bill. The same bill was reported unanimously by the Committee of Claims of the last Congress, and it passed the House, but failed in the Senate for want of time. It remains for this House to determine whether the report of the committee shall be again sustained.

My friend from Illinois [Mr. WASHBURNE] says if we do this we might as well give up the Treasury. Well, sir, if, when we have a case like this presented before the Department, where the bonds are identified, we are going to take the ground before the country that we will not permit new bonds to be issued, I do not know but we might as well repudiate all just obligations. I yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. I desire to say one word in regard to this proposition. For myself, I have entire faith in the Committee of Claims; and if they are satisfied that these bonds have been actually destroyed, and there is indubitable evidence of the fact, I think good faith requires that new bonds should be substituted. But, sir, I remember that two years ago there was, apparently, absolute proof presented to this House of the destruction of some ten thousand dollars in seven-thirty bonds by the burning or destruction of a steamer on the ocean, and we issued duplicates to supply their places; and yet, only a few days ago, I was told at the Treasury Department that the original coupons of the bonds that were said to have been destroyed were presented for payment, and several of the original bonds themselves. I only mention this particular case to admonish the House that we must be perfectly certain in this case that these bonds or Treasury notes have been destroyed before we undertake to issue duplicates for them. I did not hear the report of the committee in this case.

Mr. WASHBURN, of Massachusetts. That old case has been brought up here time and time again, but the gentleman will well recollect that that case depended wholly upon evidence and testimony. The evidence in this case is all in the box which accompanies this report. That box was submitted to the proper accounting officer, and he, by an inspection of the charred remains contained therein, was enabled to identify the particular bonds, and how any coupons can be presented from these remains to be paid hereafter it is impossible for the committee to see. As I stated in the first instance, in a case which depends entirely upon the testimony of the individual himself the committee saw very well that it might be liable to be mistaken, or we might establish a precedent which it would not be proper to follow; but in this case the evidence does not depend upon any testimony. This is a small case, involving a small amount, and I think the House understands the facts of the case. I am ready to answer any questions.

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman from Massachusetts, in whose judgment I have the greatest confidence, if the House was not entirely satisfied in the case to which the gentleman from Iowa [Mr. ALLISON] referred in regard to some Oregon war bonds, from the proof which was piled up so strongly that nobody was permitted to doubt that the bonds had gone to the bottom of the "deep, deep sea," and could never come to light again? And yet we had hardly got the bill passed before the very bonds appeared at the Treasury Department. The House was entirely satisfied in that case, as perhaps they will be in this, but the bonds turned up. The gentleman from Massachusetts will also remember that the gentleman from Maryland [Mr. THOMAS] brought in an almost precisely similar case, where $100 was alleged to have been burnt, consumed in the same kind of stove-pipe, belonging to a poor woman in Maryland, and the House refused, as I believe, to grant the relief.

Mr. WASHBURN, of Massachusetts. This case, my friend knows, is wholly different. As I have stated two or three times to the House, each of these cases depended on the testimony of interested parties. The case to which the gentleman last referred did not come as a report from the Committee of Claims. We never have reported in any such case, and I voted against the bill to which he has referred. But the case before the House at the present time, as I have repeated and now reiterate, does not depend upon the testimony of any individual, but it depends upon the testimony of the remains themselves, which have been presented to the proper accounting officer, and by him referred back to the committee. There is one fact which I have not stated to the House, and which it may be important for them to understand, and that is that this bill does not cover the whole loss. There were notes of the value of several hundred dollars burnt which could not be identified by the proper accounting officer, and the committee have not reported the whole relief asked for from the fact that a portion of the notes could not be identified. We have simply reported a bill to issue bonds so far as the Treasurer has certified to us that he is able to identify them from the remains presented to him without any reference to the testimony. Unless some gentleman desires further information I will call the previous question.

Mr. THOMAS. Will the gentleman yield to me for a single moment?

Mr. WASHBURN, of Massachusetts. Certainly.

Mr. THOMAS. I desire to correct an error into which the gentleman from Illinois [Mr. WASHBURNE] has fallen. The case to which he has referred is still under advisement by the Committee of Claims, and I would be very sorry to see it prejudiced before the House before it comes up for action here. In that case, by interposing the rules of the House, at the instance and on the motion of the gentleman from Illinois, [Mr. WASHBURNE,] a majority of the House were prevented from signifying the decided preference which they had indicated for the passage of that bill.

I undertake to predict that, when the question again comes before the House, the House will, without any sort of hesitation, vote to pay that small amount to an humble woman in my congressional district, the wife of a soldier, who during the war of the rebellion lost some one hundred and fifty dollars by the burning of her dwelling.

Mr. PRICE. Will the gentleman from Massachusetts [Mr. WASHBURN] yield for an amendment?

Mr. WASHBURN, of Massachusetts. I will hear it read.

The Clerk read the proposed amendment, as follows:

Provided, however, That before any payment shall be made by the Government for the loss alleged to have been sustained by the party to be relieved by this bill an affidavit verifying the loss, and a bond to hold the Government harmless, shall be filed with the Secretary of the Treasury.

Mr. WASHBURN, of Massachusetts. My only objection to that amendment is this: in this case the identical bonds have been presented to the Treasurer of the United States, and he has certified to their identity. And why require a bond to be given when you see the remains of the old bonds and the Treasurer of the United States certifies that he is able to identify the number and amount? If this was a case depending upon any testimony, except the presentation of the identical property, then most assuredly the committee would have required a bond and affidavit. But under the circumstances the committee could not see the necessity for any such requirement. Where the case is one of an individual losing a bond and asking to have a new one issued to him, upon his testimony alone, then the requirement of the proposed amendment would be very proper. But where the property is identified by your proper accounting officer, why require an affidavit to be made and a bond to be given? We do not report any relief except in so far as the property has been identified. I must insist upon the previous question.

The previous question was seconded and the main question was ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. WASHBURNE, of Illinois. I ask for the yeas and nays on that question.

The yeas and nays were not ordered.

The bill was then passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Massachusetts. I have been instructed by the Committee of Claims to make sundry adverse reports, which I trust the gentleman from Illinois [Mr. WASHBURNE] will not object to.

Mr. WASHBURNE, of Illinois. My objection does not run in that line.

ROBERT I. KELLER.

Mr. WASHBURN, of Massachusetts. In accordance with the instructions of the com-

mittee, I move that the Committee of Claims be discharged from the further consideration of the bill (H. R. No. 209) for the relief of Robert I. Keller, of Neosho, Missouri, and that the same be laid on the table.

The motion was agreed to.

ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, moved that the Committee of Claims be discharged from the further consideration of the following petitions, and that the same be laid on the table:

Petition of Willis Arnold, of Tennessee, for compensation for cotton taken from him and used for breast-works, and in consequence destroyed;

Petition of R. Walsh, of Memphis, for relief;

Petition of Henry Jenks, asking compensation for services as collector of internal revenue in the sixth district of Ohio;

Petition of Otis A. Whitehead, for relief;

Petition of Lyman L. Swan, for allowances under the act of March 3, 1865;

Petition of General W. J. Smith, for damages done during the war;

Petition of Joseph Ballou, for property destroyed by United States troops; and

Petition of R. C. Jones, for extra allowance for services rendered.

The motion to discharge and lay on the table was agreed to.

Mr. HOLMAN moved that the Committee of Claims also be discharged from the further consideration of the following petitions, and that the same be laid on the table:

Petition of the heirs of Philip Johnson, for the payment of the seven years' back pay, provided in the resolution of August 24, 1780;

Petition of officers and men of the fiftieth regiment of Pennsylvania volunteers, for property lost at sea;

Petition of Josiah M. Christy, for payment for sutlers' stores taken by officers and furnished to troops; and

Petition of Henry Knight and John P. Hax, praying indemnity for damages sustained in consequence of the impressment of their teams at Cottonwood Post and Julesburg by United States authority.

The motion to discharge and lay on the table was agreed to.

JOSEPH HILL AND SONS.

Mr. HOLMAN moved that the committee be also discharged from the further consideration of the bill (H. R. No. 330) for the relief of Joseph Hill & Sons, and that the same be laid on the table.

The motion was agreed to.

ISRAEL P. RICHARDSON.

Mr. HOLMAN. I am instructed by the Committee of Claims to report back to the House, with a recommendation that the same do pass, Senate bill No. 302, for the relief of the heirs of Major General I. B. Richardson, deceased. As this bill appropriates some four hundred dollars, and a single objection will defeat the present consideration of the bill, I trust no gentleman will raise a point of order on this bill until the bill and accompanying report may be read.

The bill was read at length. It provides that there shall be paid out of the Treasury to Mrs. Frances S. Richardson, widow of the late Major General I. B. Richardson, in trust for Israel P. Richardson, minor child and heir of said General Richardson, the sum of $400 in full for compensation for one mule and four horses stolen by the Apache Indians from the deceased in 1852 while on duty in New Mexico, as an officer of the United States Army.

The question was upon ordering the bill to be read a third time.

Mr. HOLMAN. The Committee of Claims have adopted the report made to the Senate by their Committee on Claims, as stating very briefly the circumstances of the case. I ask that the report be read.

The report, which was read, states that Frances S. Richardson is the widow of the late Major General I. B. Richardson, who was mortally wounded while leading his command to victory at the battle of Antietam, and who died November 3, 1862, leaving one son, named Israel P. Richardson, and now aged five years. In 1852, Major General Richardson, then major by brevet of the third infantry, was stationed in New Mexico, and while on duty there on the 7th day of February, 1852, the Apache Indians stole from him one black mule. On the 8th of September following they stole from him two light sorrel-colored horses, and on the 1st of November following they stole two dun-colored horses. The value of the property so taken is proved to have been $400. Under the seventeenth section of the act of June 30, 1864, Mrs. Richardson asks that compensation be made to her in trust for her son. The committee think that such compensation ought to be made.

Mr. SPALDING. I hope that this bill will be passed without a dissenting voice.

The bill was ordered to a third reading, read a third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES PITCHER.

Mr. COBB, from the Committee of Claims, reported back a bill (H. R. No. 269) for the relief of Charles Pitcher, with a recommendation that it pass.

The bill, which was read, recites in the preamble that it is shown by a duplicate issued by T. A. Walker, as register of the land office at Fort Des Moines, Iowa, dated August 12, 1857, that Charles Pitcher, now of Marseilles, La Salle county, Illinois, deposited with Walker bounty-land warrant No. 26904 for one hundred and twenty acres, issued in favor of Nancy Bishop, under act of March 3, 1855, and assigned to said Charles Pitcher for location in his name on the west half of the northwest fourth, and northwest fourth of southwest fourth of section six, township seventy-nine north, of range thirty-two west, containing one hundred and thirty-three and one one hundredth acres; that Pitcher paid to the receiver of public moneys for that district $16 25 as an excess due on the location; that the location was not made by the register and duly reported to the Commissioner of the General Land Office for patenting, and that the greater portion of the tract above described was subsequently entered by and patented to another person.

The bill, therefore, proposes to authorize Charles Pitcher, his heirs or legal representatives, to enter, free of cost, at any of the United States district land offices in one body one hundred and twenty acres of public land subject to entry at private sale at $1 25 per acre, in lieu of and in satisfaction for said bounty-land warrant No. 26904.

The second section provides that the Commissioner of the General Land Office shall cause to be paid to Charles Pitcher, his heirs and legal representatives, in the usual form, for repayment of moneys paid for land erroneously sold, the sum of $16 25, paid by him for the excess as above stated.

Mr. COBB. I send to the Clerk to be read a letter from the Commissioner of the General Land Office, which will explain this whole matter.

The Clerk read as follows:

GENERAL LAND OFFICE, *February* 13, 1867.

SIR: In compliance with your request of yesterday, I have to state that it appears, from a duplicate certificate and affidavits of Charles Pitcher and P. H. Graves, filed by you, that said Charles Pitcher, under date of August 12, 1857, at the land office at Fort Des Moines, Iowa, did surrender to the register of said land office bounty-land warrant (act of 1855) No. 26903 for one hundred and twenty acres in favor of Nancy Bishop, for location in his (Pitcher's) name on the west half of northwest quarter and northwest quarter of southwest quarter of section six, township seventy-nine north, range thirty-two west, containing one hundred and thirty-three and one one hundredth acres, and paid to the receiver of public moneys for that district $16 25 for the excess in quantity of land over and above the face of the said one-hundred-and twenty acre land warrant. It does not, however, appear, from the records of this office, that this or any other location of said warrant No. 26904 was ever reported here from the district land office, or that the warrant has in any manner ever reached this office.

The tract, so far as is shown by the records of this and the office at Des Moines, remained vacant until October 16, 1861, at which time one Morgan Hodge located the southwest quarter of northwest quarter and northwest quarter of southwest quarter of said section (or eighty acres of the tract in question) with bounty-land warrant (act of 1855) No. 44635 for eighty acres, and in the absence of any knowledge by this office at that time of Mr. Pitcher's claim, a patent was issued to him for the tract.

As requested by you, I herewith inclose a draft of a bill for Mr. Pitcher's relief.

I am, sir, very respectfully, your obedient servant,

JOSEPH S. WILSON,
Commissioner.

Hon. B. C. COOK, *House of Representatives.*

Mr. COBB. I presume no gentleman desires to discuss this bill, and I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading. Being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHAEL C. ELLIOTT.

Mr. HARDING, from the Committee of Claims, reported adversly upon the petition for the relief of Michael C. Elliott; which was laid on the table.

JANE H. BRISCOE.

Mr. HARDING, from the same committee, reported adversly on the petition of Jane H. Briscoe, praying compensation for damages done by the Army; and the same was laid on the table.

ADAM HARDT.

Mr. HARDING, from the same committee, also reported adversely on the petition of Adam Hardt, for the adjustment of claims against the Government; and the same was laid on the table.

CAPTAIN A. COVATS.

Mr. HARDING, from the same committee, reported adversely on the petition of Captain A. Covats, to be reimbursed for losses sustained by the burning of the United States general hospital at Camp Butler, Illinois.

Mr. JUDD. Mr. Speaker, I should like to have some explanation from the Committee of Claims upon what ground that claim has been reported on adversely.

Mr. HARDING. This Captain A. Covats was attached to the Veteran Reserve corps, and was on duty at the general hospital at Camp Butler, in Illinois, when that building was consumed by fire. He lost his sword, coat, and wardrobe, and he claims to be compensated for that loss. The Government, so far, has not seen any rule safe to follow in reference to making compensation in this class of cases. The cases are quite numerous where soldiers have sustained losses of their wardrobe in battle and in camp. I have made an adverse report in this case, and move that it be laid on the table.

The motion was agreed to.

HON. GEORGE W. BRIDGES.

Mr. HARDING, from the same committee, also reported a bill (H. R. No. 834) for the relief of Hon. George W. Bridges; which was read a first and second time.

The bill authorizes and directs the Treasurer of the United States to pay to Hon. George W. Bridges, a member of the Thirty-Seventh Congress from the State of Tennessee, the sum of $1,685 10 out of any money in the Treasury not otherwise appropriated, in full compensation as a member of the Thirty-Seventh Congress, for loss of time occasioned by his arrest by the rebel authorities while on his way to the capital.

Mr. HARDING. The Third Auditor of the

Treasury reports that the amount due to Hon. George W. Bridges was $6,961 60, of which he has been paid $5,276 50, leaving $1,685 10, which was withheld on account of loss of time. He was arrested while on his way to the capital to attend the sitting of Congress by troops under the orders of one Jeff. Davis. He was consequently detained from his seat after the time when he should have been here, and if he had been here he would have drawn his pay at the time. It is shown by the evidence that after having served in Congress he united himself to the Union armies then fighting against the rebels. He raised a regiment and did good service for the Government during the war. The committee believe that he has as good an excuse for not being present—his arrest by the rebels—as that which was allowed at the time, sickness of himself or sickness in his family, and therefore recommend the passage of this bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. MERCUR, from the Committee of Claims, reported adversely on the following cases; and the same were laid on the table:

Memorial of Major H. D. Gibson for relief;

Petition of David Dunseth and others, crew of the steamer Champion, for services rendered;

Petition of R. G. Roberts and others; and

Petition of Jethro Bonney.

Mr. WASHBURN, of Massachusetts, moved to reconsider the votes already taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BEALES AND DIXON.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported a joint resolution (H. R. No. 217) for the relief of Beales & Dixon; which was read a first and second time.

The bill directs the Secretary of the Treasury to cause the accounts of Beales & Dixon, for delivery of material under their contracts with the United States, to be adjusted and paid, allowing said Beales & Dixon such additional price for material delivered after May 1, 1861, under the provisions of the supplementary contracts dated January 1, 1867, the same to be adjusted by the proper officer.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Massachusetts. There are several other bills to be reported from the Committee of Claims, but some of its members are not present, and I ask that the next morning hour may be given to the committee.

The SPEAKER. The morning hour has nearly expired. If there is no objection it will be considered as closed, and the committee will have the next morning hour when reports are in order of a private nature.

RELIEF OF DESTITUTE IN THE DISTRICT.

Mr. INGERSOLL. As there are a few minutes left of the morning hour, I move to proceed to business on the Speaker's table, so as to dispose of the bill for the temporary relief of the destitute in the District of Columbia.

The motion was agreed to.

The House accordingly, as the first business on the Speaker's table, took up Senate bill No. 220, for the temporary relief of destitute people in the District of Columbia, returned from the Senate with a disagreement to the amendment of the House.

Mr. INGERSOLL. It is an unimportant amendment that the House attached to the bill the other day; and as the Senate have not concurred in it, and the object of the bill is to relieve the necessities of the indigent poor, I move that the House recede from its amendment.

Mr. PAINE. I ask the gentleman to state what the amendment is.

Mr. INGERSOLL. The bill puts this fund at the disposal of General Howard, the head of the Freedmen's Bureau. The amendment adopted by the House on motion of the gentleman from New York [Mr. WOOD] was, that the fund should be distributed jointly by General Howard and the Provident Aid Society. This society is a mere voluntary organization, has no existence in law, and therefore could not work harmoniously with General Howard, although they both desire the same purpose to be accomplished, that is, the speedy relief of the destitute and suffering poor of this District. I hope the House will recede from the amendment.

Mr. BURR. Let me remind my colleague that the gentleman from New York, [Mr. WOOD,] on whose motion this was inserted, is absent. I therefore suggest that he let the bill be passed over till his return.

Mr. INGERSOLL. If I thought there was anything in the amendment I would do that as a matter of courtesy to the gentleman from New York; but I cannot do it under the circumstances. There are hungry people in this District who are asking bread and cannot get it. Now, will the House stand on this mere technicality, or will it do justice and recede from the amendment?

The amendment of the House was reported, to insert the words "and Provident Aid Society of the city of Washington."

Mr. INGERSOLL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the House receded from its amendment.

Mr. INGERSOLL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SURVEY OF NORTHERN LAKES.

Mr. SPALDING. I ask unanimous consent to take up for action Senate joint resolution No. 108, relative to the survey of the northern and northwestern lakes.

No objection being made, the joint resolution was taken up, and read a first and second time.

The joint resolution provides that the second section of an act entitled "An act making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the fiscal year ending June 30, 1868," approved March 2, 1867, shall not apply to the appropriation for the survey of the northern and northwestern lakes.

The bill was read the third time, and passed.

Mr. SPALDING moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

Mr. GARFIELD. I ask unanimous consent to record my vote on the question of impeachment.

The SPEAKER. The Chair cannot by the rule ask unanimous consent. The only way is by suspending the rules on the day when they can be suspended.

Mr. TROWBRIDGE. I understand consent was given by the House on Tuesday last.

The SPEAKER. Only to allow two gentlemen [Mr. KOONTZ and Mr. THOMAS] to record their votes.

LOUISVILLE AND PORTLAND CANAL.

Mr. EGGLESTON, by unanimous consent, introduced a bill (H. R. No. 835) to provide for the completion of the Louisville and Portland canal around the falls of the Ohio river, at Louisville, Kentucky; which was read a first and second time, referred to the Committee on Commerce, and, with the accompanying report from the Secretary of the Treasury, ordered to be printed.

CUSTODY OF PUBLIC MONEYS.

Mr. WASHBURNE, of Illinois, obtained the floor.

Mr. COVODE. I rise to a privileged question. I wish to call up the motion to reconsider the vote by which the jail bill was recommitted to the Committee on Public Buildings and Grounds.

The SPEAKER. That cannot be done while the gentleman from Illinois is upon the floor.

Mr. WASHBURNE, of Illinois. My colleague on the Committee on Appropriations [Mr. BUTLER] has a bill here which was brought into the discussion yesterday, and which I think the House will pass by unanimous consent. I yield for the purpose of having the bill read, and if it does not excite discussion I hope it will pass; if debate arises, I must reserve the right to claim the floor.

Mr. BUTLER. A similar bill has already been reported, and is now in order, to be called up at any time under the special order of the House. It is a bill for the better regulation of the custody and expenditures of the public moneys.

The SPEAKER. If the gentleman from Massachusetts has leave to report at any time the report can now be made.

Mr. BUTLER, from the Committee on Appropriations, then reported a bill (H. R. No. 836) for the better regulation of the custody and expenditures of the public moneys; which was read a first and second time.

The bill was read *in extenso*. The first section provides that all acts and parts of acts which authorize the President or Secretary of any Department to transfer the moneys appropriated for a particular branch of that Department to another branch of expenditure in the same Department be, and the same are hereby, repealed.

The second section provides that whenever, by sale of property of the United States appertaining to any Department of the Government, or by the payment of dues to the United States appertaining to any Department of the Government, or by any other means whatever, any moneys or valuable securities for the payment of moneys shall have been paid over or come into the possession or under the control of any Department or any officer thereof, the same shall not be expended except in pursuance of appropriations made by law; but all such moneys, specifically and without any deduction whatever, shall be paid into the Treasury of the United States, and carried to an account on the books of the Treasury denominated the "surplus fund," and such securities shall be deposited with the Treasurer of the United States, to be disposed of according to law; and the Treasurer shall annually report to Congress all the sums of moneys and securities, and whence received, under the provisions of this section.

The third section provides that whoever, being an officer, commissioner, or agent of the Government for the expenditure or disbursement of public money upon any public work or in any public employment whatever, shall expend or attempt to authorize any expenditure or contract for the expenditure of public money, either directly or indirectly, over and beyond the appropriations made by law for such work or employment or any part thereof, shall be liable to the penalties provided in this act, and, in addition thereto, shall be held individually liable to any person injured or who shall have performed any service or made any outlays under the unauthorized acts or directions of such officer, commissioner, or agent.

The fourth section provides that whoever

shall offend against any of the provisions of this act, or of any other act for the transfer, custody, disbursement, or disposition of public money or other public property, for offenses against which no other penalty has been prescribed by law, shall be punished, on conviction, by fine not exceeding $10,000, and imprisonment not less than one year nor more than twenty years, and shall thereafter be ineligible to any place of trust or profit under the laws of the United States.

Mr. CHANLER. I would inquire if this bill has been referred to the Committee on the Judiciary?

The SPEAKER. The Chair is informed by the gentleman from Massachusetts that the subject was referred to the Committee on Appropriations, with authority to report at any time.

Mr. CHANLER. The bill ought to be referred to the Committee on the Judiciary.

The SPEAKER. If the previous question shall not be seconded it will be in order to move to refer it to that committee.

Mr. BUTLER. This bill has been under the consideration of the committee for some weeks, and every conceivable form of attempts to get rid of the appropriation laws made by Congress by various contractors and agents, and the committee has unanimously come to the conclusion to report the bill in this form. It has been very carefully considered. The subject has been recommitted twice to the committee, and it is at last reported in this form. There are eleven different enactments on this same subject all tacked on at the heel of eleven different appropriation bills, each stopping one leak, but none of them stopping all the leaks. Unless some gentleman shall show cause why this bill shall be discussed I will call the previous question.

Mr. CHANLER. I wish to inquire of the gentleman, in regard to the pains and penalties prescribed by this bill, if it has been referred to the Committee on the Judiciary for proper comparison and review. It is a blow struck directly at the independence of officers having control of such appropriations. They are the agents of the Government, the agents of the people, and they ought certainly to be protected by the review of that committee, which has charge of the laws which protect the rights of the citizens. Now, although I have no doubt that the Committee on Appropriations are capable of deciding upon what are the rights and duties of citizens and their officers, still it is proper that laws of such importance as this should be referred to the committee having special charge of our laws.

Mr BUTLER. If the gentleman from New York [Mr. CHANLER] will look at the last section of this bill, providing pains and penalties, he will see that it only provides those penalties for offenses against which no other penalties have been prescribed by law. That is done in order that there may be no conflicting penalties. That gives a very wide range to the discretion of the court. There may be a case where a man has committed a slight error, and there may be a case where hundreds and thousands and even millions of dollars have been squandered. The court can exercise its discretion about the penalty to be inflicted. I am obliged to the gentleman for calling the attention of the House to this provision, because it has been carefully considered by the committee.

Mr. CHANLER. In reply to the statement of the gentleman, I desire to say that it strengthens my view of the case. If an explanation to this House is necessary, it certainly is due to the committee which this House has charged with the particular consideration of this kind of laws that they should have an opportunity to examine this bill.

Now, I do not attack the proposed law; I only ask, in view of the importance of this bill, that it be referred to the Committee on the Judiciary, with power to report the bill back if approved by them. I do not by that proposition mean to reflect upon the capacity of the gentleman who has offered this bill to draw up as good a bill as any member of the Judiciary Committee; but I do not think this House is prepared at this time to discuss a legal point or to make comparisons and collate the laws in regard to pains and penalties in case of the violation of this particular law. It is a question of very great importance that when an official violates the law he shall be punished according to existing statutes. I do not say this will prevent that being done; but it will certainly strengthen the bill if it should be favorably reported upon by the Committee on the Judiciary. I ask, not for the purpose of delay, but in view of the importance of this proposed legislation, that it may be referred to the Committee on the Judiciary, with authority to report at any time.

Mr. BUTLER. I now call for the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 80, noes 18.

So the previous question was seconded.

The main question was then ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS AND SAILORS.

The SPEAKER, by unanimous consent, laid before the House resolutions adopted by the Grand Army of the Republic at their general convention, held in Philadelphia, January 17, 1868, relative to ignoring soldiers and sailors by Government officials, and asking the attention of Congress thereto; which were referred to the Committee on Military Affairs.

IMPEACHMENT.

The SPEAKER also laid before the House resolutions of the Mississippi constitutional convention, in regard to impeachment; which were referred to the Committee on Impeachment.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on the civil appropriation bill all debate on the pending paragraph shall terminate in one minute.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union upon the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The pending paragraph was the following:

For surveying the public lands in Dakota Territory, including the lands along the Red river of the North, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, $15,000.

The pending question was upon the amendment of Mr. BURLEIGH, to strike out "fifteen" and insert "twenty;" so as to make the appropriation $20,000.

Mr. WASHBURNE, of Illinois. I move *pro forma* to amend the amendment by reducing the amount one dollar. I desire to say that the Committee on Appropriations allowed $15,000 for surveying these lands in Dakota Territory. It was a question with the committee whether they ought to allow anything at all. They did not consider that there was any particular necessity for any appropriation there. The lands, I understand, are not wanted for settlement; they are of such a character that they will not be taken up, at any rate, for a long time; and there is no earthly reason why we should increase the appropriation by adding $5,000. I hope the amendment will be rejected.

Mr. BURLEIGH. I would ask the gentleman from Illinois where he gets his information on this subject?

Mr. SPALDING. I hope the amendment of the gentlemen from Dakota [Mr. BURLEIGH] will be adopted.

Mr. WASHBURNE, of Illinois. I withdraw my amendment to the amendment.

On agreeing to the amendment of Mr. BURLEIGH there were—ayes 42, noes 27; no quorum voting.

Mr. WASHBURNE, of Illinois. I will not insist on a further count, as the committee may find itself without a quorum. Let the amendment be considered adopted. We shall have a vote in the House, and then see who wants to throw away the public money.

The CHAIRMAN. If there is no objection, the amendment will be considered as adopted.

There was no objection.

The Clerk read the following:

For surveying the public lands in Idaho, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten dollars for section lines, $15,000.

Mr. HOLBROOK. I move to amend the paragraph just read by striking out "fifteen" and inserting "twenty-five," so as to make the appropriation $25,000. I desire to state in connection with this amendment that the land officers of Idaho Territory recommended the appropriation of $35,000 as being absolutely necessary for carrying on the surveys of public lands in that Territory. The Commissioner of Public Lands recommended to the Secretary of the Interior an appropriation of $25,000, which is small enough. This is the amount proposed in my amendment, which I hope will be adopted.

Mr. WASHBURNE, of Illinois. I suppose the committee is determined to support this amendment. There is no earthly necessity for this additional appropriation of $10,000; but we may as well take $10,000 more out of the Treasury. [Laughter.]

On the amendment there were—ayes 37, noes 45; no quorum voting.

Tellers were ordered; and Messrs. COOK and ELDRIDGE were appointed.

The committee divided; and the tellers reported—ayes 43, noes 55.

So the amendment was not agreed to.

The Clerk read the following:

For surveying the public lands in Oregon, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, $25,000.

Mr. MALLORY. I move to amend by striking out "twenty-five" in the paragraph just read, and inserting "forty;" so as to make the appropriation $40,000.

I send to the Clerk, and ask him to read a communication on this subject from the Commissioner of the General Land Office.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *February*, 7, 1868.

SIR: I have the honor to acknowledge the receipt of your communication of the 4th instant upon the subject of an increase in the estimate of appropriation submitted to Congress by this office for surveying the public lands in Oregon for the next fiscal year.

In reply, I have to say, that at the time the estimates were made this office had in view the exigencies of the surveying service and counteracting influences exerted by the then disturbed condition of the country on account of Indian hostilities.

The estimate now before Congress for the survey of the public lands in Oregon is $5,000 in excess of the appropriation made for the current fiscal year. Had it not been for the reported dangers in Oregon to surveying parties in places remote from the immediate vicinity of military establishments in Klamath Lake and Surprise Valley, much larger estimates would have been presented for the extension of the

lines of public surveys, demanded by the provisions of an act granting lands to the State of Oregon for the construction of a military road from Eugene City to the eastern boundary of Oregon.

In the presence of the foregoing impediments to the progress of the public surveys and a due regard to the husbanding national resources, the estimate of the surveyor general of Oregon, amounting to $55,450, was restricted to the sum of $25,000.

Representations having since been made to this office of more pacific attitude of Oregon Indians in the region of country demanding early surveys on a larger scale than estimated, I would be willing to recommend to Congress $40,000 appropriation instead of $25,000 for the fiscal year ending June 30, 1869.

I have the honor to be, very respectfully, &c.,

JOSEPH S. WILSON, *Commissioner.*

Hon. RUFUS MALLORY, *House of Representatives.*

Mr. MALLORY. Mr. Chairman, I ask the committee to bear in mind that the State of California has received sufficient appropriations to enable her to complete almost all the surveys of her public lands, while the State of Oregon, laboring under the impediments which are set forth in this letter, has had but a very small portion of her public lands surveyed. There has not been sufficient and there is not now sufficient of the public lands surveyed to enable the actual settlers to take possession of them. There are a number of rich and fertile valleys in which the surveys have not been extended at all, and the lands there are needed for settlement at the present time.

The surveyor general based his estimates of appropriation upon what was necessary to meet the demand of the State at the time he made it. His estimate was for $55,450. The Commissioner of the General Land Office informed me that he cut down the estimates, but that he believes now the condition of Indian affairs is such in the State of Oregon that the surveys of the public lands may be prosecuted to a much greater extent. He therefore asks the approriation may be increased to $40,000.

Now, sir, it seems strange economy to lock up the Treasury so as to prevent the survey of the public lands and their being put into the market for purchase by actual settlers. The appropriation of this money for the survey of the public lands is the appropriation of money for a legitimate purpose, and it will come back at an early day into the Treasury. I hope, therefore, the amendment I have proposed will be adopted.

Mr. HARDING. I agree, Mr. Chairman, with the gentleman who has just spoken, that it is bad economy to refuse to appropriate money for the survey of public lands in the West. When these lands are surveyed in limited quantities it is much more convenient for speculators to take them up for resale to the actual settlers. It is, then, much easier for the speculators to obtain the ownership of the public lands than the actual settlers.

It is the highest economy to survey the public lands as fast as possible, and not in limited quantities. The quicker they are surveyed, then, the quicker homestead settlers will have the opportunity to select homesteads. As soon as the railroads West are constructed we will then find thousands going West to select lands. If we decide against surveying the public lands except in small parcels we will find them taken up by speculators for resale. Let us survey these lands, and then the settlement up of that country will make our Pacific railroads paying institutions. When we have a denser population there it will save the Government from the expense of employing troops.

Mr. WASHBURNE, of Illinois. I move to amend by making the amount $12,000.

Now, Mr. Chairman, I am sorry my colleague has left me on the subject of economy and has fallen into favoring these extravagant appropriations.

Mr. HARDING. Have we not to survey every acre of our public land?

Mr. WASHBURNE, of Illinois. Does not my colleague know that there are hundreds and thousands of acres of public land in Oregon which have been surveyed, and which will not be taken up for years to come? Last year $30,000 was asked, and we gave it to them. This year the Commissioner of the General Land Office asked for $25,000, and the Committee on Appropriations have dealt liberally in following his estimate. The gentleman from Oregon has called on the Commissioner since then, and as a consequence we have this milk-and-water letter. If gentlemen want the heads of Departments to legislate for this House they will follow blindly these letters, and merely register their edicts. I want the lands surveyed when there is any necessity for surveys, and the appropriation in this bill is all that was asked, and all that is needed.

Mr. STARKWEATHER. The survey of lands is perhaps needed more in Oregon than in any other quarter. When we are expending so much money in constructing railroads to unite the Pacific and Atlantic it seems to me poor economy to cut down the necessary surveys of the public lands. It is true, as was said by the gentleman from Illinois, [Mr. HARDING,] when these lands are surveyed in small quantities they fall almost entirely into the hands of the speculators. I have some acquaintance with the wants of Oregon, and while I should be the last one to add to the burdens of the people, yet I say this appropriation is needed. The gentleman from Oregon has the figures and can give them to the House. I know, from the most reliable sources, this country should be surveyed, so it may be settled up. The land that is surveyed and open to entry is not the sort desired. I hope the amendment of the gentleman from Oregon will be adopted.

Mr. WASHBURNE, of Illinois. I withdraw the amendment.

The question being taken on the amendment of Mr. MALLORY, it was disagreed to—ayes thirty-one, noes not counted.

The Clerk read as follows:

For surveying the public lands in Montana Territory at rates not exceeding fifteen dollars per lineal mile for standard lines, five dollars for township, and eight dollars for section lines, $5,000.

Mr. CAVANAUGH. I move to amend by striking out "five dollars" and inserting "twelve dollars;" also by striking out "eight dollars" and inserting "ten dollars;" and also by striking out "$5,000" and inserting "$25,000;" so that it will read:

For surveying the public lands in Montana Territory at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, $25,000,

I desire to ask the gentleman who reported this bill why this appropriation is different for Montana from what it is for the other Territories? In every other Territory the rates are "fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines." The Territory of Montana contains a population of sixty thousand people, and there is not an acre of her soil surveyed; and yet the law on the statute-book compels the miner, before he can receive a patent, to have his lode surveyed. The people are settled, massed, and have made their homes there, and they desire that their homesteads shall be made secure to them under the law. But here is a discrimination against Montana Territory, both as regards the price paid for surveying and the total amount appropriated.

Mr. WASHBURNE, of Illinois. There was a mistake made in this clause which should be corrected. We desired to give the same amount for surveying township and section lines as was asked for in the estimate. If the gentleman will refer to page 190 of the estimates he will see that it is seven dollars for township lines and six dollars for section lines. I propose to amend his amendment so as to conform to that estimate. In regard to the amount appropriated, $5,000, which the gentleman proposes to increase to $25,000, I oppose the amendment as being entirely unnecessary. I do not think it necessary to survey an acre of land in Montana.

Mr. CAVANAUGH. I call the gentleman's attention to the estimates on page 76, as follows:

For survey of public lands in Montana Territory, at a rate not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, $25,000.

So it appears that the Secretary of the Interior recommends the amount of appropriation that I have moved.

Mr. WASHBURNE, of Illinois. The gentleman is right. The mistake was made by the clerk and by myself. His amendment, therefore, should be made as to the rates paid, but the increase of the appropriation should not be made. I withdraw my amendment to the amendment.

Mr. WELKER. I call for a division of the question on the amendment.

The question being taken on that part of the amendment increasing the rates for surveying, it was agreed to.

The question being taken on the latter part of the amendment to increase the appropriation to $25,000, it was disagreed to—ayes twenty, noes not counted.

Mr. CAVANAUGH. I now move to strike out "$5,000" and insert "$20,000." The gentleman from Illinois [Mr. WASHBURNE] has admitted that I was right, and that a mistake was made by the clerk and himself. Now the Secretary of the Interior recommends $25,000 for this survey. I pretend to know the necessities of the people of Montana better than the gentleman from Illinois can possible know, and I assert that in the valleys of the Gallatin, Jefferson, Madison, Beaverhead, Bitterroot, Deerlodge, Missoula, Hellgate, Bonde, Big Hole, Boulder, and the Missouri river to the Three Forks, an area of from ten to twelve thousand square miles, the land is as rich and valuable for agricultural purposes as any land on the continent.

I refer the gentleman to the report of the surveyor of Montana. His estimate was $100,000. As I said before, every miner is obliged to have his claim surveyed before he can obtain his patent, and the appropriation of only $5,000 will not survey a single township. You might as well appropriate nothing at all.

Tellers were ordered; and Messrs. CULLOM and BOYER were appointed.

The committee divided; and the tellers reported—ayes 39, noes 58.

So the amendment was rejected.

Mr. CAVANAUGH. I now move to strike out "five" and insert "fifteen," so as to make the amount $15,000.

The gentleman from Illinois [Mr. WASHBURNE] has admitted that the head of the Department has recommended this appropriation of $25,000. The gentleman has given that amount to Oregon. I cannot see why the State of Oregon lying just due west of us should be entitled to it any more than Montana, and I presume that the gentleman from Oregon will not claim that she is. All I ask for the Territory is the same rights and privileges and the same support that are given to the adjoining States, no more and no less. Let us mete out justice to these people.

Mr. HOLBROOK. I desire to ask the gentleman from Illinois [Mr. WASHBURNE] a question in this connection. I desire to know why it is that he appeals to members of this House and asks them to vote an appropriation of $15,000 for the survey of lands in Washington Territory, and why he asks an appropriation of $25,000 for Colorado, and refuses a like appropriation for Montana, when there is the same amount of population to-day settled in the Territory of Montana, where there never has been a survey made, where there is absolutely more need of it than in either of the places I have mentioned, where mineral lodes are being taken up, and where surveys have to be made before a person can acquire title to any mineral lands that he may locate. As has been mentioned by the gentleman from Montana, [Mr. CAVANAUGH,] there are hundreds of valleys in that Territory where there are settlers who desire to make improvements. They do not know whether those improvements are going to become theirs permanently, or whether, when the surveys are completed, a portion of the lands they have taken up, and upon which they have constructed their houses and planted their orchards, will not be divided by township

lines, and that their improvements are not going into the hands of some one who has done nothing to improve the valleys of that vast section of country. I trust that the amendment offered by the gentleman from Montana will be adopted, and I appeal to the members of the House not to make this discrimination against that Territory.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the paragraphs relating to the survey of the public lands be closed in one minute after the committee shall resume the consideration of the same.

Mr. MUNGEN. On that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The CHAIRMAN. All debate is to be closed in one minute, by order of the House, on the paragraphs relating to surveying the public lands. The pending question is upon the amendment of the gentleman from Montana Territory, [Mr. CAVANAUGH.]

Mr. WASHBURNE, of Illinois. I was sorry that there was a necessity for closing the debate on this proposition. But the gentleman from Montana did not seem to be satisfied with the wish of the House twice expressed, and insists upon moving other amendments to this paragraph.

Mr. HOLBROOK. The gentleman from Illinois [Mr. WASHBURNE] has not yet answered my question; and I again ask him to do so. I want him to tell this House why this discrimination is made against Montana Territory? They have reported in favor of $15,000 for Washington Territory, $25,000 for Oregon, $15,000 for Idaho Territory, $25,000 for Colorado Territory, &c., while only $5,000 is appropriated for Montana Territory?

Mr. WASHBURNE, of Illinois. We found there was no land to be surveyed there, and therefore there was no necessity for any appropriation for that purpose.

Mr. CAVANAUGH. The gentleman is mistaken in his statement; there is a great deal of good land there—more than one third of the vast Territory is susceptible of the highest state of cultivation—more so than that portion of Illinois in the immediate vicinity of the gentleman's own home.

The question was then taken upon the amendment moved by Mr. CAVANAUGH, and upon a division there were—ayes 53, noes 45.

Before the result of the vote was announced,

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were ordered; and Mr. LAWRENCE, of Ohio, and Mr. ASHLEY, of Ohio, were appointed.

Mr. ASHLEY, of Ohio. I hope members will vote for this amendment, and that it will carry.

Mr. WASHBURNE, of Illinois. I hope it will not carry.

Mr. ASHLEY, of Ohio. I have been in the Territory, and know that there are thirty or forty thousand people there, without a single acre of land surveyed there.

Mr. WASHBURNE, of Illinois. I object to debate.

The committee again divided; and the tellers reported that there were—ayes 62, noes 40.

So the amendment was agreed to.

The Clerk read the following:

For surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten dollars for section lines, $5,000.

Mr. HOOPER, of Utah. I move to amend the paragraph just read by striking out "$5,000" and inserting "$15,000." I will say to the members of this committee that the sum named in this paragraph, $5,000, for the surveys in my Territory, would accomplish, as it were, nothing compared with the wants of the people there. There has been no surveying done by the Government of the United States in my Territory for ten or eleven years past. I ask that the committee will adopt the amendment I have moved and give to my Territory the same amount that it is proposed to give to Idaho and Montana.

The CHAIRMAN. The Chair inadvertently omitted to state that all debate has been closed, by order of the House, on the paragraphs relating to surveying the public lands.

The amendment of Mr. HOOPER, of Utah, was agreed to.

The Clerk read the following:

For surveying the eastern boundary of Nevada, estimated four hundred and twenty-five miles, at not exceeding fifteen dollars per mile, $6,375.

Mr. TAFFE. I move to amend the bill by inserting after the paragraph just read the following:

For surveying the boundary line between the State of Nebraska and the Territory of Colorado, and that portion of the western boundary of the State of Nebraska embraced between the forty-first and forty-third parallels of latitude, estimated three hundred and twenty miles, at not exceeding twenty dollars per mile, $6,400.

Mr. ASHLEY, of Ohio. I ask unanimous consent of the Committee of the Whole to make a statement in regard to this amendment.

The CHAIRMAN. By order of the House all debate is closed on paragraphs relating to surveys. The committee, by unanimous consent, cannot set aside an order of the House.

Mr. ASHLEY, of Ohio. I will say that this amendment should be adopted.

The amendment was agreed to.

The Clerk read the following paragraph:

For repairs and taking care of the bridge at or near the Little Falls of the Potomac river, $26,000.

Mr. INGERSOLL. I move to strike out the paragraph just read. There is now a proposition embraced in a bill pending before the Committee for the District of Columbia for constructing a bridge on the piers of what is known as "the aqueduct bridge," between Georgetown and the Virginia shore of the Potomac. If a bill for that purpose shall be passed by Congress, then neither the bridge at Little Falls, known as the "Chain Bridge," nor Long Bridge, below the aqueduct bridge, will be required, as the new aqueduct bridge will answer all purposes for the use of the public.

Mr. RAUM. Suppose this bill should not go through Congress?

Mr. INGERSOLL. Then the appropriation here proposed can be brought forward hereafter in the deficiency bill. It is not expected that this appropriation will be used before next summer, as it is to meet anticipated expenditures for repairs during the next fiscal year.

Mr. HARDING. Will my colleague allow me to ask him a question?

Mr. INGERSOLL. Yes, sir.

Mr. HARDING. I desire to ask what public law requires this?

Mr. INGERSOLL. That question would be better addressed to the gentleman who has special charge of this subject, although, I suppose, I can answer it. This bridge at the Little Falls of the Potomac was built by the Government of the United States in pursuance of law, and from time to time these appropriations have been made, varying in amount, for the purpose of making the repairs required to be made. That is all the law there is on the subject.

Now, sir, I want to state to this committee that the bridge crossing the Potomac, known as the Long Bridge, is an old structure and sadly out of repair. Congress may appropriate $25,000 each year for repairs of that structure, and still have no safe bridge. In the course of a few years it will be necessary to build a new bridge somewhere across the Potomac for the convenience of the public. A new bridge will cost at least $1,000,000. The Chain Bridge is, in my opinion, nearly worthless for the use of the public, being too far up the Potomac. The repairs of this bridge for a single year cost, as appears by this bill, $26,000. These expenditures for repairs are, in my opinion, about equivalent to throwing the money away. I think this appropriation ought to be stricken out; for, if the proposition now under consideration in the Committee for the District of Columbia shall be adopted, we shall have a durable structure, which will cost the Government of the United States less in the aggregate than the appropriations that will have to be made within the next five or at the outside ten years for patching up the Long Bridge and the Chain Bridge, and even with these repairs we shall have no safe structure at last. I ask my colleague, [Mr. WASHBURNE, of Illinois,] who has charge of this bill, whether he is not willing that this appropriation should be stricken out.

Mr. WASHBURNE, of Illinois. I have no interest in this matter; I care nothing about it. I suppose the Committee of the Whole would be very reluctant to strike out an appropriation of $26,000, as it would be so much less taken out of the Treasury. [Laughter.] But I think I understand the reason why my colleague [Mr. INGERSOLL] desires that it should be stricken out. The object is to open the way for a big job of several million dollars for building another bridge. Perhaps it might suit the purposes of the Committee of the Whole to strike out this appropriation for repairs, and then get out of the Treasury several millions instead of $26,000.

Mr. INGERSOLL. I trust my colleague will let me reply to that remark.

Mr. WASHBURNE, of Illinois. I will after I get through. The Committee on Appropriations had before them the chief engineer, General Michler, and questioned him particularly in reference to this bridge. He convinced them, much against their will, that it was necessary to put in this item. Afterward my attention was called to the matter, and I asked General Michler to write me a letter stating the particular reasons for making this appropriation. He has sent me a letter which I shall ask the Clerk to read. I will only add that this is the bridge over which almost all of the travel, the marketing, cattle, &c., comes into Washington and Georgetown from south of the Potomac. I now ask the Clerk to read the letter of General Michler.

The Clerk read as follows:

OFFICE OF PUBLIC BUILDINGS, GROUNDS, AND WORKS,
WASHINGTON, *February* 25, 1868.

SIR: In reply to your verbal inquiry, I beg leave to state that the appropriation for the repairs and taking care of the bridge at or near the falls of the Potomac is absolutely necessary, as the bridge is in constant and great use. A very large number—in fact nearly all the cattle from Virginia for the Washington and Georgetown markets cross over it, and daily a very large number of wagons loaded with produce.

On several occasions accurate counts have been kept of the number of wagons, horned cattle, &c., that have passed over this bridge. For the week ending February 15, 1867, the following is a copy of the report of the laborer in charge, namely:

Teams and wagons, 1,611; horses and wagons, 3,808; Government wagons and teams, 57; cattle, 728; sheep, 633; foot passengers, 668.

On one single day it has been reported that six hundred cattle passed over the bridge. The bridge has been built at a great cost to the Government, and should therefore be kept in repair.

Very respectfully, your obedient servant,

N. MICHLER,

Brevet Brigadier General United States Army.

Hon. ELIHU B. WASHBURNE, *Committee on Appropriations, House of Representatives.*

Mr. INGERSOLL. Mr. Chairman, I wish to state in reply to my colleague, [Mr. WASHBURNE, of Illinois,] and to the statement of General Michler, that the reason why travel goes over this bridge is because the aqueduct bridge at Georgetown is no longer in a condition to be used for travel. My colleague is aware that at the commencement of the war the water was drawn off from the aqueduct, and that it was used as a bridge for military and other purposes. When that aqueduct was used as a bridge, the travel over it was largely in excess of the travel over the Little Falls bridge. There is no doubt it would be much more convenient for travel to cross at the aqueduct bridge than at the Little Falls bridge. If the proposition for the construction of a bridge where the aqueduct now is be adopted, I will inform my colleague that it will not cost a million or even half a million dollars.

Mr. WASHBURNE, of Illinois. How much, then?

Mr. INGERSOLL. Two hundred thousand dollars. Fifty thousand dollars is appropriated every year for the repair of these two old bridges, and in four years we expend $200,000 for that purpose. Instead of an old, ricketty bridge, for the same money we will have a fine new one. It will be built upon piers that cost a million and a quarter of money, but which will cost the Government nothing. It will be an increased convenience to travel, while it will supersede those now in use. It is a very poor reason that General Michler assigns, that because these old bridges have cost money we are therefore bound to keep them up; that they are to be kept up for that reason, and not because the Government or the public interest demands them. I ask that these approriations shall be stricken out of this bill until after the proposition has been introduced to which I have referred. Gentlemen will have a chance fully to discuss it. If it be rejected, then these appropriations can be brought forward in the deficiency bill.

Mr. WASHBURNE, of Illinois. If they are stricken out of this bill I give notice that I shall oppose their introduction into the deficiency bill. He can strike them out or not, but I give him this notice.

Mr. INGERSOLL. I move to strike them out for the reason I have given.

Mr. COVODE. I move to reduce the appropriation five dollars.

Mr. Chairman, I wish to say, in reply to the gentleman from Illinois, that my experience here has been that when the Government undertakes a work to cost $200,000 it is more than likely it will cost, before it is completed, $2,000,000. We have an example in the water-works for this city. We have witnessed the same thing in the construction of this Capitol building, and, indeed, in all the improvements that have been carried on in the District of Columbia for many years. Now we are to have a proposition brought before us to build a new bridge, which I am sure will cost us $2,000,000 before it is completed. The time, sir, has come for us to consider how long the country will stand the imposition of burdens of taxation upon them for the purpose of these works for the people of Washington. How long will our people stand it.

Gentlemen who have read sacred as well as profane history can recall instances when the heavy taxation of the extremities for the adornment and pride of the center has resulted in an uprising of the people to relieve themselves from the burden. Look at the history of Jerusalem. King Solomon, wiser, it is said, that any of us, taxed the outside tribes to make Jerusalem and Judea the glory of the whole earth, just as we tax all the States to build up the glory of Washington, and what was the result? The people clamored against it, but he heeded them not. He went on taxing to beautify Jerusalem, and the result was that it "busted up" the ten tribes of Israel. [Laughter.]

Mr. Chairman, I enter my solemn protest here and now against a continuation of the policy that "busted up" the Jewish nation and forced the ten tribes to sever their connection from their seat of government. If Solomon, with all his wisdom, taken in connection with the pride the Jews had in the great temple and the city of Jerusalem, lost his power over the people by taxing the ten tribes so heavily that they revolted and left Judea and Jerusalem "high and dry," what may we expect if we persist in this folly and wickedness? [Laughter.] I again, in the name of my constituents, who have furnished over twelve thousand men to put down the rebellion, enter my protest against their being oppressed for the benefit of the people of this District. Of course I have not time in five minutes to go into profane history.

The amendment was disagreed to.

The Clerk read as follows:

For repairs of the Long Bridge across the Potomac river, $15,000.

Mr. LAWRENCE, of Ohio. I move to strike that out, and wish to say a few words. I have before me a statement, from which it appears there has been paid out of the Treasury on the Long Bridge across the Potomac and others $377,142 65.

The letter is as follows:

TREASURY DEPARTMENT, REGISTER'S OFFICE, *February* 27, 1868.

Statement showing the amount of money that has been paid out of the Treasury for the construction and repair of the Long Bridge across the Potomac, namely:

Amount expended on account of Potomac (Long) Bridge:	
On account of purchase of rights of Washington Bridge Company for erection of bridge on the site thereof in 1832 to 1834	$47,000 00
On account of loss incurred in making preparations to build a bridge across the Potomac river at Washington in 1834	13,854 74
On account of miscellaneous items	174 87
On account of construction of bridge across Potomac river	129,981 38
	$191,010 99

Amount expended on account of repairs of the Potomac (Long) Bridge by special appropriations $83,627 00

There has also been expended, under act of 3d March, 1855, and subsequent acts, the sum of $102,504 66 for the general account of repairs of the Potomac, Navy-Yard, and upper bridges.

N. L. JEFFRIES, *Register.*

Will the committee answer why it is that we should pay out of the national Treasury the money necessary to keep in repair all these bridges?

Mr. INGERSOLL. I will answer that question. During the five years of the war the Government, in the use of these bridges, wore them out to a greater extent than the ordinary travel of the public would in twenty-five years. That is a reason why the Government should make the bridges good, even if there were no other reason.

Mr. LAWRENCE, of Ohio. Mr. Chairman, if it be true that the Government has worn out these bridges, it is equally true that the Government has built and kept them in repair. But now the war is over and the Government has no use for this Long Bridge. I would be very glad if some gentleman on the Committee on Appropriations or for the District of Columbia would tell me why it is we should tax our constituents to keep up bridges for the accommodation of the people of this city? It is a fact that I desire should be borne in remembrance that the taxation for the last nine years in this city has averaged only eighty-six cents upon $100 of taxable property, at a valuation of not more than one half its actual value, so that the actual taxation for this city has been less than forty-three cents on $100, while the constituents of almost every member on this floor have been taxed, instead of forty-three cents, two dollars on $100, or two per cent. The gentleman from Illinois [Mr. INGERSOLL] told us, in his remarks yesterday, that we ought to pay a portion of the expenses of this city, because we have $50,000,000 of Government property here. The fact he states is true, but the reason assigned by the gentleman for asking the Government to pay local expenses will not bear the test of scrutiny. Why should we tax our constituents to pay the local expenses of this city because the Government owns property here? The public buildings are not taxed in any city of the Union. The people of every State and of every city of the Union are taxed to build, repair, and take care of their public buildings.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I oppose the amendment and ask for a vote.

The question being taken on the amendment of Mr. LAWRENCE, of Ohio, it was disagreed to.

Mr. LAWRENCE, of Ohio. I move to strike out "$15,000" and insert "$10,000" for the purpose of further answering the argument of the gentleman from Illinois, [Mr. INGERSOLL.] I was remarking that the people of every city and State of the Union are taxed to build, repair, and take care of their public buildings. But in this city the citizens are not taxed either to build, repair, or take care of our public buildings. The Government built the court-house and public offices for this District, and now pays the courts for administering justice here. Every public building of the Government in Washington has been constructed, repaired, and preserved at the cost of the people of the country. These public buildings ornament the city, and the officers that fill them expend immense sums every day, which goes to the benefit of citizens here.

Mr. BLAINE. Are the people of Columbus, Ohio, taxed to keep up the public buildings?

Mr. LAWRENCE, of Ohio. They are taxed to build and maintain their county and city public buildings, but not the buildings of the nation. They are taxed, in common with the people of the State, to keep the State House in order, and they, in common with the constituents of the gentleman from Maine, and of every other member on this floor, are taxed to build, repair, and take care of the public buildings at this capital. The ordinary public buildings of the counties throughout the Union are erected and maintained at the cost of the people of the counties, and the public buildings of the cities are built, repaired, and taken care of at the expense of those cities. Sir, I do not ask that the people of this city shall contribute to erect the public buildings of this Government—and they have not contributed to build, as a general rule, the local public buildings—but I do ask that they shall be taxed to pay the local expenses of their own city, and particularly of lighting their own avenues, repairing their local bridges, built, as they were, at the expense of the Government, and now daily guarded by a police paid from the national Treasury.

Mr. INGERSOLL. Are not the people of this District also taxed to maintain the public expenses of the Government in the way of the erection of the public buildings and the care of them?

Mr. LAWRENCE, of Ohio. How much are they taxed? The Government pays so much of their purely local expenses that taxation here is merely nominal—their national taxation is comparatively small.

Mr. INGERSOLL. Just as much, in proportion, as anybody else.

Mr. LAWRENCE, of Ohio. The point I am making is this: that we ought not to take

from the Treasury of the United States money to erect structures which are purely for local purposes in this District. I am not asking that the people of this city shall be taxed to protect our public buildings, but I am asking now that my constituents shall not be taxed to erect structures that are purely of a local character and for the local benefit for the people of the District. I wish to place them precisely on the same footing as to their local public works as my constituents are placed in regard to their local public works.

Here is a vast city drawing more material and pecuniary benefits from this Government than all the cities of the Union, and contributing almost nothing to the national Treasury, paying an annual tax of less than fifty cents on the $100 of the real value of their taxable property, while other cities are taxed on an average about two per cent. on the taxable value of their property. The gentleman from Illinois [Mr. INGERSOLL] advocates a system which exempts the people of this city from taxation for much that is purely local and leaves his own constituents and mine to be taxed, not only for their own general and local expenses, but also for the local expenses here. Sir, this ought not to be, and I appeal to gentlemen upon this floor, and especially to my colleague, who is on the Committee for the District of Columbia, [Mr. WELKER,] to see to it that his constituents and mine are not taxed to erect, repair, and take care of structures here which are purely local in their character. Every city of the West would readily agree to receive the capital, and instead of asking to be quartered like a huge pauper on the Treasury would pay a bonus to get it.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and Mr. INGERSOLL having taken the chair as Speaker *pro tempore*, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the paragraphs on pages 16 and 17 of the bill be closed in five minutes after the committee shall resume the consideration of the same.

Mr. VAN WYCK. I hope that motion will not prevail.

Mr. WASHBURNE, of Illinois. How much time does the gentleman want?

Mr. VAN WYCK. None on the pending paragraph. I would like to say a few words in regard to an item on page 17.

Mr. WASHBURNE, of Illinois. Then I will modify my motion and move to close debate at once on all the paragraphs on page 16.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The amendment proposed by Mr. LAWRENCE, of Ohio, was disagreed to.

The Clerk read the following paragraph:

For fuel for the President's House, $5,000.

Mr. PRICE. I move to amend that paragraph by striking out "$5,000" and inserting "$1,000" in lieu thereof; and I do it for the purpose of asking the gentleman from Illinois [Mr. WASHBURNE] what he proposes to do with six hundred and twenty-five tons of coal to heat one house in this latitude?

Mr. WASHBURNE, of Illinois. The information which the Committee on Appropriations had upon this subject was from General Michler. They thought the appropriation very large, and called his attention to it. We found that it has been the usual appropriation, and, strange as it may seem to my friend from Iowa, he says the entire amount of fuel is consumed, and I have no doubt of it, as it is a very hot place up there. [Laughter.]

Mr. PRICE. Allow me to say, in reply, that I am quite willing to keep the President warm, but I would undertake to keep him warm on half that money in a much colder latitude than this is for two years.

Mr. PRUYN. This includes the greenhouse as well as the President's House.

Mr. RAUM. The appropriation is for next year.

Mr. PRICE. I do not care what year it is for.

The question was taken on Mr. PRICE's amendment, and it was disagreed to.

The Clerk read the following:

For repairs of Pennsylvania avenue, including cleaning sewer-traps, new crossings, &c., $20,000.

Mr. LAWRENCE, of Ohio. I move to strike that paragraph from the bill. The acting chairman of the Committee on Appropriations agrees to that.

The question was taken on the amendment, and it was agreed to—ayes 65, noes 31.

The Clerk read the following:

For manure for the public grounds and reservations and cartage of the same, $2,000.

Mr. SELYE. I move to strike out the manure. [Laughter.] I desire to say——

The CHAIRMAN. No debate is in order.

The amendment of Mr. SELYE was not agreed to.

The Clerk read the following:

For care of the Circle, $1,000.

Mr. COVODE. I move to amend this clause so that it will read, "for swinging around the circle, $3,000." I think this clause as it now stands is rather indefinite. If it has reference to what is popularly known as "swinging around the circle," then $1,000 is not enough to pay the bill that was left unpaid at Pittsburg alone. [Laughter.] That is in my immediate neighborhood, and I want to see the St. Charles hotel bill paid. [Laughter.] However, I will withdraw the amendment.

Mr. SELYE. I move to amend by inserting the word "Golden" before the word "Circle." I want to know what kind of circle is here referred to? Can my friend from Illinois [Mr. INGERSOLL] give me any information on that point?

Mr. INGERSOLL. I refer the gentleman to my colleague from the Fulton district, [Mr. ROSS.]

The amendment of Mr. SELYE was not agreed to.

The Clerk read the following:

For laying pavement through the Mall along Sixth street south, opened by act of Congress approved March 2, 1867, $2,000.

Mr. LAWRENCE, of Ohio. I move to strike out the paragraph just read. I am not in favor of cutting down any expenses for this city or elsewhere unless I become satisfied that they should be reduced. But I submit to gentleman whether we ought to appropriate money out of the Treasury of the United States to pave the streets of Washington? It is more than enough if we take care of Pennsylvania avenue—pave it, repair it, and light it.

Mr. INGERSOLL. But you have struck out the appropriation for Pennsylvania avenue.

Mr. LAWRENCE, of Ohio. We have made appropriations for that purpose for years; not by my vote, however; and now I appeal to members on this floor not to take money out of the pockets of their constituents to pave the streets of this city. As I understand it, the acting chairman of the Committee on Appropriations, the gentleman from Illinois, [Mr. WASHBURNE,] does not desire this appropriation.

Mr. INGERSOLL. Then why did he report it in this bill?

Mr. LAWRENCE, of Ohio. He reported it by direction of the committee, I suppose. I should like to have some reason given why we should pave the streets of this city, and streets, too, along which we have no public buildings. A street in which the Government of the United States has no earthly interest, and from which our constituents can derive no benefit. I now yield to my colleague, [Mr. WELKER,] for I have faith in his judgment.

Mr. INGERSOLL. Then you will vote for the appropriation.

Mr. WELKER. By the act of Congress referred to in this item, Sixth street is to be extended through one of the public squares or reservations. This appropriation is to lay the pavement through that public square, the Government owning both sides of the street. But I do not see any necessity of this $2,000 at this time for this purpose in the present condition of our finances.

Mr. LAWRENCE, of Ohio. Will my colleague [Mr. WELKER] allow me a question?

Mr. WELKER. Certainly.

Mr. LAWRENCE, of Ohio. Is not the extension of Sixth street for the benefit of the city rather than for the benefit of the Government?

Mr. WELKER. Sixth street formerly terminated at this public square. It was extended through that square for the benefit of property-holders on both sides of the square.

Mr. WASHBURNE, of Illinois. I have no objection to this item being struck out.

Mr. INGERSOLL. Well, I object to it, and I want to make a remark or two about it. The gentleman from Ohio [Mr. LAWRENCE] does not seem to be aware of the fact that the Government of the United States, by contract with the city of Washington, agreed at the outset to take care of the avenues of the city and pave them.

Mr. LAWRENCE, of Ohio. This Sixth street is not an avenue, and I deny that the Government ever made such contract. A law once making provision to pave streets is not a contract.

Mr. INGERSOLL. Well, I know that as well as the gentleman does. But the Government also agreed to pay its proportion of the cost of paving streets where they extend through or by the side of public reservations. This street extends through a public reservation, and the extension was made by act of Congress, for which the gentleman from Ohio [Mr. LAWRENCE] probably voted. That act provided that the extension should be made, and this item is to make the appropriation to carry that act into execution. Yet the gentleman objects to it. Now, sir, the authorities of Washington had nothing to do with laying out this city. The Government of the United States accepted the grant from Virginia and Maryland, and laid out the city according to its notions of taste and propriety. In laying it out the Government made these expensive avenues from one hundred and sixty feet to three hundred feet in width. Now, would it be fair to call upon the people of this District to pay the expense of paving these magnificent avenues that the gentleman from Ohio [Mr. LAWRENCE] may travel up and down them in his coach at his pleasure? [Laughter.]

Mr. LAWRENCE, of Ohio. Will the gentleman yield to me a moment?

Mr. INGERSOLL. I cannot yield now. This is a struggle on the part of the gentleman from Ohio to outshine my colleague [Mr. WASHBURNE, of Illinois] in his efforts toward economy; but I do not think he can do that. [Laughter.]

Now, Mr. Chairman, it would be a breach of good faith, it would be a violation of the

solemn pledge and contract of this Government with the municipal authorities of this city, if we should now throw upon the citizens of this District all the expense of keeping up the avenues, reservations, &c., within the city. If the municipal authorities of Washington had laid out the city, would they not have laid it out to suit themselves, with narrow streets, so that the expense of paving would have been within their means? Certainly they would. All these magnificent reservations, such as La Fayette square, the Circle, Lincoln reservation, &c., were donated to the Government by the original proprietors of the land, with the understanding that the Government should pay its share of the expense of maintaining them. The question now is whether the Government shall live up to its contract, after having enjoyed the benefit of this liberality, or whether it shall violate its plighted faith because the gentleman from Ohio makes a motion to that effect.

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the Chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the paragraphs on page 17, except lines three hundred and ninety-six and three hundred and ninety-seven, be closed in five minutes after the committee shall resume the consideration of the same.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

The pending question was upon the motion of Mr. LAWRENCE, of Ohio, to strike out the following paragraph:

For laying pavement through the Mall along Sixth street south, opened by act of Congress, approved March 2, 1867, $2,000.

Mr. LAWRENCE, of Ohio. I desire to say a word or two in reply to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. COBURN. Will the gentleman from Ohio [Mr. LAWRENCE] yield to me for a question?

Mr. LAWRENCE, of Ohio. Yes, sir.

Mr. COBURN. I desire to ask the gentleman from Illinois, [Mr. INGERSOLL,] the chairman of the Committee for the District of Columbia, what are the terms of the contract which he says was made between the Government of the United States and the people of the District of Columbia. Is it in the shape of a law, or is it in the terms of the dedication, or what is its form? I want to know the terms of the contract.

Mr. LAWRENCE, of Ohio. I cannot give up all of my time. I will answer that myself.

I desire to say a word or two in reply to the gentleman from Illinois, [Mr. INGERSOLL.] He seems to think I am anxious to rival the claims of the distinguished acting chairman of the Committee on Appropriations, [Mr. WASHBURNE, of Illinois.] I have no aspirations of that kind. I never expect to equal him in that or in many other things. But, sir, I am sure of one thing; there is not a gentleman upon this floor who can equal the gentleman from Illinois [Mr. INGERSOLL] in his persistent efforts to draw money from the public Treasury for the benefit of this District, in which his constituents have no interest.

Mr. LOGAN. Mr. Chairman, I do not desire to enter into this discussion, but I wish to ask the acting chairman of the Committee on Appropriations why it is we have no explanation of the first paragraph of the bill, which is as follows:

Miscellaneous:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, $1,500,000.

Now, what is that for? I want my colleague to explain that appropriation, so we may know what it is for. It was passed by rapidly and without discussion.

Mr. WASHBURNE, of Illinois. I will state to my colleague that the paragraph he refers to was thoroughly discussed in the committee after a full conference as to the facts with the Treasury Department. I had all the documents in the House at the time to read in explanation of the appropriation, if necessary. We challenged and examined every item. I regret that my colleague was not here at the time to move an amendment, and call for the explanation which I was ready to give.

Mr. LOGAN. I should have done it if I had been here. I understand this Printing Bureau business, and I say this money is to be put into hands where it will be used improperly.

Mr. LAWRENCE, of Ohio. I will go with the gentleman to strike it out.

The CHAIRMAN. The time to which the debate was limited has expired.

The question was taken on the amendment of Mr. LAWRENCE, of Ohio, and was disagreed to.

The Clerk read as follows:

For completing the culvert through the Botanic Garden, $13,000.

Mr. VAN WYCK. I move to strike that out.

Mr. Chairman, I find $10,000, then $12,000, for walling the Tiber, afterward $10,000 to build culverts, and a little while afterward $15,000 to build culverts. Here we have $25,000 to build culverts passing through a few feet of the public grounds. I should like to have the acting chairman of the Committee on Appropriations give us some explanation of this matter. In eleven years we have appropriated $150,000 for this Botanic Garden, that is, over $13,000 a year, upon this little piece of ground, for which I have yet failed to see the necessity. It is of no good whatever, except occasionally to furnish a nosegay to somebody. What else it furnishes I do not know. I think we should stop it.

Mr. WASHBURNE, of Illinois. If my gay and festive friend does not know about the bouquets that gentlemen of the House are in the habit of getting from that Botanic Garden I do not know who does. I do not profess to know all about it. I believe this appropriation is necessary as a matter of health. We found for years the Tiber was a dirty, filthy stream, producing malaria and fever and ague, and altogether a fruitful source of disease in that part of the city. We commenced this culvert as a sanitary measure to have the Tiber walled over, and this appropriation is necessary to carry on the work. The committee examined the subject fully. We had the Superintendent of the Public Buildings and Grounds before us. The committee believed it was necessary to preserve the health of the city.

Mr. MULLINS. Is it all done at the expense of the Government, or is part paid by the city?

Mr. WASHBURNE, of Illinois. This is on a Government reservation entirely.

Mr. LAWRENCE, of Ohio. I move *pro forma* to reduce the appropriation in order to say one word. I am told there is no law requiring any accountability for the expenditure of the moneys appropriated for local improvements in the District.

Mr. WASHBURNE, of Illinois. Let me ask the gentleman a question.

Mr. LAWRENCE, of Ohio. In a moment. That is, when the appropriation is made by Congress for the District of Columbia, it is expended under the direction of the city officers, and they are not accountable to the Government. No accounts, in fact, have ever been rendered to the Government. I speak from information.

Mr. INGERSOLL. The gentleman is in error there.

Mr. LAWRENCE, of Ohio. As an example, let me state that it was said in the discussion yesterday that this bill proposed to appropriate a sufficient sum of money to pay two thirds of the expense of the city police. Now, the number of policemen, as furnished to me by the gentleman from New York, [Mr. SELYE,] is——

Mr. WASHBURNE, of Illinois. I rise to a question of order. The gentleman is not debating the amendment.

The CHAIRMAN. The Chair overrules the point of order. The gentleman is illustrating his position.

Mr. LAWRENCE, of Ohio. The number of policemen is two hundred and thirty-eight. At ninety dollars per month the total pay is $256,560. Now, the appropriation we have made for the police of this city is $211,050, leaving to be paid by the city only $45,510. These are the figures which I see in this bill. Let it be remembered that the Government is already provided, at its own expense, with a sufficient number of policemen to take care of every public building in this city in addition to all the public grounds. Now, I would be glad to have an answer.

Mr. WASHBURNE, of Illinois. The gentleman's question was in relation to the law—there being no law. If there is no law, I wish to inquire of my friend from Ohio, who is on the Judiciary Committee, why he has not brought in a law? [Laughter.]

Mr. LAWRENCE, of Ohio. I will answer. That is a work which belongs to the Committee for the District of Columbia, and I appeal to that committee to report a bill on the subject.

Mr. INGERSOLL. A law is already in existence.

The CHAIRMAN. Debate is exhausted on the pending paragraph.

Mr. LAWRENCE, of Ohio. I withdraw the amendment.

The question being taken on the amendment of Mr. VAN WYCK, it was disagreed to.

The Clerk read as follows:

For the further improvement of Lincoln square, $8,000.

Mr. KELLEY. I move to strike out the paragraph just read.

The CHAIRMAN. No debate is in order by order of the House.

The amendment was disagreed to.

The Clerk read as follows:

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, $12,000, or so much thereof as may be necessary.

Mr. WELKER. I move to strike out that paragraph. I would like to inquire——

The CHAIRMAN. No debate is in order.

The amendment was disagreed to.

The Clerk read as follows:

For hire of carts on the public grounds, $3,000.

Mr. LOGAN. I move to amend by striking out that paragraph, for the purpose of asking a question. I desire to know whether or not, after this bill has gone through the Committee of the Whole and is reported to the House, I can move that the House go into the Committee of the Whole again for the purpose of

moving to strike out the second paragraph of the bill?

The CHAIRMAN. The Chair is of opinion that when the bill is reported to the House, if the previous question should not be seconded, and it is on Monday, a motion to suspend the rules can be made, and if the motion prevails then the gentleman can make his motion.

Mr. LOGAN. Will not the gentleman who has charge of the bill agree to that proposition?

Mr. WASHBURNE, of Illinois. I hope, by unanimous consent, when the bill gets in the House the gentleman will be permitted to move the amendment.

Mr. SPALDING. Is it not better to go back now and move it?

Mr. WASHBURNE, of Illinois. I think not.

Mr. LOGAN. That will accomplish my object. I desire that the matter may be explained to the House, and I will explain it if I can get unanimous consent to do so.

The CHAIRMAN. The committee can make no order to bind the House.

Mr. LOGAN. I withdraw the amendment.

The Clerk read as follows:

For lighting the Capitol and President's House and public grounds around them, around the executive offices, and Pennsylvania avenue, $50,000.

Mr. COBURN. I move to strike out the "$50,000," for the purpose of making an inquiry of the gentleman from Illinois [Mr. WASHBURNE] in relation to the comparative amount of expense required for lighting the Capitol, President's House, and other public buildings, together with the public grounds, and lighting Pennsylvania avenue.

Mr. WASHBURNE, of Illinois. The estimate was $60,000.

Mr. COBURN. The question is, what is the cost of lighting the Capitol and President's House, and the grounds around them, and how much is for lighting Pennsylvania avenue?

Mr. WASHBURNE, of Illinois. It has never been estimated separately. It has always been lumped in one item in all the appropriation bills. I have endeavored in many bills to get that part of the appropriation which relates to the lighting of Pennsylvania avenue stricken out, and I have not been able to do so. But the Committee on Appropriations cut down the estimate to $50,000.

Mr. COBURN. I desire to call the attention of the committee to the fact that the expense of lighting this city last year, as reported by the officers of the city, was "for lighting the lamps of the city, $8,491." That is all that was expended by the city during the last year for this purpose, as reported by that officers of the city. Now, it strikes me that we are lighting the entire city with the money that we appropriate. I know that I reside in a city about half as large as this, and the expense of lighting it is $35,000 a year.

Mr. WASHBURNE, of Illinois. If the gentleman will permit me, I will suggest an amendment which I think will meet his approbation and the approbation of the committee. It is to strike out the words "and Pennsylvania avenue" and insert $30,000 in lieu of $50,000

Mr. COBURN. I desire to say, in addition to what I have already said, that if the committee will look at the expense of lighting this city according to this estimate they will see that it is perfectly enormous. Here is an appropriation of $50,000 for lighting the Capitol and President's House and public grounds around them, around the executive offices, and Pennsylvania avenue. At that rate the cost of lighting the whole city would be three or four hundred thousand dollars a year. Now, no sane man believes that this estimate is anything like a fair one .Thirty thousand dollars would be an enormous price for the lighting of Pennsylvania avenue and the public grounds and buildings. I venture the assertion that the whole cost of what is included in this item would not be $6,000 a year, and, therefore, I am opposed to giving $30,000.

Mr. WASHBURNE, of Illinois. Then say $20,000.

Mr. COBURN. No; I would cut it down to $5,000.

Mr. WASHBURNE, of Illinois. We are, of course, obliged to light the Capitol and the President's House and the public grounds, and it will not do to reduce the appropriation too much.

Mr. INGERSOLL. Gas must be very cheap where the gentleman from Indiana [Mr. COBURN] comes from. [Laughter.] It costs seventy-five dollars to light this Hall for a single night, and the gentleman talks about $5,000 a year for lighting the whole city!

Mr. WASHBURNE, of Illinois. I now offer the amendment I suggested, to strike out the words "and Pennsylvania avenue," and to reduce the appropriation to $30,000.

Mr. INGERSOLL. Then you will not have Pennsylvania avenue lighted.

The question was taken on the amendment offered by Mr. WASHBURNE, of Illinois, and it was agreed to.

Mr. COBURN. That having been adopted, I now withdraw my amendment.

The Clerk read the following:

For lighting Four-and-a-half street, across the Mall, and Maryland avenue west, and Sixth street south, $20,000: *Provided*, That the corporation of Washington city shall light their street lamps with seven-feet burners, twenty-one nights in each month, from dark until daylight, and that no part of this appropriation shall be disbursed until it is proved to the satisfaction of the chief engineer of the War Department that said corporation have so lighted their street lamps.

Mr. LAWRENCE, of Ohio. I move to amend that paragraph by striking out the clause:

For lighting Four-and-a-half street, across the Mall, and Maryland avenue west, and Sixth street south, $20,000.

We have determined by the vote just taken that we will not light Pennsylvania avenue, and that determination, in my judgment, was right. We ought not to light "Four-and-a-half street, across the Mall," nor anywhere else; we ought not to light Maryland avenue, but let the people of this city light their streets themselves. The acting chairman of the Committee on Appropriations agrees that this should be stricken out, and I hope my motion will prevail.

The amendment was agreed to.

Mr. KELSEY. That necessitates the striking out of the balance of the paragraph.

Mr. WASHBURNE, of Illinois. I hope the proviso will stand.

Mr. INGERSOLL. It has nothing to stand on.

Mr. KELSEY. I move to strike out the proviso. There is nothing for it to be attached to now.

Mr. INGERSOLL. That is right. It ought to be stricken out.

The question was then taken upon the amendment of Mr. KELSEY, and it was not agreed to.

The Clerk read the following:

For pay of lamp-lighters, gas-fitting, plumbing, lamp-posts, lanterns, glass, paints, matches, materials, and repairs of all sorts, $20,000.

Mr. COBURN. I move to strike out the paragraph just read. In looking at the report of the city officers in relation to this matter, I find that the amount paid out by the city is $3,796 for lamp-lighters, gas-fitting, plumbing, &c., something like that for which we are asked to appropriate $20,000. Yet, the city lights up at least ten times as many lamps as the Government.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Indiana [Mr. COBURN] will move to reduce this in the same way that other items have been reduced.

Mr. COBURN. I move to reduce it to $3,000.

Mr. INGERSOLL. Better make it three dollars, and be done with it.

The amendment of Mr. COBURN was not agreed to.

Mr. WASHBURNE, of Illinois. I move to strike out "$20,000" and insert "$5,000."

The amendment was agreed to.

The Clerk read the following:

For improvement of Capitol grounds, $2,000.

Mr. INGERSOLL. Would it not be better to amend that by adding to it the words "Provided that the expense be paid by the city government?" [Laughter.]

The Clerk concluded the reading of the bill.

Mr. LAWRENCE, of Ohio. I move to amend the bill by adding to it the following:

For continuing the work on the national arsenal at Columbus, Ohio, —— dollars.

Mr. WASHBURNE, of Illinois. I rise to a question of order. This amendment has been ruled out of order once already; it belongs to the Army bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. LAWRENCE, of Ohio. My colleague, Mr. SHELLABARGER, as we all know, has been detained at his home by indisposition. I offer this amendment on his behalf. There is a national arsenal at Columbus which is partially completed. Owing to the absence of my colleague the attention of the Committee on Appropriations has not been called to the necessity for an appropriation to complete the building. I have here a letter from the Governor of Ohio, indorsed by the State auditor and State treasurer, which I ask the Clerk to read.

The Clerk read as follows:

STATE OF OHIO, EXECUTIVE DEPARTMENT,
COLUMBUS, *February* 19, 1868.

DEAR SIR: There has been an estimate sent to the War Department to carry on toward completion the national arsenal at Columbus. The estimate is represented to be a moderate one, no more than is required to complete the buildings. In Mr. SHELLABARGER'S absence it is feared that the appropriation for this purpose may be neglected. I write to request that you will take an interest in it and see that a suitable appropriation is made.

Sincerely, R. B. HAYES.

Hon. WILLIAM LAWRENCE, *Washington, D. C.*

Mr. LAWRENCE, of Ohio. I have left a blank in the amendment for the amount, for the reason that I have not yet received from the War Department the estimate which has been sent there. I have requested the Department to send the estimate to me, but it has not yet done so. I merely ask that this amendment, with the blank, be made to the bill with the understanding that the blank may be filled with the proper amount when the bill comes before the House. This is a matter in which I have no personal interest; it is simply an act of justice to my absent colleague. I hope there will be no objection to it. I have no doubt the blank will be filled hereafter with an amount that will be satisfactory to the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. No man can regret more than I do the absence of the distinguished Representative from Ohio, [Mr. SHELLABARGER.] But no estimate for this purpose was sent to the Committee on Appropriations, no sum was asked for by the Government for this work, and the appropriation for it does not belong in this bill. It is entirely out of place here. The gentleman from Ohio [Mr. LAWRENCE] asks us to legislate upon this matter in the dark entirely. His proper plan is to go to the Senate, where the Army bill has gone, and ask for an amendment to be made there to that bill.

Mr. INGERSOLL. To be consistent the gentleman should let the citizens of Columbus maintain their own arsenal.

Mr. BLAINE. That is a good suggestion.

Mr. WASHBURNE, of Illinois. I hope the amendment will not be agreed to.

Mr. GARFIELD. Mr. Chairman, I desire to say a word or two on this subject. I happen to know that in 1861, when the war broke out, there was not in the capital of Ohio any building whatever suitable for the safe-keeping of United States arms or arms belonging to the State of Ohio. During the twenty-five years previous there had been issued to that State a large number of arms of various sorts; but, as in other States, those arms were scattered all over the Commonwealth. The Government

of the United States finally undertook the building of an arsenal which is now nearly completed—so far completed that the arms which the State owns, or which the Government has loaned to it, are to a tolerable extent in safe-keeping, and will be so in the future. All that is now asked is an appropriation to complete the building.

Mr. WASHBURNE, of Illinois. It is a State arsenal.

Mr. GARFIELD. It is not a State arsenal; it is a United States arsenal; and we now ask that it may be completed for the preservation of the property of the United States. How much money is needed I do not know; but I hope that the committee will not refuse to adopt this clause; and when we learn the proper amount it can be inserted.

Mr. INGERSOLL. The State of Illinois built her own arsenal at her own expense.

Mr. LAWRENCE, of Ohio. That is a State arsenal.

Mr. INGERSOLL. Well, it is used by the Government as well as by the State of Illinois; and as to this arsenal in Ohio, I have no doubt that State arms are kept in it. Indeed the gentleman from Ohio [Mr. GARFIELD] has said so.

Mr. WASHBURNE, of Illinois. I undertake to say that the appropriation made last year for this arsenal has not been spent. I ask the gentleman from Ohio [Mr. GARFIELD] whether it has been?

Mr. GARFIELD. I say, frankly, I do not know.

Mr. WASHBURNE, of Illinois. Exactly. No man knows anything about this matter. Gentlemen ask us to insert in a bill to which it has no sort of reference an appropriation in blank for this arsenal, when the War Department has not asked any appropriation for the purpose, and when no man here knows how much has been spent upon the work or how much is needed.

Mr. GARFIELD. The gentleman says this amendment has no reference to this bill. Permit me to say it has reference to the bill very clearly. If it has not why did not the gentleman make a point of order?

Mr. WASHBURNE, of Illinois. I did.

Mr. GARFIELD. And it was overruled, showing that the amendment was in order.

Mr. WASHBURNE, of Illinois. That does not show it.

Mr. MUNGEN. Mr. Chairman, I was at this arsenal during our adjournment for the holidays, and I had a long conversation with Captain Burr, the officer in charge of it. The gentleman from Illinois [Mr. WASHBURNE] says that nobody knows anything about this matter. I can tell the gentleman that the money heretofore appropriated for this arsenal has been expended, and expended to good advantage. I know that it is absolutely necessary to have an appropriation to complete the work there, in order that artillery may be taken in and out. The buildings are completed; but the grounds, except in winter, when frozen, and during a dry time in summer, are in such a condition that heavy guns cannot be hauled out. In addition to that there is no workshop there fit for the repair of a single gun, not even a musket. I would like to know how the gentleman from Illinois can undertake to say that no appropriation is needed for this arsenal. What knowledge has he on the subject?

I move to amend the amendment of my colleague by inserting in the blank the words "thirty thousand."

Mr. WASHBURNE, of Illinois. I move that the committee now rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the Chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had come to no resolution thereon.

SURVEYING PUBLIC LANDS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior in regard to expenditures for surveying public lands; which was referred to the Committee on Appropriations, and ordered to be printed.

ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors and in the fair-way of bays and sounds, and for other purposes.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the civil appropriation bill; and pending that motion I move that all debate upon the bill be closed in five minutes after the committee shall resume the consideration of the same.

The question was taken on the motion to close debate; and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole; and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCOFIELD in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

Mr. WASHBURNE, of Illinois. I will yield two minutes to the gentleman from Ohio.

Mr. EGGLESTON. Mr. Chairman, it is seldom that I trouble the House with any remarks on any subject, but I wish to say a word in reply to the distinguished gentleman from Ohio, [Mr. INGERSOLL,] the chairman of the Committee for the District of Columbia. I was very sorry to hear him make the statement that he would vote against this amendment because it was for a work located in my State.

Mr. INGERSOLL. Allow me to put myself right. The gentleman does not wish to deal with me unjustly. I made no such remark.

Mr. EGGLESTON. He replied to my colleague in a playful way that it was better to pave the streets and light the lamps for the city of Washington than to appropriate money for this arsenal in Ohio. Now the State of Ohio is not troubled with much property belonging to the Government. There are few public works there belonging to the General Government. We have this little place at Columbus, Ohio, for taking care of the arms which belong to the Government, and this appropriation is necessary for the purpose of keeping the arsenal there in repair. Why it should not be appropriated, upon what good ground it is refused, I cannot conceive. It is not, I hope, from any hostility to the State of Ohio. I am liberal myself in voting for necessary appropriations for other States. If retrenchment is to take place I hope it will not be confined alone to the State of Ohio. The amendment of my colleague is a good one, and I hope it will be adopted.

Mr. WASHBURNE, of Illinois. I take it there is no gentleman on this floor who is desirous to do injustice to the State of Ohio. I am sure I do not.

Mr. INGERSOLL. Neither do I. My remarks were in reply to what the gentleman from Ohio [Mr. LAWRENCE] said, and had application to the amendments he had moved in reference to the District of Columbia. I merely applied the gentleman's own argument to himself.

Mr. WASHBURNE, of Illinois. There is no fault on the part of the Committee on Appropriations. The ordnance department, which makes these estimates for appropriations for all these arsenals, did not estimate one cent for the arsenal at Columbus. Now, the gentleman cannot tell us whether the appropriation last year was spent, and we have no official information on that subject; yet the gentleman comes in here and asks us to appropriate $30,000 for this arsenal; more, sir, than we have voted for any of these works, except, perhaps, that at Rock Island. He asks us to vote it blind. I appeal to the gentleman to withdraw his amendment and not incumber this bill with it.

Mr. MUNGEN. I withdraw my amendment to fill the blank with "$30,000," and move to fill it with "$15,000." In reply to the gentleman from Illinois, I will repeat that I have already said that the officer in charge of this work says the appropriation last year has been exhausted.

The amendment to the amendment was agreed to.

The House divided; and there were—ayes 50, noes 46.

So the amendment, as amended, was adopted.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to go back to page 8 of the bill, and to submit the following amendment:

And it is hereby provided, That in all cases where light-house sites are no longer required for the purposes of navigation, and where the said lights have been discontinued by authority of law, the Secretary of the Treasury is hereby authorized to sell the same to the highest bidder for cash, after giving due notice, and upon such sale to make the proper deed, conveying all the right, title, and interest which the Government may have in the premises.

Mr. SPALDING. I object.

Mr. WASHBURNE, of Illinois. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and had directed him to report the same to the House with various amendments.

Mr. WASHBURNE, of Illinois. I move to postpone the further consideration of the bill till Wednesday next after the morning hour.

The motion was agreed to.

BEET SUGAR.

Mr. CULLOM, by unanimous consent, presented a communication from the Commissioner of Agriculture, in reference to the growth of beets and manufacture of sugar therefrom; which was referred to the Committee on Agriculture, and ordered to be printed.

INSURANCE COMPANIES.

Mr. EGGLESTON, by unanimous consent, introduced a bill (H. R. No. 837) to protect the rights of insurance companies and to give them a lien on vessels in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

SALARIES OF TERRITORIAL OFFICERS.

Mr. BURLEIGH, by unanimous consent, introduced a bill (H. R. No. 838) to fix the salaries of certain territorial officers; which was read a first and second time, and referred to the Committee on the Territories.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. WASHBURN, of Indiana, and Mr. WILLIAMS, of Indiana, till Tuesday next.

Mr. INGERSOLL (at three o'clock and fifty-five minutes) moved that the House adjourn.

The motion was disagreed to.

FREEDMEN IN TENNESSEE.

Mr. ARNELL. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of War be directed to furnish this House with copy of recent report of Major General Carlin, in reference to the condition of freedmen in the State of Tennessee.

Objection was made.

Mr. INGERSOLL. I move that the House do now adjourn.

The question being taken, there were—ayes 49, noes 49.

The SPEAKER. The Chair votes in the negative.

Mr. RANDALL. I call for tellers.

Tellers were not ordered.

So the House refused to adjourn.

JAIL IN THE DISTRICT OF COLUMBIA.

Mr. COVODE. I rise to a privileged motion. I call up the motion to reconsider the vote by which the House recommitted to the Committee on Public Buildings and Grounds House bill No. 784, to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

Mr. RANDALL and Mr. HOLMAN asked that the bill be read.

The SPEAKER. The Chair doubts whether on the motion to reconsider the recommitment it is in order to require the reading of the bill.

Mr. RANDALL. I do not request it in any captious view; but I want to know what it is.

The SPEAKER. The Clerk will read the bill.

The Clerk proceeded to read the bill, but before finishing it,

Mr. RANDALL withdrew his call for the further reading.

Mr. COVODE. I now move that the House adjourn.

The SPEAKER. Before putting the motion the Chair will state to the House that he is informed by members of the select committee to prepare articles of impeachment of the President that they will probably report to-morrow morning as soon as the Journal is read. If, therefore, this motion is pending at the adjournment to-day and the committee should report immediately after the reading of the Journal, this bill will be thrown over until the debate is ended on the articles of impeachment and the vote taken; after which this motion will be the next business in order and the gentleman from Pennsylvania [Mr. COVODE] will have the floor.

Mr. SCHENCK. I appeal to the gentleman from Pennsylvania [Mr. COVODE] to allow me to introduce a little bill for reference; and also to report another bill from the Committee of Ways and Means which I have been waiting for an opportunity to report more than a week.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] asks unanimous consent to report a bill from the Committee of Ways and Means, and also to introduce a bill. Is there objection?

No objection was made.

PAY OF THE ARMY.

Mr. SCHENCK, under the consent given, introduced a bill (H. R. No. 839) to fix and equalize the pay of officers, and to establish the pay of enlisted men of the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EXPORTATION OF DISTILLED SPIRITS.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to report back a bill (H. R. No. 764) for the relief of certain exporters of distilled spirits, with a substitute therefor. I ask to have the substitute read, and if there be no objection I will then ask that the bill be put upon its passage at this time. And I will also ask to be permitted to explain the action in reference to it and other matters about which we are frequently interrogated in behalf of the committee who have authorized me to make such explanations.

The substitute was read. It provides that the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits," shall be so construed as to permit alcohol and rum, which at the date of the passage of said act were already distilled or redistilled and intended for export, or actually contracted for to be delivered for exportation, to be withdrawn, removed, and exported from the United States under such transportation and export bonds and regulations as were required therefor immediately prior to the passage of said act; provided, that all such spirits shall be actually exported within thirty days from the passage of this act, and that before any such exportation shall be permitted, proof in writing shall be furnished by sworn evidence to the Commissioner of Internal Revenue that such liquor was in fact, at the date mentioned, intended for export and distilled or redistilled for that purpose or actually contracted for to be so exported.

The SPEAKER. The gentleman from Ohio now asks consent to make an explanation of this bill and of other matters. Is there objection?

No objection was made.

Mr. SCHENCK. One word first as to this bill. On the 11th of last month, it will be remembered, a bill was passed which virtually put an end to bonded warehouses for distilled spirits, at least so far as what is called "class B" of the bonded warehouses was concerned. After that date it was not competent to take any distilled spirits out of warehouse either for change of package or redistillation or export without the tax being first paid. This, it has been discovered, has operated very hardly in about a dozen cases upon persons who had the liquor prepared, or in process of preparation, under contracts made for exportation. There is not a great deal of domestic distilled spirits exported from the United States. That exportation is confined to two classes. From Boston principally there is an exportation of a considerable amount of rum, though not of any great value, the whole amounting perhaps to not more than a million dollars a year, or less even than that, to the coast of Africa; and there is also alcohol exported from New York and Baltimore, which finds its market mainly upon the Mediterranean—at Constantinople principally, and at Smyrna. There are two or three cases in each of the cities of New York and Baltimore, where the alcohol, it appears, was actually distilled and prepared for this trade, and arrangements made for exportation, but it could not be sent abroad in consequence of the law of the 11th of January; and at Boston there had been from nine to twelve vessels chartered, the molasses purchased, and preparations made for distillation, and the distillation in great part furnished to supply the cargoes for them to the coast of Africa. This bill, it will be observed, under very strict regulations requiring sworn proof of the facts, proposes to give relief in those specific cases, provided that the proof is made and the liquor actually carried abroad within the next thirty days.

That is the whole object of this bill. We have not wished to open in any manner the door for frauds through these bonded warehouses, and therefore we have endeavored to guard even this measure of relief with the utmost exactness and strictness of language and of provisions.

Now, sir, I ask permission to say something further in regard to the action of the Committee of Ways and Means. We are interrogated every day as to the progress we are making in the preparation of a tax bill. In reply to these interrogatories, I desire to say that the present tax laws are prolix, confused, contradictory, and full of repetitions; that we find on this subject a mass of crude legislation which has become law from time to time, and which, taken altogether, is in such a condition that we have thought it advisable to report a bill embracing an entire revision of the whole system with all the necessary provisions. Our labor has been directed toward the preparation of such a bill. We hope to report in the course of a week or two—indeed we had expected to report during the present week—such a general bill covering the whole ground.

In the course of the preparation of this bill we have determined—and this is the matter about which questions are most frequently asked—to recommend the imposition of no tax whatever upon the manufactures of the country with the exception of perhaps some five or six, embracing articles purely of luxury. I speak now with regard to the direct imposition of tax upon the manufactures themselves. It is true we shall still provide in our bill for a special tax in the nature of a license upon manufacturers as upon persons in other branches of business, and perhaps in some instances for a tax upon sales amounting to about one fifth of one per cent. But the present five per cent. tax upon all the manufacturers of the country we are perfectly satisfied can be, and ought to be, repealed. We are convinced that we can find other sources of revenue sufficient to make up for what may be lost in that direction.

I will not undertake to name these five or six articles, purely of luxury, upon which we intend to recommend the continuance of the tax. For the purpose of illustration, I may say they are such as jewels, gold watch cases, billiard tables, &c. If I were to name all the articles which we contemplate embracing in this class, I am afraid the business of the committee would be too much interrupted by the applications from the various parties interested in this matter. But in regard to one large interest of this country, that of the carriage makers, I am ready to say as so much interrogation has been made upon this point, that carriages are not among the articles which we regard as luxuries to be taxed.

Mr. BLAINE. You put them on the free list.

Mr. SCHENCK. No; we do not make what is called a free list. Instead of framing a bill to repeal the tax on certain manufactures or to define what articles shall be on the free list we propose in our general bill to provide that certain specified things shall be taxed, saying nothing about those things which are not to be taxed, thus preserving the harmony of the whole system. This is one reason why we have not deemed it expedient to introduce, in advance of this general legislation, a special bill repealing certain parts of the existing law; for if we should bring in a partial bill of that kind, it would, of course, be subject to amendment, and the amendment might destroy entirely the harmony of the general bill which we design to introduce. Our mode of taxing will be to specify what is to be taxed; and our plan for not taxing will be to omit any mention of that which is not to be taxed.

Mr. BLAINE. Introducing in the bill a general repealing clause except as to articles specified.

Mr. SCHENCK. Of course.

Mr. PRICE. I wish to ask the chairman of the Committee of Ways and Means [Mr. SCHENCK] whether the bill before us (which I did not hear read throughout, but which I understand is presented for action now) does not propose to allow the manufacturers of liquors to export them without the payment of the tax of two dollars per gallon?

Mr. SCHENCK. Oh, yes, sir; all domestic spirit exported are exempted from the tax.

Mr. PRICE. The manufacturers of these liquors, then, are allowed to remove them from the place of manufacture without the payment of tax. Now, the next question is whether, when we have thus opened the door, we shall be able to close it when the manufacturers have removed just the amount to be exported?

Mr. SCHENCK. We have sought to guard against the danger which the gentleman apprehends by providing that in each of these applications—there are about ten or twelve different cases—there shall be sworn evidence presented in writing, proving to the entire satisfaction of the Commissioner of Internal Revenue that

the liquor was actually prepared, distilled, or redistilled for exportation; that the contract has been made and bond given for its exportation, the bonds not to be canceled until the liquor is actually exported. All this is to be done within thirty days; and if there is any running beyond thirty days there is an immediate forfeiture of the bond, and the whole privilege proposed to be given by the bill in these particular cases is lost.

Mr. SCOFIELD. Does the gentleman propose to pass this bill this evening?

Mr. SCHENCK. I should like to do so.

Mr. SCOFIELD. I trust the bill will not be acted on this evening. I hope it will be printed.

Mr. SCHENCK. It has been printed.

Mr. SCOFIELD. We have not time to give the bill proper deliberation this evening. It so happens that almost all these liquor bills come here in great haste; there always seems to be some urgency for their immediate passage before we can have time to examine them.

Mr. COVODE. Mr. Speaker, when I yielded the floor it was upon the distinct understanding that this bill was to be disposed of this evening. I wish it to be understood that, in yielding the floor, I did not intend that my bill should lose its position before the House for anything except the report of the Committee on Articles of Impeachment.

The SPEAKER. The gentleman from Pennsylvania [Mr. COVODE] states that he yielded the floor with the understanding that the House should adjourn upon his bill with regard to the jail in this District. He held the floor on a privileged motion, but yielded to allow the gentleman from Ohio [Mr. SCHENCK] to report his bill for action to-night.

Mr. SCOFIELD. I want to say to the gentleman from Ohio [Mr. SCHENCK] that I believe the private interests connected with this bill can wait a few days, and the public interests will probably be subserved by the delay.

Mr. SCHENCK. Mr. Speaker, I undertake to say, on behalf of the Committee of Ways and Means, that such is their indisposition to open any door of fraud through these bonded warehouses, as they have already evinced by the legislation they have recommended and carried through this House, that if there had not been a very strong case made out before the committee no attention would have been paid to this matter. This bill has been printed, and is Printer's No. 257. It was introduced in this House on the 18th of February and has been before the House in print ever since. It was referred to the Committee of Ways and Means; and the bill as reported back is precisely the bill as printed, with the exception of two little amendments to make it more specific; in the first place, using the words "distilled or redistilled" instead of the looser word "prepared," and in the second place, adding, for greater stringency, the provision that all the facts shall be proved to the satisfaction of the Commissioner of Internal Revenue by sworn evidence in writing before one gallon of this liquor shall be exported. The bill before us, therefore, is a more stringent bill than the one upon the files of members. Although we do not know much, comparatively speaking, of the printed bills upon our tables, yet there was as much known about the merits of this bill—certainly as much opportunity for knowing its merits—as about any other bill in a similar situation. Yet I do not wish to hurry the action of the House or to do anything that may not be considered entirely proper.

Gentlemen have asked me about this warehouse system. I am not prepared to go into the details of the bill which we propose to present, however familiar I may be with what we intend to report upon most subjects. I will say, however, it is not improbable that in relation to manufactured articles of the character of tobacco, spirits, &c., we shall endeavor to have the taxes paid at the place where the manufacture exists and where the articles are stored by the manufacturer; confining the other warehouses, as far as possible, to export warehouses, allowing the products to go out of the country, but not setting them free upon the market in the shape of free whisky, free tobacco, or anything of that kind, and thus opening a door for fraud.

Mr. PAINE. I would be glad to have the chairman of the Committee of Ways and Means state to the House, if he can do so without any impropriety, whether the committee contemplates the abolition of the income tax.

Mr. SCHENCK. I am not instructed by the committee to state what they intend on that subject, nor have we definitively——

Mr. MUNGEN. I rise to a question of order. I submit that it is not in order to discuss the merits of a bill not before the House, but proposed to be brought before it at some other time.

The SPEAKER. The Chair would sustain the point of order under ordinary circumstances; but the gentleman from Ohio, [Mr. SCHENCK,] chairman of the Committee of Ways and Means, asked consent to make an explanation in regard to business before that committee. Consent was granted by the House; and the Chair, therefore, cannot rule that the gentleman's remarks are out of order.

Mr. SCOFIELD. How long does that run?

The SPEAKER. One hour.

Mr. SCOFIELD. Then we can go to dinner and come back.

Mr. COVODE. I think the gentleman from Ohio ought, in good faith, to withdraw his bill, so I may have the floor when the House next meets. I yielded it to him on that specific condition.

Mr. SCHENCK. I will not force anything upon the House, and I have not shown any such disposition. I ask gentlemen to be quiet only for one moment. I wish to say one word in reply to the gentleman's objection. He says this is no case of emergency. I have already stated the committee would not have reported the bill unless it was satisfied it was. There are at least nine vessels chartered, and lying since about the 11th of January waiting for their cargoes under contract, which the law prevents them from receiving. There are other cases where preparations were actually made for exportation, and the alcohol distilled in whole or in part. But I do not wish to act in bad faith toward the gentleman from Pennsylvania. I do not wish to detain the House, more hungry for their dinners than for any information I am able to give them. I therefore withdraw the bill, hoping I will soon be able to bring it before the House. In the mean time I ask gentlemen to look at the printed bill.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill (S. No. 313) requiring persons applying to Congress for extension or renewal of patents to give public public notice thereof, in which he was directed to ask the concurrence of the House.

And then, on motion of Mr. MUNGEN, (at four o'clock and twenty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ASHLEY, of Nevada: Resolutions and petition of citizens of Lander county, Nevada, concerning the protection of naturalized American citizens while in foreign countries.

By Mr. CLARKE, of Kansas: A concurrent resolution of the Legislature of the State of Kansas, requesting the Senators and Representative in Congress from Kansas to use their influence to procure an appropriation from the General Government of a sum of money to erect a monument, at or near Baxter Springs, in memory of soldiers massacred there who formed a part of the escort of General James Blunt on an expedition from Fort Scott, Kansas, to Fort Smith, Arkansas, in 1863.

Also, a concurrent resolution of the Legislature of the State of Kansas, requesting the Senators and Representative in Congress from Kansas to advocate and urge the passage of a bill to grant to the Leavenworth Coal Company a lease of twenty acres in the southeast portion of the Fort Leavenworth military reserve, and requesting Congress to grant such lease.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress for a donation of a portion of the Fort Riley reserve, to aid in the construction of a bridge across the Kansas river at or near the city of Ogden.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress for aid in the construction of the Atchison, Hays City, and Santa Fé railroad.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress to make provision for payment of claims for service, or other claims arising out of the "Price raid" in 1864.

By Mr. EGGLESTON: The petition of the underwriters of Cincinnati, praying for a law giving a lien on vessels for premiums due.

By Mr. GOLLADAY: The petition of James W. Strode, praying for back pay, &c.

By Mr. HOLMAN: The petition of William Cox, of Harrison, Ohio, praying for a pension on account of services rendered by himself in the late war for the Union and on account of the services of his three sons, who lost their lives in the military service of the United States.

By Mr. MARVIN: The petition of D. D. Cassidy, J. E. Hawley, and others, citizens of Amsterdam, New York, praying for reduced taxation, for the reduction of the Navy and Army, and for a readjustment of the revenue laws so that the product of the mines of the country will remain at home.

By Mr. MERCUR: The petition of 19 citizens of Danville, Pennsylvania, praying that the Navy and Army be reduced, the appropriations be lessened, and the revenue laws be so adjusted as to keep the balance of trade in favor of this country.

By Mr. McCORMICK: A petition from citizens of Missouri, asking for the establishing of a post route from Ironton to Dauphin, in the State of Missouri.

By Mr. MILLER: A memorial signed by 118 surviving soldiers of the war of 1812 with Great Britain, from different parts of the United States, asking for a pension.

Also, a memorial signed by 140 widows of soldiers of the war of 1812 with Great Britain, from different parts of the United States, asking for a pension.

By Mr. O'NEILL: The petition of the Philadelphia Board of Trade, asking that in view of the great importance of the mouth of the Christiana river, in the State of Delaware, as a safe harbor for vessels of all nations during the prevalence of storms, its inadequacy for that purpose on account of its shallowness and narrow limits, and the inability of the people of the State of Delaware to contribute the amount of money necessary to effect its enlargement, the United States Congress institute an inquiry as to the practicability and expediency of enlarging said roadstead, and make an appropriation to meet the expenses of the survey and accomplish the object named, should the report of the engineers in charge demonstrate its practicability and propriety.

Also, a memorial of the American Philosophical Society, asking Congress the earliest possible action for the commencement and execution of proper examinations upon the coast and within the territory of Alaska.

By Mr. PETERS: The petition of Charles McHugh, of Houlton, Maine, for pension.

Also, the petition of Charles W. Buck and others, ex-Army officers, against the abolition of commutation for servants' pay.

By Mr. PIKE: The protest of Nahum P. Monroe and others, officers of Maine regiments, against the passage of the bill introduced by Senator WILSON relative to commutation of servants' pay.

By Mr. ROBERTSON: The petition of Thomas Jeremiah and others, officers and employés of the Bowery Savings' Bank, in the city of New York, praying for the repeal of so much of any act of Congress now in force providing for internal revenue as imposes any duty or tax upon the annual gains, profits, or income of citizens of the United States.

Also, the petition of Laura Houghton, praying for compensation for property alleged to have been stolen from her by officers and soldiers of the United States Army.

By Mr. SHANKS: The petition of J. D. Leflou and J. C. Harris, for payment for horses, mules, &c., furnished to the United States, and for other relief.

IN SENATE.

SATURDAY, *February* 29, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the Legislature of Missouri, in favor of granting aid for repairing of the levees and protecting the alluvial lands below the mouth of the Ohio river; which were referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, in favor of an extension of the time for the completion of the military road from Fort Wilkins, Michigan, to Fort Howard, Wisconsin; which was referred to the Committee on Public Lands.

Mr. SUMNER presented a petition of J. Clarke Greeley, of Florida, praying to be relieved from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. WILSON presented a petition of G. D. Gay, of Montgomery county, Texas, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. NYE presented a memorial of citizens of the Territory of Colorado, praying the admission of that Territory as a State into the Union, and protesting against the memorial of H. M. Teller against the admission of said Territory as a State into the Union; which was laid on the table, and ordered to be printed.

He also presented a memorial of R. W. Meade, captain United States Navy, praying to be restored to the active list of the Navy; which was referred to the Committee on Naval Affairs.

He also presented a petition of Mrs. Julia Whistler, widow of the late Colonel William Whistler, praying a pension; which was referred to the Committee on Pensions.

Mr. DAVIS presented an additional paper in relation to the claim of Elizabeth Carson; which was referred to the Committee on Claims.

Mr. ROSS presented resolutions of the Legislature of Kansas, in favor of a grant of a portion of the land known as the Fort Riley reserve to aid in the construction of a bridge across the Kansas river at or near the city of Ogden; which were referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislature of Kansas, in favor of granting to the Leavenworth Coal Company the lease of twenty acres of land in the southeast portion of the Fort Leavenworth military reservation; which were referred to the Committee on Military Affairs and the Militia.

He also presented a petition of Peter Monaghan, praying compensation for property taken by United States troops in 1864; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills, reported them with amendments:

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 671) granting a pension to the widow of Henry Kaneday;

A bill (H. R. No. 672) granting pensions to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly; and

A bill (H. R. No. 770) granting a pension to John H. Finlay.

He also, from the same committee, to whom was referred the bill (H. R. No. 667) granting a pension to Mary Graham, reported it without amendment.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 393) to grant lands and aid to the Port Royal Railroad Company, in the States of South Carolina and Georgia, asked to have the bill printed as amended in the committee and recommitted to the committee; which was agreed to.

BILLS INTRODUCED.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 404) to abolish the office of Adjutant General of the Army; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 405) granting lands to the State of Wisconsin to aid in the construction of the Green Bay and Lake Pepin railway; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 406) providing for the holding of courts in the Territories belonging to the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 407) to amend an act supplementary to an act entitled "An act to grant pensions," approved July 14, 1862; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

LUCIUS P. BRYAN.

Mr. FERRY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Attorney General be directed to inform the Senate whether an indictment was pending in the United States district court for the district of Connecticut, at the last term thereof, against Lucius P. Bryan, for robbing the mails, or for any other offense; whether he, the Attorney General, instructed the district attorney for said district to enter a *nolle prosequi* in said case; whether any previous inquiry was made of the district attorney as to the propriety of such action; whether a *nolle prosequi* was entered in obedience to such instructions; upon whose recommendation or application, oral or written, such instructions were given; and to send to the Senate copies of all papers, letters, and other written matter relating to said case of the United States against Lucius P. Bryan in the office of the Attorney General.

GOVERNOR OF IDAHO.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to inform the Senate for what reasons and under what law he withholds from the Governor of Idaho Territory his salary.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had signed the enrolled resolution (S. R. No. 114) directing that the Government of Great Britain be supplied with certain volumes of the Narrative of the Exploring Expedition.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 25) for the relief of John H. Ellis, a paymaster in the United States Army.

The message also announced that the House had passed the bill (S. No. 308) for the relief of the heirs of the late Duncan L. Clinch, deceased, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 784) to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866;

A joint resolution (H. R. No. 218) for the relief of John W. Palmer; and

A joint resolution (H. R. No. 219) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution:

A bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia.

A bill (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased; and

A joint resolution (S. R. No. 108) relating to the survey of the northern and northwestern lakes; and they were thereupon signed by the President *pro tempore*.

RULES OF COURT OF IMPEACHMENT.

Mr. HOWARD. I move that all other business be postponed, and that the Senate proceed to consider the report of the special committee respecting impeachment.

The motion was agreed to.

The Secretary read the report of the committee, as follows:

The select committee appointed to consider and report upon the message of the House of Representatives, relating to the impeachment of Andrew Johnson, President of the United States, submit the following:

RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING AS A HIGH COURT OF IMPEACHMENT:

I. Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person, and are directed to carry articles of impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment agreeably to said notice.

II. When the managers of an impeachment shall be introduced at the bar of the Senate, and shall signify that they are ready to exhibit articles of impeachment against any person, the Presiding Officer of the Senate shall direct the Sergeant-at-Arms to make proclamation; who shall, after making proclamation, repeat the following words, namely: "All persons are commanded to keep silence, on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States articles of impeachment against ——— ———;" after which the articles shall be exhibited, and then the Presiding Officer of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

III. Upon such articles being presented to the Senate the Senate shall, at one o'clock in the afternoon of the day (Sunday excepted) following such presentation, or sooner, if so ordered by the Senate, resolve itself into a high court of impeachment for proceeding thereon. A quorum of the Senate shall constitute a quorum of the court, and it shall continue in session from day to day, (Sundays excepted,) after the trial shall commence, (unless otherwise ordered by the court,) until final judgment shall be rendered, and so much longer

as may, in its judgment, be needful. Immediately upon the Senate resolving itself into such high court of impeachment, the Secretary of the Senate shall administer to the Presiding Officer (unless he shall be the Chief Justice) the oath required by the Constitution of the United States in such cases, and in the form hereinafter prescribed, and thereupon the Presiding Officer shall administer such oath to the members of the Senate then present, and to the other members of the Senate as they shall appear, whose duty it shall be to take the same.

IV. The Presiding Officer of the Senate shall be the presiding officer of the high court of impeachment, except when the President of the United States, or the Vice President of the United States upon whom the powers and duties of the office of President shall have devolved, shall be impeached, in which case the Chief Justice of the Supreme Court of the United States shall preside; and in a case requiring the said Chief Justice to preside, notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the organization of the high court of impeachment, as aforesaid, with a request to attend, and he shall preside over said court until its final adjournment.

V. The presiding officer of the court shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules, or by the court, and to make and enforce such other regulations and orders in the premises as the court may authorize or provide.

VI. The court shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules, and regulations, which it may deem essential or conducive to the ends of justice. And the presiding officer may, by the direction of the court, require the aid and assistance of any officer or person in the military, naval, or civil service of the United States, to enforce, execute, and carry into effect the lawful orders, mandates, writs, precepts, and judgments of said court.

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer of the court shall direct all the forms of proceeding while the Senate are sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. And the presiding officer of the court may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the court, unless some member of the court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the court for decision; or he may, at his option, in the first instance, submit any such question to a vote of the members of the court.

VIII. Upon the presentation of articles of impeachment and the organization of the court as hereinbefore provided, a writ of summons shall issue to the accused, reciting said articles, and notifying him to appear before said court upon a day and at a place to be fixed by said court and named in such writ, and file his answer to said articles of impeachment, and to stand to and abide the orders and judgments of said court thereon; which writ shall be served by such officer or person as shall be named in the precept thereof, such number of days prior to the day fixed for such appearance as shall be named in such precept, either by the delivery of an attested copy thereof to the person accused, or if that cannot conveniently be done, by leaving such copy at the last known place of abode of such person, or at his usual place of business in some conspicuous place therein; or if such service shall be, in the judgment of such court, impracticable, notice to the accused to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid, the proceedings shall not thereby abate, but further service may be made in such manner as the court shall direct. If the accused shall fail to appear, either in person or by attorney on the day so fixed therefor as aforesaid, or appearing shall fail to file his answer to such articles of impeachment, the trial shall proceed nevertheless as upon a plea of not guilty. If a plea of guilty shall be entered, judgment may be entered thereon without further proceedings.

IX. At twelve o'clock and thirty minutes after noon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, namely: "I, —— ——, do solemnly swear that the return made by me upon the process issued on the —— day of ——, by the Senate of the United States, sitting as a high court of impeachment, against —— ——, is truly made, and that I have performed such service as therein described. So help me God." Which oath shall be entered at large on the records.

X. The person impeached shall then be called to appear and answer the articles of impeachment against him. If he appear, or any person for him, the appearance shall be recorded, stating particularly if by himself or by agent or attorney, naming the person appearing, and the capacity in which he appears. If he do not appear, either personally or by agent or attorney, the same shall be recorded.

XI. At twelve o'clock and thirty minutes after noon of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of —— ——, in the Senate Chamber, which Chamber is prepared with accommodations for the reception of the House of Representatives.

XII. The hour of the day at which the Senate shall sit as a high court of impeachment shall be (unless otherwise ordered) twelve o'clock m.; and when the hour for such sitting shall arrive, the Presiding Officer of the Senate shall so announce; and thereupon the presiding officer of the court shall cause proclamation to be made, and the business of the court shall proceed. The adjournment of the Senate, sitting as a high court of impeachment, shall not operate as an adjournment of the Senate; but on such adjournment of the court, the Senate shall resume the consideration of its legislative and executive business.

XIII. The Secretary of the Senate shall record the proceedings in cases of impeachment, as in the case of legislative proceedings, and the same shall be reported in the same manner as the legislative proceedings of the Senate.

XIV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

XV. All motions made by the parties to their counsel shall be addressed to the Presiding Officer, and if he shall require it, they shall be committed to writing and read at the Secretary's table.

XVI. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side.

XVII. If a Senator is called as a witness, he shall be sworn, and give his testimony standing in his place.

XVIII. If a Senator wishes a question to be put to a witness, or to offer a motion or order, (except a motion to adjourn,) it shall be reduced to writing, and put by the Presiding Officer.

XIX. At all times while the Senate is sitting upon the trial of an impeachment, the doors of the Senate shall be kept open, unless the court shall direct the doors to be closed while deliberating upon its decisions.

XX. All preliminary or interlocutory questions and all motions shall be argued by one person only on each side, and for not exceeding one hour on each side, unless the court shall, by order, extend the time.

XXI. The final argument on the merits may be made by two persons on each side, and the argument shall be opened and closed on the part of the House of Representatives.

XXII. If the impeachment shall not be sustained by the votes of two thirds of the members of said high court of impeachment present and voting a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted by the votes of two thirds of the members of such court present, the court by its presiding officer shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.

XXIII. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by unanimous consent; but a motion to adjourn, and the questions mentioned in rule VII, may be decided by a *viva voce* vote, unless the yeas and nays be demanded by one fifth of the members present.

XXIV. Witnesses shall be sworn in the following form, viz: "You, —— ——, do swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the United States and —— —— shall be the truth, the whole truth, and nothing but the truth. So help you God;" which oath shall be administered by the Secretary.

Form of subpœna to be issued on the application of the managers of the impeachment, or of the party impeached, or of his counsel:

To —— ——, greeting:

You, and each of you, are hereby commanded to appear before the Senate of the United States, sitting as a high court of impeachment, on the —— day of ——, at the Senate Chamber, in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate, sitting as aforesaid, in which the House of Representatives have impeached —— ——.

Fail not.

Witness —— ——, and Presiding Officer of the Senate, sitting as aforesaid, at the City of Washington, this —— day of ——, in the year of our Lord ——, and of the independence of the United States the ——.

Form of direction for the service of said subpœna:

The Senate of the United States, sitting as a high court of impeachment, to ——, greeting:

You are hereby commanded to serve and return the within subpœna according to law.

Dated at Washington this —— day of ——, in the year of our Lord ——, and of the independence of the United States the ——.

—— ——, *Secretary of the Senate.*

Form of oath to be administered to the Presiding Officer and members of the Senate sitting as a high court of impeachment;

I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of —— ——, now pending, I will do impartial justice according to the Constitution and laws. So help me God.

Form of summons to be issued and served upon the person impeached:

THE UNITED STATES OF AMERICA, ss:

The Senate of the United States, sitting as a high court of impeachment, to —— ——, greeting:

Whereas the House of Representatives of the United States of America did, on the —— day of ——, exhibit to the Senate articles of impeachment against you, the said —— ——, in the words following:

[Here insert the articles.]

And demand that you, the said —— ——, should be put to answer the accusations as set forth in said articles; and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice:

You, the said —— ——, are therefore hereby summoned to be and appear before the Senate of the United States of America, sitting as a high court of impeachment, at their Chamber, in the city of Washington, on the —— day of ——, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States, sitting as aforesaid, shall make in the premises, according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness —— ——, and Presiding Officer of the said Senate, sitting as such high court of impeachment, at the city of Washington, this —— day of ——, in the year of our Lord ——, and of the independence of the United States the ——.

Form of precept to be indorsed on said writ of summons:

THE UNITED STATES OF AMERICA, SS:

The Senate of the United States, sitting as a high court of impeachment, to —— ——, greeting:

You are hereby commanded to deliver to and leave with —— ——, if conveniently to be found, or if not, to leave at his usual place of abode, or at his usual place of business, in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform this service let it be done at least —— days before the appearance day mentioned in said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the appearance day mentioned in the said writ of summons.

Witness —— ——, and Presiding Officer of the Senate, sitting as aforesaid, at the city of Washington, this —— day of ——, in the year of our Lord ——, and of the independence of the United States the ——.

All process shall be served by the Sergeant-at-Arms of the Senate, unless otherwise ordered by the court.

XXV. If the Senate shall at any time fail to sit as such court on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for sitting as such court.

The PRESIDENT *pro tempore*. The question is on the adoption of the report of the select committee.

Mr. JOHNSON. I suppose it would be better to take the vote on each one of the articles or rules. It is very possible, Mr. President, that some members of the Senate—I am one of that number—may be in favor of very many of those articles, but opposed to some one or more than one of them. It appears to me, therefore, that it would be advisable that each article should be considered by itself. Now, as we have heard the whole and see what the result of the whole is, we shall be able to ascertain what is the propriety of adopting each one of those articles. I move, therefore, that we consider the report article by article.

Mr. EDMUNDS. I suggest to the Senator from Maryland, also, that they had better be considered as in Committee of the Whole, article by article. We desire to get them right.

Mr. JOHNSON. Certainly.

Mr. DAVIS. Before the Senate resolves itself into Committee of the Whole I will make a motion with a view to bringing up a question in regard to which I am not satisfied that I shall receive any support in the Senate. However, I will make my proposition. I move to recommit this report back to the select committee with special instructions, which I send to the Chair and ask to have read.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the report be recommitted to the committee, with instructions, which will be read.

The Secretary read the proposed instructions, which were:

That the committee report as a substitute for the rules just read the following:

That the Constitution of the United States having appointed the Senate to be the court to try all impeachments; and having provided that the Senate shall be composed of two Senators from each State; and the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Arkansas, Texas, Louisiana, and Florida having each chosen two Senators; and those Senators not having been admitted to their seats in the Senate, while they continue to be excluded the Senate cannot be formed

into a constitutional and valid court of impeachment for the trial of articles of impeachment preferred against Andrew Johnson, President of the United States.

Mr. DAVIS. Mr. President, I will say a few words in support of the proposition which I make to refer this report back with the instructions proposed. I do not know that any Senator whatever takes the position that the States named in those instructions are not States of the Union. I do not pretend to understand the exact position of many of the Senators in relation to that proposition; but I believe it is conceded generally, if not universally, that all those States are, and continued through the war to be, States of the Union. Some gentlemen contend that they are States without governments. If they are States according to the definition and meaning of the Constitution they are certainly entitled to representation in the Senate. When the Senate resolves itself into a court of impeachment it is the right of every State to have its full representation in the Senate, and it is the right of the State and of the Senators representing each State that they should form component parts of the court of impeachment. I will illustrate that proposition by a suppositious case. There has been sometimes a covert and sometimes a pretty distinct threat to exclude my own State and to exclude her representation in both Houses of Congress; but I will take the State of Ohio or the State of Indiana, and I ask this question: have the Senate of the United States the power to deny to the State of Ohio or the State of Indiana representation in the Senate; and, while that State is denied representation, have the remaining Senators the right to resolve themselves into a court of impeachment for the trial of the President of the United States or any other civil officer? Cases might arise in which the Senators from a single State or from one or two States would hold strength enough to decide whether a majority of two thirds could be obtained in favor of articles of impeachment.

If such a state of case as that should arise, have the majority of Congress the right to exclude a State where it was known, or whether it was known or not, that her Senators would vote in a particular way upon the articles of impeachment of a President or any other officer?

I put that question seriously to Senators. I presume that the unanimous answer of the Senators would be that Congress has no such right as to exclude the Senators and Representatives of a State that never was in rebellion from seats in the two Houses; and in that way to control what will be the judgment of the Senate upon articles of impeachment against a President. If they have that power it places the Government of the United States in some of its most essential and important features wholly within the power of a majority in Congress.

What is the language of the Constitution? Each State shall elect two Senators to the United States Senate. What is the further language of the Constitution? The Senate shall be the sole judge in all cases of impeachment. I take it, then, for granted that under the Constitution every State that is in the Union has an indisputable and unquestioned constitutional right to be represented in the Senate, and its Senators have the unquestioned, the constitutional right, when the Senate forms itself into a court for the trial of any impeachment, to be component parts of that court of impeachment. That certainly is the obvious meaning and effect of the Constitution. Without it, there is no safety in the tenure of office of the President or any other high officer of the Government. Instead of holding his office by constitutional tenure, subject to be impeached by a majority of the House, all the States being represented according to the apportionment of representation among them, and to be tried by the Senate as a court of impeachment with all the States represented in the Senate and each State having two Senators, the whole would be resolved to come within the factious power of a majority of the two Houses of Congress.

I presume the proposition which I make will not be controverted by any honorable Senator: that every State in the Union has the constitutional right to have two Senators upon the floor of the Senate, and the Senators representing that State have the constitutional right to form component parts of the court of impeachment upon the present or any other occasion for the trial of any officer of the Government impeached. If that principle be conceded, it seems to me that it is about to be violated upon the present occasion. Is Virginia a State in the Union? In July, 1861, there was an extra session of Congress called by the late President. Who appeared in that Congress as Senators and Representatives from the State of Virginia and the State of Tennessee, and who as Representatives from the State of Louisiana? On the first day of the extra session appeared Andrew Johnson as a Senator from Tennessee. He was permitted to take his seat. He sat throughout that session as a member of the Senate representing the State of Tennessee. At that same session who appeared from the State of Virginia as Senators, and who as Representatives? My respected and honorable friend, Senator WILLEY, and the late Senator from that State, Senator Carlile, appeared with the credentials of the State of Virginia as her Senators in Congress.

The honorable Senator from Delaware [Mr. BAYARD] made objection to the admission of those two gentleman from the State of Virginia. That objection was argued at length by some of the ablest members of the Senate. I recollect that one of his particular objections was that the signature of the Governor to the credentials of those Senators was not the certificate of the true Governor of the State of Virginia; but that objection and the suggestion whether Virginia was a State in the Union were all considered in the debate, and passed upon by the Senate, and the Senate decided by a general vote, all the Republicans voting in the affirmative, in favor of the admission of Senators Carlile and WILLEY. They came to the bar of the Senate, took the oath to support the Contsitution of the United States, and were admitted as the representatives of the State of Virginia on this floor. My honorable friend [Mr. WILLEY] continued a member at each succeeding session, and served as a Senator from Virginia until West Virginia was erected into a State, when, as he resided within the boundaries of West Virginia, he resigned his seat as Senator from the State of Virginia, and in his stead was elected Mr. Bowden by what was termed the Legislature of Virginia. Mr. Bowden presented himself and took his seat as the successor of Hon. Mr. WILLEY on the commission of the Governor of the State of Virginia, Governor Peirpoint, under the great seal of that State, and the Senate of the United States admitted him to his seat, and he continued to hold that seat until he died some months afterward. Mr. Carlile had been elected to fill the vacancy occasioned by the expulsion of either Mr. Hunter or Mr. Mason, I do not recollect which. He was elected to fill the residue of the term, nearly five years, and during every session of the Senate throughout that period Mr. Carlile appeared regularly, like any other Senator, was admitted to his seat, enjoyed all the rights and privileges of a member of the Senate equally with every other member of the body, and continued to serve until the expiration of his term. If Mr. Bowden had lived I believe his term would not yet have expired, and he would still be a Senator from the State of Virginia, associating with and being received by all the Senate as a Senator from that State.

For two or three different sessions after the ordinance of secession had been passed by that State, and while the rebellion was raging, four or five members of the House of Representatives appeared from the State of Virginia, and were admitted to seats, and I believe some were received at sessions subsequent to the surrender of Lee and of Johnson, but that is not material. Certainly for three or four distinct sessions after the secession of Virginia from three to five Representatives from the State of Virginia appeared at the bar of the House of Representatives, were sworn in as Representatives from that State, and continued to serve. At the second session of the Thirty-Seventh Congress, beginning in December, 1861, a gentleman whose name I cannot now remember appeared as a Representative from the State of Tennessee.

Mr. PATTERSON, of Tennessee. Mr. MAYNARD was here from Tennessee.

Mr. DAVIS. I am not now referring to Mr. MAYNARD, but to another gentleman, who appeared at the December session of 1861, with his credentials as a recently elected Representative from the State of Tennessee.

Mr. PATTERSON, of Tennessee. Mr. MAYNARD was elected in August, 1861.

Mr. DAVIS. I am referring to a small man, who was here at the December session of 1861.

Mr. FOWLER. Mr. Clements.

Mr. DAVIS. That is the man. Mr. Clements appeared here as a duly elected Representative from the State of Tennessee to the House of Representatives. He presented himself at the bar of the House, exhibited his credentials; his credentials were examined; and he was received by that House as a member from the State of Tennessee, and served his term of two years. Mr. MAYNARD was elected to the same Congress, and took his seat, also, under the same facts, and was permitted by the House of Representatives to serve out his term. At a later period during the same Congress, Mr. Hahn and Mr. Flanders appeared as Representatives from the State of Louisiana.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) It becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 201.

Mr. HOWARD. I believe this matter takes precedence of the unfinished business. I think that was the understanding when it was taken up; but, if it is necessary, I move that the unfinished business be postponed that the consideration of this report may be continued.

Mr. CONKLING. This is a matter of privilege.

The PRESIDING OFFICER. The Senator from Michigan moves that the unfinished business be postponed, and that the report before the Senate be continued.

The motion was agreed to.

Mr. DAVIS. I was proceeding to speak of the case of the Representatives from Louisiana. I do not recollect the exact date, but some time in 1863 Messrs. Hahn and Flanders appeared as Representatives from the State of Louisiana; they presented their credentials at the bar of the House, and upon them were admitted and sworn in as Representatives from the State of Louisiana, and they served out their terms.

Mr. BAYARD. Will the honorable Senator from Kentucky allow me to make a suggestion to him?

Mr. DAVIS. Certainly.

Mr. BAYARD. The question now before the Senate, it seems to me, can only be entertained after articles of impeachment are exhibited and the Senate is organized into a court. If the party impeached puts in as his defense through his counsel a plea to the jurisdiction, of course the court must decide on that plea; but I do not think the Senate as a legislative body would have any authority to decide that question now. Therefore, on the motion to recommit for this purpose, I must vote against it without committing myself in the slightest degree to what my opinion may be, for I will not form it even until such a case arises, until such a plea is made, and I have heard the discussion upon it on both sides. I think this is not the time or the occasion to decide such a question; I do not think we have the authority as a legislative body to decide it.

Mr. DAVIS. The objection of the honora-

ble Senator had presented itself to my mind, and I came to a different conclusion from that which he has expressed, and for this reason: suppose there was but one third of the Senate present, and there was a motion made to form rules and practices for proceeding in the case of this impeachment, would it not be competent and eminently proper that the third of the Senate, being less than a quorum of the whole body, should declare the position that it was not competent for them to form a court of impeachment, and refuse to go into a court of impeachment at all? I think it would. I had reflected upon the objection of the honorable Senator in my own mind, and at one time I had concluded that it would be best to take the course which he suggests; but I subsequently, upon further reflection, came to a different conclusion, and I think now that if the Senate is in such condition that it would be improper and not in accordance with the Constitution for it to form itself into a court of impeachment, it not only has the power to so declare, but it would be eminently right and judicious that it should so pronounce. Suppose that there were but thirty members present, (I put that case for the purpose of illustrating more strikingly my principle,) and those thirty Senators had appointed a committee to prepare rules and practices for the case of impeachment, and that committee had gone out and had reported rules; upon its report would it not be entirely competent, if that fraction of the Senate could proceed at all, to move to refer the case back to the committee, with positive instructions that the Senate as constituted had not the constitutional power to form itself into a court of impeachment?

The motion that I make is based upon the idea that while the present members of the Senate exclude ten States from representation in the body the Senators representing the remaining States, which are not excluded, have no right to form a court of impeachment, and cannot do so until the ten States whose Senators have been excluded are admitted as Senators. I think myself that the motion is properly made at this time to the Senate, not to the court of impeachment. Whether the Senate will form itself into a court of impeachment or not is a senatorial question. It is not a question for the court of impeachment to decide. It does not come before the court of impeachment at all, according to my judgment of the matter. The Senate must be in such condition as to numbers and representation from all the States that it has the constitutional power to resolve itself into a court of impeachment. Whether it be in that condition or not is a question not for the court to decide, but for the Senate, before it resolves itself into a court of impeachment to decide. It seems to me that that is the correct position in relation to that point. Being of that opinion, I will proceed at no great length with my remarks.

If the ten excluded States had never been in the rebellion, if they were now represented upon the floor of the Senate, could the Senate or could the two Houses of Congress exclude from representation in both Houses ten other States; and having excluded ten other States, could the remaining Senators from twenty-seven instead of thirty-seven States resolve themselves into a court of impeachment for the trial of the President? I presume that no Senator will answer that question in the affirmative. If that is conceded, to my mind it concedes the whole principle and the whole proposition, and I will proceed to assign one or two reasons why I believe so.

Any State that was in rebellion, after the rebellion was suppressed and after the State submitted itself to the Constitution and laws and authorities of the United States, which fact was admitted by her representation in the Senate or in the House, was as much in the Union as though that State had never been in the rebellion. I will take the State of Virginia. The State of Virginia has had a representative in the Senate since the suppression of the rebellion and since the time when there was a single arm raised against the authority of the United States; that Senator has served two sessions here since the rebellion was entirely suppressed; he was recognized by the Senate as a representative of the State of Virginia, and the Senate in taking that course toward him admitted that State to be in the Union as a State with all the rights and privileges which she would be entitled to under the Constitution as if she had never been in the rebellion at all. In the case of Luther *vs.* Borden that principle is decided, and I will read a passage from it. The honorable Senator from Indiana [Mr. MORTON] and the honorable Senator from Oregon [Mr. WILLIAMS] and all the Senators who support the congressional policy of reconstruction seem to rely upon that case as their principal authority, at least the principal experiment of their authority. I will read one paragraph from that decision:

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority."

There is the plain principle. It is in conformity to the principle of the law of *post limine*, too; it is in conformity to our Constitution. It is a declaration of the principle of the Constitution in these few and simple words, that when Congress has admitted Senators and Representatives from a State both the existence and authority of the government under which they were appointed and its republican form have been recognized by the proper constitutional authority.

Sir, it seems to me that this decision settles the question as to Virginia and as to Tennessee. The Senators, or at least a Senator from Tennessee and Senators from Virginia, and Representatives from both States, have been admitted by Congress to their seats in both Houses. That, this decision says, is a recognition by the proper constitutional authority of the governments under which those Senators and Representatives were appointed and of the republican form of the governments under which they were appointed. Congress has nothing to do with the matter further in relation to those States nor in relation to the State of Louisiana, because I suppose that the admission of Representatives would have all the effect that the admission of Representatives and Senators both would have. It cannot be that there is a principle so discordant as that a State may be recognized in one House of Congress and be repudiated and rejected in the other House. I take it for granted, as a matter of necessity, as a matter of logical and constitutional conclusion, that when the Senate have admitted Senators from a State it opens the way for the admission of Representatives in the House, and where both Houses or either House have admitted Senators or Representatives there is the necessary and constitutional recognition both of the existence of the governments under which they were appointed and of the republican form of that government.

I have here the Journal of the Senate on the presentation of the credentials of the two Senators, Messrs. WILLEY and Carlile, to the Senate in 1861. The Senators who were present on that occasion will recollect the discussion that then took place, and that they were admitted after strenuous and persistent objection, and after their rights had been maintained by Senator Collamer, Senator Johnson, of Tennessee, and other Senators. Having thus been admitted, I deny that the Senate has the power to take the position afterward that the State they represented was not and is not in the Union. Neither the Senate nor the House can play fast and loose in that way. When a State is once admitted by her Senators and Representatives, or either of them, she is in the Union beyond the power of the body that admitted her Senators and Representatives. They can at no time reverse their judgment. If they were to attempt to reverse it and to do it *pro forma* it would have no legal, constitutional effect, and the State would be notwithstanding in the Union, and be entitled to all the rights and privileges of a member of the Union.

During the rebellion, Mr. President, Congress passed, I suppose, twenty or thirty laws in relation to all the rebel States. They passed laws apportioning representation among them. They passed laws imposing a direct tax and apportioning the amount of direct tax that each of the rebel States was to pay. The Senate confirmed the nomination of many officers in all the rebel States made by the President—district judges, district attorneys, marshals, collectors of internal revenue, collectors of ports, surveyors of ports, and all the necessary revenue officers for the collection of the internal revenue and the duties imposed on foreign imports in the States that had ports of entry. The Supreme Court has docketed cases that came up to that tribunal from the rebel States after the rebellion had been suppressed. Cases that had been brought to that court before the rebellion broke out were continued upon its docket, and after the rebellion was suppressed they proceeded to try those old cases. Congress passed a law laying off the United States into circuits, in which the associated justices of the Supreme Court perform circuit court duties, and they arranged all the rebel States in those circuits. As late as 1866, before Tennessee was admitted formally to come back into the Union, while she was in *statu quo* as she was left by her ordinance of secession and the rebellion, Congress passed several laws in relation to the United States courts held in the State of Tennessee.

Here, sir, is a distinct and frequent recognition by all the departments of the Government, by Congress, by the President, by the Supreme Court, that those States were all States of the Union. This recognition has been made many times in the most solemn forms. The thirteenth amendment of the Constitution was submitted to all the rebel States. The rebel States carried it before it had been voted upon by the requisite number of the adhering States; and upon its receiving the vote of three fourths of the States, including the votes of the rebel States which it had received, and before some of the loyal States had voted upon it at all, while enough of them had not voted to constitute three fourths of the States, the Secretary of State and the President proclaimed that the thirteenth amendment had been adopted by the requisite number of States for its adoption.

This is all in conformity to the authorities on the subject. I intended to read a passage or two from Vattel, but I cannot lay my hand upon it conveniently; I read it a few days ago to the Senate. The effect of it is simply that when a portion of a country has been conquered by a foreign enemy and is reconquered by the country of which it was previously a part, immediately upon its reconquest it is restored, as relates to person, property, municipal government, and in every other respect, to precisely the same condition in which it had subsisted before its conquest. That is the law. It is the law of nations. It is in conformity to our own Constitution for the suppression of insurrection and rebellion. It is practiced upon in every State where there is any domestic trouble, in an insurrection against local governments, as city governments. It was the law recognized by Justice Story in relation to the conquest of Castine, as I read a few days ago. He there recognizes the principle of *post limine*. He applies it to a portion of one of the States of the Union that had been conquered by the arms of England. He decided that the sovereignty of the United States during the occupancy of the conquered country by the foreign Power was suspended, but so soon as the foreign foe relinquished the possession of the country, or was driven from it, the principle of *post limine* reinstated the

conquered country as a part of the State of Massachusetts, and as a part of the United States also, and that the authority and government both of the State and the United States were immediately, instantly, by the effect of the principle of *post limine*, reinstated in the conquered country, and that it required no legislation, at least there was no legislation, State or congressional, for rehabilitating that portion of the district of Maine, then a portion of the State of Massachusetts. Suppose the whole of Maine had been conquered; would not the principle have applied to all of it? If the British arms had possessed every foot of Maine in the war of 1812, upon the expulsion of the arms of England or their withdrawal upon a treaty of peace from the territory of Maine, what would have been the result? Suppose the conquest had been of the entire State of Massachusetts, including the district of Maine; would not the principle of *post limine*, without any congressional or State legislation, have reinstated the entire State of Massachusetts, including the district of Maine, as one of the States of the Union, and as the entire State of Massachusetts?

In the case of Luther *vs.* Borden, if the United States forces had not intervened, or the President had not said that he would interpose with those forces, Dorr would have taken possession of the whole State. He would have driven the charter government from it. He would have placed his government in possession of the power of the State, positively and actually, and the charter government would have been expelled. Suppose that had been the condition of the State of Rhode Island when the President of the United States undertook to intervene with the military power for the purpose of suppressing disorder, and Dorr, when he was actually the Governor of Rhode Island under a government *de facto*, and was holding and exercising his power as Governor of the whole State, had been marched upon by the arms and authorities of the United States, and had been expelled from the State, would not immediately the State, upon his expulsion, have passed under the jurisdiction and authority of her charter government and the Governor and all the officers under the charter government? Certainly those consequences would have ensued, and they would have followed from the operation of the principle of our Constitution with the principle of *post limine* superadded to it. Upon this principle the moment the insurrection in the South was suppressed it became the duty of the authorities of the United States to reinstate things just as they existed before; and whether those authorities acted and reinstated things or not the principle of law and of the Constitution *de jure* would reinstate the States, and they would then be legally and constitutionally as much States in the Union as though they had never revolted against the Government of the United States.

Mr. President, I hold, not with a view to this impeachment, but to a great and fundamental principle of the Constitution, that neither Congress nor a majority of Congress have any power to exclude a State from the Union and from having its full and legal representation in the Senate and in the House of Representatives; and that whenever Congress exercises power so as to organize the two Houses upon the principle of the forcible exclusion of Senators and Representatives from any State it is no longer a legal, constitutional, and valid Congress, and the Senate has no rightful power, until Senators from the excluded States are admitted, to form itself into a court for the trial of the President or any other officer.

Mr. MORTON. Mr. President, the proposition of the Senator from Kentucky is that this is not a Senate and will not be until Senators are admitted from the rebel States. I can only say that the presence of that Senator here is a protest against his argument. If I believed that this was not a Senate, that it was a fragmentary, illegal body, I should not be willing to stay here, and I should feel that every dollar that I received in the way of salary and mileage was illegally obtained, and was a fraud upon the Government; and I feel sure that the honorable Senator from Kentucky would regard his reception of mileage and compensation in the same light, if this was really and truly a fragmentary body, and unauthorized by the Constitution.

The Constitution requires no other Senate for the trial of an impeachment than what is required for any other purpose. The same Senate that can pass a bill can sit in the trial of an impeachment. The Senator can find no difference in the Constitution. There is nothing in the Constitution that says there shall be two Senators here from every State; it says that to convict on impeachment shall require the votes of two thirds of the members present, that is what it says.

But, Mr. President, the Senator from Kentucky ignores one fact in his argument, which I think is of some importance in the consideration of this question; that is to say, he ignores the fact that there has been a rebellion. He treats the ten States which now have no representatives on this floor, as being illegally and unproperly excluded without cause. He omits any recognition of the fact that there has been a rebellion, that the people of those States have been in arms against the Government of the United States. He omits to mention the fact that they withdrew their Senators from this Chamber for a treasonable purpose, and that they engaged in hostility against the Government of the United States. These facts are material in the consideration of this question.

He says that every State in this Union is entitled to two Senators upon this floor. I controvert that proposition entirely. If the people of a State have destroyed their State government, if they have no legal State government that is authorized to elect Senators, I ask how they can have Senators upon this floor? If we regard these ten States as States in this Union, still the fact remains that they destroyed their loyal State governments, and they have no State governments that are legal and are recognized by the Government of the United States; and, therefore, they have no means under the Constitution of putting Senators upon this floor.

But, Mr. President, I do not think it worth while to undertake to follow the Senator in his argument. As I remarked before, I regard his presence here as a protest against his whole argument.

Mr. DAVIS. Suppose, Mr. President, that there were but half a dozen Senators here, does not the Constitution give them the right to adjourn from day to day until a quorum can be got together; and would not those half a dozen Senators be entitled to their pay? I agree with the Senator, and it is the position I have occupied for four or five years in this body, that it requires a majority of the whole number of the Senate to constitute a quorum to do business. It took this Senate a year or two to come to a different conclusion. The honorable Senator from Ohio [Mr. SHERMAN] made a proposition defining a less number of the Senate to be a quorum at two different sessions; I do not recollect the exact date of the two propositions. When he first presented his proposition to the Senate it was resisted by the late Senator Foot, and it was resisted by Senator Foster, in speeches of unanswerable ability and force, both upon principle and precedent. All the precedents were gone into and examined, and were laid before the Senate in the arguments of those distinguished Senators, as I attempted to do myself at the second session when the proposition was offered; and there are but one or two precedents that have any tendency to establish a different conclusion. Nine out of ten of the early precedents of the Government, both in the Senate and in the House of Representatives, were in support of the proposition that no member of either House less than a majority of the whole body could constitute a quorum to do business. I wish I had time to refer to the able and exhaustive arguments, both upon principle and authority, made upon this important proposition by the late Senator Foot and by Senator Foster when they were members of this body.

I have not attempted to argue the question whether a State, when in a condition of rebellion, is entitled to representation in either House of Congress. It is not necessary that I should. It may be that I would dissent from that proposition, and I suppose I would. My position is, that when the rebellion has been suppressed, when the State and the people of the State have submitted, when they are in obedience to the laws, the Constitution, and the authorities of the United States they are then loyal. The fact that a State or a people may be disloyal this year is no argument to prove that they will be disloyal next year. That they were disloyal last year, or the year before, and in a state of armed resistance to the laws of the United States, does not prove, or tend to prove, that they are not loyal now. When they have fully and in the best faith submitted, foregone all opposition and all resistance to the authority and laws of the United States, come under the jurisdiction and force and effect of that authority and of those laws; when, in point of fact, they are loyal in the truth and fidelity of their submission to the Government of the United States and its laws and authority, and when in this submission and obedience they are as true, as sincere, as any people of the United States, I maintain that those people are loyal. They may have committed crimes, and did commit crimes. Those crimes may be treason; they may be murder; they may be other felonies. For those crimes they are amenable, but they are amenable to the courts and by the laws of the country and in no other way. I have always conceded that while they were in arms they were to be treated as public enemies; that they might be pursued, shot down, captured, and were subject to all the laws of an active war; but when they submit to the authority of the United States, and are obedient to its laws, they are entitled to the constitutional rights of citizens of the United States.

The honorable Senator from Indiana presents a case that I was not arguing, and it is a case not now before the Senate. The case before the Senate is this: after the rebellion was suppressed; after resistance had been conquered and crushed out; when there was no longer a vestige of it remaining; when the people of these States had submitted in the best faith, in the truest allegiance and obedience to the Government, and were asking to come back to the Union, had they not the right to send their Senators and Representatives to Congress? I maintain that they had. I have always maintained that principle, and I believe it to be one of the essential and one of the most important principles of the Constitution. It was so treated in the early history of the Government, when the Senate from time to time adjourned and refrained from doing any business until a majority of the whole number of the Senate could be got together. It was so regarded by the House of Representatives in the early history of our civil Government, when the House also adjourned from time to time until a majority of all the members of the House could be got together. My recollection is not so distinct as to the House; but as to the Senate it is distinct, because I made particular examination; and I believe, with a solitary exception, out of from nine to a dozen cases the precedents all established the principle that a majority of the whole number of the Senate is necessary to constitute a quorum to do business.

But, sir, the principle upon which I make this motion is simply this: that these ten States are States of the Union; that every branch of this Government, including Congress, has treated them in repeated important official acts as being States of the Union and in the Union; that, being States of the Union and in the Union, subject to its taxes, to its burdens, and to all the duties that are imposed upon loyal citizens, they and their States have the same

rights with the people of and with other States; and that in the important business of trying a President by impeachment we cannot, with a Senate mutilated by act of Congress or mutilated by its own refusal to admit Senators from the ten States, proceed in their absence; that it cannot exscind those Senators, and thus mutilate the Congress, and form itself into a court of impeachment; but before such a court can be formed validly, in conformity to the Constitution, those Senators must be admitted to their seats.

Mr. JOHNSON. Mr. President, whether the States that were in rebellion, now that the rebellion has been successfully suppressed, are entitled to be represented in the Senate and in the House, is a question upon which differences of opinion have prevailed. It has been my misfortune to differ with a majority of the Senate upon that question; but that majority has decided that they are not, in their present condition, entitled to be represented on this floor, and I submit, as I think the country is bound to submit, to that decision. What would be the consequences of a different doctrine? As was stated by the honorable member from Indiana, the authority of the Senate to try the President upon an impeachment is the same as, no less and no greater than, its authority to pass laws. The two Houses, as now constituted, have since the rebellion ended passed laws of every description; these have been executed by the courts; executed by the President; approved for the most part by the President. I cannot, as at present advised, assent to the proposition that it was all done illegally; that the President of the United States, in approving of acts passed in part by the Senate of the United States as it is now composed, acted without authority. I cannot agree that he has so acted without authority as to violate the constitution of the Constitution which he is sworn to defend. I am sure that in executing those laws he took the view which, as I, up to the present time, have been advised, is the correct view: that it is for the Senate of the United States and for the House of Representatives to decide for themselves such a question. I cannot admit that the judiciary of the United States, who are not only authorized but bound to maintain the Constitution of the United States in all cases in which the application of the Constitution to any legislation of Congress is fairly presented, have acted erroneously.

The honorable member from Kentucky tells us that in his opinion a quorum of the Senate must consist of a majority of the Senators that might be elected by the States; in other words, a majority of all the Senators who would be here if all of the States had elected Senators.

Mr. DAVIS. The honorable Senator states my position a little stronger than I made it. The position I took, or intended to take, was that a majority of the Senators that have been elected are necessary to form a quorum to do business.

Mr. JOHNSON. Now, the honorable member has qualified what I supposed to be his doctrine. I think he told us that a quorum could only consist of the majority of the Senators who would be here if all the States were represented. Now, he tells us that what he intended to say was that a quorum must be a majority of all the Senators elected. I admit that; but who is to judge whether the Senators elected from any one State have been properly elected? The fifth section of the first article of the Constitution provides that "each House shall be the judge of the elections, returns, and qualifications of its own members."

Mr. DAVIS. Will the honorable Senator pardon me one moment? I ask the honorable Senator if there has been any such judgment here in relation to the right of each Senator from the former rebel States to his seat? Has it not been a judgment against the State instead of against the person claiming the seat.

Mr. JOHNSON. That is a different point, and one that I do not exactly see alters the question. If the Senate have decided, and had the authority to decide, that these States were not entitled to be represented, when any person presented himself in the Chamber claiming to be a Senator from one of these States it had the authority to decide that he was not properly elected, because he came from a body who had no authority to choose a Senator of the United States. That being the case, as I read the section to which I have just referred, it only means that the quorum is to consist of a majority of those whom the Senate have decided have been elected; and, after argument, notwithstanding what was said by Mr. Foster and our late friend Mr. Foot—and nobody entertains a higher opinion of both of them than I do—the Senate held by quite a decided majority that a quorum was to consist only of a majority of all those who were entitled to seats upon this floor by the judgment of the Senate. There is nothing, therefore, as I think, in that proposition which bears upon the question presented by the honorable member from Kentucky.

Now, Mr. President, unless all that we have done since April, 1865, is void, unless every statute that we have professed to pass is a nullity, unless it be true (to repeat) that the judiciary have misunderstood their duty and have committed a gross error, and unless it be understood that the President of the United States has, contrary to his duty, approved statutes after statutes passed by the Senate and the House of Representatives as the Senate and the House have been constituted since the rebellion was terminated, there is nothing in the objection of the honorable member.

But I do not propose, Mr. President, now, (although, as the Senate will see, my opinion, as far as I am at present advised, is a very clear one, that we are a Senate,) to discuss the questions which may arise when we have organized ourselves into a court of impeachment and the President of the United States is put upon his trial. He may, in person or by counsel, make the objection; he may plead to the jurisdiction of the court upon the very ground stated by the honorable member from Kentucky; and I prefer to wait, if such an objection is to be made, until I hear from the President or from the counsel of the President the grounds upon which they maintain it.

If, after hearing argument upon that subject, I shall come to the conclusion that the opinion which I now entertain is erroneous, I shall not hesitate to say so; but at present, to repeat, I conclude with saying that if we are a Senate authorized to legislate we are a Senate authorized to try impeachments. The language of the third section of the first article of the Constitution upon that subject is, that "the Senate shall have the sole power to try all impeachments;" and when the objection shall be made, if it shall be made by the President or by his legal advisers, it will be for the Senate to decide whether it is a Senate or not.

Mr. EDMUNDS. I ask for the yeas and nays on this motion.

The yeas and nays were ordered; and being taken resulted—yeas 2, nays 39; as follows:

YEAS—Messrs. Davis and McCreery—2.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Hendricks, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, and Yates—39.

ABSENT—Messrs. Bayard, Buckalew, Cragin, Doolittle, Grimes, Harlan, Henderson, Patterson of New Hampshire, Saulsbury, Sprague, Stewart, and Wilson—12.

So the motion to recommit with instructions was not agreed to.

Mr. HENDRICKS. I think the committee in this report has gone beyond the purpose of the Senate in its organization. I understood the purpose to be to present such a rule of proceeding as would organize the Senate into a court; but I do not understand that the Senate, as such, has the right to prescribe the mode of proceeding during the trial. That may be very important to the final decision. Senators familiar with the practice of the law know that very often the result of the controversy depends upon the rulings and mode of proceeding during the trial.

Now, sir, how the court, when the Senate shall sit as a court, shall conduct its business, in my judgment is a question for the court itself, and not for the Senate as such. This does not purport to be a law, but a system of rules prescribed by the Senate to the court. The court is denominated in the report as "the high court of impeachment." I think under the Constitution of the United States the Senate cannot go so far as the committee proposes; and to test that question I move to strike out the twenty-first paragraph of the report.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Secretary will read the paragraph proposed to be stricken out.

Mr. POMEROY. The motion of the Senator from Maryland was that we take up the report article by article, and consider each rule separately. I suggest that this motion of the Senator from Indiana will be in order when we reach the article to which he alludes, proceeding in the manner pointed out by the Senator from Maryland.

Mr. JOHNSON. If the honorable member from Indiana desires to make his motion now I will withdraw mine.

Mr. HENDRICKS. No, sir.

The PRESIDING OFFICER. The Chair understood that an order had been made that the report should be considered as in Committee of the Whole.

Mr. POMEROY. I thought that motion was now pending.

The PRESIDING OFFICER. The Chair understood that that order was made by unanimous consent, and the report is now before the Senate as in Committee of the Whole and open to amendment.

Mr. HENDRICKS. All the sections are before the Committee of the Whole?

Mr. HOWARD. The Senator from Indiana will excuse me for suggesting that I supposed it was the purpose of the Senate to proceed with the consideration of the report article by article, commencing with the first. That was the motion, at all events, offered by the Senator from Maryland, and I thought it carried.

Mr. FERRY. That was the order as the Clerk has entered it, to consider the report article by article as in Committee of the Whole.

Mr. HENDRICKS. I have no objection to that mode of proceeding, but I did desire to get an expression of the judgment of the Senate upon this one point, that it is not competent for the Senate, as such, by rule to control the action of the court upon any question whatever that may become material in the trial and that may possibly influence the result. My opinion is, that under the Constitution the court must decide all questions which shall bear at all upon the final result, and that the Senate, as such, being presided over by the Vice President or its President *pro tempore*, cannot do a single act which by any possibility may affect the result of the trial.

Mr. HOWARD. If we proceed in order the honorable Senator from Indiana will have full opportunity to present his views upon that question when we reach that portion of the report to which his observations relate. Why not begin at the beginning regularly and go through?

Mr. HENDRICKS. I wish to suggest to the chairman of the committee whether it is not better at once to decide whether the Senate is going to prescribe a system of rules which shall control the court, or whether the Senate will only go so far as to provide the proceeding by which the Senate shall be transformed into the court, because much of our work will be saved if the Senate should now decide that we have nothing to do with the mode of proceeding in the court. I am not particular how it shall come up, but it seems to me it will save time to decide that question now.

Mr. SHERMAN. It seems to me the suggestion of the Senator from Maryland is clearly the proper one, and the Senate seem to have

acquiesced in it without a division; that is, that we should take up the report section by section. It is manifest that it becomes the duty of the Senate to make some rules for the government of the great trial we shall be called upon to take part in. Undoubtedly many of the articles contained in this report will be agreed to by the Senator from Indiana, the great body of them, because they only provide the mode and manner, not of conducting the trial, but of preparing for the trial.

Mr. HENDRICKS. That far I have no wish to interfere with the report.

Mr. SHERMAN. The Constitution clearly anticipates that the Senate as a Senate shall take order, in the language of the law, for the trial. I have no doubt that the great body of these articles will be adopted without objection. When we reach any one of the articles to which the Senator objects, which he anticipates, and which he thinks endeavor to make a distinction between the duty of the Senate and the duty of the court, it will be time enough to make the point. I shall be glad to hear him on that question, because I think it a question worthy of the Senate, and a question which must be decided, whether or not the Senate as a Senate must decide on the rules of evidence, &c., or whether these matters shall be decided by the court. It is a question on which I should like very much to hear the precedents when the point arises.

Mr. HENDRICKS. My object was to get an expression of the Senate in advance, if possible, so as to facilitate the proceeding. Many of these provisions are proper enough, no doubt, and I would not object to them. Some of them, I think, are material to the trial. But I had not understood that the Senate had adopted the suggestion of the Senator from Maryland. That being the case, I will, of course, acquiesce in it, and raise the point when we reach some material rule.

Mr. SHERMAN. To avoid all misunderstanding, I move now that the Senate proceed, as in Committee of the Whole, to consider the report section by section.

Mr. HOWARD. We are now in committee, and there is an order already to proceed in exactly that way; and I hope the Clerk will proceed to read the first rule.

The PRESIDING OFFICER. It will be understood as the sense of the Senate that the report shall be considered article by article as numbered.

The Secretary read the first proposed rule, as follows:

I. Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person, and are directed to carry articles of impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment agreeably to said notice.

The PRESIDING OFFICER put the question on the adoption of this rule, and declared it to be agreed to.

Mr. SHERMAN. I suppose, unless an amendment is offered, it is scarcely worth while to put the question, because if we once adopt a rule perhaps we cannot go back.

Mr. TRUMBULL. We are in committee now, and can revise our action afterward.

Mr. HOWARD. Let the second rule be read.

The PRESIDING OFFICER. The Secretary will read the second clause of the report.

The Secretary read the second proposed rule, as follows:

II. When the managers of an impeachment shall be introduced at the bar of the Senate, and shall signify that they are ready to exhibit articles of impeachment against any person, the Presiding Officer of the Senate shall direct the Sergeant-at-Arms to make proclamation, who shall, after making proclamation, repeat the following words, namely, "All persons are commanded to keep silence, on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States articles of impeachment against ——— ———;" after which the articles shall be exhibited, and then the Presiding Officer of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

The PRESIDING OFFICER. Is it the pleasure of the Senate that the vote shall be taken on each rule as it is read?

Mr. HOWARD. If there is no objection I suppose it will be taken for granted that each rule, as read, is adopted.

Mr. JOHNSON. If there is no objection to a rule as it is read it may be considered as adopted, but of course open to amendment hereafter.

The PRESIDING OFFICER. Such will be the understanding if there be no objection. The third clause of the report will now be read.

The Secretary read rule three, as follows:

III. Upon such articles being presented to the Senate, the Senate shall, at one o'clock afternoon of the day (Sunday excepted) following such presentation, or sooner, if so ordered by the Senate, resolve itself into a high court of impeachment for proceeding thereon. A quorum of the Senate shall constitute a quorum of the court, and it shall continue in session from day to day, (Sundays excepted,) after the trial shall commence, (unless otherwise ordered by the court,) until final judgment shall be rendered, and so much longer as it may, in its judgment, be needful. Immediately upon the Senate resolving itself into such high court of impeachment the Secretary of the Senate shall administer to the presiding officer (unless he shall be the Chief Justice) the oath required by the Constitution of the United States in such cases, and in the form hereinafter prescribed, and thereupon the presiding officer shall administer such oath to the members of the Senate then present, and to the other members of the Senate as they shall appear, whose duty it shall be to take the same.

Mr. POMEROY. Did not the committee agree to strike out the words "whose duty it shall be to take the same" at the close of that rule? I thought so.

Mr. EDMUNDS. No; the word "receive" was changed to the word "take." That was the conclusion of the committee.

Mr. POMEROY. Yes; I recollect now.

The PRESIDING OFFICER. This rule will be considered as adopted, and the Secretary will read the next.

The Secretary read rule four, as follows:

IV. The Presiding Officer of the Senate shall be the presiding officer of the high court of impeachment, except when the President of the United States, or the Vice President of the United States upon whom the powers and duties of the office of President shall have devolved, shall be impeached, in which case the Chief Justice of the Supreme Court of the United States shall preside; and in a case requiring the said Chief Justice to preside, notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the organization of the high court of impeachment as aforesaid, with a request to attend, and he shall preside over said court until its final adjournment.

Mr. MORTON. Although I was one of the committee that agreed to report these rules, yet a remark made by my colleague a while ago suggests a verbal criticism in regard to this rule and the one we have just passed. They both use language which may, perhaps, lead to trouble, and give rise to a different theory in regard to the character of the body that is to try this impeachment. It is provided that the Senate shall resolve itself into a high court of impeachment. Is there any authority in the Constitution for that, or is there any propriety in it? Is not this impeachment to be tried simply by the Senate of the United States? While the Senate is engaged in the trial, does it lose the character of the Senate and become a court? If we shall allow ourselves to contemplate that idea, may it not lead to consequences that we do not desire, and to difficulties? The Constitution seems to contemplate that this impeachment shall be tried by the Senate. It says: "The Senate shall have the sole power to try all impeachments;" and "when sitting"—that is the Senate, when sitting—"for that purpose they shall be on oath or affirmation." That is all that is required, that the Senate, when sitting for that purpose, shall be on oath or affirmation. But we are here proposing to resolve ourselves into another character; we are to cease to be a Senate and become a court. If we follow out that theory there may be many little consequences attaching to it before we get done with it that we do not anticipate. Why not preserve the simple idea that this impeachment is to be tried by the Senate of the United States as the Senate and nothing else? What use have we got for the phraseology "resolving itself into a high court of impeachment?" I object to the use of the word "high," in that connection, anyhow. But the argument made by my colleague suggests that the theory which we thus seem to recognize may involve other consequences that we do not now contemplate; and although I assented to these rules, and would regret now to find fault, yet it occurs to me, from the suggestion made and from looking at the Constitution itself, that this impeachment, after all, is to be tried simply by the Senate of the United States.

Mr. JOHNSON. That is true; the Senate of the United States is the body to try the party impeached; but in what character does it try him? It does not sit in its legislative capacity in discharging that duty; it sits as a court just as much as is the Supreme Court of the United States when it adjudicates cases coming before it. But it is very advisable, I think, even if the objection would have been a well founded one in the beginning, that we should adhere to the precedents. There have been some four or five cases of impeachment, and in every instance—I think I am correct; my friend from Vermont will set me right if I am wrong—in every instance what was done by the Senate is precisely what is proposed to be done by the section now under deliberation; the Senate resolved itself into a high court of impeachment. The duty, certainly is not a legislative duty, because if it was no additional oath would be prescribed; and yet the Constitution requires an additional oath; and the requisition of an additional oath implies that within the intendment of the Constitution the duty which we are to discharge in cases of impeachment is a judicial as contradistinguished from a legislative duty. I do not see that it can involve any difficulty in the trial of the cause after it comes before us; and whatever the Senate might do if it did not call itself a court, it will do after it calls itself a court if it shall then think it is right to adopt a particular course which may be suggested.

Mr. SHERMAN. I think the Senator from Indiana, on a moment's reflection, will see that this is rather a criticism of words than of real ideas. These rules provide that upon being notified of the articles of impeachment the Senate shall resolve itself into a high court of impeachment. It is the Senate still. It is just as we move to resolve ourselves into executive session, just as we move to go into Committee of the Whole, as we are now in committee. It is still the Senate at every stage of the progress of its various kinds of business. It may be acting what we technically call in the Senate, or it may be in executive session, or it may be a court of impeachment; but in each view it is the Senate of the United States acting in a different capacity. We act in the one case as advisers of the President; we share with him in his executive authority; in another we act in our legislative capacity and share with the House of Representatives in legislative authority; in this case we act in a judicial capacity on the trial of an alleged offender against the laws. So that it seems to me this is rather a question of phraseology.

As to preserving the words "high court of impeachment," I think it is important for us to preserve those words; not that they are very material; it might be just as well for us to call ourselves a court of impeachment, or provide that we resolve ourselves into a body for impeachment business, if the Senate prefers it that way; it has the same legal effect. I think we all recognize, the whole country will recognize, that this is a high duty imposed upon us by the Constitution of the United States, and we may properly say without assuming anything that it is a high court of impeachment. I therefore do not see any object in changing the old, well-established precedents, for I believe this language is taken from the precedents established by the founders of the Constitution in the earliest impeachment, probably in those of Judge Chase and Senator Blount. Those impeachments

occurred in the first ten or twelve years after the Constitution was formed. I think we ought in this proceeding to follow the language and the forms then decided upon, as far as we possibly can.

Mr. HENDRICKS. I agree with my colleague in his criticism upon this rule. I expressed the same view when I considered it in one of the committees. Notice the language that is read in the second section: when the House of Representatives shall make report to the Senate, it shall be announced by some officer of the Senate, "all persons are commanded to keep silence on pain of imprisonment while the grand inquest of the nation is exhibiting articles of impeachment," &c. What is "the grand inquest" of this nation, sir? There is no such tribunal or body known to our Constitution or laws. The "grand inquest of the nation" is but a tribute to a past period, when dignity was supposed to be given to proceedings by the adoption of high-sounding words. Just notice the simplicity of the Constitution as compared with this flourish of trumpets: "The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment." The House of Representatives "shall have the sole power of impeachment," said the simple-minded fathers, when they adopted a plain rule on this subject. Now we say "the grand inquest of the nation." Why, sir, I fancy I am back in the days of Queen Elizabeth, when the courts were called to order by a ceremony such as the plain lawyers of this day would not comprehend.

Mr. EDMUNDS. Will my friend permit me to state to him that this is the same language that those simple-minded fathers who formed the Constitution did use in the first impeachment of Chase, and Blount, and so on——

Mr. HENDRICKS. I am speaking of the language used by the Constitution.

Mr. EDMUNDS. You spoke of the fathers.

Mr. HENDRICKS. In the Constitution which the fathers adopted, after grave consideration, they said that the House of Representatives should impeach an officer. We say that "the grand inquest of the nation" shall impeach. Where is the advantage of this new language. Why not make proclamation in the Senate here that "the House of Representatives impeaches the President of the United States?" It is not sufficiently high sounding is all the trouble about it. It expresses exactly the thought that the Constitution does truly, correctly, and does not refer us to some body of men not known to our system of government. I think much of the trouble grows out of, as my colleague suggests, misconceiving exactly how this is. I think the Senate tries the case; but inasmuch as the Constitution requires, when the President is impeached, that the Chief Justice shall preside, I think we cannot, until we secure the presence of the Chief Justice, take any step that bears in any important respect upon the result. I think it is simply the business of the Senate to take steps to have the presence of the Chief Justice here, and then, he presiding, we shall adopt such rules as are necessary to govern us in prosecuting the trial.

Mr. EDMUNDS. The Senator from Indiana forgets that these rules we are now considering have nothing to do with the President of the United States as such. They provide for all impeachments; and being adopted, it will be time enough, if the President of the United States shall be impeached, for the Senator to object that these rules do not apply, because we cannot act upon him until the Chief Justice is in the chair.

Mr. HENDRICKS. I will ask the Senator from Vermont, as he is on the committee and I am not, whether I am altogether wrong, in view of the fact that there was a particular resolution referred to the committee, and I will ask the Senator from Vermont exactly what was referred to the committee.

Mr. EDMUNDS. I will inform the Senator from Indiana, as I suppose he does not know from asking the question, that the message of the House of Representatives was referred to the committee. The committee, in acting upon that message, have thought it necessary, (speaking now in the proper and exact sense of the term,) have deemed it proper, to report general rules for the trial of all impeachments. I do not say that the committee do not expect that the President of the United States, if the House of Representatives should agree upon articles—we do not know that they will—may not be brought before the Senate, sitting as a court, under these rules. The Senate being resolved into a court, it will then be a question for the court to consider as a court whether the general rules of the Senate provided for all cases are binding upon the court, or whether these or others ought to be formally adopted.

Mr. HENDRICKS. Then I wish to ask the Senator if his criticism on my view of it is not without foundation, inasmuch as the committee had to consider just what was referred, and the committee has gone beyond that. I chose to consider it in view of the subject that was referred to the committee.

Mr. EDMUNDS. Not at all. We are not trying the committee; we are trying the paper which they have presented; and that paper is a general provision for all cases, and it has no reference to this President of the United States any more than it has to one who may be in office twenty-five years hence, except that we understand, as a matter of fact, it is probable that that high officer will be brought to trial.

A word now as to the point made by both the Senators from Indiana on the subject of the style which is to be given to the Senate while sitting for the purpose of this trial. We all agree, as the Constitution says, that the Senate is to try this impeachment; but the question is a little beyond that, in what character is it to try this impeachment? In what capacity? There can be but one opinion upon that subject. It is in a judicial capacity, and in no other. It is not to pass any bill of attainder or of pains and penalties against him; but it is to resolve itself in some form or by some name into that capacity which will authorize it to exercise judicial functions under oath. You may criticise upon language; it is one of the imperfections of human affairs that no language can be adopted by any man or set of men that is not open to some species of critisism by other minds; but the essential idea is that there is to be a plain line that all me can see between the character in which we are now sitting doing legislative business and that character in which we shall be sitting when we are called upon to lay aside every prejudice and every partiality and every idea that can enter into the political and legislative mind and to put on the white robes of justice, to try impartially, as judges, a cause.

Now, we are to adopt some language which will point out that point of time when, as it may happen, in the case that we have been referring to, the Presiding Officer of the Senate must leave the chair and the Chief Justice of the United States shall take it.

The committee, in following the precedents that have occurred in this country from the days of the fathers that have been alluded to until this time, have thought it fit, using the same language that they used, to characterize this transformation of functions, this change of functions of the Senate from one character to another, as resolving itself into a high court of impeachment. And then the rules go on to speak, after all, of the Senate sitting as a court. There can be no misconstruction when you take the rules all together. They speak always as the Constitution does of the body, the Senate, but characterize it as sitting as that high court of impeachment—to whose judgment the law has confided the important questions that may arise touching official misconduct.

Therefore, Mr. President, it is plain to me, both upon the reason of the thing and upon all the authority we have to refer to, that no more appropriate language could be adopted to mark this line of distinction between our legislative action and our legislative sitting and that judicial one which we may be called upon to take up than this.

Mr. CONKLING. I wish to make an inquiry of the Senator if he will allow me. Does he mean to give us to understand that the precedents at all times as he says are that the Senate, in cases of impeachment, resolves itself into a high court of impeachment?

Mr. EDMUNDS. Do I understand my friend to refer to the use of the word "high?"

Mr. CONKLING. Not at all. I do not fancy the word "high," but I am inquiring of the Senator for matters of substance. I understood him to say, and I wish to know whether he said intentionally, that the precedents were that the Senate when trying an impeachment or approaching an impeachment resolved itself into a court, high or low.

Mr. EDMUNDS. I do not know what my friend means by "approaching an impeachment." I mean that in the case of Chase, as I understand, in the case of Peck, as I see from the Journal, the Senate did that thing. I have not traced through every modern precedent to see what they have done.

Mr. CONKLING. Mr. President, I do not think that the nature of the body by which impeachments are tried is, as the Senator from Ohio says, a mere choice of words or phraseology. Could I concur with the Senator from Vermont as to the character which the Senate puts on in trying an impeachment I should agree with the Senator from Indiana that the Senate, sitting as it sits now, is not the appropriate body to settle these rules. It seems to me that if the Senate is one thing, a body of one nature, and if the members of the Senate resolved into a court for the trial of impeachment becomes a body of a different nature, there must be a distinct line of demarkation between the two, and every rule which relates to proceedings to be taken by the Senate is appropriately to be determined by the Senate; but every rule relating to proceedings falling upon the other side of the line, and belonging, not to the Senate, but to a court, is a rule to be determined by the court. This, if I understand it, is the suggestion of the Senator from Indiana.

Mr. HENDRICKS. Yes, sir.

Mr. CONKLING. If I heed the opinion declared by the Senator from Vermont, I should, as I understood him, be compelled to coincide with the Senator from Indiana.

But, Mr. President, I do not understand the precedents as they are stated, nor do I understand the philosophy or the meaning of the Constitution to be as is suggested. The Senate shall have the sole power to try impeachments. That is the voice of the Constitution. The Senator from Vermont says, very properly, that the Senate exercises a judicial function in trying an impeachment. Certainly it does; just as many single officers and boards of officers perform at one time ministerial duties and at another time judicial duties; all the time remaining officers of a fixed name and nature.

But the Senator says that the precedents show that the Senate, when trying impeachments, divests itself of its character as a Senate and takes on a new character; it ceases to be a Senate and becomes a court, and wholly a court. If the precedents say this, they will be persuasive as testimony if not as argument. But let us look at them. The Senator has referred to two cases, both of which I have before me: the case of the impeachment of Samuel Chase, which was in 1804, and the case of the impeachment of Peck in 1831. It is true that in the Journal (put there by the Secretary of the Senate as a prefatory heading) the expression "high court of impeachments" does occur, and it occurs just the same at the stages before anybody can suppose that the Senate had resolved itself into a court, as at any other time. Whenever the Senate considered anything relating to the impeachment of Judge Chase, the Secretary distinguished it in his entry by placing it under

the heading, "High Court of Impeachments." For example:

"Friday, December 4, 1804."

Here comes the title:

"High Court of Impeachments."

See what follows:

"On motion,

"*Resolved*, That the Senate will, at one o'clock this day, be ready to receive articles of impeachment against Samuel Chase, one of the associate justices of the Supreme Court of the United States, to be presented by the managers appointed by the House of Representatives.

"*Ordered*, That the Secretary notify the House of Representatives accordingly."

Can any one familiar with the actual practice be ignorant that the proceeding here recorded happened in the Senate as such?

Next:

"*Resolved*, That when the managers of the impeachment shall be introduced to the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against Samuel Chase, the President of the Senate shall direct the Sergeant-at-Arms to make proclamation, who shall, after making proclamation, repeat the following words."

This is also under the head of "High Court of Impeachment;" yet we know it happened in Senate, and nowhere else.

The proclamation I need not read. It does contain, however, as the Senator from Vermont says, the high-sounding phrase to which the Senator from Indiana objects, because it offends his taste—his somewhat too fastidious taste, perhaps.

Mr. THAYER. Why not read it?

Mr. CONKLING. It is the language adopted in the rules before us. I am at this point endeavoring to show, that although the title of "high court of impeachment" appears, there can be no pretense that in the stage of the proceeding here recorded the Senate was sitting in any capacity except as the Senate pure and simple, albeit the Secretary was in love then, as some are in love now, with the phrase, "high court of impeachment."

The Journal proceeds:

"Agreeably to the above resolutions, the managers on the part of the House of Representatives, to wit."

Naming them.

"Were admitted; and Mr. Randolph, the chairman, announced that they were the managers instructed by the House of Representatives to exhibit certain articles of impeachment against Samuel Chase, one of the associate justices of the Supreme Court of the United States.

"The managers were requested by the President to take seats assigned them within the bar, and the Sergeant-at-Arms was directed to make proclamation in the words following."

And he did proclaim.

"The President notified the managers that the Senate would take proper order on the subject of the impeachment, of which due notice should be given to the House of Representatives."

All this appears under the caption, "High Court of Impeachment."

Senators will see that the only authority to be derived from this precedent so far, in favor of the idea that the Senate is a court, appears from the inscription upon the title of the Journal of the words, "high court of impeachment," which words are there as of the time, and anterior to the time, as everybody will see, when the Senate must have acted as we have already acted respecting the pending impeachment, as the Senate, pure and simple. On the 10th of December, 1804, the rules were considered, rules which had been reported by a committee appointed in the Senate, which report had been made on the 7th December, and here comes again the same inscription, "high court of impeachment:"

"The Senate took into consideration the report of the committee appointed on the 30th of November last, to prepare and report proper rules of proceedings, to be observed by the Senate in cases of impeachment; and agreed to them in part, as follows."

Then follow the rules.

Now, passing over all that stage of this proceeding in which the respondent appeared, and when the judicial proceedings proper commenced, I ask any Senator to show me on this Journal where the Senate resolved itself into a court, or did anything except to take up certain business, to wit: the business before it, which was judicial in character.

"Monday, December 24, 1804.

"High court of impeachment.

"The Senate resumed the consideration of the report of the committee," &c.

I pass that.

Following the last rule, which was Rule 19, that "at all times while the Senate is sitting upon the trial of an impeachment, the doors of the Senate Chamber shall be kept open," are the proceedings which were taken in the case of Judge Chase. I have looked the Journal through with some care, and I find no day on which the Senate resolved itself into a court, but on all days proclamation was made simply; made in the first place when the managers appeared, as proclamation will be made here when managers appear in the pending case, as it has been made heretofore, always when managers have appeared with articles of impeachment, addressing themselves confessedly to the Senate as a Senate.

Now, Mr. President, let us look for a moment at the trial of Peck, to which we have been referred. The preliminary proceedings were in May, at the first session of the Congress then sitting. These proceedings are not before me, but the record of the trial at the next session is here:

"Monday, December 13, 1830."

And here is the same title carried again upon the Journal as a caption:

"High court of impeachment."

The entry is:

"The President administered the oath," &c.

"*Ordered*, That the Secretary inform the House of Representatives that the Senate are in their public Chamber, and are ready to proceed on the trial of the impeachment of James H. Peck, judge of the district court of the United States for the district of Missouri, and that seats are provided for the accommodation of the members."

No resolution or order resolving the Senate into anything, but the Senate appears here.

And so following this—I may have overlooked it, of course—I find no instance in which the Senate resolved itself into a court. When, however, you come down to the year 1862, when West H. Humphreys was tried, I find on the Journal these words:

"The Senate having resolved itself into a high court of impeachment."

If such a thing can be found anywhere else on any preceding page of the Journal I have examined it has escaped me. I do not venture to say that it cannot be found, but in running my eye over these cases I see nothing of the kind.

Mr. YATES. I will ask the Senator whether, in the proceedings to which he refers it is stated as to the meetings and adjournments that the Senate met or the court met, or the Senate adjourned or the court adjourned?

Mr. CONKLING. The Journal, as far as it shows anything on that subject, shows this, as far as I can see at this moment: the Senate met and transacted business, whatever it might be. As soon as it proceeded to the consideration of the particular business to which the Senator refers it so appears on the Journal, and whoever made up the Journal there puts upon the page the title, "High court of impeachment," and at the end of a day appears simply the word "adjourned." For example:

"Friday, December 21, 1804.

"High court of impeachments.

"The report of the committee appointed on the 30th of November last 'to prepare and report proper rules of proceedings to be observed by the Senate in cases of impeachments,' was resumed; and,

"*Ordered*, That the consideration thereof be postponed to Monday next.

"Adjourned."

The next entry is, "Monday, December 24, 1804;" so that I see nothing on the Journal which establishes a separation one way or the other as to adjournment or as to meeting, except that it appears all the time that proclamation was made; the court was opened in no way except that way, by the proclamation of the Sergeant-at-Arms, which proclamation seems to have been in a form employed at points of the proceedings which could occur only in the Senate as such.

Mr. President, I did not intend to occupy so much time on this subject, and I shall be very sorry to occupy any more time than is necessary, because I think it important that we should proceed promptly to a final consideration of these rules. I wish, however, to express my dissent from the admission and statement of the Senator from Vermont, as I understand him. The committee was properly charged, it seems to me, as the committee of the Senate to prepare these rules, and we are considering them properly now, because I believe that whenever articles of impeachment shall be lodged with the Secretary of the Senate, and we proceed to their trial, we shall proceed as the Senate, performing a judicial function no doubt, but nevertheless the Senate, just as we remain the Senate when we proceed to the consideration of executive business and consider nominations or a treaty, or proceed to do anything else, the doing of which is committed to the Senate. I beg, Mr. President, to make another remark. Those who have had occasion or shall have occasion to turn their attention to a good many of the incidents and sequences of this proceeding will find, I think, that it is quite material whether the Senate assumes a new character, undergoes a transmutation, becomes a different body, or not. I think it will turn out that in matters of substance it makes a good deal of difference whether the Senate preserves its identity in trying an impeachment, or whether it takes on a novel character and relinquishes its usual laws of being. But I rose mainly to call attention to the fact that the precedents do not seem to demand a concession to the views held by the Senator from Vermont.

Mr. HOWARD. I beg to inquire what motion is before the Senate?

The PRESIDING OFFICER. The fourth article of the rules is before the Senate.

Mr. HOWARD. Then, sir, the most of this debate has been out of order. I say so without any disrespect, and I hope the vote will be taken upon article four without any further loss of time.

Mr. EDMUNDS. If my friend will pardon me, I must ask him to let me have a minute to reply to my friend from New York.

Mr. HOWARD. Before I sit down, then, allow me to say one word. I think this discussion is one more relating to mere words than to substance. What is the significance of the Senate "resolving" itself into a high court of impeachment? It means nothing more nor less than this, and it seems to me that Senators cannot fail to see it: that instead of proceeding with their ordinary legislative business, in the discharge of mere legislative duty, the Senate takes up another branch of its duties, which are commonly called judicial. That is all that is meant by resolving the Senate into a high court of impeachment. It is still the Senate of the United States, engaged in the discharge of its constitutional duty as the Senate, consisting of exactly the same members, but engaged in discharging judicial duties, duties in the discharge of which they are required, in the language of the Constitution, to pronounce a judgment; in which they are to go through the process of a trial—phrases well known to the world as implying the exercise of judicial functions; but still it is the Senate, the same body which performs ordinary legislative duty. It is the Senate as a Senate that acts upon the ratification or rejection of treaties. There is another and a third class of duties imposed upon the Senate which do not belong to the House of Representatives. Sir, are we not a Senate when we are engaged upon treaties? Are we not a Senate when we are engaged upon the nominations of the President of the United States who consults us about appointments? Clearly we are. The only difference between us and the other branch of Con-

gress consists in the fact that we have divers duties to perform as a corporate body which do not belong to the other branch of Congress; but in all these capacities we are simply acting as the Senate of the United States. It seems to me that nobody can be deceived, nobody can misapprehend the meaning of the rule now under consideration when it speaks of the Senate resolving itself into a high court of impeachment.

I will not stand about phrases; they are not material at all; but I feel a little disposed to adhere to the old forms of our fathers. Here is an expression, "high court of impeachment," which has come down to us from a very early period in our history, and has been in use nearly seventy years, perhaps fully seventy years. Why reject it now? If it be nothing but form it will harm nobody. As has been very properly said, the people of the United States regard the Senate, when it is discharging these judicial duties, as a court, and as a high court. Of course its duty is to try impeachments. I would not, therefore, change even that phraseology. I think the other phrase, "resolving ourselves into a court of impeachment," is a very convenient one. It will show the world that we are at that moment engaged in a certain branch of our business, our duties, which is judicial in its nature, and that at that time we are not in the discharge of any other kind of duties, and cannot be, because we are engaged in the trial.

Mr. MORRILL, of Maine. Will the Senator allow me to ask him a question?

Mr. HOWARD. Yes, sir.

Mr. MORRILL, of Maine. I wish to ask him whether "resolving the Senate into a high court of impeachment" will be in its nature equivalent to saying "the Senate will proceed to the subject of impeachment?"

Mr. HOWARD. Certainly. I take it to mean nothing else.

Mr. MORRILL, of Maine. It is the same thing?

Mr. HOWARD. It means precisely the same thing.

Mr. MORRILL, of Maine. Then would it not be better to say "the Senate will proceed to the consideration of impeachment" and leave out the word "court?"

Mr. HOWARD. I would rather prefer to retain the word "court," because it is ancient, well understood, and is more fitting and significant than the other phrase which the Senator uses, because our duties are actually judicial.

Mr. MORRILL, of Maine. I suggest whether it is necessary to apply a distinction where none is supposed to exist. The Senate does not, in fact, take any judicial character by this resolution. It is the Senate precisely, after it resolves, as it was before. The phrase would seem to imply that it is to be something other than the Senate, to wit: a court, which it certainly is not.

Mr. SHERMAN. If I understand it, we move every day to proceed to the consideration of executive business. That is a resolution. It is a resolve. In the very words used in the report of this committee we resolve to proceed to the consideration of executive business. And so we resolve ourselves into a court of impeachment; that is, we simply proceed to that branch of the business, which is in the nature of a judicial function, imposed upon us by the Constitution as a Senate. It does seem to me that this is only a question of taste, whether we shall use high-sounding words, such as indicate the character of our duty, or use simpler forms of expression.

Mr. HOWARD. I am not particular about it; but I am a little fond of the old forms.

Mr. FERRY. If the Senator will permit me to make a suggestion, by the third rule it would seem as if the committee intended to make a distinction between the Senate and the court, because immediately after providing that the Senate shall resolve itself into a high court of impeachment, the committee proceed to say: "A quorum of the Senate shall constitute a quorum of the court." Now there could be no necessity for such a provision as that, if, in the mind of the committee, it was the Senate and nothing but the Senate, because the quorum of the Senate would of course remain the same.

Mr. HOWARD. To make the worst of that language cited by the honorable Senator from Connecticut, it is mere surplusage. It does no harm. It does not alter anything. The Constitution clothes us with all our powers. We cannot change our political functions or capacities by any language which we may use.

Mr. FOWLER. I suggest to the Senator that the word "high" at least should be omitted. These high-sounding words are entirely unnecessary and hollow. I, for one, dislike them very much.

Mr. HOWARD. I hope the term "high" will be retained.

Mr. CAMERON. Mr. President, I am no lawyer; but I have some reverence for the forms of the law, and I think the term which is used here, "the high court of impeachment," is appropriate. It is the highest court in the land, certainly the highest court known to our Government, because it has the power to take from the highest officer of the country the office which the people have given him. The people have given to this court higher power than they have given to any other court under the Constitution. The term might have been left out without harm; but it is there, and why should we change it? When you talk about the Senate acting as a court and as a senatorial body for legislation, it seems to me we make no difference more than we do when we go from ordinary legislative business into an executive session. In the one case we go into a court with the highest law officer of the Government in the chair; he, to be sure, having no power but that of a sort of moderator of a meeting, and in the other case we only close the doors and direct that everybody shall be cleared from the galleries and lobbies of the Senate. Sir, this is an important duty that we have to perform, and I would throw about it all the solemnity possible, whether it affects only the imagination or whether it affects the intellect of men. I can see no use in changing this at all.

Mr. EDMUNDS. Mr. President, the Senator from New York has read from the Journal of the trial of Chase to show that the Journal does not use the term "court" in some parts of its formation, if I may use such a term, and he accuses the Secretary of the Senate, whoever he was then—some misguided man—of interpolating into the Journal without anybody's authority the designation that the court went by, "high court of impeachment." Now, I assume that even in those old times the Journal of the day's proceedings was always read at the opening of the next day's session, either of the court, if you call it such, or of the Senate. I assume, therefore, that whatever appeared in the Journals of the Senate at that time met with the acquiescence of the body, to say the least, even in the mere form of the Journal, in the description of the functions that the Senate was called upon to perform. Therefore, I felt justified in saying that we were fortified upon the precedent of that case; and I stand by it yet.

Mr. CONKLING. The Senator will allow me to say that I took issue with him upon the assertion that the precedents were that the Senate resolved itself into a high court of impeachment, not upon the proposition that on the Journal those words were entered. I inquired of him whether he affirmed that; and there I took issue with him.

Mr. EDMUNDS. Now, then, if I understand my friend from New York, his trouble is, on the word "resolving" ourselves into a court. We will not cavil about the word "high" just now. We come, then, upon that point to 1830, when Judge Peck, of Missouri, was put upon his trial, when the Senate had for its members such men as Bell, Chase, Clayton, Frelinghuysen, Seymour, Adams, Benton, Webster, Livingston, Woodbury, and the worthies of that period who have made our politics and our jurisprudence famous. In the proceedings at that time I find this apparently in the form of a resolution.

Mr. CONKLING. On what page?

Mr. EDMUNDS. Page 282:

"*Resolved*, That at twelve o'clock to-morrow the Senate will resolve itself into a court of impeachment, at which time the following oath or affirmation shall be administered by the Secretary to the President of the Senate, and by him to each member of the Senate." * * * "Which court of impeachment, being thus formed, will, at the time aforesaid, receive the managers." &c.

That appears, if I can understand the force of language, to have been a resolution of the body. I find on the next day, or whatever day it was, the same gentleman who was the chairman of the committee who reported the rules and regulations for that trial—and on that committee I may say was Mr. Webster among others—Mr. Tazewell made this proposition——

Mr. JOHNSON. Who was the chairman?

Mr. EDMUNDS. Mr. Tazewell, of Virginia, was the chairman; Mr. Webster was another of the members, and I think Mr. Bell; but I am not quite sure of that. "The Senate resolved itself into a high court of impeachment, and after some time spent therein," as stated in the record, they gave up that business and went to something else.

Mr. CONKLING. From what is the Senator reading?

Mr. EDMUNDS. I am reading from what is entitled on the top of the page the "Journal of the Senate, May 5, 1830." It is entitled on the back, "Senate Journal First Session Twenty-First Congress, 1829 to 1833, office Secretary of the Senate."

Mr. JOHNSON. Peck's case?

Mr. EDMUNDS. Yes, sir. Therefore, Mr. President, we have, after the light of the trial of Chase and Blount, and I do not know but of Pickering before that—but no matter, when this contested trial of Peck came up in a Senate that was composed of men as eminent, as careful, and as conservative as any that the nation has ever seen, we have a precedent which appears to justify precisely what we now do.

A word as to the merit of it, because I do not wish to weary the patience of the Senate. We resolve ourselves—"resolve" merely means a decision of the Senate; we decide—we resolve ourselves into a court, the rule says. It is still ourselves. We do not, as the argument of Senators would seem to imply, dissolve ourselves and take up some other being and nature; but we merely change the exercise of the functions that we are performing, inasmuch as our functions are various, and proceed upon entirely distinct and different principles.

Mr. FERRY. Will the Senator permit me to ask why, then, do you provide that "a quorum of the Senate shall constitute a quorum of the court?"

Mr. EDMUNDS. That is not material to this question, Mr. President; but I will answer my friend as well as I can. The Constitution says merely, that when sitting for the trial of an impeachment, under an oath, and when in a certain case the standing organization of the Senate is given up and a new organization by a different presiding officer takes place, a certain judgment shall be had only on the votes of two thirds of the members present. It does not declare on that point anything as to what shall be the number of persons present of whom two thirds shall constitute a sufficient number to convict. Therefore, as a matter of mere precaution—I confess I did not think it necessary; and to get the rest of the committee out of this scrape that they seem, in the judgment of some of themselves, to have got into, I will acknowledge that I am the author of this article—as a matter of extreme precaution, to save debate and cavil at any time upon a point that might be made, although

I agree there would be nothing in it, I introduced those words out of abundant precaution.

Mr. FOWLER. You are speaking of the third article?

Mr. EDMUNDS. Yes; I am speaking on the point of what shall be a quorum of the court. Now we resolve ourselves into a court. It is still the Senate; but, as I said before, where it is spoken of in the rules all through it is the Senate sitting in the capacity of a judicial tribunal; and in that capacity the Constitution clearly intends that it shall sit. It is not exercising the ordinary functions of a political or legislative body, although it is the same body; it is plain when it commences the trial of an impeachment, but puts on a special, judicial, impartial character, and every man is called upon to swear that sitting in that character, exercising those judicial functions, he will act as a judge, which implies all that is just and fair and deliberate and impartial; and having thus clothed himself with that character, he, with his fellows, is to give a judgment, in the very language of the Constitution. Is it not, therefore, in all essential respects, while it is still the same body, exercising a special and different function from the general function that belongs to the body? And may we not properly say, in order to define the line of time and distinction between that when we are exercising legislative functions and that when we exercise judicial ones, that we resolve ourselves into a court when the oath again operates upon us, and we proceed in a character that is as different from our legislative character as it is possible for any character to be. But, sir, I have already occupied too much of the time of the Senate.

Mr. CONKLING. I do not wish to prolong this debate, but I beg the attention of Senators for one moment. The Senator from Vermont reads from the Journal of the Senate at the first session of the Congress during which Judge Peck was impeached and tried. In May, 1830, proceedings were commenced, and the whole matter went over until the 13th day of December, which was the second Monday of the second session. I have here the Journal of that day and thence onward, and from this I read. I repeat again, asking Senators to look at it, that on every occasion, every day when the trial was taken up, it was taken up by mere proclamation; that there was no motion and no order resolving the Senate into a court or into anything else; but that proclamation was made, and then the trial went on.

Mr. HOWARD. What was the business which they took up on proclamation?

Mr. CONKLING. The trial itself. Here is the Journal. Every day, without any motion or order resolving the Senate into anything——

Mr. HOWARD. What was the proclamation?

Mr. CONKLING. The proclamation appears inferentially to have been that which had been employed in the first instance, and that we have prescribed and transcribed here, which all persons were commanded to keep silence, &c.

Mr. SHERMAN. Was it not done on a motion?

Mr. CONKLING. Upon no motion, as appears by the Journal, whatever. The entry is simply:

"The court having been opened by proclamation."

Mr. WILLIAMS. I think perhaps the Journal does not show the entire proceedings. I have the proceedings here as they are recorded in the debates in Congress, and I find this, if the Senator will allow me to read it.

Mr. CONKLING. What is the date?

Mr. WILLIAMS. Monday, December 13, 1830, on the impeachment of Judge Peck. After stating some proceedings it proceeds as follows:

"At twelve o'clock the court of impeachment for the trial of Judge Peck, of Missouri, was opened in due form by proclamation of the marshal of the District of Columbia. The Senators were arranged on two sets of benches covered with green cloth, to the right and left of the chair occupied by the President of the Senate.

"On motion of Mr. Woodbury, the Secretary was ordered to inform the House of Representatives that the Senate had organized itself into a court of impeachment for the trial of James H. Peck, judge of the district court of the United States for the district of Missouri, and were ready to proceed with the trial, and that seats were prepared," &c.

Mr. CONKLING. That brings us precisely to the point. Here is the Journal, the record on which the resolution itself appears; not a description or statement of the resolution, but the resolution itself in *hæc verba*. Now, let us see what it is:

"Monday, December 13, 1830.

"On motion by Mr. WOODBURY,

"*Ordered*, That the Secretary inform the House of Representatives that the Senate are in their public Chamber, and are ready to proceed on the trial of the impeachment of James H. Peck, judge of the district court of the United States for the district of Missouri, and that seats are provided for the accommodation of the members."

There is the resolution on the Journal—in other words, the authentic official record. Is there any doubt what it is? A reporter, in giving an account of what took place, has stated his understanding or impression, but the resolution itself is the test, and I have read the whole of it.

But, Mr. President, I want to bring this matter to still another test. If Senators will take the trouble to look at the rules now proposed they will find certain forms of writs of different kinds.

Here is one:

"You and each of you are hereby commanded to appear before the Senate of the United States, sitting as a high court of impeachment."

Again, in the form of summons:

"The Senate of the United States, sitting as a high court of impeachment."

This is so far harmless that as a member of the committee I agreed to report it, but it is innovation. The ancient forms have no such thing. These words are introduced now for the first time, as far as I know.

Here are the forms in the trial of Judge Chase, in 1804:

"You, the said ——, are therefore hereby summoned to be and appear before the Senate of the United States of America at their Chamber in Washington."

The requisition is to appear before the Senate, and that only.

It will be found that every one of the old forms follows this. Here is one:

"You, ——, are therefore hereby summoned to be and appear before the Senate of the United States at their Chamber, in the city of Washington."

Here is the form of subpœna:

"You, and each of you, are hereby commanded to appear before the the Senate of the United States on the —— day of ——, at the Senate Chamber, in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate," &c.

When these rules were reprinted in 1862 (I have the reprint here) the same old form was observed; and we find, for the first time in the rules now presented, the proposition that witnesses and parties are to appear before the "high" court for the trial of "impeachment." I should have preferred the old forms, but I can vote for those proposed if we are not to be asked to go further still in planting a new system. But the arguments we hear do go much further. If it is all a mere matter of phraseology, and that only, it is of little consequence; but if it is, as I think, a matter of substance, involving consequences of some consideration, we may as well see to it that we commit ourselves to no untenable or doubtful doctrine.

Mr. FERRY. I understand that in the order of business we have passed through the first, second, and third sections, and are now upon the fourth; and yet this whole discussion has taken place upon the third section. As I understood the action of the Senate when we resolved to proceed to the consideration of the report article by article, the articles were to be gone through in committee, such suggestions made as might be presented by Senators, and upon the report of the committee to the Senate amendments to be offered. If I understood rightly, I should propose no amendment now. But I am satisfied that there is something more than mere form in the distinction which is taken here. I am satisfied that, upon this report as it now stands, taking it together, there is matter of substance in the question before the Senate; and, therefore, if the third section were now before the Senate I should propose an amendment; but as it is not before the Senate, and we are considering the fourth properly, I will merely give notice that when the matter is reported from the committee to the Senate I shall, unless some other Senator shall do it, move an amendment which will, I think, avoid the difficulty into which the report as it now stands might bring the Senate.

The PRESIDING OFFICER. The understanding of the Chair is, that the order made by the Senate was that the articles were to be read consecutively, no vote being taken upon them, and were to be open to amendment at any time after they had been read. The motion of the Senator would be in order, if the Chair apprehends the matter correctly.

Mr. FERRY. My first motion would be applicable to the whole report: that in the designation of this court the word "high" be stricken out wherever it occurs.

The PRESIDING OFFICER. The Senator from Connecticut moves that the word "high," wherever it occurs in connection with the phrase "court of impeachment," be stricken out.

Mr. HOWARD. I hope that will not be done.

The question being put, there were—ayes fifteen.

Mr. POMEROY. I ask for the yeas and nays on that motion. I think we shall hardly be able to obtain a quorum otherwise.

The yeas and nays were ordered.

Mr. POMEROY. If it is the intention of the Senator to strike out the words "high court," and leave the proceedings to be had simply before the Senate, as a Senator I really have no objection to striking out those words. I can find nothing to justify the idea that we are a court at all. The Constitution simply says that the Senate shall have sole charge of impeachment, and when sitting for that purpose, in a certain contingency, the Chief Justice shall preside; but we shall be sitting as a Senate, I apprehend. I adopted and concurred in this form in committee, because it was a sort of precedent that had come down to us along with the rules, and I did not want to make any change unless there was some reason for it.

Mr. WILLIAMS. I should like to ask the Senator if the Senate can convict anybody or render any judgment in its legislative capacity?

Mr. POMEROY. I do not say it is acting in its legislative capacity.

Mr. WILLIAMS. Does it not necessarily follow when the Constitution confers upon the Senate the power to convict a person and render a judgment, that it devolves upon it such capacities as make it a court?

Mr. POMEROY. The judicial capacity, I apprehend, applies to the same persons sitting in a Senate as well as under any other name. The power is derived from the Constitution, and if the Constitution says the Senate may have it, the Senate have it. To change the phraseology and call them a court does not give them any new power. I repeat, I voted in committee for these rules with the words "high court of impeachment" because there was precedent for them, and because I did not want to change a word or a letter on account of this pending trial that has been alluded to, unless it was necessary. I wanted to show, if possible, that we were preserving all the old forms, and adhering to every form and rule that had ever been adopted, so that there should be not only an apparent, but a real evidence of fairness and impartiality.

Mr. BAYARD. These words, as a mere matter of form, I think are proper. I do not care whether the word "high" is retained or not. The question as I view it is, under the Constitution is there not a court in fact stated, no matter what the name of it is? The Con-

stitution provides for the trial of individuals in cases of impeachment. It provides that the Senators shall all be sworn on that trial. It provides for conviction or acquittal. What do all these words mean? What is the known meaning of language if they do not apply to a court? It is not legislative action in any sense, but goes further. In one case the Constitution provides that another person, not a member of the Senate, shall preside in the Senate of the United States? Oh, no; in the court organized and composed of the Senate.

Again, in the following section the provision is that the "judgment" in cases of impeachment shall be limited, and so on. What is the meaning of the word "judgment," if not applied to the action of a court? Do you apply it to a legislative body? Does it not imply of necessity that the Constitution intends that a court shall be organized, composed of the Senate of the United States exclusively in most cases, but in the case of the impeachment of the President, of the Senate of the United States with the Chief Justice of the United States presiding? That is the intent of the Constitution. Is there any harm or any impropriety, or is it not in accordance with the intent that the body, when it sits for such a purpose under oath, should be designated as a court of impeachment or a high court of impeachment?

Now, sir, if a simple precedent be required, (because these rules were only published to-day, and, of course, our memory on these matters necessarily requires to be refreshed,) I could turn to one to show what the language of the Senate was at a very early day, on the trial of William Blount, who was a Senator from Tennessee. I have not read the whole case, but I have read enough to show that the body must be resolved into a court. In that case, on Friday, December 21, 1798—

"The Senate proceeded to take into consideration the report of the committee appointed to consider what rules are necessary to be adopted on the trial of William Blount, and the report, having been amended, was adopted, as follows:

"*Resolved*, That at the next opening of the court of impeachment the President shall inquire whether the managers have any requests to make before the counsel for the defendant are called upon to answer."

It goes on to provide other rules applicable to an organized court, and it is called expressly "court of impeachment." That was after the managers had been appointed and the articles of impeachment presented. I have not got the volume which contains the previous orders constituting it a court; but it shows that the Senate considered themselves as organized into a court, and they go on to prescribe the other rules as regards the counsel and hearing of counsel, and the mode of answer and plea, and that a copy of the defendant's answer shall be communicated to the House of Representatives, and also prescribes the form in which witnesses shall be sworn. Those rules and orders calling it a court were communicated to the House of Representatives under the order of the Senate of that day. I have no doubt that by reference to the case in other parts of the preliminary proceedings, if I had time to look into it, I could find in this, the earliest case, I believe, that occurred under the Constitution, that the Senate did not doubt that the effect of the constitutional provision was to constitute a court in fact, and that therefore it was perfectly proper and right that the Senate of the United States, of which that court was to be composed, should take proper steps for organizing itself into a judicial capacity.

Mr. FERRY. I do not move to strike out the word "high" merely as a matter of taste. I have no doubt that the Senate in the trial of an impeachment is a court; but what I am endeavoring to do is so as to amend this report that it shall not be understood from it that a court of impeachment is a different thing from the Senate of the United States. The interpolation of the word "high," together with other expressions and provisions occurring in this report, do give certainly to the ordinary reader the idea that the high court of impeachment, constituted under this report, is something different from the Senate of the United States. The provision is, that the Senate shall resolve itself, not simply into a court of impeachment, but into a high court of impeachment; and then there is a provision as to the numbers which shall constitute a quorum of that high court, as if it was needful to prescribe a rule for the Senate when organized into that court which did not apply to the Senate in its ordinary capacity. So in reference to the expression "sitting as a high court of impeachment" through all the forms which have been referred to by the Senator from New York. It is simply to obviate the danger of the construction which would arise under these rules, that the court of impeachment was a different body in its composition from the Senate of the United States, that I have moved this amendment, to be followed by other amendments. The next one I intended to move was to strike out the words "a quorum of the Senate shall constitute a quorum of the court," and subsequently, if no other Senator should do so, I would move to strike out the expressions quoted by the Senator from New York in the forms, so as to leave no doubt upon the reading of these rules that it was the Senate exercising its constitutional functions as a court, and not a different body which was proceeding to this trial or any other trial.

The PRESIDING OFFICER. The question is on the motion of the Senator from Connecticut, to strike out the word "high" where ever it occurs in connection with the phrase "court of impeachment."

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

YEAS—Messrs. Buckalew, Conkling, Davis, Dixon, Drake, Ferry, Fowler, Frelinghuysen, Hendricks, McCreery, Morrill of Vermont, Norton, Saulsbury, Tipton, Van Winkle, and Willey—16.

NAYS—Messrs. Anthony, Cameron, Chandler, Cole, Conness, Corbett, Edmunds, Grimes, Howard, Howe, Johnson, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Williams, and Wilson—21.

ABSENT—Messrs. Bayard, Cattell, Cragin, Doolittle, Fessenden, Harlan, Henderson, Morrill of Maine, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ross, Trumbull, Wade, and Yates—16.

So the amendment was not agreed to.

The Secretary read the fifth rule, as follows:

V. The presiding officer of the court shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules, or by the court, and to make and enforce such other regulations and orders in the premises as the court may authorize or provide.

The PRESIDING OFFICER. If no amendment be offered, the Secretary will read the next article.

The Secretary read rule six, as follows:

VI. The court shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful orders, rules, and regulations which it may deem essential or conducive to the ends of justice. And the presiding officer may, by the direction of the court, require the aid and assistance of any officer or person in the military, naval, or civil service of the United States, to enforce, execute, and carry into effect the lawful orders, mandates, writs, precepts, and judgments of said court.

Mr. SAULSBURY. I move to strike out of that article the following words:

And the presiding officer may, by the direction of the court, require the aid and assistance of any officer or person in the military, naval, or civil service of the United States, to enforce, execute, and carry into effect the lawful orders, mandates, writs, precepts, and judgments of said court.

My reason for making this motion is that, in my judgment, it is not in the constitutional power of the Senate of the United States, when acting in the discharge of its ordinary duties or as a court, to command the services of the Army and Navy or of any officer of the Army and Navy; that, if it is proper to clothe the court with such a power, it is necessary to pass an act of Congress giving them the authority, if such an act itself could be constitutionally passed. Suppose that this provision of this article remained, and the court called upon the officers of the Army and Navy to assist the court in the discharge of its duties, and they should assist them either as officers or in company with men under their command; what power would the court have to compel their attendance and their assistance? They are already under the command, in the first instance, of the General of the Army, and secondly, and chiefly, under that of the President of the United States.

How, therefore, can the Senate, acting as a Senate, command the services of the Army and Navy or the officers of the Army and Navy? Suppose they refuse to obey the order of the court made upon them for any attendance or to assist the court, how can you enforce that order? I submit, Mr. President, if their services can be invoked by any agency whatever, it can only be done after the passage of an act by the two Houses of Congress; that the court then would be acting in pursuance of law; but that the orders of this body, this Senate, are not law, and that the words, if they remain, will be a nullity and inoperative.

Mr. BUCKALEW. I meant to make an inquiry upon this clause of the member reporting the present rules, and that is, whether there is any provision made for examining witnesses, not before the Senate—the taking of evidence by deposition, or verifying of papers abroad—powers ordinarily exercised by a court under some regulation? I do not observe anything of that sort in the paper reported to us from the committee. There may be, however; but I have not seen it.

As to the point raised by the Senator from Delaware, my idea is this: the Senate are proceeding at this time to establish rules of order for the proceeding when the case shall come before the Senate; how it shall be introduced; how our business shall be conducted; how the powers which inhere in that court shall be exercised as to calling witnesses before it. I do not understand that we are proceeding to legislate; that is, to arm any person or any court with authority which it does not now possess. This clause to which the Senator from Delaware has called our attention is to confer upon the presiding officer of the court of impeachment authority to empower certain officers, in serving writs, to execute the orders which he may issue to them. Clearly that is legislation. Whatever may be the powers of the Senate, sitting as a court and under oath, to make orders and to provide how its orders shall be executed, it is clearly incompetent for the Senate now, not acting as a court, sitting as a branch of the Legislature, to enact anything, or to resolve anything which would have the effect and operation of law, and it cannot now exercise the powers which it will possess as a court after it is organized with reference to the enforcement of its own decrees and judgments. I submit, therefore, to the Senator from Vemont, who has participated somewhat in this debate, whether this authority to be conferred upon the presiding officer of selecting persons to execute the process of the court after its judgment shall have been announced, to enforce its decree or its judgment, if it be a power that does not require legislation, is not a power to be exercised by the Senate when it shall sit as a court, when its members shall be organized as such and be put under oath, and shall possess that judicial power which it does not now possess. I submit, therefore, that our rules, which we propose to adopt at this time, must be simply rules of order, and such as may be provided beforehand for the due and decent execution of our duty when we come to act in a new capacity.

It seems to me that inadvertently a matter has been introduced into the reported rules which either pertains to general legislation requiring an act of Congress or which pertains to the Senate when it shall be organized as a court. If it be intended to make an order with reference to the execution of its own decrees, it may then possibly confer authority upon officers of the Government or upon persons who are not officers of the Government to execute its judgment and sentence. Unquestion-

ably the Senate now possesses no such power. It possesses no judicial power at this moment, because the case is not before us and we are not organized. Clearly, it can exercise no legislative power, because it is but a single branch of Congress. I submit, therefore, in order to end all this matter, we had best omit the latter portion of this rule, and if it be necessary to have something of the kind, it pertains to the exercise of judicial power by the Senate when it comes to be organized as a court, and it can make such an order hereafter.

Mr. EDMUNDS. I will not occupy the time of the Senate. I should be sorry to see us strip ourselves, by refusing to adopt a rule of this kind, of the power which that rule confers. It is a power which inheres in a body like this, as it does to the House of Commons and the House of Lords in England, from whence we derive our theory of trying impeachments. This rule only regulates and puts in force in the way of execution this existing power. We have to act as an organized body, whether sitting as a Senate or sitting as a court, because, as I said before, it is the same body exercising different functions, sitting for different purposes. Therefore, when the Constitution permits us to make rules and regulations for the government of the Senate, I think under the Constitution we can make a regulation for the government of the Senate when it is exercising any of the functions that the Constitution imposes upon it. Being of the opinion that this power to protect ourselves and to enforce any order or mandate that the Constitution authorizes us to make exists, while I agree that it ought to have the assistance of law in a great many respects, it being in my judgment an inherent power, we have a right to regulate and to name the cases in which it shall be put in exercise. As I have said before, if any question arises after we are sworn, and the Chief Justice takes the chair, as to the fact that the functions of the court are cramped by these general rules, it will be time enough then for the court to say that it will or will not (because it is the same body) change or execute them. Now, I should be sorry to see the Senate exercising the constitutional power of making rules and regulations in general, refuse to provide for putting in exercise a power of this kind, while I hope and believe it will not be necessary to make use of it; especially in view of the fact that it has been published to the world in another place, (using parliamentary language,) by a distinguished leader, that our orders, processes, and mandates will be resisted.

Mr. WILLIAMS. I am inclined to agree with the views that have been taken of this part of the section by the Senators from Delaware and Pennsylvania, for the reasons which they have stated and for other reasons which, perhaps, I may suggest. Assuming that the Senate, when it proceeds to try an impeachment, is a court, I suppose it possesses those powers as to the execution of its judgments that other courts possess—no other or greater powers. I do not suppose that it can be contended that the Senate can make a rule which will have the force of law. True, the Senate may provide for its own government in the transaction of any particular kind of business; but I do not understand that the Senate can make a rule that will operate upon persons outside of the Senate, or that will operate like a legislative act.

Assuming, then, that the Senate, in making these rules, is confined to the creation of orders that regulate its own actions, it seems to me to follow necessarily that the court has no power by the use of military force to execute its judgment. Take any court; if you please the supreme court of the District of Columbia. Suppose a judgment is rendered by that court; it becomes the duty of the ministerial officer, the marshal or the sheriff, to execute that judgment. If resistance is made to the process in his hands, then he may summon the *posse comitatus* for the purpose of executing that process; and if the resistance is so strong as to defeat his proceedings, under such circumstances, if there be any law of the land which authorizes it, he may call upon the military to assist him in the execution of the process. But I submit that when judgment is rendered by the court the jurisdiction of the court is at an end, so far as enforcing its execution is concerned. Can the supreme court of the District of Columbia make an order and enter it upon its records that if any process of that court is resisted a military or naval force shall be employed in the execution of that process?

Mr. HENDRICKS. If the Senator will allow me to correct him, he is mistaken. These rules contemplate a continuance of the court as long as the court shall think it necessary to remain with a view to the exercise of any powers it may possess in the execution of the judgment. The rule provides for a continuance of the court after the judgment.

Mr. WILLIAMS. I do not see that that in any way affects the question of power as to whether the court in session may make an order commanding the military or naval forces of the United States to do any act whatever, unless it may be to protect the court, to protect its dignity, to preserve decorum. That is an inherent power in the court. But can the court issue an order as a court and say to General Grant, "You marshal your army in such a place for such a purpose?" Or can it issue an order to any admiral in the Navy to put his armed vessels in any particular position for any purpose? It seems to me that if there is no law on the subject, there ought to be a law providing for the enforcement of judgments that are rendered in cases of this kind. If there be no law, then such a law ought to be enacted; but, because there is no law, the Senate has no power to assume to create such a law and exercise legislative power. I do not desire to have the Senate in making these rules go beyond its jurisdiction, though I am in favor, of course, of all rules that are necessary to enable the Senate to transact its business. But it does seem to me that if in a case of impeachment that may be tried before the Senate a judgment of guilty should be pronounced by the court it can make no subsequent order for the execution of that judgment. If the person who is to be removed from office by that judgment refuses to obey that judgment then legislation will be necessary or some other power must be interposed.

Mr. SHERMAN. The Constitution provides for that case. With due deference to my friend, this rule merely provides for the enforcement of the interlocutory orders or decrees of the court. That is the effect of it. It is true the word "judgments" is used; but the moment the judgment of the Senate is pronounced and the result of that judgment is proclaimed, then by the Constitution, if the judgment should be in one direction, an officer is designated who is Commander-in-Chief of the Army of the United States.. If the judgment of the Senate should be in the other way, no order is to be executed, and consequently no case could arise. This does not provide for enforcing a final judgment. I agree with the Senator for that purpose it is not sufficient.

Mr. WILLIAMS. That is what I supposed the rule meant, and it is upon that assumption that I have been expressing my views.

Mr. SHERMAN. If that be so I concur with the Senator. If it is proposed by a mere act of the Senate to provide for a resistance to our final judgment I concur with him. There is no necessity for a law to do that; the Constitution does that already. The Constitution gives then to a designated officer power over the Army and Navy. The judgment of the court pronounced in due form is the final decision, and then another officer is designated by the law who has the whole command of the military and naval forces of the United States; so that there is no necessity for us to provide for the enforcement of our judgment. The makers of the Constitution have provided for that already.

Mr. WILLIAMS. I did not intend to make my remarks applicable to any incidental or interlocutory order of the court; but I supposed that this was intended to provide by a rule of the Senate for the enforcement of its final judgment as a court of impeachment by commanding the Army and Navy of the United States to execute that judgment.

Mr. JOHNSON. That is the purpose.

Mr. SAULSBURY. The honorable Senator will allow me to say that the word "judgments" is used in the portion of this rule which I propose to strike out, and the final judgment certainly is as much a judgment as any other.

Mr. SHERMAN. I do not see myself any objection to this clause as it stands. So far as it will have any legal effect whatever it will enable the Senate, while sitting as a court, to call to its aid such assistance as may be necessary to enforce the orders of the court. For instance, suppose we should send after a witness and he should refuse to come. We then send our little police force to arrest him and bring him here; and suppose they should be resisted? This authorizes us to call upon the military authority to enforce it. It is a power inherent in a court; it may be limited by law, but it is a power inherent in every court to enforce its judgment, its decree, not finally, but in the process, as a kind of police regulation, to enforce its interlocutory orders.

Mr. WILLIAMS. I do not agree to that proposition of law. I say that the Sergeant-at-Arms, or, if you please, the sheriff of the court, is to execute the order, and he has the power to summon the *posse comitatus* and to make the necessary rules for the enforcement of the process; but the court makes no order as to summoning military or naval forces to execute process, as I understand it.

Mr. SHERMAN. I think the Constitution of the United States makes the Senate of the United States a court, and ample power is given by the Constitution, it seems to me, without the aid of additional legislation, to enforce its interlocutory orders and decrees. If not, as a matter of course, this can do no harm, and it may do a great deal of good. It may be necessary to exercise the power in the progress of the trial. But I agree with the Senator as to the final judgment. The word "judgments" is used here; but there are many judgments. Every order is in the nature of a judgment. The word "judgment" techically used in a suit is the final judgment; but there may be many judgments, interlocutory judgments, interlocutory decrees, orders, &c. If this rule means to give to the Senate the power to enforce its final judgment, the Senator from Michigan will admit at once that it is nugatory, because the final judgment of this tribunal must depend upon those provisions of the Constitution of the United States which declare that another officer, upon our pronouncing judgment in a particular way, shall assume the executive authority of the Government and shall be the Commander-in-Chief of the Army and Navy of the United States.

Mr. HOWARD. I am not sure but that I should concur entirely with the honorable Senator from Ohio, although I do not think at this stage it is worth while to discuss such a question. I do not know, and I shall not undertake to say, how far the authority of the Senate would extend by way of enforcing its final judgment; but at the same time I do not yield, I do not undertake to say, I will not assume, that in a certain exigency the Senate would not have power, in and of itself, under the Constitution, to enforce a final judgment of its own. I leave that for consideration whenever it shall properly come up. But I do hope that this clause will not be stricken out.

The Senate is clothed with certain powers under the Constitution. As a single body it is required, solely required, to try all impeachments. This duty resting upon the body, and there being nothing in the Constitution itself directing the means by which it shall perform the duty, is it not perfectly clear that by implication the Senate is vested with all powers and authorities necessary to execute this par

ticular power to hear, try, and determine an impeachment? I take it no gentleman will deny that proposition.

Suppose, then, our authority is resisted. Suppose we issue an attachment to compel the attendance of a witness who is in contempt of our authority, and suppose there should be resistance on his part, violent resistance, to the service of the attachment by our ministerial officer, is the Senate entirely powerless to send assistance to our ministerial officer to enable him to perform the duty which our order imposes upon him? Certainly I cannot think so. I think we have authority as a court to see to it that justice is done; and justice can only be done by introducing witnesses here before us to swear to the truth; and when we order a witness to come here it is his duty to come; and if he refuses we have full authority, it seems to me, to use any amount of physical force which may be necessary to bring him here and compel him to swear.

I do not think this clause contemplates a final judgment of the Senate sitting as a court of impeachment; but it seems rather to contemplate an interlocutory order. Its language is:

"And the presiding officer may, by the direction of the court"—

That is, whenever the court shall see fit to direct the presiding officer to do so—

"require the aid and assistance of any officer or person in the naval, military, or civil service of the United States, to enforce, execute, and carry into effect the lawful orders, mandates, writs, precepts, and judgments of said court."

It is not necessary, it seems to me, to discuss the question how far the military or naval forces would be obliged to obey such a requirement on our part; but if they should voluntarily obey it then clearly they would be acting lawfully and properly in carrying out our order. I apprehend there will be no hesitation, should any such serious exigency require it, on the part of the military authorities to obey this Senate sitting as a court to perform its constitutional duty.

Mr. JOHNSON. This is a very interesting question, and it ought to be decided with calmness and deliberation. It may involve us and the country in trouble hereafter. I do not think that it will, but the possibility that it may is sufficient to make it, in my mind, a very grave inquiry. I have but a few words to say in support of the opinion which I am about to express. I concur with the honorable member from Delaware and the honorable member from Oregon, that we have no power to adopt the rule which we are asked to adopt. The rule which we are asked to adopt is one which, when proposed in the committee, of which I had the honor to be a member, I resisted, and I have seen no reason to change the opinion which led me to that course.

The authority conferred upon the Senate is to try all cases of impeachment, and the Constitution provides that when the President is the party impeached the Chief Justice is to preside; and the judgment which the Senate, acting as a court of impeachment, may pronounce cannot extend beyond a declaration that the party impeached shall be removed from office and be thereafter ineligible to any other office of trust or profit under the United States. The "judgment shall not," in the language of the Constitution "extend further than" that; and upon that judgment being rendered in the case of a President—we are to look at that as a case which is really now before us with reference to this question—the Vice President, if we have one, is to become President; and if the Vice President is himself the President and is himself the party impeached, the President *pro tempore* of the Senate is to become President. No process, therefore, is necessary to enforce that judgment to that extent. The moment it has been pronounced the incumbent who has been impeached ceases to be President, and the party next in succession becomes at once the President. When he is the President he has precisely the same authority that he who is elected President and who takes his office at the termination of the term of his predecessor has; and what is that? The law arms him with all the powers necessary to protect him and his authority. He can, if necessary, apply to the courts, if such a thing can be conceived as possible to occur, and the courts will relieve him. He will have, as I think, the power in such a case as that, as Commander-in-Chief of the Army and Navy of the United States, to call on the Army and Navy of the United States, should it be necessary, to aid him in getting possession of his complete authority.

That being the case, where, in the first place, is the occasion for arming the court which is to try him with the authority to enforce its judgment by means of military power? I think honorable members are mistaken as to the extent of the power conferred upon the Senate when acting in the capacity of a court of impeachment. Its whole power is to try and to adjudge, and the moment the trial ends in judgment its authority as a court is at an end.

Mr. HOWARD. Will the Senator pardon me for making one suggestion? The language of the Constitution is, that no punishment upon an impeachment shall extend beyond removal from office and disability from holding office in the future. Is not removal from office an act to be done?

Mr. JOHNSON. That is done by the judgment. What I said was—and that was the part of the Constitution to which I referred—that the removal from office is effected by means of the judgment. He is just as much out of office the moment the judgment is pronounced, in point of law, as he would be if you took him out of the White House and put him into the street.

Mr. HOWARD. Suppose he should refuse to go out?

Mr. JOHNSON. His successor has the power; not the court. But the Constitution proceeds upon no such idea as that the man impeached, and who may be convicted, will hold on to his office. If, however, such an event should occur, then he who is President is armed with all the authority to turn his predecessor out; that he who will be elected to take his seat on the 4th of March a twelvemonth will be armed with power, for the purpose of taking his seat if his immediate predecessor shall deny his authority, to take him out of the office physically.

But, Mr. President, the honorable member from Oregon is clearly right, as I think, with due deference to those who entertain a different opinion, when he says that the mode of executing a judgment is a matter of legislation. The Supreme Court of the United States, and every court, when it is constituted a court to try causes, is empowered to proceed to judgment; but the mode of enforcing the judgment which may be so rendered is always a matter of legislation. What process shall issue; who shall execute it; how, if resisted, is resistance to be defeated, are subjects of legislation. Now, we have no legislative power. It would be just as idle to assume that the Supreme Court of the United States, independent of legislation, would have the authority to execute its own judgments as that we, in the absence of legislation, have any authority to enforce our judgment.

The honorable member from Ohio says that all that the rule is intended to accomplish is to give to the Senate when acting in the capacity of a court the authority to enforce its interlocutory orders. The honorable member is mistaken, both as to the meaning of the words used and as to the obvious purpose with which they were used. First, as to the meaning of the words: the rule says that the court may pass all interlocutory orders, and it gives it the authority to enforce all its interlocutory orders; but, not satisfied with that, it proceeds to give the court power to enforce all its judgments, using the term "judgment" as contradistinguished from the term "order." If there could be any doubt upon that subject, that doubt would at once be seen to be solved by what fell from the honorable member from Vermont. He has told us that it is important to keep these words in; that it is important that the Senate as a court should have the authority to enforce its judgment, because in parliamentary language, as he said, some public man elsewhere—I suppose he meant in the other House—had given notice that in the event of a conviction the party convicted might resist. That, of course, means a resistance to the final judgment of the Senate.

Mr. EDMUNDS. My friend from Maryland will pardon me for interrupting him; but he does not exactly state what I said correctly. I said that a person in another place had said that our proceedings would be resisted, or words to that effect. I said nothing that applied particularly to any final judgment, if I correctly remember what I stated.

Mr. JOHNSON. The honorable member certainly meant that some judgments might be resisted; and I suppose if any is to be resisted the most likely to be resisted is the final judgment; and, if I understood the honorable member, the power should be given to the court looking to that contingency. Now, I say, without knowing more than any other member of the Senate knows—for I have had no communication with the party to whom reference is necessarily made since the subject of impeachment came before either branch of Congress—I say, with as much confidence as I can speak of any future event of which I have no positive knowledge, that no idea has been entertained, or will be entertained, on the part of the President, upon the contingency of his conviction, of resisting the judgment of the court.

Mr. EDMUNDS. The Senator will do me the justice to remember that I stated myself that I did not expect it.

Mr. JOHNSON. I understand the honorable member to have stated that; but still the power is asked because of a possibility that that may be the result. Then, of course, the power is asked with a view to give to the court the authority to call upon the military to enforce that judgment. If that is given then the military are to go to the President and arrest him or do whatever they may find to be necessary to accomplish the end. Now, what I mean to say is that such a power as that in reference to any judgment pronounced by any judicial tribunal cannot be given, never has been given except by legislation, and the Senate acting as a court or the Senate acting by itself has no power of legislation.

Mr. FRELINGHUYSEN. Mr. President, the only power that this provision gives the Senate is that power which a rule of the Senate would give. Such a rule, if it becomes necessary, and if we have the legal right to adopt it, can be adopted at any time.

I think it quite questionable whether we, as a Senate, not acting legislatively, have the right to say that we will invest the presiding officer of the court with the power to call upon officers of the Navy and Army. But my objection to the proposition is a little different from any that has yet been stated. I think it is very dangerous for us to assume the exercise of a power that does not belong to us or that is of very doubtful right, because that assumption would be a temptation, an excuse, an apology for the assumption of power, possibly in other departments of the Government. I think it is of the first importance that the Senate should keep itself strictly within its constitutional rights.

Mr. EDMUNDS. So do I. I would be as reluctant as my friend from New Jersey to go a hair's breadth beyond the constitutional rights of the Senate; but our difference is that he seems to suppose that while the Constitution reposes in this body the sole power to try impeachments, that is a naked and barren power, that nothing can be implied as existing in it or inferred as incidental to it; apparently that is the logic of the argument. The Constitution says that we are to try and to adjudge, and there the Constitution stops; and hence, upon the logic of that proposition, inasmuch as the Constitution does not provide how we

are to get the Chief Justice in here in a certain case, or how we are to be sworn in a certain other case, the law providing no oath, the Constitution providing no oath, merely stating that we are to be sworn, we are perfectly helpless. In short, the argument is that the Constitution is not a code of procedure; that it does not contain a set of rules and regulations. Mr. President, that is a mistake. It is a mistaken idea of the nature of the Constitution, of the idea of conferring constitutional power. Wherever there is a grant of power by a law or by a constitution to a tribunal or a body or a person there is granted in that power, as a part of it, there is conferred as in it and of it and a part of it all the power that is necessary, justly and properly necessary, to the due exercise of the power conferred. So the Supreme Court frequently decided in the days of Marshall; and I challenge contradiction upon the proposition.

Mr. FRELINGHUYSEN. It seems to me not only that the Constitution does not invest the Senate with the right of calling upon the naval and military forces to enforce the final judgment of this court, but I think it is directly contrary to the Constitution to call upon them. I think the Constitution provides that the executive officer of this Government, the successor of the Chief Magistrate, should he be impeached, must enforce that decree.

Mr. EDMUNDS. Is he not a part of the military or naval or civil force, I should like to know?

Mr. FRELINGHUYSEN. Is he to be regulated by rule of the Senate, I would ask?

Mr. EDMUNDS. He is not regulated. The Senate gives itself the power, without having an endless debate on the subject, to direct its Presiding Officer, when we have a justice of the Supreme Court on trial or any other man accused, to apply to the President of the United States and ask of him the assistance that is necessary to protect us in the exercise of our functions. It does not assume the legislative power of imposing any penalty if that President should refuse. There is the distinction. If we were desiring to get a witness into court who refused to come, and force were needed to bring him upon attachment, it would be necessary, if he should bring action against one of the assistants of the Sergeant-at-Arms, for that assistant to defend on the authority of the Senate, and to prove that it was by our authority that he assisted the Sergeant-at-Arms in bringing in the witness. Now, what does this rule provide? It provides for all such cases in advance, without having a squabble over them at the time. By it our authority is given in advance, by a mere order to that effect on a single point, to call upon everybody to assist in the enforcement of our process.

Now, as to the final process, if you speak of it as process—it is not so spoken of in the report; it is spoken of as a judgment—it is said that the word "judgment" may include the final judgment. The term "judgment," of course, does in its natural meaning include final judgments as well as interlocutory ones; but we must always construe language in reference to the subject to which it is to be applied. As applied to interlocutory judgments, we all seem to agree that it is proper. When you come to final judgment, although there is no express exception made, the nature of the final judgment has been well stated by the Senator from Ohio; it is a judgment the very force and operation of the pronouncing of which is to change the office, speaking in the case of a President, from one person to another; so that the judgment in a certain sense may be said to execute itself. Therefore, if you say the word includes final judgment, and you may in that literal sense, it does no harm, because all that then you would call upon anybody to do would be to call upon the new and lawful President of the United States to assist the Senate in putting himself into possession of his own office. You might say that is entirely unnecessary. Undoubtedly it is; but in using general language you are obliged sometimes to make use of terms that you can apply to a state of circumstances where it would be wholly unnecessary. But, sir, I am taking too much time.

Mr. HENDRICKS. For information I wish to ask the Senator from Vermont what possible interlocutory judgment can be rendered?

Mr. EDMUNDS. A judgment overruling a motion to dismiss the prosecution; a judgment declaring that a certain witness who refuses to answer is in contempt; and a great many others that I might name.

Mr. HENDRICKS. I am really surprised at the answer that the Senator from Vermont gives me to this question. What is an interlocutory judgment in the practice of the law is well known to him and to myself; and the cases that he mentions do not belong to the description at all.

Mr. EDMUNDS. I differ with the Senator entirely.

Mr. HENDRICKS. The Senator will find no authority to sustain him. Such things as he mentions now belong to the designation of interlocutory orders. They are not judgments. They do not partake of the nature of judgments.

Mr. SHERMAN. I am satisfied, after the discussion we have had, that we ought to strike out the words "and judgment." I am satisfied that all that is necessary is included in the words "lawful orders, mandates, writs, and precepts;" and the words "and judgments" after "precepts" are unnecessary. I think with those words stricken out every Senator ought to vote for the rule. That is the view I take of it. The Senate has the power now, through its Sergeant-at-Arms, to keep order in this Hall. We have power to authorize him to employ a page to assist him; to employ anybody else that we choose to direct to assist him. We have a right to authorize him to employ any one to assist him for the purpose of preserving order and doing what is provided for by law. We have a right to authorize him to go out and ask any officer of the Army or the Navy, or the *posse comitatus*, the whole mass of citizens, to assist him in the preservation of order and the execution of our process. There is, therefore, no practical difficulty in the first part of this rule. The only difficulty arises out of the use of the word "judgments" in the last clause, and I think the purpose is sufficiently covered by the previous words. I therefore move to amend the clause proposed to be stricken out by the Senator from Delaware by striking out the words "and judgments" in the last line, and inserting the word "and" before the word "precepts."

The PRESIDING OFFICER. That motion is in order, being to perfect the part proposed to be stricken out.

Mr. HENDRICKS. I ask the attention of the Senator from Ohio to one or two suggestions that I desire to make. If this provision be not necessary it ought not to be here. Every Senator certainly does feel the gravity of the business in which we are likely to be engaged. It is a proceeding that will agitate very profoundly the feelings and the interests of the country; and we have no right to go further in these rules and regulations than the necessity of the case may require. This code of rules is not a law. It is not to have the force and effect of law. It is simply intended to be a rule of the Senate, a power exercised by the Senate, which, as a body, it possesses. Every Senator does admit that this power will be possessed by the Senate in the progress of any trial as well as now. That is not questioned. Now, suppose the power to be possessed by the Senate to call upon the Army and Navy, ought we to anticipate the necessity for its exercise? No Senator believes that we shall be called upon to exercise that power. I do not entertain the thought for a moment that in any phase of the proceedings that will be necessary. But suppose it should become necessary; then the power is in the possession of the Senate to be exercised upon the necessity.

Mr. HOWARD. I understand that the Senator from Ohio moves to strike out the words "and judgments."

Mr. SHERMAN. Yes, sir.

Mr. HOWARD. So as to read "writs and precepts of said court." I have no objection to the amendment. I hope the vote will be taken.

Mr. HENDRICKS. But I did not want to have any part of this provision in. I have no objection to striking out those words; but I want to finish what I was saying.

I feel a good deal of interest in this matter. I do not want to see the country unnecessarily agitated; and for the Senate in advance to say that it may assume the power to call out the Army and Navy during the progress of a trial which ought to be characterized by everything else than by the exercise of violence is calculated unnecessarily to agitate and disturb the country. If there shall arise during the progress of the trial, as I was remarking, a necessity for the exercise of any such power, (conceding that we possess it for the purpose of the argument,) why not exercise the power then? I do not believe we possess it. I do not think the Senate for any purpose connected with its judicial power can call out the Army and the Navy any more than I believe the Supreme Court of the United States can do it; any more than I believe one of the courts can do it, except by the express provision of law. Power is given, I believe, to some officers not judicial, in the civil-rights bill, to call upon the Army and the Navy. It is either in that bill or in the Freedmen's Bureau bill, I forget which. The power is not there conferred on a court; there the power is conferred on the President or some general under his authority; but here the power for the first time is proposed to be given to a court.

Mr. WILLIAMS. That is conferred by law.

Mr. HENDRICKS. Yes, I say that is conferred by law. It was conceded that it was not enjoyed by either branch of Congress or a court independently of law; and as this will do harm, as this is not necessary now for any possible good purpose, in my judgment it is simply vicious, and I hope the Senate will strike it off.

Mr. TRUMBULL. I will state that in the committee, as I was a member of it, I thought it better not to have this clause in, and I was in favor of the old rules as far as they could be made applicable to the present case. I thought the fewest changes made the best. Now, I submit to the Senate whether we shall not accomplish all we want by adopting the old rule on this point. I think the Senator from Indiana will be satisfied with that, and I think we ought all to be satisfied with it. The old rule provided that the presiding officer "shall also be authorized to direct the employment of the marshal of the District of Columbia, or any other person or persons during the trial, to discharge such duties as may be prescribed by him." The marshal has authority under the general laws to call a *posse*, if necessary, to call on the military if necessary. We have a marshal in the District of Columbia not acceptable I believe to everybody, but I think a marshal who will do his duty, whatever his duty is, as faithfully as anybody else. Why not strike out all of the words of this rule? after the word "court" strike out and insert what I have read, so as to read:

> The presiding officer may by the direction of the court direct the employment of the marshal of the District of Columbia, or any other person or persons, during the trial to discharge such duties as may be prescribed by him.

I think that would get us out of this difficulty, and I confess I do not like the clause as it is and shall vote to strike it out.

Mr. HENDRICKS. Does not the Sergeant-at-Arms possess all the powers of the marshal?

Mr. TRUMBULL. I do not know that he does; I think not. I think the marshal has powers defined by law. I doubt if the Sergeant-at-Arms can call upon a *posse*.

Mr. SAULSBURY. I will make this suggestion: what power has the Senate of the United States over the marshal of the District? They have control over their own Sergeant-at-Arms; but to give them authority over the marshal of the District requires as much legislation on the part of Congress as it would to give them control over the Army and Navy.

Mr. HENDRICKS. I will ask the Senator one question. Is it not competent for the Senate to elect or select in any way they choose to make that selection an executive officer clothed with functions by law to execute a power that is certainly possessed by us? Now, if the Senate by rule shall adopt the marshal as this executive officer for all purposes, why may it not do it?

Mr. SAULSBURY. Then comes up the question: suppose the marshal refuses, where is your authority, as one branch of the legislative power of the Government, to say that he shall execute your orders? The court will have the power to appoint an officer perhaps to execute its orders, to serve its process; but when you go out of that power which belongs to a court, perhaps inherently and necessarily, although the Senate of the United States as a court possesses very little power and none except what is delegated—when you go out of the power which you possess under the Constitution and undertake to control by a separate act of your own an officer appointed by law, I submit that you have not the authority, but it would require the action of the two Houses.

Mr. GRIMES. According to my recollection, the marshal has conferred upon him by statutes of the United States the authority to execute the judicial process of any court within the District of Columbia. Now, if we are a court, a high court of impeachment, he not only has the prerogative, but it his duty, to execute the process that issues from that court.

Mr. SAULSBURY. If he possess that power under existing law it is another thing.

Mr. GRIMES. And he has a power which the Sergeant-at-Arms has not, a power corresponding to that which is granted under the statutes of every State to a sheriff, to call to his aid the *posse comitatus*, or the military authority, to enforce the decrees of the court whenever they are resisted, not conferred upon him by virtue of the judicial authority, but because the Legislative Assembly of the State or Congress has anticipated that such an event may arise, and provided in what way the sheriff or the marshal may call out the *posse comitatus*.

Mr. POMEROY. If the Senator from Illinois will amend his motion and say that the Sergeant-at-Arms of the Senate may do this, I shall have no objection, but the marshal of the District may have other duties. The marshal cannot have greater power than what we propose in this rule to give to any officer who may be employed; and if the Senator will say that the Sergeant-at-Arms of the Senate, an officer of the Senate, whom we have a right to direct, may do this service under the direction of the court, I certainly shall have no objection. But the marshal of the District has other duties, and may have those that are incompatible, inconsistent with the discharge of these duties at this time.

Mr. TRUMBULL. I have no tenacity about this. I should be quite willing to have it done by the Sergeant-at-Arms. The only consideration which moved me was that on entering upon this trial, about which the country is sensitive, and which is a delicate matter at least, our wisest course would be to take the rules which had been adopted nearly seventy years ago, and under which five trials have been had, and out of the administration of which no difficulties had arisen. I was not for anticipating troubles. I was disposed to take the old rules, change them as far as was necessary to meet the changed case, and proceed under them; and if we shall find, as some anticipate, which I do not, a disposition to trifle with the Senate, to take up its time by dilatory motions and prolonged arguments, it will be in our power at any time to stop that, and the whole world will then say that the Senate is justified in stopping such a course of proceeding; but I would not put ourselves into a strait-jacket to begin with.

That was my view of it. Now, while I made this suggestion to adopt the old rule on this point, I have no objection to putting the matter in the charge of the officer of the Senate. I read the old rule that we had acted under in the Senate in all these trials.

Mr. BUCKALEW. Read it again.

Mr. TRUMBULL. It is the eighth rule, adopted as long ago as Chase's trial. "He"—the President of the Senate in that case—

"He shall also be authorized to direct the employment of the marshal of the District of Columbia, or any other person or persons, during the trial, to discharge such duties as may be prescribed by him."

We should have to change the wording a little.

Mr. POMEROY. That is entirely stricken out, and the last rule is that "all process," and we might add "orders," "shall be served by the Sergeant-at-Arms of the Senate, unless otherwise ordered by the court."

Mr. TRUMBULL. That would not be inconsistent with this. We would not employ the marshal unless there was an occasion. It would be a discretionary authority. Adopting the old rule, he would be employed if there was found to be any occasion; if not, your Sergeant-at-Arms would do all the duties. I am not disposed to take up any time. I expressed my views in committee in regard to this point.

Mr. CONNESS. I desire to ask the Senator, before he takes his seat, whether his arguments are predicated upon a denial of the power of the Senate to call upon any part of the organized force of the nation in case it should be necessary.

Mr. TRUMBULL. I will say to my friend from California that, in my judgment, sitting as a court of impeachment, the Senate would have authority to adopt the necessary means to carry into effect its orders. I cannot say how far it would have to go, but I think it would have that right.

Mr. CONNESS. I agree with the Senator. I did not understand him.

Mr. HOWARD. I ask that the amendment offered by the Senator from Illinois may be read.

The PRESIDING OFFICER. That amendment is not now in order.

Mr. HOWARD. Then I understand that the pending question is the motion to strike out the latter clause of the sixth rule.

The PRESIDING OFFICER. But pending that there is a motion to strike out the words "and judgments," which, being a motion to perfect the clause, is first in order.

Mr. HOWARD. I hope that question will be taken, because I think there is no opposition to that.

Mr. EDMUNDS. That does not need any vote. It may be done by common consent. The clause means the same thing with those words out as with them in exactly.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio, to strike out the words "and judgments."

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Delaware, to strike out the concluding part of the sixth rule.

Mr. CONNESS. Let it be read.

The PRESIDING OFFICER. The Secretary will read the words proposed to be stricken out.

The Secretary read as follows:

And the presiding officer may, by the direction of the court, require the aid and assistance of any officer or person in the military, naval, or civil service of the United States, to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of said court.

Mr. BUCKALEW. I do not think the amendment adopted has made any material alteration in this rule. The word "judgments" even is retained in a prior part of the rule, and raises the very question which has been debated on the amendment to the latter part. Now I have a suggestion to make; I shall not occupy time; and it is that it is not necessary at present to adopt on this point any other than the fifth rule, the one which precedes that now under consideration. That authorizes the presiding officer of the court "to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules or by the court, and to make and enforce such other regulations and orders in the premises as the court may authorize or provide." That is comprehensive; that is a rule of order; that is to enable our presiding officer to act for us without special votes while the proceeding is going on. It covers and comprehends everything that is necessary as a rule of order in the transaction of our business. Now, if there be anything additional necessary, it will be a provision designating the officer or person by whom writs or process may be executed. That can be done when the court is sitting, or it may be done now by anticipation.

In the first place, it is manifestly proper that our subpœnas and other writs should be executed by our Sergeant-at-Arms and by his assistants, legally chosen. The Sergeant-at-Arms has unquestioned authority to execute generally process issued by the Senate, and by a rule of order, no doubt, he could execute any writ or process we may choose, pending this proceeding, to issue; and authority is understood to exist in the assistants of the Sergeant-at-Arms also to perform those duties.

Now as to the marshal of the District of Columbia, if the impression is correct that by the general laws of the District of Columbia he is authorized to execute all writs and processes on behalf of the United States issued by any court whatever exercising jurisdiction under the Constitution and laws of the United States, it would be perfectly proper to designate him also as another officer that may be resorted to.

I think, therefore, if we adopt any rule of order in addition to the fifth rule, which I have read, it should be confined to the point of designating officials who may be authorized to act by the presiding officer of the court of impeachment, and then the question will be between the two. I am entirely indifferent which is selected, but there ought to be some designation, so that the presiding officer will know which to employ; and as a question of order it will be very convenient if the Senate shall decide that. For my part, before adopting the rule to which the Senator from Illinois referred, I should like to understand whether by general law the marshal has authority to execute these writs and process that we may issue, not only in the District of Columbia, but outside of the District of Columbia. If so, there can be no objection certainly to adopting the former rule or something similar to it.

Hence, what I desire is to omit this sixth rule, which is wholly unnecessary, and to substitute for the whole of it a simple provision designating the officer who may act under the orders of the presiding officer of the court of impeachment, who has conferred upon him all necessary powers under the previous rule.

Mr. CONNESS. I wish to call the attention of the Senator from Pennsylvania and the Senate to a very distinctive difference between these two rules, the fifth and the sixth. The fifth provides for a power to be exercised by the presiding officer of the court, and that is all. The sixth rule describes the power to be exercised by the court itself after it shall be organized, the Senate now as a Senate, a legislative body, being engaged in prescribing and providing for the power to be exercised by the court or the Senate when it shall become a court. Therefore, there is a very great difference between the two rules; the fifth rule, as

I have observed, covering simply the power of the presiding officer of the court, and the sixth rule granting to the court itself the power and the authority to punish, in a summary way, contempts and disobedience to its lawful orders, &c. Now, it is a question to be decided whether, before the court shall be organized, the Senate shall prescribe exactly what the extent and limits of the powers of the court shall be. The one rule cannot take the place of the other properly.

Mr. BUCKALEW. I simply said that the sixth rule was unnecessary; I did not go into an argument to show why it was so. There is no single thing stated in that sixth rule about which there is any doubt. My objection to it is that it attempts to legislate, and that it effects nothing.

In the first place it provides that "the court shall have power"—to do what? "To compel the attendance of witnesses." Who doubts that? It is inherent in the court. That is not a rule of order; it is a declaration of its powers, which no human being doubts, which has been exercised always. In the next place, "to enforce obedience to its orders, mandates, writs, precepts, and judgments," by attachment, if you choose. That is a power inherent in all courts and in this court of impeachment. Nobody doubts it. Here is a great quantity of words without any office, put in the form of legislation, conferring powers on this court which it already possesses, which we cannot change if we would. Then, "and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, writs, precepts, or judgments." That is inherent in it, also, and has been exercised by both Houses of Congress in their legislative capacity even: and much clearer is the power in a court of impeachment. "And to make all lawful orders, rules, and regulations which it may deem essential or conducive to the ends of justice;" that is, to the transaction of business. That is all there is in the clause. It is, therefore, wholly unnecessary. The material part, however, is the concluding portion of the rule, which is to authorize the presiding officer to select anybody and everybody he may choose to exercise the authority which has been conferred on him by the previous rule; and as to that I repeat, the best thing we can do is to designate either the Sergeant-at-Arms or the marshal of the District of Columbia.

I submit, then, in every point of view in which this question can be viewed, it would be expedient to omit this sixth rule and substitute for it a simple provision such as I have stated.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware, to strike out the concluding clause of the sixth rule.

Mr. HENDRICKS. Suppose that motion should not prevail, would the motion of the Senator from Illinois be in order, to strike out and insert?

The PRESIDING OFFICER. It would be.

Mr. HOWARD. I hope gentlemen will make up their minds to permit us to take a vote, if practicable, just now. I hope this clause will not be stricken out.

The question being put, the ayes were—eighteen.

Mr. HOWARD. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Corbett, Davis, Dixon, Drake, Ferry, Fowler, Frelinghuysen, Harlan, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Ross, Saulsbury, Sprague, Tipton, Trumbull, Van Winkle, Willey, and Williams—25.

NAYS—Messrs. Conkling, Conness, Edmunds, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Thayer, and Wilson—15.

ABSENT—Messrs. Cameron, Cattell, Chandler, Cragin, Doolittle, Fessenden, Grimes, Henderson, Howe, Morton, Patterson of New Hampshire, Wade, and Yates—13,

So the motion to strike out was agreed to.

Mr. TRUMBULL. I move now to insert in place of the words which have just been stricken out these words:

And the Sergeant-at-Arms may, under the direction of the presiding officer, employ such assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of said court.

The question has been asked in regard to the authority of the marshal of the District. I have not had time to examine the law, and I do not know that there is any statute compelling the marshal to execute the orders of the Senate, and it may be necessary to execute orders outside of the District in impeachment cases, and often will, I apprehend; and of course the marshal has no authority outside of the District. I have therefore proposed this amendment to authorize the Sergeant-at-Arms, under the direction of the presiding officer, to do it.

Mr. HOWARD. Why not say "under the direction of the court?"

Mr. TRUMBULL. I have no objection to saying "under the direction of the court." I would just as soon it should be that way; I thought it simpler to put it in this shape.

Mr. DRAKE. Will the honorable Senator from Illinois withdraw his motion for a moment? I have a motion to make in reference to this rule, which had better be disposed of before the honorable Senator's amendment is presented. It will probably require some modification of his amendment, if my motion should be adopted.

Mr. TRUMBULL. I am not tenacious about offering mine now.

Mr. DRAKE. I move to strike out the rest of that rule. I do it upon the ground that most manifestly the Senate of the United States has no right to confer any powers upon the court of impeachment. This rule assumes to say what the court shall have power to do. If that power exists at all it inheres in the very existence of the court; and if it does not exist at all, the Senate cannot, by any rule, confer it upon the court. All that we have to do is, not to define the powers of the court, but to regulate the course of proceedings in the court simply. I move, therefore, to strike out the remainder of the sixth rule altogether, and upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. This is the same question as to whether we call ourselves a court or a Senate, that we have once had up and decided, and I for one shall regard it as another test of whether in the main the rules recommended by the committee are satisfactory to the Senate or not, because the theory that has already been developed and stated, and once voted upon, runs through all the rules, not that we are a different body but that we are exercising different functions, which it is necessary should be clearly separated from our ordinary functions. But, as I have said, this matter has been once discussed, and I merely call attention to it in order that I may be guided in anything further that may take place about it on the question of whether the Senate is satisfied with what it appears to have already voted as to the nature of the distinction that runs through the whole of the rules reported.

Mr. JOHNSON. We have not yet gone through six rules, and it is now five o'clock. I think the number reported by the committee is twenty-five. It is obvious, it seems to me, that we shall be unable to agree upon the entire rules to-day. The question involved in the amendment proposed by the honorable member from Missouri is a very important one. I think we ought to take time to consider it. I move, therefore, that the Senate do now adjourn.

Mr. HOWARD. I hope not.

Mr. CONKLING. I hope the Senator from Maryland will withdraw the motion long enough to let us understand what it is that he refers to as the proposition of the Senator from Missouri.

Mr. DRAKE. I have made my motion and explained it, as I supposed.

Mr. CONKLING. I beg pardon of the Senator. I did not understand that he made a motion; I thought he made a suggestion.

Mr. DRAKE. I made a motion to strike out the remainder of the sixth rule for the reason that its language says this: "the court shall have power to compel the attendance of witnesses," &c. I say if that power is inherent in the court by its very existence as a court, we cannot confer it by a rule adopted here in the Senate, that the office of rules to be adopted here is merely to regulate the proceedings of the court, not to define its powers.

Mr. CONKLING. And the Senator's motion ought to strike out the rest of that rule?

Mr. DRAKE. All of the rule that remains now, after the previous vote striking out the latter clause of it.

The PRESIDING OFFICER. The pending motion is that the Senate adjourn, which is not debatable.

Mr. TRUMBULL. If the Senator from Maryland will withdraw that motion I will offer my amendment, so that it may be ready. It is in order to move it.

Mr. JOHNSON. I will withdraw the motion if the honorable member will renew it before he sits down.

Mr. TRUMBULL. I merely want to offer the amendment, and then the Senator can renew his motion.

Mr. JOHNSON. Very well. I do not object.

Mr. TRUMBULL. I suppose it is in order to perfect the words proposed to be stricken out before the question is taken on the motion to strike out, made by the Senator from Missouri. I therefore send my amendment to the Chair.

Mr. JOHNSON. I now move that the Senate adjourn.

Messrs. HOWARD and CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 13, nays 27; as follows:

YEAS — Messrs. Anthony, Bayard, Buckalew, Davis, Dixon, Fowler, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Saulsbury, and Sprague—13.

NAYS—Messrs. Cameron, Chandler, Conkling, Conness, Corbett, Edmunds, Ferry, Frelinghuysen, Harlan, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Cattell, Cole, Cragin, Doolittle, Drake, Fessenden, Grimes, Henderson, Howe, Morton, Patterson of New Hampshire, Wade, and Yates—13.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The amendment of the Senator from Illinois is in order to perfect the section before the vote is taken on striking it out.

Mr. DRAKE. The Chair states that the question is on the motion of the Senator from Illinois. I do not understand that to be the question now pending. The yeas and nays have been ordered upon my motion to strike out the remainder of the sixth rule.

The PRESIDING OFFICER. The Senator from Missouri moved to strike out the whole of the remaining portion of the sixth rule. The Senator from Illinois has moved to perfect the rule. It is in order to perfect a proposition before a motion to strike out is acted upon. The motion of the Senator from Illinois takes precedence of the motion of the Senator from Missouri.

Mr. DRAKE. I understood that the Senator from Illinois only presented his motion that it might be on the desk in view of the probable adjournment of the Senate at the moment.

The PRESIDING OFFICER. The Chair did not so understand the Senator from Illinois.

Mr. TRUMBULL. No. I saw what the purpose of the Senator from Missouri was, and my intention was to endeavor to amend the section before it was stricken out. I offer my amendment now.

Mr. DRAKE. Very well.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Illinois.

Mr. EDMUNDS. Let it be read.

The Secretary read the amendment of Mr. TRUMBULL, which was to add after the word "justice," at the end of the sixth rule, as amended:

And the Sergeant-at-Arms, under the discretion of the court, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of said court.

Mr. DRAKE. I would very much prefer that the Senator from Illinois would not insist upon that amendment at this moment, because the amendment in itself, as a substantive individual proposition, is not objectionable; nobody would have any objection to it. But if he attaches it on to the rule as it now stands, then when my motion comes up to strike out the sixth rule it is in a different shape altogether from what it was when I made the motion originally. It has that which is good attached to it, and we do not get at the proposition I am anxious to get at, which is to strike out what I conceive to be objectionable. If the honorable Senator insists upon having his motion put now, I suppose that under the rules of the Senate it will have to be put, and then he will have changed the whole aspect of the rule altogether, when if he would withhold his amendment for a moment, we could get at the distinct proposition I wish to get at. I do not suppose the honorable Senator intends by a motion of that kind to defeat the motion that I made. If he does he will find that perhaps he does not accomplish his object.

Mr. BUCKALEW. I am put in a very awkward position. I am in favor of the amendment of the Senator from Illinois, and I am also in favor of the motion of the Senator from Missouri. I do not know how I can vote under the ruling of the Chair, in accordance with my opinion.

The PRESIDING OFFICER. The Chair will suggest that it will be in order to move to strike out the remaining portion of the section after the motion of the Senator from Illinois shall have been acted upon, even if it shall be adopted.

Mr. BUCKALEW. That relieves me from embarrassment. Now, I understand that the rule is, that when a motion is made to strike out particular matter it shall still be in order to amend that particular matter proposed to be struck out.

The PRESIDING OFFICER. Such is the rule.

Mr. BUCKALEW. But that is not the motion of the Senator from Illinois; he does not move to amend a line or a word of the matter proposed to be struck out; he proposes to add new and independent matter to the section. It seems to me, therefore, that his amendment is not covered by the ordinary rule that you can amend matter proposed to be stricken out, and that the question ought to be taken on the motion of the Senator from Missouri first. However, if that motion will come up and can be put after the adoption of the other, I am relieved from all embarrassment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

Mr. FOWLER. I do not exactly understand how the question stands at this time. If the motion of the Senator from Illinois prevails as it is now I shall have to vote against it, but I am in favor of it; and I am in favor of the motion of the Senator from Missouri.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. DRAKE. I move now to strike out the first sentence of the sixth rule; the sixth rule now consists of two sentences.

The PRESIDENT *pro tempore*. The words to be stricken out will be read.

The Secretary read as follows:

The court shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, wits, precepts, and judgments, to preserve order, and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, wits, precepts, or judgments, and to make all lawful orders, rules, and regulations which it may deem essential or conducive to the ends of justice.

Mr. DRAKE. I would inquire of my friend, the honorable chairman of the committee, whether he does not believe it to be true, as a proposition of law, that the Senate, sitting as a court of impeachment, has, in its own existence as such a court, all the powers enumerated there?

Mr. HOWARD. I believe that the Senate has power to make rules for its own government in trying an impeachment, and I think it ought to be done before they are called upon to enter upon the trial of an impeachment. I take it that is a sufficient answer.

Mr. DRAKE. The honorable Senator has not, with all respect to him, answered my question at all. I asked him whether the Senate, sitting as a court of impeachment, would not have inhering in its very existence as a court every one of the powers which that sentence purports to convey to it?

Mr. HOWARD. I answer as I answered before, that the Senate of the United States has power to establish rules for its own proceedings when sitting as a court of impeachment, and that I think it ought to provide those rules before it enters upon its judicial duties as a court of impeachment, and that this is the time to do it.

Mr. DRAKE. Then I take it to be very clear that my honorable friend from Michigan does not intend to meet the point that I have twice put to him. I say that the court cannot exist as a court without having every one of these powers. Why, then, should a rule be adopted in the Senate here which purports to confer powers upon the court? Sir, I do not speak of this thing with reference to this particular occasion more than with reference to future occasions. I object to the Senate adopting any rule which purports to confer judicial power upon the court of impeachment. Once begin with the precedent set of attempting, by the vote of this body, to confer powers upon that court, and on future occasions and under other circumstances where will you stop?

Mr. BUCKALEW. If the Senator will permit me I will suggest whether there is not another point in this connection; and that is, that where you undertake to enumerate the powers of the court you cast doubt upon all those powers which you do not enumerate.

Mr. DRAKE. Yes, sir. I think it is better for us to go upon the powers of the court inhering in its existence than to undertake to define them in the rules. I admit, with the honorable Senator from Michigan, that we ought to provide rules here to govern the proceedings of the court, those proceedings which come up in any court; but I say that we ought not to attempt, by a rule of the Senate, to enumerate the powers of the court. There is the whole point of my objection to this sentence.

Mr. HENDRICKS. If there were any doubt that the Senator from Missouri is right, that doubt is solved by the refusal of the Senator from Michigan to answer his question, which was a very plain one. The Senator from Michigan by refusing to answer it admits that he cannot answer what is a plain question or that his answer would support the proposition of the Senator from Missouri—one of the two. Which is it?

Mr. HOWARD. Mr. President, I do not think that any further answer is necessary from me, and I shall not, therefore, occupy the time of the Senate by attempting to answer this mighty question. Undoubtedly, Mr. President, if the Senators will have an answer, I do believe that the Senate sitting as a court of impeachment has identically the same power that the Senate now possesses to make rules for its own proceedings, and I believe that this is the time, preliminary to a trial, at which the Senate ought to provide those rules, so that they shall not be taken by surprise, and when the trial comes on find themselves engaged in the almost indecorous business at that time of adopting rules of proceeding for their government.

Mr. HENDRICKS. Argumentatively, the Senator now answers the question put so directly by the Senator from Missouri. He says that the Senate as now organized possesses no power that it will not possess upon the trial. Therefore the effort to declare the power here is an admission that it will be possessed upon the trial. Mr. President, the Senate could have disposed of this business if the committee had confined itself to the subject which was submitted for its consideration, in my humble judgment. It is not for me to reflect upon that learned committee; it is not for me to criticise the course of that committee; but simply, and with great deference and respect, to suggest that there was submitted to that committee the question how shall the Senate receive the impeachment which the House of Representatives propose to present. That was the question submitted to the committee. Instead of that the committee undertakes here to declare powers, always unsafe, and I believe now the chairman insists that we shall go on with this declaration of powers to-night and complete the work; that we shall not adjourn, that we shall not have a reasonable opportunity to consider it. This report was only submitted yesterday. It is legislation by the Senate independently of the House of Representatives—a declaration of powers which I deny that we ought to undertake, some powers that I do not admit.

Mr. HOWARD. The honorable Senator misunderstands me if he supposes that I do not intend that the Senate shall have time to consider this measure. Certainly I am as desirous as he is that all practicable time should be given to the consideration of these rules. But the Senator is not ignorant of the fact that we have already been notified by the House of Representatives that they have impeached Andrew Johnson of high crimes and misdemeanors in office; and it has come to my knowledge during the present sitting, and I dare say to his also, that the committee of the House of Representatives have reported articles to-day in that House, and that in all probability their managers will apply to our doors on Monday with the formal articles of impeachment. I think we ought to be ready to receive them.

Mr. HENDRICKS. I do not think it is proper that the Senate should be governed in its action and in the length of its sessions by the action of the other House. I think it is in violation of the spirit of our rules to make reference to their action. I will say, however, as the Senator has referred to proceedings in the House, that two days have been assigned to debate on the articles, as I understand—to-day and Monday. The debate will not close until Monday evening, and a vote will be had perhaps on Monday evening; and according to the decision already made in the House articles cannot be presented to the Senate before Tuesday. I think, inasmuch as our committee has gone much beyond the subject that was committed to it, we should have reasonable time to consider this legislation. The committee proposes a permanent set of rules to govern the Senate in all cases of this sort. I do not object to that; but we ought to have reasonable time to consider them. It has now passed much beyond the usual hour of adjournment, but the Senator insists that we shall go on. I think that when we undertake to declare powers we should do it very deliberately, and after full consideration. My own opinion is, that all we have now to do is to declare how powers are to be exercised, and I do not think we ought to go very far in that, because the Constitution does not contemplate that the Senate, as now organized, shall take any step that will materially control the result.

How far these rules may affect the result I cannot now say; none of us can anticipate. The Chief Justice of the United States must be sitting here before we can take any step that can affect the result in the particular case

that was referred to the committee. And, sir, how the powers possessed by the courts shall be exercised, in my judgment, with great respect to the committee, ought to be declared by the Senate when it is presided over by the Chief Justice. Take the provision of these rules that but two counsel shall be heard on each side—two for the House and two for the President. Take the provision which limits debate by the Senators. Is it right that we, in the Senate, as now organized, should consider these important questions? Who knows what will be the effect on the final decision as to the length of debate that may be allowed to Senators? I refer to this simply by way of illustration.

These rules, as proposed by the committee, go far beyond what I think is the power of the Senate as now organized. Every lawyer in this body understands the importance of the debate which is connected with the trial, whether it shall be limited or whether there shall be no limit upon it. Mr. President, I think that before we act on these rules and declarations of power we had better adjourn and take them up on Monday.

Mr. CONNESS. The Senate will not agree with the Senator on that.

Mr. HENDRICKS. That is all right. If I expected the Senate to agree with everything I said, as is suggested by the Senator from California, the machinery would soon begin to move very differently. But, inasmuch as it will not, all I can do is to propose what I think is right, and I do that, and with entire respect to the majority. The fact that the majority does not agree with me has not converted me. Now, it is an easy thing for a man to go with the majority; it is a hard thing to go with the minority sometimes. Currents carry a ship easily; but it requires the skill of the navigator to go against the currents and winds. A man floats easily down stream until perhaps he may come to rocks and shoals. Whether the Senator from California shall ever run against any such rocks and shoals is not for me to say. I may meet them in going up stream; I cannot tell. I believe, however, the snags are likely to be encountered as a man goes up stream, and rocks and shoals as a man comes down. I did not intend to say this, Mr. President, and if the Senator from California had not interrupted me I should not have said it.

Mr. CONNESS. I am not sorry for this part of the speech.

Mr. HENDRICKS. I now move that the Senate adjourn.

The motion was not agreed to.

Mr. CONNESS. Now, I hope we shall have the vote on this subject.

Mr. DRAKE. On this question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I move to amend the clause which the Senator from Missouri proposes to strike out by inserting the word "or" before "precepts," in the fourth line, and striking out the words "or judgments" after "precepts," in that line, and also by striking out in the second line the words "and judgments" and inserting the word "and" before "precepts;" so as to make the rule read:

The court shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, and precepts, to preserve order, and to punish in a summary way contempts of and disobedience to its authority, orders, mandates, writs, or precepts, and to make all lawful orders, &c.

This is substantially the same amendment which was adopted on motion before.

Mr. EDMUNDS. I certainly hope that will not be agreed to. It is not necessarily a mere question of taste, and it is not a question of calling on the military to assist in the enforcement of a judgment, final or interlocutory; but if we are to declare anything on the subject in the way that our powers are to be regulated and enforced, certainly we ought to declare that a contempt of our judgments, whether they are interlocutory or final, may be punished and that our judgments may be enforced. I certainly hope that the Senate will not emasculate the section.

Mr. BUCKALEW. I shall not renew the debate that took place on the latter clause in regard to judgments. I do not understand that there is to be any judgment at all until the final vote of the Senate is taken. Everything else is in order, a decision, or an opinion of the court pending the proceedings. These other words are sufficiently comprehensive to cover everything that the Senate may do previous to the final judgment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania.

The amendment was rejected.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri to strike out all the sixth rule except the words which were inserted on the motion of the Senator from Illinois, and upon this motion of the Senator from Missouri the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 12, nays 23; as follows:

YEAS—Messrs. Buckalew, Davis, Drake, Fowler, Hendricks, McCreery, Norton, Patterson of Tennessee, Ross, Saulsbury, Sprague, and Van Winkle—12.

NAYS—Messrs. Anthony, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Edmunds, Frelinghuysen, Harlan, Howard, Morgan, Morrill of Maine, Nye, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Tipton, Willey, Williams, Wilson—23.

ABSENT—Messrs. Bayard, Cattell, Cragin, Dixon, Doolittle, Ferry, Fessenden, Grimes, Henderson, Howe, Johnson, Morrill of Vermont, Morton, Patterson of New Hampshire, Sherman, Trumbull, Wade, and Yates—18.

So the motion to strike out did not prevail.

The PRESIDING OFFICER. The next rule will be read.

The Secretary read rule seven, as follows:

"VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer of the court shall direct all the forms of proceeding while the Senate are sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. And the presiding officer of the court may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the court, unless some member of the court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the court for decision; or he may, at his option, in the first instance, submit any such question to a vote of the members of the court."

The PRESIDING OFFICER. No amendment being proposed to this rule, the Secretary will read the next.

The Secretary read rule eighth, as follows:

VIII. Upon the presentation of articles of impeachment and the organization of the court as hereinbefore provided, a writ of summons shall issue to the accused, reciting said articles, and notifying him to appear before said court upon a day and at a place to be fixed by said court and named in such writ, and file his answer to said articles of impeachment, and to stand to and abide the orders and judgments of said court thereon; which writ shall be served by such officer or person as shall be named in the precept thereof, such number of days prior to the day fixed for such appearance as shall be named in such precept, either by the delivery of an attested copy thereof to the person accused, or if that cannot conveniently be done, by leaving such copy at the last known place or abode of such person, or at his usual place of business, in some conspicuous place therein; or if such service shall be, in the judgment of such court, impracticable, notice to the accused to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid, the proceedings shall not thereby abate, but further service may be made in such manner as the court shall direct. If the accused shall fail to appear, either in person or by attorney, on the day so fixed therefor as aforesaid, or appearing shall fail to file his answer to such articles of impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty. If a plea of guilty shall be entered, judgment may be entered thereon without further proceedings.

Mr. BAYARD. It seems to me there is a phrase in that section from which will come some confusion and possibly injustice. I mean the closing phrase of the sentence previous to the last—and it is utterly unnecessary. We are prescribing rules too minutely; it ought to be left to the court after you have organized it, as the case progresses. After providing for the service of summons in the eighth rule, as I read it, and a variety of modes of service, it goes on to say:

If the writ aforesaid shall fail of service in the manner aforesaid the proceedings shall not thereby abate, but further service may be made in such manner as the court shall direct.

I have no objection to it that far; but then it proceeds:

If the accused shall fail to appear, either in person or by attorney, on the day so fixed therefor as aforesaid, or appearing shall fail to file his answer to such articles of impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty.

What does that imply? That without any allegation or requiring any proof of service according to the language as prescribed here, a plea of not guilty is to be entered if the party does not appear, though the summons may never have been served. That is literally the effect of the provision as it stands. It is indefinite, it is obscure, and I think it is unnecessary. If the body to try the case is a court, as the Senate has decided, it has authority under previous clauses to issue all proper process, and of course a great deal of this language is useless surplusage. I think it might, in many respects, be shortened and amended. As it stands it may lead to injustice. Does it mean that if the accused shall fail to appear in person or by attorney on the day for the return of the summons, or appearing shall fail to file his answer, a plea shall be entered? Is he to appear and to file his answer on the day of his appearance? According to any principle of justice I ever heard of he should be summoned to appear and answer afterwards, and surely it must be subject to the order of the court at what time, or how soon he must file his answer after he has appeared.

Further than that, the words "answer" and "plea" have technical, distinct meanings in a court. If you mean to put in such an order as to a matter which I think ought to be left to the court to determine after an appearance is entered, you ought to use the words "either plead or answer, and at such time as the court may order." As it stands here it would imply that there is authority to enter the plea of not guilty if the party fails to appear and to file an answer on the day of his appearance. That is not justice. It is not according to the usual proceedings of courts. I do not suppose it was contemplated. I think it ought to be amended so as to read, "if the accused shall fail to appear, either in person or by attorney, on the day fixed therefor as aforesaid, a plea of not guilty may be entered." He is bound to appear according to the exigence of the summons, no doubt; but when he has appeared, the Senate, of course, is to make the order for his answer or plea, to be filed within a reasonable time. That would be the usual proceeding in a court of justice.

I think there are many other matters in this rule which may give rise to obscurity, but I shall not dwell on them now. These rules were reported to the Senate yesterday, printed, and laid on our tables this morning. We have been in session since twelve o'clock and are not half through; and yet we are to be pressed into the consideration of them to-night. In matters where the meaning must depend on the language used you may be readily led into error, and such things require careful consideration. But it seems these rules are to be pressed through in a single day, in spite of the exhaustion of nature, until we are forced to a vote, and that without time to investigate the proper rules to be applied to the case. I certainly have no desire that any rule should be applied to the case that does not belong to it, for the purpose of preventing justice in the decision of the Senate, nor have I any desire to avoid the establishment of any rule that is necessary for that purpose; but I believe there ought to be some little regard paid to the time within which the human mind can act upon matters of this kind. It is frequently more difficult to arrive at correct decisions on matters of form than on matters of substance. Where a matter of substance or of principle is involved, and the mind

can grasp the idea, you can readily determine for yourself whether you are for or against it; but in a matter like this, which depends on language, when we are directing the mode of proceeding in points which in many respects may affect the organization of a high court, I think we cannot be too careful. A previous rule provides for giving the court power to make orders, and I think we had much better leave the whole of this matter to the court. To undertake to go into it now may lead to difficulty; and yet we are forced, notwithstanding the exhaustion of nature, to vote on all these questions without consideration. I object to the section now pending passing in its present form. If I had time I might move to cut it down, perhaps very materially, and alter its phraseology altogether. As it is, I move to strike out the section as it stands.

The PRESIDING OFFICER, [Mr. POMEROY, in the chair.] The Senator from Delaware moves to strike out the eighth rule.

Mr. BUCKALEW. Before the question is taken on the motion to strike out, I move to amend by inserting after the word "fail" the words "upon order," so as to read "or appearing shall fail, upon order, to file his answer." I suppose there is no objection to this modification.

The PRESIDING OFFICER. The first question is on the motion of the Senator from Pennsylvania.

Mr. EDMUNDS. I hope this motion will not be agreed to. It is the practice of jurisprudence in my section of the country when you issue a writ against a man to require him to appear in court on a certain day and answer, to put in his defense. He comes and he must put it in, or he must show to the court a satisfactory reason why. The object of this rule as I understand—that is the fair import of it—is that it is the duty of a respondent or an impeachment to put in his "answer," which embraces every species of defense that a man may make; and then, like all other defendants in court, he has a right to apply to the court for further time if he thinks he has not had sufficient time. The form of the summons, which is the ancient form, requires the defendant to appear at a certain day and then and there to make answer to the articles of impeachment. There is nothing unusual and there is nothing unjust about it. Suppose you issue a notice for thirty days hence from any time articles are filed or when the summons goes, if the time is not sufficient for the respondent to prepare his answer to file on the return day, all he has to do is, as Judge Peck did in the Missouri case, to apply to the court for further time, and then justice will be done.

Mr. HOWARD. This rule can work no surprise upon the accused. The rules require that a summons shall issue to him after the articles are filed in the Senate, and that there shall be attached to the summons a certified copy of the charges themselves, so that the charges are served upon him at the same moment that he is directed by the summons to appear. He has, therefore, all the time that elapses between the date of the service of the summons and the appearance day to prepare and put in his answer or his plea, whatever it may be. If he should want further time it would be a very easy thing for him to apply to the court. But the present amendment contemplates a separate order, to be made by the court after the accused has appeared, and after he has been served with a certified copy of the articles of impeachment. I think that is entirely unnecessary.

One word further, sir, as to the objection raised by the honorable Senator from Delaware, [Mr. BAYARD.] He seems to make a distinction between an answer and a plea. In a certain sense there is a distinction, of course, between an answer and a plea—an answer pertaining to a court of equity and a plea to a court of law; but it is quite plain that the sense in which the word "answer" is used here embraces a plea as well as a formal answer. It is the reply which the accused has to make to the whole accusation. So I understand it, and I think it can admit of no other meaning.

Mr. BUCKALEW. I am somewhat surprised by the objection made to the adoption of this amendment. I supposed it would be contemplated by the Senator from Vermont and the Senator from Michigan that the court should have control of the question of the time when a full answer should be made to the articles of impeachment. It was not the design of the rule, I presume, to fetter the court as to the time when the answer should be made. It was simply, as I understand it, to provide that if answer should not be made, if the party impeached should be in contempt, a plea should be entered in default of his making one for himself. Now, sir, I propose these words: that his plea shall be entered upon order under penalty of the consequences stated in the rule, to wit: that a plea shall be entered for him, to meet this case: suppose a party is brought into this high court of impeachment, and instead of answering the articles he is advised by his counsel that he has good cause to enter a dilatory motion or plea; suppose he moves to quash the articles, to strike out certain articles for defects in law, before he makes his answer to the whole charge. Of course the court will have power to hear such a plea, a plea in abatement or a motion to quash, before requiring him to answer. All I propose is, to leave to the court the decision of all that. If they choose to hear motions of that sort they can do so. If, however, they choose to order the party accused to answer the whole charge, they can make such order, and he is obliged to answer at once. My motion is necessary in order to reserve to the court full control over its own proceedings; that is all; and to allow it to require an answer at the proper time. If this is to have the effect of controlling the court in any way whatever my amendment is necessary. If, however, the court is to do just what it pleases, no matter what our rule is, it shows that we are pursuing a foolish course in attempting to establish these rules.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania.

The amendment was rejected.

The PRESIDING OFFICER. The question is, on the motion of the Senator from Delaware, to strike out the section.

Mr. WILLIAMS. I move to amend the section by inserting the words "after service" in the fifth line from the bottom of the section; so that it will read "if the accused, after service, shall fail to appear," &c.

Mr. EDMUNDS. There is no objection to that, if anybody supposes it to be necessary; but the next rule requires that the returning officer on the return day shall swear that he has made the service. If, however, my friend thinks the insertion of that word is necessary there is no objection.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Oregon.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs, on the motion of the Senator from Delaware, to strike out the section.

Mr. BAYARD. I withdraw the motion.

Mr. HENDRICKS. I did not hear the remark made by the Senator from Michigan, giving construction to the word "answer." I am a little uncertain about that; and, to ascertain his views as much as for any other purpose, I move to strike out in the third line before the last the words "file his answer," and to insert instead thereof the words "plead, answer, or demur;" so that it shall read "if the accused shall fail to appear either in person or by attorney on the day so fixed therefor as aforesaid, or, appearing, shall fail to plead, answer, or demur," &c. I do not think the word "answer" would include the word "demur;" but I do not know, for I have not looked into the practice sufficiently, and I should like to hear the opinion of the Senator from Michigan on that subbject, how an accused may raise the question as to the sufficiency of any one of the specifications; whether it is upon demurrer or upon motion to squash, or how he shall obtain the judgment of the Senate upon the sufficiency of the whole or any of the specifications. With a view to get the Senator's views on that subject, as much as for any other purpose, I move this amendment.

Mr. HOWARD. I have no doubt that the word "answer" includes a formal answer, a plea either to the jurisdiction or the merits, so to speak, or a demurrer. I am especially confident that it includes a demurrer. I do not mean a demurrer on account of mere form, which we call a special demurrer, but a general demurrer. A general demurrer raises the question of the legality of the accusation, of the lawful ground upon which it rests, and covers many other things, to be sure; but it covers the entire law of the case. So I understand it, and it would be a perfectly full answer to the articles of impeachment.

Mr. HENDRICKS. With that explanation I do not think my amendment is necessary.

Mr. HOWARD. I do not think it is.

Mr. HENDRICKS. If that be the construction of those words (and in the absence of any opinion expressed in the Senate to the contrary I will assume that to be the construction the Senate now puts upon these words) I withdraw my amendment.

The PRESIDING OFFICER. If no amendment be proposed the eighth rule will be considered as adopted.

The Secretary read the ninth rule, as follows:

IX. At twelve o'clock and thirty minutes afternoon of the day appointed for the return of the summons against the person impeached the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, namely: "I, ——— ———, do solemnly swear that the return made by me upon the process issued on the ——— day of ———, by the Senate of the United States, sitting as a high court of impeachment, against ——— ———, is truly made, and that I have performed such service as therein described. So help me God." Which oath shall be entered at large on the records.

The PRESIDING OFFICER. No amendment being proposed, the ninth rule will be considered as adopted, and the next will be read.

The Secretary read rule ten, as follows:

X. The person impeached shall then be called to appear and answer the articles of impeachment against him. If he appear, or any person for him, the appearance shall be recorded, stating particularly if by himself or by agent or attorney, naming the person appearing, and the capacity in which he appears. If he do not appear, either personally or by agent or attorney, the same shall be recorded.

The PRESIDING OFFICER. No amendment being proposed, this rule will be considered as adopted, and the next will be read.

The Secretary read rule eleven, as follows:

XI. At twelve o'clock and thirty minutes afternoon of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of ——— ———, in the Senate Chamber, which Chamber is prepared with accommodations for the reception of the House of Representatives.

The PRESIDING OFFICER. No amendment being proposed, this rule will be considered as adopted.

The Secretary read rule twelve, as follows:

XII. The hour of the day at which the Senate shall sit as a high court of impeachment shall be (unless otherwise ordered) twelve o'clock m.; and when the hour for such sitting shall arrive, the Presiding Officer of the Senate shall so announce; and thereupon the presiding officer of the court shall cause proclamation to be made, and the business of the court shall proceed. The adjournment of the Senate sitting as a high court of impeachment shall not operate as an adjournment of the Senate; but on such adjournment of the court, the Senate shall resume the consideration of its legislative and executive business.

Mr. BUCKALEW. I understand by this that there will be no morning hour. It will be abolished during the progress of impeachment. I do not care to make any motion, but I should like to understand whether it is the object of the committee to provide that

through the whole progress of the impeachment the morning hour shall be dispensed with.

Mr. HOWARD. We can meet at eleven o'clock, if necessary.

Mr. BUCKALEW. Yes, we may change our hour of meeting, and I suppose it will become necessary.

Mr. HOWARD. Yes, sir.

Mr. SUMNER. I deem it my duty to call the attention of the Senate to the concluding words of this rule, as follows:

On such adjournment of the court the Senate shall resume the consideration of its legislative and executive business.

These words seem to suppose that the Senate, on the adjournment of the court, will resume the consideration of its legislative and executive business. I content myself now with calling the attention of the Senate to this important provision. If the proceedings on which we are entering did not concern the President of the United States; if the occasion were not of surpassing solemnity; if our path were not entirely without the light of precedents in our own country; if it were not of infinite importance that the precedent we are about establish should be consistent with the highest justice, I should follow the report of the committee without a hint or a suggestion. Sir, shall the Senate, after the trial of the President of the United States has commenced, continue to transact legislative and executive business? Or shall it set itself apart exclusively to this great proceeding?

Again, shall the Senate continue to hold its customary relations with the President arraigned at our bar in the name of the people of the United States; or shall it adopt a system of non-intercourse until the trial is brought to a close?

These are questions which I now put without undertaking to answer them. Perhaps we are not far enough advanced in the matter to see them in all their bearings.

The PRESIDING OFFICER. No amendment being proposed the article will be considered as adopted, and the next will be read.

Mr. ANTHONY. I hope the Senator who has charge of this report will consent to a motion to adjourn. It is getting to be very late, and it is impracticable to pass these rules this evening, and I should hardly think it would be proper to urge them now against strong opposition.

Mr. CONNESS. We are nearly through.

Mr. ANTHONY. The main question which the Senator from Indiana rose to debate at the beginning of the session is yet to be considered, and that is the most important point and will take time. I move that the Senate do now adjourn, but I will not make the motion unless the Senator from Michigan will assent to it.

Mr. HOWARD. I have only to say that the subject itself is entirely in the hands of the Senate. I shall make no complaint if the Senate wish to adjourn.

Mr. ANTHONY. Then I move that the Senate do now adjourn.

The PRESIDING OFFICER. Pending that motion, the Chair desires, with the indulgence of the Senate, to present some House bills for reference.

HOUSE BILLS REFERRED.

The following bill and joint resolutions received from the House of Representatives were severally read by their titles, and referred as indicated below:

A bill (H. R. No. 784) to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866—to the Committee on the District of Columbia.

A joint resolution (H. R. No. 218) for the relief of John W. Palmer—to the Committee on Claims.

A joint resolution (H. R. No. 219) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado Territory, and Assistant Treasurer of the United States—to the Committee on Claims.

Mr. ANTHONY's motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 29, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ENROLLED BILLS AND JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased;

An act (S. No. 270) for the temporary relief of destitute people in the District of Columbia; and

Joint resolution (S. No. 108) relating to the survey of the northern and northwestern lakes.

UNITED STATES BRANCH, SAN FRANCISCO.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, relative to the condition and management of the United States branch mint at San Francisco, California; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

JAIL IN THE DISTRICT OF COLUMBIA.

The SPEAKER. The unfinished business at the adjournment last evening was a motion to reconsider the vote by which the House recommitted to the Committee on Public Buildings and Grounds House bill No. 784, to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

The vote will be reconsidered, and the bill is therefore now before the House on the motion to recommit.

The Clerk read the bill as follows:

A bill to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act authorizing the construction of a jail in and for the District of Columbia" be, and is hereby, amended so as to read as follows, to wit: that the contracts heretofore attempted to be made under the act of which this is amendatory, by the Secretary of the Interior, on behalf of the United States, with W. H. Allen and others, for the building of the new jail for the District of Columbia, be, and hereby are, declared null and void, and shall thenceforth be treated as of no force or effect, and no money shall be paid nor any work done thereunder; and that the plans and specifications made by E. Faxon, and upon which said contracts were attempted to be made, be, and are hereby, rejected and abandoned as unsuitable for the purpose for which they were designed, and not in accordance with existing laws.

SEC. 2. *And be it further enacted*, That Bartholomew Oertly, Sayles J. Bowen, and J. M. Edmunds be, and hereby are, appointed a board of commissioners for the construction of the new jail in the District of Columbia, and they are hereby authorized and directed to immediately select a suitable site on some of the public grounds belonging to the United States in the city of Washington on which to erect said jail, and as soon as said selection shall be made they shall report the same to Congress for approval or disapproval, and whenever Congress shall approve a selection made by said board the ground so selected shall thenceforth be set apart for said jail, and until its completion be under the control of said board. And the said board, at the earliest possible period after such approval, shall procure plans and specifications of a jail suitable for the accommodation of three hundred persons, or as near that number as practicable, which said plans and specifications shall be in all respects complete and perfected, and if on an examination of the same they shall be approved and adopted certificates of such adoption and approval shall be entered thereon, signed by each member of the board or a majority thereof, and be carefully preserved by them.

SEC. 3. *And be it further enacted*, That as soon as said plans and specifications shall have been adopted and certified as aforesaid said board shall cause a jail, in accordance therewith, to be constructed on said site, and for that purpose shall publish a notice for proposals for the construction thereof for at least thirty days in a leading newspaper in the city of Washington, which notice shall specify a place in the said city where the plans and specifications can be seen, and a time when the contract shall be let; and said board shall let the whole work in one contract to the lowest and best bidder, who will give satisfactory bond in the penal sum of $100,000, with sufficient sureties, to be approved in writing by said board, for the faithful completion of the work according to contract and to the satisfaction of said board: *Provided, however*, That said board may reject all bids if they deem them unreasonably high or unworthy of acceptance, and shall reject all that are above said sum of $200,000: *And provided further*, That no bid shall be considered unless it be accompanied with a satisfactory bond in the sum of $10,000, conditioned that the bidder shall enter into the contract if it be awarded to him, and give the security required by this act for the completion of the work, or pay to the United States the difference between his bid and the one on which the contract shall be finally awarded and let. In the event of the rejection of all the bids, new advertisements shall immediately be published as herein directed, and new bids be received by said board.

SEC. 4. *And be it further enacted*, That the unexpended portion of the appropriation heretofore made by the act of July 25, 1866, for the purpose of building a jail in said District of Columbia, is hereby continued and renewed for said purpose, and in addition thereto such sum as shall be necessary to make the sum of $200,000 is hereby appropriated out of any money in the United States Treasury not otherwise appropriated, to be drawn on the order of said board; and the contract price shall be paid in monthly installments, according to contract, as the work progresses, upon the certificate of the supervising architect having direction of the work, except that twenty per cent. of all estimates shall be retained as security until the completion of the entire work. It shall be the duty of said board to insert in the contract all such reasonable and usual provisions, conditions, and safeguards as they shall deem necessary for the protection of the United States, without specifying the same in the advertisements for proposals; and they are authorized after the new jail is completed to sell at public sale, on reasonable notice thereof, the materials of the old jail now located on Judiciary square, and to pay the proceeds into the Treasury of the United States.

SEC. 5. *And be it further enacted*, That after the contract for said jail shall be let the said board shall appoint a competent supervising architect to superintend and direct, under the control and supervision of said board, the work of said jail; and the expense of said superintendent, and of plans and specifications, shall not exceed the rates that are customary for similar work when done for individuals; and the price of the plans and specifications shall be paid, when they shall be approved, and that of the superintendent, as the work progresses, on the order of said board, out of any moneys in the Treasury not otherwise appropriated.

SEC. 6. *And be it further enacted*, That said board be, and are hereby, authorized to receive from Charles A. Weidner, to be used in said jail, so much and no more of the iron, which he heretofore contracted to furnish for said jail, as shall be suitable to be used under the new plans and specifications herein directed to be procured, at the prices at which he formerly contracted to furnish the same; and in advertising and letting a new contract said board shall provide for turning in all iron which shall be received from said Weidner under this section as part payment for building the jail, at the price at which the same is furnished by said Weidner.

SEC. 7. *And be it further enacted*, That each member of the board of commissioners shall receive as full compensation for his services under this act $1,000; and the sum necessary to pay the said board and the architect is hereby appropriated, to be paid, on the order of said board, out of any moneys in the Treasury not otherwise appropriated. A majority of the said board shall have power to do anything which is required of said board in this law.

SEC. 8. *And be it further enacted*, That, for the purpose of reimbursing the United States for a part of the cost of said jail, it shall be the duty of the proper authorities of the city of Washington who have power to levy and collect taxes for general city purposes therein, and they are hereby required, to raise by tax or otherwise, and pay into the Treasury of the United States at or before the time of the completion of said jail, and before the 15th day of July, A. D. 1869, the sum of $78,000; and it shall be the like duty of the like proper authorities of the city of Georgetown, and they are hereby required, to raise by tax or otherwise, and pay into the Treasury of the United States at or before the time last aforesaid, the sum of $12,000; and it shall be the like duty of the like proper authorities of the county of Washington, in said District, and they are hereby required, to raise by tax or otherwise, and pay into the Treasury of the United States at or before the time last aforesaid, the sum of $10,000, which said several sums shall be deemed the fair proportion of the cost of said jail of said cities and county respectively; and the proper authorities having power to assess, levy, and collect taxes for city and county purposes in said cities and county respectively, are hereby authorized and required to assess, levy, and collect, upon and from the taxable property within their several jurisdictions and control, taxes sufficient to pay the amounts so as aforesaid required of said cities and county respectively, and to pay such amounts into the United States Treasury.

SEC. 9. *And be it further enacted*, That all laws or parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. COVODE. I demand the previous ques-

tion, and call for the reading of the report of the committee.

The SPEAKER. It will be counted out of the gentleman's hour.

Mr. COVODE. Very well. Let it be read as part of my speech.

The Clerk read as follows:

The Committee on Public Buildings and Grounds present the following report:

By a resolution of December 20 last your committee were directed to investigate the contract for the erection of the new jail in the District of Columbia, and to send for persons and papers, to administer oaths to witnesses, and to report the result of their investigations to the House.

The spirit as well as the letter of this resolution required: first, a consideration of the several acts of Congress relative to the jail; and second, an examination of the manner in which their provisions have been executed, or in which it has been attempted to execute them.

The first point called for simply a fair and just construction of the pertinent laws. The second involved a protracted investigation of facts, or of records, contracts, and witnesses.

To both the committee have endeavored to give candid and patient consideration.

It will give clearness and precision to the report to present the acts of Congress in full.

[PUBLIC—No. 133.]

An act authorizing the construction of a jail in and for the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to select a suitable place on some of the public grounds belonging to the Government in the city of Washington, in the District of Columbia, for, and construct thereon, upon such plan as he may select, a jail of sufficient capacity to provide for no less than three hundred prisoners, with suitable yards, hospitals, &c.; the entire cost of which shall not exceed the sum of $200,000.

SEC. 2. *And be it further enacted*, That as soon as said site and the plan of a jail shall be so selected and agreed upon, the said Secretary of the Interior shall employ an architect, and have prepared a design for said building and plans descriptive thereof, with complete specifications of the work required and the materials to be used, and shall publish notice of a public letting of the contract for the building of the same, at least thirty days before the letting, in the principal newspapers in New York city, Boston, Philadelphia, Cincinnati, Baltimore, and Washington, which notice shall direct a place where such specifications can be seen and a time at which the contract is to be let; and the said Secretary shall let said contract to the lowest responsible bidder, and the contractor therefor shall enter into sufficient bond for the faithful completion of the said contract, to the approval of the Secretary.

SEC. 3. *And be it further enacted*, That the said Secretary shall pay to the contractor or contractor installments on the contract price as the work progresses, to be certified to by the architect having the direction thereof; but twenty per cent. of the estimates shall be retained until the completion of the contract.

[PUBLIC RESOLUTION—No. 41.]

Joint resolution in relation to the erection of a jail in the District of Columbia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That no money shall be paid out of the Treasury toward the construction of the new jail for the District of Columbia, under the act approved 25th July, 1866, unless the letting of the contract for the building of said jail be suspended and delayed until perfected plans for the entire work shall have been completed and approved by a board of three, composed of disinterested and competent engineers and architects, of which Quartermaster General M. C. Meigs and A. B. Mullett, architect of the Treasury Department, shall be two; nor unless the letting of such contract shall have been opened to fair and equal competition on reasonable notice, printed in two leading newspapers printed and published in the city of Washington, after such approval of such new and perfected plan; and that the Secretary of the Interior be also authorized and directed to select a new site for said jail, under said act.

APPROVED March 2, 1867.

[PUBLIC—No. 67.]

An act to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the sixth section of the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866, as specifies the amount to be raised and paid into the Treasury of the United States by the cities of Washington and Georgetown respectively, before the completion of said jail, is hereby repealed.

SEC. 2. *And be it further enacted*, That it shall be the duty of the proper authorities of the city of Washington, and they are hereby required, to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time of the completion of said jail, the sum of $78,000; and it shall be the like duty of the proper authorities of the city of Georgetown, and they are hereby required, to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time of the completion of said jail, the sum of $12,000.

APPROVED March 2, 1867.

From these citations it will be seen that while Congress contemplated that, in the first place, the United States should pay for the erection of the jail, the District of Columbia or its citizens will ultimately be responsible for $100,000, or one half of the entire cost. It is not, therefore, only the United States, but each tax-payer of the District, who is interested in the construction of the jail, and this fact demands, perhaps, a more exact compliance with the law than might otherwise be called for. The District being unrepresented, it is the special duty, we think, of Congress to see that laws involving largely its pecuniary interests should be exactly and faithfully obeyed. Certainly the United States has always the right to make this general demand. It becomes important and pertinent, then, to inquire what is the import of the laws which have been cited? what did they require?

The committee responds thus to these inquiries:

1. A suitable site or location is required. It was not designed that the site should be either inconvenient, unhealthy, or inappropriate.

2. The erection of a jail which should accommodate at least three hundred persons, and which should have suitable yards, hospitals, and so forth.

3. The erection of such a structure on the best modern plan. In the capital of the nation Congress did not for a moment think of erecting a prison on any inferior or uncertain plan.

4. To secure a structure of the best order, the appointment of an architect, and the preparation of completed and perfected plans, approved, as regards each particular, by three competent architects, of which number General M. C. Meigs and A. B. Mullett should be two, were required. Congress did not design leaving the matter to the direction of incompetent or unknown men.

5. That, in order to limit the cost as well as to obtain a proper structure, the approval of the architects should embrace not only the details of the plan and specifications, but also of the work to be done and the material to be used.

6. That to render fair and intelligible bidding possible advertisements of the letting should take place after and not before the completion and approval of perfected plans, and of the designation of "material" and the nature of the work. Congress did not design leaving any ground for unfairness or the artifices of architects or speculators.

7. That the contract should be let to the lowest responsible bidder. That requirement is imperative.

Such are the essential requirements of the law. Have they been complied with? Have they been properly regarded? The committee do not think they have, and this conducts from the mere consideration of the law to the facts. They propose to take up each point in the order they have been presented.

First. Is the location suitable? In relation to this we believe there can be only one opinion. It is inconvenient, because distant from the city court-room. It is unhealthy, in a low and marshy part of the city. It is unbecoming. It is in full view of the Capitol. That a jail should be erected near to the chief edifice of the nation is so in conflict with good taste and pride of country as to excite surprise that any one could have selected the present location.

It is not, however, too late to save the nation from the disgrace and ridicule which would follow its completion on this location; for but little else has been done than to commence a foundation, and, as will appear hereafter, this is so imperfect as to be, in fact, worthless, so that there is no obstacle to prevent a change of the location. Let one in all respects suitable be selected. This is what the law contemplated, and what should exist.

Second. While the location is unsuitable, is the proposed structure of sufficient capacity to accommodate at least three hundred prisoners, and has it suitable yards, hospitals, &c.?

1. As to the capacity of the building: it seems to be conceded that each prisoner should have one thousand cubic feet of air. In this country this seems to be the standard quantity allowed each person; in foreign countries it is generally greater. Taking this quantity as correct, only two hundred and sixty-eight prisoners can be properly accommodated in the building, as contracted for; so that it is not sufficient to accommodate the minimum number designated in the law. It is true that the cells might allow that number to be crowded in them; but the law clearly did not contemplate that this should be done. The crowding of "rooms" or persons is exactly one of the things which generates disease. Besides, this is an age of civilization and humanity, and to confine any person without sufficient supply of air is little else than execrable.

This consideration acquires increased force when it is considered that many who are incarcerated are innocent, and that sometimes they are poor witnesses against whom no offense is charged.

If men and women must be imprisoned, let them have an ample supply of pure air. As respects yards, hospitals, &c.: these are, perhaps, as important as air. But no "out-door yards or hospitals" are attached to the building, as at present designed. The yards and hospitals (such as they are) are "inside" of the building.

As respects the accommodation of prisoners as regards numbers and otherwise, the proposed building, therefore, is in utter disregard of the law.

Third. Is the plan suitable? We think it is, even less so than the location and "accommodations" of the proposed buildings. This will appear from an enumeration of some of the more palpable defects. The front elevation is in bad taste, and unsightly; the internal arrangements are inconvenient and unsafe in many respects. The kitchen, laundry, &c., are placed on the principal floor, close to the main entrance. The passage from the entrance to the cells, on the first floor, is very inconvenient. There is no door or passage from the inside of the jail to the yard except the single door in front. There are no iron or stone floors to prevent the most usual mode of escape by tunneling out. There is no way of watching those who are confined in lower floor cells without greatly increased guards, as that floor is cut off from view from guard-room, &c. There is no provision for saving the lives of prisoners in the event of fire in the roof, which is a heavy wooden structure, or fire about the kitchen, &c., near the front and only way of egress. The cells are placed back to back, with no provision for even free, natural ventilation, as they are like an oven with no opening but the narrow doors in front. There is no provision at all for forced ventilation, which your committee are convinced from the testimony is essential to the comfort and health of prisoners in so large a prison. There is no provision for water-closets in the cells, or other means of meeting the necessities of prisoners, except by night-buckets, to stand in the cells, which, with three hundred inmates, your committee are satisfied would render existence in the cells almost intolerable. There is no proper provision for classifying those who are confined there; no way of properly separating hardened convicts, who are there for final punishment, from those who are merely detained for preliminary examinations, and who may be innocent, or from witnesses who are detained to serve the State. There are no sufficient exercise-rooms or officers' rooms, and no proper separation of the hospital from either the chapel or the officers' rooms, and no separation of the privies from the bath-rooms.

In these particulars, and in many others, your committee find those plans utterly unsuitable for the purpose for which they are designed, and no witness has ventured to appear before the committee to justify the defects enumerated, except Mr. Faxon, the selected and compensated architect. Surely the original purpose of Congress, namely, to secure the construction of a jail on the most improved modern plan should to be maintained,

Eminently proper in its original conception, its continuance and maintenance will be no less so.

Fourth. Was a competent architect appointed, and were plans and specifications complete in all particulars, prepared and approved by General Meigs and Mr. Mullet and Mr. Clark, the architect of the Capitol, who was designated by the Secretary to act with them? Only a negative answer can be given to either branch of this inquiry.

1. As to the architect.

Eben Faxon was appointed by the Secretary of the Interior. Who or what he is does not clearly appear. He claims to be an architect; but while he is "unknown to fame," he has furnished no evidence of his capacity, either from the mouth of architectural witness or through any of his papers or work laid before the committee.

Nor does the mode of his appointment tend to establish his reputation as an architect. Briefly it was this: introduced to Mr. Browning by his brother, William Faxon, Assistant Secretary of the Navy, with a view to obtaining the appointment of architect, recommended only by George W. Whiting, deceased, who, like Mr. Browning, had no architectural skill, he prepared a few rude sketches, and at once received the appointment he desired. Since his appointment he appears to have had almost exclusive control of the jail, and to his conduct, directly or indirectly, may be largely traced the blunder or wrongs of the plans and contracts. Indeed, one witness, Mr. Gibbon, testifies that Mr. Faxon made corrupt proposals or suggestions to him, in connection with the jail, and talked to him of "let ups," &c. It is true, Mr. Faxon denies much of what Mr. Gibbon has testified to; but apart from the fact that Mr. Gibbon, who is at present engaged in constructing the agricultural college, is a man of admitted good character, the circumstances detailed by him, as well as other facts in the investigation, go to corroborate his testimony.

More, perhaps, need not be said as to the architect. While his ability is not established his character is not free from at least suspicion. Both should be beyond doubt.

2. As to the character of the plans, specifications, &c.

The plans and specifications are so incomplete as to be unsafe for both the Government and the contractor; very large portions of the work are either not specified at all or are so indefinitely specified as to leave its character to the discretion of the architect, whose power is very broad to decide, and direct in all matters that are omitted or in doubt. For example, there is to be a considerable amount of cut-stone work, but the specifications do not show how much, or of what quality of work, leaving a wide margin for discretion, which alone might make a difference of several thousand dollars; the quality of brick to be used is not specified, leaving a margin there of from one to two hundred per cent. to his discretion; the quality of finishing lumber is not specified, leaving another margin fully as wide as the one last named; it is not stated whether the sashes are to be iron or of wood: whether the gutters are to be of tin, iron, or copper: what shall be the sizes of the gas-pipes, or the number of the burners; and there are many other defects equally as important. Indeed, it is clearly in evidence that there is more than fifty thousand dollars' worth of work which is indispensable to the jail that is not specified at all. With the discretion reserved to himself he can make a vast difference in the cost of the work between a favorite contractor and another, probably fully fifty, or even one hundred and fifty per cent. difference. Both the Government and the contractor are entirely at his mercy—not fit to let a contract on. We think

no man could safely bid for the work unless he was sure of the favor of the architect. We think "fair and equal competition for the work" on such specifications is impossible. He can alter or add to the work as his discretion shall dictate, without appeal, and work as he orders it, and fixes the price, must be paid for.

3. As to the approval of the plans and specifications.

That there could be any "approval" of "perfected plans" and specifications where none existed cannot be pretended; but on this point the evidence is conclusive. Mr. Mullet, one of those whose approval of the "perfected plans" for the entire work was required, was called before your committee, and, on cross-examination by Mr. Faxon, the architect of the jail, stated that he had seen "nothing but a small sketch, one or two sections, and the elevation of the building," on which "proper estimates could not be made by anybody except the architect who understood the construction." In his direct examination he states that there was nothing approved by the board but the "sketches," and that they were not sufficiently developed to serve as a basis for a contract. Mr. Clark, the supervising architect of the Capitol extension, who was appointed one of the said board of three to approve the perfected plan for the entire work, confirms by his testimony that given by Mr. Mullet, that the said board never approved anything but sketches, showing on a small scale the general arrangement of the building.

Mr. Faxon's own testimony shows that General Meigs did not sign any approval even of the sketches. Much more evidence might be cited, but this is enough.

Fifth. Were there complete specifications of the work and the material to be used prepared and approved, so that the building could be properly constructed within the maximum sum mentioned by Congress, namely, $200,000? This, as the previous questions, must be answered in the negative.

1. It is not pretended that approved specifications of "the work and materials" exist.

2. As to the cost. According to the testimony of Mr. Allen, one of the contractors, the aggregate of his contracts amounts to between one hundred and fifty and one hundred and sixty thousand dollars. Mr. Wiedner testifies that his contracts amount to between sixty and sixty-five thousand dollars. The plastering contract amounts to between seven and eight thousand dollars; making the aggregate of all the contracts between two hundred and seventeen and two hundred and twenty-three thousand dollars. About nine thousand dollars of the appropriation having been used up for architects' salaries and incidentals, there would be a deficiency in the appropriation, to satisfy the contracts, of from twenty-six to forty-two thousand dollars, without making any allowance for the salaries of the architect, draughtsman, and superintendent, from this time on till the building be completed, and without allowing a dollar extra for the cut-stone work, which, by the term masonry measurement, used in the contract for the stone work, the contractor would be entitled to, according to the testimony of Mr. Mullet and others. The testimony shows that the extras to which the contractor would be entitled, under this head alone, would amount to over forty-eight thousand dollars; thus increasing the aggregate of the contracts to between seventy-two and ninety thousand dollars beyond the appropriation.

The foundation walls, according to the plans, were to be two feet nine inches in thickness. The testimony, and a personal examination of the walls now laid, show that the architect, by the extraordinary power vested in him by the specifications which have been made a part of the contracts, has had those walls put in about four feet in thickness, thus increasing the cost fifty per cent.; and the testimony shows that by virtue of this same power the architect could run the cost of the building up almost without limit. In fact, Mr. Oertly, assistant architect of the Treasury Department, and Mr. Frazier, a distinguished architect of Philadelphia, with Captain A. Grant and others, at the request of the committee, made estimates of the cost of the jail, as it is now let, and they concur, that to complete it, as it should be, on the present plans and specifications, will cost over four hundred thousand dollars. Your committee see no use of requiring perfected plans of the entire work to be completed and approved with a view of preventing unreasonable cost, and still leave it in the power of the architect to increase the same at his pleasure.

A few extracts from the specifications of Mr. Faxon will show the power vested in him, or which he reserves to himself. On page 3 is this clause:

"The work will be done in accordance with the designs and detail drawings of Eben Faxon, architect, and under his supervision, guided, where no specific directions or details are given, by these general specifications."

The law required "particular" specifications, not "general." On the same page is the following:

"In all cases of uncertainty or dispute in the execution of the work the architect is the umpire to decide upon the matter. He is also the person to decide and give directions in all things where the words 'as may be directed' or 'as directed' are used or applied; also where the words 'proper' or 'suitable' or 'required,' or words of similar import, are used, the decision as to what constitutes such propriety, suitableness, requirement, &c., is in all cases to be with the architect."

The law required that everything should be designated, and not left open to the discretion of the architect, to "be directed" as required, and that whatever was suitable or required should be specified.

And on pages 8 and 9 is the sweeping claim:

Second. It is not anticipated that there will be any alterations, additions, or omissions in the works herein specified, but, should the architect deem them proper or necessary during the progress of the work, such alterations, additions, or omissions are to be acceded to by the contractor or contractors and carried into effect, without vitiating or annulling, in any respect, any contract or contracts before entered into or made for the works; and the value of such alterations, additions, or omissions is to be determined by the architect, whose decision thereon shall be final; and the sum or value thus determined upon is to be added to or deducted from (either way, as the case may be) the contract by indorsement thereon.

Such are specimens of the extraordinary and illegal powers claimed by the architect, with the sanction of the Secretary of the Interior, and actually vested in him by the existing specifications and contracts. More glaring violations of the letter and manifest intention of the law could not well be conceived.

And that it is really contemplated, under the sweeping clauses which have been quoted, to increase the cost of the jail beyond two hundred thousand dollars, or the present appropriation, appears beyond doubt from the extract in the contract of Mr. Browning with Mr. Allen:

"It is also agreed and understood by and between the parties hereto that the said party of the second part shall furnish any additional material and labor at the above-named prices, should Congress direct and make the necessary appropriation therefor, in or about the jail: *Provided*, That at any time it is deemed for the interest of the United States to employ him."

Comment on this extract would be useless. It combines, with the testimony of witnesses and the other facts, to show not only that the jail, according to the present contracts, cannot be erected for $200,000, but that it is not the intention of the Department and the contractors that it should be erected for that amount.

Sixth. Was the advertising and letting of the jail delayed until the plans and specifications were so complete, together with a designation of the material and work to be done, as to render fair and intelligible bidding possible?

This has already to a considerable extent been answered. Several of the witnesses testify that it was impossible to make safe estimates or bids because of the imperfections of the plans and specifications. But this is not all. The evidence certainly tends to show that some of these contracts were obtained by fraud or undue influence. At least $3,000 worth of compensated influence presided over the birth of Mr. Allen's contract, and $10,000 stood ready to purchase a report from your committee that would let this scheme of plunder have its way.

One of the contractors, Mr. Charles F. Weidner, of Chester, Pennsylvania, was an honest man. His countenance and his actions show it, and his integrity is vouched for by honorable members on this floor who have known him long. He came here as a business man to attend to his business in a legitimate way, bringing with him as an adviser a gentleman of the highest integrity. They attended one meeting of the committee, and had scarcely left the room when one of them was approached by a man who asked him if he had any influence with the chairman of the committee, telling him at the same time that there was any amount of money ready to be used to secure a report favorable to the contractors. The other a few minutes after was approached by Mr. Allen with a similar statement, differing in unimportant particulars. In the latter case the amount of money mentioned seems to have been $10,000. These two men meet—each tells his experience to the other—both are indignant at what had happened. The contractor is advised by his friend to expose the whole thing at once. The advice is accepted. He comes before the committee; gives his testimony; his friend is sent for; gives his testimony, and the testimony of the two that what they said occurred, notwithstanding the contradiction made by Mr. Allen and other interested parties.

But, aside from this testimony, it is a remarkable fact that the bidder, Mr. Allen, who employed attorneys on terms of intimacy with the Secretary of the Interior and others connected with his Department, obtained the larger portion of the contract. How is this to be explained except on the hypothesis "that money was used?" And from all the facts there cannot be any rational doubt that the bidding or letting of the contract was not of that open and fair character which the law contemplated.

Seventh. Was the contract let to the lowest responsible bidder? This has not been seriously contended.

The five lowest bids, ranging from one hundred and forty-three thousand nine hundred and ninety-two to one hundred and seventy-eight thousand seven hundred and sixty-three dollars, to furnish the material and complete the entire work according to the plans and specifications, were rejected by the Secretary on the ground of alleged irregularity, in that they contained no specification of the material to be used.

By the very terms of the bids the bidders were to erect the jail in accordance with the plans and specifications. These specifications require that "the facings of the walls shall be of white marble, granite, or Seneca stone, backed with Sienite or Seneca stone." The contract, as let, calls for Seneca stone, the cheapest material of the three. It is therefore evident that the Government could not have fared worse as to the value or quality of the material to be used had either of these five bids been accepted and the contractors been permitted to use whichever one of those three kinds of stone he might have preferred. The testimony of several architects shows conclusively that by the custom here a contract based on either of these bids would leave to the Government to choose which one of those three kinds of stone should be used.

Mr. Mullett, in his testimony, says, "If I had advertised for proposals for a building and specified several materials, and if I received bids that did not specify the material, I should assume that it was intended to give me the choice."

Mr. Clark's testimony on the point is as follows:

"*Question.* I believe the Government specified three kinds of material to be used—granite, marble, and Seneca stone?

"*Answer.* Yes, sir.

"*Question.* And that some of the bidders did not specify what materials they would use?

"*Answer.* That was the reason alleged by Mr. Faxon for excluding those low bids.

"*Question.* In your opinion had not the Government, under those circumstances, the right to designate what materials should be used?

"*Answer.* Yes, sir."

Besides, the bidders whose bids were thus rejected, or several of them, offered to furnish the necessary bonds. Their responsibility was not questioned before your committee. The fact that they offered to furnish bonds appears in their bids. Your committee can see no reason for rejecting those bids, except for the purpose of throwing the contracts, in direct violation of law, into the hands of a higher bidder. And this was just what was done. Consider it. First, the architect so words his specifications, by the use of alternative terms, as to leave bidders to put in proposals in reference to these terms. Then, when they do so, he urges the rejection of the bids because they did not designate what he had not designated, specify where he had not specified, and a compliant Secretary agrees with him as to the rejection.

Mr. Clark, the Capitol architect, however, differed from him, and recommended that at least an opportunity be given the lower bidders to name the material—the stone which they proposed to use. But this proposition might have prevented a favorite from obtaining the contract, and it, of course, received little or no attention.

Why was it that "the lowest responsible bidders" were not given the contract? The law required that they should have it. To-day some one of them should have it; and your committee are of the opinion that, in view of the mandatory terms of the law, Mr. Allen, one of the higher bidders, has now no valid or just contract—none that could be enforced in law or equity.

It thus appears that in no important particular has the law been complied with; and hence the contracts and proceedings under them must be illegal, and are not binding on the United States.

Your committee should add that they examined in person the work already done on the jail. In the presence of several of the committee a crowbar was thrust down over two feet into the soft mud in the trench at the end of the unfinished wall. On this soft mud the walls are commenced, without any footings whatever, and are built up very thick, with a shell on each side, and the center filled in with small stone—the very rubbish of the quarry. The mortar used is utterly worthless, made of dirt instead of sand, with a sprinkling of cement, and all the adhesive force it now has has been given it by the frost. The walls are neither well bound together nor are the joints well broke. They are simply a cheat on the Government. The testimony of Mr. Oertly and others is that the work already done is totally worthless and must all be taken up.

The committee should not omit to state that something like ten thousand dollars have already been expended by the Secretary in procuring these worthless plans and in advertising and other incidentals. Besides this, several thousand dollars have been paid, without any authority of law, to persons in no way recognized by the law—apparent favorites of the Secretary or architect. It is worthy of attention in this connection that the commencement of the work was made by laying foundation walls in the winter, which are destroyed by frost, and the proofs render it obvious that the object in doing so was to hasten the advancement of the job so far that Congress would be deterred from interfering with this corrupt proceeding.

The committee also conceive it to be proper to state that the common council of the city of Washington have directed such action to be taken in law, as well as in Congress, as will prevent the erection of a jail on the existing plans, specifications, and contracts. And heretofore a number of tax-payers applied to the supreme court of the District of Columbia for an injunction to restrain the letting of the contract, and the court only refused to grant the injunction because the application was premature, holding that the time for the interference of the tax-payers would not arrive until an attempt should be made to levy and collect the $100,000 ultimately chargeable on the District of Columbia. It is understood that should the present contracts, or so-called contracts, be allowed to go on, when an attempt shall be made to collect the portion of the cost of the jail assessed to the city of Washington the court will be asked to restrain its collection. Delay and litigation as respects its payment would arise, and, should the injunction be granted a large part of the cost of the jail would be unprovided for, or, more accurately, the whole amount for its erection would fall on the United States. How much wiser and better it will be for Congress to prevent this result and all litigation by a speedy and immediate correction of the wrongs complained of. The matter is now in its hands, and the established evils should be promptly and definitely cured.

The question properly arises, on an examination of all the facts, whether the Secretary of the Interior, with all the cares and perplexities of his office, is a suitable person to be charged with the control of building this jail. He has been unable to give it much personal attention, but has been obliged to leave it chiefly to subordinates, who seem to have been incompetent or otherwise unfit. He testifies that he had no knowledge of the business himself,

and that he left it to others who also had no knowledge of it. The testimony must satisfy all that the Secretary of the Interior should not longer be charged with this duty. It may not be necessary to decide whether his errors arise from a disposition to unfairness or favoritism or from lack of knowledge of the subject and the weight of official cares and labors. It is proof that—

1. Secretary Harlan had invited several architects to make and submit plans for the jail, and that several carefully considered and perfected plans (the results of months of labor) were presented to and opened by him.

2. That Secretary Harlan declined to officially decide between these plans, for the reason that the present Secretary was so soon to come into office, and the plans were handed over to the present Secretary on his accession to office.

3. That the present Secretary declined to either accept or reject any of these plans, but, keeping them open to public inspection at his office, procured Eben Faxon, of Baltimore, to make plans.

4. That after only about thirty days' time Mr. Faxon presented a hasty sketch or design, (not matured and perfected plans,) which was at once accepted and adopted by the Secretary, without consultation with professional experts, but simply on advice of certain clerks in his office, who, he testifies, had no knowledge of the business.

5. That no competition was invited or permitted with Mr. Faxon, and especially that the architects who had already submitted matured plans were formally denied all opportunity to compete, so that Mr. Faxon was preferred and employed to make plans, while the others (though they had performed their labor on invitation from the Department) were not even permitted to compete.

6. That in the same spirit Mr. Faxon was employed by the Secretary, at a salary, for months, (say five and a half months,) with the aid of several assistants, paid by the United States, to perfect plans pursuant to his sketches or designs, while the others (though working at their own expense) were not permitted to present perfected plans.

7. That, after all, the plans finally produced by Mr. Faxon were glaringly defective and unsuitable, but, nevertheless, the Secretary proceeded to advertise for proposals, and to let the contract to build on those plans.

8. That, in the winter of 1867, the matter was brought to the attention of Congress, and referred to a committee of the House, who called to their aid, for advice, three very competent and distinguished engineers and architects, namely, General M. C. Meigs, A. B. Mullett, and B. Oertly, Esq., of the Treasury Department, who made to the committee a written report or opinion, in which these plans of Faxon, on which the Secretary was proceeding to let the work, were strongly condemned as utterly unfit for the purpose and unworthy to be used; and that report and opinion was brought to the attention of the Secretary by the committee.

9. That, nevertheless, the Secretary did not suspend, but went on to open bids, and was about to let a contract on these plans when Congress peremptorily stopped his proceedings by the resolutions of March 2, 1867.

10. That notwithstanding Congress then directed that the business should be suspended until perfected plans for the entire work should be completed and approved by a board of three, &c., still that direction has not been obeyed. Perfected plans were never approved by such board, nor even presented to them, nor have such perfected plans or any plans at all, sufficient as a basis for letting the work, ever been made; but, in palpable disregard of that resolution, the Secretary has gone on and let a pretended contract or contracts upon general and grossly defective sketches of a plan, and with the use of specifications so defective as to afford no protection to the Government, which would be entirely at the mercy of the architect, under whose direction the cost of the building may be increased to $500,000. Fair and equal competition for the work, upon such plans and specifications, was impossible, since no man could bid unless he was assured of the favor of the architect.

This remarkable course has been pursued in the face of written protests to the Secretary by men who were interested, in the face of the resolution of Congress, and of the face of the opinion of the highest court in this District, which was certainly sufficient to arrest his attention. Any interference on the part of Congress would be idle unless the control of the work be taken out of the hands of the Secretary, who is evidently either unable or unwilling to give it proper attention.

Your committee are satisfied from the evidence that Charles A. Weidner, the contractor for the iron work, is not involved at all in the faults and frauds which have been brought to light by this investigation, and that he should suffer no loss by the abandonment of the old plans. They have, therefore, made provision in the bill which accompanies this report for a fair and equitable adjustment with him.

Your committee are fully satisfied that a new jail is greatly needed in said District; but they are also fully satisfied, on the whole proofs presented on both sides, that this is a case urgently demanding congressional interference, and, with that view, they report the accompanying bill and recommend its passage.

Mr. INGERSOLL. I desire to make a suggestion to the chairman of the Committee on Public Buildings and Grounds. This whole subject was referred to a joint committee of the two Houses, composed in part of the committees for the District of Columbia in the Senate and the House, and that investigation has been conducted to a conclusion, except that the opinion of the joint committee upon the facts elicited has not been made up. Now, the suggestion I have to make to the gentleman is, if it meets the concurrence of the House, that the further consideration of this subject be postponed till the joint select committee make up their opinion with regard to what ought to be done in the premises. Then I take the liberty of proposing, not on behalf of the committee, but as one of the committee, that the two committees—the one which he represents and the joint committee to which I have referred—meet together and see if they cannot agree upon some plan which shall give satisfaction to themselves and be satisfactory to both Houses of Congress. I make this proposition now in the hope that it may expedite this matter and take this perplexed question from the consideration of the House at this time, for I am satisfied, if this question is to be discussed now, it will require one, two, or three days to do the subject justice if the House will tolerate discussion of the case.

Mr. COVODE. Mr. Speaker, in my judgment, nothing like so much time will be taken as the gentleman intimates. The hour will soon be up, the previous question having been ordered, as I understand.

The SPEAKER. The motion to recommit is pending.

Mr. COVODE. I will state, then, that I have been in conference with the chairman of the Committee on Public Buildings and Grounds in the Senate, [Mr. FESSENDEN,] and he told me to go on and finish our work. He knows what we are doing, and says he is satisfied with it. The committee met and took testimony. We found that this contract was let in violation of law—through fraud—money being paid for the purpose. We have also proved that money was at the door of the committee to buy us up to give a favorable report. I am astonished that the gentleman from Illinois [Mr. INGERSOLL] should stand in the way of trying to arrest these frauds and protect men engaged in them. The committee have done their duty faithfully, and I am willing to leave it to the House to decide whether this matter shall go on when we see it was conceived in fraud and nurtured in iniquity.

Mr. INGERSOLL. The gentleman might well be surprised if I really stood in the way of preventing the consummation of any intended fraud. The gentleman will remember that it was the Committee for the District of Columbia that first moved a suspension of this contract and of the consummation of the building of this structure until the facts could be inquired into. I am not here to dispute the facts at this time which the gentleman says have been pressed before his committee, but I am here to stand in opposition to the report he makes, so far as his bill is concerned, which proposes to create a new commission under a new law to commence as it were *de novo* with the construction of this jail. I say that a better plan than that which the gentleman has reported can be adopted, in my opinion. I may be mistaken, but all I ask of him now is that the joint committee to which I have referred shall consult with the gentleman and his committee on the subject and bring in a report. I am sorry the gentleman insinuated that I should be standing in the way of the prosecution of his plan so far as the prevention of any fraud is concerned. Now, my very object in making this proposition is to expedite this matter. I do not want the committee of the Senate to make one report to the Senate and the District Committee of this House to make another report, both in opposition to the gentleman's report. I want to see if we cannot harmonize and all agree on one report which will go through the House without taking the time of the House in a discussion of perhaps one or two days.

Mr. WELKER. I desire to say one word. I have no controversy with the chairman of the Committee on Public Buildings and Grounds in relation to this contract. It has been investigated, as has been already stated, by a sub-committee of the Committees for the District of Columbia of the Senate and the House. I desire to make a single suggestion. We have already expended about fourteen thousand dollars of this appropriation in getting up a plan.

Mr. COVODE. I will state that only a little over four thousand dollars of that amount has been spent on the jail, and over nine thousand dollars has been spent for outside influence.

Mr. WELKER. I was saying that perhaps ten thousand dollars has already been appropriated for the purpose of getting up the plan for a jail. Now, the gentleman proposes to adopt a new plan entirely, and go through all of this process again to get up a plan for the purpose of building a jail. My suggestion to the gentleman is, that by a little conference it can be arranged between the two committees so as to make but a slight change in the plan already adopted, and perhaps save eight or ten thousand dollars in the adoption of a new plan. That is the suggestion I desired to make to the gentleman.

Mr. COVODE. I will state, for the information of the House, that I have examined the work that has been already done, and I understand what work is; I have had a great deal of such work done in my time, and the work is totally unfit to place the building on. It was built in the winter, in order to hurry on and get it out of the reach of Congress, and the mortar with which it is built will answer no better purpose than the dust of the streets. They have built a wall four feet thick and filled it with the refuse of quarries. I have been down and examined it, and it is not fit to build a log barn on, let alone a jail of these dimensions. I have had some of the most scientific men in the country to examine it, and each of them has testified that it is totally unfit for the purpose, and will all have to be taken up. Now, what is lost? Ninety-five hundred dollars has been paid away in a very strange way. I do not want to attack the Secretary of the Interior or to attack Mr. Faxon; but from the facts developed during the investigation I state here—and the House may do as they please about it—that that wall which has been built must be taken up, no matter whether the location be changed or not. I state, further, that the Interior Department has disregarded all the laws of Congress on this subject; that they disregarded the joint resolution requiring them to submit certain matters to a certain board; that they threw aside the lowest bids and took the highest, and that they have made a contract under which the most scientific men in the country say the cost of the building will amount to $500,000, and they have done that in the face of a law which confined them to $200,000.

I can state also that the mayor of this city and the city authorities refuse to tax their citizens to pay a dollar of this expense, and they went into court to lay an injunction to set aside the contract; and the only reason why the court did not grant the injunction was that they had not proceeded to collect the tax, but they will do it whenever they proceed to collect the tax. The Government, unless this measure is taken, will be responsible for the whole cost of building the jail. And, sir, my judgment, based on an experience of many years here, is that the jail will not be completed for five or six hundred thousand dollars. The bill that I have reported confines them to $200,000, and there is no difficulty in getting bids to do the work for that amount. Why, Mr. Speaker, bids were put in to do the entire work for $143,000, and from that up to $200,000.

Those propositions were thrown out; and why? Because they did not specify the material to be used. The Secretary of the Interior, in his proposition for bids, named three kinds of material—marble, granite, and Seneca stone. All the testimony we have taken goes to show that the Government had the right to say which of those materials should be used when the

bidders failed to name the material. Now, after throwing out these bids, what did they do? They accepted one from parties who were willing to pay and did pay a certain sum of money to secure it; that is what is at the bottom of all this matter. The testimony is all there, but I have not time to refer to it now. But I will state further, that after throwing out these bids, because they did not specify the material to be used, they let the contract to a man who has so far constructed the foundation of the most inferior and the cheapest material of all. Now, if the contractor can afford to pay $13,000, as we have already in evidence, we think the price is too high; there must be some reason why he can afford to pay this much money to obtain the contract and to hold it.

The SPEAKER. The pending question is upon the motion to recommit the bill to the Committee on Public Buildings and Grounds.

Mr. COVODE. I will withdraw the motion to recommit, and call the previous question upon the bill.

Mr. INGERSOLL. I ask the gentleman to allow me a few minutes.

Mr. COVODE. How many? I have not much time left.

The SPEAKER. If the previous question shall be seconded, the gentleman from Pennsylvania, [Mr. COVODE,] having reported the bill to the House, will be entitled to one hour to close the debate.

Mr. COVODE. I will yield to the gentleman after the previous question has been seconded.

Mr. INGERSOLL. I prefer to have five minutes before the previous question is seconded.

Mr. COVODE. Very well; I will yield to the gentleman for five minutes.

Mr. INGERSOLL. If the gentleman from Pennsylvania [Mr. COVODE] supposes that the House understands his report, or the evidence upon which he bases the main features of it, or that the House understands the bill he has reported, then he has much more assumption than I have, and more than I think he has any right to have. His report has but recently been made; it covers some eight or ten closely printed pages. The evidence, if printed, I suppose, would make a reasonably good-sized book. The gentleman now proposes to do away with all the former legislation of Congress upon this subject and to commence the work all anew. By his bill it is proposed to create a commission which shall have authority to select a site and a plan, and then to let this contract to the lowest responsible bidder, involving an expenditure of $200,000.

Now, sir, I believe a better plan can be adopted than that proposed by the Committee on Public Buildings and Grounds. I am not, neither is the Committee for the District of Columbia, I suppose, in favor of the present location of the proposed new jail. We all agree in that; I think the location is a bad one. I do not deny the facts which the gentleman has alleged to exist regarding the manner of constructing the jail up to this point. I do not take issue with the gentleman in regard to Mr. Faxon, for I know nothing about him. Nor do I know anything about any of the contractors, and I care nothing about them. But I do know that under a former act of Congress the Secretary of the Interior was authorized to select a location for this jail. In the discharge of that duty, imposed upon him by law, he selected the one upon which the structure has been commenced. I think he made a poor selection. In the next place, we authorized him by law to select and employ an architect. He selected and employed Mr. Faxon, which was, perhaps, another poor selection. I take no issue with the gentleman on that point; I know nothing about it. But I know this, that subsequently we passed another joint resolution which provided that before the plans should be adopted by the Secretary of the Interior they should be approved by a commission of three persons, namely, General Meigs, Mr. Mullett, and Mr. Clark, three eminent architects, well known here. They did approve the plans after making various suggestions with regard to them.

Mr. COVODE. I wish to correct the gentleman. There was never any plan submitted to them. It was only a pencil sketch.

Mr. INGERSOLL. Well, sir, call them plans, specifications, sketches, what you will, those gentlemen exercised the authority vested in them by virtue of the joint resolution. They did approve the plans, and there is the proof of it in the letter of General Meigs and the testimony of Mr. Mullett. The evidence taken before the gentleman's committee shows that these gentlemen did examine these plans and suggested variations and improvements, which have been adopted in the plan subsequently made by this architect. A plan which, in my opinion and in the opinion of the committee, is good, though needing, perhaps, some slight modifications in order to make the building suitable for the accommodation of three hundred prisoners, has been selected. It has cost the Government twelve or fourteen thousand dollars to get this matter thus far along. Now, the gentleman proposes to wipe that all out and employ another architect, who will probably charge the Government $10,000 for new plans. Will those plans be any better than the present ones? Who has a right to say that they will be? Will the site which will be selected by this commission be any better than the present site? I do not know. I should be willing that the site should be selected by the gentleman's own committee or by any committee of this House having anything to do with the administration of affairs in the District of Columbia.

Mr. COVODE. I think the gentleman's time is fully up.

The SPEAKER. The gentleman has half a minute remaining.

Mr. INGERSOLL. Now, sir, if the House will postpone this matter until the joint committee can make a report I think a report will be made which will save the Government ten or twelve thousand dollars, will secure a site better in all respects than the present one, and will secure the completion of the edifice for $200,000, which I do not believe the present report will do.

Mr. COVODE. I now yield to my colleague on the committee, the gentleman from Wisconsin, [Mr. COBB.]

Mr. COBB. Mr. Speaker, I do not wish to enter into this argument, but merely to call the attention of the House to the length of time that has already been occupied by these committees in investigating this subject. The gentleman from Illinois [Mr. INGERSOLL] makes a point that this matter was referred to the Committee for the District of Columbia. I do not know whether it was or not.

Mr. INGERSOLL. Let me state to the gentleman that he is in error. I said no such thing. I simply said that the Committee for the District of Columbia initiated the movement to put a stop to the execution of this plan, not that the matter was referred to the committee at all.

Mr. COBB. Well, Mr. Speaker, I think it amounts to the same thing.

Mr. INGERSOLL. Not at all.

Mr. COBB. It was referred, I believe, at the same time the committee initiated the movement. It makes no difference, however, except in this respect: that if this matter has been before the Committee for the District of Columbia longer than it has been before the Committee on Public Buildings and Grounds, then, in all conscience, they have had time enough to decide upon the matter and make their report. There is no doubt that the interests of the inhabitants of this District require the early completion of this jail. The matter has been before Congress for three or four years; and there is no question that one or two years more will be required to complete the building, even if the contract be let immediately. The gentleman says, in effect, that all hands agree that the location which was selected by the Secretary of the Interior is an improper one, on which it is impossible to erect a suitable building; that the work which has been done under the present *régime* must be torn up or abandoned; and that an important modification of the old plan must be made. Now, the Committee on Public Buildings and Grounds are unanimous in the opinion that no plan, in the sense in which architects use the term, or in the sense intended by the act of Congress, has ever been made or adopted. The committee are of the opinion all that ground has been gone over, and sufficient time for the investigation has already elapsed; that all the committees charged with the investigation of the subject have had ample time. The purpose of having further time on this subject is to enable interested parties to manipulate matters so as to enforce a contract which the committee believe has been improperly made and allow a site which they believe has been improperly selected forced upon this Congress and the people of this District. Therefore, sir, I agree with my colleague on the committee that the House should act on the bill now and pass it.

Mr. COVODE. I now yield a moment to the gentleman from Ohio, [Mr. WELKER,] a member of the Committee for the District of Columbia, to submit an amendment by which we will save $1,000. I am satisfied the amendment is right.

Mr. INGERSOLL. Is the bill before the House for amendment?

The SPEAKER. It is; the gentleman from Pennsylvania having withdrawn the motion to recommit.

Mr. WELKER. I move, after the word "shall," in line two, page 5, to insert "select one of their number," and then to strike out all after the word "shall" to the word "architect" in the next line. The purport of the amendment is that this board shall select one of their own number to act as superintending architect in the completion of the jail, and that will save the expense of paying for an architect to superintend this work. One of this board is an architect and without any additional trouble can superintend this work and save expense.

Mr. COVODE. When the report was under consideration I intended that the architect of the board should do the superintending of the construction of this work. The amendment is a good one, and I hope it will be adopted. I now yield to my colleague on the committee from Kentucky.

Mr. JONES. Mr. Speaker, I am a member of the Committee on Public Buildings and Grounds, and during this investigation was present only part of the time. When the report was read to the committee I made some objections, but, agreeing in the substance of the report, I did not think it necessary to submit a minority report. There are some reflections upon the Secretary of the Interior and others in which I do not entirely acquiesce. I think no reflection can justly be cast upon the Secretary of the Interior, so far as he was concerned in this matter, and I would prefer, although, to repeat, I made no objection to the report being made, that the report should be postponed for the present.

Mr. COVODE. I was very careful in drawing up this report that no person should unnecessarily be reflected upon. I left out reference to parties implicated. I did it at the suggestion of my colleague, who was more sensitive than myself. He was, as he has said, mainly in favor of this report, but was opposed to having these parties reflected upon. I tried to steer clear of all such reflections and from doing injustice to any one.

I now call for the previous question.

Mr. INGERSOLL demanded a division.

The House divided; and there were—ayes 3, noes 3; no quorum voting.

Mr. INGERSOLL withdrew his demand for a division.

So the previous question was seconded.

The main question was ordered.

Mr. INGERSOLL. I hope I will be allowed to move an amendment leaving the responsibility of this matter with the Committee on Public Buildings and Grounds, and not with this commission.

The SPEAKER. It is not in order, the main question having been ordered.

Mr. WELKER'S amendment was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COVODE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed a joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, with an amendment, in which the concurrence of the House was requested.

Also, a bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869, with amendments, in which the concurrence of the House was requested

MILITARY ACADEMY BILL.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the Senate amendments to the Military Academy appropriation bill were referred to the Committee on Appropriations.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I will state that there are but three amendments, I believe, to this bill, two of which reduce the amounts that were inserted by the House.

The SPEAKER. The Clerk will report the amendments of the Senate.

The Clerk reported the amendments, as follows:

Page 1, line thirteen, strike out "sixty" and insert "fifty;" so that it will read:

For current ordinary expenses, $56,805.

At the end of line fourteen, insert:

Provided, That the second section of the act approved April 1, 1861, making appropriations for the support of the Military Academy for the year ending June 30, 1865, is hereby repealed.

Page 1, line fifteen, strike out the words "increase and expenses of" and insert in lieu thereof "purchase of books for."

Page 1, line fifteen, strike out "three" and insert "two."

Page 1, line seventeen, strike out "four" and insert "two;" and at the end of said line seventeen add:

Provided, That the second section of the act approved August 8, 1846, making appropriations for the support of the Military Academy for the year ending June 30, 1847, be amended by striking out the first proviso in said section, and by inserting in lieu thereof the following: "*Provided*, That the whole number of Visitors each year shall not exceed seven."

Mr. WASHBURNE, of Illinois. I think the amendments explain themselves. Every one of them is in the line of economy; $7,000 are saved by them, and I congratulate the House on the event. I ask the previous question on the adoption of the amendments.

Mr. GARFIELD. Is there any change in the general effect upon the Army?

Mr. WASHBURNE, of Illinois. No, sir.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HEIRS OF DUNCAN L. CLINCH.

The House proceeded, as the next business in order, to the call of committees for reports of a private nature, commencing with the Committee of Claims.

Mr. BINGHAM, from the Committee of Claims, reported back Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, with a substitute.

The substitute, which was read, recites that whereas Eliza B. Anderson, wife of Major General Robert Anderson and daughter and heir-at-law of the late General Duncan L. Clinch, deceased, has an equitable claim in her own right, to the exclusion of all other heirs of said Clinch, against the Government of the United States, they having released all demands in the premises; and whereas the family of the said Robert Anderson need for their support the amount which she may be entitled to; therefore, in consideration of the premises and in consideration of the distinguished services of the said Major General Robert Anderson and his permanent disability, there be appropriated the sum of $10,000 in trust for the said Eliza B. Anderson, in full satisfaction of her claims against the United States, for and on account of any demand on account of the late Duncan L. Clinch.

Mr. SPALDING. Is this bill predicated on the distinguished services of General Anderson rather than on any original claim?

Mr. BINGHAM. It is quite as much on account of his original services as his claim. I call the previous question.

Mr. COBB. I simply desire to say to the House that I do not concur in the report of the majority of the Committee of Claims in favor of this substitute.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN H. ELLIS.

Mr. WARD, from the Committee of Claims, reported back, with the recommendation that it do pass, a bill (S. No. 25) for the relief of of John H. Ellis, a paymaster in the United States Army.

The bill requires the proper accounting officers of the Treasury to allow Major John H. Ellis, in the settlement of his accounts, a credit of $3,673 91, being the amount lost in consequence of a larceny of public money in his custody, at Fort Leavenworth, Kansas, on the night of January 1, 1866, if, on examining the accounts of the said Ellis, the Paymaster General shall deem him justly entitled to said credit, and shall certify his approval thereof.

Mr. WARD. I submit a written report on the case, and move that it be printed; and I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The motion to print the report was agreed to.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WARD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADVERSE REPORT.

Mr. WARD, from the same committee, made an adverse report upon the petition of citizens of Wrightsville, Pennsylvania, praying compensation for damages sustained by the burning of the Columbia bridge during the late war; which was laid on the table, and ordered to be printed.

JOHN M. PALMER.

Mr. COBB, from the same committee, reported a joint resolution (H. R. No. 218) for the relief of John M. Palmer; which was read a first and second time.

The preamble to the joint resolution recites that on the 7th day of August, 1866, John M. Palmer, of Nashville, Tennessee, contracted with the quartermaster's department of the United States to manufacture and deliver fifty-two thousand coffins for the interment of deceased Union soldiers at Natchez, Vicksburg, and Corinth, Mississippi, Memphis, Pittsburg Landing, Fort Donelson, and Nashville, Tennessee, and Marietta, Georgia, and also to erect fences for the national cemeteries at Natchez, Vicksburg, and Corinth, Mississippi, and at Memphis, Fort Donelson, Stone River, and Pittsburg Landing, Tennessee, and that owing to the malicious destruction of said Palmer's steam saw-mill and machinery by rebel incendiaries and loss of timber by providential floods he has failed to fully complete his contract and has incurred forfeitures to the Government thereon.

The joint resolution releases John M. Palmer from all stoppages and forfeitures on account of his failure to deliver the coffins under his contract and directs the Quartermaster General to adjust and settle the claim of said Palmer for erecting fences around the national cemeteries by an additional allowance of $7,283 70, to be paid from the fund appropriated by the act of February 22, 1867, to establish and protect national cemeteries.

Mr. COBB. I move the previous question on the joint resolution.

Mr. WASHBURNE, of Illinois. I would like to have the report in this case read. I hope the gentleman from Wisconsin will not undertake to put this joint resolution through this morning. It certainly comprehends a principle which the House has not heretofore acted on, and that is to give compensation for damages done by the casualties of war.

Mr. COBB. I withdraw the demand for the previous question. I will state for the information of the gentleman from Illinois that there is no written report accompanying the joint resolution, as the facts are briefly stated in the preamble, so that the House can see what the facts of the case are. I will state for the information of the gentleman from Illinois and of the House that we do not propose here to pay this man for losses sustained from the public enemy, but by reason of the burning of his mill he was unable to furnish all the coffins at the times and at the places where those officers of the Government who were engaged in disinterring and reinterring Union soldiers in national cemeteries wanted them; and hence, under the terms of his contract, he incurred certain forfeitures. The first provision of the joint resolution is to relieve him from those forfeitures—not to give him any money. The second clause of the joint resolution does give him additional compensation for erecting fences around certain of these cemeteries.

The price or cost of erecting these fences was enhanced by circumstances beyond the control of the contractor, Mr. Palmer. In some cases they were purely providential, and in others they were caused by the fact that the officers whose duty it was to purchase the land for these cemeteries selected land the fencing of which was vastly more costly than ordinary land would have been. This they did, either because they could get the land cheaper, or on account of its picturesqueness for cemetery purposes, such as rocky, craggy, or hilly land, to fence which would cost more than ordinary level ground. Upon a careful estimate we have made this appropriation very much lower than was the actual cost to this party.

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman a question.

Mr. COBB. Very well.

Mr. WASHBURNE, of Illinois. Does not this joint resolution propose to give this party an additional price on his contract, independent of reimbursing him for the damages done by the rebels? This joint resolution involves a very important principle; it is not yet printed; there is no report accompanying it; yet we are asked to put this bill through, and thereby establish a precedent which will lead no man knows where. Now, I am aware how utterly idle it is to attempt to stop anything of this kind; but I wish to enter my protest against it.

Mr. COBB. There is no danger in the precedent which this joint resolution will establish. Congress has never passed but one act providing for the interment of Union soldiers in national cemeteries. If it is ever necessary to pass a similar joint resolution hereafter I hope Congress will follow so much of any precedent as this will set as will enable the officers and contractors of the Government to give decent burial to our deceased soldiers, and to erect seemly fences and other ornamentations around their last resting places. I now call the previous question.

Mr. WASHBURNE, of Illinois. If the previous question is not seconded, will not this subject then go over for future consideration?

The SPEAKER. It will be postponed, or debated and considered at this time, as the House may determine, should the previous question not be seconded.

The question was then taken upon seconding the previous question; and upon a division there were—ayes 56, noes 23; no quorum voting.

Tellers were ordered; and Mr. COBB and Mr. WASHBURNE, of Illinois, were appointed.

The House again divided; and the tellers reported that there were—ayes 74, noes 23.

So the previous question was seconded.

The main question was then ordered.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was on the passage of the joint resolution.

Mr. WASHBURNE, of Illinois. Upon that question I call for the yeas and nays.

The yeas and nays were not ordered.

The joint resolution was then passed.

Mr. COBB moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPAIRS OF LEVEES.

Mr. McCORMICK, by unanimous consent, presented a concurrent resolution of the Legislature of the State of Missouri, in relation to repairing levees protecting the alluvial lands below the mouth of the Ohio river; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

GEORGE W. LANE.

Mr. HOLMAN, from the Committee of Claims, reported a joint resolution (H. R. No. 218) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado Territory, and Assistant Treasurer of the United States; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It authorizes the Secretary of the Treasury to credit and allow to George W. Lane, superintendent of the United States branch mint at Denver, Colorado Territory, in the settlement of his accounts, the sum of $4,419 90 public money, which was stolen from the mint without fault or neglect on the part of said superintendent, and which has not been recovered.

Mr. HOLMAN. I ask that the report be read. I will remark that the committee have adopted the report made to Congress at the last session, and upon it base this joint resolution.

The report was read. It states that on the 13th February, 1864, one James D. Clarke, an employé and pay-clerk in the office of memorialist, robbed the mint of $36,817 05, public money of the United States, with which he absconded, and that memorialist immediately took the necessary steps for his apprehension, which was accomplished; that said Clarke was thereupon indicted, convicted, and sentenced for the larceny, and the money so stolen, except the sum of $4,419 90, was secured and returned to the Government. The balance not found, upon the arrest of Clarke, remains charged against the memorialist on the books of the Treasury, and for which he now asks an act of Congress releasing him from its payment. The committee are satisfied, from evidence, that the memorialist had good reason to repose confidence in the honesty and integrity of Clarke as an employé and clerk; that every ordinary and reasonable precaution was exercised by memorialist to secure and preserve the public funds, and to recover all that remained in the possession of Clarke at the time of his arrest. The character of Clarke previous to this robbery was above suspicion, and his employment in the mint was recommended by the best citizens and men of business in Denver City. The committee, therefore, recommend the relief sought for by the memorialist; that he be credited with the sum of $4,419 90 stolen by Clarke and never recovered from him; and to that end report the accompanying joint resolution.

Mr. HOLMAN. I hold in my hand letters from the former Secretary of the Treasury, Mr. Chase, from General Spinner, the Treasurer of the United States, and from the Director of the Mint at Philadelphia, all having the effect, I think, of showing that this bill ought to be passed. If there is no objection to the bill I will not consume the time of the House by reading these letters, but will call the previous question upon the bill.

Mr. ALLISON. Mr. Speaker——

Mr. HOLMAN. I yield to the gentleman.

Mr. ALLISON. From the reading of this report it seems to me that this is a case which was here last year.

Mr. HOLMAN. Yes, sir; the same bill.

Mr. ALLISON. If I understand correctly the proposition, it is to relieve an officer charged with the safe-keeping of public money from his liability, because one of the clerks in his employ has abstracted or stolen a portion of that money. I understand my friend from Indiana [Mr. HOLMAN] to admit that this is the proposition. Now, I submit to the gentleman, who is remarkably economical in regard to appropriations made by Congress, that this proposition, if carried out, will open a very wide door for the depletion of the Treasury and every branch of it. Therefore I shall be compelled to vote against this proposition. It is the duty of a public officer to see that the money intrusted to his charge is faithfully cared for, and if it is not cared for and protected he should be held accountable upon his bond to the Government of the United States.

Mr. HOLMAN. Mr. Speaker, this bill is certainly not without a precedent in this House; and I think where it is clearly established that a public officer has exercised every reasonable degree of care and prudence in the management of funds placed under his care, and that by agencies entirely beyond his control, with no default on his part, his integrity remaining unquestioned, loss has been sustained, that loss ought not to fall upon him. I think there are very few, if any, of the States of the Union where a different rule prevails. A rule which would hold a public officer responsible under any and all circumstances for the loss of money placed in his charge would render it impossible to find honest and upright men to assume such responsibility. A very distinguished gentleman connected with the Treasury of the United States put the case to me in this way: "Suppose you should hold me responsible for all the funds placed under my charge, and without any default upon my part, but after all possible care and prudence, should hold me responsible for every default of every subordinate under me. Do you think that under such circumstances I could be induced to hold the office an hour?"

Mr. ALLISON. I desire to make a single remark, with the consent of the gentleman from Indiana.

Mr. HOLMAN. Certainly.

Mr. ALLISON. If I understand the matter, this officer at Denver now asking to be relieved is an Assistant Treasurer of the United States, made such by law. Is he not?

Mr. HOLMAN. Yes, sir.

Mr. ALLISON. If, then, this officer, having the custody of the public funds, should be relieved from this special responsibility, it would be setting a precedent which would authorize us in relieving from responsibility the Assistant Treasurer at the city of New York, if ten, twenty, or fifty million dollars should, without any fault on his part, be abstracted from the Treasury by some subordinate.

Mr. HOLMAN. Let me say a word further. This Mr. Lane, whom I have known for twenty-five years, is a gentleman whose integrity is beyond all question, and who, before assuming this position, had acquired in various fiduciary capacities the character of an unusually faithful and prudent officer. After this robbery had occurred Mr. Lane was continued in office by three successive Secretaries of the Treasury, Mr. Chase, Mr. Fessenden, and Mr. McCulloch. I think we could not present a stronger authority on a question of this kind than the opinion of such a gentleman as the Treasurer of the United States, General Spinner. I will, therefore, ask the Clerk to read a portion of a letter from General Spinner bearing on this point. Where high officers of the Government, having charge of the public money, believe it proper, with a full knowledge of the facts, that relief of this kind should be granted, I think we need not fear that we shall set a dangerous precedent by granting such relief.

The Clerk read as follows:

"While, with due regard for the traditions and practice of the Department in like instances, I would recommend careful investigation of the case, I would also give it as my belief that Mr. Lane faithfully performed his duty and should be released from the liability to which he is subjected by reason of the robbery and of his bond with sureties to the United States."

Mr. WELKER. I wish to ask the gentleman from Indiana, [Mr. HOLMAN,] in first the place, who appointed this employé whose principal it is proposed to relieve from liability, and in the next place, whether it is not the law that these employés of treasurers and accounting officers are, if they abstract or appropriate to their own use the public funds, liable to prosecution under what is called the sub-Treasury act.

Mr. HOLMAN. All these branch mints are under the direction of the United States Mint at the city of Philadelphia. These appointments are all made under the inspection and under the control of that Mint; and I will say here, and I think with propriety, that whatever has been done in this matter as to the appointment of the other officers has been under the approval of the Director of the Philadelphia Mint. If necessary, I will have his letter read. I yield for a few minutes to the gentleman from Ohio.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I know the power which the report of a committee has in this House, and I have but little hope that I shall be able to defeat the passage of this joint resolution. But I wish to call the attention of the House to the precedent which will be established if this resolution passes. Why are we asked to pass this joint resolution? Because by the principles of the common law this officer is responsible to the Government. We are asked to subvert a principle of the common law to relieve him from liability.

Mr. HOLMAN. The gentleman will excuse me if I do not yield to a discussion of the general principles involved in this resolution. If he has anything to say that is pertinent to this particular case I will yield to him for that purpose. Other gentlemen are pressing for the floor to submit other reports.

Mr. LAWRENCE, of Ohio. I hope I shall have another opportunity to be heard on this extraordinary proposition.

Mr. BINGHAM. I desire to say a single word in vindication of the action of the committee in this matter. The principle upon which the committee has decided this question has been solemnly considered in the Supreme

Court of the United States, and has been ruled precisely as the committee have ruled; that is to say, when a collector of the revenue has by an act of robbery been dispossessed of public money without default of his own, it is his right and he ought to be allowed a credit in his accounts and not be compelled to pay it into court. I refer to the case of Collier. The action was instituted in the circuit court for the southern district of New York, which by order of the court was sent to a jury to ascertain the facts. The facts were ascertained precisely as here: that he had been robbed of public money without default on his part, and therefore the court certified in the case, although they could not pronounce judgment that he was entitled to a credit in the settlement of his accounts. It was brought to the Supreme Court of the United States on a certified copy of the proceedings below, and after full consideration of the whole question the ruling below was affirmed.

Mr. SPALDING. I ask my colleague whether this case involved a robbery?

Mr. BINGHAM. It did.

Mr. SPALDING. Not a larceny?

Mr. BINGHAM. A robbery of the Treasury, precisely as in the instance of Collier.

Mr. LAWRENCE, of Ohio. If the Supreme Court has decided that an officer of this character, an Assistant Treasurer of the United States, charged with the safe-keeping of the public moneys, is entitled to receive credit in case of robbery, then why does he come to Congress?

Mr. BINGHAM. I will answer the gentleman that there are two ways in which this thing is to be done. The Secretary of the Treasury might have judged for himself, but he referred it to the committee to ascertain the facts. He could go into the courts if he chose to refuse to pay the account, and bring suit as in the case of Collier. Why put the Government to that expense and trouble?

Mr. LAWRENCE, of Ohio. Why put this House to the trouble when the Supreme Court has decided this question?

Mr. BINGHAM. This is the short way of deciding the question. It is an act of equity and justice, and there is not a man in the country, however high his character, who can afford to become the custodian of public money if in the case of robbery he is compelled to bear the loss.

Mr. HOLMAN. I trust I shall be excused from yielding further.

Mr. LAWRENCE, of Ohio. One moment. Mr. Speaker, I have not examined the case to which my colleague has referred, but I undertake to say if the case be examined it will be found that it settles no such principle as that stated. The supreme court of Ohio has ruled the other way, that a public officer charged with the custody of public money cannot be relieved from liability by alleging the money was stolen from him.

Mr. HOLMAN. The gentleman does not pretend but that Congress may furnish relief, and that there are cases where it may properly be granted?

Mr. LAWRENCE, of Ohio. The reason of the rule is perfectly well understood. If an officer may relieve himself from responsibility by charging a larceny upon some private individual, the result will be that he will have a motive held out to him to procure the larceny of the money in his custody. And because of this principle involved, the courts have uniformly held that a larceny is no defense.

Mr. HOLMAN. There can be no doubt cast upon this transaction after the conviction of the man charged with the crime.

Mr. BINGHAM. I object to my colleague's interfering with this matter.

Mr. LAWRENCE, of Ohio. That is for the gentleman from Indiana [Mr. HOLMAN] to object, and not for my colleague.

Mr. HOLMAN. The gentleman will have to excuse me; it is objected that this is consuming too much time. There is no new precedent being set. Congress has never hesitated where the case was clear as the committee report this to be. The loss was the result of robbery and larceny after due precaution on the part of the custodian of the fund, and he is therefore entitled to relief. As has been remarked by the chairman of the committee, no upright man will accept a financial position under the Government if you hold him to a strict responsibility. I call the previous question.

On seconding the previous question there were—ayes 55, noes 25; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. HOLMAN and ALLISON.

The House divided; and the tellers reported—ayes 60, noes 37.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the joint resolution was read the third time.

Mr. ALLISON. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 57, not voting 50; as follows:

YEAS—Messrs. Ames, Anderson, Archer, James M. Ashley, Axtell, Beck, Bingham, Blair, Buckland, Burr, Cary, Sidney Clarke, Cobb, Dixon, Driggs, Eldridge, Farnsworth, Ferry, Fox, Golladay, Gravely, Griswold, Grover, Haight, Holman, Hotchkiss, Chester D. Hubbard, Jenckes, Johnson, Jones, Kelsey, Kerr, Kitchen, Knott, Koontz, Laflin, George V. Lawrence, Loan, Lynch, Mallory, Marshall, Marvin, McClurg, McCormick, McCullough, Mercur, Miller, Morgan, Morrell, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Perham, Peters, Poland, Polsley, Pruyn, Randall, Raum, Robertson, Sitgreaves, Spalding, Starkweather, Stewart, Stokes, Taber, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Woodbridge, and Woodward—82.

NAYS—Messrs. Allison, Delos R. Ashley, Baker, Banks, Beaman, Beatty, Benton, Boutwell, Bromwell, Broomall, Butler, Churchill, Reader W. Clarke, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Eckley, Eggleston, Eliot, Ferriss, Fields, Garfield, Getz, Glossbrenner, Halsey, Harding, Hill, Hopkins, Richard D. Hubbard, Hulburd, Hunter, Judd, Kelley, Ketcham, William Lawrence, Lincoln, Logan, Loughridge, McCarthy, Moore, Mullins, Orth, Paine, Plants, Ross, Scofield, Smith, Taffe, Elihu B. Washburne, William B. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—57.

NOT VOTING—Messrs. Adams, Arnell, Bailey, Baldwin, Barnes, Barnum, Benjamin, Blaine, Boyer, Brooks, Cake, Chanler, Coburn, Donnelly, Ela, Finney, Hawkins, Higby, Hooper, Asahel W. Hubbard, Humphrey, Ingersoll, Julian, Maynard, Moorhead, Morrissey, Newcomb, Phelps, Pike, Pile, Pomeroy, Price, Robinson, Sawyer, Schenck, Selye, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, William Williams, Windom, and Wood—50.

So the joint resolution was passed.

Mr. HOLMAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained further leave of absence for his colleague, Mr. WILLIAMS, of Indiana, till next Monday week.

IMPEACHMENT OF THE PRESIDENT.

Mr. BOUTWELL. I rise to a privileged question. The committee appointed to prepare and report articles of impeachment against Andrew Johnson, President of the United States, have instructed me to make a report which I send to the Clerk's desk.

The Clerk read as follows:

Articles exhibited by the House of Representatives of the United States, in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office.

ARTICLE I.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary; and said Andrew Johnson, President of the United States, on the 12th day of August, in the year of our Lord 1867, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, on the 12th day of December, in the year last aforesaid, having reported to said Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate thereafterward, on the 13th day of January, in the year of our Lord 1868, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension, did refuse to concur in said suspension, whereby and by force of the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, was lawfully entitled to hold said office of Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Hon. EDWIN M. STANTON, *Washington, D. C.*

which order was unlawfully issued with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and contrary to the provisions of said act, and in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeaner in office.

ARTICLE II.

That on said 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did appoint one Lorenzo Thomas to be Secretary of War *ad interim*, by issuing to said Lorenzo Thomas a letter of authority in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE III.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office, in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War *ad interim*, without the advice and consent of the Senate, and in violation of the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment, so made by Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you

all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

ARTICLE IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, in violation of the Constitution and laws of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats, to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high crime in office.

ARTICLE V.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, and on divers other days and times in said year, before the 28th day of said February, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, by force to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and, in pursuance of said conspiracy, did attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, by force to seize, take, and possess the property of the United States in the War Department, contrary to the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

ARTICLE VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, and on divers other days in said year, before the 28th day of said February, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas to prevent and hinder the execution of an act of the United States entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War under the laws of the United States, from holding said office, to which he had been duly appointed and commissioned, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas to seize, take, and possess the property of the United States in the War Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

ARTICLE IX.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, with intent unlawfully to control the disbursements of the moneys appropriated for the military service, and for the Department of War, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, appoint Lorenzo Thomas Secretary of War *ad interim*, and then and there deliver to said Lorenzo Thomas a letter of authority in writing, in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D C.*

Whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE X.

That said Andrew Johnson, President of the United States, on the 22d day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of Congress duly enacted, as Commander-in-Chief of the Army of the United States, did bring before himself then and there William H. Emory, a major general by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such Commander-in-Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability through the next in rank," was unconstitutional and in contravention of the commission of said Emory, and therefore not binding on him as an officer in the Army of the United States, which said provision of law had been theretofore duly and legally promulgated by general order for the government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory in his official capacity as commander of the department of Washington to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the United States, according to the provisions of said act, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation, or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same, and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, do demand that the said Andrew Johnson may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

The SPEAKER. By the resolution of the House of the 25th day of February, it was ordered that "when the committee to prepare articles of impeachment of the President of the United States report the said articles, the House shall immediately resolve itself into a Committee of the Whole thereon;" and in thus resolving the House into Committee of the Whole, the Chair will state that that Committee of the Whole will have power to take such recesses as it may determine upon, subject to the condition that the House itself must vote on the question of adjourning this day's session either this afternoon or—if the session shall be prolonged till Monday—on Monday forenoon, so that the session of the next legislative session may commence as indicated by the resolution.

Mr. ELDRIDGE. Mr. Speaker——

The SPEAKER. The Chair will recognize no gentleman until the order of the House has been executed that the House shall resolve itself into a Committee of the Whole. The House will now resolve itself into a Committee of the Whole.

The House accordingly resolved itself into a Committee of the Whole (Mr. WASHBURNE, of Illinois, in the chair) and proceeded to consider the report of the committee to prepare articles of impeachment against the President of the United States.

The CHAIRMAN. The gentleman from Massachusetts [Mr. BOUTWELL] is entitled to the floor for fifteen minutes.

Mr. BOUTWELL. Mr. Chairman, it is my present purpose merely to state the general character of the articles which have been presented, and the facts upon which they are founded, and also to express the desire of the committee as to the mode of proceeding in the Committee of the Whole upon these articles. The committee will observe that these articles, with the exception of the tenth, are founded upon proof, or testimony which has already been submitted to the House, and on which, as we understood, the resolution which the House adopted on a former day was founded. The tenth article is founded upon the testimony of Brevet Major General William H. Emory, who is, and for some time past has been, in command of the department of Washington. His testimony is printed, and will be laid at once before the members of the House. It is, as is set forth in the article, that on the 22d day of the present month, after the proceedings in which we are now engaged had been instituted, the President, by a written message, requested him at the earliest moment practicable to respond to the President's request for an interview. At that interview there was a conversation, during which General Emory laid before the President a general order issued in the month of May last, in which was set forth, in the exact language of the law, the provisions incorporated into the act for the support of the Army, passed on the 2d day of March 1867, in which it was provided that all orders relating to military operations issued by the President or by the Secretary of War should be issued through the General of the Army, making it in the first place a misdemeanor for the President to issue orders in any other way than through the General of the Army, and making it a misdemeanor also for any officer of the Army to obey any orders which he knew had been issued contrary to the provisions of this statute. The general order which General Emory submitted to the President contained extracts from this law. The President having examined this order said to him in substance, and in language exact, I believe: "This is not in accordance with the Constitution or with your commission;" and it is upon that interview, the circumstances under which it was held, and the facts which transpired at the interview, on which this tenth article is based.

The other articles are based upon facts which are of public knowledge, growing out of the attempt of the President to remove Secretary Stanton from the office of Secretary for the Department of War and to place in that office Lorenzo Thomas as Secretary of War *ad interim*, without the advice and consent of the Senate, which is required by the Constitution of the United States. An examination of the articles will disclose that in some of them the committee have set forth as the *gravamen* of the charge against the President that he removed the Secretary of War from office contrary to the act of the 2d of March, 1867; in others we have set forth that this removal was made contrary to the Constitution of the United States. In one article we set forth that the appointment of Lorenzo Thomas was contrary to the provisions of the act of March 2, 1867, and in another article we say that that appointment was made contrary to the Constitution of the United States. Upon an examination of this array of articles, it will be seen that in several of them the President is charged with a conspiracy with Lorenzo Thomas to accomplish various purposes set forth in those articles.

I do not purpose at this time to discuss those articles. I will say, however, in connection with the general subject of the removal of Mr. Stanton and the appointment of Lorenzo Thomas, and especially in reference to that article in which it is charged, as one of the objects of the conspiracy, that it was the intent of the President to get possession of the disbursement of the money appropriated by law for the support of the Army and for the military objects of the Government—I will say that, immediately following upon the removal, or attempted removal, of Secretary Stanton and the appointment of Lorenzo Thomas, the President of the United States formally notified the Secretary of the Treasury, inclosing a copy of this letter to Mr. Stanton and a

copy of the letter to Lorenzo Thomas, that this change had been made, and that he, the Secretary of the Treasury, must govern himself accordingly.

In considering and preparing these articles the committee met with a difficulty in the outset which it becomes me to present to the Committee of the Whole House in the beginning of this discussion. That difficulty is this: what should be the description, so far as the office is concerned, in which Andrew Johnson should be arraigned for these misdemeanors; whether as President of the United States or as Vice President of the United States, upon whom the powers and duties of the office of President had devolved.

After such consideration as the committee were able to give to this matter during the period of time assigned to the consideration of this subject they are, I believe I may say, unanimously of opinion that the manner of description used in the articles we have reported is that manner of description on which we shall be compelled to rely. Without undertaking at this moment to advise the House finally as to what they ought to do upon this branch of the subject, I will venture to suggest this consideration, derived from the Constitution: that it is only when the President is on trial before the Senate that the Chief Justice of the Supreme Court of the United States is to preside. Therefore it follows that a different court must be organized for the trial of the Vice President from that authorized by the Constitution to try the President.

This, however, it seems to me, is comparatively something immaterial; though a decision by the Senate contrary to the course we may here adopt may lead to delays and difficulties. But I am of the opinion at the present moment that it is impossible for us, by any course we may here adopt, to avoid all possible difficulties. If Andrew Johnson be arraigned as President of the United States, then the Chief Justice will be called upon to preside in the high court of impeachment. If the Senate or the court shall decide that he is not properly described in the articles of impeachment, then the court must be reorganized for the purpose of proceeding with this trial upon the charge and description that he is the Vice President of the United States. Without any further judgment upon the matter than that it is the opinion of the committee that the description employed in these articles is the proper description on which to proceed, I will wait for the final judgment of the House upon that matter.

It will be observed that these articles are based upon events and facts which have transpired or taken place since the report made by the Committee on the Judiciary, on which, in an indirect way, the judgment of the House was taken. I may say I believe that it is pretty nearly the unanimous opinion of the committee that this course, under the circumstances, is the wise and proper course. In the first place, we believe unanimously that there is here set forth matters on which, when the critical judgment of this House shall have been applied to the artistic structure of these articles, and it shall have perfected them in that respect, we may safely go to the Senate and the country for the final judgment of guilty against the person accused. And if that be so, it is wholly useless to multiply articles or to seek for ground of accusation elsewhere; and I am compelled to say that if we are to fail upon the arraignment which we here make I cannot see how, upon articles based on other transactions which are known to the country, we could hope to succeed. Therefore I, for one, have concurred in the opinion that it is the safest and the wisest course to proceed upon these articles which, with the exception of the tenth, have already, as I understand, been approved by the House of Representatives by a very large vote in the resolution declaring that Andrew Johnson, President of the United States, is guilty of high crimes and misdemeanors.

Upon the previous accusation brought against him it happened that we had not the support even of a majority of this House. I am compelled also to admit that we had not a larger proportionate support in the country; while, so far as I can understand, there is now among the loyal people of the country a substantial indorsement of the judgment of the House that the President of the United States is guilty upon the facts which have been recently developed, and which are made the groundwork of the articles which we now present. I may say further, that it is the desire of the committee that in the discussions which are to take place on this day and on the succeeding day allowed for discussion under the rule of the House the attention of members should be directed to perfecting these articles, so that they may stand the test of the scrutiny to which they are to be immediately subjected elsewhere, and also the test of that scrutiny to which they are to be subjected hereafter. And I may say for the committee that we have no special attachment to the particular words and phrases employed in these articles of impeachment. What we desire most sincerely is that this House shall act without any reference to the opinions of the committee or to what the committee has done, except so far as they may regard the opinions of the committee as entitled to weight, or what we here present as worthy of the indorsement of the House.

Mr. Chairman, in the fourth line of the tenth article the word "Congress" is used, where, as I believe, the language should be "the United States." The phrase now reads, "in disregard of the Constitution and the laws of Congress." It should read, "in disregard of the Constitution and the laws of the United States." I ask that that amendment may be now made by general consent.

The CHAIRMAN. That amendment will be considered as adopted by unanimous consent, if there is no objection.

There was no objection.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. BOUTWELL] has expired.

Mr. GARFIELD. I ask that the order of the House under which the Committee of the Whole is acting may be read.

The CHAIRMAN. The Clerk will read the resolution adopted by the House on this subject.

The Clerk read as follows:

Resolved, That the rules be suspended, and that it is hereby ordered, as follows:

When the committee to prepare articles of impeachment of the President of the United States report the said articles the House shall immediately resolve itself into the Committee of the Whole thereon; that speeches in committee shall be limited to fifteen minutes each, which debate shall continue till the next legislative day after the report, to the exclusion of all other business except the reading of the Journal; that at three o'clock on the afternoon of said second day the fifteen-minute debate shall cease, and the committee shall then proceed to consider and vote upon amendments that may be offered under the five-minute rule of debate; but no merely *pro forma* amendment shall be entertained; that at four o'clock on the afternoon of said second day the committee shall rise and report their action to the House, which shall immediately and without dilatory motions vote thereon; that if the articles of impeachment are agreed on the House shall then immediately and without dilatory motions elect by ballot seven managers to conduct said impeachment on the part of the House; and that during the pendency of resolutions in the House relative to said impeachment thereafter no dilatory motions shall be received except one motion on each day that the House do now adjourn.

Mr. BURR. Mr. Chairman, it was not my purpose nor desire to come so early before the committee in opposition to the articles which have been presented; but by the arbitrary arrangement to which we are necessarily subjected in defining the lines of debate, it seems that I must occupy this position or none.

At last, it seems that the accumulated wrath of radicalism is to be poured out upon the head of the Chief Executive of this nation. What is designated as the "patience" of times past is about exhausted, and we are to-day to have an inauguration of the first scene of the kind, and I trust the last in the history of our Republic.

In the history of the past we have had changes many and frequent in public position, but, in my judgment, none that will so shock the sense of justice of the American people as that to be wrought out by this proceeding except only that sudden and startling act which nearly three years ago deprived this nation of its Chief Executive in the person of Abraham Lincoln.

Ten articles have been presented, or rather ten specifiations of one article, and the debate limited to one minute and a half to each one of these specifications. Without having time to examine particularly any of them, I propose to designate this plan of impeaching the President as being a movement directly in the interest of a party, and that party centering to-day around two men, one of whom is the acting Secretary of War, Edwin M. Stanton, and the other, to-day the President of the Senate, BENJAMIN F. WADE, of Ohio. I say, sir, this movement is in the interest, as I honestly believe, of these two men.

On the 4th of March, 1865, Mr. Lincoln was inducted into the presidential chair, and at the same time, and as the result of the same vote, Andrew Johnson took the oath of office as Vice President. A cruel tragedy in the history of the nation deprived us of the executive head and the Vice President became President, and he is to-day the Chief Magistrate of the Republic. No other man is in existence to-day elected by the people for either of those positions. No one to-day but Andrew Johnson is living who, in 1864, was contemplated by the Republican party as a possible President, or as having then any title to the nomination from the party then in power. Now, sir, assuming for one moment these articles will be sustained by the House and the verdict of the Senate on any or all of these specifications shall be guilty as against Andrew Johnson, what, then, is to follow in the history of the United States? That a man never having received the vote of the people of the United States for any office, a man who, if presented, would have been repudiated by the people of the whole Union, a man so recently and so decidedly repudiated by the people of his own State is, without public sanction, without public consent, inducted into the highest office within the gift of the American people without even so much as consultation with the people whatever.

These ten articles or specifications, with the exception of the last one, are based upon an act of the President in removing or assuming to remove Edwin M. Stanton from the War Department. That act was in advance sanctioned by the Senate of the United States, in the debate which took place on the tenure-of-office bill, the alleged violation of which is to-day made the occasion for his removal from office.

The Senate in debating the bill acted on the assumption that it did not relate to Cabinet officers, and was not intended to protect them in position without presidential sanction. Every member of the Cabinet has declared this tenure-of-office act unconstitutional, Mr. Stanton being more positive and vehement in his denunciation of it than any other member of that Cabinet. The Attorney General, who is the law officer of the President, and who was selected both because of his eminent legal ability and his acknowledged fidelity to the party which elected Mr. Lincoln to office has, as we are informed and know, declared in direct and positive terms that the act of Congress, charged to have been violated by Mr. Johnson in removing Edwin M. Stanton from the War Department was and is in violation of our Federal Constitution, which is the paramount law of the land.

Now, for acting as it is alleged in the direction of these concurring opinions the President of the United States is, in the interest of that same Secretary of War, to be deposed from office and another man, not sanctioned, as I have said, by the people of the United States or of his own State, is to be made his successor. So far as the President may have removed or attempted to remove the Secretary of War, the people of the United States, I believe, and I think the majority of the members on

this floor believe, that his motive was to secure by such action as would at once result in a judicial examination and decision by the highest court in the country as to the constitutionality of the act under which Mr. Stanton assumes to hold and discharge the duties pertaining to the office of the Secretary of War. I do not blame the President for even attempting at this late day to get rid of Edwin M. Stanton as Secretary of War; but I do blame him that, when no cobwebs assumed to bind his hands and prevented his action, he rested ignominiously with Edwin M. Stanton in his Cabinet. He ought to have removed him when his power was unquestioned and unchallenged by any man. He would have met then with the plaudits and acclamation of the people. But, sir, this man Stanton stands to-day a disgraced man according to the opinion of the Senate of the United States expressed in advance. It has there and then declared unanimously that any Cabinet officer holding a portfolio who was obnoxious to the Chief Magistrate, and was requested to resign and yet insisted on holding on to his portfolio, would be acting in violation of decency and would be lacking in self-respect. When a Cabinet officer of Mr. Lincoln became obnoxious to some of his own party and they requested his removal he resigned on the first intimation that his resignation would be acceptable to the President; he resigned his portfolio into the hands of the President.

And when finally the moment came, and Mr. Lincoln intimated to him that his resignation would be acceptable, he immediately surrendered his portfolio and placed his position subject to the decision of the President of the United States. Had Mr. Stanton been as manly, as patriotic, had he possessed as much self-respect, had he had as much regard for the dignity of his office and the rights of the people who placed him in power by the election of the Chief Magistrate, the disgraceful scene we are called to-day to witness of the arraignment of the Chief Executive of the United States before the bar of the Senate of the United States would not now be enacting.

But, sir, I remarked a moment ago that the people of the United States would have sanctioned the removal of Edwin M. Stanton as Secretary of War much earlier in the administration of Mr. Johnson. What may underlie or support the last specification I cannot imagine, as no proof whatever has been reported as yet, or laid before this side of the House at all events. Whether it be in possession of the other side I know not, but so far as the pending specifications under the general articles of impeachment are concerned, I may sum them all up in one, and that one charge against the President of the United States is that he has assumed to do that which every President of the United States heretofore has done: that he has assumed to act as President in fact as well as in name; that he has chosen not to surrender the dignity of his position or his constitutional rights to the caprice or dictation of the so-called Secretary of War, who himself—I was going to say something bitter which I will withhold, for I recollect the history of the past administration of that same Secretary of War, and his power to-day admonishes me that it may not be entirely safe to say what one feels with reference to him, while the same forts and bastiles are to-day in the land which received so many at his bidding in the early days of his connection with the Cabinet.

But, sir, all that I design to do in the limited time assigned to me is, to say that I protest, as a representative of the people of my district, and in the name of my State I protest, notwithstanding the presentation by my colleague [Mr. INGERSOLL] of the message of, I believe, a drunken Governor of Illinois, offering so many men, and tending in its tone to inflame the public mind and create a greater degree of excitement than that which even now exists.

Mr. INGERSOLL. I rise to call my colleague to order. I desire to know whether it is in order in addressing this House to charge the Executive of the State of Illinois with being a drunken Governor. If it is I repel the charge and deny it.

Mr. NIBLACK, (in low tone of voice.) I thought that drunkenness was the normal condition of Governors of Illinois of late years. [Laughter.]

Mr. INGERSOLL. When such a charge is made against the Governor of my State I am bound to raise my voice in his defense when the charge is not true.

Mr. BURR. By the ruling of the Chair the other day any language applied to a person who is not a member of this House is in order; and, thank God, the Governor of Illinois is not a member of this body, and I trust he never will be, either of this or the other coördinate branch of Congress.

Mr. INGERSOLL. I think it well for the gentleman that he is not here. [Cries of "Order."]

Mr. BURR. The gentleman can have his say when the time comes. I refer to the fact that the Governor of Illinois attempts to inflame the public mind and add to the excitement, which is already at an unwarranted pitch, by sending to this House a telegram not responded to by the people of the State of Illinois, and not in any respect representing their voice in the perilous situation we find ourselves placed in to-day. I accept the suggestion of my friend near me, [Mr. ELDRIDGE,] who says that no sober man would send such a message, and I assume, therefore, that he was not sober when he sent that dispatch. I appeal from Oglesby drunk to Oglesby sober. But "whom the gods intend to destroy they first make mad." Go on with your project of impeachment. Pass your articles here by a party vote, under whip and spur; carry them to the bar of the Senate; sustain them there by a party vote, and the time will come when reflection will secure your condemnation by the American people.

If a continuing revolution shall prevent the people from arresting your course and passing judgment on your deeds done in office, there is a still higher power than even the people, which will ultimately pronounce judgment against you for the "deeds done in the body." And from that judgment there will be no appeal.

Mr. INGERSOLL. I desire to say here, in reply to the remarks of my colleague, [Mr. BURR,] and in defense of one of nature's noblemen, Richard J. Oglesby, Governor of Illinois, that no better, more patriotic, or upright man exists. He is a sober, patriotic, high-minded, and honorable man, whom the people of Illinois indorsed by nearly sixty thousand majority against his Democratic competitor in the last gubernatorial contest, and I remind my colleague that when he slanders Richard J. Oglesby, as he has done here, he is slandering a man who to-day carries in his body a Minie ball fired from a rebel musket at the battle of Corinth, and one who has periled his life for the defense of the Republic. Has it come to this, that one of the Representatives from Illinois shall denounce him here as a "drunken Governor," when it is notorious that he is a man of sobriety, and one who, with his brave and patriotic heart, is always ready at the call of his country to march under its flag for its defense, even into the face of death, while the Knights of the Golden Circle would assail him and strike him down.

Mr. BURR. If my colleague intends to say that I am, or ever have been, a Knight of the Golden Circle, he falsifies. I hope the gentleman understands me.

Mr. INGERSOLL. I understand him; and I have made no insinuations against the gentleman as regards the Knights of the Golden Circle. I do not know that he ever belonged to them. It would not palliate or aggravate the slander my colleague has uttered against our honored Governor whether he was or was not a member of that order. My own opinion is that many of the Democratic party, with whom my colleague acted during the war, and whose representative he now is, did belong to that organization, and they did threaten "a fire in the rear" against Governor Oglesby when he was one of the honored soldiers from that State.

Mr. COOK. I would ask my colleague whether it is not true that all the Knights of the Golden Circle in our State voted with the gentleman against Governor Oglesby when he was a candidate?

Mr. INGERSOLL. I have no doubt that is true; I never heard anything to the contrary. My colleague can answer the question for himself.

Mr. BURR. I did not understand the question if it was intended for me.

Mr. COOK. The question was whether all the Knights of the Golden Circle did not vote with you against Governor Oglesby?

Mr. BURR. My colleague may be better acquainted with both the organization known as Knights of the Golden Circle and with the individuals composing that order in Illinois than I am. I do not know them either as a mass or as individuals. I suppose, however, as a general thing, they voted in an opposite direction from that other secret political society known as the "Loyal League," whose work has been mischief all the time. [Laughter.]

Mr. BROMWELL. Mr. Chairman, it seems, according to the logic here, that Andrew Johnson is innocent, in spite of violations of sureties and pledges year after year, and the gallant and patriotic Richard J. Oglesby, of Illinois, is guilty without a hearing. This controversy in which we are now engaged is nothing new. It is but a continuance of the contest which began long ago, and which, before God, I say here, I believe must go on until the enemies of this country, the Knights of the Golden Circle, the secessionists, the rebels, the rebel bondholders, the rebel emissaries, the creditors of the rebel governments, and every interest and element that fomented and fulminated this rebellion shall have succeeded in prostrating this country in its spirit, in its credit, in its power, in its union, in its integrity—until the elements which wrought out this gigantic treason into open war shall have at last triumphed and stamped their vengeance against the loyal spirit of the great Republic; or, on the other hand, until the loyal people shall have so met and vanquished the legions of secession, and shall have so completely entrenched themselves in every quarter and section of this land, that all class and local interests of every description shall bow to the sublime dominion of this Republic.

This act of Andrew Johnson is but one of the many offenses which he has never omitted an opportunity to commit since he put himself at the head of what was left of the rebellion. At last this Congress seems to have waked up to the demands of the nation. From the time that the President took upon himself the disposing power of the nation and set about building up State governments and ordaining constitutions at pleasure—from the day he met this Congress with a message declaring that he had reconstructed the rebel States and set up governments therein and brought them back into the Union, and that all which remained for Congress to do was but to act as a Committee of Elections to examine election returns—from that day to this the majority in this House has stood between Andrew Johnson and the just anger of a loyal people. Sir, I am glad that at last one overt, unmistakable act of his has been found about which no man can doubt who pretends to be in unison with that great loyal party which has saved the Government; against which no man can level the artillery of his legal ratiocination, as has been heretofore done by men of all parties in this House. All must now admit that the time has come when it must be acknowledged that Andrew Johnson has endeavored to act the part of an autocrat in this country, and to carry forward this Government in the interest of the public enemies; and that it is high time that the Congress of the United

States shall do its duty under the Constitution. The gentleman on the other side [Mr. BURR] protests in the name of the State of Illinois. Sir, who gave him the right to protest in the name of that great and noble State? That authority was not given to him by the majority of sixty thousand over the class he represents upon this floor.

Mr. ROSS. Will my colleague [Mr. BROMWELL] tell me how large a majority his party had in Illinois last fall?

Mr. BROMWELL. Not so large by seventy-five thousand as we will have next fall, let me assure the gentleman. Our proposed action here is stigmatized as illegal, unconstitutional, and revolutionary. Why? Is there any law or any provision of the Constitution against offering a resolution for impeachment, or against voting for such a resolution after it has been offered? What is there about this proceeding which can be called illegal or revolutionary? By the Constitution provision is made not only for a Supreme Court and other inferior tribunals, but also for a court which, when constituted, shall be the highest legal tribunal possible in this country. That court is composed of judges from every State, who have so far the public confidence as to have been elected by the people to the high position of Senators of the United States. And being sworn in as such a court as I have described, with the Chief Justice of the Supreme Court of the United States at their head, they sit as the highest court to try the most important issues which can be raised in this country.

Yet the gentlemen upon the other side, who claim to be the worshipers of courts, are not willing that this House shall refer to the highest court in the land the charges which the whole loyal people of the country prefer against Andrew Johnson. This worship of courts, this worship of the one-man power at the White House, has become with the Democratic party almost a fetish worship—a superstition as unmanly and degrading as that of the benighted Africans they so much despise. According to them, this Congress has no right of judgment, no right of opinion, no authority under the law, in controlling the affairs of this Government. According to them, one man, and he not chosen to the office he now holds with so little credit to himself and the country, is an oracle; and when he has uttered his *ipse dixit* that any law is unconstitutional the chosen Representatives of the people must abandon their rights under the Constitution, must cast away the power placed in their hands for the protection of the people they represent, and bow down to the golden image which he may choose to set up the moment he gives the word of command, and approve all the presumptions he asserts, upon an assumed enunciation of an opinion of the Supreme Court, which never yet has had a case of the sort before it, and never may. How utterly absurd would be this shameless self-abnegation of Congress, if carried out according to the ideas of the gentlemen on the other side.

And what is this claim which is to be enforced here? The law-making power, which rises transcendently above all the other branches and departments of the Government, is to cast away its own judgment and throw away the people's rights which it is bound to protect, with no power to express an opinion in the public councils of the land, or to attempt to enforce the laws according to its own understanding and interpretation of the law. It is time we had done with such folly.

Mr. SPALDING. I rise to a point of order.

The CHAIRMAN, [Mr. DAWES.] The gentleman will state his point of order.

Mr. SPALDING. It occurs to me that members ought to address themselves to the articles of impeachment now before us, and not indulge in rambling political discussion.

Mr. RANDALL. We have never seen these articles until a few moments since. How is it possible to discuss them intelligently?

The CHAIRMAN. The gentleman from Ohio will again state his point of order.

Mr. SPALDING. My point is that the attention of the committee should be addressed in some way to these articles.

The CHAIRMAN. The Chair understands the gentleman from Ohio [Mr. SPALDING] as calling the gentleman from Illinois [Mr. BROMWELL] to order for not speaking to the point. The Chair sustains the point of order. The gentleman from Illinois will proceed in order.

Mr. BROMWELL. What length of time have I to proceed in order.

The CHAIRMAN. Four minutes.

Mr. BROMWELL. Mr. Chairman, it is always a good thing to have somebody to watch the public interests in reference to these small matters; but for that four minutes more of our valuable time might have been consumed in listening to irrelevant remarks. Now, sir, I will say one thing that is in order. I was talking in order, as I understand, when I sat down; for I was speaking of the power of this House to judge of constitutional questions coming before it. I was speaking of the fact that this House represents the people and holds in its hands their great impeaching power for the use and benefit of the nation. I spoke of these things in answer to objections which had been thrown out here against our right to proceed with impeachment, as being illegal and revolutionary.

I will say now, Mr. Chairman, that the high court of impeachment, sitting inthis Capitol, will try this vexed question which exercises so much the minds of these gentlemen, who are more disturbed over the danger which threatens Andrew Johnson's term of office, as it seems to me, than they ever were, during the war, lest the armies of Jeff. Davis should take the city of Washington. What is the power in virtue of which these articles are prepared? It is the people's power to remove from office an unworthy servant. The articles now before us, which have been reported by our committee, and which I trust will be adopted by this House without material change, set forth in specific terms, for the consideration of the Senate, this last act of contumeliousness and defiant insubordination which the Executive of the nation has committed. Although I am not one of those who would hold that a great many black rabbits can make one black horse, that a number of separate peccadilloes can make one crime, yet I do say, it is right in considering this impeachment when we have found one fact well established showing malfeasance with malice aforethought, to consider in aggravation of the case the many malfeasances and usurpations which have heretofore marked the line of Andrew Johnson's presidential career.

I am not moved by the fine talk of gentlemen about the voice of the people. I only wish that the voice of the people could have so thundered through these Halls long ago that their agents and Representatives here might have been roused to a deed worthy of the dignity of this body and the terrible exigency of the Republic. When this trial shall be concluded, and the people in calm reflection shall have rendered that deliberate verdict from which there is no appeal and of which there is no reversal, they will say that but for this act, this Congress with all its efforts and noble works failed in being equal to the occasion which demanded their efforts, and were not worthy successors of those gallant men who broke the power of kingcraft on this continent ninety years ago.

[Here the hammer fell.]

Mr. ALLISON then addressed the committee. [See Appendix.]

Mr. RANDALL obtained the floor.

Mr. KERR. I desire, before the gentleman from Pennsylvania proceeds, to make an inquiry of the chairman of the committee.

Mr. RANDALL. I will yield for that purpose if it will not come out of my time.

The CHAIRMAN. It will come out of the gentleman's time, except by unanimous consent.

Mr. MULLINS. I object.

Mr. KERR. Then I will not ask the gentleman to yield to me.

Mr. RANDALL. Mr. Chairman, the few minutes allowed me to discuss this all-important question will enable me to do but partial justice to the subject. I am unwilling, however, that those whom I have the honor to represent should be silent on so august an occasion, and one so pregnant with so much danger to our country.

The President of the United States, in the presence of the people, solemnly obligated himself by oath not only that the laws should be executed, but also that he would "preserve, protect, and defend the Constitution." He believes that the power of removal, under the Constitution, is absolute in him, the Senate of the United States being advisory in appointments. Under this conviction he removed Mr. Stanton as Secretary of War. The exercise of this power by the President, which, to my mind, is a plain constitutional prerogative, is made the pretext for his impeachment. Proceedings in that direction are taken in hot and indecent haste, almost without any consideration, certainly without the opportunity for legitimate discussion; and for this mere difference of opinion as to what is the law, about which there is a division of judgment even in the Republican party, he is arraigned as "guilty of high crimes and misdemeanors," and you have pledged yourselves to make good these charges at the bar of the Senate.

The sanctity of official individual oaths is nothing when they stand in the way of a reckless party object, intent on the removal of an "obstacle" out of the road that leads to the consolidation of the powers of two coördinate branches of the Government into the legislative branch, and then, perhaps, to an irremediable despotism.

Surely an adherence to the terms and spirit of the Constitution—even if in conflict with a law which Mr. Stanton himself has declared to be unconstitutional—gives but a slight cause for this attempted revolutionary act, more especially when the object sought for was and is the testing of an enactment almost universally believed by men of high legal attainments to be unwarranted by the fundamental law of our land. The country is thus to be thrown into confusion, hate is to be rekindled, business prostrate, the people bankrupt, and, perchance, blood to be shed under such small provocation. This is the sum and substance of his offense, the common sense and the calm judgment of the people are already being heard in words of unmistakable significance and in terms of condemnation as against you. Those even who, under party excitement, entered into this dark valley of legislative usurpation begin to reflect upon the step they took, not soberly or thoughtfully, but rashly and hastily, and would now, if they could, retrace their path of wrong.

The history of the last few days proves beyond dispute that Mr. Stanton and those who sustain him here fear the result of a judicial examination; in fact, he again practically affirms that the opinion he heretofore gave as to the unconstitutionality of the civil-tenure act is, after mature reflection on his part, at variance with the Constitution. Notwithstanding this reaffirmation he still claims to exercise the functions of a Secretary of War under that very unconstitutional enactment. Such are the perplexities of his present position. We have rumors of his intended resignation to still further prevent a calm and judicial investigation by the Supreme Court, the highest and the last arbiter of the law in our land. Such resignation comes too late even for that object. The people would have looked over and palliated the indecencies of his continuance in the presidential household had such step been taken when Generals Sherman and Grant, with many others, urged him so to act. I say it is now too late. The supreme authority is to be invoked, and their judgment will be final even as against this House.

You affirm that the President must execute

all laws that you may pass, under constitutional forms, although in doing so he destroys the very Constitution he has sworn to "preserve, protect, and defend." You declare States in the Union for the abolition of slavery, and out of it for everything else that appertains to "life, liberty, and the pursuit of happiness." Your leaders assert here and elsewhere that we can here legislate "outside of the Constitution," and then you call upon the President to act in accordance with your decrees, thus avowedly against authority, until the Supreme Court say nay. You deny him the way of approach to such judicial investigation, and you seek to strip the Court of jurisdiction over such laws. Such is a truthful recital of your extreme and unnecessary acts, the object alone being party ascendancy and temporary possession of the patronage; the good of the people is in no wise considered. You may declare the President no longer Commander-in-Chief of the Army and the Navy, as the Constitution says he shall be, and then call upon him to execute such decree. You, by the passage of what you call laws, strip from the shoulders of the President all powers, leave him but the title and no prerogatives, rob him of the trust the people committed to him, and appoint an administrator, whom you clothe in the stolen garments of the Executive, and demand his submission.

You tell me, you tell the President, you tell the people, our will is supreme, whether it destroys the Union, creates a military despotism, or wipes out two of the coördinate branches of the Government, and that your will must be executed until the judicial branch of the Government shall declare your acts nullities. Anticipating an adverse decision, you establish rules that will prevent such decision, enacting that it shall have no appellate jurisdiction in political questions; on the heel of which you declare what shall constitute political questions, thus performing the duty of law maker and law expounder; in other words, you declare that the decision of the court must be given as you wish.

All this power you claim for your so-called laws, and if the President hesitates about their execution, or in a respectful manner, in order to test them, seeks a remedy in court, so that the Constitution may be preserved, protected, and defended, you at once resort to the extremest measure known to the Constitution to displace him.

During the war, and it would seem as though the war was not yet over, it was the favorite enunciation of those who now compose the majority of this House that the safety of the Union and the preservation of the Constitution were paramount to all statutory enactments; and may not the President now, in this hour of extreme peril to the Constitution, seek the judgment of the highest judicial tribunal upon a law the avowed object of which is to destroy his constitutional powers, and thus to get rid of an obstacle in the path of the destructives.

For my part I can only say that were I the President, as I am a Representative, I would defy, as I do here this day, any power on earth to intervene between myself and the people I represent for the inviolability of my oath of office.

I now yield the remainder of my time to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. I desire to inquire of the chairman of the committee whether there will be reported to the House any further evidence than that contained in these three pages that we find on our desks? I understand other witnesses have been examined, and other testimony taken, all of which is certainly material to this committee to enable them to act intelligently.

Mr. BOUTWELL. The committee have no purpose to report further testimony.

Mr. MYERS. Mr. Chairman, I am in favor of the articles of impeachment reported by the committee. Under a deep sense of its importance I voted on Monday last for the resolution to impeach Andrew Johnson of high misdemeanors in office, as I had done once before. Solemn as is the precedent we are about to make, it is one contemplated by the founders of our Republic, provided for in the charter of our liberties, and, I believe, demanded of us at this time by an outraged people. Sir, what that people asks for is PEACE—rest, not only from the clash of arms, the din of fraternal strife, but that stronger calm which saves from the assassin's knife, acknowledges law, enforces order, and invites the people to industry all over the land. *There is no such peace* to-day in ten of the States which gave themselves and their identity up to rebellion. And, even while we propose in due form of law to remove the guilty cause, if the advice of my colleague from the Luzerne district [Judge WOODWARD] were followed we should have *no such peace in the loyal States*. Thank God, time has overruled his *prophecies*, as the people did his *opinions*. On December 13, 1860, when secession was already announced, in the very shadow of Independence Hall, he declared that COTTON, "*the product of slave labor*," was indispensable to our prosperity; (I have the Philadelphia Age edition of the speech before me, and find the italics there;) that the negroes "need the authority of a master and the eye of an overseer," that negro slavery was thus in this production of cotton "an incalculable blessing" to us of the North, and that *property in man* was divinely sanctioned, if not divinely ordained. He has the right to claim that these words were spoken at a meeting on behalf of the Union, but they speak for themselves. If, face to face with history, those declarations give him as much comfort *now* as they did the South *then*, I am content. When the Union soldiers, grappling with armed treason, begged more men to fill their shattered ranks, he decided the draft unconstitutional. Yet the law withstood even more powerful assaults than his. It roused the people to the danger of their comrades, meetings in every ward and township raised the needed troops, or where they failed the quota was filled by the execution of the act, and our soldiers, under Grant, Sherman, Sheridan, and Thomas, went onward to victory—a triumph only surpassed by their virtue of this hour.

Now, following the lead of the very wrongdoer we are about to try, he calls this House, where he aids to discuss and pass laws, and the Senate "irregular, unconstitutional, and fragmentary bodies," adding, *if he* were the President's counselor, which he says he is not, he would advise *a proclamation* to that effect, which, "with the Army and Navy to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

Sir, I cannot characterize this threat in parliamentary language, and will only say this sentence found its way into print, but was never uttered on this floor. Andrew Johnson has already tried to bribe the leaders of the Army in vain—the Navy has not been polluted even by his offers. Abraham Lincoln rejoiced in 1861 that no private soldier or sailor was known to join the rebellion. They are true now as they were then. The masses favor obedience to the law, and will take note of those who desire fresh bloodshed. Happy, indeed, is it that such a President, with such advisers, *failed to get control of the War Office*.

Mr. WOODWARD. Will the gentleman yield to me for a statement?

Mr. MYERS. I will if it is not to abridge the time allowed me.

Mr. WOODWARD. The gentleman charges against me that I published what I did not say in this House. Will he allow me to say that it was his party who would not permit me to finish my remarks, and I got leave to print.

Mr. MYERS. I have not a doubt my colleague would have gone on to his conclusion. I stood near him, however, and knew he did not speak the offensive threat. When his time expired he merely asked leave to print. My objection is not that he printed what he had not spoken, but I desire the country to know why he was not at once, as the rules contemplate, called to account for this language, and say to him now it is well for him the expiration of time prevented its utterance.

Mr. Chairman, the Executive of the nation is upon trial in order that the people may be relieved from his oppressions. Who is the Executive of the nation? He who is charged with the execution of its laws. What is among the gravest of his offenses—a failure to execute the law? Not merely that, sir; but a willful, deliberate, obstinate, and violent attempt to set the law aside. * Nor is this offense entirely a recent one. For more than two years past Andrew Johnson has been assuming to himself the LEGISLATIVE POWERS of the Government in reference to the States lately in rebellion. He appointed provisional governors in them. Yet, knowing there were no executives in these communities who under the Constitution could issue writs of election, he endeavored to force members thus illegally chosen, and without loyal constituencies, into the Congress of the United States. He dictated who might vote there in order to reëstablish that civil government which he admitted the rebellion "in its revolutionary progress" had overthrown, at the same time denying such power to Congress. He telegraphed what laws should be passed, and what amendment to their own and to the national Constitution *he* considered indispensable to the restoration of a State; but denounced the people's Representatives, THE LAW-MAKING POWER, when they dared to deem any law or amendment necessary to give security for the future; throwing his whole weight in the scale to prevent the adoption of the fourteenth amendment, the greatest boon ever offered to the South, under which every southern State could to-day have been represented on this floor. With laws in violation of freedom, with new constitutions not yet conforming to the principles vindicated by the war and not yet accepted, with Legislatures not recognized, *he demanded* a place for their Senators, although he knew almost every one of these Senators and members to be rebels, and although these southern States had by their own action withdrawn both from the national councils. In the exercise of the veto power with which he is clothed he used every art of the demagogue to falsify the scope of statutes which we passed, appealing in his vetoes and messages to the worst prejudices and passions. He did not rest here. He chose to forget that *one veto* only is allowed to each bill, and, after the passage of laws over his veto, he reiterated in nearly every message that these laws were unconstitutional, and that Congress, representing that great, patriotic people who at an untold sacrifice of men and money had stamped out the rebellion—THE VERY CONSTITUENCY WHICH ELECTED HIMSELF—was an illegal body, until the disloyal States should, of their own will, take part in making these statutes. Sworn to preserve, protect, and defend the Constitution of the United States, he thus violated that Constitution, doing all in his power to bring into contempt the laws it required him to care should be faithfully executed. By incendiary harangues he still asserted these views to the people, recalling the most gallant soldiers of the Republic who were endeavoring faithfully to carry out the reconstruction acts, and, by every device that he thought would not so flagrantly violate them as to bring himself within the pale of punishment hindering their due execution in the southern States.

Mr. Chairman, this conduct produced its legitimate consequences. When the war closed peace seemed at hand, indeed. The South accepted the result, surprised at the generosity of those they had driven to be foes. Business there revived. With fraternal intent the people of these sections mingled together once more. Northern capital and labor and enterprise poured in to reinvigorate the South. UNDER ANDREW JOHNSON'S INSPIRATION ALL THIS IS CHANGED. Immediate representation in Con-

gress, after their four years' sanguinary attempt to sever the Union, was a thing they scarcely dared to hope, yet with no more delay than was requisite to examine their condition, to secure such guarantees as the nation's existence demanded, to see that the honored dead had not died in vain, that the living should not be given up to sacrifice, just, equal, magnanimous terms were offered them, under which every southern State would have been represented here upon the first regular election after Congress met. If they were not here then, and are not represented here to-day, ANDREW JOHNSON ALONE IS RESPONSIBLE FOR IT.

Spurred on by him, foul traitors, like their rebel vice president, clamored for the places they had already held to ruin the nation, and yet, reeking with the murders of Andersonville, refused to pass the amendment which made our debt sacred, the rebel debt void, and gave pensions to the Union soldiers and sailors and their families. Discontent and fresh rebellion in the South culminated in riot at Memphis, in massacre at New Orleans, still marking their progress with blood, until the Union men there are in daily, deadly peril. Manufactures and trade in the North have become depressed. Commerce between the sections is hindered, and our national credit is impaired as the world looks on at this unchecked CRIME AGAINST CIVILIZATION. If these are not "high crimes and misdemeanors" of which Congress can judge, then the Constitution is meaningless and the Republic a failure. Yet the people have paused, in the vain hope that their constant rebukes would appall him, until Andrew Johnson, mistaking kindness for fear, has laid violent hands on the last power given in the Constitution. Imbued with the worst teachings of the Roman Republic, he fondly calls himself a *tribune* of the people, while, in reality, he grasps the fasces and the ax, and, centering all power in himself, assumes the robes of a DICTATOR.

There are but three great powers in the Constitution—executive, legislative, judicial. It only remained for him to assert the last; and he has done so in treating the tenure-of-office bill, passed over his veto, as an unconstitutional measure, without a resort to the Supreme Court attempting to remove Edwin M. Stanton from the War office and appointing Lorenzo Thomas *ad interim* Secretary of War. Let the plain people of the country think of this wrong. They will not fail to comprehend its magnitude or mark how, step by step, their liberties have been assailed. Nor will they fail to perceive this conduct was calculated to bring about violence, and if any of the great captains he endeavored to win had bent to his purpose would have resulted in blood. His letters to General Grant admit this defiance of the law, although it should bring fine and imprisonment on both, and for *these alone he would be impeachable.*

But it is claimed the tenure-of-office act does not include Edwin M. Stanton and others of his Cabinet in its provisions. *When did Andrew Johnson conceive this idea?* Not in his veto of the measure. Such a view would have made it a bill to keep all his own appointees in and turn all those of Mr. Lincoln out. He opposed it, believing just the opposite. When, last summer, he appointed General Grant Secretary *ad interim*, he suspended Mr. Stanton under the very provisions of this act, and within the twenty days prescribed by it sent *his reasons* for such *suspension* to the Senate. That body directed his reinstatement under its provisions, thus giving an OFFICIAL CONSTRUCTION that the law was meant to include such a case. HE THEN HAD FULL NOTICE, and in his late action fell into no unintentional error, no "erroneous construction," as he at last, on finding we will trifle no longer, pleads it might be, but with malice and bad intent deliberately resolved to judge of this statute himself *and defy it.* The case does not rest here. On informing the Senate that he had removed Mr. Stanton and appointed Lorenzo Thomas, he received their dignified resolution that such conduct was in violation of the Constitution and laws. *Yet the next day he again attempted the wrong*, insisting that he was the judicial exponent of both, and under the provisions of the law itself, as well as in fact, became guilty of a high misdemeanor. His conspiracy to effect his purpose; his offers of place to high military officers, creating an unauthorized department, spurned though they were; his endeavor to use the great captain of the war to thwart the judgment of the Senate which restored Mr. Stanton, fruitless as it proved, all were high misdemeanors and impeachable ones.

Having thus stated the history of these wrongs, I propose to glance for a moment at the pretenses upon which the last great wrong was perpetrated. They are, first, that the tenure-of-office act, in taking away the President's power of removal, is unconstitutional; next, that Mr. Stanton is not covered by its terms. Sir, there is not a word or an implication in the Constitution giving the President, by himself, the power of *removal.* That is incident to the power of appointment, which can only be exercised by and with the advice and consent of the Senate, except Congress shall confer it otherwise, or to "*fill* up vacancies that may *happen* during the *recess* of the Senate." Congress may, by law, vest the appointment of "inferior officers" in the President alone, and in such cases he may have the power to remove them. It cannot, however, even part with its authority so far as to let him appoint the head of a Department.

But it is claimed the first Congress placed a different construction on the Constitution. If it did the present Congress has an equal right to construe the English language. It is replied that those men understood its intent better than we at this late day can—that Madison's opinion is worth more on this point than that of Clay or Webster. If that is to be the test I appeal to still higher authority—for the arguments which prevailed in causing the acceptance of the Constitution are higher. I cite No. 77 of the Federalist, where *Alexander Hamilton*, urging its adoption, claims that the consent of the Senate is "necessary to displace as well as to appoint;" and I appeal, too, to that authority which Andrew Johnson seems to have mistaken for the law of the United States. The bold, bad men, who strove to dissolve the Union, skilled in legislation by long service in the Halls of the country which their treason afterwards stung, knew that no such despotic power met the grasp of their ambition in our Constitution, and so they placed this presidential right of removal in the "confederate constitution," from a copy of which, printed at Richmond, I am now reading. No, sir; the acts of 1789, 1792, and 1795, which declare how vacancies in the State, War, and other Departments shall be filled when the President shall remove the principal officer, were, in reality, *legislative grants* of power.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio, was recognized as entitled to the floor.

Mr. MYERS. Will the gentleman from Ohio allow me a little of his time.

Mr. LAWRENCE, of Ohio. I will do so.

Mr. MYERS. I am obliged to my friend. Mr. Chairman, the clause was only passed after a long debate in the House by a close vote, and in the Senate by the casting vote of its Presiding Officer. All those against it protested such was not the meaning of the Constitution, while sufficient of its supporters to have defeated it placed their votes upon the ground that they desired to confer this authority BY LAW. Even Madison used these words in relation to it:

"If the Constitution is silent, and it is a power the *Legislature have a right to confer*, it will appear to the world, if we strike out the clause, as if we doubted the propriety of *vesting it* in the President of the United States. I therefore think it best to retain it in the bill."

And so, with the splendor of Washington's record to justify this appeal and the confidence that he would not abuse the trust, the authority was conferred *by law.* If the statute is not repealed, the presidential right of removal exists under it, and he may fill the vacancy temporarily in the cases and modes designated by the acts; but this right of removal, except during the recess of the Senate, has never before been claimed.

Before passing, however, from this question of a constitutional right in the President to remove, let me say that the Supreme Court of the United States have fully recognized the right of Congress to fix the tenure of offices. In Marbury *vs.* Madison, 1 Cranch, 137, it was held that when an officer is not removable at the will of the Executive the appointment is not revocable by him. Certainly if the law can limit the term and prevent the exercise of the removing power by *the President alone* during such term, it can prevent it altogether.

In the great discussions of 1835 Daniel Webster eloquently urged that the view taken in the act of 1789 should be reversed. "It appears to me," he said, "after thorough and repeated and conscientious examination that an erroneous interpretation was given to the Constitution in this respect by the decision of the First Congress." In effect the Thirty-Seventh Congress reversed such construction in creating the Bureau of Currency, expressly limiting the Comptroller's term of office to five years, unless removed sooner by the President *by and with the advice and consent of the Senate.* The tenure-of-office act not only does this, but absolutely *repeals the legislative grant* in the acts of 1789 and 1795 as to the power of removal. Under it no Cabinet officer can be removed by a President except by and with the advice and consent of the Senate. *His term is limited, and expires of its own limitation* unless both President and Senate agree to remove him sooner.

Ah! but Mr. Stanton, by its provisions, is a tenant at sufferance only, says the President, and his Democratic friends on this floor echo the proposition. Let us see. He is to remain for the term of the President who appointed him and one month longer. Abraham Lincoln appointed him. Mr. Lincoln's term, under the Constitution, and his reëlection extends from 1865 to 1869, and Andrew Johnson is only serving out that term, the powers and duties "devolving on the Vice President," who shall act as President. But grant this brilliant afterthought of a Secretary by sufferance under the limitation of the tenure-of-office bill. There had, then, been vacancies in the War, Navy, Treasury, and State Departments since one month from its passage—and if the acts of these Departments are not void at least Mr. Johnson has violated law in not making nominations to fill them. How should the vacancy of the War Department have been filled even temporarily? The act of 1789 only authorizes the *ad interim* appointment of the *chief clerk.* The act of 1795, if in force, as pretended, so far as refers to Mr. Stanton, does not, as falsely quoted, apply to "*any*" vacancy, but to "a vacancy" *whereby he cannot perform the duties of his office*, and, like the act of February 20, 1863, which, in effect, repeals it, means the instance of "*inability*" from sickness, &c., *which may cease.* Now, "inability to discharge the powers and duties" of an office is in the Constitution itself expressly separated from removal, death, or resignation; so that the only power would be to select the *chief clerk* in any event.

But, sir, I tire of attempting to imagine a case which helps Andrew Johnson. I here state a fact which the country should know, that when, after Mr. Lincoln's cruel death, his Cabinet called on Mr. Johnson and tendered their resignations, *he desired them to remain.* So far as he could do, he thus *reappointed* them; and in Mr. Stanton's case the Senate by its action, when informed of his suspension, CONFIRMED him; but, above all, if this be incorrect and the opposite view shall prevail—if on the passage of the tenure-of-office bill there was a vacancy in the War Department and the act of 1795 stood unrepealed as to the full *power of appointment* claimed to fill the vacancy, then, from March 2, 1867, or a month

thereafter, until August, when he named General Grant, the President violated the law in failing to designate a temporary successor, and as the act of 1795 only gives the power to designate a person to fill the vacancy during six months, his fresh appointment of Lorenzo Thomas *ad interim after the expiration of six months was unauthorized by any law* on the *statute-book* and of itself is an impeachable offense, without reference to his power of removal. If he can make another designation *ad interim* after the time named in the act has expired he can go on filling all the offices of the Government, *irresponsible to the Senate* in its power of *confirmation*, as he claims to be to *Congress* or the *judiciary*. The dictatorship will be an accomplished fact, and the cherished principles of a free people trodden under foot by the power of despotism.

Mr. Chairman, if the President desired to rid himself of his Secretary of War it was easy to accomplish. The constitutional mode was to send in another name to the Senate, as he has done since his transgression, but too late to obliterate it. On presenting a suitable man the Senate would have confirmed him at Mr. Stanton's own instance, for he remained at his post of duty only in response to the demands of loyal men all over the land, that the War Office should not be surrendered to the revolutionary designs of the President. Mr. Johnson's last message claims that the construction of the Constitution in regard to the power of removal has been one of great doubt. Despite this doubt—despite the Constitution, the law, the reinstatement of Secretary Stanton, and the reiterated construction of the law on the part of the Senate, he chose to judge for himself rather than apply to the judicial tribunals, *and by his own actions he must be judged.*

Sir, the people's Representatives take no pleasure in the performance of the duty they are about to fulfill. They hold their offices in trust for the people. The most sacred of their trusts is to preserve liberty for the people. They delayed, they tolerated, they have been slow to censure. They even pleaded to their constituents and themselves the faith they once held in this public servant and his loyalty during the war.

The annals of almost every country furnish instances of men in high place who, with the madness, and egotism of ambition forgot their better days and only remain as a reproach on the pages of history. Our own land, even before Jefferson Davis plotted treason, is not without the illustration. The brilliant services of Benedict Arnold are powerless to save his memory from infamy, and Aaron Burr, once Vice President of the United States, conspiring to violate the principles of republican Government, wandered an outcast in the land of his birth. While no danger to our institutions was imminent, Andrew Johnson's little remaining lease of power made all hearts glad in the belief that he could accomplish no great wrong. He has himself taken away this hope, and without malice or fear it becomes us to do our duty.

Mr. LAWRENCE, of Ohio. Mr. Chairman, I had supposed that this debate would be limited mainly to an examination of the articles of impeachment reported by the committee; but I find the discussion has taken a somewhat wider range than I anticipated. I do not propose now to discuss at any considerable length the general principles of the law of impeachment. On three different occasions it has been my privilege on this floor to give my views upon that subject. I have nothing to take back and nothing to modify in the views which I have expressed. Every day has confirmed me in the conviction that the President of the United States ought to be impeached of high crimes and misdemeanors.

I do not know that I could describe the guilt of the President in any more appropriate language than that used by the distinguished gentleman from Wisconsin [Mr. ELDRIDGE] in a debate in this House on the 13th of December last. In that debate the gentleman was pleased to say of the President that he was "an infamous usurper of ungranted powers." I ask the Clerk to read an extract which I have marked in the Daily Globe containing the report of the debates of this House of the 13th of December last.

The Clerk read as follows:

"Mr. LAWRENCE, of Ohio. Then, Mr. Chairman, I am glad to find that my distinguished friend from Wisconsin agrees with me that these acts of the President are monstrous usurpations. I welcome him to the ranks of those who denounce the man at the White House as a usurper, a violator of the Constitution, and guilty of high crimes against the people of all the States.

"Mr. ELDRIDGE. And, Mr. Chairman, I think, so far as that is concerned, that Congress and the President are *in pari delicto*—that they stand together as infamous usurpers of ungranted powers."

Mr. LAWRENCE, of Ohio. I should not have conveyed the idea which the gentleman from Wisconsin [Mr. ELDRIDGE] did in exactly the language he used; but he has described, in much more vigorous terms than I would have employed, the exact character of the crimes of which up to that time the President had been guilty. And yet, with those words still lingering on his lips, with that conviction of the character of the conduct of the President, he was and is among those who voted that Andrew Johnson should not be impeached of high crimes and misdemeanors.

I cannot say that I rejoice that it has become our duty to impeach the President of the United States; on the contrary, it is a painful duty, sadly to be deplored. But we would be wanting in manhood, in courage, in fidelity to the Constitution, in duty to those who sent us to this Hall, if, when the President attempts to subvert the Constitution and to violate the laws of the country, we did not apply the remedy for his crimes which has been provided by the great charter of our liberties.

I have no doubt that the crimes set out in these articles of impeachment reported by the committee are sufficient upon which to convict the President. I by no means believe that they embody the highest of his high crimes. Prior to his attempted removal of Secretary Stanton, and his attempted induction into office as Secretary of War *ad interim* of the Adjutant General of the Army, Lorenzo Thomas, he had violated the Constitution in that wicked and corrupt attempt to create civil governments in seven of the rebel States, in his attempt to prescribe the qualifications of voters there, and to organize those States as members of the Union.

But I do not propose to recapitulate the crimes of which the President was guilty prior to those set out in these articles of impeachment.

Mr. Chairman, there are some principles of law applicable to the process of impeachment to which I wish to advert before I come to speak, as I will briefly, of the form of one or two of these articles. I do not hold for one moment that it is at all material what shall be the motive of the President when he violates the Constitution or the laws of the land. I know there may be violations of law which would not be impeachable unless they were accompanied by a corrupt motive.

But I deny that the President can shield himself from merited punishment by any plea of motive when he violates the Constitution or the laws of the land in such form as to endanger the liberties of the people or to subvert the fundamental principles of the Government.

Let me illustrate very briefly my idea upon this subject. At the commencement of the rebellion President Buchanan said, in his last annual message to Congress, that we had no constitutional power to coerce the rebel States. If he had continued in office for four years from that time, and had refused to execute the laws of Congress because he may have supposed, and honestly supposed that there was no constitutional power to coerce a rebellious State, this nation would have been overthrown. Now, I deny that in such case it is a duty to let this Republic die out of tender regard for the constitutional scruples of any President.

The Senate of the United States, when it has resolved itself into a high court of impeachment, is the highest judicial body in this land. It supervises alike the judgment of the President and the judgment of the courts. It supervises the conduct of the Supreme Court of the United States, no matter what may be the motives of the judges. Should they pronounce a decision which tramples down every principle of republican government, it would be within the province of the high court of impeachment to revise their judgment, and to remove the judges from the offices they hold, merely because of a decision of that court fatal to the interests or liberties of the Republic. Sir, the high court of impeachment exists as a means by which the House and the Senate may save the Republic from the encroachments of its enemies, from whatever department of the Government the usurpation may come. And, sir, if this House had preferred articles of impeachment when that infamous and ever-to-be detested Dred Scott decision was pronounced, and if the Senate had performed their duty, this Republic would have been saved the infamy and the blood of the great rebellion.

Now, sir, with that view of the law upon the subject, let me pass on to a single other consideration in the law of impeachment. In order to subject the President to impeachment it is not essential that he act in violation of a penal statute for which he may be indicted, nor that his conduct be a violation of the Constitution. Nay, more, sir, if from any cause the President should become absolutely unfit to perform the duties of his office, it is within the constitutional competency of the high court of impeachment, to save the life of the Republic and to preserve its interests, by ejecting him from the office which he would be unfit to fill. And I am glad, Mr. Chairman, that, at last, we have found that there is time, not only to attend to the material interests of the country upon all subjects other than impeachment, but that there is time to attend to this also. There never was a period in this country when there was not sufficient time for Congress to perform every duty devolving upon it.

And now, Mr. Speaker, I congratulate the House and the country that even those who maintained that no act was impeachable unless indictable have abandoned that position.

The articles of impeachment reported by the committee do not all charge conduct which is indictable. The "tenure-of-office law" provides as follows:

"SEC. 6. *And be it further enacted*, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

Here the act of "signing" or "issuing any letter in respect of an *appointment*" contrary to the statute is indictable. But the "signing" of an "order of *removal*" is not indictable. The issuing of the order for the removal of the Secretary of War is not indictable. The first article of impeachment charges no indictable crime. And yet, sir, it will be voted for, I have no doubt, by gentlemen here who once held the doctrine that nothing was impeachable unless indictable. I called attention to this fact in my remarks a few days ago, and my position remains uncontroverted.

Now, Mr. Chairman, I desire to call the attention of the distinguished gentleman, the chairman of the committee who have prepared these articles of impeachment, to the form of the articles. These printed articles have come into my hands only within the last few minutes, and I have not yet had time to read them all;

but I find that in the first article it is alleged that the President—

"Did unlawfully and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton, from the office of Secretary for the Department of War."

Issued an order for the removal! To whom did he issue the order? It is nowhere alleged that he delivered the order or caused it to be delivered to anybody. Sir, it is not enough that he should have issued such an order to some unauthorized person. It must be shown, I submit to the committee, that the order was issued to some person in such a way that it might by possibility have some effect, or that it was issued with a purpose that it should have the effect apparently designed on its face.

The concluding portion of article one, referring to the order for the removal of the Secretary of War, is in these words:

"Which order was unlawfully issued with *intent then and there to violate* the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, *and contrary to the provisions of said act*, and in violation thereof, and *contrary to the provisions of the Constitution of the United States*, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, *to remove* said Edwin M. Stanton from the office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high misdemeanor in office."

This alleges that the order was issued:

1. With intent to violate an act of Congress.
2. Contrary to said act.
3. Contrary to the Constitution.
4. Without the advice and consent of the Senate to remove said Stanton.

That is the Senate did not consent to the removal.

Now, sir, if it was averred that the order was issued with intent to remove the Secretary of War, that would be sufficient. But without such averment there should be an allegation of the delivery of the order, or of a purpose to deliver it to some one for an unlawful purpose. I hold the allegation of intent to violate the statute unnecessay; but if proper it is equally appropriate to make a similar averment as to the purpose to violate the Constitution. Let the article be unique in its averments. It will be observed that in the second article there is an averment of the "issuing to said Lorenzo Thomas" of the order as to him.

In article three there is an averment that the President appointed Lorenzo Thomas "while the Senate of the United States was then and there in session."

The language of the Constitution is:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

Now, sir, I submit to the chairman of the impeachment committee it is better to strike out the words "while the Senate, &c., was in session," lest it might be claimed that they relate to an actual session. I would adopt in lieu of these words the expression, "when there was no recess of the Senate."

In fact, sir, I suppose it is an unnecessary averment, and therefore surplusage since the sessions of Congress are public facts of which the Senate and all courts take judicial notice.

These suggestions have occurred to me, and I submit them with deference to the committee. There is, as it seems to me, much unnecessary formality in the articles; but if this formal mode of pleading is to be adopted let it be in the best possible form. It is well understood, however, that the same strict rule of pleading does not prevail in cases of impeachment as in criminal proceedings in criminal courts.

I have already said that the crimes charged in these articles are sufficient to impeach the President.

I have taken some pains to ascertain the opinions of members of this House, and I think there are but few, even among those who voted against the impeachment of the President in December last, who entertain the idea, or now hold that he must be guilty of an offense indictable, either by the common or statute law, to render him liable to impeachment. Such a doctrine is at variance with the whole theory and practice in cases of impeachment.

Officers are impeachable for high crimes or misdemeanors. A crime is an act committed or duty omitted in violation of law. But there are various kinds of laws. We have statutes enacted by Congress defining crimes to be tried and punished by civil courts. We have military law which is either prescribed by statute or by the common law of nations. During all our wars, and in the Army and Navy, even in time of peace, military tribunals and courts-martial try offenders against the common military law. Very few of the offenses are defined by statute. So parliamentary law has its high crimes and misdemeanors, and no legislative body, in any country, ever enacted a statute to define an impeachable offense. It is rather late in the nineteenth century to say that the whole world has been wrong and that a new discovery has been made hitherto unknown.

The Senate, as to its jurisdiction over impeachable crimes, is like military tribunals, which by the Constitution have a military common law jurisdiction over military offenses. These tribunals have a jurisdiction over military offenses not defined by any statute, and which, like impeachable offenses, are indefinable by statute. They rest in the judgment of the tribunal, regulated by usage and the law of nations. Thus when the assassins of President Lincoln were tried by a military commission, appointed without any act of Congress to authorize it or give such tribunal jurisdiction, Attorney General Speed decided the tribunal legal, and their jurisdiction authorized by the common military law or law of nations. The Attorney General, in his opinion of July, 1865, said:

"A military tribunal exists under and according to the Constitution in time of war. Congress may prescribe how all such tribunals are to be constituted, what shall be their jurisdiction and mode of procedure. Should Congress fail to create such tribunals, then under the Constitution they must be constituted according to the laws and usages of civilized warfare. They may take cognizance of such offenses as the laws of war permit; they must proceed according to the customary usages of such tribunals in time of war, and inflict such punishments as are sanctioned by the practice of civilized nations in time of war. I do not think that Congress can, in time of war or peace, under this clause of the Constitution, create military tribunals for the adjudication of offenses committed by persons not engaged in or belonging to such forces. This is a proposition too plain for argument. But it does not follow that because such military tribunals cannot be created by Congress under this clause that they cannot be created at all. Is there no other power conferred by the Constitution upon Congress or the military under which such tribunals may be created in time of war?

"That the law of nations constitutes a part of the laws of the land must be admitted. The laws of nations are expressly made laws of the land by the Constitution, when it says that 'Congress shall have power to define and punish piracies and felonies committed on the high seas and offenses against the laws of nations.' To define is to give the limits or precise meaning of a word or thing in being; to make, is to call into being. Congress has power to define, not to make, the laws of nations; but Congress has the power to make rules for the government of the Army and Navy. From the very face of the Constitution, then, it is evident that the laws of nations do constitute a part of the laws of the land. But very soon after the organization of the Federal Government Mr. Randolph, then Attorney General, said: 'The law of nations, although not specifically adopted by the Constitution, is essentially a part of the law of the land. Its obligation commences and runs with the existence of a nation, subject to modification on some points of indifference.' (See Opinions Attorney General, vol. 1, page 27.) The framers of the Constitution knew that a nation could not maintain an honorable place among the nations of the world that does not regard the great and essential principles of the law of nations as a part of the law of the land. Hence Congress may define those laws, but cannot abrogate them, or, as Mr. Randolph says, may 'modify on some points of indifference.'"

The term "*misdemeanor*" covers every act of "*misbehavior*," in the popular sense.

"Misdemeanor in office and misbehavior in office mean the same thing." (7 Dane's Abridgement, 365.)

Misbehavior, therefore, which is a mere negation of "good behavior," is an express limitation of the office of a judge.—(See North American Review for October, 1862.)

Alexander Hamilton, in discussing the judicial "tenure of good behavior" and the remedy in cases of "judiciary encroachments on the legislative authority" by pronouncing laws unconstitutional, says:

"It may, in the last place, be observed that the supposed danger of judiciary encroachments on the legislative authority, which has been upon many occasions reiterated, is, in reality, a phantom. Particular misconstructions and contraventions of the will of the Legislature may now and then happen, but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system. This may be inferred with certainty, from the general nature of the judicial power; from the objects to which it relates; from the manner in which it is exercised; from its comparative weakness; and from its total incapacity to support its usurpations by force. And the inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations on the authority of the Legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the power to punish them for their presumption by degrading them from their stations. While this ought to remove all apprehensions on the subject, it affords, at the same time, a cogent argument for constituting the Senate a court for the trial of impeachments."—*Federalist, No.* 81.

Impeachment is not merely nor necessarily *punitive* only, but it may, and often must be, *protective*. The safety of the public may demand its exercise in cases where there has been no intentional wrong but only a mistake of judgment. The Republic cannot be suffered to perish or its great interests to be put in peril, from any tender regard for individual feelings or errors.

Impeachment proceedings may be regulated also by law. If the Senate does not *ex necessitate* and by the common law of its organization have the power of arrest pending an impeachment, it can certainly be authorized by law. The House has the power to prefer articles of impeachment and the Senate has the power to try them.

Congress has power—

"To make all laws which may be necessary and proper for carrying into execution" * * * * "all powers vested by the Constitution" * * * * "in any Department of the Government."—*Const., Art. I, sec.* 8.

The arrest of a party pending impeachment is a legitimate proceeding to secure a speedy trial, to subject the offender to punishment and to make the judgment effectual. And it is well settled that—

"If the end be legitimate all the means which are appropriate and not prohibited may constitutionally be employed to carry it into effect."—4 *Wheaton Reports*, 316; 5 *Elliott's Debates*, 492; *Martin vs. Hunter*; 1 *Wheaton*, 325; 2 *Story on Constitution*, sec. 1288.

"It rests with Congress to determine the means proper to be adopted."—7 *Howard*, 1, *&c.*; and see on this subject *Tiffany's Treatise on Government and Constitutional Law, Albany*, 1867; *passim.*

The Senate has the power as a court to arrest and hold in custody the party accused pending an impeachment. This is the recognized practice in England, whose system we adopted. The Commons demanded that Clarendon be sequestered from Parliament and committed. (6 Howell's State Trials, 395.) Lord Strafford was sequestered in 1641. (2 Nalson's Collection, 7; see 11 Howell's State Trials, 733.)

And so the framers of our Constitution held. Mr. Madison said:

"There is one security in this case to which gentlemen may not have adverted: If the President be connected in any suspicious manner with any persons, and there be grounds to believe he will shelter himself, the House of Representatives can impeach him; they can remove him if found guilty; they can suspend him when suspected, and the power will devolve on the Vice President. Should he be suspected also, he may likewise be suspended till he be impeached and removed, and the Legislature shall make a temporary appointment. This is a great security."—*Debates of the Virginia Convention*, printed at the Enquirer press for Richey, Worsley & Augustine Davis, 1805, pages 353, 354.—6 *American Law Register*, 653, note.

This power has been exercised in the United States:

"In the case of Senator Blount under impeachment, the Senate ordered him to be taken into custody, and afterward committed him to the friendly custody of his bail. This, of course, incapacitate a Senator for further duty till he was released."

In case the President should be thus taken

into custody and disabled from performing the duties of his office, Congress could by law declare what officer should act as President. The Constitution declares:

"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected."

Mr. VAN AUKEN. This House but yesterday was called upon to vote impeachment of the Chief Magistrate of this great nation; and for what? In red-hot haste a committee report to this House in favor of impeachment, and this House the next moment is in the vortex of revolution. Time for reflection upon so grave a subject is denied. The few moments allowed are grudgingly dealt. The Jacobin revolutionists in this House fear exposition. Why this hurry? So grave a subject to be governed by passion (not reason) is a disgraceful principle. The President of the United States is to be hurled from the high and grand office made by our fathers in the Constitution by one fell blow, while exerting all his ability to honestly defend the Constitution and laws, and by those who, if parliamentary, trample it under their feet, deny its authority, and regard it as "a league with hell and a covenant with death." And for what this grand march of destruction? The President of the United States strives to rid himself of Edwin M. Stanton. This is the whole proposition to-day, and based on this proposition, and others even more frivolous, we are to vote on articles in mad haste still—in red-hot haste—let me now ask is so great a sacrifice to be made for so mean and miserable a subject? Is the country to be rocked from center to circumference for so despicable a man? Is commerce to be paralyzed mercantile pursuits abandoned, the laborer without toil, and all for the diabolical purpose to overthrow this form of government? The President is to be removed for attempting to remove Edwin M. Stanton.

The Radicals of this House expect this revolutionary result, and found this expectation on the following of the President:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

The first inquiry in the minds of all who wish to have and do justice in the premises, a word lost in Radical vocabulary, is to find whether the President had or had not the lawful authority to do the above. It can be shown by the contemporaneous history of the Constitution, by the uniform practice of the Government, general principles of interpretation, and decisions of the highest judicial tribunals of the country, that the President had the legal authority, and had he done less would have been derelict of duty. I claim his unquestionable right from these stand-points. The Constitution provides, article 2, section one:

"The executive power shall be vested in a President of the United States of America."

The power of the Executive in this provision is broad enough to comprehend all powers connected with the departments called Executive Departments—the subject now under consideration. These Departments are simply official agents of the Executive, acting under and through the Executive, and by him, and for whose official acts he is responsible. This broad power must include much and especially enough to appoint and remove these heads of Departments. Were there no provision in the Constitution on the subject of appointments but the power vested in the President by the first section, there would not exist a single doubt but the President could, by this power, both appoint and remove.

But in the same article, section second, part second, it is provided that the President—

"Shall have power, by and with the advice and consent of the Senate, to make treaties, &c., and shall nominate and, by and with the advice and consent of the Senate, shall appoint embassadors," &c. * * * * "and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law."

The Constitution, it will be seen, grants the power in general terms, and also will be seen the power is restricted in certain matters.

In certain appointments the President is restrained to have the approval of the Senate, in others it is not required. It follows, naturally, that a general given grant of power restricted is only restricted so far as the restriction is expressed. It will not nor can it properly be contended and maintained that restraint on power defeats a grant unless so expressed. In other words, a restriction is not as broad as a grant in the same instrument. Were this so there would be no use for the grant at all, for it would be taken away by the restriction. Both might as well be left out if in different instruments the restriction is a repeal of the grant.

We are not left to interpretation of the Constitution alone, but Chancellor Kent, in speaking on this subject, says:

"The President is the efficient power in the appointment of the officers of the Government. The appointment of the subordinate officers of the Government, concerned in the administration of the laws, belongs with great propriety to the President, who is sworn to see that the laws are faithfully executed, and who is generally charged with the powers and responsibilities of the executive department. The approbation of this Senate with the President in the exercise of the power (meaning the appointing power) is an exception to the general delegation of executive authority."

Story says:

"The power to nominate does not naturally or necessarily include the power to remove," &c.

Again:

"The power to remove by the President was never doubted by those in favor of the adoption of the Constitution, but it was urged as an argument by those opposed to its adoption."

The Constitution went in full force and effect on the 17th day of September, A. D., 1787. On the 16th of June, 1789, less than two years after the adoption of the Constitution, when all provisions and principles, letter and spirit of the Constitution, were all luminous in living light. James Madison, so justly and so long titled the father of the Constitution, uses this remarkable language. The Constitution affirms that the executive power shall be—

"Vested in the President. Are there exceptions to this proposition? Yes; there are. The Constitution says that in appointing to office the Senate shall be associated with the President, unless in case of inferior offices, when the law shall otherwise direct. Have we a right to extend this provision? I believe not. If the Constitution has invested all executive power in the President I venture to assert that the Legislature has no right to diminish or modify his executive authority.

"The question resolves itself in this, is the power of displacing an executive power? I conceive that if any power whatsoever is in its nature executive, it is the power of appointing, overseeing, and controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office by associating the Senate with him in that business would it not be clear that he would have the right, by virtue of his executive power, to make such appointment? Should we be authorized in defiance of that clause in the Constitution—'the Executive power shall be vested in the President'—to unite the Senate with the President in the appointment to office? I conceive not. If it is admitted that we should not be authorized to do this, I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first is only authorized by being excepted out of the general rule established by the Constitution in these words 'the executive power shall be vested in the President." * * * * "And inasmuch as the power of removal is of an executive nature and not effected by any constitutional exception, it is beyond the reach of the legislative body."

As the time allowed in this debate will not permit detailed views held by counsel and court in the cases adjudicated in the Supreme Court of the United States, I shall content myself by referring to the language of the court in *ex parte* Hennan, 13 Peters's Reports; and also to the views presented in the case of the United States *vs.* Gurther, 17 Howard's Reports; in both of which this doctrine is expressly held.

It will be seen, therefore, that the President has the power to remove. That the restriction in cases of appointment apply only when so expressed, and when not expressed both the power of appointment and removal are with the President exclusively.

Mr. Chairman, at this point in this discussion we are met by honorable gentlemen who claim that the act of Congress of March 2, 1867, provides otherwise. This I deny. The words of the provision are as follows:

"That every person holding any civil office to which he has been appointed by and with advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified."

Except as herein otherwise provided:

"*Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

My grounds of denial are: first, this act nor any other act can contravene the Constitution of the United States. In doing so it would be unconstitutional, and therefore null and void. The enacting part of this section is unconstitutional, for that it enacts that every person holding any civil office, and every person who shall hereafter be appointed to any such office, by and with the advice and consent of the Senate, shall be entitled to hold such office until another is in like manner qualified. To state it must make it plain to all that it is unconstitutional. It takes from the President the power of removal in all cases except by and with the advice and consent of the Senate, when required in appointment. The Constitution itself, the doctrine of its framers about the time, and immediately subsequent, and expressions of our courts pronounced its unconstitutionality, and it with its supporters must fall.

But for the purposes of this complaint against the President, the removal of Edwin M. Stanton, for which the country is to be distracted by impeachment, by which commerce is to languish, and by which a crusade is to be made against a coördinate department of the Government, and our present form of Government destroyed, and Radical consolidation reared on its ruins, it is of no concern whether or not the enactment be constitutional. Edwin M. Stanton is not within the enactment, but comes within the proviso to the same, and the tenure of him and others therein named is fixed, and the term of each expires in one month after the end of the term of the President by whom appointed. Edwin M. Stanton was appointed by President Lincoln; in 1865 President Lincoln died; therefore, by the terms of the proviso itself, the term of this man Stanton ended nearly three years ago. In law, therefore, a vacancy has existed from that time until the 21st instant, and from that time and now, so far as this beast-body Stanton is concerned. The fact that President Johnson suffered him to remain—it is only sufferance—does not alter the legal status.

However, it is contended, Mr. Chairman, that the removal could only be made as is therein provided. If the view be correct, which cannot be doubted, that in law a vacancy existed, the argument falls, and the cries of Congress-shriekers are stilled. In any view, even by the words of the act, the word "removal," in cases desired by the President, must be used the same as the word "nominate" in the Constitution. The one is the act of the President to make, the other to unmake, an officer, by and with the advice and consent of the Senate. In either case the duties, if any, must be performed, and the President is bound to see they are performed, therefore an appoint-

ment *ad interim* is not only the President's right but his imperative duty.

The appointment of General Thomas as Secretary *ad interim* was his right. His countrymen will hold him harmless. His accusers will stand accused and, by the people's verdict, condemned.

Again, the contemporaneous history of this act, which is made the pretext for this radical abuse of President Johnson in faithfully executing the laws, shows that the makers at the time never contemplated that the President did not possess the right and power to remove in cases such as the present. To prove this position I refer to the debates on the bill itself, and by Senators who, in this bill, by their positions, are for themselves, Senators, and for the Senate their managers. Senator BUCKALEW, one of the managers who declined to concur in the report, says:

"These officers, from the foundation of the Government, have held their offices at the pleasure of the President; they have been removable at will. Now, however, they are to have a duration assigned to their office similar to that which is assigned by the Constitution to the President himself." * * *

"And then, sir, they are to hold their offices for one calendar month after the term of the President has expired, and during all that interesting period in the history of a new Administration they are to have control of the several Executive Departments, and a new President coming into office is to be fettered with a former Cabinet for this whole period of time while he is making all the necessary arrangements for his Administration, and is to be precluded from calling the men he intends to select to his aid. I see no utility in any arrangement of this kind, no good to be accomplished by it, no reason why we should depart from past practice on this subject."

Senator WILLIAMS says:

"It will be remembered that the House put the heads of Departments on the same footing with other civil officers, and provided that they should not at any time be removed without the advice and consent of the Senate." * * * * "The report of the committee is intended to put the heads of Departments upon the same footing with all other officers named in the bill, with this exception, that their terms shall expire when the term of office of the President by whom they were appointed expires. That is the effect of the provision." * * * * "I will add, that I have from the beginning of this controversy regarded this as quite an immaterial matter," * * * * "for I have no doubt that any Cabinet minister who has a particle of self-respect—and we can hardly suppose that any man would occupy so responsible an office without having that feeling—would decline to remain in the Cabinet after the President had signified to him that his presence was no longer needed," * * * * "for I presume that whenever the President sees proper to rid himself of an offensive or disagreeable Cabinet minister he will only have to signify that desire, and the minister will retire and a new appointment be made."

Senator SHERMAN, the only other manager, says:

"I agreed to the report of the conference committee with a good deal of reluctance. The Senate had by two deliberate votes declared its purpose not to make the duration of the Cabinet officers fixed by any time, but they should hold their offices at the pleasure of the President; and that was the original design in the creation of their offices." * * * * "I take it that no case can arise or is likely to arise where a Cabinet minister will attempt to hold on to his office after his Chief desires his removal. I think that no gentleman, no man with any sense of honor, would hold a position as a Cabinet officer after his Chief desired his removal. The proposition now submitted by the conference committee is, that a Cabinet minister shall hold his office during the life or the term of the President who appointed him. If the President dies the Cabinet goes out; if the President is removed for cause by impeachment the Cabinet goes out."

And says, in reply to Senator DOOLITTLE:

"The Senator argues truly that it would not prevent the President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly, as Senator, would consent to his removal at any time, and so would we all."

It must be seen, as proven, that in this the President has committed no crime. The prosperity of a nation is in the uniformity of its practices. This Government has been uniformly conducted, without exception, on the right of the President to make removals for a period of over eighty years. In all seriousness I ask, are all the safeguards of this nation to be destroyed without reason, upon the new-fledged doctrine that dead men have terms of office, advanced on this floor by the honorable gentleman from Massachusetts? Is the uniform custom of this country from its commencement to be set at naught and this people at sea, without example or precedent, to remove an "impediment to Radical progress," equivalent to governmental overthrow? This is the question. A just verdict comes, and has been coming, from an ever-watchful people, which says these offenders against their liberties shall be condemned.

Mr. STEVENS, of New Hampshire. Mr. Chairman, on the 7th of December last I gave my vote for the impeachment of the President of the United States. That vote was dictated by what I considered a just regard to my convictions of duty and the demands of public interest. For that vote I have no regret, and I shall certainly indulge in no exultation. I respect the motives and the judgment of those gentlemen who now sit around me, and who felt on that day the pressure of duty in their action defeating the resolution of impeachment. If on that occasion I felt regret and disappointment at the result, the providential course of events which has since occurred has entirely reconciled me to the action of the House on that day. Three months, sir, have not yet elapsed, yet a like accusation and presentment against the President has passed this House by more than a two-thirds majority, and we sit to-day in solemn deliberation upon the forms of arraignment in which these grave charges shall be presented to the bar of that august tribunal whose members are the judges of the law and the fact, and from which there is no appeal.

Mr. Chairman, the issues here made up are between the people of the United States, the great political masters of the country, and the accidental Executive, whom both branches of Congress have already designated as the violator of law. This question, sir, involves the same great struggle so common to history and to the progress of human governments in all ages—the attempt on the part of the Executive or the ruler to wring from the people their natural rights and their reserved powers, and the strong, sturdy, intelligent, and honest resistance on the part of their representatives to prevent this encroachment, to resist these advances, and to repel these usurpations. It must be apparent to all, however much their feelings or their interest may be bound up with that of the President, that the people can never, without danger, surrender those reserved rights to-day claimed by the President of the United States as an incident to his office and under the provisions of our Constitution and laws, now as I believe, assumed and usurped by him.

The immediate act of the President which has united a majority of this House in resistance to his claims and induced his arraignment consists in an attempt to remove, during a session of the Senate, the Secretary of War, and to pass without the consent of that branch of Congress the vast power of that Department into the hands of an officer of the Army, a partisan and willing agent of the President. The act itself has no precedent, no parallel, in the history of this country. Since the formation of the Government no President has before attempted the exercise of the power of removal, as an independent power, during a session of the Senate. In an epoch of disturbed public affairs and in an era marked by financial distress the President of the United States, in defiance of the voice of Congress, has asserted and exercised a power never resorted to by any of his predecessors. The exercise for the first time of a power so great in its results and its consequences, by such a man as Andrew Johnson, and in such a crisis of our history, may well startle and alarm the loyal people of the country.

The officer whom the President seeks to displace is one who served under the administration of Mr. Lincoln as Minister of War, and who has stood, and now stands, unsurpassed in ability, fidelity, and loyalty. His great services during all the period of civil war won the confidence and the admiration of the loyal people of this country, and have concentrated on his devoted head the fear and hate of its enemies wherever found. He is to-day, as he has been in the past, beyond question the able, firm, and devoted friend of his country and her institutions, a country rescued by the unsurpassed efforts of himself and his illustrious associates from the depths of disaster and the abyss of national destruction. Such is the man whom the President, by the breath of his office, would sweep from his position at the head of one of the great Departments of the Government—a Department established by law and by law intrusted to his care, his discretion, and his administration. And this officer is charged with no offense and no crime as the ground of removal. His pretended offense is want of political sympathy with his superior in office. This is the head and front of his offending, and it is claimed that this officer ought to resign, or, failing to resign, should be removed, because, in the administration of his high office and in the discharge of the duties imposed upon him by law and intrusted to his judgment and discretion, he is not in unison with the President's views upon public affairs.

Mr. Chairman, I desire here, now, to enter my protest against any such construction of law, or admission of what is due to the proprieties of official relation between the head of a Department and the President of the United States. In my view such a demand is due neither to the legal or the personal relations existing between these officers. In my view such demands contravene the spirit of the law, tend to subvert the rights of the people, and to produce a slavish subserviency to superior station. In my view such doctrines suppress the independence of an enlightened private judgment, sink the officer into the clerk, relieve the incumbent from just responsibilities to the people, and tend to prostitute every faculty which he brings to the discharge of his duties, to the demands or the necessities of the Executive, however tyrannical, illegal, or unconstitutional they may be. I know, sir, that the advocates of this doctrine of official subserviency place it upon the ground that the officer is the constitutional and confidential adviser of the President. But, sir, even if it were so, even if such were the terms of the law, the War minister of this country, or the head of any other Department, cannot be justified in abandoning or abusing his high trust and sacrificing the rights and liberties of the great people whom he in part represents, or throwing up his office in great public emergencies on the demand of the President of the United States. He may be called upon for his opinion upon any subject relating to the duties of his office. He is said to be the constitutional adviser of the President. To advise what, sir? What the President thinks? what the President demands? what the President will have? and, as the alternative, to be discarded, thrown off, ejected from office by the breath of the Executive, his place filled with some pliant tool, the great power and authority of his office abruptly transferred, without the consent of the Senate, to other hands more or less unworthy, to a person who is but the mere reflex of the opinions of the President? And this pliant tool, when found inconvenient or obnoxious to the presidential will, to be in his turn cast aside and replaced by some still more compliant "constitutional adviser?" Such, sir, are a few of the unfortunate and the deplorable results of this doctrine of confidential relation and political subserviency.

Mr. Chairman, these claims and these assumptions naturally arise from that distorted and despotic view of the executive office, now so warmly entertained and constantly avowed by our Democratic friends upon the other side of this Hall. Under their lead we are constantly invited to transfer the reserved rights and power of the people to that branch of the Government to which our earliest statesmen have declared it naturally tends, and place it in the hands of one man, the President of the United States. Around him they would

concentrate all power, and in him they would center all prerogative. They declare sir, now, that he has the right of his own free will and motion to tear from their places at the heads of these Departments the men who now occupy them, and place in their stead such tools and creatures of his own, as ambition, weakness, or executive blandishment may call around him. Sir, the executive officers of the United States, from the President down, are the creatures of the people, and not the creatures of the President. The executive officers of the United States are the agents and servants of the people, and not the agents and servants of the President; they are responsible to the people and to the Representatives of the people, and not to the President.

For their misconduct and their offenses he has no responsibility, unless as a conspirator with them, and cannot substitute himself either to discharge the functions of their offices or to receive the punishment due to their misconduct, notwithstanding the recent vicarious offer of the President to the General of the Army. Like the President himself they are subject to impeachment by the Representatives of the people and amenable to the law within the scope of its penalties. And, sir, let me say, further, that I shall ever honor the firm and faithful Cabinet officer who stands between the President and the people, guarding their rights and defending their liberties. Such is Edwin M. Stanton, and I honor him for his resolute defiance of the unlawful exercise of executive power and his firm resistance to the executive will. Fortunate, indeed, is it for the Congress of the United States, fortunate for the liberties of the people of the United States, that he has not yielded to his pride, his wishes, or his individual choice, but has remained true to the demand which his country in the hour of its trial has made upon him. He has, indeed, stood between the march of executive power and executive usurpation, and the rights and liberties of the people of this country, and he will hereafter stand forth in history, when the excitements and the passions of these days shall have perished, as one of the honored instruments of preserving the liberties of the people from the encroachments and assaults of executive power, and of rescuing them from the grasp of the usurper. It is our high and holy mission, as Representatives of the people here, to aid him in the discharge of this paramount duty, and by the blessing of God we will yet preserve the jewels of liberty from the grasping power of executive usurpation, as they have been preserved from the assaults of treason and rebellion.

Mr. Chairman, the President maintains the right to remove Mr. Stanton during a session of the Senate under the authority of the Constitution. Now, sir, it is to be observed that this power of removal is nowhere in the Constitution given to the President in terms or by grant. It is an assumed power which he claims originally and solely from this clause in the Constitution:

"The executive power shall be vested in a President of the United States of America."

Here, it is said, is the clause which gives the President unlimited and unrestrained power to remove every officer in the executive branch of the Government, whether appointed by or without the consent of the Senate. And, in order to strengthen the Executive still further and to transfer to him from the people a still greater share of their inherent and reserved rights, he maintains and his friends on this floor maintain that Congress has no authority by duly enacted laws, to limit or prescribe the tenure-of-office in such way as to deprive the President of an unlimited power of removal at his will and pleasure. This is the doctrine of the President of the United States, and this is the doctrine of his adherents, supporters, and defenders on this floor.

Now, sir, what do our opponents mean by executive power? How do they define it? Do they mean the executive power of a monarch, or do they mean the executive power of a republican President? Do they mean executive power as understood in England or Russia or France? Do they mean executive power as defined by Blackstone, who says: "The supreme executive power is vested in a single person, a king or queen?" Do they intend to draw by analogy from the mother country the executive power of an English monarch and assert it for the President of the United States? Does the executive power, under the Constitution, carry with it the prerogatives of the executive power as understood in England—the prerogative of a king or queen of England, or, as the same author says, "that special preëminence which the king hath over and above all other persons?" Is this the executive power now claimed by our friends on the other side of the House for their friend, the President of the United States? Have they come at last to claim for him "royal character," "royal authority," and "royal income," and to clothe him with those attributes of executive power in that kingdom from which so many analogies are sought to be drawn by our Democratic friends, and to insist that he can do no wrong?

If these or either of these are intended by them as an example of executive power, I can readily understand why they may properly claim the unlimited and unrestrained authority for the President of the United States to appoint and remove at will every executive officer of the Government. But if they mean executive power, as limited and restrained by the Constitution, then I assert that they can find no warrant of authority for the power of removal in that instrument.

Mr. Chairman, the power of the President is an enumerated and specific power. Outside of the Constitution and the laws made in pursuance thereof he has no executive power. The Constitution defines his duties and his powers, and beyond that he cannot go. The Constitution has set them down specifically, has asserted and enumerated, has fixed and defined them, and to these enumerated and defined powers he is restricted in the exercise of his official functions. So of the legislative department, and so of the judicial department; their power and their authority is defined and limited by the terms of the Constitution.

Suppose this principle of construction was applied to the clause conferring legislative power. Where would it begin and where would it end? Our friends, the defenders of the President, claim just now that the legislative power is confined to the express grants in the Constitution. Is there any just reason why they should not adopt the same construction in regard to the executive or judicial departments of the Government? In fact, the Constitution clothes the legislative branch with an authority denied to other branches, for it confers the authority to make all laws necessary and proper for carrying into execution all the powers vested in the Government, or in any department or officer therein. Yet, while the President and his friends deny to Congress the exercise of any power not specifically granted, they insist that the Executive is in full possession of a power which has no name or place in the terms of the Constitution, and which they say is derived from a general clause. Can there be any plainer or more odious discrimination in favor of the executive power against the rights of the people?

Sir, I cannot agree to this doctrine of power derived from this clause naming the executive department of the United States. The vast power with which such a doctrine clothes the President is alarming in contemplation, and would in the end be ruinous and destructive to the liberties of the people. I therefore look to the Constitution, sir, to see, not what I can wrest from its terms in favor of the power of the Executive, but what I can find therein set down and defined as the limit and the extent of his authority. Without that Constitution he has no authority; and upon this question of removal and appointment I find these provisions, and these only:

"He shall nominate, and by and with the advice and consent of the Senate shall appoint, embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

Here, sir, is the whole of it. Nothing is said here about the power of removal; not a word—and why? Because the power of removal was not treated or considered as an independent power. It is an incidental power, growing out of and necessarily connected with the power of appointment. An office cannot be held by two men jointly. When one is appointed, confirmed, and enters upon the duties of the office, the former incumbent necessarily is displaced. It would therefore be an idle ceremony to add to the appointing power, in terms, the power of removal. But, as the power of removal results from the power of appointment, it ought to be and can only be exercised according to the terms of the Constitution; that is, by and with the advice and consent of the Senate and in conjunction with that coordinate branch of the Government. Consequently the President possesses the power of removal only in conjunction with the Senate, unless otherwise provided by law.

Perhaps, sir, it may be suggested that in cases of necessity the power ought to be exercised by the President alone. But the plea of necessity cannot answer here. No necessity existed for this abrupt and willful exercise of usurped power. The country was at peace; the officer sought to be removed was without suspicion as to his integrity, ability, or loyalty. No charge is made against his fidelity in office. The Senate of the United States was in session—in fact, the President had appealed to it to remove Mr. Stanton, and it had refused. Therefore, sir, the appeal of necessity, which sometimes, it is said, excuses violence to the forms of law, can have no place in the President's defense. It must stand upon the deliberate, uncalled for, and obstinate assertion of executive authority. I hesitate not to say, sir, that in the attempt to exercise that authority the President violated the Constitution of the United States, both in the removal of Mr. Stanton and in the attempt to transfer the power of the Department to a man whose nomination had not then been sent to the Senate.

While I admit that the construction formerly given to the Constitution has, to some extent, conceded the power of removal to the President in the recess of the Senate, no such power has been claimed during its sessions until the assumption of it by Mr. Johnson. No other President has ever dared to assume the power. But, sir, the President found it necessary to the removal of Mr. Stanton to fly in the face of a statute passed on the 2d day of March, 1867. That statute, whose provisions I need not here recite, was enacted for the purpose among other things of taking from the President the power he has attempted to exercise in the removal of Mr. Stanton. One of its main purposes was to place the officers of his Cabinet beyond the power of removal by the President alone. The President was fully apprised of its intended scope and purposes. He has chosen to defy it, and he now stands for trial before the court whose members passed the law after discussion, revision, and solemn deliberation, and who have since declared that his act was a violation of law.

Now, sir, in regard to the authority of Congress to pass this act I entertain no doubt. The authority to define and limit the term of office is a power which has been exercised by Congress unquestioned since the foundation of the Government. For the first time it is now ques-

tioned. The mode and manner in which the power of removal is asserted deprive the act of palliation or defense. Indeed, sir, the Constitution itself gives to Congress the express power to vest the authority of appointment in the President, heads of Departments, and the courts, and consequently confers upon it the power of transferring it from one branch to the other, thus depriving the President of the right of appointment or removal except where it is otherwise specifically provided for by the terms of the Constitution itself. Upon this point I think I can give the House no better authority than that of Mr. Webster, whom our opponents sometimes cite but seldom quote. He has asserted so fully and so distinctly the power of Congress, as exercised in the passage of the tenure-of-office act of 1867, that I shall content myself by placing before the House a portion of his speech delivered in the Senate of the United States on the 16th of February, 1835. He says:

"I believe it to be within the just power of Congress to reverse the decision of 1789, and I mean to hold myself at liberty to act hereafter upon that question as I shall think the safety of the Government and of the Constitution may require." * * * * "The regulation of the tenure of office is a common exercise of legislative authority, and the power of Congress in this particular is not at all restrained or limited by anything contained in the Constitution except in regard to judicial officers. All the rest is left to the ordinary discretion of the Legislature. Congress may give to offices which it creates (except those of judges) what duration it pleases. When the office is created and is to be filled the President is to nominate the candidate to fill it: but when he comes into the office he comes into it upon the conditions and restrictions which the law may have attached to it. If Congress were to declare by law that the Attorney General or the Secretary of State should hold his office during good behavior, I am not aware of any ground on which such a law could be held unconstitutional." * * * *

"I do not think that the Constitution, by giving the power of appointment, or the power both of appointment and removal, to the President and Senate, intended to impose any restraint on the Legislature in regard to its authority of regulating the duties, powers, duration, or responsibility of office. I agree that Congress ought not to do anything which shall essentially impair that right of nomination and appointment of certain officers, such as ministers, judges, &c., which the Constitution has vested in the President and Senate. But, while the power of nomination and appointment is left fairly where the Constitution has placed it, I think the whole field of regulation is open to legislative discretion. If a law were to pass declaring that district attorneys or collectors of customs should hold their offices four years, unless removed on conviction for misbehavior, no one could doubt its constitutional validity, because the Legislature is naturally competent to prescribe the tenure of office." * * * * "I think the Legislature possesses the power of regulating the conditions, duration, qualification, and tenure of office, in all cases where the Constitution has made no express provision on the subject."

To those who believe Mr. Webster to have been a sound constitutional lawyer I trust this reason and these opinions will be conclusive.

I desire to notice only one or two other points made by our friends on the other side in defense of the President's action. The first is, that Mr. Stanton's case is not within the provisions of the tenure-of-office bill, because he was appointed by Mr. Lincoln, and the terms of the act provide that the officer shall not be removed during the term of the President by whom he was appointed. I regard this, sir, as a very refined attempt to avoid the plain intent of the law. The object of that law is admitted on all hands to have been a restraint upon the President of the power of removing a Cabinet officer. It is, I think, a recent invention, not of the President himself, but of his ingenious friends on this floor. But the intention of the law, which is to govern, is plain. I have stated that intention, and I have called the attention of the House to the fact that it must have been clearly known to the President; and further, that the President's objection has heretofore been placed upon his views as to as the constitutionality of the bill, and upon no other.

Another objection of about the same magnitude has been stated by the distinguished gentleman from Pennsylvania, [Mr. WOODWARD,] which is, that this is not a Congress of the United States, and therefore has no power to impeach the President. Now, sir, while I would not trifle with any question incident to this grave subject or to the debate which has taken place upon it, I cannot find it in my heart to enter into a serious argument against this proposition. But I do desire, sir, to illustrate this position and to show how little regard is paid to its soundness even by those gentlemen upon the other side who have seen fit to announce it. If this proposition be true, what has been the conduct of those gentlemen toward the Government and toward their constituents. Hour by hour, day by day, and month by month, they have been sitting here voting appropriations of money and otherwise exercising the power of legislation, and all, as they now assert, by usurped authority, and in violation of the Constitution of the United States. Shall I treat this subject seriously, Mr. Chairman. Let me say to those gentlemen that if such are their convictions—and I say it with all due respect—that they can have have no business here, much less, sir, have they the right to sit here and draw from the Treasury of the United States their salaries as Representatives and appropriate that money, which they assert was drawn from the Treasury by an illegal, partial, and unconstitutional body of men, to their own uses.

It would not do for me, sir, to characterize upon this floor the legal consequences of such an act as this, and apply it to any gentleman who assumes to be a member of this body; but, sir, let me say, in all kindness and in all respect, that if these gentlemen believe that this is an unconstitutional Congress—that it is not the law-making power of the Constitution—they had better leave their chairs, increase the "conscience fund" in the Treasury Department by the amount they have drawn from it as their salaries and perquisites, and retire from this Hall to the bosom of their constituents.

Mr. Speaker, although the charges and specifications which have been presented by the committee do not, in my opinion, cover all the impeachable offenses of which the President has been guilty, still, sir, I shall be satisfied with the result to which they have come, and acquiesce in the judgment of the distinguished gentlemen who compose such committee, and vote for the report as it now stands; yet still, sir, I cannot forget that the President has been guilty of high crimes and misdemeanors outside and beyond these charges, for which I think him impeachable. In fact, sir, gentlemen upon this floor who now defend him, and especially the distinguished gentleman from Wisconsin, [Mr. ELDRIDGE,] have declared that the President of the United States has been guilty of infamous usurpations of ungranted power. I agree with the gentleman in that high accusation, and I agree, further, with the President of the United States when he declares, in his last annual message, that "usurpation is the most dangerous of political crimes." Believing both these assertions from these distinguished sources, I should have no hesitation—as I had none in the early stages of this controversy—in voting for the articles which arraign the conduct of the President of the United States for his course in the reorganization of the rebel States, and for the other offenses which, from time to time, he has been guilty of, looking to the same great end—the transfer of the power of this Government from the loyal hands that rescued it and saved it to the hands of those men who for four years assailed it with all the hatred of treason and the power of their confederated army.

Mr. BOUTWELL. I wish, Mr. Chairman, to make a suggestion in regard to the business of the committee.

The CHAIRMAN. The gentleman from Massachusetts [Mr. BOUTWELL] will proceed, if there is no objection.

There was no objection.

Mr. BOUTWELL. The suggestion which I desire to make is, that the committee take a recess at half past five o'clock this evening until ten o'clock on Monday morning. Meeting at an earlier hour than usual on Monday morning we shall have about the same time for discussion as if we should come here at half-past seven o'clock this evening. I move, therefore, that at half past five o'clock the committee take a recess until ten o'clock on Monday morning.

Several MEMBERS. That is right.

The motion of Mr. BOUTWELL was agreed to.

Mr. BLAINE. I desire to state that there will be a meeting of the Republican members of this House in this Hall this evening at eight o'clock.

Mr. MORGAN. Mr. Chairman, it is to be regretted that the action of the House, upon an occasion like the present, should be marked by unseemly haste and partisan excitement. Respect for ourselves, if not for the Chief Magistrate of the Republic, should cause us to remember that we are acting in the capacity of grand jurors, and that our deliberations should be characterized by dignity and decorum. The action of the House is of an extraordinary character, and calculated to lose us the confidence and respect of the American people. Even before the articles of impeachment were laid on our desks, by the action of the majority we are forced into a debate upon the charges preferred against the Chief Magistrate without having had an opportunity of knowing what the charges are. And I was struck with the remark of my honorable colleague, [Mr. LAWRENCE,] that he rose to discuss the question of impeachment without having had the opportunity of reading even the first article. Sir, there is not a court in our country in which the grand jury would find a bill of indictment against the most infamous melefactor without first hearing with deliberation the evidence to sustain the prosecution against the accused. We are acting not only in presence of the citizens of the United States, but in the actual presence of the civilized world, for even while we are debating this grave measure our action is being discussed in London and Paris and St. Petersburg, for the telegraph has made us neighbors.

During an entire year, sir, persistent efforts have been made to find some ground upon which the President could be deposed from his high office; and twice has the House, once by a direct vote and once through the action of its committee, declared that the President had committed no act for which he was liable to impeachment.

Prefer articles of impeachment against the Chief Magistrate of the Republic, and for what? Has he arrested and imprisoned citizens without trial and without defense? If he has, then I will vote for the articles of impeachment? Has he struck down the liberty of the press? If he has, then I will vote for the articles of impeachment. Has he denied to ten States of the Union their rightful representation in Congress? If he has, then is he guilty of a flagrant violation of the Constitution, and should be arraigned and punished, and I will vote for the articles of impeachment. Has he established absolute military despotisms over the States of the South on the pretext of conferring upon them republican forms of government? For, if he has, then he is not only a ruthless violator of the Constitution, but a tyrant, and he deserves to be impeached, and I will vote for the articles of impeachment. Has he disfranchised a majority of the white race in the South in order to establish negro domination over white men, women, and children, loyal and disloyal alike? For if he has, then he has not only trampled upon the Constitution, but committed a crime against nature by reducing the highest race in the world to the servitude of the lowest, and thereby sought to barbarize and utterly destroy nearly one third of the entire Union; and, if guilty of so great a crime, he deserves to be impeached, and I will vote for the articles of impeachment.

But, Mr. Chairman, I find no such charges made in the indictment drawn by the learned lawyers who have reported the articles of impeachment. Upon what ground, then, is it proposed to send the President of the United States for trial to the bar of the Senate? Let

the action of this honorable body on Monday last answer:

"Mr. STEVENS, from the Committee on Reconstruction, said: I beg leave to make the following report:

"That, in addition to the papers referred to the committee, the committee find that the President, on the 21st day of February, 1868, signed and issued a commission or letter of authority to one Lorenzo Thomas, directing and authorizing said Thomas to act as Secretary of War *ad interim*, and to take possession of the books, records, and papers, and other public property in the War Department, of which the following is a copy:

EXECUTIVE MANSION,
WASHINGTON, *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office. Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General of the United States Army, Washington, District of Columbia.*

Official copy respectfully furnished to Hon. Edwin M. Stanton.

L. THOMAS,
Secretary of War ad interim.

"Upon the evidence collected by the committee, which is herewith presented, and in virtue of the powers with which they have been invested by the House, they are of the opinion that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors. They therefore recommend to the House the adoption of the accompanying resolution.

THADDEUS STEVENS,
GEORGE S. BOUTWELL,
JOHN A. BINGHAM,
C. T. HULBURD,
JOHN F. FARNSWORTH,
F. C. BEAMAN,
H. E. PAINE.

"*Resolved*, That Andrew Johnson, President of the United States, be impeached for high crimes and misdemeanors in office."

Upon the hurried examination which I have been able to give, I find that nine of the articles substantially set out the charges made in the foregoing report, and it is not necessary to discuss them in detail. How, sir, shall we be regarded by posterity? In what light shall we appear before the civilized world when it becomes known that the President of the United States has been impeached for having exercised a legal and constitutional right, the right of removing a Cabinet officer who is charged with obstructing the public service? And what else? Why, sir, that he assigned the Adjutant General of the Army, whose office is in the War Office, to the temporary discharge of the duties of that office until a Secretary of War could be appointed, by and with the advice and consent of the Senate.

Nine of the articles against the President charge that he violated the civil-tenure act by removing Secretary Stanton and by directing the Adjutant General of the Army to discharge the duties of the War Office *ad interim*—that is, until a Secretary of War could be duly appointed, by and with the advice and consent of the Senate.

And I propose to demonstrate, in a few words, that under that act the President had the right to remove Secretary Stanton, and by and with the advice and consent of the Senate to appoint his successor. By the express terms of the Constitution, on the death of the President, the Vice President at once becomes President and is immediately clothed with all the rights, authority, and prerogatives of an Executive originally chosen by the electors of the respective States. The first section of the civil-tenure act provides that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal, by and with the advice and consent of the Senate. Mr. Stanton was made Secretary of War by President Lincoln, but Mr. Lincoln died, and by his death his term of office came to an end. Andrew Johnson then became President, and his term commenced from the date of Mr. Lincoln's decease. And, as Mr. Stanton was not appointed Secretary of War by President Johnson, it irresistibly follows that under the express provisions of that act President Johnson had authority to remove him without the advice and consent of the Senate. And it is equally clear that he cannot under that act so remove Secretary Browning or Attorney General Stanbery. Why not? Because they were appointed by himself. Such being the law, is it not apparent that it is the Secretary of War and not the President who should be impeached? That high functionary has set a most dangerous example of insubordination to the Army; and every subaltern guilty of disobedience of orders may plead the example of the Secretary of War as his excuse, if not his justification.

Mr. Lincoln only lived forty-one days after his second term commenced; but it is claimed by gentlemen on the other side that his term continued after his decease, for the reason that he was elected for the period of four years. It is true that a President is elected to serve during a term of four years, that is, that he shall be President during four years, unless he dies, is successfully impeached, or resigns within that time. The word "term" applies to the person and not to the office. The office is not limited by the term of four years, but continues to exist without limitation; while the term during which the office is held may be brought to an end at any time by death, resignation, or impeachment, and then the term expires; but the continuance of the office is coextensive with the existence of the Government.

But, sir, even if the act of the President in removing Secretary Stanton was illegal, there is now no tribunal before which he can be tried on articles of impeachment. It is a universally acknowledged principle of law that no one who has expressed an opinion as to the guilt or innocence of the accused can sit as a juror upon this trial. And after trial and conviction the verdict would be set aside were it made to appear that a single juror had expressed such an opinion before taking his seat in the jury-box. Well, sir, by the terms of the Constitution, the Senate is the only body before which the President could be tried on articles of impeachment; and twenty-nine members of that tribunal in the most solemn manner, on the night of the 21st of February, expressed their opinion as to the guilt of the Executive and, as that distinguished body is mostly composed of learned lawyers, it would be doing injustice to suppose that any one of that twenty-nine could be induced to sit in judgment on his trial, after having expressed an opinion as to his guilt. But, sir, that there may be no misunderstanding as to the facts, I will read the preamble and resolution adopted, on the night of the 21st of February, by a vote of twenty-nine to six:

"Whereas the Senate have received and considered the communication of the President, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act as Secretary of War *ad interim*: Therefore

"*Resolved by the Senate of the United States*, That, under the Constitution and laws of the United States, the President has not the power to remove the Secretary of War and designate any other officer to perform the duties of that office."

And it is upon that charge—for the frivolous specifications contained in the tenth article are unworthy of serious discussion in this House, unworthy of investigation by the Senate—it is, I say, upon the charge contained in the Senate resolution that the President is to be put on his trial. And how can we, with these facts before us, assume the responsibility of sending the Chief Magistrate of the Republic before a tribunal which has prejudged his case by a formal vote, and by a still more formal entry on its Journal, without allowing him a single moment for defense? A trial under such circumstances would be without a parallel in the history of civilized nations, and would affix an indelible stain upon the annals of our country. Sir, the verdict of the Senate has already been pronounced, and to now arraign the President before that tribunal would be a mockery of both law and justice; for the Senate would know, the world would learn, that the President had been condemned without a trial, and that he was only arraigned to receive sentence.

There is another reason, Mr. Speaker, why self-respect should prevent this honorable body from passing articles of impeachment under the actual circumstances. It was but the other day that a vague newspaper rumor, charging that one of the judges of the Supreme Court of the United States had, when off the bench, expressed an opinion as to the constitutionality of the reconstruction acts, was made the subject of grave investigation. But if it be an impeachable offense for the judge of a court to express an opinion when off the bench as to an abstract question of constitutional law, what should be said of the action of a high court which would undertake to try a citizen charged with crimes and misdemeanors, after that court by a five-sixths vote had entered its judgment of conviction before the case had been heard? I have too much respect, Mr. Chairman, for the Senate of the United States, too high a regard for the honor of my country, to doubt that that august body will vindicate its high character by refusing to try the Chief Magistrate, after having previously pronounced an opinion as to his guilt.

It is well known, sir, to the whole country that the public interests have seriously suffered in consequence of the insubordinate conduct of the Secretary of War. So fully impressed were Generals Grant and Sherman of the great prejudice done the country by the continuance of Secretary Stanton in the War Office that they determined to request him to resign, and that if he did not resign that "ulterior measures" should be "contrived" to meet the case. But General Sherman shall speak for himself. In his letter to the President he says:

332 K STREET, WASHINGTON,
Saturday, January 18.

I regretted, this morning, to say that I had agreed to go down to Annapolis to spend Monday with Admiral Porter. General Grant has to leave for Richmond on Monday morning at six o'clock. At a conversation with the General, after our interview, wherein I offered to go with him on Monday morning to Mr. Stanton and say that it was our joint opinion he should resign, it was found impossible, by reason of his going to Richmond and my going to Annapolis. The General proposed this course. He will call on you to-morrow and offer to go to Mr. Stanton to say that for the good of the service of the country he ought to resign—this on Sunday. On Monday I will call on you, and if you think it necessary I will do the same—call on Mr. Stanton and tell him he should resign. If he will not, then it will be time to contrive ulterior measures. In the meantime it also happens that no necessity exists for precipitating matters.

Yours, truly, W. T. SHERMAN.

But Secretary Stanton clings to the War Office with the tenacity of a drowning man to a plank; and although General Grant proposed to General Sherman that they should jointly urge Mr. Stanton to resign, for the good of the service, of which fact Mr. Stanton is fully aware; but, dead to every patriotic impulse, deaf to every appeal of honor, he insists on remaining in a Cabinet where he is unrecognized by his colleagues and is repudiated by his chief. Sir, the case is a remarkable one. A Cabinet officer—the Secretary of War—defied and disobeyed the President of the United States, the constitutional Commander of the Army and Navy. What was to be done? Was the President to yield to the usurped authority of a member of his own Cabinet? Was the Commander-in-Chief of the Army and Navy to yield to his own subaltern? Or rather, was it not his right, if not his imperative duty, to require obedience to the laws and remove the offender from office? But it is charged that the President has defied Congress. What are the facts? The interests of the public service demanded that the Secretary of War should be removed, and the President, in the exercise of his constitutional right, directed his removal.

Certainly, sir, there was neither want of respect nor want of courtesy to Congress in this action of the Executive. On the contrary, he directed the Adjutant General of the Army, whose office is in the Department of War, to temporarily discharge the duties of the War Office

until a Secretary of War could be duly appointed by and with the advice and consent of the Senate. And out of deference to that august body, on the very next morning, a venerable statesman of great experience and distinguished ability was nominated by the President as Secretary of War; and, had the Senate acted with the promptness of the Executive, Mr. Ewing would now be in the War Office and the country be rescued from the peril which threatens it. Now, sir, I call the attention of the House and the country to the facts connected with the action of the President. They show that the Adjutant General was not aware that he was to be assigned to the duties of the War Office until he received the order of the President, which, as a soldier, he was bound to obey. Hence there was no combination between the President and the Adjutant General. The facts further show that the President did not consult with a single member of Congress as to his intended action. Hence there was no combination between the President and any member or members of the Federal Legislature. Nor is this all. Had the President aimed at evil every gentleman in this House knows full well that General Thomas is not the person who would have been selected to carry out such a purpose. And as the action of the President in the assignment of General Thomas to the duties of the War Office is vindicated by the facts, so is that vindication made still more complete by the nomination of Mr. Ewing as Secretary of War. But why was not the name of Mr. Ewing sent to the Senate the moment that Mr. Stanton was removed? Sir, do we not all know, does not the whole country know, that the Senate has time and time again refused to confirm the nominations of some of the ablest as well as the bravest of our citizens? And it is said that under the guillotine of the Senate lie the heads of more than three hundred heroic soldiers of the Union, who had escaped the ball and bayonet of the rebels to fall at last beneath the ax of the loyalists. It is only remarkable, therefore, that the President was able to select in so short a time a person who was at once highly competent to discharge the duties of the War Office, and whose high character afforded some guarantee that the Senate would not assume the responsibility of rejecting his nomination. This, Mr. Chairman, is the length and breadth of the President's offense. For this it is proposed to make a Senator from my own State "Protector of America," under the title of President. But as we thus hurriedly advance on the path of revolution it may be well to recall the old adage that "history repeats itself;" and it may not be unwise to remember that if Parliament did make Cromwell Protector so did the Protector turn Parliament out of doors. And while we are speaking of that famous Parliament let us for a moment glance into the mirror of those times, as held up to our gaze by Bancroft, and see whether the scenes of the Long Parliament are now being reënacted—whether history is again repeating itself. He says:

"Parliament, in its turn, subverted the constitution by establishing its own paramount authority; and virtually making itself irresponsible to its constituents. It was evident that a parliamentary despotism would ensue. The English Government was changed in a manner injurious to the Executive, and still more injurious to the freedom of the people." * * * "The liberators of England had become its tyrants; the rights of the nation had only been asserted to be sequestered to their use."

Sir, I appeal to this honorable body to pause and reflect before it is too late. What is proposed to be done? To depose the President of the United States, and place in his stead a person who did as much as any other American to inculcate the heresy of secession. It is not my purpose, sir, to do injustice to Senator WADE; he is, and I am not, responsible for his opinions, and by his own mouth he shall be vindicated or condemned. During the course of debate in the Senate of the United States, while speaking of the people of the South, Mr. WADE said:

"I am not one of those who would ask them to continue in such a Union. It would be doing violence to the platform of the party to which I belong. We have adopted the old Declaration of Independence as the basis of our political movements, which declares that any people, when their government ceases to protect their rights, when it is so subverted from the true purpose of Government as to oppress them, have a right to recur to fundamental principles, and, if need be, to destroy the Government under which they live, and to erect on its ruins another more conducive to their welfare. I hold that they have this right. I will not blame any people for exercising it whenever they think the contingency has come. I certainly shall be the advocate of that same doctrine whenever I find that the principles of this Government have become so oppressive to the section to which I belong that a free people ought not longer to endure it. You will not then find me backward in being the advocate of disunion; but that contingency never having come I have never yet opened my mouth in opposition to the Union." * * * * * "You cannot forcibly hold men in this Union, for the attempt to do so, it seems to me, would subvert the first principles of the Government under which we live."—*Congressional Globe*, Thirty-Fourth Congress, third session, page 25.

Here, sir, is the doctrine of Davis and of Calhoun boldly, I will not say vauntingly, proclaimed by the Senator whom it is now proposed to make President of the United States, not by the will of the people but by the action of Congress. And now, Mr. Chairman, as you propose to place an avowed "advocate of disunion" in the presidential chair, who, let me ask, is the high criminal against whom is hurled the burning invective of gentlemen on the other side of the House? Sir, let Mr. Stanton reply:

WAR DEPARTMENT,
WASHINGTON, *March* 3, 1865.

SIR: This Department has accepted your resignation as brigadier general and military governor of Tennessee. Permit me on this occasion to tender to you the sincere thanks of this Department for your patriotic and able services during the eventful period through which you have exercised the highest trust committed to your charge. In one of the darkest hours of the great struggle for national existence against rebellious foes the Government called you from the comparatively safe and easy duties of civil life to place you in front of the enemy and in a position of personal toil and danger perhaps more hazardous than was encountered by any other citizen or military officer of the United States. With patriotic promptness you assumed the post, and maintained it under circumstances of unparalleled trials, until recent events have brought safety and deliverance to your State and to the integrity of the constitutional Union, for which you so long and so gallantly periled all that is dear to man on earth. That you may be spared to enjoy the new honors and perform the high duties to which you have been called by the people of the United States is the sincere wish of one who in every official and personal relation has found you worthy of the confidence of the Government and the honor and esteem of your fellow-citizens.

Your obedient servant,
EDWIN M. STANTON.

His Excellency ANDREW JOHNSON, *Vice President elect.*

And for the simple reason that President Johnson concurred with Generals Grant and Sherman, that the good of the public service required that Secretary Stanton should resign; and because President Johnson acted upon the advice of General Sherman, and "contrived ulterior measures," as by law he had a right to do, to get rid of the person who clung to office with such remarkable tenacity, it is proposed to depose the President from the high position to which he was elevated by the voice of his countrymen. Sir, against this great wrong, in the name of my constituents, I appeal from this honorable House to the country; I appeal from the politicians to the people.

And now, Mr. Chairman, out of deference to the learned gentlemen of the committee, I will briefly consider the tenth article and the testimony, and the only testimony offered, to sustain the specifications against the President. It reads as follows:

ARTICLE X.

That said Andrew Johnson, President of the United States, on the 22d day of February in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of Congress duly enacted, as Commander-in-Chief of the Army of the United States, did bring before himself then and there William H. Emory, a major general by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such Commander-in-Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled, "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank," was unconstitutional and in contravention of the commission of said Emory, and therefore not binding on him as an officer in the Army of the United States, which said provision of law had been therefore duly and legally promulgated by general order for the government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the United States, according to the provisions of said act, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

Concerning this article I have but one word of comment to make. By the express terms of the Constitution the President is made the Commander-in-Chief of the Army of the United States, and any act pretending to deprive him of that command is clearly unconstitutional, and I deny that the signature of the President can make an act valid which was unconstitutional in itself. This proposition is deemed too plain to justify argument.

And now, indulge me one brief moment as to the facts. It is known to every gentleman on this floor that on the 22d day of February last the capital was rife with rumors as to the movement of troops. Among other things it was said that Secretary Stanton was preparing to resist the President of the United States by force of arms, and that troops were marching upon the capital. It was most natural and proper, then, that the President should send for the military commander of the department of Washington in order to ascertain the facts; and, without comment, I will read the entire testimony introduced by the committee, and it amounts to a complete vindication of the President, and will show to the country the flimsy groundwork upon which the articles of impeachment rests:

Testimony of General William H. Emory.

WASHINGTON, D. C., *February* 26, 1868.

"William H. Emory, sworn and examined:

"By the Chairman:

"*Question.* What is your rank and command in the Army?

"*Answer.* I am colonel of the fifth United States cavalry, and brevet major general of the United States Army. My command is the department of Washington.

"*Question.* How long have you been in the command of this department?

"*Answer.* I think since the first of September, 1867.

"*Question.* During the month of February, 1868, have you had any conversation with the President of the United States in relation to military affairs or movements?

"*Answer.* Only once.

"*Question.* When was that?

"*Answer.* That was on Saturday, 22d February.

"*Question.* Was the interview at your request or his?

"*Answer.* It was at his request.

"*Question.* In what way was his request communicated to you?

"*Answer.* I have the note in my pocket. It is a letter from Colonel William G. Moore, of the Army, marked 'personal.'

"*Question.* Read the letter.

"Witness read as follows:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 22, 1868.

GENERAL: The President directs me to say that he would be pleased to have you call on him as early as practicable.

Very respectfully and truly yours,
WM. G. MOORE, U. S. A.

"*Question.* Did you call in consequence of that request?

"*Answer.* I did.

"*Question.* State fully and literally, as far as you are able, what occurred at the interview?

"*Answer.* There is nothing more difficult than to repeat conversation.

"*Question.* State the substance of it?

"*Answer.* The President asked me if I recollected a conversation I had with him when I first took command of this department, in reference to the strength of the garrison of Washington, and the general disposition of the troops in this department. To which I replied that I did recollect it distinctly. He asked me if there had been any changes. I replied there had been no material changes, but, such as there had been, I could state at once. I then went on to state that six companies of the twenty-ninth infantry had been brought here to winter, but that that had been offset by detaching four companies of the twelfth infantry to Charleston, on the requisition of General

Canby; that two companies of the fourth artillery, which had been detached during General Canby's command of the department, one of them to the northern frontier to assist in putting down the Fenian difficulties, had been returned to their regiment stationed at Fort McHenry, Baltimore; that though the command had been increased in the number of companies, I was under the impression that the reduction in the numerical strength of the command, growing out of the order which reduced infantry and artillery companies from the maximum of the war establishment to the minimum of the peace establishment, more than offset what was gained by the additional companies. The President said, 'I refer to more recent changes.' I said I did not know exactly what he referred to by recent changes; that none had been made to my knowledge; that if he would give me some idea of who had made the report to him, or what the report was which he had received, I could, perhaps, give him a more definite answer. He said reports had reached him that within the last day or two, certain orders and new arrangements of troops had been made. I assured him that none had been made with my knowledge, and that I did not believe that any had been made without my knowledge; that under the recent orders, founded upon the laws of Congress, for the government of the armies of the United States, approved by him, no order could come to me except through General Grant, and that, reasoning from analogy, it was assumed in the army that no order could be given to any one under my command without coming through me; that if, by any possibility, an order had been given, without coming through me, it was the duty of the officer receiving it immediately to notify me. He then asked me, 'What order do you refer to?' I stated that I referred to order No. 15 or 17, I could not recollect which, that had been published to the Army some time in May last. He said, 'I wish to see the order.' I replied to him that I would send for it. He said, 'No, I have all the orders about the house,' and a messenger was sent for it. At that time Colonel Cooper came in, and occupied the President's attention for some time upon another subject, as I supposed, for I withdrew to the other end of the room. While there, the messenger came and brought the order. After Colonel Cooper had gone out, I returned to the President, with this order in my hand, and said, 'Mr. President, I will take it as a great favor if you will permit me to call your attention to this order or act. It passed in an appropriation bill, and it is possible you may never have seen it.' He took the order and read it and observed: 'This is not in accordance with the Constitution of the United States, which makes me Commander-in-Chief of the Army and Navy, or with the language of the commission which you hold.' I stated to him that was not a matter for officers to determine; there was the order sent to us, approved by him, and we were all governed by that order.

"*Question.* Do you mean that the order or the act was approved by the President?

"*Answer.* I mean the act; but as far as that was concerned, the order and the act approved by him are the same thing; for the order contained nothing but the act. He said, 'am I to understand that the President of the United States cannot give an order but through the General-in-Chief or General Grant?' I replied, 'Mr. President, that is the order which you approved and which has been issued for the government of the Army, and I think it due to you to say that when this order first came out it was very much discussed in the Army, and some of the leading lawyers of the country were consulted as to what the duty of an officer was under that law and order,' and I observed, 'one of them whom I consulted, and I consider him, perhaps, one of the greatest constitutional lawyers in the country, gave it as his very decided opinion that we were bound by it. And I think it right to tell you that on this subject the Army is a unit.' He asked me who the lawyers were. I told him the one I consulted was a kinsfolk of mine, Robert J. Walker, and that I had understood, though I did not know of my own knowledge, that others had consulted Mr. REVERDY JOHNSON, who, it was reported, held the same opinion. The President replied, 'the object of the law is very evident.' After a short pause, seeing there was nothing more to say I thanked him for the courtesy with which he had permitted me to express my own opinion and left the house.

"*Question.* Did the President, in any form, inquire whether you would obey an order if it was sent to you without going through the headquarters of the General?

"*Answer.* As nearly as I can recollect, there was not a word said that I have not put down, though I could, of course, not swear that I had put down every word uttered. You may see by my testimony that I myself introduced the subject of Order No. 17, which involves this question. There were a variety of rumors running about town that General Thomas had given orders, or that he had declared he was going to give orders, and I thought it my duty to state the situation fairly and squarely to the President."

Testimony of Colonel George W. Wallace.

"WASHINGTON, D. C., *February* 26, 1868.

"George W. Wallace sworn and examined:

"By the Chairman:

"*Question.* You are connected with the Army?

"*Answer.* I am lieutenant colonel in the Army, commanding the garrison of Washington.

"*Question.* How long have you been in command of the garrison of Washington?

"*Answer.* Since the latter part of August last.

"*Question.* Have you, at any time, had any conversation or correspondence with the President of the United States in regard to military affairs, movements, or operations?

"*Answer.* I had a brief conversation with him on Sunday morning last.

"*Question.* Had you the conversation at his request?

"*Answer.* The circumstance occurred in this way: I was called to the Executive Mansion to see one of his secretaries, Colonel Moore; and while in conversation with him I asked how the President was. He replied that he was very well, and then asked if I would like to see him and pay my respects to him. I said certainly, and in a few moments I was invited into his room.

"*Question.* Did you have a conversation with him in regard to military matters?

"*Answer.* Yes, sir; a brief conversation.

"*Question.* State what that conversation was?

"*Answer.* The President asked me if any changes had been made in the forces under my command. I replied that four companies of the twelfth infantry, the regiment to which I properly belong, had been sent to Charleston, or rather to that military district, the 7th of January; that beyond that there had been none.

"*Question.* Had you any further conversation?

"*Answer.* No, sir; that was all that occurred in reference to military operations.

"*Question.* He made no reply to your statement as to the change in the affairs of your command?

"*Answer.* No, sir; nothing occurred beyond that.

"By Mr. WILSON:

"*Question.* Did anything further occur with regard to military matters of any character?

"*Answer.* No, sir; that was the only conversation that I had with him with regard to military matters. Indeed I may say it was all that transpired with regard to any matter except a mere passing remark.

"By the Chairman:

"*Question.* Had Colonel Moore any previous knowledge or expectation that you were to call about that time?

"*Answer.* Colonel Moore expected to see me Sunday morning.

"*Question.* What led him to expect you?

"*Answer.* He addressed me a note the day previous, saying he desired to see me; that he would call upon me in person, but that he was very much occupied. His object in sending for me, however, was upon an entirely different matter.

"By Mr. BINGHAM:

"*Question.* Did the President say anything to you whatever about the War Department matter, or the Secretary of War, that morning?

"*Answer.* No, sir. Colonel Moore sent for me in regard to a personal matter concerning myself."

Sir, this testimony requires neither analysis nor answer, for it at once answers and explains itself, and shows how wicked and absurd is this inexcusable persecution of the Chief Magistrate of the Republic. Sir, the country needs repose, not agitation. From every quarter we hear the cries of distress and loud complaints against our tardy action in giving relief to the people. In every journal we read of large meetings of manufacturers protesting against our most odious and corrupt system of collecting the public revenues; of meetings of the people demanding equality of taxation and that a stop be put to the profligate expenditure of the people's money; and the mails are burdened with pamphlets suggesting remedies for the coming financial crisis, which a civil convulsion would at once precipitate into a condition of general bankruptcy and ruin. Sir, I do not charge, and would regret to believe, that civil war is contemplated by the leaders of the Republican party, and yet there are just grounds for serious apprehension. The very air is filled with rumors of the proposed movements of "the Grand Army of the Republic," and the Governors of the great States of Pennsylvania, Illinois, and Missouri have telegraphed that "the spirit of 1861 seems again to be aroused;" that "troops are rapidly tendering their services to sustain the laws."

Sir, it was upon the pretense of sustaining the laws that the first Napoleon, by the aid of a grand army of the republic, which was the title of the revolutionary army of France, built his imperial throne on the ruins of the free institutions of that country. It was upon the pretense of advancing the cause of human liberty that the third Napoleon became a member of the French Assembly, then prince-president, and finally, by the aid of the troops of another grand army of the republic, "who tendered their services to sustain the laws," the tyrant was enabled to plant his heel upon the necks of the French people. It was as the pretended champion of freedom that Cromwell became "Protector" of England; and it was in the name of liberty that the free citizens of Rome were reduced to servitude.

Sir, to what are all these dangers, all these evils to be attributed? To the madness of party spirit; to the stupid blindness of partisan zeal. Party has usurped the place of country; and to be an active partisan is esteemed to be more honorable than to be an unselfish patriot. A life and death issue has been joined between party and country; and if the Republican party survives, our liberties perish. The whole question is with the people. If they have still sufficient public virtue to remember with affection the free institutions which formerly secured their rights, they cannot be enslaved. But if deaf to the cries of outraged liberty, if blind to the monstrous wrongs which are being daily committed, then, indeed, they are slaves now, and they will not be kept long in waiting for the manacles which are already forged.

Sir, the day for the Republican party to do good to the country has long gone by, and its existence in the future can only be productive of evil. Thousands of good and true men are within its ranks, and if they will but obey the silent monitor which ever whispers to them that their party leaders are not longer to be trusted, their country, our common country, will yet be saved.

We are told that a house divided against itself cannot stand. How is it with the Republican house? At deadly war within itself. The President elected by the Republican party impeached by the party which placed him in power. The Supreme Court of the United States, a majority of whose judges were appointed by President Lincoln, is held in contempt, and spoken of in terms of derision by those who are to-day the leaders, if not the acknowledged masters of the Republican party. Thus, sir, we have the remarkable spectacle of a President, a Congress, and a Supreme Court, all placed in power by the Republican party and all at war with each other. Is it not evident that our institutions can only be rescued by the wise, fearless, and prompt action of the people. If in their hearts love of country and the sacred love of liberty have a deeper and a firmer hold than the love of party, then will the union of the States be restored, and peace, prosperity, and good-will once more smile upon our battle-scarred land. But if we, as a people, have become so venal and degenerate as to prefer being the mere serfs of party masters rather than enjoy the rights of self-government as freemen, then, indeed, we are already hopelessly lost.

Mr. MULLINS. Mr. Chairman, I now presume to intrude upon the attention of the House a few crude ideas upon a subject deserving the most careful consideration of every discriminating and honest mind. Mr. Chairman, we are now arraigning the highest offender known to the people of this country. I am about to discuss the case of a man who claims to be of exceedingly humble origin; and this humble individual whose case it falls to my lot to deal with cannot think at all hardly of me when I, coming from as humble a walk in life as himself, am recognized as his peer. I have reason to thank God that amid missiles of death, floating as thick as the locusts of Egypt, I have been spared for some purpose best known to God. I presume that the duty devolving upon me at the present hour is one of the purposes for which I have been spared. I desire to discharge this duty to the best of my ability, without prejudice or partiality, and with no intention to inflict any wrong or injustice upon any human being.

It is claimed by some gentlemen in this House that this man of crime, sitting in a high place in our Government, has committed no political sin, no legal wrong, no violation of the Constitution. But, before considering that question, I wish to say a word upon the question of the jurisdiction of Congress in this case. I say, sir, it is clear from the Constitution itself that this House and the Senate constitute the only tribunal having cognizance of such a case as the present. Under the fundamental organism of our Government this power exists nowhere else. The sole power of impeachment is vested in the Congress of the United States. Sir, when the President of the United States tramples upon the rights of the people, when he usurps both the legislative and judicial power of the

Government, when he assumes to decide what laws are constitutional and what unconstitutional, what laws he will obey and what he will disobey, we, as the Representatives of the people of the United States, are alone responsible if we fail to do our duty in holding him to a strict accountability.

Of the articles of impeachment now before us, reported by the committee raised for that purpose, nine are founded on that great and overreaching transgression of the Constitution and the laws committed by Andrew Johnson on the 21st of the present month. Sir, is it possible that in this nineteenth century, in this year of our Lord 1868, the President of the United States should undertake to set at defiance a law of the plainest and most imperative character; that in the face of the Congress of the United States, in the face of his solemn official oath, in the face of all the obligations resting upon him, he should undertake to override a clear and unmistakable statute of the United States, one of those laws which it is his bounden duty to see "faithfully executed." I refer, of course, to the tenure-of-office act of March 2, 1867.

Now, sir, it is argued by the friends of the President of the United States, on the other side of the House, that this law is relieved of its binding force upon the President by reason of laws which were passed previously. Sir, I do not pretend to be a jurist; but I appeal to the sound sense of an honest people and an enlightened judiciary to say whether it is not a universal legal rule that where a subsequent law comes in direct conflict with a prior law the prior law is rendered null and void.

Sir, we have presented to us in these articles of impeachment an array of all the facts which have been publicly proclaimed from the hand of the President of the United States himself. The documents emanating from the President himself exhibit his action in too clear a light to be misunderstood. He has assumed to remove from office the Secretary of War, known and recognized as such by the highest legislative authority; he has undertaken to remove this officer and appoint another in his stead, when the Constitution has expressly declared that the only power of the President in this regard shall be a power to make nomination to the Senate when vacancies occur. Let me read a paragraph from the second section of article two of the Constitution of the United States. It declares with reference to the President that—

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Congress has seen fit to make the appointing power coeval with another body; it must depend for its sanction and existence upon the concurrence of the Senate. No power whatever is granted to the President by this solemn instrument, this Constitution which Mr. Johnson "when swinging round the circle" took pleasure in distributing from his pocket among his Democratic, conservative, copper-bottomed friends at the North, until he had emptied his pockets of all he had, and thereby deprived himself of the benefit of a solitary copy for his own use at the White House. [Laughter.] Consequently he has no constitutional monitor there staring him in the face and telling him when he is wrong.

What further does this same article say?

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

How, in the name of common sense, in accordance with that provision, in accordance with his oath and his conscience, can he declare that as President of the United States he is justified in the act which he has taken upon himself to perform, in declaring vacant the office of Secretary of War, and putting in the place of the man he has undertaken to remove another man? In the face and eyes of that provision he has ordered Mr. Stanton to vacate and General Thomas to walk in. He has undertaken to do this with no other authority than the power that is in "me," Andrew Johnson, "monarch of all I survey." Sir, despotism and monarchy lie at the bottom of the whole movement, and I am not speaking at random when I so declare.

Now, Mr. Chairman, look at the stretch of power which this man has undertaken to assume. It is a warning not only to this House but to every solitary citizen in the broad expanse of the continent of America, whose duty it is to guard with eternal vigilance the citadel of liberty, and in doing so to scan the acts of the President and watch him with a jealous eye. What do you find him doing that determines his guilt? In the first place, what does the Constitution bind the President to do? Why, sir, in extraordinary occurrences it is his duty to call Congress together. Now, I put it to every member of this House, to every person in the sound of my voice, and to every citizen of the country, whether there ever has occurred in the history of the United States a more extraordinary event than the surrender of the rebel army with their millions of bloody hands and desperate hearts? Drunk with the blood of loyal men after four years of rebellion they were compelled to lay down their arms. Was not that a grand epoch in the history of the United States? And yet he who came into the presidential chair through the act of an assassin from the ranks of the rebel party, this accidental President now foisted on the country, instead of calling Congress together to take action on the occasion, undertakes himself to set up civil governments in the rebel States. Where did he get that authority in the Constitution, my Democratic friends? Show me the clause or the word that gives him the right to declare that States in rebellion, which had cut themselves loose from every political ligature that bound them to this Government, which had become public enemies, he himself being witness that they were without the Government of the United States and without a vestige of legal civil authority—where did he get the right of setting up civil governments for those States which he declared had been broken up and were without the pale of the Constitution? When we had conquered the rebels and captured their armies the President assumed the right to determine all these political questions for himself, thus becoming the sole legislator, the Nero of our day. Why, sir, the Czar of Russia has never assumed more despotic power and more absolute sway than the President of the United States, and the Democratic party with one voice say "Amen" to it. It is very natural, however, I suppose, as long as it is their bull which has gored our ox. [Laughter.]

[Here the hammer fell.]

Mr. JENCKES. Mr. Chairman, I take advantage of this fragment of time to give notice of an intended amendment which I propose to move to these articles of impeachment. It will be substantially a new article, not an amendment to either of them as it now stands. I propose to set out the facts alleged by the committee in their report and some others, and to couple them with the averment that the acts and declarations of the President show an intent to exercise the power and authority of Commander-in-Chief of the Army and Navy of the United States in a manner not in accord with the rules established for the government of the land and naval forces by the acts of Congress. The Constitution vests in Congress the sole power to raise and support armies, the sole power to make rules and regulations for the government of the land and naval forces of the United States. It makes the President Commander-in-Chief of the Army and Navy; that is, of the land and naval forces of the United States. As such Commander-in-Chief he is as much bound to obey the rules established by Congress as the lowest subaltern officer. And I propose to charge that these acts set forth by the committee have been done, and the declarations accompanying these acts show a criminal intent to exercise that power and authority in violation of the acts of Congress, in violation of the Constitution, and that he has no right or authority to do or to induce others to do what he has done or attempted to persuade others to do in violation of their duty as established by law. Perhaps an amendment containing this averment should be introduced into some other of the articles, and to it I call the attention of the chairman of the committee.

Mr. BOUTWELL. I hope the gentleman from Rhode Island will prepare an article. Possibly it would be better as a separate article, as far as I can judge now.

Mr. JENCKES. I wish to do so, and will present it upon that single idea.

Mr. BUTLER obtained the floor.

The hour of half past five o'clock p. m. having arrived, the committee took a recess until Monday morning at ten o'clock a. m.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COBB: The claim of Jane E. Hitchcock, of Green county, Wisconsin, widow of Hiram Hitchcock, late hospital steward eighteenth regiment West Virginia infantry, for a pension.

By Mr. GARFIELD: A memorial of the Union League Club of New York, asking that medals be given to soldiers of the late war.

By Mr. HILL: A petition for alteration in the pension laws.

By Mr. HUBBARD, of West Virginia: The petition of William K. Grayson, of Wood county, West Virginia, asking relief from the sentence of a court-martial.

By Mr. KITCHEN: The petition of J. W. Yantis and 210 others, citizens of Harpers' Ferry, Jefferson county, West Virginia, praying an appropriation to aid them in rebuilding the wall around the cemetery at the abovenamed place, which was destroyed by the Union troops during the late rebellion.

Also, the petition of Mrs. L. A. Gittings, of Montgomery county, Maryland, praying that her name be placed upon the pension-rolls.

By Mr. KELLEY: Three petitions from printers and type-founders of Philadelphia, against the passage of an international copy-right law.

By Mr. O'NEILL: The petition of the editors of all the weekly newspapers published in the city of Philadelphia, claiming their rights accorded by act of Congress, approved March 3, 1863, allowing publishers of weekly papers to send each actual subscriber within the county where the paper is published one copy free of postage; showing that in defiance of this law they are now charged fifty-two cents per year for each paper sent to a subscriber, and asking that they may be relieved from this unequal burden of taxation, which discriminates only against the city of Philadelphia, and that the law be complied with.

Also, the petition of leading printers of Philadelphia, numerously signed, asking Congress not to enact an international copy-right law, such a project being prejudicial to the book and publishing interests of our country.

By Mr. PETERS: The remonstrance of S. K. Jackson and others against the abolition of commutation of servant's pay.

AFTER THE RECESS.

The Committee of the Whole on the articles of impeachment against the President of the United States resumed its session at ten o'clock a. m., [Monday, March 2,] and Mr. ELIOT took the chair temporarily.

Mr. WASHBURNE, of Illinois. Mr. Chairman, in the limited space of time allowed for

discussion of the articles of impeachment now before the committee, I will not enter upon a consideration of that particular subject. I will, however, submit for publication in the Globe an examination into the whole question of impeachment, acknowledging my obligations to a friend, who has placed in my hands a brief which seems to be very full and complete, and which may be useful for reference hereafter.

IMPEACHMENT.

A.—*Definition.*

It is a proceeding, probably the fairest that could be devised, by which the people, through the action of that branch of the Government which most directly and fully represents themselves, call in question the fitness of their public officers, and dismiss them if unfit. (Story on the Const., sec. 810.)

An impeachment, as defined by English common law, is a presentment by the House of Commons, the most solemn grand inquest of the whole kingdom, to the House of Lords, the most high and supreme court of criminal jurisdiction of the whole kingdom. (2 Hale's Pleas of the Crown, 150; 4 Blackstone's Comm., 259; 2 Wilson's Law Lect., 165, 166. See quotations appended, "A.")

B.—*The Power to Impeach.*

The House of Representatives has the sole power of impeachment. (Const., art. 1, sec. 2, cl. 5.)

C.—*The Tribunal for Trial of Impeachments.*

The Senate has sole power to try impeachments. (Const. 1, sec. 3, cl. 6; *Ibid.*, art. 3, sec. 2, cl. 3.)

This power was most properly intrusted to the Senate. (The Federalist, Nos. 65 and 66; Story on the Const., sec. 746,773; Rawle on Const., cl. 22, pp. 212-213; Journal of the Convention, pp. 69, 121, 137. 189, 217, 226, 236, 324, 325, 326, 344, 346.)

I. Organization: (*a.*) In the trial of the President a quorum must be present and the Chief Justice preside; in the trial of other officers simply a quorum is required. (Const., art. 1, sec. 3., cl. 6.)

(*b.*) When sitting for the purpose of any trial the Senators must be on oath or affirmation. (*Ibid.*)

II. Jurisdiction.

I. As to persons:

1. (*a.*) The President, Vice President, and (*b*) all civil officers of the United States are subject to impeachment. (Const., art. 2, sec. 4.)

The President himself and his confidential departmental advisers are the very persons who are eminently the objects to be reached by the power of impeachment. (Story on the Const., sec. 765.)

(*b.*) Civil officers, within the meaning of the Constitution, are those who derive their appointment from and under the national Government, and are to be distinguished, first, from military and naval officers, whose appointments are of like derivation; and second, from those officers who, though members of the Government, derive their appointment directly from the States, or the people of the States. (Story on the Const., sec. 791, 792.)

"All officers of the United States who hold their appointments under the national Government, whether the duties are executive or judicial, in the highest or lowest departments of the Government, with the exception of the officers of the Army and Navy, are properly civil officers, within the meaning of the Constitution, and liable to impeachment." (Story on the Const., sec. 790; and see Rawle on the Const., ch. 22, p. 213.)

A Senator is not a civil officer, liable to impeachment. (Senate Journal, January 10, 1799; 4 Tuck. Black. Comm., pp. 57, 58; Wheaton's State Trials, pp. 260, 316; Rawle on the Const., ch. 42, pp. 213, 214; Story on Const., sec. 791; Serg. Const. Law, 376.

Nor is a territorial judge, not being a constitutional, but a legislative, officer only. (3 Opinions of the Att'y Gen'l, 409.)

Note.—In the limitation of persons impeachable the law and practice of the United States differ materially from that of Great Britain. There all the king's subjects, whether peers or commoners, are impeachable in Parliament, though it is affirmed that commoners cannot now be impeached for capital offenses, but for misdemeanors only. (4 Black. Comm. 260 and Christian's note; 2 Woodeson's Lect., 40, pp. 201 and fol.; Comyn's Digest, Parl. L. 28, 40.

The House of Lords has exclusive jurisdiction over offending peers in offenses committed in Parliament, and of treason and felonies, wherever by them committed. (2 Hawk. P. C., ch. 44, sec. 13; Mag. Char., c. 29.)

2. It is doubtful whether any but actual incumbents of office can be impeached. (Consider Const., art. 1, sec. 3, cl. 7; Mr. Bayard in Blount's trial, 28; (Phila., 1799) Ed., pp. 80, 81; Story on the Const., sec. 801. But *contra*, Blount's trial, pp. 49, 50; Rawle on Const., ch. 22, p. 213.)

II. As to offences:

Impeachment will lie for treason, bribery, or other high crimes and misdemeanors.—Const., art. 2, sec. 4.

1. Treason consists in levying war against the United States or in adhering to their enemies, giving them aid and comfort, and is so defined in the Constitution. (Const., art. 3, sec. 3.)

There must be actual levying of war; a conspiracy to subvert the Government is not treason, nor is the enlisting of men who are not assembled a levying of war. (*Ex parte* Bolman, 4 Cranch, 75; U. S. *vs.* Hanway, 2 Wall, jr., 140; *Ibid.*, 136; 4 Am. Law Jour., 83.)

No man not present at the levying of war can be convicted of treason. (1 Burr's Trial, 401, 439.)

2. One must look to the common law for the definition of bribery, that being a common law offense. (1 Story on the Const., sec. 794.)

Bribery consists in offering or receiving any undue reward to or by any public officer, in order to influence his behavior in office and to incline him to act contrary to his duty and to the known rules of honesty and integrity. (Coke's Inst., part 3, 149; 1 Hawk. P. C., 67, sec. 2; 4 Black. Comm., 139; 1 Russell on Crimes, 156.)

3. For the definition and ascertainment of "other high crimes and misdemeanors" recourse must be had to the common law and parliamentary practice. (Jefferson's Manual, sec. 53, Title Impeachment; Blount's Trial, pp. 29, 31, 75, 80; Story on the Const., sec. 794, 795, 796.)

But *contra*, (Blount's Trial, pp. 42, 46,) Congress, in Blount's case, unhesitatingly adopted the doctrine that no previous statute is necessary to authorize an impeachment for official misconduct. (*Note.*—Blount's offense was not within the statute of 1794.)

Contempts are not defined by statute, yet each House has authority to punish for them. (Dunn *vs.* Anderson, 6 Wheat., 204; Rawle on the Const., ch. 29, pp. 271, 272.)

(*a*) Crimes at common law:

At common law all immoral acts which tend to the prejudice of a community are crimes, and punishable by courts of justice. (2 Swift's Digest, 257.)

(*b*) High crimes and misdemeanors in parliamentary practice.

In examining the parliamentary history of impeachments it will be found that many offenses not easily definable by law and many of a purely political character have been deemed high crimes and misdemeanors, worthy of this extraordinary remedy. (2 Woodeson's Lect., 40, p. 602.)

Such kind of misdeeds as peculiarly injure the Commonwealth, by the abuse of high offices of trust, are the most proper and have been the most usual grounds for this kind of prosecution in Parliament. (*Ibid.*, pp. 601, 602.)

For example: attempting to subvert the fundamental laws and introduce arbitrary power; a Government law officer misleading his sovereign by unconstitutional opinions; a lord chancellor having been thought to have put the great seal to an ignominious treaty; a lord admiral having neglected the safeguard of the sea; an embassador having betrayed his trust; a privy councillor having propounded or supported pernicious and dishonorable measures; a confidential adviser of his sovereign having obtained exorbitant grants or incompatible employments. (Comyn's Digest, Title Parliament, L. 28 to 40; 2 Woodeson's Lect., 40, p. 602.) Malversations and neglects in office; encouraging pirates; official oppression; extortions, deceits; especially putting good magistrates out of office and advancing bad. (*Ibid.*) "I contend that the wanton or captious removal of meritorious officers would subject him," the President, "to impeachment and removal from his own high trust." (Mr. Madison's Works, 1 Gale & Seaton's; Debates, p. 517; and see also similar expressions of all taking part in that debate; *Ibid.*, *passim*, pp. 500, 590; see also Story on Constitution, sec. 798.) Attempting to seduce a United States Indian interpreter from his duty, and to alienate the affections and confidence of the Indians from the public officers residing among them. (Journal of Senate, 8th of July, 1797; Sergt. on Const. Law, ch. 28, pp. 286, 287. A judge countenancing or aiding insurgents in a meditated conspiracy or insurrection against the Government, (?) receiving a bribe not connected with the delinquent's office. (?) (Story on the Const., sec. 802.) It would seem that, in determining whether or not a disbursing officer is liable to impeachment the true criterion is to be found in the consideration of the question whether the offense exhibits such a moral or intellectual character or condition in the offender as would jeopard the dignity or trusts pertaining to his office. And this must, in reason, be inferred to have been the intendment of the framers of the Constitution, as we may gather from the penalty they affixed to a conviction upon impeachment. (Const., art. 1, sec. 3, cl. 7.) *Note.*—The penalty touches neither the person nor the property of the offender; it simply divests him of his political office and eligibility.

In other words, the test of whether or not an act of delinquence is impeachable does not hang upon the question of whether or not it was committed by an officer in his public character and in the line of his official duty, (Story on the Const., sec. 802, *contra*; Rawle on the Const., ch. 22, p. 215,) but rather, and with better reason, on the question of whether or not it shows in the actor or delinquent unfitness for official trust and dignity. (See quotations appended B.)

D.—*Mode of Proceeding.*

(Story on the Const., sec. 805, 809; Peck's Trial, pp. 56-59.)

There is little technical in the mode of proceeding; the charges are sufficiently clear, and yet in general form; there are few exceptions which grow out of mere technical rules, and these arise in the application of the evidence. (Story on the Const., sec. 763.)

A member of the House brings forward a resolution either at once accusing the party or calling for a committee of inquiry. In case a committee be called for, and report against the suspected party, they give a statement of charges and recommend that he be impeached. Upon the adoption of the recommendation of the committee of inquiry, or without the intervention of such a committee of a resolution accusing the party in the first instance as before suggested, a committee is appointed to impeach the accused at the bar of the Senate, and to state that articles of impeachment will be exhibited against him in due time, and made good before the Senate, and to demand that the Senate take order for the appearance of the party to answer to the impeachment. (Comyn's Digest, title Parl. L. 20; 2 Woodson's Lect., 40, pp. 603, 604; Jeffs. Man,, sec. 53; Story on Const., sec. 805.)

The Senate having signified their willingness to take such order, the House then agree upon the articles of impeachment, which are presented to the Senate by a committee appointed by the House for the purpose of prosecuting the impeachment. (Comyn's Digest, Title Parl. L. 21; Jefferson's Manual, sec. 53.)

Whereupon the Senate issues process, summoning the party to appear at a given day before them, to answer to the articles. The process is served by the Sergeant-at-Arms of the Senate, and a return of it is made to the Senate under oath. On the return day of the process the Senate resolves itself into a court for the trial of impeachments, and the Senators are sworn to do justice according to the Constitution and the laws. The person impeached is then called to answer. If he does not appear his default is recorded, and the Senate may proceed *ex parte*. If he does appear, either by himself or attorney, the parties are required to form an issue, and a time is assigned for the trial. If debates arise they are conducted in secret, and decided by yeas and nays. (Story on the Constitution, sec. 796 and 797.)

The trial is conducted substantially as other judicial trials, and is in accordance with the rules of common law and parliamentary usage. (2 Wilson's Works, p. 164-166.

E.—*How may impeachments be abated?*

By the death of the accused.

By the expiration of the accused's term of office. (The ante-jurisdiction as to persons.)

An impeachment is not abated by the dissolution of the court. (4 Black, Com., 400; Christian's Note, Sir T. Raym. 483; 2 Lev., 93; Com. Jour., 23d Dec., 1790, Lords' Jour., 16th May, 1791.)

F.—*Conviction and judgment.*

I. A concurrence of two thirds of the members present is necessary for a conviction. (Const., art. 1, sec. 3, cl. 6.)

Note.—For conviction upon impeachment in the English House of Lords, simply a majority, being at least twelve, of the members present must concur. (Comyn's Digest, Title Parl. L. 17.)

II. Judgment in cases of impeachment may extend only to removal from office and disqualification to hold any office of honor, trust, and profit under the United States. (Const., art. 1, sec. 3, cl. 7.)

Of this double penalty "removal from office" is imperative, while the disqualification is discretionary. (Const., art. 2, sec. 4; Trial of John Pickering, 12th March, 1804; Blount's trial, 64 to 66, 79, 82, 83; Sergt. on Const. Law, ch. 29, p. 364.)

Note.—In this limitation of penalty the latitude of judgment of the Senate in cases of impeachment differs widely from that of the House of Lords; the former are confined within a narrow discretion, the latter may, upon conviction, inflict the whole punishment attached by law to the offense. (Comyn's Digest, Parl. L. 44; 2 Woodeson's Lect., 40, pp. 611-614.)

G.—*Pardon.*

The sentence is irrevocable and irremissible. (Const., art. 2, sec. 2, cl. 1.)

H.—*Liability subsequent to conviction.*

The offender, though convicted and punished, is subject to subsequent trial and punishment, so far forth as he has offended against the municipal law of the land. (Const., art. 1, sec. 3, cl. 7; Story on Const., sec. 781.)

Note.—Under the English law, and the larger jurisdiction of Parliament in the matter of punishment, no subsequent prosecution can be maintained.

Quotations.

A.—Object of impeachments.

"Impeachments are not framed to alter the law, but to carry it into more effective execution, where it might be obstructed by the influence of too powerful delinquents, or not easily discovered in the ordinary course of jurisdiction, by reason of the peculiar quality of the alleged crimes." (From Story on the Const. sec. 796; same doctrine is to be found in 1 Woodeson's Lec. 40, pp. 611, 612; and 4 Black. Com., 261, Christian's note.)

2. Jurisdiction over them is with entire propriety confided to "a tribunal capable of understanding and performing and scrutinizing the polity of the State, and of sufficient dignity to maintain the independence and reputation of worthy public officers." (From Story on the Const., sec. 798; see also 2 Woodeson's Lect., 40, p. 602.)

3. "The provision of the Constitution is a check on arbitrary power, and compels the Chief Magistrate as well as the humblest citizen to bend to the majesty of the laws." (From Story on the Const., sec. 811.)

B.—Impeachable offenses.

The offenses to which the power of impeachment has been, and ordinarily is, applied as a remedy, are of a political character. Not but that crimes of a strictly legal character fall within the scope of the power.

* * * * But that it has a more enlarged operation, and reaches what are aptly termed political offenses, growing out of personal misconduct, or gross neglect or usurpation, or habitual disregard of the public interests, in the discharge of the duties of political office. These are so various in their character, and so indefinable in their actual involutions, that it is almost impossible to provide systematically for them by positive law. They must be examined upon very broad and comprehensive principles of public policy and duty. They must be judged of by the habits and rules and principles of diplomacy, of departmental operations and arrangements of parliamentary practice, of executive customs and negotiations of foreign as well as domestic political movements; and, in short, by a great variety of circumstances, as well those which aggravate as those which extenuate or justify the offensive acts, which do not properly belong to the judicial character in the ordinary administration of justice, and are far removed

from the reach of municipal jurisprudence. (Story on the Const., sec. 762.)

C.—The executive is not to execute its own will but the will of the Legislature declared by the laws, and the Senate, being a branch of the Legislature, will be disposed to accomplish that end, and advise to such appointments as will be most likely to effect it; from their knowledge of the people in the several States they can give the best information who are qualified for office. * * * * * * * *

But if the President was left to select a council for himself, though he may be supposed to be actuated by the best motives, yet he would be surrounded by flatterers, who would assume the character of friends and patriots, though they had no attachment to the public good, no regard to the laws of their country, but, influenced wholly by self-interest, would wish to extend the power of the Executive in order to increase their own; they would often advise him to dispense with laws that should thwart their schemes, and in excuse plead that it was done from necessity to promotethe public good; they will use their own influence, induce the President to use his, to get laws repealed or the Constitution altered to extend his power and prerogatives under pretext of advancing the public good, and gradually render the Government a despotism. (Roger Sherman's letter to John Adams, quoted in 2 Pitkin's History, p. 285 to 291, and in note to sec. 1528; Story on the Const.)

Mr. WASHBURNE, of Illinois, then resumed the chair.

Mr. GETZ and Mr. HUMPHREY obtained leave to print remarks, which will be published in the Appendix.

Mr. GARFIELD. Mr. Chairman, I regret the necessity which called me away from the city before the question of impeachment in its new phase came up. I endeavored, when the news of the President's attempt at usurpation reached me, to learn by telegraph whether it was possible for me to return to my seat in time for the final vote, but found it was impossible for me to reach here in time, and that the sentiment of the House was so nearly unanimous that my vote was not necessary. If I had been here I should have voted for impeachment.

When the proposition for the impeachment of the President was before the House a few weeks ago I voted against it, not because I did not believe that his conduct deserved the severest condemnation, but because I did not believe the attempt was likely to be successful. It was true that he had done all in his power to thwart without perhaps plainly violating the reconstruction laws of Congress; but I was unwilling that the House should undertake his impeachment on those twenty-six long articles of indictment which were proposed in the report of the Committee on the Judiciary, each of which might have required a fortnight's time in the Senate. It seemed to me it would be manifestly an interminable contest; that the President would pass out of office by the expiration of a term before it would be possible to conclude such a trial. And unwilling, therefore, to divert the attention of Congress from its legislative duties into a struggle of that sort, only to be foiled at last, I thought it best to vote against them, and did so. I believe the great body of the American people approved of that vote, and were willing to endure the administration of Andrew Johnson, hedged in and limited as it has been by law, rather than to attempt to try him on those charges.

But now, at last, the President has left us no choice. The forbearance of Congress and the American people he has totally misunderstood. He believes himself a victor before whom Congress is retreating in confusion. Our clemency has only increased his reckless audacity, and he has ventured to violate not only a peremptory law of the United States, but the plain provisions of the Constitution. He has fallen upon that rock and must be broken. He has compelled us to use the high power of impeachment to defend both the laws and the Constitution against his aggression. In the first place, I desire to show that the President has no warrant in the Constitution for the removal of Edwin M. Stanton and the appointment of Lorenzo Thomas, as he has attempted. The only express power of removal found in the Constitution is in these words:

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."—*Article 2, section 4.*

The first sentence of the second article, which declares that—

"The executive power shall be vested in a President of the United States of America"—

cannot be regarded as granting a specific power, and is manifestly one of this case. Since the great debate on this subject in 1835 the power of removal, otherwise than by impeachment, has been held to be derived from the power of appointment, being an incident to or a consequence of the act of appointment.

So far as the President has any power of appointment it is found in the second section of the second article, and in these words:

"He shall nominate, and, by and with the advice and consent of the Senate, shall appoint" * * * * "all officers of the United States whose appointments is not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they may think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

In an appointment to office, as contemplated by this clause, there are three stages:

1. The nomination, which is solely vested in the President.

2. The "advice and consent of the Senate" to the appointment of the person so nominated.

3. The appointment itself, which is the ministerial act of conferring authority to perform the functions of the office in accordance with the advice and consent of the Senate. This is usually done by signing a commission or letter of authority. An appointment, therefore, presupposes a nomination and a consent of the Senate. This subject was so thoroughly discussed in 1803 by Chief Justice Marshall, in the case of Marbury against Madison, (1 Cranch, 137,) as to leave little to be said. In cases where the President is himself the appointing power the commission is, in fact, the appointment, at least it is the only conclusive evidence of appointment.

The filling up of a vacancy which may happen during the recess of the Senate is not an appointment, is not so called in the Constitution. Again, the vacancies which the President may "fill up" are vacancies which "may happen," not those which are made by executive removal. We have the high authority of Alexander Hamilton that the words "may happen" clearly imply casualty, such as death or resignation, and not a vacancy made by the President.

Indeed, the President cannot by authority of the Constitution directly remove at all. As was argued by Webster and Calhoun in the great debate of 1835, the power of removal is only incident to the power of appointment. For example, the President sends in to the Senate the name of a person to fill an office now held by a person regularly appointed by the advice and consent of the Senate.

When the Senate consents to the new appointment the President issues a commission, the act of issuing the commission, the act of appointing new men, displaces the old incumbent, and it is only by force of the appointment that he is crowded out or removed. There is, therefore, no such thing known to the Constitution of the United States as a removal by the President of the United States. He is empowered to appoint with the consent of the Senate; and such an appointment may work a removal. But the President cannot exercise the naked power of removal by any authority conferred by the Constitution.

Now, what has the President done? He has undertaken to remove, without the consent of the Senate, an officer whom the President had appointed by the advice and consent of the Senate. He has undertaken to appoint and to install in the execution of the duties of an office a man whose nomination has not been ratified by the Senate. If, then, there were no tenure-of-office act I should hold that the President has committed a clear and palpable violation of the Constitution in his attempt to remove Mr. Stanton and appoint Lorenzo Thomas.

I believe that no President of the United States ever before pretended to possess or attempted to exercise the authority of removing any person without the consent of the Senate while that body was in session. But should there be any doubt in regard to his violation of the Constitution there can be no doubt that he has openly and plainly violated the provisions of the civil-tenure law of March 2, 1867. By that act he is expressly forbidden to remove an officer without the consent of the Senate. That very act he has attempted. His apologists say that he believed the law unconstitutional. Is he to be the judge of that question after the law was passed over his veto by a two-thirds vote? If so, he may walk among the statutes of the United States as a dictator and execute such as he pleases and violate or disregard all the rest; and we have an end of liberty regulated by law.

The civil-tenure act was designed to abate one of the most serious evils which ever sprung up in the administration of our Government. The power of removal from office was considered a doubtful power by the First Congress, and during the first forty years of the Government but seventy-five removals in all were made by the six Presidents of that period. Forty-two of those were made by Thomas Jefferson. It was not until the accession of Jackson to the Presidency that the doctrine of official spoils became a fixture in our political system. In 1865 there were ten hundred and sixty-five removals in the Post Office Department alone, and an equal proportion in other Departments of the Government. To restrict this growing evil—this fruitful source of corruption—and to insure a more honest and faithful administration of the Government, this law was passed. The same principle has been frequently affirmed in the acts of Congress. For an example of early legislation I refer to the act of May 15, 1820, which provided for vacating the commissions of eleven classes of officers and regulating their tenure of office thereafter. But this is not the time to defend the civil-tenure act. Whether it be constitutional or not the criminality of the President in violating it is undoubted. His conduct during the last two years fully exhibits the *animus* with which he has performed these last two acts of usurpation. Notwithstanding this it is better that the committee who have presented these articles of impeachment have not gone into the old issues embraced in the former report of the Committee on the Judiciary. But the facts reported by the Committee on the Judiciary are valuable as showing the *animus*, explaining the intent of the President's recent conduct. If he had done these things as a matter of inadvertency we might assume that there was no criminal intent. But the whole career of Mr. Johnson for the last two years has been a clear exposition of his intent, which has at last culminated in a palpable violation of the Constitution as well as the tenure-of-office act. The whole course of his conduct with General Grant, in attempting to make that officer the tool with which to violate the Constitution and laws of the country; his attempt to erect a new military district and to place General Sherman at the head of it, nominating him to a brevet grade unknown to the laws, with the purpose to make him also a party to his usurpation; and his success in making Lorenzo Thomas a willing tool are indubitable proofs of his purpose to trample under foot the authority of the Constitution and make himself the judge as well as the executor of law. His attempt, also, to induce General Emory to disregard the law shows a manifest purpose to use the troops stationed in this city to execute his lawless designs.

These facts, all occurring within the space of a few days, show clearly a determined and desperate purpose on the part of Mr. Johnson to override both the authority of Congress and of the Constitution. These things, Mr. Chairman, leave us no choice in regard to the

course now to be taken. If we had a choice before we have none now. We are compelled to accept the gage which the President has thrown down, and remove him from his high office by virtue of the power of impeachment, or become the mere recorders of his edicts.

Now, Mr. Chairman, I desire, before I conclude, to call attention to two criticisms which I think may properly be made upon these articles of impeachment. I think it a mistake to say, as is said in two or three of them, that the President of the United States did "appoint" Lorenzo Thomas. I deny that he did "appoint" him. Appointment presupposes the consent of the Senate, and is no crime. I trust that the gentleman from Massachusetts, [Mr. BOUTWELL,] representing the committee, will consent to strike out the word "appoint" in the second, third, and ninth articles, and insert instead the words, "did issue a letter of authority attempting and pretending to appoint." In that way we shall clearly describe what the President did, and also characterize it as an attempt to do an unlawful thing.

I desire to make one other suggestion to the committee, and that is with regard to the tenth article. As to the offense on which this article is founded, it occurs to me that we could make a much stronger statement of the case if we should treat it as a military offense. I do not know that it can be said to be an offense against the law for the President of the United States in his civil capacity to express his opinion to anybody that a law is unconstitutional. But when we consider him the Commander-in-Chief and consider his calling a subordinate officer and attempting to render him insubordinate, to stir him up to mutiny, it is quite a different thing. Suppose a commander of a brigade calls a captain to him and advises him that a certain order issued to him and to them both is not constitutional, thus endeavoring to rouse mutinous spirit in the Army and destroy its discipline, he has manifestly committed a high crime as a military officer; but if this were said by a civilian it might be no crime at all.

I therefore suggest that the last article be so modified as to make the misdemeanor there described a purely military one. The whole question of impeachment is here reduced to a narrow compass—to so narrow a compass that without a great array of witnesses, without a long expenditure of time, the whole question can be tried and decided in a few days, and the great obstacle to reconstruction put out of the way.

Mr. Chairman, it will be surprising to me if the Democratic party shall find it to their advantage to defend the President in these palpable violations of law and the Constitution. If they do undertake it they will become what they have sought to make us appear, the most flagrant violators of the Constitution. There never has been a time when that party was called upon by their own doctrines so fully as now to unite with us in rebuking this violation of the Constitution.

I desire only to say, in conclusion, that the conduct of the President during the last ten days has manifested that nothing but the law-abiding spirit of the Army and its subordination to the Constitution and laws of the country has prevented him from violently usurping and overturning the authority of Congress and adding to his sympathy with rebels the crime of military usurper.

[Here the hammer fell.]

Mr. LAWRENCE, of Pennsylvania. Mr. Chairman, those who have known my feelings and noticed my action on the question of impeachment, are aware I did not approve of the resolution of the gentleman from Ohio, [Mr. ASHLEY,] when first presented in the Republican caucus, and afterward in the House. It was at that time unwise, impolitic, and tended to a division of our friends, and its certain defeat on the grounds then presented, to the encouragement of our political opponents, and from it the President, much disposed to do wrong, would take courage to pursue his unnatural warfare against Congress. When I say this, I do not mean that the President had not been guilty of gross wrongs, and done many things bringing upon himself and the nation just opprobrium and disgrace, for, while I did not justify the attacks made upon him here by extreme men during the long session of the Thirty-Ninth Congress, which were calculated to drive him away from us, and which I doubt not were intended by some for that purpose, and had their effect, and only tended to produce alienation and bitterness when union and harmony were desirable, I always felt that he should have remembered how kindly the Union party had dealt with him after he had brought upon us mortification and distrust by his public offense at the inauguration in 1865. Our opponents published his fall to the world and characterized him as a drunkard, &c., disgracing his high position, while we tried to find excuse for him and to forget his offense.

When we refused to acquiesce in his efforts to restore rebels to power and to establish governments in the South on his plan, which was intended to bring into the high places of the Government leading rebels just from the fields of blood and carnage, and to place the loyal men of the South forever under the control and dominion of this class, and to allow these same leaders to renew the conflict in the halls of Congress which they had lost in the field, he boldly separated from those who elected him, vetoed almost every important measure which was intended in any way to restore the southern States, so as to prevent a recurrence of the troubles through which we had just passed, and allied himself with those who had opposed the war, denounced him and us and all our measures to put down the rebellion.

In his veto messages at various times, and so often repeated, he was bold in the utterance of his sentiments and defiant when the people indorsed our acts and condemned his. He sought opportunities to send to the House and Senate insulting messages. He harangued the mob on the 22d of February, 1866, naming and abusing prominent members of Congress and the Senate, and leading public journalists of the country, to the great disgrace of himself and the humiliation of all the honest and intelligent people of the nation. He traveled North and West, and on all public occasions denounced the representatives of the people in intemperate and inflammatory language, suited to the fish market. He discussed the proposition of recognizing southern traitors, elected under his plan of reconstruction, and northern Democrats, as the Congress of the nation, if they would assemble together. He restored many leading rebels and returned to them their property without consent of Congress. He has called to his intimate counsels some of those who were violently and openly opposed to the war to save the Union, and has as studiously avoided and disregarded the advice of those who did most to elect him, and to aid in preserving our unity as a nation. Notwithstanding all this array of offenses, and many I cannot enumerate in the time allotted me, I was opposed to the first attempt to impeach, because while I thought these offenses were great, they might not be considered as intentional violations of law, and could not, in the common sense of the term, be considered high crimes and misdemeanors. Then, again, I knew the country demanded peace and harmony in council if possible. I feared the monetary and commercial interests of the country would suffer by the constant agitation of the question, and I believed a large majority of the people I have the honor to represent were opposed to it, and in this I was correct, as I have had ample evidence since.

Now, the question presents itself in a tangible and definite form, and the very trouble and difficulty the majority of the Republican members of this House desired to avoid is forced upon us by the act of the President himself. Mistaking our forbearance for fear and cowardice, he boldly, defiantly, openly, and for a purpose, tramples under foot the plain constitutional provision which requires his nominations for positions, requiring the concurrence of the Senate, to be made to the Senate when in session, and appoints and commands General Lorenzo Thomas to take possession of the War Department when he knew there was no vacancy, and when the Senate was in session. The President well knew the reasons he had presented to the Senate for the removal of Secretary Stanton had been carefully examined by the Senate and pronounced insufficient, and that he, by the action of that body, had been restored to the position from which he had removed him; but, admitting that there was a vacancy, he had no right to appoint a successor without sending the nomination to the Senate. Now, our opponents, and especially my worthy colleague, Judge WOODWARD, who in his speech invited the President to a violation of the laws and resistance to the action of the Senate should they find him guilty, dwells largely on the fact that the "civil-tenure act" is unconstitutional and void.

My friend has not yet had the decision on the question. Lawyers who are perhaps as able as he think differently and affirm it is constitutional; and I desire here to say I voted against the provision in that act which refers to Cabinet officers, believing the President should have the choice of his Cabinet officers, and I would do so again; but our Democratic friends must remember that the President has no more right to judge of the constitutionality of an act than the humblest citizen in the land. It was passed over his veto by the requisite majority, and is to him and to every other man affected by it the law, and must be obeyed. The President does not construe the law. It is his high duty, enforced by the solemnity of his oath to execute the law; and because he failed to do so and trampled it under foot he is worthy of impeachment. That is not all. He deliberately calls General Emory to his presence, and after diligent inquiry about the number of troops now here and near the capital, which itself was significant as to his purpose, he tries to induce him to believe the act which required him to get his orders through the head of the General in command of the Army was unconstitutional, and therefore not binding on him. The reply of General Emory was worthy of so brave and patriotic a soldier. What was the purpose of the President in nominating General Sherman, and again General George H. Thomas, to the Senate for promotion, so as to enable them to take command of this district? The object was plain and worthy of note, and these men, honored by all the people of the land, have publicly rebuked the attempt to seduce them in this public manner. They have proved themselves obedient to law and worthy of the high honors tendered to them by the millions of patriotic men in the Republic. After the Senate has acted and the President is deposed confidence will be restored and we will be able to carry out our measures of reconstruction without the opposition of the rebels of the South and their allies in the North, and secure to the loyal men South their rights under the Constitution and the acts of Congress.

It cannot be denied that the President has used all his official power and influence to defeat our measures of reconstruction, has invited and encouraged the leading rebels of the South to oppose and aid in the defeat of our plan to build up State governments in the South, and has been in a measure successful; for the best, most mild, and fair proposition we ever made was the amendments proposed to the Constitution in 1866, and on which we should have stood until this time and compelled submission to them. The people indorsed them fully, and, for my own part, I much preferred them to any measure adopted since. No plan, however, to bring in these States which Congress can present will receive the sanction of the President; and had it not been for his persist-

ent opposition to our measures and the encouragement given to those lately in rebellion, by his acts and by the position of the Democratic party, we would long since have had those States represented on this floor, and harmony and peace in the country. Now, Mr. Chairman, my time is out, and I only desire further to say that when the President is removed in a constitutional way (and I hope it will be done in no other way) there will be rejoicing among all the loyal people of the land, not because of the triumph of Congress over the President, but because the Constitution and law are vindicated, and the world will see that even the highest officer under our form of Government are amenable to the law and can be punished for its infraction. Let the majesty of the law be vindicated and loyal and true men become our rulers.

Mr. NIBLACK. Mr. Chairman, it has been decided by this House of Representatives that the President of the United States shall be impeached of high crimes and misdemeanors in office, and that action of the House has been communicated in due form to the Senate. It now only remains for this House to present formal articles of impeachment that the trial of the President shall begin on the charges alleged against him. I do not approach the discussion of this question to-day in any mere partisan sense. Partisan appeals, from whatever side they may come, on an occasion like this are sadly out of place. We have an interest in this question which rises beyond all mere partisan considerations. The effect of what we are doing upon any political party is a minor consideration, a wholly secondary matter. The effect it is to have on the country and on republican institutions everywhere is what we ought to consider.

Gentlemen express great concern as to what this side should do, and volunteer kindly to advise us what our duty is. Sir, I have always observed that when a politician attempts to maintain both sides of a political question sooner or later he loses his footing and falls amid the confusion which he helps to create. If gentlemen will but look to their own side of this question and see that the records they make shall carry them down to history with favor, and not be of such a character as to make them or their children hereafter blush, they will have done quite enough in this great emergency.

Regicides, assassins of rulers, and impeachers are no favorites of history, so far as I have been able to read it. The very presentation of articles alone is a serious matter, and one which ought to make any man deliberate before he commits himself to such an extreme measure. It now seems, judging from the manner in which gentlemen argue this question, that this difficulty, which originated in mere party division and party wrangling, leading from crimination to recrimination, has at last led to open rupture between members of a great party, and that rupture has culminated in the presentation of these articles of impeachment. So that what was a mere casual party contest has now become a great party exigency. To retreat now is to become ridiculous, to go forward is but to consummate a revolution already inaugurated for the purpose of getting rid of what seems to be an obnoxious President.

Congress, by a persistent course of legislation for two years or more, has sought deliberately to Africanize this country; and now it is sought to Mexicanize it by deposing our Chief Executive, by unsettling the institutions of the country, and disregarding all the precedents by which the country has been governed during all previous Administrations.

This, then, viewed in any light, is no trivial matter. It is not an ordinary party exigency. It is not a matter to speak lightly about, and I regret that I have had the mortification to witness the levity with which this question has been discussed since it has been precipitated upon us by the sad events of the last ten or twelve days.

The first nine articles reported by this committee have brought to the attention of the House nothing new on this subject of impeachment. They are all founded upon and are different versions of the same transaction which gave rise to the resolution of impeachment which the House passed a week ago. The legal aspects of this question were discussed very ably before the resolution passed. It involved simply a legal and constitutional question, a question which, I maintain, is one which ought to be submitted for judicial determination to the courts of the country. The Thirty-Ninth Congress found the President in the exercise of a power which had been exercised by every preceding President and had been recognized by every Congress as a constitutional right for a period of seventy-five years. To be sure, that constitutional right had been recognized by certain legislation by Congress, which was very happily referred to and discussed by the gentleman from Pennsylvania [Mr. WOODWARD] the other day. But Congress, recognizing this right, had always treated it as a constitutional right conferred on the President by the Constitution to appoint and remove whomsoever he pleased of the members of his Cabinet or subordinate executive and ministerial officers. In consequence of these differences, however, between the President and Congress, to which reference has been made, Congress, by the passage of the tenure-of-office act, sought to abridge this right of the President. Very many of the best legal minds of the country regarded that legislation at the time as unconstitutional and void, and from that day to this it has been a question of serious discussion among the lawyers and politicians of the country whether this act of Congress is constitutional or not. I understand the Attorney General of the United States, the law officer of the President, to have given it as his opinion that it is unconstitutional. I understand that Secretary Stanton himself, as a member of Mr. Johnson's Cabinet at the time the law passed, advised the President that it was unconstitutional and it was his duty to veto it.

Now, here is an opportunity for an honest difference of opinion upon a great legal and constitutional proposition, which is peculiarly a question for the courts to decide.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman yield for a question?

Mr. NIBLACK. For a moment.

Mr. WILLIAMS, of Pennsylvania. I wish him to say whether the constitutionality of this law was questioned on the side of the House to which the gentleman belongs. I believe I had the honor to make the only constitutional argument made on this side of the House, and, according to my best recollection, my position was not controverted at all on the other side. I wish to know, moreover, on what authority he undertakes to say that the Secretary of War ever declared or expressed the opinion that that law is unconstitutional?

Mr. NIBLACK. By the testimony, I believe, taken before the Committee on the Judiciary in regard to impeachment, of which the gentleman himself was a member.

Mr. WILLIAMS, of Pennsylvania. I think there was no such testimony.

Mr. NIBLACK. At all events, it was brought out by the testimony taken by some one of the investigating committees of this House.

Mr. WILLIAMS, of Pennsylvania. It is only the assertion of the President.

Mr. NIBLACK. At all events, this statement was made by the President in his message to the Senate in regard to the suspension of Mr. Stanton.

Mr. WILLIAMS, of Pennsylvania. I think Mr. Stanton is entirely too good a lawyer to have expressed any such opinion.

Mr. NIBLACK. It has never been controverted by any one in the interest of Mr. Stanton that I am aware of, and I feel authorized, therefore, to assume it as true.

But, sir, the President has solemnly declared in a message to the Senate that his only object in the action he has taken was to put the question in a shape in which it might be submitted to the courts of the country for decision, and he is willing to abide by that decision, whatever it may be. There is nothing, therefore, in this question which is properly a matter of impeachment. It is a mere difference of opinion which can be easily settled without a resort to extreme measures, and ought, in honor and conscience, to be so settled and decided.

The tenth article of impeachment brings up a new question, one not heretofore discussed. Let us see what that article is and what is the testimony by which it is sustained. It reads as follows:

ARTICLE X.

That said Andrew Johnson, President of the United States, on the 22d day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of Congress duly enacted, as Commander-in-Chief of the Army of the United States, did bring before himself then and there William H. Emory, a major general by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such Commander-in-Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and therefore not binding on him as an officer in the Army of the United States, which said provision of law had been theretofore duly and legally promulgated by general order for the government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the United States, according to the provisions of said act, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

Now, sir, the following is the testimony on which the foregoing article is predicated, and I desire to have it read also, that the two may be placed in close proximity and be read together:

Testimony of General William H. Emory.

WASHINGTON, D. C., *February* 26, 1868.

"William H. Emory, sworn and examined:

"By the Chairman:

"*Question.* What is your rank and command in the Army?

"*Answer.* I am colonel of the fifth United States cavalry, and brevet major general of the United States Army; my command is the department of Washington.

"*Question.* How long have you been in the command of this department?

"*Answer.* I think since the 1st of September, 1867.

"*Question.* During the month of February, 1868, have you had any conversation with the President of the United States in relation to military affairs or movements?

"*Answer.* Only one.

"*Question.* When was that?

"*Answer.* That was on Saturday, 22d February.

"*Question.* Was the interview at your request or his?

"*Answer.* It was at his request.

"*Question.* In what way was his request communicated to you?

"*Answer.* I have the note in my pocket; it is a letter from Colonel William G. Moore, of the Army, marked 'personal.'

"*Question.* Read the letter.

"Witness read as follows:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 22, 1868.

GENERAL: The President directs me to say that he would be pleased to have you call on him as early as practicable.

Very respectfully and truly yours,
WILLIAM G. MOORE,
United States Army.

"*Question.* Did you call in consequence of that request?

"*Answer.* I did.

"*Question.* State fully and literally, as far as you are able, what occurred at the interview.

"*Answer.* There is nothing more difficult than to repeat a conversation.

"*Question.* State the substance of it.

"*Answer.* The President asked me if I recollected a conversation I had with him when I first took command of this department in reference to the strength of the garrison of Washington and the general disposition of the troops in this department, to which I replied that I did recollect it distinctly. He asked me if there had been any changes. I replied that there had been no material changes, but, such as

there had been, I could state at once. I then went on to state that six companies of the twenty-ninth infantry had been brought here to winter, but that that had been offset by detaching four companies of the twelfth infantry to Charleston, on the requisition of General Canby; that two companies of the fourth artillery, which had been detached during General Canby's command of the department, one of them to the northern frontier to assist in putting down the Fenian difficulties, had been returned to their regiment, stationed at Fort McHenry, Baltimore; that, though the command had been increased in the number of companies, I was under the impression that the reduction in the numerical strength of the command, growing out of the order which reduced infantry and artillery companies from the maximum of the war establishment to the minimum of the peace establishment, more than offset what was gained by the additional companies. The President said, 'I refer to more recent changes.' I said I did not know exactly what he referred to by recent changes; that none had been made to my knowledge; that if he would give me some idea of who had made the report to him, or what the report was which he had received, I could, perhaps, give him a more definite answer. He said reports had reached him that within the last day or two certain orders and new arrangements of troops had been made. I assured him that none had been made with my knowledge, and that I did not believe that any had been made without my knowledge; that under the recent orders, founded upon the laws of Congress, for the government of the armies of the United States, approved by him, no order could come to me except through General Grant, and that, reasoning from analogy, it was assumed in the Army that no order could be given to any one under my command without coming through me; that if, by any possibility, an order had been given without coming through me, it was the duty of the officer receiving it immediately to notify me. He then asked me, 'What order do you refer to?' I stated that I referred to order No. 15 or 17, I could not recollect which, that had been published to the Army some time in May last. He said, 'I wish to see the order.' I replied to him that I would send for it. He said, 'No; I have all the orders about the house,' and a messenger was sent for it. At that time Colonel Cooper came in, and occupied the President's attention for some time upon another subject, as I supposed, for I withdrew to the other end of the room. While there the messenger came and brought the order. After Colonel Cooper had gone out I returned to the President, with this order in my hand, and said, 'Mr. President, I will take it as a great favor if you will permit me to call your attention to this order or act. It passed in an appropriation bill, and it is possible you may never have seen it.' He took the order and read it and observed: 'This is not in accordance with the Constitution of the United States, which makes me Commander-in-Chief of the Army and Navy, or with the language of the commission which you hold.' I stated to him that was not a matter for officers to determine; there was the order sent to us, approved by him, and we were all governed by that order.

"*Question.* Do you mean that the order or the act was approved by the President?

"*Answer.* I mean the act; but, as far as that was concerned, the order and the act approved by him are the same thing, for the order contained nothing but the act. He said, 'Am I to understand that the President of the United States cannot give an order but through the General-in-Chief or General Grant?' I replied, 'Mr. President, that is the order which you approved and which has been issued for the government of the Army, and I think it due to you to say that when this order first came out it was very much discussed in the Army, and some of the leading lawyers of the country were consulted as to what the duty of an officer was under that law and order,' and I observed, 'one of them whom I consulted, and I consider him, perhaps, one of the greatest constitutional lawyers in the country, gave it as his very decided opinion that we were bound by it. And I think it right to tell you that on this subject the Army is a unit.' He asked me who the lawyers were. I told him the one I consulted was a kinsfolk of mine, Robert J. Walker, and that I had understood, though I did not know of my own knowledge, that others had consulted Mr. REVERDY JOHNSON, who, it was reported, held the same opinion. The President replied, 'The object of the law is very evident.' After a short pause, seeing there was nothing more to say, I thanked him for the courtesy with which he had permitted me to express my own opinion, and left the house.

"*Question.* Did the President in any form inquire whether you would obey an order if it was sent to you without going through the headquarters of the General?

"*Answer.* As nearly as I can recollect, there was not a word said that I have not put down, though I could, of course, not swear that I had put down every word uttered. You may see by my testimony that I myself introduced the subject of order No. 17, which involves this question. There were a variety of rumors running about town that General Thomas had given orders, or that he declared that he was going to give orders, and I thought it my duty to state the situation fairly and squarely to the President."

Testimony of Colonel George W. Wallace.

WASHINGTON, D. C., *February* 26, 1868.

"George W. Wallace, sworn and examined:

"By the Chairman:

"*Question.* You are connected with the Army?

"*Answer.* I am lieutenant colonel in the Army, commanding the garrison of Washington.

"*Question.* How long have you been in command of the garrison of Washington?

"*Answer.* Since the latter part of August last.

"*Question.* Have you, at any time, had any conversation or correspondence with the President of the United States in regard to military affairs or movements or operations?

"*Answer.* I had a brief conversation with him on Sunday morning last.

"*Question.* Had you any conversation at his request?

"*Answer.* The circumstance occurred in this way: I was called to the Executive Mansion to see one of his Secretaries, Colonel Moore, and while in conversation with him I asked how the President was. He replied that he was very well, and then asked if I would like to see him and pay my respects to him; I said certainly, and in a few moments I was invited into his room.

"*Question.* Did you have a conversation with him in regard to military matters?

"*Answer.* Yes, sir; a brief conversation.

"*Question.* State what that conversation was.

"*Answer.* The President asked me if any changes had been made in the forces under my command. I replied that four companies of the twelfth infantry, the regiment to which I properly belong, had been sent to Charleston, or rather to that military district, the 7th of January; that beyond that there had been none.

"*Question.* Had you any further conversation?

"*Answer.* No, sir; that was all that occurred in reference to military operations.

"*Question.* He made no reply to your statement as to the change in the affairs of your command?

"*Answer.* No, sir; nothing occurred beyond that.

"By Mr. WILSON:

"*Question.* Did anything further occur with regard to military matters of any character?

"*Answer.* No, sir; that was the only conversation that I had with him with regard to military matters. Indeed, I may say it was all that transpired with regard to any matter except a mere passing remark.

"By the Chairman:

"*Question.* Had Colonel Moore any previous knowledge or expectation that you were to call about that time?

Answer. Colonel Moore expected to see me Sunday morning.

"*Question.* What led him to expect you?

"*Answer.* He addressed me a note the day previous, saying he desired to see me; that he would call upon me in person, but that he was very much occupied. His object in sending for me, however, was upon an entirely different matter.

"By Mr. BINGHAM:

"*Question.* Did the President say anything to you whatever about the War Department matter or the Secretary of War that morning?

"*Answer.* No, sir; Colonel Moore sent for me in regard to a personal matter concerning myself."

Sir, this testimony does not even tend to prove the charge contained in this tenth article. On the contrary, it really affords a vindication of the President against all such aspersions. It was the most natural thing in the world, when the President learned that certain changes in the disposition of troops in and about Washington had been made without his knowledge, that he should, as the Commander-in-Chief of the Army, desire to know why these changes had been made, and that he should summon before him the officer in command of these troops for information on this subject. Has it come to this, that the President could not, on an occasion like this, discuss, in a conversation with a subordinate officer, the validity, propriety, and effect of certain legislation of Congress on the discipline of the Army? could not ask an opinion of his subordinate as to his powers as Commander-in-Chief?

No fair-minded grand jury of a *nisi prius* court would ever have found an indictment on such testimony. No judge, however humble, having any regard to his reputation as an officer of justice, could ever allow any citizen to be convicted on testimony like this. Why, then, present such a charge on such testimony against the President? Do the inexorable demands of partisan malignity require it? Is it because nothing more serious can be discovered? But, sir, I forbear further comment. I cannot characterize this proceeding as I think it deserves without violating the rules governing parliamentary debate, and I shall not pursue the subject further to-day. The decree has gone forth that the President shall be impeached, and nothing I can say will tend to arrest it.

Mr. LOUGHRIDGE. Mr. Chairman, I had hoped, if for no other reason, for the vindication of the truth of history, that the report of the committee would include articles founded upon some of the many acts of wrong and of usurpation committed by the acting President, from the time he assumed the office until the time of the attempted removal of Mr. Stanton, on the 21st of February last. A long series of acts of usurpation for which, in my opinion, he should have been included in these articles, and for which I know he is already impeached before the bar of public opinion, and for which he ought to have been impeached long since before this bar, and removed from the office he has so long disgraced.

But, sir, I do not propose to offer any amendments to the articles in this respect. While my own opinion is decided and my convictions strong that they should have included more than they do, I still feel it my duty to defer to the opinion of the committee reporting the articles, having great confidence in the wisdom and sagacity of the members of that committee, and more especially as the report of the committee is unanimous.

The substance of the articles is, that on the 21st day of February last, Edwin M. Stanton being Secretary of War, in the possession of the office and of the records thereof, and in the discharge of the duties appertaining thereto, and the Senate of the United States being in session, the President issued a written order for the absolute removal of such Secretary of War and appointed one L. Thomas as Secretary of War *ad interim*, authorizing him to take immediate possession of the office and the records and ordering Mr. Stanton to deliver the same to such pretended successor. And that afterward the President entered into a conspiracy with said Thomas to obtain possession of said office, and to prevent the Secretary of War from exercising its duties. It is of course impossible, in the few moments I am allowed to occupy the floor, to go into anything like a full examination of these articles.

Suffice it to say that, in my opinion, any one of them, if sustained by the evidence as I have no doubt they will all be, would be sufficient to authorize a judgment of guilty and removal from office.

The President, in removing Mr. Stanton from office, exercised power not granted to him by the Constitution. The powers of the Executive are specifically pointed out by the Constitution, and he has no other powers. He has no implied powers—all the implied powers are in Congress. There is not a word in the Constitution giving the President the power of removal here claimed. All there is in the Constitution in relation to the power is—

"The President shall have power to nominate, and by and with the advice and consent of the Senate shall appoint, embassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of the next session."

If the power of removal can be inferred from this last clause, which I deny, it is no help to the President in this case, for this refers only to such time as the Senate is not in session, and when he claimed to remove Mr. Stanton the Senate was in session. All the power he had was to nominate a successor, and when the Senate confirmed such nomination then, by operation of law, the term of Mr. Stanton would have expired. There is, then, in the Constitution an entire absence of authority to justify the action of the President. Again, sir, the removal of Mr. Stanton was in direct, open, and flagrant violation of the act of March, 1867. Gentlemen who have seen fit to constitute themselves the advocates of the President upon this floor claim in his justification that Edwin M. Stanton was not on the 21st day of February last Secretary of War; that by virtue of said act of March, 1867, his term of office had expired, and was terminated by the passage of said act; that after the passage of said act he held the office only by sufferance. The gentleman from Pennsylvania claims that his term of office expired one month after the death of Mr. Lincoln. That from May 15, 1865, until August, 1867, over two years, the President permitted a vacancy to exist in the office of Secretary of War, and permitted an unauthor-

ized person during all that time to hold the office and discharge its duties. Sir, the President is estopped from setting up any such claim by his own acts in the premises. If there was during all that time a vacancy why did he not fill it by appointment, as the Constitution authorized him to do during a recess of the Senate? Did he, the watchful guardian and vigilant protector of the Constitution, allow an entirely unauthorized person, an interloper, without a shadow of right, to occupy that high and responsible position for so long a time unchallenged and unquestioned?

Sir, I beseech gentlemen not to stultify the man they seek to justify, as they do by this argument.

The course of the President in the matter is sufficient refutation of this assumption on the part of his friends here, that Edwin M. Stanton was not Secretary of War. In his message to the Senate of August 12, 1867, Mr. Johnson states that in March, 1867, an irreconcilable difference of opinion arose between himself and Mr. Stanton. Mr. Stanton alone, of all the Cabinet, standing out in opposition to the President's policy of reconstruction, and (using his own language) Mr. Stanton was well aware "that his continuance in the Cabinet was against my wishes, for I had repeatedly given him so to understand by every mode short of an express request to resign."

Now, sir, in this state of affairs what does the President do? If the theory I have referred to is correct, the President would have said: "Mr. Stanton, you are holding this office without authority, only by my sufferance; your term of office has long since expired, and I appoint your successor, absolutely, as the law authorizes me to do, in case of a vacancy." But he does not take this course. Hear his own statement:

"Having waited full time for the voluntary action of Mr. Stanton, and seeing no manifestation of an intention on his part to resign, I addressed him the following note on the 5th of August, 1867:

"SIR: Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted.

"ANDREW JOHNSON."

The President's defenders here say Mr. Stanton was not legally Secretary of War. The President said:

"Your resignation as Secretary of War will be accepted."

I should be glad to have some of these gentlemen explain how a man can legally resign an office which he does not legally hold? Verily the President's acts are sufficient answer to the gentlemen's arguments.

Again, sir, in reply to this polite request to resign, Mr. Stanton declined, and stated:

"That public considerations of a high character, which alone induced him to retain the office, constrained him not to resign before the meeting of Congress."

Does the President now proceed as if there was a vacancy, and the office was held by an intruder or one having no authority to hold it? No, sir; on the contrary, he permitted him to retain the office until the 12th of the same month, and then—what? removed him? No, sir; suspended him, and appointed General Grant Secretary of War *ad interim*. I should like the advocates of this weak defense to explain how a man can be "suspended" from an office which he does not hold. To "suspend" is to interrupt, to stay, to cause to cease for a time—not permanently, but for a time. The gentlemen claim that Stanton was not legally Secretary of War, that he was there by sufferance of the President, with no legal right, and that the President could remove him at pleasure. The President first requested him to resign, and upon refusal suspended him, and sent the reasons for the suspension to the Senate. The President, sir, by his own acts has precluded himself from saying that Edwin M. Stanton, on the 21st of February, was not legally Secretary of War, and is estopped by his own conduct from claiming that by the law he had the right of absolute removal.

But it is claimed in defense of the President's action that he regarded the law of March, 1867, as unconstitutional, and that he had the right to construe it for himself and to act accordingly, and disregard it.

Sir, if the law is unconstitutional it will be a good defense before the Senate on the trial of the impeachment, and if that tribunal, sitting as a court, can be convinced that the law—which the same body, acting under an oath to support the Constitution, passed by more than a two-thirds majority—is unconstitutional, then the President will be acquitted so far as the violation of the provisions of said law are concerned.

But, sir, that the President in good faith believed the law to be unconstitutional is no defense. Like any other executive officer the President acts at his peril in assuming a law to be unconstitutional. I do not propose now to argue the constitutionality of the law. The fact that it received the indorsement of two thirds of both branches of Congress would seem to be a pretty strong indorsement of its constitutionality.

But, sir, did the President regard the law as unconstitutional? Then where did he get his authority to suspend the Secretary of War? Nothing of the kind is authorized by any law, except by this civil-tenure act. Why did he follow out the requirements of the law in August, 1867, in suspending and in afterward sending in his reasons therefor within twenty days after the meeting of the Senate, and in pursuing fully the requirements of said law, if he thought the law unconstitutional? Acting upon the rule laid down by his advocates on this floor why did he not at that time disregard the law and its provisions, instead of implicitly following its requirements?

Sir, Andrew Johnson has claimed, ever since his accession to the office, to be the great defender of the Constitution. He has talked about the Constitution continually by day, and, I have no doubt, dreamed about it by night. He has taken possession of it bodily, and has carried it around the country, to exhibit it to the people of the northern States, who, of course, knew nothing about it; and from railroad depots, hotel balconies, and dry-goods boxes has expatiated upon the sacredness of the Constitution and his high mission as its defender against a band of conspirators and usurpers hanging upon the verge of the Government and claiming to be a Congress. And yet this same man has, during all that time, been violating its plainest provisions and subverting its authority for the purpose of putting traitors and rebels in power.

In his own history I cannot but be forcibly reminded of a remark made by himself:

"When you hear a man continually prating about the Constitution spot him, for he's a traitor."

I would not go so far as he did, but I will say that those who boast the loudest about their love of the Constitution are not always the most reliable friends.

Sir, I trust we all love the Constitution and will support and defend it. Gentlemen talk about this illegal Congress trampling upon and subverting the Constitution. Why, sir, it is to the untiring devotion and unwavering fidelity of Congress to the Government of our fathers, the Union and the Constitution, aided by a faithful and patriotic President and upheld and sustained by a loyal and brave people, that we are indebted for the Constitution and Government we have to-day.

Sir, I am myself a new member of this body, but surrounded as I am here to-day upon this floor by the patriotic men who sat here during the dark and bloody days of the Republic, and with more than Roman fidelity, firmness, and courage for long years battled against treason and rebellion, both secret and open, and carried the Government safely through all its perils until all its enemies submitted to its power, I cannot but hear with indignation and hurl back with scorn the imputation, come from whatever source it may, that the Congress of the United States intends to subvert the Constitution of the country. On the contrary, sir, the Constitution and the laws will be vindicated by this body in the future, as they have been in the past. The Constitution has been violated, not by Congress, but by the unfaithful Chief Magistrate of the nation, whom this House of Representatives, in the name of all the people of the United States, has already impeached at the bar of the Senate, and who, I trust in God, for the sake of liberty and the cause of suffering humanity, will be stripped of his authority and remanded to private life.

Mr. PIKE then addressed the House. [See Appendix.]

Mr. KERR. Mr. Chairman, I suppose that by the presentation of these articles to this House it is made the duty of the House to inquire whether they be true or false—whether each article contains a false accusation against the President or whether it be true. Having discussed the other day all these articles in substance, except the last, I will devote no further time to them now. So far as the last is concerned, it does appear to me that no body of men, desiring to reach any result, ever did, in the history of human legislation, attempt to base it upon such flimsy and shadowy and absolutely unsubstantial testimony as that upon which this last article is rested.

When you turn to it and read it all fair-minded men, I take it, must arise from its perusal with utter astonishment at finding that it contains so little, that it is so trifling, that it is so absolutely disgraceful to the intelligence of this House, that such a thing as this should be made the basis of any charge against any officer of this country. There are not ten men on that side of the House who, upon such evidence, multiplied in substance by ten, would convict a white man, much less a negro, of stealing an orange.

It does seem to me that if there ever was a time, if there ever were circumstances, in which "trifles light as air are, to the jealous, confirmation strong as proofs of Holy writ," it is now and in this case; and upon this grave subject gentlemen upon the other side of the House have evidently been dreaming over this thing, and torturing their imaginations and fanning their selfish fears, until they have actually persuaded themselves that there is something in this matter; that there is some danger that this Chief Magistrate, whom they have placed before the world in a condition of absolute official nakedness, can do them some harm; everybody knows he can do the country no harm. They fear that he may do them some harm by defeating some cherished partisan scheme, by preventing the installment of negro power in this country, by preventing the success of the designs of some men to retain power, to retain control of this Government at the expense of the law, the Constitution, of decency, and everything else. It is in the way of such purposes that they find the President—nothing more and nothing less. He is too faithful to the Constitution and the true and original principles of our Government, and that is the chief measure of his offending.

The honorable gentleman from Ohio [Mr. GARFIELD] undertook to tell this House this morning that the testimony of General Emory shows that the President did conspire to corrupt an officer of the Army and to corrupt the Army of the United States. I ask him where is the proof? It is not in the record here. It has not been reported to this House by your committee; it is nowhere to be found upon any written or printed page in the possession of this House. Where is the proof? It does not exist, except in the imagination of the honorable gentleman.

What did the President say to General Emory? He simply said to him that, in his opinion, a certain section of a law was unconstitutional and invalid—and why? Because it proposes in terms to take from him the power which the Constitution gives him in terms; it proposes to take from him the command of the Army, and therefore he said it was unconstitutional and void. And so I say; and so says to-day every lawyer who has not been made blind by partisan zeal. And so say a large

majority of the most able representatives of the press of that side of the House. And so will the courts say if the time shall ever come when reason is restored in this country and the courts are free again. What the President said of that second section of the act of 1867, in speaking with General Emory, was:

"This is not in accordance with the Constitution of the United States, which makes me Commander-in-Chief of the Army and Navy, or with the language of the commission which you hold."

But when that appropriation bill, containing that obnoxious and unconstitutional second section attempting to deprive the President of his constitutional authority as Commander-in-Chief of the Army and Navy was sent to him for his approval and signature, he did sign it, in order to save the appropriations, and to the end that the Government might go on, but he returned with it the following protest:

To the House of Representatives:

The act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. These provisions are contained in the second section, which in certain cases virtually deprives the President of his constitutional functions as Commander-in-Chief of the Army; and in the sixth section, which denies to ten States of the Union their constitutional right to protect themselves in any emergency, by means of their own militia. These provisions are out of place in an appropriation act; but I am compelled to defeat these necessary appropriations if I withhold my signature from the act. Pressed by these considerations, I feel constrained to return the bill with my signature, but to accompany it with my earnest protest against the sections which I have indicated.

ANDREW JOHNSON.

WASHINGTON, D. C., *March* 2, 1867.

It appears to me that in view of the express provisions of the Constitution—so clear and plain as not to admit of doubt or construction—the objections of the President are absolutely unanswerable. The section was itself, in its very conception, an outrage, a fraud upon the President and the Constitution, injected into an important appropriation bill with which it had no proper connection whatever, on the eve of an adjournment, for the very evil purpose of thus forcing the approval of it by the Executive.

Read that extraordinary section, having no parallel in American legislation, and let the people, as honest men, answer to their consciences, if it is not a mean and unconstitutional attempt to strip the Executive of his rightful prerogatives.

The following is the second section referred to in the above message:

"SEC. 2. *And be it further enacted*, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office, and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years upon conviction thereof in any court of competent jurisdiction."

And that same honorable gentleman from Ohio [Mr. GARFIELD] tells the House that in the investigation of the truth of these articles they may look into all the evidence that has heretofore been reported by the Committee on the Judiciary, and that from that evidence they may derive the *animus* which has dictated all the subsequent conduct of the President. Does that gentleman mean to tell us, as a lawyer, that the Senate of the United States, sitting as a court to try these charges, will suffer that latitude of investigation—will suffer that evidence to be brought into the Senate Chamber, in the persons of the witnesses who gave it, and allow them to repeat it subject to the right of cross-examination? If he does say that, I say to him that he is, I think, alone among the lawyers of this House in that opinion, and the result of the trial before the Senate will sustain my conclusion. They have desired, by the very shape they have given to these articles, by their adroitness in evading the previous charges against the President, above all things to exclude from the consideration of the Senate all of that evidence. And why? Because it would furnish their strongest condemnation, it would show the utter frivolousness and contemptibleness of all this proceeding. And it is rapidly becoming contemptible; it is rapidly becoming a very ridiculous farce in the estimation of the good people of this country. It has become so much so that it is no longer treated with even decent gravity in this House. And honorable gentlemen themselves cannot rise in their seats here and discuss it with any show of gravity. The scenes daily witnessed in this House demonstrate that we are not sitting as a deliberative body at all, and still less a judicial tribunal, but merely as a partisan, political assembly, to record under the forms of law the arrogant and inexorable decrees of caucus. The minority here are subjected to the personal humiliation of being compelled to discuss, in the space of fifteen minutes, to such of us as can get the floor, the gravest propositions ever presented to a legislative body. Such a proceeding is a mere mockery; it is a ridiculous burlesque on the very idea of honorable and statesmanlike deliberation and discussion.

It is attempted to make the impression upon the country that there are endangered here the liberties of this country and our constitutional forms of government. They are, indeed, endangered, not by the President, but only by the Radical majority in this Congress. I know of but one parallel in ridiculousness to this proceeding, and that was furnished to this House by somebody on last Thursday or Friday. I refer to the time when there was presented here a letter or dispatch from the partisan Radical chief of the metropolitan police of the city of New York, which could only have been designed to operate upon the credulity and prejudices of the popular mind of this country, and was so utterly contemptible in itself as to excite nothing but derision here. I refer to that humbug nonsense about nitro-glycerine. I think this impeachment farce has become about equal to that, and is about as baseless.

The gentleman from Pennsylvania [Mr. LAWRENCE] had the kindness to inform us on this side of the House that not only all his Republican constituents were in favor of the impeachment of the President, but that a large majority of his Democratic constituents were in favor of the same thing.

Mr. LAWRENCE, of Pennsylvania. I ask the gentleman to yield for a correction. The gentleman, I suppose, does not mean to misrepresent me?

Mr. KERR. Certainly not.

Mr. LAWRENCE, of Pennsylvania. I said that the Republicans were a unit on this subject, and that a portion of the Democratic party approved of impeachment.

Mr. KERR. And the gentleman also said, Mr. Chairman, that he had been so advised by them in person and by letter. Now, sir, I am a Democrat. I have never been anything else. I do not know whether the honorable gentleman from Pennsylvania was ever a Democrat or not. I do not think he ever was. I hope not. But I have always been one.

Mr. LAWRENCE, of Pennsylvania. Mr. Chairman——

Mr. KERR. I do not yield to the gentleman. I have been in constant association with Democrats all my life, and especially since this humbug and farce was sprung upon the country; and I have yet to hear the first Democrat in or out of Congress intimate any such opinion in reference to this proceeding. On the contrary, they have all spoken of it, and I say with perfect truthfulness that hundreds of Republicans have spoken of it, and many of them to me, as being disgraceful to the country, disgraceful to this House and to the Senate of the United States. That is the way we all hear it spoken of. We do not come here as the defenders of the President. We are not his followers in any just political sense. We come here as the defenders of the right, and the condemners of the wrong of which you are the authors in this matter. I say then that so far as regards the attempt to make an impression of that kind it is utterly gratuitous, and the country will not accept it as containing one particle of truth.

Then we are told that some other gentleman said that for the mere defense of Andrew Johnson five thousand men would not cross a certain river. Well, sir, that may be so. We never did rest our political conduct or our principles of government upon devotion to men. The very corner-stone, the watchword, the shibboleth of the Democratic party, has always been devotion to principles, to measures, not to men. Therefore, it is that we come to the rescue of a great department of this Government. We rally round the Constitution of the country and make that our stronghold and our defense. The mere official life of President Johnson, or if you please his physical life, is but a small matter in comparison with the infinite interests, the infinite consequences, the precious liberties, the invaluable institutions involved in this disgraceful proceeding.

Mr. LAWRENCE, of Pennsylvania. If the gentleman will allow me, I would like to ask him whether the leader of his party on this floor did not declare that the members of the Democratic party would come here by thousands and tens of thousands and millions to defend Mr. Johnson?

Mr. KERR. Never.

Mr. LAWRENCE, of Pennsylvania. I refer to the gentleman from New York, [Mr. BROOKS.]

Mr. KERR. Never, sir. I challenge the proof. He never said any such thing.

Mr. LAWRENCE, of Pennsylvania. It can be proved by the whole House who heard him.

Mr. KERR. No, sir; he never said any such thing. When gentlemen undertake, by that kind of latitudinarian expression and the exercise of their imaginations, to charge upon us such things, I say I can do nothing more than to throw them back into their teeth, and demand the proof; it cannot be produced.

Mr. LAWRENCE, of Pennsylvania, rose.

Mr. KERR. I cannot yield any further, for the gentleman has no proof, and there is no need for him to again repeat the same thing. The published remarks of the gentleman from New York [Mr. BROOKS] utterly destroy the charge.

We are also told by the honorable gentleman from Ohio [Mr. GARFIELD] if the President of the United States, without the existence of this civil-tenure law, had undertaken to remove an officer without the consent of the Senate he would have violated the Constitution of the country. It seems to me he has lived to become enlightened beyond all that is written and all that was ever known before, beyond all the wisdom of the past and the present until this hour. He forgets that in May, 1860, the President removed Isaac V. Fowler from a high and responsible office while the Senate and Congress were in session, and he did it exactly under the circumstances under which all other Presidents prior to Mr. Johnson have exercised the same power, the same right, without question. This removal was made on the recommendation of the then Attorney General Holt, and the possession of Mr. Fowler's office was given in charge of a special agent of the Department, and the Senate and the country applauded this action. Gentlemen who desire the facts in this case will find them in House Ex. Doc. No. 91, page 1, *et seq.* Yet the honorable gentleman has suddenly discovered that in that there was a violation of the Constitution, and for that the President should have been impeached. He has discovered that the powers which have hitherto been conceded to the Executive Officer of this Government have all been wrong; that the President himself ought to be the mere instrument of the legislative power of this country, and should have never been tolerated in exercising the prerogative and powers for which he

now arraigns President Johnson. Such wisdom is not the result of any profound research into the history of our country and its institutions. It is not derived from a careful study of the opinions and teachings of the fathers. It is of newer birth, of more recent invention; and it would sadly mar their celestial happiness if it were possible for the jarrings and false teachings of the majority in this House to invade the heavenly abode of those great benefactors of our race.

Mr. Chairman, why do the majority here and Mr. Stanton himself resort to such extraordinary measures, such questionable expedients, to keep him in office? Why does he, with their assistance, cling with such selfish, trembling, and indecent tenacity to this office? Does he fear to expose the secret and unpublished record of that Department to the eye of any successor, to the knowledge of the people? It seems so. It may be that the frauds, the concealments, the oppressions, the crimes of that Department during his administration are such as to lead him to shrink from their exposition. The violations of law, the invasions of the rights of person and property, the outrages upon personal liberty, the contempt of the Constitution, and the scandulous prostitution of his office to the base purposes of his party may well deter him from any voluntary exposition of his official conduct during the last seven years. But these facts constitute the most triumphant vindication of the President's desire and duty to remove him. His only neglect of duty in connection with that Department exists, in my judgment, in his failure to remove him years ago.

Mr. Chairman, does any gentleman in this House suppose that Mr. Johnson would be impeached or any attempt made to depose him if the acting Vice President were a Democrat? No; never. This movement is inspired in great part by the very fact that one of the most radical of radicals—repudiated at home because of the very excess of his radicalism—will succeed to the presidency if Mr. Johnson is removed. Then the officers of the country, the whole power of every Department and agent of the Government, can be made to contribute directly, and, if needs be, corruptly, to perpetuate the power of the radical party in the country. This, in my judgment, is the cherished, ultimate aim of all these measures.

Mr. Chairman, some weeks ago it was whispered into the ear of a member of this House that one of the judges of the Supreme Court had, at some convivial meeting, forgotten propriety so far as to express an opinion as to the merits or constitutionality of some law then under the consideration of the Supreme Court, and forthwith the gentleman from Pennsylvania [Mr. SCOFIELD] introduced a resolution to raise a committee of inquiry to investigate and report upon the facts to the House. If that judge was guilty of any wrong, what can fair and honest men, not looking through the colored glasses of party, think of the conduct of the Senate in reference to this impeachment? Should not they, after having deliberately prejudged the case of Mr. Johnson, be subjected to congressional inquiry? They are judges in this matter as much as any court in the country is in any other matter that can come before it. The difference is, however, that the Senate have expressed opinions in harmony with those of this House, while the judge expressed opinions not in such harmony, but condemnatory of some of the laws of Congress. That makes a very material distinction in the opinions of some gentlemen.

[Here the hammer fell.]

Mr. McCARTHY. Our political institutions are based upon man's capability of self-government. We are a nation of sovereigns, have surrendered up under the Constitution so much of our individual liberty as was necessary for the good of all. That Constitution, the concession of all the people of all the States, creates three branches of government. First of all, and to which the others are more or less subject, the legislative branch, possessing under the Constitution "all legislative power." Second, the executive branch, vested in a President, who "shall be Commander-in-Chief of the Army and Navy." The Constitution says Congress shall have power—

"To make rules for the government and regulation of the land and naval forces."

Some say that practice and precedent give to the Commander-in-Chief supreme power over the Army and Navy. I answer no. Such interpretation is at war with the power of Congress "to regulate" and at war with the spirit of our institutions. We cannot afford to follow the practice of the past in the assumption and use of the military power by the heads of governments. "Let the dead bury the dead." Ours is a living government of the present, promulgating the doctrine that the people govern. In addition to the President's general executive powers and duties the Constitution declares that he shall "take care that the laws be faithfully executed"—laws made under and by the authority of the Constitution, not by the President, not by any court, but by Congress.

The third branch of the Government is the judicial power, which the Constitution says

"Shall be vested in one Supreme Court and in such inferior courts as the Congress may from time time ordain and establish."

Congress may from time to time increase or diminish the number of judges, the times and places for holding their courts, and make rules and regulations governing the same. Who or what is Congress with all this power? First, a Senate, in which the power and representation of all the States, large and small, are equalized; second, a House of Representatives, the members of which come from and represent small districts of people, to whom they are directly responsible, who, from the very manner of their creation, more truly represent the popular will than any or all the other powers of the Government. The fathers of the Constitution, with prophetic wisdom, saw the right of putting all power of legislation in Congress beyond the power of the President's veto by a two-third vote of Congress.

After the exercise of his veto in the creation of laws his power ceases. Under his oath and the Constitution he is required to see all laws faithfully executed; if he refuses to do so, either directly or indirectly, or if he shall in any way perform acts or assume powers not specified in the Constitution or laws, he is guilty of high crimes and misdemeanors, and liable to impeachment. And this we hold Andrew Johnson to have done. Thus is raised the issue between Congress and the President, who was put in power by the hands of an assassin, who, I fear, knew too much of Andrew Johnson. This terrible deed placed a foul stain upon our national escutcheon. Succeeding a man who was martyred for his country's cause, for the liberty and equality of all its people, to most men the lesson of the day would have brought a disposition to have closed up the great work of the war in the spirit of his predecessor, who never, by word or act, attempted to override Congress, always looking to them for all legislative sanction, as the Representatives of the people. Not so with Andrew Johnson. His first effort was to establish civil governments in the rebel States in the hands of rebels, allowing loyal men to be ignored and persecuted. He usurped the power which belonged to Congress, and with the power in his hands, as Executive of the nation, proceeded to organize State governments, using unscrupulously pardons, lands, confiscated property, stocks, bonds, cotton, office, official patronage, and threats in his work of reorganizing these States and in forcing the election of Representatives to Congress, using fear and favor at every turn to accomplish his base purpose.

This man had declared by word and deed that by rebellion the previous State governments had been destroyed. He had no power to reëstablish the State governments and place them on an equality in Congress. He entered into league with treason and traitors, using all the powers of his position to force from Congress a recognition of his acts by an admission into it of the creatures of his will, pledged agents of his ambition. How stands our Democratic friends upon the record of reconstruction by Andrew Johnson? What a cry of condemnation went up at the time; that he was violating the sacred rights of States with military power. I hear them cry "military tyrant! impeach him!" Strange; how sympathetic; no man who loved his country could so feel; only those who, with Buchanan, declared the Government had no power to preserve its own life; or who believed, with Seymour, coercion was worse than rebellion; or, in the general declaration of the party, that no act of treason and rebellion could destroy political existence. What has changed Democracy? Andrew Johnson has not changed—neither his policy nor ambition. They are now his especial friends. It has been caused by a taste of the fleshpots of Moses, not of Egypt. He has them in his power. They cannot shake him off if they would. Like the old man of the sea, he is a dead weight upon them, and they must sink into defeat and obscurity with him. The Constitution says that

"The President shall nominate, and by and with the advice and consent of the Senate shall appoint," &c.

And further:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate," &c.

And here is all the constitutional power in the hands of the President over his Cabinet; and his attempt to remove Mr. Stanton during the session of the Senate, without notice of a new nomination to them, was a direct violation of the Constitution. Mr. Johnson for more than three years had sanctioned him as Secretary of War, accepting him as such from the appointment of President Lincoln. There was no objection to Mr. Stanton until he stood in the way of this man's unconstitutional use of his Department for personal, political ends; there was great significance in the question asked by one of his Cabinet, while they were "swinging around the circle" together, whether they would rather have Johnson for President or king. The first effort to remove Mr. Stanton was during a recess of the Senate, and within the time required by law after they were in session he notified them of such removal, thus acknowledging him as Secretary of War and obeying the law. The Senate, in accordance with the Constitution, examined his reasons for removal, pronounced them insufficient, and thereby reinstated Mr. Stanton. Johnson's second attempt at removal was an effort to secure possession of the military property and power of that office.

He has declared the civil tenure-of-office bill unconstitutional and set it at defiance. By what power or authority is he made judicial judge over the laws of the country, overriding the most conservative power of the Constitution—a two-third vote of Congress? He proves that the wish was father to the thought when he said it was in his power, if he chose, "to become a dictator." No one can read the history of those few days and not arrive at the conviction that, with the military power in his hands in addition to the other powers, he would soon have proven the sincerity of his declaration—that we were an unconstitutional body hanging upon the verge of the Government. Having failed at the War Office, he sends for the general in command of the troops around Washington and asks information of the changes, if any, and their disposition. In this move he failed—not because he would not, but because he could not. Congress some time before had passed a law requiring all military orders to pass through the General of the Army, and from him, as from nearly all the generals, he learned they were law-abiding men. Had Andrew Johnson also been an observer of the law he would have escaped the charges of high crimes and misdemeanors.

We had forborne so long that our forbearance had ceased to be a virtue; yes, with him, it was

viewed as a weakness, and thereby emboldened him to other and bolder acts of violation of the Constitution and law. Thank God, the hour of deliverance for our country is fast drawing nigh, when the cause of all our delays, uncertainties, extravagance, and bad, corrupt Government shall be removed from power. He has sacrificed life, caused blood to flow like water. He has persecuted loyalty. He has attempted to make treason respectable, elevating traitors to political power without confession of sorrow or works meet for repentance. He has wasted the people's property; has used it unscrupulously for his own ulterior purposes, much of said property purchased by the lives and blood of hundreds of thousands of our people; by a long line of maimed and wounded soldiers, widows, orphans, and mourning relatives reaching from end to end, from side to side, of our great country, covering every portion of it. He has paralyzed trade, commerce, manufactures, mechanics' labor, and laid like an incubus upon every material interest of our great country. He has had a demoralizing influence over the people by his open denunciations of Congress and by his disregard of law. He has corrupted persons in office until honesty has become almost the exception by retaining corrupt men in power, and by the settlement of frauds with an easy penalty.

His administration has cost our country as much as the war; we have no relief from his burdens except by impeachment, now demanded by every interest of our country. With the removal of this bold, bad man from power we at once have a united Government—pledged to a speedy admission of the rebel States, economy, retrenchment, sound financial policy, equality of taxation, protection to our industry over the cheap labor of Europe, and wise legislation generally. Such will be the result in the opinion of the money and business men of the country, as shown by the value of gold under the act of impeachment. This great and solemn act—the first in the history of our country—is to give peace, confidence, security, and stability to our country for all future time.

Mr. PAINE addressed the House. [See Appendix.]

Mr. TRIMBLE moved that the committee do now rise.

The motion was agreed to.

So the committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOFIELD reported that the Committee of the Whole had, according to order, had under consideration articles exhibited by the House of Representatives of the United States, in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office, and had come to no resolution thereon.

Then, on motion of Mr. TRIMBLE, (at twelve o'clock m.,) the House adjourned.

IN SENATE.

MONDAY, *March* 2, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 17th of February last, information in relation to the compromise of certain suits known as the Dennistoun cotton suits.

Mr. STEWART. I move that that communication be printed and laid on the table for the present. I wish to examine it, to see whether it should be referred to a committee.

The motion was agreed to.

HEIRS OF GENERAL DUNCAN L. CLINCH.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased, which was to strike out all of the original bill and to insert the following:

Whereas Eliza B. Anderson, wife of Major General Robert Anderson, and daughter and heir-at-law of the late General Duncan L. Clinch, deceased, has an equitable claim in her own right, to the exclusion of all other heirs of said Clinch, against the Government of the United States, they having released all demands in the premises; and whereas the family of the said Robert Anderson need for their support the amount which she may be entitled to; now, therefore, in consideration of the premises, and in consideration of the distinguished services of the said Major General Robert Anderson and his permanent disability:

Be it enacted, &c., That there be, and hereby is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 in trust for the said Eliza B. Anderson, in full satisfaction of the claim against the United States of the said Eliza B. Anderson for and on account of any demand of the late Duncan L. Clinch, deceased.

Mr. MORRILL, of Vermont. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Grand Army of the Republic, complaining that their services in the late war in the appointment of officers, &c., have been, in a great measure, ignored, and asking Congress to pass some law recognizing their services, and giving them a fair proportion of the offices in the Departments and otherwise; which was referred to the Committee on Military Affairs and the Militia.

He also presented a letter in the nature of a memorial from Harry Teall, who represents himself as a soldier in the war of 1812, who did distinguished service, now old and in poor circumstances, and prays that the Senate may concur in a bill of the House for his relief; which was referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented a memorial of the Chamber of Commerce of St. Paul, Minnesota, praying the establishment of a mail route from Fort Abercrombie to Montana Territory; which was referred to the Committee on Post Offices and Post roads.

Mr. CONKLING presented resolutions of the Board of Trade of Buffalo, New York, asking an appropriation for the improvement of Buffalo harbor; which was referred to the Committee on Commerce.

Mr. MORTON presented a memorial of Henry B. St. Marie, praying for the appropriation to him of the sum recommended by a Board convened in October last, by order of the Secretary of War *ad interim*, as a reward for the information that led to the arrest of John H. Surratt; which was referred to the Committee on Claims.

He also presented a petition of Ajax H. Triplett, praying an amendment to the laws in relation to pensions of widows of revolutionary officers, so that the pensions may begin at the time of the husband's death; which was referred to the Committee on Pensions.

He also presented two memorials of late officers of the Army, protesting against the passage of the bill prohibiting the payment of the commutation for pay of officers' servants from May 1, 1864, to March 3, 1865; which were referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented a petition of Frank Conlan, praying that an American register be granted to the British sloop Elvira; which was referred to the Committee on Commerce.

He also presented a petition of citizens of South Haven, Van Buren county, Michigan, praying an appropriation for the completion of the improvement of the harbor at that place; which was referred to the Committee on Commerce.

Mr. NYE presented a petition of citizens of Georgetown, District of Columbia, and vicinity, for a free bridge over the aqueduct at Georgetown; which was referred to the Committee on the District of Columbia.

Mr. MORGAN presented two memorials of booksellers and papermakers, residing in Philadelphia, Pennsylvania, remonstrating against the passage of any bill creating an international copyright law; which were referred to the Committee on the Library.

Mr. CATTELL. I present a memorial, signed by eighteen soldiers of the war of 1812, with their ages attached, showing them to be from seventy-five to eighty-five years old. They represent that while the nation has rewarded the soldiers of the late war with a munificence almost beyond parallel there are many of these old soldiers of the war of 1812, on the very verge of the grave, in a destitute condition, and they ask that they be placed on the pension-rolls. They say that an examination into the rolls in the War Department shows that five sixths of the surviving soldiers of the war of 1812 are past the age of seventy-five. I move the reference of this memorial to the Committee on Pensions.

The motion was agreed to.

Mr. WILLEY presented the petition of George W. Ashburn, praying compensation for services rendered by him in the seizure of certain goods in the State of Tennessee, being used by the southern confederacy; which was referred to the Committee on Claims.

Mr. BUCKALEW presented a memorial of citizens of Philadelphia, Pennsylvania, in favor of placing the surviving officers and soldiers of the war of 1812 and their widows on the pension-rolls; which was referred to the Committee on Pensions.

Mr. BUCKALEW. I also present two memorials, signed by citizens of Philadelphia, respectfully representing that there are certain bills pending before the Congress of the United States which are of doubtful constitutionality, revolutionary in their character, and subversive of good order and the fundamental principles of the Government. They particularly designate the bill proposing to restrain the action of the Supreme Court of the United States in the mode of making their decisions upon questions arising upon the constitutional powers of Congress, and an act proposing to vest a supreme and uncontrolled power over the rights of citizens of certain States of the Union in the hands of the General of the Army of the United States. They respectfully remonstrate against the passage of said bills. I ask the reference of these memorials to the Committee on the Judiciary.

They were so referred.

Mr. COLE presented resolutions of the Legislature of California, in favor of the construction of a railroad between San Francisco and the Missouri valley by the southern route and passing through the Territories of Arizona and New Mexico; which were ordered to lie on the table, and be printed.

Mr. CRAGIN presented a memorial of William Jones & Son and others, citizens of Portsmouth, New Hampshire, builders, owners, and shippers engaged in commerce, asking that Congress will pass a law remitting the duties upon articles used in the construction of vessels; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 42) authorizing the employment of Brevet Brigadier General Seth Eastman on special service, reported adversely thereon, and moved its indefinite postponement; which motion was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 376) to facilitate the settlement of paymasters' accounts, reported it without amendment.

Mr. STEWART, from the Committee on Public Lands, to whom was recommitted the bill (S. No. 190) to further provide for giving effect to the various grants of public lands to

the State of Nevada, reported it with amendments.

Mr. DAVIS, from the Committee on Claims, to whom the papers in the case were referred, reported a bill (S. No. 408) for the benefit of the heirs of Asbury Dickins, deceased; which was read, and passed to a second reading.

MILITARY SITE AT WATERFORD.

Mr. CAMERON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania, to report it back without amendment, and I ask that it be put upon its passage, as I suppose there will be no objection to it. It is for the sale of about three acres of ground at the headwaters of the Alleghany river on the eastern side of the dividing ridge which separates the waters of the Mississippi from the lakes, and about twenty miles from Lake Erie. It is a place to which Washington went to meet the French authorities before the Revolution by order of the Governor of Virginia, and in which a little block-house was built about that time during some of the Indian wars. For the last sixty or seventy years it has been entirely unoccupied. It is thought to be an injury to the village in which it is located, and they desire to have it sold. I therefore ask that the bill be put upon its passage.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania. It proposes to authorize the Secretary of the Treasury in his discretion to sell to the highest and best bidder the military site of three acres of land at Waterford, Erie county, Pennsylvania, belonging to the United States, and pay the proceeds into the Treasury of the United States.

Mr. GRIMES. I will inquire why this authority is conferred upon the Secretary of the Treasury rather than upon the Secretary of War, if it is a military reservation?

Mr. CAMERON. I am not able to answer that question. The bill was prepared by the Representative from the Erie district of Pennsylvania, and passed by the House of Representatives. Why the Secretary of the Treasury was inserted I do not know; but I presume that is a matter of no consequence, as the money is to go into the Treasury.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 409) relating to the Alexandria canal; which was read twice by its title, and referred to the Committee on the District of Columbia.

RULES OF COURT OF IMPEACHMENT.

Mr. HOWARD. I move that all other business be postponed, and that the Senate proceed to the consideration of the rules of impeachment.

The motion was agreed to.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The report of the select committee is before the Senate as in Committee of the Whole, and the reading will be resumed where it left off on Saturday.

The Secretary read rule thirteen, as follows:

XIII. The Secretary of the Senate shall record the proceedings in cases of impeachment as in the case of legislative proceedings, and the same shall be reported in the same manner as the legislative proceedings of the Senate.

The PRESIDING OFFICER. If no amendment be proposed, the next rule will be read.

The Secretary read rule fourteen, as follows:

XIV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

The PRESIDING OFFICER. If no amendment be proposed, the next rule will be read.

The Secretary read rule fifteen, as follows:

XV. All motions made by the parties or their counsel shall be addressed to the presiding officer, and, if he shall require it, they shall be committed to writing and read at the Secretary's table.

Mr. DRAKE. I move to amend that rule by inserting after the word "he," in the second line, the words "or any Senator;" so as to make it read:

All motions made by the parties or their counsel shall be addressed to the presiding officer, and, if he or any Senator shall require it, they shall be committed to writing and read at the Secretary's table.

Mr. HOWARD. I do not see any objection to that.

The amendment was agreed to.

The PRESIDING OFFICER. The next rule will be read.

The Secretary read the sixteenth rule, as follows:

XVI. Witnesses shall be examined, by one person on behalf of the party producing them, and then cross-examined by one person on the other side.

The Secretary read rules seventeen, eighteen, and nineteen, to which no amendment was proposed, as follows:

XVII. If a Senator is called as a witness he shall be sworn, and give his testimony standing in his place.

XVIII. If a Senator wishes a question to be put to a witness, or to offer a motion or order, (except a motion to adjourn,) it shall be reduced to writing and put by the presiding officer.

XIX. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the court shall direct the doors to be closed while deliberating upon its decisions.

The Secretary read rule twenty, as follows:

XX. All preliminary or interlocutory questions and all motions shall be argued by one person only on each side, and for not exceeding one hour on each side, unless the court shall by order extend the time.

Mr. DRAKE. I desire to offer a substitute for that rule. I move to strike out all and insert in lieu of it:

Upon preliminary and interlocutory questions, and upon motions, one person only on each side shall be heard in argument, and the person arguing in support of the question raised or the motion made shall be entitled to open and close the argument, and to be heard for not exceeding one hour in the opening and for not exceeding fifteen minutes in closing; and the person arguing on the other side shall be entitled to be heard for not exceeding one hour and fifteen minutes, but the court may, in its discretion, extend the time in either case.

I trust that the committee which reported these rules will not see any objection to this modification of the twentieth rule. The honorable Senator from Michigan, chairman of the committee, will perceive that it does not at all conflict with the principle of his rule; it preserves its important feature, but it provides for that which the rule reported by the committee does not provide, to wit: the closing of an argument upon any question or motion by the party raising the question or making the motion.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. DRAKE. Certainly.

Mr. CONKLING. Is it not the ordinary practice in all courts that the person making a motion shall open it and reply to the answering argument?

Mr. DRAKE. I certainly so understand it, sir; and it is just for that reason that I offer this modification of the rule, because the rule as it stands does not provide for that.

Mr. CONKLING. If the Senator will allow me, my suggestion is this—and that was the idea of the committee, of course—that the practice being habitual that the counsel objecting to evidence or making a motion had a right to state his objection and then reply to the answering argument, when you limit the whole time to be occupied, as a matter of course the limitation is in reference to the standing practice of the court; and when you say that no counsel upon an interlocutory question shall be heard more than an hour he divides the time to suit himself. He takes fifteen minutes to begin with, and three quarters of an hour afterward to close, or *vice versa*, as he pleases. And I submit to the Senator that if he himself were trying a cause he would prefer such an arrangement to one which should limit him in the close to a certain number of minutes, when he might prefer to divide his time quite differently. The committee thought they met the view of the Senator, and at the same time left to the discretion of counsel how he would divide, in each instance, his own time.

Mr. DRAKE. I would suggest to the honorable Senator from New York, then, that the rule should be explicit in the allowance of the very thing that he now states. As it stands, it is not explicit in that way, and I respectfully submit to him that he ought to make it explicit; and if he will present any form of words that shall give the counsel in favor of a motion or objecting a right to divide his hour of time in that way as he pleases I will certainly with great pleasure withdraw my amendment, for that is all I want to have explicit.

Mr. CONKLING. It was, of course, not the purpose of the committee by rule to undertake to point out every function of the court. There were certain things which the committee supposed would be taken for granted; and this is one of them, like many other things that could be given in illustration. The rule of many courts, the rule in the courts in my own State, provides that at *nisi prius* and circuit no counsel shall sum up to the jury for more than an hour without permission of the court; but the rule does not provide also that the plaintiff shall have the closing argument, because it is the universal practice of the court that that is so. And so here, if the Senator sets himself about looking for all the things which the court in the general line of its practice would do which are not set down in these rules, he will find a great many of them, and to provide for them would require us to amplify the rules very much. I agree with him that the practice should be as he states, and I feel very confident that under this rule it will be so.

Mr. DRAKE. Mr. President, when the Senate sits as a court of impeachment, it sits without any precedent except that which has been made by the Senate as a court of impeachment in past times; it is not bound by any rules or any practice in any ordinary judicial tribunal; and, therefore, the more necessity for our defining all these matters strictly and with particularity. As the rule reads now, it might be so construed as that the counsel on either side should be heard but once only, and that for a period of time not exceeding one hour. But if the honorable Senator's view of the matter is correct, which I suppose it to be, then I will withdraw this amendment for the present, and present a few words of amendment at another time in addition to this rule, which will make the thing explicit as he now understands it to be, but which I do not think is apparent on the face of the rule. I withdraw the amendment.

The PRESIDING OFFICER. The Senator from Missouri withdraws his amendment.

Mr. GRIMES. I move to strike out that rule, the twentieth rule. It does not occur to me that there is any necessity for our adopting any such rule. I am not aware that any such rule has ever been adopted by the courts of impeachment that have hitherto sat in this country, either this Senate or the Senate of any State. It has been the boast of this body that we have had unlimited debate. Some people perhaps imagine that we have too much, and yet there are some unsanctified people who believe that this is really the only body in Congress where there is legitimate debate and discussion and deliberation. I do not know any reason why we should at the beginning of this trial, in this particular instance, make this an exception to the course of conduct that has hitherto been adopted. If the counsel for the Government or the counsel for the person who may be arraigned before us shall abuse our patience it will be very easy for the Senate as a court to make a new rule so as to govern and control their action, and then we shall be justified in the eyes of the world in attempting to limit them and control them; the burden will be upon them and not upon us. But until they shall have done so, I apprehend that the wisest thing for us will be to pursue that course that has ever been pursued hitherto in impeachment

courts similarly situated to ourselves, and let the question be decided as it shall occur. I do not suppose that the eminent counsel who may be employed will abuse our patience, but we seem to be proceeding upon the idea that they may do so. If they do, if we discover that there is any necessity for such a rule, it will be very easy for us to adopt it. I am opposed to adopting it now and putting them in a strait-jacket at the beginning.

Mr. EDMUNDS. If the argument of the Senator from Iowa is correct, that we ought to wait until there is an abuse on this point before we provide any regulation to prevent it, it would apply to all legislation at all times, and all rules. It would apply to our own rules, which authorize us, for illustration, to compel the attendance of members who do not attend, and with the same argument he might contend that it was an affront to a Senator to have such a rule at all, because the presumption is he would attend, and it would be time enough when you found yourself without a quorum to make a rule to get one. And so of every other rule that regulates our proceedings, and of law that is intended to regulate the transactions of men in society.

It is the boast of the proper administration of law in a free country or any other that the law antedates the transaction upon which it is to operate, and that it does not grow out of any *ex post facto* affair. If that be so, why is it not proper, if you are regulating the proceedings of the Senate sitting as a court at all, to make a regulation which shall be reasonable in itself, which will commend itself to the mind of every Senator as reasonable in itself, in respect to the limitation of argument upon interlocutory questions in all trials, the greatest and the smallest? Why not, I say, provide such a rule in advance? If Senators believe that one hour is too little, then say two; if they believe two hours are too little, then say four. But our proposition is that it is right and fit for a great trial like the one in respect to which we are providing these rules, to a certain extent and for all trials, that every rule which is to operate upon us for a transaction that can be foreseen ought to be laid down in advance; so that no man or party or set of men upon either side of the question will be enabled to say, "You are finding yourselves a little too much pinched by the pressure of this prosecution, or the pressure of this defense, and therefore you do the extraordinary thing of changing your course of procedure in the middle of it." We should by that course be obnoxious to criticism, except in a case of very great abuse, indeed. And I am not speaking of any particular side of this transaction, I wish it to be understood. I think it quite as probable, (and I say it with entire frankness,) that the protection of this rule will be needful to restrain the prosecution as to restrain the defense. It is not intended for one side more than another; but it is intended to enact a wholesome and reasonable regulation which shall bring debate upon trivial and unimportant interlocutory matters within just and reasonable bounds.

The only question between my friend from Iowa and myself is, whether it is desirable to arrange a rule of this kind in advance or wait until your patience is abused; as my friend says, wait until you have been disturbed and ill treated by the conduct of counsel on the one side or the other, and then undertake to interject a regulation into the midst of that. It would certainly be obvious to criticism then, because whatever counsel were operated upon by such a rule would complain bitterly that they had not given any occasion for it, that it was a mere after-thought to compress the proceedings, instead of having a rule in advance.

Mr. GRIMES. The Senator from Vermont has furnished me a new idea as to the theory upon which legislation proceeds in this country and elsewhere. Unlike him, I had supposed that all these rules, and all laws in fact, were enacted because it was the sentiment of mankind that unless it were done, from past experience, the evil they tended to prevent would result; and, therefore, that it was based upon some *ex post facto* act.

Now, I would inquire what is the experience in regard to these rules. We have had four courts of impeachment in this country; in no one of those cases of impeachment has there been any limitation upon debate or upon the argument either on the part of the managers for the House of Representatives or on the part of the counsel for the person who was arraigned before the bar. Has the experience of those courts taught us that it is necessary that we should change the rules that prevailed in those courts and put a limitation upon debate here? Is there any record in those trials, or any contemporaneous history of those trials, which goes to show that justice was impeded or that the public business was not properly expedited because of there being no limitation upon debate? I can very well see that the whole issue involved in a case of impeachment may turn upon what the Senator from Vermont calls an interlocutory order, or upon the admission of a certain piece of testimony before the court; and, now, what condition should we be in if one of the counsel for the prosecution or one of the counsel for the defense should, in the midst of the argument, after having spoken an hour, be brought up suddenly by the peremptory rule that he shall not speak any longer? He says that he has not completed his argument which he believes to be necessary to the promotion of public justice on behalf of the people or on behalf of the person arraigned; he appeals to us for longer time; but an inexorable majority of the court decide that he shall not have it.

In what attitude shall we be placed in before the country? Not very flattering to the court, perhaps. Probably the court would decide to give him time; but why shall we place ourselves in the attitude of putting it in the power of a majority to decide against granting it if they choose? Why shall we here in the Senate, where we have been enjoying ourselves unlimited debate, where a man can take up a day or a week or a month if he chooses; why shall we, when the most momentous trial that this country has ever witnessed or that history has ever seen, is to be prosecuted, say that on one of the most important legal questions that may be presented counsel shall only have an hour or two hours, instead of the time he may deem necessary in order that he may promote what he believes to be the interests of the people as represented by the House of Representatives, for whom he is manager, or as represented by the man whom he has to defend.

Mr. EDMUNDS. The first argument of the Senator from Iowa defeats the last one. His first one is based upon the ground that it is entirely in the power of the court to protect itself when the emergency arises. I suppose by the court he means a majority of the court; and therefore I take it that this same inexorable majority, as he styles himself and the rest of us here, might be just as inexorable, operating at the time to which he refers in his opening speech, when it should suppose that counsel were going too far, and interfere, as they can under this rule. Therefore the argument of my friend must either be wrong at the beginning or wrong at the end, because he sets out with the idea that it is in the power of the majority, and he thought in the opening that that power ought not to be exercised until the abuse of it should first be felt, whereas the committee thought that counsel ought to be warned that they should condense themselves to an hour upon interlocutory questions unless the majority should think it desirable to give more time.

Now, my friend says this is unusual, that it never was heard of before in a court of impeachment. The same argument would have applied when the Supreme Court of the United States a few years ago settled a rule that counsel should only be heard for an hour in certain cases, because it did not use to be so there. The world has grown older since my friend and I were born, and since these early trials were had, in all departments where justice is administered and men have become more disposed to display their oratory and their rhetoric than they used to be, and to make interminable harrangues upon questions that are not important. Therefore most courts—I think it is so in almost all the States now—have, under the authority of statutes, provided rules which limit the time occupied by counsel and the number of counsel who are to discuss questions before them; and I challenge anybody to point out any instance in any State where the existence of such a rule has operated against the fair administration of justice; and for what reason? Because, whenever there was an important question that really entered into the merit of the main question in a considerable degree, counsel who make application for more time always get it. So they would here. The court does not tie itself up; the Senate does not tie itself up; it only prescribes a general regulation to operate upon the general run of these interlocutory questions, limiting debate upon them; and I am sure that I know the sentiment of my friend well enough and the sentiment of other Senators well enough to know that whichever side should, in a reasonable case, ask for an extension of time, no matter how long, depending on the importance of the question, it would be granted by a unanimous vote of this body, instead of a mere majority.

Mr. BUCKALEW. The only objection I have to this rule is the introduction into the proceedings of the Senate of a limitation upon debate; at least that is the most important one. We know very well that in the House of of Representatives, which is a numerous body, a body three or four times as large as the Senate, it is necessary that there should be the "previous question," perhaps, and also that there should be some limitation of time upon speeches which are made. But, sir, those necessities which may justify rules of this sort in the House do not apply to the Senate. Although the question has been up on sundry occasions, and has been debated here, our judgment has always been against the imposition of a rule of limitation here.

Mr. EDMUNDS. Will my friend permit me to remind him that in impeachment cases the rule has always been an express rule that no debate at all should be permitted to Senators; that all decisions must be had by yeas and nays, and without any debate?

Mr. BUCKALEW. That is quite another point. I am speaking of the debate which a question shall undergo by persons who participate in it; for, sir, under the particular rules which apply in this and all other legislative bodies, some cases are not susceptible of debate; for instance, a motion to lay on the table. I am speaking of cases which, under parliamentary law, are allowed to be discussed.

Now, sir, I should be very sorry to see the Senate adopt in this case a limitation upon the right of debate where there is, as appears from what has been stated, no known necessity for it—where such necessity is only conjectural.

I think, Mr. President, the true reason why this rule is unnecessary, and why it must always be unnecessary in courts of impeachment, is this: when the Senate resolves itself into a court of that description the party who unnecessarily fatigues the attention of the Senate, who protracts debate unnecessarily, incurs an injury upon the trial. No discreet and sagacious attorney would attempt to wear out the patience of the court, because he would know that it would prejudice his own case. I take it for granted that the distinguished gentlemen who will appear before us to represent the House upon this prosecution, and the no doubt distinguished counsel who will be selected for the defense, will have tact and discretion enough not to fatigue us, but to speak to the question, and to stop when they have exhausted the debate.

At all events, at present, as we have no necessity for this rule, as there appears to be no

present necessity for it, I think we had better not adopt it, and particularly in view of the policy which has heretofore prevailed of not limiting debate in the Senate of the United States for the very good reasons which have heretofore been stated. It is something to say that debate is free in the Senate. It is something to say that the voices of the men who represent the States of the Union in this body are not limited. I would desire to have that impression prevail in our own country and everywhere else as long as we can. Only when this body has become numerous, its proceedings disorderly, the transaction of business inconvenient, when there is a pressing and absolute necessity to curb debate in the Senate, would I agree to the adoption of such a rule.

Mr. MORTON. I beg leave to suggest to my friend from Pennsylvania that this rule does not contravene the policy of which he is so much in favor. It is not a limitation of debate in the Senate of the United States. It is not intended to operate upon Senators at all. It is simply a limitation of debate on the part of counsel who are not members of the Senate, but who are allowed to address the Senate. It therefore does not contravene or come in conflict with the settled policy of the Senate of which the Senator is so much in favor.

Mr. President, one of the great difficulties attending a proceeding of this kind is its delay. One celebrated case lasted seven years and then failed as a worn-out, thread-bare proceeding. Now, sir, in regard to this trial such arrangements should be made that it can be conducted with fairness to all parties. It should not only be fair, but it must seem to be fair. At the same time such steps should be taken as to prevent its being protracted indefinitely. The Senate has no choice but to try an impeachment when it is presented. It is as much bound to try it as a court is bound to try a case that may be found upon its docket; but such steps should be taken that it shall not be possible that it shall consume an entire session to the great injury and neglect of other important business that may be before the Congress of the United States. Therefore, as a matter of duty to the country and to ourselves, while providing that the trial shall in every respect be what it ought to be, we should provide that it shall not be indefinite in its length.

This rule provides that in an important case, or where the court or the Senate shall think it necessary, time may be given. Now, I ask if that is not sufficient? The distinguished Senator from Pennsylvania does not doubt that in any case where an hour upon each side for the discussion of a motion or interlocutory question is not sufficient the Senate would give two hours or a day. Nobody doubts that; and therefore it is left in the discretion of the Senate to grant an extension of time where it may be necessary. But this is simply a precaution, a provision for the protection of the Senate against inordinate debate, in ordinary cases, on motions or questions that are not important. I think the rule ought to stand.

Mr. SAULSBURY. The practice in courts of justice has been referred to, and it is said such a practice should govern here. Why, Mr. President, I suppose the reason why such a rule is adopted in some of the courts is because of the multiplicity of cases; the number of cases on the calendar. The courts are so crowded with business, ordinarily in the discharge of their duties, that they find it necessary, in order to get through with their dockets, that there shall be a limitation upon the time of counsel in advocating the cause of their clients. But, sir, how many cases have you before this high court of impeachment? One only. You have had three or four since the foundation of the Government; and on this, and in reference to this, the greatest cause which has ever come before that court, for the first time it is attempted to limit the time that the counsel for the defense and the prosecutors on the part of the House shall address the court. When this one case is disposed of there is no other to come before you. Is it, therefore, proper—does it look well—when you have but one case to be heard before this court, that the time of counsel shall be limited? It is unreasonable.

Even in our own debates upon questions coming before us as a Senate and in our legislative character we do not find it proper to limit the time of Senators. How often is it that Senators speak for a whole day, sometimes for two days? Then, sir, when there are two or three managers on the part of the House and two or three counsel on the part of the accused, ought their time to be limited? No, sir. Let every question be fully argued; let every question be argued by every manager on the part of the House, if he sees proper to argue it, and by every counsel on the part of the accused, and then when your judgment goes forth before the American people, and they see that those conducting the prosecution and those making the defense have had a full opportunity to meet every question and to discuss it fully, and that you have not restricted them in debate, that you have not put a padlock on their lips and closed their mouths, you may claim for your judgment the indorsement of public opinion. But deny either to the managers on the part of the House or to the counsel on the part of the defense the privilege of presenting their views as fully as they may see proper, and your judgment, whatever it may be, will not carry with it that commanding weight that it otherwise would.

It is no answer to this to say that it is in the power of the court at any time to extend the period of time allowed. You will have the power when you are a court to make your rules just as effectually as you have now before you are a court; and if you shall find it becomes necessary to keep this from being a seven years' trial, or being extended at too great length in the judgment of Senators, you can interpose your rule then. In my own State I have never heard of such a thing as a limitation upon counsel in the high court of errors and appeals, and such a rule, I apprehend, would not meet with the approval of any member of the bar of that State.

Mr. CONKLING. I agree entirely with the Senator from Delaware as to the reason which courts have found for rules limiting time. He says that reason is found in the multiplicity of suits and of proceedings. So it is; and there is found the reason for this rule which we propose. Is there not a multiplicity of proceedings before this tribunal? Certainly there are; but not of the particular kind referred to here, the Senator says. Let us test that. In the Supreme Court of the United States there is a rule limiting the time which counsel may occupy. Suppose in that court once in a score of years a particular class of cases came up, only four in the history of the Government, as the Senator says; and suppose, as here, the nature of that case was such as to make the proceedings more prolix than in any other case, would it be rational for the court to say that "because this particular case is one of this kind and all the other business before this tribunal is of another kind, therefore we will not enforce our rules?" Now, we have, the Senator says, at this time in expectation but one trial of an impeachment; but we have all the legislation of this incumbered session, a session greatly in arrear, a session greatly crowded with multifarious subjects of consideration. Does not the reason of the rule, then, apply with concentrated force in the instance before us?

The Senator from Pennsylvania said that this was an effort to abridge debate in the Senate, that forum in which debate had not been abridged. The Senator from Vermont reminded him that in the oldest and in the most recent precedents debate in the Senate upon a trial for impeachment had been absolutely inhibited. I do not understand the Senator to answer that at all, but he says that counsel were not restricted at that time, in 1804 and in 1830. No, sir, they were not; and in the trial of West H. Humphreys recently the question never arose, because it was a mere paper impeachment, a mere *ex parte* proceeding. But counsel were not limited in 1804. Neither were counsel then limited in the State courts of the various States; neither were they limited in the Supreme Court of the United States. I do not remember precisely when it was adopted, but I know that the rule confining counsel to a certain time in the Supreme Court is comparatively a modern rule; because Senators will remember that when Chief Justice Marshall was on the bench one gentleman commenced an argument and another person went to the city of New York by stage and returned before he concluded. There was no such rule there then. At that same time there was no such rule in the Senate, and there was no such rule in the State tribunals; and at that time or just before that time one culprit in England was tried for ten years, and the rulings were such that Chesterfield said the laws walked and the trial stood still. Now, we are speaking of an occasion and of a time in our history when, in all the tribunals, legislative and judicial, proceedings have become very multifarious; and, therefore, it behooves us, I think, to conform the rules we make to the exigency of the occasion.

Sir, I agree with any Senator, whichever may be the most liberal in his views upon that subject, that no trial and no proceeding should be more deliberate, so far as deliberation tends to fairness, than the trial which this body is approaching. But, sir, there are a great many things to be done by each House of Congress quite as important to the people of this country as the disposition of interlocutory motions upon the trial which is to occur or upon any other trial; and I insist upon it that we should see to it that that trial, like the other business in prospect before the Senate, goes expeditiously and promptly to its conclusion. If we leave this matter all open it is, as has been remarked, a reflection, an ungracious reflection, upon counsel to interpose in such a way as to assume that the patience of the Senate has been abused; whereas, if beforehand a rule is established, which will be relaxed, of course, in case of necessity, nothing is done which is ungracious; nothing is done which is objectionable; but, on the contrary, we conform to the settled practice in the Supreme Court of the United States, and, so far as I know, in the highest judicial tribunals of every State in this Union. I do not mean literally every State, because I am not familiar with the proceedings in them all; but I speak of my own State, one of the rules in the highest court of which, and one of the rules of every other court of which, confines counsel to a specified and fixed period, which, as has been said, is always relaxed in any case which demands it. It will be relaxed here. But let us give notice, not to the two or three managers, as my friend from Delaware said, but to the seven managers who, I understand, are to appear for the House of Representatives, and to the counsel, the number of which is not limited, and we know not how many, who are to appear on the other side, that *prima facie* they are to govern their proceedings so as to keep within certain limits, and that those limits will only be enlarged in case of some exigency in the question itself rendering it appropriate. Then nobody is offended; everybody has notice beforehand of what is required; and the rule is made to conform to the rules of the highest judicial tribunals in Christendom. I see no objection to it, sir, and I hope the rule will stand.

Mr. FRELINGHUYSEN. I suppose it is in order to perfect this rule by motion before the vote is taken on striking it out. There seems to be propriety in their being some limit to the discussion of these preliminary interlocutory motions. I think that to confine it positively to an hour is too short a period, and I shall, therefore, move that it be amended so that the period shall be two hours. I think that injustice may be done to the prosecution or

to the defense by restricting the debate to one counsel on a side. It may deprive the one party or the other of talents which he considers valuable to him; and I shall, therefore, move to strike out that part of the rule. I propose also to add to the rule that the extension of time shall be applied for before the argument commences; because if one party enters upon this debate under the rule and confines his argument to the hour or to half an hour, reserving the other half, it would be injustice to that party afterward to change the rule. In all the states where there is a limitation of time, with the privilege of having it extended by the court, that order for more time must be made before the argument commences. I therefore move to modify this rule by striking out in the second line the words "by one person only on each side and," and, in the same line, by striking out "one hour" and inserting "two hours," and by adding to the rule the words "before the argument commences;" so that it will read:

All preliminary or interlocutory questions and all motions shall be argued for not exceeding two hours on each side, unless the court shall, by order, extend the time before the argument commences.

With the rule thus modified I shall be prepared to vote for it.

Mr. WILLIAMS. I concur with the Senator from New Jersey in the suggestion that this rule ought to be amended in one respect. I think that the limitation of the debate to one person on each side ought to be stricken out, so that the prosecution, having an hour, may divide the hour as they see proper among the persons who are conducting the prosecution. I see no necessity for confining the argument to any particular counsel. One counsel may open the argument upon a motion and address the court for one half hour, and another counsel may conclude the argument by addressing the court for another half hour; so that that amendment seems to me to be entirely reasonable and proper.

But I do not see the particular necessity, I must confess, for extending the time so far as this rule is concerned. The probabilities are that all questions of a preliminary nature will relate to the admissibility of evidence, except such questions as may be considered and discussed upon the final argument. I do not regard the proceedings in this case as exactly similar to proceedings in other courts, because it does not seem to me that any question can arise affecting the jurisdiction or the sufficiency of the articles of impeachment, or as to whether the guilt or innocence of the accused is established, that may not be discussed upon the final argument. But questions may arise as to the admissibility of evidence; and I should think those questions might properly be discussed within one hour. But, if it be proper to make the remark at this time, I do think that this next rule restricting the final argument to two persons on each side ought to be considerably changed.

Mr. EDMUNDS. We have not reached that yet.

Mr. WILLIAMS. I know that: I do not propose to discuss that point, but simply to suggest that so far as these preliminary questions are concerned, in my opinion, an hour affords sufficient time; because all the principal questions that may arise affecting the merits of the case may, and no doubt will, be sufficiently discussed upon the final argument. Take the question that was suggested by the honorable Senator from Kentucky the other day as to whether or not this body is a constitutional Senate. That question, although it may be brought up as a preliminary question in the case, can be discussed and decided as well upon the final argument as at any stage of the proceedings; and so with most questions of that nature. So far as the mere question as to whether a certain item of evidence shall or shall not be received, it seems to me that one hour ought to be sufficient; and I think that there is necessity for expedition in this trial as far as practicable, being careful at all times to do justice to all parties concerned.

Mr. HOWARD. I ask for the reading of the rule as it will stand with the amendment of the Senator from New Jersey.

The SECRETARY. The rule, if amended as proposed, will read as follows:

20. All preliminary or interlocutory questions and all motions shall be argued for not exceeding two hours on each side, unless the court shall by order extend the time before the argument commences.

Mr. HOWARD. I do not see any particular objection to the amendment, so far as it allows more than one person to participate in the argument upon preliminary questions, although, for convenience sake, it would be better ordinarily to confine such discussions to one counsel on each side; but I have no objection to the extension of the time from one hour to two hours for the discussion of preliminary questions. We know quite well that in such proceedings preliminary questions become, or may become, very numerous; and there are questions which assume a merely preliminary character, but which in themselves relate really to the merits of the case; as, for instance, suppose a motion should be made upon an impeachment here to quash the impeachment. I need not say to the Senator from New Jersey that that motion would necessarily involve the legality of the whole proceeding. It would be in the nature of a demurrer to the charge contained in the articles of impeachment. It would be, in other words, a denial of the sufficiency of the charges contained in those articles. Of course it would open the entire field of discussion as to the legal sufficiency of the charges or of the facts set forth in the articles in the present, or, rather, in the contemplated case. Suppose a motion should be made to quash the impeachment, notice of which has been given to us; it would open a complete nest of legal questions, and counsel could expend their efforts upon it for hours and days and even months.

Take, for instance, the question in relation to the jurisdiction of the Senate which was raised on Saturday last by the honorable Senator from Kentucky, [Mr. DAVIS.] Why, sir, an ingenious counselor could spend several days, not to say several weeks, in discussing that question. A counselor, if he saw fit so to do, might come in before us and recite all the arguments that we have heard here and elsewhere about the illegality and unconstitutionality of the present Congress of the United States. It opens a perfectly illimitable field of not only legal discussion but, what would be infinitely worse, political and partisan discussion. So, if there were a formal demurrer put in, which would be a preliminary question in the nature of an interlocutory motion, that proceeding would involve the same considerations. Would the Senate be willing to sit and hear questions of this kind discussed from day to day and week to week, which we must, after all, determine upon the final hearing in the shape of our final judgment? For all these questions may be made to the Senate sitting as a court of impeachment, and should be made properly by counsel for the accused upon the final hearing of the case upon the merits. They are there available as much so as they would be upon a preliminary motion.

Another thing, sir. Suppose a motion should be made for a postponement of the trial upon the ground of the absence of a witness. The court might see fit to call upon the counsel who asks for the postponement to state what he expected to prove by his absent witness, and it might be proposed by the other counsel to admit the facts if they were found to be relevant and competent in order to expedite the trial. This would give rise to another and a long discussion, upon which hours and days might be expended in professional discussion before us. I might enumerate a great number of other questions that would arise preliminarily upon the trial.

It seems to me, therefore, that we had better establish some general rule by which the proceedings upon preliminary questions may be reasonably abbreviated and kept within reasonable limits. That is all the committee intended by the twentieth rule. If the question becomes one of manifest importance, if it is thought to be of great importance to the counsel, I have no doubt that the time would be on all occasions extended so as to meet the views of counsel. I should certainly be in favor of that.

But, sir, I am not in favor of allowing counsel, however eminent they may be, to come before us and to expend the public time uselessly and unnecessarily upon matters which must necessarily be passed upon by us upon the merits. I am too old a lawyer not to know the danger into which counsel, however eminent they may be, and especially if they are not very eminent, run in spinning out the time upon the trial of an accusation. One object is to stave off, ordinarily, to use a common phrase, and to obtain time, hoping that something may turn up in the course of the lapse of time that may be favorable to the accused.

What I am anxious for, Mr. President, is that the trial of which we have received notice shall be, in all respects, perfectly fair, both to the House of Representatives and to the accused; that the truth, the whole truth, and nothing but the truth shall be laid before the Senate sitting as a high court of impeachment; and that upon that evidence and upon their own mature views of the law and of constitutional duty the case may be brought to a speedy, that is, a seasonably early, termination; for we all know that there are other interests demanding our attention; interests which we must look after; interests which we cannot and must not postpone, either for this trial or for any other object or purpose in the world. I hope, sir, the rule will not be amended so as to extend the time for arguing these preliminary motions.

Mr. MORRILL, of Maine. It occurs to me that two of the suggestions of the Senator from New Jersey are eminently fit and would improve this rule: first, that we should allow more than one counsel to speak upon the same side; and secondly, that, in case an extension of the time is desired, notice should be given of that desire before the argument is entered upon. As to the rest of the amendment, whether the time should be extended, I am quite doubtful. It seems to me that upon ordinary motions, and upon questions strictly preliminary, an hour would be enough. In motions for delay, motions which ordinarily arise in the conduct of a suit, one hour, it seems to me, is adequate. If a question should arise which is preliminary in the sense of an interlocutory judgment, or preliminary in the sense of jurisdiction to the court, where an extended argument might be deemed desirable, then notice could be given, and of course the Senate would give the additional time. I suggest that with the amendments proposed by the Senator from New Jersey, to the effect that more than one counsel might speak to the same question, and with the requirement that if an extension of the time be required notice should be given before the discussion commences, the rule would be sufficiently liberal as it is; that an hour would be sufficient for ordinary motions; and both the counsel for the prosecution and for the defense might reasonably rely upon the judgment of the court to give the extension in any case which was not simply an ordinary motion.

Mr. JOHNSON. I should prefer very much that there should be no limitation of time in a case of this character, because in the cases that have heretofore occurred, where the party impeached did not stand in the relation to the Government that the President of the United States does, no such limitation was made, and I do not know that the country suffered practically from the absence of such a limitation. I think it very advisable that the trial should be conducted with at least as much apparent liberality and fairness as were the trials which have heretofore occurred of the same kind. I

think the reflecting portion of the country will believe that the Senate owes it to itself and to the country that it should not, for the first time, establish rules more restrictive in the case which is to come before us, the impeachment of the President, than their predecessors established in all other cases.

But if the Senate should differ with me or should suppose that any limitation of time should be made, I submit that the rule, as reported by the committee, is very wrong. It will operate upon the managers of the House as well as upon the counsel of the President; and I shall not be at all surprised, if the rule is enforced, if the managers of the House find fault with such a restriction upon their duty. It is more especially objectionable if it is to stand as it is reported, because it limits the prosecution and the defense to one counsel upon all questions. The counsel who is to open, according to the rule, is to be the counsel to conclude. Such a thing is never done in any court where there are two counsel. They generally divide the labor. The counsel who opens has theories of his own, doctrines of his own, reasons of his own, and they are met by the replying counsel. The replying counsel is met by some associate of the opening counsel who is not exhausted and whose attention is more particularly called to the argument in reply. Now, if in such a question as I can imagine may arise the Government makes the objection and a manager on the part of the House of Representatives is to open, I do not think they will deem it altogether courteous that we should take from any other manager the right to speak in reply.

Mr. POMEROY. If the Senator will allow me, I think that is not the rule.

Mr. JOHNSON. I understand it to be so.

Mr. POMEROY. "The argument shall be opened and closed on the part of the House of Representatives," but not by the same manager of necessity.

Mr. JOHNSON. I am not speaking of that. I am speaking of the twentieth rule—the one we are now considering, limiting the discussion to one hour. I am not speaking of the rule as to the final argument.

Now, Mr. President, from a good deal of familiarity with the trial of cases, I must say that if we make no difference between such a case as we are about to have and other criminal or civil cases, very many questions may be stated upon this trial that will necessarily involve the merits, although they may be preliminary. It will not do for the Senate, or for the court, to take from the accused the right to conduct his defense in any way he thinks proper; because that is a right which belongs to every man who is accused of a criminal offense. He should be at liberty, therefore, to select the time in the trial when he will make objection looking to the merits of the case; and such objection, if met, so far from prolonging the trial, may abbreviate it. For example, the question stated the other day by the Senator from Kentucky may be raised. The Senate will be obliged to hear it. They cannot at once decide that they will not hear it. That would not be doing justice to the accused. No court would take a step of that kind. However clear, therefore, the Senate may be now, and I participate in the opinion that such an objection would be unfounded, yet if counsel of respectability—and I suppose the counsel whom the President may employ will be all of them men of respectability and learning in their profession—such, for example, supposing him to be one, as the late Mr. Justice Curtis—if he was to state at the bar in behalf of the President that he pleaded to the jurisdiction of the court upon the ground that it was not a tribunal under the Constitution to try the case, the Senate would like to hear him. If they did hear him, he might—I do not think he would—satisfy them that they were not the tribunal intended by the Constitution to try the President, and that would end the case and all our labors would there terminate.

But there are other grounds. Suppose—and I am not to be understood as suggesting anything to the counsel or the President, for I have seen neither, and shall not see them, of course—suppose that the counsel on the part of the President move to quash the proceedings; that is what can be done in the case of an indictment; and suppose they do it upon the ground that upon the face of this *quasi* indictment there is no offense charged. The articles, if they have been read to me correctly, I am unable to read them myself, but I suppose they have been, as they have been read to me by my brothers who sit on either side of me, the articles charge no criminal intent at all. They aver in each one of them the fact that the President has done so and so; but they do not aver a criminal purpose on his part in the acts which he has done. Now, counsel may say that that averment is one which should be expressly made—I am not saying that it ought to be—that that is an averment which is not to be implied; that there can be no crime or misdemeanor without a criminal intent. If, therefore, looking to the terms of the article, it is consistent with the theory that the President may have acted without any criminal intent, acted from ignorance, from misapprehension, bad advice, but acted honestly—if that upon the face of the articles may be objected to as showing a substantial defect in the article, the counsel have a right to make the objection; and if they make it, and they satisfy the Senate that that objection is well founded, then the proceedings are at an end; and if the President is to be impeached, other articles by the impeaching department of the Government must be exhibited.

Now, upon a motion of that description it would seem to be rather unexampled to limit the time of counsel or to limit the number of counsel. It is a great question, just as important as will be the question, if the case goes to trial without any of these preliminary objections, upon final hearing; and I suppose all will concede, if the case goes to final hearing without any preliminary objection, after all the evidence has been exhibited and all the questions in the course of the evidence ruled the one way or the other, that counsel ought not to be limited in summing up the case.

Mr. FERRY. They are not in summing up.

Mr. JOHNSON. I know they are not; and that is the hypothesis upon which the committee have acted. They are not limited either as to number, if I understand the rules aright, or as to time.

Mr. WILLIAMS. They are as to number.

Mr. JOHNSON. I did not know that; but they are not limited as to the time which they shall occupy. If it be true that some questions may be presented to the Senate short of a motion to quash, or a motion in the nature of a demurrer, or a motion upon the answer which the President may file, stating substantially the grounds of a demurrer, why should we not hear argument? It will simplify the argument should the objection be overruled and the case goes to final hearing; but it will save our time altogether and leave us at full liberty to discharge the other business which belongs to Congress if the objections should, by a majority of the Senate be held to be well founded.

But what I am particularly anxious for, as a member of the body, is to preserve without suspicion its honor, its justice, its impartiality; and, with a view to do that, I am anxious that we should adopt no rule which, in the judgment of any reasonable man, may be considered as in some measure anticipating the judgment which is to be pronounced, or depriving the President of those rights which our predecessors have accorded to every judge and to the two Senators who have been impeached.

But, Mr. President, if the rule is to stand, let let the time be enlarged at least to two hours, and let those two hours be divided as between the opening counsel and his colleague, if they think proper to do so, whether they be the managers or the counsel for the defense.

I would propose another thing. The rule provides that that limitation of time may, in any particular case, be removed by an order of the court. How is that order to be pronounced? Is it to be passed upon, and conclusively passed upon, by a majority of the court? I suppose it is. If, therefore, a bare majority refuse to extend the time, although the minority shall be of opinion that the time should be extended, it cannot be extended. I do not think that is altogether right in a case of this description. A conviction cannot be had without a vote of two thirds; and I think that we will be but acting in accordance with the principle upon which that provision was founded in saying, if the rule is to stand at all, that the limitation may be removed or not enforced if requested by a vote of one third of the members of the court.

Mr. EDMUNDS. Will my friend permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. EDMUNDS. I ask him whether, in his judgment, a question of the admissibility of evidence ought not to be ruled by a majority.

Mr. JOHNSON. Not on this question. A great many questions may be decided by a majority, unquestionably.

Mr. EDMUNDS. I am speaking of the admissibility of evidence in a trial of impeachment.

Mr. JOHNSON. Certainly it may or may not, just as you rule it. But what I mean to say is this: that as you are about to do what has not been done in any former case, as you are about to limit the number of counsel and about to limit the time that they are to speak, it is but right, and I think public policy—a commanding public policy—looking to the nature of the prosecution, looking to what we must all know is the state of public feeling throughout the land, that we should not put it in the power of a majority merely to prevent the counsel of the accused or the counsel of the House of Representatives from discussing any question which one third of the members should desire to hear discussed for a longer period than the prescribed time, not a question of the admissibility of evidence, but any questions. It is not to be supposed, if it is to depend upon the voice of one third that they will ask an extension of time upon all questions, mere questions of the admissibility of evidence. But, as I said in the beginning, there may be questions which strike at the merits of the prosecution, and I think it would be wrong to deny to one third of the members of the Senate the right to have those questions discussed beyond the time prescribed by the rule. It is not to be supposed—I certainly will never believe it until it shall be exhibited, in fact—that any member of the Senate, and much less that one third of the members of the Senate, will adopt a course merely for the purpose of delay. If one third request the discussion to proceed beyond the limited time it will be, I have no doubt, because they desire, for their own information, such a discussion. It seems to me but right to put it in their power to accomplish that end.

Mr. YATES. Mr. President, the object of every proceeding in the nature of a criminal proceeding is, in the contemplation of law, and ought to be, the arrival at the ends of justice. I have never yet been convinced that it was by long speeches that we arrive at justice. On the other hand, my experience goes to prove that where there is a reasonable limitation of time it secures a fairer and more intelligent investigation than where there is unlimited time. It secures pertinency. I have no doubt that one hour for the discussion of a mere preliminary motion or interlocutory argument is entirely sufficient. The parties, then, are notified that they must confine themselves to the point; and the man who confines himself to the point in argument for one hour, who is pertinent in his remarks, will give more infor-

mation and elucidate the subject more clearly than a man who has two hours in which to speak.

Trials of impeachment and for treason have been the most interesting which have ever excited the public attention. In cases of this kind there is danger of almost interminable delay. Great interests are at stake. Look at the trial of Warren Hastings, where the party was evidently guilty, where he was almost confessedly guilty of high crimes and misdemeanors; and yet such was the array of counsel, such were the magnificent surroundings of that great occasion, such were the interminable delays, such were the mighty interests at stake, such was the interest felt in the defendant and against him, such the high and important reasons of state, that that trial lasted for seven years, and resulted in the acquittal of the defendant.

Mr. CONKLING. It lasted for ten years.

Mr. YATES. For ten years; I thought it was only seven. Sir, look at this case now. The people of the United States wish to do justice. They will be lenient and merciful to Andrew Johnson in this trial. They want justice, fair and impartial justice. They will not require their Senators to push with undue severity in the prosecution of this cause. But, sir, look at the interests at stake. Look at, I might say, two parties, as it were, arrayed against each other throughout the country, although I hope there will be no parties in the Senate. Sir, this is to be a great occasion. We are to have here the House of Representatives; we are to have here the embassadors of foreign nations; we are to have the assembled wisdom of the judiciary and of the bar from every portion of the country; we are to sit, in fact, as a high court, while our galleries are to be graced with beauty. This is to be a grand theater for argument and eloquence. Your propositions of finance, of which there are an immense number, and all your important bills regulating the collection of your revenue, may sleep the sleep of death, and this Senate, by the mere persistency of counsel, may pursue this investigation until after the presidential election. I say this is to be a grand theater for eloquence and debate. If you do not restrict discussion on these interlocutory questions to one person or two persons to debate or to one hour's time, then, sir, the residue of this session is to be consumed in this investigation. We know how delays operate in the trial of criminal cases. We know how often justice is thwarted by these long delays; how the people become tired of their Senators and Representatives when they see business so slowly progressing. For these and many other reasons I propose to vote for the rule originally presented by the committee and against the amendment offered by my friend from New Jersey.

Mr. BUCKALEW. Mr. President, I think a word or two is, perhaps, proper at this time in answer to what was said by the Senator from Indiana, [Mr. MORTON,] now repeated with more of amplification and warmth by the Senator from Illinois. They seem to apprehend a grand and magnificent proceeding, upon an elevated theater, protracted for months or for years, which shall eventually tire out the patience and exhaust the energies of the Senate of the United States, as well as the patience of those who observe our proceedings. I suppose, upon the contrary, that this will be simply a business proceeding, so far as the Senate is concerned; that it will be confined to the particular matters which are contained in the articles of impeachment, and that instead of extending over an unlimited period of time the case will be investigated and determined within a reasonable period.

We are at liberty to take notice of one fact, and that is that these charges will not cover a wide field of investigation; that instead of bringing before us the details of administration for two or three years, during which the present President has executed the duties of his high office, we shall be confined to the investigation of one or two specific acts, about which prolonged evidence will not be necessary and will not be permitted. Therefore, the assumption of an expenditure of a large amount of time in this investigation is perfectly gratuitous; and the allusions to the great duration of the trial of Warren Hastings for maladministration in India before the British House of Lords is a reference without pertinency and without weight. That involved an examination of a prodigious mass of facts, extending through years of administration, and in another portion of the globe. It bore no resemblance to the present proceeding in its character, and it bore no comparison with the present proceeding with reference to its probable duration.

The Senator from Indiana says that if there be an important question requiring prolonged debate, under the rule as proposed the Senate can extend the time for discussion, and doubtless will do so. That is a very good reason, a very sound argument, in favor of omitting the rule, for he thinks the Senate will dispense with the rule if an important question shall appeal to it. Now, sir, it is for our convenience that we should not be called on during the progress of the trial to discuss questions relating to the suspension of the rule.

Mr. EDMUNDS. We do not discuss them.

Mr. BUCKALEW. That we should not be called upon to decide questions with reference to this rule. How shall we know beforehand the importance of the question which is stated by the counsel for the defense or by the managers for the prosecution? Can we know before they have opened the debate the breadth and extent to which legitimate debate may go? We shall be acting at random and pronouncing judgment without knowledge. We must either, when a request is made to us, as a matter of course, extend the time, and that renders your rule ridiculous, or we must refuse an extension of time at the peril of making a misjudgment in our ignorance of what will be produced upon the one side and upon the other—our ignorance of the importance of the question before we have heard it opened.

Again, Mr. President, to recur back to the point which I made before, after this Senate has gravely adopted a rule by which we close the mouths of men who represent the House of Representatives after the expiration of sixty minutes of time in a proceeding of this kind, it will require but a very small step to apply this rule to ourselves in our ordinary debates. The reasoning upon which this rule has been defended will apply exactly to a proposition hereafter made for adopting a one-hour rule upon debates in the Senate. If, indeed, there is danger that four men, two on each side, speaking before us upon a question of transcendent importance, will occupy too much time, how much stronger is the argument against permitting fifty-three men to speak at pleasure upon every public measure when public questions come up for consideration in the Senate of the United States?

Mr. President, the grounds of apprehension upon which this rule has been suggested are not founded in any existing facts. It is a mere supposition that we shall be subjected to inconvenience if we do not, for the first time, by a rule limit legitimate debate in the Senate of the United States. How foolish, how unnecessary it is for us to adopt such a rule now, when we shall possess complete power at any time when an abuse exists to adopt such a rule and to enforce it. The Senator from Vermont says that you must pronounce your rule before it is to be applied, and that if you adopt it during the progress of the trial some one who is cut off or limited by it will complain. To be sure, your rule must be passed before you apply it; and it will be no imputation upon any gentleman who speaks under it afterward, because it will be equal. It can apply to no one except those who rise subsequent to its enactment to avail themselves of the privilege of discussion; and, applied equally to both sides, it will be an imputation upon no one, counsellor or manager, who shall thereafter participate in the debate. It will be no more an imputation upon any gentleman who is to debate this great question before us to adopt it during the progress of the trial than it is to adopt it now in anticipation of their consumption of our time uselessly, against good taste and to the sacrifice of the public interest. I have more confidence in the members of the House of Representatives who are to come here and in the counsel who are to come here than to prepare beforehand a rule which shall repress them in the legitimate exercise of their powers of argument and of debate. I believe, if you leave this subject unregulated by rule, upon both sides the gentlemen who appear here will consult our convenience and the proprieties of the occasion, and that upon both sides they will be animated by a desire to cultivate our good-will and our respect and our sympathy. They will know perfectly well that one capital manner by which they may sacrifice great advantages for the side they represent will be to do the very things which it is said this rule is proposed to us to prevent.

Now, with regard to proceedings in courts, we were told that in the various courts in the country limitations upon discussion have been adopted, and that they are enforced. But we were told afterward by the gentlemen who gave us this information that in important causes such rules are withdrawn. When an important constitutional question comes up before a court, or a question involving great masses of property or great principles of government, the courts withdraw the rule and allow counsel who represent the parties to speak without being curbed by it. We have no such rule limiting debate in the Senate when we are acting in a legislative, in an executive, or in a judicial capacity. We are therefore not called upon to rescind or remove our rule in this particular proceeding. If we had such a rule it would be a most legitimate and appropriate exercise of power for us to withdraw it from this proceeding of impeachment. If we are therefore instructed by the courts of the country, by their action, we shall refuse to adopt this rule. No question that comes before them can be of more transcendent importance than this, which relates to the very constitution of Government itself—a question whether one branch of the Government shall depose another, and shall remit or turn over the Government to those contingent arrangements which the Constitution has made, but which heretofore have never come into play and action in our country. If, therefore, the consequence of the cause and the importance of the occasion are to be regarded, no rule limiting debate ought to be proposed or adopted by the Senate.

I say, then, Mr. President, that upon both these grounds—first, because it is unnecessary to have such a rule; and secondly, because the nature of the case is against such a rule—as well as for the additional consideration that the adoption of this rule will invite the application of a similar one to the Senate in its ordinary proceedings, the argument is plainly against the proposition which the committee have sent to us, and which the Senate are now to decide.

Mr. STEWART. Mr. President, I think this rule is so very reasonable that I am unable to see any force in the objections that are made to it. It is admitted by all that an hour is sufficient for ordinary questions. It is very liberal time; more so than would be allowed under any other circumstances. The ordinary interlocutory questions that arise in the course of a trial are disposed of in a few minutes usually. Then for ordinary purposes no one would object to this rule. It is very proper to have a rule, so that counsel, in conducting the trial, may be admonished that it is necessary for them to speak to the point, to be ready so as not to delay the proceedings. It is very easy to imagine a case, although we hope no such case will occur, when there would be an effort to delay. It is the duty of the Senate to try all such matters as this with ordinary dispatch, such dispatch as is consistent with a great cause, with the dignity of the Senate, and with justice to all parties. That is evidently its duty. If more than an hour may be occupied in ordinary

interlocutory motions and questions of evidence, it is very easy to see that this trial may be so prolonged that it will be a refusal on the part of the Senate, practically, to try it at all. If you prolong the trial for a year or two, or for such a length of time that the trial breaks down, it is simply a refusal to try the case at all.

This rule then simply admonishes counsel that in making the ordinary questions and motions that are usually disposed of in courts in a few minutes, they shall not exceed an hour. That is a very long limit. Then, in case an extraordinary question should arise involving the merits, and involving important considerations, the court may enlarge the time. That is following the analogies of judicial proceedings. They never enlarge the time by general rule until the point arises; and I think it is a reflection upon the majority of the Senate to say that they would not extend the time in a case where it was reasonable and proper that the time should be extended.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. STEWART. Yes, sir.

Mr. HENDRICKS. The Senator refers to the ordinary practice in the courts. Will he be good enough to tell the Senate in what court—I mean court of trials; I do not mean courts of errors—the time is limited to counsel for the argument of demurrers. or upon questions that arise in the course of the trial, either by statute or by rule of court? Did he ever practice in a court in his life in which there was a rule of court or a statute limiting the time which should be allowed to him in discussing the question of the admissibility of evidence?

Mr. STEWART. Oh, yes; it has been limited frequently.

Mr. HENDRICKS. By a rule of court?

Mr. STEWART. By a rule of court.

Mr. HENDRICKS. I never heard of such a court in my life.

Mr. STEWART. Frequently by a rule of court. Then I think it is a very ordinary practice, and every lawyer who has practiced at all will recognize it, that the court has the matter directly under its control, and is constantly admonishing counsel that they must dispose of these matters quickly, holding it immediately under the control of the court. There is not the same necessity where one judge presides. It is very common for a judge to interfere and stop counsel and say he will hear no further argument on the question. Any *nisi prius* judge who disposes of business with any degree of dispatch exercises a kind of arbitrary rule over the counsel that would not be exercised by a body as large as the Senate. If in the trial of a case there was one man presiding, and this privilege was abused, he could establish a rule at once and say, "Now, I will only hear you so long a time on this case." That frequently occurs where a single judge is trying a case. If the time is unnecessarily occupied where a single judge is trying a case, he can cut off the argument in various ways, and it is very common in practice. It is not so necessary there to put it in the court rules, because the judge hearing the case will either cut the counsel short and decide the point, or admonish him that there has been sufficient time already expended upon it. The question of time is continually administered by every good *nisi prius* judge, and sometimes it is regarded as an arbitrary matter. But when you have a large body like the Senate, if the time is improperly occupied, if men argue foolish questions at great length, it would be impossible for the Senate to stop them, and the propriety of a general rule to admonish them in those cases is very apparent to everybody. The power could not be so abused where there was a single judge. If the Senator from Indiana was a judge, trying a case, and the counsel, on some unimportant point of law, commenced to occupy more than two hours, he would say, "Gentlemen, this discussion must be brought to a close: the court is tired of it." That is the most common thing in the world. In that way there is an arbitrary power of the judge immediately over the counsel as they progress. That is very common in practice. But that power cannot be exercised by the Senate. I think one hour is a very liberal allowance for all such questions; one hour on each side; two hours occupied in discussing ordinary questions of evidence. If a great question arises, then it is suggested in the rule that the court may extend the time; and I repeat, who doubts that this Senate would extend the time in all reasonable cases? I have more faith in the majority of the Senate than to doubt that.

Mr. COLE. I do not rise for the purpose of discussing the merits of the proposed amendment, but to suggest a division of the question. There are two amendments embodied in the proposition of the Senator from New Jersey. One is that the number of counsel shall be limited on each side in the discussion of interlocutory questions to one; and the other relates to the time to be occupied in that discussion. I should be willing to vote for the amendment, so far as it goes, removing the restriction upon the number of counsel that are to argue the case on each side, but not for the other amendment, which extends the time.

Mr. EDMUNDS. The question is susceptible of division.

Mr. COLE. I hope, therefore, that the question may be taken separately in order that we may vote upon these two propositions, for they are distinct, one at a time.

Mr. FRELINGHUYSEN. I understand there is no objection to that part of the amendment which strikes out from the rule the restriction to one counsel, and I suppose there is no objection to that amendment to the rule which provides that if the time be extended it must be done by an order made before the argument commences. So the only question remaining is as to enlarging the time to two hours on a side, instead of one hour on a side. It seems to me very clear from the debate that there is a propriety in having some limitation, and equally clear from the arguments and illustrations made and given that it ought to be two hours on a motion, for instance, to quash this proceeding or a motion to adjourn the proceeding. It is giving one counsel one hour. A serious argument can hardly be deliberately made in less than one hour, and I really think the amendment introduced that the time, if extended, must be extended before the argument commences, saves more time than would be expended by extending the time to two hours on a side instead of one. Counsel would not apply for an extension of the time if they had two hours, or if they did apply, the extension of time would not be granted if they had two hours, and the application must be made before the argument commences. I think that we ought to be liberal in reference to the time that is afforded the prosecution and defense fully to present this important case.

The PRESIDING OFFICER. The question will be divided on the suggestion of the Senator from California. The Senator has a right to call for a division of the question.

Mr. HENDRICKS. I do not wish to protract this debate, except to say that I think, in arguing this rule, our minds are confined too much to the case that will probably be before us within a few days. Perhaps the rule is not important in regard to that case; I do not know. Intimations have been given in one way or another of the nature of the charges that are likely to be preferred, so that a lawyer may judge to some extent of the probable field that is to be occupied by evidence, and the possibility of troublesome questions of evidence arising. So far as we have observed them, no questions are likely to arise on evidence that will delay a trial.

But, sir, these are rules to govern the Senate, unless modified, in all cases that may arise hereafter. They are intended as the permanent rules of the body. Therefore, they should rest upon a proper practice, not upon what is convenient now, but what is a proper practice for a court of impeachment for all causes whatever.

I was very sorry that the Senator from Illinois, in speaking upon this question, should refer to political parties in that connection. I do not intend myself to have in my eye for a single moment a party distinction. I hope never in any case, whatever, to come before us, judicial in its nature, to consider it in any possible political light.

The Senator from Nevada thinks that an hour is long enough for any preliminary question whatever; but he does not do justice to other gentlemen. The House will unquestionably be represented here by able men, and unquestionably the defendant will also be represented by able men; but the Senator must reflect that all able men are not so gifted as to possess the faculty of concentrating their thoughts in a few words, as he can do. It is the misfortune of many very able men who have a clear conception of a subject that they are not able to put their thoughts in as few words as we all know the Senator from Nevada is so able to do. Therefore, he does not do justice to the gentlemen who will probably appear before us in his requirement that they shall come within a rule which is so convenient to him.

Mr. STEWART. The Senator seeks to induce us to change the rule, so that the discussion on the preliminary question may occupy more time. I said that on all ordinary questions the time mentioned in the rule was ample and very long, and that if an exceptional case arose we could trust to a majority of the Senate to extend the time. As to the remark that I can express my ideas in a shorter time than is occupied by some other gentlemen, perhaps I do not know as well as others how to spread out my ideas so thin as they do theirs. Perhaps, if they would compress them more and get through with them sooner, it would be better. I do not feel myself able to extend myself through so large a space as do some others.

Mr. HENDRICKS. With some it is a difficulty of the organization of their mind, and with others a difficulty of education who thus spread it out, and the fact that the Senator never does that should not make him so rigid in the requirements he makes of others.

Mr. President, the Senator says that in the courts in which he has practiced upon preliminary questions limitations are imposed upon counsel. I never practiced in such a court. I never heard of any court of trial in my life where there was time fixed by rule of court or by statute to counsel.

Mr. STEWART. Did the Senator ever practice in a court where the judge did not regulate this matter of time that counsel should occupy in discussing evidence, the preliminary questions, and ordinarily confined them to a few minutes, either by general rule or by direct action, when the question was raised?

Mr. HENDRICKS. I think I have occasionally heard judges say to attorneys, "this argument must close in an hour or two hours" upon a particular case. A case may arise upon demurrer where the court can see upon the record just what the question involved in that demurrer is, and he can say to counsel, "this demurrer upon this particular question can be discussed in an hour;" but when we get along further into a trial, and come to the trial of questions of evidence raised, can the court say in advance that that question ought to be discussed in an hour or in half an hour? Does not the Senator know that oftentimes a case, with all of its importance and fortunes, turns upon the decision of a question of evidence? I certainly do.

Certainly, you make your doubtful struggle there oftentimes in court. It is no satisfactory answer for the Senator to say that judges are all the time saying to counsel, "you must discuss this case briefly." I do not let judges say that to me often. I say to a judge, "it is your business to hear what I have to say for my

client." I decide what it is important for me to say in the argument, instead of letting the court decide it for me, so far as I am concerned; and I never did recognize the position that I believe some judges assume to themselves, that it is a matter of favor to the public if they sit and hear causes. It is a matter of duty for them to hear all that is to be said.

Now, the proposition of the Senator from Iowa is to leave this question where the Senator from Nevada says such questions are ordinarily left, to the judgment of the court at the time the question arises; and that is the better way; it is according to practice. My main objection to this is, that in the Senate, before we have organized ourselves into the court that is mentioned in these rules, we undertake to establish rules which the court itself ought to establish. This is a material question. The time allowed to debate may, and often does, influence the result of a trial, and I think that it is a question that ought to be decided when the Chief Justice is presiding in this body. I do not think it ought to be decided now, because it is of the very essence of the trial; it is material. If we can say that the discussion shall be an hour we may here establish an arbitrary rule for the court that discussion shall close in a less time than that. So I think it ought to be left to the court. I think it is a question that properly belongs to the court when organized as such.

Mr. YATES. Mr. President, I rise simply to correct a misapprehension of the Senator from Indiana. I disclaimed anything of party in this matter, so far as the Senate was concerned; but I said this would be a great question for the country; that parties having taken ground for the President and against the President would feel a great deal of interest in the matter, and that there would be great excitement arising from the discussion of this question; and now I propose to predict, and the event will show the fact to be, that if we permit discussion here without restriction and without limitation, if we extend it to the time allowed by the Senator from New Jersey, this trial will be protracted so long that it will become a stench in the nostrils of the people; they will say "abandon it, quit it." They do not consider that the issues here are so complicated and so numerous that they cannot be decided at an early day; and they believe that the Senators sitting as a high court of impeachment are capable of comprehending a legal argument of an hour, and that they can grasp all the important points which can be presented in an hour's argument of preliminary or interlocutory questions.

Now, sir, it is legitimate, I believe, it is, at all events, the practice in criminal trials, for the defendant's counsel to avail himself of all the means of delay, provided he thinks that delay will result to the benefit of his client. I know that it has been the practice in the criminal courts for counsel to avail themselves of more delay in order that the defendant, their client, may have the benefit of that delay, that the court may become tired, that the jury may become tired, that the community may become tired, and demand that the whole thing shall be stopped. If the defendant's counsel in this case should be satisfied that by delay, that by wearying the patience of the people, that by long speeches made before the brilliant audience which will be assembled to witness the trial of this great question, they will benefit their client, I am not prepared to say that they will be criminal in trying to have the defendant escape by means of delay.

But, sir, I rose simply to say that I did not allude to any party investigation of this matter in the Senate, but simply referred to the state of party excitement outside of the Senate. I hope that every Senator will feel that he is bound to decide this case as a juror is in a criminal case, according to the law and the testimony. I shall be prepared to decide it in that way, and I shall be prepared to give to the defendant in this case the benefit of any doubt that he may be properly entitled to and always to lean upon the side of mercy and of justice.

Mr. MORTON. Mr. President, this is simply, in my judgment, a question as to what is reasonable in the conduct of this trial. We cannot shut our eyes to the character of a proceeding of this kind. We cannot shut our eyes to the history of other cases of this kind that have been tried. We know that in its very nature it is liable to more delay and to be longer protracted than any other kind of case; and it is therefore the duty of the Senate—it is not a question of favor to either side, for our rule is to be equally binding upon each side—it is the duty of the Senate to provide such rules, if they can be provided, that this trial shall not be unreasonably protracted. There is too much business before this Congress demanding its attention, and the interests involved are too great, to allow so grave a proceeding to be trifled with by an indefinite extension in point of time.

The Senator from Pennsylvania says that we should have no rule upon this question; but that if we find that a counsel is abusing the patience of the court by speaking against time we can then stop him. I need not suggest to one so intelligent as he is that it is a much more delicate matter to stop a counsel, a lawyer of reputation, who is addressing the court, in the midst of an argument, and then decide that his argument is not important, than it would be now to fix a rule alike applicable to all. And this court might suffer its patience to be abused for days and weeks, perhaps, before it would take the responsibility of stopping any counsel, although every member of the court might be satisfied that he was speaking against time.

Mr. BUCKALEW. The Senator will permit me to interrupt him. He certainly misunderstood me. I did not say anything about stopping counsel. I was alluding to a prior argument made over the way, and I said that the court, if the case should arise, might establish a rule; but that it would apply to future cases after its adoption.

Mr. MORTON. Perhaps I misunderstood the Senator. At any rate, however, that suggestion has been made by some one here; but take the modification that my friend from Pennsylvania now suggests, that after having had the patience of the Senate abused we can then establish the rules. It might be a more delicate and difficult matter then; but I ask, what objection can there be to establishing it now, with the condition that on an important question it may be suspended by the consent of the court? The Senate sitting as a court can determine whether a question is of that magnitude that there is propriety in allowing counsel to discuss it more than one hour on each side. I am sure that that could be determined by the Senate at once; and the Senator will agree with me that there can be no doubt that in any such case the Senate would suspend the operation of the rule and allow the counsel to proceed indefinitely, if it was deemed important or proper to do so. But, sir, a thousand little questions may arise upon the testimony one way and another, and counsel may debate them for a great length of time with the zeal counsel have, especially in important cases, that zeal which grows out of their conflict with opposing counsel. Those who are lawyers have had experience of that kind, and know well how debate is often protracted upon questions in that way.

And there is another consideration, Mr. President, in this connection. It is that questions are often magnified in their importance by the magnitude of the case in which they arise. I have known little questions, very plain and simple, to be thus magnified in their importance and in their apparent difficulty by being raised in important cases; and I have heard questions discussed for hours in important cases, the discussion of which would hardly be tolerated for ten minutes in unimportant cases. In a case of this kind, unless there is some restriction, the most eminent counsel would feel themselves justified in discussing questions for hours, and not feel that they were trespassing on the patience of the court, on account of the magnitude of the case in which they were raised.

This rule is simply for the protection of the Senate, for the protection of the interests of the country. It is to operate as much upon one side as it is upon the other, and it cannot, in my judgment, possibly produce any injury; but I think I can well see that it may save hours, days, and, perhaps, weeks of our time. Therefore, I think the rule ought to be preserved at one hour. Now, my friend from New Jersey proposes to make it two hours. I see no reason for that amendment. If we begin this trial, say at one o'clock every day, a question of that kind is raised and discussed two hours on each side, and the day is gone. The next morning another question is raised and discussed two hours on each side, and that day is gone. Thus weeks can be consumed. It has been so done in other cases of far less importance than this; and why may it not be done here? I do not say that it will be done upon one side more than upon another. I have no intimations of that kind to make; but I say that the history of trials of this kind shows that such delays have been interposed, and they can only be prevented, in my judgment, by the adoption in advance of reasonable rules upon the subject.

Mr. DIXON. Mr. President, does any Senator suppose that respectable counsel, as we must presume they will be in this great trial, will dare to abuse the patience of the Senate in the manner indicated by the Senator from Indiana by making speeches against time? Why, sir, such an attempt, as every Senator knows, would only work to the injury of the party accused. There is no such danger; there is no possibility of it, and if there should prove to be a possibility of it the remedy will always be in the hands of the Senate. I take it, sir, it would be in the power of the court of impeachment to put a stop to any abuse of that kind at any moment. The Senator speaks as if haste and an early decision, or at least a decision not protracted, were very desirable.

Mr. MORTON. Will the Senator allow me? I am as much opposed to haste as any Senator upon this floor. This trial must not be a hasty trial; it must be a fair and impartial trial; and it must appear to be so to the whole world. I will oppose the adoption of any rule that bears the impression of haste.

Mr. DIXON. The Senator said that it was very desirable that this trial should not be protracted.

Mr. MORTON. Certainly I say so.

Mr. DIXON. And so have other Senators. I can tell those Senators that the people of the United States, in whose name this impeachment is brought or said to be brought, are more anxious that the trial shall be just than that it shall not be protracted. They desire that justice should be done, and I have no doubt that is the desire of every Senator here. Now, suppose it should be delayed a week or two weeks, or even a month longer than it might be disposed of, by lengthened discussions. Take the very case that the Senator has put; suppose the person accused should have the opportunity for a whole month, in a case of this kind, to address the court of impeachment upon important questions, would that be a very great evil? It seems to me not. Why, sir, the very idea of restricting him at all is against common justice; it is a new thing; I think I might almost say it is against the common law. It is only, so far as I know, of recent practice to limit a person accused in any manner. Let him have the opportunity to say all that he can say in his own defense; and when he has finished his defense then give your judgment; and if at any time it appears that he is insulting and abusing the patience of the court the remedy is in the hands of the court; but it is an impossible thing to suppose; it cannot be. This trial is to be conducted, I take it, with decency upon both sides; with propriety.

I have no doubt that men of great ability and of eminent character before the country will

appear here in the defense. I know nothing about that, who they may be, what their character may be; whether they may undertake the business in one way or the other, I know not. I presume that propriety in all respects will govern the conduct of the accusers and of the accused. And now are we to say beforehand that the person accused shall only have an hour or even two hours? I, sir, would rather it should be left open; but if any limit must be had, it certainly ought to be extended as the Senator from New Jersey has proposed. But for us to suppose, as I was saying, that there is to be a preconcerted attempt to delay the action of this body, is to suppose that the parties in interest are to do the very thing which would work to their own injury. It seems to me that the dignity of the Senate, as well as other considerations, requires that we should at least give the opportunity of being heard for the period of two hours, and I myself would rather say that there should be no limit whatever.

Mr. MORRILL, of Maine. I think the country will get rather an extraordinary idea of the character of this debate. It seems to be understood on one side that there is an attempt to limit discussion on the merits of the question that is to come before the Senate. Certainly no fair interpretation of the rules can convey any such idea. There is not the slighest limitation at all upon the right of debate on the great question of impeachment—none whatever. Two counsel on each side are to be heard, and an unlimited debate—no restraint whatever.

Now, all the argument of my honorable friend from Connecticut goes against any rules at all. It would imply, on account of the supposed respectability of the parties who may be engaged in this trial, and the importance of the question itself, that the Senate is to sit here without any rules at all.

Mr. DIXON. On that subject.

Mr. MORRILL, of Maine. Why not upon every other with the same propriety? Was there ever a court held anywhere without rules for its regulation and proceedings? Has not the common experience of mankind found that in all procedures of this kind it is absolutely necessary for the ordinary dispatch that you have rules, and that you make the rules in advance and not wait until the case arises and then consider the rules? If we cannot as a court consider the rules with more dispatch than we are considering these rules now, judge ye how the case will proceed; because when a question arises as to applying a rule, my honorable friend from Connecticut will rise and say "we do not need any rules; no limitation; the largest debate;" and there being no restraint upon us, there can be none put upon the proceedings, and there is an end of any dispatch. The delays would be endless, as anybody can see, without rules. Rules, therefore, are indispensable. It is said, however, that we do not limit ourselves, and therefore we ought not to limit the court. We do limit ourselves. There is a class of motions here under your rules which are not allowed to be debated at all. A Senator rises and makes a motion and is not allowed even to advocate it; no argument either upon one side or the other is permitted. Therefore it is not true that we propose for the government of the court rules which do not apply in the Senate.

But, Mr. President, let us look at the proposition here a little in detail. The rule as now proposed to be amended by the Senator from New Jersey would allow two counsel on each side to argue upon any and all possible motions that might arise, important or unimportant. If you could conceive that the parties would be disposed, barring their respectability, to go up to the full limit of the rule, would not the honorable Senator from Connecticut say that was an abuse? Of course it would be a very great abuse. It will be seen that the rule contemplates two classes of questions, defined in this way: "All preliminary or interlocutory questions;" that is one class; "and all motions" which may be argued by two counsel on each side and for two full hours as now proposed. I submit that is an abuse. I submit that here is proposed a rule to that extent which, as applicable to all motions, is an abuse; it contemplates an abuse, or, at any rate, it provides a rule which admits of an abuse. I am not clear that an hour even, applicable to any motion which a lawyer might make in the case and to be argued by two counsel, would not be an abuse; and hence my suggestion to the honorable Senator from New Jersey in the beginning, that if he provided for an extension of the rule by an antecedent notice on questions which were important, such as preliminary questions, and that class of preliminary questions which are important in their character, the rule would be ample. An hour on ordinary motions is a very large time and might in a contingency amount to an abuse if you could suppose that lawyers would feel at liberty under this rule on all possible questions to extend their speeches to an hour, but I should not apprehend that.

I submit that the rule as improved by the Senator from New Jersey, that two counsel on each side may speak, but not beyond an hour unless they give notice of an intention to do it, and get permission before they begin, is a reasonable, and is not obnoxious to the further time of being a restraint on reasonable debate, because, while I presume that the counsel who daily argue this cause and manage it on one side and the other will be reasonable, I also presume that the Senate will be reasonable, and that if the character of the question presented by the counsel is important, and the Senate see that it is proper that a longer time than one hour should be given for its discussion, it is reasonable, under the proposition of the Senator from New Jersey the rule will be enlarged. Therefore, sir, I hope that the Senate will take the rule as amended by the Senator from New Jersey, except as to the two hours, and adopt it.

Mr. DIXON. The Senator from Maine speaks as if it was my desire, and the desire of others to prevent any rules being adopted on this matter. The Senator, as well as every Senator, knows that this question has nothing to do with the existence or establishment of rules. There must necessarily be some rules; nobody objects to that. He also intimates that if two hours' time is given upon interlocutory questions, the whole time will be exhausted as a matter of course.

Mr. MORRILL, of Maine. No; not upon interlocutory questions, but upon all possible motions.

Mr. DIXON. Well, on all motions, if two hours is given, the whole time will be exhausted. That argument goes against allowing any motion to be made or a word to be said, because if counsel come in here, determined to make delay, and have an hours' time to speak, they have only to double their motions and double their objections, and then they can exhaust the same time that they could if they had two hours. In fact, the whole thing proceeds upon the idea of unfairness, some advantage being taken upon the other side, which I respectfully submit is unworthy the Senate. It is too early to suppose any such thing. If I believed that the effect of giving two hours' time to discuss an important question would be that every motion would be discussed two hours I should myself be opposed to it. I have no objection to reasonable rules. I have said already that I should prefer to leave this matter to the honor of counsel and their sense of propriety, and let them take just as long as they pleased, knowing that they never would talk against time; but still, if there must be a limit, I would leave them an opportunity to exhaust their arguments on important questions.

More, Mr. President, I wish to say this—and I say it with all respect to the Senate—it is necessary that we should not only do right, and show a determination to do right in this case, but that we should appear to do it. The very appearance, in a trial of this kind, of attempting to limit the distinguished party who is to be brought before us, I asure you, sir, will have a bad effect upon the public mind. It ought to have a bad effect upon the public mind. It is wrong in itself. It is unnecessary.

Mr. MORRILL, of Maine. Does not my friend understand that the limitation applies to both sides of this case?

Mr. DIXON. Of course it does; but I have heard no intimation that the honorable Senator's friends would exhaust time. Does the Senator fear that they will protract this trial?

Mr. MORRILL, of Maine. I should like to know by what authority the honorable Senator speaks of my "friends" in this matter.

Mr. DIXON. Political friends, I mean. I would not intimate that he has any friends on this trial.

Mr. MORRILL, of Maine. Why allude to anybody in that way?

Mr. DIXON. I allude to the distinguished gentlemen who are in the majority in the House of Representatives, and who may, without impropriety, be presumed to conduct this trial as instructed by the House of Representatives and as accusers. There is no impropriety in saying that they are accusers. Now, if the Senator fears that they will protract the trial and wishes to have them limited, I do not know that I shall object to that. I do not understand, however, that he has any fear on that score. The fear, as I take it—we may as well be frank on this subject—is that there will be an attempt upon a certain side to talk against time to protract this trial until, as the Senator from Illinois says, the people shall be tired of it and ask that it may be abandoned. That is a wholly imaginary fear.

Mr. CONNESS. If the honorable Senator will permit me, I wish to say that by a parity of reasoning from the course of his remarks he himself would occupy the position of a defender or one who would not be willing to try this cause fairly. I hope the Senator will not continue that class of debate.

Mr. DIXON. If I have said a word that indicates that I am in the position of a defendant, or which shows in the slightest degree what my views are even, I confess I am amenable to the rebuke of the Senate. It was not my intention.

Mr. CONNESS. I did not intend what I said as a rebuke to the Senator. I said that by a parity of reasoning from his course of remarks the Senator necessarily would occupy that position, and I rose to express the hope that in the discussion of these preliminary questions, as well as all other questions that may arise pending the great trial we are to have, we shall entirely avoid that view of the case.

Mr. DIXON. I intend to avoid it; but, Mr. President, it would be an affectation for us to deny that there are accusers here. For us to take the ground that there is not a party to be accused before this body would be, I think, an affection of purism which the Senator himself would hardly desire. Can we deny that the House of Representatives are the accusers? What is it. An impeachment is to be presented, and the "grand inquest of the nation" are to appear before this body and to argue that case on the presumption and supposition that the party accused is guilty. I take it they are not to appear here in his defense; I do not understand that they are to appear here to tell us to acquit the distinguished party who is to be accused.

Now, sir, what my position is, what that Senator's position is, is not the question. He does not know from anything I have said. I stand here now as a Senator aiding in making rules for this trial; and when it is proposed that that distinguished individual, when he appears here, shall find his counsel limited to an hour in the discussion of a question, I cannot consent to it as a Senator. Has any Senator a right to intimate that in taking that ground I show in the slightest degree where my partialities are. I think the whole of it is a mistake.

Mr. CONNESS. I did not make such an accusation against my honorable friend. I simply begged him to avoid this aspect of the case.

Mr. DIXON. I thought I had avoided it.

Mr. CONNESS. And that by parity of reasoning he might not imitate the course to which he objects.

Mr. DIXON. I always endeavor to conduct myself with propriety in this body.

Mr. CONNESS. I have no doubt.

Mr. DIXON. And to do so I need only imitate the example of the distinguished Senator from California, then I am sure to be right. But I should feel mortified in the extreme if I thought I had subjected myself to the kind admonition and reproof of that Senator when he warns me not to show what my preferences are. Why, sir, no human being can imagine what my preferences are from anything I have heard said on this subject or anything I have ever done that I know of. I have, sir, a desire that this trial shall be conducted with propriety and with justice, and I will say, moreover, with mercy. If it were a trial for petit larcency I would not establish such a rule. I never was in favor of limiting the opportunity of an accused party to speak in his own defense; but sometimes it is necessary, and why? On account of the crowded state of the courts. Why was the rule established in the Supreme Court of the United States to which the distinguished Senator from New York has already alluded this morning? Because it was found that there was an actual embarrassment of justice.

Mr. GRIMES. The Senator will permit me to interrupt him. I was speaking on Saturday with a member of this body, who stated the facts in connection with the establishment of that rule. He was one of six counsel who argued a cause of not great magnitude before the court, each of the counsel occupying one day—an entire week between them. The court, after that abuse of the privilege of speech concluded that they would establish a two-hour rule. This court, without any abuse of any particular rule, proposes to put the counsel, as well as the managers of the House of Representatives, into a strait-jacket at the start.

Mr. DIXON. I am obliged to the Senator for the suggestion. That is according to my recollection. I was here in Congress, in the other House, at the time that rule was adopted by the Supreme Court. I well recollect that a reason had to be given to satisfy the public for it. It shocked some men. I remember when the hour rule was established in the House of Representatatives. That was considered a great step and it was abandoned, because the public were opposed to it. It shocked the public mind. It was adopted afterward only from actual necessity in that body. It never was adopted in this body. The Senator from New York can at any time, if he pleases, delay business in this body month after month, with very little complaint; because, although he speaks frequently, the only regret he ever excites is that he does not speak more frequently and longer.

Now, sir, this is a serious matter. This is a case which I trust never again will happen, as it never before has happened in this country. Here is the one great instance. You come up here and propose in the face of the American people to limit the time of this distinguished accused party in his defense. I think, Senators, you are making a mistake. For one, I wash my hands of it. I would not limit him a minute. I have no fear of any defense being made too long.

But, sir, I may be wrong in regard to the propriety of placing any limit upon the defense; but, if there must be a limit, I would certainly give the opportunity of speaking two hours. It is not a very long period for us who are accustomed to two-day speeches here. Everybody knows that that opportunity, perhaps, never will be taken. Probably the advantage will never be availed of by counsel in the trial. I have very serious doubts whether they will ever have occasion to discuss a question for two hours; probably not even for one hour. But if they see fit to do so in good faith with this distinguished body, this august assemblage sitting as a high court of impeachment, watching their proceedings—if they see fit, upon their responsibility, to address me and you for the space of two hours, I myself do not feel disposed to object to it.

Mr. DRAKE. I have one word to say about this matter. It has been remarked by several Senators that in fixing upon this rule, and upon all other rules that we may adopt, we should not only do right, but should seem to do right. I think that is a very good proposition, and I suppose when it contemplates that we should seem to do right it is with reference to the judgment of the nation upon our proceedings. Taking that view of it, I have only to say that I have been now nearly thirty-five years a practicing lawyer, and that the very last thing in this world which you can ever excite any sympathy among the people for is cutting off the speech of lawyers in court.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New Jersey. A division of the amendment has been called for. The first vote will be on the first branch of the amendment, to strike out in line two of rule twenty the words "by one person only on each side, and."

The question being put; this branch of the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the second branch of the amendment of the Senator from New Jersey, to strike out in the second line of the twentieth rule the words "one hour" and insert "two hours."

Mr. GRIMES. If that amendment be made how will the rule then read?

The SECRETARY. If the rule be amended as proposed it will read:

> All preliminary or interlocutory questions and all motions shall be argued for not exceeding two hours on each side, unless the court shall by order extend the time.

Mr. HOWARD. I do not intend to prolong the discussion on this point. It is easy to see, however, that a whole day's work may be exhausted by the discussion of one single preliminary and possibly trivial question that may be raised by counsel. The counsel raising it will be entitled to their two hours, and the counsel opposing it will be entitled to their two hours. Thus four hours are exhausted. That is practically a whole legislative day. It will exhaust one entire day of the session. Now, at what time, I beg to inquire, is it likely that a trial would terminate under such a rule as this?

And it is to be remembered at the same time, Mr. President, that during the trial of an impeachment the House of Representatives perform no legislative business. They are by legal construction present in the Senate; they have a right to be present in the Senate Chamber during the trial. Why? Because the House of Representatives are the accusers of the person on his trial, and it is the right of the accused to meet his accusers face to face. Whether this be a reality or a fiction, it has been hitherto the practice of the House of Representatives. They do not sit during the trial of an impeachment. They are represented to be here in this Chamber by their own managers, but still they do not sit for the transaction of legislative business. Now, is it reasonable to suspend the operation of both Houses of Congress hour after hour and day after day, as may happen, in the discussion and consideration of questions and motions such as are contemplated by the twentieth rule? It seems to me to be unreasonable.

I also have practiced law a considerable length of time, Mr. President, and I have discovered that the shorter the discussion of counsel, the more compact the argument, the more clear the statement which he makes, and the shorter the time he occupies, the better it is for his case; and I do not think that any accused person would be likely to be injured by a rule such as we are now attempting to establish. If the question be an important one, if it is manifestly such a question as needs a further and longer discussion than is contemplated here, there can be no doubt that the Senate would extend the time on the suggestion of counsel, or even on their own suggestion. We seek to do no injustice, but we do seek to save from useless consumption the public time, which we are bound to devote to public objects.

Mr. CONKLING. I beg to submit one single remark to the consideration of Senators in regard to this proposition. Courts, ordinarily, before which trials are had, in which witnesses deliver testimony, are composed of one or a very small number of persons. In that way the court is able by consultation on the instant to determine what the rule will be upon a particular interlocutory question. It is after that consultation, with that knowledge, that counsel are stopped in their argument; never otherwise. No court sitting at *nisi prius* ever simply refuses to hear counsel discuss any question in order. That is not the essence of what it does; but by a consultation of the members of the court, if it consists of three or even five, as it does in some instances in the States, they are able to say to counsel in substance, "The court stops you upon this point, because we have an impression which will prevail for the purposes of the present ruling." It is in that way, and only in that way, that counsel are cut off in those instances where the time they shall occupy is in any sense within the control or discretion of the court; and as my friend from Wisconsin [Mr. HOWE] suggests to me, usually it happens that they are cut off in such instances where the courts are in favor of the proposition which they argue, and accordingly you will see in reading the reports of cases, "Mr. So and So, for the plaintiff, was stopped by the court," meaning that the court was in his favor. Continually counsel, in conducting trials at *nisi prius*, are stopped upon questions of evidence, because the court is against the proposition which the counsel presents. A piece of evidence is offered and the court have determined in their own minds a principle which controls it; the counsel is stopped at once.

The court say, "We will not hear this argument; you must take your exception; you must go elsewhere; we have made up our minds that our ruling here is so and so." In a tribunal so multifarious as this Senators will see that no such process is applicable. It is impossible, pending an argument upon an interlocutory question, for fifty-three judges to consult and announce an impression to the counsel upon which he is to be stopped. Therefore, unless we make a provision beforehand which restricts these arguments within those limits which ordinarily will be sufficient, leaving it to the discretion of the court upon suggestion to enlarge it, the tribunal will be entirely at the mercy of counsel, not acting, as my friend from Illinois [Mr. YATES] suggests, upon a contumacious and concerted plan of talking against time, but acting under that zeal, prevalent and often needless, which leads counsel to press beyond any practicable point suggestions upon which they grow heated upon either side.

I think there can be no practical doubt that one hour is abundantly sufficient for all the ordinary run of preliminary and interlocutory questions and motions; and everybody knows that the moment one arises which is an exception to this, the court, not by a majority nor by any process of formal vote, but by a spontaneous and unanimous consent, will allow all the latitude that the occasion may require. But the point I wish to suggest to Senators is, that sitting as we do, fifty-three members, or judges, as you please to call us, we shall have nothing but the rule to rely upon, and unless we have a rule to protect us counsel may argue a question which is a foregone question, which every member of this body determined years ago—and I could illustrate such questions if I meant to prolong the debate. We are to sit and sit until the end of the argument, or else

the court is to convene and make a rule for the purpose of cutting it off; for no one member of the court would be at liberty, even if he had the power, to make the suggestion for the others, that that question was practically closed. Therefore I concur with Senators who hope that we shall so manage as to make this trial fair and deliberate and yet dispose of it, and not have it paralyze and stop for a longer time than is necessary the whole business of the country at this pregnant and eventful period.

Mr. DAVIS. The Senators who oppose this extension of time seem to proceed upon the idea that questions will be made and the whole two hours will be occupied for the purpose of consuming time and protracting the trial. I have no such fear as that. I do not suppose that many questions will arise during the course of this trial that will require two hours or even one hour to debate them. The honorable Senator from Michigan stated precisely and pointedly the character of debate upon legal and incidental questions that would be most advantageous to the side upon which they were made: that the argument should be short, pertinent, and pointed. The honorable Senator's experience leads him to the conclusion, as it is the experience of every lawyer, that when points are made to a court, that mode of debate is the most effective for success. The gentlemen who will appear here as counsel for the accused are no doubt as fully experienced and impressed with the truth of that proposition, as the honorable Senator from Michigan, or any other gentleman. They will not needlessly make questions. They will not make futile questions that are of no importance, because by doing so they would soon excite a feeling in the court against them and against their mode of conducting the trial. They will make only such questions as they think necessary for the prosecution or the defense. They will not occupy an unnecessary amount of time in their debate. It may be, and no doubt will be, the fact that there are not many questions that may arise even on this trial incidentally that will require two hours' time to debate them. Some will in all probability. Their number though, I think will be few. That is my conjecture; but where a question arises in the progress of the trial, the proper discussion of which would require two hours, the counsel ought to be permitted to appropriate that time to it without stopping the trial and asking that the court should extend the time. In my judgment there is no necessity for restricting the time of the debate of any incidental question under two hours. I believe that there will not arise many questions which will occupy that amount of time; but some may arise in which that extent of time would be useful and necessary, and it ought not to be restricted in anticipation of that state of case when it arises.

Mr. SUMNER. It seems to me in laying down a rule on this subject now, we must bear in mind that the habits of the bar, if not of Congress, are materially different from what they were in the early days. In the great trials to which allusion has been made, there was no rule which limited the debates of counsel, either on preliminary or interlocutory motions, or on the main question. Nor in those days was there any occasion for any such limitation. Speaking against time had not then become one of the fine arts. It evidently is so now in courts and in legislative bodies. Sir, you must take notice of the change in the times and govern yourselves accordingly. You are not living in the days of Mr. Justice Chase, or even of Judge Peck; but you are living in your own time, and you must be governed by the necessities of your time.

Now, sir, under this impression, I submit that it is not expedient for the Senate to open the gates of discussion on these interlocutory and preliminary questions. I think the limitation proposed is wise. Let me add, it is practical and it is just. If there was any occasion to refer to any precedent to illustrate this case, I might refer to one of the greatest trials that have occurred in our generation. I mean that of the present emperor of France, when he was sent to the bar of the French Chamber of Peers in 1840, for his attempt on the throne of France by the landing at Bolougne. He had for his counsel the greatest advocate of France; many regard him the greatest advocate of our age; at this moment, and I presume at that time, the unquestioned head of the French bar. I mean M. Berrier. That consummate lawyer brought to the defense all the resources of his great genius and of his remarkable experience. And, sir, how long do you suppose his speech on that occasion in closing the defense occupied? Three quarters of an hour. In three quarters of an hour he made his defense of the person then arraigned at the bar of the French Chamber of Peers. Nor was there ever any suggestion that the defense was not entirely adequate to the occasion. The counsel had a great name.

Mr. DIXON. I will ask the Senator if he was limited in point of time?

Mr. SUMNER. No; there was no limitation in time.

Mr. HOWARD. Nor is there here.

Mr. SUMNER. I was about to say that in France, where the privileges of the bar are very much honored, there is always a practice which has been established from generation to generation, and which is very rarely departed from; there is but one advocate to speak in the defense—not two, not three, not four, not half a dozen. As a general rule, there is but one; and as a general rule, that one advocate rarely speaks for two hours. On the occasion to which I refer this great advocate spoke but three quarters of an hour.

Mr. GRIMES. That trial was before a military commission, I think.

Mr. SUMNER. I beg the Senator's pardon. It was before the Chamber of Peers—the Senate of France.

Mr. GRIMES. When Louis Napoleon was tried and incarcerated in the Castle of Ham, in 1840?

Mr. SUMNER. In 1840, before the French Chamber of Peers.

The PRESIDING OFFICER. The question is on the second branch of the amendment of the Senator from New Jersey.

Mr. HOWARD. I call for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. DRAKE. Is that the amendment changing the time from one hour to two hours?

The PRESIDING OFFICER. It is the amendment increasing the time from one hour to two hours.

The question being taken by yeas and nays, resulted—yeas 20, nays 24; as follows:

YEAS—Messrs. Anthony, Buckalew, Davis, Dixon, Fowler, Frelinghuysen, Grimes, Hendricks, Howe, Johnson, McCreery, Norton, Patterson of Tennessee, Ross, Saulsbury, Sprague, Tipton, Trumbull, Van Winkle, and Willey—20.

NAYS—Messrs. Cameron, Chandler, Cole, Conkling, Conness, Corbett, Drake, Edmunds, Ferry, Harlan, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Williams, Wilson, and Yates—24.

ABSENT—Messrs. Bayard, Cattell, Cragin, Doolittle, Fessenden, Henderson, Patterson of New Hampshire, Sherman, and Wade—9.

So the second branch of Mr. FRELINGHUYSEN's amendment was not agreed to.

The PRESIDING OFFICER. The question now recurs on the third branch of the amendment offered by the Senator from New Jersey, to insert at the end of the twentieth rule the words "before the argument commences."

Mr. EDMUNDS. I think there is no objection to that.

Mr. MORTON. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORTON. I should like to make a remark on this amendment. This amendment provides, in substance, that if the time is to be extended it shall be done before the argument begins. I think the amendment is wrong, for the reason that the argument of counsel itself might reveal the importance of the question and suggest the propriety of continuing the argument, and perhaps the opinion of the importance of the question and the propriety of extending the time might depend upon the brief argument that might be made. I might think a question was comparatively unimportant until I heard it discussed for a few minutes, and then I might be desirous of having the time extended. Consequently I am opposed to the adoption of this amendment.

Mr. WILLIAMS. I agree with what has been said by the Senator from Indiana. I think it is unnecessary and improper to amend the rule in this respect. When a question is presented to the court the counsel may commence his argument, and as he proceeds the court may be of the opinion that it is necessary that he should consume more time than half an hour or an hour, and the court may order him to proceed with his argument; and then it will be right for the court to permit the counsel on the other side to consume the same time in discussing the question if the opposite counsel desires to do so. But to require the counsel, before he commences the discussion of a case, to give notice that he intends to use more than an hour, or that upon a particular question he will make an application to consume more than an hour, it seems to me, is putting the cart before the horse; because the court cannot know whether it is necessary that he should consume more than an hour or not until they hear the question presented, and until the discussion is commenced. I think that we might allow a counsel to progress in his argument under this rule; and if the court is of the opinion as he progresses that more time is necessary the order can be made, and then the same privilege is extended to other counsel. I hope, therefore, this amendment will not be adopted.

Mr. FERRY. In my own State a statute which has been in existence for thirteen years limits the argument of counsel on each side of any case to one hour, the final argument and all, unless otherwise ordered by the court, upon application made by the counsel, before the commencement of the argument. I have witnessed the operation of that statute for thirteen years, and in all its operation it has been in my judgment highly beneficial. I have known numerous instances when, in important causes, counsel have applied before the commencement of the argument for an extension of their time, and in important causes I have never known it refused. But I have never known an application made during the pendency of an argument. Indeed, counsel themselves are able to anticipate whether there will be any necessity for such an extension. Such, at least, has been my own experience; and I believe that to leave this rule now as it stands, and allow counsel to argue an hour, and then at its close say, "I find that in justice to my client the cause which I represent ought to have more time," and then make his application, we should be embarrassed far more than if we had no rule at all.

Mr. HOWARD. I agree entirely in the remarks of the Senator from Oregon as to the propriety of adopting this pending amendment. I do not think it would be found beneficial in practice, because we all know very well that opposing counsel, especially those who oppose a motion, are very often taken by surprise by the nature of the motion, and by the arguments and the authorities upon which it is attempted to be supported; and they, therefore, may want from time to time a further allowance of time to enable them to discuss the whole question fully, but I do not think that in all cases it would be prudent to require a motion for an extension of the time to be made preliminarily before the commencement of the argument. I think, therefore, as the court will always have it in its power to extend the time, that we had better adopt the rule as it is without this amendment.

Mr. JOHNSON. I think the honorable member from Indiana is clearly right. It is impossible in advance, especially in relation to

what are called interlocutory questions, for counsel to know in beginning an argument whether he will require more than the allotted time or not; and if, as I suppose will be the consequence of the rule if amended as proposed, it is to take away from the court the authority to extend the time, although the court shall be of opinion that the time ought to be extended it might lead to very great injustice. I understand that if the amendment is adopted, then, no matter what the court may think as to the propriety of enforcing the limitation upon counsel, they cannot correct the mischief by extending the time, the party having failed to ask for an extension in advance. In the Supreme Court of the United States there is a rule, and in the other courts in which I have practiced—the State courts, I mean—which requires the counsel to conclude his argument at a specified time, unless the court grant a further time in advance; but in no instance have I ever known them to fail to allow a further extension of time when they themselves, from the course of the argument, became satisfied that it was right and proper that the argument should be continued beyond the time. If the rule is adopted, and should bear the construction which I suppose it will bear, it will take from the majority of the Senate the authority to have the discussion continued, although they might think it was all-important to a correct judgment of the question that the argument should be completed. Under that impression I shall vote against the amendment.

Mr. HOWE. I never knew a rule in any court limiting the time for an argument to be made, but providing for extending the time where it did not require the application to be made prior to the commencement of the argument. I think it quite as essential that the application should be made prior to the commencement of the argument; indeed, more essential, if the counsel are to be limited to an hour under the rule, than if they had a range of two hours, for the simple reason that if the argument can have no other duration than that it is essential to counsel to know beforehand that that is to be the duration of it. Then they shape the line of their argument with reference to that fact. But if they commence the argument with the idea that it is unlimited, or that if they expend the hour without covering the points in the argument, they may then be at liberty to apply for an extension of it, they are very apt to let the hour slip away without addressing themselves, perhaps, even to the most important points in the argument. I think their arguments will be more compact and more satisfactory to themselves if they know when they commence how long a time they are to occupy. I think counsel always know as well before they commence as after they have commenced what length of time will be essential to them. They know about the line of argument they are to pursue. They have full impressions as to the nature of the question and the nature of the argument that is calculated to meet it; and the court, even before the argument has commenced, has a very definite idea of how much time will be necessary. I think the court can as well pass upon the question before the argument has commenced as afterward. I therefore favor this amendment. I should have thought it very essential if the two hours had been incorporated. I voted for that amendment. I think it is quite as essential when the argument is to be limited to one hour, and I hope it will be adopted.

Mr. MORTON. By this rule we reserve the right to extend the time if the Senate or the court thinks the question important enough to have the time extended; but by this amendment we are required to determine the importance of the question or the necessity of extending the time before we have heard the question discussed at all. Is that reasonable?

Mr. HENDRICKS. I will ask my colleague one question as to what will be the effect of this rule. Suppose during the progress of the trial, when a party is about closing his speech, the Senate thought it ought to be extended really in view of the importance of the subject, would the objection of one member prevent that? I suppose it would.

Mr. MORTON. I suppose the court will determine the question of extension. As to what shall constitute the court, whether it shall be a majority of the Senate, that is a question that we have not passed upon; nor do I propose to discuss it now. I am simply discussing what I consider the unreasonable character of this amendment, that we are called upon to decide, the importance of a question and the necessity of extending the time for its discussion before we have heard the question discussed at all.

The PRESIDING OFFICER. The question is on the last branch of the amendment proposed by the Senator from New Jersey, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 10, nays 33; as follows:

YEAS—Messrs. Cragin, Drake, Ferry, Fowler, Frelinghuysen, Harlan, Howe, Morrill of Maine, Morrill of Vermont, and Tipton—10.

NAYS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Davis, Dixon, Grimes, Hendricks, Howard, Johnson, McCreery, Morgan, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sprague, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Willey, Williams, Wilson, and Yates—33.

ABSENT—Messrs. Bayard, Cattell, Doolittle, Edmunds, Fessenden, Henderson, Patterson of New Hampshire, Ramsey, Sherman, and Wade—10.

So the amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the motion of the Senator from Iowa, to strike out the entire rule.

Mr. DRAKE. Before that motion is put I have an amendment to offer to the rule. It is to add at the end of the rule the following:

The persons arguing in favor of a question or motion shall be entitled to open and close the argument thereupon, and may divide their time between the opening and closing argument as they may deem proper.

I suppose there is no objection to that.

Mr. HOWARD. That is implied by the rule as it stands.

The PRESIDING OFFICER put the question, and declared that the ayes appeared to have it.

Mr. HOWARD. I call for a division.

Mr. DRAKE. I confess I am very much at a loss to understand why the honorable chairman of the committee is opposed to this amendment. He remarked conversationally a moment ago "that is implied in the rule." I beg leave to say, with all respect to the honorable chairman of that committee, that we ought not to leave anything to be implied in the rules here. If we are going to make rules let us make them so that there is nothing left open to implication; so that no right of party or counsel in that court shall depend upon an implied construction of a rule. Sir, we are making rules for a court that will have no other rules but those which we adopt for it. We have no law to go to but the law which we make ourselves. If this thing is right why should we not put it in the rules? If it is wrong let it be voted down; but if it is right to express it why should we not express it and leave nothing to implication?

Mr. HOWARD. I did remark that I thought all contained in the amendment is implied in the rule as it now stands. I think so still. The rule reads as follows:

All preliminary or interlocutory questions and all motions shall be argued for not exceeding one hour on each side, unless the court shall, by order, extend the time.

Now, sir, who presents a question to the court, or who makes a motion to the court, unless it be the party or his counsel who discusses the action of the court upon it? Is it not the commonest practice that after he has heard an objection made to his motion on his question that he shall have the right to close the discussion upon that point? It is a matter of common practice; it is a matter of common right. It would be to me an amazement that the court should allow any other course to be taken for the purpose of ascertaining what was right or what was wrong. The counsel on either side may divide the time that is to be expended preliminarily or in the end, as they may see fit. That is a matter for them to consider; but to say that a court would not permit counsel who had made a motion or presented a question to close the discussion on that motion or question, instead of the time allowed, would be very strange to me. I think, therefore, that this amendment, which in itself is a mere recognition of common practice, is not necessary in this case.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Missouri.

The amendment was rejected.

Mr. JOHNSON. I voted for the amendment, but I think the counsel will have the same right as they would have if the amendment were adopted. The general rule being that the party who holds the affirmative has the right to begin and conclude, the presiding judge of the court will, of course, give to that party the right to begin and conclude.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Iowa, to strike out the twentieth rule.

Mr. DRAKE. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. The Senator from Indiana [Mr. MORTON] has been compelled to leave the Senate from illness, and I have paired off with him. He would vote against my amendment if he were here, and I for it.

The yeas and nays being taken, resulted—yeas 19, nays 23; as follows:

YEAS—Messrs. Anthony, Buckalew, Davis, Dixon, Ferry, Fowler, Frelinghuysen, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Ross, Saulsbury, Sprague, Tipton, Trumbull, Van Winkle, and Willey—19.

NAYS—Messrs, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Drake, Edmunds, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Stewart, Sumner, Thayer, Wade, Williams, Wilson, and Yates—23.

ABSENT—Messrs. Bayard, Cattell, Cragin, Doolittle, Fessenden, Grimes, Henderson, Morton, Patterson of New Hampshire, Ramsey, and Sherman—11.

So the motion to strike out did not prevail.

Mr. McCREERY. I move to amend the twentieth rule by striking out all after the occurrence of the words "each side" and by substituting the word "counsel" for the words "one person only;" so that the rule, if amended as I propose, will read:

All preliminary or interlocutory questions and all motions may be argued by counsel on each side.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky.

Mr. McCREERY. As other gentlemen have doubtless reflected the views and the wishes of their constituents in the course of this debate, I beg leave, as a representative of Kentucky, to offer the sentiment which I believe corresponds with the views and feelings of the people of my State. If Kentucky is prouder of any one circumstance or of any one thing than any other, she may be said to feel that pride for her judiciary—a judiciary that has never stained the ermine with a single blot; a judiciary which, if a criminal or an accused person, high or low, is brought before it, hears and determines his cause without restriction and without limitation. I venture to say that there is not a court in Kentucky, high or low, which has ever entered up a rule that when any accused is brought up his counsel shall be limited to one hour, two hours, or three hours. And in representing the people of Kentucky I feel constrained, although I have no hope, or small hope, of the adoption of this amendment, to offer it before the final action of this body.

I think it is important that this amendment should be adopted. In my own weakness I feel the necessity upon myself that I should draw light from every possible source. I do not want any restriction, any limitation. Let counsel present their case as strong as they please on either side. I have a high and re-

sponsible duty to perform, and I crave and beg the privilege of performing that duty under all the light and with all the information which I can gain from all sources. There may be members in this body who require no light of this description; there may be men in this body so well versed in the laws and in the Constitution that any debate whatever may be unnecessary for them; but I would ask those gentlemen, in behalf of less gifted persons than themselves, to extend the privilege in this high cause of argument to the counsel so far as they may wish to proceed.

I tell those who are in the majority in this Hall that they can afford to be magnanimous; they have the strength to be magnanimous; and the learned Senator from Indiana [Mr. MORTON] has said that he wishes to act fairly and impartially, and that it should appear that he acted fairly and impartially. If our action is fair and impartial it will appear fair and impartial. If it is partial and fair it will appear partial and fair. As I said before, the majority of this body, being regarded by the country and going down to posterity as unfriendly on this occasion to the accused, can well afford to come up and be magnanimous and liberal. Allow full scope to the discussion, allow full scope to the accusation, and let the prisoner stand or fall as it may appear just and right after clear investigation before us.

The Senator from Illinois [Mr. YATES] appears to have floating before his imagination a grand exhibition, at which fine ladies are to grace the galleries; and he appears, also, to have a wish and desire to meet the expectations of the people. Sir, whether these ladies shall grace these galleries or not, whether this exhibition that we are to have is to be grand, gloomy, or peculiar, will have no influence on me whatever in the action which I take in this cause. When I am sworn as a juror I have the duty of a juror to perform. If the prosecution convict the President of crimes and misdemeanors under the Constitution and laws made in pursuance thereof, I, as a sworn juror, will feel compelled to say so; if they fail I must acquit. But whether these fine ladies shall grace these galleries, rustling in their silks or gliding about in their calico, or whether the exhibition shall be grand or not, will have no influence whatever upon me. Whether the people shall be patient or impatient, I claim the privilege, in view of my character and the character of my State, and the character which I shall assume as a juror, of doing right; and if it takes me six months to do it I will claim that time. That is what I came for to do; that is what I want to do in this cause. It is a cause which, more than any other, shall connect our names with the history of this country. Then let us take such a position that this country in all time and all other countries may say that the Senate of the United States, uninfluenced by party considerations and party ties, stood up and extended to the unfortunate accused all the benefits which an accused in this or any other land may claim. I ask you, therefore, to adopt my amendment, and say that all preliminary or interlocutory questions and all motions may be argued by counsel on each side with no restriction. There will be eminent men before us, who have high character; they will not come here to trample upon the feelings and sentiments of this Senate; and if this Senate, as a court, should see that counsel were trying to trifle in that respect and to consume unnecessary time, it would be at our discretion to call that counsel so transgressing to order. I do hope that this restriction and this limitation will be removed, that we may not only seem to be fair, but that we may be fair, in the trial of this great cause.

Mr. YATES. I think that the discussion this morning has illustrated the importance of some rule more than any argument which I can make. It has certainly shown the importance of not allowing more than two to speak on a side, and I am certain it has shown the propriety of confining them to one hour. If we argue this rule, which is a mere preliminary matter, the whole day, what may we expect when two counsel upon each side are to speak upon a preliminary motion? We may expect, as has been said, that the whole day will be spent. I can reply to my enthusiastic friend from Kentucky by saying that I have no doubt, if Kentucky could be potential here, the case would be decided already. I have no doubt that if that highly loyal State could have a voice in the Senate, and the question could be left to the voice of that State, it would be decided already. Sir, I can inform the gentleman that I am myself a native of Kentucky. I assure him that I do not expect that this magnificent presence that I spoke of or that these galleries graced with beauty would affect me as a judge; but I have no doubt that if my learned and eloquent friend were a counsel he would be inspired beyond measure by the beauty in these galleries. That is the point to which I referred. I meant that this would be a theater for high and grand debate. It will be one of the great events in the history of the world to go down with great trials, like that of Hastings and Lord Clive, to the remotest posterity; and I merely suggested that this immense and grand audience would inspire these legal gentlemen, inspire their eloquence, give them new arguments, new logic, and new points. That was the view with which I made the reference. I had not the least idea that the honorable Senator from Kentucky could be seduced from his integrity, from his Kentucky integrity, by the smiles and beauty of the ladies.

Mr. McCREERY. There is only one circumstance connected with the gentleman's speech to which I wish to reply. He says that he has no doubt that the highly loyal State I represent would acquit the accused without a hearing. Well, sir, I expect that if we could get a jury from Kentucky and swear them and put them into the box they would come about as near doing justice and right under the Constitution and laws of this land as a jury summoned from any other section of the United States. I will say that much in vindication of the State of my birth and of the Senator's birth; and if he was born there, I am only sorry that his own mother should receive such a tribute at his hands.

The PRESIDING OFFICER. The pending amendment is to strike out all after the word "motions," in the first line of the twentieth rule, and to insert "may be argued by council on each side;" so as to make the rule read:

All preliminary or interlocutory questions and all motions may be argued by counsel on each side.

The amendment was rejected.

The Secretary read the twenty-first rule, as follows:

XXI. The final argument on the merits may be made by two persons on each side, and the argument shall be opened and closed on the part of the House of Representatives.

Mr. SUMNER. I should like to have the attention of my honorable friend, the chairman of the committee, if he will be kind enough to give it to me. This rule provides for the final argument on the merits. There is no provision for the opening of the case. I do not know whether this subject was considered by the committee or not. I venture to suggest, however, that in making these rules it is important for us in advance, so far as possible, to foresee any questions and provide for them. Now, the first question that will occur on the organization of the court will be as to the opening of the case, how shall it be opened, in what order, by how many counsel. In view of that seeming want in this rule I venture to suggest words like the following, to come in at the beginning of the rule:

The case shall be opened by not more than two persons on each side.

Then the rule will go on as it is in the text. I will send these words to the Chair, and move them as an amendment, to come in immediately before the beginning of the rule.

Mr. HOWARD. I hardly think that amendment is necessary. It is a matter of common usage, as we all know, in courts of justice, in the progress of a trial, for the prosecuting counsel to open the case; that is, to make a statement of the nature of the offense charged in the indictment and to set forth verbally the substance of the testimony upon which he expects to be able to sustain the charge. A criminal trial without that formality would be a singularity, to say the least; but, as I understand the amendment of the honorable Senator from Massachusetts, he contemplates not only an opening on the part of the Government counsel, preliminarily to the introduction of any testimony, but also an opening on the part of the accused to follow perhaps the opening on the part of the Government. Does he mean this? It certainly is embraced in his amendment, as I understand it, and would be required by the amendment.

Mr. SUMNER. I suppose counsel for the defense would naturally open the defense before they introduced their evidence. They would state to the court what they expected to prove; that would be their opening.

Mr. HOWARD. The Senator's amendment does not require that. The amendment seems to require an opening statement of counsel for the defense at the same time that the opening is made by the Government counsel. I take it he does not intend that.

Mr. SUMNER. Not at all.

Mr. HOWARD. Then the amendment should be altered.

Mr. SUMNER. I beg the Senator's pardon; I think that he will find it is clear.

Mr. HOWARD. Then I ask that it be reported again.

Mr. SUMNER. I have it here, and will read it:

The case shall be opened by not more than two persons on each side.

Mr. HOWARD. That is, "opened on each side," and then the rule will go on to provide "the final argument of the case may be made by two persons on each side." Those latter words would be tautology. What I wish, Mr. President, is to exclude the idea in this rule that it is the right of the counsel for the defense to open his case at any time before the prosecution has closed its evidence. That is the proceeding in an ordinary court of justice, I believe. If the honorable Senator will so change his amendment as to embrace that idea, I do not know that I shall have any objection to it.

Mr. GRIMES. I wish to inquire of the members of the committee who have this subject in charge, if they think it is wise or necessary for us to establish at this time the rule as to how the case shall be opened and closed? and whether we had not better leave that as it has been left, I apprehend, in all previous trials of impeachment, both in this country and in Europe, to be settled by the court, or by the counsel with the approbation of the court, after the case shall have progressed to that period of the trial when it is necessary for them to argue it?

If I remember rightly the history of impeachment trials in England, the members of the managers and the counsel on the part of the defense have addressed their arguments to a particular issue that was involved in a particular specification; and I think that was the case in this country in the celebrated Chase trial, and in the Peck trial. There were divers and sundry specifications, to each of which the defendant pleaded not guilty. One manager argued each particular specification; and one of the counsel on the part of the defense replied to him. Each article was one of the points upon which the court had to pronounce that the defendant was either guilty or not guilty, and each was argued separately.

Now, had we not better leave this whole matter to be settled by a conference between the attorneys of the respective sides when they shall reach the argument than to say now peremptorily that ten or twenty articles shall all be combined in the speech of the counsel instead of being severed, as they have been,

in previous trials, and limiting them to two speeches on each side? My own opinion is that a question of practice of that kind belongs purely to the court; and if we are to resolve ourselves from a Senate into a court, it ought to be settled by the court itself, when the Chief Justice, who is to preside over us, is present to give us the aid of his counsel.

Mr. WILLIAMS. Mr. President, notwithstanding I voted to retain the one-hour rule in the discussion of all preliminary questions, I am in favor of striking out this twenty-first rule altogether. I do not believe that we ought to impose any limitation upon the final argument in this case. I can see a great propriety in limiting the discussion of incidental questions in the progress of the trial; but when the evidence is submitted, I do not think that at this time we ought to say that then the case shall be argued by only two counsel on one side, and two managers on the other. According to my view the only limitation should be that the same number of counsel should address the court upon one side as upon the other. Suppose when the accused is arraigned before this high court of impeachment it appears that he has only two counsel employed to defend him; then there will be no necessity for any such rule as this, for, of course, there will be but two counsel to address the court in favor of the person arraigned, and a rule restricting the speeches on behalf of the prosecution to the same number would, perhaps, be a very reasonable one. Suppose he should have three counsel employed to defend him, I can see no impropriety in allowing those three counsel to address the court in a case of this importance, involving a construction of the Constitution; and the decision that we may give in this case, whatever it may be, will be a precedent for all future time, and will have more consequence in the future administration of this Government than any legislative construction of the Constitution that can be made.

Now, sir, I do not think that there will be any unnecessary consumption of time if we allow three counsel for the accused to address the court and an equal number to speak on behalf of the prosecution, because the physical force of that number of persons will not enable them when they take up the argument to consume any considerable time in its prosecution. Suppose it should so happen that each counsel, if the accused should have three, should occupy a day, three days occupied on behalf of the defendant and three days in behalf of the prosecution would be no very extraordinary time to consume. I remember that once when I had the honor to be a judge an incidental question as to the admissibility of a certain piece of evidence was argued for eight successive days before me by some of the most eminent counsel in the country, and it is possible that upon the final argument it may be allowable to permit counsel to address the court without any limitation.

I have already stated that the reason why I voted to put a restriction upon the discussion of preliminary questions was that the nature of the case was such that all the material questions would necessarily be involved in the final argument. All questions that relate to the jurisdiction of the court, all questions that relate to the sufficiency of the articles of impeachment, and all questions that relate to the guilt or innocence of the accused can be discussed in the final argument; and, therefore, it appeared to me there was no necessity for an unlimited range of discussion upon preliminary questions. But, sir, if it be necessary to establish a rule of this kind I submit that, after we have heard the evidence in the case, we may then with great propriety determine as to how many counsel shall address the court and what length of time they may consume. Suppose it should take only two or three days to receive the evidence in the case; suppose all the preliminary matters should be disposed of in two or three days, so that the court would be ready to proceed with the final argument of the case, then, of course, we could afford very reasonably to allow the utmost latitude of discussion upon the final argument, for we certainly do not expect to complete this trial in three or four days. In all human probability it would take a week or two to try this case with all possible expedition. When we have heard the discussions, the preliminary questions, when the evidence has been submitted, then we shall be prepared to decide as to whether that evidence and the points that are made will need an extended or a limited discussion, and we shall be prepared, when we see the disposition of counsel engaged and the number employed, to decide upon this question. As I have before suggested, if only two learned gentlemen should appear on behalf of the defense, there is no necessity whatever for this rule, because certainly we ought to allow two speeches to be made on either side of this case; and, if three should appear, it seems to me we might allow those three to address the court upon the final argument of the case. So far as I am concerned, I do not believe that the twenty-first rule ought to be adopted at this time, and I move to strike it out.

Mr. SUMNER. I venture to make one remark in reply to my friend from Oregon. He seems to imagine that no counsel could occupy the time of the Senate for more than one day. The Senator forgets that on the trial of Judge Peck Mr. Wirt, in a speech which I have sometimes thought was the most masterly forensic effort in the history of our country, occupied the attention of the Senate two full days. The Senator will also remember that on the trial of Warren Hastings, Mr. Burke occupied the attention of the court of impeachment for four successive days, and there were other gentlemen on both sides, managers, and also counselors for the defense, who occupied the attention of the court each for several days.

I merely refer to these historical precedents that we may be reminded in advance of the possibilities of a trial like this; and a Senator near me says, the probabilities. Perhaps that is a better word; but I prefer to express myself in the most moderate manner, and I therefore said simply "the possibilities." It seems to me that it is our duty to provide against probabilities or possibilities even.

And now, sir, I come back to the simple proposition which I ventured to send to the Chair. In offering it I remarked that it seemed to me we should in advance endeavor to provide against any question arising after the proceedings had commenced. It was in that view that I have suggested that there was no provision in the rules with regard to the opening of the case, and I sent to the Chair a provision for that purpose; but at the suggestion of Senators about me I propose now to modify my amendment so that it shall read as follows:

The case on each side shall be opened by one person.

In that form now I move the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, as modified.

Mr. DIXON. The present question is not upon any preliminary or interlocutory question; it is not what time shall be taken by counsel in motions for possible delay; but it is upon the final argument, the opening and the closing of the final argument in this great and momentous trial. I most deeply regret to see what I think I see, what I cannot help seeing, in the remarks of the Senator from Massachusetts and some other Senators. That Senator speaks as if the consumption of a day or two days or three days or even four days, taken up in the defense of this great trial, was to be regretted, a thing to be deprecated and avoided; and he points out as something to be shunned that Mr. Burke spoke four days in the great trial of Warren Hastings. I confess I have not that feeling. I regret that the Senator has it; I regret that any Senator has it. I do not think it is to the credit of this body when entering upon this great trial, impartial as undoubtedly we all are, wishing to do justice in a solemn case of this kind, bringing before us the President of the United States, that gentlemen are disposed to deny him on the final argument upon ten charges the privilege of being heard by as many counsel as he wishes.

Sir, you cannot prevent our action being noticed by the American people and by the world. It will be; and it is of vast importance that that impartiality which we all intend to manifest and which we all feel should be shown in our action—and I do say here that, so far as I am competent to judge, it is not proper to deny the accused party in this case the opportunity of being heard at any length which he may desire; at any rate, to limit him in this manner to one counsel to open upon these ten charges and two to close, and to be limited, as I understand, in their time.

Mr. CONKLING. No; there is no limit in point of time.

Mr. DIXON. I am very glad to understand that. Now, sir, it may be possible that it would be out of the physical power of a single or of double counsel to speak to these ten points. That is a question that ought to be left to themselves. Ten issues are to be made up before us; ten issues are to be made up and closed at least for this body to decide; and, as a court, this court of impeachment is to say upon each of those issues "guilty" or "not guilty." I have said already that I have no doubt every Senator here intends to try this case as a juror. The presumption of law is that the accused party is innocent. I do not say that that is my presumption. I do not venture to say that I presume he is innocent; but the law of this land presumes that he is innocent, and he comes before you in the eye of the law as an innocent man, although accused. I presume every Senator here hopes that he is innocent; I presume every Senator hopes that the presumption of the law is correct. He is to appear before us; he is to be heard. I put it upon the extreme case now: suppose it should take four days—suppose we were compelled to convict him upon our oaths and we should delay in that judgment four days to allow him to be heard. I have no idea that four days would be taken, but suppose they should, what of it? Sir, four days is a small period in view of such a transaction. I believe that the cause of justice and of right and of truth requires of us that we should leave the President of the United States, charged as he is, to be heard by himself and counsel without limit.

Now, sir, does anybody suppose a flock of counsel or attorneys are to appear here to speak, abusing the patience of the Senate? That is an impossibility, as I have already suggested. It may be that more than two may be required. I have known civil actions and I have known criminal cases in which it was absolutely necessary that more than two should be heard. Whether more than two may be required here, or more than three, I do not know. In all human probability that may possibly be the case; but who should decide it? Who but the party accused himself? Sir, in my judgment, it ought to be left entirely open.

Mr. HOWARD. Mr. President, I fear I misunderstand the honorable Senator from Connecticut. I think I do; and I hope I do. He seems to speak as if this twenty-first rule contained a limitation upon the time allowed the counsel of the accused upon the final hearing of the case here. He speaks about four days being a very reasonable time to allow counsel. Why, sir, there is nothing of the kind in the rules.

Mr. DIXON. I spoke of the limitation on the number.

Mr. HOWARD. The twenty-first rule allows counsel any length of time they may see fit to use on both sides. It allows the same length of time to be used by the counsel who open the case on the respective sides. There is no limitation.

Mr. DIXON. The Senator from Massachusetts, in arguing that one counsel should open,

as I understood, said that in a certain remarkable historical case four days were exhausted by one counsel, and several days by another, as a reason why only one should speak.

Mr. SUMNER. The Senator will bear in mind that I stated that fact in reply to the Senator from Oregon, who had suggested that it would be impossible, that we could not reasonably expect that counsel would speak more than one day, that it was physically impossible. To that I replied that history showed the contrary.

Mr. WILLIAMS. I think the honorable Senator from Massachusetts misunderstood me in supposing that I said it was physically impossible for a lawyer to address a court for more than one day. I said it would be physically impossible for two or three counsel to consume any great length of time. When an attorney commences a speech he may be supposed to exhaust himself in two or three days' discussion.

Mr. GRIMES. I thought you spoke about somebody talking eight days before you. [Laughter.]

Mr. WILLIAMS. No, sir; I beg the Senator's pardon. He knows very well the case to which I referred. It is a case in which he was personally interested as one of the parties. I simply alluded to the fact that in that case a question of law was discussed for eight days, as evidence of the fact that attorneys might consume a very great length of time. But there were a large number of attorneys concerned in that case, and they all discussed the question. It involved millions of property, and the case finally came to the Supreme Court of the United States.

Mr. HOWARD. The sole object of the twenty-first rule is to limit the number of counsel that may be heard on either side upon the final hearing of the case upon its merits. It allows two counselors to each party to be heard before the high court of impeachment upon the merits of the case after the evidence is all in and closed. Do Senators desire to have more than two counselors on that occasion on either side? It is a simple question: is not this a reasonable number of lawyers to address us on that occasion? Would the Senator from Connecticut allow the accused or the managers of the House of Representatives to introduce any number of lawyers upon this floor that they may see fit to introduce, and consume our time here from day to day by wrangles among counsel, by words without knowledge, spending the time without necessity, and to the great injury and detriment of the public interest? I know he would not.

Mr. DIXON. The Senator is mistaken. I would in the final argument allow the House of Representatives to be heard by as many counsel as they thought proper. I would leave it for them to judge. But, if the Senator will allow me a single moment, he will acknowledge with me that, after all, there is a difference in the position of the accused. It is customary and proper to allow the accused to say what he can in his defense; and even after conviction and before judgment is pronounced he is often called upon to add to what he has already said. He is asked if he has anything to say why judgment should not be pronounced.

Mr. HOWARD. Nobody would deny to the accused in person the right to say whatever he pleased so long as it was respectful to the court; but let me ask the Senator would he, if he were an accused person here, feel at liberty to call in a hundred lawyers to consume our time by useless wrangling, each one of them being allowed whatever length of time he might see fit to consume in his argument? I ask him further is there a court on earth, in any civilized or any barbarous country, that ever allowed an unlimited number of counselors to address them.

Mr. GRIMES. The Senator is trying to make the Senate determine the rules that the court ought to determine and enforce.

Mr. HOWARD. That is another question.

Mr. GRIMES. No Senate ever before attempted to establish any such rule. It has invariably, in all impeachment trials, both in this country and in Europe, been fixed by the court and by the court alone. And now, without knowing what the specifications are going to be, without knowing what the defense is going to be, without knowing what is the evidence upon which any of these specifications are based, why should he undertake to say that there shall be only one counsel or two counsel heard either on the part of the prosecution or on the part of the defense?

Mr. HOWARD. The Senate is endeavoring to adopt a series of general rules applicable to all cases of impeachment. Have not the Senate the same authority, in the judgment of the Senator from Iowa, to establish rules for the government of that court that the court itself would have?

Mr. GRIMES. I think not.

Mr. HOWARD. I think they have precisely the same authority.

Mr. GRIMES. I think when the Senate resolves itself into a high court of impeachment it is then for the court to determine the rules as to the admission or the exclusion of testimony, and not for the Senate to determine beforehand. It is for the court to determine as to the number of counsel they may feel that it is to the public interests and that their own consciences require shall address them, based upon the law and the facts as they shall be presented to them on the trial, and not before.

Mr. HOWARD. The difference between the honorable Senator and myself appears to be this: that he holds that the Senate, sitting as a court, have the sole right to prescribe rules for the regulation of their proceedings, and that the Senate, not sitting as a court of impeachment, have no such authority.

Mr. GRIMES. I insist that the court should do what all impeachment courts have done in the past—should establish for themselves the rules for the admission of evidence, and say how many counsel they think the public interest require should address them on either side after the facts and the law shall have been presented to them and they know what the specifications are.

Mr. HOWARD. We can bring this allocution, if you please to call it so, to a termination. Does the Senator from Iowa hold that the Senate, as we sit now, have no power under the Constitution to prescribe rules for the regulation of the Senate when sitting as a court of impeachment? Have they or have they not authority to do it? That is the question.

Mr. GRIMES. We have the authority to regulate certain rules, and we transcend our duties when we undertake to establish the law that shall govern the Senate when it sits as a court, in regard to certain acts, in regard to the admission of testimony for example.

Mr. HOWARD. If they have a right to make a rule in one case they have a right to make it in another.

Mr. DIXON. The Senator from Michigan asked me if I was in favor of having a hundred lawyers multiply words, darken counsel, on this subject. I ask the Senator if that is a fair statement of the question before the Senate? Of course I do not desire any such thing. He puts it to me whether in case I were the accused party I should desire any such thing. My interests would prevent it. I should desire just as many counsel to appear for me and speak to this body as would be beneficial to my cause, and I should desire to judge myself in regard to that.

Mr. HOWARD. The Senator then would allow the accused to employ as many counselors and lawyers as he saw fit, and would require the court to listen to them all whenever they should see fit to address it.

Mr. DIXON. I should desire that, and I should suppose if I employed fifty or one hundred men by so doing I sealed my own condemnation. I believe it. No man would do that. The Senator knows that very well. The Senator knows very well that that is not the question before the Senate. The question is whether the party accused in that trial, the greatest that the world ever saw——

Mr. HOWARD. Not at all.

Mr. DIXON. Then I will say one of the greatest trials this world ever witnessed, where questions the most momentous are to be decided, questions that we cannot foresee, questions which that Senator, with all his ability, cannot begin to foresee. Questions of vast importance may arise here. Who can tell? One of the highest officers in the world is to be tried before this great and solemn event—an event which should be approached by us with solemnity and with a desire to do strict and impartial justice, as I know that is what the Senator desires. Now, sir, what is the proposition? Here, at this stage, before we hear the testimony, before we know what the questions are before us, to say positively by an iron, unyielding rule, that the accused party shall be heard by only two counsel, and the other side also. I do not hesitate to say that we are bound here to take as much care of the rights of the accused as of the other side. I am willing to stand upon that position. I do not wish to confine the accusers to two counsel; I would leave them to judge for themselves; but I certainly would not confine the accused. He has certain privileges and certain rights, as every accused party has, which are well understood in courts of law, and especially in this civilized age.

This matter can be settled when we have heard the testimony, when we know the points before us; we have some reason to suppose now that they will consist of ten charges. We do not know that much; perhaps I am wrong in that assumption; but when we have heard the testimony, and know the questions raised, then it will be time enough for us to say to this distinguished accused party, "You shall only be heard in such and such a manner." We shall have full power then. Why not postpone the question? Why bind ourselves now on this question? Perhaps then it may be necessary; I do not know. It may not; I cannot now say. One Senator has said that it is not the custom, that no instance has been known where more than two or three counsel have been heard. Now, sir, I say that you may look through the English reports, in ordinary civil actions, and you will find in repeated numerous instances three, four, five, and even six counsel have been heard. You will see that in cases reported in the old English reports without limitation.

Suppose when the House of Representatives come here, that they should find this a more important and more solemn prosecution than even they now suppose; suppose they should find it necessary for more than two or three of their managers, if they speak themselves, to be heard; suppose all seven should wish to be heard. I would not deny them the privilege. I would hear them respectfully, and I should desire to be instructed by what they might say. But, sir, when the accused asks us to be heard, we turn around and say, "No; four days is vast delay; we cannot give you that time; there is a historical instance in which a great orator exhausted four days; if we have here three counsel, it may take twelve days more time than we can give!"

I will not say that this is not decent for the Senate, but it seems to me that it is not proper. So it strikes me. I may be mistaken. Other Senators are responsible for their votes; I am responsible for mine. I desire to give both parties, in the final hearing, all the time they may require, and I am not afraid to say that I desire to give the accused party all the time he may desire, and let him judge for himself. If he, acting under erroneous advice, should come here and attempt to speak against time to postpone our decision for a day or two days, he will have the misfortune of injuring his own cause, and he must take the responsi-

bility of that. If such an unwise course were supposable, I should leave it to him. But, sir, I have no doubt that he will act under wise counsels. So I trust, at least, that he will have men competent to advise him, and that they will appear here and address this body with dignity and with propriety; and for one I desire to hear them. I wish to be instructed upon these questions; I wish to know when I give my verdict what the law, as applied to the facts, may be. I know there are men in the United States of America who are competent to instruct and advise me on that subject.

Mr. EDMUNDS. I should have supposed, from the experience we have had to-day, that the Senator from Connecticut did not need any instruction from anybody; he is more competent to instruct us than to ask any counsel to instruct him. The Senator from Connecticut and other Senators have said a good deal on the subject of how we are to appear before the public; that that was a more important question than how we were to arrange these rules and methods of procedure as they should relate to particular trials that might come before us. One thing, Mr. President, I think will strike the public in the proceedings of Saturday and to-day, and that is that while gentlemen of that side of the Chamber who are supposed to differ politically from the President differ as minds will differ upon all questions that are open to discussion, and take opposite sides, *pro* and *con*, of different rules that are proposed here, we find that in every instance Providence vouchsafes light to the gentlemen of the other persuasion in exactly the same way. If it strikes my friend from Connecticut that the accused is injured by a rule that is a little too compressive it strikes the honorable Senator from Pennsylvania and all his brethren in exactly the same manner. Mr. President, if a stranger sitting in the gallery, knowing nothing of the course of parties here except the fact that there were two parties, were to observe our proceedings, he could not fail to remark that, upon every question touching these rules, certain gentlemen, whose names I, of course, am not at liberty and it is not necessary for me to give, stand together every time. Of course it is nothing, only a mysterious coincidence. We cannot suppose that there is any prejudice or any determination to break down those rules, and to put the court entirely at sea on the trial of this case or any other. Our knowledge of each one of these Senators forbids any such supposition; but I say a stranger who did not know the purity of these gentlemen and their entire want of prejudice as well as we do would find entering into his mind a certain degree of wonder that it should always happen under every possible combination of questions that can arise upon these rules that while gentlemen of one political persuasion differ constantly, gentlemen of the other always stand together as a solid unit.

Mr. DIXON. Will the Senator allow me a single word?

Mr. EDMUNDS. Certainly.

Mr. DIXON. The Senator from Vermont is the first Senator, I think, who has made any party allusion to-day; but for that I shall not venture to pass judgment upon him. I wish to remind him that upon the very first question in the Senate on this subject on which we had the yeas and nays those gentlemen who he says are all on one side divided.

Mr. EDMUNDS. My friend will permit me to correct him. What I said was that that was the state of things in regard to the questions arising on these rules. What my friend refers to was a question arising independently of the rules, to recommit the whole thing on the ground that we had not any Senate competent to try.

Mr. DIXON. It was a proposition to amend the rules.

Mr. EDMUNDS. No; not a proposition to amend the rules.

Mr. DIXON. It was offered as an amendment.

Mr. EDMUNDS. That is a question of fact about which my friend and myself differ.

Mr. HENDRICKS. I ask the Senator from Vermont if he will yield to a motion that we take a recess?

Mr. EDMUNDS. No; I think we can finish after awhile.

Mr. HENDRICKS. Allow me to make one remark: I think it is very evident that we cannot conclude the consideration of these rules until quite a late hour, and it is just as sensible to take a recess now as it will be an hour after dinner.

Mr. EDMUNDS. My friend will excuse me; I do not intend to occupy time, and I am sorry to have taxed the indulgence of the Senate so much. I shall not consume three minutes more upon the question of this rule. I have disposed of all I wish to say upon the point I have alluded to, and now one word as to the rule itself.

This rule is a general rule for all cases. Senators will keep that in mind. It applies no more to one case than to another; no more to one side than to another. We know that as a matter of fact and practice, referring to the particular case that is expected, in all human probability it will operate much more severely—if you can use that term about it at all—upon the prosecution than upon the defense. We are told, and I suppose we have a right to understand, that the number of managers on the part of the House will be seven, at least. Perhaps they will have counsel. I take it, it is not generally expected that an equal array, so far as mere personal numbers goes, will be produced on the other side. So much for that.

Now, as to the propriety of this rule as a general rule. Is there a Senator on this floor who would stand up and say of his own personal knowledge of criminal practice in his own State that this rule does not exist in all their courts? I do not mean as a written rule necessarily; but is it not a general rule in every court in the United States of America, either State or national, that only two counsel are heard on a side in the summing up of a cause? A man is tried for his life, and, as a general rule—there may be exceptions, but I never heard of them in that case—only two counsel are heard in his defense, and only two for the prosecution. So all civil rights and questions involving the operations of law over vast sections of country are determined in the same way. This very day, in another Chamber of this building, before the Supreme Court of the United States, a cause is argued which may involve the peace and safety of the inhabitants of ten States, and of millions of persons, and it is confined, by the rules of that court, to two counsel on a side, and nobody complains that any injustice is being done to any one. Nobody complains that wrong is being perpetrated upon one side or the other. Therefore, why is it that we are so pressed with the argument that we are doing something unusual, something extraordinary, something unjust, when we simply provide what is the practice of every court in the United States, and in every other civilized country, that, as a rule, in the summing up of a cause at the end of the trial, two counsel on a side only shall be heard? If there be any reason for an exception in the case which is expected here, when that time comes it will be very easy for the court, upon understanding the case at that time, to make further provision. There is no objection or difficulty in doing that; but gentlemen seem to argue that we are establishing a general rule for all cases. There may be exceptions where a qualification ought to be made; and if this happens to be one in the cause that is expected we can then make the exception, provide for the qualification; but if we are to have any general rules upon the subject, let us have rules that will cover all cases as they ordinarily arise.

Mr. HENDRICKS. From the volubility with which the Senator from Vermont has elaborated at great length some very small points one would think he was the last Senator to object to much speaking, and, therefore, the last person to object to many speeches. He has spent a good deal of time to show that it so happened in this discussion that the Senator from Connecticut and the Senator from Pennsylvania and myself, and some others, perhaps, always agree on every question, however much the gentlemen on the other side differ among themselves. What was there in the course of this debate to justify the Senator in making such an insinuation? I have heretofore sought to express the opinion that truth is generally secured by the discussion of two counsel on each side. I am satisfied with the rule so far as that is concerned, but the Senator from Vermont feels himself authorized to say that, for some reason or other, some of us Senators agree upon every question, however material or immaterial. I do not know anything in the course of this discussion or of the votes that justifies any such remark. On every question that has arisen here on these elaborate rules, for myself I have given my reasons for my vote, and will continue to do so. I am satisfied with two counsel on each side. If I were submitting my life to twelve jurors I would not want the responsibility of the case to be divided between more than two attorneys. I think when you introduce more than that number, in a defense or in a prosecution, you introduce an element of weakness into the case. Throw upon two vigorous minds the whole responsibility of a case and you have a more powerful defense or prosecution. That is my opinion about it, and therefore, so far as this rule is concerned, I am satisfied.

But, Mr. President, I want to submit to the Senator from Michigan that it is evident that we cannot finish these rules at this sitting. The next rule will evidently be a questioned one; debate will certainly arise upon it; and I wish now to submit a proposition that we take a recess until half past seven o'clock.

Mr. HOWARD. I hope not. I hope the Senate will sit out and pass through the various rules which remain to be considered. If we had sat longer on Saturday evening we might have finished our work that evening if we persisted in it. For myself, charged as I am with the superintendence of the measure, I cannot yield to any such motion. I hope the friends of the measure will stand by it and sit it out.

Mr. CONKLING. I hope so, too; and I hope that Senators will not, in voting upon this motion, be guided by looking to see that they have reached page 3 of these rules, and that there are nearly five pages; because after this twenty-first rule there is at most nothing left in the rules except mere forms of precept, &c., with the exception of one rule or two. Therefore I trust Senators will not feel that it is hopeless to stay here for a short time to complete the work.

Mr. FOWLER. I have been in favor all day of going through these rules, and I have listened with patience to others. If some of the gentlemen who are now so earnest in disposing of this matter had made shorter speeches and fewer of them we might have got through with these rules and adjourned some time ago. I am willing to go on, but my patience is almost exhausted. I have listened attentively, but I feel like voting for this motion. Now, while I am up, I will say one word in regard to these rules——

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the motion to take a recess.

Mr. FOWLER. Very well.

Mr. HENDRICKS. I wish to say, in reply to the Senator from New York, that the rule immediately following that which we are now considering is one that will certainly excite debate if the committee insist upon it. I allude to the proposition to prevent discussion by Senators when they come to consider the decision that is to be made.

Mr. EDMUNDS. That is not the next rule, but the next but one.

Mr. HENDRICKS. Certainly. Senators cannot expect that that will be adopted without some careful examination. I do not know

what have been the precedents on that subject, but I expect that the Senate will discuss that proposition before it is agreed to. I do not see why the Senator from Michigan asks us to sit here at an inconvenient hour. My proposition is to take a recess, that we may decide upon all these rules, so far as we have not decided, to-night. I do not ask that they shall lie over until another day; but it is more convenient certainly to take a recess and to come back at half past seven than to stay here two or three hours at this time.

Mr. DIXON. I suggest to the Senator to say seven o'clock.

Mr. HENDRICKS. I do not care whether it is seven or half past seven; that is a matter of indifference to me. I will say seven o'clock, however.

Mr. McCREERY. It is after five o'clock, and I move that the Senate do now adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky, that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Indiana, that the Senate take a recess until seven o'clock.

The motion was not agreed to.

Mr. DAVIS. Mr. President, I am one of the number, I suppose, that are referred to as having been voting in a body. I have voted against several rules that have been proposed by the committee; and I gave that vote upon this consideration: each rule that I voted against denied to a party impeached some privilege that the criminal practice of the State of Kentucky allows to every criminal. I can state to the honorable Senator from Vermont and to the Senate that in every case of crime of any great interest, and especially a capital crime, I have never known the argument of the case on the part of the defense by a less number of counsel than three, and it is often by five. I agree with the Senator from Indiana that in the management of the case, if you introduce more than two counsel, if they are competent counsel, you embarrass the case and you weaken the prosecution or the defense. But it is not so always in the argument of cases of importance. It is a universal practice in the criminal courts of Kentucky that where a case of interest involving capital punishment is under trial, and the accused desires it, he is heard by at least three counsel in his defense.

Mr. President, I have learned this fact in relation to impeachments: that they are to be treated with more liberality on both sides than the stringent practice and forms and rules of proceeding in criminal cases, and that those rules which are introduced into criminal cases to economize time have never been resorted to as a general rule in the trial of impeachments. It seems to me that all the modes of proceeding and all the practice in cases of impeachment ought to be more liberal, ought to be more free from restrictions, and especially technical restrictions, and restrictions simply to save time, than criminal prosecutions. And yet the honorable committee that have reported these rules of proceeding and practice are restricting the proceedings in this and all future cases of impeachment much more rigorously than is known in the criminal practice in the courts of Kentucky.

I suppose, however, it is not in order to bring illustrations from my State. I know that they have no moral influence with some gentlemen, and especially with the honorable Senator from Illinois, who boasts that he is a Kentuckian by birth, for he seems to intimate that this case is prejudged by all Kentucky. I suppose he means that portion of Kentucky that is resident in the State, and not that part of it that is resident in the State of Illinois, unless he intimates that we have prejudged on one side and he in fact has prejudged on the other. But I humbly submit that if the accused in this case, or in any other case of impeachment—if a member of the Supreme Court, if you please, a member of the Cabinet, if you please, or a person in humbler office, is impeached before the Senate upon a charge of high crimes and misdemeanors, if he desires to be defended in argument by three or more counsel, he ought not to be restricted to two. I have my full justification in voting against all the rules that I have voted against on the present occasion in knowing that they are restrictions upon the liberal practice of some of the courts, and especially of my own State, in all criminal cases; and, therefore, I feel justified in having voted against them.

Mr. SAULSBURY. I agree precisely with both Senators from Kentucky as they have expressed themselves. I never heard in my own State of an accused party being prevented from being heard in his defense by any number of counsel he chose to bring to the bar. I have had, on the part of the State, to try a case for eight days in succession, I may say, day and night; and I have had three or four counsel arrayed on the opposite side; and I believe, if the accused had asked it, he would have been heard by twenty counsel. The courts in my State have allowed every counsel selected by an accused person for his defense to be heard in his defense. I believe it is right here, not because it is the case of the distinguished individual that we are informed is to be brought before us for trial; but if it was the humblest individual of the land who is subject to impeachment he ought to be heard by as many counsel as he thought proper to bring before this body.

I cannot allow myself to believe that any Senator on either side of this Chamber has prejudged this case; and any intimation, so far as I am concerned, that I have, and that I have voted according to the wishes or opinions of anybody else, is perfectly gratuitous. If it be true, as alleged, that certain Senators have voted in a body, it is also true that others, who have not been included by the expression in that body, have voted with us, and thereby showed their appreciation of justice upon a case of this kind.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question before the Senate is on the motion to amend, made by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. HENDRICKS. I want to ask the Senator from Massachusetts what his amendment means.

The PRESIDING OFFICER. The Senator from Massachusetts is not at present in his seat.

Mr. HENDRICKS. Inasmuch as the language of the amendment does not explain it, we shall have to go without an explanation.

Mr. HOWARD. I ask that it may be again reported.

The Secretary read the amendment, which was to insert at the beginning of the twenty-first rule the words "the case on each side shall be opened by one person, and;" so that the rule will read:

> The case on each side shall be opened by one person, and the final argument on the merits may be made by two persons on each side, and the argument shall be opened and closed on the part of the House of Representatives.

Mr. HOWARD. I see no objection to the amendment of the Senator from Massachusetts. I rather think it had better be adopted.

Mr. HENDRICKS. Then, if it is to be adopted, I want to know what it means. I do not understand it. Does it mean that two counsel shall open the case?

Mr. HOWARD. No; one counsel.

Mr. HENDRICKS. Then, how many, I ask the Senator from Michigan, does this limit contemplate?

Mr. HOWARD. This amendment speaks of one counsel on each side.

Mr. HENDRICKS. I know the amendment speaks of one counsel, and then it leaves the rule as reported by the committee, which speaks of four counsel.

Mr. HOWARD. Very well; then it would follow, would it not, that one counsel opens the case for the House of Representatives, and two counsel, who may be different persons, close the case for the House of Representatives on the final hearing. There are three, and the same on the other side. Therefore three counselors on each side may be heard.

Mr. HENDRICKS. That I do not think is right. I wanted to know if that was what it meant.

Mr. HOWARD. That is what it may mean. That may be its practical application.

Mr. HENDRICKS. If there are three counsel on each side, then, so far as my experience goes, the equitable rule is that the counsel holding the affirmative opens; he is followed then by one of the counsel; he is then followed by two of the counsel for the defense; then one of the counsel for the prosecution; then the closing speech for the defense; and then the closing speech by the prosecution; so that there shall be but one speech unanswered. There ought not to be two speeches unanswered in the case. I never knew it otherwise in any case that I was concerned in.

Mr. CONKLING. The Senator from Massachusetts being compelled to leave the Chamber, asked me to look a little after his amendment and give an explanation of it, if that should be necessary; and therefore I feel bound to say a word to the Senator from Indiana, who evidently entirely misapprehends the meaning of the Senator from Massachusetts. The design of the Senator from Massachusetts is this: as these rules stood without his amendment, it was thought that upon the commencement of the trial there might be a difference of opinion between the honorable Senator from Indiana and myself, for example, as to whether the opening of the case was provided for at all, or not. Why? Because rule twenty-one related to the final argument upon the merits; of course, meaning what is called in the courts to which I am accustomed, the summing up of the evidence after it is delivered; and rule twenty related to preliminary and interlocutory questions and motions. The Senator from Massachusetts thought that when the managers came here and rose to open their case and had proceeded an hour perhaps the Senator from Indiana or some other Senator would say, "This now is a proceeding, a question falling within the first of these two rules; it is a preliminary or interlocutory matter, and therefore to be restricted to an hour." That there might be no question about it, the Senator from Massachusetts proposes that the two rules shall stand precisely as they are now, the latter of which rules gives to counsel the right to sum up the evidence at any length they please, be it a day or four days or ten days each; but that before the evidence has been delivered, before the witnesses are called, that explanatory statement which is called "an opening" shall be made by one person on each side, one manager on the part of the House of Representatives in the beginning, and one counsel on the part of the respondent after the evidence for the prosecution is closed and the respondent comes to make his case. To cover that, the Senator from Massachusetts interposes this rule between the two, (leaving the previous rule to operate upon interlocutory matters as it does,) to provide for the opening of the case on each side respectively before the evidence is delivered, and then to leave to counsel to sum up, or close the case, or, in the language of the rule, to make the "final argument on the merits" at any length they please. That is the meaning of it, as I understand it.

Mr. HENDRICKS. With that explanation I have no objection to the proposition. If it means just this: that when the managers on the part of the House first appear, and before the case is gone into at all, the House, through one of its managers, shall state its case in law and in fact——

Mr. CONKLING. That is what it means.

Mr. HENDRICKS. And then the defendant, through one of his counsel, shall state his defense in law and in fact, and the evidence then being heard, in the final argument, the rule, as reported by the committee, shall govern, I have no objection to the amendment.

Mr. CONKLING. Let me see that I do not mislead the Senator. He does not understand that these two openings are to be contemporaneous, one following the other, without the evidence intervening, of course.

Mr. HENDRICKS. Certainly.

Mr. CONKLING. The idea is that the practice is to be precisely as it is in Indiana—not the practice in Westminster Hall, but the practice as we know it in this country. The plaintiff, for illustration, opens his case and gives his evidence and finishes it; then the defendant opens his case and gives his evidence and finishes it; and then the summing up occurs. That is the design here: that the prosecutors for the House of Representatives open their case and prove it as far as they can; then the respondent opens his case and proves it as far as he can. That is precisely what the amendment means, I submit. I know that is the design of the mover.

Mr. HOWARD. That is the purpose.

Mr. HENDRICKS. I supposed the rule as read, with the amendment of the Senator from Massachusetts, would be that the House should make its statement of the case, and be immediately followed by the defense in a statement of the case. That is the practice with which I am most familiar myself, though in our courts the defense may make its statement immediately after the plaintiff states his case, or may postpone it until the evidence on the part of the prosecution is through.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The question now before the Senate is on the motion made by the Senator from Oregon to strike out out the twenty-first rule.

Mr. EDMUNDS. I propose to amend the rule before that motion is put, in order to accommodate, as I think it will, the views of gentlemen on this question, by inserting after the word "side" in the middle line of the rule the words "unless otherwise ordered by the court upon application for that purpose," so that, while we shall have a standing rule which will regulate all cases, it will still be open to the court, on application, to allow more than two persons to sum up on each side, if the importance of the case or the state of the emergency should seem to make it right that it should be done. I think that ought to be satisfactory to all.

Mr. WILLIAMS. If that amendment be adopted, I do not know that I shall have any objection to the rule.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to insert after the word "side," in the second line of the twenty-first rule, the words "unless otherwise ordered by the court upon application for that purpose."

Mr. HOWARD. There is no objection to that.

Mr. CONKLING. What do those words, then, refer to; the opening or closing argument, or both?

Mr. HOWARD. How will the rule read then?

The PRESIDING OFFICER. The rule will be read as proposed to be amended.

The SECRETARY. The twenty-first rule, if amended as proposed, will read as follows:

The case on each side shall be opened by one person; and the final argument on the merits may be made by two persons on each side, unless otherwise ordered by the court upon application for that purpose; and the argument shall be opened and closed on the part of the House of Representatives.

Mr. CONKLING. Do not let us vote under a misapprehension. I think those words will relate both to the opening and closing argument. If the Senator means that the case shall be opened on each side by one counsel, and the closing argument shall be made by two counsel on each side, unless the court shall otherwise order, so be it; but I think a fair construction of the rule would make it apply both to the opening and closing arguments, unless it depends wholly on punctuation.

Mr. FERRY. It will not do any harm if that is so.

Mr. CONNESS. Let that be taken as the meaning.

Mr. CONKLING. Very well; but let us understand what is the meaning.

The amendment was agreed to.

Mr. DIXON. I wish to propose an amendment to the rule under consideration. It is to insert at the end of the rule the following words:

And the counsel of the party accused in all trials to which these rules are to apply shall be allowed the closing turn in the final argument.

Mr. President, my colleague gave as a reason for a proposition made by himself or some other Senator a short time since that it was the established rule in Connecticut in all criminal trials in a certain instance which he alluded to. This is the established rule in the State of Connecticut, and has been, I think, for a period of time during which he has been prosecuting attorney: in all criminal cases, in all trials against an accused party, he is allowed the closing turn, if I am not mistaken.

Mr. FERRY. My colleague will permit me to suggest that that is the law of Connecticut, adopted in 1848, and, by my own experience, the law then adopted has worked prejudicially from the time of its adoption. I opposed it at the time.

Mr. DIXON. That is the Senator's opinion. But his statement in the other instance was that the law of Connecticut worked beneficially. The Senator, it must be remembered, has been prosecuting attorney during that time, and it has worked probably against what he thought might be the ends of justice. I think it is a proper rule. I think it is right. It was adopted in the State of Connecticut on the ground that the party accused ought to be heard finally; that after all the testimony has been offered and all the arguments made he should have the final hearing. I therefore offer it as the law and the rule of the State of Connecticut, which has been found there, in my judgment, to work well, although it may possibly, in certain cases, have been to the disappointment of my friend, the prosecuting attorney. I have offered this amendment in good faith. I believe that justice and fairness require it. I think, in this instance and in all instances, a party accused should have the final argument. What is the object of the argument in a case of this kind? To arrive at the truth; to ascertain what is the law, what is the testimony; and, if there is any advantage in the way of argument, it seems to me every candid man would say the accused should have it. When that change was made in the law of Connecticut it commended itself to every just and high-minded man. I never heard before a word of complaint of it. I have heard many lawyers and many prosecuting attorneys say that it operated well in that State. I do not know but that it is the law in other States; possibly it may be the law in New York.

Mr. CONKLING. In no other State but Connecticut.

Mr. DIXON. It is posssible that no other State has reached that high plane of justice which the State of Connecticut has reached on this question; but I desire that it should be applied to this case.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut.

The amendment was rejected.

The PRESIDING OFFICER. Does the Senator from Oregon withdraw his motion to strike out the twenty-first rule?

Mr. WILLIAMS. Yes, sir.

The PRESIDING OFFICER. The next rule will be read.

The Secretary read rule twenty-two, as follows:

XXII. If the impeachment shall not be sustained by the votes of two thirds of the members of said high court of impeachment present and voting a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted by the votes of two thirds of the members of such court present the court, by its presiding officer, shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.

Mr. FRELINGHUYSEN. I offer an amendment to that rule. It is to insert at the beginning of the rule the following words:

On the final question, whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately, and.

Mr. EDMUNDS. There is no objection to that.

Mr. CONKLING. It is provided for in another rule. That is the only objection to it.

The amendment was agreed to.

Mr. MORRILL, of Maine. I move to amend that same section, in line two, by striking out the words "members of said high court of impeachment" and inserting the word "Senators;" and also by striking out the words "and voting" after the word "present;" so that it shall read:

On the final question, whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately, and if the impeachment shall not be sustained by the votes of two thirds of the Senators present a judgment of acquittal shall be entered.

Mr. SHERMAN. The Senator from Maine raises a very important question, it seems to me, upon which I have not any very definite ideas; but still, before we are precluded on this point, it is well enough for the Senate to understand it. I should like to know exactly the position that the Chief Justies occupies as the presiding officer of the court of impeachment. The rules, as they are reported to us, leave the question of the precise attitude of the Chief Justice open, to be determined by the court; but this rule will preclude and conclude the Chief Justice from participating in the trial of the case and voting. Now, Mr. President, I consider it a very grave question whether or not the Chief Justice, who is made by the Constitution the presiding officer of this tribunal in a certain contingency, is not substituted in place of the ordinary Presiding Officer of the Senate, and entitled to vote as one member of this court. Every presiding officer of every court necessarily votes unless he is excluded from voting. The Vice President of the United States, as a member of the Senate, could vote, did not the Constitution expressly exclude him from voting; but, as the Constitution declares that the Vice President shall not vote in any case unless there is a tie, he is excluded from voting. I do not know that this question has ever been discussed by the committee. There never could have been any precedents, because there has been no case of the kind, and I think it very important for us to consider the question as to whether the Chief Justice, in presiding, simply puts the questions, or whether he, as presiding officer, is entitled to a vote.

Mr. HOWARD. I think the most conclusive answer to the doubt started by the honorable Senator from Ohio—for I understand it to be nothing more than a doubt in his own mind; a state of uncertainty—[Mr. SHERMAN. That is all]—is found in the Constitution itself, which declares that—

"When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without a concurrence of two thirds of the members present."

Mr. SHERMAN. Of the members of the court of impeachment.

Mr. HOWARD. The Constitution is speaking of "the Senate." To show who "the members" are turn back to the first clause of the same section:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote."

Now, sir, without going into this question, which the Senator regards as one of gravity, I have only to say this: that I do not regard the Chief Justice sitting upon such a trial as a member of the court in the ordinary sense of the word; but that he is the presiding officer of the court, vested, of course, with authority to

keep order and to participate perhaps in establishing the rules of the body. At all events, whether authorized so to participate or not, his duty as a presiding officer will be to see that the rules of that so-called court are enforced. But, sir, I entirely repel the idea that he, as the presiding officer of the Senate on that occasion, has any right to vote upon any question properly coming before the Senate and challenging their votes. He is not a member of the Senate; and the Constitution gives to the members of the Senate "the sole power to try all impeachments." I should not have said as much as I have had not the honorable Senator from Ohio seemed to draw it out.

Mr. SHERMAN. I wish Senators to distinctly understand that upon this matter I have no definite conclusion, although I have studied the question with a good deal of care. I have never conversed with a single soul in regard to it. But if Senators will examine carefully the clauses of the Constitution which relate to the subject, they will find that the question is a more difficult one than perhaps at first view they may imagine. There is no precedent for a case of this kind, and therefore we cannot draw any information from analogy in other cases. The framers of the Constitution intended to make a court of last resort for the trial of all officers of the Government, including the President of the United States. In constituting this court for the trial of all officers, except the President of the United States, they selected the Senate of the United States as the tribunal, as the period of office is longer, and they would probably be as free from popular clamor and popular prejudice as any other political body could be. As a matter of course, on the trial of ordinary offenders the Vice President, if there was one, would preside and have a vote.

Mr. BUCKALEW. Oh, no.

Mr. SHERMAN. Only in case of a tie.

Mr. BUCKALEW. I will inquire of the Senator if the Vice President would have a vote on the final judgment?

Mr. SHERMAN. Only in case of a tie.

Mr. BUCKALEW. But he could not be counted as one of a two-thirds vote.

Mr. SHERMAN. No; I think not, because the Constitution expressly excludes that. I will come to that point. Now, if a Presiding Officer is elected by the Senate, either on account of the sickness or absence or inability of the Vice President to preside, he would undoubtedly have a right to vote. The Presiding Officer would undoubtedly have a right to vote, because he is not only a Senator having a personal right to his seat as a Senator, but he is a representative of a State, and that State would have a right to vote; and his mere election as Presiding Officer would not disfranchise him from voting.

Under these circumstances, when the President is to be tried, the Constitution declares, the Senate still having the sole power to try all impeachments, that the Chief Justice shall preside over that tribunal. What does that mean? That he shall be here simply as a figure-head? No, sir. In every case where a man is made the presiding officer of any tribunal, of any convention, of any political body, it necessarily implies the right to vote, unless that implication is excluded by the instrument itself. There is no doubt whatever but that the Vice President of the United States could vote every day in our proceedings but for one thing; and that is, that the Constitution carefully excludes him from the right to vote except in case of a tie. But who doubts that but for that single clause of the Constitution which declares that the Vice President of the United States shall not vote except in case of a tie he could do it? Suppose the clause read "the Vice President of the United States shall be President of the Senate;" suppose it stopped there; would not the Vice President have a right to vote? The very implication drawn from the fact that he is the Presiding Officer of the Senate would give him a vote; but it goes on and says, "but shall have no vote unless they be equally divided." The very fact that this language was used to exclude him from the right to vote, shows that in the absence of that language he would have the right to vote.

And, sir, when the Chief Justice is substituted in the place of the Presiding Officer of this body, without any exclusion from the right to vote, without any exception made as against him, he is made a member of this court, to participate in the proceedings of this court; and it does seem to me, in the absence of all other precedents of exclusion or constitutional provision, he would have a right to vote. I do not know that the Chief Justice would take the same view of it or desire to vote, but it does seem to me that the Constitution, by substituting this high officer here as the Presiding Officer of this body, did not intend to make him a mere instrument or medium to put a question to the body, but intended to make him a part of the tribunal or court to try the case. That is the way it strikes me. Therefore, it seems to me, that in making your rule, if you exclude this idea before the court is organized, it would be doing more than simply to prepare for the trial of the case. I do not wish to discuss it. My own impression is that it would be much better to leave this question open until the court is formed, and then if the question should ever arise, as I do not anticipate that it will, it will be time enough for us to decide it when the court is in session or when the Senate resolves itself into a court of impeachment.

Mr. HOWARD. The question raised by the honorable Senator from Ohio does not seem to be very pertinent at this stage of our discussion.

Mr. SHERMAN. It is raised expressly by the motion to amend. The Senator from Maine makes this point distinctly by his amendment, because he provides that the "Senators" shall vote.

Mr. HOWARD. The amendment of the Senator from Maine adopts, in effect, the language of the Constitution itself, as I understand it; and so far I think it entirely proper to be adopted. I must, however, now and at all times, so far as I can see my way, repel the idea that the Chief Justice is a member of the so-called court of impeachment, or has any right to vote during the deliberations of that court, or upon any question arising during the trial. I do not propose to go into it further now, although I see the gravity of the question, and have for some time been entirely sensible of it.

I will say, however, before I take my seat, that if we regard the analogies presented to us in the constitutional history of England, the same result which I claim to be the truth here will be arrived at. The House of Lords sit as a high court of impeachment. They are presided over when thus sitting either by the Lord Chancellor or the Lord High Steward; and the precedents are numerous and clear that the Lord Chancellor, although thus presiding, or the Lord Steward thus presiding, has no vote in the House of Lords in virtue of his presidency of the body; but if he be a peer he has, in right of his peerage, the right to vote; but it is put upon that ground, and that ground only. As president of the body he has no right even to decide questions where the body is equally divided. I have said all I wish to say on the question at present.

Mr. MORRILL, of Maine. I desire to say a word as I proposed the amendment, though I have been anticipated to a great extent by the Senator from Michigan, in what I intended to say. I think it very clear that the Senate, and the Senate alone, constitute the court; and that is my proposition. Now, unless the argument of the honorable Senator from Ohio shows that, by adoption, the Chief Justice becomes a member of the Senate, he is necessarily excluded. What is the process of argument by which he adopts him as a member of the Senate? Why, he says, the fact that he is transferred here necessarily makes him a member of the court. To avoid all confusion of ideas, suppose we adhere to the principle, the word "Senate." Does it make him a member of the Senate because he is called here to preside over them? Certainly not, in the ordinary acceptation of the term. But does it for the particular purpose of this trial? I say no; and the analogies referred to by the honorable Senator from Ohio to prove it all fail, because it is not a principle of parliamentary law that a person adopted by the body, not belonging to the body, brought in from the outside to preside, thereby becomes a member of the body, and entitled to all the privileges and rights of the body itself. That is fully proved by the illustration put by the honorable Senator from Michigan, that in cases of this kind in England, which are precisely analogous, when the Lord Chancellor is presiding in the House of Lords, sitting as a high court of impeachment, who is not himself a member of the court, he has no vote. If he happens to be a peer, he has a vote; but although he presides as Lord Chancellor and rules on the law, and is there because he is supposed to be learned in the law, he has no vote, no voice whatever, and simply because he is not a member of the body. And so the Chief Justice in this case presides here, and his functions to my mind are very obvious. He is here for the benefit of his supposed legal learning. The amendment which I propose, it seems to me, follows precisely the language of the Constitution; certainly what is contemplated by the Constitution.

Mr. CONKLING. The question which is now under consideration is one to which I have given a good deal of attention, and if it were necessary to discuss it I should be as willing as any other Senator to do so. It seems to me, however, there is no necessity for discussing it now, and that this is not the proper time for its consideration. It arises in the mind of the Senator from Ohio only on account of the use of one word in the amendment suggested by the Senator from Maine. He proposes to say two thirds of the "Senators" present. Now, I ask the Senator from Maine whether he will not relieve us, considering the hour of the day, by changing his amendment so as to adopt the word which occurs in the Constitution, that is, the word "members." Then the whole force of his amendment will be to strike out the words "of said high court of impeachment," and postpone this question, if there be any question about it, until an appropriate time for its consideration. I inquire of the Senator from Maine whether that will not answer his purpose sufficiently, to strike out the words "of said high court of impeachment," leaving the word "members" to stand as it stands now, that being the word employed in the Constitution.

Mr. MORRILL, of Maine. The amendment which I propose would have no significance at all if I should do that.

Mr. CONKLING. The Senator will see that my suggestion would leave his amendment significant in striking out the words "high court of impeachment," and leaving it precisely where the Constitution leaves it.

Mr. MORRILL, of Maine. That, I suggest, is simply an amendment in phrase.

Mr. CONKLING. Not at all. It is an amendment which goes to the question whether the Senate sheds its coat in an impeachment case and takes on a new character and becomes a new body. I think there is substance in that.

Mr. MORRILL, of Maine. I do not think calling the Senate a high court of impeachment changes the fact at all. It is still the Senate, whatever phrase you use. But if you say, as you do in this rule, that when you come to an impeachment it shall be, not "two thirds of the Senators," but "two thirds of the members," I can understand that you might be embarrassed; because, in a certain sense, you may have a member in this court, if you please to call it so, who is not a Senator; and that is the significance which I attach to the amendment.

Mr. CONKLING. Does the Senator from Maine think it is important to adhere to the

phraseology of his amendment so as to retain the word "Senators?"

Mr. MORRILL, of Maine. That is my conviction.

Mr. CONKLING. If so, it seems to me unavoidable that we should discuss this question and dispose of it now, at this hour of the evening; but I really wish the Senator, unless he deems it important, would change his amendment so far as to substitute the word "members" for "Senators."

Mr. MORRILL, of Maine. I have said already that I deem the amendment of no significance whatever if that word is left out.

Mr. CONKLING. You insist upon it?

Mr. MORRILL, of Maine. Yes, sir.

Mr. CONKLING. Well, Mr. President, the Senator insisting upon it, the proposition is, of course, that the Senate now, in the absence of the Chief Justice, shall pronounce its judgment upon the question whether the Chief Justice has in any event a vote; and if so, in what event, if any, he has a vote. I have already expressed my regret that that question should be raised at this moment; but if it is to be passed upon there are a few observations with regard to it which I beg leave to submit.

Mr. WILLIAMS. If the Senator will allow me——

Mr. CONKLING. I yield for a suggestion.

Mr. WILLIAMS. I only wish to say that I hope he will avoid the debating of that point at this time, because I do not feel prepared to pass upon a question of that magnitude in this hasty and inconsiderate manner. There is no time here now for the necessary discussion of it; and it does not appear to me to be so clear from difficulty as it does to some Senators. The Constitution provides that the vote shall be by two thirds of the members of the court:

"And no person shall be convicted without the concurrence of two thirds of the members present."

And the question will be, whether the Chief Justice is a member or not. I am not prepared at this time to decide that question; and if I am compelled to vote on this motion I wish it distinctly understood that I do not commit myself on that point.

Mr. CONKLING. But, Mr. President, the Senator from Oregon will observe that, under the mover's view of this amendment, in voting upon it he commits himself to no question excepting that. If the Senator from Maine insists upon pointing his amendment at that particular question, and we are to vote upon the amendment, certainly we cannot do it without committing ourselves, as far as a vote does commit those who give it, upon that question.

Mr. MORRILL, of Maine. If the Senator will excuse me——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Maine?

Mr. CONKLING. I do, in the hope that the Senator will withdraw his amendment.

Mr. MORRILL, of Maine. I am not disposed to set my own judgment against that of the committee who have reported these articles, and being appealed to generally by the committee, in order to accommodate myself to what seems to be the very earnest desire of the committee I modify my motion so as to strike out in the second line, after the word "members," the words "of said high court of impeachment," and then to strike out after the word "present" the words "and voting."

Mr. EDMUNDS. That will leave it in the very language of the Constitution.

The PRESIDING OFFICER. The question is on the amendment as modified, to strike out in the second line of the twenty-second rule the words "of said high court of impeachment" and also the words "and voting;" so that the clause will read:

And if the impeachment shall not be sustained by the votes of two thirds of the members present a judgment of acquittal shall be entered, &c.

Mr. CONKLING. The amendment, as I understand, now obviates this whole question. It leaves it for another time if there be a question to be raised. If that is the understanding I shall be very glad to have a vote, although, if the understanding is that the question is to be discussed, I shall beg leave to submit some views upon it.

Mr. BUCKALEW. I suspect this question is somewhat involved in another clause of these rules.

Mr. EDMUNDS and Mr. CONKLING. Let us settle this first.

Mr. BUCKALEW. I mean under the seventh rule; and before the subject passes from the attention of the Senate I shall refer to that. For the present, however, as the Senator from Maine has used constitutional language in this particular rule, certainly we cannot object to that.

The amendment was agreed to.

Mr. VAN WINKLE. I think there is a deficiency in this rule; a few words that ought to have been introduced; and it arises from a few words that are in the Constitution. As the shortest way to explain myself I will read the provision of the Constitution:

"Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States."

It would seem, from the particular language there used, that the judgment of the court of impeachment need not extend as far as this permits. The word "further" is comparative, and used in that sense.

Mr. CONKLING. If the Senator will turn over two pages he will find a provision that all officers impeached shall be removed from office.

Mr. VAN WINKLE. I have turned over. If the Senator will allow me to explain myself I think he will find it is not so clear.

The PRESIDING OFFICER. The Senator must not be interrupted without his consent.

Mr. VAN WINKLE. I was saying that from the language used it is evident the judgment does not necessarily extend to both those clauses or to either of them, does not necessarily go to the whole extent; that without any other words the Senate might give a judgment inflicting some punishment less in degree; but the fourth section of the second article provides that—

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

But it does not say that the judgment shall necessarily extend to disqualification to hold any office of honor, trust, or profit under the United States. I believe I shall be carrying out the views of the committee, who, of course, would wish the thing to be perfected; and I therefore propose the following amendment: in the fifth line of the twenty-second rule strike out the words "the court, by its presiding officer, shall proceed to pronounce judgment," and insert "shall proceed to ascertain what judgment shall be rendered in the case, which, being ascertained, shall be pronounced by the presiding officer." The clause will then read:

But if the person accused in such articles of impeachment shall be convicted by the votes of two thirds of the members of such court present, the court shall proceed to ascertain what judgment shall be rendered in the case, which judgment, being rendered, shall be pronounced by the presiding officer, &c.

I think there is substance in my objection.

Mr. DRAKE. I suggest to the Senator from West Virginia to put in the two words "and entered;" so as to read "which, being ascertained and entered, shall be pronounced."

Mr. VAN WINKLE. That is additional to the original. I am not tenacious about the words. I want to call the attention of the Senate to it because it is very evident to my mind that disqualification to hold any other civil office does not follow, but that the removal is peremptory. Removal is settled by the Constitution, but the judgment must ascertain whether any further punishment is to be inflicted.

Mr. EDMUNDS. I wish to perfect the section proposed to be amended by just striking out some words which will free it from all doubt, I think, before the vote is taken on the motion of the Senator from West Virginia, and perhaps he will be satisfied with it then. I move to strike out the words "of such court" in the fifth line and the words "by its presiding officer" in the same line. Those words were stricken out in the report of the committee, but after being stricken out from the print the printer put them in again. The state of the rule will then be, "but if the person accused in such articles of impeachment shall be convicted by the votes of two thirds of the members present," using the constitutional language, "the court shall proceed to pronounce judgment." That is to say, the court shall then proceed to pronounce whatever judgment the Constitution empowers or authorizes it to pronounce. The court must then determine, as a matter of course, what judgment it will pronounce. The court then deliberates as to what judgment it will pronounce; whether it will, if the Senator from West Virginia is right, censure, whether it will remove from office, or whether it will remove from office and disqualify from holding office in future. I think that would relieve it from all doubt.

Mr. VAN WINKLE. I accept that amendment, if it is offered as such. It meets the difficulty I had.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment as modified in the form now proposed by the Senator from Vermont.

The amendment was agreed to.

Mr. WILLIAMS. I move to strike out the words in that rule from the word "but" in the third line inclusive to the word "present" in the fifth line, (striking out these words: "but if the person accused in such articles of impeachment should be convicted by the votes of two thirds of the members of such court present,") and in lieu of them to insert "but if the accused in such articles of impeachment shall be convicted by the concurring votes of two thirds of the members present for any one of said articles," so as to provide that if two thirds of the members present concur in voting for any one article of impeachment he shall be convicted.

Mr. CONKLING. Does it not mean that now?

Mr. EDMUNDS. It is impossible to put any other construction upon it.

Mr. BUCKALEW. The amendment is quite unnecessary.

Mr. WILLIAMS. Senators suggest that it is quite unnecessary. It may be that these rules are quite unnecessary. The suggestion may possibly apply to all of them, because they may be made by the court hereafter; but if we have any rules on the subject they ought to be explicit, ought to be well understood. This rule, as it stands, provides for the contingency that "the person accused in such articles of impeachment shall be convicted by the votes of two thirds of the members of such court present." Whether that means that they shall all concur on one article of the impeachment, or whether two thirds shall sustain it, some voting for the impeachment upon one article and some upon another, and two thirds concur in that way, does not clearly and distinctly appear. If the former is the meaning of the rule I think we had better have it amended so that its meaning may be perfectly clear to every person.

Mr. EDMUNDS. The Senator from Oregon should remember—perhaps it has escaped his notice for the moment—that we have already agreed to an amendment proposed by the Senator from New Jersey [Mr. FRELINGHUYSEN] which requires a separate vote by the yeas and nays on the question guilty or not guilty, to be taken on each article, which precedes this language. In that point of view it seems to me that it is impossible to raise any doubt upon this language, which says that if the person accused in the articles shall be convicted judgment shall be pronounced. It does not say the person shall be convicted upon the articles or all the articles; but, describing the person

accused in the articles, if you vote a conviction, a previous rule has provided that you shall vote for or against a conviction upon each article. That being the case, it certainly is not manifest to my mind that there is any necessity at all for the amendment proposed by the Senator from Oregon. I ask that the Secretary read the words I refer to, about taking a vote on each separate article, which have already been agreed to.

The PRESIDING OFFICER. The words will be reported.

The Secretary read as follows:

On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately.

Mr. EDMUNDS. That is part of the twenty-second rule, is it not?

The SECRETARY. The first clause of the twenty-second rule.

Mr. HOWARD. I think it is clear enough.

Mr. WILLIAMS. I do not think it necessarily follows that this amendment of mine is not advisable or necessary because the amendment of the Senator from New Jersey has been adopted, for that simply provides for the mode of voting; and then the rule provides, after the mode of voting is defined, that if the impeachment shall not be sustained by the votes of two thirds of the members there shall be an acquittal; but there ought to be a provision as to what shall be necessary to constitute a conviction in this rule, it seems to me. Otherwise, there is room for doubt and dissension. If this is what the rule means the language ought to be express and clear upon so important a question. I believe Senators agree that this is what the rule means, but still there is room for discussion upon the subject; and I submit the amendment to the Senate and leave it to them.

Mr. BUCKALEW. I submit to the Senator from Oregon that the Senate heretofore, as a court of impeachment, has settled this subject; it has convicted a man on some articles and acquitted him on others. Besides that, it is a universal rule of criminal law in this country everywhere and abroad that a conviction upon any single count of an indictment, no matter how many counts are contained in it, is sufficient, and judgment is entered upon the count on which the conviction is based.

Mr. HENDRICKS. If that count be sufficient standing alone?

Mr. BUCKALEW. If it is a good count.

Mr. HOWE. It seems to me that the amendment which has already been adopted to this rule clearly makes a difference between an article and the impeachment, because that amendment says that the court shall vote on the articles separately on each article of the impeachment. That clearly implies that an article does not constitute an impeachment. Impeachment is the whole arraignment. But then the rule goes on to say that if the impeachment shall not be sustained (proceeding on the theory that an article is an impeachment) by the votes of two thirds of the members present then judgment of acquittal shall follow. It seems to me, having in the amendment already agreed to distinguish between an article and an impeachment, you should adopt the amendment of the Senator from Oregon.

Mr. HOWARD. Is not an article part of the impeachment?

Mr. HOWE. It is; but by your own amendment you have declared that it is not an impeachment; and if the amendment of the Senator from Oregon is voted down the rule will declare that not a part of the impeachment shall be sustained, but the impeachment, the whole impeachment, shall be sustained by two thirds of the members.

Mr. HENDRICKS. The impeachment is the accusation, the articles are the averments of it, and if either one is sustained the impeachment is sustained.

Mr. HOWE. That is so if there is a general conclusion; but I cannot tell what form the arraignment may assume. All these are mere counts, if the articles are separate counts, making up one arraignment for one crime, one general offense. If it should take that form the question would not arise.

Mr. HENDRICKS. The articles are counts.

Mr. HOWE. That may be so, but it seems to me that when the articles come here each one of them may be a complete indictment in itself. But the confusion seems to me to arise from the language of this rule as it stands. You have already put language in here which distinguishes between an article, a count, and the impeachment itself. The impeachment consists of all the counts, and you declare that unless the impeachment consisting of all the counts be sustained——

Mr. HENDRICKS. I suppose it will be then exactly like an indictment with several counts. The indictment is sustained if there be a verdict of not guilty upon the first and of guilty upon the second.

Mr. DAVIS. If the second is sufficient.

Mr. HENDRICKS. Yes, if the second count is sufficient in point of law.

Mr. DRAKE. I would suggest to the honorable Senator from Wisconsin that it is very easy, by putting in two other words here, to relieve the rule from all possible question. Let it read: "If the impeachment shall not, under any of the articles presented, be sustained by the votes of two thirds of the members present." By just inserting after the word "not" the words "under any of the articles presented" all difficulty will be removed. I will move that amendment.

The PRESIDING OFFICER. Does the Senator move it as an amendment to the amendment? The amendment of the Senator from Oregon is pending.

Mr. DRAKE. I would suggest to the honorable Senator from Oregon that perhaps the insertion of these words would relieve the case of all difficulty.

Mr. HOWARD. It would make it certain to every intent in particular.

Mr. DRAKE. I should think so. I ask the Senator from Oregon to look at it. I propose to insert after the word "not," in the first printed line, the words "under any of the articles presented;" and further on, after "convicted," to insert "under any of said articles;" so that it will read: "If the impeachment shall not, under any of the articles presented, be sustained by the votes of two thirds of the members present, a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted, under any of the said articles, by the votes of two thirds," &c.

Mr. WILLIAMS. Say "upon" instead of "under."

Mr. DRAKE. Very well; if the Senator from Oregon will withdraw his amendment for a moment I will test the sense of the Senate on inserting these words; or he may accept the modification I suggest.

Mr. WILLIAMS. I will accept what the Senator proposes as a modification of my amendment. I think it accomplishes the purpose. All I desire is to have clearness of expression.

The PRESIDING OFFICER. The amendment of the Senator from Oregon is modified, at the suggestion of the Senator from Missouri, and will be read as modified.

The SECRETARY. In the first line of this rule, after the word "not," it is proposed to insert "upon any of the articles presented;" and in the fourth line, after the word "convicted," to insert "upon any of said articles;" so as to make the rule read:

If the impeachment shall not, upon any of the articles presented, be sustained by the votes of two thirds of the members present, a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted upon any of said articles by the votes of two thirds of the members present, the court shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of State.

The amendment was agreed to.

The PRESIDING OFFICER. If there are no further amendments to this rule the next will be read.

Mr. DRAKE. I would inquire if it is in order to go back and move an amendment to a previous rule, because of its apparent connection with that which we have just been at work upon.

Mr. HOWARD. Let us get through first.

Mr. DRAKE. Very well.

The PRESIDING OFFICER. The rules are now being considered in Committee of the Whole. When we consider them in the Senate any further amendment will be in order. The next rule will be read.

The Secretary read the twenty-third rule, as follows:

XXIII. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, except when the doors shall be closed for deliberation; and in that case no member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and not more than fifteen minutes on the final question, unless by unanimous consent; but a motion to adjourn and the questions mentioned in rule VII may be decided by a *viva voce* vote, unless the yeas and nays be demanded by one fifth of the members present.

Mr. EDMUNDS. After consultation with sundry members who think this rule is a little too stringent still, although it is entirely more liberal than any of the preceding rules in such cases, I move to strike out the words "unanimous consent" and to insert in lieu thereof the words "consent of the Senate, to be had without debate," so as to make the rule provide that no member shall speak more than ten minutes on interlocutory questions, and not more than fifteen minutes on the final question "unless by consent of the Senate, to be had without debate," instead of requiring unanimous consent to a further statement of any gentleman's views.

Mr. BUCKALEW. It seems to me this word "interlocutory" is becoming very important in these rules, and as we go along I should like to have a clear definition of it. I do not know exactly what it means. Everything seems to be interlocutory that is to be done from the time the trial begins, the final argument, and decision of the Senate.

Mr. WILSON. I am clearly of the opinion that the members of the Senate ought not to be permitted to speak at all on this subject. I think it is better for us to hear counsel and then to decide, and decide on the facts put before us. The case is argued on both sides on all points. It does seem to me that if we ever want to get through with the case we ought not to provide for members of the court making speeches. I think the thing all wrong. It will take time, and will take up a very large portion of the time that will be occupied in the trial, and I see nothing on earth to be gained by it.

Mr. CONKLING. May I ask a question of the Senator? Would he not think it rather odd if a jury should hear a case of that nature and render a verdict without one juror ever conferring with another, comparing notes with him as to the weight of certain testimony or certain considerations? Again, would it not be very strange if the Supreme Court of the United States, in the most unimportant contested case, should hear arguments, and then, at once, without going to their conference chamber, without conferring at all, without seeking any light or correction from each other, should pronounce a judgment? Would it not even be very singular if they should do it (if they had time to consider) without consultation, and much more if they should do it at once upon the conclusion of the argument?

Mr. WILSON. I do not know what may seem singular to gentlemen here; but I believe the members of the Senate will be prepared to vote just as well without getting any light from any member of the body on this question. We are going unquestionably to have the ablest counsel in the country before us; and I do not see anything that we are to gain by engaging in discussion ourselves. I think we shall have a great deal of talk if we permit it, and we shall take up more time ourselves than anybody else will. I do not believe in it, and I hope it will not be allowed; and for one I

intend to vote against such a provision. All I want in this case is to have the privilege of voting on the questions when they are discussed by those who are engaged in the discussion, and whose business it is to present the arguments. I am willing then to decide yes or no on the questions raised. I think we shall all be prepared to vote on them. Instead of that, if we adopt this rule, we shall have nearly every member of the Senate speaking on all the points, and they will be discussed over and over and over again.

Mr. HOWE. There is to be only one speech on a question.

Mr. WILSON. On one question; but how many questions are we going to have?

Mr. HOWE. I do not know exactly.

Mr. WILSON. We shall have just as many questions as men want to make speeches upon and take up time. My judgment is that that provision will cost us days of time without one single benefit to any human being.

Mr. WILLIAMS. I will ask the Senator who has charge of these rules if it is intended that these deliberations shall be reported? It seems that they are to be conducted with closed doors; but are they to be reported and published?

Mr. HOWARD. I do not understand that they are to be reported. The deliberations of the Senate are to be held in private for the purpose of mutual conference, and to introduce a reporter would be to destroy the very object of private consultation.

Mr. WILLIAMS. I simply wished to understand that.

Mr. HENDRICKS. I move to strike out these words, "for not more than fifteen minutes on the final question unless by unanimous consent."

The PRESIDING OFFICER. There is an amendment pending.

Mr. EDMUNDS. Let my amendment be voted upon.

Mr. HENDRICKS. What is your amendment?

The PRESIDING OFFICER. The amendment of the Senator from Vermont will be repeated.

The Secretary read the amendment, which was in the sixth line of the twenty-third rule, to strike out "unanimous consent" and insert "consent of the Senate to be had without debate."

The amendment was agreed to.

Mr. HENDRICKS. Now I make my motion to strike all that out.

The PRESIDING OFFICER. The amendment of the Senator from Indiana will be read.

The Secretary read the amendment, which was to strike out the words "and for not more than fifteen minutes on the final question unless by consent of the Senate, to be had without debate."

Mr. HENDRICKS. I think that rule is objectionable throughout, so far as it limits debate on the part of Senators, and particularly objectionable in the limitation upon the debate on the main question. Suppose there be presented to the Senate a case involving many questions of fact, the weight of evidence is to be considered, the credibility of witnesses, the nature of the accusation itself, and this upon many different sorts of charges. In a case like that this provision allowing a Senator fifteen minutes is entirely worthless to the Senate, and it would be denying to Senators in this great examination that which is allowed freely to jurors under the common law. I do not think we ought to do that. I do not object to the deliberations being in secret session particularly; but certainly, as a permanent rule of the Senate, Senators ought not to be confined in their thought upon such a case to what may be said by counsel or by the managers on the part of the House. I can think of a case in which this limitation would be cutting off debate substantially for all beneficial purposes. A case might be presented in which different charges were made against some public officer—different counts presented—and each one of those might involve questions of law and fact, complicated, extensive. Certainly Senators ought not to cut off from themselves the right to discuss among themselves the legal questions and the questions of fact. I can very easily conceive of a case which, in my judgment, might be changed by some view of the testimony that might be taken by some brother Senator. We all know that verdicts of juries are frequently controlled by their own discussion bringing to bear upon the case that practical sense which is so valuable in the jury-room, which is not always in so eminent a degree possessed by the counsel that have addressed them.

It is suggested that the Senate is presumed to possess all that; I think so. We are presumed to possess all the qualities of the counsel and of jurors. I am sure there is no danger of abuse. The suggestion made by the Senator from Illinois in answer to the Senator from Kentucky to-day, that the galleries may be filled, and that counsel, ambitious to make a great impression, may protract the discussions, does not apply in this stage of the proceedings at all, because the Senate will be holding a secret session; the debates will not be recorded. For no purpose, then, could a Senator consume time; he would address his brother Senators only for the purpose of expressing his views of the case. No other purpose can be attributed to him, no other motive can be imagined. Then why cut it off? If the Senator from Michigan, upon his responsibility as a Senator, thought it his duty to address us an hour or five hours upon a great case, would I not listen to him? I certainly would not in advance say that he could not aid my judgment. These are the views I take of it.

Mr. WILSON. The House of Representatives are to bring before us clear and distinct charges, and we are to resolve ourselves into a court to hear them and try them. There are to be seven managers on the part of the House of Representatives. They will, doubtless, select able and eminent lawyers; and I take it that before we get through we shall have to hear about all of them at full length, according to one of the rules that we have adopted to-day. I have no doubt that among the counsel on the other side will be some of the ablest lawyers who can be found in the country. We shall have to sit here day after day, not upon the production of testimony, for most of this matter depends upon record evidence, but upon discussions of law and constitutional power.

Mr. HENDRICKS. The Senator is answering me upon a particular case which I did not go into at all. This is a rule to apply to all cases.

Mr. WILSON. But I am going to stick to this case. We shall have unquestionably to sit here day after day and to listen to the fullest and most elaborate discussions. Accustomed as we are to listen to these matters, having heard pretty much all the questions which will probably be brought before the court discussed, it seems to me we shall be prepared to make up our minds without going into discussion ourselves; and I believe, if we allow Senators to discuss the questions, a great deal of time will be occupied and no sort of good on earth will result from it. I do not expect to learn anything from any member of the Senate on the questions which will arise, and I do not expect that it is in my power to give any light to any other members of the Senate. I think the result will be to consume our time uselessly. According to the rule as it stands, there is a limit on our debate; but I believe the Senator from Indiana is not satisfied with fifteen minutes; he wants a chance to make a fourteen or fifteen hour speech. A Senator sees fit to do that, and if one Senator does it another will do it, and so it will go on, and we shall have day after day spent in discussion by Senators.

A case of this kind must necessarily take a great deal of time. There is not a point in it which will not be most thoroughly, elaborately, and learnedly discussed by the counsel for and against the accused; and I think, with their discussions, with what we shall hear from them, and what little we know ourselves now, we shall have no trouble in making up our minds, but will be able to record our opinion without having hour after hour and day after day spent in talking among ourselves.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana.

The amendment was rejected.

Mr. DAVIS. Would it be in order now to move to strike out the twenty-second rule?

Mr. EDMUNDS. The twenty-second has been gone through with. We are now on the twenty-third. I submit that it is not in order to move to strike out any previous rule until we have gone through with all the rules according to the course of a Committee of the Whole.

Mr. DAVIS. I desire to make that motion whenever it shall be in order.

The PRESIDING OFFICER. The Chair understands it to have been regarded as the sense of the Senate that the rules shall first be gone through with as in Committee of the Whole.

Mr. DAVIS. I have no objection to that course.

The PRESIDING OFFICER. If no further amendment be moved to the twenty-third rule——

Mr. WILLIAMS. I move to amend the twenty-third rule by striking out that portion of it commencing in the second line with the word "except," inclusive, down to the word "consent" in the third line from the bottom, inclusive, and to insert other words in place of them, which I send to the Chair.

The Secretary read the proposed amendment, which was to strike out the words "except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate;" and in lieu thereof to insert:

Provided, That any member of the court may at any time within ten days after judgment file his written opinion as to the issues decided with the Secretary of the Senate, and the same shall be entered upon the record of the proceedings.

Mr. HOWARD. I hope that amendment will not be adopted.

The amendment was rejected.

Mr. HENDRICKS. I move the following rule, to come in before the forms:

When the Senate sits as a high court of impeachment in a case in which the Chief Justice must preside, such of the foregoing rules as apply to the trial shall be considered and adopted by the court before they shall have force.

It is not necessary for me to occupy the attention of the Senate at any great length of time in support of the rule which I now propose. It stands upon this proposition: the Senate having decided that it must resolve itself into a court to consider the impeachment, and the Constitution providing that the Chief Justice shall preside in that court in a particular class of cases, in advance of so resolving itself into a court it is not competent for the Senate to prescribe the rules which shall control upon matters arising on the trial. I think it is very proper for the Senate to provide such rules as it may be necessary to observe in passing from the one character into the other; but when we have done that our powers ought not to be further exercised, to say the least of it. Senators will observe that I have confined this amendment to the rules to the cases in which the Chief Justice must preside. It is not necessary to consider the reasons for that provision of the Constitution which requires the Chief Justice to preside; they are obvious. The Senate ought to be organized with a presiding officer who has no interest, and can have no

interest, in the result of the case; and if the Senate ought to be so organized upon the trial it ought to be so organized in deciding the rules which shall govern that trial.

I am not able to see that there ought to be a doubt on this question. If the Chief Justice must preside when the Senate shall try the case he ought to preside when the Senate decides how it will try the case, what forms of proceeding shall be observed, what rights shall be secured to counsel, what rights shall be reserved to Senators. Many of these rules are exceedingly important.

Mr. HOWE. Will the Senator allow me to ask a question? I ask simply for information whether the Senator holds that if these rules were prescribed by the court the presiding officer of that court would have a voice and vote in determining the rules?

Mr. HENDRICKS. I should say that when it came to a vote on adopting a rule he would not have a vote; but I answer the question without much reflection. Does the Senator wish to ask any further question?

Mr. HOWE. No, sir.

Mr. HENDRICKS. Then, sir, the logic of the Senator's question is this: that it is not important, inasmuch as the Chief Justice has no vote, whether we adopt the rules before he takes the seat or afterward. I might go still further and say that there is no reason in that provision of the Constitution then which requires that he shall preside in a particular class of cases, inasmuch as he has no vote upon the hearing and decision. But I wish to ask the Senator from Wisconsin this question: if the Constitution provides that the Chief Justice must preside here, and that this must be a court with the Chief Justice as the presiding officer when the trial takes place, ought we not to decide how the case shall be tried when he is in his seat? In a case where the Chief Justice must preside, is it proper that the Senate, in his absence, when the Vice President or President *pro tempore* is occupying the chair, who may succeed in case the impeachment is successful—is it right with that organization of the Senate to prescribe the rules which shall govern the court which the Constitution itself provides for?

Mr. HOWE. If the Senator puts the question to me to be answered, I have only to say that if a power be given to a certain number of men to determine a particular thing, I cannot conceive what difference it can make whether that thing be determined on one day or another; nor can I conceive what difference it would make whether that aggregation of men or convention of men be called a Senate or a court at the time they make the determination.

Mr. HENDRICKS. Now, let me ask the Senator another question. There are rules, you say by the rules themselves, to govern a court. This is not a Legislature; this is but the Senate; and separate from the House of Representatives this body has no power to prescribe a rule except for its own government. We are soon to resolve ourselves into another tribunal, a judicial tribunal; and in going into that tribunal we are, each one of us, to be sworn, and we are to have a Presiding Officer not here in the transaction of ordinary business. If it be necessary under the Constitution that we should be sworn in going into that court, is it right for the Senate now to prescribe the rules which shall govern that body? Ought not those rules which are to control the action of the court to be adopted by us after we have taken the oath? If it is proper that we should be sworn to try the case properly, ought we not to be sworn when we decide how we will try the case? If we say now that but two counsel shall be used on each side, and when we go into the court and are sworn we believe that that is not a good rule, ought we to have it upon us?

Mr. CONKLING. May I inquire, is not that as true where the Vice President is to preside as in any other case? Should we not wait until we are sworn in all cases of impeachment before we make rules?

Mr. HENDRICKS. I think so.

Mr. CONKLING. And yet the Senator's amendment is confined to cases where the Chief Justice presides.

Mr. HENDRICKS. Certainly. If the Senator is not pleased with the amendment it is no objection to come from him that it does not go far enough. I might make that objection to my own amendment, but he cannot.

Mr. CONKLING. I am only testing the consistency of the argument.

Mr. HENDRICKS. I have made it to meet the strongest possible case, the gravest case that can arise, when the President of the United States is impeached; when the Constitution requires that we shall take an oath before we come to the trial; when the Constitution requires that the Chief Justice shall preside. In such a case is it proper, in advance, that the Senate, composed of a body of men not sworn with a view to the particular case, shall decide how the case shall be tried?

Mr. EDMUNDS. Will the Senator permit me to ask him a question?

Mr. HENDRICKS. Certainly.

Mr. EDMUNDS. Are not these rules, when we shall have been sworn, still subject to the control of the body sitting for the trial? Can we not amend, change, or dispense with any one that does not suit us then? The rules of that body, whatever you call it, are always subject to the will of that body. They only stand so long as it is the pleasure of the majority that they should stand.

Mr. HENDRICKS. The suggestion of the Senator admits that I am right. He asks if the court cannot modify these rules? If we have the power now to control the court properly, justly, and in the spirit of the Constitution, then it is a rule to the court as we may prescribe it. But I am not prepared to answer the question of the Senator. I do not know whether the court can change the rule or not. How can our rules here be suspended, the ordinary rules that govern the proceedings of the Senate? They can be suspended by a vote of two thirds I believe.

Mr. EDMUNDS. They can be suspended on a day's notice by a majority.

Mr. HENDRICKS. I believe we cannot suspend them at all; we may modify them by one day's notice. Then the rule is a law to the court for one day, if these become ordinary rules governed by the practice of the Senate. Now, ought the Senate, not organized into this high court, not competent to take a single step in the trial, to say how that trial shall be conducted? Ought the twelve jurors, in advance of being sworn, to consult together and decide how they are going to conduct a trial, so far as they are concerned, how they shall conduct their deliberations? Ought the twelve men, although impaneled as a jury for the court, to meet together and say that when they come to deliberate on their verdict no juror shall occupy more than ten minutes in giving his opinion about the case? Clearly not. It is doubtful whether they could do it after they went into the jury-room; but before that they could not do it at all. And my amendment is simply that in respect to the rules which govern the action of the court on the trial, not those rules that change the Senate into a court, but the material rules that govern on the trial, they shall not govern the court where the Chief Justice is to preside until they be adopted by the court. I believe it is right, and according to the spirit of the Constitution.

Mr. HOWE. I agree with the Senator from Indiana that twelve men impaneled to hear a case as a jury would not have the power to make any such rules before they were sent to their room, and I think it is simply for the reason that they would not have any authority to make such rules when they got into the jury-room. They have no such power to make rules to govern their proceedings; they are impaneled under the direction of the court for a single purpose, and that is to find a verdict, to get at it the best way they can, each man having just as much power as any other man, and the body having no power to control the judgment or the action of any one of its members. But the Senate has, I take it, authority to make rules for its own government and its own guidance; and it is this Senate, I suppose, which is to try all impeachments. I do not know of anything which requires us to call it a court or forbids us to call it a court; but it is the Senate after all, I suppose, which tries all impeachments. If you call it a court it does not make it anything else than the Senate, because the Constitution confers on the Senate the power to try impeachments. If the Senate can try, the Senate must be capable, it seems to me, to make rules to govern the trial. There is a single qualification or modification about the trial of a President upon articles of impeachment, and that is what? That the Chief Justice, not a member of the Senate, shall be brought in to preside over that trial, nothing more, nothing less. The Senator from Indiana concedes that he would not be entitled to vote, or to speak, I suppose; that is, to argue any question which might arise on the trial of the cause.

Mr. HENDRICKS. Allow me to ask the Senator a question. These rules, among other things, confer upon the Chief Justice presiding the power to decide certain questions, questions of the admissibility of evidence. These may be very important. It is conferring upon him a power which he would not possess in the absence of the rule. Now, that is a power which he is to exercise in the court, which we confer upon him when not organized into the court and not under oath.

Mr. HOWE. I do not know to what clause of the rules the Senator now refers.

Mr. HENDRICKS. The seventh rule: "The presiding officer of the court may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the court, unless some member of the court shall ask" a vote.

That is not an act of maintaining decorum and propriety in the Senate; it is a judgment, it is a decision, unless reversed by the Senate, whether the testimony is admissible or not admissible. It is the power of a court until reversed, which he does not possess under the clause of the Constitution, which says simply that he may preside and maintain order and decorum. We confer this power upon him not as a court, not as a legislative body able to enact laws, but simply by rule of the Senate. I do not think we ought to do it.

Mr. HOWE. We confer that power upon him in pursuance of the authority of the Senate to make rules for its government in any particular in which the Senate may be called upon to act, as the Constitution says we may. Now, in any possible contingency, if we have the authority at any time to confer the power mentioned in the seventh rule upon the presiding officer, does it make any possible difference whether we do it to-day or to-morrow, whether we do it when the Chief Justice is here or when he is absent. If I could see that it did I might hesitate upon the point; but, as the same identical individuals are to do the thing whenever it is done, I cannot for my life see what difference it can make whether it is done on one day or another.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Indiana.

The amendment was rejected.

The PRESIDING OFFICER. The Secretary will read the next rule.

The Secretary read rule twenty-four, as follows:

XXIV. Witnesses shall be sworn in the following form, namely: You, ——— ———, do swear (or affirm, as the case may be,) that the evidence you shall give in the case now pending between the United States and ——— ——— shall be the truth, the whole truth, and nothing but the truth. So help you God. Which oath shall be administered by the Secretary.

Form of subpœna to be issued on the application of the managers of the impeachment, or of the party impeached, or of his counsel:

To ——— ———, greeting:

You, and each of you, are hereby commanded to appear before the Senate of the United States, sitting as a high court of impeachment, on the —— day of ———, at the Senate Chamber, in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate, sitting as aforesaid, in which the House of Representatives have impeached ——— ———.

Fail not.

Witness ——— ———, and Presiding Officer of the Senate, sitting as aforesaid, at the city of Washington, this —— day of ———, in the year of our Lord ——, and of the independence of the United States the ——— ———.

Form of direction for the service of said subpœna:

The Senate of the United States sitting as a high court of impeachment, to ——— ———, greeting:

You are hereby commanded to serve and return the within subpœna according to law.

Dated at Washington this —— day of ———, in the year of our Lord ——, and of the independence of the United States the ——.

——— ———,
Secretary of the Senate.

Form of oath to be administered to the Presiding Officer and members of the Senate, sitting as a high court of impeachment:

I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of ——— ———, now pending, I will do impartial justice, according to the Constitution and laws. So help me God.

Form of summons to be issued and served upon the person impeached:

The United States of America, ss:

The Senate of the United States, sitting as a high court of impeachment, to ——— ———, greeting:

Whereas the House of Representatives of the United States of America did, on the —— day of ———, exhibit to the Senate articles of impeachment against you, the said ——— ———, in the words following:

[Here insert the articles.]

And demand that you, the said ——— ———, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice;

You, the said ——— ———, are, therefore, hereby summoned to be and appear before the Senate of the United States of America, sitting as a high court of impeachment, at their Chamber, in the city of Washington, on the —— day of ———, then and there to answer the said articles of impeachment, and then and there to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States, sitting as aforesaid, shall make in the premises, according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness ——— ———, and Presiding Officer of the said Senate, sitting as such high court of impeachment, at the city of Washington, this —— day of ———, in the year of our Lord ——, and of the independence of the United States the ———,

Form of precept to be indorsed on said writ of summons:

The United States of America, ss:

The Senate of the United States, sitting as a high court of impeachment, to ——— ———, greeting:

You are hereby commanded to deliver to and leave with ——— ———, if conveniently to be found, or if not, to leave at his usual place of abode or at his usual place of business, in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and, in whichsoever way you perform the service, let it be done at least —— days before the appearance-day mentioned in said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed on or before the appearance-day mentioned in the said writ of summons.

Witness ——— ———, and Presiding Officer of the Senate, sitting as aforesaid, at the city of Washington, this —— day of ———, in the year of our Lord ——, and of the independence of the United States the ———.

All process shall be served by the Sergeant-at-Arms of the Senate, unless otherwise ordered by the court.

Mr. CONKLING. I move to strike out the words "sitting as a high court of impeachment" wherever they occur in the forms. Those words have not yet been in any form, and I object to their being here. My amendment, if adopted, will make the forms read as the forms read in 1804, in 1830, and in 1862, and always until now.

Mr. HOWARD. I hope that amendment will not be adopted.

Mr. EDMUNDS. The object of introducing those words in the forms was that the forms would be applicable and the signature to these processes would be applicable in whatever case might be on trial. If the President of the United States should be on trial it would be necessary that these processes should be signed by the Chief Justice or issued under his direction, tested in his name as the person presiding at that trial; whereas if any other person should be on trial it would be the President or President *pro tempore* of the Senate. Therefore, if you strike out the words "court of impeachment," the character in which the Senate is sitting, and hence describing the character of the presiding officer in whose name a process is tested, you have the form in such a condition that it would be tested by the Presiding Officer of the Senate, that is, the general Presiding Officer of the Senate, who is in this case the President *pro tempore*, which would be entirely wrong, as it seems to me. The object of introducing these words, as I have said, was to leave it so that the teste in the name of the Presiding Officer would be a teste in the name of whatever officer was to preside at that particular trial, instead of the general Presiding Officer of the Senate.

Mr. CONKLING. I should like to inquire of the Senator from Vermont whether, if process is issued next week or the week after next by the Senate, the Chief Justice at the time being the presiding officer in fact and in truth in the Senate, the form, as it will be without those words, will not be just as applicable as it will be in any other instance of a presiding officer?

Mr. EDMUNDS. No, Mr. President; it will not be, for this reason: unless he be in fact on the particular day presiding officer. When the Senate is doing legislative business, and also trying on the same day an impeachment, at which the Chief Justice presides, unless you have some words which distinguish between the one and the other, the term "Presiding Officer of the Senate" would refer to the President *pro tempore*, as we are at present organized, there being no Vice President to preside over us.

Mr. CONKLING. Yes, sir; but the Senator does not answer my question. I ask him whether, if, in point of fact the trial of the President of the United States is going on, and the Chief Justice presiding, and process is issued during that trial, it would not, under this form, be tested by the man who, in truth and in fact, was then acting as presiding officer? If he supposes that such a thing could occur when a trial was progressing against the President, and the Chief Justice was presiding, that the counsel on the one side or the managers on the other would wait for a legislative day and then apply to the Senate in legislative session for the process, there may be some possible room for his criticism; but that I cannot suppose within the range of reasonable possibility. And until this time the form has always been as it would be without these words. If any gentleman can assign a reason why we should attempt this innovation now, he will assign a reason which has not been assigned in my hearing yet. It is all plain sailing while we adhere to the old custom and to the idea that the Senate is to try impeachments; but the moment we take the idea that the Senate is to die and use a new body when the court comes in, then we depart from the moorings and then we are launched upon uncertainties.

Mr. EDMUNDS. Nobody takes the idea that the Senate is to die and is to be launched a new body by any means. That we discussed on Saturday until, I believe, on a yea and nay vote the Senate was satisfied with the position that these rules took on that subject. It is true that the old form is "witness, ———, Vice President of the United States and President of the Senate thereof." We could not leave the old form standing as it was, because it would not be applicable at all. It was, therefore, as I said before, to get a form which should be applicable to every species of position of the Senate for any trial of impeachment; and it was thought desirable in order to do that, in order to prevent any mistake or misconception, to test the process in the name of the Presiding Officer of the Senate, sitting in the particular character and for the particular purpose named in the process. Then there can be no mistake about it.

Now, it is not necessary, as a matter of practice, that every process shall be signed in the case we are speaking of while the Chief Justice is in the chair. He may sign it in his chambers; he may sign it anywhere. This only provides for the form of the teste of the writ, and it must be tested in his name as the presiding officer, not of the Senate in general. On some day when the Senate is not sitting for the purpose of trying that impeachment, he can still issue process; but it is to be tested in the name of the official and in the character of that official who is entitled to preside over the trial; and, therefore, to use language that would be applicable to all cases, it was necessary, as it appeared to us, to use this form.

Mr. CONKLING. I beg to call the attention of my friend to the fact that on the trial of Peck, in 1830, the Vice President did not sit at all until some time in January, 1831, though the trial commenced on the 13th of December, 1830. Mr. Smith, a Senator from Maryland, presided until some time in January, and yet, although these forms read as the Senator has recited, no difficulty was found; nobody supposed a writ must be in truth signed by the Vice President because the original form recited that, any more than anybody supposes that in the form as it will be, if amended as I propose, anybody would teste it except the presiding officer in truth, which presiding officer would be the Chief Justice in the case we are approaching.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from New York.

Mr. EDMUNDS called for the yeas and nays; and they were ordered.

Mr. WILLIAMS. I have heard the honorable Senator from New York upon this question, and he makes no objection that I can see to these words except that they do not follow the old precedents. If we adopt the amendment which the Senator proposes to these forms, it necessarily involves a revision of these rules; for from the beginning to the end this body has been designated while engaged in trying impeachment as a "high court of impeachment;" and it was decided by the Senate, as I understood the decision, that it should be so designated in the rules. Now, to preserve the consistency of the rules, it seems to me that we should adhere to this designation.

Mr. CONKLING. When was that decided?

Mr. WILLIAMS. That question was decided on the first day during which the rules were considered. I am very confident that we did take a vote upon that question.

Mr. CONKLING. The Senator from Connecticut [Mr. FERRY] will know whether we voted on anything except striking out the word "high."

Mr. FERRY. The only thing we voted on was the striking out of the word "high;" but at the same time there was a suggestion from myself that I intended to follow it up by other amendments so as to cut out from the rules if I could this expression, "high court of impeachment."

Mr. WILLIAMS. I think that there may be a reason for a departure from the old precedents. Does the Senator pretend that we have adhered to the old precedents from beginning to end? We have introduced many new rules here, and have departed largely and widely from the rules that have heretofore obtained in trials of impeachments; and there is a reason, it seems to me, why in this particular case, as suggested by the Senator from Vermont, there may be a departure from the rules that were adopted in other cases; for this is the first occasion on which the President of the United States is to be tried, and when the Chief Justice of the Supreme Court is to preside. It would be possible that rules or forms applicable to a case where the President of the Senate would preside, would not be applicable to a case where the Chief Justice of the Supreme Court is to preside.

Mr. FERRY. I hope that this motion to amend will be adopted by the Senate. It has been my intention all along, when these rules should be reported to the Senate, to move certain amendments in order to take out from the rules the expressions "high court of impeachment," "the court," and the like, and substitute in lieu thereof the words "the Senate." It will not, as the Senator from Oregon apprehends, require a revision of the rules. A few verbal changes will accomplish all that is desired to be accomplished by myself, and by those Senators who think with me on this subject.

And now permit me to say, sir, that there is a reason for this change in the phraseology of the rules that is much greater than mere form. It certainly would appear to any person, without an explanation from the committee, reading these rules as they stand upon their face, that the committee thought the Senate as such did die upon its resolving itself into a high court of impeachment—to use their language—and become something else than the Senate. And intimations are not wanting that a claim of that kind may yet be made before these proceedings are concluded; and although it is said that the phraseology used will make no difference whatever in the adjudication of that claim yet the rules as they stand now do, in my judgment, prejudge the question. They do import that the tribunal before which the President of the United States is to be tried is a different body from the Senate of the United States. Now, I hold that, under the Constitution, the Senate, and the Senate only, is the tribunal which is to try impeachments; but the rules seem to import, as I have already said, a body differently constituted, and a body in which, it is not hesitatingly intimated here, some others than Senators may participate in the administration of this highest court of justice. If this be the fact, if it be the effect of the rules as they stand now upon their face to prejudge that question, I think we should return to the old forms and describe the body which is to sit upon this trial as "the Senate of the United States," and nothing else.

That such would be the first impression that any person, and particularly the impression which an astute lawyer, would receive from the reading of these rules is evinced by the argument of the Senator from Indiana [Mr. HENDRICKS] on Saturday, when the rules were first promulgated, that the Senate of the United States, sitting as it is here this evening, has no right to make rules for the high court of impeachment, which is spoken of in the rules which are reported by the committee, and that we must wait until the Senate is sitting in that capacity before we have the right to adopt such rules; and upon the face of the paper before us it certainly appeared to me at the moment that the objection was well taken.

Now, to avoid the apparent prejudgment of this question which may arise I certainly, for one, do desire to see the Senate described in constitutional language throughout the whole of these rules, and not in language which is utterly unknown to the Constitution, and which seems, at any rate, to describe a different body from the Senate of the United States. I hope that the amendment suggested by the Senator from New York may prevail; and if it does I shall, when the rules are reported to the Senate, move other amendments so changing the phraseology—and it requires but very few, for I have been through all the rules and examined them in reference to this subject—as to describe in constitutional language the tribunal which is to sit.

Mr. WILLIAMS. I wish to ask the honorable Senator if we do not, in these rules, recognize the right of the Chief Justice to participate in the proceedings on this trial by declaring that he may decide all questions of evidence, and that his decisions shall stand as the judgment of the court unless overruled by the members of the Senate.

Mr. FERRY. One of the rules, as it now stands, does so provide, and that rule ought to be amended in that particular, so that the Senate shall decide, in my judgment.

The question on Mr. CONKLING's amendment being taken by yeas and nays, resulted—yeas 23, nays 12; as follows:

YEAS—Messrs. Cattell, Conkling, Corbett, Cragin, Drake, Ferry, Fowler, Harlan, Hendricks, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ramsey, Saulsbury, Sherman, Stewart, Thayer, Tipton, Van Winkle, and Yates—23.

NAYS—Messrs. Buckalew, Cameron, Chandler, Davis, Edmunds, Howard, Nye, Patterson of Tennessee, Sprague Willey, Williams, and Wilson—12.

ABSENT—Messrs. Anthony, Bayard, Cole, Conness, Dixon, Doolittle, Fessenden, Frelinghuysen, Grimes, Henderson, Johnson, Morton, Norton, Patterson of New Hampshire, Ross, Sumner, Trumbull, and Wade—18.

So the amendment was agreed to.

Mr. McCREERY. I move in the fourth page, the twenty-ninth line, in the form of oath to be taken by and to be administered to the Presiding Officer and to the members of the Senate, after the word "laws," to insert "of the United States passed in pursuance thereof;" so as to read:

I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of ——— ———, now pending, I will do impartial justice, according to the Constitution and laws of the United States passed in pursuance thereof.

Mr. DRAKE. I would inquire what is the special meaning on the part of the Senator from Kentucky in putting in there the words "and laws passed in pursuance thereof." Is it intended that each Senator shall consider his conscience bound in this prosecution only by such laws as he may consider to have been constitutionally enacted? I would really like to know. If that is the intention on the part of the Senator from Kentucky it would be well for the Senate to understand it.

If the Senator from Kentucky means that we shall decide upon the case according to the Constitution and the existing laws of the United States that is one thing. If he means that each Senator shall array himself here as a judge upon the constitutionality of existing laws, and that where he chooses to consider them unconstitutional he will not hold himself bound by them, that is quite another thing.

Mr. McCREERY. I do not wish to enter into any discussion at this late hour. I will only state that the amendment is drawn from the Constitution itself. The Constitution and the laws passed in pursuance thereof constitute the supreme law of this land; and I did suppose that the Senators would hold themselves responsible to and be bound by the supreme law of the land. I drew this amendment from the Constitution. I take its language. If the gentleman chooses to vote against it he can do so.

Mr. HENDRICKS called for the yeas and nays and they were ordered.

Mr. DRAKE. I put a question in regard to this amendment to the honorable Senator from Kentucky, which he has not seen fit to answer, doubtless, for reasons good and sufficient to himself, concerning which I have no disposition to make any cavil. But, sir, I take this position in regard to this matter: that when a question of that kind is put to a Senator, an answer to which in one way will relieve the case of all possible doubt, and the withholding of an answer in regard to which will leave it still in doubt, then the purpose in withholding the answer is to leave the matter still in doubt.

I have only to say, with regard to this matter, that all laws that stand upon the statute-books of the United States have been, so far as this body is concerned and as the court of impeachment is concerned, passed in pursuance of the Constitution. But, sir, when the matter is put in this shape, and the question which I put to the Senator proposing the amendment with regard to the intended effect of it is not answered, then I take it that there is something under the surface; that it simply means that every Senator, when he sits as a judge in that court, is to determine for himself whether the laws which have been passed are constitutional or not; and if he chooses to decide in his own mind that they are not constitutional he will not convict the person impeached for a violation of them. Sir, I gave the honorable Senator from Kentucky a full opportunity to reject any such interpretation of his amendment, but he has seen fit not to avail himself of it.

Mr. YATES. Will the Senator from Missouri allow me to make a suggestion?

Mr. DRAKE. Certainly.

Mr. YATES. I believe that all the oaths which are taken by public officers, as, for instance, by the President of the United States, or a Senator, or a judge of a court or an attorney of a court, are to the effect that he will support the Constitution and laws of the United States. Therefore the Senator from Missouri very properly asks why alter the ordinary form of the oath and say "laws of the United States passed in pursuance of the Constitution."

Mr. HENDRICKS. Allow me to ask the Senator from Illinois what oath he refers to, what official oath which requires a man to swear to support the laws?

Mr. YATES. All the oaths the Senator has taken as a public officer in any capacity.

Mr. HENDRICKS. An oath to support the Constitution and laws?

Mr. YATES. "Constitution and laws of the United States;" I think so. Perhaps, however, I am mistaken on that very point.

Mr. HENDRICKS. Slightly.

Mr. DRAKE. Now, Mr. President, there is a great deal more in this matter, in my opinion, than would strike one at first sight. The object of administering an oath to Senators is to bind their consciences; and the object of it is defeated if you leave anything but a direct and affirmative obligation upon their consciences. If there is a form of oath administered which admits of two constructions, and in which there can be a mental reservation, the whole object of the oath is defeated.

Now, sir, I say if you administer the oath in the form in which it is proposed by the Senator from Kentucky, you leave it just exactly in that shape. He, I, or any other Senator may say in his own heart with regard to any particular law which the officer impeached is charged with having violated, "that is an unconstitutional law." To use the language of Andrew Johnson in his opening message at this session of Congress, "it is as plainly unconstitutional as anything that can be imagined, and, therefore, I will not convict any man for any act that he has done in violation of the terms of that law." I, for one, do not choose to make myself a party to any such amendment in the form of the oath. I do not say that the Senator from Kentucky, or any other Senator on this floor, would do that thing, but I do say that I will not vote for opening the door for any one to do it.

Mr. BUCKALEW. I do not think it is necessary to debate this question at much length. I am only astonished that words should have been expended upon it. I understand the clause to mean now what it will mean if the amendment shall be made, and *vice versa*; but, as in several other cases in the consideration of these rules, wherever there is question of phraseology, it is best to adopt the language of the Constitution. In the twenty-second rule we voted to strike out in the second line the words "and voting," in order to have the exact constitutional language, and other changes of a similar sort have been made. I do not see any necessity for any warmth by the Senator from Missouri.

Mr. DRAKE. Warmth! I beg the Senator's pardon. If I cannot be an icicle like the Senator from Pennsylvania, I am sorry for it. [Laughter.]

Mr. BUCKALEW. I do not, I say, observe any reason for warmth in the Senator from Missouri or any one else about this particular question, however the case may stand as to other questions which may come before us in this debate. The supreme law of the land, as the Constitution declares, is the instrument itself and laws passed in pursuance of it. The

Senator from Kentucky proposes that in this oath we shall be sworn to support the supreme law of the land; that is all, to use constitutional language; and if there is any question of propriety as to the particular words that is the best form. Of course, in my judgment, the clause will mean exactly the same thing whether the amendment be in or out.

Mr. DRAKE. Then the amendment is not necessary.

Mr. HOWARD. I have but a word to say. It is quite obvious to my mind what is intended by this amendment. In my own ideas of the laws of the United States, it would make no difference with me in any event. I can best illustrate my ideas, I believe, by putting a suppositious case. Suppose a collector of a port of the United States was required by a statute formally passed by Congress to perform a certain duty—I speak merely of a collector—and suppose the collector, in his wisdom or in his prejudices, whatever might be his motive, should take it into his head to decide that the statute imposing upon him the particular duty was not passed in pursuance of the Constitution of the United States, was therefore void; and suppose, further, that he should refuse to execute this law and to perform the duty imposed by it upon him, and he should be impeached before the Senate of the United States for a misdemeanor in office in refusing to perform his duty. This amendment, I take it, is intended as a sort of address or appeal to the members of the high court of impeachment to receive from the person thus accused the plea that he held the statute to be unconstitutional, and, therefore, refused to execute it or to perform his duty. The Senate, sitting as a judge of him, are to be asked to acquit him of this neglect of duty upon the ground that the law was void and inoperative, thus opening the entire field of judicial decision upon the gravest question that may possibly arise to every officer in the United States to determine for himself, without the judgment of a court, whether or not he will perform the duties imposed upon him by law. That is the object of this amendment, I take it, and that is its sole object. I speak simply of a collector of a port as an illustration.

The yeas and nays being taken, resulted—yeas 8, nays 22; as follows:

YEAS—Messrs. Buckalew, Davis, Fowler, Hendricks, McCreery, Patterson of Tennessee, Saulsbury, and Tipton—8.

NAYS—Messrs. Cameron, Chandler, Conkling, Corbett, Drake, Ferry, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Ramsey, Sherman, Sprague, Stewart, Thayer, Van Winkle, Williams, Wilson, and Yates—22.

ABSENT—Messrs. Anthony, Bayard, Cattell, Cole, Conness, Cragin, Dixon, Doolittle, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Johnson, Morton, Norton, Patterson of New Hampshire, Pomeroy, Ross, Sumner, Trumbull, Wade, and Willey—23.

So the amendment was rejected.

Mr. CONKLING. I rise to comply with the request of the Senator from Connecticut, [Mr. DIXON,] who asked me to say that he was paired with the Senator from Massachusetts [Mr. SUMNER] on all these votes, being compelled to leave the Chamber.

Mr. BUCKALEW. In the fifth line of this rule we have a provision that the oath to a witness can be only administered by the Secretary of the Senate. This may be very inconvenient. He may be absent often, and here is a rule which would seem to preclude the Senate from authorizing the oath to be administered by some other person. I suggest that we had better add the words "or chief clerk," or make some other provision by which we can have oaths administered conveniently in the absence of the Secretary. I move to add the words "or chief clerk" at the end of that clause, or any other suggestion will be acceptable to me.

Mr. CONKLING. Is "chief clerk" the proper title?

Mr. BUCKALEW. Yes, sir.

Mr. SHERMAN. I wish to inquire first whether the chief clerk has authority by law to administer an oath?

Mr. BUCKALEW. We can confer it.

Mr. SHERMAN. I do not think the Senate have power to confer on any one the authority to administer an oath. That must be done by law, because if perjury should arise of course the oath is the material thing, and it must be shown to have been administered by an officer authorized by law to administer an oath. The Secretary has power to administer an oath. I think the words ought to be general, and the authority to administer oaths here ought to be by anybody authorized by law to administer oaths.

Mr. BUCKALEW. It is the practice in courts of law to authorize any person present to administer oaths; it is done by authority of the court.

Mr. SHERMAN. But it must be done by law.

Mr. BUCKALEW. Oh, no.

Mr. SHERMAN. Cases might arise on an indictment for perjury where the authority to administer the oath must be shown to have been conferred by law.

Mr. CONKLING. Suppose the Senator should add after the words "Secretary of the Senate" the words "or any other person duly authorized thereto." Is there any objection to that?

Mr. HOWARD. "Authorized" by whom? By the Senate?

Mr. CONKLING. No; by law. Say "any other person duly authorized to administer oaths."

Mr. SHERMAN. The Chief Justice can administer oaths.

Mr. HOWARD. Does the Senator from New York suppose a stranger is to be introduced into the court, a justice of the peace, or a judge of the Supreme Court?

Mr. CONKLING. Not at all. The Chief Justice is authorized by law to administer oaths.

Mr. HOWARD. I suppose he is; but I am not able to concur with the honorable Senator from New York as to the power of the Senate to administer an oath. We are authorized to try a case and pass a judgment. For this purpose we are a court under the Constitution. How is a trial to take place without sworn testimony? Is the Senate to wait until Congress shall see fit to pass an act authorizing some officer of the Senate to administer an oath? I think not; I think the Senate has inherently the power, as belonging to its judicial function of trying the case, to provide for the administration of an oath as the indispensable instrument of executing their judicial function.

Mr. BUCKALEW. If there is a different form of amendment proposed I have no objection. I have no doubt that the Senate, sitting as a court of impeachment, can authorize any one to administer an oath.

Mr. HOWARD. Beyond all question.

Mr. BUCKALEW. Any one member of the court can administer an oath, the presiding officer. I do not care in what form the amendment is put.

The PRESIDING OFFICER, (Mr. MORRILL, of Vermont, in the chair.) The question is on the amendment proposed by the the Senator from Pennsylvania.

Mr. HOWARD. I should like to hear it reported.

The PRESIDING OFFICER. The Secretary will read the amendment.

The Secretary read as follows:

At the end of the fifth line of the twenty-fourth rule insert "or any other person duly authorized thereto."

Mr. HOWARD. I have no objection to that.

The amendment was agreed to.

Mr. HOWE. I inquire whether in the summons the hour for appearance of the respondent ought not to be named. The previous rules fix the hour at which the court shall sit. This requires the respondent to appear on a certain day, but does not name the hour. I will move after the blank to insert "at the hour of twelve o'clock and thirty minutes in the afternoon of said day."

The amendment was agreed to.

The PRESIDING OFFICER, [Mr. POMEROY in the chair.] If there be no further amendment to this rule, the next will be read.

The Secretary read the twenty-fifth rule, as follows:

XXV. If the Senate shall at any time fail to sit as such court on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for sitting as such court.

Mr. CONKLING. In order to conform that rule to the vote just taken by the Senate, I move in the first line to strike out the words "as such court" and to insert in lieu thereof "for the consideration of articles of impeachment;" and in the last line to strike out the words "sitting as such court" and to insert "resuming such consideration;" so that the rule will read:

If the Senate shall at any time fail to sit for the consideration of articles of impeachment on the day or hour fixed therefor the Senate may, by an order to be adopted without debate, fix a day and hour for resuming such consideration.

It is merely to dispense with the words "court of impeachment."

Mr. WILLIAMS. I desire to know of the honorable Senator if he means to have the Senate decide that it is not a court while it is engaged in trying articles of impeachment? Is that the object of this motion? Are we to deliberately say that the Senate, with the Chief Justice of the United States presiding, in the case where a person is arraigned to answer to articles of impeachment, in which witnesses are examined, in which the Constitution provides that there may be a conviction or acquittal, and also that there may be a judgment rendered, does not constitute a court? If that is the object of the amendment, then I propose to vote against it.

Mr. CONKLING. I do not wish the Senate to decide anything about that question but just to have it as the Constitution does. That is all I wish the Senate to do.

Mr. HOWARD. I hope this amendment will not be adopted. If this is adopted it is quite obvious that various other amendments will have to be made in the rules. I cannot, myself, give up the idea that the Senate, when sitting for the trial of impeachment, is a court with all its attributes, with all the powers of a court to try the issues brought before it, and to decide them. I am very unwilling, indeed, to part with that word from our rules.

Mr. SHERMAN. I voted with the Senator from New York for his former proposition because I thought it shortened the process; and it was not necessary, in summoning a witness before the Senate of the United States, to inform the witness that it was sitting as a high court of impeachment; but it does seem to me that the rule under consideration ought to be left to stand as it is. That this Senate is a court when it proceeds to try a case I think it does not need any very long speech to prove. We examine witnesses; we convict or acquit; we try a case; we are sworn; and if there is any element of a trial or any idea of a court that does not enter into our organization, I do not know what it can be. All this rule provides is, that if, by any accident, we fail to sit as a court at the time indicated, that is, fail to take up this particular class of business at the time prescribed, we shall do it without debate at a future stage of the session of the Senate. I do not, therefore, see that the Senate gains anything by striking out those words. I think we are a court whether we call ourselves so or not. I shall therefore vote against the amendment.

Mr. CONKLING. I will not ask Senators to hear me repeat the argument which in part I suggested the other day on this subject. I wish, however, to make one remark in reply to the honorable Senator from Ohio. He says he believes we are a court, and the reason he assigns for it is that we try and we adjudge. Let me remind him that the Senate in my own State, for example, by statute tries and adjudicates many questions; and by statutes which, if he will look at them, he will see forbid the idea that it sits as a court at all. So by statute the canal board, as it is called in my State—I

believe there is no such organization in Ohio—tries officers, tries superintendents of the canals, tries them upon charges, dismisses them from office, and all that, and it has never been thought by anybody I ever heard of that therefore the canal board was a court.

The Constitution says that the Senate shall have the sole power to try all impeachments. It does not say that the Senate shall become a court *ex officio;* it does not say that there shall be a high court for the trial of impeachment, to be composed of the Senate and of the Chief Justice sitting *ex officio*. It says nothing of that kind, but simply that the Senate shall try all impeachments. Why not leave it there? If it is a court we do not destroy that character by omitting these superfluities from our rules. If it is not a court we do not clothe it with the ermine or the attributes of a court by putting in the rules that it is so.

Then why not take the thing precisely as we find it, and provide that when a day has been fixed for considering this business, be it what it may, and that day is not observed, the Senate may fix another day. It reminds me—without any disrespect to the proposition or to those who support it—of the question asked a long time ago, how many legs does a cat have, calling her tail one. She only has four legs, because calling her tail a leg does not make it a leg. [Laughter.] So, calling this a court does not make it a court, I humbly submit; and failing to call it a court does not prevent its being a court, if in truth it is so.

Mr. EDMUNDS. It is a matter of some regret to me and to those of us who differed from my friend from New York in committee, where we thought we had settled the matter, that he is not willing to take the decision of the Senate on Saturday, when we were pretty full, upon this very question, instead of bring it up again now, after we have gone through with this whole thing. Of course he is perfectly justified in doing so if he thinks the importance of it demands that course on his part; but I am a little afraid that his fear of the canal board in his State being turned into a court has led him to be a little touchy on this subject.

On Saturday, it will be remembered, this very question was debated at great length, not an unnecessary, length, but every gentleman expressed his views who chose to do so, and gave his reasons for them, and the precedents were referred to; and then upon the yeas and nays on the question of striking out the word "high," (in connection with which it was expressly stated by the Senator from Connecticut that if he succeeded in that he should follow it by the other motions which would leave the description of the body to be simply "the Senate," because it would be easier to get an affirmative vote upon striking out a word, which was, of course, a mere matter of form, than it would upon the whole,) the proposition was voted down, and voted down upon a reference to the precedents.

I hold in my hand the Globe, showing those proceedings; and the first was the trial of Blount, in 1798, in which—I ask the attention of the Senator from New York to it—the formal resolution—not the entry of the Secretary, but the resolution of the Senate as offered and and adopted—was "resolved, that at the next opening of the court of impeachment the president" shall do so and so. Then, when we come to the trial of Chase, which was referred to, also, in some parts of the proceedings, the expression "court of impeachment" appears only to be the entry of the Secretary, but in other parts of the proceedings it appears to be the judgment of the Senate itself. Then, when we come to the trial of Peck, on the question of the Senate's taking upon itself a judicial capacity, the formal resolution offered on the part of the committee appointed by the Senate to report rules in that case was:

"*Resolved*, That at twelve o'clock to-morrow the Senate will resolve itself into a court of impeachment."

So that we find ourselves from the beginning, in 1798, down to this time—and the case of Humphreys in 1862 is just the same—having adopted this phraseology as describing the Senate, when it was exercising this function, as sitting as a court, saying nothing now about the word "high." Then where is the use, after all the discussion we have had on this point and one decision of it in the face of these uniform precedents from the beginning to this time, of turning our faces back and oversetting the whole theory upon which these rules go? That is all I have to say, except that I ask for the yeas and nays on this amendment, and let it be settled again once for all.

The yeas and nays were ordered.

Mr. FOWLER. I wish to make a single remark in regard to this amendment. I voted before to strike out the words "high court of impeachment" because of my objection to the word "high." I regard it as a high-sounding and unnecessary term; but I prefer to retain this rule as it is. I think it has been the custom of the Senate in all trials to use this language. Besides, I believe that in such a trial the Senate acts in the capacity described by the rule.

Mr. FERRY. In all the views which I have taken of these various motions I have been governed by what I considered to be matter of substance. Whether the Senate, sitting for the trial of impeachments, be a court or not in ordinary language, whether that term as ordinarily used may properly enough be applied to it is one thing. Whether the Constitution calls it a court and designates it as a court is another thing. If that tribunal be a court according to the Constitution, I would like to have Senators who desire to retain this phraseology point out to me a statute on the face of the earth designating the presiding officer of a court in which a presiding officer has not somewhat more functions than Senators seem to be willing to attribute to the presiding officer of this court of impeachment. And I feel thus because I wish to preserve simply to the Senate—not in relation to this particular case; I care nothing about it in this particular case one way or the other—but to preserve to the Senate, and the members of the Senate only, their constitutional functions without interference from outside. As I suggested before, it is not worth while for me to go over the argument again, because, using this language in the rules which we are prescribing, we ourselves prejudge the question and estop ourselves. As it seems to me, by declaring that the Constitution makes this tribunal a court in the legal, constitutional signification of the term, we estop ourselves from claiming that none other than a Senator is a member of that court.

Mr. EDMUNDS. Will my friend permit me to ask him a question?

Mr. FERRY. Certainly.

Mr. EDMUNDS. I ask him if he does not know that the House of Lords in England, from time immemorial, has always been called the high court of Parliament; and if he does not know that in proceedings in impeachment in that court the Lord Chancellor or Lord High Steward, the president of the court, has no vote unless he be a member of that court by being a peer, by the constant practice and frequent decision of that body?

Mr. FERRY. The constitution of England is an unwritten constitution, derived from the customs of ages, and ours is a written Constitution prescribing the functions and powers of all officers or persons designated therein as discharging official functions.

Mr. EDMUNDS. My friend does not answer the question.

Mr. FERRY. I do not admit that the precedents of the House of Lords, as constituting the high court of impeachments in Great Britain, apply to the United States, a Government with a written Constitution.

Mr. EDMUNDS. My friend called upon any Senator to point out a court in which the presiding officer had not all the functions of a member of the court. Now, I have pointed out to him the House of Lords, which he confesses to be a court, in which the presiding officer, because he is the presiding officer, has no function as a member to vote at all.

Mr. FERRY. But by the British constitution is not the House of Lords acknowledgedly the highest court known as such to the law and the highest court in Great Britain?

Mr. EDMUNDS. Exactly; that is what I say.

Mr. FERRY. But is there any parity of reasoning to be derived from that as to the tribunal appointed by the Constitution to try impeachments in this country?

Mr. EDMUNDS. There is this parity of reasoning: the challenge my friend threw out was to show him a court, as such, the president of which, or the presiding officer of which, was not entitled to exercise all functions as a member of the court, and I pointed out the instance.

Mr. FERRY. I have stated, perhaps, sufficiently all the reasons which have induced me to be urgent in so amending these rules as to conform to what I believe to be the constitutional idea of the impeaching tribunal under the Constitution of the United States. I wish to debar the idea of our being embarrassed when we come to act in this trial and upon the impeachment, from a prejudgment by our own conduct here in establishing rules therefor. I supposed that the vote which was taken a few minutes ago upon the yeas and nays had settled the will of the Senate that the rules should be amended in conformity with that vote. The one taken last Saturday was merely upon striking out the word "high."

Mr. HOWARD. Only the form.

Mr. FERRY. Only the form; but at the same time with the idea thrown out by myself at any rate, in the few remarks that I had the honor to make, that in conformity with such a change, if it should be made, I should move amendments to the rules generally. I do not think the vote taken last Saturday is any criterion of the opinion of the Senate now, as that was a vote merely to strike out the word "high," while the phrase "court of impeachment" was still left, although I suggested that I should move further amendments if that amendment should be made. I earnestly hope that the rules may be conformed to the idea which seemed to have been adopted by the Senate half an hour ago.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment proposed by the Senator from New York, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. MORRILL, of Maine, (when his name was called.) I have paired off on this question with the Senator from Maryland [Mr. JOHNSON] who was obliged to leave the Senate. If he were here, he would vote "nay" and I should vote "yea."

The result was announced—yeas 16, nays 13; as follows:

YEAS—Messrs. Buckalew, Conkling, Drake, Ferry, Harlan, Howe, McCreery, Morgan, Morrill of Vermont, Pomeroy, Ramsey, Saulsbury, Stewart, Thayer, Van Winkle, and Yates—16.

NAYS—Messrs. Cameron, Chandler, Davis, Edmunds, Fowler, Grimes, Hendricks, Howard, Sherman, Sprague, Willey, Williams, and Wilson—13.

ABSENT—Messrs. Anthony, Bayard, Cattell, Cole, Conness, Corbett, Cragin, Dixon, Doolittle, Fessenden, Frelinghuysen, Henderson, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sumner, Tipton, Trumbull, and Wade—24.

So the amendment was agreed to.

Mr. HENDRICKS. I believe that is the last rule. I now propose to amend the second rule in accordance with the principle of the last amendment by striking out the words "grand inquest of the nation" and inserting "House of Representatives," so that it will read:

All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against.

I suppose there can be no question about this after the decision that has just been made.

The amendment was agreed to.

Mr. HENDRICKS. I move to strike out the eleventh rule, more with a view of getting an explanation from the chairman of the committee than perhaps for any other purpose. I want to know whether that rule contemplates the presence of the House of Representatives in its organized form here during the progress of this trial? It reads as follows:

XI. At twelve o'clock and thirty minutes after noon of the day appointed for the trial of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of—— ——, in the Senate Chamber, which Chamber is prepared with accommodations for the reception of the House of Representatives.

Mr. HOWARD. I believe that that has always been the practice heretofore. On the trial of Humphreys a large portion of the Representatives were in attendance in our Chamber; and it is the theory of an impeachment that inasmuch as it is presented by the House of Representatives, they thus becoming the accusers, are to be present in order that the accused may meet his accusers face to face. I believe that hitherto the House of Representatives have not transacted any legislative business during the sittings of the Senate as a court of impeachment.

Mr. HENDRICKS. I do not know to what principle of the law the Senator refers in saying that a man shall meet his accusers face to face. I know what it means when you say a man shall meet the witness testifying against him face to face; but I never knew it was necessary that the grand jury should come in and be face to face with the petit jury while the case is being tried. If that is the idea of the Senator, I do not agree to it, and upon principle it is wrong. The House of Representatives presents these articles of impeachment. It is not to be brought here as an organized body, bringing its influence and personal and collective power upon the Senate to control the action of the Senate. Under the rules which we provide it is contemplated that the House will appoint managers, persons to present the case to the Senate during the progress of the trial, as the House understands the case; but that the House shall be here as the House of Representatives to give the weight and power of its influence to control the action of the Senate is in conflict, in my judgment, not only with the ordinary rules of the Senate but with that independent action which the Senate should take upon so high an occasion.

Mr. HOWARD. Will the honorable Senator allow me to say a word?

Mr. HENDRICKS. Certainly; with pleasure.

Mr. HOWARD. I would ask him how the House of Representatives could proceed properly with their legislative business in the absence of the managers whom they have deputed to conduct the impeachment before the Senate? Here will be half a dozen members of the House of Representatives before the Senate during the trial in the performance of the duty imposed upon them by a vote of the House. They are here acting for, and on behalf of, the House of Representatives in the prosecution, examining witnesses, discussing questions of law before the court. Suppose it should happen, in case the House of Representatives should be in session, that their votes would be needed in the House, even to form a quorum; how can they leave their places here and return and vote or proceed in legislation there without breaking up the proceedings of the Senate sitting as a court? The court in such a case would become immediately dissolved for want of parties. One party would not be present. Would we proceed with nobody but the other party present? Certainly not. It would dissolve the court, dissolve the Senate at once.

Mr. HENDRICKS. It is not for me to say what the House of Representatives shall do with itself pending this trial; but there is one thing it ought not to do; it ought not to be brought here for the purpose of controlling the action of this body; it ought not to be invited here for the purpose of controlling the action of this body.

Mr. HOWARD. Suppose the Constitution, in authorizing an impeachment by the House of Representatives, requires the House to be here, what objection will the Senator have to it then? I think it does.

Mr. HENDRICKS. If the Senator will show that in the Constitution I shall make no objection to it.

Mr. HOWARD. I think that is a part of the Constitution.

Mr. GRIMES. I think the Senator from Indiana need not be alarmed, for I do not think the House will stay here very long. [Laughter.]

Mr. HENDRICKS. I am not proposing, so far as my vote is concerned, to invite the House here. The answer of the Senator from Michigan has not anything to do with the question I am discussing.

Mr. BUCKALEW. I call the Senator's attention to the fact that the House of Representatives frequently grants its committees leave to sit during the session of the House, and in some cases it has given its committees leave to serve out in the country beyond the city of Washington. It is very often done during the session of the House.

Mr. HENDRICKS. That is well known to us all; and yet the House went on with its business. Whether the House of Representatives shall deem it proper to proceed with legislative business when it has sent some of its members into this body to prosecute a case is not an important consideration in deciding whether this section should remain. This is an invitation to the House of Representatives to be here, to attend our sessions. For what purpose? As a prosecutor? Does the House of Representatives become a prosecutor after it has presented the charges here? Or is the House to leave the Senate independent in its action? Why, Mr. President, the rules of the Senate provide that in the debates here upon ordinary matters of legislation it shall not be in order to refer to the action of the House of Representatives, because it is not considered proper that the action of the House shall influence the Senate or any member of the Senate. Is the fact that the House shall present articles of impeachment against a public officer to influence the judgment of the Senate at all? Clearly not. It simply presents the case for the investigation of the Senate, and the party accused comes into this court, as into any court, with the presumption of innocence, dependent, however, upon the evidence that may be produced.

Now, sir, the House, after it presents the articles of impeachment, can do precisely according to its pleasure in the transaction of business. It will be precisely in the case suggested by the Senator from Pennsylvania when it permits the absence of a committee to attend to the business of the House. It may or may not, I presume, at its pleasure, go on with its legislative business. But that the House shall be invited into the Senate as a body, to be present during the progress of the trial, in my judgment is in violation of the principle which says the Senate, in regard to all important action within this Chamber, shall be independent of the influence of the House of Representatives. It is not to be disguised, it cannot be questioned, that if you bring into this Chamber, to attend from day to day, the House of Representatives as an organized body, it is bringing to bear the most tremendous influence that can be brought to bear upon a court; and, in my judgment, it ought not to be. Instead of inviting it, it should be discouraged, if it were proper for the Senate to express any sentiment upon the question at all. Of course, while the Senate acts with open doors, it is proper for the members of the House of Representatives to be here if they choose. But here it is proposed that the Senate shall make provision that they may attend in a body. For what purpose? As spectators of our proceedings? It would seem that their business is for some other purpose. The Senator from Michigan says that they are here as accusers, that the accused may stand face to face to his accusers. Mr. President, it is not right. These rules contemplate other cases that may arise in the future of our history than the particular case which is likely to come here. Suppose some obscure officer, without influence, without patronage, without power, is impeached, and the House of Representatives, with all of its influence and popular power, attends from day to day in the Senate Chamber before the court for the purpose of bringing to bear upon that court that very influence, that humble man may be crushed. At least, sir, I am justified in saying that this rule is not favorable to that impartial trial to which he is entitled.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana, to strike out the eleventh rule.

The amendment was rejected.

Mr. DRAKE. I move to strike out the second sentence of the seventh rule, in these words:

And the presiding officer of the court may rule all questions of evidence and incidental questions, which rulings shall stand as the judgment of the court, unless some member of the court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the court for decision; or he may, at his option, in the first instance, submit any such question to a vote of the members of the court.

I suppose, from a remark made after I made this motion by the honorable chairman of the committee, that he desired the floor for the purpose of making that very motion, that it will meet with the approbation of the committee.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri.

Mr. SHERMAN. I supposed that the Senator was joking when he moved to strike out that clause.

Mr. DRAKE. Did the Senator from Ohio suppose I was joking?

Mr. SHERMAN. I did, indeed.

Mr. DRAKE. I beg to inform the honorable Senator that I have been in the Senate now one year, and I have never perpetrated a joke here yet. [Laughter.]

Mr. SHERMAN. The Senator, I think, has perpetrated one now.

Mr. DRAKE. I am very far from having perpetrated a joke. If the honorable Senator wishes to discuss the proposition upon that basis I will wait until he gets through, and then give my views.

Mr. SHERMAN. The Constitution of the United States declares that the Chief Justice of the Supreme Court shall be the presiding officer of this tribunal. This rule is the only one which gives him anything to do, except directing his presence here, in any substantial position. He is made by the Constitution the presiding officer of this tribunal, and we cannot deprive him of this power. Now, what does this rule authorize him to do:

And the presiding officer of the court may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the court, unless some member of the court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the court for decision.

This simply authorizes him to give a preliminary decision. It allows him to submit the question to the court or make a preliminary decision, from which any member of the court may appeal and take the vote of the majority. As a matter of course, the presiding officer must decide these little questions that arise on the admission of testimony, the admissibility of testimony, &c. A great many questions arise in the course of a proceeding like this. As a matter of course, somebody must decide those questions. They are left to the presiding officer in every legislative body whatever. If any Senator is dissatisfied he calls for a division. If the presiding officer is not permitted to have this power we had better at once select another presiding officer and dispense with the Chief Justice entirely, and not have him brought here. It is perfectly idle and ridiculous to have a court organized with a constitutional presiding officer, and then to say that that presiding

officer shall not make a preliminary decision upon a mere question of order, a question of the admissibility of testimony, and questions of evidence. It seems to me that we ought, in a proceeding of this kind, to be very careful not to trench upon the prerogatives of an officer called here to preside over us by the Constitution of the United States. I really supposed that the Senator from Missouri did not intend to press this motion, but made it rather as a joke.

Mr. DRAKE. Mr. President, I should be very sorry, indeed, for the financial interests of this country if the honorable Senator from Ohio should ever make as great a mistake on any question of finance as he has made upon this question this evening. I was just as far from joking as ever a Senator was on this floor. The Senator from Ohio speaks about the "prerogatives" of the presiding officer of this court. I deny that he has any prerogatives except those which appertain simply to the duty of presiding over the deliberations of the court, putting questions to the vote of the court and announcing the decision of the court. The Constitution simply says that when the President of the United States is tried the Chief Justice shall preside. In that position he has just exactly the same powers and functions that the Vice President would have in any other case of impeachment, and no more. Now, sir, any man in the country, whether a lawyer or not, may, in the course of events, come to fill the position of Vice President of the United States. Suppose that a man who had never been a lawyer, never made law his study, and did not know anything at all about the complex rules of evidence in the courts of justice were to be elevated to the Vice Presidency, and the Senate should consist, as it does now, of a large majority of those who have made the law their study during a large portion of their lives, and he should be set up in the chair as the presiding officer of that body to decide questions of law; I will venture to say that the Senate would regard it as quite preposterous.

Now, sir, why should we set the Chief Justice there to decide these questions? We cannot do it, in my opinion, without a violation of the spirit of the Constitution, which does not entitle him to any more prerogatives as the presiding officer of the court than the Vice President would have in other cases.

But, sir, there is a very grave objection to this. Even taking the distinguished Chief Justice of the United States, so justly distinguished for his great mind and his great knowledge of the law, it is not proper, it is not judicious, it is not for the purposes of justice expedient that the Senate, sitting as a court of impeachment, should ever be brought to the point of overruling a decision made by the Chief Justice of the United States sitting in the chair as the presiding officer of the court. It is not proper that the judgment of the Senate upon questions of law, which it must ultimately decide, if a single Senator demands its decision, should be warped, or if not warped, in any degree affected by the previous announcement of an opinion upon that question by so high a judicial officer as the Chief Justice.

Sir, it might be that, on some future occasion, when a President of the United States should be impeached again, the Chief Justice might be a very strong opponent of his, or a very strong advocate of his, and that his decisions might be influenced one way or the other by the personal considerations or the political considerations which bound him to the President or made him the President's opponent. Under these circumstances, it is not wise or judicious, in my opinion, that we should lay down a rule, not only for this trial but for all other trials, which might bring the Chief Justice, sitting as our presiding officer, in continual conflict with the Senate. Let the Senate decide its own questions of law. Let it not, by simple acquiescence, put the Chief Justice there to decide these questions of law. Let them come up to the work themselves and pronounce their own decision, without the necessity of appealing from his decision, and being brought into antagonism with him.

Mr. HOWARD. Mr. President, it was the object of the committee, if I am able to state their object, in conferring this authority upon the presiding officer merely to facilitate the business of the trial. It was not intended, nor does the rule itself imply, that he *sui juris* is to exercise the power of deciding any questions, whether incidental or otherwise. It was supposed that it would tend to facilitate the trial and be for the convenience of all the parties and of the Senate that he should have authority to decide a certain class of questions as they might arise in the first instance, merely for convenience and as the organ of the Senate.

On reflection, however, I am satisfied that this part of the rules ought to be dispensed with. I can see very plainly that cases may arise in the course of a trial in which there would be a dissension between the Presiding Officer of the Senate and the Senate itself. I can very well see that such a thing may happen in the course of our own experience and within a few weeks, perhaps within a few days. If it should occur that the Chief Justice of the United States should preside over this body upon the trial of impeachment which is now filling the public mind, and if it should happen that collisions should occur between the Senate and that high judicial functionary, it would be at least a very unpleasant state of things, for the Senate would not be proud, perhaps, to be found in continued collision in point of opinion with the highest judicial officer of the Government. I am, therefore, anxious to avoid the appearance of a collision or antagonism between him and us. I shall therefore offer, if it be in order, an amendment to the motion of the honorable Senator from Missouri, to strike out the latter clause of the seventh rule and insert a substitute for it. I will inquire if the offering of a substitute will be in order.

The PRESIDING OFFICER. It will be in order to modify the part proposed to be stricken out before the question is put on striking out.

Mr. POMEROY. I desire to move an amendment to the part proposed to be stricken out, which is first in order.

Mr. HOWARD. My amendment is to strike out the second clause of the seventh rule and to insert the following in its stead:

> The presiding officer may, in the first instance, submit to the Senate, without a division, all questions of evidence and incidental questions, but the same shall, on the demand of one fifth of the members present, be decided by yeas and nays.

I offer that as an amendment to the amendment of the Senator from Missouri, and to take the place of the clause which he proposes to expunge.

Mr. DRAKE. I have no objection to that as an amendment to my proposition.

Mr. POMEROY. The same result, precisely, will be reached, I think, if we only make a few verbal alterations in the text. I will read the text, with two or three verbal alterations:

> And the presiding officer may rule all questions of evidence and incidental questions, which ruling shall stand, unless some member shall ask for a formal vote to be taken thereon, in which case it shall be submitted to the members for decision; or he may, at his option, in the first instance, submit any such question to a vote of the members present.

Striking out the words, "of the court," in the first line, "as the judgment of the court," in the second, and "of the court," in the third, and supplying the word "members," are all the alterations necessary to meet the case precisely as the Senator from Michigan has stated it. However, I have no choice in regard to the matter. I have no objection to the amendment of the Senator from Michigan.

Mr. BUCKALEW. I think this is the most important question that has been raised upon these proposed rules. I intended to raise this question myself if no other member did so. It seems to me that the object intended would be reached by adopting the motion of the Senator from Missouri simply striking out this clause. I understand that provision is made in the latter part of the twenty-third rule for submitting these questions to the Senate by the presiding officer to a *viva voce* vote, and the decision to be taken without debate. That is my understanding; and if I am correct in that opinion the amendment proposed by the Senator from Michigan is not necessary. If we strike out the clause in question the case will be left complete without anything further.

Now, Mr. President, one of two theories must obtain: either the one suggested—not exactly advocated or asserted, but suggested—by the Senator from Ohio, that the Chief Justice, when he presides over our deliberations, is a member of the court; or the other theory, that the Senate of the United States, composed of two members from each State, constitutes this tribunal of impeachment sole and entire, and that the Chief Justice is simply a presiding officer to administer our rules of order, preserve decorum in our proceedings, and to give such incidental and yet invaluable assistance as a presiding officer can upon such an occasion.

If you adopt the latter theory this clause of the seventh rule is manifestly improper. If the Chief Justice be a member of this tribunal of impeachment, if he be armed with legal powers as such member, it may be proper for the other members to allow him to make a decision in the first instance, with the right of appeal to the body in general afterward. But, sir, if it be true that he is simply a presiding officer, and that all the legal duties of the trial are charged upon the Senators alone, distinct from him, this rule proposes to transfer a power and a duty which rests with the Senate itself and to charge it upon the presiding officer.

I do not agree with the Senator from Ohio that the decisions upon the admission of evidence are questions of order. If that were so we might impose them upon the presiding officer. But the admission of evidence is a question of law. It affects vitally the trial itself. It is not a question of order of proceeding or of the manner of proceeding. It relates to the essentials of the trial itself. The admission of evidence, therefore, is a question which belongs to the tribunal which tries the case; and we cannot throw from ourselves the duty or strip ourselves of the power.

Now, what does this rule propose? The presiding officer is to decide these questions of evidence, and then a member of the Senate may appeal from his decision, because it amounts to that. A member may require that the question shall be submitted to the Senate. In what condition shall we be placed? In a condition of possible hostility, so far as judgment is concerned, with our own Presiding Officer. We part with the power of deciding in the first instance and retain to ourselves an appellate power. All this is manifestly improper, if, indeed, that theory be true which I have stated, that the Chief Justice is but the presiding officer of this body and not a member of the Senate for the time being and for the purposes of the trial of an impeachment.

Mr. President, let it be remembered throughout that these rules are not confined to the present case. They are rules for the trial of all impeachments which can be brought before the Senate. In ordinary cases this question which we are now debating will apply to the Vice President of the United States, who will be present presiding over the proceedings of the Senate during an impeachment trial. Can any one pretend that the Vice President of the United States, sitting here as our presiding officer when we are trying an impeachment, is to exercise the power of deciding upon questions of law pending the trial? The mere statement of the proposition is the answer to it. No one can doubt the impropriety of it in that case. The only circumstance which tends to confuse the judgment of members is the fact that in this exceptional case, this peculiar case, a judge is brought in here by the Constitution, the Chief Justice of the United

States, who is presumed to be conversant with questions of law, and, therefore, there would seem to be no impropriety in calling upon him for a legal opinion. But recollect we are now discussing a question of power, and in nine cases out of ten, in nineteen out of twenty, it will relate to the Vice President of the United States, the officer who ordinarily will preside over trials of impeachment. I cannot, therefore, think that it was intended by the framers of the Constitution that our presiding officer should decide for us any question of law or of fact which may arise during the trial. I think his duties are confined to questions of order, the administration of the rules which the Senate may adopt for the purposes of the trial and to subserve the ends of justice.

The Senator from Ohio hangs a doubt or a question upon a single word in that clause of the Constitution which says:

"The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided."

He seems to suppose that if that latter provision had not been contained in the clause the Vice President would have been enabled to vote upon all questions as a member of the body. I do not understand it so. It is possible that the word "and" in that connection would have left the sense clearer. I understand that by that clause a power is conferred upon him which he would not have possessed without it; that that is its just construction, that without such a provision he would have been simply what he is declared to be in the prior part of the clause, the Presiding Officer of the body, charged with the duty of administering its rules and preserving order. Now turn to the first clause of the third section of the same article:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote."

The Senator from Ohio would argue that if that last clause was not in some other signification would have attached to that provision; for possibly those words are unnecessary; possibly they are simply declaratory of what would have been the meaning of the constitutional provision without them. One thing is certain, that by assigning a vote in any given case to a public officer you are not to infer anything about the vote he might have possessed in the absence of such a provision.

But the other clauses read by the Senator from Michigan are, in my judgment, decisive. First, the declaration of the persons who shall constitute the Senate of the United States; they shall be two Senators from each State; and then the clause with which we are mainly concerned, the impeachment clause, as it relates to the Senate.

"The Senate shall have the sole power to try all impeachments."

Of course; the Senate, constituted as the Constitution provides in the previous clause. They shall have—to wit: two Senators from each State convened here—the sole power to try all impeachments. Necessarily that power is exclusive. If it be sole it must be exclusive, also. Now, a part of the trial of an impeachment, and a vital part of the trial of an impeachment, is the reception or regulation of the evidence; and yet by this rule it is proposed to permit the presiding officer to decide those questions; to be sure, with a power of revision on appeal in the Senate itself; but the reservation of that power makes no difference in the argument. If you have a right to confer upon the Presiding Officer of the Senate the power to determine a question of evidence, I suppose you would have the power to confer it simply, without any appeal, without any power of revision, by the body itself.

In the twenty-fourth rule provision is made for the oath which is to be administered to the members of the court. This oath is to be administered "to the presiding officer and the members of the Senate sitting as a high court of impeachment." I object to that clause also, and for similar reasons. It is manifestly improper that you should apply an oath to try the case, such as is provided in that rule to the Presiding Officer of the Senate. I think therefore that rule ought to be amended, and when it is in order, I will make a motion to strike out the words "presiding officer and," so that that oath shall be provided only for the members of the Senate themselves. To be sure, in the third rule there is an exception of the Chief Justice of the United States from the operation of that oath when he presides; but the same reasoning applies to the Vice President of the United States.

Mr. HOWARD. Precisely the same.

Mr. BUCKALEW. Precisely the same reasoning. I think, therefore, not to weary the Senate with a prolonged speech, that, in order to conform these rules to principle, in order to conform them to the law of the land, we ought to strike out that exception in the third article of the Chief Justice; we ought to strike out this latter clause of the seventh rule; and we ought to amend the oath in the twenty-fourth rule. Then you will have a simple and intelligible series of rules; so far as the relations of the Senate and of the Chief Justice or other presiding officer are concerned, you will have the power to try the case clearly confined to the Senators who constitute the court; and you will have proper and adequate powers left to the presiding officer. Without these amendments, in my opinion, these rules are open to most serious objection.

Mr. SHERMAN. I certainly did not wish to give rise to a learned constitutional argument on a question of the mere order of business. The Senator from Pennsylvania has certainly gone a great way out of the point before the Senate in starting various questions of constitutional law. The question with me is simply as to the order of business; what order will most rapidly expedite the trial and conduct it in due form and with propriety. It seems to me that the report of the committee, made after consideration and examination and when all were present, ought to have some weight and consideration, and that now, at this late hour, such a change is rather remarkable.

Mr. President, let me warn Senators beforehand on the effect of the change proposed in this rule. Under the rule questions of evidence may arise at every moment in the prosecution of this trial. Every question may be put by an ingenious lawyer so as to raise a question of evidence. Give me the benefit of the rule as Senators now propose to make it, and I will prolong this trial, without a violation of your rule, for two months. I can raise a question of evidence at every step. Every interrogatory may be put so as to raise a question of evidence; and if you provide that before that question can be decided you must call the yeas and nays and take the vote of the Senate, and any member may call for a division of the Senate, you may prolong the trial greatly.

It seems to me the duty of a presiding officer—your duty, sir, as Presiding Officer, or of the Vice President, or of any other Presiding Officer who occupies your seat—whether we are in executive session or on the trial of impeachment or in legislative business, is to decide all points of order as they arise. Points of order, as they arise in legislative business, are precisely like questions of evidence in the trial of causes. Questions of evidence, as they arise in judicial proceedings, are points of order. They are points of order upon the form, the competency, and the relevancy of testimony, just like questions of order of legislative bodies. I certainly would not surrender the power of the Senate over questions of evidence, and it is sufficient that at any time, on a suggestion of doubt by any member, the vote may be taken. But to attempt now to restrain, limit, and control the ordinary operations of the presiding officer, by our rules, in advance of this trial, it seems to me is extraordinary, unusual, and unnatural. We give to the Presiding Officer of this body always the power to appoint committees, unless special objection is made, unless some motion is made that committees shall be formed in another way. He decides all questions of order. He is allowed to do a great many things, simply as a matter of courtesy, to expedite our business, although the Vice President is not a member of the body and cannot vote except in case of a tie.

It seems to me, therefore, that this rule, which is in accordance with the usual custom of all deliberative bodies, of all legislative bodies, of all judicial bodies, to allow the presiding officer to decide a question promptly, without delay, subject, however, to be revised or reconsidered upon the motion of any member, or subject to submission by him to the body itself, is a proper and just rule, and any departure from it is uncalled for and unnecessary. I do not think it raises a grave constitutional question, or any question at all; because there is no doubt that the Senate may pass upon questions of evidence if they choose to do it; but certainly it will expedite the business of the Senate and expedite the progress of this trial if we allow the ordinary questions to be decided as they arise by the Chief Justice, subject, however, at any time to be submitted to the Senate on the call of a single Senator. I must say that I think the motion now made by the Senator from Missouri, at this late stage of the consideration of these rules, now sanctioned, not by the committee, but by the chairman of the committee, because a majority of the committee, I believe, are not present, is remarkable. A departure from the ordinary customs and courtesies extended to presiding officers, especially in a case where the presiding officer is made so by the Constitution of the United States, the denial to him of the ordinary courtesies and customs given in all legislative and judicial bodies to a presiding officer, is a very remarkable circumstance.

Mr. BUCKALEW. I should like to ask the Senator whether there was ever any such rule in all the previous trials of impeachment. I undertake to say there has never been any such law or any such practice. This is a novelty, entirely new. I would suggest to him again, if he will refer to cases in England, he will find for instance in the trial of the Queen, which was a case analogous to the trial of an impeachment, that from the beginning to the end of a most intricate case in which the facts and evidence at great length were detailed, all the questions were decided by the body itself; they were submitted and voted upon one after another without inconvenience and without serious delay.

Mr. SHERMAN. Questions of evidence?

Mr. BUCKALEW. Questions of evidence were constantly raised and decided without any difficulty. That is the answer to the Senator with regard to the question of inconvenience. Besides that, we have here in these rules a guarantee against waste of time, which did not prevail in that great trial—a provision that these questions shall be determined by the Senate without debate, by *viva voce* vote, unless the yeas and nays are called, as they would not be unless in the opinion of a Senator it was very doubtful. That is a guarantee against waste of time.

Mr. WILLIAMS. I do not intend to protract this discussion; but I do not wish to be understood as fully acquiescing in the construction of the Constitution adopted by the Senator from Pennsylvania. He reads the first subdivision of the third section of the first article of the Constitution, as follows:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote."

And argues that that constitutes a complete and perfect definition of the Senate of the United States. If I understand the Constitution, that is not all of the Senate, because a subsequent portion of the same section says that "the Vice President of the United States shall be President of the Senate;" so that he con-

stitutes a part of the Senate. Notwithstanding he is Vice President of the United States, he is a part of the Senate, because it will not be pretended that the President of a body is no part of that body. He is made by the Constitution the Presiding Officer of the Senate, and necessarily a part of the Senate.

Mr. BUCKALEW. The question is whether he is a member of the body.

Mr. WILLIAMS. I beg the Senator's pardon; that is not the question; but the question is, whether or not he is a part of the Senate. It has been argued that nobody could participate in this trial but Senators, because the Senators alone constitute the Senate. I say that the Senators alone do not constitute a perfect Senate, but the Vice President of the United States is a part of the Senate, and has certain functions to perform as a part of the Senate, and his right to vote as an officer of the Senate is recognized under certain circumstances. When the Senators are equally divided he has a right to vote, for the language is:

"The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided."

That is, unless the Senators be equally divided he shall have no vote; but, if they are equally divided, then he is to have a vote. Certainly, he could have no vote under any circumstances unless he did, for certain purposes at any rate, constitute a part of the Senate. Then the Constitution provides that—

"The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States."

Then it says:

"The Senate shall have the sole power to try all impeachments."

Does that mean solely and exclusively; that the Senators shall have the sole power to try all impeachments; or does it mean that the Senate as an organized body, constituted under the provisions of the Constitution, shall try an impeachment? I say that it means that the Senate, with the Vice President of the United States presiding, and the Constitution contemplates that he is to participate in the trial of every impeachment, except where the President of the United States is upon trial.

"When sitting for that purpose they shall be on oath or affirmation."

Does that mean that the Senators alone shall be upon oath or affirmation; or does it mean that the Senate, that all the constituent members of the Senate who participate in the trial, shall be upon oath or affirmation?

"When the President of the United States is tried the Chief Justice shall preside."

Now, sir, I understand the Constitution to make the Chief Justice of the United States a part of the Senate when it is engaged in trying an impeachment against the President of the United States. I do not undertake to say that he possesses the power to vote like a Senator; I will not make that declaration at this time; but he is a part of the Senate; and I maintain that the Senate, by its rules, may confer upon him such powers as it sees proper in the proceedings of the trial. He is not to be treated, when the Constitution requires him to come here and preside over this body, as a stranger and an interloper, because, under the Constitution, he has as much right to be here as any member of this body; it is as much his duty to be here as it is the duty of any member of this body to be here; and if he is here under the Constitution he is here for certain purposes, and must necessarily possess the powers of a presiding officer. Why should there be evinced a kind of jealousy, as it seems to me, on the part of the Senate, lest if the Chief Justice comes in here he may assume to exercise powers which do not belong to him? Are we to assume that position, and hence refuse to give to him those rights and powers and privileges which the Constitution contemplates he should have?

It seems to me that there is a perfect propriety, when the Constitution compels him to come here and preside upon the trial of the President, in allowing him, in the first instance, to decide in that court as he would in the other court where he presides as Chief Justice. He is the presiding officer of this court and I cannot divest myself of the conviction that this is a court, organized as a court, intended to perferm the functions of a court, and he is expected to preside in a court and discharge the duties of presiding officer of a court. I think it is constitutional and it is courteous that we should treat this officer as the Constitution seems to treat him, as a presiding officer, and not undertake by our rules to absolutely deny to him any powers whatever to participate in the trial, but simply to recognize him as a person required to sit here during the proceedings of the trial, to be a sort of figure-head of the Senate, to be looked at, but to have no power or right or influence upon the decision. I do not believe that we ought to expunge this portion of the rule, but that we ought to allow it to remain.

Mr. CONKLING. Mr. President, it was the saying of an ancient judge that he did not hunger after jurisdiction, and I regret that the Senator from Oregon treats this question as if it were to be assumed that a share of responsibility and of duty to decide in trials of impeachment was something desirable to the Chief Justice. He speaks of jealousy of the Chief Justice, as if the question were whether we should deny that high officer something we have power to confer, and which he would claim or wish. The question, if it were properly here at this moment, as it seems to me it is not, was, I think, more correctly stated by the honorable Senator from Pennsylvania. He inquired whether we had a right to impose upon the Chief Justice duties which belong to ourselves. I prefer to take that as the form of the question to be considered, if we are to consider it at all, and in reply to suggestions to which I have listened I beg to submit a few suggestions.

The argument of the Senator from Oregon is, that the Constitution speaks of the Senate as an entirety; and because attached to the Senate as its Presiding Officer is the Vice President, *ergo*, the Vice President becomes a member of the Senate, and would be entitled to vote like any member but that the Constitution says he shall exercise the right to vote only in case of a tie. And the Senator seems to argue, as did the Senator from Ohio, that the general declaration that the Chief Justice shall preside on the trial of the President of the United States before the Senate carries with it an implication that he is to vote, and to vote as a member of the body.

We may gain information at this point from the practice and precedents under the British Constitution. "The House of Lords," called at times "the court of the king in Parliament," was, like the Senate, an entirety, an ascertained, defined body. There was a presiding officer at all times, and his existence and ministration was derived from the constitution as much as from our Constitution proceeds the existence of a Presiding Officer here. This presiding officer was sometimes a member of the House of Lords—taken from the body to preside in it, as our Presiding Officer for several sessions has been taken from the members of the Senate. Sometimes the presiding officer in the Lords was made a member of the body contemporaneously with his installment as presiding officer—not having been a peer before, he was ennobled at the time, and thus became a member. Sometimes not being a peer, and therefore not a member of the Lords, he presided without a peerage being conferred, and thus he was presiding officer, with all the prerogatives appurtenant to the presiding chair, but still was not a member of the body. By turning to the powers accorded to the Lord Chancellor as presiding officer, and to the duties and prerogatives of the Lord High Steward of England in the trial of impeachments, we may be able to measure the force of the expression: "When the President of the United States is tried the Chief Justice shall preside." A distinction has been made between the right to vote and to decide of the Lord High Steward between a trial before the Lords in Parliament, that is to say, before the House of Lords at large and a trial before a commission of the peers. It has been insisted that the Lord Steward never participated in the decision if the trial was before a chosen number of the peers, but that he did take part in judgment and decision when the trial was before the House of Lords in full. Lord Campbell, in his Lives of the Chancellors, refers to this distinction; so does May, in his Law of Parliament. But the Journal of the House of Lords affords no reason to believe that such a difference of practice in the two tribunals was observed. On the contrary, the question whether the Lord Steward had or had not a vote or a voice in giving judgment seems to have hinged entirely upon his being merely a presiding officer or being also a member of the House of Lords itself. In virtue of his place as presiding officer he seems in no case to have participated in voting or determining the cause. His right and power and designation to preside seems never to have been supposed to carry with it any permission or obligation to join in deciding questions submitted to the tribunal. In many instances the Lord High Steward did vote, however, in trials of impeachment, but always in virtue of his being a member of the House, independent of the fact that he was also its presiding officer.

To substantiate this I refer, first, to the case of the Earl of Ferrers, brought to the bar in 1760. The case is reported at length by Sir Michael Foster, one of the judges of the court of king's bench. The earl having been convicted, the house propounded to the judges two questions, one of which went to the power of the presiding officer and of the house without the presiding officer. The judges answered the questions after deliberation, in writing, and the reasoning appears in Foster's Crown Law at page 138 and onward. I read from page 143. Having discussed some matters incident to a trial of a peer before a commission of peers, he proceeds:

"But in a trial of a peer in full Parliament, or, to speak with legal precision, before the king in Parliament, of a capital offense, whether upon impeachment or indictment, the case is quite otherwise. Every peer present at the trial, (and every temporal peer hath a right to be present in every part of the proceeding) voteth upon every question of law and fact; and the question is carried by the major vote; the High Steward himself voting merely as a peer and member of that court in common with the rest of the peers, and in no other right.

"It hath indeed been usual, and very expedient it is in point of order and regularity, and for the solemnity of the proceeding, to appoint an officer for presiding during the time of the trial and until judgment, and to give him the style and title of Steward of England. But this maketh no sort of alteration in the constitution of the court. It is the same court founded in immemorial usage, in the law and custom of Parliament, whether such appointment be made or not.

"It acteth in its judicial capacity in every order made touching the time and place of the trial, the postponing the trial from time to time upon petition according to the nature and circumstance of the case, the allowance or non-allowance of counsel to the prisoner, and other matters relative to the trial, and all this before an High Steward hath been appointed; and so little was it apprehended in some cases which I shall mention presently, that the existence of the court depended on the appointment of an High Steward, that the court itself directed in what manner and by what form of words he should be appointed. It hath likewise received and recorded the prisoner's confession, which amounteth to a conviction, before the appointment of an High Steward, and hath allowed to prisoners the benefit of acts of general pardon, where they appeared entitled to it, as well without the appointment of an High Steward, as after his commission dissolved."

On the next page, referring to the case of the Earl of Danby, he states certain proceedings between the two Houses of Parliament, and remarks—

"That the Lord's committees said 'The High Steward is but Speaker *pro tempore*, and giveth his vote as well as the other Lords.'"

And upon this appears the following entry:

"In the Commons' Journal of the 15th of May it standeth thus: their lordships farther declared to the committee, that a Lord High Steward was made *hac vice* only, that notwithstanding the making of a Lord High Steward the court remained the same and

was not thereby altered, but still remained the court of peers in Parliament; that the Lord High Steward was but as a speaker or chairman for the more orderly proceeding at the trials."

This the Commons wished entered on the Lords' Journal.

On page 147, speaking of the law as laid down by the Lords, Sir Michael says:

"The letter of the resolution, it is admitted, goeth no farther, but this is easily accounted for. A proceeding by impeachment was the subject-matter of the conference, and the Commons had no pretense to interpose any other. But what say the Lords? The High Steward is but as a speaker or chairman *pro tempore* for the more orderly proceeding at the trials; the appointment of him doth not alter the nature of the court, which still remaineth the court of the peers in Parliament. From these premises they draw the conclusion I have mentioned. Are not these premises equally true in the case of a proceeding upon indictment? They undoubtedly are."

This case and the authorities referred to in stating it seem to make it clear that the immemorial understanding in England has been that the officer whose duty it is to preside at trials of impeachment has definite functions, convenient and conducive to order, and the dispatch of business, and that the duty to vote or to decide is not among his duties or his powers. The fact of his presiding or of his being authorized or commissioned to preside, according to these cases, carries with it no right to act as a trier or a member. The same doctrine will be found in Sharswood's Blackstone, at pages 261 and 262 of the second volume. Lord Campbell, in the third volume of his Lives of the Chancellors, page 557, refers to the case of Lord Dellamere, tried in 1686 for complicity with Monmouth. Jeffries was Lord High Steward and seems to have conducted himself with all the brutality to have been expected of him. He began by a harangue to the culprit, urging him, in the presence of the king, to confess. Dellamere interposed to inquire if he was to be one of his judges, to which the Lord High Steward replied, "No, my lord; I am judge of the court, but I am none of your triers." This trial was not before the House of Lords, but before a commission of peers, and in so far it is not a literal precedent. Here are other cases of antiquity and of note, more or less instructive, cases in which the presiding officer voted, not apparently *sui juris*, but by reason of his peerage.

In the trial of Lord Lovat, impeached by the Commons for high treason in 1746:

"The Lord High Steward, by a list, called every peer by his name, beginning with the lowest baron, and asked them, 'If Simon, Lord Lovat, was guilty of the high treason whereof he stands impeached or not guilty?'

"And thereupon every lord, standing up uncovered, answered: 'Guilty, upon my honor,' laying his right hand upon his breast.

"Which done, the Lord High Steward, standing uncovered at the chair, as he did when he put the question to the other lords, declared his opinion to the same effect and in the same manner."—27 *Lords Journals, p.* 76.

In the trial of the Earl of Oxford and of Earl Mortimer, impeached in 1717:

"The Lord High Steward stated the question before agreed on, and asked every lord present severally, 'Whether content or not content?'

"And they all answering in the affirmative, as did the Lord High Steward declare his opinion also:

"The Lord High Steward declared that Robert, Earl of Oxford and Earl Mortimer, was, by the unanimous vote of all the lords present, acquitted of the articles of impeachment exhibited against him by the House of Commons for high treason and other high crimes and misdemeanors, and of all things therein contained." * * * * "And then the Lord High Steward stood up uncovered: and, declaring 'that there was nothing more to be done by virtue of the present commission' broke the staff, and pronounced the commission of Lord High Steward dissolved."—20 *Lords Journals, p.* 525.

The same form was observed in the case of Earls Derwentwater *et al*, impeached for high treason, in 1715.

In Viscount Melville's trial on an impeachment, in 1806, according to the Journal of the House of Lords—

"The Lord Chancellor having asked every lord present, beginning with the junior baron, 'What says your lordship on this first article?' and the lords having severally answered thereto, and the Lord Chancellor having declared his opinion also, the said several other questions were in like manner stated, and each lord was severally asked in manner aforesaid touching the same. And the lords having severally answered to the same, and the Lord Chancellor having declared his opinion also on each of the said questions, the Lord Chancellor declared that the answer of a majority of the lords to each of the said questions, respectively, was 'not guilty.'"

Here are cases decided by the lords without the vote or voice of the presiding officer—cases in which there was a presiding officer with every right as such, but without any participation in the decisions made.

In the case of Lord Chancellor Bacon, in 1621—

"The House (of Lords) being resumed, and the Lord Chief Justice returned to his place, it was put to the question whether the Lord Viscount St. Albans (Lord Chancellor) shall be suspended from all his titles of nobility during his life or no? and it was agreed *per plures* that he should not be suspended thereof."—40 *Lords Journals*, p. 302.

In Sacheverell's case, impeached in 1709—

"Then his lordship put the question, beginning at the junior baron first, as follows: 'Is Doctor Henry Sacheverell guilty of high crimes and misdemeanors, charged upon him by the impeachment of the House of Commons?'

"And having asked every lord present, and they having declared guilty or not guilty,

"His lordship having cast up the votes, declared him guilty."—*Ibid.*

In the case of the Earl of Macclesfield, in 1725—

"It was agreed that the question to be put to each lord, severally, shall be, 'Is Thomas, Earl of Macclesfield, guilty of high crimes and misdemeanors charged on him by the impeachment of the House of Commons, or not guilty?'

"And every lord present shall declare his opinion, 'guilty or not guilty, upon his honor,' laying his right hand upon his breast.

"When the Lord Chief Justice, Speaker of this House, directed the Gentleman Usher of the Black Rod to bring thither the Earl of Macclesfield, who, after low obeisances made, kneeled until the said Lord Chief Justice acquainted him he might rise. (Judgment pronounced. Record of mode of obtaining the votes of the lords on each resolution is, 'The question was put thereupon; and it was resolved in the affirmative.'")—*Ibid.*

Mr. President, there may be arguments on this point which these precedents do not answer, but, it seems to me, they confront the view presented by the Senator from Oregon. The Lord Chancellor and the Lord High Steward of England, by the British constitution, were invested with the prerogatives and powers of presiding officers. Their attributes were more potential, their sway was greater, the examples of their supremacy were more copious, than the genius of our Constitution would tolerate. And if we ascertain the full measure in the less liberal days of British monarchy of what a presiding officer might do, surrounded by peers and commissioned by the king, we shall not fall short at least of the intention of those who adopted the language to which the Senator referred. The framers of our Constitution were profoundly learned in the practice and the meaning of British law, and the word "preside," when used by them, may well be supposed not to have been selected to convey a greater meaning than had been attached to it in the great struggles of privilege and power from which they had derived the philosophy of government. The reason in the case of the impeachment of the President for calling in some one to preside in lieu of the Vice President is obvious. The Vice President, being next to the President in the line of succession, the impropriety of his doing anything in a trial which, in one event, would result in his own advancement, is clear.

It can hardly be said that such a case would be provided for by calling some Senator to the chair, because the fact of a Senator being selected to preside would tend in some degree to his advancement also in case of the conviction of the President. A Senator made President of the Senate *pro tempore*, even during a trial of impeachment, might expect to continue such President in the event of the advancement of the regular Presiding Officer to supersede the President of the United States. These and other considerations of safety and decorum indicated the propriety of going outside the Senate for an officer to occupy the chair when the President should be brought to the bar, and nothing could be more natural or more dignified than to select the head of one of the three branches of the Government. The Chief Justice, being separated from both the political departments of the Government, was deemed the person most fit, by reason not only of his disinterestedness, but of his learning and the great consideration of his position. These reasons might well have suggested the propriety of asking of the head of the bench that he should discharge, upon a great and solemn occasion, duties with which the highest subjects of England have ever been invested.

Mr. HENDRICKS. I am very reluctant to differ from my learned friends from Pennsylvania and New York on a question like this; but I think this particular rule presented by the committee is right enough; at least that portion of it which is now being discussed. Without considering the question whether the decision upon a proposition to admit or reject evidence is one which a presiding officer could decide as such in a proceeding like this, admitting for the purpose of the argument that the power to decide such a question is not incidental simply to the office of President of the body, still, is it not proper and wise to bestow that power? The Senate surrenders no power that it possesses as a court if you regard the Presiding Officer as separate from the court but makes him, for the purpose of the first announcement of the decision, its mouth-piece, as a matter of haste, as a matter of arriving at a decision at once. If his decision be not satisfactory to the body then the rule proposes that the body can express at once its dissent. If the power be not possessed already under the Constitution why not expressly confer it? I would not vote, as a matter of course, to give to the Chief Justice or any other presiding officer the power to decide the question independently of the will of the Senate; but, as the rules simply propose that he shall in the first case announce a decision which if not objected to becomes at once the decision of the body, but if objected to, the question then goes to the body itself, what objection can there be to that? It will facilitate business; it will hasten the trial; and certainly the Senate need not be afraid of the influence of the Chief Justice in making his decision. Indeed, I should be very happy to have my judgment aided by his decision. I am not fearful of its influence upon me, but would be grateful to have the benefit of his view upon a question such as might arise.

In the first place he is an eminent judge because of his position. Is he not competent, in all probability, to correctly and safely decide the questions that are likely to arise during the progress of the trial? In his office as Chief Justice he participates in the greatest decisions that are made in any court in the world, and as a judge of one of the circuits he presides over the controversies incident to life and property. Shall he not be heard to express in the first place for the Senate a judgment, and if not agreeable, the Senate shall say it is not agreeable? What harm can come of it? It brings the question directly before the body, promptly, conveniently, safely, prudently in my opinion.

But if he is not to participate that far, to say the least of it, in the business of the body, why has the Constitution been so careful to have him here? Certainly for the purpose merely of presiding and seeing that good order is preserved in the body, the Constitution would not be so careful that he should preside. Some power, it is presumed, is to be exercised by him; the Constitution presumes that, and what power? To decide questions, as they arise in the progress of the case, as questions ordinarily are decided, though subject, of course, to the superior will of the Senate.

Mr. DRAKE. Will the honorable Senator from Indiana yield, that I may ask him a question on this point?

Mr. HENDRICKS. Certainly; with pleasure.

Mr. DRAKE. The Constitution says:

"The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided."

I am not aware that there is in the Constitution any other definition of the functions of the Vice President as President of the Senate, anything that gives him any authority beyond that specified here. I would ask the honorable Senator from Indiana whether he thinks the Constitution contemplated that the Chief Justice, when presiding on an impeachment of a President, should have more power than the Vice President would have in any other case?

Mr. HENDRICKS. If the Vice President were presiding in a trial, what questions could he decide? Could he simply decide that a Senator is in order in proposing something, or that some disturbance in the Senate must stop? Is that the whole of it? Suppose a question be put to a witness by a manager for the House, or an attorney for the defense, and objection be made by the opposite side, is not that a question which the Vice President might decide, subject to the will and the decision of the Senate? Why not? It is a question not upon the final decision; it is not a vote upon the bill, if I may so express it; but it is a decision on a question that arises during the progress of debate or the progress of business.

Mr. WILLIAMS. Will the Senator allow me to suggest that the question here is can the Senate, for the sake of convenience, confer on its Presiding Officer this power to speak for the Senate?

Mr. HENDRICKS. That was the main question I was speaking to; but the point the Senator from Missouri makes is that the Senate cannot confer on a Presiding Officer any power additional to that conferred by the Constitution. Now, take a case. He presides: that, you may say, means that he shall preserve order, that he shall see that the business of the body is not interrupted, but that the Senate can go on according to its own pleasure in the transaction of its business. A bill is pending, and I offer, or any other Senator offers, an amendment to that bill. A point is made in the progress of that business that that amendment cannot be proposed to the bill. That is a question which must be decided by the body; it is a question for the Senate to decide; but, as the mouthpiece of the Senate, in the first place the Presiding Officer says whether it be in order or not in order, and if the Senate or any member be dissatisfied with that decision the question goes to the Senate for its settlement. That is not merely proceeding, but that is a decision upon a question material in the progress of the business of the Senate?

Mr. DRAKE. Under the rules of the Senate.

Mr. HENDRICKS. Yes; but the Senator said that under the rules additional power could not be conferred. I am just meeting the argument of the Senator that to preside is to maintain order.

Mr. DRAKE. Judicial power cannot be conferred.

Mr. HENDRICKS. I am coming to that now. I do not claim that you can confer on the Chief Justice the power to vote upon articles of impeachment when we come to a vote; but upon all questions that arise during the progress of the business shall not he decide? I repeat, how does it come that the Vice President can decide that a motion which a Senator makes is in order or is not in order? The Senate permits it by its rule, by its practice and usage; but if the Senate be dissatisfied with his decision, then it for itself decides what shall be the order of business. In the progress of a trial a question is asked of a witness; objection is made to that; the point to be decided is at once, shall the question be asked? The presiding officer as such decides that the question may be asked or may not be. Why not? Why is that not incident to the power, or a part of the power which he possesses as a presiding officer in the progress of the business? "Shall this question be asked?" He decides it. Why not?

But, sir, if it be not one of the powers that he possesses as a presiding officer, can we not say that for the purpose of arriving at a decision at once, he shall express the judgment of the Senate, and his expression of judgment shall stand as such unless the Senate says otherwise? Why not? It is convenient, and in view of the eminent position of this high officer it is right for me to say that it is safe. We may never expect to see the time in this country when very eminent men shall not preside in the Supreme Court. We may always expect a statesman and a scholar in the law to be at the head of that great court; and as a permanent rule of the Senate, we may say that it is safe to let him in the first place express the judgment of the Senate, subject, of course, to its ultimate control of the question.

Then I think we save much time in the progress of the trial by allowing the Chief Justice at once to announce the decision which will be ordinarily done with less debate, occupying much less time; but I think I am safe in predicting that his decision will stand as the judgment of the Senate in nearly every instance. Unless my judgment were very clearly to the contrary of course I would acquiesce in his decision. That is the objection that is made to it; but I find no fault with that. Unless my judgment is very clearly to the contrary, I always sustain the Presiding Officer when he says that a proposition is not in order, when he says that language in debate is not within the rules. When he decides anything I stand by his decision, unless my judgment be to the contrary. So it will be upon these questions that arise during the progress of the trial. I would expect to sustain the decision of the presiding officer unless I was clear that he was not right.

Now, sir, I think this is convenient, and I think it is safe, and it is becoming the Senate that, without wrangling among ourselves, without controversy upon every little question that may arise, we shall allow a high officer, whom the Constitution has provided to preside over that trial, to decide the questions as they shall come up.

Mr. DRAKE. I would not, sir, at this late hour trespass a moment longer on the attention of the Senate, but that this discussion has led me to the conviction that there is a great deal in this matter more than would strike one at first blush. The first point of great magnitude in it is that adverted to by the Senator from Pennsylvania, [Mr. BUCKALEW,] and upon that subject I wish to call the attention of the Senate to the words of the Constitution. I think the Senator from Pennsylvania did not present the ideas that I desire to submit. If I were conscious that he had done so, I would not repeat them; but I did not hear him in the course of his remarks.

The question is, what is the Senate? The Senator from Oregon [Mr. WILLIAMS] contends that the Presiding Officer of the Senate is as much a part of the Senate as the members of it on the floor. Now, I desire to call the attention of the Senator from Oregon to the language of the Constitution. I will read it, for I think that he and other Senators will see that he is laboring under a mistake in taking that position. The sentence which I have heretofore read is in these words:

"The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided."

"They." Who? Of course, the Senators. It says he shall be President of the Senate; and then it defines who are meant by the words "the Senate," when it says that he shall have no vote unless they, the Senate or the Senators, be equally divided.

Next, sir, look at the clause now under consideration in connection with the matter of impeachment:

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation."

The very same phraseology is employed that is used in the preceding sentence, showing conclusively that when the requirement is put in the Constitution that "they shall be on oath or affirmation," it means that the Senators shall be on oath or affirmation, not the Senators and the presiding officer. This use of similar expressions in the two connections, both pointing to the Senators as constituting the Senate, seems to me to be entirely at war with the construction of the honorable Senator from Oregon, which makes the President of the Senate a part of that body.

Mr. President, the honorable Senator from Indiana [Mr. HENDRICKS] made one remark which goes very powerfully to sustain the position that I took in this argument before, to wit: that if the Chief Justice of the United States (concerning the incumbent of which office at this time no man in the nation entertains a higher opinion than I do) should be the presiding officer of the Senate, and should decide a question of law one way, the honorable Senator from Indiana very frankly says that unless he had very strong convictions against it he would follow him.

Now, sir, I say to the Senate that it never was in the contemplation of the Constitution, in my opinion, that any person other than a Senator should thus influence the action of the Senate. It seems to me to be introducing an element that is fraught with very great danger—I do not say in this particular trial that is coming on, but in trials which may be held hereafter under similar circumstances. I object to attempting to give this debate a personal turn. I object utterly to attempting here to influence the action of the Senate by considerations personal to the distinguished Chief Justice of the United States, now on the bench. I contend that the only party that can try an impeachment are the Senators. The Senate shall have the sole power of impeachment; and in trying an impeachment, they shall be under oath or affirmation. That means that the Senate shall have the sole power to try every question that may arise on the trial of an impeachment; and it does not mean that a presiding officer shall sit there and give decisions of law which the Senate will follow, just because of his distinguished official position.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Missouri moves to strike out the last clause of the seventh rule. The Senator from Michigan moves to strike out and insert, and the Chair understood the Senator from Missouri to accept the motion of the Senator from Michigan. Was the Chair correct?

Mr. DRAKE. Yes, sir; I have no objection to that.

The PRESIDING OFFICER. The Senator from Kansas, however, moves to amend the portion of the rule proposed to be stricken out, and that motion is first in order. The question now is, therefore, on the amendment proposed by the Senator from Kansas.

Mr. HOWARD. It is very true that I concurred in the report of the select committee, and introduced it to the Senate, containing this seventh rule as it now appears in the report; but I am free to say, as I said before, that upon reflection I think the second clause should be omitted. It seems to be very clearly the opinion of the Senate that the Senate of the United States possesses all the effectual power to be exercised in the trial of an impeachment—in that I certainly concur—and that no other person, whether he be the Vice President or the Chief Justice of the United States, presiding over the body while sitting in a case of impeachment, has any authority at all to participate in the decision of questions which pertain to the Senate upon that trial. I believe that. I cannot doubt it.

Now, sir, I see a very plain impropriety, not to give it a different name, in the Senate attempting to transfer, even subject to an appeal to themselves, the power to decide important questions of evidence that may arise upon that trial. If we are to try a case the people of the United States hold us, and no third person, however eminent he may be, responsible for the proper conduct of the trial for a proper decision of every question that may arise in it.

I go further, sir; it is not competent for us,

as Senators, to transfer even for a moment to a third person not a member of this body any authority to speak for the body. We were not elected for any such purpose. The public will not hold such third person responsible for any decision that may be made, but will hold the Senate, as such, responsible. It is a power which we cannot delegate, we cannot part with for a moment, even for our own convenience. If it pertains to us under the Constitution, and it is entirely clear that such is the case, we cannot part with it. If it be inconvenient to us, or inconvenient to the accused, or inconvenient to anybody else, no complaint can be made except against the Constitution itself which confers the authority. We must exercise it the best way we can. Although it may be tedious, although it may lead to the consumption of time unnecessarily in the opinion of some, we cannot help it. We are obliged to face the responsibility and to do our duty under the Constitution, and for one I shall not shrink from this responsibility.

Sir, if this power pertains to us, we can no more grant it to the Chief Justice of the United States than we can to the chief justice of the State of New York or to any other person. I trust, therefore, that inasmuch as the Senate has shown, as I think very properly, a jealousy of its own powers in respect to impeachments, we shall carry that jealousy out to its legitimate results and continue within ourselves the exercise of the power which, by this seventh rule, is given to the Chief Justice.

I hope, sir, this amendment will prevail. I speak, of course, understand me, with every feeling of respect and admiration for the high talents and high character of the present Chief Justice of the United States. I should be as willing, perhaps, to abide by his opinions upon questions of evidence now as upon those of any living man; but, standing as I do, charged with this responsibility and sworn to its performance as a Senator of the United States, I cannot consent to part with it nor attempt to transfer it.

Mr. POMEROY. Mr. President——

Mr. HENDRICKS, (at nine o'clock and fifty minutes p. m.) Will the Senator from Kansas yield for a motion? As the committee has become dissatisfied with its own report, and has become profoundly impressed with the incorrectness of its original views, I think at this late hour of the night we had better adjourn. When the committee stood firmly by the report I thought we should get through it some time, but now the committee yields the report; it finds that the report is wrong. Under these circumstances I think we had better adjourn. If the Senator from Kansas will yield the floor I will move an adjournment, particularly inasmuch as I do not think there is a quorum here.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senate do now adjourn.

The question being put, there were, on a division—ayes 5, noes 18; no quorum voting.

Mr. POMEROY. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 22; as follows:

YEAS—Messrs. Buckalew, Hendricks, McCreery, Sprague, and Van Winkle—5.
NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Ferry, Harlan, Howard, Howe, Morgan, Morrill of Vermont, Pomeroy, Sherman, Stewart, Thayer, Willey, Williams, Wilson, and Yates—22.
ABSENT—Messrs. Bayard, Conness, Corbett, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Saulsbury, Sumner, Tipton, Trumbull, and Wade—26.

So the Senate refused to adjourn.

Mr. HOWARD. I hope now we shall come to a vote on this amendment, if gentlemen have said all that they desire to say.

Mr. HENDRICKS. The Senator from Kansas has the floor. I took it from him to make my motion.

Mr. HOWARD. I was not aware of that.

Mr. POMEROY. The Senator from Michigan is very welcome to the floor. I only rose to say that I think the amendment, in the form I suggested, meets entirely the case, and leaves it an open question whether we be a court or not. It does not say that we are and it does not say that we are not I prefer to leave it in that way, and then it is in harmony with other portions of the rules. We have by a former amendment stricken out the words "high court of impeachment." So I propose to amend this rule to make it in harmony with that. The power given to the presiding officer by this amendment is no more than we can give to the moderator of any meeting. There is no judicial power in it. We say that, in the first instance, to save time, if for no other reason, on preliminary questions, he may decide them, unless any Senator chooses to ask for a vote of the Senate. I will read the rule as it will stand if amended in the way I propose, and it seems to me it cannot be objected to.

"The presiding officer"—whoever he may be—"may rule all questions of evidence and incidental questions"—there is no obligation about it; he is not obliged to rule them; but may rule them.

Which ruling shall stand as the decision of the Senate, unless some member shall ask that a formal vote be taken thereon—

That puts the power in the hands of any one member—

in which case it shall be submitted to the members for decision; or he may, at his option, in the first instance, submit any question to a vote of the members present.

Mr. HOWARD. That does not change the effect of the rule at all.

Mr. POMEROY. But it makes it in harmony with what we have ordered in other portions of the rules. It cuts out the idea of a court. It does not say we are or are not a court; and that, I supposed, was the only real object to be attained. If the Senator from Michigan thinks we are conferring any particular power upon the Chief Justice as a presiding officer I repeat it is no more power than any moderator can exercise in a town meeting, if we give it. There is no judicial function about it. We simply give the presiding officer, the moderator if you please, the power to decide preliminary questions, unless some one of the members desires that the voice of the Senate shall be had; and in that case he has only to ask that it be submitted to the Senate. I do not think there is any judicial function in that or any particular power that we need fear.

Besides, no presiding officer desires to assume responsibilities. I would leave this rule in such a way that he may submit every question. If he chooses to submit the most trivial he can do it; and we all know how valuable that provision is, for no presiding officer desires to make any decision against the voice of the body over whom he presides; and to clear himself from any responsibility in the matter we have provided that in the first instance he may submit every question to a vote of the members.

Mr. BUCKALEW. Does the Senator think that a decision upon a question of what is legal evidence is or is not a judicial question?

Mr. POMEROY. It may be a judicial question.

Mr. BUCKALEW. That is the very thing the Senator is denying.

Mr. POMEROY. Every question of the interpretation of law and every question of the interpretation of a rule in a decision of the Chair is, in a sense, judicial. In that sense this may be considered judicial. A preliminary question decided here day by day in the Senate by the Presiding Officer has in its nature something of the character of a judicial question. But there is no such question raised by this rule. We do not give the Chief Justice any more power, if the rule be amended as I propose, than we give the Vice President when he is here, and is the presiding officer. I take the ground, of course, as every Senator does, that while the Chief Justice is here he is here as a moderator to preside over this body, to administer its rules, in the same way as the Vice President would if he was not excluded by the provisions of the Constitution. The Vice President has no vote. All the main questions on an impeachment are decided by a two-thirds vote. In no case can the Vice President vote when it requires a two-thirds vote to settle the question. Therefore the presiding officer, if he is the Chief Justice, cannot vote. In the second place, he is not a member of the body in any such way as would entitle him to vote.

I am not at all tenacious about the amendment, but I think that, as I have suggested it, it makes the rules in harmony with each other, and entirely in keeping with what we desire to accomplish.

The PRESIDING OFFICER. The question is on the amendment to the seventh rule proposed by the Senator from Kansas.

Mr. HENDRICKS. If the Senator from Michigan now discovers the report in this respect to be wrong, because to allow the Chief Justice to decide whether a question asked is too leading in form or anything of that sort is conferring too much power on him, I should like to know how the Senator from Michigan voted on Saturday upon the rule as it originally stood to allow the Chief Justice, subject to the control of the Senate, to call out the Army and the Navy to enforce any of the interlocutory orders of this body? I desire to know if he thought at that time that that was conferring too much power and how he voted on that particular question?

Mr. HOWARD. That would have been by the direction of the court. Does the Senator from Indiana think such an order would be a judicial act?

Mr. HENDRICKS. It would not be a very judicious act, in my judgment. [Laughter.]

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Kansas.

Mr. HENDRICKS. I inquire if that amendment is not necessary to make this rule consistent with the changes already made, striking out the word "court."

Mr. POMEROY. Of course it is.

Mr. WILLIAMS. We have to change the rules throughout in that respect.

The question being put, there were on a division—ayes 11, noes 13; no quorum voting.

Mr. HOWARD and Mr. CHANDLER called for the yeas and nays, which were ordered; and being taken, resulted—yeas 11, nays 17; as follows:

AYES—Messrs. Anthony, Cole, Harlan, Hendricks, Howe, Morrill of Vermont, Pomeroy, Ramsey, Sherman, Van Winkle, and Williams—11.
NAYS—Messrs. Buckalew, Cameron, Cattell, Chandler, Conkling, Cragin, Drake, Ferry, Howard, McCreery, Morgan, Sprague, Stewart, Thayer, Willey, Wilson, and Yates—17.
ABSENT—Messrs. Bayard, Conness, Corbett, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Sumner, Tipton, Trumbull, and Wade—25.

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Michigan, to strike out the second clause of the seventh rule and in lieu thereof to insert other words.

Mr. HENDRICKS. What are the words to be inserted? Let them be read.

The Secretary read as follows:

The Presiding Officer may in the first instance submit to the Senate, without a division, all questions of evidence and incidental questions; but the same, on demand of one fifth of the members present, shall be decided by yeas and nays.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 7; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Ferry, Harlan, Howard, Howe, Morgan, Pomeroy, Ramsey, Stewart, Thayer, Van Winkle, Willey, Wilson, and Yates—21.
NAYS—Messrs. Anthony, Hendricks, McCreery, Morrill of Vermont, Sherman, Sprague, and Williams—7.
ABSENT—Messrs. Bayard, Conness, Corbett, Da-

vis, Dixon, Doolittle, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Sumner, Tipton, Trumbull, and Wade—25.

So the amendment was agreed to.

Mr. FERRY. I wish now to move the amendments which I before referred to in the rules preceding the rule regarding the forms so as to place the rules in conformity with the twice-expressed opinion of the Senate. The first amendment which I propose is in the third rule, beginning in the third line, to strike out the words "resolve itself into a high court of impeachment for proceeding thereon; a quorum of the Senate shall constitute a quorum of the court, and it," and in lieu of these words to insert "proceed to the trial of the person impeached, and;" so that, if thus amended, the rule will read:

Upon such articles being presented to the Senate the Senate shall, at one o'clock afternoon of the day (Sunday excepted) following such presentation, or sooner if so ordered by the Senate, proceed to the trial of the person impeached, and shall continue in session from day to day.

In the same rule, a line or two below, I propose to strike out the words "immediately upon the Senate resolving itself into such high court of impeachment," and in lieu thereof to insert the words "before proceeding to such trial;" so as to read "before proceeding to such trial the Secretary of the Senate shall administer to the presiding officer," &c.

These are the two amendments which I propose to the third rule, which will bring its language in conformity with that which has seemed to be the opinion of the Senate by the votes already expressed. There are a number of verbal alterations, simply carrying out the same idea; and perhaps, to save time, the Senate will consent that I shall read these other alterations at the present time, and it may be possible that the vote can be taken upon all of them at once.

Mr. HOWARD. Go right on.

Mr. FERRY. In the fourth rule I propose to strike out at the beginning of it the words "the Presiding Officer of the Senate shall be the presiding officer of the high court of impeachment, except;" so that the rule shall begin, "When the President of the United States or the Vice President of the United States, upon whom the powers and duties of the office of President shall have devolved, shall be impeached." And then, immediately following the word "impeached," I propose to strike out the words "in which case," leaving the words "the Chief Justice of the Supreme Court of the United States shall preside."

Mr. WILLIAMS. I do not know that I understand that motion.

Mr. FERRY. As the rule now stands the first part of it, "that the Presiding Officer of the Senate shall be the presiding officer of the court," is unnecessary. I propose to make the rule read, "When the President of the United States or the Vice-President of the United States, upon whom the powers and duties of the office of President shall have devolved, shall be impeached, the Chief Justice of the Supreme Court of the United States shall preside." That is all that it is necessary to provide for. Then in the same rule, in the second and third lines of the second page, I propose to strike out the words "the organization of the high court of impeachment;" so as to read, "notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for such trial, with a request to attend," and then to strike out the words "and he shall preside over said court until its final adjournment," and in lieu thereof to insert, "said Chief Justice shall preside over the Senate during said trial and until final judgment in said cause."

Mr. WILLIAMS. I would suggest to the Senator that the organization of this court is a different thing from the trial. I understand that the court is organized; that is, the Chief Justice is called upon to preside; the articles of impeachment are then presented, but the trial does not occur until some time afterward, when the party accused has notice.

Mr. HOWARD. The articles are presented before the Chief Justice can take his seat in the court. They are presented to the Senate sitting in its ordinary capacity. Then we notify the Chief Justice of the time when we shall proceed.

Mr. WILLIAMS. But the fourth rule evidently contemplates that the Chief Justice shall be notified of the time and place when the first step in the proceeding is to be taken.

Mr. HOWARD. What do you mean by the "first step?" He cannot be notified until the articles are presented.

Mr. FERRY. I will go on with my amendments.

In the fifth rule I propose to strike out, in the first line, the words "of the court," so as to read, "the presiding officer shall have power to make and issue," &c. In the third line, in lieu of the word "court," I propose to insert the word "Senate;" and in the next line to strike out the word "court" and insert the word "Senate."

In the sixth rule I propose to strike out in the first line the word "court" and insert the word "Senate." Then, in the second clause of that rule, in the seventh line, I move to strike out the word "court" and insert the word "Senate;" and the last words of the rule, "said court," should be stricken out and "the Senate" inserted.

In the seventh rule I propose to strike out the word "court" and insert "Senate" The second clause of that rule has already been stricken out by a vote of the Senate.

Mr. VAN WINKLE. I call the Senator's attention to the fact that the presiding officers in the first and second lines of that rule signify different persons.

Mr. FERRY. I think my memorandum was to strike out the words "presiding officer of the court" in the second line, and insert "the Senate," so as to read "and the Senate shall direct all the forms of proceeding," &c.

In the eighth rule I propose in the second line to strike out the word "court" and insert the word "Senate," and in the third and fourth lines to make the same change, so as to read:

Upon the presentation of articles of impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall issue to the accused reciting said articles and notifying him to appear before said Senate, upon a day, and at a place to be fixed by the Senate, and named in such writ, &c.

And so on throughout the whole of the eighth rule wherever the word "court" occurs, or the words "such court," I propose to substitute "the Senate."

In the twelfth rule I move to strike out the words "as a high court of impeachment," and in lieu thereof to insert the words "for such trial," so as to read, "the hour of the day at which the Senate shall sit for such trial shall be," &c.

Mr. McCREERY. If the Senator will permit me I will make a suggestion, to be incorporated into his amendment, if he pleases. It is in the last line of the twelfth rule, to strike out the word "shall" and insert the word "may." It now reads:

The adjournment of the Senate sitting as a high court of impeachment shall not operate as an adjournment of the Senate, but on such adjournment of the court the Senate shall resume the consideration of its legislative and executive business.

I think instead of "shall resume" it should be "may resume." It might be very inconvenient for us to go into legislative and executive business at such an hour as this for example. There might be no legislative or executive business calling for our immediate attention; and after we have been engaged during the day as a court I think it would be useless to require us to go back to the performance of legislative and executive business. But we shall have to perform it under the provision as it stands.

Mr. POMEROY. I see no objection to substituting the word "may;" that would still leave it in the power of the Senate.

Mr. HOWARD. The object of this provision is to continue the session of the Senate.

Mr. FERRY. Yes; but the Senate may adjourn if it chooses.

Mr. HOWARD. The clause continues the session, and I think it had better not be stricken out.

Mr. FERRY. I propose all through the twelfth rule to change the word "court" to "Senate" as before, and in the third line from the end of the rule to strike out the words—"sitting as a high court of impeachment," and to insert "sitting in said trial," so as to read:

The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate.

In the nineteenth rule the word "court" should be changed to "Senate," and in rule twenty the same change should be made.

In the twenty-second rule an amendment has been made to-day which prevents the necessity of any amendment. I had proposed to strike out the words "members of said high court of impeachment," and insert "members of the Senate."

Mr. HOWARD. That clause has been struck out already.

Mr. FERRY. Very well. It has been suggested to me by the Senator from Missouri that it is necessary to amend the twenty-third rule by striking out the words "questions of evidence and incidental questions," so as to conform to an amendment already adopted in rule seven on the motion of the Senator from Indiana.

Mr. HOWARD. You need not insert anything in that place.

Mr. FERRY. I do not see the necessity of inserting anything, and will therefore merely propose to strike out "and the questions mentioned in rule eight."

Mr. WILLIAMS. I will suggest to the honorable Senator, as he is revising these rules, that the words "by a *viva voce* vote" ought to be stricken out of rule twenty-three, and the words "without a division" inserted. It now reads that certain motions may be decided by a *viva voce* vote unless the yeas and nays be demanded. I understand that a vote by yeas and nays is a *viva voce* vote.

Mr. FERRY. I certainly have no objection to that amendment.

Mr. WILLIAMS. I move the amendment I have indicated to the twenty-third rule.

The PRESIDING OFFICER. The question now is on the amendments of the Senator from Connecticut.

Mr. FERRY. I adopt that as part of my amendments.

Mr. POMEROY. I think the Senator from Oregon does not apprehend the force of the words. There is no difference between deciding by a *viva voce* vote and deciding without a division; because, when we decide by a *viva voce* vote the Presiding Officer puts a question, and if no one responds the proposition is agreed to without a division.

Mr. WILLIAMS. I understand that there are two modes of voting. One is by ballot and the other is *viva voce*.

Mr. HOWARD. The distinction here is made between the call of the yeas and nays and an ordinary division.

Mr. WILLIAMS. The meaning is plain enough, but I like the language in a rule of the Senate to express the ideas ordinarily attached to the words employed. When a vote is taken by yeas and nays, and the names of the Senators are called, the votes which they give are *viva voce* votes in the most correct acceptation of that term. When they vote by ballot they adopt another and different mode of voting. The idea that this rule intends to convey is that upon these incidental questions there shall be a vote without any division unless one fifth of the members call for the yeas and nays, and then the yeas and nays may be had.

Mr. HOWARD. Allow me to make a single suggestion. Suppose instead of the words "by a *viva voce* vote" we say "without the yeas and nays." That will make it exact.

Mr. WILLIAMS. That will satisfy me; but I think the other phraseology is the most parliamentary.

The PRESIDING OFFICER. Is it the pleasure of the Senate to take the question on these amendments together?

Mr. HENDRICKS. I think we can vote on them safely now, inasmuch as I believe nearly all the Senators have expressed themselves on the yeas and nays upon both sides of the question involved.

The amendments were agreed to.

Mr. DRAKE. There is one verbal amendment which is made necessary by the previous decision of the Senate. It is in rule twenty-four, in the heading to the form of the oath. It now reads, "Form of oath to be administered to the Presiding Officer and members of the Senate." The words "Presiding Officer and," should be struck out. The Constitution does not require that the Presiding Officer should be sworn, but only the Senators.

The amendment was agreed to.

Mr. POMEROY. I wish to inquire whether there has been a vote on the suggestion of the Senator from Kentucky to strike out the word "shall" and insert "may" in the last clause of the twelfth rule. I think that amendment is entirely unnecessary, because the Senate after it has been in session as a court or has proceeded with a trial and adjourned the trial, can then go into executive or legislative session and immediately adjourn in case there is no legislative or executive business. So I think the word "shall" may as well continue there. We ought to adjourn when we are in legislative session and not when we are in session as a court.

Mr. HOWARD. I believe no vote was taken on that amendment of the Senator from Kentucky.

The PRESIDING OFFICER. No vote was taken on it. The amendments of the Senator from Connecticut were pending at the time. The Senator from Kentucky only suggested an amendment.

Mr. BUCKALEW. I think the presiding officer of the court of impeachment should be under oath, but it should be an oath different from that taken by the members who try the case. In the rule as reported to us, it was contemplated that the same oath should be administered to him that was administered to the members of the Senate. I believe in former impeachment trials the presiding officer was sworn. There may be some difficulty about our prescribing an oath for the presiding officer. I think it very clear that by an act of Congress, the form of an oath to be taken by the presiding officer might be provided, and that it would be binding. It seems an anomaly that we should have a presiding officer sitting here and not under any legal obligation or any moral obligation such as an oath would impose. I agree that the amendment already made excepting him from the operation of the general form of oath provided for members of the Senate, is eminently just and proper; and his exception becomes indispensable after the decision which has been made by the Senate on several occasions, withdrawing him altogether from any interference with our proceedings except on questions of order. I suppose, Mr. President, we have the same power to prescribe an oath for the Presiding Officer of the Senate that we have to prescribe an oath for the members of the Senate, if, indeed, there be any authority to bind him by such an obligation.

Mr. POMEROY. The Chief Justice of the United States is under oath. When he entered upon the discharge of his functions as Chief Justice, he took an oath to discharge all the duties that were incumbent upon him as such officer; and this duty is placed upon him by the Constitution of the United States, and was embraced in his oath to discharge his duties as Chief Justice of the United States; and any further oath than that I think would be unnecessary.

Mr. BUCKALEW. That explanation of the Senator is not satisfactory to me. The Senators of the United States are also sworn to support the Constitution and perform their official duties, and to serve upon a court of impeachment is of course one of their official duties, and yet it was thought necessary to superadd in their cases a special oath which they are to take, by which they are to be bound when they shall sit as a court of impeachment. The difficulty in my mind in regard to providing an oath for our Presiding Officer arises from the fact that we are sitting here as a Senate; we are not yet convened as a court; and that we cannot alone exercise legislative power. But with gentlemen who hold a different opinion and who suppose that we can frame forms of oath, no such difficulty will exist. I suggest, therefore, to the chairman of the committee that before we dispose of this subject, we shall, if we have authority to act in the case, provide an oath for the Presiding Officer. We are making general rules not applicable to the Chief Justice alone, but to the Vice President when he shall preside.

Mr. POMEROY. I beg leave to say to the Senator from Pennsylvania that the reason why Senators have to be sworn in addition to their usual oath as Senators, is that it is provided for by the Constitution, which says that "When sitting for that purpose they shall be on oath or affirmation;" and goes on, "when the President of the United States is tried, the Chief Justice shall preside," but it does not say that the Chief Justice shall be sworn. In the same sentence in which the Constitution provides that the Senate shall be sworn when sitting to try an impeachment, it says that the Chief Justice shall preside, and of course, in the absence of any requirement of a special oath, we are to understand that he is sworn to the discharge of his duties, and this duty among the rest, when he took his oath of office. I believe that is all the oath required of him.

Mr. BUCKALEW. What I desire to insist on is that there shall be a law prescribing an oath for the President of the Senate in these cases.

The PRESIDING OFFICER. Does the Senator from Pennsylvania submit any motion?

Mr. BUCKALEW. No, sir.

The PRESIDING OFFICER. If no further amendment be submitted the rules will be reported to the Senate.

Mr. McCREERY. I will submit one further amendment. I propose to amend the third rule by introducing the words "Saturdays and" before "Sundays," so as to read, "continue in session from day to day, Saturdays and Sundays excepted." I think this is a very important amendment which I am proposing. As I have proposed no amendment to the Senate which has received its sanction I do hope that this amendment which I now offer will be sanctioned by the Senate.

The Supreme Court of the United States holds no sessions on Saturdays and Sundays. This is a very important trial on which we are about to enter. Grave questions of law will come up; and in order that we ourselves may enjoy some portion of relaxation; in order that the counsel on each side may have an opportunity of hunting up the authorities which they intend to rely upon in the case, I hope that the Senate will not sit on Saturdays, but will give us an opportunity of collecting and arranging in our minds the evidence we have heard and afford the counsel on each side a reasonable opportunity of collecting the authorities which they wish to read in the course of the case. I think, in behalf of ourselves and of the attorneys and of all parties concerned, it is a reasonable proposition that we should suspend the operations of this court, or of this high court, during Saturdays and Sundays. We should not keep ourselves, the attorneys, and all concerned on too great a stretch. Give us time. Give us time to think, time to collect our ideas and arrange our thoughts, in order that we may keep up with the evidence in the cause and all points made during the progress of the trial.

I do hope, as I said before, that the Senate will adopt this amendment, and that we shall be allowed a suspension of that fixed interest which we must all feel during the progress of this trial. Give us a little time to look around, a little time to breathe. Do not press on and put the spur to us every day from this out, as has been the case to-night. Give us a little time. Let us have Saturday and Sunday. If you hold a session on Saturday there is great danger that you may run over into Sunday. On that account I do hope that you will suspend proceedings during these two days, Saturday and Sunday, in imitation of the highest example we have in this land, the Supreme Court of the United States.

The amendment was rejected.

The PRESIDING OFFICER. If no further amendment be offered, the rules will be reported to the Senate. [After a pause.] The Senate, as in Committee of the Whole, have had under consideration "Rules of procedure and practice in the Senate when sitting as a high court of impeachment."

Mr. CONKLING. The words "as a high court of impeachment" ought to be omitted from the title.

Mr. POMEROY. That can be done afterward.

The PRESIDING OFFICER. The question is for the adoption of the amendments to these rules made as in Committee of the Whole. Is it the pleasure of the Senate to take the question on all the amendments together? If no exception be called for it will be regarded as the sense of the Senate that the vote shall be taken on all the amendments together.

The amendments were concurred in.

Mr. BUCKALEW. There is a little correction that I desire to make in one of the forms attached to rule twenty-four. It is the form of oath for members of the Senate. I move at the close of the oath to strike out the words "So help me God." [Laughter.] I am serious in this motion. The form now reads very absurdly. As it stands a member may be affirmed, concluding with an appeal to the Supreme Being in a form which is excluded by an affirmation. The words are not necessary to the oath in the other form, and they ought, of course, to be left out. You would oblige a member of the Society of Friends—I do not know that we have any among the members of the Senate—to commence with an affirmation and end with a tremendous oath, in violation of his conscience. The words are unnecessary in the ordinary form of oath, and I presume they may be omitted.

Mr. HOWARD. I do not see any necessity for the amendment. Indeed, I would inquire whether it is in order at this stage.

The PRESIDING OFFICER. The amendment is in order.

The amendment was rejected.

The rules, as amended, were ordered to be engrossed for a third reading; and were read the third time, and passed. The heading or title to the rules was, on motion of Mr. CONKLING, amended to read "Rules of Procedure and Practice in the Senate when sitting on the Trial of an Impeachment."

Mr. BUCKALEW. I submit a motion that the rules, as amended, be printed.

The motion was agreed to.

Mr. WILSON. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned at ten o'clock and thirty-seven minutes p. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 2, 1868.

The House met at twelve o'clock m.

The reading of the Journal of Saturday was, by unanimous consent, dispensed with.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER stated that in obedience to the order of the House of the 25th ultimo, the House would now resolve itself into Committee of the Whole.

The House accordingly resolved itself into

the Committee of the Whole, (Mr. SCOFIELD in the chair,) and proceeded, under the order of the House, to consider articles exhibited by the House of Representatives of the United States, in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office.

Mr. TRIMBLE, of Kentucky. Mr. Chairman, it is with feelings of no ordinary solicitude for the future peace and happiness of our country that I assume to address you on one of the most momentous questions ever presented to the American Congress—a question without a precedent in the history of the legislation of this country. In the brief time allotted to me I cannot hope to discuss the evidence and the law involved in this issue. I can only hope, in the name of the constituency that I represent, to enter my solemn protest against this proceeding, from its inception to the present time, as in violation, in my humble judgment, of the principles upon which this Government rests; in violation of the great principle of the Constitution which divides the powers of this Government into three great departments—legislative, executive, and judicial—any encroachment of either one of which upon the other is dangerous and subversive of the liberties of the people.

The evidence presented in this question does not, in my judgment, warrant the Congress of the United States in presenting these articles. What are they, and what are the facts presented by the evidence? But two propositions are presented. One is that because the President of the United States attempted to remove Edwin M. Stanton from the office of Secretary of War he thereby became guilty of a high crime and misdemeanor, and deserves at the hands of this branch of Congress impeachment, and at the hands of the Senate conviction and removal from office. "O shame, where is thy blush?" Can any one look at the evidence presented in this case, together with the articles of impeachment presented, and not blush for the action of the House of Representatives in this case? Must the President, can he be removed upon such trivial facts and circumstances as are here presented? Can any man claim that his action has endangered the peace and happiness of the people of this country? Who has suffered? What portion of the community have had their rights invaded by the action of the President as here charged? Sir, if he can be arraigned, impeached, and turned out of office for attempting to remove from his own household a man who was repulsive to him, a spy upon his household, where, I ask, is the guarantee and the security for the future for any man whom the Republican or the Democratic party may place in that high office? I appeal to the opposite side of the House, pause and reflect before you take this step and place the Executive of the United States in the hands of the party in power. At the mere whim and caprice of party leaders you propose to strike down the Executive, to overthrow the judicial department of the Government, who must ultimately decide this question unless prevented by Congress, who, it seems, intend to absorb the entire prerogatives of those two branches of the Government.

Mr. Chairman, in my judgment, these articles of impeachment ought not to be, and I earnestly hope will not be sustained by the Senate of the United States, much less by the people, the great source of power to whom the question must at last be submitted. Where is the man within the sound of my voice who can lay his hand on his heart and say that upon a careful review of his own official acts he has never erred, and erred, too, in a manner equally culpable as it can be claimed by the most ardent impeacher that Andrew Johnson has done in this attempted removal of Secretary Stanton?

What has been the history of the party that now claims that Andrew Johnson stands in the way of their reconstruction measures and other favorite schemes, and therefore he must be removed? In days gone by, when their former President committed acts of violence against the Constitution and laws, did they apply this desperate remedy to Abraham Lincoln? When he violated the Constitution and laws of the country did they seek to impeach him? When Edwin M. Stanton violated the laws of the land, as was admitted by every sound lawyer in the country, did they attempt to impeach or remove him? No, sir; nothing of the sort; but, on the contrary, they cherished his crimes as crown jewels, and gave indemnity by the passage of acts protecting him and other high officers from punishment. This cannot be controverted. But now a different course is taken in regard to a man that they themselves have elected.

I did not vote for Andrew Johnson. I defend him only where I believe he is right. I did everything I could to defeat him. I regret he was not defeated in 1864. Then we should have had a restored Union long since, though to-day I believe he is honestly and conscientiously discharging his duty to the people of this entire country under his oath to support the Constitution of the United States. He was driven in 1861, I understand, from Tennessee for standing by the Constitution, and claiming for each department of this Government their rights under the Constitution, and that the States were then, as he claims they are now, in the Union and entitled to all the rights and privileges of sovereign States. For adhering to these life-long opinions, coupled with a patriotic desire to preserve the power and dignity of his high executive office from unconstitutional edict, he is now to be driven from the White House, simply for standing by the very principles that he enunciated in 1861 and 1864, after which the Republican party rallied around him and elevated him to the second office in the gift of the people.

The next charge is that he had an interview or conversation with General Emory, the commander of this post, in which he said he doubted the constitutionality of the law passed attached to an appropriation bill depriving the President of the United States of his legitimate power as Commander-in-Chief of the Army of the United States, and desired to know if there had been any movement of troops. That is all of it. The Constitution makes him Commander-in-Chief, and it was his highest duty to his oath of office to learn their movements. There is not an officer of the Army, from General Grant down to the lowest subaltern, who has not solemnly sworn that he "will bear true allegiance to the United States," and that he "will observe and obey the orders of the President of the United States." This is the oath that every soldier in the Army to-day has taken. This is the oath that every General upon this floor took when he entered the Army of the United States. I ask, then, if this oath, which each and every officer of the Army, including the commander of this department, has taken, has been repealed by Congress or have they absolved these officers from observing their oath, obeying the commands of the Commander-in-Chief of the Army of the United States as established and guarantied by the Constitution? Then, if that be true, is it a crime for the President to exercise this constitutional prerogative or for the officers under him to obey his orders? I ask in the name of all that is reasonable and fair, if there is anything in this last article of impeachment brought in here upon which any jury would anywhere convict the poorest, meanest, and humblest individual in the land? No, sir; they would regard such evidence as contemptible and unworthy of consideration. I can see the reasons which might possibly animate you to remove Mr. Johnson solely for party purposes if you had not already shorn him of almost every constitutional power he possessed; but you have done this by degrees, and I cannot see even the policy of now endangering the peace of the country and the liberties of this people by striking down the high executive officer, one of the great departments of the Government. If all power is in the hands of this House, why not by one act abolish the Supreme Court, abolish the Executive, and claim absolute and arbitrary power over the lives, liberties, and property of this entire people? If everything else is to be blotted out and brought to subserve this party interest, why not do it boldly and at once? Declare, in the language of your great chief, that your batch of reconstruction measures are outside of the Constitution.

Sir, I appeal to you again, in the name of the people I represent, not to take this fatal step. Once taken, it may never be in your power to recall it. I appeal to you, in the name of the people of this country and for the sake of the Union and of peace, that you will recede from this proposition, so dangerous, in my humble judgment, to the best interests of this country. May I entertain the hope that you will observe the Constitution, repeal your unconstitutional enactments, that the President shall be permitted to exercise his powers under the Constitution, subject alone to that instrument and to the decisions of the Supreme Court of the United States, and that great palladium of the liberties of this people will continue to protect us and ours through all time.

[Here the hammer fell.]

Mr. CULLOM. Mr. Chairman, the Constitution of the United States divides the powers of the Government into three distinct and co-ordinate branches.

Section one of article one provides that—

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Section one of article two in its first sentence declares that—

"The executive power shall be vested in a President of the United States of America."

Section one of article three declares that—

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

The legislative department of the Government is responsible only and directly to the people, the immediate source of power in all republican Governments.

The executive and judiciary departments of the Government, while they are finally responsible to the people, are, by the terms of the Constitution, directly accountable to the legislative department.

The fourth section of the second article of the Constitution declares that—

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

The last clause of the second section of the first article of the Constitution declares that—

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment."

The third section of the same article declares, among other things, that—

"The Senate shall have the sole power to try all impeachments."

The impeachment and removal from office of the President, Vice President, or any civil officer, for high crimes and misdemeanors in office, is, then, an authority expressly vested in the Congress of the United States.

This House has solemnly voted, by more than a two-third vote that Andrew Johnson, President of the United States, be impeached for high crimes and misdemeanors.

We are to-day considering the report of the committee appointed by the House to prepare and report articles of impeachment against that high officer of the Government. Those articles are now before us. Is he guilty of high crimes and misdemeanors? The House, as I have before said, has answered that question, and declared that, in the opinion of this House, he is guilty, and for his guilt ought to be tried before the Senate, the high court of impeachment. The question now to be settled or passed upon by the House is, is he guilty of the crimes and misdemeanors charged against him in the

articles reported against him by the committee; and, if so, is he guilty in manner and form as specified in the articles?

The first article exhibited against him in substance charges him with a violation of the Constitution and laws of the United States in the issuance of an order for the removal of Edwin M. Stanton from the office of Secretary of War for the Department of War, he having been duly appointed and commissioned, by and with the advice and consent of the Senate, as such Secretary, the Senate of the United States being at the time in session when the order was issued. The Constitution declares that "the President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." Can it be pretended that this clause of the Constitution gives to the President power to remove a high officer of the Government for the purpose of making a vacancy while the Senate of the United States is in session and ready to act upon any nomination which he might choose to send them for the position held by the Secretary of War or any other official position?

The President exercised his constitutional and legal right during the summer when he suspended the Secretary of War, and according to law, when the Senate convened, he notified them of his action, with his reasons therefor. But when the Senate had said to him, as they had the legal right to do, that his reasons for suspension were not sufficient, and the Secretary had taken his place again according to law, while the Senate remains in session it is a clear violation of law and the Constitution for the President to resort to any other mode to get rid of Mr. Stanton from the War Office than by the nomination of some other man and the confirmation of the nominee by the Senate. His action in the attempted removal of the Secretary of War was a violation of the Constitution, and such a violation as cannot be excused upon any pretext whatever.

But, sir, this does not rest alone upon the Constitution. In March, 1867, Congress passed the act known as the act regulating the tenure of certain civil offices. That act declares that—

"The Secretaries of State, Treasury, War, Navy, and Interior, the Postmaster General, and Attorney General shall continue in office during the term of the President by whom they are appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

"By and with the advice and consent of the Senate." What does this mean? It means that the President shall not have the legal right to remove either of the named officers, except in the mode of suspension, in the absence of the Senate, marked out by the law, and by nominating other men for the positions when the Senate is in session, leaving the question of a change of men in the positions with the judgment of the Senate.

But, says the President, the law does not apply to this case; Mr. Stanton is not my appointee. How is this? The language of the law is that these men are to continue in office "during the term of the President by whom they are appointed, and for one month thereafter." The present President has no presidential term of his own, and I trust in God, for the good of the country, he never will. He is serving out the term of the late President Lincoln, and that term does not expire until the 4th of March, 1869, and in one month after that the then President, whoever he may be, will have the right to appoint a new Secretary of War.

Sir, the President is justly charged in the first article reported by the committee with a violation of the Constitution and also of the law, and the article should be sustained by the House.

The second article charges, in substance, that the President violated the Constitution and the law in appointing Lorenzo Thomas to be Secretary of War *ad interim*, the Senate of the United States then being in session. As I have before said, there is no warrant in the Constitution authorizing the President to make such appointments while the Senate is in session. In the presence of the Senate he had no power to do anything in the premises other than to nominate another man for the office, which he afterwards did, by sending the name of Ewing to the Senate. The second article, in my judgment, correctly charges him with a violation of both the Constitution and tenure-of-office law.

The third article charges him with a violation of the Constitution and law, he having appointed Lorenzo Thomas to be Secretary of War *ad interim*, the Senate being in session, the appointment being made without the advice and consent of the Senate, and there being no vacancy existing in the office of Secretary of War.

The fourth article charges him with a violation of the Constitution and laws and with being guilty of a high crime in office, in that he did unlawfully conspire with Lorenzo Thomas and other persons, by intimidation and threats, to hinder and prevent the Secretary of War from holding his office.

What is the law which the President violated as charged above? The act of Congress, called the "conspiracy act," which became a law during the summer of 1861, provides as follows:

"That if two or more persons within any State or Territory of the United States shall conspire together to overthrow or to put down or to destroy by force the Government of the United States, or to levy war against the United States, or to oppose by force the authority of the Government of the United States, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States against the will or contrary to the authority of the United States, or by force or intimidation or threat to prevent any person from accepting or holding any office or trust or place of confidence under the United States, each and every person so offending shall be guilty of a high crime."

What are the facts? The President, on the 21st day of February, 1868, by writing, authorizes and empowers Lorenzo Thomas to act as Secretary of War *ad interim*, and to take possession of the records, books, papers, and other property then in the custody of Mr. Stanton, the legal Secretary of War. What was the object? It was, sir, by force to get possession of the Department, believing, as the Senate had not sustained him in his suspension, it was the only mode by which he could oust the Secretary from his position.

If the President had not entertained such a purpose he would have relied upon the usual mode and left it with the Senate to determine. The facts show, in my judgment, conclusively that he determined to make one bold movement, in disregard of the Constitution, the law of 1861, and the law of 1867, believing that by so doing he would drive the Secretary of War from his post of duty, get his man whom he was using to accomplish his unlawful and revolutionary designs into the office and in possession of the archives and property of the Government, and then place himself upon the defensive and take his chances on the question of impeachment.

Sir, it was a bold movement. The violation of the law and Constitution was too flagrant; the man whom he expected to scare and drive away he did not scare. As in the perilous days of the rebellion, when the stars and bars could be seen upon the hills of the Potomac, and when the rebel cannon could be heard as they belched forth destruction upon the battle-fields near by, he stood firm by his post, in obedience to the Constitution and the statute laws of the country.

The fifth, sixth, seventh, and eighth articles charge him with a conspiracy with Lorenzo Thomas to get possession of the office of Secretary of War and the property of the United States with the intent to violate the law of the United States regulating the tenure of civil offices. I have not time to refer to them as particularly as I would like. They all rest upon the same state of facts, and, in my judgment, should be sustained by the House.

The ninth article charges him with a violation of the Constitution and laws, in that he appointed Lorenzo Thomas Secretary of War *ad interim* while the Senate was in session without their advice and consent, there being no vacancy in said office, and with intent unlawfully to get possession and control of the disbursements of the money appropriated for the military service and for the War Department.

Mr. Chairman, I am not advised by the actual testimony as to whether this charge can be sustained or not. But, sir, I am informed that the President attempted at once, upon the issuance of the order to Thomas to take possession of the Department, to control all, or some, at least, of the other Cabinet officers, in procuring a recognition of the bantling which he tried to nestle in the office of Secretary of War. He failed in that, however, and to-day there is no man in the nation, so far as I know, except Andrew Johnson, who, by any sort of sophistry, can reason himself into the belief that Thomas is Secretary of War in law or fact, or that Edwin M. Stanton is not the Secretary of War, or that he has not the legal right so to continue to be.

Mr. Chairman, we now come to the last and tenth article reported by the committee—what of it? That article charges Andrew Johnson, President of the United States, with having, on the 22d day of February, 1868, committed a high misdemeanor in office, in that he did on that day advise and instruct William H. Emory, a general in the Army of the United States, and actually in command of the department of Washington and of the military forces thereof, that a part of the law of the United States, passed March 2, 1867, was unconstitutional and in contravention of his commission, and not binding upon said Emory, with the intent to induce said Emory to violate its provisions. The testimony is furnished us of that gallant officer sustaining the article as reported by the committee.

The President, not content with a violation of law on his own part, calls in a general whom he supposes he could control, in his determination to tramp under his feet the statutes of the country, and instructs him that a law passed according to the solemn forms of the Constitution is not constitutional, thereby supposing that he could induce the general to violate the law and serve him in his wicked and revolutionary designs.

The law which the President desired the general to violate provides that—

"All orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next of rank."

The President had just failed to use the General of the Army, that man who stands peerless as a military chieftain and first in the hearts of his countrymen to-day, and whom the American people will soon elevate to the high place now so unworthily occupied. He had failed to draw the gallant Sherman into the network of his foul conspiracy by tendering brevets and a new command with his headquarters at the capital of the nation. He had been told by that old hero of Tennessee, George H. Thomas, that he, Thomas, had been made a major general for his success in the battle of Nashville, and he did not think he had earned further promotion since, and that he hoped the Senate would not concur with the President in conferring it upon him. And now, after he had resorted to all these means to accomplish a secret design which the country believes was to get possession of the Government in spite of law and in spite of Congress and in spite of the Constitution, nothing daunted, he sends for the quiet general in command of the department and tells him that the law governing his action upon the subject of orders from the President is unconstitutional.

Sir, is Andrew Johnson impeachable? Has a case been made against him? The House of Representatives may, perhaps, be considered as a sort of grand jury, and be justified in presenting articles of impeachment, even though the proof of the guilt of the party accused might not be clear, unmistakable, and absolute.

But, sir, in this case, painful as it is to say it, there appears to me no question but that the accused is guilty of gross, wanton, wicked violation of the law and the Constitution, in substance as charged in the articles now before us.

Sir, we have the sad spectacle in this country of a man favored by a life of almost unequaled success, elevated, by the suffrage of the people from the lowest to the highest office but one in their gift, and to that by the death of the President, exercising and attempting to exercise powers not vested in him by the Constitution which he is sworn to support, and violating and trampling under his feet the laws of the land, which, by the terms of that Constitution, he shall take care shall be faithfully executed.

Among the honest people of the country, sir, one of the first lessons to be taught, is strict obedience to law. Upon such observance and obedience depend the life of the nation; and when men intrusted with power so far forget or disregard their obligations as to assume to have the right to obey or disobey a law of the United States as, in their judgment, the law may be in harmony or opposed to the Constitution, or when men, with such a pretext, violate a law to satisfy a morbid and vicious temper, it is time that the people were waking up to the danger that surrounds them. There can be no exceptions in the enforcement of the rule of obedience to law; all must submit. The theory of the Government is that every man—the President in the Executive Mansion, his advisers in the Cabinet, the judges in their judicial robes, the Senators and Representatives engaged, as they may be, in enacting laws, the millionaire in his palace, and the humble man in the cottage—all, from the highest to the lowest, alike must bow in obedience to the law.

The nation cannot live if the people allow their agents in the exercise of their official power to depart from this principle. If the President has the right to violate the provisions of a law because he may think the law unconstitutional, so have I, if I have the right, so has every other man in this broad land; and when that is settled you may burn your statute-books, unlock your prison doors, and you will soon witness a scene of anarchy and confusion unparalleled in the history of civilization. Such a doctrine will not stand the test. It is the old dogma, that a king can do no wrong, that he is above the law and that he is not accountable to the people, the source of power.

Mr. Chairman, the administration of Mr. Johnson since he became President of the United States has been characterized by an utter disregard of the laws and the Constitution of the country. And sir, I am of opinion that there should be another article adopted by this House and sent to the Senate upon which he should be tried, the substance of which should be that Andrew Johnson, President of the United States, is guilty of high crimes in office in that he violated the Constitution and laws of the United States, by using the influence, patronage, and power of said office to hinder, delay, and prevent a restoration of the States lately in rebellion against the Government to their proper practical relations with the Union. Congress, as it had the constitutional right to do, provided by law for a reconstruction of the rebel States. The President, from whatever motive it matters not, stands in his executive office and by all his influence and power opposes a restoration according to law. As an executive officer he has no such right, and his opposition to the laws of Congress upon the subject of reconstruction has cost this nation thousands of loyal men who have been murdered in the South on account of their devotion to the flag, and millions of money, which is to be added to the enormous public debt as a burden to be cast upon the necks of the people. Shall the nation endure it longer? Shall we struggle on and on until the welcome day comes when his term shall expire? The people say no; men struggling in business say no; men longing for peace and harmony in the land say no; the loyal men of the South, who have been abused and hunted by wicked rebels, say no; and I trust that the answer of all these may be the answer of this House to-day and the answer of the Senate of the United States within a reasonable time after these articles shall be sent them.

Messrs. GLOSSBRENNER and LYNCH addressed the House. [See Appendix.]

Mr. WARD. Mr. Chairman, I deem it proper to submit a few observations upon the subject under consideration, and that subject I understand to be the articles of impeachment reported by the committee of seven for the consideration of this House against the President of the United States.

I am free to say, sir, that I should have been satisfied if the committee had reported, in addition to the articles which have been presented, articles for some of the grave offenses which this high offender had committed prior to the removal of the Secretary of War. I should be glad to see him arraigned for the usurpation of legislative power. I should be glad to see him arraigned for the prostitution of the veto power, the pardoning power, and the power of appointment to office, of which he has been guilty, for the purpose of reinstating the power of the rebellion in this country.

But, sir, I bow respectfully to the superior wisdom of my colleagues upon that committee, and I am here to support the report which the committee have made.

The first article which has been presented by the committee charges that the President of the United States, in violation of the Constitution and of the tenure-of-office act, has removed the Secretary of War from his high office during the session of the Senate. Now, I submit that that is an offense under the Constitution and the laws of this land.

There is but one provision in the Constitution regulating the question of appointment to or removal from office. That provision is contained in the second section of the second article of the Constitution, which provides that—

"The President shall nominate, and by and with the advice and consent of the Senate shall appoint, embassadors, other public ministers, consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not therein otherwise provided for."

That, sir, is the only provision of the Constitution upon the subject of appointment to and removal from office, except the provision which authorizes the President to fill up all vacancies which may happen during a recess of the Senate, by granting commissions which shall expire at the end of their next session.

The appointing power is vested in the President and the Senate. Nothing is said in the Constitution upon the subject of removal. I contend that the just inference to be drawn from that provision is that the power of removal shall rest where the power of appointment does, in the President and the Senate; because, unless you adopt that construction, the President can nominate on one side of the Senate and he can remove on the other side of the Senate, and thus nullify this provision of the Constitution.

The men who framed the Constitution framed it for a purpose. There is nothing in it but what has sense and is meant to accomplish a purpose. They put this provision in the Constitution for this purpose: that the President should not stand unchecked and unchallenged through all time in the appointment to and removal from office under this Government, and so they put this provision in the Constitution: that before any officer should take upon him the functions of an office the Senate should concur in his appointment.

Now, I submit that the power which makes can alone unmake. I submit that the President has no power. The very moment the Senate has concurred in his appointment, the very moment the Secretary of War or the Secretary of the Treasury or any other functionary has assumed the duties of his office, he has no right to turn around the very next hour and remove him. If that be so, then this provision of the Constitution is nonsense, and those who framed the Constitution did not know how to perform the duty they attempted.

But suppose I am mistaken in this; what further have we in the case? The legislative power of this Government has construed this Constitution. It has said by solemn law, passed not only originally by a majority of each House, but passed subsequently over the President's veto by more than two thirds of each of the two Houses, that no removal was proper except by the specific means through which the appointment can be made, namely, by the President and the Senate.

Now, the President, after months of reflection, after much investigation, after these laws have been brought to his attention, has openly, defiantly, and in the very face and teeth of this statute, and, as I contend, of the Constitution, removed the Secretary of War from office. That is his first offense—that is a great offense.

What else has he done? He has gone into the Army, gone among his subordinates, and picked up his creature and his tool, and said to him: "You are now Secretary of War *ad interim;* go into the War Office and take possession of the books, papers, records, and property of that Department." Who ever heard of a Secretary of War *ad interim* or any other officer *ad interim* appointed under this Government while the Senate was in session? There is no authority for it, no shadow of law for it. It is unfounded and rank usurpation. If the President can appoint a Secretary of War *ad interim* during a session of the Senate for ten days he can appoint him for thirty days or for three months or for three years. If the President of the United States can appoint a man Secretary of War *ad interim* he can fill every office in the land by men from the Army, calling them appointees *ad interim.* Every postmaster, every revenue officer, every Federal officer in the land can be turned out to-morrow, and the President can direct his military subordinates to occupy the positions *ad interim,* refusing to send any nominations to the Senate. By this plan the President can put the Army into all the civil offices, can refuse to carry out the constitutional provision, and defy the law, and, if he is so disposed, become a military despot, with his creatures filling every civil office.

Now, sir, that is another crime. I have no time to go over the other articles; but here is his great crime. He who is sworn to execute the law; he who is put up as the great example of obedience to law; he who is our high civil and military magnate and magistrate, sets the example of defying the laws of the United States, and we must either permit him to go on and defy them with impunity; to override the Constitution and the laws; to put his creatures in office without limit and without stint, or Congress must stand up now and here, on the very threshold of his usurpation, and vindicate the laws. That, Mr. Chairman, is the solemn question we are called upon to meet.

But gentlemen on the Democratic side say this is a party matter, a party prosecution. I say to those gentlemen that there is a class of men who never get above the dead level of party, never entertain an idea or comprehend a feeling or motive that rises above party. So wedded to party are they and have they been that all through the years of blood and terror through which our country has recently passed they have been repeating this cry of "party, party, party," as they do in the midst of the present burning crisis, when the fate of the Republic hangs upon our hands; when the great interests of posterity are suspended in the balance; when liberty and justice and everything else we hold sacred are at stake. Do not these gentlemen know that the laws should be enforced, whether against the obscurest criminal or against Andrew Johnson, their creature and tool, whom they have seduced from his duty, from his allegiance to his party and the country, to become their instrument and the instrument of their rebel friends? Do they not know that, in sustaining him in his violations of law, they set a precedent that may return to plague them? Do

they not know that it is our duty here to rise above party considerations; that where we find a great offender, no matter how high he may be, we should put our hand upon him and punish him.

Now, sir, I can understand well why this clamor of party is brought up here. I can understand it very well. Gentlemen have used this man Johnson for their purposes. They desire to use him still further. To cut off now his official life, just when they need him so much, when they expect with his help by the aid of Government patronage and power to hand the country over to the men who have been engaged in the rebellion, would be a very serious disaster to them.

Sir, if I know my own heart, and if I know, as I believe I do, the feeling of the majority of the gentlemen on this floor, we entertain in this measure no such party feeling as that which is attributed to us. Had we desired to remove Mr. Johnson for party purposes we should have done so long ago; we should have done it when coming into the White House he betrayed us as a party. We should not have permitted him to slaughter our friends and remove them from office, using his whole power for three years to carry out the purposes for which he abandoned his party and his country. Now, sir, if we had any such motive we should have taken that course. The party has been forbearing; it has been considerate. It has waited and watched and hoped that this man would so conduct himself as not to force them to this last dire extremity. But, sir, under the council and encouragement of those bad men who have so long engaged in the effort to destroy this Government, he has at last precipitated himself against the law and the Constitution. He has forced this issue upon us, and we shall meet it like men.

These articles will be sent to the Senate. Andrew Johnson will be put upon his trial. He will, in my judgment, be convicted, and the executive office that so long has been disgraced and dishonored by him will be filled by another man. The march of progress and of right and of justice and of humanity, which has been so long checked by the vindictiveness of this man, Andrew Johnson, and the men associated with him, will then go on toward the consummation of its glorious work. Then this creature of rebellion and Democracy; this apostate President; this man who has been so negligent of his high duties, will be consigned, in my judgment, in the history of this country, in the language of a Senator who once spoke burning words of eloquence in the other end of the Capitol, to an infamy so deep, so damning, so profound, that the hand of resurrection will never reach him.

[Here the hammer fell.]

Messrs. AXTELL, FERRISS, STONE and ROSS addressed the House. [See Appendix.]

Mr. KOONTZ. Mr. Chairman, I regret that I am limited to fifteen minutes in expressing my views on a question of such magnitude as that now before the House. Why is it that those of us upon this side of the House who heretofore opposed the impeachment of the President of the United States are now found voting in favor of that proposition? I answer, that the President has, by his own action, by his own course, in the violation of a plain written statute of the United States, forced this action upon those Republican members of the House who heretofore opposed it.

As to the right of Congress to impeach the President there can be no doubt. The second section of the first article of the Constitution of the United States provides that—

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment."

The third section provides that—

"The Senate shall have the sole power to try all impeachments."

And the fourth section of the third article provides that—

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

The right of Congress, then, to impeach the President of the United States is clearly established by the Constitution, and all the clamor that has been raised upon the other side of this House in regard to Congress usurping a power is silenced by these provisions of the Constitution. The difference that existed between members upon this side of the House heretofore was this: whether the President could be impeached without having committed an offense indictable by common or statute law. This difference, however, has been reconciled by the fact that, according to our judgment, the President has been guilty of a violation of a statute of the United States, the violation of which is deemed and declared a high misdemeanor, punishable by fine and imprisonment.

The question, then, is, has the President of the United States been guilty of the violation of a statute; and I concede that it is necessary to show that he was not only guilty of violating the law, but that there was a criminal intent on his part in violating it. Sometimes this intent is gathered from the act itself; but I agree that in the case of the President of the United States, he being a public officer, the rule of law is different.

I read from Wharton's American Criminal Law, page 714, where this principle is laid down:

"Where acts are of an official nature, or require the concurrence of official persons, presumption arises in favor of their due execution. In these cases the ordinary rule is *omnia presumuntur rite et solemniter esse acta, donec probetur in contrarium*. Everything is presumed to be rightfully and duly performed until the contrary is shown."

How, then, do we rebut this legal proposition which stares us in the face, and of which the President has the benefit in this trial? I maintain that this presumption is overcome by his acts preceding and contemporaneous with this alleged violation of the law. The statute which it is alleged the President has been guilty of violating is that entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867. It is declared that he has violated that act by appointing a person to act as Secretary of War in lieu of one who was entitled to hold and exercise the office until the expiration of the term of the person by whom he had been appointed. The provision of the statute to which I refer is as follows:

"*Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Whose term is this in the meaning of the law? Is it the term of Abraham Lincoln or of Andrew Johnson? I maintain that it is the term of Abraham Lincoln. It is true that Abraham Lincoln was assassinated within a few weeks after he was inducted into the office of President for a second term. But that second term for which he was elected began on the 4th day of March, 1865, and cannot end until the 4th day of March, 1869. Andrew Johnson never had a term as President of the United States; Andrew Johnson never can have a term as President of the United States unless he is elected by the people as such. I trust that time may never come.

Let me illustrate my position by citing an instance relating to the election of a Senator of the United States. I read now from the Journal of the Senate of the 5th of July, 1866, as follows:

"Mr. POLAND presented the credentials of Hon. GEORGE F. EDMUNDS appointed a Senator by the Governor of the State of Vermont to fill the vacancy occasioned by the death of Hon. Solomon Foot.

"The credentials were read, and the oaths prescribed by law were administered to Mr. EDMUNDS, and he took his seat in the Senate."

When Mr. EDMUNDS stepped into office as a Senator from Vermont he did not do so for the full term of a Senator. He was entitled to occupy the seat for what was known as the unexpired term of Hon. Solomon Foot. We have an instance here from my own State. The gentleman from the twelfth congressional district of the State of Pennsylvania, Mr. WOODWARD, was elected to fill a vacancy. He comes here, not to fill the term of GEORGE W. WOODWARD, but to fill the unexpired term of Charles Denison, the man who was elected to fill a term of two years.

I maintain, then, that this was and is Abraham Lincoln's unexpired term; and that Edwin M. Stanton was entitled, after the passage of the law which I have quoted, to hold, exercise, and enjoy the office of Secretary of War until one month after the 4th day of March, 1869.

But not only is he entitled to hold it by the provision of the law which I have quoted, but he has been recognized as Secretary of War by President Johnson for nearly two years. After his induction into office we find the President recognizing Edwin M. Stanton as the Secretary of War. After the passage of this tenure-of-office act he recognized him as Secretary of War when he suspended him from that office. And even down to the very last document which he ever issued to Mr. Stanton upon this subject he says: "By virtue of the power and authority vested in me as President by the Constitution and laws of the United States you are hereby removed from office as Secretary of War." Thus showing that from April, 1865, to the 21st day of February, 1868, Andrew Johnson, by every act of his, recognized Edwin M. Stanton as the Secretary of War, and entitled to hold and exercise the office. I submit whether it is not too late now for the President to deny that Mr. Stanton was entitled to hold the office. If we accept his view of the case that he now takes to shield himself from the penalty of the law, namely, that Mr. Stanton was never appointed by him, then by his own confession he has been in violation of law for a period of nearly two years in not naming a person to the Senate for that position, as he was bound by law to do.

Now, has the President been guilty of a violation of the law by removing Edwin M. Stanton? And has he done so intentionally, and how are we to gather that intent? As I said a moment ago, we are to learn his intent by his acts precedent to and contemporaneous with this removal. We find that immediately after Andrew Johnson assumed the duties of the President of the United States, stepping into office over the murdered body of Abraham Lincoln, he turned his back upon the principles upon which he was elected, and by which he had gained the confidence and votes of the Republican party, and became the advocate of those lately in rebellion, doing all in his power to place them back in the Government just as they were before the rebellion.

And in this fall of his he dragged down all his Cabinet save one; and the fall, I may add, was remarkable in some of them, and especially in the case of the Secretary of State, because I remember that at the Chicago convention in 1860 the ground of the opposition made to William H. Seward, as a presidential candidate, was that he was too far in advance in his Republican sentiments for the conservative branch of the party throughout the country. What a fall was there! Why, sir, there is nothing like it in recorded history since the day when Vulcan was hurled by angry Jove over the crystal battlements of Heaven, and when, as described by Milton—

"From morn
To noon he fell, from noon to dewy eve,
A summer's day; and with the setting sun
Dropt from the zenith like a falling star."

But, sir, there was one man who was not to be dragged down; there was one man who was not to be engaged in this attempt to restore rebels to place and power in this Government; and that man was Edwin M. Stanton. I aver that it is solely on account of Mr. Stanton's fidelity to the great principles of the Union party that he has met with this antagonism at the hands of Andrew Johnson. From the moment that the President commenced his career of treachery he and Edwin M. Stanton

became the representatives of two separate and distinct ideas: Andrew Johnson, the representative of the idea that there is no penalty for the crime of treason; Edwin M. Stanton, the representative of the idea that the loyal men of this country, who had saved the life of the nation, should rule.

The next act of the President was in corrupting men by means of the offices of the country. No sooner had he become corrupted himself, than he undertook by the distribution of the offices placed at his disposal to corrupt men throughout all portions of the country. The offices were given to those who would betray their principles and adopt the policy of Andrew Johnson; and this tenure-of-office act was enacted by Congress for the very purpose of preventing this wholesale system of debauching the public morals, which emanated from the highest place in the Government. And I may add that it is a matter for which we may well be thankful that it was the Secretary of War instead of one of the other Secretaries that remained true to the Union party. It is manifest that we need the Army for the purpose of holding in subjection the late rebels, and if Andrew Johnson would have had the power to control the Army through a Secretary as faithless as himself the whole scheme of congressional reconstruction would have fallen to the ground, and not only would he have been enabled to carry out his policy, but perhaps to use violence to make himself that which his Secretary of War wished him to be when, in "swinging around the circle," he said, "Will you have Andrew Johnson as President or king?"

We thus find him before the passage of this law removing faithful officers and giving appointments to others to induce them to indorse his policy, evincing a determination to resist the action and laws of Congress. But as evidence of guilty intent on the part of the President to violate this law I aver that he must have done so purposely, because he had previously recognized the binding force of the law. He knew that although it had been vetoed by him, yet having received a two-thirds vote of both Houses of Congress it became a law under the Constitution and was binding upon the whole people of the country, upon him as President as well as upon the humblest individual in the land. When in August, 1867, he suspended Mr. Stanton, he did so under the second section of that law, and in accordance with its provisions notified the Senate of his action. In the act of suspension and notice thereof to the Senate he conformed to the law, and when the Senate refused to concur in said suspension, then Mr. Stanton was by the provisions of the law entitled "forthwith to resume the functions of his office." The attempted removal thereafter was, in the light of his own previous conduct, a willful violation of the law. But I ask, where does he find his authority to appoint a Secretary of War *ad interim*, the Senate being in session, even if Mr. Stanton's appointment was not within the provisions of the act of March 2, 1867? There is no such power given him under the law or Constitution. Because he might, by sending in the names of persons obnoxious to the Senate, and by and with whose advice and consent alone appointments can be made, and upon their rejection of said persons be permitted to make an appointment *ad interim* that would last as long as he remained in office. I regard this action of the President in attempting to oust Mr. Stanton, and fill the office with one of his own creatures, as not only in violation of the act of March 2, 1867, but of all law. All these acts, therefore, taken together, his acts before this attempt, and at the time of its commission, indicate clearly on his part a settled purpose to violate the law, and from them I gather that guilty intent which is an essential ingredient of the offense, and which makes him amenable to the law. Believing this, I consider it the duty of the House to send these articles of impeachment to the Senate, where he can have a fair trial and upon the proof there adduced, his guilt or innocence can be established. When a law of Congress has been violated by the President, whose sworn duty it is under the Constitution to see that "the laws are faithfully executed," under the circumstances that the President has acted in this case, then, in my judgment, such guilty intent has been shown as warrants us in sending it to that tribunal which under the Constitution is the sole power to try.

I have, then, shown conclusively, Mr. Chairman, that this proceeding is not only within the provisions of the Constitution, but that the circumstances attendant upon the President's course, prior to and at the time of his attempted removal of Mr. Stanton, evince a determination to willfully violate the law; and I now wish to say, in conclusion, to gentlemen on the other side of this House who insist that the people "never, never will stand the impeachment of Andrew Johnson," that these fears are not well founded. This nation has stood against greater shocks. It remained firm in the midst of a civil war unequaled in history. Its peace and stability were undisturbed at the murder of its honored Chief Magistrate, an event which in other nations would have produced revolution, bloodshed, and anarchy; and if its people could bear without tumult and violence the assassination of an honored and faithful Executive, I ask can they not bear the removal, under the forms of law, of a dishonored and faithless one? All that we demand is that the laws of the country be faithfully executed; and if the highest officer in the Government has willfully violated any of them and subjected himself to removal from office a law-abiding and intelligent people will acquiesce in the verdict.

Mr. PERHAM addressed the House. [See Appendix.]

Mr. RAUM. Mr. Chairman, in common with every member on this floor I recognize the question now under discussion as one in which the whole country feels a deep and abiding interest, a question too, sir, which merits our earnest consideration, and which requires that each individual member of this House divest himself of all mere partisan prejudice, to enable him to so deal with this great question in the light of the history of the past, with the view of making an unblemished record for the future. Waiving the fact that Andrew Johnson has, without justification or excuse, broken faith with the great patriotic party which placed him in power, and by this act of perfidy has rendered his name a by-word while he shall be remembered among men, we must deal with him with reference to his official conduct in administering his high office of President.

When the trusted Representatives of the people met in December, 1865, it was soon discovered that an irreconcilable difference of opinion existed between the President and the majorities of both Houses of Congress in reference to the reconstruction of the southern States, and then, sir, commenced the great game which has been in progress in this country for the past two years, upon the hazard of which is staked the destinies of the people of this Republic. Upon the one hand was marshaled the loyal people of the United States, with their Representatives in Congress, struggling to reconstruct the States lately torn by civil war upon principles of freedom and justice. Upon the other hand was arrayed an unscrupulous President, with all his partisans and parasites, seeking, through the exercise of the powers of his great office, to place this nation in the hands of the rebels of the South and their allies and sympathizers of the North.

The important legislation of the first session of the Thirty-Ninth Congress was directed to the subject of reorganizing the southern States. All their laws and proceedings were submitted to the consideration of the people in the memorable contest of 1866; and no man can gainsay the statement that the action of Congress was fully indorsed by the people. But, sir, the President failed to derive profit from the bitter experiences of his defeat in 1866, for, instead of acquiescing in the expressed will of the people, to whom he appealed, he has continued the conflict with the legislative branch of the Government, and has brought into it all the asperity and malignity usually manifested by those who apostatise from the principles of persons whom they oppose, until at last he has come to be governed by his worst passions and is ready to perpetrate any act of violence to accomplish his ends.

During the past two years the Congress of the United States, as far as the President was concerned, has had but one end in view—that of having him administer his office according to the will of the people. And, sir, I appeal to the sober judgment of this House and of the country to bear witness when I say that at no time during this eventful struggle have the people of this country or their Representatives in Congress demanded of Andrew Johnson aught save that he exercise the powers of his office according to the letter and spirit of the Constitution and laws of the United States, and this they had a right to demand of him. And, sir, upon that issue has this great and momentous question turned. Choosing his course, the President, rather than administer his office conformably to the laws of the land and in harmony with both Houses of Congress, has deliberately planned and executed a palpable violation of law. And the question comes home to us today, what shall we do in this emergency? Had Andrew Johnson inadvertently and without the intention of setting the laws at defiance done the act with which he stands accused, a generous public would be willing to excuse him; but, sir, this is but one of a long series of offenses of which, in my judgment, he is guilty.

If you draw a picture of the official conduct of Andrew Johnson in his office of President, the back-ground would disclose a long line of usurpations and violations of law, all tending to thwart the public will, with this last act of his standing out in bold relief as a palpable and flagrant violation of law.

But we are told that the President had the right to remove Edwin M. Stanton from the office of Secretary of War without the consent of the Senate, and that he had the right to appoint Lorenzo Thomas Secretary of War *ad interim* without the consent of the Senate.

Mr. KELLEY. I ask the gentleman to yield to me a moment, that I may recur to an historical illustration of the point he is now making and of the change of position of the Democratic party thereon. I will occupy but a moment.

Mr. RAUM. I yield to the gentleman.

Mr. KELLEY. I want to call attention to the fact that on the 29th of December, 1860, that eminent Democratic leader, John B. Floyd, resigned the office of Secretary of War and hastened to

"Take his stand
And live or die in Dixie's land."

On the 1st of January, Hon. Joseph Holt was authorized to perform the duties of Secretary of War "until a successor should be appointed or the vacancy filled;" and on the 9th of the following month a Democratic Senator, Slidell, of Louisiana, introduced a resolution calling upon the President to state whether Floyd had resigned, and, if so, who filled the office, and by what tenure, and why his appointment had not been communicated to the Senate. The resolution was as follows:

"*Resolved*, That the President be requested to inform the Senate whether John B. Floyd, whose appointment as Secretary of War was confirmed by the Senate on the 6th of March, 1857, still continues to hold said office; and, if not, when and how said office became vacant; and, further, to inform the Senate how and by whom the duties of said office are now discharged; and if an appointment of an acting or provisional Secretary of War has been made, how, when, and by what authority it was so made, and why the fact of said appointment has not been communicated to the Senate."

This resolution, implying a doubt of the constitutionality of such an appointment, even in the case of a notorious vacancy, was adopted by the vote of every Democratic Senator on

the floor except one, Mr. SAULSBURY, of Delaware.

On the 15th of the same month the President sent in his response, informing the Senate that the appointment *ad interim* had been made under the act of February 13, 1795, and that "the power to carry on the business of the Government by means of a provisional appointment when a vacancy occurs is expressly given" by that act. He also stated that vacancies had been so filled for sixty-five years, and presented in a tabular statement the instances in which vacancies had been so filled since 1829. But anxious, as he evidently was, to strengthen his position by historic precedents, he was unable to show a case in which a President had so far violated the Constitution as to attempt to create a vacancy by removal while the Senate is in session and fill it by an *ad interim* appointment, as Andrew Johnson has done, with the evident approval of the Democratic members of the House.

I thank the gentleman from Illinois for his courtesy.

Mr. RAUM. If the President could exercise either or both of the powers just alluded to without the consent of the Senate it is because he is authorized so to do by the Constitution of the United States or the laws of Congress.

The second section of the second article of the Constitution contains all the provisions of that instrument upon the subject of appointments and removals from office, and reads as follows:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. And he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session."

It will be seen that all appointments are to be made by and with the advice and consent of the Senate, except appointments to fill up vacancies occurring during the recess of the Senate, which shall expire at the end of the next session of the Senate.

I call the attention of the House to the fact that the tenure of all offices created by the Constitution of the United States is fixed by that instrument; and also, that the office of Secretary for the Department of War was not created by the Constitution, but by an act of Congress; and that the tenure of the office was fixed by the first section of the tenure-of-office act in force March 2, 1867, which is as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Edwin M. Stanton was in office as Secretary of War under Abraham Lincoln at the time that Andrew Johnson succeeded to the office of President, and by virtue of the law just quoted Stanton has the right to hold the office of Secretary of War and perform its duties until the 4th day of April, 1869, unless removed by and with the advice and consent of the Senate.

But gentlemen tell us that this tenure-of-office law is unconstitutional, that it is an infringement upon the executive powers; and further, that the President of the United States, under the Constitution and laws of the country, may exercise the power of removal from office without limitation or restraint; and yet gentlemen cannot point to a single paragraph in the Constitution which confers upon the President the power of removing anybody from office.

It has been affirmed during the course of this debate that the power of removal is incident to and implied from the power of appointment granted in the section of the Constitution before alluded to. Admitting that the President may exercise implied powers, he, like the Congress of the United States, must be governed by the fundamental principle of construction that an implied power shall be necessary or proper as a means of executing an express power. And I affirm as a proposition that cannot be controverted that the power of appointment can be, and is, exercised in this country perfectly, fully, and completely without the aid of the power of removal.

Other gentlemen have ventured to place this power of removal from office upon still higher ground, and have quoted from Mr. Madison to establish the proposition that the President of the United States, by virtue of his office as Chief Executive, has the inherent power of removal; and this, sir, in the teeth of the tenth amendment of the Constitution, which provides that "the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people;" and which amendment was adopted after Mr. Madison wrote upon that subject.

Sir, I deny the whole doctrine of inherent powers in the President. He has no inherent powers. He can have no inherent powers according to the genius and spirit of our Constitution and Government. All the great powers of his office are granted by the Constitution and laws of the United States, and whenever the President exercises powers not granted to him he usurps powers granted to other branches of the Government, or reserved to the States respectively, or to the people. But, sir, I will not stand to discuss the constitutionality of the tenure-of-office act. It was passed by Congress according to all the solemnities of the Constitution, and must be a law for the President as well as the people. Sir, in this country no man must be so low as to be beneath the protection of the laws, nor must any man be so high as to be above the penalties of the law.

By the sixth section of the tenure-of-office act, which is as follows:

"SEC. 6. *And be it further enacted*, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate"—

it is made a penal offense to remove an officer contrary to the provisions of the first section before quoted. And Andrew Johnson having deliberately and flagrantly set this law at defiance by the removal of Stanton, and also by the appointment of Thomas, it becomes our duty as the Representatives of a great and law-abiding people to bring him before the high court of impeachment, and there in the presence of the nations of the earth cause him to be deposed from his office, and thus establish the fact that it is the duty of the President of the United States to administer his office according to the Constitution and laws of the country.

Sir, the best interests of this whole country will be subserved by the removal of Andrew Johnson. He has been a disturbing element during the past three years, and by hindering and delaying the reorganization and reconstruction of the southern States has inflicted untold misery upon that people. And just at the very time when those most sanguine for impeachment had despaired of his removal from office he delivers himself into our hands bodily by the perpetration of so flagrant a violation of law that an outraged people demand his removal. Yes, sir, the loyal men of this country, who, in the dark hour of the nation's peril, stood by its Constitution and its flag, and who, by wager of battle, won the right to control the destinies of this great nation, to-day demand that this man, who is their servant, and who for three years, in the exercise of his great office, has usurped forbidden powers, violated the Constitution and laws of the country, and who has stood in the pathway of the nation's will, shall be impeached of high crimes and misdemeanors and removed from office.

Mr. HUBBARD, of Connecticut. Mr. Chairman, the House of Representatives has already resolved the President of the United States ought to be impeached for something or other. Of what he ought to be impeached is the question now to be determined by this House.

The last article in the schedule of charges reported by the committee is, in my humble judgment, utterly frivolous and absurd. It amounts to nothing in the world but the condemnation of the Executive of the United States for a casual expression of opinion in regard to the constitutionality of a clause in one of the appropriation bills of the last Congress. When I have said that of the last article in the schedule I have said all I desire to say, and I do not propose further to trouble myself with it.

The other nine articles in the schedule are founded in a single transaction easily understood by all men, to wit, the order of the President removing Stanton from his supposed place as Secretary of War, and the subsequent order designating another to fill the office *pro tempore*. In my judgment all the acts charged in these articles are fully warranted by the Constitution and by the laws of the United States. I do not propose, however, in the remarks I now offer to the House to enter into that discussion, because the debate has already ranged liberally over those topics, and it is outside of my present purpose to enter that field.

But, sir, I desire to put this question to the House, and for the purpose of the question I will assume the acts charged in the articles do, in point of fact, present a violation of the law relating to civil tenures; and assuming that to be true and giving the whole case to the gentlemen on the other side, I address myself to the discretion, to the sound, sensible discretion of the majority in this House, and ask whether or not it presents a case on which the House ought in common justice or on which it can afford to impeach, remove, disfranchise, and disgrace the Chief Executive of this great Republic?

Now, let me say it is not every technical offense that is worthy of impeachment by the great inquest of the nation. The ocean is not tossed in tempest to waft feathers or to drown flies. There are, sir, microscopical offenses in office, offenses discernible only by the party microscope which had better be left to the ordinary administration of civil and criminal jurisprudence. And I respectfully submit to the House the supposed misdemeanors here charged are too trivial and insignificant to be worthy the attention of the House or of the solemn and stately proceeding of impeachment before the Senate of the United States.

Let me suggest that no cause is worthy of that high remedy unless the offense is intentional, and unless it endangers the public interest, or involves moral turpitude in the offender. Are the acts charged by these articles of this character? Have they endangered the public interest, and do they involve moral turpitude? The President has done no more than every predecessor of his has done from Washington's time until to-day; done, too, I add, without their constitutional right being challenged even

by political adversaries. Nay, he has done less, far less, than his predecessors; for while they, at their own will and pleasure, and without a why or a wherefore, swept out of office their confidential officers, Andrew Johnson has done nothing of the kind. He has not touched a hair of this supposed Secretary's head, nor suspended or disturbed the exercise of a single one of his official functions. He has simply and merely made a removal on paper, using no effort to execute his order, but only putting the civil-tenure act in that attitude of fact toward the courts that it might command judicial interpretation and construction.

Mr. LAWRENCE, of Ohio. Let me ask the gentleman a question.

Mr. HUBBARD, of Connecticut. I cannot, because I have not the time.

I submit, therefore, Mr. Chairman, the misdemeanor charged in these articles has not endangered, in any degree whatever, the public interest. That brings me to the question whether or not the acts charged involves moral turpitude in the accused. Now, what has the President done? I pray the House to put its eye upon the single act here charged, challenge it, scrutinize it, compare it, assail it with every hostile criticism ingenuity can suggest, has it a color, nay, a shadow or shade of moral wrongdoing? Not a particle, not a substance. He has simply endeavored to dissociate from his political household a functionary—not an appointee of his own—left over by Abraham Lincoln as an incumbrance, who had been for long months the secret spy in his Cabinet of confidential advisers, and who turned out at last to be, and now is, his bitter, violent, malignant enemy, political and personal.

Now I put it to the House, whether, assuming as my argument does, that the President has been guilty of a technical violation of law in the premises, the offense set up in the articles is one that should be visited with impeachment and removal from office?

In this connection let me remind the House that in 1864 one of Abraham Lincoln's confidential advisers fell into a friendly difference with him in regard to a particular course of policy—for then the President was allowed to have a policy. In this juncture, honorable Senators representing the Republican party sent a memorial to Mr. Lincoln setting up that unity in the Cabinet was absolutely essential to executive administration, and praying that he would purge the Cabinet of that dissentient member. I will ask the Clerk to read an extract from the memorial.

The Clerk read as follows:

"The theory of our Government, the early and uniform practical construction thereof, is that the President should be aided by a Cabinet council, agreeing with him in political principle and general policy, and that all important measures and appointments should be the result of their combined wisdom and deliberation. The most obvious and necessary condition of things, without which no Administration can succeed, we and the public believe does not exist, and therefore such selections and changes in its members should be made as will secure to the country unity of purpose and action in all material and essential respects, more especially in the present crisis of public affairs.

"The Cabinet should be exclusively composed of statesmen who are the cordial, resolute, unwavering supporters of the principles and purposes abovementioned."

CHARLES SUMNER, HENRY WILSON, } Massachusetts.
BENJAMIN F. WADE, JOHN SHERMAN, } Ohio.
PRESTON KING, IRA HARRIS, } New York.
DAVID WILMOT, EDGAR COWAN, } Pennsylvania.
L. M. MORRILL, W. P. FESSENDEN, } Maine.
JAMES DIXON, L. S. FOSTER, } Connecticut.
SOLOMON FOOT, JACOB COLLAMER, } Vermont.
DAVID R. CLARK, JOHN P. HALE, } New Hampshire.
H. B. ANTHONY, Rhode Island.
ZACHARIAH CHANDLER, Michigan.
O. H. BROWNING, LYMAN TRUMBULL, } Illinois.
JAMES HARLAN, JAMES W. GRIMES, } Iowa.
S. C. POMEROY, Kansas.
J. R. DOOLITTLE, T. O. HOWE, } Wisconsin.

That memorial was signed by Benjamin F. Wade, who, if this scheme is successful, hopes to be the successor of Andrew Johnson, and by nearly every other Radical Senator now in the other branch of Congress.

Now, sir, in view of these facts, I ask whether or not it is worth while for this House to attempt to hurl the Chief Executive from his seat because he has simply attempted to do on paper precisely what the Senate in 1864 advised Mr. Lincoln to do in fact. I take it upon myself to say that the President's conduct in this regard not only does not involve the slightest moral turpitude, but is consistent with the dictates of the highest and most scrupulous honor. I take it upon me further to say, that the first instincts of every man of honor similarly situated would impel him to eject by force and arms, with hot and hasty indignation, any contemptible intruder who should presume, with brazen and shameless impudence, to sneak into his family of confidential advisers. Nay, if, sir, the old hero of New Orleans were to-day seated in the presidential chair, he would find a sharp and speedy remedy for such a nuisance in the toe of his boot, and not by the tardy process of law.

Well, then, what remains of this supposed offense? Why nothing, literally nothing, except that it is in violation of the mere text, the mere letter of the civil-tenure act. And that brings me to ask what was the nature and purpose of that act? Was it enacted for the purpose of general application? Not at all. It was passed for the simple, single, special purpose of hampering Andrew Johnson—of pestering him, and hedging him out from the exercise of his just constitutional prerogatives, so that he might finally be caught in the artfully laid net of your legal technics. That, sir, was the object of the act; it was personal, it was partial, it was exceptional, it was and is and forever will be odious. You do not intend the act shall remain on the statute-book for other Administrations. You intend to repeal it as soon as you have brushed the present Executive out of your way. The law therefore is, in my judgment, one which is more honored in the breach than in the observance. The offense is not worthy of the dignity of impeachment. I beg leave, finally, to suggest that the articles reported by the committee ought not to be adopted, because upon the charges therein contained the Senate has morally incapacitated itself to render a fair and impartial judgment. Every man, high or low, rich or poor, is entitled to a fair trial before an unprejudiced tribunal. It is the common, ungrudged right of every human being in any civilized community. Any judicial tribunal that should announce its judgment upon a controverted question of law or fact before the case involving the law or the facts has been presented would render itself infamous the world over and through all generations.

Nay, more; if any tribunal, charged with a judicial inquiry into any man's rights, should have the effrontery to pronounce its judgment beforehand, no honest or honorable prosecuting officer—and this House is now acting in that capacity—would have the effrontery to present even his worst enemy to a tribunal that had thus shamelessly abused its powers and disgraced itself.

Now, these are principles about which there can be no difference between any two honest men on this floor. Let me now apply these principles to the case in hand. On Friday, the 21st ultimo, the President ordered the removal of Mr. Stanton, and designated General Thomas as his successor *pro tempore*. On that same day the Senate of the United States, in secret session, by a vote of twenty-nine members, resolved that these acts were a plain violation of law and of the Constitution of the United States, and immediately thereafter removed all obligation of secresy and published their resolution to the world.

Nay, more; a distinguished Senator, from the secret Chamber of the executive session, dispatched a written communication to this supposed Secretary of War, in which he summed up his classical wisdom and dignified advice in that energetic monosyllable, "Stick"—advice which, as offered to a gentleman, I cannot comprehend, but which offered to a certain insect, has a peculiar and known significance.

Not only this, but honorable Senators put themselves instantly in communication with Stanton, and made themselves after the controversy—what they had long been before—his abettors, supporters, and confidential advisers. The New York Tribune states that thirty-five Senators were on the floor of this House when the general resolution of impeachment was under debate, encouraging and urging the adoption of the resolution. I do not believe, sir, that this last statement is true to its fullest extent. But that it is partially true, we all saw and know.

And now what is proposed? Why, that this House should present the President of the United States upon a cause which the Senate has notoriously and shamefully prejudged, and that honorable Senators should be called upon by the managers of the House to go through the farcical ceremony of resolving themselves into a high court of impeachment and of adjudicating and passing into a decree of conviction the judgment which they have already published to the world before even the articles of accusation have been adopted by the House.

No more disgraceful farce can be enacted, no more monstrous injustice can be perpetrated. What would be said of the Supreme Court of the United States if it were to commit a similar indecency in respect to a case to be presented to that tribunal? Every judge upon the bench would be hurled from his seat.

I am, therefore, opposed to these articles, because no case is presented which is worthy of the character of the House and of the dignity of the proceeding, and because, in the second place, the constitutional tribunal for the trial of the charges presented has by its own misconduct incapacitated itself to pass a fair, an honest, and just judgment in the premises.

Let me now say this, in conclusion, if you shall succeed in consummating this outrage which you have set on foot in such indecent haste, I do not say that popular violence will rise to vindicate the wrong; the people have better remedies than that in the armory of the ballot-box; but I do say that you will have set an example that will hereafter blast and destroy you. You will have made the presidential office the mere foot-ball of congressional partisanship. You will have swallowed up all the other departments of the Government in the great whirling maelstrom of a central congressional despotism. But let me remind you your work here is not final. You will find yourselves—you cannot help it—both the prosecutors and the triers, impeached upon higher articles than these; upon a higher authority than this House; before a higher tribunal than a partisan Senate; before that supreme court of impeachment, the people of the United States. In that court of natural justice and equity you will find the accuser taking the place of the accused, and the accused taking the place of the accuser, "for with what measure ye mete shall it be measured to you again."

Mr. PRICE addressed the House. [See Appendix.]

Mr. ASHLEY, of Nevada. Mr. Chairman, this subject of impeachment cannot be elaborated in fifteen minutes, our limited time, and I shall simply try to state succinctly some of the more salient points which occur to my mind in its connection. Political history shows that always the antagonism of rulers, of parties, and of ideas more or less developed, has kept the world in commotion, and well it has, for only by agitation and discussion is truth discovered, and only by strife against the incubus of faulty systems, of established wrongs, and of base doctrines do men triumph in the advocacy of right. Science has fought and still is fighting its way against the crude

notions of barbarism, and its devotees have borne persecution and contumely from all those holding position and having gain from their consecration of error. Political philosophy and human rights, being less susceptible of tangible demonstration, have suffered more even than physical science in this unending contest, but "truth crushed to earth will rise again," and the eternal decree is that victory shall in the end perch on its standards. Search all history and you will find that some one or some few have persistently been claiming the right to exercise exclusive power and to rule over the great mass of men. The sacred mission of prelates and the divine right of kings are dogmas hardly yet refuted and banished from the dialectics of the world.

Those claiming prerogative to rule and to exercise special privileges over other men are rarely in want of precedents in their favor, and never fail to invoke reverence the more strongly the longer their usurpations have been tolerated or have throttled the genius of liberty and equal rights.

Liberty has usually been betrayed and the rights of the people lost through a fatal reliance on the ever-recurring pretension that the usurping hand is stretched out to shield the helpless, to redress the injured, or to vindicate the established. Whenever any one man, holding high office through the favor of the people, begins to follow and vehemently treads in this ancient path of usurpation let the people beware; their liberties are rarely surrendered by their Parliaments and Senates, but have often been plucked away and smothered in the grasp of the executive chief. In forms of government other than republican a king or other ruler exercises authority claimed to be inherent in himself and derived from special privileges belonging to his family, his class, or his office, and called prerogative, generally founded on old customs or deduced as an attribute of the might wielded by the monarch, and is held to be beyond the control of the people.

But the theory of American government is that all political power is inherent in the people, and that they alone can lawfully establish laws and can change them at will to meet the varying exigencies that may arise. Ours is a government of laws, not of prerogatives, and the laws are made by the people's agents specially delegated for that purpose and forming the Congress. The authority to decide cases arising in law, equity, or admiralty is vested in the courts, which must exercise their functions in the form and manner and at the times prescribed by law. The execution of these laws is intrusted to ministerial officers, the first and principal, of whom is the President, and who are bound so to execute in the modes, under the regulations, and with the limitations enacted by the law-making power. The President, for all purposes of internal government, is simply an executive officer, whose duty is to cause the laws to be executed when and how they determine. In such execution he has no authority above the laws, but must proceed under their rules, and not as may be dictated by or suited to individual caprice.

Procedure by the President in any other manner is a violation of the law, because here the maxim that the king can do no wrong is obsolete, and such violation is a misdemeanor in office, for which he is subject to the restraints and penalties prescribed for all offenders, be they high or low.

For such misdemeanors all civil officers of the United States are liable to impeachment by the people through their Representatives in Congress, and the impeachment shall be tried by the nation's Senate, for this purpose the highest court existent in the Republic, and supreme in its authority to judge and determine of the law and the fact, whence there is no appeal, for its judgment is the decision and decree of the American people, from whom comes all authority and lawful power, and is declared through their legitimate and constitutional tribunal.

That the impeachment of the President of the United States is a serious matter is true; so also is it a matter of gravity to indict and convict any citizen of an act subjecting him to legal penalty, but when the occasion comes in either case it is a duty not to be avoided.

When he who has been honored by his fellow citizens commits a breach of official trust, in so much more as he is elevated above the common offender is the wrong to be more detested, and is the obligation increased to vindicate the law. This false delicacy in dealing with notability is always the curse and is often the ruin of free government. We may lament that impeachment has become necessary, but we should thank heaven that we have in our country so effective, so quiet, and orderly a remedy for the neglect of duty, the encroachment of power, and the strides of usurpation. In England, whence many of our governmental ideas are derived, the liberty they enjoy was shielded and saved by their Parliament in fierce conflict with executive pretension and power. In that conflict Charles I and James II fell, and the unwarranted claims of the executive branch of the English Government were ultimately somewhat limited and curbed; but their adherents without stint, yet vainly, denounced Hampden and his compeers and successors, champions of the legislative branch, in terms not exceeded by the slanders and objurgations now heaped by rebels, their sympathizers, and the falsely-called Democrats on the Congress of the United States.

The President is authorized to nominate, and "by and with the advice and consent of the Senate" to appoint, the officers of the United States, excepting in the cases otherwise provided in the Constitution. The terms of most of these officers are not defined in the Constitution, and in it nothing is said about removal, except by impeachment, but the appointment, with the advice and consent of the Senate, of a new officer necessarily removes the old incumbent. A law has been passed, with all the constitutional formalities, declaring that each officer so appointed shall hold office until his successor is in like manner appointed, but that the term of office of certain heads of Departments named, including the Secretary of War, shall cease one month after the expiration of the term of the President by whom they were appointed, and this law applies to all those who held office at the time of its passage, and all removals from office are prohibited except by the appointment of a successor as aforesaid, subject, of course, to removal by virtue of law at the expiration of a defined term and removal by impeachment. This law in no manner affects or abridges the power of the President to make appointments, and became necessary to correct an erroneous custom that had grown up of permitting the President, at his will and caprice, to remove, during a recess of the Senate, any officer whose term was not prescribed by law, constitutional or congressional. This law established a term for all offices in case it was not otherwise declared.

It is claimed that this law, so far as it applies to the head of a Department, is indelicate and improper, because of his intimate relations to the President, and because the heads of Departments are his constitutional advisers. Not so; for the Senate is, under the Constitution, the advisory council of the President, and there is no such thing as a Cabinet known to our law. The Constitution simply provides that the President—

"May require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices."

How absurd to provide this if such officer is simply to echo the opinion of the President, and is held to merit and be subject to removal for expressing an opinion which displeases the President. No monarch or despot ever claimed a more tyrannic and unreasonable power than that of removing in such case.

The public weal and safety are subserved by and demands that law—the tenure-of-office act. If the President may arbitrarily and without just cause, at any time remove any or all of the thirty, or, perhaps, fifty thousand officers of the United States, he has the means in his hands to make them his minions and his tools to aid in the accomplishment of any purpose, however base or dangerous to our free institutions.

The office of Secretary of War is one of legislative creation and its tenure is within the scope of legislative control. But the President openly, willfully, and defiantly violates the law, and for this he must be impeached or the example of his impunity will fritter away the palladium of our rights and lead to the destruction of popular Government. Let the scissors of fate close down and humanity once more rejoice in the rescue of freedom.

Since the accession to the Presidency of the now actual incumbent he has performed many acts that, in the judgment of cool, clear-headed, and loyal men, render him liable to impeachment. Having declared, and truly, that the rebellion had deprived the people of the rebellious States of all legal State governments, he unlawfully and without color of right assumed to himself the power to provide for reorganizing State governments therein, and although he did, in some instances, announce that State governments so reorganized would be provisional only and subject to the control and approval of Congress, yet he subsequently insisted that the governments so under his direction formed were definitively reëstablished, thereby attempting to usurp power vested in Congress only; he without authority dictated who should be entitled to suffrage in the States lately in rebellion, and what provisions should be inserted in their organic laws; he abused his power by pardoning many guilty of treason with the sole intent that they might acquire official position, and thus be better enabled to aid him in his design to individually control the reorganization of the said State governments; he unlawfully assumed to dispose of, and did dispose of, many million dollars' worth of property which the Army of the United States had seized and taken from rebels, and surrendered to private parties many miles of railroad built by the military authority of our Government at the cost of large sums of money; he knowingly appointed, or connived at the appointment by the Secretary of the Treasury, to office of men who were guilty of treason and who were not qualified to take such office under the laws of the United States; he has falsely denounced the Congress of the United States as an illegal body, and has conspired to have its authority resisted with the evident intent thereby to secure to himself the exercise of power belonging only to the legislative department; and he has persistently endeavored to thwart the due and proper execution of laws providing for the legal reorganization and establishment of competent and constitutional State governments in the States where none existed by reason of rebellion.

These are but a part of the many acts he has committed unbecoming the President of the American Republic. Yet to impeach for these acts was to challenge a trial which, owing to the hosts of witnesses who would be called in verifying the issues would, perhaps, extend to the end of the current presidential term, thus nullifying, to a great extent, the good to be attained by the proceeding.

The articles of impeachment now proposed in a great measure avoid this difficulty and cause of delay, for the facts on which they are founded are in effect admitted and the application of law thereto, and thence forming a conclusion will constitute the main business of the court. I shall not favor some of the proposed articles, not from want of faith in their validity, but because I desire not to open the door to a long and vexatious investigation to verify charges not vital to the success of impeachment.

We are now at a crisis where public welfare and justice appeal to each for a prompt dis-

charge of duty, and woe be to him who falters from cowardice, or who, through corruption, betrays.

Mr. COBB addressed the House. [See Appendix.]

Mr. STEVENS, of Pennsylvania. Never was a great malefactor so gently treated as Andrew Johnson. The people have been unwilling to blot the records of their country by mingling his crimes with their shame—shame for endurance for so long a time of his great crimes and misdemeanors. The committee have omitted entirely his wicked abuse of the patronage of the Government, his corruption of the voters of the nation by seducing them with the offers of office, and intimidating them by threats of expulsion, all for the purpose of making them abandon their honest principles and adopt the bastard policy which he had just conceived, a crime more heinous than that which brought many ancient agitators to the block. To this he was prompted by the same motive which made the angels fall. Soon after the death of Mr. Lincoln and the surrender of the so-called confederate army and possessions, the whole government of the territory, persons and property of the territory claimed by and conquered from the so-called confederate States of America devolved upon the Congress of the United States, according to the most familiar and well-adjudicated principles of national and municipal law, leaving nothing for the President to do but execute the laws of Congress and govern them by military authority until Congress should otherwise direct. Yet Andrew Johnson, assuming to establish an empire for his own control and depriving Congress of its just prerogative did erect North Carolina and the other conquered territories into States and nations, giving them governments of his own creation and appointing over them rulers unknown to the laws of the United States, and who could not by any such laws hold any office therein. He fixed the qualifications of electors, directed who should hold office, and especially directed them to send representatives to both branches of Congress, ordering Congress to admit them when they should arrive. When Congress refused and asserted its sovereign prerogative to govern those territories, except during their military occupation, by their own inherent power, he treated their pretensions as idle and refused to obey them. When Congress subsequently passed acts dated, March 2, 1867, and their supplements, to reconstruct those governments under republican forms by the votes of the people, he pronounced them unconstitutional, and after they had become laws he advised the people not to obey them, thus seeking to defeat instead of to execute the laws of Congress. All this was done after Congress had declared these outlying States as possessing no governments which Congress could recognize, and that Congress alone had the power and control over them. This monstrous usurpation, worse than sedition and little short of treason, he adhered to, by declaring in his last annual message and at other times that there was no Congress, and that all their acts were unconstitutional. These, being much more fundamental offenses, and, in my judgment, much more worthy of punishment, because more fatal to the nation, the committee have omitted in their articles of impeachment, because they were determined to deal gently with the President. Encouraged by this impunity, the President proceeded to new acts of lawless violence and disregard of the express enactments of Congress. It is those acts, trivial by comparison, but grave in their positive character, for which the committee has chosen to call him to answer, knowing that there is enough among them, if half were omitted, to answer the great object and purpose of impeachment. That proceeding can reach only to the removal from office, and anything beyond what will effect that purpose, being unnecessary, may be looked upon as wanton cruelty. Hence the tender mercies of this committee have rested only on the most trifling crimes and misdemeanors which they could select from the official life of Andrew Johnson.

I will begin with the articles in their inverse order and devote a few minutes to each. The tenth article charges the President with attempting to induce the commander of this military district, Major General Emory, to disregard the law, by which he considered that he was bound to act, requiring orders to be issued through the General of the Army. The President declared it to be unconstitutional and contrary to the General's commission. About the fact there can be no doubt. There could be but one purpose, and that was to use the Army, if possible, for his operations against Congress. By the ninth article it is charged that the President violated the act regulating the tenure of certain civil officers by appointing Lorenzo Thomas Secretary of War *ad interim* on the 21st day of February, 1868, and declaring that he had that day removed Edwin M. Stanton from the office of Secretary for the Department of War, the Senate being then in session, and not having consented to said removal. He ordered the said Lorenzo Thomas to seize the property of the War Department and act in place of Edwin M. Stanton, and delivered to said Thomas a letter of authority in writing authorizing him to do said acts. About the fact there can be no doubt, as the certified records aver it. What defense the President will make for this violation, direct and palpable, of the civil-tenure bill, we must wait and see.

The eighth article charges that the President conspired with Lorenzo Thomas to seize, take, and possess the property of the United States in the War Department, in violation of the act of March 2, 1867, before referred to. This fact is also proved by the records.

The seventh article charges that the President entered into a conspiracy with Lorenzo Thomas to prevent Edwin M. Stanton, Secretary for the Department of War, from holding the office of Secretary of War, to which he had been appointed under the laws of the United States. All this is proved by a letter of authority produced by General Thomas when he repeatedly demanded possession of the office from the incumbent, and needs no further proof till there be a satisfactory answer.

Article six charges that the President conspired with Thomas to seize the property of the United States in the War Department, contrary to both the act of July, 1861, and the act of March 2, before referred to. This is all proved by the same letter of authority issued by the President to said Thomas, and repeatedly produced by the latter to the Secretary of War in his attempt to gain possession of said property. As I am now only showing the evidence that will be given, it would be wrong to anticipate the defense by argument, until we see the authority upon which it rests.

Article five charges that the President conspired with Lorenzo Thomas to hinder the execution of the tenure-of-office bill, passed March 2, 1867, and to prevent Edwin M. Stanton, Secretary of War, from holding said office. The same evidence is conclusive upon this point.

The fourth article charges that the President, in conspiracy with Lorenzo Thomas and with other persons unknown, did attempt, by intimidation and threats, to prevent Edwin M. Stanton, then and there Secretary of the Department of War, from holding said office, contrary to the provisions of the act of July 31, 1866.

The third article charges that the President, on the 21st day of February, 1868, while the Senate was in session, did appoint Lorenzo Thomas Secretary of War *ad interim* without the advice and consent of the Senate, no vacancy having happened during the recess of the Senate nor then existing. The commission produced by Major General Thomas and the copy given in evidence place that fact beyond dispute.

By the second section of the second article of the Constitution the President is empowered to make appointments to office by and with the advice and consent of the Senate, but not while the Senate is in session without such consent. The appointment, therefore, of General Thomas was a palpable violation of the Constitution.

The first article charges that the President, in violation of the Constitution and laws of the United States, issued an order removing Edwin M. Stanton from the office of Secretary of War, commissioned by and with the advice and consent of the Senate, having suspended Mr. Stanton from his office during the recess of the Senate and within twenty days after the meeting of the next session of the Senate, on the 12th day of December, having reported to the Senate such suspension, with the evidence and reasons for his action, and the Senate on the 13th of January, having considered the evidence, refused to concur in the suspension, whereby the said Edwin M. Stanton, by virtue of the tenure-of-office bill, did forthwith resume the functions of his office, of which the said President had due notice, as appears from the records; whereupon the President assumed to remove the Secretary from office and to appoint Brevet Major General Lorenzo Thomas Secretary *ad interim*, and ordered the delivery of possession, which order was unlawfully issued, in violation of the act to regulate the tenure of certain civil offices, and contrary to the provisions of said act, and contrary to the provisions of the Constitution of the United States, without the advice and consent of the Senate then being in session.

I had thought that the article which I hold in my hand was one of the articles reported; I had understood it was to be put in as one of the articles, but when I came to read them, after they were printed, I found that there were two articles that are nearly alike, tautological, I think; but this was not in, and I suspect it was omitted by mistake. I will therefore read it and call it one and a half, as, in my judgment, it is the gist and vital portion of this whole prosecution:

On the 12th day of August, 1867, during the recess of Congress, Andrew Johnson, President of the United States, did suspend from office Edwin M. Stanton, Secretary of the Department of War, he having been duly appointed and then in possession and in discharge of the duties of said office, and did, as he was bound to do by the act entitled "An act regulating the tenure of certain civil offices," report to the Senate at its next meeting such suspension, with his reasons for his action in the case. By the second section of said act it is provided, that "if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease." While the Senate was considering the sufficiency of the reasons reported, and at other times, Andrew Johnson, President, as aforesaid, formed a deliberate design and determination to prevent the execution of that portion of the law and to prevent the said Edwin M. Stanton from forthwith resuming the functions of his office, notwithstanding the Senate should decide in his favor, thereby committing a high misdemeanor in office. And, when he was defeated in accomplishing his design by the integrity and fidelity of the Secretary *ad interim*, he sought to arrive at the same end by giving a letter of authority to one Lorenzo Thomas, Adjutant General of the Army, to act as Secretary of War *ad interim*, and to take all the records, books, papers, and other public property of said Department into his custody, the Senate being then in session; and he severely censured the former Secretary *ad interim* for not yielding to his efforts to make him betray his trust.

I wish this to be particularly noticed, for I intend to offer it as an amendment. I wish gentlemen to examine and see that this charge is nowhere contained in any of the articles reported, and unless it be inserted there can be no trial upon it; and if there be shrewd lawyers, as I know there will be, and cavilling judges, and, without this article, they do not acquit him, they are greener than I was in any case I ever undertook before the court of quarter sessions. If it be inserted his own letters show both the removal and the attempt to defeat the reinstatement of the Secretary of War, although the Senate should decide in his favor. How, then, can he or his counsel hope to escape, even if there were no other charge—it is worth all of them put together—from conviction, unless it be upon what I know they will rely on, the unconstitutionality of the tenure-of-civil-office act. Let us for a moment look and see what chance he has to escape there. I may say that the Senate have four times voted upon the constitutionality of that

very bill. On the 19th day of February, 1867, the Senate passed that bill by a vote of yeas 29, nays 9. I am sorry to say that it was a party vote, but every Republican voted in its favor. Let me see the recreant who will now dare to tread back upon his steps and vote upon the other side.

Gentlemen remember that we had a committee of conference upon the bill, and the votes were—yeas 22, nays 10; every Republican present voting, after a long discussion, in favor of the constitutionality of the measure. Then came the veto of the President and his reasons therefor, when the bill was again submitted to the Senate and passed by yeas 35, nays 11; every Republican present voting in favor of the bill. I will not go further, although I could trace one or two other incidental votes of precisely the same character.

Now, if my article is adopted, let him hope who dares to hope that so high a body as the Senate will betray its trust, will forget its own acts, will tread back upon its own action, will disgrace itself in the face of the nation. Point me to one who dare do it, and I will show you one who will dare the infamy of posterity.

What chance, then, would Andrew Johnson have had we not left out the article I desire to move as an amendment, in order to give him a loophole of escape. Gentlemen can see how fair we are. If my article be inserted what chance has Andrew Johnson to escape, even if all the rest of the articles should fail? Unfortunate man! thus surrounded, hampered, tangled in the meshes of his own wickedness—unfortunate, unhappy man, behold your doom.

The debate was continued by Messrs. MARSHALL, HIGBY, MILLER, JULIAN, and DRIGGS. [See Appendix.]

The CHAIRMAN, (Mr. DAWES.) By order of the House, the hour of three o'clock p. m. having arrived, the fifteen-minutes debate on the report of the committee has closed. The report will now be open for one hour to five-minutes debate upon amendments.

Mr. BOUTWELL. I am instructed by the committee on those articles to report and move an amendment in the nature of a substitute. If gentlemen will follow the Clerk as he reads the substitute, and compare it with the report as printed, they will observe that the greater portion of the changes are merely verbal.

The Clerk read the substitute, as follows:

ARTICLE I.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary, and said Andrew Johnson, President of the United States, on the 12th day of August, in the year of our Lord 1867, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, that is to say, on the 12th day of December, in the year last aforesaid, having reported to said Senate such suspension with the evidence and reasons for his action in the case and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate, thereafterward, on the 13th day of January, in the year of our Lord 1868, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension, and having refused to concur in said suspension, whereby and by force of the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, being lawfully entitled to hold said office of Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is, in substance, as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.
Hon. EDWIN M. STANTON, *Washington, D. C.*

Which order was unlawfully issued with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; and, with the further intent contrary to the provisions of said act, in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary for the Department of War, the said Edwin M. Stanton being then and there Secretary of War, and being then and there in the due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high misdemeanor in office.

ARTICLE II.

That on said 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.
To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Then and there being no vacancy in said office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high misdemeanor in office.

ARTICLE III.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War *ad interim*, without the advice and consent of the Senate and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment, so made by said Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.
To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

ARTICLE IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, in violation of the Constitution and laws of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats unlawfully, to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high crime in office.

ARTICLE V.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, and on divers other days and times in said year, before the 2d day of March, A. D. 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, by force to seize, take, and possess the property of the United States in the Department of War, and then and there in the custody and charge of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

ARTICLE VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary for said Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

ARTICLE VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, with intent unlawfully to control the disbursements of the moneys appropriated for the military service and for the Department of War, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, with intent to violate and disregard the act aforesaid, then and there issue and deliver to one Lorenzo Thomas a letter of authority in writing, in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.
To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE IX.

That said Andrew Johnson, President of the United States, on the 22d day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of the United States, duly enacted, as Commander-in-Chief of the Army of the United States, did bring before himself then and there William H. Emory, a major general by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such Commander-in-Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and which said provision of law had been theretofore duly and legally promulgated by general order for the Government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the Uni-

ted States, according to the provisions of said act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and to unlawfully prevent Edwin M. Stanton, then being Secretary for the Department of War, from holding said office and discharging the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

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And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, do demand that the said Andrew Johnson may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

The CHAIRMAN, (Mr. DAWES.) There will be further opportunity for amendment after this substitute is adopted. If there be no objection the substitute will be considered as adopted.

Mr. MILLER. I desire to make a suggestion to the gentleman from Massachusetts, [Mr. BOUTWELL.] It is charged in these articles that Andrew Johnson has violated his oath of office, but it is nowhere alleged that he took the oath of office.

Mr. BOUTWELL. Well, if he denies it, we must prove the fact.

Mr. MILLER. I think it had better be alleged in the articles. If the gentleman from Massachusetts [Mr. BOUTWELL] will yield to me, I would like to offer an amendment to insert in each article, after the words "oath of office," the words "which he had taken." I would like, also, to move the following additional articles:

ARTICLE X.

That the said Andrew Johnson, having been duly elected Vice President of the United States, was on the 4th day of March, in the year of our Lord 1865, duly sworn in as such, and afterward, to wit: on the 15th day of April, in the year of our Lord 1865, upon the death of Abraham Lincoln, the regularly elected and qualified President of the United States, the powers and duties of the said office of President of the United States devolved by the Constitution upon said Andrew Johnson, Vice President aforesaid, who was then and there duly sworn in as President by the Chief Justice of the United States and took upon himself the powers and duties thereof, and the said Andrew Johnson, as President of the United States, afterward, to wit: on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, to wit: within the United States of America, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did appoint one Lorenzo Thomas to be Secretary of War *ad interim*, by issuing to said Lorenzo Thomas a letter of authority, in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours,

ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

whereby said Andrew Johnson, as President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE XI.

That the said Andrew Johnson, having been duly elected Vice President of the United States, was, on the 4th day of March, in the year of our Lord 1865, duly sworn in as such, and afterward, to wit: on the 15th day of April, in the year of our Lord 1865, upon the death of Abraham Lincoln, the regularly elected and qualified President of the United States, the powers and duties of said office of President of the United States devolved by the Constitution upon said Andrew Johnson, Vice President aforesaid, who was then and there duly sworn in as President by the Chief Justice of the United States, and took upon himself the powers and duties thereof, and the said Andrew Johnson, as President of the United States, afterward, to wit: on the 21st of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, to wit: within the United States of America, unmindful of the high duties of his office and of his oath of office, in violation of the Constitution and laws of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats, to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, whereby said Andrew Johnson, as President of the United States, did then and there commit and was guilty of a high crime in office.

Mr. BOUTWELL. I cannot yield for those amendments.

The CHAIRMAN. If there is no objection, the substitute of the gentleman from Massachusetts [Mr. BOUTWELL] will be considered as adopted.

There was no objection.

Mr. JENCKES. I move to amend by adding as a new article that which I send to the Clerk.

The Clerk read as follows:

ARTICLE X.

That Andrew Johnson, elected Vice President of the United States for the term of four years from the 4th day of March, A. D. 1865, and since the decease of Abraham Lincoln, who was duly elected President of the United States for the same term of four years, and who was removed by death on the 15th day of April, A. D. 1865, the person upon whom has devolved the right to discharge the powers and duties of said office of President of the United States according to the provisions of the Constitution of the United States for the residue of the term for which said Abraham Lincoln was elected President, to wit: until the 4th day of March, A. D. 1869, has heretofore, and within the District of Columbia and elsewhere within the United States, being actuated by the unlawful intent and design to assume and exercise the control and command of the armies of the United States without being bound by the laws establishing rules for the government and regulation of the land and naval forces of the United States, passed by the Congress of the United States in pursuance of the powers granted to Congress for said purpose by the Constitution of the United States, and to exercise the functions of Commander-in-Chief of said armies otherwise than in accordance with the provisions of said laws, and to prevent said armies and the officers thereof from being the instruments of the execution of the laws of the United States, and especially of an act entitled "An act for the more efficient government of the rebel States," passed March 2, A. D. 1867, and the additional acts supplementary thereto and in amendment thereof, unlawfully and willfully, and unmindful of the duties of the office to which he has acceded under the provisions of the Constitution in the place of the person duly elected thereto and removed by death as aforesaid, and during the term for which he is entitled to discharge the duties of said office, and in violation of the Constitution and laws of the United States and of his oath of office, and especially of the acts of Congress prescribing rules for the government and regulation of the land and naval forces of the United States, and of the act, being one of said acts, approved March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, A. D. 1868, and for other purposes," and also of the act approved July 31, A. D. 1861, entitled "An act to define and punish certain conspiracies," and also of the act entitled "An act regulating the tenure of certain civil offices," passed March 2, A. D. 1867, and also of that clause of the Constitution of the United States which declares that Congress shall have power "to establish rules for the government and regulation of the land and naval forces of the United States," and also of that other clause of the Constitution of the United States which declares that the President shall have power to "nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein," that is to say, in said Constitution, "otherwise provided for, and which shall be established by law," and also of that other clause of the Constitution which requires the President to see that the laws are faithfully executed, attempted to obtain and exercise control and command of said armies of the United States and of the officers thereof, and has attempted to remove the chief officer in the War Department, being the Secretary of the Department of War and the head thereof, and has attempted to appoint another person to perform the duties of Secretary of War *ad interim*, when no vacancy had occurred in said office under the laws creating and governing the same, and has also, acting under the willful and criminal intent and design aforesaid, at the city of Washington, in the District of Columbia, on 21st day of February, A. D. 1868, by writing, signing, and delivering to the Secretary of War, Edwin M. Stanton, a letter in substance as follows, to wit:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

Hon. EDWIN M. STANTON, *Washington, D. C.*

And also at said city of Washington, in said District of Columbia, on said 21st day of February, A. D. 1868, by writing, signing, and delivering to one Lorenzo Thomas a letter purporting to be a letter of authority, in substance as follows, to wit:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Attempted to create a vacancy in the office of Secretary of War without warrant therefor, either by the Constitution or laws, and with the same willful and criminal intent and design as aforesaid attempted to fill the supposed vacancy thus unlawfully sought to be created by the actual appointment of the said Lorenzo Thomas as Secretary of War *ad interim*, when no vacancy had in law or in fact occurred within the true meaning and intent of the Constitution and laws, and thereupon did induce and persuade and undertake to authorize the said Thomas, by the letter aforesaid, and by other communications with him, the said Thomas, to attempt to enter upon the performance of the duties of the office of Secretary of War *ad interim*, and did thereby cause him to undertake to perform the duties of said office contrary to law, and by force to prevent, hinder, and delay the execution of the laws of the United States hereinbefore referred to, and did cause him, the said Thomas, to attempt by force to seize, take, and possess the property of the United States in and under the control of the Department of War, against the will and contrary to the authority of the United States, and did cause him, the said Thomas, and in conspiracy with him contrary to the statute aforesaid, did join with him to prevent the said Edwin M. Stanton from holding the office of Secretary of War as aforesaid, and did thereby undertake to assume and exercise the functions of Commander-in-Chief of the armies of the United States, and to issue orders as such Commander-in-Chief, and to conspire with the said Lorenzo Thomas and others to have such pretended letters of authority obeyed as lawful orders, not only without warrant of law, but contrary to the provisions of the Constitution and laws of the United States as herein set forth, and with the unlawful and criminal intent on the part of said Andrew Johnson to obstruct, delay, and hinder the execution of the laws as aforesaid, and to assume a power and discretion not authorized by the Constitution and laws of the United States, whereby he then and there in manner aforesaid has been guilty of a high crime in office.

Mr. JENCKES. The amendment sufficiently explains itself. It sets forth the acts and alleges the intent to violate the statute. I ask that it be adopted.

Mr. BINGHAM. I desire to oppose the amendment.

The CHAIRMAN. It is open to debate five minutes for and five minutes against it.

Mr. JENCKES. Do I understand I am entitled to five minutes?

The CHAIRMAN. Yes, sir.

Mr. JENCKES. This amendment, Mr. Chairman, alleges the commission of certain acts by the President in connection with Lorenzo Thomas, and also alleges those acts have been committed with certain criminal intent, and that intent is to be found in messages, speeches, and declarations made by the President of the United States on many occasions throughout the last two years. It comes from the idea which seems to have possessed him in his capacity as Commander-in-Chief of the Army that he can exercise untrammelled and irresponsible power. Wherever this idea possesses the mind of the Chief Magistrate of any country the liberties of the people of that country are in danger, and it proves he is an unsuitable person to administer a government of law. Wherever that idea takes expression in performance of acts that are in violation of positive statutes, it is the duty of those who exercise the controlling power over the acts of the Executive to arraign him and have him removed from his high office. This is the purport of my amendment.

Mr. BINGHAM. I move to amend the amendment by striking out all that describes Andrew Johnson as Vice President, or Acting President of the United States, or anything that refers to him other than as Andrew Johnson, President of the United States.

Mr. JENCKES. There are no such words. It merely describes the way in which the present incumbent succeeded to the office.

Mr. BINGHAM. I desire to say, Mr. Chairman, to the House, this question was considered by the committee, and I was not aware when the report was made there was a member of that committee who entertained the slightest doubt on the subject that Andrew Johnson is President of the United States. I desire to say that he must be impeached, if he be impeached at all, either distinctively as President of the United States or as Vice President of the United States. I desire to say, further, that in both capacities he cannot be impeached at the same time and on the same trial, for the reason that the court, as was well said by the chairman of the committee, is differently constituted, by the terms of the Constitution, to try the President of the United States. The Chief Justice of the United States must, by the terms of the Constitution, preside if the President be tried; the Chief Justice shall not preside if the Vice President be tried.

Again, Andrew Johnson is estopped by record in five hundred instances from denying that he is President of the United States. The Senate of the United States is estopped; the House of Representatives is estopped. Your Constitution declares that no bill shall be a law until it be presented to the President for his approval or disapproval. If he be not President, if the people have no President, then you can pass no law. If he be President, then let him be called President on your record.

Mr. POLAND. On this question whether the Vice President upon succeeding to the performance of the duties of the President by the death of the latter actually became President of the United States, we have had some congressional history to which I call the attention of the House. In all that has been said upon the subject I have heard no allusion to the settlement of this question in Congress. The first instance of the accession of Vice President to the office of President was that of John Tyler on the death of President Harrison, in 1841. Before the first message of Mr. Tyler was sent in at the special session, as it was called, in 1841, the following proceedings took place in the House:

"Mr. Wise offered the usual resolution for the appointment of a committee on the part of the House to join such committee as might be appointed by the Senate to wait on the President of the United States and inform him that a quorum of the two Houses had assembled, and that Congress was ready to proceed to business.

"Mr. McKeon moved to amend the resolution by striking out the word 'President' and inserting the words 'Vice President now exercising the office of President.'"

After considerable debate the vote was taken in the House, and the amendment was rejected. The yeas and nays do not seem to have been taken.

When the message was sent to the Senate the same question was raised there. A similar amendment was offered to a similar resolution. There was more debate than in the House, participated in by Mr. Huntington, Mr. Allen, Mr. Tappan, Mr. Walker, and Mr. Calhoun. The yeas and nays were taken on this amendment in the Senate, and were as follows:

"YEAS—Messrs. Allen, Benton, Henderson, Linn McRoberts, Tappan, Williams, and Wright—8.

"NAYS—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Buchanan, Calhoun, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Fulton, Graham, Huntington, Kerr, King, Mangum, Merrick, Miller, Moorehead, Nicholson, Pierce, Porter, Prentiss, Preston, Rives, Sevier, Simmons, Smith of Indiana, Southard, Sturgeon, Tallmadge, Walker, White, Woodbridge, Woodbury, and Young—38."

So that the question seems to have been settled by a vote of both Houses at that time, and during the whole administration, nearly four years of President Tyler and three years of President Fillmore, and now almost three years of President Johnson, this question has been regarded as settled by the decision of Congress in 1841.

The question being taken on the amendment to the amendment, it was agreed to.

The question being taken on the amendment of Mr. JENCKES, as amended, it was disagreed to.

Mr. BUTLER. I offer the following as a new article:

ART. —. That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the Executive and legislative branches of the Government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof, (which all officers of the Government ought inviolably to preserve and maintain,) and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and in pursuance of his said design and intent, openly and publicly, and before divers assemblages of the citizens of the United States convened in divers parts thereof to meet and receive said Andrew Johnson as the Chief Magistrate of the United States, did, on the 18th day of August, in the year of our Lord 1866, and on divers other days and times, as well before as afterward, make and deliver with a loud voice certain intemperate, inflammatory, and scandulous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States duly enacted, thereby amid the cries, jeers, and laughter of the multitudes then assembled and within hearing, which are set forth in the several specifications hereinafter written, in substance and effect, that is to say:

Specification First.—In this, that at Washington, in the District of Columbia, in the Executive Mansion, to a committee of citizens who called upon the President of the United States, speaking of and concerning the Congress of the United States, said Andrew Johnson, President of the United States, heretofore, to wit, on the 18th day of August, in the year of our Lord 1866, did, in a loud voice, declare in substance and effect, among other things, that is to say:

"So far as the executive department of the Government is concerned, the effort has been made to restore the Union, to heal the breach, to pour oil into the wounds which were consequent upon the struggle, and (to speak in common phrase) to prepare, as the learned and wise physician would, a plaster healing in character and coextensive with the wound. We thought, and we think, that we had partially succeeded; but as the work progresses, as reconstruction seemed to be taking place, and the country was becoming reunited, we found a disturbing and marring element opposing us. In alluding to that element, I shall go no further than your convention and the distinguished gentleman who has delivered to me the report of the proceedings. I shall make no reference to it that I do not believe the time and the occasion justify.

"We have witnessed in one department of the Government every endeavor to prevent the restoration of peace, harmony, and Union. We have seen hanging upon the verge of the Government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States. We have seen this Congress pretend to be for the Union, when its every step and act tended to perpetuate disunion and make a disruption of the States inevitable." * * * * "We have seen Congress gradually encroach step by step upon constitutional rights, and violate, day after day and month after month, fundamental principles of the Government. We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, allowed to be consummated, would result in despotism or monarchy itself."

Specification Second.—In this, that at Cleveland, in the State of Ohio, heretofore, to wit, on the 3d day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States did, in a loud voice, declare in substance and effect among other things, that is to say:

"I will tell you what I did do. I called upon your Congress that is trying to break up the Government."

* * * * * * * * * *

"In conclusion, beside that, Congress had taken much pains to poison their constituents against him. But what had Congress done? Have they done anything to restore the union of these States? No; on the contrary, they had done everything to prevent it; and because he stood now where he did when the rebellion commenced, he had been denounced as a traitor. Who had run greater risks or made greater sacrifices than himself? But Congress, factious and domineering, had undertaken to poison the minds of the American people."

Specification Third.—In this, that at St. Louis, in the State of Missouri, heretofore, to wit, on the 8th day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did, in a loud voice, declare, in substance and effect, among other things, that is to say:

"Go on. Perhaps if you had a word or two on the subject of New Orleans you might understand more about it than you do. And if you will go back—if you will go back and ascertain the cause of the riot at New Orleans, perhaps you will not be so prompt in calling out 'New Orleans.' If you will take up the riot at New Orleans and trace it back to its source or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the Radical Congress you will find that the riot at New Orleans was substantially planned. If you will take up the proceedings in their caucuses you will understand that they there knew that a convention was to be called which was extinct by its power having expired; that it was said that the intention was that a new government was to be organized, and on the organization of that government the intention was to enfranchise one portion of the population, called the colored population, who had just been emancipated, and at the same time disfranchise white men. When you design to talk about New Orleans you ought to understand what you are talking about. When you read the speeches that were made, and take up the facts on the Friday and Saturday before that convention sat, you will there find that speeches were made incendiary in their character, exciting that portion of the population, the black population, to arm themselves and prepare for the shedding of blood. You will also find that that convention did assemble in violation of law, and the intention of that convention was to supersede the reorganized authorities in the State government of Louisiana, which had been recognized by the Government of the United States; and every man engaged in that rebellion in that convention, with the intention of superseding and upturning the civil government which had been recognized by the Government of the United States, I say that he was a traitor to the Constitution of the United States, and hence you find that another rebellion was commenced having its origin in the Radical Congress." * * * * * * * *

"So much for the New Orleans riot. And there was the cause and the origin of the blood that was shed; and every drop of blood that was shed is upon their skirts, and they are responsible for it. I could test this thing a little closer, but will not do it here to-night. But when you talk about the causes and consequences that resulted from proceedings of that kind, perhaps, as I have been introduced here, and you have provoked questions of this kind, though it does not provoke me, I will tell you a few wholesome things that have been done by this Radical Congress in connection with New Orleans and the extension of the elective franchise.

"I know that I have been traduced and abused. I know it has come in advance of me here, as elsewhere, that I have attempted to exercise an arbitrary power in resisting laws that were intended to be forced upon the Government; that I had exercised that power: that I had abandoned the party that elected me, and that I was a traitor, because I exercised the veto power in attempting and did arrest for a time a bill that was called a 'Freedman's Bureau' bill; yes, that I was a traitor. And I have been traduced, I have been slandered, I have been maligned, I have been called Judas Iscariot, and all that. Now, my countrymen here to-night, it is very easy to indulge in epithets; it is easy to call a man Judas, and cry out traitor; but when he is called upon to give arguments and facts he is very often found wanting. Judas Iscariot—Judas. There was a Judas and he was one of the twelve apostles. Oh! yes, the twelve apostles had a Christ. The twelve apostles had a Christ, and he never could have had a Judas unless he had had twelve apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? These are the men that stop and compare themselves with the Saviour; and everybody that differs with them in opinion, and to try to stay and arrest the diabolical and nefarious policy, is to be denounced as a Judas."

* * * * * * * * * *

"Well, let me say to you, if you will stand by me in this action; if you will stand by me in trying to give the people a fair chance, soldiers and citizens, to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can.

"Let me say to you, in concluding, that what I have said I intended to say. I was not provoked into this, and I care not for their menaces, the taunts, and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But, God willing, with your help I will veto their measures whenever any of them come to me."

Which said utterances, declarations, threats, and harangues, highly censurable in any, and peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit, and was then and there guilty of, a high misdemeanor in office.

During the reading of the amendment,

Mr. STEVENS, of Pennsylvania, said: I ask the gentleman from Massachusetts [Mr. BUTLER] to allow the reading of his amendment to be suspended, or it will be the only amendment we can get in.

The CHAIRMAN. Is there objection to suspending the reading?

Mr. KERR, Mr. RANDALL, and others objected.

The reading of the amendment having been concluded,

Mr. BUTLER said: I will only say that Judge Chase's case furnishes an exact precedent for this. I will say further that the language cited is taken from perfectly reliable documents, and two of the three citations were proved before the Judiciary Committee, and there can be no doubt as to the speeches having been delivered. I do not care to say anything further, except that I have made no allegation as to the truth or falsity of these charges because the *gravamen* of the charge is that they never ought to have been made, and it is not consistent with the dignity of the House to put in any allegation as to their truth or falsity.

Mr. WILSON, of Iowa. I desire to state to the committee that the subject embraced in this amendment, and I may say the substance presented in the amendment proposed by the gentleman from Massachusetts, [Mr. BUTLER,] was considered in the committee appointed to prepare articles of impeachment against the President of the United States, and it was agreed by the committee not to present an article based upon the subject-matter involved in this amendment. I therefore hope the committee will not adopt the amendment.

The question was put on the amendment, and there were—ayes 45, noes 56.

Mr. PIKE. I call for tellers.

Tellers were ordered; and Messrs. WILSON, of Iowa, and BUTLER were appointed.

The committee divided; and the tellers reported—ayes 48, noes 74.

So the amendment was rejected.

The CHAIRMAN, (at four o'clock p. m.) By the order of the House the committee will now rise and report their action to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole had, by order of the House, had under consideration articles of impeachment against Andrew Johnson, President of the United States, and had directed him to report the same to the House with an amendment in the nature of a substitute.

The SPEAKER. The order of the House is, that the House shall "immediately, without dilatory motions," vote thereon.

Mr. BOUTWELL. Then there is no necessity for the previous question?

The SPEAKER. The previous question would not operate any more strongly than the order of the House does. The first question is on agreeing to the substitute, after which, if a separate vote is demanded, each article will be voted on separately.

Mr. FARNSWORTH. I desire to ask whether it is in order now to move to suspend the rules so as not to require the House to vote immediately?

The SPEAKER. It is not in order, because the order of the House was expressly for the purpose of preventing that motion being entertained.

Mr. FARNSWORTH. As this is Monday, cannot a motion be made to suspend that rule as well as all others?

The SPEAKER. It cannot, because the House has ordered that it shall "immediately, and without dilatory motions, vote" on the report of the Committee of the Whole. That order cannot be changed except by unanimous consent.

Mr. FARNSWORTH. Then I wish to inquire whether, after voting upon the several articles reported to the House, it will not be in order to suspend the rules for the purpose of offering additional articles of impeachment?

The SPEAKER. It will not, because the House also ordered, on the 25th of February,

"That if the articles of impeachment are agreed on the House shall then immediately and without dilatory motions elect by ballot seven managers to conduct said impeachment on the part of the House."

Mr. FARNSWORTH. After that cannot the rules be suspended?

The SPEAKER. Then the rule will have been executed as far as this day is concerned.

Mr. ELDRIDGE. At what time will the order be executed?

The SPEAKER. When the managers are elected. But, if the gentleman from Wisconsin desires further information, the Chair would add that the rule further provides:

"That during the pendency of resolutions in the House relative to said impeachment thereafter no dilatory motions shall be received except one motion on each day that the House do now adjourn."

That is for the future action of the House.

Mr. ELDRIDGE. Mr. Speaker, I have a communication, signed by forty-five members of the House of Representatives, which I have been requested to present at this time, and ask that it may be read. I then propose to ask unanimous consent of the House for a motion founded upon that communication. It is respectful in its terms, and I regard it as a privileged communication.

The SPEAKER. The gentleman may regard it as a privileged communication, but it is not so regarded by the rules of the House, as the gentleman will see by referring to page 156 of Barclay's Digest, where he will find the following:

"It is not a matter of right and parliamentary privilege to have received and entered upon the Journal a protest of members against the action of the House. [Cong. 1, 31; pp. 1579-1588.]

After this matter is disposed of the gentleman can ask it.

Mr. ELDRIDGE. I ask unanimous consent of the House to have this communication printed in the Globe.

Mr. FARNSWORTH. I raise the point of order that under the special order of the House the Chair cannot now ask unanimous consent for any such purpose.

The SPEAKER. The Chair sustains the point of order.

The substitute reported from the Committee of the Whole was then agreed to.

The question was upon the articles as amended.

The first article was read as follows:

ARTICLE I.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully and in violation of the Constitution and laws of the United States issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary, and said Andrew Johnson, President of the United States, on the 12th day of August, in the year of our Lord 1867, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, that is to say, on the 12th day of December, in the year last aforesaid, having reported to said Senate such suspension, with the evidence and reasons for his action in the case and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate thereafterward, on the 13th day of January, in the year of our Lord 1868, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension, and having refused to concur in said suspension, whereby and by force of the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, being lawfully entitled to hold said office of Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Hon. EDWIN M. STANTON, *Washington, D. C.*

which order was unlawfully issued with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; and, with the further intent, contrary to the provisions of said act, in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary for the Department of War, the said Edwin M. Stanton being then and there Secretary of War, and being then and there in the due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high misdemeanor in office.

Mr. HOLMAN. I call for a separate vote on this article.

Mr. ELDRIDGE and Mr. ARCHER called for the yeas and nays upon agreeing to the article.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 126, nays 41, not voting 22; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—41.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Eckley, Ela, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Henry D. Washburn, William Williams, and Wood—22.

So the first article was agreed to.

During the call of the roll the following announcements were made:

Mr. ORTH. My colleagues from Indiana, [Mr. WILLIAMS and Mr. WASHBURN,] who are absent on leave, would, if here, vote in the affirmative.

Mr. LOAN. My colleague [Mr. BENJAMIN] is paired on this question with the gentleman from New York, [Mr. ROBINSON.] My colleague, if here, would vote in the affirmative.

Mr. ECKLEY. On this question I am paired with the gentleman from Maryland, [Mr. MCCULLOCH.] If he were here he would vote against these articles, while I should vote for them.

Mr. KOONTZ. I desire to state that my colleague [Mr. MOORHEAD] is absent by leave of the House. If he were present I have no doubt he would vote "ay."

Mr. HOLMAN. The gentleman from New York [Mr. BARNES] is necessarily detained from the House. If he were present he would vote "no."

Mr. FOX. My colleague [Mr. MORRISSEY] is detained from the House by sickness. If he were here he would vote against these articles.

Mr. ARCHER. My colleague [Mr. PHELPS] is paired on this question with the gentleman from New Hampshire, [Mr. STEVENS.] My colleague, if he were here, would vote against these articles.

Mr. VAN HORN, of Missouri. My colleague, [Mr. PILE,] who is detained from the House by sickness, would, if here, vote "ay."

Mr. PRICE. My colleague [Mr. HUBBARD, of Iowa] is unavoidably detained from the House. If he were here he would vote "ay."

The result of the vote was announced as above stated.

The second article was read as follows:

ARTICLE II.

That on said 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having this day been removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

then and there being no vacancy in said office of Secretary for the Department of War; whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

Mr. HOLMAN. I ask for a separate vote on this article, and call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 122, nays 40, not voting 27; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—40.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Cake, Covode, Eckley, Ela, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Kerr, Loughridge, Maynard, McCullough, Moorhead, Morrissey, Mullins, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Henry D. Washburn, William Williams, and Wood—27.

So the second article was agreed to.

The third article was read, as follows:

ARTICLE III.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office, in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War *ad interim*, without the advice and consent of the Senate, and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment, so made by said Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Mr. VAN AUKEN. I ask for a separate vote on article three, and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 122, nays 40, not voting 27; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morgan, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—40.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Cake, Eckley, Ela, Finney, Hawkins, Hooper, Asahel W. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Mungen, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stokes, Cadwalader C. Washburn, Henry D. Washburn, William Williams, and Wood—27.

So the third article was agreed to.

The fourth article was read, as follows:

ARTICLE IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, in violation of the Constitution and laws of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent by intimidation and threats unlawfully to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high crime in office.

Mr. VAN AUKEN. I ask for a separate vote, and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 39, not voting 34; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Haight, Halsey, Harding, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Starkweather, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—116.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—39.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Butler, Eckley, Ela, Finney, Hawkins, Higby, Asahel W. Hubbard, Humphrey, Loughridge, Maynard, McCullough, Moorhead, Morrissey, Newcomb, Phelps, Pile, Poland, Robinson, Selye, Shellabarger, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William Williams, Wood, and Woodbridge—34.

So the fourth article was agreed to.

The fifth article was read as follows;

ARTICLE V.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, and on divers other days and times in said year, before the 2d day of March, A. D. 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

Mr. KERR. I ask for a separate vote on that amendment, and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 41, not voting 22; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—41.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Eckley, Ela, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Henry D. Washburn, William Williams, and Wood—22.

So the fifth article was agreed to.

The sixth article was read, as follows:

ARTICLE VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, by force to seize, take, and possess the property of the United States in the Department of War, and then and there in the custody and charge of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

Mr. KERR. I ask for a separate vote on that amendment, and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 41, not voting 22; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy,

McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—41.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Eckley, Ela, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Henry D. Washburn, William Williams, and Wood—22.

The seventh article was read, as follows:

ARTICLE VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary of said Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

Mr. KERR. I ask for a separate vote on that article, and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 41, not voting 22; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—41.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Eckley, Ela, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Henry D. Washburn, William Williams, and Wood—22.

So the seventh article was agreed to.

The eighth article was read, as follows:

ARTICLE VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, with intent unlawfully to control the disbursements of the moneys appropriated for the military service, and for the Department of War, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, with intent to violate and disregard the act aforesaid, then and there issue and deliver to one Lorenzo Thomas a letter of authority in writing, in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

Mr. KERR. I call for a separate vote on this article, and also ask for the yeas and nays thereon.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 41, not voting 22; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—41.

NOT VOTING—Messrs. Baker, Barnes, Benjamin, Eckley, Ela, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Phelps, Pile, Robinson, Selye, Shellabarger, Aaron F. Stevens, Henry D. Washburn, William Williams, and Wood—22.

So the eighth article was agreed to.

The ninth article was then read, as follows:

ARTICLE IX.

That said Andrew Johnson, President of the United States, on the 22d day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of the United States duly enacted, as Commander-in-Chief of the Army of the United States, did bring before himself then and there William H. Emory, a Major General by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such Commander-in-Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and which said provision of law had been theretofore duly and legally promulgated by general order for the government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the United States, according to the provisions of said act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and to unlawfully prevent Edwin M. Stanton, then being Secretary for the Department of War, from holding said office and discharging the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

Mr. GETZ. I ask for the yeas and nays on the adoption of this article.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 107, nays 40, not voting 42; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Beaman, Beatty, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Harding, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—107.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Pruyn, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—40.

NOT VOTING—Messrs. Anderson, Baker, Baldwin, Banks, Barnes, Benjamin, Blaine, Burr, Reader W. Clarke, Eckley, Ela, Farnsworth, Finney, Griswold, Hawkins, Higby, Asahel W. Hubbard, Kitchen, Loughridge, Maynard, McCullough, Moorhead, Morrissey, Nicholson, Phelps, Pile, Plants, Poland, Robinson, Selye, Shellabarger, Spalding, Aaron F. Stevens, Stokes, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William Williams, Wood, and Woodbridge—42.

So the ninth article was agreed to.

During the roll-call the following announcements were made:

Mr. BROOMALL. My colleague, Mr. MOORHEAD, is necessarily absent. If he were here he would vote "ay" on all these articles.

Mr. ECKLEY. I may as well state again that on this question I am paired with the gentleman from Maryland, Mr. MCCULLOUGH. If he were here he would vote "no," and I would vote "ay."

The result of the vote was announced as above stated.

The SPEAKER. If there be no objection, the remainder of the report, being the first and the last paragraph, will be regarded as agreed to by the same vote as has already been recorded.

There was no objection; and the first and the last paragraphs were adopted, as follows:

Articles exhibited by the House of Representatives of the United States, in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office.

* * * * * * * * * *

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, do demand that the said Andrew Johnson may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

The SPEAKER. Under the order adopted on the 25th of February the House will now elect by ballot seven managers to conduct the impeachment before the Senate. Nominations are now in order.

Mr. ELDRIDGE. I now ask the consent of the House to present the communication which I have already sought to offer.

The SPEAKER. It can only be done by unanimous consent.

Several MEMBERS objected.

Mr. POLAND. I nominate the following named gentlemen as managers:

THADDEUS STEVENS, of Pennsylvania; BENJAMIN F. BUTLER, of Massachusetts; JOHN A. BINGHAM, of Ohio; GEORGE S. BOUTWELL, of Massachusetts; JAMES F. WILSON, of Iowa; THOMAS WILLIAMS, of Pennsylvania; JOHN A. LOGAN, of Illinois.

Mr. PETERS. I desire to make an inquiry of the Chair. If we elect the gentlemen nominated by the gentleman from Vermont, [Mr. POLAND,] who will be the chairman? That may be a matter of some consequence.

The SPEAKER. The Chair cannot answer that question. It is a matter that does not affect the House of Representatives. The managers are to present themselves at the bar of the Senate. They can settle that matter among themselves.

Mr. PAINE. I desire to address a parliamentary inquiry to the Chair. Suppose members should designate on their ballots their choice for chairman, would the gentleman having the greatest number of votes as such be the chairman?

The SPEAKER. The Chair would not declare any such result, because it is not in accordance with the usage for the House to select a chairman. In the case of the impeachment of Judge Chase, in which Mr. John Randolph was the leading manager, the House did not select him as such; he was simply selected by the managers themselves, they deeming it proper to have him act as their spokesman.

The Chair will appoint as tellers, to conduct the election, Messrs. POLAND, SPALDING, JENCKES, and MARSHALL.

Mr. PETERS. Is it going to follow that the gentleman first named in the list is to be chairman?

The SPEAKER. The Chair has distinctly stated the contrary, although a parliamentary question is not in order under the order of the House. The managers will determine any question which may arise as to priority.

Mr. MARSHALL. I ask to be excused from acting as one of the tellers.

The SPEAKER. The gentleman is excused, and the Chair appoints Mr. RANDALL.

Mr. RANDALL. I do not wish to participate in this thing at all, and I also ask to be excused from acting as one of the tellers.

The SPEAKER. The Chair understands the minority do not wish to be represented among the tellers, and he therefore appoints Mr. BLAIR.

Mr. NIBLACK. It is a wholly unnecessary proceeding, as we on this side do not expect to vote for anybody.

Mr. PETERS. The Chair will excuse me, but I desire information in behalf of friends as well as myself. The order in which the names are written does not prejudice against priority on the committee.

The SPEAKER. It does not, and the Chair has so stated twice.

Mr. BOUTWELL. I move to reconsider the vote by which the articles of impeachment were adopted, and now only ask that the motion shall be entered.

Mr. KERR. I move that I be excused from voting.

There was no objection; and it was ordered accordingly.

Mr. BLAINE. I move that all gentlemen who do not desire to vote shall be excused from so doing.

Mr. UPSON. I object.

Mr. BURR. I ask to be excused from voting.

Mr. UPSON. I object.

The SPEAKER. The Chair can only entertain motions to be excused from voting by unanimous consent.

Mr. RANDALL. The members on this side do not wish to vote, as they are in favor of no part of this proceeding, and I know of no way by which they can be forced to vote. Therefore there is no necessity for excusing them.

The box was then placed upon the desk of the Globe reporters; and under the inspection of the tellers, each member as his name was called, came up and deposited his ballot.

During the vote,

The SPEAKER stated that the seventh rule was mandatory, requiring the Speaker to cast his ballot, and he therefore would place his ballot in the box.

Mr. FIELDS, by unanimous consent, was granted leave of absence for two days.

Mr. FOX, by unanimous consent, was granted leave of absence for one week.

Mr. BOUTWELL. I ask unanimous consent to introduce the following resolution, to go to the Committee on Printing:

Resolved, That one thousand copies of the articles of impeachment against Andrew Johnson, President of the United States, adopted by the House, be printed for the use of the House.

Mr. VAN WYCK objected, but afterward withdrew his objection.

So the resolution was received and referred under the law to the Committee on Printing.

Mr. POLAND reported the following as the result of the ballot:

Whole number of votes, 118; necessary to a choice, 60; of which

John A. Bingham received	114
George S. Boutwell	113
James F. Wilson	112
Benjamin F. Butler	108
Thomas Williams	107
John A. Logan	106
Thaddeus Stevens	105
Thomas A. Jenckes	22
G. W. Scofield	3
Luke P. Poland	3
G. S. Orth	2
John A. Peters	1
Austin Blair	1
J. C. Churchill	1
J. F. Benjamin	1
C. Upson	1

The SPEAKER. The following gentlemen having received a majority of the votes cast by ballot for the election of managers to conduct the impeachment of the President of the United States, namely: JOHN A. BINGHAM, GEORGE S. BOUTWELL, JAMES F. WILSON, BENJAMIN F. BUTLER, THOMAS WILLIAMS, THADDEUS STEVENS, and JOHN A. LOGAN, I declare them elected as such.

Mr. BOUTWELL. I beg leave to present the following resolution, and on it I demand the previous question.

Resolved, That a message be sent to the Senate to inform them that this House have appointed managers to conduct the impeachment against the President of the United States, and have directed the said managers to carry to the Senate the articles agreed upon by this House, to be exhibited in maintenance of their impeachment against said Andrew Johnson, and that the Clerk of the House do go with said message.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. BOUTWELL. I further offer the following resolution, and on it demand the previous question:

Resolved, That the articles agreed to by this House, to be exhibited in the name of themselves and of all the people of the United States, against Andrew Johnson, President of the United States, in maintenance of their impeachment against him of high crimes and misdemeanors in office, be carried to the Senate by the managers appointed to conduct said impeachment.

Mr. ROSS. Would it be in order to strike out all the people of the United States?

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. BOUTWELL moved to reconsider the votes by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had postponed indefinitely a joint resolution (H. R. No. 42) authorizing the employment of Brevet Brigadier General Seth Eastman for special service.

Also, that the Senate had passed a bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania.

LEAVE OF ABSENCE.

Mr. PRUYN asked and obtained leave of absence for fifteen days.

Mr. NUNN asked and obtained leave of absence for the same period on account of sickness in his family.

ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 25) for the relief of John H. Ellis, a paymaster in the United States Army; and

An act (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869.

SUSPENSION OF THE RULES TO-MORROW.

Mr. SCHENCK. As gentlemen have been disappointed of an opportunity to move to suspend the rules to-day, in consequence of the special order intervening, I ask unanimous consent that to-morrow may, for that purpose, be considered as Monday.

Mr. ADAMS and others objected.

Mr. SCHENCK. I move to suspend the rules for that purpose.

Mr. ELDRIDGE. On that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair will state that this vote makes the order.

The question was taken; and it was decided in the affirmative—yeas 97, nays 32, not voting 60; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cullom, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marvin, Miller, Moore, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Starkweather, Thaddeus Stevens, Taffe, Taylor, Thomas, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—97.

NAYS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Kerr, Mungen, Niblack, Nicholson, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—32.

NOT VOTING—Messrs. Anderson, Baker, Barnes Benjamin, Benton, Bromwell, Chanler, Sidney Clarke, Cornell, Covode, Dawes, Eggleston, Ela, Finney, Hawkins, Higby, Asahel W. Hubbard, Hulburd, Johnson, Jones, Knott, George V. Lawrence, Logan, Marshall, Maynard, McCarthy, McClurg, McCormick, McCullough, Mercur, Moorhead, Morgan, Morrissey, Mullins, Newcomb, Nunn, Phelps, Pile, Plants, Pruyn, Robinson, Selye, Shellabarger, Smith, Spalding, Aaron F. Stevens, Stewart, Stokes, Stone, John Trimble, Trowbridge, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, Windom, and Wood,—60.

PROTEST OF MEMBERS.

Mr. ELDRIDGE. I move to suspend the rules for the purpose of considering the following communication, which I send to the Clerk's desk, and of placing it on the Journal of the House.

Mr. BOYER. I ask that it be read.

Mr. KELLEY. I object.

Mr. RANDALL. Let it be printed in the Globe.

Mr. ELDRIDGE. I move to suspend the rules.

The SPEAKER. The Chair will state that by decisions made heretofore a paper cannot be placed on the Journal by indirection, only by order of the House.

Mr. BOUTWELL. Will not the gentleman from Wisconsin consent that this matter go over till to-morrow?

Mr. ELDRIDGE. The gentleman from Massachusetts ought not to object to this. We certainly have taken up none of the time of the House unnecessarily. The reading of this communication or protest will not take more than five or ten minutes.

Mr. BOUTWELL. Very well, then, I am willing that it should be read.

The SPEAKER. Objection is made to the reading by the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. ELDRIDGE. I insist upon its being read as part of my motion to suspend the rules.

The SPEAKER. The gentleman from Wisconsin cannot insist upon that as a part of his motion.

Mr. KOONTZ. I move that the House adjourn.

The SPEAKER. The Chair will state that as the House has ordered by a two-thirds vote that to-morrow shall, for the purpose of moving to suspend the rules, be regarded the same as Monday, this motion of the gentleman from Wisconsin will be the first business in order after the morning hour to-morrow.

Mr. ELDRIDGE. I hope no gentleman will object to the reading of the paper.

The SPEAKER. The question is on the motion to adjourn.

Mr. BURR. I rise to a point of order. Is it in order for a member to take the gentleman from Wisconsin from the floor by a motion to adjourn.

The SPEAKER. The motion to suspend the rules takes the gentleman from the floor because it is undebatable, and then, under the rule adopted by the House on the 25th of February, it is provided that pending a motion to suspend the rules the Speaker may entertain one motion, namely, that the House adjourn, and that after the result has been announced he shall not entertain any other dilatory motion until the vote has been taken on suspension. The gentleman from Illinois [Mr. BURR] availed himself of this right the other day by moving an adjournment after the motion to suspend the rules was pending, and that is precisely what the gentleman from Pennsylvania [Mr. KOONTZ] now does.

Mr. BURR. I thought that rule was exhausted.

The SPEAKER. It is a permanent rule of the House.

The motion was agreed to; and thereupon (at six o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: The petitions of the boards of trade of Chicago, Buffalo, and Detroit, recommending an appropriation for the completion of the harbor at Michigan City, Indiana, as well as for the protection of shipping on Lake Michigan, as a harbor of refuge, and also as an outlet for the growing trade of northern Indiana, and an entrepot for the iron ores of Lake Superior and the lumber of several States.

Also, the petition of owners of furnaces, rolling mills, and coal lands in Indiana, for the same object, to obtain thereby Lake Superior ore and furnishing a market for hundreds of tons of coal daily.

Also, the petition of George W. Smoot, a soldier of the war of 1812, of Wilkes county, North Carolina, for a pension and other relief.

Also, the petition of James G. Taliaferro, of New Orleans, Louisiana, praying that disabilities incurred by participation in the rebellion may be removed from Judge Labaure, of New Orleans, Louisiana.

By Mr. BOUTWELL: The petition of Parker & Cheney and others, of Lowell, Massachusetts, in reference to taxation.

Also, the petition of Ethan Atler, for compensation for use of patent at United States armories.

By Mr. DAWES: The petitions of D. & H. Stearns and others, Harvey Arnold and others, and J. L. Peck and others, praying for relief from oppressive and ruinous taxation.

By Mr. DONNELLY: A memorial of the Legislature of the State of Minnesota, in reference to the construction of the Northern Pacific railroad.

Also, a memorial of the Chamber of Commerce of St. Paul, Minnesota, in reference to an overland mail from Minnesota to Montana.

Also, the proceedings of a public meeting of citizens of Minnesota, held at Minneapolis, in favor of protecting the rights of naturalized citizens in foreign countries.

Also, the proceedings of public meetings of citizens of Minnesota, held at St. Paul and Minneapolis, in reference to the question of naturalization.

Also, the proceedings of a public meeting held at St. Paul, Minnesota, in reference to expatriation of native-born and naturalized citizens.

Also, the petition of the citizens of Minneapolis, Minnesota, asking for an economical administration of the Government.

By Mr. EGGLESTON: A memorial of W. F. Nelson, chaplain in the Army, in 1865, praying for a pension in consequence of injuries received while in the discharge of his duty.

Also, the petition of 100 merchants of Cincinnati, in regard to the revenue tax.

By Mr. HOOPER: The petition of distillers, commission merchants, importers, and exporters of distilled spirits of Boston, asking for the immediate passage of a law to allow export of liquors.

Also, the petition of builders, owners, and shippers engaged in commerce of Boston, praying Congress to remit the duties on all articles used in building vessels.

By Mr. INGERSOLL: The petition and papers in the case of the widow of J. T. Shears, of Bureau county, Illinois, for a pension.

By Mr. KELSEY: The petition of Eben B. Jones and 29 others, citizens and tax-payers of the United States, for a reduction of the taxes and of the expenses of the Government.

By Mr. KETCHAM: The petition of George Van Kleeck and others, of Poughkeepsie, New York, praying for a reduction of internal taxation.

By Mr. LAFLIN: The petition of S. B. Upham, J. A. Shearman, and others, of Jefferson county, in favor of reduction of taxes and economy in public expenditures.

By Mr. NICHOLSON: A memorial of the journeymen cigarmakers and manufacturers of Delaware, in relation to the proposition to require a stamp to be placed upon each cigar.

Also, a memorial of the citizens of Newcastle county, Delaware, that the survivors of the war of 1812 and the widows of those deceased be placed upon the pension-rolls.

By Mr. PAINE: The petition of Stoddard Judd and others, for reduction of taxes.

By Mr. RANDALL: The petition of printers of Philadelphia, protesting against the passage of the bill now before Congress creating an international copyright.

By Mr. SCHENCK: The petition of J. Rohrer and others, manufacturers of certain bitters and tonics in the city of Lancaster, Pennsylvania, praying for relief from unjust taxation.

By Mr. STOKES: A memorial of Henry B. Ste. Marie, asking an appropriation to pay him a reward for the information that led to the arrest of John H. Surratt.

By Mr. TROWBRIDGE: The petition of John Johnson, O'Brien Atkinson, and 24 others, citizens of Port Huron, asking for such revision of the revenue laws as shall protect and encourage American labor, keep the balance of trade in our favor, and thus enable us to retain the products of our gold and silver mines a home.

By Mr. WINDOM: A memorial of the Legislature of the State of Minnesota in reference to the Black hills of Dakota Territory.

Also, a concurrent resolution of the Legislature of the State of Minnesota, relative to the protection of American citizens in foreign countries.

IN SENATE.

TUESDAY, *March* 3, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Secretary proceeded to read the Journal of yesterday; but before concluding it was interrupted by

Mr. SHERMAN. As the Journal to-day is a long record of various motions, I move to dispense with its further reading.

There being no objection, the reading was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 17th of February, 1868, a report of the adjutant general showing the number of military districts or headquarters established in the District of Columbia, the number, names, rank, and duty of each officer connected therewith, and the aggregate expense of the same; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

HEIRS OF GENERAL DUNCAN L. CLINCH.

Mr. HOWE. I desire to move a reconsideration of the vote by which the Senate concurred yesterday in the amendment of the House of Representatives to Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased.

Mr. CONKLING. What is the object of reconsidering it?

Mr. HOWE. I wish to have the vote reconsidered, and then let it lie on the table until the Senator from Maine [Mr. FESSENDEN] is in his seat.

The PRESIDENT *pro tempore*. Does the Senator wish the question put on the motion to reconsider now?

Mr. HOWE. Yes, sir; I would like to have it reconsidered.

The PRESIDENT *pro tempore*. The question is on that motion.

The motion was agreed to.

Mr. HOWE. Now, let the bill lie on the table until the Senator from Maine comes in.

The PRESIDENT *pro tempore*. That order will be made.

Mr. FESSENDEN subsequently said: There is a bill on the table for the relief of the heirs of the late General Duncan L. Clinch, deceased, which has been returned from the House of Representatives with an amendment. I have looked at the amendment with the chairman of the Committee on Claims. As the bill now stands with the amendment I think there is a fatal defect in it; and that is, there is nobody to whom the money could be paid if it was appropriated. I move, therefore, that the Senate disagree to the amendment of the House, hoping that they will recede.

Mr. JOHNSON. What is the amendment?

Mr. FESSENDEN. The amendment strikes out the whole bill and inserts a new one in point of fact.

Mr. JOHNSON. Giving how much?

Mr. FESSENDEN. Ten thousand dollars instead of $15,000. But the new bill, as it is drawn, provides that the money shall go to the trustee of Mrs. Eliza B. Anderson. It does not even say "paid to the trustee," but it says is given in trust for her, but names no trustee. The consequence would be, I suppose, that she could not get the money without some further legislation. I move, therefore, that the Senate disagree to the amendment of the House.

The PRESIDENT *pro tempore*. The bill will be considered as before the Senate for that purpose unless objection be made, and the motion is that the Senate non-concur in the amendment of the House.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. WILLEY presented the petition of Samuel N. Miller, praying for an extension of his patent for an improved compound anchor; which was referred to the Committee on Patents and the Patent Office.

Mr. FESSENDEN presented a petition of citizens of Portland, Maine, praying for the passage of a law legalizing all written contracts for the payment of gold coin; which was ordered to lie on the table.

Mr. CONKLING presented the memorial of Lawrence F. Frazee, praying for the adoption of his metallic life-boat in the marine service of the United States; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. YATES, from the Committee on Territories, to whom was referred the bill (S. No. 357) to provide a temporary government for the Territory of Wyoming, reported it with amendments.

Mr. HARLAN, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 201) in relation to the Rock Island bridge, reported it with amendments.

REPORTS ON THE PARIS EXPOSITION.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (S. R. No. 88) for the publication of the reports of the commission of the United States to the Paris Exposition, have directed me to report a simple resolution of the Senate in lieu of the original joint resolution. I ask for the present consideration of the resolution.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the Secretary of State be, and he is hereby, authorized to have the reports of the commissioners of the United States to the Paris Exposition printed at the Congressional Printing Office and laid before the Senate in a printed form, and that, in addition to the usual number, there shall be printed four thousand extra copies for the use of the Senate, and fifteen hundred extra copies for the use of the State Department, the reports to be bound separately or together, as the Secretary of State may direct.

BILLS INTRODUCED.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 410) making appropriations for the repair, preservation, and construction of certain public works in the Territory of Idaho, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 411) for the relief of John Robb; which was read twice by its title, and referred to the Committee on Claims.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 412) to promote uniformity of coinage between the moneys of the United States and other countries; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 413) granting a pension to Mrs. Sallie Griffin; which was read twice by its title, and referred to the Committee on Pensions.

SIOUX DEPREDATIONS IN MINNESOTA.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to report to the Senate the names of the several claimants for indemnity for depredations by the Sioux Indians in Minnesota under the act of February 16, 1863, whose claims were unadjudicated upon by the board of commissioners appointed under said act, with the amount and character of the respective claims.

TAXES ON INCOMES AND MANUFACTURES.

Mr. COLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance are hereby directed to inquire into the expediency of repealing all laws imposing taxes on incomes and all laws imposing taxes on manufactures.

ALBERT GRANT.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 367.

The motion was agreed to; and the bill (S. No. 367) for the relief of Albert Grant was read a second time and considered as in Committee of the Whole. It proposes to appropriate the sum of $30,000 to Albert Grant, in full satisfaction of all demands against the United States on account of the construction of buildings numbered 29, 30, and 31, at the Norfolk navy-yard, by Albert Grant and H. A. Pierce, who were partners doing business under the name and style of A. Grant & Co.

Mr. GRIMES. I call for the reading of the report in that case.

The Secretary read the following report, submitted by Mr. COLE on the 17th of February:

The Committee on Claims, to whom was referred the petition of Albert Grant, submit the following report:

During the rebellion certain buildings at the Norfolk navy-yard were destroyed.

An appropriation having been made to rebuild them, the Navy Department in April, 1866, advertised for sealed proposals for the work, designating the buidings by numbers, as they are designated in the law making the appropriation. Among the buildings to be erected were Nos. 29, 30, and 31.

The dimensions of these buildings are not given in the advertisement, but persons desiring to bid were invited to visit the yard at Norfolk, and there see the plans and specifications.

Seven bids to construct building 29, and six for each of the other two, 30 and 31, were handed in. Of these the bids of A. Grant & Co., a firm then composed of Albert Grant, the petitioner, and H. A. Pierce, were the lowest. Their bids for these three buildings amounted to $75,000. The highest bid for the same buildings was $214,735 36. The average of the bids was $136,296 97. The next to the lowest was that of Gibbons, and was $104,946 31; and the next lowest but one, that of Evans & Teemeyer, $134,300.

A. Grant & Co.'s bids were made under a misapprehension as to the dimensions of the buildings. At the time of bidding they supposed these buildings were to be only two hundred feet in length, whereas, in fact, they were required to be four hundred feet.

The mistake occurred in this way: the only person on behalf of the firm of Grant & Co. who visited the navy-yard at Norfolk, to examine the plans and estimate upon the work, was A. Grant himself, and his visit was made only two or three days, including a Sunday, before the proposals were to be opened in Washington.

It was his intention to bid on other buildings of the yard besides those above mentioned, and with that view he obtained from Alexander Worrall, the Government civil engineer in charge of this business at the yard, the plans and specifications for the entrance buildings, so called, and the carpenter shop; the former being numbered 19 and 37, and the latter ——, which specifications he took to his room on Saturday, with the understanding that on Monday he should be furnished the plans and specifications for buildings Nos. 29, 30, and 31.

Before Monday Grant suffered an attack of epilepsy, and was so ill that he could not, and did not, see the plans and specifications of buildings Nos. 29, 30, and 31 at all, not in any manner learn their true length before bidding. But when receiving the plans and specifications for the carpenter shop, which building was only two hundred feet in length, he was informed by the engineer, Worrall, inadvertently, as Worrall alleges, that these buildings were all of the same dimensions, and of such similarity of construction that the plans of one would be sufficient upon which to estimate for all.

After the bids had been opened and the contracts awarded Grant & Co. learned the mistake into which they had fallen as to the size of the buildings, and sought, but in vain, to be relieved from their obligation, and to have their guarantors discharged. They were, however, held to a strict performance of their agreement, and they completed the buildings to the entire satisfaction of the Navy Department—and better, as it appears, than another building of the same dimensions as each one of these, No. 28, which cost the Government, by day's labor, $78,500 96, or $3,500 96 more than Grant & Co.'s bid for all three of those erected by them.

The interest of A. Grant & Co. in this demand has been assigned to Albert Grant, the petitioner, who, the committee believe, will only be saved from actual loss by the payment to him of the additional sum of $30,000.

And the committee herewith report a bill accordingly.

Mr. GRIMES. I will inquire whether there is any evidence on file to sustain this statement, and whether the chief of the Bureau of Yards and Docks has been consulted in regard to it, and whether his opinion on the subject is on record here.

Mr. COLE. I will state that the matter has been before the Navy Department, and they have considered it fully; and the evidence, such as the member from Iowa calls for, which I think is very full and complete, is with the papers in the case. There is the affidavit of the Government engineer in charge of the works at the yard at the time, together with a copy of his official letter, and many other papers, showing that there was a clear misunderstanding on the part of Mr. Grant at the time the contract was let, under which he labored, as to the size of the buildings. The time that was allowed to him to examine the building was so brief that he did not succeed in making a personal investigation of the ruins of the yard before he had to come to Washington and make his bids, if he would bid at all. There is, in my opinion, a great deal of merit in this claim. Mr. Grant will be ruined pecuniarily if he is not afforded the relief that is proposed by the bill. The bill is based upon the fact of his having been misled by the Government engineer. The specifications that were furnished him as to a certain building he was led to believe were a sufficient basis upon which he could act in estimating for the buildings that were to be erected under the advertisement. I think the papers on file in the case are very full and complete, substantiating the statements that are set forth in the report of the committee.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRINTING OF AN AMENDMENT.

Mr. EDMUNDS. I ask the unanimous consent of the Senate at this time to offer and have laid on the table an amendment which I intend to propose to Senate bill No. 363, defining the jurisdiction of the courts of the United States in certain cases, when it comes up for consideration.

The PRESIDENT *pro tempore*. The order to print will be entered.

TAXATION OF SCHOOL PROPERTY.

Mr. HARLAN. I move that the Senate proceed to the consideration of Senate bill No. 389.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation. It provides that all real and personal property in the cities of Washington and Georgetown, in the District of Columbia, now or hereafter to be held by the trustees of colored schools for those cities for the use of colored schools, shall be, so long as they are held for that purpose, exempt from local taxation; and it is not to be lawful for the authorities of either of the cities to collect any tax that may have have accrued or been levied or assessed against any of such property since the trustees acquired the title to or right to occupy or use it for school purposes. And all real and personal property in the county of Washington, District of Columbia, outside the limits of the cities of Washington and Georgetown, now or hereafter to be held and used for school purposes, so long as it is so held, also to be exempt from taxation; and it is not to be lawful for the authority of the county to collect any tax that may have accrued or been levied or assessed against any of such property since it was acquired for and has been held or used for school purposes.

The Committee on the District of Columbia reported the bill with three amendments. The first amendment was in line four, after the word "or" to insert "under the school laws of said District."

The amendment was agreed to.

The next amendment was in line six, after the word "cities" to insert the words "in trust."

The amendment was agreed to.

The next amendment was in line fifteen, after the word "used" to insert the words "as aforesaid."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

LANDS ALONG THE PACIFIC RAILROADS.

Mr. THAYER. I move that the Senate proceed to the consideration of House bill No. 660.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 660) restoring lands to market along the line of the Pacific railroads and branches.

It provides that nothing in the act approved July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and the acts amendatory thereof, is to be held to authorize the withdrawal or exclusion from settlement and entry, under the provisions of the preëmption or homestead laws, of the even-numbered sections along the routes of the several roads therein mentioned which have been or may be hereafter located; but those sections are to be rated at $2 50 per acre, and subject only to entry under those laws, and the Secretary of the Interior is directed to restore to homestead settlement, preëmption, or entry, according to existing laws, all the even-numbered sections of land belonging to the Government, and now withdrawn from market, on both sides of the Pacific railroad and branches, wherever the road and branches have been definitely located.

Mr. CONNESS. I call for the reading of the proviso to the bill.

The Secretary read the proviso, as follows:

Provided, That such sections shall be rated at $2 50 per acre, and subject only to entry under those laws, and the Secretary of the Interior be, and is hereby, authorized and directed to restore to homestead settlement, preëmption, or entry, according to existing laws, all the even-numbered sections of land belonging to the Government, and now withdrawn from market, on both sides of the Pacific railroad and branches, wherever said road and branches have been definitely located.

Mr. HARLAN. I ask the chairman of the committee who reported this bill if that proviso limits entries to preëmptors only? The Senator from California suggests that it probably limits the even sections of land to preemptors only. I suppose the Senator would not cut off homestead settlers.

Mr. HOWARD. I ask that the proviso be read again.

The Secretary again read it.

Mr. HOWARD. That is sufficient. It covers the case of a homestead settler by its very terms. It is all right.

Mr. HENDRICKS. I wish to inquire whether that bill does anything more than restore the lands to market? It seems to provide a change in the mode of purchase. Does the bill do anything more than restore the lands to market?

Mr. HOWARD. It merely restores the land, subjects it to sale and settlement, and the price is the old price fixed upon even sections in such cases, which is double the minimum price of public land.

Mr. POMEROY. If I understand it, it restores simply the even sections, not the odd ones.

Mr. HOWARD. The even sections. Of course the odd sections remain for the benefit of the companies.

Mr. POMEROY. I so understand it.

Mr. HOWARD. It has nothing to do with the odd sections.

Mr. THAYER. The whole scope and object of the bill is to restore the lands to market as they were on the 1st of December. Under the Pacific railroad charter that road is entitled to every alternate section of land for twenty miles on each side of the line. They have made their selections of the odd sections and filed their plats; but the Secretary of the Interior construes the law in this way: that he was obliged to withdraw them all from market, whereas the meaning of the law undoubtedly was only to withdraw those which the railroad company selected. This bill now restores the even sections to market for settlement, leaving them just as they were before the ruling of the Secretary of the Interior in December, and putting them on the same footing as all the public lands are in the States and Territories. It does not give away an acre of land to anybody.

Mr. POMEROY. The Senator says it puts them on the same footing. So it does; with the exception that it puts them at $2 50 per acre.

Mr. THAYER. Yes; the same as it was in the Pacific railroad charter.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DISTRICT JAIL.

Mr. FESSENDEN. Mr. President, a bill came here a day or two ago, I understand, from the House of Representatives with reference to the jail in the District of Columbia. It was a bill which came from the Committee on Public Buildings and Grounds in that body. The matter has been somewhat under consultation between the chairman of the Committee on Public Buildings and Grounds of the House of Representatives and myself, and it was understood that the bill was to be referred to the same committee in the Senate. I have no feeling about the matter; I have looked into it somewhat and I have my own views with regard to it; but the chairman of the House committee has written to me requesting me to have the bill referred immediately to our committee. I understand it was referred yesterday to the Committee on the District of Columbia. I think myself that as it concerns the erection of a public building, it properly belongs to the Committee on Public Buildings and Grounds.

Mr. HARLAN. If the Senator will allow me to make a motion, I will move that the Committee on the District of Columbia be discharged from the further consideration of that bill, and that it be referred to the Committee on Public Buildings and Grounds.

The motion was agreed to; and the bill (H. R. No. 787) to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866, was referred to the Committee on Public Buildings and Grounds.

SETTLERS ON THE SIOUX RESERVATION.

Mr. RAMSEY. I move that the Senate proceed to the consideration of House bill No. 358. It is a very short bill, and can be disposed of in five minutes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota. It provides that all actual settlers, who have duly filed their declaratory statements under the preemption laws with the register of the proper local land office, upon the unsold lands now included within the limits of the late Sioux Indian reservation, in the State of Minnesota, shall be allowed two years from and after the passage of this bill within which to make proof and payment for their claims, in accordance with the provisions of the second and third sections of the act approved March 3, 1863, providing for the disposal of the reservation.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

IMPEACHMENT OF PRESIDENT JOHNSON.

The following message was received from the House of Representatives, by Mr. McPHERSON, its Clerk:

Mr. PRESIDENT: I am directed to inform the Senate that the House of Representatives has appointed Mr. JOHN A. BINGHAM, of Ohio; Mr. GEORGE S. BOUTWELL, of Massachusetts; Mr. JAMES F. WILSON, of Iowa; Mr. B. F. BUTLER, of Massachusetts; Mr. J. A. LOGAN, of Illinois; Mr. THOMAS WILLIAMS, of Pennsylvania; and Mr. THADDEUS STEVENS, of Pennsylvania, managers to conduct the impeachment against Andrew Johnson, President of the United States, and has directed the said managers to carry to the Senate the articles of impeachment agreed upon by the House, to be exhibited in maintenance of their impeachment against the said Andrew Johnson.

Mr. HOWARD. The House of Representatives have just sent a message to us announcing the appointment of their managers. In response to that I ask the Senate to pass the following order:

Ordered, That the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the managers appointed by the House of Representatives to carry to the Senate articles of impeachment against Andrew Johnson, President of the United States.

The order was adopted.

PAYMENT OF SOLDIERS' BOUNTIES.

Mr. WILSON. I move to take up House bill No. 331, to facilitate the payment of soldiers' bounties under the act of 1866.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. WILLIAMS. I wish to inquire of the chairman of the Military Committee if he has any information from the Secretary of the Treasury upon this subject. I have had some conversation with some of the officers in the Treasury, and it has been stated that it was impracticable for the Second Auditor, who has the settlement of these accounts, to employ the fifty clerks proposed to be employed under this bill, and representations were made to me to the effect that if he had more competent and efficient clerks there would not be any particular necessity for adding to the number. There is a provision in this bill—a very patriotic provision, and very popular, no doubt—providing that preference shall be given to soldiers and persons who have been in the Army; but the difficulty, as I understand, in adjusting these accounts, arises more from the inefficiency and incompetency of the clerks than from any other cause. I think it will be found upon examination that the Second Auditor has not sufficient room on desks for the accommodation of this large number of clerks. I think, as this is a matter that concerns the business of the Treasury Department, that there ought to be some information before the Senate as to how this will affect that business; whether this proposed arrangement will expedite the transaction of this business or not; whether it will be attended or not with additional expense; and whether, if it is to be attended with additional expense, the advantages to be derived from it will be equivalent to that expense. I ask for information.

Mr. WILSON. This bill has been up once before, and has been amended. I will state——

Mr. SHERMAN. Before the Senator proceeds I should like to ask him whether, when this bill was up before, I read the report of the Second Auditor, in which he stated that no more than the present number of clerks could be profitably employed in examining the muster-rolls?

Mr. WILSON. I have seen Mr. French since and inquired all about it; and I find there is no trouble in the matter. All that is wanted is room to be provided in the building, for which we provide in this bill. We do not authorize the appointment of any additional clerks; we authorize the Secretary to furnish additional room to the Second Auditor, and to detail any clerks that he pleases in his office for this purpose, not exceeding fifty. I intend to propose an amendment which will expedite the settlement of these accounts much more than can be done by the employment of additional clerks; and that is to allow Mr. French and Mr. Brodhead each an assistant, at a salary of $2,500, to sign papers. Both of those officers are compelled to sign an immense number of papers. It is physically impossible for them to go any further than they have done; and I have no doubt that if we allow each of them an assistant it will facilitate the settlement of these accounts. There is a great deal of complaint in regard to the delay in their settlement. I am aware that this bounty is a gratuity; but, after all, it has passed, and those

to whom it applies supposed that they would get their money before this time. The business cannot be closed, at the present rate, under perhaps a year and a half or two years longer. I propose to amend the bill by adding the following as an additional section:

And be it further enacted, That there shall be appointed by the Secretary of the Treasury one assistant to the Second Comptroller and one assistant to the Second Auditor, with an annual salary of $2,500 each, who shall have authority to sign official certificates and to perform such other duties as may be assigned to them in the absence or inability of said Comptroller and Auditor.

Mr. SHERMAN. It seems to me it is rather an improper thing to introduce an amendment providing for the appointment of two officers, not merely for the temporary purpose of facilitating the payment of this bounty, but adding two officers permanently to the Treasury Department. I will state to the Senator that the Committee on Finance are carefully considering a bill introduced at the early part of the session by the Senator from Maine [Mr. FESSENDEN] on the subject of the reorganization of all the bureaus of that Department. I trust, therefore, this matter will be left for the consideration which we are giving to the subject. And let me say to the Senator that the appointment of these two officers at $2,500 each would cause the same application to come to us from at least twenty different bureaus of the Government. I think the subject ought to be considered carefully, and I assure the Senator we are giving it now careful consideration with a view to a revision of the various offices of the Treasury Department. I certainly shall vote against this amendment at this time.

Mr. WILSON. This bill passed the House of Representatives after an investigation, in which Mr. French was brought before the committee. Mr. French gave testimony before the committee, and a large portion of it was stricken out on his own request. I went to see Mr. French in regard to it after the objection was made by the Senator from Ohio, and I found that there was no difficulty whatever in making more rapid progress in the settlement of these bounty claims except the difficulty that Mr. French had himself personally; that he could not go through this work; and it is the same with Mr. Brodhead. Mr. French suggested to me that he wanted more room, and he wanted somebody to aid him in signing these papers. I wish to state further that this bill, as it came from the House of Representatives, provided for the appointment of fifty additional clerks. The Senate Military Committee have stricken out that provision and provided for the transfer of a number of clerks to perform this duty. There is no expense now involved in the bill, with the exception of $2,500 for the salary of two assistants. That, certainly, is not adding more than a few hundred dollars, at any rate, to the expenditures, as they can appoint some clerks in the office to do that work. I can say to the Senator from Ohio that we ought to act on this bill in some form.

Mr. SHERMAN. I do not object to the Senate acting on the bill, but I do not want it loaded down with propositions of this sort.

Mr. WILSON. There is no loading about it. The House of Representatives passed the bill providing for the appointment of fifty clerks to facilitate this business. We have stricken out the clause authorizing the appointment of clerks, and simply authorized the detail of some clerks in the Department to this duty, and not the appointment of any new clerks. When that is done, Mr. French tells me the great difficulty is that he wants room. That is provided for in the bill. Then he says he wants an assistant to aid him in the physical labor of signing the innumerable papers that come to him. The number of times that he is compelled to sign his name is enough to appal any man who thinks of the physical labor of it. I think we ought to adopt this provision; but if Senators do not wish to do that, I would rather pass the bill at any rate without it.

Mr. CONNESS. I desire to inquire of my friend, while he is up, why he proposes to increase the salary of these two persons who, it is proposed, shall sign for these two officers? Why may they not be legally authorized to sign the names of those two officers without an increase of salary? Surely, as they are signing these two names, they will not be engaged upon any other clerical duty. Does it give effect to their signatures, or is it necessary that importance shall be added to them by giving them an additional salary?

Mr. WILSON. My answer to the Senator is, in the first place, that the bill to which the Senator from Ohio refers, introduced by the Senator from Maine, provides for these two officers with salaries of $3,000, instead of $2,500; and the second point is, that nobody can now sign these gentlemen's names but themselves, and this bill authorizes the appointment of persons to do this identical work. There is a bill before the Committee on Finance that authorizes the appointment of these two officers, and gives them $500 a year more than I provide for in this amendment. I thought we should save something by it.

Mr. CONKLING. I should like to make an inquiry of the Senator. I ask him whether the names of those officers are not engraved under the law as it stands now, obviating entirely this great manual labor?

Mr. WILSON. I will state to the Senator that Mr. French has signed his name twelve hundred thousand times in a certain period; I have forgotten how many months; but his name had to be signed with his own hand twelve hundred thousand times. He wants some assistance in this work, and if we wish to facilitate the payment of these soldiers' bounties, this is the mode to do it.

Mr. CONNESS. I reply to the Senator upon the point mentioned by him, that if there be a bill pending to increase the salaries of those two assistants, let us wait until that question comes up in its legitimate connection. If such officers are necessary, I shall be willing, for one, to vote for them; but this piecemeal advancement of salary is a bad plan. I think we ought not to pursue it. Let us wait for the bill reorganizing the Treasury Department, giving proper and adequate salaries to its clerks and officers. In the meantime, those persons are paid their regular salary for the performance of their duty.

Mr. WILSON. It may be that the Committee on Finance will act on this matter. I apprehend, however, no such bill will pass this session. This proposition has been offered at the pressing request of Mr. French himself, who wants this assistance, if this work is to be imposed upon him. However, I will abandon the amendment, and take the bill as it came from the House of Representatives, if that will gratify Senators. I withdraw the amendment.

Mr. SHERMAN. There are one or two difficulties in regard to this bill. When this subject was up before, I read from the official report of the Second Auditor that it was impossible to employ these clerks under this proposition. The Senator now says he has had a personal interview with him, and he finds this work can be done; but he has stricken out the only clause that authorized the employment of fifty clerks. There are no clerks that can be transferred to this duty. The Secretary of the Treasury is now calling for additional clerks. I have an official communication from him stating that he must have additional force in several of the bureaus and divisions of the Department. The Senator, after striking out the power to employ new clerks, authorized them to be transferred. Where from? There are no clerks that can be transferred. The truth is, that the House of Representatives, in their desire to cut down the clerical force of the Treasury Department, have cut it down so that they cannot get along with the ordinary routine business. Upon the basis of the present appropriation bill as it now stands, the ordinary routine business of the Treasury Department will be interfered with. But this bill requires fifty clerks to be transferred from somewhere, and there are no clerks to transfer. Then there is another clause in this bill that seems to me rather strange. In this transfer the bill requires the Secretary of the Treasury to give in all cases preference in employment to soldiers and sailors.

Mr. WILSON. That has been stricken out of the bill.

Mr. SHERMAN. That is all right then. I only say that if the Senator thinks fifty-four clerks can be employed in the Auditor's office, we have against that the testimony of the Auditor himself in an official report that he cannot provide for fifty new clerks.

Mr. WILSON. I will say to the Senator that the evidence of the Auditor on that point rests upon this want of room; and we authorize in this bill the Secretary to provide additional room for the use of these clerks. That question, then, is answered. It has been supposed that the Treasury Department had more clerks than they could use properly; and I understand that one of the appropriation bills that has passed the House of Representatives cuts down in one office seven clerks, and in another some thirty or forty. I have received a letter from a gentleman employed in one of the Departments saying that the number of clerks there is cut down from one hundred and twenty to forty odd.

Mr. SHERMAN. I have now the official report, handed to me by the chairman of the Committee on Appropriations, from the First and Second Comptroller's, stating that the bill as it passed the House of Representatives, would prevent them from discharging the ordinary daily operations of the Department. The idea of having clerks to transfer, therefore, is impracticable. If the Senator really desires fifty new clerks in the Second Auditor's office, and thinks they ought to be appointed, let us provide for them; and on that point I will take his judgment. But the provision requiring that they shall be transferred from some other place is simply nugatory, because there are no clerks to transfer.

Mr. WILSON. If the Treasury Department has no clerks to transfer for this purpose, as I have been led by information that we have had here to suppose, and with the understanding that there is to be some cutting down in that office, I choose to take the bill as it passed the House of Representatives, rather than to pass no bill at all. I do not want the responsibility of this measure dying on my hands. I am willing then, instead of transferring, to appoint fifty additional clerks in the Second Auditor's office.

Mr. SHERMAN. I think the Senator should say that they should be employed for one year, because this bounty business will all be settled in a year, and I do not think we ought to add to the force beyond a reasonable time. I suggest, therefore, that he propose an amendment in this form:

That the Secretary be, and he is hereby, directed to employ for one year a sufficient number of clerks, not less than fifty.

I move that as an amendment.

Mr. WILSON. Very well.

Mr. FESSENDEN. The difficulty in the House of Representatives, I think, from a casual glance at the debates on the legislative appropriation bill, arose from this fact: the force in the Treasury Department has been in the last few years from time to time very much increased, of necessity. That necessity arose out of the connection of the Department in a very great degree in one or two branches of it with the issuing of notes and bonds and work of that sort. But when we increased the force of the Department at different times, we limited the duration of the increase, I think, during the war and for two years thereafter. The committee of the House seem to have gone upon the idea that the two years have expired or will expire at the end of this fiscal year, and therefore they say there is no existing law for these additional clerks, and as the business of the Committee on Appropriations is merely

to provide appropriations to meet existing laws, they have made no appropriation for this very large number of clerks that have been provided, as I before remarked, and consequently they all fall. The inevitable result must be, as stated by the honorable Senator from Ohio, that the business of that Department cannot be carried on. From the very strict adherence of the House of Representatives and the committee of the House to the rules, they did not consider themselves as having the authority either to provide for those clerks that had been thus employed, or to legislate upon the bill so as to provide for them. All that matter will, I trust, be set right by the Committee on Appropriations of the Senate and the Committee on Finance, who will understand what are the necessities of the Department. I think that in some branches there the business is of necessity now very much behind hand, and that they will be under the absolute necessity of providing for new temporary appointments, to say the least of it.

I do not wish to interfere with the bill of my friend from Massachusetts; but I suggest to him whether, as the subject of reorganizing the Treasury Department is now under consideration by the Committee on Finance, who, I suppose, will soon report upon it, his bill had not better lie for a little while, or be referred to that committee, so that they may have the subject of this additional number of clerks in the Second Auditor's office, under their control and connected with that bill. I only make the suggestion. I make no motion, because I do not want to interfere with him. I presume it will be all done during this session; and if so, that will be time enough, probably.

Mr. MORRILL, of Vermont. I move to take up the funding bill which was postponed on Thursday last until yesterday at one o'clock.

Mr. WILSON. Will the Senator allow me, before he makes that motion, to have this bill referred to the Committee on Finance?

Mr. MORRILL, of Vermont. Certainly.

Mr. WILSON. I move that this bill be referred to the Committee on Finance. Let them take the responsibility of the matter.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 25) for the relief of John H. Ellis, a paymaster in the United States Army;

A bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania; and

A bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869.

THE FUNDING BILL.

Mr. MORRILL, of Vermont. I now move that the Senate proceed to the consideration of the funding bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

Mr. MORRILL, of Vermont. Mr. President, it is only an old truism to say that it is easy to criticise measures when presented, but difficult to offer other measures which may not be just as easily criticised. A fair man should be as ready to defend his own castle as to attack that of others. Not to evade that kind of responsibility, and, as I may, before I get through, indulge somewhat in our national luxury of fault-finding, I will give a summary of some propositions which to me seem most important to our welfare at the present moment.

1. A reduction of expenditures to the lowest reasonable point, such as will compel every department to live from hand to mouth, and without any surplus.

2. A reduction at once of taxation proportionately, leaving it only certain that something shall be annually paid on the public debt.

3. Some initiatory measure looking to an early restoration of gold and silver coin to its proper function of circulation among the people.

4. An extension of the national banking system so as to accommodate all parts of the country whenever United States notes are retired or specie payments resumed.

5. A new loan to absorb the national debt at a lower rate of interest.

Impressed with the idea that the policy here roughly outlined is most essential to our prosperity, that anything less will prove detrimental, I shall earnestly favor all measures, by whomsoever introduced, tending in the direction indicated, and as earnestly oppose whatever leads elsewhere.

I listened, as I always do, with much interest to the able speech of the distinguished chairman of the Committee on Finance, and there was so much in it to be approved that I could not but regret that he did not leave out some passages not necessary as arguments and inconclusive if intended as threats. I approve of the first section of the bill, which proposes to offer a loan at a lower rate of interest than that we now pay, and success can be achieved in negotiating such a loan by proving that our credit deserves to stand in the very front rank of debt-owing nations; but I deplore and reject the idea that it can be won and carried by the logic of terror, which is to persuade by its pain our creditors to accept this proposition or do worse. No; let us persuade them that we are no longer sick; that we are getting well, and if they do not wish to hold bonds upon the terms now offered it is all at their option, but that there are enough who will. That is my theory, and I do not expect to swerve from it in practice. On the score of true economy there is no doubt, as it seems to me, of its being more profitable, as well as honorable, for the nation to adhere to the idea that better terms can be obtained by propping up the public credit with faith and good works than by slinging an arrow at its most vulnerable part.

I will not do the honorable Senator injustice, for I have no doubt he spoke from profound convictions of duty, but shall quote, not the precise language but the substance of the positions maintained by him.

1. He claims that there is a reasonable doubt whether we have not the right to pay the five-twenties in greenbacks; and he has no doubt that equity and justice will be amply satisfied if we redeem these bonds in the same kind of money, of the same value it bore at the time they were issued.

2. He admits there was a positive contract under which these bonds were issued limiting greenbacks to the amount then authorized, and hence that any increase to pay off the five-twenties in such currency would be a plain, palpable, violation of a public engagement which we cannot and dare authorize and which no man can justify without being disgraced.

3. Then he says, with great emphasis, that if this new five per cent. loan should be rejected, he will vote to redeem maturing bonds in greenbacks.

These declarations are frankly made, and coming from so high a source, in spite of the disclaimer that they are not so intended, must create some alarm among timid holders of United States bonds, and the market may be temporarily glutted by sellers to the injury of public credit. If we have, as the Senator says, the right to pay bonds in greenbacks, but at the same time have no right to issue enough greenbacks to do it, and will not do it, I do not see the potency of the notice that, if the terms of this bill should be rejected, the Senator will vote to redeem the five-twenty bonds in greenbacks. It is obvious that $400,000,000 of greenbacks will not pay $1,600,000,000 of bonds; and unless stark repudiation is the next specter to be conjured up to sear our eye-balls the greenbacks must themselves be paid in the end dollar for dollar. But I quit a topic which appears to plague us before its time, and which certainly does not seem to have any proper relation to a simple proposal for a new five per cent. loan.

It is lamentable that the great money questions of the country, touching all men alike, should be in any respect the foot-balls of party, but there appears no escape from it. In a republic parties are inevitable and furnish the best instrumentalities for the proper guidance of a free government, and yet the current issues of the day are often of minor importance, and only occasionally in historic periods do we see divisions made upon great fundamental principles. It is just that the party in the undisputed ascendency should be held responsible for the measures adopted. The party in the majority has the election of its own measures, and, without much heed as to what they are, may generally count upon the persistent opposition of any minority. If Mr. Lincoln had followed in the footsteps of Mr. Buchanan and had refused to assert the necessary power to uphold the Union, the Republican party would have been met and routed at the very next election by the cry of the war Democrats for restoration and reconstruction by force of arms. Had the Union men denied freedom and suffrage to the black race, the rebels in their sore distress would have at length been foremost in emancipation and northern Democracy would not now be tormented by fears, as are the Tories of England, about the extension of the right of suffrage. The rank and file of the Democracy in the outset would have espoused as readily the right side of these high questions of debate as the wrong, but the Union majority were firmly planted on the side of right, and Democracy must dissolve or accept its place of antagonism. But parties accepting issues while in a minority are driven by force of consistency to adhere to them when they supplant, if they ever do supplant, the majority, though this may not always be done, as party leaders, when loaded with something more than a negative responsibility, sometimes show a conscience above that of their party. At the present moment the majority will be held responsible at home and abroad for its financial measures, and whatever they may be we may surely anticipate that they will not please the Opposition. After the Government has been constrained to make use of paper money, (and foreseeing its cost I was for avoiding it,) then the Opposition were clamorous for the maintenance of specie payments. Now, when a purpose is even faintly indicated in any quarter of restoring specie once more to general circulation—to the pockets of the common people—some of the leaders of the Opposition push with the zeal of fanatics for a large increase of the same sort of paper money they have been wont to denounce as unconstitutional, worthless, and foredoomed to be disowned and repudiated by the Government and the people. I am for the right, mainly because it is right, and second, because it will keep the Opposition where, if it must exist at all, I most like to see it—always in the wrong. In Ohio and New Jersey we have evidence of the extremity to which a party may be driven, when we see a shameful offer of the Democratic party to cancel, so far as their power goes, emancipation and to restore slavery to the tender consideration of rebels and to the secession school of State rights. There is no danger, after such an offer, that we cannot have the Opposition against us on financial issues and upon our own terms. If we take the ground of maintaining the public faith by the payment of the public debt according to contract, we may be sure of an opposition based on the power to pay or not to pay as we please. If we take the ground of a gentle clipping of our coin, as I trust there is no danger of our doing, we shall find our opponents ready to offer more alloy and the Union men are without the mettle for such a downward race. The Union party has robust honesty as well as patriotism and courage, and it will not commit the fatal blunder of surrendering the very citadel of our strength—our public credit—to those who drew the sword and

lost everything in the bloody arbitrament of the field of battle. Let us, then, frame our measures on principles that will endure the criticism of ages, and regardless of the nominee of the Democratic party for the Presidency. If they want a shin-plaster candidate let them trot him out. We can do better.

The first section of this bill, providing for a loan at an interest not exceeding five per cent. per annum, it seems to me desirable to pass, and the argument of the Senator from Ohio in its favor leaves little to be added. I wish there was nothing to subtract. If we had taken a different course, and first tried to reëstablish our credit on an impregnable foundation and restore the currency to a sound condition, it would have been more in harmony with my ideas of what our circumstances require; and I still think it would have given us greater advantages in funding our national debt at a lower rate of interest. But the discussion of the subject here and elsewhere has disclosed such an exuberance of contradictory theories, some of which, for our own credit, it might have been better to have suppressed, that I have reached the conclusion a loan at five per cent. at the present time is the best that we can now negotiate, and that unless this shall be accepted we must continue for some time longer to pay our present high rates of interest. This, if accepted, will give us a prompt relief to the extent of about seventeen or eighteen million dollars annually. With a territory of such vast extent as that of the United States, requiring enormous sums ($1,500,000,000, for instance, in railroads) for its magnificent works of development, affording endless fields for individual enterprise, the seat of unrivaled boldness in mining, commerce, and manufactures, the home of young agriculturists who, with bond and mortgage, may and do purchase and cultivate large estates, it may well be questioned whether a debt of the dimensions of that of the United States can be carried at a less rate of interest than five per cent. per annum at any time, and, if it ever can be, that time has certainly not yet arrived. A comparatively new country, destitute of the accumulated and fixed capital of many generations, but having the advantage of a constant and rapid increase in population and in the value of real estate, must always submit to high rates of interest. On the Pacific coast interest is much higher than it is in the Mississippi valley; it is higher in the Mississippi valley than on the Atlantic coast; it is higher in Australia than at Hong Kong or Bombay, and it is and must long remain higher in America than in Europe. The rate offered by this bill is but a trifle more than what is paid by the oldest and staunchest Governments of Europe. We may wish our wealth and credit were equal to the supply of all the other wants of the country and to a subscription to the amount of our national debt on terms a shade better; but under present circumstances, not yet recovered from the exhaustion of war and its merciless destruction of capital, nor yet relieved of the uncertainty of paper money, it is a wish beyond the hope of fulfillment. Among other reasons in behalf of this section of the bill are these: that it would tend to consolidate several loans of divers descriptions into one of uniform, easily known, and permanent character; and most important of all, as before intimated, it is likely to secure to the people at once a large reduction—to the extent of one sixth part of the sum we are now paying for interest—of the burden of carrying the public debt. If we meet all our engagements in accordance with the highest tests of national honor, and open the door for all of our own people as well as the world to accept of our terms, I do not see why our credit should not command capital at a less rate than six per cent. As an inducement and as a full equivalent for the reduction, we offer a longer loan in lieu of short loans, and to those seeking permanent investments the longest loan is found to be far the most saleable. The value of long loans is liable to very little fluctuation, and such will be sought by insurance companies, savings institutions, by trustees, and by those in search of fixed annuities for widows and minor children. The extension of the time of the loan (and if not long enough it should be made longer) appears to me as sufficient compensation alone to induce the holders of our present indebtedness to make the exchange now proposed, and I scorn to excite the fears of those who trusted this great nation when its credit was at the lowest ebb by the suggestion that the distinguished Attorney Skimpin is of the opinion that all the Government paper out is suspected of being no better than it should be, or that Sergeant Buzfuz thinks it was issued without any valid consideration.

The rate of five per cent. interest with exemption from taxation is doubtless preferable to six per cent., with a concession to the States of the right of taxation to the extent of one per cent., as the whole amount is saved to the General Government without cost or diminution by the reduction; while by the latter mode, even with the most rigid scrutiny, a considerable part of the bonds, and all held abroad, would escape local taxation through accidental or designed concealment or through alien ownership. A round sum saved at once and absolutely would be far better than an attempt to catch an equivalent from a thousand and one driveling driblets. The General Government might surrender to the States the right of taxation, but it can do so only to its own great disadvantage, and, in seasons of disloyalty, only to its imminent peril. By granting the power of taxation to States it would surrender not only its sovereignty but the ability to obtain a cheap loan; and whenever a majority hostile to the Union should prevail in any State or section their legislation would not fail to drive home upon the loyal States the whole weight of carrying the national debt. Such a concession is without precedent in our history or the history of other nations, and under any circumstances it would make the General Government subordinate to that of the States, and that could not, under present circumstances, for a moment be safely tolerated. It would also carry our debt abroad, and it is not desirable to contribute to that end. Earning money in one country and spending it in some other is the sum of all the evils of absenteeism. We must have some parties for our creditors. Abuse of those we have will not win others to our support.

Beyond all else, the paramount object sought is to relieve the people (individually and collectively) of taxation. If we relieve them from national taxation they can by so much the better support State taxation, and it is even more important, at the present juncture of affairs, that the General Government should bear lightly upon the people than that it should step in to the support of the several States, whose credit has not been strained and whose people cannot fail to recognize equal and probably much more relief by a positive reduction of taxation in the aggregate than by a slight local increase of possibly taxable property.

Rather, then, than to be charged with the imbecility of doing nothing and regarding this proposition as not unreasonable, I have yet to hear any sound arguments against its adoption. The holders of the five-twenty bonds will find in the bill an option, to exchange for the new loan or not, and no speech can withdraw it or subject the United States in dealing with their creditors to the charge of duress.

The section of this bill authorizing the legal enforcement of special contracts for coin commends itself to our attention and favor because it will remove a most embarrassing and unnecessary clog upon trade. The application of the law which makes paper a legal tender for all contracts, in spite of all stipulations to the contrary, is not only unjust but practically so inconvenient that merchants have been compelled to openly disregard the letter of the law and rely upon mercantile honor for the fulfillment of large, varied, and constantly increasing transactions, unsafe and difficult to conduct on any other basis than that of coin or that of a fixed and recognized standard of value throughout the world. So long as the courts are compelled to enforce the universality of legal tenders, and pronounce a dollar in paper in all its attributes the equal of a dollar in gold, allowing any knave who promises gold to pay in paper, so long gold must seek hiding places; but repeal even one of the disabilities imposed upon its circulation and some part of it will be restored and vitalized again in the chief markets of the country; it will again be received on deposit in banks, and checked upon when required for use. The more business actually done with gold the less will remain to be done with paper, and the sooner can any excess of the latter be retired. Its operation will harm nobody. Tea and coffee sold by the cargo in gold will not be made dearer thereby, but the cheaper rather to the retail purchaser. Knavery will no longer be able to find shelter under the law for the delivery of a stone when the contract calls for bread.

The provision in section three of the bill to appropriate a fixed amount of $135,000,000 for the payment of the interest and principal of the public debt sustains the American idea of an ultimate extinguishment of the debt, and is intended to take the place of the early pledge made by Congress to set apart one per cent. of all loans as a permanent sinking fund. There is wisdom, also, as it appears to me, in the details by which the amount devoted to the payment of the principal of the public debt, small at first, will be gradually, and year by year, increased as reduction takes place. The only apparent objection to the plan is, that on so large a debt $5,000,000—all there will at first be left after paying the interest—seems a small payment. Our last national debt, with less than half our present population, was paid off at the rate of $10,000,000 a year. It is very possible that we might, with more propriety, start with the payment of interest and a somewhat larger amount of the principal of the debt; but, should the loan at five per cent. succeed, a more satisfactory rate of reduction would soon be reached. This move points clearly in the right direction, and will, to some extent, give strength to our securities.

I wish there was more in the measures now before the Senate, to which no objection had suggested itself to my mind; but a careful scrutiny as to all the remainder will bring out, as it seems to me, in despite of the able and ingenious arguments that have been and will be made in their behalf, sufficient reasons why they should not be adopted.

The severest trial to which the Government of our country can be subjected is yet before us. Adversity in all its various shapes may be overcome, lived down, and conquered; but prosperity or full-grown success is a condition—like that of fruit fully ripe, not easily to be preserved, not to be made better—where any change is likely to be for the worse, and where poor human nature finds it most difficult to stand or to move onward with a wholesome prudence and an unclouded judgment and without a fall from its high estate.

We have put down and so humbled rebels—and the proudest rebels that ever banded together in such numbers and for such wicked purposes—that their present condition excites even the sympathy of those whom they so recently met on the most sanguinary fields of battle. The rebel spirit may yet flicker or blaze out from the ashes of the ruins—ruins by rebels provoked; but the physical power to resist the will of the nation has been crushed forever. Here our peril begins, lest prodigals shall be restored, with their unworthiness exalted, instead of being repented of and cured, to positions endangering our paternal Union; and that the victors, in their unparalleled clemency, may find too late they have warmed to life a viper in the very bosom of the Republic.

Happily, while we were engaged hand to hand in a most desperate conflict with domestic foes, foreign nations were only

"Willing to wound and yet afraid to strike;"

and now they need no further proof that our just rights cannot be assailed with impunity.

Here there may be some danger that, elated by recent success, we may seek to give unneeded demonstrations of courage and ability to wage a war abroad as well as at home of grand and exhaustive proportions.

We have broken the shackles which bound millions of people in human bondage, and they are elevated to the high rank of American citizens. Here the only apprehension is that these new-made citizens will not be provided with that education which ought to be secured by public law and certainly be within the voluntary reach of those who hold any share in the destinies of a republican government. The safety of the Union and the great prize of freedom justify the risk. For loyalty we could not wait the slow processes of a regeneration, but reading, writing, and ciphering are not plants of slow growth, and the schoolmaster is already abroad.

We have sustained our credit by raising through taxation more than any one promised; and, in commencing even before our armies were disbanded upon the payment and extinction of a liberal amount of the public debt, we have surprised indebted nations as much by the integrity of our purpose as by the extent of our resources. But now there is some peril lest a start so fortunate and altogether admirable should encourage a halt fatal to our final mastery in the race, or that from a large annual reduction of the public debt we may rebound to the point of zero and pay nothing at all.

We have forced our own people to accept, during a time of war, one sixth part of our whole indebtedness in promises to pay not bearing interest; and, having made these a legal tender, all who give credit may at any moment find their debts, instead of being paid when due, transferred into debts against the Government, with this difference, that they no longer bear interest, and, as a substitute for intrinsic value, faith must be had that the Government will pay, though at present it positively says it will not. This forced loan has been issued, and there is no one authorized either to pay or to demand the payment of the smallest part of it, but whoever has it, or any portion of it, can get rid of it by contracting a debt of any sort, in gold if you please, and then tendering these United States notes in satisfaction. The peril is, when a loan at par and without interest can thus be so cheaply made, that it will be increased and never diminished. Having apparently decided that contraction under no circumstances shall take place, the door to expansion is already half-way open. Having postponed the payment of legal tenders indefinitely, has not repudiation a less frightful mien?

During a time of war we did not hesitate to strain the public credit by bringing out a volume of paper money wholly unprecedented in amount, expensive as a measure of values against the Government, but which, in spite of all faults, indorsed by the faith and honor of the United States, contributed to our success. Now, peace has dawned, and I regret to say the tendency is that a temporary expedient may be converted into a chronic evil from which the country may not be rescued, except through some future convulsion by which modern legal tenders will reach that disreputable level of the paper of the Revolution, or where it will be worth no more than a continental demand. The danger is, having by costly—perhaps necessary—make-shifts driven gold out of use for seven years, that we shall further make the fatal blunder of an attempt to divorce it forever from our embrace and banish it entirely from the country; that, having supported this extraordinary circulation by extraordinary taxation, inseparably yoked together, we shall be unable at last to diminish taxation because of an unwillingness to allow any portion of greenbacks to give place to the reappearance of gold and silver.

These remarks become appropriate as we approach the next step in the bill before us.

The fifth section of the bill, which allows legal-tender notes to be converted into United States bonds and bonds into legal-tender notes at the option of the holder, now and hereafter, without any limitation of time, is certainly an experiment about which financial oracles must speak without any inspired authority or any authority of experience, and others like myself must feel as I do, great diffidence in venturing to express an opinion adverse to what appears to be that of a majority of the Committee on Finance, deservedly trusted by the Senate on all such questions; but I cannot banish the idea of a possibility, that after all it may be as hazardous for them as for me to predict the practical results of this new-born, oscillating, reciprocatory contrivance, which is to be hereafter the magical regulator of the circulating medium of the country, or the self-acting governor, to let on or shut off steam according to the necessities of trade and commerce. At every hazard, however, I shall present the subject, as it appears to me, with entire frankness and without embellishment.

Others may regard this artificial regulator of the ebb and flow of currency as the offspring of genius, and as such, I believe, the paternity is already claimed by more persons than the number of cities claiming the honor of Homer's birth-place. But I have been unable to get up any admiration of the proposed measure either at first sight or after more careful reflection. I cannot welcome the proposition, first, because it wears the appearance of an adjustment of our whole policy on the basis of an exclusive paper system—broad, deep, and perpetual. Under it we are never to approach any nearer to specie payments than we are now. You may take United States notes to the Treasury and get, not specie, but bonds; or you may carry bonds and get, not specie, but notes to the end of time. Notes redeemed yesterday may need redeeming again to-day, and loans funded to-day may be unfunded to-morrow.

There is a grim mockery about this which almost reaches the sublimity of the ludicrous. The Government does not propose to pay either bonds or notes; the very farthest from it; but if you have ever trusted the Government for one or the other, and do not like the bargain, you may swap, and after you have swapped, if you are still sick of your bargain, you may swap back again. This system it is proposed to fasten upon the country to the extent of $400,000,000, and without limit as to its duration. It looks to me like a farewell, a long farewell, to anything but paper money, and I would not foreclose all hope of a return to a sounder and safer policy.

My second objection to this scheme is that it is a positive authorization of an increased issue of United States notes to the extent of $44,000,000, or from $356,000,000 to $400,000,000. This may not be "as deep as a well, nor so wide as a church door; but 'tis enough, 'twill serve" as a beginning, and it is expansion invited and legalized to the amount of $44,000,000, more or less, or a sum almost equal to the capital of the old United States Bank, and about one fourth the amount of the entire bank note circulation of the United States in 1860.

The stereotyped argument in favor of expansion is that it will make money abundant and lower the rate of interest. How fallacious all this is will appear by a comparison of the money markets of the country as they stand now and one year ago. Fortunately the Secretary of the Treasury was not arrested in his policy, fully sanctioned by Congress, until some contraction had been secured, and we now have less circulation afloat than we had last year; but money is now much more plentiful at all points and the rate of interest less by fully one third, and in some quarters by one half. Nor have banking facilities been curtailed, but actually enlarged, as the report of the banks for January, 1868, shows the loans and discounts made by banks to have been over six hundred and thirty-five million dollars, while in April, 1866, they were only $545,000,000. These facts utterly demolish the whole theory of the expansionists.

It may be that while we are staggering under the effects of a too free indulgence of an expanded currency that a light homeopathic dose of $50,000,000 more would sober us again; but that philosophy, it must be admitted, has better poetry than facts for its base. It may be that we really need more paper money—it would certainly be very convenient to me to add more of it to my stock—but as a legislator I must adhere to the old-fashioned idea, now almost obsolete it is to be feared, and still hold when gold is at a high premium above paper money that we have too much of the latter in circulation and too little of the former. I know that it is claimed that the recent war has exploded all the maxims of other days, and that finance has made advances as sublime and astonishing as politics and war. Guns with less than fifteen or twenty inches bore are viewed with contempt. Millions are rated as only of a very small-bore character, and a thousand millions to-day are no more than two hundred prior to the large bores. The American eagle as stamped upon our coins disdains his narrow coop, and, with a scream that frightens the old bird of Jove, spreads himself a very condor on greenbacks. I know how ridiculous it will appear to some that objection should be made to the trifle, the wee bit of expansion involved in $44,000,000. Not believing, however, that the way out of a sea of troubles is to wade further in, I cannot give my vote in that direction, although assured, if we will only consent to wade, we shall never, in fact, be called upon to wade at all. The magical effects of paper money, it may be expected, will be maintained by the financial preachers of the new gospel; but among nations of advanced civilization and financial ability we are likely to long enjoy its exclusive monopoly, for no other nation will copy our example except as the direst necessity. It is as true now as when the words were first uttered by the great orator of Virginia, that there is "no way of judging the future but by the past," and the disasters—the birth, the wicked life, and the ignominious death—of irredeemable paper money fill the chronicles of every nation where it has once been tolerated.

A third and fatal objection is, that its effect will be to reduce the value of United States bonds. If bonds can be obtained by the mere exchange of legal tenders, how can any bonds thereafter be expected to sell for a premium, and if not, is that a desirable result while we are striving to get our loans funded at a lower rate of interest? In 1863, we had to resort to a doubtful right of a repeal of such a privilege in order to get off a small loan. Is there any hope that it will operate differently or more favorably upon a large loan? No parties can buy the bonds with any hope of profit, or for distribution to other parties, and so long as they can be had of the Government at any time at par for legal tenders, they will not bring more in the hands of individuals, and one of the strongest motives for the purchase of bonds will be thus extinguished. Should this part of the bill become a law, it would at once reduce the price of bonds to par, and it would keep them there, or with only a fractional difference. Many of these bonds have been purchased at a premium of eight and ten per cent. Banks have been established when the stockholders could not obtain bonds to deposit as security with the Government at a less premium. To strike down the value of property in any direction, as would be done by this measure, to the amount of one hundred or one hundred and fifty million dollars, would be felt as a measure of great severity, productive of no possible benefit and justified by no adequate excuse. It may be said that the effect will be to raise the value of paper money and not to sink that of bonds; but that will depend upon whether we diminish the quantity of paper money in circulation and whether we improve the public credit by an approach to its redemption in coin. A redemption of legal tenders in paper is no redemption, because they are not to stay redeemed. There can be no doubt that the first blow will

be to lower the price of bonds. Swapping one horse for another, although one may be better than the other, does not increase their aggregate value; and when the exchange is to be made at the option of one party and not the other, and repeated at will, it will soon be seen that Uncle Sam will have all the time the poorest horse on his hands. It has been argued that this invention of the vibratory power to change legal tenders into bonds and bonds into legal tenders at the will of the holder, will be a self-adjusting system that will always give us the exact quantity of currency needed at all points of the country, winding up in one place and unwinding in another; or when there is too much currency afloat that it will be deposited to get the accruing interest, and when there is too little that bonds will be exchanged for more.

This theory has all the charms of a perpetual motion, but can Senators believe it will do all that its advocates vouch for? In the city of New York, Boston, and Philadelphia they have plenty of bonds, but in these great money markets no more currency is needed—would rather part with some they have, perhaps, and they will not therefore exchange. In Vermont they have plenty of cattle, horses, wool, butter, and cheese; and in Missouri plenty of corn, wheat, and tobacco, which they would like to exchange for money or currency, but they have comparatively few bonds, and the privilege of exchanging bonds for currency becomes a mockery. Now, any party holding bonds who really wants paper currency for them, can get it anywhere, not only dollar for dollar, but eight per cent. more. And if this part of the bill should become a law, he would be very much worse off than he now is, because he will then be able to obtain for every $1,000 in bonds only $1,000 in currency, but now he can obtain $1,080 for such a bond.

I know it may be contended, in order to suit all parties, that its practical operation will be to fund a large amount of greenbacks. It is an anagram section which read straight along reads, expansion; but slightly transposed it reads, contraction. Pay your money and you have your choice! We have already passed a law to hamstring the Secretary of the Treasury against any further contraction. Do Senators intend this measure as a repeal of that law? I do not feel at liberty to draw that conclusion. If there was not an expectation of expansion, why provide for it beyond the present limits of the United States notes? The Secretary must be guided by the laws, and these will require him to increase on demand the amount to $400,000,000 and will not allow him to cancel or retire a dollar, except such part as may be in excess of that amount. If the framers of this part of the bill had intended contraction it would have been easy to have so framed it, but they did not, and they have not blundered in adapting the bill to their purpose.

But it will be said that national banks and savings institutions will make use of the privilege here granted for using their temporary surplus, or that their depositors will so use the privilege. This is answered by the fact that the national banks have already invested as large a share of their means in United States bonds as they can spare if they are to continue their business of discounts and loans to the public; and savings institutions, themselves subscribers to large amounts of the stock of national banks, have even more largely invested their means in United States debts. In the State of New York alone they probably have fifty millions so invested, and all made up by the earnings of small or picayune depositors. It will be in vain to expect that any of these institutions will unwisely rob their customers of their usual accommodations in order to invest in a five per cent. loan, and their depositors will find no greater incentive for the temporary holding of bonds to obtain the interest thereon than they now enjoy through the power of purchase and sale. The United States cannot be expected to be largely benefited by the proposed change. It surrenders the option to its creditors, and a shrewd Yankee never does that. It changes in effect all its time loans to demand loans, while it notoriously has not the means to pay, does not intend to pay any considerable amount on demand, and, if it could so pay on call, it might borrow and ought to borrow at a much less rate.

I am aware that this system of mutual exchange and eternal brotherhood between legal tenders and United States bonds is made to cease upon the resumption of specie payments, but specie payments, by this very system, cannot but be interdicted. Practically there is no limit. To find a limitation of the system in this provision might be as properly anticipated as to expect to get warmed by a very small amount of moonshine—and not more.

There is another bill reported by the Senator from Missouri, [Mr. HENDERSON,] with the apparent sanction, I regret to add, of the Committee on Finance, to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, which must be taken as the complement of the series of measures we are to have from the appropriate financial organ of the Senate; and we must look at these Senate bills, Nos. 207 and 329, both reported on the same morning, (February 6,) as parts of one scheme. I invite Senators to examine them together. Indeed the second bill takes it for granted that the first bill will pass, as it is founded upon bonds of the "consolidated debt," and we can have no such bonds unless the first bill becomes a law.

An examination of this new banking bill will show, although it has but one section, that it contains many distinct propositions, and that it ends, the Senator from Missouri must permit me to say with entire respect, with a proviso which, like the postscript of ladies' letters, is most important of all, and quite suggestive of the propriety of those ominous words, "please burn as soon as read." The first proposition is a repeal of so much of existing law as limits the amount of circulating notes of national banks to $300,000,000, and authorizes an extension of the system on the condition that circulating notes shall be received to an amount not exceeding eighty per cent. of the par value of the bonds of the "consolidated debt of the United States" deposited by any banking associations organized for the purpose.

This is intended to inaugurate what is called "free banking," and at the proper time, and with proper restrictions, I am decidely in favor of the principle. There ought to be no monopoly of banking privileges in this country. But I object to any multiplication of banks of circulation until the United States begin to retire from that kind of business. Two of a trade will agree to overdo the business. When specie resumption takes place, then "free banking" will be admissible, but not till then. Let us look at the description and amount of paper now outstanding:

Three-year compound-interest notes	$46,244,780
Compound-interest notes matured	6,900,390
Three per cent. certificates	25,040,000
Total	$78,185,170

This amount, though not in actual circulation, is held as a reserve by the banks, and serves to keep in circulation an equal amount of bank and United States notes that otherwise would take its place. Beyond this we have—

United States notes	$356,159,127 00
Fractional currency	32,246,438 51
National bank currency, (about)	300,000,000 00
Total	$688,405,565 51

The proposition of this bill is to increase the amount of bank circulation at once from the amount of United States notes ($356,159,127) and national bank notes, ($300,000,000,) being $656,159,127, up to the sum of $700,000,000, or a positive increase, in round numbers, of $44,000,000. The fractional currency, amounting to $32,246,438 51, is wholly ignored in this bill, as well as in the funding bill, as too insignificant an item to be taken into any account. This authorized increase it cannot be pretended is problematical, like that in the funding bill; and it is in the outset identical with that authorized in the fifth section of the consolidated debt bill which we are now considering, and open to all the objections existing against any form of expansion. But there is greater and illimitable expansion lurking in the rather remarkable proviso which decorates the tail of the bill. Let me read it, bearing in mind that this is the sole limitation proposed on free banking:

Provided, That whenever the amount of United States notes and circulating notes of national banks combined shall be in excess of $700,000,000 the Secretary of the Treasury is authorized and required to retire and cancel, as rapidly as possible, United States notes to the extent of such excess, until the whole amount of United States notes outstanding shall be reduced to $250,000,000.

Here is no language directly proposing expansion. The first part of the bill opens wide the door to that by permitting unrestricted or free banking, and this proviso, with choice words, then proposes to "retire and cancel" United States notes, but only the excess of circulation above the combined amount of $700,000,000. It is, therefore, to retire and cancel, so as at once to increase the amount of paper money in circulation. It occurs to me that once before in this Senate, in the renconter between Benton and Foote, a movement of one of the parties was described by himself as an "advance backward." The action and the words then illustrate the bill before us now, and never was expansion up to the extent of $44,000,000 wrapped up or sugar-coated with apter words than "retire and cancel." But lying back of this a much bolder "advance backward" crops out. The Secretary of the Treasury is to be authorized to retire United States notes as fast as he issues national bank notes. When combined the whole amount shall be in excess of $700,000,000, until the whole amount of United States notes outstanding shall be reduced to $250,000,000, or until about $150,000,000 shall have been added to the bank circulation, and $106,000,000 substracted from the circulation of United States notes. Does any one, from a cursory reading of the bill, understand that at this time the limitation ceases and national bank notes may be issued thereafter upon the proper deposit of bonds wholly without stint? Yet that is the fact; and if free banking should not prove inoperative there would soon be no legal or practical barriers against twice or thrice the amount of currency now afloat. In other words, when new and old banks have obtained such an addition to their stock as will entitle them to and make their entire circulation $450,000,000, leaving $250,000,000 of United States notes outstanding, then the Secretary is to retire and cancel no longer, and the national bank currency, after that, may mount up to the highest altitudes of free banking without let or hinderance. It seems to me that no Senator can vote for this unless he passes it by as harmless for the reason that it will be inoperative.

There is in the body of the bill some harsh phrases that it appears to me impolitic to resort to at this time; and I allude to the provision that compels within one year every existing national bank to substitute bonds now held for the new or five per cent. bonds already mentioned, with a penalty of forfeiture for any failure or refusal so to do. Why should not this substitution be left optional? I know that we have power to modify or repeal the banking act; but I do not like to place upon the statutes any law which shall compel any holder to part with bonds upon other or different terms than those stipulated when the bonds were purchased unless at the option of the holder. This not only regulates the banks, but it punishes the owners if they do not exchange their bonds for those bearing a less rate of interest. The inducement offered by the terms of the proposed "consolidated debt of the United States" should effect the proposed substitution, and there is no need of cracking the whip as though after us comes

the deluge! Besides, it will prove wholly nugatory. If the bonds held by banks should be found to be worth more than par they would be sold for the premium and the new ones purchased at par. The threat, if it should be wholly unsheathed, can at last only mean a payment at par in greenbacks, which is the precise value of the substitute now offered, for it is not quite proposed to confiscate the bonds.

It is a great mistake to suppose that the stock of the national banks and United States bonds have been subscribed for or are now held by men of large capital. Patriotism made both popular, and the masses came forth with the accumulations of many years of toil, and laid them all in the lap of the Government they loved so well. There are to-day in the one thousand six hundred and forty-three national banking associations two hundred and twenty-three thousand and eighty-three stockholders, and they have deposited bonds with the Treasurer of the United States as security for circulation and deposits to the amount of $376,502,250, which shows that the average amount owned by each stockholder is $1,687. I am also able to give an exact statement as to the distribution of the seven-thirty loan, and it may be fairly supposed that all our loans were distributed in the same manner:

Number.	*Denomination.*	*Amount.*
962,580	50s	$48,129,000
1,474,940	100s	147,494,000
439,792	500s	219,896,000
370,376	1000s	370,376,000
8,821	5000s	44,105,000
3,256,509		$830,000,000

This by no means shows that three million two hundred and fifty-six thousand five hundred and nineteen persons subscribed for or hold this popular loan, but it affords the strongest evidence that much the largest share of it was taken by persons of moderate means. The smaller denominations were called for and were never fully supplied, as is proven by the fact that denominations less than one thousand dollars, after the loan was all taken, continued to bear a premium above larger denominations. I bring out the facts, not that it should make any difference in our legislation whether the owners of the banks and the holders of the debt of the United States be few or many, but to rebut the unfounded charge that any apparent breach of the public faith will only pinch a small number who were so graceless as to have been rich, and who, for having in the days of peril foolishly trusted their Government, deserve to be made poor.

It may be that the national banks in some parts of the country are earning too large dividends, and, if that is the fact, let us amend the law, but I imagine it will be found that any extraordinary gains are solely derived from deposits and from the incidents of a suspension of specie payments. When the latter ceases fat dividends will be the exception and not the rule.

The two Senate bills before us appear to me, as a whole, and that is the only proper way to consider them, inadequate to the present emergency, and, though not so intended, as quite adequate to the retardation of our deliverance from the evils under which we at present suffer. If we cannot improve our condition it would seem to be better not to show any bustling activity in such legislation as will be productive of merely questionable results. The scheme seems to be constructed, in part at least, not for the purpose of settling financial questions upon sound principles, but so as to veer and haul with every wind and tide. Nothing is so permanently settled by it as the reign of paper money. The first bill authorizes an increase of United States notes to the amount of $44,000,000. The second bill authorizes an increase to the same extent of national bank notes, unless, perchance, the field should be preoccupied by United States notes, a double guarantee of expansion, and provides speedily for the issue of national bank notes *ad infinitum*. The quantity of our currency is to be largely increased in bulk and the quality proportionately diminished in its value or purchasing power. I may be wrong, but I cannot suffer such measures to pass without an earnest remonstrance, believing it is possible to do much better, and that to do nothing would not be worse.

Having fields on the golden coasts of the Pacific producing the precious metals surpassing in extent the wildest dreams of the gold-hunters who followed in the wake of Columbus, we are asked to perpetuate measures to cheapen their value by ignoring their use at home, and by sending abroad, if possible, not merely our whole annual production, but the reserved accumulations of past generations, to overstock and depress the markets of the world.

Ambitious as we are to open through the golden gates of San Francisco a new passage to the trade of Oriental nations which seems ready to drop into our lap, we yet propose to begin this great enterprise by hampering exports with a paper currency or with conditions under which it is impossible that any export trade can rise or flourish. Then we have New York on the Atlantic, with a harbor and bay of matchless beauty and extent, overtaking and rapidly passing nearly all the great cities of commercial nations. New York is not less ambitious than her younger sister in the distant West, and is eager to become the great distributor of commerce—to be, and with all the prerogatives of power to be, the empire city and center of the money exchanges of the world. Yet, we deliberately propose to stumble in the first act, by clinging to a currency rejected as money by all the nations of the earth, and thus reduce our prospective growth and magnificence in commerce to the pitiful dimensions of barter-trade—rude, clumsy, and unprofitably inconsiderable in amount.

That the political, financial, and industrial questions now demanding solution at the hands of the American people are of more than ordinary importance must be admitted; that they are cruelly exaggerated by unscrupulous political partisans cannot be denied; but I see no reason to doubt that, by deliberation and a free and frank discussion, all these questions can, at a day not remote, be adjusted on such sound, sure-footed economy, integrity, and justice as will open to our country a higher career of prosperity and honor than is to be found even in all the achievements of its past fortunate and most remarkable history.

Mr. ANTHONY. If no Senator desires to discuss this question to-day, I move to take up——

Mr. HENDERSON. I desire to speak on this question to-morrow; and if the Senator will allow me to take the floor upon it, he can then submit his motion.

Mr. ANTHONY. I will make a motion to postpone, if you desire it.

Mr. HENDERSON. No, sir; I wish this bill to be the unfinished business for to-morrow.

Mr. ANTHONY. Let it be understood that the Senator from Missouri has the floor upon the bill.

The PRESIDENT *pro tempore*. The Chair will take that to be the understanding of the Senate.

REVISION OF THE RULES.

Mr. ANTHONY. Mr. President, the Senate has been for a day or two in a very orderly and parliamentary mood, and I move now that we proceed to take up the report of the select committee appointed to make a revision of the standing rules of the Senate. The time has arrived when this revision will be necessary for the orderly and convenient transaction of business.

Mr. SUMNER. If the Senator only proposes that the rules shall be read and that we shall proceed with the first stage of their consideration, I shall have no objection; but I take the liberty of saying to my friend—I say it with great reluctance—that I took the rules home with me to my house, intending to read them over carefully, and I have not finished their perusal; and as I read them there were some matters in them on which I did wish further opportunity for reflection.

Mr. ANTHONY. Well, sir, I desire to accommodate the Senator from Massachusetts.

Mr. RAMSEY. Then, sir, I move that the Senate proceed to the consideration of executive business, with the consent of my friend from Rhode Island.

Mr. ANTHONY. No, sir; I do not consent. The Senator from Massachusetts, I understand, only does not wish the rules disposed of finally to-day.

Mr. SUMNER. That is all. I have no objection to their being taken up and read.

Mr. RAMSEY. Then, that being the state of the case with regard to the rules, I move, with the consent of the Senator from Rhode Island, to proceed to the consideration of executive business.

Mr. ANTHONY. No, sir; the Senator from Rhode Island does not consent to do any such thing. You can do that by and by.

The PRESIDENT *pro tempore*. The Senator from Rhode Island has the floor, and the question is on his motion to take up the report of the select committee appointed to revise the rules for consideration.

The motion was agreed to.

Mr. ANTHONY. I suggest that by general consent we take up the rules and have them read; and any amendments proposed may be made as the reading proceeds, and that no vote be taken upon each separate rule as it is read, but that the whole may be open to amendment at any time, and that they may now be considered in Committee of the Whole as we considered the rules for the court of impeachment yesterday. I ask that that may be the general understanding.

The PRESIDENT *pro tempore*. If that is the understanding of the Senate it will be enforced by the Chair. The rules are before the Senate as in Committee of the Whole, and will be read.

The Secretary read the report, submitted by Mr. ANTHONY on the 21st of February, from the select committee appointed to revise the rules of the Senate. The rules, as proposed to be amended by the committee, will read as follows:

Commencement of Daily Sessions.

1. The Presiding Officer having taken the chair, and a quorum being present, the Journal of the preceding day shall be read, to the end that any mistake may be corrected that shall be made in the entries. [16 April, 1789.] A quorum shall consist of a majority of the Senators duly chosen and sworn. [4 May, 1864.]

Business not to be Interrupted.

2. No Senator shall speak to another or otherwise interrupt the business of the Senate, or read any newspaper while the Journals or public papers are reading, or when any Senator is speaking in any debate. [16 April, 1789; 14 February, 1828.]

Rules in Speaking or Debate.

3. Every Senator when he speaks shall address the Chair, standing in his place, and when he has finished shall sit down. [16 April, 1789.]

4. No Senator shall speak more than twice in any one debate on the same day without leave of the Senate, which question shall be decided without debate. [16 April, 1789.]

5. When two Senators rise at the same time the Presiding Officer shall name the person to speak; but in all cases the Senator who shall rise first and address the Chair shall speak first. [16 April, 1789; 14 February, 1828.]

Calls to Order and Appeals.

6. If any Senator, in speaking or otherwise, transgress the rules of the Senate, the Presiding Officer shall, or any Senator may, call to order; and when a Senator shall be called to order by the Presiding Officer or a Senator he shall sit down, and shall not proceed without leave of the Senate. And every question of order shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate; and the Presiding Officer may call for the sense of the Senate on any question of order. But when an appeal shall be taken from the decision of the Presiding Officer any subsequent question of order which may arise before the decision of such appeal by the Senate shall be decided by the Presiding Officer without debate, and every appeal therefrom shall also be decided at once and without debate. [16 April, 1789; 14 February, 1828; 26 June, 1856.]

Exceptionable Words.

7. If a Senator be called to order by another for words spoken the exceptionable words shall immediately be taken down in writing, that the Presiding

Officer may be better able to judge of the matter. [16 April, 1789.]

Absent Senators may be sent for.

8. No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. And, in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any or all absent Senators, as the majority of such Senators present shall agree, at the expense of such absent Senators, respectively, unless such excuse for non-attendance shall be made as the Senate, when a quorum is convened, shall judge sufficient, and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate, at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned. [16 April, 1789; 25 June, 1798; 4 February, 1828.]

Rule for Debate.

9. No motion shall be debated until the same shall be seconded. [16 April, 1789.]

Rule for Motions, Debate, and Withdrawal.

10. When a motion shall be made and seconded it shall be reduced to writing, if desired by the Presiding Officer or any Senator, delivered in at the table, and read, before the same shall be debated; and any motion may be withdrawn by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave of the Senate. [16 April, 1789; 14 February, 1823; 21 January, 1851.]

Precedence of Motions when a Question is under debate.

11. When a question is under debate no motion shall be received but to adjourn, to proceed to the consideration of executive business, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend; which several motions shall have precedence in the order they stand arranged; and motions to adjourn, to proceed to the consideration of executive business, and to lie on the table shall be decided without debate, and motions to take up or proceed to the consideration of any question shall be determined without debate upon the merits of the question proposed to be considered. [16 April, 1789; 13 January, 1820; 14 February, 1828.]

Division of a Question.

12. If the question in debate contain several points any Senator may have the same divided; but on a motion to strike out and insert it shall not be in order to move for a division of the question; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition, nor prevent a subsequent motion simply to strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert. [16 April, 1789; 23 June, 1832.]

Filling Blanks.

13. In filling up blanks, the largest sum and longest time shall be first put. [16 April, 1789; 3 January, 1820; 14 February, 1828.]

Objection to Reading a Paper.

14. When the reading of a paper is called for, and the same is objected to by any Senator, it shall be determined by a vote of the Senate, and without debate. [3 January, 1820; 14 February, 1828.]

Unfinished Business—Prior Special Order.

15. The unfinished business in which the Senate was engaged at the last preceding adjournment shall have the preference in the special orders of the day. [3 January, 1820; 14 February, 1828.]

Yeas and Nays.

16. When the yeas and nays shall be called for by one fifth of the Senators present each Senator called upon shall, unless for special reasons he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon a call of the Senate, the names of the Senators shall be called alphabetically. [16 April, 1789.]

17. When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no Senator shall be permitted, under any circumstances whatever, to vote after the decision is announced from the Chair. [4 April, 1822; 14 February, 1828.]

Closing the Doors and Clearing the Gallery.

18. On a motion made and seconded to shut the doors of the Senate, on the discussion of any business which may, in the opinion of a Senator, require secrecy, the Presiding Officer shall direct the gallery to be cleared; and during the discussion of such motion the doors shall remain shut. [20 February, 1794.]

No Person admitted to Present Petition, &c.

19. No motion shall be deemed in order to admit any person whatsoever within the doors of the Senate Chamber to present any petition, memorial, or address, or to hear any such read. [27 April, 1798.]

Reconsideration.

20. When a question has been made and carried in the affirmative or negative, whether previously reconsidered or not, it shall be in order for any Senator of the majority to move for the reconsideration thereof; but no motion for the reconsideration of any vote shall be in order after the bill, resolution, message, report, amendment, or motion upon which the vote was taken shall have gone out of the possession of the Senate, announcing their decision, except a resolution confirming or rejecting a nomination by the President; nor shall any motion for reconsideration be in order, unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate thereafter; but a motion to reconsider a vote upon a nomination shall always, if the resolution announcing the decision of the Senate has been sent to the President, be accompanied by a motion requesting the President to return the same to the Senate. When any question may have been decided by the Senate in which two thirds of the Senators present are necessary to carry the affirmative, any Senator who votes on that side which prevailed in the question may be at liberty to move for a reconsideration; and a motion for reconsideration shall be decided by a majority of votes. But no motion to reconsider a vote upon a motion to reconsider shall be in order at any time. [25 February, 1790; 26 March, 1806; April 6, 1867.]

Casting Vote of the Vice President.

21. When the Senate are equally divided the President may announce his vote upon the question. [18 July, 1789.]

Question put by the Presiding Officer.

22. All questions shall be put by the Presiding Officer of the Senate, either in the presence or absence of the President of the United States, and the Senators shall signify their assent or dissent by answering ay or no. [21 August, 1789.]

Appointment of a Senator to the Chair.

23. The Presiding Officer of the Senate shall have the right to name a Senator to perform the duties of the Chair; but such substitution shall not extend beyond an adjournment. [3 January, 1820.]

Morning Business, Petitions, Reports, &c.,

24. After the Journal is read the Presiding Officer shall lay before the Senate messages from the President, reports from the Executive Departments, and bills and joint resolutions, or other messages from the House of Representatives. He shall then call for petitions and memorials, reports of committees, the introduction of bills, joint resolutions, resolutions; all which shall be received and disposed of in such order, unless unanimous consent shall be otherwise given; and every petition or memorial or other paper shall be referred, of course, without putting a question for that purpose, unless the reference is objected to by a Senator at the time such petition, memorial, or other paper is presented. And before any petition or memorial addressed to the Senate shall be received and read at the table, whether the same shall be introduced by the Presiding Officer or a Senator, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer. [18 April, 1789; 10 April, 1834.]

Notice of Printing of Bills, &c.

25. One day's notice, at least, shall be given of an intended motion for leave to bring in a bill or joint resolution; and all bills and joint resolutions reported by a committee shall, after the first reading, be printed for the use of the Senate, and also all reports of committees, unless otherwise ordered; but no other paper or document shall be printed for the use of the Senate without special order.—[16 April, 1789; 3 February, 1801; 3 January, 1820; 8 April, 1822; 14 February, 1828.]

Joint Resolutions.

26. Every bill and joint resolution shall receive three readings previous to its being passed, and the Presiding Officer shall give notice at each whether it be the first, second, or third; which reading shall be on three different days, unless the Senate unanimously direct otherwise. And all resolutions proposing amendments to the Constitution, or to which the approbation and signature of the President may be requisite, or which may grant money out of the contingent or any other fund, shall be treated, in all respects, in the introduction and form of proceeding on them in the Senate, in a similar manner with bills; and all other resolutions shall lie on the table one day for consideration, and also reports of committees.

Commitment of Bills.

27. No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee. [16 April, 1789.]

In Committee of the Whole.

28. All bills and joint resolutions on a second reading shall first be considered by the Senate in the same manner as if the Senate were in Committee of the Whole, before they shall be taken up and proceeded on by the Senate agreeably to the standing rules, unless otherwise ordered. [21 May, 1789; 26 March, 1806; 3 January, 1820.]

Final Questions—Reference to Court of Claims.

29. The final question upon the second reading of every bill, resolution, or constitutional amendment originating in the Senate, and requiring three readings previous to being passed, shall be, whether it shall be engrossed and read a third time; and no amendment shall be received for discussion at a third reading of any bill, resolution, or amendment, unless by unanimous consent of the Senators present; but it shall at all times be in order, before the final passage of any such bill, resolution, or constitutional amendment, to move its commitment; and should such commitment take place, and any amendment be reported by the committee, the said bill, resolution, or constitutional amendment shall be again read a second time, and considered as in Committee of the Whole, and then the aforesaid question shall be again put. Whenever a private bill is under consideration it shall be in order to move, as a substitute for it, a resolution of the Senate referring the case to the Court of Claims. [4 February, 1807; 26 June, 1856.]

Amendments to Appropriation Bills.

30. No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation.

All amendments to general appropriation bills reported from committees of the Senate, proposing new items of appropriation, shall, one day before they are offered, be referred to the Committee on Appropriations, and all general appropriation bills shall be referred to the said committee. [19 December, 1850; 7 May, 1852; 13 January, 1854; 3 May, 1854; 7 March, 1867.]

Special Orders.

31. When the hour shall arrive for the consideration of a special order, it shall be the duty of the Presiding Officer to take it up, unless the unfinished business of the preceding day shall be under consideration. [26 June, 1856.]

Precedence in Special Orders.

When two or more subjects shall have been specially assigned for consideration, they shall take precedence according to the order of time at which they were severally assigned, and such order shall at no time be lost or changed except by the direction of the Senate. [26 June, 1856.]

Precedence in Special Orders and over General Orders.

When two or more subjects shall have been assigned for the same hour, the subject first assigned for that hour shall take precedence; but special orders shall always have precedence of general orders, unless such special orders shall be postponed by direction of the Senate. [26 June, 1856.]

Two Thirds Required to Make a Special Order.

No bill, joint resolution, or other subject, shall be made a special order for a particular day and hour without the concurrence of two thirds of the Senators present. [13 January, 1862.]

Making up the Journal.

32. The titles of bills and joint resolutions, and such parts thereof only as shall be affected by proposed amendments, shall be inserted on the Journal. [12 March, 1792.]

33. The proceedings of the Senate shall be entered on the Journal as concisely as possible, care being taken to detail a true and accurate account of the proceedings; but every vote of the Senate shall be entered on the Journal, and a brief statement of the contents of each petition, memorial, or paper presented to the Senate, shall also be inserted on the Journal. [19 May, 1789; 12 March, 1792; 14 February, 1828.

Standing Committees.

34. The following standing committees shall be appointed at the commencement of each session, with leave to report by bill or otherwise. [5 March, 1857.]

A Committee on Foreign Relations, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Finance, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Appropriations, to consist of seven Senators. [6 March, 1867.]

A Committee on Commerce, to consist of seven Senators. [10 December, 1816; 7 December, 1825; 5 March, 1857.]

A Committee on Manufactures, to consist of five Senators. [10 February, 1864.]

A Committee on Agriculture, to consist of five Senators [6 March, 1863.]

A Committee on Military Affairs, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Naval Affairs, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on the Judiciary, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Post Offices and Post Roads, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Public Lands, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Private Land Claims, to consist of five Senators. [27 December, 1826; 5 March, 1857.]

A Committee on Indian Affairs, to consist of seven Senators. [3 January, 1820; 5 March, 1857.]

A Committee on Pensions, to consist of seven Senators. [10 December, 1816; 5 March, 1857.]

A Committee on Revolutionary Claims, to consist of five Senators. [28 December, 1832; 5 March, 1857.]

A Committee on Claims, to consist of seven Senators. [10 December, 1816; 5 March, 1857; 26 January, 1860.]

A Committee on the District of Columbia, to consist of seven Senators. [18 December, 1816; 5 March, 1857.]

A Committee on Patents, to consist of five Senators. [7 September, 1837; 5 March, 1857.]

A Committee on Public Buildings and Grounds, to consist of five Senators, who shall have power also to act jointly with the same committee of the House of Representatives. [16 December, 1819; 19 December, 1837; 28 May, 1850; 5 March, 1857.]

A Committee on Territories, to consist of seven Senators. [25 March, 1844; 5 March, 1857.]

A Committee on the Pacific Railroad, to consist of nine Senators. [22 December, 1863.]

A Committee on Mines and Mining, to consist of seven Senators. [8 March, 1865.]

A Committee to Audit and Control the Contingent Expenses of the Senate, to consist of three Senators, to which shall be referred all resolutions directing

the payment of money out of the contingent fund of the Senate, or creating a charge on the same. [4 November, 1807; 7 April, 1853; 5 March, 1857.]

A Committee on Printing, to consist of three Senators, to whom shall be referred every question on the printing of documents, reports, or other matter transmitted by either of the Executive Departments, and all memorials, petitions, accompanying documents, together with all other matter the printing of which shall be moved, excepting bills originating in Congress, resolutions offered by any Senator, communications from the Legislatures or conventions lawfully called of the respective States, and motions to print by order of the standing committees of the Senate; motions to print additional numbers shall likewise be referred to said committee; and when the report shall be in favor of printing additional numbers, it shall be accompanied by an estimate of the probable cost; the said committee shall also supervise and direct the procuring of maps and drawings accompanying documents ordered to be printed. [15 December, 1841; 18 December, 1850; 22 January, 1855; 5 March, 1857.]

A Committee on Engrossed Bills, to consist of three Senators, whose duty it shall be to examine all bills, amendments, and resolutions before they go out of the possession of the Senate; and shall deliver the same to the Secretary of the Senate, who shall enter upon the Journal that the same have been correctly engrossed. [3 January, 1820.]

A Committee on Enrolled Bills, to consist of three Senators, who, or some one of whom, shall forthwith present all enrolled Senate bills to the President in person, for his signature, and report the fact and date of such presentation to the Senate. [6 August, 1789; 5 March, 1857.]

Appointment of Committees.

35. In the appointment of the standing committees the Senate will proceed, by ballot, to appoint severally the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee, but a plurality of votes shall elect the other members thereof. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. [3 January, 1820; 8 December, 1826; 14 February, 1828.]

Reference to Standing or Select Committees.

36. When motions are made for reference of the same subject to a select committee and to a standing committee the question on reference to the standing committee shall be first put. [14 February, 1828.]

Executive Business—Proceedings on Nominations.

37. When nominations shall be made by the President of the United States to the Senate, they shall, unless otherwise ordered by the Senate, be referred to appropriate committees; and the final question on every nomination shall be, "Will the Senate advise and consent to this nomination?" which question shall not be put on the same day on which the nomination is received, nor on the day on which it may be reported by a committee, unless by the unanimous consent of the Senate. Nominations neither approved nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made by the President; and if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned to the President, and shall not be afterwards acted upon, unless again submitted to the Senate by the President; and all motions pending to reconsider a vote upon a nomination shall fall on such adjournment or recess; and the Secretary of the Senate shall thereupon make out and furnish to the heads of Departments and other officers the list of nominations rejected or not confirmed, as required by law. When the President of the United States shall meet the Senate in the Senate Chamber for the consideration of Executive business, the Presiding Officer of the Senate shall have a chair on the floor, be considered as the head of the Senate, and his chair shall be assigned to the President of the United States. When the Senate shall be convened by the President of the United States to any other place, the Presiding Officer of the Senate and the Senators shall attend at the place appointed, with the necessary officers of the Senate. [21 August, 1789; 18 February, 1843.

Proceedings on Treaties.

38. When a treaty shall be laid before the Senate for ratification it shall be read a first time, when no motion in respect to it shall be in order except to refer it to a committee or to print it in confidence for the use of the Senate. Its second reading shall be for consideration, and shall be on a subsequent day, when it shall be taken up as in Committee of the Whole and be considered by articles, when amendments may be proposed; but when amendments are reported by a committee they shall be first acted on, after which other amendments may be proposed; and when through, the whole proceedings had as in Committee of the Whole shall be reported to the Senate, when the question shall be, if the treaty be amended, "Will the Senate concur in the amendments made in Committee of the Whole?" and the amendments may be taken separately or in gross as the Senate may elect, after which new amendments may be proposed. The decisions thus made shall be reduced to the form of a resolution of ratification, with or without amendments, as the case may be, which shall be proposed on a subsequent day, unless by unanimous consent the Senate determine otherwise, when every one shall again be free to move amendments, the question on which shall be proposed and taken as in the case of amendments to the article. And on the final question to advise and consent to the ratification in the form agreed to, the concurrence of two thirds of the Senators present shall be requisite to determine it in the affirmative, but all other motions and questions thereon shall be decided by a majority vote. [6 January, 1801.]

Matters Confidential and Secret.

39. All confidential communications made by the President of the United States to the Senate shall be by the Senators and officers of the Senate kept secret, and all treaties which may be laid before the Senate, and all remarks and proceedings thereon, shall also be kept secret until the Senate shall, by their resolution, take off the injunction of secrecy. [22 December, 1800; 3 January, 1820.]

Secrecy of Remarks on Nominations.

40. All information or remarks concerning the character or qualifications of any person nominated by the President to office shall be kept a secret; but the fact that a nomination has been made shall not be regarded as a secret. [13 January, 1820.]

Clearing of the Senate.

41. When acting on confidential or executive business the Chamber shall be cleared of all persons except the Secretary of the Senate, the principal or executive Clerk, the Sergeant-at-Arms and Doorkeeper, the Assistant Doorkeeper, and such other officers as the Presiding Officer shall think necessary; and all such officers shall be sworn to secrecy. [3 January, 1820.]

Separate Books to be Kept.

42. The legislative proceedings, the executive proceedings, and the confidential legislative proceedings of the Senate shall be kept in separate books. [19 May, 1789; 15 April, 1828.]

Executive Proceedings Furnished to the President.

43. Nominations approved or definitely acted on by the Senate shall not be returned by the Secretary of the Senate to the President until the expiration of the time limited for making a motion to reconsider the same, or while a motion to reconsider is pending, unless otherwise ordered by the Senate. The President of the United States shall, from time to time, be furnished with an authenticated transcript of the executive records of the Senate, but no further extract from the executive journal shall be furnished, except by special order; and no paper, except original treaties, transmitted to the Senate by the President of the United States, or any executive officer, shall be returned or delivered from the office of the Secretary of the Senate, without an order of the Senate for that purpose. [27 January, 1792; 27 March 1818; 5 January, 1829; 6 April, 1867.]

Proceedings on Amendments to the Constitution.

44. When an amendment to be proposed to the Constitution is under consideration the concurrence of two thirds of the Senators present shall not be requisite to decide any question for amendments, or extending to the merits, being short of the final question. [26 March, 1806.]

Messages to the House of Representatives.

45. Messages shall be sent to the House of Representatives by the Secretary, who shall previously indorse the final determination of the Senate upon bills and other papers communicated. [26 March, 1806.]

Messengers Introduced.

46. Messengers may be introduced in any state of business, except while a question is putting, while the yeas and nays are calling, or while the ballots are counting. [26 March, 1806.]

Persons Admitted on Floor.

47. No person shall be admitted to the floor of the Senate, while in session, except as follows, namely: the officers of the Senate, members of the House of Representatives and their clerk, the President of the United States and his private secretary, the heads of Departments, ministers of the United States and foreign ministers, ex-Presidents and ex-Vice Presidents of the United States, ex-Senators, Senators-elect, judges of the Supreme Court, and Governors of States and Territories. [17 March, 1853; 23 January 1854; 24 January, 1854; 6 March, 1856; 11 January, 1859; 7 February, 1862.]

Regulation of Senate Wing of the Capitol.

48. The Presiding Officer of the Senate shall have the regulation and control of such parts of the Capitol, and of its passages, as are or may be set apart for the use of the Senate and its officers. [22 January, 1824; 14 February, 1828.]

Restriction of Presenting Rejected Claims.

49. Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report be adopted by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session, unless the claimant shall present a memorial for that purpose, stating in what respect the committee have erred in their report, or that new evidence has been discovered since the report, and setting forth the new evidence in the memorial. [25 January, 1842; 21 December, 1842.]

Penalties for Violating Confidence of Senate.

50. Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body, and if an officer, to dismissal from the service of the Senate, and to punishment for contempt. [10 May, 1844.]

Oaths of Office.

51. The oaths or affirmations prescribed by the Constitution and by the act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his duties. They shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe them in the office of the Secretary. [25 January, 1864.]

Transfer of Business.

52. At the second or any subsequent session of a Congress, the legislative business of the Senate which remains undetermined at the close of the next preceding session of that Congress, shall be resumed and proceeded with in the same manner as if no adjournment of the Senate had taken place: and all subjects referred to committees and not reported upon at the close of a session of Congress shall be returned to the office of the Secretary of the Senate, and be by him retained until the next succeeding session of that Congress, when they shall be returned to the several committees to which they had been previously referred.

Suspension and Amendment of Rules.

53. No motion to suspend, modify, or amend the rules, or any thereof, shall be in order, except on one day's notice in writing, specifying the rule to be suspended, modified, or amended, and the purpose thereof. But any rule may be suspended by unanimous consent, except the seventeenth rule, which shall never be suspended.

A motion to suspend, or to concur in a resolution of the House of Representatives to suspend, the sixteenth and seventeenth joint rules, or either of them, shall always be in order, be immediately considered, and be decided without debate. [16 April, 1789; 26 March, 1806; 3 January, 1820; 24 February, 1828; 7 May, 1852.]

Calls for Information.

54. All resolutions calling upon the President or upon any of the Executive Departments for information shall be referred without debate to the appropriate standing committee, which shall report upon the same, with an estimate of the probable expense of furnishing the information called for.

The PRESIDENT *pro tempore*. The question is on adopting the report of the select committee.

Mr. SUMNER. I hope that now the report will be allowed to go over.

Mr. ANTHONY. Certainly, if the Senator desires it; but perhaps the rules had better be reported to the Senate.

Mr. SUMNER. I have no objection to that.

The rules were reported to the Senate without amendment.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. Before that motion is made I should like to have some hour fixed for the consideration of these rules.

Mr. GRIMES. That is not necessary. We can take them up at any time when we have leisure. There is no opposition to them. I insist on my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 3, 1868.

The House met at twelve o'clock m. Prayer by Rev. N. P. KENNEY, of Rockford, Illinois.

The Journal of yesterday was read and approved.

The SPEAKER. By the order of the House yesterday to-day will be regarded the same as Monday. The first business in order is the call of States and Territories for bills and joint resolutions to be referred to their appropriate committees, and not to be brought back on a motion to reconsider, commencing with the State of Maine.

LEVEES ON THE MISSISSIPPI.

Mr. BLAINE introduced a bill (H. R. No. 840) to rebuild the levees on the east bank of the Mississippi river and reclaim the land of the Yazoo basin from overflow; which was read a first and second time, and referred to the Committee on Commerce.

NAVAL JUDGE ADVOCATE GENERAL.

Mr. ELIOT introduced a bill (H. R. No. 841) concerning the Solicitor and Naval Judge Advocate General; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CHAMBER OF LIFE INSURANCE.

Mr. ELIOT, on behalf of his colleague, Mr. BOUTWELL, who was absent on business of the House, introduced a bill (H. R. No. 842) to incorporate the Chamber of Life Insurance of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

PUBLIC DEBT.

Mr. HOOPER, of Massachusetts, introduced a bill (H. R. No. 843) to regulate the public debt; which was read a first and second time, referred to the Committe of Ways and Means, and ordered to be printed.

INDUSTRIAL INTERESTS.

Mr. MILLER introduced a joint resolution (H. R. No. 220) for the encouragement and protection of all the industrial interests of the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

IMPEACHMENT.

Mr. MILLER also introduced a joint resolution (H. R. No. 221) requiring the impeachment instituted against Andrew Johnson, President of the United States, to be proceeded in with as little delay as justice may require; which was read a first and second time, and referred to the Committee on Reconstruction.

WAREHOUSING SYSTEM.

Mr. MORRELL introduced a bill (H. R. No. 844) to modify the warehousing system, and for other purposes; which was read a first and second time, referred to the Committee on Manufactures, and ordered to be printed.

DUTY ON IMPORTS.

Mr. BROOMALL introduced a joint resolution (H. R. No. 222) increasing the duty on certain imports; which was read a first and second time, and referred to the Committee of Ways and Means.

THOMAS F. BOWLER.

Mr. HUNTER introduced a bill (H. R. No. 845) for the relief of Thomas F. Bowler, of New Mexico; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CONSTRUCTION OF TELEGRAPH LINES.

Mr. FARNSWORTH introduced a bill (H. R. No. 846) supplementary to an act entitled "An act to aid in the construction of telegraph lines and to secure to the Government the use of the same for postal, military, and other purposes," passed July 24, 1866; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

INTERNATIONAL PACIFIC RAILROAD.

Mr. RAUM introduced a bill (H. R. No. 847) to aid in the construction of the International Pacific railroad from Cairo, Illinois, to the Rio Grande river, to authorize the consolidation of certain railroad companies, and to provide homesteads for laborers on said roads; which was read a first and second time.

Mr. RAUM moved that the bill be referred to the Committee on Roads and Canals and printed.

Mr. JULIAN. I move that the bill be referred to the Committee on Public Lands.

Mr. RAUM. I object to that reference.

Mr. JULIAN. If I understand the bill it belongs to the Committee on Public Lands.

Mr. RAUM. I think not. It does not relate to the public lands. It makes no donation of public lands.

Mr. CHANLER. I ask for the reading of the bill.

The Clerk commenced the reading of the bill.

Mr. HIGBY. I do not think it is necessary to have the bill read; the House understands its character.

Mr. CHANLER. Very well; I withdraw the call.

Mr. RAUM. I understand that the gentleman from Indiana [Mr. JULIAN] does not press his motion.

Mr. JULIAN. I must ask that the Committee on Public Lands have the privilege of looking into the bill before I withdraw my motion.

Mr. RAUM. Well; I trust the House will not agree to the motion.

The SPEAKER. The question is not debatable.

The question was put on Mr. JULIAN's motion to refer the bill to the Committee on Public Lands; and there were—ayes 32, noes 42; no quorum voting.

Tellers were ordered; and Messrs. RAUM and JULIAN were appointed.

The House divided; and the tellers reported —ayes 44, noes 53.

So the motion was disagreed to.

The bill was then referred to the Committee on Roads and Canals, and ordered to be printed.

LEAVE OF ABSENCE.

On motion of Mr. WELKER, leave of absence was granted for ten days to Mr. BUCKLAND.

On motion of Mr. SPALDING, leave of absence for ten days was granted to Mr. MULLINS.

CROWTHER INSTITUTE.

Mr. INGERSOLL introduced a bill (H. R. No. 848) to incorporate Crowther Institute in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

JURISDICTION OF DISTRICT COURTS.

Mr. COOK introduced a bill (H. R. No. 849) to amend an act entitled "An act extending the jurisdiction of the district courts to certain cases upon the lakes and navigable water connecting the same," approved February 26, 1845; which was read a first and second time, and referred to the Committee on the Judiciary.

LAND GRANTS TO MICHIGAN AND WISCONSIN.

Mr. DRIGGS introduced a joint resolution (H. R. No. 223) concerning certain lands granted to the States of Michigan and Wisconsin for a military road to Lake Superior; which was read a first and second time, and referred to the Committee on Public Lands.

SALE OF RESERVATION AT DUBUQUE.

Mr. ALLISON introduced a bill (H. R. No. 850) to authorize the sale of a reservation of public lands in Dubuque, Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

MEMORIAL OF WISCONSIN LEGISLATURE.

Mr. SAWYER presented the memorial of the Legislature of Wisconsin, for an extension of time for the construction and completion of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, Michigan, to Fort Howard, Green Bay, in the State of Wisconsin; which was referred to the Committee on Public Lands.

ANN WILLIAMS.

Mr. HOPKINS introduced a bill (H. R. No. 851) granting a pension to Ann Williams; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MISSISSIPPI AND LAKE MICHIGAN.

Mr. ELDRIDGE presented a memorial of the Legislature of the State of Wisconsin, in relation to the project of connecting, by navigable channels through the Fox and Wisconsin rivers, the waters of the Mississippi with the waters of Lake Michigan; which was referred to the Committee on Commerce.

MAIL ROUTES IN CALIFORNIA.

Mr. HIGBY presented resolutions of the Legislature of the State of California, asking for the establishment of certain mail routes in that State; which were referred to the Committee on the Post Office and Post Roads.

SCHOOL OF MINES.

Mr. HIGBY also presented joint resolutions of the Legislature of the State of California, asking the establishment of a school of mines; which were referred to the Committee on Mines and Mining.

LAND DISTRICT IN MINNESOTA.

Mr. DONNELLY introduced a bill (H. R. No. 852) to create an additional land district in the State of Minnesota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MRS. CATHARINE DREYER.

Mr. DONNELLY also introduced a bill (H. R. No. 853) for the relief of Mrs. Catharine Dreyer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DISSOLUTION OF INDIAN COMMISSION.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 854) to dissolve the commision authorized by the act to establish peace with certain hostile tribes of Indians, approved July 20, 1867; which was read a first and second time, and referred to the Committee on Indian Affairs.

LOT BOWEN.

Mr. HUBBARD, of West Virginia, introduced a bill (H. R. No. 855) for the relief of Lot Bowen, of Harrison county, West Virginia; which was read a first and second time, and referred to the Committee of Claims.

CHARLES T. WESTON.

Mr. LINCOLN introduced a joint resolution (H. R. No. 223) for the relief of Charles T. Weston, of Pennsylvania; which was read a first and second time, and referred to the Committee of Claims.

TWENTY-FIRST NEW YORK CAVALRY.

Mr. LINCOLN also introduced a bill (H. R. No. 856) for the relief of the members of the twenty-first New York cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM F. MOSES.

Mr. ORTH introduced a bill (H. R. No. 857) granting a pension to William F. Moses, of Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SAFETY OF STEAMBOAT TRAVEL

Mr. STEWART introduced a bill (H. R. No. 858) to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

AID TO RAILROADS.

The SPEAKER. The next business in order is the consideration of a resolution pending at the expiration of the morning hour on Tuesday last, and which was offered by the gentleman from Iowa, [Mr. WILSON.]

The resolution was read, as follows:

Resolved, That the public welfare demands that the pecuniary obligations of the United States should be kept within the narrowest limits consistent with the necessary requirements of the Government, and therefore it is not expedient at this time to enlarge said obligations by extending aid to the Union Pacific Railroad Company, or any other company, by granting beyond the terms of existing laws subsidies in the bonds of the United States, or by guarantying the payment of any stock or other liabilities of said company, or any other corporations, and that the committees of this House be instructed to report no bill during this session of Congress in conflict with this resolution.

The question was upon agreeing to the resolution.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] not being able to be present this morning, the Chair, at his request, will recognize the gentleman from Pennsylvania Mr. SCOFIELD] as having charge of the resolution.

Mr. SCOFIELD. This is a very important resolution, and I hope we will have a full vote upon it. I call for the previous question.

Mr. NEWCOMB. I hope the gentleman will not press the previous question at this time.

Mr. MUNGEN. I move that the resolution be laid on the table.

Mr. SCOFIELD. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 44, not voting 67; as follows:

YEAS—Messrs. Adams, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Banks, Barnum, Beck, Bromwell, Burr, Cake, Churchill, Sidney Clarke, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Golladay, Gravely, Griswold, Higby, Hopkins, Hotchkiss, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Judd, Kelley, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, Lincoln, Loan, Lynch, Mallory, Marvin, McCarthy, McClurg, McCormick, Miller, Morrell, Mungen, Myers, Newcomb, Nicholson, O'Neill, Paine, Perham, Peters, Plants, Poland, Pomeroy, Raum, Robertson, Sawyer, Schenck, Sitgreaves, Smith, Starkweather, Stewart, Taffe, Thomas, John Trimble, Twichell, Van Aernam, Robert T. Van Horn, Van Wyck, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—78.

NAYS—Messrs. Allison, Beatty, Brooks, Broomall, Cary, Chanler, Cobb, Coburn, Cook, Cornell, Cullom, Eckley, Getz, Glossbrenner, Haight, Harding, Hill, Holman, Humphrey, Hunter, Julian, Kerr, William Lawrence, Loughridge, Mercur, Moore, Niblack, Orth, Pike, Polsley, Ross, Scofield, Shanks, Spalding, Thaddeus Stevens, Taber, Taylor, Trowbridge, Upson, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Welker, and James F. Wilson—44

NOT VOTING—Messrs. Ames, Anderson, Bailey, Baker, Baldwin, Barnes, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Boyer, Buckland, Butler, Reader W. Clarke, Covode, Dawes, Dodge, Ela, Ferriss, Ferry, Fields, Finney, Fox, Garfield, Grover, Halsey, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Jones, Kelsey, Knott, Logan, Marshall, Maynard, McCullough, Moorhead, Morgan, Morrissey, Mullins, Nunn, Phelps, Pile, Price, Pruyn, Randall, Robinson, Selye, Shellabarger, Aaron F. Stevens, Stokes, Stone, Lawrence S. Trimble, Van Auken, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, Wood, and Woodward—67.

So the resolution was laid on the table.

Mr. NEWCOMB moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The next business in order during the morning hour is the call of States in inverse order for resolutions, commencing with the State of Iowa.

REGULATION OF RAILROAD FREIGHT RATES.

Mr. LOUGHRIDGE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into and report to the House whether in their opinion Congress has the power under the Constitution to regulate the rates to be charged for freights by railroads engaged in commerce between the different States of the Union.

Mr. LOUGHRIDGE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXTRA PAY OF COMMITTEE CLERKS.

Mr. PRICE. I submit the following resolution, on which I demand the previous question:

Resolved, That the clerks to committees in the House of Representatives shall be entitled to the same additional compensation as the other employés of the House.

Mr. FARNSWORTH. I raise the point of order that the House cannot by a mere resolution increase the pay of its employés. An act of Congress is necessary for such a purpose.

The SPEAKER. The Chair overrules the point of order. The House can authorize the payment to the clerks of its committees of whatever pay it thinks proper.

Mr. FARNSWORTH. I believe it has been decided otherwise.

The SPEAKER. If the gentleman can produce any such decision the Chair will reverse his ruling. The Chair is confident, however, that the gentleman can produce no such decision. Resolutions fixing the per diem pay of committee clerks have been repeatedly adopted by the House.

On seconding the demand for the previous question there were—ayes 43, noes 26; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. PRICE and HOLMAN.

The House divided; and the tellers reported—ayes 63, noes 33.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the resolution was adopted, there being—ayes 60, noes 36.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. TRIMBLE, of Tennessee asked and obtained leave of absence for fifteen days.

Mr. BAKER asked and obtained leave of absence for five days, for the purpose of bringing his family from the South.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania.

PUBLIC AFFAIRS IN TEXAS.

Mr. LOAN submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into and to report, without unnecessary delay, the law and facts involved in the following propositions:

1. Whether the State government of the State of Texas existing in 1860 yet exists; and, if not, at what time it ceased to exist, and what government, power, or authority succeeded to the political and other rights of said State government.

2. Whether the rebel government that existed in Texas for several years during the late rebellion succeeded to any of the rights, political or others, of the former government of that State; and, if so, to what rights did the rebel *de facto* government succeed; are any of the acts done or any laws enacted by its authority valid; for instance, are marriages solemnized under and by virtue of laws of, or authority derived from, said rebel government valid, and the issue of such marriages legitimate.

3. Was the rebel government existing in Texas during the late rebellion a *de facto* government sufficiently established so as to acquire, under the law of nations or otherwise, the right to the land and other property owned by the State of Texas prior to the rebellion; and, if not, what government, State, or power now owns the land and other property which belonged to the State of Texas at the time of the commencement of the rebellion; if the *de facto* rebel government succeeded as such to all the rights of the State of Texas existing at the time of the rebellion; what rights, if any, accrued to the Federal Government as conquerors of the rebel *de facto* government; has the Federal Government, by conquest or otherwise, since the time of the commencement of the rebellion, acquired any title to the land and other property which belonged to the State of Texas at that time: can the United States, as sovereign under the laws of war, acquire by conquest and succeed to the rights of property of a State of the Union by the suppression of a rebellion in such State such as was that of Texas in the late war.

INDIAN SPOLIATION CLAIMS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in answer to a resolution of the House, relating to amounts of Indian spoliation claims in the Department of the Interior growing out of the Indian war in Oregon, Washington, and Montana Territories; which, on motion of Mr. WINDOM, was referred to the Committee on Indian Affairs, and ordered to be printed.

UNITED STATES MINT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Mint, relative to covering into the Treasury certain moneys, &c., under the provisions of House bill No. 685; which was referred to the Committee on Appropriations, and ordered to be printed.

PAY FOR MAIL TRANSPORTATION.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Postmaster General, in answer to a resolution of the House, relative to railroads between Baltimore and New York receiving greater compensation for the transportation of the mails than other first-class railroads; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

LIFE-SAVING INVENTIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, the report of the commission on life-saving inventions, convened in New York city, April 8, 1867; which, on motion of Mr. ELIOT, was referred to the Committee on Commerce, and ordered to be printed.

PROTEST OF MEMBERS.

The SPEAKER. The morning hour having expired, the first question in order is the unfinished business of last evening, being the motion made by the gentleman from Wisconsin [Mr. ELDRIDGE] to suspend the rules for the purpose of spreading before the House a protest of certain members in reference to the proceedings of this House on the impeachment of the President.

Mr. ELDRIDGE. I think, Mr. Speaker, as a part of the motion I made last night, the communication which members have signed and desire to have laid before the House ought to be read, in order that what I ask may be understood. I will not demand the yeas and nays on the suspension of the rules if the communication be allowed to be read. It ought to be before the House before it is voted on; and certainly it ought not to be objected to until it is read. It will not take more than five minutes, and at the farthest not more than ten minutes.

The SPEAKER. Is there objection?

Mr. KELLEY and Mr. ARNELL objected.

Mr. ELDRIDGE. As a question of right it is a part of my motion to suspend the rules. My motion cannot be understood unless it is read to the House.

The SPEAKER. The Chair decides it cannot be read as a matter of right. The gentleman can ask unanimous consent to have it read before the vote on the motion to suspend the rules.

Mr. ELDRIDGE. The Chair misapprehends the point I wish to make to the House, and if the House will allow me I will state it.

Mr. KELLEY. If the motion to suspend the rules is debatable, I ask the gentleman to yield to me a moment.

The SPEAKER. It is not debatable.

Mr. KELLEY. Then I object.

Mr. ELDRIDGE. I submit the point of order to the Chair, and insist on it, that a motion to suspend the rules for the purpose of considering this matter takes away the right of any person to make objection, and that, as part of my motion, I must have the communication read at the Clerk's desk.

Mr. KELLEY. This question is not debatable, and the gentleman cannot have it read, for that would be discussion.

Mr. ELDRIDGE. I do not claim that it shall be spread as a matter of right upon the Journal of the House; I know the ruling of the House in that regard. I simply claim, as a part of the motion to suspend the rules, I have the right to have the communication read, so the House may understand it; and thereupon I propose to place myself.

Mr. KELLEY. I protest against this discussion of an undebatable question.

Mr. ELDRIDGE. That is about the courtesy I can expect from the gentleman from Pennsylvania.

The SPEAKER. The Chair overrules the point of order of the gentleman from Wisconsin, and refers to a decision of Mr. Fillmore in 1850, when he presided over the Senate.

The Clerk read as follows:

"The PRESIDENT. The Chair feels some difficulty in deciding a case of this kind where there is objection made. In the Constitution there is nothing to authorize the putting of a protest on the Journal. There never has been a case since the formation of the Government in which a protest has been entered on the Journal. There was at an early period of the Government an attempt made to authorize the entering of protests on the Journal and it was refused. A motion was made that on the final question upon a bill the opposers of the measure shall have a right to enter a protest and dissent upon the Journal, with the reasons for such dissent and protest, provided that such protest be made within two days after the final passage of the bill. This was July 17, 1789. It was rejected by a vote of the Senate; and there has been no instance that I can find, or that the Secretary has been able to find, on the Journals since that date, to show that any such action has been had."

The SPEAKER. The Chair will state that there is no question of the gentleman's right when he obtains the floor at any time to read the paper as a part of his speech.

Mr. ELDRIDGE. I am aware of that, but I ask it as a part of my motion. I cannot express my motion to the House except by reading the paper.

The SPEAKER. Objection is made.

Mr. ELDRIDGE. I hope the gentleman will not object to it.

Mr. KELLEY. The paper is here in print on our desks. It is a mere tirade against Congress and——

The SPEAKER. The gentleman is not in order; the paper is not before the House, therefore no gentleman has a right to characterize it in any way.

Mr. NICHOLSON. I desire to put a question to the Chair. According to my understanding of a former ruling of the Chair, I would inquire whether the motion to suspend the rules does not suspend the rule which authorizes any member to object?

The SPEAKER. Certainly it does if the rules are suspended. There is no question about that; it is in accordance with former rulings. The Chair will take this occasion to state that he has found in a recent debate a decision attributed to him which he never made, nor thought of making, that "any language applied to a person who is not a member of this House is in order." It was so stated in the debate on impeachment in Committee of the Whole that the Speaker had so decided. That is a mistake; it is a decision the Chair never thought of making. On this question, if the rules are suspended, it of course suspends all the rules that stand in the way of the desired order.

Mr. ELDRIDGE. I again ask the gentleman from Pennsylvania to withdraw the objection.

Mr. KELLEY. No, sir; I maintain it, and I renew the point of order that the question is not debatable.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. I call for the reading of the document now. I believe that is in order at this stage.

The SPEAKER. The gentleman has probably not heard the Chair.

Mr. JOHNSON. I have heard the Chair; I know the Chair decided right at that stage of the proceedings; but I understand the rules allow a member, at any time when a motion is pending to suspend the rules, and the yeas and nays are ordered, to call for the reading of the bill or document.

Mr. BLAINE. Does the gentleman want the information?

Mr. JOHNSON. I want the reading of the document and the information.

Mr. BLAINE. The gentleman himself signed the document, and he of course knows what it is.

The question was taken; and it was decided in the negative—yeas 49, nays 76, not voting 64; as follows:

YEAS—Messrs. Adams, Archer, James M. Ashley, Axtell, Barnum, Beck, Blaine, Brooks, Burr, Butler, Cary, Churchill, Eldridge, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Ketcham, Knott, Laflin, George V. Lawrence, Maltory, Marvin, McCormick, Morgan, Mungen, Newcomb, Niblack, Nicholson, Pomeroy, Pruyn, Robertson, Ross, Sitgreaves, Smith, Spalding, Taber, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, James F. Wilson, and the Speaker—49.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, Beaman, Beatty, Bingham, Blair, Boutwell, Broomall, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Cullom, Dawes, Dixon, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Gravely, Halsey, Harding, Higby, Hill, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, William Lawrence, Loan, Logan, Loughridge, McCarthy, McClurg, Mercur, Miller, Moore, Myers, Nunn, Orth, Paine, Perham, Pike, Plants, Polsley, Price, Raum, Schenck, Scofield, Shanks, Starkweather, Taffe, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, John T. Wilson Stephen F. Wilson, and Windom—76.

NOT VOTING—Messrs. Ames, Anderson, Bailey, Baker, Baldwin, Banks, Barnes, Benjamin, Benton, Boyer, Bromwell, Buckland, Chanler, Coburn, Covode, Dodge, Donnelly, Driggs, Ela, Fields, Finney, Fox, Garfield, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Jenckes, Kerr, Lincoln, Lynch, Marshall, Maynard, McCullough, Moorhead, Morrell, Morrissey, Mullins, O'Neill, Peters, Phelps, Pile, Poland, Randall, Robinson, Sawyer, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Thomas, Twichell, Van Auken, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, William Williams, Wood, Woodbridge, and Woodward—64.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the roll-call the following announcements of pairs, &c., were made:

Mr. O'NEILL. I am paired with my colleague, Mr. RANDALL, on this question. He would have voted "ay," and I should have voted "no."

Mr. BROOMALL. I desire to say that Mr. COVODE is paired with Mr. BOYER until Friday next.

Mr. HOLMAN. The gentleman from New York, Mr. BARNES, is necessarily detained from the House. If he were present he would vote "ay."

Mr. BURR. Mr. MARSHALL is unavoidably absent. If present he would vote "ay."

The SPEAKER. This being a motion to suspend the rules to have the protest read and not to have it spread on the Journal the Chair votes in the affirmative.

The result of the vote was announced as above recorded.

Mr. ELDRIDGE. I desire to say to the House, that two additional names have been added to the paper since I presented it last evening, those of Hon. FERNANDO WOOD and Hon. JOHN MORRISSEY.

Mr. DAWES. I would suggest, if I may be allowed to do so, as the gentlemen who have signed this paper do not ask that it be put upon the Journal, that it be read at the Clerk's desk, provided that the statements therein made, which appear to me to be so wide from the truth, may have put alongside of them such answer as the course of the House and as the debate upon this question and all others against which these gentlemen complain may afford. I am not unwilling to meet any of the suggestions or charges that are contained in that paper.

Mr. ELDRIDGE. I rise to a question of order. Is debate in order?

The SPEAKER. The Chair supposed the gentleman from Massachusetts was going to make a motion to suspend the rules.

Mr. DAWES. I will make a motion to suspend the rules. I do not desire to——

Mr. ELDRIDGE. I call the gentleman to order. I object to debate.

Mr. DAWES. I move, then, to suspend the rules, that the document may be read at the Clerk's desk, and such answer be made to it as the truth demands.

Mr. FARNSWORTH. That is the same motion we have just voted on.

Mr. KELLEY. It needs no answer.

Mr. WASHBURNE, of Illinois. The proceedings of the House answer it.

Mr. ELDRIDGE. I have no objection to the proposition of the gentleman from Massachusetts, [Mr. DAWES,] that the other side of the House have an opportunity to answer the document.

The SPEAKER. The Chair will say to the gentleman from Illinois [Mr. FARNSWORTH] that the motion of the gentleman from Wisconsin [Mr. ELDRIDGE] was of an entirely different character from this motion. It was to suspend the rules for the purpose of presenting the protest.

Mr. ELDRIDGE. I demand the yeas and nays on the motion of the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. I withdraw my motion. I am not going to antagonize with my friends here, but I submit that it is not exactly bold and frank on the part of our friends to shrink from meeting any such charges made against the majority of this House, and, for one, I am ready to meet them.

APPROPRIATIONS FOR CHARITIES, ETC.

Mr. SPALDING, from the Committee on Appropriations, reported a bill (H. R. No. 859) appropriating money in support of benevolent institutions and in aid of charities in the District of Columbia for the fiscal year ending June 30, 1869; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed, and made the special order for Wednesday of next week, and from day to day thereafter until disposed of.

Mr. WASHBURNE, of Illinois. I desire to reserve the right to make points of order on that bill.

The SPEAKER. That right will be reserved.

PUBLIC BUILDINGS IN PENNSYLVANIA.

Mr. NICHOLSON moved that the Committee on Appropriations be discharged from the further consideration of the petition of citizens of the ninth congressional district of Pennsylvania, asking that an appropriation be made for the erection of a suitable building for internal revenue department and post office in said district, and that the same be referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

LEGAL EXPENSES OF ATTORNEY GENERAL.

The SPEAKER laid before the House a communication from the Attorney General, in answer to a resolution of the House of the 10th ultimo, relative to counsel employed by him, assistants to district attorneys, compensation paid, &c.

Mr. JENCKES. I move that this communication be printed, and referred to the Committee on Retrenchment.

The motion was agreed to.

ASYLUM FOR DISABLED SOLDIERS.

The SPEAKER also laid before the House the report of the president of the Board of Managers of the National Asylum for Disabled Volunteer Soldiers.

Mr. GARFIELD. I move that this report be printed, and referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. BUTLER. I move that two thousand additional copies be printed.

The motion, under the law, was referred to the Committee on Printing.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed without amendment the following bills of the House:

An act (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation, in the State of Minnesota; and

An act (H. R. No. 660) restoring lands to market along the line of the Pacific railroads and branches.

The message further announced that the Senate had passed the following bills, in which the concurrence of the House was requested:

An act (S. No. 367) for the relief of Albert Grant; and

An act (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation.

The message further announced that the Senate had disagreed to the amendment of the House to the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased.

The message also announced the order of the Senate concerning the reception of managers appointed by the House to present articles of impeachment to the Senate.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER laid before the House the following:

IN THE SENATE OF THE UNITED STATES,
March 3, 1868.

Ordered, That the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the managers appointed by the House of Representatives to carry to the Senate articles of impeachment against Andrew Johnson, President of the United States.

The SPEAKER. The message will be entered upon the Journal of the House.

POST OFFICE APPROPRIATION BILL.

Mr. BLAINE. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the Post Office appropriation bill; and pending that motion I move that all general debate upon the bill be closed in thirty minutes after the committee resumes the consideration of the same.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into the Committee of the Whole, and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ASHLEY, of Ohio, in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1869.

The bill was read at length.

Mr. BLAINE. In order to anticipate a great many questions which might arise on this bill I will submit to the committee a brief statement, which will explain the bill about as well as I can explain it.

The appropriation bill now under consideration calls for $19,515,000 for the ordinary service of the Post Office Department for the ensuing fiscal year, and for $745,000 for foreign mail transportation, under special contract with certain steamship companies. The latter item is by special appropriation, and is not to be confused with the proper and ordinary expenditures of the Department.

The ordinary receipts of the Department for the same period are estimated in gross at $16,700,000, leaving a deficiency of $2,815,000 to be provided for from the general Treasury. Of this amount $2,000,000 are already to the credit of the Post Office Department in undrawn balances of prior appropriations, so that we are called upon in this bill to appropriate in round numbers $800,000, to supply the estimated deficit. The receipts may possibly outrun the estimates of the Department, in which event the deficit will, of course, be correspondingly reduced. It is quite possible, on the other hand, that the expenses may increase somewhat, but it is believed with some confidence that the entire deficit for the ordinary expenses of the Department will not exceed $3,000,000.

It has only been at rare intervals that the ordinary receipts of the Post Office Department have been sufficient to meet its expenditures. The most conspicuous of these periods was the last three years of the recent war, in each of which a positive surplus was realized, amounting in the closing year to more than a million and a half dollars. For the eight years preceding those I have just named the deficiencies were very large, amounting each year as follows:

1855	$2,626,206 16
1856	2,787,046 50
1857	3,453,718 40
1858	4,543,843 70
1859	6,996,009 26
1860	5,656,705 49
1861	4,557,462 71
1862	2,112,814 57

The southern States having revolted in 1861, and the mail service therein being discontinued and the long and expensive routes in the southwestern Territories being broken up, the Department was relieved of a great outlay. The very first year of the war the expenses of mail transportation were largely decreased, and for the remaining three years (the years being counted as terminating June 30) a positive surplus was realized, as follows:

1863	$549,582 75
1864	493,407 58
1865	1,561,430 42

During the last-named year the Department began to restore the service to the southern States, and the expense was thereby at once enormously increased over the corresponding receipts. Very lengthy and expensive routes were also added, and are continually being added, in the new States and Territories west of the Mississippi river, and from the operation of these two causes the Department has been compelled to undertake burdens without realizing the means from the postal service to sustain them. The consequence was that for the year 1866 the deficit was $965,093 09, and during 1867 the deficit was $1,906,789 92. We cannot, as yet, accurately determine the deficit for 1868, but it is presumed that it will be above two and a half million dollars.

Were the southern States and the new States and Territories west of the Mississippi excluded from the account the postal service would annually result in paying a net revenue to the Government. In some of the States the receipts very largely exceed the expenditure. This is the case in all the New England States except Vermont, which shows a small deficit; but as an aggregate the New England receipts exceed the expenditure by more than seven hundred thousand dollars; in New York by nearly two million dollars; in Pennsylvania by nearly half a million dollars. Among the western States Illinois shows the best account, exhibiting an excess of receipts amounting to more than three hundred thousand dollars. But I need not pursue these details further unless in the progress of the bill some gentleman should desire more specific information on any of its items.

It is quite evident to the most casual observer that if we should limit our postal service at any given point the receipts would very surely and very rapidly overtake and outrun the expenditures. But an economy of that kind is precisely what we cannot afford, and it is the highest of public expediency to devote the surplus postal receipts in the densely settled sections of our country to furnishing mail facilities to the frontier population of our distant Territories and the sparse population of our southern States. The Post Office Department probably affords the best index to the progress of our country in its material, social, and intellectual development. While it should be administered with liberality to all sections, justice requires now that it should be placed and maintained on a self-supporting basis; and while Congress ought not to look to it as a source of revenue it should, if possible, be placed where no appropriation will ever be demanded from the general Treasury.

The bill was read by clauses for amendment.

The Clerk read as follows:

For advertising, $50,000: *Provided*, That no part of this sum shall be paid to any papers published in the District of Columbia except for advertising mail routes in Virginia and Maryland.

Mr. FARNSWORTH. I move to amend the paragraph just read by adding the words "nor to more than one paper, such paper to be a morning paper." This amendment will make this bill conform to a bill or joint resolution which this House has already passed, and which has been sent to the Senate.

Mr. BLAINE. If we have passed a bill on that subject why should we repeat here the provisions of that bill?

Mr. FARNSWORTH. Because the provision as reported in this bill does not conform to the action we have already taken. If we undertake to legislate in this bill on the subject of advertising I desire that our action shall be proper and consistent. There is no necessity for publishing the mail-lettings in more than one paper in the District of Columbia. The provision of the bill before us is that the mail-lettings shall not be published in the papers in the District of Columbia except for the States of Maryland and Virginia. It will be borne in mind that the Government publishes these lettings in Maryland and Virginia, also, just as it does for Illinois and every other State. The publication in the District of Columbia is in addition to publishing in the papers of the States. Why should the Government pay for publishing these mail-lettings in two papers of the District of Columbia? The only reason for publishing in this District the mail-lettings in Maryland and Virginia is, that many of the routes in those States run into this District. But to publish them in two papers here is an unnecessary and wasteful expenditure of money; for the publication is made in the papers of those States in the same way as in the other States of the Union.

Mr. BLAINE. I think, Mr. Chairman, that the papers of the city of Washington circulate very extensively in Maryland and Virginia, more generally, perhaps, than any of the papers published in those States. I consider it better to leave this matter as it stands. I oppose the amendment and ask a vote.

The question was taken; and the amendment was declared not agreed to.

Mr. FARNSWORTH. I call for a division.

Mr. BLAINE. I am willing the amendment should for the present be considered adopted; but I shall ask a separate vote on it in the House.

The CHAIRMAN. If there is no objection, the amendment will be considered as adopted.

There was no objection.

The Clerk read as follows:

For postage stamps and stamped envelopes, $450,000.

Mr. PRICE. I move to amend by striking out in the paragraph just read the word "four" and inserting "one;" so as to make the appropriation $150,000.

I offer the amendment for the purpose of getting some information upon this point. I understand the practical operation of this matter to be this: the Government takes $100,000, if you please, and purchases $100,000 worth of stamps. It turns round and sells those stamps, and it then has just as much money as it had when it first took the $100,000 out of the Treasury; and if it be necessary to purchase more stamps to sell again that $100,000 is amply sufficient for the purpose. It will be borne in mind that no money is lost or made in this operation if the business be fairly and honestly transacted. It is the purchase of an article to sell again at the same price at which it was purchased, the same amount of money coming back again to the point from which it started.

Now, why we should appropriate $450,000 for this purpose, thus swelling the amount of our appropriations, I am at a loss to understand. My own judgment is that $50,000 would be ample for this purpose; I see no reason why we should not cut down the appropriation just $400,000.

Mr. BLAINE. I beg to say, in reply to the gentleman from Iowa, [Mr. PRICE,] that, whatever sum be appropriated, when the money has once been expended it cannot be expended again. It would be perfectly impossible for the Department, after expending the money, to spend it again. Now, the appropriation for this purpose last year was $275,000. Why this large increase? I will state two rea-

sons. If the gentleman will refer to the report of the Postmaster General he will find that the sale of stamped envelopes—especially those which have superscribed on them a direction for their return, if not called for within ten days—is increasing at an enormous rate; and the Government must buy these envelopes in order to sell them. Another reason will be found stated in a letter which I have this morning received from the Third Assistant Postmaster General, the financial officer of the Department.

The letter is as follows:

POST OFFICE DEPARTMENT,
March 3, 1868.

SIR: In full explanation of the increased estimate of appropriation for postage stamps and stamped envelopes I should have told you yesterday that the contract for stamps will have to be renewed this year and probably at largely increased prices. The old contract price is twelve and a half cents a pound. The new will hardly be less than twenty cents—probably more, judging from the cost of revenue stamps.

I have the honor to be, &c., A. N. ZEVERLY,
Third Assistant Postmaster General.

Hon. J. G. BLAINE, *House of Representatives.*

Now, sir, this $450,000 buys the stamps and stamped envelopes which the Post Office Department sells for over sixteen million dollars, and they cannot use for that purpose one dollar more than we appropriate in this item. It is to pay for the paper and envelopes and stamps for that which returns to the Government over sixteen million dollars. If we put in $50,000, of course that will only buy one ninth of $16,000,000. The amount here indicated is needed.

Mr. PRICE. To be in order I will make another amendment and say $100,000.

Mr. Chairman, I do not yet see the necessity of this appropriation, even after the statement of my friend from Maine. If they sell for more than has been paid for them, so much the better for the Government, and so much the less necessity to make this appropriation. If my friend from Maine when upon the floor had told us, what, perhaps, may be known to every member of this House, but which I am free to confess I do not know how, when this money is expended, the purchase is sold again. If he had told us how this money got back into the Treasury again he would have cleared up a subject on which I am now in the dark. He says if we fail to make this appropriation then these purchases cannot be made.

Mr. BLAINE. How does the Department use this money for this purpose? My friend is laboring under a misapprehension. The engraver makes the die for the stamp, then it is printed and prepared for use, &c., and all these things have to be paid for. These postage stamps and stamped envelopes are the sole revenue of the Post Office Department; and as I stated in my brief opening remarks, the Government realizes from the sale of postage stamps and stamped envelopes $16,000,000.

Mr. PRICE. The gentleman from Maine does not mean to say that the sole revenue of the Post Office Department is derived from the sale of these stamps and stamped envelopes?

Mr. BLAINE. What else does it come from, if not from postage?

Mr. PRICE. There is one item of post office box rents.

Mr. BLAINE. Well, what else?

Mr. PRICE. I might, if I had time, particularize other items. But that is not the issue here. Why, sir, is it necessary to spend $450,000 for the purchase of stamps and stamped envelopes? It is possible the Government may sell them, and it is possible it may not.

Mr. BLAINE. They do not buy them unless they sell them.

Mr. PRICE. It is a rather extraordinary statement that they do not buy them until they sell them.

[Here the hammer fell.]

Mr. BLAINE. The only reason I can give why $450,000 is put into the bill is that it costs $450,000 to buy the stamps and stamped envelopes, which return $16,000,000 to the Treasury. If my friend from Iowa can make them for less than that, let him undertake the contract.

Mr. PRICE. I do not propose to engage in that business. I withdraw my amendment.

The Clerk read as follows:

For miscellaneous payments, including allowances to postmasters for rent, light, fuel, fixtures, stationery, envelopes, &c., $375,000.

Mr. BLAINE. I move after that to insert the following to make the bill conform to the usage:

SEC. 2. *And be it further enacted*, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June 30, 1869, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The Clerk read as follows;

For steamship service between San Francisco and the Sandwich Islands, $75,000.

Mr. FLANDERS. I move the following amendment:

For steamship service between San Francisco, California, and Olympia, Washington Territory, $50,000.

Mr. BLAINE. That is not in order to this appropriation bill. There is no law authorizing it.

The Clerk resumed and finished the reading of the bill.

Mr. BLAINE. I move to amend by adding a section to the bill, as follows:

And be it further enacted, That if the revenues of the Post Office Department shall be insufficient to meet the appropriations of this act, then the sum of $800,000 or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated to supply deficiencies in the revenue of the Post Office Department for the year ending the 30th of June, 1869.

Mr. O'NEILL. Mr. Chairman, my idea of the postal service of the United States is that it is the service which comes nearer the citizen than that perhaps of any other branch of our Government, and I, for one, have never thought the Post Office Department should be conducted strictly on a self-paying basis. In my opinion, mail facilities ought to be enlarged year by year as our country increases and extends, and that we should not keep our minds solely upon the amount of expenditure, under the impression that we must economize with a view of making the service pay for itself. What we want is cheap postage, frequent and rapid mail communication between the different points of the country, frequent deliveries of mail matter, and if the money appropriated is expended judiciously the cost to the Government to be sure must be considered, but not to the exclusion of the vast accommodations to business interests throughout the length and breadth of the land, which can be greatly improved by enlarged postal facilities.

Whenever appropriations are recommended for new mail routes, for carrying mails between commercial points at shorter intervals of time, and in reality putting the people in nearer communication with each other, we should be willing to vote them, and not suffer the principle of doing in this most essential service only so far as it pays expenses to control us. The sooner such a narrow doctrine is exploded the better. I will vote for this amendment.

Mr. BLAINE. I have no doubt my friend will be abundantly gratified and satisfied at the enlarged expenses of this Department. There is no need of any alarm that it will not grow quite as rapidly as most of us desire.

Mr. KELSEY. I move to reduce the appropriation to $100,000, merely for the purpose of saying that I regard this matter of appropriating money for the support of the Post Office Department, or any other Department, as highly objectionable. We might with the same propriety appropriate the whole amount required and place it at the disposal of the Department as to give it this sum of $800,000 in addition to this appropriation, to be expended at its discretion. We are abnegating all control over the expenditures of the Post Office Department, so far as this $800,000 is concerned, and giving to the Department the power to dispose of it as it sees fit. I trust the amendment will not prevail. If the Post Office Department finds itself in the condition of the other Departments when one of the appropriations is deficient the amount can be provided for in the deficiency bill. There is no necessity for confiding to the Department the expenditure of this large sum without defining the purpose for which it shall be expended.

Mr. SPALDING. I desire to inquire if this amount is not limited by the first section, which says this money shall be appropriated out of any revenue received from its own Department?

Mr. BLAINE. I think my friend from New York [Mr. KELSEY] and my friend from Ohio [Mr. SPALDING] are both in error on this subject. We are appropriating in this bill $19,500,000 for the Post Office Department next year. Now, we know as nearly as we can know anything that the Post Office revenue from all sources will be less than seventeen million dollars. They have $2,000,000 to their credit in the Treasury for undrawn balances, and we have got to give them $800,000. My friend from New York is entirely in error in supposing that the Department have any more unlimited control of the $800,000 than they have of the $17,000,000 that come from postal receipts. They have control of all the money, and have got to account for the whole of it.

And I desire further to say that these accounts are audited, and that the Auditing Bureau is one of the most reliable bureaus that this Government ever had. You have the accounts given to the last cent and the last mill, so that there is no danger in giving this $800,000 to this Department. I will even say more; it looks a little like squeamish folly to hesitate in giving $800,000 when we have already voted them $17,000,000.

Mr. KELSEY. I will ask the gentleman if we have not given them $17,000,000 to be expended for definite purposes?

Mr. BLAINE. So we do this $800,000.

Mr. KELSEY. I do not see that. It is uncontrolled.

Mr. BLAINE. It is entirely the same as other appropriations.

Mr. KELSEY. It is for a deficiency that may occur.

Mr. BLAINE. In many of these items.

Mr. KELSEY. It is appropriating for a deficiency in advance and before it has occurred.

Mr. BLAINE. But it is a deficiency which we know must occur. We know, as well as we know anything, that the Post Office receipts will not cover the Post Office expenses.

Mr. FARNSWORTH. I would inquire if this $800,000 will bring up the amount to what is estimated by the Postmaster General as being required by the Department?

Mr. BLAINE. It will; because the gentleman from Illinois will see that we have cut down the estimates of the Department—not without their consent—on two or three items, which brings it down to $800,000. The Postmaster General, in his last estimate, which I hold in my hand, figured up a deficiency of $1,292,000, but that was on the basis that the foreign mail service would amount to $620,000, whereas we cut it down to $420,000, and the payment of balances to foreign countries $500,000, and we cut it down to $350,000; and we reduced his estimates in various other items, so as to bring it down to this amount, which corresponds substantially with the wants and requirements of the Department.

Mr. KELSEY. Then I submit that we have not done our duty in not keeping the appropriations within the limits and in giving him this sum, after cutting down his estimates.

Mr. BLAINE, Not at all; we have such a postal service as requires these appropriations. Now, where is the money? We know we need $19,535,000. Where is the money for that? Nearly seventeen million dollars from postal receipts, $2,000,000 from undrawn balances, and this $800,000 out of the general Treasury. That is the whole account.

Mr. KELSEY. I will withdraw my amendment and let the vote be taken directly.

Mr. SPALDING. I move to strike out "$800,000" and insert "$250,000" in lieu thereof. And I wish to say here, by way of protestation, that I have not the same confidence in the Sixth Auditor for the Post Office Department as the gentleman from Maine [Mr. BLAINE] has. I do not think that bureau is any further removed from suspicion than some others that I could name.

Mr. BLAINE. I did not name "suspicion" in connection with any of them.

Mr. SPALDING. Well, you said it was above all others.

Mr. BLAINE. No, sir; I did not say that either. I merely said it was equal in respectability and reliability to any other.

Mr. SPALDING. It is because the principal officers of that bureau are from Maine. [Laughter.] That is the idea.

Now, I claim, with the gentleman from New York, [Mr. KELSEY,] that we might, with the same propriety, appropriate, in round numbers, $20,260,000, and leave it all subject to a disposition to be made by the Postmaster General, as to put in $800,000 here on the principle suggested by the gentleman from Maine. We have no control over it. I say to you that the money will be used up. There is no doubt about that. If you want to give them a reasonable sum for contingencies give it, but do not give the whole amount to be appropriated for the service of the Post Office Department to be used at the pleasure of a single individual. I object to that, and I think the reasoning of the gentleman from New York is sound. We should hold these contingencies within some reasonable bounds. The gentleman ought not to ask for more than a quarter of a million to be subjected in this way to the pleasure of the Postmaster General, and I certainly shall vote against inserting the $800,000.

Mr. BLAINE. Well, I would not vote a quarter of a million of dollars or ten thousand dollars to be expended at the pleasure of the Postmaster General. My friend from Ohio [Mr. SPALDING] is exceedingly liberal when he says he will vote a quarter of a million dollars to be expended at the pleasure of the Postmaster General or any other officer of this Government.

Now, this matter is very much misunderstood either by me or by other gentlemen; I will leave the committee to judge of that. If we put in this $800,000 now, we will have supplied what will conduct the Post Office Department for the next fiscal year.

Mr. SPALDING. Why was not this matter brought before the Committee on Appropriations?

Mr. BLAINE. I did bring it before that committee.

Mr. SPALDING. It was not brought before that committee at all.

Mr. BLAINE. I beg the gentleman's pardon; I did bring it before the committee.

[Here the hammer fell.]

The CHAIRMAN. The thirty minutes allowed by the House for general debate has now expired.

Mr. BLAINE. I will speak to the amendment. This $800,000 is not to be at the control of the Department for contingencies at all. That is the mistake into which my friend from Ohio [Mr. SPALDING] falls. It is to be under the control of the Post Office Department for all these items for which appropriations are made. The very first clause of this bill is as follows:

That the following sums be, and the same are hereby, appropriated, for the service of the Post Office Department for the year ending June 30, 1869, out of any moneys in the Treasury arising from the revnues of the said Department, in conformity to the act of the 2d of July, 1836.

By one single sweep we there put $16,700,000 into the hands of the Post Office Department. The whole bill appropriates for the use of the Post Office Department the sum of $19,500,000. Now, where is the additional $2,800,000 to come from? The Department has $2,000,000 to its credit of undrawn balances. And where is the $800,000 to come from? The section I have moved proposes to give it, provided the revenues of the Department fall short of the full sum here called for.

Now, whether this be appropriated now or be appropriated next December, I suppose, is a matter of small consequence. But I think it is more direct and frank to say now distinctly what the service will cost instead of calling for it next year in a deficiency bill.

Mr. KELSEY. I think the gentleman from Maine [Mr. BLAINE] fails to meet the objection which I make to his amendment. He proposes by this amendment to appropriate the sum of $800,000 to meet any deficiency that may occur in the appropriation for any item contained in this bill. Now, of course, the expenditure will be entirely in the discretion of the Post Office Department. The Department can make a deficiency in any item for which we have made an appropriation, and then turn around and take this general fund and apply it to that item. This is, therefore, appropriating in advance for a deficiency.

Now, I object to this amendment. I say that if there is to be a deficiency we should ascertain where it is to occur and increase the appropriation for that item in order to meet the expected deficiency. I do not see that the position which I took in the outset is at all met by the gentleman from Maine, [Mr. BLAINE.] This $800,000 is to be appropriated for any purpose that the Department may see fit to apply it to.

Sir, the sole object of having appropriation bills divided up into items is in order that Congress may direct the manner in which the moneys of the Government may be expended, by the Post Office Department as well as by any other Department. We should define and declare the objects for which the money which we appropriate shall be expended.

Now, my objection to this amendment is, that instead of our doing this work, which it is our duty to do, we throw it off by appropriating this large sum of money and leaving the Post Office Department to expend it at their discretion for any purpose connected with that Department. If I am now understood by this committee it is all I desire. I hope this amendment, appropriating this $800,000 in this loose way, to be expended at the discretion of any officer or any Department of the Government, will be voted down. And I hope that all such propositions, whether in this bill or any other, will be voted down.

Mr. FARNSWORTH. I am in favor of the amendment of the gentleman from Maine [Mr. BLAINE] and against the proposition of the gentleman from New York, [Mr. KELSEY,] for this reason: an appropriation to supply what it is supposed will be a deficiency must be left to the discretion of the Postmaster General. It is to be expended for the opening of new mail routes, for supplying mail facilities where none have been supplied before, and in a hundred ways where it would be impossible for Congress to specify the particular manner in which the money shall be expended. We are obliged to leave to the discretion of the Department, subject, of course, to the review of the Sixth Auditor whenever the bills are presented to him for audit, the manner in which the money shall be expended. This large sum appropriated for the transportation of the mails is left to the discretion of the Department to say where it shall beused and how it shall be used, subject to such laws as Congress may have enacted or may hereafter enact; as we sometimes pass laws to fix how much shall be paid to a railroad company for carrying the mails.

But how you can fix it any better I cannot possibly conceive; for Congress certainly cannot define in advance the manner in which this sum shall be expended. There will be a deficit. The Postmaster General estimates that it will be from two to four millions. There must be a deficit. The Post Office Department of this Government cannot be a self-sustaining Department of this Government so long as we continue to supply mail facilities to the new Territories, to the extreme sections of the country which are being settled and developed. I concur in the remarks made a few moments ago by the gentleman from Pennsylvania, [Mr. O'NEILL.] I do not believe that the idea of making the Post Office Department self-sustaining is a sound one. We might as well insist that the Agricultural Department or the War Department or any other department should be self-sustaining. The Post Office Department is the only Department of this Government which is a benefactor, which spreads blessings and benefactions wherever it reaches. The other Departments of the Government are for governing the people. This is a Department for the benefit of the people. Its purpose is to bring the glad messenger who carries the mail to the door of every man, however remote may be his residence; that the little winged messenger, a letter, may come to him once in a while. This Department opens the country to settlement; it extends civilization; it developes the country. It is an error to say that this Department should be self-sustaining, and I hope that this error will be exploded.

Mr. BLAINE. I labor under the disadvantage of not getting my friend from New York, [Mr. KELSEY,] my friend from Ohio, [Mr. SPALDING,] and probably many other gentlemen of the committee to understand what I am trying to say. This item of $800,000 which we put in here is not an additional appropriation. There is not a single dollar of additional appropriation. We go on in this bill and make these various appropriations, $10,500,000 for inland mail transportation, $420,000 for foreign mail transportation, $450,000 for stamps and stamped envelopes, &c. The Postmaster General takes up our appropriations and says: "You have appropriated here in the aggregate $19,500,000. Where am I to get the money?" We say to him, "Why, the revenues of your Department, according to your own estimates, amount to $16,700,000; you further state that you have in the Treasury $2,000,000 of undrawn balances; and then for the residue we put in an appropriation of $800,000." It is not $800,000 in addition. We do not add a dollar to the appropriations. We merely provide where the Department shall get the money to meet the appropriations made in the bill. It would be a flat absurdity for us to leave the Postmaster General with this $19,500,000 of expenditure on his back without giving him the money to pay it.

Mr. SPALDING. I understand the gentleman's position. We appropriate for the Post Office Department $20,000,000, if you please, to be realized out of the revenues of the Department; but if the revenues do not amount to that much we appropriate out of the general Treasury to make up the deficiency.

Mr. BLAINE. Well, is not that fair?

Mr. SPALDING. We make large appropriations out of the proceeds of the Post Office Department for the service of that Department; and then we say that if the proceeds shall fall short in the amount of $800,000 that sum shall be taken from the general Treasury.

Mr. BLAINE. Of course we must say so. Such a provision has been in every appropriation bill of this kind time out of mind.

Mr. SPALDING. I do not misunderstand the gentleman's position; but I say we had better hold the money in our own hands.

Mr. BLAINE. Well, then, let us go back and amend this appropriation bill. In this bill we have appropriated $19,500,000. How are we going to pay this? Is the Government going to pay the appropriations it makes, and is it going to furnish the revenue to do it? I do not think it worth while to prolong this discussion.

I hope we shall have a vote.

Mr. PRUYN. Has the debate been exhausted?

The CHAIRMAN. It has.

Mr. BLAINE. I withdraw my *pro forma* amendment.

Mr. PRUYN. I renew it.

Mr. Chairman, it strikes me as perfectly clear this is not the case of deficiency in the sense in which we use that word. Post routes are established by law. The Post Office Department is established by law. The Postmaster General reports substantially to the committee that $20,000,000 is needed for the service of that Department next year. Seventeen million dollars comes from the Post Office receipts, $2,000,000 cash on hand, and we are asked to provide the balance. It is not, therefore, the case of an anticipated deficiency. It is simply providing for a service which we have ordered, putting the means in possession of the Department to pay for that service, and nothing else.

I am very glad, sir, to hear broad views in regard to the Post Office and the interest attached to it expressed by the gentleman from Pennsylvania [Mr. O'NEILL] and the gentleman from Illinois, [Mr. FARNSWORTH,] and especially by the latter, whose name is connected so prominently with this Department of the Government.

I withdraw my amendment.

Mr. SPALDING's amendment to the amendment was disagreed to.

The question next recurred on Mr. BLANE's amendment.

The House divided; and there were—ayes 40, noes 12; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. BLAINE and Mr. SPALDING.

The committee again divided; and the tellers reported—ayes 69, noes 8; no quorum voting.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Adams, Ames, Anderson, Arnell, Axtell, Bailey, Baker, Banks, Barnes, Barnum, Beaman, Beck, Benjamin, Benton, Boutwell, Boyer, Bromwell, Brooks, Buckland, Cornell, Covode, Dawes, Dixon, Dodge, Eckley, Eggleston, Ela, Eldridge, Ferry, Fields, Finney, Fox, Garfield, Getz, Glossbrenner, Griswold, Haight, Halsey, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Julian, Knott, Maynard, McCullough, Moorhead, Morgan, Morrissey, Mullins, Nunn, Peters, Phelps, Pike, Pile, Plants, Pomeroy, Randall, Raum, Robinson, Shellabarger, Aaron F. Stevens, Stewart, Stokes, Stone, Taffe, Thomas, John Trimble, Van Auken, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, William Williams, Wood, Woodbridge, and Woodward.

The committee rose; and the Speaker having resumed the chair, Mr. ASHLEY, of Ohio, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 832, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869, that, finding itself without a quorum, the chairman had caused the roll to be called, and now reported the names of the absentees to the House.

The SPEAKER stated that a quorum having answered to their names the committee, without motion, would resume its session.

The committee accordingly resumed its session.

Mr. SPALDING. I withdraw all further call for a division on the pending amendment, as the committee has so clearly manifested its favorable disposition toward it.

Mr. BLAINE's amendment was then adopted.

Mr. BLAINE moved that the committee rise and report the bill and amendments.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ASHLEY, of Ohio, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 832, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1869, and had directed him to report the same back with sundry amendments.

Mr. BLAINE demanded the previous question on the amendments.

The previous question was seconded and the main question ordered.

First amendment:

Page 2, line thirty, insert:

Nor of more than one paper; said paper to be a morning paper.

Mr. BLAINE. I hope this amendment will not be concurred in. It is invidious legislation, I think, to say that certain advertisements shall not be printed in a paper because it is published after twelve o'clock in the day. I think we ought not to say any such thing, and I trust the House will not concur in the amendment.

The amendment was disagreed to.

The remaining amendments of the committee were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DISTILLED SPIRITS FOR EXPORTATION.

Mr. SCHENCK. I report back from the Committee of Ways and Means House bill No. 764, for the relief of certain exporters of distilled spirits. This is the bill which was withdrawn the other day after I had made an explanation to the House in order that it might be printed, and the committee was authorized to report this bill back at any time.

The bill was read. It provides that the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits," be so construed as to permit alcohol and rum, which at the date of the passage of said act were already distilled or redistilled and intended for export, or actually contracted for to be delivered for exportation, to be withdrawn, removed, and exported from the United States under such transportation and export bonds and regulations as were required therefor immediately prior to the passage of said act; provided that all such spirits shall be actually exported within thirty days from the passage of this act; and that before any such exportation shall be permitted, proof in writing shall be furnished by sworn evidence to the satisfaction of the Commissioner of Internal Revenue, that such liquor was in fact at the date mentioned intended for export and distilled or redistilled for that purpose or actually contracted for to be so exported, within thirty days from the passage of this act. And upon failure to so export the same within said thirty days, the tax thereon shall become due and payable, and the bonds given for the transportation and export thereof shall be forfeited and collected, as in case of such bonds not canceled according to law.

Mr. SCHENCK. As I explained the object of this bill when it was reported the other day, I will ask now to have it put on its passage unless some explanation is desired, which I am prepared to give on behalf of the committee.

Mr. PRICE. I would like to know why the main object of this bill is not obtained by the parties paying the tax and getting a drawback when the spirits are shipped?

Mr. SCHENCK. For this reason: it would violate the principle of legislation which it has been found expedient of late to adopt, and to which the Committee of Ways and Means desire to adhere, not to have this system of drawbacks in reference to articles exported free of tax. It has been discovered that it only opens another door to fraud. The drawbacks very often have exceeded the tax actually paid. We prefer, therefore, to guard everything that has to go abroad free of tax down to the very point of exportation and take a bond of security that it shall be exported. It is only to avoid opening the door to fraud, which has been very great indeed, that this bill is reported.

Mr. PRICE. I am not desirous of arguing this question. I am only disposed to think that if you compel these men to pay the money you will get it, but if you allow them to take the liquor out for the purpose of exportation you may never get it. I presume the chairman of the committee has studied this question more thoroughly than I have, but to me it looks as if the safest way is to compel these men to pay the tax before they take their liquor from the manufactory. Then I know we have got it; but when they once get the spirits away I do not know whether we shall ever see the money. So far as bonds are concerned, I would not, individually, give much for bonds; and so far as oaths are concerned, in nineteen cases out of twenty I would give a great deal less for oaths than for bonds.

Mr. SCHENCK. So far as that is concerned I suspect there is very little difference between the gentleman from Iowa and myself. I have very little reliance, as a general rule, upon these bonds unless there be other guards; and I have very great reliance on a general system by which the tax shall be paid, as far as practicable, at the place of manufacture. It was that which led the committee to recommend to the House the abolition of the bonded warehouse system, and all the intermediate warehouses between the place of manufacture and the place of export. They only propose now to "let up" in one particular, and that under severe restrictions, and that only for thirty days, to prevent the crushing out of the interests of a certain set of parties or classes who have been injured, as it appeared to the committee, without the intention of the Government so to injure them in their interests by the passage of the bill.

Mr. HARDING. I desire to ask the gentleman if this proposition covers all persons who have made contracts since the proposal of the amendment to the law which abolished the bonded warehouses?

Mr. SCHENCK. No, sir.

Mr. HARDING. I think it should relieve only those who made these contracts in good faith, not anticipating the change in the law.

Mr. SCHENCK. That is precisely what it does. It requires that it shall be shown by sworn evidence that the liquor was prepared for exportation under contracts made before the passage of that act.

Mr. HARDING. Before the proposal to change the law?

Mr. SCHENCK. Before the passage of the bill.

Mr. HARDING. If any parties, in view of the proposed alteration of the law in relation to bonded warehouses, made these contracts, it was a fraud and they ought not to be relieved. If, in view of the early passage of that law, they made contracts to a very large amount they ought not to be relieved.

Mr. SCHENCK. It would be hard to determine in regard to three or four days. But the gentleman will recollect that when that law was proposed it was passed at once. When we struck it was a word and a blow, and the effect of the proposal of the law was to stop anything more of this being done. I ask a vote on the bill.

The substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BRIDGE ACROSS THE OHIO RIVER.

Mr. ALLISON. I move to go to business on the Speaker's table.

The motion was agreed to.

The SPEAKER. The first business on the Speaker's table is the engrossed bill (H. R. No. 384) to authorize the building of a railroad bridge across the Ohio river at Paducah, Kentucky. The bill was ordered to be engrossed and read a third time; the reading of the en-

grossed bill was called for, and as it was not engrossed at the time it went to the Speaker's table. The gentleman from Kentucky [Mr. TRIMBLE] moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

Mr. TRIMBLE, of Kentucky. I withdraw the motion to reconsider.

The engrossed bill was then read the third time.

Mr. TRIMBLE, of Kentucky. I move the previous question on the passage of the bill.

Mr. RAUM. I would ask if the bill is still open to amendment?

The SPEAKER. It is not.

The previous question was seconded and the main question ordered.

The question was then taken upon the passage of the bill; and upon a division there were—ayes 72, noes 25.

Before the result of the vote was announced,

Mr. HOLMAN called for the yeas and nays on the passage of the bill.

The question was taken; and upon a division there were—ayes 13, noes 81; not one fifth voting in the affirmative.

Before the result of this vote was announced,

Mr. HOLMAN called for tellers upon ordering the yeas and nays.

The question was taken; and there were—fifteen in the affirmative; not one fifth of a quorum.

So tellers were refused.

The yeas and nays were accordingly refused.

The bill was accordingly passed.

Mr. TRIMBLE, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NIAGARA SHIP-CANAL.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers, with the report of Colonel Blount, of the Engineer corps, on the surveys for a ship-canal to connect Lakes Erie and Ontario; which was referred to the select Committee on the Niagara Ship-Canal, and ordered to be printed.

IMPEACHMENT OF THE PRESIDENT.

Mr. BUTLER. I am instructed, with one exception, by the board of managers on the part of the House in the matter of impeachment, to report an additional article; being the same I had the honor to offer yesterday as an amendment to the report of the committee to report articles, and which failed for the want of time for its consideration. I ask that the article be read.

Mr. HOLMAN. I rise to a question of order, or rather to a parliamentary inquiry. How does this matter come before this House?

The SPEAKER. It is reported from the board of managers in the matter of impeachment.

Mr. HOLMAN. It purports to be an amendment to something which is not before the House.

The SPEAKER. The Chair rules, as he has ruled in all such cases, that this is a privileged question. And the Chair will also refer to the following paragraph of the original report adopted by the House yesterday:

> And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, &c.

Mr. ELDRIDGE. I rise to a point of order, that the managers as such have no right to report articles of impeachment. They were not appointed for any such purpose, but to present to the Senate the articles adopted by the House. I understand this proposed additional article of impeachment comes from the board of managers, whose duty and office are entirely different from that of the committee which was appointed to prepare and report articles of impeachment for the House to consider.

The SPEAKER. The Chair overrules the point of order on two grounds. In the first place, the usage of the House has been, in all cases of impeachment, that the replication made by the person accused should be referred to the managers, to which the managers prepare a reply and submit it to the House before it is sent to the Senate. This follows precisely the language of the report adopted by the House on yesterday, namely:

> And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require.

Mr. ELDRIDGE. I think the Chair does not quite apprehend my point of order. It is that this subject of preparing articles of impeachment in form for the House to act upon was referred to a committee specially appointed for that purpose. The board of managers were appointed for another and an entirely different purpose. But they assume to themselves the right to report additional articles of impeachment. I think the managers have no right to perform any such office; they were appointed for another purpose.

The SPEAKER. The Chair will conclude his decision upon the point of order, which he said he overruled on two grounds. The Chair has already stated the first ground. The second ground is this: that any member of the House of Representatives, whether one of the board of managers or not, can, as a question of privilege, propose additional articles of impeachment. The Chair makes his ruling so broad in order to cover the entire case. Such article of impeachment may come with more formality from the board of managers, or from a committee specially appointed for the purpose. But the member from Wisconsin, [Mr. ELDRIDGE,] if he sees proper to do so, or any other member, can propose articles of impeachment against any officer of the Government.

Mr. ELDRIDGE. I agree with the Chair that the proposing of articles of impeachment is a question of privilege, and that every member has a right to present such articles to the House; but I insist that this committee, exercising only such authority as has been given to it by the House, has no right to present articles of this kind in the name of the House, acting as its committee and by its authority.

The SPEAKER. The Chair sustains that point of order, as he understands it: that is, that this article cannot be presented to the Senate unless it be agreed to by the House. The gentleman from Massachusetts, [Mr. BUTLER,] as the Chair supposes, presents the article for the purpose of having the sense of the House upon it.

The article presented by Mr. BUTLER was read, as follows:

ARTICLE —.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the Government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States, and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof, (which all officers of the Government ought inviolably to preserve and maintain,) and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and in pursuance of his said design and intent openly and publicly, and before divers assemblages of the citizens of the United States convened in divers parts thereof, to meet and receive said Andrew Johnson as the Chief Magistrate of the United States, did, on the 18th day of August, in the year of our Lord 1866, and on divers other days and times, as well before as afterward, make and deliver with a loud voice certain intemperate, inflammatory, and scandalous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States duly enacted thereby, amid the cries, jeers, and laughter of the multitudes then assembled and in hearing, which are set forth in the several specifications hereinafter written, in substance and effect, that is to say:

Specification First. In this, that at Washington, in the District of Columbia, in the Executive Mansion, to a committee of citizens who called upon the President of the United States, speaking of and concerning the Congress of the United States, said Andrew Johnson, President of the United Statesh, eretofore, to wit, on the 18th day of August, in the year of our Lord 1866, did, in a loud voice, declare in substance and effect, among other things, that is to say:

"So far as the executive department of the Government is concerned, the effort has been made to restore the Union, to heal the breach, to pour oil into the wounds which were consequent upon the struggle, and (to speak in common phrase) to prepare, as the learned and wise physician would, a plaster healing in character and coextensive with the wound. We thought, and wethink, that we had partially succeeded; but as the work progressed, as reconstruction seemed to be taking place, and the country was becoming reunited, we found a disturbing and marring element opposing us. In alluding to that element I shall go no further than your convention and the distinguished gentleman who has delivered to me the report of its proceedings. I shall make no reference to it that I do not believe the time and the occasion justify.

"We have witnessed in one department of the Government every endeavor to prevent the restoration of peace, harmony, and Union. We have seen hanging upon the verge of the Government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States. We have seen this Congress pretend to be for the Union, when its every step and act tended to perpetuate disunion and make a disruption of the States inevitable." * * * *

"We have seen Congress gradually encroach step by step upon constitutional rights, and violate, day after day and month after month, fundamental principles of the Government. We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, allowed to be consummated, would result in despotism or monarchy itself."

Specification Second. In this, that at Cleveland, in the State of Ohio, heretofore, to wit, on the 3d day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did, in a loud voice, declare in substance and effect, among other things, that is to say:

"I will tell you what I did do. I called upon your Congress that is trying to break up the Government."

* * * * * * * * * *

"In conclusion, besides that, Congress had taken much pains to poison their constituents against him. But what had Congress done? Have they done anything to restore the union of these States? No; on the contrary, they had done everything to prevent it; and because he stood now where he did when the rebellion commenced he had been denounced as a traitor. Who had run greater risks or made greater sacrifice than himself? But Congress, factious and domineering, had undertaken to poison the minds of the American people."

Specification Third. In this, that at St. Louis, in the State of Missouri, heretofore, to wit, on the 8th day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did, in a loud voice, declare in substance and effect, among other things, that is to say:

"Go on. Perhaps if you had a word or two on the subject of New Orleans you might understand more about it than you do. And if you will go back—if you will go back and ascertain the cause of the riot at New Orleans, perhaps you will not be so prompt in calling out 'New Orleans.' If you will take up the riot at New Orleans and trace it back to its source or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the radical Congress, you will find that the riot at New Orleans, was substantially planned. If you will take up the proceedings in their caucuses you will understand that they there knew that a convention was to be called which was extinct by its power having expired; that it was said that the intention was that a new Government was to be organized, and on the organization of that Government the intention was to enfranchise one portion of the population, called the colored population, who had just been emancipated, and at the same time disfranchise white men. When you design to talk about New Orleans you ought to understand what you are talking about. When you read the speeches that were made, and take up the facts on the Friday and Saturday before that convention sat, you will there find that speeches were made incendiary in their character, exciting that portion of the population, the black population, to arm themselves and prepare for the shedding of blood. You will also find that that convention did assemble in violation of law, and the intention of that convention was to supersede the reorganized authorities in the State Government of Louisiana, which had been recognized by the Gov-

ernment of the United States; and every man engaged in that rebellion in that convention, with the intention of superseding and upturning the civil Government which had been recognized by the Government of the United States, I say that he was a traitor to the Constitution of the United States, and hence you find that another rebellion was commenced, having its origin in the radical Congress."

* * * * * * *

"So much for the New Orleans riot. And there was the cause and the origin of the blood that was shed; and every drop of blood that was shed is upon their skirts, and they are responsible for it. I could test this thing a little closer, but will not do it here to-night. But when you talk about the causes and consequences that resulted from proceedings of that kind, perhaps, as I have been introduced here, and you have provoked questions of this kind, though it does not provoke me, I will tell you a few wholesome things that have been done by this radical Congress in connection with New Orleans and the extension of the elective franchise.

"I know that I have been traduced and abused. I know it has come in advance of me here as elsewhere, that I have attempted to exercise an arbitrary power in resisting laws that were intended to be forced upon the Government; that I had exercised that power; that I had abandoned the party that elected me, and that I was a traitor, because I exercised the veto power in attempting and did arrest for a time a bill that was called a 'Freedmen's Bureau' bill; yes, that I was a traitor. And I have been traduced, I have been slandered, I have been maligned, I have been called Judas Iscariot, and all that. Now, my countrymen, here to-night, it is very easy to indulge in epithets; it is easy to call a man a Judas, and cry out traitor; but when he is called upon to give arguments and facts he is very often found wanting. Judas Iscariot! Judas! There was a Judas, and he was one of the twelve apostles. Oh! yes; the twelve apostles had a Christ. The twelve apostles had a Christ, and He never could have had a Judas unless He had had twelve apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? These are the men that stop and compare themselves with the Saviour; and everybody that differs with them in opinion, and to try and stay and arrest their diabolical and nefarious policy, is to be denounced as a Judas."

* * * * * * *

"Well, let me say to you, if you will stand by me in this action, if you will stand by me in trying to give the people a fair chance—soldiers and citizens—to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can.

"Let me say to you, in concluding, that what I have said I intended to say. I was not provoked into this, and I care not for their menaces, the taunts, and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But, God willing, with your help, I will veto their measures whenever any of them come to me."

Which said utterances, declarations, threats, harangues, highly censurable in any, are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit, and was then and there guilty of, a high misdemeanor in office.

Mr. BUTLER. Mr. Speaker, I desire the attention of the House for a few moments while I explain this article. The article has a precedent in the trial of Judge Chase. The eighth article on that trial was as follows:

"And whereas, mutual respect and confidence between the Government of the United States and those of the individual States, and between the people and those governments respectively are highly conducive to that public harmony, without which there can be no public happiness, yet the said Samuel Chase, disregarding the duties and dignity of his judicial character, did, at a circuit court for the district of Maryland, held at Baltimore in the month of May, 1803, pervert his official right and duty to address the grand jury then and there assembled, on the matters coming within the province of the said jury for the purpose of delivering to the said grand jury an intemperate and inflammatory political harangue, with intent to excite the fears and resentment of the said grand jury and of the good people of Maryland against their State government and constitution; a conduct highly censurable in any, but peculiarly indecent and unbecoming in a judge of the Supreme Court of the United States," &c.

That article obtained more votes on that trial than any other. Now, I understand the difficulties in the minds of members which prevented the adoption of this article yesterday. It was feared that the introduction of this article would protract the trial. First, by the attempt on the part of the respondent to prove the averments true; and, secondly, by calling a large number of witnesses to prove the President did not speak the words charged. To present the proof on the part of the House of Representatives, we should only have to call the stenographers who took each speech, and they would produce their notes. These men are known and can easily be had. The President, in rebuttal, could only call certain men to swear that he did not say the things alleged. But any court in the trial of parties will allow only a limited number of witnesses to be called upon such points. In this case the witnesses might all be disposed of in a single day. If I were conducting the case, after having proved by the man who took down the words that he took them down as he heard them, their utterance having been undisputed for two years, I would not care if all the citizens of St. Louis, of a certain stripe of politics, should swear that the President did not say substantially the words charged. I would admit they all would testify either that they did not hear them, or did not understand them. The last would be very likely. Therefore I say there need be no delay.

Besides, the managers have all this in their hands. We have the right to strike out any article or decline to produce proof of any article or specification. If we find this article would cause unprofitable delay we have it in our hands to withdraw any portion of it. It is, therefore, within the precedent. It is an article which strikes the mind with conviction of great wrong of every man who reads it, and there can be no doubt of the truth, &c., of its allegations. We show, first, that the words are of such a character that the language should not be used by any man, especially by this man who is President. He is also one of the coördinate branches of this Government, a character of which he cannot divest himself, and he claims it on all occasions while using such language; and lastly, concerning another branch of the Government, we show the gross, blasphemous, and unholy language with which at St. Louis he addressed that jeering and drunken crowd.

Mr. ELDRIDGE. I rise to a point of order. I ask whether we are acting under the rule adopted in reference to the impeachment or acting on a new and independent proposition to impeach the President?

The SPEAKER. What rule?

Mr. ELDRIDGE. The new rule adopted on the 25th of February.

The SPEAKER. The Chair overrules the point of order, and will have the entire rule reported.

The Clerk read as follows:

"*Resolved*, That the rules be suspended, and that it is hereby ordered as follows:

"When the committee to prepare articles of impeachment of the President of the United States report the said articles the House shall immediately resolve itself into the Committee of the Whole thereon: that speeches in committee shall be limited to fifteen minutes each, which debate shall continue till the next legislative day after the report, to the exclusion of all other business except the reading of the Journal; that at three o'clock on the afternoon of said second day the fifteen-minutes debate shall cease, and the committee shall then proceed to consider and vote upon amendments that may be offered under the five-minutes rule of debate; but no merely *pro forma* amendment shall be entertained; that at four o'clock on the afternoon of said second day the committee shall rise and report their action to the House, which shall immediately and without dilatory motions vote thereon: that if the articles of impeachment are agreed on the House shall then immediately and without dilatory motions elect by ballot seven managers to conduct said impeachment on the part of the House"—

The SPEAKER. This part of the order of the House has been executed. The Clerk will now read the concluding part.

The Clerk read as follows:

"and that during the pendency of resolutions in the House relative to said impeachment thereafter no dilatory motions shall be received except one motion on each day that the House do now adjourn."

The SPEAKER. That is the part the House is now acting under.

Mr. ELDRIDGE. We are now acting under this rule. Now, I find nothing in that rule which would authorize the gentleman to present a new article, and to debate that article for one hour. This must be an independent proposition to impeach the President.

The SPEAKER. The Chair will endeavor to make it plain. The first part of the order has already been executed. The part that remains to be executed is that during the pendency of resolutions in the House relative to said impeachment thereafter—that is now—no dilatory motions shall be received except one motion on each day that the House do now adjourn. This additional article of impeachment is offered by the gentleman from Massachusetts; and it is a question of privilege accruing under the Constitution of the United States. It has never been referred to the Committee of the Whole, and is not under the fifteen-minutes limitation of debate. It is before the House, and therefore under the hour rule; and during the pendency of this article there can be only one motion each day that the House do now adjourn.

Mr. GARFIELD. I desire to ask a question. I notice under the rules adopted by the Senate last evening it is ordered, when any interlocutory motion shall be made, that each Senator may speak once and for not longer than ten minutes. Now, I desire to know whether the committee have considered the question whether if they introduce this article as is now proposed—on which I voted in the negative last evening, not because I was opposed to it, but from fear it would increase the time—there would not be a great many questions raised about the admissibility of testimony; and whether under the rule of the Senate, which allows a ten-minutes speech to each of its members, it will not give them an opportunity to protract the trial to a most unlimited extent? If it will not I am in favor of the article; if it will I should certainly be opposed to it.

Mr. BUTLER. Mr. Speaker, there are two answers to my friend from Ohio. I am much obliged to him for the suggestion he makes, because it enables me to speak to the question which troubles him. As to the evidence necessary to be admitted under this article, there is but one question, and that is only to prove the words. You will observe this article does not allege the falsity of the words alleged to have been spoken, because, in my judgment, it is not in accordance with the dignity or proprieties of this House or the other House of Congress to allege the facts or to try the question of the truth or falsehood of an accusation against them, coming from whatever source, as that they are not a constitutional body. Some things must be taken as settled, and this is one of them. The *gravamen* of the article, and the only *gravamen*, is that the words were spoken at all, in the manner and form in which and the purpose for which they were spoken, whether true or false. No man should be so vile as to use such language against the Congress of the United States. No one should go so far wrong as to use such denunciations, and especially if that person be President of the United States.

Now, then, in regard to the question whether under the ten-minutes rule the members of the Senate cannot speak to incidental questions to be raised under this article, as long as they please and upon as many questions as they please, and so protract the trial. My answer is, that the moment this article is made the foundation or pretext for unreasonable delay, then it will be competent for the managers—and for one I should be for it—to withdraw it and offer no proof upon it.

Mr. GARFIELD. Would you withdraw parts of it?

Mr. BUTLER. Yes, sir. There are three specifications; and let me say that the reason why the person who drew the article drew it with three specifications instead of one entire article was that the managers could withdraw either specification of the article, or offer proof under either.

Mr. MUNGEN. I rise to a question of order. I deny the right of the managers to withdraw any article that this House sends to them. The gentleman from Massachusetts [Mr. BUTLER] says it is in their power to present or not to present any one article.

The SPEAKER. The Chair declines to entertain that, as it does not properly come before the House at this time.

Mr. GETZ. Would it be in order to inquire whether the attacks of the President upon Con-

gress have been half as scandalous and indecent as the attacks of Congress upon the President?

The SPEAKER. It would be in order if the gentleman had the floor.

Mr. BUTLER. I yield to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. WOODBRIDGE. I will not detain the House but a moment. I wish simply to say now, in order that the gentleman from Massachusetts [Mr. BUTLER] may answer the objection, that I am opposed to this article for two reasons. The first is that if the President of the United States is put on his trial under this specification it will take a long time, almost equal, perhaps, if the counsel desire it, to the Warren Hastings trial, which, I believe, was about seven years. For that, if for no other reason, I should be opposed to this article.

The other reason that there is no offense charged under which a conviction can be had: the article concludes as follows:

"Which said utterances, declarations, threats, and harangues, highly censurable in any, and peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit, and was then and there guilty of, a high misdemeanor in office."

Now, sir, there are under the Constitution but two offenses under which a conviction can be had, namely: high crimes and misdemeanors. Neither of these is charged in this article. It is not a crime or misdemeanor in the President to bring himself into public obloquy before the people by reason of his improper speech. It is not a crime for him to make remarks when "swinging round the circle" or elsewhere, that may be distasteful to the Congress of the United States or that may be very improper. I have yet to learn that the President of the United States, or any civil officer, can be impeached, except for a high crime or misdemeanor. The gentleman will not pretend that he has set forth either in this article. He only states that the President had brought himself into public disgrace by reason of public speeches which he made before the country. Now, all I ask of my friend is that he will so frame his article that at least the Senate, sitting as a high court of impeachment, may entertain it as being properly charged.

Mr. BUTLER. Mr. Speaker, I am glad that this old dogma of non-liability to impeachment for indictable crimes that I had supposed was dead and buried—I knew it stunk [laughter]—this idea that the President can only be impeached because he has committed some indictable crime, has resurrected itself once more, so that I shall be able for the first time to get a fair blow at it. What is the proposition of those gentlemen who insist that the President can be impeached for those acts only which are indictable as crimes under some statute?

Mr. WOODBRIDGE. I desire to say to the gentleman——

Mr. BUTLER. I decline to yield. Now, what is this proposition? The proposition is this, that for the lowest degree of indictable crime, to wit: an assault and battery, or, as a friend suggests, selling liquor without license, the President of the United States may be impeached, but he cannot be impeached when he usurps the liberties of the people, because there is no indictment under any statute against that. He may be impeached for selling liquor without a license, but he cannot be impeached if he gets into an open barouche with two abandoned women, one on each side of him, roaring drunk, and rides up and down Pennsylvania avenue, because there is no statute that I know of against that. He cannot be impeached for any violation of public decency which does not happen to be an indictable crime. He cannot be impeached for debasing his high office. The statement of this proposition is its best refutation. Here let me say to my friend from Vermont that I have not charged in this article that the President has brought himself into ridicule and contempt. If he had only done that I should have been quite willing to let him go unpunished, [laughter,] but I do say that he brought the high office which he fills—no, which he occupies—into sovereign disgrace, ridicule, and contempt, so that it is hardly respectable for a decent man to fill hereafter; and is not that an impeachable misdemeanor? I do not stand upon this point on the weight of authority of my own words alone. I stand upon the authority of one of the best lawyers that ever sat upon the bench, Judge Story, of the Supreme Court of the United States, who uses these words to define what is impeachable:

"It is a proceeding, probably the fairest that could be devised, by which the people, through the action of that branch of the Government which most directly and fully represents themselves, call in question the fitness of their public officers, and dismiss them if unfit."—*Story on the Constitution*, sec. 810.

Now, is there any one in this House, or outside of this House anywhere in the country, who would vote that Andrew Johnson is a "fit" man to be President of the United States? Who will say "ay" to that anywhere? This article has been drawn exactly within the precedent of Judge Chase's case. Of all the great lawyers who defended Judge Chase—and he had one, Mr. Wirt, who argued two days in succession for him—no one ventured to say to the Senate that that article, if proved, was not a misdemeanor within the provisions of the Constitution.

Mr. ELDRIDGE. Mr. Speaker——

Mr. BUTLER. I cannot yield.

Mr. ELDRIDGE. I wish to ask the gentleman a question simply.

Mr. BUTLER. Oh, I yield for a question.

Mr. ELDRIDGE. That is all I wish. I desire to ask if the opinion of Judge Story, which he has quoted, is not in direct conflict with the decision of the United States Supreme Court upon this very point?

Mr. BUTLER. I can answer that. No, sir; no. The Supreme Court never has decided that question. They have decided a great many other things, but not that. It is not within their jurisdiction to decide it. This great question is to be decided only here at first, and lastly in the highest court in the land, the Senate of the United States, sitting in its judicial capacity, for I will not use the phrase "as a high court of impeachment." If the Supreme Court should undertake to decide it its decision should be brushed away as a cobweb, because that court can have no jurisdiction over the question, for the judges themselves are liable for that very opinion to be impeached before that higher court, the Senate of the United States, sitting as a court upon a question of impeachment.

Now, a single word upon the other point suggested by the gentleman from Vermont, whether we can afford to give to this question the needed time. I repeat that while we have in the articles which we already have presented good, strong law, good, indictable crimes, and in one or two of them, I doubt whether crimes, but still impeachable misdemeanors, yet we have only presented to the Senate and country the bones and sinews of the offenses of Andrew Johnson. I want to clothe those naked bones and sinews with flesh, enliven them with blood, and show him as he is, the living, quivering sinner that he is, before this country. Why, sir, hereafter, when posterity shall come to examine our proceedings of this day, if they read only the articles which we have heretofore presented, they will wonder why, even with so good a case as we have upon mere questions of technical law, we undertook, without other provocation, to bring this prosecution against a good and great man, as the President, without other proof or allegation, ought to be presumed to have been.

Now, if on the same page with all these technical offenses we spread upon the record his character, described in living words which shall burn like fire, as spoken by himself then if, in the language of a Democratic friend of his, we send "Andrew Johnson down to posterity as a representative man of this age," we shall also put on him a label, which shall stick to him for all time, to describe of what manner of man he was. When the ephemeral publications of this day shall have passed away and been forgotten then his great crimes will escape men's minds, and they will remember only his great fall and condign punishment, and wonder at the apparent and comparative harmlessness of his offenses as they stand recorded, unless we show them the man as he is and is known to us his contemporaries.

But if we place this article side by side with the articles setting forth his technical crimes we show to all posterity the justification for our action; and they will only wonder why we bore with him so long. If we leave the articles as they now stand posterity may well wonder why we struck him at all. If we add this article they will wonder why we were so patient and long suffering.

I now yield for a few minutes to my friend from Iowa, [Mr. WILSON,] one of the managers, and then I shall feel myself constrained to bring this House to a vote on this article by calling the previous question.

The SPEAKER. For how long a time does the gentleman yield?

Mr. BUTLER. I will ask the gentleman from Iowa how long a time he wants?

Mr. WILSON, of Iowa. I suppose I can say all I desire to say in ten minutes.

Mr. BUTLER. I would inquire of the Chair how much time I now have?

The SPEAKER. The gentleman's hour will expire in thirty-five minutes.

Mr. BUTLER. I will yield to the gentleman from Iowa for the time he asks, ten minutes.

Mr. WILSON, of Iowa. The gentleman from Massachusetts [Mr. BUTLER] stated, when he reported this article to the House, that one member of the board of managers dissented from it. I am that dissenting member. I believe that the case embraced in the articles adopted yesterday is one on which we can convict Andrew Johnson, President of the United States, and dismiss him from his office. I have faith in the completeness of that case. I am free to say, as was said by the chairman of the committee on the preparation of articles of impeachment, [Mr. BOUTWELL,] when they were first presented to this House, that if we cannot obtain a conviction on those articles we will not probably obtain a conviction on any.

But, in order to satisfy some gentlemen who thought that we had better have something more embraced in the case to be presented by the House, I have agreed to one more article, which has not yet been reported from the board of managers. That goes as far toward opening the door for a prolongation of this proceeding as I feel willing to go.

It must be remembered that while we control the proceeding in its present stage, and may prolong it or cut it short at our will, when we enter upon this trial before the Senate as a board of impeachment we will have control of but one side of the case. We are not to determine what questions the counsel for the defense may raise, how many they may raise, how much time they may take in their consideration, what witnesses may be introduced, or what evidence they may offer. That belongs to them and for the court to determine. Therefore, while, as I have said, we can now control the matter here, we will have control of but one side of the case when we come before the Senate.

Again, the gentleman from Massachusetts [Mr. BUTLER] says that he has a precedent for this article in the case of the impeachment of Justice Chase. But does not the gentleman remember the result which the court reached upon that article? It resulted in the acquittal of Judge Chase. If, then, the precedent is worth anything at all, it is worth something as a warning to us not now to try in the Senate that which failed there once before.

I would also call the attention of the gentleman from Massachusetts to this difference between the Chase case and the case of the

President. The utterances of Judge Chase, upon which was founded the article to which the gentleman refers, came from his lips while he was sitting upon the bench presiding as a judge over a United States court; they were not the utterances of Judge Chase as an individual from the steps or the balcony of some hotel in the city of Baltimore. Therefore there is a very wide difference between that case and the one which the gentleman now proposes to carry to the Senate for trial. It is nowhere asserted or proved that those utterances of Andrew Johnson, reprehensible, outrageous, improper, and in some cases infamous, as they were, were uttered by him while he was discharging the duties of his office, as Judge Chase was discharging the duties of his when he uttered the language upon which was based the article to which the gentleman refers as a precedent. Let us, then, before we undertake to run this parallel, remember that it is not complete.

Now, this House knows my views perfectly well with regard to the law governing this case. Yet from the first I have said that, inasmuch as it is an open question in this country whether other offenses than those defined by statute are impeachable, I would be willing to let the question go to the court of impeachment in order that the doctrine may be settled as to whether the power of impeachment in this country includes all common-law offenses, as well as offenses defined by statute. I am willing, I say, to let that question be decided by that court, for by that court alone can it be determined. But I beg the gentleman from Massachusetts, and I beg this House, to remember that if, under the article which he proposes, the counsel for the defense of the President should be disposed to prolong the trial, there could be very little limit except by a resort to the means which the gentleman has suggested, an abandonment of the article.

Well, sir, if that article be abandoned what shall we have left? The case which we have already made up? Would the gentleman abandon the article if he did not believe that there would be remaining in the case sufficient matter on which to convict the President? And if the gentleman believes there is in the remaining articles enough on which to convict Mr. Johnson, why should we load down the record with this additional article? It is a conviction we desire, because we believe the President is guilty of the crimes and misdemeanors with which we have charged him. If our articles charge him properly with crimes and misdemeanors, upon which a conviction can be obtained, it can be obtained in less time, with more satisfaction to the country, and with greater regard to the other interests of the country upon the articles already adopted by the House, and one other which may be reported from the committee.

This, sir, is all I desire to say on this occasion. I will not enter into a discussion of the questions of law involved. I have made these remarks by way of suggestion that as a matter of proper caution we keep this case in such a shape that it may be disposed of in reasonable time.

Mr. BUTLER. The reasons stated by the gentleman from Iowa [Mr. WILSON] have been fairly and properly put before the House; and they deserve a fair and reasonable consideration. I propose to answer the first point he makes; that is as to the applicability of the precedent I have cited. It is true that Judge Chase made that "inflammatory political harangue" upon the bench. But a judge exercises his office only while on the bench, while the President of the United States can always exercise his office, can exercise it wherever he may be. He can never divest himself of that high character. He is the President of the United States, clothed with the high dignity of his office, when he stands upon the balcony of the hotel at St. Louis as well as when he sits in the East Room of the White House. He always is an officer of the Government of the United States, never dying in that capacity, because another steps into his position the moment the bullet of the assassin deprives him of life.

Now, I want to call the attention of my friend from Iowa to the fact that in 1862 this House impeached Judge Humphreys, of Tennessee, upon the complaints of Andrew Johnson himself, for making a political speech on the stump on the 19th of December, 1860. Before the commencement of the war, before Sumter was fired on, before South Carolina had seceded, Judge Humphreys made a speech at Nashville; and in that speech——

Mr. WILSON, of Iowa. The gentleman will excuse me for interrupting him. I desire to correct him. The speech made by Judge Humphreys was after the passage of the ordinance of secession by South Carolina; after South Carolina had levied war upon the United States by arraying armed men under the authority of the State in hostility to the United States Government.

Mr. BUTLER. *Quis custodiet custodeam?* Who shall correct the corrector? Who shall keep the keeper? Why, sir, on the 19th of December, 1860, when Judge Humphreys made that speech, will any one say that war was raging between this Government and South Carolina?

Mr. WILSON, of Iowa. The gentleman will pardon me. I stated that war had been levied, levied by the assembling of hostile bodies of armed men.

Mr. BUTLER. I hope the gentleman will remember what was the day on which Anderson left Fort Moultrie for Fort Sumter. That was after this speech of Judge Humphreys. Now, what was the speech? The speech simply was that the State of Tennessee had the right to secede—a declaration that Calhoun and his followers had made everywhere in the last thirty years. Yet Andrew Johnson thought it was so foul a political wrong that he complained to this House, and West H. Humphreys was arraigned on that charge, as well as on the charge that he had appropriated the property of Andrew Johnson. He failed to prove the last charge, but West H. Humphreys was found guilty on the first charge, and dismissed from his office of judge. Am I not right? I commend now the same chalice to the lips of Andrew Johnson.

Mr. WILSON, of Iowa. The ordinance of secession was passed on the 17th of December, and this speech was made on the 29th of December.

Mr. BUTLER. I have not said a word as to when the ordinance of secession was passed. No war had then been levied. No war had begun in Tennessee at that time. This was a mere political speech.

Again, the gentleman seeks to blind this House to the true issue by affirming that Judge Chase was not convicted. I agree that he was not; but I say again to this House, there were more votes of guilty upon this article than on any other. I am certain I am right on that point, for I have the book before me. I repeat that on this article—and there were seven others—more votes were given against Judge Chase than upon any other. And what is a little remarkable, this was the only one where there was not a strict party vote. He could not carry all his party even on that article.

The trouble is this: the gentleman still holds to his notion that there must be some indictable crime committed in order that there may be an impeachable offense.

The gentleman has been "taking tithes of mint and anise and cummin, and neglecting the weightier matters of the law." He would not object to this if he had not about him the lingering ghost of "indictable crimes." That is where the trouble comes in. I have never had any difficulty in my own mind on the subject. I have agreed to his articles of contrary indictable crimes. I think we may convict on them. I hope and believe we shall. I want this article, however, to go down to posterity as one justification, showing the manner of man we had to deal with; and I pledge myself, with the aid, and the able aid, of my friend from Iowa, and I acknowledge his ability, we will try this case within one day of five hours.

I have no idea there will be any such delays as we feared here. Excellent, able counsel, who have reputations of their own, both professional and personal, will be employed to defend Andrew Johnson. They are to do this in the face of the country, and there is no man who depends upon his professional reputation who will call witnesses merely for the purpose of delay. He dare not do it. Therefore you need not fear any of such delays. When it comes to the question of proof, if there be too great delay, we can withdraw it; but the article will go down to posterity as a charge that stood upon the public journals uncontradicted for two years, and that we only withdrew it because there was not time in which to examine it.

I trust the House will sustain the action of the board of managers, which is unanimous with the exception of my friend; and that it will also sustain the managers in reporting another article which will be reported as soon as we dispose of this.

I take leave to read the article on which West H. Humphreys was convicted, to show another precedent for the article before the House:

"That, regardless of his duties as a citizen of the United States, and unmindful of the duties of his said office, and in violation of the sacred obligation of his official oath, 'to administer justice without respect to persons,' 'and faithfully and impartially discharge all the duties incumbent upon him as judge of the district court of the United States for the several districts of the State of Tennessee, agreeable to the Constitution and laws of the United States,' the said West H. Humphreys, on the 29th day of December, A. D. 1860, in the city of Nashville, in said State, the said West H. Humphreys then being a citizen of the United States, and owing allegiance thereto, and then and there being judge of the district court of the United States for the several districts of said State, at a public meeting on the day and year last aforesaid, held in said city of Nashville, and in the hearing of divers persons then there present, did endeavor by public speech to incite revolt and rebellion within said State against the Constitution and Government of the United States, and did then and there publicly declare that it was the right of the people of said State, by an ordinance of secession, to absolve themselves from all allegiance to the Government of the United States, the Constitution and laws thereof."

Precisely what we charge Andrew Johnson. I yield to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I do not desire to discuss the legal proposition, but I want to say a word or two upon the question before the House. I am really very sorry to see any difference of opinion on this matter between any of the managers on the part of the House. I supposed this proposition would pass this body without any objection on the part of the committee or its friends. Now, sir, although it is not always the case that you can convict a man on every count on an indictment, I do not suppose there is a lawyer in this House who will say that he ever knew a man to fail to be convicted because there were too many counts in the indictment against him. Your evidence may sometimes go beyond the counts or the charges you have made, but if you have enough of them you can catch him on some one. I believe no one will deny that proposition.

Now, I believe we can convict Andrew Johnson on the counts or charges that we have. Indeed, I have no doubt of it. But other persons may not entertain the same opinion that I do. Surely, therefore, adding an article or count to the indictment will not procure his acquittal. Therefore I cannot see what injury can be done to the case by the addition.

Now, in answer to the suggestion made a little while ago that the managers on the part of the House would have no right to withdraw any count or article, if the gentleman from Ohio [Mr. MUNGEN] is a lawyer he should know that the managers become the attorneys or prosecutors for the House on behalf of the people of the country, and as such they have a right to introduce proof in support of one article or of two articles or in support of each and all the articles that have been preferred

against the President. They may introduce proof in support of only one article and may withhold all proof in regard to the others. That is a question for them to determine as prosecuting attorneys before the court of impeachment.

Mr. MILLER. Do I understand the gentleman to say that if they should give some evidence on one of the charges they could withdraw it so as to prevent the accused from rebutting the evidence given against him?

Mr. LOGAN. No, sir; I did not say that at all. I said that the managers might introduce evidence to support one count or one article, and if they deemed that evidence sufficient for a conviction under the article they might abandon all the other articles by introducing no further testimony. That I take to be sound law.

Now, sir, although I admit that my friend from Iowa, [Mr. WILSON,] the chairman of the Judiciary Committee, is a good lawyer, yet it does seem strange to me that he should become so technical in regard to everything that comes before the House as to seem to require that the law must be as he lays it down, or else it cannot be law at all. That does not seem to me to be a very good rule. Now, I am in favor of the article drawn by my friend from Iowa [Mr. WILSON] and of the article of the gentleman from Massachusetts [Mr. BUTLER] too, not because I admire either gentleman more than the other, not because one may be a better lawyer than the other, but because I think both articles are proper, and because I know that either of them can be withdrawn at any time we desire to do so. Hence I do not see any injury that can be done by having these additional articles.

The gentleman says we can convict the President upon what articles we have. I grant it. But he says we do not want any others. Now, I take the position that, though we can convict on the present articles, it will do no harm to have others. Because, if we can convict on those we have, our case is not injured by having more; but if we fail to convict on the present articles, and have no more, then we fail entirely. Hence I say we are doing ourselves no harm by having additional articles in this case. Whether we desire to proceed under them all or not is a different question, and one that can only rise when we come to examine the testimony as applicable to the other articles. We can then determine whether it is expedient to go further or not.

Mr. BUTLER. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. NICHOLSON and Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 43, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Baldwin, Banks, Beaman, Beatty, Bingham, Blaine, Blair, Boutwell, Broomall, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Perham, Pike, Polsley, Raum, Sawyer, Schenck, Scofield, Shanks, Spalding, Starkweather, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, and Thomas Williams—87.

NAYS—Messrs. Adams, Archer, Delos R. Ashley, Barnum, Beck, Brooks, Burr, Cary, Coburn, Eldridge, Golladay, Griswold, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Laflin, Mallory, Marshall, Marvin, McCormick, Morgan, Mungen, Niblack, Nicholson, Pomeroy, Pruyn, Ross, Sitgreaves, Smith, Stewart, Taber, Lawrence S. Trimble, Van Trump, James F. Wilson, John T. Wilson, Windom, and Woodbridge—43.

NOT VOTING—Messrs. Anderson, Arnell, Axtell, Bailey, Baker, Barnes, Benjamin, Benton, Boyer, Bromwell, Buckland, Chanler, Cornell, Covode, Dawes, Dixon, Dodge, Eckley, Ela, Fields, Finney, Fox, Getz, Glossbrenner, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Jenckes, Ketcham, Maynard, McCullough, Moorhead, Morrissey, Mullins, Nunn, Paine, Peters, Phelps, Pile, Plants, Poland, Price, Randall, Robertson, Robinson, Selye, Shellabarger, Aaron F. Stevens, Stokes, Stone, John Trimble, Van Auken, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, William Williams, Stephen F. Wilson, Wood, and Woodward—59.

So the tenth article was agreed to.

During the roll-call,

Mr. TABER stated that Mr. BARNES was unavoidably detained from the House; if present he would have voted in the negative.

Mr. ECKLEY stated that he was paired with Mr. MCCULLOUGH, who would have voted in the negative, and he, Mr. ECKLEY, in the affirmative.

The result of the vote was announced as above recorded.

Mr. BINGHAM. I am unanimously instructed by the board of managers to report the additional article, which I send to the Clerk's desk, and to put the same upon its passage.

The Clerk read as follows:

ARTICLE XI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, and in disregard of the Constitution and laws of the United States, did heretofore, to wit: on the 18th day of August, 1866, at the city of Washington, and the District of Columbia, by public speech, declare and affirm in substance, that the Thirty-Ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same; but, on the contrary, was a Congress of only part of the States, thereby denying and intending to deny that the legislation of said Congress was valid or obligatory upon him the said Andrew Johnson, except in so far as he saw fit to appove the same, and also thereby denying and intending to deny the power of the said Thirty-Ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterward to wit: on the 21st day of February, 1868, at the city of Washington in the District of Columbia, did unlawfully and in disregard of the requirements of the Constitution, that he should take care that the laws be faithfully executed, attempt to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, by unlawfully devising and contriving and attempting to devise and contrive means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension therefore made by said Andrew Johnson, of said Edwin M. Stanton from said office of Secretary for the Department of War, and also by further unlawfully devising and contriving and attempting to devise and contrive means then and there to prevent the execution of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1868, and for other purposes," approved March 2, 1867, and also to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; whereby the said Andrew Johnson, President of the United States, did then, to wit: on the 21st day of February, 1868, at the city of Washington, commit and was guilty of a high misdemeanor in office.

Mr. BINGHAM. I desire to say to the House that the board of managers unanimously agree to that article, and direct me to put it upon its passage. I call the previous question.

Mr. BROOKS. I rise to ask if that article has been printed?

The SPEAKER. The Chair thinks not.

Mr. BROOKS. I think it better to vote it without its being printed.

Mr. ELDRIDGE. Would not the House now consent that my protest shall now come in? It seems to me the statements in that protest are now true, if they were not true this morning. I think the gentleman from Massachusetts [Mr. DAWES] would not deny their truth now.

Objection was made.

The question was upon seconding the call for the previous question.

The previous question was seconded, and the main question was ordered; which was upon agreeing to the article.

Mr. BURR and Mr. KERR called for the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. I ask that the article be read again.

The SPEAKER. It will be read again if there be no objection; although it has already been read once at this stage.

Mr. KELSEY. I object to its being read again at this time.

Mr. ELDRIDGE. Very well; I do not know that it is worth while to have it read again; it is a mere matter of impeachment.

The question was then taken upon agreeing to the article; and it was decided in the affirmative—yeas 108, nays 32, not voting 49; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Beatty, Bingham, Blaine, Blair, Boutwell, Broomall, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Dixon, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—108.

NAYS—Messrs. Adams, Archer, Barnum, Beck, Brooks, Burr, Cary, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Pruyn, Ross, Sitgreaves, Stewart, Taber, Lawrence S. Trimble, and Van Trump—32.

NOT VOTING—Messrs. Anderson, Arnell, Axtell, Bailey, Baker, Barnes, Benjamin, Benton, Boyer, Bromwell, Buckland, Chanler, Covode, Dawes, Dodge, Eckley, Ela, Fields, Finney, Fox, Glossbrenner, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Maynard, McCullough, Moorhead, Morrissey, Mullins, Nunn, Peters, Phelps, Pile, Randall, Robinson, Selye, Shellabarger, Aaron F. Stevens, Stokes, Stone, John Trimble, Van Auken, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, William Williams, Stephen F. Wilson, Wood, and Woodward—49.

So the eleventh article was agreed to.

During the call of the roll,

Mr. LAFLIN said: My colleague, Mr. BAILEY, is detained at his room by sickness.

Mr. HOLMAN said: I desire to state that the gentleman from Pennsylvania, Mr. GETZ, has been called away from his seat; if he were here he would vote in the negative.

Mr. LOAN said: My colleague, Mr. BENJAMIN, is paired with Mr. BOYER upon this question. If my colleague were present he would vote in the affirmative.

Mr. SAWYER said: My colleague, Mr. PAINE, has been unexpectedly called away. If he were here he would vote in the affirmative.

The vote was announced as above recorded.

Mr. BINGHAM moved to reconsider the vote by which the article was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BINGHAM. I move that the two articles just agreed to be printed, with the articles agreed to by the House yesterday.

The motion was agreed to.

Mr. BINGHAM. I offer the following resolutions, and upon them I call the previous question.

Resolved, That the articles agreed to by the House this day, together with those adopted by the House on yesterday, to be exhibited in the name of the House of Representatives and of all the people of the United States, against Andrew Johnson, President of the United States, in maintenance of their impeachment against him for high crimes and misdemeanors in office, be carried to the Senate by the managers appointed to conduct said impeachment.

Resolved, That the managers on the part of the House, in the matter of the impeachment of the President, be, and hereby are, authorized to appoint a clerk and a messenger, to be paid for their services at the usual rates during the time that they are employed; and that the managers have power to send for persons and papers.

The previous question was seconded and the main question ordered.

Mr. BROOKS. I would inquire what powers it is intended shall be exercised by conferring this authority to send for persons and papers?

Mr. BINGHAM. The powers usually exercised by the House of Representatives in cases of this kind.

Mr. BROOKS. Have not the Senate all the necessary power already?

Mr. BINGHAM. The power to send for persons and papers was definitely given before to the committee to prepare and report articles of impeachment. The same power certainly ought to be given to the board of managers.

Mr. BROOKS. I object to this general authority to committees to investigate conversations and matters of that kind.

The question was upon agreeing to the resolutions offered by Mr. BINGHAM.

Mr. KERR. Upon that question I ask for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 21, noes 95; not one fifth voting in the affirmative.

Before the result of the vote was announced, Mr. HOLMAN called for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. HOLMAN and Mr. BINGHAM were appointed.

The House again divided; and the tellers reported that there were—ayes twenty-nine, noes not counted.

So (the affirmative having more than one fifth of the last vote) the yeas and nays were ordered.

Mr. HIGBY. I move that the House now adjourn.

On the motion there were—ayes thirty-four, noes not counted.

So the motion was not agreed to.

The question was taken on the resolutions offered by Mr. BINGHAM; and it was decided in the affirmative—yeas 96, nays 27, not voting 66; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Beatty, Bingham, Blaine, Boutwell, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Dixon, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, O'Neill, Orth, Perham, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Starkweather, Thaddeus Stevens, Taffe, Taylor, Thomas, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—96.

NAYS—Messrs. Barnum, Beck, Brooks, Burr, Cary, Eldridge, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Niblack, Nicholson, Pruyn, Ross, Sitgreaves, Taber, Lawrence S. Trimble, and Van Trump—27.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, Axtell, Bailey, Baker, Barnes, Benjamin, Benton, Blair, Boyer, Bromwell, Buckland, Cake, Chanler, Coburn, Cornell, Covode, Dodge, Eckley, Ela, Fields, Finney, Fox, Getz, Glossbrenner, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Logan, Maynard, McCullough, Moorhead, Morrissey, Mullins, Mungen, Newcomb, Nunn, Paine, Peters, Phelps, Pike, Pile, Plants, Poland, Randall, Robinson, Selye, Shellabarger, Spalding, Aaron F. Stevens, Stewart, Stokes, Stone, John Trimble, Trowbridge, Van Auken, Burt Van Horn, Van Wyck, Elihu B. Washburne, Henry D. Washburn, William Williams, Stephen F. Wilson, Wood, and Woodward—66.

So the resolutions were adopted.

During the roll-call,

Mr. O'NEILL said: On all these questions my colleague, Mr. RANDALL, is paired with Mr. HUBBARD, of Iowa.

The result of the vote was announced as above stated.

Mr. LOGAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOUTWELL. I withdraw my motion to reconsider the vote by which the House yesterday agreed to the several articles of impeachment.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. PAINE for one week.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States by Col. W. G. MOORE, his Private Secretary, announced that the President had, on the 2d instant, approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 223) in relation to islands in the Great Miami river;

An act (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad;

An act (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company as hereafter constructed a post road, and for other purposes;

Joint resolution (H. R. No. 105) authorizing the Comptroller of the Currency to revoke the appointment of receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said bank to its owners under certain conditions; and

Joint resolution (H. R. No. 104) authorizing the transmission through the mails free of postage of certain testimonials by the adjutant generals of the several States.

IMPEACHMENT OF THE PRESIDENT.

Mr. JENCKES. I rise to a question of privilege, and offer the following as an additional article in the impeachment of the President of the United States:

That Andrew Johnson, President of the United States, has heretofore, and within the District of Columbia and elsewhere within the United States, being actuated by the unlawful intent and design to assume and exercise the control and command of the armies of the United States without being bound by the laws establishing rules for the government and regulation of the land and naval forces of the United States, passed by the Congress of the United States in pursuance of the powers granted to Congress for said purpose by the Constitution of the United States, and to exercise the functions of Commander-in-Chief of said armies otherwise than in accordance with the provisions of said laws, and to prevent said armies and the officers thereof from being the instruments of the execution of the laws of the United States, and especially of an act entitled "An act for the more efficient government of the rebel States," passed March 2, A. D. 1867, and the additional acts supplementary thereto and in amendment thereof, unlawfully and willfully and unmindful of the duties of his office as President of the United States, and during the term for which he is entitled to discharge the duties of said office, and in violation of the Constitution and laws of the United States and of his oath of office, and especially of the acts of Congress prescribing rules for the government and regulation of the land and naval forces of the United States, and of the act, being one of said acts, approved March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, A. D., 1868, and for other purposes," and also of the act approved July 31, A. D., 1861, entitled "An act to define and punish certain conspiracies," and also of the act entitled "An act regulating the tenure of certain civil offices," passed March 2, A. D. 1867, and also of that clause of the Constitution of the United States which declares that Congress shall have power "to establish rules for the government and regulation of the land and naval forces of the United States," and also of that other clause of the Constitution of the United States which declares that the President shall have power to "nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein," that is to say, in said Constitution, "otherwise provided for, and which shall be established by law;" and also of that other clause of the Constitution which requires the President to see that the laws are faithfully executed, attempted to obtain and exercise control and command of said armies of the United States and of the officers thereof, and has attempted to remove the chief officer in the War Department, being the Secretary of the Department of War and the head thereof, and has attempted to appoint another person to perform the duties of Secretary of War *ad interim*, when no vacancy had occurred in said office under the laws creating and governing the same, and has also, acting under the willful and criminal intent and design aforesaid, at the city of Washington, in the District of Columbia, on the 21st day of February, A. D. 1868, by writing, signing, and delivering to the Secretary of War, Edwin M. Stanton, a letter in substance as follows, to wit:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

Hon. EDWIN M. STANTON, *Washington, D. C.*

And also at said city of Washington, in said District of Columbia, on said 21st day of February, A. D. 1868, by writing, signing, and delivering to one Lorenzo Thomas a letter purporting to be a letter of authority, in substance as follows, to wit:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Attempted to create a vacancy in the office of Secretary of War without warrant therefor, either by the Constitution or laws, and with the same willful and criminal intent and design as aforesaid attempted to fill the supposed vacancy thus unlawfully sought to be created by the actual appointment of the said Lorenzo Thomas as Secretary of War *ad interim*, when no vacancy had in law or in fact occurred within the true meaning and intent of the Constitution and laws, and without the advice and consent of the Senate of the United States, then in session, and thereupon did induce and persuade and undertake to authorize the said Thomas, by the letter aforesaid, and by other communications with him, the said Thomas, to attempt to enter upon the performance of the duties of the office of Secretary of War *ad interim*, and did thereby cause him to undertake to perform the duties of said office, contrary to law, and by force to prevent, hinder, and delay the execution of the laws of the United States hereinbefore referred to, and did cause him, the said Thomas, to attempt by force to seize, take, and possess the property of the United States in and under the control of the Department of War, against the will and contrary to the authority of the United States, and did cause him, the said Thomas, and in conspiracy with him, contrary to the statute aforesaid, did join with him to prevent the said Edwin M. Stanton from holding the office of Secretary of War as aforesaid, and did thereby undertake to assume and exercise the functions of Commander-in-Chief of the armies of the United States, and to issue orders as such Commander-in-Chief, and to conspire with the said Lorenzo Thomas and others to have such pretended letters of authority obeyed as lawful orders, not only without warrant of law, but contrary to the provisions of the Constitution and laws of the United States, as herein set forth, and with the unlawful and criminal intent on the part of said Andrew Johnson, as President of the United States, to obstruct, delay, and hinder the execution of the laws as aforesaid, and to assume a power and discretion not authorized by the Constitution and laws of the United States, whereby he then and there in manner aforesaid has been guilty of a high crime in office.

Mr. ELDRIDGE. I wish to present a proposition in regard to the impeachment of the President of the United States to be put in print, that it may be on our tables in the morning. [Laughter.]

The SPEAKER. That can only be presented by unanimous consent, as there is one article now pending, unless the gentleman from Rhode Island [Mr. JENCKES] would consent to accept it as an amendment to his proposition.

Mr. JENCKES. I cannot yield for that. I yield to the gentleman from California [Mr. HIGBY] that he may move an adjournment.

Mr. HIGBY. I move that the House do now adjourn.

The motion was agreed to; there being—ayes 54, noes 35; and the House (at five o'clock and ten minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of J. M. Dickerson, of Kosciusko, Mississippi, praying that disabilities incurred by participation in the rebellion may be removed from John M. Churping.

By Mr. ALLISON: The petition of Bishop Hennessey, of Dubuque, Iowa, asking to be allowed to preëmpt a certain piece of public land in Dubuque, Iowa, known as the "grave yard."

By Mr. DRIGGS: The petition of William P. Spaulding and 100 others, of Lake Superior, Michigan, praying Congress for an increased duty on imported copper.

By Mr. FARNSWORTH: The petition of publishers of papers in the city of Chicago, Illinois, asking to have the benefit of the law allowing one paper to each subscriber to pass

through the mail free in the county of publication.

By Mr. FERRY: The petition of James M. Eggleston and 21 others, citizens, praying for a general reduction of the number of employés of the Government and the consequent lessening of the expenses and burdens of taxation of the nation.

By Mr. KELLEY: The remonstrance of the journeymen cigar-makers and manufacturers of cigars in the fourth district of Pennsylvania against a law requiring a stamp to be attached to each cigar.

By Mr. HARDING: A memorial of Board of Trade of Rock Island, Illinois, for early construction of ship-canal to connect Great Lake with Mississippi river.

By Mr. HUMPHREY: Resolution of the Board of Trade of the city of Buffalo, New York, asking for the completion of the harbor improvements at that place upon the plan recommended by Major General T. J. Cram, United States engineer, and that the necessary appropriations be made therefor.

Also, the petition, &c., for the relief of Luther McNeal, late postmaster at Lancaster, Erie county, New York.

By Mr. LINCOLN: A memorial of James Fowler, Kirtland & Co., of New York.

By Mr. McCARTHY: The petition of 80 citizens of Manlius, New York, asking for a reduction of the expenses of the Government to a peace basis, a corresponding reduction of taxes, and an adjustment of the revenue laws so as to keep the balance of trade in our favor.

By Mr. MORRELL: Three several petitions from citizens of the seventeenth congressional district of Pennsylvania, praying for the repeal of the laws establishing what is known as the "warehousing system," and that the system be abolished.

By Mr. MOORE. The petition of citizens of Philadelphia, setting forth that the harbor at Atlantic City, Absecom inlet, New Jersey, is endangered by reason of encroachment of the sea, and praying action on the subject.

By Mr. O'NEILL: The resolution of the councils of the city of Philadelphia, urging Congress to exempt the city ice-boat from United States taxes.

By Mr. PAINE: The petition of George Esterly and others, of Wisconsin, for reduction of Federal taxation and expenditures.

Also, the petition of Levi Blossom and others, of Milwaukee, for the abolition of the bonded warehouse system.

Also, the petition of T. C. Hawkins, of Wisconsin, for pension.

By Mr. ROBERTSON: A memorial of Lawrence F. Frazee, the inventor and patentee of a metallic life-boat, praying for such action on the part of Congress as will secure its adoption in the marine service of the United States.

By Mr. TROWBRIDGE: The petition of 233 citizens of the United States, asking for such readjustment of the revenue laws as will protect American labor and restore the balance of trade to this country, and thus retain the products of our gold and silver mines at home.

By Mr. TAYLOR: Two remonstrances from printers of Philadelphia, Pennsylvania, against passage of international copyright law.

Also, a remonstrance from bookbinders of Philadelphia, Pennsylvania, against passage of international copyright law.

IN SENATE.

WEDNESDAY, *March* 4, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

COMMUNICATION FROM THE CHIEF JUSTICE.

The PRESIDENT *pro tempore*. The Chair has received a communication from the Chief Justice of the United States, with a request that it be laid before the Senate this morning for their consideration, which communication will be read, if there be no objection.

Mr. SUMNER. Let it be read.

The Secretary read as follows:

To the Senate of the United States:

Inasmuch as the sole power to try impeachments is vested by the Constitution in the Senate, and it is made the duty of the Chief Justice to preside when the President is on trial, I take the liberty of submitting, very respectfully, some observations in respect to the proper mode of proceeding upon the impeachment which has been preferred by the House of Representatives against the President now in office.

That when the Senate sits for the trial of an impeachment it sits as a court seems unquestionable.

That for the trial of an impeachment of the President, this court must be constituted of the members of the Senate, with the Chief Justice presiding, seems equally unquestionable.

The Federalist is regarded as the highest contemporary authority on the construction of the Constitution; and in the sixty-fourth number the functions of the Senate "sitting in their judicial capacity as a court for the trial of impeachments" are examined.

In a paragraph explaining the reasons for not uniting "the Supreme Court with the Senate in the formation of the court of impeachments" it is observed that "to a certain extent the benefits of that union will be obtained from making the Chief Justice of the Supreme Court the president of the court of impeachments, as is proposed in the plan of the convention, while the inconveniences of an entire incorporation of the former into the latter will be substantially avoided. This was, perhaps, the prudent mean."

This authority seems to leave no doubt upon either of the propositions just stated. And the statement of them will serve to introduce the question upon which I think it my duty to state the result of my reflections to the Senate, namely, at what period, in the case of an impeachment of the President, should the court of impeachment be organized under oath as directed by the Constitution?

It will readily suggest itself to any one who reflects upon the abilities and the learning in the law which distinguish so many Senators that besides the reason assigned in the Federalist there must have been still another for the provision requiring the Chief Justice to preside in the court of impeachment. Under the Constitution, in case of a vacancy in the office of President the Vice President succeeds; and it was doubtless thought prudent and befitting that the next in succession should not preside in a proceeding through which a vacancy might be created.

It is not doubted that the Senate, while sitting in its ordinary capacity, must necessarily receive from the House of Representatives some notice of its intention to impeach the President at its bar; but it does not seem to me an unwarranted opinion, in view of this constitutional provision, that the organization of the Senate as a court of impeachment, under the Constitution, should precede the actual announcement of the impeachment on the part of the House.

And it may perhaps be thought a still less unwarranted opinion that articles of impeachment should only be presented to a court of impeachment; that no summons or other process should issue except from the organized court, and that rules for the government of the proceedings of such a court should be framed only by the court itself.

I have found myself unable to come to any other conclusions than these. I can assign no reason for requiring the Senate to organize as a court under any other than its ordinary Presiding Officer, for the later proceedings upon an impeachment of the President, which does not seem to me to apply equally to the earlier.

I am informed that the Senate has proceeded upon other views; and it is not my purpose to contest what its superior wisdom may have directed.

All good citizens will fervently pray that no occasion may ever arise when the grave proceedings now in progress will be cited as a precedent; but it is not impossible that such an occasion may come.

Inasmuch, therefore, as the Constitution has charged the Chief Justice with an important function in the trial of an impeachment of the President, it has seemed to me fitting and obligatory, where he is unable to concur in the views of the Senate concerning matters essential to the trial, that his respectful dissent should appear. S. P. CHASE,

Chief Justice of the United States.

WASHINGTON, *March* 4, 1868.

Mr. HOWARD. I move that the document be printed and lie on the table.

The PRESIDENT *pro tempore*. That order will be entered.

Mr. HOWARD. And I will move further that it be referred to the select committee on the subject of impeachment.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of the veteran corps of the war of 1812, praying for the passage of a law to pension the soldiers of that war; which was referred to the Committee on Pensions.

Mr. SUMNER. I present the memorial of the members of the New England Association of Soldiers of the War of 1812, in which they ask for pensions from Congress. This memorial is signed by Thomas Aspinwall as president, the same who lost an arm on the Canadian frontier in the war of 1812, and who was for a long time the respected consul of the United States at London. I ask the reference of this memorial to the Committee on Pensions.

It was so referred.

Mr. SPRAGUE presented the petition of Edward J. Mallett, praying for compensation for services rendered by him as consular agent at Florence, Italy; which was referred to the Committee on Claims.

Mr. WILSON presented the petition of Daniel V. Colclazer, Constantia Rives, and Rosa A. Gantt, praying for compensation for property destroyed by the rebels in their raid on Washington, in July, 1864; which was referred to the Committee on Claims.

Mr. YATES presented four petitions of citizens of Dakota Territory, praying for the organization of all that portion of said Territory lying west of the one hundred and fourth meridian, west longitude, into a separate territorial organization; which were referred to the Committee on Territories.

Mr. EDMUNDS presented the petition of Merritt Barber, first lieutenant thirty-fourth United States infantry, praying for such action by Congress as will secure to him the position to which he thinks he is entitled on the Army register and regimental roster; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented a petition of surviving soldiers of the war of 1812, 1813, and 1814, praying that a pension be granted them, and to the widows of such as are deceased or may hereafter die; which was referred to the Committee on Pensions.

Mr. HENDRICKS presented a memorial of manufacturers of cigars, of the tenth congressional district of the State of Indiana, remonstrating against the passage of the bill proposing a change in the mode of stamping cigars; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. ROSS, it was

Ordered, That Black Beaver, a Delaware Indian, have leave to withdraw his petition from the files of the Senate, and that they be referred to the Committee on Claims.

REPORT FROM A COMMITTEE.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 293) to grant lands and aid to the Port Royal Railroad Company, in the States of South Carolina and Georgia, reported it with an amendment, accompanied by a report; which was ordered to be printed.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 414) for the relief of R. W. Edmondson; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 415) to create an additional land district in the Territory of Dakota, to be called the Pembina district; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 117) to authorize the erection of a warehouse at Fort Monroe, Virginia; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

GEORGE HENRY PREBLE.

Mr. GRIMES. I move that all prior orders be postponed and that the Senate proceed to the consideration of Senate bill No. 351.

The motion was agreed to; and the bill (S. No. 351) for the relief of Captain George Henry Preble, a commander in the Navy of the United States, was read the second time and considered as in Committee of the Whole.

It directs the proper accounting officers of the Treasury in settling the accounts of George Henry Preble, a commander in the Navy of the United States, to allow him pay as a commander from the 16th day of July, 1862, in the same way and manner as if the order discharging him from the naval service had never been issued.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF THE CAPITOL GROUNDS.

Mr. FESSENDEN. I desire to take up this morning the bill for the extension of the Capitol grounds. It has once passed the Senate unanimously, and it is important that it should go to the House of Representatives. I think it will occasion no debate. It is the same bill precisely that passed the Senate last year. I move that it be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 54) to enlarge the public grounds surrounding the Capitol.

It proposes to enlarge the public grounds surrounding the Capitol (according to the plan approved by the committees on Public Buildings of the Senate and House of Representatives respectively, which plan is directed to be deposited in the custody of the Secretary of the Interior) by extension between First street east and First street west, in the following manner: northwardly to the south side of north B street, and southwardly to the north side of south B street, including, in addition to so much of the reservations, avenues, and streets as are necessary for such extension, the two squares designated on the plan of the city of Washington as Nos. 687 and 688 respectively.

By the second section the Secretary of the Interior is directed to purchase from the owner or owners, at such price, not exceeding its actual cash value, as may be mutually agreed on between the Secretary and such owner or owners, and not exceeding the appraisal made by the commission of nine in their report to Robert Ould, United States district attorney for the District of Columbia, on the 21st of January, 1861, such private property as may be necessary for carrying the act into effect, the value of the property so purchased to be paid to the owner or owners on the requisition of that Secretary; but before such payment shall be made the owner or owners of the property purchased are by good and sufficient deed or deeds, in due form of law, and approved by the Attorney General of the United States, to fully release and convey to the United States all their and each of their several and respective rights in the titles to the lands and property so purchased.

The third section provides that if the Secretary of the Interior shall not be able to agree with the owner or owners of any private property needed for the purposes of the act upon the price to be paid for it, or if, for any other cause, he shall be unable to obtain the title to any such property by mutual agreement with the owner or owners, it shall be his duty to make application to the supreme court of the District of Columbia; which court, in such mode and under such rules and regulations as it may adopt, is to make a just and equitable appraisement of the cash value of the several interests of each and every owner of the real estate and improvement thereon necessary to be taken for the public use in accordance with the provisions of the act, and to which the Secretary has been unable to obtain the title by mutual agreement with the owner or owners.

The fourth, fifth, and sixth sections provide for the details of acquiring title.

The Committee on Public Buildings and Grounds reported the bill with amendments. The first amendment of the committee was to strike out the seventh section in the following words:

SEC. 7. *And be it further enacted*, That the Washington and Georgetown Railroad Company be, and they are hereby, required to remove their track from Delaware avenue, between A and B streets north, and from the Capitol grounds, and run the same along B street north to First street east, thence along First street east to the main line on Pennsylvania avenue, as now established; and that the Metropolitan Railroad Company be, and they are hereby, required to remove the track of their road from A street north and from New Jersey avenue, between A and B streets north.

And to insert in lieu thereof the following:

SEC. 7. *And be it further enacted*, That the Washington and Georgetown Railroad Company and the Metropolitan Railroad Company be, and they are hereby, required to remove their tracks, respectively, from the Capitol grounds, as hereby established, and to run the same as they may be directed, from time to time, by the officer in charge of the public buildings and grounds, as the grading and filling up of said grounds may render necessary.

The amendment was agreed to.

The next amendment was in section eight, line four, to strike out the word "under" and insert "by," and after the word "Interior" to insert "under the supervision of the architect of the Capitol extension;" so that the section will read:

SEC. 8. *And be it further enacted*, That the sum of $50,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended by the direction of the Secretary of the Interior, under the supervision of the architect of the Capitol extension, in grading, filling up, removing buildings, and improving the public grounds and streets around the Capitol as herein enlarged.

The amendment was agreed to.

The next amendment was in section eight, line eight, after the word "enlarged" to strike out the following words:

But no grading of the public square east of the Capitol shall be commenced until the title to the private property to be purchased under the provisions of this act shall be acquired by the United States.

The amendment was agreed to.

Mr. FESSENDEN. I offer the following amendment, to come in at the end of the eighth section, in lieu of the words stricken out:

And the Secretary of the Interior is hereby authorized to sell at public auction such materials in the buildings, in squares Nos. 687 and 688, as are not necessary for the public works in this District; and, further, that the moneys realized by such sales shall be applied to the improvement and extension of the Capitol grounds.

The amendment was agreed to.

Mr. FESSENDEN. I do not know that the bill requires any explanation. It is the same bill, so far as the enlargement and purchase are concerned, that was passed unanimously by the Senate a year ago, but was not taken up in the House of Representatives. I will state with regard to it that it was the wish of some of the Committee on Public Buildings and Grounds of the Senate to enlarge the grounds more than is proposed in this bill; but a joint meeting of the committees of the two bodies, the Senate and House of Representatives, was had, and it was thought expedient to go no further at this time than the former bill proposed; and it was thought advisable and necessary to commence this work soon, and hence to pass the bill as it was passed before if possible. So it has been agreed upon by the committees of the two Houses. All that it is necessary to purchase is two squares that were pointed out to the Senate before, which, as Senators will see, must be purchased in order to any enlargement of the Capitol grounds themselves. If there is any further explanation required I am ready to answer any questions in regard to it; but I suppose there will be no objection to the bill whatever.

Mr. CONKLING. I should like to ask the Senator if he intends to have a final vote taken on the bill this morning?

Mr. FESSENDEN. Yes, sir, if I can; because I wish it to go to the House of Representatives as soon as possible. I think it has been very thoroughly examined and agreed upon by the two committees, and unless there is an objection to any enlargement I think this is as small a one as can possibly be made.

Mr. CONKLING. I should like to look at it before it is passed finally.

Mr. FESSENDEN. I can explain it, and the Senator can examine the plan which I have here. There was no objection whatever to the bill in the Senate when it was passed before.

Mr. CONKLING. I should like to inquire the aggregate cost of this proposed extension.

Mr. FESSENDEN. I do not recollect the exact cost of these two squares. I think it was stated before.

Mr. SHERMAN. They were assessed.

Mr. FESSENDEN. Yes, sir; and by the terms of the bill, unless the price can be agreed upon, they are to be taken and condemned. The bill makes provision for condemning them. They are absolutely necessary, if any enlargement is to be had.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. FESSENDEN. I move to amend the title of the bill by adding the words "and for other purposes," which may be necessary, as there is an appropriation in it for grading.

The PRESIDENT *pro tempore*. That amendment will be made.

ETHAN RAY CLARKE AND SAMUEL W. CLARKE.

Mr. SPRAGUE. I move that the Senate proceed to the consideration of Senate bill No. 347.

The motion was agreed to; and the bill (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government, was read the second time, and considered as in Committee of the Whole. It proposes to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to a tract of land five miles square on Black creek, south of Saint Mary's river, in the State of Florida, and bounded as follows: upon one side by the Saint Mary's river, and upon the other side by vacant lands, being the same lands to which an exclusive right to take the timber was granted by the Spanish Government to John Underwood, and upon which he erected a saw mill in 1805, and which was kept up and continued for many years; but it was not to operate to the prejudice of any claim which may be set up to the land by reason of any previous sale thereof; nor is it in any way to prejudice any claimant under John Underwood, or any person deriving title or claim thereto under Underwood, his heirs or assigns, or of any person or persons who may be entitled to preëmption rights under any existing laws of the United States.

Mr. HOWARD. This proposes to confirm a pretty large tract, containing twenty-five square miles, five miles on each side, according to the description. I should like to inquire of the honorable Senator whether this has been considered by the appropriate committee?

Mr. SPRAGUE. The Senator from Oregon has had it under consideration and can explain it fully.

Mr. WILLIAMS. There is a report accompanying the bill which can be read for the satisfaction of the Senator from Michigan. This is substantially the same bill that has been pending before Congress, and passed either House two or three times and failed to become a law for want of time or agreement between the two Houses.

Mr. HOWARD. Let me ask the Senator from Oregon whether the Committee on Private Land Claims have considered it?

Mr. WILLIAMS. Certainly.

Mr. HOWARD. I was not aware of it. What is the foundation of the title? Whence does it emanate?

Mr. WILLIAMS. It is founded upon a grant made by the Spanish Government at an early day in the then Territory of Florida. The grant was made to the ancestor of these claimants at an early day, to occupy a certain tract of land for mill purposes, upon which he erected a mill, and occupied it for a long time. Subsequently his title was affirmed by that Gov-

ernment, and then transactions occurred between him and another individual, by which the other individual became interested in the property. There is some doubt as to whether or not the rights of that individual have been extinguished, and therefore the bill is careful to protect the rights of that person. The only object of the bill is simply to affirm to the heirs of the person to whom the Spanish Government made the grant whatever right the United States may have.

Mr. HOWARD. Has there ever been any interruption of title or of possession?

Mr. WILLIAMS. There has been no interruption of title or occupation. That man and his assigns have occupied the property from that day until the present time. I think the Senator is mistaken as to the extent of the grant. There is a report accompanying the bill, if any Senator desires to have it read.

Mr. HOWARD. I do not call for the reading of the report. I simply asked for a brief explanation from the honorable chairman of the committee. I am satisfied.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 2d instant, signed the following bill and joint resolutions:

A bill (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson;

A joint resolution (S. R. No. 95) authorizing the Light-House Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds, and for other purposes; and

A joint resolution (S. R. No. 108) relating to the survey of the northern and northwestern lakes.

PHILIP R. FENDALL.

Mr. MORGAN. I move that the Senate proceed to the consideration of the bill (S. No. 268) for the relief of Philip R. Fendall. It is a very short bill, and I presume will take no time.

The motion was agreed to; and the bill was read a second time and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Philip R. Fendall, for labor performed in editing the writings of James Madison, the sum of $2,100.

Mr. MORGAN. As Mr. Fendall has lately deceased I move to amend the bill, in the fourth line, by inserting the words "the legal representatives of the late."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. MORRILL, of Vermont. I should like to inquire of the Senator who has charge of this bill whether it was not stated at the time these papers were authorized to be edited that all that was necessary to be appropriated had then been appropriated, and that it would cost no further sum?

Mr. MORGAN. There was an amount appropriated, and that money has all been expended. Mr. Fendall was employed to do this work; but no contract was made by the committee with him, I understand. It was before I was a member of the Committee on the Library. The sum agreed to be paid him is deemed a very small sum in the estimation of Mr. Fendall, and also of those acquainted with matters of this kind. Four thousand dollars was the sum deemed appropriate. The committee reduced it to $3,000, and have paid him $900. This bill passed the House of Representatives last year, but was not passed by the Senate. It met the approval of the joint Committee on the Library. Mr. Fendall has lately deceased. The estate is in great need. Even his library cannot be saved, I understand, unless this money can be paid to his heirs.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MORGAN. It is necessary to make the same amendment in the title that was made in the body of the bill. I move, therefore, to amend the title so as to read: "A bill for the relief of the legal representatives of the late Philip R. Fendall."

The PRESIDENT *pro tempore*. That amendment will be made.

LAND GRANTS TO NEVADA.

Mr. STEWART. I move that the Senate proceed to the consideration of Senate bill No. 190.

The motion was agreed to; and the Senate, as in Committee on the Whole, proceeded to consider the bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada.

Mr. STEWART. The Committee on Public Lands, to whom the bill was recommitted, have reported an amendment in the nature of a substitute, which is all that is necessary to be read.

The Secretary read the amendment of the committee, which was to strike out all of the original bill after the enacting clause and insert the following:

That the State of Nevada is authorized to select the alternate even-numbered sections within the limits of any railroad grant in said State, in satisfaction, in whole or in part, of the several grants made in the following acts of Congress, to wit: The act organizing the Territory of Nevada, passed March 2, 1861; the act admitting the State of Nevada into the Union, passed March 21, 1864; and the act concerning certain lands granted to Nevada, passed July 4, 1866: *Provided*, That this privilege shall not extend to lands upon which there may be rightful claims under the preëmption and homestead laws: *And provided*, That if lands be selected, the minimum price of which is $2 50 per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is $1 25 per acre: *And provided further*, That the lands granted in the eighth and ninth sections of the said act admitting Nevada into the Union shall be selected within four years from the passage of this act, and the period for the selection of said lands is hereby so extended.

SEC. 2. *And be it further enacted*, That the lands known and designated for the establishment of an agricultural college by the act of July 2, 1862, and the acts amendatory thereto, shall be selected in the same manner and of the same character of lands as may be selected in satisfaction of any other grants referred to in the first section of this act. But this act shall not authorize the selection of lands valuable for mines of gold, silver, quicksilver, or copper.

SEC. 3. *And be it further enacted*, That the land office at Belmont, Nye county, State of Nevada, is hereby removed to Aurora, in Esmeralda county, and the district shall be known as the Aurora district. The counties of Nye, Lincoln, and Lander shall constitute a land district, the office of which is located at Austin, and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said State, and change the location of the land office from time to time, when the same shall be expedient.

SEC. 4. *And be it further enacted*, That the lands granted to the State of California for the establishment of an agricultural college by the act of July 2, 1862, and acts amendatory thereto, may be selected by said State from any lands within said State subject to preëmption and sale; *Provided*, that this privilege shall not extend to lands upon which there may be rightful claims under the preëmption and homestead laws, nor to mineral lands: *And provided further*, That if lands be selected as aforesaid, the minimum price of which is $2 50 per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is $1 25 per acre: *And provided further*, That such selections shall be made in every other respect subject to the conditions, restrictions, and limitations contained in the acts hereby modified.

Mr. HENDRICKS. I ask for the reading of the third section of the amendment again.

The Secretary read it.

Mr. HENDRICKS. I wish to inquire of the Senator from Nevada when that third section was agreed upon by the Committee on Public Lands?

Mr. STEWART. That was agreed upon before the bill was reported the second time.

Mr. HENDRICKS. I do not think, as one member of the committee, I ever agreed that the President should have the right to change the boundaries of land districts at his pleasure. I think that is a power which has never been conferred.

Mr. STEWART. It has been conferred. This is a copy of a law that was passed for Oregon a year or two ago. The subject was considered in committee; I think the Senator from Indiana was not present at the time; and we were authorized to insert a provision precisely the same as had been provided for Oregon. The Senator from Oregon will recollect the discussion in committee over that point. The mere changing of boundaries of the district or the location of the land office is always done by Congress. Of course we would not allow the Department to make new districts. It is done on the recommendation of the Department where the changes are made. This is a copy of the law passed for Oregon, and is in precisely the same language.

Mr. WILLIAMS. I see no objection to this part of the bill. As has been stated by the Senator from Nevada, it is similar to a provision that was incorporated into a bill relating to the land districts in the State of Oregon; and in the new States there is a great necessity for such a provision. Land districts are organized in the first place in reference to the settlements in a new State, and their boundaries may be so defined at the beginning as to accommodate the people then located in the State; but subsequently, as the settlements expand and the population spreads, it may be absolutely necesary to enlarge the boundaries of the land districts so as to accommodate the people. It is also sometimes desirable to remove the location of a land office from one point to another. That became absolutely necessary in the State where I live; and upon a report of the facts to the Commissioner of the General Land Office he conceded that such a power was necessary, and so it was conferred upon him as to the State of Oregon. This bill proposes to confer it upon him as to the State of Navada. It is a power that ought to be in the general law. The Commissioner ought to possess that power as to all new States. No possible harm or inconvenience can result to anybody; for if the people petition for a change of the boundaries of a land district or the location of the land office they are the only persons concerned, and the changes may be made in the judgment of the Commissioner of the General Land Office to promote the public interest and facilitate the sale of the lands, and to accommodate the people.

Mr. CONNESS. I will add to that, that to an extent under existing law some such power now exists. One of the land offices in the State of California has been dispensed with under that power; so that we have one less in that State than we had.

Mr. HENDRICKS. There is no doubt about that. The Department has the power to abolish the district when the lands have been all entered, and it has the power to change the location of the office; but this is rather an extraordinary power to change the boundaries of districts.

Mr. CONNESS. It is a very necessary one in a new country.

Mr. POMEROY. The bill grants no power to create new districts, and, therefore, will entail no additional expense. It is simply to change the boundaries when the popula ren changes. The committee thought that power might be exercised by the President, as it cannot increase the expense.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

On motion of Mr. CONNESS the title of the bill was amended by adding the words, "and for other purposes."

CIRCUIT COURT AT ERIE.

Mr. CAMERON. I ask the Senate to take up the bill (H. R. No. 274) providing for holding a circuit court at the city of Erie, Pennsylvania. It will not take a minute to pass it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the circuit court of the United States for the western district of Pennsylvania, in addition to the terms now held, shall be held at the city of Erie, in the western district, at the times now fixed by law for holding terms of the district court for the western district of Pennsylvania, at the city of Erie.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. WILSON. I move to take up the bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT *pro tempore*. The bill has been read heretofore.

Mr. GRIMES. Let it be reported again.

The Secretary read the bill.

The PRESIDENT *pro tempore*. The Chair will state that he has missed a few minutes in calling attention to the unfinished business of yesterday, which is regularly before the Senate.

Mr. SHERMAN. I will move that that lie over informally. I understand a message will come from the House very soon.

Mr. HENDRICKS. I object to its lying over informally if it is with a view of proceeding with the bill which has just been read.

Mr. SHERMAN. I merely wish that the regular order be laid aside informally.

Mr. HENDRICKS. I object to the consideration of this bill. I am against it.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate without any motion. It suspends all other business by our rules, and if it is desired to proceed with other business it can only be done on a motion.

Mr. ANTHONY. What is the unfinished business?

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the report of the select committee appointed to revise the rules of the Senate.

Mr. ANTHONY. The understanding was that the Senator from Missouri [Mr. HENDERSON] should have the floor to-day at one o'clock, to which I very cheerfully assent. I ask that this matter may be laid aside informally, so that when his remarks shall be concluded it will come up without a motion.

The PRESIDING OFFICER. That may be done by unanimous consent. If there be no objection it will be so laid aside.

Mr. WILSON. With the consent of the Senator from Missouri I should like to put this bill, in relation to the sentences of courts-martial, on its passage.

Mr. HENDERSON. If the Senator will ask that the funding bill be informally passed over I have no objection to that.

IMPEACHMENT OF PRESIDENT JOHNSON.

The managers of the impeachment on the part of the House of Representatives appeared at the bar, and their presence was announced by the Sergeant-at-Arms.

The PRESIDENT *pro tempore*. The managers of the impeachment will advance within the bar and take the seats provided for them.

The managers on the part of the House of Representatives came within the bar and took the seats assigned to them in the area in front of the Chair.

Mr. HENDRICKS. I move that a seat be provided for the Speaker of the House of Representatives by the side of the President of the Senate.

The PRESIDENT *pro tempore*. That may be done without a motion.

The Speaker of the House of Representatives advanced, escorted by Mr. GRIMES, and took a seat to the right of the President *pro tempore* of the Senate.

Mr. Manager BINGHAM. Mr. President, the managers of the House of Representatives, by order of the House, are ready at the bar of the Senate, whenever it may please the Senate to hear them, to present articles of impeachment and in maintenance of the impeachment preferred against Andrew Johnson, President of the United States, by the House of Representatives.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will make proclamation.

The SERGEANT-AT-ARMS. Hear ye! hear ye! hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against Andrew Johnson, President of the United States.

The managers then rose and remained standing, with the exception of Mr. STEVENS, who was physically unable to do so, while Mr. Manager BINGHAM read the articles of impeachment, as follows:

Articles exhibited by the House of Representatives of the United States, in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors.

ARTICLE I.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary, and said Andrew Johnson, President of the United States, on the 12th day of August, in the year of our Lord 1867, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, that is to say, on the 12th day of December, in the year last aforesaid, having reported to said Senate such suspension with the evidence and reasons for his action in the case and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate, thereafterward, on the 13th day of January, in the year of our Lord 1868, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension, and having refused to concur in said suspension, whereby and by force of the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, being lawfully entitled to hold said office of Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is, in substance, as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

Hon. EDWIN M. STANTON, *Washington, D. C.*

Which order was unlawfully issued with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; and, with the further intent contrary to the provisions of said act, in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary for the Department of War, the said Edwin M. Stanton being then and there Secretary of War, and being then and there in the due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high misdemeanor in office.

ARTICLE II.

That on said 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having this day been removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Then and there being no vacancy in said office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high misdemeanor in office.

ARTICLE III.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War *ad interim*, without the advice and consent of the Senate and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment, so made by said Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

ARTICLE IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, in violation of the Constitution and laws of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats unlawfully, to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high crime in office.

ARTICLE V.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, and on divers other days and times in said year, before the 2d day of March, A. D. 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, by force to seize, take, and possess the property of the United States in the Department of War, and then and there in the custody and charge

of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

ARTICLE VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary for said Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

ARTICLE VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, with intent unlawfully to control the disbursements of the moneys appropriated for the military service and for the Department of War, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, with intent to violate and disregard the act aforesaid, then and there issue and deliver to one Lorenzo Thomas a letter of authority in writing, in substance as follows, that is to say:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE IX.

That said Andrew Johnson, President of the United States, on the 22d day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of the United States, duly enacted, as Commander-in-Chief of the Army of the United States, did bring before himself then and there William H. Emory, a major general by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such Commander-in-Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and which said provision of law had been theretofore duly and legally promulgated by general order for the government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the United States, according to the provisions of said act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and to unlawfully prevent Edwin M. Stanton, then being Secretary for the Department of War, from holding said office and discharging the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE X.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the Government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof, (which all officers of the Government ought inviolably to preserve and maintain,) and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and in pursuance of his said design and intent, openly and publicly, and before divers assemblages of the citizens of the United States convened in divers parts thereof to meet and receive said Andrew Johnson as the Chief Magistrate of the United States, did, on the 18th day of August, in the year of our Lord 1866, and on divers other days and times, as well before as afterward, make and deliver with a loud voice certain intemperate, inflammatory, and scandalous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States duly enacted thereby, amid the cries, jeers, and laughter of the multitudes then assembled and within hearing, which are set forth in the several specifications hereinafter written, in substance and effect, that is to say:

Specification First.—In this, that at Washington, in the District of Columbia, in the Executive Mansion, to a committee of citizens who called upon the President of the United States, speaking of and concerning the Congress of the United States, said Andrew Johnson, President of the United States, heretofore, to wit, on the 18th day of August, in the year of our Lord 1866, did, in a loud voice, declare in substance and effect, among other things, that is to say:

"So far as the executive department of the Government is concerned, the effort has been made to restore the Union, to heal the breach, to pour oil into the wounds which were consequent upon the struggle, and (to speak in common phrase) to prepare, as the learned and wise physician would, a plaster healing in character and coextensive with the wound. We thought, and we think, that we had partially succeeded; but as the work progresses, as reconstruction seemed to be taking place, and the country was becoming reunited, we found a disturbing and marring element opposing us. In alluding to that element, I shall go no further than your convention and the distinguished gentleman who has delivered to me the report of its proceedings. I shall make no reference to it that I do not believe the time and the occasion justify.

"We have witnessed in one department of the Government every endeavor to prevent the restoration of peace, harmony, and Union. We have seen hanging upon the verge of the Government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States. We have seen this Congress pretend to be for the Union, when its every step and act tended to perpetuate disunion and make a disruption of the States inevitable." * * * * "We have seen Congress gradually encroach step by step upon constitutional rights, and violate, day after day and month after month, fundamental principles of the Government. We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, allowed to be consummated, would result in despotism or monarchy itself."

Specification Second.—In this, that at Cleveland, in the State of Ohio, heretofore, to wit, on the 3d day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States did, in a loud voice, declare in substance and effect among other things, that is to say:

"I will tell you what I did do. I called upon your Congress that is trying to break up the Government."

* * * * * * * * *

"In conclusion, beside that, Congress had taken much pains to poison their constituents against him. But what had Congress done? Have they done anything to restore the union of these States? No; on the contrary, they had done everything to prevent it; and because he stood now where he did when the rebellion commenced, he had been denounced as a traitor. Who had run greater risks or made greater sacrifices than himself? But Congress, factious and domineering, had undertaken to poison the minds of the American people."

Specification Third.—In this, that at St. Louis, in the State of Missouri, heretofore, to wit, on the 8th day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did, in a loud voice, declare, in substance and effect, among other things, that is to say:

"Go on. Perhaps if you had a word or two on the subject of New Orleans you might understand more about it than you do. And if you will go back—if you will go back and ascertain the cause of the riot at New Orleans, perhaps you will not be so prompt in calling out 'New Orleans.' If you will take up the riot at New Orleans and trace it back to its source or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the Radical Congress you will find that the riot at New Orleans was substantially planned. If you will take up the proceedings in their caucuses you will understand that they there knew that a convention was to be called which was extinct by its power having expired; that it was said that the intention was that a new government was to be organized, and on the organization of that government the intention was to enfranchise one portion of the population, called the colored population, who had just been emancipated, and at the same time disfranchise white men. When you design to talk about New Orleans you ought to understand what you are talking about. When you read the speeches that were made, and take up the facts on the Friday and Saturday before that convention sat, you will there find that speeches were made incendiary in their character, exciting that portion of the population, the black population, to arm themselves and prepare for the shedding of blood. You will also find that that convention did assemble in violation of law, and the intention of that convention was to supersede the reorganized authorities in the State government of Louisiana, which had been recognized by the Government of the United States; and every man engaged in that rebellion in that convention, with the intention of superseding and upturning the civil government which had been recognized by the Government of the United States, I say that he was a traitor to the Constitution of the United States, and hence you find that another rebellion was commenced having its origin in the Radical Congress." * * * * * * * *

"So much for the New Orleans riot. And there was the cause and the origin of the blood that was shed; and every drop of blood that was shed is upon their skirts, and they are responsible for it. I could test this thing a little closer, but will not do it here to-night. But when you talk about the causes and consequences that resulted from proceedings of that kind, perhaps, as I have been introduced here, and you have provoked questions of this kind, though it does not provoke me, I will tell you a few wholesome things that have been done by this Radical Congress in connection with New Orleans and the extension of the elective franchise.

"I know that I have been traduced and abused. I know it has come in advance of me here, as elsewhere, that I have attempted to exercise an arbitrary power in resisting laws that were intended to be forced upon the Government; that I had exercised that power: that I had abandoned the party that elected me, and that I was a traitor, because I exercised the veto power in attempting and did arrest for a time a bill that was called a 'Freedman's Bureau' bill; yes, that I was a traitor. And I have been traduced, I have been slandered, I have been maligned, I have been called Judas Iscariot, and all that. Now, my countrymen here to-night, it is very easy to indulge in epithets; it is easy to call a man a Judas, and cry out traitor; but when he is called upon to give arguments and facts he is very often found wanting. Judas Iscariot—Judas. There was a Judas and he was one of the twelve apostles. Oh! yes, the twelve apostles had a Christ. The twelve apostles had a Christ, and he never could have had a Judas unless he had had twelve apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? These are the men that stop and compare themselves with the Saviour; and every body that differs with them in opinion, and to try and stay and arrest the diabolical and nefarious policy, is to be denounced as a Judas."

* * * * * * * * *

"Well, let me say to you, if you will stand by me in this action; if you will stand by me in trying to give the people a fair chance, soldiers and citizens, to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can.

"Let me say to you, in concluding, that what I have said I intended to say. I was not provoked into this, and I care not for their menaces, the taunts, and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But, God willing, with your help I will veto their measures whenever any of them come to me."

Which said utterances, declarations, threats, and harangues, highly censurable in any, are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit, and was then and there guilty of, a high misdemeanor in office.

ARTICLE XI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, and in disregard of the Constitution and laws of the United States, did heretofore, to wit: on the 18th day of August, 1866, at the city of Washington, and the District of Columbia, by public speech, declare and affirm in substance, that the Thirty-Ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same; but, on the contrary, was a Congress of only part of the States, thereby denying and intending to deny that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying and intending to deny the power of the said Thirty-Ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterward, to wit: on the 21st day of February, 1868, at the city of Washington, in the District of Columbia, did unlawfully and in disregard of the requirements of the Constitution, that he should take care that the laws be faithfully executed, attempt to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, by unlawfully devising and contriving, and attempting to devise and contrive, means by which he should prevent Edwin M. Stan-

ton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension therefore made by said Andrew Johnson, of said Edwin M. Stanton from said office of Secretary for the Department of War, and also by further unlawfully devising and contriving, and attempting to devise and contrive means then and there to prevent the execution of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1868, and for other purposes," approved March 2, 1867, and also to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; whereby the said Andrew Johnson, President of the United States, did then, to wit: on the 21st day of February, 1868, at the city of Washington, commit and was guilty of a high misdemeanor in office.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, do demand that the said Andrew Johnson may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

The PRESIDENT *pro tempore*. The Senate will take due order upon the subject of impeachment, of which proper notice will be given to the House of Representatives.

The managers of the House of Representatives, accompanied by the Speaker and a large number of members of the House who had been present during the presentation of the articles of impeachment, withdrew from the Senate Chamber.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* presented a letter of the Secretary of the Interior, communicating estimates from the Commissioner of Indian Affairs for an appropriation to meet the outstanding indebtedness of the Indian service in California incurred during the years 1860 to 1867 inclusive; which was referred to the Committee on Indian Affairs.

He also presented a letter from the Secretary of the Treasury communicating a letter from the director of the Bureau of Statistics in relation to the joint resolution abolishing said Bureau; which, on motion of Mr. WILLIAMS, was ordered to lie on the table, and be printed.

He also presented a letter of the Secretary of the Interior, communicating papers representing the necessity of an appropriation to carry into effect the stipulations of the treaty with the Sisseton and Waupeton bands of Dakota or Sioux Indians, concluded February 19, 1867; which was referred to the Committee on Indian Affairs.

He also laid before the Senate the following communication from the Attorney General:

ATTORNEY GENERAL'S OFFICE,
WASHINGTON, *March* 4, 1868.

SIR: I have the honor to acknowledge the receipt of the resolution of the Senate of February 29, 1868, calling for information in relation to the case of Lucius P. Bryan, some time under indictment in the United States court for the district of Connecticut for the offense of robbing the mails.

In reply to said resolution I have the honor to state that upon a careful investigation of the papers presented to me by Senator DIXON, copies of which are herewith transmitted, I deemed it my duty to direct the United States Attorney to enter a *nolle prosequi*. No previous inquiry was made of the district attorney, as the assistant district attorney, who had immediate charge of the case, and was personally cognizant of the facts, fully certified to the correctness of the statements upon which the order was made, and recommended a *nolle prosequi*. I am not advised as to what course has been taken, under the order, by the district attorney.

I have the honor to be, very respectfully, your obedient servant, HENRY STANBERY,
Attorney General.

Hon. B. F. WADE, *President of the Senate of the United States.*

Mr. DIXON. I should like to have the other papers in that case read. I should like to know what they are.

The PRESIDENT *pro tempore*. They will be read if there be no objection.

Mr. SHERMAN. I do not think there is any occasion for that.

Mr. FERRY. I move that the papers be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

ADMISSION TO IMPEACHMENT TRIAL.

Mr. ANTHONY. With the assent of the Senator who is entitled to the floor I desire to offer an order that is appropriate at this time:

Ordered, That during the trial of the impeachment now pending no person besides those who now have the privilege of the floor shall be admitted to the galleries, or to that portion of the Capitol set apart for the use of the Senate and its officers, except upon tickets to be issued by the Sergeant-at-Arms. Such tickets shall be numbered, and shall be good only for the day on which they are dated. The number of tickets issued shall not exceed the number of persons who can be comfortably seated in the galleries, leaving the steps and passages entirely free. The portion of the gallery set apart for the diplomatic corps shall be exclusively appropriated to it, and tickets of admission thereto shall be issued to the foreign legations. Four tickets shall be issued to each Senator, two tickets to each member of the House of Representatives, two tickets to the Chief Justice and to each justice of the Supreme Court of the United States, two tickets to the chief justice and to each justice of the supreme court of the District of Columbia; and two tickets to the chief justice and to each judge of the Court of Claims. Sixty tickets shall be issued by the Presiding Officer to the reporters for the press, and the remaining tickets shall be distributed under his direction.

The Sergeant-at-Arms, under the direction of the Presiding Officer of the Senate, shall carry out these regulations, and, with the approbation of the Committee on Contingent Expenses, shall be authorized to employ such additional force as may be necessary for the preservation of order.

Mr. SHERMAN. I would rather that would lie on the table until to-morrow.

The PRESIDENT *pro tempore*. Objection being made it lies over under the rule.

FUNDING BILL.

Mr. SHERMAN. I now move that the Senate proceed to the consideration of the funding bill, which I believe is the pending order.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, the pending question being on the motion of Mr. HENDERSON to amend the amendment of the Committee on Finance in section one, line seven, by striking out the word "five" and inserting "four" before the words "per cent."

Mr. HENDERSON. I ask that the first section of the amendment of the committee be read.

The Secretary read as follows:

That the Secretary of the Treasury is hereby authorized to issue registered or coupon bonds of the United States in such form and of such denominations as he may prescribe, payable, principal and interest, in coin, and bearing interest at the rate of five per cent. per annum, payable semi-annually, and bearing date so as to require the payment of an equal amount of the interest quarterly; such bonds to be payable in forty years from date, and to be redeemable in coin at the pleasure of the United States after ten years from date, to be issued to an amount sufficient to cover all outstanding or existing obligations of the United States other than the existing five per cent. bonds, and to be exchanged for such obligations or disposed of in such manner and on such terms, not less than par, as the Secretary of the Treasury may deem most conducive to the interests of the Government; and the said bonds and the proceeds thereof shall be exclusively used for the redemption of or in exchange for the existing securities of the United States.

Mr. HENDERSON. Mr. President, it will be exceedingly difficult to invest a subject of this character at present with any interest. I feel, however, that it is the most important question pending before us at this time, and yet other subjects have unquestionably engrossed public attention, and not only Senators, but others, approach this subject with a great deal of reluctance. I propose to confine myself as closely as I can to the amendment which I have offered to the bill. Senators will see that the proposition is to fund the public debt of the United States in a five per cent. security. My motion is to strike out five per cent. and insert four per cent.

The proposition contained in the bill is to fund all the public securities, except the ten-forties already issued, into a five per cent. stock, redeemable after ten years and payable at the end of forty years. The ten-forties already negotiated bear five per cent. interest, paid semi-annually, and are by express terms payable, both principal and interest, in gold. There is no express stipulation as to how the principal of any other bonds is to be paid. The principal of some of the Treasury notes is payable in legal-tender notes. The interest of a part of the debt is payable in gold, that of another part is payable in lawful money, while a portion of the debt bears no interest at all. The official statement of the public debt, made on the first of February, presents an exhibit substantially as follows, namely:

Debt bearing coin interest	$1,912,363,041 80
Debt bearing currency interest	308,708,630 00
Matured debt not presented for payment, chiefly bearing currency interest	12,888,169 19
Debt bearing no interest, including United States notes, fractional currency, and gold certificates	418,024,845 51
Total	$2,651,384,686 50

If we deduct from this amount the ten-forties, amounting to $207,739,200, we have the amount authorized to be funded under this bill, namely, $2,443,645,486 50. But the holders of gold certificates will not fund, of course, and the creditors may choose to carry $400,000,000 of the debt in the shape of legal-tender United States notes. If so, the funded debt will be as follows:

New consols, five per cent	$2,014,026,206 50
Old ten-forties, five per cent	207,739,200 00
Total	$2,221,765,406 50

The annual interest on this sum would be $112,574,234 30.

If the legal-tender notes should remain in volume as they now are ($356,000,000) the annual interest would be ($114,766,275 95,) say in round numbers $115,000,000.

The total amount of indebtedness issued under acts of Congress prior to February 25, 1862, is comparatively small, and it is possible that under prudent management such indebtedness could be paid off as it matures. The main body of the debt consists of five-twenties, amounting at the February statement to near $1,400,000,000, to which must soon be added the seven-thirties, the compound-interest notes, the three per cent. certificates, and other floating indebtedness, amounting to about three hundred million dollars.

Mr. MORTON. For the purpose of having a correct understanding of the statement of the Senator, with his permission, I should like to ask whether he includes in the gross amount to be funded which he has named what are called the sixes of 1881.

Mr. HENDERSON. I state that they may be funded under this bill. The Senator will see that as the bill now stands reported by the chairman of the committee all indebtedness may be funded except the ten-forties. I do not say that they will be funded, but they may be funded, and if funded the whole funded debt would be $2,443,000,000.

Mr. MORTON. I believe those bonds contain no right of redemption before they are due.

Mr. HENDERSON. I suppose they will not be funded.

It is this indebtedness of about seventeen hundred million dollars about which the controversy in regard to the mode of payment has arisen. Some say it is legitimate and proper for the Government to pay it off in lawful money—that is, in greenbacks. Others contend that it must be discharged in coin only. Some insist that it may not only be paid in paper promises, but that the Government may rightfully issue new and additional promises for that purpose, while others—like the chairman of the Finance Committee, Mr. SHERMAN—admitting the right to pay in greenbacks, insist that during the process of payment the Government cannot legally or honorably issue exceeding $400,000,000 of legal-tender

notes. They think the Government agreed for all time to come, at least till the debt should be paid off, that the issue of legal-tender notes should be limited to this amount, and that the honor of the Government is involved in keeping the promise.

Before proceeding to examine these questions in a legal point of view it may be well to glance at some general facts connected with the public debt. I have already shown that the probable funded debt of the Government, excluding the ten-forties, will in a short time be about two thousand million dollars. If funded under existing laws it will bear six per cent. interest. If funded under this bill it will bear five per cent. Now, if this debt can be legally discharged in currency, gold being worth 140, it would require $1,428,571,428 in gold to pay it. The saving, therefore, to the public in the payment of the debt would be $571,428,572 in gold, equal to $800,000,000 in legal-tender paper. In other words, if the debt could now be discharged with paper money instead of gold, the debtor class would save $800,000,000 in paper value by the operation. Therefore it should not be surprising that the terms and conditions of the contract creating it are so closely scrutinized by all parties. Between the debtor and creditor classes (I use these terms as appropriate terms when applied to the public debt, because the securities are not to be taxed even for their own liquidation) the construction of the contract at once becomes a question of the greatest practical importance. It involves no less, perhaps, than one twentieth part of the entire property, real and personal, of this country to-day.

Leaving out of view for the present all questions connected with specie payments, suspension, expansion and contraction, which I will notice in their proper places, the fact is plain enough to every one that if the debts proposed to be funded are payable only in gold it will require $2,000,000,000 in gold to discharge them whenever paid. If payable in paper—legal-tender currency—the amount of that currency necessary to pay them could now be purchased for $1,428,571,428 in gold. This is a plain, common-sense fact, which no figures of rhetoric can conceal and no metaphysical sophistry can confuse. If we are compelled to pay in coin, if such was our contract, if it be "so nominated in the bond," then the public must accept the terms and raise this large additional sum beyond what would be required were the debt payable in the medium of exchange established by the Government itself.

If we would realize a proper sense of the importance of the question, let it be reflected upon for a moment, that if the Government, admitting its liability to pay in gold, should now be able to pay off an amount of this debt equal to the sum in gold which would to-day fully discharge it in paper, and should thereafter execute new bonds for the balance, to wit: the $571,500,000, to be paid at the end of forty years with five per cent. semi-annual interest compounded, the amount of Government indebtedness at the maturity of the bonds would be $4,119,711,289 83 in gold, or $5,767,600,000 in a currency bearing the value of the present United States notes, a sum nearly equal to one fourth the aggregate wealth of the nation to-day.

It should be remembered, that whether the interest be paid as the coupons mature, or the whole sum, principal and interest, be paid at the maturity of the bonds, makes but little difference to the bondholders themselves. If the interest be paid to them as it matures they can reloan it, and accumulate as much as the Government would have to pay them. The great fact stands out, that they and their descendants at the end of forty years will have drawn this vast sum from the earnings of others. In other words, the creditor class will be so much richer and the debtor class so much poorer.

The measure before the Senate, so zealously and so ably vindicated by the chairman of the Committee on Finance, [Mr. SHERMAN,] proposes to settle this question of construction by agreeing to pay the whole sum in gold. The Senator claims the right to pay in greenbacks; indeed, he goes further and claims the right to increase the greenback circulation to $400,000,000, which, according to his argument, would depreciate it in value, and then pay off the debt in paper. As I cannot agree with him in the statement that such increase of legal-tender notes as he proposes would necessarily depreciate them in the least, I shall claim nothing in the argument on that score. But, as he determines to settle this question of construction in favor of the bondholder, he naturally seeks for some equivalent to the debtor. What does he propose? Simply to take off one per cent. of the interest. He deems this a fair consideration to the debtor. If the creditors will reduce their interest from six to five per cent. the debtor and creditor classes, he thinks, will be equally and fairly dealt with by their representatives.

We have often heard that figures will not lie. This supposes, of course, that they are rightly used. If I understand their use, there is no difficulty in ascertaining precisely what is gained and what is lost on either side by this new proposition. I have already shown what the creditors would gain instantly by a change of the contract, provided the interest of six per cent. be left as it is now. But as the creditors are to yield up one per cent. per annum, on say $2,000,000,000 of indebtedness, the consideration paid by them is, of course, $20,000,000 per annum for ten years at five per cent. interest. But, as it is to be paid half yearly, we have only to obtain the present worth of an annuity of $20,000,000 for ten years at five per cent. to be paid semi-annually. The present worth of such an annuity is $155,589,162. The Government then gives to the creditors by changing the contract $571,428,572, and the creditors give the Government $155,589,162; leaving balance against the Government, of $415,839,410 in gold.

If the Senator is seeking an equivalent of consideration between the parties—and upon his hypothesis he must find such equivalent before he finds that element of justice which will prove satisfactory to the country—he must reduce his interest 3.67 per cent., leaving the bonds to bear only 2.33 per cent., payable semi-annually.

Connected with this question is another fact which I will barely allude to in passing along to the chief points involved in the bill. It is this. Our public debt is so large as to absorb the whole surplus capital of the country. The larger part of that surplus is to be found among the people of the older States. Hence the public securities are largely held in these States for the mere purposes of income arising from the interest. The western States might purchase them in considerable quantities for purposes of banking if the banking laws permitted it; but the legislation of Congress has strangely combined with natural causes to concentrate these securities in the eastern and middle States. The State banks of the West, like those of other sections, were blotted out by act of Congress, and owing to the limitation upon national banking no substitute therefor is furnished.

The bonds draw an interest of six per cent. in gold, payable semi-annually, which, of course, increases the interest to a little over six per cent. This gold interest is equal to about eight and a half per cent. in currency. The bonds are free from all taxation, which, as Senators will find by examining the average amount of tax levy, especially in the cities of the several States, for State, county, city, school and sinking fund purposes, is not less than two and a half per cent. This, being added, places the interest at about eleven per cent. A security so desirable as this, to be had in sufficient quantities to absorb the whole surplus capital of the country, absolutely precludes the possibility of borrowing money except at the most ruinous rates. The West is full of activity and energy and has large undeveloped resources, but it cannot afford to pay from ten to fifteen per cent. for the use of capital, and Senators will see that the Government bond is a better security than the best gilt-edged private paper at the same rate of interest. A loan of money on the bond involves no examination of title or solvency of sureties, no attorney's fees for deeds of trust and mortgages, no stamp-tax, no recorder's bills, no loss of interest in seeking a new investment, no bankruptcies or compositions with debtors and no cost of final collection.

Thus it is that the recent contraction measures of the Government, leaving no capital not invested in its securities, produced great dearth of money in the West and rightfully called forth the most bitter complaints. If it be said again, as it has often been said heretofore, that this clamor against bondholders is a selfish and sectional one, confined to the people of the West, I answer that the Government has forced that section to vindicate itself from the utter destruction of its material interests, threatened by vicious and erroneous measures of financial policy.

These measures, so fraught with ruin, have forced us to examine critically into the mode and manner of creating the public debt; the equities connected with it; the propriety of its speedy or deferred payment; the possibility of diminishing its burdens; our means of payment, and the measures best calculated to preserve the public credit consistent with the reasonable prosperity of the people and the advancement of industrial pursuits. If I were to say that the public debt is so large as, even with the best intentions, to render its payment improbable within the next century, or possibly within the next two centuries, I should wound the pride of somebody. Therefore I will not say it. If I were to say that large and oppressive public debts are least certain of payment in a pure democracy, and next under institutions of a republican character, where the debtors must always be more numerous than the creditors, and where heavy rates of interest daily add to the luxuries of the rich and to the miseries of the poor, some one of fewer years or of more enthusiastic temperament than myself might charge me with reflecting on our system of Government.

As I think it the best system known among men and hope to see it improved, even in the liberality of its democracy whatever may become of the debt, I would not venture on such an assertion, if I believed it, for it might open the door to misrepresentation and some unjust criticism upon myself. I cannot well be assailed, however, for alluding to facts already developed, a concealment of which would only complicate the national troubles. Among these facts it may, I think, be confidently stated that our debt, as it now exists, is the most onerous and oppressive one that weighs down the energies of any nation on earth.

Take the entire expenditures of our Government from March 4, 1789, down to June 30, 1861, a period of seventy-two years, and they amount to $2,235,677,161 61—a sum less than our present public debt by $400,000,000. This includes the debt of the Revolution, the war of 1812, the numerous swindling and expensive wars with Indians, the war with Mexico, the purchase of Florida, Louisiana, and Arizona. During that period the entire receipts of customs, passing down from the tariffs of Alexander Hamilton, through the high tariff of 1828, which threatened to dissolve the Union, the compromise sliding scale of 1833, the protective duties of 1842, the revenue rates of 1846 to the Morrill tariffs of 1857 and 1861, amounted only to $1,575,152,579 92—a thousand millions less than our present debt.

The entire receipts from public lands, once regarded as a security upon which untold millions might rest, from the origin of the Gov-

ernment to 1861, amounted to but $175,817,961 20; the receipts from all sources including internal tax and loans during the seventy-two years, were less than $2,271,000,000. The estimated wealth of the United States in 1860, excluding slaves, was $14,146,523,676; that of Great Britain at the same time, $31,512,000,000; that of France in 1866, say $32,000,000,000. For 1868, estimated wealth of the United States, after deducting for losses of the war and depreciation of property in the seceding States, $20,000,000,000; estimated wealth of Great Britain, $34,842,747,000; France, $34,000,000,000. In 1868, the debt of Great Britain is, say, $3,887,489,220; France, $2,600,000,000, and the United States, $2,651,000,000. The population of Great Britain is, say, 31,000,000; that of France, 38,000,000, and of the United States say, 38,000,000. The wealth *per capita* of the people of Great Britain is, $1,124; of France, $843 25, of the United States, $502 37.

The amount of interest paid by Great Britain on her debt is $126,628,890; by France, $70,000,000, and by the United States in 1867 $143,000,000.

Even if the debt be funded as proposed our annual interest cannot be less than $114,000,000. In Great Britain the people pay annually *per capita* for interest $3 26; in France, about $2; in the United States, if the debt be not funded, $4 03; if funded, $3 20. In Great Britain each dollar of wealth owes to the public debt 11½ cents; in France, 8½ cents, and in the United States 13¼ cents.

The rate of interest on the public debt in England is three per cent.; on over three fourths of the debt in France, three per cent. and four and four and one half per cent. on the remainder, and in the United States six per cent., and now that it is proposed to reduce it to five per cent. some people are shocked at the immorality of the proposition.

In Great Britain each $100 of property pays annually for interest 36 cents; in France, 20 cents; in the United States, 57 cents.

If we take the current yearly expenditures of these Governments for all purposes, we find that each $100 in England pays 95 cents; in France, $1 11; in the United States, $1 73.

In consequence of this large debt, I have already said, money is diverted from the channels of productive industry. To meet the accruing interest makes it necessary to resort to high tariffs. To meet the current expenses of the Government we are forced to levy burdensome rates of internal taxation. This tends to reduce the profits upon business, while it largely increases the price of the products without corresponding benefits to the producer. This condition of things has thrown the balance of trade against us. To meet that balance we have been forced to ship bonds to Europe, until now the interest on these bonds constitutes an annual balance against us of no less than $30,000,000. The imports and exports of the last four months exhibit a state of affairs less satisfactory than ever. If we continue to ship bonds to meet these balances, it only aggravates the evil. If, on the other hand, we ship gold it will drain us of the precious metals in less than five years' time, and specie payment will become a myth indeed. When the coin is gone, importations must cease. When importations cease, the custom-house no longer furnishes gold with which to pay accruing interest.

To sustain our credit the interest must be paid. To pay the interest, gold must then be purchased with depreciated paper, collected in the shape of internal taxation from the suffering and prostrate business of the country. When we shall have arrived at this point—and without the most thorough and radical measures we shall soon reach it—the public credit will be hopelessly lost. Not only will public credit be lost, but the means of resuscitating it will be lost also. The currency of the country, whether we expand or contract it, will then be deranged; prices will be exorbitantly high; the rewards of labor will scarcely furnish the means of livelihood; individual credit will be worthless, and a period of general bankruptcy will set in. This is a dark picture. I hope it is overdrawn. Unless Congress performs its duty during this session the reality I fear will be worse than any picture I can draw.

Some persons will complain of this view of the subject. They will profess to see in it an attack on the public credit. Nothing that I may say will damage the Government credit. Capitalists may not speak so plainly as I do, but, if men are to be judged by their actions, they think more than I dare say. They tell us that the bonds are payable, principal and interest, in gold. Such they say is the contract. They also tell us that the Government is able to resume specie payments to-day, and loudly insist that there is no necessity for reducing the interest to enable the Government to pay in coin. They tell us that our resources are perfectly abundant, and yet in the face of all this our bonds are hawked about in foreign markets at 71 and 72 cents in English gold and at from 76 to 78 in New York, payable in American gold. An English three per cent. consol, payable at the option of the Government, sells at 94 cents by the side of a five-twenty six per cent. bond struggling for credit at 71. Hudson River railroad shares, declaring an annual dividend of eight per cent. in currency, sell for 145 in New York, while the Government bond sells for 104 to 110 in currency. Cleveland and Toledo shares, with an annual currency dividend of seven per cent., bring 109. Illinois Central with ten per cent. dividends sell for 135, and New York Central with six per cent. dividends sell for 126. These facts indicate a want of confidence. Either the debt itself or the interest on it is too large. There is a doubt about something. Capitalists either doubt the Government's ability, or its disposition to pay. The Government so far has paid its interest, and nearly broken down the energies of the people in an effort to pay a part of the principal. The doubt, then, must be in regard to its ability and not its disposition. It will be observed that in the Secretary's last report the estimates for the future are not calculated to strengthen confidence. For the last three quarters of the fiscal year 1868 he figures up a surplus of only $1,000,000, and for the fiscal year 1869 with difficulty he finds a surplus of $9,000,000, which I fear will never be realized.

Listen to the complaints of the people of every section, coming up trumpet-tongued to Congress, asking for relief from taxation. See the conventions being held, telling of ruined commerce, of crippled industry, of dwarfed production, the dearth of money, and the general stagnation of business. In this state of things convention after convention of both the great political parties, in the Western States, meets and demands a change in financial policy. Some of the bondholders—not all—I am glad to know, and many of their indiscreet friends, however, are inexorable. They have the wealth; they own the newspapers; they can pay the price demanded for the influence of talent; they tell us the debt is sacred; Congress can no longer legislate on those subjects which of right belong to the Representatives of a free people; if former legislation were prejudicial to them, it must be repealed; if the currency were expanded when they purchased securities, it must now be withdrawn, for thus they imagine the securities mount to a gold value; if the issue of United States notes were limited when they purchased, this limit must not be exceeded, though increased population, business, wealth, and enlarged area of country should all combine to demand it.

Congress, they admit, could properly make gold contracts between individuals payable in depreciated paper, but it cannot touch the public debt. Congress could lay its heavy hand upon $600,000,000 of State bank capital and force sixteen hundred banks into liquidation as one of the means to float these very bonds upon the market, but now the bonds are beyond the vulgar touch of the people or their Representatives. State bank circulation, declared legal under the high sanctions of the Supreme Court, could be taxed ten per cent. per annum for the avowed purpose of its destruction, but who dares propose a tax on Government bonds? It was right to pay the soldier in currency, though he enlisted before the legal-tender act passed. It is now right to pay his bounty and pension in currency, though he founds his right to receive them on the act of July, 1861. It was right to pay the builders of boats and other contractors in constantly depreciating currency, but to apply the same rule to-day to the fundholder is sacrilege. It was right, in order that the Government might live, that that hoary iniquity, human slavery, and the $2,000,000,000 claimed to be invested in it, should be blotted out, and blotted out forever.

A few days since an able and somewhat interesting pamphlet fell into my hands, in which were the following words:

"Let all repudiators and all advocates for payment of the public debt in promises to pay on demand, which are not meant to be kept, be treated as public enemies. If any member of Congress should be known to favor these measures he should be promptly ejected from his seat and returned to his constituents to study the principles of common honesty."

This intemperate language appears in an article attacking the privilege to convert bonds, even at the option of the holder, and denouncing the repeal of the limitation on national banking. The purpose, then, is to force up the value of bonds by an exhausting system of contraction, in utter disregard of every material interest of nineteen twentieths of the people.

Mr. President, suppose that by reducing the rate of interest the bond would be increased and not diminished in value. It is now worth less than 72. Suppose it would then command 84—about the price, I believe, of a four per cent. Brazilian bond to-day—would the creditor be injured? Would he not be benefited? If he choose not to retain a four per cent. security he can easily sell it at an advance of fourteen cents to the dollar, and invest the proceeds in some other depreciated six per cent. bond. There are but few Governments that issue bonds with such high rate of interest, but whenever issued they are invariably depreciated. The increase of wealth in no nation is equal to six per cent. per annum for a long series of years; hence no nation can pay it without bankrupting its Government or impoverishing its people. Capitalists know this thing, and they always distrust such securities.

Let us suppose, again, that a reasonable increase of currency, either in the shape of legal-tender notes or national bank paper, or both, would tend to revive drooping industry, increase the products of labor, assist in the development of what is now unproductive wealth, enable the nation to swell its exports above its imports, what harm would be done to the bondholder? If these results should follow, the effect would be, I think, to appreciate his security. I feel satisfied that such would be the result, and therefore I insist that those who favor this policy shall not be expelled from Congress by their fellow-members at the bidding of a foolish bondholder who knows not his own interest.

IN WHAT CURRENCY THE DEBT SHOULD BE PAID.

A word now in regard to the law of this question. On the 1st day of July, 1861, the public debt was $90,867,828 68. There was no stipulation in what medium it should be paid. Gentlemen argue that, having been issued when gold was the currency, it must, therefore, be paid in gold. They insist that this understanding controls the contract as much as if it appeared in express terms. This argument, it will be perceived, goes upon the hypothesis that it is incompetent for the Government to make anything else than the precious metals a legal tender in the payment of debts. Is it not too late in the day for our people to stand on any such argument? The right has been exercised for six years, and during that time this vast debt has been created. If the act was legal at any time it is legal now.

But, aside from the question of power, an argument on the side of good morals and common honesty is presented. It is said the paper is not so valuable as the metal. If it were as valuable the creditor could not complain. He could not possibly, in that case, be damaged, for, holding the one currency, he could convert it into the other. If this argument be worth anything it is worth a great deal. It goes to this extent, that after a debt is contracted the Government cannot legally coin additional gold or enlarge the circulation of the precious metals. Being now in debt, the gold-fields of California, Montana, Colorado and Nevada would be useless to us, because we cannot increase the volume of the specie circulation without depreciating to the same extent the public securities, and thereby injuring our creditors. I hold that if the Government can stamp paper with legal value at all it is as much money as gold itself.

If the power existed to do so when the legal-tender act passed in February, 1862, it existed at all previous periods of the Government, and it exists now. If it existed at all it existed by virtue of the Constitution, and the Constitution was the same prior to 1862 as it then was. It is admitted there is no express contract to pay the debt in gold. It can only be claimed as an implied agreement. It occurs to me that other implications are just as reasonable. Is it not more reasonable to infer that the public creditor, purchasing a Government bond, takes it subject to the exercise by Congress of all its constitutional powers? It is surely legitimate for Congress, after it contracts a debt, to coin money and put it in circulation. It is equally clear that Congress may regulate, and therefore change, its value. The coinage of gold may be double or quadruple in amount, or the use of gold as a medium of exchange may be abandoned altogether and something else adopted. I may admit it is competent for the Government to agree expressly to pay in gold or any other article without weakening my position.

If it agrees to pay gold I do not object to its doing so; but when no specific agreement is made I insist that both debtor and creditor are supposed to contract subject to all the contingencies of future legislation. That legislation may be such as to make the debt more or less valuable at the time of its payment. This fact is understood by both parties when the contract is made, and enters into and forms a part of it. What I have now said in reference to the debt already existing on the 1st day of July, 1861, applies with equal force to the bonds and Treasury notes issued subsequently under the acts of July and August, 1861.

During the summer and winter of 1861 an effort was made by Mr. Chase, the then Secretary of the Treasury, to carry on the war under a system of specie values. The banks of New York had promised to loan him a sum which he supposed to be sufficient for his purposes. In his report of December, 1861, he states that he had borrowed $197,000,000 and had an engagement with the banks to borrow $50,000,000 more. This loan was to cost him a little less than six and a half per cent. interest.

This was a gold loan, and the proceeds carried two or three times the purchasing power of subsequent loans contracted in paper currency. In this report Mr. Chase takes occasion to say:

"This rate of interest is, however, higher than the United States with their vast and accumulating resources ought to pay. No doubt reasonably exists, that after the reëstablishment of union and order, the five per cent. bonds of the United States will command a premium in the markets of the world unless the national debt be, in the meantime, augmented beyond necessity or reason."

It will be remembered that Mr. Chase, at this time, did not contemplate the issue of legal-tender notes. If issued at all, he thought they ought to be payable in coin. Having argued the advantages and disadvantages of such an issue, he declined to recommend its adoption. Instead thereof he recommended the present national bank system; but as that involved the withdrawal of the State bank notes, and the reorganization of the capital of the country, the process would be too slow to meet the pressing exigencies of the war.

Mr. Chase's good intentions were utterly frustrated by the sudden suspension of specie payments, and the consequent failure of capitalists to loan him money as they had promised. Hence came the necessity for the act of February 25, 1862. If the war could have been conducted on the specie standard of value, as I confess I desired, our public debt to-day would probably be one thousand millions less than it is. The Secretary estimated the amount of gold in the country at that time to be $275,000,000, and with that basis of credit, until the suspension of specie payments, he entertained hopes of procuring money by negotiating loans. Upon the suspension, however, this gold suddenly disappeared, and nothing was left to conduct the operations of the war except depreciated State bank paper. Gold was absolutely demonetized, and something must be substituted in its place. It could not be a paper convertible into gold, because the Government being a borrower could not pay specie on demand.

The people needed and must have a circulating medium. It was the duty of the Government to furnish it to them. In doing so a new policy was inaugurated for which the people are grateful, but the movers of it seem not to realize it. The State bank paper of that day was estimated at $202,000,000, $150,000,000 of which was in the loyal States. This paper suddenly became depreciated in value, and the security of business operations demanded a currency sustaining a better credit. Hence we now see that the Government could, with the greatest possible safety, and without harm to any material interest, have issued at once $425,000,000 of legal-tender notes. But the world has long since learned to shudder at the bare mention of Government issues. Reasoning from false premises, they assume that these issues must depreciate in value. Necessity forced our statesmen to do something, but they did as little as they dared. It was sharp necessity that gave birth to this invention and saved the country. It became the entering wedge of a great policy. These gentlemen shrank back from the policy in its full and necessary proportions, and temporized with the exigency by issuing only $150,000,000. These notes, however, fortunately received the impress of the Government, and took the legal value of coin itself. It was the national money, and is the national money yet, to the entire satisfaction of the people. The notes were made—

"Receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin;"

and they were further declared to be—

"Lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

To this act, in my judgment, can be given but one interpretation. These notes could not be used by the Government for paying interest upon bonds, because it was stipulated by the act itself that the interest should be paid in coin. If the act contained no other express provision on the subject than the stipulation to pay interest in coin, then, by force of a very familiar rule of construction, the principal of the bonds could be discharged in paper. But, as if to exclude any other conclusion, it is provided, as I have said, that they shall be "a legal tender in payment of all debts" to the Government except duties on imports, and also a legal tender for all debts against the Government except interest as aforesaid. If it were possible to give strength to this construction, an argument is furnished in the provisions of a subsequent section to create a sinking fund, which provide for "the payment in coin of the interest on the bonds," but simply for the "payment or purchase" of the bonds themselves, dropping the words "in coin."

In further proof of the intention of the Legislature in this behalf the provisions of the act of March 3, 1863, are in point. Under this act legal-tender notes were issued with interest payable in currency. It was unnecessary to specify how the principal should be paid. This had been provided for under the previous act of 1862. Being a debt of the United States the principal was payable in lawful money. It was thought necessary to be specific, however, in regard to the payment of interest, for otherwise the interest might be held payable only "in coin," because United States notes had not been made "legal tender" in payment of interest "on bonds and notes."

It will also be remembered that similar provisions are to be found in the acts of June 30, 1864, and March 3, 1865, under which legal-tender Treasury notes were issued, principal and interest, to be paid in currency, and all fundable, at the option of the holder, into five-twenty bonds. These acts show an entire abandonment of this specie standard. The coupon and compound-interest notes, although made a legal tender for their face value, were expressly redeemable in paper.

In further proof of the position assumed, that it is lawful to pay the five-twenties and other securities in currency, the act of March 3, 1864, is referred to, under which the ten-forties were issued. That act contemplates a different sort of bond, and therefore provides in express terms that both principal and interest shall be paid in coin. As both prior and subsequent acts provided for paying interest in coin, but were silent as to the principal, it must be supposed that the omission in those acts was intentional, and in the absence of an express provision, they, like all other debts, could be properly discharged in whatever the Government might stamp as lawful money and declare to be a legal tender.

I have just stated that distinguished statesmen, remembering John Law, the South Sea bubble, continental money and French assignats, the history of which had nothing in common with our case, approached this question with exceeding reluctance. But the times were exacting, and stern necessity enforced the performance of duty. The five-twenty loan provided for in this act could not be negotiated. Money must be had. The previous act had provided, out of very abundant caution, that the demand notes and United States notes together should at no time exceed the sum of $150,000,000. On the 17th March, 1862, it became necessary to modify this act by declaring that all demand notes outstanding should be made legal tender also. This, too, proved insufficient. Before the adjournment of the same session, to wit, on the 11th July, 1862, another issue of $150,000,000 was authorized. As was shown by the Senator from Ohio the five-twenty loan was not yet floated. There was no surplus money even yet to invest in bonds, and the Government stepped in to furnish such money by means of its credit. Even this additional issue proved to be insufficient; and on the 17th of January following another $100,000,000 were authorized and immediately issued. Then came the act of March 3, 1863, authorizing an issue of $50,000,000 more, or, as expressed in the act, $150,000,000, including the $100,000,000 of the previous January.

It is a mistake to suppose that this latter act or any other act put a limit to the issue of legal-tender notes. So far from doing so, the third section of this act of March, 1863, provided for the issue of $400,000,000 of Treasury notes, which the Secretary of the Treasury was authorized to make legal tenders for their face value, and of which he issued and stamped immediately thereafter from one hundred and fifty to two hundred million dollars. Previous to this act United States notes could be funded, but now the right was to be withdrawn after the 1st of July following, and thenceforth they were to remain a permanent circulating medium, and did so remain until

the act of April 12, 1866, when the fatal policy of contraction was inaugurated.

It was not until June 30, 1864, that Congress adopted the limitation upon the issue of greenbacks in the following words:

"Nor shall the total amount of United States notes, issued or to be issued, ever exceed $400,000,000, and such additional sum not exceeding $50,000,000, as may be temporarily required for the redemption of temporary loan."

Let it not be forgotten that this act of June 30, 1864, which is so often quoted to the detriment of the country, and which is claimed to have transferred to our creditors a part of the national sovereignty, instead of limiting the issue of legal-tender notes, actually contained a provision to increase the issue $200,000,000. It is true they were not called United States notes, but Treasury notes.

Mr. SHERMAN. They bore interest.

Mr. HENDERSON. I am aware of that. They might bear interest from the one hundredth part of one per cent. to seven and three tenths per cent. in lawful money, and be made payable at any time not exceeding three years. But if payable three years from date they were to be made expressly a legal tender to the same extent as United States notes for their face value. It must not be forgotten, either, that the Secretary availed himself of the authority and issued the full amount with the Government stamp of lawful money. And yet the Senator from Ohio tells me that somehow or other there is a limitation upon legal tenders.

Mr. SHERMAN. I did not say legal tenders; of United States notes.

Mr. HENDERSON. They are all the same. There is no difference. They were used as currency.

Now, Mr. President, is it not a little extraordinary that the very able and sagacious Senator from Ohio so promptly yields to the suggestion that the Government is in honor bound never to enlarge the legal-tender circulation beyond $400,000,000? He says this would be bad faith. He himself has conclusively shown that scarcely any bonds were negotiated until the full limit of United States notes had been issued. I have already shown that when that limit was reached there had been issued and negotiated about $200,000,000 of five per cent. coupon notes, which were also a legal tender, and which we know flowed readily into the channels of circulation. That Senator should also remember that before the limitation of June, 1864, was enacted the $200,000,000 compound-interest notes were authorized and immediately issued, and they, too, for some time swelled the volume of currency.

By examining these acts of Congress it will be seen that on the 1st day of July, 1864, $1,050,000,000 of legal-tender notes had been authorized, and not only were these issues authorized, but the authority was most liberally exercised. By looking to the reports of the debt it will be seen that there were issued and put in circulation the following amounts of legal tender, namely:

United States notes	$432,000,000
Coupon five per cent. notes	201,000,000
Compound interest notes	217,000,000
Total	$850,000,000

I am aware that the coupon notes were withdrawn as rapidly as possible, but they were not withdrawn until they had effected the purpose for which they were issued, to wit: the sale of Government bonds.

It seems, then, that this charge of bad faith is unfounded. If the bondholders purchased their bonds with an outstanding issue of from $600,000,000 to $850,000,000 of legal tender, what right have they to complain if the legal tender should be again increased to that amount.

Bad faith implies that a promise is broken. But there must be something more than this. Somebody must be injured by the breach. If it be insisted that no more greenbacks or United States notes can be put into circulation, but that Treasury notes may be issued *ad libitum*, then the alleged promise is utterly worthless. The truth is, the public creditors purchased the securities as cheap as they could obtain them. They purchased them with their eyes open, subject to all the hazards of military success, and no less subject to such enactments of Congress as in its judgment the public good might demand. They who had means deserve credit for aiding the country in the hour of its peril; and, now that imminent danger has passed, it would be no less dishonest than ungrateful to repudiate our obligations. Such a thing cannot and will not be seriously entertained by any considerable number of men claiming to be honest or respectable. But there are two classes of people equally entitled to our consideration in this matter—the debtor and the creditor classes. While we deprive the creditor of no part of his honest earnings, we must be careful that we do nothing to oppress the debtor by making it more difficult to pay than when the debt was contracted. While we should not clip the coin or deteriorate the currency for the mere purpose of confiscating a part of the creditor's claim, we should boldly assert the right, inalienable by the Government, to regulate the currency for the public good, and especially should we avoid such contraction of it as to oppress the debtor class or rob them of the means of payment. We should do nothing to take away the value of the debt in the hands of the holders; but those who have to pay that debt should be heard in their protests against giving it increased relative value by the mere force of legislation.

It must be borne in mind that at this date (I mean in 1864) eleven States were in a state of rebellion, and their citizens did not use our currency except at points reduced into our possession. Those States, in 1860, contained a population of 9,103,333. Deducting this from the entire population, leaves 22,339,889 for the loyal States and Territories. Allowing for the natural increase of population, and we had in the loyal States, using the currency issued by the Government, say twenty-five million people—and it must not be forgotten that nearly one million of our most active and energetic men were withdrawn from business pursuits and engaged in the war—but, allowing for the entire loyal population, we had an authorized issue of legal-tender notes on the 30th of June, 1864, of forty-two dollars *per capita*, and an actual subsequent issue of nearly twenty-five dollars *per capita*.

The Secretary of the Treasury tells us that this large issue caused its depreciation. If so, capitalists bought it cheaply, and having obtained it, converted it, as they had a right to do, in Government bonds at six per cent. gold interest. It is now proposed to limit the legal tenders to $400,000,000. Rebellion has been crushed. The supremacy of the Government is again established, and instead of 25,000,000 people we have not less than 37,000,000 to-day using the currency issued by the Government. Nor is it now as it was before the war or during the war. Then the slaves had no use for money. They are now freemen, and take their places in all business operations. The proposition to limit the legal-tender issues to $400,000,000 gives us only $10 81 *per capita*.

If we should now issue legal tenders to the same amount *per capita* as authorized on the 1st day of July, 1864, we should have the startling sum of $1,554,000,000.

By reference to the Treasury reports of the past we find the legal-tender Treasury notes excluding demand notes, and in actual circulation at different periods, to be as follows:

June 30, 1863	$389,686,762 00
June 30, 1864	599,650,120 84
June 30, 1865	668,782,756 00
June 30, 1866	563,085,576 00
June 30, 1867	495,301,707 00
December 1, 1867	426,236,696 00
February 1, 1868	409,304,297 00

I have just said that other forms of circulating medium existed, during this period, beside the legal-tender notes. I have, with some care, prepared tabular statements, showing the amount of currency in all its forms during the period when our national debt was being contracted.

Amount of Currency at different periods.

	Including temporary loans and certificates of indebtedness.	Excluding temporary loans, certificates of indebtedness, and seven-thirty Treasury notes after June 30, 1865.
June 30, 1863	$1,048,156,476 19	$786,303,936 00
June 30, 1864	1,047,742,005 50	814,682,814 06
June 30, 1865	1,344,339,727 16	1,138,850,665 76
June 30, 1866	1,269,854,006 96	888,886,810 96
June 30, 1867	859,299,795 43	839,038,725 43
Excluding seven-thirty notes.		
December 1, 1867	793,494,137 70	790,582,237 15
February 1, 1868	799,714,641 06	689,435,665 51*

I have already said that upon the suppression of the rebellion the wealth, population, and business of the seceding States came in to share with us the use of our currency.

Assuming that a certain amount of money was needed by the loyal people during the rebellion, surely a larger amount is needed when an additional population of between nine and ten millions has to be supplied. If a certain volume of the circulating medium were necessary for the exchanges of twenty-six States, surely a greater amount is necessary to facilitate the business operations of thirty-seven States, with an added aggregate wealth of not less than $5,000,000,000. Instead of increasing the currency in proportion to this extended field of operations, the Secretary of the Treasury saw fit to adopt directly the opposite policy. His language is the key-note of this whole system of contraction, and I refer to it at the risk of being tedious. In his report of December, 1865, after alluding to the power of Congress to borrow money, he says:

"But their authority to issue obligations for a circulating medium as money and to make these obligations a legal tender, can only be found in the unwritten law which sanctions whatever the Representatives of the people, whose duty it is to maintain the Government against its enemies, may consider in a great emergency necessary to be done."

He therefore expresses his opinion that the legal tender act—

"Ought not to remain in force one day longer than shall be necessary to enable the people to prepare for a return to the constitutional currency."

And, with a view of securing this desirable result, he says:

"The Secretary believes that a decided movement toward a contraction of the currency is not only a public necessity, but that it will speedily dissipate the apprehension which very generally exists, that the effect of such a policy must necessarily be to make money scarce and to diminish the prosperity of the country."

So earnest and zealous did the Secretary become at this time, in pressing upon Congress the evils of an inflated currency, that he imagined danger to exist in the precious metals themselves. He says:

"Even in the form of the precious metals it (money) may not prove to be wealth to a nation. The idea that a country is necessarily rich in proportion to the amount of gold or silver which it possesses, is a common and natural, but an erroneous one," &c.

I do not stop to comment on these extraordinary views. If they are correct, the world has been mistaken from the dawn of civilization to the present time. Political economists tell us that a nation is rich and prosperous in proportion as the products of its industry exceed its consumption and flow abroad to bring in return a stream of the precious metals. I have been taught to believe that the development of the mines of Mexico tended largely to relieve the world of the ignorance, superstition and oppression following the dark ages and greatly to ameliorate the condition of mankind.

I had supposed that the $3,000,000,000 of gold currency, added to the circulation of the world during the last twenty years had quickened industry, stimulated enterprise, developed new fields of hidden wealth, and largely

*This amount excludes gold certificates, five per cent. compounds, three years' six per cent. compounds, and three per cent. certificates.

added to the comforts of men. I had supposed, too, that it was the interest of each nation by honest industry to accumulate as much of this gold and silver as it possibly could. If money is abundant interest is low. Wherever the rates of interest are cheap, the people prosper. Wherever the rates are high every ten or fifteen years debtors go to protest, and capitalists say the country has overtraded itself. They mistake. The people have paid too much interest. That is all.

But before I pass away from the subject of currency, I call the attention of the Senate to a statement which I have prepared myself showing the amount of circulation *per capita*, and for each $1,000 of wealth in the country at different periods since 1863. If there be error in this statement, it is because it is not sufficiently liberal to the view I am attempting to enforce. In ascertaining the population and wealth of the two sections and of the whole country since 1860, I have taken the ratio of increase as developed in our past history. That portion of the seceding States not using our currency during the existence of flagrant war has been excluded from the estimates until the suppression of the rebellion in 1865, after which period it has been admitted into the calculation. The following table contains the estimates, namely:

Per capita amount of legal-tender circulation at different periods.

June 30, 1863	$15 85
June 30, 1864	23 71
June 30, 1865	18 23
June 30, 1866	14 92
June 30, 1867	12 77
December 1, 1867	10 96
February 1, 1868	10 28

The following is the amount of the entire paper circulation of the United States used as a medium of exchange at different periods, including the legal-tender notes:

Date.	Total amount per capita including certificates of indebtedness and temporary loans.	Total amount, including certificates of indebtedness and temporary loans per $1,000 of wealth.	Net amount per capita excluding certificates temporary, &c.
June 30, 1863	$42 65	$84 07	$31 59
June 30, 1864	41 38	80 71	32 17
June 30, 1865	36 66	75 14	31 05
June 30, 1866	33 66	70 53	23 56
June 30, 1867	22 15	45 84	21 80
Dec. 1, 1867	20 45	42 33	20 38
Feb. 1, 1868	20 08	39 08	17 31

Suppose, now, we inflate the currency to the amount *per capita* as it stood at the several periods named, excluding everything that was not an admitted element of circulation. What amount shall we have?

On the basis of—	Amount of legal tenders alone.	Total am't of legal tenders, bank notes, and other notes.
June 30, 1863	$638,000,000	$1,232,000,000
June 30, 1864	924,000,000	1,254,000,000
June 30, 1865	710,000,000	1,210,000,000
June 30, 1866	582,000,000	918,000,000
June 30, 1867	498,000,000	850,000,000
December 1, 1867	427,000,000	794,000,000

If it be said that some of these forms of Government credit did not constitute a circulating medium or answer the purposes of money, I answer that in the table, excluding the certificates and temporary loans, nothing is included except admitted circulation. The coupon and compound-interest notes were intended to be a circulating medium. It was hoped that their interest would soon weigh them down as an investment and take away their currency character, but we all know they were not removed until the ends of their existence had been fully accomplished. The purpose was to sell Government bonds at par, the discount of the bond to be covered up in the depreciation of the note.

Mr. FESSENDEN, then Secretary of the Treasury, in his report of 1864, tells us that he could not negotiate a loan in New York to meet pressing demands of the Government. He informs us that suspended requisitions so accumulated on his hands that he "was compelled," (I quote his own words)—

"To replace the whole amount of five per cent. notes which had been canceled, amounting to more than eighty million dollars, and even slightly to exceed that sum."

And again he says:

"More fully to accomplish his purpose, the Secretary resolved to avail himself of a wish expressed by many officers and soldiers through the paymasters, and offered to such as desired to receive them seven-thirty notes of small denominations."

The Secretary then proceeds to say that he disposed of exceeding twenty million dollars of these small seven-thirty notes to the soldiers alone. After the currency had thus become inflated Mr. FESSENDEN tells us that he put upon the market a loan of $32,000,000, upon which bids to nearly seventy millions were received, and the proposed loan was negotiated at a premium of over four per cent.

What objection to negotiating new loans now in the same manner, to take up this six per cent. debt that daily gnaws at the very vitals of industry? To negotiate a loan then it was legitimate to issue nearly ninety millions of new legal tenders, carrying no weight of accumulated interest, and many more millions of small seven-thirty notes payable to bearer.

Do Senators ask me if I would increase the currency to the amount in circulation during the war? My answer will depend on the policy adopted by Congress in reference to this debt. I will not shrink from paying it. No, not one farthing shall be abated with my consent. I will not only give the pound of flesh if demanded, but I will consent that some drops of "Christian blood" may be spilled. If the bonds were purchased at from fifty to seventy cents to the dollar, it is quite easy to so regulate the interest as to do justice to debtor and creditor. I will even waive the terms of the contract and admit payment in gold to be obligatory, provided the creditors will reduce the interest so as to compensate for appreciating their bonds even from 71, the present value, to the par of gold.

Through the kindness of Mr. Elliott, of the Treasury Department, I am enabled to append carefully prepared tables, furnished at my request, showing the value of securities at from one to six per cent., and for different periods from five to fifty years, the interest to be paid semi-annually. From these it will be seen that if a six per cent. ten-year bond, interest paid semi-annually, is worth only 71, the rate per cent. on a par bond, assuming money to be worth six per cent., should be a little over two per cent.

If six per cent. ten-year bonds, interest paid semi-annually, are depreciated to 73.96, the par bond at two and a half per cent. is equal to it in value, the current rate of interest being six per cent. The depreciated bond worth 77.68 raised to a par value can afford to take three per cent. The six per cent. bond, worth 81.40, when carried to par, can take three and a half per cent. And now, if the public securities were worth to-day 85.12, in gold, the holders must reduce their interest to four per cent., if the debt is agreed to be paid in gold. The proposition to fund at five per cent., assumes that the debt is worth 92.56. It is not worth so much, and the creditors paid no such sum for it.

But I am told we cannot adopt compulsory measures, but must leave the creditors to change their securities or not, as they like. The Senator from Ohio admits that the issue of more currency will enable us to contract loans at lower rates. If the creditors refuse to fund on fair terms I would not fund at all, but adopt such policy as will enable us to take up the securities as they mature. If the circulation be reasonably expanded, the people can pay larger taxes with greater ease than they pay the present burdens. And if the creditors refuse to make better terms, let us proceed by taxation and new loans at three and a half to four per cent. to take up these six per cent. bonds as they mature, which otherwise will hang for centuries upon the energies of the people.

The stereotyped reply to this course of policy is that depreciated paper is the greatest of all curses. Now, a word on this subject. I deny it. A depreciated paper is bad enough. But a six per cent. debt equal in bulk to one eighth part of a nation's wealth is worse. England has two noted institutions, a public debt and a poor-house system. We now have the former. Let us beware that we are not cursed with the latter. I have now shown that an enlarged circulation has no element of injustice in it to anybody. The next question is, will it become depreciated and injure the public? Can it be demonstrated by argument that a circulation of even $1,000,000,000 in this country will become depreciated? That is within a few dollars of the net amount of circulating notes outstanding on the 24th day of March, 1866, when gold fell to 125. I ask my friend from Vermont to take that matter under consideration. It is a fact, and I desire to hear him explain it.

Mr. MORRILL, of Vermont. Does the Senator desire an explanation now?

Mr. HENDERSON. I should like to hear it now.

Mr. MORRILL, of Vermont. It was from a thorough conviction on the part of the whole country and of the members of Congress in each branch, that when the war was over a resumption of specie payments would take place; and no matter what the premium upon gold was if resumption were to take place, it was sure to come down to par, and therefore the people were quite ready and willing under such circumstances to take a lower rate for gold than they had been only a short time previously.

Mr. HENDERSON. Then, Mr. President, this is a mere question of confidence. I should like to ask my friend why the people of this country would not have as much confidence in a legal-tender note as they would have in your public debt, which bears six per cent. interest and weighs down their energies? If confidence is all why should they not confide in a note as well as a bond?

Mr. MORRILL, of Vermont. Because the Government does propose to pay the bond, and does not propose to pay the legal-tender note.

Mr. HENDERSON. If it pays one it will pay the other. I have been endeavoring to show that at the present rate of interest the Government of the United States will not in the next century be able to pay its debt. I will not trouble the Senate with running over the history of other nations on this subject; but I think it a clear proposition, (and we might as well meet it boldly and understand our position,) that, with this large debt, with this rate of interest, no probability of payment is apparent. It is a two-edged sword which not only compels you to pay heavy burdens in the shape of interest, but it cramps industry, because it tends to raise the price of interest between individuals.

The United States of to-day is different from the poor, struggling colonies of 1775, when the issues of continental money commenced. Long previous to the Declaration of Independence

each colony had issued paper credits beyond its ability to pay, and these paper credits were still in circulation. The population of the colonies at that time did not exceed two million eight hundred thousand persons. Their wealth could not have exceeded five to six hundred million dollars.

The amount of continental money issued has never been accurately ascertained. Mr. Hamilton estimated it at $357,475,541; Mr. Gouge, in his work on banking, states it to have been $337,470,541; an article in the Merchants' Magazine for January, 1843, places it at $387,476,337; the amount reported by the Treasury Department to the Senate, in 1843, is estimated $242,100,176. It matters not which estimate is the correct one; it will be readily perceived that no such issue, should the public debt be entirely converted into circulating notes, can be possibly made now. It was from eighty-six to one hundred and thirty-seven dollars *per capita*, and from one half to three quarters of the entire property value of the colonies. The only thing surprising is that the issue of the first twelve months maintained a gold value, and that it had only declined fifty per cent. at the end of two years.

Our condition is quite different, too, from that of revolutionary France when, on the 1st of April, 1790, she entered upon a system of paper issues. The property of France then was not one third the amount of ours now, and yet the issues reached $241,000,000, with a decline of only ten per cent. When the issues had reached $1,000,000,000 the discount was only fifty-five per cent. When they reached the extraordinary sum of $9,115,000,000—a sum much greater than the entire property of the kingdom—it is not strange that they became utterly worthless.

To determine the amount of money demanded by a people we must understand the area of the country, the mode and manner of doing business, and the proportion of the population residing in cities having bank facilities. In England and France, where the population is dense, much less currency is needed. Bank checks and bills of exchange supply in a large measure the place of a circulating medium.

These advantages are enjoyed in a much less degree in this country; hence a larger circulation is necessary. The extent of our country is great, and new Territories are being rapidly settled up, from which communication is exceedingly difficult. Another fact worthy of consideration is that the old credit system between individuals is almost entirely abandoned. When the Government supplies its credit in sufficient quantities individuals are enabled to adopt the cash system in business, and, even though the Government credit should fall below par, business men are compensated for this inconvenience by the advantages of cash payments. What they lose in discount on the paper is less than the probable loss on failures of individual credit. Taking into consideration, therefore, the character of our country, the activity and energy of the people, and the abandonment of the old credit system, it may be safely assumed that double as much circulation *per capita* can be used here as in France or England.

In 1864 the gold coin of England was estimated $400,000,000, and that of France at $700,000,000. If these estimates were correct at the time, it is safe to assume, looking at our own recent exportations of the precious metals, that the amounts have been largely increased. If we include the silver coin and the bank notes we may set down the circulation of England at not less than from six hundred and twenty-five to six hundred and fifty million dollars. This would furnish twenty-five to twenty-six dollars *per capita*. I have but little doubt that the gold circulation of France is now equal to $800,000,000. Add to this the circulation of the bank of France, and we have a *per capita* circulation about equal to that of England.

Now, suppose the people of the United States needed only as much circulation *per capita* as the people of England and France, this would give us over one thousand millions.

I am aware that the aggregate wealth of each of those nations is greater than ours, and that fact may modify my statement that we can profitably use twice as much currency *per capita* as they. But suppose, on account of the causes to which I have alluded, we can use three dollars to their two. The circulation of the United States in that event should be $1,500,000,000. It is now much less than half that amount.

I know the conclusions arising from these facts will not be favorably received. The opinion of many persons here and elsewhere is that the old order of things *ante bellum* cannot safely be departed from. We have been told from infancy that large issues of paper money are dangerous, and we too readily confound a reasonable exercise with the abuse of the privilege. We do not take into consideration the change of circumstances demanding a change of policy. In many things we have been recently educated. We may have something to learn yet in the school of finance.

Ever since our circulation in this iron policy of contraction fell beneath a thousand million dollars gold has risen in the market. Instead of reaching specie payments, we are placed almost beyond the pale of hope in that direction. The reason is apparent. There is no gold in the country, perhaps not over $225,000,000. Hence present resumption by the Government is the merest dream of enthusiasts. State bank notes are prohibited by law, and national bank notes are limited to $300,000,000. Some form of credit must be furnished as a circulating medium. Unless it is furnished in sufficient quantities the productive energies of the people are cramped. Money in some form is essential among civilized men to the transactions of business and the accumulation of wealth. It is the nation's life-blood, which alone can assimilate raw material into wealth, beauty, and strength. Whenever it is denied, under the absurd idea that its amount should be limited by the law-making power, derangement and disorder in business inevitably follow. As well might the quack assume to determine the quantity of blood necessary to the health and vigor of the human system. Mr. Fullarton, in his work on the Regulation of Currencies, uses the following significant language:

"With only one or two exceptions, and those admitting of satisfactory explanation, every remarkable fall (rise) of the exchange, followed by a drain of gold, that has occurred during the last half century has been coincident with a comparatively low state of the circulating medium, and *vice versa*.

"On no occasion was this proposition more strikingly exemplified than during the period immediately preceding the suspension of cash payments in 1797, when, for two years together, a system of the most determined contraction was carried on by the directors of the Bank of England with unrelenting perseverance, reducing the circulation from £16,017,510 on the 28th February, 1795, to £8,640,250 on the 25th February, 1797, without arresting, in the least apparent degree, the drain of gold which was then in progress for restoring the exchanges. The restoration of the exchanges to its bullion par from a depression of full thirty per cent. was accomplished in 1816, after various remarkable vicissitudes, in the face of an enlargement of the issues of the Bank of England to an extent varying from three to six millions."

I could refer to fact upon fact in the history of the past to illustrate this view; but time forbids at present. Now, if the policy I have indicated be adopted, the country can afford to wait the pleasure of the bondholders on the subject of funding their securities into a new loan. If they wish to keep the old bonds let them do so, and we will pay their interest and trust the future for solution of our difficulties. If the debt must be funded in the present stringency of the money market it would be far better to reduce the interest and pay the market rate of discount on the bond. In this respect I differ materially from the chairman of the committee. Even the Senator from Vermont admits that the debt may be funded at five per cent.

On his theory of voluntary conversion this is an admission that money may be had at five per cent. But let us suppose money to be worth six per cent., which strengthens the argument against me; and yet I insist that, if the debt is to be funded into a ten-forty bond, the Government may save hundreds of millions by issuing securities at a lower rate of interest and placing the equivalent discount in the body of the bond. The gain to the Government, of course, arises from the difference of opinion as to the period when the debt can be paid. Capitalists insist that it can be paid in from ten to twenty years. I believe no such thing. But, as they have the money, it is their judgment and not mine which will likely control its investment.

Now, suppose a six per cent. ten year bond is worth par, then similar bonds at lower rates of interest are worth as follows:

At five per cent	$92 56
At four per cent	85 12
At three and a half per cent	81 40
At three per cent	77 63

But our six per cents are really worth in currency 109. The ten years' bonds of lower rates should be worth as follows:

At five per cent	$100 89
At four per cent	92 58
At three and a half per cent	88 72
At three per cent	84 90

Now, if we should agree to fund at the discount in consideration of lowering the interest, we must give for four per cents $106 93; for three and a half per cents., $112 71; for three per cents., $117 78.

Suppose, then, we fund $2,000,000,000 at four per cent., we shall only increase the amount to $2,138,600,000; at three and a half per cent., to $2,254,200,000; at three per cent., to $2,355,600,000.

I do not imagine that the principal of the debt will be paid in the next fifty years. But suppose it shall be paid in ten years, then nothing will be gained, I admit, except the immediate benefits arising from the reduction of the annual interest budget.

The annual interest, at five per cent., is $110,000,000; it would be, at four per cent., $85,544,400; at three and a half per cent., $78,897,000; and at three per cent., $70,668,000.

And now, if I am right in supposing that fifty years will elapse before payment of the principal, let us see what the nation will make by the change? One dollar at five per cent. compound-interest, paid semi-annually, in fifty years amounts to 11.8137. Two thousand million dollars, then, will amount in the same time to $23,627,400,000. One dollar at four per cent. compound-in-terest, paid semi-annually, amounts to 7.2446. Hence the debt, if now funded at that rate, would amount in fifty years to $15,493,801,560; making a saving to the nation of $8,134,098,440. The saving to the nation, if funded at three and a half per cent., will be $10,778,460,000. If funded at three per cent. the saving will be $13,027,200,000.

But suppose you reject the idea that the interest should be compounded. Let us, then, take it at simple interest, and see what the Government will have paid in actual cash on the principal and interest when fully discharged:

$2,000,000,000 at five per cent. simple interest for fifty years		$7,000,000,000
$2,138,600,000 at four per cent. simple interest for fifty years		6,415,800,000
Saving	$584,200,000	
$2,254,200,000 at three and a half per cent. simple interest for fifty years		6,199,050,000
Saving	$800,950,000	
$2,355,600,000 at three per cent. simple interest for fifty years		5,889,000,000
Saving	$1,111,000,000	

So it becomes apparent that the debt should be funded at lower rates of interest, even if we have to increase the principal for the privilege of doing so.

One good that may possibly be educed from the existence of the debt—if there be good in

such a thing—is that it is now placed in the power of the Government indirectly to regulate the rates of interest between individuals. If we cast this good aside, and also the kindred one of founding upon public securities a safe and uniform currency, that debt may stand forever an unmitigated curse.

Whatever else we do we must reduce the rate of interest on the debt. If we can do it only by consent of the creditors let us get their consent on the best terms we can. It is better to pay for this as a great national boon than to lose the present opportunity of securing it.

Mr. President, for what I have said, I shall be attacked as an enemy of the bondholders. I shall be called a repudiator. I shall be represented as hostile to a specie standard of value. Neither is true; but men are so given to extremes that opposing views are seldom met with fairness. Time, which sets all things even, must determine whether I am right or wrong. I conscientiously believe that we can pay neither five nor six per cent. interest on this public debt. Considering the circumstances of its creation, it is too exacting that the creditors should not only demand a change in the terms of their contract, but a relentless depletion of the circulating medium. Will not one suffice? If we give them a gold contract, why ask, in addition, that productive industry shall sicken and die? This policy injures the people, it strikes down the power of accumulation from labor and brings ultimate loss to the bondholder himself. It is the old demand, that bricks be made without straw. I have said that we cannot pay five per cent. I assert, without fear of successful contradiction that no nation on earth can show a ratio of increase in national wealth equal to five per cent. Take England, with all her greatness and boasted prosperity, and you will find that her ratio of increase from 1823 to 1861 is only two per cent. Take the United States from 1810 to 1860, including twelve years of gold inflation from the mines of California, and the ratio is four and one eighth per cent. The rates of increase in several of the older but most prosperous States in the Union, from 1850 to 1860, a period of increasing relative values as compared with gold, are as follows:

In Massachusetts	3⅜ per cent.
In New Hampshire	4⅛ per cent.
In Rhode Island	4½ per cent.
In New York	5.48 per cent.

This unjust accumulating power of money, arising from high rates of interest in this country, should not be encouraged by the Government. If the net profits of productive industry are not equal to five per cent., then, too, the interest of money should be less than five per cent. He who invests his capital in the employment of labor and the development of wealth is entitled to a dividend equal to the interest income of the man who lives in idleness and luxury. Suppose that our debt should fall into the hands of foreign holders, and the annual increase of our wealth should be less than the annual interest to be sent abroad, it is then evident that ultimate poverty is only a question of time.

If the debt remains at home the injury, in a national point of view, is not so great. The increased wealth would remain among us, but it would soon become concentrated in the hands of a few, to be followed by all the evils of an aristocracy. In such a state of things the poor man's hope consists only in the extravagance and profligacy of the rich. A nation that encourages such a policy must sooner or later suffer the dreadful consequences. He who will scrutinize closely the monetary convulsions of Europe and America will find that they had their origin in the payment of interest. Take the commercial disaster of 1825 in England, which capitalists sometimes tell us were owing to bank expansions. It will be found that the circulation of the bank actually decreased, from 1821 to 1825, nearly one million dollars, while the loans increased from $13,500,000 to nearly forty millions.

If we refer to the panic of 1837 in England we find that, from 1833 to 1837, when it commenced, bank circulation decreased more than one million dollars, while the loans increased from $27,000,000 to $75,000,000. Without enumerating the figures, it is safe to say that the panics of 1847 and 1857 in England proceeded from the same causes. Turn back to the panic of 1837 in this country and it will be seen that the loans and discounts in the banks ran up from $200,000,000, in 1830, to $525,000,000 in 1837, while the circulation increased in the same period from $61,000,000 to $140,000,000.

The circulation of the banks of the United States in 1854 was $204,000,000, the loans $557,000,000. In 1857, when suspension and bankruptcy came, the circulation was only $214,000,000, while the loans had gradually risen to $684,000,000. The increase of bank circulation was only $10,000,000, while the increase of loans was $127,000,000. If we turn to the condition of the banks of the State of New York, the commercial center, at the same period, we find the circulation was about the same as it was in 1852, while the loans and discounts had increased from $127,000,000 to $170,000,000.

Give me a period when industry is stimulated, but has to borrow money for the development of productive wealth, and I will demonstrate that it has been soon followed by a monetary convulsion. Indeed, this fact is of such universal acceptance that business men in the brightest periods of prosperity have learned to anticipate the coming of adversity. Another accepted truth is, that when disaster comes it ruins the most enterprising business men of the community. This should not be so. Now is the time to strike one blow at the evil, and I, for one, am prepared to do it.

I am no repudiator. My understanding of the contract made with our creditors is, that if the debts become redeemable during a period of suspension, they are payable in the lawful money of the Government. If, however, they become redeemable after specie payments are resumed, or if we choose to postpone payment until that period, they are then payable in gold. These considerations are a part of the contract. Debtor and creditor must have so understood it.

An important question, then, left is as to the propriety of resumption. As nobody has proposed it in this debate, and as nobody is likely to propose it, I forbear at present to show its utter impossibility. Such an attempt would bring legislators into disgrace and the Government into bankruptcy. At this point I might stop. My motion at present is simply to reduce the interest. I have offered no general substitute to the bill. Some of its provisions I can support; others can never receive my assent. I cannot change the terms of the contract without some fair equivalent. I will not ask all that justice demands. I would not even consent to fund the bonds at five per cent. interest in gold, principal payable as it now is in lawful money.

I entertain the hope that specie payments, in the course of five or ten years, may be resumed. If so, none will be more gratified than myself to see the public creditors paid in gold. In the meantime, however, a great work is to be accomplished. We must keep an eye to the industries of the country. While too great expansion of the currency may be an evil, too great contraction is a much greater evil. The end desired by my friend from Vermont [Mr. MORRILL] is the one desired by me; but I would reach it by a process different from his. His plan has been partially tried and ended in utter failure.

It is true that I presented a measure to the Senate on the 21st of January last which did not fully embody my convictions upon this important subject. It was a compromise with opposing opinions. I had to conciliate the enemy. My first proposition was to extend the legal-tender circulation to $400,000,000—what it was when this system of contraction was commenced. This I would do as a condition-precedent to any attempt to re-fund the public debt. So far as I am individually concerned I wish not to be bound by any such limitation; but so great seems to be the fear of Government issues, that the limitation was inserted rather to save the measure from that condemnation which, in my judgment, proceeds from an unfounded prejudice.

The next proposition was to fund the entire public debt into ten-fifty bonds, bearing an interest not exceeding three and a half per cent., principal and interest to be paid in coin, and to be exempt from all local taxation. It was then proposed to repeal the limitation upon the amount of circulating notes to be issued by national banks, and to leave banking free under proper guards and restrictions—one of which should be a rigid redemption of their issues at some commercial center. The new bonds were to be substituted by national banks for the old, and a part of the accruing interest on the bonds deposited was to be retained in the Treasury as a sinking fund for their ultimate redemption. In consideration of the reduction of interest, and the retention of a part of that which would annually accrue, such amount of taxation was to be remitted upon the capital and circulating notes of the bank, as to enable them to make reasonable dividends. The harvest season for banks is during periods of suspension, and we all know that their profits during the last few years have been enormous.

It was also proposed that after a given period one eighth part, and after a certain other period, one fourth part of the tariff duties might be paid in legal-tender notes. But the last proposition on the subject of the currency is the one so fiercely assailed by the Senator from Vermont on yesterday. He must not suppose that I failed to enjoy his comments upon it. It was another one of those concessions I was forced to make to an unreasoning prejudice excited by such able denunciations as his own. Had I consulted my own convictions of right, and not been forced to beg my way through assailing errors, I should have framed it in a manner much less acceptable to his taste.

I am satisfied that $700,000,000 will not furnish a sufficient circulating medium for the people. It is only $17 50 *per capita*. It is eight or nine dollars less than England has with its compact population and bank-check facilities; it is less than France has, whose thirty-eight millions of people are grouped upon an area of territory not as large as the single State of Texas.

The first requisite, in my judgment, was to repair, as far as I could, the error of contraction. I would, if I could, expand beyond $400,000,000 of legal-tender notes, but the expansion should not be permanent. All legislation should look to ultimate resumption; but reasonable expansion will facilitate that end better than unreasonable contraction. It is almost certain that resumption can better be secured through the medium of the banks than through the efforts of the Government, which cannot accumulate gold for purposes of resumption without defeating the very end desired. Resumption is worthless without restoration of business. With that restoration, and an earnest application of industrial energy to the production of wealth, resumption of specie payments is inevitable. It was thought that the establishment of new banks would indicate the revival of industry, and that that revival would indicate an advance towards specie payments.

When that advance was made I thought it would be safe to cancel a part of the legal tenders. Compromising upon $700,000,000 of legal tenders and circulating bank notes, as the amount beyond which Congress would not permit me to go, I endeavored to secure two objects in the proviso so cruelly criticised by my friend. The one was to retire the legal tenders, as circulating notes supplied

their place, until the legal tenders should be reduced to $250,000,000. My second object was gradually to build up a safe and solvent banking system, the capital of which, at the proper time, would lend its aid to effect the resumption of specie payments. I did not intend to indicate that I would not be willing to withdraw the remaining $250,000,000 at the proper time, but I did intend to indicate that another Congress could act on that subject with a better knowledge of its effects than we possibly can.

Before I pass from this subject I desire to say that whatever plan may be adopted for unraveling the tangled skein of our finances, something should be done to prevent, if possible, those frequent monetary revulsions which belong to specie-paying periods. The day when paper money shall cease to be used in the United States none of us will ever see. Whenever paper money is based upon and redeemable in coin, panics will occur. When runs are made upon the banks they contract their circulation and discounts, thereby increasing the very evils which they should be able to check and prevent. If, in these seasons of sudden contraction the banks could be temporarily permitted to redeem in Government notes, they could furnish relief to the community instead of forcing them to bankruptcy. These notes should be furnished by the Treasury Department on deposit of Government securities to be withdrawn when the exigency has passed.

In alluding to the suggestions contained in my proposition I must not be understood as urging them upon the Senate. My future course will be determined by the fate of the motion which I have submitted. If it is adopted I shall see some hope in the future. If it is defeated I trust that no funding bill will be passed during this session.

OFFICE SPECIAL COMMISSIONER OF REVENUE,
WASHINGTON, D. C., *February* 25, 1868.

Table A.—Showing the present values of $100 payable at the end of different periods specified, (to wit: five years, ten years, fifteen years, twenty years, twenty-five years, thirty years, forty years, forty-five years, and fifty years,) and bearing interest payable semi-annually at different rates, (from zero (0) to six (6) per cent., to wit: 0, ¼, ½, 1, 1¼, 2, 2½, 3, 3½, 4, 4½, 5, 5½, and 6 per cent.,) the prevailing market rate of interest for the respective periods being 6 per cent.

Rates of interest.	5 years.	10 years.	15 years.	20 years.	25 years.	30 years.	35 years.	40 years.	45 years.	50 years.
0 per cent.	$74.409	$55.368	$41.199	$30.656	$22.811	$16.973	$12.630	$9.398	$6.993	$5.203
¼ per cent.	76.542	58.604	44.862	34.345	26.293	20.132	15.411	11.799	9.033	6.916
½ per cent.	78.674	61.840	48.525	38.035	29.775	23.292	18.222	14.249	11.144	8.719
1 per cent.	80.807	65.276	52.189	41.726	33.358	26.673	21.324	17.049	13.630	10.897
1¼ per cent.	82.939	68.712	55.899	45.499	37.030	30.135	24.527	19.961	16.246	13.222
2 per cent.	85.072	70.245	60.799	50.549	42.108	35.067	29.204	24.316	20.246	16.857
2½ per cent.	87.205	72.964	65.699	59.549	48.541	39.573	32.253	26.294	21.434	17.469
3 per cent.	89.337	77.684	70.600	65.328	54.973	44.649	36.284	29.484	23.959	19.472
3½ per cent.	91.470	80.123	75.500	71.107	61.405	51.567	43.316	36.384	30.560	25.666
4 per cent.	93.602	82.561	80.400	76.886	67.838	58.486	50.405	43.284	37.161	31.905
4½ per cent.	95.735	85.000	85.300	82.664	74.270	65.405	57.596	50.249	43.761	38.144
5 per cent.	97.868	87.438	90.200	88.443	80.703	72.324	64.877	57.199	50.361	44.382
5½ per cent.	96.281	90.081	95.100	94.221	87.135	79.243	72.159	64.150	57.960	50.621
6 per cent.	100.000	100.000	100.000	100.000	100.000	100.000	100.000	100.000	100.000	100.000

E. B. ELLIOTT.

OFFICE SPECIAL COMMISSIONER OF REVENUE,
WASHINGTON, D. C., *February* 20, 1868.

Table B.—Showing the present values of $100 payable at the end of different periods specified, (to wit: five years, ten years, fifteen years, twenty years, twenty-five years, thirty years, forty years, forty-five years, and fifty years,) and bearing interest payable semi-annually, at different rates, from zero (0) to six (6) per cent., (to wit: 0, ¼, ½, 1, 1¼, 2, 2½, 3, 3½, 4, 4½, 5, 5½, and 6 per cent.) The prevailing market-rate of interest during the respective periods being assumed at 6 per cent.

Rates of interest.	5 years.	10 years.	15 years.	20 years.	25 years.	30 years.	35 years.	40 years.	45 years.	50 years.
0 per cent.	$78.120	$59.539	$47.674	$37.243	$29.094	$22.728	$17.755	$13.871	$10.836	$8.465
¼ per cent.	80.308	63.585	52.907	43.515	36.185	30.455	25.480	22.484	19.732	17.019
½ per cent.	82.496	67.631	58.139	49.794	43.275	38.182	34.204	31.097	28.669	26.772
1 per cent.	84.684	71.677	63.372	56.070	50.366	45.910	42.429	39.710	37.585	35.925
1¼ per cent.	86.872	75.723	68.604	62.346	57.456	53.637	50.633	48.323	46.502	45.079
2 per cent.	89.060	79.769	73.837	68.622	64.547	61.364	58.877	56.936	55.418	54.223
2½ per cent.	91.248	83.816	79.070	74.897	71.638	69.091	67.102	65.548	64.494	63.386
3 per cent.	93.436	87.862	84.302	81.173	78.728	76.818	75.327	74.161	73.331	72.530
3½ per cent.	95.624	91.908	89.535	87.449	85.819	84.546	83.551	82.774	82.267	81.698
4 per cent.	97.812	95.954	94.767	93.724	92.909	92.273	91.775	91.387	91.184	90.847
4½ per cent.	100.000	100.000	100.000	100.000	100.000	100.000	100.000	100.000	100.000	100.000
5 per cent.	100.000	104.046	105.233	106.279	107.091	107.727	108.224	108.613	108.915	109.154
5½ per cent.	102.188	108.092	110.455	112.551	114.181	115.454	116.449	117.226	117.833	118.307
6 per cent.	104.376	112.139	115.676	118.823	121.274	123.182	124.673	125.839	126.751	127.460

E. B. ELLIOTT.

Mr. HOWARD. Mr. President——

Mr. ANTHONY. I believe the regular order of business was laid aside informally, was it not?

The PRESIDING OFFICER. It was.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 237) in relation to the promulgation of the laws of the United States.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 384) to authorize the building of a railroad bridge across the Ohio river at Paducah, Kentucky;

A bill (H. R. No. 764) for the relief of certain exporters of distilled spirits; and

A bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 358) for the relief of the settlers on the late Sioux Indian reservation in the State of Minnesota; and

A bill (H. R. No. 660) restoring lands to market along the line of the Pacific railroads and branches.

IMPEACHMENT OF PRESIDENT JOHNSON.

Mr. HOWARD. I move the adoption of the following resolution and orders in relation to the impeachment:

Resolved, That at one o'clock to-morrow afternoon the Senate will proceed to consider the impeachment of Andrew Johnson, President of the United States, at which time the oath or affirmation required by the rules of the Senate sitting for the trial of an impeachment, shall be administered by the Chief Justice of the United States as the presiding officer of the Senate sitting as aforesaid, to each member of the Senate, and that the Senate sitting as aforesaid will at the time aforesaid receive the managers appointed by the House of Representatives.

Ordered, That the Secretary lay this resolution before the House of Representatives.

Ordered, That the articles of impeachment exhibited against Andrew Johnson, President of the United States, be printed.

Ordered, That a copy of the "rules of procedure and practice in the Senate when sitting on the trial of impeachments" be communicated by the Secretary to the House of Representatives, and a copy thereof delivered by him to each member of the House.

Mr. GRIMES. Let the vote be taken on each proposition *seriatim*.

The PRESIDENT *pro tempore*. The question is on agreeing to the first resolution.

Mr. DIXON. I object to the consideration of the resolution.

The PRESIDENT *pro tempore*. Objection having been made, the resolution will lie over under the rules, as a matter of course.

Mr. ANTHONY. Now, I suppose the matter which was laid aside informally to allow the Senator from Missouri to make his remarks is regularly before the Senate.

Mr. POMEROY. Do I understand that the orders offered by the Senator from Michigan were objected to? I supposed only the resolution was objected to.

Mr. HOWARD. There can be no objection to printing the articles and furnishing the rules to members of the House of Representatives. I take it there will be no objection to that.

The PRESIDENT *pro tempore*. There are several independent propositions in the paper submitted by the Senator from Michigan. The question is whether the objection applies to all or only to some of them.

Mr. SHERMAN. Who objected? I did not hear any one object.

The PRESIDENT *pro tempore*. The Senator from Connecticut objected.

Mr. POMEROY. I ask whether his objection can prevent the passage of the orders which have been offered. He may object to the passage of the resolution.

The PRESIDENT *pro tempore*. The Chair understands an order to be in the nature of a resolution.

Mr. POMEROY. I apprehend that an objection to the consideration of a mere order does not of necessity carry it over until to-morrow.

Mr. DIXON. I objected only with a view of looking at the proposition and seeing what it is. I now withdraw the objection.

The PRESIDENT *pro tempore*. The objection is withdrawn, and the question is on agreeing to the resolution offered by the Senator from Michigan.

Mr. EDMUNDS. I am entirely willing, of course, that notice should be given to the House of Representatives that by our standing rules at one o'clock to-morrow we proceed with the organization upon the cause they have presented; but I am opposed to the first part of the resolution which resolves that to-morrow at one o'clock we will proceed, for the reason that the standing rules which we have adopted provide for it expressly, as much so as our other standing rules do for meeting at twelve o'clock; and as a mere matter of precedent I should hope my friend from Michigan would not insist on that part of the resolution, because it would seem to imply that for everything which the rules require us to do we have got to have a resolution, to the consideration of which any Senator may object, and we become paralyzed in that way. I hope the resolution may be modified so as to provide merely that notice shall be given to the House of Representatives that at one o'clock to-morrow the Senate will proceed under its rules.

Mr. HOWARD. The reason of my drawing the resolution in that form is this: the rules which we have adopted for our proceedings are a sort of private arrangement among

ourselves; the House of Representatives are not bound by law to take notice of our rules of procedure. I therefore drew the resolution in complete accordance with the rule itself, and required the Secretary of the Senate to present a copy of the resolution—that is to say, embracing the substance of the rule—to the House of Representatives for their information. It is a resolution in the usual form, an act of mere courtesy, giving notice to the House that to-morrow at one o'clock we will proceed to the consideration of impeachment. I take it that it is hardly worth while to discuss it.

Mr. EDMUNDS. The rules expressly provide that the Presiding Officer shall give notice to the Chief Justice of the time when, by the rules, we are to be sworn and proceed. That is one o'clock to-morrow. That it is the duty of the Chair to do, because it is now an order of the Senate. The Senate, also, by its rules, has another standing order—the articles having now been filed—that to-morrow at one o'clock we shall take this oath and organize ourselves for this trial. As I said, I think it would be a very bad precedent to enact over again, in the form of a resolution, what is already a standing order, because it might lead to a practice of that kind as necessary, when an objection would carry it over. I therefore, with all respect to my friend, move to amend the first resolution; so that it shall read in this wise:

Ordered, That the Secretary be directed to inform the House of Representatives that to-morrow, at one o'clock afternoon, the Senate, pursuant to its standing rules, will proceed to the consideration of the impeachment which the House of Representatives has presented.

Mr. HOWARD. There is no necessity for such an amendment of the resolution.

Mr. BUCKALEW. I suppose the only question that can be made on adopting these orders will be upon the last one, and possibly upon the one clause of the proposed amendment of the Senator from Vermont. For one I desire that the question of the binding effect of the rules we have already adopted shall be left open. The Senate has thought proper to adopt certain orders or rules for the government of the Senate when it sits as a court of impeachment. I belive there is objection made that after we are placed under oath, and have taken the articles of impeachment into regular consideration, the Chief Justice being present, it will then be our business to adopt rules. We may adopt those that have been already framed or we may adopt others. What I suggest is that in giving a simple notice to the House of Representatives, in order to bring their managers here at the hour fixed to-morrow, and in giving notice to the Chief Justice, to secure his attendance here, we may avoid all debate upon this question of whether we shall be bound by the rules we have already adopted after we are together. We had better simply give the notice to the House of Representatives and the Chief Justice, without entering upon the general question of debate to which I have referred, and leave that open. That is the simple mode of proceeding, and it saves our time. It concedes nothing on either side of this question. Therefore, I think it the preferable mode of action.

I am opposed to the amendment of the Senator from Vermont as moved, because he has inserted in it a reference to these rules; and we are to give the House notice that we have rules and shall be bound by them in our proceedings when we are convened to-morrow to take into consideration this subject of impeachment. The original resolution is unexceptionable; but if it is to be amended in form let it be made a simple order giving notice to the House that we will take up this subject at one o'clock to-morrow.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the first resolution.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question is on agreeing to the first resolution.

Mr. WILLIAMS. Let it be read.

The Secretary read as follows:

Resolved, That at one o'clock to-morrow afternoon the Senate will proceed to consider the impeachment of Andrew Johnson, President of the United States, at which time the oath or affirmation required by the rules of the Senate sitting for the trial of an impeachment shall be administered by the Chief Justice of the United States, as the presiding officer of the Senate sitting as aforesaid, to each member of the Senate, and that the Senate sitting as aforesaid will at the time aforesaid receive the managers appointed by the House of Representatives.

Ordered, That the Secretary lay this resolution before the House of Representatives.

Mr. GRIMES. I desire to be informed by the chairman of the select committee on the subject of impeachment rules whether this is intended to change the rule we have already established.

Mr. HOWARD. Not in the slightest degree.

Mr. GRIMES. The rule that was established yesterday or the day before provided for the administration of the oath to those members who might not happen to be present on the first day. This does not make any provision of this kind, but seems to be a new rule to cover the same subject-matter without any such provision, and may lead to a conclusion hereafter.

The resolution was agreed to.

The next order was read, as follows:

Ordered, That the articles of impeachment exhibited against Andrew Johnson, President of the United States, be printed.

The order was agreed to.

The next order was read, as follows:

Ordered, That a copy of the "rules of procedure and practice of the Senate when sitting on the trial of impeachments" be communicated by the Secretary to the House of Representatives, and a copy thereof delivered by him to each member of the House.

Mr. BUCKALEW. I spoke upon this point before. It is not necessary now to furnish the House with our rules. That can be done after we have determined whether we will act under those already adopted or modify them. I think the best plan of disposing of this resolution will be to lay it on the table at present. I therefore make that motion.

Mr. HOWARD. I hope not.

The motion was not agreed to.

The order was adopted.

Mr. POMEROY. By direction of the committee I submit the following order:

Ordered, That the notice to the Chief Justice of the United States to meet the Senate in the trial of the case of impeachment, and requesting his attendance as presiding officer, be delivered to him by a committee of three Senators, to be appointed by the Chair, who shall wait upon the Chief Justice to the Senate Chamber and conduct him to the chair.

Mr. WILLIAMS. I inquire whether that is consistent with the rules which we have adopted. I refer to the fourth rule, in which it is provided—

And in a case requiring the said Chief Justice to preside notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the consideration of the articles of impeachment as aforesaid, with a request to attend.

Mr. POMEROY. If the Senator will examine the order he will see that it simply provides for the Presiding Officer delivering that notice to the committee. I introduce it at the request of the Presiding Officer.

Mr. GRIMES. These three Senators, then, are simply to be the messengers of the present Presiding Officer of this body to convey his message to the Chief Justice.

Mr. POMEROY. That is precisely their function, and then they are to conduct him to the chair.

The order was agreed to; and the President *pro tempore* appointed Messrs. POMEROY, WILSON, and BUCKALEW the committee.

REVISION OF THE RULES.

The PRESIDENT *pro tempore*. The unfinished business regularly before the Senate is the report of the select committee appointed to revise the rules of the Senate.

Mr. RAMSEY. I think we had better adjourn.

Mr. ANTHONY. I do not desire to press these rules now if the Senate is fatigued, and I understand that the subject will be left as the unfinished business for the next legislative session if we now adjourn.

The PRESIDENT *pro tempore*. It will be.

Mr. ANTHONY. Then I do not object to the motion.

CIRCUIT COURT AT ERIE.

Mr. BUCKALEW. Before an adjournment is proposed I desire to make a motion in order to correct our Journal of legislative proceedings. A bill was passed this morning authorizing a circuit court to be held at the city of Erie, Pennsylvania. The bill was taken up and acted on by the Senate, although it was really in committee. I desire to move that the Secretary be authorized to enter as of that time a motion to discharge the committee, in order to make our Journal correct.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the Committee on the Judiciary be discharged from the consideration of the bill mentioned by him.

The motion was agreed to.

Mr. BUCKALEW. I suppose the entry will be made upon the Journal as of the proper time.

The PRESIDENT *pro tempore*. It will be.

AFFAIRS IN UTAH.

Mr. CRAGIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish for the use of the Senate a copy of the annual report of Brevet Brigadier General James F. Rusling, inspector of the quartermaster's department, in relation to military posts and other affairs in the Territory of Utah.

HOUSE BILLS REFERRED.

The bill (H. R. No. 674) for the relief of certain exporters of distilled spirits was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 384) to authorize the building of a railroad bridge at Paducah, Kentucky, was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869, was read twice by its title, and referred to the Committee on Appropriations.

On motion of Mr. SUMNER, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 4, 1868.

The House met at twelve o'clock m. Prayer by Rev. N. P. KENNEY, of Rockford, Illinois.

The Journal of yesterday was read and approved.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The first business in order is the additional article of impeachment of the President of the United States, presented last evening by the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. I will not ask for the reading of the article as it is in the Globe in full this morning.

Mr. KERR. I ask that it be read, as it has not yet been read to the House.

The SPEAKER. The gentleman from Rhode Island has the right to proceed with his speech without the article having first been read.

Mr. JENCKES. Mr. Speaker, after the committee charged with preparing articles of impeachment have reported, and after the adoption of their report, and after the managers elected to make good these articles have proposed additions and amendments to the report of the committee which have been adopted by the House, and the passage of these resolutions authorizing them to proceed at once to the bar of the Senate, it may seem obtrusive for an individual member to move a supple-

mental article. The presumptions are that the committee have exhausted the subjects upon which impeachment may be founded, and that the managers have devised the best method of presenting the great case they have in charge. It is therefore with diffidence that I ask the attention of the House for a brief explanation of the proposition now before it. They can feel assured that the new article is not offered for any sensational purpose or in any spirit of antagonism to either the committee or the managers. It is the result of careful examination and deliberate reflection upon the causes for this prosecution, and it is the attempt to state, in clear, legal phraseology, the great crime for which the culprit is actually to be tried, and for which if found guilty he should be ejected from his high office. We should not for a moment forget that we are to prefer a great accusation against a person holding the highest official position in this Government, before the most exalted tribunal for the trial of offenses ever constituted in any nation. It becomes us, therefore, to set forth in exact terms the offense for which we ask conviction, and to give such notice of the nature of the evidence to be offered as the rules of criminal pleading require.

It has become painfully evident to every one who has watched the conduct of the person now exercising the powers and duties of President of the United States, since his accession to his high office, that he had ideas concerning those powers and duties peculiar to himself. It was first exhibited in his proclamations for the establishment of civil governments in the rebel States, wherein he arrogated to himself all the powers which the Constitution had vested in the legislative as well as in the executive department, and assumed to speak and act in the name of the United States for the purpose of guaranteeing republican forms of government without warrant of law. It next appeared in the message in which he announced the results of his experiments to Congress, although still couched in respectful and temperate phrase. It burst forth in volcanic eruption in his 22d of February speech. It pervaded his conversation, declarations, correspondence, and messages during the spring and summer of 1866. It again flamed up in the arrogant, vituperant, and seditious declamation of the 18th of August, 1866, a part of which has been incorporated into an article of impeachment already adopted. It gushed out in lava-flood in the coarse, reckless, defiant, and intemperate harangues which astonished the crowds at each stage in the pilgrimage which has derived its name from his favorite phrase of "swinging round the circle." The pernicious effects of these ideas were felt in the opposition which he caused to be made to the fourteenth constitutional amendment, and in the temporary defeat of reconstruction upon that just and equitable basis. But, since the passage of the reconstruction acts, the strife has become one of direct antagonism, and it has been only a question of time and occasion when the first act of open hostility should commence.

These ideas, peculiar to this President, are, that by the Constitution he is clothed with a power and discretion above and beyond the laws, and especially that, as Commander-in-Chief of the Army, he is not bound by the laws of Congress for the government and use of the Army. They have been expressed daily in conversation; they form the theme of much of his correspondence and they are put forth in his messages even, when he yields a qualified and protesting obedience to those laws. It is no secret that he attempted, with the whole weight of the presidential influence, to defeat the adoption of the constitutional amendment, and that he did not desire the success of the reconstruction acts. It is by his inspiration that today, the people of the South are divided against each other in almost hostile array. It is by the exercise of his powers as Commander-in-Chief, by the displacement of officers, and delay in executing the laws, that peaceful and harmonious reconstruction is not an accomplished fact. And when, notwithstanding his opposition, it promised to become a success, it was expected by those who have closely watched his course that the violence and turbulence of his nature would prompt some act which would be an open violation of the laws in order to defeat the will of the legislative power. His vetoes, the outcry of his partisans thereupon at the pretended unconstitutionality of these laws, the cavils at their details, the slow uncertainty of his professed attempts at their execution, the prosecutions in the courts, encouraged by his Attorney General, wherein the vitality of these laws has been called in question, were only the cloud under which the blow was to be struck. The suspension of the faithful Secretary of War, the attempt to compromise the General of the Army while Secretary *ad interim*, the tampering with other officers, were all parts of his cunning scheme. In order to overthrow the reconstruction laws it was necessary to turn the Army from being the instrument for their execution to being the instrument for their obstruction.

The Senate stood in his way and prevented the removal of the Secretary; then the faithful Secretary of War again stood in his way; the great soldier at the head of the Army stood in his way; the acts of Congress for the government of the Army and of all its officers, from the Commander-in-Chief to the lowest subaltern, stood in his way. He declares that by the Constitution he is superior to all these; but in order to make the attempt to overcome them he must have a tool, and he found one in the long-discarded Adjutant General of the Army. But he could not act through him without acting himself. Hence the attempts of the 21st of February. That these are flagrant violations of law no one has attempted to deny. That the violation of law is to be found not only in the writing, signing, and delivering of these orders, but in the attempt of Johnson and Thomas, through Thomas, to get possession of the War Office and of its property, prestige, and power, by force or fraud, is equally clear. Here are the guilty acts and the corrupt motives, and behind all, prompting all, shining through all, is the criminal intent. The liberties of a people are in danger when their Chief Magistrate lives in the belief that in any respect he is above and beyond the law, but they are directly imperiled when he not only believes, but acts upon the belief, that he can control the military power in a manner not warranted by law. The liberties of a people cannot be destroyed except by force; its laws are nullities when the Executive lays down the sword; but when he takes it up contrary to any one law his conduct is subversive of all laws. And it is vain to try to hide this criminal intent under the cry that the law thus broken is unconstitutional. Who made the Executive Officer the judge of the constitutionality of laws? He has but one opportunity to exercise a judgment on that subject, and that is when he is called upon for his approval. When the will of the legislative power becomes law, notwithstanding his veto, his functions are purely executive. The monstrous heresy that "in the first instance the President must determine what laws he is bound to execute," is of recent origin. If he fears the personal consequences of executing them he can relieve himself from liability by resigning. If he has a right to stay the execution of any one law in his discretion or upon his judgment, he may of all laws, and may substitute his will for the law.

And it is equally vain to say that these acts in violation of law were solely for the purpose of testing the constitutionality of a law in the courts. There are thousands of officers against any one of whom cases might have been made if this were the only purpose. Then why try it upon the head of the War Department instead of upon a collector at Passamaquoddy? Why, except that it was to gain control of that Department, and through a new and pliant chief to turn the sword which now has its edge toward rebels and traitors, so that it may stand against those loyal men who are striving to reorganize their States and bring them back into the Union under the laws of Congress?

It is in this view of the prosecution that this article is drawn. It charges not only the violation of positive statutes, but the criminal intent of that violation. The evidence of this intent exists in authentic documents, and these documents can be verified by a few officers of Congress, and at the headquarters of the Army. The existence of that criminal intent has been, from this easily accessible evidence, proved to the satisfaction of one of the most competent of judges. When the General of the Army wrote to the President that—

"From our conversations, and my written protest of August 1, 1867, against the removal of Mr. Stanton, you must have known that my greatest objection to his removal or suspension was the fear that some one would be appointed in his stead who would, by opposition to the laws relating to the restoration of the southern States to their proper relations to the Government, embarrass the Army in the performance of duties especially imposed upon it by these laws; and it was to prevent such an appointment that I accepted the office of Secretary of War *ad interim*, and not for the purpose of enabling you to get rid of Mr. Stanton by my withholding it from him, in opposition to law, or, not doing so myself, surrendering it to one who would, as the statement and assumption in your communication plainly indicate was sought:"

And when, in the same letter, he further says:

"And now, Mr. President, when my honor as a soldier and integrity as a man have been so violently assailed, pardon me for saying that I can but regard this whole matter, from the beginning to the end, as an attempt to involve me in the resistance of law, for which you hesitated to assume the responsibility in orders, and thus to destroy my character before the country. I am in a measure confirmed in this conclusion by your recent orders directing me to disobey orders from the Secretary of War—my superior and your subordinate—without having countermanded his authority to issue the orders I am to disobey"—

he shows his conviction of the existence of this criminal intent. It was only a question of time when the hesitation to assume this responsibility would cease and the method that had hitherto directed this madness would take a more positive form. And, Mr. Speaker, the evidence that has satisfied General Grant of the existence of that criminal intent satisfies me, and, when properly presented, should satisfy the conscience of every Senator. We must not expect a verdict upon merely political grounds. We cannot justify our inquest on such grounds. We must charge the criminal intent, and allege what we mean to prove, and prove what we allege. To secure a conviction the lack of proof cannot be eked out by partisanship, either in the prosecutors or in the court.

The great crime for which the President should be removed from office is precisely that set forth in this single article, and it is but just to him and due to the American people that this great issue should be presented, heard, and determined upon its true grounds. It savors of indirection to visit upon a culprit the punishment of the highest felony under an arraignment for a mere misdemeanor, and it is not just to the American people to place an offender guilty of a great crime against their liberties upon trial for a mere assault when we know he is guilty of a felonious attempt to kill and murder. Let the offense be charged in its enormity, be proved as it is charged, and the consent of mankind will sanction, and history will forever sustain, the verdict that must be rendered and the sentence that must be pronounced upon such proof.

Mr. HIGBY. Will the gentleman yield to me?

Mr. JENCKES. How long does the gentleman want?

Mr. HIGBY. Ten minutes.

Mr. JENCKES. I yield to the gentleman from California.

Mr. HIGBY. Mr. Speaker, I wish that the managers would consent, without further debate, that this article might be incorporated with the others which are to be presented at the bar of the Senate of the United States. While I have great faith in their ability to get up articles of impeachment, I do not fully hold

to the idea, especially on a subject of this character, one that has been before this body for one year at least, that it is not necessary for the members of this House to devote themselves exclusively to it, that we should take what the managers say and what they do as authority, while we ourselves are to give no consideration to the subject whatever.

I am aware, sir, in many branches of business we have before us in ordinary legislation, it becomes a necessity we should follow very often our committees in bringing subjects before us we know nothing about, except the information we receive from such committee; that is because of the multiplicity of business. But this subject is of an extraordinary character, one to which the mind of every member of the House has had its attention called for the last year, and no doubt has not only given it attention but has gone into a critical examination of it. Now, it is charged by the members of this House who are opposing this investigation that the offense charged against the President of the United States is not criminal in its character; that it does not amount to enough to found articles of impeachment; that is, on the ground that the President of the United States has simply attempted to remove the Secretary of War, a member of his Cabinet, because he is offensive to him politically and possibly personally; that simply on this ground an effort is being made to remove the President from his seat by the process of impeachment.

And, sir, I must confess, in reading the articles presented by the committee, all that is charged in those articles is that the law of the 2d of March last has been violated, and therefore the Constitution has been violated, by the President in attempting to remove the Secretary of War. Is there breadth enough in the declaration set forth in these articles? May not the managers go further and show anything on the part of the President of the United States, not only that he sought to remove the Secretary of War from his Cabinet because of his being offensive politically and personally, but because of the great ulterior object he had in view, and that was to get full and undisputed possession of the War Department of this nation for the purpose of accomplishing the purposes of his usurpation. That is the breadth and length of the article presented by the member from Rhode Island. It is to show the intent of the President of the United States behind the mere act of removal of the Secretary of War. It shows in the correspondence between the President and General Grant that there was an ulterior object in view on the part of the President, which was to get hold of the War Department and control it himself exclusively. Mr. Stanton was in the way of that purpose.

He also made other attempts. Did he not attempt to establish a new military department here at Washington, to get somebody at the head of it who would serve his purpose, so that he might have exclusive control of the war power of this nation? Not only was it his purpose to remove Mr. Stanton, but to get entire control of the war power of this nation, and thus accomplish his object of usurpation through that power, if he could not through any other.

Sir, while possibly for myself, if I were to be the judge to whom these articles were to be submitted, and if I were to decide as to the guilt or innocence of the President, they might be all I should desire. But I am not to be the judge in the case. Fifty odd Senators are to sit as judges to decide the question. With what extreme care, therefore, should we move in this matter in reference to the articles we submit to them. We should certainly, if possible, embrace every view that can be taken by way of evidence as to the object and intent of the President in the removal of the Secretary of War. We should be extremely critical as to the ground-work we lay for the evidence to be introduced before the Senate. For this reason I wish that the managers who are to conduct this case before the Senate would, of their own free consent, allow this article to come in. I think it can do no harm to what already appears on record.

I do not say this to impeach the ability of the gentlemen who reported the articles already adopted. They are gentlemen of acknowledged ability. But, sir, how different have been the minds even of these members on this question? The committee that was appointed in the first instance presented their articles, presuming that they had embraced in the language which they used sufficient ground to take all the testimony that might be offered or any argument that might be submitted. But what did they find upon further reflection? After a day or two had intervened the gentleman from Massachusetts, [Mr. BUTLER,] who has since been added to the committee of managers, introduced an additional article, which was adopted yesterday. And after that had been agreed to the distinguished member from Ohio, [Mr. BINGHAM,] who was a member of the original committee, and helped to get up the original articles, came in to close up the work with an entirely new article; which was also adopted. Now, sir, if these gentlemen had considered this subject thoroughly, why was not that article proposed in the first instance? Human nature is fallible, and it is not unfrequently that a man finds after reflection and review that his own best work is defective. I have no doubt the gentleman from Ohio [Mr. BINGHAM] found on reflection that even his work was not perfect, and hence he brought in another article, which was a good one, embracing a wider field.

It strikes me, if the members of the House will take independent views for themselves on the subject before them, they will find in this article presented by the gentleman from Rhode Island one broad enough in scope to leave more room for testimony and argument in showing the intent on the part of the President in removing Secretary Stanton.

Mr. JENCKES. I yield three minutes to the gentleman from Illinois.

Mr. BAKER. Mr. Speaker, the other day, when articles of impeachment were under discussion, I endeavored to present an article. I now offer it for reference to the board of managers, and commend it to their serious consideration.

The SPEAKER. The Chair will state that the managers have been called a board of managers. Their official title is simply managers. They are not a committee.

Mr. JENCKES. I will only yield to allow the article to be read for information.

The Clerk read as follows:

ART. —. That Andrew Johnson, President of the United States, has committed a high misdemeanor in office in this, that heretofore, to wit, during his incumbency in office as President of the United States, at Washington, in the District of Columbia, and at other places in the United States, by acting, inciting, counseling, and using the great influence and power of his office of President of the United States, with intent thereby, among other things, to obstruct, retard, and defeat the lawfully and constitutionally provided for restoration of the rebel States to their practical relations with the United States, he did, in fact, then and there and thereby, greatly retard and obstruct such lawfully and constitutionally provided for restoration of said rebel States to their practical relations with the United States, to the great danger and hurt of the United States, and to the great and dangerous abuse of the executive powers of the United States.

Mr. JENCKES. I yield five minutes to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. Mr. Speaker, I have read with some care the article of impeachment prepared by the distinguished gentleman from Rhode Island, [Mr. JENCKES.] In my judgment it is a good article, and can be sustained by evidence. I will vote to adopt it, as I will for every article that may be presented by any gentleman of this House which, in my judgment, is well taken against the President. At the same time this matter of impeachment has been so long delayed that it seems to me that it would be wise in us not to present to the Senate more articles than are absolutely necessary to insure a conviction of the President. Now, sir, with this view and for this purpose, I submit to the House that it would be much better if we would go the Senate only upon the first three or four articles which have been already agreed to by the House. I entertain no doubt but that the article presented by the gentleman from Rhode Island is just as well taken as any other article to which the House has agreed. And I do not hesitate to say that other articles might be presented which would be equally well taken, but we have already delayed so long that it now is a matter of the first importance that the President shall be speedily tried and that we shall give no cause for unnecessary delay or incumber the proceedings with anything beyond what is absolutely necessary in order that that may be accomplished. I will, if it be in order, or at the proper time, offer the resolution which I now send to the Clerk's desk and ask to have read for information.

The Clerk read as follows:

Resolved, That the managers of the impeachment against the President be and are directed to present to the Senate the first four articles of impeachment agreed upon by the House, and that they proceed to ask the judgment of the Senate thereon after the proper hearing, and that after that said managers shall, if they deem it necessary, present to the Senate the remaining articles agreed upon by the House, and that they proceed thereon to final judgment if in their judgment it be deemed advisable.

Mr. BINGHAM. I hope that will not be agreed to.

The SPEAKER. It is not before the House.

Mr. BINGHAM. I hope it will not be received. I object to it.

The SPEAKER. The gentleman from Rhode Island [Mr. JENCKES] is entitled to the floor.

Mr. JENCKES. I ask the previous question on agreeing to the proposed twelfth article of impeachment.

The proposed article was read, as follows:

ART. XII. That Andrew Johnson, President of the United States, has heretofore, and within the District of Columbia and elsewhere within the United States, being actuated by the unlawful intent and design to assume and exercise the control and command of the armies of the United States without being bound by the laws establishing rules for the government and regulation of the land and naval forces of the United States, passed by the Congress of the United States, in pursuance of the powers granted to Congress for said purpose by the Constitution of the United States, and to exercise the functions of Commander-in-Chief of said armies otherwise than in accordance with the provisions of said laws, and to prevent said armies and the officers thereof from being the instruments of the execution of the laws of the United States, and especially of an act entitled "An act for the more efficient government of the rebel States," passed March 2, A. D. 1867, and the additional acts supplementary thereto and in amendment thereof, unlawfully and willfully and unmindful of the duties of his office as President of the United States, and during the term for which he is entitled to discharge the duties of said office, and in violation of the Constitution and laws of the United States and of his oath of office, and especially of the acts of Congress prescribing rules for the government and regulation of the land and naval forces of the United States, and of the act, being one of said acts approved March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, A. D. 1868, and for other purposes," and also of the act approved July 31, A. D. 1861, entitled "An act to define and punish certain conspiracies," and also of the act entitled "An act regulating the tenure of certain civil offices," passed March 2, A. D. 1867, and also of that clause of the Constitution of the United States which declares that Congress shall have power "to establish rules for the government and regulation of the land and naval forces of the United States," and also of that other clause of the Constitution of the United States which declares that the President shall have power to "nominate, and by and with the advice and consent of the Senate shall appoint, embassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein"—that is to say, in said Constitution—"otherwise provided for, and which shall be established by law;" and also of that other clause of the Constitution which requires the President to see that the laws are faithfully executed, attempted to obey and exercise control and command of said armies of the United States and of the officers thereof, and has attempted to remove the chief officer in the War Department, being the Secretary of the Department of War and the head thereof, and has attempted to appoint another person to perform the duties of Secretary of War *ad interim*, when no vacancy had occurred in said office under the laws creating and governing the same, and has also, acting under the willful and criminal intent and design aforesaid, at the city of Washington, in the District of Columbia, on the 21st day of February, A. D. 1868, by writing, signing, and delivering to the Secretary of War,

Edwin M. Stanton, a letter in substance as follows, to wit:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.

Hon. EDWIN M. STANTON, *Washington, D. C.*

And also at said city of Washington, in said District of Columbia, on said 21st day of February, A. D. 1868, by writing, signing, and delivering to one Lorenzo Thomas a letter purporting to be a letter of authority, in substance as follows, to wit:

EXECUTIVE MANSION,
WASHINGTON, D. C., *February* 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, *Adjutant General United States Army, Washington, D. C.*

Attempted to create a vacancy in the office of Secretary of War without warrant therefor, either by the Constitution or laws, and with the same willful and criminal intent and design as aforesaid attempted to fill the supposed vacancy thus unlawfully sought to be created by the actual appointment of the said Lorenzo Thomas as Secretary of War *ad interim*, when no vacancy had in law or in fact occurred within the true meaning and intent of the Constitution and laws, and without the advice and consent of the Senate of the United States, then in session, and thereupon did induce and persuade and undertake to authorize the said Thomas, by the letter aforesaid, and by other communications with him, the said Thomas, to attempt to enter upon the performance of the duties of the office of Secretary of War *ad interim*, and did thereby cause him to undertake to perform the duties of said office, contrary to law, and by force to prevent, hinder, and delay the execution of the laws of the United States hereinbefore referred to, and did cause him, the said Thomas, to attempt by force to seize, take, and possess the property of the United States in and under the control of the Department of War, against the will and contrary to the authority of the United States, and did cause him, the said Thomas, and in conspiracy with him, contrary to the statute aforesaid, did join with him to prevent the said Edwin M. Stanton from holding the office of Secretary of War as aforesaid, and did thereby undertake to assume and exercise the functions of Commander-in-Chief of the armies of the United States, and to issue orders as such Commander-in-Chief, and to conspire with the said Lorenzo Thomas and others to have such pretended letters of authority obeyed as lawful orders, not only without warrant of law, but contrary to the provisions of the Constitution and laws of the United States, as herein set forth, and with the unlawful and criminal intent on the part of said Andrew Johnson, as President of the United States, to obstruct, delay, and hinder the execution of the laws as aforesaid, and to assume a power and discretion not authorized by the Constitution and laws of the United States, whereby he then and there in manner aforesaid has been guilty of a high crime in office.

Mr. BINGHAM. I desire to make a parliamentary inquiry. I wish to know whether, if the House refuses to second the previous question, it will not be in order to move a reference of this article to the committee on impeachment?

The SPEAKER. There is no committee on impeachment.

Mr. BINGHAM. I mean the managers.

The SPEAKER. It will be in order.

The question was put on seconding the previous question, and there were—ayes 35, noes 69.

So the House refused to second the previous question.

Mr. BINGHAM. I move that the article be referred to the managers.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 351) for the relief of George Henry Preble, a captain in the Navy of the United States, in which he was directed to ask the concurrence of the House.

IMPEACHMENT OF THE PRESIDENT.

Mr. BINGHAM. I offer the following resolution, upon which I demand the previous question:

Resolved, That the House resolve itself into the Committee of the Whole and attend the managers appointed by the House to the Senate to present by its managers the articles of impeachment exhibited by the House against Andrew Johnson, President of the United States.

The previous question was seconded.

Mr. LAWRENCE, of Ohio. I desire to ask a parliamentary question. If the previous question should not be seconded, will it be in order for me to move to strike out all after the word "resolved" and to insert the resolution I had read a few minutes since?

The SPEAKER. The previous question has already been seconded, so that no amendment is now in order.

The main question was then ordered.

Mr. KERR. I call for the yeas and nays upon the resolution.

The yeas and nays were not ordered.

The resolution was then adopted.

The SPEAKER. In the absence of the senior member of the House, Mr. WASHBURNE, of Illinois, the gentleman from Massachusetts, Mr. DAWES, will please take the chair in Committee of the Whole. The Committee of the Whole, preceded by its chairman, who will be supported by the Clerk and Doorkeeper, will follow the managers to the Senate Chamber.

Accordingly, at one o'clock p. m., the House, as in the Committee of the Whole, preceded by its chairman, Mr. DAWES, who was supported by the Clerk and Doorkeeper of the House, followed the managers of the House to the Senate Chamber.

[For proceedings while absent from the Hall of the House see Senate proceedings.]

At ten minutes before two o'clock p. m., the Committee of the Whole returned to the Hall of the House.

The SPEAKER having resumed the chair,

Mr. DAWES, from the Committee of the Whole, made the following report:

Mr. SPEAKER: The House in the Committee of the Whole, by order of the House, have accompanied their managers to the Senate while they presented, in the name of the House of Representatives and of all the people of the United States, articles of impeachment agreed upon by the House against Andrew Johnson, President of the United States. The President of the Senate announced that the Senate would take order in the premises, of which due notice would be given to the House of Representatives.

The SPEAKER. The report of the chairman of the Committee of the Whole will be recorded upon the Journal of the House.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That one thousand copies of the articles of impeachment, with the testimony submitted, against Andrew Johnson, President of the United States, adopted by the House, be printed for the use of the House.

REPORT ON COMMERCIAL RELATIONS.

Mr. LAFLIN, from the Committee on Printing, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That five hundred extra copies of the report on the commercial relations of the United States with foreign nations for the last current year be printed for the use of the State Department.

TRIAL OF AMERICAN CITIZENS ABROAD.

Mr. LAFLIN, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

Resolved, That that portion of the answer from the State Department to the resolution of the House of the 25th of November, 1867, calling for information in relation to the trial and conviction of American citizens in Great Britain and Ireland, now in the hands of the Congressional Printer, be printed, until further order by the House.

REPORT ON INTERNAL REVENUE.

Mr. LAFLIN, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed six thousand extra copies of the report of the Commissioner of Internal Revenue, two thousand for the use of the House, and four thousand for the use of the office of internal revenue.

Mr. LAFLIN moved to reconsider the various votes by which the resolutions reported from the Committee on Printing were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROMULGATION OF THE LAWS.

Mr. LAFLIN. I ask consent of the House to take from the Speaker's table, for consideration at this time, the bill of the Senate No. 237, in relation to the promulgation of the laws of the United States. I will state that this is a bill against which I am sure there can be no objection. It passed the Senate by a unanimous vote. It is absolutely necessary, in order to obviate certain difficulties that have arisen under present laws upon the subject.

The bill was read at length. The first section provides that from and after the passage of this act it shall be the duty of the Secretary of State to furnish the Congressional Printer with a correct copy of every act and joint resolution as soon as possible after its approval by the President of the United States, or after it shall have become a law in accordance with the Constitution without such approval; and that so much of section seven of the act entitled "An act to expedite and regulate the printing of the public documents, and for other purposes," approved June 25, 1864, as requires the Secretary of the Senate to furnish such copy, be repealed.

The second section provides that the Congressional Printer, on receipt of the copy provided for in the foregoing section, shall in every case immediately cause an accurate printed copy of the act or resolution, as it shall have been furnished to him, to be prepared and sent in duplicate to the Secretary of State for revision, and on return of one of the revised duplicates the Congressional Printer shall at once have the marked corrections made, should there be any, and cause to be printed and sent to the Department of State fifty copies, and also cause to be printed separately the usual number for the use of the two Houses of Congress. On request of the Secretary of State the Congressional Printer is to furnish to the Department of State any additional number of copies of an act or resolution, not exceeding five hundred copies.

The third section enacts that it shall be the duty of the Secretary of State to transmit to the Congressional Printer, at the beginning of each session of Congress, and thereafter when necessary, a list of all newspapers authorized by law to publish the laws of the United States, with their respective post offices, so far as the same shall have been communicated to him by the Clerk of the House of Representatives; and it shall be the duty of the Congressional Printer, on the printing of each act or resolution, excepting those which are of a private character, and which shall be so designated by the Secretary of State, to transmit a copy thereof to each of the editors of such newspapers for prompt publication; and the number of copies of the public acts and resolutions requisite for this purpose are authorized and required to be printed; and all letters and documents to and from the Congressional Printer, relating to the duties and business of his office are to be transmitted by mail, free of postage.

In the fourth section it is provided that all the provisions of this act which apply to public acts and resolutions shall in like manner apply to treaties between the Government of the United States and foreign Governments, after they shall have been duly ratified and proclaimed by the President of the United States; and shall also apply to postal conventions made between the Postmaster General, by and with the advice and consent of the President, on the part of the United States, and equivalent officers of foreign Governments on the part of their respective countries, under the authority of the second section of the act entitled "An act to reduce and modify the rates

of postage in the United States, and for other purposes," approved March 3, 1851. But it is to be the duty of the Postmaster General to transmit a copy of each of such conventions to the Secretary of State for this purpose, and the printed copy of the conventions is to be revised by the Post Office Department.

The fifth section provides that all laws and parts of laws requiring the Secretary of State to send the laws first directly to newspapers for publication, as well as all laws and parts of laws in conflict with the provisions of this act, be repealed.

There being no objection, the bill was taken from the Speaker's table, read a first, second, and third time, and passed.

Mr. LAFLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TREATIES WITH SISSETONS AND WARPETONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, relative to an appropriation to carry out treaty stipulations with the Sisseton and Warpeton bands of Dakota Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

INDIAN SERVICE IN CALIFORNIA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, submitting an estimate for an appropriation for the expenses of Indian service in California incurred during the years 1860 to 1867 inclusive; which was referred to the Committee on Appropriations, and ordered to be printed.

WITHDRAWAL OF PAPERS.

Mr. DONNELLY asked and obtained leave to withdraw from the files of the House papers in the case of Rev. F. A. Conwell, asking compensation for services as a chaplain.

UNITED STATES COURT IN KANSAS.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be directed to consider the expediency of extending the jurisdiction of the court of the United States for the district of Kansas over the Indian Territory in the State of Kansas.

TENNESSEE ELECTION—R. R. BUTLER.

Mr. DAWES. I rise to a question of privilege, and call up the resolution reported from the Committee of Elections, entitled joint resolution (H. R. No. 214) relative to R. R. Butler, a Representative-elect from the State of Tennessee.

The joint resolution, which was read, provides that R. R. Butler, Representative-elect from the first congressional district of Tennessee, be admitted to his seat upon taking the usual oath to support the Constitution of the United States, and upon taking so much of the oath prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, as is not included in these words: "That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States."

The SPEAKER. The question is on ordering this joint resolution to be engrossed for a third reading.

Mr. DAWES. Before proceeding to address the House on this case, I move that the claimant, Mr. Butler, be permitted under the rules to address the House upon the merits of this case.

The motion was agreed to.

Mr. DAWES. Before proceeding with my remarks I will enter a motion to recommit the joint resolution to the Committee of Elections.

Mr. Speaker, all the facts that bear upon this case are substantially admitted upon both sides of the House. I do not know that there is any dispute concerning them. The action of the committee meets the approval, I believe, of all its members. It may be that the gentleman from Indiana [Mr. KERR] and the gentleman from New York [Mr. CHANLER] differ from the other members of the committee as to the mode of arriving at the result. They will, I presume, speak for themselves. I think, however, they agree with the remainder of the committee that Mr. Butler is entitled to a seat in this House, though I believe they would be in favor of admitting him without any such resolution as that reported by the committee.

The facts, Mr. Speaker, are these: the only charge that has been presented upon which any evidence has been submitted is that Mr. Butler in the fall of 1861, following the way in which the State of Tennessee, so far as it was in its power, had seceded from the Union, was elected a member of the Legislature of Tennessee, while then in a hostile attitude to the United States Government, and qualified as a member of that Legislature, and took his seat and kept in it more or less to the end of that session. There is no dispute that such is the fact. Mr. Butler himself admits it, and the records of that Legislature and the oath of office he took and subscribed are matters of record before the committee and are printed in Miscellaneous Document No. 28, in which will be found all the evidence.

No further time, Mr. Speaker, is needed for discussing this branch of the case. It brings Mr. Butler within the oath of office we are all required to take, and excludes him from taking that part of it contained in these words:

"That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States."

If this were all that pertained to this case it would be brief and it would be clear. It is impossible for Mr. Butler, in the opinion of the committee and I think of the whole House, to take that oath. In point of fact he did accept and did exercise the functions of an office under a government or pretended government in hostility to the United States.

But, Mr. Speaker, the evidence before the committee in reply to this was equally clear and also entirely uncontradicted, that from the earliest moment of our trouble this claimant was an ardent, active friend of the Union, devoted to its interests, wedded to its cause, enlisted in its behalf, and resolved to abide its fortunes whatever they might be.

I feel it my duty in presenting this evidence to the House to spread it at some length in the proceedings of this House that, as the committee was, it may be impressed with the conviction that not only was this I have stated true, but there is presented in the person of Mr. Butler a remarkable instance of a man of position in the community in which he resided, of influence among his fellow-men, of such mind and character and attainments among his fellow-citizens as to exert a wide-spread influence for good or for evil, who, at the outbreak of the rebellion never trembled in the balance between Union and disloyalty, but stepped out from associations and from influences calculated to draw him into the vortex of the rebellion and broke away from such influence, and facing the danger and peril of the hour, actuated, as well as human testimony can show the motive of human action, by patriotism as pure, as disinterested, as self-sacrificing, and efficient as ever actuated any gentleman occupying a position where he could make his mark or his influence felt in the great struggle through which we have passed. I feel it is due to him, Mr. Speaker, and to the cause that he shall have the full benefit of the testimony of the neighbors with whom he has lived for twenty years, of his Union associates in the very Legislature in which he served, of the men for whom he periled his life to rescue, to succor, and to save, and of those officers in high command who intrusted him with delicate and important commissions to execute during the war that the House may have the material on which to come to such wise conclusions touching him as that they may be precedents for others as well as a lesson to those who cannot from their position or their character bring themselves within the same catagory.

I have, therefore, Mr. Speaker, full knowledge. I shall tax the patience of the House and run the risk of failing even to attract attention in quoting from this book evidence to show the real status and condition of this man. Let me first read the testimony of his neighbors as to the position of this man before he went into the Legislature in the fall or winter of 1861–1862. Louis Venable says:

"My opportunities for knowing his sentiments are as follows: we were both Clay Whigs and of the same religious sentiments, consequently our political and religious sentiments ran together; and further, myself and said Butler were members to a convention held at Knoxville, Tennessee, for the purpose of cutting off East Tennessee from the balance of the State, in order that she might not be forced out of the Union and be made a part of the confederacy, at which convention said Butler used his utmost endeavors and energies in defense of the Union cause, which time of said convention was in June, 1861."

Daniel Slimp testifies as follows:

"R. R. Butler was present at the election ground in the fourth district, in Johnson county, on the 8th of June, 1861, the day on which the ordinance of secession was voted for in my county; said Butler did request the officers holding said election not to open the election until he, the said Butler, could address the people in defense of the Union cause; and said Butler did address the voters and citizens of said fourth district for more than two hours, urging the people to his utmost ability to stand firm to the Government of the United States, and to vote against the ordinance of secession, and use their utmost abilities and energies against the ordinance of secession. Said Butler did vote against the said ordinance of secession, and influenced all the citizens he possibly could do to vote against secession, which, to my knowledge, was the means of inducing several voters to vote against secession who would have voted for secession. At said election ground, and at said time, the vote stood for secession eleven votes, and one hundred and twelve against secession; and that said Butler came to said district election ground by the request of the Union men, as they were fearful that the rebels might induce by some means some of the Union men of said district to vote for secession, whom I have no doubt were prevented from voting for secession by the influence of said Butler."

* * * * * * * * * * * *

"After the State of Tennessee had voted for secession said Butler called the citizens of this, Johnson, county together, and urged it upon them to disarm the rebels, stating that if they were not disarmed they would overrun the Union men of said county. And further, said Butler did call upon the Union men of the county to arm themselves for the purpose of preventing the rebels from assembling at Taylorsville, the county seat of this county, for the purpose of raising troops for the confederate army."

He went to the Legislature from a constituency held to be loyal by his own personal influence, his own county sending more soldiers to the Union Army than there were voters in it.

Mr. Norris (page 37) thus testifies:

"Johnson county, where R. R. Butler resides, was considered one of the most loyal counties in the State of Tennessee to the Federal Government, casting only about 73 votes for secession, and said Butler did more to shape and control the sentiments of the people of said county than any other man in the county, as in upper East Tennessee, and for so doing was arrested by the rebel authorities and carried to Knoxville, Tennessee, a distance of one hundred and fifty miles; and the rebels hated said Butler more than any man in the county of Johnson, and was censured and threatened more than any other man in said county by the rebel authorities and soldiers."

Mr. Gregory (page 39) testifies thus:

"Johnson county is considered one of the most loyal counties to the United States Government of any in the State of Tennessee, and the loyal sentiment of the county of Johnson was in a great degree attributed to the influence and energy of said Butler; and he was hated by the rebels more than any other person in the county of Johnson; and said Butler was arrested by the rebels and carried to Knoxville, Tennessee, a distance of one hundred and fifty miles, and was further compelled by the rebels to leave his home and family to save his life; and that all his papers and law library, in Taylorsville, were destroyed by the rebels.

"I boarded at a rebel hotel during the war, and that was rebel headquarters of the rebels in this (Johnson) county, and being a man above conscript age, and very familiar and intimate with the landlord of said hotel, (Colonel Green Morse and his family,) I had many opportunities of hearing the rebels converse together that other persons did not have. I invariably and always heard the rebels denounce said Butler as being a Union man, and if it were not for said Butler

this Johnson county would all be right, (meaning rebel.")

Mr. Wilcox (page 55) thus testifies:

"I am as well acquainted with the people of Johnson county as I am with the citizens of this, my own, county, and during the early part of the war frequently visited Johnson county, and mixed with the people of that county, and conversed freely with them, and it was one of the strongest Union counties in the State, and is still a strong Union county, and R. R. Butler's sentiments and influence had great weight in molding the sentiments of the people at the commencement of the rebellion, as he was considered by them to be a leader of the Union party, and worthy to be confided in. Said county is still strictly loyal, and R. R. Butler's influence has kept it so."

Daniel Ellis, a Union spy, employed during the whole war by various commanders in the department of Tennessee, testifies (page 55) that the counties which Mr. Butler represented in the Legislature "were the most loyal counties in the State, and true Union men voted for R. R. Butler."

It was constituencies of this character that elected him in the fall of 1861 to the Legislature of Tennessee, after it had seceded from the Union, so far as it was possible for it to do so, and assumed the attitude of hostility to the Union. The question very properly arises, how came such a constituency to desire representation in that Legislature, and how came Mr. Butler to consent to be a representative in that Legislature? Upon that point I ask the House to listen to the testimony:

Mr. Venable thus testifies:

"Myself and others urged it upon said Butler to go to the Legislature of Tennessee and there use his utmost abilities in protecting the interests of the Union element in East Tennessee, and keep us posted as to the transactions of said Legislature, believing that he could be of more benefit to the Union cause in the said Legislature than he possibly could have been anywhere else; during which time I received several letters from him urging us to stand firm to the Union cause, and that said Union cause would come out right; and further, when said Butler returned from said Legislature, as from any other journey, I always came to him to learn the news, and he invariably told me that the Union cause would come out right, and to stand firm and use my utmost endeavors to keep the people firm to the Federal Government. And further, he frequently told me that, while in the Legislature, he had to do things which were greatly against his will, and had to vote for bills contrary to his principles, but had to do so to protect the interest of the Union element of East Tennessee, and to make the rebel sentiment as favorable to the Union element of East Tennessee as possibly could be done; and further, that to carry out said deception he had to resort to many inventions of the mind in order to deceive the rebel element and thereby favor the Union cause; which intercourse was continually kept up between us as long as said Butler remained in the county, and until said Butler was run off by the rebel authorities and soldiery, which was in August, 1863; and in the following October I left home myself and went through the lines, where I found said Butler raising a regiment for the Federal Government, and from my age, which was fifty-two years, and my avocation, being that of a minister of the Gospel, I did not deem it prudent to enter the Federal service, but, from the urgent solicitations and request of said Butler, I consented to enter the service of the United States, and did so. My intercourse with said Butler continued from that time until the close of the late war."

Hamilton Smith (page 58) says:

"In the year 1861 R. R. Butler was the candidate of the Union party for the counties of Carter and Johnson, to represent them in the Legislature of Tennessee. Robert Rhea, a rebel surgeon, was his opponent; he, Butler, was elected, receiving the largest majority of votes over his opponent that any one man ever did receive in the two counties; the balloting was strictly upon party issues; the strictly Union men of the two counties voted for Butler, and the rebels voted for Rhea. Butler was run as the Union candidate on account of his principles and the bold stand he had taken for the Union cause; all the leading Union men of the two counties warmly supported him, and I never heard his Unionism doubted while a member of the Legislature."

John Sharpe (page 39) testifies as follows:

"Said R. R. Butler was elected to the Legislature of Tennessee by the Union men of Carter and Johnson counties, and the Union men insisted on said Butler attending the said Legislature, and it was generally thought by the citizens of Johnson county that he could be of more benefit to the Union citizens of said county by attending said Legislature than if he had remained at home; and that said Butler, in different conversations, always expressed himself unwilling to go to the Legislature, saying that if he did go he would have to vote for measures that would seemingly favor the rebellion; and, further, the Union men of this county always told said Butler to go, and do what he thought would be best for the Union men of this county, and, vote as he would, that they knew him to be a sound Union man, and were not afraid to trust him anywhere, and insisted on him attending the Legislature, and reporting to them and keeping them posted on the movements and transactions of said Legislature; and, further, to my positive knowledge said Butler did so post the Union citizens of said county, and furnish them with valuable information, and by so doing was of great benefit to the Union element of said county while in said Legislature."

I suppose, Mr. Speaker, it is very difficult for us fully to understand and comprehend the position of things in Tennessee at that time. East Tennessee was intensely loyal; West Tennessee was as intensely rebel, and so was the other portion of that State. This portion of the State, situated in the middle, as between the upper and nether millstone of the rebellion, its inhabitants unprotected, its Union men the objects of hate and persecution on the part of the rebels, temptation surrounding its young men, every art resorted to to draw them into the rebellion, and every snare laid to entrap them, we perhaps can understand how they felt the necessity of having some one at Nashville, in the Legislature, or about there, on whom they could rely, who would give them timely information of measures calculated to crush them out or work their harm. They, perhaps, thought that a gentleman of the character of Mr. Butler might have some salutary influence even upon the body of men who had resolved in their hearts to be traitors and to do the work of traitors. But, whatever may have been the actual idea in the minds of these men, the evidence leaves no doubt upon the minds of the committee that, from the purest of motives and from conviction of absolute necessity, they selected of all other men that one who had the widest influence, the firmest convictions of patriotism, and the boldest spirit. Him they commissioned to go to Nashville and there use his best influence, resort to such devices as were necessary and such measures as were within his power, there to labor and serve them as best he could; and whatever obloquy he might incur in that service their confidence in him would be unshaken, and they would protect him when he returned, if return he might.

And now, Mr. Speaker, if we return to what he did while in the Legislature of Tennessee, we shall find this evidence quite as strong and quite as satisfactory. He devoted himself to the service of the Union cause and of the Union men. Stephen Matthews, now a State Senator, holding that office in the Legislature of Tennessee at this moment, then a Union member of the Legislature, testifies, on page 62, as follows:

"I have been acquainted with Judge Butler ever since about 1st October, 1861, and have been intimately acquainted with him ever since that date. I was in the so-called rebel Legislature with him; we roomed and slept together during the session; my opportunities to know Judge Butler's sentiments were very good; and in all of our private conversations I never heard Judge Butler express a disloyal sentiment. We talked freely and fully upon the subjects of secession and rebellion, and his whole sentiments as expressed to me were those of a loyal citizen. I am satisfied that if our private conversations and conversations upon those questions had been made public, that it would have been the cause of the arrest if not the hanging of both of us by the rebel authorities.

"I believe that we would all have been imprisoned and sent to Tuscaloosa if we had not taken the oath, and we were so informed by the rebel authorities. Judge Butler, myself, and all the other Union members protested against taking the oath to the confederacy, and appointed a committee to wait upon the authorities to know if we could not be relieved from taking the oath; and we were informed that we must take it or be arrested and sent to prison."

Another member of the Legislature, Edward H. East, testifies as follows on page 68:

"I have known Judge Butler since 1859 to the present time. I believe I have heard him express his sentiments on every question of State or national importance that has arisen since my acquaintance with him, both in private and in public. I suppose I have been intimate with him, at least as much so as we well could be, he living in East Tennessee and I in the middle portion of the State. We were both Tennessee Whigs. I was a member of the Legislature of 1859-60, as was also Judge Butler. The regular session passed off without any very exciting question, as I now remember; and so far as national matters were at all discussed, he took the usual position of his party (Whig) of that day. After the adjournment of the regular session our national troubles began to arise, and there was an extra session of the Legislature called. In this session efforts were made to commit the people of Tennessee to the secession movement. Judge Butler, together with a majority of the East Tennessee members, opposed this action, and this session resulted in a failure on the part of the secession element to do anything more than excite and agitate the people. Shortly afterward another session was called, which was much more excited and alarming, and great difference existed among the men who were known and recognized as the Union men as to what would be the best method and policy to avert the impending calamity. The Union men were not entirely harmonious; had frequent meetings at each other's rooms, and took into their consultation such prominent leading citizens of the State, and who had not gone over to the rebellion, as would venture to make suggestions relative to the plan to be pursued by the then minority of the Legislature. Judge Butler attended these meetings, and was recognized as a Union man. Our people finally lost hope and courage, as we could adopt no practicable and efficient plan of opposition that would harmonize even the then loyal element or that could retard the movement toward secession. Every suggestion that had been acted upon failed, and no prospect or hope of any aid coming from the national Government, (as it had all it could do elsewhere,) many of our people gave up in despair; some went into the rebellion, others became sullen, and began to consider questions of personal safety, (as they were committed against the dominant movement.) All expedients looking to a defeat of the rebellion or to retard its movements had failed, and every man was looking out for himself. Judge Butler was at this time loyal."

Nothing, Mr. Speaker, is more striking than the picture here portrayed of the condition of things in that State at that time. We of the North, having had some trouble, it is true, as to what were the best modes of treating this rebellion, can still have little idea of the condition of things when that befel the Union men of Tennessee, which has always befallen every community struggling for liberty and for life—a want of harmony among themselves. The darkest hour in our own history has always been that hour when there has been lack of harmony and mutual confidence. If any man's heart has failed him in the cause of our Revolution or in the great cause out of which we are just emerging, it has been when we have found it utterly impossible to harmonize our own action and unite upon some common ground of action, and he who has held out under these circumstances and still had his faith unshaken, is the one in whom the confidence of the people, when we launch out into smoother seas and under brighter skies, ought first to be placed.

One of the chief objects in sending Mr. Butler to the Legislature was to have some one man at Nashville who would aid in rescuing from time to time the Union men of the counties of Johnson and Carter who would be arrested and dragged into rebel prisons to starve or to be subjected to indignities and to rot in chains for the very Unionism which prompted them to send him there. I call the attention of the House now to the work of this man in the Union cause.

Another of his fellow-members of the Legislature testifies that—

"During the session there were perhaps thirty citizens of Johnson and Carter counties (Judge Butler's district) imprisoned and brought to Nashville by the rebel authorities. During their imprisonment here Judge Butler exerted himself, as the attorney and friend of a number of them, to get them relieved upon the writ of *habeas corpus*. He also furnished them with tobacco and such articles as they needed during their confinement, and when discharged loaned them money to return home. He borrowed some money from me for them."

La Fayette Jones testifies as follows on page 51:

"I was at Nashville, Tennessee, during the sitting of the Legislature of 1861-62, and while I was there there were some twenty-odd Union men brought from Carter county to Nashville and put in jail by the rebels. Said Butler did all within his power to procure their release, and did procure the release of nearly all of them. Some of them having become weary of their long confinement in the rebel jail, proposed and talked of volunteering in the confederate army; and said Butler, hearing of their having such intentions, requested me and urged it upon me to go and see them, and advise them not to do so; that he thought he could procure their releasement; and opposed their volunteering in the confederate army bitterly. I went as said Butler requested, and advised them as requested by said Butler, and thus prevented the most of them from carrying their design of volunteering in the confederate army into execution."

Taylor thus testifies on page 54:

"Myself and thirteen other Union men from Carter county were arrested by the rebels and taken to Nashville and put in the Nashville jail; and Judge Butler was there, and he brought us bread and furnished us with tobacco. R. R. Butler said he had forty dollars

he would let us have, and try to borrow more. There was a proposition made to us that if we would enlist in the rebel army they would let us out of jail; but R. R. Butler opposed it, and told us to hold on, and that he would get us out in a few days. We were all taken before Judge Humphreys, a rebel judge, and R. R. Butler did all he could to have us released."

Another witness, Collings, testifies as follows:

"Myself and thirteen other Union men were arrested in Carter county and taken by the rebels to Nashville and put in jail. R. R. Butler came to the jail and asked us how we were getting along. We told him that the jailor had taken all our money; that we were suffering for tobacco and something to eat. R. R. Butler said we should not suffer while he had a cent of money or could borrow it, and went and brought us bread and other necessaries; and R. R. Butler came to the jail every day, and continued to provide for our wants. A rebel captain came to the jail every day and tried to get us to volunteer in the rebel army, promising to have us released from jail if we would volunteer in the rebel army. R. R. Butler heard of the proposition, came immediately to the jail, and told us not to do so; that he would get us out in a few days; also, R. R. Butler sent Captain L. Jones to the jail to tell us not to volunteer in the rebel army. Some two or three did volunteer, and when Butler heard of it he was much displeased. In a few days he did procure our releasement, and said Butler furnished me some money to come home on."

If the House will bear with me a moment more I desire now to unfold the bosom of this man during those days in a private letter which he wrote on the 8th of January of that year, when engaged in this very work—a letter which had slept unbeknown to him or to anybody else until these questions raised here brought it out. It is a revelation of what he was doing and how he was doing it and what was prompting it. I would rather be the author of this letter and spread it in the columns of the Globe than anything which, in the peaceful quiet of my life during this momentous war, I have been able to put there for my children to find when they look back to the record of what I have done for my country in these perilous times:

KNOXVILLE, TENNESSEE, *January* 8, 1862.

DEAR SIR: Having an opportunity, I send a few lines to you by old man Jesse Price, who I know will deliver them without falling into rebel hands; for if this letter is captured by the rebels you and I both go up. Poor old fellow; he had a hard time in jail here—nearly starved to death before I could get him out. Oh! the suffering of the Union men; my heart bleeds for them. I am doing all within my power for them. I had a hard time in getting old man Price, his son, and son-in-law, out of jail; I had to use any amount of deception with old Judge Humphreys, who is the bitterest secessionist in Tennessee; he raves like a madman, and is as bloody as a savage. I will get a good many out this week, unless some rebel comes down from our county and interferes with my arrangements. This week some twenty-two or three Union men from Hancock were sent to Tuscaloosa prison. Poor fellows; I did all I could for them, although they were strangers to me; I trust that their health may be preserved and they may be permitted to return home and be honored for their patriotism. What will become of the Union men of East Tennessee God only knows, unless the Federal Army soon comes to our relief; but let us stand firm for the Union, come what will, for in the end we will be triumphant.

Things look gloomy now, but I have confidence in my Government, and certainly it will not much longer permit Union men to be hung, shot, and tortured in all conceivable ways. I think a change will soon take place; if not, we will have to get out of East Tennessee, and that is hard to do, as they guard all the roads and paths, and kill all the Union men they capture. If we do not get relief soon by the Federal Army we had better try to get to Kentucky, for we cannot remain here much longer, at least such men as you and myself, for they are watching me very closely, and I will not be disappointed if I am arrested at any moment, but I am facing up the best I can. Old Humphreys thinks I am a pretty good southern man, and I do not care what he thinks if I can get our Union men out of prison, for they are starving. I have let them have every cent of money I had and borrowed from Sam. Morrow, a trueman. If the Federal Army do not soon come into East Tennessee by the time I come home we must get our Union men to Kentucky somehow. I think it can be done by letting on that we are raising a regiment for the confederate army, and when we get four or five hundred, which we easily can, we can arm them as best we can and march them to Kentucky in spite of the rebels. You, Simerly, and myself can in a few days raise that number, and we will start for Knoxville, and when we get to the nearest point to Kentucky we can rush across the mountains; we will have to be quick when we commence, as the rebels will find it out and we go up. Old Jesse says he will eat this letter before the rebels shall capture it. He will not be interrupted, as he has a pass. Say to my Union friends to stand firm, that we are right, and time will prove it. I have had to do and say many things that went hard with me, but God knows that I am doing all in my power for the Union men, and will do so, sink or swim, live or die; no position or money that rebels have can influence me. I am with the people of Johnson and Carter; their fate shall be mine; if they go down I will go down with them.

I will close, as I am writing on a leaf torn from a book; the confederacy cannot afford paper to write upon; it is a nice arrangement. My compliments to all, and accept the same.

Yours truly, R. R. BUTLER.

SAMUEL E. NORTHINGTON, *Taylorsville, Tennessee.*

Mr. LAWRENCE, of Pennsylvania. Was that letter written while Mr. Butler was in the Legislature at Nashville?

Mr. DAWES. While he was in the Legislature at Nashville and going on a mission to Knoxville to appear before the rebel Judge Humphreys, and there rescue these men, his fellow-citizens, from jail.

This poor man, Price, took this letter safely to its destination and went to his home, but upon the third day thereafter, he was found hanging in a tree.

Mr. Speaker, I will close this part of this case with a single further reference. Many of the atrocities committed in that war will, I doubt not, furnish themes for the historian and the tragedian. Many of them have already found place on the pages of history. I now call attention to one of them, simply for the purpose of connecting it with the course and conduct of this man during these perilous times. I read now from the book of that remarkable man, Daniel Ellis, who enjoyed the confidence of all the commanders of the Union Army in Tennessee during the war; who, as I have said before, was kept in secret service by them for more than three years. He tells, among the scenes through which he passed, and which came to his knowledge, this thrilling story:

"A man by the name of John Tilly also fell a victim to Bill Parker's vengeance, and was savagely murdered in the following manner: Tilly had been scouting for some time, and one of his twin children was taken violently ill, and was not expected to live; he had come to the house to see his sick child, and was nursing it in his lap when Parker and his gang of murderers rode up to his house. He laid his child down, and went out into the yard and surrendered, when Parker drew out his pistol and shot at him, giving him a severe wound in the head. He was now convinced that they intended to kill him, and asked them only to allow him a few minutes to pray. But they returned him no answer, and continued to shoot at him. The poor fellow now turned to run, but he soon fell to the ground, his body having been pierced through with ten balls. His wife now ran toward her murdered husband, screaming and crying with wild and frantic agony, when one of these incarnate devils seized hold of his gun and knocked her down by the side of her dead husband. His little children cried and begged for their father all the time, but as well might they have raised their tiny hands and feeble voices to calm the raging storm in its mad career, as to endeavor to stop this gang of rebel demons in their bloody work of murder. After waiting until their victim had breathed his last, these manslayers went on their way laughing at the terrible misery they had left behind them, and looking forward in search of more human blood."

The children thus made orphans were cast upon the cold and bitter world, without food, and without shelter from the inclement season and the winds of heaven. This man, Butler, has put upon the record his testimony in relation to that case. He has left upon record the title deed of a house for these orphans, made long ago, before any question of this character was raised; acknowledged and recorded before he ever thought of a seat in Congress. Let me read to this House a copy of this deed:

Whereas John Tilly conveyed to me, for and in consideration of, the sum of $300 to him paid, a tract of land in the second civil district of Johnson county, Tennessee, it being the land conveyed to said Tilly's heirs by Abraham Johnson, deceased, containing about one and three fourth acres, it being the land where said Tilly formerly lived, and where David S. Turner now resides, On said land there is a small house and kitchen, which are occupied by said Turner. The said land adjoins the lands of Green Moore and Abraham Johnson's heirs. And whereas the said John Tilly was a loyal citizen to the Government of the United States, and was murdered by a band of rebel thieves and murderers on account of his Union sentiments; and whereas he left several orphan children in destitute circumstances: I, therefore, and in consideration of said Tilly's devotion to the Government of the United States, do hereby transfer and convey to Mary Tilly and Albert N. Tilly, minor children and heirs-at-law of said John Tilly, deceased, all the right, title, interest, and claim that I have in and to said land, together with appurtenances, to have and to hold the same forever, this 11th day of September, 1865. R. R. BUTLER.

Executed in our presence, this 11th day of September, 1865.

R. H. DONNELLY.
W. K. DONNELLY.

STATE OF TENNESSEE, *Johnson County:*

Personally appeared before me, R. E. Berry, clerk of the county court of said county, R. R. Butler, the bargainer, with whom I am personally acquainted, and who acknowledged that he made and executed the within deed for the purposes contained therein.

Witness my hand, at office, September 11, 1865.

ROBERT E. BERRY, *Clerk.*

STATE OF TENNESSEE, *Johnson County:*

The foregoing deed, with the clerk's certificate annexed, was received September 11, 1865, and duly registered in this office March 21, 1866, at 5 o'clock p. m., in book E, volume 5, page 65.

DANIEL SLIMP,
Register Johnson County.

STATE OF TENNESSEE, *Johnson County:*

I, Robert E. Berry, deputy register of Johnson county, Tennessee, do hereby certify that the foregoing is a correct transcript of the deed made and executed by R. R. Butler to Mary and Albert N. Tilly, together with the clerk's and register's certificates annexed thereto, as appears of record in the register's office for said county.

A. L. CROSSWHITE, *Register,*
Per ROBERT E. BERRY, *Deputy Register.*
January 1, 1868.

STATE OF TENNESSEE, *Johnson County:*

I, Robert E. Berry, clerk of the county court of said county, do hereby certify that A. L. Crosswhite is the register of Johnson county, Tennessee, and Robert E. Berry, whose signature appears to the foregoing certificate, is the deputy register of said county, and the signature appended to the foregoing certificate is his genuine signature.

In testimony whereof, I hereunto set my hand and affix the seal of the said court, at office, in Taylorsville, Tennessee, January 2, A. D. 1868.

ROBERT E. BERRY,
[L. S.] *Clerk County Court.*

I had rather have in my family the record of that deed, I had rather my children should refer to that record as evidence of what their father had done, than that they should refer to any commission I have ever received to hold a seat here in this House. Such, Mr. Speaker, is the true, unvarnished, uncolored testimony in reference to this man. Now, I come to the question, What shall this House do with Mr. Butler? Actuated by the motives here testified to, impelled by the wishes of such fellow-citizens as have given this testimony in respect to him, and with the idea that thereby he perhaps could save the lives of some of them, could save some of them from torture, and do something for the great cause of the Union, he went to that Legislature, and took the oath to the confederacy.

The oath that your law requires shall be taken at the bar of this House is that the person taking the oath has never occupied the position which Mr. Butler has occupied. Therefore, notwithstanding all these circumstances, notwithstanding his character for loyalty, he cannot take that oath. It is for you to say that having endured all; having faced the enemies of his country; having faced the perils of the cannon's mouth and all the perils that have environed a Union man, surrounded, as he was, by the rebels; having stood up against the jeers and taunts of the enemy—it is for you to say whether he shall suffer a severer rebuke at the hands of this Congress.

Mr. KERR obtained the floor and said: I move that the time of the gentleman from Massachusetts [Mr. DAWES] be extended.

The SPEAKER *pro tempore*, (Mr. FARNSWORTH.) If there be no objection the time of the gentleman from Massachusetts will be extended.

There was no objection.

Mr. DAWES. Mr Speaker, I know the necessity which required the passage of that test-oath act. I know its origin. I know it was born in the conviction that it was a necessity. But I have to say, Mr. Speaker, in reference to that act, that all of us hoped and believed when it was enacted that the time would come—we prayed that it might come quickly we knew not how soon, but the abiding faith of the patriot told us it would come sooner or later—when the reproach upon our fellow-citizens arising from the necessity of having such an act upon the statute-book might be removed. No man believed that it would come all at once; that by a miracle a change of heart would be so wrought in the whole southern country that in the twinkling

of an eye men would pass from the position of arrant rebels to that of pure, stainless patriots; but it was expected that by degrees, by slow progress and growth, they would come out from the night of their folly and disloyalty into the broad daylight of reason and patriotism; and our idea was that as they might come in one by one, as the scales fell from their eyes, we would open our hands and our hearts to them, welcoming them back to full communion and fellowship as citizens.

But it is not of such men that I speak to-day. It is one who, through fire and blood, through the smoke and blaze of battle, through good and through evil report, at all times and under all circumstances, was as true to the flag of his country as the needle to the pole—a man who molds the character and sentiments of his fellow-citizens in the county in which he lives as no other man there does—a man who, whether admitted here or driven back into exile, will exercise for good or for evil a controlling influence upon his fellow-citizens. To such as he we are indebted for the fact that Tennessee is not at this very hour in the position of Alabama and Mississippi and Louisiana and other southern States. The valiant and true men of Tennessee were held up and strengthened by such men as he—men who were the Aarons and the Hurs of that period, holding up the hands of the prophet.

In regard to the manner in which we may, as occasion shall require, relieve the stringency of that test-oath act, I have no plan beyond the one suggested in this joint resolution. In regard to such men as Mr. Butler, I have a conviction, as firm as the conviction of my own existence, that it is our duty to gather our arms around them, and make them by some means full participants in all the rights and privileges of this Government.

Mr. MUNGEN. Will the gentleman yield to me for a moment?

Mr. DAWES. Yes, sir.

Mr. MUNGEN. I would like the gentleman to answer these questions:

1. Did John Young Brown, of Kentucky, recently rejected by this House, do as much against the cause of the Union as did Mr. Butler, of Tennessee, when he took the oath to support the southern confederacy?

2. Is there any evidence or charge that Mr. Brown ever took any such oath as Mr. Butler took?

3. Does voting the Radical Republican ticket wipe out the crimes of those who assisted in getting up and who fought in the war against the Union?

I would like the gentleman to answer those questions.

Mr. DAWES. I know the gentleman from Ohio [Mr. MUNGEN] does not want me to answer that last question. It does not become the dignity of his position; and I feel that nothing in the character I have sought to maintain during all the time I have served in this House authorizes the gentleman to put such a question to me.

Mr. MUNGEN. Well, answer the first two of the questions.

Mr. DAWES. I say that John Young Brown and R. R. Butler have both done that which prevents them from taking truthfully the test-oath. And I say, too, that if it had been possible for me to find in the life and character of John Young Brown what I have portrayed here as a part of the life and character of Mr. Butler I would have been in favor of doing in the case of John Young Brown just what I ask shall be done in the case of Mr. Butler. I do not think so meanly of myself, or of the name which I am to leave to my children, as to do otherwise. Sir, I am not here as a partisan. I do not know how Mr. Butler will vote if he be admitted. I know nothing of his votes or his political sentiments. In the case of John Young Brown I strove faithfully to find something in his career during the war to relieve the odium which the admitted facts of the case cast upon him. I knew him in this House six or eight years ago as one of the most promising young men whose acquaintance I had ever made. I followed him in sorrow into the rebellion. If I could have found him out in service there as I found this man Butler there nothing that my poor, feeble abilities could have accomplished would have been wanting to him or to Kentucky to have secured him a place upon this floor.

Mr. MUNGEN. I never knew that the gentleman from Massachusetts had followed anybody into the rebellion.

Mr. DAWES. What are we to do? How are these Union men to be represented upon this floor? There is but one of two ways. We cannot sit here and see this man, if we would, swear that he never held an office under the southern confederacy. We must either pass a bill so relieving him from the pains, penalties, and disabilities of his position, so that he shall be allowed to take a seat upon this floor, or you must tell him to go home to the people of his district who sent him here because he, of all the men in his district, was the truest, the most faithful of the men who served them in times of peril, in times of despondency, and in times of darkness, as well as now in times of hope and of promise, and to tell them to send some other man inferior in character and influence. We cannot, Mr. Speaker, tell that people to take Mr. Butler back and to send us a cipher in his place, and thereby expect to cherish, nourish, and strengthen the Union sentiment in such a district.

Sir, we must save such a man as Mr. Butler from exclusion from this House, to which he has been sent by Union people, because of a certain portion of the oath members have to take. We must say, as we have said about others, that we will pass a bill relieving him from the pains, penalties, and disabilities of his action. We will say to John Young Brown and such others, if you will come out from the thraldom of attachment to the cause of the rebellion, we care not what your political sentiments are on questions where loyalty is not concerned, then you shall be relieved from these pains and penalties. It is not for us but for the House to say who is worthy.

The committee, Mr. Speaker, found first that this man could not take this oath. It was, therefore, their duty to report that fact. They were as firmly of the opinion that by some means Congress should permit such men to take their places in this or the other branch to which they were elected by the truest Union sentiment of the country. We followed the joint resolution brought here in the very words which passed the Senate when the Senator from Tennessee was admitted to his seat there; but if the House prefers a bill relieving in form this man from his disability the committee will be entirely satisfied. The House must go through this form to relieve him from the necessity of taking this oath. That is in substance what we have recommended.

The committee is unanimous on one thing, that it is not only safe, but it is proper, this man should by some means hold a seat here, and the House in its wisdom can devise the best means for accomplishing that end. For myself, I shall not attempt to set up my judgment against this man; I shall not attempt, living quietly at my home, out of danger, in safety and peace, without opportunity of making sacrifices for duty, and without tests of disposition to do so, for I am not in the position to do so, to turn around and say to this man, covered all over as he is with evidences of his patriotism and sacrifices, I do not deem him worthy of a seat in the same body which recognizes me.

Mr. BROMWELL. I should like to ask the gentleman a question. I did not hear the beginning of the argument of the gentleman from Massachusetts, and I therefore now ask him whether he alluded to the vote given by Mr. Butler in favor of the rebellion?

Mr. DAWES. I did not allude to it, because I felt it to be my duty to rely on the report. He did vote for the resolutions in favor of the southern confederacy, but he afterward, after he had got some Union prisoners out of jail, returned and changed his vote. His reason for so voting was that he might procure the release of twenty-three Union prisoners who were starving in jail. He had to struggle with old Judge Humphreys to get them released, and he voted for the resolutions to prevent the expression of hostility of the rebel element in the Legislature from being aroused against him. When he had his work done he and another Union man went back and changed their votes.

Mr. BROOKS. Where is that upon the record? I do not find it.

Mr. WARD. I would ask the gentleman what is the necessity of his doing that?

Mr. DAWES. I would answer my friend if I had another hour to do it in.

Mr. MUNGEN. Will the gentleman from Indiana [Mr. KERR] allow me to put a single question to the gentleman from Massachusetts?

Mr. KERR. A single question.

Mr. MUNGEN. When the gentleman from Massachusetts [Mr. DAWES] talks about a man taking an oath to support and maintain the confederacy and excuses him because he went into the confederate Legislature of the State of Tennessee for the purpose of visiting or relieving some Union prisoners, as he claims, I wish to ask why it was when the confederate government offered authoritatively to our Government through the proper agents engaged in regard to the exchange of prisoners, to purchase medicines, and to pay therefore three times their value, either in gold, cotton, or tobacco, and to have the medicines so purchased put under the charge of Federal surgeons and taken by them to Andersonville and other southern prisons and used exclusively for Union prisoners, under the direction of said surgeons, why it was that said proposals were not accepted and our soldiers thus relieved?

Mr. KERR. I do not rise, Mr. Speaker, for the purpose of indulging in any lengthy debate on this question, nor do I mean by anything I may say to indorse all that I find in the report of the committee. I will ask, however, before I proceed, that the resolution offered by the committee be read.

The Clerk read as follows:

Be it resolved by the Senate and House of Representatives, &c., That R. R. Butler, Representative-elect from the first congressional district of Tennessee, be admitted to his seat upon taking the usual oath to support the Constitution of the United States, and upon taking so much of the oath prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, as is not included in the following words, to wit: "That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States."

Mr. KERR. Mr. Speaker, after a very careful examination of all the facts in this case, entertaining the views I do of the law and the Constitution, I concluded that it was the duty of this House to admit Mr. Butler without any further question, except that he was willing and able conscientiously to take the oath, a copy of which I hold in my hand. The majority of the committee, however, reached a different conclusion.

Now, my object is not to find fault with their conclusion or to question its propriety. Nor do I propose to enter into the discussion of the facts in this case or the law that may properly apply to it; for upon the law I have been heretofore heard by the House. But my present object is to move an amendment to the resolution offered by the majority of the committee in order that that amendment may go to the committee when the resolution is recommitted.

The SPEAKER. No amendment to the resolution is in order pending the motion to recommit.

Mr. KERR. I will then move to recommit the joint resolution to the committee with in-

struction to amend the joint resolution by inserting therein in lieu of the part of the oath therein reported, the following:

That I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragment to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto.

My reason for this motion is, that while I believe that Mr. Butler should be allowed now to take his seat, yet I cannot say, and I do not believe, that if he is unable to swear he never voluntarily sought or accepted office under the confederate government he can at the same time truthfully take the balance of this oath; because the very testimony shows that Mr. Butler did voluntarily accept office under the confederate government. It also shows that while in the exercise of the duties of that office he did give "aid, comfort, countenance, and encouragement" to the rebellion; and it further shows that he did yield "voluntary support to a pretended government, authority, or constitution within the United States, and inimical thereto."

Now, I do not propose to cite the evidence to establish these conclusions; I simply refer to the evidence as it has been so ably recited by the gentleman from Massachusetts, [Mr. DAWES,] the chairman of the Committee of Elections. I want to impress this idea upon the House, that a gentleman who accepts an office under the circumstances under which Mr. Butler accepted this office, and goes on and performs the duties of that office in connection with an unfriendly or belligerent government, beyond a question, in the legal acceptation of the term, must be held thereby to give "aid, comfort, countenance, and encouragement" to the rebellion, to the government he was so serving.

Now, while I say this, I do not desire to prejudice the case of Mr. Butler at all. To be consistent with my own convictions I am compelled to vote for his admission. I shall vote for it whether this joint resolution be passed or not. I prefer, however, that the joint resolution shall be so amended as to relieve him from taking any part of the first paragraph of the oath.

Mr. BAKER. Mr. Speaker, prompted in part, perhaps, by the favorable personal opinion which I have formed of Mr. Butler, I have paid some special attention to his case, and my opinion is clear that Congress ought to adopt some plan by which he may be permitted to occupy a place as a member of this House. At the late election in the first district in Tennessee he received 12,157 votes; another candidate received 1,777, and still another 44 votes. Well, there is a good basis of constituency. Now, the question is whether it is taking a false step, whether it is taking a dangerous step, to adopt some means by which Mr. Butler may take his seat. I maintain that it is proper to do so, and I wish to state a principle which appears to me to be the key which unlocks any difficulty which may exist in the case. It is this: the Thirty-Ninth Congress spent about eight months in digesting a constitutional amendment which would serve as a basis for the restoration of the practical relations of the revolted States to the Union, and one of the principles incorporated into that amendment was, in substance, that whoever, in the several cases stated in the amendment, shall have taken an oath to support the Constitution of the United States, and shall have afterward participated in rebellion, shall not hold office under the United States or in any State. But it was found necessary, wise, and proper to reserve a dispensing power over the rigor of the rule, in order that when meritorious cases should be presented the law should not stand as that of the Medes and Persians, but might be relaxed by a vote of two thirds of both Houses of Congress. I maintain that this is a sound principle. It has a high and permanent place in our system of policy, and it should be applied whenever there is a really meritorious case; whenever there is a case in which the applicant is soundly and substantially loyal in fact, whether he be a Democrat or a Republican, in that case the principle of dispensation should be applied.

Now, sir, in this case, so far as I have been able to examine the record, it shows in substance that Mr. Butler, during the rebellion, was a sound, working, fighting, persistently active and influential Union man. It is true, when the great storm of rebellion, sweeping like a tornado over the Southern States, first struck Tennessee, he was temporarily swept into the false step of taking an oath to the confederacy, under a species of coercion and against his real will; but my estimate of human nature is, that it is not just, that it is not wise and humane, to require every man to be a Pettigru or a Roman Regulus, the fact being that above the horizon of six thousand years of the world's history there has only appeared a small galaxy of such men. But that Mr. Butler had no improper *animus*, that he was influenced or impelled by a species of moral and almost of physical coercion to take this oath, is abundantly proved by the record. I will read a small portion of it.

One of the witnesses says:

"Johnson county is considered one of the most loyal counties to the United States Government of any in the State of Tennessee, and the loyal sentiment of the county of Johnson was in a great degree attributed to the influence and energy of said Butler, and he was hated by the rebels more than any other person in the county of Johnson; and said Butler was arrested by the rebels and carried to Knoxville, Tennessee, a distance of one hundred and fifty miles, and was further compelled by the rebels to leave his home and family to save his life; and that all his papers and law library in Taylorsville were destroyed by the rebels."

And further along the same witness says:

"When Colonel Folk, who commanded a rebel battalion, came into this county, in November, 1862, it was urged by the leading rebels of the county that said Butler must be arrested and sent out of the county, for as long as the said Butler remained in Johnson county the citizens would continue loyal to the United States Government, and that if said Butler was out of the county it would become rebel; and further, said Folk did have said Butler arrested and sent out of the county."

I next refer to the testimony of one whom I assume to be a thoroughly truthful witness; one who is now, I believe, a State Senator in the Legislature of Tennessee. He says:

"I believe that we would all have been imprisoned and sent to Tuscaloosa if we had not taken the oath, and we were so informed by the rebel authorities. Judge Butler, myself, and all the other Union members protested against taking the oath to the confederacy, and appointed a committee to wait upon the authorities to know if we could not be relieved from taking the oath; and we were informed that we must take it or be arrested and sent to prison."

Now, any man who can, in the first place, form an intelligent conception of the power of a rampant and proscriptive popular opinion, and in the next place can form an intelligent conception of the intimidating power of a fierce, organized force sweeping everything before it, and threatening to put in prison all who oppose it—any man who can form an intelligent conception of that situation must, if he has any capacity to judge of human nature, know that a great many very good men and firm men will momentarily be swept from the firmness of their purpose and impelled to do something they may afterward regret. I contend that a true and rational respect for human nature and its inherent impulses and infirmities will lead one not to hold a man to a rigorous and inexorable account for acts done under such powerfully controlling influences.

I next wish to call the attention of the House to the fact that Judge Butler was commissioned as a lieutenant colonel in the Army of the United States in 1863, and, as I understand, he served from that time till the conclusion of the war. I read from the commission given to him by Andrew Johnson, while acting as military governor of the State of Tennessee:

"Know ye, that reposing special trust and confidence in the patriotism, valor, fidelity, and abilities of R. R. Butler, of the county of Johnson, we do appoint him lieutenant colonel in the thirteenth regiment of cavalry of Tennessee volunteers, in the service of the United States, for three years, unless sooner discharged; to rank as such from the 11th day of November, 1863."

I next call attention to the testimony of William G. Brownlow, Governor of Tennessee, as follows:

"I have known R. R. Butler since the war and many years before the war. I have always known him as a Union man; I was imprisoned in December, 1861, and was sent out of the country by the rebels in March, 1862. I cannot testify as to R. R. Butler's course during the time I was imprisoned and while I was absent from the country, which was nearly two years. On my return to the country, under the protection of General Burnside, I found Butler dressed in the Federal uniform and battling in the cause of the Union. He has been ever since an efficient and active Radical, and was elected by a Radical constituency to Congress by the largest majority I ever knew obtained in the first district. Confiding in his loyalty, I commissioned him judge of the circuit court in the first circuit of Tennessee.

I ask particular attention to the passage I am about to read—words interpretative of the action of Judge Butler in the Tennessee Legislature:

"As to his being a member of what is called Harris's rebel Legislature, I never considered there was anything in that; some of the best Union men we had in the State were members of that body, and were urged by Union men to go there to hold the rebels in check; and further this deponent saith not."

That is the testimony of W. G. Brownlow.

Mr. PRICE. Will the gentleman allow me to ask him one question?

Mr. BAKER. Certainly.

Mr. PRICE. The gentleman has just been reading from the evidence of Governor Brownlow in support of his position. I desire to ask whether Governor Brownlow practiced under similar circumstances the doctrine which he preaches there?

Mr. BAKER. Mr. Speaker, the record in the case of this gentleman, [Mr. Butler,] taken as a whole, shows that he has been one of the bravest, one of the firmest, one of the most efficient, one of the most persecuted men in Tennessee; that his exertions have aided powerfully in producing the grand result that Tennessee was not swept bodily into the vortex of the rebellion along with the Gulf States.

But I proceed to answer the gentleman's question more directly. That Judge Butler was a Pettigru, was a Regulus, or a William G. Brownlow, may well be questioned; but I say, also, as I suggested a while ago, that exploring the whole of human history during times of terrible peril, you will find that under the powerful pressure brought to bear at such times against human firmness there have been comparatively few such men. What I maintain, and what I would impress upon the mind of my friend from Iowa, [Mr. PRICE,] and upon the minds of my Republican friends in this body, is that in dealing with the closing up of this great rebellion, and looking to the restoration of ultimate harmony in this Republic, we should adopt principles of severe justice, tempered with humane regard for the infirmities of human nature. Where a man is loyal, where a man has devoted himself to the cause of his country during those dark hours when its life was imperiled by the rebellion, where for years together he has cast the whole weight of his influence on the side of the Union, I say it is narrow, it is contracted and indefensible statesmanship—no, sir, it is not statesmanship at all—to send such a man back to a constituency who sent him here by a vote more than twelve thousand strong, most of that constituency having aided him in saving Tennessee from being overthrown by the rebellion.

I feel somewhat warmly about this matter, sir, for I have a profound conviction that the principle we should adopt in action, as we have provided for it in the constitutional amendment, is to recognize, under all circumstances, true men, to look at the great body of their action, the general tenor of their conduct, and

not hold a man to ultimate and everlasting condemnation because, when the rebel tempest first burst upon him, he may have become disconcerted for a moment, and suffered himself to be overborne into some action which his judgment did not approve, which his principles did not sanction, which his real will did not concur in, and which his whole action thereafter, as before, contradicts and atones for. Such I conceive to be the case of Mr. Butler, and therefore it is that I earnestly urge his admission, in some proper manner, as a member of this House.

Mr. CHANLER obtained the floor.

Mr. PRICE. Will the gentleman from New York [Mr. CHANLER] yield to me for three or four minutes?

Mr. CHANLER. Certainly, if the gentleman will designate for what purpose he desires the floor.

Mr. PRICE. Merely to explain my position in reference to this question.

Mr. CHANLER. I will yield the gentleman five or ten minutes.

Mr. PRICE. Mr. Speaker, when I put my question a few moments ago to the gentleman from Illinois [Mr. BAKER] I did it without any intention of reflecting upon the patriotism or the bravery or any other good quality that Mr. Butler may justly claim to possess or that his friends may claim for him. It struck me, however, as a little singular that the testimony of Governor Brownlow should be quoted in a case of this kind, when under similar circumstances he himself practiced the very reverse of what Mr. Butler has done. I will say in reference to Mr. Butler that I do not doubt his patriotism, I do not doubt his bravery, I do not doubt that he is all that his friends claim him to be, and that he is worthy of a better fate than that which my vote would give him in this House.

But, sir, while I occupy a seat upon this floor, while I say to one man who comes here as a Democrat he shall not come in unless he can truthfully take that test-oath, I will apply the same rule to a man who comes here elected by Republican votes. And with my present view of the subject, while I occupy a place upon this floor, I never intend, when I have a vote to cast on this question, to abate one jot or tittle of the stringency, force, and effect of that test-oath in respect to any man, whether he comes from the Democratic ranks or from the Republican ranks. If I should make any such distinction I should consider myself unworthy to sit upon this floor. I look upon this test-oath as the safeguard of the Republic, and while it may operate injuriously upon one man, while it may operate hardly upon one man, I call in an authority from which no appeal can be taken, better that some such man as Mr. Butler shall suffer, better that some true and tried patriot should be compelled to remain at home, than that we should abate one jot or tittle of the stringency of that test-oath which, I believe is the only barrier to prevent disloyal men from getting places in Congress and the only safeguard for the protection of the loyal people of this Union.

Mr. COOK. I have the permission of the gentleman from New York to move the following amendment to the motion of my colleague:

With instructions to report a general law providing that no person elected to this House shall be required to take the oath of office required by the act of July 2, 1862, if such person shall have been relieved from disability to hold office in the manner prescribed in the article of the Constitution of the United States proposed by the Thirty-Ninth Congress as the fourteenth article; and secondly, to report a bill to remove the disability of R. R. Butler in the manner provided by said article, with leave to report at any time.

Mr. SCOFIELD. Will the gentleman from New York yield to me for a moment?

Mr. CHANLER. I do.

Mr. SCOFIELD. Mr. Speaker, I have one objection to the measure proposed by my friend from Illinois. I have no objection to the general law, but I wish to call attention to the fact that when you have a general law you will have to have a special bill in each case. The general law would be nothing but a declaration of what the House would do. We put a general law upon the statute-book which says that when anybody gets an act through relieving him from disabilities he shall be relieved from taking that oath, but in each case he must have an act put through for himself.

The proposition of the Committee of Elections is to put through an act relieving Judge Butler. Here it is proposed, before we pass this special act, that we shall declare in advance we will do the same thing for everybody else who will apply. I have no objection to that; but, after all, gentlemen are cheating themselves when they think by passing this general bill they are preserving their consistency. The general bill is nothing but an intimation to everybody that if they can get a bill through to come here and he will be released from taking that part of the test-oath which declares—

"That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States."

That is all there is of it. When you get through a general bill, then you have to pass this special bill. It is an advertisement to all men who can come with like recommendations that they shall be relieved in like manner. What, then, is the reason of a general law which is merely an advertisement of what we will do in like cases?

Mr. BROMWELL. I have no doubt, Mr. Speaker, that the gentleman from Tennessee, Mr. Butler, is all that he has been described. In my opinion the question is whether the country can afford to now tamper with this test-oath. However excellent his character may have been, however valuable his services to the country, however great his patriotism and his sacrifices, I for one shall adopt the plan suggested by my colleague, and that is to declare by a general law all of a certain class of men shall be exempt from taking this test-oath when they shall be exempted from disability under the law.

Mr. SCOFIELD. Allow me one word.

Mr. BROMWELL. For a moment.

Mr. SCOFIELD. I would like to know how any person who might apply to be relieved from taking that oath could be benefited by having a declaration made in advance in the form of what my friend calls a general law. He would have to come to Congress and get a special act passed relieving him personally by name. Now, it does not benefit him a particle that you put in the statute-book in advance a declaration that you will do it for all such men. Here this gentleman comes from Tennessee, and you refuse to do it with him, but you propose to put on your statute-book a declaration that you will do it forever hereafter, and so he must come again.

Mr. BROMWELL. It seems to me the gentleman from Pennsylvania does not understand me.

Mr. SCOFIELD. I can say the same of the gentleman from Illinois.

Mr. BROMWELL. I have not proposed to pass a law declaring that Congress will relieve from disability the men who apply for it. On the contrary, I propose to have a law prohibitory and declaring that none but those who may be so relieved shall be exempt from taking the oath.

Mr. SCOFIELD. The gentleman did not understand me. His general law is only a declaration that we will hereafter relieve anybody that we choose to relieve. That is all there is of it.

Mr. BROMWELL. A general law, as I understand it, would be so far an exception to the present law that any one thereafter receiving from Congress an exemption would be qualified to be inducted into office without taking the test-oath. That would be a general law, and it seems to me, if we are going to begin thus early in taking down the bars and fences which we have thrown around the introduction of men who have in some way been entangled with the rebellion, we had better do it by some general law which will at least have nothing in the nature of tampering with or mutilating the test that we have heretofore prescribed. I am opposed to that. I believe this country cannot afford at this time to begin to mutilate these safeguards of loyalty and of the Union which were found so very necessary and which were so recently enacted.

Mr. BAKER. I would like to ask my colleague whether this country cannot afford at this time and at all times to admit to this floor a sound Union man?

Mr. BROMWELL. In answer to that——

Mr. CHANLER. I do not think that question calls for an answer from the gentleman; I do not think he is in any danger from it, and therefore I resume the floor and yield to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. I will send to the desk to be read an amendment which I propose to the joint resolution in the nature of a preamble. The chairman of the Committee of Elections has consented that when he withdraws the motion to recommit this amendment may be entertained by the House. I do not ask the House to indulge me in any remarks upon the question now, but at the proper time I shall take occasion to say something respecting this amendment, which embodies the only reason upon which I could possibly rest a vote in favor of the resolution.

The Clerk read the proposed amendment of Mr. PAINE, in the nature of a preamble, as follows:

Whereas R. R. Butler, Representative-elect from the first congressional district of Tennessee, performed honorable service in the Army of the United States from September, 1863, till May, 1864: Therefore

Mr. CHANLER resumed the floor.

Mr. KELSEY. If my colleague will yield to me I will move that the House adjourn.

Mr. CHANLER. I do so.

CONSTITUTION OF ALABAMA.

Mr. BEAMAN. I ask unanimous consent to offer the following resolution:

Resolved, That the General commanding the armies of the United States be instructed to report to this House the number of votes cast under the reconstruction laws up to the present time for the adoption of the constitution for the State of Alabama, and also the number of votes cast under said laws up to the present time against the adoption of said constitution.

Mr. NICHOLSON. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada.

An act (S. No. 268) for the relief of the legal representatives of the late Philip R. Fendall.

An act (S. No. 347) to confirm title to Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government.

SALE OF PROPERTY AT HARPER'S FERRY.

On motion of Mr. HUBBARD, of West Virginia, by unanimous consent, bill of the Senate (S. No. 186) providing for the sale of lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for one week for Messrs. WILLIAMS, of Indiana, COBURN, SHANKS, and WASHBURN, of Indiana.

DUTY ON COPPER.

Mr. DRIGGS. I ask unanimous consent to offer the following resolution:

Whereas the duty on foreign copper in the present tariff law is so low and disproportioned to that fixed upon other important American productions that

utter ruin is threatened to the copper producers of the country, whose works and mines in consequence have been abandoned and operations suspended, throwing thousands of men out of employment, and compelling their families to obtain subsistence through public and private charity; and whereas the duty on iron is sixty per cent., on lead about fifty per cent., while on ingot copper it is less than fifteen per cent., and on copper ores only five per cent.: Therefore,

Resolved, That the Committee of Ways and Means be requested, without delay, to inquire into the justice and expediency of so amending the tariff laws as to require a duty to be paid on imported ingot, pig, bar, and rolled copper of five cents per pound, on pure copper in regulus four cents per pound, and on pure copper in ores three cents per pound, and report to the House by bill or otherwise.

Mr. ALLISON. Is that an instruction to the committee?

The SPEAKER. The resolution is not mandatory.

Mr. SCHENCK. It contains instructions that the committee report "without delay" a bill for a certain purpose.

Mr. DRIGGS. It merely instructs them to inquire into the expediency of reporting such a bill. They may report for or against it, just as they like.

Mr. SCHENCK. I wish to say that the Committee of Ways and Means are now busy with the internal tax bill, and they propose to take up this and other matters, but they ought not to be instructed to lay aside other matters in order to report without delay upon this subject. I shall, therefore, ask that the resolution may go to the committee without action of the House upon it. I do not object to the introduction of the resolution, but I ask that it be referred to the committee.

Mr. DRIGGS. I will modify the resolution by striking out the words "without delay."

The resolution as modified was agreed to.

OREGON WAR CLAIMS.

Mr. MALLORY, by unanimous consent, presented a communication from Senators WILLIAMS and CORBETT, of Oregon, in regard to the Oregon Indian war claims of 1855–1856, &c.; which was referred to the Committee of Claims.

Mr. STEWART, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to inform this House whether in his judgment, it would not be desirable, for the purpose of economy and the safety of the public property in the city of New York, to purchase ground on the battery sufficient to erect suitable warehouses; and that he also communicate the probable area of ground which will be required.

LUTHER M'NEAL.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 860) for the relief of Luther McNeal, late postmaster at Lancaster, Erie county, New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CLAIM AGENTS, BOUNTIES, ETC.

Mr. WARD, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and adopted:

Whereas it is alleged that certain claim agents in the country are, by misrepresentation and fraud, obtaining from soldiers and sailors, for a trifling consideration, their discharge and other papers showing their claims against the Government, and are also obtaining assignments of their claims for bounty, back pay, &c., and are actually collecting the same, notwithstanding existing laws upon the subject: Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the subject and report what further legislation is needed in the premises to the end that the soldiers and sailors of the Republic may be better protected in the future, and those who thus wrong them may be brought to merited punishment, and that said committee have leave to report by bill or otherwise.

BOUNTY AND PENSIONS.

Mr. McCORMICK, by unanimous consent, submitted the following preamble and resolution; which was referred to the Committee on Military Affairs:

Whereas, during the recent war to suppress the rebellion, officers and soldiers are often reported on the muster-out rolls of their respective companies as "lost," or "missing," some of whom have not since been heard of by their families, but in whose cases, owing to the impossibility of legal and conclusive proof of death, their representatives cannot collect the back pay, bounty, or pensions due them; Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of passing a law providing that said legal representatives of such officers or soldiers, reported "lost" or "missing" in the line of their duty, and who shall not be heard from for four years after the events, shall be deemed and considered as having died in the line of duty, and their representatives entitled to said back pay, bounty, and pension, on proof of the facts according to the regulations of the proper Departments.

DUNCAN L. CLINCH, DECEASED.

Mr. KELLEY. I ask unanimous consent of the House that Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, be taken from the Speaker's table, in order that I may move a committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill.

Mr. ELDRIDGE. I object.

CHEROKEE INDIAN LANDS.

Mr. JULIAN. I ask unanimous consent to have ordered printed some supplemental papers in the Cherokee Indian lands case.

No objection was made, and it was ordered accordingly.

Mr. ALLISON. I move to reconsider the various votes agreeing to resolutions and referring matters to committees; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota; and

An act (H. R. No. 660) restoring lands to market along the line of the Pacific railroads and branches.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for four days for Mr. MOORE, of New Jersey, and Mr. McCARTHY, of New York.

RAILING IN OLD HALL.

Mr. SCHENCK. I ask unanimous consent to submit, for consideration at the present time, the following resolution:

Resolved, That the Speaker be requested to direct the architect of the Capitol building to cause to be removed forthwith the high and unsightly iron fence now forming a lane through the old Hall of the House of Representatives.

Mr. HOLMAN. I hardly think that should be acted upon precipitately. I will not object to the introduction of the resolution if it can be referred to some appropriate committee; say the Committee on Public Buildings and Grounds; but I must object to it otherwise.

Mr. SCHENCK. I thought we were a committee of the whole on that subject, and that every gentleman of good taste had been offended by the unseemly structure.

Mr. ELDRIDGE. I would inquire of the Chair if that railing has not been already ordered to be removed?

The SPEAKER. A clause to that effect was inserted in an appropriation bill by the House in Committee of the Whole.

Mr. HOLMAN. If the House has already ordered the removal of this obstruction, I will withdraw my objection to the resolution.

Mr. SCHENCK. It never became a part of the law.

The resolution was then adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL BANKS IN LIQUIDATION.

Mr. BARNES. I ask unanimous consent to introduce, for consideration at this time, a joint resolution respecting national banks in liquidation. I ask that it be read.

The joint resolution was read. The first section directs the Comptroller of the Currency to publish a detailed statement of the assets, liabilities, and general condition of all national banks in the hands of receivers, or which may be in liquidation on the first Monday of March, 1868, and thereafter on the first Monday of January, April, July, and October, of each year, in one paper in the city of Washington, District of Columbia, and in one paper in the place where said bank may be located, as provided for the publication of their returns in section thirty-four of the act to provide a national currency, &c., approved June 3, 1864.

The second section provides that after full provision shall first have been made for refunding to the United States all deficiencies, as provided for in section fifty of the act aforesaid, the Comptroller of the Currency shall make ratable dividends of the assets of said banks to the creditors thereof once in each calendar month, if such dividends shall be equal to twenty per cent. of its indebtedness, and once in three months if such dividends shall be equal to ten per cent. of its indebtedness.

Mr. POMEROY. I think this bill should be referred to the Committee on Banking and Currency. I will not object to its introduction if it be so referred.

There being no objection, the joint resolution (H. R. No. 226) respecting national banks in liquidation, was introduced, read a first and second time, and referred to the Committee on Banking and Currency.

ORDER OF BUSINESS.

Mr. KELSEY. I move that the House now adjourn.

Mr. HOLMAN. I ask the gentleman to yield a moment.

Mr. FARNSWORTH. I call for the regular order.

Mr. HOLMAN. I trust the gentleman will withdraw for a moment the motion to adjourn that I may ask unanimous consent to take from the Speaker's table Senate bill No. 308, for the relief of Mrs. Anderson. I trust there will be no objection to the passage of the bill.

Mr. HARDING. I demand the regular order.

The motion of Mr. KELSEY was agreed to; and the House (at four o'clock and twenty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ELDRIDGE: A memorial of Thomas Barber, James S. Barber, Harry W. Lightman, and 30 others, for decrease of taxation.

By Mr. HALSEY: A memorial of New Jersey carriage manufacturers, asking Congress to relieve them from taxation.

By Mr. HOOPER, of Utah: A memorial of the Legislature and Governor of Utah Territory, asking for an appropriation to pay public printer for printing the codified laws of said Territory, sessions 1866 and 1867.

By Mr. KELLEY: The petition of Joshua S. Morris, of Claiborne county, Mississippi, praying for the removal from him of civil and military disability.

By Mr. MYERS: A memorial of Sarah E. Brooker, widow of William H. Brooker, deceased, late first lieutenant company D, eighty-first Pennsylvania volunteers, asking that her pension may date from his discharge on account of disability contracted in the service.

Also, a memorial of the city councils of Philadelphia, asking that the city ice-boat be exempt from United States taxation.

Also, petitions of Philadelphia lithographers and Philadelphia printers, against the passage of a national copy-right law.

By Mr. O'NEILL: The petition of publishers, bookbinders, printers, stereotypers, lithographers, and others, citizens of Philadel-

phia, urging Congress not to enact an international copyright law.

By Mr. TAYLOR: The petition of William Williamson, of Philadelphia, Pennsylvania, for pensions.

IN SENATE.

THURSDAY, *March* 5, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate a memorial of soldiers in the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of $100 bounty to soldiers who entered the service prior to July 22, 1861; which was referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislature of Missouri, in favor of such legislation as will secure the speedy payment of all bounties, especially the bounty granted in pursuance of the act of July, 1866; which were referred to the Committee on Military Affairs and the Militia.

The PRESIDENT *pro tempore*. I also present certain resolutions of the constitutional convention of South Carolina, which may be read if there be no objection.

The Secretary read as follows:

CONSTITUTIONAL CONVENTION OF SOUTH CAROLINA,
CHARLESTON, *February* 27, 1868.

The following resolutions were adopted by the convention:

Resolved, That this convention tender to the Congress of the United States, to Hon. E. M. Stanton, Secretary of War, and to the General of the Army, the sincere and heartfelt thanks of the loyal people of South Carolina for their noble devotion to constitutional law and liberty.

Resolved, That the president of this convention is hereby requested to forward a copy of these resolutions to the President of the Senate, the Speaker of the House of Representatives, the Secretary of War, and to the General of the Army of the United States respectively.

Attest: A. G. MACKEY, *President*.
C. J. STOLBRAND, *Secretary*.

The PRESIDENT *pro tempore*. They will lie on the table.

Mr. MORGAN presented a memorial of cigar makers and manufacturers of cigars of New York, protesting against the passage of the bill requiring a stamp to be affixed to each cigar, and praying a tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged; which was referred to the Committee on Finance.

Mr. HARLAN presented a memorial of members of the levy court of the county of Washington, District of Columbia, praying an appropriation for the purchase of sites and the erection of school-houses and the support of the schools; which was referred to the Committee on the District of Columbia.

Mr. SHERMAN presented a memorial of honorably discharged officers of the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the commutation for pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. FRELINGHUYSEN presented a petition of Rowland Johnson, praying that the new Territory proposed to be organized from the western portion of Dakota may be named Lincoln; which was referred to the Committee on Territories.

Mr. FOWLER presented a memorial of honorably discharged officers of the Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the commutation for pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of Andrew J. Donelson and Minor Merriwether, for the board of levee commissioners of the counties of Bolivar, Washington, and Issiquena, Mississippi, praying aid in rebuilding the levees of the Yazoo basin, in the Mississippi valley; which was referred to the Committee on Commerce, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. PATTERSON, of Tennessee. The Committee on Commerce, to whom was referred the bill (S. No. 299) for the creation of a national bureau of insurance, after carefully considering it, have instructed me to report adversely, and recommend that the bill be rejected. I ask the immediate consideration of the report.

No objection being made, the Senate proceeded to consider the report, and the bill was postponed indefinitely.

Mr. YATES, from the Committee on Territories, reported a bill (S. No. 417) to amend an act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico; which was read and passed to a second reading.

Mr. HENDRICKS. The Committee on Naval Affairs, to whom was referred the petition of Wilson D. Burlingame, praying that the crew of the second cutter of the United States steamer Shamrock be allowed compensation for services rendered by them in capturing and sinking the rebel ram Albemarle, have directed me to report that the claim was considered by the committee at the last session and reported against on the memorial, and the additional facts do not materially change the case. Therefore they report adversely.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 365) to prevent abuses of the franking privilege, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, reported it with amendments.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the following bills, reported them with amendments:

A bill (H. R. No. 769) granting a pension to David Howe;

A bill (H. R. No. 771) granting a pension to John D. Lay;

A bill (H. R. No. 772) granting a pension to Robert McCrary;

A bill (H. R. No. 773) granting a pension to William H. McDonald;

A bill (H. R. No. 774) granting a pension to Amos Witham;

A bill (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel;

A bill (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania;

A bill (H. R. No. 822) granting a pension to Hampton Thompson;

A bill (H. R. No. 823) granting a pension to George W. Locker;

A bill (H. R. No. 824) granting a pension to Annie Vaughn;

A bill (H. R. No. 825) granting a pension to John W. Hughes;

A bill (H. R. No. 826) granting a pension to Michael Mellon;

A bill (H. R. No. 827) granting a pension to Ann Wilson; and

A bill (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson.

He also, from the same committee, to whom was referred the bill (H. R. No. 828) for the relief of Captain William McKean, reported it without amendment.

WAREHOUSE AT FORT MONROE.

Mr. CAMERON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 117) to authorize the construction of a warehouse at Fort Monroe, Virginia, to report it back without amendment, and I ask the Senate to put it on its passage. The day before yesterday the storehouse at Fort Monroe was destroyed, and the goods are now lying out in the street, at least those saved from the warehouse; and this proposition is necessary to preserve them. The military storekeeper is the man who supplies the whole garrison, officers as well as men, with their supplies. It is a matter of convenience and necessity, and therefore I ask the Senate to put it on its passage immediately.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Secretary of War to grant permission to W. H. Kimberly, Army and Navy contractor at Fort Monroe, to rebuild the warehouse recently destroyed by fire at that post upon such conditions and under such restrictions as the Secretary of War shall deem compatible with the interests of the Government.

Mr. HENDRICKS. I wish to inquire if works of that sort are usually constructed in that way by legislation like this?

Mr. CAMERON. I will answer the Senator from Indiana that the building which it is proposed to replace was burned down, I believe, the day before yesterday. A storehouse is necessary there to keep the supplies for the garrison. Without something of this kind it cannot be done and they can have no supplies, because the Senate will remember that Fortress Monroe is upon an island, and there is no store there except that which is allowed by the War Department. This is absolutely necessary.

Mr. HENDRICKS. I dare say it is important to construct the house. The purpose of my inquiry was to know whether such a work is usually constructed under regulations prescribed by any Secretary, or whether there is not a law that regulates the modes of making contracts for such work. It seems to me the resolution ought not to pass until we know something more about it.

Mr. CAMERON. I see the Senator does not understand the matter. There is no contract to be made. The storekeeper is permitted there, by the military authorities and General Grant, to build a house at his own expense.

Mr. SPRAGUE. A shanty.

Mr. CAMERON. Yes, sir; a shanty, at his own expense, and furnish the garrison with such articles as they may need. You can call it a warehouse if you like.

Mr. GRIMES. I call for the reading of the resolution again.

The Secretary read the resolution.

Mr. MORRILL, of Maine. I see the phrase "warehouse" is used there. I suggest to the honorable Senator, for the sake of avoiding confusion, as that phrase applies to another class of warehouses known as bonded warehouses, that he accept the phrase "military storehouse" as an amendment.

Mr. CAMERON. I have no objection to that.

Mr. MORRILL, of Maine. I move that amendment.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed. The title was amended so as to read: "A joint resolution to authorize the erection of a military storehouse at Fort Monroe, Virginia."

JOHN S. CUNNINGHAM.

Mr. ANTHONY. The Committee on Naval Affairs, to whom was referred the memorial of John S. Cunningham, a paymaster of the Navy, have instructed me to report a bill for his relief, and, as it will lead to no discussion, I ask for its present consideration.

The bill (S. No. 416) for the relief of John S. Cunningham, paymaster United States Navy,

was read the first time, and passed to a second reading.

The PRESIDENT *pro tempore*. The Senator from Rhode Island asks the unanimous consent of the Senate to put the bill on its passage now.

Mr. FESSENDEN. I should like to hear the bill read first.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Secretary read the bill, which directs the proper accounting officers, in the settlement of the accounts of John S. Cunningham, paymaster of the Navy, to allow a credit to him of $1,671 07, the amount of public money stolen from the money-chest of the frigate Colorado while the chest was under his charge.

Mr. FESSENDEN. Why take it up now? Is it a perfectly plain case?

Mr. ANTHONY. Yes, sir; it is a perfectly plain case. There is a report accompanying it, which is as short as any statement I could make, explaining it, and it can be read. It was unanimously reported by the committee.

The PRESIDENT *pro tempore*. Does the Senator from Maine object to the present consideration of the bill?

Mr. FESSENDEN. No, sir.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole.

Mr. ANTHONY. Let the report of the committee be read.

The Secretary read as follows:

Your committee, to whom was referred the "petition of John S. Cunningham, paymaster United States Navy, praying the allowance to him of a credit of $1,671 07, in the settlement of his accounts of the frigate Colorado," have had the same under consideration, and beg leave to report:

The petition and accompanying papers show that the petitioner is a paymaster in the United States Navy, and during the years 1865 and 1866 was fleet paymaster, doing duty on board of the United States frigate Colorado, flag ship of the United States European squadron. That between the months of August, 1865, and February, 1866, the safe in which he kept the public money on board that ship was repeatedly opened by Alexander Riley and John W. Watts, two of the landsmen belonging to the ship, and money abstracted by them therefrom, said by Paymaster Cunningham to amount to the sum of $1,671 07, for which robbery, after trial and conviction, (the prisoners themselves confessing the acts,) the said Riley and Watts were sentenced to five years' imprisonment and the forfeiture of all pay and allowances due or to become due.

It does not appear that the petitioner was in any way careless or remiss in using all the precautions furnished him by the Government for the security of the funds with which he was provided, but the testimony of the officers of the ship, which accompanies the petition, shows that the petitioner was uniformly energetic and watchful in the performance of his duty and in protecting the interests of the Government. The Secretary of the Navy, in a letter addressed to the committee, in answer to inquiries upon the subject, says:

"The Department is aware of no reason for rejecting the prayer of the petitioner"—

And your committee, in view of the many precedents in such cases, are fully of the opinion that the relief prayed for should be granted. They therefore beg leave to report the accompanying bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NAVAL POWDER MAGAZINES.

Mr. FRELINGHUYSEN. The Committee on Naval Affairs, to whom was referred the petition of several individuals, asking that the powder magazines in the neighborhood of New York may be removed to safer localities, have directed me to report a joint resolution, and I ask for its present consideration.

The joint resolution (S. R. No. 118) for the appointment of a commission to select suitable locations for powder magazines, by unanimous consent, was read twice, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Navy to select three competent officers of the Navy to constitute a commission, whose duty it shall be to examine and report upon the practicability of securing more suitable sites for powder magazines than those now used in the vicinity of New York, Boston, and Portsmouth, New Hampshire; and also to report on the cost of procuring such sites and the probable expense of erecting magazines thereon.

Mr. CAMERON. I presented, the other day, a petition of similar tenor from citizens of Pittsburg, Pennsylvania, and, with the permission of the Senator from New Jersey, I should like to include the Pittsburg magazine in this joint resolution.

Mr. GRIMES. This is in relation to naval powder magazines, to authorize the Secretary of the Navy to appoint a commission.

Mr. CAMERON. I was not aware of that.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 418) to rebuild the levees on the east bank of the Mississippi river, and to reclaim the lands of the Yazoo basin from overflow; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

ADMISSION TO IMPEACHMENT TRIAL.

Mr. SHERMAN. I move that the Senate now proceed to the consideration of the resolution introduced by the Senator from Rhode Island yesterday, and which was then laid over. I desire to offer some amendments to it.

The motion was agreed to; and the Senate proceeded to consider the following order, yesterday submitted by Mr. ANTHONY:

Ordered, That during the trial of the impeachment now pending no person besides those who now have the privilege of the floor shall be admitted to the galleries, or to that portion of the Capitol set apart for the use of the Senate and its officers, except upon tickets to be issued by the Sergeant-at-Arms. Such tickets shall be numbered, and shall be good only for the day on which they are dated. The number of tickets issued shall not exceed the number of persons who can be comfortably seated in the galleries, leaving the steps and passages entirely free. The portion of the gallery set apart for the diplomatic corps shall be exclusively appropriated to it, and tickets of admission thereto shall be issued to the foreign legations. Four tickets shall be issued to each Senator, two tickets to each member of the House of Representatives, two tickets to the Chief Justice and to each justice of the Supreme Court of the United States, two tickets to the chief justice and to each justice of the supreme court of the District of Columbia, and two tickets to the chief justice and to each judge of the Court of Claims. Sixty tickets shall be issued by the Presiding Officer to the reporters for the press, and the remaining tickets shall be distributed under his direction.

The Sergeant-at-Arms, under the direction of the Presiding Officer of the Senate, shall carry out these regulations, and, with the approbation of the Committee on Contingent Expenses, shall be authorized to employ such additional force as may be necessary for the preservation of order.

Mr. SHERMAN. I send to the Chair some amendments.

Mr. CONNESS. I wish to suggest that the Senator from Rhode Island, who is the author of the resolution, is not in his seat.

Mr. SHERMAN. He was in his seat a moment ago. I think he is near by.

Mr. CONNESS. He ought to be present when it is considered.

The PRESIDENT *pro tempore*. The amendments of the Senator from Ohio will be read.

The SECRETARY. It is proposed to amend the resolution by striking out in the second line the words "the galleries or to."

Mr. CONNESS. What is the effect of that?

Mr. SHERMAN. It will be better to read all the amendments together. I will explain them to the Senate so that probably they will understand them better than by their being read.

The resolution of the Senator from Rhode Island contemplates the exclusion of the public from all the galleries except upon tickets to be issued in the mode provided. The modifications I propose require the Sergeant-at-Arms, with the approval of the Presiding Officer of the body, to reserve a portion of the galleries for the use of those who are provided with tickets, and to allow the remainder of the galleries not necessary to supply the limited number of tickets provided, to be open to the public at large. I do not think the Senate of the United States now should exclude the public from our galleries except upon tickets, though I am perfectly willing to agree to a proposition which will set aside a portion of the galleries for that purpose. With this explanation, I ask that the resolution be read as it will stand if amended as I propose.

The SECRETARY. The order if amended as proposed will read:

Ordered, That during the trial of the impeachment now pending no person, besides those who now have the privilege of the floor, shall be admitted to that portion of the Capitol set apart for the use of the Senate and its officers, except upon tickets to be issued by the Sergeant-at-Arms. Such tickets shall be numbered, and shall be good only for the day on which they are dated. The number of tickets issued shall not exceed the number of persons who can be comfortably seated in the galleries, leaving the steps and passages entirely free. The portion of the gallery set apart for the diplomatic corps shall be exclusively appropriated to it, and tickets of admission thereto shall be issued to the foreign legations. Four tickets shall be issued to each Senator, two tickets to each member of the House of Representatives, two tickets to the Chief Justice and to each justice of the Supreme Court of the United States, two tickets to the chief justice and to each justice of the supreme court of the District of Columbia, and two tickets to the chief justice and to each judge of the Court of Claims. Sixty tickets shall be issued by the Presiding Officer to the reporters for the press. And the Sergeant-at-Arms, under the direction of the Presiding Officer of the Senate, shall set apart so much of the galleries as will enable him to carry out these regulations; and, with the approbation of the Committee on Contingent Expenses, shall be authorized to employ such additional force as may be necessary for the preservation of order.

Mr. CONKLING. I understand the capacity of the galleries to be less than nine hundred—eight hundred and seventy-six by a close count. The resolution as proposed by the honorable Senator from Rhode Island contemplated the occupation of the whole gallery in this way. If the amendment proposed by the Senator from Ohio is adopted it will result in compressing into a portion of the gallery people enough to fill the entire gallery.

Mr. SHERMAN. If the Senator from New York will allow me, I will state to him that the galleries are supposed, when crowded, to hold, perhaps, nine hundred or one thousand people. This would give four tickets to each Senator, amounting to about two hundred; two tickets to each member of the House of Representatives, amounting to four hundred. That would be six hundred. The reporters' gallery, as a matter of course, is not included.

Mr. ANTHONY. Six hundred and forty tickets are provided for in my motion.

Mr. SHERMAN. So that there is about one third of the gallery reserved for the public at large under my amendments. Great numbers of people will come here, attracted by the historical spectacle, and I think an opportunity ought to be given to a reasonable extent to allow the public to have admittance to the gallery and take their chance; otherwise we shall be overwhelmed with applications for tickets. It seems to me if there is any objection as to the number of tickets given out it had better be reduced and each Senator allowed two and each member of the House one; but I do not think it is necessary to reduce the number of tickets granted by the resolution of the Senator from Rhode Island, because that will still leave one third of the gallery open to the public, and probably very many of the persons having tickets will not avail themselves of them on the day named in them.

Mr. CONKLING. Some days ago I caused a count to be made, for my own information, of the galleries. The capacity was counted as for men—a count, as everybody will see, testing the crowded capacity of the galleries—and eight hundred and seventy-four or eight hundred and seventy-six was reported to me as the utmost capacity. Six hundred and forty or six hundred and fifty tickets, I understand, are implied by this resolution, and enough of the gallery is to be fenced off to answer to those tickets, so that it will be seen that every part of the gallery will be occupied except a very small portion. If that is the design, and if it is worth while to make a change for that purpose, I am not sure that I have any objection to it.

But I rose to call attention to another thing. I see the resolution provides that all the steps and passages shall be kept clear. I do not see the occasion for that. I have seen

it tested a good many times in the House of Representatives and here; persons are sitting on the steps, others in front wishing to go out put those sitting on the steps to the inconvenience of rising and letting them pass—which is their own matter; but a very considerable part of the space of the two galleries in both Houses consists of the steps. If persons choose to sit upon them, I do not see why, on an occasion like this, when every facility reasonable, indeed possible, should be afforded, by rule we should prevent that. It seems to me that the good order of the occasion does not require it, and that it is simply withdrawing so much additional space which in a certain sense is comfortable and which ought not to be taken away.

Mr. ANTHONY. I presented this order at the request of several Senators—I do not know why it was made to me—who asked me to make some inquiries on the subject and present an order; and after consulting with the Presiding Officer, the Sergeant-at-Arms, and other persons who had been familiar with the management of crowds, this order was the best that I could prepare. It did not precisely suit me; but I could not conceive of any better mode of preserving order during this time, which will be one of very great excitement. Nobody is excluded from the gallery by this order. The public are admitted to the galleries, only the mode in which the public shall be admitted is regulated, so that the whole gallery is not given up to a rude crowd that may stand——

IMPEACHMENT OF PRESIDENT JOHNSON.

The PRESIDENT *pro tempore*. The morning hour having expired, all legislative and executive business of the Senate is ordered to cease for the purpose of proceeding to business pertaining to the impeachment of the President of the United States. The chair is vacated for that purpose.

The President *pro tempore* then left the chair.

The Chief Justice of the United States entered the Chamber, accompanied by Mr. Justice Nelson, and escorted by Senators POMEROY, WILSON, and BUCKALEW, the committee appointed for that purpose.

The CHIEF JUSTICE took the chair and said: Senators, I attend the Senate in obedience to your notice, for the purpose of joining with you in forming a court of impeachment for the trial of the President of the United States, and I am now ready to take the oath.

The oath was administered by Mr. Justice Nelson to Chief Justice Chase in the following words:

"I do solemnly swear that in all things appertaining to the trial of the impeachment of Andrew Johnson, President of the United States, I will do impartial justice according to the Constitution and laws. So help me God."

[The Senators rose when the Chief Justice entered the Chamber and remained standing till the conclusion of the administration of the oath to him.]

The CHIEF JUSTICE. Senators, the oath will now be administered to the Senators as they will be called by the Secretary in succession. [To the Secretary.] Call the roll.

The Secretary proceeded to call the roll alphabetically, and the Chief Justice administered the oath to Senators ANTHONY, BAYARD, BUCKALEW, CAMERON, CATTELL, CHANDLER, COLE, CONKLING, CONNESS, CORBETT, CRAGIN, DAVIS, DIXON, DRAKE, FERRY, FESSENDEN, FOWLER, FRELINGHUYSEN, GRIMES, HARLAN, HENDERSON, HENDRICKS, HOWARD, HOWE, JOHNSON, MCCREERY, MORGAN, MORRILL of Maine, MORRILL of Vermont, MORTON, NORTON, NYE, PATTERSON of Tennessee, POMEROY, RAMSEY, ROSS, SHERMAN, SPRAGUE, STEWART, SUMNER, THAYER, TIPTON, TRUMBULL, and VAN WINKLE.

The Secretary then called the name of Mr. WADE, who rose from his seat in the Senate and advanced toward the chair.

Mr. HENDRICKS. Before the Senator just called takes the oath, I wish to submit to the presiding officer and to the Senate a question. The Senator just called is the Presiding Officer of this body, and under the Constitution and laws will become the President of the United States should the proceeding of impeachment, now to be tried, be sustained. The Constitution providing that in such a case the possible successor cannot even preside in the body during the trial I submit for the consideration of the presiding officer and of the Senate the question whether, being a Senator, representing a State, it is competent for him, notwithstanding that, to take the oath and become thereby a part of the court? I submit that upon two grounds, first, the ground that the Constitution does not allow him to preside during these deliberations because of his possible succession; and second, the parliamentary or legal ground that he is interested, in view of his possible connection with the office in the result of the proceedings, he is not competent to sit as a member of the court.

Mr. SHERMAN. Mr. President, this question I think is answered by the Constitution of the United States, which declares that each State shall be entitled to two Senators on this floor, and that the court or tribunal for the trial of all impeachments shall be the Senate of the United States. My colleague is one of the Senators from the State of Ohio, he is a member of this Senate, and is therefore made one of the tribunal to try all cases of impeachment. This tribunal is not to be tested by the ordinary rules that may apply in cases at civil law; for the mere interest of the party does not exclude a person from sitting as a member of the Senate for the trial of impeachment, nor does mere affinity or relation by blood or marriage. The tribunal is constituted by the Constitution of the United States, and is composed of two Senators from each State, and Ohio is entitled to two voices upon the trial of this case. It seems to me, therefore, that the question ought not to be made.

If this were to be tested by the rule in ordinary civil tribunals the same objection might have been made to one other Senator, who has already taken the oath without objection, being connected by ties of marriage with the person accused before us. It is, therefore, perfectly clear that while the rule might exclude the Senator from Ohio in deciding in ordinary cases, or he might retire from exercising his right to vote, that is a question for him alone to determine. So far as the court is concerned he is entitled to be sworn as one of the triers in this case as Senator from the State of Ohio, without regard to his interest in the result of the trial.

I have, as a matter of course, as the colleague of the Senator who is now proposed to be sworn, looked into this matter, and I have no doubt of it. I was prepared, to some extent, for the raising of this question, though I hoped it would not be presented. How far the Senator from Ohio, my colleague, may participate in the proceedings of impeachment, how far he shall vote, when he shall vote, and upon what questions he shall vote, are matters that must be left to him, and not for the tribunal or for any Senator to make against him. His right as a Senator from the State of Ohio is complete and perfect, and there is no exclusion of him on account of interest, affinity, blood relationship, or for any other cause.

Mr. HOWARD. Mr. President, I do not suppose that under the Constitution any Senator is to be challenged, even for cause, upon the trial of an impeachment. I concur entirely with the view presented by the honorable Senator from Ohio, [Mr. SHERMAN,] which he has just expressed. The objection raised by the honorable Senator from Indiana [Mr. HENDRICKS] is in the nature of a challenge, if I understand it properly, upon the ground of interest in the question about to be decided by the Senate sitting for the trial of an impeachment. Now, sir, as has been very justly remarked, each State has the right to send to the Senate two members, and the Constitution declares, whatever may be the character of those members, whatever may be their relation to the accused or their interest in the questions involved, that they shall be component parts of the body trying the impeachment. If an objection upon the ground of interest is tenable an objection upon the ground of affinity must also be available. The Senate has already seen one member of its body proceed to take the oath prescribed in our rules who is known to be related by affinity to the accused. I can see no distinction between an objection resting upon interest and one resting upon affinity.

Besides, sir, the honorable Senator from Ohio who now offers to take the oath is but the President *pro tempore* of the Senate. It is possible, and merely possible, that he may remain in that capacity until the conclusion of these proceedings; but at the same time it is not to be overlooked that it is but a possibility. The Senate has it in its power at all times to choose another President *pro tempore* to preside over its proceedings. I cannot, therefore, see any such interest in the question as would seem to justify the objection which is taken by the honorable Senator from Indiana. I hope the Senator from Ohio, the President *pro tempore* of this body, will proceed to take the oath.

Mr. JOHNSON. Mr. President, the question is a purely legal one, and is to be decided upon principle. I have no doubt that the honorable member from Ohio will, as far as he may be able under the temptations to which he may be subjected unknowingly to himself, decide upon the issues which are involved in the impeachment trial with as much impartiality as any of us. It is not, therefore, any objection to the honorable member which induces me to say a word to the Senate on the subject.

The general rule, we all know, is applicable to a jury as well as to a court, that no one should serve in either tribunal who has a clear interest in the result of the trial. The honorable member from Ohio [Mr. SHERMAN] and the honorable member from Michigan [Mr. HOWARD] tell us that the Constitution provides that the court in this instance is to consist of the Senators of the several States. That is true; but that does not prove that a Senator may not be in a situation which should exclude him from the privilege of being a member of the court. The Constitution of the United States provides that the Supreme Court shall consist of a Chief Justice and associate justices; the law from time to time has regulated their number; but I never heard it questioned that, although by the Constitution and the laws cases within the jurisdiction of that tribunal are to be tried by them, a judge would not be permitted to sit in a case in which he had a direct interest. It by no means follows, therefore, that because the honorable member from Ohio [Mr. WADE] is a Senator, and as such entitled to be a member of this court, he is not as liable to the objection of interest in the result which your honor, the Chief Justice of the Supreme Court, would be liable to in a case before your high tribunal in which you had a direct interest in the possible result.

This is, as the honorable member from Ohio [Mr. SHERMAN] says, the only tribunal to try such a case as is now before us. That is true; but if the honorable member and the Senate will look to the sixty-fifth number of the Federalist they will find why it was that the court was constituted when the President is to be on trial as it is constituted by the Constitution. It was because of the manner in which impeachments are tried in the mother country. There they are tried in the House of Lords. And I have a recollection, not altogether distinct—I did not know that the question was to be raised to-day or I should have refreshed my recollection—that when in the case of the Senator from New Jersey, Hon. Mr. Stockton, who had been received as a Senator on this floor upon his credentials, and it was proposed to exclude him, which required a majority vote, the honorable member from Massachusetts, [Mr. SUMNER,] and I think several other members, but

particularly the honorable member from Massachusetts, in order to satisfy the Senate that Mr. Stockton had no right to vote in his own case, cited many instances in the House of Lords in which it had been held that a member of the House of Lords was not competent to decide in a case in which he had an interest. It was upon the authority of those cases, as well as upon the general ground which runs through the whole of our jurisprudence and the jurisprudence of the mother country, and is founded in the nature of things, that Mr. Stockton was denied the privilege of voting in his own case.

Now what was his case as compared in point of supposed influence to the case of the honorable member from Ohio? He was to have a temporary seat in this body, invested only with that proportion of the power of the legislative department of the Government which one member of this body has in reference to the whole number composing the body and the numbers which compose the House of Representatives. His voice, therefore, would be comparatively unimportant. And yet it was adjudged by the Senate, as well as I remember, and almost with unanimity, especially by those who thought Mr. Stockton was not entitled to his seat, that he should not be permitted to vote upon that question. How does his case compare with that of the honorable member from Ohio? The honorable member becomes, in a contingency which this impeachment seeks to bring about, a judgment of guilty, the President of the United States, invested with all the executive power of the Government. Is it right, would anybody desire, to be subjected to such a temptation, which might lead him, unknowingly to himself, into an erroneous judgment? The whole executive powers of the United States, to say nothing of the pecuniary compensation belonging to the office, $25,000 a year, are to be his in a certain result of the prosecution; and his vote may produce that result.

I submit, then, and certainly without the slightest feeling of disrespect for the honorable member from Ohio, that it is due to the cause of impartial justice, it is due to the character of the Senate, in its management of this proceeding, that there should not be established a precedent which may in the end produce excitement and bring into disrepute the Senate itself. The reason why it is, Mr. Chief Justice, that you are here to preside over the deliberations of this court, shows that, in the judgment of our fathers, it was improper that any man should be placed in the situation in which the honorable member from Ohio will be placed if he is admitted to be a member of this court and exercises that function. Our fathers thought, and they have incorporated the thought into the Constitution, that he who is to be benefited by the result should not be permitted even to preside over the deliberations of this court when the President of the United States is on trial; that the Vice President of the United States, who is entitled only to vote in case of a tie, of an equal division of the Senate, should not be permitted even to be a member of the court to preside over its deliberations. It was, Mr. Chief Justice, because our fathers were deeply versed in the history of the world, perfectly acquainted with the frailties of man's nature as exhibited in the history of all political bodies, that they denied, in a case of this description, to the Vice President of the United States, the privilege even of presiding over the deliberations of such a court, much less of voting, and by his vote bringing about the judgment which was to make him President.

Mr. President, I do not know that we are able to decide this question at once. My impression is such as I have stated; but it is a grave question, an important question. It will be considered a grave and important question in the eyes of the country, and it should be by the Senate of the United States so esteemed. It is a new question; and I submit to you and the Senate whether it is not better to postpone the decision of it in this case until to-morrow, above all for the purpose of ascertaining what are the precedents of the House of Lords. Should they prove to be what I think they are, then, unless we are disposed to depart from the model upon which was formed this high tribunal, I am sure the Senate ought to decide—and I have no doubt the honorable member from Ohio will acquiesce cheerfully in that decision, and will himself see the propriety of so acting—that he is not entitled to take his seat as a member of this court. I move, therefore, that the question be postponed until to-morrow.

Mr. DAVIS. Mr. President, I will make a remark on this question before the vote is taken. If the Senator from Ohio [Mr. WADE] asks to be excused from taking any part in this trial it must be upon some principle established by the Constitution. The Vice President presides in every case of impeachment, except upon the trial of the President, and there he is expressly excluded by a provision of the Constitution—upon what reason? Because of his interest in the question from the fact that if there is a judgment of amotion from office against the President the Vice President is to succeed to his place. The Constitution thus establishes a principle, and that principle is this: that when the President of the United States, whether he has been elected by the electoral vote or has succeeded to the office by the amotion of the President from office—when a President who actually holds the office is under trial the man who is to take the place, if he be removed upon that trial by the judgment of the court which is to try him, is disqualified from forming a part of the court. That is the principle. Now, can the Senator from Michigan or any other Senator adduce any principle that would require the exclusion of the Vice President from presiding over a court of impeachment of the President of the United States that will not apply to the President *pro tempore* of the Senate when there is no Vice President, when the President *pro tempore* is presiding officer of the Senate, and when by the Constitution and laws of the United States, if the acting President, as he is sometimes called, is removed, the President *pro tempore* of the Senate is to take his place?

Mr. President, my argument is that the Constitution itself, in relation to this court, has established a principle, and that principle is that any man standing in a position where he is to succeed to the office of the President in the event of his conviction cannot form a part of the court of impeachment that is to try whether the President shall be removed or not. It seems to me clearly that, although the exclusion of the President *pro tempore* of the Senate does not come within the strict letter of the Constitution, it does plainly and unequivocally within its principle and spirit. To every lawyer it is a familiar principle that where a law by its language and express terms does not include a case, but that case comes clearly within its principle and meaning, the law shall be extended by force of its spirit to comprehend the case that is not strictly within its letter but is clearly and undeniably within its principles.

It seems to me, therefore, clear as a constitutional principle that the President *pro tempore* of the Senate, on the occasion of the impeachment trial, occupies the same position in relation to the office of President that the Vice President would if he was here and was the Presiding Officer of the Senate; and the Vice President being excluded for the reason and upon the principle that he is to take no part in the trial because he is to succeed to the vacant place if there be a judgment of amotion from office, the same principle, clearly, undeniably, in its full force and reason, applies to the President *pro tempore* of the Senate, and therefore he is excluded by the spirit and by the principle of the Constitution.

Mr. MORRILL, of Maine. Mr. Chief Justice, it strikes me that the whole proceeding is premature, for the obvious reason that there is no party here to take the objection. If this is a court there is no party before the court to raise this objection. It certainly does not lie in the mouth of any member of this court, of any Senator, to raise the objection of disqualification against any other Senator; and, therefore, there is no party here properly to raise the objection against the administration of the oath. Whenever the proper parties appear here on the one side and the other, either for the people or for the respondent, then the court will be in a condition to hear objections to the constitution of the body; then the people will be represented and may put the inquiry as to the constitution of this court, and then, also, the respondent may institute the same inquiry. It may turn out that we are so constituted that it will be necessary to raise this question and to determine it; but at the present moment it seems to me that there is no option and no discretion but to administer the oath to all those who, by the Constitution, are Senators representing the States.

Mr. HENDRICKS. Mr. President, I do not propose at this time to protract the debate; but I wish to reply to the technical point made by the Senator from Maine. It is inherent in a court to judge of its own organization; it is a power necessarily possessed by the court itself; and it is not for the suitors to present the question whether a party claiming a seat in a court composed of more than one member is justly and legally entitled to that seat. It is for the court itself to decide whether a member proposing to exercise the right to sit in that court is entitled to that right. Therefore, sir, the question is not prematurely presented.

To the point made by the Senator from Michigan, which is not upon the merits, I have just this to reply: that the possibility that the Senator now proposing to be sworn may cease to be President of the Senate *pro tempore* is not an answer to the objection. He is now the Presiding Officer of the Senate, and as such will become the President of the United States if the impeachment be sustained and he continue to be the President *pro tempore* until the termination of the trial. If he ceases, during the progress of the trial, to be the Presiding Officer of this body, then he becomes competent, and under the second rule which has been adopted, if the rules should be recognized by the court, he will be sworn in as a member of the court. The point I make is, that now being the presiding officer of the Senate, and now being competent to become the President in case impeachment be sustained, he is now incompetent to participate in the trial.

The substantial merits of this question were settled in the case referred to by the Senator from Maryland—the case of Senator Stockton, from New Jersey. There the Senate decided that a member of the body could not be a party to a decision in the Senate in which he is interested; and the possibility of holding an office was regarded as an interest by the Senate.

Nor do I think the point made by the Senator from Ohio [Mr. SHERMAN] a good one, that, being a Senator from a State, the Presiding Officer has the right to participate in all the proceedings of the Senate. The standing rules of this body as a Senate contradict that argument. One of the standing rules of the Senate is that a Senator shall not vote when he has an interest in the result of the vote; so that the Senate itself has restricted those general rights and powers which the Senator from Ohio thinks belong to each Senator as a representative of a State. The Senate has said, by its standing rules, that neither one of us can vote if we have an interest in the result of that vote. But, sir, in my judgment, the constitutional ground is higher than this ground of interest. The Presiding Officer has an interest in the result of an impeachment trial; he shall not even preside; he shall not even maintain order and decorum in the body during the progress of the trial; he shall vacate his seat that the Chief Justice may preside; and what does that mean? It means something, sir. It means that the relation which the Vice Presi-

dent of the United States sustains by possibility to the office of President of the United States is such that he shall take no part in the great trial. That is what the Constitution means. It is not a matter of form and ceremony and dignity that the Chief Justice shall preside here. It is of the very substance that he who, by possibility, can fill the office if the Senate shall make it vacant, shall not sit here even to preserve order and decorum while the great proceeding is going on.

I hope, sir, that I need not disclaim any personal feeling in this matter. I make the point now because I think that the Constitution itself controls the organization of this court. I think that the Constitution itself does settle it, that no man shall help to take from the President his office when that man is to fill the office if the proceeding succeed. There is no analogy between this and the case suggested by the Senator from Michigan. Affinity does not of itself by common and universal law exclude a man from presiding in court; it must be done by express statute, and it is so provided in the codes of the different States. But here the Constitution itself says that no man shall preside who may succeed to the office. I hope, sir, in view of the importance of this question that the motion made by the Senator from Maryland to postpone its consideration until to-morrow will prevail.

Mr. WILLIAMS. Mr. Chief Justice, I submit that the motion or question made by the Senator from Indiana is altogether premature, for this reason: it is either addressed to the Senate of the United States or to the court, for the trial of an impeachment. If it be to the Senate, then I respectfully submit that the Presiding Officer of the Senate should occupy the chair; if to a court, then there is no court organized competent to pass or decide upon this question. Some of the members here have been sworn, others have not. Am I to be called upon to decide on this question which, perhaps, relates to the merits of the case to be determined, without having had an oath administered to me like other members? Is this question to be decided at this time? Is there any court organized that can decide this question? I do not know exactly what the question is. Is it a challenge that has been submitted by the Senator to a fellow-Senator? If that be so it is an extraordinary proceeding. I never heard that one juror could challenge another juror; I never heard that one judge could challenge another judge. When the necessary preparations are made for the trial, it may be that the managers on the part of the House of Representatives and the accused be willing and desire to have the Senator from Ohio participate in this trial. Is it not their privilege? Suppose they both agree to that and to waive all objections? Then I am confident that they have the right to make this question, and not any Senator.

The Senator from Indiana suggests that no judge who is interested in a question was ever known to preside when that question was considered. Is not that altogether a matter left to the judge? Did the honorable Senator ever know a court to adopt a rule and declare that a member of that court should not participate in any decision? Whenever a question is presented to a court, the judge decides for himself as to whether or not it is a case in which he can take any part? If he decides that he cannot participate in the trial, he withdraws from the bench; but the court never undertakes to prescribe the rule for his action, to say that he shall or shall not participate in the decision. But I do not propose to discuss the question. I make this point, however, that at this time this body, with a part of the members sworn and a part unsworn, cannot decide the question, because it is a question that relates to the rights of the country and of the accused; and before I am called upon to pass upon this question, it is necessary, it seems to me, that I should be sworn as well as the other members who have not been called upon to take the oath.

Mr. DAVIS. Will the honorable Senator answer me a question?

Mr. WILLIAMS. Certainly.

Mr. DAVIS. Suppose this was a trial of articles of impeachment against the President of the United States when there was a Vice President in being, and suppose that Vice President was to present himself here and offer to become a part of the court, could not the Senators exclude him from that position?

Mr. WILLIAMS. Mr. Chief Justice, I do not propose to argue that question; but the case propounded by the Senator is not parallel to the case before this body, because the Constitution expressly excludes the Vice President from any participation in this trial, but it provides that each Senator shall vote.

Mr. DAVIS. The honorable Senator suggested that it rested with the Senator himself whether he should form part of the court or not, and that the residue of the body could not make the exception. I presented that example for the purpose of showing that under that state of case the body of the court itself would exclude the Vice President, though he even offered to become a component part of the court.

Mr. WILLIAMS. What I said was simply in response to the suggestion of the Senator from Indiana that the Senator from Ohio could not participate in these proceedings because a judge who was interested in a case could not participate in the hearing of it. I say it is always in every case left for the judge to decide for himself as to whether he will or will not participate in the trial, and the court itself does not undertake to exclude him.

It does not follow, as it strikes me, because this court is organized as the Constitution requires, each Senator taking an oath, that every Senator will necessarily participate in the trial and vote upon the questions involved. He may take the oath; he is required to take the oath and then, after he is qualified to act, it will be for him to determine whether or not he will participate in the trial, and not for the Senator to say now before the court is organized that he shall not be allowed to take the oath. He is a Senator and the Constitution says that each State shall have two Senators, and that each Senator shall have one vote. The Constitution gives to each Senator a right to vote upon every question in the Senate. That is a constitutional right; but if he is interested in any way, then he may not participate in the decision if he sees proper.

Mr. JOHNSON. What becomes of our rule on that point?

Mr. WILLIAMS. That rule is not one that can override the Constitution; and if any Senator, notwithstanding that rule, upon any question should insist upon his right to vote, I maintain that he can vote notwithstanding the rule, because the Constitution says that every Senator shall have a right to vote upon every question. It may be indelicate and improper for a Senator to vote upon many questions; but as I said I did not intend to argue that question and was drawn off from the point which I intended to make, which is, that at this time it is not competent for this body to decide as to whether or not the Senator from Ohio can take the oath.

Mr. FESSENDEN. Mr. President, I do not design to discuss the matter. I merely rise to make the suggestion which would follow from what has been said by the Senator from Oregon, that it would be better to organize the court fully before deciding the question, if we are to decide it at all. There is no difficulty in postponing the administration of the oath to the honorable Senator from Ohio until all have been sworn except him, and then the court will be properly organized so far as to enable all gentlemen to act as members of the court. I would suggest, therefore, that the administration of the oath to the honorable Senator from Ohio be merely passed over until it has been administered to other gentlemen whose names come after his upon the list, and then the question can be decided.

Mr. CONNESS. My only objection to the proposition now made is that in my judgment the Senate have no such right. They have no right to pass directly or indirectly, in my opinion, any reflection upon the right of any Senator to participate in the proceedings that are taking place. The question as it seems to me is settled. It was settled when the credentials of the Senator were presented, and he was admitted to his seat. It is not competent for the Senate, in my opinion, to attempt to deprive a Senator of his vote; and so far as the suggestion or proposition casts doubt upon the question, it does not meet the approbation of my judgment. I prefer very much that a vote shall now be taken, not upon the direct question as suggested by the Senator from Indiana, but that it take the form of a motion. I think the question whether a Senator has an interest in these proceedings such as would prevent him from voting and acting as such pending the trial, is a question for himself alone, and that no other Senator nor the Senate combined can impose any restriction upon his legitimate participation in these great proceedings.

Mr. FESSENDEN. I desire simply to say that, in making the suggestion, I did not mean to be understood as expressing the slightest opinion in any way, but to avoid the difficulty suggested by the honorable Senator from Oregon. He says he is not yet a member of the court; he has not been sworn. If we are to take a vote upon this question directly, are we all to vote or not? Certainly the larger number have been sworn, but some have not been sworn. There is nothing in the shape of reflection or even the intimation of an opinion, one way or the other, in simply suggesting that it would be well to have all those who are to vote upon the question sworn, inasmuch as part have been sworn, before the vote is taken. That is all; and I see no difficulty such as has been suggested by the honorable Senator from California. The honorable Senator from Ohio can be presented again; there is nothing in any rule that requires the oath to be taken alphabetically as the names are called: that is a mere matter of convenience. Certain gentlemen are absent now from their seats; they will be allowed unquestionably to take the oath when they come in. My suggestion went to that extent and no further, that we who are to act upon the question, if we are to act at all, should be placed upon a level before we proceed to act, and that the court should be duly organized as a court, which it is not yet. If the suggestion is not agreeable to gentlemen, it makes not the slightest difference to me; I care nothing about it one way or the other. I have no opinion to express at present upon the subject.

Mr. HOWARD. Mr. President, we are now sitting in a judicial capacity for the trial of a particular impeachment. We are organizing ourselves for the purpose of proceeding to consider the facts of the case; but this must be regarded, I think, as a part of the trial. Otherwise, Mr. President, we should not expect to see you presiding over us. Now, sir, the Constitution declares that "each Senator shall have one vote;" and it further declares that "no person shall be convicted without the concurrence of two thirds of the members present." There may be absentees—no matter how many—so be that a quorum of the body remains present and voting.

The honorable Senator from Ohio is present, not absent. He is now ready to take the oath prescribed by the Constitution, to participate in the trial, like the rest of us. I do not understand upon what ground it is at this stage of the proceeding that an objection can be sustained to his taking the oath. Certainly it will not be claimed that we are now acting in our ordinary capacity as a Senate; but we are acting in a judicial capacity as a Senate; or, in other words, if you please, for brevity's sake, as a court. What right, I beg to inquire, have the members of the Senate, who do not yet under the Constitution constitute a part of the court,

to say that a particular member of their body shall not take the oath prescribed by the Constitution? How are we to get at it? Who are the persons authorized to vote on this objection which is raised, and declare that the Senator from Ohio shall not take the oath? Is it the right of the court, or, to speak more accurately, of the comparatively few members of the court who have by their oath become such, to exclude a Senator? That is a very strange view to take of the question. Of what interest is it to us, let me inquire, even if we were organized as a court, that the Senator from Ohio should not take the oath prescribed by the Constitution? If there be an interest anywhere, that interest is only available on the part of the accused, who is not yet before us. He can avail himself of it only in the nature of a challenge for cause, which I do not now propose to discuss; at the same time, however, denying the right of any such challenge. But, as the Senate are now situated, it is entirely clear to my mind that we have no right whatever to pass a resolution or order prohibiting the honorable Senator from Ohio, or any other Senator, if he sees fit, from taking the oath prescribed by the Constitution, and which we are now in the act of taking. It is an act *coram non judice*, without jurisdiction or color on our part to perform.

I would suggest, therefore, that this objection should, for the present, be withdrawn. The honorable Senator from Indiana must of course see that at the proper time after a proper organization, all he seeks to obtain now by his objection will be raised by learned counsel upon the trial, fully discussed by them, and considered and decided by ourselves sitting in our judicial capacity.

Mr. MORTON. Mr. President, if it should now be determined that the Senator from Ohio shall not be sworn it would be an error, a blunder of which the accused would have just right to complain when he should come here. If a judge is interested in a case before him, or if a juror is interested in the result of the issue which he is called upon to try, it is an objection that the parties to the case have the right to waive; and they have always had that right under any system of practice that I have known anything about.

As was suggested by the Senator from Maine [Mr. MORRILL] and the Senator from Oregon [Mr. WILLIAMS] it is not an objection to be made by a fellow juror, by another member of the court, or by anybody except the parties to the case; and if we now, in the absence of the accused, say that the Senator from Ohio shall not be sworn, the President when he comes here to stand his trial, will have a right to say "A Senator has been excluded that I would willingly accept; I have confidence in his integrity; I have confidence in his character and in his judgment, and I am willing to waive the question of interest; who had the right to make it in my absence?" The Senator from Indiana, my colleague, and the Senator from Kentucky have no right to make the question unless they should do it in the character of counsel for the accused, a character they do not maintain.

Mr. President, I desire to say one thing further, that this objection made here, in my judgment, proceeds upon a wrong theory. It is that we are now about putting off the character of the Senate of the United States, and taking upon ourselves new a character; that we are about ceasing to be a Senate to become a court. Sir, I reject that idea entirely. This is the Senate when sworn, this will be the Senate when sitting upon the trial, and can have no other character. The idea that we are to become a court, invested with a new character, and possibly having new constituents, I reject as being in violation of the Constitution itself. What does that say? It says that "the Senate shall have the sole power to try all impeachments." The Senate shall have the sole power to try; it is the Senate that is to try, not a high court of impeachment—a phrase that is sometimes used—that is to be organized, to be created by the process through which we are now going; but, sir, it is simply the Senate of the United States. The Senate "when sitting for that purpose shall be on oath or affirmation." That does not change our character. We do not on account of this oath or affirmation cease to be a Senate, undergo a transformation, and become a high court of impeachment; but the Constitution simply provides that the Senate, while as a Senate, trying this case shall be under oath or affirmation. It is an exceptional obligation. The duty of trying an impeachment is an exceptional duty, just as is the ratification of a treaty; but it is still simply the Senate performing that duty. "When the President of the United States is tried the Chief Justice shall preside." Preside where? In some high court of impeachment, to be created by the transformation of an oath? No, sir. He is to preside in the Senate of the United States, and over the Senate; and that is all there is of it. "And no person shall be convicted without the concurrence of two thirds of the members present." Two thirds of the members of the Senate.

Mr. President, if I am right in this view, it settles the whole question. The Senator from Ohio is a member of the Senate. My colleague has argued this question as if we were about now to organize a new body, a court, and that the Senator from Ohio is not competent to become a member of that court. That is his theory. The theory is false. This impeachment is to be tried by the Senate, and he is already a member of the Senate, and he has a constitutional right to sit here, and we have no power to take it from him. As to how far he shall participate, as to what part he shall take in our proceedings, as has been correctly said, that is a question for him to decide in his own mind. But, sir, he is already a member of this body; he is here; he has his rights already conferred upon him as a member of this body, and he has a constitutional right to take part in the performance of this business, as of any other business, whether the ratification of a treaty, or the confirmation of an appointment, or the passage of a bill, which may be devolved on this body by the Constitution of the United States. Because he has been elected President *pro tempore* of the Senate does that take from him any of his rights as a Senator? Those rights existed before, and he cannot be robbed of them by any act of this Senate.

But, sir, aside from this question, which goes to the main argument, this entire action is premature. There is nobody here to make this challenge, even if it could be made legitimately. The Senators making it do not represent anybody but themselves. The accused might not want it made. He might, perhaps, prefer the Senator from Ohio to any other member of this body to try his case. It is always the right of the defendant in a criminal proceeding and of the parties in a civil action to waive the interest that a juror or a member of the court may have in the case.

Mr. JOHNSON. Mr. President, the motion that I made to postpone the question now before the Senate till to-morrow was made with no view to impede at all the organization of the court, so far as it can be organized by swearing all the other members; and I withdraw the motion now and put it in another form, namely, that the question lie on the table until the other members are sworn.

While I am up permit me to say a few words in reply to the honorable member from Indiana, [Mr. MORTON.] He tells us it is for the President of the United States—applying his remarks to the case which is to be and is before us—himself to make the objection, and that he may waive it. With all due deference to the honorable member, that is an entire misapprehension of the question. The question involved in the inquiry is what is the court to try the President? It is not to be such a tribunal as he chooses to try him. It is a question in which the people of the United States are interested, in which the country is interested; and by no conduct of the President, by no waiver of his can he constitute this court in any other way than the way which the Constitution contemplates; that is to say, a court having all the qualities which the Constitution intends.

The honorable member tells us that we are still a Senate and not a court, and that we cannot be anything but a Senate and cannot at any time become a court. Why, sir, the honorable member is not treading in the footsteps of his fathers. The Constitution was adopted in 1789. There have been four or five cases of impeachment, and in every case the Senate has decided to resolve itself into a court, and the proceedings have been conducted before it as a court and not as a Senate. To be sure, these component elements of which the court is composed are Senators, but that is a mere *descriptio personarum*. They are members of the court because they are Senators, but not the less members of a court. The Constitution contemplated their assuming both capacities. As a Senate of the United States they have no judicial authority whatever; their powers are altogether legislative; they are to constitute and do constitute only a portion of the legislative department of the Government; but the Constitution for wise purposes says that in the contingency of an impeachment of a President of the United States or any other officer falling within the clause authorizing an impeachment they are to become, as I understand, a court. So have all our predecessors ruled in every case; and who were they? In the celebrated case of the impeachment against Mr. Chase, who was one of the associate justices of the Supreme Court of the United States, there were men in the Senate at that time whose superiors have not been found since, nor at any time before, and they adopted the idea and acted upon the idea that the Senate in the trial of that impeachment acted as a court and not as a Senate.

I submit, therefore, that the honorable member from Indiana [Mr. MORTON] is altogether mistaken in supposing that we are not a court. But look at the power which we are to have. We are to pronounce judgment of guilty or not guilty; we are to answer upon our oaths whether the party impeached is guilty or not guilty of the articles of impeachment laid to his charge, and having pronounced him guilty or not guilty, we are then to award judgment. Who ever heard of the Senate of the United States in its legislative capacity awarding a judgment?

But besides that, why is it, Mr. Chief Justice, that you are called to preside over the court, or the Senate when acting as a court to try an impeachment? It is because it is a court. You have no legislative capacity; your functions are to construe the laws in cases coming before you; and the very fact that upon the trial of an impeachment of the President of the United States the Vice President is to be laid aside, and the ordinary Presiding Officer, if the Vice President himself does not exist, and you are to preside, shows that it is a court of the highest character, demanding the wisdom and the learning of the Chief Justice of the United States.

The honorable member says, and other members have said, that a question of interest or no interest is not involved in an inquiry of this description. Does the honorable member mean to say that if the honorable member from Ohio had a bill before the Senate awarding to him a sum of money upon the ground that it was due to him by the United States he could vote upon the question of the passage of the bill? Why not if the honorable member from Indiana is right? He is a Senator. If he is right that the Constitution intends that each State shall have two votes upon every question coming before the body, then in the case supposed the honorable member from Ohio would have a right to vote himself, and by his own vote to place money in his own possession. Who ever heard that that was a right that could be accorded anywhere?

Mr. President, courts have gone so far as to say that a judgment pronounced by a judge in a court of which he was the constitutional offi-

cer in a case in which he had a direct interest, was absolutely void upon general principles; not void because of any statutory regulation on this subject, but void upon the general ground that no man shall be a judge in his own case. Does it make any difference what may be the character of the interest? If the honorable member from Ohio was the sole party under the Constitution to try this impeachment, could he try it? Would not everybody say it is a *casus omissus?* There can be no trial as long as he continues to be the sole member of the court, because he has a direct and immediate interest in the result; because the judgment would be absolutely void as against the general principle founded in the nature of man, that no man should be permitted to adjude a question in which he has a direct interest.

I propose to say nothing more. I will suspend the motion I before made, and move now that the question of right of the honorable member from Ohio be laid aside until the other members of the Senate are qualified.

Mr. SHERMAN. Mr. President, I certainly do not appear here to represent my colleague on this question; but I represent the State of Ohio, which is entitled to two Senators on this floor. The Constitution declares that each Senator shall have a vote, and the Constitution further declares that each Senator shall take an oath in cases of impeachment. The right of my colleague to take the oath, his duty to take it, is as clear in my mind as any question that ever was presented to me as a Senator of the United States. The Constitution makes it plainly his duty to take the oath. He is a Senator, bound to take the oath, according to my reading of the Constitution; and every precedent that has been cited, and every precedent that has been referred to, bears out this construction. If after he has taken the oath as a member of the Senate of the United States, for the purposes of this trial, anybody objects to his right to vote on any question that may be presented to this court or to the Senate hereafter, the objection can then be made and discussed; but his right in the preliminary stages to take the oath, and his duty to take it, is made plain by the Constitution itself. If, hereafter, when the impeachment progresses, his right to vote on any question is challenged the question may be discussed and decided.

The case cited by my honorable friend from Maryland is directly in point. Mr. Stockton came here with a certificate from the State of New Jersey in due form; he presented it, and was sworn into office. Did anybody object to his being sworn? At the same time other papers were presented to the Senate challenging his right to be sworn, saying that the Legislature of New Jersey had never elected Mr. Stockton; but because of that did anybody object to the oath being administered to Mr. Stockton? No one; although his right to take the oath was challenged, and a protest, signed by a very large number of the members of the New Jersey Legislature against his right to the seat, was presented. He was sworn in and took his seat here by our side, and voted and exercised the rights of a Senator. When the question of the legality of his own election came up the Senate decided that he was not legally elected, and the question referred to arose upon his right to vote in that particular case. The question was whether he could vote, being interested in the subject-matter. The Senator from Massachusetts made the objection, and offered a resolution that he had not a right to vote in the particular case; and after debate that was decided in the affirmative, although by a very close vote. My own conviction then was, and is yet, that Mr. Stockton as a Senator from the State of New Jersey had a right to vote in his own case, although it might not be a proper exercise of the right.

So, sir, this question has been decided two or three times in the House of Representatives. In the celebrated New Jersey case, where a certificate of election was presented by certain members from the State of New Jersey and they were excluded, public history has pronounced their exclusion to have been an unjustifiable wrong upon the great seal of the State of New Jersey. I believe that action is now generally admitted and conceded to have been wrong. Those men presented their credentials in the regular form, and they had the right to be sworn. So in many other cases where the right of persons to hold office is in dispute, those who have the *prima facie* right are sworn into office, and then the right is examined and finally settled. I had a matter presented to me once in which I was personally interested, and where I was sworn into office. I was directly and personally interested; but I took the oath of office, and I discharged my duties as a member of the House of Representatives; and when the question came up whether I should vote on the election of a particular officer, I being a candidate for the office, I refused to vote. But it was my refusal which prevented my vote from being received. If I had chosen to vote, I had the right as a member from the State of Ohio, even for myself. I have no doubt whatever of that. It is the right of the State; it is the right of the people; it is the right of representation. The power of the State and the power of the people must be exercised through their Senators and through their Representatives.

In the particular case here I do not suppose, I do not know at least, whether the question will ever arise. My colleague is required to take this oath as a member of the Senate of the United States. You have no right to assume, nor have Senators the right to assume, that he will vote on questions which may affect his interest. That is a matter for him to decide; but the right of the State to be represented here on this trial of an impeachment is clear enough. Whether he will exercise the right, or whether he will waive it, is for him to determine. You have no right to assume that he will exercise the right or power to vote for himself where he is directly interested in the result.

It seems to me therefore that no Senator here has a right to challenge the voice of the State of Ohio, and the right of the State of Ohio to have two votes here is unquestionable unless when the question is raised in due form it shall be decided against my colleague. In the preliminary stages, when we are organizing this court, he ought to be sworn, and then if he is to be excluded by interest, unfitness, or any other reason, the question may be determined when raised hereafter; but no Senator has the right now to challenge his authority to appear here and be sworn as a Senator of the State of Ohio. His exclusion must come either by his own voluntary act, proceeding on what he deems to be just and right according to general principles, or it must be by the act of the Senate upon an objection made by the person accused in the trial of the impeachment. It seems to me that is clear, and therefore I object to any waiver of the matter. I think my colleague has a right to present himself and be sworn precisely as I and other Senators have been sworn. Then let him decide for himself whether, in a case in which his interest is so deeply affected, he will vote on any question involved in the impeachment. If he decides to vote, when his vote is presented, then, not the Senator from Indiana, but the accused may make the objection, and we shall decide the question as a Senate or as a court, for I consider the terms convertible; we shall then decide the question of his right to vote.

Sir, several things have been introduced into this debate that I think ought not to have been introduced. The precise character of this tribunal, whether it is a court or a Senate, has nothing to do at present with this question. The only question before us is whether BENJAMIN F. WADE, acknowledged to be a Senator from the State of Ohio, has a right to present himself and take the oath prescribed by the Constitution and the laws in cases of impeachment. He is not the Vice President; he is not excluded by the terms of the Constitution. He is the Presiding Officer of the Senate, holding that office at our will. You have no right to take away from him the power to take the oath of office and that to decide for himself as to whether, under all the circumstances, he ought to participate in this trial.

Mr. BAYARD. Mr. President, I incline to the opinion that the objection made by the honorable Senator from Maine [Mr. MORRILL] to the motion of the honorable Senator from Indiana, [Mr. HENDRICKS,] and also that made by the honorable Senator from Oregon, [Mr. WILLIAMS,] is correct. I cannot see how a Senator is to object to another Senator being sworn in, although I think there may be some doubt raised on the question for this reason: the Constitution provides that in a case where the President of the United States is tried under an impeachment the Chief Justice of the United States, not the Vice President, shall preside; and though that was intended originally to look to the Vice President alone, yet if another person, from the death of the Vice President, or from his absence or his acting as President, stands in precisely the same relation to the office of President under the law and the Constitution, whether he be a Senator or not, ought not the principle equally to apply?

It certainly excludes the Vice President from being a member of the court. Does it not equally exclude the Presiding Officer of the Senate? It does not make him, being a Senator, less a Senator of the United States in his legislative capacity; but the clause of the Constitution prevents and is intended to prevent the influence of the man who would profit as the necessary result of the judgment of guilty in the case. It supposes that he cannot be or may not be sufficiently impartial to sit as a judge in that case or to preside in the court trying it. That is the object, as I suppose.

But, sir, there is great force in the objection that that point must come by plea or motion, if you please, from the party accused; and I should not have thought for a moment of embarking in this discussion had it not been for the renewal by the honorable Senator from Indiana [Mr. MORTON] of the endeavor to disprove the idea that the Senate must be organized into a court for the purpose of a judicial trial. Now, sir, whether it is to be a high court of impeachment or a court of impeachment, or to be called by the technical name court, is, in my judgment, immaterial; but the honorable Senator's argument did not touch the Constitution. The Senate is to constitute the court; the Senate is to try. Is there nothing in the provisions of that article which gives the judicial authority—for it is not legislative, it is judicial authority conferred, a judicial authority in special cases—is there nothing in that article which, of necessity, makes the body a judicial tribunal whenever it assumes these functions, and not a legislative body? Otherwise, how comes the presiding officer who now fills the chair to be in the seat which he occupies? When the Constitution says that the Senate shall have the sole authority to try impeachments is it necessary that it should say that the Senate shall be a court for the purpose of trying impeachments if every clause of the Constitution shows that it must be a judicial tribunal and must be a court, or else the language is meaningless which is applied to its organization? The members of the body are to be sworn specially in the particular case as between the accused and the impeachers. Is not that the action of a court? They are to try an individual in a criminal prosecution. Is not that judicial action? Is not the entire judicial power of the United States vested in the Supreme Court and the inferior courts, with that exception, by the very terms of the Constitution?

But, further, the body is to give judgment, to pronounce judgment, a judgment of removal from office always as the result of conviction; and if they please to carry it still further, they may pronounce judgment of disqualification from hereafter holding any office. Do not these terms of necessity constitute a court?

Did the Constitution mean, taking all its language, that the Senate in its legislative capacity, or as a Senate of the United States without any change whatever, should participate in the judicial power of the Government; or did it mean to give judicial power? And if it gave judicial power, and prescribed the mode of its exercise in such a manner that it necessarily converted it into a court, why should it not be called a court?

But, sir, the precedents are conclusive. I cited the case of Blount on a former occasion in the Senate. He was impeached in 1798, nine years after the Constitution went into operation. Many of the members of the Senate at that time had been members of the Convention which formed the Constitution, and all of them were conversant with its history and meaning. It was the first case of impeachment, and yet in that case there is conclusive evidence that no one interposed the idea that the body was not organized into a court, a judicial tribunal, and accordingly the defendant appeared—he had been expelled by the Senate under their other powers—and he pleaded to the articles of impeachment, and the case was argued at length on both sides, and the Senate determined to dismiss the articles, and in announcing their decision to the House of Representatives the Presiding Officer of the Senate said in terms "the court after consideration have adjudged" or "determined"—I forget the exact language; but it spoke of the court. This was the communication of the Presiding Officer of the Senate in the presence of the Senate, to the managers of the impeachment, that the court had determined to dismiss the articles, and the defendant was discharged. Is the precedent of no worth? Does the honorable Senator from Indiana say that the men of that day, the Hillhouses and Tracys, and other men who then constituted the Senate, did not understand the language in which the Constitution was adopted as well as we do now? They were able lawyers. The case was one perfectly free from the bias of political excitement of every kind. And from that day to this, until this idea is now suggested that you are to try as a Senate, and not as a judicial tribunal, the President of the United States on an impeachment for high crimes, no one has ever doubted that the Senate must be resolved into a court for the purpose of performing such functions.

Sir, it is against this, which I consider a heresy, that I desire to protest. For my own part I cannot conceive on what ground such an idea should be thrown into this case, or what effect it can have, unless it be to let loose partisan passion by escaping from judicial responsibility. No one doubts that the court is to be composed of the Senate of the United States. Why it should not be called a court, in the face of the precedents, the face of the provisions of the Constitution, all of which confer on it judicial power and the modes of action which belong to a court, is to me inscrutable.

The question is collateral, I admit, because I think this is not the time to object to the honorable Senator from Ohio being sworn in. My mind is somewhat in doubt; but my opinion inclines that way, that the objection must come from the party arraigned, unless, indeed, the honorable Senator, looking to the particular circumstances of the case, should ask to be excused from being sworn. That is a question which it is not for me to decide; but it is for him to decide to that extent, I admit. But, sir, I cannot admit the doctrine I have heard enunciated here, that the great, eternal principle, that no man shall be a judge in his own cause, does not apply to this case whenever the question is properly raised. What is the state of facts? The Senate of the United States is constituted into a judicial tribunal: that cannot be denied. They have the powers not only of judges, but of jurors; and if there be one principle more sacred than another it is as to the juror, who finds facts that he must be *omni exceptione major*. The great, general principle that a man shall not be a judge in own cause applies everywhere, and commends itself to the universal sentiment of mankind. Now, what is the case here? The Senate are the judges of the facts, as well as of the law, when organized into a court for the trial of an impeachment. If the case was presented of the trial of the most ordinary misdemeanor in a court of justice by an unquestionably qualified juror in all other respects, if it was shown that that juror had a direct interest in the conviction or the acquittal of the defendant, would it not be a sufficient objection? Can there be any doubt about the directness of the interest here? Your judgment, if the accused is convicted, must be removal from office. It must go that far. The effect, then, of a judgment rendered by this court, were it rendered by the aid of the honorable Senator from Ohio sitting as a judge, would be to elevate him to the position of the executive head of this great nation. Is not that an interest? It is the necessary result of such a judgment when it is rendered that he has a right to the office, and is entitled to the office. Whether he choose to relinquish it or not would not alter the case. The interest is direct; and if there ever was a case in which the principle that a man shall not be a judge in his own cause applied it surely must apply to the case where the members of the tribunal which is organized are judges, not only of the law, but also of the facts. Human-nature is not to be trusted that far; that is the foundation of the principle, and no man who knows his own heart, no man who knows how delusive and how deceptive are the illusions of humanity, could for a moment tolerate any other principle. It has universally obtained as a great general truth.

I trust, sir, that whenever the case comes properly before us there can be no question as to what must be the decision of the Senate. As I said before, I hope, however, that we shall be relieved from the necessity of any decision in a case like this, as we can be relieved by the action of the honorable Senator from Ohio. He must, of course, decide that question for himself in the first instance; but, for my own part, I can only say that if I stood in the same position the wealth of worlds could not tempt me for an instant to think of sitting as a judge in a case where my interests were so directly personally involved.

Mr. SUMNER. Mr. President, I shall not attempt to follow learned Senators in the question whether this is a Senate or a court. That question, to my mind, is simply one of language and not of substance. Our powers at this moment are under the Constitution of the United States; nor can we add to them a tittle by calling ourselves a court or calling ourselves a Senate. There they are in the Constitution. Search its text and you will find them. The Constitution has not given us a name, but it has given us powers; and those we are now to exercise. The Senate has the sole power to try impeachments. No matter for the name, sir. I hope that I do not use an illustration too familiar when I remind you that a rose under any other name has all those qualities which make it the first of flowers.

I should not at this time have entered into this discussion if I had not listened to objections on the other side which seem to me founded, I will not say in error, for that would be bold when we are discussing a question of so much novelty, but I will say founded in a reading of history which I have not been able to verify. Senator after Senator on the other side, all distinguished by ability and learning, have informed us that the Constitution intended to prevent a person who might become President from presiding at the trial of the President. I would ask learned Senators who have announced this proposition where they find it in the Constitution? The Constitution says:

"When the President of the United States is tried the Chief Justice shall preside."

This is all; and yet on this simple text the superstructure of Senators has been reared.

The Constitution does not proceed to say why the Chief Justice shall preside; not at all; nothing of the kind. Senators supply the reason and then undertake to apply it to the actual President of the Senate. Where, sir, do they find the reason? They cannot find the reason which they now assign in any of the contemporary authorities illustrating the Constitution. They cannot find it in the debates of the national Convention reported by Madison, or in any of the debates in the States at that time, nor can they find it in the Federalist. When does that reason first come on the scene? Others may be more fortunate than I, but I have not been able to find it earlier than 1825, nearly forty years after the formation of the Constitution, in the Commentaries of William Rawle. We all know the character of this work, one of great respectability, and which most of us in our early days have read and studied. How does he speak of it? As follows:

"The Vice President, being the President of the Senate, presides on the trial, except when the President of the United States is tried. As the Vice President succeeds to the functions and emoluments of the President of the United States whenever a vacancy happens in the latter office, it would be inconsistent with the implied purity of a judge that a person under a probable bias of such a nature should participate in the trial, and it would follow that he ought wholly to retire from the court."

Those are the words of a commentator on the Constitution. They next appear ten years later in the Commentaries of Mr. Justice Story, as follows. After citing the provision "when the President of the United States is tried the Chief Justice shall preside," the learned commentator proceeds:

"The reason of this clause has been already adverted to. It was to preclude the Vice President, who might be supposed to have a natural desire to succeed to the office, from being instrumental in procuring the conviction of the Chief Magistrate."

And he cites in his note "Rawle on the Constitution, page 216," being the very words that I have already read. Here is the first appearance of this reason which is now made to play so important a part, being treated even as a text of the Constitution itself. At least I have not been able to meet it at an earlier day.

If you repair to the contemporary authorities, including the original debates, you will find no such reason assigned; nothing like it; not even any suggestion of it. On the contrary, you will find Mr. Madison, in the Virginia convention, making a statement which explains in the most satisfactory manner the requirement of the Constitution. No better authority could be cited. Any reason supplied by him anterior to the adoption of the Constitution must be of more weight than any *ex post facto* imagination or invention of learned commentators.

If we trust to the lights of history the reason for the introduction of this clause in the Constitution was because the framers of the Constitution contemplated the possibility of the suspension of the President from the exercise of his powers, in which event the Vice President could not be in your chair, sir. If the President were suspended the Vice President would be in his place. The reports will verify what I say. If you refer to the debates of the national Convention under the date of Friday, September 14, 1787, you will find the following entry, which I read now by way of introduction to what follows at a later date, on the authority of Mr. Madison himself:

"Mr. Rutledge and Mr. Gouverneur Morris moved that persons impeached be suspended from their offices until they be tried and acquitted.

"Mr. Madison. The President is made too dependent already on the Legislature by the power of one branch to try him in consequence of an impeachment by the other. This intermediate suspension will put him in the power of one branch only. They can at any moment, in order to make way for the functions of another who will be more favorable to their views, vote a temporary removal of the existing Magistrate.

"Mr. King concurred in the opposition to the amendment."

The proposition was rejected by the decisive vote—eight States in the negative to three in

the affirmative. We all see in reading it now that it was rejected on good grounds. It would obviously be improper to confer upon the other branch of Congress the power, by its own vote, to bring about a suspension of the Chief Magistrate. But it did not follow, because the convention rejected the proposition that a suspension could take place on a simple vote of the House of Representatives, that, therefore, the President could not be suspended. When the Senate was declared to have the sole power to try impeachments it was by necessary implication invested with the power, incident to every court, and known historically to belong to the English court of impeachment, from which ours was borrowed, of suspending the party accused. All this was apparent at the time, if possible, more clearly than now. It was so clear that it furnishes an all-sufficient reason for the provision that the Chief Justice should preside on the trial of the President, without resorting to the later reason which has been put forward in this debate.

But we are not driven to speculate on this question. While the Constitution was under discussion in the Virginia convention George Mason objected to some of the powers conferred upon the President, especially the pardoning power. This was on June 18, 1788, and will be found under that date in the reports of the Virginia convention. This earnest opponent of the Constitution said that the President might "pardon crimes which were advised by himself," and thus further his own ambitious schemes. This brought forward Mr. Madison, who had sat, as we all know, throughout the debates of the national convention, and had recorded its proceedings, and who, of all persons, was the most competent to testify at that time as to the intention of the framers. What said this eminent authority? I give you his words:

"There is one security in this case to which gentlemen may not have adverted. If the President be connected in any suspicious manner with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him: they"—

Evidently referring to the Senate, or the Senate in connection with the House—

"can remove him if found guilty; *they can suspend him when suspected*, and the power will devolve upon the Vice President."

Mark well these words: "they can suspend him when suspected." If only suspected the President can be suspended. What next? "And his power will devolve upon the Vice President;" in which event, of course, the Vice President would be occupied elsewhere than in this Chamber.

Those were the words of James Madison, spoken in debate in the Virginia convention. Taken in connection with the earlier passage in the national Convention, they seem to leave little doubt with regard to the intention of the framers of the Constitution. They were unwilling to give to the other House alone the power of suspension, but they saw that when they authorized the Senate to try impeachments, they gave to it the power of suspension, if it should choose to exercise it; and the suspension of the President necessarily involved the withdrawal of the Vice President from this Chamber, and the duty of supplying his place.

I submit, then, on the contemporary testimony that the special reason why the Chief Justice is called to preside when the President is on trial, is less what learned Senators have assigned than because the Vice President under certain circumstances would not be able to be present. It was to provide for such a contingency, being nothing less than his necessary absence in the discharge of the high duties of Chief Magistrate that a substitute was necessary, and he was found in the Chief Justice. All this was reasonable. It would have been unreasonable not to make such a provision.

But this is not all. There is an incident immediately after the adoption of the Constitution which is in harmony with this authentic history. The House of Representatives at an early day acted on the interpretation of the Constitution given by Mr. Madison. The first impeachment, as we all know, was of William Blount, a Senator, and in impeaching him the House of Representatives demanded "that he should be sequestered from his seat in the Senate." This was in 1797. The Senate did not comply with this demand, but the demand nevertheless exists in the history of your Government, and it illustrates the interpretation which was given at that time to the powers of the Senate. The language employed that the person impeached should be "sequestered" is the traditional language of the British Constitution, constantly used, and familiar to our fathers. In employing it, the House of Representatives gave their early testimony that the Senate could suspend from his functions any person impeached before them; and thus the House of Representatives unite with Madison in supplying a sufficient reason for the provision that on the trial of the President the Chief Justice shall preside.

In abandoning the reason which I have thus traced to contemporary authority, you launch upon an uncertain sea. You may think the reason assigned by the commentators to be satisfactory. It may please your taste; but it cannot be accepted as an authentic statement. If the original propositions were before me I should listen to any such suggestion with the greatest respect. I do not mean to say now that, as a general rule, it has not much in its favor. But I insist that, so far as we are informed, the reason of the commentators was an afterthought, and that there was another reason which sufficiently explains the rule now under consideration.

I respectfully submit, sir, that you cannot proceed in the interpretation of this text upon the theory adopted by the learned Senators over the way. You must take the text as it is; you cannot go behind it; you cannot extend it. Here it is: "When the President of the United States is tried the Chief Justice shall preside." That is the whole, sir. "The Chief Justice shall preside." No reason is assigned. Can you assign a reason? Can you supply a reason? Especially can you supply one which is not sustained by the authentic contemporary history of the Constitution; and particularly when you have authentic contemporary history which supplies another reason. Unless I am much mistaken this disposes of the objections, proceeding from so many Senators, that the Senator from Ohio cannot take the oath because he may possibly succeed to the President now impeached at your bar. He may vote or not as he pleases, and there is no authority in the Constitution or any of its contemporary expounders to criticise him.

This is all, sir, I have to say at this time on this head. There were other remarks made by Senators over the way to which I might reply. There was one that fell from my learned friend, the Senator from Maryland, in which he alluded to myself. He represented me as having cited many authorities from the House of Lords tending to show in the case of Mr. Stockton that this person at the time was not entitled to vote on the question of his seat. The Senator does not remember that debate, I think, as well as I do. The point which I tried to present to the Senate, and which, I believe, was affirmed by a vote of the body, was simply this: that a man cannot sit as a judge in his own case. That was all; at least so far as I recollect, and I submitted that Mr. Stockton at that time was a judge undertaking to sit in his own case. Pray, sir, what is the pertinency of this citation? Is it applicable at all to the Senator from Ohio? Is his case under consideration? Is he impeached at the bar of the Senate? Is he in any way called in question? Is he to answer for himself? Not at all. How, then, does the principle of law, that no man shall sit as a judge in his own case, apply to him? How does the action of the Senate in the case of Mr. Stockton apply to him? Not at all. The two cases are as wide as the poles asunder. One has nothing to do with the other.

Something has been said of the "interest" of the Senator from Ohio on the present occasion. "Interest!" This is the word used. We are reminded that in a certain event the Senator may become President, and that, on this account, he is under peculiar temptations which may swerve him from justice. The Senator from Maryland went so far as to remind us of the large salary to which he might succeed, not less than $25,000 a year, and thus added a pecuniary temptation to the other disturbing forces. Is not all this very technical? Does it not forget the character of this great proceeding? Sir, we are a Senate and not a court of *nisi prius*. This is not a case of assault and battery, but a trial involving the destinies of this Republic. I doubt if the question of "interest" is properly raised. I speak with all respect for others; but I submit that it is inapplicable. It does not belong here. Every Senator has his vote to be given on his conscience. If there be any "interest" to sway him it must be that of justice, and the safety of the country. Against these all else is nothing. The Senator from Ohio, whose vote is now in question can see nothing but those transcendent interests by the side of which office, power, and money are of small account. Put in one scale these interests so dear to the heart of the patriot, and in the other all the personal temptations which have been imagined, and I cannot doubt that if the Senator from Ohio holds these scales the latter will kick the beam.

Mr. POMEROY. I suggest that this question lie on the table, as we cannot take a vote until all the members are sworn. I cannot make that motion, because no motion can be acted upon, as we are partly sworn and partly not. I think by unanimous consent, and by the consent of the Senator from Indiana, his proposition may lie on the table until the oath be administered to the remaining Senators.

Mr. HOWE. If the Senator will indulge me in a remark, as this is the first time I have felt called upon to make one on this occasion, it seems to me he has presented the most conclusive argument, if he is right, against the objection that is taken here. An objection is taken which the Senator says we cannot vote upon, and his proposition is that we ignore it, go around it, lay it on the table. Suppose we do not choose to go around it; then this proceeding stops, if the objection is well taken. It seems to me it cannot be well taken unless here is a tribunal which can pass upon it, and pass upon it now, dispose of it in some way. It seems to me the objection cannot be well taken if we are obliged to run away from it, because, whether we be a court or a Senate within the meaning of the Constitution, both are dissipated necessarily by the raising of a single objection to administering an oath to a single member.

One word further, as I am up. It seems to me that this would not be a difficult question to determine, and by this very tribunal, if we were willing to read what is written and abide by it, for it is written that "the Senate of the United States shall be composed of two Senators from each State." That is written, and it is elsewhere written that Ohio is a State; and nowhere is anything written to the contrary; and if Ohio is a State and this—the Constitution—is law, Ohio is entitled to two Senators on this floor at this time. It is also written that "the Senate," composed in this way, "shall have the sole power to try all impeachments." The Senate shall have the sole power to try all impeachments—nobody else—and I cannot understand why that is not the end of the law. If there were elsewhere in this instrument any qualification or modification of either of those provisions then we should be bound to attend to them; but if there is none I do not see why this is not the end of the law. Whatever may be the impropriety or indelicacy of the Senator from Ohio, whose right to take the oath is now questioned, acting here—gentlemen are at liberty to entertain their own opinions upon that point—the law of the case is here: he is a Senator; he is a member of the

tribunal which tries impeachments; or we must wipe out one or the other of these clauses from the Constitution for the time being.

Sir, this being the language of the Constitution, if that were all of it, would there be any doubt that upon the trial of a President upon impeachment the Vice President would sit where you now sit? If there were no other provisions of the Constitution but these, and a President were to be put upon trial on impeachment, would any one suggest that the Vice President should leave his chair and the Chief Justice of the Supreme Court be placed in it? But the impropriety of the Vice President sitting there would be just the same if the Constitution had taken no notice of it as it is now, and just the same as is the impropriety of this oath being administered to the Senator from Ohio. The men who made the Constitution foresaw that and provided for it, and therefore said that in case the President be impeached the Vice President shall not preside, as the Constitution had before declared he should, but the Vice President shall leave his chair and the Chief Justice shall preside during that trial; and it is because the Constitution says so that the Vice President does leave his chair on such an occasion. But here, in reference to this question, there is no such direction in the Constitution.

Now, as to the objection which is taken and as to the time of taking it. It seems to me if anything is plain which is not written in the Constitution it is the objection taken by the Senator from Maine, [Mr. MORRILL.] If there is any objection to the qualifications of the Senator from Ohio to try this question it is an objection which one of the parties to this litigation has a right to urge, and nobody else in the world; and, so far as I know, neither of the parties to that litigation are here. If both were here would they not have a right to waive the objections, if there were any? Could we exclude a member of this Senate against the protest of both the parties to the litigation and say, when they were consenting, that this man or that should not be a member of the Senate? Clearly not.

But, then, what is the objection itself? That he is interested, is it? And how interested? Why, that in a certain contingency, if the issue of the trial be in one way, the Senator whose right to take this oath is objected to would cease to be President of the Senate, and would become President of the United States. It was well replied by the Senator from Michigan that that is not certain; that that is not an inevitable consequence; that is a *non sequitur*. It does not follow that he would become President of the United States. If he continued to be President of the Senate up to the time when the judgment of amotion was pronounced, I suppose, by the terms of the Constitution, he would be President; but if he should not continue to be President of the Senate up to that time he would not be. Admit that he is now in possession of the office which would give him the succession under the Constitution in case of amotion; but the office, the condition, the predicament which is his position to-day may be the reversion of any one of us to-morrow; we are remainder-men if he should happen to retire from that office by the judgment of the Senate.

Mr. FRELINGHUYSEN. And consequently all of us are interested.

Mr. HOWE. All his interest would thus be removed, and that same interest would be vested in some one of the rest of us; I do not know exactly who; but the same possible interest, contingent interest, which is objected to to-day in him is an objection which can be urged against every one of us, because we are liable to be, before the termination of this litigation, placed in precisely the same predicament, and no one of us can be fit, because of this possible interest, to try this question.

Mr. President, I believe, by a rule of the body governing this proceeding, the remarks of members are limited to ten minutes. I have said all I care to say upon the question.

Mr. DRAKE. Mr. President, I do not propose to go over any of the grounds that have heretofore been taken by other Senators on this subject; but there are one or two questions which seem to me to lie in the foreground of this matter, and to which I should like to call the attention of those gentlemen who insist upon this exception at this time. If the objection has any vitality, any legal validity whatever, it is one that requires to be passed upon affirmatively or negatively by some body; and I should like to know who is to pass upon it at this stage of the proceeding? Is it addressed to the Presiding Officer of the Senate, as if he had the right to pass upon it? I imagine not. I suppose it will hardly be contended that so grave a question as this can be passed upon by that officer, even if any question in this trial can be passed upon by him at all. If not to be passed upon by the Presiding Officer of the Senate, then what body is to determine the question affirmatively or negatively? The Senate is not yet constituted for the trial of the impeachment.

Besides the honorable Senator from Ohio, there are no less than four other Senators in their seats on this floor at this time waiting to have the oath required by the Constitution administered to them. They are entitled to vote upon all questions which may arise in the Senate sitting in the matter of impeachment. Are you going to stop the proceedings of the Senate at this point and exclude four of the Senators here that are ready and waiting to take the oath? If you are, then if it had so happened that the first name on the roll had been that of the President *pro tempore* of the Senate, all the remainder on the roll after him might, before being sworn, have undertaken to adjudge that he should not be sworn. It just so happens that the name of the Senator from Ohio is low down on the roll of the Senate, alphabetically taken. If it had been the very first one the objection could have been just as well taken and decided by a Senate not one single member of which had yet been sworn in the matter of impeachment.

Mr. President, for these reasons, aside from all others, I hold that there is no person here who can pass upon this question; the President of the Senate cannot pass upon it; or even if he, in virtue of his presidency, could pass upon questions in the course of this trial, the court, if you call it so, is not yet organized; it is only in the process of organization. There are members of the court here, if you call it a court, waiting to be sworn; and you stop the whole thing here and vote, do you, upon this question, when the vote of those four members that are waiting to be sworn might change the determination one way or the other?

Sir, the whole thing resolves itself at last into a question of order, of entertaining this proposition at all. I will venture to say that if the court had been organized and the present incumbent of the presidency of the Senate had been accustomed, as he is in another tribunal, to announce the decision upon questions of order, he would instantly have decided that this question was out of order at the time it was raised. These are the views about this matter which have led me to participate for these few minutes in the debate on this subject.

Mr. THAYER. Mr. President, it seems to me that the question might with propriety be asked, what is there in a name? With all due respect for the honorable Senators who have by argument attempted to convince the Senate that this is a court, I am compelled to think that it is a waste of words. It is true that in the earlier trials of impeachment the term "high court of impeachment" was used; but it was, in my judgment, a matter of taste or of form. We are, after all, obliged to come back to the plain, pointed, explicit language of the Constitution—

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose"—

Sitting as a Senate for the trial of an impeachment—

"they shall be on oath or affirmation."

Could language be plainer? Could meaning be more apparent than this? If we have passed into a "high court of impeachment" when did that transposition take place? This Senate was sitting as a Senate to-day from twelve o'clock till one. It did not adjourn. What became of it? Where is it if we are here as a court to-day? The Senate does not die. The Senate is in existence. It is here in this body, or is this body sitting as a Senate to try a question on a case of impeachment?

But, after all, that is not material. I have risen more for the purpose of noticing the objection raised by the honorable Senator from Indiana, [Mr. HENDRICKS.] The question of interest is made against the taking of the oath by the honorable Senator from Ohio, [Mr. WADE,] upon a rule of law in the courts that a person having an interest in the verdict which may be rendered is excluded from sitting upon that jury. If that rule is to prevail here I am surprised that the honorable Senator from Indiana did not raise the question at an earlier stage in the progress of these proceedings to-day. There is another rule of law or the same rule applicable with equal force which excludes from the jury a person related by blood or marriage to the accused. If the objection is good in one case is it not equally good in the other? If it should exclude the honorable Senator from Ohio why should it not exclude the honorable Senator from Tennessee, [Mr. PATTERSON?] I cast no imputation upon that Senator; I do not question his determination to try this case justly and fairly according to the Constitution, the law, and the evidence; I make no objection to the Senator from Tennessee; but I desire to say that if this objection is to be raised in the case of the honorable Senator from Ohio it ought, by the same rule of law and of evidence and of construction, to be applied to the honorable Senator from Tennessee.

But, sir, in regard to the question of interest, if that objection is valid against the Senator from Ohio it lies against every member of this body, only one degree more remote. If, by the verdict to be rendered in this trial, the Senator from Ohio should pass from that chair into the more exalted position of President of the United States, it devolves upon this Senate to elect one of the Senators sitting here to fill that vacancy. Human life is in the hands of One who is above all human tribunals, and in the course of human events the honorable Senator from Ohio, elevated to the position of Chief Magistrate of this nation, may pass away, and that Senator sitting here on this trial who has been elevated to the position of Presiding Officer of this body may become the successor of him to whom objection is made to-day in the office of President of the United States. I repeat that the interest lies with every Senator here, only one degree more remote.

But, Mr. President, it has been said repeatedly this afternoon, and it is not necessary for me to dwell upon it, that we are here as a Senate of the United States. The honorable Senator from Ohio is here as a Senator of the State of Ohio, clothed with the rights and all the power possessed by any other Senator on this floor. He is the equal in every particular of every Senator who is now sitting as a member of this body. I challenge the honorable Senator of Indiana or the honorable Senator from Maryland to point me to one iota in the Constitution which recognizes the right of this body to deprive any individual Senator of his vote. No matter what opinions we may entertain as to the propriety of the honorable Senator from Ohio casting a vote on this question, he is here as a Senator, and you cannot take away his right to vote except by a gross usurpation of power. He is here as a Senator in the possession and exercise of every right of a Senator until you expel him by a vote of two thirds of this body. Then he ceases to have those rights, and not till then.

Again, on this question of interest, suppose some ten or fifteen Senators were related in

some way to the accused; if the rule holds good you might reduce this body below a quorum, and thus defeat the very object which the Constitution had in view in creating this as the tribunal to try questions of impeachment.

Again, in courts of law, if objections are made to any one sitting upon a jury, and he is excluded, an officer is sent out into the streets and the highways to pick up talesmen and bring them in to fill up the jury. Can you do that here? Suppose you exclude the honorable Senator from Ohio, can you send an officer of this Senate out into the lobbies or into the streets of Washington to bring in a man to take his place? By no means. I need not state that.

Thus I come back to the proposition that we are a Senate, composed of constituent members, two from every State, sworn to do our duty as Senators of the United States; and when you attempt to exclude a Senator from the performance of that duty you assume functions which are not known in the Constitution and cannot for a moment be recognized. When you attempt to exercise the power, and do exercise it, are you any longer the Senate of the United States? The Senate, no other parties or bodies forming any part of it, is the only body known to the Constitution of the United States for this purpose, and the Senate is composed of two Senators from each State.

Mr. HOWARD. I do not rise to prolong the debate, and I entertain the hope that we may be able to dispose of this question very soon. I rise more for the purpose of calling the attention of the Chair to the real matter before us, and of inquiring whether the proposition now made to us is in order. I believe the motion is, that other Senators shall be called to take the oath, and the Senator from Ohio be passed by for the present, until other Senators are all sworn in. If I am mistaken about that, I should like to be corrected.

The CHIEF JUSTICE. The Senator from Ohio [Mr. WADE] presents himself to take the oath. The Senator from Indiana [Mr. HENDRICKS] objects. The question then is, shall the Senator from Ohio be sworn? Pending that proposition, the Senator from Maryland [Mr. JOHNSON] moves that in administering the oath to Senators the name of the Senator from Ohio [Mr. WADE] be omitted in the call until the remaining names on the roll shall have been called. That is the question now before the body.

Mr. HOWARD. Yes, Mr. President, I so understood; and that is a question, allow me to say, which I suppose to be entirely within the competency of the Chair. There is no rule requiring the members to be called alphabetically to take the oath. If the Chair should see fit upon his own responsibility to call them in reverse order undoubtedly he could do so. I do not see, therefore, any necessity of spending further time in the discussion of this particular motion; but at the same time I must confess, on reflecting upon this objection, that it seems to me to resolve itself into a pure question of order. The Senate of the United States are endeavoring to assume their judicial functions in a particular case, and are sitting, or endeavoring to sit, upon the trial of an impeachment. Therefore, it seems to me, it must be held that the trial has commenced. If I am correct in this, it appears to me that but one conclusion can be arrived at by the Chair.

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation."

The Constitution is mandatory; it is imperative in its very terms. When a Senator offers, therefore, to take the oath, it becomes the duty of the Chair, under the Constitution, to administer the oath to him, and any objection to his taking the oath such as is made here seems to me to be out of order, because it implies that we may, or somebody here may disobey and disregard this imperative mandate of the fundamental law. That will be a question, I apprehend, for the President of the Senate to decide.

Mr. BUCKALEW. I should like to inquire of the Senator from Michigan if his own rules, for the adoption of which he has asked our assent some days since, do not provide that the Presiding Officer may submit any question to the Senate for decision? Having called upon us to adopt such a rule, and we having assented to his request, I think it very extraordinary that he endeavors to place upon the Chair the entire responsibility of deciding this question in any of the varied forms which it may assume, even assuming it to be (which I do not) a question of order, pure and simple.

Gentlemen read to us a section of the Constitution which says that the Senate shall be composed of two members from each State, and that each Senator shall possess one vote. I suppose, if we were to be curious upon a point of constitutional history, we might ascertain that that last clause was put in the Constitution with reference to the previous practice in the Congress of the Confederation, where the votes were taken by States. This clause, declaring that each member of the Senate, representing a State under the new system, should give a single direct vote, was to exclude, I suppose, the practice which had previously obtained of voting by States. A fundamental idea in constituting bodies consisting of more than one person is that the members shall be equal; that each shall possess an equal voice in its proceedings. I take it, therefore, that upon principle each member of the Senate ought to possess one vote; and that this declaration in the Constitution found its way there simply because the practice previously in the Government which preceded our present one had been to vote by States. I suppose that that clause of the Constitution has no other office or meaning. Most certainly it does not bear any such signification as that attempted here to be assigned to it, to oblige us upon every possible question, whether we be acting in a legislative, executive, or (as now) in a judicial capacity, to admit every single member to vote upon every single question which can arise. That is simply the rule by which votes shall be given in the Senate—"each Senator shall have one vote"—but the Constitution does not attempt to define the cases where each member can vote. It does not attempt to exclude cases where his vote would be improper or might be excluded by law or by rule. In conformity with this view the Senate has already adopted a rule for excluding votes in particular cases. It is the practice of this body, and I believe in that respect our practice conforms to that of all other bodies of similar constitution. It is a rule founded in natural propriety and justice that no man shall express his voice, although he be a representative, in a case where he shall have a direct personal interest in the decision to be made.

Gentlemen seem to feel great difficulty of mind, because, as they say, without the swearing in of the Senator from Ohio, the court will not be fully constituted; that we are at present in an imperfect condition; that the taking of an oath by him, and the taking of a place among us by him in the new capacity which we are assuming, is necessary and essential to the constitution of the body. That argument has no weight with me in determining the question which has been raised by the objection of the Senator from Indiana. Sir, this is a difficulty which may arise in the organization of any body made up of many members. It may arise in a judicial, in a legislative, or in a popular body anywhere; a question with regard to the membership of the body in its organization. Questions of this kind have been continually occurring from the foundation of the Government in the two Houses of Congress. Formerly, in the Senate, the practice was that a member who presented his credentials was sworn, and afterward, in case there was objection to his right, his case was investigated and determined. Recently, however, the Senate seem to have fallen into a different practice. Upon one or more occasions recently, one notably in my mind, the recent case from Maryland, a member appearing in the Senate and claiming a right to a seat, with regular credentials from his State, upon an objection made was not sworn. The objection was sustained. The case was sent to a committee of this body and investigated through many months, and the case was in fact acted upon at a subsequent session of the Senate, when a decision was arrived at and the judgment of the Senate was pronounced.

Now, sir, in what respect does this case differ in principle from that? Here the Senate is about to organize itself into a court; its members to be put under oath. The Chief Justice of the Supreme Court is called to preside over the proceedings, and we are to proceed as judges of law and of fact to decide the gravest question which can be presented to any tribunal in this country. The Senator from Indiana, when the Senator from Ohio appears, suggests—not as a challenge in the ordinary way, or upon ordinary principles—that under the Constitution of the United States the member from Ohio cannot sit in this court. Now, sir, that question involves the question of his right to be sworn, and it is made at the proper time, for it is made when the question arises legitimately in the course of our proceedings. If the objection be well grounded in the Constitution of the United States this is the time to make it for a very plain reason. If it be not now made, assuming it to be a just objection, what will be the consequence? That a member not qualified to act will become a member of the court and take part in its proceedings; and he will remain a judge in the case entitled to vote upon all questions which may arise until at some future time, perhaps days, weeks, or months hence, a manager for the House or an attorney for the accused may raise the question of his right to sit by a motion or challenge. Then only (according to the argument) can our power of action upon this question be duly exerted.

The argument has been made by a member in debate that perhaps the counsel who come in here will not make the objection to this particular member; and what then? The Senate is to be unable at any time during the trial to relieve itself from an incompetent member! Then an unlawful member may continue to sit from the beginning to the end of the proceeding! At all events it is insisted that some attorney-at-law or manager must raise the question in order that we may assume jurisdiction over it and decide it. Can anything be more absurd than that?

When you pursue this argument to its consequences, I think it becomes manifest that this is the time to raise the question; and I believe that it is not only within our power to raise the question now, but that it is our duty to determine it. We are acting under the Constitution of the United States. Most of us have already been sworn by you, sir, to obey that Constitution; and if, indeed, it be true that by that provision of the Constitution which calls you here to preside over our proceedings—not to give dignity to them merely, but for the other and better and higher purpose, to give purity and a disinterested character to those proceedings—if, indeed, it be true that by that provision the member from Ohio (our Presiding Officer) is disqualified, we cannot shirk our duty of declaring his incompetency on the first occasion when the question is made.

Now, sir, upon what ground is it that gentlemen would deprive us of that ordinary power which exists in the nature of things, to decide upon the constitution of our own body? As I said before, this is not a question of challenge for partiality, nor even for interest under some law which gives it to a party in a court of justice. It is a question which arises under the Constitution as to the organization of our own body—who shall compose it; and we are to meet that question, and decide it, in the very outset of our proceedings.

The Senator from Massachusetts has read to us what Judge Story wrote about 1830, in

which he stated an opinion similar to that which was contained in a communication from yourself, sir, to the Senate yesterday; and that was that when the President of the United States is on trial upon articles of impeachment the Chief Justice is called to preside because the Presiding Officer of the Senate is a party in interest, and it would be a scandal to have him preside in a case where his own possible accession to the office of President of the United States was involved. I am content for the present to take the opinion of the present Chief Justice of the Supreme Court of the United States, and the opinion of the most eminent commentator upon American law, in preference to the opinion of the Senator from Massachusetts, pronounced here in debate. I think it would be an impropriety, if nothing worse, for the Senate to proceed at this moment, upon the strength of his opinion and of his argument against the highest authorities to pronounce that the Senator from Ohio is entitled, as a member of the Senate sitting as a court of impeachment, to try the present case.

In the courts of justice I understand that challenges are to be made to jurors before they are sworn. If that time has passed by, and the juror is charged, under oath, with the trial of the case, it is too late to object; and, undoubtedly, if, during the progress of this trial, an objection should be made to the competency of one of the members of the court to sit in the case, the answer which would be made before us and pressed upon our attention would be that the objection came too late, that the member had already been sworn.

Mr. FRELINGHUYSEN. I should like to ask the Senator from Pennsylvania whether he considers that the respondent, the accused, has waived his right to challenge, if any such right exists, as to all those members of the Senate who have been sworn; and if he has not waived that right, is not that conclusive proof that this is not the time to interpose the objection, but that the challenge, if a challenge can be made, must be made to giving the vote, not to taking the oath?

Mr. BUCKALEW. I am not arguing the question of a challenge which may be presented during the trial. All that I was alluding to at the moment the Senator interrupted me was the point that the particular argument I mentioned would be made. I am not treating this as a question of challenge by a party before us. I am not arguing on that ground. The question has not been put upon that ground by the Senator from Indiana or the Senator from Maryland. A right of challenge is a right given by a statute to a party in court to interpose in a particular manner and raise a particular question. We have nothing of that kind here. It is not involved in the present debate. The question now before us and for our decision is this: in proceeding to constitute ourselves into a court an objection being made that a particular Senator is not qualified to sit in that court at all, is it not our duty to meet the question and decide it? The practice that I was going to point out of both Houses of Congress at least in recent times, would seem fully to sustain this course. I have already mentioned the case of the Senator from Maryland. In the House of Representatives, when members have appeared there in the present Congress, the whole delegation from a State have had their cases referred. Their being sworn in was deferred for the time until some investigation took place. It is an ordinary mode of proceeding, and it is a power which may be assumed by any body, unless there be some statute or constitution to prevent it, in deciding upon the qualifications of its own members. The Senate has a general power to decide upon the qualifications of its own members. Now, when we come to act in a particular capacity and under oath, have we not the power to decide upon the qualifications of the members of the Senate who are to act in this new capacity, and if there be any incapacity to declare it?

One point more, and I will leave the debate. The Senator from Massachusetts informs us that in 1798, when the House of Representatives presented articles of impeachment against Senator Blount, they made a demand of the Senate that he should be sequestered from his seat. Like the Senator from Ohio, he was a member of this body, as it was then constituted, sitting here under oath, speaking the voice of a State, having, one would suppose, as much authority and power as any of his colleagues. What did the House of Representatives do? They asked the Senate, for the purposes of the trial and during the whole trial, to sequester him from his seat; that is, to remove him from it; to say he should not sit and take part in the proceedings. That was the demand of the House of Representatives at a time when that House was composed of giants in intellect who had participated in the formation of the very Constitution under which this proceeding takes place. They made that demand of the Senate. Was it repelled? Was it supposed to be an unreasonable or an impertinent demand? Was it supposed that the House of Representatives asked the Senate to do an unreasonable or unlawful thing? That was done in the very beginning of the proceedings, before the members of the Senate were sworn at all—earlier than the Senator from Indiana now interposes in the present case upon this question of swearing the Senator from Ohio. The Senate did not resent that demand of the House of Representatives. They made no objection to it. Subsequently, however, for good reasons, which I need not now recite, they did what was more effectual: they expelled Blount from membership by virtue of the constitutional power which they possessed. By a two-thirds vote they not only sequestered him from the Senate during the trial, but deprived him of his seat during his whole term. That was the action of the Senate.

Now, Mr. President, if the House of Representatives has a right to ask the Senate to remove or to sequester a member from this body because he is interested in the trial which is to take place, it must be upon an affirmance of the very point in this debate, that is, that the Senate, in constituting itself into a court, has a right in a proper case to omit a member from being sworn, from becoming a part of the body as reorganized for the special purpose. I insist, therefore, that this case, to which the Senator from Massachusetts has referred as authority, will instruct us that it is our duty now to act upon this case, and, by omitting to swear the Senator from Ohio, to leave him to his general rights as a Senator; but, for a particular constitutional reason not to permit him to act with us in this particular trial, when the result of the trial, if conviction takes place, will be to place him in the office of President of the United States.

I repeat, sir, from my point of view, this is not in the nature of a challenge by a party. Nor is it an objection made as a matter of favor to either party in this proceeding. It is made as a constitutional objection, as a question of membership, as a question upon the organization of the Senate into a court of impeachment.

As to the capacity in which the Senate act, it seems to me there is no difficulty. The old writers and the old commentators used clear language—"the Senate of the United States sitting as a court of impeachment." That was the description of bodies like the one we are about organizing, in olden times, and the uniform language applied to them down to this day. It is still the Senate of the United States, but it sits as a court; for the time being it must act upon judicial rules, and must administer the laws of the United States which are applicable to the particular case. Its legislative powers and functions are left behind it. It has taken on a new character and is performing a new function, judicial in its nature and judicial only. That is the whole of it.

Mr. MORTON. I respectfully submit that the latter part of the argument of the Senator from Pennsylvania does not accord well with the first part. The distinguished Senator from Pennsylvania started out by saying that we were now organizing a court. He then used the words, "We are about to constitute a court." He talked a great deal about the creation or constitution of a court. He proceeded upon the theory, as did my colleague in his first argument, that we were about to constitute a court which was to be selected from the members of the Senate. Mr. President, the error of this whole argument is right here. The Constitution has constituted the tribunal itself. We have no right to organize a court. We have no right to constitute a court. The tribunal is constituted by the Constitution itself, and is simply the Senate of the United States.

The remark was made, I believe, by the Senator from Ohio, and perhaps by the Senator from Massachusetts, that it was immaterial whether you call it a court or a Senate. It is not very material what you call it; but it is material that you shall proceed simply on the idea that it is a Senate and nothing else. That is material; for if you abandon that plain and simple idea and adopt the theory that this tribunal is yet to be constituted you will wander from the Constitution itself. The Constitution settles the whole question in a few words. It says, "the Senate shall have the sole power to try all impeachments;" and when it has said that it has itself constituted the tribunal. The Senate is the tribunal. Who compose that tribunal? The Senator from Ohio [Mr. WADE] is one of the men who now compose that tribunal, and we cannot get away from that conclusion.

It may be said that while the Senate is trying an impeachment it is exercising judicial powers. That makes no difference. Why, sir, when we come in here to counsel as to the confirmation of an appointment of the President we are not acting as a legislative body; our functions are decidedly executive in their character; but still we act not as an executive body, or as part of the Presidency of the United States, but we act simply as the Senate. Our duties are then executive in their character; but we are performing them simply as the Senate. So when we exercise what may be called judicial power in this case, we do not do it as a court; we are doing it simply in the character of the Senate of the United States, performing certain powers or duties that are imposed upon us by the Constitution.

All this talk about organizing a court, all this talk, in the language of my friend from Pennsylvania, of constituting a tribunal, it seems to me, is idle. The Constitution has done that for us. It only requires that when this tribunal shall act in this capacity it shall be sworn. We have no right to refuse to be sworn. If I were to refuse I should violate my duty. If the Senator from Ohio should refuse he would violate his duty. It seems to me this is the whole of it. The simple idea is, that it is a Senate and the tribunal is already formed—is not to be formed, but is formed now; and the Constitution says it shall be under oath. The Senator from Ohio had no choice but to take the oath. As to what he shall do hereafter on the challenge of the accused is a question that I will not discuss now. It is enough to say that all this talk about a high court of impeachment, about a tribunal yet to be constituted, yet to be organized, is outside of the Constitution. We are sitting simply as a Senate, as much so as when we pass a bill or as when we ratify a treaty. The Constitution says so, and there is nobody that is authorized to say no.

Mr. DIXON. Mr. President, the President of the United States is about to be tried before this body, either as a Senate or as a court, upon articles brought against him by the House of Representatives charging him with high crimes and misdemeanors. In case of his——

Mr. GRIMES, (to Mr. DIXON.) Will you give way for a motion to adjourn?

Mr. DIXON. If the Senate wish to adjourn, I will not take up the time of the Senate now.

Mr. GRIMES. I understand that the Chief

Justice of the United States has been sitting in the Supreme Court and in this Chamber since eleven o'clock this morning without an opportunity to leave his chair. I think it is due to him and to the Senate that we should now adjourn, and settle this question to-morrow morning. I therefore make that motion,

Mr. HOWARD. What is the motion?

Mr. GRIMES. To adjourn until to-morrow.

Mr. HOWARD. To adjourn what until to-morrow?

Mr. GRIMES. This court.

Mr. HOWARD. We have a rule by which the Senate, sitting for the trial of an impeachment, may adjourn itself, and still the ordinary business of the Senate continue, so that we may relieve the Chief Justice without adjourning the Senate.

Mr. GRIMES. My motion is that the court adjourn until to-morrow at one o'clock.

Mr. ANTHONY. I think the proper motion would be that the Senate proceed to the consideration of legislative business.

The CHIEF JUSTICE. The court must first adjourn. Senators, you who are in favor of adjourning the court until to-morrow at one o'clock will say "ay," and those of the contrary opinion will say "no."

The question being put, the motion was agreed to.

The CHIEF JUSTICE thereupon declared the Court adjourned until one o'clock to-morrow, and vacated the chair.

LEGISLATIVE SESSION.

The PRESIDENT *pro tempore* resumed the chair and called the Senate to order.

Mr. CHANDLER. I move that the Senate do now adjourn.

Mr. ANTHONY. I believe that motion is not in order. I think, when the Senate proceeds to the consideration of legislative business, the proper course is——

Mr. SUMNER. The motion is in order.

Mr. ANTHONY. I think the Senator from Michigan cannot get the floor to move an adjournment. I had the floor when we proceeded to the business of impeachment; and when we resume our legislative session I am entitled to the floor.

The PRESIDENT *pro tempore*. The motion to adjourn is in order if the Senator making the motion had the floor.

Mr. ANTHONY. I submit to the ruling of the Chair.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 5, 1868.

The House met at twelve o'clock m. Prayer by Rev. M. P. KENNEY, of Rockford, Illinois.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The House will resume, as the first business in order, the consideration of the joint resolution (H. R. No. 214) relative to R. R. Butler, a Representative-elect from the State of Tennessee; on which the gentleman from New York [Mr. CHANLER] is entitled to the floor.

IMPEACHMENT OF THE PRESIDENT.

Mr. LYNCH, by unanimous consent, presented a resolution of the Legislature of the State of Maine, in regard to the impeachment of the President of the United States; which was laid on the table, and ordered to be printed.

HEIRS OF GENERAL D L. CLINCH.

Mr. HOLMAN. I desire to move the appointment of a committee of conference on the disagreeing votes of the two Houses upon the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased. If there be no objection I should be very glad if the House would recede from its amendment.

Mr. HARDING. I object.

Mr. HOLMAN. I desire to move, then, that the House insist on its amendment, and ask the appointment of a committee of conference.

Mr. HARDING. I desire the reference of the bill to the Committee of Claims.

Mr. HOLMAN. I trust the bill will not be again referred. Let it go to a committee of conference.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] asks unanimous consent that Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, be taken from the Speaker's table, that he may move the appointment of a committee of conference. Is there objection?

Mr. HARDING. I object.

TREATMENT OF EMIGRANTS.

Mr. EGGLESTON, by unanimous consent, presented resolutions of a meeting of German citizens held in Cincinnati, Ohio, with reference to the treatment of emigrant passengers on shipboard; which were referred to the Committee on Commerce.

CHIEF JUSTICE OF THE UNITED STATES.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 861) relating to the Supreme Court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. ELIOT. I ask that the bill be read.

The bill, which was read, provides that in case of the removal of the Chief Justice of the Supreme Court of the United States from office, or his death, resignation, or inability to discharge the powers and duties of the office, the same shall devolve upon the associate justice of the court whose commission is senior in time, and such associate justice shall be Chief Justice until such inability shall be removed or another appointment shall be duly made and a Chief Justice duly qualified.

Mr. ELIOT. I ask that the committee may have leave to report at any time after the morning hour.

There was no objection, and it was ordered accordingly.

LIGHT-HOUSE AT KEYPORT, NEW JERSEY.

Mr. HAIGHT, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and, with the accompanying papers, referred to the Committee on Commerce:

Whereas it is reported that from forty to fifty vessels a day, employed in commerce on the Raritan bay, go in and out of the cove upon which Keyport is located and that much of the business, and that which is most valuable, is done at night, and that the growing commerce of Keyport and that which is employed upon Matawan creek demands the erection of a light-house at Cliffwood, in Monmouth county, New Jersey: Therefore,

Resolved, That the Committee on Commerce be directed to inquire into the necessity of erecting a light-house at said point to meet the demands of the increasing commerce on Raritan bay, and to that end request the Light-House Board to furnish to the committee any facts or information in their possession upon the necessity of said light-house; and further, if additional information be required by the committee, they be authorized to instruct the Light-House Board to have an examination made and report the facts to said committee, and that the Committee on Commerce report to the House by bill or otherwise.

ENROLLED BILL.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 237, in relation to the promulgation of the laws of the United States; when the Speaker signed the same.

ARTICLES OF IMPEACHMENT.

Mr. POLAND, by unanimous consent, submitted the following resolution; which was read, and under the law referred to the Committee on Printing:

Resolved, That there be printed for the use of the House three thousand additional copies of the articles of impeachment adopted by the House.

JAMES P. BECK.

Mr. HUNTER, by unanimous consent, introduced a bill (H. R. No. 862) for the relief of James P. Beck, administrator of the estate of James P. Beck, senior, deceased; which was read a first and second time, and referred to the Committee of Claims.

SALE OF REVENUE STEAMERS ON THE LAKES.

Mr. SCOFIELD. I ask unanimous consent to present in open House a petition from my constituents in reference to a matter now pending before the House in one of the appropriation bills. It is short, and I ask it be read and then referred to the Committee on Commerce.

There was no objection, and the Clerk read as follows:

The undersigned, citizens of Erie, Pennsylvania, respectfully protest against the sale of the revenue steamers recently put in commission on the lakes on the northern and northwestern frontiers:

1. Because we believe them to be of great service to the Government in preventing and detecting smuggling;

2. Because in the event of a foreign war they will be of great use in preserving the commerce of the lakes;

3. Because they are of great use to the vessels engaged in the carrying trade in times of distress; and

4. Because, if sold, it will be at a very great sacrifice.

In addition to the above it is stated as a fact that imperial gunboats will be ready in the spring for service on the lakes.

The petition was referred to the Committee on Commerce.

POSTAL LAWS.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 863) to amend and construe certain postal laws; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

NATIONAL ART UNION ASSOCIATION.

Mr. BANKS, by unanimous consent, introduced a bill (H. R. No. 864) for the incorporation of the National Art Union Association; which was read a first and second time, and referred to the Committee for the District of Columbia.

OVERLAND MAIL CONTRACT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting, in compliance with a resolution of the House, copies of the contract with Benjamin Holliday to carry the mails from the end of the Union Pacific railroad to Denver City; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

SOUTH CAROLINA CONVENTION.

The SPEAKER also laid before the House resolutions of the constitutional convention of South Carolina, tendering thanks to Congress, Secretary Stanton, and General Grant for their patriotic course; which were ordered to be printed, and laid on the table.

FUNERAL OF AN EX-MEMBER.

The SPEAKER. The Chair has been requested by several members to state that the funeral of the late Hon. Portus Baxter, of Vermont, for several years a highly valuable member of this House, will take place at his late residence, corner of Eighteenth street and G, on Sunday, at three o'clock, to which members of the House and others are invited without further invitation.

SPECIAL AGENTS OF THE POST OFFICE.

Mr. NEWCOMB. I ask unanimous consent to offer the following resolution:

Resolved, That the Postmaster General be, and is hereby, directed to communicate to this House the names of all special agents of the Post Office Department appointed since January 1, 1867; the salaries paid to each agent, and the place where employed, and also the names of all persons to whom complimentary commissions as special agents of said Department have been issued, and the reasons therefor.

Mr. HOLMAN. I believe that information has been furnished. I therefore object.

WASHINGTON GAS-LIGHT COMPANY.

Mr. RAUM, by unanimous consent, offered

the following preamble and resolution; which were read, considered, and agreed to:

Whereas serious complaints are made of extortionate charges by the Washington Gas-Light Company:

Resolved, That the Committee for the District of Columbia be directed to investigate any such charges and report what legislation is necessary; also to ascertain the profits realized by said corporation, with a view to reduction of prices or the organization of a new company.

GENERAL BANKING LAW.

Mr. MORRELL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be, and it is hereby, directed to inquire into the expediency of amending the general banking law of the United States, so that State banks in the process of liquidation may, after due notice and on faithful payment of all just demands as presented, be relieved from the necessity of making monthly statements and the payment of tax upon outstanding circulation; and report by bill or otherwise.

PUBLIC LANDS.

Mr. ASHLEY, of Nevada, from the Committee on Public Lands, by unanimous consent, reported back Senate bill No. 188, to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867; and the same was ordered to be printed and recommitted.

Mr. HOLMAN moved to reconsider the votes by which the various bills were this morning referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed, without amendment, House bill No. 274, providing for holding a circuit court at the city of Erie, Pennsylvania.

Also, a bill (S. No. 54) to enlarge the public grounds surrounding the Capitol, and for other purposes; in which the concurrence of the House was requested.

The message further announced that the Senate had passed the following resolution:

Resolved, That at one o'clock to-morrow afternoon the Senate will proceed to consider the impeachment of Andrew Johnson, President of the United States, at which time the oath or affirmation required by the rules of the Senate sitting for the trial of an impeachment, shall be administered by the Chief Justice of the United States, as the presiding officer of the Senate sitting as aforesaid, to each member of the Senate, and that the Senate, sitting as aforesaid, will at the time aforesaid receive the managers appointed by the House of Representatives.

Ordered, That the Secretary lay this resolution before the House of Representatives.

Ordered, That a copy of the "rules of procedure and practice in the Senate when sitting on the trial of impeachments" be communicated by the Secretary to the House of Representatives, and a copy thereof delivered by him to each member of the House.

TENNESSEE ELECTION—R. R. BUTLER.

The House resumed the consideration of the unfinished business of yesterday, being the resolution reported from the Committee of Elections, entitled joint resolution (H. R. No. 214) relative to R. R. Butler, a Representative-elect from the State of Tennessee, on which Mr. CHANLER was entitled to the floor.

Mr. CHANLER. Mr. Speaker, this question in regard to the admission of Mr. Butler, of Tennessee, has two points in it worthy of some consideration. There is nothing more clear to my mind than that this gentleman, under the Constitution, is entitled to a seat on this floor. The principle under which he comes here is the basis of our Government, and a denial of it in his case by this House will militate against the existence of this House and the system of government under which we live. The people of every country, according to the principle which we recognize as the basis of all just government, have an absolute right to representation inherent in them. On that principle the people of Tennessee, in the district from which the gentleman comes, are either in the Union or out of it. If in the Union, they are entitled to representation on this floor. Each district, therefore, under the law establishing the census, is entitled to representation in due proportion under the Constitution. The Constitution fixes the right of representation, and fixes the power of exclusion from this floor. The principle upon which that Constitution was framed and those laws established was the right of representation—a sacred, solemn, fundamental right—and on it the Constitution rests, as it is higher than the Constitution. No test-oath can override the Constitution. No political or legislative body can exclude the people from the right of representation by a test-oath. Any portion of the American people, governed by this or any other body under a test-oath excluding representation, are practically governed by martial law or no law but despotism; it matters not whether one man or many exercise that despotism. To preserve the American people from exactly that consequence—the despotic power of the British Parliament and the practices of that Parliament without any written constitution—the written Constitution which we now live under was established by its framers that the law might have its limitations, that the exercise of power by a bare majority in the legislative halls might be checked by law, and that the principle of representation might be preserved in its purity and in its general and equal application.

Now, sir, that comprises my views of this case, and is the whole argument. If this gentleman from Tennessee comes here with a clean record according to the Constitution, bearing the proper papers from the secretary of the State, and elected under the Constitution and as it provides, the duty of this House is to admit him, and the duty of the Committee of Elections was to report upon the case as provided in the Constitution. To go beyond that is to encroach upon the most sacred privileges of the citizen, and to involve this House in the same complex jurisdiction which has characterized the different Parliaments of Europe when they have sought by test-oaths to exclude men of various religious opinions from participating in the Government. The right of representation and the right of religious worship are the twin children of liberty on this continent. You cannot separate them without danger. You cannot destroy the one without imperiling the other. If, therefore, you have a right by a test-oath to exclude a Representative from a special constituency because of the political opinions of that constituency, so have you the same power if that constituency, in a religious point of view, is not in the same way of thinking as the majority on this floor. It is a dangerous precedent, fatal to representative liberty, inconsistent with the spirit of our Government, and the fundamental principles of the Constitution. I therefore strike out from this case everything which rests upon the test-oath. I ask only if this Representative comes here clothed with the power of the people under the provisions of the Constitution. We sit here to-day under that principle, and our seats are sacred only because protected under that principle, otherwise it is the purest despotism that ever exercised the power of making laws. We are simply a body perpetuating its own existence without authority of law and without any right except the right of power which possession in a stronghold of a great Government gives us, which is dangerous to the people whom we represent, and inconsistent with the principle of representation that sends us here.

Now, sir, if what I assert is logical and correct, the gentleman from Tennessee has been and should be recognized as a representative man. I refer to that portion of the argument of the chairman of the Committee of Elections [Mr. DAWES] which goes to show that during the rebellion, situated in the heart of Tennessee, with the waves of civil war surging around it in every direction, this isolated district rose as one man and insisted on the principle of representation—the sacred principle of the people—and that he should go where they were to be taxed and represent them there. Taxation was the basis of it. The people consider our representation of their rights as based upon the power of the Government to tax and the reciprocal right of the people to be represented at the seat of Government. The people, therefore, of that district, when the rebellion existed, educated, as our people are throughout this Union, to but one principle—that sovereignty rests with them, and that where the power of taxation falls there the sovereign has a right to claim protection from the power—the people of this district insisted on this loyal man—loyal or disloyal, but in their opinion, and according to the history of this case, this loyal man—going to the seat of the local government; I call it local to avoid a mixture of terms.

The existing power, the power *de facto*, the power which taxed that people, and the only power which could reach them by taxation, was the power of the confederate government, and the people had the right of representation under that government. They sent their representative, and he fulfilled his duties as a representative. The war ceased, and now this same sovereign fundamental principle demands that this people should be represented at the seat of the Government *de facto* which rests upon them by the power of taxation. They feel that Government through its power of taxation. This man comes here now and demands to represent the sovereign people. He has a right to come here; the people he represents have a right to insist that he shall take his seat here. You cannot deny that right to them and stay here yourselves, according to the principles of our Government. Gentlemen will say that the test-oath is to be the test of the right to a seat here. That is the argument here. I have dismissed the test-oath entirely from the position I have assumed. But for the sake of the argument I will admit the position taken in regard to the test-oath, namely: that under the Constitution the people have a right to representation, but under the test-oath they have no right to representation. The one is a broad, general, established law; the other is a limited, narrow, peculiar, partisan edict. As a partisan, endeavoring to cater to partisan prejudice and prevailing passion, I can understand the position taken upon the test-oath. I can understand the necessity of an argument which shall say to those who come from a certain region of country, "Unless you can swear as we swear, pray as we pray, vote as we vote, you are not worthy to be admitted to seats in this House." I can understand that kind of logic; but it does not rest upon the principles of our Government. On the contrary, it militates directly against the principles of our Government. It is exactly in accordance with the principle established by Henry VIII, when, by his proposition of constructive treason, those of the highest authority in the land were not only liable to imprisonment, but forfeited their lives, if they did not coincide with him in his peculiar views in regard to the sovereign power of himself or his house.

It was exactly the right which the central power claimed in 1776 to tax without representation which led the people of Boston to make tea without boiling the water, rather than to partake of an established luxury to destroy at the dock the cargoes of their own merchants. The test-oath, therefore, militates against the principles of representation. Whether the gentleman from Tennessee, Mr. Butler, can swallow one half or two thirds of it, or the whole of the test-oath, without gulping, or without crying, or without perjury, is a matter, so far as I am concerned, of no importance whatever. That test-oath has no virtue in it, and had no force in it, except as a war measure. But to assume now that in a time of peace that oath is a necessity is to establish the fact that martial law shall now exist in the district where you apply that oath. It is impossible that the people of a district should have the right to come here under the Constitution and claim the right of representation if they are to be told that another institu-

tion than the Constitution meets them at the door of this House which renders their constitutional privileges null and void.

During the war, in case any person came here as the representative of a constituency in arms against the Government and claimed the right to a seat here, I can understand that, in order to exclude that particular person, some such test should be applied; but to keep this law upon your statute-book and then to slice it up to suit the case and peculiar stomach of a representative who applies here for a seat, so that he may be able to take it in doses if he cannot take it all, is certainly an act of political and legislative stultification inconsistent with the dignity of this House. You should insist upon every man taking that oath, as it is written upon your statute-book, upon some great fundamental principle, or else wipe it out. You passed that law under a pressing necessity; you can avail yourselves of it to-day only by the plea of the continued existence of that necessity.

Now these are the two points, and the only two points, which I feel called upon to discuss to-day in reference to this matter. And I think I would not have undertaken to debate this question at all but for the fact that this case came up early in the session, before it had been considered by the Committee of Elections. And I feel that although I am not entitled to represent the Democratic party on this matter, yet as a member of that party I shall be excused for stating to the House the exact views which I hold, and which I believe are held by those I represent, upon the question of the right of representation on this floor. I believe that the tendency manifest at this time to enter into a minute examination of the particular motives of men before they are admitted here is calculated to nurture a spirit beneath the dignity and manhood of a free people; for if you attempt by any technical system to disclose a man's virtue you can by the same system expose his vices; and thus those secrets which for the sake of common decency and common safety are hidden, in deference for the sacredness of individual opinion in religious, political, and social matters, all become the common food of the human vultures who prey upon the exposure of the degradation of human nature. To inaugurate such a system is to imitate the policy of the tyrant of Syracuse, whose whispering gallery, built for detection, betrayed the confidences of friend and foe alike. It is to imitate the course of the petty tyrants who subverted the Italian republics until individual respectability and manhood were made to cringe beneath a system of most contemptible espionage. Put party organization in the place of some petty tyrant, organize your detective system throughout this country in every bureau of internal revenue where the records of every man's business are kept, open up the book account against every man, and then he will be bound by a system of espionage in the chains of party tyranny.

That is the practical effect of the system as applied to the South and to the border States to-day. You have not gone so far as the tyrants to whom I have referred; but when you establish the principle of testing men's motives in a legislative body, not relying purely and simply on the law, you inaugurate the same tyrannical system involving the subversion of every principle of individual liberty. Therefore, sir, I naturally throw out of view any claim which the Representative from Tennessee may have under the test-oath act, as being outside of the Constitution and unworthy the consideration of this House. I rest his claim upon his position as a representative man. The people who sent him here are entitled to representation on this floor; and if he can take the oath constitutionally prescribed for members I am willing to vote to admit him.

Mr. COOK obtained the floor, but yielded to Mr. GARFIELD.

ASYLUM FOR DISABLED SOLDIERS.

Mr. GARFIELD. I ask unanimous consent to introduce for action at the present time a joint resolution appointing managers of the National Asylum for Disabled Soldiers, and for other purposes. There are three vacancies now on the board of managers, one occurring by resignation and two others by the expiration of the term.

Mr. BROOKS. Let the resolution be read for information.

The joint resolution, which was read, provides that Erastus B. Wolcott, of Wisconsin, John H. Martindale, of New York, and Hugh L. Bond, of Maryland, be appointed managers of the National Asylum for Disabled Soldiers, under the provisions and conditions of the third section of an act approved March 23, 1866, from the 21st of April, 1865; and that Hugh L. Bond be appointed to serve out the unexpired term of Horatio G. Stebbins, of California, resigned.

The second section provides that the Secretary of War be authorized to furnish from the captured ordnance such ordnance with their implements as he may deem proper to the several national asylums for the purpose of firing salutes, and also such small-arms and equipments as may be necessary for the purpose of guard duty at the asylum.

The SPEAKER *pro tempore*, (Mr. FARNSWORTH.) Is there objection to the introduction of this resolution?

Mr. HOLMAN. I ask the gentleman from Ohio [Mr. GARFIELD] to explain the resolution, the right to object being reserved.

Mr. GARFIELD. I will explain. As I stated in the beginning, there are now three vacancies in the board of managers of this asylum, one by resignation and two by the expiration of the legal term. The two managers whose terms have expired are named in the resolution for reappointment. The third, Mr. Stebbins, of California, living too far away to be of any service, has resigned, and another person is named in the resolution to be appointed in his stead. That is all there is in the first section.

In the second section it is provided that out of the spare ordnance there shall be sent to each of these asylums a gun for firing salutes on proper occasions and a sufficient number of small-arms to do guard duty.

Mr. UPSON. Is there no provision by which these officers may be appointed without a special act of Congress?

Mr. GARFIELD. It is provided by law these officers shall hold their offices for a certain time. That time has expired, and the time has come for reappointment.

Mr. HOLMAN. I do not object, but I thought it was necessary to refer it to the Committee on Military Affairs.

Mr. GARFIELD. If I thought it was necessary I would agree to its reference, but it is not.

There being no objection, the joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes, was introduced, and read a first and second time.

Mr. GARFIELD. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TENNESSEE CONTESTED ELECTION.

Mr. COOK. I now yield three minutes to the gentleman from Massachusetts, [Mr. BALDWIN.]

Mr. BALDWIN. Mr. Speaker, it appears to me that the resolution before the House is, in one respect, very questionable and dangerous. It seems to forget that amendment of the Constitution known as the fourteenth article, and to set aside the policy established by the use made of that article in the reconstruction laws. My purpose in rising is not to make a speech, but simply to call the attention of the House to this point. No man here more cordially appreciates Mr. Butler's claim to consideration than I; no man desires more sincerely to see him relieved from disabilities and admitted to a seat in this House; but I am not willing to admit him by any method that strikes a blow at that fourteenth article, and, through that, at an important part of the reconstruction policy established by Congress; and I am sure that Mr. Butler himself cannot desire to be admitted by any such method.

The third section of the fourteenth article referred to provides that disabilities incurred by acting with the rebels after having taken an oath to support the Constitution of the United States may be removed by a vote of two thirds of each House of Congress. It would give me great satisfaction to see the disabilities incurred by Mr. Butler removed in this way; but the resolution before the House forgets this provision and proposes to remove the disability and relieve him from a part of the oath by a simple majority vote. I do not propose to argue the question. Having stated the case, I leave it to the consideration of the House.

IMPEACHMENT OF THE PRESIDENT.

Mr. JUDD. Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole for the purpose of accompanying the managers of the impeachment of the President on the part of the House to the bar of the Senate.

Mr. UPSON. Before we do that we should know that we are expected.

Mr. JUDD. If the gentleman from Michigan had listened to the message received from the Senate he would have known that the managers on the part of the House were notified that they would be expected at the bar of the Senate at one o'clock to-day.

The SPEAKER. The managers do not seem to be in the Hall.

Mr. FARNSWORTH. The message from the Senate was to notify the House they would receive the managers to-day. We have a further notification that at the commencement of the trial they would receive the House and provide seats for them. I do not see the necessity of our going there and standing about when no seats have been provided for us.

The SPEAKER. The managers are now at the bar of the House, and they will state what is the desire of the Senate.

Mr. BINGHAM. Mr. Speaker, after consultation with the managers on the part of the House, I am instructed by them to say to the House that, inasmuch as this is a mere formal proceeding to-day, they do not suppose it to be necessary or according to usage to ask the House to attend them to the bar of the Senate until the issue shall be joined.

Mr. JUDD. I withdraw my motion.

TENNESSEE CONTESTED ELECTION—AGAIN.

Mr. COOK. Mr. Speaker, I desire to occupy the attention of the House for a few minutes in relation to the question now before the House—upon the right of Mr. R. R. Butler to a seat in the House as a member from Tennessee—and in the commencement I have to say, although I voted for the report which has been made by the Committee of Elections, yet facts which subsequently have come to my knowledge have induced me to submit the instructions I have already moved. It has come to my knowledge that Mr. Butler, the claimant to this seat, prior to the breaking out of the rebellion, occupied an office of honor and profit under the United States, and took and subscribed an oath to support the Constitution of the United States, thus bringing him clearly within the third section of the fourteenth article of the Constitution. That section is as follows:

"SEC. 3. That no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military,

under the United States, or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States or as a member of any State Legislature, or as an executive or judicial officer of any State to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disabilities."

It may be insisted that Mr. Butler has given no aid and comfort to the rebellion, but it is certain he has held an office and discharged the functions of an office under the confederate State government of Tennessee. Believing the resolution of the committee to be in conflict with that section, I submitted the following yesterday:

To recommit the report with instructions to report a general law providing that no person elected to this House shall be required to take the oath of office required by the act of July 2, 1862, if such person shall have been relieved from disability to hold office in the manner prescribed in the article of the Constitution of the United States proposed by the Thirty-Ninth Congress as the fourteenth article; and secondly, to report a bill to remove the disability of R. R. Butler in the manner provided by said article, with leave to report at any time.

The law which I would have enacted would be something like this:

Be it enacted, &c., That whenever any person who may have participated in the late rebellion, and from whom all legal disabilities arising therefrom shall have been removed by act of Congress by a vote of two thirds of each House, shall have been elected or appointed to any office or place of trust in or under the Government of the United States, he shall, before entering upon the duties thereof, take and subscribe the following oath or affirmation and no other: I, A B, do solemnly swear (or affirm) that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

I propose that when Congress shall have removed the disabilities from any person who is elected to office such person may enter upon the duties of his office by taking this oath. Then, also, I propose that a bill be reported by which the disability of Mr. Butler should be removed.

The reason why I think Mr. Butler ought to be admitted I will state very briefly. In the first place, I will not discuss the question whether this oath of office which has been prescribed by the act of July 2, 1862, is constitutional or not. I am not going to reply to the speech of my colleague on the committee [Mr. CHANLER] in reference to that question; because, if any question has been settled in the judgment of this House, that one has been, by a very great number of votes concurring in enforcing that oath to which we have, each one of us, subscribed. The oath was adopted for the purpose and with the intent of excluding from the halls of legislation disloyal men who really sought to overturn the Government. The safety of the people, of the nation, and of the Government, under circumstances of great peril, required this oath to be taken, and accordingly it was prescribed by law. The object of the law was simply to exclude disloyal men. When, therefore, by a technical construction of the law, loyal men are excluded from the Halls of Congress, it seems to me that some method should be devised by which loyal men should be admitted. The law of the land should not exclude men who have always been true and loyal, and have been properly elected, from holding office.

Now, in relation to the case of Mr. Butler, I have simply to say this: that I have examined with great care, as a member of the Committee of Elections, the entire testimony in his case, and I am as thoroughly convinced as I can be of any fact by testimony that from the beginning to the end this man has been loyal in every position in which he has been placed; that there has been no act of disloyalty done by him and no thought of disloyalty in his heart; but, on the contrary, in every position in which he has been placed he has been an active, earnest adherent to and supporter of the Government of the United States, rendering aid and comfort to its supporters and friends under circumstances of peculiar trial and peril, impoverishing himself for the purpose of aiding Union men who had been brought into difficulty on account of their adherence to and support of the Government. This I firmly believe. I have seen not one particle of testimony that casts a shadow of suspicion in my mind upon the loyalty of Mr. Butler.

It is true he was a member of the Tennessee rebel Legislature; but when he was elected there was no oath required of a member to support the confederate government. When he went to Nashville for the purpose of discharging his duty under that election there was no oath to support the confederate government prescribed by any act of the Legislature of Tennessee. When Mr. Butler was considering the question whether he should go into that Legislature of Tennessee the Union men of Johnson and Carter counties, which composed his district, came to him and insisted that he should go there. They insisted that it was necessary that they should have some man on whom they could rely and whom they could trust in that Legislature, who could advise them of the designs of their enemies against them, and who could help them in the time of trouble in which they were placed. I believe it was essential to the safety and security of the Union men of those counties that they should have knowledge of the plans and devices of the enemies of the Union against them. I suppose that no people of this country were ever worse plundered and harassed than those Union men of Carter and Johnson counties. Mr. Butler, as is proved, after stating very frankly the reasons which, in his mind, should keep a Union man, a man who was loyal to the Government of the United States, away from that Legislature, yielded to their entreaties and suggestions and went to Nashville. After he had arrived at Nashville, and when ten thousand rebel soldiers were in the city of Nashville, the Legislature imposed this oath to support the confederate government upon the members of the Legislature. The only alternative Mr. Butler had was either to take the oath or be imprisoned in a rebel military prison. One of his colleagues who took the oath was afterward imprisoned and died in one of these rebel military prisons. Fifteen or sixteen Union men, who are admitted on all hands to have been loyal Union men, members of that Legislature, meeting together, considered the situation in which they were placed, considered the situation in which the Union men in their respective districts were placed, and the dangers to which they were subjected—danger that their property would be destroyed and their lives sacrificed—agreed that they would take the oath, and they took it.

Now, I may differ from Mr. Butler, in my judgment, as to whether he ought to have taken the oath under these circumstances. I do not know that I have a right to judge his action. It seems to me now that I would not have taken that oath, but standing, as I do, in safety and security, with no great interests depending in the balance, I am not disposed to judge him for taking the oath. The understanding among all these men who were there assembled and who trusted each other as Union men was that they would take the oath for the purpose of affording whatever aid and protection and support to the persecuted Union men of the State they could afford in the position in which they were placed, and that pledge which they gave to each other was thoroughly redeemed so far as Mr. Butler is concerned. The evidence before us shows that he was instrumental in having discharged from rebel military prisons a large number of Union men who were there in prison; that he furnished from his own funds food and clothing to Union men who were there in prison, and that he also furnished them money to return to their homes when, through his exertions, they had been discharged from imprisonment.

Sir, I have no doubt of his loyalty from the beginning to the end. That law was never framed to exclude from these Halls men like him, and yet there is danger that if in one case we allow a man to take his seat without subscribing to this oath it will serve as a precedent which will work harm to us in the future. That consideration, I believe, commends itself to a great many members of this House. But it seems to me that we may carry out and enforce by law the third section of this fourteenth article of the Constitution. We say it is a part of the Constitution of the United States to-day. I believe it is. If it is, it is clear that Congress may, by a vote of two thirds of each House, remove any disability which now rests on Mr. Butler, and then allow him to take the oath mentioned in this resolution which I have drawn. It seems to me that that is the reasonable and the best way of settling this difficulty.

It is said by my colleague on the committee [Mr. SCOFIELD] that after all we shall have to pass a special act in each case, and we might as well pass the joint resolution reported by the committee. There is this difference between the proposition of the committee and the proposition embodied in the instructions which I have moved; and I may as well state here that I have moved them with the assent of the committee and upon full understanding with them. There is this difference: the resolution reported by the committee may be adopted by a majority vote of the two Houses; the proposition which I submit will require a majority of two thirds, and is in accordance with the third section of the fourteenth article of the Constitution. The proposition of the committee would be in direct conflict with that section. If article fourteen be a part of the Constitution of the United States, as I believe it is, then we could not pass this resolution reported by the committee, as I understand it, because it is in conflict with this article of the Constitution. I suggest also this consideration: Mr. Butler had taken an oath before the commencement of the late rebellion to support the Constitution of the United States; he is one of those who, in my judgment, come within the purview of the third section of article fourteen; and the only way and the proper way to relieve him from this disability is in the manner pointed out in the resolution submitted by me.

When this article of amendment to the Constitution was proposed by the Congress of the United States to the Legislatures of the several States it must have been contemplated that there would be cases arising where it would be judicious and proper, by the votes of two thirds of each House, to remove the disabilities resting upon persons disqualified by it, and permit them to hold office.

It will be apparent to every man who hears me that the effect of removing this disability would not be to allow the party to take the oath of July 2, 1862, any more truly that he could take it before. Suppose we pass an act relieving Mr. Butler from any disability; as I understand the law he could not come here before this House and swear that he never had held any office or discharged the functions of any office under any pretended government in hostility to the Government of the United States. Although the disability might be removed a thousand times the inability to take that oath truly would still remain. But if this article of amendment to the Constitution is to be carried out this is the way to do it. It must have been in the contemplation both of Congress and of the Legislatures which ratified the amendment that these disabilities might be removed in proper cases in this way.

I know it is held by some that this test-oath can be taken under a construction of it which holds that a member of the Legislature is not a civil officer within the purview of the act of July 2, 1862. That, I am told, is the view which was held by Mr. Butler and some of his friends. The reason why I cannot assent to that view is that if it were the true view of the act of July 2, 1862, it would open the doors of this Hall to every member of every rebel State Legislature which convened during the whole war; not only that, but also every mem-

ber of every confederate congress which met during any of the years of the rebellion. That certainly never could have been the intention of the makers of that law; the law was made expressly to prevent that result. If Mr. Butler has not held a civil office under a government or pretended government in hostility to the United States, then no one of the members of any of the rebel Legislatures has held such an office; no member of the confederate congress has held such an office. I cannot admit any such construction of this act. I believe it was intended to and ought to exclude from its Halls every man who has been a member of a rebel Legislature or of the rebel congress, unless the disability is removed in the manner pointed out in this fourteenth article of amendment to the Constitution of the United States. This case of Mr. Butler, it seems to me, is a case which commends itself to Congress. And I think we ought to remove the disability in the manner pointed out in that article of amendment to the Constitution. If that article is ever to be executed you certainly cannot find a stronger case to which to apply it than the one now under consideration. I suppose you will never find another case where a man is technically within the purview of the act of 1862, and yet who has been a loyal man from beginning to end of the rebellion, who has suffered for the Union, who has suffered for his loyalty, who has fought for his country, and who has been impoverished in her service. I submit that if there be any case which can commend itself to the favorable consideration of this House as coming within that article of amendment, this is such a case. And if there could ever arise any case where the disabilities imposed by the law should be removed by a two-thirds vote of each House, I think they should be removed in this case.

Mr. ELDRIDGE. The gentleman from Illinois [Mr. COOK] seems to be making a very impressive speech. As there is not a quorum present, and I am sure he does not desire to waste his sweetness upon the desert air, I will move an adjournment, if he will yield.

Mr. COOK. I am very much obliged to the gentleman from Wisconsin, [Mr. ELDRIDGE,] for his kindness and consideration. But I am willing to make my speech to those who are here. Perhaps I may convince my friend from Wisconsin if I can concentrate my remarks on him alone.

Mr. ELDRIDGE. I am convinced now, and would get rid of the whole oath, if I could.

Mr. COOK. I would not. The difference between us is I would admit only loyal men. I have not much more to say. I have endeavored to show that under this third section of the fourteenth amendment to the Constitution we should pass this general law; such a law must be passed if any effect is to be given to the last clause of that article. And then I insist that this case is one in which it is eminently fit and proper that an act should be passed by a vote of two thirds of each House of Congress removing the technical disability from Mr. Butler. I submit to honorable gentlemen who are opposed utterly to letting down this test-oath, that in this way we do not let down the requirements of the test-oath act. We certainly abandon no position which we ought to occupy when we simply execute this fourteenth article of the Constitution, which was our own act.

Mr. Speaker, I now yield to my colleague, [Mr. BAKER.]

Mr. BAKER. Mr. Speaker, having said something in a general way endeavoring to show that Mr. Butler, with the record which he has made, ought in some proper way to be admitted to a seat, I now take the floor for the purpose of expressing my ideas somewhat more fully. But, before doing so, I will yield to my friend from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. Mr. Speaker, I do not propose to enter into the argument which is being submitted here in relation to the very interesting question which we have before us. I rise rather for the purpose of protesting against the resolution reported by the Committee of Elections, and declaring that under no circumstances can I bring my mind to consent to vote for such a resolution. And, while I will not do that, I will add that there does not at present occur to me any better method of maintaining at the same time our consistency and the law, and yet not doing injustice to a meritorious and loyal man, than to follow something like the course proposed by the gentleman from Illinois, [Mr. COOK.] We had an attempt made in the last Congress to "let down," as it is termed, this oath of office to meet the case of some one who, from his position, could not consistently or conscientiously, as it was then supposed, take the oath. That was in the case of Judge PATTERSON, a Senator from Tennessee. The Senate passed an act or resolution for his relief and to meet his particular case—a resolution in substance the same as that which is now proposed by the Committee of Elections of this House. The House, by a most emphatic vote, refused to concur in that resolution.

We did not enter into the question of Judge PATTERSON's merits or demerits, his loyalty or disloyalty, his capacity or incapacity, his willlingness or unwillingness to take the oath. We placed ourselves upon the high ground that here was a general law providing an oath to be taken by all persons who should fill offices of trust under the Government of the United States, and that while it was expedient to keep up such a guard as this it was inexpedient to open the least crevasse in it through which waters of bitterness and trouble might come.

I am disposed to maintain that position still. If we do not maintain it what do we do? What is, in plain English, the proposition made now, as it was made then, in the case of Judge PATTERSON? It is that the test-oath law shall be amended, so that, instead of reading as it now stands upon the statute-book a different version shall virtually be given to it. Every person presenting himself to take a seat as a member of this House is required in the first place to take the ordinary oath, "I do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." By the act of July 2, 1862, there was prescribed a further oath to be taken, not only by each member of the House, but by every person holding office or trust under the Government of the United States. This additional oath was intended to embody in its provisions a greater security against the Government passing by any possibility into the hands of those who had been hostile or inimical to it until Congress should think proper to intervene in some way by general enactment and aid those who might be in such a predicament as to be unable truthfully to take this oath.

Now, look at the language of that law. It requires—

"That every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: 'I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge or ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.'"

What do gentlemen propose when they bring in resolutions like this now before us? They propose to alter the phraseology of that law and make it read thus:

"That every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, and excepting such persons as Congress may consider to have behaved so well that they do not need to take the oath herein prescribed, shall, before entering upon the duties of such office, take and subscribe the following oath or affirmation," &c.

It cannot mean anything else.

Now, then, I am unwilling so to amend our law by giving a precedent which may be argued virtually into that change in its phraseology, but I would stick to the law as it is.

What is the proposition of the gentleman from Illinois, [Mr. COOK?] That, instead of letting down this law, we shall by general enactment provide those shall be relieved, who ever they may be, without reference to Judge Butler or any other one, who shall satisfy the House, so by solemn enactment, in which two thirds of the House shall concur with two thirds of the Senate of the United States, that the disabilities arising from connection with this rebellion shall cease and be removed. There seems to be safety in that; there seems to be a provision upon which we might rely as a general provision which does not open the law itself in particular cases to be abused, and to furnish a sluice-way through which the waters may run and overwhelm us hereafter, and therefore I prefer that arrangement.

Now, sir, these remarks I have made with no reference to the particular case of Judge Butler. I am satisfied, from all that has come to us from the committee, from all I hear or know, he is a man whose loyalty may be taken as pure and unsuspected. But, then, there are others of us here who hope our loyalty has been just as well defined. We take that oath. We meet the general requisition of the law, whatever we may have done, according to our ability, or tried to do, in this time of trial of our country, and it is not too much to expect, come from what quarter, north, south, east or west, every man shall submit to that general rule until that general rule itself, by some equally general provision, shall be remitted, or an opening made so the remedy shall reach the case of particular persons who are solemnly decided to have their disability removed.

Mr. SCOFIELD. I would like to know how the gentleman from Ohio closes up, as he calls it, the crevasse in the oath in the present law by the mere declaration that we will in the future let all persons in who come within said rule? I would like to know, when we have such special cases he proposes to let in under a general law, what difference it makes?

Mr. SCHENCK. It makes this difference——

Mr. SCOFIELD. Let me give you my idea. If I understand the gentleman, he proposes first to put upon the statute-book a law which will be a mere declaration of our future purpose in all such cases, and afterward to take up Judge Butler's case and pass it, and if anybody else comes to take up his case and pass it. Now, it seems to me, the oath will be broken down as much as if we had never made the general declaration advertising what we will do for all time to come, but which nobody is bound by. The other takes up the case without any prior legislation or advertisement to pass it.

Mr. SCHENCK. Mr. Speaker, in the first place the gentleman from Pennsylvania himself concedes my position. I am not so much arguing for what is proposed by the gentleman from Illinois as I am protesting against that which is proposed by the Committee of Elections; but as it occurs to me there is a provision here which may be wrought out into something. If it is not specific enough in itself it will afford relief in deserving cases which I am unwilling to afford by giving special action in every case as it occurs. Now, then, the gentleman asks me whether that is not special action as well as this? In one sense it is; but the security we have in the first place is one who presents himself in conformity to regular statute which has already been passed and become the law of the land by solemn enactment, and not in the spirit of a private bill or claim in this particular case to be considered. In the next

place, he cannot be put in the category of those who would have the benefit of this general statute, except there be thrown around his case the further and additional security that he cannot be put upon the list of the exempt until there has been not only a solemn enactment of law within which he may come, but a solemn enactment in his particular case requiring the concurrence of two thirds of both branches of the Legislature. That, I think, affords much greater security.

Mr. BAKER made a few remarks, for which see Appendix.

Mr. KELLEY. Mr. Speaker, I have never come to a fresh consideration of this case from the day when it was first presented without remembering the first remark made to me after I took my seat on the bench. I went there a very young man to sit beside a learned and able judge, who had been there from the time I was six years old, and after congratulating me his first remark was: "Now, bear one general fact in mind; it will be as useful to you as all your law studies in cases where sympathy or sentiment is appealed to; it is that good cases make bad precedents." There never was, sir, a better case presented to the feelings and to the noblest sentiments of a deliberative body than that of the gentleman upon whose claims to a seat we are now passing. Yet, should we admit him under the resolution submitted by the chairman of the Committee of Elections, we will make a precedent that may prove to be embarrassing and dangerous. I accept more largely the doctrines stated by the gentleman from New York [Mr. CHANLER] to-day when discussing the inducements Mr. Butler had to enter the rebel Legislature of Tennessee than any I have ever heard him utter. I have studied the story of the claimants action there, and, whatever we may have been doing for Union men, he stands our peer in encountering dangers in their behalf and in devotion to their interests. When time came that he could throw off disguise he asked and obtained from General Burnside authority to raise a regiment of soldiers for our service, and his record thenceforth is not only untarnished but brilliant. If he be not a fire-tried patriot, then there is not one in this House. And yet, sir, he committed that act which renders it impossible to admit him under the oath we have provided as an essential prerequisite to the admission of members.

Now, sir, it is evident that we must soon provide for cases like this by a general policy, and we may as well establish it in his case as at a later day. The fourteenth amendment to the Constitution provides for the removal of disabilities incurred during the rebellion by the votes of two thirds of the members of both Houses. Let us make his the first case under that provision. Let us remove his disability, and do it at once. That having been done, or being to be done in a large class of cases, a new oath must be adopted—one that shall be prospective and not retrospective, and shall meet the case of those whose disabilities shall have been removed. Let that oath be now framed, and let Mr. Butler's disabilities be removed, and be the first to whom it shall be administered. His case will not then be exceptional or be set up as an embarrassing precedent, for we will admit him under a system of constitutional and legal provisions made and provided for just such cases. And, sir, such action will not fail to have a good effect upon the South. For Congress to send a tried patriot like Mr. Butler back rejected would be to discourage and dishearten every man who may, under any circumstances, have really or apparently swerved from his devotion to the country; while the fact that Congress has provided means by which those who repent of past transgressions and do works meet for repentance may be again accepted into citizenship, with a way opened to them to the honors of the country, will not fail to strengthen and encourage many who, thus inspired, will be useful citizens, but who, without such inspiration, will drag life through wearily, without pleasure to themselves or advantage to their country. I therefore, without committing myself to its precise phraseology, favor the proposition of the gentleman from Illinois, [Mr. COOK.] We will thus make this case memorable by making it one in which we shaped a wise system of laws for carrying into effect the fourteenth amendment to the Constitution.

Mr. HARDING. I do not design to weary the patience of the House; I think it must be nearly exhausted with this subject. It has been considered for a day or two in the most favorable light in which it can be presented, and has been very ably presented by the able gentlemen who constitute the Committee of Elections; but I could not repress the desire to place myself upon the record before my constituents and the country as protesting against intermeddling with this bulwark which we constructed against the enemies of our freedom. It is no time now, in my estimation, to fritter away these guarantees and securities. We are informed that all the decisions of the past four, five, or six bloody years are to be reversed. That is the declaration of our opponents, who are still in the field upon the old issues; and we are to fight them over again. It may not be upon the same bloody forum, but it will be in a forum of quite as much peril so far as the results are concerned.

In my opinion, we were never more in danger of an influx of that enemy over whom we so recently triumphed with such sacrifice of blood. Look at the vast fields where this struggle is going on, an intestine struggle, a struggle of individual against individual. It cannot be dignified with the name of civil war; yet it is a war of atrocity and assassination. Union men are still perishing by the same enemies who were so recently overthrown in public array; and they have their political allies in sufficient numbers to make it most perilous to throw away the protections which we have put up against the accessions of such numbers from the late rebel fields as shall give them the numerical and political power and authority.

Sir, the people of the country look with great confidence to the barrier which was erected by framing an amendment to the Constitution, and which it is here proposed shall be sapped and undermined, as I understand the proposition now under consideration. We are getting accustomed here to these sweet sounds of humanity and philanthropy; we are told that we must look upon these people as erring brethren, so to speak; of believing that they were under a kind of moral coercion; and we are told that—in unison and harmony with the sentiments of distinguished gentlemen not very far from us in some large city—if they had been educated where this gentleman was educated against whom this security is interposed they, too, in all probability, would have been rebels. I grant it, I have no doubt of it; and I think that we will hereafter have a large crop of rebels, if after overthrowing rebels on the battle-field we exercise no discipline and punishment against the crime of treason. Let him who has aided the rebellion be patronized, let him be rewarded; make it safe and secure to be a rebel; let him come into the halls of legislation; let him be affiliated with, and we will realize the truth of the quotation so eloquently applied the other day by the able chairman of the Committee of Elections, [Mr. DAWES:]

> "Vice is a monster of so frightful mien
> As to be hated needs but to beseen;
> But seen too oft, familiar with her face,
> We first endure, then pity, then embrace."

Now, sir, I do not intend to make any application of this language to the gentleman who is the subject of the action now proposed here. He may be loyal; but if he be, and always has been, he has very strange characteristics, I spent some time in 1862 and 1863, those bloody years of our history, in Tennessee, and I know from my own observation that scarcely a county in that State presented less than a hundred Union graves, non-combatants who fell by the knife or the bullet of the assassin, or who had been killed by the orders of the confederate commanders because they were suspected of being friends of the Union, and not because they had been tried and convicted. The orders of the rebel authorities of that day were: "If a man is suspected of Unionism he must die; if he is a true man to the confederacy then he will unite with us, and if he is not with us, then he must die." I call to mind twelve men who, within twenty days, were killed for that reason within ten miles of the position I occupied. They were old, gray-haired men who were killed, for no other offense than because they were suspected of being Union men. There was Mr. Gibbs, the head of a large family, who was shot down in their presence. Another, with his family physician, was murdered in the presence of his wife and daughters. I can hear even now the cry of anguish of the broken-hearted widow as she fell upon the body of her murdered husband; and I hear the fiendish response, the murderers' "hurrah!" borne back upon the midnight air. I can call to mind the cases of twelve or fifteen men who within a few days were thus murdered within ten or fifteen miles of Donaldson, where I was. And will you tell me that Judge Butler exercised the powerful influence in favor of Union men in Tennessee which is represented here to have been the case without even being suspected of being himself a Union man? No, sir; never.

Sir, he had taken the oath of fealty to the confederacy. He took it voluntarily. What aid could he give to suffering Union men by forswearing himself and taking the oath of fidelity to the confederacy? He but discouraged and cast down the heart of every brave Union man in Tennessee. Ah! sir, his disguise was well assumed, fitting like a coat of mail, and nobody penetrated it until 1863, when the Union armies had done their work and Tennessee was relieved from rebel dominion. Then he comes out of his shell a Union man!

If I do Mr. Butler injustice I beg his pardon. God only knows his motives. It is not in my heart to do injustice to any man. But I would say to every man occupying such a position, "Go home, sir, even though you may be the victim of injustice; go home for the good of your country. Do not permit our enemies, under the lead of yourself and the friends who from the best of motives advocate your cause, to sap the foundations of the bulwarks which have been interposed for the protection of the Government." Such a man will do his country most good by returning to his home and refusing to have his case made a precedent which would be pleaded in unworthy cases all over the land. Shall we let it be said that a man who had taken an oath to support the Constitution of the United States and violated it, then taken an oath of fealty to the confederacy and violated that, was elected to this House with the knowledge of those facts, and coming here succeeded in getting this Congress to waive in his favor an important general statute enacted for the safety of the Government. Why, sir, I could not explain such a thing to my constituents. I could not remember all this long story by which a case is made out in favor of such a man. If I should be asked whether I knew any of the men who have made their affidavits in this case, I should be compelled to say that I did not. Under such a method of proceeding there is not a rebel in the South who could be kept out, because there is not one of them but what could get up thousands of affidavits to prove his loyalty if he could get into Congress by it. I would treat Mr. Butler as I would if he were outside of a citadel which I was defending, and should come heading the enemy in their gray uniforms, himself wearing the blue. If he were to apply to me for admission to the citadel I would say, "Notwithstanding the fact that you are wearing the blue I cannot let you in lest the enemy should come in with you."

Now, sir, I protest against the establishment of any such precedent. I protest, above all, against the sentiment which would say, "These

men were under the influence of moral coercion, and therefore excusable." Sir, a man disposed to yield to such influences must be taught to overbalance such "moral coercion" by the apprehension of just punishment. That is the way I propose to keep such men in order. Sir, if had my way, I would not allow any man who had raised his wicked arm in rebellion against this Government ever to enjoy those full and unrestricted privileges which belong rightly only to the pure unswerving patriot. Never, sir. Let rebels "take back seats." Let the brand of infamy remain upon them as a warning to those who in after time may be disposed to commit this greatest of crimes.

Mr. BROOMALL. Mr. Speaker, I endeavored to get the floor yesterday for the purpose of opposing this resolution. My regard for the barriers which the test-oath presents to the admission of rebels on this floor is such that at the first view I could not bring myself to consent to a single act in the way of "letting down the bars." I failed, however, to get the floor. Since that time I have carefully read the testimony, having before that only a general idea of the facts; and I have been forced to the conviction that my duty requires me to change front and to advocate the passage of this resolution or some similar one having the same object.

Now, the object of the test-oath was to exclude from the offices of the United States and from the Halls of legislation all who had taken part in the recent rebellion, knowingly and willingly and with their hearts in it. It is found that the scope of the act of the 2d of March, 1862, is too large, if the testimony in the case of Mr. Butler is to be believed. The words of that act embrace his case according to the testimony, but the spirit of the act does not.

Now, while I am in favor of general legislation in all cases, I recognize the fact that in all general legislation difficulties of this kind will occur, and special cases which were never intended to be embraced in a general enactment have to be provided for, and when special cases arise I trust I shall always be ready to provide for them. I do not look upon this joint resolution as really abandoning anything in the test-oath law we have not already contemplated to be changed by constitutional amendment, which, the opinion of the Secretary of State to the contrary notwithstanding, is undoubtedly now a part of the Constitution of the United States. We have, I say, already provided for a state of things which will require a modification of this test-oath. By that amendment, the fourteenth article, we have provided that certain parties who have been actually concerned in the rebellion, and who have been intentionally in it, shall be relieved from political disabilities by the act of two thirds of both Houses of Congress; but that relief will not allow them to take seats upon this floor, unless by general or special legislation the test-oath is modified to suit the change of the Constitution.

In Mr. Butler's case, if he be admitted to a seat upon this floor, two enactments will be necessary. The passage of this joint resolution by both Houses will not be sufficient. It will be necessary for both Houses of Congress to pass upon his individual case by action in the nature of an enactment to relieve him from his disability before he can occupy a seat upon this floor. The resolution would allow him to take the oath modified, as it proposes, but the fourteenth article of the Constitution comes in to prevent his entering into office. These two acts will be necessary, first, to modify the oath by general or special enactment, and, secondly—or you may reverse the order if you please—to relieve him from his disability by two thirds of both Houses.

In this I do not see any interference with the act of March 2, 1862, further than is contemplated in the constitutional amendment. The two Houses of Congress may relieve disabilities from thousands of men of the South, but while the oath remains as it is they cannot take their seats in the Halls of legislation, because they cannot conscientiously take the oath.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BROOMALL. I will.

Mr. ELDRIDGE. I have listened to the gentleman with a great deal of satisfaction, but I would like to know whether he is for Mr. Butler or against him?

Mr. BROOMALL. I think the gentleman failed to hear almost my opening remarks. I think he did not listen as much as he thinks he did. I said I had arrived at the conclusion, after reading the whole testimony, my duty required me to advocate the passage of this resolution or some other one answering the same end. If the gentleman had heard that I think he would consider me somewhat committed to giving Mr. Butler a seat upon this floor in some way or other.

Mr. ELDRIDGE. That is what I wanted to know, and I am glad the gentleman is with me.

Mr. BROOMALL. I am glad the gentleman is with me. I have always noticed that he votes right when he votes with me, though that happens rarely. [Laughter.]

Mr. PRICE. I wish to ask the gentleman from Pennsylvania a question, and in order to ask the question I must read from the fourteenth article of the amendment of the Constitution. The third section of that article is as follows:

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

Now, the question I wish to ask my friend from Pennsylvania is this: if this is a part of the Constitution—and I believe with the gentleman there can be no doubt of it—and if Mr. Butler, as is admitted on all hands, stood in this attitude toward the rebellion, how can he be admitted upon this floor as a member of Congress without his disability having been removed by a two-thirds vote?

Mr. BROOMALL. The gentleman from Iowa, [Mr. PRICE,] like the gentleman from Wisconsin, [Mr. ELDRIDGE,] was not listening to me as attentively as I had hoped he was and believed he was from the earnestness with which he seemed to listen, or he would have heard me say that the passage of this resolution alone will not admit Mr. Butler. Neither would the passage of a general law admit anybody to a seat in either House of Congress without something else, and that something else is the action contemplated by the fourteenth amendment to the Constitution, which the gentleman has just read; or rather a part of it, for he did not read the part upon which I rely for the relief of Mr. Butler. What I maintain is, that two acts are necessary. I do not care myself in what form they come or which comes first. We must modify the test-oath by general or special legislation, because the constitutional amendment requires us to do it; and we must then remove the disabilities of the parties when we want to admit them in the manner provided by the constitutional amendment.

Mr. PRICE. I am very glad to find that my friend is in this case exactly right, as he generally is. I supposed that he referred to the original resolution introduced by the Committee of Elections. That was what misled me.

Mr. BROOMALL. I referred to the first resolution because it is the resolution reported by the committee. Two methods are proposed by those who are willing to admit Mr. Butler to a seat on this floor. One is to pass a general law relieving from the necessity of taking the test-oath such persons as shall be relieved of their political disabilities in the manner pointed out by the fourteenth amendment to the Constitution. The other is to pass a special law relieving Mr. Butler from taking that part of the oath which is inconsistent with his case, and then to relieve him from political disability and such other persons as shall bring themselves within the rule which, I suppose, the House and Senate will adopt for that purpose. Now, I repeat, I do not care which of these modes is adopted; it is wholly immaterial; the same end would be answered by either; but I prefer the resolution as reported from the committee because it relates to the individual case which we have before us and to facts with which we are familiar. I am not sure that cases might not arise and come here which would make us regret that we had passed a general law. We keep the matter in our own hands by making an enactment applicable to Mr. Butler's case alone in the manner proposed by the committee, but we part with it if we pass a general law, and we may do so to our regret. Hence, I say, I prefer the resolution as it comes from the committee. I know as a general rule it is better that we should have general than special legislation. But, as I remarked a little while ago, special legislation is necessary in these cases. It is a special enactment, or something in the nature of it, that is contemplated in the fourteenth amendment to the Constitution; and, as we cannot avoid special legislation, I do not see why we should mix general and special legislation together in the same case. Let us take the cases as they come.

Mr. COOK. Will the gentleman allow me to inquire if he understands my proposition as requiring a special enactment in the case of Mr. Butler to be passed by a two-thirds vote?

Mr. BROOMALL. By either proposition it is necessary for the House and Senate to pass an act, if you choose to call it so, by which the disabilities are removed by a two-thirds vote. The guard which the gentleman proposes to preserve by his mode, it seems to me, is not preserved by it any more than by the mode proposed by the committee. Mr. Butler cannot take his seat in any event without a two-thirds vote of both Houses under the constitutional amendment. He, therefore, does not guard this floor against the intrusion of rebels any better by his proposition than is done by the proposition reported from the committee. The only advantage of his proposition is that it is general and not special, and I have already stated why I prefer in this case a special to a general law, but I consent to either.

Mr. COOK. I would like to ask the gentleman, if my proposition is adopted, must there not be a special law passed in the case of Mr. Butler, as well as in any other, by a two-thirds vote of each House?

Mr. BROOMALL. In either case that will be necessary. It will be necessary if the resolution reported by the committee is passed.

Mr. COOK. I would like to ask if the resolution reported by the committee may not be passed by a majority vote?

Mr. BROOMALL. It may, certainly; but Mr. Butler will have to have a vote of two thirds of both Houses before he can take his seat. It merely modifies the oath in his case, instead of, as the gentleman proposes, in all such cases, and allows him, when the disability comes to be removed in the regular way, to take the modified oath.

Mr. BROMWELL. I would inquire of the gentleman if he contemplates that this resolution is to be passed by a two-thirds vote, and if it will be inoperative if not so passed?

Mr. BROOMALL. Mr. Speaker, I have been singularly unfortunate in endeavoring to get gentlemen to understand me. Of course, I do not suppose that the resolution requires a two-thirds vote, but when this resolution passes it will not entitle Mr. Butler to take the oath of office and take his seat. It will be necessary to provide, under the last amendment to the Constitution, that his disability shall be removed by a two-thirds vote of both Houses of Congress.

Now, the question arises whether this case is

a proper case in which to remove the disability. If it is we should pass this resolution or the resolution of the gentleman from Illinois, [Mr. COOK,] and then provide for the removal of the disability in the way pointed out by the amendment to the Constitution. If it is not we should reject all these measures, and send Mr. Butler home to those who thought they were his constituents, and who think still they have a loyal representative.

I listened to the gentleman from Illinois, [Mr. HARDING,] who addressed the House a little while ago with a great deal of interest. He spoke of what he knew. He described the condition of the loyal men of Tennessee, and he described it in a way that it struck me operated rather in favor of Mr. Butler's case than against him. If Mr. Butler was not really a rebel he must have been, according to the testimony and according to the statement of the gentleman from Illinois, a most extraordinary man to have escaped being hanged or having his throat cut for the deeds that it is proved he performed, not exactly in open day, because then he would have paid the penalty, but which he did, and which were known to those who sent him here. The gentleman from Illinois thinks that Mr. Butler lacks a certain element of proof that he was a thoroughly loyal man, and the element of proof lacking is that he does not come here, if I may be allowed the expression, with his throat cut from ear to ear. [Laughter.]

Let us look now at the case of Mr. Butler. Let us trace him from the very commencement of this Democratic rebellion—I recall that expression at the instance of the gentleman from Massachusetts, [Mr. DAWES.] Trace him from the commencement of the rebellion to the present time. Look at him when he was addressing crowds in his own district against the secession of Tennessee. Look at him at the very polls begging the officers of election for an opportunity to address the voters to prevent them from rushing upon their own ruin, speaking for two hours before the polls were opened, and with visible and material results, for the district from which he comes showed upon that occasion a singular and meritorious contrast with a great deal of that section of country.

Trace him into the very rebel Legislature of Tennessee, for there it was that he committed the acts which prevent him from taking this oath. He was a member of that Legislature. Why was he so! If the testimony is to be believed, it was at the instance of the Union men, the loyal men of his own county and district; and for the purpose of protecting and defending them there that he did this thing; and when he objected, according to this testimony, that he would be required to do that which his conscience would disapprove, the answer was, "We know you; we trust you; no shadow of suspicion shall ever rest upon you."

Trace him still further: look at him, while he was in that very rebel Legislature, releasing by his exertions Union soldiers and Union citizens from the incarceration to which they had been subjected by the rebel authorities. Gentlemen may say that it was not very nice morality in Mr. Butler to impose upon Judge Humphreys by pretending that he was a rebel in order that he might free from prison his neighbors and his friends. They may say that that does not square with their notions of uprightness. But if it was wrong, if Mr. Butler erred upon that occasion, he erred in the holiest cause that ever was presented to human minds and human hearts and human hands. I am not going to sit in judgment upon him for that action. I would blush for my own morality if I allowed myself to question his actions in so holy a cause. It was while in that Legislature he erred, if ever, because it was then he voted for the obnoxious secession resolutions. That was an act which, if standing alone, I could not approve. But I can appreciate the reasons given in the testimony for the act. I can understand that, with forty or fifty Union prisoners looking to him for assistance, whose very lives depended upon his deceiving that bad judge whom we impeached and convicted, it was necessary that he should practice some deception, and that to do so he should vote for those resolutions.

Was he in favor of those resolutions? What is the testimony? The very fact that as soon as the prisoners obtained their discharge by his exertions he went into the Legislature and asked and obtained consent to change his vote shows that he did not vote for those resolutions intending they should pass by his vote, but that he was doing what very moral gentlemen will say was practicing a deception; a breach of very nice ideas of morality, but which I do not and cannot condemn. Follow Mr. Butler to the close of that Legislature. He was then arrested by rebel emissaries upon the charge of treason to the confederacy, of which, no doubt, he was very guilty, according to the testimony. Now, it would be very singular if the rebel confederacy and the United States Government should both punish the same man for treason in the commission of the same acts. He either was not guilty of the charge which they brought against him or he is not guilty of the allegations made very unfairly by the contestant, who received 44 votes only for the office he now claims the right to fill. Mr. Butler, fortunately for himself, escaped from incarceration. He returned home, and found that some rebel emissaries had persuaded one of his sons to enlist in a rebel comany. But he did not give him $100 and bid him "God speed," as was probably done by another man upon another occasion and in another part of the theater of the rebellion. He did not do that. What did he do? In despite of being threatened with hanging if he interfered, he followed the recruiting officers and took his son away from them, forcing him to walk home, with his saddle and bridle upon his back—for I suppose the son was riding a rebel horse, which Mr. Butler did not choose to have—and, according to the testimony of the son, his father gave him so severe a flogging for what he had done that his mother had to interfere in his behalf. Then Mr. Butler took him through the lines and put him in the Union Army, determined that he should fight upon the right side if he fought at all. Was this the act of a rebel?

I ask the Clerk to read from the testimony of the son in reference to this transaction:

"Richard H. Butler, of lawful age, who, being duly sworn according to law, deposes as follows:

"*Question.* Please state if you are the son of R. R. Butler, member-elect to Congress, and if you were connected with the rebel army; if so, state how you became so connected, and how long you remained with said army, and how you came to leave the said army.

"*Answer.* I am the son of R. R. Butler, member-elect to Congress. In the spring of 1863 there was a rebel company stationed near the residence of my father, in Johnson county. The officers of said company persuaded me to go off with said rebel company, and in their persuasion with me to join the rebel army they said they would furnish me a horse and necessary equipments, except saddle and bridle. I consented to go with said rebel company unbeknown to my father, who was bitterly opposed to the rebels in every manner conceivable. And further, when said company was ordered away from this—Johnson county—my father had gone to Taylorsville, and I had carried my saddle away and concealed it, and as the company passed my father's house I went off with said company. The officers of said company told me when I started away with them that if my father followed them that they would protect me and not let him take me away from them. After we started away my father, hearing of the company taking me with them, followed the company of rebels that I was with, and overtook them about six miles from home, and took me out of the company, and made me carry my saddle and bridle on my back the whole of the distance back home, and whipped me several times on the road home; and after I got home he whipped me so severely that my mother had to intercede for me. My father stated that he had rather see me with my throat cut from ear to ear than for me to have gone into the rebel army.

"*Question.* Please state if you ever heard a disloyal sentiment uttered by your father or any member of his family in his presence; and if your father, R. R. Butler, did not have you taken through the lines and put you in the Federal Army.

"*Answer.* I never heard a disloyal sentiment uttered by my father or any member of his family in his presence. And my father, the said R. R. Butler, had me taken through the lines and put in the Federal Army. My father was a strong Union man; had to leave home to keep the rebels from killing him. Afterward he had me taken through the lines to prevent the rebels from conscripting me; and after I went through the lines he sent for my brother, next oldest to myself, and had him brought through the lines."

Mr. BROOMALL. Now, Mr. Speaker, is that the act of a rebel? Would a man at that time have preferred to see his son's throat cut from ear to ear to seeing him in the rebel army, and at the same time intend to take him into the Union Army, if he had himself been a rebel, or if he had had any sympathy whatever with the rebellion? Why, sir, that act alone—and the testimony is full of such acts—showed a devotion to the country that does credit to Mr. Butler, and shows what I have often thought, that the history of the loyal men of the South, if it could be written, would make us northern men voiceless in regard to our pretentions to loyalty. The gentleman from Massachusetts, [Mr. DAWES,] I observe, assents to this sentiment. The gentleman from Massachusetts probably thinks he is entitled to some credit for being loyal. The gentleman shakes his head; and I say neither do I. I say that neither he nor I was entitled to credit for being loyal. We were surrounded by loyalty on all sides. We breathed an atmosphere of patriotism; and nothing but the blackest of hearts could have induced us to sympathize with such a crime as the attempt to overthrow the Government of our country. But those men in the South who sympathised with us in feeling passed through a different ordeal. We may have been as loyal as they; but their loyalty was severely tested. We have not been so tested; and the most we can say of ourselves is that we never did a disloyal act.

Now, Mr. Speaker, upon the whole of this testimony, it appears that Mr. Butler at the commencement of the rebellion was opposed to it and actively combated it upon every occasion. It appears, too, that when he went into the service of the confederacy he did so with the view of aiding the Union cause and Union men. This is proved by his acts during the whole time he was in that service. Mr. Butler's case, then, is precisely the case of a spy. Suppose a man had been sent from Washington to get into the rebel secrets and had been directed to procure himself to be elected to office, to take any oath that might be presented to him, in order that he might thwart the rebel designs. Would any one pretend that such a man ought not to be relieved from the technical disabilities which his acts might impose upon him? I think not. It may be, as I said, not very nice morality, but it is patriotism of the highest order. I do not say that in all the matters pointed out in the testimony Mr. Butler squared himself with the notions of propriety of certain very proper gentlemen; I do not say that in no instance he did wrong; but I will say I cannot affirm that under the same circumstances I would not have done worse than he. And even though there be crime upon his record, our judgment upon him, which I have no doubt will be in his favor, will be affirmed in the court where we shall all have to appear. If there be crime upon his record, crime committed in the cause of mercy and humanity, it will share the fate of Uncle Toby's oath, of which it was written, "The accusing spirit which flew up to Heaven's chancery with the oath blushed as he gave it in, and the recording angel, as he wrote it down, dropped a tear upon the word and blotted it out forever."

Mr. Speaker, I now yield to my colleague, [Mr. MILLER.]

Mr. POLAND. Will the gentleman from Pennsylvania [Mr. MILLER] yield to me for a motion?

Mr. MILLER. Yes, sir.

ADJOURNMENT OVER.

Mr. POLAND. I move that when the House adjourns to-day it be to meet on Monday next. I make this motion at the suggestion of several gentlemen and with the approbation of the chairman of the Committee of Ways and Means, [Mr. SCHENCK.]

Mr. ELIOT. I trust that motion will not be adopted unless some good reason be assigned.

If there is any good reason I trust the gentleman from Vermont [Mr. POLAND] will state it.

The SPEAKER. The motion is not debatable; but if there is no objection the gentleman from Vermont [Mr. POLAND] will be permitted to state the reasons for his motion.

There was no objection.

Mr. POLAND. I have made the motion at the suggestion of several gentlemen, some of whom desire to be absent. I have made inquiry in reference to the state of our business, and especially of the chairman of the Committee of Ways and Means, who suggests that this adjournment would be a matter of convenience to his committee.

Mr. DAWES. I hope my colleague will let us try and finish this case. It is evident we cannot do it to-day.

Mr. KELSEY. I desire to make an inquiry of the chairman of the Committee of Elections. When he introduced this report and resolution allowing Mr. Butler to take his seat here I saw by the papers there was a contestant for this seat; and I desire to inquire whether any motion has been submitted to allow him to address the House in support of his claim?

Mr. DAWES. I will state the reason why I did not make that motion, and then leave it to the House. Although it appears upon the papers that Mr. Powell is the contestant of Mr. Butler before the committee, he made no claim to the seat himself, but stated that he had no claim at all to the seat. Mr. Butler polled some 11,000 votes, Mr. White 1,500, and Mr. Powell only 44 votes. In that view of the case it did not appear to the committee that he did more than produce this testimony in denial of Mr. Butler's right to a seat, and not in any manner in support of his own claim to a seat upon this floor. He appeared as an attorney before the committee pending this testimony as against Mr. Butler's right to a seat upon this floor.

This came up in the First Congress of the United States, and there was some difficulty among the members as to the best mode of conducting a contested-election case, whether at the bar of the House with attorneys on either side, or whether the whole matter should be remitted to a committee and the House should act on their report as on the reports of other committees. The debate occupied much time, and the best men of that day in the country engaged in it. There was a struggle on the part of some contestant to have his case heard at the bar of the House, so his attorney might argue it for him. After mature consideration the practice was adopted that has been observed ever since; and that is, to exclude all hearing at the bar of the House and to send it to a committee, and only to permit those who set up a claim to a seat to address the House. I merely state this, without any objection on my part or on the part of any member of the committee, so far as I know, to permit this gentleman to address the House. I only state it that the House may conform its action to the prevailing custom.

Mr. KELSEY. I desire to submit a motion that Mr. Powell, who appears upon the record here as the contestant, shall be allowed to address the House on this question.

Mr. POLAND. My motion should first be disposed of.

Mr. ELIOT. I hope the gentleman will withdraw it. If it is pressed I will have to make the point that there is no quorum present.

The SPEAKER. A quorum is necessary to adjourn over, although a less number may adjourn from day to day.

SIOUX CITY AND PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, the annual report of the president of the Sioux City and Pacific Railroad Company for the year 1867; which was referred to the Committee on the Pacific Railroad.

LEAVE OF ABSENCE.

Mr. MERCUR and Mr. CORNELL, on account of illness in their families, were allowed indefinite leave of absence.

ADJOURNMENT OVER—AGAIN.

Mr. SCHENCK. Mr. Speaker, I wish to say a word, and it is simply this: I shall be exceedingly glad, representing the Committee of Ways and Means, if we could adjourn over for two days. I find in two or three hours of solid work when the House is not in session we accomplish more than when we have a divided allegiance between the committee-room and the House.

Mr. DAWES. Would it not do the gentleman just as well to have leave granted to his committee to sit during the sessions of the House?

Mr. SCHENCK. We have that already; but I find we cannot keep the committee together when the House is discussing so interesting a matter as this in which my friend from Massachusetts takes a prominent part. With a divided allegiance between the committee-room and the House it is impossible to keep the committee together.

Mr. FARNSWORTH. It is apparent as soon as the trial of the President begins in the Senate the House will transact no private business. We cannot do it, as the House is supposed to be present on that trial. Then we can go home if we desire to. Until then it seems to me we should remain here and transact the public business. But, of course, the House can transact no business while the President is being tried. It would be incongruous, it seems to me, and improper to be sending bills to the President for signature when he is being tried for high crimes and misdemeanors. Therefore, if we are to transact any further business, I think we should hold our sessions daily until the trial begins.

Mr. MYERS. I hope the House will not adjourn over. And in this connection I desire to make a suggestion to the chairman of the Committee of Ways and Means. The country is watching with great interest and gratification the labors of that committee, and especially since the announcement that they propose to make a report soon to repeal the tax on manufactures. Now, sir, in view of the grave question which is before this Congress, and especially before the Senate, at this time, legislation, to a certain extent, must be suspended. Hence the importance of the suggestion I am about to make. A few years ago, when a tariff bill was before Congress and the labors of the committee rendered it necessary that they should take much time before perfecting the bill, as is the case now in relation to the tax bill they brought before the House, Congress passed a resolution increasing the tariff for a certain time until the general tariff bill could be enacted. Now, upon a similar measure in regard to the internal revenue tax, I take it the House is agreed. I do not suppose there will be a dissenting vote upon a temporary resolution of this character, to take effect say for sixty days, until the internal revenue bill can be perfected. If such a resolution should be reported to-morrow it would pass both branches before the Senate, after giving due notice to the President, would be able to proceed with the trial, which is likely to take their time for some weeks to come. I hope such a resolution will be found consistent with the views of the Committee of Ways and Means, and that the House will consider it before adjourning even for a few days, or else agree that they will on Monday proceed to its consideration.

Mr. SCHENCK. If permitted by the House I will say, in reply to the gentleman from Pennsylvania, [Mr. MYERS,] on behalf of the committee, that I have two or three times attempted to explain the difficulty practically of carrying out a suggestion like that which is now submitted, the force of which I fully appreciate. The internal revenue law consists of some twenty statutes or more. It has been made by piece-meal. Some statutes contain what is in others, and some are contradictory to others. Some modify others in such a way that the modifications can frequently be found only by collation and comparison. Now, our endeavor has been, so far as our ability enables us, to make one body of the whole law; to modify it and make it consistent in its different parts; and in doing that it is very necessary that those portions which relate to manufactures, those which relate to special taxes, and those which relate to certain other things in the law, shall be controlled, and their working machinery provided for in other general sections of the bill. Now, if a joint resolution or a bill should be introduced with a view of repealing the tax on manufactures, it will, of course, have to make certain exceptions if the committee sustain the view that there are some half dozen things that ought to be excepted. It will be impossible now to take notice of a certain class of manufactures outside of these first and smaller exceptions, such as that of tobacco and distilled spirits, and so on, all of which are provided for in these general regulations. Therefore we must either introduce a resolution which will carry along with it a great deal of legislation upon the subject, or else we must simply make a repeal. But by proposing a repeal or modification of other parts of the law we get something that will be inconsistent with the general plan which the committee propose to submit.

Another difficulty is, that we do not propose, when we submit our views in the shape of a bill, to provide for the repeal of the old law, except in a general way. We do not propose to provide for the repeal of that which relates to particular manufactures, but we wish to provide for the taxation of certain things and say nothing about other things, which, of course, will thereby go untaxed. That, I think, is the better way of accomplishing the object. Now, I make this explanation at the risk of wearying the House by repetition. I believe the Committee of Ways and Means can prepare a bill which will meet all that is demanded by the country, and at the same time not derange the general plan which we have proposed to adopt in the revision of the laws.

Mr. DAWES. If I may be allowed a moment, I desire to say a word with reference to the propriety of adjourning over, in view of the general business of the House and particularly of the pending case.

Mr. POLAND. The motion to adjourn over was made by me at the suggestion of several members, not as a matter of my own choice or especially of my own judgment. As there seems to be so much opposition to it I will withdraw the motion entirely.

CONTESTED ELECTION—AGAIN.

Mr. KELSEY. I now desire to submit the motion that the contestant in this case, Mr. Powell, be heard by the House under the rules of the House before the discussion is closed.

Mr. DAWES. I wish the House, before they vote on that question, would consider the actual position of this gentleman, and deliberate whether it would be proper to admit men to take part in the debates here who make no claim themselves to seats here?

The SPEAKER. The gentleman from Pennsylvania [Mr. MILLER] is entitled to the floor. Does he yield to allow the gentleman from New York [Mr. KELSEY] to submit his motion?

Mr. KELSEY. I hope the gentleman will yield for that purpose.

Mr. MILLER. I will yield for that motion, because it relates to the same matter about which I am going to speak.

Mr. KELSEY. I then submit my motion.

Mr. POLAND. It seems to me this is trifling with the House. I should be as glad to hear a speech from my excellent friend, Mr. Powell, as anybody, but the report of the Committee of Elections shows that he received only 44 votes. He came here upon a doctrine that has been a good deal discussed, and that has been decided by the House. He insisted that Mr. Butler was not entitled to a seat be-

cause he could not take the test-oath; because he was not a loyal man; because he had been guilty of disloyal acts, and that, therefore, he (Powell) upon 44 votes would be entitled to a seat. Now, the report shows that still another gentleman received 1,700 votes, who, if this were to be held to be a proper election law by this House would be entitled to a seat. But we have directly decided that in a case where the man receiving the majority of votes is not entitled to take a seat here because he is not eligible, having been guilty of disloyal acts, the person who received the minority of the votes is not entitled to the seat. We may just as well allow any other man from the district to appear here and argue this question as Mr. Powell. I know of no rule, no practice, no law, no propriety, that entitles him to occupy the time of the House.

Mr. KELSEY. I would inquire of the gentleman from Vermont if we did not in the two Kentucky cases allow the contestants to be heard by the House although they admitted that they had not received a majority of the votes?

Mr. POLAND. Certainly we did; but it was then an open question whether we would not give the minority man the seat. That is the very question he came here to argue, and now we have solemnly decided that question.

Mr. DAWES. I will state, by the leave of the gentleman from Vermont, that neither of the claimants in the Kentucky cases addressed the House upon the merits of the original question, but they addressed the House upon their own claims after that was disposed of.

Mr. UPSON. Let me suggest further, that in each of those cases there was a triangular contest, as there was in this case, and the man who received the next highest number of votes was the man who appeared here and contested, and not the man that was last.

Mr. POLAND. That is precisely what I was saying; that upon any rule—upon this gentleman's own rule—he would not be entitled to the seat, provided the House should decide that Mr. Butler is not entitled to it. Now, if the business of the House is so pressing that we cannot adjourn over until Monday, if the public business requires our attention so that that motion had to be withdrawn in order to accommodate the wishes and views of gentlemen in relation to the public business, it seems to me to be very idle that the time of the House should be taken up in listening to this gentleman from this district in Tennessee who received only 44 votes.

Mr. UPSON. I desire to make another suggestion. It is, that in the hearing before the Committee of Elections, Mr. Powell did not make any claim to the seat. Consequently, if he is permitted to speak now he will not argue before the House any claim to the seat.

Mr. KERR. I think the House ought to hear Mr. Powell as to any interest he may have in this case. I do not know precisely what interest he has or how he may present it to the House; but I know he feels great interest in this case, and I think he should be heard if he desires it. I understand the case to be about this: the gentleman who it is now proposed shall address the House, Mr. Powell, claims that Mr. Butler is not qualified to take a seat here by reason of his disloyalty. The other gentleman who was voted for at the election is not here, but I believe that Mr. Powell claims that he is disloyal also; that, as he says, he was an original copperhead Democrat. He denies the eligibility of either of the other gentlemen to a seat here, and also claims that in case the House shall adjudge them both to be disqualified then he should be declared to be entitled to the seat.

Mr. UPSON. Is there any evidence in relation to the other man except as to the number of votes he received?

Mr. KERR. Certainly not; he is not here. Perhaps he did not present himself because, knowing that he was a disloyal man, he knew he could not get in. The House having prejudged his case, I know that Mr. Powell claims that this other man could not take the seat if it was offered to him.

Mr. BALDWIN. In my opinion, if this gentleman should be allowed to speak at all this certainly is not the time when that privilege should be granted to him. We have before us a joint resolution proposing, in the case of Mr. R. R. Butler, a modification of the oath required by the act of July, 1862, and on that question he cannot properly speak as to the merits of his own claim to a seat here. And there is another point to which I would call attention. It seems to me certain that Mr. Butler will be admitted to a seat in this House by some method that shall not interfere with the fourteenth article of the amendments to the Constitution, he having received a majority of the votes cast at the election. Therefore it seems to me the proposition that Mr. Powell shall now address the House is entirely out of place, and should not be allowed.

Mr. COOK. I desire to say but a word or two in relation to this matter. It does not appear to me that the gentleman in whose favor this motion has been made is a contestant before this House of the seat which Mr. Butler is seeking to occupy here. While Mr. Butler received between eleven and twelve thousand votes, and the gentleman in whose favor this motion is made received 44 votes, there was another candidate who received some fifteen hundred votes. This gentleman, Mr. Powell, has not pretended, before the House or the Committee of Elections, and has introduced no proof tending to show, that if Mr. Butler should not be admitted to a seat here the other gentleman, who received 1,500 votes, should not be admitted. No point has been made against that other man, either of disloyalty or in any other way. Consequently, so far as Mr. Powell is concerned, his right to the seat is not now in question. And there is no pretense in the proof that he has a right to the seat in any way.

Mr. CULLOM. No pretense, either by himself or by anybody else?

Mr. COOK. I do not think he makes the pretense himself, and I do not think any one else makes it for him. Under these circumstances I think we might as well admit any other person in the United States to argue this question before the House as to admit Mr. Powell to do so.

Mr. JUDD. I desire to ask the gentleman who made this motion [Mr. KELSEY] a legal question. I take it, from what I have heard here this morning, that the forty-four-vote man will not get in here any way.

Mr. CHANLER. He does not want to come in.

Mr. JUDD. The question I desire to ask is this: if the forty-four-vote man is allowed to speak on this floor will he not get up a claim for the $2,500 which we have set a precedent of voting to unsuccessful claimants for seats here? I want to know whether some such claim would not accrue to him in case he is allowed to speak?

Mr. KELSEY. I will say, in answer to the gentleman from Illinois, [Mr. COOK,] that when I made the motion that this contestant be heard I knew nothing of the state of the evidence. I simply saw upon the papers here that Mr. Powell appeared as the contestant, and I saw that he was occupying a seat on this floor. I supposed that he occupied the ordinary attitude of a contestant and ought to be treated as other contestants have been treated. I made the inquiry of the chairman of the Committee of Elections to ascertain the *status* of Mr. Powell, and it now appears that he comes here with only 44 votes in his favor, while other men have received thousands. It is proper for me to add that this contestant informs me that he was the only eligible candidate who received any votes at that election; that the other two candidates were ineligible, and known to be so by the electors.

Mr. UPSON. Does the gentleman know of any election case in which a man has been allowed to come in and address the House when there was before the House no resolution for his admission?

Mr. KELSEY. I have already stated—and if the gentleman had heard my remarks he would have known my position—that I saw by the papers in the case that Mr. Powell appeared here as a contestant, and I saw him occupying a seat on this floor. I knew nothing of the state of the canvass. It was only from the statement made here in debate that I learned Mr. Powell received only 44 votes.

Mr. DAWES. Mr. Powell contests as every voter in the district claims the right to contest. He contests the right of Mr. Butler to hold a seat here. He does not appear here urging his own right to the seat, but as an elector of the district, contesting the right of a man who claims to be entitled to represent him on this floor. He is to all intents and purposes an attorney, appearing before the committee, not to satisfy the committee as to his own claims, but to satisfy the committee that the claim of another man is unfounded.

Mr. KELSEY. That appears now from the statement of the chairman of the Committee of Elections, [Mr. DAWES,] but it did not appear when I made the motion that the contestant be heard in his own behalf. I say this much in order to explain why I made the motion; and I propose, notwithstanding what has been said, to take the judgment of the House upon the motion rather than withdraw it.

Mr. KERR. In reply to my excellent friend from Massachusetts, I desire to state what has been incidentally stated by another gentleman, that Mr. Powell, standing upon the opinions of certain gentlemen on the other side of the House, occupies the position that when the election took place in this case no one of the candidates except himself was eligible; and if this be true, then he desires to maintain here the legal proposition that he is the only person who did receive any votes for this seat, and is therefore entitled to occupy it.

I think that Mr. Powell ought to be heard. He comes here as a contestant; and if he does not come here in his own behalf then he has the right to come here to contest in anybody else's behalf. He may contest in behalf of the public. He may come here to defeat the claim of a particular man to the seat without asserting any right to it himself. He acts for the good of the country, or, as a gentleman here suggests, *pro bono publico*. [Laughter.] I think, therefore, he ought to be heard on behalf of the public, if not on his own behalf.

Mr. DAWES. I am afraid that the remarks of my friend from Indiana [Mr. KERR] are a little sarcastic. I move the previous question on the motion of the gentleman from New York, [Mr. KELSEY.]

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. KELSEY was rejected, there being—ayes twenty, noes not counted.

The SPEAKER. The gentleman from Pennsylvania [Mr. MILLER] is now entitled to the floor.

Mr. DAWES. If the gentleman from Pennsylvania will yield to me for a moment I will say that the Committee of Elections are now entirely agreed as to the recommittal of this matter with instructions to report a bill of the character indicated. The gentleman from Pennsylvania can speak either upon the bill when reported or upon the question now pending, as may be most agreeable to him. The gentleman intimates to me that he prefers to go on now.

Mr. MILLER. Mr. Speaker, I agree with my learned colleague, [Mr. BROOMALL], that the Union man of the South deserves more credit than the Union man of the North, for it required a strong-nerved man in the South, surrounded as he was by perilous dangers, to stand up for the defense of the Union. Conceding all that, however, the question is, whether we ought to do away with the wholesome law approved July 2, 1862. The resolution reported by the

Committee of Elections makes this case an exception to that law, and allows this gentleman, Mr. Butler, of Tennnessee, to take his seat without taking the oath prescribed by that law.

I think, sir, when we attempt to change that test-oath we should be very cautious. When this question was before the House on the resolution which came from the Senate in Senator PATTERSON'S case a solemn phalanx almost stood up in this House and opposed it; and I believe the learned chairman of the Committee of Elections himself voted against it. The same thing is now proposed in this House; that is, to modify the provisions of that law by which any man who was in the rebel army shall be permitted to take the oath and a seat upon this floor.

Mr. Speaker, we must be consistent. In the case of John Young Brown, of Kentucky, determined by this House a short time ago, Brown professed to be a Union man. I admit he had a poor way of showing his Unionism; but he professed to be a Union man. It is true he was not in the rebel Legislature. He had held no office in the rebel army. But it was evident he sympathized with the rebellion. This House decided by an overwhelming vote that he could not consistently take that oath of 2d July, 1862, (which met my decided approbation,) and therefore the House would not permit him to be sworn in, and so informed the Governor of Kentucky. Now, here is a gentleman who presents himself from Tennessee. I admit Tennessee deserves great praise. I admit that the loyal people of Tennessee deserve more credit than the people of any State which attempted to secede, but it is not pretended that Mr. Butler can take the oath.

Now, Mr. Speaker, what is the provision of the oath he is required to take? It is as follows:

"I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

The committee propose to modify that oath in his case by striking out these words:

"That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States."

It is evident, Mr. Speaker, that Mr. Butler cannot take the oath prescribed by the act of July 2, 1862, because of his connection with the rebel government. I find, while he was a member of the rebel Legislature of Tennessee, he voted for these resolutions:

"SATURDAY MORNING, *December* 14, 1861.

"Senate resolution No. 59, on the subject of a reconstruction of the Government of the United States, was taken up, and Mr. Jones offered the following resolutions in lieu:

"*Resolved*, That it is the sense of this General Assembly that the separation of those States now forming the confederate States of America from the United States is, and ought to be, final, perpetual, and irrevocable; and that Tennessee will, under no circumstances, entertain any proposition, from any quarter, which may have for its object a restoration or reconstruction of the late Union, on any terms or conditions whatever.

"*Resolved*, That the war which the United States are waging against the confederate States should be resisted with the utmost vigor and energy, and until our independence and nationality are unconditionally acknowledged by the United States.

"*Resolved*, That Tennessee pledges herself to herself and to her sister States of the confederacy that she will stand by them throughout the struggle; that she will contribute all the means which her resources will supply, so far as may be necessary, to the support of the common cause, and will not consent to lay down arms until peace is established on the basis of the foregoing resolutions."

On these resolutions I find Mr. Butler's name recorded in the affirmative.

I also find on page 12 of the evidence the testimony of Henry Wilber, as follows:

"I was with Butler in Knoxville, and he asked me to give him all the influence I had to procure him office under the confederate government; but he did not say what office he wanted, and, from his conversation, I supposed him to belong to and sympathize with the confederate cause."

Mr. DAWES. Does it not occur to my friend that it would be fair, after having read that resolution and stated how Mr. Butler voted, to read also his change of his vote in the same?

Mr. MILLER. I was coming to that; but why should I repeat it, as the gentleman [Mr. DAWES] read it and I am reading the part of the evidence he omitted. It is true he did change his vote. If the rebellion had been successful I do not know whether he would have changed it; he might or might not, and it is not for us to conjecture. Mr. Butler took an oath to support the rebel confederacy. My colleague [Mr. BROOMALL] thinks, under the circumstances, that was but a small matter. Why, sir, when the rebels violated the oath this Government prescribed did we not consider them guilty of a high crime? And is a man who took an oath to support the confederate government to be allowed to come in here and say, "I took it merely for the purpose of helping the Union cause?" That, sir, is a kind of morality I neither understand nor approve. It is conceded on all hands that Mr. Butler accepted a position as a member of the rebel Legislature. Was he impressed into that kind of service? If he had been forced into the rebel army against his will there would have been some excuse. But did you ever hear of a man being impressed into office or forced to be a member of a legislative body? We might, with the same propriety, talk about a man being impressed to run for Congress. When candidates get so scarce as that it will be time enough to consider the question of modifying or abrogating the test-oath.

Mr. COOK. The oath to support the confederacy was not prescribed at all by the Legislature at that time. He had to take it afterward.

Mr. MILLER. He was not bound to take it; but it seems, rather than lose his position as a member of that legislative body, he was willing to take the oath to support the southern confederacy.

Mr. COOK. He was bound to take it or go to prison.

Mr. MILLER. I ask the gentleman whether he would not prefer going to prison to taking an oath that he knew he was going to violate?

Mr. UPSON. I would ask the gentleman if he has read the evidence in this case; and, if so, whether he has any doubt as to the loyalty of Mr. Butler?

Mr. MILLER. I have no doubt he did some acts for which he deserved a great deal of credit. But in changing his vote it is apparent that he started wrong, and no good reason can be urged for taking such an oath.

Mr. COOK. Did he not at the breaking out of the rebellion speak in his own district against the act of secession, and was he not the most active man in rolling up a great vote against secession in that district?

Mr. MILLER. Yes, sir; and so was Alexander H. Stephens a most active man in Georgia, and poured forth his eloquence against secession. We had his speech printed and circulated through the northern States. It was read and commented upon on the stump and in various public assemblies over and over again to the people. And yet what did he do? As soon as a high office was offered to him he discarded his loyalty to the Union; he let go the horns of the altar of liberty to which he had clung so long with such tenacity and went for secession and the confederacy, proclaiming that the confederate government was superior to any other that had ever been established, because it had slavery for its corner-stone.

I maintain, Mr. Speaker, that Mr. Butler does not stand in a condition to take the test-oath, and that there is no sufficient reason why we should modify it in his case as proposed by the resolution reported by the Committee of Elections, so as to admit him to this floor. I admit that by the fourteenth article of amendment to the Constitution Congress may change it by a two-thirds vote. The third section of the fourteenth article is as follows:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

Now, I will say in regard to that section of the article, that when adopted by Congress it was contemplated that the time might arrive when the southern States lately in revolt would be properly reconstructed, and when they would show by acts of loyalty that we might take away this disability, not from one man, but from the entire South, with some few exceptions. That was the object of this section. It was not intended to cover particular individual cases; yet I concede that under this section we could take up single cases and relieve the parties by a two-thirds vote of both Houses.

It has not yet been declared whether this fourteenth article has been adopted as an amendment to the Constitution of the United States. We have provided in all the reconstruction laws which we have passed that when the southern States present constitutions here which we approve and send loyal men to Congress we will receive them, but upon the condition that these States must first ratify this fourteenth article to the Constitution. That is a condition precedent which we have imposed on all the southern States. Tennessee has come in and she has ratified this amendment by her Legislature, but the other late rebel States have not yet done it, and I hold that it would be dangerous to take the step proposed here while there are ten States yet unreconstructed, and we are inviting those States to hold elections and frame proper constitutions republican in form and elect and return here members of Congress who can take this oath prescribed by the act of July 2, 1862, and telling them that when they do that we will receive their Representatives.

Mr. Speaker, what is the case presented here? Why, sir, we have presented here before us a gentleman from the State of Tennessee who, by the report of the committee, concedes he was a member of the rebel Legislature of that State and took an oath to support the rebel confederacy. He admits here that he cannot take the oath, that he was in the rebel confederacy, and was a member of one of their legislative bodies. Does he say that he was pressed into it? He says that he went into the Legislature because he thought he was doing the Union cause good. A strange plea, that he was doing the Union cause good by going into the rebel Legislature and voting for the resolutions to which I have referred! I hold that it would be a dangerous step for us to undertake now to single out this particular case, as proposed in the resolution presented by the committee. Shall this gentleman, though he was a member of the rebel Legislature, and swore he would support the southern confederacy, be allowed to come here and take an oath prepared for his peculiar case and be admitted to a seat in Congress?

What will be the next step? Next we will have Georgia, perhaps, sending Alexander H. Stephens here, and he will come and ask us to pass a special act for his benefit. I ask my friend, the able chairman of the Committee of Elections, if he will advocate the admission of Mr. Stephens? He can take up Mr. McPherson's able work on the rebellion and show there Mr. Stephens's speeches, how he pro-

tested against secession, how he advocated the Union, and parade all that before us; and what can we say then? The only difference between Mr. Stephens's case and this is that his professions and acts of Unionism were made before he went into the confederacy and Mr. Butler's after he went in by accepting a position.

Sir, I have no doubt that Mr. Butler is now a sound Union man. Charity requires us to suppose that at the time he took the oath to support the confederacy he was otherwise, because it is not to be supposed that a man of honor and integrity, as he is represented to be, would go and swear to an oath that he knew he was going to violate soon after.

My objection is that it is now too soon to adopt the measure proposed; we should wait until these States are reconstructed. I trust that in a very few months these southern States, having held their conventions and framed constitutions and submitted them to their people, and the same are ratified by a majority of those who vote upon them, will elect and send here legal Representatives who can take the oath prescribed by the act of July 2, 1862, and we can admit their Representatives upon this floor; and when that is done it is time to consider the propriety of altering the test-oath. Then there can be no longer any doubt as to the question of the adoption of the fourteenth article of amendment to the Constitution of the United States, if it is not already adopted. It is a mooted question now whether that amendment has not been adopted by the ratification of three fourths of the loyal States. I know it is contended by some that it must be ratified by the Legislatures of three fourths of all the States in the Union, (including those lately in rebellion.) That question, however, is not now involved in the case under consideration.

Then, so far as this gentleman is concerned, I trust he will be content to wait. There certainly must be competent men in his district who can take this oath. I think, so far as Mr. Butler is concerned, it showed much assurance on his part to offer himself as a candidate for a seat here when he knew that he had been in a rebel Legislature and taken the oath to support the confederate government. He must have known that this statute of July 2, 1862, was upon our statute-books, and that all the members of this Congress were bound to take the oath prescribed by that act. Yet he asks us to make a special exception of his case. Would it be consistent on our part to do so? Congress would have to pass a resolution by a two-thirds vote of each House removing the disability from him, under the provisions of the amended article to the Constitution.

It is proposed by the resolution now before us to change the oath prescribed by law and admit Mr. Butler at once. Against that I protest. It would, in my opinion, be establishing a most dangerous precedent. It becomes us of the Republican party to be consistent in our action. I am not for letting down this oath; I think it is a salutary oath, one that should be adhered to. It is an oath that had a salutary effect in aiding to save us during the rebellion. That rebellion is not yet entirely cleared up. There are ten States not yet reconstructed. We are waiting for them to organize loyal State governments, to send loyal Representatives here, whom we can take by the hand and receive upon this floor.

After that has been done, when the States of the South have shown evidences of loyalty, have shown their adherence to the principles of our Government, then we can say, in the words of my learned friend and colleague, [Mr. BROOMALL,] and the able chairman of the Committee of Elections, [Mr. DAWES,] "we will forgive you; we will remove this barrier from our statute-books." We may do it then, but we should not do it before.

I say to gentlemen here we should not be hasty in changing this oath; we have not yet done all our work; there is much still to be done. If there are no loyal men in this district of Tennessee who can take the oath then no great injury will be done if they are not allowed to have a Representative upon this floor at this time. But I have no doubt that there are plenty of loyal men in that district who took no part in the rebellion, held no office under the bogus confederacy, and who can consistently take the oath prescribed by the act of July 2, 1862.

I would be willing to go as far as any man to encourage the Union men of the South. But it seems to me that we should not let our sympathy for them carry us too far; we should not suffer our sympathies to betray our judgments. If we do, the precedent we now establish may be used in such a way hereafter as to give us trouble.

There need be no difficulty in this case. Let Mr. Butler take his chance like any other man. He cannot profess ignorance of the law; he knew of the statute, and he knew that he had transgressed, yet in the face of all that he suffered himself to be a candidate, and comes here and asks us to change the oath prescribed by law so far as he is concerned.

Sir, I warn our friends that if we do so in this case we cannot tell how far it will lead us. Perhaps, if Georgia is readmitted, the district in which Alexander H. Stephens resides may elect him and send him here. He, too, may say: "I stood by the Union at one time; I made speeches for the Union; I risked everything for it, until I thought it convenient to accept the second office in the gift of the confederacy, thinking that, perhaps, after a while, if the confederacy should succeed, I might become its president."

Without multiplying words in this case I desire to say that I think this is an important question, and that we should be extremely cautious in its decision. I admit that the evidence shows that after Mr. Butler came out of the rebel Tennesssee Legislature he showed some good traits. He aided and sustained the Union, and well might he do so, because he received its protection in his person and property.

I ask our friends, therefore, before they vote for this resolution to remember that whenever we tamper with that oath we are treading upon dangerous ground. I well recollect that the gentleman from Ohio, [Mr. SHELLABARGER,] who is now kept at home by sickness, warned his brethren before he left these Halls to be cautious about letting down that oath of 1862. Those words struck me with powerful effect when uttered upon this floor. Yet, we are called upon this day to say that we will change that salutary law, that we will eradicate a part of it, that we will break it down and admit here a man who was in a rebel Legislature and took an oath to support the confederacy. Are the Republican members of this House prepared to go thus far?

Mr. Speaker, I do not want to be understood as saying one word against Mr. Butler's character. I have no doubt he is a respectable man, and may have done well for the Union; but he did behave badly when he took the oath of allegiance to the rebel confederacy. I am not disposed to say that a man who takes an oath, in however bad a cause, and then violates it, can claim much credit merely for that; and surely it would not be asking too much to require Mr. Butler to wait a few months longer until all the late rebellious States, or at least the greater part of them, should be reconstructed.

I trust, then, that we shall not adopt this resolution. I am in favor of recommitting the subject. Let the committee consider it further. I am not sure that it would be proper to admit Mr. Butler even by an act passing both Houses by a two-thirds vote in pursuance of the fourteenth amendment of the Constitution; but at any rate the resolution reported by the committee ought never to be adopted until such an act has been passed by a two-thirds vote. But, as I have said, I doubt the propriety and policy of passing such an act now. Let us wait a few months longer. It may not be proper for me to speak of circumstances which may occur in the meantime; but I will say that in the course of three or four months, I trust, every one of those ten States will be knocking at the doors of Congress for admission, presenting to us such constitutions as we can approve and such Representatives as can take the oath prescribed by our existing law, Representatives whom we can shake by the hand and receive into full fellowship. Then, when all the States have been fully restored to the Union, we can consider the propriety of waiving the requirements of the test-oath act; but at present I beg gentlemen on this side not to be too hasty, and remember that it becomes the dominant party to be consistent on such an important question as now before us; for as to the gentlemen on the other side of the House, they favor the admission of a representative in Congress notwithstanding they may have held office under the rebel government.

REPORT OF J. ROSS BROWNE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting the report of J. Ross Browne on the mineral resources of the States and Territories west of the Rocky mountains; which was referred to the Committee on Mines and Mining, and ordered to be printed.

Mr. SCHENCK. I move that twenty thousand extra copies of the report just presented be printed.

Mr. CAVANAUGH. I hope that this motion will not be agreed to until the committee has had an opportunity to examine the report. I know that a portion of it is not true.

The SPEAKER. The motion will be referred to the Committee on Printing under the law.

TENNESSEE ELECTION—R. R. BUTLER.

Mr. DAWES obtained the floor.

Mr. INGERSOLL. I ask the gentleman from Massachusetts [Mr. DAWES] to yield to me for a few minutes, that I may have taken from the Speaker's table a Senate bill proposing to relieve from taxation certain school property in this city, which is now about to be sold for the non-payment of taxes.

Mr. DAWES. I will yield to the gentleman in a short time.

Mr. Speaker, this discussion has gone to such a length, and there is so little difference of opinion upon the question, that I think it unnecessary to prolong the debate much further. But before it closes I will, with the indulgence of the House, say a few words—they shall be very few—in answer to my estimable friend from Pennsylvania, [Mr. MILLER.]

I regret he has felt it to be his duty, the only gentleman in this House, to undertake, in the face of the testimony, the universal testimony, of every man who has known Mr. Butler, to arraign him for lack of loyalty, and to run a parallel between his position and his course and that of my esteemed friend from Pennsylvania, and to say that he, up there in Pennsylvania, in quiet and peace, and under full protection, would not have taken that oath if he had been placed in the position of Mr. Butler in Tennessee, surrounded as he was by the rebellion, and living in the midst of perils and dangers of every description. With what complacency my friend from Pennsylvania rolled up his eyes in holy horror at what seemed to him the shortcomings of this man Butler in this peril, and with what self-satisfaction he stated to this House, "I would do no such thing; I thank God I stood upon firm ground and my feet did not slide in all this time."

The gentleman will pardon me if I turn to Holy Writ and commend to him what has been sent down to us as an example. I ask him whether, if he had changed places with Mr. Butler, he had been in Tennessee and Mr. Butler had been in Pennsylvania, if he had been amid these perils and dangers and took the oath as Mr. Butler did, he thinks Mr. Butler would have stood up here to-day in the face of all the evidence of loyalty and patriotism

and devotion to the Union and stated what the gentleman has done? I think not.

I read now from the Scriptures:

"10. Two men went up into the temple to pray; the one a Pharisee, and the other a publican.

"11. The Pharisee stood and prayed thus with himself: God, I thank thee that I am not as other men are, extortioners, unjust, adulterers, or even as this publican:

"12. I fast twice in the week, I give tithes of all that I possess.

"13. And the publican, standing afar off, would not lift up so much as his eyes unto heaven, but smote upon his breast, saying, God be merciful to me a sinner.

"14. I tell you, this man went down to his house justified rather than the other: for every one that exalteth himself shall be abased; and he that humbleth himself shall be exalted."

I make no application of this to the gentleman; but I submit, Mr. Speaker, it would be well for my friend from Pennsylvania not to arrogate to himself too much virtue to stand up against every pressure. I say that he reads this testimony in a different light from every other man, in a different light from the eleven thousand patriotic Union men who cast their votes for this man, and in a different light from that in which his fellows then and his fellows now have ever viewed him.

Mr. MILLER. I ask whether the modification would not apply to every southern man who is now excluded from a seat upon this floor?

Mr. DAWES. If my friend from Pennsylvania feels sure that this has no application to him and he is neither a Pharisee nor a publican, very well.

Now, sir, the proposition before the House is to recommit this measure to the Committee of Elections, with instructions to report these two bills, and it meets with the approval of the committee. The committee considered the necessity and importance of reporting a bill, after this resolution should be adopted, that would relieve this man Butler from these disabilities; but they had no authority further than to report on the qualifications of this gentleman, and they have reported the resolution under consideration. If this be adopted the committee will then be authorized to report back a general bill. I do not understand that the gentleman from Indiana is tenacious of his amendment. I ask him to withdraw it so we may come to a direct vote on the instructions of the gentleman from Illinois, [Mr. COOK.]

Mr. KERR. I withdraw it.

By unanimous consent the amendment of Mr. COOK was considered as pending.

Mr. DAWES. I demand the previous question.

Mr. HARDING. Is it in order to move the subject be referred to the Committee on Reconstruction?

The SPEAKER. Not during the pendency of the previous question.

The previous question was seconded and the main question ordered.

The first question recurred on Mr. PAINE'S amendment, as follows:

Insert the following as a preamble:

Whereas R. R. Butler, Representative-elect from the first congressional district of Tennessee, performed honorable service in the Army of the United States from September, 1863, till May, 1864: Therefore.

Mr. COOK. I accept that amendment as a modification.

The motion to recommit with instructions to report a general bill was agreed to.

Mr. DAWES. I now report back from the Committee of Elections the bill as amended by order of the House, and I move that it be printed and postponed till to-morrow immediately after the morning hour.

INCREASED DUTY ON COPPER.

Mr. DRIGGS. I am aware that it is the usual practice of the House to present petitions by filing them with the Clerk, but I have one of so extraordinary a character that I ask leave to present it in open House. I have already presented one of a similar character from the Lake Superior region, praying for an increased duty on copper. This is signed by three thousand names. I ask its reference to the Committee of Ways and Means.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the Committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 274) providing for holding a circuit court at the city of Erie, Pennsylvania.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed a bill and joint resolutions of the following titles, in which he was requested to ask the concurrence of the House:

A bill (S. No. 416) for the relief of John S. Cunningham, paymaster of the United States Navy;

A joint resolution (S. No. 118) for the appointment of a commission to select suitable locations for powder magazines; and

A joint resolution (S. No. 117) to authorize the erection of military store-houses at Fort Monroe, Virginia.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. CLARKE, of Ohio, on account of serious illness of a friend.

PUBLIC LANDS.

Mr. JULIAN. I rise to a privileged motion. I call up a motion made by me on the 14th of January last to reconsider the vote by which House bill No. 370, to prevent the further sale of the public lands of the United States, except as provided for in the preëmption and homestead laws and the laws for disposing of town sites and mineral lands, was postponed.

Mr. WASHBURN, of Wisconsin. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of the Sisters of St. Mary's Institute, asking the refunding of duties paid under protest on a bell donated to them and imported from France in 1867.

By Mr. CLARKE, of Kansas: Affidavits and other papers relating to claim of Charles Butterfield, a Chippewa half-breed Indian.

By Mr. DRIGGS: The petition of 3,000 citizens of Lake Superior, Michigan, praying Congress to save the national interest of copper from destruction by foreign competition by the imposition of a suitable duty on foreign copper.

Also, the petition of L. C. Petre and 100 others, in favor of same.

Also, the petition of Steven Davey and 100 others, in favor of same.

Also, the petition of Peter White and 50 others, citizens of Michigan and Wisconsin, in favor of Government aid to improve Menomonee river.

Also, the petition of the officers of the State of Iowa, asking relief for John Otterson, and asking its reference.

Also, the petition of officers of Iowa regiments, asking that decision of Court of Claims on pay of officers' servants be sustained.

By Mr. EGGLESTON: The petition of 100 cigar-makers and dealers of Cincinnati, protesting against the passage of any law requiring each cigar to be stamped.

Also, a memorial of Joseph H. Williams, of Cincinnati, praying for a moiety in goods sold by the Government.

Also, the petition of 40 volunteer Army officers, praying for compensation for their servants.

By Mr. ELIOT: The petition of Augustus Gideons and 150 others, praying for aid to remove to Liberia.

By Mr. KELLEY: The petition of Hannah E. Haines, asking for the pension of the widow of a private soldier.

By Mr. KITCHEN: The petition of James Supple, company K, eighth United States infantry, to have his name placed upon the pension-rolls, with accompanying papers.

By Mr. LAWRENCE, of Pennsylvania: The petition of citizens of Lawrence county, for reduction of taxes on manufactures and an economical administration of the Government.

By Mr. LYNCH: The petition of Mrs. Joanna L. Shaw, for pension.

By Mr. MYERS: The petition of journeymen cigarmakers and manufacturers of cigars in the third district of Pennsylvania, favoring the present tax of five dollars per thousand on cigars and against the proposed system of a separate stamp on each cigar.

By Mr. TWICHELL: A memorial of manufacturers of East Hampton, Massachusetts, for revision of internal revenue laws and reorganization of revenue department, with reduction of expenditures and reduction of taxes.

By Mr. VAN HORN, of Mississippi: Papers in the cases of John R. Ray and William O. Dodge.

By Mr. VAN WYCK: The petition of O. B. and O. S. Latham, for relief.

IN SENATE.

FRIDAY, *March* 6, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday's legislative proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes, in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the enrolled bill (S. No. 237) in relation to the promulgation of the laws of the United States, and the enrolled bill (H. R. No. 274) providing for holding a circuit court at the city of Erie, Pennsylvania; and they were thereupon signed by the President *pro tempore*.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the President of the United States, transmitting, in answer to a resolution of the Senate of the 13th of January, a report from the Secretary of State on the subject of a claim under the act of Congress of the 18th of August, 1856, by citizens of the United States to the guano on Alta Vela, an island in the vicinity of St. Domingo; which was referred to the Committee on Foreign Relations.

He also laid before the Senate a communication from the President of the United States, communicating, in compliance with a resolution of the Senate of the 17th of February, information in relation to the alleged interference of our consul at Rome in the late difficulties in Italy; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a communication from the President of the United States, in answer to a resolution of the Senate of the 21st of February last, in relation to the abduction of one Allan Macdonald from Canada; which was referred to the Committee on Foreign Relations.

He also laid before the Senate a letter from the Secretary of the Interior, communicating papers relative to a treaty with the Kansas Indians now pending before the Senate; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the constitutional convention of

Georgia, asking aid for the air-line railroad from Atlanta, Georgia, to Charlotte, North Carolina; which was referred to the Committee on the Pacific Railroad.

He also presented two memorials of journeymen cigar-makers and manufacturers of cigars, remonstrating against the passage of the bill which provides that a stamp be affixed to each cigar, and praying for a tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged; which was referred to the Committee on Finance.

Mr. HARLAN presented a memorial of citizens of Washington city, remonstrating against the removal of the Center market from its present location; which was referred to the Committee on the District of Columbia.

He also presented a memorial of butchers and dealers doing business in the Center market, remonstrating against the removal of that market to any other location; which was referred to the Committee on the District of Columbia.

Mr. YATES presented a memorial of the Legislative Assembly of the Territory of Dakota, relative to the removal of the Pembina band of Chippewa Indians; which was referred to the Committee on Indian Affairs.

Mr. DIXON presented resolutions of the Connecticut Academy of Arts and Sciences, in favor of such an appropriation as will insure the regular and prompt issue of the American Ephemeris and Nautical Almanac; which were ordered to lie on the table, and be printed.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE. The Committee on Pensions, to whom was referred the petition of the late officers of the fifteenth regiment of Michigan volunteers, praying that a pension be granted to John Haley, have directed me to ask that they be discharged from its further consideration. There are no proofs accompanying it; and if there were, the pension would be granted at the Pension Office without difficulty.

The report was agreed to.

He also, from the same committee, to whom was referred the petition of Mary Atkinson, submitted a report, accompanied by a bill (S. No. 419) granting a pension to Mary Atkinson. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Samuel Morrill and others, submitted a report, accompanied by a bill (S. No. 420) granting a pension to James A. Guthrie. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Caroline E. Thomas, submitted a report, accompanied by a bill (S. No. 421) granting a pension to Caroline E. Thomas. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Maria Schweitzer, submitted a report, accompanied by a bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James Jackson, submitted a report, accompanied by a bill (S. No. 423) granting a pension to James Jackson. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Caroline A. Batchelder, submitted a report, accompanied by a bill (S. No. 424) granting a pension to Bartlet and Carrie Edwards, children of David W. Edwards, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred a petition of citizens of Michigan, praying that a pension be granted to George Bennett, submitted a report, accompanied by a bill (S. No. 425) granting a pension to George Bennett. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 603) granting pensions to certain soldiers and sailors of the war of 1812, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 674) granting a pension to the widow of William S. Hamlin, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, reported it with amendments.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department, and for fulfilling treaty stipulations, reported it with amendments.

Mr. SPRAGUE. The Committee on Commerce have instructed me to report back to the Senate a communication of the Secretary of the Interior, communicating, in obedience to law, a report of Silas Seymour on the bridging of the Potomac river, and to ask to be discharged from its further consideration, and that the report and accompanying papers be referred to the Committee on the District of Columbia. Before that order is made the committee have instructed me to remark that herein is an incident showing the luxury of departing from its rules established by Congress in the performance of the duties required of them in reference to matters of appropriation. Here is an order for a survey and estimates of a bridge across the Potomac river, for which the Government are now required to pay the sum of $4,500, which, if the same business had been performed through the ordinary channels made and established by the Government of the United States for such purposes, would not have cost one cent. The engineer department of the Army are paid regularly by appropriations for that purpose, and when orders for surveys and estimates are sent to that department reports are returned from that department to Congress without a dollar of expense to the Government or the people. The committee have instructed me or have permitted me to say this, and I think I do not trench upon the confidential nature of the proceedings of the committee or of its members in saying this; one of them in particular expresses the opinion in reference to this survey that there are individuals in his State who would perform the duty as satisfactorily as this has been done for the sum of twenty-five dollars. We are called upon to pay $4,500 for the survey. But it is not in this particular that the committee desire to draw the attention of the Senate to this case, but it is in regard to the appetite for schemes to obtain money by jobs outside of the regular channels that they have to complain and that they have instructed me to complain to the Senate. This proceeding emanated from a Department that has nothing whatever of Government appendage of engineering or otherwise, the Interior Department; that has been called upon to do the duty and the service particularly appropriate by law and otherwise to the engineer department of the Army; and the case illustrates the common practice of constantly trying to do work outside of the ordinary channel. I move the reference of these papers to the Committee on the District of Columbia.

The motion was agreed to.

PENSION BILLS.

Mr. VAN WINKLE. I am instructed by the Committee on Pensions, inasmuch as with the bills reported this morning there are now ninety-four pension bills on the Calendar, to move that Friday next, after the morning hour, be set apart for the consideration of business reported by the Committee on Pensions. Of course, whatever may be done in reference to impeachment will not be interfered with; but, supposing that the Senate will be in session at that time in its ordinary capacity, I make that motion.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the time of the Senate be appropriated on Friday next to the consideration of pension bills.

Mr. GRIMES. Say private bills.

Mr. VAN WINKLE. My motion was limited to bills reported from the Committee on Pensions. I have no objection, if there be time after they have been disposed of, to consider other private bills; but, as there are ninety-four pension bills on the Calendar, I would rather confine it to them.

The motion was agreed to.

CAPTURED AND ABANDONED PROPERTY.

Mr. FOWLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas the Senate, on the 29th of November last, passed a resolution "requesting the Secretary of the Treasury to inform this body whether the sum of $834,529 34, which appears from House Executive Document No. 97, second session Thirty-Ninth Congress, page 38, to have been received by Colonel S. B. Holabird, assistant quartermaster, chief quartermaster of the department of the Gulf, up to February, 1865, as the net proceeds of captured and abandoned property, and to have been used in the quartermaster's department as if belonging to the regular funds of that department by direction of the Major General then commanding the department of the Gulf, has been credited to the account of captured and abandoned property in the Treasury of the United States and is included in the net sum realized from such property, as shown in said report; and whether the said sum of money has been charged to the quartermaster's department, and, if not, what legislation is necessary to effect that object;" and whereas, on the 30th of November last, the Secretary of the Treasury, in answer to said resolution, forwarded a communication to this body stating "that the exhibit referred to shows the result of a preliminary examination of Colonel Holabird's accounts by the quartermaster's department; that in the regular routine of official business they have been under examination for about a year last past in the office of the Third Auditor, which examination will probably be completed during the next two months; that whatever amount shall thereupon be ascertained to have accrued from the sale of captured and abandoned property and to have been used for expenses of the quartermaster's department will then be transferred by executive action, already authorized by law, upon the statement of the Third Auditor, to the fund to which it belongs, and be charged to the quartermaster's department, and that no further legislation is necessary to effect that object;" and whereas more than two months have transpired since the date of the said communication from the Secretary of the Treasury to this body: Therefore,

Resolved, That the Secretary of the Treasury be requested to inform the Senate, at his earliest convenience, whether the examination of the said account of the said Colonel Holabird has been completed by the Third Auditor; and, if so, that he state the amount found to be due the fund arising from the proceeds of captured and abandoned property; whether the amount thus found due has been credited to said fund and charged to the quartermaster's department, and, if the balance thus found due has not been credited to said fund, why the same has not been thus credited and included in the total net sum realized from the sale of captured and abandoned property in the Treasury of the United States.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 119) authorizing the Secretary of War to take charge of the Gettysburg and Antietam national cemeteries; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

DEFAULT OF STATES IN PAYING INTEREST.

Mr. MORGAN. I move that the Senate proceed to the consideration of Senate joint resolution No. 94, reported by me some time since from the Committee on Finance.

The motion was agreed to; and the joint resolution (S. R. No. 94) directing the Secretary of the Treasury, whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, to retain moneys due to such State from the United States, was read the second time, and considered as in Committee of the Whole. It provides, whenever any State shall have been or may be in default of the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, it shall be the duty of the Secretary of the Treasury to retain the whole, or so much as may be necessary, of any moneys due on any account from the United States to such State, and to apply the same to the payment of the principal and interest, or either, or to the reimbursement of any sum of money advanced by the United States on account of such interest.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. MORTON. I move that the further consideration of the joint resolution be postponed until to-morrow. I was not aware that it was coming up to-day, and I have not had time to examine it.

Mr. MORGAN. I am ready to make a statement in relation to the joint resolution if the Senate is willing to hear it. By the law passed——

The PRESIDENT *pro tempore*. Is the Senator speaking to the motion of the Senator from Indiana?

Mr. MORGAN. I did not hear the motion.

The PRESIDENT *pro tempore*. The motion is to postpone the resolution until to-morrow.

Mr. MORGAN. I hope the resolution will not be postponed. I can make a statement in relation to it which, perhaps, will be satisfactory to the Senator from Indiana. By a law passed in 1841, being an act to appropriate the proceeds of the sales of the public lands and to grant preëmption rights, ten per cent. on the net proceeds of the sales of the public lands sold within the limits of certain States is to be paid to the States named. By a joint resolution approved March 3, 1845, it is provided—

"That whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust it shall be the duty of the Secretary of the Treasury to return the whole, or so much thereof as may be necessary, of the percentage to which such State may be entitled of the proceeds of the sales of the public lands within its limits, and apply the same to the payment of said interest or principal, or to the reimbursement of any sums of money expended by the United States for that purpose."

There is a large amount of overdue State bonds which the United States hold in trust for certain Indian tribes upon which the interest is not paid by the States, but is advanced by the Treasury. The existing joint resolution which I have read gives power to retain a certain amount of the percentage due a State under the act of 1841. The resolution now under consideration gives full legislative direction to the Secretary of the Treasury to withhold any money due to a defaulting State on any account for the purpose of reimbursing the Treasury for the advances made. This resolution was drawn at the Department of the Interior, sent here, and received the unanimous approval of the Committee on Finance. I think there can be no objection to it.

Mr. MORTON. I will say to the Senator from New York that I think there is a question involved in it which I should like to have an opportunity of investigating before the joint resolution passes. If I find that that is not so I shall withdraw any objection or opposition on my part to the passage of the resolution. I simply ask that it be laid over until I have an opportunity for investigation.

Mr. MORGAN. Under those circumstances I will not object to a postponement.

The PRESIDENT *pro tempore*. The joint resolution will be postponed until to-morrow, no objection being made.

PAYMASTERS' ACCOUNTS.

Mr. WILSON. I move to take up the bill (S. No. 376) to facilitate the settlement of paymasters' accounts.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the proper accounting officers of the Treasury, in the settlement of accounts of paymasters of the Army, to allow, subject to the approval of the Secretary of War, such credits for losses of property and funds and for over-payments made in good faith on public account since the commencement of the rebellion as shall appear to them, by such vouchers and testimony as they shall require, to have been occasioned by accidental circumstances, or a condition of things over which those officers had no control and for which they are not justly responsible.

Mr. WILLIAMS. I should like to hear that bill read again, and some explanation made in reference to it.

The PRESIDENT *pro tempore*. The bill will be read.

The Secretary read the bill.

Mr. MORRILL, of Vermont. Is immediate action asked on that bill?

The PRESIDENT *pro tempore*. It is under consideration now.

Mr. MORRILL, of Vermont. Has it been considered by any committee?

Mr. WILSON. I may say in regard to this bill that such a measure was recommended by the Paymaster General and the Secretary of War two years ago, and a bill, according to their recommendation, was passed by the House of Representatives in 1866, and another one, I think, in 1867. The Committee on Military Affairs of the Senate have defeated any action on the subject until this time for the purpose of having every effort made that could be made to settle with these paymasters and obtain all that could be obtained from them. Since the war closed very many accounts have been presented, and the Paymaster General and the Secretary of War earnestly recommend that those accounts should be settled. Nothing more can be done in the premises until some act of Congress is passed. I will say that the amount involved is very small. The various accounts are individually generally trivial affairs, and most of them occurred by reason of the faults of our own legislation in the manner of changing the pay.

Mr. GRIMES. I suggest to the Senator that his bill is prospective as well as retrospective. As I understand it, it applies to any defalcations that may occur in the future.

Mr. WILSON. It applies only to matters growing out of the war. The pay department paid out more than one thousand million dollars during the war, and the Paymaster General stated to me that the total loss to the Government would be less than three hundred thousand dollars—the most wonderful thing in the history of the world. In the war of 1812 about two million dollars were lost to the Government through the paymasters and through the mode of paying the Army, and in the war with Mexico many hundreds of thousands of dollars were lost. Owing to the perfect organization of the pay department of our Army during the war of the rebellion, in paying out more than one thousand million dollars the Government will probably not lose more than a quarter of a million. The sums for which the paymasters ask credit are in little driblets of a few cents to this soldier or that overpaid. Many of these paymaster's accounts remaining unsettled are for but a few hundred dollars where the money was honestly paid out, and it ought to be allowed to them. Some of the paymasters are dead, and died supposing their accounts were settled, but on casting them up in the Department they find that the paymaster overpaid this man a few cents and that man a few cents. The total amount will, I understand, not exceed in the aggregate two hundred and fifty or three hundred thousand dollars in the immense sums paid out during the war—being over one thousand millions. The other House passed a bill like this, not so carefully drawn as we think this is, in 1866, and I think another was passed in 1867. We have held back those bills and defeated them until we think everything has been done that can be done in the Departments to settle these accounts, so as to secure the Government to the fullest extent.

Mr. MORRILL, of Vermont. I am sure that this bill goes much further than the Senator from Massachusetts supposes, and that it will relieve not only his committee, but the Committee on Finance and the Committee on Claims of a vast amount of labor. I know of several cases that are before the Committee on Claims where losses to the extent of $60,000 have been incurred by some paymasters, and where the committee have reached the conclusion that it was through grave neglect on their part. If this bill should pass it would authorize the Department of War to settle these claims on their own estimate of what is proper. Certainly this bill is one that deserves mature consideration; and while it may be proper that some relief should be given, it would be dangerous, in my judgment, to go so far as the Senator from Massachusetts proposes. I move that the bill be referred to the Committee on Finance.

Mr. SPRAGUE. Before that motion is put, and in connection with what has been said by the Senator from Massachusetts, I desire, for the information of the Senate, to state that quartermasters and commissaries are relieved from loss by the act of May 28, 1866, very much in the same terms that this proposed act is in reference to paymasters. Company officers are relieved by the act of February 17, 1863, in very similar language; so that the paymasters are the only Army officers under the Government who are held to the technical compliance and strict performance of the duty intrusted them, to their great detriment.

Mr. CONKLING. I would inquire of the Senator from Rhode Island if he has looked at those acts, whether any of them makes the accounting officers of the Treasury the judges of what rules of evidence shall be established.

Mr. SPRAGUE. I have not examined that point, but as the information as to those acts comes from the Department I take it their version of them is correct.

Mr. CONKLING. The point which I have just suggested is one of the things which strike me on looking at this bill. All courts and all boards which act upon evidence, as a general proposition, are subject to certain rules prescribing the kind and degree of evidence which is to be received and treated as satisfactory. Here is a proposition, if I understand it, to submit to the accounting officers not only the whole discretion of allowing or disallowing, but to submit to them the discretion of specifying and establishing for themselves what kind of evidence and how much evidence will be satisfactory.

Mr. FESSENDEN. I will state to the Senator that I believe it is the custom in regard to all the Departments for the accounting officers to establish the rules and state what evidence they require unless they are controlled by statute. A statute sometimes requires that they shall take such and such kinds of evidence as proof. Where that is not required by statute my impression is that they specify themselves what evidence they require.

Mr. CONKLING. I inquire of the Senator from Maine whether he has looked at the language of this bill.

Mr. FESSENDEN. I have not examined it; I am merely answering the general question of the Senator.

Mr. CONKLING. I will read to the Sena-

tor one provision to inquire whether there be any such statute on the book. "The proper accounting officers of the Treasury be, and they are hereby, authorized" to allow certain credits "as shall appear to them by such vouchers and testimony as they shall require" to be satisfactory, and they are to ascertain whether or not the officers are to be held responsible. I know of no statute which confers any such discretion as this.

Mr. FESSENDEN. There may be no such statutes, but there are statutes which direct the accounting officers to take particular kinds of testimony. For instance, in reference to the claims of States, the statute prescribed what kind of vouchers should be conclusive. I remember one statute in regard to losses by officers where the affidavit of the officer himself was allowed to be taken as proof of loss. The Senator must see that the accounting officers must necessarily establish some sort of rule by which they will be governed in the settlement of these accounts. As I understand what he has read, they are to be furnished with such vouchers or other testimony of a particular fact as they shall require. They must necessarily establish rules for the purpose where they are not prescribed by the statute.

Mr. CONKLING. The statutes to which the Senator from Rhode Island has referred, and which I have looked at now for the first time, illustrate the suggestion I make. Section two of the act of 1863, to which he alluded, provides:

"That in settling the accounts of the commanding officer of a company for clothing or other military supplies the affidavit of such officer may be received to show the loss of vouchers or the company books," &c.

But here is a proposition that the accounting officers need not require even a voucher; they need not require an affidavit; in truth, they need not require any evidence at all that can be specified. Whatever in their estimation is satisfactory is enough, so that if they have a personal acquaintance with the particular party, and upon his word or by his letter he makes a statement that satisfies them morally, that would comply with the provision of this bill.

My suggestion is that there ought to be some provision in the bill either requiring vouchers or else requiring legal evidence of the loss or absence of vouchers; that it will hardly do to commit at large to accounting officers, first, a discretion to allow any account which they deem just; and second, a discretion to allow it upon such persuasion as, in their judgment, amounts to satisfactory evidence, no matter whether it be hearsay, whether it be a letter, whether it be a mere assertion, or whether it be something which in truth legally would be described as evidence.

Mr. WILLIAMS. I think this bill may be so improved by amendments as, perhaps, to meet the views of the Senator from Massachusetts and remove the objections made by the Senator from Vermont. I think that where a paymaster has made an overpayment in good faith, actually paid out the funds, he ought to be credited with the amount so paid on the production of vouchers or satisfactory evidence; but I do not think that power ought to be conferred on the accounting officers to allow for the losses of property or funds. Whenever a paymaster loses an amount of money he ought to make an application to Congress for relief, and numerous cases of that kind have occurred. I had occasion once to decide, as one of the Committee on Claims, in a case where a paymaster lost $15,000 in money, and it was the opinion of the committee that it was through negligence. Although he claimed that he had exercised proper diligence, yet in the opinion of the committee the loss was attributable to the negligence of the officer, and so the committee disallowed that claim. Other applications of a similar nature have been made to Congress, and it seems to me it would be a dangerous power to confer upon the accounting officers the right to pass upon these claims as to the loss of funds or property by these officers; but if an officer has actually paid out money to a soldier, and it is an overpayment which was not strictly in accordance with the law, I should think there would be good reason to allow him credit for that amount. But I never could consent to the passage of this bill without an amendment; and I would suggest the striking out of the words "such credits for losses of property and funds, and;" so as to make it read:

That the proper accounting officers of the Treasury be, and they are hereby, authorized, in the settlement of the accounts of paymasters of the Army, to allow, subject to the approval of the Secretary of War, for overpayments made in good faith on public account since the commencement of the rebellion as shall appear to them by such vouchers and testimony as they shall require, &c.

I agree with the Senator from Maine, according to the information I possess, that the accounting officers are allowed in all cases of claims to decide upon such testimony as they may require, as will satisfy them as to the justice of the claim. It is not necessary always that actual vouchers should be produced.

Mr. WILSON. I will say to Senators that this bill was examined in the pay department and in the Treasury Department, and was drawn in conjunction with the best officers of this Government, and intended to be, in the most careful manner, and to be an improvement on what I think the other House has once, if not twice, passed. I will, however, move to strike out in the sixth and seventh lines the words "losses of property and funds and for;" so that it will simply apply to overpayments.

The PRESIDENT *pro tempore*. There is a prior motion to refer the bill to the Committee on Finance. Is that withdrawn?

Mr. MORRILL, of Vermont. No, sir.

Mr. WILSON. I object to that reference, and hope it will not be ordered.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, that the bill be referred to the Committee on Finance.

The question being put, a division was called for, and the ayes were thirteen.

Mr. SHERMAN. There is evidently not a quorum voting, and I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. SHERMAN. I think the bill had better lie over.

Mr. CONNESS. What is the condition of the question?

The PRESIDENT *pro tempore*. The question is on the engrossment of the bill.

Mr. SHERMAN. What became of the motion to refer?

The PRESIDENT *pro tempore*. There was no quorum voting, and the yeas and nays were not ordered, and there you are.

Mr. HOWE. Mr. President, here I am; and I want to say that I do not think this bill had better be engrossed as it stands now.

Mr. CONNESS. What has become of the motion to amend made by the Senator from Oregon?

The PRESIDENT *pro tempore*. The motion to amend was not then in order, because there was a motion to refer the bill to the Committee on Finance, and that is the pending motion.

Mr. MORRILL, of Vermont. I withdraw the motion to refer for the present.

Mr. WILLIAMS. I now move my amendment, to strike out in the sixth and seventh lines the words "such credits for losses of property and funds and," and also to strike out in the tenth, eleventh, and twelfth lines the words "to have been occasioned by accidental circumstances or a condition of things over which said officers had no control and for which they are not justly responsible;" so as to make the bill read if amended:

That the proper accounting officers of the Treasury be, and they are hereby, authorized in the settlement of accounts of paymasters of the Army, to allow, subject to the approval of the Secretary of War, for over-payments made in good faith on public account since the commencement of the rebellion, as shall appear to them, by such vouchers and testimony as they shall require.

The amendment was agreed to.

Mr. SHERMAN. I move to strike out the words "subject to the approval of the Secretary of War."

The PRESIDENT *pro tempore*. There is no time to go any further with this bill now. The Chair will, however, lay before the Senate a bill of the House of Representatives, for the purpose of reference.

MANAGERS FOR SOLDIERS' ASYLUM.

The joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes, was read twice by its title.

Mr. WILSON. I ask that that resolution be put on its passage now.

The PRESIDENT *pro tempore*. There is no time for that,

Mr. WILSON. Very well, let it lie on the table for the present.

IMPEACHMENT OF PRESIDENT JOHNSON.

The PRESIDENT *pro tempore*. The time having arrived for the Senate to proceed to the consideration of matters connected with the impeachment of the President of the United States, the chair will be vacated for the Chief Justice of the United States.

The President *pro tempore* thereupon retired from the chair.

The Chief Justice of the United States entered the Senate Chamber, escorted by Mr. POMEROY, the chairman of the committee appointed for that purpose, and took the chair.

The CHIEF JUSTICE. The Senate will come to order. The proceedings of yesterday will be read.

The Secretary read the "proceedings of the Senate sitting on the trial of the impeachment of Andrew Johnson, President of the United States, on Thursday, March 5, 1868," from the entries on the Journal kept for that purpose by the Secretary.

The CHIEF JUSTICE. At its adjournment last evening the Senate, sitting for the trial of impeachment, had under consideration the motion of the Senator from Maryland, [Mr. JOHNSON,] that objection having been made to the Senator from Ohio [Mr. WADE] taking the oath his name should be passed until the remaining members have been sworn. That is the business now before the body. The Senator from Connecticut [Mr. DIXON] is entitled to the floor on that motion.

Mr. DIXON. Mr. President——

Mr. HOWARD. Excuse me one moment. Mr. President, I rise to a question of order.

The CHIEF JUSTICE. The Senator from Michigan will state his point of order.

Mr. HOWARD. By the Constitution the Senate sitting on the trial of an impeachment is to be on oath or affirmation; each member of the Senate, by the Constitution, is a component member of the body for that purpose. There can, therefore, be no trial unless this oath or affirmation is taken by the respective Senators who are present. The Constitution of the United States is imperative; and when a member presents himself to take the oath I hold that as a rule of order it is the duty of the presiding officer to administer the oath, and that his proposition to take the oath cannot be postponed; that other members have no control over the question, but that it is a simple duty devolved upon the presiding officer of the body to administer the oath.

Further, sir, the Senate on the second day of the present month, adopted rules for their government on proceedings of this kind. Rule three declares that—

"Before proceeding to the consideration of the articles of impeachment, the presiding officer shall administer the oath hereinafter provided to the members of the Senate then present."

Mr. WADE is present and ready to take the oath—

"And to the other members of the Senate as they shall appear, whose duty it shall be to take the same."

The form of the oath is also prescribed in our present rules, and is as follows:

"I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the im-

peachment of —— ——, now pending, I will do impartial justice according to the Constitution and laws. So help me God."

That is the form of the oath prescribed by our rules. It is the form in which the presiding officer of this body himself is sworn. It is the form in which we all, thus far, have been sworn. And so far as the rules are concerned, I insist that they have already been adopted and recognized by us. So far as it is possible during the condition in which we now are of organizing ourselves for the discharge of our judicial duty, I therefore make it a point of order that the objection made to the swearing in of Mr. WADE is out of order; and also that the motion of the Senator from Maryland, to postpone the swearing in of Mr. WADE, is out of order under the rules and under the Constitution of the United States; and I ask most respectfully, but earnestly, that the President of the Senate, the Chief Justice of the Supreme Court of the United States, now presiding in the body, will decide this question of order and without debate.

Mr. DIXON. Mr. President——

Mr. HOWARD. I object to any further debate.

Mr. DIXON. The very question before the Senate is whether under this rule the Senator from Ohio can be sworn.

Mr. DRAKE. Mr. President, I call the Senator from Connecticut to order.

The CHIEF JUSTICE. The Senator from Connecticut is called to order. The Senator from Michigan has submitted a point of order for the consideration of the body. During the proceedings for the organization of the Senate for the trial of an impeachment of the President the Chair regards the general rules of the Senate as applicable and that the Senate must determine for itself every question which arises, unless the Chair is permitted to determine it. In a case of this sort affecting so nearly the organization of this body the Chair feels himself constrained to submit the question of order to the Senate. Will the Senator from Michigan state his point of order in writing?

While the point of order raised by Mr. HOWARD was being reduced to writing at the desk,

Mr. DIXON. I rise to a question of order.

The CHIEF JUSTICE. A point of order is already pending, and a second point of order cannot be made until that is disposed of.

Mr. DIXON. I submit to the presiding officer whether a point of order can be made with regard to that question, and, with the consent of the Chair, I will state——

The CHIEF JUSTICE. The Chair is of opinion that no point of order can be made pending another point of order.

Mr. HOWARD'S point of order having been reduced to writing—

The CHIEF JUSTICE. Senators, the point of order submitted by the Senator from Michigan is as follows: "That the objection raised to administering the oath to Mr. WADE is out of order, and that the motion of the Senator from Maryland, to postpone the administering of the oath to Mr. WADE until other Senators are sworn, is also out of order under the rules adopted by the Senate on the 2d of March, instant, and under the Constitution of the United States." The question is open to debate.

Mr. DIXON. Mr. President, as I understand——

Mr. DRAKE. I call the Senator from Connecticut to order. Under the rules of the Senate questions of order are not debatable.

Mr. DIXON. I would remind the Senator that when questions of order are referred to the Senate for their decision they are always debatable.

Mr. DRAKE. I do not so understand the rules of the Senate. There can be a debate upon an appeal from the decision of the Chair; but there can be no debate in the first instance on a question of order, as I understand the rules of the Senate.

The CHIEF JUSTICE. The Chair rules that a question of order is debatable when submitted to the Senate.

Mr. DRAKE. If I am mistaken in the rules of the Senate on that subject I should like to be corrected, but I think I am not.

The CHIEF JUSTICE. The Senator from Missouri is out of order unless he takes an appeal from the decision of the Chair.

Mr. DRAKE. Well, sir, if it is according to the rules of the Senate debatable I have nothing to say.

Mr. POMEROY. The Senator must be aware that when the Chair makes a decision it is to be decided without debate; but when it is submitted to the Senate our custom is that it is debatable.

Mr. JOHNSON and others. Always.

Mr. POMEROY. But it is not always submitted to the Senate.

Mr. HOWARD. I ask leave of the Senate to read the sixth of the general rules of the Senate:

"If any member, in speaking or otherwise, transgress the rules of the Senate, the Presiding Officer shall, or any member may, call to order, and when a member shall be called to order by the President, or a Senator, he shall sit down, and shall not proceed without leave of the Senate. And every question of order shall be decided by the President without debate, subject to an appeal to the Senate, and the President may call for the sense of the Senate on any question of order."

Mr. DIXON. I understand the sense of the Senate to be as I supposed, and I take it I have a right to proceed. How far I have a right to discuss the general question I am somewhat uncertain. I suppose that the question is now presented merely in that different shape alluded to by the Senator from Michigan yesterday when he reminded the Senate that, after all, this was in his opinion a question of order, and ought to be so discussed. I take it, Mr. President, the question now before this body is, whether as a question of order of the orderly proceedings of this tribunal the Senator from Ohio [Mr. WADE] can be sworn; and it is upon that question that I now propose to address this body.

Mr. President, when I had the honor yesterday of addressing this tribunal, and gave way to a motion to adjourn, I was remarking that the President of the United States was about to be tried before this body in its judicial capacity, whether called a court or not, upon articles of impeachment presented by the House of Representatives. If upon the trial he be convicted the judgment may extend to his removal from office and to his disqualification hereafter to hold any office of profit or trust under the United States. How far the judgment would extend in case of his conviction it is of course impossible for any one now to say. In all human probability it would extend at least as far as to his removal from office; and, in that event, the very moment that the judgment was rendered the office of President of the United States, with all its powers and all its attributes, would be vested in the Senator from Ohio, now holding the office of President of this body. The office would vest in the President of the Senate for the time being. And the question for this tribunal now to decide is whether, upon the trial of the President of the United States, the person holding the office of President of the Senate, and in whom the office of President of the United States, upon the conviction of the accused, will immediately vest, can be a judge in that case. That, sir, is the question before us.

Mr. SHERMAN. I very rarely call a Senator to order, but I feel it my duty on this occasion to do so in regard to the Senator from Connecticut. I think he is not in order in the discussion he is now pursuing. The point submitted to the Senate by the Chair, and to be settled by the Senate, is whether or not it is in order to proceed with this discussion. While that matter is being submitted to the Senate the Senator from Connecticut goes on and discusses the main question that was discussed yesterday. It seems to me that in a tribunal like this each Senator should observe strictly the rules of order. I therefore make the point of order on the Senator from Connecticut, and hope the discussion will be confined to the point of order which is submitted now to the Senate.

Mr. DIXON. If I may be permitted, I beg to say to the Senate that I am attempting to discuss the question of order in what seems to me a proper manner.

The CHIEF JUSTICE. The Senator from Ohio makes the point of order that the Senator from Connecticut, in discussing the pending question of order, must confine himself strictly to that question, and not discuss the main question before the Senate. In that point of order the Chair conceives that the Senator from Ohio is correct, and that the Senator from Connecticut must confine himself strictly to the discussion of the point of order before the House.

Mr. DIXON. Mr. President, I commenced by saying that it was somewhat uncertain in my own mind how far it would be proper to go into the general merits of this question upon the point of order; but that I supposed it would be proper to discuss the general question. And I will now take the liberty to say to the presiding officer of this body that if I were now commencing this debate without the example of those Senators before me who have already in in the fullest manner discussed the pending question, who, up to the time when I was permitted the privilege of the floor, made no objection to a full discussion—if I had commenced before that example, I should perhaps consider myself more strictly limited in the course of my remarks than I feel myself to be with that example before me. If permitted to proceed without interruption, I will say frankly to the Senate that I propose to go into the general merits of the question whether the President *pro tempore* of this body can be sworn in as a judge in this case—the same question which has been discussed by other Senators. If it is the opinion of the Senate that I cannot go into that question, I certainly have not that desire to force myself upon the attention of the Senate that I should insist upon attempting to evade a rule. I should prefer, therefore, that Senators would inform me, or that the Chair would inform me, how far I may proceed, and I certainly shall not willingly be guilty of any impropriety. But I beg leave again to remind the Senate that this strict rule is applied to me after ten Senators at least have fully discussed this question; and the Senator who raises the question himself has spoken I think at great length not less than three times. Now, sir, if it is the will of the Senate that I may proceed, I certainly shall be gratified to do it. As I have already said, I have no desire to proceed with constant interruptions upon questions of order.

Mr. JOHNSON. I believe the questions of order raised by the honorable member from Michigan are, that the Senator from Ohio has a right to be sworn and that the Senate have no right to ask that it should be postponed even for a day. He places it upon the ground that, being a Senator of the United States, he is by the Constitution of the United States made a member of the court. The argument yesterday on both sides was an attempt to show the affirmative and the negative of that proposition. Whether it is in order to object to his being sworn necessarily involves the question whether, under the Constitution, he has a right to be sworn. The honorable member made another question of order, or, rather, made it part of his first question of order, that these points are to be decided without debate. You, Mr. Chief Justice, have held that, as you have submitted the questions to the deliberation and decision of the Senate, they may be debated. All questions of order, when submitted by the Presiding Officer himself to the Senate, or when they are brought before the Senate by an appeal from his decision, are always open to debate. Then what is to be debated under the question of order, which is, that there is no right to object to the honorable member from Ohio taking the oath as a member of this court? I suppose whether he has that right. The objection that the right is a mat-

ter which cannot be disputed assumes the whole controversy. If it was admitted by every member of the Senate that the honorable member from Ohio had a right to be sworn there would be no question before the Senate. Some of the members of the Senate think that, for reasons stated in the debate yesterday, he has no right to be sworn as a member of this court. Whether it is in order to make that objection necessarily involves the question whether he has a right to be sworn. I do not see that there can be any other question discussed upon the question of order raised by the honorable member from Michigan but the question whether the honorable member from Ohio has under the Constitution a right to be sworn.

Mr. HENDRICKS. I ask for the reading of the point of order.

The Secretary again read the point of order submitted by Mr. HOWARD.

Mr. DIXON. I think I shall be able to discuss that question of order.

Mr. HENDRICKS. All that I desired to say was this. that the discussion——

Mr. HOWARD. If the Senator from Indiana will allow me one word, I desire to call his attention to the twenty-third rule that we have adopted. Possibly it may have escaped his attention:

"All orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate."

Mr. JOHNSON. The honorable member will permit me to make a suggestion upon the effect of that rule. I was aware of the existence of the twenty-third rule, but that goes into force only after we have become a court. The question now is as to the manner in which we are to organize ourselves as a court. After we are organized all questions of order are, by force of the twenty-third rule, to be decided without debate.

Mr. SHERMAN. I should like to ask the Senator from Maryland if there is any doubt of the power of the Senate to prescribe the mode and manner of organizing the court preliminary to the final organization? There can be no doubt of it. The last clause of the third rule adopted by us the other day provides that—

"Before proceeding to the consideration of the articles of impeachment the presiding officer shall administer the oath hereinafter provided to the members of the Senate then present, and to the other members of the Senate as they shall appear."

Now, I will ask any Senator whether another Senator may stop the execution of this imperative order of the Senate while it is going on, and give rise to a long debate when the presiding officer, in obedience to this rule, is executing the order of the Senate. He might just as well stop the calling of the roll when the yeas and nays were being taken upon a motion and begin a discussion upon the right of a Senator to vote on a pending motion as to stop the execution of this order of the Senate while the presiding officer, in pursuance of the rule, is executing it. It cannot be done. The presiding officer is bound to execute the rule of the Senate in the ordinary way. Nothing can interrupt the execution of the order when once adopted.

Mr. DIXON. With the consent of the Senate I propose now—if the honorable Senator from Ohio [Mr. SHERMAN] calls me to order I can proceed only by consent—to discuss this question as a question of order, under the Constitution of the United States and the rules of this body, as specified in the written statement of the question of order, as made by the Senator from Michigan. Before proceeding I will request the Secretary to read the point of order once more. I wish to know precisely what I may be permitted to say.

The Secretary read as follows:

"That the objection raised to administering the oath to Mr. WADE is out of order, and that the motion of the Senator from Maryland, to postpone the administering of the oath to Mr. WADE until other Senators are sworn, is also out of order, under the rules adopted by the Senate on the 2d of March instant, and under the Constitution of the United States."

Mr. DIXON. The question presented by the point of order is whether, under the Constitution——

Mr. HOWARD. Mr. President——

Mr. DIXON. If the Senator calls me to order I will yield.

Mr. HOWARD. Well, I call the Senator from Connecticut to order, and ask the Chair if it be in order now to take an appeal from the decision of the Chair?

Mr. DIXON. I submit that is not such a question of order as the Senator has a right to raise. The only question of order that he can now raise upon me is that I am out of order.

Mr. HOWARD. Very well; I raise that question distinctly.

Mr. DIXON. If the Senator claims that I am out of order he can call me to order.

Mr. HOWARD. I call the Senator to order.

The CHIEF JUSTICE. The Senator from Connecticut is called to order, and will take his seat until the point of order is stated.

Mr. HOWARD. Mr. President, the twenty-third rule, adopted by the Senate on the 2d of March, declares that—

"All the orders and decisions"—

Of course, decisions of the Senate—

"shall be made and had by yeas and nays, which shall be entered on the record, and without debate, except when the doors shall be closed for deliberation, and in that case no member shall speak," &c.

The Senator from Connecticut, in defiance, as I think, of this rule, persists in his right to address the Senate and discuss the question of order. I hold that to be out of order, and upon that question I ask a ruling.

Mr. DIXON. I respectfully submit that an appeal is debatable.

The CHIEF JUSTICE. The Chair will decide the point of order. This point of order is not debatable. The twenty-third rule is a rule for the proceeding of the Senate when organized for the trial of an impeachment. It is not yet organized; and in the opinion of the Chair the twenty-third rule does not apply at present.

Mr. DRAKE. I take an appeal from the decision of the Chair on that point.

The CHIEF JUSTICE. The Senator from Missouri appeals from the decision of the Chair.

Mr. DRAKE. I do not feel disposed to argue the question at this time, consuming time upon it. I take the appeal and ask for a decision upon it by the Senate, if we are in a condition to decide anything until all the Senators are sworn.

The CHIEF JUSTICE. Under the general rules of the Senate, as the Chair understands, an appeal being taken from the decision of the Chair, it must be decided without debate.

Mr. GRIMES. Oh, no; it is debatable.

The CHIEF JUSTICE. The Chair ruled that an appeal taken must be decided without debate under an erroneous impression as to the rules of the Senate. Every appeal taken from the decision of the Chair on a question of order is debatable, and this must necessarily be debatable. ["Question!" "Question!"] Senators, are you ready for the question? The question is, Shall the decision of the Chair stand as the judgment of the Senate? and upon that question the yeas and nays will be called.

Mr. FESSENDEN. I think the yeas and nays are not called for.

Mr. GRIMES. They must be called.

Mr. MORRILL, of Maine. Why? On what rule?

Mr. GRIMES. On some rule of the Senate.

Mr. FESSENDEN. They are not always taken, necessarily.

Several SENATORS. Call the roll.

Mr. POMEROY. The point of order is not understood. I do not know what we are to vote upon. I do not understand the point of order of the Senator from Missouri.

Mr. FESSENDEN. It is an appeal from the decision of the Chair.

The CHIEF JUSTICE. The Chair decides that the twenty-third rule is not applicable to the proceedings of the Senate when in process of organization for the trial of an impeachment. From that decision the Senator from Missouri appeals. The yeas and nays are not demanded.

Mr. FERRY. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. DRAKE. The form of the question, if I understand it, is, Shall the decision of the Chair stand as the judgment of the Senate?

The CHIEF JUSTICE. As many Senators as are of opinion that the decision of the Chair shall stand as the judgment of the Senate will, when their names are called, answer "yea;" as many as are of the contrary opinion will answer "nay." The Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 24, nays 20; as follows:

YEAS—Messrs. Anthony, Buckalew, Corbett, Davis, Dixon, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Johnson, McCreery, Morrill of Maine, Norton, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sherman, Sprague, Van Winkle, Willey, and Williams—24.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Drake, Ferry, Harlan, Howard, Morgan, Morrill of Vermont, Morton, Nye, Stewart, Sumner, Thayer, Tipton, Wilson, and Yates—20.

ABSENT—Messrs. Bayard, Cragin, Doolittle, Edmunds, Howe, Patterson of New Hampshire, Ramsey, Trumbull, and Wade—9.

The CHIEF JUSTICE. On this question the yeas are 24 and the nays are 20; so the decision of the Chair stands as the judgment of the Senate. [Manifestations of applause in the galleries.] Order! order!

Mr. DIXON. Perhaps it will not be improper for me to say, with the consent of the Senate, that it was my intention to speak very briefly and in good faith to the question before the Senate. I have not come here to delay proceedings; I have not come here to violate the rules; and I propose now, so far as I can, to confine myself to the proprieties of discussion in attempting to show that under the Constitution and the rules of this body, as expressed in the questions of order, it is not proper for the Presiding Officer of this body *pro tempore* to be sworn in as a judge in this case.

When interrupted I was saying that in the event of the conviction of the President of the United States upon the charges brought against him, and his removal from office, there was a direct, apparent interest in the Senator from Ohio, the President *pro tempore* for the time being of this body, which rendered it improper for him to act as a judge. In saying that I beg leave to say, in the first place, that I am not unmindful of the high character of that Senator. I acknowledge most cheerfully that he is as much raised above the imperfections and the frailties of this weak, depraved, corrupt human nature of ours as any member of this body.

Mr. CONNESS. I rise to a question of order.

The CHIEF JUSTICE. The Senator from California rises to a question of order. He will state the question of order.

Mr. CONNESS. I understand the decision of the Chair to be, that under the general rules of the Senate the Senator from Connecticut must confine his discussion to the question before us. I submit that a discussion of the personal qualifications or qualities of the Senator from Ohio forms no part of such an argument; and I ask the Chair that the Senator, if he proceed, shall be confined within the limit prescribed by the decision of the Chair.

The CHIEF JUSTICE. The Chair required the Senator from Connecticut to proceed in accordance with the rules, confining himself strictly to the point of order raised by the motion of the Senator from Michigan. But the Chair is greatly embarrassed when he attempts to ascertain the precise scope of debate to be indulged upon the point of order which is taken. He is therefore not prepared to state that the Senator from Connecticut is out of order.

Mr. DIXON. Mr. President, I thought that I could, without violating the rules of this body, do justice to myself so far as to disavow

any personal objection to the honorable Senator whose taking the oath has been objected to. I could not conceive that such a statement from me, under the circumstances, could be considered by the Senator from California or by any Senator as being an infringement of the rules of order.

Now, Mr. President, what is the question before this body? Is the Senator from Ohio so interested in the result of this trial that he cannot properly, under the Constitution and under the rules, be sworn in as a member of the tribunal? That is the question to which I propose to address myself. If the Chair shall inform me that I have no right to discuss it, I shall, of course, not proceed with my remarks.

I was speaking of the nature of the interest and of its effect upon any human mind. Now, sir, may I be permitted to ask this tribunal what is this interest? What is the question which is to be presented to the Senator from Ohio as a judge, and to all of us? If any advantage or profit is to accrue to that honorable Senator by any vote he may give in this body, what is it? What is the nature of the interest? The Senator from Massachusetts [Mr. SUMNER] has spoken of it as of a very slight character, a very slight degree of interest, a matter of trifling consequence. Sir, if any advantage is to accrue to this honorable Senator, it is that which he is to receive in a certain event which may be influenced by his vote. It is nothing less than the high office of President of the United States, the highest object in this country, and perhaps in the world, of human ambition; an object of ambition which the very highest in the land may properly and laudably aspire to.

Mr. STEWART. I call the Senator from Connecticut to order.

The CHIEF JUSTICE. The Senator from Nevada calls the Senator from Connecticut to order.

Mr. STEWART. It is not in order to discuss the main question as to whether the Senator from Ohio is entitled to sit in these proceedings. Nothing further than this can be in order, as I understand the ruling of the Chair: to discuss the point whether now is the time to decide the question.

The point of order submitted by the Senator from Michigan is, that this is not the time to dispose of the question whether the Senator from Ohio shall sit in our deliberations on the question of impeachment. Certainly it does not involve the main question. It only involves the question of whether this is the time to dispose of the main question. My point of order is, that the Senator from Connecticut is discussing the main question and not the question of determining that point at this time.

The CHIEF JUSTICE. The Chair has already said that it is very difficult to determine the precise limits of debate upon the point of order taken by the Senator from Michigan. The first clause of the point of order is, "that the objection raised to the administering of the oath to Mr. WADE is out of order;" that is the objection raised by the Senator from Indiana is out of order. The nature of that objection and the validity of that objection, as the Chair conceives, must necessarily become the subjects of debate in order to the determination of the point of order. The Chair, therefore, repeats that he is unable now to decide the Senator from Connecticut out of order.

Mr. DIXON. I was upon the question of interest. The objection made to the honorable Senator from Ohio, as I understand it, is that he is interested in the result of this decision. It became necessary for me, therefore, to consider what was his interest, and in order to ascertain that it was necessary to consider what was the advantage or disadvantage that he was to receive or to avoid by the result of his action. I was considering the question, what is this office of the President of the United States, which is the matter in controversy? I was saying that it was an object worthy of the ambition of the highest and most distinguished Senators in this body or of the most distinguished citizen of the United States, not because of its dazzling surroundings, its vulgar trappings; not because a man in that position breathes the atmosphere of adulation, so dear to human nature; not because he has an opportunity, which is still more dear to a generous mind, of doing favors to his friends, or even (which might be equally dear to men of ignoble character) punishing his enemies, but because it is a position in which the occupant of this great office can do immense good to his country; he may benefit the human race; he may at this time imagine that he might restore a dissevered and disunited country to prosperity and to Union; and for that reason a man of the very highest character and of the purest motives might properly aspire to this lofty position; and I venture to say that with that motive operating upon a human mind it would be nothing short of miraculous if he could be impartial. Nothing short of the power of Omnipotence, operating directly upon the human heart, could, under those circumstances, make any human being impartial.

Then, sir, such being the interest, what is the manner in which this subject is treated by the Constitution of the United States? It may be said that the objection does not come within the letter of the Constitution. Nor am I here to say that the Constitution of the United States expressly prohibits a member of the Senate, acting as Presiding Officer *pro tempore*, from sitting as a judge in this or a similar case. I am not prepared to say that there is within the letter of the Constitution an express prohibition. But, sir, is it within the spirit of the Constitution? I take it, we are here to act, not merely upon the letter, but upon the spirit of that instrument. I take it, at least, that when we are under oath to act impartially, according to the Constitution and the laws in a criminal proceeding, the spirit of that Constitution and the spirit of those laws are to govern our action. What is the language of the Constitution on this subject?

"The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

"The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice President, or when he shall exercise the office of President of the United States.

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

"Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States," &c.

Now, sir, here is no provision in the Constitution of the United States that the acting Vice President of the United States, the President *pro tempore* of the Senate, upon a trial of this kind shall not vote. It seems to have been, possibly, strictly speaking, an omitted case. The provision is, that the Vice President of the United States, under those circumstances, shall not even give the casting vote which he is entitled to give when the Senate is equally divided. That is his sole power in this body; he can only give a casting vote; and he cannot proceed to give a casting vote in a trial of this kind. And why? What was the reason of that provision? The reason of that provision has already been discussed in this body. The Senator from Massachusetts attempted to explain it. Other Senators gave a reason. It seems to me the reason is obvious. It needs no explanation; and I might say, further, that it is not the custom and the habit of the Constitution to give reasons for its provisions. The Senator from Massachusetts says that the Constitution gives no reason for this provision. The Constitution gives a reason, I believe, for very few, if any, of its own provisions. But in this case the reason was so palpable, so manifest, that it was not necessary, even in contemporaneous construction, to give a reason for the provision. The reason was perfectly plain. It was because there was so direct an interest in the Vice President of the United States that it was deemed improper that he should act; or, in the language of the present presiding officer of this body, the Chief Justice of the United States:

"It was, doubtless, thought prudent and befitting that the next in succession should not preside in a proceeding through which a vacancy might be created."

That undoubtedly was the reason of this provision. I have no doubt that the framers of the Constitution went further back. They acted upon principle. They knew that in the very nature of things, in common justice, a man could not be a judge in his own case. They knew that the provisions of the common law prohibited a man from being a judge in his own case. They probably remembered what has been said by one great commentator, (Blackstone,) that the omnipotence of Parliament was limited in this respect, and that body could not make a man a judge in his own case. Probably without that provision in the Constitution the Vice President would have been prevented from acting under those circumstances. The Constitution provides that the two Houses may make rules for their own action; and the House of Representatives has proceeded to make a rule that no member shall cast a vote in which he is interested. This body has not as yet made such a rule, I suppose, because it was thought impossible that any Senator should offer or attempt to vote in a case in which he himself was interested. But, sir, this body has made particular rules applying to particular cases; and when the interest has arisen, this body has decided that the party having that interest could not act, as in the case of Mr. Stockton, of New Jersey.

This being the constitutional provision with regard to the Vice President of the United States when he sits in that chair as the presiding officer of this body, and the President of the United States is tried for an offense which will deprive him of an office which will fall by his removal upon the Vice President, what is the character and meaning and spirit of the Constitution in a case like that before us? Why, sir, the reasons exist as strongly in this case as in the other. If it would shock humanity, if it would violate every feeling of justice throughout the world, for a man to act in his own case in the first instance, would it not in the latter? I happen to have before me an extract from the speech delivered a few days ago by the honorable Senator from New York, [Mr. CONKLING.] He gives in his own forcible and striking language the reason for the rule:

"The reason in the case of the impeachment of the President for calling in some one to preside in lieu of the Vice President is obvious. The Vice President, being next to the President in the line of succession, the impropriety of his doing anything in a trial which, in one event, would result in his own advancement, is clear.

"It can hardly be said that such a case would be provided for by calling some Senator to the chair, because the fact of a Senator being selected to preside would tend in some degree to his advancement also in case of the conviction of the President."

And so careful, so particular, so scrupulous was the honorable Senator from New York, that it seemed to him that the reason of the rule applied to any Senator called to the chair of this body, being selected to preside, as that would tend in some degree to his advancement in the case of the conviction of the President.

He proceeds to say:

"A Senator made President of the Senate *pro tempore* even during a trial of impeachment might expect to continue such President in the event of the advancement of the regular Presiding Officer to supersede the President of the United States. These and other considerations of safety and decorum indicated the propriety of going outside the Senate for an officer to occupy the chair when the President should be brought to the bar, and nothing could be more natural or more dignified than to select the head of one of the three branches of the Government. The Chief Justice, being separated from both the political departments of the Government, was deemed the person most fit, by reason not only of his disinterestedness, but of his learning and the great consideration of his position. These reasons might well have suggested the propriety of asking of the head of the bench that he should discharge, upon a great and solemn occasion, duties with which the highest subjects of England have ever been invested."

It is impossible for me, in stronger language

than the Senator from New York has used, to depict the impropriety of a member of this body, under the rules and under the Constitution, acting as a judge in a case which, in a certain event, is to place him in the presidential chair.

But, sir, it is said that this is not the time to raise the objection; that the objection may, perhaps, be waived by the party accused. If a President of the United States, chosen by the people, was actually on trial, and the Vice President was in the chair, and proposed to sit and give the casting vote, and we objected to his being sworn, could it be said that possibly the President of the United States on trial might waive the objection? Can he waive the objection? He is not alone interested. The people of this whole country are interested in the decision of this question. The party nearest in interest cannot waive it. If he were the President of the United States, actually chosen as such, and the Vice President, actually chosen, were sitting in that chair, he could not waive that interest. He could not say, as one Senator has supposed he might say, "I prefer, upon the whole, that that distinguished officer, knowing his impartiality and his love of justice, should preside in this trial, and give the casting vote in my case; I think it would be for my advantage." That could not be allowed. If it is decided at all it is decided by the law and the Constitution and the general rules of right. Therefore, the objection that this point is made too early does not apply. It is an objection which, if it can be made at all, can be made here at this period, and should be made now, for it is perfectly evident that the distinguished gentleman now proposed to be sworn in as a judge, the moment he is sworn in, can decide important questions long before the accused party shall present himself here or shall be summoned to appear here. There is the question of notice, the question of time, and there are various questions on which he will be called upon to give a decision. If, therefore, the objection is to be made at all, it must necessarily or with great propriety should be made at this time.

But, sir, I do not desire to go further into this general question. I have attempted to look at this question as a judge. I have attempted, in considering in my own mind whether it be proper for the honorable Senator from Ohio to act as a judge in this case, to act myself as a judge, and it has seemed to me in the highest degree improper in every aspect of the case. Sir, if there is anything desirable in this great trial, it is, in the first place, that impartial justice should be done; and, in the second place, that it should appear to be just that mankind should say that impartial justice was done. If it should so happen that, under the construction to be given to the rules of this body and under the Constitution of the United States, the Senate should decide that the honorable Senator from Ohio should be a judge in the case, that the judge of the President is to be his successor in office, is there not danger that it may be said that there doubt as to the fairness of this trial? If the future historian, in recording the fact that the President of the United States had been removed from his office by impeachment, should also be compelled to record the fact that his successor was his judge, such a record would violate the sense of justice of the nation and shock the heart of the civilized world.

Mr. HENDRICKS. Mr. President, with the indulgence of the Senate, I will add a very little to what I felt it my duty to say upon this question yesterday, and then, as far as I am concerned, I shall relieve the Senate from any embarrassment about it.

It was said by the Senator from Nebraska [Mr. THAYER] and the Senator from Ohio [Mr. SHERMAN] that the Senator who now proposes to take the oath is, in all respects, the equal of any other Senator, and that no objection can be made to his right to vote upon any question upon which other Senators have the right to vote. That general proposition I do not question, that, as a Senator, he is the peer of any other Senator; but to both gentlemen my reply is this: that by his own act he has accepted an office above that of Senator, if I may so express it, which disqualifies him from participating in this trial. It is his act, not the act of the Senate, if the State of Ohio upon this trial be not represented by two Senators.

The objection is made by the Senator from Missouri [Mr. DRAKE] that the Senate is not in a condition to consider the question for the reason that it has not yet organized itself for the purposes of the trial, and, therefore, there is no body competent to decide whether the Senator from Ohio may participate in that trial. Sir, the question that is presented by me arises frequently in the organization of bodies composed of many persons. It must necessarily arise in the organization of such bodies. It frequently arises in the organization of the House of Representatives, and it matters not whether the question comes up on the call of the first or the last name. When an objection is made to the right of a Representative or to the right of a Senator when this body is being organized at the commencement of a new Congress, how is that question to be decided? If at the commencement of the Fortieth Congress it had been objected that some Senator could not then take the oath required by the act of 1862, and that objection was made when the Secretary of the Senate was midway in the call, who would decide it? The Senate would not then be organized; and yet it is a question incident to the organization itself, and a question that must be decided before the organization can be completed. I say, therefore, as this is a question that may arise, that is likely to arise, in the organization of any body composed of many persons, it must be met here precisely as in other cases.

I am not going to discuss the question whether, organized for the purposes of this trial, the Senate be technically and in name a court. In substance, Mr. President, it is a court. It is to consider questions of law and questions of fact. It is not to consider legislative questions at all; and it cannot indulge in the considerations of public policy which may be indulged in in the Senate. The judgment of each Senator is controlled altogether by questions of fact and of law. A body, by whatever name known, that has to consider only questions of fact and of law, and upon that consideration to pronounce a judgment, is a judicial body in its very essence and nature. It is no longer a legislative body.

Then, Mr. President, we propose (calling the body what you may) now to pass from the consideration of legislative questions to the consideration of the impeachment question; to cease to be a body for the consideration of legislative questions and to become a body for the consideration only of judicial questions. The first step in passing from the one character to the other, is the appearance in the chair of the Chief Justice of the Supreme Court. The next step is the taking of an oath unknown to us as legislators, but binding us as judges—as judges of the questions of law and of fact that may arise. This is the step which we are now taking. We are now taking the oath to qualify us to discharge a peculiar and extraordinary duty—the oath that as judges we will be fair and just. The question arises during the organization of the Senate in that character and for that duty, whether a Senator is competent to participate in the adjudication. That question is incident to the organization of the Senate in its new character. I have not changed my opinion that that question properly arises in the administration of the oath.

I am not going to discuss further the merits whether the Senator from Ohio, being now the President of the Senate and the possible successor should there be a vacancy in the presidential office, can participate in the trial, except to say this: that at one time I held the opinion that a Senator having an interest in the result of a question might vote. I held that view in Mr. Stockton's case; but the Senate, by a deliberate vote, overruled that view, and established it as the law of the Senate that he who is to be benefited by the decision to the extent of holding an office or acquiring an office cannot help to decide that question. I was surprised yesterday that the Senator from Massachusetts [Mr. SUMNER] should occupy in regard to this question a very different position from that which he occupied when he helped to decide the Stockton case. Where is the difference? Mr. Stockton was a member of this body. He had credentials that *prima facie* entitled him to participate in our deliberations. He was entitled to cast a vote upon any legislative question that should come up to the very minute of the decision of the Senate against him. He was for the time being a Senator from New Jersey. When the question was, shall he continue to hold that office, the Senate said, without an express rule on the subject and no general parliamentary law, but on a universal sentiment of justice, as it was claimed then, right and propriety, that he could not vote when his vote helped him to hold an office. I am not able to see, when the vote of the Presiding Officer of this body may enable him to hold the highest office in the nation, the distinction in the two cases. The Senate deliberately decided in that case that the interest disqualified for the time being the party from voting in the Senate.

But, Mr. President, I find that some Senators, among them the Senator from Delaware [Mr. BAYARD,] who agree with me upon this question on the merits, are of the opinion that the question ought more properly to be raised when the court shall be fully organized, when the party accused is here to answer. I do not believe that he can waive a question that goes to the organization of the body; I believe it is a question for the body itself. But upon that I find some difference of opinion; and when I find that difference of opinion among those who agree with me upon the merits, upon the main point, whether he shall participate in the proceedings and judgment who may be benefited by it—while I find some Senators, who agree with me upon that question, disagreeing with me upon the question whether it ought to be raised now or when the Senator from Ohio proposes to cast a material vote in the proceedings, I choose to yield my judgment—my judgment, not at all upon the merits; my judgment not at all upon the propriety and the duty of the Senate to decide upon its own organization; but I yield as to the time when the question shall be made in deference to the opinion of others; and for myself, sir, I withdraw the question which I presented for the consideration of the President of this body and of the Senate yesterday.

Mr. POMEROY. The Senator proposes to withdraw the point which he made, and I think it can be done by unanimous consent. I hope unanimous consent will be given, and let it be withdrawn, and let us proceed to swear in the other Senators.

Mr. HENDRICKS. It does not require unanimous consent. I can withdraw it myself.

Mr. SHERMAN and Mr. GRIMES. The Senator has a right to withdraw it.

The CHIEF JUSTICE. The Chair understands that the Senator from Indiana has withdrawn his objection.

Mr. POMEROY. But an appeal has been taken.

Mr. GRIMES. That makes no difference.

The CHIEF JUSTICE. The Senator from Ohio will take the oath.

Mr. HOWARD. I beg to inquire whether the withdrawal of this particular motion affects the motion that was made by the honorable Senator from Maryland, [Mr. JOHNSON?]

Mr. FESSENDEN. That falls with it, of course.

The CHIEF JUSTICE. All the questions incidental to the main question fall with the withdrawal of it.

Mr. JOHNSON. My motion was founded upon the other motion. If the first motion is withdrawn mine falls as a matter of course.

Mr. HOWARD. Very well, if that is the understanding.

The Secretary called the name of Mr. WADE, who advanced and took the oath.

The Secretary then continued the call of the roll, and the Chief Justice administered the oath to Senators WILLEY, WILLIAMS, WILSON, and YATES, as their names were respectively called.

The Secretary then called the names of Senators DOOLITTLE, EDMUNDS, PATTERSON of New Hampshire, and SAULSBURY, who were not present yesterday; and Mr. SAULSBURY appeared, and the oath was administered to him by the Chief Justice.

The CHIEF JUSTICE. All the Senators present having taken the oath required by the Constitution, the Senate is now organized for the purpose of proceeding to the trial of the impeachment of Andrew Johnson, President of the United States. The Sergeant-at-Arms will make proclamation.

The SERGEANT-AT-ARMS. Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence on pain of imprisonment while the Senate of the United States is sitting for the trial of the articles of impeachment against Andrew Johnson, President of the United States.

Mr. HOWARD. I move that the Secretary of the Senate notify the managers on the part of the House of Representatives that the Senate is now organized for the purpose of proceeding to the trial of the impeachment of Andrew Johnson.

The CHIEF JUSTICE. Before putting that question the Chair feels it his duty to submit a question to the Senate relative to the rules of proceeding. In the judgment of the Chief Justice the Senate is now organized as a distinct body from the Senate sitting in its legislative capacity. It performs a distinct function; the members are under a different oath; and the Presiding Officer is not the President *pro tempore* of the Senate, but the Chief Justice of the United States. Under these circumstances, the Chair conceives that rules adopted by the Senate in its legislative capacity are not rules for the government of the Senate sitting for the trial of an impeachment unless they be also adopted by that body. In this judgment of the Chair, if it be an erroneous one, he desires to be corrected by the judgment of the court, or of the Senate sitting for the trial of the impeachment of the President, which in his judgment are synonymous terms, and therefore, if he may be permitted to do so, he will take the sense of the Senate upon this question, whether the rules adopted on the 2d of March, a copy of which is now lying before him, shall be considered the rules of proceeding in this body. ["Question!"] Senators, you who think that the rules of proceeding adopted on the 2d of March should be considered as the rules of proceeding of this body will say "ay;" contrary opinion, "no." [The Senators having answered.] The ayes have it by the sound. The rules will be considered as the rules of proceeding in this body.

The Senator from Michigan moves—will the Senator have the goodness to repeat his motion?

Mr. HOWARD. My motion is, that the Secretary of the Senate notify the managers of the House of Representatives that the Senate is now organized for the purpose of trying the impeachment against Andrew Johnson, and is ready to receive them. The Clerk will be good enough to put it in form.

The Secretary read the order as follows:

Ordered, That the Secretary of the Senate notify the House of Representatives that the Senate is now organized for the trial of the articles of impeachment against Andrew Johnson, President of the United States, and is ready to receive the managers of the impeachment at its bar.

The motion was agreed to.

After a pause, and at thirteen minutes before three o'clock, the managers of the impeachment on the part of the House of Representatives (with the exception of Mr. STEVENS) appeared at the bar, and their presence was announced by the Sergeant-at-Arms.

The CHIEF JUSTICE. The managers of the impeachment on the part of the House of Representatives will please take the seats assigned to them.

The managers having been seated in the area in front of the Chair,

Mr. Manager BINGHAM rose, and said: Mr. President, we are instructed by the House of Representatives, as its managers, to demand that the Senate take process against Andrew Johnson, President of the United States, that he may answer at the bar of the Senate upon the articles of impeachment heretofore preferred by the House of Representatives through its managers before the Senate.

Mr. HOWARD. I move for an order that a summons do issue to Andrew Johnson, President of the United States, in accordance with the rules which we have adopted—I refer particularly to the eighth rule—returnable on Friday, the 13th day of March instant, at one o'clock in the afternoon.

The CHIEF JUSTICE. The Secretary will read the order.

The Secretary read as follows:

Ordered, That a summons do issue, as required by the rules of procedure and practice in the Senate when sitting on the trial of impeachments, to Andrew Johnson, returnable on Friday, the 13th day of March instant, at one o'clock in the afternoon.

The order was adopted.

Mr. HOWARD. I move that the Senate, sitting upon the trial of the impeachment, do now adjourn until——

Mr. ANTHONY. If the Senator will withdraw his motion for a moment, I wish to offer an amendment to the rules.

Mr. HOWARD. Certainly.

Mr. ANTHONY. I desire to offer an amendment to the rules to strike out the last clause of rule seven in the following words:

The presiding officer may, in the first instance, submit to the Senate without a division all questions of evidence and incidental questions; but the same shall, on the demand of one fifth of the members present, be decided by yeas and nays.

And in lieu of those words to insert:

The presiding officer of the court may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the court unless some member of the court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the court for decision; or he may, at his option, in the first instance submit any such question to a vote of the members of the court.

I do not desire to press this amendment at present if there is any disposition to debate it, because it is desirable, I suppose, that the court should now adjourn. I merely offer it for the consideration of the court. Let it lie on the table.

Mr. HOWARD. Then, Mr. President, I move that the court, to use a brief expression, adjourn to the time at which the summons just ordered is returnable—Friday, the 13th instant, at one o'clock in the afternoon.

Mr. SUMNER. Before that motion is put I should like to ask my friend, the Senator from Rhode Island, who has brought forward this amendment, whether, under the rules now adopted, he regards it as debatable. By these rules it is provided as follows:

"All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, except when the doors shall be closed for deliberation," &c.

Mr. ANTHONY. I have not read the rules with reference to the question the Senator from Massachusetts proposes to me, and as I do not desire to press the motion at present——

The CHIEF JUSTICE. There is nothing before the Senate, inasmuch as the proposition of the Senator from Rhode Island is laid upon the table. The question is upon the motion to adjourn until Friday, the 13th instant, at one o'clock in the afternoon.

The motion was agreed to; and the Chief Justice thereupon declared the Senate sitting for the trial of impeachments adjourned to the time named and vacated the Chair.

LEGISLATIVE SESSION.

The PRESIDENT *pro tempore* resumed the chair and called the Senate to order.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I believe I had the floor at the expiration of the morning hour.

Mr. WILSON. No; I had the floor.

Mr. ANTHONY. The Senator from Massachusetts had the floor at one o'clock, but at one o'clock the unfinished business of yesterday came up, and on the unfinished business I had the floor.

ADJOURNMENT TO MONDAY.

Mr. JOHNSON. I move that when the Senate adjourn to-day it adjourn to meet on Monday next.

The PRESIDENT *pro tempore*. There is a question before the Senate.

Mr. GRIMES. I withdraw my motion in behalf of the motion of the Senator from Maryland.

The PRESIDENT *pro tempore*. The Senator from Maryland moves that when the Senate adjourn it adjourn to meet on Monday next.

The motion was agreed to.

Subsequently, on motion of Mr. MORRILL, of Maine, the vote was reconsidered, and the motion to adjourn over was negatived.

ADMISSION TO IMPEACHMENT TRIAL.

Mr. ANTHONY. I move, if it is necessary to make a motion, that the Senate proceed to the consideration of the order submitted by me relative to admission to the galleries during the trial of the impeachment case; but I presume it is before the Senate as unfinished business.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the Senate proceed to the consideration of the order presented by him relative to the admission of persons to the galleries.

The motion was agreed to.

The PRESIDENT *pro tempore*. The order submitted by the Senator from Rhode Island is before the Senate.

Mr. ANTHONY. When I was interrupted yesterday by the arrival of the hour at which the Senate was to proceed to the business of impeachment, I was endeavoring to explain to my friend from New York [Mr. CONKLING] the reason——

The PRESIDENT *pro tempore*. The persons in the galleries must be as still as possible in their movements. Those who are to go out must go now, so as not to have the confusion now prevailing there continue.

Mr. ANTHONY. I should like to have the attention of the Senator from New York for a moment. I was endeavoring to explain to him the reason why in this order I proposed the aisles and steps should be kept entirely free, and no more persons admitted to the galleries than can be accommodated with entire comfort. An uncomfortable crowd is always an uneasy one and a noisy one. Besides, it is utterly impossible for the officers to preserve order and to check any disturbance in different parts of the galleries unless they have free access by the steps and by the aisles to all parts of the galleries. And although it is not of much concern that a few people should be obliged to rise continually from the steps when other persons wish to go out, it is a very great disturbance to the proceedings below. I believe it will be impossible to have any order in the galleries unless the steps and aisles be kept entirely free.

But, sir, as the order which I have submitted seems to meet with so much dissent, and as I am not myself entirely satisfied with it, I move that it be referred to the select committee that reported the rules for the government of the Senate when acting in cases of impeachment.

The motion to refer was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representa-

tives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 170) for the relief of Lucas and Dickinson counties, in the State of Iowa;

A bill (H. R. No. 394) confirming title to "Little Rock Island," in the Mississippi river;

A bill (H. R. No. 593) to amend an act entitled "An act to authorize the construction of certain bridges and to establish them as post roads;"

A bill (H. R. No. 722) for the relief of Sally C. Northrup; and

A joint resolution (H. R. No. 227) enabling actual settlers to purchase certain lands obtained of the Great and Little Osage Indians.

PAYMASTERS' ACCOUNTS.

Mr. STEWART. I move that the Senate postpone all prior orders, and proceed to the consideration of the bill (S. No. 156) to establish a national school of mines.

Mr. WILSON. I hope the Senate will allow the bill which was under consideration at the close of the morning hour to be now taken up and disposed of.

Mr. STEWART. I insist on my motion.

The motion was not agreed to.

Mr. WILSON. I now move that the Senate proceed with the consideration of the bill that was pending this morning when we took up the business of impeachment.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 376) to facilitate the settlement of paymasters' accounts.

Mr. SHERMAN. I move to amend the bill by striking out, in the sixth line, the words "subject to the approval of the Secretary of War." In explanation of this amendment, I will state to the Senate that we have recently passed a bill cutting off the practice of sending papers backward and forward between the War Department and the Treasury Department, on account of the great inconvenience that grows out of it, and providing for a different rule. I do not know that it is necessary to explain my amendment further; it will make the bill in conformity with existing laws.

Mr. WILSON. I have no objection to the amendment.

The amendment was agreed to.

Mr. GRIMES. I move, in the eighth line, to strike out the words "since the commencement of the," and insert "during the late;" so as to read "for overpayments made in good faith, on public account, during the late rebellion;" instead of being prospective.

Mr. CONNESS. That will necessarily raise the question as to when and at what period of time the act shall apply. It raises the question when the war ended. It is well known that very large payments were made after the conclusion of hostilities; and if the bill is intended for any useful purpose it ought to apply to the period since the cessation of hostilities as certainly as it does during their existence. I cannot see but that the bill will be perfectly useless if the amendment be adopted.

Mr. CONKLING. I should like to ask the Senator from California, if the Senator from Iowa does not reply to him, what, as the bill now stands, will it mean five years hence? Suppose that this year and next year and the year after payments such as are here described are made, and the accounting officers five years hence come to act in regard to those payments under this bill, I ask the Senator from California what, in his judgment as a lawyer, this law would mean as to those?

Mr. CONNESS. The suggestion does not meet my objection.

Mr. CONKLING. I know it does not.

Mr. CONNESS. The Senator can very easily frame an amendment to the bill so as to fix the period to which it shall apply.

Mr. CONKLING. If there be a criticism on the particular phraseology suggested, I shall be very glad to vote for any substituted phraseology which will avoid that criticism; but, like the Senator from Iowa, I desire to know about how much of time and space the bill is to cover.

Mr. GRIMES. It covers all future time.

Mr. CONKLING. As it stands.

Mr. CONNESS. Let it cover the period up to the passage of the bill. That will end it.

Mr. CONKLING. I suggest to the Senator from Iowa that he use the word "heretofore." I have not the bill before me, but there must be a place in the bill where the insertion of the word "heretofore" will prevent its prospective operation.

Mr. GRIMES. It is perfectly immaterial to me what may be the phraseology of it. All I want is that these officers shall not understand that where they make overpayments they can have the thing adjusted in all future time by application to the Treasury Department.

Mr. CONKLING. I will suggest to the Senator to insert the word "heretofore" after the word "account," in the eighth line; so as to read:

For overpayments made in good faith on public account heretofore, since the commencement of the rebellion.

Mr. GRIMES. I am satisfied with that phraseology. I accept that modification of the amendment.

Mr. CONKLING. Let me suggest that the word come in in the seventh line, to make it a little more symmetrical, before the word "made;" so as to read: "For overpayments heretofore made," &c.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa as modified on the suggestion of the Senator from New York.

Mr. CONKLING. As I have now a copy of the bill before me and can look at it more deliberately, I beg to change my amendment again so as to make it still more certain; and I ask the attention of the Senator from Iowa for a moment to the suggestion. I propose now, after the word "rebellion" in the eighth line, to insert the words "and prior to the passage of this act;" so as to make the bill read: "Overpayments made in good faith, on public account, since the commencement of the rebellion and prior to the passage of this act." Then there can be no doubt as to what "heretofore" refers to; there might be otherwise, as the act of course speaks all the time after it becomes a law.

Mr. GRIMES. I accept that modification.

The amendment, as modified, was agreed to.

Mr. HOWE. In the sixth line, it seems to me, the two words "such credits" should be restored. They have been stricken out, I understand. I think those words should be inserted again, and I move their insertion, if that is in order.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. HOWE. Something should be put in after the word "appear."

Mr. SHERMAN. I should like to hear the bill read as it now stands.

The Secretary read the bill, as amended, as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized, in the settlement of accounts of paymasters of the Army, to allow such credits for overpayments made in good faith on public account, since the commencement of the rebellion, and prior to the passage of this act, as shall appear to them, by such vouchers and testimony as they shall require.

Mr. HOWE. After the words "appear to them" I move to insert "to be just."

The amendment was agreed to.

Mr. SHERMAN. I am very fearful that this bill will not accomplish the purpose desired, and that its working will be defective necessarily. In the first place, I will state to the Senator from Massachusetts [Mr. WILSON] that this is a subject which has been brought constantly to my attention, and I will state cases which are not covered by the bill, and they are the hardest cases. Where, by order of the proper officer, the Secretary of War, payments have been made to regiments before their time commenced, this bill would not apply. In many cases payments have been made to regiments, companies, and individuals who had been previously paid; and this bill would not apply to those cases, I suppose. It is a very difficult question to deal with. If the Senator from Massachusetts is satisfied with the bill as it is I shall make no objection, because some relief ought to be granted to these paymasters; but I doubt very much whether the bill, as now framed or as reported, will cover the cases that ought to be provided for.

Mr. HOWE. If those are not "over-payments made in good faith," what are over-payments made in good faith?

Mr. SHERMAN. Where more is paid to an officer than is legally due under a construction of the law, that would be covered by this language; but where payments are made which are not authorized by law, they would not be covered by this language. I hope the Senator sees the distinction. In the one case the payment is without authority of law, and in the other case it is a mere payment of too much when the law authorized the payment of something.

Mr. HOWE. If the Senator will pardon me, the payment of ninety-five dollars to an officer to whom the law accords but eighty dollars, it seems to me, is an overpayment because it is the payment of a sum not authorized by law.

Mr. SHERMAN. But suppose the payment of ninety-five dollars is made to an officer when the law does not give him anything under the particular circumstances?

Mr. HOWE. The only difference between the two cases I suggested is, that in the one instance it is an overpayment of ninety-five dollars instead of an overpayment of fifteen dollars.

Mr. MORRILL, of Maine. But in one case he is entitled to nothing.

Mr. HOWE. In that case it is an overpayment to the whole amount, whereas in the other case it is an overpayment to a small amount.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. CONKLING. I beg to ask that the bill be read as it now stands amended.

The Secretary read the bill, as amended, as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized, in the settlement of accounts of the paymasters of the Army, to allow such credits for overpayments made in good faith, on public account, since the commencement of the rebellion and prior to the passage of this act, as shall appeal to them to be just, by such vouchers and testimony as they shall require.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (H. R. No. 170) for the relief of Lucas and Dickinson counties, in the State of Iowa.

A bill (H. R. No. 394) confirming title to "Little Rock Island," in the Mississippi river.

A joint resolution (H. R. No. 227) enabling actual settlers to purchase certains lands obtained of the Great and Little Osage Indians.

The bill (H. R. No. 593) to amend an act entitled "An act to authorize the construction of certain bridges and to establish them as post

roads" was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 722) for the relief of Sally C. Northrup was read twice by its title, and referred to the Committee on Claims.

PENSION BILLS.

Mr. VAN WINKLE. The Senate was kind enough this morning on my motion to set apart next Friday for the consideration of bills from the Pension Committee. By the late proceedings here, I understand that Friday next will be otherwise occupied. I therefore ask that the word "Thursday" be substituted for "Friday" in that order.

The PRESIDENT *pro tempore*. The order has already been passed; but by common consent it may be reconsidered and amended in that way. If there be no objection it will be so amended. The Chair hears none, and the amendment will be made.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, in response to a resolution of the 4th of February, asking for estimates of the expense of removing the reefs in the East river, New York harbor, known as Battery, Diamond, and Coenties; which, on motion of Mr. MORGAN, was referred to the Committee on Commerce, and ordered to be printed.

GREATHOUSE AND KELLY.

On motion of Mr. VAN WINKLE, the amendment of the House of Representatives to the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly was referred to the Committee on Post Offices and Post Roads.

EXECUTIVE SESSION.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I hope the Senate will not proceed to the consideration of executive business. I simply content myself with entering my protest against it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 6, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports of a private nature, commencing with the Committee on Commerce.

AMERICAN-BUILT MAIL STEAMERS.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 866) to authorize contracts for foreign mail service, and to aid in the construction and employment of American-built steamers, and for other purposes; which was read a first and second time, refered to the Committee on the Post Office and Post Roads, and ordered to be printed.

JEWELS IN THE TREASURY.

Mr. O'NEILL. Mr. Speaker, a joint resolution was introduced by me some days ago, and referred to the Committee on Commerce, proposing that a certain box in the vault of the Treasury be opened. The committee has requested me to report a resolution on the subject, asking the Secretary of the Treasury, if not incompatible with the public interest, to open the box and inform this House of its contents. I would be very glad to report the resolution under this call.

The SPEAKER. The Chair thinks that matter might perhaps come in under this call.

Mr. O'NEILL. I report the following resolution:

Resolved, That the Secretary of the Treasury be directed, if not incompatible with the public interest, to inform the House of the contents of a certain box in the vault of the United States Treasury, sealed with the seal of the Patent Office, and marked "Jewels."

Mr. Speaker, I will, while asking the passage of the resolution, state to the House that the object to be accomplished by it is to give authority to the Secretary of the Treasury to open this box marked "Jewels, &c.," which does not belong to his Department, but is in the vault for safe keeping, he having no control over it and its contents, and it never in the recollection of even the oldest officials of the Treasury having been examined. It was a long while ago deposited there by the authority of the Patent Office, and has remained to this day with the seal of that office unbroken and in its original condition, the locks being greatly corroded by rust. It is supposed to contain, as far as I have been able to trace it through the Departments of State and of the Interior, a number of small but very tasteful and valuable articles, and among them some presents which had been given to our ministers and consuls at foreign courts while representing our country in an official capacity, and which, under the requirements of law, were handed over to the Government by their recipients.

It will be remembered that the Patent Office was robbed many years ago of some of its most valuable contributions, which were there for public inspection, and were looked upon as great curiosities. A few of them were subsequently recovered, but in a broken and mutilated condition. This box evidently contains these things, and, as I have already stated, the action of the House in the manner proposed is necessary for the exercise of the authority by the Secretary. I therefore ask the passage of the resolution.

The resolution was agreed to.

Mr. O'NEILL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LITTLE ROCK ISLAND.

Mr. HOPKINS, from the Committee on Public Lands, reported back a bill (H. R. No. 394) confirming the title to Little Rock island, in the Mississippi river, with a recommendation that it do pass.

The bill recites that the said island, in the Mississippi river, opposite the city of Clinton, Iowa, was surveyed and platted as being within the district of lands subject to entry and sale in the Territory of Iowa, and was entered by Jonathan L. Pierce, jr., at the Government land office at Dubuque, Iowa, but that said island is, in fact, situated east of the main channel of the Mississippi river, in the State of Illinois, in the district of lands subject to sale at Springfield. It therefore enacts that the title to the said island be ratified and confirmed to the said Jonathan L. Pierce, jr., and his grantees.

Mr. HOPKINS. I demand the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. UPSON. I would inquire if this bill has been considered by a committee?

Mr. HOPKINS. It is reported unanimously by the Committee on Public Lands.

The bill was passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ACCOUNTS OF ARMY PAYMASTERS.

Mr. GARFIELD, by unanimous consent, introduced a bill (H. R. No. 867) to facilitate the settlements of the accounts of paymasters of the Army; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was delivered to the House by Mr. WILLIAM G. MOORE, one of his Secretaries, who also informed the House that the President had approved and signed a bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania.

SALLY C. NORTHRUP.

Mr. HOPKINS, from the Committee on Public Lands, reported back a bill (H. R. No. 722) for the relief of Sally C. Northrup, with sundry verbal amendments.

The amendments were agreed to.

Mr. HOPKINS. I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LUCAS AND DICKINSON COUNTIES, IOWA.

Mr. TABER, from the Committee on Public Lands, reported back, with an amendment in the nature of a substitute, a bill (H. R. No. 170) for the relief of Lucas and Dickinson counties, in the State of Iowa.

The substitute was read. It authorizes and directs the Commissioner of the General Land Office to receive and examine the selections of swamp lands in Lucas and Dickinson counties, as formerly filed in the office of the surveyor general for the district including said counties, and allow or disallow the said selections, according to the rules touching the same in force when said selections were made.

Mr. TABER. I yield for a moment to my colleague on the committee, [Mr. HOPKINS.]

Mr. HOPKINS. I move to amend the substitute by inserting after the word "counties," where it first occurs, the words "and such other counties in the State of Iowa." I understand that there are one or two other counties similarly situated to these, and which will ask relief by special legislation if we do not include them in this bill.

Mr. BALDWIN. I should like to hear some explanation of this bill.

Mr. TABER. The reason for asking the passage of this bill is this: the swamp lands in these counties were selected as long ago as in 1859–60, and the proper returns were made to the surveyor general of the States of Iowa and Wisconsin, but from neglect on his part to make the return to the Interior Department the Secretary of the Interior now declines to allow the selections of lands. It is only to cover up the neglect of the surveyor general of Iowa and Wisconsin. I move the previous question.

The previous question was seconded and the main question ordered.

The amendment offered by Mr. HOPKINS was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TABER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OSAGE INDIAN LANDS.

Mr. JULIAN. I ask unanimous consent of the House to report a joint resolution not strictly of a private nature, and I also ask two minutes to explain the reason why we ought to act upon it immediately.

Mr. INGERSOLL. I desire to make an inquiry of the Chair: if the Committee on Public

Lands should finish their business within the present morning hour, leaving, perhaps, only a few minutes of the hour unexpired, how much time will be left to the Committee for the District of Columbia, which committee, I believe, will next be called?

The SPEAKER. The Committee on the Post Office and Post Roads will be the next committee called.

Mr. INGERSOLL. Then I have nothing further to say.

The SPEAKER. The Chair will state, for the information of the gentleman from Illinois [Mr. INGERSOLL] and other gentlemen, that any part of a morning hour occupied by a committee counts as an entire morning hour, even if it be but one minute; because, if the committee has any business pending at the expiration of the morning hour, no other committee can be called for reports until that business shall have been disposed of, even should it take a week.

The joint resolution was read at length. It provides that when public sale is made of the lands granted and sold to the United States by virtue of the first and second articles of the treaty of the said United States and the Great and Little Osage Indians, which treaty was concluded September 29, 1865, and proclaimed January 21, 1867, any actual settler upon any portion of said land, not exceeding one hundred and sixty acres, who has made improvement thereon, and who is a citizen of the United States, shall have the privilege of purchasing the same at the highest price bidden by any *bona fide* settler, and shall be entitled to pay for the same in four actual installments of twenty-five per cent. each, with interest on the same at the rate of five per cent. per annum; the first of said installments to be paid at the expiration of one year from the date of said sale, under such rules and regulations as may be prescribed by the Secretary of the Interior.

Mr. JULIAN. I desire to say that under the treaty between the United States and the Great and Little Osage Indians the sale of these lands was provided for. It was stipulated under the treaty that the lands should not be subjected to either homestead entry or preëmption, but sold to the highest bidder. Before the treaty was made known by proclamation hundreds, and perhaps thousands, of honest settlers had entered upon these lands in good faith. They have made improvements upon them, and have an equitable right to the lands they occupy on the payment of the price which they will bring in the public market. They are, however, poor men, whose only means in the world were such as to enable them to go on these lands, put up their cabins, and make their little improvements. They are wholly unable, at the public sale which is to come off in May next, to compete with speculators in the purchase of these lands, if the purchase money must be paid in hand.

This joint resolution simply provides that a credit shall be given for the purchase money, that it may be paid in annual installments, with interest at the rate of five per cent. per annum, so that those settlers who may desire to purchase may have time and opportunity to raise means to pay the purchase money which may be exacted of them at the public sale in the bidding which may take place. The present holders of these lands will be entitled to their improvements, of course, if they pay the highest price offered for the land. The equity of the case is manifest, and I hope no objection will be made to this little relief, which is all we can give under the treaty.

No objection being made, the joint resolution (H. R. No. 227) enabling actual settlers to purchase certain lands obtained of the Great and Little Osage Indians was received, and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. JULIAN. I now yield to the gentleman from Minnesota, [Mr. DONNELLY,] who desires to move an amendment.

Mr. DONNELLY. I move to amend the joint resolution by adding the following:

Provided, however, That at said sale both the odd and the even numbered sections in said reservation shall be offered for public sale under the terms of this resolution.

Mr. WASHBURN, of Wisconsin. I would inquire where this land is situated?

Mr. JULIAN. In Kansas.

Mr. WASHBURN, of Wisconsin. It is an Indian reservation, and required to be sold to the highest bidder?

Mr. JULIAN. Yes.

Mr. WASHBURN, of Wisconsin. And this joint resolution provides that actual settlers who may be bidders shall be allowed a credit?

Mr. JULIAN. Yes.

Mr. WASHBURN, of Wisconsin. Does it apply to those only who are now actual settlers, or does it apply to those also who may be actual settlers at the time the land may be offered for sale?

Mr. JULIAN. The joint resolution as now drawn speaks of *bona fide* settlers upon the land, who have made improvements on it.

Mr. WASHBURN, of Wisconsin. Are there now *bona fide* settlers upon the lands?

Mr. JULIAN. Several hundreds of them.

Mr. WASHBURN, of Wisconsin. I have no objection to the resolution if it be made to apply to those who are now actual settlers upon these lands. But I must object to it if it applies to those who may rush in hereafter.

Mr. JULIAN. I have no objection to such an amendment as the gentleman suggests.

Mr. WASHBURN, of Wisconsin. If the joint resolution be so amended as to apply to those who are now actual settlers on the land I shall have no objection. I desire an amendment so as to apply to actual settlers on the 6th day of March.

Mr. JULIAN. I consent to that amendment.

The SPEAKER. The bill will be so modified if there is no objection.

There was no objection.

Mr. HARDING. Mr. Speaker, I think it is the interest of the country to have these lands settled at as early a day as possible. I hope the Government will not hold these lands as against actual settlers for even one day. I hope we shall not adopt any amendment which will prevent the people of the West from settling upon these lands, if, when the sale is made, they bid as much as anybody else.

Mr. WASHBURN, of Wisconsin. If they bid more than anybody else they will get the land.

Mr. HARDING. Let this measure of relief be applied to all settlers.

Mr. WASHBURN, of Wisconsin. There is no reason why credit should be given to those who may go in after this time.

Mr. HARDING. Well, then, let the conditions be the same, with the exception of the credit.

Mr. JULIAN. The gentleman from Kansas [Mr. CLARKE] desires to say a word on this subject, and I yield to him.

Mr. CLARKE, of Kansas. I desire to make a remark or two in connection with this bill, and especially in connection with the amendment which has been offered by the gentleman from Minnesota, [Mr. DONNELLY.] The Commissioner of the General Land Office, after this treaty had been ratified by the Senate, made a decision that the railroad grant of the Leavenworth, Lawrence, and Galveston railroad did not apply to these lands, the grant having been made under a law passed previous to the ratification of the treaty. An appeal was taken by one of the Senators from my State, Senator Ross, to the Secretary of the Interior. I hold in my hand an elaborate opinion of the Secretary of the Interior, reversing the decision of the Commissioner of the General Land Office, and declaring that the railroad grant does apply to the land. Now, sir, for the protection of the settlers on these lands, who went there in good faith with the consent of the Government, I desire that the amendment offered by the gentleman from Minnesota shall prevail, so that on the 1st day of May, when the sale of these lands shall be made in accordance with the proclamation of the President, both the odd and even numbered sections may be offered for sale, and that the settlers upon those lands may have an opportunity of securing the lands upon which they have settled and made their homes. This resolution has, after careful consideration, received not only the unanimous approval of the Committee on Indian Affairs, to whom it was first referred, but also the approval of the Committee on Public Lands. The proclamation of the President has been issued; the sale is to take place on the 1st day of May; and unless this resolution be passed at this time, hundreds and thousands of these settlers will be obliged to abandon the homes which they have occupied for the last two years with the consent of the Government. I hope this resolution may receive the unanimous approval of the House.

Mr. CARY. I would like to say one word with the consent of the gentleman from Indiana, [Mr. JULIAN.]

Mr. JULIAN. I yield to the gentleman.

Mr. CARY. I am in favor of this resolution, but think it should be amended by striking out the words "and who is a citizen of the United States." I desire that the Germans who have settled on these lands shall be protected, although they may not be citizens of the United States. The settlers must, at any rate, be actual residents.

The SPEAKER. The amendment offered by the gentleman from Minnesota [Mr. DONNELLY] is now pending, and no amendment is now in order unless one germane to that.

Mr. JULIAN. I demand the previous question, but yield to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. Mr. Speaker, I trust that this resolution may be passed by the House. It is a resolution for the relief of the settlers. If these lands had been the lands of the United States the Committee on Public Lands would undoubtedly have reported in favor of giving these settlers the right to take them at $1 25 per acre. But the lands are held by the United States in trust for certain Indians, and under the provisions of the trust as contained in the treaty made with those Indians the United States is required to sell these lands to the highest bidder. Unless this protection or relief is afforded it will happen that the rights of the actual settlers there will come in conflict in all probability with non-resident speculators, and the price of the land on which they have made their improvements will be driven by competition to a high figure beyond the reach of these men, who are, as has been stated upon this floor, poor men. We cannot ask these Indians to give these lands to third parties at a less price than they would bring at public sale to the highest bidder; but, as a matter of equity and justice and generosity to those poor men who have gone on these lands and made improvements in good faith, we can extend to them the relief which this resolution proposes, namely, to give them time on the payment. That is just what this resolution proposes. The Indians for whom these lands are held in trust will not suffer by it, because they get the highest price, and they get it in four annual installments and the rate of interest on the principal provided for in the treaty. I do not, therefore, see this resolution is at all in conflict with the terms of the treaty or with good faith toward them, or as working them any injury at all, while at the same time it will be a measure of great relief to those poor and honest men who have made these improvements there. I trust, then, that the resolution will meet with the unanimous approval of the House.

Now, Mr. Speaker, so far as the amendment I have offered is concerned, the committee have taken the ground these lands are really the lands of these Indians, that the United States are connected with them as trustees, and they

are not public lands. If they were public lands the right of preëmption and homestead settlement would attach to them and the settlers would take the lands without asking assistance from Congress in this form. It seems, however, that the Secretary of the Interior, while holding they were not public lands so far as the settlers were concerned, has, at the same time, held they were public lands so far as railroads were concerned. So this is another illustration of the old anecdote of the hunter who shot at a calf so he would hit it if it were a deer and miss it if it were a calf. [Laughter.] They were public lands for railroads, but not public lands for settlers. I trust, sir, that the resolution will be adopted with my amendment.

Mr. DRIGGS. I ask the gentleman to yield to me.

Mr. JULIAN. For how long?

Mr. DRIGGS. For a minute or two. I only want to say, in answer to the gentleman from Ohio, there is no necessity for striking out the word "citizen." The resolution provides for the actual settlers upon these lands, whether they be native or foreign. The laws of the United States provide that every one entering lands for homestead or preëmption shall be a citizen of the United States or have declared his intention to become such, but any one may purchase lands at a stated price without being a citizen of the United States. I think that the pending resolution provides for the benefit of all these actual settlers. There is no necessity, therefore, for the introduction of the amendment of the gentleman from Ohio.

Mr. CARY. If the gentleman will permit, the resolution provides not only they shall be actual settlers, but actual citizens of the United States.

Mr. DRIGGS. If that be so then I do not object.

Mr. WASHBURN, of Wisconsin. It seems to me this resolution does not accord with the terms of the treaty. I have not seen the treaty, but I believe it provides these lands shall be sold to the highest bidder for the benefit of these Indians. Now, as I understand the resolution, it does not so provide. It provides these lands shall be sold to the highest bidder who is an actual settler. Such is the language of the resolution, as gentlemen will find if they look at it. If speculators are disposed to come in and pay a higher price for these lands, that is the privilege of these Indians under the treaty, and they should have it. I will go as far as any one to protect the actual settlers, but we must secure to these Indians the right they have under the treaty.

Mr. JULIAN. There is an error in the bill, made through some inadvertence, and it will be corrected.

Mr. WASHBURN, of Wisconsin. Let it be modified so as to provide these lands shall be sold to the highest bidder. I am in favor of giving credit to these actual settlers.

The SPEAKER. There being no objection, the amendment of the gentleman from Wisconsin and the amendment of the gentleman from Ohio will be considered as adopted.

Mr. CARY. I modify my amendment, first, so as to insert "or who has declared his intention to become a citizen of the United States."

There being no objection, the amendments were agreed to.

Mr. JULIAN demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. DONNELLY'S amendment was then adopted.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY GREATHOUSE AND SAMUEL KELLY.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back Senate bill No. 108, for the relief of Henry Greathouse and Samuel Kelly, with an amendment.

The bill directs the Postmaster General to adjust and settle the claim of the aforesaid parties for carrying the mails from Placerville to Idaho City, and from Fayetteville to Placerville, in the Territory of Idaho, from July 1, 1864, to July 1, 1865, and to award to them for said service such sum as may be in accordance with the principles of equity and justice, provided that the amount so allowed shall not exceed $12,000.

The amendment reported by the committee was to strike out "$12,000" and insert "$5,000."

Mr. FARNSWORTH. These parties carried the mail on the routes indicated for a year without contract. Post offices had been established at the places mentioned, but no contract had been entered into for carrying the mail. These parties were running a stage line. They asked for $25,000. The committee of the Senate concluded to allow a sum not exceeding $12,000. In the opinion of the committee of the House they ought not to be allowed more than $5,000. It appears that after this service was performed the Department contracted for carrying this mail on the same route for something like eight thousand dollars, and the mails are heavier now than then. These parties would have run a stage anyhow, and they took the mail as a convenience for the offices and people of the Territory. In the opinion of the committee $5,000 is a sufficient compensation.

I have two letters from the Second Assistant Postmaster General, which I ask the Clerk to read.

The Clerk read as follows:

POST OFFICE DEPARTMENT,
CONTRACT OFFICE,
WASHINGTON, *January* 28, 1868.

SIR: I have the honor to acknowledge receipt of your letter of the 24th instant, asking for information in relation to mail service of "Greathouse & Kelly, between Placerville and Idaho City, from July 1, 1864, to July 1, 1865, in order that we may be able to report on bill now before us, asking for compensation for carrying mail on that route." In reply thereto, you are informed that the files of this Department show that the service claimed to have been performed was performed, and that it was valuable to the offices at Placerville, Fayetteville, and Idaho City, which were supplied with mails by it. In fact, it was their only means of supply, as the Department had made no arrangement for the service, except to establish the offices and authorize postmasters to employ carriers at a price not exceeding the net receipts for postage. Afterward, when the service had been duly advertised, the route supplying Placerville and Idaho City was let (from July 1, 1866) to the lowest bidder at $8,000 per annum. At the same letting the lowest bid for the Fayetteville route was $2,400 per annum.

The Department has not authority to pay this claim without special legislation by Congress, for the reason that it has no right, under the law, to pay for mail service performed without its authority or instructions from its duly empowered agents.

Very respectfully, &c.,
GEORGE W. McLELLAN,
Second Assistant Postmaster General.

Hon. JOHN HILL, *House of Representatives.*

POST OFFICE DEPARTMENT,
CONTRACT OFFICE,
WASHINGTON, *March* 2, 1868.

SIR: The Postmaster General has referred to this office your note of the 21st ultimo, inclosing papers in the case of Greathouse & Kelly, claimants for compensation for carrying mails in Idaho Territory in 1864 and 1865.

In answer, you are referred to a letter on the subject addressed to Hon. JOHN HILL, of New Jersey, and on the Post Office Committee, dated January 28 last, a copy of which is inclosed.

In further explanation it may be stated that all the post offices in question were established by the Postmaster General as special, under the provisions of the latter clause of section four of the act of Congress approved March 3, 1825; that is, the compensation of the carriers of the mail to be derived entirely from the postage "which shall arise on letters, newspapers, magazines, and packets conveyed," and limited to the rates usually paid for similar service in the same section of country.

The offices mentioned were established and the carriers' pay limited, as follows: Placerville, established September 15, 1863, limit of pay, $1,000 per year; Idaho City, established July 9, 1864, limit of pay, $150 per year; Fayetteville, established July 22, 1864, limit of pay, $700.

It appears by reference to the books of the Auditor's office that nothing was paid by the postmasters to the carriers during the time mentioned, namely: from July 1, 1864, to June 30, 1865, inclusive.

The papers are herewith returned.

Very respectfully, your obedient servant,
GEORGE W. McLELLAN,
Second Assistant Postmaster General.

Hon. J. F. FARNSWORTH, *Chairman Committee on the Post Office and Post Roads, House of Representatives.*

Mr. FARNSWORTH. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RAILROAD BRIDGE IN MINNESOTA.

Mr. FARNSWORTH, from the same committee, reported back a bill (H. R. No. 593) to amend an act entitled "An act to authorize the construction of certain bridges and to establish them as post roads," with a recommendation that it do pass.

The bill amends the act approved July 25, 1866, by inserting after the word "Minnesota," where it first occurs in the eighth section, the words "the La Crosse, Tempeleau, and Prescott Railroad Company, a corporation existing under the laws of the State of Wisconsin."

Mr. FARNSWORTH. This is simply to correct a mistake. The Legislature of Wisconsin, in chartering a company, called it by one name and the Legislature of Minnesota by another. The act of Congress authorized a bridge to be built, but incorporated in the act a wrong name. This gives the right name. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JONATHAN JESSUP.

Mr. LAWRENCE, of Pennsylvania, from the same committee, reported a bill (H. R. No. 867) for the relief of Jonathan Jessup, postmaster at York, Pennsylvania; which was read a first and second time.

The bill was read. It directs the Auditor of the Post Office Department to allow Jonathan Jessup, of York, Pennsylvania, the sum of $1,307 36 in auditing his accounts for the fiscal year 1867.

Mr. LAWRENCE, of Pennsylvania. In explanation of this bill, I ask that the letters from the Post Office Department, which I send to the Clerk's desk, be read.

The Clerk read as follows:

POST OFFICE DEPARTMENT,
CONTRACT OFFICE, INSPECTION DIVISION,
WASHINGTON, *December* 13, 1867.

SIR: On the 12th day of April, 1867, the postmaster at York, Pennsylvania, reported to this Department that at sometime during the night of the 11th instant his office was broken into and his fire-proof safe blown open and $1,100 worth of postage stamps and $207 36 in money abstracted therefrom. The matter was immediately referred to a special agent for investigation, who reported as follows;

"*April* 24.—Left for York, Pennsylvania, to investigate the robbery of the post office at that place. *April* 25, York, Pennsylvania.—This was a wholesale robbery, the burglars blowing open the fire-proof and abstracting $1,100 in postage stamps and over two hundred dollars in money. No trace of the rascals."

Very respectfully, your obedient servant,
GEORGE W. McLELLAN,
Second Assistant Postmaster General.

Hon. GEORGE V. LAWRENCE, M. C., *House of Representatives, Washington.*

POST OFFICE, PHILADELPHIA, PENNSYLVANIA, *December* 15, 1867.

SIR: I have the honor to acknowledge the receipt of your communication of December 13, in reference to the case of the postmaster at York, Pennsylvania, and would state as follows:

On April 24 and 25, 1867, in company with General Joseph F. Knipe, postmaster at Harrisburg, I was engaged in investigating case No. 8543. I found that the robbers had effected an entrance through the rear of the post office and had carried the fire-proof safe out into the back yard, where they had blown open the same and rifled it of the contents. I have every reason to believe that the robbery was committed by a notorious post office robber, named Charley Stevens, who had broken jail at Salem, New Jersey, only a few days before this robbery. He was arrested shortly after at Lock Haven, Pennsylvania, and committed for robbing the post office at that town.

It is my opinion that the postmaster at York used all the means in his power for the security of his stamps and money, and the fire-proof safe in which they were deposited seemed a very strong one, but not strong enough to stand the application of gunpowder. It affords me much pleasure to indorse the postmaster at York as a most efficient officer of the Department.

Very respectfully, &c., FRANCIS KEYSER,
Special Agent Post Office Department.

Hon. GEORGE W. MCLELLAN, *Second Assistant Postmaster General.*

Mr. HOLMAN. I wish to ask the gentleman whether there is not an act of Congress authorizing the Postmaster General, in proper cases, to allow credit to postmasters who have sustained losses of this kind by robbery?

Mr. LAWRENCE, of Pennsylvania. I will state, for the information of the gentleman from Indiana, that application was made to the Postmaster General in this very case, and he thought the law did not cover the case. Hence the party comes to Congress for relief.

Mr. HOLMAN. Will the gentleman mention what defect there is in the law and why it does not extend to this case? It was certainly intended to relieve a postmaster in a case where the Postmaster General believed that the loss has been sustained through no default of his.

Mr. LAWRENCE, of Pennsylvania. The Postmaster General thought that it would not be legal for him to make the allowance in this case when the amount involved is large.

Mr. UPSON. Did the party ever apply to the Sixth Auditor's office to get this amount allowed?

Mr. LAWRENCE, of Pennsylvania. This party, the postmaster at York, Pennsylvania, applied at the Auditor's office, and also to the Postmaster General.

Mr. UPSON. There is an express law, as the gentleman from Indiana [Mr. HOLMAN] says, authorizing the accounting officers to allow such claims.

Mr. LAWRENCE, of Pennsylvania. I sent to the Post Office Department, and received the letter from the Second Assistant Postmaster General in reference to it which has been read. He explains the whole case, and I have no doubt that the claim is just and right. I move the previous question.

Mr. LAWRENCE, of Ohio. I desire to discuss this bill.

Mr. LAWRENCE, of Pennsylvania. The bill is right. The committee have examined it thoroughly, and as the morning hour is nearly out I must insist on the previous question.

Mr. LAWRENCE, of Ohio. I hope this bill will not be passed without some consideration by the House. It involves a terribly dangerous precedent.

The question was put upon seconding the previous question, and there were—ayes 49, noes 17; no quorum voting.

The SPEAKER. The morning hour has expired, and the bill goes over until the next private bill day.

CLAIM OF THE LATE B. W. PERKINS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 7th of January last, in relation to the claim of the late Benjamin W. Perkins against the Russian Government, I transmit a communication from the Secretary of State, which is accompanied by the papers called for by the resolution.

ANDREW JOHNSON.

WASHINGTON, *March* 5, 1868.

Mr. ORTH. I move that the message and accompanying documents be referred to the Committee on Foreign Affairs.

The SPEAKER. The message and the accompanying papers will be referred to the Committee on Foreign Affairs and printed, if there be no objection.

No objection was made.

CHOCTAW AND CHICKASAW COMMISSIONERS.

The SPEAKER also laid before the House a message from the Secretary of the Interior, in answer to a resolution of the House of Representatives of February 26, 1868, relating to the report of the commissioners, under the fiftieth article of the treaty of 1866, with the Choctaw and Chickasaw Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ATLANTA AND CHARLOTTE RAILROAD.

The SPEAKER also laid before the House resolutions of the constitutional convention of Georgia, asking aid of Congress for an air-line railroad from Atlanta, Georgia, to Charlotte, North Carolina.

Mr. BALDWIN. I move that these resolutions be referred to the Committee on Appropriations, and printed.

The motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER also laid before the House resolutions of the constitutional convention of Virginia, approving the action of Congress in impeaching Andrew Johnson, President of the United States; which were laid on the table, and ordered to be printed.

Mr. BINGHAM. I am instructed by the managers on the part of the House, in the matter of the impeachment of the President, to report the following resolution, upon which I call the previous question:

Resolved, That the managers on the part of the House, in the matter of the impeachment of the President, be, and hereby are, authorized to sit during the sessions of the House, and shall have power to send for persons and papers, administer oaths, and take the testimony of witnesses.

Mr. BROOKS. Was not this power given to the managers by a resolution passed the other day?

Mr. BINGHAM. No power or authority was given to administer oaths.

The previous question was then seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays upon the adoption of this resolution.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 19, noes 81; not one fifth voting in the affirmative.

Before the result of the vote was announced,

Mr. ELDRIDGE called for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. ELDRIDGE and Mr. BINGHAM were appointed.

The House again divided; and the tellers reported that there were—ayes twenty-three, noes not counted.

So (the affirmative being more than one fifth of the last vote) the yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 89, nays 25, not voting 75; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Beatty, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Butler, Cake, Churchill, Sidney Clarke, Cobb, Cook, Dawes, Dodge, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Harding, Hawkins, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Mallory, Marvin, McClurg, Miller, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Smith, Starkweather, Taffe, Taylor, Thomas, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—89.

NAYS—Messrs. Adams, Axtell, Barnum, Boyer, Brooks, Burr, Cary, Eldridge, Getz, Golladay, Haight, Holman, Humphrey, Johnson, Jones, Kerr, Marshall, McCormick, Mungen, Niblack, Nicholson, Ross, Sitgreaves, Stone, and Taber—25.

NOT VOTING—Messrs. Anderson, Archer, Bailey, Baker, Banks, Barnes, Beck, Benjamin, Benton, Buckland, Chanler, Reader W. Clarke, Coburn, Cornell, Covode, Cullom, Dixon, Donnelly, Eggleston, Ela, Finney, Fox, Garfield, Glossbrenner, Grover, Higby, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Knott, Loan, Lynch, Maynard, McCarthy, McCullough, Mercur, Moore, Moorhead, Morgan, Morrissey, Mullins, Nunn, Peters, Phelps, Pike, Pile, Plants, Poland, Polsley, Pruyn, Randall, Robertson, Robinson, Selye, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, John Trimble, Lawrence S. Trimble, Trowbridge, Van Auken, Burt Van Horn, Van Trump, Elihu B. Washburne, Henry D. Washburn, William Williams, Windom, Wood, Woodbridge, and Woodward—75.

So the resolution was adopted.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SESSION OF SATURDAY.

Mr. BLAINE. I ask unanimous consent of the House to have it ordered that the House shall hold a session to-morrow, for debate only, as in Committee of the Whole. There are several gentlemen on each side of the House who desire to speak.

Mr. DRIGGS. I was going to move, when I got the opportunity, that when the House adjourns to-day it be to meet on Monday next.

The SPEAKER. The Chair will state that within his knowledge several gentlemen desire to make speeches upon general subjects in the Committee of the Whole.

Mr. DRIGGS. If there is to be no business done to-morrow I will not object.

Mr. BLAINE. It is proposed to have a session to-morrow for debate only.

No objection being made, it was ordered accordingly.

CLAIM OF B. W. PERKINS—AGAIN.

Mr. LAFLIN. I move to reconsider the vote by which the House, a few moments since, ordered the printing of the documents accompanying the message of the President in relation to the claim of B. W. Perkins against the Russian Government. I make this motion because I desire to have some committee—the Committee on Foreign Affairs, for instance—examine those papers and determine which of them are proper to be printed. There are so many documents usually accompanying the messages of the President which are not worthy of being printed that I want to have these papers examined before they are ordered to be printed.

Mr. PAINE. I would inquire why this extraordinary course is taken?

Mr. LAFLIN. If I correctly apprehend the inquiry of the gentleman from Wisconsin [Mr. PAINE,] he agrees with me entirely. The only object I have in making this suggestion is that we may not be put to the expense of printing a large amount of matter which may be of no interest to us. My object is simply to economize in the public printing.

Mr. FARNSWORTH. It seems to me that in having this document printed we are only pursuing the ordinary course. The executive documents are all printed. It is very important that the members of the House should be able to understand this subject, and it seems to me this communication ought to be printed.

The SPEAKER. Although the document was bulky, the Chair suggested its printing, which the House acquiesced in, because he knew the fact that this was a claim against the Russian Government which the claimant desired to have presented by the Government of the United States as an offset, if an appropriation should be made by Congress for the Alaska purchase. The matter was of so important a character that the Chair supposed the documents ought to be printed. The gen-

tleman from New York [Mr. LAFLIN] moves to reconsider the vote by which the printing was ordered.

Mr. FARNSWORTH. It seems to me the members of the House ought to understand this subject before the Committee on Foreign Affairs shall make their report. I suppose that the committee will before long make a report in reference to Alaska; and this whole subject ought to be understood by the House, as it cannot be unless these documents be printed.

Mr. LAFLIN. Certainly I have no objection to the printing of these documents if it is of any interest to the House that they should be printed. I simply ask that before being printed they shall receive the consideration of some committee—I do not care what committee.

Mr. SCOFIELD. I would like to ask one question. If this is a claim against the Russian Government which the claimant wants the United States to collect ought not this man, if he wants all this printing done, to pay for it himself? If we become the agents to collect this claim from the Russian Government ought not this claimant to be satisfied with that without asking us to pay his printing bill?

The SPEAKER. The Chair will state to the gentleman from Pennsylvania [Mr. SCOFIELD] that the merits of the question are not before the House on a motion to print.

Mr. LAFLIN. I know nothing about the character of the document. I simply desire that some committee shall recommend the printing of the document before it be printed.

Mr. BLAIR. Mr. Speaker——

The SPEAKER. Does the gentleman from New York [Mr. LAFLIN] yield to the gentleman from Michigan, [Mr. BLAIR,] a member of the Committee on Foreign Affairs?

Mr. LAFLIN. Certainly.

Mr. BLAIR. Mr. Speaker, I regret that the chairman of the Committee on Foreign Affairs [Mr. BANKS] is not here at present, and that he has not had an opportunity to examine these papers. From the hasty examination I have been able to give them I am convinced that, in large part at least, they do not bear directly on the question. I think the chairman of the committee would be of opinion that the great body of them need not be printed.

Mr. LAFLIN. I yield to the gentleman from Indiana, [Mr. ORTH.]

Mr. ORTH. When these papers were laid before the House by the Speaker I did not ask that they should be printed; I simply moved the reference of the documents without printing. I am aware that we have already before us a large mass of matter which we really do not desire to have printed.

The SPEAKER. The Chair understood the gentleman to move the printing, as well as the reference, of the documents.

Mr. LAFLIN. I now yield to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. Mr. Speaker, I suppose it does not make any difference now what motion was made by the gentleman from Indiana, [Mr. ORTH,] because the House acquiesced in the suggestion made by the Speaker that these documents be printed. Now, I introduced the resolution calling for these documents, and the gentleman from New York [Mr. LAFLIN] is mistaken if he understood me to acquiesce in the suggestion that this message and the accompanying documents should be referred to the Committee on Foreign Affairs to determine whether or not they should be printed. It occurred to me that the message of the President, in this case as in all other cases, should be printed. I am myself anxious to see these documents in print. They do not come here in order that this House or any members of it should act the part of an attorney for any claimants against the Russian Government to secure them their money at the expense of the United States. If there be such purpose anywhere it does not exist in my case. I certainly am not the attorney or advocate of any claimant here.

Mr. LAFLIN. I now yield to the gentleman from Massachusetts.

Mr. BALDWIN. Mr. Speaker, I know something about this case and a little about those papers; and I am sure the House should not order them to be printed until they have had some consideration on the part of some committee of this House. There are undoubtedly portions of them of no use in any respect, and the probability is the whole batch of them would be mere lumber in the document-room if ordered to be printed. If on consideration by the committee it should appear desirable those papers should be printed it can at the proper time submit that motion. The petitioner here asks we shall deduct the amount of his claim from the purchase money for Alaska. We have not appropriated that money, and it is doubtful whether we will appropriate it, and the whole matter might wait very well until the whole subject has had further consideration. It would be expensive to some extent to print this document, and therefore I hope the motion of the gentleman from New York will prevail.

Mr. ORTH. When the communication was received I moved that it be referred to the Committee on Foreign Affairs, without any order to print, and for two reasons: one was, I was satisfied there was nothing in that communication that required its being printed for the use of the House; and, in the second place, after that committee received it, if they thought it was of sufficient importance, they could come here and ask it to be printed. We have already before our Committee on Foreign Affairs, in answer to a resolution of the House, some eight hundred pages of matter which is of no use whatever; and, as the gentleman from Massachusetts well observed, if this be printed it will be mere matter of lumber in the document-room. The committee has not advised the printing of it. In regard to this Perkins' claim, it is before the Committee on Foreign Affairs, and has received their attention somewhat. I can suggest to my friend from Wisconsin it has nothing to do with the purchase of Alaska. The heirs of Perkins ask of this House, when the money is to be paid to the Russian Government for Alaska, that the amount of their claim shall be deducted, and these papers only refer to the validity of that claim. I hope the motion of the gentleman from New York will be adopted.

Mr. LAFLIN demanded the previous question.

The previous question was seconded and the main question ordered.

The motion to print was reconsidered, and the papers were then referred to the Committee on Foreign Affairs without being ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had indefinitely postponed House bill No. 674, granting a pension to the widow of William S. Hamlin.

IMPROVEMENT OF THE ILLINOIS RIVER.

Mr. COOK, by unanimous consent, introduced a bill (H. R. No. 868) for the improvement of the Illinois river; which was read a first and second time, ordered to be printed, and referred to the Committee on Roads and Canals.

DUNCAN L. CLINCH, DECEASED.

Mr. HOLMAN. My friend from Massachusetts yields to me to move that the House proceed to the business on the Speaker's table, to take up Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch. The Senate non-concurred in the amendment of the House, and I propose to ask for a committee of conference on the disagreeing votes between the two Houses.

Mr. COBB. Under the peculiar circumstances of this case I feel it to be my duty to oppose it and demand to be heard on this question.

Mr. DAWES. Then I cannot yield to the gentleman's motion.

Mr. HOLMAN. I withdraw it for the present.

CUTTING WOOD ON THE UPPER MISSOURI.

Mr. BURLEIGH, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of providing by law for the cutting of wood upon the public lands along the upper Missouri river, to be used as fuel for steamboats navigating said river.

Mr. BURLEIGH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST OFFICE BUILDING AT NEW YORK.

Mr. VAN WYCK, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to have detailed estimates of the cost of the proposed post office and court-house building in the city of New York, according to the plans presented by the commission to procure said plans, and to report at the earliest moment, with any recommendations in regard to the material and mode of construction he may deem proper.

TENNESSEE ELECTION—R. R. BUTLER.

Mr. DAWES. I call up the bill reported from the Committee of Elections last evening in pursuance of instructions of the House. I ask unanimous consent to report a new general bill on the subject.

The House accordingly proceeded to the consideration of a bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed; which was read a first and second time.

The bill was read in full. It provides that whenever any person who has participated in the late rebellion, and from whom all legal disabilities arising therefrom have been removed by act of Congress by a vote of two thirds of each House, has been elected or appointed to any office or place of trust in or under the Government of the United States, he shall, before entering upon the duties thereof, take and subscribe the following oath or affirmation and no other: I, A. B., do solemnly swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Mr. DAWES. I do not desire to occupy a moment of the time of the House. The whole matter is fresh in the minds of all. This bill has not only met the entire approbation of the Committee of Elections, but is precisely the bill prepared and ready to be reported from the Committee on Reconstruction, with a little amendment requiring a two-thirds vote instead of a majority.

Mr. HARDING. I think a bill of so much importance ought to be printed.

Mr. DAWES. It is printed.

Mr. BROOKS. Is it a new bill?

Mr. DAWES. It was reported yesterday.

Mr. BROOKS. Does the gentleman intend to put this through to-day without discussion?

Mr. DAWES. I thought it was thoroughly discussed yesterday on its merits.

Mr. BROOKS. I do not think we have had any opportunity to examine it at all on our side. The gentleman is mistaken in supposing that the Reconstruction Committee have agreed to any such bill. I am a member of that committee, and no such bill has been called to my attention.

Mr. DAWES. I obtained the form from a gentleman on that committee, who said he was waiting to report it.

Mr. BROOKS. I suggest that it is a bill of great importance.

Mr. DAWES. I think if the gentleman will read the bill he will not object to it.

Mr. COOK. The gentleman from New York is speaking of one bill and the chairman of the committee of another as being agreed to by the Committee on Reconstruction.

Mr. ARNELL. I ask the gentleman from Massachusetts if the amendment offered by the gentleman from Wisconsin [Mr. PAINE] is incorporated in this bill.

Mr. DAWES. That would be applicable to the next bill we intend to report, and not to this. I demand the previous question.

On seconding the previous question there were—ayes 50, noes 6; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. DAWES and HUMPHREY.

The House divided; and the tellers reported —ayes 60, noes 24; no quorum voting.

Mr. DAWES. I move a call of the House.

The roll was accordingly called, and the following members failed to answer to their names:

Messrs. Allison, Anderson, Archer, James M. Ashley, Bailey, Baker, Barnum, Benjamin, Benton, Bingham, Blair, Buckland, Butler, Reader W. Clarke, Coburn, Cornell, Covode, Dixon, Donnelly, Driggs, Eckley, Eggleston, Ela, Farnsworth, Finney, Fox, Glossbrenner, Higby, Hill, Asahel W. Hubbard, Richard D. Hubbard, Loan, Logan, Lynch, Marvin, Maynard, McCarthy, Mercur, Moore, Moorhead, Morrissey, Mullins, Peters, Phelps, Pile, Pomeroy, Pruyn, Robinson, Selye, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, John Trimble, Trowbridge, Van Auken, Burt Van Horn, Elihu B. Washburne, Henry D. Washburne, Thomas Williams, William Williams, Windom, Wood, Woodbridge, and Woodward.

The SPEAKER. One hundred and nineteen members have answered to their names.

Mr. DAWES. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. DAWES. I withdraw the previous question for a moment, and I move to strike out, in the eleventh line of the bill, the words "to the best of my knowledge and ability." That will make it conform exactly to the constitutional oath. I now renew the demand for the previous question.

Mr. BROOKS. Will the gentleman admit of an amendment in the sixth line, to strike out "two thirds" and insert "a majority" of each House?

Mr. DAWES. I can hardly do that.

Mr. MUNGEN. I desire, with the gentleman's permission, to move to add to the last clause of the bill the following:

That the provisions of this bill be, and the same are hereby, extended to John Young Brown, Representative-elect from the second district of Kentucky.

Mr. DAWES. That would not be germane to this bill. It might be to the other bill, but not to this.

Mr. MUNGEN. I understand that this bill is general in its character, and hence my amendment is certainly in order.

Mr. DAWES. If the gentleman will look at the first bill on the printed page he will see the difference between the two. His amendment might be germane to the first bill, but it is not to this. At any rate, I do not introduce any gentleman's name into this bill. It is a general bill.

Mr. MUNGEN. I will modify my motion and not mention anybody's name.

Mr. DAWES. It is general now. It applies to one man as much as to another.

Mr. MUNGEN. Perhaps it may be held that the case of John Young Brown having been passed upon, it would not come under the provisions of this bill.

Mr. DAWES. The gentleman is looking at the wrong bill. His amendment might be applicable to the other bill, but it is not applicable to this, because the provisions of this bill are just as applicable to one man as to another. It is a general bill. I now call the previous question.

Mr. BROMWELL. I wish to suggest to the chairman of the Committee of Elections an amendment, to insert after the words "two thirds of each House" the words "according to the provisions of the fourteenth amendment of the Constitution," so as to recognize that amendment of the Constitution.

Mr. DAWES. I would not put that into an act. If there is any such an amendment to the Constitution it will be according to that, and if there is not, then it will be according to our own act. This bill is not in conflict with any provision of the Constitution, and it may be in exact conformity with the requirements of the Constitution.

Mr. BROOKS. Did I understand the gentleman from Massachusetts to accept that amendment?

Mr. DAWES. I did not accept it. I was giving the reasons why I could not do it.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HARDING. I demand the yeas and nays on the passage of the bill.

Mr. COBB. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The bill was passed.

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAWES then, by unanimous consent, introduced a bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee; which was read a first and second time.

The bill was read as follows:

Whereas R. R. Butler, Representative-elect from the first congressional district of Tennessee, performed honorable service in the Army of the United States from September, 1863, till May, 1864: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the disabilities imposed upon Roderick R. Butler, of Tennessee, by force of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act of Congress supplementary thereto, passed March 23, 1867, and the act supplementary thereto, passed July 19, 1867, are hereby removed.

Mr. DAWES. I will yield to the gentleman from Pennsylvania, [Mr. BROOMALL,] who desires to move an amendment.

Mr. BROOMALL. I move to amend this bill by inserting before the words "are hereby removed" the words "and by any provision of the Constitution of the United States."

Mr. DAWES. I have no objection to that amendment; it is merely verbal and does not alter the meaning at all.

The amendment was agreed to.

Mr. DAWES. I now yield to the gentleman from Indiana, [Mr. KERR,] a member of the Committee of Elections.

Mr. KERR. With the permission of the chairman of the Committee of Elections, [Mr. DAWES,] I think it my duty to offer to this bill the amendment which I offered to the original bill the day before yesterday. The effect of my amendment will be to relieve Mr. Butler from taking any part of the oath prescribed by the act of 1862.

Mr. DAWES. If the gentleman will examine the general bill which we have just passed he will see that the oath there prescribed relates only to acts in the future, not to acts in the past.

Mr. KERR. I think the scope of the oath prescribed in the general bill, to which he refers, is proper and liberal enough. That bill, however, does not cover this point. The bill to which I am now speaking relates to Mr. Butler by name, and proposes to relieve him from taking so much of the oath as is there set forth.

Mr. DAWES. Let me explain. If the pending bill should pass Mr. Butler would take only that oath set forth in the general bill which we have just passed.

Mr. KERR. I was under the impression that the bill now under consideration was in substance like the one reported the other day. I now perceive that it is a modified bill.

Mr. BROOKS. I would inquire of the gentleman from Massachusetts [Mr. DAWES] if he proposes to call the previous question on this bill at this time?

Mr. DAWES. I did propose to do so. I regret very much that the gentleman from New York [Mr. BROOKS] was not here yesterday and the day before, when the real status of this Mr. Butler was discussed at great length. I believe the universal testimony, with perhaps one or two exceptions, was that Mr. Butler is really a truly loyal and Union man. I suppose it has always been contemplated that at some time and in respect to such persons these political disabilities would be removed. Special acts of that character have already passed the Senate, and I suppose that some of them have been agreed to be reported by the Committee on Reconstruction. However, the gentleman from New York, [Mr. BROOKS,] himself a member of that committee, can speak on that subject better than I can. The gentleman from Ohio [Mr. BINGHAM] reported a bill the other day, which was ordered to be printed and recommitted, in which was the name of this gentleman, together with several others which have been sent to us by the Senate. I suggested to them that they ought to know what the evidence was in regard to this man before they asked for the passage of any such bill. Now, I would be willing to discuss this bill at any length, if——

Mr. BROOKS. I do not want to discuss it; I merely want to understand this case. I intend to vote, if possible, for the admission of Mr. Butler, and the removing all disabilities, not only from him, but from everybody else.

Mr. DAWES. The gentleman will understand me, if it is of any consequence to know how I stand.

Mr. BROOKS. I desire to call attention to the fact that through some fault—a misprint, perhaps—this book of the Committee of Elections does not present all the facts of the case to the House. Without the knowledge of the committee, I am sure, from this printed book have been suppressed some important portions of testimony before the committee, and when not suppressed names and numbers are so incorrectly given that it is almost impossible to find out any fact.

Mr. DAWES. I would suggest to the gentleman, in reply to what he has said, that the gentleman who appeared before the Committee of Elections to prosecute this case arranged this matter as he desired. It never was intimated before the committee that anything was not printed that he desired to have printed, except an extract from a speech of Mr. Butler in the Legislature, the manuscript of which Mr. Powell had, and which was admitted by Mr. Butler, and was read before the committee.

Mr. BROOKS. That speech was not printed in the book of testimony reported from the Committee of Elections?

Mr. DAWES. It was not.

Mr. BROOKS. Shall I read it?

Mr. DAWES. If the gentleman has it he can read it. I suppose he refers to the speech in relation to bridge burning.

Mr. BROOKS. What is strange is that it is not printed in the book of testimony.

Mr. DAWES. Was it in reference to the bridge-burning?

Mr. BROOKS. If I understand the facts of the case in regard to the burning of bridges, they were burned by order of the Government of the United States, by an officer of the United States; and a speech made by Mr. Butler in the Tennessee Legislature is thus reported, the report being verified in the evidence which I hold in my hand:

"Mr. Butler denounced the act in the strongest terms, and sincerely hoped that the perpetrators, be they who they might, would be arrested and severely punished."

Let me state that they were arrested, and two of them were hung."

"He stated that he had always opposed the introduction of Lincoln troops into East Tennessee, and when consulted upon the subject, had advised against it; and he believed a very large majority of his constituents were opposed to such steps."

Mr. DAWES. So far as my ear caught the reading, the evidence in regard to the bridge burning has been correctly read by the gentleman from New York. I will state the explanation of that matter. The bridges were not burned by order of the Government of the Un ted States, but they were burned by Union men in aid of the cause, and fifteen, or about that number, of Mr. Butler's constituents were arrested and brought to Nashville by the confederates, charged with burning those bridges. There was the most intense excitement, and those men narrowly escaped being lynched in the streets. Mr. Butler left his place in the Legislature and went down on the street to interfere in their behalf, to endeavor to save them. The crowd in the street became very much excited, and one man called out, "There is another God d——d bridge-burner!" Mr. Butler was at once pursued and was obliged to conceal himself to save his life. The excitement in the Legislature was so great that he was compelled, in order to save himself, to make the statement—although a Union man, admitted to be a Union man—that he never approved of this bridge burning. He denounced the bridge burning by Union men—this secret bridge burning. The papers in Nashville charged him with being a participant in it. Going down to interfere to save those Union men, he involved himself in this excitement and came very near losing his life. He only quieted the apprehensions of the rebels in the Legislature by getting up and making this statement. After he had quieted them he went secretly to the prison, carrying those Union men bread; and he aided in getting them out of prison. But after that he dare not appear on the streets of Nashville.

That is the explanation of the matter. The evidence on the subject was intended to be printed in this document now on the desks of members; but by an oversight on the part of Mr. Powell it did not get into the document. When the evidence was brought forward in committee it was used as authentic just as the gentleman from New York has read it. I am very glad to have the opportunity to state the facts in regard to this matter; for it only presents another of the many proofs accumulating on all sides of Mr. Butler's true character under all circumstances and all perils. He admitted the facts most freely before the committee. Before he went into the Legislature he foresaw the peculiar position in which he would be placed; he protested that his friends were requiring of him a duty that would involve him in misconstruction and odium; but at last he consented to perform this duty. The duty which he was obliged to perform in that Legislature was similar to that which the Commander-in-Chief of an army imposes upon some trustworthy man whom he sends to do a work that he cannot do if his full character and disposition and purposes are understood, yet a work as valuable and essential to the accomplishment of the purposes of the commander as duties which are more imposing and the merit of which is more readily hailed and acknowledged by the public.

Mr. BROOKS. I am very sorry, Mr. Speaker, that Mr. Butler had not more moral courage; but I am glad to hear the gentleman from Massachusetts making out his case. I want to vote for his admission.

Mr. DAWES. I assure the gentleman from New York that he never can find a more worthy man upon whom to bestow his suffrages. I beg the gentleman to be charitable in his judgments. As I said yesterday, I dare not stand up here and say with confidence that I should have exhibited, under similar circumstances, greater moral courage than Mr. Butler displayed.

Mr. BROOKS. There is one other matter which is also strangely omitted from the printed book, but which is verified as a matter of testimony; and that is, the presentation of a sword by Mr. Butler and others to an officer of the rebel army. This matter will be understood from the reading of the documents I hold in my hand.

Mr. DAWES. I think I can explain that sword presentation.

Mr. BROOKS. Let us hear the explanation; but first let us hear the testimony, which is properly verified.

The Clerk read as follows:

Sword Presentation.

HOUSE OF REPRESENTATIVES, *December* 5, 1861.

H. C. LOCKHART: The undersigned, your brother members of the General Assembly now in session, having learned with much pleasure that you have, in response to the call of the Governor of our State, proceeded to your county of Stewart and raised a company of gallant freemen, and with them have tendered your services in the defense of the State in this hour of need, do hereby, as a small token of our high appreciation of your gallantry and personal merit, present you this sword, and ask you to receive it and wield it with your own arm in defense of our State, in whatever field you may be called to meet the enemies of our common country.

Edwin A. Keeble,	Thomas J. Moseby,
F. B. Ragland,	William Tolly,
William L. Martin,	W. A. Donlap,
Frederick S. De Wolfe,	James McAllum,
T. E. S. Rosswurm,	James W. Lea,
J. D. Easby,	W. L. McClelland,
S. D. Whitten,	M. J. Fisher,
Daniel Parker,	W. C. Tucker,
A. Caruthers,	William Donaldson,
H. F. Cummins,	John Law,
H. S. Hill,	J. P. Corthal,
D. N. Kennedy,	J. R. Gardner,
J. M. Fleming,	Ira P. Jones,
W. H. M. Brooks,	William Wallace,
B. F. Martin,	S. Mathews,
A. L. Demoss,	John E. Garner,
R. M. Edwards,	James M. Meek,
J. J. Baneh,	A. S. Rogers,
R. Y. Ellis,	B. M. Estes,
James S. House,	A. S. Jornagin,
R. S. Osborne,	John Eubank,
R. R. Butler,	John Martin,
R. P. Brooks,	W. D. Jopling,
D. W. C. Senter,	Isaac C. Garretson,
M. Ward,	Austin Miller,
W. Y. Martin,	J. N. Little.
A Robb,	

—

HOUSE OF REPRESENTATIVES,
NASHVILLE, *December* 5, 1861.

GENTLEMEN: I have the pleasure of receiving your very complimentary letter of this date, accompanied by a beautiful and elegant sword, which you, my brother members of the General Assembly, have seen fit to tender to me. I feel that I am overwhelmed by this evidence of your confidence in my attachment to those great principles of social and political equality that underlie the foundation upon which this great revolution rests. Words are inadequate to express my gratitude. I receive this elegant sword at your hands, and pledge my life, my fortune, and my sacred honor that it shall never be prostituted to base and unworthy purposes; and that when it is unsheathed it shall be in the name of liberty and equality, and when it flashes amid the storm of battle the remembrance of the donors shall nerve the arm that wields it. In simple, heartfelt words, I thank you.

Yours, &c., H. C. LOCKHART.

EDWIN A. KEEBLE, F. B. RAGLAND, W. L. MARTIN, *and others.*

Mr. DAWES. You find Mr. Butler's name to that. Now listen to the answer. It was never put there by Mr. Butler or with his knowledge. If the gentleman will turn to page 75 of Miscellaneous Documents No. 28, and look over it I will read from the testimony of one of the truest Union men there:

"*Question.* Please state if Ira P. Jones did not come to you, S. Mathews, and R. R. Butler, during the sitting of that Legislature, with a paper stating that the friends of H. C. Lockhart (who was a member of the House) intended to present him a sword, as he was going to join the rebel army, and requested Mathews, Butler, and yourself to sign the paper and pay something toward the sword; and if you, Mathews, and Butler, did not refuse to do so; and if Jones then did not go off and get Colonel Robb, of the House, who was popular with the Union members from East Tennessee, and come with him to you, Mathews, and Butler, urging you to sign the paper for the sword, and if you, Mathews, and Butler, did not still refuse to sign it, and if Colonel Robb did not remark that he would sign the names and pay the amount; that he intended to have it appear that it was done by all the members of the House; and if, after the adjournment of the House, you, Mathews, and Butler did not say that you hoped that he, Lockhart, would cut his own damned head off with the sword the first fight he got into?

"*Answer.* I remember the presentation of the paper referred to; I also remember that we had a peculiar dislike to Lockhart, the proposed recipient. When Jones presented the paper we (Butler, Mathews, and myself) refused to sign it. We saw no more of it, perhaps till next day, when Colonel Robb, who, for his many amiable qualities, had won upon our friendship, presented the paper to us, insisting that it was desirable to have the names of all the members of the House, and on our again refusing he proposed to furnish the money himself, which he did. I do not think Butler, Mathews, or any other Union member paid any money toward purchasing said sword. We had a conversation about it in our room, (Butler, Mathews, and myself,) and in the conversation I remember it was the general wish that he might kill himself with it or come to some untimely end. Butler had a peculiar dislike for him, which was shared by the Union members generally."

On page 64 is the testimony of another Union man; a Union Senator with him, Mr. Mathews:

"*Answer.* I never heard, during the war, any Union man doubt Judge Butler's loyalty to the Government of the United States.

"*Question.* The rebel papers published a statement that the members of the Legislature presented H. C. Lockhart, a member of the House, with a sword; please state how the name of the Union members came to be on that paper, and what I said to you at the time about it. Please state all you remember about it.

"*Answer.* In our conversations upon the subject of the sword, Judge Butler and myself agreed that if the sword was to cut the damned rascal's throat, we would both sign our names to the list to help furnish it, and contribute one dollar. But I did not sign my name to it, neither did Judge Butler, but the friends of the movement said it must be unanimous, and the names of the Union men were put down by their rebel colleagues. Judge Butler stated that he hoped that he (Lockhart) would be killed in the first fight he got into, and then we would be done with him forever."

I hope my friend is now content.

Mr. BROOKS. I ask the gentleman to turn to page 6, while I read the testimony of Mr. Meeks:

"*Question.* Please state if, during the session of the Legislature in 1861-62, a sword was presented to a confederate officer, and who it was that spoke and presented the sword on that occasion.

"*Answer.* My recollection is, there was a sword presented to a rebel officer by the name of Lockhart, from Stewart county; I think the Hon. R. R. Butler presented it, but how it came to be done I do not know."

Mr. DAWES. It was not claimed before the Committee of Elections that Mr. Butler did make any such speech. It was denied by Mr. Butler. It is a mistake; the witness himself is not positive. In point of fact it is a mistake, and no such speech was made. It was not contended before the committee in the presence of Mr. Powell that Mr. Butler made this speech. It was not insisted on by Mr. Powell, and Mr. Butler himself denied he ever made such a speech. This is a mistake, then.

Mr. BROOKS. I am glad to hear the gentleman from Massachusetts. He is acting the part he sometimes accuses me of acting, that is, defending rebels. I am prosecuting one of them now.

I will come now to another case, but not as bad as the others. The gentleman from Massachusetts says in his report that Mr. Butler cannot truthfully take this test-oath.

He will recollect he offered to take it at the opening of the session. Now, I am quite sure the attention of the gentleman has not been called to the franchise act of Tennessee.

Mr. DAWES. Yes it has.

Mr. BROOKS. It shows that he has taken this oath untruthfully. Let me read a little of the franchise act passed May 3, 1866. It forces the voter to swear that he has never borne arms voluntarily or given aid and comfort to the enemy. The second section provides:

"That said voter shall have never sought or voluntarily accepted any office, civil or military, or attempted to exercise the functions of any office, civil or military, under the authority or pretended authority of the so-called confederate States of America, or of any insurrectionary State whatever, hostile or opposed to the authority of the United States Government, with the intent and desire to aid said rebellion or insurrectionary authority."

The third section provides—

"That said voter shall never have voluntarily supported any pretended government, power, or authority hostile or inimical to the authority of the United States, by contributions in money or property, by persuasion or influence, or in any other way whatever."

And the oath which he is obliged to take under this act and which Mr. Butler did take, reads thus:

"I do most solemnly swear that I have never voluntarily borne arms against the Government of the

United States, for the purpose, or with the intention of aiding the late rebellion, nor have I, with any such intention, at any time, given aid, comfort, counsel, or encouragement to said rebellion, or to any act of hostility to the Government of the United States. I further swear that I have never sought or accepted any office, either civil or military, or attempted to exercise the functions of any office, either civil or military, under the authority or pretended authority of the so-called confederate States of America, or of any insurrectionary State, hostile or opposed to the authority of the United States Government, with the intent and desire to aid said rebellion: and that I have never given a voluntary support to any such government or authority. So help me God!"

Section nine of the same act applies to candidates, and is in these words:

"That all candidates for any official position shall, before the day of election, be required to take and subscribe the oath prescribed in the third section of this act."

Mr. Butler was obliged to take the oath I have cited, and now he has offered here to take an oath which the gentleman from Massachusetts in his own report says he could not truthfully take.

Mr. DAWES. I am most happy to have this debate with the gentleman from New York, for at all points it will reveal the true character of this man. I wish the gentleman to understand that this is a bill to remove disabilities. If it was not supposed that they did exist there would be no need of the oath.

But the answer I have to make to the gentleman is this: this gentleman did take that oath which the gentleman has read. But when he took it he claims that he never did take up arms against the Government of the United States "with the intention of aiding the late rebellion." He felt no conscientious scruples in taking that oath.

But it is further said that he was willing to take at the commencement of this session our oath, which the committee have reported that he cannot, in their opinion, take. It is due to him that I should say that he took the opinion of the oldest and ablest lawyer in Tennessee, who gave him precisely the advice which my friend from Indiana [Mr. KERR] gave to the House in the discussion of the other case, namely, that a member of Congress was not such an officer of the Government as is contemplated in the test-oath. He believed that he could take it. He entertained, therefore, precisely the same views in that regard that the gentleman from Indiana urged so strongly before the House. The committee, however, were of a different opinion, and both the House and Senate have decided that members of Congress are such officers of the Government as are contemplated in the test-oath.

Now, I submit that he took this Tennessee oath conscientiously, because it embraced this qualification which I have read. But, whether right or wrong, in that he certainly was wrong in saying he could take the test-oath at the bar of this House. It is the fact that he has done an act which he has got to swear at this bar he has not done that renders it necessary for this bill to remove a disability. If I did not believe that he had, after all, been a true man; if I thought I was leading any man in this House to cast a vote for any other than a true man in voting for this bill, I should feel as if I was doing anything but my duty here.

I believe that hereafter, after we have disposed of this case, which is not like the others, inasmuch as this is the case of a true Union man, we ought to pass bills removing disability from such men as Gantt, of Arkansas, and Governor Holden, of North Carolina, and Governor Patton, of Alabama, who went into the rebellion for a short time, believing in it. I believe that such men as these must be drawn by the strongest possible cords into the support of this Government; that the mind and character and the influence which those men must necessarily exert in those States are absolutely essential and necessary to a healthy reconstruction of those States; that without them the humbler, feebler minds, those that are always led and always will be led, will fail for a long time to come up to the support of the Government? Longstreet! Who would not rather to-day trust General Longstreet than any man who sneaked through four years and saved his neck by acting neither for the rebellion nor for the Union? I would myself. But that does not bear upon this case. I put this case entirely upon the ground that here is a man who was from the beginning a true, honest Union man, led by motives which we have discussed here amply to do an act which prevents his taking this oath.

Mr. LAWRENCE, of Pennsylvania. I want to ask the gentleman if General Longstreet affirms that he went into the rebel army to deceive them and took the oath of allegiance to the rebel government on purpose to deceive them, as this man did?

Mr. DAWES. I will not discuss General Longstreet's case further, because it does not bear on this case.

Mr. LAWRENCE, of Pennsylvania. The gentleman brought it up himself as a parallel case.

Mr. DAWES. I did not say that it was a parallel case by any means. I spoke of him as one of a class we have got to consider by and by.

Mr. BROOKS. The gentleman from Massachusetts is making an excellent speech—just such a speech as I shall make by and by on the same topic.

Mr. DAWES. If the gentleman will not hurt me with my friends on this side of the House I shall be glad. [Laughter.]

Mr. BROOKS. But I do not understand the gentleman's metaphysics.

Mr. DAWES. They never were good for anything. I will surrender my metaphysics if he will vote for my bill. [Laughter.]

Mr. BROOKS. Let me say that I think he will beat the ethics of Paley, and as to Mrs. Opie on lying—of course I do not impute that to the gentleman—and the arts of dodging and evasion, I do not think that celebrated literary character could quite equal the professional skill with which he has defended every art and tergiversation of Mr. Butler in this case. But I have been educated in New England under a higher law.

Mr. DAWES. Let me come in just there. If I thought it was tergiversation on the part of this man, or if there was a member of the Committee of Elections who thought so, their right arms would drop from their sockets before they would urge this measure. They have no such belief. They, more than anybody else in this House, have known the testimony and heard all of this case, and it is because of the conviction on their part that this man was a Union man all the time that they are here urging it.

Mr. BROOKS. I can say nothing more.

Mr. DAWES. I yield now to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. I see that by the bill which we have just passed it is provided "that whenever any person who has participated in the late rebellion, and from whom all legal disabilities arising therefrom have been removed by act of Congress by a vote of two thirds of each House, shall be elected or appointed to any office or place of trust, in or under the Government of the United States," &c., we shall admit him.

Now, what I want to ask the chairman of the Committee of Elections is this, whether he supposes, if we pass this bill in favor of the claimant in this case, Mr. Butler, we shall have relieved him, under the provision of the bill which we have passed, of "all legal disabilities arising therefrom?"

Mr. DAWES. Will the gentleman suggest his doubt? I certainly suppose so.

Mr. PAINE. This bill refers to the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act of Congress supplementary thereto, passed March 23, 1867, and the act supplementary thereto, passed July 19, 1867.

Mr. DAWES. There was an amendment made right at that point, which might, perhaps, remove the objection of the gentleman.

Mr. PAINE. What was the amendment?

Mr. DAWES. It was to insert the words "and by any provision of the Constitution of the United States," after the recital of the various acts mentioned in the bill.

Mr. PAINE. I am glad to learn that such an amendment has been made. I also understand that this bill embraces a preamble which I offered as an amendment to the original bill reported from the Committee of Elections. Am I right in that, I would ask?

Mr. DAWES. That is a part of this bill.

Mr. PAINE. That preamble recites the military service of this man, Mr. Butler, as the ground upon which we propose to relieve him from the disabilities imposed by the various acts of Congress and by the Constitution. I offered that after having heard the gentleman from Massachusetts [Mr. DAWES] make these statements to this House respecting the military career of Mr. Butler:

"It is for you to say that, having endured all; having faced the enemies of his country; having faced the perils of the cannon's mouth and all the perils that have environed a Union man, surrounded, as he was, by the rebels; having stood up against the jeers and taunts of the enemy—it is for you to say whether he shall suffer a severer rebuke at the hands of this Congress."

* * * * * * * * * *

"But it is not of such men that I speak to-day. It is one who, through fire and blood, through the smoke and blaze of battle, through good and through evil report, at all times and under all circumstances, was as true to the flag of his country as the needle to the pole—a man who molds the character and sentiments of his fellow-citizens in the county in which he lives as no other man there does—a man who, whether admitted here or driven back into exile, will exercise for good or for evil a controlling influence upon his fellow-citizens. To such as he we are indebted for the fact that Tennessee is not at this very hour in the position of Alabama and Mississippi and Louisiana and other southern States. The valiant and true men of Tennessee were held up and strengthened by such men as he—men who were the Aarons and the Hurs of that period, holding up the hands of the prophet."

Now, I took it for granted that the gentleman from Massachusetts, when he uttered those words, meant just what he said; and I suppose now that he so meant. But I am compelled to say, in all candor, that since I offered that amendment I have read through that portion of this book of testimony which relates to the military career of this claimant to a seat here; and while I am bound to say that every single witness, with one exception, who was brought forward by the contestant—or, more properly speaking, the protestant—in this case, in order to prevent Mr. Butler from being admitted to a seat here, admits that he believes Mr. Butler was a true Union man during the rebellion. Yet the record of his votes in the rebel Legislature is about as bad as it possibly could be. On Saturday, December 14, 1861, a Mr. Jarnigan, in the Tennessee rebel Legislature, offered the following resolution by way of amendment to some resolution then pending:

"*Resolved further*, That this Assembly spurns with utter indignation the proposition which has recently been made in the Congress of the United States to appoint commissioners on the part of the Government to meet commissioners on the part of the confederate States, with a view to the reconstruction of the Union."

There were nineteen members who voted against that resolution; but Mr. Butler was not one of them; he voted in the affirmative. Many of his votes are recorded; not, perhaps, as bad as that, but too bad for any Union man to base a claim upon here, unless he should come here vindicated by the testimony of living men.

Now, he does come here supported not only by the testimony of his own witnesses, but by the testimony of the witnesses who were brought against him, who almost unanimously declare that they believe he was a Union man.

In this very embarrassing state of things, if it shall be shown that this Mr. Butler has faced the bullets of the enemy during the war like a brave soldier, has risked life or limb since he was a member of that rebel Legislature, I am willing to vote to relieve him from his disabilities. I think we ought to do so; but I am bound to say, having read this testimony through, that I cannot find any evidence that

he ever did face the bullets of the enemy, that he ever saw the bayonets of the enemy, that he ever even heard the cannon of the enemy on a single battle-field.

Now, if the gentleman from Massachusetts [Mr. DAWES] will satisfy me that what I understood him to say in his speech was true, then I shall vote to relieve him from disability, because I can then see the clear, explicit, well-defined ground upon which to base my vote; I can then see how I can vote for him and vote against John Young Brown, who, in his career, never did anything which will compare with what was done by Mr. Butler in the rebel Legislature of Tennessee. But unless there can be shown something of that clear, tangible nature upon which I can stand and justify my action, I do not see how I can vote to relieve Mr. Butler from the disabilities imposed upon him by the laws and by the Constitution.

Now, what I ask is that the gentleman from Massachusetts [Mr. DAWES] will relieve me from the false position in which I may have been placed by offering my amendment. I desire him to show to me and to this House, as I doubt not he can, that Mr. Butler served in the Army from September, 1863, till April, 1864, so that the preamble which I introduced by way of amendment may be shown to be true, and that I may vote, as I earnestly desire to vote, to relieve Mr. Butler from his disabilities.

Mr. DAWES. I yield to the gentleman from Illinois, [Mr. HARDING.]

Mr. HARDING. Mr. Speaker, I am obliged to the gentleman for his courtesy. This House seems impatient to establish the precedent which a vote in favor of this proposition will put upon the records of Congress. I am opposed to the proposition, and I shall ask the House to do me the favor to allow me to record my vote upon the Journal against it. I do not wish to intrude my opinions upon other members, who are, doubtless, abundantly able to take care of the interests of the Union. Still, I hope for a better result than I expect. It seems to me that the precedent which we propose to establish here to-day is broad enough to cover the case of every rebel that ever fought against the Union Army. I would much prefer to admit the bold man who took ground against us at the head of the rebel armies, than to admit the man who voluntarily went into a rebel Legislature and took the oath to support the confederacy for the purpose of betraying it. I have no respect for that kind of policy. The character of a spy is bad enough.

But, sir, I never asked a man to go as a spy; nor did I ever ask any man to go to the extent of falsely pledging his soul to God that he was a true confederate. I cannot understand how any honorable man could do that. Sir, I wish gentlemen much joy in the acquisition of a Republican member of that character. We establish the precedent in the worst kind of a case. This precedent will be quoted against us. It will be said, "Because the claimant was a Republican you admitted him; though, he had foresworn himself two or three times; though he had approved of the hanging of Union men for bridge burning; though, after sitting in a rebel Legislature, he swore that he had never held an office under the confederacy." Do gentlemen say that, after voting for the admission of such a man, they will not vote to admit Longstreet? I say they will admit him. They cannot consistently reject him.

I did not vote to exclude John Young Brown, because I was not certain that he had ever done any overt act against the Government, after the issue was fairly made up between the Government and the rebels. I know that Mr. Lincoln and other patriotic men, when the rebellion first began to gather strength, took a similar position to that of John Young Brown, hoping that the angry waters that threatened to engulf the Union would subside. But soon all hope of a peaceful settlement vanished, and war became inevitable. Then the dividing line between loyalty and treason became clearly defined, and no patriotic man hesitated to take ground in favor of suppressing rebellion by arms. I do not know where John Young Brown placed himself when that time had arrived. I have seen no evidence that he went with the enemy.

But, sir, I forget myself. I beg pardon of the House for saying so much. I have been led to make these remarks by my interest in this question. I feel as if we were about to cast down the bulwarks which my constituents regard as of inestimable value for the safety of the Republic. I hope that when we come to the vote I shall be permitted to put my name on the record. I have been refused that privilege once. I trust it will not be denied me again.

IMPEACHMENT OF THE PRESIDENT.

The managers appointed by the House in the matter of the impeachment of the President of the United States, appeared at the bar of the House, and were recognized by the Speaker, when

Mr. BINGHAM said: I have the honor to report, on behalf of the managers in the matter of the impeachment of Andrew Johnson, President of the United States, that the Senate has organized for the trial of the impeachment; that in the name of the House of Representatives and in the behalf of all the people of the United States, the managers have demanded of the Senate that process be issued against Andrew Johnson, President of the United States, to answer to the articles heretofore exhibited against him at the bar of the Senate; and that the Senate has advised us that process will be issued against him in that behalf, returnable on the 13th instant, at one o'clock p. m.

TENNESSEE ELECTION—R. R. BUTLER.

Mr. ARNELL. In answer to the inquiry of the gentleman from Wisconsin [Mr. PAINE] I desire to refer that gentleman to the testimony of John K. Miller, on page 59 of the evidence:

"*Question.* Please state what position R. R. Butler occupied in the Federal Army, and if he was not a good soldier, and was honorably discharged: also, if he did not have his son brought through the rebel lines and put in the Federal Army before he was fifteen years of age.

"*Answer.* R. R. Butler was lieutenant colonel of thirteenth Tennessee cavalry; was a good soldier, and was honorably discharged. He also had his son brought through the lines, who was not fifteen years old, and had him to go into the service of the United States."

Mr. MUNGEN. Will the gentleman from Massachusetts [Mr. DAWES] accept this as an amendment?

In line four of the resolution now under consideration after the word "Tennessee," insert "John Young Brown, of Kentucky."

Mr. DAWES. I wish the gentleman would not ask me to complicate this matter.

Mr. MUNGEN. I withdraw the request, and move the amendment so as not to complicate the gentleman from Massachusetts.

Mr. BROOMALL. Is that amendment in order?

The SPEAKER. The question is decided by the Digest, as follows:

"An amendment proposing to ingraft a general provision of law upon a private bill is against order. It is also out of order to ingraft upon a bill for the relief of one individual a provision for the relief of another."

If it were a general bill embracing a number of names it would be in order, but being for the relief of one individual it is not in order to move an amendment for the relief of another individual. The amendment is not in order.

Mr. DAWES. I feel, Mr. Speaker, as if the House fully understood the merits of this question. I wish merely to reply to the gentleman from Wisconsin, [Mr. PAINE,] and I regret the gentleman from Wisconsin should suppose I was trying to make the House believe this gentleman's merits stood upon his military record. He has as honorable a military record as any one for the time it continued—not as honorable as that of my friend from Wisconsin, who will bear through the world and to his grave a badge of honor which but few men in the country has the privilege to carry, who, as was once said, goes about the country with that halting gate which is the only one honorable to the soldier. Although this man Butler may not occupy the position of the gentleman from Wisconsin, still, within his sphere and within the duties of his position as a military man, he was just as faithful and just as true as any other man. He had the confidence of General Burnside, whose statement came since the committee sat, bearing testimony to his fidelity, and stating that he chose him to carry dispatches to General Wilcox when Burnside was in the critical position he occupied at Knoxville. He selected this man Butler of all others whom he could trust. He was fired upon and barely escaped with his life. I do not ask that he shall have his disabilities removed because he has commanded armies in battle. I know that he has performed within his sphere as honorable duty as any other man. But I do not put this solely upon his military record. I want to put it upon his record as a man anywhere.

I do not think I ought to occupy the time of the House further. If this man's disability cannot be removed no man's can. I now demand the previous question.

The previous question was seconded and the main question was ordered.

Mr. HARDING. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 23, not voting 78; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Banks, Barnes, Barnum, Beaman, Beatty, Beck, Blaine, Blair, Boyer, Brooks, Broomall, Cake, Churchill, Cook, Dawes, Driggs, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Golladay, Gravely, Grover, Haight, Hawkins, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Johnson, Jones, Judd, Kelley, Kelsey, Kerr, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loughridge, McClurg, McCormick, Morgan, Morrell, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Paine, Pike, Plants, Poland, Polsley, Pomeroy, Raum, Robertson, Ross, Sawyer, Scofield, Sitgreaves, Stewart, Taber, Taffe, Taylor, Lawrence S. Trimble, Twichell, Upson, Van Trump, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, and John T. Wilson—88.

NAYS—Messrs. Adams, Axtell, Baldwin, Bromwell, Chanler, Sidney Clarke, Cobb, Dixon, Donnelly, Halsey, Harding, Julian, George V. Lawrence, Mallory, Marvin, McCullough, Miller, Orth, Perham, Price, Stone, Robert T. Van Horn, and Ward—23.

NOT VOTING—Messrs. Allison, Anderson, Archer, James M. Ashley, Bailey, Benjamin, Benton, Bingham, Boutwell, Buckland, Burr, Butler, Cary, Reader W. Clarke, Coburn, Cornell, Covode, Callom, Dodge, Ela, Eldridge, Farnsworth, Finney, Fox, Glossbrenner, Griswold, Higby, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ketcham, Knott, Loan, Logan, Lynch, Marshall, Maynard, McCarthy, Mercur, Moore, Moorhead, Morrissey, Mullins, Nunn, Peters, Phelps, Pile, Pruyn, Randall, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Thomas, John Trimble, Trowbridge, Van Aernam, Van Auken, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—78.

So (two thirds having voted in favor thereof) the bill was passed.

During the roll-call,

Mr. ARNELL stated that his colleagues, Mr. TRIMBLE and Mr. STOKES, were absent; if present would vote "ay."

Mr. DONNELLY. My colleague, Mr. WINDOM, is detained from the House by sickness in his family.

Mr. CHANLER. My colleague, Mr. PRUYN, is absent. He would vote "ay."

The result having been announced as above recorded,

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill (S. No. 376) to facilitate the settlement of paymasters' accounts.

LEAVE OF ABSENCE.

Mr. KETCHAM, Mr. HALSEY, and Mr. CARY, by unanimous consent, were granted leave of absence for one week.

FORT RILEY RESERVATION.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting a report by the Quartermaster General, relative to the Fort Riley military reservation, in compliance with a resolution of the House of January 22, 1868; which was ordered to be printed and referred to the Committee on Military Affairs.

POST OFFICE BUILDING IN BOSTON.

The SPEAKER also laid before the House a communication from the Postmaster General and Secretary of the Treasury, giving a report of the commission to select a site for a building for the post office and sub-Treasury in the city of Boston; which was ordered to be printed and referred to the Committee on the Post Office and Post Roads.

Mr. TWICHELL, by unanimous consent, introduced a joint resolution (H. R. No. 228) relative to the post office and sub-Treasury in the city of Boston; which was read a first and second time and referred to the same committee.

AFFAIRS IN NEW MEXICO.

The SPEAKER also laid before the House the following memorials from the territorial Legislative Assembly of New Mexico:

Memorial relative to alleged usurpation of power by the Governor of said Territory; which was ordered to be printed, and referred to the Committee on the Territories.

Memorial praying that the commander of that district may be authorized to call out volunteers and punish deserters; which was ordered to be printed, and referred to the Committee on Military Affairs.

Memorial relative to the Rio Grande tract of land in that Territory; which was ordered to be printed, and referred to the Committee on Public Lands.

Memorial relative to the annexation of a part of said Territory to the Territory of Colorado, and protesting against the same; which was ordered to be printed, and referred to the Committee on the Territories.

Memorial relative to a wagon road between the city of Sante Fé and the valley of Taos; which was referred to the Committee on Roads and Canals.

Memorial relative to the Navajo Indians, now at the Bosque Redondo, in said Territory; which was referred to the Committee on Indian Affairs.

CORRECTION.

The SPEAKER. The Chair is requested to state in behalf of Mr. STEVENS, of Pennsylvania, that he is recorded in the Journal as having voted against laying on the table the resolution of the gentleman from Iowa, [Mr. WILSON,] on Tuesday last, in regard to subsidies for railroads. He states that he voted for laying it on the table. The Journal will be corrected accordingly.

LEAVE OF ABSENCE.

Mr. VAN HORN, of Missouri, asked and obtained indefinite leave of absence for his colleague, Mr. ANDERSON.

Mr. WARD asked and obtained leave of absence for two weeks for his colleague, Mr. HUMPHREY.

RIGHTS OF AMERICAN CITIZENS.

Mr. ELDRIDGE, by unanimous consent, introduced a joint resolution (H. R. No. 229) defining the duty of the nation toward its native and adopted citizens; which was read a first and second time, and referred to the Committee on Foreign Affairs.

PUBLIC LANDS.

The House resumed the consideration of the motion of Mr. JULIAN, pending at the adjournment yesterday, to reconsider the vote by which House bill No. 370, to prevent the further sale of the public lands of the United States, except as provided for in the preëmption and homestead laws and the laws for disposing of town sites and mineral lands, was postponed.

Mr. JULIAN. I withdraw the motion to reconsider.

The SPEAKER. The bill then comes before the House.

Mr. JULIAN. Mr. Speaker, perhaps there is no question affecting the civil administration of the Government which more deeply concerns the people of the United States than that which is submitted in the bill I have had the honor to report from the Committee on Public Lands. It touches all the springs of our national life and well-being. It makes its appeal to every landless citizen of the Republic, and to every foreigner who comes to our shores in search of a home. It reaches down to the very foundations of democratic equality, and takes hold on the coming ages of industrial development and Christian civilization in the rapidly multiplying States of our Union. Had the policy now proposed been accepted by the nation a generation ago, before its magnificent patrimony had been so grievously marred and wasted by legislative profligacy and plunder, the gratitude of millions would have attested the blessed results, the failure of which millions must deplore. Not a single hour of further delay should stay the friendly hand of Congress in rescuing the remaining heritage of a thousand million acres from the improvident administration of the past.

Before proceeding to the general discussion of this measure it may be well briefly to refer to its particular provisions and their effect in modifying the action of its controlling principle. It forbids the further sale of the public lands, except as provided for in the preëmption and homestead laws. These laws have been improved by repeated amendments, which have been suggested by experience, and their machinery is understood by the people. Under the preëmption laws the settler may select his home on the surveyed or unsurveyed lands, and perfect his title on the easy conditions of settlement and improvement, and the payment of $1 25 per acre. Under the homestead laws like conditions of settlement and improvement are required, but the claimant is restricted to the surveyed lands, and the payment of $1 25 per acre is only required where he shall decide to perfect his title at once by the purchase of his homestead, which he may do after the required improvement has been made. The purpose of both the preëmption and homestead laws is the settlement and tillage of the public domain by those who need homes, and the option is given to every settler to determine under which class of laws he can best subserve his interest.

The bill reserves to the holders of military bounty-land warrants, agricultural college scrip, and other land scrip, the right to locate the same. This could not be otherwise. However mistaken or pernicious the policy of issuing these warrants and this scrip may now be regarded, the faith of the nation is plighted that they may be located according to the terms prescribed by Congress. Lands selected for town sites are likewise expressly excepted from the operations of the bill, because their disposition is already provided for. An act for the disposal of coal lands and town sites on the public domain, approved July 1, 1864, and the act amendatory thereto of March 3, 1865, make special provision for the disposition of such lands, and properly withdraw them from the scope of this bill.

Mineral lands are also excepted, and for kindred, though less conclusive reasons. The peculiar character of these lands calls for peculiar legislation; and the act of Congress of July 26, 1866, undertook to deal with them. The act is singularly crude and clumsy, and very few persons thus far have even attempted to assert title under it. Its history is not less remarkable. It passed the Senate near the close of the first session of the Thirty-Ninth Congress, without any previous general discussion by the members of that body. On reaching the House it was referred to the Committee on Public Lands, which at once proceeded to consider it, and to reconstruct its leading features. This did not suit its friends in the Senate, who caused it to be attached to the enacting clause of a bill then pending in that body, entitled "An act granting the right of way to ditch and canal owners over the public lands in the States of California, Oregon, and Nevada." Under this strange title it was re-enacted in the Senate; and on finding its way to the Speaker's table during the closing hours of the session, it was hurried through the House in utter disregard of the rights of the committee having it in charge, without any opportunity whatever for general discussion, without even the pretense that its provisions were understood, and by parliamentary tactics which, if generally adopted, would convert the business of legislation into a system of gambling, in which the very titles of our laws would brand them as the progeny of knavery and fraud. The remarkable decline in the product of bullion during the past year is undoubtedly due, to a considerable extent, to the uncertainty of titles in the great mining regions and the need of a fixed code of laws; and since there is a bill now pending here amendatory of the law under notice, and its manifest faults must lead to its perfection, there is no occasion to deal with the question in the measure now before the House.

With these qualifications, Mr. Speaker, the bill I have reported withdraws from further sale the public domain of the United States, and dedicates it, in reasonable homesteads, to actual settlement and productive wealth; and it is this fundamental and far-reaching principle to which I now invite the attention of this House and of the country.

Mr. Speaker, I hold it to be a clear proposition that the Government, as the servant of the people, is bound to render the territory under its control as productive as possible. Both political economy and the law of nature sanction this principle. The Government has no right to withhold its vacant lands from tillage while its own citizens desire them for homesteads, and are willing to make them contribute to the general wealth. "Nothing," says Locke, "was made by God for man to spoil or destroy." Vattel declares that the cultivation of the soil is "a profession that feeds the human race;" that it is "the natural employment of man," and "an obligation imposed by nature on mankind;" and that therefore it "deserves the utmost attention of the Government." He says, "The sovereign ought to neglect no means of rendering the land under his jurisdiction as well cultivated as possible. He ought not to allow either communities or private persons to acquire large tracts of land and leave them uncultivated." He adds, "The whole earth is destined to feed its inhabitants; but this it would be incapable of doing if it were uncultivated. Every nation is then obliged by the law of nature to cultivate the land that has fallen to its share." "The earth," says the Westminster Review, "is the great mother which all should regard with filial reverence. To the earth we owe alike our lives and our pleasures, and if there be an excess of poverty and misery among men it is because the earth is not tilled in such a manner as to yield the maximum of the necessaries of life." "No man," says John Stuart Mill, "made the land. It is the original inheritance of the whole species;" and he declares that "wherever, in any country, the proprietor, generally speaking, ceases to be the improver, political economy has nothing to say in defense of landed property as there established." These authorities, which could readily be multiplied, are simply the echo of common sense. They are the voice of reason and justice, affirming, in different forms of speech, the scriptural truth that the earth belongs "to the children of men."

If, then, the Divine command to "subdue the earth," that is, to improve it, and compel it to yield of its abundance, is binding upon the Government as well as the citizen, we are naturally conducted to the inquiry, what policy ought it to pursue in order to secure the maxi-

mum of productiveness? And my answer is, the policy of resisting, by all practicable methods, the monopoly of the soil, while systematically aiming at the multiplication of small homesteads, which shall be tilled by their proprietors. On this subject, Mr. Speaker, we are not left in the dark. I shall not now dwell upon the negative side of the argument. I shall not stop to portray the evils of land monopoly, which, in the words of a celebrated French writer, "has gnawed social order from the beginning of the world." The subject is an inviting one, but I propose here only to consider the profitableness of small landed proprietorships in the light of known facts. I believe political economists are agreed that the true interest of agriculture is to widen the field of its operations as far as practicable, and then, by a judicious tillage, to make it yield the very largest resources compatible with the population of the country. Experience has abundantly shown that the system of small proprietorships can best secure these results, while it brings with it great moral and social advantages which are unknown in countries that are cursed by overgrown estates. I regret that any argument or elucidation of this point should be deemed necessary in a Government which recognizes equal rights and equal laws as the basis of its policy; but the manifest tendency, in multiplied forms, toward land monopoly in our country, and especially in the West and South, must excuse some little particularity of statement.

One of the highest authorities on this subject is Mr. Kay's book on "The Social Condition and Education of the People in England and Europe." He speaks from personal observation and travel in many countries in different parts of the continent, and declares that "the peasant farming of Prussia, Saxony, Holland, and Switzerland is the most perfect and economical farming I have ever witnessed in any country." He quotes with favor the decided opinion of another writer, that "not only are the *gross* products of any given number of acres held and cultivated by small proprietors greater than the gross products of an equal number of acres held by a few great proprietors, and cultivated by tenant farmers, but that the *net* products of the former, after deducting all the expenses of cultivation, are also greater than the net products of the latter." Mr. Laing, another writer of authority, in his "Notes of a Traveler" says: "We see, and there is no blinking the fact, better crops on the ground in Flanders, East Friesland, Holstein, in short, on the whole line of the arable land of equal quality on the Continent, from the Sound to Calais, than we see on the line of British coast opposite to this line, and in the same latitudes, from the Frith of Forth all round to Dover." And he adds that "minute labor on small portions of arable ground gives evidently, in equal soils and climate, a superior productiveness, when these small portions belong to the farmer." Mr. Kay says that "In Saxony it is a notorious fact that, during the last thirty years, and since the peasants became the proprietors of the land, there has been a rapid and continual improvement in the condition of the houses, in the manner of living, in the dress of the peasants, and particularly in the culture of the land." He observes that "The peasants endeavor to outstrip one another in the quantity and quality of the produce, in the preparation of the ground, and in the general preparation of their respective portions. All the little proprietors are eager to find out how to farm so as to produce the greatest results; they diligently seek after improvements; they send their children to the agricultural schools in order to fit them to assist their fathers; and each proprietor soon adopts a new improvement introduced by any of his neighbors."

Sismondi, in his "Studies in Political Economy," says: "It is from Switzerland we learn that agriculture, practiced by the very persons who enjoy its fruits, suffices to procure great comfort for a very numerous population; a great independence of character, arising from independence of position; a great commerce of consumption, the result of the easy circumstances of all the inhabitants, even in a country whose climate is rude, whose soil is but moderately fertile, and where late frosts and inconstancy of seasons often blight the hopes of the cultivator." Speaking of small landholders generally, he says: "Wherever we find peasant proprietors we also find the comfort, security, confidence in the future, and independence which assure at once happiness and virtue. The peasant who, with his children, does all the work of his little inheritance, who pays no rent to any one above him nor wages to any one below; who regulates his production by his consumption; who eats his own corn, drinks his own wine, is clothed in his own hemp and wool; cares little for the prices of the market; for he has little to sell and little to buy, and is never ruined by revulsions of trade." And he insists that "the peasant proprietor is of all cultivators the one who gets most from the soil, for he is the one who thinks most of the future, and who has been most instructed by experience. He is also the one who employs the human powers to the most advantage, because, dividing his occupations among all the members of his family, he reserves some for ever day of the year, so that nobody is ever out of work."

Mr. Howitt, in his "Rural and Domestic Life of Germany," says: "The peasants are not, as with us, for the most part, totally cut off from property in the soil they cultivate, totally dependent on the labor afforded by others—they are themselves the proprietors. It is, perhaps, from this cause that they are probably the most industrious peasantry in the world. They labor busily, early and late, because they feel that they are laboring for themselves. Every man has his house, his orchard, his road-side trees, commonly so heavy with fruit that he is obliged to prop and secure them always, or they would be torn to pieces. He has his corn-plat, his plat for mangel-wurzel, for hemp, and so on. He is his own master; and he, and every member of his family, have the strongest motives to labor." He contrasts him with the English peasant, who "is so cut off from the idea of property that he comes habitually to look upon it as a thing from which he is warned by the laws of the large proprietors, and becomes, in consequence, spiritless, purposeless. The German bauer, on the contrary, looks on the country as made for him and his fellow-men. He feels himself a man; he has a stake in the country as good as that of the bulk of his neighbors; no man can threaten him with ejection or the work-house so long as he is active and economical. He walks, therefore, with a bold step; he looks you in the face with the air of a free man, but of a respectful one."

Small farming in France forms no exception to these strong testimonies. Arthur Young, in his "Travels in France," says: "An activity has been here that has swept away all difficulties before it, and has clothed the very rocks with verdure. It would be a disgrace to common sense to ask the cause; the enjoyment of property *must* have done it. Give a man the sure possession of a bleak rock, and he will turn it into a garden; give him a nine years' lease of a garden, and he will convert it into a desert." Speaking of the country at the foot of the Western Pyrenees, he says: "It is all in the hands of little proprietors, without the farms being so small as to occasion a vicious and miserable population. An air of neatness, warmth, and comfort, breathes over the whole. It is visible in their new-built houses and stables; in their gardens; in their hedges; in the courts before their doors; even in the coops for their poultry and the sties for their hogs."

But I need not further multiply authorities in support of my position; nor shall I attempt to demonstrate what is quite apparent from the quotations I have made, that the policy of small homesteads, on which the man who holds the plow is the owner of the soil, is favorable to the highest degree of industry and thrift; that it becomes the instrument of popular education, through the self dependence of the cultivator, whose mental faculties are thus naturally stimulated and developed by the cares and responsibilities brought to his door; and that it favors, also, the moral virtues of prudence, temperance, and self-control. All this is asserted by our ablest political economists. Neither shall I dwell here upon the fact that it supplies the strongest bond of union between the citizen and the State, and is absolutely necessary in a well-ordered Commonwealth. Putting all this aside, and coming back to my two cardinal principles—the duty of the Government in behalf of the people to make its lands as productive as possible, and the necessity of accomplishing this end by small holdings, tilled by their proprietors—I proceed to notice the startling commentary upon these principles which has been furnished by the Government of the United States.

The Commissioner of the General Land Office estimates that from the foundation of the Government to the present time more than thirty millions of acres of the aggregate amount of public lands sold have not been reduced to occupancy as farms. This would have made one hundred and eighty-seven thousand five hundred homesteads of one hundred and sixty acres each, and should have been disposed of by the Government to actual settlers only, as fast as it was needed, instead of being handed over to speculators and locked up from tillage and productive wealth. Just to the extent that this has been done the Government has been the plunderer of the people. It has gone into partnership with the speculator in cheating the pioneer and the producer, while robbing the national Treasury. During the last fiscal year nearly two millions of acres of homestead entries have been made, of which over two hundred and sixty-four thousand acres have been entered in the southern land States under the act of June 21, 1866. The total area of the public domain absorbed under the homestead laws up to the 30th of June last exceeds seven millions of acres, represented by over fifty-nine thousand farms. This policy creates national wealth, and gives homes to the laboring poor. It most righteously fosters the pursuit which Vattel declares to be "the natural employment of man" and which "feeds the human race." Every new farm that is snatched from the wilderness adds to the wealth of the nation, while the monopoly of millions of acres which are withheld from cultivation is a positive public curse. It is computed that in the year 1835 alone about eight millions of acres of the public domain passed into the hands of speculators. The money thus invested was withdrawn from praiseworthy enterprises and the ordinary uses of commerce and sunk in the fruits of the West, which were allowed to yield no return. Great stretches of these wild lands thus intervened between settlements which were afterward formed, since the poor pioneer could not pay the price at which they were held, and was forced still further into the wilderness, where he was compelled, by his toils and privations, to add to the wealth of these remorseless monopolists.

This system of legalized landlordism in these States, this practical inauguration among us of the feudalism of the Old World, is the very climax of legislative madness. It cheats the poor settler, and by dooming vast tracts of fertile lands to barrenness becomes a fatal hinderance to agricultural wealth, and to commerce and manufactures, which draw their life from the soil. Instead of flourishing towns and villages, small homesteads, and an independent yeomanry, with the attendant blessings of churches and free schools, it consigns the fertile plains of the West to the tender mercies of the monopolist, whose greed alone is his law. Instead of opening our vacant lands to the stream of emigration which would pour in

from the old States, and thus augmenting our imports and exports through increased production, it leaves the country a wilderness, or inhabited only by a miserable tenantry under the control of absentee landlords. Instead of settling the frontier of our country and extending the march of civilization, it subjects the Government to the expenditure of millions of dollars in sustaining military posts which else might be wholly dispensed with. Instead of taking the pioneer into the fatherly keeping of the Government, and stimulating the spirit of adventure by the offer of a free home in the wilderness, it treats him as a virtual outcast by driving him beyond the possessions of the speculator, for whose interest he is compelled to toil. This is by far the worst feature of our present land policy. The pioneer subdues the forest and coins it into wealth. He encounters every form of hardship and danger in opening the way for the column of settlers which is to follow, while his life is one of constant privation. The settlers of our frontier are the real heroes of our time. They are the founders of new Commonwealths, and are ready to encounter either wild beasts or savages in exploring our distant borders. They build wagon roads, bridges, towns, and cities, and, by surrounding the reserved lands of the speculator and rendering them desirable, add greatly to the wealth which he has done nothing to earn. Surely these persons have a better right to be consulted in the disposition of the public domain than the men who buy large tracts with perhaps no expectation of ever seeing them again or of expending a dollar in their improvement.

Mr. Speaker, I have referred to the thirty millions of acres heretofore sold by the Government which yet remain unimproved. This, of course, is only a small fraction of the grand aggregate which from time to time must have passed under the dominion of monopolists, and has since been gradually reduced to cultivation by paying their tariff for the privilege. Nothing could be more vicious in principle or more ruinous to the public interest than has been this policy. The Government, since its formation, has sold more than one hundred and fifty-four millions of acres; and I think I am safe in asserting, after careful consideration, that the nation has derived from these lands less than one half the agricultural wealth which they would have yielded under the policy for which I now contend, if it had been adopted in the beginning. Sir, I ask gentlemen to ponder these facts, and say whether the land policy of the United States has not been a policy of systematic improvidence and spoliation. Every one remembers the saying of Dean Swift, that "whoever could make two ears of corn or two blades of grass to grow upon a spot of ground where only one grew before would deserve better of mankind, and do more essential service to his country, than the whole race of politicians." Has not our Government supplied a new and striking commentary on this saying in sporting with one of the grandest opportunities the world has seen for the creation of wealth and the establishment of Democratic institutions? One of the charges against the British king which our fathers preferred in their great declaration was, that "he has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands." Is not our Government guilty, substantially, of this same charge? Has not its policy tended strongly "to prevent the population of these States," by abridging the inducements of our people to seek homes on the public domain? And, as to foreigners, has not its policy of speculation and monopoly amounted to a refusal "to pass laws to encourage their migration hither," while "raising the conditions of new appropriations of lands?" Sir, let us emancipate the public domain yet remaining under our care. Let us dedicate it to honest toil, to American homes, to productive wealth, and thus complete the work so nobly begun in the preëmption and homestead laws. Let us remember that in setting free the public lands of the Government, and placing them beyond the power of monopolists, we shall become the creators of wealth and the benefactors of coming generations; and that the ablest political economist of our time declares the acquisition of a permanent interest in the soil by the cultivators of it to be as real and as great an improvement in production, as the invention of the spinning-jenny or the steam-engine.

But I pass to a separate though kindred topic, namely, the grants made by Congress to aid in building railroads. These have been exceedingly munificent, and have become a most formidable barrier to the settlement and cultivation of our great domain. Congress has granted in all, to various western and southern States, over fifty-seven millions of acres for these purposes. These grants have been made on such conditions that the companies to whom the alternate odd-numbered sections are intrusted can hold them back from sale and settlement till such time, and for such price, as may best subserve their interest. The lands become at once a monopoly, and the rights of settlers are perfectly subordinated to its purposes. The company may sell or refuse to sell; it may sell to individual settlers or to a single purchaser. No restraints are imposed in these particulars. The even-numbered sections are likewise reserved from sale, except for the price of $2 50 per acre. Unless, therefore, the road is between points and through a country rendering its speedy construction very important, both the odd and even numbered sections are kept back from settlement; and the further effect of this will be to hinder settlements which otherwise would be formed adjacent to the interdicted belt. This policy builds roads, which are highly important; but it often inflicts great mischief upon the country by its discriminations against our pioneer settlers.

Besides these grants to the States we have donated, on similar conditions, for the construction of canals and other improvements, over seventeen millions of acres; and we have granted to the different lines of the Pacific railroad the estimated aggregate of one hundred and twenty-four millions of acres. These roads are of the greatest national importance, and therefore have a very strong plea to make in justification of the grants made by Congress; but they constitute a fearful monopoly, and may hinder, far more than help, the actual settlement and improvement of our great western territory. The several grants I have named amount to little short of two hundred millions of acres; and if we add to this the even-numbered sections along the lines of the Pacific road, which are excluded from settlement under a recent ruling of the Interior Department, we shall have an aggregate of about one third of the nation's entire public domain committed to the keeping of railroad corporations. "The quantity of lands conveyed by these grants," says the Commissioner of the General Land Office, "is of empire extent, exceeding in the aggregate, by more than five millions of acres, the entire areas of the six New England States, added to the surface of New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, and Virginia." He says the grants to the Pacific railway lines alone "are within about a fourth of being twice the united area of England, Scotland, Wales, Ireland, Guernsey, Jersey, the Isle of Man, and the islands of the British seas, and less than a tenth of being equal to the French empire proper."

These are significant, if not startling, facts, and they naturally awaken alarm among the multitudes of our people now seeking settlements under the preëmption and homestead laws throughout the West. I have recent letters from intelligent men in the Topeka land district in Kansas, who say that, owing to the land grants referred to and the Indian reservations as administered by the Government, it has become next to impossible to secure a homestead that is at all desirable in that portion of the State, and that many settlers who have traveled hundreds of miles to find their homes, on which they have settled in good faith, are being driven out by railroad agents. I believe the time has come to sound the cry of danger, and to demand, in the name of our pioneers and producers, a radical reform in the policy of the Government as to any future grants it may make in aid of these enterprises. All such grants should be rigidly subordinated to the paramount purpose of securing homes for the people, the settlement and improvement of the public domain, and the consequent increase of national wealth. A bill inaugurating this principle has already been reported to this House from the Committee on Public Lands, and I earnestly hope it will become a law. It provides that in all future grants to aid in building railroads the odd-numbered sections shall be sold only to actual settlers, in quantities not exceeding one hundred and sixty acres, for a price not exceeding the maximum of $2 50 per acre, and that any even sections which shall remain undisposed of at the expiration of ten years shall be subject to the same disposition as all other public lands.

In addition to this greatly needed change of policy Congress should provide for two other reforms. In the first place, the road asking the grant should be an important thoroughfare, and especially in the matter of extending settlements and civilization more rapidly than otherwise would be practicable. Such grants are only specially needed in the case of long lines of road, which connect distant points, and pass over thinly inhabited sections of country. Experience has shown that roads will not be built except through settlements which will supply a local business, or as connecting links between important centers of trade and population. The Commissioner of the General Land Office, in his report for the year 1865, justly remarks, that if upon any part of the line a road gets less land it is because there is larger population and consequently more local business; and if upon any part of the line more land is obtained it is because the reverse is true. Yet in every instance it will be found that the road is first constructed, and best compensating to the stockholders, along that part of its line on which little or no public land is obtained. A road passing through a region of country which invites settlements will be built, if needed, without any grant of lands, because settlements will be formed and the wants of the people will necessitate it. The actual settlement of a new country is, after all, the paramount concern both of the Government and the people. With this, capital will gradually come in, and such lines of railroad as are found to be needed will be constructed. Without this, railroads would be unprofitable enterprises, even if it were practicable to build them.

The second reform to which I refer is that a fixed lateral limit shall be made to the grant, and that the principle of alternate sections *in place* shall be rigidly adhered to. The failure to observe these requirements has wrought great mischief to the country and to our pioneer settlers. Our land-grant policy, as at first inaugurated, gave every alternate odd-numbered section for six miles in extent on each side of the road. This limit should never have been enlarged except in the case of a few roads of very great national utility. By keeping within these limits, and of course granting no alternate sections except those literally corresponding and contiguous to the even sections, the value of the latter would be duplicated, and thus the Government, while securing the road and promoting the settlement of the country, would be financially the gainer also. But by enlarging the lateral limits as we have done, to ten miles, and in several instances to

twenty, and even forty miles, and allowing *floats* or *scrip*, beyond this margin, in lieu of lands not found within it, the whole policy of compensation to the Government is overthrown, and our grants become a practical bounty to railroad corporations, at the expense of actual settlers, and to the great injury of the country. These floats will, of course, be located at once upon all the choice lands nearest the line of the road, and to the settled portions of the country. The preëmptor and the homestead settler will be driven further back by the grant, and in the interest of monopolists who will grow rich by withholding their lands from settlement till a handsome price can be had through the improvement of adjoining lands. The pioneer must surrender the advantages of roads, mills, schools, churches, and such other blessings as belong to a well-ordered community, for the somewhat imaginary compensation of a railroad forty or fifty miles distant. Many gentlemen now here may remember a bill which was reported to this House in the Thirty-Ninth Congress, providing for the construction of a road more than four hundred miles in length, and granting the odd-numbered alternate sections to the amount of twenty sections per mile on each side of the road, with the privilege of going ten miles further, if necessary, to make up deficiencies occasioned by the sale or other disposition of any of the alternate sections by the Government prior to the definite location of the road. The passage of this frightful measure was earnestly urged in the House, but was luckily defeated; and the ability, now and then, to aid in strangling such legislative monsters before their birth may be set down among the consolations of public life. In some instances we have granted the even-numbered sections, and we have several times made large grants, to be selected in a body, where the principle involved in the policy of alternate sections could have no possible application. Every year bears witness to new aggressions upon the rights of settlers, which seriously threaten to swallow up the whole of our remaining public domain.

Sir, this policy is utterly indefensible and vicious, and should be abandoned at once. I will not go quite so far as some gentlemen on this floor, and oppose all grants of land in aid of railroads, under whatsoever restrictions. In legislative, as in other affairs, the want of discrimination is the want of common sense. "Good roads," says Mill, in his "Political Economy," "are equivalent to good tools. It is of no consequence whether the economy of labor takes place in extracting the produce from the soil or in conveying it to the place where it is to be consumed. Railways and canals are virtually a diminution of the cost of production of all things sent to market by them."

These enterprises have done and are still doing a great service to our country. Let the Government, by all honorable means, lend them its aid; but let Congress see to it, henceforward, that the saving reforms I have suggested shall be applied.

Mr. Speaker, the picture I have drawn of the fearful strides of land monopoly in our country, under the sanction of Congress, would be imperfect without referring to some additional and striking facts which fairly belong to this discussion. The act of Congress of 1862, providing for the establishment of agricultural colleges, grants to the States thirty thousand acres of the public lands for each of their Senators and Representatives in Congress. When the provisions of this act shall be extended to the States of the South, as they doubtless will be, the whole amount required will be nine million six hundred thousand acres. The States having public lands within their limits will receive and have set apart to them their respective shares under the act, which, of course, will be so many great monopolies, managed with a view to the largest revenue to aid in the building of colleges, and not in the interest of settlers. The States having no public lands get their respective shares in college scrip representing them, which scrip cannot be located by the States, but must be sold to individuals who may locate it, provided that not more than one million acres shall be located in any State. I do not know the present market value of this scrip, but it has been largely dealt in at rates ranging from sixty to seventy cents per acre; and probably this is as much as the States have generally received for it, instead of $1 25 per acre, which the land ought to be worth.

Mr. DRIGGS. I will state that I knew one instance where the entire college scrip of a State was offered as low as thirty-seven and a half cents an acre.

Mr. JULIAN. As a method of building colleges, therefore, it is by no means a success; while, on the other hand, the scrip goes into the hands of speculators, and becomes the basis of the most pernicious monopolies that have afflicted our country. Bodies of a million acres have already been appropriated in several of our western States, and set apart by this policy of legalized plunder, on which, of course, no homestead claimant or preëmptor may set his foot. The country is held back from tillage and productive wealth, and the rights of our pioneer settlers postponed or denied, by the duly authorized rapacity of hungry monopolists. A company of speculators, doing business in Cleveland, Ohio, and in Wall street, New York, advertise that they have bought the college scrip of nine States, which they mention, covering two millions four hundred and eighty-two thousand acres. They hold it for speculation, and, of course, take no thought as to the settlement and improvement of the public domain. If it was the duty of the Government to aid in building agricultural colleges it would have been far wiser to appropriate money, leaving the lands of the country free to those who desired them for homes, and were ready to transmute their labor into national wealth. Kindred observations apply to our Mexican bounty-land warrants, which cover over thirteen millions of acres in all.

Another powerful incentive to the spirit of monopoly has been the action of Congress respecting what are called "swamp and overflowed lands." There have been patented to States, under different acts of Congress, more than forty-three millions of acres of these lands, and the management of them, whether in the western or southern States, has been most unfortunate. This is especially true of the States of Mississippi, Louisiana, Arkansas, and Florida, which have received nearly twenty-eight millions of acres. Of these lands large portions are dry, and among the very best in the country, but they were purchased in great bodies by speculators, and to this day continue in their clutches. According to official tables furnished by the General Land Office there are now in the five land States of the South more than fifty-two millions of acres of unimproved lands held by monopolists, while fourteen fifteenths of their people, outside of the towns and cities, in an exclusively agricultural region, are landless. These are very sad facts, and the solution of them constitutes the real problem of reconstruction. They are further aggravated by the railroad monopolies of these States, covering several millions of acres, by Spanish grants in some of them, and by plantation ideas as well as plantation manners, which have survived the institution of slavery. Time, patience, and the policy of colonization from other States, must finally work out the redemption of these regions. One good step has already been taken in the passage of the southern homestead law; but no one can contemplate the situation of their people to-day, and the weary conflicts to which they are to be summoned in escaping from their thralldom, without deploring the mistake of the Government in failing to confiscate the great plantations of the rebels during the war, and decimating them in the interests of loyalty and republicanism.

The action of the Government in dealing with our Indian lands has been equally subservient to the interests of monopolists. Under our treaties with the Delaware Indians, made in 1860 and 1861, some two hundred and thirty-four thousand acres of surplus Indian lands were sold to the Leavenworth, Pawnee, and Western Railroad Company, instead of being opened to actual settlers. Under another treaty, concluded in 1866, the residue of these lands, amounting to over ninety-two thousand acres, was sold to the Missouri River Railroad Company in the latter year, thus creating another monopoly. By virtue of a treaty with the Sac and Fox Indians, concluded in the year 1859, the trust lands of these Indians, amounting to two hundred and seventy-eight thousand two hundred acres, have been sold to thirty-six different purchasers, thus creating numerous though considerable monopolies. As examples, I may mention that John McManus bought one hundred and forty-two thousand nine hundred and fifteen acres; William R. McKean twenty-nine thousand six hundred and seventy-seven acres; Fuller and McDonald thirty-nine thousand and fifty-eight acres; Robert S. Stevens fifty-one thousand six hundred and eighty-nine acres; Hon. Hugh McCulloch seven thousand and fourteen acres. By virtue of a treaty concluded with the Kickapoo Indians in 1862, the Atchison and Pike's Peak Railroad Company, in the year 1865, became the purchaser of the lands of these Indians, amounting to one hundred and twenty-three thousand eight hundred and thirty-two acres. By virtue of the first article of a treaty between the United States and the Great and Little Osage Indians, concluded in the year 1865, the said Indians sold to the United States a tract of country embracing one million nine hundred and ninety-six thousand eight hundred acres; and under the second article of the treaty they sold, in trust, the further quantity of one million two hundred and twenty-five thousand six hundred and two acres, making the total of three millions two hundred and twenty-two thousand four hundred and two acres.

The treaty, in strange disregard of the rights of settlers and of the true interests of the country, provides that this vast area of land shall not be subject to entry under the homestead or preëmption laws, but shall be sold to the highest bidder; and, of course, following the examples already set in other cases, a swarm of greedy monopolists, more or less numerous, will get the entire amount. The land is already advertised for sale in May next, and several thousands of settlers who went upon it before the treaty was proclaimed, many of them having made valuable improvements in good faith, will be driven out by speculators, with whom their small means will not enable them to compete at the sale. Of course it is not strange that these settlers are now greatly alarmed and distressed by the situation in which they find themselves; and the joint resolution I reported this morning, which passed this House, was intended as some little relief, and perhaps all that Congress can afford, under the shameful treaty to which I have referred.

The Cherokee neutral lands consist of a tract fifty miles long and twenty-five miles wide, embracing eight hundred thousand acres. By treaty with these Indians, concluded in the year 1866, the Secretary of the Interior is authorized to sell these lands in a body, for a price not less than one dollar per acre in cash, except such tracts as were settled upon at the date of the treaty. Accordingly, in October last, a contract was made for the sale of these lands to one James F. Joy, in the interest of the Kansas and Neosho Valley Railroad Company, for the price named, and the directors of the company, at a recent meeting, have resolved that such of the lands as are now occupied by *bona fide* settlers shall be valued at from three to ten dollars per acre, and be sold to said settlers at an average of six dollars per acre.

This outrage upon these people, who have settled upon these lands in good faith, and in many cases made valuable improvements, is

simply monstrous. Even the treaty, which no man can defend, and could have had no honest parentage, does not warrant it. These settlers, in all conscience, should have their lands at $1 25 per acre. The treaty could easily have been so made as to secure to them this right beyond question, and the lands themselves, as I am well assured, could have been disposed of directly to the United States, and subjected at once to our ordinary policy of sale and pre-emption. No man can approve the conduct of the Government in thus joining hands with monopolists in squandering the public domain and conspiring against the productive industry of the country; and since there yet remain large quantities of other Indian lands to be disposed of, all of which are threatened by the reckless policy I have exposed, the voice of the people should be earnestly invoked in their behalf before it shall be too late.

One remarkable instance of the espousal by the Government of the claims of monopolists against those of our pioneer settlers remains to be noticed. It is of recent occurrence. A disputed question involving the title to certain lands in California was properly brought before the General Land Office for decision. The parties on the one side were preëmptors, claiming title as such under the laws of the United States. The chief party on the other side was a perfectly unprincipled monopolist, who had succeeded by false representations in procuring the passage of an act of Congress under which he and his assigns claimed title to an invalid Spanish grant of ninety thousand acres, including the very lands of the preëmptors referred to. After a full and careful hearing the Commissioner of the General Land Office decided in favor of the settlers. The California monopolists thereupon prevailed upon the Secretary of the Interior to ask the advice of the Attorney General of the United States upon the points of law involved, and they procured from him an Opinion, declaring, among other things, that preëmptors on the public lands acquire no rights by their preliminary acts of settlement and improvement, and are mere tenants-at-will, whom the Government may eject at any time before they have *completed* the conditions of title. The Attorney General did not controvert the fact that the preëmptors *were* such, under the laws of Congress, but he denied their right to the land; and the Secretary of the Interior acquiesced in the decision, although he knew it was not law, and allowed the land department of the Government to be used in dispossessing these settlers, in violation of the plainest principles of justice as well as law, in opposition to numerous and uniform decisions of our Federal courts, and to the whole spirit and policy of the Government. This ruling, still adhered to by the Secretary of the Interior, strikes at the homestead settler as well as the preëmptor, and is a mean and wanton insult to both. Should it be applied in all cases, as it was cruelly done in this, it would kindle a fire throughout the West which it might cost the Government some pains to quench. Sir, in the name of our grand army of pioneers, whether native or foreign born, I denounce it. As I have said here on another occasion, it mocks justice, sets common sense at defiance, and insults judicial decency, and the men who procured it, in behalf of soulless speculators and land-sharks, were engaged in a most unworthy service. I must add, as the saddest fact of all, that this foul plot of thieving monopolists received the sanction of the House of Representatives of the United States, as shown by its recorded vote on the 7th day of July, in the year 1866.

Mr. Speaker, the facts I have submitted should alarm every real friend of our country. This wholesale prostitution of the people's heritage, this merciless crusade against the rights of coming generations, ought to cease instantly. It will tax all the wisdom of our rulers to heal the wounds already inflicted upon our country, and which have laid hold on its very life. While the power of Government to do good is limited, and negative at best, its capacity for evil is practically infinite. It has been said truly that the influence of the laws under which we live pervades the national character, is felt in every transaction of our social existence, and is seen, like the frogs of Pharaoh, "in our houses and in our beds, in our ovens and in our kneading-troughs." Our land policy will have its enduring monument in the very curses which it plants in its footsteps, and writes down upon the soil. It poisons our social life by checking the multiplication of American homes and the growth of the domestic virtues. It tends to aggregate our people in towns and cities, and render them mere consumers, instead of dispersing them over our territory, and tempting them to become the owners of land and the creators of wealth. It fosters the taste for artificial life, and the excitements to be found in great centers of population, instead of holding up the truth that "God made the country," and intended it to be peopled and enjoyed. It dries up the sources of productive wealth, as I have already shown, and thus fatally abridges the revenues now so much needed in meeting our national obligations. As a mere scheme of finance, I believe the passage of the bill now before us would be decidedly the best of the many which have been proposed and debated. The great want of the country to-day is more producers and to this end a policy which shall draw from the older States and from our overcrowded cities the millions of unemployed men who are seeking to live by their wits, and to evade the command that "in the sweat of thy face shalt thou eat thy bread." This, sir, is my policy of finance. The money which is to pay our debt must be dug from the soil and from our mines; and whatever decision Congress may make as to the taxation of our bonds, or the kind of money in which they shall be paid, or the further contraction or expansion of the currency, or the readjustment of our tariff and internal revenue system, our national debt, after all, must be *paid*. That hard duty is unavoidably laid upon us, and there is no royal road to its performance. In the broadest and best sense of the term, therefore, this bill is a measure of financial relief; and should it become a law, it will stand forth as a great landmark in the legislation of the country, and as the crowning act of a policy which has sought to find expression for more than fifty years. In the early period of the Government settlements on the public domain were forbidden by law.

In the year 1807 Congress even provided for the removal of persons who should attempt settlements without authority of law. This illiberal treatment of our pioneers was of short duration, but the policy of preëmption was of slow growth, and was only finally perfected in the year 1841. Twenty-one years later the homestead law was enacted, recognizing still further the just claims of settlers; but it allowed the speculator to cripple and harass them at every step, and thus seriously to frustrate the great and beneficent ends which otherwise it would have perfectly accomplished. It was a half-way measure of relief, pointing as naturally to the complete remedy now proposed as did the preëmption laws point to the far broader policy of the homestead act. Let us now apply it, and thus extend the borders of our civilization, increase our national wealth, curb the ravages of monopolists, satisfy the earth-hunger of the multitudes who are striving for homes on our soil, and thus practically reassert the right of the people to life, liberty, and the pursuit of happiness.

Mr. DRIGGS. As the hour is late, I propose to give way for a motion to adjourn; but before doing so I will yield to one or two gentlemen who desire to introduce bills.

NATIONAL CURRENCY.

Mr. SELYE, by unanimous consent, introduced a bill (H. R. No. 872) to amend the act to provide a national currency; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

JOHN YOUNG BROWN.

Mr. MUNGEN, by unanimous consent, introduced a bill (H. R. No. 873) to remove political disability from John Young Brown; which was read a first and second time, and referrred to the Committee of Elections.

POST ROUTES IN OHIO.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill (H. R. No. 874) to establish certain post routes in Ohio; which was read a first and second time.

Mr. LAWRENCE, of Ohio. This bill relates to post routes in my district and in the district of my colleague, [Mr. SHELLABARGER,] who is absent. As it is purely local I hope there will no objection to its being passed now.

Mr. HOLMAN. I think it had better be referred.

The bill was referred to the Committee on the Post Office and Post Roads.

Mr. ALLISON moved to reconsider the vote by which the bills were severally referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. HOPKINS, (at four o'clock and thirty minutes, p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. GOLLADAY: The petition of J. W. Todd, for remission of $3,000, &c.

By Mr. MYERS: The petition of the Philadelphia Board of Trade and business men of Philadelphia, asking such change in the law as will authorize the forwarding of imported goods without warehousing to the port of destination.

Also, the petition of citizens of Fisherville, New Hampshire, for the repeal of the warehousing system.

By Mr. McCLURG: A memorial of Mrs. D. J. Phillips, of Missouri, for pension.

By Mr. O'NEILL: The petition of William C. Hamilton and a number of others, paper makers, of Montgomery county, Pennsylvania, against the enaction of the international copyright bill, stating their belief that its passage would prove detrimental to the highest interests of the community at large, while inflicting especial injury upon all the branches of productive industry connected with the manufacture of books.

Also, the petition of home producers and regular importers of the city of Philadelphia, asking Congress to abolish the warehousing system, as through that measure the refuse and surplus accumulations of the manufacturing establishments of Europe are at all times held ready to be thrown upon the markets of this country, to the great detriment of home producers and regular importers; that the Government is deprived of its legitimate revenue by the facilities this system presents for committing frauds, and that the expenses of the Government in maintaining the same exceeds the amount of revenue derived therefrom.

Also, the petition of journeymen cigar-makers and manufacturers of cigars of the second congressional district of Pennsylvania, asking that Congress will not enact the proposed system of placing a separate stamp on each cigar, and urging many reasons why said system should not be adopted.

By Mr. WELKER: The petition of Samuel Plumb, C. N. Churchhill, and 150 others, citizens of Lorain county, Ohio, praying for the reduction of expenses of the Government and reduction of taxes.

IN SENATE.

SATURDAY, *March* 7, 1868.

Prayer by Rev. SAMUEL OSGOOD, D. D., of New York.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation for the support of school teachers and the purchase of books for the Navajoe Indians now held as prisoners at the Bosque Redondo; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation to the United States and Mexican Telegraph Company for the completion of their telegraph line from the city of Denver, Colorado, to a point on the Rio Grande opposite the city of El Paso, New Mexico; which was referred to the Committee on the Pacific Railroad.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of authorizing the general commanding that district to call out two regiments of volunteers from that Territory to coöperate with the troops to subdue the Indians; which was referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislative Assembly of the Territory of New Mexico, in favor of the removal of Robert B. Mitchell from the position of Governor of that Territory; which were referred to the Committee on the Judiciary.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, asking that the confirmation of the land grant of the Rio Grande tract of Taos may be delivered to Hon. José Francisco Chaves, he being the authorized representative of the inhabitants in said grant; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, against the annexation of the mineral district of Moreño to the Territory of Colorado; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of a grant of lands for the continuation of the railroad now built three hundred miles west of the Mississippi river to that Territory; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation for the construction of a wagon road between the city of Santa Fé and the valley of Taos, in that Territory; which was referred to the Committee on the Pacific Railroad.

He also presented a petition of Samuel Redfield, a soldier in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SUMNER presented additional papers in relation to the claim of Elizabeth Barker, praying for a pension; which were referred to the Committee on Pensions.

He also presented additional papers in relation to the claim of Sylvester Nugent, praying a pension; which were referred to the Committee on Pensions.

He also presented a petition of De Witt C. Benham, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. SUMNER. I also present the petition of loyal Union men, white and colored, in Pasquotank county, North Carolina, requesting the removal of all political disabilities from John Pool, Esq. It will be remembered that Mr. Pool, a year or two ago, was, by the persons undertaking to act as the Legislature of North Carolina at that time, chosen to the Senate of the United States. I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of James D. Whelpley and Jacob J. Storer for a detail of engineers to examine into the value and character of pulverized fuel. They represent that there is a very important invention of pulverization of all kinds of fuel, by means of which fine fuel can be used for the making of steam; that this has great practical and economical advantages; that it produces a much larger amount of steam from the same fire and steam generating surface; that there is a large increase of the value of the coal as at present brought to market; that there is a full and complete utilization of the waste or slack coal of the country, amounting at least to seven million tons per annum, which is now practically useless; and also the utilization of inferior coals and coal containing sulphur, and setting forth the value of this invention. They ask that the Secretary of the Navy may be authorized to detail a board of naval engineers, consisting of three engineers-in-chief and three assistant engineers, to conduct experiments in order to verify these statements. I move the reference of the petition to the Committee on Naval Affairs.

The motion was agreed to.

Mr. DAVIS presented a memorial of journeymen cigar-makers, of Maysville, Kentucky, remonstrating against the proposed tax on cigars; which was referred to the Committee on Finance.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, praying an appropriation for the removal of the bars in the St. Croix river; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, in favor of the removal of the restrictions to the further entry of public lands with agricultural college scrip in the State of Wisconsin; which was referred to the Committee on Public Lands.

He also presented a joint resolution of the Legislature of Wisconsin, relative to the rights of American citizens in foreign countries; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Legislature of Wisconsin, in favor of the confirmation of title to the unsurveyed islands in the Wisconsin river; which was referred to the Committee on Public Lands.

Mr. SHERMAN presented resolutions of a meeting of the German Immigration Union of Cincinnati, Ohio, relative to the treatment of immigrant passengers during their voyage to America; which were referred to the Committee on Commerce.

Mr. CHANDLER presented a memorial of citizens of Detroit, Michigan, praying the enactment of a law granting pensions to the surviving soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented a memorial of Albert Elmore, collector of customs, in relation to the proposed increase of pay of inspectors, &c., of customs; which was referred to the Committee on Commerce.

Mr. WILLEY presented a petition of citizens of Texas, praying that R. B. Kingsbury may be relieved from the political disabilities imposed by the reconstruction acts; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a petition of citizens of Stonington, Connecticut, praying the construction of a harbor of refuge on Block Island; which was referred to the Committee on Commerce.

He also presented a letter from the Secretary of War, addressed to the chairman of the Committee on Commerce, communicating a report from General Newton relative to the removal of the obstructions in Hell Gate, New York; which was referred to the Committee on Commerce.

Mr. FERRY presented a petition of Thomas Crossley, of Bridgeport, Connecticut, praying an extension of his patent; which was referred to the Committee on Patents and the Patent Office.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 120) for the relief of Major A. L. Brewer, late a paymaster in the United States Army; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 426) for the relief of Thomas Crossley; which was read twice by its title, referred to the Committee on Patents and the Patent Office, and ordered to be printed.

GOVERNOR OF IDAHO TERRITORY.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of the Treasury:

TREASURY DEPARTMENT, *March* 5, 1868.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate of February 29, 1868, asking under what law and for what reasons the Secretary of the Treasury withholds from the Governor of Idaho his salary, and to transmit in response a copy of a report made to the Department upon the subject by the Comptroller of the Treasury, together with certain documents accompanying it. These embody all the knowledge possessed by this Department respecting the subject of the Senate's inquiry.

Very respectfully, H. McCULLOCH,
Secretary of the Treasury.

Hon. B. F. WADE, *President of the Senate.*

Mr. WILLIAMS. I move that those documents lie on the table.

The motion was agreed to.

Mr. WILLIAMS subsequently said: Mr. President, I will submit a motion to refer the papers received from the Secretary of the Treasury a few minutes ago, in reference to the Governor of Idaho Territory, to the Committee on Territories. In connection with that motion I ask to have the papers read, and upon the motion, with the indulgence of the Senate, I propose to say a few words.

The PRESIDENT *pro tempore*. The papers will be read, no objection being made.

The Secretary read the papers, as follows:

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
WASHINGTON, *March* 5, 1868.

SIR: I have the honor to acknowledge the reference to this office for report of the resolution of the Senate of the 29th ultimo, "That the Secretary of the Treasury be requested to inform the Senate for what reasons and under what law he withholds from the Governor of Idaho Territory his salary."

In answer, I have to inform you that the salary of the Governor was paid to the 30th of June, 1867. Before another quarter's salary became due this office was advised that Governor Ballard had been suspended by order of the President, as will appear by the copy of the letter of the Secretary of State to him, bearing date August 28, 1867, and hereto appended.

Since the date of that letter the salary of Governor Ballard has been withheld, in accordance with the provisions of the second section of the act of March 2, 1867, regulating the tenure of civil offices, and for the fraction of the quarter preceding that date, for the want of satisfactory evidence of the presence of the Governor in one Territory in the discharge of his official duties.

This morning I am furnished with a copy of a communication addressed by the Secretary of State to the President, under date of December 10, 1867, in relation to the case of Governor Ballard, a copy of which is hereto appended. Prior to the receipt of this last copy this office had no information on the subject other than that contained in the letter of August 28, 1867.

There now seems to be no good reason for longer withholding the salary, if satisfactory evidence be furnished of the presence of Governor Ballard in the Territory in the discharge of his official duties.

I am, very respectfully, R. W. TAYLOR,
Comptroller.

Hon. H. McCULLOCH, *Secretary of the Treasury.*

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DEPARTMENT OF STATE,
WASHINGTON, *August* 22, 1867.

SIR: I am directed by the President to inform you that your functions as Governor of the Territory of Idaho are hereby suspended, and pending such suspension Isaac L. Gibbs, Esq., has been designated to perform the duties of that office.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

DAVID W. BALLARD, Esq., *Governor of Idaho Territory.*

DEPARTMENT OF STATE,
WASHINGTON, *December* 10, 1867.

To the PRESIDENT:

The Secretary of State has the honor to report that on the 28th of August last, during the recess of the Senate, the President, upon examining what then appeared to be sufficient evidence filed in the Department of State, directed the suspension from office of David W. Ballard, Esq., Governor of the Territory of Idaho, and the designation of Isaac L. Gibbs, Esq., to perform temporarily the duties of that office. A commission was accordingly made out for Mr. Gibbs and a letter prepared to be transmitted to Mr. Ballard informing him of his suspension. Before such commission was issued or signed the President determined to revoke his prior determination and to continue Governor Ballard in the duties of his office. The commission of Mr. Gibbs was not issued, but by a clerical error the letter containing notice of suspension was mailed to Mr. Ballard.

This fact having escaped attention, no letter of revocation was addressed to Governor Ballard. No notice was given to Mr. Gibbs of his designation to perform the duties of the office of Governor of Idaho, nor did he enter upon the performance of such duties. The Secretary of State does not deem it incumbent upon the President, under the provisions of the act regulating the tenure of certain civil offices, to report to the Senate the evidence upon which he was led to order the inchoate suspension which was thus arrested before taking effect. The Secretary of State has the honor, however, to transmit herewith copies of all the papers upon the subject on file in this Department for such use as the President may deem proper.

Respectfully submitted,

WILLIAM. H. SEWARD.

Mr. WILLIAMS. Mr. President, David W. Ballard, the person named in that communication, was nominated for Governor of Idaho Territory, and confirmed on the 10th day of April, 1866. He was duly commissioned and entered upon the discharge of the duties of his office. On the 2d of March, 1867, one Murphy was nominated by the President for his successor, and that nomination was rejected by the Senate. Murphy was a Democrat and Ballard is a Republican, and I know of no other reason why that change was proposed. Some time after that the Administration took the ground that Ballard was necessarily removed from office because Murphy had been nominated as his successor, notwithstanding he was rejected by the Senate; but after advice from the Attorney General that position was abandoned. Subsequent to that time, and during the recess of Senate, proceedings took place in reference to Governor Ballard such as are described in the communication from the Secretary of State to the President. Charges were made against Ballard, and an order was issued by the President suspending him from office, and designating a Mr. Gibbs to act in his place. Before the commission was issued to Gibbs the President ascertained that the charges were unfounded, and he reversed the order and refused to issue any commission to Gibbs. Now, the Secretary of State says, that through a clerical blunder in the State Department Governor Ballard was notified that he was suspended; but no person was sent there to take the office, and of course Governor Ballard was bound to continue in the performance of his duties. Moreover, this communication from the Secretary of State says that he did not consider that it was necessary for the President to transmit to the Senate the reasons for Ballard's suspension, because it was altogether inchoate and had never taken effect.

Now, sir, this pretended suspension took place on the 28th of August. Since that time the Administration has refused to pay Governor Ballard his salary or the expenses of his office, pretending that he was suspended under the tenure-of-office act. He was either suspended or not suspended. If he was suspended, then the President has violated the tenure-of-office act in not transmitting to the Senate, as required by that act, the reasons for his suspension; and if he was not suspended, then there has been a gross and palpable violation of law in denying to him his salary and the expenses of his office.

I wish to say, sir, that I went to the Treasury Department to inquire why Governor Ballard was not paid his salary, and I was told there that he was suspended from office, and, therefore, could not receive his salary. I protested that he was not suspended, and one of the Treasury officials told me he would correspond with the Secretary of State upon that subject. Subsequent to that time, and not long ago, I went to the Treasury again to ascertain if the Department had decided upon that question, and I was told by the same official that he had been to the State Department in person, and was there informed that Governor Ballard was suspended, and that there had been no revocation of that suspension; and on that sole ground they refused to pay him his salary or the expenses of his office. Since the 28th of August, notwithstanding there has been no suspension whatever, as this report from the Secretary of State shows, the Administration has refused to pay Governor Ballard his salary and the expenses of his office—for the reason, as I believe, that he is a Republican, and the Senate would not consent to expel him from office to make room for a Democrat—attempting in this way to compel him to resign or drive him out of office.

Since the 28th of August Governor Ballard, who is *ex officio* superintendent of Indian affairs, proceeded in the performance of his duty to make contracts to supply the Indians and furnish them with subsistence, and citizens of Idaho Territory sold to the Government articles in accordance with those contracts, which contracts were forwarded to the Interior Department for approval. They were promptly repudiated and returned to him, upon the sole ground, as they say in the Department, that he was suspended from office. And so he was crippled and thwarted in the performance of his duty and the people who had furnished these articles deprived of their pay.

During the month of April one year ago there was a treaty ratified with the Nez Perces Indians, the stipulations of which were to be performed within one year, and the expenditure of the money would, of course, devolve upon the superintendent of Indian affairs in that Territory. But, sir, the Administration has refused in every respect to perform the stipulations of that treaty, and the year is now nearly expired. The rights of those Indians have been outraged and the peace and safety of the people in that Territory have been endangered because the Interior Department has assumed, and persisted in the assumption, that Governor Ballard was suspended from office.

I have taken some interest in the welfare of the people of Idaho Territory and in the efficient discharge of the duties of his office by the Governor; but it has been impossible for me to obtain any satisfaction whatever from these Departments, and it has become necessary to bring the subject to the attention of the Senate. And now the Treasury Department says that there is no further necessity for withholding his salary whenever there is satisfactory evidence that he is in the Territory. The papers have been filed there containing that proof, and I filed them with my own hands. That is an afterthought and a shallow pretense. Nothing of the kind was pretended to me when I was at the Department, and it is only put in to break the force of the exposure which the papers just read necessarily make.

I want to know, sir, if, where a Democrat is nominated in the place of a Republican and the Senate refuses to consent to the nomination, the Administration can drive that Republican out of office by refusing to pay him his salary and denying to him the necessary funds to enable him to perform his duties. That, sir, is what I want to know, and with that view I offered this resolution, and hope that it may go with the accompanying papers to the Committee on Territories.

Mr. NYE. The Committee on Territories, of which I have the honor to be one, have had for a long time under consideration questions involving the one raised by the introduction of the resolution that called forth these papers. It is certainly very important that some action should be taken to determine the exact status of Governor Ballard with a view to the appointment of his successor, if there is a vacancy. I am aware how difficult it is under the most favorable circumstances to perform the office of Governor of that Territory; but one thing is certain, that since the suspension of Governor Ballard things in that Territory have gone as they must necessarily go from the fact of the uncertainty existing in regard to his status.

My object in rising was principally to say that I should like to have a direct expression of the Senate upon the question of whether there exists a vacancy or not, and I suppose I shall not be betraying any of the secrets of the committee to which I belong when I say that the committee entertain doubts in regard to that question; and my purpose in rising was, more than anything else, to secure a reference of the question to the Committee on the Judiciary, so that we may get direct senatorial action on the question. I will simply add that, from the investigation that we have had before our committee, it is highly important that that question should be settled, for a Governor without the receipt of his salary is powerless, and especially a Governor who has to deal with as difficult a set of inhabitants as savages. Unless he is enabled to carry out his contracts, not only is the reputation of his administration endangered, but the peace and quiet of the Territory are endangered. I submit to the honorable Senator that he had better move the reference of the case to the Committee on the Judiciary, and let us have direct action upon it at once.

Mr. FERRY. I must say that, as one member of the Committee on Territories, I entertain no doubt whatever on this subject. I do not think that there is a vacancy in the office of Governor of the Territory of Idaho. I think that there has been a persistent persecution of the present incumbent in that office, Governor Ballard. I do not think it would be advisable to refer such an inquiry to the Committee on the Judiciary, because the very reference would aid the Administration in continuing that persecution. The reference would imply that there exists a doubt as to whether there is a vacancy or not, and would, in a measure, tend to justify the Administration in continuing to withhold the salary of the Governor and the necessary funds for the execution of the duties of his office.

If I understand the report which has been read here this morning, all objection now on the part of any of the Departments to the payment of that salary and of those funds is at an end, and from this report we may expect immediately a resumption of such payment, unless that resumption shall be prevented by the expression of a doubt on the part of the Senate as to the existence of such a vacancy. Entertaining no doubt of that kind myself, and believing, if there were a doubt, the Committee on Territories is competent to decide it, I should not favor the reference of the question to the Committee on the Judiciary.

Mr. NYE. I am not aware that the reference which I propose to make would raise any stronger doubt than the motion to refer to the Committee on Territories by the Senator from Oregon. My object simply was to get a direct immediate decision of the question. In the present attitude of things as regarded by the Department, and as it has been before us, I think there is a doubt upon it, not that I have any doubt myself particularly, but the Department through which the Governor lives and moves and is supported does entertain doubts, and the quickest way, as I thought, to dispose of those doubts would be to have direct action of this body upon the question. Now, the more direct action we can have the better, and I think that the Judiciary Committee would make a report which would carry with it a weight and power that the decision of the Committee on Territories would not. That committee is presumed to combine, I suppose, most of the legal knowledge of this body, and therefore its decision would be quite convincing with me. It certainly is not a question that rests alone upon the facts as stated and the documentary evidence presented; it is a question upon which they could report

promptly and relieve the Committee on Territories from any doubt on the subject.

Mr. WILLIAMS. I made the motion to refer these papers to the Committee on Territories to enable me to make some remarks upon the question, and for no other purpose. I do not care to have the papers referred, and I am willing to withdraw the motion. I do not know that the Committee on Territories or on the Judiciary can take any action upon the subject. I simply introduced the resolution asking why his salary was not paid to Governor Ballard. I know that there was a time when the State Department took the ground that he was not in office, because the mere nomination of a successor, though rejected by the Senate, displaced him—a proposition that is without precedent, and that never has been sanctioned by any respectable authority. They have long since abandoned that ground altogether. These difficulties have grown out of the pretended suspension; and no reason whatever has been given by any Department since I have been in Washington for refusing to recognize Ballard as Governor of Idaho Territory, except that he was suspended on the 28th of August, when here is a document from the Secretary of State showing that he never was suspended, and the Secretary of State must have known all the time that he was not suspended. Was it not his business to notify the other Departments? I do not express all that I believe upon this subject. There is nothing before the Senate but an inquiry as to the refusal of the Treasury Department to pay to Governor Ballard his salary, to which by law he is entitled. I now withdraw my motion to refer.

Mr. CORBETT. I should like to make a few remarks.

The PRESIDENT *pro tempore*. There is nothing to remark upon, for the motion is withdrawn.

Mr. WILLIAMS. I will allow it to stand until my colleague concludes.

The PRESIDENT *pro tempore*. Very well; then the Senator from Oregon has the floor.

Mr. CORBETT. The question of the suspension or removal of Mr. Ballard was called to my attention on my return from Oregon, and I called upon the Secretary of State to ascertain the facts in regard to the case. He informed me that Governor Ballard was not suspended. I afterward obtained and produced a copy of a telegram that was sent to Idaho suspending Mr. Ballard; but, on further examination, a communication was sent to the Senate informing them that, through mistake, such a letter or telegram was sent to Idaho suspending Governor Ballard, but that there was no commission ever issued to his successor, and that it was not intended to suspend Governor Ballard; and that communication reinstated Governor Ballard as Governor of the Territory; and, as I have understood, it has not been up to this time denied that he is Governor. The President, however, has sent in the name of his successor for confirmation in his place. Governor Ballard has exercised the functions of Governor and superintendent of Indian affairs there for some time, and, I believe, to the satisfaction of the great body of the people of that Territory, particularly of the Union men, the Republicans there, and, I have no doubt, to the satisfaction of the great majority of the people.

As my colleague has stated, a treaty was ratified by the Senate last April which provides that certain money shall be paid to the Indians in that Territory, and it is absolutely necessary that that money should be paid within one year from the ratification of that treaty unless we expect to have trouble with those Indians. They were somewhat dissatisfied with the treaty as it stood, but as they could not do otherwise than accept the treaty they did so, and expected that the Government would carry out the stipulations of the treaty. In violation of that the Secretary of the Interior has withheld the money from Governor Ballard, and what moneys have been sent have been transmitted over his head to the Indian agents, contrary, in my belief, to all precedent, and, I think, contrary to law; and unless there be something done that shall compel the Secretary of the Interior to pay over those moneys we may expect a war with one of the most powerful tribes in Oregon and Idaho. I think it is very important that this subject at this time should be brought to the attention of the Senate and some action taken upon it.

Mr. YATES. I hope the Senator from Oregon [Mr. WILLIAMS] will permit this matter to go to the Committee on the Judiciary. There were other reasons considered by the Committee on Territories besides those mentioned by the Senator from Connecticut, [Mr. FERRY.] Among other things the law organizing the Territory of Idaho provided that the Governor should be appointed by the President with the advice and consent of the Senate, and be subject to removal by the President; and it has been contended by Mr. Murray, who has since been appointed, and by Mr. Bates, who has since been appointed, and it is now contended by Mr. Gibbs, that the President alone had the power of removal; that by the law providing that the Governor should be appointed subject to removal by the President the Senate waived its right to give its advice and consent to the removal. That question is made very prominent in certain papers which have been before the Committee on Territories. That is a question which it may be important to solve. It is whether, when the President has appointed a territorial Governor by and with the advice and consent of the Senate, and the act providing for his appointment gives the President a right to remove him, the Senate have not, by agreeing to that provision, waived the necessity for their advice and consent to the removal.

Mr. FERRY. Will the Senator from Illinois permit me to ask him a question? Has not that claim now been entirely withdrawn on the advice of the Attorney General in reference to this very Territory?

Mr. YATES. I believe there were two different decisions. The Attorney General, I think, made no decision whatever upon the point; but the acting Attorney General gave some decision, and I rather think it was to the reverse of what the Senator maintains.

Mr. FERRY. The Attorney General sustained the opinion of the acting Attorney General.

Mr. YATES. Does the Senator understand that the acting Attorney General decided that the removal could not be made without the advice and consent of the Senate?

Mr. FERRY. Yes, sir.

Mr. YATES. I do not recollect precisely the terms of the paper, because we did not reach that point of examination particularly; but this ground is maintained by the present applicants and by those who have been appointed by the President, and I suppose the President will continue to appoint—I do not know to the contrary—upon the supposition that by this law constituting the Territory the Senate waived its right to advise and consent to the removal of the Governor. In that view a reference can do no harm, and I hope the Senator from Oregon will permit the question to be referred to the Committee on the Judiciary, so that it may be considered and decided.

Mr. WILLIAMS. I do not think that upon these papers any question can or ought to be made as to the right of Governor Ballard to hold this office. He was appointed Governor, and his nomination was duly confirmed by the Senate. I claim that under the tenure-of-office bill in any event he would be Governor, because that bill provides that any person who has been appointed to office and confirmed by the Senate shall continue to hold that office until his successor is appointed and confirmed by the Senate. And all the Departments have recognized him as Governor; no Department at this time denies that he is Governor; but they have pretended that he was suspended, and therefore refused to pay his salary and furnish him with funds to enable him to perform his duties. All I wanted was to put an end in some way to this pretense that he was suspended from office. I think I have accomplished that, and I do not ask any further action. I therefore withdraw my motion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been taken; and

A bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee.

PENSION APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of House bill No. 678.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions for the year ending June 30, 1869, which had been reported by the Committee on Appropriations with amendments.

The first amendment of the Committee on Appropriations was to insert at the close of the last clause of the first section the words "to be paid from the Navy pension fund;" so as to make the clause read:

For Navy pensions to invalids, widows and children, and other relatives of the officers and men of the Navy dying in the line of duty, now provided by law, $350,000, to be paid from the Navy pension fund.

The amendment was agreed to.

The next amendment was to strike out the second section of the bill, in the following words:

SEC. 2. *And be it further enacted*, That all moneys and securities appertaining to a fund now known as the "naval pension fund," and all other moneys and securities which, by law, have been heretofore paid into such fund, and which, if this act had not been passed, would hereafter accrue thereto, shall be covered into the Treasury of the United States and become a part of the surplus fund of the Treasury, and all Navy pensions shall be hereafter assumed by the United States, to be paid from the Treasury in accordance with appropriations made by law.

Mr. SHERMAN. I do not see any object in striking out that section. It seems to me it would simplify accounts to destroy the Navy pension fund and pay it into the general Treasury. No money can be paid out of the Navy pension fund except in pursuance of law. It is keeping up the system of having various funds to pay various classes of expenses. I would not have offered this second section as an amendment to the bill, as it proposes a change in the mode of keeping the accounts; but since it is in this bill, and has been put there by the House of Representatives, I do not see any reason why it should not be left in. The Navy pension fund is nothing but money belonging to the Treasury of the United States, kept apart and now invested in six per cent. bonds, and all appropriations for naval pensions are paid out of the Treasury of the United States and charged to that fund. This makes it necessary to keep up a separate account. The same money might as well be paid out of the general Treasury, and I never could see any real reason for keeping up the Navy pension fund or any other special fund. Formerly we had various special funds, out of which particular classes of expenses were paid, but latterly, from time to time, those funds have been abolished, and now, with this exception, there is no fund but the general fund out of which money is appropriated. Unless there is some special reason for maintaining this fund I can see no use in it. Formerly there was a fund out of which the expenses of seamen, &c., were paid. That was finally destroyed; and now a general appropriation is made in addition to what arises under general laws for that purpose, and the expenses of the service are paid out of the general funds in the Treasury. Unless there shall be some reason for this given by the Senator from Iowa, who probably knows all about the naval pension

fund, I see no ground why it should not be considered a part of the Treasury of the United States.

Mr. GRIMES. I do not know that the Senator from Iowa has anything to do with this appropriation bill more than any other Senator; but I can state what I know about this matter. When the Navy was first established and the Navy Department created, at the beginning of this century, there was a law of Congress passed declaring that in all future time the proceeds of prizes captured upon the high seas by vessels of the United States and brought into the ports of the United States and condemned should be distributed, one half to the captors in the proportion specified by the law, and the other half should go into the naval pension fund, from which the widows and orphans of naval officers and seamen should be guarantied the payment of their pensions. That is the way in which this fund was created. It is created by the earnings, in effect, of the sailors and men belonging to the Navy of the United States. Whether it be true that the Government technically pledged its faith to preserve the fund intact or not, it is true that they are regarded by the seamen of the country as having made that pledge and it has stood good for about seventy years.

Whenever a sailor who has been employed in the service of the United States presents his account to his attorney or agent to collect his claim for prize money, and he finds that it is not as great as he had anticipated, he is immediately told, "It is true, your distributive share is not as great as you think you are entitled to, but you must remember that one half of the whole proceeds of the prizes in the capture of which you took part has gone into the Treasury, and is part of a fund in Washington which is dedicated to your benefit and the benefit of your children, and which the Government of the United States is under a moral obligation, at any rate, if not a legal obligation, never to interfere with." Now, the question is whether it is advisable for the Committee on Appropriations, that does not have the consideration either of the subject of finance or the subject of naval affairs, which does not take care of the interests of the Navy or the interests of the seamen, and has not charge of the investigation of their rights, to agree on an appropriation bill to change the whole course of the Government during the last seventy years, and say that an act shall be done which will be considered by these seamen, whether correctly or not, as a violation of the public faith. The question is whether it is best to do that at this particular juncture.

I am free to say that I am in favor of letting the matter stand as it is. What is the injury that can result to the Government? It is not said, it is not alleged by anybody, that any one is to be injured by it; and I believe that, if there ever was a fund equitably and justly administered this has been; and the only difficulty now is that it is has been so well administered that these sailors and officers have gathered together so large a fund that it is proposed by certain gentlemen to put their hands into the Treasury and grab it because it has become so large. It was established in the way it was because it was thought that it would be an inducement to the men to exercise greater diligence and care, and risk their lives in the preservation and safe return of their captures to American ports, and thereby not only injure the enemy by the captures, but strengthen their own Government, inasmuch as they would bring that amount of property into the ports of the United States.

But I do not understand that the theory upon which naval prizes are allowed is in controversy here. There is no allegation that the fund has not been properly administered or that a single dollar of it has ever been squandered since it was first dedicated at the beginning of the century.

But it is said by the Senator from Ohio that we ought to abolish the naval pension fund for the purpose of simplifying the accounts. How far would that simplify the accounts? At the instance of the Senator from Maine, [Mr. FESSENDEN,] as chairman of the Committee on Finance, three or four years ago, we passed a bill directing the Secretary of the Treasury to invest all this money in registered securities of the United States. They are held and can be held in no other character. It may be that this fund goes into the statements of the Secretary of the Treasury. I do not know how he keeps his accounts, to swell the apparent indebtedness of the United States; but we all know that it is really no indebtedness of the United States, that it is simply keeping the money; and the proposition is on the part of the House of Representatives to take this money out of one pocket and put it into another virtually.

Am I then asked why I object to the proposition? It is because it bears upon its face, in the estimation of a large class of our fellow-citizens—men whom, I apprehend, it is not desirable at this time especially for us to get the ill-will of—the idea that it is diverting a fund which has been dedicated for their benefit. If the Senator from Ohio is opposed to the system of prizes, if he thinks this fund is accumulating too fast, let him introduce a bill to abolish the prize laws; but I do not think it is wise for us at this time on an appropriation bill, upon the recommendation of a committee that has no jurisdiction of the matter, and at the instance of gentlemen who confess that they have not examined the subject and know nothing about it and call upon other Senators for information, to strike the whole thing out and abolish the whole fund.

Mr. FESSENDEN. The naval pension fund has now, I understand, got to be so large that there is an actual surplus of interest; that is to say, the interest on the fund more than pays the pensions by a considerable amount. How much that excess is I do not know.

Mr. GRIMES. The fund is about thirteen million dollars, and I think the interest is about half a million dollars more than is necessary. I think the pensions amount to three hundred and some odd thousand dollars.

Mr. FESSENDEN. But the debt remains the same; the whole fund now stands as a part of the debt of the United States, so far as the bonds are concerned. The money is laid aside and invested in bonds of the United States. If we should pay all the money into the Treasury and take up those bonds the result would be that the Government would owe the amount of these pensions to the pensioners annually. All the possible difference it would make would be that this $500,000 surplus, if there is that amount of surplus, instead of being invested in bonds, would go into the Treasury.

Mr. SHERMAN. I have the public debt statement before me, and the amount of this fund is over thirteen million dollars, drawing six per cent. interest.

Mr. FESSENDEN. Whatever it may be, if the fund should be taken up, the debt would not be diminished really one cent, for we should add to it in another direction. As the matter now stands, however, we are obliged by law to invest $500,000 in other securities of the United States, and thus keep swelling the fund, whereas if we turned it into the Treasury that much money would be saved. Instead of interest being invested in that way it would be liable to be applied for other purposes. Whether that is enough of an object at the present time I am not prepared to say. I am rather inclined to the opinion of the Senator from Iowa, that at the present time it is not advisable to pass a law which may create ill feeling among a class of people who have pretty good claims upon us, and who would not at once understand the meaning of it and the object of it, and who would, perhaps, consider that their security was diminished, although it would not be in point of fact. It is a matter about which each Senator must judge for himself.

Mr. MORRILL, of Maine. I will state to the Senate in a very few words the organization, history, and present condition of this fund, so that the Senate may have the whole subject before them. By an act passed on the 23d of April, 1800, this fund was created, and by reference to the ninth section of that act it will be seen on what terms. That section reads thus:

"All money accruing, or which has already accrued, to the United States, from the sale of prizes, shall be and remain forever a fund for the payment of pensions and half pay, should the same be hereafter granted to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit by their bravery or long and faithful services the gratitude of their country."

It will be seen, then, on that provision, that one half of the prize money goes to the captors and the other half belongs to the United States, and the latter half was to be set apart to a certain specific purpose—first, to pay invalid pensions; second, to make such further provision for disabled officers, seamen, and marines as might merit it, and as Congress might think proper. I believe, as a matter of fact, that after the war of 1812, between 1835 and 1840, this fund ran out entirely, so that there was not any of it applicable to the purposes contemplated by the ninth section of the act of 1800. During the recent rebellion, however, the fund increased to a very large amount, so that at the present time it is something over thirteen million dollars. In view of that fact a question would perhaps arise whether the Navy, under the present circumstances, sustains the same relations to the country that in did in 1800, when this act was passed by Congress, and whether there are the same reasons for continuing the policy that was inaugurated by that act. But, aside from that, in 1864, Congress passed the following joint resolution, which will explain the present condition of the fund:

"That the Secretary of the Navy, as trustee of the naval pension fund, be, and he is hereby, authorized and directed to cause to be invested in the registered securities of the United States, on the 1st day of January and the 1st day of July of each year, so much of the said fund then in the Treasury of the United States as may not be required for the payment of naval pensions for the then current fiscal year; and, upon the requisition of the said Secretary, so much of the said fund as may not be required for such payment of pensions accruing during the current fiscal year shall be held in the Treasury on the days aforesaid in each year, subject to his order, for the purpose of such immediate investment; and the interest payable in coin upon the said securities in which the said funds shall be invested shall be so paid, when due, to the order of the Secretary of the Navy; and he is hereby authorized and directed to exchange the amount of such interest, when paid in coin, for so much of the legal currency of the United States as may be obtained therefor at the current rates of premium on gold, and to deposit the said interest so converted in the Treasury to the credit of the said naval pension fund: *Provided*, That nothing herein contained shall be construed to interfere with the payment of naval pensions, under the supervision of the Secretary of the Interior, as now regulated by law."

It will be seen that this does not change the policy of the act of 1800, if the Senate supposes that any policy was agreed to thereby; that is to say, if that fund was pledged by the act of 1800 to the seamen and naval officers for the payment of their invalid pensions and such other pensions as Congress might thereafter enact and declare that they would be entitled to; I say, if it is supposed that that policy was continued, then there would seem to be something in the suggestion of the Senator from Iowa that these people, outside of any provisions of law at the present moment, think they have a claim on whatever fund was appropriated to their purposes by the act of 1800. At the present time I am not aware that there is any provision of law which sets aside any portion of this fund except to pay invalid pensions. Now, what are they? I will show to the Senate precisely what the draft on that fund is:

"The number on the roll June 30, 1867, was 1,054, with an annual rate of $89,652 25. The amount paid during the year ending June 30, 1867, was $77,071 24.

As invalids are, by existing laws, paid out of the Navy pension fund, no appropriation is required.

Widows, children, &c., under the acts of August 11, 1848, *July* 14, 1862, *and July* 25, 1863.

Amount of appropriation unexpended June 30, 1867, is	$8,533 43
Amount of appropriation for the current year	280,000 00
Payments during the year to 1,327 widows, and others, on the rolls June 30, 1867, with an annual rate of $216,090, and to 200 widows and others that will be added, together with the increase and arrearages, estimated to be	$288,533 43
There will be on the rolls June 30, 1868, say 1,500 widows and others, whose annual rate and some arrearages will be	$260,000 00
Add for 200 new pensions with arrearages and for increase, say	70,000 00
Requiring an appropriation from the Navy pension fund for the year ending June 30, 1869, of	$330,000 00

The Navy pension fund proper is about thirteen million dollars. It is stated in this way:

"The principal is invested in six per cent. United States stock, with the interest payable in January and July. Interest received during the year ending June 30, 1867, $914,565 35."

So that it will be seen that the interest accruing over and above the demands upon this fund is something over half a million dollars. I believe, sir, this is a precise statement of the matter.

Mr. SHERMAN. I really think, as the House of Representatives have transferred this fund, the last of the old special funds, to the Treasury of the United States, the Senate ought not to stop that proper reform. Originally there were many special funds. There were the sinking fund, the land fund, and the pension fund, and various others, which were only taxes levied in various forms and set aside for the purpose of meeting various kinds of liabilities. These have been gradually carried into the general fund, so that there is now no special fund of this kind except this one. For instance, I will tell the Senator from Iowa of a case. Formerly, under the land laws, all the proceeds of the public lands were carried into a special fund and specifically pledged on mortgage for the payment of the principal of the national debt. Although that pledge was continued year after year it was not observed. It was kept in the Treasury as a special fund, but was finally carried into the general funds of the Treasury; and so with many other funds. For instance, the captured and abandoned property might be called a special fund, about which we have had a great deal of controversy here recently. The captured and abandoned property was used as a special fund outside of the Treasury; and only the other day we ordered that to be carried into the general fund.

Mr. GRIMES. Did the law set that aside as a special fund?

Mr. SHERMAN. No, sir; but it was used as a special fund. I do not want to go into that controversy. Now, there is no fund except the naval pension fund that I am aware of which is not in the general Treasury of the United States. The process by which this thing is done is a very ridiculous one. There is nothing charged in the fund but the Navy pensions. They amount to $330,000; and yet the Secretary of the Navy to pay them takes out of the Treasury $780,000 in gold, and it is sold by the Secretary of the Navy, and then the paper money received from the sale of this gold is used in the Treasuary to pay these pensions and the balance is allowed to accumulate. An idea is prevailing among many officers of the Navy that this is their fund, this is their money; they have some kind of claim upon it; and at some time or other probably we shall be called upon to treat this as money of the Navy. It is not the money of the Navy. It is that share of the prizes which belongs to the United States, and is just as much the money of the United States as money collected from any kind of taxes; just as much the money of the United States as money collected from the income tax, the sale of public lands, or any other tax. It is a mere fiction. It is used to swell the aggregate of the national debt, and is in our statement of the public debt to-day, as $13,000,000 due to the naval pension fund. It is not a debt at all; it has no features of a debt; and I therefore do not see why it is not better at once to simplify the matter by wiping it out, carrying it into the Treasury, and appropriating in the ordinary way for Navy pensions. Since the House of Representatives have proposed this course I trust the Senate will not strike out this section. No material interest is involved, and the sailors are not at all afraid that they will not be properly provided for by the annual appropriation bills. I shall, therefore, vote against the amendment, and hope it will not be adopted.

Mr. GRIMES. So far as I know, I never heard before, and I do not believe that there is any idea or opinion entertained by the naval officers, that this fund belongs to them; and I think I can safely relieve the Senator from Ohio from any apprehensions that those officers will ever call upon Congress to distribute the fund among them. There is an idea among the sailors, of whom there are from sixty to one hundred and fifty thousand in this country, that this is a trust fund dedicated to a particular purpose, and that the Congress of the United States would violate a faith pledged to them as long ago as 1800 if you take that fund away from them and put it into the Treasury of the United States.

The Senator speaks to us about other funds, and compares this to the land-fund that was created when we first began the land system. Why, sir, there is no possible analogy between that case and this. This fund is composed of the earnings of men in our employment, which we pledge to them when they risk their lives in order to secure that property and bring it into our ports. We pledged ourselves that when they attacked the enemy's vessels and captured them, if they would cripple the enemy to the extent that those captures went and reenforce the resources of our country by bringing them into our ports where they could be condemned by our courts, this fund should be dedicated for all time to come for a specific purpose. That is their idea; and now the question is, whether we, without any consideration, without the proposition coming to us from any of the legitimate committees of this body that have the subject under consideration, shall make this diversion at the instance of the Senator from Ohio, without any special reason that I have heard except that he says all other special funds, between which and this there is no possible analogy, have been done away with.

Mr. SHERMAN. My friend will allow me to correct him. I did not bring this subject here. It is brought in here by a bill passed by the House of Representatives, and now the Senate Committee on Appropriations propose to strike this section out.

Mr. GRIMES. The Senate committee propose to strike it out. The Senate Committee on Appropriations, who have had the subject under consideration, have reported to the Senate, without any disagreement, so far as the Senate knows and so far as I know, that it should be stricken out; but the Senator from Ohio objects to its being stricken out. Now, I say it is incumbent upon him to show the reasons why it should not be stricken out. Has he shown any? I am willing to submit that question to the consideration of the Senate.

Mr. HENDRICKS. My connection with the Committee on Naval Affairs has made it my duty to consider at different times the relation of this fund to the Treasury, and I do not agree with the senator from Ohio that we ought to support the proposition that comes from the House of Representatives. We cannot, in this condition of business, properly discuss the question whether we ought to stand by the system of giving to the officers and men of the Navy prize money. I suppose experience has shown that it is a wise system. It stimulates the officers and crews of our vessels to make prizes and to preserve the prizes when captured. This naval pension fund is but the accumulations of the prize money—not that portion of the prize money that goes to the crews and officers, but the other half that has gone into the Treasury as a special fund, and it is a security for the payment of the pensions that go to the Navy. What is the advantage of transferring it to the Treasury and making it a part of the Treasury? It is a question, I suppose, of bookkeeping. The money is not lying idle in the Treasury any more than any other money, as I understand. It is used like other money, but the accounts are kept in a peculiar way, and they pass through the Navy Department.

Now, sir, a naval officer or a seaman who is placed upon the Navy pension list does not feel that he is a bounty man from the Government. He does not feel that he is a mere dependent upon the Treasury. He feels when he gets his pension on pay-day that he is getting that which his comrades have earned for him, and he feels a pride in receiving that pension which he cannot enjoy if it is made a part of the common Treasury. This system that has done no harm, but worked well so far, is a part of the pride of the Navy. I do not think it ought to be stricken down on a general appropriation bill. It ought to come up, if it is to be considered at all, as an independent proposition. I hope the recommendation of the committee to strike out this section will be sustained.

Mr. JOHNSON. I have always supposed that under the act of 1800, by which this fund has come into the Treasury, it was in the nature of a trust fund. The United States have nothing to do with it except to keep it and supply it from time to time for the benefit of the *cestui qui* trusts. The object of the act to which I have referred was evidently to stimulate the officers and sailors of the Navy to vigilance, and to do so by providing that the captures which might come in, to the extent of a certain proportion, should be left in the Treasury, subject, in so many words, that out of that they were to be paid their pensions from time to time. Now, although I suppose there would be no actual danger that the pensions would not be punctually paid from time to time as they might mature, yet I think the officers and men of the Navy might suppose that if the Government should be in a situation hereafter when it would use the whole fund they could not be paid except out of the general amount in the Treasury. I do not recollect—I have not seen the law lately—whether there are express terms of trust in relation to the fund; but my opinion always has been that it was intended to be considered by Congress, and has, in fact, been so considered by the Navy, as a fund in the hands of the United States subject specifically to the payment of pensions.

Mr. SHERMAN. I do not wish to prolong this argument; but the idea now suggested by the Senator from Indiana and the Senator from Maryland, that the Navy would be impelled to make captures by this fund, is simply absurd. The law gives them their one half of all captures. That impels them to make captures if their duty does not impel them to do so. They get that already. The other half goes into the Treasury and constitutes a fund. When it was constituted it was merely a convenient form of book-keeping. All other accounts were kept in funds in the same way, and the particular items of expenditure were charged against those funds. They adopted the English system of keeping accounts. That is all there was of it. The naval officers and sailors get their one half paid to them. Now, in the process of time, this fund has accumulated until it amounts to $13,000,000, and it is entered on the statement of our public debt as so much debt when it is not a debt at all. It has none of the elements of a debt. Unless the sailors really think the United States will not pay them their pensions there is not the slightest object in keeping up this fund. They

gain nothing by it and do not know anything about it properly. They get their pensions regularly. Not only that, but their pensions have been doubled and trebled. Why, sir, if they stood under the law of 1800, the sailors would not have a large pension. They do not stand under the law of 1800. Pensions have been increased from that time, and they are now much larger than they were then. This fund is simply kept there as a kind of figure-head, with out any use in the world except to swell the aggregate of the public debt in the statement of the public debt. It does not give one particle of security to the sailors.

Mr. HENDRICKS. It secures more liberality toward them.

Mr. SHERMAN. That is the very point to which I wish to call the attention of the Senate. The Senator from Indiana now says that this pension fund secures more liberality toward them. Why, sir, these pensioners get the same rate of pension that the soldiers do. Suppose the soldiers should insist that all the proceeds of their heroism and sacrifice should be held as a special fund to secure their pension. That would be an absurdity. Every one would see that. I think that, the House of Representatives having taken the lead in wiping out this remnant of the old funding system which has been kept up from the English system, we might as well concur in it and not show a disposition to preserve this inconvenient and unnatural mode of keeping accounts, merely for the purpose of enabling the Secretary of the Navy to sell $780,000 and put the premium back in the Treasury for the Navy pension fund. I have no feeling about it, and if the proposition were not on the bill before me I should not have said anything about it.

Mr. JOHNSON. The honorable member says that the proposition stated by the member from Indiana and myself is simply absurd. There may be differences of opinion upon that question. It is not for me to retort on the honorable member that his objections, put on the ground on which he puts them, are simply absurd.

Mr. SHERMAN. I will take that back.

Mr. JOHNSON. It is true, Mr. President, that one half the captured property goes to the captors at once, and so far they have an incentive to do what they have done so gallantly in all the wars in which we have been engaged; but there is another part of the fund which the nation, according to my view, says it will hold in its hands forever, and out of that sum pay whatever pensions it may, from time to time, think these heroes of the sea should be entitled to receive.

Mr. FRELINGHUYSEN. It seems to me it would be bad faith for the Government now, as to what is past, to pervert this fund from that purpose to which it has been dedicated. It is very clear that the law provides that when a prize is taken half the prize money shall go to the officers and crew and the other half shall go into this fund—a fund to secure the pensions for the Navy; and it is a trust fund for their benefit. All the objection to it is a matter of book-keeping. It does not increase or diminish the debt of the United States at all, whether the fund exists or does not exist. If Congress sees proper for the future to make a different disposition of prize money, that is very well; but not to change the law after the prizes have been taken and after the Navy have earned the reward which the law promised to them.

Mr. HENDERSON. I do not know that I understand this question, though I supposed before this discussion that I did. The Senator from Ohio says that this Navy pension fund improperly appears as an item in the public indebtedness; it ought not to be there at all; it does not belong to it. I should like to inquire of the Senator from Ohio in what shape this indebtedness is. Is it in United States bonds? Has it been invested in bonds by the Secretary of the Navy, and if so, where are those bonds held?

Mr. SHERMAN. The Senator from Maine explained that fully.

Mr. MORRILL, of Maine. I will state to the Senator that it will be found in the estimates, as follows:

"The principal is invested in six per cent. United States stock, with the interest payable in January and July."

Mr. HENDERSON. Then the United States owes the bonds.

Mr. FESSENDEN. Certainly.

Mr. HENDERSON. Then is it not a part of the debt? I understand that it is part of the indebtedness of the United States—unquestionably so. It is a trust fund. Here is a trust fund set aside for that purpose. The money has been paid into the Treasury.

Mr. GRIMES. The Secretary of the Navy is authorized to receive those bonds.

Mr. HENDERSON. Who holds those bonds?

Mr. GRIMES. The Secretary of the Navy.

Mr. HENDERSON. Then the United States is indebted to the Secretary of the Navy just so many bonds in trust for the officers and sailors of the Navy.

Mr. MORRILL, of Maine. This will explain it:

"That the Secretary of the Navy, as trustee of the naval pension fund, be, and he is hereby, authorized and directed to cause to be invested," &c.

Mr. HENDERSON. Then I understand that the amount which stood to the credit of the Navy pension fund was, previously, in money, and I understand that that money was withdrawn by virtue of the provisions of that act and invested in United States bonds.

Mr. MORRILL, of Maine. That is it.

Mr. HENDERSON. And it is held as a fund. Therefore it does constitute a part of the indebtedness of the United States. The Senator from Ohio insisted that it improperly appeared as an item of indebtedness against the United States.

Mr. SHERMAN. It is not a debt.

Mr. HENDERSON. I do not know that; but I agree with the Senator in one thing, that it ought no longer to appear in this shape. I suppose that the only objection to it is the objection presented by the Senator from Iowa that the officers and seamen have a right to have this fund retained in its present shape as a guarantee or security to them that they will annually receive their pensions. In my judgment this section of the bill ought to be adopted, and this money ought to be covered into the Treasury. It ought no longer to stand in that condition. I see no use of retaining it unless there shall be a doubt or danger as to the ability of the United States being able to pay the officers and seamen their regular pensions. That is the only difficulty.

Mr. FESSENDEN. If we are not able to pay them we shall not be able to pay the interest on these bonds.

Mr. HENDERSON. That is what I was going to remark. If the United States are unable to pay directly from the Treasury, then of course they will have failed to pay the interest on their bonds. And why should there be a fund specially organized for the purpose of paying the pensions due to seamen any more than to soldiers? It is true that this fund has been derived in the manner stated; it is the moiety of prizes secured by the seamen; but it will be remembered that the seamen secured at the time their one half of those prizes as the law required. I believe that it has been the law from the organization of the Government down to the present time that one half of the proceeds of prizes has been paid to the seamen.

Mr. MORRILL, of Maine. From 1800.

Mr. HENDERSON. I think prior to that they were entitled to one half. They receive pay just like the soldiers when they are called into the service and they receive in addition to that one half of the prizes they make. The other half fell into the Treasury and was to constitute a fund for the purpose of securing to them their pensions. I see no use of this account being kept any longer as it is now. If the Senator from Iowa, or anybody else, can give a substantial reason for it, I am perfectly willing to let it stand in its present shape. As has been suggested, it is a mere matter of book-keeping. It is a debt as it now stands of course, the United States being the trustee of this fund for the use and benefit of these parties; but as suggested by the Senator from Maine [Mr. FESSENDEN] a moment ago, if we repudiate at all, we shall repudiate upon the payment of the interest, and the seamen will fail to get their pensions. Why retain this account in the Treasury Department? It is a mere fiction, I admit, as the Senator from Ohio says; but it does belong to the public debt. It is part and parcel of the public debt in its present shape. Why not cover it into the Treasury? There surely can be no objection to it; but it will avoid a difficulty which is constantly presented to us now in the shape of a new account that need not be kept.

Mr. FESSENDEN. I suggested a few minutes ago that I saw a great deal of force in the idea of the Senator from Iowa in regard to the disturbance that this might make among a class of persons; but still I think that might be avoided in another way. There is one object which I think ought to be accomplished. The surplus of interest is now $500,000 a year. As the law now stands, that is an accumulating fund all the time. We have that amount over and above what is necessary, from the interest of this fund, to pay all the pensions. The fund therefore is too large, and it is accumulating. It would be very easy, and I think it is our duty under the present state of things, to just pay the surplus of interest into the Treasury of the United States. Instead of changing this system, which would produce the effect suggested by my friend from Iowa, I think we ought to have a provision that the surplus, all that is not necessarily used in paying pensions, arising from this large fund, instead of being paid over and carried into the account and accumulating, and probably giving occasion to a squabble hereafter about the matter, should be paid into the Treasury each year; and that would save us $500,000 of interest.

Mr. HENDERSON. Cover the surplus of the interest annually, instead of the whole fund.

Mr. FESSENDEN. Yes, put the whole surplus into the Treasury.

Mr. HENDERSON. That is the same thing.

Mr. FESSENDEN. No; because this section puts it all in, and it still leaves the security to meet the idea that it is a security on the part of the officers and sailors interested in the fund. If it were put in that shape on this bill I would vote for it, and I think it ought to be made, because the fund has now got to be so enormous that it is hardly worth while to accumulate it to a greater amount.

Mr. GRIMES. To answer the inquiries of the Senator from Missouri it would be necessary to get the views of some of the members of the Congress of 1800, who passed the law creating this fund, as to why it was not also applied to officers and men of the Army, or why any such fund was created at all. It is enough for us to know, so far as our present legislation is concerned, that they set aside this fund. I am free to confess that the subject of this fund has given me a good deal of thought. I am willing to admit that it has been accumulating too rapidly; that is to say, not that we have gathered too many prizes, but that the fund is getting too unwieldy, and larger, probably, than it ought to be. My effort has been to find some way in which we could dispose of this matter without violating what is understood to be the public faith of the country. I have been waiting for some proposition to come from some of the financial gentlemen of the Senate or House of Representatives, not like this that comes to us from the other House in this bill, to sweep the whole fund away, but some such proposition as that of the Senator from Maine, [Mr. FESSENDEN.] I, for my own part, although not authorized to speak for the

Naval Committee or for the officers and men of the Navy, would be content to vote for a proposition that would reduce the rate of interest on the certificates which are held by the Secretary of the Navy in trust, as a trustee, for this fund; say to three per cent., or to such other rate as shall pay the ordinary pensions of the officers and men of the Navy. What I want to preserve is the principal of the fund and the faith of the nation pledged to these men, as they understand.

Mr. HOWE. As this debate opened I thought it involved something more than a mere question of book-keeping. The Senator from Maine [Mr. FESSENDEN] has suggested how much more it does involve than that. It involves the raising of about half a million dollars annually by taxation to add to a fund already amounting to about thirteen millions, and that fund, with its accretions, is what? Simply an estate mortgaged to pay $350,000 of appropriations annually. Everybody concedes, the Senator from Iowa admits, and on all hands it is conceded, that to meet our appropriations for pensions to those in the naval service, or the representatives of those who have been in the naval service, is the only obligation resting upon the nation. Then that is all that we have to provide for; and to preserve a fund of $13,000,000 for the simple purpose of mortgaging it to secure the payment of these appropriations seems to me to be a useless thing; and if we are to continue to raise $500,000 annually by taxes to add to this mortgaged estate it is worse than useless; it seems to me to be very wrong. But if the idea of the Senator from Maine [Mr. FESSENDEN] is adopted, and by law you reduce the rate of interest, or do anything else which shall result in realizing an income from these securities just sufficient to meet your appropriations, then it adds nothing to the burdens of the country in the way of taxation; then there is nothing left but a question of book-keeping; but, then, I suggest that our system of book-keeping ought to be amended in one particular: that if these $13,000,000 are still to appear on the debit side they should also appear on the credit side. In other words, if the Secretary of the Treasury reports to you month by month that the nation owes these $13,000,000 to the Navy pension fund he should, in justice to the facts of the case and the law of the case, present the $13,000,000 as among the assets of the Treasury as much as the greenbacks and the coin in the Treasury, because it is property belonging to the nation and undisposed of.

Mr. FESSENDEN. If you consider it as struck off the public debt it increases the expenditures so much so that it is the same thing practically.

Mr. HOWE. I am speaking of the statement of the debt. I insist that the bonds which constitute the $13,000,000 reported to us from month to month as part of the indebtedness of the country should appear with the coin and the notes in the Treasury as part of the assets, and then the one item would balance the other, and you would get at an accurate statement of the obligations of the country. But, I think, to avoid all this it would be the sensible thing to agree to the proposition that came to us from the House of Representatives. I feel at liberty to say that because I did not happen to be with the Committee on Appropriations when this amendment was agreed to. Perhaps if I had been there I should have felt bound by the action of the committee, perhaps not; but, as I was not present, I feel at liberty to vote against the amendment reported by the committee, though, if the suggestion of the Senator from Maine is thought more acceptable, I shall not have any objection to that.

Mr. COLE. It seems to me that there is considerable force in the proposition of the Senator from Maine [Mr. FESSENDEN] to prevent any accumulation of this fund, as it is now accumulating in the form of interest; and it seems to me that the proposition might go further, so as to include so much of the fund as has been increased by the accumulation of interest in the past, if it be possible to separate that from the body of the fund. There is, as has been stated by the chairman of the committee, a provision in the law which creates this fund that in case there should be any deficit in the income of the fund necessary to pay the pensions for which it is set aside the deficit shall be made up out of the general Treasury; and it seems to me, therefore, not unfair that the interest which may accumulate beyond the amount necessary to meet these pensions should be returned to the general Treasury; and if it were possible to separate so much of this fund as has accumulated in the form of interest from the money that has been actually paid into the Treasury or into this fund as the result of prize sales I believe it could be done with all propriety, and it would remove any ground of complaint on the part of those for whom the fund was set apart. They would still have the whole fund, all the money, in fact, that has been realized from prizes, for their benefit, and would have, in my judgment, no ground whatever of complaint. If this interest should be taken from the body of the fund it would certainly reduce it very much and meet one objection presented by the Senator from Ohio that it appears to be part of the debt, while it is hardly properly to be considered as part of the public debt.

Mr. ANTHONY. I am in favor of the Government doing what it agreed to do, whether we can do the same thing in some other manner just as well or not. In the beginning the Government practically told our officers and seamen of the Navy that if they would bring home prizes which they captured instead of destroying them one half the value thereof should be set apart for this pension fund. We agreed to do it, and I think we ought to do it. Perhaps, if it was a novel question, it might not be advisable now to do it; but I can see no evil whatever in the accumulation of the fund. The fund is in the Treasury, and the only difference is that the Secretary of the Navy holds the certiffcates of these registered bonds. It is just as safe there as it will be in any other way, and I can see no possible disadvantage except as a mere question of book-keeping. I hope we shall stand by precisely what we agreed to do in the beginning.

Mr. HOWE. Does the Senator from Rhode Island mean to say that we agreed to appropriate all this money, in pensions or otherwise, to those officers and men of the Navy who would bring prizes home?

Mr. ANTHONY. I mean that we agreed to what the Senator from Maine [Mr. MORRILL] read in the act of 1800, that one half of this prize money should be set apart for this purpose.

Mr. HOWE. For what purpose?

Mr. ANTHONY. For naval pensions.

Mr. HOWE. Set apart as a fund out of which we should pay such pensions as we might provide for by law?

Mr. ANTHONY. Certainly; that is what we agreed to do. Whether it was the best thing to do financially I do not think is an open question.

Mr. HOWE. If there is any vested interest in any naval pensioner that he shall have his pension paid to him out of one fund rather than another, or if there is any faith pledged by that old act read by the Senator from Maine which is higher or transcends the faith of the act by which we appropriate year by year the pensions to the Navy, then perhaps there would be something in the argument; but I do not understand that any naval pensioner has any right to complain or would complain as long as he gets his pension. I do not think he will ever stop to inquire out of what fund it is paid, and it is only upon the faith of the nation that it is paid at all.

Now, Mr. President, what is there in the argument that there is an extra inducement held out to the gallantry of the Navy by any of these acts? Certainly the men who gathered these prizes do not derive any benefit from this half which goes into this fund. They are not stimulated by knowing that there is a fund resting in the Treasury Department and accumulating year after year out of which the Government may, some twenty or fifty or one hundred years hence, perhaps, make an extra appropriation to some men that may be employed in the Navy then? No part of this belongs to the men who gathered prizes; they take one half, the balance goes to the Government to dispose of hereafter, all admit, as the Government sees fit to dispose of it.

Mr. CORBETT. I think that by the pledge of the Government this fund should be set aside out of which the seamen who have done service to the Government of the United States should be paid their pensions. I think it is a stimulant and encouragment to those who may hereafter enlist in the Navy of the United States, and I see no reason why this fund should not be kept separate. It seems to me that it makes no difference; we hold the securities of the United States for this fund; they are set aside; we hold them as property of ours belonging to the Government of the United States; and we simply guarantee to these people that they shall have their pensions out of this fund. I see no good reason why the bonds should be sold or put into the Treasury and no account made of them. I think there should be a separate account kept, and that the interest on the fund should be allowed to accumulate for that purpose. We know not how soon we may need the services of seamen and of naval officers, and the preservation of this fund will stimulate, in my opinion, a great many to enlist in the Navy and it will satisfy them that the Government of the United States intends to redeem their pledge. If on this fund we commence to repudiate our obligations to those people, I do not know why we cannot repudiate other obligations.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Committee on Appropriations, proposing to strike out the second section of the bill.

Mr. SHERMAN. Before the question is put I submit a substitute for the section, which, I suppose, will meet the concurrence of all. I move to strike out all after the enacting clause of the section and insert:

That the interest of the fund known as the naval pension fund shall hereafter be at the rate of three per cent. per annum in lawful money, and shall be applied exclusively to the payment of Navy pensions.

I offer that to carry out the suggestion of the Senator from Maine, [Mr. FESSENDEN.] It simply reduces the rate of interest from six to three per cent., which is more than sufficient and allows a balance to remain in the Treasury.

Mr. HENDRICKS. If it is sufficient, I have no objection.

Mr. HOWE. I wish to suggest to the Senator from Ohio if he does not by the amendment, as he has drawn it, absolutely require that the whole interest of the fund, whatever it may be, shall be appropriated to pensions.

Mr. SHERMAN. No, I think not. It simply says the interest of the bonds shall be applicable to that purpose. Perhaps it would be better to say "shall be applicable according to law." If the language does not carry out the idea the Senator can move an amendment.

Mr. HOWE. Let it be reported again. I think you will see it does what I said.

The amendment was read.

Mr. SHERMAN. I will add the words "shall be applicable exclusively to the payment of Navy pensions according to existing laws."

Mr. MORRILL, of Vermont. I am opposed to any of these propositions reducing the rate of interest or changing the locality of the fund. I am for avoiding the very appearance of evil. If we can reduce the rate of interest upon one fund, why not upon another? We have already, as has been shown by the chairman of the Committee on Appropriations, once exhausted this

entire fund. How soon we may again exhaust it who knows? Who can tell? There may be circumstances that will involve us in another war, and we may have more pensioners to be fastened upon this fund. There is certainly no harm in its remaining as it is now. I consider that in some respects, as was observed by the Senator from Rhode Island, the public honor is pledged for the preservation of this fund. It is some satisfaction to these gallant sailors to know that the fund which is to pay their pensions is already raised, and is in the Treasury; that it is not a subject of taxation or a subject of vote. I hope, therefore, that neither the amendment nor the proposition to retain the last section will prevail. I hope we shall vote it out.

Mr. HOWE. Allow me to suggest to the Senator from Vermont if he is not a little mistaken in supposing that these pensioners do know that the fund out of which their pensions are to be paid is raised. If it is raised it is spent. There is not a dollar in money in the Treasury out of which their pensions are to be paid. It is all invested in Government contracts, Government promises to pay, and that promise is of no higher validity or sanctity, I take it, than a public statute. The money is not in the Treasury, but there is a bond there which promises to put it into the Treasury, or put the interest in, annually. That is all there is, as it seems to me.

Mr. MORRILL, of Vermont. I think it is a very different affair from what the Senator from Wisconsin does. This fund is the direct proceeds of prizes taken by our sailors and officers in the Navy; it has been invested according to a statute. There was or there was supposed to be a sort of public pledge that this law would remain permanently on the statute-book. I do not like to detail all these matters in such a light way as some Senators seem inclined to do. We have had a pledge on our statute-books for a funding system, and yet it is never observed. I trust we shall retain at least what we have got.

Mr. DAVIS. I agree with the Senator from Vermont. I do not think this subject ought to be touched by legislation. I have always regarded this Navy pension fund, not as the property of the United States, but as a trust fund sacredly set aside for the benefit of the invalid Navy pensioners. I do not see what is to be gained by the legislation which has come here from the other House. The money is in the Treasury; it is used like any other money of the Government; but it is a trust fund. It does not belong to the United States as of right, but as a trust fund for the benefit of these gallant tars; and why should its distinct existence in the Treasury be broken up, and it be thrown into mass with the rest of the money that belongs to the United States in the Treasury?

In relation to private affairs, where a man holds money for himself and also holds money in trust for *cestui que* trusts, is it not more just, and is it not more prudent for him, for the preservation of the trust fund, to keep the account of it separate, distinct, and apart from his own money? Can anything be more true than that? These pensioners have a higher claim upon this fund than the pensioners of the Army have upon the general fund in the Treasury. It is the fruit of their valor. It is the fruit of their victorious efforts upon the seas. It is a sacred fund. It belongs to the Navy as one of its trophies, one of its honors. It ought to be preserved as one of its trophies and honors; and it would be unjust to those who earned it by their blood and their efforts, and to those for whose benefit it was earned in the future, to change its character and its condition in the Treasury Department.

Mr. President, if repudiation is to come, let this sacred fund be the last that shall be repudiated. These pensioners and those who are entitled to it have a higher and more sacred claim upon it than any public creditor has upon the general funds of the United States in the Treasury, because it is theirs; they have earned it; it is the fruit of their glorious efforts in the cause of their country, in braving the battle and the breeze. It is cherished by them, I have no doubt, as their property.

Mr. HOWE. Will the Senator from Kentucky allow me to submit a question to him?

Mr. DAVIS. Certainly

Mr. HOWE. It is this: if this fund was earned by the Navy and belongs to them, does the Senator not think strict justice would demand that we should pay it to them, rather than to tax them to raise $500,000 of interest yearly, to accumulate a fund that is to go to somebody else hereafter, or to go somewhere else?

Mr. DAVIS. I have this to say in answer to my honorable friend: by the act of 1800 the system was organized; the system was accepted then, and has been accepted since by our tars. They understand its form and its principles. They do not seek to innovate; and without their consent and without their intervention, Congress ought not to innovate upon the system. The system as it was instituted and organized for the benefit of the sailors and others connected with the Navy in 1800 ought to be held sacred by this generation after a lapse of seventy years.

Mr. HOWE. Yes; it is for the benefit of the sailors; but I want the Senator to answer me, if it is for the benefit of the sailors that we tax them now on $13,000,000 every year to pile it into the Treasury and keep it there?

Mr. DAVIS. Tax them?

Mr. HOWE. Yes, tax them; for the interest of these $13,000,000 has to be paid by the country, and the sailors have to be taxed their share.

Mr. DAVIS. Are they taxed any more than the rest of the community?

Mr. HOWE. No, sir; but just as much.

Mr. DAVIS. Suppose they are; they get the whole benefit in the form of their pensions.

Mr. HOWE. Allow me to correct the Senator. They do not get a dollar there; they only get just what we appropriate, $350,000 annually. That is what they get, and then they help to pay $500,000 more in taxes which lie idle.

Mr. DAVIS. This is the proposition as I understand it: gentlemen want to break up the distinctive character of this fund as a trust fund belonging to the Navy pensioners; they want to withdraw from it the sanctity of that character, of that trust. I am opposed to the change, and think that that character and that trust ought to be kept upon it, and that it ought to be regarded by the Government and by the Navy as their fund; and if it is so kept, set apart as their fund, and always recognized by the Government as the property of the naval pensioners, there will be less difficulty in their getting the benefit of it in the form of their annual pensions than if it was mixed up with and became a part of the Treasury of the United States Government. Where a man holds money as a trustee, and also holds money in his own right, all of his creditors generally can take his own funds, but they cannot take funds that belong to a special trust in his hands, and they ought not to be allowed to do it. This is a fund belonging to the seamen; it is theirs; we hold it in trust for them, and I do not want to break up this trust in its essence or in its form. I want it to be held in form, principle, and essence, sacredly and inviolably, for the benefit of these gallant tars.

Mr. FESSENDEN. I think the Senator from Kentucky mistakes the question now before the Senate. On listening to the debate I find that the general sentiment is against any proposition to pay this whole fund into the Treasury. That is not the question now pending. The question pending is whether we shall reduce the rate of interest on the fund as it is already. At present this fund consists of bonds of the United States, bearing six per cent. interest. It is found that three per cent. interest will more than pay all the pensions that are chargeable upon the fund. Now, the question simply is, and it is a very plain one, shall we go on accumulating that interest, increasing the fund by the accumulation of interest which is totally unnecessary for any of the uses of the fund? It is not proposed to change the fund at all, to take it out of the hands of the Secretary of the Navy and to put it into the Treasury—that was the original proposition from the other House, to be sure; but that does not, and I think properly, meet with the approbation of the Senate—but now, inasmuch as the income of this fund is more than enough, more than twice enough to pay the naval pensions, the question is whether we shall go on making an accumulation in the present state of things in this country. No body is louder than my friend from Kentucky on the necessity of reducing taxation in the present condition of the country; and he is rightly so. I agree with him that we ought to reduce taxes. Now, what pledge is there on the part of the Government anywhere, in any law of any kind, to be found upon the statute-book that this fund shall always bear a rate of six per cent. interest? There is no such pledge of the Government to that effect, either express or implied. There is no law upon the subject.

Mr. SHERMAN. If my friend will allow me, I will state that the fund was never on interest until the act of 1864.

Mr. FESSENDEN. I know that; because it never was large enough until recently, to meet the annual expenditure for naval pensions. When its interest became large enough to meet that expenditure, a law was passed that the fund should be invested in stocks of the United States, and that the income of the fund should be applied in a certain way. That is no pledge or promise; it is a mere legislative management of the fund itself to give it greater security. It implies no pledge to the sailors, as my honorable friend supposes, or to the officers, or to anybody else; and that this fund, when it is thus largely accumulated, shall, whatever may be the condition of this country, bear a rate of interest of six per cent., that is no promise that we have made, either expressed or implied. Our promise is that the fund shall be sacredly kept for its uses. It has now got to be vastly larger than is necessary for its uses.

Is there any breach of faith in any way in saying that, inasmuch as it has accumulated so far beyond any calls upon it, the rate of interest to be paid upon it shall be reduced? Suppose we are to say that we will have the bonds which constitute the fund sold, as we have a perfect right to do, and the proceeds put into the hands of the Secretary of the Navy, to be kept by him on deposit and let him use it to pay pensions, we should break no faith with anybody. To use the language of my friend from Vermont, it is not even the beginning of an idea of repudiation, or a breach of faith, or a breach of a promise in any shape or form. It is managing the fund as we have been managing it for the benefit, for the security of all those persons interested in it, and at the same time saying that it shall not be made use of, without any promise of ours or pledge of ours, to increase the burdens of the country; and, therefore, inasmuch as six per cent., which we ourselves put it at, is vastly larger than is necessary to meet all the uses of the fund, we will reduce it to a sum that is sufficient to meet the uses of the fund. I should like to have my honorable friend from Vermont point out any statute, or anything else, by which we can be press or implied, that we will in all future time, construed to have made a pledge, either exwhatever may be the extent of this money piled up there for that particular purpose, continue to pay six per cent. upon it when we are trying to reduce the interest on all our other bonds and obligations, and when the security and benefit of the officers and sailors do not require that we should do it? I cannot see the slightest force in the world in the objection that we are breaking the public faith in any

way by reducing the interest on the funds when that interest is altogether too large to meet the necessities of the occasion.

Mr. DAVIS. I am certainly much more disposed to support the proposition of the Senator from Ohio than the measure as it came from the House of Representatives, but both propositions are before us. One is actually and presently before the Senate, and the other is potentially before us, because if the proposition of the Senator from Ohio be rejected the other proposition comes up as a matter of course, and hence I was making my remarks more strongly against the measure as it came from the other House than against his proposition. But I do not see any necessity whatever for the legislation. The measure might pass as it came from the House of Representatives, or it might be rejected and the proposition of the Senator from Ohio be accepted, and it would not give the Treasury of the United States the use of one dollar more of money than it now has.

Mr. FESSENDEN. It saves $500,000 a year in interest; that is all.

Mr. SHERMAN. My friend from Kentucky must know that all the interest on the public debt is now collected and paid in gold. The result of collecting so much money as interest on this fund is to increase the taxes on our constituents more than two hundred thousand dollars in gold, which is sold at a premium and then reinvested in Government bonds.

Mr. DAVIS. The interest upon this fund is applied to the payment of Navy pensions, and the surplus goes into the Treasury and is used from year to year.

Mr. SHERMAN. No; the surplus goes directly into bonds under existing laws and swells the amount of indebtedness.

Mr. DAVIS. Is the excess of interest required to be funded?

Mr. SHERMAN. It is under existing laws funded.

Mr. DAVIS. That is a feature in the system that I was not acquainted with, I frankly admit. I admit that the proposition, as it has been made by the Senator from Ohio, meets with very little opposition from me; but I was struck by a remark of the Senator from Vermont that we do not know how the number of these pensioners may be increased for some years to come, resulting from the casualties and the events of war.

Mr. GRIMES. They will rather decrease, I think.

Mr. DAVIS. I shall not insist that this accumulation of debt by funding the surplus of interest on the bonds should continue.

Mr. MORRILL, of Maine. I move to amend the amendment of the Senator from Ohio by adding to it the words "and so much of the joint resolution of July 1, 1864, as is inconsistent herewith is hereby repealed;" so as to make the amendment read:

That the interest on the fund known as the naval pension fund shall hereafter be at the rate of three per cent. per annum in lawful money, and shall be applicable exclusively to the payment of Navy pensions according to existing laws; and so much of the joint resolution of July 1, 1864, as is inconsistent herewith is hereby repealed.

Mr. MORRILL, of Maine. It seems to me from what has transpired in the Senate that this amendment, if amended as I propose, would meet the general judgment of the Senate. It preserves the fund under the original act and only provides for the payment of so much as will meet the current appropriation necessary to pay the pensions which are charged upon it.

Mr. CORBETT. As I understand the case, this money was set aside, and has been invested in United States bonds which pay an annual interest of six per cent. per annum. I do not know why these bonds purchased with this money should not bear the same rate of interest as any other bonds of the United States. Out of this interest is paid the annual amount of pensions due to the officers and seamen of the Navy and their widows and orphans, and the balance is invested in United States bonds. That balance consumes and purchases just so many more United States bonds and keeps them within our own hands. If we did not hold the bonds this interest would be paid to other parties, and with this fund we purchase and accumulate more of the bonds than we otherwise should, and thus get more of our debt into our own hands. It is set aside as a special fund for the benefit of the Navy and those who may hereafter enlist in the Navy for the defense of the country; and it seems to me that these bonds should be kept sacred as a special fund at the same rate of interest as other bonds of the United States. I shall vote against the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine to the amendment of the Senator from Ohio.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment as amended.

The amendment, as amended, was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion to strike out the second section of the bill as amended.

Mr. MORRILL, of Maine. I ask what will be the situation of the second section provided this motion prevails.

The PRESIDENT *pro tempore*. If the motion prevail there will be no second section left.

Mr. FESSENDEN. The Senator from Ohio moved to amend the amendment of the committee by inserting what has just been adopted instead of the second section of the House bill. That has been agreed to, and now the question is upon the amendment as amended, the amendment of the committee to strike out the section as it has been amended by inserting the words proposed by the Senator from Ohio.

Mr. MORRILL, of Maine. Will the Chair be kind enough to state the question to the Senate?

The PRESIDENT *pro tempore*. The amendment reported by the Committee on Appropriations was to strike out the second section of the bill. The Senator from Ohio moved to amend the section before the vote was taken on striking it out; and that amendment, after being modified, was agreed to; so that all of the section after the enacting clause was stricken out and the matter proposed by him substituted. To that the Senate has agreed.

Mr. MORRILL, of Maine. Now, if we agree to the motion to strike out, will the section remain as it has been amended?

The PRESIDENT *pro tempore*. No. If the Senate wish to retain the section as it stands amended they must vote against the motion to strike out.

Mr. JOHNSON. Certainly.

The PRESIDENT *pro tempore*. The question is on the motion to strike out the second section as amended.

The motion was not agreed to.

Mr. GRIMES. Now, I understand that the second section as it came from the House of Representatives is stricken out and the amendment of the Senator from Ohio stands in its place.

The PRESIDENT *pro tempore*. So the Chair understands.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

CONSULAR AND DIPLOMATIC APPROPRIATIONS.

Mr. MORRILL, of Maine. I move now to take up for consideration House bill No. 718, which is the consular and diplomatic appropriation bill.

The motion was agreed to; and the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, was considered as in Committee of the Whole.

The first amendment of the Committee on Appropriations was in line eleven, to strike out the word "Portugal" from the list of countries for the salaries of ministers to which appropriations are made by the bill.

Mr. FESSENDEN. I should like to know of the committee if they understand that we are to have no mission to Portugal for the future?

Mr. MORRILL, of Maine. The committee had not understood much about it, but simply followed the appropriation bill of last year. As a matter of fact there was no appropriation last year for a minister to Portugal, and the committee followed that as a guide.

Mr. FESSENDEN. Was not Portugal inserted in the list by the House of Representatives? Is it not in the House bill?

Mr. MORRILL, of Maine. It is in the bill as it comes to us from the House of Representatives; but on reference to the appropriation of last year we saw no appropriation was made for it, and we took that as the rule of our action.

Mr. FESSENDEN. Everybody knows what the reason of that was. It was done on account of the minister. We made no appropriation for Portugal on account of a difficulty that arose in regard to Mr. Harvey. But if we are to continue in that way, it results in our giving up the mission to Portugal altogether. To make an appropriation prospectively for next year, as the bill proposes, does not affect that question, which has existed for two years in regard to the pay of Mr. Harvey. To be sure, no other minister has been appointed to Portugal as yet, and I do not know but that Mr. Harvey may go back if an appropriation be made for the next year. I suggest, however, to the Senate that it is hardly worth while to carry that any further, unless we mean to give up the mission to Portugal altogether.

Mr. SUMNER. Allow me to ask is there any reason to suppose that the minister has been recalled?

Mr. FESSENDEN. I do not know that there is.

Mr. SUMNER. I have never heard that he has been recalled. We all know he has been in Washington this winter; sundry letters of his have been read to the Senate; but I have no reason to suppose that he is recalled. I may, however, be mistaken. I have no information on the subject.

Mr. FESSENDEN. The Senator is the chairman of the Committee on Foreign Relations. I have great confidence in his judgment, and if he is in favor of omitting any appropriation for the mission to Portugal I do not think that I shall make any objection to that course.

Mr. SUMNER. I would say this: that if the former minister were recalled I should be for putting an appropriation into the bill now for Portugal, because then no minister could be sent without the confirmation of the Senate; but if the former minister is not recalled then an appropriation for Portugal would operate to set him going again, to give him a salary. On that question I do not think it advisable to take any backward step. Congress has already acted, after ample consideration at one or two different sessions, and I incline to think that we had better abide by that action. When we have reason to know that the mission to Portugal is in such a condition that we shall not be obliged to retreat from our former action, then I should think it advisable to put Portugal into our bill.

Mr. FESSENDEN. I think the action striking out the appropriation for the mission to Portugal originated in the House of Representatives, where the letter of Mr. Harvey that was published occasioned a great deal of indignation; and the Senate "followed suit." The House has now put it in, and I understood, outside, that the Committee on Appropriations of the House, or some committee there which

had had under consideration Mr. Harvey's claim, were rather disposed to make an appropriation to pay him for the time he had been there and for which no appropriation was made. It struck me that if the House of Representatives were willing to let the matter stand for the coming year after July next, as it had stood heretofore, it would be hardly worth while for us to insist on striking out the appropriation for the sake of following the matter up any further in reference to Mr. Harvey himself. I thought it was hardly advisable to do it in the first place, but it has been done, and I have no comments to make upon that. If now we design to have a mission to Portugal, I should think it was about time to resume our appropriations in the ordinary way.

Mr. SUMNER. If after this bill should be proceeded with to-day it should lie on the table until Monday, I could in the mean time communicate with the Department of State and ascertain the precise condition of this legation. If Mr. Harvey stands now at the Department of State as titular minister of the United States, it may be a question whether we shall in this way in advance make an appropriation for his benefit. If he has been recalled or has resigned so that there is in any way a vacancy there, then of course there can be no new minister without the consent of this body, and under such circumstances I should be very glad to see Portugal in the list.

Mr. MORRILL of Maine. It is due to the committee that I should say one thing in regard to the question before the Senate. The committee exercised no judgment and did not consider the propriety or impropriety of continuing this mission; but as there had been no appropriation for it last year, the committee took it for granted that it was the judgment of Congress that no appropriation was to be made. As there was no appropriation for it last year there seemed to be no rule justifying the committee in proposing an appropriation for next year; and so, following the appropriation bill of last year, we left it out as a matter of course. We did not think that the action of the other House authorized us to make the appropriation.

Mr. HOWE. I concurred in this amendment, and perhaps exactly upon the ground stated by the Senator from Maine, that for two years past we have refused, upon the deliberate consideration of the two Houses, to make an appropriation for this mission, and that refusal was based, as I understood it, upon the fact that the existing minister was distasteful—unsatisfactory to Congress. That judgment was either right or wrong. I participated in that action, I remember. I do not propose to go into the grounds upon which my vote was then based or to reopen that discussion. I thought we were justified in withholding this appropriation. I thought we could not be justified if we made an appropriation to sustain that mission with that minister. If I was wrong I am willing to hear the error exposed and I am willing to recant it.

The House of Representatives did concur in that action; indeed they initiated it. It seems the House of Representatives have now agreed to an appropriation. The grounds upon which they have been induced to make this appropriation I do not understand. I do not understand that the minister is changed. If the House of Representatives have seen reason to repent their action of last year and the year before, they ought, in justice to the Senate, to let us know what has occasioned that repentance. When I do wrong I am as anxious to repent as anybody, and I am as willing to repent as anybody, and when I do repent for this act, for my vote last year and the year before, I shall be willing to bring forth fruits meet for repentance; I shall feel under obligations not only to make an appropriation for the future support of that mission, but I shall be bound, in common honesty, to vote for appropriations to pay for the service of that minister for the last two years. But at present I am not convinced of any wrong that I have done. So I simply stand by the record I made last year, and I hope the Senate will stand by its record unless it can now be persuaded that it then did wrong, and in that case I hope it will do ample justice both for the future and the past.

Mr. JOHNSON. Mr. President, I do not know whether Mr. Harvey has been recalled or is here upon leave. I have no knowledge on the subject. But assuming that he is here upon leave, and that he is still the minister, it appears to me to be exceedingly proper that the appropriation should be made. When the subject was before us last year it was upon a bill reported in the House of Representatives and passed by that House, in which the appropriation for the mission to Portugal was stricken out. The Senate inserted it, but after a while the Senate had to recede. We were at that period anxious to make the appropriation, and were prevented only because the other House had decided not to make it. Now the House makes it and the Senate proposes to strike it out. I do not know that anybody thinks we should not have a minister to Portugal. Neither the House of Representatives nor the Senate has at any period supposed that that mission should be abandoned. The only reason why the appropriation was not made was because fault was found with the incumbent of the office. We did not find that fault in the first instance; it was stated to exist as a valid objection to the appropriation by the House of Representatives, and we had to yield. Now the House makes the appropriation, and, therefore, we are to suppose the House is of opinion that the appropriation should be made; and why should we depart from our former judgment and differ with the House again when they have come back to our original opinion?

It appeared to me, with due deference to Senators, in the first instance, to be rather a small matter to strike out the appropriation for the payment of services of this description because of some personal objection to the minister, that personal objection being founded upon facts which he never intended should be made public. There is no pretense that he did not faithfully discharge his duties as minister of the United States at the court to which he was accredited: but he entertained some opinions about political differences at home, and he expressed those differences in a letter to the Secretary of State, and very improperly, as I think. I do not know whether the Secretary of State or the President of the United States, or both, be to blame—that letter is made public. It was evidently upon its face designed to be a private letter, and I do not think the Senate should sanction, by acting upon the contents of the letter, the evident breach of confidence that the parties who caused the letter to be published were guilty of. Mr. Harvey is an intelligent, and in many respects a very accomplished, man. As far as I am advised, he has discharged the duties of his mission with ability. He is very acceptable, I understand, at the court to which we have sent him. He has been there without pay now for one or two years, and it is for us to say whether, under the circumstances, it is not the duty of the nation to provide the annual salary.

But, as I understand it, this appropriation is merely for the coming year. It does not give him anything for the past year. I am by no means sure—I do not wish to be considered as expressing any decided opinion upon the subject—that he would not be able to recover as against the United States the compensation due him for the past by a proceeding in the Court of Claims. I rather think that the law would imply a contract as between the United States and a minister whom it has sent abroad to pay him for his services; and that implication would be made in the absence of an express contract, and would be as valid for the purpose of maintaining a suit against the United States as would be a positive promise and a refusal to comply with the promise. But let that pass. It is for the Executive, if it thinks proper, to recall the minister, and I do not know, as I have said, that he has not already been recalled, or that he will not be recalled. We shall adjourn in the course of a few months, I suppose, and then, unless this appropriation be made, there will be no provision for the mission. What is to be done? Is whoever may be President at that time to appoint any person without an appropriation? and if he does appoint will the minister accept? He may say, "I should be in the same situation with Mr. Harvey; I may serve my year out, and at the end of that time, after incurring all the expenses of the mission, the Government may refuse to pay me."

It appears to me, Mr. President, with all possible respect for those who entertain a different opinion, that in some measure the credit of the Government requires that compensation should be made.

Mr. SUMNER. I will make one remark pointing to a practical solution of this question. The House of Representatives have put this provision in. If we should now follow them it would be beyond change. I ask would it not be better that we should differ from the House on that, and refer the question ultimately to a committee of conference? If there is reason for the action of the House of Representatives that will be known to the committee of conference, and the Senate, I believe, will then be only too happy to assent. At the present moment, I confess, I am not sufficiently enlightened on the subject. I am in the dark. I do not know in what precise condition that mission is at this moment. I did not see this bill till half an hour before it was called up. Had I seen it in advance I should have taken means to ascertain in regard to it. Under the circumstances I think we had better disagree with the House and let this question be referred, with others that may occur, to a conference committee.

Mr. HENDRICKS. I was very much astonished when the Senate at any time consented to refuse all the proper appropriation to carry out the existing laws. The laws of the United States provide for a mission at Portugal, provide the salary of the minister, declare what it shall be. Pursuant to the Constitution and the laws a gentleman is appointed to the place. While he is holding the place and still in office the Congress of the United States undertakes to gratify a little passion—which, in my judgment, is not very becoming to the body—by refusing to pay him the salary which the law says he shall have. I regard this case precisely as I do the provisions of a treaty that require the payment of money. I suppose the House of Representatives can refuse, under the Constitution, to comply with the treaty; can say that the money shall not be paid; but in what position does it place the Government? Simply in the position of refusing to carry out a treaty obligation. The legal obligation of the Government is that a man holding an office shall be paid the salary affixed to the office. That is the contract; that is the fair bargain. I would as lief receive a man's day's work, and then, when he had done work for me, in the evening, if he said something that was a little offensive to me, say to him, "I have the power, and I will not pay you for your day's work." I would as lief be caught in that position, personally, as to give a vote refusing to pay a man a salary which the law said he should have when he was appointed.

I wish to ask Senators whether it is consistent with the policy and framework of our Government for Congress to undertake to remove a man from office? The Constitution does not give the power to Congress to remove a public officer. It is not a part of the system.

Mr. JOHNSON. Unless on impeachments.

Mr. HENDRICKS. Of course, if he is impeached, that is another thing. I am speaking now of starving a man out of office. Can Congress starve a man out when the Constitution provides how he shall be appointed to office and when Congress cannot remove him? For two years we have refused to pay a public officer

because he wrote a private letter that was offensive in its opinions to a portion of Congress, to gratify a little revenge, to try to embarrass him in his financial matters so that he cannot pay his debts, to starve him out. Party passion may make men like that, but it is not a thing they will desire to look back to afterward. We have not the right under the Constitution to say that he shall leave the office. Indirectly we propose to do that, force him to abandon it, by not paying him what the law says he shall have.

The point made by the Senator from Maine, [Mr. MORRILL,] instead of being made in its support, I think ought to have called for an amendment to this bill to pay Mr. Harvey the two years' salary. Congress has had the pleasure of this little spite and the gratification of a grudge. It has enjoyed that passion for a couple of years. It had better now do what the contract is, pay the man his salary. That, in my judgment, is decent. I may not be able to appreciate it aright; but that, in my opinion, is what we ought to do without a word. I do not care whether Mr. Harvey goes back or stays at home; I take no interest in him personally except as a gentleman. He is of no political consequence in the world, so far as I know. I never heard that he was. He was a correspondent of a newspaper and a very respectable writer.

Mr. MORRILL, of Maine. Will the Senator allow me to ask him how that question arises about the payment of salary which the officer has earned? This appropriation is for the year ending June 30, 1869; and how does this question relate to Mr. Harvey, the minister to whom the Senator refers? His services are all in the past, if he is here and not in Portugal.

Mr. HENDRICKS. I was answering the suggestion made by the chairman of the committee, which was that the committee did not feel authorized to consent to the appropriation the House of Representatives proposed because a like appropriation had been withheld last year and the year before.

Mr. MORRILL, of Maine. Because it had been denied, not because it had been omitted; and therefore the denial had the force of law.

Mr. HENDRICKS. But the Senate did not want that; it was the House that insisted upon it. The Senate wanted to make the appropriation; and, therefore, on behalf of the Senate, I do not think the committee was authorized to make the point.

Mr. MORRILL, of Maine. There is no law authorizing an appropriation of this kind beyond the appropriation itself. When this appropriation bill came before us the question of course arose, what is the authority for it by the act of Congress?

Mr. HENDRICKS. I will ask this question: does not the law provide for a mission to Portugal, and does it not fix the salary of the minister?

Mr. MORRILL, of Maine. The law provides that the President may appoint to these places, and this is one of them.

Mr. HENDRICKS. Does it not fix his salary at $7,500 a year?

Mr. MORRILL, of Maine. I think it does.

Mr. HENDRICKS. Then, if the committee wanted authority, it is found in existing laws; not only authority, but, in my judgment, imperative duty.

Mr. MORRILL, of Maine. The question which the Senator from Massachusetts raises is, that it does not appear that there is any minister to Portugal at the present time, and if this matter goes to a committee of conference he suggests that the thing may be ascertained, and then the argument of the Senator from Indiana would have force.

Mr. HENDRICKS. That is not an important inquiry at all, whether there is a minister there just now, inasmuch as the Senator has already suggested that this is to provide a salary from the 1st day of July next, and we have a right to presume that the offices of the country will be filled. We are not to legislate upon the presumption that they will be left vacant. It is the duty of the committee to provide the appropriations according to existing laws. The law requires that this appropriation shall be made. I do hope, sir, that, for the honor of the country, we shall not continue this strife—which I think is not worthy of Congress—a strife with one man because of a letter written by him, and that a private letter.

Mr. SUMNER. Mr. President, listening to my friend over the way from Indiana I felt myself disposed to say to him "let the dead past bury its dead."

Mr. HENDRICKS. I will suggest to the Senator that when a man owes a debt contracted in the past you cannot well say that; he had better pay it.

Mr. SUMNER. There is the point. There is no debt contracted in the past. That I will speak to. The Senator has revived a question of the past which I think were better left among the dead of the past; and that is the conduct of this minister to Portugal. It was discussed again and again in this Chamber. Why revive it now? It is not important enough to endure a third discussion. When it was here before I believe the principle, after ample debate, was determined that it was in the power of Congress in the exercise, if I may so say, of primitive constitutional rights to stop the supplies. Congress has no control over the Executive directly. How, then, when it is dissatisfied with a foreign minister, can it bring about his recall? The answer is clearly, and it is a constitutional answer, which my friend, I think, must respect, "stop the supplies;" in other words, refuse to appropriate the salary. The Senator may call it starving him out. That is a familiar expression of a great constitutional principle. Let the Senator read the books and he will find that the principle is beyond question.

I know the Senator will not impale himself upon the denial of any such principle as that. It cannot be denied; it cannot be called in question. Congress is completely in the exercise of its rights when it undertakes to say with regard to any foreign minister with whose conduct it is dissatisfied, that it will not appropriate his salary. On a former occasion I discussed this at some length; I cited authorities; I brought forward precedent after precedent; and the best names and the highest names in the discussion of constitutional principles; and there was no reply to them; there could be no reply to them, for the principle is beyond question; and I have no doubt that the time may yet come when my honorable friend from Indiana will be very glad to invoke that very principle.

Mr. HENDRICKS. Of starving an officer? Never, I think, to starve a man out of office.

Mr. SUMNER. Never, he thinks; and he gives to this principle the familiar interpretation, he will not starve a man out of office! He would, if the occasion were adequate, refuse the necessary appropriation. That was all that was done on the former occasion, and I only refer to it now just to put it aside. I am indisposed to go into that question again; we have had enough of it. Now, the simple, practical question is, whether we shall in any way retreat from the position with regard to this appointment originally taken. Some go so far even as to say "let us pay all the intermediate salary." That would be a confession on our part that we were in the wrong. I am not disposed to make any such confession, for I do not think we were in the wrong. I think that, after the first vote of Congress, Mr. Harvey ought to have returned. Every day that he stayed there after that vote he was in contumacy; he was contumacious toward Congress. He had ample notice. The Secretary of State communicated to him officially a copy of the act of Congress. He knew it, also, from the statute-book; also from the public papers. Every day that he stayed after that he was in contumacy. He ought to have come home. Instead of that he undertook to wage his battle with Congress. He had at his back, we all know, the Secretary of State. I consider that the Secretary of State himself was in contumacy also, and there can be no question that the minister was in contumacy; and now shall we undertake, confessing ourselves in the wrong, to make up to him a salary for the two years of his contumacy?

Mr. JOHNSON. That is not in this bill.

Mr. SUMNER. I know it is not in this bill; but it has been suggested by Senators; and if you make an appropriation for this mission now, if he continues to hold it, you will, to a certain extent, retreat from the position you originally occupied. Therefore, under the circumstances, it seems to me, until we are informed with regard to the actual condition of this mission, we had better strike the name of Portugal out of the list and leave the whole question to be settled in a conference committee between the two Houses.

Mr. CONKLING. Mr. President, I think the Senator from Indiana is entirely logical in what he says. All men are liable to be logical, and the Senator is logical, I think, when he says that if Portugal is to be included in the bill before us justice and consistency would demand that Mr. Harvey should receive his salary for the time that has gone. Mr. Harvey was minister in the regular way to Portugal. And just here I am very glad to concur with what I think the Senator from Maryland said as to Mr. Harvey and his accomplishments. I knew him very well. I felt very friendly to him. I have always felt friendly to him, personally, and I do now. After his back was turned he became the subject of what seemed to me a very gross and a very unjust aspersion, and the belief, on my part, that he did suffer from that injustice added to the feeling of friendship which I had for him before. A time came, however, when Mr. Harvey went far out of his way, so it seemed to me, to do an act which did not belong to him at all, and which brought him within the criticism, and subjected him to the action, of Congress; and under an undoubted right the two Houses saw fit to say, in the only way in which they could say, that Mr. Harvey should return.

They did it, the Senator from Indiana says, "by starving him out." I think not. They did it by saying that, at that time, to that particular minister, at that particular court, they would make no appropriation or application of the public moneys. The right I take to have been unquestioned and the exercise of it decorous in form and substance. As the Senator from Massachusetts says, despite that act, Mr. Harvey continued for a long time to remain at Lisbon. He returns without having been recalled, without having relinquished his place, and is still, by title and by tenure, the minister to that court. And now the proposition in the House bill applicable to next year is, in substance, to give to Mr. Harvey, as minister to Portugal, his salary. What does that imply? Most manifestly, it seems to me, as the Senator from Indiana says, in effect that he remains up to this time entitled to his pay. If he ought to receive it for the future clearly it seems to me he should receive it for the past, during most of which time he was, in fact, in Portugal acting as minister. After all, no matter how you state it, the question comes, first, whether we ought to reverse the action of the two Houses heretofore taken on this subject; and second, whether we ought now, speaking for the future, to say that Mr. Harvey should go back.

I know I may be answered *non constat* that Mr. Harvey will go back; somebody else may be appointed; and, as some one has suggested in conversation, if you strike out this appropriation you will have no appropriation standing for the time when some other man is to be appointed minister. No matter for that, sir. Whenever any other man is appointed minister to Portugal the two Houses of Congress will maintain their position, will assert what they commenced by asserting, when they include in another appropriation bill or in a deficiency bill an item to pay the salary. There is no difficulty about that.

Then, I repeat, the question is presented, bold and unequivocal, whether there is any

reason now for taking the back track, for undoing and disaffirming what we have done, on the ground that it appeared at the time to be wrong, or that it appears now by the present lights, looking back, to have been wrong. I confess, sir, the good-will that I had and that I have for Mr. Harvey does not close my eyes to the point that he, with no such act incumbent upon him, not called upon to speak for Congress or for the President or for anybody else, engaged at that time in a political controversy; went out of his way to do an act which the joint judgment of the two Houses, repeatedly expressed, pronounced objectionable, obnoxious, blamable; and they attached to it that badge of blame which deliberately they thought was proper.

Now, the question is whether there is any new evidence of any kind upon which that finding and that conclusion ought to be reversed. If there is anything else of it I am unable to see; and the Committee on Appropriations felt constrained, as I may say, I believe, without impropriety, following what had been done by both Houses so repeatedly, to omit this appropriation, and to wait until the time should come when in fact a different question would be presented by the nomination and confirmation of a different minister. Until that time they thought the question remained all the while the same; it was *res judicata* between the two Houses.

Mr. HENDRICKS. The Senator from Massachusetts has suggested that I read the books and turn to the precedents. I do not want to read any book nor find any precedent in the history of my country which will teach me the lesson that it is right to refuse to comply with the law or to carry out and execute the law. I think the Senator can find no such precedent as this in the history of this country, that Congress, for the purpose of rebuking a matter that is not agreeable on the part of some public officer, has refused his salary as provided by law.

The Senator says it is unquestionably a right of Congress to cut off supplies. How far can this go? Here is a public officer that in the discharge of the duties of his office has done no wrong. It is conceded that he was a good officer in every respect; he maintained the honor and the dignity of the country; he sacrificed in no negotiation any of the interests of the country; but he wrote a private letter which came to the light without his knowledge; and to rebuke him for that, an act that the country had no interest in one way or the other, the supply of his salary is cut off. If for that it be proper to deny a salary, then certainly, if there occur a case in which a public officer in the discharge of his duties has become offensive to Congress, the argument is much stronger. Then, sir, if the President of the United States should refuse in the administration of the laws to reflect some sentiment of Congress, the Senator would say "Cut off the supplies; drive him from office; he is not agreeable to us." Elected by the people, holding his office according to the Constitution and the laws, with the assurance in the law that his salary shall be paid to him, Congress says "We will cut off the supplies," and we present the spectacle to the world of providing in one law that he shall have a salary and in another law that he shall not have it.

Carry it still further: some Senator is offensive to the majority and we cannot remove him; he has a right to his seat, but we will cut off his supplies; he shall not have his salary along with the rest of the Senators. If it be right to select some minister abroad from among his associate ministers and cut off his supplies, why can you not starve a Senator out of this body? and that might be not because the Senator had done anything amiss in his seat, but because he had written some letter to a friend that had found the light containing sentiments which were not agreeable to the distinguished Senator from Massachusetts.

Carry still further the doctrine that Congress may starve men out of their offices. The Supreme Court or some of the judges of that court, in some opinion expressed upon the law, may become offensive to the Senator from Massachusetts, or, perhaps, when his party comes to be in the minority in this body, they may become offensive to the then majority; and they may say "We will have no such judges as these; the Constitution and the laws have placed them in that position during good behavior, and they are entitled, according to law, to their pay; but we will starve them out, and we will compel the judiciary department of this Government, an independent department, and one that the Constitution intends shall be independent of the legislative, to come to the opinion upon questions of law which Congress may entertain, or we will starve them out!"

Sir, I repudiate the doctrine of starving out. I repudiate it entirely, and seek no precedents to sustain it. The Departments of Government must act independently, the one in the execution of the laws, the other in adjudicating upon them, and this Department in enacting the laws.

Mr. President, is it worthy of the Senate of the United States to maintain this quarrel with Mr. Harvey? Is it becoming? Here are other high officers that, in a very public way, have expressed opinions that are offensive to Congress—Cabinet ministers and other officers that have expressed opinions very offensive to Congress. You do not apply this doctrine to them; but you select the occupant of a very obscure mission abroad because he wrote one letter that was not agreeable, and the quarrel is to be maintained against him.

Mr. CONKLING. May I ask a question of the Senator? I inquire whether all these strong illustrations that he gives and this remark of his of disparagement to the magnitude of the subject do not go to the propriety of the original action taken by Congress; and I inquire further of the Senator what there is at this time which should lead this body to say that this occasion is smaller than it seemed in the past, or that should lead it to reverse the position which it has taken, asserting that it had the right, and might properly exercise the right in the case of Mr. Harvey, to withhold appropriations? If I perceived something new which I could act upon I should be very glad to see it; but I feel constrained by the fact that after full argument all these propositions have been settled as far as that expression can be used in regard to such a matter.

Mr. HENDRICKS. I suppose the idea of the Senator is that if you quarrel with a man once you have got to quarrel with him all your life.

Mr. CONKLING. I think the Senator does not understand that from what I say.

Mr. HENDRICKS. I do.

Mr. CONKLING. Oh, no. I take it that the Senator, who, as I said before, is logical, and, we all know, is very acute, does not (when I say that a certain matter in controversy having been litigated and adjudged finally, so that it is, as I have before expressed it, *res judicata*) understand me to say that because I think in law and in principle all parties should stand by that, therefore if one party once has a quarrel with another he must always keep quarreling with him. That would be reversing the whole spirit of the rule that there shall be an end of quarrel and of litigation.

Mr. HENDRICKS. Mr. President——

Mr. FRELINGHUYSEN. With the permission of the Senator from Indiana, I wish to ask him whether the point which he is discussing is at all involved in the question before the Senate? I understand the question before the Senate to be whether we will make an appropriation for the year commencing July 1, 1868. We certainly have made no contract with anybody to make any such appropriation, and are at perfect liberty to make it or not to make it, as we see proper. As to the other branch of the subject which the Senator has discussed, our obligation to pay for past services, the statute says, as I understand it, expressly that the minister shall be entitled to his pay, and I suppose that he can, under existing laws, without our making any appropriation, go into the Court of Claims and enforce his claim against the United States. So that he will not be starved for the past, and will not be starved by us for the future, because he has no claim upon us for the future.

Mr. HENDRICKS. Mr. President, the Senator was right as the bill stood, but did the Senator from New Jersey not observe that the chairman of the committee said that the committee felt it to be their duty to strike this appropriation out of the House bill, because they felt instructed by the action of the Senate at a prior session in striking out the appropriation at that prior session? That brought up in the course of the argument, as I supposed, the question whether the Senate did right in consenting to the demand of the House of Representatives at that time, and therefore I thought it was connected with the defense the chairman made for his committee. Now, I would be very glad if the Senate would just close this all out and make the appropriation for the past two years. I think it would be becoming. I do not think it is becoming to send an officer of the Government to the Court of Claims to get his salary. The law says he shall have his salary; he is appointed according to law, and he is entitled to it. The Senator from Kentucky [Mr. DAVIS] suggests to me that he cannot recover his salary there, because the law does not provide for the payment of salary in that way. I do not care to discuss that now. I am not sure about that point, as the law authorizes the recovery of claims in the Court of Claims that arise out of contracts with the Government or out of any law or any regulation of a Department. It may be that he could recover his salary in the Court of Claims, but is it proper that we should send him there?

I submit to Senators if there has not been enough of this. Senators know very well that they have provided for the pay of other officers much more important than this who have expressed themselves more offensively to the majority than Mr. Harvey did. We select him out. Suppose he did wrong, which I do not concede. I do not recollect much that was in the letter, having read some things since I saw it, but suppose he did wrong, why not pass it over and be done with it? I do not think it is becoming in Congress to keep up the strife.

Mr. HOWE. Mr. President, I do not see any occasion for passing it over if he has done wrong, because I do not see that he asks us to do so or that any of his friends ask us to do so. Somebody has done wrong unquestionably. Either the minister to Portugal committed an offense which justified the Congress of the United States for withholding the appropriation of his salary or the Congress of the United States withheld that appropriation unjustifiably. I voted to withhold it. I suppose from the tenor of the argument of the Senator from Indiana that he voted the other way. If the Senator thinks that peace and concord are to be attained simply by attacking the Senate, and can see no road to peace but by having the Senate get down upon its knees and acknowledge its faults, I am afraid he will not find peace in that direction; he will be disappointed, and this controversy will be kept up. And yet I say again as I said before, that if the Senator will be good enough to point out the wrong I did, so that I can see it, I will recant, and I will not only now agree to this appropriation, but if I agree to this appropriation I give my word that I will agree to pay for past services; and we cannot defend ourselves against an appropriation for past services if we agree to pay him his services there in the future. We are right or he is; we are wrong or he is. I said in the outset, and it is all I want to say upon that point, that my judgment was one year ago and two years ago that we were right and he was wrong. I stand by the judgment without going over the grounds of it again.

But the Senator stands here and tells us that the honor of the country is involved in this measure, that good faith is involved in it; and I think he went so far as to say that he would no more vote to withhold this appropriation than he would withhold the daily wages of a man who had wrought for him a day. Well, Mr. President, I did vote to withhold this appropriation, and yet I think I should be as reluctant to withhold a day's wages from a man who had wrought for me during the day as the Senator from Indiana. I think there is no similitude between this proposition and the one he makes. I think there is a moral obligation as well as a legal obligation, the highest and most sacred obligation, both in morals and in law, on the part of an employer who has employed the services of a man, and has enjoyed those services, when the services are rendered to pay for them. But mild-mannered and mild-tempered as is the Senator from Indiana, if he had a man in his employ whom he found was abusing, slandering, libeling him day after day, and constantly, I think when the evening came, although he would pay him for his services up to that time, as the law demanded, he would himself find some way to discriminate between his obligation to pay him for the day's work he had rendered and his obligation to pay him for another day's work. Mild as he is, temperate, forgiving, and tolerant as he is, I think he would find some authority in law or Gospel, or both, to dispense with the services of that man for the next day and for all future days; and if he did not find any authority in law or Gospel either, he would do it all the same; and so would any man who had a proper respect for his own character. This is all that Congress has ever done with regard to this minister, all it proposes to do—not to withhold from him the pay for any services we have asked him to render——

Mr. THAYER. Will my friend allow me to suggest right there in support of his argument that if the employer notified the employé that he would pay him no further compensation it would be a sufficient notice to the employé to quit, and if he labored afterward he would do it at his own risk.

Mr. HENDRICKS. Let me ask a question in that connection. If the agent of the Senator from Nebraska had hired a man for a term of years and the man had a vested right in the contract depending upon a certain contingency which had not arisen, would he, in the mean time, because of some little offensive speech made, if that was not provided for in the contract, refuse to pay him the money due?

Mr. THAYER. If the Senator from Wisconsin will permit me, I will ask the Senator from Indiana if Mr. Harvey had a claim on this office for a certain number of years? I never knew that a foreign minister or any other officer had a claim to hold his office for four, eight, or ten years.

Mr. HENDRICKS. He had a claim, as the courts have decided in analagous cases, an interest, a property in the office, until his tenure of that office was legally put an end to; and it could not be legally put an end to by an act of Congress. Under the Constitution and laws, it could only be by a removal. He held the office during the pleasure of the President when he was appointed; and thus holding the office, while he held it, the salary which the law said he should have was cut off.

Mr. HOWE. If the Senator from Nebraska and the Senator from Indiana have got through with their discussion, I will go on with what I have to say.

I repeat that I think there is a broad distinction between withholding an appropriation for services yet to be rendered and withholding payment for services already rendered. Now, to illustrate this distinction: the Senator from Indiana in his discussion suggests the idea that Mr. Harvey, the minister, is employed for a term of years. I think not.

Mr. HENDRICKS. I did not say that.

Mr. HOWE. I understood the Senator to say so.

Mr. THAYER. I did, also.

Mr. HENDRICKS. No, sir; I said this: that he held the office according to the Constitution and the laws, and he had a right to hold it until his right to the office was cut off according to law.

Mr. HOWE. Beyond all question he holds the office according to the Constitution and the laws; and he has a right to hold the office under the Constitution and laws just as long as he pleases until it is terminated in accordance with the Constitution and the laws; and we do not propose by act of Congress to prohibit him from holding it just as long as he pleases. But the Constitution provides that not a dollar can be paid to him except by an appropriation of Congress. That is one of the provisions of the Constitution under which he holds his office. We cannot terminate his possession of that office while he continues in it, but we can abolish the office to-morrow, if we please. Nobody doubts that; and I take it, a lawyer as astute and as acute as is the Senator from Indiana will not argue here that he has a vested interest in the salary of the office, but no vested interest in the office itself; that we can properly terminate the office, but that we cannot lawfully withhold the salary from it. The injury to him is the same; or, at least, the injury to his private fortune is the same. In the one case there may also be an injury to the public; it may be wrong to abolish the office, and it may be entirely right to withhold any encouragement from him to continue in the office. The simple fact is that he is not bound to stay there a day without his pay, unless he chooses to do so. It is said that he has chosen to do so heretofore; and it may be urged that he will choose to do so hereafter. I shall consider it as a higher tribute to his pluck than his good sense, if he does. But, sir, if, in view of these intimations, the Senate recants its action of last year and the year before, I shall not say that it is not decent in the Senate, but I shall not consider it as very conclusive evidence either of the good sense or pluck of the Senate.

Mr. MORRILL, of Maine. The Senator from Indiana has referred to the action of the committee in a manner which makes it necessary, I think, that I should say a word or two.

He thinks that the committee had ample authority for making an appropriation for the minister to Portugal in the fact that the House of Representatives had authorized us to do so by having made the appropriation itself. Now, the Senator understands that the duty of the Committee on Appropriations is to make appropriations for the service provided for by law. Was this provided for by law? The Senator assumes that it was. Let us see. If so, he is right and we were wrong; we overstepped our duty; if not, we are justified, and it is for the Senate to say whether it will reverse the action of the Committee.

How do these missions arise? The Constitution authorizes the appointment of embassadors and ministers and consuls; but it is for the Congress of the United States to fix the compensation. I do not deny now, and it is not necessary for my argument to deny, that at some time the compensation was fixed by Congress for the minister to Portugal. It was, doubtless; but of course that compensation was entirely at the discretion of Congress; it could be changed at any time. Has it been changed? The Senator will not contend that the President had the authority to appoint and fix the salary. The salary is fixed by law. I agree that some time anterior to 1866 a compensation was affixed to this mission, and that by the law the minister was entitled to a compensation; but it has been changed. That is my ground; it was changed in 1866; changed by Congress acting distinctly on the question. I will refer the honorable Senator to the act of July 25, 1866, in which will be found this language:

"And no money shall be paid to the present minister resident in Portugal out of any fund whatever, on account of further service in his office."

Does not that settle the question? Is there any question open here what the law on the subject is until that act is repealed? Has the Committee on Appropriations any authority to make an appropriation for this officer? Did not Congress in 1866 say expressly to him "No further compensation is to be paid to you for services in that office?" None was made in 1866, and in pursuance of this law none was made last year. Following this law, the Committee on Appropriations directed me to report to the Senate substantially that there was no law for this appropriation. So it is, and it will become necessary for the Senate, if they make the appropriation, to repeal the act of 1666.

I submit to the Senate whether that is not clear; and, if that is so, I submit that the committee have reported strictly in accordance with law in proposing to strike out this appropriation and not to concur in the action of the other House. Of course, in doing that, the whole question is referred to the Senate. The Senate may, undoubtedly, repeal the act of 1866; but the law now stands that this man is not entitled to and shall not receive any further compensation for any further service in that office. That, I think, is a full answer.

Mr. TIPTON, (at four o'clock p. m.) There evidently being no quorum present, I move that the Senate do now adjourn.

Mr. MORRILL, of Maine. I hope not. I think we have a quorum here.

The PRESIDENT *pro tempore*. The motion to adjourn is not debatable.

The question being put; there were upon a division—ayes 5, noes 13; no quorum voting.

Mr. CONKLING called for the yeas and nays, and they were ordered.

Mr. SUMNER. I desire to say that as it is evident there is no quorum here, and there is a question pending on which, in all probability, there will be a division, it seems to me it is a waste of time to go on.

The PRESIDENT *pro tempore*. The motion is not debatable.

The question being taken by yeas and nays, resulted—yeas 7, nays 17; as follows:

YEAS—Messrs. Buckalew, Chandler, Corbett, Hendricks, Ross, Sumner, and Tipton—7.

NAYS—Messrs. Anthony, Conkling, Davis, Dixon, Frelinghuysen, Howe, Johnson, McCreery, Morgan, Morrill of Maine, Nye, Stewart, Thayer, Trumbull, Wade, Willey, and Wilson—17.

ABSENT—Messrs. Bayard, Cameron, Cattell, Cole, Conness, Cragin, Doolittle, Drake, Edmunds, Ferry, Fessenden, Fowler, Grimes, Harlan, Henderson, Howard, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Saulsbury, Sherman, Sprague, Van Winkle, Williams, and Yates—29.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 7, 1868.

The House met at twelve o'clock m., Mr. ASHLEY, of Ohio, taking the chair as Speaker *pro tempore*. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, with several amendments, in which he was directed to ask the concurrence of the House.

The SPEAKER *pro tempore*. The House has ordered that the session of to-day shall be for debate only as in Committee of the Whole.

Mr. MAYNARD. Would it be in order to ask leave of the House in a matter of personal privilege?

The SPEAKER *pro tempore*. No, not to-day.

FINANCE AND TAXATION.

Mr. CLARKE, of Kansas. Mr. Speaker, if we except the absorbing topic of the impeachment of an unfaithful Chief Magistrate and of political reconstruction, no question presents at this hour such vital importance as the financial condition of the country. With the vast burden of taxation, business depression, and disaster which have been forced upon the country by a policy either corrupt or foolish, and, perhaps, combining both elements, it is no wonder that a large number of those who have always been associated with the national party should be growing restless and uneasy. Nor is it unnatural that everywhere men are found almost willing to ignore the fundamental political necessity of the land—that which demands the establishment of equal and exact justice for all before the law—at the instigation of democratic demagogues, who seek adroitly to use the burden of taxation, for which that party is alone responsible, and join in a raid against those with whom they have affiliated in a vain attempt to better the financial condition of individuals and of communities. It is, therefore, both from principle and from policy that those who comprise the majority should not only face this problem but solve it. Surely, sir, the statesmen under whose leadership a great war was conducted, who have stood here battling with treachery of the most heinous character, cowardice of the most embarrassing kind, and a defiant spirit which everywhere has made itself felt injuriously, are able to properly meet this and all other issues. I deny to the party which opposed the war, after having in great part caused its horrors, and who have been and are now systematically seeking to prevent a peaceful restoration of the Union, either the capacity or the patriotism necessary to manage the financial affairs of this nation in the interests of sound economy and active loyalty. The financial restoration we seek to attain must be reached through the great loyal sentiment of the country which upheld the banners of the Republic through the fearful contest for our nationality. And let me remind gentlemen representing the dominant party upon this floor that it seems to me to be far from the public interests to engage in mutual denunciation of each other because there is a difference of opinion as to the methods by which results are to be achieved.

Sir, I represent a State not in the far West, but in the interior of the continent, and where no favored classes are recognized by the masses of the people; and because I differ with the gentleman from Maine, [Mr. BLAINE,] who opened this discussion, and who, from the tone of his speech, seemed to speak in the interests of the bondholders and the rich as against the rights and necessities of the poor, I do not admit his right to number me with the men who would tarnish the honor of the country by any species of repudiation because I see fit to stand by the letter and spirit of the law in the liquidation of our national securities. Having said this much by way of introduction, I proceed to the discussion of the financial situation and of the difficulties by which the question is surrounded.

Mr. Speaker, the country needs immediate relief. When the war closed the loyal States were in a state of great prosperity. Business activity everywhere prevailed. During the war we had been compelled to abandon the general system of credit which had previously existed. This fact is not taken into account by those who now advocate contraction and immediate resumption.

We are constantly informed of the amount and volume of the circulating medium which then existed. But we are not informed of the large amount of business that was transacted upon individual "promise to pay." Of this kind of paper, representing large transactions in trade, commerce, and all kinds of business, there was probably not less than a thousand million dollars in use. Credit accepts such a circulation. Cash ignores it entirely. Consequently the change in our mode of doing business wiped all this out of existence, and in doing so it created a necessity for a much larger volume of money as a circulating medium of trade.

Before the war business men with good securities to offer found no difficulty in obtaining advances. Banks and money lenders were not then able, by means of a diminished currency, the abrogation of credit, and a general traffic in Government bonds, to dictate such extraordinary rates of interest as virtually to stop all business of an enterprising or speculative character. We have about seven hundred million dollars of paper money in circulation, no coin, except on the Pacific coast and in Texas, perhaps, and no credit. Government securities give to the holder and the dealer in them from nine to twelve per cent., estimating interest in greenbacks. State usury laws forbid payment of interest over a certain per cent. Massachusetts says six; New York seven. Everybody who deals in money finds "Governments" the most profitable thing in which to traffic.

Sir, the larger portion of the national bank circulation is in the commercial States; so with the balance of "legal tender" still afloat. Commercial centers, it is notorious, do not require by one half as much circulating medium to carry on their great operations as more sparsely settled regions and new States do for their not as heavy transactions. Actual money is needed in the latter; in the former one piece of paper may represent during the day many times its value. So, with the Government securities to crush out the borrowers, thus stagnating enterprise, and with so limited an amount of money or its representative in circulation that the money-changing and lending class can control it nearly all, there can be no wonder that over a million of laboriug men, North and South, should be out of employment.

It is not to be wondered at that these causes have not only provoked wide-spread dissatisfaction with the great party to which I belong—unjustly so as I think—but they daily rob the country of great wealth and so destroy the nation's ability to pay the debt which a Democratic war fastened upon us. I said, Mr. Speaker, the Republican party is not now responsible for present financial disaster any more than it is responsible for the great political treachery from the evil effects of which we are suffering. It will, however, be responsible if, knowing the evil, it fails to apply a remedy. It would have been the part of wisdom, it seems to plain common sense men, to have given the business needs of the South and West the great advantange of an abundant, not a redundant currency.

The reverse has been the case. Every dollar of legal tender which could legitimately have been absorbed in the South would have been as potent, and even more so, in fostering acquiescence and renewed loyalty as our bullets and bayonets were in subduing rebellion. The confederacy, during the last two years of its existence, was maintained chiefly by the desperate endeavors of a people, who, having been cunningly involved, were simply fighting in the vain hope of saving themselves from financial ruin which defeat was sure to bring. Every confederate note represented far more than even its nominal value. It represented its portion of a life's struggle for pecuniary independence, with all the hopes and ambitions which cluster around such an endeavor. When the war ended the entire circulating medium of the rebels was blotted out of existence. Did we wisely endeavour to replace it? Not at all. On the contrary under the Sangrado system of Mr. McCulloch, we have been most actively engaged in draining the loyal States of their currency, and in refusing to give any to the South. We have not only shut off a much needed supply for the South and West, but carried out a system of contraction which has brought us near to general panic and bankruptcy.

There can be but little doubt that the present distress is caused entirely by the policy of contraction pursued by the Secretary, combined with a burdensome system of internal taxation and the terrible fears which the political treachery of this infamous Administration have given rise to. Let me, as simply as I may, present the actual facts in relation to this policy of contraction, upon which Congress so recently set a seal of condemnation.

In August, 1865, the public debt reached its highest point, and was made up as follows:

Funded debt	$1,109,568,191 80
Matured debt	1,503,020 09
Temporary loans	107,148,713 16
Certificates of indebtedness	85,093,000 00
Five per cent. legal-tender notes	33,954,230 00
Compound interest legal-tender notes	217,024,160 00
Seven-thirty notes	830,000,000 00
United States notes, (legal tenders)	433,160,569 00
Fractional currency	26,344,742 51
Suspended requisitions uncalled for	2,111,000 00
Total	$2,845,907,626 56
Deduct cash in Treasury	88,218,055 13
Balance	$2,757,689,571 43

Of these obligations, it will be noticed, $684,138,959 were a legal tender, to wit:

United States notes	$433,160,569 00
Five per cent. notes	33,954,230 00
Compound-interest notes	217,024,160 00
Total	$684,138,959 00

There were other items which amounted to over $30,000,000, and swelled the total volume of circulation to about $720,000,000. If we estimated the then value of the property and wealth of the Union as about $20,000,000,000, and allowed a margin of ten per cent. on this, as the amount necessary for moving the ordinary business interests of the country, we should have required a circulating medium of about $2,000,000,000. Yet we had less than half this sum, with the extraordinary demands presented by the condition of the South and the rapid development of the West, consequent upon the activity of the country being turned in that direction. What course was pursued by the head of the Treasury Department? Within twenty-one months Mr. McCulloch has succeeded in reducing the volume of currency from $720,000,000 to $570,000,000, a reduction of $150,000,000. At the same time he has paid considerably over $400,000,000 of the national debt. It would appear as if this financial management was part and parcel of the administrative and executive policy that seems to have been cunningly designed for no other purpose than national destruction.

Mr. McCulloch tells us in his report that his object has been to convert interest-bearing notes, temporary loans, and the bonds which were distinctly to be paid in "legal tender," into gold-bearing bonds and to contract the paper circulation by the redemption of United States notes. "This policy," the Secretary says, "he has pursued to his own satisfaction; and," as he believes, "to that of a large majority of the people." Of the first portion of the statement there can be no doubt. Mr. McCulloch is not a gentleman who will be likely to lose faith in his own wisdom and capacity. But the latter portion required a larger amount of egotism to make than did even the utterance of that remarkable harangue in which this financier stigmatized the Thirty-Ninth Congress as a "tinkering Congress." Sir, the restoration of rebels to power as the aim of the White House, and the destruction of the national prosperity as the chief result of financial mismanagement, are strands in a terrible rope twined by this Administration for the nation's strangulation. The Secretary makes this exhibit of the results of his policy of contraction and funding:

"Since the first day of September, 1865, the temporary loans, the certificates of indebtedness, and the five per cent. notes have all been paid, (with the exception of small amounts of each not presented for payment,) the compound-interest notes have been reduced from $217,024,160 to $71,875,040, ($11,560,000 having been taken up with three per cent. certificates;) the seven and three-tenth notes from $830,000,000 to $337,978,800; the United States notes, including fractional currency, from $459,505,311 51 to $387,871,477 39—while the cash in the Treasury has been

increased from $38,218,055 13 to $133,998,398 02, and the funded debt has been increased $686,584,800."

That is to say, we are now paying in gold an annual interest amounting to $37,440,288—equivalent to nearly fifty millions in greenbacks—more than we would have done had not this policy been pursued. It certainly involves no extraordinary amount of financial skill to sell six per cent. gold bonds, and seven-thirty currency notes. Neither does the buying of five per cent. compound interest notes, and the putting out of six per cent. gold bonds require much ability. It is a paying business for the holders of the currency debt—the national banks, speculators, money brokers of the trading and commercial centers; but it is an expensive and losing operation for the Government and the people. In short, Mr. McCulloch is putting this portion of the national debt into such shape that the interest is being largely increased, while it is absolutely necessary that the taxes shall be lessened, and as a necessary result the revenue be largely reduced. In the face of all this, the Secretary desires to contract the currency to an extent that will enable him to resume specie payments on the first of January, 1869. We would then have a debt bearing six per cent. interest, in gold, of $2,400,000,000, and a debt bearing five per cent. of $205,000,000, calling for an annual interest of $154,000,000. Add to this $150,000,000 more to pay the expenses of the Government, and we have over three hundred millions a year to meet, with a currency, coin and paper, of about five hundred millions. Our income from customs, with even the present high tariff, cannot be safely calculated at over one hundred millions. This would leave $200,000,000 to be obtained from a system of internal taxes. And if the people, with $750,000,000 of paper money, cry out against the present tax, what may be expected when they shall be called on for $200,000,000 a year in gold, and that, too, in the midst of the distress which will be experienced if we hurry prematurely to specie payment?

Mr. Speaker, I have no idea, however desirable it may be, that we are in any sense prepared for such a resumption. For myself, sir, I am not impressed with its necessity. Mr. McCulloch's (and the banking and money-broker interests he represents) general policy seems to include—

First. The funding or payment of the balance of interest-bearing notes and a continued contraction of the paper currency.

Second. The payment of the public debt in gold, or, as he chooses to term it, "the maintenance of the public faith."

Third. The collection in the Treasury of a large amount of gold, as a means of paying off the non-interest-bearing notes.

Fourth. The liquidation of the debt by a large annual payment, which will extinguish it in the course of a short period of time.

Fifth. The issue of bonds, to be known as the consolidated debt of the United States, bearing six per cent. interest, and having twenty years to run, into which all other obligations of the Government shall, as rapidly as possible, be converted; one sixth part of the interest at each semi-annual payment to be reserved by the Government in lieu of taxes, or paid over to the States according to their population, as a means of return to the payment of specie.

On the other hand, the financial situation may be thus briefly presented:

1. A national debt of $2,600,000,000, of which a little more than $375,000,000 are greenbacks and fractional currency, and $2,000,000,000 are, or soon will be if the present policy prevails bonds bearing gold interest, mostly at six per cent.

2. A national bank currency limited to $300,000,000.

3. A high tariff, the duties under which, payable in gold, are estimated at about thirty per cent. of the invoice prices of the goods. These duties, so far as needed, are pledged to pay the gold interest on the funded debt.

4. An elaborate system of internal revenue taxation, from which but few of our industries and only our humblest incomes are exempt, and the proceeds of which (currency) are designed to meet the general expenses of the Government.

5. An available balance in the Treasury of about twenty million dollars currency and eighty millions gold after paying the interest on debt up to January 1 of the present year.

Sir, this Congress has already closed the contraction account. The changing of the debt payable only in greenbacks into bonds, payable, according to the interpretation of the bondholders and this Secretary—so facile in their hands—in gold alone, has already received the general condemnation of the country. It benefits no one except the banker and speculator. It cheats the industry of the country by draining its resources, through excessive taxation, into the hands of the non-producing classes.

Mr. Speaker, a great deal is said about a "redundant" and an "inflated currency," whenever men talk about the necessities of business, the demands of enterprise, and the depression of all industries by the system now being pursued. I have endeavored to show how largely the whole volume of currency and coin in circulation is below the most moderate per cent. needed to move forward the business of the country. Let us look at the amount of the currency debt, as shown by a late exhibit of the Secretary of the Treasury:

Six per cent. bonds	$18,601,000
Compound notes (five per cent.)	62,249,360
Seven-thirty notes	285,587,100
Three per cent. certificates	12,855,000
Matured debt, not presented for payment	14,178,363
Greenbacks	356,212,473
Fractional currency	30,929,984
Total	$780,604,280

Of this amount the greenbacks and fractional currency, amounting to $387,142,457, only need to be let alone; and holders of compound-interest notes which bear five per cent. interest can profitably exchange them for three per cent. certificates, the latter being preferred by the banks.

Another item in Mr. McCulloch's plan is the collection of large gold reserves wherewith to pay off the legal tenders and other non-interest-bearing notes. Of that policy we have certainly had sufficient, or what might be more truly said none, for the gold collected by the department has been mainly used for the benefit of the "Bulls and Bears" of Wall street. The Treasury has long enough served as the gold brokers' exchange. The system pursued hitherto has only succeeded in disordering all values, and it has only benefited the fortunate few who, being within the ring, would know when the Secretary was intending to sell.

Secretary McCulloch desires to liquidate the debt within this generation. That is the plain, matter-of-fact statement of this scheme for accumulating large amounts to make annual deductions therefrom. I have no desire, Mr. Speaker, to do any such thing. We have borne the burden of the terrible struggle. We have given our best beloved to the sacrifice. The land swells with the graves of the dead who died for man. Wealthy money lenders secured a bonus of $800,000,000 profit on what they advanced the nation by payment of it in a currency whose deterioration was secured by their own operations. We wrote our own currency below par at their demands. We declared that the interest should be paid in gold, while the soldier who faced death as he went to the field was paid his scant wages in greenbacks, for the redemption of which all the values in the nation were pledged. Perhaps we could do no better. But I demand for the people that those who drove hard bargains out of their necessities should receive only the letter of their bonds. Let us equalize the burden. Put the larger share on that future which is to be so much benefited by our past and present toil and sacrifice.

The letter of the bond—that is all the people require; that is all they will give. The party which tries to do more in the interests only of the money-lender will go to the wall. What is the letter of the bond? The act of February 25, 1862, by which the first $150,000,000 of legal-tender notes were issued, says in these words:

"And such notes, herein authorized, shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and for all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes which shall be paid in coin; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interests as aforesaid."

"A lawful money" was thus created in which every debt could be liquidated, except interest upon bonds or duties on imports. The second section of the same act provides for issuing $500,000,000 of registered bonds—those known now as five-twenties. How were they to be paid? Here are the words of the law, and I do not find a line as to the money in which the principal shall be paid other than the lawful money previously authorized:

"These coupon bonds are to be issued to an amount not exceeding $500,000,000, payable in twenty years from date, and bearing a rate of six per cent., payable semi-annually."

The first section creates a "lawful money," making it a legal tender for all debts except interest and import duties. Why, then, undertake to force the law to another meaning? No, Messrs. Creditors, we stand on the plain intent and letter of the law. We should be greatly wronged if any other rule was followed. The bondholders who hold these five-twenties have already grown wide on their investment in the shape of freedom from taxation, premium in the gold paid for interest, and especially in the fact that they seldom paid more than forty per cent. for their bonds.

Mr. Speaker, a great deal of talk is had about speedy payment of national indebtedness. What we really need to do in the first place is to secure to the industrial needs of the land a stable circulating medium—enough in volume to move business forward, and so earn the means by which it must eventually be paid. That "medium" is not to be found in gold, yearly becoming more and more an article of trade, and having no intrinsic value outside of art and mechanics but what an arbitrary rule imposes. Gold may be used as the standard of value, but must not be made the currency itself. We need a circulating medium abundant and uniform, having the confidence of the people, and not one which renders us tributary to monarchical Europe and leaves our property to be reduced in value every time Bismarck's, Napoleon's, or Alexander's ambition may let slip the dogs of war. Such a medium we had in our "greenbacks."

The next step is to take the United States securities out of the market as matters of trade and make of them a matter of investment. The proper position of Government securities in the money market should be that of stable investment, and not of daily barter. We pay by far too large an interest. The interest rate might not have been too great when the risks of war were considered, but certainly with the assured stability victory brought and the grand material development opening before us we can command on a funded debt much more reasonable terms than those now paid. Let us fund bonds into a fifty year consol, at the rate of 3.65 per cent., a rate convenient for its easy calculation, giving, as it would, one cent per day on every hundred dollars. Let the five twenties, which are to be paid by the terms of the law in "lawful money," be paid as they mature in the money nominated in the bond, or give the bondholder the choice of receiving the fifty years' bond, bearing the beforenamed interest. So, as other forms of bonds fall due, let them be transferred in the same way. In this way there could be a simple and economical funding system carried out. The attempt to tax this generation for the purpose of at once pay-

ing off a great debt, incurred to secure permanent liberty and peace, having been definitely abandoned, the people would at once enter upon what is the normal and present duty, the development of means wherewith to pay the debt when it shall mature, and the creation of such means as will enable the Treasury to cancel from time to time such portions of the consols as it can buy in the market.

It is time that the attention of Congress and of the Administration was given to the promotion of the financial and industrial interests of the whole people, rather than of that portion which, patriotic as it may esteem itself to be, is none the less only the non-producing class. There are other interests in the land besides those of bankers, bondholders, brokers, and money-changers. It is Dickens who tells us of an English woman riding through the streets of London on the top of a stage coach for the first time, who was attracted by nothing but the narrow windows of the houses. She proved to be the daughter of a builder. The same analogy applies to the policy of Mr. Secretary McCulloch. He was doubtless an ornament to the banking business, but as Secretary of the Treasury, unfortunately for the country, he can be nothing else but a banker. The trading and banking interests have had more than their due showing, and it is time, if ruin is not courted, that the manufacturing and producing interests should be relieved and fostered. It has been my endeavor to show that this can be done, in great part, by means of an abundant and uniform currency, to be gained by the issues of national notes, or if the present banking system is too strong to be abolished, as it ought to be, then, by making it a free system, allowing all to participate in it who choose to obey the law's requirements. They must be made, in fact, to pay the Government for the privileges they enjoy and the profits they make, instead, as is now the case, making the Government pay them.

But there is another and crying necessity, that is, to relieve the producing and industrial interest of its present and intolerable burden of taxation. The all-important consideration in the framing of a revenue law should be the raising the greatest amount with the least possible injury to the producing class. To keep their interests in view should be the duty of legislation. The defect of the present system is, that it is based upon the upholding of the non-producers. In view of all that has been done and said on this subject, a statement of some simple but common-sense rules which should regulate internal revenue systems seem not to be out of place. Certainly a radical change is demanded. Congress must make it:

1. The burdens of taxation must, as before said, be imposed as lightly as possible on production and its processes. Tax the least we can and it is sure to be more or less oppressive. We cannot devise a revenue system which will not operate unequally in the collection and disbursement of its proceeds.

2. Taxation should principally be imposed upon accumulated wealth and not upon employments. An income tax is the most burdensome method of all. Continued in its present shape it would eat up all industries. Let us, then, tax accumulations, not incomes. Articles of luxury and indulgence, not of necessity, should be made to bear the chief proportion of the revenue required. The tax on such articles is more easily collected, or should be, if the appointees of the Administration could be controlled.

3. As little of the accumulated wealth as possible should be exempted from taxation for State and municipal purposes. The present system of bond exemption is ruinous to all industries. One of two things must be done, or both, if possible. Tax your bonds or fund them, reducing the rate of interest so low as to keep most active capital afloat in business enterprises and not locked up in these securities. Under our system a manufacturer or mechanic bears double share of taxation. Continue the present mode and it is fair to presume that the bondholders will in time absorb all the accumulated wealth of the nation, and the industrious class will have leave only to bear its burdens. Such a system will not long be tolerated. It is our duty to see this and to provide for an equitable readjustment.

Mr. Speaker, I shall first endeavor to secure by my vote such readjustment of the present national debt as will place it in the form of a forty or fifty year bond, bearing not a higher rate of interest than three-sixty-five per cent. or a cent per day on each hundred dollars.

Second. I shall vote for such measures as, in my judgment, will secure to the country a large volume of money. To accomplish this I would favor the payment at the end of the five years at which the Government has the optional right of redemption of at least one half of the five-twenty bonds in "legal tender" or Treasury notes, to be made "a lawful money" and receivable in payment of all debts.

I would vote at this time for the immediate issue of "greenbacks" equal in value "to the remaining matured and maturing debt which is payable, principal and interest, in Treasury notes, and so prevent the conversion of them into gold-bearing bonds as the Treasury is now actively doing.

Third. The repeal of the national banking law, if proposed, will secure my vote.

Failing in that I shall certainly vote to remove all restrictions, and allow banks to be set in motion wherever the people want them, requiring, of course, proper safe-guards. All measures which will make the banks pay the Government for the privilege of getting rich, instead of as now having the Government pay the banks, will receive my hearty support.

In addition to lessening the burdens of the people, opening all business, and renewing activities by affording a stable yet flexible and abundant currency, it will be my duty to urge upon this floor all measures which tend to aid internal improvements, thus stimulating development, and by its rapidity creating within so short a period as to be almost fabulous such an abundant wealth as will lift the great burdens of taxation and debt from the shoulders of even this generation. It is not in accordance with my convictions nor consistent with the duty I owe to my constituency for me to sustain the false idea of economy which seems to prevail with some gentlemen on this floor. Governments are not so much machines for saving money as for seeing that it is wisely expended.

The undeveloped wealth of the West, its great and fertile soil, from which many millions are to be sustained, and still more its immense mineral resources, only waiting the miner's skill, capital, and enterprise to wrench from the granite—these are alone sufficient, if the proper impetus be given, to pay the great debt the war piled up. In addition to the course before indicated it would seem to be the part of wisdom to aid the grand material progress of the land, so that the further shores of the continent may be bound in the indissoluble links of interest as well as consanguinity.

Mr. Speaker, any scheme looking to the final and even speedy payment of the debt and of the equitable adjustment of the burdens it imposes must wisely aid, by loaning the Government credit, the building of our great continental or Pacific railroads.

We want the Union Pacific completed at the earliest moment. We need and must have additional legislation by which the great central route, the Union Pacific, eastern division, may be authorized to continue its way westward along its present direct and axial line, opening and building up all that amazingly rich region of southern Colorado, New Mexico, Arizona, Nevada, and southern California until it reaches the Pacific coast.

In addition to these, any comprehensive scheme, which looks to the readjustment of our national burdens and the equitable aiding of our internal development, must take into consideration the erection of two other great roads to the Pacific; the one passing through the Northwest Territory and the other opening up and passing through the Southwest, draining Arkansas, Louisiana, and Texas, by the valley of the Gila river, through southern New Mexico and Arizona, and crossing the Rio Colorado to reach the Pacific at or near San Diego, California. This last continental route, in conjunction with one already projected in my own State, would undoubtedly form the main artery of the Southwest; and by the aid of thorough southern railroad systems and of those great railroads which will finally develop the vast resources of Mexico, it will undoubtedly drain the wonderfully rich silver regions of Chihuahua, Sonora, aud Durango, and by a great feeder terminating at Guayamas, on the Gulf of California, make all northern and central Mexico our tributary.

The Northern Pacific road would make tributary the British provinces on the Pacific coast. It would open that immense grain region lying east of the Rocky mountains known as the Valley of Saskatchewan or Red River of the North. Dakota would quickly become a State; Minnesota would prosper largely; while the mineral wealth of Idaho and Montana would startle the picayune economists by its magnitude.

Besides thus lending our credit to the development of our great territory to the west of the Missouri and Mississippi rivers, I shall urge that aid be granted to that other system of roads already empowered, the initial point of which is in my own State, but which must ultimately open the southwestern sea-board to the use of the farmers of the great interior plains. I refer now to that North and South system whose objective point is Galveston, on the Gulf of Mexico. The great plains stretching from the Rio Brazos, in Texas, to beyond the North Platte, in Nebraska, need a route by which to reach the sea-board within a shorter distance than they can either to the East or West. Only railroads can develop and populate these great interiors. With this rapid means of reaching the sea-board, and the securement thereby of a market for their grain, wool, and other staples, they will quickly repay all it may cost to aid them in creating their prosperity.

The South will need aid. Internal development on a grand scale is the primal necessity of our continental position. There can be no sectional policy adopted, least of all by the party which so far has preëminently represented the nation.

Sir, I shall favor at the proper time, as part of this general policy, the extension of Government aid, in the form of credit or otherwise, for securing the rebuilding of the Mississippi levees, so that the vast and fertile region now subject to overflow may again be made of value to the nation by the abundant harvests of cotton, sugar, and other crops it can produce. When the southern States are represented here by loyal men, when their home affairs are administered by loyal officers, which will soon come to pass, I shall favor a generous policy toward them in the matter of land grants for railroads or other reasonable purposes.

Sir, with economy in expenditures, justice in taxation, an abundant and equable volume of money, adjusting itself easily to the needs of the country; with the burden of the national debt laid more equally on the future as well as the present; and above all, with a generous and wisely comprehensive policy and system of internal improvement, may we not fairly hope to enter upon an unexampled and wonderful career of national prosperity? With equality before the law; with no slave and no caste in the land; with both oceans and the gulf and lakes linked together, bringing to our midst the wealth of the world; and with a hearty welcome and full protection to all who come to us, and prosperity to all who labor honestly; with education as abundant as bread, and an open field for all worthy ambitions, may we not, looking into the near future, see soon and surely the great American Republic standing august and honored as no other land has ever been among the nations of the earth?

Mr. BLAINE. The questions involved in paying off the five-twenty bonds, Mr. Chairman, are surrounded to a considerable extent with gratuitous misrepresentations of heated partisans, and to no small degree, I fear, with honest misapprehensions on the part of those who desire the maintenance of the public credit untarnished and inviolate. Having addressed the House at some length on this subject at the opening of the session, I desire now to add a few words by way of appendix and possibly of explanation of some errors which are industriously disseminated through the country.

First. Many persons seem to imagine and many Democratic papers have deliberately stated that a proposition has been made in Congress to pay off the five-twenty bonds in coin at this time, while gold commands a heavy premium over greenbacks. And on this groundless premise many honest-minded men wax exceeding wroth, and cry out with proper indignation against the bondholder having gold when the pensioner, the soldier, and the day-laborer have to take greenbacks for what is due to them. Now, to all persons afflicted with this error, let me say that no man in Congress has been fool enough or knave enough to propose that the five-twenties be paid in gold *a single day before the greenbacks shall be paid in gold likewise.* The man who holds a greenback holds the Government obligation to pay in gold just as much as a man who holds a five-twenty bond, and it would be just cause of complaint if the Government should anticipate the payment of the five-twenties in gold before it is ready to pay the greenback in gold also. The first series of the five-twenties will not fall due until May, 1882, more than fourteen years from this time. Long before that date is reached we shall be on specie-paying basis, and every holder of a greenback will be able to secure gold for it at his option, and then there will no longer be any objection to paying the bondholder in gold also. Nor, indeed, on the other hand, will the bondholder then object to being paid in greenbacks, as the two kinds of currency will then be convertible and coequal.

Second. Those who clamor for paying off the five-twenties in greenbacks at this time, on the ground that money which is good enough for the pensioner, the soldier, and the day-laborer, is good enough for the bondholder likewise, seem to forget that the process by which they would so easily get rid of the bondholder involves most destructive consequences to the pensioner, the soldier, the day-laborer, and every other person who owns, handles, or uses greenbacks. It is palpable and admitted that the five-twenties cannot be paid off in greenbacks without a very large inflation of the currency, and to inflate the currency is to render each particular dollar worth so much less, to rob each particular dollar of its purchasing power to the precise extent that the inflation is carried. And if this inflation be carried to the $300,000,000 of new and additional issue advocated by the gentleman from Massachusetts, [Mr. BUTLER,] in his elaborate speech a few weeks since, the result must be ruinous and distressing in the extreme to pensioners, soldiers, day-laborers, and all other classes whose means are limited. Indeed, with the amount of inflation named, I confidently believe that the classes of citizens to whom I have referred and all others similarly situated would be deprived in effect of nearly one half of what they now receive. To my mind no more ingenious and certain way of robbing the class who have small fixed incomes or who work for daily wages could possibly be devised than to pay off the five-twenty bonds in greenbacks, procured by an additional and inflated issue. On the other hand, if no mischievous delusion of this kind be resorted to, we shall, without any further contraction of the currency, and without any financial convulsion, gravitate steadily and safely toward specie payment. We shall thus, without diminishing the present volume of greenbacks, be continually enhancing their purchasing power, making the money of pensioners, soldiers, and day-laborers far more valuable to them, month by month and year by year, and in the end render a paper dollar the full equivalent of a gold dollar. Then, when the Government shall be paying its greenback creditor in gold, there will certainly be no objection to paying the bondholder in gold also; *and no one proposes to do it a day earlier!*

Third. Does any sane man doubt that the inflation of the currency would speedily result in its depreciation? If so, he shuts his eyes to the prominent facts of history, to our own experience as a nation, and to the plainest deductions of common sense. An excess of irredeemable money at once raises the price of all commodities necessary for daily consumption. Clothing becomes higher and food becomes higher without a corresponding increase on the part of those of limited means to purchase these articles. The rich can stand it, but what would become of the poor? The man who lives by his daily toil would find the necessaries of life run up in price far beyond any increase he could hope to secure for his labor; and it would soon become a struggle for existence with him and his family. I do not think any imagination can picture or foretell the misery that would be inflicted on this country if the currency should be inflated to the extent necessary to pay the five-twenties in greenbacks, as advocated by the gentleman from Massachusetts, [Mr. BUTLER,] and the gentleman from Ohio, not now a member of this House, [Mr. Pendleton.] And in this connection I desire further to say that it is an immense delusion to attribute any of the dullness now prevalent in business circles to a scarcity of money. We have over seven hundred million dollars of paper money now in circulation, nearly three times as much as the entire bank circulation of the United States prior to 1861, while it is quite notorious that the money markets in our chief business centers were rarely known to be easier, or more abundantly supplied than during the whole of this winter. Moreover, business of all kinds in France and England at this time is far duller than with us; and yet, in both those countries the plethora of money is in excess of what was ever known before. The Bank of France alone holds a surplus of $200,000,000, and a corresponding amount is held in the bank of England, and by the large banking houses at Frankfort on the Main. In view of these facts it seems to me that no delusion is so absurd as to suppose that any relief could come from an inflation of the currency. Misery, wide-spread and hopeless, would be its only and inevitable result.

Fourth. Nor do I see how any gentleman can consistently propose an inflation of the currency in the face of an express and solemn pledge to the contrary by Congress. When the Government was very hard pressed for money, and when the great fear was that our whole financial fabric like the continental system of our revolutionary ancestors, might be utterly and hopelessly ruined by a deluge of paper money, Congress, by deliberate enactment of June 30, 1864, pledged to all the public creditors that "the total amount of Treasury notes *issued or to be issued* should never exceed $400,000,000." We are now within $40,000,000 of that amount, and if we were ever so eager to pay off our five-twenties in greenbacks we are absolutely estopped by the $400,000,000 pledge. If we disregard that pledge we might just as well trample on others and take a short cut at once to repudiation and national bankruptcy. A Government that will disregard one solemn pledge cannot expect to be trusted on other pledges.

Fifth. Being thus estopped from procuring greenbacks by an additional issue, where else can we secure them for the purpose of paying off our five-twenty bonds at this time? We have no surplus in the Treasury available for this purpose, and there remains but one resource, and that is to secure them by taxation. But do the people desire at this time to be taxed for the purpose of anticipating the payment of a debt which does not fall due for more than fourteen years to come? The general, I may say universal, demand from the people is for a reduction of taxes to the lowest point consistent with a rigidly economical administration of the General Government; and, for one, I am in favor of the repeal and removal of every tax that can possibly be dispensed with—especially those taxes that hinder and embarrass the manufacturing and productive industry of the country. With the taxes thus reduced we can certainly hope for no surplus to apply to the redemption of the five-twenties, and it would seem to me an intolerable burden and an inexcusable folly to lay taxes on the people at this time for the purpose of anticipating the payment of a large portion of the entire national debt. It is enough, in all conscience, to pay the interest; and it seems little short of madness to propose levying taxes for the purpose of taking from the pockets of the people a sufficient amount of greenbacks to anticipate the payment of a large share of the principal!

Sixth. There is in the United States to-day an amount of gold and silver coin variously estimated at from two hundred and fifty to four hundred and fifty million dollars, every cent of which is as useless for purposes of a circulating medium as though it were all buried in the depths of the ocean. To inflate the currency is to increase the premium on gold and remove it still further from sight. But if we do not destroy our currency by a wild inflation we shall, within a brief period, reach a point where paper will be the equivalent of gold, and then this vast amount of specie will at once spring into circulation. There is no danger of inflation from an excess of gold and silver, because the laws of export and of supply and demand resulting from our commercial intercourse with other nations will always maintain a just equilibrium in the matter of a specie currency. The danger of inflation, with its manifold and multiplying evils, arises only when we have an irredeemable paper currency, which cannot be used to pay a single dollar that we owe abroad, and whose permanent existence is an anomaly—at war with all the interests of commerce and trade. As soon as we reach the point where the Government is able to pay gold for its greenbacks we shall thereby and at once call the whole mass of gold, now so securely hoarded, into the channels of circulation, to quicken industry and give stability to our financial system. Is not that a far better and wiser course than to inflate our currency by a forced attempt to anticipate the payment of our five-twenties, and thus launch our whole country on a wild career of paper money, in which speculators will make enormous fortunes, and in which rich men will uniformly grow richer, but in which the poor will be ground down to absolute beggary, the men of moderate means deprived of their resources, and the day laborer be utterly unable to subsist on the fruit of his toil? This era of speculation, with all of its evils, would be the direct result of that policy which clamors to-day for the payment of the five-twenties in greenbacks—the greenbacks to take care of themselves when they have done their work of financial ruin—leaving us a bankrupt people with a dishonored debt and a debased, unredeemed and irredeemable currency. The other policy, which I have done my utmost to support and uphold, is to pay both bond and greenback in gold—not now, but in our own good time—and not to pay the bond in gold until after the greenback shall be paid in gold likewise. In other words, the policy which I advocate is to bring our entire currency in due season, without haste, without rashness, without contraction, without financial convulsion, up to the specie standard; calling into circulation the vast amount of gold and silver which now lies hidden and buried—having all our business conducted on a safe and secure basis, when labor shall meet with its full reward, when every man will know what he is dealing in and how much he is worth, and when the

entire country will rejoice in an abundant circulation of both gold and paper, in which paper will be as good as gold and gold no better than paper.

PROTECTION TO AMERICAN INDUSTRY.

Mr. BROOMALL. Mr. Speaker, some days ago I had the honor to offer in the House of Representatives, and have referred to the appropriate committee, a joint resolution proposing an increase of twenty per cent. upon the duties now imposed by law on imported wines and liquors and manufactures of iron, cotton, wool, and silk. I did not do this with the idea that such change would remedy all the defects in our present system; but I have for some time despaired of seeing any general revision of the tariff laws, with the view to checking importation and protecting domestic industry, during the present session, and I hoped my proposition might lead to something in the proper direction, some concession to the universal demands of the languishing manufacturing interests of the country.

I do not wish to be understood as at all inclined to censure the Committee of Ways and Means for delay in this matter, as to impute to that committee any disposition to neglect these great interests. The bill about to be reported, revising the internal revenue system, abolishing the tax on manufactures, except that on distilled spirits and on a few articles of luxury, would negative any such imputation. I know the difficulty and the delay attendant upon the perfecting of any general system of internal revenue or of customs. All the business interests of the country are affected by changing laws of that character, and courtesy requires that representation from all of them should be heard before the committees of the two Houses if they desire it. In this way almost the entire session of Congress is usually lost, and the bill, when reported, unless commanding the votes of such majority as is required to dispense with all rules of legislation, will suffer the fate of the excellent tariff bill of the last session; that is to say, will fail for want of time within the entire term of a single Congress to pass it.

These considerations have led me to prepare a bill of a single section devoted to adjusting the duties upon a few great leading articles, embracing a large proportion of the importation, and coming most in competition with the skill and labor of our own citizens. It will be perceived that the proposed measure has two objects, one of which is the alternative of the other—to increase the revenue derived from foreign commerce, or by decreasing importations to enable our own industry the better to bear the weight of internal taxation. Both of these may be combined in the general object of increasing the aggregate revenues of the Government without increasing the burdens upon our own citizens.

If the result shall be, as no doubt it will, to lessen importations, then, without considering the interests of American producers, very great good will be achieved. The alarming extent to which our national securities are going abroad to pay the balance of trade at the rate of seventy cents to the dollar, leaving the Government to pay at some time the entire dollar, thereby paying thirty cents of it for no consideration whatever, either to Government or people, admonishes us to seek an expeditious remedy, though it may not be a perfect one. Add to this the fact that a large proportion of the commodities purchased abroad at so ruinous a rate had better, for the interests of the country, be sunk in mid-ocean, after being paid for, and the fact that still another large proportion when brought here stops our workshops, our factories, and our mines, turning the laborers adrift to starve or to overcrowd other branches of labor, and any reflecting man, not interested in importing, will be forced to ask himself the question whether our entire foreign commerce is worth its cost. He may be led to suspect the wisdom of that policy which builds up the vast commercial cities of which we are prone to be so proud.

I confess that what I most desire as the result of the proposed measure is the lessening of importation. But suppose this should not follow. Then at least the revenue derived from custom will be very largely increased, and the internal taxes may be correspondingly reduced. In this view of the subject I turn to the inquiry, who pays the duty? the consumer or the producer, or both? This is an important question. Ordinarily it might not seem equitable for us to throw the burden of our Government and the payment of our national debt upon the labor and capital of countries with which we deal. But when we remember that the magnitude of our debt, the great necessity for taxation, is owing, in a high degree, to the encouragement given to the late rebellion by the very foreign people with whom we chiefly deal; that but for their overhaste to recognize what they hoped to be a new-born nation we should now have far less necessity to impose burdens upon their labor or ours, we can have no scruples of conscience against levying a tax upon the foreign allies of the late domestic foe, if we can. We cannot be blamed for the attempt to put a part of our debt, if we can, upon the shoulders of those who did so much to cause it. Let any American read the history of the rebel pirate Alabama, and then say whether we shall not, if we can, impose some of the cost of ridding the seas of that scourge and the losses we suffered by her upon her builders and furnishers and their friends. The most ardent American advocate of free trade would hesitate before abandoning at least the effort to levy a foreign tax to some small portion of the extent of the foreign injury. But he is made to believe that this cannot be done. Free trade leagues, with active and wealthy centers in the commercial cities, have spread their theories far and wide, and have persuaded the agricultural West that it is the consumer alone who pays the tax; that the function of the producer is simply that of a collector, who differs from other collectors only in the fact that he pays the Government in advance. Hence the western opposition to high duties upon imports.

I am aware that this is the doctrine of most writers upon political economy, and the arguments upon which it is based are specious and plausible. But are they sound? Who complains of the tax upon whisky? Not, surely, the consumer. Who complains of the tax upon cotton? The planter. Who complains of the tax on manufactures? The manufacturer. Pending the passage of an internal revenue bill Congress is besieged by representatives from all the producing interests in the country, while in every case the consumer acts, at least, as if he had no interest whatever in the question of taxation.

The very western and southern preachers of free trade, who tell us in one sentence that the consumer pays the duty, in the next beg us to exempt their particular article of production, tobacco, whisky, or cotton, from taxation. If the tax falls upon the consumer why need the producer care what amount is imposed? I can well understand that a just man would remonstrate against an unfair burden being inflicted upon another; but it will be long before the Christian world is made to believe it to be out of tender regard for the interests of the drunkard that the distiller objects to the tax upon whisky.

Why does England desire us to receive her commodities free of duty if we pay the duty ourselves? What difference can it make to her how we collect our own revenue from our own citizens? We entered into the reciprocity treaty with the avowed object of getting our productions into Canada free of duty. Why did we do this if the Canadians pay it all? We terminated the treaty because the experiment showed us that it failed in its object. How shall we explain our own conduct upon free trade theories?

Thus it is that everywhere the producer, whatever he may say, really believes himself to be interested in the question of taxation upon his product. Reason as we may, the great fact still remains sternly in the face of free trade theories, that wherever an article of production is taxed the maker of it is the first, and often the only one, to complain.

I do not, therefore, say that no part of the tax or duty is added to the price to be paid by the consumer. It is quite enough for my purpose that it is not all so added; that a portion of the burden, varying according to circumstances, falls upon the producer.

I have said that the arguments supporting the position that the consumer pays the duty are plausible, but the position itself is contradicted by every man's experience, by the uniform testimony of both producers and consumers, taking their acts and not their words as evidence. It may be curious to inquire wherein consists the fallacy of the arguments. The entire case of the supporters of this theory may be stated in short thus: the price of a commodity in the hands of the consumer consists of the cost of producing it added to the cost of delivering it to him. A tax imposed upon the commodity, in any stage of production or delivery, increases the cost of one or the other process exactly the amount of the tax. Hence, the consumer, in paying the increased cost in the price, pays the tax.

Now, I deny that the price of a commodity in the hands of the consumer consists only of the cost of production and transportation. Among producers and carriers there is every variety of energy, enterprise, reputation, capital, and local advantages. Some make enormous profits, others less, and still others barely live. Those who labor under the greatest difficulties and still continue producing or transporting must live, and therefore the cost of production and transportation to them and not to the most fortunate or even the average must constitute the price to the consumer. The difference in cost among producers and carriers is what constitutes the profits of the more fortunate ones. No man sells his commodity cheap because it costs him little. He sells it for what he can get, and that, as a rule, is what his neighbors get. The laws of trade fix prices simply by driving everybody out of the business who cannot live at it, and that of necessity makes the price, as a rule, equal the cost to those who remain in the business, and barely live at it.

A tax imposed at any stage would enter into the cost of the commodity, and if it did not decrease the consumption of it would enhance the price exactly the amount of the tax. But there is no article of such prime necessity that an increase of its price will not lessen its consumption. Some substitute will be found, as in the case of coffee; or, if that cannot be, greater economy will be exercised in its use. In one way or the other the demand will be lessened, and the producers, to obtain a market, must sell at lower figures. Those who made large profits will now make smaller ones; those who made small will now make none, and those who made none will now be driven out of the business altogether.

In the absence of all other disturbing causes, the imposition of a tax or duty upon the commodity at any stage will decrease the price to the producer and increase it to the consumer; but in neither case to the whole amount of the tax. As a rule, the tax falls partly upon the one and partly upon the other, a variety of circumstances in every case fixing the amount to be paid by each.

This whole matter is very plain and simple when not complicated by ingenious theories got up in the interests of foreign producers and importers. The duty enhances the price; this lessens the consumption, and therefore the demand. If the supply continues the same for even a short period the market is glutted and the price falls. After fluctuating or oscillating it accommodates itself to the new condition of things—a smaller production—and therefore at less profits; a higher ultimate price, and there-

fore a smaller consumption. In short, whatever increases the price diminishes the consumption, and therefore renders the business of production less profitable; that is to say, costs the producer part of his former profits.

This accounts for the behavior of producers in anticipation of a tax or duty. It explains the interest which one manufacturing people manifests in the tariff laws of another, and it renders intelligible the eagerness with which such people make commercial treaties by which their goods are admitted free of duty into other countries. These things, and many others, would be wholly inexplicable upon the opposite hypothesis.

We can, therefore, levy a tax upon foreign producers in aid of our public burdens. We can make foreign countries bear a share of the debt which they assisted to create; and who will say that we ought to spare them at the expense of our own loyal citizens? While we are obliged to impose grievous burdens upon producers, who will say that we ought to discriminate against those of our own country? If we can afford to make special exemptions from taxation, who will say that we ought to make them in favor of those who not only turned coldly from us in the day of our trouble, but who stabbed us in the back while we grappled with our deadly enemy?

Let us now devote some attention to the other alternative, the hypothesis that the result of the proposed legislation will be the lessening of importations and consequent stimulation of domestic production.

The most serious objection is made to the imposition of duties upon imports of such commodities as are also produced here. It is not surprising that the foreign manufacturer and the importer should single out that class of duties as the most objectionable. When a domestic substitute, nearly as good or nearly as cheap, stands ready to take the place of the foreign, any increase of price of the latter will much more surely and speedily reduce its consumption. But the special objection is not limited to these interested parties. Our own advocates of free trade, who represent, or pretend to represent, the interests of the consumers, are equally loud in denouncing as the most iniquitous of all imposts those which operate to the advantage of the domestic manufacturer. Now, there is no consistency in this. The existence of a domestic substitute, while it is a peculiar injury to the foreign producer, is a benefit to the American consumer. It lessens the price of the foreign article. It causes a greater proportion of the duty to fall upon the producer and a less upon the consumer.

Under a given amount of duty an import will command a higher price without the existence of a substitute than with. Who doubts that under a duty of sixty per cent. railroad iron would be higher here if there were no iron mines in America? The consumer ought to be the last to complain of the fact that railroad iron can be made here. He ought to be the last to complain of the imposition of a high duty upon that product, rather than upon one of which there is no home supply or substitute. The fact that such complaints are made by those who ought rather to be thankful does credit to the thoroughness of our foreign free-trade teaching. The lesson has been well learned when the proselyte is made to complain of that which benefits him, and only injures his teacher.

It is a great mistake to suppose that the interests of the great West are subserved by free trade. I grant that certain products can, just for the present, be obtained from abroad at a less cost than that of making them in the Mississippi valley; but the cost of transportation is a large item in the price of all commodities, and that item can be lessened or avoided by bringing the consumer and producer together. All other things being equal, prices are least in the countries where productive labor is the most diversified, because in those countries the item of transportation is the smallest. What the West wants is a home market; and to make that diversity of production is necessary. The true statesman will not limit his view to the immediate present, but will look to the lasting interests of his country. Where the raw material is produced just where the manufactured article is needed the system by which a transportation of six thousand miles is required to convert the one into the other must be a bad one; and, as business is now done, wool is produced in Iowa, carried to Europe, put into the hands of workmen fed upon breadstuffs raised in Iowa, and there made into cloth to be brought back and worn in Iowa. It is difficult to see that this is not bad economy. Why should Missouri and Illinois, with their immense resources of coal and iron, produce corn and pork to be carried thousands of miles to feed workmen there while they make railroad iron to be brought home and laid over the very beds of the raw material? Why not bring the laborer himself to the spot where the product is needed, and where its constituent elements are found? Take the material to him, and we do it at our cost. Bring him to it, and he comes at his own.

But I will be asked, how is the workman to be got there? I answer by showing him he is wanted. Labor like everything else finds its way by the laws of trade to the place where it is most needed, because there it commands the highest price. I know that the transportation of labor, though a cheap process, is a slow one. It needs stimulating; it needs encouragement. Proper inducements held out will greatly accelerate the process.

In fact, the laborer is already on his way to the iron and coal beds of the West. Proper encouragement in the past has already brought him three thousand miles of the distance. This is hopeful. Why not continue the encouragement? Why seek in the interests of foreign producers and importers to drive him back again?

Every advantage secured to manufacturers in the East is a step toward obtaining them in the West. They can only travel westward through prosperity in the East. Break them down in Pittsburg and Lowell, and they will never find their way to the Mississippi valley. My native county is studded all over with manufacturing villages, and breadstuffs command a higher average price there than in the Philadelphia market. This results from the fact that the producer and consumer are immediate neighbors, and the cost of transportation is almost nothing. Now, it is for the West to say whether she will continue to carry her agricultural products three thousand miles to market or bring the consumer to her own doors. One is the result of free trade and the other of protection.

But the wants of the Treasury are such that the old controversy about protection and revenue tariff may be looked upon as at an end, at least during the present and some coming generations. All tariffs must be now strictly for revenue, and, if fairly so, they will be sufficiently protective. Whatever system will raise the greatest amount of money must, of necessity, be adopted. This, however, is by no means the one which will produce the largest revenue from commerce. The internal revenue must be taken into the account, and the greatest aggregate might arise from the system which produced the smallest amounts from imports. During the year ending June 30, 1866, less than one third the entire revenue of the Government arose from customs, $179,000,000 out of $558,000,000, during the previous year about one fourth, $85,000,000 out of $334,000,000, and during the subsequent year $176,000,000 out of $490,000,000. The internal revenue is, therefore, much the more important, and a large part of it consists of taxes levied upon domestic products. By destroying these we might, and would, certainly reap a larger income from imports, but the Government would be vastly the loser in the end.

By lessening the duties upon such imports as come into direct competition with the manufactures of our own country importation would be stimulated and a larger customs revenue raised, but the internal revenue from the domestic product would be much more than correspondingly decreased. The business interests of the country are so interwoven that any check to production in one department will operate disastrously in many, if not most others. There is not only the loss of the tax that might have been levied upon the product immediately affected, but the loss of what might have been raised upon a dozen others directly or remotely connected with it.

The advocates of protection will be well satisfied if the tariff laws are so adjusted to the business of the country that the largest possible revenue in the aggregate shall be raised without increasing the rate of internal taxation. Such laws must necessarily be sufficiently protective unless they are ingeniously contrived in the interests of other countries to discriminate against our own skill and industry.

While the necessity for the protection of our own manufactures against foreign competition has been usually held to arise from their infancy, and therefore to be temporary, yet I apprehend that that necessity will always exist until foreign labor generally shall arise to the dignity of that of our own country. The cost of labor consists of the cost of maintaining those who live by their labor and consume their entire earnings. A day's average labor to the employer costs the maintenance of an average laborer for a day, including his proper share of the expense incident to childhood, old age, and sickness. This cost depends very much upon the manner in which the laborer lives, and that again depends very much upon the habits of his class and the real or imaginary necessities which surround him.

If the laborer has no part in the Government; if all the voting and regulating of public affairs are done by the employers, then with the best intentions in the world there will be constant discriminations against labor, and the cost of living to the laborer will be reduced to the lowest scale. On the other hand, when the laborer votes, public affairs will naturally shape themselves to his interests. He will surround himself with comforts and even with luxuries, and they will enter into the cost of his living on the footing of necessities. In no European country has the laborer such voice in the Government as here. Here the vast majority of the voters are laborers. While this distinction continues the Old World must underwork us. If we were disposed to reduce the cost of labor here to that in Europe, the political influence of the laborer would render it impossible.

The time will come when all this will be changed. I have great faith in the cause of human progress. Once the laborers were slaves in all countries now calling themselves civilized. Gradually, though slowly, and during ages and centuries, they have risen to be freemen. Singularly enough this consummation has been achieved almost simultaneously and very recently in the two extremes of human associations, the most absolute of monarchies and the most liberal of Republics—Russia and America. But the end is not yet. In all countries the right of ruling is still limited to favored classes. The difference in favor of our own country—and it is great in its bearing upon the dignity and power of labor in the State—consists in the fact that the ruling class here embraces nearly the entire people. The time is coming when in all civilized countries the capitalist and the laborer, the employer and the employed, will be fellow-rulers, equal not only under the law but in the making of the law. Then, and not till then, can we afford to give up the idea of protective duties. Until then we cannot intrust American labor to free competition with that of the world. Until then we must compel the nations with which we deal to put their commodities on a footing as to cost with ours, by paying our Government in duties what they ought to have paid their workmen in wages.

Mr. HOLMAN addressed the House. [See Appendix.]

Mr. LYNCH. Mr. Speaker, the present condition of our national finances largely absorbs public attention. Various and very important questions relating thereto are agitated in the country and in Congress.

The present situation is admitted on all hands to be unsettled and unsatisfactory. All desire and expect a change, and in the main it is agreed that the change to be made should be a change from an irredeemable paper currency to one redeemable in gold and silver; that we should reëstablish for our currency the recognized standard of value of other nations by a resumption of specie payments.

In the interest of this change I propose now to speak, and shall endeavor to show that something, that much, may at once be commenced and carried out to bring about the desired result.

I do not propose at this time to discuss the question as to whether our five-twenty bonds are payable in currency or coin; for this question I regard as of really no practical importance. Of no practical importance, I say, for our currency is to be made redeemable in coin, is to be redeemable in gold and silver according to the national promise borne upon its notes, and a currency redeemable in gold is the equivalent in gold—as good as gold itself.

Nor is our financial condition to be improved by attempting at this time to fund in new form our public debt; for we cannot advantageously fund our debt until our credit is improved. Our credit is now in the markets of the world at thirty per cent. discount; our best bonds are worth, where they sell for gold, only about seventy cents on the dollar. Before we attempt a new loan, for the purpose of retiring the old one, we must first of all bring the value of our currency, which fixes the value of our bonds, to a par with gold and silver.

I believe our present financial condition may be immediately improved, and shall attempt to show how it may be done. In order, however, to do this the more successfully, it is necessary that I call the attention of the House to the means by which the present situation was reached. A review of the financial policy adopted at the close of the war, and continued nearly to the present time, may make plain and lead us to avoid, in the new policy about to be adopted, the mistakes and errors of the old, which I trust has been at length finally discarded.

Mr. Speaker, on posting the books at the close of the rebellion the nation found itself a debtor to the amount of nearly three thousand million dollars, but with unlimited resources, while its creditors were willing to accept the lowest rate of interest for the longest term of payment.

The withdrawal of a million of men from the pursuits of labor, and the demand for material to sustain them and to supply the destructive consumption of war, had stimulated every branch of productive industry and quickened all the currents of trade. Accumulated stocks of merchandise had been greatly reduced; prices were consequently high and labor in active demand; in fact, more fully employed and better remunerated than ever before in the history of the country. The disbursements of the Government had reached every corner of the land, and replenished the pockets of the humblest of its citizens. The people had become more free from debt than ever before. They also had for the first time a sound national currency; not a mere representative of the indebtedness of the people to each other, but the evidence of an actual loan by the people to the Government, and although not immediately redeemable in gold amply secured by the indorsement of the nation's faith. With the return of peace, confidence in the future was restored. The great army of consumers and destroyers was rapidly changed into an army of producers; the price of gold went steadily down from one hundred and eighty to twenty-five per cent. premium, and the laws of trade were fast settling the business of the country on a solid foundation.

But, sir, notwithstanding this prosperous condition of the country, it was contended by many financial writers that our apparent prosperity was a delusion—our supposed wealth a sham; that the legal-tender currency of the Government, which had hitherto answered all the purposes of money, which had carried us through the war, and operated so wonderfully in developing our resources and stimulating the industry of the country, would become worthless if it remained in circulation; consequently, it must be retired, and bonds bearing interest must be substituted in its stead. This currency would if not retired, we were gravely told, become as worthless as the continental money of the American Revolution, or the assignats of France. But, how the Government, unable to pay notes bearing no interest, would be better able to pay them changed into notes bearing interest, I think the advocates of this policy never condescended to explain. It was further contended that it was necessary to check business by withdrawing the means necessary to its prosecution; to reduce the price of merchandise by reducing the cost of labor essential to its production—all this in order that speculation and the financial revulsions, which naturally follow in the wake of speculation, might be prevented. In other words, it was deemed necessary that the business of the country should be placed under the guardianship of the Government to prevent its self-destruction.

The present Secretary of the Treasury first publicly foreshadowed the financial policy of his administration in his celebrated Fort Wayne speech in October, 1865. The principal feature in this policy was the contraction of the currency, for the avowed double purpose of returning to specie payments and exercising such control over the business of the country as to prevent a financial collapse. The adoption of this policy was urged in the first annual report of the Secretary of the Treasury, submitted to the Thirty-Ninth Congress on its assembling in December, 1865. In that report, speaking of the acts authorizing the issue of United States notes, (greenbacks,) the Secretary says:

"But these acts should be regarded as only temporary, and the work of retiring the notes issued under them should be commenced without delay, and carefully and persistently continued until all are retired."

Speaking of the condition of the country, he says:

"If the business of the country rested upon a stable basis, or if credits could be kept from being still further increased, there would be less occasion for solicitude on this subject. But such is not the fact. Business is not in a healthy condition; it is speculative, feverish, uncertain. Every day that contraction is deferred increases the difficulty of preventing a financial collapse. Prices and credits will not remain as they are. The tide will either recede or advance; and it will not recede without the exercise of the controlling power of Congress."

And then recommends:

"1. That Congress declare that the compound-interest notes shall cease to be a legal tender from the day of their maturity.

"2. That the Secretary be authorized, in his discretion, to sell bonds of the United States, bearing interest at a rate not exceeding six per cent., and redeemable and payable at such periods as may be conducive to the interests of the country, for the purpose of retiring not only compound-interest notes, but the United States notes." * * * *

It will be observed that the policy here announced had not for its object the funding of the public debt nor the providing of ways and means for the support of the Government. The avowed object in adopting this policy was to regulate and control the business of the country by a discretionary power to be exercised by the Secretary of the Treasury.

At any other time in our history previous to the rebellion the bare proposition to place the whole business interests of the country under the supreme control of an officer of the Government, by granting him unrestricted power over the currency, and thus enabling him to effect at will all values, the price of merchandise and of labor, the value of stocks and of debts, would have startled and alarmed the country, and would scarcely have received the support of a single vote in Congress. But, sir, so accustomed had we become to the exercise of large discretionary powers by the Government during the war that we had come to accept unquestioned any policy it might adopt. Strange as it may now appear, in the light of subsequent experience, this policy of the Secretary of the Treasury was, on the 8th day of December, 1865, indorsed by this House in the passage of the following resolution, with but six dissenting votes:

Resolved, That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interests of the country will permit; and whereby pledge coöperative action to this end as speedily as possible.

This decided indication that Congress would adopt this policy of allowing the Secretary of the Treasury to contract the currency at discretion had a very disastrous effect upon the business interests of the country. Business experience and sagacity were no longer to be of any avail in calculating the chances of the future, as neither the laws of trade nor even the laws of the land were thereafter to govern business, but all was to be left to the will or caprice of a single man.

As might have been expected, confidence in the future was destroyed. New enterprises were abandoned and all business operations curtailed. As money was to be made dearer and merchandise cheaper, men kept their money for the rise instead of using it to produce merchandise, which was to fall. Capital accumulated in the financial centers, and was loaned at low rates of interest on call, stimulating stock speculations and gold gambling, occupations which thrive on the very uncertainties and fluctuations that are distinctive to all legitimate trade.

Following out the implied instructions of the House, as indicated in its vote on the resolution referred to, the Committee of Ways and Means reported the loan bill, a bill conferring upon the Secretary of the Treasury unrestricted power over the currency, and with the authority, already exercised by him, secretly to sell gold, placing all the business interests of the country absolutely under his control. This bill was, after a very full discussion, defeated on the 16th of March, 1866, by a vote of 70 to 65. The disastrous effects of the threatened contraction of the currency upon business had become so apparent as to change public opinion in regard to its policy, and to increase against contraction to 70 the vote of 6 which was found at the commencement of the session.

A bill was subsequently reported authorizing contraction to the amount of $10,000,000 for the first six months after it went into operation, and at the rate of $4,000,000 per month thereafter, and passed this House by a vote of 83 to 53, with forty-seven members absent and not voting. It is a significant fact that the Republican members were equally divided upon the bill, while the other side of the House, regarding it as an Administration measure, voted for it in a solid body. Since that time, however, those gentlemen have swung round the circle, and are now the advocates of unlimited inflation. This bill, passing the Senate and being approved by the President, became law, and contraction of the currency the controlling measure of our financial policy.

Coupled with this measure of contraction, and as a part of the same policy, was that of making immediately large payments in reduction of the public debt. The Government appears to have determined upon the experiment of testing the amount of strain the business of the country could bear without breaking. The volume of currency in circulation among the people as their means of payment was to be diminished, sensibly, rapidly diminished; but there was to be no diminution of the amount of taxes which the Government would compel the people to pay. Money was to be made more scarce and thus dearer; but taxation was to exact the same enormous amount as when the currency had been, to use the phrase of the contractionists, as redundant and cheap.

In carrying out this policy contraction of the currency and overtaxation of the people were made to work together, and in one year more than one hundred million dollars of the currency were retired, while in the same time there were paid off, by means of heavy taxation, more than one hundred and eighty million dollars of the public debt. In the fiscal year ending June 30, 1867, were drawn from the people in taxes $450,000,000, or above $150,000,000 more than was necessary to provide for the current expenses of the Government and the interest on the public debt.

With what effect, Mr. Speaker? What effect on the currency? Was that appreciated by this great reduction of its volume? Was the purchasing power of our paper money made to increase in proportion as its gross amount was diminished? As our currency grew scarce did it draw nearer to gold in value? With what effect, also, upon the annual burden of interest which our immense national debt trails after it? Was that burden reduced by the large payment toward the principal which was made only by means of heavy taxation? Strange as it may seem, neither desideratum was attained by this policy, which was adopted as the sure and only means of attaining both. The value of our paper money did not go up, nor did the amount of annual interest go down, in consequence of this great contraction of the currency and this large reduction of the public debt.

On the contrary, both the premium on gold and the interest on the public debt had meanwhile increased, as the following figures show:

On the 23d of March, 1866, the day on which the loan bill, authorizing contraction at the rate of $4,000,000 per month, passed this House, the public debt was	$2,705,646,516
On the 1st day of April, 1867, it was	2,523,428,070
Reduction of the debt	$182,218,446
On the 23d of March, 1866, the interest on the debt, when reduced to currency, amounted to	$169,813,438
On the 1st of April, 1867, it amounted to	170,402,814
An increase of the annual interest of	$589,376

A reduction of the debt of over $182,000,000 and an increase of the annual interest of more than half a million dollars.

On the 23d of March, 1866, the premium on gold was twenty-eight per cent. On the 23d March, 1867, it was thirty-five per cent., an increase of seven per cent., or twenty-five per cent. of the previous premium, and an increase of over half a million dollars to be paid in annual interest.

Thus we see that after burdening the industry of the country with taxation to effect the payment of the above one fifteenth of the public debt in a single year, and paralyzing business by withdrawing more than one hundred million dollars from the channels of trade, we were indebted to the public creditor on the debt thus reduced, by way of annual interest, over half a million dollars more than before; and instead of reducing the margin between gold and our paper currency, and thus approximating toward a resumption of specie payments, we increased that margin twenty-five per cent. Do not these facts prove that a policy productive of such results is not a wise one, and that contraction is not the road to resumption?

Mr. Speaker, when the loan bill was under discussion in this House, in March, 1866, I took occasion to say:

"The laws of trade and the restoration of confidence are bringing us steadily and surely to a resumption of specie payments; any attempt to force a resumption by legislation will defeat the object; that confidence upon which a permanent resumption of specie payments must rest will neither be engendered nor strengthened by legislative tinkering. The last Congress tried an experiment in this direction by passing a law to force down the price of gold; the result was a rapid advance and the immediate repeal of the law."

"It is almost universally admitted that the return to specie payments must be gradual. Suppose, then, that the Government of the United States takes the initiative; not by a contraction of the currency, but by announcing, at as early a day as is practicable, that its legal-tender currency will be redeemed in gold on presentation at the Treasury, and then, to aid the banks in following its lead, let the national banks be allowed to redeem in the legal-tender notes thus put on par with gold by the Government. With the basis of redemption thus broadened it could not be long before the business and the money of the country rested as firmly upon a specie basis as ever."

At that time gold was at a premium of twenty-eight per cent. and declining. In nearly two years that have since intervened it has fluctuated between twenty-six and sixty, and is now about forty per cent. I fully believe that had we then left the currency entirely free from legislative interference, granting to the Secretary of the Treasury no authority to disturb it, and adjusted our revenue laws to the collection of so much revenue as would pay the current expenses of the Government and the interest on the public debt, and no more, the business of the country would have continued in a most prosperous condition; that increased production would have reduced prices generally, and that gold and greenbacks would now be so near to each other in price that the Government could have resumed specie payments at will.

But, sir, it is contended by some, who admit that specie payments can be resumed without contracting the currency, that we should reduce the volume, because the amount in circulation is in excess of the demands of business, and that this excess increases largely the cost of all the necessaries of life, and operates with peculiar hardship on the laboring poor of the country. Are such the facts? Have we more currency than we need? Among the many theories put forth to sustain the affirmative of this proposition I have seen none more ingenious than that advanced by the gentleman from Pennsylvania [Mr. BROOMALL] in his speech on the currency, and in support of a bill introduced by him at the commencement of the session, in which he attempts to prove that we have an excessive amount of currency in circulation, and to measure that excess by the margin which exists between our currency and gold. The gentleman's theory is that having about seven hundred million dollars of paper currency in circulation, and the discount on it measured by the gold standard being thirty per cent., our paper is worth just seventy cents on the dollar, and that the $700,000,000 had a purchasing power of $490,000,000; that we should not increase this purchasing power by adding to the volume of the currency, nor diminish it by reducing, until we reach this point of $490,000,000, which, by this ingenious mode of reasoning, is fixed as the amount actually required at the present time by the business of the country.

This theory, as presented by the gentleman, looks plausible. Let us see how it stands the test of actual experience. In July, 1864, we had, including compound-interest and national bank notes, a paper circulation of about six hundred million dollars. Gold was at a premium of one hundred and sixty per cent. In other words, it took $2 60 paper to buy one dollar gold; consequently, measured by this standard, our paper dollar was worth at that time thirty-eight and a half cents. On the 1st day of April, 1866, about the time we passed the loan bill authorizing the Secretary of the Treasury to contract the currency, we had about nine hundred million dollars of the same kind of paper in circulation; and $1 26 in paper would buy one dollar in gold; consequently the paper dollar was worth at this time seventy-nine cents. Our currency had been increased fifty per cent., and its value had appreciated one hundred per cent. On the 1st day of April, 1867, with the currency reduced to $800,000,000, it took $1 35 in paper to buy one dollar in gold. Thus we see, in point of fact, within this range of three years, our paper dollar was worth the lowest price in gold when we had the smallest and the highest price when we had the largest amount of paper currency in circulation.

Now, sir, if these facts prove anything, they prove that the premium on gold neither measures the excess of the volume of the paper currency nor establishes the fact that such excess really exists.

Sir, after this signal failure of the gentleman from Pennsylvania to establish a reliable standard by which to measure the amount of currency required by the business of the country, I will not undertake the task otherwise than by the bill which I have introduced for that purpose, and to which I propose to call the attention of the House before I conclude; and this bill does not undertake to regulate the currency, but to allow it to regulate itself by the demands of business from time to time. I will, however, suggest some facts which prove conclusively to my mind that our currency is not now in excess of the business needs of the country.

We have much less currency *per capita* than England or France, while the capacity of our country to absorb and profitably employ capital is immeasurably greater than either England or France. The immense extent of our territory; its almost exhaustless, undeveloped resources; the active, ambitious character of our people; the more equal diffusion of capital, and the correspondingly greater ability of all classes to obtain the comforts and luxuries of life, and to engage in enterprises for the improvement of their condition; the rapid increase of the country in population and wealth, are all advantageous circumstances over European countries favorable to the safe and profitable employment of capital, and necessitate the use of a large amount.

I admit that Europe has, under present circumstances, more currency than she needs. Whether, if her wealth were as equally distributed as ours, and all her other conditions were as favorable to the profitable employment of capital as with us, she would then, with her present amount, have a surplus, is a matter of speculation. That she now has such surplus is evident from two facts:

First. The rate of interest, that almost infallible barometer for measurement of the relations between the supply and demand for money, is in Europe generally low.

Second. European capital is constantly seeking investment in other countries.

Large amounts of this capital are invested in this country in railroads and other public works, as well as in the securities of our cities, States, and nation. We are generally largely the debtor—a circumstance showing, not that we are absolutely poor, but proving conclusively that we lack active capital.

And this lack on our part, this want of available capital, has many manifestations. The active demand for money, the high rates of interest which it commands in all parts of the country outside of the financial centers; the fact that our best securities, many of them payable, principal and interest, in coin, (and selling at a discount in paper,) are allowed to go abroad; that there is an indisposition to make permanent investments even when such investments will yield large returns; that short loans are preferred to long ones, and that the rate of interest is increased with the increased time upon which money is loaned; that the disposition is to turn capital as rapidly as possible, are all evidences of a lack of money in our own country rather than of a plethora. Capital here is not seeking employment, but business is seeking capital. In Europe, the reverse is the fact.

It is true that at times money becomes plentiful, particularly in the large cities of the United States, and that then the rate of interest is comparatively low. But this condition of the money market is exceptional, and consequently there is no disposition to make permanent investments on long loans. At such times money is loaned at low rates on call or short time, that it may be recalled to meet the active demands of business when required. That scarcity is the rule and plenty the exception are facts never lost sight of in the American money market—ruling the hour even when money is most abundant in supply and least in demand.

If we have more currency than is required for business purposes why is it that this same currency, which bears no interest and not redeemable in gold, is generally worth more

than United States bonds at five per cent. interest, principal and interest payable in gold? During the year 1866, while the currency was being reduced in consequence of its alleged overabundance, these interest-bearing gold bonds were selling at ninety-six cents on the dollar in this same irredeemable currency. Is it not clear that the reason why this irredeemable currency was not exchanged for these gold bonds was because of its more profitable employment as currency?

The fact is our condition is unlike that of the Old World, whose wealth has been elaborated and concentrated by ages of labor into gold and silver and other forms of value readily available to the purposes of commerce. Our wealth is principally in undeveloped forms. The raw material we have in exhaustless abundance. It is in our mines, forests, and fertile lands, in our water power and fisheries, and in the intelligent labor whose magic touch is to turn all into gold.

But to develop this wealth and make it available requires the aid of capital in the form of currency. This currency is now supplied by our Government notes, secured by a pledge of all the property of the nation. By its use we have been enabled to commence and carry forward toward completion with unparalleled rapidity a railway uniting the Atlantic with the Pacific coast, and opening up to settlement an intervening continent; to construct other railways in all parts of the country; to open and work our mines, clear our forests, till our lands, and transport their products to market; build mills, factories, and machine-shops, and operate them; in short, to develop all our varied resources, and thereby to add immensely to our national wealth.

Let us now examine the assertion that a reduction of the currency benefits the laboring poor of the country. If such were really the fact it would be one of the strongest arguments that could be adduced in its favor; for certainly justice and sound policy unite in demanding the protection of that class which produces all the wealth of the nation.

A scarcity of money, it is said, helps the laborer, in that it lessens the expense of living by reducing the cost of the necessaries of life. But the necessaries of life are the product of labor, and whenever they are high the price of the labor which produces them is also high. But it is contended that the laborer derives no advantage from this increased price of his labor, as in turn he has to pay the same relative increase on the price of all he consumes. In the supposition that he does so pay lies the fallacy of the argument; for while the laborer is the sole producer he is not the sole consumer. Of the necessaries of life he is both a producer and consumer; of the luxuries of life he is only a producer; and while the prices of the necessaries of life which he both produces and consumes advance the prices of the luxuries, which he produces but does not consume, and into the production of which the largest amount of labor enters, advance still further, and this difference favors the producer. Again, the same causes which reduce the price of the products of labor reduce not only the price but the amount of labor employed.

Generally when wages are reduced one half the labor of the country is only half employed, even at the reduced rate. This result arises from the fact that there is always a surplus of production on hand; the supply of the great staples being seldom exhausted under any circumstances. During the war we did not reach the last bale of cotton nor the last pound of Virginia tobacco, although the source of supply was for a long time cut off. These accumulated stocks serve to carry the capitalist through the hard times which a general scarcity of money arising from any cause produces.

When money becomes scarce production is curtailed; the laborer loses employment; accumulated stocks are drawn upon to satisfy present demand; money rises in value; and the capitalists who own the money profit by the rise. The wealthy merchant or manufacturer of abundant capital falls back on his accumulated stock of merchandise, endures the loss which necessity makes inevitable, and, waiting the turn of the tide, retrieves that loss in the rise of price which is sure at length to follow the curtailment of production. The laborer, meantime, having no such resources, neither money nor merchandise, only labor, which he cannot dispose of, suffers.

The laws of political economy, uniform in their operation, never produce other results. Never in the history of this country was money abundant in active circulation, and labor at the same time not well paid and fully employed. And never was money actually scarce, or driven out of circulation by a contraction of the currency, or by any other cause of distrust or panic, without the laborers, as a class, suffering at the same time, both from inadequate compensation and inadequate employment.

This, Mr. Speaker, is the fact at the present time. Labor is neither fully employed nor adequately paid. And labor now wants pay and employment because of the condition of our finances; because of a scarcity of currency in circulation through the healthy channels of legitimate business, a scarcity attributable in part to an actual contraction of the currency, but attributable still more to the threat of contraction, which, backed by authority of law, has frightened money out of circulation into the financial centers, as terror, acting upon a man, checks the circulation of his blood and drives it back upon the heart.

Here let me remark that the policy of commencing, immediately on the close of the war, and continuing to pay off the principal of the public debt is as unwise, if not as disastrous, to the interest of the country as the policy of contracting the currency. Its effect has been to overburden the generation which carried the nation through the war, and to relieve future generations from all cost for the rich heritage to which they succeed. The South will pay but a small percentage of taxation during the present generation. Why should they be entirely relieved from a debt which their madness and folly fastened upon the nation? Why should the foreign emigrants that every year land upon our shores, taking up their abode with us, and sharing all the advantages of our Government, be entirely relieved from the payment of the debt incurred in saving and maintaining that Government in the hour of its peril? The wealth of the nation increases one hundred and twenty-six per cent. in each decade. After a period of thirty years, at this rate of increase, the same percentage of the whole wealth of the nation now required to pay the annual interest would pay the principal of the whole debt in a single year. Is it not, under these circumstances, true policy to provide for the annual interest, and allow the principal to relatively decrease with the increasing wealth and population of the country?

Sir, any argument against contraction, in view of our recent action in regard to it, may now appear to be unnecessary. Theories, though zealously urged and persistently adhered to, have been forced to give way to the stern logic of events. The business of the country, stimulated, broadened, and enlarged by the increase of the currency, refuses to be forced back into the narrow channels through which it coursed previous to the war. But notwithstanding we have repealed the law authorizing contraction by a vote of more than four to one in both Houses of Congress, this repeal is generally regarded as a temporary expedient rather than an abandonment of the policy. The theory upon which the policy was based is still adhered to, and exerts an influence tending to unsettle the public mind in regard to financial and business interests. It has been rather with a view to aid in counteracting this influence, by disproving what I regard as a popular fallacy than immediately to influence action here, that I have examined and argued this question somewhat at length.

But, sir, while I do not believe in the wisdom of the present payment of any part of the principal of the public debt, and am opposed to the contraction of the currency, considered either as a means of reaching a resumption of specie payments or as in any way tending to improve the condition of our finances, I do not, therefore, underestimate the value to our currency, to our finances in general, to every business interest of the country, of a return to specie payments. This, sir, I believe, is the first step to be taken—the first question to be settled. Settle this question, and all others settle themselves. Settle it, and the question as to whether our bonds are payable in greenbacks or in specie becomes immaterial. Settle it, and our bonds, appreciating with our currency, will stand at a premium in gold in the markets of the world. We can then raise on a long loan, at lower rates of interest, the means with which to retire the five-twenty bonds. Our bonds have been, and will continue to be, measured by our own standard, which is our currency. Place that upon a gold basis, and our bonds will follow. Can we expect to negotiate a long loan on favorable terms while we make no provision for the redemption of our demand notes, and while propositions are actually before Congress to buy them in at a discount. To make the attempt would be like a merchant, with abundant means to meet all his obligations, allowing his notes to remain under protest, and then, with his credit thus impaired by his own neglect, to attempt to negotiate a loan.

Sir, in my view, it is of the first importance that the currency of the country shall, as soon as practicable, be placed upon a specie basis. That is the only sure foundation for our system of paper money. Confidence will never be firmly established until our currency is regulated by maintaining its redemption in specie. Among the many plans for reaching this end, the two following, which are directly opposite to each other, have been proposed and are now before Congress. One to retire all the United States notes from circulation, supplying their place by the notes of the national banks; the other to oblige the national banks to withdraw their notes from circulation and to supply their place by United States notes.

Let us examine these measures and see what would be their practical operation. Under the first plan, if adopted, the United States greenbacks would be gradually retired, and all finally withdrawn from circulation, their place being supplied by the notes of the national banks, which would then be the sole circulating medium of the country, and would amount to about seven hundred million dollars. The Government having returned to specie payments would require the banks to redeem in specie. Could they do it? Would they be so firmly established in public confidence as to maintain such a circulation redeemable in coin? There is no probability, scarcely a possibility, that such would be the case. What would be the result? The law which created them says they must redeem in lawful money, which would then be gold and silver only. But a higher law—that of necessity—compels them to refuse. It would then be the duty of the Comptroller of the Currency to close them up under the currency act; but this course would deprive the country of a currency, and cause wide-spread bankruptcy and commercial ruin. Would not this unavoidable suspension be legalized, as has always been the case in like circumstances, under the State-bank system, and specie payments be thus indefinitely postponed?

By the other plan the Government would compel the banks to withdraw their circulation, supplying its place with an equal amount of greenbacks, and thus giving an exclusive Government circulation of about seven hundred million dollars. In its attempt to resume and maintain specie payments on this large amount of paper the Government would have no support from what is now the national banking interest, which so largely represents the capital of the country and is the great creditor of the nation. On the contrary, this interest would

be able at any time to present so large an amount of greenbacks for redemption as to compel the Treasury to suspend. Not only would it have the power thus to compel the Government to suspend specie payments, but such a course might often be favorable to its interest. Under such circumstances Wall street could on any day drive the Government to suspension.

Both these plans lead from, and not toward, specie resumption. The one proposes to double the amount of paper currency now issued by the banks, and at the same time to withdraw the United States notes, the only medium for the redemption of this bank paper, substituting nothing in their stead. The other proposes to uproot our whole banking system, interwoven, as it is, with all the business interests of the country, and to array this great financial interest in hostility to the Government at a time when union, harmony, and an identity of interest are of the most vital importance.

I am decidedly opposed to both these plans. We are in no condition to make rash experiments. The measures of finance now to be adopted, to be successful, must not declare nor lead to a war by the Government against the banks of the country, nor to placing the banks in antagonism to the United States Treasury. Neither should they be such as to fasten upon the country as its only currency an issue of bank paper which must, from the very nature of the case, continue irredeemable for an indefinite time.

With the present mixed circulation let us see how the resumption of specie payments could be resumed and maintained. This circulation is nearly equally divided between the banks and the Government, the Government notes underlying the whole. Let the Government adopt a policy which shall gradually bring its currency to a par value with gold, completing this work by an actual redemption of its paper money in coin; let the banks be allowed to redeem their notes in this Government paper, approaching and at length made equal in value to gold. The banks holding as a reserve more than one half the United States legal-tender notes would have no motive for presenting this amount for redemption, as the notes would answer their wants as well as gold. Their interest would be to sustain the credit of the Government paper, which would then be the basis of their own circulation, and to support the Government in its efforts to sustain specie payments. Under such circumstances there could be no run upon the United States Treasury that would exhaust or even weaken its power of payment, and the inevitable result would be that not only the United States notes, but also all the other authorized currency of the country, would be brought to a par value with gold.

Mr. Speaker, in order to resume and maintain specie payments it is necessary to combine and bind by one common bond of union all the great financial interests of the country, uniting them in support of the Government, which must lead the way in resumption. To this end, I believe the present double circulation of the Government and the banks should be continued; and that experience will confirm and establish this continuance as a part of our settled financial policy. With a view to the attainment of these objects, at the commencement of the present session I introduced the following bills, which were referred to the Committee on Banking and Currency. I here introduce them, with some amendments, which I intend to propose, should they come up for action, and to them I now desire to call the attention of the House:

A bill to provide against undue expansions and contractions of the currency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and directed to issue United States coupon bonds to an amount not exceeding $300,000,000, of such denominations, not less than $100, or the multiple of $100, as the Secretary shall prescribe, payable in lawful money, on demand, bearing interest at the rate of four per cent. per annum, payable quarter yearly in lawful money, and subject to State, municipal, and local taxation; said bonds to be issued to any person paying therefor the par value thereof in lawful money at the Treasury of the United States, and shall be redeemed by the United States at any time twenty years after their first issue and not earlier, except at the option of the holder, as hereinafter provided, and at the expiration of said twenty years shall be paid in coin.

SEC. 2. *And be it further enacted*, That the bonds issued under the provisions of this act shall be signed by the First or Second Comptroller or the Register of the Treasury, and countersigned by such other officer or officers of the Treasury as the Secretary of the Treasury may designate, and shall be issued under the seal of the Treasury Department. The interest coupons may be signed by such person or persons, or executed in such manner, as may be designated by the Secretary of the Treasury.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury shall take up said bonds whenever presented for that purpose at the Treasury of the United States, paying therefor, in lawful money, the par value thereof and the accrued interest thereon, to the amount of any matured and unpaid coupon thereto attached; and the bonds so taken up may be reissued in manner provided for their first issue, the interest which may have accrued on any coupon thereto attached, at the time of said reissue, being paid by the purchaser in addition to the par value of the bonds; and said bonds may continue to be reissued as before at any time or times during the period of ten years, after which they shall not be again reissued.

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A bill to provide for the gradual resumption of specie payments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the 1st day of May, 1868, the United States notes now outstanding shall, when received in the course of ordinary transactions at the Treasury of the United States, be destroyed under the direction of the Secretary of the Treasury, and in lieu thereof the Secretary of the Treasury is hereby authorized and directed to issue new United States notes of the same denominations as those in lieu of which they are issued, payable in coin on demand, at the Treasury of the United States, at and after one year from date; and all notes of national banks so received at the Treasury shall, under such regulations as the Secretary shall prescribe, be redeemed by the banks issuing the same in United States legal-tender notes, and the last-named notes when received at the Treasury shall be destroyed, and in their stead notes authorized by this act shall be issued as hereinbefore provided. The whole amount of the new notes authorized by this section shall not exceed the amount of United States notes now outstanding, exclusive of fractional currency.

SEC. 2. *And be it further enacted*, That notes authorized by this act shall be legal tender for the redemption of national bank notes, and for all other purposes, by and to all parties, except by the United States, in payment of other such notes as have already matured, or in payment of the interest on the public debt where such interest is now, or hereafter may be, payable according to law in coin; and also except before maturity in payment to the United States for duties on imports. And in case of the receipt at the Treasury before or after maturity, or the redemption at and after maturity, of any of the notes authorized by this act, the Secretary of the Treasury is hereby authorized and directed to reissue the notes so received or redeemed, or to issue an equal amount and no more of other like notes, payable as hereinbefore provided, on demand, at and after one year from date, except as provided for in section three of this act.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, after the payment in specie herein provided for shall have actually commenced, at his discretion, to issue the notes hereby authorized for periods of less than one year, but not less than three months. He shall also issue new notes of like denominations, in lieu of any notes herein authorized which shall have been redeemed; and he is also authorized to purchase at any time coin requisite to enable him to redeem such notes; and in payment therefor he may, at his discretion, issue to an amount not exceeding fifty million dollars bonds of the United States in such form as he may prescribe, of denominations not less than fifty dollars, payable at any period not more than forty years from date of issue, redeemable at the pleasure of the Government at or after five years from such date, and the interest on such bonds shall be payable semi-annually in coin, or in other lawful money, at the rate, if payable in coin, of not exceeding six per cent. per annum, if in other lawful money not exceeding seven and three tenths per cent. per annum; and the rate and character of interest shall be expressed on all such bonds: *Provided*, That no such bonds shall be issued at less than par in lawful money of the United States.

SEC. 4. *And be it further enacted*, That an accurate account shall be kept by the Treasurer of the United States of the amount and denominations of all the United States notes received into the Treasury of the United States and destroyed, and he shall also keep an accurate account of the amount and denominations of notes issued under authority of this act. The United States notes authorized by this act shall be in such form as the Secretary of the Treasury may direct, and shall bear the written or engraved signatures of the Treasurer of the United States and the Register of the Treasury, and also, as evidence of lawful issue, the imprint copy of the seal of the Treasury Department, which imprint shall be made under the direction of the Secretary, after said notes shall be received from the engravers and before they are issued.

SEC. 5. *And be it further enacted*, That from and after the passage of this act no gold nor silver belonging to the United States shall be sold or paid out from the Treasury, except in payment of lawfully authorized gold certificates, or in payment of interest on the public debt, where the same is, according to law, payable in coin, or as authorized in this act, or otherwise, expressly by law. But the exchange of bullion for coin with the United States mints is not hereby made unlawful.

These are the same bills, with some slight amendments, introduced by me at the last session of the Thirty-Ninth Congress. But, contraction being then regarded as the only road to resumption, they failed to obtain the honor of a hearing. As we are now about to take a new departure and adopt a new policy, I trust they may be more successful, and receive that consideration which the importance of the subject demands.

The bill "to prevent undue expansion and contraction of the currency" provides for regulating the volume of the currency by the operation of the laws of trade and the business wants of the country rather than by arbitrary enactments or the exercise of a discretionary power by the Secretary of the Treasury, and also provides a means for the investment of capital temporarily idle—liberating it when the needs of business demand, thus making the Government greenback currency as flexible and adaptable to the business wants of the country and that of the national banks.

The bill provides for the issue of coupon bonds to the amount of $300,000,000, of denominations of $100 and the multiple of $100, payable on demand at the Treasury of the United States, with interest quarter yearly at the rate of four per cent. in lawful money. It also provides that these bonds shall be issued to any person applying for them at the Treasury of the United States upon paying for the same at their par value and the accrued interest thereon in United States notes; and that the holder of the bonds may reëxchange them at his option, receiving for them the par value and accrued interest to the amount of any overdue and unpaid coupon. These bonds have no connection with those representing the funded debt. They are all of one class, and all convertible at the will of the holder. There can be no confusion as to the amount out. There must always be just the amount of bonds to supply the demand, and just greenbacks enough in the Treasury to redeem all the bonds which can be presented. There is no casting of interest on incoming bonds, as the over-due and unpaid coupon, added to their price, will just represent the amount due. All accrued interest on a bond presented for redemption less than a full coupon would be so much gain to the Government, and would help to pay the expense of making the conversion. To a great extent, probably, the bonds would come in only on quarter days. Only on issuing would it be necessary to compute interest.

The substantial features of this bill have been adopted in several bills which have been introduced during the present session. They have been incorporated into the funding bill recently reported to the Senate by the Finance Committee, (section five,) and also by the gentleman from Massachusetts [Mr. BUTLER] into his "financial scheme," and very happily christened the "automatic, self-adjusting system of finance."

This bill having received such distinguished indorsement here, and having been approved by the leading journals of the country, I confidently expect to see it enacted into law during the present session; and, believing it has not been improved by the alterations to which it has been subjected, I trust it may be passed substantially as introduced.

The Senate bill, to which I have alluded, provides for the consolidation of the whole national debt into one description of bonds, registered or coupon, and then by section five, which contains the principal feature of this bill, allows such bonds to be converted and reconverted to the amount of $400,000,000.

There are several objections to this section of the Senate bill. First, as is so clearly set forth in the report of the Finance Committee accompanying the bill, the currency should be kept as distinct as possible from the funded debt. Second, there is no necessity for having these convertible bonds bear the same rate of interest as the bonds which represent the funded debt. Third, the bonds representing the funded debt must be paid, principal and interest, in coin, a portion of them must be registered, and provision made for changing from coupon to registered under certain circumstances. The interest is made payable semi-annually, which would involve great labor and inconvenience in making the transfer, and also labor and delay in casting the interest, day by day, as the bond may be presented. Fourth, there would be no gain in interest to the Government to pay for the transfer and retransfer of the bonds. Fifth, the amount of bonds out being about twenty-five hundred million dollars, and only $400,000,000 convertible and reconvertible, no one would have any assurance that his bonds could be exchanged, as the limit of $400,000,000 might be up just when the holder of the bond might want to convert into money.

The bonds, being exempt from all taxation, would be purchased at the Treasury just before local assessments of taxes were made, kept long enough to get the advantage of the exemption, and then reconverted into money. The gentleman from Massachusetts has, in adopting the principles of the bill, only amended it so far as to provide for the issue of an additional $300,000,000 legal-tender notes. The proposition involved in this amendment is simply to issue an additional $300,000,000 greenbacks without any provisions for, and apparently without any intention of, redeeming them in specie. To this I am opposed. We should first reach specie payments and then supply the country with just so much currency as can be maintained on a specie basis and no more.

The second bill, that to provide for a gradual resumption of specie payments, proposes to effect that object by gradually appreciating the whole volume of the paper currency to a par with gold, and then to continue it in circulation, redeeming whatever may be presented from time to time with the reserve of coin in the Treasury and again reissuing it.

The bill provides that from and after the 1st day of May, 1868, all United States legal-tender notes shall, when received into the Treasury of the United States in the ordinary course of business, be destroyed; and that all the circulating notes of the national banks so received shall be redeemed by the banks issuing the same in United States notes, which notes shall also be destroyed; and in lieu thereof there shall be issued a like amount of new United States notes, payable in coin on demand at the Treasury of the United States after one year from date of issue; that the new notes shall be legal tender for the redemption by the banks of their circulating notes, and for all other purposes except for the payment of duties on imports before maturity and the interest on the public debt where such interest is payable in coin; that they shall not be legal tender from the United States after maturity, but may be issued as the equivalent of coin to such of the public creditors as may elect to receive them. The Secretary is authorized, if he deem it expedient, after the payment in coin of the notes first issued shall have commenced, to issue these notes payable in coin on a shorter time than one year, but not on less than three months. He is also authorized to purchase coin to the amount of $50,000,000 in case it may be necessary to enable him to maintain specie payments.

What will be the operations of this measure if it becomes a law?

The currency receipts at the Treasury for the fiscal year ending June 30, 1867, were in round numbers $314,000,000. Limiting the collection of internal revenue for the next fiscal year to an amount sufficient to pay the current expenses of the Government, exclusive of the interest on the public debt, the currency receipts ought not, under an economical administration, to exceed $180,000,000. Assuming $180,000,000 to be the amount of currency receipts at the Treasury for the next fiscal year, then this amount, being an average of $15,000,000 per month, will by the 1st day of May, 1869, have been converted into notes payable in coin on demand, after one year from date of issue, in the following manner: during the month of May, 1868, $15,000,000 of the present legal-tender notes will be by daily process changed into notes redeemable in coin in all the month of May, 1869. During the following month another like amount will be exchanged, and the issue of both months will ripen toward their respective times of maturity. By the 1st day of May, 1869, $180,000,000 in coin notes will have taken the place of a like amount of the present greenbacks. This volume of coin notes will then range in maturity from a single day to a full year, and the issue already ripe (the $500,000 issued May 1, 1868) will on May 1, 1869, be redeemable in coin, and a like amount will become redeemable on each following business day of the year, making the total amount of notes maturing from day to day and redeemable in coin up to May 1, 1870, $180,000,000.

The same process would be repeated (if the greenbacks had not meantime appreciated to a par with gold) during the year 1870; and on May 1, 1871, all the United States notes now outstanding would have become redeemable in specie at the Treasury of the United States. In other words, after the 1st day of May, 1869, the whole volume of the Government currency would become redeemable in specie at the Treasury, at the rate of $15,000,000 per month, until May 1, 1871, at which time the whole would have become so redeemable.

I firmly believe that the presentation and redemption of the first $15,000,000 of these notes would so establish public confidence as favorably to settle the whole question by reducing the margin between all the greenbacks and gold to a nominal figure.

With the steady conversion of the greenbacks into notes redeemable in specie at a specified time, and with the certainty of the ability of the Government to redeem them as promised, the whole volume of the currency would begin to appreciate. The hoarded specie would come out to realize the premium, which would every day be reduced, and at no distant day be entirely extinguished. The notes, payable in specie as they approached maturity, would probably be temporarily hoarded, but only to liberate the same amount in specie. As fast as they matured and became redeemable in coin they would remain in circulation as specie; being received for payment of duties on imports and convertible into coin at the will of the holder, they would be received in payment for interest on the public debt and for all other purposes for which coin is now required. Whenever any amount of these notes were actually redeemed the same amount of coin would be liberated from the Treasury, where it now lies dormant, and become useful to the community. Once place this paper circulation of the Government upon a specie basis, and establish public confidence in its permanence, and we have practically added $350,000,000 of specie to the amount now in circulation, and thus furnished a medium for the redemption of national bank notes.

Let us now see how the national bank notes are to be effected by this mode of resumption. While the process of conversion went on, and perhaps until the maturity of all the coin notes, they would probably be preferred to the national bank notes; but this preference would only tend to retire the former temporarily from circulation and impart an increased activity to the circulation of the latter. The national bank notes would still be legal tender for the same purposes as now, and although the United States notes might appreciate the fastest the bank notes must be drawn up with them until all reached the high level of specie redemption. During the period of conversion about nine million dollars per month of the national bank notes would probably be received into the Treasury, and this amount the bank by which they were issued would be obliged to redeem in United States notes, the currency receipts at the Treasury being about three fifths in national bank notes. This would be but three per cent. of their circulation, and by repealing the provisions in sections thirty-one and thirty-two of the national currency act, which require deposits by all the banks in the country at certain points named for the redemption of their circulation, they would only be obliged to redeem at the Treasury of the United States and at their own counters.

A monthly redemption by all the banks in the country of their circulation which had found its way into the Treasury of the United States, and a gradual appreciation of the currency in which the redemption is to be made until it becomes equal to specie, would certainly be more impartial and more beneficial to the public than the present system, which compels all the banks in the country to keep large deposits with banks designated at certain points for the redemption of notes that are never presented for redemption, the deposits being loaned to swell speculations in stocks and merchandise. It may be objected that it would be inconvenient for the Government to exchange, and impose some hardship upon the banks to compel a redemption of their notes to the amount of $9,000,000 per month. Grant that it may be so. We must expect to be subject to some inconvenience in effecting so great and beneficial a change in our financial affairs. While I do not agree with the gentleman from Pennsylvania [Mr. BROOMALL] that it is necessary to paralyze business, check productive industry, destroy confidence, and pauperize the labor of the country in order to reach specie payments, I do expect the effort to cost something. That we can resume specie payments, not only without any financial revulsion, but with a healthy revival of business, if we will make an honest effort in that direction, I firmly believe.

When the United States notes have all become redeemable in coin on demand the banks will be obliged to redeem their circulation with them, and for that purpose they will require from one hundred to one hundred and fifty million dollars. These notes, being as good as specie to the banks, will not be presented at the Treasury, but will be kept as a reserve for the redemption of their own notes; while the national bank notes, being legal tender for most purposes and convertible into notes redeemable in specie, will only be presented for redemption when specie or its equivalent is wanted for actual use.

Mr. Speaker, a resumption of specie payments cannot be secured by any mere arbitrary enactment that it shall take place immediately or on any specified day in the future; not by writing at once over the door of the Treasury "Specie payments are resumed," nor by giving an order that such inscription shall be placed there on the 1st day of January, 1869, nor by attempting the financial impossibility of borrowing $250,000,000 of coin in Europe, where our bonds are now selling at about thirty per cent. discount, and removing it to this country with the expectation of retaining it as the permanent basis of our paper money. If we promise to resume to-morrow the public know the promise cannot be kept. The margin of forty per cent. existing between gold and paper cannot be extinguished in a day. The chasm between our paper currency and gold cannot be leaped; it must be bridged. If we promise to resume a year hence, with no provision for appreciating, in the meantime, our paper toward a par with gold, and no provision guarding against the otherwise irresistible effect of a sudden panic after the resumption has taken place, the public will not believe that we can perform our promise; and this want of faith insures a failure. And, sir,

any failure in an attempt to return to specie payments would so impair public confidence as to retard resumption for years. We must not begin until we can go through. We should make no attempt that is not morally certain to succeed. If we undertake only what the financial world regards as practicable to be accomplished we shall so inspire confidence as to insure success. To inspire confidence rather than to create distrust should now be the first aim of our financial policy.

Here let me call attention to the difference between the operation of these measures which I have proposed and that of the contraction policy. That policy produces stringency of the money market and inspires distrust. These bring relief to both banks and business interests, summoning and rallying them to the support of the Government in its effort to restore the currency to a firm basis. The policy of those favoring contraction has been to decry, depreciate, and discredit the national currency. These measures, on the other hand, accredit the national paper by adapting its circulation to the business wants of the country, and by declaring that every dollar thereof shall be paid in coin, in hard money, at a definite and no distant time. Moreover, they propose nothing but that which can be accomplished; do not expose the country to the hazard of a disastrous failure; are not violent and abrupt, but gradual and gentle in their operation. Their passage would, I believe, at once establish the currency upon a firm basis of public confidence and remove from the public mind many of the doubts which now darken our financial future.

Mr. PERHAM obtained the floor, but yielded to

Mr. HUBBARD, of West Virginia, who moved that the House adjourn.

The motion was agreed to; and thereupon (at three o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of Oliver Goldsmith and others, journeymen cigar-makers and manufacturers of cigars, of the first congressional district of Michigan, objecting to the bill now proposed by the Committee of Ways and Means providing that a stamp shall be affixed to each cigar; approving of a tax of five dollars per thousand on domestic cigars; asking for a repeal of the law compelling cigar-makers to take out permits to work at their legitimate business; approving of the present tariff on imported cigars, and praying for an alteration of the present system by selling the stamps to the manufacturers.

Also, the petition of M. McCarthy and others, of the same district, to the same effect.

Also, the petition of William Penfield and others, of Michigan, praying for a reduction of taxes, reduction of the Army and Navy, &c.

Also, the petition of Jacob Hovey and others, of Chelsea, Michigan, to the same effect.

Also, the petition of Silas Clark and others, of Wyandotte, Michigan, to the same effect.

Also, the petition of S. P. Potter and others, workmen in the Iron mills, Wyandotte, Michigan, to the same effect.

Also, the petition of F. W. Noble and others, of Detroit, Michigan, to the same effect.

Also, the petition of Costello & Brother and 39 others, of Dexter, Michigan, to the same effect.

By Mr. CAKE: The petition of A. M. Allen, Esq., and others, citizens of Schuylkill county, Pennsylvania, calling the attention of Congress to the onerous tax paid by photographic artists under the present revenue laws.

By Mr. KOONTZ: The petition of Max B. Richardson and 400 others, asking for reduction of expenses of the Government, and that the taxes be correspondingly reduced, &c.

By Mr. CULLOM: The petition of a large number of citizens of the eighth congressional district in Illinois, asking that stamps shall be imposed and placed upon cigars.

By Mr. ORTH: The petition of John B. Wagner and others, of La Fayette, Indiana, in eference to tax on cigars and tobacco.

By Mr. PLANTS: The petition of Jesse Baldwin, for the payment of the seven-thirty notes of the issue of 1861 in gold.

By Mr. SITGREAVES: The petition from citizens of New Jersey, asking for a reduction of the expenses of the Government to a strictly peace basis.

IN SENATE.

MONDAY, *March* 9, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented a concurrent resolution of the Legislature of New York, relative to the improvement of the harbor of Buffalo; which was referred to the Committee on Commerce.

Mr. CONKLING. I present also the petition of one hundred and fifty colored men, citizens of Georgia and Alabama. This petition is accompanied by a letter from a clergyman residing in the State of Georgia and a letter from another person, adding somewhat to the particulars given in the petition itself. The papers recite that these persons are destitute, able to work and willing to work, but the subjects of persecution and injustice which prevent their obtaining a livelihood by their labor. It recites that they are ready to work for fifty or sixty dollars a year; that even that they are unable to obtain; and that they are so far oppressed by injustice and by need that they wish, in company with many others, to return to Africa, and they ask that an appropriation be made, not exceeding $100, for each person who is willing to go to Liberia. They say that they would be glad to defray their own expenses if they were able to do it, but for reasons which I have already indicated they are not able. I move that this petition and the papers accompanying it be referred to the Committee on Commerce.

The motion was agreed to.

Mr. HOWARD. I present several memorials, all in the same language, from various portions of the State of Michigan, addressed to the two Houses of Congress, in which the petitioners say: "We are now at peace with all the world, and we demand that the expenses of the Government shall be reduced to a strictly peace basis and our taxes correspondingly reduced." They ask that the Navy may be reduced from one hundred and three vessels now in commission to thirty or less; that the great naval pageant or exhibition in Europe be ordered home and laid up. They say they are not willing to be taxed for the sake of sustaining this royal mimicry. They demand a reduction of the Army to twenty thousand men, a reduction of the sum asked for civil service to $20,000,000; that the Navy appropriations be reduced to $12,000,000, and the war appropriations to $35,000,000 or less; together with various other requests, respectfully addressed to the Congress of the United States. One of these petitions is from Calhoun county, Michigan; another from Champion, Marquette county, Michigan; another from Washington Mine, Marquette county, Michigan; another from Morgan, in the same county, Michigan; another from Greenwood, in the same county; another from Lansing, the capital of the State. I move that they be referred to the Committee on Finance.

The motion was agreed to.

Mr. RAMSEY. I present a petition of citizens of Minnesota, of precisely the same character as those just presented by the Senator from Michigan, and I move that it have the same reference.

The motion was agreed to.

Mr. WILSON. I present the memorial of Joseph Segar, of Virginia, in which he sets forth that the Government seized upon his land and used it during the war, destroying wood upon it and five or six miles of fences, buildings, reducing him in his property and means of living; he sets forth that he has been a truly loyal man to the Government, and asks a remedy. I move the reference of the memorial to the Committee on Claims.

The motion was agreed to.

Mr. WILSON also presented a memorial of Tilaston & Hollingsworth, S. D. Warren and others, paper manufacturers, of Boston, Massachusetts, remonstrating against the passage of an international copyright law; which was referred to the joint Committee on the Library.

Mr. MORGAN presented a remonstrance of publishers of the city of New York against the passage of an international copyright law; which was referred to the joint Committee on the Library.

He also presented a remonstrance of bookbinders of the city of New York, against the passage of an international copyright law; which was referred to the joint Committee on the Library.

Mr. TIPTON presented a petition of citizens of Nebraska, praying for a mail route connecting Beatrice and Camden in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of Nebraska, praying the establishment of a mail route from Ashland, Saunders county, via Wahoo Creek, Wahoo Ranch, and Racoon Fork of Oak Creek to Ulysses, Butler county, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. BUCKALEW presented three petitions of journeymen cigar makers and cigar manufacturers of the first, second, and third congressional districts of Pennsylvania, remonstrating against the bill proposing the affixing of a stamp on each cigar; which were referred to the Committee on Finance.

Mr. TRUMBULL. I present the petition of Edward Levi and others, asking for such a change of the Constitution of the United States as will abolish the office of President of the United States. I wish to say in presenting the petition that acting upon the principle which I have always acted upon to present petitions which are respectful in their form, I present this without any sympathy whatever with the petitioners for their object. I move that it lie on the table.

The motion was agreed to.

Mr. POMEROY. I present the petition of the constitutional convention in session at Richmond, Virginia, in which they ask that the disabilities imposed by the acts of Congress upon John L. C. Danner, Esq., of that State, be removed, and they assign as a reason that Mr. Danner is a gentleman whose present loyalty as well as his great effort in the restoration of the State to the Federal Union entitle him to have the disabilities removed. I can add that I know the gentleman myself, and I think if any gentleman in Virginia should be relieved from political disabilities it is Mr. John L. C. Danner. This petition is signed by John C. Underwood, president of the convention, and by the secretary, and by a large number of the members of the convention. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. PATTERSON, of Tennessee, presented an additional paper in relation to the application of Henrietta Noble for a pension; which was referred to the Committee on Pensions.

He also presented additional papers in relation to the application of Joseph McGee Cameron and Mary Jane Cameron, children of La Fayette Cameron, for a pension; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following resolutions, petitions, and memorials,

asked to be discharged from their further consideration; which was agreed to:

Resolution of the Senate of March 14, 1867, instructing the Committee on Pensions to inquire as to the expediency of providing that pensions under special acts be placed on the same footing as pensions granted under general laws;

Resolution of the Legislature of Kansas, in favor of the passage of an act granting pensions to the soldiers of the war of 1812;

Petition of enlisted men on duty at the War Department, that they may have the benefit of their pensions while so employed;

Petition of Emily Hooe;

Petition of citizens of Oswego, New York, praying that pensions be granted to the soldiers of 1812;

Petition of citizens of Pennsylvania, praying the passage of a general pension law in favor of the surviving soldiers and widows of the soldiers of 1812;

Petition of citizens of East Tennessee, soldiers of the war of 1812, praying to be allowed pensions;

Petition of Richard Dennis;

Petition of Allen Smith;

Petition of Barton Wapples;

Petition of Joshua Black;

Petition of Stockly Sadbury;

Petition of citizens of Philadelphia, that pensions may be allowed the soldiers, sailors, and widows of such soldiers and sailors of the war of 1812;

Petition of soldiers and widows of soldiers in the war of 1812, praying to be allowed pensions;

Petition of the veteran corps of the War of 1812;

Petition of citizens of Philadelphia, praying pensions to the soldiers and sailors of the war of 1812 and the widows of such as have deceased;

Petition of Harry Teall;

Memorial of citizens of Detroit, Michigan, praying for the passage of a law granting pensions to the surviving soldiers of the war of 1812;

Petition of Samuel Redfield;

Petition of citizens of Massachusetts, that a pension be granted to Jacob Weed;

Petition of Joseph Barclay;

Memorial of members of the New England association of the soldiers of the war of 1812, praying that their names be placed on the pension-roll; and

Memorial of Joseph Blelloupe and others, citizens of Michigan, praying an amendment of the pension laws.

Mr. VAN WINKLE, from the same committee, to whom was referred the bill (S. No. 392) granting a pension to Ezra Rodgers, a soldier of the war of 1812, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Eveline Jameson, submitted a report, accompanied by a bill (S. No. 427) for the relief of the widow and children of John W. Jameson, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Wylly Woodbridge, submitted a report thereon, with a recommendation that the petitioner have leave to withdraw his petition and papers; which was agreed to.

He also, from the same committee, to whom was referred the petition of Harriet W. Pond, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 733) for the relief of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation, reported it with amendments.

Mr. YATES, from the Committee on Territories, to whom was referred the memorial of the Legislature of Minnesota, in favor of the removal of the Indian tribes occupying the country between the forks of the Cheyenne river; and the memorial of the Legislative Assembly of the Territory of Dakota, relative to Indian affairs in that Territory, asked to be discharged from their further consideration, and that they be referred to the Committee on Indian Affairs; which was agreed to.

GLOBE FOR THE CHIEF JUSTICE.

On motion of Mr. HOWARD, it was

Ordered, That the Daily and Congressional Globe, from the commencement of the present session of Congress to its close, be furnished to the Chief Justice of the United States.

BILLS INTRODUCED.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 428) for the relief of the sureties of Israel T. Canby, late receiver of public moneys at Crawfordsville, Indiana; which was read twice by its title.

Mr. HENDRICKS. I do not know to what Committee this bill ought to go, but I suppose the Judiciary Committee. It is to relieve the sureties of a receiver of money at a land office. I do not know what committee has charge of that class of business.

The PRESIDENT *pro tempore*. Perhaps the Committee on Claims. It will be referred to that committee.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 429) to remove political disabilities from George W. Jones, of Tennessee; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 430) to provide for the conversion and funding of the interest-bearing debt and to amend the banking laws of the United States; which was read twice by its title.

Mr. WILSON. I move that the bill lie on the table and be printed; and I ask that a table that I have prepared be printed as a note to the bill.

The PRESIDENT *pro tempore*. That order will be made.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 431) to authorize the construction of a railroad and telegraph line from New Orleans, in the State of Louisiana, to Mobile, in the State of Alabama, and to secure to the Government the use of the same as a military and post road, and for other purposes; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

SENATOR FROM MARYLAND.

Mr. JOHNSON. I beg leave to present the credentials of Mr. George Vickers, chosen by the Legislature of Maryland as a Senator for the term commencing March 4, 1867, for six years from that period. I move that the credentials be read and that he be permitted to take the oath of office.

The credentials were read, as follows:

The State of Maryland to the Honorable the Senate of the United States, greeting:

Know ye, that the General Assembly of the State of Maryland, reposing especial trust and confidence in the sound judgment, discretion, and integrity of Hon. George Vickers, of the State of Maryland, have elected and appointed him one of the Senators to represent the said State in the Congress of the United States for the unexpired term of Hon. Philip F. Thomas, who was refused a seat in the Senate of the United States; which term was for six years from and after the 4th day of March, 1867, agreeably to the Constitution and laws of the United States and to the laws of the State of Maryland made in pursuance thereof.

In testimony whereof, I, Thomas Swann, Governor of the State of Maryland, have hereunto set my [L. S.] hand and caused the great seal of the said State to be affixed, at the city of Annapolis, on this 7th day of March, in the year 1868, and of the independence of the United States the ninety-second. THOMAS SWANN.

J. M. CARTER, *Secretary of State.*

Mr. SUMNER. I have a motion to submit with reference to those credentials. I will read the resolution before sending it to the Chair:

Resolved, That the credentials of George Vickers, as Senator-elect of Maryland, be referred to the Committee on the Judiciary, with instructions to consider if the State of Maryland, with its existing constitution, has a republican form of government, so as to be able at this time to elect and commission a Senator of the United States.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution offered by the Senator from Massachusetts.

Mr. SUMNER. I hold in my hand a copy of the constitution of Maryland, and I begin by calling attention to one of its provisions. Article one, section one, reads as follows:

"All elections shall be by ballot; and every white male citizen of the United States, of the age of twenty-one years or upwards, who has been a resident of the State for one year and of the legislative district of Baltimore city, or of the county in which he may offer to vote, for six months next preceding the election, shall be entitled to vote in the ward or election district in which he resides at all elections hereafter to be held in this State," &c.

Thus you will perceive, by the very text of this constitution, that this government of Maryland is founded on the principle of exclusion from the ballot on account of color. Such a principle is anti-republican. It is anti-republican even if it bore only on a small number of individuals. It becomes still more anti-republican when it bears not merely on a few but on many. When large numbers, amounting to a considerable proportion of the citizens, being a fourth or a fifth, are disfranchised on account of color, then I undertake to say, according to the solemn declarations of our fathers, according to all those principles to which our country is pledged in its history, according to the actual precedents at the adoption of the Constitution of the United States, such a government cannot be treated as republican in form. I make this statement knowing all its bearings, but profoundly impressed with its truth.

Our fathers have bequeathed to us their definition of a republican form of government. You will find it in the forefront of the Declaration of Independence. There it is; you cannot depart from it; and just in proportion as you do undertake to depart from it you fall into error.

Nor is this all. At the time of the adoption of the Constitution of the United States there was but one State in the Union whose constitution on its face established the exclusion from suffrage on account of color. South Carolina stood alone. Every other State in its constitution at that time recognized all citizens, whether white or black, as entitled to suffrage. The effort had been made in several States to disfranchise citizens on account of color, but it had failed. It is notorious that in North Carolina, which bordered on South Carolina, no such exclusion prevailed. At the time of the adoption of the Constitution colored citizens voted in different parts of the country. You know well, sir, that in the formation of the Articles of Confederation there was an attempt made to found an exclusion on account of color. That was voted down. I say, then, bearing in mind the solemn principles of the Declaration of Independence, bearing in mind the actual state of things throughout this country at the time of the adoption of the Constitution, you have a definition of a republican form of government. It is a Government of the people, by the people, and for the people, and its essential principle is that equality which is the first of rights.

But I do not confine myself to any general statement. I bring to you the best contemporary authority to show that at the adoption of the Constitution it was admitted that if slavery should be abolished the slaves becoming citizens would be entitled to representation in the Government of their country. I read these important words from the Federalist, No. 54, a letter which it is now well known was contributed by Alexander Hamilton. They are as follows:

"It is only under the pretext that the laws have transferred the negroes into subjects of property that

a place is disputed them in the computation of numbers; and it is admitted that if the laws were to restore the rights which have been taken away the negroes could no longer be refused an equal share of representation with the other inhabitants."

Most important words; few more important in our history! Consider them in their meaning:

"If the laws were to restore the rights which have been taken away the negroes could no longer be refused an equal share of representation with the other inhabitants."

With this solemn understanding the Constitution of the United States was adopted. Our fathers at that time saw that the denial of the right to vote was inconsistent with the fundamental principles of a republican Government. They practically testified to the truth in all their constitutions, saving and excepting the constitution of the unhappy State of South Carolina; and now the question arises on the application of this principle.

Maryland has latterly adopted a new constitution. This is since emancipation. Slavery no longer exists. The colored race which for successive generations had been held in bondage there has leaped forth into the enjoyment of freedom. The necessary consequence of this great change was that they were entitled, also, to all the rights of citizenship. In undertaking to deny them those rights you depart from the fundamental principles of republican institutions.

Looking at the census for 1860, what do we find? The colored population of Maryland at that time amounted to 171,931. Probably at this moment, in the growth of population, it may now be two hundred thousand persons; and this large population, constituting a large proportion of the people, is shut out from the rights of citizenship. The whole white population of the State at the same time was 515,918 persons. Can a government be republican which imparts power to a select company, communicating to them oligarchical privileges, and denying equal rights to a large number of fellow-citizens? I submit that it cannot; and I further submit that, now that the question is presented at this crisis of our history, when we are laying the foundations of republican institutions throughout this country and giving to the world an example, it belongs to us in the most solemn way to stand by the requirements of our fathers. It is within the province of Congress. If we fail to exercise this great jurisdiction there will, I submit, be a failure of duty on our part. Especially is this duty imperative now, when we have a State before us which excludes more than a quarter of its citizens from the most important right of citizenship. Even if you would not interfere where this exclusion bears upon a few, you cannot hesitate when it bears upon a quarter of the population. A government which deliberately tramples upon one quarter of its people may call itself republican, but it cannot be republican in reality.

But this is not all. If you look into the constitution of Maryland and see its actual operation you will learn that there are fourteen counties of the State which elect fourteen Senators out of twenty-four, which compose the Senate, and these fourteen represent a constituency of only 118,571 persons. I have in my hands here a list of the counties with their respective populations, which I will read: Anne Arundel, Calvert, Charles, Howard, Montgomery, Prince George's, St. Mary's, Caroline, Kent, Queen Anne, Talbot, Somerset, Worcester, and Wicomico. Here are fourteen counties, with a white population of only 118,571; and yet this comparatively small population has in the Senate no less than fourteen representatives, being a majority of that body. Such a distribution of political power is unequal; it is anti-republican. We have been brought up to condemn the "rotten boroughs" of England. Here is a system of "rotten boroughs" through which a comparatively small population is enabled to sway the whole State.

Apply these general statements and these figures to the present case. The Legislature of Maryland, now in session, chosen, as I have described, with a majority of its Senate representing a very small minority of its people, and and sitting under a constitution which, on its face and also on the evidence, is anti-republican in character, has undertaken to elect a Senator and furnish him with a commission, and he now presents himself at your table to take the necessary oaths. Sir, I submit that it belongs to this body now, through its proper committee, to make an inquiry with regard to this commission and the character of the legislative body from which it proceeds, to the end that it may be ascertained if Maryland be in reality a republican State. I assert, on the information that has been communicated to me, that it is not. I may stand alone. I have been more than once reminded in this Chamber that I was alone. I never have regretted any of those occasions; and now again I gladly stand alone, if it must be so, to insist that a constitution like that of Maryland is not republican in form, and, still further, that it belongs to the Senate at this great moment of our history to declare its opinion on this question. I hope that I do not err in making this appeal.

Mr. CONNESS. Under the proposition of the honorable Senator from Massachusetts the New England States—with the exception of the State of Connecticut—together with the State of Wisconsin, I believe, would conduct this entire Government, none of the other States having a republican form of government; and when my successor shall come here on the 4th of March, 1869, and present his credentials from the State of California, he will be remanded back because the State of California has not a republican form of government. Well, sir, it would be a very convenient way, at least, of carrying on the Government. There would be advantages in it, besides giving the lead which the honorable Senator from Massachusetts claims to have, and which he undoubtedly has, in the Government. There would be a great deal of patronage at the disposition of a few. But it would be doubtful, although it might be a republican Government under that rule or plan, whether it would be a very popular Government. I fear very much that the party that would be led by my honorable friend would be a very small party, and would not be able to run the Government long.

I presume the honorable Senator has simply offered this resolution for the purpose of indicating how far he is in advance of his party friends. If that be the case, then his object is attained, and we had better proceed to business. I therefore move to lay the resolution on the table, and upon that motion I call for the yeas and nays.

Mr. NYE. Before the vote is taken upon that motion I desire to say——

The PRESIDENT *pro tempore*. The motion to lay upon the table is not debatable.

Mr. NYE. I ask the Senator to withdraw it for a moment.

Mr. CONNESS. For the honorable Senator I would, but I am requested by Senators around me who are anxious to proceed to business not to do so. I take it it would not be profitable to continue this discussion at this time.

Mr. NYE. What will be the effect of laying the resolution upon the table? Will the Senator be sworn in?

Mr. CONNESS. I suppose that will follow naturally and necessarily.

Mr. NYE. It seems to me it will carry the credentials with it.

Mr. SUMNER. Of course it does.

Mr. CONNESS. Very well. You can take the credentials where you please; the oath will be administered to the Senator-elect.

The PRESIDENT *pro tempore*. The question is on the motion to lay the resolution upon the table, on which the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. ANTHONY. I understand the Senator from Nevada desires to address the Senate on this subject. I am not in favor of the resolution, but I shall not vote to lay it upon the table when a Senator desires to speak upon it.

Mr. CONNESS. If the honorable Senator from Nevada will renew the motion at the close of his remarks I will withdraw it temporarily.

Mr. NYE. I will do so.

Mr. CONNESS. Then I withdraw it for that purpose.

The PRESIDENT *pro tempore*. It can only be withdrawn by the consent of the Senate, the yeas and nays having been ordered upon it.

Mr. JOHNSON. I wish to make an inquiry of the Chair. If the motion to lay the resolution upon the table is adopted will that lay the credentials upon the table? I suppose not; but there are some differences of opinion on that point.

The PRESIDENT *pro tempore*. It is the impression of the Chair that it would not have that effect, though it is a question that I do not profess to be familiar with.

Mr. JOHNSON. That was my own opinion.

The PRESIDENT *pro tempore*. The Senator from California asks leave to withdraw the motion to lay the resolution upon the table.

Mr. NYE. I understood he withdrew it temporarily to enable me to make a suggestion upon the resolution itself.

The PRESIDENT *pro tempore*. If there be no objection the motion will be considered as withdrawn. The Chair hears no objection.

Mr. NYE. I desire, Mr. President, to call the attention of the Senate to a single item of fact which, it seems to me, they ought to be possessed of. It will be remembered that in 1864, during the war, the citizens of the State of Maryland revised or remodeled their constitution. Under that revised constitution, as I understand, the present Governor of the State of Maryland was elected, and he was elected, as was then understood, for the reason only that this new constitution had been adopted. By that constitution it will be seen that quite a large portion of those engaged in the rebellion were excluded from voting in the State of Maryland. Subsequent to that time, in the year 1867, perhaps, there was an arrangement made by the then Governor of the State, who had the power in his hands of appointing registers for the registration of voters whose judgments were final upon that question, and by means of whom the loyal element in Maryland were able to keep possession of the State, by which this rule of registration was to be changed, and by which it was changed, so as to admit to full political rights even those who had been leaders, commanders, colonels, generals in the rebel army, unpardoned, unwashed from the rebellion. They came back at once into the possession of political power by this fraudulent transaction. Sir, I say fraudulent because it was a fraud upon the wishes of those who framed the constitution of 1864 and a fraud on the loyal citizens of the United States. That I may not be considered as speaking without some authority on this subject I call attention to a letter written by Hon. R. B. Carmichael, I think a member of the Senate of Maryland——

Mr. JOHNSON. He was a member.

Mr. NYE. Formerly a member of the Senate of Maryland, in which he gives the world to understand that the whole thing was conceived in fraud. The remuneration which Governor Swann was to receive for his fraud was, that the Legislature elected under the new constitution should elect him to the Senate of the United States. I read from the letter as published:

BELLEVIEW, *December* 16, 1867.

MY DEAR SIR: Within, please find copy of my letter to Colonel Bowie.

I understand he is the Governor-elect of Maryland now.

It is proper I should add that I wrote strongly discouraging the arrangement proposed by some for the election of Governor Swann to the United States Senate, and thereby for the immediate succession of Colonel Bowie to the executive office.

* * * * * * * * *

By some arrangement previous to the election last year it was agreed by some that Governor Swann should be elected to the Senate if he should appoint registrars who would register the true vote in the State. I was not a party thereto, and did not feel myself bound by it. But so many did that it resulted that there could not be an election of any other person without aid of the Radical vote in the Legislature. Preferring even Governor Swann to any member of our party who might be willing to accept the place by the Radical vote, I, with some others, agreed to give him my vote, provided his special friends would vote to enfranchise our citizens and for the call of a convention.

The agreement was performed on our part. He was elected.

On our party, it is my opinion, he has no further claim. As its exponent in the State a host of others stand before him.

Pardon all this. I thought it due to myself.

I am, truly, yours,

RICHARD B. CARMICHAEL.

Now, Mr. President, if that is true, the present constitution of Maryland rests upon no other basis than a corrupt political agreement; and hence the Senate will see why there is such a disparity between representation and population, and why that portion of the State which was considered the most disloyal, and probably remains so, was entitled to a representation altogether unequal to other portions of the State that were less disloyal. I assume that if this constitution was based upon a fraudulent political agreement that certain things were to be done to have the former constitution violated, that the rebels were to be permitted to vote under a wicked misconstruction of the constitution, it is not the duty of the Senate of the United States by solemn action to recognize that fraud, to hold that a constitution is republican in its form, in its origin, and in its nature that not only disfranchises a large portion of the vote of the State of Maryland, but enfranchises a large population that was disloyal to this Government.

I thought it due to myself to say this much. I desire that the question should be properly considered; and I submit with great confidence, if this be true, as exposed by one of their own number not friendly to us—a man who prefers, as he says, even Governor Swann to any one who would accept the Radical vote as a Representative in the Senate—the whole thing is based in fraud of the rights of the citizens of Maryland, and in fraud of the rights of the citizens of the United States. Far different, indeed, is it from the case of the States that are represented and have not changed their constitutions since the Constitution of the United States was adopted. My friend from California will see, if he looks through this constitution, that while they assert that slavery shall be no longer in existence in Maryland they yet claim to say that that act was unconstitutional in the constitution itself.

Mr. CONNESS. I will say to my friend that I addressed the few remarks I made to the text of the resolution offered, and I objected to it on that ground.

Mr. NYE. I am not particular about the form of the text; but I think it is time that Senators here should place themselves as Senators of the United States upon the ramparts to guard this body and the interests of this country from the result of such fraudulent bargains and contracts as appears from this letter of Carmichael himself. The result is simply this: that this Governor Swann, in violation of the then existing constitution, directed and authorized his registers to commit a foul wrong upon that instrument; that he authorized the registration of those whose hands were yet red with the blood of loyal men to thwart the wishes of the loyal citizens of Maryland; and, for one, I propose not to be an indorser upon an agreement that will forever be a stench in the nostrils of the citizens of this country.

Mr. CONNESS. I now renew my motion and the call for the yeas and nays.

Mr. JOHNSON. I ask the honorable member to permit me to say a word.

Mr. CONNESS. Certainly.

The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. JOHNSON. I do not propose to discuss the question raised specifically by the honorable Senator from Massachusetts, but to refer to the charge made by the honorable member from Nevada. When Maryland thinks proper to defend herself or her citizens should require to be defended on this floor I hope she will find a representative of her own to do her that service. I renew the motion to lay the resolution upon the table, and upon that motion I call for the yeas and nays.

Mr. GRIMES. I wish to inquire whether or not, if this motion be adopted, it carries the credentials also.

Mr. JOHNSON. I asked that, and the Chair said not.

The PRESIDENT *pro tempore*. The Chair intimated, at the instance of the Senator, that it probably would not; but on reflection I think it very doubtful, and shall refer the question to the decision of the Senate. I know of no rule about it.

Mr. CONNESS. When credentials are offered here they always go to the table without a special motion. That is where they belong. The effect of this motion is the same.

Mr. JOHNSON. Certainly; it must be the same.

Mr. CONNESS. Certainly; and the Senator is then admitted to take the oath.

The PRESIDENT *pro tempore*. The question is not open to debate.

Mr. SUMNER. The question was on ordering the yeas and nays, which had not been ordered. I do not object to ordering the yeas and nays, but propose to exercise a privilege which belongs to me as a Senator on this floor.

Mr. CONNESS. The yeas and nays were called for.

The PRESIDENT *pro tempore*. The yeas and nays are called for, and the question is on ordering them.

Mr. SUMNER. Before that question is put I desire to say that yielding to the suggestions of Senators about me I withdraw the resolution. I have accomplished my purpose in making the point.

The PRESIDENT *pro tempore*. The resolution is withdrawn. The Senator will advance to the Chair and take the oath.

Mr. VICKERS advanced to the desk, and, the oaths required by the Constitution and by the act of July 2, 1862, having been administered to him, he took his seat in the Senate.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of Saturday is before the Senate.

Mr. WILSON. I move that the further consideration of the unfinished business be postponed until half past one o'clock.

Mr. FESSENDEN and Mr. MORRILL, of Maine. Let it be passed over informally.

The PRESIDENT *pro tempore*. It will be passed over informally if there be no objection.

Mr. MORRILL, of Maine. I have no objection to its being passed over informally.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the morning business will be proceeded with.

HOUSE BILLS REFERRED.

The bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed, and the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee, were severally read twice by their titles, and referred to the Committee on the Judiciary.

PRINTING OF A COMMUNICATION.

Mr. SUMNER. There was a communication from the President the other day relating to what is known as the guano island of Alta Vela. I understood that it was ordered to be printed and referred to the Committee on Foreign Relations. The Journal does not show that it was ordered to be printed. I ask that such an order be made.

The PRESIDENT *pro tempore*. That order will be made, no objection being made.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had this day approved and signed a bill (S. No. 25) for the relief of John H. Ellis, a paymaster in the United States Army; and a bill (S. No. 237) in relation to the promulgation of the laws of the United States.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 268) for the relief of the legal representatives of the late Philip R. Fendall, deceased; and the joint resolution (S. R. No. 102) instructing the superintendent of the asylum for the insane in the District of Columbia to admit James McIntosh on the same footing as indigent insane persons of the District.

The message further announced that the House had agreed to the amendment of the Senate to the joint resolution of the House (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House insisted upon its amendment to the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. W. S. HOLMAN of Indiana, Mr. J. A. BINGHAM of Ohio, and Mr. WILLIAM B. WASHBURN of Massachusetts, managers at the same on its part.

RESTORATION OF ALABAMA.

Mr. WILSON. I now move to take up the joint resolution (S. R. No. 112) to restore Alabama to representation in Congress.

The motion was agreed to; and the Senate proceeded to consider the joint resolution.

Mr. WILSON. I desire to move the reference of that joint resolution to the Committee on the Judiciary; but before doing so I wish to say a word or two in explanation of it.

When we passed the act to facilitate the reconstruction and restoration of the rebel States in March last we provided that the people of these States should vote freely, without restraint or fear or the influence of fraud. I maintain that the people of Alabama have not had the privilege of voting "freely, without restraint or fear," and thus have failed by three or four thousand votes to adopt the constitution. I have the evidence of a large number of gentlemen well known in Alabama and many of them in the country certifying to the menaces and outrages connected with that election. These statements go to show that many thousands of people were threatened with dismissal from employment if they dared to vote for the constitution, and that they were dismissed after voting for it. Many persons, professional men and others, were deterred from voting by the declarations made that they would be injured in their business; that lawyers and doctors would not be employed in their professions, and that business men would be put under proscription. These menaces deterred thousands, black and white, from voting for the constitution.

I am told that in one case a planter who allowed himself to be a candidate for office and who was elected to the Senate of Alabama, himself the owner of thirteen thousand acres of land, after the election, on a visit to the city of Mobile, was told by the merchant with whom he did business that he could do business with him no longer on account of his position and vote. I am told by a gentleman who served in our Army and attained the rank of general that Governor Fitzpatrick, formerly a member of this body, and once the Presiding Officer of the Senate, called up the men in his employment and threatened them that if they

went to the polls and voted for this constitution they should be dismissed from his employment, and that when they gave their votes he did dismiss them.

Through such influences as these this constitution failed by a very small vote to receive a majority of all the votes registered in the State, although the State ticket was elected by a majority of all the votes cast. Sir, if there had been a fair vote, if all men had been left free to vote according to their opinions without restraint or the influence of fear or fraud we would be bound by the law in regard to that vote; but they have had no such opportunity. An overwhelming majority of the people of that State, if left free, would not only vote for the constitution, but would vote for the men selected for the officers of that State under the new constitution. General Meade is examining into the various counties of the State, and he will in a few days make a report on the subject, and it is proposed, if nothing is done in Congress, to have another election in those counties in which violence was used. In two counties it is alleged that no polls were opened at all, and in two other counties the vote was destroyed after being given.

Mr. B. W. Norris, chairman of the Republican State committee and member-elect to Congress from Alabama, a gentleman known to the Senators from Maine, states:

"Proofs are thickening daily and coming in from all quarters of outrages and fraud perpetrated in many counties, by which we have been defeated."

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"The game of bullying that was practiced in Butler county was played most successfully in Conecuh, Bullock, and many other counties."

Mr. Morse, of Choctaw county, indorsed by Mr. Norris as a southern man, a conservative Republican of unquestioned veracity, says:

"Union men of this county will have to leave; they are already threatened with exile, and mob-law prevails. Freedmen are discharged and driven to the woods because they voted for the constitution. Organizations are formed now to drive Union men from the county. Children are proscribed from the schools."

A. W. Jones, a minister of the gospel and a member of the constitutional convention, writing from Evergreen to Mr. Norris, says:

"The rebels have prevented us from polling for the constitution at least twelve hundred votes. H. S. Hatchet, superintendent of registration, appointed R. S. Rabb, a rebel club man, to hold the election."

General George E. Spencer, of Tuscaloosa, a distinguished Union officer, now register in bankruptcy, says in a letter to Mr. Norris:

"We have had a terrible struggle in this county. The rebel element has been perfectly intolerant and unbearable. Five hundred of our voters have been kept from the polls by them. The abuse heaped upon me is very hard to bear, but as I have no alternative I shall have to submit. Our people are very much discouraged and disheartened." * * * "The vote in Pickens county was 1,167 for the constitution. As I feared, both colored and white people were intimidated, and several hundred of our friends did not vote. There was a good many instances where voters were, by the use of force and arms, kept from going to the polls. Many have been turned off since voting. A terrible state of affairs exists in that county. Matters ought to be looked into in that county. It would be well to look into affairs in this county also."

Hon. Mr. Horton, mayor of Mobile, says:

"I wrote your colleague, Hon. C. SUMNER, a few days since, and now take the liberty of addressing you. The condition of the country I regard as more critical now than at any time since the close of the war. The removal of General Swayne has caused the defeat of the ratification of the constitution in this State, and was doubtless so designed by President Johnson under the advice of rebel politicians, South and North. The inhuman, not to say fiendish, efforts put forth to intimidate and prevent people from voting are unparalleled in the history of this country, and are the legitimate results of the influence of slavery, which has been forcibly described as the 'sum of all villainies.'" * * * * * "The immediate admission of Alabama into the Union would do more to vitalize loyalty in the unreconstructed States than any measure that can be adopted."

J. A. Yordy, agent of the Freedmen's Bureau at Eutaw, Alabama, writes:

"That he was in charge of the polls at Eutaw, Alabama, in August last, when 2,800 votes were cast for the convention. That he was again in charge of the polls on the 4th of February, and that but 1,793 voted for the constitution out of 2,240 votes cast. This was caused by the mutilation of the tickets by rebels, who threatened the voters with pistols and knives. There were some twenty ruffians at the polls who took numbers of tickets and tore off the word 'constitution.' They drove many freedmen from the polls, and many whites were so intimidated by their threats as to prevent them from voting. By such action 437 votes for the constitution were torn off the tickets given for Governor."

Mr. W. A. Striplin, one of the registers of the thirty-fifth district, writing from Calhoun county, says that—

"Not more than 800 votes were polled out of 3,000."

* * * * * * * * * *

"The freedmen in Calhoun county were kept away from the polls by intimidation, being threatened with dismissal from employment if they went. Some of those who did go have been dismissed, their goods being forcibly ejected from their dwelling-places."

George H. Richardson, of Coosa county, states under oath:

"That in 1862 he left Alabama and enlisted in the second Indiana cavalry; that the polls were opened at Crumpler's tan-yard, in Coosa county, and kept open two days; that one L. M. Parker, on the first day's election, came to the polls and remained till the close, taking down the names of the voters for publication; that this action prevented many white men from voting; that six white gentlemen stated to him that the presence of Parker at the polls prevented their voting; that Parker and five other rebels were armed, Parker displaying a revolver. They challenged voters, and denied the right of men to vote whose names were printed on the registry list, and on one occasion, while examining a voter as to age, Parker drew the pistol so that it could be seen. The voter declined to vote on account of the threats of said Parker. He further deposed that he had formed a school not far from Crumpler's tan-yard, which was broken up by the rebels because he voted for the constitution."

Mr. A. M. McBrayer, a register of voters in Coosa county, states under oath—

"That polls were opened in three places in Coosa county, but were only kept open two days because we never received notice of the extension of the time until after the days appointed were past. High water, consequent upon heavy rains, kept many voters from reaching any of the polls. Those who voted did so in the face of threats of violence from the Black cavalry, a freebooting organization of ex-rebel soldiers and thieves, who have ridden over the county from time to time since the war ended robbing and maltreating Union men and freedmen. Voters were told that if they cast ballots at all they would be driven from the county; and some have been discharged from employment for having voted. Terror reigns in Coosa county, and all the votes cast have been thrown by men of more than common nerve. Notwithstanding all this I am confident that the vote of the county would have been double what it is if the high water and the short time that the polls were open had not combined to keep men away."

Thomas Haughey, member-elect from Alabama, states in a letter to Hon. Albert Griffin:

"This organized system of terrorism and intimidation proved effective in keeping from the polls in Limestone county about nine hundred colored voters, and from four hundred to five hundred whites. The spirit of rebellion is as manifest in Limestone county and many other portions of North Alabama to-day as it has been at any time during the war. Our salvation now depends upon the prompt and fearless action of Congress. We must be admitted immediately to representation."

Captain R. M. Reynolds, who served in our Army during the rebellion, in a letter to me, says:

"We have received enough returns from our late election to assure us that we are technically defeated in the ratification of the constitution, yet we are really victorious, having polled such a number of votes that we are assured could not have been overcome by the rebels had they polled their last man.

"You ask me how we were defeated in the late election? A few facts will fully show how we were even defeated by the letter of the law.

"I. W. S. Hatchet, late confederate cotton agent, and a man whose name was submitted to our late convention to have political disabilities removed, was appointed chief of registration of the State just upon the eve of election, and he removed nearly all county boards of registry and appointed mainly persons opposed to reconstruction and the constitution.

"II. The judges of election were mainly selected as opposed to the constitution, and their decisions cut off thousands from casting their votes. In Wilcox county (and we think this a favorite county) out of nine judges but two cast their votes at election.

"III. The colored people were intimidated from casting their votes by threats of violence and by being turned out of employment if they dared to cast a vote at the election, keeping many from the polls.

"IV. The white people were deterred from voting by threats of publishing their names and classing them among the enemies of the white race. The Conservative Central Club at Montgomery passed resolutions, among which was:

"'*Resolved*, That we will hold as enemies to our race any and all persons who vote for the constitution, and we urgently request all persons to give employment to no one, either white or black, except those who refuse to vote,' &c.

"V. The rebels refusing to vote against the constitution compelled us to give an unprecedented vote to secure the constitution. Shall their refusal work our injury? Had they got out their last man we should have beaten them, as the returns will show, as, indeed, they all now admit. It is generally held that a man shall not be benefited by his own wrong. Will Congress so hold now? I think you will hunt in vain for the adoption of any constitution of any State by a 'majority of all the legal voters of that State.' Will you hold us to what has never been done by any State in the Union?

"VI. The registration books were not purged of disqualified voters since September last, and, as a consequence, we were compelled to count the following classes as against the constitution:

1. Those who died since September, 1867.
2. Those committed for crime since September, 1867.
3. Those leaving the State since September, 1867.
4. The sick and disabled at election.
5. Those absent on business.

Need I state any further facts? The whole is now before you, and we feel that we have done all we could, which many of us did at the peril of our lives. Many of the colored people had many miles to travel in mid-winter, swimming streams to reach the polls. I never saw any people on earth struggle harder to accomplish a given result than did the colored people in this State. They deserve success. Everything against them, and all rebels fighting against them, misleading them with false statements, bribing them, threatening, and throwing them out of doors, &c., all to no purpose. Old men and sick walked from twenty to thirty miles through mud and rain to reach the polls to deposit their vote for the constitution that they might have their freedom assured. We who have bought homes in this State since the war now feel that Congress alone can protect us in our rights. The pressure against us is terrible; and we confidently look to you for assistance. Can you not admit us with our heavy vote, which is a majority of all votes which could be cast even if four fifths of the legal voters had come out and voted?

Mr. John C. Keffer, a gentleman who has taken a leading part in reconstruction in that State, and whose name was borne on the State ticket for an important position, states in a letter to me that—

"The election in Alabama seems to have resulted in the polling of about eighty or eighty-one thousand votes for ratification of the constitution, and some four or five hundred against it. The registered vote is understood to be about seventeen thousand, including all who were registered at any time since registration commenced. If the names of those who have died or removed from the State could be stricken from the list it is highly probable that a majority of the registered voters would be found to have voted for the ratification of the Constitution. Surrounded by three States holding temptations to men to change their homes, by reason of not having received the stipulated wages called for by the contracts, the number of removals made by the laboring class has been unprecedentedly large. But the names of all who have so removed remain on the lists to be counted as voters against the constitution and against reconstruction. The extent of these changes of homes and their effect may be partially realized from the fact that a gentleman traveling south from Tennessee over two hundred miles of Alabama roads met fifty teams with white and black people emigrating into Tennessee. In Russell county, Alabama, more than two hundred men registered in Georgia applied to vote, and were, of course, refused; and it is fair to suppose that the places these men filled as laborers were vacated by others whose names are still borne on the registration lists. Even at so central a point as Montgomery many men were found who had been registered in Georgia and Mississippi.

"The conduct of the army of officials allowed to retain power and to use both power and patronage in opposition to reconstruction was outrageous, and, when added to the open and undisguised hostility of most of the newly-appointed registers, made up an adverse interest of great weight. Sheriffs summoned the worst men in the vicinity and stationed them about the polls as conservators of the peace. The voter had, in most instances, to make his way to the ballot-box through a line of ruffians armed to the teeth and bent upon depriving him of his vote by everything short of actual violence. At one poll the voters were required to stop at a marked line and take off their hats and make obeisance to these so-called conservators of the peace. Every white man who voted did so under hootings, jeers, and threats, and his name was published in the newspapers coupled with the vilest epithets and slanders, and with exhortations to stop trading with him if he were in business, and to discharge him if he were a laboring man or mechanic.

"During the election week and the week following the papers all over the State were filled with these lists, and their effect upon voters may be readily conceived.

"Instead of conducting the elections under the laws of Congress the judges were ordered to follow the laws of Alabama; and they gave themselves the widest latitude in the construction of those laws. Challenges were allowed on every conceivable ground, voters sworn, and all the time wasted that could be thus consumed. In the larger counties the polls closed with hundreds waiting an opportunity to vote, many of whom had so waited for whole days.

"The effect of the changes of registers is made apparent at once by a comparison of the votes in the different counties. Where the old registers continued in office the vote is everywhere increased; where new registers, hostile to reconstruction, were put in office the votes fall off.

"The means adopted to secure the defeat of the con-

stitution were various. The lists were made out by careless clerks and were still more carelessly printed, and every deviation from the real name of the voter, however apparent, was adjudged good cause for rejecting his vote. In some places the polls were kept open but part of the time required by election orders; in others but one poll was opened for a whole county; and in four counties, Dale, Henry, Blount, and Coffee, no election was held. The holding of the election at so few places kept thousands from voting, because of their inability to reach the voting place, separated from them by high waters, over which there are no bridges. On the last day of the election two hundred men applied unsuccessfully to vote at a poll in Dallas county, because they could not cross the creek to vote in Autauga county, where they lived, so high was the water.

"Conecuh river, cutting Pike county in two, was so high that it could not be crossed all the time that the election was held, and the order for the extension of the time could not be carried to the election officers.

"The waters of Big Swamp, in Lowndes county, were too deep to ford, and hundreds swam them, icy as they were, to reach the ballot-box. One man was drowned in the attempt. On the last day of the election, when many had given up the attempt to vote, a ballot-box was taken across these waters and another poll opened, but the sheriff of the county took charge of the ballot-boxes and allowed somebody to steal them.

"At Tuskegee, in Macon county, one of the election officers was repeatedly seen to put tickets voted into his pocket instead of into the ballot-box; and at Wetumpka, in Elmore county, the box was opened and tickets taken out.

"Yet with all this, with the military authority playing into rebel hands, with the officials appointed to execute the reconstruction law seeking to thwart its object, with proscription, starvation, intimidation, and every possible terrorism, the Union men of Alabama have polled at least eighty thousand votes in favor of reconstruction under the proposed constitution against less than five hundred votes against it."

Under these circumstances I believe it to be our duty in Congress to act promptly and to admit the representation of the State of Alabama into the Congress of the United States. I move the reference of this joint resolution to the Committee on the Judiciary, with the expression of the hope that prompt action will be taken by the committee and by the Senate upon it.

The prompt action of Congress will bring the Representatives of loyal Alabama into these Halls and put the government of that State into the care of men who will administer it for law, order, liberty, and justice. Such action will say to all men in the rebel States, "Your wrongs shall bring you no power. Congress will right the wrongs of loyal men, and vindicate their right to vote freely, without restraint or fear."

The motion was agreed to.

ORDER OF BUSINESS.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the resolution for printing the medical and surgical history of the war.

Mr. MORRILL, of Maine. I hope we shall go on with the order of the day.

Mr. ANTHONY. I understood the order of the day was postponed for half an hour.

The PRESIDENT *pro tempore*. It was passed over informally. That was the disposition of it.

Mr. ANTHONY. I do not wish to interfere with the business of the Committee on Appropriations——

Mr. MORRILL, of Maine. I hope to be able to get through with this bill in time to give the Senator an opportunity to call up his measure.

Mr. ANTHONY. Allow me to state that this report is hanging up by the eye-lids in the printing office, and ought to be disposed of one way or the other.

Mr. GRIMES. That is the very reason why I am in favor of letting the thing hang. This printing, it is said, is to cost the Government $500,000; and I think it is better to let it hang there than to take it up.

Mr. MORRILL, of Maine. It is obvious that that matter will lead to debate. We had better go on with the appropriation bill.

Mr. ANTHONY. Well, I suppose I must yield.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. ANTHONY. Yes, sir; I may as well. I shall be voted down if I do not.

CONSULAR AND DIPLOMATIC EXPENSES.

The PRESIDENT *pro tempore*. The unfinished business of Saturday, being the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, is before the Senate as in Committee of the Whole, the pending question being on the amendment reported by the Committee on Appropriations, in line eleven of the bill, to strike out the word "Portugal."

Mr. MORRILL, of Maine. I desire to add a word to what was said on Saturday by way of explanation, and to state the precise position of this question. The Senate was then very thin, hardly enough present to "hang on to the verge of the Government" any way, and we were left without a quorum. The committee deemed that it followed the provisions of the law in making this amendment, and for that reason disagreed to the proposition of the House. Now, I will refer the Senate to the statute which settles this question so far as the committee are concerned. Of course it is open to the revision of the Senate. On the 25th of July, 1866, in the bill entitled "An act making appropriations for the consular and diplomatic expenses," &c., will be found this provision:

"No money shall be paid to the present minister resident at Portugal out of any fund whatever on account of further services in his office."

The minister who then represented this country at Portugal is still the minister, and here is an act of Congress providing that no money shall be paid to him out of any fund for any future services. I trust the Senate will see that that is a justification on the part of the committee of the Senate for disagreeing to the proposition of the House.

Mr. FESSENDEN. Read that again.

Mr. MORRILL, of Maine. The particular clause relied upon is this:

"No money shall be paid to the present minister resident at Portugal out of any fund whatever on account of further services in his office."

Mr. FESSENDEN. That does not prevent an appropriation being made for a minister resident there.

Mr. MORRILL, of Maine. No, it does not prevent an appropriation for that mission; but it seems to me that it might lead to a misapprehension of what was intended by Congress, while that statute remains unrepealed and while Congress knows that the same minister is commissioned to that court, to make an appropriation.

Mr. FESSENDEN. I desire to ask my colleague whether the mission to Portugal is not specially provided for as one of the missions in the law regulating the diplomatic service?

Mr. MORRILL, of Maine. It certainly is.

Mr. FESSENDEN. Very well; that law stands. It has never been repealed. Therefore, the law requires that the appropriation should be made. The provision which has been read was simply that none of the money appropriated should be paid over to a particular individual while minister there; but it does not change the law in any way. As I understand it the law remains; it has not been repealed.

Mr. MORRILL, of Maine. My colleague will allow me to say that in the year when this provision to which I have referred was made he will find that the requirements of the law to which he refers, and which he supposes to be obligatory on the Committee on Appropriations, did not seem to bind the committee of which the honorable Senator was then chairman. They made no appropriation for this mission, but declined to make it and passed this provision; and now I suggest whether the same obligation does not reside on this committee that rested on the committee which made the appropriations in 1866. That is all I mean to say in explanation of the views of the committee.

Mr. FESSENDEN. The Senator will perceive that the object was accomplished in preventing Mr. Harvey receiving anything for the year in the bill for which that provision was made by not making the appropriation; but that provision was inserted to prevent his receiving anything out of an appropriation which had already been made. There is the distinction. At the time that bill was passed an appropriation for Portugal existed in the previous law; the year was not up, and that provision was put in to prevent any payment to Mr. Harvey out of an existing appropriation. Then, to make sure of the object in that year, if it is so, the appropriation itself was left out. But it does not change, the Senator will allow me to say, with all deference, the existing law establishing a mission to Portugal. We can make an appropriation if we please next year, and that provision would stand just as it is now, and no money could be paid so long as it remains unrepealed to Mr. Harvey. So I do not think the committee was under any obligation arising from that provision.

Mr. MORRILL, of Maine. The committee found exactly this state of things: they found that the Congress of the United States in 1866 passed a law by which this particular minister was to receive no compensation for any services in that department. Contemporaneous with that act they found that the same Congress refused to make any appropriation at all for the year in advance, for the prospective year of 1867–68. We were called upon to make an appropriation for the year ending June 30, 1869. We found in this law of Congress that no money should be paid to this particular individual, and in addition to that we found that, in harmony with that principle, they made no appropriation for the years ending June 30, 1867, and June 30, 1868, for that mission at all. On that state of facts the committee felt bound to strike out the proposition. That is all I mean to say, and I say that much in justification of the action of the committee. How the Senate will act on the subject I am entirely indifferent.

Mr. SUMNER. When this subject was under discussion on Saturday I promised to ascertain, if possible, from the Department of State the precise condition of our legation at Portugal. Since then I have seen the Secretary of State, and, in reply to my inquiry, he answers that at this moment Mr. Harvey is minister of the United States at Portugal, though, in point of fact, I believe he is here in Washington; and the Secretary adds that, so far as he is concerned, Mr. Harvey will continue the minister of the United States at Portugal. Those are the facts with regard to the legation. I do not know how far they may influence Senators on the question whether this appropriation should be kept in the bill or not. Under all the circumstances I am disposed to follow the committee. It seems to me that they have made no mistake in striking this out. If at a later date, at another period of this session, it should be deemed advisable to send a minister to Portugal, it would be very easy, as was suggested the other day, I think by the Senator from New York, to make the proper appropriation in some future bill—the legislative bill; indeed, in any bill.

Mr. WILLEY. I desire to see if I understand this proposition fairly. As I understand it, the proposition is not, directly or indirectly, to dispense with our legation at Lisbon. I further understand that we have a standing mission at Portugal, and that it is the duty of Congress regularly to make an appropriation for that mission. If I am correct thus far in my understanding of the state of this case, the object of the amendment as proposed by the committee simply is to deprive the present minister at Lisbon of his compensation.

Now, sir, upon what ground is that proposition made? My recollection is, that some time ago, while in the discharge of his duties, he wrote a private letter. I do not know that that letter does him any credit. I think it does him discredit. But it was a private letter; and I well remember how forcibly I was struck when you yourself, sir, on this floor, during a discussion of the subject on a previous occa-

sion, asked what business that letter had in the Senate of the United States. The simple object and design of that letter, to use a homely phrase, was to "honey-fuggle" Mr. Seward and Mr. Johnson. It was designed for their private eye; and it seems to have had such an effect in that quarter that those distinguished gentlemen could not keep it to themselves. To use another homely phrase, it "leaked out;" and it got to the ear of the Senate of the United States, and the Senate of the United States, by a formal resolution, if I remember aright, made a demand that the Secretary of State should furnish to us that private letter containing some silly and idle reflections upon the Senate of the United States. But for this interposition on the part of the Senate the letter would have long since been forgotten; it would have passed into oblivion unnoticed.

I desire now, at this point of the discussion, to suggest whether it is consistent with the dignity of a body like the Senate of the United States to make so much ado about a private letter never designed to come to the ear of the Senate, never designed to attract the attention of the country, and which never would have attracted the attention of the country but for the dignity which the action of the Senate has given to a matter, in my humble estimation, utterly beneath its notice. There is no charge against Mr. Harvey of malfeasance or misfeasance in office. So far as I know or have heard he has discharged the legitimate duties of his office with efficiency and propriety; but while engaged in the discharge of his duties he saw proper, in an idle moment, to write a foolish letter, which got into the Senate of the United States, and, it seems to me, has attracted a good deal more attention and a good deal more notice than it deserves. I think we had better drop it and conform to the obligation of the law as it now stands and make an appropriation, as we have always done heretofore, for the compensation of this mission; and if the Secretary of State and the present Administration see proper to send back Mr. Harvey to the discharge of his duties I think the Senate of the United States can as well afford to allow him to do so as to be giving him importance and his letter importance by so much discussion and so much notice of it in this body. That is my opinion about this matter, and therefore I shall feel constrained to vote against the amendment.

Mr. MORRILL, of Vermont. As a personal friend of Mr. Harvey in years gone by I feel bound to say that I think for this single act of indiscretion he has been sufficiently punished. There was another party who was more indiscreet than Mr. Harvey. I think we ought to decide this question as we would if it was an original question. If Mr. Harvey were before us now for confirmation would this single act of indiscretion be sufficient for us to reject him? I do not think it would. I understand that he appeared before the Committee of Appropriations in the House of Representatives, and made such explanations as were entirely satisfactory to that committee; and if they are satisfied to keep this mission up and to make the appropriation I see no reason why we should not do it.

Mr. MORTON. I should like to hear this letter read. It would seem that the Senate has taken action upon it before under similar circumstances, and I should like to hear the letter read again if it can be had conveniently.

The PRESIDENT *pro tempore*. It is not in the possession of the Senate, as I understand.

Mr. BUCKALEW. It was a letter indorsing the President's policy.

Mr. MORTON. I should like to hear it read.

The PRESIDENT *pro tempore*. It is not in the possession of the Senate. It was read at the time as a matter of explanation, but it never passed on the records, I believe. The question is on agreeing to the amendment reported by the Committee on Appropriations.

The amendment was rejected.

The next amendment of the Committee on Appropriations was in line twelve on the list of ministers, to strike out the word "Ecuador."

Mr. BUCKALEW. I will ask for the reason which induced this amendment before we vote upon it. I think if either one of those South American missions should be struck from the list it ought to be Bolivia. For my part I am not prepared to vote for this amendment unless there be some reason, unknown to me, to justify it.

Mr. MORRILL, of Maine. In reply to the Senator, I will say that two facts led the committee to this conclusion: In the first place, there is no minister there; and in the second place, there is no commerce with that country and no occasion for any minister, which, I suppose, accounts for the fact that there is no minister there. I repeat there is no minister there, and there is no commerce or demand for a minister, and therefore no occasion for an appropriation.

Mr. BUCKALEW. Mr. President, this mission I believe is vacant by the death of the late incumbent, a gentleman from Ohio. If the Senate shall think that at this time it is unnecessary to fill it, they need not proceed to confirm a minister to that republic. I differ, however, in opinion with the Senator from Maine as to the necessity of our representation at these republics of the South. Although our commercial intercourse with the republic of Ecuador is not very extensive, it is still of respectable importance. The port of Guayaquil is one of the most important on the west coast of South America; American citizens reside at that point and are engaged in important business; a gas company of American citizens lights the city of Guayaquil; an association of our citizens is engaged in navigating the Guayas river, and conduct very much of the internal commerce of that country between that city and the western base of the Andes; American citizens have long been resident there as merchants. All these are facts relating to that port. In the interior of the country there has been in recent years an importation to a limited extent of American machinery and of American workmen; some were taken from Paterson, New Jersey, a few years ago; manufacturing enterprises are beginning in the interior, in the great Andean valley, conducted by citizens from this country. Besides this, our citizens have some intercourse with that section of the earth in the way of visiting. Photographers and persons engaged in various miscellaneous employments find their way into that republic, and some of them remain for a considerable time.

Now, sir, as to all those republics one general fact is clear, and that is, there is no adequate protection for the rights of persons and of property of our citizens without a mission. Those countries are so made up, society is so organized and has impressed upon it such a character that a representation of this country is indispensable to the protection of the rights of our citizens who may reside there or sojourn there. I might cite to the Senate a great many facts which justify this statement.

Now, sir, the cost of this mission is very insignificant. No secretary is allowed by the State Department. The minister discharges all the duties of his appointment without any assistance; and, including the miscellaneous or contingent outlays of the mission, the whole amount does not exceed $8,000 per annum. The mission to Ecuador is more important to our citizens than that to Bolivia, which is almost entirely shut off from the Pacific coast, which has but one insignificant port, Cobija, with which we have scarcely any intercourse. The committee propose to leave that mission, located in the center of South America, shut off almost entirely from access to the ocean, where we have no resident citizens, no commercial intercourse, and to strike off this one. It occurs to me that it is a misjudgment upon their part; and for that reason I shall vote against their proposition.

Mr. President, there is one thing connected with these missions in South America which, perhaps, is not known to gentlemen, but which is of interest to all persons from Europe and from this country who visit those regions. The constant occurrence of revolutions in those Spanish American States, as I suggested before, renders property and all personal rights insecure. But the houses of the foreign ministers are cities of refuge in times of violence. Those ministers perform there a function that is interesting viewed in the light of humanity. Many of the leading men of those countries year after year are obliged to flee to the houses of the foreign ministers for temporary protection against the fury of some hostile faction. The ministers are constantly called upon to intercede and interpose their good offices in behalf of persecuted men with the existing irregular or violent governments which are there established. They do interpose constantly. The representatives of France, of Great Britain, and of the United States perform in all those countries a part which can be performed by no native inhabitant—the part of peace-maker, the part of protector to leading men in those countries in their various revolutions, whose lives or whose property or whose personal rights are put in danger. By their good offices interposed in this way they are most useful. I would keep up missions in some of those countries if we had no large pecuniary interest involved, because it becomes our dignity and our position as the leading Republic of the New World to be represented and to be felt there constantly; to exercise a proper influence, viewed both from the political point of view and from the point of humanity.

However all this may be, I object to striking out this Ecuador mission upon the ground which I stated before, that we have legitimate interests there which will fully warrant the expenditure, not merely of this small sum of money, but of a very considerable amount more. We are to remember that all those countries are republics fashioned after ours; that we have peculiar associations with them; and that by the introduction of steam navigation along the Pacific coast we may expect that our intercourse with them will increase, and increase very largely in future years. We are building up great States upon the Pacific shore of our own country, and I would give to our people who go out there to constitute those great communities all the facilities possible for opening up intercourse, South and North, as well as with Asia. I think it is quite unbecoming the occasion, as well as quite unnecessary, that we should settle down upon this petty amendment, for which there is no reason, I suppose, except the fact that this mission is vacant and possibly some gentlemen may not desire to have it filled just at this time. If for any existing reason, temporary in its character, we do not choose to fill this mission, the Senate can keep it open by refusing to confirm an appointment; but do not let us strike out the mission altogether from our legislation.

Mr. CONNESS. I agree entirely in all that has been said by the Senator from Pennsylvania. I desire, in addition, to say that, if there was a proposition before the Senate to reorganize our diplomatic service by providing two or three ministers for the Central and South American republics, stationed at such points as to give the opportunity to make representation of this nation in all those countries, I think I would favor it and thereby save very much public money. I am a little astonished, indeed, that such a scheme has not entered into the comprehension of our committees. But while we appoint ministers to every nation and to all the other republics in the vicinity of Ecuador it would be a reflection upon that country to refuse to send one there. The honorable chairman has given us as a reason only that the committee found the place vacant; but it will be remembered that there is now before the Senate a nomination to fill that vacancy. That reason, so far as it goes, would apply equally to the mission at the Court of St. James at this time, for it is vacant by the resignation of Mr. Adams. However, there is a greater necessity undoubt-

edly for a minister there, and the reason would not apply with equal force. It is not, as I think, a sufficient reason. I hope that our committees will at some time enter into a reorganization of that part of our foreign service, not only as to this continent, but as to the other. I, for one, would be ready to join them in a measure of reformation and change for the benefit of the public Treasury and without any injury, as I think, to the interests of the nation; but at the present time I think it would be a wrong and improper thing to strike out this mission.

Mr. MORRILL, of Maine. I am inclined to think it will turn out that the committee has made a mistake in its efforts to undertake to reform or to curtail the expenses in any particular whatever. I have not been able to discover any particular place, whether the service was performed or not, where it was thought advisable by gentlemen to allow the appropriations to be reduced. My honorable friend from California has suggested what I think will be eminently fit; but we are not sufficiently posted to do that now. It must be known, too, that these South American and Central American missions are merely nominal. Here are missions to Bolivia, Costa Rica, Ecuador, Nicaragua, Paraguay, and Peru. They are all nominal. They really amount to nothing in any any other sense than that general sense referred to by the Senator from Pennsylvania. They put us in good relations with those countries; that is all. There are very little, if any, duties to be performed there, and so far as we are concerned they are merely nominal. Anticipating a very strong desire in the country, and, as the committee supposed, in Congress, to retrench and reform where it was practicable, and finding a place open here where there was no service and nobody to perform the service, and where the duty at best was simply nominal, the committee thought for the present they might be excused, perhaps, for not recommending an appropriation where there was no service. If somebody shall be sent there at some future time, very well; then the appropriation can be made.

Mr. CONNESS. Do you propose to send a man there and pay him nothing?

Mr. MORRILL, of Maine. Whenever he shall be sent then will be the time to make the appropriation. These were the reasons which induced the committee to move this amendment. I agree with the Senator from Pennsylvania—it is not a very great affair any way; but if we are to retrench and reform the public service we must seize hold upon such small matters as lie within our reach.

Mr. CONNESS. I think the Committee on Appropriations, in connection with the Committee on Foreign Relations, without a great deal of labor, might have reformed this branch of the public service in Central America and South America. They might have easily provided that one minister should do all the business that we have with the Central American republics lying north of the Isthmus of Darien; and two, or at most three, for those lying on the Pacific slope south of that Isthmus, perhaps one at Chili and one at Peru and one at Colombia, and one on the Southern Atlantic coast, perhaps at Brazil, who might represent us at the neighboring republic and also at Paraguay. It appears to me that that would be the measure of retrenchment that could do the public service no harm and would save a vast amount of money. But, sir, this pecking at a single place while a citizen is before us for appointment to that place is simply putting off the day of a reformation which is worthy of our attention. I hope that this amendment will not be made; and I desire to assure the honorable chairman of the committee that my disposition in the premises is really to reform and not to expend unnecessarily the public money.

Mr. WILSON. We have had petitions presented here this morning demanding the reduction of the Army, the calling home of our squadrons abroad, the reduction of the civil service, and, in a word, to bring the expenses of the Government to the lowest possible point. The other day the Committee on Appropriations, finding that there was no representative of this country to Ecuador, proposed to strike out that mission from the list and not make any appropriation for it. In the early part of the session a bill was introduced into the Senate providing that the minister to Peru should also be accredited to Ecuador and Bolivia, and thus save the salaries appropriated for ministers to those countries, and also to have one minister to Central America instead of five, and to reduce the expenses of our diplomatic service generally. That bill is now upon the table; it has not been referred for the reason that I understood when I introduced it, or was told immediately after, that the Committee on Retrenchment had that matter under consideration, and that the Senator from New Hampshire upon that committee [Mr. PATTERSON] was preparing a bill to reorganize the diplomatic service of the United States and to reduce its cost. Knowing that that bill was in preparation and believing that it ought to pass, that the expenses ought to be reduced, and, further, that the expenses of the State Department ought to be reduced at least half from what they now are, being the most extravagant of any part of the Government according to the services rendered, the Committee on Appropriations thought we should make no appropriation for a minister to Ecuador, as the mission was not now filled. The committee supposed that in all human probability we should provide before the conclusion of the session that there should be no representative there, or that the minister to Peru should be assigned to this work, and it is now proposed that this country shall be omitted from the list.

If we are in earnest, if it is our purpose to reduce the expenses of this Government, we ought to begin wherever a case arises. The great difficulty is to find a beginning. I think here is a good place. We had better save $7,500 by making no appropriation for it; and I trust that before the conclusion of the session this mission will be classed with the mission to Peru, as it should be, as it might be, and save expense to the Government of the United States.

I trust, further, that the five missions to Central America, which are of very little account any way, will be assigned to one minister; an able man, with a good salary, who can perform that duty just as well as the five men we send there and a great deal better, for some of the men we have sent there and who are now there, for the credit of this Government, ought to be called home at the earliest possible moment.

Mr. BUCKALEW. Mr. President, I forgot one point when I argued the question before; and that is one of some importance. The late minister, Mr. Hassaurek, negotiated with the Government of Ecuador a treaty for the payment of a considerable amount of claims due to citizens of this country, and a representation of our Government there would be not only expedient but absolutely indispensable to secure the payment of the amount which has been agreed upon. I know very well that in all those countries where we have claims the interposition of a minister is necessary to realize anything, because there are various foreign creditors, creditors in Europe as well as in this country, who are constant and vigilant in pursuing their demands. It is so particularly in the case of Peru, as the Senate well know, in connection with the various negotiations which have occurred in relation to revenue from the guano islands; and so in this republic. If you do not keep up a minister there you will have to send some special commissioner and pay the expenses of his expedition before you will realize anything from those claims which it is the duty of the Government to prosecute, and that will cost you three or four times the whole amount of the annual appropriation.

Now, sir, the Senator from Massachusetts is inaccurate in his application of his idea of reform. He thinks that a very large sum might be saved by uniting the missions to Peru, to Bolivia, and to Ecuador. It is very true, you might unite the two former; you might authorize the minister at Lima to serve as occasion required at La Paz, or wherever may be the capital of Bolivia. They are changing it occasionally; but under our law he would be allowed half an additional salary for attending to that additional duty, and the whole amount that would be saved from that would be about three thousand seven hundred and fifty dollars. However, sir, I would not object to that. Bolivia was formerly a portion of Peru; it was called Upper Peru. It might be served from Lima; but from the nature of South America, from the geographical construction of the continent, it is hardly possible that a minister at Peru could serve to Ecuador. If he did serve there, what would be the result? In the first place, he would get half the salary of the minister to Ecuador, in addition to his salary as minister to Peru. Then he would be allowed, if he went only once a year to the city of Quito over a line, first of coast, then of river, and then of mountain travel, the expenses of his journey; and that would cost you twice over the other half of the salary. Why, sir, it would be perfectly absurd to make such an arrangement.

I say, then, sir, that the Senator from Massachusetts, although his principles are very good for economy, and he will always find me supporting them, applies them very badly in this case. He is suggesting an arrangement which will actually cost us a good deal more money than that which we pay under the existing arrangement.

It has been my experience, not only in the Senate but elsewhere, to notice that a great deal more is said about reform upon very small points than is said about reform upon large and important points. The striking out of this mission, upon the grounds which I have stated, is not a measure of reform; it will not save us a dollar of money. If you authorize the minister to Peru to attend to the matters we have to transact with the republic of Ecuador, and he goes there, the saving of half the annual salary will be more than counterbalanced by the allowance of traveling expenses. We may unite the Bolivian mission with that to Peru, as I said before, and that is the only reform you can make.

Mr. SUMNER. Mr. President, I desire to say that this proposition from the Committee on Appropriations comes directly from that committee; it has never passed under the consideration of the Committee on Foreign Relations. The Committee on Appropriations in making the recommendation they have have unquestionably consulted economy. Whether at the same time they have sufficiently taken into consideration other interests of the Government I am not prepared to say. Unquestionably at this moment our relations with Ecuador are not of a very important character. As the Senator from Pennsylvania has told us, a treaty some time ago was concluded for the payment of certain claims, and the commission under that treaty has already sat and made its award. I am not aware, however, that the money has yet been touched; it is possible, therefore, as the Senator from Pennsylvania suggests, that there may be occasion for a minister of the United States in order to follow those claims to final payment; but I have no special information on that matter at this time. I have no information that would enable me to vote with any particular knowledge. The proposition of the Committee on Appropriations, as I stated, comes from itself. I was not aware that the committee was to make any such proposition until I saw it on the bill as laid upon our tables on Saturday.

Under these circumstances, while I confess that I am not prepared to take sides one way or the other, I feel a considerable degree of indifference with regard to it. On general grounds I am in favor of the most rigid economy here, as everywhere else, and I do not mean in this department to shrink from the application of that economy which the public

good requires in all departments. If the Senate, therefore, on listening to what has been said seems disposed to strike this mission out of the bill I shall not object; on the contrary, I do not feel able, with the present lights before us, to say that such a thing should be done.

Mr. GRIMES. The fact that I am a member of the Committee on Appropriations which proposes this amendment is my apology for interposing a single word on the subject. There were two considerations that led the committee to recommend the striking out of the appropriation for the mission to Ecuador. The first is, the spirit of economy to which the Senator from Massachusetts [Mr. WILSON] has alluded; and the second is, because we had heard a great deal said in the Senate and out of the Senate about reducing the number of full ministers and ministers resident we have abroad and consolidating and combining several missions to several countries in one; but when the discussions came up on that subject we were always met by the statement that here was a good man already occupying one of these places, and it was not fair, or it would not be expedient, it would not be wise, at any rate, to consolidate that mission with another mission which was filled by somebody else who was equally a discreet and worthy minister.

We came across this mission to Ecuador; we found that it was not filled. At the time this recommendation was proposed by the Committee on Appropriations the name of no one had been sent to the Senate to fill that mission, and we did not suppose it was going to be filled. We had no reason to know who the nominee might be. We thought, therefore, in view of the fact that there had been so much discussion and such a uniform agreement among the members of the body that there was to be something or other done in the way of combining these most insignificant resident ministers, it would be wise for us, while we had an opportunity, to cut off the future use of this argument that if you combined the mission to Ecuador with that to some other country you would be interfering with the salary or with the commission and position of some friend of somebody who wanted to secure his continuance in office. Now, according to the best lights the committee had before them, there is little or no commerce between this country and Ecuador. It is true that there are a few citizens of this country who for private speculations have gone there and established themselves in some branches of manufactures, to a very limited extent, however, and have established a gas company; but all the duties of a resident minister at Ecuador can, without the slightest inconvenience and with perfect advantage to everybody in that country, be performed, I apprehend, by the consul of Guayaquil. That is done in other cases, and it can certainly be done for a year at any rate or for a shorter time if Congress chooses to carry out the project of combining several of these insignificant missions in one.

Mr. BUCKALEW. I should like to ask the Senator on the grounds on which he has argued this matter why did not the committee strike out Bolivia?

Mr. GRIMES. I have just stated that we were constantly met in every case by the argument that here was a minister already in occupation there.

Mr. BUCKALEW. But that mission is vacant.

Mr. GRIMES. We did not know that, and that may be a very good reason why we should strike it out at the present time. I apprehend that the committee would have stricken it out if they had had information that that mission was vacant.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Appropriations striking out the word "Ecuador."

The amendment was agreed to—ayes twenty-two, noes not counted.

Mr. GRIMES. Now, if the Senator from Pennsylvania desires that "Bolivia" be stricken out, I have no objection to that motion being made.

Mr. BUCKALEW. I intended to make it myself when the amendments of the committee were through with.

Mr. GRIMES. Very well.

The PRESIDENT *pro tempore*. The Secretary will read the next amendment reported by the Committee on Appropriations.

The Secretary read the next amendment, which was in line twelve to strike out "New Granada" from the list of missions, and insert "United States of Colombia."

Mr. MORRILL, of Maine. This is simply to change the name of the mission as the country has changed its name.

Mr. CONKLING. It is applying a correct name to what is now incorrectly described in the bill.

The amendment was agreed to.

The next amendment was in lines fifteen and sixteen in the appropriation for salaries of envoys extraordinary, ministers, and commissioners, to strike out "$301,000" and insert "$286,000."

Mr. MORRILL, of Maine. I should like to divide the question so as to take the vote first on striking out; because, as the bill now stands, we shall have to move an amendment to the amount.

The PRESIDENT *pro tempore*. If there be no objection the amendment will be divided, and the question is on striking out.

The motion to strike out was agreed to.

The PRESIDENT *pro tempore*. The question now is on inserting "$286,000."

Mr. BUCKALEW. I suggest to the Senator from Maine that if we strike out Bolivia the amount will be right.

Mr. MORRILL, of Maine. Very well; I propose to pass over this amendment for the present.

The PRESIDENT *pro tempore*. If there be no objection that course will be pursued. This amendment will be passed over and the next will be read.

Mr. SUMNER. Before that is done I wish to make one observation. I wish to call the attention of the Senate to one appropriation which is made in this section, which has never before been introduced into the appropriation bills. I do not call attention to it by way of opposition, or even of criticism, but I do not think it ought to pass without notice. For the first time in the history of our country Greece has been introduced into the list of countries where we are to have missions. A Senator reminds me that that point is not before the Senate. Why, sir, the question is now on the general appropriation for this section, and what I was saying related to that general appropriation, which it will be seen is increased by a mission to Greece, and I was remarking that, for the first time in our history, we find this name in the list of our missions. A few years ago there was a half of an appropriation for a mission to Greece standing by itself. That was made with a view of enabling the Government to send our minister at Constantinople, or at Vienna, or at Rome, if you please, to Greece; but that appropriation was never used. Now, for the first time, as I say, we have the name introduced. I am glad, as one, at any recognition of Greece; but then, looking at this in the light of economy, and also of practical advantage, the question has been presented to me whether a consul general there would not do at this time all that could be accomplished by a minister. We have from Greece at this moment, here in Washington, a minister resident, being a gentleman of distinguished attainments and talents. I fear, however, that we may not expect that he will continue here for a long time. Possibly, therefore, the interests of our country would be as well consulted by a consul general, which, of course, would be a very great saving of expense, as by a mission. But I am free to confess that such is my interest in the cause of Greece, such is my desire to take that ancient nation by the hand, that, for one, I shall not shrink from any expense that the Senate is disposed to undertake in that behalf.

The PRESIDENT *pro tempore*. This amendment will be passed over and the next will be read.

The Secretary read the next amendment reported by the Committee on Appropriations, which was after the word "abroad," in line thirty-one, to insert the words "and of foreign intercourse," and in line thirty-two to strike out "fifty" and insert "twenty;" so as to make the clause read:

For contingent expenses of all the missions abroad and of foreign intercourse, $20,000.

Mr. SUMNER. I wish to ask the attention of my friend, the chairman of the Committee on Appropriations, for a moment on that proposition. I am inclined to think that, though it has the sanction of the committee, it has been made hastily and without consideration. It will be observed, if you look at the bill as it comes from the House of Representatives, that there are two different items. I will read them:

For contingent expenses of all the missions abroad, $50,000.

For contingent expenses of foreign intercourse, $30,000: *Provided*, That this sum shall be expended for purposes of foreign intercourse only.

That is the way in which the bill comes from the House of Representatives. Now, as I understand it, the Committee on Appropriations propose to reduce these two clauses to one and cut down the appropriation, which in the two clauses amounts to $80,000, to $20,000; so that the bill shall read:

For contingent expenses of all the missions abroad and of foreign intercourse, $20,000.

In other words, the sum of $20,000 is to cover all the contingent expenses of our missions and all the contingent expenses of foreign intercourse. In the first place, as to the contingent expenses of the missions, I understand that even the smallest missions are allowed $500 a year for contingent expenses. Multiply that sum by the number of missions and you will see how large a portion of this $20,000 it would absorb. The larger missions, as those at London, Paris, Vienna, Berlin, and Madrid, have a larger allowance for contingent expenses; so that this sum of $20,000 would probably be entirely taken up merely for what are called the contingent expenses of the missions, to be expended by the head of each mission, for which he is to furnish vouchers. Then you will perceive that there is absolutely no appropriation for what in the House bill are called "the contingent expenses of foreign intercourse." I need not remind you—the subject has often been discussed—that, without going into any question of secret service, there are very considerable expenses of foreign intercourse. I have, for instance, a report which was made to the House of Representatives some time during this session, I believe, a statement of the expenditures from the fund for the contingent expenses of foreign intercourse from December 1, 1865, to November 30, 1866, inclusive. By going over this you will see that there are expenses for dispatch agents. On a former occasion I tried to explain this expenditure to the Senate; I do not know with what success. I mentioned that we had one central agency in London, where all dispatches for Europe are received and then distributed. That agency, of course, must be supported. Without support how will the communications of our Government reach the ministers to whom they are addressed? Then we have agents in Boston and New York. I have here a memorandum of the allowances to each. They are considerable in the course of the year. Then, again, here is one item which reads, "Philp & Solomons, stationery, $3,326 52." It is the usage of the Department to supply our ministers and foreign agents, as they leave, with a certain amount of stationery here in Washington.

As they are about to leave they are supplied in advance with a certain amount of stationery.

If Senators will take the trouble to call at the Department of State I think they may, perhaps, be amused by seeing one of the large boxes or trunks containing it. The item here, I find, is $3,326 52. Every minister that goes abroad receives a certain amount of this stationery of a particular quality and size; and one of the instructions that he receives is that all his communications with the Department are to be written on this particular kind of paper of this particular size and quality, so that it may be bound up with the dispatches.

Mr. MORRILL, of Maine. Do I understand the Senator to say that that comes out of this particular fund?

Mr. SUMNER. It comes out of "the contingent expenses of foreign intercourse." It is so mentioned in the report which I hold in my hand. Again, I find still another item: "Philp & Solomons, stationery, $1,815."

Mr. SHERMAN. I do not wish to interfere in this matter; but I will call the attention of the Senate to the fact that there are several items of contingent expenses, and there are special appropriations for stationery and all kinds of expenditures such as those the Senator from Massachusetts now refers to in this bill, and in all appropriation bills for the diplomatic service. Then there is an appropriation for stationery, &c., for the State Department in this country, provided for by what is called the legislative and executive appropriation bill.

Mr. SUMNER. Certainly.

Mr. SHERMAN. Then here is an item in this bill, on page 3, which provides for stationery:

For the purchase of blank-books, stationery, bookcases, arms of the United States, seals, presses, flags, &c., $30,000.

That is a different class of expenditure entirely.

Mr. SUMNER. In what I say I proceed according to the report from the Department which I hold in my hand. And I find, as I have already said, under the head of "statement of expenditures from the fund for the contingent expenses of foreign intercourse," the items which I have mentioned. I know nothing about them beyond what I find here. I may add that I have seen these trunks or boxes containing stationery, and which I have been told were always given to every minister and agent when he left the State Department for foreign service.

Mr. GRIMES. Can the Senator tell us what becomes of the money appropriated under the clause to which the Senator from Ohio has just called attention?

Mr. SUMNER. I cannot.

Mr. GRIMES. The committee supposed the items to which the Senator now alludes were covered by that appropriation specifically providing a certain sum for stationery, &c.

Mr. SUMNER. I simply proceed according to the report in this case. It has been sometimes supposed that the appropriations for what are called the contingent expenses of foreign intercourse are all absorbed by the secret service; but if you will look at the report which was made by the Department, and which I hold in my hand, you will find that the secret-service fund is simply that which is indicated by the President's approval. In other words, nothing is expended for the secret-service fund except with the President's approval. He knows what it is for; the vouchers are furnished to him; and then, in the public statement of the Department, the item stands, "President's approval." For instance, in the report which I have now before me I find one item, "President's approval, $3,235 30;" and then another similar item, "President's approval, $5,826;" and then comes a third item, "President's approval, $6,610;" there being in this report some seventeen thousand dollars expended by the President's approval on vouchers furnished to him, and familiarly called expenditures in the secret service of the Government.

Now, the practical question is whether you will constrain the operations of the Department of State by denying to it these means which it has habitually used—means some of which are expended in what is known as the secret service, and others expended in service which is not secret, but which is known to all the world. My own impression is that it would be inexpedient to interfere with the bill as it comes from the House of Representatives. The House, it will be perceived, has reduced these appropriations considerably. They are much lower than they were one and two and three years ago. I doubt if we can go lower than the House has put them without interfering with the public interests. I hope, therefore, that the amendment of the committee will not prevail.

Mr. CONKLING. I should like to inquire of the Senator how they compare with the sums which were allowed prior to the war, before the extraordinary exigencies of the war?

Mr. SUMNER. My impression is that they are not so much as they were before the war; that there is a reduction.

Mr. CONKLING. How were they in the year 1861?

Mr. SUMNER. I have not looked at them latterly. On a former occasion I remember bringing these items forward. I have not the items now, and I never charged my memory with them.

Mr. CONKLING. If it turns out that the allowance made now by the committee is all that was necessary at any period before the war, may we not expect the honorable Senator to agree with us in thinking that we have made as large an allowance as should be made.

Mr. SUMNER. Certainly; the Senator may expect that I would agree with him in that.

Mr. CONKLING. Then why allow any more?

Mr. SUMNER. Then the practical question, which I submit to my honorable friend is whether, on the evidences before the Senate, he is willing to constrain the operations of this branch of the Government to such an extent as they will be constrained unless the report which I have read from is entirely mistaken or an exaggeration.

Mr. CONKLING. Without interfering with the chairman of the committee, who has this bill in charge, and who will answer for the committee, I beg to respond to the question put me. Upon the evidence which was presented to the committee I was ready to agree to this report, and I am ready to stand by it and to take all the risk there will be of crippling the Department. I think the amendment proposed by the committee of this body gives enough, and at the proper time I shall assign the reasons for this belief.

Mr. MORRILL, of Maine. It is extremely difficult to determine anything accurately in regard to any of these appropriations for contingent expenses, because there are no data given the committee. We have the book of estimates; but that is only in general terms. The estimates for this particular year are as follows:

For contingent expenses of all the missions abroad, $50,000.

For contingent expenses of foreign intercourse, $65,000.

What do they mean? What are they for? It is impossible for the committee to know what they are for. There is no statement anywhere, no detail of the expenses, no information given on the subject. How are we to arrive at what these contingent expenses are? There is no service and no part of the service, no department, and no bureau without an item of contingent expenses.

The Senator from Massachusetts says these appropriations for contingent expenses are used up in the way he has indicated for stationery, &c., here in Washington. It is hardly conceivable that can be so, because the State Department has itself a contingent fund proper out of which, it would seem to me, all expenditures on this side of the water would be made; and it did not occur to the Committee on Appropriations that expenditures on this side of the water would be charged to the account of expenses of foreign intercourse. I can hardly understand how it is that the honorable Senator from Massachusetts can be correct in that statement. It must be, I think, that all the expenses of the State Department here in Washington must come out of the contingent fund proper appropriated for the State Department.

Now, what is the character of these contingent expenses abroad? You will see these items are classified; first, "contingent expenses of all the missions abroad." The ministers have their salaries, and they have their officers, their secretaries of legation, with their salaries; and the law specifically provides for rent, paper, blank books, &c., I think, broadly enough to cover all expenses that one might reasonably expect to arise in connection with a foreign mission. The contingent expenses here contemplated lie outside of anything known to the committee or anything that we can even guess at. My honorable friend from Pennsylvania says he can tell what they are. I should be very glad to hear from the honorable Senator at this moment, if he pleases, precisely what that item means.

Mr. BUCKALEW. These outlays for contingencies, as they are called, of the legations, are paid out on vouchers by each minister under very stringent rules adopted by the State Department, and are regularly settled and audited. There are no outlays incurred under the Government which undergo a more regular investigation and settlement than they do. The largest portion of the outlay, as I understand, is for loss upon exchange. A foreign minister draws a bill upon the State Department and sells it in the country where he is located for the coin of that country for what he can get. He is charged, then, in his settlement of the contingencies of the legation for the value of the coin he receives.

Mr. FESSENDEN. My friend will allow me to suggest that loss by exchange is specially provided for by no portion of the bill.

Mr. BUCKALEW. I am now speaking of what are called contingencies of the legations and the way the account is settled. Whether the appropriation which we are now debating covers that particular item of contingent outlays or not I do not understand. I am speaking under the language of this appropriation and explaining what are the contingencies of legations, and this is one of the main and leading items. Another item is for stationery purchased abroad, which is a very considerable sum of money; and there is also another outlay at these legations for postage, very considerable expenses of that sort, in some cases, not only foreign postage between the foreign country and the United States, but inland postage between the coast and the capital. Then there are outlays for flags for legations and various other purposes. I do not know how the broad language of this appropriation bill is made up, but, so far as I understand, the contingent outlays of our foreign legations are all settled in a regular manner, and the minister is obliged to file vouchers precisely as a trustee in this country filing his account in court is obliged to file vouchers. He can only prove an item, where it is below a very small sum of money, below five dollars, by his own statement; otherwise he must file the proof.

It follows, then, if I am correct in my view on this subject, that no more money can be expended than is regularly accounted for in the Department. It seems to me, therefore, that if the Department ask for an appropriation of $50,000 for the contingent outlays of the legations it will be hazarding an inconvenience to cut it down to $20,000. The only practical result will be that we shall have to vote the money in a deficiency bill.

Mr. MORRILL, of Maine. It turns out that the honorable Senator from Pennsylvania has about the same information on the subject that the committee had. It will be seen that the items of expense which he has enumerated

as constituting the charge upon this contingent fund are all specifically provided for in this bill. Here is a provision for loss of exchange, and a provision for books, stationery, book-cases, arms, and seals, and presses, and flags.

Mr. FESSENDEN. For what?

Mr. MORRILL, of Maine. "And for postages and miscellaneous expenses."

Mr. FESSENDEN. Of what?

Mr. MORRILL, of Maine. "Of the consuls of the United States;" and the appropriation is $30,000.

Mr. FESSENDEN. It is for consuls, not for ministers. I believe the office rent of the ministers is covered by this item.

Mr. BUCKALEW. The clause to which the Senator from Maine [Mr. MORRILL] refers relates entirely to consuls.

Mr. MORRILL, of Maine. I am not exactly sure about that.

Mr. SUMNER. The Senator from New York asked as to the difference between the appropriation proposed now and that before the war for the same purpose. I have turned since to the statute-book, and I have here the bill passed for consular and diplomatic appropriations and approved February 28, 1861. Carry yourself back, Mr. President, to that date, a few days before Mr. Lincoln came into office. In that bill I find these appropriations:

"For contingent expenses of all the missions abroad, $40,000.

"For contingent expenses of foreign intercourse, $40,000."

Mr. FESSENDEN. And those appropriations were about the same as they had been for several years previous.

Mr. SUMNER. Certainly; as the Senator from Maine says, they had been about the same for several years previous. Now, it is proposed to melt these two items into one, and reduce the total appropriation to $20,000. It is very clear that it will be impossible for the Department of State to conduct its business without a larger appropriation. But then my friend, the Senator from Maine, [Mr. MORRILL,] the chairman of the committee, has told us that the items included in the statement which I have read to the Senate—stationery and the like—are all provided for by another clause of the appropriation bill on the third page, where we find this clause:

For the purchase of blank books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postage and miscellaneous expenses of the consuls of the United States, including loss by exchange, $30,000.

If the Senator will be good enough to go back to the bill of 1861, to which I have already referred, he will find substantially the same item:

"For the purchase of blank books, stationery, arms of the United States, seals, presses, flags, and for the payment of postage and miscellaneous expenses of the consuls of the United States, $30,000."

Now, Mr. President, if you will be good enough to look at the next diplomatic appropriation bill, being that of February 4, 1862, which was after the administration of Mr. Lincoln had begun, you will find a change. In that bill you find these appropriations:

"For contingent expenses of all the missions abroad, $50,000.

"For contingent expenses of foreign intercourse, $100,000."

Being $150,000 in sum total for the item which my honorable friend proposes to reduce to $20,000. Sir, I am for economy; I will join with my honorable friend in any reasonable effort in that direction, but I am against a reduction of these appropriations so low that our Government cannot practically conduct its business. I believe that if we follow the lead of the committee in this direction we shall materially interfere with the business of the country. I think, therefore, that we had better allow this bill in this respect to remain as it came from the other House.

Mr. MORRILL, of Maine. I was about proceeding to remark upon the other item of contingent expenses, that is, the expenses of foreign intercourse. I do not know but that in apparently conceding to the construction which my colleague put upon the clause for purchase of blank books, &c., I yielded to a construction which may be a little questionable. I am not sure that that does not provide for what is supposed to be embraced in this item of contingent expenses. I will read it:

For the purchase of blank books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postages and miscellaneous expenses of the consuls of the United States, including loss by exchange, $30,000.

I submit that it does not necessarily confine it to consuls; but, however that may be, it was not apparent to the committee from anything we had on this subject what "the contingent expenses of foreign intercourse" really mean. What are these expenses? Certainly not, as I had occasion to remark before, those indicated by the Senator from Massachusetts, expenses which are made here in Washington as connected with foreign intercourse; for it occurred to the committee that those must necessarily come out of the contingent fund proper of the State Department.

I am not disposed to doubt that during the exigencies of the war these contingent items were properly largely increased; but if you would find really what these items ought to be in a time of peace you must go back of the war or go back to a period so nearly connected with the war as would naturally lead you to suppose that they were not really increased by the exigencies of the war. I find it convenient, having the statute before me at this moment, to go back to the year 1861. The honorable Senator from Massachusetts will find that these items then were much less than he supposes. I find in the bill making appropriations for the year ending June 30, 1861:

"For the contingent expenses of all the missions abroad, $20,000."

Mr. SUMNER. I beg the Senator's pardon; $40,000.

Mr. MORRILL, of Maine. By what act?

Mr. SUMNER. The act approved February 28, 1861.

Mr. MORRILL, of Maine. That was the appropriation for the year 1861-62, but for the year 1860-61 this item was $20,000. Why should it in this year of grace be more than in the year 1860-61? Can anybody answer? Is there any reason known to anybody or which leads any one to suppose that the contingent expenses of all the missions abroad for the year 1868-69 should be greater than the expenses of the year 1860-61, when we were contemplating the difficulties which soon after came upon us? It seems to me that is an answer to the argument drawn from the appropriations made during the existence of the war. In the same bill the next item is:

"For contingent expenses of foreign intercourse, $40,000."

Making $60,000 during that year for these two items. The committee had very good reason to believe that these sums have been expended in that kind of service which, at the present moment, could afford to be somewhat curtailed. If the honorable Senator thinks $20,000 for both services is too small let him state what he thinks is necessary.

Mr. SUMNER. I understood the Senator a moment ago asked for an explanation of this increase. It has not occurred to the Senator perhaps——

Mr. MORRILL, of Maine. I asked for an explanation of the items which constituted the contingent expenses of foreign intercourse.

Mr. SUMNER. Very well; now allow me to mention to the Senator that the difference of exchange on the drafts of the ministers which is paid for out of this fund takes a portion of it.

Mr. MORRILL, of Maine. No; that is provided for expressly in the bill.

Mr. FESSENDEN. On page 5, after an appropriation for salaries, there are the words "including loss by exchange thereon."

Mr. SUMNER. That only applies to consular salaries.

Mr. FESSENDEN. To all, I think.

Mr. SUMNER. No; that seems to refer only to consular salaries. It is under the head of consulates and commercial agencies.

Mr. FESSENDEN. But there is no close of the sentence, which begins a long way before, until you get to the appropriation in lines one hundred and five and one hundred and six. That clause seems to cover loss by exchange. I do not understand what the provision on page 3, already read, relating to loss by exchange, means. I do not know what loss there may be, except on the salaries, and I suppose the item on page 5 is intended to cover the loss by exchange on the salaries of ministers as well as of consuls.

Mr. SUMNER. Must not the item on the third page, relating to loss by exchange, relate to consuls and commercial agents who are not allowed to trade?

Mr. FESSENDEN. That clause evidently does not apply to ministers; but are not ministers covered by the last clause on page 5, to which I have referred?

Mr. MORRILL, of Maine. I can state to the Senator from Massachusetts from the estimates (and perhaps that settles the question) that the loss of exchange paid to consuls for the year ending June 30, 1867, was $10,717 77.

Mr. FESSENDEN. The item on the third page, perhaps, may be loss of exchange on money remitted by the consuls.

Mr. GRIMES. It is not loss of exchange on their salaries, but it is loss of exchange on the amount of fees collected by the consuls in foreign ports from the certificates they give to invoices and with which they buy bills to send home. This is to make that up. The loss of exchange on the salaries of our ministers is very trifling in amount.

Mr. SUMNER. It is something. It is an item.

Mr. GRIMES. It would not be enough to require a very large appropriation.

Mr. FESSENDEN. It is rather large in China and the eastern countries.

Mr. SUMNER. And very large in the South American States.

Mr. GRIMES. Suppose it was five per cent. all around on the average.

Mr. SUMNER. That would make one very considerable item.

Mr. FESSENDEN. Whatever it is, it seems to be provided for in the last clause to which I have referred.

Mr. SUMNER. But if that be so it leaves these appropriations that are proposed for the contingent expenses of the missions abroad and for the contingent expenses of foreign intercourse to be applicable to other things; and the question is whether there are not other things enough to absorb those appropriations.

Mr. GRIMES. It leaves them applicable, as I understand, in most instances, to the paying of dispatch agents and messengers who are sent back and forth between different ministers abroad and between this country and Europe.

Mr. SUMNER. That is one very considerable item, unquestionably.

Mr. ANTHONY. Does it not include stationery?

Mr. SUMNER. I have already mentioned that. I do not wish to prolong this discussion; but it seems to me that we ought not to interfere with the bill as it came from the House in this respect.

Mr. FESSENDEN. I hope the amendment will not be agreed to. I do not know that the appropriation ought not to be cut down somewhat from what it has been heretofore; that I have not investigated this year; but I am very well satisfied, from our previous history and from the appropriations which have heretofore been made, that $20,000 for both these items will not be half enough. We ought to give more. I investigated this matter some years ago. It is impossible for me to bear all these items in mind and recollect them from year to year; but I know that I have investigated the subject more than once. One year, while I had the honor of being chairman of the Committee on Finance, before its duties were divided, I consented to increase these appropria-

tions after very careful examination. I saw very good reason during the war why we should increase them, as we did, up to the sum we then appropriated. Now, undoubtedly, we should fall back to something like the old rates before the war; but why should we fall back to half of the sum that was appropriated before the war, when the expenses connected with these offices certainly cannot be less than they were then? It seems to me it is very unreasonable, and that there is no ground for it. I think my friends upon the Committee on Appropriations have rather drawn a bow at a venture without thoroughly investigating the matter, as might easily have been done at the State Department, and the items obtained.

I do not think there is any very good reason to complain of those who make the estimates that they have not sent items here. That never has been customary. We call upon them for an estimate of the amount of the appropriations that they wish for all objects; and I do not know that we have ever gone any further than to require that the object for which a sum of money was wanted, the general purpose, the particular use to which they wished it appropriated, should be specifically pointed out. That is for the protection of the Treasury and to avoid the exercise of too large a discretion in the expenditure of money. But it has never been required that there should be a detail of the particular application to which every cent shall be devoted. My friend and colleague, the chairman of the Committee on Appropriations, stated that all that committee had was a lump. That is all that is ever given. Then, if you want specific information and are in doubt whether a particular sum is not too much, you call for an explanation of it. If you compel the Departments in sending in estimates of appropriations to specify all the items and objects, you would have every year several large octavo volumes containing the items of the accounts, which are never given, because it is supposed to be unnecessary.

In the first place you are compelled to a certain extent—I think it is a sort of courtesy we owe to each other—to believe that a high officer of the Government does not mean to expend the money of the Government unnecessarily; that he will confine it to the purpose for which it is intended; but if you have any doubt upon that subject it is easy for a committee to satisfy itself by calling for a more particular and minute designation of what goes to make up those particular expenses.

I know, sir, for I was on the Committee on Finance, that before the war Congress was always very close and careful in appropriations. Our southern friends made it a rule to be very specific. Mr. Hunter, the former chairman of the committee, was very particular, because it was his object always to cut down appropriations to the very lowest point, in order to take away all possible excuse for increasing the duties, or to get some ground upon which he could reduce them, holding that we should raise no more than was absolutely necessary, and the lower he could get them the less protection there would be to home industry. That was the principle, and everything was cut down to the lowest point as a general rule.

Now, sir, if you look back of the war you will see that the amount appropriated every year for contingent expenses of foreign intercourse and for contingent expenses of our missions abroad was double what it is in this bill, and more than double as a general rule. I do not think we can possibly, in these times, go back of that to any considerable extent with safety.

I would suggest, therefore, that the Committee on Appropriations place these items as they have always been. They have always been kept separate heretofore. If they insist on appropriating but $20,000 let them put $10,000 to each item and not put both under one head, which would introduce a new system of keeping the accounts. The things are separate in their nature. I think in this amendment they make a very great mistake, and the result of it will be that we shall be called upon during the session to provide for a deficiency in anticipation.

It is, of course, a matter in which I feel no more interest than any other member. I wish to say, however, because it seems to be the fashion of the time that everybody should say it, and for fear that I may be suspected of being an extravagant man I will put it in here, and I want everybody that hears me and the whole country to understand, that I am for economy, because everybody must say that, or else I do not know what will be his fate; but still, while I am for economy, I am for carrying on the Government in a decent and respectable way.

Mr. BUCKALEW. By rejecting this particular amendment of the committee we shall have the two items kept separate as they have been heretofore in our appropriation bills, and as they ought to be, in my opinion. The rejection of the present amendment will leave the appropriation for contingencies of legations standing at $50,000. If that be too high we can afterward amend the amount; but the amendment of the committee is to insert an appropriation for another and different object into this clause, and blend the two together; whereas the accounts at the Department, I understand, are kept separate, and our appropriations heretofore have been distinct. I think we ought, therefore, to reject the present amendment of the committee, whatever we may think as to the question of the amount to be appropriated.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. ANTHONY. I understand that this amount of $20,000 is intended, besides other things, to cover the stationery furnished to the legations. I should not suppose that amount would furnish that item alone. I should not think that all the foreign legations of this country could be supplied with stationery for $20,000 a year.

Mr. MORRILL, of Maine. This has nothing to do with that.

Mr. ANTHONY. I understand from the chairman of the Committee on Foreign Relations that it does include that.

Mr. MORRILL, of Maine. I do not so understand it. I should like to call the attention of the Senate for a moment to the condition of this question. The bill as it comes from the other House appropriates "for contingent expenses of all the missions abroad, $50,000." Our committee propose to amend that so as to make it read: "for contingent expenses of all the missions abroad and of foreign intercourse, $20,000." Then there is a separate item in the House bill appropriating $30,000 for contingent expenses of foreign intercourse. If the Senate desire to reach a practical point they will divide the question. As I understand my colleague he thinks the two items ought not to be embraced together. If so, the question ought to be divided, so that we may vote first on leaving out the words "and of foreign intercourse" in the first clause.

Mr. FESSENDEN. Let us take the vote first on the first amendment, which is to insert in the first clause the words "and of foreign intercourse." If that be rejected, then the question will come on reducing the appropriation from $50,000 to $20,000.

The PRESIDENT *pro tempore*. The question will be divided at the suggestion of Senators. The first question, therefore, is on inserting after the word "abroad" in line thirty-one the words "and of foreign intercourse." Are the yeas and nays demanded on this branch of the amendment as divided?

[No, no.]

Mr. CONNESS. Where does this amendment come from? From the committee?

Mr. MORRILL, of Maine. From the Committee on Appropriations.

Mr. FESSENDEN. The committee themselves are not in favor of it now.

On a division, the first branch of the amendment was rejected—ayes 13, noes 15.

The PRESIDENT *pro tempore*. The question now is on the second branch of the amendment.

Mr. BUCKALEW. I will move to amend the amendment of the committee by inserting "$40,000" instead of "$20,000." That will be precisely the amount in the appropriation act of 1861.

On a division, there were—ayes 10, noes 13; no quorum voting.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. WILLIAMS. I have heard it stated here that this appropriation was for the purpose of supplying foreign ministers with stationery and other articles necessary for their outfit. I should like to know why the State Department cannot make an estimate of what it needs in this respect like the other Departments. Why are we called upon here to make an appropriation for such purposes in total ignorance? No member of the Senate seems to know anything about this matter; but one Senator supposes the money is to be applied for one purpose and another member supposes that it is to be applied for another purpose; and it has been suggested that there is a large item of stationery embraced in this appropriation. I do not deny that it may be necessary for the State Department to have possession of a secret service fund, and that it would not be proper for the State Department to expose the uses to which that fund is applied or the persons to whom the money is paid; but further than that, I can see no necessity for so much secrecy in connection with the State Department. If they want $20,000 worth of stationery to enable the Department to transact their business, why do they not say so to the Senate, and then we shall know something about it, and I presume there would be no objection on the part of the Senate to appropriating the necessary amount of money. But there is no certainty that this is for stationery; there is no certainty that it is for any particular purpose, but it is to be put into the hands of the State Department to be used for some indefinite and unknown purpose. Until the State Department can condescend to communicate to Congress some information on the subject I am for putting down this amount to the lowest figure which will appear to be reasonable. If, at a subsequent time after this appropriation bill is passed, in the judgment of the Secretary of State a further appropriation be necessary, and he furnishes Congress with the reasons for adding to this appropriation, then I shall be willing to add in the next appropriation bill something to this amount; but until that time, so long as we are kept in the dark, I think we ought to be careful how we jump in the dark, and not appropriate more than appears to be reasonable for the purposes of that Department

Mr. SUMNER. Mr. President——

Mr. FESSENDEN. Allow me to make an explanation. It has been suggested by the Senator from Pennsylvania that I am mistaken in regard to the loss on exchange. I do not know but that I am. On looking at the bill further, I notice that with reference to the salaries of ministers the sum is stated, $286,000; nothing is said about exchange; and then begins a new sentence for the consuls; so that the loss of exchange with regard to the consuls is on the paper pay.

Mr. MORRILL, of Maine. They are paid in gold. All the ministers are paid in gold abroad.

Mr. FESSENDEN. I do not know whether there is any exchange or not.

Mr. MORRILL, of Maine. There is no such thing as exchange. They are paid in the currency of the country where they are, and the exchange is for their benefit.

Mr. FESSENDEN. How much does it cost to get the gold there? They draw for their salaries. For instance, take our minister to China. He draws for his salary somewhere. They get gold. How does he sell his bills?

Mr. GRIMES. He sells his bill on New York and has to pay the discount.

Mr. MORRILL, of Vermont. The Government always pays it.

Mr. FESSENDEN. The Government always pay it, of course. It is so much that it costs to get the salary in those places. So that I am very much inclined to believe that these items do cover the loss of exchange that there may be on the salaries of ministers. My friend from Oregon says that the difficulty about this is that nobody knows anything about it. I really profess to know a little something about it. He ought to know something about it. He has been a long time on the Committee on Finance where we considered these very questions. Now, sir, he has got the wrong item in speaking of the question of secret service. It comes into the next item "for contingent expenses of foreign intercourse;" it is not in this one, "for contingent expenses of all the missions abroad;" so that his remarks in regard to that do not apply to this item at all. I do not believe that the Department can get along for a less sum than was appropriated for these purposes before the war, because, then, I think the appropriations were cut down to the lowest notch. But if the Senate insist upon this reduction, I have no objection of course; I shall not vote for it myself.

Mr. BUCKALEW. I will add one word at the peril of being thought pertinacious about a thing which, in opposition to the opinion of the Senator from Oregon, I will say I think I understand. This account of contingencies of legations which is made up by every foreign minister and transmitted quarterly to the State Department is an account about which there need be no difficulty and no dispute. It covers the item of loss upon exchange in the payment of the minister's salary, or of so much of it as he draws and expends in the foreign country. It includes the outlay of the legation for all stationery purchased and used by it in the foreign country. It includes all outlays for inland and ocean postage in the foreign country. Those are the three main items.

Mr. WILLIAMS. I will ask the Senator if there is any reason why some statement should not be made by the State Department to Congress showing the necessity of an appropriation to pay such expenses?

Mr. SUMNER. Allow me to say it has been made. Here it is if the Senator will only read it, made long ago, and it is always at the call of a Senator. There is no secrecy about it.

Mr. BUCKALEW. And upon that estimate the House voted the sum of $50,000. This is the fact with regard to this item. Now, let me call the attention of the Senate to the facts as to the amount. In 1860 and in prior years the drafts of the foreign minister in a foreign country were at a higher rate of credit than they are now. The result was that he received more of American coin, or the equivalent of American coin, in a foreign country on a bill. There was but a very little item of loss upon exchange, and this appropriation might, therefore, be comparatively small. But since our Government credit has fallen below the coin standard in the foreign country, when the minister sells his bill drawn upon the Department of State to be paid here in the currency of this country he gets but a small amount comparatively of coin for it. The amount which he actually receives of coin in the foreign country is charged upon these bills, and then, of course, in settling the account there is an item for the difference, and it passes into the account which is covered by this appropriation. Now, the members of the Senate are not striking at any point of economy at all. These accounts will be made out and will be settled precisely as they now are by a competent officer in the State Department assigned to that particular duty whether this appropriation is made or not. If you do not vote the necessary amount to cover it you have got to vote it in a deficiency bill. That is the whole of this question.

Mr. WILSON. I hope the chairman of the committee will modify this amendment, and that we shall appropriate the same amount that we appropriated in 1860-61 before the war—whatever it was. Let us take that same sum. We ought to get back to our early expenditures wherever we can. I have no doubt it can be done in this manner. I suggest to him to make that modification.

Mr. MORRILL, of Maine. The Senate having rejected the first amendment of the committee, which was to include the contingent expenses of foreign intercourse with the contingent expenses of the missions abroad, the proposition now is to adopt the amendment of the committee proposing $20,000 instead of $50,000, so that the clause will read:

For contingent expenses of all the missions abroad, $20,000.

If it is the pleasure of the Senate to adopt that, then the next proposition will be: "For contingent expenses of foreign intercourse, $30,000," in the language of the bill as it came from the House of Representatives. If the Senate should adopt that we should then have $50,000 for these two items.

Mr. GRIMES. I understand now that the chairman of the Committee on Appropriations gives his assent to adopting the same sum that was appropriated by Congress in 1859-60; that is, $30,000 for contingent expenses of foreign intercourse, and $20,000 for contingent expenses of all the missions abroad.

Mr. MORRILL, of Maine. Yes; I have no objection to that.

Mr. GRIMES. That I think will be satisfactory to all parties, and settle this question without further debate.

Mr. MORRILL, of Maine. I ask that the question as now before the Senate may be reported.

The Secretary read the amendment, which was in line thirty-two to strike out "fifty" and insert "twenty;" so that the clause will read:

For contingent expenses of all the missions abroad, $20,000.

Mr. MORRILL, of Maine. Now, I wish to say that if that is adopted then I shall not object to the adoption of the following clause: "for contingent expenses of foreign intercourse, $30,000," which will be in accordance with the appropriation from the House.

Mr. GRIMES. That is what it was in 1860.

Mr. SUMNER. Why should the amendment be made? I have listened to all that my excellent friend has said and I do not find any reason. Is not the Senator striking in the dark? He imagines that here is a field for economy.

Mr. MORRILL, of Maine. I thought my honorable friend, if he will allow me to interrupt him, expressed a willingness to go back to the period anterior to the war.

Mr. SUMNER. I propose to go back to 1861.

Mr. MORRILL, of Maine. This is the amount that was appropriated in 1860-61.

Mr. SUMNER. But I say 1861.

Mr. MORRILL, of Maine. 1861-62 was during the war, when the expenses were largely increased.

Mr. SUMNER. Will the Senator be kind enough to show any reason for that? Is he satisfied, or has he any evidence tending to show that with the appropriation he proposes, the foreign interests of our Government can be properly conducted? Is not my friend striking in the dark?

Mr. MORRILL, of Maine. No further than this, that it is difficult to conceive that the expenses of foreign intercourse now are greater than they were during the year 1860-61.

Mr. SUMNER. I think my friend is mistaken there. I think it is very easy to conceive that they must be greater now than in 1860. Our foreign relations at this moment are much more important, and I presume more expensive than they were in 1860. The interests of our country abroad are greater, as our name is greater. If the Senator will give any reasons for the change he proposes, I for one shall be ready to follow him. I am for economy. Let him strike for economy in every direction; but do not let him strike in the dark; do not let him injure an important branch of the public service merely on some vague idea of economy. Let us have a reason for what we do; let us know that in instituting this economy we are not striking a blow at the public interests instead of promoting any just economy.

My friend, the Senator from Oregon, inquires why are not we informed with regard to these items? The Senate is informed with regard to these items precisely as it is informed with regard to the other items in this bill, with regard to all the other items in every appropriation bill. Look through all your appropriation bills, your pension bill, your Indian bill, your legislative bill, which is not yet before us; and there is a succession of items with regard to which the Senate has no specific information, each item being compounded of many details. But what does the Senate do? It has to act on evidence furnished by those in the body who have given some attention to the subject. On the subject of Indian affairs we gladly listen to Senators who have given great attention to that subject. On the general subject of appropriations, of course, we are all glad, as a general rule, to follow our friend, the Senator from Maine, [Mr. MORRILL;] but he will permit me to say that I do think on this occasion he has made a mistake; that he is proposing a change without any adequate reason, simply on some general idea of economy. Now, the general idea of economy we all concur in; it is beautiful; but then I am for no such general idea at the expense of my country. I am sure that if the idea of the Senator from Maine [Mr. MORRILL] is carried out the public service will seriously suffer. If the Senator from Oregon [Mr. WILLIAMS] is anxious for further information with regard to any of these items let me tell him he can obtain it by a call at the State Department, or by a call through the Senate on the State Department, or by communications with the committee. There will be no disguise on any of these items; everything will be disclosed to him; the whole matter is just as plain as any other item in any other appropriation bill.

Mr. CONKLING. The honorable Senator from Massachusetts, who has just taken his seat, is looking for something which he is not likely to find. He is looking for something a great deal harder to find than the philosopher's stone, and that is some proposition for retrenchment to which nobody can make an answer. And, sir, let me say with great deference that this amendment illustrates somewhat curiously a rather remarkable fact. I think almost any one within or without this body may venture to affirm, in any presence, that the time is now when a little regard to frugality and accountability in the public service is in order; and yet it has come to that, sir, that in committee Senators cannot vote to reduce items without provoking distinguished members of this body to throw out flings by way of sarcasm and satire upon the idea of economy; and Senators say that, not to be out of fashion, they will get up and go through the ceremony of saying that they, too, are for economy.

Mr. President, ridicule is a very potent weapon, and it may well be that a thing like this, and every other proposition to economize, may, one way or another, be "whistled down the wind." One thing is too small, another thing is too great, and everything can have some sort of answer made to it; and therefore those who attempt to pursue, however unostentatiously and however quietly, the idea that some of these expenses ought to be cut off may be perpetually exposed, first, to defeat upon the vote, and second, to a line of remarks carrying the idea that all this is a mere flourish of trumpets, a mere figure of speech, a mere thing which out of this body we should denominate as demagogism. Very well, sir; I am willing, for one, to sit down under whatever share of this censure pertains to me. I nevertheless beg to say—and the only right I shall ever insist upon in reference to it is the privilege, when I think the occasion requires, of assigning my reasons briefly and putting my vote upon the record—I beg to say that I think

this bill, and especially the part of it we are now considering, is the appropriate subject to which to apply the necessities and the duties which are upon us to lop off excrescences in the public service.

We considered this bill, coming from the House, containing an item based upon what was termed an estimate, something which has been truly called a lump, meaning, I beg to say, nobody knows what, in detail; and we thought that the sum which we proposed here was large enough as far as we could discover for this purpose. I think so still. I have heard nothing which changes my opinion. I find nothing to change it in this bill of particulars which the Senator from Massachusetts has held up two or three times, and which I have taken the trouble to look at. Very far from it. It is a bill of items relating to the year 1866. I have had no opportunity to look it through; but I have looked far enough to find what I will now state. Here are items in a single year of moneys paid to one single person for acting as dispatch agent amounting to about eight thousand dollars. Some of the items which I have added up amount to $7,956, and I have rejected all the broken sums.

Mr. SUMNER. Which agent was that? Will the Senator mention the name?

Mr. CONKLING. Yes, sir; Mr. Derby.

Mr. SUMNER. Mr. Derby, of New York?

Mr. CONKLING. Yes, sir; of New York, which latter fact implies that he is entitled to receive all that anybody ought to receive for that service; but, notwithstanding the fact that he is from New York, he was paid about $8,000 during this year. Here is an item for board of a lady who is not of New York, and her name, I suppose, will not be inquired for, amounting to $1,867, and some other items connected with her.

Mr. MORRILL, of Maine. In this country or abroad?

Mr. CONKLING. She was not from Maine, I beg to assure the gentleman, and not from New York. I do not think it is proper to describe her more minutely than that. She boarded at Willard's hotel, I think; Sykes, Chadwick & Co. are the creditors. Then here are items for presents and for a great variety of things.

Now, sir, looking at all this, the committee thought it would be safe just once to try the experiment of limiting this sum; and, if it should fall short, allowing an account to be presented as the basis of an item in a deficiency bill. If it does fall short, and if in truth for items which ought to be allowed a larger expenditure is necessary, I think this body may repose with perfect security upon the expectation that there will come from the State Department a statement satisfactory by items of the deficit which is needed. I do not believe it will be forgotten, and I do not believe we shall fail to receive it.

Therefore it seemed to the committee that this was that place which the Senator from Massachusetts [Mr. WILSON] said this morning he had been looking for, a place to begin with, a place where we could put down our foot once in favor of reduction—I will not use the word "retrenchment," as that seems to be a suspected word here—but where we could put down our foot in favor of reduction, in the hope that we might be able to keep it there. And now why should we not try it?

Some Senator said, as if it was a bugbear, as if it was a frightful presence from which we should shrink, that this would lead to the necessity of putting something in a deficiency bill. Suppose it does? That is a mere change of name; it does not cost any more to put it in a deficiency bill than in an appropriation bill. Now, let us run that daring risk for once. Let us be bold and do something that is here to "54° 40′ or fight" on this subject, and reduce the item, taking the bold hazard of the die that there may come the necessity of putting something into a deficiency bill. I think if we should risk even that probably we should survive it.

Mr. President, I did not wish to make any general remarks about the propriety or the necessity of retrenchment; far from it. [Several SENATORS rose.] I was going to add a remark, but as so many Senators are impatient for the floor I will yield.

Mr. FESSENDEN. My friend from New York, as if I were the only person who had said anything about this cry of economy, evidently aimed his remarks on that point at me. I am not going to have any quarrel with my friend about it; but still I feel called upon to say a word or two.

I said that I wanted it understood that I was for economy as well as other people, because it seemed to be the fashion of the day to give notice that we were for economy. It is the first time I have ever given that notice, because I have been content heretofore to let the country form its own opinion upon that subject. And I think, as a matter of taste, if we go on doing our duty and let the country form its own opinions by what we do it will be quite as well as to be eternally yelling for economy and seeing which can yell the loudest, in order to convey the idea that we in particular are very economical. It is not to the fact of economy that I object; I want everybody to understand that. It is not to the fact that we speak of the necessity of economy that I object. It is rather to the fact that we make that a pretense sometimes to quarrel with appropriations which are necessary in themselves, and thus we get ourselves into difficulty by holding out hopes to the country which we cannot realize in the very nature of the thing. That is my difficulty.

I agree with my friend from New York, that it is rather difficult to find a place where we should begin. We did, however, find a very good place the other day upon the pension bill. We began by saving $500,000 there. We were united upon that. It is, as has been remarked, a little too much the case that we attempt these savings upon small matters absolutely necessary, and neglect very much weightier matters. When the word "economy" is used with reference to some great scheme of internal improvement or something of that sort gentlemen at once cry out, "That is no place because it is not economy to avoid these large expenditures of millions for public works, because at some future day they are to pay back a great deal more than we expend." That may be true, or it may not. It is an experiment that we are too apt to make, I judge, without stopping to consider whether in fact we are certain that we shall have all we lay out paid back again.

Now, sir, what I complained of my friends of the Committee on Appropriations is not that they attempt to economize. That I should be very glad to support them in; but it really is not too much to ask for some reason why they do a particular thing. Take this special case, for instance. Go back to a period of great comparative economy in our expenditures—the period immediately before the war—and you find that a certain sum was appropriated for years successively for these two items, recognized items of public expenditure. We find that this bill has passed through the hands of a Committee on Appropriations in the House of Representatives, careful, anxious to economize, who have done all they could with the very best motives, I have no doubt, to economize in all branches of public expenditure which come under their supervision.

They fixed these items at $50,000 and $30,000 respectively, and fixed them on a careful examination, as we are bound to presume, of the reasons which the Department had to give for them and a comparison with what had been done heretofore. That appropriation in these separate items, amounting together to $80,000, comes into the Senate, and our Committee on Appropriations proposes to put them into one single item and to cut down the amount appropriated to $20,000, and they say that, in their judgment, is enough. When we ask them for the reasons of it, they fail to give any. They say they think it is enough from all the information they have. Have they gone to the Department and examined the items of expenditure? No. Have they called upon the Department to explain why it wants $50,000 for one item and $30,000 for the other? No. Have they taken pains to inform themselves sufficiently to say whether we can get along for less than one half the sum in the State Department that was appropriated in the year 1860 before the war, when $20,000 was appropriated for one of these item sand $40,000 for the other? No. But they say that they think on the whole $20,000 will be enough; and from any information that I can derive from them, I am not aware that they know what these items are to be applied to.

Now, my friend from New York will pardon me for saying simply that his reasons are not conclusive, for he does not give me the facts. He upturns all that was decided before the war; he goes back of all that and insists that he thinks it is so because he thinks it is so; that is the amount of it. He has not heard any arguments here to satisfy him to the contrary. I beg leave to say to him that he should give us the arguments to satisfy us that there is good reason for cutting it down and not call upon us to give reasons to the contrary. That is not the business of the Senators generally. I think, with great respect to my friends, it is the business of the committee to give the specific reasons or information on which they have acted, and they should be familiar with the items that make up these specific appropriations here of two sums, and tell us how and why and in what particular points a reduction can be made, instead of calling upon us and blaming members of the Senate who really ask for information, and who are quite as anxious as they are to do no more than is necessary, but to do all that may be necessary in order to accomplish the particular purpose.

My opinion—I do not pretend that it is worth more than that of any other Senator on the subject—is, that looking to the examinations I have previously made, and upon my little knowledge of the items that go to make up these specific appropriations, $20,000 cannot be substituted safely in the place of the $80,000 which the House put in this bill, or in place of the $60,000, which was appropriated before the war commenced. I do not know how we can get along with it. I had a question occur to me about which I was not positively certain, and I will ask my friend from Pennsylvania, who has had some experience on the subject, whether the item of office rent for foreign ministers is not paid out of this appropriation?

Mr. BUCKALEW. No, sir.

Mr. FESSENDEN. I understood that it was, but I was not certain on that subject. If it was that would cover more than twenty thousand dollars, I suppose, taking all the missions. My friend from Oregon complains without reason that this information is not furnished by the Department, because it would be furnished by the Department if called for, and he will recollect from his experience on the Committee on Finance that we are always obliged in all these cases to take these items in the lump. If you go beyond that, and ask specific details for all of them, your bills would fill volumes, and we should never get through in the world; we should be making ourselves a mere accounting bureau to look at all the little items of expenditure. It cannot be done. The Departments make the estimates just as they have always been making them, so that there is no objection in that particular.

Mr. WILLIAMS. Allow me to suggest that we had the same sort of controversy, according to my recollection, over these items in former appropriation bills last year and the year before, and I do not remember now that I had any information on the subject. When on this occasion the honorable chairman of the Committee on Appropriations stated that the Senate had to act on this subject without any information I supposed his representation in that respect was correct, because it accorded with my recollection of former appropriations.

I was not aware of the existence of the paper to which the Senator alludes.

Mr. FESSENDEN. There is not the slightest objection to furnishing every item which is expended under this appropriation; it is all a matter of account. I did not feel disposed to protract this matter, but I wished to defend myself against what seemed to be the impression of my friend from New York, that I was sneering at economy and those who professed economy. By no manner of means; but I only meant to say that, so far as I was individually concerned, I never had found it necessary to my own defense among my own constituents at home to talk about my regard for economy; but they generally took that for granted to a reasonable extent.

Mr. BUCKALEW. I want to say a word in reply to the Senator from New York, if I can get his attention. We have an item here proposing an appropriation of moneys for the contingent expenses of our legations abroad. The Senator, in speaking upon it, states the case of an outlay made by some dispatch agent. What has that to do with the item? Nothing in the world; it is not covered by this item; it has no relation to it. He refers to the expenditure, I suppose, for Queen Emma, of the Sandwich islands, made under the authority of the State Department. What has that to do with the question? Nothing at all; it is not covered by this item; it has no relation to it. We are engaged upon an item of an appropriation to cover the contingent expenses of our foreign legations, and the Senator from New York, in making a speech against voting the necessary amount of money for that object, tells us that some dispatch agent has been paid $8,000 or some other sum, and that Queen Emma, of the Sandwich islands, has had her board bill paid at Willard's Hotel. These outlays have nothing to do with the expenses of the foreign legations.

Mr. CONKLING. Allow me a moment. This is a very curious coincidence. The Senator from Massachusetts, the chairman of the Committee on Foreign Relations, produces this account and reads it for the purpose of proving the necessity of appropriating this money, showing where it went to. When I refer to the account the Senator from Pennsylvania, who is in league with the Senator from Massachusetts in carrying this appropriation, turns around and brings me up because I do refer to it, and says it has nothing whatever to do with the item under consideration.

Mr. BUCKALEW. A single word will dispose of the explanation. The Senator from Massachusetts read these facts as applicable to another item immediately following the present one in the bill, the question of "the contingent expenses of foreign intercourse," quite a different question, and has nothing to do with the present motion or the amendment upon which it is based, as it was reported to us by the Committee on Appropriations.

The Senator from New York also says there can be no great grievance in not voting enough money in this item, because we can vote it in a supplemental bill hereafter. What does he propose? That when Mr. Adams makes up his quarterly account for contingencies of his legation, which is a separate and distinct item, showing a balance in his favor of say five hundred or one thousand dollars, and draws a bill upon that settled amount upon the Secretary of State, he is to receive a note in reply that there is no fund, and his draft is to go to protest! The Senator from New York will correct that when Congress reconvenes by passing a supplementary appropriation bill. Is that the way to carry on the Government? Is that the way to do business? Is that the way to preserve our dignity and the efficiency of administration?

As I said before, this particular department of outlay is one regulated by law. The settlements are all made regularly; there is nothing uncertain. Postage, the loss upon exchange, and the other items to which I alluded before are all that are included in this; and these accounts will be made out and settled at the State Department, and our foreign ministers will draw their bills for the balance due them; and all that we have to do is, by a sufficient appropriation of money, to authorize them to be paid. On the other hand, the Senator from New York, because his argument amounts to nothing else, proposes that we shall allow these drafts to go unpaid, and after they are dishonored at some future time vote the money. I do not think this is the proper way of doing business.

The PRESIDING OFFICER, (Mr. HARLAN in the chair.) The question is upon the amendment proposed by the committee, on which the yeas and nays have been ordered.

The yeas and nays being taken on the amendment (to reduce the item for contingent expenses of all the foreign missions from $50,000 to $20,000) it was agreed to—yeas 24, nays 17; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Conness, Corbett, Edmunds, Ferry, Grimes, Harlan, Henderson, McCreery, Morrill of Maine, Morrill of Vermont, Norton, Patterson of Tennessee, Pomeroy, Sherman, Sprague, Stewart, Thayer, Tipton, Trumbull, Williams, and Yates—24.

NAYS—Messrs. Buckalew, Davis, Dixon, Fessenden, Frelinghuysen, Hendricks, Howard, Howe, Johnson, Morgan, Nye, Ramsey, Ross, Sumner, Van Winkle, Vickers, and Willey—17.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Cragin, Doolittle, Drake, Fowler, Morton, Patterson of New Hampshire, Saulsbury, Wade, and Wilson—13.

So the amendment was agreed to.

Mr. ANTHONY. On the question just taken I am paired with the Senator from Massachusetts, [Mr. WILSON,] who was obliged to go out of the Chamber for a few minutes. I should have voted "nay;" he would have voted "yea."

The next amendment of the committee was to strike out in lines thirty-three, thirty-four, and thirty-five the words—

For contingent expenses of foreign intercourse, $30,000: *Provided*, That this sum shall be expended for the purpose of foreign intercourse only.

Mr. SUMNER. I hope that will not be done.

Mr. JOHNSON. What is the meaning of that proviso? I should like to hear an explanation of it.

Mr. GRIMES. I shall vote to nonconcur in the report of the committee, and thereby to leave the amount of these two appropriations to stand at what I understand they were in 1860, before the war.

Mr. FESSENDEN. Ten thousand dollars less.

Mr. JOHNSON. I should like to know from the chairman what is the meaning or purpose of the proviso? Why is the proviso put in?

Mr. MORRILL, of Maine. I suggest to the honorable Senator, with due deference, that it is obvious on the face of it. The appropriation is for contingent expenses of foreign intercourse, and the proviso is that it shall be confined to foreign intercourse.

Mr. JOHNSON. What I wanted to know was whether that sum has been appropriated for any other purpose than foreign intercourse.

Mr. MORRILL, of Maine. All I can say in regard to that is, that we find this provision sent to us by the House of Representatives, and from it the inference was plain enough that they were guarding against either present or future suspected abuse. I would say from what has been read here to-day that, perhaps, it was to guard against a state of facts which had been made obvious from the publication of the expenditure of this contingent fund.

Mr. JOHNSON. What does appear? I am asking for information. Does it appear they have been applied to other purposes?

Mr. MORRILL, of Maine. It appears by the paper read by the Senator from New York that some eight thousand dollars of this fund was paid to one man for dispatch service in one year. I do not know whether the House was aware of that in acting on that particular item.

Mr. JOHNSON. What struck me as not altogether decorous in the House of Representatives—my friend will pardon me for saying so—is that they should by implication impeach a Department of the Government upon anything but certain knowledge. I could not suppose, unless the evidence was clear to the point, that the Department would have made use of any of this fund for any other purpose than that of foreign intercourse. If they have done it it is wrong.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee striking out the clause which has been read.

The amendment was rejected.

The Secretary read the next amendment, which was to strike out lines thirty-six and thirty-seven, in the following words:

For expenses of intercourse with the Barbary Powers, $3,000.

Mr. SUMNER. I should like to ask my friend why that is struck out.

Mr. MORRILL, of Maine. The committee had no information on that subject except what is drawn from the general history of legislation in regard to it.

Mr. SUMNER. Allow me to call the attention of my friend to the fact that in the appropriation bill for 1861 he will find this very item: "For expenses of intercourse with the Barbary Powers, $3,000;" and then again in the appropriation bill for 1862 the same item in precisely the same language.

Mr. MORRILL, of Maine. Yes, running back to 1810, I think; but the object of that statute I do not believe any longer exists.

Mr. SUMNER. Has the Senator any information on the subject?

Mr. MORRILL, of Maine. I have some, and I will state what it is. It will be seen by referring to the estimates that the act of 1810 is referred to as the authority for this appropriation, and it is entitled "An act fixing the compensation of public ministers and of consuls residing on the coast of Barbary, and for other purposes." There are no ministers there now I take it, but there are some consuls. There are three consuls, one at Tangiers, one at Tunis, and one at Tripoli, and they are paid by fees. It will be seen what the nature of this act was and what the object and scope of the act was by reading its fourth section, which provides:

"That it shall not be lawful for the consuls of the United States residing on the Barbary coast, or either of them, to expend, or to disburse or pay, or cause to be paid for any purpose or on any pretense whatever, not authorized by law, to any one of the Barbary Powers, or to the officers or subjects thereof, a greater sum than $3,000 in any one year, with intent to charge the United States with the same, without first obtaining a special approbation in writing from the President of the United States for that purpose."

Those contingent expenses contemplated by the fourth section, it will be seen, were to pacificate the Barbary Powers in some way. A state of things may have existed in 1810 which rendered that necessary; but I ask the Senator from Massachusetts whether he believes, at the present moment with three consuls in that country, that state of things exists which renders it necessary that we should pacificate those Powers.

Mr. SUMNER. On that I would say just this: I would inquire at the proper Department and ascertain the facts. I would have the items of the expenditure during the last year, and then I would undertake to judge whether it was necessary to continue the appropriation. And here, again, I remark, as I did before, that the Senator seems to be striking in the dark. He finds this appropriation, which has in its favor more than a generation, two generations, and he strikes at it. Now, if he gives a reason, if after examining the items of the appropriation he finds that it ought not to be made, then I should gladly follow him.

Mr. MORRILL, of Maine. My answer is that if it has stood as an abuse for generations, it is high time the abuse was corrected. The committee had no special evidence on the subject; but so far as there is any authority for this appropriation, and this statute is the authority referred to in the estimates——

Mr. SUMNER. I ask my friend would it not have been expedient in advance for the committee to have communicated with the State Department, and ascertained the nature of the expenditure under the appropriation?

Mr. GRIMES. Allow me to make an inquiry. As we cannot get any information from the chairman of the Committee on Appropriations on this subject, and as it comes peculiarly under the jurisdiction of the chairman of the Committee on Foreign Relations, and as he has doubtless investigated it, we having continued this appropriation ever since 1810, I will ask of him its history, and how the money has been applied, and what necessity there is for its continuance?

Mr. SUMNER. The Senate is very well aware that in our relations with the Barbary Powers, we have from the beginning been put to expense of a peculiar character; such as we have not in our relations with the civilized Powers. There are expenses for presents——

Mr. GRIMES. What are those Barbary Powers at this time?

Mr. SUMNER. There is the very considerable empire of Morocco, so-called; and there is also the principality of Tunis and that of Tripoli. That of Algiers has been absorbed by France. But you have three different Powers, one of them of very considerable extent; I mean the empire of Morocco. The other two, Tunis and Tripoli, are smaller, and they are chiefly interesting from the capital cities, Tunis and Tripoli. Each of these three Governments is of a character that requires a class of expenditures which we do not enter upon in our dealings with what we may call the civilized Powers. It has been so from the beginning.

When the Senator from Iowa interrupted me I was mentioning that there was an item of presents. That may seem very trivial; but then it has been found in conducting the relations of our Government with these Powers that it was expedient to be able occasionally to make such presents.

Mr. HOWE. Let me ask the Senator from Massachusetts if the presents are not charged to the contingent fund in the account he has just presented?

Mr. SUMNER. This is a special fund for our relations with the Barbary Powers.

Mr. HOWE. But are not the presents made to the commissioners from Tunis charged in the account just presented, to the contingent fund for foreign intercourse?

Mr. SUMNER. There were expenses for the Tunisians. The Senator is aware, perhaps, that the Bey of Tunis sent a present to the United States of a full-length portrait of himself which now adorns the Department of State; and I do not know how the fact is, but I presume that has been acknowledged in some way. Perhaps the Senator remembers that very early in our history the Bey of Tunis pointed one of our naval officers, when he landed in his palace, to the portrait of Washington and said that he admired the character of George Washington very much.

Mr. HOWE. But the point I make is that whatever the portrait may have cost it was charged to another fund, and not to this fund. We do not want any such fund as this to pay for a portrait or any other present.

Mr. SUMNER. That may be so or may not; I have no special information on the subject. I have presented to the Senate all the information I possess, and I know that is little enough. I wish I could satisfy the Senate more clearly. All that I mean to say is—and to that I call the serious attention of the Senate—that we should not interfere with this time-honored appropriation unless on reasons. Now, if my excellent friend from Maine will give me reasons for it, then I shall follow him.

Mr. MORRILL, of Maine. My reason is that we have got past the period when it is necessary to buy baubles to give to savages on the other side of the world.

Mr. SUMNER. Is the Senator sure of that?

Mr. MORRILL, of Maine. I hope so, at any rate; and anybody who looks to this law which is said to justify this appropriation will see that it is the merest sham on earth. There is a statute passed in 1810, and I have read the statute to which we are referred as an authority for appropriating $3,000 for this purpose. Now, let us look at it and see whether that is a good voucher for an appropriation of $3,000:

"That it shall not be lawful for the consuls of the United States residing on the Barbary coast, or either of them, to expend, or to disburse, or pay, or cause to be paid, for any purpose, or on any pretense whatever not authorized by law, to any one of the Barbary Powers, or to the officers or subjects thereof, a greater sum than $3,000 in any one year, with intent to charge the United States with the same without first obtaining a special approbation in writing from the President of the United States for that purpose."

Does any man on earth believe that it is necessary for one of these consuls to pay one single dollar in the way of gratuities or presents to the Barbary Powers?

Mr. SUMNER. Allow me to suggest to my friend one thing which, perhaps, has escaped his attention, that all our consuls at these places are obliged more or less to employ interpreters, or what are called dragomans.

Mr. MORRILL, of Maine. That is provided for in this bill.

Mr. SUMNER. I beg the Senator's pardon; there is a provision for the expenses of the consulates in the Turkish dominions, namely, interpreters, guards, and other expenses of the consulates at Constantinople, Symrna, Candia, Alexandria, and Beirout $2,500; but there is no provision for that same class of expenses in the Barbary States.

Mr. MORRILL, of Maine. I find, on looking at the list, that the consul at Tangiers has a salary of $3,000.

Mr. SUMNER. As consul.

Mr. MORRILL, of Maine. At Tunis the salary is $3,000.

Mr. SUMNER. As consul.

Mr. MORRILL, of Maine. At Tripoli it is $3,000.

Mr. SUMNER. As consul again.

Mr. MORRILL, of Maine. There is in this bill a general appropriation for the purchase of blank books, stationery, book-cases, arms of the United States, seals, presses, and flags, the payment of postages, and other miscellaneous expenses of the consuls of the United States, $30,000.

Mr. SUMNER. All consuls.

Mr. MORRILL, of Maine. I know; but it covers every conceivable thing in the way of expense that these consuls can be subjected to; and this $3,000 is for what? They are authorized to disburse this money in pacificating these savages—buying baubles.

Mr. FESSENDEN. The money seems to have been spent.

Mr. MORRILL, of Maine. It has been appropriated every year, and doubtless has been expended. I dare say it is a very convenient thing for these three consuls to have a fund to keep themselves on good terms with these people; but the question is whether it is the policy of a great people to command respect in that way. The committee did not think so.

Mr. SUMNER. They must have interpreters. There are very few of our agents abroad that speak Arabic.

Mr. MORRILL, of Maine. But what evidence is there that this goes for interpretation?

Mr. GRIMES. I understood the Senator from Massachusetts to say that he had not the slightest information on this subject.

Mr. SUMNER. I am going on general ideas.

Mr. CONNESS. But I understand that this is called a time-honored appropriation. What does that mean?

Mr. SHERMAN. Senators to-day have been continually inquiring for information, when the information is annually laid on our tables and never read by mortal man.

Mr. EDMUNDS. Except the Senator from Ohio.

Mr. SHERMAN. No; occasionally I refer to it, simply as a matter of curiosity. Senators have been discussing these items all day, when we have annually a book of "receipts and expenditures" published and laid on our tables. Here is the last one I can lay my hands on, and from pages 93 to 109 are covered with details of our expenditures for our foreign service, showing how many dollars and how many cents have been paid out to each person connected with the foreign service.

Mr. EDMUNDS. Will you give us that for the Barbary Powers?

Mr. SHERMAN. I am not able now to select that particular item, but I have no doubt it grows out of the habits of the Barbary Powers, among whom we know that no agent of Government can be approached without a present. It is a time-honored custom.

Mr. SUMNER. And without an interpreter, let me say to my friend.

Mr. SHERMAN. I do not know anything about interpreters.

Mr. SUMNER. Very few speak Arabic.

Mr. SHERMAN. When you approach a servant of one of those Governments you have to bribe him; and this, I have no doubt, is for the purpose of bribing, and probably you cannot carry on your intercourse with these nations without bribing. You have to do it if you intend to maintain commercial intercourse with them. Of course we want to trade with them and make as much money out of them as possible. This system has been adopted by all the civilized and Christian nations in dealing with these people.

Mr. HOWE. Let me ask the Senator from Ohio if he does not think they are a little too cheap at $3,000. Had we better not increase that appropriation?

Mr. SHERMAN. I think not. We have no minister in these countries; but if we have any commerce with them, and intend to carry on commercial intercourse with them, we must adapt ourselves to the habits of the people among whom we trade. When we go among the Indians we adopt the Indian habits to some extent; we buy their buffalo skins and whatever they have to sell and adopt their mode of trading. When we go to the shores of Africa we have to conform to the customs there. When we are in Rome we must do as Rome does. While I am not able from the book before me to give the precise details as to the expenditure of this $3,000, I have no doubt it has been expended in accordance with the ordinary usage and customs of these people, and that any attempt to change their habits because we do not like them will probably have the effect of destroying what little commerce we have with them, if we have any, and I am not sure that we have any. I should not be willing to strike out an appropriation of this sort, which is a kind of monument, unless some very good reason can be assigned for doing so. We may by that course probably destroy the interest of our own citizens abroad to a greater extent manyfold than the amount appropriated for this purpose.

Mr. GRIMES. I have no doubt that by an examination of that book the Senator from Ohio will discover that there has been paid fifty dollars to such a person at such a time and $100 to such another person at another time under this appropriation, and that is all that can be discovered. Now, in regard to the subject-matter out of which this act of 1810 originated, I inquired of the most venerable and ancient man I could discover in Washington, an old officer of the Navy, who has been somewhat familiar with the subject of legislation and especially with that subject, for he entered the service a year or two after our war with the Barbary Powers which, I believe, was in 1804, and his idea was that it proceeded out of the piracy of the Barbary Powers perpetrated upon American shipping at the beginning of the century. After the war of 1804 with Algiers and Tripoli, we concluded to send consuls or commercial agents there, and it was thought advisable at that time for a temporary purpose only that they should be permitted, if it became necessary, to use not exceeding

$3,000 a year, in some instances perhaps to redeem a white man who had been captured and taken into slavery, if such a case occurred; in other words, to placate or pacificate in the language of that act the Barbary Powers. Now, all that has been changed, Algeria, one of them and the most conspicuous at that time, has become a French province; and with the other Powers we have no commerce whatever, or next to none; and the Committee on Appropriations thought there was no necessity for continuing this hoary-headed absurdity on the statute-book any longer.

The amendment was agreed to—ayes twenty-one, noes not counted.

The next amendment was in lines one hundred and five and one hundred and six to reduce the appropriation for salaries of consuls general, consuls, commercial agents, and consular clerks from $425,000 to $400,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso from the appropriation for consular salaries, beginning in line one hundred and six:

Provided, That no consul general, consuls, except those consuls whose compensation is by fees, and no consular agents or commercial agents, shall be paid except those specified in this act, and all laws and parts of laws providing for the appointment or payment of any other consular officers than those in this act specified, excepting those above specified, who are paid by fees, are hereby repealed; and all moneys received for fees at any vice consulates or consular agencies of the United States, beyond the sum of $1,000 in any one year, and all moneys received by any consul or consul general from consular agencies or vice consulates in excess of $1,000 dollars in the aggregate from all such agencies or vice consulates, shall be accounted for and paid into the Treasury of the United States, and no greater sum than $500 shall be allowed for the expenses of any vice consulate or consular agency.

Mr. SUMNER. I should like to know from the chairman why that proviso is to go out.

Mr. MORRILL, of Maine. Simply because the committee did not understand its application. We had no information as to the precise difficulty it was proposed to provide for, and we were not certain that it would provide for any difficulty that was anticipated, and we supposed that we had better strike it out under those circumstances, and ask a conference with the House in order to get an explanation.

The amendment was agreed to.

The next amendment was in line one hundred and forty-five, to strike out "$17,000" and insert "$12,500;" so as to make the clause read:

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic majesty for the suppression of the African slave trade, $12,500.

Mr. SUMNER. I suppose there is a reason for that change. I should like to hear it.

Mr. MORRILL, of Maine. That is the exact expense provided for by the law. It covers the exact expenses provided for by the statute.

Mr. TRUMBULL. I should like to inquire of some one who is advised in regard to this matter, if it is necessary to continue this appropriation for the suppression of the African slave trade? I believe we have some treaty on the subject. Though perhaps this may not be the most appropriate place to discuss it, I should like to know whether we cannot be released from that obligation. Since the abolition of slavery in this country, there is very little necessity, it seems to me, for keeping it up. If we can be relieved from it I should like to know it.

Mr. SUMNER. I will say in reply to the Senator that I have often thought of that myself. The treaty at the time was very beneficent in its character.

Mr. TRUMBULL. I have no doubt of that.

Mr. SUMNER. It did great good. It was an example, and it was honorable to our country. As much as any other thing at the time it was entered into, it gave notice to the civilized world that we were really in earnest against slavery and the slave trade. For a long time England had sought some such negotiation with us, but I need not remind the Senate that our Government was then under influences which of course would not hearken to any such proposition. However, the treaty was made and there is an act of Congress to carry out that treaty. I see no way in which there can be any modification, such as the Senator proposes, without terminating or modifying in some way the treaty stipulations. If the Senator looks at the treaty—I have not refreshed my memory with it, but I think I bear them pretty well in mind—he will see that the United States has there assumed certain obligations. Among others, it is to appoint certain officers who, if the occasion arises, shall be a court for the trial of these offenders. These officers are distributed on the coast of Africa. There is also a set of them, if I may so express myself, in New York, one of whom is our former friend and associate in this Chamber, Mr. Truman Smith. It seems to me we must begin with the treaty; but whether the time has as yet come for that, I am not prepared to say, for although slavery has been abolished in our own country, unhappily it still exists in the two islands of Cuba and Porto Rico, and also in the extensive empire of Brazil. The slave trade, I am happy to believe, has very much died out; but I am not sure that it is not the operation of this very treaty which has prevented the slave trader from continuing his infamous traffic.

Under these circumstances it seems to me certainly on this bill it would be improper to approach this subject. I do not venture to say that in some other way there may not be a modification of our treaty stipulations somewhat in the sense of the suggestion of the honorable Senator from Illinois. But now I come back to the proposition of the committee. I understand from my honorable friend from Maine that the sum he proposes is precisely the salaries contemplated by the act of Congress. The Senator makes no allowance for incidental expenses. There are such; I do not know to what extent, but I think it is not unreasonable to suppose that they would be enough to make the sum in the House bill, $17,000. I submit, therefore, to my friend that it is hardly advisable to make this change. At any rate he will excuse me if I repeat the remark that I made before that he seems to me to be striking in the dark.

Mr. MORRILL, of Maine. I suggest to the Senator from Illinois that there is no option so far as the Committee on Appropriations are concerned. By the fourth article of the treaty of 1862, volume twelve of the Statutes-at-Large, page 1227, it was provided that—

"In order to bring to adjudication with as little delay and inconvenience as possible the vessels which may be detained according to the tenure of the first article of this treaty, there shall be established as soon as may be practicable three mixed courts of justice formed by an equal number of individuals of the two nations named for this purpose by their respective Governments."

To carry that treaty into effect Congress passed the act of July 11, 1862, a few months afterward, as follows:

"That to carry into effect the provisions of the treaty between the United States and her Britannic majesty for the suppression of the African slave trade, the President be, and he is hereby, authorized to nominate, and by and with the advice and consent of the Senate, to appoint a judge, and also an arbitrator on the part of the United States, to reside at New York; a judge and also an arbitrator to reside at Sierra Leone; and a judge and also an arbitrator to reside at the Cape of Good Hope," &c.

Now, I say to my friend from Massachusetts, that according to the information the committee had upon the subject, they had no duties; there is not a day's duty at any one of these courts in a year, so that the salary is a gratuity.

Mr. SUMNER. Does the Senator understand that it is so on the coast of Africa?

Mr. MORRILL, of Maine. I do not understand much about it, but merely the facts.

Mr. SUMNER. My information is that the officers there complain very much that they cannot live on the salary they have.

Mr. MORRILL, of Maine. It is hardly conceivable, under the circumstances, that there can be any incidental or outlying expenses not intended to be covered by the salary.

Mr. SUMNER. Suppose there is only one case in a year?

Mr. TRUMBULL. Has there been any case?

Mr. SUMNER. No case in New York.

Mr. MORRILL, of Maine. There is really no duty. It is merely a nominal concern.

Mr. WILSON. Allow me to make one suggestion, and that is that the committee agreed to appropriate what the law allows, and nothing more. The committee have no right to report anything else, and I think we should stand upon that, whatever may be the decision of the Senate, that when there are appropriations in bills coming here that have no law on which to rest, we shall reject them. We have given in this case all that the law provides shall be given.

Mr. MORRILL, of Maine. From the list of consuls and other officers under the State Department, I got the list of these officers with their salaries, amounting to $12,500, and that is the precise sum indicated in the law. There is no law for any contingent expenses.

Mr. TRUMBULL. In making the suggestion I did I did not mean to be understood as opposing the appropriation. The law requiring it, there is no other way for the committee, and I suppose no other way for Congress, than to appropriate the sum of money that is required, particularly as this law is passed in fulfillment of a treaty. But my object was to call attention to this matter. I think it would be a matter worthy the consideration of the Committee on Foreign Relations or of the Department of State to inquire whether we could not be relieved by some arrangement with Great Britain from this obligation, which was incurred under a very different state of circumstances from that which now exists. I quite agree with what the Senator from Massachusetts has said, that at the time this treaty was made it was very proper, and the moral effect of it upon the world was good. But at this time, under the changed condition of things, it seems to me it is incurring an expense both for us and for Great Britain that is entirely useless; and I should suppose it would be an easy matter to change the treaty. There are other things than this in the treaty. This is only one of its provisions. I do not now remember the terms of the treaty. It is provided, I see, that the treaty is to run for ten years, and may then be terminated on a year's notice from either party. I have no opposition to make to the appropriation.

Mr. SUMNER. I should like to make a suggestion to the Senator from Illinois; I do not know whether he would concur with me or not; but it does seem to me that so long as slavery unhappily exists in Cuba and Porto Rico, and as for many years our own country was seriously compromised by the slave trade with those two islands, we cannot do too much now to rid ourselves of all such responsibility. I fear that if we should withdraw from these treaty stipulations, and change our legislation on this subject, it would in some way be misinterpreted; that by some possibility—I am speaking only of possibilities—the slave trade with those islands might take a new start; it might be quickened again. There is no Senator who would take any part of that fearful responsibility. This very small sum is really inconsiderable in view of the possible good——

Mr. TRUMBULL. Will the Senator tell us the whole expense under the treaty? I believe we are required to keep some vessels——

Mr. SUMNER. Not by this treaty. The requirement of keeping vessels was by the Ashburton treaty. This treaty gives to each Power a reciprocal right of search between certain lines of latitude and in the neighborhood of the West Indies, and then it constitutes mixed courts of the two countries, Great Britain and the United States, for the trial of slave traders when captured. To the honor of the civilized world, since this treaty has been made the slave trade has disappeared. The moment it was seen that the United States were in earnest against the slave trade, the slave traders disappeared from the ocean; but it does not follow

that if we should withdraw from this treaty those very slave traders would not reappear. I do not know that they would; but the possibility of such a thing is enough, it seems to me, to justify this appropriation.

The PRESIDING OFFICER (Mr. HARLAN) put the question, and declared that the ayes appeared to have it.

Mr. SUMNER. I doubt that. I doubt whether the Senate is disposed to give any encouragement to the slave trade.

Mr. MORRILL, of Maine. This is no encouragement.

The PRESIDING OFFICER. A division is called for.

Mr. SUMNER. I withdraw the call.

The amendment was agreed to.

The next amendment was on page 7, lines one hundred and forty-six and one hundred and forty-seven, to strike out the following clause:

For expenses under the act to encourage immigration, $10,000.

Mr. SUMNER. I should like to hear from my friend some explanation of that, especially as I see at the close of the bill a special section which naturally grows out of this amendment, as follows:

And be it further enacted, That the act entitled "An act to encourage immigration," approved July 4, 1864, &c, and the same is hereby, repealed.

If there is any reason for this great change I should like to know it. If there is reason, I shall be ready to follow my friend.

Mr. MORRILL, of Maine. The evidence which the committee have on this subject is that the whole thing is an utter failure. The purposes and views which were originally contemplated and to which it was supposed this might be put, have been disappointed. I believe my honorable from Ohio, [Mr. SHERMAN,] who at one time took some interest in the subject himself, has become satisfied that the whole thing has been perverted, and that it is not only so much money uselessly expended, but a great deal worse than useless. If anybody could have any doubt on this subject, I would refer him to the report of the Commissioner of Immigration, as he styles himself, who has settled himself in the State Department and calls himself head of the Bureau of Immigration. His report is really a curiosity. It is nothing more nor less than charging the Government, according to the estimates, with $20,000 to make a return of this kind to Congress once a year of the number of immigrants coming into this country and their destination, where they go, the countries from which they come, and the places to which they go after their arrival here. That is the upshot of the whole thing so far as this Commissioner of Immigration is concerned. The actual transactions are through a branch of the department at New York; and, so far as the operations are concerned there, it is in connection with an immigrant aid society, chartered by the State of Connecticut. There are no facilities that I know of or that I can gather from this report except that this commissioner here, through this bureau, coöperates with the branch at New York, and the branch at New York coöperates with the Immigrant Aid Society.

Mr. SHERMAN. I desire to say a word about this matter. I did take an interest in this Bureau of Immigration, prepared the bill establishing it, and reported it from the Committee on Agriculture, and it was passed on my motion. But the object of the bureau or office was entirely perverted. It was attached to the office of the Secretary of State, and the whole thing is now an office of no consideration whatever. My idea of the measure was that we were to have a proper person here who would have, through our consular agents in the countries from which immigration comes, promoted the immigration of skilled labor of various kinds, with a view to organizing the various immigration movements throughout the United States. You, sir, representing an agricultural State, know that most of the western States have societies to promote immigration. We have one in Ohio, a very successful one. There is one in New York. Nearly all the States have societies for the aid of immigration. I supposed that by a central organization here the work of these various societies might be combined so as to induce immigration of various kinds of skilled labor to this country. I am satisfied that the office, as now conducted, is a mere clerkship, furnishing us very little information in addition to what we had before, and it might be just as well abolished. That is the conclusion to which I came. I shall vote for the amendment. I do not want to say anything against the gentleman who has charge of it. I have no doubt he does what he thinks is best; but he has not the best facilities of conducting it in a way likely to be beneficial.

The amendment was agreed to.

The next amendment was to add at the end of the bill, as section four, the following:

And be it further enacted, That the act entitled "An act to encourage immigration," approved July 4, 1864, be, and the same is hereby, repealed.

Mr. MORRILL, of Maine. That becomes necessary now in consequence of the other amendment.

The amendment was agreed to.

The PRESIDING OFFICER. There is an amendment of the committee undisposed of, to insert $301,000 as the appropriation for the salaries of envoys extraordinary, ministers, and commissioners of the United States.

Mr. BUCKALEW. That was passed over in reference to a motion I proposed to make to strike out the word "Bolivia" where it occurs. My idea is this: instead of striking out "Ecuador" on the first page, as was done by the committee, to strike out "Bolivia" on the second. I believe I will make the motion now to strike out the word "Bolivia," with the design when the bill is reported to the Senate to ask a separate vote on the previous amendment as to Ecuador. To retain Ecuador and omit Bolivia is the ultimate result I am at, and this will not make any difference in the amount to be inserted at the end of the section.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. MORRILL, of Vermont. In the twelfth line of the first page I move to strike out "Greece." I do not desire to argue the question; but it seems to me this is no time to establish any new missions, and especially at a point like Athens, where it is not of sufficient consequence to even keep a consul. Our trade there never was large, and it is small, almost insignificant, at the present time. This mission will be merely a post for somebody, without any advantage to the country.

Mr. MORRILL, of Maine. I have some information on that subject. I know very little about it except that it came from the House. When a similar motion was made in the House Mr. WASHBURNE, of Illinois, stated:

"The provisions of this bill are simply to carry out existing laws. The bill contains no appropriations for any new subjects. The aggregate amount which the bill proposes to appropriate is, as will be seen by the note appended to the bill, $1,268,934; being $154,520 less than the amount estimated for the next fiscal year, and $156,520 less than the amount which was appropriated for the present fiscal year. This reduction has been made by cutting down various items, as I will explain when we reach those particular items."

Mr. WASHBURNE goes on to say something—I do not see it at this moment—about a minister having been appointed, and that this was rendered necessary to carry out an existing law. We had no information on the subject.

Mr. SUMNER. Under the circumstances I think we had better adjourn. I have an amendment from the Committee on Foreign Relations which I wish to propose, but I do not wish to move it to-night. I move that the Senate do now adjourn.

Mr. HOWARD. I ask the Senator from Massachusetts to give way while I present a resolution to which I presume there will be no objection.

Mr. SUMNER. Certainly.

EXECUTIVE BUSINESS.

Mr. HOWARD. It is necessary just at this time. I send a resolution to the desk.

The Secretary read as follows:

Resolved, That the injunction of secrecy be removed from the following documents and proceedings of the Senate sitting in executive session, to wit: resolution of the Senate——

Mr. TRUMBULL. I submit that that cannot be done in open session, because there may be reasons why that should not pass that we can only speak of in executive session.

Mr. CONKLING. Then let us proceed to the consideration of executive business.

Mr. HOWARD. I do not see the validity of the objection which the Senator from Illinois makes. I think we can take off the injunction of secrecy in open session as well as in executive session. It will give rise to no debate.

Mr. TRUMBULL. I do not know what it is.

Mr. SUMNER. Let it be read.

Mr. TRUMBULL. It would make no difference; because suppose I or any Senator had a reason for resisting the removal of the injunction of secrecy, could I give it in open session?

Mr. SUMNER. Let us hear the resolution.

Mr. CONKLING. Let it be read. It may be something to which there can be no objection.

Mr. TRUMBULL. I do not see how you can have such a resolution except in secret session.

Mr. CONKLING and others. Let it be read.

The Secretary proceeded to read the resolution, as follows:

Resolved, That the injunction of secrecy be removed from the following documents and proceedings of the Senate in executive session, to wit: the resolution of the Senate——

Mr. TRUMBULL. That will not do. You remove it by offering such a resolution here in open session at once. You cannot recite in open session what has occurred in executive session. Every one knows that.

Mr. CONKLING. I move that we proceed to the consideration of executive business.

Mr. HOWARD. Then, under the rules, I demand that the galleries be cleared.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion to adjourn was not agreed to.

EXECUTIVE SESSION.

Mr. CONKLING. Now I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

NATIONAL ASYLUM FOR DISABLED SOLDIERS.

Mr. WILSON. I move that the Senate take up the joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It appoints Erastus B. Wolcott, of Wisconsin, John H. Martindale, of New York, and Hugh L. Bond, of Maryland, managers of the National Asylum for Disabled Soldiers, under the provisions and conditions of the third section of an act approved March 23, 1866, from the 21st of April, 1868; and appoints Hugh L. Bond, of Maryland, manager to serve out the unexpired term of Horatio G. Stebbins, of California, resigned.

It also authorizes the Secretary of War to furnish from the captured ordnance such ordnance with their implements as he may deem proper to the several national asylums for the purpose of firing salutes; and also such small arms and equipments as may be necessary for the purpose of guard duty at the asylums.

The joint resolution was reported to the

Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

On motion of Mr. RAMSEY, the Senate resumed the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 9, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

CALL OF STATES FOR BILLS, ETC.

The SPEAKER stated the first business in order, this being Monday, was the call of States for bills and joint resolutions for reference and not to be brought back by a motion to reconsider.

NAVY OF THE UNITED STATES.

Mr. PETERS introduced a bill (H. R. No. 874) to reduce the expenses of the Navy of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

SAFETY OF HUMAN LIFE AT SEA.

Mr. ELIOT introduced a bill (H. R. No. 875) to indemnify owners of vessels for property sacrificed to save human life at sea, and for other purposes; which was read a first and second time, ordered to be printed, and referred to the Committee on Commerce.

BOUNTIES.

Mr. VAN AERNAM introduced a bill (H. R. No. 876) to extend the provisions of the acts of July 22, 1861, and July 28, 1866, in relation to bounties; which was read a first and second time, and referred to the Committee on Military Affairs.

IMPROVEMENT OF BUFFALO HARBOR.

Mr. VAN AERNAM presented concurrent resolutions of the Legislature of the State of New York, in relation to appropriations for the improvement of Buffalo harbor; which were referred to the Committee on Commerce, and ordered to be printed.

THOMAS H. DICKSON.

Mr. O'NEILL introduced a bill (H. R. No. 877) for the relief of Thomas H. Dickson, late acting assistant paymaster United States Navy; which was read a first and second time, and referred to the Committee of Claims.

NATIONAL DEBT.

Mr. MILLER introduced a joint resolution (H. R. No. 229) declaring that the enormous expenditure raised by contribution and taxation to put down the late rebellion was responded to with alacrity unparalleled in history, and therefore it ought not to be required of this generation to discharge, by taxation, the entire national debt, but leave a portion of it to be borne by the next, on whom this rich and noble Republic will descend; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CLAIMS OF LOYAL CITIZENS.

Mr. MILLER also introduced a joint resolution (H. R. No. 230) declaring it the duty of Congress to make provision for the adjustment and payment of claims due loyal citizens in the late rebellious States for subsistence, &c., taken in support of the Union Army, the same as those due citizens in the States which remained loyal; which was read a first and second time, and referred to the Committee of Claims.

COMMERCE AND INTERNAL TRADE.

Mr. NICHOLSON introduced a bill (H. R. No. 878) to encourage commerce and internal trade by facilitating direct importation; which was read a first and second time, and referred to the Committee on Commerce.

CAR-HEATING AND VENTILATION.

Mr. WELKER introduced a bill (H. R. No. 879) to incorporate the Lloyd Car-Heating and Ventilating Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

HARBOR AT MICHIGAN CITY.

Mr. COLFAX introduced a bill (H. R. No. 880) for the completion of a harbor of commerce and refuge at Michigan city, Indiana; which was read a first and second time, and referred to the Committee on Commerce.

REFUNDING DUTIES ON A BELL.

Mr. COLFAX also introduced a bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of the St. Mary's Institute and Notre Dame University, Indiana; which was read a first and second time, and referred to the Committee of Ways and Means.

IMPROVEMENT OF ILLINOIS RIVER.

Mr. COOK introduced a bill (H. R. No. 882) for the improvement of the Illinois river from the western terminus of the Illinois and Michigan canal to its mouth; which was read a first and second time, and, together with the accompanying papers, referred to the Committee on Commerce.

JAMES LINDSAY.

Mr. LOAN introduced a bill (H. R. No. 883) for the relief of James Lindsay; which was read a first and second time, and referred to the Committee on Commerce.

MISSISSIPPI LEVEE RAILWAY.

Mr. NEWCOMB introduced a bill (H. R. No. 896) to incorporate the Mississippi Levee Railway and Steamship Company, and to aid in the construction of levees on the Mississippi river; which was read a first and second time, and referred to the Committee on Roads and Canals.

ISLANDS IN THE WISCONSIN RIVER.

Mr. WASHBURN, of Wisconsin, presented a memorial of the Legislature of Wisconsin, for the confirmation of the title to unsurveyed islands in the Wisconsin river; which was referred to the Committee on the Public Lands.

AGRICULTURAL COLLEGE SCRIP.

Mr. WASHBURN, of Wisconsin, also presented a memorial of the Legislature of Wisconsin, for the removal of restrictions to the further entry of public lands with agricultural scrip in the State of Wisconsin; which was referred to the Committee on the Public Lands.

ST. CROIX RIVER.

Mr. WASHBURN, of Wisconsin, also presented a memorial of the Legislature of Wisconsin, for the improvement of the St. Croix river, bordering the States of Wisconsin and Minnesota, and asking an appropriation therefor; which was referred to the Committee on Commerce.

RIGHTS OF AMERICAN CITIZENS.

Mr. SAWYER presented a joint resolution of the Legislature of Wisconsin, defining the duty of the nation toward its native and adopted citizens; which was referred to the Committee on Foreign Affairs.

MARY ANN WARD.

Mr. SAWYER introduced a bill (H. R. No. 884) for the relief of Mary Ann Ward; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COLORADO AND NEVADA VOLUNTEERS.

Mr. HIGBY introduced a bill (H. R. No. 885) to amend an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," and for the relief of the Colorado and Nevada volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

MARY J. TRUEMAN.

Mr. HUBBARD, of West Virginia, introduced a bill (H. R. No. 886) for the relief of Mrs. Mary J. Trueman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WEST VIRGINIA VOLUNTEER INFANTRY.

Mr. HUBBARD, of West Virginia, also introduced a bill (H. R. No. 887) for the relief of members of company A, Independent exempts, West Virginia volunteer infantry; which was read a first and second time, ordered to be printed, and referred to the Committee on Military Affairs.

VINCENT ST. VRAIR.

Mr. CLEVER introduced a bill (H. R. No. 888) for the relief of Vincent St. Vrair; which was read a first and second time, and referred to the Committee of Claims.

INDIAN DEPREDATIONS IN UTAH.

Mr. HOOPER, of Utah, presented the memorial of the Legislative Assembly of the Territory of Utah, praying for an appropriation to pay for Indian depredations and expenses incurred in suppressing Indian hostilities in said Territory; which was referred to the Committee on Military Affairs, and ordered to be printed.

PENITENTIARY IN COLORADO.

Mr. CHILCOTT introduced a bill (H. R. No. 889) to repeal certain parts of an act of the Legislature of Colorado Territory entitled "An act to locate the site and establish a penitentiary for Colorado Territory, and for other purposes;" which was read a first and second time, and referred to the Committee on the Territories.

DENVER PACIFIC RAILWAY.

Mr. CHILCOTT also introduced a bill (H. R. No. 890) to grant the right of way to the Denver Pacific Railway and Telegraph Company, and for other purposes; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

LAND TITLES.

Mr. BURLEIGH introduced a bill (H. R. No. 891) in regard to the title of individuals to public lands; which was read a first and second time, and referred to the Committee on the Judiciary.

ALEXANDRIA CANAL.

Mr. INGERSOLL introduced a bill (H. R. No. 892) relating to the Alexandria canal; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

BOUNTIES.

Mr. PILE presented resolutions of the Legislature of Missouri, in reference to bounties; which were referred to the Committee on Military Affairs.

REPAIR OF LEVEES.

Mr. PILE also presented resolutions of the Legislature of Missouri, in relation to repairing levees, &c.; which were referred to the Committee on Freedmen's Affairs.

IMPROVEMENT OF BUFFALO HARBOR.

Mr. LAFLIN presented the memorial of the Legislature of the State of New York, in favor of the improvement of Buffalo harbor; which was referred to the Committee on Commerce.

INVALID PENSIONS.

Mr. LINCOLN introduced a bill (H. R. No. 893) concerning invalid pensions and the time of the commencement of the same; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DUTY ON WOOL.

Mr. HOTCHKISS introduced a joint resolution (H. R. No. 231) to amend section two of an act entitled "An act to provide increased revenue from imported wool, and for other purposes," approved March 2, 1867; which

was read a first and second time, and referred to the Committee of Ways and Means.

RETRENCHMENT.

Mr. VAN WYCK introduced a bill (H. R. No. 894) to reduce the expenses of the Government; which was read a first and second time, and referred to the joint select Committee on Retrenchment.

DUTIES ON GOAT SKINS, ETC.

Mr. MYERS introduced a bill (H. R. No. 895) to repeal all duties on imported goat skins and Sicily sumac; which was read a first and second time, and, with an accompanying petition signed by all the morocco manufacturers of Philadelphia, referred to the Committee of Ways and Means.

CONTRACTS AND PAYMENTS.

Mr. BALDWIN introduced a bill (H. R. No. 896) concerning contracts and payments; which was read a first and second time, and referred to the Committee on Banking and Currency.

BUREAU OF MINING.

Mr. JOHNSON. I have been requested to introduce, and ask to have referred, a bill in relation to a bureau of mining. I do so in accordance with that request, not that I am in favor of it.

Accordingly, the bill (H. R. No. 903) authorizing the establishment of a bureau for mining the precious metals and providing for its inauguration and support was introduced, read a first and second time, and referred to the Committee on Mines and Mining.

PERSONAL EXPLANATION.

Mr. PILE. I desire to say that for ten days past I have been detained by illness from my seat here. Had I been present at the time the vote was taken upon the specific articles of impeachment I would have voted "ay" upon all of them but the two last adopted.

GOVERNMENT OF TEXAS.

The SPEAKER. The next business in order is the calling of States and Territories for resolutions, commencing with the State of Missouri, where the call rested at the expiration of the morning hour on Tuesday last, at which time the House was engaged in the consideration of a resolution submitted by the gentleman from Missouri, [Mr. LOAN.]

The resolution was read, as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire into and to report, without unnecessary delay, the law and facts involved in the following propositions:

1. Whether the State government of the State of Texas existing in 1860 yet exists; and, if not, at what time it ceased to exist, and what government, power, or authority succeeded to the political and other rights of said State government.

2. Whether the rebel government that existed in Texas for several years during the late rebellion succeeded to any of the rights, political or others, of the former government of that State; and, if so, to what rights did the rebel *de facto* government succeed; are any of the acts done or any laws enacted by its authority valid; for instance, are marriages solemnized under and by virtue of laws of, or authority derived from, said rebel government valid, and the issue of such marriages legitimate.

3. Was the rebel government existing in Texas during the late rebellion a *de facto* government sufficiently established so as to acquire, under the law of nations or otherwise, the right to the land and other property owned by the State of Texas prior to the rebellion; and, if not, what government, State, or power now owns the land and other property which belonged to the State of Texas at the time of the commencement of the rebellion; if the *de facto* rebel government succeeded as such to all the rights of the State of Texas existing at the time of the rebellion; what rights, if any, accrued to the Federal Government as conquerors of the rebel *de facto* government; has the Federal Government, by conquest or otherwise, since the time of the commencement of the rebellion, acquired any title to the land and other property which belonged to the State of Texas at that time; can the United States, as sovereign under the laws of war, acquire by conquest and succeed to the rights of property of a State of the Union by the suppression of a rebellion in such State such as was that of Texas in the late war.

The question was upon adopting the resolution.

Mr. LOAN obtained the floor.

Mr. INGERSOLL. If this resolution gives rise to debate will it go over?

The SPEAKER. It will not. It has already laid over more than one day.

Mr. LOAN Mr. Speaker, it has been said that the prudent mariner who has been driven from his course by tempests should avail himself of the first parting of the clouds to take the necessary observations to ascertain his latitude and longitude, so as to enable him to direct his course for the port of destination. So it may perhaps be well for us to take an observation and ascertain where the storms and tempests of the last four years of civil war have drifted the ship of state, and to examine the craft itself and learn its condition and what repairs are necessary for its safety. It is by no means certain but that a thorough comprehension of these facts at the close of the active hostilities might not have prevented many serious mistakes from being made, and have long since secured the restoration of the Union upon a basis of loyalty, liberty, and justice. Though so long delayed the still unsettled condition of the Union and the uncertain position that the late rebel States bear to the Union will yet justify us in ascertaining the effect the late civil war had upon the status of the States engaged in rebellion, and the relation that they and their citizens bear to the Federal Government. These facts being once ascertained and established, it is believed that reconstruction and restoration will be easy and certain; that the causes that rendered a civil war possible in our form of government will become apparent, and the remedy suggested at once to avoid everything of the kind in the future. Owing to the peculiarity of our dual form of government the history of other nations furnish no examples to us, and it is only by analogy that conclusions in relation to these questions can be arrived at; and there being no authoritative restriction on the modes of reasoning the consequence is that opinions range as widely as do those of theologians on questions of religion, from the doctrine of total depravity to universal salvation, from State annihilation to State immortality.

Just after the suppression of the armed force of the rebellion the President, in his proclamation for organizing a Government in North Carolina, declared in that proclamation that the war had destroyed all civil government in that State, and then proceeded to provide for the organization of a civil government in that State by an executive order to prescribe the qualification of voters, and in many particulars the form and features the new government should assume.

Later in the year, in his first annual message to the Thirty-Ninth Congress, he repudiates this idea and advances a new one, to the effect that the States engaged in rebellion remained as States in the Union, but with their powers in abeyance and with their functions suspended by reason of the rebel force which controlled them for the time being. But as soon as this rebel force should be removed by the Federal authority these States would immediately resume their powers and their functions would be restored; an inconsistency utterly irreconcilable with an intelligent comprehension of the condition of those States and an honest purpose to deal justly by them.

In the two Houses of Congress we have heard nearly as many opinions expressed in relation to the condition of these States as we have heard speeches made on the questions involved. From the beginning of the rebellion the whole matter involved has seemed to be beyond the comprehension of those who had to deal with it. If the rebellion had not at an early day assumed such proportions as to establish the rebel government as a *de facto* power, it is difficult to understand why a blockade of the ports in the rebel States was declared. Nations at war blockade the ports of the enemy, they never blockade their own. If these ports were under Federal jurisdiction and control it would have been much more effective to have closed them as ports of entry by an act of Congress.

Later, the Supreme Court, in the cases commonly known as the prize cases, decided that persons residing within the limits of rebel territory were constructively alien enemies without regard to their real sentiments, and that their property when captured upon the sea was lawful prize—the theory being that war existed between the two countries.

And I would be glad to know on what theory and by what authority West Virginia was carved out of the State of Virginia and organized into a new State. Was it because Virginia had ceased to exist as a State in the Union and was not within the protection of the Constitution, which prohibits the erection of one State within the jurisdiction of another State without the consent of the Legislature of such State, or will it be pretended that such consent was given by the Peirpoint government? If so, why have we excluded that State from representation in Congress? The Peirpoint government has continued in existence ever since, and if it possessed sufficient authority to lawfully consent to a division of the State it was such as to entitle the State to representation here.

And if the governments existing in those States at the time of the passage of the reconstruction act of March 2, 1867, were not legal and afforded no adequate protection for life or property, I would be glad to know by what authority they were permitted to exist, and to exercise dangerous and unwarranted powers over the lives, liberties, and property of loyal citizens within their respective jurisdictions.

There are many other matters connected with this subject that might be the subject of useful inquiry. But perhaps enough has been said to serve as suggestions in the proper direction. In the resolution, the inquiries are directed to be made in relation to the State of Texas, because all the facts relating to other States also apply to Texas, and in addition there are some inquiries specially relating to Texas that do not apply to all the other States. For instance, Texas at the time of annexation to the United States reserved the title to all her public domain, and it is an important question to ascertain who is now the legal owner of that vast domain.

If the Texas that existed prior to the rebellion still exists as a State then she is still under the protection of the Constitution, and we are guilty of a great wrong in refusing her representation here. But if, on entering the portals of rebellion, she ceased to exist as a State of this Union and passed beyond the protection of the Constitution, the title to her domain passed from her either to the power that succeeded or to the Federal Government, to which she owed allegiance. If the Federal Government has succeeded to and owns the public domain that belonged to Texas prior to the rebellion, that fact should be at the earliest moment ascertained and officially established and declared.

And especially important is it that this should be done, as the territory included in the former State of Texas is sufficient for some three or four additional States, and provision should be made for restricting Texas within proper limits before that State is reconstructed or restored to the Union.

I hope that the resolution will be adopted, and that the Committee on the Judiciary will, at an early day, furnish us with a report which will clearly settle the relations of these States to the Union, and the rights of the citizens therein and their relations to the Federal Government. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

QUALIFICATION OF ELECTORS.

Mr. NEWCOMB submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the Committee on the Judiciary be, and is hereby, instructed to report to this House such an amendment to the Constitution of the United States, to be submitted to the several States for their ratification, as shall settle the qualifications of electors impartially and uniformly in all the States of this Union.

PAY OF J. H. BIRCH, CONTESTANT.

Mr. McCORMICK submitted the following resolution:

Resolved, That there be paid to James H. Birch, of the State of Missouri, out of the contingent fund of the House, $2,500, in full for time spent and expenses incurred in prosecuting his claim to a seat in this House.

Mr. GRAVELY. I have no objection to the consideration of this resolution; but whenever it may be considered I desire to make some remarks upon it.

The SPEAKER. The gentleman from Missouri [Mr. GRAVELY] rises to debate the resolution, and it goes over under the rules.

MUNICIPAL OFFICERS IN REBEL STATES.

Mr. COOK submitted the following resolution, on which he demanded the previous question:

Resolved, That the General of the Army be directed to communicate to this House copies of all correspondence in his office in relation to the removal of the city council of New Orleans, and copies of all correspondence not heretofore furnished in relation to the city council of Jefferson City, Louisiana.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

ANNEXATION OF TERRITORY.

Mr. BROMWELL submitted the following resolutions, on which he demanded the previous question:

Resolved, That the power to consummate the annexation of foreign territory to the United States belongs to the law-making power, and that this House never has surrendered and never will surrender the people's right which it holds in trust for them, to exercise proper discretion in granting or withholding appropriations of public money for carrying out treaties annexing territory.

Resolved, That if the treaty-making power can lawfully annex foreign territory to the United States, and incorporate the inhabitants as part of the community of this Republic, and the President and Cabinet can organize State governments in such annexed territory, and bring their Representatives to the door of Congress, this House may come to represent all other countries more than this, and so become too miscellaneous to "hang on the verge of the Government."

Mr. ELDRIDGE. I move that these resolutions be laid on the table; and on that motion I call for the yeas and nays.

Mr. ELIOT. Mr. Speaker, if the motion to lay on the table should be negatived, would it not be in order to move that the resolutions be referred to the Committee on Foreign Affairs?

The SPEAKER. It would be.

Mr. ELDRIDGE. If the gentleman from Massachusetts [Mr. ELIOT] desires to move the reference of the resolutions, I will withdraw my motion to lay on the table.

Mr. ELIOT. I move, then, that the resolutions be referred to the Committee on Foreign Affairs.

Mr. WILLIAMS, of Pennsylvania. This same question is already before the Committee on the Judiciary, and I suppose this resolution might as well go to the same committee.

Mr. ELIOT. Very well. I modify my motion, and move to refer the resolutions to the Committee on the Judiciary, on which motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were referred to the Committee on the Judiciary.

Mr. ELDRIDGE moved to reconsider the vote by which the resolutions were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF NATURALIZED CITIZENS.

Mr. JUDD submitted the following resolution, on which he demanded the previous question:

Resolved, That the Secretary of State be, and he hereby is, directed to furnish this House with copies of all correspondence, negotiations, and treaties had or made with any of the German States since the 1st day of January last relating to the rights of naturalized citizens.

Mr. CHANLER. I would suggest to the gentleman that this matter is already before the Committee on Foreign Affairs.

Mr. JUDD. I will say to the gentleman from New York, [Mr. CHANLER,] that this matter is not, as I understand, before the Committee on Foreign Affairs. This resolution is a simple inquiry for information in relation to facts that have occurred since the committee has taken action on the subject. I refer simply to the reported negotiation of a treaty with Prussia. I desire that this information may be obtained and referred to the committee.

Mr. CHANLER. Of course I do not raise any objection; but there is such a resolution before the committee. I offered it myself.

Mr. CULLOM. I hope this resolution will be adopted.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

WITHDRAWAL OF INTEREST-BEARING BONDS.

Mr. BURR submitted the following resolution, on which he demanded the previous question:

Resolved, That sound financial policy requires the gradual withdrawal of interest-bearing bonds by our Government, and the substitution therefor of United States notes, popularly known as greenbacks.

Mr. SPALDING. I move that the resolution be laid on the table.

Mr. BURR. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. I hope that the motion to lay on the table will be withdrawn or voted down, and that the resolution will be referred to the Committee of Ways and Means.

The SPEAKER. The question is not debatable.

The question was taken on the motion of Mr. SPALDING; and it was decided in the negative—yeas 56, nays 65, not voting 68; as follows:

YEAS—Messrs. Ames, Arnell, James M. Ashley, Beaman, Blaine, Blair, Chanler, Churchill, Dawes, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fields, Garfield, Griswold, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Johnson, Kelley, Kelsey, Laffin, Lincoln, Lynch, Marvin, McCarthy, Miller, Myers, O'Neill, Perham, Peters, Pile, Poland, Price, Robertson, Sawyer, Smith, Spalding, Starkweather, Taber, Thomas, Twichell, Upson, Van Aernam, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, and Wood—56.

NAYS—Messrs. Adams, Allison, Archer, Axtell, Baker, Barnes, Barnum, Beatty, Beck, Boyer, Bromwell, Burr, Cake, Sidney Clarke, Cobb, Cook, Cullom, Eggleston, Eldridge, Ferriss, Ferry, Golladay, Gravely, Grover, Haight, Harding, Hawkins, Holman, Hotchkiss, Ingersoll, Judd, Julian, Kerr, Knott, Koontz, George V. Lawrence, William Lawrence, Loan, Loughridge, Mallory, Marshall, Maynard, McClurg, McCormick, Morgan, Mungen, Newcomb, Niblack, Orth, Paine, Pike, Polsley, Raum, Ross, Schenck, Scofield, Sitgreaves, Stone, Taffe, Lawrence S. Trimble, Van Trump, Welker, William Williams, John T. Wilson, and Woodward—65.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Bailey, Baldwin, Banks, Benjamin, Benton, Bingham, Boutwell, Brooks, Broomall, Buckland, Butler, Cary, Reader W. Clarke, Coburn, Cornell, Covode, Dodge, Donnelly, Ela, Finney, Fox, Getz, Glossbrenner, Halsey, Hill, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Ketcham, Kitchen, Logan, McCullough, Mercur, Moore, Moorhead, Morrell, Morrissey, Mullins, Nicholson, Nunn, Phelps, Plants, Pomeroy, Pruyn, Randall, Robinson, Selye, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, John Trimble, Trowbridge, Van Auken, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—68.

So the House refused to lay the resolution on the table.

The question then recurred on seconding the previous question.

The House divided; and there were—ayes 19, noes 84.

Mr. BURR demanded tellers.

Tellers were not ordered.

So the House refused to second the demand for the previous question.

Mr. ALLISON moved that the resolution be referred to the Committee of Ways and Means.

The motion was agreed to.

Mr. ALLISON moved to reconsider the vote by which the resolution was referred to the Committee of Ways and Means; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER announced that the morning hour had expired.

ALABAMA.

Mr. BEAMAN. Mr. Speaker, I am instructed by the Committee on Reconstruction to offer the following resolution:

Resolved, That the General commanding the armies of the United States be instructed to report to this House the number of votes cast under the reconstruction laws up to the present time for the adoption of the constitution of the State of Alabama; and also the number of votes cast under said laws up to the present time against the adoption of said constitution.

There was no objection, and the resolution was received and adopted.

Mr. BEAMAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. HOLMAN moved that the House proceed to the consideration of the business on the Speaker's table.

The motion was agreed to.

DUNCAN L. CLINCH, DECEASED.

The first business on the Speaker's table was the amendment of the House to Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, disagreed to by the Senate.

Mr. HOLMAN. I move that the House insist on its amendment to that bill, and ask for a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to; and thereupon the Speaker appointed Mr. HOLMAN, Mr. BINGHAM, and Mr. WASHBURN, of Massachusetts, as managers of said conference on the part of the House.

CAPTURED AND ABANDONED PROPERTY.

The next business on the Speaker's table was the following amendment of the Senate to House joint resolution No. 19, directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury:

Strike out all after the enacting clause and in lieu thereof insert the following:

That all moneys which have been received by any officer or employé of the Government, or any Department thereof, from sales of captured and abandoned property in the late insurrectionary districts, or under color of the several acts of Congress providing for the collection and sale of such property, and which have not already been actually covered into the Treasury, shall be immediately paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

SEC. 2. *And be it further resolved*, That if any officer or person having the custody, possession, or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding resolution shall convert the same to his own use, or shall refuse or neglect for a space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in any way pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States, and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

SEC. 3. *And be it further resolved*, That a sum of the proceeds of such sales, not exceeding $100,000, is hereby appropriated for the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury, for incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property, and for the necessary expenses of defending, in the discretion of the Secretary of the Treasury, such suits as have been brought against him or his agents in the premises.

Mr. WASHBURN, of Wisconsin. I move that the House concur in that amendment of the Senate with an amendment which I will propose.

Mr. BLAINE. I move that it be referred to the Committee on Appropriations.

The SPEAKER. The gentleman from Wisconsin has the floor.

Mr. WASHBURN, of Wisconsin. Mr.

Speaker, the resolution now pending was introduced by me during the session held in March, 1867, and it declared that there is now in the hands of the Treasurer of the United States, as special agent of the Treasury Department, several million dollars, the proceeds of property captured during the rebellion, which money is under the control of the Secretary of the Treasury, and as it now stands may be disposed of in settling claims preferred by the alleged former owners of said captured property without the sanction of Congress; and whereas it is considered proper that such claims should not be settled and paid without first receiving the approval of Congress; and then it resolved that "all moneys thus held by the Treasurer of the United States shall at once be covered by warrant into the United States Treasury, only to be drawn out by authority of law."

Sir, the reason for offering that resolution was this: I found on coming to Washington to take my seat in Congress that there were many claimants here prosecuting claims for alleged captured or abandoned property before the Treasury Department, and that they were getting the same allowed and drawing large sums from the Treasury, and on inquiry I ascertained that money arising from the sale of abandoned and captured property, instead of having been paid into the Treasury, as required by law, was retained in the hands of the Secretary of the Treasury, to be disposed of by him as he thought proper. I thought this was a startling state of affairs, and accordingly I offered the resolution before recited and directing that the money so held should at once be covered into the Treasury. The resolution was not acted upon definitely by the Senate until within a few days, when it was finally considered, amended, and passed. The resolution as passed by the Senate I prefer to that offered by me, with the exception of the last clause, which makes an appropriation of $100,000 to enable the Secretary of the Treasury to pay the expenses of suits which are alleged to be pending against him.

Now, here is a most astonishing fact. Many million dollars which by law are required to be paid into the Treasury have been held by the Secretary of the Treasury and paid out for such claims as he has seen fit upon adjudications made in the Treasury Department on purely *ex parte* proceedings. This has been done in violation of law and of the express opinion of the Attorney General. In 1865, there being a very large fund in the hands of the Secretary of the Treasury arising from the sales of cotton and other property captured at Savannah and other places by General Sherman and other officers, the Secretary of the Treasury asked the Attorney General for his opinion as to how that money should be disposed of. I have the opinion of Attorney General Speed before me, wherein he declares that under the law that money should be at once paid into the Treasury. It is given at length, and is very full and conclusive, and may be found in Executive Document No. 114, Thirty-Ninth Congress. And yet, notwithstanding that opinion, the Secretary held on to the money, and has been paying it out to suit his purposes, and on such claims as he thought proper to allow, and I undertake to say that claims of the most fraudulent character have been allowed and paid out of this fund by that officer.

I hold in my hand a report of the Secretary of the Treasury, in which he furnishes a list of the claims so paid.. Of course, I have no personal knowledge in regard to any of them that would enable me to speak with any precision; but I notice a claim here of $157,000 that was allowed and paid which I do not hesitate to say is a fraud from beginning to end. It will be found in Executive Document No. 114 of the Thirty-Ninth Congress, being a report of the Secretary of the Treasury, dated the 2d of March, 1867. I make this declaration from the general knowledge that I have in regard to the firm of Parkman & Co., of Memphis, having been for a long time in command at that place and knowing something about their transactions. This payment of their claim of $157,444 66 was made without authority of law and in utter violation of law.

Mr. FARNSWORTH. How did they prove those claims?

Mr. WASHBURN, of Wisconsin. That is what I do not know. I wish my friend would offer a resolution calling for that information.

Mr. FARNSWORTH. Did the claim go through any court?

Mr. WASHBURN, of Wisconsin. No, sir. Now, I know something of the transactions of this firm. They had a permit from Mr. Lincoln; they had succeeded in imposing upon him by pretending that they had a large quantity of cotton which they had purchased in good faith and paid for within the rebel lines, and I was compelled to allow them to pass through our lines because they had Mr. Lincoln's order. I believed he was grossly imposed upon then and I believe it now, but it was not in my power to prevent them from passing backward through our lines; if it had been I should certainly have done so, but the order of the President I could not disregard. Well, sir, the claim allowed by the Secretary and the reasons for allowing it shall be stated by him in his own words. After giving a long list of claims allowed he makes the following statement:

Cotton claims adjusted by the Secretary of the Treasury on the basis of the purchasing regulations.

Date.	Claimant.	Amount of claim.	Cotton allowed.	Proceeds allowed.
		Bales.	*Bales.*	
Nov. 6, 1865	Kellinger and Weatherby	4	-	$1,291 03
May 15, 1865	Wilson, Gibson & Co	455	-	59,779 43
May 30, 1865	Sanford Erwin	214	-	62,108 76
Nov. 28, 1866	A. H. Collister	73	-	31,456 84
Dec. 20, 1866	Dwight & Gill	1,211	-	69,039 80
Dec. 16, 1865	B. Jolly	1,172	-	71,538 86
Jan. 25, 1867	C. A. Weed & Co	1,337	1,002	-
Total	A. H. Lazare	227,218 lbs.	-	25,000 00
-	-	-	-	$330,444 77

NOTE.—Under regulations relative to the purchase of products of insurrectionary States, authorized by the act of July 2, 1864, these claimants had purchased cotton under permits of President Lincoln, but were unable to deliver the same to the purchasing agents before the surrender of the rebel forces, after which it was taken possession of by the Government. It appearing that the parties had acted in good faith, and had complied in every respect with their contracts, accordingly three fourths of the cotton or its net proceeds were delivered to the claimants and the one fourth retained by the Government.

Claims for Salvage.

December 11, 1866.—Shepard, Parkman & Co., amount allowed	$157,444 66
December 18, 1866.—John Duncan, amount allowed	97,284 26
Total	$254,728 92

NOTE.—The cases of Shepard & Parkman, Brooks & Co., and that of John Duncan were of the same character as those above described arising under the purchasing system; but, it appearing that the alleged purchase had not been perfected so as to make it a completed transaction, the claims in that form were not considered allowable. It was shown, however, that, acting in good faith in the assertion and protection of the rights they supposed they had acquired, the claimants in each case had expended money and performed valuable services in procuring military orders and guards and other protection for it as private property, which saved the same from destruction by the rebel soldiery and other persons evilly disposed toward the Government of the United States.

In consideration of such expenditures and services an allowance as salvage was made in each case on so much of the cotton purchased under the executive permit and so saved as was actually received and sold by the Government, throwing out all not identified as covered by the purchase or not received and sold as above. Thus the Shepard-Parkman purchase was 19,700 bales, but an allowance was made as to only 11,255 bales, sixteen and two thirds per cent. of the net proceeds of which, or $157,444 66, was paid as stated. Thirty thousand dollars of this amount was immediately returned to the Treasury, in satisfaction of a debt assumed to be due the Government by Parkman, Brooks & Co. In the Duncan case the purchase covered 5,005 bales, but the settlement made was only for 3,484 bales, thirty-three and a third per cent. of the net proceeds of which, or $97,284 26, was paid as stated.

Recapitulation.

Number of bales of voluntarily abandoned cotton released	2,207
Number of bales of erroneously seized cotton released	6,356
Number of bales of cotton released on basis of purchasing regulations	1,003
Total number of bales released	9,566
Amount allowed on claims for cotton voluntarily abandoned	$616,843 44
Amount allowed on claims for cotton erroneously siezed, &c	1,018,459 83
Amount allowed on claims adjusted on basis of purchasing regulations	320,444 77
Amount allowed on claims for salvage	254,728 92
Total amount allowed on all claims	$2,210,476 96

These claims were allowed in 1866 notwithstanding the opinion of the Attorney General in July, 1865, that this fund should be paid at once into the Treasury of the United States, to be drawn out only upon an appropriation made by law. I will read again from the note in regard to this firm of Shepard & Parkman, Brooks & Co.:

"*Note.*—The case of Shepard & Parkman, Brooks & Co., and that of John Duncan, were of the same character as those above described arising under the purchasing system; but it appearing that the alleged purchase had not been perfected so as to make it a completed transaction, the claims in that form were not considered allowable. It was shown, however, that, acting in good faith in the assertion and protection of the rights they supposed they had acquired, the claimants in each case had expended money and performed valuable services in procuring military orders, and guards."

I undertake to say that this is a gross misrepresentation from beginning to end, and in every allegation. There were no such guards furnished, no such military orders procured, and none could be procured. I read further:

"And other protection for it as private property, which saved the same from destruction by the rebel soldiery and other persons evilly disposed toward the Government of the United States."

In other words, that they procured military orders and guards to protect this cotton, and by which it was protected from being destroyed, and therefore they are entitled to salvage. That is the claim.

Mr. MAYNARD. Does it not mean that they procured orders and guards from the rebel authorities to prevent the rebels destroying it; and is not this a claim for money paid to the rebel authorities?

Mr. LOGAN. What is the case?

Mr. WASHBURN, of Wisconsin. The case of Parkman, Brooks & Co.

Mr. LOGAN. If the gentleman will allow me, I can explain that.

Mr. WASHBURN, of Wisconsin. How long do you want?

Mr. LOGAN. About a minute.

Mr. WASHBURN, of Wisconsin. Very well.

Mr. LOGAN. I do not know what the resolution is. I have but just come into the House.

Mr. WASHBURN, of Wisconsin. It is to require money in the hands of the Secretary and others to be covered into the Treasury.

Mr. LOGAN. That I am certainly in favor of myself; but so far as the gentleman's insinuations in reference to this particular case are concerned I take some of them to be personal.

Mr. WASHBURN, of Wisconsin. How so?

Mr. LOGAN. Because I was attorney in that case and I can explain it. The assertion

that these statements are false is not correct; nor is it true that any money was paid to rebels.

Mr. WASHBURN, of Wisconsin. I did not allege that.

Mr. LOGAN. The fact is that orders were issued, as stated there, by the general commanding the United States forces at Vicksburg, and guards were furnished as stated in that report; I know that, so far as this case is concerned. I will say to the gentleman now, I have ever been in favor of turning over the money that is in the hands of the Secretary—this cotton fund—into the Treasury, so that it would not be used; but as at the time that was not done, I was one of the attorneys in this Shepard case spoken of, and know all about it. I state to the gentleman now that eighteen hundred, I believe it was—I do not remember, but I think that was the amount—eighteen hundred bales of cotton were purchased under a permit given by the President of the United States and the Secretary of the Treasury—not the present Secretary, however. To the parties, under that authority, guards were furnished by General Dana at Vicksburg. The money was expended, or, at least, the evidence showed that fact. What the facts are outside of that I do not know. I only know what evidence was adduced—sworn testimony. I only knew what the orders were from the fact that the orders were furnished. Those orders are in the Department now and can be seen, and the evidence does show the state of facts as stated in that report, and there was plenty of evidence in reference to it. These parties were not allowed pay for this cotton. They were only allowed remuneration for saving the cotton from being destroyed. Orders were issued, as the proof shows, by the rebel authorities, at the time of the surrender of Lee, to destroy all the cotton in that vicinity to prevent its falling into the hands of the Government of the United States. These guards were furnished for the purpose of preventing that thing, and it was to save the cotton that it was done. For the performance of that labor and the procurement of these orders and the saving of that cotton the Secretary of the Treasury allowed them, I believe, sixteen per cent. I am not certain of the amount, but I believe that was the percentage allowed them on the whole amount of the cotton that was saved. That is the case precisely, and those are the facts of the case.

Mr. WASHBURN, of Wisconsin. I had no idea that anything I said could apply to any member of this House, for I did not suppose that any gentleman in the House besides myself knew anything in regard to the matter. I certainly had no idea that the gentleman from Illinois [Mr. LOGAN] was employed as an attorney in these cases; for according to my understanding of the laws of Congress there is a law against a member of Congress being an attorney before any bureau or Department.

Mr. LOGAN. That was long before I was a member of Congress.

Mr. WASHBURN, of Wisconsin. Of course I could have had no reference to the gentleman from Illinois, as I had no knowledge that he had ever been employed in this or any other cotton case.

Mr. LOGAN. I have the right to answer, if these insinuations are made——

Mr. WASHBURN, of Wisconsin. I have made no insinuations.

Mr. LOGAN. The gentleman will pardon me for a moment. If he will allow me, I will state this: I was here in Washington city and acted as attorney in several cases before I was ever nominated for Congress. If the gentleman will examine the dates set forth in that report he will find that it was long before I even thought of being a member of Congress.

Mr. WASHBURN, of Wisconsin. I have no doubt that the gentleman has acted honorably and in perfect good faith in this matter, as he understood the matter; I have no doubt of that. I have no idea that he would do anything that was otherwise.

Mr. MAYNARD. I desire to say that the remark I made had no reference to the gentleman from Illinois, [Mr. LOGAN,] but was called forth by the remarks of the gentleman from Wisconsin, [Mr. WASHBURN.]

Mr. WASHBURN, of Wisconsin. I was only expressing my opinion in regard to the character of this claim. If they obtained guards from General Dana or any other general, and paid him money for furnishing those guards, they did what they had no right to do, and General Dana did what he should have been cashiered for.

Mr. LOGAN. I have nothing to say about that.

Mr. WASHBURN, of Wisconsin. Having been so long on the Mississippi river, both at Vicksburg and Memphis, and knowing so well about these things, I am still of the opinion that this is a fraudulent claim. I have no doubt that the gentleman from Illinois [Mr. LOGAN] thought it was an honest claim; no doubt he thinks so now. But I do not think it is an honest claim.

But here is a further fact which I desire to state to the House, and a most astonishing fact it is: that if this was an honest claim, then this money should not have been paid to Parkman, Brooks & Co., because to-day they owe the Government of the United States over half a million dollars, as is proved by a record which is now before a committee of this House. It was referred to the Committee on Banks and Banking in June, 1866, and they were instructed to send for persons and papers and to inquire in regard to it. And I would inquire of the gentleman from Massachusetts, of that committee, [Mr. HOOPER,] if anything has been done by that committee in regard to that case?

Mr. HOOPER, of Massachusetts. I am not the chairman of that committee; but I think nothing has been done in the matter.

Mr. CAKE. Will the gentleman yield to me for a moment?

Mr. WASHBURN, of Wisconsin. Certainly.

HENRY JENKS.

Mr. CAKE, by unanimous consent, introduced a bill (H. R. No. 898) to extend the letters-patent of Henry Jenks, for an improvement in the process of manufacturing wire grating; which was read a first and second time, and referred to the Committee on Patents.

CAPTURED AND ABANDONED PROPERTY.

The House resumed the consideration of the Senate amendment to House joint resolution No. 19.

Mr. WASHBURN, of Wisconsin. If this claim is an honest one, it is most astounding that it should be paid at the Treasury Department when at the same time these parties were indebted to the Government of the United States for more than half a million dollars. That fact is apparent from the record which is now before the Committee on Banking and Currency. The chairman of that committee [Mr. POMEROY] is not present, but I understand from the gentleman from Massachusetts, [Mr. HOOPER,] who is a member of that committee, that the committee have done nothing.

Mr. HOOPER, of Massachusetts. When the gentleman asked the question of me I said there had been nothing done, because it was so long ago that I had forgotten it. But I believe something was done.

Mr. WASHBURN, of Wisconsin. I learned from the chairman of the Committee on Banking and Currency [Mr. POMEROY] that no investigation has been had in the matter by that committee. The facts of the case were these: Mr. George C. Carlton, collector of the port of Memphis, was induced by one Jesse Page, and Parkman, Brooks & Co. to subscribe for bonds of the Government of the United States. The Secretary of the Treasury sent out bonds to Carlton to be sold. Carlton handed over the proceeds to Jesse Page, of the Commercial Bank, and the Commercial Bank handed them over to Parkman, Brooks & Co. When the Government would draw on Carlton for the proceeds he would send for more bonds, which he would send to the city of New York and sell. In this way bonds to the amount of $1,500,000 or more were obtained from the Government by this thimble-rigging operation, to obtain money to carry on these cotton speculations at Memphis. Finding, finally, that he could not conceal the position of matters longer, Carlton came to Washington and made a clean breast, and a gentleman was sent out from the Treasury Department to investigate the matter. That investigation has shown that Parkman, Brooks & Co. are indebted to the Government of the United States in the sum of $556,000 for bonds thus obtained through Carlton. If anybody doubts this statement let him refer to the records now before the Committee on Banking and Currency. Yet, in the face of this most astonishing fact, the Treasury Department allows to that firm a claim of $157,000, and pays it with the exception of $30,000, which was withheld upon the allegation that Parkman, Brooks & Co. were indebted to the Government that sum.

These are the facts; and when such claims were being allowed and paid, and paid to parties who had defrauded the Government out of over half a million dollars, I thought it time to offer a resolution that should arrest the further squandering of the public money. Hence I presented this resolution. It was somewhat carelessly drawn, as I was not at the time fully conversant with the facts. I recited that there were several millions in the hands and subject to the disposal of the Secretary of of the Treasury, when in fact there was but $1,200,000, all the rest having been disposed of. I believe, however, the effect of the introduction of the resolution has been to suspend the further allowance of these claims.

Mr. LOGAN. Will the gentleman allow me a few words? I know he does not wish to do anybody injustice. So far as regards Parkman, Brooks & Co., and the parties engaged in the national bank at Memphis, I know nothing; but I will say that the gentleman is very much mistaken when he states that this claim was allowed and paid to Parkman, Brooks & Co. The parties to whom this claim was paid were a man named Shepard, the firm of Parkman, Brooks & Co., and I think one other person. I do not remember whether there were others or not. But if the gentleman will examine the case, which I presume he can have an opportunity of doing at the Treasury Department, he will find that his statement is entirely contrary to the record, so far as regards the amount paid to Parkman, Brooks & Co. They owned but a very small share of this claim; I think only one fourth, though I do not remember exactly what proportion. When the gentleman examines the matter he will find that the greater portion of this claim, outside of the expenses allowed to these parties, was not paid to them, but credited on notes in the Treasury Department given by them. The greater part of the money that was paid on this claim was paid to Mr. Shepard, whose proportion of the claim was three fourths or two thirds, I do not remember which. Only a small portion went to these parties.

Mr. WASHBURN, of Wisconsin. I know nothing about Mr. Shepard. I think I never heard of him while I was in command either at Vicksburg or Memphis. Doubtless there was such a man. But Parkman, Brooks & Co. were well known up and down the river as cotton operators, operating under permits obtained here at the Treasury Department, and operating beyond the control of the military authorities. As to how this money was paid I, of course, know nothing except what appears here upon this paper. I do know that Parkman, Brooks & Co. owe the Government to-day over half a million dollars. I do not know how much of this money Parkman, Brooks & Co. received. They certainly ought to have received none. If they did receive any they received that to which they had no right.

Mr. FARNSWORTH. Mr. Speaker, I should like to ask the gentleman from Wisconsin whether there was any law authorizing

the Secretary of the Treasury to pay these men?

Mr. WASHBURN, of Wisconsin. None whatever. It is expressly in violation of law, as the Attorney General has decided.

Mr. BLAINE. I wish to make an inquiry of my friend from Wisconsin. The gentleman from Massachusetts, [Mr. BUTLER,] not now in his seat, a member of the Committee on Appropriations, has a similar subject in charge, running in the same groove, containing some additional provisions to those which the Senate have added to this joint resolution; and he requested me, when the House should proceed to the consideration of the business upon the Speaker's table, in his absence, to move that this joint resolution be referred to the Committee on Appropriations, with leave to report at any time. If that be done I suggest a more perfect bill can be obtained. I do not see the particular necessity of this appropriation of $100,000.

Mr. WASHBURN, of Wisconsin. It is one in which I do not concur, and I shall move to strike it out.

Mr. BLAINE. I hope the gentleman will let me submit the motion that this subject be referred to the Committee on Appropriations.

Mr. WASHBURN, of Wisconsin. I cannot yield for that motion.

Mr. WELKER. I ask the gentleman from Wisconsin whether the claim about which he is now talking has not been already settled at the Treasury Department and the money paid over to the claimants? This resolution proposes merely to cover into the Treasury the money now outstanding.

Mr. WASHBURN, of Wisconsin. This resolution only affects the money now in the hands of the Secretary of the Treasury. We cannot recall money fraudulently paid out. It has gone, gone beyond our reach.

Now, let me say a word in answer to the interrogatory of the gentleman from Illinois.

Mr. WELKER. I hope the gentleman will allow me to make another suggestion in the same line as that of the gentleman from Maine, [Mr. BLAINE.] The joint Committee on Retrenchment has had under investigation a great many of these cotton claims and questions, and we are satisfied that this money ought to be covered into the Treasury. There is, perhaps, $1,200,000 now in the hands of the Secretary of the Treasury, which the joint Committee on Retrenchment were unanimously of the opinion he had no authority under the law to pay out, and it ought to be paid into the Treasury of the United States. I ask the gentleman from Wisconsin whether it would not be better to allow this resolution to go to the Committee on Appropriations, where, we are told, the gentleman from Massachusetts has a similar bill under consideration.

Mr. WASHBURN, of Wisconsin. I think we can dispose of this question to-day as well as at any other time. It has now been pending one year, for it is one year since I offered this resolution. We have only got it back from the Senate in the past few days. It can all be done in a simple joint resolution. There is in fact no necessity for the amendment of the Senate. All that is necessary is to direct the Secretary of the Treasury to pay the money in his hands into the Treasury, where it belongs. Such is the law now, and the money he has paid out has been in utter violation of the law. As I have said before, Mr. Speed, the Attorney General, gave this matter his attention and his opinion, and so he told the Secretary of the Treasury that he had no right to settle these claims and that the money should be paid into the Treasury. It is evident to every gentleman that this money should be paid into the Treasury without further delay.

I do not approve of the last section of the Senate amendment, which appropriates $100,000 of the money in the hands of the Secretary of the Treasury to enable him to defend himself against suits alleged to exist. There is no evidence produced anywhere that I have seen that any such suits exist, and I undertake to say if you put this $100,000 into the hands of the Secretary of the Treasury he will find some way in which to use it up, suits or no suits.

Mr. WELKER. There are cotton cases pending in the Court of Claims, and the Committee on Retrenchment have ascertained from investigation that the Government labors under a great disadvantage in the trial of those cases for want of a fund to provide for the examination and cross-examination of witnesses in the southern States. If this money is to be covered into the Treasury of the United States a certain amount should be set apart to get assistance in these trials, so the United States should have a fair trial.

Mr. WASHBURN, of Wisconsin. I have no doubt the Congress of the United States will appropriate money necessary to secure any proper advantage in these trials for the Government whenever it shall be made apparent that suits are pending against the Government, or that it will be of advantage to prosecute suits against individuals; but I am not willing to put such a sum in the Secretary's hands to be disposed of in so loose a way as this, and in defending suits that, so far as we know, have no existence.

Mr. LAWRENCE, of Ohio. If the gentleman will allow me to make a statement $100,000 is more than all the salaries and expenses of all the law officers of the Government in Washington for a whole year. If it be proper to make any provision for expenses, that sum is unnecessarily large, and I submit it ought to be cut down.

Mr. WASHBURN, of Wisconsin. I concur in that view. If we appropriate anything it should not be so large an amount, but it will be time to appropriate the money when we know it is needed for a proper purpose.

This exhibit which I have in my hand shows that the Secretary of the Treasury has allowed, in utter violation of the law and of the opinion of the law officer of the Government, cotton claims to the amount of $2,210,000. How many of these are as baseless as that to which I have adverted, of course, I have no means of knowing. The kindred claim of John Duncan for $97,000, I have no doubt, is equally without foundation.

Mr. VAN WYCK. With leave of the gentleman, it is due to the Secretary of the Treasury to state the grounds upon which he has allowed many of these claims. He has but followed the precedents of those in office before him. He has done what was done by both the Secretaries who preceded him, Mr. Chase and Mr. FESSENDEN. And what they did was done on the ground that they had the power to revise and control the action of their agents—that when they sent agents into the southern States to gather up cotton, they being agents of the Department, the head of the Department had a right to revise their action. Therefore they held that it was for them to determine whether the property which they took was confiscated or abandoned property or was seized by the military power. They claimed the power to examine the question, and when they found that their agents had acted without authority of law they claimed they had a right to restore the property in kind or return the proceeds into the Treasury, where it was put. I have felt it due to say this much in justice to the Secretary of the Treasury.

Mr. WASHBURN, of Wisconsin. It is very true that the predecessors of the present Secretary of the Treasury did adopt a plan of revising the action of officers of the Army and returning the proceeds of captured property or the property itself when they deemed that the capture was improper. But that was before the Attorney General gave his opinion, which was called for by Secretary McCulloch. Here it is if gentlemen desire to read it. It is very full and conclusive.

Mr. VAN WYCK. The Secretary of the Treasury had the right to revise the action of his agents.

Mr. WASHBURN, of Wisconsin.. But the Attorney General says he had no right to do that, but that he was bound to put the proceeds in the Treasury of the United States. I do not care who set the example or who made the first precedent. I say it was a dangerous precedent. It was wrong to allow persons to come here from the South, and on *ex parte* statement of their case get their property or the proceeds of their property returned to them. It was safe to presume that the officer making the seizure would be as well informed in regard to the facts of the case as the Secretary of the Treasury sitting in his office here. The whole thing is wrong and in violation of law.

Now, Mr. Speaker, I think we may as well dispose of this matter now as to refer it to a committee. For myself, I am opposed to the last section which appropriates money, but I would rather take that than get nothing. My object is to have this money covered into the Treasury.

Mr. BLAINE. As I made the motion to refer this to the Committee on Appropriations at the request of my friend from Massachusetts, [Mr. BUTLER,] who is now in his seat, I now hand the matter over to him.

Mr. WASHBURN, of Wisconsin. I yield ten minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. At the request of certain gentlemen interested in this matter, I asked my friend from Maine, [Mr. BLAINE,] in case I was absent, to move to refer this resolution to the Committee on Appropriations, and for this reason: that the committee have considered this subject and have already reported a bill, which was passed through this House, which covers all that this resolution claims to cover, and much more. It is House bill No. 500, the second section of which provides:

"That whenever, by sale of property of the United States appertaining to any Department of the Government, or by the payment of dues to the United States appertaining to any Department of the Government, or by any other means whatever, any moneys or valuable securities for the payment of moneys shall have been paid over or come into the possession or under the control of any Department or any officer thereof, the same shall not be expended except in pursuance of appropriations made by law; but all such moneys, specifically and without any deduction whatever, shall be paid into the Treasury of the United States, and carried to an account on the books of the Treasury denominated the 'surplus fund,'" &c.

Now, this resolution has no penalty, and it is for the purpose of having it comport with the law, and also because it proposes an appropriation, that I desire the resolution shall be referred to the Committee on Appropriations. It certainly should be examined by some committee, and examined carefully, because the difficulty all through in our legislation is that we do not make one bill coincide in its provisions with others. Gentlemen often—as my friend from Wisconsin does—see great defects in the practice of the Departments, and they propose to meet those defects. They do so; but while doing so they leave the door open in another direction.

Now, I am not anxious that the joint resolution shall go to the Committee on Appropriations. I only desired the motion made because it proposes to appropriate money, and it seems to me that it should go necessarily to that committee, and I suppose the Speaker would so rule. But it should go to some committee, because, otherwise, we are making one law by a bill and another by a resolution, and we are making the penalty in those laws disagree; we are, in fact, getting our legislation into an inextricable tangle.

Now, I agree with the gentleman from Wisconsin that there may have been cases where there has been wrong done in delivering over this property. The difference between the law and the practice grows out of the fact that one Attorney General gave an opinion one way and another Attorney General gave an opinion another way, and both went clear of the point at issue. Where property was captured or abandoned of course it could not be given up by the Secretary of the Treasury; but where it got into the hands of Treasury agents, and was neither captured nor abandoned, then the Sec-

retary undertook to deal with it administratively. For instance, if you or I should go into the Treasury Department and leave our hat there, when we went to get it back should the Secretary say he could not give it up because he must pay it into the Treasury we would say that it was neither a captured hat nor an abandoned hat, and that therefore he should give it to us, and not send us to the Court of Claims, after years, to recover it. It is upon that exact distinction that the Secretary of the Treasury has gone forward, whether rightly or wrongly I am not now called upon to say. Such was the course of Mr. FESSENDEN and of Mr. Chase, and it has been the course of the present Secretary. I am not standing here as his defender; I am only stating the difficulty in the question. The question cannot be here in the House upon the moment fully understood and determined. Wherever property has been captured or abandoned then the Secretary cannot give it over. That is the opinion of the Attorney General, and it is the opinion of the Secretary himself; but where it has been neither captured nor abandoned, but has been gotten into the hands of his agents, either by fraud or by mistake, he has attempted, rightly or wrongly, to adjudicate upon the question. But, whatever that practice may have been, whether reprehensible or otherwise, that is not the question here now. The question is, whether some committee of the House should not examine this resolution with this amendment and see if it comports with our other legislation, and report it back with or without the appropriation, as it may seem best. Let me say, however, that I think the Committee on Appropriations have not earned a reputation for being very eager to make appropriations, so that it would be unsafe to trust that committee with this matter. I do not say whether it should or should not be; that is for the House to determine. All I desire is that the resolution shall go to some committee and be thoroughly investigated, and I would as lief that it should go to the committee of which the gentleman from Wisconsin is a member as to any other.

Mr. WASHBURN, of Wisconsin. I have not the slightest objection to the resolution going to the Committee on Appropriations. I am satisfied that they will do everything that should be done. My object is, however, to get action as soon as possible. There is a large sum of money lying around which ought to be in the Treasury. It is not there. I want it to be placed there, and placed there as soon as possible. That was the object of my resolution introduced a year ago.

Mr. BUTLER. Allow me to make a single further remark. This bill only covers money derived from the sales of captured and abandoned property. But there is a large amount of other money lying around which is not covered by this joint resolution. But the bill of the committee refers to all moneys obtained from any source. I want to stop all the leaks; this stops only one.

Mr. WASHBURN, of Wisconsin. If we can stop one leak we will be doing a good thing. If we cannot stop all the leaks let us stop one of them, and this is a very big one.

Mr. VAN WYCK. And stop the leak of $100,000 which is in this bill.

Mr. WASHBURN, of Wisconsin. I would like to do that; I withdraw my motion to concur in the amendment of the Senate, and move to amend the amendment by striking out the third section, which makes the appropriation of $100,000 to enable the Secretary of the Treasury to defend himself and his agents from suits, &c.

Mr. BLAINE. Does not the gentleman see that if the House concur with the Senate on this amendment it lessens the probability very greatly of any action by the Senate on the bill which has been sent there by the House?

Mr. WASHBURN, of Wisconsin. I do not think it will. If the House should send the Senate anything containing additional provisions which will prove an improvement on this I have no doubt it will pass that body.

Mr. BLAINE. I predict that the result will be the very opposite. If we concur in this amendment of the Senate that will be an end to all legislation upon this subject.

Mr. WASHBURN, of Wisconsin. The main object of this joint resolution is to have this money covered into the Treasury. That is the main object. There are other objects which, no doubt, are very desirable.

Mr. LOGAN. Will the gentleman yield to me?

Mr. WASHBURN, of Wisconsin. For how long?

Mr. LOGAN. Fifteen or twenty minutes.

Mr. WASHBURN, of Wisconsin. I have not that much time left of my hour; and I desire to call the previous question.

Mr. LOGAN. If the gentleman will yield to me I will call the previous question when I conclude my remarks, if he desires it.

Mr. WASHBURN, of Wisconsin. Very well; I will yield.

Mr. LOGAN. I do not desire to discuss this question at all, except to make an explanation here in reference to the position which the gentleman from Wisconsin [Mr. WASHBURN] has innocently taken, as a matter of course, in reference to this case, in order not only to set myself but other parties right before the House. In the discussion of this question, as to whether or not moneys should be covered into the Treasury, I cannot see what these individual cases have to do with the subject.

I think all moneys ought to be covered into the Treasury that are in the hands of the Secretary of the Treasury or under his control; I have always thought so. And what the case of Shepard has to do with that matter I cannot possibly imagine.

Now, if the House will give me their attention for a few moments, I propose to explain this matter fully; because I think an unwarranted attack has been made upon these parties by the gentleman from Wisconsin, [Mr. WASHBURN.] Now, I do not want to be understood as putting myself forward in this matter as the defender of the Secretary of the Treasury. I have not, I think, very often occupied that position before this House. Still I do not want to see any injustice done to anybody.

Now, in regard to the attack which has been made upon Parkman, Brooks & Co., and the charge that their claim was a fraudulent one, and by allowing it the Treasury has been defrauded out of $100,000 in money, I think that charge it not warranted by the facts. I will venture the assertion that the gentleman from Wisconsin [Mr. WASHBURN] has never read the papers in that case so as to fully understand them. I think, when statements are made upon this floor charging frauds upon parties, there should be some facts to base the charges upon. What are the facts in this case? The gentleman says he is satisfied this is a fraudulent claim. Now, I assert before this House that, in my judgment, that was as honest a case as ever was paid by the present Secretary or any other. Whether the Secretary of the Treasury was lawfully authorized to pay the money is not a question for us to decide. Other Secretaries had made similar allowances, and this Secretary thought he had the right to do the same. I will state that the papers in this case were referred to the attorney employed by the Secretary of the Treasury on the part of the Government, Mr. Eames, who, I believe, has always been understood to be an honest and good man. Mr. Eames examined this case. It is not a case in which Parkman, Brooks & Co. were principally interested. It was known as the Shepard case. Mr. Shepard was the man principally interested. Parkman, Brooks & Co. had no connection with it any further than a simple interest which they had in the protection of the property after Mr. Shepard purchased it. The case was submitted to Mr. Eames, the attorney of the Treasury Department. I was one of the attorneys on the part of Mr. Shepard. A year and a half ago or longer Mr. Eames made a report to the Treasury Department. He reported in favor of allowing Mr. Shepard and his partner either twelve and a half per cent. or sixteen per cent. of the gross proceeds of the cotton. I said awhile ago sixteen per cent., but I may not be quite correct about that. The evidence shows that the original purchase was eighteen thousand bales of cotton. I am informed I said awhile ago eighteen hundred bales; if so, it was a mistake.

Mr. DAWES. I desire to ask whether this is a case of which I recollect the gentleman from Rhode Island [Mr. JENCKES] has spoken, in which a single attorney received $125,000 for his services?

Mr. LOGAN. I do not know whether this is the man to whom the gentleman from Rhode Island referred. Mr. Eames was the attorney on the part of the Treasury Department, and he decided that this claim was legitimate, and that the Secretary of the Treasury ought to pay salvage amounting to twelve and a half or sixteen per cent. I do not know which.

Mr. DAWES. The gentleman from Rhode Island, who has prepared a bill providing for such cases, states that in a single case the Government paid to a gentleman of very similar name—I do not know whether it is the same gentleman—$125,000.

Mr. LOGAN. I do not know anything about that.

Mr. DAWES. The gentleman from Rhode Island says he has seen the receipt.

Mr. LOGAN. I neither know nor care anything about that. Gentlemen seem to be very anxious about this case. I presume it may be, perhaps, because of the connection I have had with it as an attorney.

Now, sir, the evidence in this case showed that the purchase amounted to eighteen thousand bales of cotton; that either thirteen thousand or sixteen thousand bales of this cotton were saved by the exertions of these parties from the confederate soldiers who were attempting to burn it. The cotton was shipped to Mobile and around to New York, where the Government sold it and got the money, paying these parties a percentage for saving it from destruction by fire. These are the facts, as the evidence in the case shows. And the permission was given by the Government and also by the military authorities, by order of the commanding general of that department. Under this state of facts I, as the attorney for Mr. Shepard, asked the Secretary of the Treasury to pay Mr. Shepard a percentage. It being the custom to pay Treasury agents one fourth, I believe, as salvage for saving cotton, I asked the Secretary of the Treasury to allow Mr. Shepard some percentage for saving this large amount of cotton. He took the evidence, a long time being occupied in taking it. When the evidence had been taken it was referred, together with an argument which I prepared, to Mr. Eames, who reported that he believed the parties were entitled to a percentage as salvage; and on this report the Secretary of the Treasury allowed as salvage only twelve and a half or sixteen per cent., (I do not know which,) when he had been allowing his own agents one fourth for doing not one half the work that these men had done in saving this cotton.

[Here the hammer fell.]

The SPEAKER. The hour of the gentleman from Wisconsin [Mr. WASHBURN] having expired, the Chair will recognize the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. This allowance was made in the way I have stated. The Secretary of the Treasury had been in the habit of making these allowances; and such being the custom of the Treasury Department, I could see nothing wrong in allowing to these men salvage for the same kind of service.

But the gentleman from Wisconsin [Mr. WASHBURN] attacks these men as a set of scoundrels. Now, I will say in regard to this

Mr. Shephard, the man who had the claim and not Parkman, Brooks & Co., that I never heard a word against his reputation in all my life. His reputation has been vouched for by good men.

What connection Parkman, Brooks & Co. had with this bank I do not know. What figure it cuts in this case I do not know. I will say, however, that Mr. Parkman was the first man I met in Tennessee when the war broke out who was loyal to the Union; and he assisted our troops as a loyal man in the protection of our flag. And General Grant will tell gentlemen to-day that Mr. Parkman gave him more information at Jackson, Tennessee, than any other man, and consequently in that regard did more benefit to the Government at the battle of Corinth than any other man. Such is Mr. Parkman's character, and yet he is one of those who are here to-day charged with defrauding the Government.

If the gentleman from Wisconsin will seek out cases where money has been paid to confederate officers, to rebels and traitors, instead of hunting out cases where money has been paid to loyal men, all loyal—claimants, attorneys and all—I think it would look about as well in history. I can tell him of some such cases if he desires to know them, where he will find not $50,000 or $100,000, but millions of dollars taken from the Treasury without the least warrant of law. The gentleman does not seem to desire to ferret out these large claims.

Mr. WASHBURN, of Wisconsin. Let us hear of some of them.

Mr. LOGAN. I will tell you. You will find from the records of the Treasury Department that millions of cotton have been turned over into rebel hands, for which there was no color of law. You will find them if you will take the pains to do so.

Mr. CHANLER. I hope the gentleman will specify some of these cases. It is desirable that they should be specified to the House.

Mr. LOGAN. I will specify. I will give the name of one of the parties, and as he came from New York perhap the gentleman may know him—a Mr. Bruce.

Mr. CHANLER. Not at all.

Mr. LOGAN. Do you know a man by the name of Bruce, who owned a New York hotel?

Mr. CHANLER. Not at all. One of the "Scots wha hae wi Wallace bled" I suppose. [Laughter.]

Mr. LOGAN. The gentleman asked me to give him the name of a case, and I have done so. Does he know this man Bruce?

Mr. CHANLER. I do not know this particular Bruce. I know a good many men by the name of Bruce. I asked the question in good faith.

Mr. LOGAN. This man Bruce was an officer in the rebel army. After the war was over he went South and seized cotton and shipped it to New York, not by the hundred but by the thousand bales. All this was authorized by the Secretary of the Treasury. Bruce, with the money that he made, bought one of the best hotels in New York, which is now kept by his father, Bruce having died about one year ago.

Mr. CHANLER. I ask the gentleman about this man. I do not know him, and ask for information. Was his obituary in the usual style?

Mr. LOGAN. I do not know. Inasmuch as he was a friend of his, a rebel and a traitor, perhaps he saw the obituary himself.

Mr. CHANLER. The gentleman has been shown to be a friend of thieves. I say the gentleman is a friend of thieves.

Mr. LOGAN. I do not yield the floor any further.

Mr. Speaker, there is no necessity for the gentleman getting so excited. A wasp can get excited, an ant can bite; small insects can annoy; but there is no necessity for the gentleman to get excited.

Mr. CHANLER. And can make an ass kick.

Mr. LOGAN. The gentleman asked a question, and I answered it in a gentlemanly way.

Mr. CHANLER. Very.

Mr. LOGAN. Now, sir, I say this in reference to this case: if the gentleman wants more instances and more names I will give them to him without hesitation. There are many individuals who have had large amounts of money paid over to them. These are the cases which should be hunted up. I do not believe my friend from Wisconsin intends or desires to do wrong. I am sure he will, where he has evidence that wrong has been done, have the parties exposed. But I tell him, if he will investigate this, he will find it to be an honest case as ever passed the Treasury; at least it is so in my judgment. As to whether the Secretary of War had a right to pay the money that is a question of law which I cannot decide, nor do I undertake to give an opinion about it. I only say this: that I am as ready as the gentleman or anybody else to turn over money in to the Treasury of the United States which rightfully belongs there, or to investigate wrongs of this character.

But I will tell gentlemen who desire to look after these things if they will get the Secretary of the Treasury to explain how it was that on or about the 19th of December last $18,640,000 of bonds were recorded as destroyed on the books, when the fact appears that it was only blank paper, without a figure or a letter on a single sheet of it, they will be doing as much good to the country as by investigating anything of this kind. I examined the books at the Department this morning. I am not a defender of the Secretary of the Treasury, but I am a defender of my own honor and of the rights of individuals to whose cases I have attended. I would scorn the man who would attend to a case which he believed to be fraudulent, either as attorney or otherwise. But I examined the books this morning. There may be an explanation. I do not say that there is not, but if there is I would like to have it. It is certified on the books by three men that on the 19th of December—I believe that was the date—some $18,640,000 of bonds were recorded as being destroyed by being run into pulp, by being thrown into the boiler where such papers are destroyed, but it was only blank paper. On being told that such was the fact I did not believe it, so I went to the clerk and he showed me the book. On opening the book there was the certificate of the destruction of that amount of bonds, giving the denominations. The clerk, it seems, went to three other men in the Department and asked them to come and see the destruction of the paper after it was certified as being bonds. He asked them to examine it and they did so. Then before he made the entry in the book he made them give a statement of the fact that it was blank paper. That statement appears on the side of the page signed by these three men. That is the condition of the book which I examined this morning. I spoke to General Spinner about it and he said it was all wrong—that there ought to be some explanation of it. How it happened he could not tell, but he said if he had known the fact at the time he would not have allowed it to be done.

Now, these are things that ought to be looked into. I have heretofore spoken in this House about the sale of registered instead of coupon bonds at a lower rate than the coupon bonds are selling in New York, though the Government had to pay the same interest on the one as the other. You are being defrauded out of hundreds of thousands of dollars every month by the conduct of this Department, and yet no attention is paid to the matter. Somebody finds out a case where a considerable amount has been paid out; a mole-hill rises into a mountain; something terrible is made of it; it is brought to the attention of the House and paraded before our constituents and a great deal is said about economy. Now, I am for economy all through. I am for an economy that stops large leaks in the Treasury—large frauds against the Government.

Mr. PRICE. I ask the gentleman to yield to me a moment.

Mr. LOGAN. I do so.

Mr. PRICE. This is an alarming declaration, and I wish to ask the gentleman if he has examined the books very particularly. When the currency or bonds are destroyed the records show not only the amount of the currency or bonds but the denomination of them and their date. I ask the gentleman if, in the examination he made this morning, there was anything showing the denomination and the date, and whether the gentlemen who made the certificate he speaks of certified to the denomination and date?

Mr. LOGAN. It shows precisely the same that is shown in every other case where the bonds have been destroyed. It shows the denominations.

Mr. PRICE. And the numbers?

Mr. LOGAN. I will not say as to the numbers. I am not sure about that. But it shows the denominations running from five hundred up to five thousand dollars.

Mr. PRICE. The gentleman will see the object I had in asking the question.

Mr. LOGAN. I see the object.

Mr. PRICE. If these three gentlemen have certified that $18,640,000 in bonds have been destroyed and the bonds are yet in the market, why, there is a swindle to the amount of $18,640,000. I confess that the gentleman's statement is a little more startling than anything I have heard lately, and if it be the fact and if the records show that the bonds with the dates and denominations and amounts particularly described are certified to have been destroyed why it is about time some other action was taken with reference to it.

Mr. LOGAN. I wish some other members of Congress besides myself would go to the Department occasionally and examine into these things. I know it is a hard matter for a member of the House who is not on a committee to go groping around there, and that he generally gets more abuse than anything else; but let any member examine the records as I have done, and they will find just what I state. They will find the statement on the books of the destruction of over eighteen million dollars of bonds, with the denominations given in figures, and the amounts of those bonds described, when the fact is that no bonds were destroyed.

Mr. RAUM. What became of them?

Mr. LOGAN. I do not know. I do not pretend to explain it. What I say is that it demands explanation.

Mr. LAWRENCE, of Ohio. Did the gentleman make inquiry for an explanation of the proper officers of the Department? If so, we ought to have it. If not, the subject ought certainly to be investigated.

Mr. LOGAN. Very well; I did not ask anything about it. I have investigated it to my own satisfaction. I asked General Spinner what it meant, and he said he did not know, but if he had known of it he would not have allowed it. He said that Mr. Clark was the man to explain it, as he had had it done. I know nothing about it. I only state the facts that came to my knowledge.

Mr. LAWRENCE, of Ohio. I wish to say that I think the country is under obligations to the gentleman from Illinois for the discovery of this fact, and that it is the duty of Congress to investigate it.

Mr. LOGAN. Now, Mr. Speaker, while I am on this subject, inasmuch as I have taken up the cudgel in this case, in regard to which I think my friend from Wisconsin [Mr. WASHBURN] has been misled, for fear, as I have had several tussles with the Secretary of the Treasury in this House, my friend from Wisconsin may think I have become his defender, I will give him something else that he may investigate. If you will examine the records of the office, you will find in the case of officers appointed by the Secretary and the President the material part of the oath prescribed by law scratched out, and the names of those men are

to-day on the pay-rolls, and they are receiving their pay, plenty of them.

Mr. MAYNARD. I would ask the gentleman if they are employés in the Department here?

Mr. WILSON, of Iowa. I would ask the gentleman from Illinois if any of the appointments to which he now alludes and the payments to those persons have been made since the examination of the Secretary of the Treasury before the Judiciary Committee?

Mr. LOGAN. I cannot answer that question because I cannot say anything about dates. I have not examined the records myself, but I will say this so that the House may know exactly how I got my information. A gentleman who is connected with the records of the Department—I will not give his name for it would cost him his head if I should—told me this morning that there were on the files of his office oaths upon which appointments of officers have been made in which material parts of the oath have been scratched out with a pen, and that there was not one only, but a great many of that character.

Mr. WILSON, of Iowa. Allow me one further question. I wish to ask the gentleman whether he has any information to the effect that any such appointments have been made since July, 1866, or whether any such appointments have been made since that date?

Mr. LOGAN. I will give the gentleman all the information I have; I will give him the statement of an assessor. An assessor, who was appointed in Georgia a short time ago, told me this morning that he had in his office the oaths taken by all the officers who were appointed by his predecessor, and that those officers were all either lieutenants, or captains, or sergeants, or majors, or colonels in the confederate army, and that the material part of each and every oath was scratched out, and that those men were paid up to last month. I only give the statement as it was made to me.

Mr. WILSON, of Iowa. I will state the reason why I put this question to the gentleman: it is that the Secretary of the Treasury testified before the Committee on the Judiciary that in no such case had payments been made, except by inadvertence in one case; and that since the date to which I have alluded no appointment of the kind has been made.

Mr. LOGAN. I want the gentleman to understand me. I do not make this as a specific charge against the Secretary of the Treasury. But I state to the gentleman what was stated to me by persons who knew the facts or ought to have known them; that is all. I am not responsible for the statement; I give it to you as it was given to me this morning.

Mr. PRICE. In common with other members of this House I have been very much startled by the declaration made by the gentleman from Illinois, [Mr. LOGAN.] While I dislike very much to do what I now propose to do, still I do not think I can serve my constituency or the country better than to move, when I can get the floor, a special committee of three or five members to investigate and report to this House how the matter really stands. I desire to have it distinctly understood that I have no wish to take charge of this investigation or to be one of the committee; but I deem it my duty to make the motion when I get the opportunity. I shall do so for this reason: if a fraudulent certificate can be made of the destruction of $18,000,000 of bonds then a fraudulent certificate can be made of the destruction of $1,800,000,000; and this country can know nothing of its bonded debt if that kind of procedure can be allowed in its Treasury. These bonds occasionally, when redeemed and canceled, must be destroyed; and so with the currency. But there is a regular way of doing that thing which would be satisfactory to the country. But if the declaration made here this morning be well founded then I see no safety to the moneyed interests of this country, so far as the Government is concerned, without a committee to investigate and report the facts to the country. I give notice, therefore, that when I get the opportunity I shall move the appointment of a committee for that purpose.

Mr. WELKER. I desire to state to the House that a sub-committee of the joint Committee on Retrenchment is now engaged in this investigation in reference to these destroyed bonds. Inasmuch as the gentleman from Iowa [Mr. PRICE] has given notice that he will move for a committee to investigate the matter I thought it proper to inform the House that such an investigation is now going on. The information was communicated to the joint Committee on Retrenchment, and it is now being investigated.

Mr. PRICE. "Now being investigated." Why, sir, a committee of three men can investigate the matter in three hours, so far as that particular declaration is concerned, and the news will be carried on the wings of the lightning not only to the Atlantic coast but to the Pacific coast——

A MEMBER. Around the world.

Mr. PRICE. As a friend suggests, the news will be carried around the world before the sun sets to-morrow; and the bondholders of Europe, of every place where the moneyed interests of this country are at stake, will know that our bonds are being certified to be canceled and destroyed when such is not the fact.

Mr. FARNSWORTH. I would inquire if these remarks are in order?

The SPEAKER. Strictly speaking the debate should be confined to the amendment of the Senate to the joint resolution of the House.

Mr. FARNSWORTH. I make the inquiry because I am anxious that some of the time to-day will be applied to other business.

The SPEAKER. The Chair is of the opinion that the debate has wandered somewhat from the subject before the House.

Mr. LOGAN. I propose in pursuance of my promise to the gentleman from Wisconsin [Mr. WASHBURN] to call the previous question after I shall have yielded a few moments to two or three members who desire to speak.

Mr. VAN WYCK. I trust the gentleman will not do that, after the most of the time has been taken by gentlemen on the other side.

Mr. FARNSWORTH. I hope the gentleman will allow this matter to go over until to-morrow. He will bear in mind that to-day is the only day of this week when the rules can be suspended.

Mr. WASHBURN, of Wisconsin. I do not know that I should object to that, if I can have the assurance that it will come up to-morrow.

Mr. FARNSWORTH. If it is left on the Speaker's table it will come up when we again go to business upon the Speaker's table.

Mr. WASHBURN, of Wisconsin. I suppose I will be entitled to one hour to close the debate after the previous question shall have been seconded.

The SPEAKER. The Chair will inform the gentleman that he will not be entitled to that time, as he did not report the bill from any committee.

Mr. WASHBURN, of Wisconsin. As I offered the resolution originally which led to the introduction of this measure I suppose I am entitled to the floor for an hour after the previous question is called.

The SPEAKER. The Clerk will read the rule under which gentlemen have the right to close the debate after the previous question is seconded.

The Clerk read as follows:

"The right of the member reporting the pending measure to close the debate is never denied him, even after the previous question is ordered."

The SPEAKER. It will be observed that this right belongs only to a member reporting a bill.

Mr. WASHBURN, of Wisconsin. Having yielded my time under a misapprehension of my rights I trust I may be allowed a few minutes more.

The SPEAKER. The gentleman from Illinois [Mr. LOGAN] is still entitled to the floor, unless he surrenders it.

Mr. LOGAN. I promised the gentleman to move the previous question; but I will surrender the floor to him if he desires it.

Mr. WASHBURN, of Wisconsin. I am obliged to the gentleman.

Mr. MAYNARD. Before the gentleman from Wisconsin proceeds with his remarks I would like the gentleman from Illinois [Mr. LOGAN] to make one of his statements a little more explicit. I desire to know whether these official oaths to which he has referred were the oaths of employés in the Department or officers outside.

Mr. LOGAN. Officers outside.

Mr. CHANLER. I trust the gentleman from Wisconsin will yield a moment for a personal explanation.

Mr. WASHBURN, of Wisconsin. I have yielded already a large part of the time to which I was entitled.

Mr. CHANLER. This is a mere matter of courtesy, to explain a misunderstanding. The gentleman from Illinois [Mr. LOGAN] entirely misunderstood my motive in putting my question to him in the course of his remarks. He used expressions which I am quite sure, when he understands what was my motive, he will withdraw.

Mr. LOGAN. If I said anything offensive I did not intend it.

Mr. CHANLER. I asked the gentleman a polite question, with the best intentions.

Mr. LOGAN. I thought from the gentleman's manner that his purpose was to harass me more than anything else.

Mr. CHANLER. My object was to bring before the House the facts which have since been elicited by other questions of a similar character. I had no intention to interrupt the gentleman discourteously.

Mr. LOGAN. I will say to the gentleman that I intended no discourtesy toward him whatever. If I used any language offensive or improper of course I cheerfully withdraw it.

Mr. CHANLER. I knew that the gentleman would do so when he properly understood the matter. I also withdraw anything offensive to the gentleman.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, amicable relations having now been restored between the gentleman from Illinois [Mr. LOGAN] and the gentleman from New York, [Mr. CHANLER,] permit me to say that the gentleman from Illinois was altogether mistaken in supposing that my remarks were intended to have any personal allusion to himself or friends of his. As I have already said, I had no idea that any gentleman on this floor had any personal knowledge in regard to this particular claim. I alluded to this claim because I had a general knowledge as to how matters were transacted in that section of the country, and because I knew that Parkman, Brooks & Co. were indebted to the Government of the United States in the sum of $556,000, the value of Government bonds which they had never paid for and which they probably never will pay for. I thought it very strange that this claim should have been paid to them at the Treasury Department when they owed the Government so large an amount.

Now, the gentleman says that Parkman, Brooks & Co. are loyal. I am not here to deny that fact, if it be a fact; but, sir, I do not understand that because a man is loyal he has the right to put his hand into the Treasury when the law does not authorize him to do so. The gentleman from Illinois suggests to me that if I would pursue my inquiries in the Treasury Department I should find many other cases of fraud and corruption more worthy of animadversion than the one I have alluded to. That may be true. I have no doubt that that Department is reeking with corruption and rottenness to the very heart's core; but my efforts heretofore at procuring information from that Department have not been such as to lead me to expect much information should I ask for it. Why, sir, on the 26th of last November I offered this resolution, which was passed by the House, namely:

"*Resolved*, That the Secretary of the Treasury be

directed to furnish this House with the following information:

"1. What efforts, if any, have been made for the recovery of confederate property in Europe, and if any contracts have been made with any party or parties by which said parties are to receive a share of the property recovered, and if so, to transmit copies of such contracts, and all correspondence relating thereto; and to state the names of all such parties, and all agents, or attorneys, that have been, or are now employed in prosecuting the claims of the Government for such property, and upon whose recommendations said agents or attorneys were appointed, and where said agents resided previous to their appointments, and the amount of money paid to such agents or attorneys, or agreed to be paid, and out of what fund paid, and by authority of what law, and if any such agents have before been employed as cotton agents in the South, and if so the names of such agents.

"2. If a settlement has been made with the firm of Frazer, Trenholm, & Co., and if so, on what terms, and to furnish copies of all correspondence and agreements in regard to such settlements."

Nearly four months have elapsed since that resolution was adopted, but no answer has yet been returned. If a truthful answer ever shall be made it will show that such a contract as is named in the resolution was given to a private party, proposing to allow him one half of all that might be recovered that was situated in Great Britain. There is good reason to believe that property of that kind existed in England at the close of the rebellion exceeding $10,000,000.

The Secretary does not answer. He may well be ashamed to answer; but I will state for him, that last summer London was full of Treasury bummers, under pay, I have no doubt, of the Treasury Department, holding, as was understood, daily and nightly orgies at the "Blue Dragon," in Bishopsgate street, and bringing our country and Government to shame. Through the gross mismanagement of the Treasury Department, and in the attempt to divide up the proceeds among a set of cormorants and harpies, I am satisfied that not a dollar will ever reach the United States Treasury.

Mr. BLAINE. The most of the confederate property would have been obtained if the arrangement made by Freeman H. Morse, our consul at London, had been ratified by the Government instead of giving roving commissions to others.

Mr. WASHBURN, of Wisconsin. I believe that is true.

The gentleman from Illinois and myself cannot disagree upon the general subject of the mismanagement of the Treasury Department, and I have no doubt that what he says is true, that the Treasury Department has turned over to disloyal claimants millions upon millions, of which there is no record in the Treasury Department. This fact makes it only the more apparent that there should be no delay in passing this joint resolution.

The gentleman from Illinois will find I will second any effort he may make to open up the abuses of the Treasury Department. I simply adverted to this case as a small case. I have no doubt you will find worse cases than the one I have alluded to if you go to the bottom of them. You will find from another document which I hold in my hand, No. 97, that some thirty-four million dollars of captured and abandoned property has come into the hands of the Secretary of the Treasury, a considerable portion of which he has covered into the Treasury in pursuance of law, and a large portion of which he has disposed of in utter violation of law.

I think that this discussion has demonstrated the necessity for immediate action on this joint resolution; and I hope that the House will concur in the amendment of the Senate, with an amendment striking out the last section making an appropriation of $100,000.

Mr. ALLISON. I understand the gentleman to say, since he has offered his resolution, that the Secretary of the Treasury has not disposed of any more of this money. Now, this is a question which involved great debate in the Senate. The joint Committee on Retrenchment has also had the subject under consideration for some time. It seems to me, therefore, that this resolution and the Senate amendment should go to that committee or to some other committee.

Mr. WASHBURN, of Wisconsin. There was a protracted debate in the Senate, but it ought not to have been discussed one hour. It is so plain and so just that neither House should hesitate one moment to pass it. It simply directs the money the Secretary of the Treasury holds in his hands in violation of law, as well as all other persons so holding money, to cover it into the Treasury, and subjects them to penalties unless they do so.

Mr. ALLISON. No harm can be done by referring it.

Mr. WASHBURN, of Wisconsin. Yes, sir; every delay works harm. We do not know what is going on. Therefore with this amendment I now demand the previous question.

Mr. VAN WYCK. Delay will work no injury. This money will remain without payment in the hands of the Secretary of the Treasury. When the Committee on Retrenchment commenced its examination they requested the Secretary of the Treasury to pay out no more of this money, and he has not done so. This money will remain there in consequence of that action of the joint committee.

Mr. WASHBURN, of Wisconsin. It is all true, sir, that that money ought not to remain there. It should be covered into the Treasury and go to pay some of our bonds. Now, who gets the interest on that $1,200,000? The money is not lying idle. Who gets the use of it?

Mr. VAN WYCK. I with to state that the evidence introduced shows that more of these cotton claims have been allowed by the Court of Claims than by the Secretary of the Treasury. If the gentleman from Wisconsin would direct his attention there he will see that if the doors of that court are left open all these men will carry off all the cotton captured by the Government. That is a point to which I wish specially to call his attention.

Mr. WASHBURN, of Wisconsin. I have not entirely neglected the Court of Claims. I well understand that matter. At the July session I offered a resolution calling upon them for a list of all the judgments entered up in that court. It was furnished, and may be found among our documents. Gentlemen can send for it and see for themselves. I have seen it; and I will say that the amount of judgments are much less than was supposed. I say now to the gentleman from New York that I am not particularly in love with the Court of Claims, although I think it is well constituted. I believe that honest men are judges there, but still I can see that practically the whole Treasury of the United States is in the hands of a solicitor of the Court of Claims. He really has the key to the Treasury, for as he presents the cases so they must be decided; and for that reason I thought it well, when I offered the resolution, that the House should keep an eye on the Court of Claims, and see and know what judgments were being rendered there, and that without reflecting in any way upon the court or any of its officers. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. WASHBURN, of Wisconsin, striking out the last section, was agreed to.

The amendment of the Senate, as amended, was then agreed to.

Mr. BUTLER. I wish to make a parliamentary inquiry. I wish to know whether it is usual to incorporate penal acts in joint resolutions?

The SPEAKER. That is not a parliamentary inquiry; therefore the Chair will not answer it.

The joint resolution, as amended, was then read the third time, and passed.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INVALID PENSION APPROPRIATION BILL.

The next business on the Speaker's table was the amendments of the Senate to House bill No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869.

Mr. SPALDING. I move to refer the amendments to the Committee on Appropriations.

The motion was agreed to.

PHILIP R. FENDALL.

The next business on the Speaker's table was Senate bill No. 268, for the relief of the legal representatives of the late Philip R. Fendall; which was read a first and second time.

The bill directs the payment to the legal representatives of the late Philip R. Fendall, for labor performed in editing the writings of James Madison, the sum of $2,100.

Mr. BALDWIN. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. BALDWIN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JAMES M'INTOSH.

The next business on the Speaker's table was Senate joint resolution No. 102, instructing the Superintendent of the Asylum for the Insane in the District of Columbia to admit James McIntosh on the same footing as indigent insane persons of the District; which was read a first and second time.

Mr. INGERSOLL. I ask that the resolution be put upon its passage. All I have to say is this unfortunate person has no relative able to support him. This resolution of the Senate proposes to place him on the same footing as other unfortunate persons. I hope the House will concur in the proposition.

The joint resolution was read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ASSAY OFFICE IN IDAHO.

Mr. BLAINE. I am instructed by the Committee on Appropriations to report back House bill No. 264, to locate and establish an assay office in the Territory of Idaho.

The bill locates at Boise city, in Idaho Territory, an office for the assaying of gold and silver, and provides for the appointment, as soon as the public interest shall require their service, of a superintendent, at a salary of $2,000; an assayer, at a salary of $1,800; a melter and refiner at $1,800; one clerk at $1,800, and one at $1,600. Subordinate workmen and laborers are to be employed by the superintendent at such wages and allowances as are customary according to their respective occupations. It appropriates $75,000 for the construction of an assay office immediately after the passage of this act.

Mr. MAYNARD. I wish to ask the gentleman if he intended to relieve the officers provided for in this bill from taking the ordinary oath, commonly called the "test-oath?"

Mr. BLAINE. That was not the intention of the committee.

Mr. MAYNARD. The bill as it stands certainly does.

Mr. BLAINE. I think not.

Mr. MAYNARD. I think it does. It expressly provides that they shall be required to take an oath to discharge the duties of their offices, which, of course, establishes the oath which they are to take.

Mr. BLAINE. I should be very glad to have the language changed, if that is the effect of it. I have an impression that the general law would apply to the case.

Mr. MAYNARD. This bill provides for a specific oath.

Mr. BLAINE. I shall be very glad if the gentleman will move an amendment.

Mr. MAYNARD. I move to amend so as to provide that they shall take the oath of office prescribed by the act of July 2, 1862.

Mr. BLAINE. I have no objection to that.

The SPEAKER. If there be no objection, the amendment will be considered as agreed to.

No objection was made.

Mr. ALLISON. Has this bill been printed?

Mr. BLAINE. I wish to make a brief statement. This bill is recommended very strongly by the director of the Mint at Philadelphia and by the Secretary of the Treasury. It is a bill which really ought to have been passed by Congress more than a year ago. Idaho, I think, mines more than all the other Territories, and the inhabitants of that Territory are subject to great inconvenience by the fact that there is no place where they can get their bullion made into bars or anything of that kind.

Mr. ALLISON. I ask the gentleman to yield to me to offer an amendment.

Mr. BLAINE. I will hear the amendment read. I do not intend to yield until I know what it is.

Mr. ALLISON. I see that this bill establishes an assay office, a sub-Treasury, and a bank in Idaho.

Mr. BLAINE. I will send to the Clerk's desk and ask to have read a letter from the director of the Mint at Philadelphia, with the indorsement of the Secretary of the Treasury, and then, I think, the gentleman from Iowa may possibly not object to the bill.

The Clerk read as follows:

MINT OF THE UNITED STATES,
PHILADELPHIA, *February* 17, 1868.

DEAR SIR: Your letter of 16th instant, inclosing copy of a bill for establishing an assay office at Boise city, in the Territory of Idaho, has been received. I have made such modifications of the bill as appeared to be required, and return it herewith. It contains all the provisions necessary for establishing an office for the receipt, melting, assaying, and returning to the depositor bullion in the form of unparted bars, with the fineness and weight of gold and silver stamped thereon. For conducting these operations but one officer is provided for, namely, an assayer, who, with an assistant, clerk, and a few workmen, will be sufficient for the proper and economical dispatch of the business of the office.

For the erection of a suitable edifice and putting up the necessary apparatus and fixtures, and also for defraying the expenses of the institution for the next fiscal year, the sum of seventy-five thousand dollars will, in my opinion, be abundant. An assay office in the Territory of Idaho, to which the people can take their bullion and have it converted into commercial bars, bearing the United States stamp of fineness and weight, will certainly be a decided advantage to them; and, as it is proposed to meet the requirements of the bullion interests of the Territory of Idaho by establishing and conducting such an office at a very moderate expense, the measure should receive the favorable consideration of Congress.

Very respectfully,
H. R. LINDERMAN, *Director.*

Hon. E. D. HOLBROOK,
Delegate from Idaho Territory, Washington, D. C.

TREASURY DEPARTMENT, *February* 19, 1868.

I concur in the opinion expressed in the within letter by the Director of the Mint, relative to the expediency of the erection of an assay office in the Territory of Idaho, and ask for the same the favorable consideration of Congress.

H. McCULLOCH,
Secretary of the Treasury.

Mr. BLAINE. I will now yield to the gentleman from Iowa to offer an amendment which I think is proper.

Mr. ALLISON. I propose to restrict the gold certificates. I wanted to restrict them to $500, but the gentleman says that he will agree to my amendment if I propose $100.

Mr. BLAINE. That will be fair.

Mr. ALLISON. It is certainly not the intention of the Government to authorize the sub-Treasurer there to issue gold certificates in any sum he may choose. I therefore move to amend the sixth section of the bill by inserting after the words "certificates of deposit," in line six, the words "in sums not less than $100."

Mr. BLAINE. I hope that amendment will be agreed to.

The amendment was agreed to.

Mr. BLAINE. I now move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CANCELLATION AND DESTRUCTION OF BONDS.

Mr. PRICE. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Committee on Retrenchment be, and it is hereby, instructed to investigate the charges made by the gentleman from Illinois [Mr. LOGAN] in reference to the false certificate of the destruction of $18,640,000 of United States bonds, and to report to this House to-morrow.

The SPEAKER. It will require unanimous consent to authorize the committee to report to-morrow, as it is not probable it will be reached in the regular call of committees for reports.

Mr. PRICE. It has been suggested to me that I had better make it so that the committee can report the day after to-morrow. I modify the resolution accordingly, and ask unanimous consent for its consideration now.

No objection was made, and the resolution was received.

The question was upon agreeing to the resolution.

Mr. PRICE. I have offered this resolution because I pledged myself to the House some time since to move for an investigation of this matter. Immediately upon making that promise to the House I was waited upon by three members of the Committee on Retrenchment, who assured me that they were now considering that matter. All I desire is to have it investigated and reported upon to this House, so that the country may understand just what are the facts in the case. I trust some satisfactory explanation may be given of it. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

TAX ON DISTILLED SPIRITS.

Mr. CHANLER, by unanimous consent, introduced a bill (H. R. No. 899) explanatory of an act entitled "An act to prevent frauds in the collection of the tax on distilled spirits," approved January 11, 1868; which was read a first and second time, and referred to the Committee of Ways and Means.

TENURE OF OFFICE.

Mr. WILSON, of Iowa. I ask unanimous consent to have taken from the Speaker's table for reference Senate bill No. 269, in addition to an act entitled "An act regulating the tenure of certain civil offices."

No objection being made, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

VACANCIES IN EXECUTIVE DEPARTMENT.

Mr. WILSON, of Iowa. I also ask unanimous consent to have taken from the Speaker's table for reference Senate bill No. 352, to authorize the temporary supplying of vacancies in the executive department.

No objection being made, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

E. R. AND S. W. CLARKE.

Mr. DIXON. I ask unanimous consent to have taken from the Speaker's table for reference Senate bill No. 347, to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government.

No objection being made, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Private Land Claims.

LAND GRANTS TO NEVADA.

Mr. JULIAN. I ask unanimous consent to have taken from the Speaker's table for reference Senate bill No. 190, to further provide for giving effect to the various grants of public lands to the State of Nevada.

No objection being made, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

SETTLEMENT OF PUBLIC ACCOUNTS.

Mr. MUNGEN. I ask unanimous consent to have taken from the Speaker's table for reference Senate bill No. 350, to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817.

Mr. LOAN. I object.

LEAVE OF ABSENCE.

Mr. NICHOLSON asked and obtained leave of absence for one week.

Mr. HUNTER asked and obtained indefinite leave of absence for Mr. WASHBURN, of Indiana, on account of sickness in his family.

Mr. O'NEILL asked and obtained leave of absence for Mr. BROOMALL until Friday night next.

COURT AT CAIRO, ILLINOIS.

Mr. MARSHALL, by unanimous consent, reported from the Committee on the Judiciary a bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 13, 1855.

The bill, which was read, provides that in addition to the terms of the circuit and district courts of the United States for the southern district of Illinois, now held at Springfield, terms of those courts shall hereafter be held at the city of Cairo, in that district, to begin on the first Mondays of March and October of each year.

The second section provides that the clerks of the circuit and district courts shall keep clerks' offices for those courts at Cairo, and that all records and papers appertaining to the business of those courts at that city shall be kept therein, and that they shall appoint deputy clerks for those courts, who shall reside in Cairo.

The third section provides that the district attorney for the southern district of Illinois shall perform the duties of his office in the circuit and district courts held at Cairo, and the marshal of that district shall occupy an office at that city and appoint a deputy who shall reside there.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MARSHALL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST OFFICE BUILDING, ETC., IN BOSTON.

Mr. FARNSWORTH, by unanimous consent, from the Committee on the Post Office

and Post Roads, reported back with an amendment a joint resolution (H. R. No. 228) relative to the post office and sub-Treasury of the city of Boston.

The joint resolution, which was read, provides that the mayor and postmaster of the city of Boston, the Assistant Treasurer of the United States at the city of Boston, the president of the Board of Trade of the city of Boston, Alpheus Hardy, and Daniel Davies, of Boston, be appointed a commission to purchase a site for a building to accommodate the post office, sub-Treasury, and public offices of the United States in the city of Boston, in accordance with their report submitted to the Postmaster General and the Secretary of the Treasury and by them approved, namely: the estates lying on Devonshire street, and between Water street and Milk street in the city of Boston, (containing about thirty thousand square feet,) and that they be authorized to purchase the same for a sum not exceeding $500,000, and that the commission procure plans and estimates for a suitable building upon said site, to be submitted to the Postmaster General and the Secretary of the Treasury; and should such plans and estimates meet their approval they are to communicate the same, with such additional suggestions as they may think proper, to Congress; and the Secretary of the Treasury is authorized to pay such sum of money as may be necessary to carry these provisions into effect from any money in the Treasury hereafter to be appropriated.

The amendment reported by the committee was read, as follows:

Add at the end of the resolution the following:
Provided, That no money shall be paid out of the Treasury, in pursuance of this resolution, until the title to the aforesaid estate shall be properly certified by the United States district attorney for the eastern district of Massachusetts.

Mr. FARNSWORTH. Mr. Speaker, in pursuance of the authority given by act of Congress a commission, composed of very respectable gentlemen of the city of Boston, set themselves to work to secure the refusal of a proper site for this building. They have procured contracts for property situated very eligibly in the central portion of the city, and in every way suitable for the erection of a building. The Government at present owns no building in that city for a post office and sub-Treasury, but is leasing a building at a very high rent—a building very unsuitable for the purpose. These gentlemen have personally come before the Committee on the Post Office and Post Roads, and they report that they have made a very favorable contract. A gentleman, who is considerably engaged in dealing in land in that city, and who has been chiefly instrumental in procuring these contracts, assures the committee that the property of which the United States has now the refusal could readily find purchasers at a much larger sum than that at which it has been offered to the Government. The refusal which the Government has obtained will expire on the 18th of this month. It is necessary that before that time the parties should, by some action of Congress, be notified that the Government will take the land; otherwise it will lose the right to do so under the contracts. The committee is of the opinion that the contract is favorable, and under the circumstances recommend the passage of the resolution. If no gentleman desires to say anything or to ask any question, I will demand the previous question on the passage of the resolution.

Mr. SPALDING. I should like to know how much this is to cost?

Mr. FARNSWORTH. This is not for the construction of the building.

Mr. SPALDING. This is the beginning of it.

Mr. FARNSWORTH. It is for the purchase of a site.

Mr. SPALDING. How much is to be paid for it?

Mr. FARNSWORTH. Five hundred thousand dollars.

Mr. SPALDING. How much on top of that?

Mr. FARNSWORTH. That depends upon the future action of Congress.

Mr. SPALDING. I suppose four or five million dollars.

Mr. FARNSWORTH. It depends upon Congress what sort of structure shall be put up; how extensive and expensive it shall be. This is for a site for a building for a post office, sub-Treasury, &c.

Mr. HOPKINS. Does this contemplate the getting up of a plan?

Mr. FARNSWORTH. As I have said, it is for a site.

Mr. HOPKINS. I wish to state to the House I understand the plans for the post office building in New York cost $15,000. I understand, furthermore, we have a Government architect employed, with a large corps, at a heavy expense to the Government. Now, I do not see any reason why these Government buildings should be designed by outside parties at enormous expense for plans when we have architects whose duty it is to do that very work. The Government building in New York, I have no doubt, designed by competent architects, will cost the Government nearly $100,000 for plans, &c. Now, we ought either to abolish our office of architect here, if they are not competent, or else, if they are competent, give them this work, and not outsiders. It seems to me to be a profligate use of the public money to employ architects outside when we have competent architects in the service of the Government who can do this work without its costing the Treasury one dollar additional.

I also understand these outside architects not only receive large sums for plans, &c., but they receive besides five per cent. upon the entire cost of these public buildings.

Mr. LOGAN. Where do they get it?

Mr. HOPKINS. Under the law.

Mr. LOGAN. Who do?

Mr. HOPKINS. I am informed by a man who is posted upon these matters, that the architect will receive upon the building in New York, if carried on in the way proposed, $85,000.

Mr. VAN WYCK. The gentleman has stated the case correctly.

Mr. FARNSWORTH. There is no law which will give the architects in the case of the post office building in the city of New York five per cent. on the entire cost at all. I am not responsible for that building. The act providing for plans and specifications passed before I was a member of the Committee on the Post Office and Post Roads. I do not know, however, I have anything to complain of on the subject.

This proposition provides that the Postmaster General and the Secretary of the Treasury shall procure plans and specifications. I am not wedded to that manner of doing it. If the House is of the opinion it should designate an architect I have no objection. If the House is of the opinion we should say nothing about plans and specifications now I have no objection. The present object is to secure a title to this site.

Mr. HOPKINS. I hope the gentleman will modify his resolution so that the plans and specifications shall be furnished by the architects now in the employ of the Government.

Mr. FARNSWORTH. The gentleman can move to strike out all that part of the resolution.

Mr. ASHLEY, of Ohio. Strike it out.

Mr. FARNSWORTH. I have no objection if any gentleman wishes to strike it out.

Mr. HOPKINS. My opposition to this measure is that it employs architects outside at extravagant figures when we have them in our employ who will do the work without additional expense to the Government.

Mr. HULBURD. I move to strike out the following words:

"And that said commission procure plans and estimates for a suitable building upon said site, to be submitted to the Postmaster General and the Secretary of the Treasury; and should such plans and estimates meet their approval they shall communicate the same, with such additional suggestions as they may think proper, to Congress."

Mr. WASHBURN, of Wisconsin. There should be some provision inserted that the plans and specifications should be made by our own architects.

Mr. FARNSWORTH. I do not wish to yield for any motion of that kind. The object is to secure a site. Subsequent legislation may do what is desired. I call the previous question.

Mr. VAN WYCK. Will the gentleman give us a little information as to the necessity of this proposed appropriation? What post office have they now?

Mr. FARNSWORTH. A hired one.

Mr. VAN WYCK. How long have they hired it?

Mr. FARNSWORTH. Twenty years.

Mr. VAN WYCK. Now, I suggest, with all deference to the gentlemen on the Committee on the Post Office and to the gentlemen from Massachusetts who feel the necessity of a new post office, that they defer this a little while and not crowd this thing too heavy at this time. If they have hired a post office for twenty years they can hire it two years longer. They ask us now to appropriate $500,000 to buy a site. Pretty soon they will ask $3,500,000 to build a post office. I think, while this House has been liberal in making appropriations to patch up old buildings, putting roofs on them to preserve them, they should at least wait a little while before they launch out into large expenditures for new buildings. An appropriation of $500,000 has been made for a site in New York city, and now we are going to pay $3,500,000 for this building.

A MEMBER. Are you opposed to the appropriation for New York city?

Mr. VAN WYCK. I am opposed to it, although it is for the city of New York and I represent a part of the State of New York. I believe it is wrong at this time, and unjust to the tax-ridden people of the country.

Mr. FARNSWORTH. I resume the floor. I call the gentleman to order.

Mr. VAN WYCK. Will the gentleman allow no discussion of this matter? Will the House allow none?

Mr. FARNSWORTH. I will give the gentleman a good reason for calling him to order. He is wandering from the purpose of this bill and talking about a matter not before the House. I now yield to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. In reply to the gentleman from New York, [Mr. VAN WYCK,] I desire to say that the post office in Boston is now in a very inconvenient place, and especially so for the female portion of the population. It has been in this very inconvenient and uncomfortable place for ten or fifteen years. There has been an effort made to obtain a suitable location convenient to all classes at a reasonable rate. It has never been possible to do it till now. One of the very best and most central locations has been selected, the property is now under bonds, and I am assured by gentlemen who are acquainted with real estate that it is offered at a very reasonable price. The bonds expire on the 1st of April. If we do not close the bargain we lose the property, and I am sure no other equally favorable opportunity to secure a location for the post office can be had at present. The people of Boston have been struggling for ten or fifteen years to get a suitable location.

Mr. SPALDING. When will the $500,000 be wanted?

Mr. BANKS. Not at present.

Mr. SPALDING. During this session of Congress?

A MEMBER. Right off.

Mr. FARNSWORTH. I desire to state to the House that the revenues of the post office in the city of Boston over and above expenses amount to $100,000 a year. The Government is paying for a post office building there $30,000 rent, and the postmaster at that city has assured me that his gas bills last year amounted to $5,000. All the business had to be done by gas-light. It is a miserable, rickety build-

ing. Now, we do not appropriate any money by this bill; we only secure a site. Of course, after this shall have passed both branches of Congress and become a law the Post Office Department will call upon Congress to appropriate money to pay for it. We do not, of course, expect to get the land for nothing. The simple purpose of this bill is to secure the site before the time expires during which we have the refusal of it. It is offered to us at something like $100,000 less than is offered for it by outside parties. I call the previous question.

Mr. VAN WYCK. Will the gentleman allow me a question?

Mr. FARNSWORTH. I decline.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment reported by the committee was agreed to.

The amendment of Mr. HULBURD was also agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ASSISTANT SECRETARY OF TREASURY.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of the Treasury be directed to inform this House whether Edmund Cooper is now performing the duties of Assistant Secretary of the Treasury, or has been at any time since the rejection of his nomination by the Senate of the United States; and, if so, by what authority of law?

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BANKS. I insist upon the regular order of business.

The SPEAKER. The regular order of business is the consideration of business on the Speaker's table.

MARITIME EXHIBITION AT HAVRE.

The next business upon the Speaker's table was Senate joint resolution No. 89, providing for the representation of the United States at the international exhibition to be held at Havre.

The joint resolution was read the first and second time.

Mr. BANKS. I hope this joint resolution will be considered and passed now.

Mr. SCOFIELD. I think it should be referred to some committee.

Mr. WASHBURN, of Wisconsin. Let it be read.

The joint resolution was read at length. It authorizes the Secretary of the Navy to detail one or more officers of the Navy, as he shall think best, to be present at the international maritime exhibition to be held at Havre, under the auspices of the French Government, from the 1st of June to the 31st of October of the present year, there to represent the United States and otherwise to promote the interests of exhibitors from our country; provided that no expenditure shall accrue therefrom to the Treasury or to any public fund, nor shall any additional compensation be paid to such persons as may be designated under authority of this resolution.

Mr. BANKS. This joint resolution proposes to commit the Government to no expense whatever. I trust it will be passed at once by the House.

Mr. VAN WYCK. How will the officers get there?

Mr. BANKS. They must see about that.

Mr. VAN WYCK. It is not intended to provide a mere pleasure excursion on the part of these officers at the expense of the Government?

Mr. BANKS. Not at all.

Mr. SCHENCK. Will they have mileage allowed them?

Mr. BANKS. Not at all.

Mr. SCHENCK. If they travel under authority of law, or by order of the Department, they will be allowed mileage.

Mr. BANKS. This joint resolution will commit the Government to no expense.

Mr. SCHENCK. I move to amend this joint resolution by inserting before the words "any additional compensation be paid," &c., the words "mileage or other expenses or;" so that it shall read "nor shall mileage or other expenses or any additional compensation be allowed to such persons as may be designated," &c.

Mr. BANKS. Very well; I am willing the amendment shall be offered.

Mr. HARDING. The gentleman from Massachusetts [Mr. BANKS] says this joint resolution does not commit the Government to any expense. It directs that certain acts shall be done, and then Congress will be called upon to foot the bill.

Mr. BANKS. That cannot be the case when it is expressly prohibited. I have no objection to the amendment moved by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. CHANLER. I desire to move to amend this joint resolution so that Admiral Farragut may be detailed for this purpose, as he is already over there.

Mr. BANKS. I cannot yield for that purpose.

Mr. SCHENCK. I desire to move another amendment.

Mr. BANKS. I will hear the amendment.

Mr. SCHENCK. I desire to move to amend by providing that the passage of these persons there and back shall not be in any national vessel.

Mr. BANKS. I would not put that in.

Mr. SCHENCK. Yes, I would; otherwise we will have a national vessel sent out there for this purpose.

Mr. BANKS. Very well; I will not object to the amendment being offered.

Mr. SCHENCK. I move to amend by adding the following:

Nor shall any national or public vessel be employed to convey the officers so detailed to or from the place of such exhibition.

Mr. RAUM. If any good is to result to the country from sending these naval officers to this exhibition, it does seem to me that we ought to be willing to pay their expenses. If no good is to result to the country, why do not let us send them at all. It does seem to me that it is a demonstration of great meanness on our part to authorize the detailing of these officers to go to France and attend this naval exhibition, unless we are willing to pay their expenses.

Mr. BLAINE. I think authority for it can be found in the first chapter of the Pickwick Papers, where everybody was to be allowed to take a trip to Paris, if they would pay their own bills.

Mr. BANKS. I yield now to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I desire to say for the consideration of the House that I think the amendment of the gentleman from my own State [Mr. SCHENCK] ought not to prevail. I can readily see, because I have been informed and know, that one of our naval ships, to wit: one of our practice ships can be sent across the water without additional expense to the Navy Department. We are obliged to send these ships every summer off on some excursion for the instruction of the midshipmen on board them. They are called "practice ships," and I am told that one of the two of these can be sent without additional expense to the Department.

Mr. HARDING. Is it necessary that Congress should pass a joint resolution to authorize the Secretary of the Navy to order a ship to cross the ocean and present itself in a French port?

Mr. SPALDING. Well, I suppose that question is addressed to the chairman of the Committee on Foreign Affairs, [Mr. BANKS,] who has charge of this matter. I do not know that any such resolution is necessary; but I say that it is out of character for this House to put this limitation upon the resolution which is now contemplated by this amendment—that no mileage shall be allowed and no vessel allowed to go across the water. I hope the House will not agree to anything of the kind.

Mr. BANKS. I do not think the amendment is quite liable to the objections made to it. It is simply to the effect that a public vessel shall not be used to carry the commissioners. That is very proper; and I think, inasmuch as this is for observation, to see what is brought together by the maritime Powers of the world, and as a naval officer is to be sent, it is perfectly proper that the Government should not be subjected to expense. I do not object to the amendments, and I hope the House will agree to them and then pass the joint resolution. I ask the previous question.

Mr. SCHENCK. I move to lay the joint resolution on the table.

The question was taken; and the House refused to lay the joint resolution on the table.

The previous question was seconded and the main question ordered.

The SPEAKER. The first question is on the amendment of the gentleman from Ohio [Mr. SCHENCK] to insert after the word "shall," in line nine, the words "any mileage or."

Mr. LAWRENCE, of Ohio. Allow me to suggest that the words "or other expenses" ought also to be inserted.

Mr. INGERSOLL. I object.

The SPEAKER. The resolution now provides that no additional compensation shall be allowed. The amendment suggested by the gentleman from Ohio [Mr. LAWRENCE] can only be received by unanimous consent.

Mr. SCHENCK. I desire to say that my original amendment was to insert the words, "any mileage or other expenses."

The SPEAKER. The Chair can only report the amendment as the Clerk has taken it down. The Chair asked the gentleman from Ohio to reduce it to writing so that there might be no misunderstanding, but he failed to do so.

Mr. SCHENCK. I did reduce my other amendment to writing.

The SPEAKER. The Clerk's report of the amendment cannot be changed now except by unanimous consent. It was twice reported by the Clerk as taken down.

Mr. SCHENCK. Then the Clerk did not report it as I gave it, for I used the words "or other expenses."

The SPEAKER. The Chair will remind the gentleman from Ohio that the rules require every member to reduce his amendments to writing.

Mr. SCHENCK. I was aware of that, and being informed that one of my amendments had been taken down by the Clerk, I only reduced the last of the two amendments to writing.

The SPEAKER. The Clerk reported it as he had taken it down.

Mr. SCHENCK. Then I can only say the Clerk did not take it down as I gave it.

The SPEAKER. It is impossible for the Clerk to take down amendments. As a matter of courtesy the Clerk does sometimes endeavor to reduce amendments to writing, but almost always some difficulty like this ensues. This amendment has been twice reported. The Chair expressly asked the gentleman to reduce his amendments to writing, and he wrote the second but not the first.

Mr. SCHENCK. The Chair will please do me the justice to remember that I was informed that the first amendment had been received.

The SPEAKER. It had been received.

Mr. SCHENCK. And I supposed it had been received as I gave it.

The SPEAKER. It was reported by the Clerk.

Mr. SCHENCK. It was not reported then in the manner in which it has just been reported.

The SPEAKER. It was reported then exactly as it is reported now, although the gentleman from Ohio [Mr. SCHENCK] may not have heard it.

Mr. BANKS. I am willing that the amendment of the gentleman from Ohio [Mr. SCHENCK] shall be modified so as to take the form which he originally intended. The clause will then read, "nor shall any mileage or other expenses or any additional compensation be paid to such persons as may be designated under the authority of this resolution."

The SPEAKER. If there is no objection the amendment will be adopted as modified at the suggestion of the gentleman from Massachusetts, [Mr. BANKS.]

There was no objection, and the amendment as modified was agreed to.

The second amendment proposed by Mr. SCHENCK, was read as follows:

Insert at the end of the resolution the following: Nor shall any national or public vessel be employed to convey the officers so detailed to or from the place of such exhibition.

The amendment was agreed to.

The resolution, as amended, was ordered to a third reading, and read the third time.

Mr. PAINE. I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISRAEL S. DIEHL.

The next business on the Speaker's table was joint resolution (S. R. No. 92) for the relief of Israel S. Diehl; which was read a first and second time.

Mr. GARFIELD. That bill had better be referred to the Committee of Claims.

Mr. SCHENCK. This is a bill relating to the remission of some duties upon Angora or Cashmere goats that were imported. When they arrived a large proportion of them, some twenty-five out of eighty, were dead. The importer, upon a strict application of the law, was compelled to pay, not only for the live goats, which were imported in order to introduce this kind of animal into the United States, but also for the dead ones. The subject was referred to the Committee of Ways and Means, and, by the unanimous instruction of that committee, I reported a bill precisely similar to this for the relief of Mr. Diehl. The Senate has in the meantime passed this bill, and, as the subject has already been acted upon by the Committee of Ways and Means, I hope the House will agree to pass this bill now.

The joint resolution, which was read, provides that the Secretary of the Treasury be directed to remit the duty charged on the importation of a number of Cashmere or Angora goats, imported for the introduction of the breed into a portion of the United States by Israel S. Diehl, and that he cause to be returned to Diehl the sum of $135 in gold, deposited by him with the deputy collector of the port of New York, on the 29th day of November, 1867, on account of the payment of said duty.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES CRUCHETT.

The next business upon the Speaker's table was a joint resolution (S. R. No. 101) referring the petition and papers in the case of James Cruchett to the Court of Claims; which was read a first and second time, and on motion of Mr. WASHBURN, of Massachusetts, referred to the Committee of Claims.

TREVETT ABBOTT.

The next business upon the Speaker's table was a bill (S. No. 58) entitled "An act providing for the restoration of Lieutenant Commander Trevett Abbott, of the United States Navy, to the active list of the Navy;" which was read a first and second time, and on motion of Mr. PIKE referred to the Committee on Naval Affairs.

WILLIAM H. MURPHY.

The next business upon the Speaker's table was a bill (S. No. 253) entitled "An act for the relief of William H. Murphy, of Farmington, Missouri;" which was read a first and second time.

Mr. McCORMICK. I hope that this bill will be put on its passage now.

Several MEMBERS. Oh! no.

Mr. McCORMICK. Very well; I will not insist on its consideration at this time.

The bill was referred to the Committee on the Post Office and Post Roads.

REDUCTION IN THE MILITARY FORCE.

The next business upon the Speaker's table was Senate bill No. 311, to provide for a gradual reduction in the military force and to discontinue certain unnecessary grades therein, and for other purposes; which was read a first and second time.

Mr. GARFIELD moved that it be referred to the Committee on Military Affairs.

Subsequently Mr. GARFIELD entered a motion to reconsider the vote by which the bill was referred to the Committee on Military Affairs.

SETTLEMENT OF PUBLIC ACCOUNTS.

The next business upon the Speaker's table was Senate bill No. 350, to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817; which was read a first and second time.

Mr. LOAN. I move that bill be put on its passage.

The bill was read. It provides that the act of March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts," shall not be construed to authorize the heads of Departments to change or modify the balances that may be certified to them by the Commissioner of Customs or the Comptrollers of the Treasury, but that such balances, when stated by the Auditor and properly certified by the Comptroller, as provided by that act, shall be taken and considered as final and conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts; provided that the head of the proper Department, before signing a warrant for any balance certified to him by a comptroller, may submit to such Comptroller any facts in his judgment affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive as hereinbefore provided.

Mr. BLAINE. That ought to be referred to the Committee on Appropriations.

Mr. LOAN. Mr. Speaker, this seems to me to be a very plain matter. There is great public necessity it should be disposed of at once. Controversy has arisen between various Departments as to who controls this matter—as to the construction of this law. This bill proposes to give legislative construction to the law. It seems to me there is no necessity for referring it to any committee, and until it is passed there is no way to settle the difference between these Departments. A large number of claims are clogged up and cannot be disposed of until it is settled. I believe the parties in the various Departments are waiting for this decision. It has passed the Senate without a dissenting voice after full investigation, and no good public purpose can be subserved by delaying it at the present time. I yield to the gentleman from Ohio.

Mr. MUNGEN. I do not mean to take up the time of the House unnecessarily. There is one thing suggested by the gentleman from Missouri which is true, that there is a great public necessity for the passage of this bill. I will send up to the Clerk's desk to be read an extract from the law referred to in this bill.

The Clerk read as follows:

An act to provide for the prompt settlement of public accounts, approved March 3, 1817.

* * * * * * * * * * *

"SEC. 3. *And be it further enacted*, That from and after the third day of March next, in addition to the officers in the Treasury Department, already established by law, there shall be the following officers, namely, four auditors and one comptroller.

"SEC. 4. *And be it further enacted*, That it shall be the duty of the First Auditor to receive all accounts accruing in the Treasury Department, and, after examination, to certify the balance and transmit the accounts, with the vouchers and certificate to the First Comptroller for his decision thereon; that it shall be the duty of the Second Auditor to receive all accounts relative to the pay and clothing of the Army, the subsistence of officers, bounties, and premiums, military and hospital stores, and the contingent expenses of the War Department; that it shall be the duty of the Third Auditor to receive all accounts relative to the subsistence of the Army, the quartermaster's department, and generally all accounts of the War Department other than those provided for; and it shall be the duty of the Fourth Auditor to receive all accounts accruing in the Navy Department, or relative thereto; and the Second, Third, and Fourth Auditors aforesaid shall examine the accounts respectively, and certify the balance and transmit the accounts, with the vouchers and certificate to the Second Comptroller for his decision thereon; and it shall be the duty of the Fifth Auditor to receive all accounts accruing in or relative to the Department of State, the General Post Office and those arising out of Indian Affairs, and examine the same, and thereafter certify the balance and transmit the accounts with the vouchers and certificate to the First Comptroller for his decision thereon."

Mr. MUNGEN. I wish simply to say to the House that the fourth section of the act of March 3, 1817, provides fully as to the duties of the different Auditors of the Treasury. The act alluded to took the power from certain other officers theretofore provided for and put it all in the Treasury Department. It provided for four additional officers and a Comptroller, and it was made the duty of those Auditors to certify as to the examination of the accounts submitted to them. They were then submitted to the Comptroller for his certificate, which was final and conclusive. But for some reason the different heads of the Department undertook to go behind their certificates. Some of the claims have been standing for thirty odd years, locked up by this misunderstanding between the heads of the Department, arising from a misinterpretation of the act of 1817. Senate bill No. 350 simply provides that when a claim has gone through the hands of the different Auditors and is certified by the Comptroller, the certificate shall be final unless some reason against it shall be suggested to the Comptroller. The Senate bill provides, if there is anything reasonable suggested, that the Comptroller may take that into consideration in making the final decision, but when he has taken that into consideration and has given his certificate, his decision shall be conclusive and there shall be an end of the presentation of the claim against the Government.

I have only to add that within my own personal knowledge there are claims—and when you talk about loyalty, I will say claims of as loyal men as ever lived—for property taken by the Government, and certified to by officers as taken by the authority of law, and yet the parties have been here spending sometimes more than their claims are worth in trying to get them adjusted. And why have they been delayed? Because, under the law of 1817, the heads of the Department have filed away the papers in pigeon holes, and when you want to get a copy of them you have got to do it by a resolution of the House or of the Senate. Now, this bill will simplify the whole matter. We have got to trust somebody, and this act is sufficiently guarded. I hope gentlemen will look at the matter fairly and pass this bill without delay in justice to men who are entitled to their rights at the hands of the Government. I yield to my colleague, [Mr. LAWRENCE,] of Ohio.

Mr. LAWRENCE, of Ohio. I do not desire to discuss this bill, because I do not understand

it. I do not propose to throw any obstacle in the way of the final disposition of this or any other bill; but I do ask, before any bill of the magnitude of the one under consideration is passed, that it shall be understood. How many gentlemen are there on this floor who know anything at all about this bill? I undertake to say not a dozen. It is said by the gentleman from Missouri [Mr. LOAN] that it passed the Senate without a dissenting voice. How many members of the Senate understood it I do not know.

Mr. MAYNARD. Will the gentleman explain it?

Mr. LAWRENCE, of Ohio. No, sir. I say I do not understand it. That is the very thing I am complaining of. It may be when the bill is understood by me or by some other gentleman more competent to understand it, in whose judgment I have confidence, that I shall vote for it. All I desire now is to call the attention of the House to this dangerous mode of enacting laws. Let it go to a committee; let it be examined by the Committee of Ways and Means, in whom I have confidence, or by the Committee on Appropriations.

But, sir, from what I am able to learn of this bill it seems to me a most pernicious one. Why, sir, practically it proposes to abolish, as to a class of claims, the Auditor of the Treasury Department, and to say that the certificate of subordinate officers shall be final and conclusive. It proposes that your Auditors shall have no revisory power over them. I beg gentlemen, before they pass bills that are to affect claims against the Government to the amount of millions, to understand what they are doing. Then I will bow with deference to the judgment of the House, whether I concur in its action or not.

Mr. MUNGEN. A single question. Do I understand the gentleman to say that the Auditors have nothing to do with this, nor the Comptroller under the act of 1817?

Mr. LAWRENCE, of Ohio. I was saying I knew very little about it, and for that reason I was unwilling to vote either for or against the bill; but from what little I could learn of it it seemed to me to be a very pernicious bill, because it proposes practically to abolish the Auditors of the Treasury Department, leaving the decision of subordinate officers to be final upon claims against the Government.

Mr. MUNGEN. It does not abolish these officers.

Mr. LOAN. I resume the floor and yield to the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. I only desired to say what the gentleman from Ohio [Mr. LAWRENCE] has anticipated me in saying, that I think this bill ought to go to the Committeee on Appropriations. If there be a more appropriate committee let it be named. There is no propriety and no precedent for passing such a bill as this from the Speaker's table. It has not been printed. It refers to divers acts, none of which members understand, and although it may be the best bill in the world, I do not know that it is. We are not in the habit of passing bills in this way in this House, and I hope we shall not get into the habit. The bill ought to be referred and examined, and some committee held responsible for it when it comes back. I think the gentleman from Missouri ought not to press it now, but ought to let it be referred to the Committee on Appropriations, and if it be as meritorious as he claims it to be it will very probably be reported back promptly.

Mr. LOGAN. I think this bill is a very simple one and easy to understand; and certainly there is nothing very pernicious in it, as the gentleman from Ohio [Mr. LAWRENCE] says. The mere reading of it, if the gentleman will listen to it, will enable him to understand it.

There is a difference in the Departments as to the construction of a law, and all this bill does is to fix the construction. I will tell the gentleman my understanding of it, and I hope the bill will pass. If, for instance, a claim is passed by the quartermaster's department it goes from there to the Auditor's office; it is then passed from the Auditor's to the Comptroller's office, and the Comptroller passes upon it and decides what amount the claimant is entitled to. After the claim has passed through all these hands and been decided by all these officers it then goes back—where? To the quartermaster's department. For what? For a requisition on the Treasury Department for the amount of money they have all determined the claimant is entitled to. This bill only provides that after having passed the quartermaster's department and the Auditor and the Comptroller it shall not have again to go through the same hands and pass through the same channels, but shall be paid without further delay.

Mr. LAWRENCE, of Ohio. Will the gentleman tell us how many millions the bill will affect?

Mr. LOGAN. How many millions?

Mr. LAWRENCE, of Ohio. Yes, sir.

Mr. LOGAN. I do not think it will affect half a million, or even five cents.

Mr. LAWRENCE, of Ohio. Then, if it will not affect five cents, it is absurd to pass it.

Mr. LOGAN. Now, I will give the gentleman a case, and I think it is a very hard one. I know a man here, one of my constituents, a gentleman from Chicago, a loyal man and a good man—a man who has served in the Army and who was the owner of steamboats. He had two steamboats taken and pressed into the service by the quartermaster's department, they agreeing to pay him a certain amount. The claim went to the Auditor and it was audited, and to the second Comptroller and it was passed. It then went back to the quartermaster's department and was referred to the Inspector General and to somebody else, and it has been kept going the rounds for two or three years, after being passed by all the Departments. It is to prevent that state of things, and nothing else, that this bill is proposed. I only give one instance. It was not that case that caused this bill to originate. I only give it as one of, perhaps, fifty cases.

Mr. SCOFIELD. It was not that case that originated the bill?

Mr. LOGAN. I do not know that it was. I do not think it was.

Mr. SCOFIELD. Are there any particular cases to which this bill is designed to apply?

Mr. LOGAN. No, sir; not that I know of. If there are I do not know it. I could name quite a number of cases that I know of that have been reported to me, and that I know of even before I was in Congress.

I will say this to the gentleman, that this peculiar hardship seems to strike a particular class of men. If you will go to the Comptroller's office and examine the cases that have been kept going the rounds for the last two years I will venture the assertion you will find that nearly every one of them are the cases of loyal men who served their country, and those that have not been kept in that position are of a different class.

I do not want to see a class of cases that have gone from the quartermaster's or any other department to the Comptroller, and have received his approval, sent off somewhere else for the opinion of some other officer. I want the laws to provide that in all cases where the Comptroller and Auditor have passed upon a claim favorably the requisition shall be issued. That is but just; it deprives no one of his rights; it does not take any money improperly from the Treasury.

This is not an appropriation bill in any sense of the term; it is merely a bill settling a question between officers of law in reference to their decisions upon cases. That is all there is in it. It cannot do anybody any injustice; it is merely to give a proper construction to the law; to give it the same construction it used to have, and just as it should be now.

Mr. LAWRENCE, of Ohio. Is there any objection to having this bill referred to a committee?

Mr. LOAN. Yes; there is a very serious one.

Mr. SCOFIELD. What is it?

Mr. LOAN. There is a large amount of money owing by the Government which has been certified to and passed upon by the proper officers, and the parties to whom it is due cannot now get it.

Mr. SCHENCK. I understand the gentleman to say that the various accounting officers of the Treasury whose business it is to carefully study the laws disagree in regard to the construction of them.

Mr. LOAN. No, sir.

Mr. SCHENCK. How, then; are they agreed?

Mr. LOAN. They are agreed, so far as the Treasury Department is concerned. The difficulty is with the other Departments.

Mr. SCHENCK. I do not speak of the Treasury Department only. There is a disagreement among those whose business it is carefully to study these laws. Yet this House is expected, under the pressure of the previous question, without the bill being in print, by instinct, as it were, to settle the difficulty for them. I believe that is what is asked.

Mr. LOAN. I desire to say a word or two.

Mr. ALLISON. Will the gentleman allow me a moment?

Mr. LOAN. Certainly.

Mr. ALLISON. If I understand this bill correctly, it is a bill to construe an act passed in 1817. It is to be binding upon all the Auditors and Comptrollers of the Treasury and every other subordinate officer of the Government, and it subjects a superior officer, to wit, the head of the Department, to an inferior officer, a Comptroller or Auditor, as the case may be.

Mr. LOAN. The gentleman is mistaken.

Mr. ALLISON. This is what it says:

> And this decision of the Comptroller thereon shall be binding and conclusive upon the head of the Department, as hereinbefore provided.

Therefore the inferior officer, the Comptroller, for instance, is placed above and beyond the head of the Department, the Secretary of the Treasury or the Secretary of War, as the case may be.

It seems to me that this bill ought to go to a committee which shall examine all the various statutes upon the subject. It may be that injustice is done to claimants, for our system of accounts in the Treasury is a complicated one of checks and balances. Such is the case, too, in the War Department. If there are divers decisions, either in the War Department, the Treasury Department, or any of the other Departments, between the different branches or bureaus of these Departments, then the laws should be examined and proper legislation passed in reference to the subject.

For one I am opposed to passing this bill now without there being a careful examination of these laws by some committee. I believe we have a Committee on Revision of Laws.

The SPEAKER. There is such a committee, of which the gentleman from Vermont [Mr. POLAND] is chairman.

Mr. ALLISON. Then why not refer this bill to that committee? I suppose they have not a great deal of business before them, and they can examine this subject and report upon it in a day or two, and then the House can act intelligently upon the question.

Mr. BLAINE. I desire to say that I think the Committee on Revision of Laws would be a more appropriate committee to consider this matter than the Committee on Appropriations.

Mr. SCOFIELD. The gentleman from Ohio [Mr. LAWRENCE] asks why not send this bill to a committee. I desire to answer him. If it is sent to any intelligent committee it will never come back with a favorable recommendation.

Mr. ALLISON. I thank the gentleman for his information.

Mr. LOAN. When I took charge of this bill I little expected there would be all this

discussion upon it. It seems to me that the less there is involved in any measure before this House the more disturbance it creates here. Now here is a law which has been in force since 1817.

Mr. BLAINE. And has worked well.

Mr. LOAN. And has worked well all the time. In pursuance of the law the Comptroller of the Treasury has had the final decision and control of these matters. But recently, when officers of the other Departments have had much of this work to do, they have undertaken to assume an authority not known to the law for the purpose of preventing money being paid out of the Treasury. In order to keep money in the Treasury, which is rightfully due, they have interposed unheard of and unwarranted objections.

Now, for the purpose of relieving the matter of the embarrassment thus caused, we are called upon to give a legislative construction to that law. Since 1817, when these accounts have been passed through the various Departments and certified to by the proper auditing officer of the Treasury, and finally decided by the Comptroller, they have been sent back to the War, Navy, or other Department where they originated for the purpose of having requisitions drawn for the payment. When an account has thus passed the proper officers the party has a right to expect a requisition in pursuance of that judgment. Because if there is to be no end to this matter, if it can be started upon a new round among a new set of officers, all must see great injustice will be done.

Therefore this bill is brought forward, so that when an account has been thus passed upon and returned for the requisition to be drawn, but two things can be done, either to draw a requisition upon the Treasury for the amount thus certified to be due, or to send it back with any new matter which may have come to their knowledge, and which they hold to furnish a reason why the account should undergo revision.

Mr. BLAINE. Will the gentleman allow me to ask him a question?

Mr. LOAN. Yes, sir.

Mr. BLAINE. The law as it now stands has operated for fifty-one years.

Mr. LOAN. With the construction which we propose to place upon it.

Mr. BLAINE. Does not the gentleman think it would last a week longer, time enough for a committee to examine this bill?

Mr. LOAN. Yes; or a year longer, if necessary.

Mr. MUNGEN. This bill does not propose to change the law at all. As the gentleman from Missouri [Mr. LOAN] says, it is merely to stop this contradictory construction of the law. If gentlemen are so anxious to have this bill referred to a committee, it being merely a bill explanatory of what is now the law, in my opinion, the proper committee to which it should be referred is the Committee on the Judiciary.

Mr. HARDING. I desire to make an inquiry of the gentleman from Missouri. A case was brought to the House and came under my own observation, which I think illustrates the working of the proposed amendment to the law.

There was a man who had chartered a barge to the Government early in the war, say at $1,000 per week, or $200 per day. After that had continued a while the quartermaster's department reduced it to $100 per day, and notified him of the change. He, however, concluded to remain in the service, and did continue therein for three or four years. During that time the barge was injured by coming in contact with a vessel in the public service; in fact, it was nearly destroyed. The Government repaired the barge and returned it to the party in good condition.

At the close of the service the account was presented, went to the Auditor and Comptroller, and came back to the quartermaster's department. A difference of opinion arose as to whether the Government had a right to charge against the account for services the cost of repairing the barge. The quartermaster insisted that he should make that charge in this case, as he had done in all other cases where the Government had made similar repairs. This gentleman refused to submit to it and appealed to the Comptrollers. They decided he was not bound to submit to it. They threw off some thousands of dollars which the quartermaster said was rightfully charged for repairs. They send him back to the quartermaster and the quartermaster refused to make the requisition. He could not get his pay, and he came to Congress. Congress sent him back to the War Department.

Mr. LOAN. I do not know anything about that. I now demand the previous question.

The previous question was not seconded, only thirteen voting in the affirmative.

Mr. BLAINE moved that the bill be referred to the Committee on the Revision of the Laws of the United States.

The motion was agreed to.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 268, for the relief of the legal representatives of the late Philip R. Fendall; and Senate joint resolution No. 102, instructing the superintendent of the Asylum for the Insane in the District of Columbia to admit James McIntosh on the same footing as indigent insane persons of the District; when the Speaker signed the same.

TEN-FORTY BONDS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House relative to the sales of ten-forty bonds, price at which sold, &c.; which was referred to the Committee of Ways and Means.

APPRAISER'S DEPARTMENT, NEW YORK.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, copies of contracts made for labor in the appraiser's department in the City of New York, and the authority for the same; which were referred to the Committee on Retrenchment, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. SCOFIELD and Mr. LAWRENCE of Pennsylvania, by unanimous consent, were granted leave of absence for one week from Wednesday next.

RECONSIDERATION.

Mr. UPSON moved to reconsider the reference of bills and resolutions from the Speaker's table, excepting the bill in reference to which the gentleman from Ohio [Mr. GARFIELD] had entered a motion to reconsider; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

Mr. MAYNARD. I move to suspend the rules so as to enable me to record my vote on the articles of impeachment of the President.

Mr. ELDRIDGE. I do not object to any man who wants to cast his vote for that infamous measure. Let all who want to cast their votes.

The SPEAKER. If there be no objection the rules will be considered as suspended for that purpose.

There was no objection, and the rules were accordingly suspended.

Mr. MAYNARD and Mr. VAN HORN of Missouri voted in the affirmative on the articles of impeachment.

EXEMPTION FROM INTERNAL TAX.

Mr. SCHENCK, by unanimous consent, from the Committee of Ways and Means, reported a bill (H. R. No. 900) to exempt certain manufactures from internal tax; which was read a first and second time, ordered to be printed and recommitted, with leave to report at any time.

PENSIONS.

Mr. HARDING, by unanimous consent, introduced a bill (H. R. No. 901) to amend an act supplementary to an act entitled "An act granting pensions," &c., approved July 4, 1864; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ASSIGNMENT OF DOWER.

Mr. NIBLACK, by unanimous consent, introduced a bill (H. R. No. 902) concerning the assignment of dower in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

ISSUE OF CLOTHING TO SOLDIERS.

The last business upon the Speaker's table was Senate joint resolution No. 111, providing for the issue of clothing to soldiers and others, to replace clothing destroyed to prevent contagion; which was read a first and second time.

Mr. GARFIELD. That ought to be passed at once. During the prevalence of the yellow fever last summer soldiers, to prevent contagion, were compelled to destroy their clothing, and there is no law by which it can be replaced. This only provides they shall have clothing reissued to them in place of that destroyed.

Mr. ELDRIDGE. There is no quorum present.

Mr. PAINE. I move the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHURCHILL: The petition of Theodore F. Hand and others, of Madison county, New York, asking that the present and future senior classes at the naval school at Annapolis be graduated with the rank of ensign.

By Mr. COBB: The petition of 242 citizens of Mineral Point, for the protection of the rights of adopted citizens.

By Mr. CULLOM: The petition of George E. Welch, of the naval service, praying that Congress grant him a pension from September 13, 1865, the date of his discharge.

Also, the petition of Samuel Noah, asking that Congress make an allowance to him for valuable services rendered the Government at Brooklyn, New York, during the war of 1812.

By Mr. DAWES: The petition of Mrs. L. J. Doty, widow of a contract surgeon, for a pension.

By Mr. DRIGGS: The petition of Dr. J. C. McKenzie, geologist, in favor of an increased duty on copper.

Also, the petition of Peter White and 18 others, citizens of Marquette, Michigan, praying that the law establishing bonded warehouses be repealed and the system abolished.

Also, the petition of S. P. Ely and 50 others, of Marquette, Michigan, praying Congress to reduce the national expense by cutting down the Army and Navy.

By Mr. FERRISS: The petition of Thomas S. Townsend, praying the purchase by the Government of a work of about one hundred volumes containing statistics of the late civil war.

By Mr. GOLLADAY: The petition of J. W. Todd, for remission of $3,000.

Also, sundry claims of Achilles Nelson and Samuel Jeffries' petition for relief.

By Mr. HARDING: A memorial of citizens of Quincy, relative to cigars, &c.

By Mr. HOTCHKISS: The petition of William H. Bevins and others, officers and soldiers, of Middlesex county, Connecticut, in the Union Army, for the pay awarded them by the Court of Claims.

By Mr. JONES: The remonstrance of Laird

& Whitaker and others, dealers and manufacturers of cigars in the State of Kentucky, against the proposed bill to affix stamps upon cigars.

By Mr. KELLEY: The petition of Ruth Barton, widow of the late Albert G. W. Barton, of Philadelphia, for a pension.

By Mr. KELSEY: The petition of A. D. Harrell, lieutenant in the United States Navy, to be restored to the active list.

By Mr. LINCOLN: A memorial of Horace L. Emery.

By Mr. LOGAN: The petition of Mrs. Timothy Webster, for a pension, her husband having been hung as a spy, by order of Jeff. Davis, on the 30th of April, 1862, while in the service of the United States.

Also, the petition of Colonel S. Gregg, of Little Rock, Arkansas, to be restored to his political rights.

Also, the petition of William M. Witherspoon, of Montgomery county, Illinois, for pension, having lost his right arm while acting under orders of the provost marshal, in the attempt to arrest Clingman and his men, who were resisting the enforcement of the draft in 1864.

Also, the petition of James M. Swales, of Jacksonville, Illinois, for pay due as second lieutenant of company A, tenth Illinois, the same having been received by reason of his having been a prisoner of war and was not mustered into the service as such officer.

By Mr. O'NEILL: The petition of Thomas H. Dickson, lately an acting assistant paymaster in the United States Navy, indorsed by Messrs. E. A. Souder & Co., William B. Thomas, Alexander G. Cattell & Co., and ex-Governor James Pollock, asking that he may be refunded a certain amount of money paid by him upon the settlement of his account.

By Mr. PETERS: The petition of the city council of the city of Bangor, Maine, for an appropriation to remove obstructions in Penobscott river.

By Mr. RAUM: The petition of William H. Whitaker and 110 others, praying for the establishment of a post route from Dongola, Illinois, to Thebes, Illinois.

By Mr. SAWYER: A memorial of A. Haight and others, of Oshkosh, Wisconsin, praying for a reduction of the Army and Navy, and for a general reduction of internal taxation.

By Mr. SPALDING: A memorial of manufacturers of cigars in the eighteenth congressional district of Ohio, on the subject of a stamp tax on cigars.

Also, a remonstrance of George W. Thomas and numerous others, citizens of Cleveland, Ohio, against the sale of the revenue cutters now on the lakes.

By Mr. UPSON: The petition of J. B. Millard and 46 others, of St. Joseph county, Michigan, praying Congress for a reduction of expenditures and taxation.

By Mr. WOODWARD: The petition of Joseph H. Scranton and others, citizens of Pennsylvania, for the repeal of all laws establishing bonded warehouses.

IN SENATE.

TUESDAY, *March* 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORRILL, of Maine, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of manufacturers and dealers in paper of the city of New York, remonstrating against the passage of an international copyright law; which was referred to the Committee on the Library.

Mr. DIXON presented a memorial of journeymen cigar-makers and cigar manufacturers, remonstrating against the passage of the bill which requires a stamp to be affixed to each cigar, and praying the imposition of a tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged; which was referred to the Committee on Finance.

He also presented a memorial of honorably discharged officers of the late army to suppress the rebellion, protesting against the passage of the bill prohibiting the payment of the commutation of pay for officers' servants, from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. STEWART presented a memorial of the Legislature of the State of Nevada, asking the reimbursement to the State of moneys expended for the United States previous to the admission of Nevada into the Union as a State, and for moneys advanced to soldiers of the United States, together with official statements of the moneys so advanced; which was referred to the Committee on Claims.

He also presented a report of the commissioners appointed by the State of Nevada to examine certain claims for Indian depredations; which was referred to the Committee on Claims.

Mr. RAMSEY presented a petition of Charlotte M. Dickenson, widow of Manco C. Dickenson, late a clerk in the United States Navy, praying for a pension; which was referred to the Committee on Pensions.

Mr. NYE presented a memorial of Abraham D. Harrell, a captain in the Navy on the retired list, praying to be restored to his position on the active list; which was referred to the Committee on Naval Affairs.

Mr. WILLIAMS presented a petition of citizens of Boisé City, Idaho Territory, praying the passage of an act to allow them to enter or purchase the land upon which they have erected valuable improvements; which was referred to the Committee on Public Lands.

Mr. SHERMAN presented a memorial of journeyman cigar-makers and manufacturers of cigars, remonstrating against the passage of the bill which provides that a stamp be affixed to each cigar, and praying that a tax of five dollars per thousand be imposed on domestic cigars, and that the tariff on imported cigars may remain unchanged; which was referred to the Committee on Finance.

Mr. TRUMBULL. I have received and been requested to present to the Senate a memorial from the executive committee of the Colonization Society. This memorial sets out that Liberia since 1847 has been an independent nation upon the western coast of Africa, settled chiefly by emigrants from this country, who modeled their form of government after that of the United States; that there is considerable commerce already between the United States and the republic of Liberia, which is increasing, and may hereafter become very valuable to this country. The memorial further states that some of the nations of Europe have taken an interest in this republic; that the British Government has aided it materially, and also the French Government, while the United States has done nothing in the way of material aid for it.

The memorial sets forth at considerable length the influence that is being exerted upon Africa by this settlement of civilized and Christian people upon that continent, and that the advantages to accrue from it may be very great in the future. It states that in consequence of there being no intercourse between the United States and that country it is necessary to send our mails by way of Liverpool; that there is a communication semi-monthly between Liverpool and Liberia, while there is no direct communication between the United States and that country.

The Colonization Society, whom this executive committee represent, have, since October, 1866, sent to that country some twelve hundred emigrants, who have voluntarily sought it as their permanent home; and the memorial states that there are at this time three thousand persons, chiefly Christian families, and mostly from the State of North Carolina, who desire to emigrate to that country; that the society is without the necessary means to take them there, having exhausted all their means in the removal of some twelve hundred within the last year or two.

The object of the memorial is to ask Congress to establish a line of steamers between this country and Liberia, to run as often as once a month; and they undertake on the part of the Colonization Society, in case Congress should think proper to favor this project by an annual appropriation of $100,000, to establish this line of steamers, which shall carry the mails. Then they ask further that the Government should appropriate a sum not exceeding $100 for each emigrant who shall desire to go to that country, undertaking on their part to defray all the expenses by the way, and to see that the emigrants are settled and provided for when they reach Liberia. The memorial sets out the advantages to grow out of this republic upon the western coast of Africa, and asks the aid of the Government in the enterprise which the Colonization Society are engaged in carrying out. As the object is twofold—one asking the aid of the Government to establish a line of steamers, and the other an appropriation in money to defray part of the expenses of removing such persons as desire to go to a country where they think their condition will be better, and where they may be of service in the civilization of the land from whence their ancestors came—I am at a loss to know to what committee it should most appropriately go; but upon the whole, I believe the Committee on Finance would be the most appropriate committee. I move its reference to that committee.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. HOWE, it was

Ordered, That Emily Hooe have leave to withdraw her petition and papers from the files of the Senate.

BILL INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 432) to incorporate the Lloyd Patent Car-Heating and Ventilating Company; which was read twice its title, and referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 21st of February, information in relation to the abduction of one Allen Macdonald from the township of Moore, in Canada, have directed me to report the same back to the Senate with a recommedation that it be printed and recommitted to the committee.

The PRESIDENT *pro tempore*. That order will be made unless there be objection. No objection being made, it is entered.

Mr. THAYER, from the Committee on Private Land Claims, to whom was referred the petition of Moses F. Shinn, praying that a patent may be issued to him for the northeast quarter of section sixteen, township fifteen north, range thirteen east, Omaha district, Nebraska, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869, reported it with an amendment.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President of the United States had this day approved and signed the bill (S. No. 270) for the temporary relief of destitute people of the District in Columbia.

ADMISSION TO IMPEACHMENT TRIAL.

Mr. HOWARD. The select Committee of the Senate on the subject of impeachment, to

whom was referred the resolution offered by the Senator from Rhode Island [Mr. ANTHONY] in relation to admissions to the Senate galleries during the trial of the impeachment of Andrew Johnson, have had the same under consideration, and have instructed me to make a report thereon. The report which I send to the Chair is intended as a substitute for the original resolution referred to the select committee, and for convenience sake I ask the consent of the Senate to act upon it at this time. I think it ought to be acted upon now, as there is a necessity that it should be done.

There being no objection, the Senate proceeded to consider the resolution. The amendment of the committee was to strike out all of the original resolution after the word "ordered" and to insert the following in lieu thereof:

That during the trial of the impeachment now pending no persons besides those who have the privilege of the floor and clerks of the standing committees of the Senate shall be admitted to that portion of the Capitol set apart for the use of the Senate and its officers, except upon tickets to be issued by the Sergeant-at-Arms.

The number of ticket shall not exceed one thousand.

Tickets shall be numbered and dated, and be good only for the day on which they are dated.

The portion of the gallery set apart for the diplomatic corps shall be exclusively appropriated to it, and forty tickets of admission thereto shall be issued to the Baron Gerolt for the foreign legations.

Four tickets shall be issued to each Senator; four tickets each to the Chief Justice of the United States and the Speaker of the House of Representatives; two tickets to each member of the House of Representatives; two tickets each to the associate justices of the Supreme Court of the United States; two tickets each to the chief justice and associate justices of the supreme court of the District of Columbia; two tickets to the chief justice and each judge of the Court of Claims; two tickets to each Cabinet officer; two tickets to the General commanding the Army; one ticket each to the mayors of Washington and Georgetown; one ticket to the secretary of the Smithsonian Institution; one ticket to each of the following persons: the Quartermaster General, the Commissary General of Subsistence, the Surgeon General, the Paymaster General, the Judge Advocate General, each of the admirals of the Navy, each clergyman having charge of a church in Washington or Georgetown; twenty tickets to the Private Secretary of the President of the United States for the use of the President, and sixty tickets shall be issued by the President *pro tempore* of the Senate to the reporters of the press. The residue of the tickets to be issued shall be distributed among the members of the Senate in proportion to the representation of their respective States in the House of Representatives.

Mr. COLE. I do not see that the committee have provided any portion of the galleries for the public. I should think it essential that some portion of the galleries, no matter how small, if only one section, should be left open to the public absolutely. I think that is the only objection which can be made to the report of the committee. I think the committee might, for example, have appropriated three sides and a half of the fourth side of the galleries in the manner proposed to be used by those holding tickets, leaving the remainder to be open to the public generally. I am certainly very much in favor of appropriating some small portion of the galleries to the public, if you please, to be scrambled for, in order that it may have the appearance of being entirely public. Of course but a small portion of the public can be accommodated; but, for the look of the thing, I think some portion of the galleries, no matter how small, should be left open absolutely, even to be scrambled for.

Mr. WILLEY. I doubt the propriety of any action whatever with regard to the matter. I seems to me that any proposition of the kind is invidious, and will very probably lead to dissatisfaction. It would be very agreeable to me to have the privilege of accommodating two or three of my friends who will be attracted to the capital from abroad by the interesting occasion. Doubtless it is the same with other Senators; but we cannot accommodate everybody; and I do not know that my family is any better or is any more entitled to the use of the galleries than the family of any one of my constituents. The same remark, I imagine—I mean no disrespect in saying it—is equally applicable to every other Senator's on this floor. To adopt an arrangement by the Senate to fill the galleries by our especial favorites and friends, to the exclusion of the public at large, who are just as much entitled to occupy them as our friends, it seems to me, is creating an invidious distinction that will cause dissatisfaction, and justly so. The galleries are public property. One man in the community who will behave himself and conform to the order of the Senate is just as much entitled to a place in them as another. To place in the hands of Senators or of a certain selected individual, as the Sergeant-at-Arms, to say who shall and who shall not occupy seats in the galleries, seems, I repeat, an invidious distinction, which I think we ought to avoid; and, for myself, I would rather see no arrangement of the kind whatever adopted, but all necessary measures adopted to preserve order, and let who can obtain seats in the galleries. It seems to me that is the fair way and the republican mode.

Mr. POMEROY. Any measure, no doubt, has its difficulties and objections. In reply to the Senator from California, I will say that I would be very desirous to have some portion of the galleries open to strangers and everybody, but the report of the committee is so drawn that the Senate wing of the building is to be entirely shut up during the trial except to the persons entitled to the floor and to those named in the resolution who are to have tickets, the same as we do on inauguration day. It is impracticable to admit the public to any portion of the galleries unless you admit them to the Senate wing. You cannot admit them to the galleries unless they are admitted to the building, and the report provides for the admission of all who now have the right to the floor under our rules and the others who are named. I suppose the tickets will be printed double, one half to be torn off at the door and the other half to be retained by the person receiving it, to show his right to be in the Senate wing of the Capitol during the trial.

Mr. WILLIAMS. I concur in what has been said by the Senator from West Virginia on this subject. I differ from the report of the committee with great deference; but it appears to me that the system which they propose is an injudicious if not an impracticable one. I, of course, should prefer to have some place provided for the families and friends of Senators and Representatives; and I do not see why some order might not be made appropriating a particular part of the galleries to such purposes, and allowing the other portions to be free to the access of all persons. The people claim that they have the same right to seats in the galleries as the relatives and friends of Senators and Representatives have, and there is no doubt about the correctness of that claim, although it is true that the Senate may, and perhaps ought, to some extent, to regulate this matter. I believe that, if these tickets are distributed among the Senators and Representatives, as proposed by this report, they will be subjected to ten times more annoyance by applications for tickets than they will be if the ticket system is not adopted.

Persons can be stationed in the lobbies and at the doors, and those who come first can take their seats in the galleries; directions can be given to such persons where they can be seated, so that the galleries may be filled and made to hold all that can be comfortably seated in them; and when that time arrives persons can be informed that there is no further room for them in the galleries, and most people will be satisfied with such information. But, if tickets are issued by which certain persons are allowed to come into the Senate wing of the Capitol and occupy seats in the gallery, there will justly be great dissatisfaction, as it seems to me, in consequence of such an arrangement. When a person comes to Washington for the purpose of witnessing this trial, and no doubt there will be a great many persons who will come here for that purpose, he takes his chance as to whether he can obtain a seat in the gallery or not. If he does not succeed he has no fault to find with anybody. The galleries can only hold a certain number of persons. If he fails he can complain of no one. But if he is excluded by an arbitrary rule of the Senate, and this privilege is extended to a particular class of persons, he will complain, and, in my opinion, he will have a right to complain, of that exclusion. I do not see that opening the galleries to all persons will be attended with any very great inconvenience if there will be proper police regulations for the preservation of peace and order in the Senate wing of the Capitol and in the galleries. I am very confident, from the information I have received, that it will be more trouble to enforce this arrangement and carry it out, as contemplated by the committee, than it would be to provide against any evils that might flow from allowing the galleries to be open to all persons. I shall vote against this arrangement.

Mr. HOWARD. The committee have had in view the preservation of order and quietude in the Chamber during the trial. That has been the only motive which has governed them. They have considered very carefully all the contingencies connected with the occasion, and have come to the conclusion to recommend the adoption of the report which has just been presented. For my own part, I think it will be the best means of preserving order and decorum during the trial. We have had an eye to the capacity of the Chamber for the accommodation of the public. Everybody knows that our galleries will not accommodate more than one thousand persons. A greater number than that cannot be conveniently seated. We have taken this into consideration.

But, sir, it is said that this is making an invidious distinction between persons who otherwise would be entitled to the galleries. I think there is nothing of that kind in it. Somebody who comes here for the purpose of attending the trial must be disappointed, because the galleries will not accommodate the whole number who may happen to be here for the purpose of hearing the trial. There must be an exclusion of somebody, and somebody, therefore, will naturally complain. The great object to be attained, however, is decorum, order, quietude, and regularity during the trial. If we allow the rule of the mill to prevail, "first come, first served," it is easy to see that our galleries may easily be filled by a class of persons whose presence would not tend at least to the preservation of order and quietude. Such persons are always in attendance upon such occasions; and we can very easily foresee that this occasion may attract a great number of disorderly persons into our galleries. The committee have discussed the matter at great length, and I entirely concur in the report which they have instructed me to make. I hope it will be adopted.

Mr. FESSENDEN. I have no doubt that the committee have come to a wise conclusion. I do not think we need trouble ourselves very particularly, because people will get disappointed and will complain. I think it is one of the great faults of our legislation that we are afraid somebody will complain if we do right. That has been the cause of more bad legislation in this Congress and all the Congresses to which I have belonged than almost anything else. We look to see what people will say outside and whether somebody will not complain, rather than ask ourselves the question whether the thing ought to be.

Now, in relation to this matter, I think it is very wise that we should provide for it in season. We had the other day an instance illustrating the necessity of some provision. When this high court of impeachment was sitting and a vote on a mere question of order was declared there was an uproar in the galleries. I think it is desirable to have the matter so arranged that the people who attend here should be of a class who will possess a sense of decency, and who will understand that there is to be none of that noise and confusion in the galleries. I do not know how long that trial will continue; but the arrangement that has been made by the committee will give a chance for a very large number of people to attend. It is not shutting up the galleries or shutting up the building. There are witnesses enough if we have a thousand in

the galleries every day, and that thousand changing every day, as it probably will if the tickets are changed, because they will not be given to the same persons, I presume, on two or three successive days. I think a thousand witnesses every day will be enough to notify the country whether we conduct our proceedings fairly, and especially when you add to that the minute reports that go out in the Globe of everything we do.

As has been said by the honorable chairman, the first thing to do, in my judgment, is to preserve order, and, with the immense floating population that is about here and will come here, I think it is wise that we should take some steps to have order preserved. The great thing to be done in this trial that is coming on, in my judgment, is that it should be conducted decently and properly, and not particularly for the amusement or the indulgence of the curiosity of people who are not concerned in it—the people are all concerned in it to a certain degree, but I speak now of those who take no part in the proceedings. I believe that on an occasion of so much interest, with so large a number of people as we must necessarily have present, the only way in which we can get along with that propriety and that regard to appearance and decency which is becoming the thing we are to do is by making arrangements in season for the preservation of order, which, in my judgment, can only be made in the way that is proposed. Without some such arrangement I have no doubt that the Capitol and all the avenues that lead to it will be thronged continually with people who have nothing else to do, and who will come here day after day, crowd into the galleries, and exclude a great portion of those who ought to have a fair chance to get there. This arrangement of tickets affords the best opportunity that I know of for making the attendance as extensive as possible and yet preserving order and regularity, and I hope it will be adopted. I approve of the disposition that has been made of the subject by the committee.

Mr. ANTHONY. I move to amend the order by striking out "one thousand" and inserting "nine hundred." I make this motion because I understand the capacity of the gallery is nine hundred without reckoning the steps in the aisles. I think it is absolutely indispensable to the preservation of order that the steps should be kept clear. If the steps are all occupied no person can go out unless some one rises from every step to make way for him, and that will make a continual noise and confusion. But more than that: if there is any disturbance in the gallery there is no way in which the officers can reach the offenders if the steps are obstructed. It is necessary, if there is the least noise, that the officer should be able to go quickly and quietly down the steps, and he can reach almost to any seat that may be occupied; but if the steps are encumbered we shall be certain to have confusion. If I am mistaken about the capacity of the gallery I will not press the motion; but I understand the gallery will hold nine hundred comfortably seated, and no more, and that the extra one hundred are to be crowded on the steps.

Mr. THAYER. I am glad the Senator from Maine has called the attention of the Senate to a demonstration which took place here last Friday. On a mere question of order—it was nothing which indicated anything either for or against any one's conviction or feelings—there was a demonstration of applause; and yesterday, on a remark by the Senator from California, [Mr. CONNESS,] which I did not hear, there was a demonstration of applause again. I say I am glad that that incident of last Friday has been referred to, for it is discreditable, and I, for one, want all those who attend here in the galleries, whether they be the friends or enemies of Congress, the friends or enemies of the President—I care not on what side they are—to understand that such things will not be permitted. They are most reprehensible; and I agree with the Senator from Rhode Island in expressing the opinion that such arrangements should be adopted that any one, no matter what the occasion may be, who manifests applause or disapproval shall be at once removed from the gallery and excluded from it. It seems to have become absolutely necessary that measures of this sort should be adopted to stop such demonstrations. I repeat, no matter from whom they come or on what side they are, they are most reprehensible.

Mr. GRIMES. I wish to inquire of the chairman of the committee who made this report upon what theory it is that chiefs of bureaus in the War Department and the chiefs of no other bureaus in any one of the Departments are to be admitted? Why is it that the Paymaster General and the Surgeon General are to be admitted and the Treasurer of the United States, for example, is to be excluded?

Mr. HOWARD. There must be a limit drawn somewhere; somebody must necessarily be excluded.

Mr. CONNESS. It will be very easy to give that officer a ticket.

Mr. HOWARD. That officer can get a ticket at the hands of the honorable Senator, I dare say, if he should apply for it.

Mr. GRIMES. I doubt that very much. I confess I cannot conceive of any scheme calculated to give the members of the Senate more annoyance than the one which is now proposed, for I think I have had at least two hundred applications for tickets already; and I expect to see this mob, instead of being assembled around the doors of the Capitol, assembled around the lodgings of Senators imploring them for tickets to be admitted to this body. I think no scheme could be devised calculated to give us more annoyance or create more heart-burnings than that which is proposed by the committee. I say it with all deference to the committee. Here are singled out certain men in the Government of the United States, certain bureaus in one particular Department are selected, to whom these tickets are to be issued. It does not answer to say that an individual Senator can give the heads of other bureaus or assistant secretaries a ticket. These particular bureau officers are distinguished above others, selected and set apart by the Senate of the United States, preferred over the heads of other officers.

Mr. FESSENDEN. That language can be stricken out. Move to amend it by striking out.

Mr. GRIMES. I do not propose to strike it out. I did not know but what there was some principle upon which they were selected, and I wanted to know what it was.

Mr. WILLEY. I desire to make another inquiry. It is hardly possible, I suppose, that these galleries, if this proposition shall be passed, filled up at the commencement of the proceedings by persons who have tickets, will remain filled up for three or four hours during the proceedings of one day. They will thin out from about an hour after the commencement of the proceedings, and still keep thinning out during the remainder of the proceedings. They will thus give way and make vacancies for others of our fellow-citizens to take their places, if they have the opportunity. But according to this arrangement, as I understand it, there can only be tickets issued to certain persons for the same day, and when they retire, leaving seats vacant that might be filled by some other persons desirous of witnessing the proceedings, the seats are to remain vacant, and these persons, anxious to look on, will be deprived of the privilege, when in point of fact there is room enough to gratify them. This will give dissatisfaction. It will be seen that by the operation of this rule not only are certain classes of individuals admitted, to the exclusion of other classes equally worthy, but while those classes excluded are standing out of doors seats inside may be vacant that would accommodate them if they were allowed to enter. It does seem to me that the practical operation of this whole system of exclusiveness will operate unjustly and will, beyond all controversy, give dissatisfaction.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. WILLEY. Certainly.

Mr. CONKLING. I am so much struck with the objection he makes to this that I ask him whether any suggestion has occurred to him as a substitute for it?

Mr. WILLEY. I am opposed to the whole plan entirely; but unless these persons, when they retire from the Chamber, are at liberty to give their tickets to some of their friends, or unless the doorkeepers placed there are to receive them and hand them over to the Sergeant-at-Arms, who may admit another one for every one who goes out, I see no way of remedying the evil.

But, Mr. President, the main objection to the free admission of all those who can get seats seems to be that disorder must necessarily ensue; that a class of people will occupy the seats in the galleries who will not have proper respect for the occasion and will be guilty of disorder. I think that may be remedied by multiplying our police and taking proper precautions to preserve order in the galleries. The objection itself, I think, is invidious. It is a reflection, to some extent, upon the good order of our people and upon their sense of propriety. But, if it is well taken, I think any evil effects from the supposed disorder that may ensue might be prevented and obviated by police arrangements to preserve order in the galleries. I hope, sir, that the whole proposition will be voted down. It will assuredly give dissatisfaction, and I doubt very much whether it will lead to any greater order in the galleries than would ensue if they were open to the public at large, free to any one to occupy them who can procure a seat by his own industry and perseverance.

Mr. DRAKE. The seventh rule adopted for the government of the Senate when sitting on the trial of an impeachment requires the Presiding Officer of the Senate to direct all necessary preparations in the Senate Chamber. I would inquire of the President of the Senate whether any change is to be made in the seating of Senators during the trial.

The PRESIDENT *pro tempore*. The Presiding Officer has given directions to the Sergeant-at-Arms to prepare the Senate Chamber for the trial in the best and most convenient manner that he can for the Senate, the House of Representatives, and the President of the United States and his counsel; but in what particular manner he will prepare it the Chair is not informed.

Mr. DRAKE. I make the inquiry because it is a very important thing in reference to the very question that is now up. A paper was circulated among Senators the other day, and signed by a great many of them, by myself among others, requesting that the Senators should retain their accustomed seats during the progress of the trial. If that arrangement is made, then I wish to suggest to the consideration of Senators that it will be absolutely indispensable to our hearing the evidence as it is given by witnesses, and particularly to my hearing it, (because I believe in reference to the transmission of sound I have the worst seat in the Senate Chamber,) that perfect quiet should prevail in the Senate Chamber. Otherwise we can never hear the testimony of witnesses at all. It is quite in vain for us to expect perfect quiet in the galleries if they are to be the subject every day of a rush to get seats there, and we are to be interrupted, as we were the other day, by applause in the gallery, the significance of which we cannot perhaps understand at the moment, but the interruption and confusion produced by which we can very well understand.

But, sir, there is another consideration which seems to me to be one which Senators should be very careful to look to. We are coming now to a season of the year when the weather is likely to be warm, and when, to have these galleries filled every day, and the floor filled with Representatives and others

entitled to the privilege of the floor, will make an atmosphere in this room such that none but a man who is impervious to every evil atmospheric influence can possibly stand. If the number is to be unrestricted, who can go into the galleries? Then, sir, what shall we see every day? Every door of the galleries will be crowded with people, and they will get chairs and benches and stand up behind each other to look in and see and hear, and the consequence will be that all circulation of fresh air through the Chamber will be entirely lost, and we shall be sitting here in a close, confined atmosphere, impaired in its vital qualities by the presence of so many individuals.

These two considerations, besides those which have been mentioned, are sufficient with me to vote in favor of some proposition which shall limit the number who are to come in here.

Mr. MORRILL, of Vermont. I am firmly convinced that the proposition proposed by the committee is a proper one to adopt in the main. Our accommodations here afford nearly ten times the amount for the convenience of the public of any other Government in the world. The ordinary frequenters of the two bodies—the House of Representatives and the Senate—are enough to fill one Chamber every day; and when this trial commences, unless we have this system adopted, persons who intend to be here will be compelled to take their seats in the early part of the day at very great inconvenience, and some of them will do as I observed was done the other day, have their tea and coffee and luncheon brought in, in order that they may remain through the session.

I do not think there is anything in the objection presented by the Senator from West Virginia. When any parties come here, and are about to leave, they will hand their tickets to other persons, as they will find plenty waiting in the corridors and at our doors, so that there will not be any considerable number of vacancies, in my judgment, at any time. Nor do I think, when it is once known that Senators have but four tickets to provide for their own families and their friends, that they will be very much importuned by a mob for tickets. I trust, therefore, that in the main we shall adopt the proposition as presented. I do not see how persons who ought to obtain admittance here can otherwise expect to gain admission.

Mr. FESSENDEN. Is there any motion to amend pending?

The PRESIDENT *pro tempore*. There is a motion to amend pending, to strike out "one thousand" and insert "nine hundred."

Mr. JOHNSON. Mr. President, we must, I am sure, all agree that the trial upon which we are about to engage should be conducted with all possible propriety; that all demonstrations of applause or disapproval should be avoided so far as it can be done by the preliminary arrangements, and that we should punish them, if we have the means of punishing, if they occur in spite of any of our preliminary arrangements. The committee almost unanimously, if not with perfect unanimity, came to the conclusion that the propriety of the occasion demanded that no persons should be present except those to whom tickets should be delivered.

I have before, Mr. President, on an occasion not as solemn as that which is about to take place, witnessed in this Chamber demonstrations which affected very much the dignity of the body; and I am sure, as sure as one can be before the events occur, that if the galleries are left open to the public it will be impossible to avoid scenes which will be disgraceful to the Senate itself, and more or less to the country. The moment the doors are opened you will find every seat in the gallery filled, for the most part by a class of persons who are insensible to what is due to the occasion; and just as certain as we live there will be demonstrations of approval or disapproval, from time to time, as the trial occurs. I can very well imagine that there may be parties, should the galleries be left open, who will indulge in insults to individual members of the Senate, insults to the party who is to be upon his trial, insults to the managers, one or more, who may conduct the prosecution upon the part of the United States, and insults to the counsel of the party to be tried; and what are we to do? Clear the gallery? I have often heard the order given by the President to clear the gallery, but I never saw it executed but once.

But there is another consideration. Do we not desire, is it not appropriate, that the ladies who may be in Washington shall, more or less, be the spectators and form a part of the audience? What gentleman would, (if he did it at all,) without solicitude, place any female member of his family in the gallery if it was likely that disorder would occur? We have a population—certainly I do not mean to speak of them with any unkindness—who now number some ten thousand in the city, taking a deep interest, no doubt, in everything that concerns a trial of this description; and if the galleries are opened, in five minutes afterward you will find every seat occupied by people of that description; and do you expect the ladies, coming from whatever section they may, will form a part of the audience? You will have not only from this city, but from the other cities within the reach of the seat of Government within a few hours, hundreds and thousands of men who are not to be kept in order except by force, and who will be ranged, in all probability, on the one or the other side of the questions which the prosecution may involve; and our deliberations, in my judgment, if the trial is not to be conducted in the way suggested by the committee, might as well be conducted in the open air.

Mr. President, it is a prosecution, fortunately for the country, without a precedent; and I trust in Heaven in the future, no matter how it may result, not to be followed by any similar proceeding. It is due to ourselves, due to our institutions, due to the gravity of the occasion, due to what may be the vital importance of the occasion, that nothing should be done calculated in the slightest degree to cast the least suspicion upon the fairness of the Senate of the United States. That, I am sure, as far as the Senate is concerned, will be their wish, and, as far as they can, they will endeavor to observe it; but if it becomes, as far as the audience is concerned, a mob, the public will say, no matter what may be the result of it, that it was brought about by violence rather than by the calm and unbiased judgment of the tribunal.

It is said that the people will be dissatisfied. Can we accommodate everybody? The galleries are only fit to accommodate some nine hundred persons, and by using the aisles one thousand; but what are nine hundred or one thousand to the multitude who will be here? Suppose you open the galleries; only one thousand can get in. What then will be said by the ten thousand who are outside? Why are they excluded? Why may they not say, with as much reason as I think is to be found in the objection to the using of tickets, "Why is it that the trial is not outside, that the world may be the spectators in point of fact?"

Let it not be forgotten, Mr. President, that we are a Senate of the United States about to be a court, the highest known to our laws and to our institutions, about to try the Chief Executive of the United States, in whom is vested the whole executive power of the nation, and in a certain event to transfer that executive power to another. The issues are fearful; I mean because of the momentous character of the issue. I have no apprehension that the country will be destroyed by any possible termination of the trial. I have too much confidence in the patriotism of the people, in the good sense of the people, in their love of our free institutions, to suppose for a moment that any event occurring to any man or set of men will give any real danger to our Government. It will go on, as it has done in the past, in spite of treason; it will go on in the future, no matter what may be done by the Senate.

The PRESIDENT *pro tempore*. It is the duty of the Chair to announce that, the morning hour having expired, the unfinished business of yesterday is before the Senate.

Mr. HOWARD. I hope that will be laid aside informally for the present, until we get through with this subject. I will make that motion.

Mr. MORRILL, of Maine. If this subject can be finished in a few minutes I will not object.

The PRESIDENT *pro tempore*. The unfinished business will be laid aside informally if there be no objection.

Mr. MORRILL, of Maine. I should object if I thought there was a disposition to discuss this matter much further. It seems to have given rise to a general discussion.

Mr. HOWARD. We shall take the vote very shortly.

Mr. MORRILL, of Maine. Very well; try it and see.

The PRESIDENT *pro tempore*. No objection being made, the Senate will proceed with the matter under consideration.

Mr. TIPTON. Mr. President, I have no doubt that the first duty of a court for the adjudication of important business is to make such arrangements that business can be transacted decently and in order. If it were not that we are surrounded by circumstances which make it imperatively necessary I would not be in favor of any restrictions upon the free use of the gallery of the Senate; and really, before the demonstration of applause in the gallery a few days since, I felt as though I should be ready to vote for a free occupancy of all the room in the gallery. In view of that manifestation of rudeness on the part of those who are permitted to hear without any restriction, and after what has already been said on the subject, I am entirely satisfied that there can be no sufficient quiet for the transaction of business here unless we do exercise a control over the seating of persons in the gallery. Then my next thought was that a portion should be set apart for the use of the families of members and of Senators, simply from the fact that if that be not done they will be compelled to come here as soon as they have their breakfasts in the morning in order to anticipate the coming of a crowd at the middle of the day. I therefore came to the conclusion that a portion of the gallery should be set apart for that purpose; but if a portion is thus set apart we produce that odious distinction which has been referred to by the Senator from West Virginia.

I would rather, therefore, that the whole gallery should be occupied indiscriminately by those who received tickets; and as the tickets will be in the hands of Senators of both political parties, in the hands of members of the House of Representatives of all political parties, the persons admitted here will be admitted indiscriminately, and they will be representatives of all shades of political difference and distinction in the country, and then they can be changed every day. Unless we have a system by which they can be changed, one thousand persons holding tickets perpetually will come here and monopolize all the room of the Senate and hear the trial, to the exclusion of all others. But if we should sit upon this trial for fifty days fifty thousand people might be admitted to the galleries, for I certainly should not consider it my privilege to permit any one set of special friends to occupy exclusively the tickets that might be issued to me.

We see, then, that with all the difficulties in connection with each mode of seating the gallery there certainly will be less difficulties, will be less trouble, and we shall secure greater quiet, greater comfort, greater respect, by seating persons with tickets, with the distinct understanding that they will be changed each day. I am compelled to come to this conclusion. I come to it rather reluctantly on account of a desire to have everybody accommodated; but the confusion would be so great under any other system that nobody would be

accommodated, nor would the court be accommodated.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island.

Mr. HOWARD. I hope that amendment will not be adopted.

Mr. RAMSEY. What is the amendment?

The PRESIDENT *pro tempore*. Striking out "one thousand" and inserting "nine hundred" as the number to be admitted in the galleries.

The amendment was not agreed to—ayes six, noes not counted.

Mr. FESSENDEN. I move to amend the resolution by striking out, after the words "the General commanding the Army," the following words:

One ticket each to the mayors of Washington and Georgetown; one ticket to the secretary of the Smithsonian Institution; one ticket to each of the following persons: the Quartermaster General, the Commissary General of Subsistence, the Surgeon General, the Paymaster General, the Judge Advocate General, each of the admirals of the Navy, each clergyman having charge of a church in Washington or Georgetown.

I will simply say that I move to strike out——

Mr. HOWARD. You do not intend to include the admirals in the motion to strike out?

Mr. FESSENDEN. Why not, as well as the others?

Mr. HOWARD. The General of the Army is in.

Mr. FESSENDEN. The General is the head of the Army; and if Admiral Farragut were here I would be willing to include him; but I do not see any occasion for including the admirals. I do not like to make the distinctions that are made in the report of the committee. As the Senate during the trial is a court it is well enough that the judges of the courts who are provided for specially should come in. But, with regard to the gentlemen to whom my motion applies, although I have a very great respect for all of them, I do not see any reason for making these distinctions. All these gentlemen can be admitted by tickets, and any Senator would be glad occasionally to give a ticket to each one. I see no particular reason for picking out distinguished officers of the Army any more than I do distinguished civilians. With regard to my friend, the secretary of the Smithsonian Institution, I have as great respect for him as I have for any one, and I shall be very happy to furnish him with one of my four tickets, if he desires to come here.

I think it is best to strike out these words. I do not see any reason why the clergymen of the parishes of Washington and Georgetown should be admitted any more than the lawyers or doctors, and not so much as the lawyers. I think, therefore, that all of those gentlemen who are named had better be omitted, and if they want to come here they can be furnished with tickets by Senators, and they will answer just as good a purpose as to make these distinctions, which will only be invidious, and for which no good reason can be given. I think that clause had better go out.

Mr. HARLAN. I will inquire of the Senator from Maine if he will not except from his amendment the mayors of the cities of Washington and Georgetown?

Mr. FESSENDEN. I see no particular reason for having them in any more than I do the common council.

Mr. HARLAN. I will suggest a reason for the Senator's reflection. In this District there is a population of about one hundred and thirty thousand people. They are unrepresented in either branch of Congress. The report of the committee proposes to give each Senator four tickets, and each member of the House two tickets, which would be two tickets for each congressional district and four for each State at large, which will insure admission to a few people from every State and each district in every State during the progress of the trial, while it will not afford any facilities for the citizens of the District, who are unrepresented in either branch of Congress. It seems to me it would be no more than right to give to the mayor of the city of Washington four tickets and the mayor of the city of Georgetown two, so that this population of about one hundred and thirty thousand should have the same opportunities that the people of a congressional district will have.

Mr. FESSENDEN. My reply to that is that every member of Congress, both in the Senate and in the other House, is a representative of the city of Washington. The idea that they have no representative here is a mistake. I think they are better and more thoroughly represented than the people of any State in the Union. I consider myself a representative of the people of the District of Columbia, and I have been applied to as such, and I have attended to their interests. There is no difficulty in these mayors getting tickets, but the idea of giving them tickets as representing everybody here does not strike me with any force. There will be hundreds of people every day, probably, from the city of Washington attending this trial who reside here. I do not see any particular reason applicable to them any more than to anybody else. They will get tickets, unquestionably, at some period of the trial from Senators and Representatives.

Mr. HARLAN. In the same sense the Senator from Maine is the representative of the people of Iowa.

Mr. FESSENDEN. No, sir; not in the same sense.

Mr. HARLAN. He says we are the representatives of the people of this District. That is true. The Senator from Maine is a Senator of the United States; he represents the whole people of the United States; he is not the exclusive representative of the people of Maine. So it is with each member of Congress. His constituency, that is, those by whom he is elected, are confined to a single district; but when gentlemen once become members of Congress they are members of the Congress of the United States. In that sense the people of this District have representation; but they have no direct representation; there is no representative of the people of the District as an individual community. Congress has always recognized this fact by admitting the mayor of the city of Washington and the mayor of the city of Georgetown to seats on the floor when business connected with the District has been under consideration; and I think it is no more than fair that they should be recognized in apportioning the tickets for admission to the galleries. I have not the power now, I understand, to move an amendment to the Senator's amendment, because it is an amendment to an amendment; but I give notice that I will move such an amendment as soon as it shall be in order.

Mr. BUCKALEW. I should like to ask the Senator, who makes objection on behalf of the people of this District, whether he does not believe that one third or one half of all these tickets will, at all events, go to residents of this District?

Mr. HARLAN. I will reply that I suppose the Senator from Pennsylvania will give his few tickets to citizens of his own State, and I apprehend that that will be true of every other Senator on this floor.

Mr. ANTHONY. I would much rather amend the order in the other direction. I suppose that the tickets to be issued, provided for in the order, will take about two thirds of the capacity of the gallery, leaving about one third to be disposed of. I would much rather issue one to every head of a bureau; for I think the more we get rid of the less trouble we shall have about them.

Mr. FESSENDEN. If we begin that there will be no end of it.

Mr. ANTHONY. We shall end just there. Suppose we strike out the part the Senator moves to strike out, and substitute "one to each head of a bureau in each Department."

Mr. FESSENDEN. It would be unnecessary, in my judgment. I think we had better not do that; then the chief clerks will think they ought to come.

Mr. ANTHONY. I suppose I cannot move such an amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine.

Mr. HENDRICKS. What is that amendment?

The PRESIDING OFFICER. It will be read.

The SECRETARY. It is proposed to strike out of the reported amendment the following words: "one ticket each to the mayors of Washington and Georgetown; one ticket to the secretary of the Smithsonian Institution; one ticket to each of the following persons: the Quartermaster General, the Commissary General of Subsistence, the Surgeon General, the Paymaster General, the Judge Advocate General, each of the admirals of the Navy, each of the clergymen having charge of a church in Washington or Georgetown."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

Mr. HARLAN. I move to amend the amendment by inserting "and four tickets to the mayor of Washington and two tickets to the mayor of Georgetown."

Mr. HOWARD. I hope not.

Mr. CONKLING. I would inquire of the mover of this what the object of the amendment is?

Mr. HARLAN. I attempted to explain it in a former part of this discussion; I suppose the Senator was not in his seat.

Mr. CONKLING. I beg the Senator's pardon; I was not; I was called out.

Mr. HARLAN. I will state again, briefly, that the people of this District, numbering about one hundred and thirty thousand, have no direct representative on this floor or the other floor of Congress, and in this distribution of tickets they are not provided for. I suppose that each Senator and member will find friends from his own State and from his own congressional district who will claim this mode of access to the gallery, which will exclude the residents of the District from any opportunity to witness the trial. Heretofore this courtesy has been shown to the people of this District in various ways. When we are considering business in which the people are particularly interested, the mayor of Washington and the mayor of Georgetown have always been admitted to a seat on the floor; and I think it is no more than right that these one hundred and thirty thousand people should be provided for, as are the people of each district represented in the other branch of Congress.

Mr. CONKLING. I have only to say that my impression is, that under the rule as it stands now the people of this District will receive far more extensive accommodations than the people of any other district; and they would under any rule you can make, as I believe they always do on such occasions.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa to the amended.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is now on the amendment reported by the committee as amended.

Mr. ANTHONY. I wish to offer an amendment to the amendment, by adding:

The seats now occupied by the Senators shall be reserved for them; and the Sergeant-at-Arms shall provide suitable and convenient accommodation for the members of the House of Representatives on other portions of the floor.

Mr. HOWARD. I have no objection to that.

Mr. FESSENDEN. I have. I think it had better be arranged by the committee rather than settle it in that way.

Mr. EDMUNDS. The standing rules leave it to the Presiding Officer.

Mr. HOWARD. I think it is the disposition of the Senate to occupy their seats as usual during the trial.

Mr. FESSENDEN. It is not usual. Seats are usually provided on each side of the Chair on a platform. I have reflected on the subject since it was started the other day, and I doubt very much whether it would be wise during the trial for us to occupy our present seats. In the first place it will be very inconvenient. How are they to be arranged? We now face the Presiding Officer, all of us. How are the seats for the managers and for the counsel to be arranged? They ought to face both the presiding officer and the members. On the trial of Judge Humphreys seats were arranged for the Senate sitting as a court of impeachment on the same side with the presiding officer, so that the managers and the counsel could face the whole Senate and face the presiding officer at the same time. It will be more comfortable for us, undoubtedly, to sit in these seats; but I think it will be more apt to create confusion in the management of affairs, and I do not think it would be so well or look so well as to arrange the seats otherwise. But it is suggested to me that by a standing rule of the body the presiding officer has authority to make all necessary arrangements. I do not know how that is.

Mr. EDMUNDS. That is so.

Mr. ANTHONY. I suppose, however, it is proper for me to say that the presiding officer would prefer to be relieved from the responsibility and to take the opinion of the Senate on the subject.

Mr. FESSENDEN. We cannot relieve the presiding officer by passing a resolution in this way over a standing rule of the Senate.

Mr. ANTHONY. We do not pass it over a standing rule. We leave the rule, but we relieve the presiding officer by telling him what we want done, which, of course, he would prefer should be done. My only object is to promote the convenience and comfort of the Senate. The Senator from Maine must recollect that on the trial of Judge Humphreys our positions were exceedingly uncomfortable; and if we are to sit during the whole of this trial, which may be continued for weeks, we must have a different arrangement.

Mr. FESSENDEN. We shall sit, I presume, for three or four hours a day, beginning at one o'clock, and I do not think that will be very severe. I know it will not be so convenient and comfortable to us individually as if we sat in our present chairs; but if we are where we are now the instant we leave our chairs for a moment somebody will be dodging into them. We cannot get along in these seats unless you have a railing back of us keeping off everybody else. I think it would lead to confusion, and I do not think the appearance of things would be so reputable. It would look as if we were trying this great case precisely as we would settle a question of whether we should give the pages or clerks of the Senate twenty per cent. additional pay, in the ordinary course of business. I think there is something due to appearance and form. However, sir, if the Senate choose to decide otherwise, be it so; I shall make no opposition.

Mr. MORTON. A day or two ago I signed a paper to the effect that Senators should keep their present seats during the trial. I did it without reflection, and I am now satisfied that it is impracticable. It is with difficulty that I can hear a number of Senators speaking on the other side of the Chamber. I could not hear more than one half of what the Senator from Maine [Mr. FESSENDEN] said just now, and I have nearly always to go over to that side of the Chamber when he speaks; and so it is in regard to other Senators. When it comes to the examination of witnesses who do not deliver their testimony in loud tones like a man making a speech, we shall have to get near to them to hear them. If there is to be testimony offered in this case, we shall have to be in a compact body, so that we can all hear it. The controversy that will be carried on between the managers on the one side and the counsel on the other will not be carried on in the loud tones that men employ in making speeches, and we cannot hear it unless we are near to them. It will, therefore, be for our mutual convenience, when this trial takes place, that the Senators shall sit together in a body. We can hear but very imperfectly what is going on if we are scattered about throughout the hall as we now are, with a large crowd on the floor and a large crowd in the galleries. I think, therefore, it will be found impracticable in the progress of this trial for us to retain our seats. We shall have to sit together.

Mr. POMEROY. I did not sign the paper referred to for the reason that I thought to retain our usual seats during the trial would be entirely impracticable and almost impossible. We have invited to come on the floor two hundred members of the other House, and the Governor of each State, if he is here. How can we occupy all these seats to the exclusion of everybody else? It is not a question whether it is convenient for the Senators simply, as the Senator from Rhode Island suggests. It is not a matter of our personal convenience; it is a matter of public accommodation, and we ought to be willing to subject ourselves to some inconvenience. I am clearly of opinion that we ought ourselves to occupy as little space as possible, and give as much space as we can to others.

Mr. SHERMAN. I not only signed the paper referred to, but I am decidedly in favor of the idea embraced in it. The reason given by the Senator from Kansas seems to me too light. It is the Senate of the United States that tries an impeachment. We have already made provisions for the public by giving them the galleries, and the only question is as to the mode by which the public shall gain access to the galleries. We have under our rules given permission to certain officers of the Government to come on the floor of the Senate Chamber. While we sit here they may come and visit us, and they have a right to do that now. They do it now. The members of the House of Representatives probably will not attend any more when we are sitting to try this impeachment than they do now when we sit in our legislative capacity. It seems to me that in a long trial such as is about to be inaugurated, to require the Senators to group themselves in a small compact space around the Chair, would be to make us suffer great inconvenience, great embarrassment, and great fatigue without any good. It seems to me that the managers on the part of the House, and the counsel on the part of the accused, may sit together in the space before the Secretary's desk, and in that way they will be much nearer to each Senator than some of us are when we are speaking to each other. The witnesses can be placed in that space, from whence their voices can easily be heard, as the voice of the Clerk is readily heard. In that way we shall not be subjected to any great inconvenience. But to require all the members of the Senate, more than fifty, to be accommodated by seats around the Chair, and to place the witnesses and the managers and the counsel off at the distance from which I now speak, would be inconvenient. Under such an arrangement the witnesses would be, perhaps, as far off from the managers as they would be if placed in the center of the Hall, and the Senators should sit in their usual places. If any Senators sitting in the outer row of seats find it difficult to hear, seats may be provided for them nearer the center where they can hear. There can be no practical difficulty in that respect.

On this trial most of the testimony, as we know very well, will be in the nature of record or documentary evidence. The gentlemen who address us, the counsel and the managers, are men whose voices can readily be heard, especially when they speak from the center of the Hall, where they will no doubt be placed. The witnesses who will be examined can no doubt be heard without difficulty. And if there is any difficulty in the case Senators may move forward so as to hear the particular witness who may be under examination.

It seems to me that the Senate of the United States ought to proceed in the trial of this impeachment just as it proceeds in any other business. There is no reason why any different mode should be pursued in the trial of this case than is pursued in the conduct of any other business transacted by the Senate of the United States. We are still the Senate performing judicial duties, acting as a court, and ought to pursue, it seems to me, the even, regular tenor of our way. I have no doubt that Senators when they are comfortably seated at their desks will be able to hear better and give more attention to the progress of the trial than if they are sitting cramped as we were in the case of the trial of Judge Humphreys in an inconvenient position, where we shall become worn out and tired out earlier in the day. If we retain our regular seats we shall be able to sit more hours, and with more patience, and to act upon the questions involved with more care and attention than if we were sitting uncomfortably grouped around the Chief Justice. I am therefore in hopes that, whether with or without the order of the Senate, arrangements will be made so that we can occupy our usual seats. I think in that way much of the delay that will otherwise be occasioned will be avoided. Perhaps when counsel are arguing upon matters on which we have already reflected sufficiently and thought enough, they may be admonished if they see us sitting at our desks reading papers or doing anything else we deem necessary.

I am for conducting this business precisely as we do the most important business of the nation. The Senator from Maine says we ought not to pursue the same course in conducting this business that we would in regard to fixing the pay of a page or other employé. Sir, we conduct the highest business of the nation; we reconstruct States; we ratify treaties, we make laws for thirty-eight million people sitting here in the ordinary way at our desks. Certainly the trial of any person, however eminent, is not as important as the ordinary legislation of the Senate of the United States. I see therefore no reason for departing from the ordinary way in conducting this business.

Mr. SUMNER. Mr. President, I am admonished by the experience of the Senate on the trial of Judge Humphreys, that the arrangement proposed of benches at both sides of the Chair is inexpedient. I think at that time it was found by every Senator to be inconvenient. That proceeding, it will be remembered, was very brief. If now we are to enter upon a proceeding longer than that, as is supposed, there seems to be an additional reason why we should not subject ourselves to that inconvenience. It seems to me, therefore, that the suggestion the other day was wise that arrangements should be made that Senators, so far as possible, should keep their present seats. I say "so far as possible." I do not know that some changes may not be required which would compel some slight alteration in the actual arrangement of the seats. I can imagine, for instance, that the seats should be brought together so that the small aisles or gangways between them should be given up, and in that way we should gain more space at the ends; or, if the desks were carried the other way, space would be gained in the middle aisle or gangway. The desks might be brought together and the aisles abandoned, and in that way there would be an economy of space on the floor.

Then as to the places to be occupied by the counsel and the managers, it seems to be perfectly natural that the counsel should be on one side of the Chair, in the space between the Chair and our seats, perhaps slightly in front, and the managers on the other side; or they may be both brought directly in front of the Chair.

Mr. SHERMAN. I would suggest to my friend from Massachusetts that by actual ex-

periment it is found that our reporters sitting in front of the desk of the Secretary, in the space referred to, hear what transpires when sometimes we cannot hear each other.

Mr. SUMNER. That is so.

Mr. SHERMAN. The Hall is so arranged that that is the best place to hear.

Mr. SUMNER. Then, the question may possibly occur to some Senators as to the position of counsel when addressing the Senate. It might be said that possibly the counsel would not have his face turned toward the Chair. I take it, it is well known to all that in the Chambers of France, where these arrangements have been studied with a good deal of care, on all important occasions the leading speakers address the Chamber with their backs to the Chair. They speak from a tribune, a piece of marble which is set up directly in front of the desk of the Secretary; so that the order is, first, the Chair, then the Secretary, then the tribune from which the speaker addresses the Chamber, with his back to the Chair. I merely mention that to show that if the counsel should not always be fronting the Chair there would not be in that any departure at least from usage in a very important deliberative assembly.

All things considered, then, it seems to me that we had better not say or do anything to conclude this question. I am willing, if others incline that way. to leave it to the committee, though, for one, I should rather vote in advance and give the judgment of the Senate now that the present arrangement of the seats should be substantially preserved.

Mr. HENDRICKS. I signed the paper the other day to which reference has been made, and I am of the opinion that that arrangement is the very best that can be made. I do not understand that legislative business is to be entirely abandoned. I understand that it is the purpose of Senators to devote at least one hour of each day to legislation. If so, our personal convenience, as well as the prosecution of the public business, requires that we should occupy our seats. But, for the purposes of the trial, I apprehend no trouble in transacting the business. So far as concerns the position of the counsel for the House of Representatives and also for the President to occupy, I would be in favor of leaving them to select their own positions; there is no difficulty about it; I think we can hear more satisfactorily the testimony of the witnesses seated as we are than if we change our positions, and be put into a crowded and inconvenient location. Therefore I hope the proposition of the Senator from Rhode Island will be agreed to.

Mr. MORTON. I did not suppose that the idea was to put a part of the Senators on one side of the Chair and a part on the other, and thus separate them as widely from the counsel and the witnesses as they would be in their present seats. I supposed that the Senators would have to get together on one side and the other of this Chamber as compactly as possible. From an experience in practicing law of some years, I undertake to say that a witness introduced on the floor near the Secretary's desk, and telling his testimony in the ordinary tones in which witnesses speak, cannot be heard by the Senator from Massachusetts where he sits, and he will be compelled to draw around and take a seat nearer for the purpose of hearing the witness; and this difficulty will continually occur. As a matter of convenience to Senators, that they may hear without going around to get a convenient place without straining, it seems to me we ought to be put together and brought as near to the counsel and the witnesses as possible.

But, Mr. President, there is another consideration that ought not to be lost sight of. Nearly two hundred members of the other House are invited to be present on this floor, and the Governors of the States are invited. Where are they to sit? If we occupy the body of the room as we do now, there is no place for them except upon the sofas and in the corners and standing around. We make no provision for them.

Mr. HENDRICKS. Allow me to ask my colleague a question. I wish to ask him if the rules do not provide for admission into the Chamber of the members of the House of Representatives and the Governors of States and other distinguished persons at all times while we are transacting legislative business, and I want to know if the members of the House have any more direct connection, rightful connection, with this particular business than they have with the legislation which is ordinarily going on when they come into the Hall?

Mr. MORTON. It is true that the rules at all times entitle the members of the House of Representatives and the Governors of States and ex-Senators to be admitted on this floor, but I ask if the occasion ordinarily brings them all here at once. The occasion is extraordinary. The other House will not be doing business, and most of the members will want to be present here. How shall they be accommodated? Shall they stand up all around as they did the other day as mere outsiders, or shall they be provided with seats and some arrangement made for them? There is propriety in their being here, and, in my judgment, there is propriety in making arrangements for their convenience and for their comfort and for giving them an opportunity to see and to hear as well as anybody else. If they are to stay around in the corners and occupy the sofas their position will be far less advantageous and comfortable than that of those who occupy the galleries.

The House of Representatives is the prosecutor in this case. To be sure, it is represented by certain managers; but the members of the House generally will expect to be here, and we ought to make some arrangement for them. The Senator from Maryland suggested to me awhile ago that if the testimony of the witnesses could not be heard by the Senators sitting as they now do it might subsequently be read aloud by the Secretary that all might hear it. That becomes a very tedious process when carried on from day to day. I want to be able to hear what each witness says as it comes from his own mouth.

Mr. JOHNSON. The honorable member will permit me to explain. What I said to him was that if in any instance the voice of the witness was not sufficiently loud to be heard, what he said could be repeated by the party examining him. That is a course sometimes adopted in the trial of cases. A witness gives his testimony; the person who examines him hears it, and by consent between himself and the opposing counsel, the testimony is repeated as it is delivered so that judge and jury may hear it. That occurs very seldom, and I suppose in this case it would not occur more frequently than in the instance of one witness in twenty, perhaps.

Mr. MORTON. I have just one word more to say. Our chairs can be placed on one side or the other of the center space much more closely together than they are now; and if that is done, two or three Senators can occupy the space now generally occupied by one. As to having the use of our desks, I take it, it will not be exactly proper, nor will it be allowed that Senators shall read newspapers and write letters, and carry on the business that is ordinarily carried on by Senators at their desks in legislative session. We shall be expected to give attention to the business then before us, and to let letter-writing alone, and leave our newspapers at our rooms or have them sent there. I think, therefore, the necessity for having our desks all to ourselves, and not being crowded upon either side of the Chamber, will not be so great as Senators imagine. Upon the question of hearing witnesses, I will say that I think I know from my own experience that witnesses testifying in the ordinary way in the center space in front of the Secretary's desk cannot be heard by the Senators generally. Certainly they cannot be heard by Senators sitting in the outer row of seats. This will be a subject of constant inconvenience.

Mr. MORRILL, of Vermont. In reply to the Senator from Indiana, I will say that the Sergeant-at-Arms is confident that he can provide room and seats for all the members of the House of Representatives on the outside of our benches. But I do not understand that the House propose all to be here. They are to be represented here by their managers, and we ourselves propose to continue the ordinary business of the session from twelve to one o'clock; and I have heard, I do not know with how much truth, that the other House will continue in session for the purpose of acting upon the internal revenue or tax bill, while we proceed with the trial. At all events, it seems to me that by doubling the chairs in the two first circles of Senators' seats, and leaving the outside circle free, there will be ample room for the members of the House without any removal of our desks.

Mr. BUCKALEW. I am in favor of this amendment; but I think the latter part of it is quite unnecessary. It is already provided by our rule that arrangements shall be made for the accommodation of the members of the other House and all other persons entitled to the privilege of the floor. I suggest to the Senator offering the amendment that he confine it to the one proposition, that the members of the Senate retain their seats, leaving the presiding officer under our rules to make all other necessary arrangements, unless we think proper hereafter to interfere. By singling out in this amendment one class of persons entitled to admission to the floor, and providing for their accommodation, we encounter the observation of the Senator from Indiana. I think that the Senator from Rhode Island had better omit the latter clause of his amendment.

Mr. ANTHONY. I have no objection to doing so, if it is already provided for. But it seemed to be the idea that the House of Representatives was specially invited here on this occasion. I understand that during the two days when we have heretofore sat as a court on this trial, the House of Representatives have held their regular sessions, and after the first entrance of the managers, I do not think there were at any time more than forty members of the House in this Chamber; certainly there were not fifty. Unless our proceedings are greatly more interesting than they were on those days, I think we shall have to hire people to take the thousand tickets we are to issue for the galleries.

Mr. POMEROY. The Senator from Rhode Island must remember that during one trial on which he sat the House of Representatives was here in a body and remained during the whole trial.

Mr. BUCKALEW. It was a short one.

Mr. POMEROY. Yes; it was a short one. I do not think it is of the greatest importance that Senators simply shall be accommodated and have convenient places. The most inconvenient seat you can give me is an easy chair when I am obliged to see somebody else standing up, especially if I see others as well entitled to a seat as I am unprovided. I always feel inconvenienced when I am privileged with a seat and others around me are obliged to stand; I prefer to yield my seat under such circumstances. I believe we shall be more convenienced ourselves by giving conveniences to others than we shall be by occupying our customary seats.

Mr. ANTHONY. If my friend from Kansas feels so uncomfortable at seeing other people suffer let him consider how much suffering he will give to everybody else if we see him perched up on a platform by the side of the presiding officer, where he will certainly be exceedingly uncomfortable. Somebody must occupy these seats, and it seems to me we are better entitled to them than anybody else.

Mr. HOWARD. I hope we shall come to a vote now.

Mr. SHERMAN. I desire to offer an amendment.

The PRESIDENT *pro tempore*. The pending proposition is an amendment to an amendment.

Mr. ANTHONY. Let me hear what the Senator proposes; perhaps I may accept it.

Mr. SHERMAN. I propose to insert after the word "that," in the Senator's amendment, the words "and any Senator may have a seat provided for him in the inner row of seats." Several Senators in the outer row have suggested that they will not be able to hear if they occupy their ordinary seats.

Mr. ANTHONY. It is not necessary to have an order for that purpose. I suppose any Senator who occupies a seat in the inner row would be glad to accommodate any brother Senator.

Mr. SHERMAN. Very well; if that can be done I shall not insist on an amendment. I thought, perhaps, all the Senators might be seated in the two front rows.

Mr. ANTHONY. I have no objection to the Senator's proposition, but it strikes me as unnecessary.

Mr. CONKLING. Will the Chair state the pending amendment?

The PRESIDENT *pro tempore*. The pending amendment is that offered by the Senator from Rhode Island, which, as now modified, is to add these words, "and the seats now occupied by the Senators shall be reserved for them."

Mr. FOWLER. I hope that proposition will be agreed to. It seems to me we are crowded enough as we are, and that bringing in a large number of persons and providing for accommodating them will make the room uncomfortable. I think we can hear much better if we occupy our seats as they are, provided there be not too much talking in the Senate, as happens to be the case just now. Situated as we are, in our customary seats, we can get along much better, I think, than by any other arrangement. It will be impossible to stretch long rows of seats on each side of the presiding officer, to be occupied by Senators, so that they shall hear everything that is said. I think that, situated as we are, we cannot only hear the counsel but hear what the witnesses say. Besides that, I do not wish to be crowded any closer for the length of time we shall have to sit in this trial.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HOWARD. I move the adoption of the resolution as amended.

Mr. HENDRICKS. I shall not vote for this resolution, for the reason that I do not believe in this proposition of issuing tickets. I am in favor of letting every person go into the gallery that chooses to go. I do not believe, when the Senate is transacting public business of great importance, that it is for us to discriminate as to the persons who may come into the gallery, and as a matter of personal comfort I do not wish to have the charge of any tickets. It will be more annoyance to Senators to have four tickets each day for distribution than any trouble in the galleries can possibly be; and as the reward is to the diligent in all the pursuits of life I am in favor of allowing the diligent to occupy the galleries. If, in the progress of the trial, inconvenience should be found really to exist, that can then be remedied. I think in advance to say that but one portion of the people shall be entitled to seats in the galleries, and that on tickets to be given by Senators, is objectionable and exceedingly disagreeable to Senators. I do not wish to have the distribution of any of them unless the resolution shall be adopted, which I hope will not be the case.

The resolution, as amended, was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 92) for the relief of Israel S. Diehl.

The message also announced that the House had passed the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 264) to create and establish an assay office in the Territory of Idaho;

A bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 13, 1855; and

A joint resolution (H. R. No. 228) relative to the post office and sub-Treasury of the city of Boston.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 268) for the relief of the legal representatives of the late Philip R. Fendall, deceased; and

A joint resolution (S. R. No. 102) instructing the superintendent of the Asylum for the Insane in the District of Columbia to admit James McIntosh on the same footing as indigent insane persons of the District.

HEIRS OF DUNCAN L. CLINCH.

On motion of Mr. HOWE, the Senate insisted upon its disagreement to the amendment of the House of Representatives to the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased, and agreed to the conference asked for by the House of Representatives on the disagreeing votes of the two Houses.

On motion of Mr. HOWE, and by unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate, and Messrs. HOWE, FESSENDEN, and DAVIS were appointed.

CAPTURED AND ABANDONED PROPERTY.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer as special agent of the Treasury Department be covered by warrant into the United States Treasury.

The House of Representatives concurred in the amendment of the Senate with an amendment striking out the third section of the Senate amendment.

Mr. SHERMAN. The Senator from Vermont, [Mr. EDMUNDS,] who offered that amendment originally, is not in his seat, and I think it had better lie on the table until he comes in.

The PRESIDENT *pro tempore*. That course will be pursued if there be no objection.

INTERNATIONAL MARITIME EXHIBITION.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

The amendments were in line twelve, after the word "shall," to insert "any mileage or other expenses or;" and at the end of the resolution to insert "nor shall any national or public vessel be employed to convey the officers so detailed to or from the place of such exhibition."

Mr. SUMNER. I move that the Senate concur in those amendments.

The motion was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 264) to locate and establish an assay office in the Territory of Idaho was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 13, 1855, was read twice by its title, and referred to the Committee on the Judiciary.

POST OFFICE AT BOSTON.

The joint resolution (H. R. No. 228) relative to the post office and sub-Treasury of the city of Boston was read twice by its title.

Mr. RAMSEY. I ask the Senate to proceed to the consideration of that joint resolution at this time. It has been informally considered by the Senate Committee on Post Offices and Post Roads, and the emergency is such, I think, as to justify the Senate in immediate action upon it.

Mr. SUMNER. I hope it will be done.

Mr. RAMSEY. The Government have the refusal of a property in Boston which expires at the latter end of this month, and that refusal is worth, I am told, eighty or ninety thousand dollars, which will be lost to the Government if action be not promptly had.

Mr. MORRILL, of Maine. Has the measure been considered by the committee?

Mr. RAMSEY. Informally.

Mr. SUMNER. I hope the Senator from Maine will make no objection.

Mr. RAMSEY. This joint resolution has been passed by the House of Representatives, and considered by our committee informally.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to constitute the mayor and postmaster of the city of Boston, the Assistant Treasurer of the United States at Boston, the president of the Board of Trade of the city of Boston, Alpheus Hardy, and Daniel Davis, of Boston, a commission to purchase a site for a building to accommodate the post office, sub-Treasury, and public offices of the United States in the city of Boston, in accordance with their report submitted to the Postmaster General and the Secretary of the Treasury, and by them approved. The sum to be paid for the purchase is not to exceed $500,000, and no money is to be paid until the title to the premises shall have been passed upon and approved by the United States district attorney for the district of Massachusetts.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

A message of an executive character was received from the President of the United States, by Mr. MOORE, his Secretary.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now regularly before the Senate.

Mr. SUMNER. Mr. President, for important reasons of public interest, already well known to many Senators, I now move that the Senate proceed to the consideration of executive business.

Mr. MORRILL, of Maine. Is that likely to occupy time?

Mr. SUMNER. I think not; I hope not; but still it is important that there should be an executive meeting, if only for five minutes.

Mr. MORRILL, of Maine. If the Senator had thought of that a few moments ago I should have felt more impressed with the declaration. I was urged a few moments ago to give way for the passage of a private bill; and now I am urged to give way utterly to the overwhelming importance of a treaty or something else.

Mr. SUMNER. I hope the Senator will not object. I think we had better proceed at once to the consideration of executive business.

Mr. MORRILL, of Maine. I suppose the motion is in order, and the Senate must decide the question.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After half an hour spent in executive session the doors were reopened.

CONSULAR AND DIPLOMATIC EXPENSES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, the pending question being on the amendment of Mr. MORRILL, of Vermont, to strike out the word "Greece," in the twelfth line, from the list of countries for the salaries of ministers to which appropriations are made.

Mr. MORRILL, of Vermont. I hope this amendment will be agreed to. I merely desire to call the attention of the Senate to it. We made no appropriation last year, and I do not know for how long a time, for a mission to Greece. The effect of the appropriation will certainly be nothing more than to give a place to some gentleman to go there without any business. We have not even a consul there now. If it was proposed to have a consul there I do not know that I should object. Certainly, however, our commercial business with Greece is altogether too small for the support of a minister. I think at this time, when we are disposed even to curtail the number of missions we have, we should not incorporate in this bill a provision for a new one of less importance than some of those we have already stricken out.

Mr. FESSENDEN. I hope this mission will not be stricken out. I think we ought to have a minister to Greece. They have had one here for some time, and I think we ought to reciprocate the compliment. Considering the condition of Greece, and in view of our business with that country, I think we should have such a mission. We have certainly as much trade with Greece as we have with several countries to the Governments of which we send missions. We have some trade and an increasing trade with Greece, and I hope it will increase still more.

Mr. MORRILL, of Vermont. The only trade we have with Greece is in dried currants; and since we raised the duty on dried currants a few years ago I believe that is nearly extinct.

Mr. FESSENDEN. I know that is one article, and I hope we shall have trade with Greece in a great many things more in the process of time. Perhaps, however, in this matter, I proceed more upon feeling than upon argument. I do not believe much in the policy of endeavoring to save a little by tacking missions together and sending a minister of ours abroad, traveling about over mountains and through valleys, so as to represent us at two or three different countries. I am rather disinclined to do business in that picayune style. I do not think it becomes a great nation, as we are, and bragging as much as we do about how great a people we are. I do not think that kind of economy which is manifested in that way is very much to be desired. I do not know but that the argument of my friend from Vermont is founded upon that consideration. I do not think, however, the saving will amount to anything. I think there are other missions in the list which might much better be dispensed with.

Mr. CONKLING. I have listened, Mr. President, with surprise to the motion of the Senator from Vermont. There are a great many reasons, it seems to me, why that motion might better have been directed against any one of several other missions than against this. There are political reasons applicable to this particular proposition which alone seem to me to make it one of more merit than others in this bill which have gone without challenge. Greece is represented here now in the person of a man of great learning and respectability; and Greece itself has risen and is rising into an importance which, it seems to me, well warrants me in saying that that particular mission should not be selected from all those named in the bill to be expunged.

In addition to this there is before us—there is no impropriety, I believe, in my mentioning it in open session, as I have seen it in the newspapers—the name of a gentleman nominated as minister to Greece, the nomination of whom (considered personally, considered in reference to his acquirements, considered in reference to his services, and all the things which might commend him) is one which we might be glad to confirm. And although, perhaps, in a certain sense, that fact is separated from the consideration of this mission in the abstract, we cannot ignore it. I think the question is whether, with an opportunity to send to Greece a minister not only satisfactory in character, but remarkably so, I may say, we ought to take action which will be equivalent to rejecting him and to striking Greece from the roll of recognized Powers. In both points of view I should be very sorry to see this motion prevail.

Mr. MORRILL, of Vermont. I find that we all have our pets. I yesterday was very happy to vote with the Senator from New York, on a measure of economy, to save some $20,000. Now, it seems, we divide. If any Senator can give us any national reasons why we should vote this money I should like to hear them. I know of none. It seems to me that if we vote it at all we must do it on account of our sympathy with blind old Homer or some of the old poets and orators of Greece. Certainly there is nothing in modern times that requires any representation there on our part. As I have already stated, we have stricken out from this bill countries with which we have far more commercial intercourse than we have with Greece. If we are to make any stand for economy anywhere it should be against increasing appropriations by adding any new purpose, any new object. The amount of our commerce with Greece at the present time is very much less than it has been. I hope that it may be more; but if I were to give a favor to Greece it would be very much more in the direction of reducing the duties upon dried currants; and if gentlemen want to reduce the duties upon dried currants I should be willing to go with them and surrender something in that direction. But, sir, I think this is not an opportune moment to make a place purposely for any gentleman, however fit he may be. We had better let this gentleman go to some other country than go to a place where we do not want any representative at all.

Mr. CONKLING. Mr. President, if I were going to reply to my distinguished friend from Vermont, I should take exception in general and in detail to a good deal that he has said. He thinks the advocacy of this mission springs, with me, at least, out of sympathy with blind old Homer. Now, I beg to say to the Senator that I think he is very far wide of the mark. I not only have no sympathy with blind old Homer, but I have no idea that such a man ever lived. On the contrary, upon the evidence before me, I disposed of that long ago. I do not believe there ever was any Homer. The Senator from Maryland [Mr. JOHNSON] suggests that he rejects the idea that he was blind, if there ever was such a man; but I do not believe there was such a man to be blind even. The Senator from Vermont, therefore, will see how entirely wide of the mark he is in his understanding of this whole matter.

The Senator on my left [Mr. THAYER] propounds to me the question who wrote a certain poem of sixteen thousand lines to which he refers. That is a very awkward question to answer. If Homer wrote it it survived without a written language for a good many generations, which I hardly believe, because it must have been written in the lifetime of the children or the grandchildren, at least, of those who fought in the wars of Troy; and if Homer lived at all he lived, then, a great while before there was any written tongue in the country from which this poem came. But I would rather discuss that question with my learned friend in private at some other time, when we can go through the entire ins and outs of that whole question. The Senator from Vermont has been endeavoring to bother me; and one at a time is as many as I am able to dispose of.

Now, Mr. President, trusting, as I do, that the Senator from Vermont at the proper time will retract one piece of injustice which he has done me on this subject, I wish to reply to another. He says that yesterday I was in an economical mood, and now I am in favor of voting for this mission. I beg to say to him that I am in the same mood to-day that I was yesterday, and I return the argument upon him by inquiring, economical as his mood is, why he does not propose to strike out some of those missions which I insist ought to go out in preference to Greece. That is the thing which I am discussing. Now, it is a point of consistency, a point of conformity; and I insist upon it that if we are to appropriate for several missions, the names of which are before me, there is no propriety in any regard whatever in selecting Greece and striking her from the roll of acknowledged Powers. I think the Senator will see that the fair use of his argument is that he should apply it to some of these other missions; but if he insists upon applying it to this the question is presented whether the discrimination which he seeks to make ought to be applicable alone to this particular mission.

My argument is that, considered in respect of commercial importance, it is of just as much consequence as several other missions which were more or less discussed yesterday, and that, considered in view of its political importance, and in view of kindred considerations to which we ought to defer, it is still more important in the scale of comparison. If the Senator thinks it will do for us to eliminate here every mission which falls within the rank of importance that he assigns to this, I am ready to go with him, but I protest against his making a motion which assumes the propriety of these other insignificant missions and is leveled solely at this one.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

The amendment was rejected—ayes six, noes not counted.

Mr. MORRILL, of Maine. There was an amendment of the committee on page 2 not yet acted on.

The SECRETARY. The amendment of the Committee on Appropriations remaining unacted upon is in the sixteenth line of the bill, second page, to insert "two hundred and eighty-six;" so as to read "$286,000."

The amendment was agreed to.

Mr. POMEROY. I should like to offer an amendment, if it is in order. I hesitate somewhat about it, because it may be the law now, but if it is the law it is not the practice. I want to make the law—if this is not the law—harmonious with the practice and state of facts which should exist in regard to the representation of this country abroad. While I make no discrimination between naturalized and native-born citizens, yet I would have this country represented by one or the other. I think an adopted citizen has all the rights of any other citizen, and that a person who represents this country abroad should be either an adopted or a native-born citizen; and it is to meet that case that I offer this amendment as an additional section:

And be it further enacted, That all persons representing this Government abroad as consuls, consular agents, or commercial agents with salary or fees, who are not native-born Americans or naturalized citizens, such agencies shall be considered terminated after thirty days from the passage of this act.

The object of this amendment is that persons employed by this Government abroad shall be either native-born citizens or naturalized. I think we ought to make no discrimination between either of these classes, but that our representation should be confined to them, and that we should not be represented by persons who owe allegiance to other Governments and other countries. Commercial agents and officers of that character are now in the service that are neither native nor naturalized citizens of the United States, and this amendment is to term-

inate within thirty days the connection of all those gentlemen with this Government.

Mr. MORRILL, of Maine. The Senator is arguing on a misapprehension. I will state to him what the law is——

Mr. POMEROY. I said in the beginning if it is the law it is not the practice. I want these offices terminated within thirty days.

Mr. MORRILL, of Maine. The law on the subject now is that no person can be appointed as a consul entitled to a salary unless he is an American citizen, but the law does authorize the employment of commercial agents abroad who are not citizens; and I think if the Senator reflects upon it, he will see that it is for very obvious reasons. It may be necessary to employ such an agent, who does not represent the Government in any sense except as commercial agent, having no diplomatic functions whatever. If it is necessary to have an American agency abroad with no salary and with compensation depending only on the fees that arise in the transaction of the business, necessarily the agent must often be a foreigner for the obvious reason that none but a foreigner could afford to perform the duties simply for the fees. As this involves a question of policy, if it is to be considered at all, I suggest to the Senator that it is hardly fit to be considered on an appropriation bill. It ought to be considered either by the Committee on Commerce or the Committee on Foreign Relations.

Mr. POMEROY. I hinted that it was not strictly in order under our rules, because it proposes general legislation, but I thought it might be admitted by unanimous consent.

Mr. SUMNER. It seems to me that my friend from Kansas has not taken into consideration the essential difficulty of finding agents of the Government in certain places where the business of the United States is very limited, and yet where occasion may require the services of an agent. I call his attention to a particular port; take the port of Falmouth, in England—on the southern coast of England. I do not know that the Senator is aware that there is a family of Quakers there by the name of Fox, who have been the consuls and latterly the consular agents of the United States, I think I am not mistaken if I say from the time of the Revolution. They have not been disturbed. The place has been offered, I think, more than once to American citizens, but they found that there was no object in going there; there was no salary; the fees were trivial and unimportant; and then, the place was not otherwise tempting in the way of business; and therefore the American citizens who received this offer always refused it. I call to my mind one who had the papers sent to him by the Department of State constituting him consul of the United States at Falmouth; he took it into consideration, but he found that there was nothing there to tempt him to leave his home. Mr. Fox, the English Quaker—I call him so, I think he was of that persuasion—has continued in the place ever since.

I mention that as one case which happens to come within my own particular knowledge. I doubt not that all over the world there are other cases very much of the same character, where it would be difficult, if not impossible, for the United States to find a competent agent unless it could employ a foreigner.

Mr. POMEROY. I have called the attention of the Senate to this question. There may be, and probably there are, cases such as the Senator from Massachusetts has alluded to; but if there are places where the office is so insignificant and the fees so small that nobody will take the place, it is not of any very great consequence to this Government to keep up such a consulate. I have, however, had pointed out to me abuses which have grown up; and if we were going into a discussion of the matter, I might point out cases to the Senate. As it is, however, I do not consider it strictly in order to insist upon the amendment.

The PRESIDENT *pro tempore*. The amendment is in order.

Mr. POMEROY. I will say that there are cases where great abuses have grown out of the system of allowing persons who are not citizens, either native or adopted, to hold very important relations and sustain very important trusts, while they owe no allegiance to this Government. That is an evil and abuse which I would gladly correct. The reason why I suggested that the proposition was not strictly in order is that it is legislation which is not appropriate on a general appropriation bill. I therefore withdraw the amendment.

Mr. MORGAN. I am instructed by the Committee on Commerce to offer the following amendment, to come in at the end of line one hundred and thirty-six:

For the salaries of the consuls at Osaca and Yeddo, Japan, whose salaries are hereby fixed at $3,000 each, $6,000.

These ports were opened on the 1st of January last, and it is important to our commercial interests to have consuls there.

The amendment was agreed to.

Mr. COLE. I wish to propose an amendment, to which I think there will be no objection. It was not brought to the attention of the committee, because there was no reason why it should be done, at the time the bill was considered by them. I move, in line seventy-two, to strike out the word "Guayamas." I make this motion with a view of moving to insert that consulship in schedule C. It is now in schedule B. I move, in the first place, to strike out the word "Guayamas" in line seventy-two, under the head of schedule B.

Mr. MORRILL, of Maine. Is that the whole motion?

Mr. COLE. That is the first amendment.

Mr. MORRILL, of Maine. I ask the Senator to state the object of it.

Mr. COLE. I did state it.

Mr. MORRILL, of Maine. I did not hear.

Mr. COLE. The salary of the office is now $1,500, whereas, if it goes in schedule C, by another amendment which I shall offer, it will be reduced to $1,000. The object in making the change is to allow the consul at that place to do business, which he cannot if the consulate remains in schedule B, as at present. I think there can be no objection to it. We shall thus save $500 in salary, and it will be an accommodation to the consul.

Mr. NYE. I do not know that I understand the proposed amendment exactly. I should like to hear it again.

The SECRETARY. It is proposed in line seventy-two to strike out "Guayamas."

Mr. NYE. What is the effect of that?

The PRESIDENT *pro tempore*. The effect, as it stands, is to strike out that consulate from the list.

Mr. CONNESS. I suppose the object of my colleague is, not that there may not be a consul there, but to change the consulate from one schedule to another.

Mr. COLE. I propose to insert that consulate in schedule C.

Mr. CONNESS. Then I hope he will change the form of his amendment, so as to strike out, in line seventy-two, page 4, the word "Guayamas" where it occurs, and insert it in line ninety-five, after the word "Guayaquil." That will transfer it from schedule B to schedule C; and the effect of it will be to transfer it from the class of $1,500 salaries to the class of $1,000, and it will permit a merchant doing business there to accept the consulate; and that is the condition of the consul now confirmed. I hope my colleague will accept my amendment; that will effect the object.

Mr. COLE. Certainly, if that makes it clearer, I will do so; but my first motion is to strike out "Guayamas" where it now is. I suppose the question will have to be taken on that first.

The PRESIDENT *pro tempore*. A motion can be made to strike out and insert, if the Senator accepts the modification.

Mr. COLE. Very well; I accept that modification.

Mr. NYE. I do not know that I exactly understand the explanation of the honorable Senator from California, [Mr. CONNESS.] If I understand correctly the amendment is, not to abolish the office, but to change the class.

Mr. CONNESS. I will explain. The consul at Guayamas now has a salary of $1,500 per annum and belongs to schedule B, a consul in which schedule is not allowed to trade at all, but is a salaried officer. The consuls in schedule C are allowed to trade, and their salary is $1,000. The proposition is to transfer this consulate from schedule B to C. The gentleman who has been confirmed by the Senate as our consul at Guayamas is a merchant at Guayamas. He desires to be transferred, and it is proper he should be, from schedule B to C, so that he may continue his business and be consul, which will save $500 a year to the Treasury.

Mr. NYE. With that explanation I am satisfied.

Mr. MORRILL, of Maine. That will not make it quite complete, I suggest to the honorable Senator from California, and will not accomplish precisely the object which he proposes. I will read an amendment which I think will accomplish it, and to which I do not think there will be any objection. As the law now stands, the consul to Guayamas is entitled to a salary of $1,500. If he is transferred from schedule B to schedule C he will be entitled to $1,000 and will have the right to transact business; that is to say, he will have if the law be changed; but if that simple transfer is made in this bill, without any further amendment, he would still be entitled by the act of 1863 to the full salary of $1,500, notwithstanding the transfer in this bill. I would suggest, therefore, that instead of the amendment of the Senator from California we strike out the word "Guayamas" in the seventy-second line, and then insert the same word in the ninety-fifth line, with the additional words "the salary of which consulate is hereby fixed at $1,000 per annum."

Mr. COLE. I suggest to the chairman of the committee that it would be a little better, perhaps, to insert such words in the one hundred and sixth line, and I have an amendment to that effect prepared. I propose, after the word "dollars," in line one hundred and six, to insert "and the salary of the consul at Guayamas shall be $1,000 per annum."

Mr. MORRILL, of Maine. I have no objection to that.

The PRESIDENT *pro tempore*. The amendment as now modified will be read.

The Secretary read the amendment, which was to strike out the word "Guayamas" in line seventy-two; to insert the word "Guayamas" after "Guayaquil" in line ninety-five; and after the word "dollars," in line one hundred and six, to insert "and the salary of the consul at Guayamas shall be $1,000 per annum."

The amendment was agreed to.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to move the following amendment, to come in on page 7, immediately after line one hundred and forty-nine:

For expenses of additional clerical assistance at the Department of State, $5,000.

Mr. MORRILL, of Maine. I raise a question of order on that amendment under the thirtieth rule.

Mr. SUMNER. What is the Senator's question of order?

Mr. MORRILL, of Maine. That the Senator is not authorized to move it under the thirtieth rule of the Senate, which requires notice to the Committee on Appropriations.

Mr. SUMNER. I should like to hear that rule.

The PRESIDENT *pro tempore*. It will be reported.

The Secretary read the second clause of the thirtieth rule, as follows:

"All amendments to general appropriation bills reported from committees of the Senate proposing new items of appropriation shall, one day before they are offered, be referred to the Committee on Appro-

priations; and all general appropriation bills shall be referred to the said committee."

Mr. MORRILL, of Maine. That is the point.

Mr. SUMNER. When was that rule established?

Mr. MORRILL, of Maine. A year ago.

The PRESIDENT *pro tempore*. The amendment is clearly out of order under the rule.

Mr. SUMNER. The Senator from New York [Mr. MORGAN] has already to-day—I do not wish to undo the work he has so well done—moved one or two propositions from the Committee on Commerce.

Mr. MORRILL, of Maine. But he had this slight advantage of the Senator from Massachusetts: he had taken the precaution to give the notice. [Laughter.]

Mr. SUMNER. Now, allow me to say to the Senator, the notice of the proposition I move is given in a message of the President of the United States to this body some time ago, and which on the order of the Senate was referred to the Committee on Foreign Relations. I have the message in my hand expressly asking for this appropriation.

Mr. MORRILL, of Maine. If the honorable Senator is ready to adopt all the messages that the President sends here that might be applicable in this case.

The PRESIDENT *pro tempore*. The amendment is clearly out of order under the thirtieth rule unless it has been submitted to the Committee on Appropriations.

Mr. MORRILL, of Maine. It has not been.

Mr. SUMNER. Do I understand that my friend makes that objection to this proposition?

Mr. MORRILL, of Maine. Most decidedly.

Mr. SUMNER. Very well. Then I hope the Senator will take notice of the proposition, and I shall move it on the first bill of his that comes along.

Mr. MORRILL, of Maine. I hope the Senator will put himself in a condition to take advantage of it.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in the Committee of the Whole. The question will be taken on all the amendments collectively, unless a separate vote be demanded.

Mr. BUCKALEW. I ask for a separate vote on striking out Ecuador.

Mr. MORRILL, of Maine. I ask for a separate vote on striking out Bolivia.

Mr. SUMNER. I wish to reserve the amendment on page 2, line thirty-one, reducing the appropriation for contingent expenses of all the missions abroad from $50,000 to $20,000.

Mr. THAYER. I ask for a separate vote on the amendment in reference to Portugal.

The PRESIDENT *pro tempore*. That was not an amendment, I believe. That was in the bill of the House. The Senator can move to strike it out if he sees fit in the Senate. The question is on concurring in the amendments made as in Committee of the Whole with the exceptions named.

The unexcepted amendments were concurred in.

The PRESIDENT *pro tempore*. The question now is on concurring in the first excepted amendment, which is on page 2, line twelve, to strike out the word "Ecuador."

Mr. BUCKALEW. In Committee of the Whole Ecuador was struck out in conformity with the recommendation of the Committee on Appropriations; and, on my motion, Bolivia also on the second page was struck out. When I made the latter motion, I stated that when the bill was brought into the Senate, I would ask the Senate to reinstate Ecuador and agree to the other amendments. It is simply a question, as I propose to put it, between these two missions. The committee reported to strike out, as they supposed, the smallest and least important of the missions located in South America. I stated some reasons yesterday for my opinion that the committee had fallen into an error in the matter of selection. I shall not go over those observations again; but I will call attention to one point with a preliminary remark.

In the case of Bolivia, so far as I know, there is not one citizen of the United States resident in the republic. That is one fact. The next fact is that that republic touches the Pacific coast at but a single point. It is an arid and comparatively unsettled region, and it has but one very insignificant port, the port of Cobija. Lastly, not to be tedious, the Government of the United States has no claim, and citizens of the United States have no claims, so far as I know, upon that republic. These considerations taken together seem sufficient to justify the omission of the mission to that particular country, if any one is to be omitted, over any other one in all South America.

On the contrary, in the case of Ecuador, she has one of the three most important ports on the Pacific. The most extensive and the most valuable inlet on the western coast of all America is at Guayaquil. There is a deep, splendid bay, indented into the interior to a city where is a respectable amount of commerce and where there are American merchants located, an American gas company lighting the city, an American company running steamers upon the river, and in the interior of the republic some American workmen, and in recent years importations of American machinery. All these are facts about which there is no dispute or question.

In addition to that the late minister to that country—not the last one, because he died, but the minister who came home about two years ago—Mr. Hassaurek, of Cincinnati, well known to you, sir, as an accomplished gentleman and a man of ability, negotiated a treaty with that republic by which it agreed to pay to citizens of the United States a large amount of old claims. There are a large number of persons in our country interested now in their collection under that treaty; and it is, as I said yesterday, a matter of necessity that we should be represented in that republic by a minister if we are to obtain payment of those claims.

Now, I will state a fact to the Senate. That republic, like many others, has been embarrassed in its finances, mainly on account of the frequent revolutions which occur in that portion of the earth. England, France, and Spain always have representatives there. They have now and they will have them hereafter. In the case of the English claimants the minister of Great Britain secured from the Government of the republic an assignment of a portion of the custom-house duties at Guayaquil, and from year to year, under that assignment of the public revenue, the claims of British subjects are being liquidated. Without some arrangement of that kind, somewhat extraordinary and exceptional, and such as would not be thought of in this country, it would not be possible within any reasonable period of time to secure the payment to British subjects of their just demands against that republic.

Mr. Hassuarek, after negotiating this treaty, or rather shortly after the commission had acted upon these claims and there had been awards in favor of our citizens, returned home. We sent another citizen there, also from Ohio, who died recently. Unless we fill up this mission, and have a representative of our Government there to look after these claims, they will remain unpaid, and we shall not realize a dollar of them until we shall send some special commissioner, at very large expense, to enforce their payment, or until we send some public vessels of war to the port of Guayaquil to enforce the payment of our demands at the mouth of cannon, neither of which alternatives is desirable.

This mission will cost us, everything included, not exceeding eight thousand dollars a year; and for the collection of the large mass of claims which are due to the citizens of the United States, we could well afford to expend three or four times that amount of money in salaries, because we shall not get a dollar without this mission. The consul at the port of Guayaquil possesses no diplomatic power, nor do any of our consuls. The consul has no intercourse with the Government of the republic. Besides that, the capital is nearly two hundred miles distant from his place of business upon the coast. It is impossible for him to attend to the demands of our citizens upon the republic.

It is upon these considerations, Mr. President, that I ask the Senate now to select between these missions, to omit Bolivia, and to include Ecuador in the list. I believe I have given sound and sufficient reasons for this proposition, to which I hope the Senate will agree.

Mr. TRUMBULL. I question very much the propriety of striking out either of these countries, and for this reason: these South American republics are modeled after our own; it has been the policy of this country to encourage all the republics upon this continent. We have very little business interests for a minister at several of these capitals. The same thing might be said of our ministers in Europe. What business has a minister in Switzerland? I apprehend that the effect would be bad upon these little republics that are struggling to get along, and that we have always encouraged and helped to uphold, if we should withdraw our ministers from them. The whole expense of one of these missions, as the Senator from Pennsylvania states, is about eight thousand dollars.

Mr. BUCKALEW. The salary of the minister is $7,500, and there is a limit for all contingent outlays to $500. That is the maximum. It cannot be more than that.

Mr. TRUMBULL. It cannot be more than $8,000. Independent of the consideration which would grow out of our intercourse with these republics—and I am not prepared to say how extensive it is—I question very much the propriety of withdrawing our ministers from them. I think I should rather let this be for the present until we are better satisfied about it. The amount of saving to the country is very small, and it may be of some considerable consequence to those countries to have the influence of an American minister there. I shall vote against striking out either of these missions.

Mr. CONNESS. Feeling some interest in this question, I desire to add a word to what has been said by the Senators from Pennsylvania and Illinois. I will not renew the debate of yesterday, but simply say to Senators, in all earnestness, that until a provision shall be made by which the other ministers of the United States at the republics of South America shall represent us in those countries from which we withdraw ministers this change, in my opinion, should not be made. It cannot be considered as otherwise than an unfriendly act, and I think it is one that we cannot afford to do. I hope that the committee will not be sustained in this amendment.

Mr. MORRILL, of Maine. I do not desire to argue the matter, but simply to remind the Senate that in Committee of the Whole they sustained the Committee on Appropriations. The committee felt a solicitude to economize, and believing that these missions to the South American States are but nominal, that there is no importance attached to them except in the sense to which the Senator from Illinois alludes, and that is, a courtesy toward these communities, and finding the additional fact that there was no minister at Ecuador we took the occasion to say that we would make no appropriation. That is all there is of it.

Mr. CONNESS. Yes, Mr. President, the committee felt a disposition to sympathize with economy; and out of the whole range of foreign missions of the United States their sympathy amounted to striking out our representation at Ecuador.

Mr. MORRILL, of Maine. Oh, no; we struck out Portugal, which, I am sorry to say, the Senate did not sustain.

Mr. JOHNSON. All the Governments of Europe, at least all of those that have large commerce, have representatives in nearly all the South American Governments; and it has

proved to England and France, but especially to England, of great value. It is in our power to make the commerce of the United States with all those countries even more valuable; but unless we are represented there by diplomatists the whole commerce will fall into the hands of England and France. At this time, therefore, I should think it exceedingly impolitic, very unwise, and very far from just economy to refuse to send diplomatists to those countries.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole, striking out "Ecuador" from the list of missions.

Mr. MORRILL, of Maine, and Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 9, nays 26; as follows:

YEAS—Messrs. Cole, Conkling, Edmunds, Fessenden, Howe, Morrill of Maine, Morrill of Vermont, Thayer, and Williams—9.

NAYS—Messrs. Anthony, Buckalew, Conness, Corbett, Davis, Dixon, Drake, Ferry, Frelinghuysen, Harlan, Henderson, Howard, Johnson, McCreery, Morgan, Nye, Pomeroy, Ramsey, Sherman, Sprague, Tipton, Trumbull, Vickers, Wade, Willey, and Yates—26.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Cragin, Doolittle, Fowler, Grimes, Hendricks, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Stewart, Sumner, Van Winkle, and Wilson—19.

So the Senate refused to concur in the amendment.

The PRESIDENT *pro tempore*. The question now is on the next excepted amendment, which is on page 2, line thirteen, to strike out the word "Bolivia."

Mr. MORRILL, of Maine. I hope the Senate will not concur in that amendment.

Mr. TRUMBULL. I, too, hope they will not concur in it.

The amendment was non-concurred in.

The PRESIDENT *pro tempore*. The question now is on the next excepted amendment, which is on page 2, line thirty-two, to strike out "fifty" and insert "twenty;" so that the clause will read:

For contingent expenses of all the missions abroad, $20,000.

Mr. SUMNER. Now, Mr. President, that revives the question, which was so much discussed when we were in committee, as to whether the contingent expenses of the missions abroad shall be reduced from $50,000 to $20,000. It will be remembered that we were then led into a consideration of what those contingent expenses were. The committee that proposed the change did not seem to have any information on the subject. I undertook to state very briefly and very imperfectly some of the well-known contingent expenses, all of which, so far as I went, when put together, would be much more than the sum left in the bill by the committee, $20,000. I do not wish to argue this question again or adduce any further evidence; but I hope that the Senate will leave the bill as it came from the House of Representatives, and that, therefore, they will not adopt in the Senate the amendment made in committee. It seems to me that we are not doing too much for our legations abroad if we allow $50,000 for their contingent expenses.

And now let me ask a question. If, for instance, the Senator from Iowa, [Mr. GRIMES,] whom I do not see in his seat, should bring forward a proposition for so much money for the Navy Department, or my excellent colleague, [Mr. WILSON,] who is not now in his seat, should bring forward a similar proposition for a certain sum for the War Department, or the Senator from Ohio [Mr. SHERMAN] or the Senator from Maine [Mr. FESSENDEN] should make a proposition for an appropriation in favor of the Treasury Department, and those Senators should say that according to their experience such an appropriation was important to the working of the Department, I am inclined to think it would be voted. It seems to me that the Senate has done so constantly. Now, I have to say that, in my opinion, according to such information as I have, the State Department has been conducted with reasonable economy. I believe that you cannot on knowledge criticise its expenditures; you may on mere representation and on prejudice; but I believe there is no evidence on which you can criticise the expenditures of that Department. All the details have been often before the Senate, and they may be had by any Senator at any time for the asking. Now, I think, when you go forward and propose to cut down these contingent expenses, interesting as they are to every legation of our country, you go too far. You reduce them all to $20,000. That is not enough. Those legations must suffer. I hope, therefore, that the vote taken in committee will not be sustained in the Senate.

Mr. CONNESS. I saw a very mild-mannered gentleman in the Senate Chamber this morning who is the Secretary of State of the United States. I wonder if my friend from Massachusetts has not heard another "lion in the lobby roar." [Laughter.]

Mr. SUMNER. I will say to the Senator from California that the Secretary of State spoke with me on an entirely different matter. Of the matter to which the Senator refers he knew nothing.

Mr. CONNESS. I am bound to take the Senator's statement.

Mr. MORRILL, of Maine. I think I can resist the appeal of the Senator from Massachusetts on two grounds: first, the general understanding that these two items, which were arranged in Committee of the Whole yesterday, should be conclusive, should settle the question. The Committee on Appropriations, for the two items of "contingent expenses of all the missions abroad" and "contingent expenses of foreign intercourse," appropriated $20,000. On the discussion of that subject I said that if the Senate sustained the committee in putting the contingent expenses of all the missions abroad at $20,000 we would not oppose the appropriation for contingent expenses of foreign intercourse as it came from the House of Representatives, which was $30,000, to which I understood the Senator from Massachusetts to assent. He certainly did not resist it; and on that ground he is concluded, I submit, from making any appeal to me, to say the least of it; and I submit to the Senator that he ought not to raise the question here now.

The next ground is, that he intimated a willingness yesterday in regard to these expenses to go back to the most economical period of peace, and to take the basis of the appropriation for that period. Now, sir, for 1860–61, the period immediately preceding the war, the appropriations were about sixty thousand dollars for these two items. The estimates for this year were something like one hundred and forty thousand dollars. I submit to the Senator that what he insists upon, putting this appropriation back from $30,000 to $50,000 would be to go far beyond the expense of this service at the period to which he himself indicated a willingness to go. I believe it will turn out on this question of the contingent expenses for the missions abroad that the committee were not wide of the mark, and that the $50,000 appropriated for the two items will be found sufficiently large. If they are not, of course the Department can have recourse to Congress to make them good. I hope, therefore, that on that question the Senate will adhere to the vote in committee.

Mr. SUMNER. Mr. President, if my friend from Maine could furnish us any evidence on this question, I should accept his conclusion; but he simply gives us his counsel, without any evidence. He knows nothing about these contingent expenses. He tells us he knows nothing about them; and yet, in the dark, he proposes to cut them down. He asks me if I will not consent that they shall be put on the basis of a certain year which he names. I said that I would accept the basis of the year 1861, the year immediately before the war. I do not know that the Senator has taken into consideration the difference in currency. The appropriations in 1861, before the war——

Mr. SHERMAN. Eighteen hundred and sixty.

Mr. SUMNER. Eighteen hundred and sixty-one. The 28th day of February, 1861. I have not the statute here now, but I mentioned the sum yesterday. I think it was $50,000 for the foreign missions, and it was either $30,000 or $40,000 for the contingent expenses of foreign intercourse, and in coin at that time. It is now in currency, and the Senator is aware that all expenses have increased since then, so that an appropriation of $50,000 in currency now will not produce the same in the market that that sum would in gold.

Mr. MORRILL, of Maine. Does the Senator understand that the salaries of ministers——

Mr. SUMNER. I am not speaking of salaries now. This is not a question of salaries. This is a question of the contingent expenses of foreign intercourse, much of which is paid here in Washington, and paid in currency. Now, the Senator knows perfectly well that we cannot get for $30,000 in currency, if that is the sum appropriated for the contingent expenses of foreign intercourse, what in 1860 we had for $30,000 in gold. I do not wish to dwell on that difference; but there certainly is a consideration in favor of our not reducing this sum. It seems to me we had better leave the bill as it came from the House of Representatives. The House began on economy. They have constructed this bill on the most economical principles; but my friend from Maine seems to be more economical than the House of Representatives. If he can be, consistently with the interests of the Government, I shall be happy to unite with him; but I think that in pushing his economy now beyond the point to which the House of Representatives carried it he makes a mistake.

Mr. FESSENDEN. Perhaps I ought to say, as the honorable Senator from Massachusetts did not converse with the Secretary of State when he was here this morning on this subject, that I did. I asked him a question about it. He did not introduce the subject to me, but I asked him whether he thought he could get along with $20,000 and $30,000 for these two items. He said, very properly, that he should endeavor to get along with whatever sum Congress saw fit to put into his hands for that purpose; that he would do the best he could with relation to it; he could wish that the first sum was rather larger, because he doubted whether $20,000 would be sufficient on the most economical plan that he could possibly resort to. He suggested that if $10,000 was added to that first appropriation, making each $30,000 he thought he might be able to get along. I suggested that to my colleague yesterday, that if he made each of these appropriations $30,000 I would be content with that, and I should be. I do not feel disposed to push the matter any further, for I think the disposition of the Department is to conform to whatever Congress suggests about it, of course, as it must do. But the Secretary stated that there might be contingencies, which were possible and not very improbable, which would require more; but unless there were some contingencies occurred such as he suggested, that I need not name, possibly he might be able to get through with the sum already named if $10,000 were added to the first appropriation. I think, myself, it would be better to do that. That would make the sum exactly what it was in 1860; that is, $60,000 for the two appropriations. Ten thousand dollars more being added to the first, which is now $20,000, and the other being $30,000, I should think that that might possibly answer.

Mr. SUMNER. What was that?

Mr. FESSENDEN. Thirty thousand dollars. I think that might possibly answer. It is not worth while to contend about it.

Mr. SUMNER. I do not wish to contend with anybody, much less with the committee, but the committee has failed to give any reason

for the amendment except a general reason of economy.

Mr. MORRILL, of Maine. I think the Senate ought to be pretty well satisfied that the committee made a pretty good guess when the Secretary comes here this morning and thinks he can do very well with $30,000. I have no objection, if it is the sense of the Senate, to inserting $30,000 in lieu of $20,000 for the contingent expenses of the missions abroad.

Mr. FESSENDEN. Would it be in order to move to amend by making the appropriation $30,000?

Mr. SUMNER and others. It would be.

Mr. FESSENDEN. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Maine moves to amend the amendment by striking out "$20,000" and inserting "$30,000."

Mr. CONKLING. Is that in order?

The PRESIDENT *pro tempore*. It is in order to amend the amendment made in Committee of the Whole.

Mr. BUCKALEW. I desire to say one word on that proposition. All I desire to insist upon is this: that it will not make any difference what the amount of this appropriation is; the amount of these contingent expenditures of the legations will continue exactly the same. They will be made out and be settled in the Department, and will be claims against the Government whether we appropriate the money to pay them, or appropriate a great deal too much, or not. In other words, this item is not one dependent on the appropriation; and cutting it down does not reduce the expenses of the Government, and increasing it does not swell them.

Mr. CONNESS. The remarks of the Senator from Pennsylvania are based upon the presumption that the amount of the appropriation corresponds to the provision made by law and the amount necessary to be used; but that does not appear to be the case. On the contrary, the Secretary of State confesses that it is not.

Mr. FRELINGHUYSEN. This is a contingent.

Mr. CONNESS. I know it is a contingent; and if the Secretary of State has said that he thinks he can get along with $30,000 I think it can be taken that he can get along with $20,000. At any rate I think, as this disagreement between the two Houses will go to a committee of conference, the matter can be safely trusted there, and that the amendment of the committee as originally made ought to be sustained at the present time.

Mr. FESSENDEN. If there is any objection to the proposition I suggested from anybody I will withdraw it.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Maine.

Mr. FESSENDEN. I withdraw it. I will not push it against the wish of any one Senator.

The PRESIDENT *pro tempore*. The amendment to the amendment is withdrawn. The question now is on concurring in the amendment made as in Committee of the Whole.

Mr. CONNESS. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL, of Maine. It is well for the Senate to understand the proposition and the result that will follow, because if this amendment is voted down then the appropriation stands, of course, at $50,000.

Mr. SUMNER. It stands as it came from the House of Representatives.

Mr. MORRILL, of Maine. And that is $50,000. The Secretary of State says he can get along very well with $30,000. The committee propose to give him $20,000. The proposition now is to give him $50,000. That is the result.

Mr. SHERMAN. I renew the motion of the Senator from Maine, [Mr. FESSENDEN,] to make the appropriation $30,000.

Mr. FESSENDEN. Senators did not exactly understand what I said. The Secretary of State said he should endeavor to get along with whatever Congress saw fit to appropriate for this purpose. He had nothing to say about it. He did not feel disposed to say anything about it. But he said he thought if $10,000 were added to this first item it would be better, probably.

Mr. CONNESS. Why not leave it to the conference committee? Can they not determine it?

Mr. SHERMAN. I move to amend the amendment by inserting "$30,000." From the statement made I think we ought to agree on that sum.

Mr. CONNESS. Is that in order pending the call of the yeas and nays?

Mr. SHERMAN. It is in order.

Mr. CONNESS. Is it in order pending a call?

The PRESIDENT *pro tempore*. That does not make any difference. The question is on the amendment to the amendment striking out "twenty" and inserting "thirty."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted, there being, on a division—ayes twenty-four, noes not counted.

Mr. HOWE. Is there any other excepted amendment?

The PRESIDING OFFICER. The excepted amendments are all disposed of.

Mr. HOWE. Then I move to amend the first section by striking out "Portugal" in the eleventh line. I am not going to take up any time in arguing the matter. Twice the Senate and the House of Representatives have refused to make this appropriation. Since those two refusals were made I am not aware that a single fact has changed; so that the vote of the Senate, upon which no division was called, the other day, is a judgment of condemnation upon the action of the Senate at the last session and the session before. If the Senate sees fit to condemn itself, of course I cannot object. But I wish to show by my vote that I do not participate in that judgment of condemnation; and so I hope the Senate will give me the yeas and nays upon it. I shall be content with the result. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 23; as follows:

YEAS—Messrs. Chandler, Cole, Conness, Corbett, Drake, Ferry, Harlan, Howard, Howe, Morrill of Maine, Nye, Stewart, Sumner, Thayer, Tipton, and Williams—16.

NAYS—Messrs. Anthony, Buckalew, Davis, Dixon, Edmunds, Fessenden, Fowler, Frelinghuysen, Henderson, Hendricks, Johnson, McCreery, Morgan, Norton, Ramsey, Ross, Sherman, Sprague, Van Winkle, Vickers, Wade, Willey, and Yates—23.

ABSENT—Messrs. Bayard, Cameron, Cattell, Conkling, Cragin, Doolittle, Grimes, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Saulsbury, Trumbull, and Wilson—15.

So the amendment was rejected.

Mr. MORRILL, of Maine. It becomes necessary, in order to perfect the bill, to make an amendment on page 2, lines fifteen and sixteen. The words "three hundred and one" were stricken out and "two hundred and eighty-six" inserted in committee, so as to make the amount of the appropriations for salaries of envoys extraordinary, ministers, and commissioners, $286,000. As the amendments to that clause have been non-concurred in, it is necessary to raise the appropriation to the original amount. I make that motion.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

FUNDING BILL.

Mr. SHERMAN. I move, merely for the purpose of having the bill before the Senate to-morrow, to take up the funding bill, as it is called. I do not care about pressing it to-night.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States.

PAYMENT OF SOLDIERS' BOUNTIES.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. Before that is done I ask leave to make a report from the Committee on Finance.

Mr. CONNESS. I will yield for that purpose.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under act of 1866, to report it back with an amendment in the nature of a substitute, and as I think there will be no objection to it now, and it has been discussed once or twice before, I should like to have it acted upon at once. I do not think there will be any objection made to it. If there is, I will let it go over.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill now.

Mr. EDMUNDS. What is the text of it?

Mr. SHERMAN. It is the same bill that was up once or twice before. You will hear it in a moment.

Mr. EDMUNDS. Let it be read for information. Let us know what it is.

Mr. SHERMAN. It is a bill to provide fifty additional clerks in the Second Auditor's office to facilitate the payment of soldiers' bounties. It has been discussed once or twice in the Senate, and when the amendment is read I do not think there will be any objection to it.

Mr. EDMUNDS. Very well; that is all right. I have no objection to it.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. The Committee on Finance reported the bill with an amendment to strike out all after the enacting clause and to insert in lieu thereof the following:

That the Secretary of the Treasury be, and he is hereby, directed to employ, for one year, fifty additional clerks, in the division of the Second Auditor's office of the Treasury Department, furnishing information to the Paymaster General in regard to soldiers claiming bounty under the provisions of sections twelve and thirteen of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, giving in all cases preference in said employment to soldiers and sailors honorably discharged from the service of the United States.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed to procure and to provide adequate and convenient rooms for all clerks employed in the examination of the muster-rolls in said office.

SEC. 3. *And be it further enacted*, That the Assistant Treasurer of the United States in the city of New York be, and he is hereby, directed to pay duplicate checks for bounties granted under the said act, upon notice and proof of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

SEC. 4. *And be it further enacted*, That the Second Comptroller and Second Auditor are each hereby authorized to detail one clerk in his bureau who may sign all certificates and papers issued under any of the several bounty acts for such Comptroller and Auditor; and such signature shall be as valid in all respects as if signed by the said Comptroller and Auditor.

Mr. HARLAN. I may not have understood the phraseology correctly. If I did, however, the bill "directs" the Secretary of the Treasury to employ fifty additional clerks. I think that phraseology is unusual in a law; and I will inquire of the chairman of the committee who reported the bill why that phraseology is used?

Mr. SHERMAN. We simply followed the language of the bill referred to us. I have no objection to a change in that respect.

Mr. HARLAN. I think it would be better to strike out the word "directed" and to insert the word "authorized."

Mr. SHERMAN. I will state to the Senator that the bill, as it was sent to us, required the appointment of not less than fifty additional clerks.

Mr. CONNESS. It is a mere change of a word. Let it be done.

Mr. SHERMAN. I have no objection. The principal section is the last section, which authorizes the Second Auditor and the Secoud

Comptroller to detail a clerk to perform the manual labor of signing the multitude of papers and certificates required under the bounty acts. The Auditor states that on many days it takes him five hours simply to sign his name, a manual labor which may as well be done by a clerk. The whole of this labor will be over, as he says, in six months. By the 1st of November he thinks the whole of this work can be finished. We have limited the bill to one year.

The PRESIDENT *pro tempore*. The amendment suggested by the Senator from Iowa will be made.

Mr. HARLAN. I think the word "directed" occurs a second time in the bill.

The PRESIDENT *pro tempore*. The same change will be made wherever it occurs. The question is on the amendment reported by the committee as a substitute for the bill.

The amendment was agreed to.

Mr. SUMNER. I am in favor of this bill. I hope it will pass. I desire simply to call the attention of the Senate to the facility with which it now appropriates $50,000, or more, to carry on a small part of the business of a certain department of this Government, and to contrast it with its hesitation in making a much smaller appropriation to carry on the important business of another department.

Mr. CORBETT. I move to amend the third section by inserting after the word "New York" the words "and San Francisco," and making such other grammatical changes as will be rendered necessary by that amendment.

Mr. CONNESS. I think that is right.

Mr. SHERMAN. I have no objection to it. Let the section be read as it will stand if amended.

The Secretary read as follows:

SEC. 3. *And be it further enacted*, That the Assistant Treasurers of the United States in the cities of New York and San Francisco be, and they are hereby, directed to pay duplicate checks for bounties granted under the said act, upon notice and proof of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

The amendment was agreed to.

Mr. TRUMBULL. I suggest to the chairman of the committee who has this bill in charge that it seems to me not very good taste to put into a law a requirement that soldiers and sailors alone shall be employed as clerks or that the preference shall be given to soldiers and sailors. I agree entirely with the design of the bill, that in the employment of clerks by an officer it is very proper that the claims of those who have been in the service should receive consideration, and, everything else being equal, I think they ought to be favored; but I doubt the propriety of putting it into a law that the head of a Department shall be compelled to make this discrimination. I would rather leave that to the good judgment and good sense of the head of the Department who employs these clerks.

Mr. SHERMAN. The substance of this language is already in a joint resolution that has passed both Houses of Congress. I certainly would not have introduced this language in the bill. It was in the bill when it was referred to the Committee on Finance. But there was this special reason why it might properly be in this bill and yet not be in any other. These clerks are merely appointed temporarily to examine certain matters with which every soldier and officer must be familiar—the discharge papers and the various papers of a soldier; and, therefore, there is reason why soldiers might be selected to examine these muster-rolls and to examine the various papers with which they must be familiar. A common soldier would perfectly understand every paper that is contained in the history of a soldier. We therefore did not see proper to strike it out. If the Senator moves to strike it out I have no objection; but it does not impair the efficiency of the bill, and really there is no objection to having it there.

Mr. CONNESS. The only objection I see to the language is not the one stated by the Senator from Illinois. I think that a discrimination should be made in favor of the soldiers and sailors, and, if so, it may be expressed. When they have the necessary capacity and ability I think it is due to the soldiers and sailors to give a preference to them, and I would do it in every case. But as the bill now reads there is no certainty that, following his proclivities, the Secretary of the Treasury will not take soldiers and sailors of the confederate army. There is no certainty that he will confine himself to soldiers and sailors of our side. I remember a case that may come to the memory of the chairman of the committee who reported this bill, where a party was urged upon him for confirmation by the Senate for a certain appointment, upon the ground that he was a one-armed man, and had lost his limb in the war, and when the honorable Senator from Ohio came to examine the case he found it was true, but that the man had lost his arm on the rebel side. That is the only objection I have to the provision. I think you should insert after the words "soldiers and sailors" the words "of the Army and Navy of the United States."

Mr. SHERMAN. Those words are in the bill.

Mr. CONNESS. Then, of course, what I have said has no application.

Mr. CORBETT. I desire to have the third section, as it now stands amended, again read.

The Secretary read the third section as amended, as follows:

SEC. 3. *And be it further enacted*, That the Assistant Treasurers of the United States in the cities of New York and San Francisco be, and they are hereby, directed to pay duplicate checks for bounties granted under the said act upon notice and proof of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

Mr. CORBETT. Since I last saw this bill I find that there has been an insertion in it of some words applying it principally to bounties. I desired to make the amendment that I offered apply to other checks, for this reason: There are instances that I know of on the Pacific coast where checks have been lost and the money is standing to the credit of officers of the United States in San Francisco, and has been for two or three years, and they are unable to get the money out of the Treasury. I desire to amend that section so that it will apply to other checks at the end of two years, under such regulations as the Secretary of the Treasury may prescribe. He of course will require bonds, and that will be a perfect protection to the Treasury.

Mr. SHERMAN. It was to avoid that very abuse of this section that I made the motion to refer the bill to the Committee on Finance. The discovery now made by my friend from Oregon shows the importance of it. As a matter of course an authority to pay lost checks would be a very dangerous one, unless it was very carefully limited. Under the regulations of the Treasury Department a lost check is never paid on a duplicate, except upon bond given. But it would be idle to require a soldier who has merely lost one of his papers to give a bond. We have limited the operation of the section simply to claims for bounty; but in all other cases they must give bonds. As a matter of course the Senate will see the impropriety of extending that provision of law intended for the benefit of the soldiers to large claims where hundreds of thousands of dollars may be involved.

Mr. CORBETT. If the Senator from Ohio will point me to the provision of law whereby persons who have lost checks can obtain their money by giving bonds that will be satisfactory to me; but I have known of instances in which bond has been offered and the officers have declined to pay, in San Francisco. For that reason I wish to offer an amendment to enable people to get their money where they lose their checks, provided the Government can be properly protected. I see no reason why they should not have their money or why they should be kept out of their money for three or four years or forever because they have lost their checks. I move, therefore, to amend the third section in the third line by striking out the words "for bounties granted under the said act," and by inserting in line four, after the word "checks," the words "at the end of two years, where such original checks have not been presented;" so that the section will read:

That the Assistant Treasurers of the United States in the cities of New York and San Francisco be, and they are hereby, directed to pay duplicate checks upon notice and proof of the loss of the original check or checks, at the end of two years where such original checks have not been presented, under such regulations as the Secretary of the Treasury may direct.

The question being put, the amendment was declared to be rejected.

Mr. CORBETT. I think this cannot be understood. I think there can be no objection to thus limiting the time to two years. It certainly cannot work any harm, and there are now people who are very unjustly kept out of their money.

Mr. SHERMAN. I can assure the Senator that it would be very idle, even with a full Senate, to consider a proposition of this kind without full debate. It is one of the most delicate questions in the world. When we ought to pay such checks, and what regulations should be required, are points of great importance, and should be well considered at the Treasury Department. I trust the Senator will not divide the Senate on a question of this kind.

The PRESIDENT *pro tempore*. Does the Senator ask for a division of the Senate on his amendment?

Mr. CORBETT. No, sir; there does not appear to be any desire for this amendment on the part of the gentleman from the Pacific coast, and I am disposed to withdraw it.

Mr. CONNESS. I cannot help thinking that the amendment of the Senator from Oregon is right. I know it is liable to difficulties, but these difficulties occur on this side also. Senators should know that there is a very strong existing reason for these payments being made there, and for lost checks being paid there. The only trouble it will create will be a regulation to be established by the Secretary of the Treasury, as I understand. I ask for a division on the question, and hope the Chair will put the vote again on the amendment.

The PRESIDENT *pro tempore*. The Chair will put the question again on the amendment of the Senator from Oregon.

Mr. WILLIAMS. I am not very well satisfied with the original section. I believe it will be found to be mischievous in effect. I acquiesced in the report so far as that section was concerned, but it does not commend itself to my judgment. I think it is throwing down the bars and opening the door to the Treasury without sufficient guards and checks.

Mr. CONNESS. If the Senator will permit me, I will ask him if it is a rule established for this side why should it not also be for the other side? It is a mere facility.

Mr. WILLIAMS. I beg pardon of the Senator; the section has already been so amended as to apply equally both to San Fransisco and to New York; and now the proposition is to make it applicable everywhere, so that any check issued under any circumstances, for any purpose, may be paid without requiring any securities or guards by law, leaving it altogether discretionary with the Secretary to fix some regulation. That section does not provide when, where, or how this notice and proof are to be made. Does it mean that before the duplicate check is paid notice shall be given to the Secretary of the Treasury and proof filed in the Treasury Department; or does it mean that upon notice and proof filed with the Assistant Treasurer in San Francisco or in New York the duplicate check may be issued? It is altogether too loose to suit me; I only consented to it because there is such an appeal made for poor soldiers and sailors; and it is thought it will work a hardship to these people if they are put to the trouble of making additional evidence; but I cannot consent to extend the section.

Mr. CORBETT. I withdraw the amendment.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill be read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the joint resolution (S. R. No. 111) providing for the issue of clothing to soldiers and others to replace clothing destroyed to prevent contagion.

The message further announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 900) to exempt certain manufactures from internal tax; and

A joint resolution (H. R. No. 232) authorizing assignment of a lot of land in St. Augustine, Florida, to the Commissioner of the Bureau of Refugees and Freedmen for educational purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following joint resolutions; and they were thereupon signed by the President *pro tempore*:

A joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre;

A joint resolution (S. R. No. 92) for the relief of Israel S. Diehl; and

A joint resolution (S. R. No. 111) providing for the issue of clothing to soldiers and others to replace clothing destroyed to prevent contagion.

PORTS OF PEORIA AND HANNIBAL.

Mr. TRUMBULL. I ask the Senate to take up a little bill of five lines that is local to my State, but which it is important to have acted upon at once. It has been reported by the Committee on Commerce, and I think there will be no objection to it. I move to take up House bill No. 785.

The motion was agreed to; and the bill (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery was considered as in Committee of the Whole.

It provides that the second section of the act of the 5th of April, 1856, entitled "An act to constitute the cities of Hannibal, Missouri, and Peoria, Illinois, ports of delivery," shall be revived and be in full force and effect for the term of two years from the passage of this act.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 900) to exempt certain manufactures from internal tax was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 232) authorizing assignment of a lot of land in St. Augustine, Florida, to the Commissioner of the Bureau of Refugees and Freedmen for educational purposes was read twice by its title, and referred to the Committee on Public Lands.

NAVAJO INDIANS.

Mr. HENDERSON. I ask the Senate to take up House bill No. 733, and I will state my reason for it. We are paying now for the subsistence of seventy-five hundred Navajo Indians in New Mexico. We have for the last five years issued to them rations costing us $750,000 per year, and it is likely to cost us that amount of money again this year unless we remove the Indians somewhere. I am just now in receipt of a telegraphic dispatch from General Augur, at Omaha, stating that a very large number of Indians, at our request, have assembled at Fort Laramie—the Powder river Indians who engaged in the war last summer, and in fact for the last eighteen months, whom we are compelled to feed until commissioners meet them. Would it not be well to pass an act authorizing the commission to remove the Navajo Indians, either back to their old country or upon one of these contemplated reservations, in time for them to make a crop this year, in order to save the Government an expense of about three fourths of a million of dollars annually, and also to settle the difficulty with the Powder river Indians, so that the war may close? I move, therefore, that the Senate proceed to the consideration of the bill which I have named. I think it will take but a short time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 733) for the removal of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation.

The Committee on Indian Affairs proposed to amend the bill, by striking out all after its enacting clause and inserting:

That the commission heretofore authorized and created under the act of July 20, 1867, to establish peace with certain hostile Indian tribes, is hereby authorized and directed, as early as practicable, to conclude a treaty with the Navajo Indians now held at the Bosque Redondo, in the Territory of New Mexico, against their will, providing for the removal of said Indians to their former home in the northern part of said Territory, or to such other lands in the Indian Territory west of the State of Arkansas, as may be thought best suited to their present condition and future prosperity, and for the purpose of carrying out the provisions of this act, and to subsist the Indians during the period of removal, there is hereby appropriated the sum of $150,000 to be expended by the Commissioner of Indian Affairs, under the direction and supervision of said commissioners.

SEC. 2. *And be it further enacted*, That the sum of $75,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, for the purpose of enabling said commission to conclude a peace with the Sioux Indians of the Powder river, the northern Cheyennes, and other Indians recently hostile in the western part of Dakota, now being assembled at Fort Laramie, and also meet the Shoshones, Snakes, Bannocks, and other Indians, on or near the line of the Union Pacific railroad, and east of the eastern boundary of the Territory of Utah.

Mr. HOWARD. I should like to have some explanation from the chairman of the Committee on Indian Affairs respecting the bill. If I understand it rightly, it provides for the removal of the Navajo Indians against their will. If so, it is a very important matter.

Mr. HENDERSON. The bill provides for the removal of the Navajos, who are now held on the Bosque Redondo against their will.

Mr. HOWARD. How does it happen that these Indians are held there against their will?

Mr. HENDERSON. I will state to the Senator in a few words. In 1862, General Carlton was sent to take command of New Mexico, and either the Navajo Indians were at war or he considered them to be at war, and he started an expedition against them and brought them down to the Pecos river, at the Round Grove, as it is called, and they have been held there as prisoners of war ever since. He captured the entire band of Indians.

Mr. HOWARD. What number?

Mr. HENDERSON. About seven thousand, between seven thousand and seven thousand five hundred; and they have been held there at an annual expense of neary a million dollars. The reports that have been sent from the War Department for the last three or four years exhibit that fact.

I will state further that the commission which was organized last July took the matter into consideration, and unanimously passed a resolution requesting me to bring it before the Senate for early consideration. The House of Representatives has passed the original bill almost unanimously, I understand, and the amendment of the Senate committee carries out exactly the purpose of the House.

Mr. HOWARD. I did not hear very distinctly the reading of the bill. What is to be done with these Indians? Where do you propose to put them?

Mr. FESSENDEN. Before the Senator from Missouri answers that question I desire to ask him how much the war with these Indians before they were captured and removed cost the Government annually? How much did we expend annually before that time in war with them?

Mr. HENDERSON. It is exceedingly difficult to tell how much we do expend in Indian wars. I cannot tell. Perhaps ten or twelve millions. I do not know.

Mr. FESSENDEN. Then what do we gain by putting them back again?

Mr. HENDERSON. Do you desire to hold them eternally in this condition? I will tell the Senator in a few words how, in my judgment, Indian wars are gotten up. So far as this difficulty is concerned, it is an old chronic complaint between the New Mexicans or greasers and the Navajo Indians. My impression is, that the difference between them is that the Navajo Indians are very far superior to the Mexicans who are there. When we acquired this territory of New Mexico, we somehow interpreted our obligations and our duties to mean that we must protect the Mexicans against the Indians. We got the Indians along with the Mexicans, and I never could understand why our military men deemed it their duty to take the part of the Mexicans against the Indians. The truth is, as it has been developed by testimony, and there is no doubt now about it, that in this long war between the Mexicans and the Navajo Indians, and also the Pueblo Indians, the Pueblos being very far superior, in my judgment, to the other population there, the Mexicans were in the habit of capturing the Navajo men and reducing them to slavery, and of capturing the women and using them for their purposes. The Navajoes, of course, waged war against the Mexicans; and this war has been carried on, as we learn, for from one hundred to two hundred years. It has been constant and continuous. Some Senators blame the Navajoes for fighting the New Mexicans. I do not. Whenever they were captured they were sold into slavery, and were retained in slavery by the New Mexicans for many years. To such an extent had this thing been carried that I remember but a few years ago the chairman of the Military Committee proposed to reprimand General Carlton, who was charged with this offense himself, he being the general who finally succeeded in capturing these people and bringing them down into New Mexico.

Mr. CONNESS. What offense?

Mr. HENDERSON. The offense of holding Indian children as slaves. Now, Mr. President, in my judgment, the Navajoes have been in the right two thirds of the time, and in two thirds of the instances in which they have engaged in war. That is my opinion, and it can be substantiated by evidence beyond any question or doubt. I do not blame these Indians for fighting; and nobody else will blame them when the facts are laid before him.

They were captured by General Carlton, I think, in a very corrupt policy pursued toward the Indians, and brought down upon the Pecos river. They were brought from a country where they were prosperous, where they had herds of cattle and flocks of sheep, peach orchards and farms, where they were living as well as the New Mexicans themselves; and if they did wage war it was to recover their women and children from the hands of those who had converted them into slaves. It is true, I suppose, that the Navajoes retaliated upon the New Mexicans in the same way. But, somehow or other, we deem it our duty to protect all people against the Indians, and to wage war against them under any and all circumstances.

Mr. President, we had a war last summer upon the Plains; and I wish now merely to state a few facts in that connection. Last July, it is well known, we had a war raging from Fort Laramie up to Montana, and even including the Territory of Montana. General Smith, the new Governor of Montana, called out a large number of troops, Montana militia, and put them under arms, and purchased horses for them, as he supposed, at Government expense.

He had purchased all the outfit necessary to equip those men, as he supposed, at Government expense, and proposed to wage a war during the fall and winter against the Montana Indians. We know perfectly well that the Indians upon the Plains, the Cheyennes and Arapahoes, were burning down railroad stations, were attacking railroad trains, throwing them off the track, as they did upon the Omaha road. We know, further, that they had committed many depredations. Why? Simply, as we ascertained, because of one act of General Hancock, which has already been referred to on this floor. That is stated in the report of the commission, of which I had the honor to be a member. It is not civilians alone who state this; but General Sherman, General Augur, General Terry, and General Harney, all of them officers of the regular Army, who are well known. They state the fact that this was an unnecessary war upon the part of General Hancock; that it had been originated by him, as I intimated here last spring. I do not say that General Hancock did it in order to get up a war with the Indians; but, as we clearly show, he was deceived by individuals upon the Plains. Senators can read that report signed by the entire commission that you sent out to examine into these matters.

Mr. CONNESS. The Senator is leaving the subject before the body.

Mr. HENDERSON. I am not leaving this subject. This is appropriate to the subject before the Senate. I am demonstrating that the policy of peace is the policy which ought to be pursued on the part of the Congress of the United States. We went out upon the Plains and called those savage Indians into a meeting. We got them together; we counseled with them for two or three weeks, and we gave them arms in the face of the fact that they had been hostile for a year. We gave them arms and gave them ammunition. We turned back and came home; and who has heard of an Indian depredation from that day to this? Have you heard of one? I defy any man to put his finger upon it. We went out to the North Platte, in Nebraska, and there we met with the Cheyennes, and we gave them arms and ammunition, although but a short time before they had thrown a train off the track; and I ask the Senator from Nebraska to-day if an Indian depredation has been committed in that State since? Not one. I have not heard of one. We then met at Fort Laramie some of the Indians who were waging war along the Powder river. It has been a little more than twelve months since the Fetterman affair.

Mr. STEWART. Let me inquire of the Senator if he ever knew Indians on the Plains to conduct a war in the winter?

Mr. HENDERSON. Somehow or other there is a war being carried on in Idaho now. Somebody has got it up; I do not know who it is, but my impression is that it is General Crook. I think the Indians would be peaceable but for the conduct of General Crook. I can tell the Senator another thing: that the Indians in Arizona would be peaceable but for the fact that General Gregg inaugurated a war by issuing an order that every Indian in the Territory was a public enemy and must be shot down.

Mr. CONNESS. That is a mistake.

Mr. HENDERSON. It is true.

Mr. HOWARD. If the Senator will allow me, I desire to suggest that this is evidently a bill of a great deal of importance.

Mr. HENDERSON. It is not a matter of importance. I am answering the Senator. I am saying that we have attempted to inaugurate a policy of peace, and we want to locate these Indians somewhere where they can cultivate the soil and support themselves. I say that a war policy has given you seventy-five hundred prisoners which you are supporting from year to year, and you seem not to be aware of it. I now desire that they shall be removed to some point where they will be no further expense to the Government, and where they can sustain themselves by agriculture and by making blankets, as they can do. They did it once, and why not do it again?

Mr. President, as I said before, we are feeding a large number of the Powder river Indians and the Sioux or Dakota Indians; and why shall we neglect to pass this bill when we are daily issuing rations to them? They have come to Fort Laramie at our request and have ceased the war; they have committed no depredations within the last three or four months, since we notified them. Why not now meet them and make the necessary appropriation, whatever it may be, to conclude a peace which will close that war upon Powder river and open the road to Montana?

Mr. TIPTON. Will the Senator give way to a motion to adjourn? Others wish to be heard on this bill.

Mr. HENDERSON. Of course, if the Senator is hungry, or anything of that sort, I must give way.

Mr. TIPTON. I move that the Senate adjourn.

Mr. SHERMAN. I hope that this bill will be laid aside, so that the funding bill shall be left as the unfinished business.

Mr. HENDERSON. No, sir; I desire that this bill shall be passed.

Several SENATORS. Let us adjourn.

Mr. CONNESS. The Senator from Missouri cannot expect this bill to pass in a brief time, because it involves a great deal. I wish to be heard upon it for one.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska, that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed a joint resolution (H. R. No. 226) appointing managers for the National Asylum of Disabled Soldiers, and for other purposes.

ADMISSION OF ALABAMA.

Mr. STEVENS, of Pennsylvania. I report from the Committee on Reconstruction a bill (H. R. No. 904) for the admission of the State of Alabama.

Mr. BOYER. Is it intended to press this bill for action to-day? If so, I wish to object to its being reported, because I understand the committee cannot report except by unanimous consent.

The SPEAKER. The committee have authority, as the Chair is informed, to report at any time. A resolution was passed authorizing them to employ a clerk and report at any time. The Chair is informed, however, that the bill is not to be passed to-day.

Mr. FARNSWORTH. If the gentleman from Pennsylvania will allow me, I will move that the bill be printed and made the special order for to-morrow.

The bill was read a first and second time. It recites that the people of Alabama, in pursuance of the provisions of an act of Congress entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed a constitution of State government which is republican in form, and that at an election commencing on the 4th day of February, 1868, a large majority of the legal voters of said State voting at said election voted for the adoption of said constitution. It therefore provides that the said State of Alabama shall be recognized and admitted as one of the States of the United States, and shall be entitled to representation in Congress as soon as the Legislature of said State, the members of which were elected at the election mentioned in the preamble of this act, shall have duly ratified the article of amendment to the Constitution of the United State, proposed by the Thirty-Ninth Congress, and known as article fourteen. Section two provides that the said State of Alabama shall be recognized and admitted into the Union upon the following fundamental conditions: that the right of suffrage of citizens of the United States shall never be denied or abridged in said State on account of race, color, or previous condition of slavery; and Congress shall have power to annul any act of said State in violation or in derogation of the provisions of this act.

The bill was ordered to be printed, with the accompanying report, postponed till to-morrow morning after the morning hour, and made the special order from day to day until disposed of.

POSTAL FACILITIES WITH LIBERIA.

Mr. ELIOT, by unanimous consent, presented a memorial from the Colonization Society, asking for postal facilities between this country and Liberia; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

OWNERSHIP OF REAL ESTATE IN THE DISTRICT.

Mr. WOOD. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee for the District of Columbia be instructed to ascertain and report to this House the names and positions held by any officers of the Government who have had transferred to them real estate within this District since 1861, together with the location, amount of consideration paid for, and present value of property now held by them, if any, according to the deed.

Mr. HOOPER, of Massachusetts, objected, but afterwards withdrew his objection, and the resolution was agreed to.

Mr. WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISSUE OF CLOTHING TO SOLDIERS.

The House resumed the consideration of the business pending at the adjournment yesterday, being Senate joint resolution No. 111, providing for the issue of clothing to soldiers and others to replace clothing destroyed to prevent contagion, on which Mr. GARFIELD was entitled to the floor.

The joint resolution authorizes the Secretary of War at any time, on the recommendation of the Surgeon General of the Army, to order gratuitous issues of clothing to soldiers who have had contagious diseases, and to hospital attendants who have nursed and attended such soldiers, to replace articles of their clothing which have been destroyed by order of the proper medical officer to prevent contagion.

Mr. GARFIELD. I will say that the substance of this joint resolution has been before the Committee on Military Affairs, and has been unanimously concurred in by them. There is nothing in it except what appears on its face. During the contagion of yellow fever in the southern districts it was found necessary to destroy a large amount of clothes both of soldiers and hospital nurses, of which they are allowed only a fixed amount by law. It is considered only just that the Government should issue to them an amount equal to what they have thus had destroyed or what may be destroyed during the prevalence of the contagion by order of the medical officers. The joint resolution is carefully guarded, and I do not see that it can occasion any loss. I ask the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs were discharged from the further consideration of the petition of L. A. Phelps, late major of the fifth Virginia infantry, and the same was referred to the Committee of Claims.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs were discharged from the further consideration of the petition of Elija M. Dawson, praying relief for supplies furnished the United States Army under the command of Lieutenant General Grant, and of the petition of J. H. Eaton, paymaster and brevet brigadier general; and the same were severally referred to the Committee on Appropriations.

On motion of Mr. GARFIELD, by unanimous consent, the Committee on Military Affairs were discharged from the further consideration of the bill (S. No. 367) for the relief of Albert Grant; and the same was referred to the Committee of Claims.

ADVERSE REPORT.

Mr. GARFIELD, by unanimous consent, made an adverse report on the petition of the adjutant generals of Maine, New Hampshire, Vermont, and other States; and the same was laid on the table.

MILITARY EDUCATION.

Mr. GARFIELD, by unanimous consent, from the Committee on Military Affairs, reported a bill (H. R. No. 905) to establish a national system of military education; which was read a first and second time, recommitted to the Committee on Military Affairs, and ordered to be printed.

Mr. SCHENCK. I insist on the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, commencing with the Committee on Roads and Canals, and the morning hour has commenced.

REFERENCE OF SENATE BILLS.

On motion of Mr. PIKE, by unanimous consent, a bill (S. No. 351) for the relief of George Henry Preble, a captain in the Navy of the United States, and a bill (S. No. 416) for the relief of John S. Cunningham, Paymaster United States Navy, were severally taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for one week for Mr. BAKER.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No. 92) for the relief of Israel S. Diehl; when the Speaker signed the same.

ROBERT LENDER.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 906) for the relief of Robert Lender, company B, twenty-fourth regiment Illinois infantry volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

WASHINGTON AND NEW YORK RAILROAD.

Mr. COOK, from the Committee on Roads and Canals, reported back House bill No. 621, to authorize the building of a military and postal railroad from Washington city, District of Columbia, to the city of New York, with a substitute; which was ordered to be printed, and recommitted to the Committee on Roads and Canals.

Mr. BLAINE moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON MINES AND MINING.

Mr. HIGBY. The Committee on Mines and Mining, the committee next in order, I believe, is not now prepared to make any reports. I ask unanimous consent of the House that the committees may be called after the list of the committees have been gone through with on the present call.

No objection was made, and it was accordingly ordered.

SCHOOL IN ST. AUGUSTINE, FLORIDA.

Mr. ELIOT. I have been instructed to report from the Committee on Freedmen's Affairs and ask to have considered at the present time a joint resolution (H. R. No. 232) authorizing the assignment of a lot of land in St. Augustine, Florida, to the Commissioner of the Bureau of Refugees and Freedmen for educational purposes.

The joint resolution was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It directs the Secretary of War to assign and set apart for the use of the Bureau of Freedmen and Refugees a certain lot of land situate in St. Augustine, county of St. John's, and State of Florida, bounded north by the lot of ——— Pacetti, south by the lot of ——— Sabberti, east by Spanish street, and west by Tolomato street, containing one acre, more or less, which lot is the property of the United States; and that the same shall be applied by the Commissioner of said bureau for purposes of education pursuant to the provisions of law, and until the same shall be required by the Secretary of War for other purposes.

Mr. CHANLER. I would like to ask the gentleman from Massachusetts [Mr. ELIOT] if this is not an original course of proceeding in regard to the appropriation of lands belonging to the Government of the United States?

Mr. ELIOT. This joint resolution has been reported in consequence of a petition which was presented some time ago by the honorable gentleman from Ohio, [Mr. GARFIELD.] It relates to a small piece of land in the city of St. Augustine which has belonged to the Government of the United States since 1820, but which has not been used for any purpose for many years past.

This land is so situated that it can be made available at present for purposes of education. The only effect of this joint resolution will be to permit the Secretary of War to allow this land to be used for this purpose until it is wanted by the Government for other uses. It is temporary in its character, and I suppose can encounter no objection from any quarter. This piece of land is from half an acre to an acre in extent, and of no practical value to the Government at the present time.

Mr. WOOD. I desire to suggest to the gentleman from Massachusetts [Mr. ELIOT] the propriety of wording his joint resolution more correctly.

Mr. ELIOT. In what respect?

Mr. WOOD. It should read: "Secretary of War *ad interim*." [Laughter.]

Mr. GARFIELD. *Ad outerim*, is it not? [Laughter.]

Mr. WOOD. *Ad interim* is correct. I have no particular objection to the proposition to make this disposition of the land. But the gentleman will permit me to say that the proper officer, the only Secretary of War now recognized by the executive department of the Government, the acting Secretary of War, is the officer to execute this joint resolution should it become a law.

Mr. FARNSWORTH. Who is that officer?

Mr. WOOD. General Lorenzo Thomas. He is the proper officer to execute this joint resolution.

Mr. ELIOT. I cannot yield any further for this discussion.

Mr. FARNSWORTH. Will the gentleman allow me to suggest that General Thomas is now signing himself "Adjutant General."

Mr. ELIOT. Yes, sir; that is what he is.

Mr. FARNSWORTH. He signs himself so now.

Mr. WOOD. The person now in the War Department is intrenched behind military power.

Mr. ELIOT. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SEA ISLANDS, SOUTH CAROLINA.

Mr. PAINE. I am instructed by the Committee on Freedmen's Affairs to report a bill (H. R. No. 907) to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina, and for other purposes. The object of the bill is to wind up the business of the tax commissioners in South Carolina. I shall call the previous question unless some gentleman desires to ask some question.

The bill was read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the instructions given "to the tax commissioners for the district of South Carolina" by Abraham Lincoln, President of the United States, dated the 16th day of September, A. D. 1863, and all sales made in conformity therewith be, and the same are hereby, confirmed and legalized, subject to such modifications and exceptions as have been or may be made by acts of Congress passed after the date thereof.

SEC. 2. *And be it further enacted*, That all lands set apart as school farms in St. Helena parish, in South Carolina, under instructions from the President, by the United States direct tax commissioners for South Carolina, which remain unsold, and all lots in the city of Port Royal, in South Carolina, subject by law to the disposal of said tax commissioners, which remain unsold, may be sold for cash at public sale, by the said commissioners, after three weeks' notice, published in not less than three newspapers of general circulation in the city of Charleston, in South Carolina.

SEC. 3. *And be it further enacted*, That the said tax commissioners be, and they are hereby, authorized to sell, in lots not exceeding twenty acres each, to the freedmen who now are, and before the 1st day of January, 1862, were, residents of the plantations on the sea islands, in St. Luke's parish, in South Carolina, at $1 50 per acre, all the unredeemed lands of said plantations which may be at the disposal of the said commissioners.

SEC. 4. *And be it further enacted*, That all persons who may have acquired claims under the order of Major General Sherman, dated January 16, 1865, shall obtain warrants for the same before the 1st day of May, 1868. All lands not required to meet the warrants so obtained shall be sold by said tax commissioners to any freedmen who may be at the time heads of families, or who may have honorably and faithfully served in the Army, Navy, or Marine corps of the United States, for not less than one dollar per acre, and in parcels of not more than forty acres to any one purchaser, except the lands on Phillips, Capers, Fripps, Hunting, and Harbor islands, which may be sold for not less than fifty cents per acre, and in parcels not exceeding three hundred and twenty acres to any one purchaser.

SEC. 5. *And be it further enacted*, That the said tax commissioners may sell for cash, for school purposes, any suitable buildings, with grounds not exceeding twenty acres in extent, located on any of the unredeemed lands at their disposal, at prices to be fixed by said commissioners.

SEC. 6. *And be it further enacted*, That the lots and houses in the village of Mitchellville, on Hilton Head Island, South Carolina, may be sold by the said tax commissioners to freedmen for cash prices, to be fixed by said commissioners.

SEC. 7. *And be it further enacted*, That all lands, lots, and improvements which were sold under section eleven of the act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 7, 1862, by said tax commissioners to persons who had served in the Army, Navy, or Marine corps of the United States, upon which any deferred installments of purchase money shall be due and unpaid, may be sold agreeably to the terms set forth in the land sale certificates issued to such persons, at public auction, after three weeks' notice in two or more newspapers published in the said city of Charleston; but such installments may be paid at any time before such lands shall be resold, and the said tax commissioners are hereby authorized to bid, for the United States, on any of the lands or improvements, authorized to be sold at public sale by the provisions of this act, such sums as in their judgment may secure the same from unnecessary sacrifice. And any property so purchased for the United States may again be offered for sale to freedmen, from time to time, until the same shall be disposed of at such

prices as the said tax commissioners may deem sufficient to secure the interests of the United States.

SEC. 8. *And be it further enacted*, That one half of all moneys and bonds or other evidences of debt which are or shall be held or controlled for the support or use of schools, or as the proceeds of sales herein authorized on the sea islands, in the parishes of St. Helena and St. Luke, South Carolina, by the commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, and by the said United States direct tax commissioners for South Carolina, be expended by the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands in the purchase and erection of school-houses in said parishes, and in the purchase of furniture and books for schools therein; and one half of such moneys and bonds and other evidences of debt shall be transferred to the Department of Education, and shall be invested by the Commissioner of said Department in bonds of the United States, the interest upon which shall be expended for the maintenance of schools for children and youth irrespective of race and color in said parishes, under the direction of the Bureau of Refugees, Freedmen, and Abandoned Lands, so long as said last-mentioned bureau shall be continued by law, and after its discontinuance by the Commissioner of the Department of Education; and all school lots, houses, furniture, and books which are or shall be held or controlled for the support or use of schools on the said sea islands by the said Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, or by the said direct tax commissioners for South Carolina, shall be transferred to said Department of Education, to be held for the use and support of schools in said parishes; and any balance of the school fund herein authorized to be expended by the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, which shall remain unexpended when said last-mentioned bureau shall be discontinued by law, shall thereupon be transferred to the said Department of Education to be expended for the maintenance of schools in said parishes.

SEC. 9. *And be it further enacted*, That all lands lawfully set apart for military or naval uses in any of the said parishes be, and they are hereby, excepted from the operation of this act.

SEC. 10. *And be it further enacted*, That all acts or parts of acts inconsistent with this act are hereby repealed.

Mr. PAINE. As I stated at the outset I do not desire to detain the House, unless some gentleman wishes to ask a question, because there is other important business to be reported from the committee.

Mr. CHANLER. I certainly would like to ask the gentleman some questions; but it is utterly impossible to put questions intelligently in regard to this matter unless some explanation of the bill be first given. Some explanation is certainly due to the House with regard to a bill which grants land to the extent embraced in the order of General Sherman, which gave the whole southern coast, from Florida to North Carolina, to those freedmen who might have occupied it.

Mr. PAINE. I will make an explanation.

Mr. CHANLER. I hope the gentleman will explain the whole bill.

Mr. PAINE. I will state, in a few words, the object of the bill, so far as it regards these lands of which the gentleman from New York now speaks. By an act which became a law on the 16th of July, 1866, it was provided that freedmen in South Carolina and Georgia should be furnished with warrants on the direct tax commissioners of South Carolina for twenty acres each, under General Sherman's order. By that act no time was fixed within which they should make good their claims for these warrants. The object of this bill, so far as that subject is concerned, is simply to require them to establish their claims for warrants on or before the 1st day of May next. As I said, the provisions of the act of July 16, 1866, are indefinite as to time. This gives no new rights to anybody, but merely requires the freedmen who would avail themselves of the provisions of the act of 1866 to do so before the 1st day of May next.

Now, sir, this bill embraces four provisions. In the first place, it confirms certain instructions of Abraham Lincoln, issued September 16, 1863, to the tax commissioners of South Carolina. Those instructions have already been in part confirmed by the act of 1866, but, in order to avoid any question as to the title of land acquired under those instructions, through the sales of the tax commissioners made in pursuance of them, it is provided in this bill that those instructions and the sales made in conformity to them shall be confirmed and legalized, subject to such exceptions and modifications as have been or may be made by any act of Congress passed after those instructions were issued and in conflict with them.

The second object of the bill is to wind up the business of the land sales provided for by these instructions and by the act of 1866, so that the tax commissioners, in whose hands this business is, may be relieved of this duty and their offices may be discontinued.

The third provision is, that one half of the school fund, which, by virtue of the instructions referred to or of the act of 1866, is now in the hands of the Freedmen's Bureau or of the direct tax commissioners of South Carolina, shall be transferred to the Department of Education, the interest to be expended by the Freedmen's Bureau until discontinued, and afterward by the Department of Education, while the other half shall remain in the control of the Freedmen's Bureau. It was obviously necessary that some provision of that kind should be made, in view of the possibility, not to say probability, of the discontinuance of the Freedmen's Bureau.

These are three of the objects of this bill. The fourth provision relates to the warrants for lands under General Sherman's order, of which I spoke at the outset.

Mr. CHANLER. The gentleman from Wisconsin has made the explanation he has felt called upon to make of this bill, and he has referred to the order of General Sherman, upon which these claims are based. I have that order, dated Washington, February 2, 1866, printed in the Globe now before me. It was brought forward in the discussion of the very bill referred to in the present measure. If the gentleman will allow me, I should like to have it read for the information of the House.

Mr. PAINE. It is suggested that the order of General Sherman is a long one, and I must therefore decline to yield to have it read.

Mr. CHANLER. If it is long, so is the truth. I see what is wanted. This bill must be passed under the pressure of the previous question without debate. It involves claims of lands extending hundreds of miles along the coast. Certainly there should be time for getting out the facts and for the discussion of so important a measure. The House ought to be put in the possession of General Sherman's letter.

Mr. PAINE. I cannot yield to have any lengthy letter read. I have already stated that this bill in no wise extends the act of 1866, so far as General Sherman's order is concerned. On the contrary, it restricts the claimants, in point of time, requiring them to make good their claims and receive their warrants on or before the 1st day of May next. In no other respect does it alter the law as it now stands on this subject. I cannot yield to have General Sherman's letter read, but I yield for a question.

Mr. CHANLER. I make this assertion: inasmuch as this bill is based upon claims of these people to lands under General Sherman's order I believe the character of that order should be understood by this House. I say now that General Sherman, in his letter of February 2, 1866, expressly denies he intended to give title to any land whatever. It was a mere temporary arrangement to furnish houses for a homeless people who had been drawn along with his army from the interior, and who were houseless upon the coast. Some temporary provision had to be made. Upon the temporary arrangement then made under General Sherman's order is the basis upon which this bill rests. It is proposed to give these people title to lands when they have no title to them whatever, even under General Sherman's order.

Mr. PAINE. The gentleman misunderstands me so far as the order of General Sherman is concerned. The only ground upon which these claims are based is section nine of the act of 1866. We only refer to the order of General Sherman in order to describe those claims.

Mr. CHANLER. It is, of course, impossible for us to combat the numbers of the majority, but I do say these claims and this plan of giving title to these lands will return to plague their inventors. I hope the House will have more self-respect than to pass this bill in this way.

Mr. PAINE. These titles rest not on the order of General Sherman, but on an act of Congress. Unless some question is to be asked I will now call for the previous question.

Mr. CHANLER. Allow me to say when the facts are presented the gentleman refuses to have them read. I ask him to allow this order of General Sherman to be read, and he refuses to allow it, because some one whispers to him across the floor that it is long.

Mr. PAINE. The country is familiar with that order.

Mr. CHANLER. They are very familiar with this sort of acts, too.

Mr. PAINE. I yield to the gentleman from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. I am really curious to know what power Congress possesses by which the gentleman thinks we can pass this bill. If this be private property—and I suppose all this property was once owned by individuals—by what authority can we take it away from the owners by mere act of Congress? It is true, if the owners were guilty of treason it might be confiscated by judicial proceeding, but I have never heard of any such proceedings, and as I understand the subject the only pretext of title is the order of General Sherman. I am at a loss to know what power General Sherman had, except by the mere act of military occupation, to set apart this property. But after it was thus set apart, what power has Congress to confirm these titles, or interfere with the matter in any way? It is a legal question.

Mr. PAINE. The gentleman from Indiana, like the gentleman from New York, entirely misunderstands the provisions of the bill, so far as these lands are concerned. The bill requires the claimants to these lands, under the act of 1866, to establish their claims and obtain their warrants before the 1st of May. If they do not do so it cuts them off. It gives them no new rights; it provides no new legislation in their favor; it restricts rather than extends their rights. The act of 1866 authorizes the warrants but does not limit the time within which they must be demanded. This bill limits the time to May 1, 1868.

Mr. CHANLER. I ask the gentleman if he can show any proof that these men have any claim at all? Is not this a legislative claim which it is proposed to establish, which does not exist in law? Is it not inventing a claim?

Mr. PAINE. I answer the gentleman in the negative. I yield to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. I wish to inquire if it is not the purpose of this bill to make valid and legal such claims as these people had when they entered upon these lands? I do not want to raise, at this time, any question as to the legal character of their original claims. I simply want to know whether it is not the purpose of this bill to make legal, valid, and perpetual such claims as they then did have?

Mr. PAINE. I will repeat once more, for the information of the gentleman, that under the law of 1866 no time was limited within which they could present and establish their claims under that law. The sole object of the section of the bill referring to this matter is to compel them to make good their claims, whatever they have, on or before the 1st of May next. It is no part of the object of the bill either to confirm, add to, or in any other way change these titles.

Mr. KERR. Another inquiry. I desire to know whether it is the intention of this bill to extend its provisions to the titles of any lands except those that were sold for taxes under the law to which the gentleman refers.

Mr. PAINE. The object of the bill is to provide for the sale of lands that were sold by the tax commissioner of South Carolina under the instructions of President Lincoln, issued in 1863, and which may not have been paid for. Its object is to provide for the sale of such lands as have not been redeemed, such as were bid

in by the Government, and are now held by the tax commissioners under these proceedings and the act of 1866. Then there is another provision, to which I have repeatedly referred, which requires the freedmen to obtain their warrants before the 1st of May next.

Mr. KERR. I desire to make one inquiry further. I invite the attention of the gentleman to the sixth section of the bill, which is as follows:

That all lands, lots, and houses in the village of Mitchellville on Hilton Head Island, South Carolina, may be sold by the said tax commissioners to freedmen for entry prices to be fixed by said commissioners.

I desire to inquire whether it is considered a safe way to dispose of the public lands in this way at a price to be fixed by the commissioners intrusted with the duty of selling these lands, and whether there should not be some guards, some securities or limitations cast around these commissioners to prevent the perpetration of fraud and collusion between them and the purchasers?

Mr. PAINE. In view of all the circumstances of the case, the committee were of opinion that, so far as these lots were concerned, it would be best to leave it to the commissioners to fix the prices for these particular sales. So far as I am individually concerned it is a matter of indifference, and I would not object to a provision which might be suggested by the gentleman, that they shall be offered at public sale to the highest bidder, if that were desired.

Mr. KERR. I move, then, to amend section six by striking out the words "to be fixed by said commissioners" and to insert in lieu thereof the words:

Provided, however, That said lands shall be sold at public auction to the highest bidder, after such advertisement as the commissioners shall direct.

Mr. PAINE. I will allow that amendment to be entertained and voted on.

Mr. FARNSWORTH. Will the gentleman allow me to ask him a question?

Mr. PAINE. Before I move the previous question I will hear the gentleman's question.

Mr. FARNSWORTH. It seems to me that, unless there is some pressing necessity for the passage of this bill now, it would be better to postpone it until the State of South Carolina is represented here, as it probably will be before a great while, that the House may have more light on the subject than we possess now. This is a very important bill, and it strikes me, from a cursory examination of it, we are leaving a good deal of power to these tax commissioners in the disposition of these lands, and the House apparently has very little knowledge on the subject. It strikes me that it would be well to postpone the bill, unless there is a pressing necessity for its passage now, until such time as the State of South Carolina shall be represented here.

Mr. PAINE. The bill has been in print for a long time. I do not suppose that every member has examined it, but they have all had an opportunity to do so.

Mr. FARNSWORTH. But the gentleman knows very well that members generally—I suppose it is so, and I know it is in my own case—are not in the habit of examining all the bills on our files until their attention is specially called to them.

Mr. PAINE. It will be perfectly useless, I was about to say, to sell these lands unless they are sold early. They ought to have been sold before this time. We were very anxious to get this bill before the House earlier than the present time. It was exceedingly desirable that these sales should be made before the time for planting commenced, in order to be most productive to the Government, but we have never had an opportunity to report the bill before this day. I think the bill should pass now if it passes at all. Nobody will bid for the lands except for the purpose of putting in crops. I can see no object in passing the bill before next winter unless we pass it very promptly. It has been very carefully considered by the committee.

Mr. CHANLER. I wish to draw the attention of the gentleman from Wisconsin to one fact, and I am sure that he will see the reason for extending the area of advertising. A great deal of this land is owned by northerners. In the city of Boston there is a gentleman of the name of Eustis, a general in the United States Army, who owns land in this very tract. I know the fact from a conversation relative to adverse claimants with one of the officers of the War Department. Now, the idea that an advertisement in the three papers in Charleston having the largest circulation will protect the rights of persons residing in the North is absurd. If you are going to make a fair and honest sale of these lands advertise them fully.

Mr. PAINE. I will suggest, in answer to the gentleman, that no possible advertisement of the sale of these lands could be made which would be more extended or more generally read than the advertisement made in this bill, which will show all concerned that by a reference to the South Carolina papers they will find all the information they desire. I now move the previous question.

Mr. CHANLER. Why, that is a most absurd reason.

The previous question was seconded.

The question was put on ordering the main question; and there were—ayes 38, noes 34; no quorum voting.

Tellers were ordered; and Messrs. PAINE and KERR were appointed.

The House divided; and the tellers reported—ayes 63, noes 33.

So the main question was ordered.

The first question was upon the amendment of Mr. KERR to the sixth section, to strike out the words "to be fixed by said commissioner" and to insert in lieu thereof the following:

Provided, however, That said lands shall be sold at public auction to the highest bidder, after such advertisement as the commissioners shall direct.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. CHANLER. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 75, nays 34, not voting 80; as follows:

YEAS—Messrs. Allison, Arnell, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Blaine, Bromwell, Churchill, Cobb, Cook, Cullom, Dawes, Dixon, Donnelly, Eckley, Eggleston, Eliot, Fields, Gravely, Hawkins, Higby, Hill, Hopkins, Hunter, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laflin, William Lawrence, Loan, Loughridge, Mallory, Maynard, McCarthy, McClurg, Miller, Moore, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Raum, Robertson, Scofield, Selye, Smith, Spalding, Starkweather, Thaddeus Stevens, Thomas, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, William Williams, and John T. Wilson—75.

NAYS—Messrs. Adams, Archer, Barnum, Beaman, Beck, Blair, Boyer, Burr, Chanler, Farnsworth, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Jones, Kerr, Knott, George V. Lawrence, Marvin, McCormick, Morgan, Mungen, Niblack, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Trump, Wood, and Woodward—34.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Axtell, Baker, Barnes, Benjamin, Benton, Bingham, Boutwell, Brooks, Broomall, Buckland, Butler, Cake, Cary, Reader W. Clarke, Sidney Clarke, Coburn, Cornell, Covode, Dodge, Driggs, Ela, Eldridge, Ferriss, Ferry, Finney, Fox, Garfield, Glossbrenner, Griswold, Halsey, Harding, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Kitchen, Lincoln, Logan, Lynch, Marshall, McCullough, Mercur, Moorhead, Morrell, Morrissey, Mullins, Newcomb, Nicholson, Phelps, Pile, Pomeroy, Pruyn, Randall, Robinson, Sawyer, Schenck, Shanks, Shellabarger, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Van Auken, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—80.

So the bill was passed.

During the call of the roll,

Mr. DONNELLY said: My colleague [Mr. WINDOM] is detained from the House by sickness in his family.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTINUATION OF FREEDMEN'S BUREAU.

Mr. ELIOT. I am instructed by the Committee on Freedmen's Affairs to report back House bill No. 598, to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes, with an amendment in the nature of a substitute.

The substitute was read as follows:

Strike out all of the enacting clause, and insert in lieu the following:

That the act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," approved March 3, 1865, and the act entitled "An act to continue in force and to amend an act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes," passed on the 16th of July, A. D. 1866, shall continue in force for the term of one year from and after the 16th of July, in the year 1868, excepting so far as the same shall be herein modified; and the Secretary of War is hereby directed to reëstablish said bureau where the same has been wholly or in part discontinued: *Provided,* He shall be satisfied that the present safety of the freedmen shall require it.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of War to discontinue the operations of the bureau in any State whenever such State shall be fully restored in its constitutional relations with the Government of the United States, and shall be duly represented in the Congress of the United States, unless, upon advising with the Commissioner of the bureau, and upon full consideration of the condition of freedmen's affairs in such State, the Secretary of War shall be of opinion that the further continuance of the bureau shall be necessary: *Provided, however,* That the educational division of said bureau shall not be affected or in any way interfered with until such State shall have made suitable provision for the education of the children of freedmen within said State.

SEC. 3. *And be it further enacted,* That unexpended balances in the hands of the Commissioner, not required otherwise for the due execution of the law, may be, in the discretion of the Commissioner, applied for the education of freedmen and refugees, subject to the provision of laws applicable thereto.

SEC. 4. *And be it further enacted,* That officers of the Veteran Reserve corps or of the volunteer service, now on duty in the Freedmen's Bureau as assistant commissioners, agents, medical officers, or in other capacities, who have been or may be mustered out of service, may be retained by the Commissioner, when the same shall be required for the proper execution of the laws, as officers of the bureau, upon such duty and with the same pay, compensation, and all allowances, from the date of their appointment, as now provided by law for their respective grades and duties at the dates of their muster-out and discharge; and such officers so retained shall have, respectively, the same authority and jurisdiction as now conferred upon "officers of the bureau" by act of Congress passed on the 16th of July, in the year 1866.

The SPEAKER. The morning hour has expired, and this bill goes over till to-morrow.

UNION PACIFIC RAILROAD, EASTERN DIVISION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 4th ultimo, the annual report of the president of the Union Pacific railroad, eastern division, for the year 1867; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

COLLECTION OF CUSTOMS REVENUE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, asking an additional appropriation for collecting the revenue from customs for the current year; which was referred to the Committee on Appropriations.

NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House a memorial of the Legislative Assembly of the Territory of New Mexico, for Government aid to the United States and Mexico Telegraph Company; which was referred to the Committee on Territories.

The SPEAKER also, by unanimous consent, laid before the House a memorial of the Legislative Assembly of the Territory of New Mexico, for Government aid for a railroad through said Territory; which was referred to the Committee on the Territories.

UTAH CONTESTED ELECTION.

The SPEAKER also, by unanimous consent, laid before the House a deposition of

George B. Smith in the contested-election case of William H. McGrorty *vs.* William H. Hooper; which was referred to the Committee of Elections.

INTERNAL TAX ON MANUFACTURES.

Mr. SCHENCK. In pursuance of the permission granted yesterday, I report back from the Committee of Ways and Means a bill (H. R. No. 900) to exempt certain manufactures from internal tax, with amendments.

The bill, which was read, provides in the first section that sections ninety-four and ninety-five of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and all acts and parts of acts amendatory thereof, be repealed, except only so much of the said sections and amendments thereto as relates to the taxes imposed thereby on gas made of coal wholly or in part, or of any other material; on illuminating, lubricating, or other mineral oils or articles the products of the distillation, redistillation, or refiuing of crude petroleum, or of a single distillation of coal, shale, peat, asphaltum, or other bituminous substances; on wines therein described, and on snuff and all the other manufactures of tobacco, including cigarettes, cigars, and cheroots.

The second section provides that nothing in this act contained shall be construed to repeal or interfere with any law, regulation, or provision for the assessment or collection of any tax which, under existing laws, may have been assessed, or which may accrue or be assessed hereafter, and before the 1st day of May, 1868.

The third section provides that this act shall take effect and be in force from and after the 1st day of May, 1868.

The amendments reported by the committee were read, as follows:

First amendment:

Strike out in the second section all after the phrase "existing laws," and insert in lieu thereof the words "may accrue before the 1st day of April, A. D. 1868."

Second amendment:

Strike out all of section three.

Mr. SCHENCK. Mr. Speaker, I propose to submit a brief explanation to the House of the character of this bill and the objects it will accomplish; and this explanation will be clear, probably, just in proportion as gentlemen will let me make it without any interruption. The Committee of Ways and Means have been engaged, as I have already explained to the House in answer to the inquiries of those who were interested in the subject, in the revision of the internal tax laws with a view of presenting to this House one complete law covering the whole subject; and they have intended not to present a special bill repealing the tax on manufactures—which is ordinarily known as the five per cent. tax, and which is imposed on pretty much all the manufactures of the country—for the reason that a repeal of that kind would seem to some extent to alter the general plan they had kept in view. Their object was to provide in one bill that the tax should be continued on some half dozen staple articles deemed articles of luxury and all the others left out of the bill, and thus by not being noticed at all left free from taxation.

It has been from time to time urged upon the House by members in this House and from outside interests as a thing exceedingly desirable that as the committee had determined to relieve manufactures from this burden, it should be done without awaiting general action on the bill covering the whole ground. Such a suggestion was made the other day by my friend from Pennsylvania, [Mr. MYERS,] to whom I then answered that the committee had not determined to take any such course. We have concluded, however, to present this subject specially to the House; and I will explain how it is we do present it.

In that part of the general bill looking to this subject relating to the five per cent. tax on manufactures we had determined to retain about six articles, such as the manufacture of billiard tables, of fancy candies, &c. They would amount, measuring the tax obtained from them by the standard of receipts of 1867, the last complete year, to about a million and a half dollars. After further consideration, under these influences I have spoken of, the committee have at length come to the conclusion that it is hardly worth while to keep up the machinery of law necessary for the collection of the tax on manufactures for the sake of these half dozen articles, but that it will be better to wipe out the five per cent. tax on all manufactures, and, so far as these articles of luxury are concerned, put some higher special tax upon the manufacture of them and upon their sale, while relieving them of the greater burden of five per cent. tax.

This bill is reported with that view; and what this bill is I can briefly explain, so I think the House will clearly understand it. It provides for the repeal of sections ninety-four and ninety-five of the act of 1864, with all the amendments which have since been made thereto. Those amendments are not specifically stated, but, if any gentleman is curious on the subject, by looking to the legislation of 1865 and 1866 he will find long bills adopted striking out "whereas" in one place and putting in "nevertheless" in its stead, striking out "six" and putting in "two," striking out part of one line and putting in something to supply its place, striking out something without putting anything in its stead. The uninitiated could scarcely comprehend what those sections, or, indeed, any sections, of the law of 1864 are except by the aid of the compilation which was made at the Treasury Department. Referring in that compilation to sections ninety-four and ninety-five, as originally enacted in 1864 and subsequently amended, it will be found they are the sections which provide for the five per cent. tax on the manufactures of the country. We propose to repeal those two sections, excepting only as to four different articles. For the collection of tax on the articles not included in the proposed repeal we will also provide by special enactment in the general bill hereafter to be reported. Excepting the four subjects of taxation thus expressly reserved, and excepting two or three other things separately provided for in the present law, there are but two manufactured products which we tax. They are not mentioned in this bill because they are not included in sections ninety-four and ninety-five, but are provided for in other parts of the existing law. Those are distilled spirits and fermented liquors, and I suppose no one wishes to have no tax imposed upon them.

Of the manufactures of the country, then, besides a few stamped articles, there will remain to be taxed only distilled spirits, fermented liquors, and the four things in sections ninety-four and ninety-five reserved from repeal by this bill; which are gas, the distilled products of mineral oil, certain wines mixed or adulterated with spirits, (on which a low tax has been and probably will continue to be placed,) and all the various manufactures of tobacco, including cigars and cigarettes. And it is the opinion of the committee that we may relieve all the other manufactures of the country from the present burden of a five per cent. tax and yet obtain from these and other sources what is necessary for running the Government by furnishing the proper amount of revenue.

The House may be curious to know how much tax we have derived from this five per cent. charge upon the manufactures of the country. Taking the full returns of the last year, 1867, it will be found that the entire receipts from taxation of manufactures were $146,223,673 66. As I have explained, however, we do not propose to take off the tax on all articles which contributed to make up that aggregate amount. We leave the tax on oils distilled from coal and petroleum, on fermented liquors, on distilled spirits of all kinds, on tobacco, snuff, and cigars, and on illuminating gas. The tax collected in 1867 on those five important articles amounted in the aggregate to $61,429,019 03. Deducting this from $146,223,673 66, leaves $84,794,654 63 as the aggregate amount of relief from taxation of manufactures. But while we relieve these manufactures from a tax of near $85,000,000, we do not diminish to so great an extent the revenues of the country, because, while giving this relief, we propose to make a saving to the Government by an increase of certain special taxes on different articles of manufacture, including those referred to and others. We propose, also, to impose the small amount of one twentieth of one per cent. upon sales by manufacturers when amounting to over a given sum, say $5,000. We thus make about twenty million dollars addition to the revenue, so that the actual reduction of the revenue by this act will be only a little over $60,000,000, while the relief to manufactures will amount to about eighty-five million dollars.

Gentlemen have been a little concerned to know something about the going into effect of this law. As I presented the bill yesterday, although perfectly clear to those familiar with the working of the law, it was perhaps a little obscure to some members, because it was provided in the second section that the repeal should "not interfere with any law, regulation, or provision for the assessment or collection of any tax which, under existing laws, may have been assessed, or which may accrue or be assessed hereafter, and before the 1st day of May, A. D. 1868." Gentlemen thought that that would not relieve for the month of April. They were mistaken. The tax, for instance, accruing on the 1st of April, is a tax for the month of March. No returns are made of it till the 10th of April, which is the limit allowed. Then the assessment takes place and the collection is made. Therefore this bill taking effect on the 1st day of May would cut off any imposition of tax on these manufactures for the previous month, because the time not having arrived when the tax would be assessable before the law was in force, the tax for the month of April would not be included. It only leaves, therefore, the tax for March to be assessed and collected.

But, to make that perfectly clear, the committee have instructed me to so alter the bill as to provide that the repeal "shall not interfere with any law, regulation, or provision for the assessment or collection of any tax which, under existing laws, *may accrue* before the 1st day of April, A. D. 1868."

Thus, if this bill becomes a law, the tax will continue for the present month of March, but there will be no tax collected after the 1st day of April next. Although the bill as reported yesterday provided for the same thing, yet it was done in such way as could not be well understood without looking to the working of the law. Many gentlemen do not bear in mind that the assessment made in any month is the assessment for the preceding month, and that such assessment does not take effect until the 10th of the month. So a law going into effect on the 1st of May will cut off all assessments for April.

Upon reflection we thought that the third section, providing when the law should go into effect, was unnecessary, and we have left it, therefore, to take effect from the time of its passage.

With this explanation I trust the House fully understands the reasons which have led to the reporting of this bill and at the same time what will be the effect of the bill. I repeat briefly that it takes entirely off from all manufactured articles the tax which is commonly known as the five per cent. tax; and it leaves to be taxed as manufactures nothing but a few stamped articles, distilled spirits, fermented liquors, oil, gas, certain kinds of wine, and tobacco in all its manufactures, including cigars; and the bill is to take effect in such a way as that all the manufactures relieved shall be released from tax after this present month, the tax for March to be paid under the existing law, and no tax to accrue after the 1st of April.

Now, I am exceedingly anxious that this bill shall be acted upon at once by the House.

I do not like to call the previous question upon a subject of such general interest as this, and I shall wait to see what the temper of the House is in regard to any debate upon it. If the House is agreed to sustain a call for the previous question, it will indicate a disposition to vote now. But I am not anxious that the House shall sustain that call if there are any members who prefer that some short debate shall take place. I do not think there will be any disposition to amend the bill. It is so short and so exact and so clear in its application that the object, of course, must be obvious to every one, and it does not need, I think, anything in its details to make it effectually accomplish that object.

I will with this view retain the floor, and will answer any questions that gentlemen desire to ask.

Mr. WOODWARD. I desire to ask the gentleman if this bill reduces the tax on whisky.

Mr. SCHENCK. That is not provided for either one way or the other in this bill. I will state to the gentleman that the majority of the Committee of Ways and Means—having been made public, there is no disguise about it—have decided to stand by the two-dollar tax, and the bill which will be reported to the House will contain various provisions for enforcing with more rigor than ever before the collection of that tax. But that is a question which does not come up in this bill.

Mr. WOODWARD. Does the committee propose to maintain the revenue while they are reducing the tax on manufactures if they keep the tax on whisky at two dollars? Is it supposed by the committee that the revenue to be obtained at that rate of taxation will make up for the amount of tax reduced on other manufactures?

Mr. SCHENCK. I cannot answer for the opinion of the members of the committee particularly. They desire, I believe, to get enough revenue amply to provide for the wants of the country; and I believe, I think with a majority of the committee, that we should get largely more revenue by adhering to the two-dollar tax and adopting a series of stringent regulations and measures which we have been preparing than we should if we lowered the tax. But gentlemen will differ probably about that, and whe that subject comes before the House of course there will be ample discussion.

Mr. WOODWARD. I believe you would get a larger revenue if you should reduce the tax.

Mr. SCHENCK. I will now yield for a moment to the gentleman from Pennsylvania, [Mr. MYERS.]

Mr. MYERS. I have no objection to make to the bill; but as the chairman of the committee has kindly alluded to me, I only rise to express my gratification at the prompt action of the Committee of Ways and Means. When I suggested to its distinguished chairman last Thursday that such a bill should be reported at once without waiting for a general revenue bill, I scarcely hoped for such early action. I believed, though, that the clear-headed gentlemen composing that committee could report such a measure notwithstanding the doubt upon their minds at the time as stated by him, and now express the hope that the bill will pass without further discussion than is necessary to explain the effect of its provisions to the House.

Mr. SCHENCK. My colleague upon the committee, the gentleman from Massachusetts, [Mr. HOOPER,] has called my attention to a criticism upon certain words in this bill. His suggestion may make the bill clearer, though I think it will not; at least it will do no harm to act according to the suggestion which he makes to me. The first section of this bill proposes to repeal sections ninety-four and ninety-five of a certain act, "and all acts and parts of acts amendatory thereof." My colleague suggests that the word "thereof" might perhaps be considered as referring to the act at large rather than to the sections. I therefore move to amend that portion of the section by striking out the word "thereof" and inserting in lieu the words "of said sections."

The SPEAKER. There are sundry amendments now pending which were reported from the Committee of Ways and Means.

The amendments reported from the committee were then agreed to.

The amendment of Mr. SCHENCK was then agreed to.

Mr. SCHENCK. I now yield to the gentleman from Pennsylvania [Mr. SCOFIELD] who desires to make an inquiry.

Mr. SCOFIELD. I wish to inquire of the gentleman from Ohio [Mr. SCHENCK] whether he will yield to me to move to amend the first section by striking out these words:

On illuminating, lubricating, or other mineral oils or articles the products of the distillation, redistillation, or refining of crude petroleum, or of a single distillation of coal, shale, peat, asphaltum, or other bituminous substances.

The effect of such an amendment, if adopted, would be to remove the tax on the various products or distillations of rock oil. Will the gentleman yield to me to move an amendment of that character?

Mr. SCHENCK. I will not yield unless the House order me to do so by voting down the previous question and opening the bill to amendment.

Mr. SCOFIELD. Then I would inquire of the gentleman if he feels at liberty to answer the question, whether the Committee of Ways and Means contemplate, in the general bill which he says they will soon report, the reduction or the removal of the present very burdensome tax upon this article?

Mr. SCHENCK. I am not prepared to answer that question, because I am not authorized by the committee to state what they propose to do in that respect. But I can say that we have been considering and discussing the subject. It is an article of manufacture which, even during the past year, has yielded a revenue of $5,000,000. It is the purpose of the committee to retain it as a subject of taxation.

But I will say this to the gentleman from Pennsylvania, [Mr. SCOFIELD,] that when the committee shall come to report the general bill, if they shall finally determine upon continuing the present rate of taxation on oil, he shall have full opportunity to move to amend or to strike out that portion of the bill. But it is not included in this bill; it is reserved for the present among a half dozen other manufactures which we think it will be necessary to tax to some degree. I give my promise, however, to the gentleman that when that bill comes up he shall have the opportunity to move to amend the provision, or even to strike out the provision in regard to the tax on oil.

Mr. SCOFIELD. I would be very glad to have the opportunity to move the amendment to this bill which I have suggested, in order that we may obtain some expression of the sense of the House upon the subject. It is one in which the people of my district are greatly interested; one in which the people of the whole country are more or less interested, if not as an article of manufacture, at least as an article of consumption. I merely desire to test the sense of the House upon the subject.

Mr. SCHENCK. The gentleman, I know, will not think me discourteous if I do not yield for that purpose. This bill is reported from the committee as an entirety. They are satisfied that we cannot give up altogether the tax on oil and some half a dozen other manufactures. Oil has borne that tax exceedingly well. I do not say now whether we shall or not put on as much tax hereafter as it now bears; but that will appear when we come to report the general bill. The gentleman will then have full opportunity to test the sense of the House upon the subject. But I feel at liberty to say that the committee deem it necessary to keep some tax upon oil, and these half dozen other articles, including distilled spirits and liquors, in order that we may be able to relieve other manufactures.

Mr. BLAINE. I desire to inquire whether the gentleman intends to allow any amendment of any nature whatever to this bill?

Mr. SCHENCK. We do not wish to do so.

Mr. BLAINE. I am very glad to hear it. I hope the House will sustain the committee in not opening the bill to any amendment. I am sure the bill is very acceptable to the public in its present form. If the bill be opened to amendment there is no telling where the matter will stop.

Mr. SCOFIELD. If my amendment were adopted it would be a perfect bill. [Laughter.]

Mr. BLAINE. I could offer two amendments which would make the bill still more perfect; but I am willing to forego my amendments to keep out those of other gentlemen.

Mr. SCHENCK. Upon this bill, designed to exempt certain manufactures, we do not wish to open the whole subject of distilled spirits, oil, and everything else; because there will be hereafter, when we report our general bill, ample opportunity for discussion and action on those subjects.

Mr. GARFIELD. This is manifestly "the era of good feeling," inaugurated this morning by my friend the chairman of the Committee of Ways and Means; and as this appears to be also the time for eulogies, I will join in eulogizing the spirit and purpose of this bill. I do not ask that any amendments shall be made; but I wish to ask the gentleman two questions, so that he may make an explanation which shall go upon the record; and thus he will, I think, not only perfect the bill but perfect his speech.

In the first place, this bill proposes to repeal, except as to four articles, the ninety-fourth and ninety-fifth sections of the present law. Those sections consist of thirteen closely-printed pages; and I desire to ask the gentleman whether this partial repeal will not leave those sections in a mangled and fragmentary form, which will be found inconvenient in the administration of the law; whether we might not hereafter very properly wipe out these sections altogether and adopt a short section with reference to those four articles, thus leaving the law in a better shape? That is the first of my questions.

Mr. SCHENCK. Mr. Speaker, I can well understand how my literary colleague, whom I am always glad to have amend and "perfect" my speeches, [laughter,] will be shocked at the condition of sections ninety-four and ninety-five when only the fragments are left. But if these sections as amended should appear "fragmentary," they will scarcely be more so than the other provisions of the existing law. These sections will remain only a month or two at most in that condition; and meanwhile they will not be at all obscure, because we repeal everything except what relates to those particular articles, keeping the present law in force with regard to them until we can substitute another law covering the same articles.

Mr. GARFIELD. That is precisely what I wanted to draw out from my colleague—that this legislation is only temporary, and that in the general bill which the committee intend to report, these articles will be embraced.

Mr. SCHENCK. We propose by the general bill which we intend to report to wipe out the whole of the internal revenue tax law as it now stands and substitute an entirely new act.

Mr. GARFIELD. Very well. I have one other suggestion to make. This bill, as I understand, reduces the tax on manufactures to the extent of $84,000,000 per annum, while, by other provisions, the tax is increased to the extent of $20,000,000, making a total decrease of $64,000,000 in the taxation on manufactured articles. Now, I desire to inquire whether the committee will not be able to report some reduction in the machinery by which at present the tax law is executed, whether the number of assessors, or at least, assistant assessors, collectors, and inspectors cannot be reduced, thus diminishing the present expenses of collecting the revenue. I desire to inquire whether the committee have considered this subject, and whether the gentleman is able at this time to state what the committee contemplate in that regard.

Mr. SCHENCK. The committee have considered that subject painfully, if not prayerfully. [Laughter.] We are trying to amend the law

to make it more stringent and effective for the purpose of raising revenue. In the course of the measures of economy which we propose we shall be very glad to get rid of as many officers as can advantageously be dispensed with; and we hope to devise a system by which we shall have, what are now very rare, honest officers for the enforcement of the revenue law.

Mr. FARNSWORTH. I will not occupy much of the time of the gentleman from Ohio. I wish to express my gratification at his reporting this bill, and I am sure the whole country will sympathize with him in his present effort. I regret the bill does not also abolish the tax upon illuminating oil, an article which enters into the consumption of the whole people, in the hovel of the poorest man as well as in the palace of royalty. We all pray for more light, but we cannot have it if the tax be continued. But I will not offer the amendment at this time.

Mr. SCHENCK. I hope gentlemen will reserve their amendments until we come in with a bill in reference to oils. I will say, however, to the gentleman from Illinois that there is and has been no tax upon mineral oil except on the manufacture of illuminating oil. With the single exception of paraffine oil no tax has been imposed on any lubricating oil. I yield now to the gentleman from Massachusetts.

Mr. DAWES. I desire to join with the friends around me in expressing my gratification at the introduction of this bill, and I will not take up further time than to exhort my friend from Ohio to call the previous question at the earliest practical moment.

Mr. MILLER. I understand the committee intend to report a general bill simplifying the subjects of taxation, and that this embraces only a few subjects of taxation; that the whole subject is to be considered hereafter.

Mr. SCHENCK. This is only to run for a month or two. In the mean time the committee are engaged in framing a general law to cover all these subjects.

Mr. RAUM. I ask the gentleman from Ohio whether the committee has considered the subject of licenses?

Mr. SCHENCK. No, sir; the Supreme Court a year or two ago decided that we cannot grant licenses as such. The law was therefore changed; and we have now, in their stead, what are denominated special taxes on occupations.

Mr. RAUM. I wish to ask the chairman of the committee whether the committee, in reviewing the revenue laws with a view to bringing in a new bill, have considered the question of taking off many of the small special taxes which are collected largely from the agricultural districts. The committee will find that from special taxes of ten dollars and under something like the sum of $5,000,000 are realized, showing that this sum is collected from half a million persons.

It has seemed to me that many of these special taxes could very properly be removed, thus relieving the assessors and collectors of very onerous duties in collecting such small sums, and also relieving the business of the country of a very great burden.

Mr. SCHENCK. We are considering the question of special taxes to which the gentleman refers, and that very carefully, and we propose to put some of these manufacturers of articles of luxury under a heavier tax. I tell the House in advance the committee have not the slightest idea of giving up special taxes. Manufacturers have come to us, carriage makers and other manufacturers, and have said, "Place any special tax upon us, $100 or $200, but do not, after we have manufactured articles, follow them and tax them in all forms."

Mr. WOOD. I understood the gentleman to say the committee had under consideration the proposition to reduce the tax upon whisky and distilled spirits, and had concluded to leave the tax at two dollars per gallon as about right. Then they do not propose to reduce it, and——

Mr. SCHENCK. I will say to the gentleman that the majority of the committee have decided to continue the two-dollar tax.

Mr. WOOD. We know, then, in advance, Mr. Speaker, what is the action of the Committee of Ways and Means in reference to this very important subject. I hope, therefore, he will allow me to move an amendment to test the sense of the House, to reduce the tax on whisky and distilled spirits fifty cents per gallon.

Mr. SCHENCK. The gentleman must excuse me. If I had no other objection to his amendment, it is not germane to this bill, as it does not relate to the subject of spirits directly or indirectly.

Mr. WOOD. It refers to them in terms. In the first section there is a reference to distillation.

Mr. SCHENCK. Distillation of oil.

Mr. WOOD. The object of it is to raise revenue. It is apparent to the country that no revenue can be raised by the present tax of two dollars a gallon. We are demoralizing the public while we are losing revenue.

Mr. SCHENCK. I do not yield for any such amendment. There is nothing about the distillation of spirits in the bill, nor is there anything about the distillation of spirits in the ninety-fourth and ninety-fifth sections; which are to be repealed. That is provided for in other parts of the present law, and will be provided for also in the general bill hereafter to be reported.

Mr. WOOD. I hope the gentleman will permit the sense of the House to be taken.

Mr. SCHENCK. I yield to my colleague on the committee, [Mr. GRISWOLD.]

Mr. GRISWOLD. I desire simply to say to my colleague [Mr. WOOD] that I hope he will not embarrass the passage of this bill by introducing at this juncture the discussion of the whisky tax. And, inasmuch as the action of the Committee of Ways and Means has been alluded to, there is no impropriety in my saying that when that question comes up for discussion I have no doubt I shall agree with him; for I take occasion to say now that I dissent entirely from the expression of the majority of the committee upon the question of the amount of tax to be levied on whisky. I hope, therefore, the gentleman will not embarrass the passage of this bill. At the proper time he will have an opportunity to express his views on the whisky tax, and then, I assure him, I shall, no doubt, be with him on that question.

Mr. SCHENCK. Before I yield the floor again I desire to say in reply to the gentleman from Illinois, [Mr. RAUM,] who spoke about the revenue from special taxes as amounting to four or five millions during the last year, that it amounted to upward of eighteen million dollars, and that, too, without being felt as a heavy burden. The committee think they can increase the revenue from that source to at least $20,000,000. They used to be called licenses, but after the decision of the Supreme Court that they could be sustained only as a form of tax the term has been altered, and they are called special taxes. But we expect to get a revenue of twenty or twenty-five million dollars from these special taxes without anybody being hurt. I now yield to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. I have asked the gentleman to yield to me, not that I may thank him or the committee for, or congratulate the House on, the reporting of this bill. I apprehend there is not a member on this floor who does not welcome it and who will not vote for it. But I want to ask the chairman of the committee if he can state the amount of tax derived from the manufacture of American wines.

Mr. SCHENCK. The only wines affected by this bill are adulterated wines, compounded with spirits, in imitation of champagne, &c., on which the amount of tax received was $2,000 in the last year.

Mr. MUNGEN. I desire to ask a question of the chairman of the committee. I find in section ninety-four of the internal revenue act that diamonds, &c., are taxed. This bill proposes to repeal the tax on wines manufactured largely in the States of Ohio and California.

Mr. SCHENCK. The gentleman is mistaken in regard to the tax on diamonds, &c.; it is a tax on the manufacture of diamonds and other jewelry. That is one of the things we intended to retain, but which we propose to tax in a different way by increasing the special tax on the manufacturer and putting a heavier tax on the sales.

Mr. MUNGEN. The tax is paid by the lapidary or the man who sets the diamonds and other jewels. Diamonds can only be bought by the wealthy. Now, you repeal the tax on the diamonds but not on the wines. Why not repeal the tax on the wines also?

Mr. SCHENCK. I know my colleague has not looked carefully into the matter or he would not make the objection he does. In the first place, this relates to the taxes, not on the use of the articles themselves, but on the manufacture of them. We propose to tax the manufacturer rather more heavily than other manufacturers, because we regard this product as an article of luxury, and whatever cost we add to it will be felt by the consumer. Then, as regards wines, if the gentleman will look a little more closely he will find that the section referred to relates to wines not made from grapes, currants, rhubarb, &c., but to wines that are adulterated or mixed with spirits. I know the gentleman will not object to providing that the tax shall be continued on the impure article. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third reading; and being engrossed, it was accordingly read the third time.

Mr. INGERSOLL. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 122, nays 2, not voting 65; as follows:

YEAS—Messrs. Adams, Allison, Archer, Arnell, James M. Ashley, Baldwin, Banks, Barnes, Barnum, Beaman, Beatty, Beck, Blaine, Blair, Boutwell, Boyer, Burr, Butler, Chanler, Churchill, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Getz, Golladay, Gravely, Griswold, Grover, Haight, Higby, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Jones, Judd, Kelley, Kelsey, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Marshall, Marvin, Maynard, McCarthy, McClurg, McCormick, Miller, Moore, Moorhead, Morgan, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Sitgreaves, Smith, Spalding, Starkweather, Stone, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalder C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Wood, and Woodward—122.

NAYS—Messrs. Hawkins and Johnson—2.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Axtell, Bailey, Baker, Benjamin, Benton, Bingham, Bromwell, Brooks, Broomall, Buckland, Cake, Cary, Reader W. Clarke, Coburn, Cornell, Covode, Ela, Eldridge, Finney, Fox, Glossbrenner, Halsey, Harding, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Kitchen, Lynch, Mallory, McCullough, Mercur, Morrell, Morrissey, Mullins, Nunn, Phelps, Pike, Pile, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, John Trimble, Trowbridge, Van Auken, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, Windom, and Woodbridge—65.

So the bill was passed.

During the roll-call,

Mr. ORTH stated that his colleagues, Messrs. SHANKS, WASHBURN, and COBURN, were absent; if present they would have voted for the bill.

The result of the vote was announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had

passed the joint resolution of the House No. 228, relative to the post office and sub-Treasury of the city of Boston.

Also, that the Senate had agreed to the amendments of the House to the joint resolution of the Senate No. 89, providing for the representation of the United States at the international exhibition to be held at Havre.

The message further announced that the Senate insisted upon their disagreement to the amendment of the House to the bill of the Senate No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased; and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. HOWE, FESSENDEN, and DAVIS managers of the conference on the part of the Senate.

HARBOR OF MICHIGAN CITY.

Mr. ORTH, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of War be requested to transmit to this House any report or information in his Department in reference to the harbor at Michigan city, Indiana, not heretofore reported to the House.

LEAVE OF ABSENCE.

Mr. FARNSWORTH asked and obtained leave of absence for twenty days for his colleague, Mr. HARDING.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BANKS. I desire to report back from the Committee on Foreign Affairs the bill (H. R. No. 768) concerning the rights of American citizens in foreign States. Permission was given to the committee to report at any time. To-morrow is assigned for another business, and I do not know that any better opportunity will be afforded for the consideration of this matter than this time.

The bill was read as follows:

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness, for the protection of which the Government of the United States was established; and whereas in the recognition of this principle this Government has freely received emigrants from all nations and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore,

Be it enacted, &c., That any declaration, instruction, opinion, order, or decision, of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government, and therefore null and void.

SEC. 2. *And best further enacted*, That all naturalized citizens of the United States while in foreign States shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

SEC. 3. *And be it further enacted*, That whenever it shall be duly made known to the President that any citizen of the United States has been arrested, and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign; or if any citizen shall have been arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and the President shall, without delay, give information to Congress of any such proceedings under this act.

Mr. BANKS. Mr. Speaker, it is perhaps but just to the members of the Committee on Foreign Affairs that I should make some allusion to a matter somewhat connected with the subject before the House, but not of much importance in guiding it to a just conclusion.

One of the public journals published in the city of Chicago, in alluding to this subject when lately before the House, stated that the Committee on Foreign Affairs had been governed, controlled, or influenced, more or less, by one of the Executive Departments of the Government; and that the bill reported by the committee was in fact but the expression of the judgment of another department of the Government. Now, in justice to the gentlemen from that part of the country who are members of the Committee on Foreign Affairs, as well as indirectly to myself, I desire to say to the House that that is a positive and most unjust misstatement of the truth.

The bill which was presented to this House was an embodiment of the judgment of the Committee on Foreign Affairs alone. It was not the result of the influence of any one outside of this House, of whatever character or position. The distinguished officer to whom is committed the charge of the foreign affairs has not interfered to any extent or in any way whatever with the private judgment of the members of the committee upon this subject.

I think I may say for every member of the committee that we have not discussed this question among ourselves outside of the sessions of the committee. It has there been considered deliberately and carefully, and every proposition reported by the committee to this House has been reported with the unanimous consent of the committee; a committee consisting of nine members, representing different parties and different sections of the country, and I think I may say without impropriety of good judgment and fair standing in the House. The bill they report they recommend as the results of their own deliberate and well-considered action. And it is entitled to the favorable consideration of the House. I hope that no appeal of the character of that to which I have referred will be able to prejudice its judgment or deprive us of the impartial hearing to which we are entitled.

For myself I was never inclined to be and never was counted among the disciples of the department to which the charge refers, and I have now certainly no special reason for changing the course of my whole life in this respect. I can truly say, with satisfaction to myself, if not to other members of this House, that I was never less disposed to follow the counsels of other men than now, and never had less desire than now to influence the opinions or action of other men on this or any other subject.

I now move to recommit the bill under consideration; and pending that motion I propose to make a few statements upon its general provisions and character.

The Committee on Foreign Affairs, when this subject was under consideration on a former occasion, were somewhat surprised to find a very general disposition on the part of members to have embodied in any bill acted upon by the House a legislative declaration of the right of emigration on the part of the citizens of the United States. The committee had considered this subject carefully, and have since reconsidered it, and have come to the conclusion, I believe I may say unanimously, that the right of emigration does not depend upon the consent of the Government, and that it ought not to be held as subject to the control of the Government, either in the form of permission or denial.

Now, to state correctly the position of the Government of the United States upon this question, it is not necessary to make a legislative declaration recognizing the right of emigration on the part of its citizens. But inasmuch as there is a difference of opinion upon the subject, and there has been an apparent conflict of official statement and may be hereafter upon the part of some officers of the Government, we have embodied a declaration in the preamble which more accurately presents the views of the committee upon this subject than any language of my own. That preamble is as follows:

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness, for the protection of which the Government of the United States was established; and whereas in the recognition of this principle this Government has freely received emigrants from all nations and invested them with the rights of citizenship; and whereas it is claimed that all such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed.

It is therefore enacted:

That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government, and therefore null and void.

I am quite sure that if the House should have this question presented in an authoritative form, there is no considerable portion of the members that would assent to the propriety, much less the expediency, of a legislative declaration on the part of the Government of the United States recognizing the right of emigration. If, in the course of events, the Government of the United States should form a treaty with any foreign Government in which it should be provided that the right of emigration should exist by the permission of such Government, and basing all arrangements between two Governments upon its consent to the emigration of its citizens to this country, no member of the House would be willing to give such a treaty his approval because presented in that form. We should at once see that the right of assent covered also the right of dissent, and that the approval of such policy on the part of other Governments would in effect surrender our claim for the recognition of the American doctrine that the right of emigration is a right inherent in man; the only power that is left to him to assert his own independence against the power of the Government. It stands upon the same ground as the right of free speech, the right to see, the right to hear, the right to think, the right of locomotion, and other inherent rights essential to the development of the faculties of man and to the enjoyment of his personal liberty. It is a natural and inherent right. There is, there can be, no personal liberty unless this right can be exercised independent of the consent of Governments. To avoid suffering and to escape oppression by the Government under which he lives, he should have the power to seek more congenial political relations wherever they may be found. Neither in the Constitution nor in any legislation of the United States, is there legislative recognition of the doctrine that any one of this class of natural rights depends upon favor. The language of the Constitution in regard to the establishment of religion, or the free exercise thereof, the right to bear arms, the freedom of speech, the liberty of the press, the right of petition, or that higher right of peaceful assemblage for the consideration of their affairs, and to be secure in their persons against unwarrantable searches or seizures, is not that these rights are conferred upon the people, but that the Government shall pass no act abridging or denying the existence of such rights.

The right of emigration ought to stand upon exactly the same ground, because it is more essential to personal freedom than the right of speech, the right of thought, the right to move, the right to petition, or any other of these inherent natural rights. If there is no power on the part of the subject of a Government to leave its dominions when it shall be impossible to endure its oppressions there is no relic of personal liberty left to him.

In a most excellent work published in Germany in 1865 by Dr. Held on the Organization of Society and of Government this principle is more clearly stated than it has ever been by any American, although we have been debating this question for three fourths of a century. It must carry conviction to every candid mind. It is a single sentence in a most elaborate work covering the whole ground, and is expressed in language more terse and truthful than I have met elsewhere. In the classification of the rights of freemen he places that of unrestricted emigration with that of the choice of a pursuit or profession, or those which relate to the development of the faculties of man, and which, for that reason, cannot be taken from nor conferred upon him. Upon that subject he uses these most potent words:

"The right of free emigration is the preëminent right, the '*jus eminnes*,' of every freeman against the consolidated power of the State."

That, sir, is the truth. The right of emigration is the preëminent right, the supreme right, of a freeman, the only means left him of resisting oppression or of protesting against the concrete or consolidated power of Government.

I think, then, that in this bill the inherent natural right of an American citizen to leave his country, if he pleases, and settle elsewhere is stated with sufficient clearness to satisfy any doubts of gentlemen on that subject.

There is one other topic of this nature to which I will refer for a moment. The first section of the bill declares that any opinion, instruction, order, or declaration emanating from the Government which denies, impairs, or restricts this inherent and natural right is inconsistent with the principles on which our Government is founded, and is for that reason to be held invalid and without authority. Different opinions have been expressed heretofore on this subject by the judicial and political officers of the Government; but they are easily reconciled with the facts as they stand and with the principles now presented to the House.

And, Mr. Speaker, I beg gentlemen will consider that the subject before us is the most novel, the most delicate, as well as difficult subject of legislation. The opinions which have been expressed by officers of the Government heretofore are perfectly consistent with the doctrines which I have now asserted; and if I were called upon to act under the same circumstances I should be compelled to make the same declarations made by them. It arises from the fact that there are two distinct and different classes of cases where the Government is called upon to give its opinion. One is where the individuals, naturalized citizens, natives of Germany or Ireland, apply to the Government for advice, to know whether it will be safe for them to go to their native country. The abstract principle which I have stated would justify the opinion that, being a citizen of the United States, it ought to be, and would be, safe for him to visit his native country or any other land, if he respected its laws, and that he would be protected in his rights as a citizen. But the Secretary of State, whose duty it is to keep himself informed of the condition of legislation of the different countries, must advise our citizens how far it may be safe for them to exercise the rights we claim for them. The advice given to them turns upon a question of fact. It is not a matter of theory. Is it safe for them to visit the countries in which they were born? If not, it is immaterial what theories we may hold upon this subject, or what opinions might be avowed, in the discussion with the officers of foreign Governments upon this subject. If they cannot safely travel in foreign countries, the officers of the Government must so advise them; and this is the explanation of all differences of opinion among officers of the Government upon this subject, and with this explanation all the apparently conflicting opinions will be found to harmonize with each other. If called upon to advise a citizen they notify him of the facts and counsel him to look to his safety. If, in correspondence with the foreign Governments, they deny the rights assumed by them and assert the rights of naturalized American citizens, as based upon natural and public law, no alternative is left them. There is not a member of this House that, under the same conditions, would not give the same advice, and support, by similar reasoning, the same opinions.

One other suggestion, sir, on this subject, and I will leave that part of the bill. The second section is the same as the first clause of the first section of the bill heretofore reported by the committee for the consideration of the House. It declares that all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

The conclusion of that section referring to executive negotiation and providing certain exceptions to the operation of the statute has been omitted, first, for the reason that it was not essential to the section, and secondly, in compliance with the opinion expressed in the House that it was not advisable to make at this time exceptions to the operation of a general principle of law when it was not necessary to the proper execution of that law.

It is hoped that within a reasonable time this question will be settled between foreign Governments and the United States to the entire satisfaction of our people. I am more confident of this now than ever before, and I believe the settlement, when made, will be substantially upon the principles presented by the committee in their first bill.

It is an old axiom, and a very wise one, that who demands justice must be willing to render justice. If we demand recognition of our laws on the part of other Governments when that demand is in conflict with their interest and their legislation we must make such exceptions as justice requires. Such were the exceptions provided for the first bill, but as they were not indispensable to its successful operation, and not altogether in conformity with opinions of gentlemen here, we very cheerfully omit them now. These can be provided for at other times and by other means.

There is one other provision of this bill which we regard as an indispensable provision of legislation upon this subject. From the foundation of the Government, now nearly eighty years ago, there has been much discussion, frequent negotiation, some fruitless legislation, at least one war, and some dangers of others upon this subject. But, sir, there has never been an attempt to embody in a legislative act the American theory upon the subject of expatriation coupled with any principle of action that would compel other nations to consider and decide upon the claims we presented to them. It has always been considered as an inherent, natural right not to be interfered with on our part, and other nations have claimed for themselves the same exclusive right of managing their own affairs in this regard. This disregard or denial of the rights of naturalized American citizens arises from the fact that every nation has the exclusive right to manage its own municipal affairs. The municipal affairs of one Government cannot be controlled by the people of another Government. Our legislation is in harmony with the theory of our Government, and theirs is in harmony with the theory of their institutions. "Every Government has the right to regulate its municipal affairs for itself, and, therefore, we had nothing to do but to submit to the legislation which we had not the power to direct or control." Such was, substantially, the declaration of Lord Palmerston to Mr. Bancroft in 1849.

Gentlemen on the other side of the House, when this question was first presented, declared to me in conversation that they could sustain no act which undertook to control in any degree whatever the municipal legislation of other countries, or which was intended to have an extra territorial influence or effect. Of course the committee would not be so unwise as to propose any legislation of that kind. But after negotiations for seventy-nine years, which have constantly failed, we are left now exactly where we were when the question was first presented. It is apparent that the action of the Government, whatever it may be, must be accompanied by some principle or power which will be able to produce an effect upon the legislation of other countries or the action of other Governments in reference to the rights of our naturalized citizens.

What are the powers necessary to affect legislation? They are: first, negotiation; second, remonstrance; third, arbitration; fourth, compromise; fifth, non-intercourse; sixth, embargo; seventh, retaliation; eighth, general reprisal; and ninth, war. These are the only powers by which we can impress or influence the Governments of other nations in regard to the recognition of the rights which we claim and assert on behalf of our citizens.

Now, sir, they are all impracticable except one, and that has not been named. We cannot hope to negotiate with any successful result, because we have tried that for seventy-nine years in vain. It is useless to remonstrate, because we have done that with as little success for the same length of time. We cannot submit to arbitration, because every Government of Europe by its very constitution is wedded to, and by its legislation has recognized, a contrary and opposite theory to that which we claim as right. We cannot compromise, because our rights admit of no compromise. It is a subject that stands by itself alone. It involves the independence of the Government as well as the dearest rights of its citizens. We cannot, therefore, consent to compromise it in any way whatever. And, sir, if the treaty which it is said the Government of Prussia has negotiated with the American minister shall be found to have compromised in any essential respect the grand principle for which we contend, that of free emigration, the people of the United States, without regard to party and without exception, will be compelled to disapprove that treaty. Compromise is, therefore, out of the question.

We cannot avail ourselves of the right of embargo to which nations may resort in great foreign or American vessels is that it cuts off emergencies. The objection to an embargo of all commercial intercourse with other nations. The principle of non-intercourse is of the same character. We not only lose the advantage of commerce with other countries, but we preclude our citizens from many other advantages, the enjoyment of which is not perhaps indispensable to our happiness or prosperity as a nation, but which cannot be surrendered without very great loss to the individuals and to the public. It places us also in this peculiar position: if the United States declares an embargo or non-intercourse with other Governments we shut ourselves off from communication with all the European States with which, up to the present time we are commercially connected, and there is no other Government that suffers an interruption of communication with any other Government than that of the United States. We therefore lose our connection with other parts of the world, while every other Government loses its connection with this country alone.

Besides, sir, public opinion and public interest have much to do with the question. We could not declare an embargo or non-intercourse with other nations without arraying the whole business interest of the country against us. Every man will see at once that the disturbed commercial relations, the serious interruption of the industrial interests of the country, would cause a general outcry against a policy for which there was no imperative necessity. We cannot avail ourselves even of this ordinary resource of nations called upon to defend their rights or to compel settlement of the claims made against other Governments.

Then, sir, let me say that retaliation is not open to us. Retaliation is not in accord with the spirit of the age. It belongs to other times and other nations. Gentlemen, in debating this question, have confounded the doctrine of retaliation with that of reprisals. Retaliation would give to every citizen of the United States the right to make war on his own account against the people and the property of any other nation with which we should be at war whenever the right of retaliation should be asserted. The doctrines of general reprisals are liable to the same objections. It is an obsolete, harsh, and unnecessary measure. It has been abandoned by civilized nations, and I venture to say that even if we were engaged in a war with Great Britain—which, I am glad to say, we are not likely to be—even then, the system of general reprisals, as known to the law of nations, would not be resorted to.

The doctrine of reprisals, which has received the favorable consideration of the committee, and which is embodied in the bill now

under consideration, is that given by Heffter in a work on International Law of the highest authority, published in Paris in 1857, p. 216:

"By reprisals is understood the force employed by Governments by which they obtain possession temporarily of subjects, foreigners, or of their goods, for the purpose of obtaining justice or of enforcing it themselves. Formerly reprisals consisted especially in letters of marque, delivered by the Government to subjects or strangers, which authorized them to do all sorts of violence and to levy all kinds of exactions upon the nation's enemy. The sequestration of an enemy's subjects or goods, [the mildest form of reprisals,] is a simple measure of precaution; it has exclusively for its object, to secure a guarantee for the recognition of its rights, but confers no right whatever over the life of the person, or the goods sequestrated. It is always allowed, if the satisfaction demanded be refused, that the goods may be appropriated to repair the injuries sustained. On the same principle the party injured may retain the custody of subjects as hostages. The refusal or delay to satisfy any just demand gives incontestibly to the party injured a right to recur to measures of retaliation or reprisal. It matters little in what form they are presented. Sometimes they take the character of a legislative act; sometimes that of a judicial decision; sometimes of an executive decree, but it belongs to the Government alone to execute such measures."

The doctrine of Vattel upon the subject of reprisals is thus stated. I read from page 319 of an edition published in 1863 in Paris, with commentaries by the ablist jurists in Europe:

"When a sovereign is not satisfied with the manner in which his subjects are treated by the laws or usages of another nation he has the right to declare that he will treat the subjects of that nation as his own are treated by its sovereign. There is nothing in the exercise of that power which is inconsistent with justice or sound policy. No Government can complain if it is treated as it treats others."

Pinheiro Ferreira, one of the ablest commentators of Europe, in his note on this very page, "condemns severely what he calls the pretended right of retaliation, so absurd that it ought to be called by its proper name, instead of the phrases of *retorsion* or reprisal, which we repeat without blushing because they have the sanction of authority."

This is what he says of the doctrine of Vattell upon the right of reprisal which has been quoted. But in his review of Klüber upon the subject of special reprisals, on page 320, he is more just, when he declares that:

"If the *retorsion* or reprisal does no injury except to the force and authority of the Government the exercise of this right cannot and ought not to be questioned; provided always that it is used to hasten and not to retard a reconciliation instead of war which is the ordinary result of such international difficulties."

In discoursing of the powers that a nation may resort to in defense of its rights without war, Klüber, a learned and recent writer of high authority, includes that of reprisals properly so called, or special reprisals, that is to say:

"The retaining by force persons or goods belonging to an offending State for the sole purpose of obliging that State to recognize the claim asserted and to make reparation for the wrong done."—*Klüber Droit Des Gens Moderne*, Paris, 1861, page 302.

I read these authorities from the first writers of Europe because the principles asserted are identical with the doctrine sustained by the Committee on Foreign Affairs, and which is embodied in the bill now under consideration. They contain an explicit and excellent statement of the doctrine of reprisals as presented by the committee, to "hasten and not to retard in any degree reconciliation in any controversy that may exist between different nations."

I have before me other authorities of the same character, but I do not care to trespass further on the attention of the House in that regard. I put this question upon a principle that comes nearer home to us, which is more familiar to us, and which carries with it irresistibly a conviction of its justice. During the war of 1812 the Government of Great Britain declared by proclamation that all native-born subjects of Great Britain, who should take up arms against that Power in the war with the United States, would be deemed traitors and punished as traitors when captured. In pursuance of this declaration some twenty-five British subjects, captured during the war, were ordered to be executed, and would have been executed but for the assertion of the principle now under consideration.

The President of the United States, Mr. Madison, declared that if they were executed, an equal number of English soldiers should be executed in the way of reprisal or retaliation. That action on the part of our Government returned those who were held in custody under this threat of execution, and brought the Government of Great Britain to a recognition, practically at least in that case, of the rights claimed by the American Government, that naturalization relieved foreign-born subjects of their allegiance to their native Government.

Now, who was the barbarian in that case? Who was? Who was it that outraged civilization? Was it the Government of Great Britain which threatened to hang American citizens because they were fighting to defend our Government? Or was it the Government of the United States that prevented Great Britain from executing those threats against our people, by notifying that Government that in retaliation it would hang an English subject for every American they executed?

A still clearer illustration of the truth of this principle, and the necessity of its application in the common affairs of life, is found in our own local legislation. In the region of country where I live there have occasionally been disturbances of the public peace. Property has been destroyed, and the rights of individuals have been violated, and there have been no means either to punish justly and sufficiently the parties engaged in it, to prevent the recurrence of these breaches of the public peace. This has occurred in Massachusetts, and I doubt not in other States. But it was ascertained that if the locality where the disturbance occurred, or the property was destroyed, was made to suffer the consequences of that disturbance and to make compensation for the destruction of property, it had a tendency to prevent such occurrences. Yet in that case the property of widows and orphans would be assessed to make compensation for property destroyed in the town, city, or county, by the violence of a mob, although they never could be expected to have the power of controlling or dispersing the riotous gathering.

Now, this practice in good time will be established everywhere, for it is founded upon a very plain principle of justice as well as of right. There can be no general rising against the peace of a community without its being known by some one; and if that rising is not anticipated and prevented, the community that has the power to anticipate and prevent it must be, and ought to be, required to make compensation for the destruction and loss of property that ensues from its criminal indifference and neglect. That is the principle upon which it stands, and it is precisely and exactly the principle contended for by the Committee on Foreign Affairs in the third section of the bill now before the House.

In conclusion, I have only this to say, that in addition to the declaration of principles which is contained in the second section of the bill, and which I presume will be approved by every member of the House, in the opinion of the committee some action is necessary in order to compel other Governments in due time to consider the subject which we present to them. Hitherto they have not been under that compulsion. We resort here to the only method of compulsion which is open to us, short of war, which shall require their consideration and decision upon this subject.

Mr. ELIOT. Will my colleague [Mr. BANKS] allow me to interrupt him at this point?

Mr. BANKS. Certainly.

Mr. ELIOT. I wish to inquire of my colleague whether supposing the third section of this bill should be amended by striking out the threat which it contains, giving to the President the power "to order the arrest and to detain in custody any subject or citizen of such foreign Government," and inserting the declaration "that such delay and refusal shall be regarded as an offense to the nation, incompatible with the continuance of friendly relations with such foreign Government," he does not believe we would have taken an important step toward the security of the rights of American citizens abroad which it is the object of this bill to provide for? Does he think it advisable upon the whole that as the first step—for he says we have not taken any step yet—we should confer upon the President a power which might be so used, without our power to interfere, as to involve this country in a war with a foreign nation within a fortnight at any time? Might it not be well first to try the experiment I have suggested before we resort to this strong and extreme course provided in this bill?

Mr. BANKS. Mr. Speaker, if this were a new question I should say to my colleague, [Mr. ELIOT,] in regard to the suggestion he makes, that it would be the better course. But this is not a new question. Seventy-nine years we have debated the question; once we fought upon it; and we are just as far from a settlement now as we were at the commencement of the controversy.

Mr. ELIOT. We have not legislated upon it.

Mr. BANKS. No, sir; it was not necessary to legislate. Foreign Governments do not take notice of our legislation; and if we adopt the suggestion presented by my colleague they will make the same answer hereafter that they have made to us heretofore, "That is very good for your people; our Government thinks different measures are necessary."

As to the question whether the assertion of this claim might be a reason for the interruption of friendly relations, I do not think that any legislative declaration of that character ought to be made. If Great Britain, for instance, claims as subjects three fifths, or two fifths, or one fifth of the people of the United States, and if she should, in the event of any difficulty between the two countries, issue a proclamation declaring, as she did in the war of 1812, that natural-born subjects of Great Britain, fighting for the country of which they had become citizens, would be subject to the punishment of death as traitors to her Government. If such a power is likely to be claimed or exercised hereafter as it has been heretofore, I think it does not become us to say, by a legislative declaration, that such a condition of things would be likely to interrupt friendly communications between the two Governments. If we cannot say more we ought to say nothing. And it is to prevent just such results, should war occur between the United States and Great Britian, that the action reported by the committee is urged upon the House.

No, sir; in answer to my colleague, speaking for myself alone, I say very decidedly, it is not enough to make these representations; we should accompany the declaration of principle by such measures, peaceful and Christian-like in their character, as will compel the Governments of Europe to at least open their ears to our representations, and give, according to their judgment, such a decision as justice and right will require. In the very nature of things we are debarred from every other resource than this. We can have no decision, no consideration, no hearing, except it be upon this principle. Hence we ought to accompany our declaration with such action as is open to us, in order that the question may be properly met. Now, sir, I undertake to say that the principle asserted by the committee is in an eminent degree just and Christian-like. It is to maintain peace and avert bloodshed and war.

Mr. ELIOT. It is the principle of "an eye for an eye and a tooth for a tooth."

Mr. BANKS. No, sir; my colleague will allow me to differ with him. It is not the principle of "an eye for an eye and a tooth for a tooth." It is not the policy of retaliation or of indiscriminate reprisal. We say to offending nations, "We ask you to consider the claim we make. If you will not consider the claims we present, nor give us the satisfaction we demand, we shall resort to the

expedient of holding your citizens in arrest as you hold ours until you are compelled to give to our demands the consideration to which they are justly entitled; and we do this for the purpose of settlement and reconciliation, for the purpose not of waging but averting war. The doctrine of "an eye for an eye and a tooth for a tooth" stands on very different ground. We do not announce the old doctrine of retaliatory reprisals. That doctrine would justify this Government, in case of difficulty with Great Britain, in giving to every Irishman here the right to make war for his own benefit and on his own account against the subjects of Great Britain or the property of that Government wherever they might be found. We do not press any principle of that kind. What we assert is that we will exercise upon the subjects of other nations the same power that those countries exercise upon our citizens, not for the purpose of inflicting injury upon them, but for the purpose of compelling the respective Governments to give a hearing to the claim which we make in behalf of our citizens, and to secure an early and a just decision in regard to their rights under the law of nations and of God.

When I said that this is a wise and Christian-like proceeding I spoke upon reflection. It will prevent trouble between this country and other Governments; it will prevent war. It places within the control of the respective Governments—of course I make no reference to the character of the Executive of this Government at the present moment; I speak of the United States as a continuing power, and although we may be unfortunate at this time we are likely to have, in time to come, intelligent and patriotic citizens at the head of its affairs—it places within the control of the respective Governments themselves the management of this most difficult and important question. It takes it out of the hands of passionate and desperate, though perhaps honest, men, who, if left to their own course, not to say choice, would gladly involve the two countries in disaster and war.

In leaving subjects of this character to the respective Governments for settlement the only difficulty is that the end sought to be accomplished by postponement or delay may be defeated. We provide for that by a provision in this bill which will compel foreign Governments to consider and decide the question without delay; and that is all we ask.

Every man knows when this question is decided in the light of truth and of civilization that no Government on the face of this earth can claim or will claim to hold any considerable portion of the population of the United States as its subjects upon the sole ground that they were born upon its soil. All we ask, therefore, is that the subject may be properly considered. The result which will be reached ought to give us no apprehension. The time, Mr. Speaker, has come when the American Government should assert its principles. We have not always been at liberty or able to do this, but the Government of the United States has now reached that point when it has become its duty to assert its principles and its rights. It can find no better opportunity, no greater or more just cause, than that embraced in the bill now before the House. As was well said by one of the able writers of the English press, if the commanders of the armies of the United States can under the operation of the laws of that country, be held as foreign subjects and punished for participation in the war upon our part, and for leading our flag to victory at Vicksburg, Richmond, and elsewhere, if such be the laws of other Governments, then the Congress of the United States and the American people can find no topic that more justly demands their consideration or an opportunity more readily to be seized than the present.

If the American Government has ever been wise in anything it has been wise in avoiding all entangling alliances with foreign nations; and if there is anything the American Government should do it is to persist in that policy, to keep clear from all such alliances. In order to do so it is necessary to make these principles known and that they must be respected. Now, in my opinion, is the time to do it, and the measure proposed is a just one.

I have trespassed upon the time of the House further than I intended. I commend the bill to the favorable consideration of the House.

Mr. ELIOT. Before my colleague leaves the floor I desire to call his attention to this extraordinary provision of the third section:

> If any citizen shall have been arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States.

I would like him to say what demand is referred to? The bill says, "Whose release upon demand shall have been unreasonably delayed." Upon whose demand? Who is to determine what is unreasonable delay? Is it the opinion of the committee that it is right and the intention in this bill to confer upon the President, whoever may be President, the power to determine these matters, whether the delay has been unreasonable, whether the demand has or has not been sufficient, which, in the recess of Congress, with no one to interfere, may involve this country in war?

Mr. BANKS. We have an executive Government to whom the execution of the laws is confided. It has usually been honest, intelligent, patriotic; and if we cannot trust an executive Government to exercise such powers, then, sir, we have no Government. That is my answer.

This clause was inserted for a good reason. Citizens of the United States, it has been stated in the discussions of this House, were arrested and detained in British prisons for words spoken and acts done in the United States. Now, we do not admit, and we cannot admit, that citizens of the United States shall be held in bonds by any foreign Government for words spoken or acts done here in the exercise of their rights as American citizens. It was put in for that reason.

My colleague says it is an extraordinary provision. I tell him it is an extraordinary case that calls for such action; that any American citizen should be arrested and imprisoned abroad for words spoken and acts done in the United States, if it be true, is an extraordinary fact, and calls for unusual and prompt measures on the part of the Government to which they belong.

This does not lead to war. There are other steps between this and war. It leads, in our opinion, to the settlement of this question. We present it in that view, and for that purpose alone. It can no longer be postponed.

I will not trespass further on the time of the House. I have moved that the bill be recommitted. I am willing to take the judgment of the House as to the time that shall be allowed for debate. I hope we will reach a vote, however, at the earliest practicable moment.

Mr. MORGAN obtained the floor, and said: In the present state of my health I do not feel inclined to occupy the hour to which I am entitled. I therefore yield forty-five minutes to my colleague, [Mr. VAN TRUMP.]

Mr. VAN TRUMP. Mr. Speaker, in the present condition of my health, I should not have felt inclined to take any part in this debate, even upon this great question of expatriation, were it not the fact that I represent a large number of both native and adopted citizens who have petitioned Congress to take prompt and decided action upon the subject. I had the honor to present to the House a few days since, for its appropriate reference to the Committee on Foreign Affairs, a petition signed by more than six hundred citizens of my district, praying Congress to take such action upon the subject as would evince to the world that we are determined to assert and maintain the rights of our naturalized fellow-citizens, and also to declare, by the legislative voice of the Republic for the first time in its history, what those rights are in clear, distinct, and unequivocal terms. Standing in this position in relation to my constituents, I yield to all the responsibilities of my situation in submitting, as briefly as possible, my views upon this great public question; and I cheerfully and gratefully return my thanks to my honorable friend and colleague [Mr. MORGAN] for his personal kindness in yielding to me the time which belonged to himself as a member of the Committee on Foreign Affairs.

Sir, whatever may be the fate of the bill now before us, one advantage at least will be derived from it: the enlightenment of the public mind and the attraction of the public attention to the subject at large by the very full and exhaustive debate to which it has given rise. It concerns the public interest, as well as the rights of the individual citizen, so directly and so essentially that it cannot fail to command a degree of popular attention commensurate with its national importance. As a question of natural, inherent, and fundamental right belonging to man in his character of citizen the omission on the part of the American Legislature, from the foundation of the Government up to this time, to declare its existence, and especially to provide the appropriate means for its exercise, is a most remarkable fact, and, if still neglected and omitted on our part, will attract the earnest attention of the whole country the more the question is agitated among the people. It is a question, sir, which eminently belongs to the people. They will not only require that we shall legislate upon the subject, but they will demand at our hands full and ample legislation, both declaratory and remedial. They will give us to understand, in a way not to be misunderstood or disregarded, that there shall be no more evasion or ambiguity in the legislative action of the Government, such as has marked the history of the past, either in relation to the right itself or its remedy. The President of the United States, in his late annual message, has recommended the subject to our serious consideration, and the voice of the people in the numerous petitions sent up to us has strongly seconded this timely movement on the part of the Executive.

Mr. Speaker, I need not argue at any length, if at all, the question of the inherent and indefeasible right of expatriation as belonging to every free-born citizen. That proposition has already been exhausted by the able speeches of gentlemen who have preceded me. I will say, however, in passing along, that it is one of those great and self-evident truths whose simple statement amounts to a demonstration. It is a right which lies much deeper and broader than any privilege or duty flowing from the qualified rights which create and give force and effect to the mutual obligation existing between the citizen and the Government under which he has consented, for the time being, to live. There are certain qualified and imperfect rights which every man surrenders when he consents to become a portion of the legal civil organization; and which implies, and absolutely creates, on the part of such civil government, an obligation to protect him in his life, liberty, and property. Voluntary expatriation is nothing more than an exertion of this right to personal liberty thus guarantied by the Government to the individual. The right of personal liberty and of unconstrained locomotion is the primary object of all civil government. But this right of expatriation is still more abstract and original; for it is the creature not of municipal but of natural law. The greatest writers on public and natural law, reared and educated even under the shadow of a throne, such authors as Vattel, Burlamaqui, Wickeufort, and Bynkershoeck, all put it upon the ground of natural right.

But notwithstanding, Mr. Speaker, I shall assume that the right of emigration and its concomitant privilege of expatriation is not only a right so well founded in the universal law of nature, but is so generally acknowledged among the civilized nations of the earth, as to need neither argument nor testimony to estab-

lish it, I cannot refrain from quoting a most striking passage from the almost forgotten essay of Noah Webster, republished during the war of 1812, but written in 1789, in which he demolishes the absurd idea of a great English judge that allegiance to the sovereign was not only a perpetual obligation, but was founded on natural law. This, sir, is one of the monstrous absurdities to which the advocates of the "divine right of kings" are driven in their defense of the doctrine that "once a subject always a subject." The right of expatriation and the duty of allegiance cannot both be founded in the law of nature. There can exist no antagonism in the laws of God. The essence of His moral law is the spirit of harmony. He gives no right but what is consistent with duty, and imposes no obligation which shall destroy a right thus given. Upon this question of the duty of allegiance being derived from the law of nature the great American lexicographer is an overmatch for the great English jurisconsult. He thus triumphantly exposes the fallacy of the English law-writer's reasoning:

"Blackstone says 'that natural allegiance is a debt of gratitude,' because the subject is under the king's protection while an infant. He might just as well say protection is a debt of gratitude due from the prince, because the subject is born in his dominions. On this principle of gratitude a child is obliged to obey and serve his parent after he has left his family and while he lives. This debt, according to the same author, cannot be canceled but by concurrence of the Legislature. How, in the name of reason, can an act of the Legislature dissolve a natural tie? How can it cancel a debt of gratitude? Common sense looks with disdain on such weak and futile reasoning. But, if there is such a thing as natural and perpetual allegiance, an Englishman who removes to France cannot take arms to defend France against an invasion from England. Is this agreeable to the laws of nature and society, that a man should not protect himself, his family, and his property? It will be said that the man is within the English king's allegiance, and entitled to his protection. But the king cannot protect him; it is beyond his power, and the Englishman is not obliged to leave France and seek protection in England. His estate and his family may be in France, and, if he chooses to reside there, it is his inalienable right and duty to defend both against any invasion whatever. Every war, except a defensive one, is a breach of the moral law; but when a natural-born subject of England has become a citizen of France he is subject to the laws of France, and bound to assist, if required, in defending the kingdom against his natural prince."

Mr. Speaker, this right of expatriation, as the consequent political result of the act of emigration, is as old as civil government itself. It existed in the best days of Greece and Rome. It was apostrophized by the immortal Tully, in his defense of Balbus, when he exclaimed:

"O glorious right, by divine favor, obtained for us by our ancestors in the commencement of the Roman name, by which no man can be a citizen of more than one commonwealth; by which no man can be compelled to leave it against his will, nor remain in it against his inclination. This is the firmest foundation of our liberty, that every man shall have an absolute power to retain or abandon his rights at his election."

Mr. Speaker, the whole principle, the very essence of this great right of self-expatriation, is embodied in this single sentence of Cicero: it enunciates the great truth that the natural rights of man are paramount to the delegated powers of government. As long as the liberties of Rome existed this great right of her citizens endured. But, sir, there came a time, long after the liberties of the Roman people had perished by usurpation, when there was a sad retrocession of this ancient right of the people. The rise of the feudal system in Europe organized a very different condition of society and laws. To this dark era of human degradation, when civilization was pushed back by vandalism and Gothic barbarity, we owe the origin of this slavish doctrine of perpetual allegiance. William the Conqueror carried it with him into England; and it exists there to-day as the servile relic of the Norman conquest. The question now before us and the American people, revived by recent events and acts of aggression and outrage on the rights of our naturalized citizens by the British Government, is whether we shall take an open and bold stand in defense of those rights, to ignore which would be to abandon the fundamental principles upon which our Government is based. And this brings me to a more immediate but very brief consideration of the report and bill now before the House, as reported by the Committee on Foreign Affairs, the present bill being a substitute for the one originally reported.

Mr. Speaker, there is one proposition very clear to my mind, and it is this: we should legislate upon this very grave and delicate question up to its highest status of dignity and importance, asserting all its rights and assuming all its responsibilities, or we should not legislate upon it at all. I shall show before I take my seat, by a brief recurrence to our past judicial and legislative history upon this question, that if we now act at all we should act fully up to all the serious requirements of the occasion. I do not mean to say, sir, that if my views are not embodied in this bill, by way of certain amendments which I shall propose, I intend to vote against it. Not at all. If it is the best thing we can get, by way of establishing, among other things, a mode of evidence of the fact of expatriation, it shall have my earnest support, although it may partake more of the nature of a resolution than a law; a declaration of opinion more than a rule of action for both Government and citizen. I am free to admit, however, that the present bill is a very great improvement upon the former one. I very much regretted, Mr. Speaker, that the distinguished chairman of the Committee on Foreign Affairs [Mr. BANKS] refused the other day to entertain the important amendment proposed by my honorable friend from Pennsylvania [Mr. WOODWARD] to the bill as originally reported to the House. Some such amendment to the original bill was necessary, if we intend by the present legislation to put an end to the doubtful position which this Government has heretofore occupied upon this question. I had also prepared some amendments to that bill, and which the gentleman from Pennsylvania [Mr. WOODWARD] and myself had compared with his own. They are similar in design, though mine are more specific in detail. Unless I shall be cut off by the operation of the previous question, I intend to offer them as amendments to the present bill, and I now, sir, wish to have them read for the information of the House; or, if that is objected to, I desire the Clerk to read them as part of my remarks, so that they may go to the country along with the bill. He will please read from page 12 of the printed amendments.

The Clerk read as follows:

Add to original bill the following sections:

SEC.—. *And be it further enacted*, That whenever any citizen of the United States, either native-born or adopted, by a declaration in writing, made and executed in a district court of the United States within the State where he shall have held his last legal residence, done in open court, to be by said court entered of record in said court, declare that he relinquishes the character of a citizen of the United States, and shall thereupon depart out of the United States, such person shall, from and after the time of his said departure, be considered as having exercised his right of expatriation under this act, and shall thereafter be considered as no citizen of the United States, and as absolved from all allegiance thereto, and as having voluntarily relinquished all right and benefit of protection therefrom.

SEC.—. *And be it further enacted*, That any person, either as a native or adopted citizen of the United States, making such declaration, and departing out of the United States in accordance therewith, and being thus by this act deprived of all protection from, and absolved from allegiance to, the United States, shall not thereafter again become a citizen of the United States in any other manner than under and by virtue of the provisions of the naturalization laws then existing.

Mr. VAN TRUMP. Mr. Speaker, the adoption of these or similar amendments will not only be appropriate but essential, for two reasons:

First. That inasmuch as the act of expatriation depends almost entirely upon a question of intention on the part of the citizen, it is a matter of the highest importance, both to Government and citizen, that some authoritative means should be adopted by law whereby such fact of intention shall not be left to be solved by doubtful acts or more doubtful construction. If such system is adopted then the citizen knows that such intention is manifested and made susceptible of proof by certain record facts, which relieves him from all apprehension of any infraction of the laws of the country he has just left, by acting in accordance with his new obligations to the country of his adoption, and the Government from which he has thus expatriated himself will be relieved from the same doubt and uncertainty as to its obligation to throw over him the ægis of its power to defend and protect him in a foreign or extra-territorial jurisdiction.

Second. The spirit and evident point of the proposed legislation, as embodied in this bill in a much stronger and prouder tone than in the one first reported, is a demand of the other Governments of the civilized world that they shall recognize the great principle of the right of expatriation of their own citizens or subjects when emigrating to this country with an intention of permanent domicile. That is what this bill means, if, in its present shape, it means anything beyond a mere, but forcible, declaration of opinion. In the way of governmental policy and official action hereafter I desire that it shall mean something more than such mere abstract declaration. Whatever we require other Governments to do we should be willing to do ourselves; and especially should we occupy this position now, when we seek to repudiate our past action upon the very subject under consideration. Sir, since the downfall of the feudal system in Europe—a system which branded governmental ownership upon man as we brand cattle or mules in modern days, no Government within the pale of civilization has refused to recognize this fundamental and inalienable right of the individual citizen, save that narrow-minded and selfish dynasty which is seizing and imprisoning, without crime against her laws, free-born American citizens, with the fixed and nefarious purpose, as I believe, of embroiling us in a war at a time, as she thinks, when we are but illy prepared for the conflict.

Sir, she has not yet forgotten that one great national and universal act of expatriation which spoke this great fabric of constitutional government into being through the process of revolution. She has not yet forgotten nor has she yet recovered from a feeling of deep national chagrin and humiliation at her signal discomfiture in the war of 1812 upon this very question which we are now considering. That is the secret of all her movements. It was this feeling and this design which prompted all her secret and semi-official movements and machinations in our own recent great and most unhappy rebellion. She has been the heartless and insidious plotter of our destruction for more than a quarter of a century. She is even now holding out against the common opinion of mankind in her opposition to this doctrine of expatriation more to annoy and embarrass us than with any honest design to maintain her own rights even as she assumes to understand them. In all this we owe her nothing upon this question, unless it is to assert and maintain our position at all hazards. She is entitled neither to our courtesy or respect in relation to her past or present conduct upon this great question of public law. But, sir, we do owe something to the other Powers of Europe. They stand toward us in relation to this question in quite a different attitude. In demanding a recognition of this principle as a subject of international law, we owe to them a distinct and unequivocal legislative declaration; an open and honest avowal, not only of our future purposes, but also of our administrative policy in regard to our own citizens upon this question of allegiance. It should no longer remain either in doubt or obscurity.

I shall show, sir, before I take my seat, that for some unexplained reason we have been shy of this question from the commencement of the Government up to this time. Recent events across the water admonish us to change promptly our position from one of doubt and uncertainty to that of a clear and decided legislative recognition of this great right of humanity in all its just forms and

bearings. The honorable gentleman from Massachusetts, [Mr. BANKS,] in his remarks upon the original bill a few days ago, made the declaration that the United States has always openly and frankly acknowledged the right of expatriation in her own citizens. The honorable gentleman also embodied in that bill the unguarded declaration that this principle has "been insisted upon and maintained by the Government of the United States." Sir, whether that is true or not depends wholly upon the meaning of the terms used. If the honorable gentleman means, by the use of the term "Government," to embrace only the executive branch, and which would be a very extraordinary proposition to come just now from that side of the House, the statement would be partially correct, but not otherwise. But, in its ordinary and natural meaning, I do not so understand the public history of this question in this country. It may be true in an unofficial popular sense, or it may be true even in regard to our diplomatic intercourse, through the Executive, with other nations. I do not know how this may be, but the assertion is not strictly correct either in a judicial or a legislative point of view. In that sense it is not a well-sustained historical remark. Sir, in regard to our past public and official action, especially in a judicial point of view, I earnestly indorse the provisions of the first section of the bill now under consideration. That section reads as follows:

Be it enacted, &c., That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government, and therefore null and void.

To show the force and necessity of these provisions a brief review of the judicial and legislative history of this question in this country is not only appropriate but important. In the first place, in a legislative point of view, the passage by Congress of the celebrated alien act of 1798 did not very successfully show that we, even in that early day of our history, "openly and frankly acknowledged" the doctrine. It is true, Mr. Speaker, that, as a consequence of the passage of that act, the administration of John Adams was overthrown by one of the most overwhelming popular demonstrations in the history of the country; but I am looking at the question, not in its popular aspect, but in that official and authoritative character in which one nation recognizes the position and action of another. The first attempt within the scope of my investigation or recollection to recognize the principle by positive legislative enactment was in 1814, during the war with England. One reason, perhaps, why it failed—and I admit it would have been a sound and adequate one if of constitutional authority—was the very fact that we were then engaged in war. In January, 1814, Mr. Robertson, a leading Representative from the State of Louisiana, submitted a resolution to appoint a special committee to inquire into the expediency of providing by law for the exercise of the right of expatriation in behalf of native and naturalized citizens of the United States. Like the present proposition now before the House it gave rise to no party feelings or party action. Federalists and Democrats alike voted for and against it. The resolution was opposed upon various grounds; some thought it ill-timed and inexpedient, others feared it would interfere with pending or contemplated negotiations in relation to the war; some thought that in its nature it was too abstract, others that it might be in violation of the municipal laws of foreign nations; and some members opposed it for the reason that it would hold out encouragement to desertion in the Army. The consequence was that the resolution was laid upon the table by a decided majority. Again, in 1818, several years after the termination of the war, the same gentleman introduced a bill into this House having the same object in view. The bill was very earnestly and ably debated for several days, but was finally defeated by a vote of 70 to 58.

So much, Mr. Speaker, for the legislative history of this question. I now propose to turn for a moment to its judicial history. It is a somewhat singular fact that this question was not mooted either in the proceedings or the debates of the Convention which framed the Constitution. It was incidentally touched upon, however, at a very early day in the Supreme Court of the United States. In the very first case (Talbot *vs.* Janson; 3 Dall., 133) in which the question of expatriation was alluded to and incidentally passed upon, and which arose upon the renouncement of the party under the provisions of a law of the State of Virginia, passed in 1792, substantially the same as those of my proposed amendment. Judge Paterson recognized the necessity of an act of Congress upon the subject. In delivering the opinion of the court he used the following language:

"A statute of the United States relative to expatriation is much wanted, especially as the common law of England is, by the constitutions of some of the States, recognized and adopted. Besides, ascertaining by positive law the manner in which expatriation may be effected would obviate doubts under the subject notorious and easy of apprehension, and present the rule of civil conduct in a very interesting point."

In the case of Murray *vs.* schooner Charming Betsy (2 Cranch, 64) Chief Justice Marshall intimated a doubt whether a citizen of the United States can divest himself absolutely of that character otherwise than in such manner as may be prescribed by law. This was in the year 1804. In 1797 the case of Isaac Williams was tried in the circuit court of the United States for Connecticut, Chief Justice Ellsworth presiding. The facts were briefly these: Williams was indicted for accepting a commission under the French republic, and under the authority thereof committing acts of hostility against Great Britain. On the trial he alleged, and offered to prove, that he had expatriated himself from the United States and become a French citizen before the commencement of the war between France and England. This raised the direct question as to the right of expatriation in this country without a law of Congress, and Chief Justice Ellsworth is reported to have explicitly denied the right, and to have asserted that the common law of England was the law of the United States on the subject of expatriation. The prisoner was found guilty, fined, and imprisoned.

Sir, I cannot agree with the honorable Committee on Foreign Affairs when they assert, as they do in their report, that the defense thus set up by Williams "was manifestly an evasion, and that the just purpose of the court was to show that no such defense could be recognized for such purpose." Mr. Speaker, that is rather a bold and summary mode of getting rid of the force of an existing judicial precedent. It belongs to the comprehensive system of modern politics. No sound or cautious lawyer would assume any such position as that. The defendant in a regular criminal procedure, in a solemn court of justice, put in his plea in bar, setting up the facts of expatriation and naturalization as a full defense to the action. To this plea there was a demurrer, which raised the direct question of the right of expatriation. The demurrer admitted the facts set up in the plea; and it is something more than "evasion" on the part of the committee, it is the torturing of legal truth, to say that it was the purpose of the court to censure evasive pleading rather than to adjudicate a solemn principle of law.

Here, then, Mr. Speaker, we have exhibited to our observation the state of legislation and the unsatisfactory and uncertain character of judicial interpretation upon this great question of the right of expatriation of an American citizen. Sir, these judicial hints and indications upon the question of this right, and the fact that on two several occasions, a half century ago, Congress had, in effect, refused to assert the right, have placed us in so equivocal and inconsistent an attitude before the world that the imperious duty is now pressed upon us to set ourselves right upon the question. It has been said, Mr. Speaker, that the Convention which framed the Constitution would not have authorized Congress to naturalize the subjects of foreign States if they had not acknowledged the right of the foreigner to renounce his allegiance to his native country and assume a new one here. Nothing can be more conclusive than this proposition by way of argument. But it inferentially acknowledges another thing, and that is, *e converso* foreign Governments, who recognize this principle as to their own citizens or subjects emigrating to our shores, have the right to demand of us the unqualified recognition of the same right in relation to our own citizens emigrating to foreign States.

Sir, I failed to comprehend why it was that the honorable chairman of the Committee on Foreign Affairs [Mr. BANKS] was so much opposed to the amendment of the honorable gentleman from Pennsylvania, [Mr. WOODWARD,] and to all amendments whatsoever to the original bill. I did not feel the force of the reasons he gave for his opposition to those amendments. Sir, the question is, shall we reverse or sustain our former position upon this all-absorbing question? Shall we clear away the fog which envelopes it or increase its density? If we have been wrong heretofore let us be right now. The question is squarely put to us in the first section of the bill now before us. The proposition is too serious and important for us to be trifling with it any longer. Duty to those Powers of the world who have recognized the right of emigration and expatriation, as well as a just indignation against those who have refused to recognize it, alike call upon us to take such position now as will put an end to all doubt and uncertainty in the future. Mr. Speaker, in the former debate upon the original bill the singular position of the honorable chairman of the committee was that it is impossible to legislate upon this subject, and give now, by positive enactment, the right of expatriation to American citizens, "without by that very act enabling foreign Governments to say to us that up to this date our citizens had no right to expatriate themselves;" and that in such state of case they would be "debarred from claiming the protection in foreign States which it is the purpose of this bill to accord to them." Sir, was that not "a most lame and impotent conclusion?" Suppose they do say so, what then? Could they not, if we shall remain silent now, make the same charge at any time hereafter when we shall assert the right either in the halls of legislation or upon the tented field? Can any amendment to a bill, or a refusal to amend it, annihilate the history of the past? Can a single act done or omitted to be done in the past be changed in the slightest degree by anything we may now do or refuse to do? No, sir; there can be no modification of the past; its facts have gone into history; they can neither be ignored or blotted out. We may create a new future, but we cannot make a new past. We must act upon this question now as though it was the first time it ever challenged our attention, either as judges or legislators. If our course heretofore in the administration of public affairs in relation to this question has been indeterminate and vague and uncertain, will anything we may now do or refuse to do make our past action or non-action any more direct or significant? Certainly not. It is the living present we have to deal with, not the dead past.

Sir, the logic of the gentleman is about this: because we have heretofore neglected or failed to assert and establish a great right in behalf of American citizenship; because we have for more than eighty years lived without a law to provide the means for its exercise, and preserve the evidence of the fact when so exercised, we should still continue in that line of policy; and that even now, when that precious and inestimable right, so essential to the full enjoyment of the highest liberty in the pursuit of happiness, is being daily assailed and trampled under foot by our ancient enemy, we should absolutely refuse to declare and define it in terms befitting its grave importance for fear that by its assertion now we would

expose the fact of our former neglect or invite an unfavorable interpretation by that enemy! Sir, if the legislative power of the country has been derelict in its duty in the past and to the people the stronger the reason is that it should now act with promptness and energy in the full and unequivocal assertion of this great right of the citizen. We should not only assert the right, but we are also bound to furnish the easiest and most appropriate means for its exercise. If the question of fact whether it has been exercised or not rests at large, to be proved like any other unascertained fact, much confusion and inconvenience will result both to Government and citizen. Mr. Webster, while Secretary of State in 1851, in the case of John S. Thrasher, evidently felt embarrassed in relation to the character of the evidence as to the intention of Thrasher in leaving this country and residing at Havana. The case arose out of the invasion of Cuba by Lopez. The claim on the part of Spain, through the governor general of the island, was that Thrasher had been a resident of Havana, as a merchant, for a considerable length of time, and had sworn allegiance to the Spanish Crown. Mr. Webster, in response to a resolution of this House, said:

"There is no evidence in the possession of the Government to show what was his purpose with regard to his returning to his native country, at any fixed or definite time. Other members of his family are understood to be, like himself, residents in Cuba—his father having gone to that island some years ago. These are all the known general facts respecting the nature of his residence in Havana which have come to the knowledge of this Department." * * * * "In questions on this subject, the chief point to be considered is the *animus manendi*, or intention of continued residence; and this must be decided by reasonable rules, and the general principles of evidence." * * * * "If it sufficiently appear that the intention of removing was to make a permanent settlement for an indefinite time, the right of domicile is acquired by a residence of even a few days."

Mr. Speaker, we all know that one of the most difficult problems in the law of evidence is this very question of intention. As a legal fact it is almost always ascertained inferentially, and by implication upon certain other facts. It frequently gives rise to the nicest discriminations, and the most subtle deductions in the whole wide range of the law. We should legislate upon this question to cure this defect, and thus avoid all difficulty in relation to the essential fact of domicile. It is important enough to attract our serious attention; and I hope the House will so amend this bill as to accomplish the object. The proposition ought and can not be controverted, that whenever the mode by which the citizens of a free Government are to exercise their acknowledged rights is involved in doubt or obscurity the duty is devolved upon the legislative authority to prescribe the manner of their exercise, so that their full and free enjoyment shall be amply secured. The error to which the discussion in this House fifty years ago gave rise upon this question was the assumption that if we had the power to prescribe the manner in which citizenship might be voluntarily relinquished we also, for that very reason, had the power to abolish the right of relinquishment itself. Sir, it requires no argument to expose the fallacy of such a position. It involves this absurdity: that because the legislative power may be exercised in aid of a right it may also be used for its overthrow and destruction.

Mr. Speaker, when gentlemen advance the proposition that the United States have always claimed and asserted the right of expatriation, in relation to the emigration of American as well as foreign citizens, such remarks should be considered as having reference more to the executive department of the Government than to any other, or to all combined. As I have already shown, the other great departments of the Government have not been in accord with the executive upon this question. But even that department, in its joint action with the Senate, utterly failed, on a great occasion in our history, to assert and settle the right. It is known to us all that the prominent and leading cause of the war of 1812 was this question of expatriation. England had seized upon and impressed into her naval service some ten or twelve thousand of our naturalized citizens—formerly her own subjects. She refused to make reparation or discontinue the practice, and denied our right to question her proceedings. We drew the sword; and after fighting for three years on land and sea; after spending millions of treasure and sacrificing thousands of valuable lives; after covering our arms with glory and our standards with victory, the treaty-making power of the Government negotiated a peace without a word or a syllable of allusion to the right of expatriation! The war intensified but did not settle the question. As between ourselves and England it has remained an open and unsettled question ever since. And now, after the lapse of half a century, after repeated acts of insolence and outrage upon our adopted citizens by a Power which drove us into one war and seems to invite us into another upon the same question, we are expected now to adopt, or rather continue, a sort of non-committal policy, in the vain hope of escaping unfriendly criticism upon the past. I am in favor of no such policy. I want a full declaration now upon both sides of the question, by way of correction of the past and insuring a just understanding of the future.

Sir, if we shall fail to assume now the true position upon this question, we shall be justly amenable to the charge which has been so truthfully made against the Government of England; that is to say, we will render ourselves liable to the charge that, while we rigidly assert the right to naturalize foreign citizens into our own Government, we, in effect, by denying the appropriate means, refuse the right of expatriation to our own, whether native or adopted. That is precisely the position of the British Government to-day, of which we complain so much. That Government, too, naturalizes aliens, while it refuses to them, when naturalized, as well as to her native-born subjects, the great correlative right of expatriation. England claimed during the war of 1812, as she still claims, that any of her subjects who had become naturalized citizens of another country according to its laws, and while they were beyond her power of protection, still continued to owe her such allegiance as would make it treason in them to bear arms against her in their adopted country. It was in the exercise of this infamous power, and by which she is again filling her prisons with naturalized American citizens, that in the progress of that war she inhumanly treated hundreds of Irishmen and others as rebels and traitors, after she had knowingly permitted and encouraged them to emigrate to this country. Mr. Webster, in his letter to Lord Ashburton, on the controverted question of impressment, in 1842, puts the inconsistency and fraud of the British policy in so forcible a light as to utterly silence the English negotiator, who conveniently declined to answer his arguments. I ask the Clerk to read the passage marked in the document I now send to his desk.

The Clerk read as follows:

"England acknowledges herself overburdened with population of the poorer classes. Every instance of the emigration of persons of those classes is regarded by her as a benefit. England, therefore, encourages emigration; means are notoriously supplied to emigrants to assist their conveyance from public funds; and the New World, and most especially these United States, receive the many thousands of her subjects thus ejected from the bosom of their native land by the necessities of their condition. They come away from poverty and distress in overcrowded cities to seek employment, comfort, and new homes in a country of free institutions, possessed by a kindred race, speaking their own language, and having laws and usages in many respects like those to which they have been accustomed; and a country which, upon the whole, is found to possess more attractions for persons of their character and condition than any other on the face of the globe. It is stated that in the quarter of the year ending with June last more than twenty-six thousand emigrants left the single port of Liverpool for the United States, being four or five times as many as left the same port within the same period for the British colonies and all other parts of the world. Of these crowds of emigrants many arrive in our cities in circumstances of great destitution, and the charities of the country, both public and private, are severely taxed to relieve their immediate wants. In time they mingle with the new community in which they find themselves and seek means of living—some find employment in the cities; others go to the frontiers, to cultivate lands reclaimed from the forest; and a greater or less number of the residue, becoming in time naturalized citizens, enter into the merchant service, under the flag of their adopted country.

"Now, my lord, if war should break out between England and a European Power, can anything be more unjust, anything more irreconcilable to the general sentiments of mankind, than that England should seek out these persons, thus encouraged by her and compelled by their own condition to leave their native homes, tear them away from their new employments, their new political relations, and their domestic connections, and force them to undergo the dangers and hardships of military service, for a country which has thus ceased to be their own country? Certainly, certainly, my lord, there can be but one answer to this question. Is it not far more reasonable that England should either prevent such emigration of her subjects, or that, if she encourage and promote it, she should leave them, not to the embroilment of a double and contradictory allegiance, but to their own voluntary choice, to form such relations, political or social, as they see fit, in the country where they are to find their bread, and to the laws and institutions of which they are to look for defense and protection?

"A question of such serious importance ought now to be put at rest. If the United States give shelter and protection to those whom the policy of England annually casts upon their shores—if, by the benign influences of their Government and institutions and by the happy condition of the country, those emigrants become raised from poverty to comfort, finding it easy even to become landholders, and being allowed to partake in the enjoyment of all civil rights—if all this may be done, (and all this is done, under the countenance and encouragement of England herself,) is it not high time, my lord, that, yielding that which had its origin in feudal ideas as inconsistent with the present state of society, and especially with the intercourse and relations subsisting between the Old World and the New, England should at length formally disclaim all right to the services of such persons and renounce all control over their conduct?"

Mr. VAN TRUMP. Sir, it was the threat of a wholesome retaliation on our part which put a stop to this outrage once before. It is not unlikely, in my opinion, that this same medicine, more formally incorporated in this bill, will be equally salutary now. England puts on the airs and blandishments of a siren to woo aliens to become her naturalized subjects. She seeks to blast them with the fierce glance of a Gorgon when they attempt to break the bonds of their allegiance by expatriation. She admits them, in many cases, without even the formality of a declaration of intention or an oath of allegiance. Thus, by the statute of 13 George II, if a foreign seaman shall serve for two years in one of her ships of war he becomes *ipso facto* a subject of the British Crown without further ceremony, and is entitled to all the rights and privileges of an Englishman, but among which is not this right of expatriation.

Mr. Speaker, whatever the executive or diplomatic history of this question may have been—so much relied on by the honorable chairman of the Committee on Foreign Affairs—let us now, at least, correct our legislative record. Sir, although it may be following a bad example to allude to partisan politics upon a question like this, yet the honorable gentleman from Indiana [Mr. ORTH] made so fierce and unfounded an assault upon the Democratic party when he spoke to this question the other day that I feel justified in saying to that gentleman and to his party that it is the more important we correct that record now without equivocation, for the reason that if the present aggressive, unscrupulous, and unconstitutional course toward the executive department of the Government is persisted in, that department will receive at the hands of any of the European Powers but little consideration upon any disputed question of international law. You cannot degrade that department at home without also degrading it in the eyes of the world. Foreign Powers, in the way of negotiation or official communication, generally regard a nation much in the same light in which it regards itself. If we shall depreciate and degrade one of our own great branches of Government we must reasonably expect other Powers to follow in our footsteps, and that they will likely treat such department with the same contempt it receives at our own hands, however much it may be disguised by a seeming show of regard.

I will be understood, then, Mr. Speaker, when I say that this unwise, unmitigated, and systematic attempt to cripple and break down the executive department; to deprive it of all its appropriate and constitutional powers; to make the President of the people a mere automaton, and convert his rightful powers into "a barren scepter" in his hands, will turn into "airy nothings" even the few executive precedents, or rather arguments, upon which the honorable chairman relies for a past policy upon this question of expatriation. Sir, we cannot honestly rely upon our past legislative or judicial policy as a full vindication of this question; and it will neither help the past or benefit the future for us now to assume any false position in regard to it. Let us now depend upon no uncertain action or doubtful utterances; let us come up squarely to the mark; let us satisfy the world that however we may have dealt with the past we intend now and in the future to stand by and maintain the position that we will defend this great right at all times and at all hazards.

Mr. Speaker, when this important subject was before Congress in 1818, the debate took a wide range, both upon the question of power and expediency. Mr. McLane, of Delaware, especially, took the ground that it was at least doubtful whether such a law would be constitutional, for the reason that it made the Government, as he claimed, a party to the act dissolving the tie between the citizen and his country. Now, sir, I deny that such a result occurs in a case where the statute simply prescribes the manner in which the citizen shall proceed to perpetuate the evidence of his intention, or election, to renounce his citizenship by expatriation. No action of the Government is necessary to consummate the dissolution. The citizen's power to separate himself from the connection, without crime, springs from an original inherent right, which lies far beyond and is in no wise impaired or surrendered by the incurrence of the obligation of citizenship. It is a false assumption, therefore, to affirm that the Government is a party, in any legal sense of the term, to the voluntary act of expatriation. The Government is undoubtedly a party to the act of naturalization. Its consent is necessary to such act, for the reason that it is no man's natural, inherent right to become a citizen of any particular Government who is not "to the manor born." A Government has the right to say who, other than those who are native-born, shall become its citizens; but it has no right to say that its own citizens, native or naturalized, shall not become citizens of any other Government who may choose to receive them.

So far as the right of expatriation is concerned, no act of the Government is necessary to establish or exercise it. It exists by the law of nature, a title as paramount to the laws of man as God himself is paramount to the will or power of man. In its character of a God-given right it can neither be enlarged or restricted or abrogated by municipal law. The law of nature applies to man and not to Government. The rights resulting to each have no relation the one to the other. The one is primitive and fundamental, the other limited and conventional. Deity endows man with his natural rights; man invests Government with its political powers. The right thus existing is paramount to the power thus created; the power, therefore, cannot absorb the right. In relation to the exercise of this inherent right the citizen stands high above all the powers of the Government; his right of locomotion and domicile, as derived from the universal law of nature, which is God's law and not man's, is subject to no human control, and is held by a tenure wholly independent of the political laws of the Government under which he lives. Sir, I was not only surprised but pained to find in the report of the committee a sentiment which is wholly at war with every American idea on this subject. They say:

"It may justly be conceded that the express or implied consent of both parties is necessary to the extinction of mutual obligations between a Government and its subjects."

Now, Mr. Speaker, that is a proposition which has been laid down by the committee without due consideration, if they mean to apply it to this right of expatriation. Any such concession as that destroys the right of expatriation. An admission of the indispensability of consent on the part of the Government necessarily implies the right and the power of refusal in that Government; so that the act of expatriation consummate, if this doctrine of the committee be true, depends not upon an inherent and indefeasible right in the citizen, but upon the will and option of the Government under which he lives. The committee, with all due deference be it spoken, have only deluded themselves by the use of inappropriate language. They speak of "mutual obligations." Therein lies the fallacy. There are undoubtedly mutual obligations existing between Government and citizen while that relation subsists, but the obligation to continue to be a citizen, either perpetually or otherwise, at the will of the Government, is certainly not one of them. The committee have thus unwittingly indorsed the most ultra dogmas of Sir William Blackstone on the doctrine of perpetual allegiance. Sir, I hope that no American Congress will ever sanction a doctrine like this; a doctrine much more consonant with the darkness of the Middle Ages, when a man born in the image of his Creator was considered as a sort of chattel-real passing with the freehold from one lord paramount to another, than with that glorious spirit of individual right and liberty which is the light and the glory of modern civilization.

The provision in the Constitution which gives to Congress the power "to establish a uniform rule of naturalization," would, in my opinion, settle the question of their power over the subject of expatriation in aid of the right, even if that right depended upon the laws of the society, instead of springing from the great and paramount law of nature. For it would be a most illogical position to hold that Congress is authorized by the Constitution to enact a rule by which the rights of citizenship might be acquired, and yet have no jurisdiction or power over the correlative question as to how those same rights might be relinquished at the option of the person in whom they were vested. But, sir, we are not driven to this position. Some of the learned opponents of this question in 1818 made the palpable mistake of supposing that it was by the legislative power alone that expatriation could be accomplished, if, as they claimed, it could be consummated at all; that the right existed, if it existed at all, either in the nature of a grant or by the consent of the legislative power of the Government. Sir, this is a naked fallacy; the true question is, that not only the right of expatriation, but the whole power of its exercise, rests solely and exclusively in the will of the individual citizen. And here, sir, allow me to say, in this connection, that the only objection I have to the proposed amendment of the honorable gentleman from Pennsylvania, [Mr. WOODWARD,] for whose legal learning and judicial experience I have the very highest respect, is that it indirectly recognizes the power of the Government over the right itself, by providing for its consent to the expatriation of the citizen. An acknowledgment of the necessity of consent on the part of the Government is an admission of the right and power in that Government to withhold its consent and thus defeat the right. Sir, all we want of congressional action in regard to this right is to provide the mode of evidence of the intention of expatriation; that, for the security of the individual, as well as to prevent embarrassment to the Government in regard to its duty of protection, the evidence of intention shall not lie hidden in the mind of the individual; but that a declaration of intention shall be made as a matter of record, for the benefit of all concerned. With this mode of evidence established there could be no troublesome question of fact as to the intention, for the mere production of the record would at once settle all controversy in regard to it.

The doubt as to the constitutionality of such a law was put upon still another ground by some of the opponents of the bill of 1818, and I recall these circumstances to justify my position that it is important now to present ourselves to the world in an open and unequivocal position, for the very reason that our course heretofore has been quite the reverse. It was suggested in that debate that the General Government had no power, under the Constitution, to absolve a citizen of one of the State's from his immediate allegiance to such State; and I do not controvert the proposition. Sir, I acknowledge myself to be a States rights man in the strictest constitutional sense of the term; but I do not acknowledge that any such question was involved in the bill of 1818 or in the one now under consideration. To enforce expatriation or exile against a citizen without his consent is not a power anywhere belonging to this Government. No conservative-minded statesman, no intelligent legislator, no sound lawyer has ever maintained any such power in any branch of the Government. The lawless precedents created in the delirium of war, of kidnapping men in one State and transporting them to another, or of sending men by force into exile, as a punishment for political opinion, were violations of this great law of nature as well as of the Constitution. The infatuated and misguided men who did this thing had no more constitutional power to do it, nor has this Congress, than I have the physical power to lift this Capitol from its foundations and anchor it in the clouds. The men who debated the question in 1818 failed to see the true distinction. They misapprehended the point in this: they seemed to suppose it required the exercise of some positive affirmative power on the part of the Government to accomplish the fact of expatriation. They failed to comprehend that it is not the Government, but that it is the individual, who has the right and the only power of expatriation. The question is a right of locomotion and of domicile; it belongs and appertains to the citizen and not to the Government; and it is the evidence of his election to exercise his right, and not the power to control either the election or the right itself, which is the legitimate subject-matter of legislation. There has been, and there can be, no legislation under our Constitution to control in any manner the right itself.

This Government may say, as it now, in fact, does say in this bill, that it will defend and protect this right in behalf of its citizens who have expatriated themselves from their native lands. There is certainly no conflict of sovereign power in that, as between Federal and State authority. The citizen, in regard to his allegiance, both to the Federal and the State Government, by a law paramount to both, possesses inherently this right of expatriation. A declaration, therefore, on the part of the Federal Government of what shall be the evidence of the exercise of that right cannot be held to be an infringement of the sovereignty of that State, unless such State can say, what the Federal Government itself cannot say, that it has an inalienable and indefeasible right to the perpetual allegiance of the citizen.

And now, Mr. Speaker, I wish to say, in conclusion, that he who seeks to make this a mere party hobby, and thus pervert its true character as a great national and international question, must have a very narrow and inadequate idea of what belongs to an expansive and statesmanlike view of the subject. Is it possible, sir, that passion and political prejudice have so warped our minds and blinded our judgments as that no question, however national, no proposition, however remote from the arena of party politics, but it must be dragged into the schemes and calculations of a political campaign to subserve the ends of a few rather than promote the good of the many? Such is modern politics. Sir, I envy not the man who is unwilling even to try to lift himself

into that higher atmosphere where the little ends and aims of the partisan are lost in the contemplation of the nobler duties of an American citizen upon a great American question. The ill-timed and unprovoked attack upon the Democratic party made by the honorable gentleman from Indiana [Mr. ORTH] was calculated to excite regret rather than indignation. Sir, the Democratic party needs no defense at my hands. I am not bound to its defense beyond the period in which I have had the honor to be an humble follower of its principles. But, as a general proposition, I do not hesitate to say that, whether in war or in peace, in power or out of it, that proud old party has ever stood before the Constitution like the sword of flame before the gate of Paradise, flashing out its indignant wrath upon those who would violate that sanctuary of our rights. There it stands, and there it will continue to stand. Nothing can either drive or seduce it from that position. It stands there alike indifferent to the scornful sneers of an arrogant majority on this floor or the idle threats of an unscrupulous band of partisan loafers organized as "loyal leagues" throughout the land. In despite of all combinations and of all denunciation it will stand by the Constitution as long as a pillar of it remains. Sir, that was a proud boast of the old Roman when he said, "As long as Rome stands the Coliseum will stand." Amid the storms of passion and the throes of revolution how much prouder and grander is the aspiration and determination, swelling up from millions of free American hearts, that "as long as the Constitution stands the Democratic party will stand."

Mr. BANKS. I should be glad to have the previous question taken this afternoon, so that the vote may be taken on the bill to-morrow.

Mr. WOOD. I hope the gentleman will permit further opportunity on this side of the House to discuss the bill.

Mr. BANKS. I will not call the previous question now.

Mr. MORGAN. It was not my intention, Mr. Speaker, to take part in this debate. I have listened with pleasure to the able speech of the chairman of the Committee on Foreign Affairs in support of the bill reported by him, and also to the learned arguments of my colleague, [Mr. VAN TRUMP,] who has just taken his seat. But I differ with my colleague as to an important proposition stated by him. He claims, as I understand him, that it is the duty of the United States to declare affirmatively that a citizen may expatriate himself.

Mr. VAN TRUMP. No, sir; I only say that Congress ought to furnish the means to the citizen of perpetuating the evidence of his intention of expatriating himself — nothing more.

Mr. MORGAN. I understood my friend to say that a law should be passed declaring by what means a citizen could expatriate himself.

Mr. VAN TRUMP. I said that the means should be furnished the citizen of showing the intent with which he left his country.

Mr. MORGAN. In the grand question of the right of expatriation my colleague and myself fully agree; but I hold that the best evidence of the intent to expatriate one's self is the very act of expatriation; and that no Government should impose conditions as to the exercise of this right. If a Government can impose conditions upon which a citizen or subject can expatriate himself, then it has equal power to prohibit expatriation altogether. Now, sir, suppose that we did enact a law providing that a declaration before a competent tribunal should be held to be the evidence of the intent to expatriate one's self; and that the Governments of Europe adopted similar regulations, could we, with such a law upon our own statute-book, naturalize any subject of such foreign Power who did not bear with him the evidence of having declared his intention to expatriate himself before he left his native country? Certainly not. And yet, sir, to refuse to naturalize him would be admitting that expatriation was a privilege granted by a prince, instead of being an inalienable right derived from Almighty God.

Mr. VAN TRUMP. My colleague misapprehends me. I do not mean to assume that the citizen who does not file his declaration of intention may not avail himself of his inherent right of expatriation. The amendment which I propose is in aid of his right, not restrictive of it.

Mr. MORGAN. One word, sir, in reply to the question propounded to the honorable chairman of the Committee on Foreign Affairs [Mr. BANKS] by the gentleman from Massachusetts, [Mr. ELIOT,] and I will yield the floor. The honorable gentleman asked whether the provisions of the third section, if they became a law, would not involve us in a foreign war within two weeks after the arrest of a subject of a European Power by the Government of the United States. On the contrary, sir, if this bill becomes a law it will act as a preventative instead of a provocative of war. For when, by the solemn act of this Government, it becomes known to the nations that American citizens, whether native born or naturalized, cannot, with impunity, be treated by foreign Powers as their subjects, a fruitful cause of misunderstanding will at once and forever be removed. Heretofore the principle on which we have acted in naturalizing aliens has not been well understood. It has been supposed that although we conferred the rights of citizenship on foreign-born subjects, that although they discharged all the duties of citizens alike in peace and in war, that the Government was not bound to protect them as citizens when abroad if they happened to be claimed as the subjects of the monarch within whose realm by chance they were born, until at last the voice of the people and the dignity of the Republic demand that we should say to the world that there is no distinction between a native-born and a naturalized citizen, and that a citizen of the United States cannot owe allegiance to any other Power.

Sir, the Governments of Great Britain and the German States have not only recognized the right, but have encouraged the expatriation of their subjects during the entire history of our Government. Knowing that their subjects came to the United States with the express purpose of becoming citizens, the princes of Europe have encouraged immigration to our shores, and thereby released the immigrants from their allegiance to the Governments under which they were born, even if any release were necessary, which I deny. Then, sir, this act declares—what? That if any citizen of the United States has been arrested and is detained upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign, or if any citizen shall have been arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be and is empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and that the President shall, without delay, give information to Congress of any such proceeding. But it has been objected that such an arrest on our part would be making the innocent suffer for the act of the guilty. To which I reply that the people of a country, whether citizens or subjects, are responsible for the action of its Government so long as they owe it allegiance. It is true that instances of hardship may sometimes happen. If, in consequence of some flagrant wrong committed against our rights by a foreign potentate, we become involved in war, who, sir, would suffer? The prince who committed the wrong or his unfortunate subjects, who were made food for gunpowder? Suppose that a case occur with the most powerful of the nations. An American citizen is arrested on the shores of Great Britain; a British subject is arrested on the soil of the United States—and what then? The gentleman from Massachusetts says war; but I reply not war, but peace. Neither the United States nor Great Britain desires to go to war without grave cause, and negotiations would follow, and the result would be a treaty recognizing the natural and inherent right of expatriation. I now yield the floor to the chairman of the Committee on Foreign Affairs, [Mr. BANKS.]

The SPEAKER. The Chair will state that under the rules the gentleman from Massachusetts, [Mr. BANKS,] having spoken once, is not entitled to the floor unless he intends to move the previous question.

Mr. BANKS. I understand that; but the gentleman from Ohio [Mr. MORGAN] has yielded to me.

Mr. ELIOT. Will my colleague allow me to offer an amendment?

Mr. JUDD. For what purpose has the gentleman from Massachusetts [Mr. BANKS] the floor?

The SPEAKER. The Chair does not know.

Mr. BANKS. I propose to move an adjournment.

Mr. ELIOT. What is the condition of the bill?

The SPEAKER. There is a motion to recommit the bill pending.

Mr. ELIOT. Then no motion to amend the bill is in order?

The SPEAKER. No amendment is in order.

Mr. ELIOT. I desire at the proper time to move the amendment I have indicated.

Mr. JUDD. I desire to inquire of the Chair whether, if the chairman of the Committee on Foreign Affairs now moves an adjournment, he will be entitled to the floor the next time this subject comes up for discussion?

Mr. BANKS. I shall not claim it.

The SPEAKER. He would be entitled to the floor, not for discussion, but to demand the previous question, if he saw fit to do so.

Mr. ELIOT. Does this bill come up before the morning hour?

The SPEAKER. It does not unless the previous question be operating upon it. After the morning hour to-morrow the Alabama bill comes up.

Mr. BANKS. I yield for a moment to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. I have been very much interested in this discussion and concur in many of the remarks which have been made. I have been much interested in the speech of my colleague, [Mr. VAN TRUMP.] I am not precisely certain how far the right of expatriation should extend, and in order that we may have the consideration of the House on another branch of the subject that has not yet been presented I suggest an amendment to the bill, which I send to the Clerk's desk to be read, in order that it may be considered when the bill again comes before the House.

The Clerk read as follows:

Add to the first section of the bill the following proviso:

Provided, That no citizen who has voluntarily entered and is actually engaged in the military or naval service of this Government can lawfully exercise the right of expatriation during the time he may, in pursuance of law, be liable to render such military or naval service.

Mr. JUDD. Will the honorable chairman of the Committee on Foreign Affairs allow me to make a suggestion as to the order of business?

Mr. BANKS. Certainly.

Mr. JUDD. It must be evident that there are a number of gentlemen who desire to discuss this question, and I suggest to him whether he cannot, consistently with his views, move to make the bill the special order for some day?

Mr. BANKS. It is the special order now.

Mr. JUDD. Let it go to the Committee of the Whole on the state of the Union, and be made the special order there.

Mr. BANKS. By referring it to the Committee of the Whole on the state of the Union we lose it. If we do not dispose of it this week we lose it altogether.

The SPEAKER. This bill will come up,

according to the order of the House, immediately after the Alabama bill shall have been disposed of.

Mr. MAYNARD. I would ask the gentleman from Massachusetts [Mr. BANKS] when he expects to call the previous question?

Mr. BANKS. As soon as the House is willing to sustain it. The Committee on Foreign Affairs do not wish to press this bill to a vote against the wish of the House.

Mr. KERR. I desire to suggest a verbal change in the first section of this bill, which now reads as follows:

That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government, and therefore null and void.

I would suggest that the words "and therefore null and void" do not add anything to the force and effect of the section. Besides, I think they are somewhat out of harmony with the dignity and solemnity of a measure like this. So far as any result can be accomplished in this way, it will be done by the declaration that such opinion, order, &c., is "inconsistent with the fundamental principles of this Government." There is no necessity for the other words, and their omission would save us from the anomalous position of attempting by legislative action to render null and void a declaration or an opinion.

Mr. BANKS. I would not make any objection to the amendment which the gentleman suggests.

The SPEAKER. The bill is not now open to amendment, as the motion to recommit is pending.

Mr. KERR. Then I give notice that if I shall have the opportunity I will move to amend the first section of this bill by striking out the words "and therefore null and void."

ENROLLED JOINT RESOLUTIONS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (S. R. No. 111) providing for the issue of clothing to soldiers and others, to replace clothing destroyed to prevent contagion; and

Joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

Mr. HOPKINS, from the same committee, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes; and

Joint resolution (H. R. No. 228) relative to the post office and sub-Treasury of the city of Boston.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by W. G. MOORE, Esq., his Private Secretary, announced that he had, on the 6th instant, approved and signed bills of the following titles:

An act (H. R. No. 660) restoring lands to market along the line of the Pacific railroads and branches; and

An act (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota.

RAILING OF OLD HALL.

Mr. COBB. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Speaker be directed to authorize the architect of the Capitol to sell at public auction the iron railing taken from the old Hall of Representatives, and that the money thus realized be applied to the casual repairs of the central portion of the Capitol.

Mr. MAYNARD. I must object to that.

THE CITY COUNCIL OF NEW ORLEANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the General of the Army, transmitting, in compliance with a resolution of the House of the 9th instant, copies of all correspondence relating to the removal of the city councils of New Orleans and of Jefferson city, Louisiana.

Mr. COOK. I move that that communication be referred to the Committee on Reconstruction, and printed.

The motion was agreed to.

SALARIES OF OFFICERS OF IDAHO.

Mr. HOLBROOK. I ask unanimous consent to submit the following preamble and resolution for consideration at the present time:

Whereas it is represented that the Secretary of the Treasury has paid, or is about to pay, the salary of certain territorial officers of Idaho Territory, in violation of an act approved June 15, 1852, which provides "that whenever an officer of either of the Territories of the United States shall be absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence shall occur, unless good cause therefor shall be shown to the President of the United States, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office:" Therefore,

Be it resolved, That the Committee on Territories be instructed to inquire what further legislation, if any, is necessary to prevent the violation of said act of 1852, and report to the House by bill or otherwise.

Mr. WASHBURN, of Wisconsin. I object.

MILITARY POSTS ON PACIFIC COAST.

Mr. MALLORY. I ask unanimous consent to submit the following resolution for consideration at the present time:

Resolved, That the Secretary of War be directed to inform the House what number of soldiers are stationed at the following military posts on the Pacific coast; also what expense has been incurred by the Government in maintaining the same for the last fiscal year, including the pay of officers and men, transportation, forage, and all other expenses, namely:

Forts Bidwell and Crook, in the State of California;

Camps McGarry and McDermott, in the State of Nevada;

Camps Lyon and Winthrop, in the Territory of Idaho; and

Fort Klamath and Camps Watson, Smith, and Harney, in the State of Oregon.

Mr. ELDRIDGE. I will not make any objection to the resolution; but I will suggest to the gentleman from Oregon [Mr. MALLORY] that he should amend his resolution so as to include the War Office in the city of Washington. [Laughter.]

Mr. MALLORY. I do not think that is necessary.

No objection being made, the resolution was received and adopted.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The regular order is the bill concerning the rights of American citizens in foreign States. The gentleman from Ohio [Mr. MORGAN] has yielded the remainder of his time to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. I will yield to a motion to adjourn.

Mr. WASHBURN, of Wisconsin. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of S. L. Potter and others, of Wyandotte, Michigan, praying that the system of bonded warehouses be abolished.

By Mr. CHILCOTT: The petition of citizens of Colorado, praying for the establishment of an additional land district in the southern part of said Territory.

By Mr. CLARKE, of Kansas: A concurrent resolution of the Legislature of the State of Kansas, memorializing Congress for adonation of a part of the Leavenworth reservation to aid in building a bridge across the Missouri river at or near the city of Leavenworth.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress to grant to the State of Kansas an equivalent of public lands for the benefit of common schools in lieu of those lost to said schools by the Indian reservation and trust lands, and that in treaties pending and to be made for disposition of reservation and trust lands the sixteenth and thirty-sixth sections be reserved for the benefit of common schools.

Also, a concurrent resolution of the Legislature of the State of Kansas, requesting Congress for aid in bonds and lands for the Central Branch Union Pacific Railroad Company, the same as has been given to the main line.

By Mr. McCLURG: The petition of Emille Golden, of Missouri, for pay as lieutenant colonel.

By Mr. NICHOLSON: A memorial of the manufacturers and importers of Wilmington, Delaware, for such a change of the revenue laws as shall authorize the immediate forwarding of goods and merchandize received at any port of the United States, and directed by invoice and bill of lading to another port, to the customs officers of the said ports as directed, without entry, warehousing, bonding, or other delay at the port of arrival, under such regulations as shall perfectly secure the interests of the Treasury of the United States and the rights of importers.

Also, the petition of the citizens of Dover, Delaware, for a reduction of expenditures and taxation.

By Mr. PERHAM: The petition of Michael Reilly, for pension.

By Mr. POLAND: The petition of R. H. Hoyt and 140 others, of St. Albans, Vermont, praying for a reduction of the Army and Navy and of the expenses of the Government generally; and for such an adjustment of the revenue laws as will keep the balance of trade in favor of this country, restore a specie basis, and furnish employment for labor.

By Mr. POLSLEY: The petition of 500 citizens of West Virginia, for the passage of House bill No. 224, to incorporate the Washington and Cincinnati Railroad Company.

By Mr. ROBINSON: The petition of all the morocco manufacturers of the cities of New York and Brooklyn, in favor of the importation of raw goatskins and sumac free of duty.

Also, like petition of employés of morocco manufacturers in New York and Brooklyn.

By Mr. SPALDING: A remonstrance of R. K. Winslow and others, merchants of northern Ohio, against the sale of the revenue cutters now on the lakes.

By Mr. WILSON, of Iowa: A memorial of of the journeymen cigarmakers and manufacturers of cigars of the first congressional district of Iowa.

IN SENATE.

WEDNESDAY, *March* 11, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented a memorial of citizens of Boston, remonstrating against the passage of an international copyright law; which was referred to the Committee on the Library.

Mr. CONKLING. I present also the memorial of a large number of citizens of Jefferson county, in the Territory of Colorado, remonstrating against the admission of that Territory as a State, and representing the present movement for that admission to be a fraud upon the people of the Territory. As the bill on this subject has already passed from the committee having it in charge, and is on our Calendar, I move that this memorial be laid on the table and printed.

The motion was agreed to.

Mr. MORGAN presented a memorial of ship-

builders, owners, and shippers of New York, asking for the passage of a law for remitting the duties upon articles used in the construction of vessels; which was referred to the Committee on Finance.

Mr. FRELINGHUYSEN. I present three petitions of citizens of Newark, New Jersey, and employés of morocco manufacturers in said city, praying the repeal of the duty on goat-skins and sumac, and that the internal revenue tax of two and a half per cent. be repealed and a higher duty be imposed on imported finished or manufactured morocco; and in moving a reference of these petitions to the Committee on Finance I would observe that a very large interest is now destroyed and the present legislation is altogether in favor of foreign manufacturers. I move the reference of these petitions to the Committee on Finance.

The motion was agreed to.

Mr. YATES presented a memorial of the Legislative Assembly of the Territory of Dakota, praying for the establishment of a mail route from Fort Totten to St. Joseph, Dakota Territory; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislative Assembly of the Territory of Dakota, praying for an appropriation to construct a wagon road from Fort Abercrombie down the Red River of the North; which was referred to the Committee on Territories.

Mr. SPRAGUE. I desire to present a petition which, with the permission of the Senate, I will read:

To the honorable the Senate and House of Representatives of the United States:

Your memorialists, tax-payers and producers of the United States, beg leave, most respectfully, to represent:

That the burdens of taxation in this country are becoming too onerous to be borne. That the spies and tax gatherers who invade our homes and our workshops, and publish all our business transactions, often making cruel and unjust exactions from the ignorant and weak, while they leave many comparatively untaxed, are daily growing obnoxious to the people.

While our nation was in danger we cheerfully submitted to any and all drafts and demands made upon us.

We are now at peace with all the world, and we demand that the expenses of the Government shall be reduced to a strictly peace basis and our taxes correspondingly reduced.

We ask that the Navy be reduced from one hundred and three vessels now in commission to thirty or less. We demand that the great naval pageant now on exhibition in Europe be ordered home and laid up. We are not willing to be taxed for the sake of sustaining a royal mimicry. We demand the reduction of the Army to twenty thousand men. We demand the reduction of the sum asked for civil service to $20,000,000; that the Navy appropriations be reduced to $12,000,000, and the war appropriations to $35,000,000 or less. Our northern forts can be taken care of by the disabled soldiers; the laid-up ships by the maimed sailors. We need no soldiers in the North. We want the fifty thousand able-bodied men now living in idle uselessness in the Navy and the Army relieved, so that they may aid us in the development of the nation's wealth. We need no naval or military parade to convince the world of our power. That is fully understood. Insult or injury to our nation will bring millions of brave men to defend the honor of our flag. We want the useless revenue cutters at sea and on the lakes laid up and their wasteful expenses stopped. We want no large standing Army or Navy to exhaust our substance during peace.

We want the revenue laws so adjusted as to keep the balance of trade in this country, that the products of our mines of gold and silver and our bonds will remain at home, thus giving us in due time a specie basis for our national currency and work for our now idle men.

We have full confidence in your ability to grant all we ask and at the same time protect the credit and honor of our country. By so doing you will confer a lasting blessing upon this great and suffering people and entitle yourselves to the gratitude and support of every voter in the land. And your petitioners will ever pray.

I have been thus particular, Mr. President, in reading this petition, because it is signed by those who are friendly to the present party in power, the party of Congress. The head signer is R. G. Hazard, of Rhode Island, and there are some sixty or seventy others, all in sympathy with Congress. They speak boldly and plainly, and I trust every word that is written will receive the careful consideration of the Committee on Finance, to whom I move that the memorial be referred.

The motion was agreed to.

Mr. CHANDLER presented a petition of citizens of Marquette, Michigan, praying for the adoption of measures for a reduction of the taxes, and that the expenses of the Government be reduced to a strictly peace basis; which was referred to the Committee on Finance.

Mr. BUCKALEW. I present a petition of the citizens of the county of Philadelphia, Pennsylvania, publishers of regular weekly newspapers, setting forth that by a decision of the postmaster of that city postage is charged upon their circulation upon the ground that the general law applicable to circulation of newspapers within the county where published does not include the city of Philadelphia, and praying that some remedy may be extended to them against this decision. I move the reference of the petition to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. BUCKALEW. I also present a remonstrance of citizens of Philadelphia, referring to certain measures of legislation before Congress, especially the bill to restrain the action of the Supreme Court of the United States in the mode of making their decisions upon questions arising upon the constitutional powers of Congress, and an act proposing to vest a supreme and uncontrolled power over the rights and liberties of citizens of the United States in the hands of the General of the Army, and respectfully remonstrating against the passage of said bills. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

FINAL JUDGMENTS IN REVENUE CASES.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of the bill (S. No. 213) to amend an act entitled "An act to amend the judiciary act, passed the 24th of September, 1789."

Mr. TRUMBULL. I desire to make a report. I believe reports are now in order.

The PRESIDENT *pro tempore*. Reports would be in order but for this motion.

Mr. WILLIAMS. I will give way after the bill is taken up.

Mr. ANTHONY. I should like to know what the bill is. Is it likely to lead to debate and cut off the morning business?

Mr. WILLIAMS. No, sir; I propose after the bill is taken up to give way for the morning business.

Mr. TRUMBULL. Why not let the morning business be first done?

Mr. WILLIAMS. I have waited for a long time for that purpose, and some gentleman has always anticipated me, and I thought I would be in time this morning. [Laughter.]

Mr. ANTHONY. Why did you not make the motion before the Journal was read? [Laughter.]

The PRESIDENT *pro tempore*. The question is on taking up the bill mentioned by the Senator from Oregon for consideration.

The motion was agreed to; there being, on a division—ayes 19, noes 9.

Mr. TRUMBULL. Now, I suppose, if the Senator from Oregon will give me his permission, I may make my report?

The PRESIDENT *pro tempore*. The Chair will receive reports unless objection be made.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the memorial of Rowland Cromelieu, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

He also, from the Committee on the District of Columbia, to whom was referred the petition of John W. Byram and others, trustees of Union Chapel, Methodist Episcopal Church, reported a bill (S. No. 433) authorizing the trustees of Union Chapel of the Methodist Episcopal Church, in the city of Washington, to mortgage their property for church purposes; which was read, and passed to a second reading.

Mr. FOWLER, from the Committee on Territories, to whom was referred the memorial of the Legislative Assembly of the Territory of New Mexico, asking an appropriation for the support of teachers and the purchase of books for the Navajo Indians held as prisoners at the Bosque Redondo, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. RAMSEY, from the Committee on Territories, to whom was referred the memorial of the Legislative Assembly of the Territory of New Mexico, against the annexation of the mineral district of Moreño to the Territory of Colorado, asked to be discharged from its further consideration; which was agreed to.

Mr. FERRY, from the Committee on Territories, to whom was referred a resolution instructing that committee to inquire into the expediency of changing the northern boundary of Colorado Territory from the forty-first to the forty-second degree of north latitude, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 373) to amend an act entitled "An act to provide for recording the conveyances of vessels, and for other purposes," approved July 29, 1850, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 377) to change the times of holding the district and circuit courts of the United States in the several districts of the State of Tennessee, reported it without amendment.

Mr. CONKLING, from the Committee on the Judiciary, to whom was referred the bill (S. No. 378) organizing a commission for the examination and decision of claims in the War Department, reported adversely thereon.

FINAL JUDGMENTS IN REVENUE CASES.

The PRESIDENT *pro tempore*. The bill mentioned by the Senator from Oregon is before the Senate, and will be read.

The bill (S. No. 213) to amend an act entitled "An act to amenn the judiciary act, passed the 24th of September, 1789," was read the second time, and considered as in Committee of the Whole.

It provides that final judgments in any circuit court of the United States in any civil action against a collector or other officer of the revenue for any act done by him in the performance of his official duty, or for the recovery of any money exacted by or paid to him, which shall have been paid into the Treasury of the United States, may, at the instance of either party, be reëxamined and reversed or affirmed, in the Supreme Court of the United States, upon writ of error, without regard to the sum or value in controversy in such action.

The bill was reported to the Senate without amendment.

Mr. WILLIAMS. Perhaps I ought to say a word in explanation of this bill. By an act approved May 31, 1844, it is provided:

"That final judgments in any circuit court of the United States in any civil action brought by the United States for the enforcement of the revenue laws of the United States, or for the collection of duties due, or alleged to be due, on merchandise imported therein, may be reëxamined and reversed or affirmed in the Supreme Court of the United States, upon writ of error, as in other cases, without regard to the sum or value in controversy in such action, at the instance of either party."

That law provides that in cases similar to those mentioned in this bill, where the United States is plaintiff, a writ of error may be taken to the Supreme Court; but suits are brought now under the revenue laws against collectors after money has been collected and paid over into the Treasury, and in some of those suits important principles are settled, although the amount in controversy may not be very large. The Secretary of the Treasury deems it necessary that this bill should be passed, so that in case any great principle should be involved in a suit affecting the validity or construction of the revenue laws the United States shall have

a right to bring a writ of error to reverse the judgment, provided it be unfavorable to the United States. This bill has been prepared by the Treasury Department and sent to the Finance Committee, with a letter from the Secretary of the Treasury urging its passage. I suppose there can be no objection to it.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

POST ROUTE BILL.

Mr. RAMSEY. I move that the Senate proceed to the consideration of the bill (H. R. No. 328) to establish certain post roads. It can be disposed of in fifteen minutes, and it is important that it should be passed at this time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. RAMSEY. I suggest that the substitute only be read. The Committee on Post Offices and Post Roads have reported a substitute for the bill as it came from the House of Representatives.

The PRESIDENT *pro tempore*. The substitute only will be read, unless the reading of the original bill is called for by some Senator.

The Secretary read the amendment of the Committee on Post Offices and Post Roads, which was to strike out all the bill after the enacting clause and to insert the following in lieu thereof:

California:
From Trinity Centre, in Trinity county, via Summerville, Petersburg, Cecilville, Centreville, and Black Bear, to Sawyer's Bar, in Klamath county.

Dakota:
From Fort Totten or Devil's Lake to St. Joseph, on the Pembina river.

Indiana:
From Crawfordsville, via Sunny Side, Steam Corners, and Van Doran's mill, to Perrysville.
From Parkersburg to Cairo.

Iowa:
From Nashua, via Bradford, Chickasaw, North Washington, and Busti, to Cresco.
From Worthington, via Sheffield, to Cascade.
From Mitchell, Iowa, via Staceyville, Iowa, to Adams, Minnesota.
From Melrose to Centreville.
From Newton, via Monroe, Red Rock, and Knoxville, to Albia.
From Vinton, via Urbana and Spencer's Grove, to Quasqueton.
From Sac City to Carroll City.
From Sand Spring, via Golden Prairie, to Manchester.

Idaho:
From Esmeralda to Yuba.

Kansas:
From Oswego, via Cherokee City, Centralia, Pleasant View, to Carthage.
From Pleasant Grove to Twin Falls.
From Twin Springs, Kansas, via Brooklyn, Trading Post, to Butler, Missouri.
From Burlingame, via Onion Creek, Marias des Cygnes, to Neosho Rapids.
From Cottonwood Falls, via Cedar, Bames, and Towanda, to Gates.
From Marion Centre, via Moore's Ranch and Sharp's Creek, to Ellsworth.
From Towanda to mouth of Little Arkansas river.
From Cottonwood Falls, via Middle Creek, Lincolnville, and Clear Creek, to Salina.
From Union to Spring Creek.
From Monmouth, via Lewistown, to Oswego.
From Baxter Springs, via Centralia, to Lewistown.
From Iuka to Jackson.
From Junction City, via Quimby, Cain's Creek, Five Creeks, Mulberry and Elm Creek, to Lake Sibley.

Kentucky:
From Louisa, via Wayne and Logan counties, West Virginia, to mouth of Pond Creek, Pike county, Kentucky.

Maine:
From Kennebunk, via Kennebunkport, to Cape Porpoise.
From Biddeford to Saco Pool.
From Brunswick, Maine, to Orr's Island.

Maryland:
From Havre de Grace to Lapidum.

Michigan:
From Big Rapids, by Chippewa Lake, to Millbrook.
From Newaggo to Big Prairie.
From Battle Creek to Athens.

Minnesota:
From Richmond, via Lake Ellen and Maple Lake, to Holmes City.
From Lansing, via Newry, to Geneva.
From Minneapolis to Big Stone Lake.
From Waverly, via Lake Mary, Winstead, and Bergen, to Glencoe.
From Glencoe, via Penn, Collins, and Preston Lake to Greenleaf.
From Madelia, via Linden and Cottonwood, to New Ulm.
From New London to Burbank.
From Madelia to Antrim.
From Redwood Falls to Lynd, McPhail county.
From Pleasant Grove, via Hamilton, Spring Valley, to Le Roy.
From Sauk Centre to Holmes's City.
From New Auburn, via Transit, Eagle City, and Lafayette, to New Ulm.
From Rushford to Winnesheik, in Iowa.
From Rochester, via Pleasant Grove and Spring Valley, to Le Roy.
From Hutchinson, via Lynn, Collins, Lake Preston, and Beaver Falls, to Redwood Falls.
From Hastings, via Cottage Grove, Gilbert's Mill, to Afton.
From Cottage Grove, via Woodbury, thence by the northern road, via McCattis Corners, to Saint Paul.

Mississippi:
From Iuka to Baldwin.

Missouri:
From Johnstown, via Hudson, Johnson City, Chalk Level, to Osceola.
From Butler, via Belvoir, to Nevada City.
From Tuscumbia, via Little Gravois post office, to Bliss post office, Miller country.
From Holden, via Dayton, to Butler.
From Patterson to Doniphan.
From California, via High Point and Pleasant Mount, to Tuscumbia.
From Bethany, via Burr Oak and New Castle, to Gentryville.

Montana:
From Virginia City, via Red Mountain City, Butte City, Silver Bow, Deer Lodge, and Philipsburg, to Bear Town.
From Beaverhead Canyon, down Beaverhead river to its junction with Big Hole or Wisdom river, thence up said river to Divide creek, thence up said creek and through Deer Lodge Pass to Silver Bow, and thence down Deer Lodge river to Deer Lodge City.
From Fleecer's Staton to Red Mountain City.
From Silver Bow, by the mouth of German and French gulches, to the mouth of Warm Spring creek, thence up said creek to Cable City, thence down Flint creek to Philipsburg, thence down said Flint creek to Emmettsburg, and thence to Bear Town.
From Blackfoot City to Washington gulch, thence to Jefferson gulch, thence to McClellan gulch, and thence to Lincoln gulch.
From Helena, via Washington, Jefferson, and Lincoln gulches, to Reynolds City.
From Helena, via French bar, Pave gulch, and New York, to Ruby City.
From Pave gulch, via Eldorado bar, to Helena.
From Virginia City, via Sterling, Willow Creek, Springville, to Helena.
From Gold Creek, via Emettsburg, Philipsburgh, and Cable City, to Helena.
From Helena, via Radersburg, Gallatin City, Morse's Store, to Bozeman City.
From Bannock City, in the Territory of Montana, via Fort Lemhi, Idaho City, Salmon City, to Boisé City, in the Territory of Idaho.
From Helena, via Silver City, Trinity gulch, Gravelly Range, Piegan gulch, to Atlantic City.
From Helena to Unionville.
From Helena, via Washington, Jefferson, and Lincoln, to Reynolds City.

Nebraska:
From Tecumseh, via Helena, to Lincoln City.
From Lincoln, via the Oak Groves and Seward, to the mouth of Douglas creek, in Butler county.
From Elkhorn Station, via Forest City, Salt Creek ferry and Ashland, to Lancaster.
From Lincoln, via Milford, to Beaver Creek.
From America, Kansas, via Pawnee City, Table Rock, Tecumseh, Latrobe, Saltillo, Saline City, and Lancaster, Nebraska, to Columbus, Nebraska.
From Padonia, Kansas, via Falls City and Ellmore, to Nemaha City, Nebraska.
From Little Sioux, Iowa, via Arizona and Tekama, Nebraska, to West Point, Nebraska.
From Beatrice, in Gage county, via Swan City and Camden, to Milford, in Seward county.
From Lincoln, via Milford, to Beaver Creek.
From West Point to Dakota City.
From Nebraska City, via Bartlett's Mill, Snyders, McClure's settlement, and Morton's Ford, to Table Rock.
From Weeping Water, via Stone Creek and Shirley's station, to Lincoln City, Nebraska.

Nevada:
From the mail station on the overland mail route in Ruby Valley, to Camp Halleck.

New Jersey:
From Penn's Grove to Woodstown.

New Mexico:
From Santa Fé, via Pojuaque, to Abiquiu.
From Abiquiu, by El Rito, Ojo Caliente, Sevoyetta, Los Conejos, to Fort Garland.
From Santa Fé, via Real de Dolores, Tuerto, and San Antonia, to Albuquerque.
From Cimmaron, via Virginia City, to Taos.
From Santa Fé, via Las Trampas, Penasco, and Rio del Pueblo, to Taos.
From Las Vegas, via Atouchico, Canones, and Puerto de Luna, to Fort Sumner.

New York:
From Fabius to Pitcher.
From Rochester, via West Brighton, Henrietta, and Rush, to Honeoye Falls.
From Mina to Wattsburg, in Pennsylvania.
From Dundee, via Crystal Springs and Wayne, to Hammondsport.

North Carolina:
From Newport, via Sanders's Store and Pettiford, to Peletier's Mills.
From Newport to Pettiford's Creek.

Ohio:
From Zaleski to New Plymouth.
From West Union, via Cedar Run and Mineral Springs, to Locust Grove.
From Dunbarton to Mineral Springs.
From West Union, via Wheat Ridge and New Port, to Tranquillity.
From Copley to New Portage, via Bates's Corners and Clark's Mills, in Summit county, and from Dennison to Bates's Corners, in same county.

Oregon:
From Brownsville, via Peoria, Corvalles, Summers, in King's Valley; Haptonstalls, at the foot of Yaquima hills, Elk City, at the terminus of the Yaquima bay, Military Wagon Road, and Oysterville, to New Port, on the bay of Yaquima.
From Portland, via Bridgeport and Chehalem Gap, to Dayton.
From Albany, via Boston Mills, to Brownsville.
From Corvallis, via Reader's Mill, King's Valley, and Pioneer, to Yaquima.
From Dalles, Oregon, via Rockland, Washington Territory, Block House, and Simcoe, to Yaquima.
From Corvallis, via Summers, in King's valley, Haptonstalls, at the foot of the Yaquima hill, Pioneer City, Elk City, and Oysterville, to Newport.
From Express Ranch, via Rye valley, to Humboldt basin.
From Umatilla, via the county seat of Yaquima and the Snoqualmie pass, to Seattle, in Washington Territory.

Pennsylvania:
From Armagh to Heshbon.
From Richland, via Milbach and Kleinfeltersville, to Scheafferstown.
From Conestoga to Lancaster City.

Vermont:
From East Barnard to South Royalton.

West Virginia:
From Bulltown, via mouth of Oil Creek, to Glenville.

Wisconsin:
From Menomonee, via Washburn Farm and Pine Creek, to John Quarter's Camp, in section twenty-eight, township thirty-four, range twelve, west.
From Neilsville, via Hunsicker's, to John Graves's.

Mr. RAMSEY. I move to amend the amendment by inserting after line seventy:

Florida:
From Smyrna, Halifax river, via Matanzas river, to St. Augustine.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I offer another amendment, to come in after line one hundred and ten:

Kansas:
From Humboldt, via Belmont, Pleasant Grove, Eureka, El Dorado, White Water Junction, to the mouth of Little Walnut.
From Amenia City to Centralia.
From Cedar Point, via Bill's Creek, Joseph Adams's, and Towanda, to White Water Junction.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I have another amendment, to come in after line one hundred and eighteen, under the head of "Maine:"

From Moose river to Canada line.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I offer an amendment now, to come in after line one hundred and fifty-two, under the head of "Minnesota:"

From La Sueur, via Cleveland and Jefferson lake, to Elysian.
From Lake Graham to Lake Shetek.
From New London to Burbank.
From Sauk Centre, via east end of Grove lake, to Lake Johanna.
From New London, via Green lake, to Christiana.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I offer another amendment, to come in after line two hundred and twenty-eight, under the head of "Nevada:"

From Dayton, via Hot Springs and Pine Grove, to Aurora.

Mr. STEWART. I received a petition this morning in regard to that matter, and I hope the Senator will withdraw the amendment for a moment that I may look at it.

Mr. RAMSEY. Very well; I withdraw the amendment for the present. I now offer the following amendment, to come in after line two hundred and twenty-five, under the head of "Nebraska:"

From Beatrice, via Clatonah and Randall, to Camden.
From Ashland, via Waho Ranche and Raccoon Fork of Oak creek, to Ulysses, in Butler county.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I offer this amendment, to

come in after line two hundred and ninety-six, under the head of "Nebraska:"

From Neilsville to Graves's Mills.

The amendment to the amendment was agreed to.

Mr. YATES. I offer the following amendment, to come in after line two hundred and ninety-six:

Illinois:
From Winchester, via Exeter and Oxville, to Naples.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I suggest that the two hundred and twentieth line be stricken out. It is but a repetition of line two hundred and ten, owing to a misprint.

The PRESIDENT *pro tempore*. It is proposed to strike out line two hundred and twenty, in these words, "from Lincoln, via Milford, to Beaver Creek."

The amendment to the amendment was agreed to.

Mr. RAMSEY. Now after the words "Beaver Creek," in line two hundred and ten, I move to insert "and Fort Kearney;" so as to make the line read:

From Lincoln, via Milford, to Beaver Creek and Fort Kearney.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I wish to correct the orthography of one or two words on page 12. In line two hundred and sixty-six, two hundred and seventy three, and two hundred and seventy-seven the word "Yaquima" ought to be "Yaquina."

The PRESIDENT *pro tempore*. Those clerical corrections will be considered as agreed to, no objection being made.

Mr. RAMSEY. I offer this amendment, to come in under the head of "New Mexico," after line two hundred and thirty-four:

From Cimeron to Taos.

The amendment to the amendment was agreed to.

Mr. STEWART. After line two hundred and eighty-eight, under the head of "Nevada," I move to insert:

From Wellington, via Pine Grove, to Aurora.

The amendment to the amendment was agreed to.

Mr, THAYER. I move to insert after line two hundred and twenty-five:

From Bartlett City, Iowa, to Lincoln City, Nebraska.

The amendment to the amendment was agreed to.

Mr. THAYER. I move, in the same place, under the head of "Nebraska," to insert:

From West Point to Norfolk.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HENDERSON. I move to amend the bill by inserting, under the head of "Missouri," after line one hundred and sixty-six:

From Warrenton, via Pinckney and Holstein, to Hopewell Academy.
From Cap-au-Grés, via Burr Oak Valley and Drydensville, to Old Alexandria.
From Bloomfield, via Indian Ford, Poplar Bluff, and Little Rock, to Doniphan.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

CAPTURED AND ABANDONED PROPERTY.

On motion of Mr. EDMUNDS, the Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer as special agent of the Treasury Department be covered by warrant into the United States Treasury.

Mr. EDMUNDS. I move that the Senate disagree to the House amendment, and ask for a committee of conference.

Mr. STEWART. I hope we shall have the yeas and nays on that question. I am in favor of the House amendment.

Mr. EDMUNDS. I appeal to my friend from Nevada. This matter has been discussed over and over again in the Senate, and by a majority of ten or a dozen this particular appropriation has been agreed to by the Senate. I submit to him that there can be no harm in asking for a committee of conference.

Mr. STEWART. I think there is no harm in having a vote on the question whether we agree or disagree with the House amendment.

Mr. EDMUNDS. Very well; you can have a vote.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made by the House of Representatives, which is to strike out the third section of the Senate amendment.

Mr. STEWART. I ask for the yeas and nays on that motion. The House amendment, I understand, strikes out the appropriation of $100,000 which was voted by the Senate to be expended by the Secretary of the Treasury in settling up the accounts connected with cotton matters. The question is one which has been very much discussed here. The House of Representatives have stricken out that appropriation, and I think they are right.

Mr. EDMUNDS. I do not wish to occupy the time of the Senate; I only wish to have Senators understand precisely what the question is. After a long debate in this body, and the consideration of every fact in connection with this matter that could be brought to our attention, we decided by a large majority upon the yeas and nays, both in committee and out of committee, to make this appropriation to enable the Secretary of the Treasury to close up this business. Now, the House of Representatives propose to strike out that section, and my motion is that we disagree with their amendment. I only wish to state the point that Senators may understand what it is.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Senate disagree to the amendment of the House of Representatives.

Mr. TRUMBULL. Has that precedence of a motion to recede?

The PRESIDENT *pro tempore*. A motion to recede would take precedence.

Mr. TRUMBULL. Would not a motion to agree to the amendment of the House have precedence?

The PRESIDENT *pro tempore*. That motion would be first in order, if made.

Mr. TRUMBULL. Then I move that the Senate agree to the House amendment.

Mr. STEWART called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 26; as follows:

YEAS — Messrs. Cameron, Chandler, Conkling, Conness, Fowler, Harlan, Howard, Morton, Nye, Pomeroy, Stewart, Sumner, Thayer, Trumbull, Wade, and Yates—16.

NAYS—Messrs. Anthony, Buckalew, Cattell, Cole, Corbett, Dixon, Drake, Edmunds, Ferry, Frelinghuysen, Grimes, Hendricks, Johnson, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Ramsey, Ross, Sherman, Sprague, Van Winkle, Vickers, Willey, and Williams—26.

ABSENT—Messrs. Bayard, Cragin, Davis, Doolittle, Fessenden, Henderson, Howe, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Tipton, and Wilson—14.

So the Senate refused to concur in the House amendment.

Mr. EDMUNDS. I move that the Senate ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and the President *pro tempore* was, by unanimous consent, authorized to appoint the conferees on the part of the Senate.

THE FUNDING BILL.

Mr. SHERMAN. I move to postpone the unfinished business of yesterday and all prior orders, and proceed to the consideration of the funding bill.

The motion was agreed to.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the joint resolution providing for the publication of the Medical and Surgical History of the War.

Mr. SHERMAN. There is a bill pending.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent.

Mr. SHERMAN. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill known as the funding bill is before the Senate.

Mr. ANTHONY. I do not wish to interpose against the regular course of business, and I suppose I could not if I should; but I wish to appeal to Senators. This resolution belongs properly to the morning hour, but I never can get the floor in the morning hour, and when I get it after the morning hour some one always takes it from me. This matter ought to be decided one way or the other. If the Senate does not choose to go on with this work I am content to have it so decided; but I hope that when I attempt to call it up to-morrow Senators will allow me to call it up and have it disposed of one way or the other.

Mr. SHERMAN. I trust we shall proceed with the order of the day. I shall object to everything unless it be by a vote of the Senate.

The PRESIDENT *pro tempore*. The bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Missouri [Mr. HENDERSON] to the amendment reported by the Committee on Finance, as a substitute for the bill.

Mr. CORBETT. I wish to give notice that I shall offer an amendment at the proper time to strike out in line eleven, section one, the word "ten" and to insert "twenty;" so that the clause will read:

Such bonds to be payable in forty years from date, and to be redeemable in coin, at the pleasure of the United States, after twenty years from date.

I desire to make a few remarks upon this bill, and I propose to embrace the present opportunity.

The PRESIDENT *pro tempore*. The Senator is entitled to the floor.

Mr. CORBETT. Mr. President, nothing would induce me to differ with my compeer, the able Senator from Ohio, [Mr. SHERMAN,] versed, as he is, in all matters and history of finance, except his bold statement that he for one will vote to pay off the five-twenty bonds in legal tenders, providing the holders do not see fit to exchange their securities for a bond bearing one per cent. less interest than those now held by them. With such a proposition I cannot agree. The solemn obligations resting upon me as a Senator and the solemn obligation resting upon the Government in this crisis of our financial struggle forbid. A struggle, I say, because it is a struggle with ourselves whether we will pay our bonds, as they mature, in dollars or with our irredeemable notes, made a legal tender under the pressure of war, and, as a war measure, to be redeemed with gold at the close of the war or funded into United States bonds bearing interest that should be equivalent to gold. Why did you pay seven and three tenths per cent. interest if you considered the principal payable in currency? Why not have made your interest six per cent.? For the very reason that you regarded the principal and intended making the principal payable in coin, and you paid the one and three tenth interest over and above the six per cent. to make it equivalent to coin interest upon a debt, to be funded into a six per cent. bond, redeemable after five years, providing you should have resumed specie payment; otherwise, to run until you could redeem them any time during the fifteen years next succeeding. It was doubtless thought

that after the five years we could negotiate a loan upon more favorable terms, and we doubtless can negotiate such a loan, providing that we will make the loan payable in forty years and redeemable, at the pleasure of the Government, after twenty years. The longer the loan the more popular, providing it is with a Government that has always observed its obligations without quibble or question.

It is not for the present that I speak, but it is that great, grand, and glorious future that I see for my country looming up before me, powerful and mighty as she is to be, destined to withstand, as one day she will, all the Governments of the crowned heads of Europe, if occasion requires. I would lay our credit deep and broad, not for one century, but for a hundred centuries. Let us not look too much to our puny selves. We need only look back a hundred years to the march of events, when an American drew the lightning from heaven to see if it could be made subservient to man. Another American takes it up and teaches it to speak, and it is heard a thousand miles distant over distant portions of our country. Another American takes it up and stretches his electric wires through the vast ocean for thousands of miles, and he makes it to talk to all Europe. Need I recall to mind the revolution caused by Fulton, another American, in adapting steam to the propelling power upon the Hudson. Look at your floating palaces upon our rivers; your steamships on the Atlantic; and that magnificent line of ships upon the Pacific and China seas; and yet it is only threescore years. Look at your perfect network of railroads East and West, and all this has been accomplished in a little over thirty years. Therefore let us keep our armor bright and our credit untarnished and look to time, to the great future, as our remedy for this burden. To say that we cannot pay the interest on this debt is folly; there is no such sentiment in the American heart; but, on the contrary, they are determined to do and accomplish what no other nation has the internal wealth and vigor to do. Many croakers said that we could not put down this rebellion; the people said, "We will try." All the people now ask is that you should try to pay the debt. As for myself, I never had a doubt that we could put down the rebellion. Neither have I a doubt but that we can pay this debt in dollars.

Public credit should be, "like Cæsar's wife, above suspicion." What shall we gain by paying off these bonds in legal-tender notes, and where are we to get these notes? From the sale of the five per cent. United States bonds, when you declare that you will pay these five-twenty bonds in legal-tender notes. What do you suppose you will get for your ten-forty five per cent. loan? What you make by dishonoring your six per cent. bonds you will lose upon your five per cent. bonds. Do you suppose capitalists will invest in a five per cent. loan that you can repudiate with as much reason as we can in honesty this six per cent. loan? What amount shall we save in interest per annum if you determine to force people to take the five per cent. in place of the six per cent.? It is very easy to calculate it upon $1,610,272,900. The five-twenty bonds at one per cent. amounts to about sixteen millions. The question now arises, can we afford to sell our plighted faith for this sum? My proposition is to substitute a twenty-forty loan instead of a ten-forty loan. A long loan finds a much more ready sale than a short loan. I propose to give these five-twenty bondholders the privilege of exchanging their bonds for a long loan, bearing interest at five per cent., principal and interest payable in coin, and free from State, municipal, or local taxation. This is an equivalent to a tax upon their income of sixteen and two thirds per cent. This is a large deduction.

When we look to the future of this great Republic, embracing twenty-three degrees in longitude by fifty-seven degrees of latitude, with all variety of climate, producing the most delicate and delicious fruits of the South, with abundance of the more substantial productions of the temperate zone and the hardy productions of the North—when we contemplate this vast and varied country, its climate, its production for the sustenance, comfort, and luxury of man, the vast resources of all its varied hidden riches of the earth, composing metals for all the most substantial and useful arts of life, with all the most precious metals to tempt the cupidity of man; test the bowels of the earth, it sends forth its fatness in living streams of oil like the perennial fountain; add to these our beds of coal, our forests of timber, our mountains of iron, where is its equal? Have we the capacity to make them useful—who doubts it? With all the thousands of inventors, combining the greatest inventive genius of the world, we can outstrip all other nations combined. A population from every land and nation under the sun, a land now happily free from the oppressor's rod, to be rebuilt upon a firm and enduring foundation made sacred and cemented by the blood of a million of our noblest sons.

Therefore, let us not crown this temple, hewn by the sweat of so many brows, reared by the blood of so many brave lads, with the capstone of repudiation. Let us do nothing as a great and noble and suffering people that shall detract from the honor of those that lie silent and cold in their blood-bought graves, with naught but their country's banner over them. To me, Mr. President, my duty is plain; my duty to the men that came forward to supply our suffering Army, to succor our noble boys, in the day of the national darkness and despair, and to the capitalists of Germany, of Frankfort, that took our securities, and spewed out the rebel bonds, and gave to us money, the sinew of war, to assist us in maintaining the life of the nation. I need not the example of other nations to tell me what is right between man and man or between nation and nation; it needs not the shrewd argument of a lawyer to tell me what is due to my creditor—if there is any one thing that I regard more sacred in life, after my duty to my God, it is to fulfill all my engagements, both written and implied, and nothing shall drive me from this position.

If this be important and right in private affairs, how much more important in public affairs. I submitted a resolution on the 6th of December last which reads as follows:

"*Resolved*, That the Committee on Finance be instructed to inquire into the expediency of reporting a bill to authorize the Secretary of the Treasury of the United States to contract a loan and issue bonds of the United States for the same, redeemable at the pleasure of the Government after twenty years, and payable in forty years, bearing interest at the rate of five per cent. per annum, principal and interest payable in gold coin, and to place the same upon the market for the purpose of redeeming the United States bonds commonly called five-twenties as they mature."

This resolution was referred to the Committee on Finance. My object in proposing this resolution, as I then stated, was to place a long loan upon the market, a twenty-year loan, bearing five per cent. interest, principal and interest payable in coin. This I intended as a loan which should be optional with the bondholder. It should be for the holder to consider whether it was best for him to convert it into a twenty-forty bond, a bond that would be a certain investment for him for twenty years, or for him still to hold his bond which gave to the Government the right to redeem any day after the five years expired. A large amount of these five-twenty bonds have already matured. A loan placed upon the market at this time, bearing five per cent. interest, and principal payable in coin, redeemable after twenty years and payable in forty years, would be readily taken by a large portion of the bondholders for these securities. My plan would be to give the holders of the five-twenties the option to exchange their bonds for the new loan or hold them, as they might think best. If they did not exchange them I would maintain, as one of the party that carried us through the war, and appealed to the rich and poor, to the high and low, to lend us their money, that they should have the interest in gold as per agreement, until such time as we could redeem their bonds in gold or substitute other satisfactory bonds. By thus sustaining the credit of the Government, by keeping your credit at a high standard, you would be enabled to negotiate your five per cent. loan to much better advantage than by destroying confidence in your integrity. In this way you would place yourself in funds, and could then enter the market and purchase these maturing bonds of those that would sell at the lowest price.

And if there is to be repudiation let Pendleton and the party that he represents inaugurate it, and not the great and glorious Union party, that fought through fire and blood for the right, that has raised itself so high in the estimation of the whole world. Shall we now take up the wrong and crown a work so nobly begun with an act that will sink us so low in the estimation of all those that trusted us in the day of our need? What is the example that you are about setting to the people? Is it to maintain their obligations without quibble? No. It is to seek a pretext to avoid their just obligations. The example is pernicious and demoralizing in the extreme. What shall we save in this operation? Supposing you save $16,000,000 per annum; is not your credit worth that? What is that for a great nation struggling for an existence? What is it when you are engaged in war? It would be spent in five days. It is true, $16,000,000 is worth saving each year, but not when it imperils your sacred obligations, your honor, your greatness, your power, in time of peace as well as in time of war.

What is for the public good which we all so much desire? Is it to issue our notes without regard to the amount of moneyed income and money on hand to meet such obligations? If that expansion must continue or kept at its present point I am in favor of such expansion through the increased number of banks in the West, and a contraction of the legal tender to an extent that Government can resume specie payments. In that event banks should not be allowed to issue to exceed sixty per cent. of their capital secured upon five per cent. United States bonds. This would make them cautious, and compel them to keep their business in a snug, healthy condition; and if they should fail, Government, with their bonds in hand, would always be ready to redeem them. This would require a larger amount of bonds at home, and have a tendency to keep up the price; and if Government will so reduce the legal tenders as to enable us to resume specie payment I, for one, am ready to grant to the bank circulation sufficient to make up the difference under the safeguard proposed. But I consider it of the first and chief importance for our Government to resume specie payment, and let the banks do so when confidence is once more restored and specie is let loose from its moorings and becomes more abundant.

The Government legal tender is good as gold whenever you are prepared to pay gold therefor; and when you issue in excess of that amount then you must put it in the shape of a bond bearing interest to make it equivalent to and as valuable as gold; but when you attempt to force paper upon the community bearing no interest, in excess of what you can redeem in gold, then you destroy the gold standard. You are at sea like a ship without a rudder, at the mercy of every wind that blows, and poorly prepared for the storm that may any day overtake the nation. The Senator from Missouri speaks of the currency being very much reduced. According to his theory, if he calls compound-interest notes currency we have a very large amount of currency yet in circulation. All the interest-bearing bonds are in one sense currency. They pass from hand to hand from day to day in place of so much other currency, and I think the only trouble in all new States is that we have not the accumulated capital so that we can afford to invest in these securities

at the rate of interest they bear, otherwise we should invest in them instead of products of the country which are simply evidences of real value. If plenty of paper money makes cheap bread why should flour be worth to-day fifteen dollars per barrel, while before the war upon a gold basis it was only nine dollars? Could not the farmer buy as much with his nine dollars then as he can with his fifteen dollars now?

Gentlemen appear to think these Government stocks are all held by speculators. I think that is a mistake. It is the honest, the poor, the frugal, the best portion of the mechanics, the farmer, the servants, the saving institutions for the poor, the orphans, a large amount by the middle classes. The most wealthy portion of our citizens have their money securely invested in real estate, showing their sound judgment, leaving the poor, the weak, the suffering, with their fifty, their one hundred, or five hundred dollar bonds, to be trodden under foot, because you have the power, and as a reward for their patriotism in coming forward, as did the factory girls of New England, the mechanic of the workshop, to contribute their mite to further the good cause. Call upon the generous soldier who, by this means gained the title of heroes, and surrounded their names with imperishable glory, what will they say? Their answer will be, "Do naught to dim the glory of the past. We fought, we conquered; now pay the bills like men; not according to the strict advantages that may be taken of the law, but according to the implied obligations."

I have a pride in this great and glorious nation; her character is more precious than gold, yea than much gold. Depart from the right, cast a blot upon the glorious escutcheon of this great nation, and we shrink back in shame before the other great nations with whom we deal. A loan can doubtless be effected on twenty years with five per cent. principal and interest payable in coin as proposed, but for a less amount of interest or a less time I do not think our bonds would be readily exchanged for the five-twenties; but it should be at the option of the holder without threat. I, as one of the Union party, cannot, under any circumstances, consent to pay these bonds off in anything not equivalent to our assumed obligations. If the Pendletonian doctrine or anything approaching it should prevail it will not be by my vote. We are supposed to represent a party whose sense of justice and right and high sense of public obligation is unimpeachable. Take this false step and you cut your party in twain; what you gain in the West you lose in the East. I will read a slip taken from the Ohio State Journal, as it may interest the chairman of the Finance Committee:

"*Bad Credit.*—The question is often asked and in various ways answered, how is it that United States bonds sell for fifteen, twenty, and twenty-five per cent. less in London and Frankfort than English bonds, or the bonds of other European Governments. The English debt is not far from double that of the United States; it has been increased of late years rather than reduced, and no one entertains the idea of its ultimate payment. The chief reason can be given in a few words. There is a taint of repudiation about American securities. Pennsylvania repudiated her debt; Mississippi repudiated her debt. Talk to an English capitalist about the superiority of our securities, what a high rate of interest they pay, how safe they are, and he usually shuts you up by the inquiry, how about Pennsylvania bonds? If the holders of two or three classes of American securities are swindled, what assurance has a foreigner that the holders of all classes of such securities will not be swindled?

"It is an easy matter for a nation or an individual to get a bad credit, but to get rid of a bad reputation for honesty and fair dealing is next to impossible. A day's dishonesty is a century's disgrace."

Notwithstanding such healthful advice there are those who, for the few million dollars that may be saved yearly, are willing to sacrifice good faith, national honor, our national reputation for integrity both at home and abroad. It may be wise in the opinion of those who occupy such high positions, placed there to maintain the integrity of the nation, and after having stood firm through every shock of battle, now should lay down their arms and submit to the principles of a few demagogues that were opposed to the war, opposed to the debt, and that desire that it should become as worthless as the confederate debt. That accomplished, they will have succeeded in the most ardent and darling wish of their heart. I say, Mr. President, I will not concede such a point to strike hands with such men to ruin our national credit, and do injustice to that loyal portion of our people. I am informed by gentlemen living in the eighth district of Massachusetts that it is perfectly surprising to see how many of the mechanics, laboring men, servants, widows, and representatives of orphans who call at the banks to get their coupons cashed every six months. Does that district pay any income tax? Only $3,000,000! It has been truly stated by my friend from Vermont that the seven-thirty loan gave a very good indication of the class of people who took that loan, and I have an extract before me from the pen of Jay Cooke, in which he says:

"It is not generally known how large a proportion of the securities of the United States are held by people of moderate means for the investment of their savings. We have not at hand the precise figures of the denominations in which the several series of five-twenties were issued, but the following statement shows the number of notes of each denomination embraced in the issue of the seven-thirty Treasury notes, which are now being converted by the Treasury into five-twenty bonds. In these conversions the Treasury has never been able to supply enough small bonds to adequately meet the demand:

962,580	50s	$48,129,000
1,474,940	100s	147,494,000
436,792	500s	219,896,000
370,376	1,000s	370,376,000
8,821	5,000s	44,105,000
3,256,509		$630,000,000

"These figures will give an approximate idea of the amount in which all of the five-twenty bonds of the Government are held.

"They show that one half of the loan in amount was taken in fifties, hundreds, and five hundreds, and further, that as 2,877,313 pieces of these three denominations were issued against 371,197 pieces of the large denominations, the capitalists are in very small minority, and any legislation repudiating, in whole or in part, the obligation of the bonds of the Government would fall most severely upon widows, orphans, and people of small capital, who invested their money in those securities in perfect reliance upon the representations made to them by the Treasury Department, directly and through its agents at the time of their issue.

"More than once during the war resolutions were offered in Congress looking to the payment of the five-twenties in currency, but in every case were promptly voted down. The bonds were offered directly to the people and sold to them at prices which could not possibly have been obtained but for the distinct understanding that they were payable, principal and interest, in coin.

"That this was the spirit and intent of the authorizing act it is only necessary to refer to the sinking-fund clause, (section five, act February 25, 1862,) which specifically appropriates the coin duties on imports to, first, payment of interest on public debt; second, to a sinking fund for the payment of principal. All of the funded debt of the United States that has heretofore matured has been paid in coin, notwithstanding the fact that the authorizing acts did not so specify in words; and three such loans have matured and been paid in coin since the issues of the five-twenties of 1862.

Let us, in view of all these circumstances, stand by our engagements; let us, if it be necessary, do even more than the letter of the law where the credit of the nation is the prize. We know not how soon we may need it again, when we read such extracts as the following, sent to me by a friend:

"A band of robbers, thieves, tyrants, usurpers, Union-haters, traitors, Constitution ignorers, people-taxing, bond-protecting tools of fanaticism, dignified by the name of a Rump Congress, illegally in session, acting outside of the Constitution they in common with the President took oath to protect, have declared war upon the Executive, upon the rights of States and people; upon the cause the people of the North so well defended at most terrible cost.

"As we predicted, during the reign of the infamous tyrant, now dead, the party in power has shown its red hand, filled as it is with stolen liberties of an enduring people, and we behold the spectacle of a so-called Union party warring against the Union brave men defended and fought for, while these congressional thieves and usurpers were filling their pockets with stolen goods, and their coffers with non-taxable bonds.

"Lincoln, the obscene tool of tyrants, promised good and wrought evil—he surrounded himself with all that was vile, profligate, and infamous, till even God could endure the outrage on a poor people no longer, and in the twinkling of an eye hurled his soul into hell, there to atone for the wrong done to a nation.

"A Congress in part—an illegally assembled body of traitors and usurpers now throw off the mask, step boldly outside the Constitution to depose a President, establish a centralized depostic power, the mission of which is to blot out States and vested rights; rivet the bonds still tighter over the muscles of labor, and wrest from the people every victory ever won by force of arms—every step gained on the road to liberty and prosperity by argument and the wisdom of statesmanship, now unknown or ignored.

"To Johnson we now look. His duty is plain. He has sworn to defend the liberties of the people. He is the head of the nation—it is for him to *command*—it is for others to *obey*, and to aid him in the defense of liberty and the blessings it promises. Let him stand firm! Oh, for one hour of Andrew Jackson! We'd nail up the doors of the Senate and of Congress!

"We'd plant all the cannon in front of the White House, the Treasury, Post Office, and War Departments.

"We'd declare the District of Columbia under martial law, take command in person of the Army, arrest any traitorous Republican Senator, member of Congress or perjured Cabinet officer, try them by a drum-head court, and hang them within twenty-four hours!

"We'd teach *traitors* that the punishment of *treason* was DEATH!

"We'd call upon brave, glorious Maryland to send seventy-five thousand troops to sustain the President in his discharge of a sworn duty, and if Maryland could not furnish troops enough, we'd call for *volunteers* from every State, and if the backers of traitors, who dangling in the air, wanted war, if they wanted to destroy all there is of America, we'd give them such a taste and feast of blood as the world never saw, till they cried for mercy!

"It is the duty of Andrew Johnson to maintain his position—to defend the Constitution—to save the country and its liberties. If he cannot do it we are all lost for a time. If he can, if he will, and he can if he will, it is our duty to aid him, and millions of brave men are ready to stand by him if he will only stand by the country.

"But let him be deposed! And then comes the revolution. Good-bye United States bonds.

"Farewell, leaders of the Republican party, for your rest will be in the bosom of your cowardly martyr, the obscene, saintly lamented!

"If you want war you can have it, and if you commence it there will be no ending thereof till old scores be settled—till New England be shorn of power and becomes more desolate than ever was the South, and till there shall be no more Republicanism left to curse the land it is so rapidly destroying.

"Young patriots—brothers in the battle for the right—stand firm and be ready to march forth like avengers, if to this it must come! And tell the traitors at Washington we are ready!"—*La Crosse Democrat, February 27.*

From all quarters of the northwest come assaults upon the bondholders of the East, mostly from the Democratic press, it is true. As an illustration of what it wants in the financial world, read this extract from Pendleton's home organ, the Cincinnati Enquirer:

"The issue of $2,000,000,000 of currency would only put it in the power of each voter to secure $400 for himself and family to spend in the course of his lifetime. Is there any voter who thinks that is too much—more than he will want? If every man should get his $400, don't you think, reader, that they could manage to dispose of it? Would you not agree to use your share? Farmer, merchant, mechanic, and laborer, are you afraid that money will be too plenty?"

Why these assaults upon the capital of the East, for it represents capital, and is equivalent to gold as long as it bears interest. We can use them as so much money in all our transactions, at home or abroad; to buy railroad iron in Europe, to develop our vast West, and the farms that have been so munificently distributed to the people of that section. Repudiate this, make this capital valueless by flooding the country with promises to pay that you cannot redeem, and whereby you place it out of your power to ever resume specie payment; you paralyze all capital, destroy all confidence, and throw your financial system into a chaotic mass of ruins. Some of the western people may think it right, after reaping their share of the harvest, by selling their wheat, flour, corn, pork, beef, and other supplies for the Army at two or three prices, for which they received their bonds, and sold them to eastern people, now to repudiate them. For my part I fail to see the justice. You might as well destroy the improvements upon those farms of the West, whereby the farmer is enabled to derive an income, as to destroy the $500 bond that the mechanic has saved from his hard earnings. They each pay the same income. Such propositions in this enlightened age is sickening in the extreme, when common honesty is set aside and absolute repudiation is openly advocated, and the vilest passions of men are ap-

pealed to. If upon such principles any party can succeed our country is, indeed, to be pitied.

To return to the bill. If our policy be "Stand and deliver" or we will shoot you with greenbacks, will it not have a tendency to cause a flow of our bonds back from Europe, and in return cause an export of gold from our country, which we cannot spare at this time? Our shipment of gold is again on the increase:

Total since Jan. 1, 1868	$11,441,392
Same time 1867	5,052,075
Same time 1866	4,571,201
Same time 1865	4,197,047

By this you will notice for the past two months our shipments have considerably more than doubled that of any one of the previous three years for the same length of time. This is under non-contraction policy. There is now no need of gold in this country. We have abandoned that policy so wisely decided upon in your sober senses. By that step you relieved the people from that natural caution to which they had schooled themselves, and gave them full license to launch out upon a career of extravagance and speculation, the results of which may prove serious; but the proposition of the committee as reported in section six, is, in my opinion, a wise one, and will tend in a measnre to remedy this evil. Each week tends to show the necessity of adopting some system that will require the use of specie. The week ending March 3, we exported the large sum of $3,980,200, gold.

The financial men cannot see this drain going on without alarm. There is no reason, by every rule of right and justice, if a man agrees to pay gold, why the law should not compel him so to do. To sections two and three I cannot see any valid objection. Section five, I think, ought to be stricken out. I think it will have a tendency to keep down the price of the five per cent. bond and prevent the funding of the five-twenty bonds into the long loan; and if we are to continue to export our bonds, as we shall necessarily be compelled to do, it is policy to adopt such measures as will tend to keep them as high as possible.

Mr. DIXON. Mr. President——

Mr. SHERMAN. I should like to have the question stated.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri [Mr. HENDERSON] to the amendment of the Committee on Finance, to strike out in line seven of the first section of the committee's amendment the word "five" and insert "four;" so as to read, "and bearing interest at the rate of four per cent. per annum."

Mr. HOWARD. I wish to suggest that this bill be laid aside for the present.

Mr. DIXON. If the Senator will excuse me, I would prefer not to give way at this time.

Mr. HOWARD. Very well.

Mr. DIXON. Mr. President, the bill under consideration involves the general welfare of the country to such an extent that I think it may be discussed from a point of view not yet taken. The first step to the restoration of the pecuniary prosperity of the country must be a harmonious restoration of the States. What I have to say to the Senate, therefore, will relate to that question; and I am the more encouraged in the intention of taking that view of it by the fact that the Senator who has preceded me has indulged to a considerable extent in what may be called general political remarks.

Mr. SHERMAN. My friend will excuse me for interposing; but I should like very much to get the vote of the Senate on two or three propositions connected with this bill. The Senator from Connecticut now proposes to make a political speech. I might, perhaps, raise a point of order upon him, but I know it is very difficult for the Chair to prescribe the limit of debate upon a general bill; but the result of this kind of debate is always to destroy the power of the Senate over its own business. If it be indulged in now by the Senator from Connecticut, of course, any Senator may stop any appropriation bill or a bill of any kind by a political speech. The speech he is about to make has no more reference to this bill than to any appropriation bill, or any other bill that may be brought before the Senate.

I feel embarrassed about the course to pursue. I do not think this proceeding is in order according to the rules of the Senate. The remarks made by the Senator from Oregon were pertinent to the bill. Although he read some extracts that might not be very pertinent, still the general tenor of his speech undoubtedly referred to the subject-matter of the bill. It is for the Senate to say whether or not they will allow a general discussion of political questions on a bill of this kind, which relates simply to finance. I deem it my duty to raise the point of order on the Senator from Connecticut, who has already stated to me and stated to the Senate that he proposes to discuss the reconstruction measures, political questions involved in other bills pending before Congress.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair cannot decide that the Senator is out of order. He has as yet made no remarks which can lead the Chair to any such conclusion.

Mr. SHERMAN. He has already stated with frankness and propriety that he intends to discuss other questions.

Mr. SUMNER. I would suggest a compromise. Why not take up the reconstruction bill proper and proceed with its consideration for the remainder of the afternoon, that our friend from Connecticut may have the opportunity of addressing his remarks to it?

Mr. SHERMAN. If the Senate is disposed now to indulge the Senator from Connecticut, I would a great deal rather that should be done than to have an evil example set which may at some time be followed to the detriment of the public business.

Mr. SUMNER. That would be the more orderly and logical course.

Mr. FESSENDEN. It is a matter of indifference to me personally how this point of order shall be decided. I do not know that I shall have occasion to say anything upon either of the bills referred to, the reconstruction bill or the currency bill. That will depend upon my being in a better condition than I am to-day; but I had thought that if I discussed either of them I would discuss both in the same speech, and say what I had to say on the subject of reconstruction and of the currency in the same discourse, if I made any. I desire, therefore, to enter my protest against any rule being established for the first time in this body that a gentleman may not speak on something else besides the matter immediately before the Senate. It will be establishing, I must say, a new rule in the Senate to undertake to criticise a gentleman's speech and declare that what he is saying has no relevancy to the question. The Senator from Connecticut has very fairly given notice, which other Senators have not done; but I and many other Senators have repeatedly made speeches in the Senate large parts of which had nothing in the world to do with the subject under discussion. It is a common practice here, and has been ever since I have been a member of the Senate; and it will be establishing a new precedent for the Senate in advance, or even as a Senator goes along, to pick him up on something that they may think is not exactly applicable to the matter under discussion. I hope that no new rule will be established. As for the fact that we may predicate a new discussion upon a subject to which it is foreign, and then protract the time, that is inevitable. We have no rule except to sit a matter out when we want to get a vote. That is the only remedy we have. The Senate will remember that perhaps the greatest discussion ever had upon political questions was upon Foot's resolution, as it was called, and pretty much the whole debate had nothing to do with the resolution under discussion.

Mr. HOWARD. I beg to say one word, if the Senator from Connecticut will permit me to do so.

Mr. DIXON. I prefer not to give way.

Mr. HOWARD. I do not ask the Senator to give way. I simply wish to give notice that there is a bill before the Senate that I am very anxious to take up and have acted upon. I refer to Senate bill No. 256, relating to the Central Branch Union Pacific railroad. I now give notice that I shall endeavor to call that bill up for discussion to-morrow after the morning hour, and I hope Senators will allow me to do so.

Mr. SHERMAN. I find that it is impossible to confine the attention of the Senate to the subject before it. I will, therefore, withdraw the point of order, and let the Senator from Connecticut proceed. As a matter of course, however, it enables any one Senator to interrupt the business of the Senate; but that is a question for him to settle.

Mr. VAN WINKLE. I merely wish to notify the Senator from Michigan that to-morrow is set apart for the consideration of bills from the Pension Committee.

The PRESIDING OFFICER. The Senator from Connecticut is entitled to the floor.

Mr. DIXON. If any Senator has any further objection to make to the course which I propose to take I wish he would state it now.

Mr. DIXON proceeded to address the Senate. [See Appendix.]

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 907) to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina, and for other purposes, in which it requested the concurrence of the Senate.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties, under the act of 1866, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. H. E. PAINE of Wisconsin, Mr. J. A. GARFIELD of Ohio, and Mr. J. L. GETZ of Pennsylvania, managers at the same on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. B. F. BUTLER of Massachusetts, Mr. W. H. KELSEY of New York, and Mr. J. A. NICHOLSON of Delaware, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery;

A joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes; and

A joint resolution (H. R. No. 228) relative to the post office and sub-Treasury of the city of Boston.

HOUSE BILL REFERRED.

The bill (H. R. No. 907) to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina, and for other purposes, was read twice by its title, and referred to the Committee on Public Lands.

CAPTURED AND ABANDONED PROPERTY.

The PRESIDENT *pro tempore* appointed Mr. EDMUNDS, Mr. FESSENDEN, and Mr. TRUMBULL the committee of conference on the part

of the Senate on the amendment to House joint resolution No. 19.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, communicating, in compliance with the acts of April 21, 1808, and July 17, 1862, statements of contracts made by the quartermaster's department during the month of February, 1868, and of those not received in time to be included in previous reports; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

EXECUTIVE SESSION.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 11, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CAPTAIN THOMAS H. STEVENS.

Mr. FERRY, by unanimous consent, reported back from the Committee on Naval Affairs a joint resolution (H. R. No. 172) relative to Captain Thomas H. Stevens, United States Navy; which was ordered to be printed, and recommitted.

Mr. CHANLER moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. BUTLER. I am directed by the Committee on Appropriations to report back the amendments of the Senate to the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, with a recommendation that the House non-concur in the amendments, and ask the appointment of a committee of conference.

The SPEAKER. If there be no objection the amendments of the Senate will be non-concurred in, and a committee of conference will be asked.

There was no objection.

VOTE ON CONSTITUTION OF ALABAMA.

The SPEAKER, by unanimous consent, laid before the House the following communication from the General commanding the armies of the United States:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, *March* 11, 1868.

SIR: In compliance with resolution of the House of Representatives of March 9, 1868, I have the honor to state that General Meade reports the total number of votes cast under the reconstruction laws up to the present time for the adoption of the constitution for the State of Alabama to be 70,812; against its adoption, 1,005.

Very respectfully, your obedient servant,
U. S. GRANT, *General.*

HON. SCHUYLER COLFAX, *Speaker House of Representatives.*

The communication was referred to the Committee on Reconstruction.

IMPROVEMENT OF CHRISTIANA RIVER.

Mr. NICHOLSON, from the Committee on Appropriations, reported back a memorial of the city council of Wilmington, Delaware, for an appropriation for the improvement of Christiana river, and moved its reference to the Committee on Commerce.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed the bill (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery.

Also, that the Senate had passed the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under act of 1866, with an amendment, in which he was directed to ask the concurrence of the House.

And also that the Senate had passed the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

CONTINUANCE OF FREEDMEN'S BUREAU.

The SPEAKER. The first business in order during the morning hour is the consideration of House bill No. 598, to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes, which was pending at the expiration of the morning hour yesterday.

Mr. ELIOT. Mr. Speaker, before proceeding to discuss this bill, I move to recommit it to the committee.

In presenting this bill for the consideration of the House I am instructed by the Committee on Freedmen's Affairs to state in the outset that its passage will involve no appropriation of money from the Treasury. The affairs of the bureau have been conducted with such good judgment and economy since the time when General Howard entered upon the discharge of his duties that there is now a sufficient fund in his hands from the moneys heretofore appropriated——

Mr. HOLMAN. I rise to a question of order. Has this bill been reported at the Clerk's desk?

The SPEAKER. It was reported yesterday, the reading of the bill being closed just as the morning hour expired.

Mr. HOLMAN. Should not this bill properly go to the Committee of the Whole on the state of the Union?

The SPEAKER. That point of order is raised too late; but the gentleman from Massachusetts [Mr. ELIOT] has just stated that the bill involves no appropriation of money.

Mr. KERR. I desire to inquire of the Chair whether the third section of this bill does not make it an appropriation bill?

The SPEAKER. The Chair has just stated, in reply to the gentleman's colleague, [Mr. HOLMAN,] that the point of order is made too late, at any rate, as the gentleman from Massachusetts [Mr. ELIOT] has commenced his speech.

Mr. KERR. The third section certainly does make an appropriation.

The SPEAKER. The Chair will answer the gentleman. This is not an appropriation bill, because it only makes provision for the expenditure of unexpended balances of money heretofore appropriated by appropriation bills. The bill is not an appropriation bill within the contemplation of the rules.

Mr. ELIOT. Mr. Speaker, I was saying that the passage of this bill will call for no appropriation; that the funds already on hand in charge of the Department will be sufficient, with economical management, to enable the Commissioner to carry into effect the law during the term for which it will be extended if this bill shall pass, and I desire our friends to take notice of this fact. I do not propose, Mr. Speaker to leave the question of expense at this point. Ever since this bureau went into operation it has been the subject of attack throughout the southern States, and throughout the northern States, by men who were in sympathy with its enemies in the rebel territories, on the score of its expense. Not that alone. There has been no agency of this Government since the first blow was struck at treason which has brought upon itself so much malevolence and vindictive opposition on the part of its opponents. It has never from the time the bill was first enacted into law until this hour been defended on the floor of this House; and I give gentlemen on the other side notice I propose to defend it here and now, and to show by figures and from the books that the charge made against the bureau rests upon no foundation in fact.

Mr. Speaker, when I was in discharge of the duty imposed upon me last winter in the southern States I had occasion to observe the feeling which existed on the part of those who were opposed to this bureau. The loyalty of men at the South might be gauged safely enough and tested by the feelings and opinions which they entertained and expressed in regard to this bureau. There has been no instrument of the Government so hated as this. There has been none which protected loyal men, whether white or black, as this Freedmen's Bureau has done; and because it has protected them, and because it has aided the Government in its work of restoration, because it has furnished to these men who had been slaves and had been made free by the war, a reasonable share of protection from their enemies, it has been assailed with a vindictiveness which is unparalleled in the history of legislation in this country.

The war upon the bureau was begun by the President, and it has been continued, following in the line of his attack, by those who have been his friends and supporters. Statements have been put forth to the country officially and semi-officially calculated, so far as those statements could, to destroy the confidence of loyal men in the legislation which enacted this bill and in the bureau itself which was established under it.

I propose to call the attention of the House to some of those statements, in order that, having shown them, I may more fitly contrast them with the facts.

The Freedmen's Bureau bill was passed in March, 1865. It was extended, continued, and its powers enlarged by subsequent legislation. The second law encountered the veto of the President, and in the course of that veto this language will be found:

"The appointment of an agent for every county and parish will create an immense patronage, and the expense of the numerous officers and their clerks, to be appointed by the President, will be great in the beginning, with a tendency steadily to increase. The appropriations asked by the Freedmen's Bureau, as now established for the year 1866, amount to $11,745,000. It may be safely estimated that the cost to be incurred under the pending bill will require double that amount, more than the entire sum expended in any one year under the administration of the second Adams."

That was the first official statement which came from the President. You remember, Mr. Speaker, sometime in the summer of 1866, there was a convention at the city of Philadelphia, composed of gentlemen of great respectability from the North and the South. The North and South interlocked arms and interchanged sympathies. It was a convention of political leaders which had no political party behind them. It was a heavy-hearted assemblage, the leaders without a party, political Rachels, worthy enough, but mourning because their children were not. You recollect a committee was appointed to wait upon the President. That committee discharged its duty. They tendered to him their congratulations and they received from him a reply, and in the course of that reply the President stated as follows:

"If I had wanted authority, or if I had wished to perpetuate my own power, how easily could I have held and wielded that which was placed in my hands by the measure called the Freedmen's Bureau bill. With an army, which it placed at my discretion, I could have remained at the capital of the nation, and with fifty or sixty millions of appropriations at my disposal, with the machinery to be unlocked by my own hands, with my satraps and dependants in every town and village, with the civil rights bill following as an auxiliary, and with the patronage and other appliances of the Government, I could have proclaimed myself dictator."

Well, sir, soon after the President left the city on a tour of observation through the West, and when he had reached the city of Cleveland, Ohio, in the course of some remarks to the people there on the subject of the Freedmen's Bureau, he said:

"The cost of this [Freedmen's Bureau] to the people was $12,000,000 at the beginning."

That, sir, is an untruth; the cost was not $12,000,000 at the beginning. Indeed, the

whole appropriations since its organization, not its cost, but the amount of the appropriations, from its organization to the present time, is less by between one and two million dollars than this first "cost," as stated by the President. It was a matter of record, and the President ought to have known it. All he had to do was to consult the bills which he himself had approved, and he would have found that the statement made by him in the city of Cleveland was untrue. He further said at that city:

"The further expense would be greater, and you are to be taxed for it, and that is why I vetoed it."

A little further on the course of his journey the President at St. Louis spoke as follows, on the 8th of September, 1866:

"But after emancipation took place they gave us the Freedmen's Bureau;" * * * "they gave us $12,000,000, and placed the power in the hands of the Executive, who was to work this machinery, with the Army brought to his aid, and to sustain it. They let us run it with $12,000,000 as a beginning, and in the end receive fifty or sixty million dollars, and let us work the four million slaves. In fine, the Freedmen's Bureau was a simple proposition to transfer four million slaves in the United States from their original owners to a new set of taskmasters."

It is difficult to characterize in fit phrase, without transcending far beyond the line of courteous debate, these statements which I have read, made officially by the President of the United States: first, in his veto; second, in the speech to the delegates at Philadelphia; and again in the course of his journey through the West. And yet these statements have been taken up by gentlemen who have affiliated politically with the President in this House, on the stump, through the country, in the South, in the North, and in the West, everywhere——

Mr. BANKS. All "round the circle."

Mr. ELIOT. Yes, sir; all round! As though in very truth they rested upon the authority of one who ought to be credited. Sir, gentlemen will find, if they have not already found, that it will not do to rely upon the author of this veto as to statements of fact. If they follow him in statements of fact they will find in the end that they will be carried so far from the truth that if a ray of truth could travel a million times as fast as a ray of light before one could reach them it would require about a million times as long as it takes a ray of light to come from the sun to the earth. [Laughter.] I do not want to be extravagant, and I believe I have put it rather mildly. [Laughter.]

And now let me call the attention of the House to the facts. They show that since the organization of this bureau, in the early part of 1865 down to the 1st of January, 1868, the whole amount of money drawn from the Treasury expended by the bureau in the discharge of its proper functions under the administration of General Howard is $3,847,854 39. That is all the money that has been taken from the Treasury of the United States for this bureau from the beginning down to the 1st of January last. In addition to that sum the bureau was compelled to set apart from moneys appropriated by Congress $500,000 for the supply of food to the starving and destitute white and colored men in the South, under a resolution which was passed by Congress on the 30th of March, 1867; and in addition to that it has applied the sum of $50,000, transferred by Congress from the bureau to the Department of Agriculture for the purpose of supplying to the southern States seeds for their use during the year 1867. If these sums, not properly chargeable to the Freedmen's Bureau, are added to the moneys expended for the use of the bureau, the whole amount would be $4,397,854 39.

And now I want to bring another fact to the attention of the House. There was a source of supply outside of the Treasury and costing nothing to the loyal citizens from which funds were received which have been expended under the charge of the Commissioner of the Bureau of Freedmen. Before the establishment of the bureau the affairs of the freedmen had been conducted by Treasury agents and by department commanders, and from cotton which had been abandoned before it was gathered by its rebel owners, which was taken charge of by the Government and sold, there was a fund which, after the bureau went into operation, was turned over, pursuant to law, to the Commissioner of the bureau. It came from rebel property; from rents of lands which had been abandoned by their owners; from sources out of which it was expected that substantially all the expenses of this bureau would be derived. It is a fact which the records of the bureau will prove, that if it had not been for the interference of Andrew Johnson, for his persistent and continual opposition, there would have been in the hands of the bureau under the organization of the law creating it an amount of property which would, without substantially interfering with the Treasury of the United States, have defrayed nearly the whole of the expenses of the bureau. From these sources there have been expended under the administration of the bureau the sum of $1,561,602 62, of which amount the sum of $392,526 98 has been expended for educational purposes.

But more than that. When this fund was turned over from the department of negro affairs, as it was called, to the bureau, it became necessary for General Howard to assume all the expenses of that department from the 1st of the preceding January. The bureau went into operation in May, and they were obliged to assume the expenses which had been incurred between the 1st of January, 1865, and the 15th of May, 1865, when the fund was turned over to them from the superintendent of negro affairs; so that in the expenses which I have stated to the House will be included, not only the charges proper for maintaining the bureau, but also all the expenses which had been before that incurred and which were incident to the management of the department of negro affairs.

Besides the work to which I have referred and the expenditures of money to which I have alluded, the bureau, under General Howard, has disbursed $25,000 appropriated by resolution of April 17, 1866, for the relief of citizens of the District of Columbia, and $15,000 appropriated March 16, 1867, for the relief of destitute freedmen in this District.

Before I leave this branch of the case I will answer an inquiry that was put to me just before taking the floor as to the amount of money that had been appropriated in the whole. During 1865 no appropriation was made. In July, 1866, the appropriation made was not $12,000,000, as the President stated, but $6,944,450. The appropriations for 1867 were $3,836,300; making an aggregate of appropriations from the Treasury of $10,780,750, of which less than four millions have been used.

Mr. ELDRIDGE. I would like to make an inquiry of the gentleman in regard to the use of money by this bureau. If the gentleman from Massachusetts will inform us I would like to know if the money actually appropriated by this Congress is all the money that has been in the control of and used by the officers of that bureau, or whether there has not been a very large amount of money realized from other sources and appropriated and used in behalf of and in furtherance of the purposes of this bureau?

Mr. ELIOT. No others than those that I have stated that I am aware of.

Mr. ELDRIDGE. Let me ask further, so that the gentleman may answer at the same time, whether rations have not been given out and whether a large amount of money has not been used in the way of transportation?

Mr. ELIOT. Why, certainly.

Mr. ELDRIDGE. And which has been charged to other accounts than those of the bureau?

Mr. ELIOT. No, sir; every ration that has been given out under the administration of the bureau has been charged, so far as I know. If the gentleman wants to know about that, I can tell him in regard to rations, that they have been distributed not only to the freedmen, but to white loyal refugees; and in reference to the States of Alabama and Arkansas and Missouri especially the records of the bureau will show that larger amounts have been at times appropriated to the white refugees than have been to freedmen.

Mr. ELDRIDGE. I wish the gentleman from Massachusetts [Mr. ELIOT] would give a specific answer to the question which I put to him. I do not care whether the appropriations have been used for whites or for blacks. But I ask the gentleman this specific question: whether the Freedmen's Bureau has not, in fact, had and enjoyed a much greater amount of money than that which he has named as the specific appropriations made for that purpose; whether they have not had it in the way I have suggested? I hope the gentleman will not, by any partisan pleading and statements, evade the question, but will give us the specific information which my interrogatory indicates.

Mr. ELIOT. I would like to know whether the gentleman supposes I want to evade anything?

Mr. ELDRIDGE. I certainly thought so from the gentleman's answer, so far as he had gone. I hope, however, he may not evade the inquiry hereafter.

Mr. ELIOT. There is no need of our evading anything on this side of the House in regard to the administration of the Freedmen's Bureau. The evasion comes not from us, but from the gentleman's colleagues and friends on this floor.

Mr. ELDRIDGE. I do not see exactly how that can be; we have not had any of the money.

Mr. ELIOT. I beg the gentleman's pardon. The gentleman's friends in the South, under the guise of loyal refugees, have had some of it.

Mr. ELDRIDGE. If the gentleman, when he says my "friends in the South," means the whole people of the southern States, he speaks correctly, for I do include them among my friends.

Mr. ELIOT. All of the gentleman's friends have had the care of this bureau.

Mr. ELDRIDGE. I do not care who have had it. Will the gentleman tell us whether this bureau has not had at its disposal other sums of money than the sums appropriated by Congress?

Mr. ELIOT. None other than those I have stated which I can now recollect. If the gentleman will specify other sums which he supposes they have had I will try to answer him.

Mr. ELDRIDGE. I did ask whether large sums of money have not been used for transportation, which sums had been charged to the service of the Army?

Mr. ELIOT. All the money paid for transportation on behalf of the bureau has been charged against the bureau; and if the gentleman will take the trouble to look he will find it all in the records which the bureau have submitted to this House.

The gentleman says he does not care whether the whites or the blacks have received the care of this bureau. I do not suppose he does. But I will state as a matter of fact, and for the purpose of showing that in the administration of the affairs of the bureau no regard has been paid to color, that in October, 1866, in the State of Alabama, three milllion six hundred and fifty-one thousand six hundred and twenty-four rations were issued, of which two million five hundred and fifty-two thousand nine hundred and seven were issued to loyal white refugees.

In March, 1867, in Missouri and Arkansas, there were issued one million seven hundred and five thousand and fifty-five rations, of which one million two hundred and sixty thousand five hundred and sixty-five were issued to white loyal refugees. I do not mean to say that, upon the whole, the freedmen have not had issued to them more rations than have been issued to the white refugees. Of course, it must have been so. I state these facts to show that rations were distributed where they were needed.

There have been issued to destitute refugees

and freedmen, from the organization of the bureau to the 1st of January, 1868, eighteen million three hundred and nineteen thousand five hundred and twenty-two rations in the aggregate. Of that number five million two hundred and thirty-four thousand seven hundred and seventy-nine rations have been issued to white loyal refugees.

It has been impossible for inquiry to be instituted into the character of the loyalty of these white men. Where they have come claiming to be loyal and showing their necessities they have been treated as loyal, and have been made the recipients of the rations which the bureau has had at their disposal.

During the year 1865 there were forty-seven thousand one hundred and seventy-two people who were thus supplied; in 1866 there were fifty-five thousand four hundred and fourteen; in 1867 eighteen thousand one hundred and eleven; making a yearly average of forty thousand two hundred and thirty-two.

The transportation account will be found by gentlemen desiring to ascertain the fact in reports which have been made from the commissioner of the bureau.

Mr. ELDRIDGE. Will the gentleman allow me to make a further inquiry? I would like the gentleman to inform the House whether, in fact, the bureau has not realized funds from other sources than the appropriations made to that bureau by Congress?

Mr. ELIOT. Yes, sir; it has.

Mr. ELDRIDGE. I would inquire particularly whether the bureau has not realized from the use of abandoned lands or abandoned property, so called, very large sums of money, which have been used by the bureau, so that, in fact, the amount the bureau has disbursed and used cannot be ascertained by reference to the appropriations made by Congress?

Mr. ELIOT. If the gentleman had listened to me he would not have found it necessary to put that question. I have stated in figures the exact amount which has been expended by the bureau derived from sources other than those which have been appropriated by Congress. I have already stated more than once that if the bureau could have retained possession of property which, by the fourth section of the original act, was permitted to be used by the bureau—rebel property, which was restored to the hands of rebel and unrepentant owners, which had been abandoned by the owners, who deserved hanging—if the bureau could have retained possession of this property, which it was intended it should have, the Treasury of the United States would have been called upon for but little money for the use of the bureau. And I charge upon the President, I charge upon his supporters, that it has been because of their action, because of the continued opposition to the proper execution of the law, that the expenses of the bureau at this day are not paid substantially from such abandoned property.

Mr. ELDRIDGE. Will the gentleman now give us the aggregate of the sums derived from those sources and used by the bureau?

Mr. ELIOT. I have already done so. Mr. Speaker, it will not be difficult to establish the necessity of the further continuance of this bureau. It has been a protecting power, not to the freedmen alone, but to all the Union men of the South. It has been substantially the only protecting power which they have had. I say to gentlemen, and the returns which we have from the southern States demonstrate it, that without the care of the bureau wholesale slaughter, unpunished, unrebuked, unseen by mortal eye, and unknown except to the murderers themselves, would have welcomed these freedmen in all those southern States to graves of blood.

Sir, knowing as we do the vindictive hatred of those slaveholders to the men that were freed it would be passing strange if, during the three years which have passed, all had been done which a Christian Government ought to do for the protection of these men rescued by them from slavery. The law has been in force three years. It required twenty-six months to procure its passage from the time the first bill was drafted. It would have required another year but for the most excellent suggestion of the gentleman from Ohio, [Mr. SCHENCK,] then chairman of the Committee on Military Affairs, to bring under the care of the Government at the same time the refugees and the freedmen. From the beginning the thoughtful care of the bureau has been extended to the loyal white who stood by his Government when traitors would have destroyed it, and to the faithful black, at all times loyal to the Union. The bureau has accomplished its work of humanity under nameless embarrassments; and, sir, it would have done its work before if it had not encountered such bitter, vindictive, and persistent opposition from the President of the United States and those who have been his supporters.

You will find by referring to one of the printed documents—I refer to Executive Document No. 19, Thirty-Ninth Congress, first session—that General Howard says, referring to the amount of property held as "enemies' property" and the amount allotted to freedmen as homesteads, as follows:

"It is proper, however, to state that the amount of property held as 'enemies' property' and the amount actually allotted to freedmen as homesteads is a very small proportion of the entire amount originally in the hands of this bureau. The real property turned over to it at its organization was seized, for the most part, as abandoned.

"It was intended not only to allot this to freedmen, but also to use it as a means of revenue. For the latter purpose it had already become exceedingly useful and valuable to the bureau, and measures had been initiated to use portions for the former purpose, when, on the 16th of August, instructions were received to the effect that abandoned property should be restored to former owners when pardoned. Under these instructions the bureau has parted with the greater portion of this property. Its tenure upon it has been rendered so uncertain that the steps taken to allot it to freedmen have been countermanded in most instances, and its revenue has been so curtailed that it is not now a self-supporting institution."

That is to say, the means which Congress had supplied to the bureau for its support were taken away from it by the orders of the President, who turned the property back again to its rebel owners. Then, having deprived it of its resources the President and his supporters have, from the first, attacked the bureau on account of its expenses.

Mr. Speaker, the whole reconstruction policy of Congress from its beginning has been attacked in the same manner. Every measure of Congress has been in like manner assailed. Gentlemen have been unable to find constitutional grounds upon which to act. When our garrison was starved out of Fort Sumter, when Fort Sumter was fired upon those same gentlemen found no constitutional ground upon which to justify the shelling of Charleston by the national forces. When our armies and our navies were called forth, when the people of the North as one man came to the rescue of the Government, looking to Congress for egislative aid, not one measure was adopted which did not encounter the same opposition from the same quarter. When Congress passed its confiscation acts and was undertaking in that way to weaken the hands of the enemy and to strengthen the arms of the Government those same gentlemen were found persistently opposing the action of Congress upon constitutional grounds.

Mr. TRIMBLE, of Kentucky. I desire to ask the gentleman from Massachusetts a question. I ask him how he can reconcile these two propositions: first, that the freedmen of the South are competent and qualified to control the destinies of these States—to establish State governments and to put them into operation; and secondly, that it is necessary for the Congress of the United States to tax the people for the support and care of those very refugees and freedmen?

Mr. ELIOT. I could not expect upon that point to satisfy the gentleman from Kentucky.

Mr. TRIMBLE, of Kentucky. I only want the gentleman to satisfy the country.

Mr. ELIOT. When emancipation had been declared by Mr. Lincoln, and afterward, when by constitutional amendment emancipation was secured, there was the same opposition from the same quarter resting upon the same constitutional grounds. After the defeat of the rebel armies, when Lee and Johnston had surrendered to Grant and Sherman, immediately upon taking charge of the administration of the Government the President proceeded to form provisional governments for the southern States. That was well enough for temporary purposes. The protection of the people in those States required the erection of provisional governments until Congress could assemble. But when Congress came together we heard from the Executive Mansion that the whole work had been completed, and that all that was left to be done was to examine and decide upon the qualifications of Senators and Representatives for admission into these Halls. There was no law for it. It was against the theory of our Government. But no matter for that; the action of the President was sustained on the other side of the House.

But, sir, no act of Congress, no legislation has been attacked so persistently as this in regard to the Bureau of Refugees and Freedmen. When General Howard assumed the charge of the bureau the war of the slaveholders was substantially ended. We did not know it, but such was the fact. It was drawing to a close. Before that time affairs of freedmen had been in the hands of Treasury agents and department commanders. The districts of country which had been occupied by rebel armies had not, in fact, been surrendered. At different points along the Atlantic coast, from Fortress Monroe to the extreme South, and at Vicksburg and New Orleans, whole armies of unclad and unfed freedmen, contrabands as termed by General Butler, men, women, and children freshly escaped—friendless unless they found friends in our lines—sought protection under the flag to which they had been loyal, although that flag had floated above their heads for generations while yet they were slaves.

While civil war was raging, while it was desolating the southern lands and desperate rebels were fighting with mad frenzy, and northern allies who had hoped against hope looked with despair on the falling fortunes of the archtraitor, this Freedmen's Bureau was created. During all those years of war the whole race of colored men was unfalteringly loyal. Before General Howard issued his first order the war upon the field was over. Our President had been murdered; the Vice President selected by ourselves (and, sir, you may be sure our sin has found us out) had left his lodgings at the Kirkwood House and had taken possession of the Executive Mansion, Jefferson Davis had fled—not yet captured—soon to be caught in woman's guise. Caught, not killed, he cheated the bullet then as he will cheat the gallows now. Caught, let it be remembered, by the aid of information furnished by a freedman who deserves in my judgment a portion of the reward which will be given for that capture. It was just then that General Howard assumed the duties of his office; and, sir, in after times, when the actors in this great drama have all performed their parts and the curtain has fallen before them, some historian inspired for the work will describe what General Howard had to encounter with four million emancipated slaves to help up so far as he could, from chattels into men. Before that time there had been some action taken which aided the Commissioner greatly in his work. General Howard refers to it in this manner:

"Superintendents of freedmen had worked industriously to prevent suffering, to regulate labor and to introduce and sustain schools. Really wonderful results were accomplished through the disinterested efforts of benevolent associations working in conjunction with Government agencies."

Our own constituents in their different homes (men and women in all our loyal States) organized into associations and societies, large and small, sent teachers and supplies, medi-

cines and physicians, to aid, so far as they could, in this humane work. Their record is before the country and their work will not be forgotten. When the Commissioner entered upon the performance of his duties he proceeded at once to designate the officers required by law and to organize his department. Then the presses and politicians at the North and South, not in harmony or sympathy with the objects of the law, opened upon him and his bureau, and from that time falsehood upon falsehood has been uttered, Pelion upon Ossa, imputing offenses to him and his agents, until the ingenuity of opposition has been exhausted.

"The law was unconstitutional," although the war which the slaveholders began had freed these men, and the Republican party could not very well permit rebels who had used them as slaves to destroy them as freemen. It was charged as being expensive, although every dollar of expense substantially would have been paid from rebels and rebel property if Mr. Johnson had not withdrawn from the charge and care of the bureau the property which should have been its support.

But this bureau would "equalize the races!" It was said on this floor that God made all men of African descent to be inferior; and the Democratic party, acting with the "Moses" of this age, declares in effect that the Freedmen's Bureau is working against God and the Democratic party. Sir, there is a monstrous crime at the bottom of all this nonsense. Who made these men slaves? Who have kept them degraded? Who have passed laws making it criminal for them to learn to read the Lord's Prayer, or to understand the golden rule?

But especially it is said these men are unfit to vote. Well, sir, this bureau is doing all it can to qualify them in all respects. But how is it they are unfit? Rebels are qualified because they are white. No matter how disloyal or how ignorant or how vicious, they ought to vote! But let our friends consider that if these rebel States are to be restored to their relations to the Union—which all of us hope will soon be done—either the loyal colored men must with their votes help loyal white men or the States will come back as hostile to our Government as they went out. They will be rebel States within the Union, and our own best friends will be driven from their homes. But if the colored men in those States did not vote, and yet remained within the State, they would all be counted in the basis of representation in Congress; so that one white rebel in South Carolina would have the political power of three or more laboring men in a northern State. Let loyal laboring men remember this.

General Howard organized the bureau by selecting assistant commissioners and placing them in charge of their respective districts. Reports have continually been made by them and through the Commissioner to Congress of all their doings. The great work of the bureau was distributed under different divisions:

1. That of labor, including supplies for the destitute, white and colored. Regulations for labor were prescribed, including oversight of contracts, and care that freedmen should be fairly paid, and not treated as slaves. This involved the whole administration of "justice" between employer and employed.

2. That of finance, including disbursements and accounting for all moneys, however received; including, also, the care of bounties to colored soldiers, all moneys on account of which have been paid over to the soldier without charge.

3. That of lands and claims, including investigation of claims for pay and bounty, all claims being examined and put in shape for adjustment by the Second Auditor; including, also, the case of abandoned lands, and of their restoration to former owners by orders of the President.

4. The quartermaster's division, including transportation of officers, agents, refugees, and freedmen; including rental, repairs, and construction of buildings for hospitals and schools; including the school division, arranging for records of all schools, for regular reports, for needful regulations, and protection of white and colored children.

5. That of medicine, including all supplies, and the care of the sick, and of those whom slavery had crippled.

In the departments of labor, of justice, and of education the great and permanent value of this bureau will be found. But at this moment, if the protecting care of the General Government, feared by those whose hearts are rebel as their hands were hostile during the war, should be removed, there is no doubt at all that schools would be abolished and a war upon the freedmen be begun. There are now two hundred and thirty-eight thousand three hundred and forty-two scholars receiving instruction in these schools. The teachers are chiefly supplied and paid by northern and western benevolent associations. The schoolhouses are mainly built from private funds of freedmen and contributions from loyal men. School-houses are in some places rented and everywhere protected by the Government, and it is this protection which is needed, and without which they cannot be continued.

Mr. Speaker, early in December last the House of Representatives directed the Committee on Freedmen's Affairs to ascertain what reasons existed, if any, showing the necessity of continuing this bureau. They have endeavored to discharge the duty placed on them. Letters were addressed to parties most competent to know the facts, and nearly two hundred replies have been received. Of course, in the hour assigned me, I cannot state in detail the facts and opinions furnished the committee. I have been instructed to submit a report to the House, and shall embody in it much that will demonstrate the duty of continuing in some measure to these oppressed men the protecting care of our Government. Three or four of the letters received I now offer to the House:

BUREAU REFUGEES, FREEDMEN, AND ABAN'D LANDS,
OFFICE 3D DIVISION, SUB-DISTRICT OF SAVANNAH,
BARTON, JEFFERSON COUNTY, GEORGIA
No. 11, C. R. R., *January* 31, 1868.

DEAR SIR: From my experience as agent of the Bureau of Refugees, Freedmen, and Abandoned Lands in this State, I am convinced that the suspension of the bureau would be a worse disaster than has ever yet befallen the freedmen. While there are a few planters who are disposed to deal fairly with the freedman—giving him his just rights and dues—there are vast numbers who would (were it not for the protection afford by this bureau) crush them below their former condition as slaves. But little can be done for them in the civil courts. Upon slight pretexts the freedman is shot down like a dog. In my division, sub-district of Savannah, three murders have recently occurred; and were it not for the troops under my control many more murders would doubtless be committed. The freedmen beg me to appeal to you in their behalf; and, if possible, extend the limit of the duration of the bureau. I endeavor to look at this subject calmly and dispassionately, and I am thoroughly convinced that the welfare of the freedmen, the peace of the country, the dearest rights of humanity, all can and will be promoted by its continuance and suffer if it be not continued. The bureau is doing a great work; it is establishing schools, promoting the interests of a despised and down-trodden race. All the nobler emotions of the heart, Christianity, charity, justice, demand that this, the only safe-guard, be left yet a little while longer, until a long oppressed and ignorant people can have time to gather strength and knowledge to assert their manhood and pursue their avocations honestly, proudly, and successfully as free men amid the shocks of persecution, the storms of prejudice, and the fire of rebel hatred and revenge. In behalf of the millions who are struggling to be men I appeal to your honorable and patriotic body, and respectfully, yet most earnestly, recommend that the bureau be continued.

In haste, very respectfully, &c.,
WM. O. MOFFITT, *Agent Bureau.*
Hon. T. D. ELIOT, *Chairman Freedmen's Affairs, Washington, D. C.*

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OFFICE AGENT BUREAU,
COLUMBUS, GEORGIA, *February* 1, 1868.

SIR: In my opinion, if there has ever been a time when the bureau was an advantage to the freedmen, it is now, and prospectively in the future. The bureau ought to remain here twelve months after our State is reconstructed, for the purpose of assisting the colored people in settling their accounts with their employers and giving them counsel. I feel that the chances of the freedmen to collect their dues in the civil courts is exceedingly small. They are not included in the idea of people or citizens by the white population generally. Nearly all of the blacks are poor, and it is a relief to them to have some one in whom they put confidence to go to for counsel.

I took charge of this office in April last, and think I am within the bounds of truth when I state that this office has collected $10,000 for freedmen in sums of from fifty cents to $1,000 since that date. Seven hundred dollars were collected from one man since January 1, and probably as much more is due the hands employed during 1867. I now hold nearly one hundred bags of cotton in the warehouses of this city, which I have seized for the payment of the hands that produced it. There are many and other facts connected with the Freedmen's Bureau in this section of our country that lead me to say that I know of no reasons why the bureau should not be continued throughout this section of Georgia and Alabama; but, in my judgment, there are many and cogent ones why the time for its continuance should be extended beyond the time limited by law. We are an unreconstructed people, and that of itself is enough.

Very respectfully, your obedient servant,
C. W. CHAPMAN, *Agent.*
Hon. T. D. ELIOT.

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OFFICE SUB-ASSISTANT COMMISSIONER,
BUREAU R., F., AND A. L.,
MARSHALL, TEXAS, *January* 12, 1868.

SIR: I have the honor to submit for the consideration of your committee the following report, called for by your circular, dated House of Representatives, Washington, D. C., December 9, 1867.

I have been on duty as sub-assistant commissioner at this place for the past eight months, and have had sufficient experience to satisfy any unprejudiced mind of the absolute necessity for the continuance of the Freedmen's Bureau until such time as the southern people shall acknowledge that the freed people are entitled to the rights and privileges due to accountable beings.

The great mass of southern whites have an unrelenting hatred of the freedmen, which is made manifest in all their transactions with them. Whenever a freedman attempts to elevate himself above his fellows by thrift or education he is at once denounced as a saucy, turbulent nigger, and fortunate is he, indeed, does he escape outrage.

It is not uncommon for twenty robberies, outrages, and illegal seizures of freed people's crops and chattels to be reported at this office in one day. When this state of affairs exists with the strong arm of the bureau as a protection for the freed people, what may we expect should it be discontinued?

Since the first day of December last crime against freed people has increased ten fold, owing to the whites interpreting late orders as curtailing the authority of sub-assistant commissioners. I might send you a catalogue of robberies, outrages, and murders of such revolting and brutal character as to make humanity shudder, but I forbear to mention them, as they might appear incredible to Christian gentlemen. The perpetrators of these crimes are known to the civil authorities, yet no steps are taken to bring the guilty parties to the just punishment they deserve.

My statement of affairs in this locality may appear a little overdrawn, but such is not the fact. I am prepared to testify upon oath to the truthfulness of this report.

I have the honor to be, very respectfully,
A. G. MALLOY,
First Lieut. 35th U. S. Infantry, Sub-Ass't Com.
Hon. T. D. ELIOT, M. C.

—

LITTLE ROCK, ARKANSAS, *January* 21, 1868.

DEAR SIR: Your communication transmitting a resolution of the House of Representatives calling for facts tending to show the necessity for continuing the Freedmen's Bureau, or otherwise, is received, and I submit the following:

1. The bureau is the only agency here through which the freedmen have been supplied with educational advantages; and should that agency be withdrawn it is confidently believed that the number of schools now maintained by the educational aid societies of the North would be diminished fifty per cent. within the next ninety days. As a rule we have good schools only within the jurisdiction of good bureau agents. By good agents I mean men who are both above fear and above bribes, and who "deal justly and love mercy." They are generally ex-volunteer officers or citizens from the North. In counties where there are no agents there are no schools. To this rule there are but very few exceptions.

2. The bureau or a similar agency is needed to look after the homestead interests of the freedmen. The spirit that prevailed in the days of slavery is still rife. Next to seeing the negro in chains, it would prefer to see him houseless and homeless continually, that it may the more cheaply buy the service it can no longer compel. The colored people, made dependent and gregarious by long years of slavery, are slow to perceive and accept the advantages offered them through free homesteads on Government lands, and not only need to have the importance of possessing free homes kept continually before them, but they need, also, the services of an agent who will manifest a kindly interest in their welfare, and tell them precisely where and how to secure these homes and build their cabins. Industry and independence would thus be stimulated and intelligence disseminated through the medium of public schools, while the additional wealth thus created would ultimately much more than compensate the Government for its paternal care; but

3. It is a fact, the evidence of which may be found in the records of nearly every bureau officer in the South, that the freed people do not secure their rights in the ordinary courts of justice, "so called." Through the bureau agents frauds upon the colored

people are detected that ought to shame the prince of darkness. Besides, they are maltreated in every conceivable way or ruthlessly shot down, and either no notice taken of it or no adequate punishment meted out to the offenders, save through the agency of the bureau or the military authorities. The bureau and the military courts, being their only recourse, should not, in my opinion, be withdrawn in these times of peril, but continued until such time as justice is established in these States and a better temper pervades the hearts of the southern people.

The foregoing remarks apply more especially to this State, and are made on the supposition that the State will be reconstructed.

Very respectfully, your obedient servant,

WILLIAM M. COLBY,
Superintendent Education, Arkansas.

Rev. J. R. Shepherd, *Secretary American Missionary Association, Chicago, Illinois.*

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Office of Bureau Refugees, Freedmen, &c.,
Rocky Comfort, Arkansas, *January* 16, 1868.

Sir: I have the honor to suggest the following reasons why the bureau should be continued at least one year beyond the time now limited by law:

1. Because the civil authority is still in the hands of ex-rebels in the greater part of Arkansas, who will not take any action of complaints made by freedmen against white men, but punish misdemeanors on the part of freedmen with the utmost extent of the law and with injustice. * * * * Teachers would be compelled to leave the country because of desperadoes who would break up the schools were it not for the bureau and military authority. For an example, in my district, a little more than a year ago, an old man, intent upon doing good, commenced teaching a colored school in Sevier county, and on one Sunday a noted desperado came along with his gun and revolver—an every-day appendage in this county—and called all of the scholars out in line and compelled them to tear their books in pieces and throw them in the ditch, at the same time threatening the teacher, with a rope about his neck and tied to a tree, if ever he were caught teaching a "nigger school again." * * * * When I came here one year ago the condition of freedmen was certainly as bad as when in slavery. Since then I have succeeded in arresting several desperadoes, who have been tried by military commission and sentenced to their just doom. The result has had a very salutary effect, and freedmen are not now molested nor cheated out of their labor; but how long this would last were it not for the bureau it is very easy to answer. No matter how hard they might work or how industrious they might be, there would be nothing left them at the end of the year, and the poor would actually starve, for the civil authorities do not pay any attention to destitute freedmen. * * * * *

Had there been no bureau in my district this season it is safe to say that most every freedman would have been without anything to live on during the cold weather. During the past summer merchants advanced articles not suited to freedmen's wants at exorbitant prices, taking a lien upon the crops then growing, and, owing to its partial failure, they were insufficient to pay the exorbitant store account; and, had these merchants not been restrained by the bureau, they would not have left as much as a bushel of corn for the laborer to subsist on.

2. The bureau ought to be continued one year from next July, in order to facilitate schools and education among the freedmen generally. The matter of ameliorating the moral condition of the colored race in the South, especially in Arkansas and Texas, is comparatively in its incipiency; and it is well known that, should the bureau be abandoned in this State schools would not long survive for want of protection and assistance, which has heretofore been given by the bureau. To withdraw the protection of the bureau now would be like "planting the seed in good ground and letting the thorns spring up and choke it."

3. The bureau should be continued one year longer to act as a sort of moderator between white and black during the exciting contest now impending over the whole country. It can thus assist wonderfully in reconstructing the South on a loyal basis. To continue the bureau one year more than is provided will cover most all the exciting political issues about to be made in the election for President, and this is of no little importance to the whole country. * * * * * * * * *

The bureau, serving as a moderator in all these angry cases between rebels and blacks, prevents any serious collision taking place. * * * *

If the bureau could be continued one year longer than next July the freedmen would in the mean time become much better educated in the duties of citizenship and prejudice would nearly wear away.

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Yours, very respectfully,

HIRAM F. WILLIS,
Late Second Lieut. 22d Regiment V. R. C., Agent B. R., F., and A. L.

Hon. T. D. Eliot, *Chairman of Committee on Freedmen's Affairs, Washington, D. C.*

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Lovejoy, Missouri, 1*st Month*, 29, 1868.

Respected Friend: In reply to the printed circular which I received from thee last 7th day, (the 25th instant,) making inquiry in regard to the continuance of the Freedmen's Bureau, I think it right to say that I am decidedly of the opinion that it would be highly detrimental to the interest of the colored race, in this section, at least, to have the Freedmen's Bureau discontinued.

I should be sorry to encourage the expenditure of a dollar of the public money unnecessarily; but I think it would not only be an act of justice and humanity to the freedmen, but would be good policy on the part of Government, to continue the Bureau, and also to extend its usefulness, by appointing some additional agents in some of the southern States.

I will briefly state here, by way of explanation that I have purchased eleven hundred acres of land here on the Mississippi river, one hundred and twenty miles below St. Louis, for the purpose of making a settlement of the colored people; and I am engaged (on my own account, and without any compensation from any source) in teaching a free school for them, feeling it my duty to do so.

During my intercourse in different capacities with both the white and colored population of these parts, within a few weeks past, quite a number of facts have come to my knowledge all going to convince me that the freedmen would not only be kept in ignorance but retained in a condition closely allied to that of slavery were it not for the presence of anti-slavery men through the South and the restraining influence exerted by the efficient officers of the Freedmen's Bureau.

I have good reason to believe that a secret organization or plot has been systematically and extensively formed throughout the southern portion of this State in order to induce colored people to remain with or return to their former owners, and have as many of the children as possible bound as apprentices to said owners or similar persons, where they can be held in ignorance, poverty, and degradation, at least until after the election in this State next fall, which is to decide whether colored men in Missouri shall be allowed to vote.

Unfavorable reports in regard to them, circulated through the State just before election time, would, of course, have considerable influence in deciding that question.

A number of cases have occurred in which minors of both sexes have been illegally held to service and deprived of education, and adults have had their just wages, &c., retained until actual or threatened application has been made to the bureau officer. The expression has been boldly made here, "Never mind, the d——d bureau will soon be broken up, and then we will show the niggers what they have to do and put them where they belong."

Various cunning and base schemes have been resorted to in order to break up my establishment here, since my house, valued at over two thousand dollars, was entirely destroyed by fire, which was supposed to be the result of a plot. Threats have been issued that if parents who designed sending their children here to school dared to do so they would be discharged from service.

Numerous falsehoods have also been shrewdly originated and circulated among the colored people, in order to prevent families coming to Lovejoy to secure homes of their own and obtain a free education.

Earnestly hoping that what I have thus written will to some extent go toward enabling the proper officers at Washington to see and feel the importance of extending a righteous governmental protection over these shamefully oppressed people, by continuing the Freedmen's Bureau, I will now subscribe myself as thy well-wishing friend,

WILMER WALTON,
Neely's Landing Post Office, Cape Girardeau county, Missouri.

Hon. T. D. Eliot, *Chairman of Committee on Freedmen's Affairs.*

A communication was also addressed to Major General Howard, asking for his judgment. We can offer to this Congress no more trustworthy opinion, nor any which rests upon more direct and personal knowledge. The letter of General Howard is as follows:

War Department,
Bureau of Refugees, Freedmen, &c.,
Washington City, *February* 8, 1868.

Dear Sir: In accordance with your request, I submit the following statement with regard to the portion of my last annual report recommending the discontinuance of the Bureau of Refugees, Freedmen, and Abandoned Lands.

You will notice that I based my recommendation, to allow the bureau to expire by limitation of law, "on the belief that each of the several States where the bureau exists, or has existed, will be completely reconstructed by next July, and the freedmen, having all the rights of citizenship, can protect themselves with such aid as the United States military forces may be able to render, the only bar to this result being the ignorance of those who have not yet been reached by the influence of education."

Since writing the report in question I have attempted to discharge all the officers and agents of the bureau from certain States, and in part from certain other States. A reaction against the interests of the freedmen immediately followed. This I did not anticipate.

Officers and agents of the bureau are required to bring all cases involving a violation of the civil-rights act before the United States courts. Where this was possible, though the cases may have been few, the effect has been very salutary. The removal of the officers and agents necessarily takes away this protection. Again, the practical effect of discharging the officers and agents has been to close up the schools; to intimidate Union men and colored people, and, in fact, to paralyze almost completely the work of education, which, until then, was in a healthful condition and prospering.

The pressing need of relief has rendered obligations necessary which cannot easily be met and fulfilled so early as next July. For example, the issues that I have made and am making to prevent starvation, carry with them liens upon the future crops, or other property which will require settlement. Moreover, in many parts of the country, as, for example, in portions of Tennessee, local magistrates are still in power who are utterly opposed to the practical freedom and elevation of the colored people.

After having carefully canvassed the whole field, and considered the liabilities to oppression and want likely to arise from a too early withdrawal of the protecting arm of the General Government from those who have been distinctively loyal, I have come to the settled conclusion that it would be wise to continue this bureau for at least one year longer than I previously recommended; to continue it till matters settle; till the new governments shall be not only established, but in practical operation, and be able and willing to afford the protection and the relief which the United States Government has rendered, and is now rendering, through its instrumentality.

Very respectfully, your obedient servant,

O. O. HOWARD,
Major General, Commissioner.

Hon. T. D. Eliot, M. C., *Chairman Committee Freedmen's Affairs, H. R., Washington, D. C.*

And now, sir, I submit the bill to the judgment of the House.

[Here the hammer fell.]

Mr. ADAMS obtained the floor.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

Mr. ELIOT. How much time have I left?

The SPEAKER. The gentleman has occupied his full hour.

Mr. ELIOT. I shall have to ask for a few minutes more time.

Mr. ELDRIDGE. I hope the gentleman will be allowed more time, as I interrupted him somewhat.

The SPEAKER. The House, by unanimous consent, can extend the morning hour.

Mr. CULLOM. The gentleman had better go on now and finish his remarks.

Mr. ELIOT. It is unusual to extend the morning hour. I only want about ten minutes.

The SPEAKER. If there be no objection the morning hour will be extended ten minutes to enable the gentleman to conclude his remarks.

No objection was made.

Mr. ELIOT. Treason and civil war and emancipation, "an act of justice warranted by the Constitution upon military necessity," on which Mr. Lincoln invoked "the considerate judgment of mankind and the gracious favor of Almighty God"—these, Mr. Speaker, charged upon us the duty of establishing this bureau. Freedom, established by constitutional amendment, enforced the obligation. From the estates of rebels, abandoned in fact and forfeited by crime, a Republican Congress provided ways and means by which substantially all the cost of this bureau should be paid. Mr. Johnson, by pardons to rebels and orders under which plantations and estates were restored, defeated Congress and crippled the operations of the law. Not satisfied with that the President, supported and indorsed and justified by a political party, working in league with the old slaveholding Democracy of the South, having first deprived the bureau of the sources from which its revenue had been expected, raised a "hue and cry" against it on account of its alleged expense, and by false statements has sought to mislead and to deceive a loyal people burdened by debt caused by the rebellion, which those same slaveholders had organized into confederated war, and by continued and persistent opposition to all the legislation of Congress after Congress, sent here by loyal constituencies, to reconstruct on solid grounds of freedom and republican equality those rebel States that would have overthrown the whole fabric of our Constitution and all the work of our fathers' hands, that same President, again supported and again defended by that same political party, has compelled this Congress to continue the further care of the Government over the race of men we have made free.

Sir, the Republican party is not to be frightened back from its appointed work. In the history of Christian civilization this political party will occupy a noble place. There may have been men among us who have been corrupt and self-seeking. There may have been measures adopted which were unwise and ill-considered. I stop not to defend men or meas-

ures. Nor do I stop to ask in what political school the men were educated, nor by what pressure of circumstances these measures were consummated. The great record of the party remains. The wicked, God-defying aggressions of the slave power called it into being. I witnessed in the old Hall, where the second Adams fell, the first action of slaveholding insolence which drove from all political parties the true men who believed in freedom, compelling them to come out from the old organizations for the life of the principle which drove our fathers from the Old World.

Defeated in their wicked attempts to establish the slave system in the free Territories of the United States, these insolent autocrats of slavery rebelled when they found that Mr. Lincoln had been chosen President. The Republican party was responsible for that choice. After the rebellion the Republican party, aided by many thousands of loyal Democrats, true and good men, crushed the rebellion out by the strong hand of war. With the rebellion slavery passed away, and universal freedom was enacted into law. And now it is time that the truth should be plainly spoken. By every loyal press in every district of our land let the facts be proclaimed. We stand upon no defense; we need no defense. We propose to attack; to attack here in the House, at home, upon the stump, by speech and by voice, by vote, and by press everywhere, to attack this slave power, beaten in the field, but hopeful yet, by cunning counsel and political stratagem to undo the work our armies have accomplished.

PAYMENT OF SOLDIERS' BOUNTIES.

Mr. PAINE. I ask unanimous consent of the House to have taken from the table the amendment of the Senate to the bill of the House No. 331, to facilitate the payment of soldiers' bounties under the act of 1866. I desire to move that the House non-concur in the amendment of the Senate, and ask the appointment of a committee of conference.

The SPEAKER. As the bill to which the gentleman refers is the first upon the Speaker's table a majority vote can take it up.

The motion was agreed to.

The amendment of the Senate was to strike out all after the enacting clause and to insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized to employ, for one year, fifty additional clerks in the division of the Second Auditor's office of the Treasury Department, furnishing information to the Paymaster General in regard to soldiers claiming bounty under the provisions of sections twelve and thirteen of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, giving in all cases preference in said employment to soldiers and sailors honorably discharged from the service of the United States.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to procure and to provide adequate and convenient rooms for all clerks employed in the examination of the muster-rolls in said office.

SEC. 3. *And be it further enacted*, That the Assistant Treasurers of the United States in the cities of New York and San Francisco be, and they are hereby, directed to pay duplicate checks for bounties granted under the said act upon notice and proof of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

SEC. 4. *And be it further enacted*, That the Second Comptroller and Second Auditor are each hereby authorized to detail one clerk in his bureau who may sign all certificates and papers issued under any of the several bounty acts for such Comptroller and Auditor; and such signature shall be as valid in all respects as if signed by the said Comptroller and Auditor.

The question was upon concurring in the amendment of the Senate.

Mr. PAINE. I hope the amendment will not be concurred it.

The amendment was not concurred in.

Mr. PAINE. I move that a committee of conference be appointed upon the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. PAINE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently appointed Mr. PAINE, Mr. GARFIELD, and Mr. GETZ as the conferees on the part of the House.

ADMISSION OF ALABAMA.

The House then resumed the consideration of House bill No. 904, for the admission of the State of Alabama, which had been made the special order for to-day, and upon which Mr. STEVENS, of Pennsylvania, was entitled to the floor.

Mr. STEVENS, of Pennsylvania. I yield to my colleague upon the committee, the gentleman from Illinois, [Mr. FARNSWORTH,] to open the debate upon this bill.

Mr. FARNSWORTH. Mr. Speaker, the Committee on Reconstruction have deemed it their duty, under the circumstances, to report a bill for the admission of Alabama, notwithstanding it is shown that less than a majority of the votes registered in the State of Alabama were polled in favor of the adoption of its new constitution. We did this for several reasons; first, because in the opinion of the committee the act of Congress requiring a majority of the registered votes to be in favor of the constitution was an error of legislation, and we ought not to require that it should be followed, and the more especially as both Houses of Congress have now passed an act amendatory of that act, which only requires that a majority of the votes polled upon the adoption and rejection of the constitution shall be in its favor to secure its adoption. The committee could see no reason why Alabama should not have the benefit of that principle as well as the other States which have not yet voted upon their constitutions. Besides this, from the testimony before the committee, the affidavits and statements, both sworn and unsworn, of respectable citizens of Alabama, the committee were satisfied that a very large majority of all the voters registered in that State would have voted for the adoption of this constitution if they had not been prevented from so doing by various circumstances, contingencies, and threats.

The whole registered vote of Alabama is about one hundred and seventy thousand. I believe there were at the first registry, in round numbers, one hundred and sixty-five thousand. We have no definite information as to the extent to which the number was increased by the new registry made shortly before the election; but the estimate is that the increase was about five thousand, which would make something like one hundred and seventy thousand registered voters in that State. According to the letter of General Grant, which was communicated to the House this morning, there were cast in favor of the adoption of the constitution 70,812 votes; against its adoption, 1,005. This includes only the vote that was returned. It does not include the vote of those counties where the boxes were seized and destroyed before returns were made, nor of those other counties where the poll-lists were destroyed by violence and the polls broken up by the rebels during the election.

I have here a sworn statement of several respectable gentlemen of Alabama, which gives a better summary of the facts than I could give by any remarks of mine. I ask that this statement be read.

The Clerk read as follows:

Statement of registered voters of Alabama in relation to the election for ratification of the constitution in Alabama in the month of February, A. D. 1868:

It is impossible to tell accurately the number of registered voters in Alabama, because the returns of the last registration have not been all received. The superintendent of registration estimates the last registration to amount to five thousand in the whole State, which would make the total number of registered voters on the books, in round numbers, one hundred and seventy thousand. This includes all registered at any time since registration commenced in June, 1867, without allowance for those who have died or removed from the State after registering, and who are believed to number from five to ten thousand.

Large numbers of foreigners were illegally registered, not producing their naturalization papers, and the blanks in their registration oaths not being filled up; and in one county the probate judge, who was not a register, added two hundred names to the list.

We believe that there were not more than one hundred and sixty thousand voters, legally registered, residing in the State at the time the election was held.

The vote for the constitution, according to returns received, as far as we know, amounts to about eighty-one thousand. This includes an estimate of the vote of Lowndes county, where the ballot-box was stolen after the election, and of Dale and Henry counties, in which the registers refused to open the polls; and when the friends of reconstruction did so their opponents broke up the polls and destroyed the lists and tickets.

The vote for officers exceeds that cast upon the question of ratification by some thousands, the tickets having been fraudulently mutilated by tearing off the part on which was printed the words "for the constitution." There is, therefore, no reason to doubt that a majority of the legally-registered voters residing in the State actually voted at the said election, and believed they voted for the constitution.

At least ten thousand legally-registered voters attempted to vote, but were unable to do so for the following reasons:

1. A few days before the election orders were issued limiting the voting places to three in each county; but prior to this official notice had been given in most of the counties that a poll would be opened at from five to twelve places named in the notice. The order reducing the number was not received in time to circulate information of the change, and the voters who went to the abandoned points found no poll, and many of them went home without voting, especially as the opponents of reconstruction proclaimed that the election was postponed.

2. In many of the counties the polls were not opened at one or two of the three places designated until the second, third, or fourth day of the election, and voters who went to vote before they were opened went home believing that the reports circulated by the anti-reconstructionists that the election had been postponed were true.

3. In some counties with four or five thousand registered voters only one poll was opened during the first day of the election, and hundreds and even thousands of voters were kept standing in the rain day after day, until the danger of starvation compelled them to return home before "their turn had come." In these counties the opponents of reconstruction had appointed the judges, and had entire control of the election. The judges allowed challengers to badger voters with irrelevant questions, and to do everything that they could to consume time, so that not half so many votes were received as might have been. In Lowndes county, for instance, although more than two thousand men were in waiting, only two hundred and fifty votes were taken the first day and five hundred and fifty the second day.

4. Great numbers of votes were rejected because the name of the voter could not be found upon the printed lists or had not been properly transcribed and printed from the oath-book. A mistake of a letter was enough to secure the rejection of a vote, and no amount of evidence that the applicant had been properly registered was allowed, in some counties, to cure the defect.

The election was held by judges appointed by the board of registration for the election district. A few days before the election many of the old registers were removed and new ones appointed in their stead, a great majority of whom were opposed to reconstruction, and did all in their power to defeat the ratification of the Constitution. In many instances they appointed judges who could not and did not take the oath prescribed by law.

During the first two days of election a heavy rain storm prevailed over the State, and rendered the streams, most of which are unbridged, impassable. Several thousand voters were by this means cut off from the only places where they could vote. There is not a county in the State which is not traversed by one or more streams which are impassable in times of high water. The extent of this obstacle and the anxiety of voters to vote may be shown by the fact that on the last day of the election more than two hundred voters applied to vote at a poll in Dallas county, because, up to that time, they had not been able to reach the poll in Autauga county, where they lived. Hundreds swam the waters of Big Swamp, in Lowndes county, to reach the polls, and one man was drowned in its icy waters, who, nevertheless, is counted as "against the constitution."

Many thousand voters were also deterred from voting by threats of violence, social ostracism, ruin in business, loss of employment, destruction of property, and ejection from their homes. The newspapers, for weeks before the election, were filled with threats against all who should vote for the constitution, and the conservative speakers constantly used the most inflammatory language in their harangues. Nor did the opponents of ratification confine themselves to threats. Their conduct in Mobile is a fair example of their course all over the State. In that city, on the eve of the election, some employers questioned their employés upon the subject, and discharged all who declared their intention of voting. All through the election the names of all who voted were taken down by persons employed for that purpose, and employers were immediately notified of the fact when their employés had voted. The returning laborer was immediately discharged. Before noon of the first day of the election it became known to all the working men of the city that the casting of the ballot was almost sure to be followed by the loss of a situation. The poor crops of the last two years and the general scarcity of money have placed the laboring class of the community more than ordinarily at the mercy of their employers. We think it would be wicked, as well as impolitic, for the Government to punish the loyal people, by refusing to accept their constitution, because penniless laborers were deterred from

breaking with disloyal employers by the fear of being houseless in the wintry season and of exposing their wives and little ones to the danger of starvation.

Although the returns will not probably show that more than 81,000 votes have been cast for the constitution, we are nevertheless satisfied that a hundred and twenty thousand loyal voters sympathize with us in our efforts to reconstruct the State, and will hail with joy the admission of Alabama under the proposed constitution.

ALBERT GRIFFIN,
JOHN E. KEFFER,
B. W. NORRIS,
JOHN HORDY,
GEORGE E. SPENCER,
PIERCE BURTON.

—

Though a disfranchised citizen of Alabama I indorse the statement of facts set forth above.

JOSHUA MORSE.

—

District of Columbia, Washington county, *ss:* On this 29th February, 1868, before me personally appeared Albert Griffin, John C. Keffer, John Hordy, George E. Spencer, Pierce Burton, and Joshua Morse, who, being duly sworn, declared that the facts contained in the foregoing statement are true, to the best of their knowledge, information, and belief.

Sworn before me, JOHN F. CALLAN,
Notary Public.

Mr. FARNSWORTH. Mr. Speaker, that is a summary statement of the condition of things in Alabama. The committee have had before them some two hundred affidavits, made by various people, white and colored, all tending to support the statement of these gentlemen. Many of these affiants were themselves discharged after voting; some of them, though threatened with discharge if they did vote, took the risk. It is shown that the most atrocious and outrageous threats were made; that a system of ostracism, social and financial, prevailed in that State; that the poor white men of the State, of whom there are a great many who are loyal, and who desired the adoption of the constitution, were deterred by thousands from voting upon the adoption or rejection of the constitution. The threats of the taskmasters and employers had more effect upon the poor white men than upon the blacks.

Besides, as is stated in the communication which has been read, a fearful storm, unusual in that country, prevailed for several days before and during the election. The streams were so swollen (and the streams, as these gentlemen state, are usually unbridged) that it was impossible without very great danger to cross them. We have affidavits before us showing that many of the colored men swam these streams, crossing the currents of running ice, to get to the polls to vote; and in some instances after doing that they were compelled to stand in the storm for two days before they could get an opportunity to vote. In some instances, even then, they could not get their votes in during that election, and, without voting, they were compelled to swim back over these streams.

Mr. WOOD. Will the gentleman yield to me to ask him a question?

Mr. FARNSWORTH. Certainly.

Mr. WOOD. I ask the gentleman whether these facts, admitting they are facts, as now stated, warrant us in disregarding the laws of Congress?

Mr. FARNSWORTH. We think that the facts I have stated, and those which I shall state, warrant the Committee on Reconstruction in reporting this bill and will warrant Congress in admitting the State of Alabama into the Union.

Mr. WOOD. Notwithstanding existing law?

Mr. FARNSWORTH. Notwithstanding existing law. We had proof before us that one man, in attempting to swim a stream to get to the place of voting, was drowned. Yet, sir, he is counted against the constitution because he was registered. It is a very different thing voting down a constitution by staying at home and defeating it by the majority of votes cast at the election. It was easy to prevail upon men to stay at home and away from the polls. Not a majority of the votes cast was necessary, but a majority of the registered voters. There was a report circulated all over Alabama that the election had been postponed. There had also been changes in the number of voting places in the different counties. At first many more places were fixed for voting than were afterward used for that purpose. Persons went to those places which had been abandoned as voting places and were told by the rebels and secessionists that the election had been postponed and they were fooling away their time to hunt up places for voting. These men then went home while polls were open at other places in the county. At some places but one polling place was open for a whole county, and the voters were required to travel from twenty to thirty and forty miles to reach the polls, and that through a piercing storm, swimming streams, carrying their luncheons with them, and standing in a pitiless storm for two or three days before they could vote. All sorts of contrivances were resorted to by the enemies of the constitution and reconstruction to hinder and delay voting at the polls, by frivolous objections, by challenges, &c. The rebels contrived to throw every obstacle in the way for the purpose of preventing the votes being polled.

Now, Mr. Speaker, as I have said, the Committee on Reconstruction were entirely satisfied, from the facts before them, that the majority of the registered voters of Alabama were in favor of the adoption of this constitution, and would have voted for it if they could have been allowed to do so.

In some of the counties the poll-books were seized by violence and destroyed. At some polls the poll-lists were seized by violence and destroyed and the elections broken up. With all of these facts before us—and I have a bundle of affidavits which I will not consume the time of the House in reading—with the fact before us, sir, that both Houses of Congress have, by a large majority, passed a bill which will become the law, if not now the law, requiring in the other unreconstructed States only a majority of the votes cast for the adoption of the constitution, we cannot see any good reason why we should turn Alabama back and say to her loyal people, "After all you have gone through; after all your trials; notwithstanding you have cast your votes in the midst of menaces and threats; cast them, although discharge from employment for so doing was before them; after you have done your duty, although starvation stared you, your wives and children, in the face—you shall go back and vote over again before you shall be admitted into this Union as a State." If we do not admit Alabama now, at the next vote on the ratification of her constitution under the law I have referred to only a majority of the votes cast will be required.

Now, sir, for these reasons and others I may state, and which, no doubt, will be stated in this debate, the committee have reported this bill for the admission of Alabama. We make it conditional that her Representatives shall not be admitted upon this floor until her Legislature, elected at this same election, shall have ratified the fourteenth article of the Constitution. We also require, not as a condition-precedent, but as a fundamental condition to the admission of Alabama and her representation in Congress as one of the States in the Union, that she shall never abridge or restrict the right of suffrage of citizens of the United States on account of race, color, or previous condition of slavery.

Mr. LOAN. I would like to ask the gentleman this question: when Alabama is admitted on these terms, how do you reconcile it with the admission of other States without the same conditions? Do you not admit Alabama on terms of inequality with other States? And how can your fundamental condition be enforced by Congress in the event that Alabama does not comply with it?

Mr. FARNSWORTH. She is to be admitted on an equal footing with the other States. She is to be admitted just as Minnesota and many other new States were, upon a condition which becomes a compact between that State and the United States, that she will or will not do this or that. Congress has required conditions of several States in the act of admission. It has required that they shall do so and so with school lands, that certain acts shall be done and that certain other things shall not be done. It is a part of the compact of admission.

Mr. WOOD. Will the gentleman permit me to ask a question?

Mr. FARNSWORTH. Certainly.

Mr. WOOD. Suppose the State of Alabama is admitted under these conditions, and that next year or the year after she violates these conditions, how does the gentleman propose to get her out of the Union again?

Mr. FARNSWORTH. Well, sir, if she is admitted, having ratified the constitutional amendment, that has become a part of the Constitution of the United States, and she cannot very well undo that act. As to how we will get her out of the Union, we do not propose to take her out of it, but we propose to reserve to Congress the right, in case she does annul or abridge the right of her citizens to the franchise, to annul any such act of the State of Alabama.

Mr. WOOD. And put her out of the Union. You cannot do it.

Mr. FARNSWORTH. If a State is admitted with that fundamental condition it is a contract. When Congress reserves this right, Alabama knows it; she comes in with that reservation, and she is estopped from denying the right of Congress.

Mr. KERR. Will the gentleman allow me to ask a question?

Mr. FARNSWORTH. I would rather not continue this kind of discussion, for the reason that I do not wish to occupy but thirty minutes, and I wish to make a proposition to the House, that the debate be limited to speeches of thirty minutes each. I have no doubt many gentlemen desire to discuss the subject.

Mr. BOYER and Mr. BECK objected.

Mr. KERR. I hope at least that the gentleman's colleague will be allowed an hour.

Mr. FARNSWORTH. Very well; let the rule apply after my colleague has spoken an hour.

Mr. KELLEY and Mr. BOYER objected.

Mr. FARNSWORTH. Then I move that the bill be recommitted.

Mr. LOAN. I would like to ask the gentleman if he can inform the House what number of white votes were cast for the ratification of this constitution.

Mr. FARNSWORTH. I cannot; but I can state this: that there are in that State nearly thirty thousand white men who are in full sympathy with liberty-loving citizens and friends of reconstruction?

Mr. LOAN. So I have heard, but I want to know why they did not vote.

Mr. STEVENS, of Pennsylvania. I desire to say in answer to that inquiry that one thousand men voted against the constitution, and they were supposed to be white men who did vote.

Mr. FARNSWORTH. I have already said that the threats and menaces of the planters and the wealthy men of Alabama had much more effect upon the poor loyal white men than upon the black men. The law of caste, the refusal to associate with, to trust, or to employ them, had more terror for the white men than for the black men. Many of the white men of Alabama are as poor as the black men. They are dependent entirely upon the planters for employment. These men were told, before they went to the polls to vote, "You will be discharged if you vote for that constitution," and before noon of the first day hundreds and hundreds of those men who had voted were discharged. That, of course, was noised about all over the State. There was not a community, not a man in that State, but knew that these threats were staring every man in the face, and that if any man went to the polls and voted for the constitution he would probably be discharged.

Mr. LOAN. Now, one more question, and

I have done; and that is, what assurance the gentleman can give the House that if we admit the State of Alabama under these circumstances the next election will not find it in the hands of the rebel party?

Mr. FARNSWORTH. If the gentleman had listened to my remarks already made he would not have asked that question, for he would have heard the reasons which have satisfied the minds of the committee, and which I have stated to the House over and over again, that a very large majority of the voters of that State are in favor of the adoption of that constitution.

Mr. LOAN. But, being intimidated, they did not vote?

Mr. FARNSWORTH. They were intimidated precisely as men are intimidated in every one of these States, and will be until the State is reconstructed, and they are given the offices, the patronage, and the power of the State to protect themselves; and without that power to protect themselves this intimidation will have greater or less effect so long as they remain in their present condition.

Mr. ELDRIDGE. I would like to have the gentleman from Illinois explain to the House how it is that these rumors and threats and these intimidations were so rapidly communicated over the State of Alabama when the streams were so swollen and there was such difficulty in the voters getting to the polls? It seems to me that the rumors would be obstructed quite as much as the voters. It strikes me that there is a little inconsistency in the gentleman's statements.

Mr. FARNSWORTH. I will tell the gentleman. Because the rebel papers in that State—and I can show him several of them—for days and weeks before the election were full of these intimidations and threats. Meetings were held and speeches were made by leading rebels in that State in which they threatened with instant dismissal from employment every man who should vote for that constitution. The proceedings of those meetings and those speeches were published in the rebel papers throughout that State. Those papers circulated, and where a man could not read them they were read to him. The information spread all over the State. Now, sir, we have, as I said before, two hundred affidavits here of men in different portions of that State wherein they tell this House of these threats. Some of them are the affidavits of men who had themselves been discharged—who were discharged at noon on the first day of the election. The moment they returned to their employers they were asked, "Have you voted?" and on replying "Yes; I have voted for the constitution," those men were given their walking papers at once. We have numerous cases of that kind.

Mr. ELDRIDGE. That is the very intimidation to which I referred in my question. The gentleman stated that it was the cause of many remaining at home, and it seemed to me that there would be quite as much difficulty in that rumor being distributed over the State as there would be in the voters arriving at the polls—that the swollen streams and other impediments would operate precisely against the rumors as against the voters.

Mr. FARNSWORTH. The gentleman has stated that once before. I only stated that as one of the causes and means of intimidation. Men were discharged when they did vote, and they were told for days and weeks before that they would be discharged if they voted.

Mr. ROSS. I would like to ask my colleague if the loyal blacks are in the habit of taking and reading rebel papers? [Laughter.]

Mr. FARNSWORTH. I will state that the loyal blacks down there are usually as capable of reading rebel papers or any other papers as the disloyal whites in the district of my colleague, [Mr. Ross.]

Mr. BOYER. Will the gentleman yield to me for a question?

Mr. FARNSWORTH. Certainly.

Mr. BOYER. I desire to ask the gentleman whether any witnesses whatever were examined before the Committee on Reconstruction, or whether the facts stated by the committee rest entirely upon *ex parte* affidavits?

Mr. FARNSWORTH. The affidavits shown to the committee, and on which we have reported to the House, are what may be called *ex parte* affidavits. The committee did not call witnesses before them for examination.

Mr. BOYER. Did the committee examine any witnesses?

Mr. FARNSWORTH. I say we did not call any witnesses before us.

Mr. STEVENS, of Pennsylvania. I think it right to say, if my colleague [Mr. FARNSWORTH] will permit me, that we did examine three witnesses, whose names were among the signers of the paper just read at the request of my colleague.

Mr. FARNSWORTH. I was not present at that examination.

Mr. STEVENS, of Pennsylvania. No; the gentleman was not present.

Mr. KERR. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. I will yield for a question.

Mr. KERR. I would ask the gentleman if it is not true that more than three fourths of the affidavits filed with the committee are not made by persons who do not say in those affidavits whether they would or would not have voted for the constitution if they had voted at all?

Mr. FARNSWORTH. They do not contain anything of the kind.

Mr. KERR. Do not a large number of them fail to make any statement on that point?

Mr. FARNSWORTH. Many of the affidavits are those of men who voted for the constitution. They set forth the condition of facts which existed there; they set forth their knowledge in regard to the intimidations and threats which were used, and the effect of those threats to keep voters away from the polls.

Mr. KERR. Do not a majority of the affidavits fail to state whether the affiant would have voted for or against the constitution had he voted, or whether he voted at all or not?

Mr. FARNSWORTH. In the case of some of the affidavits I think that is not stated. But in most of the affidavits the parties state that they did vote for the constitution. The most of the affidavits were made for the purpose rather of showing the condition of things in Alabama and the effect of this reign of terror there than to show that A, B, and C voted for or against the constitution.

We have the returns showing how many voted for the constitution and how many voted against it; and we know how many were registered in the State. We do not attempt to show, by the affidavits of men who would have voted for the constitution if they had had the opportunity, that a majority of the registered voters of that State were in favor of the constitution. We only show the condition of facts which existed all over the State of Alabama by affidavits of men who resided in different parts of the State. Those affidavits show that large numbers in this county and in that county were deterred from voting; that others were kept away from the polls by the storm and the swollen streams, and that still others were delayed after getting to the polls by dilatory challenges, &c.

Mr. KERR. I desire to ask the gentleman one more question. It is proposed by this bill to again admit Alabama into the Union upon certain conditions therein stated, and which conditions are made perpetual upon the State of Alabama. Now, I desire to inquire of the gentleman from Illinois, [Mr. FARNSWORTH,] in what part or provision of the Constitution he finds authority for admitting a State into the Union in that way? I understand it to be the duty of the Federal Government, if States are received at all, to receive them as equal in every respect.

Mr. FARNSWORTH. Where in the Constitution does the gentleman find that language?

Mr. KERR. I do not find that language in the Constitution; but that is, nevertheless, the requirement of the Constitution, and never before was attempted to be disregarded by Congress.

Mr. FARNSWORTH. I find in the Constitution "that Congress may admit new States." If Congress may admit a State, I suppose Congress may determine the conditions upon which it may be admitted.

Mr. KERR. Does the gentleman mean to say that Congress may impose different conditions upon different States, and that those conditions shall be perpetual? That is a very startling proposition, and finds no example or countenance in the Constitution or conduct of the Government.

Mr. FARNSWORTH. I will only say to the gentleman what I have already stated, that Congress has admitted new States with conditions, and conditions which had not been imposed upon other States.

Mr. KERR. Then, Mr. Speaker, the result follows that the equality of the States in this Union is totally destroyed.

Mr. FARNSWORTH. Congress admitted Missouri with conditions.

Mr. KERR. The gentleman will pardon me for contradicting him; but Congress did not admit Missouri with a condition. In the case of Missouri she was required, before admission, to accept a certain qualification in her constitution, and, after having accepted it, she was admitted. But here it is proposed to impose conditions which shall be operative after the admission of Alabama, and shall be perpetual and enforcible by act of Congress.

Mr. ASHLEY, of Ohio. Nebraska and Nevada were admitted upon a condition.

Mr. FARNSWORTH. I do not understand that a measure of this kind conflicts in any manner with the equality of the States. States admitted in the manner proposed here have the same right of representation as other States; their representatives in the Senate and on this floor have the same vote and the same power in every respect as the Senators and Representatives of any other State. Their Legislatures may do what the Legislatures of every other State may do, provided they do not violate the act for their admission, which is a part of the compact and agreement between the State and the United States. I believe I will now surrender the floor that the debate may take its course.

Mr. KERR. Before the gentleman surrenders the floor I desire to make a single inquiry further. I would like to know whether he means to say that in the admission of any State of this Union heretofore Congress has ever reserved the right or power on the part of Congress to repeal any act of the Legislature of a State. This bill proposes to reserve to Congress the power to repeal an act of the Legislature of the State of Alabama if a certain act should be passed. Now, I understand that the courts may declare null and void any legislative act conflicting with the fundamental principles of this Government; but I do not understand that it is the province of Congress to repeal acts of a State Legislature by acts of Congress.

Mr. FARNSWORTH. I will ask the gentleman from Indiana [Mr. KERR] whether there were not conditions imposed upon the admission of his own State with reference to taxation?

Mr. KERR. Taxation of certain parts of the public lands?

Mr. FARNSWORTH. Yes, sir.

Mr. KERR. I will answer the gentleman. There was a limitation imposed on the right of the State to tax certain lands of the United States in Indiana; but any violation of that limitation was to be remedied in the courts and not by a repealing act of Congress; and the Chair will bear me testimony that the courts,

both State and Federal, have furnished that remedy.

Mr. FARNSWORTH. Will the gentleman tell me where the courts obtained their authority?

Mr. KERR. From the Constitution and laws of the United States.

Mr. FARNSWORTH. They obtained it from Congress, did they not?

Mr. KERR. They obtained it from the Constitution of the United States and the laws made in pursuance thereof.

Mr. FARNSWORTH. The laws of Congress. Very well. If Congress may, by law, clothe the courts with authority to execute such a compact cannot Congress exercise the authority itself?

Mr. KERR. That was no part of the compact. There is no such language in the act for the admission of Indiana. There was simply a condition that related to the public lands of the Government of the United States, lands to which the State of Indiana never had any title at all. That is all. There was no condition attached to the admission of the State of Indiana.

Mr. FARNSWORTH. Well, Mr. Speaker, I hope that this House and the Senate will admit the State of Alabama.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. I think I will not prolong this sort of discussion, for I do not think it profitable.

Mr. ELDRIDGE. I wish to make an inquiry with reference to a matter of fact. I understood the gentleman's colleague on the committee [Mr. STEVENS, of Pennsylvania] to say that certain witnesses were examined before the committee. I understood the gentleman himself to say that no witnesses were examined before the committee. Now, I wish to know precisely what is the fact in regard to this matter. I understood the gentleman from Pennsylvania [Mr. STEVENS] to state that two or more witnesses were examined before the committee, and that the evidence which was read here was a part of the evidence taken on the examination of witnesses before the committee. I am assured by the gentleman from Kentucky, [Mr. BECK,] who is a member of the committee, that no witnesses were examined in his presence, and that he knows of no such examination; and that the testimony which has been read, and which is before the House, is entirely *ex parte*.

Mr. FARNSWORTH. I have only stated my knowledge of the subject. I was not present when these witnesses were examined, but I have no doubt they were examined. I am assured by another member of the committee that these witnesses were examined. This committee is a large committee, composed of nine members, and we are not always present at its sessions. It is my purpose always to be present at its sittings, but I am sometimes absent. I know the gentleman from Kentucky has not always been present, although he has generally been present.

Mr. ELDRIDGE. I ask whether the committee has made any report? I understand there is published in the newspapers a report in writing on this subject. We have had no report here. I hope the gentleman will answer on that point.

Mr. BECK. Mr. Speaker, in the absence of my colleague on the Committee on Reconstruction, the gentleman from New York, [Mr. BROOKS,] whom I expected to be here to state the facts in regard to this matter, as the only dissenting member of that committee now present, I propose to state the reasons why I oppose the passage of this bill. There seems to be a good deal of doubt as to what occurred in the committee. I desire, therefore, to state, in the first place, that the bill I have in my hand is the only paper which the committee was authorized to report, so far as I know. There was no report submitted to the committee that I ever heard like that which appears this morning in the Chronicle. It was not read in the committee, nor was it made in this House. It has never been laid upon our desks. I never saw it until I saw it this morning in the papers.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me?

Mr. BECK. Yes, sir.

Mr. STEVENS, of Pennsylvania. I do not say the gentleman was present, although he has generally been present; but I say that the very first thing read in that committee after we met was a short report which I read to the committee, and which I was very much surprised to find this morning was not laid upon our desks.

Mr. BECK. All I have stated is that the report was never read in the committee so far as I know.

Mr. STEVENS, of Pennsylvania. I presume the gentleman did not hear it; but it was read in the committee.

Mr. HULBURD. I was present at the committee meeting, and I wish to say that the chairman of the committee is correct in his statement that such a report was submitted to the committee and read, and read before the bill was brought up.

Mr. BECK. It was not read in the House or in the committee room.

Mr. HULBURD. I heard the report read myself.

Mr. BECK. Will the gentleman tell me when?

Mr. HULBURD. I heard it read at a regular meeting.

Mr. BECK. When and where was that meeting held?

Mr. HULBURD. At the chairman's rooms, on last Saturday night.

Mr. BECK. Then I say I have never had notice of any such meeting.

Mr. HULBURD. I had regular notice of it.

Mr. BECK. Then that was held at the house of the chairman without notice to me or to Mr. BROOKS, so far as I know. It was a private meeting at the house of the chairman at which not one of the members of the minority were present.

Mr. HULBURD. I cannot answer all the members of the committee were warned of it, but notice was sent to me that a regular meeting of the Reconstruction Committee would be held at a stated time at the house of the chairman. I attended accordingly.

Mr. BECK. I never heard of such meeting and never received any notice of it. I know that the committee often meet at the house of the chairman because of his feeble physical condition.

Of that meeting I have no knowledge. I never saw or heard of this report till this morning. It was not read yesterday. It was not reported with the bill and is not on our table. And I have this to say on that question of testimony: there was not one particle of evidence taken at any meeting at which I was present. If any was taken on the Saturday night meeting I was not advised of it. I was at every meeting of the committee when it was possible to examine any witnesses, and have never been absent at any meeting in our committee room. When the bill came up and was about to be reported by the committee I asked the gentlemen was there any testimony to be be used, and I was told that none was required. The bill was put on the simple ground that a majority of the legal voters had voted for the constitution. Upon that issue the bill came before the House and the country. It was not put upon the ground that any frauds were committed or anybody prevented from voting. If the fact that frauds had been committed was to be urged here, why did not the preamble state it? It recites:

"Whereas the people of Alabama in pursuance of an act of Congress" * * * * "have framed a constitution of State government, which is republican in form, and whereas a majority of the votes cast were in favor of it," * * * * "therefore be it enacted," &c.

That is a simple proposition. It shows but a simple fact on its face. No testimony is referred to in any part of the preamble or bill.

I hold in my hand eighty affidavits. I have examined them all. All, or nearly all, of them are signed by men who make their marks. Not one of them says he was discharged from employment for voting for the constitution, or at the time it was voted for, but at the recent election. He does not say whether he voted for or against the constitution. Many allegations are made about the election, but no one swears to facts within his own knowledge. The committee do not venture to base allegations on any testimony, because if they had done so they could have been successfully controverted. Very few of these affiants could read or write. They were not cross-examined. Therefore I was so particular to get all these facts out and have it appear that the bill was based on the naked question of a majority of votes having been cast for the constitution, as its preamble distinctly shows it is.

This is the first time, so far as I am aware, that the majority have gone to the length now proposed, to repudiate all their own acts, override all their own laws, and unblushingly and avowedly punish the people of a great State for doing what this Congress solemnly declared it was right, proper, and lawful for them to do. I have read of the treatment of the children of Isreal by their Egyptian taskmasters, who required the full tale of brick when the straw was withheld. I have read the fable of the wolf and the lamb, but I never, till now, supposed that the principles of tyranny, fraud, and oppression therein illustrated would, in the middle of the nineteenth century, be attempted to be carried into practical operation by an American Congress. But it is even so. Waiving, for the sake of argument, all questions as to the unconstitutionality of the reconstruction acts, (so called,) though that has been demonstrated in every variety of form in these Halls, on the hustings, and by the highest judicial tribunal in the land, and admitting, as I propose to do, that for all the purposes relating to the adoption or rejection of the present paper purporting to be a constitution, they are valid and binding on the people of Alabama, that people have, in strict accordance with their requirements, repudiated and rejected it. And the only question before us for consideration is, shall we force the people of that State to adopt, accept, and live under the thralldom of that instrument after it has been rejected by them, notwithstanding the almost superhuman efforts that have been made to force it upon them. If we do, we do it with full knowledge that we are forcing it for purely selfish and partisan purposes upon a people who scorn, loath, and hate all the leading features of it, and who will properly consider it as a wicked, cruel, and malignant effort on the part of this Congress to still further disgrace, degrade, and humiliate them as a punishment for past offenses, under the pretext of establishing civil government in their midst. It would be far more manly, more in accordance with that frank, open, and straightforward policy which has in time past been the boast of American statesmanship, if we were to throw off the mask which is so transparent that instead of concealing it only reveals our illegal purposes and proclaims what the world already knows and sees, that we intend to hold and treat these ten States as conquered and subjugated provinces, and not only to crush out the last vestige of civil and political liberty there, but to insult, disgrace, and degrade the white race, and place them under the dominion—the absolute and unlimited dominion of their former slaves.

Why, by false recitals and hollow pretenses, seek to impose upon ourselves, (for we deceive nobody else.) Why intimate, assert, or pretend, as we do in the bill before us, that we are about to impose that defunct and despised

paper upon the people of Alabama as their fundamental law under the assumption that we believe that a majority of the people either desire it or are willing to accept it, when not only the most envenomed partisan in the country, but the most intense fanatic in this House cannot lay his hand on his heart and raise his eyes heavenward and say that he believes or has reason to suspect that it is so.

The proposed bill reads thus:

Whereas the people of Alabama, in pursuance of the provisions of an act of Congress entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed a constitution of State government which is republican in form; and whereas, at an election commencing on the 4th day of February, A. D. 1868, a large majority of the legal voters of said State, voting at said election, voted for the adoption of said constitution: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said State of Alabama shall be recognized and admitted as one of the States of the United States, and shall be entitled to representation in Congress as soon as the Legislature of said State, the members of which were elected at the election mentioned in the preamble of this act, shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen.

SEC. 2. *And be it further enacted*, That said State of Alabama shall be recognized and admitted into the Union upon the following fundamental condition: That the right of suffrage of citizens of the United States shall never be denied or abridged in said State on account of race, color, or previous condition of slavery; and Congress shall have power to annul any act of said State in violation or in derogation of the provisions of this act.

The constitution is perhaps republican in form, as a gorilla is human in form, but it has as few of the attributes of a true republican constitution, especially in its oaths, as the ape has of the cultivated gentleman. Not one sentence, line, or syllable in it can be maintained in the sense in which this House is expected to receive it. It is true that a majority of the votes cast were cast in favor of it, because its opponents, in accordance with law, declined voting, so that a majority of the registered votes should not be polled as required by the reconstruction laws to give it validity, and they were not. And even this bill does not venture to assert that they were. It is, therefore, true, beyond all question, that the proposed constitution was rejected. Rejected in strict conformity with the rights and privileges few and grudgingly given by the reconstruction acts passed by this and the last Congress, after three efforts so to amend and patch them up as to prevent any but the friends and partisans of the dominant majority here from having any control over the proposed constitution and the legislation consequent thereon. And now, when the work of the convention has proved to be so infamous, oppressive, and degrading that nearly all the seventy-three thousand white citizens of Alabama who had registered, and only about five thousand of whom opposed the convention, refused to recognize it, when less than two per cent. of the votes of the actual white population recognized and sustained it, and that percentage was composed almost exclusively of office-seekers, and needy, worthless adventurers, vultures seeking to feast on the victims of Radical misrule, this Congress is asked to force it upon that people under the pretense that a majority of them desire it; although only seventy-one thousand eight hundred and seventeen voted for and against, and it required over eight-five thousand to make a majority of the registered vote. There never was a bolder, more unblushing attempt to make this Congress stultify and disgrace itself before the civilized world than to pass such a bill as this on such a pretense.

Let us test these assertions by the facts. Fortunately they are neither numerous nor complicated, and being not only matters of record, but records made and acted on by this Congress, they can neither be perverted, misunderstood, nor misconstrued. They are so plain that the wayfaring man, though a fool, need not err therein. The simple question is what rights had the people of Alabama under these acts on the adoption or rejection of any constitution that might be framed and presented to them.

The act of March 2, 1867, among other things, provides:

"SEC. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its Legislature, elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oaths prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

"SEC. 6. *And be it further enacted*, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment."

The third article of the constitutional amendment is as follows:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

The supplementary act of March 27, after prescribing the oath that the applicant has not held any legislative, executive, or judicial office, State or Federal, and afterward took part in the rebellion, provides:

"SEC. 3. *And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words 'For a convention,' and those voting against such a convention shall have written or printed on such ballots the words 'Against a convention.' The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

"SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates according to the returns of the officers who conducted said election, and make proclamation thereof." * * * * * "And when the same shall have been so framed said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

"SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified, as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session then immediately upon its next assembling."

The seventh and eighth sections of the second supplemental act of July 19 provides:

"SEC. 7. *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district, be extended to the 1st day of October, 1867; and the boards of registration shall have power, and it shall be their duty, commencing fourteen days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the name of such person from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no person shall, at any time, be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

"SEC. 8. *And be it further enacted*, That section four of the last-named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board."

If language can make any proposition clear beyond dispute, these acts establish the facts, first, that a majority of the registered votes had to be cast on the question of a convention and on its ratification; and, second, that two modes were allowed to the people of Alabama of rejecting any constitution that might be submitted to them if its provisions were obnoxious. One by a majority of those voting to vote against it; the other by a concerted abstention from voting by those who were registered voters. Either course was equally legal and equally efficient. The provisions of the act requiring a majority of all the registered voters to vote at the election were not put in inadvertently, but after due consideration, and, no doubt, as affording a pretext for Congress to reject the constitution if it was at all conservative in its suffrage provisions. But no matter for what purpose it was put there; and, being a part of the law, it was as legitimate a mode of opposing its ratification by the qualified voters, by refusing to vote, as by voting against it. That this was a mode deliberately and purposely adopted by those who opposed the ratification, is a part of the political history of the country. The primary conservative county conventions urged it. The conservative State convention of the people of Alabama adopted it as the best mode of opposition, and by resolution recommended it to the conservatives of the State. All their newspapers advocated it, and it was well known, both to this Congress and to the advocates of the constitution, as the mode of opposition, most publicly and deliberately adopted long before the vote was taken.

No man in this Congress or out of it, no candidate for office, even in Alabama, ever questioned or doubted the legal right of the opponents of that instrument to defeat it in that form as effectually and as legitimately as by voting against it, until long after it was so defeated. All the acts of the managers demonstrate that. The election originally ordered for two days was extended first to four and then to five. Negroes were hauled from one county and from one part of the State to another, and voted on all sorts of affidavits and under every imaginable name, so as to swell up the vote to the requisite number. If

a bare majority of the votes cast had been even supposed to be sufficient, all that would have been folly, as there was a clear majority of the vote polled in its favor, and in favor of the men running for office under it, from the very first hour of the first day when the polls were opened, as no votes, or almost none, were cast against it or them. No man in this House, no newspaper in the country, however Radical, or however anxious for the ratification of that instrument, ever ventured to assert, in the face of the plain provisions of the acts of Congress which I have read, that the constitution of Alabama could be ratified unless a majority of the registered voters voted on the question, until the ingenuity of the Reconstruction Committee discovered, after all hope of being able to assert that it had been legally carried had vanished, that the whole thing was a mistake, that their power of reconstructing extended even to nullifying laws, galvanizing and vitalizing defunct constitutions, establishing governments over States, appointing Senators, Representatives, and State officers, according to their will and pleasure, and that by one touch of the magician's wand Alabama would spring forth redeemed, regenerated, and disenthralled, a phœnix, purified and rejuvenated. This is guaranteeing a republican form of government with a vengeance. The expense and mockery of an election may hereafter be dispensed with, and the Reconstruction Committee will see that those truly loyal to their party shall be rewarded and protected. Georgia, Mississippi, Louisiana, Virginia, and the other provinces, are going to a great deal of unnecessary trouble. In a basement room of this Capitol can be found genii more prompt and more potent than those of the lamp of Aladdin, and I suppose the action of this House on this question will show that their followers here are as prompt to do the bidding of the great magician.

I suppose this will not be denied, that when the people of Alabama determined if they could to defeat the ratification of the proposed constitution by absenting themselves from the polls, they had the same right to use and employ all the means and activities to induce others not to vote that would have been legitimate to induce them to vote against it if that mode of defeating it had been resorted to; and while I have no doubt that the opponents of the constitution did all that lay in their power to accomplish their purpose, I have no hesitation in saying that the means employed to induce the negroes to vote and vote again for the constitution by the military, by the Freedman's Bureau, by the Loyal Leagues, in whose hands all the power of the State is lodged; by threats, by terrorism, by ostracism in black society, were a thousand times more illegal, more potent, and controlling than any employed by the conservatives to keep either whites or negroes from the polls. It only requires a glance at the machinery by which the convention was organized, and the appliances by which it was maintained and supported, to convince any unbiased minds that the opponents of the constitution were comparatively powerless, and its advocates almost omnipotent. The reconstruction acts themselves placed them in that position. Still, if they had been honestly and faithfully carried out, the white men of Alabama would have had a decided majority of the registered votes, and could have so far controlled the political destiny of the State as to have prevented the establishment of negro dominion over them.

By the census of 1860 there were 526,431 whites and 437,770 blacks and mulattoes, bond and free, in the State—a majority of 88,661 whites. Beyond all question there was at least as great a preponderance in favor of the whites in 1867 as there was in 1860; yet, when the registration was made out in the fall of 1867, there were 93,543 negroes and only 72,746 white men registered. If 437,770 of negro population could furnish 93,543 voters, a white population of 526,431 would have furnished at least 112,000 voters. By the reconstruction acts only such persons as had been members of Congress or officers of the United States, or had been members of a State Legislature, or had held an executive or judicial office in a State, and, having held such office, had taken part in the rebellion, were disqualified from registering or voting for members of the convention or on the adoption of the constitution. All others were entitled so to register and vote by the express provisions of the law; 12,000 would certainly cover all who were so disfranchised, leaving 100,000 legal white voters in the State of Alabama, instead of 72,746, as actually permitted to register. Of course, every white man thus deprived of his right to register or vote was opposed to the convention, opposed to its ratification, opposed to negro equality, and to all the schemes which the reconstruction laws and the military despotisms established thereunder were intended to promote and carry out. Time would fail me if I should attempt in detail to prove, as I could, that the charges of fraud now made against those who opposed this constitution are not only utterly without foundation, but, from the very nature of things, are utterly impossible. No man could be a registrar unless he was able to take the prescribed oath and was selected and indorsed by the military and the Freedmen's Bureau agents, at the head of which stood Generals Pope and Howard, with this omnipotent Congress and its agents superintending and controlling all. The convention met November 5, 1867—87,672 votes having been cast for it and 5,685 against it. It was composed of one hundred and one members, of whom sixteen were negroes, every man of them, black and white, loyal enough to have occupied honored seats on the other side of this Hall. The convention finished its labors and adjourned on the 6th of December, and submitted to the people for ratification or rejection the paper we are now considering. Before speaking of it I desire to call attention to a few facts relative to the convention itself and the members composing it. The constitution is signed by sixty-eight of the one hundred and one members. Of this sixty-eight, according to the New York World, whose southern correspondent has taken some pains to get at the facts, thirteen were members of different registration boards, conducted their own elections, and signed their own certificates of election; and fifty-six of them were candidates for office under the constitution they had framed, and many of them revised the registration lists while they were candidates for various offices. But I prefer to read from the Selma Times and Messenger of February 28, 1868, upon this subject:

"The proposed and rejected constitution was signed by sixty-eight members of the so-called convention. Thirteen of these sixty-eight men, to wit, William M. Buckley, W. C. Garrison, R. M. Johnson, A. W. Jones, H. McGown, Stephen Moore, J. F. Morton, H. H. Russell, Luther R. Smith, J. Silsby, H. S. Springfield, N. D. Stanwood, and J. R. Walker, were members of different registration boards, and, as such, registered the voters in their respective counties, opened the polls, conducted the election on the question of calling the convention, made the returns of the votes, and signed their own certificates of election to the convention!

"Besides certifying to their own election, these saints, in conjunction with six other members of the so-called convention, signed the certificates of eighteen others of that extraordinary body.

"Nineteen in all of those who sat in the so-called convention were registrars, with power to admit to registration such as they pleased and to reject all others, and in that capacity managed elections in which they were candidates, counted out the votes, and certified to the results.

"These facts are without a parallel. Only such men as the radical leaders in Alabama could be guilty of the indecency of such conduct. No man with one spark of honor or shame latent in him could be induced to occupy the position of a candidate and at the same time of manager of an election at which he was being voted for. But nineteen of the sixty-eight authors of the rejected constitution did occupy this double position, and thirteen of them signed their own certificates of election.

"After the convention (so-called) adjourned the patriotic framers of the constitution hurried home only to become candidates for offices created by themselves—created if the constitution should be ratified by the voters under the reconstruction acts and accepted by Congress. Fifty-six of them at once tendered their valuable services to the negro voters who were to control the new government. And nine out of the thirteen registrars who had before certified to their own election were of this number. But this time nearly all the registrars in the State became candidates; and, so far as we have heard, not one of these men had the decency to tender his resignation as registrar on becoming a candidate; they all proceeded to revise (?) the registration lists while prosecuting a canvass for office. General Hayden saw proper to remove a dozen or more of these registrars, appointing in their stead men of unquestioned loyalty; and for this act the vials of radical wrath have been poured out upon his devoted head.

"We add here, from the World, a list of the members of the so-called convention who became candidates for office under the proposed constitution, with the birthplace of each and the office for which he was a candidate.

Name.	*Nativity.*	*Candidate for.*
Ben. Alexander,	Negro,	Legislature.
A. J. Applegate,	Ohio,	Lieut. Governor.
W. A. Austin,	Alabama,	State Senate.
Arthur Bingham,	New York,	State Treasurer.
W. M. Black,	Ohio,	Probate Judge.
W. T. Blackford,	Illinois,	Probate Judge.
Sam. Blandan,	Negro,	Legislature.
Mark Brainard,	New York,	Cl'k Circ't Court.
Alfred E. Buck,	Maine,	Cl'k Circ't Court.
C. W. Buckley,	New York,	Congress.
W. M. Buckley,	New York,	State Senate.
J. H. Burdick,	Iowa,	Probate Judge.
Pierce Burton,	Mass.,	Legislature.
John Carroway,	Negro,	Legislature.
Datus E. Coon,	Iowa,	State Senate.
Tom Diggs,	Negro,	Legislature.
Chas. W. Dustan,	Iowa,	Maj. Gen. Militia.
George Ely,	Conn.,	Probate Judge.
S. S. Gardner,	Mass.,	Legislature.
Jim Greene,	Negro,	Legislature.
Ovide Gregory,	Negro,	Legislature.
Thomas Haughey,	Scotland,	Congress.
Gustavus Horton,	Mass.,	Probate Judge.
Benjamin Inge,	Negro,	Legislature.
A. W. Jones,	Alabama,	Probate Judge.
Columbus Jones,	Negro,	Legislature.
John C. Keffer,	Penn.,	Sup't Industrial Resources.
S. F. Kennemere,	Alabama,	Legislature.
Tom Lea,	Negro,	Legislature.
David Lore,	Negro,	Legislature.
J. J. Martin,	Georgia,	Probate Judge.
B. O. Masterson,	Unknown,	Legislature.
C. A. Miller,	Mass.,	Sec'y of State.
Stephen Moore,	Alabama,	State Senate.
A. L. Morgan,	Indiana,	C'lk Circ't Court.
J. F. Morton,	Unknown,	State Senate.
B. W. Norris,	Maine,	Congress.
E. W. Peck,	New York,	Chief Justice.
Thomas M. Peters,	Tenn.,	Supreme Court.
G. P. Plowman,	Alabama,	Probate Judge.
R. M. Reynolds,	Iowa,	State Treasurer.
Benj. Rolfe,	Negro,	Tax Collector.
B. F. Royal,	Negro,	State Senate.
B. F. Saffold,	Alabama,	Supreme Court.
J. Silksby,	Mass.,	Cl'k Circ't Court.
C. P. Simmons,	Tenn.,	Commissioner.
Wm. Skinner,	Alabama,	Chancellor.
L. R. Smith,	Alabama,	Circuit Judge.
H. J. Springfield,	Alabama,	Legislature.
N. D. Stanwood,	Maine,	Legislature.
J. P. Storr,	Conn.,	State Senate.
L. Perry Strange,	Georgia,	Circuit Judge.
Jas. R. Walker,	Georgia,	Sheriff.
B. L. Whelan,	Georgia,	Circuit Judge.
C. O. Whitney,	Unknown,	State Senate.
B. Yordy,	Unknown,	State Senate.

What power, compared with such as that wielded and exercised by these men, could the opponents of the constitution wield when it must be admitted that they never went near the polls and had neither part nor lot in the management of affairs. It is well that this Congress and the country should know that it is in behalf of this sort of men, only nine of the fifty-four, and they, perhaps, the meanest of the lot, natives of the State, that we are called upon and invoked to revive and resuscitate this defunct instrument, which, as well from its own vileness as from the corruption of its framers, is a reproach to the civilization we profess to represent.

So infamous were the whole proceedings that thirteen of the members of the convention presented their protest and refused to sign the constitution. Let me read some extracts from that protest:

"But the constitution adopted by the convention violates the conditions of the formation of the Republican party in Alabama by transcending the requirements of the reconstruction acts and adding features of proscription and disfranchisement not found in those measures. The reconstruction acts provide that by the constitution to be framed the elective franchise shall be secured to and enjoyed by all who are permitted to register and vote by those acts; the constitution limits the elective franchise to such of that class as are willing to accept the theory of the majority in the convention that the elective franchise is a natural right, and to seal their faith by an oath.

Again, each elector is required to swear never to alter his political conduct, even if his political views should undergo a change; the constitution provides a mode for its amendment, but each elector must swear that he will never seek to exercise that constitutional right in a certain direction!

"The evils of universal suffrage may become intolerable, but he must swear that he will endure them without even a peaceful and constitutional effort at amelioration." * * * * *

"But the chief reason which leads us to conclude that no hope of good government for our State, under the constitution framed by the convention, can be indulged is, that a close observation of the course of the convention has demonstrated to us that under the proposed system of universal suffrage the political power of the blacks is coveted by a set of political adventurers having no interest in common with our people as a weapon of offense to be wielded by them to accomplish their own selfish schemes of personal aggrandizement, and that this race will readily surrender itself to the acts and intrigues of such designing knaves as will flatter their vanity and encourage them in a jealous hate of the white inhabitants of the State.

"The drilled phalanx of colored delegates in the convention, with one honorable exception, moving as subserviently at the back of their managers as ever slaves did at the command of a master, renders argument upon this point unnecessary. The subservience of a government framed on this constitution to the more ignorant class may well be argued from the subservience displayed toward them by the convention." * * * * * * *

"A measure was introduced by Mr. Wilhite, of Winston county, declaring against the policy of amalgamation, which he asked might be incorporated in the constitution. This was referred to the committee of the judiciary, which reported unanimously in favor of the measure, and submitted an article for adoption into the constitution prohibiting marriage between whites and negroes. Out of excessive deference to the sensibilities of the colored delegates the convention laid this article on the table, and many members of the committee who had concurred in the report of the committee, receding from their position, voted to lay it on the table.

"It must be apparent to every one who witnessed the proceedings of the convention, or who will take the trouble to read them, that those who claim the peculiar championship of the negro cause are determined to make a merit with them of trampling upon the pride of race of the old inhabitants of the State, and treating it as a prejudice not even to be tolerated, but which it is their mission to eradicate.

"We regard it as certain that the effect of the workings of a government framed on the provisions of this constitution and conducted by those into whose hands it will fall will be to cause the abasement and degradation of the people of this State, and finally to beget a mongrel race as little capable of progress or improvement as the unhappy population of the West India isles.

"Entertaining these views, we feel that we owe it as a duty to the people of the State to give this public expression to them, and to warn against lending themselves to the constitution when submitted to them. We know not what fate may be in store for us, but it can scarcely be worse than that which we shall bring on ourselves by aiding in carrying this constitution into effect.

"It may be said that as we object to this measure, which its advocates recommend as a means of relief from our present troubles, we should point out something better. We do not assume the right to indicate any plan, but we have felt it a duty to point out dangers which were more apparent to us than to men who were not connected with the convention, and to whom the spirit which actuated many of its members could never be so well known.

EARLY GREATHOUSE, JOSEPH H. SPEED,
J. C. MEADORS, C. W. CABOT,
TIMOTHY J. RUSSELL, G. W. GRAVES,
R. DEAL, J. L. ALEXANDER,
J. C. JOLLY, JAMES W. STUART,
T. TOWLES, JAMES FOLMAR,
HENRY C. SEMPLE.

"There were other members of the convention who concurred with us in protesting against the constitution, but we had no opportunity of consulting with them as to the publication of this address.

"MONTGOMERY, *December* 10, 1867."

Under the reconstruction acts and the orders of General Pope the registration was permitted to be reopened. When it was reopened the registrars struck off the names of whom they pleased and added the names of whom they pleased in order to secure their own election; for, as I have shown, the registrars in many instances were candidates, first, as members of the convention, and afterward to offices under the constitution which they themselves had submitted to the people. The frauds in the registry, when it was reopened, became so palpable that General Hayden, commander of the military sub-district of Alabama, saw fit to remove some ten or twelve of the registrars and appoint in their stead men beyond all question loyal.

That is enough as to the material of which the convention was composed, the means resorted to, and the *animus* of the managers of it, and it ought to satisfy this House that their work should have been set aside and annulled, even if they had succeeded in foisting it upon the people of Alabama by getting a majority of the registered vote in its favor.

Let us look for a moment at the provisions of the instrument itself, and see if there is anything in it to commend itself to the favorable consideration of statesmen seeking to establish a civil government republican in form, by which to accomplish the professed purposes of the reconstruction acts, and I can only notice a few of them.

Section two, of article one, provides—

"That all persons resident in this State, born in the United States or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights and public privileges."

No white man in Boston, Philadelphia, or New York, no Radical member of this House, would to-day consent to such a provision being incorporated into the constitution of the State in which he resides—that the hotels, the bedrooms, the dinner tables at which his wife and daughters were guests should be used and occupied by negroes of all grades indiscriminately with them; and if by his vote he could prevent the incorporation of such a provision into the fundamental law of his State, or by refusing to vote for it, if that would prevent it, he would pursue the course necessary to accomplish the object. Yet that is what we propose to punish the people of Alabama for doing.

Article seven provides:

"SEC. 3. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors, but the following class of persons shall not be permitted to register, vote, or hold office: 1. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employé, or citizen of the United States, or who, in any other way, violated the rules of civilized warfare. 2. Those who may be disqualified from holding office by the proposed amendment to the Constitution of the United States known as article fourteen, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Alabama, under the act of Congress to provide for the more efficient government of the rebel States, passed by Congress March 2, 1867, and the acts supplementary thereto, except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law: *Provided*, That the General Assembly shall have power to remove the disabilities incurred under this clause. 3. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 4. Those who are idiots or insane.

"SEC. 4. All persons before registering, must take and subscribe the following oath: I, ——— ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section three, article seven, of the constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the Government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party."

Without stopping to comment on the second and third sections of this article, I am free to say that I regard the oath required as the most infamous that ever was incorporated into the fundamental law of any people pretending to be free. It makes every man who takes it swear to a lie. Whenever he votes for that constitution, or undertakes to hold or exercise the duties of any office under it, he swears and agrees on oath—

"Not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men"—

when he knows at the time he takes the oath that he cannot vote for or support that constitution without depriving and continuing to deprive of all political rights and privileges all those classes of men who are ostracised by the third section of this article. The constitution itself deprives a large number of white men of their political rights on account of their previous condition. The previous condition of many was that of officers of the State of Alabama, or other States, or of the United States, who afterward took part in the rebellion. The previous condition of a majority of the white population of Alabama was that of rebels. A discrimination is certainly made against all of those men who had occupied the previous condition of officers of a State or of the United States. But it is really violating that oath to deprive any one of his right of suffrage on account of having been a convicted felon, for that is as much a previous condition of such persons as the condition of slavery. It will not do to say that the previous condition of slavery alone is meant; the language is plain, simple, and unambiguous; and if it is to be construed or tortured to suit the taste or views of the swearer it would be as convenient for him to assume that it meant rebels and State officers, and not former slaves, as it is now to assume that it applies to former slaves alone. Our bill admits that by using the words previous condition of slavery. But that is, perhaps, not the worst feature in it or the most obnoxious view of it. It is the very essence of tyranny, the very climax of despotism, to require a man to take an oath, as a condition-precedent to the exercise of any political rights or privileges, that he will never, in any emergency, no matter how urgent, do what, in his judgment, not only patriotism, but the very existence of republican liberty and free institutions may require, to wit, deprive all or certain classes of the negro population of the State of political rights and privileges.

He may be willing now to make the experiment of negro suffrage, if you please; but to require him in all time to swear that he will maintain and defend it, even though it may be apparent to him and to all the world that it is a failure, is to degrade and disgrace him, and make him swear in advance that he consents to his own degradation. An overwhelming majority of the people of Ohio, New York, New Jersey, and of every other northern State, except, perhaps, Massachusetts and Vermont, would be excluded from exercising the right of suffrage in Alabama unless they sacrified all their present political principles in order to obtain it, to say nothing of the disability they would be compelled to impose upon themselves in all time. Yet this Congress, representing, or pretending to represent, these loyal States, is asked to create a constitution and impose it on the State of Alabama which would disfranchise a majority of all the present voters in the northern States if they should ever emigrate to that State. Little wonder, then, that the white people of Alabama opposed it. Little wonder that they used all the influence they had to prevent it from being fastened upon them. It is still more wonderful that this Congress, in plain violation of its covenant with those people, flagrantly and avowedly repudiating its solemn acts, after deluding the people of Alabama by their legislation into the belief that if they pursued the course they did and defeated the proposed constitution in the way they did that it would be a nullity, and the election of all officers under it void, should now undertake to establish that instrument, and bestow all the offices, State and Federal, on the candidates who were defeated by the people of Alabama. Can it be that Senators are needed to convict the President that this thing has to be done? The language of Mr. Burke, when the people of England were about treating the then rebels (so called) in America very much in this way, is applicable here. He said:

"I really think that for wise men this is not judicious; for sober men, not decent; for minds tinctured with humanity, not mild or merciful.

"I know many have been taught to think that moderation in a case like this is a sort of treason, and that all arguments for it are sufficiently answered by railing at rebels and rebellion, and by charging all the present and future miseries which we may suffer on the resistance of our brethren.

But I would wish them in this grave matter, and if peace is not wholly removed from their hearts, to consider seriously that to criminate and recriminate never yet was the road to reconciliation in any difference among men."

I put it to every member of this House if it is not a fact that if this Alabama constitution had been submitted to the people of his congressional district for ratification or rejection that not only neither he nor any of his constituents would have voted for it, but that he would have denounced it on every stump as an insult to his people. I know he would. Why, then, seek to fasten it on the people of Alabama? They are men of like feeling and passions as yourselves. The same blood courses through their veins. Their fathers and yours stood side by side through the bloody, weary days of the Revolution. Their pæans and their prayers mingled together for the liberty so dearly won. They stood and fell together at New Orleans and on the Thames. They were by your side at Buena Vista and Chepultepec, and when the terrible internecine war raged they fought, right or wrong, as freemen only can. Let it never be told by the future historian that you disgraced the victories your valor won by destroying the liberty you fought to preserve to gratify a petty malice; rather proclaim that brave men forget and forgive, and that he is most ignoble who tramples on a fallen and suppliant foe.

The men of America have always opposed what they considered bad principles, and surely a worse than that incorporated into that oath cannot well be conceived. Mr. Burke said of them a hundred years ago:

"In other countries the people, more simple and of a less mercurial caste, judge of an ill principle in Government only by an actual grievance; here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance, and snuff the approach of tyranny in every tainted breeze."

So thoroughly are the white men of Alabama satisfied that of all the calamities that could befall them, loss of liberty, deprivation of civil government, military domination, all combined, are as nothing compared with the impending horrors of negro supremacy which it is designed by this constitution to fasten upon them, that they sent a petition to the Senate of the United States, which was presented on the 14th of February by Senator DOOLITTLE, begging, imploring, I may say, that if they must have tyrants over them, let them be men of their own blood and lineage, and not degraded and brutal barbarians.

I will read a few extracts from it to verify my statements:

"To the Honorable the Senate and House of Representatives of the United States in Congress assembled: The white people of Alabama send this their humble petition:

"We beseech your honorable bodies to withdraw yourselves from the influence of the passions and contests of the hour, and contemplate for a brief period our miserable condition and the yet more wretched state which is already prepared for us. Surely it is only such influences that have prevented you from bestowing upon us a single ray of beneficent regard.

"According to the last census taken by the Federal Government the white people of Alabama largely outnumber the negro or colored population. And we think we arrogate nothing which your honorable bodies will not concede to us when we say that nearly all of the education, intelligence, and civilization of the State are found in our race. But poverty prevails throughout the land. We are beset by secret oath-bound political societies. Our character and conduct are systematically misrepresented and maligned to you in the newspapers of the North. The intelligent and impartial administration of just laws is obstructed. Industry and enterprise are paralyzed by the fears of the white men and the expectations of the black that Alabama will soon be delivered over to the rule of the latter; and many of our best people are, for these reasons, leaving the homes they love for other and strange lands.

"Before the late unhappy war the white people of the South contributed their whole just proportion of the great and good men whose acts and characters constituted the chief renown of the Republic. Those of us who endeavored to withdraw the South from its partnership therein did not do so in order to make war upon the northern States or their institutions, but for the purpose (vain hope!) of peacefully establishing another, not unfriendly, independent confederacy, in which, under almost identical constitutions, we might be more free from discord. And however criminal, in your opinion, we may in this have been, yet neither our sins nor our sufferings have reduced us to uncivilized barbarians.

"We have to deal with the incontestible fact that in the main they are unlettered and capricious barbarians, turned suddenly loose from the condition of slaves, and eager to avail themselves of freedom to indulge and gratify their unbridled passions.

"Are these the people in whom should be vested the high governmental functions of enacting and enforcing laws and establishing institutions to prevent crime, protect property, preserve peace and order in society, and to promote industry, enterprise, and civilization here, and the power and honor of the United States? Without property, without industry, without any regard for reputation, without control over their own caprices and strong passions, and without fear of punishment under laws by courts and through juries which are created and composed of themselves and those whom they elect, how can it be otherwise than that they will, to the great injury of themselves as well as of us and our children, bring blight, crime, ruin, and barbarism on this fair land?

"Does any one say that your laws do not make them rulers over us? What difference does it make except to increase jealousy and intensify antagonism that white men are also allowed to vote with the black, when it is so contrived that the black shall have the predominance and dominion? We entreat you to pause and observe how your reconstruction acts are being executed here.

"Of the negro population, whose numbers are many thousands less, the registered voters are over sixteen thousand more than those of the white race. And white men who hate us, and others from sordid motives coöperating with them, have by their own procurement of others, and not by the intelligent choice of the negro voters, been elected as their delegates for the purpose, and have framed and now presented for ratification to those registered voters a constitution of government, all of whose best clauses are contained in our present constitution and in every other instrument of the kind. But these are made delusive and useless by the diabolical ingenuity of other provisions, made to disfranchise us even beyond the enactments of Congress, and to insure over us and our children and all who come among us the ascendancy of the negro race. And these same designing and malignant enemies are prepared, so soon as that constitution shall be ratified, to organize, arm, and invest with power under the forms of law, a militia to be composed chiefly of those same negro voters, in order to perpetuate their lordship over us by the aid of bullets and bayonets. We cannot believe that the majorities of your honorable bodies intended by your enactments to effect such a reconstruction as this.

"Will you, nearly three years after the war has ended, when the passions it kindled should have died out in the magnanimity which great success ought to inspire, suffer a whole State, full of your kindred civilized, white inhabitants, not only those who had opposed the Government, but women and children and loyal men who had adhered to it, to be thus delivered over to the horrid rule of barbarian negroes? Do not compel the honorable officers and brave men of the armies of the Republic to hold us down while such fetters are forged in our view and yours, and then ignominiously fastened upon us. We are compatriots of Washington and Henry and Jefferson and Madison and Marshall and the Pinkneys and Marion and Jackson and Clay and Taylor. Are there no names among these potent enough to arouse any respect for us in your legislative halls?

"It is said, and by frequent repetition you are made to believe it true, that the negroes and self-styled loyalists cannot have justice done them, and are unsafe among us, and that we are still in a state of rebellion. The charges are false. Ever since the war our courts and upright judges in them have administered justice as impartially as anywhere else in the Republic.

"What higher evidence beside this could be given of the universal good faith and entireness and frankness of our surrender than the fact that notwithstanding the great provocations of intruding political adventurers not a single guerrilla band has existed and been kept up against your authority since the abdication of the confederate authorities, under whose orders the war was waged.

"Continue over us, if you will do so, your own rule by the sword. Send down among us honorable and upright men of your own people, of the race to which you and we belong, and ungracious, contrary to wise policy and the institutions of the country, and tyrannous as it will be, no hand will be raised among us to resist by force their authority. But do not, we implore you, abdicate your rule over us by transferring us to the blighting, brutalizing, and unnatural dominion of an alien and inferior race, a race which has never exhibited sufficient administrative ability for the good government of even the tribes into which it is broken up in its native seats, and which in all ages has itself furnished slaves for all the other races of the earth."

Mr. Speaker, the man who can read that petition and turn round and vote to impose this constitution on that people ought never to be in a position where he needs either mercy or Christian charity, for he is not entitled to either. But I must proceed with my statements of facts, which my colleagues have a right to demand of me as a member of the committee, and from which I have wandered somewhat to make comments which others could have made more forcibly after the facts are furnished.

As soon as the convention adjourned General Pope issued a military order for an election to be held under it for the double purpose of ratifying the constitution and electing members of Congress and State officers, which order is as follows:

[General Orders, No. 101.]

HEADQUARTERS THIRD MILITARY DISTRICT,
GEORGIA, ALABAMA, AND FLORIDA,
ATLANTA, GEORGIA, *December 20*, 1867.

Whereas a convention recently assembled at Montgomery, Alabama, in compliance with General Orders No. 76, from these headquarters, did, in pursuance of the acts of Congress mentioned in said order, proceed to frame a constitution and civil government for the State of Alabama, and provided for the publication of the constitution, and did further enact the following ordinance:

Be it ordained by the people of the State of Alabama in convention assembled, That the constitution adopted by this convention be submitted for ratification to the voters of this State registered and qualified as provided by the acts of Congress known as the "reconstruction laws," beginning on Tuesday, the 4th day of February, 1868. The vote on said constitution shall be "for the constitution" and "against the constitution." The said election shall be held at the places and under the regulations to be prescribed by the commanding general of this military district, and the returns made to him as directed by law.

II. And whereas the acts of Congress provide that an election for ratification of said constitution shall be conducted by the officers or persons appointed, or to be appointed, by the commanding general, and at the date to be fixed by said convention:

It is ordered that an election be held in the State of Alabama, commencing on Tuesday, the 4th day of February, 1868, and continuing two days, at which the registered voters of this State may vote for or against the constitution submitted to them by the foregoing ordinance of the convention.

III. It shall be the duty of boards of registration in Alabama, in accordance with said acts, commencing fourteen days prior to the election herein ordered, and giving reasonable public notice of the time and place thereof, to revise for a period of five days the registration lists, and upon being satisfied that any person not entitled thereto has been registered to strike the name of such person from the lists, and such person shall not be allowed to vote. The boards of registration shall also during the same period add to such registry the names of all persons who at that time possess the qualifications required by said acts who have not been already registered.

IV. The said election shall be held in each county under the superintendence of the boards of registration, as provided by law, and polls will be opened, after due and sufficient notice, at as many points in each county as in the opinion of the said boards may be required for the convenience of voters.

V. Any registered voter of the State who may have removed from the county in which he was registered shall be permitted to vote in the county to which he has removed upon making affidavit before a member of the board of registration, or a judge of election, that he was registered, naming the county in which he was so registered, and that he has not voted at this election. Blanks for such affidavits will be supplied by the boards of registration, and the name of the voter making oath must be indorsed on his ballot, and all such affidavits forwarded with the returns of the election.

In consequence of the storm which raged throughout the State the time was extended for two days more, so as to give the people a full opportunity to vote, and when that was not enough I hold in my hand the order of General Hayden extending it still another day in order to give them a still more ample opportunity, thus making five days in all. The time was twice extended, and at this election there were twice as many voting places as there were at the election at which the convention was chosen. The result is known. What, then, happened? The men who were candidates for office and were defeated by reason of the defeat of the constitution raised a hue and cry against General Hayden, the commander of the military district, and denounced him in unmeasured terms. The moment charges were made against him General Hayden sat down and put eighteen interrogatories in writing to all his registrars and all the officers of the election, true and faithful answers to which would develop everything and show if there had been any fraud, and yet within a week after he issued that order and circulated those interrogatories, for fear that the answers would come in, he was himself superseded and turned out of office, because the answers that he would receive from the registrars themselves would contradict and falsify the very affidavits which have now been trumped up. Here are the questions; and it will be seen that they are as precise and searching as they could well have been made:

HEADQUARTERS SUB-DISTRICT OF ALABAMA,
MONTGOMERY, ALABAMA, *February* 10, 1868.

Chairman Board of Registrars, Hatchett county:

SIR: You will assemble the board of registrars for

your county and send to these headquarters without delay, answers to the following questions, namely:

1. How many election precincts were opened in your county during the recent vote for the constitution submitted to the people for ratification?

2. How many boxes were opened at each precinct for reception of votes?

3. How are the number of precincts, and number of boxes to be used at each, determined upon?

4. In what manner and by whom were the judges or managers of the election selected?

5. Were they duly sworn and required to take "the test oath," and if not, why not?

6. Did your board during its deliberations make such arrangements as would insure to the people all necessary facilities for casting their votes?

7. For how many days were the polls kept open in your county, and why were they not kept open for five days?

8. During the progress of the voting did the members of your board visit the several polling places in each precinct, and if not, why not?

9. Did they carefully note whether or not the managers or judges were faithfully and properly discharging the duties of their office, and if not, why not?

10. Did any of the members of your board, or any of the managers of election, canvass for votes for or against the constitution, or in any other way take a prominent part in the election during its progress, outside of their bounded duty as registrars or managers, and if they did who are they, and what did they do?

11. Was the attention of the members of your board given to the manner in which the reception of votes was being conducted, and was everything noticed and corrected which, in your opinion, was calculated to obstruct the voting?

12. Was any obstruction offered at the polls calculated to prevent a free and full vote, and if there was, state its kind and character, and also what measures were taken to suppress it, and if no effort was made to protect the voter in the exercise of his rights, who is to be held responsible for the same?

13. Have you knowledge of any means being resorted to, away from the polls, intended to prevent a full and free expression of opinion by the ballot, and if so, state its kind and character, and the names of those whom you know to have been engaged in the same?

14. Was the notice that the lists of registered voters would be opened for revision given to the people; and were the lists kept open for revision for five days, and if not, why not?

15. The number of registered voters being known, what should be considered as a fair average vote for your county at this season of the year?

16. How does the number of white votes cast compare with the number of white registered voters, and what is the cause of the difference?

17. How does the present vote of your county compare with its average fair vote, and if below that average, what has been the cause of that falling off?

18. What is the political status of the members of your board, as well as that of the managers of election; are they opposed to reconstructing under the acts of Congress, or otherwise minded, and if by chance there be any who are opposed to reconstruction, who are they, and how, and by whom were they appointed?

In replying to the above questions you are requested to do so as soon as possible, and to number your answers in the same order that the questions are put, and also to be careful to answer each question so that no confusion may result from a neglect in this particular. You are further desired to acknowledge promptly the receipt of this communication.

By order of Brevet Brigadier General J. Hayden:

W. T. HART,

Brevet Major United States Army, Acting Adjutant General.

That is the way this matter stands. And now let me ask what harm it will do if, as you say, a large majority of the people of Alabama are in favor of this constitution, to send it back, and let them vote upon it again? Pass a law, if you please, that the constitution shall be adopted if a majority of the votes cast are in favor of it, but do not come here now, and in view of all the facts say that it has been adopted, and that you will appoint to office these men who have been rejected by the people.

The bill also provides as a condition precedent to the admission of the State, that its Legislature shall ratify the fourteenth amendment to the Constitution. What will be the effect of that? Why, that Congress will, so far as Alabama is concerned, ratify that amendment. Why? Because Congress appoints the men who are to compose the Legislature. Congress requires them to do it, and thus the people of the northern and western States—some of which have retracted their ratification of that amendment—are to have it forced upon them by the vote of a Legislature of Alabama appointed by Congress. Why not let Alabama go through the forms of law before admitting her? Is it necessary to have two Senators from that State to aid in the impeachment and conviction of the President? Surely that will not be avowed here. Is it necessary to stuff the ballot-boxes of the North with seventy-one negro electoral votes from the ten southern States? Keep these people under military rule, and deprive them of the right of voting, if you will, but do not perpetrate this outrage upon the people of the North by making their seventy-one votes stuff the ballot-boxes of the North. Make them conform to the law at least.

Preserve what is left of republican liberty and law. You may feel that your candidate, General Grant, will need the electoral votes of these ten States. Suppose he does. You say that he is the most popular man in America. Let him get their votes when they are represented at least through the forms of law. Ah, gentlemen, whenever you set aside the forms of law, whenever you do it to carry out any purpose, however necessary or meritorious you think it is, whenever you put ten States into the hands of a military chieftain, take care that you do not find yourselves in the same position that the horse did when he invited the man to get on his back to drive the stag from the pasture; he may refuse to dismount when the work bargained for is done. You may possibly find, when you are violating laws and overthrowing constitutions, that there is a Cromwell in the land, who will say to you that you are no longer fit to be a Parliament; that you have disregarded and overthrown the rights of the people, and that the good of the country requires that you should be dismissed from this Hall. Gentlemen who seek to make Congress omnipotent, feeling that in it they are omnipotent by the subordination of the executive and judicial departments of the Government, if not by their entire overthrow, may find that they are mistaken, and that the military power they seek to foster and encourage for their own promotion, may in its turn trample them under its iron heel.

I do not pretend to say that the man you are in favor of, and whose interests you want to promote is not as patriotic as any other man would be under similar circumstances. I know that from a very obscure position he has, within a few years, risen to a very high one, and made himself a necessity to the dominant party here. I know that he is a man of will and purpose, and that he has never allowed ordinary obstacles to thwart him. Missionary Ridge, Vicksburg, and Richmond are evidences of that. I know that he never allowed the sacrifice of ten or twenty or thirty thousand lives to stand in the way of the accomplishment of his purposes, and I am not prepared to say that he would let this Congress control him, especially if it shows him it is neither governed nor controlled by its own solemn acts. And now you propose to place the control of ten States in his hands, and to place their destinies at his command; and the leaders of the majority in this Congress are overthrowing the executive and the judicial departments of the Government, so that he may have the more complete control of affairs. Let them take care that he prove not a more potent instrument than they intend; that he may not be to them, as I said before, what Cromwell was to the English Parliament.

I do not impugn the motives of any man, however widely he may differ from me. But I do say that whenever you attempt, for any reason, to follow the course that is proposed here, you are sapping and undermining every bulwark of republican liberty and paving the way for whatever aggressions may follow, and they will be excused because of your conduct here.

You know that these people of the South are unarmed and defenseless, and are imploring protection for life, liberty, and property at your hands; that the whole country, North as well as South, is feeling the onerous weight of taxation; that great and oppressive burdens are laid upon the people to keep up the Army and the Freedmen's Bureau in the southern States. You admit that these negroes are not qualified to take part in the Government, far less to control it in the South, from the fact that you must keep armies and bureaus there to protect and sustain them and order them how to exercise their rights. They are in no sense free, independent men, and this Congress knows it, and makes them the mere tools to execute its purposes and promote its ends. They are as clay in the hands of the potter, molded according to your wishes.

But I suppose this revolution must progress; the power of party must be maintained; it is no time to take a step backward. The Republican party to-day is well described by Macaulay in the illustration he gave of the progress of events in English history:

"We said that the history of England is the history of progress, and when we take a comprehensive view of it, it is so. But when examined in small, separate portions, it may with more propriety be called a history of actions and reactions. We have often thought that the motion of the public mind in our country resembles that of the sea when the tide is rising. Each successive wave rushes forward, breaks, and rolls back; but the great flood is steadily coming in. A person who looked in the waters only for a moment might fancy that they were retiring or that they obeyed no fixed law, but were rushing capriciously to and fro. But when he keeps his eye on them for a quarter of an hour, and sees one sea-mark disappear after another, it is impossible for him to doubt of the general direction in which the ocean is moved. Just such has been the course of events in England."

And when the progress of the Republican party is watched, and in a few short years it is found rushing over a violated Constitution, a judiciary threatened, an Executive impeached, its own solemn enactments trampled under foot, and the States themselves treated as mere playthings, their officers appointed and their fundamental laws prescribed and ordained in these Halls, then it is easy to see in what direction the Republicans are moving; unless all the teachings of history are delusions you will yet be in a revolution that you cannot control.

But waiving all questions of right and power, and admitting for the sake of argument that you can rightfully degrade and trample under foot the people of the South, it seems to me to be sheer madness to attempt to exercise it. You must know that the only principle by which republics can be permanently ruled is by the love and affection of the people, based upon the protection afforded to life, liberty, and property, and the equality of privileges, civil and political, afforded to the citizen. Withdraw protection, degrade, disgrace, and impoverish the citizen as you propose to do the people of the South, and how can either fidelity or affection be expected, or how can a nation prosper? That they cannot be enslaved you feel when you remember that they are of your own blood and lineage—your peers in every regard. Why, then, attempt it? Why make enemies of eight millions of people who are giving every pledge that men of honor can give of their sincere desire to be your friends. You can secure these southern people as your friends by adopting a true policy. You can make them your foes by crushing them in the dust. A worm will turn when trodden upon; a hare will defend its young; there is no animal so timid and so abject as not to resist when pushed so that there is no other means of escape.

All experience teaches that magnanimity and generosity to a fallen foe will make him a friend, while cruelty and oppression will but intensify his hate. The act which above all others made Napoleon I the great statesman of Europe was his proclamation immediately after the peace of Amiens in 1802, allowing all the Frenchmen who had been banished during the revolution to return, asserting that his throne should be built on the love and affection of his countrymen.

The true secret of Roman greatness lay in her clemency to the people she conquered and the readiness with which she granted them the rights of citizenship, regardless of the obstinacy of their resistance. Once subdued, and the supremacy of the republic acknowledged, they were protected in all their rights and priv-

ileges. The inhabitant of Sicily could claim protection from the extortions of Verres, and Paul the Jew exemption from the scourge by the assertion, "I am a Roman citizen." Even the Emperor Napoleon, in his life of Cæsar, returns thanks that Gaul was conquered, as the conquest laid the foundation of the civilization of the country, by the laws and institutions which were founded and established there. The Greeks understood and appreciated the true mode of dealing with domestic strife, which sprang up from time to time among their independent States. It is told that when the Thebans had conquered the Lacedemonians they proposed to erect a brazen monument in honor of the victory. The Amphictyonic council or Congress of Greece forbade it, saying, "Let there be nothing done to perpetuate the fact that there ever was strife between Greek and Greek." *This Christian Congress might learn a lesson from that heathen council.*

Mr. Speaker, I have no party feeling in this matter; but I regard this as the most important matter ever submitted to this or any other Congress. On our decision of it, I believe, will depend the future destiny of the country. Pass this bill and it is almost conclusive to my mind that republican institutions are a failure. I see that my time is out. I have in a hurried and imperfect way presented as many of the facts as I could crowd into a speech of an hour. I know other gentlemen will use them more forcibly than I have been able to do.

[Here the hammer fell.]

Mr. ARNELL. I trust sincerely that this bill will pass. An examination of precedents in our history will confirm the fact that there is nothing new or unwarranted in the proposition to admit Alabama, whether she has or has not ratified the constitution recently submitted to her people. Let us run over some of the precedents.

Vermont was the first new State admitted after the adoption of the Federal Constitution. The act was approved by Washington on the 18th February, 1791. Yet no constitution was submitted to or required by Congress.

Kentucky was the next State admitted, June 1, 1792. Her constitution was not submitted to Congress, though formed on the 19th April, 1792.

Tennessee, my own native State, the third child of the Union, was the first to submit a State constitution to Congress. It was framed on the 6th February, 1796, and when presented was objected to as in conflict with that of the United States; and the objection was answered by the declaration, then and there made and acquiesced in as authoritative, that any provision violative of the Constitution of the United States was a nullity.

Ohio was admitted by law declaring her "a State in the Union," although the committee to whom her constitution had been referred had not yet reported and never did report.

Louisiana and Indiana were both irregular in the formality of their admission.

Rhode Island had only the charter of Charles II up to 1820, yet was a State in the Union.

These are facts connected with the admission of States in this Union that set completely at rest the cry of irregularity.

I would admit Alabama because Alabama desires admission. The proof of this may be found in the fact that a majority of 84,610 registered votes were cast for convention in 1867, more than ninety-four per cent. of her entire vote. Weary of her long agony, anxious to escape further suffering and depletion, and to secure permanent law and peace, she expressed herself thus emphatically. That election was the unterrified voice of Alabama in favor of reconstruction. Not less clear and positive, and in the same direction, was her recent vote. True, times had changed somewhat. The conspirator in the "White House" had invited the rebels to a new crusade. He offered them immunity from their crimes and success for their exertion. Yet, in the teeth of Andrew Johnson's opposition and the face of rebellion, 71,000 votes were polled in forty-four counties for the new constitution, and not a single vote cast in opposition thereto.

In order to properly appreciate the lofty heroism of the "friends of this Government" in Alabama—most of them, indeed, wore black faces, but the same faces that led our starved and wounded soldiers from rebel prisons to the Union lines—I say, to understand the heroism of the recent election on the part of the Unionists of this State, it is necessary to gather into our minds some of the circumstances that surrounded them. The entire rebel population was organized not to vote and to prevent every one else from voting. They owned the lands and the huts upon which the colored men and their families lived, and to vote on the part of a colored man was in fact to give up both. Patrols were stationed at cross-roads to prevent men from coming to the election; and on the very evening before the old registers were removed in many counties and new ones appointed hostile to reconstruction. The sheriffs were rebels, and summoned as policemen the most desperate characters within their reach, ruffians armed to the teeth, and who were ready at every hazard to prevent voting. Rebel challengers stood around the polls to delay and intimidate. Add to all this a pitiless rain storm in the month of February such, in volume, as for years had not visited that gion. In Lowndes county, we are told, the icy waters were flowing deep, yet scores of freedmen plunged in and swam them to reach the polls. One poor fellow was drowned in these waters trying to swim across. And add to all this the weary waiting for an opportunity to vote, pinched, in many cases, by forty-eight hours of hunger and no home to go to when it was over, and you have in faint outline the terrible facts of that terrible election. The white Unionists fared but little better. Even in Montgomery, under the very eye of the military authorities, loyal men were hooted at and jeered and cursed at every street corner, and befouled with every vile epithet calculated to stir up violence and bloodshed, because they had dared to vote. The leading rebel paper, the Mail, published at the seat of government, Montgomery, on the 11th ultimo, prints the following:

"*Our 'White' Black List—The Roll of Dishonor—See who and what they are.*—Below we give the names of the renegade or brevet whites who voted last week in this city for the bogus constitution framed by carpet-bag adventurers and ignorant negroes, and who, by their votes, have denounced the white race, and proclaimed themselves in favor of negro supremacy and equality. It is a consolation to know that the number is small. Let their names be preserved and entered upon the roll of dishonor:

"George Ely, carpet-bagger, and negro candidate for judge of probate.

"W. T. Hatchett, chief of registration.

"J. W. Dimick, carpet-bagger and bureauite.

"N. B. Cloud, negro candidate for superintendent of education.

"W. B. Cloud, the 'son of his father,' formerly a confederate soldier, took the 'test-oath,' and was one of the election managers."

And so on through more than a column of similar abuse.

Nowhere ever were exhibited higher heroism and greater devotion to liberty than in this recent struggle in Alabama for reconstruction and loyal rule. If failure there has been, it is not to be laid at her door.

THE NEW CONSTITUTION.

This much-abused constitution is another reason for her admission. It is said to be harsh and vindictive. I read it otherwise. It invites all men to political brotherhood and equal rights. It injures no man. It punishes no man. Let us look at the article upon franchise. In order that I may not misrepresent this article I give it entire:

"3. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors; but the following classes of persons shall not be permitted to register, vote, or hold office:

"*First.* Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, or marine, employé, or citizen of the United States, or who in any other way violated the rules of civilized warfare.

"*Second.* Those who may be disqualified from holding office by the proposed amendment of the Constitution of the United States, known as 'article fourteen,' and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Alabama under the act of Congress to provide for the most efficient government of the rebel States, passed by Congress March 2, 1867, and the acts supplementary thereto, except such persons as aided in the reconstruction proposed by Congress and accept the political equality of all men before the law: *Provided*, That the General Assembly shall have power to remove the disabilities incurred under this clause.

Third. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery.

Fourth. Those who are idiots or insane.

4. All persons, before registering, must take and subscribe the following oath: 'I, ——— ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section three, article seven, of the constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons, on account of past or present support of the Government of the United States, the laws of the United States, or the principle of political and civil equality of all men, or for affiliation with any political party."

When these disqualifications are wrong humanity will have greatly progressed or retrograded.

AFRICANIZING THE SOUTH.

It is said by the opponents of this bill and of reconstruction that the great object in view is to enthrone "negro domination" at the South. The President in his message to the second session of this Congress, if I may be allowed to allude to so disreputable a document, says:

"Of all the dangers which our nation has yet encountered none are equal to those which must result from the success of the effort now making to Africanize the half of our country."

A fitting declaration to a message that opened with the announcement to the world from the President of the United States that there was "no Union."

"Candor compels me to declare that at this time there is no Union as our fathers understood the term, and as they meant it to be understood by us."

This is worthy only of James Buchanan or the assassin-successor of Abraham Lincoln. No legitimate successor of "freedom's greatest apostle" could have uttered such language. If it be "negro domination" or "Africanizing the South" to enthrone human liberty so effectually as to permit even the poor African, the slave of centuries, to sit at its feet, may God hasten such domination.

Not only does Alabama desire admission, and heroically has struggled for reconstruction, but another reason for the passage of this bill is

THE SOUTH MUST BE RECONSTRUCTED.

Three years of proclaimed peace have passed over the country. This dead weight ought no longer to encumber us. Statesmanship ought to accomplish and can accomplish this last marvel of free institutions. New and grand developments, higher and better, await us. Let us hurry to their consummation. Let reconstruction proceed.

"UNDER WHICH KING?"

This is the question involved in the admission of Alabama. Who shall be allowed to reconstruct Alabama—rebels or Union men? the spirit of loyalty and human progress or the demoniac spirit of slavery? Shall Alabama remain out of the Union till the disunionists prescribe the terms upon which she shall enter? My constituents sent me here to use no "bated breath" in behalf of loyal men at the South; and, if it was necessary to set new precedents in order to give loyal men control of the South, not to lose the golden opportunity to set them. These States are to be brought back, but ought only to be brought back Union end foremost.

SECOND SECTION.

The noble second section of this bill meets my hearty concurrence. In my opinion it is absolutely vital to maintain republican governments at the South. It reads thus:

SEC. 2 *And be it further enacted*, That said State of Alabama shall be recognized and admitted into the Union upon the following fundamental conditions: that the right of suffrage of citizens of the United States shall never be denied or abridged in said State on account of race or color or previous condition of slavery, and Congress shall have the power to annul any act of said State in violation or in derogation of the provisions of this act.

This is the last shovelful of earth upon slavery. Take this bill and incorporate this provision in all enabling acts for the rebel States and freedom has triumphed, even at the South, and I rejoice. But there is something in this case better than argument:

"I would not always reason."

There are motives in the heart of man far higher and better than any logic of the schools or narrow precedents of law. The impulse in every patriot's heart, I think, is to admit Alabama. Her men of the mountains clung to the Union till the air was filled with halters and bowie-knives, and the mad scorpion whip of a false public opinion drove them they knew not whither. At the doors of the American Congress she stands to-day asking admittance—asking for her old place in the family of States—holding in her hand a constitution that breathes in every line devotion to liberty, loyalty, and human rights, and voted for by seventy thousand loyal men. Shall it be said that we refused her admission because of the lack of rebel votes? No, sir. If I be left to stand alone I will give to the proposition of the gentleman from Pennsylvania [Mr. STEVENS] the poor sanction of my unqualified approval. By this enactment we shall give the Union children of Alabama a protection—the poor privilege of living in the State and being loyal. We shall give them peace—a word of unutterable meaning, incomprehensible save to those who have endured four years of open war and devastation, and three years—more miserable years!—of lawless anarchy. The true people of Alabama long for rest. Admit the State, and it will prove to these suffering men and women quiet and future prosperity; refuse her admission, and it will be to them—well, the peace of the grave and of exile.

Mr. Speaker, as I close the air grows dim, and the past sweeps its shadowy traditions into my mind—a tradition that belongs to the early annals of this State. All day till sunset, runs the legend, wearily, a roving band of Indians had traveled, seeking settlement, till striking the beautiful river that gives its name to the State, and ravished with the surpassing beauty of the land, they cried out, involuntarily, in their Indian dialect, "Alabama, Alabama!" (here we rest.) Catching up this early echo, opening wide our doors, I would say, "Alabama, Alabama, here rest!"

ENROLLED BILL.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 785, to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery; when the Speaker signed the same.

THIRD MILITARY DISTRICT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a letter from General Meade, in command of the third military district, relative to the necessity for additional appropriations to carry out the reconstruction acts in said district; which was referred to the Committee on Appropriations.

QUARTERMASTER'S DEPARTMENT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with law, statements of contracts made by the quartermaster's department during February, 1868; which was referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

On motion of Mr. WELKER, leave of absence was granted to Mr. EGGLESTON.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had disagreed to the amendment of the House to the amendment of the Senate to the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, asked a conference on the disagreeing votes of the two Houses on the said amendment, and had appointed Messrs. EDMUNDS, FESSENDEN, and TRUMBULL managers of the conference on the part of the Senate.

The message further announced that the Senate had passed a bill (S. No. 213) to amend an act entitled "An act to amend the judiciary act," passed September 24, 1789.

REIMBURSEMENT OF MILWAUKEE.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 908) to reimburse the city of Milwaukee for expenses on the harbor of that city; which was read a first and second time, and referred to the Committee on Commerce.

CONSULAR AND DIPLOMATIC BILL.

On motion of Mr. BUTLER, by unanimous consent, the House took from the Speaker's table the amendments of the Senate to the consular and diplomatic bill, and referred them to the Committee on Appropriations.

ADMISSION OF ALABAMA—AGAIN.

Mr. BOYER obtained the floor.

Mr. JUDD. Does the gentleman propose to go on to-night?

Mr. BOYER. No, sir.

Mr. JUDD. I move, then, that the House do now adjourn.

Mr. PRICE. I hope not. The Committee on Retrenchment were instructed to report to-day on the subject of the cancellation and destruction of United States bonds, and I hope they will be permitted to make their report.

Mr. MAYNARD. I hope, by general consent, that report will be allowed to be made at this time.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor, and the consideration of the Alabama bill will be considered as postponed until to-morrow after the morning hour.

Mr. FARNSWORTH. I desire to say that it is the intention of the chairman of the Committee on Reconstruction to ask for a vote on the Alabama bill to-morrow.

Mr. MAYNARD. I hope that question will not be pressed. It is an important one, and I think it is best to make haste slowly.

The House refused to adjourn.

CANCELLATION AND DESTRUCTION OF BONDS.

Mr. VAN WYCK. I ask unanimous consent to submit a report from the Committee on Retrenchment in regard to the cancellation and destruction of United States bonds, and to move that it be laid on the table and ordered to be printed.

Mr. LOGAN. I ask whether that embraces the evidence?

Mr. VAN WYCK. The evidence can be printed if the gentleman desires it. I did not know that the printing of the evidence would be asked for. If any gentleman wants it printed that can be done.

Mr. LOGAN. Does the evidence accompany the report?

Mr. VAN WYCK. No, sir.

Mr. LOGAN. I object to any report unless the evidence accompanies it. I demand the House shall require the testimony to appear with the report. I will make a statement, and I hope the gentleman will not take it as any offense.

Mr. VAN WYCK. Very well.

Mr. LOGAN. I will state my reason for it. When I made the statement in the House in reference to blank paper being destroyed in lieu of bonds, the books showing that $18,643,000, purporting to be bonds, had been destroyed, and then the certificate showing that it was blank paper, I said I had examined the book and I wanted to know what it meant. I did not pretend to know, nor do I pretend to know now. I do not know what the report of the committee is. Whether it is such a report as usually comes from committees for investigating matters in the Treasury Department or not I do not know nor care, but I desire to have the evidence accompanying the report. It is a personal matter with me. On the evening that I made the statement in the House the gentleman from Iowa [Mr. PRICE] introduced a resolution calling for a committee of investigation to ascertain whether this thing was a fraud or not, and the gentleman from New York, [Mr. VAN WYCK,] being chairman of a committee, of the House called the Retrenchment Committee, the matter was referred to that committee. Late in the evening the gentleman from New York [Mr. LAFLIN] came to my room and suggested that I should talk with him, inasmuch as he knew something about the matter. I did so. The next morning I discovered in the papers a telegram stating that Mr. VAN WYCK and Mr. LAFLIN had investigated this matter and that my statement was without foundation.

Now, all I have to say is that this committee were authorized to investigate the matter, and not to send telegrams in reference to a matter of this kind before they investigate it. Hence I want the evidence so as to see whether or not I did state what was true or what was not true. I say that I stated precisely the facts, as the books show, as the clerk told me, and as General Spinner stated to me, and I demand that the evidence be printed with the report, that I may see whether these gentlemen have refused to confirm what they stated to me. I do it because I do not intend, either on this floor or elsewhere, to have an imputation against my veracity, either by telegrams sent at night in reference to my statement, or in any other way. I ask the House, in fairness to myself, to require the evidence to be reported, so as to see whether or not I have stated truly. That is the reason why I object to the report without the evidence. Why the chairman of the committee should allow telegrams to be sent in reference to my statement before the investigation is made I do not know, nor do I care, except that it casts reflections upon me. I want the country to see whether or not the facts were stated by me correctly.

The SPEAKER. The Chair will state to the gentleman from Illinois that he has not a parliamentary right to object to a report of a committee. The committee has a right to report, but he can make a motion that the evidence be printed with the report.

Mr. LOGAN. Then I make the motion that the evidence be printed with the report; and I ask if the report is read now that the evidence be read also.

Mr. VAN WYCK. I have no objection to the printing of the evidence. We were ordered by the House to examine this matter and report without delay, which we have undertaken to do. The House will remember the very startling nature of the information which the gentleman from Illinois [Mr. LOGAN] presented. The effect of that statement going forth to the country unchallenged was to impair confidence in this Government and fill the air with rumors and suspicions as to the honesty and fidelity of those who had charge of the Treasury of the United States.

Mr. LOGAN. If the gentleman will allow me I will ask him what startling statement did I make that would cause the country to suspect the Treasurer of this Government? I stated

that I had examined the books with General Spinner, and they showed that these bonds were destroyed, while the certificate showed that instead of bonds it was only blank paper. Is not that my statement?

Mr. VAN WYCK. Partially.

Mr. LOGAN. I stated, also, that General Spinner said it was a very suspicious circumstance; that it was wrong; and if he had known it he would not have allowed it to be done. I said, furthermore, that Mr. Clarke, in the Department, told me some days before that such was the fact. I ask if that was not my statement?

Mr. VAN WYCK. The gentleman went a little further, and left the impression——

Mr. LOGAN. Now, stop, sir; I ask you, if you please.

Mr. VAN WYCK. I have yielded to you.

Mr. LOGAN. I beg your pardon. You have no right to state what impressions were made. I wish you to state my words. Give the words that I used. I state to this House that the clerk whom I named and General Spinner both swore before this committee this morning just exactly what I stated—both of them, and I ask the gentleman why their evidence is not reported, so that the country may see that I had a reason for making the statement that I did make. That is what I ask.

Mr. VAN WYCK. The committee was not charged with the investigation, neither do I suppose that it is the duty of this House necessarily to spread upon the record evidence for the mere purpose of showing that the gentleman was mistaken. We were not directed to make an inquiry with that view. But we were directed to investigate and report whether frauds had been committed against this Government by the abstraction of $18,000,000 in bonds from the Treasury, and the substitution therefor of blank sheets of paper destroyed in their place. That was the declaration, substantially, that produced that effect on the minds of gentlemen of this House that led to the investigation. Otherwise there was nothing for this committee to investigate.

Mr. LOGAN. Now, I will ask the gentleman to allow me a word?

Mr. VAN WYCK. Certainly.

Mr. LOGAN. I say to the gentleman from New York that I gave no opinion; and, although I can give an opinion if desired, I did not state that $18,000,000 in bonds had been abstracted from the Treasury. I have never tried to be unfair with the gentleman.

Mr. VAN WYCK. Not at all.

Mr. LOGAN. I think it unfair for him to insinuate that I said any such thing. I care not what impression was made upon the House. I will tell the gentleman what impression was made upon me. The clerk who first told me of this matter did leave the impression upon my mind that there was fraud. I say further, and the committee know it, that that clerk swore before them this morning that at the time he told me he believed there was fraud. I state further that he swore before them this morning that he impressed me with that idea, and I had a right to believe it.

Mr. VAN WYCK. And you impressed it upon the House.

Mr. LOGAN. Well, sir; I made the statement, but I am telling you what the clerk swore before you this morning, and I ask the House, in justice to me, that this evidence shall be a part of the report; for I know what these men swore. I was permitted to go before the committee, and I asked them to allow me to examine Mr. Neale and Mr. Spinner, and they did so after they had examined them yesterday. I put them on the stand and put questions to them, just as I stated to the House, and they both substantiated precisely what I stated. More than that; you know that General Spinner stated to you this morning in the committee that he had read my statement and there was no controversy between him and me as to my statement, because it was true. Now, you know that; you know he stated that to you this morning, and I ask that it shall go before the country with this report of yours.

Mr. VAN WYCK. There is no dispute as to what the witnesses testified to, and there is no sort of necessity for the gentleman getting himself in this position, for that is not claimed. When the gentleman took exception to some things yesterday we invited him to attend the sessions of the committee this morning, and to hear read the evidence which had been taken. We asked him to indicate any witness he desired to have recalled, or any new witness he desired to have called and examined. We asked him to come there and satisfy himself in regard to this matter; and that is the way the gentleman came before the committee. We were glad to invite him to come, and were happy that he did come. I do not know anywhere any desire or inclination in regard to this matter except to find out all the facts in reference to the subject which was referred to the committee. I supposed that this House, in the excitement then existing, referred some matter to the committee. I supposed that there was some charge against somebody or against some Department of some fraud or wrong-doing. I did not suppose it was a sort of Don Quixote chase, a tilt with a wind-mill, but that our attention had been called to something substantial and real. But now it would seem that there was nothing but some little peccadillo which existed in the imagination of the gentleman from Illinois [Mr. LOGAN] or some one who gave him the information upon which he based his statement. I state in all candor, without intending to reflect upon anything said by the gentleman from Illinois——

Mr. LOGAN. I do not know that, now that I have heard the gentleman say some things he has said.

Mr. VAN WYCK. I will show what was naturally deducible from the remarks of the gentleman; and I think if he had been wending his way through Wall street or some other commercial center of the country a little while after he had made his statement he would have found out what impression was made upon the country by his remarks upon that subject. What did he say?

"But I will tell gentlemen who desire to look after these things if they will get the Secretary of the Treasury to explain how it was that on or about the 19th of December last $18,640,000 of bonds were recorded as destroyed on the books, when the fact appears that it was only blank paper, without a figure or letter on a single sheet of it, they will be doing as much good to the country as by investigating anything of this kind."

And then, further on, he says:

"I examined the books this morning. There may be an explanation. I do not say there is not, but if there is I would like to have it. It is certified on the books by three men that on the 19th of December—I believe that was the date—some $18,640,000 of bonds were recorded as being destroyed by being run into pulp, by being thrown into the boiler where such papers are destroyed; but it was only blank paper."

Now, if language means anything, that means that bonds were supposed to be destroyed, while in fact blank paper was substituted in their places, for some purpose or other, and was put into the boiler and converted into pulp. The gentleman goes on to say:

"On being told that such was the fact I did not believe it, so I went to the clerk and he showed me the book. On opening the book there was the certificate of the destruction of that amount of bonds, giving the denominations. The clerk, it seems, went to three other men in the Department and asked them to come and see the destruction of the paper after it was certified as being bonds. He asked them to examine it, and they did so. Then before he made the entry in the book he made them give a statement of the fact that it was blank paper. That statement appears on the side of the page signed by these three men. That is the condition of the book which I examined this morning. I spoke to General Spinner about it and he said it was all wrong, that there ought to be some explanation of it. How it happened he could not tell, but he said if he had known the fact at the time he would not have allowed it to be done.

"Now, these are things that ought to be looked into."

What things ought to be looked into? Why, the things referred to by the gentleman in the extracts which I have read. And then he continues:

"I have heretofore spoken in this House about the sale of registered instead of coupon bonds at a lower rate than the coupon bonds are selling in New York, though the Government had to pay the same interest on the one as the other. You are being defrauded out of hundreds of thousands of dollars every month by the conduct of this Department, and yet no attention is paid to the matter."

Now, I do not take issue with the gentleman as to just what the facts are, but it would appear from these statements that the gentleman was impressed with the belief that a great fraud had been committed, and he called upon this House to order an investigation. What was to be investigated except some crime or fraud or great wrong done this country by Government officials?

Charged with that duty, your committee entered upon this investigation. They found that this book, to which the gentleman referred, contained a statement of the destruction of papers, the denominations of which are carried out there. And if the gentleman had then made an inquiry before he made his startling announcement to this House he would have discovered what is also the fact, and what is set forth in this report, that when any paper is issued to the Printing Bureau from that time not only is an account kept of the number of sheets issued but it receives the denomination and is designated by the value which it is expected it will have attached to it by being printed upon. And the counting commences immediately; so many sheets of paper for such an issue, naming the date: so many bonds of $50, $100, $1,000, or $5,000, carrying out from the commencement the value of the bonds, until each one is properly printed and ready to appear upon the market. So they carry through these papers, which are counted eight different times. If in the end any papers are defective by reason of being badly printed; if they are blurred or soiled, or printed only on the face, or printed only on the back or in any other way defective, the defective ones are taken out, and in some instances the blanks are taken, and an account made of them by the counting committee. They are then passed over to the committee of destruction, who destroy them. Thus these defective papers, the soiled, the blurred, the imperfectly printed, and occasionally the blank sheets, are all carried in the registers, with the number of the sheets and the denominations which in the first instance were intended to be given to those sheets, if they had been perfectly printed.

Mr. MILLER. Is the number of the bonds also stated?

Mr. VAN WYCK. No, sir; it cannot be till it is printed and numbered; but the denominations and the quantity are named.

Now, sir, in this book which the gentleman from Illinois [Mr. LOGAN] saw, the very heading, the earliest entry upon it, speaks of these, not as "bonds," but as "blanks." I hold in my hand a copy of the leaf of the register which the gentleman saw and to which he called the attention of the House. The heading is "blanks;" and then it goes on, according to the custom of this bureau for years, twenty-eight hundred blanks, fifty dollars each, carried out $140,000. Then again, thirty-seven hundred blanks, $5,000 each, carried out $18,500,000. Thus these papers to which the gentleman from Illinois referred are "blanks." They are so designated at the head of the pages in four registers in the Treasury Department. The evidence shows that these blanks were issued in 1864. Some time after that, a year or more, a large quantity was issued to the Department under the date of 1863. Before they were all used Secretary McCulloch sent a committee of inquiry to investigate the affairs of the Printing Bureau. That committee examined into the affairs of the bureau, making an inventory of everything there, the bonds that were complete, the bonds that were defectively printed, and the blanks. When they

came to this portion of the bureau they found this same number of blanks a year ago or more—twenty-eight hundred in one instance, thirty-seven hundred in another. The committee of inquiry took them out of the charge of the Printing Bureau, that bureau, as the committee knew, having been charged for each of those blanks with the denomination that was to be engraved upon them. They counted them, and carried out the denomination that was to have been attached to each; they folded them and sent them to a Mr. Root, who is chief of a bureau in the registry department. He took them and counted them, and passed them to Mr. Seller, who is another chief clerk in the Treasurer's department, having charge of the cash account. He took them and put them in his safe and locked them up. These blank sheets had some character and sacredness about them, because of the denominational value that was fixed upon them.

When these blanks were first taken and put in the Printing Bureau, they were kept there for some time until the question arose as to what was to be done with them. The question was referred to the Secretary of the Treasury, who ordered that these blanks should be destroyed. A counting committee of three, representing three different officials, the Secretary, the Treasurer, and the Register, counted these blanks. They were then turned over to a committee of four, consisting of three persons representing these three officials, and one specially appointed by the Secretary from citizens outside; and these blanks were placed in charge of Mr. Neale, the individual to whom the gentleman from Illinois has referred. He, not having had occasion to destroy blanks to that extent, and not knowing anything about it, instituted an investigation. He went from one to the other and found all these facts, and when he found all these facts he said he would not sign the certificate of destruction until he had a certificate from the committee of destruction saying these were not bonds, but blanks. Every branch of the Treasury Department was consulted to know the facts of this case, so that no strange fraud should be predicated upon such a state of things.

Besides all that, the paper to which I called the attention of the House, and which had on the top of its page "registered bonds," not only shows that they were registered, but those they belonged to; so that no registered bonds could have been put through and the Treasury cheated and defrauded as was insinuated.

Every registered bond is registered in the Treasurer's office, and the name of every person to whom it belongs. It cannot be transferred from one party to another without the agency of that office. How is it possible, therefore, that $18,000,000 of bonds sent in for destruction could have been put into anybody's pocket, and blanks destroyed in their stead? If these had been bonds sent in for extinction they would have been punched, and then, of course, would have been of no use in the market. I wish to say in this connection that it was the duty of this House, in view of the remarks of the gentleman from Illinois——

Mr. LOGAN. I hope you will allow me to have a few minutes in reply.

Mr. VAN WYCK. I will not cut you off. I will not cut any gentleman off.

I have felt it to be my duty to make this explanation. It was necessary that the country should be relieved from a wrong impression. There can be no question as to what was the effect of the statement of the gentleman from Illinois. I believed, the House and the country believed, from the statement that was made, that $18,000,000 had been abstracted from the Treasury and put into somebody's pocket through some process like that which had been insinuated. It was all a mistake, as I think I have shown to the satisfaction of the House.

The gentleman was only seeking after the truth. I felt it to be my duty, not as a member of this House, not as a member of Congress, but as a citizen of the American nation, to inquire into the truth of the charge he had made. I knew the impression he had left upon the country. I went to General Spinner with my colleague, [Mr. LAFLIN.] When we questioned General Spinner he said that he never believed there was any fraud. He swore to that. He said he thought it was wrong to destroy this blank paper, and so it was, unless to carry out this theory of printing the bonds. He said that he was under the impression it was wrong to destroy this blank paper. That is what he swore to. He never said there was fraud anywhere in that transaction. The House asked me to give a speedy report, and as soon as I learned the facts I did so, without calling in question in the least the motives of the gentleman. The gentleman is as anxious as I was and as the committee was to be saved from the consequences of his mistake. He had been drawn into a wrong impression from the manner in which the facts had been related to him. I wanted the country to know what the facts were, so that the country should not continue in the wrong impression produced by his speech. I found these facts, and I did not hide them under a bushel. I related the facts so everybody should know and the error that had been committed should be corrected as soon as possible. It was my duty that the wrong done should be righted. If I had not done so I should have deserved the indignation of the American people.

I now yield the floor to my friend and colleague from New York.

Mr. LAFLIN. I yield the floor to the gentleman from Ohio [Mr. WELKER] for a moment or two.

Mr. WELKER. I desire to make a suggestion. This debate is taking a pretty wide range, and as, perhaps, a wrong impression may be gathered from the remarks made here that the committee are desirous of suppressing the evidence that was taken in this investigation, I will say, so far as I am concerned, as a member of the committee, I wish to disabuse the House of any such idea. The committee at their meeting, not over an hour ago, distinctly agreed that the evidence should be reported with the report. I thought that should be done in justice to the gentleman from Illinois, [Mr. LOGAN,] who had a right to have the evidence brought before the House. I presume that the chairman of the committee was so much crowded for time, having been required to make this report so soon, that he was not able to get a copy of the evidence taken before the committee. In justice to the rest of the committee, I desire that the House should understand this. As to the personal controversy between the gentleman from New York [Mr. VAN WYCK] and the gentleman from Illinois, [Mr. LOGAN,] the other members of the committee are not involved in it. But if the House desires to have the evidence printed in order to see whether the report is sustained by the evidence, the committee are willing it should be done.

Mr. LAFLIN. Mr. Speaker, if I correctly understand the remarks of the gentleman from Illinois, [Mr. LOGAN,] he intended to convey the impression—and if I am mistaken I have no doubt he will correct me—that my colleague [Mr. VAN WYCK] and myself had been instrumental in conveying a statement to the public that stamped his statement on the floor of the House as false. Am I correct in that?

Mr. LOGAN. I intended to convey this impression: that the telegraphic dispatch stated that the gentleman and his colleague [Mr. VAN WYCK] had called and investigated the matter, and that the statement I made was unfounded. That is exactly what I said.

Mr. LAFLIN. If I correctly understand the gentleman now—for I stand responsible here for the truth of the telegraphic dispatch—he means to convey the impression that that dispatch stamped the statement which he made on the floor of the House as false.

Mr. LOGAN. You stand by that?

Mr. LAFLIN. What?

Mr. LOGAN. Do you mean to say my statement was false?

Mr. LAFLIN. Excuse me; I say you intended to convey the impression to the House that the telegraphic statement issued under the authority of my colleague and myself made your statement false. That is what I understood you to say.

Mr. LOGAN. I will tell you what the dispatch did say.

Mr. LAFLIN. Excuse me; will you be kind enough to give a positive, direct answer? I have the dispatch.

Mr. LOGAN. Read it then.

Mr. LAFLIN. Will you be kind enough to say whether you intended to convey the impression that my colleague and myself gave any authority to send a dispatch which gave an impression that your statement made here was false?

Mr. LOGAN. I said nothing about giving authority.

Mr. LAFLIN. Well, that the telegraph dispatch gave a false impression?

Mr. LOGAN. I said it charged that what I said was without foundation.

Mr. LAFLIN. All right then.

Mr. LOGAN. Which it certainly did.

Mr. LAFLIN. That is all I wish. I may be more impressible and unsophisticated than a majority of this House, but I am willing to submit to the good sense and good judgment of my associates on this floor whether or not the impression was not left upon the minds of members, after the gentleman from Illinois had concluded his remarks, that he believed a great wrong upon the Treasury of the United States had been perpetrated at the Treasury Department, and that we had good reason for apprehending that such a wrong had been perpetrated.

Mr. LOGAN. I will state, now, that I did believe it; and not only that, but I am not yet satisfied in regard to it.

Mr. LAFLIN. I am glad to know then, that we who believed that the gentleman from Illinois had conveyed that impression were not mistaken. Now, sir, knowing what would be the effect of the general circulation of a statement to the effect that the Treasury of the United States was being robbed, not of thousands but of millions of dollars, I, for one, felt it to be my duty, in view of my relations with General Spinner, who was formerly the Representative of my district upon this floor, and who is now one of my constituents, I felt it to be my duty, a duty I owed to the public, to inquire at the very earliest moment what this charge meant; and therefore, without any consultation with any one, without any indication from any member of the Committee on Retrenchment, I called upon General Spinner at his office, and he told me the facts which were embodied in the telegraphic dispatch. Upon my return to the hotel I met my colleague, [Mr. VAN WYCK,] and I made known to him what I had learned. He told me that he wanted me to return with him to General Spinner that he might also learn the facts. I did so, and he made to us the statement which we authorized to be sent through the country telegraphically. Having had this statement twice from General Spinner, I felt authorized to announce to the country what that statement was, and I think that if the gentleman from Illinois had scanned with a little more care what that statement was he certainly would not have found the slightest occasion to complain of the connection of either my colleague or myself with that telegraphic dispatch.

Before I sit down I intend to read that dispatch to the House, but before I do so I want to say here that there is not one single word in that dispatch which a fair and candid man can interpret into any reflection upon the personal character of the gentleman from Illinois; that it in no measure reflects upon the statement that he made here, and that it was made

as mildly and in as concise terms as we could possibly have used to convey the impression which the truth demanded. We knew, as every man acquainted with the effect of telegraphic intelligence respecting the financial condition of our country from this point knows, what would be the probable effect of the discussion, or rather of the assertion that had been made by the gentleman from Illinois upon this floor, and the consequent action that was taken by this House in ordering an investigation into the charge that he had made, and we wanted to apply the remedy to the disease as speedily as possible. And the gentleman from Illinois knows me too well, knows the relations that I maintain to him too well to accuse me of having been influenced by any but the kindest feelings toward him. We therefore sent forth the dispatch, which I will read in part, and certainly so far as it refers to the gentleman from Illinois. It is headed "The Treasury-Bond Question," and is as follows:

"Various gentlemen called upon General Spinner, United States Treasurer, last night, to inquire into the facts of the transactions in the Printing Bureau which General LOGAN alluded to yesterday in the House of Representatives."

"Which General LOGAN alluded to yesterday!" Does that refer to any statement that the gentleman from Illinois had made? We were judging from the stand-point of disinterested hearers. We knew what had been the effect on the mind of the House. We judged that the same effect would be produced on the mind of the country, and, without wishing to implicate the gentleman from Illinois in any way, we were very careful to use such terms as could in no sense give offense to him.

Mr. LOGAN. Will the gentleman allow me a word?

Mr. LAFLIN. Not just now.

Mr. LOGAN. I yielded to the gentleman.

Mr. LAFLIN. I have possession of the floor, not by the courtesy of the gentleman from Illinois, but by the courtesy of my colleague, [Mr. VAN WYCK.] I read further from the dispatch:

"Among the inquirers were Messrs. VAN WYCK and LAFLIN of New York; and General Spinner informed them"—

What? That General LOGAN had been making misrepresentations upon that subject upon this floor? That he had been making false statements? Not at all.

"General Spinner informed them that the Government had not lost a dollar's worth of bonds."

That is what he informed them.

"That the Government had not lost a dollar's worth of bonds; that there is no foundation for the report that fraud had been committed by any one in this particular."

And for the sake of making it still more agreeable to any gentleman in any way connected with these statements who might feel at all sensitive about this report, this telegraphic dispatch goes on to say, quoting the language of General Spinner, or the idea conveyed by his language, "and that they doubtless had their origin"—mark the word, "doubtless," not "positively"—

"and that they doubtless had their origin in a misunderstanding of the manner in which the business is conducted."

I suppose it is unnecessary for me to read the remainder of the dispatch, because my colleague [Mr. VAN WYCK] has explained the manner in which this mistake arose. Unless some one wishes me to read it, I will omit doing so.

Several MEMBERS. Read the rest of it.

Mr. LAFLIN. The dispatch concludes as follows:

"He [General Spinner] explained to them when a specified number of bonds is ordered to be printed, the exact number of white or blank sheets for that purpose is issued, for which a correct return is made by the person intrusted with the sheets, and when the sheets are spoiled, or for any reason are not printed, they are destroyed or macerated, and that fact is certified on the account book and entered under the head of 'statistical,' as an offset to the number of sheets issued."

That was the statement that General Spinner made to us, and which we—with the kindest feelings toward the gentleman from Illinois, [Mr. LOGAN,] and only with the desire to counteract what we believed was a false impression, caused by the statement he had made to this House. That was the statement we sent out to the country. I submit to any gentleman here whether there is anything in that statement which reflects in the slightest degree upon the veracity of the gentleman from Illinois, or which conflicts in the least with his statement of facts?

Now, I will say, while I am upon the floor—although, perhaps, it is not quite proper for me to state what was said in a private conversation—that General Spinner assured us that it was a matter of surprise to him that anything he had said had led to the impression on the mind of the gentleman from Illinois [Mr. LOGAN] that any fraud had been committed, or that the Government was in danger of losing a single dollar's worth of bonds by this transaction. I have no doubt that the gentleman from Illinois intended to convey just the impression which the facts would warrant. But I submit to the fair judgment of this House whether he was not quite unfortunate in the language which he made use of touching that transaction, if such was his intention?

Mr. VAN WYCK. I propose to yield a few moments to my colleague on the committee, [Mr. HALSEY,] who desires to say a word or two in justification of the committee. We do not desire to keep the testimony in this case from the House for one moment. All the evidence will be ready to be read in the morning. I am not particular that this report should be read to-night, but am willing that it should be read to-morrow morning with the testimony, which will then be ready.

The committee were ordered to make their report to-day, and with some considerable trouble the report has been prepared and is now before the House. Inasmuch as the testimony will not be ready until to-morrow morning I propose, after my colleague [Mr. HALSEY] shall have made his remarks, to move that the House adjourn.

Mr. LOGAN. Oh, no.

Mr. VAN WYCK. Then, in the morning the testimony and the report can all be read, and the gentleman can have an opportunity to say all that he desires.

Mr. LOGAN. Oh, no; that will not do at all.

The SPEAKER. Does the gentleman from New York [Mr. VAN WYCK] yield to the gentleman from Illinois, [Mr. LOGAN?]

Mr. VAN WYCK. I yield to my colleague on the committee, the gentleman from New Jersey, [Mr. HALSEY.]

Mr. LOGAN. I want only a few minutes.

Mr. VAN WYCK. It is getting late.

Mr. LOGAN. You gentlemen have taken up all the evening.

Mr. VAN WYCK. No, sir; I do not take all the time of this House on any occasion.

Mr. LOGAN. I did not say you did.

Mr. VAN WYCK. Nor does my colleague on the committee.

Mr. LOGAN. Gentlemen are very manly; that is all I have to say.

Mr. VAN WYCK. We shall see about that.

Mr. HALSEY. I only desire to say that there was no disposition on the part of the committee to withhold the evidence taken in this matter. On the contrary, at the meeting of the committee this afternoon it was decided that the evidence should be furnished for publication. I went to the Senate to see the clerk of the committee and have him transcribe the evidence so that it could be reported if called for. He was not able to write it out this afternoon, but stated to me that he would have it ready in the morning. The committee are perfectly willing to have it published, and will report it to the House in the morning. In compliance with the suggestion of my colleague on the committee, I now move that the House adjourn.

Mr. LOGAN. Now, Mr. Speaker, I ask the gentleman, as a manly act, to withhold that motion until I can have a few minutes.

Mr. SCOFIELD. I rise to a question of order. I desire to know, Mr. Speaker, whether if we vote down this motion to adjourn, we cannot then give the gentleman from Illinois, [Mr. LOGAN,] whom the committee seem disposed to choke down, an opportunity to say a word in his own defense?

Mr. VAN WYCK. There is no desire to choke down the gentleman, but that he shall have an opportunity to speak in the morning.

Mr. SCOFIELD. What I do not like is that the opportunity to speak is given to gentlemen all around the House, and is refused to the very man personally concerned.

Mr. VAN WYCK. No, sir; the gentleman from Illinois led off in this debate.

Mr. LOGAN. I did not.

Mr. VAN WYCK. I have no sort of objection to the gentleman speaking to-night, if there is no objection on the part of the House. I am perfectly willing myself, and I presume my colleague on the committee is, that the motion to adjourn shall be withdrawn.

Mr. HALSEY. I withdraw the motion to adjourn.

The SPEAKER. The gentleman from New York, [Mr. VAN WYCK,] as the Chair understands, surrenders the floor, and the Chair recognizes the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I do not want to occupy the time of the House more than a few minutes. I do not believe there is any member on this floor who will say that I have on any occasion refused to another member an opportunity for explanation, an opportunity for a question, or an opportunity for an answer. I have always tried to be fair in debate; and certainly where any man's personal honor has been in the slightest manner involved, I have always been willing to yield for any explanation that any man desired to make.

Now, I have no feeling in reference to this matter toward the gentlemen from New York, although they seem desirous of choking me down and denying me the right to say a word. Not only that, but they seem to be terribly excited about this matter. Now, sir, I propose to submit a plain, simple statement which any man can understand. Both of these gentlemen from New York have made an attempt here by indirection to impress this House with the idea that I was guilty of a misstatement. Let us see who has been guilty of anything wrong. I have always been an independent man. I have never whitewashed any man or covered up any wrong or fraud. I may sometimes have been mistaken. I admit that. I am mistaken, perhaps, as often as anybody else; but God knows I never fall into the mistake of trying to cover up frauds against the Government.

It has got to be, sir, that insinuations are cast against a man here who attempts to have these important questions investigated as they ought to be. It has got to be, sir, that, if you charge the Treasury Department with anything, its attorneys in both ends of the Capitol seek to choke all investigation, and attempt to cover you all over with filth and slime.

Why, Mr. Speaker, if you take the reports of committees on the Treasury, you would think it was filled with angels, with the Archangel Michael at its head. Oh, no; there is no such thing as corruption there!

I called the attention of gentlemen to these things and asked that they should be inquired into, and in answer they insinuate that I have made charges which were not true—that had no foundation in fact. I call your attention to another fact; I ask the question, and I want you to tell me whether it is or is not so—whether you do not know that the Treasury Department has redeemed some seventy thousand dollars of counterfeit bonds? a fact which has never been made public.

Mr. VAN WYCK. I do not want to occupy the time of the House, and, still, I do not want the statement of the gentleman to go unchallenged. I say to him that when the report of the committee goes before the country his ques-

tion will be fully answered. I only want to say that now.

Mr. LOGAN. I ask the question, and you can say whether it is so or not. I do not know; you know it. I do not know such is the fact, but I have been told it is a fact. I was told in the committee room this morning that it was a fact. I ask that, without alleging it to be a fact.

Now, are you going to again charge me with stating something not true? I heard it in your own committee room this morning. I do not know whether it is true or false; I hope it is false. I hope, sir, that it is not true; but it is not for me to say anything about it. I merely ask the question.

Mr. Neale, the man who destroys the bonds, came to me some three weeks ago and told me this; and the reason why I wanted this evidence printed was this: I venture the assertion there is not an honest man in this House who heard the statement he made to me who would not have done as I have done, and asked for a committee to investigate it. Let us have the evidence and see whether it does not bear me out. That is the reason why I want it published. Mr. Neale told me there had never been an instance before of destroying clean, white, smooth paper, which did not have upon it a scratch of printing. Mr. Neale so told me that clean paper, with no printing, was sent to him to be destroyed. He said that he was astonished at it, and refused to do it, because such a thing had never been done before. When blank sheets get between bonds and are blurred or mutilated they are what are called statistically destroyed.

That is what he told me, and that when they called upon him to destroy blank paper, new and perfect, without a scratch, unblurred and unmarred, said to represent in bonds $18,640,000, he refused to do it. What else did he tell me? He told me a few days before he heard that there was a rumor in the Treasury Department that $20,000,000 of bonds had been stolen, and his impression was, when he was asked to do this thing, that it was to cover up these frauds. That is what he told me, and that is what he this morning swore to.

This is the reason why I asked for the evidence to be printed. Such were the facts upon which I made my statement. I made the statement and asked for an inquiry. But gentlemen say do not let these things get out; do not say there is fraud in the Treasury Department, for then our bonds will go down; we must telegraph that somebody has made a misstatement. You must not say a word about it; whitewash it; do not whisper about it; if you do your bonds will be depreciated. So, if a robbery is committed, you must not tell about it. If $70,000 of counterfeit bonds are paid by the Secretary you must not mention it. Why? Because across the water they will think that half your bonds are counterfeit, and they will become depreciated in the market. That is the argument made.

Sir, I allow no such argument to impress itself on my mind to prevent me from performing my duty as an honest and independent man. Whether your bonds are to go down or up, should not change the question as to whether or not a fraud should be developed in this country. But the development of frauds will not put your bonds down. It will rather give the country confidence in your action. If you have got to cover up frauds, robberies, and counterfeiting, for the purpose of keeping up the price of your bonds, may God avert the day when these bonds shall fall. That is not the way to keep them up. The way to do it is to go straightforward and act an honest part.

Let me say further, inasmuch as the gentlemen have made an issue with me in reference to this question, that I am ready, here or anywhere else, to meet it on the facts. And what are the facts? I stated on this floor that General Spinner, Treasurer as he is, did not know what had been done until I told him, and he so swore before the committee. What else? The gentleman has pretended to read this copy of the book referred to. I ask that the whole of it be read to the House, and then let any man tell me what conclusion he comes to from the certificate signed on the book by three men.

The Clerk read as follows:

Schedule of United States 5-20 registered bonds, act March 3, 1863. BLANKS *returned by me this day to be destroyed.*

Number of packages.	Number of pieces.	Denomination.	Face value.	Discount.	Net value.
		Of 3 cents.	*		
		Of 5 cents.			
		Of 10 cents.			
		Of 15 cents.			
		Of 25 cents.			
		Of 50 cents.			
		Of $1			
		Of $2			
		Of $5			
		Of $10			
		Of $20			
1	2,800	Of $50			$140,000
		Of $100			
		Of $500			
1	3	Of $1,000			3,000
1	3,700	Of $5,000			18,500,000
		Of $10,000			
No. 3.		Total.....			$18,643,000

Amounting, as above stated, to $18,643,000.

TREASURER'S OFFICE, *December* 13, 1867.

———, *Treasurer United States.*

TREASURY DEPARTMENT,
WASHINGTON, *December* 19, 1867.

We hereby certify that all the United States securities, specified and described in the foregoing schedule, were this day totally destroyed in our presence.

W. V. S. WILSON,
For the Secretary of the Treasury.
CHARLES NEALE,
For the Register of the Treasury.
J. W. WHELPLEY,
For the Treasurer of the United States.
GEORGE M. DAVIS,
Specially appointed by the Secretary.

I certify this to be a true copy of the certificate contained in the books of the Treasurer's office.

FRANK JONES, *Assistant Cashier.*

WASHINGTON, *March* 10, 1868.

*These bonds are but blank pieces of paper. The authority of the committee for denominating them as bonds of specified value is derived from slips that accompany each package, which slips are made out in office of Mr. Clark.

J. N. BURKET, *for Secretary.*
ALBERT S. SEELY, *for Register.*
R. COURTNEY, *for Treasurer.*

Mr. LOGAN. Now, I desire any man in this Hall who hears me, any honest man, to compare that statement with mine and see if I am not borne out. Mr. Neale told me this thing had never been done before. He swore so before the committee. He told me, furthermore, that when he was required to sign the receipt for $18,643,000 bonds destroyed he would not do it, and then, as they obliged him to do it, he went and got a committee of three men to certify that they were blank paper and not bonds. Gentlemen may examine the books for themselves, and they will find this is the only instance where such a certificate has been made.

Let me read it again. What do these men certify to? "We hereby certify that all the United States securities specified and described in the foregoing schedule were this day totally destroyed in our presence." What were destroyed? They do not certify that blank paper was destroyed, but that they destroyed "Government securities." Of what denominations? Three of $1,000 apiece, thirty-seven hundred of $5,000 apiece, and twenty-eight hundred of fifty dollars apiece. There is the certificate of these persons. Now, I ask you as honest men, looking at that certificate, what it would be your duty to do? Would it not be your duty to call the attention of Congress to it?

Well, but these gentlemen say this is all right. Of course it is all right. Certainly it is all right. They say that no fraud has been committed. I do not say that there has. There may not have been fraud, but I say this, that what Mr. Neale said to me about this record, and the statements made to me by him and by General Spinner, were sufficient to make any man believe that there was fraud committed against this Government. I did believe it. I believed it honestly when I made the statement in the House.

Now, sir, I have the highest regard for General Spinner and for some other men in the Department; but I know this: General Spinner is like other men; he may be deceived; combinations may have been formed to defraud the Government, and he may be fooled. Why is it that General Spinner was not notified that this was done? He told you to-day that he did not know anything about it until I called his attention to it. Why not tell him if it was all right? Why was not he notified of it? But not so; they kept it from him until I revealed it to him. When I stated it to him at the hotel he said it could not be possible; he said that it certainly was not so; but when he had investigated it he told me that it was so, and he told me the other morning that it was a very suspicious circumstance. He never told me there was no fraud; he never told me it was all right; but he told me it was all wrong; he told me it was wrong, and that if he had known of it it should not have been done. That is what General Spinner told me, and yet you say and insinuate here that I got up in the House and made a statement—for what? Your insinuation would lead the country to believe that I did it to affect your bonds. No, sir; I did it to secure investigation and have the truth known to the country, and not to affect the bonds. That was the reason why I did it. I did it from honest motives; if you are actuated by the same I am glad of it.

Now, Mr. Speaker, I know it is a pretty hard matter for one man to run a tilt against the Treasury Department. I know that when you undertake to run a tilt against that Department, with all its alliances outside, they are mighty apt to defeat you, because they have more friends than I can have; there is no doubt about that. They can have men come in here and insinuate against me. They can do that. They can get up combinations to attack me. They may do that. But it makes no difference to me. Stand or fall, I intend to follow that rotten institution until I puncture the rottenness of it. I notify you, gentlemen, now that I will give you work enough to do in the next four weeks if you want investigation. Inasmuch as you have aroused me to this, I will show you enough. I will find it out myself; I will save your committee the trouble, because I do not think they will find it if left to themselves.

Now, I want to go a little further. I made a statement to this House not long ago about the sale of bonds, and the difference between the price for which they were sold here and the price for which they were sold in New York. I have had a dozen of these Treasury men after me ever since. I have had them come to my room; I have had them send for me; I have had the Secretary of the Treasury send for me; but I have never been weak enough to answer the call of any of them. I stand here as a Representative of the people. I do not intend to be browbeaten; I do not intend to be scared; I do not intend to be driven; I do not intend to be bought. So help me God, I will do my duty in spite of all the money and all the power and all the committees on earth or underneath the heavens. [Applause in the galleries, promptly checked by the Speaker.]

Now, sir, I am not an attorney for the Treasury Department, and do not intend to be. I know there are some honest men in that Department. I believe General Spinner is an honest man; there may be others there who are honest; I do not say there are not.

But I will say this: that I believe, before my God, that there are men in that Department who are defrauding the Government, not only in the sale of its bonds, but by giving out copies of your dies, so that your bonds may be counterfeited. I believe your bonds have

been duplicated; I believe the Department has paid duplicated coupons of your bonds; I believe it has taken counterfeit notes which were sent there for redemption and set them afloat over the country again. The Department has done all these things, and yet it finds defenders in both ends of this Capitol.

Now, I will say one thing to you, gentlemen of the committee, if I have done nothing else for you, I have taught your Treasurer how to keep books. I venture the assertion that you will never see anything of that kind upon the books again. And you have learned something, too, gentlemen, and that is, that you cannot put me down in this House. [Laughter.]

Now, there is one other point to which I wish to call the attention of gentlemen. Have you noticed particularly this certificate which has been read here, and which I am satisfied is copied from the books, and is the same which I saw? I do not remember all the words exactly, but the heading is just the same. What is the certificate?

TREASURY DEPARTMENT,
WASHINGTON, *December* 19, 1867.

We hereby certify that all the United States securities specified and described in the foregoing schedule, were this day totally destroyed in our presence.

W. V. S. WILSON,
For the Secretary of the Treasury.
CHARLES NEALE,
For the Register of the Treasury.
J. W. WHELPLEY,
For the Treasurer of United States.
GEORGE M. DAVIS,
Specially appointed by the Secretary.

Now, take the other certificate, and see how handsomely that reads:

These bonds are but blank pieces of paper. The authority of the committee for denominating them as bonds of specified value is derived from slips that accompany each package, which slips are made out in the office of Mr. Clark.

Their authority for making that certificate is derived, not from the law, not from any legal authority, such as the order of Mr. Spinner, for instance, but from slips which accompany each package. That is their authority; slips that accompany each package of paper. They call the paper "bonds" because the slips are marked "bonds." And who certifies to this effect? Mr. Burket, Mr. Seely, and Mr. Courtney—three different men from those who certified that they had seen this amount of bonds destroyed.

Now, it is said that this is a fair transaction, that this is a proper transaction. Now, I say, whether there has been fraud upon the Government or not, there is at least fraud so far as the keeping of these books is concerned. At all events, these books are kept so that I could commit a fraud if I was there and so disposed. Let me suppose a case: suppose I am the printer of these bonds, and I have so much blank paper handed over to me. It is said that it is all charged as so much money. To whom is it charged? I asked the committee this morning, and I ask them now, if there is any one of them who can show me the book on which this blank paper, when it first goes into the printing department, is charged against Mr. Clark, the one who prints it, as so much money or bonds?

There is no such book in the Department. He charges it as money against the clerk or the superintendent to whom it is handed out. When it passes through his hands there is no check against fraud. Any one can take that blank paper and print coupons without printing the bonds. The coupons do not require to be signed. The gentleman says that fraud cannot be committed, because the bonds require to be not only registered but signed. Do coupons require to be signed by anybody? When once printed they do not have to be signed. The coupons for any amount of bonds may be printed without printing the bonds, and then the blank paper for the bonds can be burned. This may account for the duplicate coupons that the Treasury Department has been paying. There may be something in this matter. The committee had better examine it. Something might be developed.

I was induced to make the statement which I submitted the other day for the benefit of the Government, that it might not be robbed. I had no purpose of making any charge against any individual. The gentleman from New York, [Mr. LAFLIN,] for whom I have the highest regard, need not come to the defense of General Spinner. I am as good a friend of General Spinner as the gentleman from New York or his colleague, [Mr. VAN WYCK.] I would trust General Spinner as far as any man. I have made no charge against General Spinner. I do not make any charge against anybody. But I stated facts which were to me evidence of fraud in the Department on the part of somebody, and I thought it necessary that the matter should be investigated. If the committee have investigated it and found there was no fraud, God knows, I am glad of it. But they could have investigated the matter, submitted their report, and explained how the case stood, without any insinuations against me. If I am to be attacked here, directly or indirectly, because I have had a tilt or two with the Treasury Department, so be it. I am willing that other gentlemen should go before the country as the advocates and defenders of that Department, while I appear as its prosecutor; and we shall see who will come out best.

Now, Mr. Speaker, I yield to the gentleman from Iowa, [Mr. ALLISON,] that he may move an adjournment.

Mr. ALLISON. I move that the House adjourn.

The motion was agreed to; and the House (at four o'clock and fifty-five minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: The petition of Colonel J. M. Comparet, of Fredericksburg, Texas, late colonel of the one hundred and forty-second Indiana volunteers, upon the condition of Indian affairs in said State, and asking for military protection.

Also, resolutions of the Alamo Lodge Union League of America, indorsing resolutions of a mass meeting at San Antonio, Texas, upon the division of the State.

By Mr. BROMWELL: The petition of citizens of Mattoon and Prairie City, praying for the establishment of a daily mail route between said places.

By Mr. FLANDERS: The petition of the members of the Legislature and others, citizens of Washington Territory, in relation to an act defining the several judicial districts and assigning the judges thereto.

By Mr. GETZ: The petition of paper-makers of Berks county, Pennsylvania, against the passage of the bill now before Congress creating an international copyright law.

By Mr. HULBURD: The petition of sundry bank officers and clerks in the city of New York, asking the abolition of the income tax.

By Mr. KELLEY: Four protests of engravers and bookbinders of Philadelphia, against the enactment of a copyright law.

By Mr. LOGAN: The petition of John D. Ashmore, of South Carolina, to be restored to civil and political rights.

By Mr. McCARTHY: The remonstrance of 100 cigar-makers and manufacturers in Syracuse, New York, against stamping each cigar. Also, an approval of the present tariff on imported cigars. Also, asking for the repeal of the law compelling them to take out permits to work at their legitimate business.

By Mr. MOORE: A memorial of citizens of Egg Harbor city, setting forth that the public interests require the establishing of a port of entry at Egg Harbor city, Atlantic county, New Jersey.

By Mr. MOORHEAD: The petition of John Wible, of the city of Alleghany, Pennsylvania, praying that compensation be made him for property taken from him by Captain W. D. Porter, of the United States gunboat Essex, on the 12th day of August, 1862.

By Mr. NICHOLSON: The remonstrance of paper manufacturers of Newark, Delaware, against the enactment of an international copyright law.

Also, the memorials of Boards of Trade of Philadelphia, and Wilmington, Delaware, for the improvement of the Christiana river at and near its mouth.

Also, the petition of morocco manufacturers of Wilmington, Delaware, asking that after the 1st of June next raw goatskins and sumac may be admitted free of duty.

By Mr. O'NEILL: The petition of citizens of Lancaster county, Pennsylvania, asking for a modification of the tax upon bitters and tonics manufactured by them.

By Mr. PAINE: A memorial of A. Biersach, of Milwaukie, relating to the packing of tobacco.

By Mr. UPSON: A memorial of superintendent of public instruction of Michigan, in regard to resolutions of the Legislature of the State of Michigan praying Congress for grants of lands to the several States to endow female colleges therein.

By Mr. WOODWARD: The petition of W. Patton, of Bradford county, Pennsylvania, for the repeal of the reconstruction laws.

IN SENATE.

THURSDAY, *March* 12, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BAYARD presented a memorial of the Board of Trade of Wilmington, Delaware, praying an appropriation for the improvement of the harbor at the mouth of Christiana river; which was referred to the Committee on Commerce.

He also presented a memorial of the Board of Trade of Wilmington, Delaware, praying for such a change in the revenue laws as shall authorize the immediate forwarding of goods and merchandise received at any port of the United States and directed to another port to the customs officers of the latter port as directed, without entry, warehousing, bonding, or other delay at the port of arrival; which was referred to the Committee on Finance.

He also presented a memorial of importing merchants, manufacturers, and other business men of Wilmington, Delaware, praying for such a change of the revenue laws as shall authorize the immediate forwarding of goods and merchandise received at any port of the United States, and directed by invoice or bill of lading to another port, to the customs officers of the latter port as directed, without entry, warehousing, bonding, or other delay at the port of arrival; which was referred to the Committee on Finance.

He also presented a petition of manufacturers of morocco of Wilmington, Delaware, praying a repeal of the duty on imported goat skins and sumac, and a repeal of the internal revenue tax of two and a half per cent., and an increase of the duty on imported finished or manufactured morocco; which was referred to the Committee on Finance.

He also presented a petition of citizens of Wilmington, Delaware, employés of morocco manufacturers, praying for a repeal of the duty on imported goat skins and sumac, and a repeal of the internal revenue tax of two and a half per cent., and an increase of the duty on imported finished or manufactured morocco; which was referred to the Committee on Finance.

He also presented a petition of citizens of Newcastle, Delaware, praying that the surviving soldiers and sailors of the war of 1812, and the widows of such as have deceased, be placed upon the pension-roll; which was ordered to lie on the table, a bill on that subject having been reported.

Mr. VAN WINKLE presented the petition of Georgiana C. Smith, praying such an amendment of the bankrupt law that her mother may

not be deprived of the amount of property allowed by that law to an insolvent; which was referred to the Committee on the Judiciary.

Mr. CHANDLER. I ask leave to present a memorial, numerously signed by respectable citizens of Detroit, Michigan, praying for the abolition of the office of the President of the United States. I will state that, while I consider it my duty to present the petition, I do not sympathize with the prayer of the petitioners. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. SHERMAN presented a petition of citizens of Ohio, praying a change in the mode of appointments and removals of officers selected to execute the laws for the collection or disbursement of moneys; which was referred to the Committee on the Judiciary.

He also presented a memorial adopted by the national convention of manufacturers at Cleveland, Ohio, December 18, 1867, praying for a change in the system of internal revenue taxes; which was referred to the Committee on Finance.

Mr. POMEROY. I present the petition of Samuel M. Page, of Richmond, Virginia, asking that all disabilities may be removed from him, to enable him to vote and hold office in the State of Virginia. He sets out that he is desirous, and is now engaged, in aiding the reconstruction of that State and coöperating with loyal and earnest men in the State in its reorganization under the laws of Congress. This memorial is signed by the president of the convention, by the secretary, and almost all the members, both white and colored. As I know this gentleman myself, I hope the prayer of the petition will be granted, and I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. BUCKALEW presented a memorial of journeymen cigar-makers and manufacturers of cigars, protesting against the passage of the bill which requires a stamp to be affixed to each cigar, and praying the imposition of a tax of five dollars per thousand on domestic cigars, and that the duty on imported cigars may remain unchanged; which was referred to the Committee on Finance.

He also presented a memorial of paper makers in Berks county, Pennsylvania, protesting against the passage of a bill creating an international copyright; which was referred to the Committee on the Library.

Mr. MORTON presented a memorial of citizens of Indiana, protesting against any change in the present national banking system; which was referred to the Committee on Finance.

He also presented the memorial of journeymen cigar-makers and manufacturers of cigars of the tenth congressional district of Indiana, protesting against the passage of the bill requiring the affixing of a stamp on each cigar, and praying the imposition of a tax of five dollars per thousand on domestic cigars, and that the duty on imported cigars may remain unchanged; which was referred to the Committee on Finance.

Mr. TRUMBULL presented a memorial of the Board of Trade of Chicago, Illinois, praying a grant of lands to aid in building a ship-canal from Sturgeon Bay to Lake Michigan; which was referred to the Committee on Public Lands.

Mr. POMEROY presented a petition of Job Mayzeck, of South Carolina, for pay for commissary stores used by the United States Army; which was referred to the Committee on Claims.

GOVERNOR OF IDAHO.

Mr. WILLIAMS. I have received a letter from the First Comptroller of the Treasury, which induces me to say that no blame attaches to that officer for withholding the salary of Governor Ballard, a remark which I ought to have made when I referred to the subject the other day. I consider him a fair, capable, and honest officer, but I reaffirm all that I said as to the wrong and injustice to Governor Ballard by those who are responsible for his pretended suspension from office.

PRESENTATION OF BILLS TO PRESIDENT.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill regulating the presentation of bills to the President of the United States and their return.

Mr. VAN WINKLE. I suggest that we have not got through with reports from committees, and I hope we shall be allowed to complete them.

Mr. EDMUNDS. I do not object to making reports, only I want to get the bill up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

The motion was agreed to.

Mr. EDMUNDS. I wish to inform Senators that on account of the illness this morning of the Senator from Delaware, [Mr. BAYARD,] who desires to address the Senate on the bill just taken up on my motion, I shall let it go over until to-morrow, and I move that it be postponed until to-morrow, that other Senators may have an opportunity of bringing up other matters.

The PRESIDENT *pro tempore*. It will be postponed if there be no objection.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the petition of James D. Whelpley and Jacob J. Storer, reported adversely thereon.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of the Legislative Assembly of Colorado Territory, in favor of making the rates of postage uniform throughout the country, asked to be discharged from its further consideration; which was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Jonathan Scobey, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of James Walsh, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 238) granting a pension to Carrie E. Burdett, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Elizabeth Barker, submitted a report, accompanied by a bill (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORGAN, from the Committee on Finance, to whom was referred the petition of the trustees of the Roosevelt Hospital, reported a bill (S. No. 435) for the relief of the Roosevelt Hospital; which was read, and passed to a second reading.

GREATHOUSE AND KELLY.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the amendment of the House of Representatives to the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly, reported a recommendation that the Senate disagree to the amendment of the House and ask for a committee of conference on the disagreeing votes of the two House.

The report was agreed to; and the President *pro tempore* being authorized to appoint the conferees on the part of the Senate, Mr. VAN WINKLE, Mr. RAMSEY, and Mr. CONNESS were appointed.

REDUCTION OF IMPORT DUTIES.

Mr. GRIMES. I offer the following resolution, and ask for its present consideration:

Whereas the high rate of duties imposed by the act of Congress of July 3, 1864, upon goods and merchandise imported into the United States, was predicated upon and justified by the internal tax imposed by law upon domestic manufactures: Therefore,

Be it resolved, That the Committee on Finance be instructed to inquire into the expediency of proportionally or otherwise adequately reducing the duty on imports at the same time that the internal tax on domestic manufactures shall be reduced or abolished.

Mr. EDMUNDS. I object to its present consideration.

The PRESIDENT *pro tempore*. It goes over under the rule.

THOMAS CROSSLEY.

Mr. FERRY. I am instructed by the Committee on Patents and the Patent Office, to whom were referred the petition of Thomas Crossley, and also a bill (S. No. 426) for the relief of Thomas Crossley, to report back the bill with a recommendation that it pass; and I ask the consent of the Senate to consider it at the present time. It will take but a moment, I think.

Mr. GRIMES. What is it?

Mr. FERRY. A bill for the relief of Thomas Crossley, allowing him to present his application for a patent in the Patent Office, the patent expiring next month, the application not having been made in time, through a clerical mistake.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time.

Mr. GRIMES. Does it authorize an extension of a patent?

Mr. FERRY. It simply allows him to make his application to the Patent Office.

Mr. GRIMES. What is the article?

Mr. FERRY. It is a species of carpet. There is no objection from any source, and if the Senate will permit me to state what the case is I think there will be no objection to the bill.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to give Thomas Crossley leave to make application to the Commissioner of Patents for the extension of the letters-patent issued to him for improvements in machines for printing woolen and other goods for the term of fourteen years from the 5th day of April, 1854, the letters-patent bearing date the 20th day of June in that year, in the same manner as if the petition for the extension had been filed at least ninety days before the expiration of the patent, and it authorizes the Commissioner to consider and determine the application in the same manner as if it had been filed ninety days before the expiration of the patent.

Mr. FERRY. This patent was issued on the 20th of June, 1854, and the patentee having licensed certain manufacturers to use it, the original patent was in the hands of the licenses. The contract which remained in his hands described it as being issued on the 20th of June, 1854. Coming to Washington recently for the purpose of entering his application for renewal, he discovered that at the time of the issue it was ante-dated so as to bear date April 5, 1854, and therefore will expire on the 5th of next month, April. He therefore had not ninety days for the purpose of filing his application. He asks now that he may be permitted to file his application in the Patent Office as if the time did not expire until it appears to do according to the date of the issue of the patent.

Mr. GRIMES. Where does the patentee reside?

Mr. FERRY. In Bridgeport, Connecticut.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REVISION OF THE RULES.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the report of the special committee for the revision of the rules of the Senate.

Mr. SUMNER. I do not like to appeal to my friend. I had promised myself the pleasure of studying those rules carefully before they should be called up again. I have got about half through them.

Mr. ANTHONY. I do not wish to press the report against the wish of any Senator.

Mr. SUMNER. If the Senator deems it important to act upon them, of course I shall not interpose an objection.

Mr. ANTHONY. I think it important to act upon the report, but I think it more important that when acted upon it should be done deliberately, and I do not wish to press it against the wishes of any Senator.

Mr. SUMNER. I will say that I saw a great many changes which I think very valuable, and for which I desire to thank the committee. I think we shall all be gainers by them; but I have not finished the study of them.

Mr. ANTHONY. I withdraw the motion, because I do not wish to have the subject considered against the wishes of any Senator.

EXPORTERS OF DISTILLED SPIRITS.

Mr. MORGAN. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. No. 764) for the relief of certain exporters of distilled spirits, to report it back with an amendment and recommend its passage. This is an important bill——

Mr. SUMNER. I inquire of my friend if it cannot be acted on now?

Mr. MORGAN. If there is no objection, I trust it will be passed at once. There is a necessity for acting upon it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to construe the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits," so as to permit alcohol and rum, which at the date of the passage of that act were already distilled or redistilled and intended for export, or actually contracted for to be delivered for exportation, to be withdrawn, removed, and exported from the United States under such transportation and export bonds and regulations as were required therefor immediately prior to the passage of that act; but all such spirits are to be actually exported within thirty days from the passage of this act; and before any such exportation shall be permitted proof in writing is to be furnished by sworn evidence, to the satisfaction of the Commissioner of Internal Revenue, that such liquor was in fact at the date mentioned intended for export, and distilled or redistilled for that purpose or actually contracted for to be so exported. And upon failure to so export within thirty days the tax thereon is to become due and payable, and the bonds given for the transportation and export thereof are to be forfeited and collected as in case of such bonds not canceled according to law.

The Committee on Finance reported the bill with an amendment on lines thirteen and twenty, to strike out the word "thirty" and insert "sixty" before the word "days."

The amendment was agreed to.

Mr. GRIMES. I should like to hear some explanation of this bill.

Mr. MORGAN. It will be recollected that in January last Congress passed an act in which it was provided:

"That no distilled spirits in bond shall be withdrawn or removed from any warehouse for the purpose of transportation, redistillation, rectification, change of package, exportation, or for any other purpose whatever, until the full tax on such spirits shall have been duly paid to the collector of the proper district."

Now, it is stated that there are in Boston, and perhaps in New York, quantities of liquor which were prepared for exportation at that time for which the freight had been paid. This exportation is mainly to Africa, and some to the Mediterranean. It probably was not the intention of Congress to prevent entirely the exportation of liquor. The main reason for the passage of that law was to prevent frauds upon the revenue. This bill passed the House of Representatives after some consideration without any objection whatever. I have a letter from the collector of Boston, Mr. Thomas Russell, addressed to Mr. HOOPER, in which he states that he can add nothing to what he has heretofore said as to the entire absence of fraud in this trade with Africa, and he says further:

"I can confidently say that no fraud on the revenue has been attempted in the export of spirits since I have been here."

As I said, some ten or twelve cargoes have been prepared in Boston for exportation to Africa, as well as some other spirits both in New York and Baltimore. The Senator from Maryland [Mr. JOHNSON] probably has some knowledge of that. As this bill was passed by the House of Representatives it was limited to thirty days. On consultation yesterday with the Commissioner of Internal Revenue he thought that the restrictions in the bill were such that it would be a nullity; he could not get through with the examinations and be of any service in thirty days, and he recommended sixty days as the least possible time in which it could be done.

Mr. GRIMES. I should like to inquire of the Senator what there is to prevent the exportation of these articles to Nova Scotia or New Brunswick in order to avoid the tax, and then their return to us in the course of two months from Nova Scotia across the line. They are in the habit, I believe, of doing that to a very considerable extent with all kinds of goods without paying any duty. It may be answered that they must produce proof of the fact that it was the intention to export these goods; but we all know with what facility custom-house oaths are furnished.

Mr. MORGAN. I do not know that any guards can be thrown around the exportation of liquor that will prevent frauds. If the Senator can suggest any amendment that will accomplish that object I for one shall be very glad to adopt it. Yet, I suppose, it was not the intention of Congress to prevent the export of liquor to foreign countries. It is the intention, of course, to prevent frauds, and everything that can be done in that direction should be done; but it was not the intention to prevent entirely the exportation of liquor to foreign countries.

Mr. SHERMAN. I was not able to vote for this bill in committee. The objections to the bill were to me apparent on the face of it. We passed an act a month or two ago to prevent the removal of whisky from a bonded warehouse for the purpose of cutting off frauds. A portion of these frauds was in the exportation of whisky. The evidence before the committee showed that one of the modes of fraud was that under the pretense of exporting whisky. Sometimes the whisky was changed into water at the warehouse, or at any rate before it entered the vessel; and when loaded upon the vessel it was either whisky of an inferior quality or else water, and that stuff was exported to Africa and to other countries, while the real whisky appeared in consumption and was consumed here; and in that way our revenue laws were evaded.

That bill was very harsh undoubtedly, and it prevented a great deal of fair trade in whisky. We export, I think, about five million gallons of whisky, which is only about five per cent. of our production of that article. Under cover of exportations the revenue has been actually defrauded to about ten million dollars on the exportation of whisky alone. Now, I have no doubt that the refusal of the Senate to pass this bill may do injustice to a few merchants, but it is very certain that the passage of the bill will open the door to fraud to many times the value of the whisky. My friend from Maryland [Mr. JOHNSON] asks me how. Why, sir, how easy will it be to furnish the proof under this bill. All you have to do is to show that the whisky is manufactured for exportation, and that can be done very easily, for all whisky is manufactured with a view to exportation, because some of it may be exported; and it will be very easy to furnish proof that the particular whisky was intended for exportation.

We are told, and proof was furnished to us, that there are nine vessels now waiting in Boston to be loaded with whisky. When this whisky is put on board, supposing the actual whisky to be put on shipboard, the vessel may float out into the ocean and put into Nova Scotia and land it there, and then it may be brought into our country from Nova Scotia and enter into our consumption. In this way, under pretense of favoring trade in an article worth from fifteen to thirty-five cents a gallon, we may cheat the revenue to the extent of two dollars a gallon. I do not believe it is possible to prevent fraud under the bill. If the bill passes it will relieve a few merchants who will be enabled to drive a profitable trade with Africa, but the probability is that the revenue will be defrauded several times the value of the whisky exported. The difficulty in guarding the bill from fraud was so great that I could not see my way clear to vote for it. As a matter of course, I should like very well to enable merchants to carry out their contracts. It was said that in a great many cases whisky was contracted to be delivered in Africa and at other places, and if this bill did not pass those who had made those contracts would be compelled by act of Congress to violate them, and would be subjected to damages and delay and loss. That is true; and if there was any way to relieve them I should be very glad to do it, but I am afraid that the way proposed will open the door to fraud upon the Government to the extent of more than a hundred times all the losses which will be sustained by those gentlemen in consequence of the violation of their contracts. So it appears to me. I cannot see any way to guard the bill or any amendment which will protect the revenue; and for this reason I did not feel disposed to vote for it in committee, and I cannot do it here.

Mr. MORRILL, of Vermont. This bill is intended merely as a temporary measure until the Committee of Ways and Means of the House of Representatives can prepare a more permanent measure by which the exportation of liquors can be allowed and yet the revenue protected. This bill is limited to two classes of cases: first, where contracts have absolutely been made for the delivery of liquor; or second, where it has been absolutely distilled and marked in all the proper forms for export. Limited to these two cases, I cannot conceive that the amount of fraud perpetrated under it, when the matter is to be regulated by the Commissioner of Internal Revenue, can be very great. These parties have not only contracted for the delivery of the spirits, but they have chartered vessels for the African trade. That trade is very important to the country. It consists in palm oil, ivory, and other articles, and it is rather important at the present time that it should be kept up. I do not conceive myself that there can be any valid objection to the passage of the bill. It is only to operate for a short time, and it is certainly a very great hardship to the parties in various cities, Baltimore, Philadelphia, New York, and Boston, who have such contracts already made, that the Government should have interfered in this manner. I trust, therefore, the bill will pass.

Mr. JOHNSON. The bill upon its face is obviously right and ought to be passed, unless it contravenes some settled policy of the Government—a policy which looks to the increase of the revenue. At the time the contracts were made to which the bill refers they were legal every way. There was nothing to prevent the merchant from sending this article abroad, and of course there was nothing to prevent his entering into contracts to furnish it. The contracts, therefore, were all legitimate, and the effect of the passage of the act of January, 1868, is to force citizens who were guilty of no violation of law to violate their contracts. Is there any policy which demands that Congress should take so extraordinary a step as to force its own citizens to violate engagements entered into at a time when they were perfectly legal?

It is said by the honorable member from

Ohio that if we pass this bill it will open the revenue to the perpetration of frauds. How? One member says that the alcohol may be carried to the neighboring provinces and smuggled back. The answer to that is twofold. In the first place, they make whisky there cheaper than we do. In the next place, the time allowed is not such as will enable them to ship and smuggle back; so that in point of fact there is no danger of smuggling.

The other objection is that the whisky itself will not be exported. The honorable member from Ohio says that it has been a common thing with those engaged in this trade to empty the barrels of whisky before the barrels themselves leave the warehouse and to fill them with water or some other material than whisky, so as to sell the whisky here. Now, we are told by the collector of Boston, who may be relied upon, I am sure, implicitly from his character and his intelligence, that no such fraud as that can be perpetrated there; and unless the collectors of the ports are themselves parties to the fraud how can such frauds be perpetrated at any of the custom-houses, especially as now that they have discovered that these frauds have in the past been committed they will be, of course, on the look-out, and they will not suffer the material to leave the bonded warehouse without being certain that it has not been tampered with.

It seems to me, therefore, while it is perfectly just, and I was about to say but honest, to leave the merchant to enjoy the benefit of contracts and business which he had a right to enter into, there is nothing in the particular circumstances of the case which should persuade Congress not to be honest in this particular.

Mr. WILLIAMS. I should like to inquire of the Senator from Maryland why the persons who are about to export this liquor cannot pay the tax before they export it?

Mr. JOHNSON. That is contrary to policy. It would break up the trade.

Mr. SHERMAN. My friend from New York [Mr. CONKLING] suggests a question which I should like to have put to my friend from Maryland. If they can get the liquor cheaper in the provinces, why do they not go and get it there and fulfill their contracts?

Mr. WILLIAMS. I am one of the members of the Finance Committee who were not satisfied that this bill ought to pass in its present shape; and I believe that it will open the door to great abuses and fraud. We passed an act that after the 7th of January, 1868, or after the time that act took effect, "no distilled spirits in bond shall be withdrawn or removed from any warehouse for the purpose of transportation, redistillation, rectification, change of package, exportation, or for any other purpose whatever, until the full tax on such spirits shall have been paid to the collector of the proper district."

Now, this bill proposes, with the amendment, that within sixty days all whisky on hand which at the date of the act to which I have just referred was prepared and intended for export, or actually contracted for to be delivered for exportation, shall be exempt from the operation of the act which we passed in January. It does not exempt whisky that is exclusively contracted for, but it exempts all whisky that was intended for exportation, so that the question under this bill will be as to whether a certain quantity of whisky at the time the act passed in January was intended for exportation. It simply depends upon the intent of the person who has possession of the whisky. It seems to me it will be very easy for all persons who have whisky in their possession which they desire to dispose of, and were not able to do so under the act of January without paying the tax, to show or claim that they had an intent to export this liquor and thus relieve it from the operation of that act. I think under that particular provision of the bill the whole act which we passed in January may be practically defeated, because it will be very easy, it seems to me, for a man to call upon persons to prove that he had some intent at a given date. He can tell persons around him that he had that intent, and those persons will be inclined to believe it if it is for their interest to believe it.

We know that great frauds have been perpetrated upon the revenue in the manufacture and pretended exportation of whisky; frauds such as have been described by other Senators; and the object of the act of January last was to prevent such frauds, and now after this act has been found practically to result as we intended and expected it would these persons come in here and claim relief by another act which practically abolishes the other for sixty days; and it is put upon the ground that there are some individuals who have whisky which they intend to export to Africa or to the Mediterranean. I submit that those persons can make some arrangement without great prejudice to their rights by which they may pay the tax before the exportation takes place, and if that is done there will be no difficulty in the way; and is it not better that those few persons should suffer some little inconvenience than that we should open this wide door to enable all those persons who are engaged in defrauding the revenue to avail themselves of the benefits of this act? I do not know that any provision can be made which will meet the particular case without at the same time enabling other persons who are disposed to defraud the revenue to avail themselves of the advantages of the act, but in its present shape, as it appears to me, it would be very dangerous to enact this bill.

Mr. COLE. Mr. President——

The PRESIDENT *pro tempore*. The morning hour having expired the unfinished business of yesterday is regularly before the Senate.

PENSION BILLS.

Mr. VAN WINKLE. I move that in accordance with the order made on Friday last, the Senate now proceed to the consideration of the bills reported by the Committee on Pensions.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the unfinished business and all prior orders be postponed for the purpose of proceeding with the consideration of the pension bills in accordance with the resolution passed for the purpose, setting apart this day at one o'clock for the consideration of those bills.

Mr. CONNESS. I rose to ask the Senator from West Virginia to consent to admit first a simple motion to recommit the bill that was pending, by leave of the Senate, to the Committee on Finance for an additional reason to what has been stated, which I can very briefly state.

Mr. SHERMAN. There is no object in recommitting the bill. We had the matter fully considered in committee.

Mr. CONNESS. I will not occupy time, but I will say to the Senator that there is an object, and if he had heard the object stated he would not have made his statement; but I withdraw the suggestion now. The Senator is too confident on that point.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from West Virginia.

The motion was agreed to.

PENSIONS TO SOLDIERS OF 1812.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of the House bill No. 603. It is a general act in reference to the soldiers of 1812.

The motion was agreed to; and the bill (H. R. 603) granting pensions to certain soldiers and sailors of the war of 1812, was considered as in Committee of the Whole.

The first section is a direction to the Secretary of the Interior to place on the pension-roll the names of such of the surviving officers and enlisted men, including militia and volunteers, of the military and naval service of the United States who served consecutively for three months in the war with Great Britain of 1812, and who were honorably discharged, and who at no time during the late rebellion have adhered to the cause of the enemies of the Government, giving them aid and comfort, but who were constantly and continually loyal to the Government, and can truthfully take and subscribe the oath contained in the act of July 2, 1862, and who are in circumstances which render them dependent on others for support.

By the second section it is provided that this act is not to apply to any person who is dependent upon others for support in pursuance of any contract for such support based upon a valuable consideration, nor to any person who is receiving a pension at the rate of eight dollars per month, nor is it to be construed so as to allow more than one pension to the same person. Pensions under this act are to be at the rate of eight dollars per month, and to be paid to the persons entitled thereto at that rate for the term of their natural lives.

It is intended to enact by the third section that before the name of any person shall be placed on the pension-roll under this act, proof shall be made, under such rules and regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under its provisions. The loss of a certificate of discharge is not to deprive the applicant of the benefits of this act, but other proof of services performed and of an honorable discharge, if satisfactory, are to be deemed sufficient.

By the fourth section it is to be proved that the pension therein allowed is not to be liable to seizure, levy, attachment, or other process to satisfy any debt, demand, promise, or other liability, nor is any contract, bargain, or agreement in relation thereto to be valid or binding upon the pensioner, nor is the same to be paid to any one having any claim upon such pensioner or interest in the fund, but the same is to be paid to the pensioner in person or to a disinterested agent or attorney thereof, authorized by a power executed subsequently to the accruing of the sum to be received. When an agent shall be employed to prepare the necessary proofs and make the application he is to be allowed for his entire service in and about the prosecution of the claim the sum of ten dollars and no more. And if any such person shall, for his services, or as a gratuity, or under any pretext whatsoever, demand, accept, or retain a greater sum than ten dollars, he is to be guilty of a misdemeanor, and on conviction is to refund the same, and be fined not exceeding $1,000 and imprisoned not exceeding six months.

The Committee on Pensions proposed to amend the bill by inserting after "enlisted," in line five of section one, the words "and drafted," so as to read "and enlisted and drafted men."

The amendment was agreed to.

Mr. VAN WINKLE. The committee agreed to an amendment which was sent to the printer, but I do not see it in the bill. It was to strike out all of section one after "1862," in line fifteen. I move now to strike out the concluding words of the first section which are "and who are in circumstances which render them dependent on others for support."

Mr. EDMUNDS. I hope the Senate, whether they are for or against this bill, will pay attention to it, because it is a bill of a great deal of importance. It is important in one point as an act of justice or generosity, or whatever it is proper to style it, toward the surviving soldiers of the war of 1812. It is an act of importance so far as it affects the tax-paying people of this country, if we are going to have any of that sort of people left, as to the amount of money it is to take from the Treasury.

This particular amendment which is proposed will have the effect to give to all the soldiers of the war of 1812 who have not already pensions under the invalid pension laws

a pension of eight dollars a month, no matter what their circumstances may be. A man may be worth $1,000,000, he may be in perfectly comfortable circumstances, he may have received his one hundred and sixty acres of land for his three months' service, (because that is the period of service fixed by the bill, although it may have been more, of course,) and yet be entitled under this bill to eight dollars a month out of the Treasury for the rest of his life. The House of Representatives thought it fit to limit the operation of this bill to those soldiers who were dependent upon other persons for their support, just as in our other pension laws we provide for an enhanced pension in certain cases to invalids who are so far invalided as to be dependent upon others for their support. I think it is no reproach to a soldier, it is no insult, in a bill to provide that we will only extend the generosity and bounty of the Government to those who need it. I hope, therefore, that the Senate will not agree to this amendment, to pay out of the Treasury money which the necessity of any soldier who served in the war of 1812 for three months does not require him to have.

Mr. VAN WINKLE. A majority of the committee in reporting this amendment have been impelled by some considerations which I propose to present to the Senate.

The bill does not include all the soldiers of the war of 1812; it includes only those who were in the service for three months or upward. Bounty lands were granted several years ago to those who had been in the service not less than fourteen days.

This confines the pensions to those who served three months and upward. The whole number of such soldiers in the Army during the war of 1812 was two hundred and fifty-five thousand. I have made a calculation that, deducting those who died in the service from wounds or disease, and those whose names appear twice on the rolls by reënlistments, of which there must be a great many, and those who have since been pensioned, the whole number on which this bill is predicated is reduced to one hundred and sixty-one thousand; and from the best calculation I can make I think that those, whatever their circumstances, who will be provided for by the bill, do not now exceed five thousand. It makes no provision for widows, no provision for heirs or representatives, but simply confines the pension to those survivors of the war who are still living, and the youngest of whom must be to-day over seventy-two years of age.

It is very evident that in the casualties which take place in this life not much more than the percentage I have named, three per cent. of the whole number, can be living at this time. I have been lately informed that a paper was recently discovered somewhere in this city, being the roll of a fire company that was formed in Washington in 1811 or 1812. On that roll were ninety-three names, and it was presented to the Association of Old Inhabitants and by them critically examined; and it has been ascertained that but two of the persons named on that roll are now in existence. I therefore think that my estimate of three per cent., that instance showing but two, is very liberal in ascertaining the number.

The special provision it is now moved to strike out compels these men when they go to ask for their pensions to confess themselves paupers. They will conceive it to be and feel it as a sort of degradation to do that. An estimate made several years ago was that not more than one in eight was in anything like comfortable circumstances or was not dependent; and I think the number is too small to justify making this discrimination, which will give rise to this feeling in the breasts of those who are partakers of the bounty of the United States.

There is another consideration about it. They must go to the Pension Office and prove their dependence. It is subjecting those who would be under the law entitled to pensions to an additional expense, an unnecessary one, as I conceive, and one that it would not be generous to exact on the part of the Government.

I know, sir, from my own personal experience that when the act for the benefit of revolutionary soldiers was passed, compelling them to prove themselves paupers, there was a great deal of indignation about it on the part of those who were not paupers; and some of them, one particularly, to my knowledge, refused after that provision had been removed to receive any pension, on account of his disgust at this attempt, as he called it, to make paupers of them all.

Sir, I trust the Senate will consider this question in a liberal spirit. These men served their country at the risk of their lives at a former day. Undoubtedly, more or less of them, although their disabilities from that source may not be so great as to entitle them to a pension under general laws, are yet now feeling the effects of their service to some degree. I saw a man here the other day who had a bayonet wound which healed over and for which he could never get a pension because it did not disable him; but as he gets old it has commenced a running sore; he has been in the hands of physicians; it heals up for a while, but after a few years it breaks out again, and he is now a complete cripple. There may be some other such cases, and doubtless there are, where the old wounds break out again in this way.

I do not think it can add very greatly to the whole amount, from the testimony that is before me and all the examination I have made of the subject, to make this amendment. I may add that the Senate, and I suppose the other House by this time, have agreed to take from the naval pension fund one half the interest which the Government formerly allowed on that fund; that is to say, they have taken from it at the rate of $450,000 per annum. These men must necessarily be of the age I have stated. Taking the average of their ages when entering the service to be twenty, they would now be seventy-six years of age, and their expectation of life, according to the tables, would be six years. Therefore the pensions are to be paid only for an average of six years; and this amount of $450,000 that is taken from the naval pension fund will be sufficient to pay them for the six years. I therefore think there is no reason of economy in refusing this amendment. I think it is but generous and just to these men. They are all laboring under the disability of old age; they are getting older every day; and it is but a few short years that the country can be called upon to pay them anything. They will drop off, and drop off, as the leaves do in the fall, and we shall hear no more of them.

I trust, sir, that no idea that this is setting a bad precedent will be entertained by any member of the Senate. The precedent is that this country, when it finds its soldiers and those who have served it faithfully in their youth growing in years, becoming subject to the infirmities of old age, is willing to come to their assistance to the extent of its ability.

Mr. SHERMAN. Mr. President, nothing is more irksome than to resist an appeal of this kind or to oppose such a bill; but, with the duty which I feel to be incumbent on me, I certainly cannot consent to allow this bill to pass.

I know many of the old soldiers of the war of 1812. I know many that are poor and some that are rich. No one respects them more than I do, or has a higher appreciation of their services than I have. They have survived to tell the story of their battles and their hardships for many years. Those who now survive have not been affected by their service in that war, nor are they suffering from wounds. Those who were wounded or disabled by wounds or disease incurred in the service have already been amply provided for by our pension laws. Now, the question is whether, in the present condition of the country, we shall pension all the old soldiers of the war of 1812. Since I have been in public life such a measure has been almost constantly before Congress. It was urged at times when money was abundant, when the Treasury was overflowing, and it was constantly refused. Now, at this critical moment, when we are about to throw off the burdens of taxation, this old stager is revived, and we are called upon not only to pass the measure in the position in which it has heretofore been reported and pressed, but in a much more comprehensive form. Heretofore it has been confined to those who were poor. There probably is a measure of justice, at least of charity, in giving a small relief to the old men of the war of 1812 who are now poor, from any cause whatever. Some of them are rich, and it is proposed to extend this bill to all alike.

The computation made by the Senator from West Virginia is entirely delusive. That there are more than five thousand of these soldiers living I have not a doubt. I have no question that there are more than ten thousand, and I should not be at all surprised if the number should be found to reach to thirty thousand. What is the experience of the Interior Department in the Pension Office and the Land Office under the land warrant system? When the land warrant bill was passed it was computed that so many thousand land warrants would be required to pay off the soldiers of the war of 1812, and the highest computation then made was more than quadrupled by the applications and by the actual grant of land warrants. Many of these soldiers were called out merely for the temporary defense of the frontier. Every citizen of Ohio in 1812 was a soldier in the war, and served at least three months. Every citizen on the border of western Pennsylvania and New York was a soldier of the war of 1812. Every citizen of that whole vast region of country along the Indian frontier from Maine to the far West was a soldier of the war of 1812. It was a war in which every man defended his fireside, his home, his wife, his children, everything that was precious. Nearly every able-bodied man in the United States was a soldier during the war of 1812, either against the British or against the Indians. Now, to say that only five thousand of them survive is to say what will not be justified by the event. I know in my own neighborhood, in the community in which I live, there are many survivors of the war of 1812, and if the same proportion extends all over the country there must be many thousands. I would, if called upon, at a rough guess, say twenty or thirty thousand; consequently, this bill imposes upon the people of the United States now about two million dollars a year—to extend how long? The Senator says only a few years. He says that these men are like leaves falling from the trees in the fall.

Why, sir, the last soldier of the revolutionary war has only paid the debt of nature within the last year. The time that elapsed between the war of the Revolution and the war of 1812 was thirty years. No doubt the soldiers of the war of 1812 will linger, some of them, thirty years longer; and we propose to charge upon the people of the United States now an annuity of $2,000,000 a year, gradually decreasing as death reaps its harvest among these old veterans.

If there was any real necessity for it, if they were in need, to the extent that they were in need I should be willing even now to vote for a bill to give a moderate pension. Perhaps if we were to confine the pensions to the House bill as it came to us, it would not take more than four or five hundred thousand dollars a year; but now it is proposed to extend it to all the survivors of the war, without regard to their circumstances.

Mr. President, allow me to give the Senate a few facts in regard to our financial condition. We shall be compelled by public opinion and the strong sentiment that is shown in the other House to repeal all the taxes on the domestic industry of this country. We shall throw off, at this session of Congress, $84,000,000 of our internal taxes. What is left to us? When you come to look over your sources of revenue

they will be very much reduced. The highest estimate now that can be put upon them is from two hundred and fifty to two hundred and sixty million dollars, with the certainty of having to deduct from one hundred and thirty to one hundred and thirty-five million dollars of that for interest. Where are you going to get the money to carry on the Government and meet these drains? Borrow it? I think you might as well end this matter by simply abolishing all taxes and requiring the Secretary of the Treasury to pay the expenses of the Government.

Mr. EDMUNDS. I would remind the Senator from Ohio, with his permission, when he asks where we can get the money, that we have the Printing Bureau left, and we can pay in greenbacks, which suit him so well.

Mr. SHERMAN. I would not pay one of the old soldiers with new greenbacks, and do not propose to do so. Sir, there must be an end of this thing. There is now pending in Congress every conceivable demand on the public Treasury. Perhaps from my position I am compelled to think of these matters more than other Senators. There is not a project that has been suggested for the last thirty years as a drain upon the Treasury which is not now revived and pressed upon the various committees of this body. There is not a class of expenditures which has been proposed for years that is not now demanded. Bounties, subsidies, pensions, gratuities, internal improvements, harbor and river improvements, railroads—all conceivable classes of expenditure are pressed upon us. Where is the money to come from?

Sir, we have just gone through a great war, in which we have incurred enormous expenditures, from which we have an enormous debt, which is a burden upon us of $135,000,000 in gold annually. That is an obligation which we cannot evade. Our people are now demanding a repeal of taxes, and we shall probably be compelled to go to the full tether in the repeal of taxes. I hope we can repeal the entire tax on our domestic industry. Can we go further?

It is a very ungracious task, I know, to stand up against the demands of the old soldiers of the war of 1812, and I wish to God some other Senator felt the necessity of doing it, as I have to do it now briefly; because among them are many of my dearest and best friends, with whom I would divide the last crust of bread. But it seems to me that without necessity, without any demand on their part to give this money to these old soldiers is entirely uncalled for. I have one now in my mind, a patriotic old hero, who is worth half a million dollars. Will you now give him a hundred dollars a year pension?

Mr. JOHNSON. Will he ask for it?

Mr. SHERMAN. I do not think he will; but why offer it to him? Why not confine the bill, if you are to pass it at all, to those for whom the House of Representatives have provided, those who are really needy? I do not think there is any general demand for the passage of this bill.

Mr. FOWLER. I should like to inquire of the Senator from Ohio if he can tell what is the number of surviving soldiers of the war of 1812?

Mr. SHERMAN. The Senator from West Virginia gave the statistics. I think he said there were about one hundred and sixty thousand soldiers of that war.

Mr. FOWLER. Is one hundred and sixty thousand the whole number that was enrolled in the war of 1812?

Mr. SHERMAN. Many more than that.

Mr. VAN WINKLE. My calculation showed that at the end of the war those not pensioned for wounds or disease contracted in service probably amounted to one hundred and sixty-one thousand. During that whole war there were five hundred and twenty-seven thousand men enlisted, but only two hundred and fifty-five thousand were for over three months' service.

Mr. SHERMAN. There were issued under the land-warrant laws, I think, one hundred and sixty-odd thousand land warrants within a few years. That is my impression; but perhaps the Senator from Iowa [Mr. HARLAN] can tell the exact number.

Mr. VAN WINKLE. I can give the Senator the information. There were two hundred and twelve thousand land warrants issued; but they were to men whose service in the war was not less than fourteen days, and to their widows. This bill has nothing to do with widows; it only applies to the soldiers themselves.

Mr. SHERMAN. When were these land warrants issued?

Mr. VAN WINKLE. Under the acts of 1850 and 1855.

Mr. SHERMAN. Just think of it! Over two hundred thousand of these soldiers or their widows survived in 1855; and yet the Senator from West Virginia tells us that only five thousand will be embraced under this bill. This fact shows how fallacious is the reasoning upon which this bill is based. I beg Senators to pause upon this question. If we had the money, if the Treasury was overflowing, or if they were ready to print new greenbacks, or resort to new expedients to raise money; if we had Aladdin's lamp or some other mysterious way of getting money into the Treasury, as a matter of course we might afford to do it. But I warn the Senate, and I warn them now with new information obtained this very day in the examination of a bill pending in the Committee on Finance—a proposition to repeal taxes—that we have not the means to enable us to resort to new expenditures. If bills of this kind be passed we shall have, in connection with our repeal of taxes, to report a new loan law or some provision to issue greenbacks to pay this money. If Congress add by law new items of expenditure, we must provide new means of payment, and we shall be compelled either to continue some of the taxes which it is proposed to take off, or to resort to new taxation, or to issue greenbacks, or to borrow money. There is no other way for it.

Nothing in the world is so easy and so pleasant as to repeal taxes, to give bounties, to grant new annuities, and make new burdens. The trouble is in paying the money. Our people are tired of paying taxes. When we pass bills of this kind we should look to the means to meet them.

I said a moment ago that there was no general demand for the passage of this bill. I am sure there is no general demand in the community for it. Occasionally we receive petitions from soldiers of the war of 1812, but they have been here for twenty years, and Congress during that time has invariably turned its back upon them. These soldiers have been dealt with generously, liberally, by the Government of the United States; they were paid in full, they were paid bounties, and they have since obtained land. All that were indigent or invalid have been provided with pensions, and have received their pensions for years. Now, is it worth while for us to make a new draft upon the Treasury, to provide for a new expenditure, without having any statistics to base it upon; without having any report, so far as I know, from the Commissioner of Pensions as to the probable number of persons who will be embraced by this bill, and against the remonstrances of those who have to pay the money, in the face of the demand of our people that taxes shall be diminished?

Sir, I have done my duty in regard to this matter. The Senate, as a matter of course, will do as they please; but I beg of them, when they are considering new modes of expenditure and new demands upon the Treasury, that they will also reflect upon the difficulty, the almost utter impossibility, now of providing new sources of revenue. I, for one, do not wish to be compelled to stand up against the soldiers of the war of 1812. I respect them and revere them and love them as much as any Senator here; but, sir, I do not believe they demand of us to assume and throw upon the Treasury those new burdens at a time when the whole industry of the country is paralyzed and when the cry comes to us from all parts of the nation for relief from taxation and from financial derangement, caused by a deranged currency and many other causes.

For the same reasons I have stated I shall vote against this bill in any form in which it is put; but I shall not regard it as a very great matter if it be confined to the old soldiers who are really needy, whose circumstances are so reduced that they cannot support themselves, or who are now aided by others. The number of these must be comparatively few, although I think even they would far exceed the number stated by the Senator from West Virginia. I have no doubt that more than five thousand soldiers of the war of 1812 can claim and receive pensions under this bill as it came to us from the House of Representatives; and if we pass the bill even in that shape it will cost us $500,000 a year within two years from from this time to pay the pensions of the soldiers who can prove that they are really needy or suffering, or who, in the language of the bill, are in circumstances which render them dependent on others for support.

Mr. FESSENDEN. I am very glad that the honorable Senator from Ohio, the chairman of the Committee on Finance, has given his opinions to the Senate with reference to this bill as it stands, and especially with reference to the pending amendment, which is to strike out a portion of the bill calculated somewhat to limit it. I wish to say, in addition to what he has remarked, that I think it is as well for us to consider whether it is worth while to set this precedent. I believe we did, within a comparatively recent period, give a pension to each surviving soldier of the revolutionary war. The expediency of that was somewhat doubtful; but we were then perfectly able to do it, and we were gaining every day in wealth and power; and the argument was that the services rendered by those soldiers in the revolutionary war were of such a peculiar character, considering the time and the circumstances, that we might well afford to bestow such a token of appreciation upon them.

But, sir, is there any nation on the face of the earth that pensions a man simply for the reason that he has rendered military service, and three months' military service, for I believe the bill goes down as low as that, in a war of the country? Is there any nation on the earth besides our own in which the idea would be tolerated for a moment? Look at it, sir. We are now to begin with the war of 1812 and put upon the pension-roll every man who served in that war for the period of three months, no matter where, no matter under what circumstances, though it may have been simply to defend his own homestead. By and by will come the question of extending the same benefit to the surviving soldiers of the Seminole war, of the Creek war, of the Black Hawk war, of the Mexican war; and not far hence of the great war in which we have been so lately engaged, where we had millions of men in the field, when every surviving soldier is to be put upon the pension-roll because of his military service for a longer or shorter period. I ask Senators to deliberate for a moment. Is there any nation on the face of the earth which can stand a principle of that kind carried out into practice? I undertake to say that the mere fact that a man was called out for three months, or enlisted for three months, or was drafted for three months, and rendered military service, when he received no wound, and returned back in full health and with all the credit that belonged to his service, and was paid for his service, does not give him a claim for a pension.

My friend from Vermont [Mr. EDMUNDS] suggests to me that every one of these soldiers has had one hundred and sixty acres of land. What nation on the face of the earth ever dealt so liberally as that with its soldiers? I do not object to it. We had the territory, a vast region; and it was beneficial, perhaps as well to

the country as to the individuals, to grant the land. Though it is not very likely that the soldier himself, in many cases, went to settle upon it, his son or some connection of the family may have done so; or perhaps the soldier sold his land warrant and received the benefit in money.

Now, the proposition is that every man who served for the period of three months, under any circumstances, in a war which has no peculiar recollections connected with it as being a struggle for freedom or for the preservation of our institutions, is to be put upon the pension-roll. Sir, I do not dread it so much for that individual case as I do for the precedent to be established which cannot be resisted hereafter, and the effect of which must be to keep this country eternally loaded with debt. Nobody objects; it is well enough and proper enough and right that a man who has been disabled in the service of his country should receive a pension. That we all agree to; and we pay such men in proportion to their disability, and pay them liberally, considering all the circumstances. But to establish the principle that because a man has rendered military service who is able to render it, who owes that military service to his country, and happens to render it at the particular time when it is needed, he is therefore to be put on the pension-roll at a certain or uncertain period whenever it may suit the convenience of gentlemen to start the idea, is to me perfectly preposterous as a national undertaking or a national principle.

It is easy for us who sit here, most of us able to support ourselves, most of us able to see that, so far as we are individually concerned, we shall in all human probability get through this world without any great suffering, and who cannot foresee that we, ourselves, shall suffer personally in consequence of the votes we give—it is easy for us to give these votes; and especially is it much easier to give a vote for a bill like this than it is to meet at home the question from one of those old veterans "Why could you not give me in my old age this money which I needed?" and to tell him why, and tell him honestly why, and take the consequences; and not only to answer to him, but to his children. For my part, sir, I am ready to answer here or anywhere, to anybody, for my opposition to establishing in this country, at any time, a principle such as this; and more especially at this time, when the cry of economy is ringing through this Chamber from day to day upon every little bill that comes up, and when all know that that cry is calling to us from the country from thousands who are absolutely starving or next to starving; when almost all the business of the country is in a state of confusion, and when we are to have difficulty on the principle we adopt of cutting down our taxes in getting money enough to support the Government. As my honorable friend, the chairman of the Committee on Finance, has said, under such circumstances $2,000,000 are to be added to our annual expenditures at a blow, because we have not the manliness to stand up and say that such a principle is one that cannot be admitted in any country; and especially a great country like ours, engaged in the wars that we have been engaged in, without burdening it now and hereafter in a manner and to an extent that we shall hardly be able to answer for.

Sir, there are some things that we cannot do. We are apt to consider ourselves and to vaunt ourselves as being a great people. We are. Whether we are a wise people in all things, perhaps, is a little more questionable; but the idea that we can disregard long-established principles, that we can throw overboard, without consideration, all the rules that in other great nations—because there have been great people besides us—have been considered essential to the management of public affairs, and do it with impunity, simply because we are a people pretty much all of whom vote, is a matter that to my mind is very problematical.

Sir, I agree with the Senator from Ohio in another thing. I do not believe this call is so general as some suppose. I have no doubt that some portion of these men are suffering, but I do not believe that a larger portion of the soldiers of the war of 1812 are suffering at this day from the embarrassments which attend old age and the want of property than of other classes of the community. Is a man, because he served three months or more in a war, and comes out of it with honor, with untouched limbs, in perfect health, and with all the experience of it, to be held forever as a better man than everybody in the civil service, and to be supported by his country?

Why, sir, what did we do at the last Congress? We gave away enough to build a railroad from here to California, in the shape of a project to equalize bounties, as it was called, where we did not owe a dollar. We wasted and threw away $100,000,000. Why? Because the proposition was advanced here, and we were afraid to vote against it.

Mr. EDMUNDS. Not all of us.

Mr. FESSENDEN. Not all of us, but the majority. The bill was passed by the other House; and I was told by members of that House—whether truly or not I do not know, but I suppose they thought it was true—I was told by members of that House who voted for that bounty bill that if it had not been for the question of votes and for fear of the effect produced by defeating it it could not have received the support of twenty members of the House, and I do not believe it could have received the support of ten members in this Chamber. It had no ground except that there was a howl outside. By whom set up? Not by the soldiers themselves, but by a lot of men who established themselves as a committee and sent circulars over the country and got up petitions and made a noise before Congress. I can answer for my own State; the soldiers of my State neither knew nor cared anything about it as a general rule and did not want it. Now, we are to do something more in the same direction, and at a time when our finances are so involved, at a time when we are so much troubled, that we hardly know which way to turn. Sir, I desire to enter my protest against it.

Mr. VAN WINKLE. If the Senator will give way—as this bill is causing discussion which will interfere with the consideration of other bills—I will move to postpone its further consideration.

Mr. FESSENDEN. Well, sir, I will give way, because I have got through. I only desire to enter my protest against any such movements as this.

Mr. VAN WINKLE. I will give the Senator more time for reflection. [Laughter.] I move that the further consideration of this bill at this time be postponed.

The motion was agreed to.

ANN CORCORAN.

Mr. VAN WINKLE. I move that the Senate now proceed to the consideration of Senate bill No. 184.

The motion was agreed to; and the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Ann Corcoran, widow of James Corcoran, late a private in company G, fifth regiment New York volunteer infantry, on the pension-roll, at the rate of eight dollars per month, from the 27th of October, 1864, to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MICHAEL HENNESSY.

Mr. VAN WINKLE. I move now that the Senate proceed to the consideration of Senate bill No. 280, granting a pension to Michael Hennessy.

The motion was agreed to; and the bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri, was read a second time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place the name of Michael Hennessy on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the 1st of January, 1855, and continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANNE DYCHER.

Mr. VAN WINKLE. I move now to proceed to the consideration of Senate bill No. 281.

The motion was agreed to; and the bill (S. No. 281) granting a pension to Anne Dycher, widow of Matthew D. Dycher, was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Anne Dycher, widow of Matthew D. Dycher, late a sergeant in company M, first regiment New York cavalry volunteers, on the pension-roll, at the rate of eight dollars per month, to commence on the 1st of April, 1864, and continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANNIE E. DIXON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 282.

The motion was agreed to; and the bill (S. No. 282) granting a pension to Annie E. Dixon, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place upon the pension-roll the name of Annie E. Dixon, widow of Henry T. Dixon, late a major and assistant paymaster in the volunteer service of the United States, and to pay her a pension of twenty-five dollars per month from the passage of this act, to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANN KELLY.

Mr. VAN WINKLE. I move now to take up for consideration Senate bill No. 291.

The motion was agreed to, and the bill (S. No. 291) granting a pension to Ann Kelly, widow of Bernard Kelly, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Ann Kelly, widow of Bernard Kelly, late a private in company I, thirteenth New York heavy artillery volunteers, on the pension-roll, at the rate of eight dollars per month, to commence on the 13th of May, 1864, and to continue during her widowhood.

Mr. GRIMES. I wish to inquire of the chairman of the Committee on Pensions if the persons for whose benefit these bills are being passed were soldiers in the Army, or the widows or children of soldiers?

Mr. VAN WINKLE. Yes, sir.

Mr. GRIMES. We have just passed one, the case of Dixon, who was not so. I remember it was a case that was controverted last year. It turns out that he was murdered, but was not in the Army at the time.

Mr. VAN WINKLE. No, sir.

The PRESIDENT *pro tempore*. That bill is not before the Senate now.

Mr. VAN WINKLE. There are printed reports in all these cases, which can be read if any Senator desires to hear them.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARIA RAFTERY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 292.

The motion was agreed to; and the bill (S. No. 292) granting a pension to Maria Raftery was read the second time, and considered as in Committee of the Whole. It proposes to direct

the Secretary of the Interior to place the name of Maria Raftery, widow of Patrick Raftery, late a corporal in company H, thirty-third regiment Massachusetts volunteers, on the pension-roll, and pay her a pension at the rate of eight dollars per month during her widowhood, commencing on the 2d of June, 1863; and two dollars per month for each child of Patrick Raftery under the age of sixteen years, commencing on the 25th of July, 1866, and to continue until they shall respectively attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE T. BRIEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 314.

Mr. DRAKE. I ask the permission of the honorable Senator from West Virginia to let me call up another of the many pension bills that are now upon the file. There are some ninety-odd, I believe, and there is one that I would be very much obliged to the honorable chairman of the committee if he will allow me to call up.

Mr. VAN WINKLE. Will the Senator state what bill it is?

Mr. DRAKE. It is Senate bill No. 427, for the relief of the widow and children of John W. Jameson, deceased.

Mr. VAN WINKLE. I do not know what to say about it. These are all my clients. If there is any particular reason why the gentleman wants that bill considered out of its order, I have no objection. It is a meritorious case, I remember.

Mr. DRAKE. I will state for the information of the honorable chairman of the committee that I would not ask it unless there were special reasons of an urgent character making it desirable that this bill should be disposed of at as early a moment as possible, and if the honorable chairman will grant me this favor, I shall be much obliged.

Mr. VAN WINKLE. I do not feel authorized to consent. If the Senate choose to take it up, of course I have no objection.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from West Virginia.

The motion was agreed to; and the bill (S. No. 314) for the relief of George T. Brien was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to allow and pay to George T. Brien, out of the naval pension fund, a pension at the rate of fifteen dollars per month, in lieu of the pension of five dollars per month heretofore allowed him.

Mr. GRIMES. I call for the reading of the report in that case.

The Secretary read the following report submitted by Mr. VAN WINKLE, from the Committee on Pensions, on the 5th of February last:

The Committee on Pensions, to whom was referred the petition of George T. Brien, having had the same under consideration, report:

The petitioner entered the United States naval service in July, 1849, and served on board the United States sloop-of-war Jamestown, and also on the John Adams, on the coast of Africa, in 1851-'52-'53, on which latter station he contracted rheumatism, for which he was pensioned in 1856. He is now a charity patient in the Baltimore infirmary, his pension only enabling him to procure the plainest clothes, and his disability is increased so as to become total. These facts are corroborated by the certificates of the surgeons attending the said infirmary. He asks that he may have his pension increased so that he may not be dependent upon the kindness of a few friends for the necessaries of life. The committee, considering this a case commending itself to the favorable notice of Congress, recommend that his pension be increased to fifteen dollars per month.

Mr. VAN WINKLE. This is one of the applications under the law of 1866, by which the pensions in cases of disability were increased. The Commissioner of Pensions was not satisfied with the proofs adduced, and refused to grant the additional allowance. The petitioner appealed, as it were, to Congress; and the committee, after giving the case a careful consideration, are convinced that his present disability is occasioned by his sufferings in the service. He is a real object of charity in every respect.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARQUIS D. L. MITCHELL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 315.

The motion was agreed to; and the bill (S. No. 315) granting a pension to Marquis D. L. Mitchell, of the Creek nation of Indians, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Marquis D. L. Mitchell, of the Creek nation of Indians, on the pension-roll, at the rate of twenty-five dollars per month, to commence from and after the passage of this bill, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REBECCA V. SENOR.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 316.

The motion was agreed to; and the bill (S. No. 316) for the relief of Rebecca V. Senor, mother of James H. Senor, deceased, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to allow and pay to Rebecca V. Senor, mother of James H. Senor, late a private in company F, twenty-fifth regiment Missouri volunteers, a pension at the rate of eight dollars per month, as his mother, from the 6th of April, 1862, the date of his death, until the 23d of April, 1867, on which date her present pension commenced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SYLVANUS BLODGET.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 317.

The motion was agreed to; and the bill (S. No. 317) granting an increase of pension to Sylvanus Blodget, of Jericho, Chittenden county, Vermont, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to increase the pension of Sylvanus Blodget, of Jericho, Chittenden county, Vermont, from eight to twenty-five dollars per month from and after the passage of this bill, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLOTTE POSEY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 318.

The motion was agreed to; and the bill (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian R. Posey, was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to pay Charlotte Posey her pension from and after the date of the discharge of her late husband, Sebastian R. Posey, up to the date upon which her name was placed upon the pension-roll.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BRIDGET W. M'GRORTY.

Mr. VAN WINKLE. I now move to proceed to the consideration of Senate bill No. 319.

The motion was agreed to; and the bill (S. No. 319) granting a pension to Bridget W. McGrorty, and the minor children of William B. McGrorty, deceased, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Bridget W. McGrorty, of St. Paul, Minnesota, widow of William B. McGrorty, deceased, late a first lieutenant and regimental quartermaster in the fifth regiment Minnesota volunteers, on the pension-roll, at the rate of seventeen dollars per month, to commence from the 16th of February, 1865, and to continue during her widowhood, and two dollars per month to each child of William B. McGrorty under the age of sixteen years, to commence from the 25th of July, 1866, and to continue until they shall respectively attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE LYNCH.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of Senate bill No. 320.

The motion was agreed to; and the bill (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to allow and pay to George Lynch, a soldier of the war of 1812, a pension at the rate of twenty dollars per month, in lieu of the pension of eight dollars per month now received by him, to commence from and after the passage of the act, and to continue during his natural life.

Mr. MORRILL, of Vermont. I call for the reading of the report in that case.

The Secretary read the following report, submitted by Mr. VAN WINKLE, from the Committee on Pensions, on the 5th of February last:

The Committee on Pensions, to whom was referred the petition of George Lynch, having had the same under consideration, report:

The petitioner was a soldier of the war of 1812, and served in the Indian campaign of 1819, during which he had both his feet frozen, and, having had them amputated, he has ever since been unable to do any hard work. He is now receiving a pension at the rate of eight dollars per month, and he prays for an increase thereof, as is provided for in the act of June 6, 1866. He is an inmate of the "Soldiers' Home," where his pension is retained in aid of his support. Should his pension be increased as now prayed for he may be able to go to his friends and be no longer a tax upon the "Home." Dr. Lamb, surgeon in attendance, certifies as to the extent of his disability and to his infirmity from age.

The committee, in view of all the circumstances of the case, recommend that his pension be increased in the same manner as if he had been pensioned under the recent pension acts.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY GAITHER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 321.

The motion was agreed to; and the bill (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to allow and pay to Mrs. Mary Gaither, widow of Wiley Gaither, late a private in company A, twenty-seventh regiment Kentucky infantry volunteers, her pension as such widow from the 27th of March, 1862, the day of his death, until the 13th of June, 1866, on which day her present pension commenced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SHERMAN H. COWLES.

Mr. VAN WINKLE. I now move to take up Senate bill No. 322.

The motion was agreed to; and the bill (S. No. 322) granting a pension to Sherman H. Cowles was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Sherman H. Cowles, late a private in company E, nineteenth regiment Connecticut volunteers, on the pension-roll, at the rate of

eight dollars per month, to commence from the 18th day of May, 1863, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MICHAEL KELLY.

Mr. VAN WINKLE. I now move to take up Senate bill No. 323.

The motion was agreed to; and the bill (S. No. 323) granting a pension to Michael Kelly was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the name of Michael Kelly, late a private in the first Vermont battery volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from and after the passage of the act, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN H. FINLAY.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of Senate bill No. 337.

The motion was agreed to; and the bill (S. No. 337) granting a pension to John H. Finlay was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of John H. Finlay, late a private in company G, second regiment Illinois cavalry volunteers, on the pension-roll, and to pay him a pension at the rate of fifteen dollars per month from the 6th of June, 1866, during his natural life.

Mr. VAN WINKLE. The House of Representatives have already passed a bill granting a pension to this person, and as we prefer to retain the House bill I move that this bill be indefinitely postponed.

The motion was agreed to.

WILLIAM BLAKE.

Mr. VAN WINKLE. I now move to proceed to the consideration of Senate bill No. 338.

The motion was agreed to; and the bill (S. No. 338) for the relief of William Blake, a soldier of the war of 1812, was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to allow and pay to William Blake, a soldier of the war of 1812, a pension at the rate of twenty dollars per month, in lieu of the sum of eight dollars per month now received by him, to commence from the passage of the act and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SARAH WEBB.

Mr. VAN WINKLE. I now move to take up Senate bill No. 339.

The motion was agreed to; and the bill (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor child, was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the name of Sarah Webb, widow of William R. Webb, late a private in company K, first regiment Tennessee infantry volunteers, on the pension-roll, and to pay her at the rate of eight dollars per month, to commence from the 14th of May, 1863, to continue during her widowhood, and the additional sum of two dollars per month for the minor child of William R. Webb, to commence from the 25th of July, 1866, and to continue until the child shall have attained the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS CHITTENDEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of the bill (S. No. 340) for the relief of Thomas Chittenden.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to allow and pay to Thomas Chittenden, of the State of Wisconsin, a pension at the rate of fifteen dollars per month, in lieu of the sum of eight dollars per month now received by him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN W. SALYERS.

Mr. VAN WINKLE. I now move to take up Senate bill No. 341.

The motion was agreed to; and the bill (S. No. 341) granting a pension to John W. Salyers, a soldier of the war of 1812, was read the second time, and considered, as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the name of John W. Salyers, of the State of Indiana, a soldier of the war of 1812, on the pension-roll, at the rate of eight dollars per month, to commence from the passage of the act, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS STEWART.

On motion of Mr. VAN WINKLE, the bill (S. No. 342) granting a pension to Thomas Stewart, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Thomas Stewart on the pension-roll, at the rate of eight dollars per month, to commence from the passage of the act, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

W. G. CUMMINGS.

On motion of Mr. VAN WINKLE, the bill (S. No. 343) for the relief of W. G. Cummings, was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to allow and pay to W. G. Cummings, late a lieutenant colonel in the first regiment Vermont cavalry volunteers, a pension at the rate of thirty dollars per month, in lieu of the sum of twenty dollars per month now received by him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAROLINE AND MARGARET SWARTWOUT.

On motion of Mr. VAN WINKLE, the bill (S. No. 344) granting a pension to Caroline and Margaret Swarwout, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place upon the pension-roll the names of Caroline and Margaret Swartwout, sisters of Samuel Swartwout, late a commodore in the Navy of the United States, and to pay to them, or the survivor of them, a pension at the rate of thirty dollars per month from the 15th of February, 1867, during their joint lives and the life of the survivor.

Mr. CONKLING. I should like to inquire of the Senator from West Virginia whether all these bills which are being passed so rapidly, have been by him personally examined so that he is able to vouch for them?

Mr. VAN WINKLE. I believe I have not only read every petition and every bill, but every particle of testimony accompanying them; and all the bills which have originated in the Senate are accompanied by printed reports, which Senators can examine at their leisure.

Mr. CONKLING. So that Senators have his personal assurance that in his opinion they are all right?

Mr. VAN WINKLE. In my opinion, and that of at least a majority of the committee in every case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JULIA M. MOLIN.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of the bill (S. No. 333) for the relief of Julia M. Molin.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Interior to allow and pay to Julia M. Molin, of Stockholm, Sweden, widow of Charles G. Molin, late a private in the second regiment of Minnesota volunteers, a pension at the rate of eight dollars per month, from the 18th of May, 1862, the date of the death of her husband, until the 19th of December, 1867, the date of the commencement of the pension heretofore allowed her.

Mr. POMEROY. If there is a report in that case I should like to hear it read. It seems that this pension is to be paid to a foreigner, to somebody in Sweden. It may be all right, but I should like to know whether we have provided by law for the payment of pensions to foreigners.

The Secretary read the following report, submitted by Mr. VAN WINKLE, from the Committee on Pensions, on the 14th of February last:

The Committee on Pensions, to whom was referred a bill for the relief of Julia M. Molin, respectfully report:

The said Julia is the widow of Charles G. Molin, late a private in the second regiment of Minnesota volunteers, who died in the service on the 18th day of May, 1862. A pension was granted her commencing on the 19th day of December last, the date of the filing of the last paper in the case, her application having been made more than three years after the death of her husband. Inquiries had been for some years in progress under the auspices, first of the consulate, and then of the legation of Sweden in this country, but it was not until 1866 that the fact of his death as aforesaid was ascertained. Believing, therefore, that the delay to apply for her pension was in no sense the fault of the widow, the committee report a bill for her relief and recommend its passage.

Mr. POMEROY. It seems quite generous, I think, for us to pay a pension to a person in no way connected with us in this country because she was not able to get her papers in as soon as it was desirable to have them; but we now propose not only to pay her the pension allowed by law, but to pay her for the time that elapsed prior to putting in her papers. I supposed that these special pension cases were generally reported on the ground of some extreme necessity, poverty, or disability. This seems to be the case of a widow, who is not an American citizen, and it is proposed to allow her a pension for the time that she consumed in preparing her papers and getting them ready. I think it is going beyond the proper rule. It is a small matter, to be sure, only granting a pension for two or three years. I have listened very patiently to these bills, and am willing to pass bills of the kind in cases of necessity that properly appeal to us, but I do not believe that we have a right to make donations and contributions in all these cases.

Mr. VAN WINKLE. The Senator seems to forget that this foreigner served in our Army; and for so doing, if he had lived and chosen to become a citizen of the United States he would have been such; and I suppose that would have naturalized his wife. This case came to me through the State Department from the office of foreign affairs of Sweden. It is a very plain case and within the principles upon which Congress has constantly acted in similar cases, and I can see no reason for refusing the pension because the mother is a foreigner. A pension has been granted to her at the Pension Office, but on account of her want of information, the fact of her son's death was not discovered until the war had closed, and then there was some omission in the military roll, and they had to send here and there to officers, in order to have the roll corrected. It was no fault of hers, therefore, that she did not apply in time. She was absolutely entitled to the pension under the law, from the death of her son, and but for the provision that it must be applied for within three years, she would have

obtained it at the time. Believing that that was entirely without her fault, that a part of the fault was on the side of those who made out the army rolls, the committee thought they could not do better than give her the pension.

Mr. POMEROY. I agree that if the soldier had lived, and if he had chosen to become a citizen, he would have been such. That is the argument of the Senator from West Virginia.

Mr. VAN WINKLE. I do not know of anything that would prevent the payment of a pension to a foreigner who enlisted in our service.

Mr. POMEROY. But the fact is, that he did not, up to the time of his death, choose to become an American citizen.

Mr. VAN WINKLE. He died in the Army during the war.

Mr. POMEROY. I have always, here and everywhere, declared that I would make no distinction between a native citizen and an adopted citizen; but I really want them adopted. I think that the claims of citizens of our own country, either native or adopted, are a little paramount to those of persons of other countries. I do not suppose it is worth while to make an objection to this bill; but still I think it is out of the ordinary course. It is an act of great generosity, and is exhibiting more liberality than we usually exhibit to our own citizens.

Mr. CONNESS. The Senator proposes, perhaps, a fair rule; but would it not be better for him to find some other case to begin it?

Mr. POMEROY. I have never found a case that would suit.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LOUISA FITCH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 359.

The motion was agreed to; and the bill (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Louisa Fitch, widow of E. P. Fitch, late a captain and assistant quartermaster United States volunteers, on the pension-roll, and to pay her at the rate of twenty dollars per month, to commence from the 31st of May, 1864, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EDWARD HAMEL.

On motion of Mr. VAN WINKLE, the bill (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased, was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place upon the pension-roll the name of Edward Hamel, only surviving child of Edward Hamel, late a private in company C, eighth regiment Kansas volunteers, who died in the service of the United States and in the line of duty, and to pay to him or his legally appointed guardian or guardians a pension of eight dollars a month, from the 11th of October, 1861, the date of the death of his father, until he attains the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN W. HARRIS.

On motion of Mr. VAN WINKLE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 332) granting a pension to John W. Harris. It directs the Secretary of the Interior to place upon the pension-roll the name of John W. Harris, late a pilot in the service of the United States, and to allow and pay to him from the naval pension fund a pension at the rate of twenty-five dollars per month, to commence on the 15th of April, 1863.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OBADIAH T. PLUM.

On motion of Mr. VAN WINKLE, the bill (S. No. 382) granting an increase of pension to Obadiah T. Plum, was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to increase the pension of Obadiah T. Plum, late a private in company F, twenty-second regiment Iowa infantry volunteers, from eight dollars to twenty-five dollars per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN A. AND ELIZABETH J. WEED.

On motion of Mr. VAN WINKLE, the bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place upon the pension-roll the names of John A. Weed and Elizabeth J. Weed, only surviving children of Robert T. Weed, late a private in the second Indiana battery volunteers, who died in the service of the United States and in the line of duty, and to pay to them, or their legally appointed guardian or guardians, a pension of eight dollars per month from the 10th of November, 1864, the date of the death of their father, until they respectively attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY ATKINSON.

On motion of Mr. VAN WINKLE, the bill (S. No. 419) granting a pension to Mary Atkinson was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll the name of Mary Atkinson, mother of Andrew B. Atkinson, late a quartermaster in the United States Navy, who died in the service of the United States and in the line of duty, and allow and pay her out of the naval pension fund a pension at the rate of twenty dollars per month, to commence from the passage of the act, and to continue during her natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES A. GUTHRIE.

On motion of Mr. VAN WINKLE, the bill (S. No. 420) granting a pension to James A. Guthrie was read the second time, and considered as in Committee of the Whole. By it the Secretary of the Interior is directed to place on the pension-roll the name of James A. Guthrie, of Iowa, who was a private in company A, sixteenth regiment Illinois volunteers, in the war with Mexico, and allow and pay him a pension at the rate of fifteen dollars per month from the 6th of June, 1866, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAROLINE E. THOMAS.

On motion of Mr. VAN WINKLE, the bill (S. No. 421) granting a pension to Caroline E. Thomas was read the second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Caroline E. Thomas on the pension-roll, and allow and pay her a pension at the rate of eight dollars per month from September 28, 1850, to December 28, 1857, and from and after the passage of the act.

Mr. GRIMES. I should like to know the special reason why that pension goes back to 1857, contrary to the rule, as I understand it, that has prevailed here for years.

Mr. VAN WINKLE. Mr. Thomas died in the service of the regular Army. His wife remained a widow for seven years and three months and then remarried. Soon after her second husband proved to be a worthless fellow, and she returned practically to the state of widowhood, and the committee have allowed her the pension to which she would have been entitled during her widowhood, which is according to law.

Mr. GRIMES. But my inquiry is this: this pension dates back to 1857, as I understand.

Mr. MORRILL, of Vermont. Eighteen hundred and fifty.

Mr. GRIMES. That is contrary to the rule both of the Department and of Congress, as I understand, to date a pension back eighteen years.

Mr. VAN WINKLE. It only fills the interval of her widowhood; she showed good reasons why she did not apply before; I forget now precisely what they were; but the committee were satisfied that she would have been entitled to a pension if she had applied.

Mr. GRIMES. I should like to know what those reasons were.

Mr. VAN WINKLE. They will be found in the papers. I do not remember them particularly.

Mr. TRUMBULL. I ask for the reading of the report in that case.

The Secretary read the following report, submitted by Mr. VAN WINKLE, from the Committee on Pensions, on the 6th of March last:

The Committee on Pensions, to whom was referred the petition of Caroline E. Thomas, having had the same under consideration, report:

The petitioner was the wife of Thomas S. Gardner, who was a sergeant in company H, second United States artillery, and died while in the service at Savannah, Georgia, about the 28th of September, 1850, having been thirteen years either a regular or a volunteer. She remained a widow for seven years and three months, when she married a Mr. Thomas, but was soon after separated from him, and has had to battle with the world ever since for a living. Under the existing laws she was entitled to a pension after her first husband's death, during her widowhood, which pension she did not receive, and she now applies for what she could have had if she had applied for it in time.

The committee, under all the circumstances, believing that her present condition is equivalent to that of widowhood, recommend the passage of the accompanying bill.

Mr. GRIMES. I am not going to object to this bill if this is to be the rule that the Senate intend to establish. I happened to serve on the Committee on Pensions for two years, and I remember very distinctly that the rule that had always prevailed up to that time, and which was followed at that time and until very recently—I never knew that it had been departed from—was, that a pension should only commence running from the time the application was made, either to the Department or to Congress. Now, there is no reason assigned here, according to that report, why the application was not made in 1850, or some time between 1850 and 1857, when she married the second time. Then, in the second place, it seems that this woman has a husband now alive. They are separated. We do not know whether they are divorced or not. We do not know the character of that separation. They may be living together to-day. I only call the attention of the Senate to it. If this is to be the character of the precedent we are to establish in the future, there are a great many other cases that will come within the same rule.

Mr. VAN WINKLE. This is a case, like many others that come here, which addresses itself somewhat to the discretion of the Senate, of course, and to the discretion of the committee, in the first place, upon their sense of justice and propriety. I cannot recall at this moment the reason that hindered this woman from getting this pension during her widowhood. Her case is a meritorious one, I remember, and one to which the committee felt inclined to yield something if they could. They have given her this pension, which she was entitled to receive for the services of her husband in the Mexican

war; and they have made the pension a private's pension. I think it is to go on from the time of the passage of this act. The second marriage we considered as practically a nullity. Whether the man is dead or alive is not known, I believe; and she has been left in that state for some time with several children to provide for. I suppose the children would now be nearly of age; but she never received any pension for those children, to which she was entitled by law. The Senate can, if it chooses, if the Senator from Iowa makes that motion, strike out the pension from September 28, 1850, to December 28, 1857, so as to grant her a pension merely from the passage of this act. I think it no more than reasonable to do that, at least; but my impression is that the woman is entitled to the pension proposed in the bill, and would probably have been entitled to it at the Pension Office, but for the strict rule that she must apply within a certain time.

I do not know that that applied to pensions of the Mexican war. I do not know that there was any law until the act of 1862 compelling them to apply within three years. We have petitions before our committee complaining of the strictness of that rule, and we have a bill before us on the subject. As a general rule we give relief when the parties seem entitled to it, if they had been hindered in preparing their cases; as, for instance, where they put their pension matters in the hands of an agent, and the agent went on and put them to some expense, and then, perhaps, neglected his duties; and these widows, who have very little knowledge of business and very little knowledge of law, have got ousted of their pensions. In most cases of that kind, where the proof is that the widow had done all she could do toward getting a pension, we have allowed the arrears, if you please to call them so. We are not in the habit, where it was through the fault or negligence or inattention of the parties that they failed to apply, of allowing arrears of pensions; but only in cases where we believe the parties were not in fault, and this is one of them.

Mr. GRIMES. But it does not appear from the report of the committee that she ever made any effort to get a pension before now. The report of the committee has just been read; and it seems from that that she has slumbered upon her rights, if she had any, for eighteen years.

If she was entitled to a pension during this whole time I suppose it amounts to between two and three thousand dollars. I only call attention to the fact that it is a departure from the rule which has hitherto prevailed in the Senate.

Mr. FESSENDEN. As the Senator from Iowa thinks it is wrong, and the Senator from West Virginia, the chairman of the committee, does not seem to dispute that it probably is wrong, and neither of them will move an amendment, I will. I propose that the bill be amended so as to grant the pension "from and after the passage of this act."

The PRESIDENT *pro tempore*. The Senator from Maine moves to amend the bill in lines six, seven, and eight, by striking out the words "from September 28, 1850, to December 28, 1857, and;" so that the bill will read:

That the Secretary of the Interior is hereby authorized and directed to place the name of Caroline E. Thomas on the pension-roll, and allow and pay her a pension at the rate of eight dollars per month from and after the passage of this act.

Mr. VAN WINKLE. In looking at the papers I find one fact that had some influence with the committee. This woman accompanied her husband through the Mexican war and acted as a nurse for the sick. There were meritorious circumstances in the case which induced the committee to depart a little from the strict rules in order that she might have some means of support.

Mr. FESSENDEN. If she gets a pension as soon as she asks for it I think that is enough.

Mr. VAN WINKLE. It is addressed to the discretion of the Senate, as I have already observed, as it was to the committee. The committee considered it and discussed it, and a majority of them directed the bill to be reported in its present shape.

Mr. FESSENDEN. I really think it is not worth while to abandon precedents that have been well established and found to be safe and to work well, because if we begin the abandonment there is no knowing where we shall end.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

HEIRS OF GENERAL DUNCAN L. CLINCH.

Mr. HOWE. I ask leave to submit a report from a committee of conference at this time.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, to wit:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendments, to wit: In the third line from the bottom of the first page strike out, after the word "of," the words "ten thousand dollars in trust for the said Eliza B. Anderson," and insert the following, to wit: "$15,000 to Lars Anderson in trust for the exclusive use of said Eliza B. Anderson during her lifetime, and any part thereof remaining at her death to be held in trust for her children;" and that the House agree to the same.

TIMOTHY O. HOWE,
WILLIAM P. FESSENDEN,
GARRETT DAVIS,
Managers on the part of the Senate.
WILLIAM S. HOLMAN,
JOHN A. BINGHAM,
WILLIAM B. WASHBURN,
Managers on the part of the House.

The report was concurred in.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had this day approved and signed the following bill and joint resolutions:

A bill (S. No. 268) for the relief of the legal representatives of the late Philip R. Fendall;

A joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre;

A joint resolution (S. R. No. 92) for the relief of Israel S. Diehl;

A joint resolution (S. R. No. 102) instructing the superintendent of the asylum for the insane in the District of Columbia to admit James McIntosh on the same footing as indigent persons of the District; and

A joint resolution (S. R. No. 111) providing for the issue of clothing to soldiers and others, to replace clothing destroyed to prevent contagion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution of the Senate:

A bill (S. No. 376) to facilitate the settlement of paymasters' accounts; and

A joint resolution (S. R. No. 117) to authorize the erection of a military storehouse at Fort Monroe, Virginia.

The message further announced that the House had passed the bill (S. No. 213) to amend an act entitled "An act to amend the judiciary act passed the 24th of September, 1789," with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House insisted upon its amendment to the amendment of the Senate to the joint resolution of the House (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, agreed to the conference asked by the Senate on the disagreeing vote of the two Houses thereon, and had appointed Mr. CADWALADER C. WASHBURN of Wisconsin, Mr. G. W. SCOFIELD of Pennsylvania, and Mr. D. BARNES of New York, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 376) to facilitate the settlement of paymasters' accounts; and

A joint resolution (S. R. No. 117) to authorize the erection of a military storehouse at Fort Monroe, Virginia.

PERSONAL EXPLANATION.

Mr. ANTHONY. I am compelled to rise to a personal explanation. I believe that in all the time I have been in this body, a period longer than the service of almost any of those whom I see around me, I have never had cause to complain of anything which has appeared in regard to me in a newspaper. The experience I have had in complaints of that kind has generally been on the other side of the offense. But an article appeared in an evening paper yesterday so remarkably vindictive, and which has subjected me to such continual annoyance and distress to-day, that I desire to contradict it; and I hope the reporters will take a note of it. Some uncommonly malicious person has caused a paragraph to be published in one of the papers that "Senator ANTHONY is charged with distributing the tickets of admission to the Senate galleries on the impeachment trial." [Laughter.] Senators, judging from their own experience of the pressure that has been brought to bear upon them, with four tickets apiece, may imagine what has happened to me under the general impression throughout the city that I have the disposition of these tickets. [Laughter.]

My lodgings were besieged this morning before I was up, and I made my way with considerable difficulty through the most obscure streets to the Capitol, and I found so many people in my committee-room that I had to consult the Sergeant-at-Arms about putting an extra police there. [Laughter.]

I desire to state that the paragraph is entirely incorrect. I have no more tickets than any other Senator. In fact, my colleague and I have less than any other Senators except the Senators from Oregon, Delaware, Nebraska, and Nevada, being the only four States now represented in this Chamber smaller than Rhode Island. I believe that California and Texas are now a little larger, or quite as large.

Mr. CONNESS. I should like to know now precisely from the Senator if this is not a dodge of his to avoid the proper responsibility. [Laughter.] I hope it is not.

Mr. ANTHONY. No, sir.

Mr. CONNESS. If he has been thus charged I hope he will stand up to the fair responsibility of his position. [Laughter.]

Mr. ANTHONY. I have delegated all the authority of that kind to the Senator from California, to whom applications may be made. [Laughter.]

MARIA SCHWEITZER.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of Senate bill No. 422.

The motion was agreed to; and the bill (S. No. 422) granting a pension to Maria Schweitzer and the minor children of Conrad Schweitzer, deceased, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place upon the pension-roll the names of Maria Schweitzer, the widow, and Carl B. and Maria Schweitzer, children under sixteen years of age of Conrad Schweitzer, late a private in

company C, sixty-first regiment New York volunteers, and allow and pay her a pension at the rate of eight dollars per month for herself during widowhood, and two dollars per month for each of the children, until they severally attain the age of sixteen years, commencing Februrary 2, 1865.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES JACKSON.

Mr. VAN WINKLE. I move to proceed to the consideration of Senate bill No. 423.

The motion was agreed to; and the bill (S. No. 423) granting a pension to James Jackson was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is hereby authorized and directed by the bill to place upon the pension-roll the name of James Jackson, late a private in Captain Crawford's company, first regiment Indiana volunteers, in the war with Mexico, and allow and pay him a pension at the rate of eight dollars per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BARTLET AND CARRIE EDWARDS.

Mr. VAN WINKLE. I move that the Senate now proceed to the consideration of Senate bill No. 424.

The motion was agreed to; and the bill (S. No. 424) granting a pension to Bartlet and Carrie Edwards, children of David W. Edwards, deceased, was read the second time, and considered as in Committee of the Whole. By it the Secretary of the Interior is directed to place upon the pension-roll the names of Bartlet and Carrie Edwards, children under sixteen years of age of David W. Edwards, deceased, and to allow and pay to them or their legally appointed guardian or guardians a pension at the rate of fifteen dollars per month, from the 30th of October, 1864, until they shall respectively attain the age of sixteen years.

Mr. CAMERON. I should like to know why these parties are allowed fifteen dollars a month and others are only allowed eight dollars, and why the pension goes back three years?

Mr. GRIMES. I call for the reading of the bill again.

The Secretary read the bill.

Mr. CAMERON. Does the word "they" near the close of the bill include both of them?

Mr. VAN WINKLE. Yes, sir. Under the law the children are entitled to the same pension as their parents. There is no wife in this case. The children are motherless as well as fatherless. Their pension is fifteen dollars for the rank which he held—assistant provost marshal. The fifteen dollars is paid to the children jointly until one of them attains the age of sixteen years, and then to the other until he or she attains that age. The bill is in strict accordance with the law. The only question was as to the capacity in which this man acted.

Mr. CAMERON. I move to insert the word "jointly."

Mr. TRUMBULL. That would not be right, because when one arrives at the age of sixteen the pension would stop.

Mr. CAMERON. I propose that it shall be paid to them jointly until one of them arrives at that age.

Mr. TRUMBULL. As soon as they arrive at the age of sixteen the pension stops, under the law. One of them, of course, will arrive at that age before the other. It goes to both until one arrives at the age of sixteen, and then it goes to the other.

Mr. CAMERON. The bill does not say so?

Mr. TRUMBULL. I think that would be the construction of it.

Mr. CAMERON. I desire to have an amendment made so as to make that certain.

Mr. GRIMES. I call for the reading of the report. Let us see what this case is.

The Secretary read the following report submitted by Mr. VAN WINKLE, from the Committee on Pensions, on the 6th of March:

The Committee on Pensions, to whom was referred the petition of Caroline A. Bachelder, late widow of David W. Edwards, deceased, having considered the same, report:

The petitioner in this case, Caroline A. Bachelder, represents that she was the widow of David W. Edwards, deceased, late of Liberty, Waldo county, Maine, but has remarried, and prays that a pension may be granted to the children under sixteen years of age of the said Edwards. In 1864 he was appointed a special agent by the provost marshal of the fifth congressional district of Maine, and while in the discharge of his duty as such agent, acting under special instructions from the headquarters of the provost marshal, and while attempting the arrest of parties resisting the laws of the United States, he was shot and instantly killed.

The committee, after a careful examination of the proofs in this case, and all the circumstances connected with it, are decidedly of the opinion that the children of said Edwards are justly entitled to a pension, and recommend the passage of the accompanying bill.

Mr. CAMERON. I offer an amendment to the bill that the pension be paid to them jointly until the eldest becomes sixteen, and then that it shall be paid to the other. The Secretary can put it in shape.

Mr. GRIMES. I should like to know whether this bill is in accordance with the precedents? The mother is still living. These children are not, as the Senator from West Virginia seemed to think, orphans. The mother has married the second time.

Mr. VAN WINKLE. That does not affect their situation.

Mr. GRIMES. I do not know whether it affects them or not. Then, I would inquire again, whether or not there is any law or any precedent by which the agent of a provost marshal is put upon the pension-list? I was not aware before that there was any such *emeute* in the State of Maine. I supposed that that was a law-abiding State and was loyal throughout the war. I am astonished to hear that Waldo county, in the State of Maine, represented by as loyal Senators as that State is, should have resisted the draft, and that the life of one of the assistant provost marshals should have been taken in his attempt to enforce the law.

Mr. VAN WINKLE. There is a law for it.

The PRESIDENT *pro tempore*. The Secretary will read the bill as proposed to be amended by the Senator from Pennsylvania.

The Secretary read as follows:

That the Secretary of the Interior is hereby authorized and directed to place upon the pension-roll the names of Bartlet and Carrie Edwards, children under sixteen years of age of David W. Edwards, deceased, and to allow and pay to them jointly or their legally appointed guardian or guardians a pension at the rate of fifteen dollars per month, from the 13th day of October, 1864, until the eldest child shall have attained the age of sixteen years, and after that to the youngest until it shall have attained the age of sixteen years.

Mr. VAN WINKLE. I can assure the Senator from Pennsylvania that there is no occasion for that amendment. Bills have been passing Congress ever since I have been a member of it in which the same language that is contained in this bill has been used, and it is perfectly understood at the Pension Office, and I believe it is taken from the law itself. I have sometimes used the word "severally" instead of "respectively." But the Commissioner is to pay these children a pension of fifteen dollars a month until they attain the age of sixteen years. There can be no mistake about it.

Mr. CAMERON. I do not desire to be pertinacious in this matter. I only wish to confine the bill clearly to what is said to be the intention. If the chairman of the committee is certain about that, as he seems to be, I shall withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. GRIMES. I will inquire of the chairman of the committee what were the circumstances under which this assistant provost marshal in Maine was killed. Perhaps the Senators from Maine can give us the information.

Mr. MORRILL, of Maine. What about?

Mr. GRIMES. About a provost marshal killed in the discharge of his duty in enforcing the draft.

Mr. VAN WINKLE. He was a special deputy provost marshal, and was appointed for a special purpose; and they have always been allowed by the law—I was looking for the law a moment ago—to rank with the deputies who were permanently in the service. This man was sent out for the purpose of apprehending deserters, and in the attempt to apprehend them they shot him dead, I believe, on the spot. He was in the service, and there is a law which says that any person who is in the service of the United States, although not regularly mustered in, shall be entitled to the benefit of the pension laws. In the spirit of the law, at least, we think this case is entitled to a pension. Here is the law. I read from the fourth section of the act of July 4, 1864:

"That those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March, 1861, shall, if they have been disabled in consequence of wounds received in battle in such temporary service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service," &c.

In the spirit of that section and of previous repeated decisions in reference to assistant provost marshals, several bills of the kind have passed Congress during the last two or three years. I think this case is entirely within the spirit of the law. We have allowed these children the pension which a deputy provost marshalship would entitle them to.

Mr. HOWE. Will the Senator allow me to inquire if he does not here establish a precedent by which we are bound, on application, to continue every widow on the pension-roll, even after she shall have married again?

Mr. VAN WINKLE. Oh, no; there is a special clause which prevents their getting anything where they marry again.

Mr. HOWE. But this case makes a special grant of a pension to the children of a widow who has married again.

Mr. VAN WINKLE. The law is express that in case of the death or marriage of the widow, or if there is no widow at the time of the death of the husband and father, the pension goes to the children.

Mr. HOWE. Then this is in accordance with the general law?

Mr. VAN WINKLE. Yes, sir. It goes to the children in the first place, and then it may go to sisters, brothers, and fathers.

Mr. CAMERON. I think this is carrying our pension system very far. Since the reading of the report my judgment in regard to the case is very much changed. Here was a deputy provost marshal—some man probably who never served in the Army at all—and in the discharge of his duty he was killed, and his children now ask for a pension. Upon the same principle you ought to pension the children of every man who is killed or disabled in the service of a civil process. There is no difference in the two cases. The intention of the pension laws is to give a bounty to the patriotism of the country, some compensation to the heirs of those who have served their country on the tented field and who have been disabled or killed in the service while exposed to the perils of war. Here a man, probably a simple constable of a village, who sought the place in going out to serve a process, by some accident is killed in the performance of that civil duty; and yet we are to pension his children! They may be very worthy objects of compassion; but it seems to me this is carrying the system of pensions so far that in the end we shall be compelled to stop because our Treasury will be depleted. I move that this bill be postponed for the present. Let us have an opportunity to think about it, for I fear the precedent which the chairman of the committee, in his kindness, is disposed to set here.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Pennsylvania moves that the further consideration of the bill be postponed until to-morrow.

Mr. VAN WINKLE. I hope not. The language used in this bill has been uniformly used, and, as I have already observed, it is perfectly understood at the Pension Office. I hold in my hand the law of July 25, 1866, the second section of which provides as follows:

"And in all cases in which there shall be more than one child of any deceased soldier or sailor leaving no widow, or where his widow has died or married again, or where she has been deprived of her pnesion under the provisions of section eleven of an act entitled 'An act supplementary to the several acts relating to pensions,' approved June 6, 1866, the pension granted to such children under sixteen years of age by existing laws shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow if living and entitled to a pension."

The law is explicit, and this bill will be interpreted in accordance with the law. I trust the amendment will not prevail. It is a mere question of language after all; but if this change is made it may be necessary to make the same change in a great many bills that have come from the House, and perhaps some that have already passed.

Mr. TIPTON. I desire simply to say that this case was investigated by the committee. Although it is possible that a man might have been found acting as deputy provost marshal who had not patriotism enough to carry him to the battle-field, yet the service was as important as any service performed on the battle-field, and to die in the discharge of a duty of that kind, so intimately connected with the service, would entitle the person who undertook to perform the service to as much of the consideration, and his dependent orphans to as much of the consideration, of this body, in my humble opinion, as though he had died in the hour of victory upon one of the most important battle-fields of the war. I cannot think, therefore, that the precedent is a dangerous one to give a pension to the minor children of one who, in the discharge of a duty connected immediately with that arm of the service, lost his life.

Mr. VAN WINKLE. I could not lay my hands at once upon the original law of 1862, which provides for these children. I have it now before me, and I will read it. The second section of the act of July 14, 1862, is in these words:

"That if any officer or other person named in the first section of this act has died since the 4th day of March, 1861, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or, if there be no widow, his child or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain the age of sixteen years, and no longer."

There is the very language that is used in this bill, except that the word "respectively" is substituted for "severally," and that is a distinction without a difference. I trust, the language of the bill being that of the law, it will be allowed to stand.

Mr. CAMERON. It seems perhaps a small matter to object to a pension of fifteen dollars a month; but I fear if this precedent be established it will extend the law so far as eventually to cost us millions of dollars. Now, as I understand this case, the widow never was entitled to a pension. If she was, under the law which the honorable Senator from West Virginia reads, she could go to the Pension Office and get her pension. If her children are entitled they could do so. But she never had a pension, never believed herself entitled to it; and now we propose to pension the children of a person, as I said before, who was a mere constable to serve process, and who happened to lose his life perhaps by his own fault. That I do not know. We cannot know that. It is a very different case from that of a man who puts a knapsack on his back and a musket on his shoulder and goes out to battle, to endure all the perils of war and all the privations which attend a soldier's life. Here is a man who undoubtedly sought this employment in the village in which he lived as a matter of favor to himself, and in the discharge of that regular duty, to my mind, he is no more entitled, and his children are no more entitled, to a pension than would be the children of a constable who went out to serve a process either military or civil. If we compensate all these people by pensions the amount will be enormous. I beg the Senator from West Virginia, who I know is governed, like all good men, very much by his kindly feelings, to at least give us time in this matter to reflect about it, to see that we add no new precedents to this already immense list of pensions. Let every soldier and the widow of every soldier and the child of every soldier who performed service be pensioned as fully as the most liberal gratitude would dictate; but do not let us increase this list by bringing in people who have not such claims.

Mr. VAN WINKLE. I will state that this pension case, like that of most others that come before the committee, was before the Pension Office. The Commissioner of Pensions was willing to allow it, as we have allowed it, but was not satisfied that he was authorized by law to allow a pension to the children of this man, because he was not regularly mustered and commissioned in the service, but acting temporarily. After that had been provided for he made no difficulty about the children, nor does he make any in the thousand other cases of the same kind. The law is explicit and express, and, as I have already shown, the bill uses the very language of the law; and I trust that the amendment that has been suggested will not prevail.

Mr. MORRILL, of Maine. I want to say one word to the Senator from Pennsylvania, who misapprehends the facts, as I understand them. He supposed that this person who was killed had volunteered, or had sought this service for some particular benefit to himself. The facts are that he was acting in an entirely subordinate capacity and had no option about it. He was not acting for a compensation, not moved by that consideration. He went, as he was commanded to do, by his superior to arrest some deserters. He was under the command of his superior, and while attempting to arrest some deserters he was shot dead. I hardly think you can imagine a more meritorious case.

Mr. FRELINGHUYSEN. He was in the military service?

Mr. MORRILL, of Maine. Yes, sir, he was in the service, and was commanded by his superior officer.

Mr. GRIMES. Was he an enlisted man?

Mr. MORRILL, of Maine. No, sir.

Mr. CAMERON. If he was a soldier I have no objection to the bill.

Mr. MORRILL, of Maine. He certainly lost his life; there is no doubt about that; and he lost it in the service, and he was under the command of an officer who was in the service, and was performing his duty in arresting those persons. I submit to my friend, therefore, that so far as these poor children are concerned——

Mr. CAMERON. Will the Senator allow me to ask him one question?

Mr. MORRILL, of Maine. Certainly.

Mr. CAMERON. If this man was a soldier who had volunteered, who had been drafted, or was in any way in the service of the country previous to being called upon this special duty, I would have no objection. I only desire to know that fact.

Mr. MORRILL, of Maine. Does the honorable Senator think he raises a meritorious distinction when he tries to make a distinction between having been mustered in and drilled in a regiment or company and the fact of serving for the arrest of parties under a military officer charged with that duty? The officer had a right to command all persons to aid him, and this man went with him, not as the Senator supposes, for a pecuniary consideration, but in the discharge of a duty. Now, I submit to the Senator that the result to these poor children who are asking the aid of the Government is as severe as it possibly could have been under any other circumstances whatever. The father was shot dead in the service of the country; the service was meritorious, and it was not, as my honorable friend supposes, a pecuniary consideration with this man.

Mr. FERRY. As I understand, this is the case of a deputy provost marshal in the State of Maine whose superior officer, if you may call him so, the provost marshal of the district, in undertaking to arrest some deserters, probably from the draft, called upon his deputies, and this man was killed in the attempt to arrest a deserter. Now, if we had a general law whereby the provost marshals appointed to execute the conscription laws, and their deputies, if wounded or killed in the discharge of those official duties, should, in the former instance receive pensions themselves, or their widows or children in the latter instance, and here was a mere technical mistake or oversight, it would be a different thing. But the question before us distinctly is this: whether we shall adopt a system of giving pensions to the vast number of deputy provost marshals who were scattered all over the loyal States for the purpose of carrying out the conscription laws. In every congressional district there was a provost marshal, and in almost every town the district marshal had a deputy; and I know that in some cases this position of deputy marshal of a town was sought for—sought for for pecuniary reasons, because there was an opportunity to obtain a pecuniary advantage in the arrest of deserters and the returning of them to the principal provost marshal. It seems to me that if we are to adopt the principle of pensioning the families of the deputy provost marshals who were injured or killed in the discharge of their official duty, we should have a general law for it. There were quite a number of instances, quite a number within my own knowledge in the loyal States where deputy provost marshals were injured, and in some places killed, in the discharge of precisely similar duties to the one in the present case. I would certainly not favor special legislation for a particular case of this kind.

Mr. FRELINGHUYSEN. I think it would be very well to have a general law, because it is very clear that the case is just as meritorious as though these officers had been enlisted. They were *de facto* in the service. But I apprehend that the number of these cases is so small that there is no occasion for a general law, and that we can meet this case; and it is not likely to be even a precedent, for I do not think there were a great many provost marshals killed or injured; but if there is a case equally meritorious, then have a special act to cover it. I do not see any reason why this case should not receive the favorable consideration of the Senate.

Mr. GRIMES. It occurs to me that the Senator from New Jersey proceeds upon a wrong idea as to what our pension system is designed for. It is not as a gratuity, it is not to reward men for what they have done; but we say to the citizens of this country in advance, "We have established a pension system; if you choose to volunteer for the service of the United States, or if you are drafted for the service of the United States, and you are killed or wounded, you shall be provided for, in the one case during the balance of your life or your family in the other." We have not said so in regard to marshals, or deputy marshals, or provost marshals, or deputy provost marshals.

Mr. EDMUNDS. The Senator is entirely mistaken in his notion about the law, because the pension acts for this war did not begin until 1862, long after the war began.

Mr. GRIMES. That has been the policy of the Government from its foundation. We have proceeded upon that idea, and it is a part of the national system.

Mr. FRELINGHUYSEN. To encourage patriotism.

Mr. GRIMES. Yes, sir; if you choose to call it so, to encourage patriotism. It says to the poor man called upon to leave his family, "If you choose to leave your family and risk your life in the defense of the country and in holding up its flag where it is attacked, your family shall be provided for, and your wants shall be supplied in the future." It is not intended as an *ex post facto* law to apply to cases as a mere gratuity. It was never intended to meet a charitable case, if you please; but it is a part of a system. Now, the question is, whether or not we had better establish a precedent in passing this bill by which we shall pay all the deputy provost marshals; and I do not understand that this man was a deputy provost marshal.

Mr. VAN WINKLE. He was.

Mr. GRIMES. I understand he was merely called upon temporarily to go out and assist in the execution of a process that was in the hands of the provost marshal for that district. But the same principle extends beyond a deputy provost marshal. If we are going to pay a pension to the children of a deputy provost marshal, why shall we not extend it to a deputy marshal who, while in the execution of the process of a United States court, is shot down also?

Mr. EDMUNDS. We ought to do so.

Mr. GRIMES. The Senator says we ought to do so. That may be his idea. His idea of the Government may be that of a great system of pensioned citizens. That is not my idea, and that, I apprehend, was not the idea of the men who founded the Government. I think the whole pension system is wrong. If I had my way I would establish an obligatory duty, and enforce it upon every citizen of the country to render military allegiance to the Government whenever it is called for.

Mr. EDMUNDS. It is now.

Mr. GRIMES. No, sir; and I would put all those who were disabled or disqualified from gaining a livelihood by the ordinary methods of subsistence, into your hospitals. You have established them now all through your country, and you are spending untold sums of money upon them.

Mr. VAN WINKLE. I have found the law that I was looking for, and I think I can demonstrate that this case comes strictly under the law and is authorized by law. The first section of the act of July 25, 1866, provides:

"That the provisions of the pension laws are hereby extended to, and made to include provost marshals, deputy provost marshals, and enrolling officers, who have been killed or wounded in the discharge of their duties; and for the purpose of determining the amount of pensions to which such persons and their dependents shall be entitled, provost marshals shall be ranked as captains, deputy provost marshals as first lieutenants, and enrolling officers as second lieutenants."

Then the ninth section of the act of July 4, 1864, provides:

"That those persons, not enlisted soldiers in the army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March 1861, shall, if they have been disabled in consequence of wounds received in battle, in such temporary service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service aforesaid shall be entited to pensions in the same manner as they would have been had such persons been regularly mustered."

Now, when a man is called out under competent authority and sent to arrest deserters, and is shot down in that temporary service, if he is not within the letter of this law he is most clearly within its spirit. I think the Committee on Pensions have followed the law strictly. The Commissioner of Pensions would have allowed this pension, only he did not feel authorized to put this man in the position of a deputy provost marshal; he was only a special agent; and the Commissioner must necessarily follow the strict letter of the law. The Senate and the other House sit, perhaps, as a court of chancery to revise these decisions, and they can decide, and I hope they will decide in this case, that this man was clearly within the spirit and intention of the law, and therefore his children are entitled to a pension.

Mr. CAMERON. It seems to me the Senator from West Virginia has furnished us the best argument against the passage of this bill. He says the law has provided for it. If the law has provided for pensions to the heirs of this person let the officers of the law settle the case and give them the pension. On the other hand, if we are to pass another bill on the subject, I say it is increasing the extent of your pension system and increasing your expenditures beyond what was contemplated by the law-makers during the war. No nation in the world has ever been so liberal as ours toward its soldiers. I am not disposed to detract in the least from that liberality, but I do not wish to bring upon your pension list a class of persons that nobody hitherto ever dreamed of pensioning, nor do I desire to give pensions to people who, perhaps, have not rendered service to the nation. I look upon these pensions not exactly as a reward for patriotism, but as an evidence of the gratitude of the nation for services rendered to save it from destruction. I would, therefore, extend the system to the furthest limit to which you can find meritorious persons. But I do not believe that a man who has sought, probably, the employment of a day or of a week around a provost marshal's office is a proper person to pension. I have had some experience in my own town of the sort of people who sometimes obtained employment in those places. They were generally men who were not willing even to be camp followers; they were not men who were willing to go in the Army, but men who stayed at home and who tried to make something out of the expenditures of the Army, without rendering any patriotic service.

I would at least postpone this bill for the present. Let us pause and reflect upon this system. We have to-day passed an immense number of bills, which will take millions probably from our Treasury yearly. We cannot afford to continue this unreflecting system of expenditure. We shall break down under the accumulated debt of the Government unless we act wisely and discreetly in our expenditures. I would rather have the whole Army reduced, and the Navy reduced, and the civil list reduced, so as to enable us to get along with much less taxation than we have now. I think wisdom points out such a course. This is but a small matter—fifteen dollars a month for a few years—but it may bring in its train an immense expenditure.

Mr. EDMUNDS. This case is a little too serious for these poor orphans to be disposed of lightly. And if there is any occasion, at any time, to pass a special pension bill, as every Senator agrees that there is—cases that come within the equity and spirit of the policy of justice, not of humanity, that controls the action of the Government relating to its soldiers—then this is one of those cases. The principle upon which the pension laws go, as I understand them, is, that we are not doing an act of charity when we pension a disabled soldier, when we provide for his helpless widow and children, but we are doing an act of simple justice to him and his heirs, and are doing an act of the highest policy that a Government that intends to encourage the defense of its existence and the defense of its dignity can possibly do.

If I am correct about this, then the pension laws are based upon a substantial principle, and wherever there comes a case within that principle, a special case, that is not within the letter of the law, it appeals to the sense of justice and equity of the law-making power to provide for it. We all know that the Commissioner of Pensions, considering the great amount of applications before him from every section of the country, is obliged to be rigid in the scrutiny of the cases that are brought before him, and rigid in the construction of the laws that give relief; and, therefore, unless a case comes both within the spirit and the letter of the law as it is written, he is bound to reject it, and does. Are we to be governed by any such principle? Not if we are just, because we are governed by that sense of general equity which extends not our bounty or our charity, but our rendition of justice, to every case that comes fairly within the principle upon which we proceed in the law.

Now, what was this case? In this case, this man, at the moment he was killed, leaving these poor orphans, was in the military service of his country. Whether he was there by right or by wrong, the provost marshal under whose control and command he was acting was a military officer of the Government, having no civil functions whatever; and in some districts of the country, I am sorry to say, he was a military officer who was exposed to a great deal of injury and obliged to submit to a great deal of mortification and trouble. Having the authority as a military officer to call upon any citizen to enlist for the moment under his banner to assert the supremacy of the law, he calls upon this man, and he responds.

But my friend from Pennsylvania says why did he not go to the war? Why did we not all go to the war? If we had all gone there would have been nobody left at home to provide food or money or clothing or anything else for the soldiers. That is a very poor argument, indeed, to accuse every man for not going to the war. Enough went; and enough stayed at home to provide them with bread and meat and money and everything that they could be provided with. This man was pursuing the duties of a citizen at home, and under the command of this provost marshal he entered upon what was essentially and truly a military service, and in that service he was killed performing his duty; and yet you say it is not equitable, it is not within the spirit of the law, to give these poor orphan children the fifteen dollars a month they would be entitled to if he had been a veteran.

Mr. President, this is an argument that ought not to appeal to Senators, as it seems to me.

Mr. THAYER. I agree with my friend from Pennsylvania in one observation which he made, which was to the effect that we should reduce the Army and Navy and cut off some useless expenditures. I am with him in that respect, but I hope he will not undertake to apply his principles of economy to a case like this. He tells us we are opening the way to pensioning a large number of persons never contemplated by the pension laws. Suppose we are; if this is a meritorious case why not provide for it? What difference does it make whether the man had actually been mustered in or had not been mustered in, provided he was discharging the duty which this Government required of him? Those who served in the field or were wounded in battle or lost their lives in battle were not the only men who rendered meritorious service. There was service to be done at home in the States just as necessary as service in the field; and, as the Senator from Vermont has said, that service was at times attended with risk and peril as much as the service in the field.

Sir, I trust the time has not come when we shall stop and split hairs over a case like this. It is enough for me to know that a human life was given to aid in saving this nation; and if I were to vote against granting this small pittance I trust it would never fall to my lot to meet the orphan children of the man who thus gave his life. This Government required it; he was acting under orders, and, therefore, the

service was just as necessary as the service performed in any other part of the country.

In regard to these pensions we hear much said of the liberality of the Government. I grant that the Government does well; but, after all, what does the poor pittance of a pension which is given to the widow or children of one who lost his life in the service amount to? Ninety-six dollars a year to be weighed against one human life! What does it amount to? Is it really any satisfaction? It aids in a slight degree, to be sure, toward the support of a family; but what is ninety-six dollars a year? That is referred to as evidence of the liberality of this Government. When the head of a family has been taken away, has laid his life upon the altar of his country, and his widow and children are thrown upon the world, that is all the pension his family gets if he was a private; and the highest pension in the case of the highest officer is, I believe, $320 a year. What does that amount to in these times? It may be as much as the Government can give. I do not complain. I simply refer to it because we are often pointed to the liberality of the Government, and we are told that we do more than any nation in the world. Sir, that is no argument with me. The question with me is this: was not this man's life sacrificed in the discharge of his duty? If so, that is enough for me. What matters it whether he had been mustered in or had not been, if he was in the public service.

The PRESIDING OFFICER, (Mr. ANTHONY in the Chair.) The question is on the motion of the Senator from Pennsylvania to postpone the further consideration of this bill until to-morrow.

The motion was not agreed to.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN W. JAMESON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 427.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of executive business.

Mr. DRAKE. There are just two more Senate bills of this description, which it will not take probably five minutes to pass. There are only two more Senate bills, and one of them I feel a special interest in.

Mr. WILLIAMS. Very well; in view of those circumstances I withdraw my motion.

The motion of Mr. VAN WINKLE was agreed to; and the bill (S. No. 427) for the relief of the widow and children of John W. Jameson, deceased, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to allow and pay to Eveline Jameson, widow of John W. Jameson, late a first lieutenant in Captain MacCluney's company of Missouri home guards, a pension at the rate of seventeen dollars per month, as the widow, and two dollars per month each to Flora A., Michael F., Eva F., and John E., children under sixteen years of age of John W. Jameson, to commence September 7, 1861, the date of his death, until the 28th day of May, 1867, on which date her present pension commenced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE BENNETT.

Mr. VAN WINKLE. I move now to take up Senate bill No. 425.

The motion was agreed to; and the bill (S. No. 425) granting a pension to George Bennett was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place upon the pension-roll the name of George Bennett, late a private in company E, sixth regiment Michigan cavalry volunteers, and allow and pay him a pension at the rate of eight dollars per month from the 7th day of April, 1863.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business, and after some time spent in executive session the doors were reopened.

FINAL JUDGMENTS IN REVENUE CASES.

The PRESIDENT *pro tempore* also laid before the Senate the amendment of the House of Representatives to the bill (S. No. 213) to amend an act entitled "An act to amend the judicial act passed the 24th of September, 1789;" which was to add to the bill as a new section:

SEC. 2. *And be it further enacted*, That so much of the act approved February 5, 1867, entitled "An act to amend an act to establish the judicial courts of the United States, approved September 24, 1789," as authorizes an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed."

Mr. BUCKALEW. I observe that is a very important amendment. I do not know what the effect of it is. Before voting on it I should like some explanation. I observed that the Senator from Oregon [Mr. WILLIAMS] rose, I supposed with the intention of explaining what the amendment was. It seems to take away the jurisdiction of the Supreme Court in a certain class of cases.

Mr. WILLIAMS. The amendment is one that has been adopted by the House of Representatives and explains itself. It provides, in regard to a particular jurisdiction conferred by an act passed in 1867, that so much of that act as confers that jurisdiction shall be repealed. It leaves the law of 1789 in full force and effect.

Mr. BUCKALEW. I ask for the reading of it again.

The Secretary read the amendment.

Mr. BUCKALEW. As we have no leisure now to refer to that particular law, I think the Senator from Oregon ought to explain to us in what respect that act of 1867 changed the former law, what additional jurisdiction it conferred, and what are the reasons now for withdrawing from the Supreme Court a jurisdiction which was or may have been conferred by the latter statute. This subject has not been referred to any committee; it comes to us as an amendment made by the House of Representatives. I move to postpone the consideration of the subject until to-morrow. At any rate I should like to have time to read the law which it is proposed to repeal.

The motion to postpone was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. BUCKALEW. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 6; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ramsey, Ross, Sprague, Stewart, Sumner, Tipton, Trumbull, Van Winkle, Wade, Willey, and Williams—32.

NAYS—Messrs. Buckalew, Fowler, Hendricks, McCreery, Norton, and Vickers—6.

ABSENT—Messrs. Bayard, Corbett, Cragin, Davis, Dixon, Doolittle, Johnson, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Sherman, Thayer, Wilson, and Yates—16.

So the amendment was concurred in.

EXECUTIVE SESSION.

On motion of Mr. CAMERON, the Senate proceeded to the consideration of executive business, and after some time spent therein the doors were reopened and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 12, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

JEWELS IN THE TREASURY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, a report of the Treasurer of the United States relative to the contents of a certain box in the Treasury; which was referred to the Committee on Commerce, and ordered to be printed.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Governor of West Virginia, transmitting joint resolutions of West Virginia relative to the impeachment of the President of the United States; which was laid on the table, and ordered to be printed.

ENFORCEMENT OF THE RULES.

Mr. SPALDING. Mr. Speaker, I demand that the Doorkeeper shall enforce the rules, and that those not entitled to the privileges of the floor shall be excluded.

The SPEAKER. The Doorkeeper will enforce the rules of the House.

MAIL ROUTE.

Mr. BURR, by unanimous consent, introduced a bill (H. R. No. 909) to establish a mail route between St. Louis, Missouri, and Hamburg, Illinois; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CANCELLATION AND DESTRUCTION OF BONDS.

The SPEAKER stated that the first business in order was the unfinished business of yesterday, being the report of the Committee on Retrenchment relative to the cancellation and destruction of United States bonds, on which the gentleman from Illinois [Mr. LOGAN] was entitled to the floor.

Mr. GARFIELD. I hope the gentleman from Illinois will yield to me for a motion to proceed to the business upon the Speaker's table.

Mr. LOGAN. I yield if it does not come out of my time.

The SPEAKER. It will not.

Mr. GARFIELD. I make that motion.

Mr. WASHBURNE, of Illinois. For what purpose does the gentleman wish to go to the business upon the Speaker's table?

Mr. GARFIELD. To take up a few military bills which ought to be passed.

Mr. HOLMAN. I object until the bills are reported.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Ohio, that he move to take up the bills one after another.

PAYMASTERS' ACCOUNTS.

Mr. GARFIELD. Very well then; I now move by unanimous consent that the House take from the Speaker's table Senate bill No. 376, to facilitate the settlement of paymasters' accounts.

There was no objection, and the bill was taken up and read a first and second time.

The bill was read. It provides that the proper accounting officers of the Treasury be, and they are hereby, authorized, in the settlement of accounts of the paymasters' of the Army, to allow such credits for overpayments made in good faith, on public account, since the commencement of the rebellion and prior to the passage of this act, as shall appear to them to be just by such vouchers and testimony as they shall require.

Mr. GARFIELD. Mr. Speaker, a bill on this subject was passed through the last Congress, and I believe one passed through a former Congress, but the subject has never been acted on by the Senate until the present ses-

sion. This bill sent to us from the Senate has twice before been passed by this House. It has been carefully prepared and guarded.

I will state the purpose of the bill, and it will not take two minutes. A large number of paymasters, while their accounts were being settled, while they were passing through the proper accounting offices of the Treasury, were found in some cases to have made a little overpayment, a payment actually made in good faith, but disallowed by officers of the Government; and these disallowances are now unjustly charged against these paymasters. The money was honestly paid out by these paymasters, and they should have credit for it.

Mr. WASHBURNE, of Illinois. Is this substantially the same bill we have passed once before?

Mr. GARFIELD. It is. It is only to give these paymasters the credit they should have. I wish to say before leaving the floor, and it ought to be said as due to the paymasters of our Army, that no war of anything like the extent of the late war has been carried through with anything like so great carefulness in the payment of money. In the war of 1812 over two million dollars of unsettled accounts which had to be covered up by an act of this kind, and in our late war over a thousand million dollars, has been paid out by the paymasters of the United States Army, and now there are less than three hundred thousand dollars stoppages on all this amount of money—less than three tenths of a mill on the dollar for all the money disbursed through the pay department. I think it a very gratifying circumstance, and one of which we ought justly be proud.

Mr. O'NEILL. Will the gentleman allow me to ask a question?

Mr. GARFIELD. Yes, sir.

Mr. O'NEILL. I wish to ask the gentleman whether this bill could not be made to apply also to paymasters in the Navy. Some cases have come under my observation which, it seems to me, the provisions of the bill could easily be made to cover.

Mr. GARFIELD. I have received several letters asking me to introduce an amendment to that effect, but as this bill was gotten up with express reference to the Army and the mode of keeping Army accounts, and as the mode of making naval settlement is quite different, I did not like to interfere with that matter. I thought it better that the Committee on Naval Affairs should, if they choose, introduce a similar bill having reference to naval paymasters.

I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY STOREHOUSE AT FORT MONROE.

On motion of Mr. GARFIELD, by unanimous consent, joint resolution (S. R. No. 117) to authorize the erection of a military storehouse at Fort Monroe, Virginia, was taken from the Speaker's table, and read a first and second time.

The joint resolution, which was read, provides that the Secretary of War be authorized to grant permission to William H. Kimberly, Army and Navy contractor, at Fort Monroe, Virginia, to rebuild the military storehouse recently destroyed by fire at that port, upon such conditions and under such restrictions as the Secretary of War shall deem compatible with the interests of the Government.

Mr. HOLMAN. Before this bill is acted upon I desire to know whether it has been before the Committee on Military Affairs?

Mr. GARFIELD. It has; or rather the substitute was before them.

Mr. HOLMAN. One question further. The bill seems to confer power on the Secretary of War to regulate this matter. Does it give him authority to expend such money as he pleases?

Mr. GARFIELD. Not at all. I will explain. The contractor who has been furnishing supplies and provisions at Fortress Monroe has been occupying a building which is located on United States property, but on the 1st of March that building was destroyed by fire. He desires the privilege, therefore, of reërecting a building on that site. The Secretary of War did not think he had authority to permit the erection of the building unless Congress should grant permission. The officers at Fortress Monroe have sent up a request that that person be authorized to put up a building in place of the one destroyed. General Grant has indorsed the recommendation of the Secretary of War in favor of allowing it to be done. No money at all is asked by the Government, only a simple permission under such regulations as the Secretary of War may make to this person to use the ground and erect the building. It gives him no title, except for the use of the ground. I ask the indorsement of the Secretary of War and General Grant to be read.

The Clerk read as follows:

General Barry, the permanent commander of artillery school, having approved the application of Mr. Kimberly to put up a building at Fort Monroe, I respectfully recommend that the authority be given.
U. S. GRANT, *General.*

March 4, 1868.

—

WAR DEPARTMENT, *March* 7, 1868.

On examining the question the Secretary of War is of opinion that he has no power under existing laws to grant the privilege applied for by Mr. Kimberly, and that he could only do it under express authority of Congress.
EDWIN M. STANTON,
Secretary of War.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COVERING MONEY INTO THE TREASURY.

The SPEAKER. The gentleman from Wisconsin, [Mr. WASHBURN,] who is not present, desires to reciprocate the request of the Senate that Senate joint resolution No. 19, providing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant in the United States Treasury. The House concurs in all except the third section, which appropriates money, and the Senate insists and asks for a committee of conference.

A committee of conference was accordingly ordered; and the Speaker appointed as conferees on the part of the House Messrs. WASHBURN of Wisconsin, SCOFIELD, and BARNES.

CANCELLATION AND DESTRUCTION OF BONDS.

The House resumed the consideration of the business pending at the adjournment yesterday, being the report of the Committee on Retrenchment in regard to the cancellation and destruction of United States bonds, on which Mr. LOGAN was entitled to the floor.

Mr. LOGAN. Mr. Speaker, I am very sorry that I feel myself called upon to continue the discussion of this matter which was debated last evening. But I have always found it to be the case that unless a man defends himself he finds very few defenders. The House will remember that the point I made yesterday was that the evidence should accompany the report of the committee. Now, I find that the report has not been published in the Globe inasmuch as it was not ordered to be printed. The debate appears in the Globe, but not the report; but the report does appear in the morning papers.

I presume that any member has a right to take an exception to a report, although he may have no control of it. He may not have the right to have it suppressed or recommitted, yet he certainly has a right to except to it. I mean that in discussing the subject he has a right to take exception to any views or conclusions of the committee. Without going over any part of the debate of yesterday, because I do not desire to repeat anything that I have already said, I will call the attention of the House to one point in this report which appears in the morning papers. Now, it is very strange that this report found its way into the papers so readily and that none of the evidence found its way into the papers. It is very strange, also, that this report goes into the papers without the leaf which was a part of the report and which was the only material fact in the report. I find this report in the Morning Chronicle in full with the exception of the leaf that was copied from the books of the Treasury, which was the only material part of the report and upon which I made my statement to this House. That part of the report was carefully excluded from the report in the morning papers.

Now, sir, if this is the manner in which a committee of this House—without intending to cast any reflection on the committee, for it may have occurred without their intention or direction—but if this is the manner of publishing reports to this country, suppressing the material portions so as to reflect or cast an imputation upon any individual in this House, then I say your Congress of the United States amounts to nothing more than a means for the suppression of truth and the suggestion of falsehood. Now, sir, that part of the report was read yesterday by the gentleman from New York, [Mr. VAN WYCK,] or at least it was alluded to by him, and I read it twice in the House. It appears in full in the Globe of this morning. That part of the report is the only part of it that appears in the Globe. Why? Because it was made part of my remarks and part of the remarks of the gentleman from New York. And yet that is the only part of the report which is not in the morning papers. That part is carefully excluded from the report, and all the balance of the report is put in. Now, that is not the way that I fight. That is not the way that I make attacks. That is not the way that I do justice to any individual before the country. I believe in allowing things to go before the country squarely, truthfully, and fairly, and let the country judge as to who is in the right and who is in the wrong.

Now, sir, I take exception to this report, and I hope that this committee will stand up here one by one and state to this House that this is their report or is not their report. I challenge them to do so; if they stand before the country as signing their names to this report I tell them that they have signed a document that is not borne out by the facts in the case. Now, sir, what is the conclusion of this report? It is that they have "found nothing irregular in the matters referred to," and "that no frauds were attempted." If there is a man in this House who will state that the destruction of clean paper, of bank-note paper, is no irregularity in that Department, I want him to have boldness enough to stand up here and do so. I do not think there is a man on the committee who believes it. I do not believe there is one of the committee who believes it, because they know that it was an irregularity; they know it is not the custom; they know it is not the rule of keeping books; they know that is not the mode or manner of keeping books in that or any other Department. Then, if it was contrary to the custom and the manner in which such things ought to be done, it was an irregularity, and the committee know it.

Now, one of the committee this morning told me that he did not agree to this thing at all. He told me that it was an irregularity, and he believed it. I have no objection to the committee saying that there was no fraud. They had a right to say that; but, while they say that, I do not want them to whitewash that whole concern at the expense of myself or at the expense of any other man upon this floor. It has been very carefully and adroitly done, sir. An attempt has been made to place General

Spinner and myself in antagonism in this matter. Now, that attempt will not succeed before this country. Neither the committee nor anybody else can get up an issue between General Spinner and myself. He is one of my best friends and I am one of his best friends. I have always said so, and everybody knows it who knows anything about our relations. They need not thrust his name in here. This is a matter that General Spinner had nothing to do with and that General Spinner is not responsible for; but Mr. Clark, of the Printing Bureau, is the man whose name should appear there as the responsible person, because the committee know that he is the responsible person. They carefully avoid him and thrust General Spinner into the fight in order to shield this man Clark. And, before I am through, I intend to ask, although it is a thing I have never done—a thing I hate very much to do—the reading of certain documents at the Clerk's desk in reference to the head of this Printing Bureau, statements that will make devils blush. And I will show the House what sort of a man he is whom these gentlemen are whitewashing. If members will only listen they will see what kind of a man is kept in the Treasury Department who has been whitewashed time and time again by Congress.

Now, I will tell you what I think this committee might have done. As to the evidence, I do not know what it is. I did not hear all the evidence; I only heard General Spinner and Mr. Neale, when they were recalled and made statements in reply to questions which I asked in relation to what I said in the House. Their replies bore me out fully, showing that they had stated to me what I had stated here. Hence I do not pretend to say that the committee are not justified in reporting that there was no fraud in this affair, or at least that such was their opinion; I do not say they were not justified in that. But this report goes back of this thing, and attempts to show that there is no such thing deducible from any of the charges, as found in that Printing Bureau. It attempts to show that there is no such thing there; that fraud could not occur, because there are such checks and balances there that frauds could not occur. In other words, I mean to say that this report, when it says that there is no irregularity in this matter, furnishes a justification of these men in the Department in putting upon their books a certificate of the destruction of millions and millions of dollars of various denominations when it is merely the destruction of blank sheets of paper without a mark, or stamp, or scratch upon them. This the committee say is regular. That is the meaning of this report when you analyze it. Now, I want gentlemen to analyze this report for themselves. When you analyze it, that is just what it means. It means that you, the Congress of the United States, through your committee, now propose to justify this Department of the Government in keeping their books in that way; that is, they may burn up millions of paper, which your tax-payers have bought and paid for. And your committee say that when this Department certifies by one committee that this paper is Government securities, and by another committee that it is blank paper, it is not an irregularity. There is your report; that is what it is; that is what it means, and that is all that it does mean. And if you can justify yourselves in that report then I have nothing to say, for that is exactly what your report means.

Mr. WELKER. Will the gentleman allow me to interrupt him a moment?

Mr. LOGAN. Certainly.

Mr. WELKER. The gentleman from Illinois [Mr. LOGAN] a few moments ago alluded to a conversation between himself and myself. I desire to make one word of explanation.

Mr. LOGAN. Very well; I will yield for that purpose.

Mr. WELKER. I desire to say that I did not hear read the conclusion of the report in which the committee state that there was no irregularity in the matter which we were investigating. I do not agree with the committee in relation to that statement, that the transaction which we were investigating was a regular transaction. In the examination of the books which were presented before us I found but one other instance in which blank paper had been destroyed in the way alluded to by the gentleman from Illinois, [Mr. LOGAN.] I found that four or five days previous to that time blank pieces of paper, with denominations amounting to about one hundred thousand dollars, had been destroyed in the same way. Now, in the evidence before us, one or two of the witnesses stated that occasionally there would be a few sheets of blank paper among the defaced paper which the committee of destruction had ordered to be destroyed, and which were destroyed. Now, I agree with the gentleman from Illinois [Mr. LOGAN] that that manner of keeping books is not proper. But I unite in the report of the committee, that so far as this individual instance is concerned there was no evidence of any fraud having been perpetrated by reason of the destruction of this paper. But that manner of keeping books is not commendable, and I do not want it understood, so far as I am concerned, that the committee approve of that manner of keeping books.

Mr. LOGAN. Now, Mr. Speaker, I wish to ask the gentleman a question, as I have given him liberally of my time. I will ask him whether he saw that part of the report before it was presented, or whether that part was added after he saw the report?

Mr. WELKER. I will state to the gentleman from Illinois that we made alterations and directed the chairman to make the final copy of the report; and I presume he had to make it in such a hurry that he had not an opportunity to show us the concluding part.

Mr. VAN WYCK. The gentleman will allow me to say (because I cannot see any great weight in the word "irregular" in the report) that when the report was read to the committee in the library the last few words had not been added. The gentleman from Rhode Island, [Mr. JENCKES,] one of my colleagues on the committee, suggested that it should conclude with some such words as those which now appear at the end of the report. He himself suggested the word "irregular." I care nothing about the matter. When the gentleman from Rhode Island returns to his seat in the House I will consult him, and if he says "strike out the word 'irregular,'" which was put in at his suggestion, I will very cheerfully do so. So that it is not necessary to occupy the time of the House in discussing that matter, as it is immaterial.

Mr. LOGAN. It is a question for me to determine whether I will occupy time in discussing that matter or not. It is my time, not that of the gentleman from New York. So far as regards striking out that part of the report I have nothing to do with it. I am only discussing the report as it appears. Gentlemen may change their report as they choose. I care nothing about it.

Now, Mr. Speaker, I want to state my reason for occupying the attention of the House yesterday and again this morning. Members, if they paid attention to the debate last evening, must certainly have observed that the line of argument made by the two gentlemen from New York was an indirect attack upon me all the way through. One gentleman characterized my remarks as an "unfortunate statement;" another called them an "alarming statement;" another said that the object of my remarks was to put down or in some way affect securities.

Now, I was induced to make my remarks in consequence of an irregularity which had occurred. What was it? When a committee of the House is directed to investigate anything and determine whether or not fraud exists it does seem to me that for any member of a committee acting on the part of the Government for the purpose of developing fraud to send a telegram all over the country giving his opinion that there is no fraud, when there has not been a solitary witness sworn before the committee, when the committee have not even been called together, is a prejudgment of the case which is not warranted on the part of any man or any committee. This was my reason for making my remarks yesterday evening. If your committees appointed to detect frauds can, before examining any witnesses, telegraph all over the country that there is no fraud, and thus prejudge the matter, then there is no necessity for having such committees.

Now, I attribute no improper motives to the gentleman—none in the world. I say to him, as I did yesterday, that I have no doubt his intentions were all proper and right. He thought that my remarks would affect bonds. But I say to him that what he may say or what I may say here does not affect the bonds of this country any more than a mosquito lighting upon a buffalo's horn would affect the buffalo's body. I do not think he is so weighty a man, or that I am either, that we can affect the markets of this country. Why, sir, the gentleman, I am sure, attributes much more consequence to himself and to me than the country does. On that ground, therefore, I do not think the gentleman was correct. I notice that very often we are apt to think that whatever we say is telegraphed all over the world. Sometimes we think that everybody reads what we say, when in truth very few persons read it. Some men in this House imagine that the markets in New York go up and down just as their mouths open or shut. That is a mistake. It is true that sometimes bread goes up and down as their mouths open and shut, but never bank stocks. [Laughter.] So the gentleman need not be alarmed about our affecting the markets. Why, the gentleman from New York, [Mr. LAFLIN,] the chairman of the Committee on Printing, got terribly alarmed about this matter. I suppose he thought the printing of public documents would stop if this thing was not stopped. He feared that he would not then be the chairman of the Committee on Printing in this House. He got alarmed, and brought a witness to see me, and to tell me that enormous frauds had been committed in the Treasury Department. He said I must go further; that I must follow it up.

That is what the gentleman has done, the chairman of the Committee on Printing. That is the manner in which he has acted in this matter. Thus these men are the great protectors of the bonds and other securities of this land. Then he sent out and telegraphed that I was altogether mistaken. "Me, big Injun, ugh!" [Laughter.] So he said: "See how I can telegraph and stop the depreciation of our bonds. What an awful great man I am!" [Laughter.] How terrible this man must be! But I did not know that I was of so much consequence before, and I am sure I never learned that the gentleman on the Printing Committee was of so much consequence before. I never knew it until he told me so himself.

Mr. Speaker, I want to give this House a little information while it is attempted to whitewash Mr. S. M. Clark, the head of this Printing Bureau. I ask this House—and I ask it for the benefit of this country while they are attacking me for attempting, in my feeble manner, to expose the frauds in the Treasury Department—I ask it to-day to listen to what is the character of this man, S. M. Clark; this man whom it has been attempted to whitewash, as it is to be found sworn to in evidence spread in print in the public documents. I ask the Clerk to read from the suppressed testimony, taken before a committee of this House, of which the gentleman from Ohio [Mr. GARFIELD] was chairman, about this man Clark, who is charged with making all of our bonds and currency, charged with their printing, &c. I want this House and the country to know what manner of man he is, the man about whose department we are told by the present committee there are no irregularities at all. Let his character go out to the country, and let the people say whether he is

a proper and safe man to whom we should trust this Printing Bureau.

Mr. MILLER. I rise to a question of order, that the reading of this paper is not in order.

Mr. RANDALL. I desire to say a word in reference to this report. I had not the opportunity, as a member of that committee, to know anything about this testimony. I had, however, previously looked into the subject of this Printing Bureau, into Mr. Clark's conduct, and into the present system of printing, and, sir, I came to the conclusion that it was all loose and censurable. I hope, therefore, the gentleman from Illinois will not include me in the category of those who would whitewash anybody.

Mr. LOGAN. I do not charge this committee with intending to do anything wrong. What I have said has been in answer to their report that there are no irregularities in this thing which is a reflection upon my statement. It is in answer to charges and attacks made yesterday upon this floor against me. We all saw the eagerness with which the chairman of the Printing Committee flew to the rescue of the Printing Bureau of the Treasury and made insinuations against me. He said my statements were unfortunate to go to the country. In answer to such insinuations I ask the reputation of this man Clark shall be read to the House.

The SPEAKER. This being the testimony taken in an investigation into the conduct of Mr. Clark, as the head of the Printing Bureau, the Chair overrules the point of order of the gentleman from Pennsylvania. This investigation being in regard to the procedure of affairs in the Printing Bureau it seems to involve the character of Mr. Clark.

Mr. LOGAN. I will read myself first from the report in reference to the power which Mr. Clark has:

"The responsibility or power which Mr. Clark has in himself, or of himself, that is, exclusively in himself, are worthy of note. It seems by the testimony both of Mr. Chittenden and of Mr. Field, that in Mr. Clark's department is done all the printing of the interest-bearing Treasury notes, of the bonds of the United States, of the certificates of indebtedness and other securities, even to the affixing of the red seal, which was once thought to be a great check and security. The apparently written names of Mr. 'Chittenden' and of Mr. 'Spinner' are printed by Mr. Clark. The red seal was formerly affixed under the direct supervision of the Secretary, but Mr. Clark has had the 'machine' sent down stairs, and placed in his (Clark's) possession! Mr. Field expressively says (holding a fifty dollar one year interest-bearing note:)

"'The paper on which it is printed is contracted for by Mr. Clark. The paper is delivered to him. The printing is done under his direction; and the *fac similes* of the signatures of the Register of the Treasury and of the Treasurer are affixed under his direction, and the seal is impressed under his direction; so that this, which comes to him as blank paper, contracted for by him, leaves his hands with all the attributes of money in the form of perfected and perfect obligation of the Government. The engraving of the plates is also done under his direction.'"

This shows that the whole thing is in his hands and there is no check upon him whatever. Now I ask that the evidence in reference to him be read for the information of the House.

The Clerk read as follows:

Response of Alexander C. Wilson, of New York, to the Secretary of the Treasury, calling for charges against S. M. Clark.

NEW YORK, *August* 27, 1863.

SIR: In response to your demand for my charges against Mr. S. M. Clark, of the Treasury Department, I had the honor to say, in my letter of the 17th instant, that those charges relate not merely to Mr. Clark's present position in your service, but to events in the course of his entire career, which prove his unfitness to hold any office of trust under Government. The facts are far more abundant than this present recapitulation will indicate; but the difficulty of inducing men to testify, without the compulsion of a subpœna, prevents me at present from offering testimony; and, therefore, I refrain from reciting statements in regard to which the evidence is not immediately accessible.

In the case of Mr. W. L. Ormsly, the honorable Secretary laid down the indisputable principle that no man should have anything to do with the manufacture of Government money upon whose character there rests the slightest taint. Mr. Clark is no subordinate in this manufacture as is Mr. Ormsly. He holds a foremost place. Everything is confided to his integrity. He occupies a position requiring spotless honesty, the highest skill, and the utmost ingenuity.

The record of Mr. Clark's career will show that wherever he has been known out of Washington he would be invested with no office of trust; that wherever he resided and conducted businesss, prior to his employment in the Department, he left behind him a tainted reputation—a reputation for questionable honesty, for enormous extravagance, for bad personal habits, for addiction to visionary and unsuccessful projects, for being, in fact, a reckless pretender and charlatan.

This general reputation, I undertake to prove, adheres to him still, even in his actual employment in your service.

My charges against Clark are as follows, namely:

1. *Reputation for dishonesty and unreliability.*—Inquiry at the localities where he has done business, among which are Hartford, Brattleboro', Simsbury, and New York, attests that those who knew Clark thoroughly decline to trust him, and believe him to be freely accessible to corrupt influences.

2. *Actual dishonesty.*—The failure of the flour-dealing firm of Clark & Coleman, in 1855, elicited from the insolvents an offer to pay seventy cents on the dollar; fifty per cent. in the paper of Ezra Clark, Jr., a brother of Norton, who was said to be a debtor of the firm, and twenty per cent. in the paper of Coleman & Clark. None of those notes were paid. Coleman paid his proportion, and obtained from his creditors a release; but nothing whatever was paid by Clark or his brother. I find from inquiries made of leading mercantile houses in the flour trade that the failure was, and is, regarded as disgraceful, if not fraudulent, and as utterly destructive of Clark's credit.

A transaction in connection with the improvements in the Assistant Treasurer's office in this city raises an irresistible presumption of fraud on the part of Clark, who was superintending some of the work, subject to the directions of the Assistant Treasurer. Though instructed to do nothing without the explicit orders of Mr. Cisco, Clark privately, and on his own responsibility, proceeded to make a contract for the safes, selecting a pattern the patent right of which belonged to the Messrs. Cornell, machinists, of New York. The natural course for him would have been to have contracted with the Messrs. Cornell. Instead of doing so, however, he made a contract with one North, a *lock-maker*, at New Britain, Connecticut, and left North to sub-contract (of course with a handsome profit to himself) with the Messrs. Cornell.

3. *Dishonesty or incompetency.*—The report of the House Committee on Expenditures on Public Buildings, June 10, 1862, convicts Clark of either one or the other of these qualities; and as the honorable Secretary promptly removed Clark from the post he then occupied we are to assume that at that time he believed him to be either dishonest or incapable.

[Here the hammer fell.]

Mr. PRICE. Inasmuch as I introduced the resolution instructing the Committee on Retrenchment to examine this particular and specific charge in reference to the $18,640,000 in bonds, in regard to which it is alleged that an improper or incorrect certificate has been made, I think it but proper that I should take up and examine the report of the committee, which I find in this morning's paper. I need not repeat at this time what I have already said, that I was astounded at the declaration made by the gentleman from Illinois, [Mr. LOGAN.] I supposed, indeed I may say I hoped, that when an examination in the case was had some satisfactory explanation would be made; that when the record was examined something would be found which had escaped the observation of the gentleman from Illinois, and that the record upon its face would not contain the facts as stated by him.

I had the curiosity to visit the Treasurer's office myself and request to see that record. That was very promptly accorded to me by the Treasurer. And now, in the face of this report, I must say that I was astonished to find that any man claiming to have even the crudest idea of business would allow himself to place his name upon a record showing what this record does. All men know something; no man knows everything. We simply know what we learn. In the short period of three score and ten years allotted to us we are unable to learn everything; and he has filled his sphere tolerably well who learns something thoroughly. Now, sir, I know something about the inside of a ledger, or a journal, or any other book which pretends to give the account of a money transaction; and I say here—because I think it will do some good, as I think, also, this investigation and this report will do some good—that no man having a proper regard for his reputation as a business man would place his name on such a record as appears on the page containing the history of these bonds already referred to. I say that without qualification, but fairly and squarely; and any man who has ever seen the inside of a ledger, upon examination of the record, will agree with me in the first three quarters of a minute after that examination.

Now, I want to call the attention of the committee more particularly to some statements in this report, and I will preface my remarks by saying that I believe the whole thing is susceptible of a satisfactory explanation. I do not believe there has been any fraud. I do not say that I know much about it, for I have not investigated it sufficiently to say that. But what little investigation I have given to it satisfies me that there is, probably, no fraud in the transaction. But I do say that there is great irregularity; I do say that either these four men have certified to what is absolutely untrue, or else the other three men certified upon the same page in reference to the same transaction what is absolutely untrue.

Now, I call the attention of the committee to this language:

"When sheets partly printed or blank are destroyed it has been usual to designate not only the number of the sheets, but the denomination they would have if the sheets had been perfected into bonds and issued. Everything appears as if the bonds were perfect, except that at the top of the page of the books of certificates is stated the value and character of the sheets destroyed; if not complete bonds the statement shows how far the sheets were printed; sometimes on the face, back, tinted, bronzed, or blanks."

The word "blank" is written at the top of this page, but it was not written by either of the seven men who signed the two separate and distinct certificates that I have already referred to; and I think the committee—I express the opinion, merely; they are entitled to theirs as much as I am—I think the committee should have made some explanation of that point, because I do not believe that either of the gentlemen on that committee, if they had had a clerk doing business for them individually and he had kept their books in that way—I do not believe that they would have indorsed it, nor do I believe they would have retained that clerk in their employ twenty-four hours afterward.

The report proceeds to say that when blank sheets were given out they were charged, and so forth, which is all correct, and, in my judgment, the only way that the thing can be properly done. It proceeds to show how the blank sheets are disposed of and what entries are made. With that part of the report I have no objection to find; on the contrary, I not only indorse the report, but the practice, so far as I understand it. I believe it to be the only practice that could be pursued with any kind of safety to the Government. The report proceeds then to say that the blank sheets—

"Were then duly counted by the counting committee as to the number of sheets and intended denominations, of which a record was duly made, and they were then delivered to the destruction committee to be destroyed."

Now, sir, the committee certainly do not understand the meaning of the word "duly," or else I do not. I say that they were not "duly recorded." The committee will agree with me, every man of them, when they come to look at it. They are not recorded as blank sheets; they are recorded as bonds. This whole difficulty, in my judgment, grows out of the fact that these gentlemen fail to certify to a thing just exactly as it is. An ounce of common sense would have taught these gentleman who made the certificate that they ought when they signed it to have been certain that the certificate stated the facts just as they existed.

Mr. HALSEY. I wish to state that in one of the duplicate books the certificate had the alteration made which the gentleman suggests. The words "bonds" were stricken out and "blank paper" was put in. I saw it this morning. There are three of these books. Mr. Neale stated that he supposed they were all the same.

Mr. LOGAN. Then that proves that part of them are one way and part another.

Mr. PRICE. That may be satisfactory to the gentleman from New Jersey, who understands something about this matter, so far as that one book is concerned. He will agree

with me that where books claim to be duplicates of each other they ought to be alike. If they are not alike, it occurs to me, without looking in the dictionary for a definition of the word, that they are not "duplicates." And then it comes right back to this point, that in one part of the Treasury building there is a book purporting to be a history of a transaction that reads one way and in another part of the same building there is another book purporting to be a history of the same transaction, by the same men, at the same time, that reads another way, and in another part of the building there is still another book purporting to be a history of the same transaction, by the same men, at the same time, which I understand reads still differently. Now, if this is not "irregular," what does the word mean? And for that reason I regret that the committee have not—probably they had not time—guarded that report a little more carefully. It may be susceptible of satisfactory explanation, but I do think the report is not sufficiently guarded in many respects, and this is one of them.

The report proceeds to say, "they were then destroyed, and a certificate in accordance with the facts signed on the proper books"—that is, on all the books—"before described, and containing the statement and certificate of the counting committee." Now, to a party unacquainted with the transaction, who had not given his attention to it, that would look as though everything was straight and plain and fair. Yet it has come out in the discussion this morning that the different books were not alike, that the certificates are not alike, but they contradict each other.

Now, without continuing the examination of this report in detail, I will just call the attention of the House to the last clause of it, which has already been referred to, and which I think is very unfortunate in its mode of expression, because it has gone to the country, "The committee having found nothing irregular in the matters referred to," &c. What does that mean? It means that if this certificate in reference to the destruction of this $18,640,000 of so-called bonds is regular then all the certificates preceding that, with one exception, numbering hundreds of certificates probably, are all irregular, because they are not at all like this certificate.

Now, this committee in the Treasury certify that they destroyed bonds; another committee certify on the same page that they were not bonds which were destroyed. Now, that is what has given rise to all this trouble. Now, in my judgment, and I speak with a great deal of deference, what ought to have been done was to have stated that the book was irregular, informal, and incorrect, but that it was done without any intent to defraud, as I verily believe was the case; and that the officers in the Department—if such be the case—pledge themselves that no more such certificates as that shall go upon the records of the Department. Now, from what I have learned, I think the officers will see to it that no more such records as that will appear on the books of the Treasury Department through all the years of the coming future. Now, I think this whole difficulty grows out of the fact that men sign certificates without seeing whether the statements they contain are falsehoods or not, but let things go on in a kind of slow and easy way, without any reference to the facts in the case.

Now, the committee ought to change their report in that respect; I do not think it should go to the country in the shape it is now in. The books are certainly irregular—I mean this particular page. I want to be guarded in my expressions, for I know nothing about the Treasury Department Printing Bureau, &c., except in this respect. But the book is irregular in this respect, it is incorrect, it is informal; it contradicts itself upon its face; and what the country wants to know is how that happened, so as to satisfy the public that there is a satisfactory explanation of it. I think that satisfactory explanation can be given, but I do not think, with all deference to this committee, that they have given it. I am sorry that the report of the committee does not contain just the facts in the case. And I want to say, for the benefit of the gentlemen who signed this certificate, that they ought to be ashamed to place their names to any such certificate as appears on that book. Either four of them have certified to a thing which is absolutely untrue or else the other three gentlemen certified to a statement which was not based upon fact. I think good will come out of this. All investigation generally brings truth to light. And I believe, further, that these irregularities, these informalities, these incorrect proceedings, will be corrected in the future, so far as this particular matter is concerned. As to the rest of the book I know nothing about it, for I have not attempted to investigate it further than to examine this particular page of the record.

Mr. RANDALL. I desire to make an inquiry of the Chair. Is it in order now to call for the reading of this report?

The SPEAKER. It is not during the time of the gentleman from Iowa, [Mr. PRICE.]

Mr. RANDALL. I think the House would be very much better able to understand the subject if they could hear the report read.

The SPEAKER. It will be proper to have the report read before the vote is taken, but not during the time of the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. I now yield to the gentleman from New Jersey, [Mr. HALSEY.]

Mr. HALSEY. I desire to state to the House what I understand the word "irregular" to mean in this report. It was charged that a certain number of sheets of blank paper had been destroyed, representing so much money. Now, if the evidence which Mr. Neale gave us is correct, and I have no doubt it is, it has been the habit of the Department, whenever in the course of printing securities there have been five, ten, or twenty imperfect sheets of blank paper, to put them in with other sheets that are spoiled in printing and count them as so much money, the same as if perfect, in order to balance the accounts. They have been in the habit of entering them precisely as though their denominational value were their real value. Therefore it was that the committee saw no irregularity in the mode of destroying these bonds. The only difference is that in this case the amount was larger than it had been before. Hence, we said there was no irregularity. I agree with the gentleman from Iowa [Mr. PRICE] in his views in regard to the manner of doing this; and, as a member of the committee, I shall certainly object to that method of transacting business, and I have no doubt the matter will now be corrected. It certainly is a wrong practice. It seems to me the blank paper should be returned and accounted for, so that the accounts may be balanced, and that the blank paper shall not be counted as so much money.

Mr. PRICE. I knew that my friend from New Jersey [Mr. HALSEY] was too good a business man to disagree with me on this point. I was confident that he knew what every other business man knows, that every certificate ought to state the facts exactly as they are. If a bond is destroyed, it ought to be so stated; if a Treasury note is destroyed it ought to be so stated; if fractional currency is destroyed it ought to be so stated; if a mutilated bond is destroyed it ought to be so stated; if blank paper is destroyed it ought to be so stated. When such a statement goes to the world any common-sense man can understand it.

Mr. VAN WYCK. Let me correct the gentleman. The record does state the character and description of the paper—the bond or the mutilated or blank paper which is destroyed.

Mr. PRICE. The gentleman from New York, if he speaks in reference to that page, states what, in my opinion, is inconsistent with the facts. I ask the Clerk to send me that paper. I may be mistaken about the matter. If I am, this is the time to correct me.

Mr. VAN WYCK. Here it is, printed in the Globe. It is headed "blanks."

Mr. PRICE. I prefer to take the original paper, which I have now in my hand. This paper, I presume, is a copy of the page of the book. I will read it, and I ask gentlemen to give it their attention.

"Schedule of United States five-twenty registered bonds, act March 3, 1863."

Then on another line by itself:

"Blanks, returned by me this day to be destroyed."

Then there is a statement of twenty-eight hundred of fifty dollar bonds, describing not only the number of bonds, but the denomination, and it is carried out $140,000. This does not say blank paper; it says "bonds." Then there are three bonds of $1,000 each, carried out, $3,000; thirty-seven hundred bonds of $5,000 each, carried out, $18,500,000; making an aggregate of $18,643,000.

Now, let the House give attention to the certificate.

TREASURY DEPARTMENT,
WASHINGTON, *December* 19, 1867.

We hereby certify that all the United States securities—

Not blank pieces of paper, but "securities." Is there any man in this House or out of it who has not sense enough to know that a blank piece of paper is not a United States security?

We hereby certify that all the United States securities, specified and described in the foregoing schedule—

The schedule I have read; and I say that if these were blank pieces of paper the man who would sign such a certificate as that either does not know what he signs or does not care. That is about as mild language as any in which I can characterize the proceeding. Now, let me read this certificate as a whole:

TREASURY DEPARTMENT,
WASHINGTON, *December* 19, 1867.

We hereby certify that all the United States securities specified and described in the foregoing schedule were this day totally destroyed in our presence.

W. V. S. WILSON,
For the Secretary of the Treasury.
CHARLES NEALE,
For the Register of the Treasury.
J. W. WHELPLEY,
For the Treasurer of the United States.
GEORGE M. DAVIS,
Specially appointed by the Secretary.

Then, right on the same piece of paper, we have this statement:

These bonds are but blank pieces of paper.

This is a certificate made afterward, not a certificate of the destruction at all. It is made at another time and by different parties. Not one of the signers of this signs the certificate I have already read; and this has no reference to the destruction of bonds at all.

These bonds are but blank pieces of paper. The authority of the committee for denominating them as bonds of specified value is derived from slips that accompany each package, which slips are made out in office of Mr. Clark.

J. N. BURKET, *for Secretary.*
ALBERT S. SEELY, *for Register.*
R. COURTNEY, *for Treasurer.*

That certificate was not on there when these men certified they destroyed $18,643,000 of United States securities. It was not there then, sir; I do not know whether it was put there next week or next month. There is nothing upon the record to show when it was put there.

Mr. WELKER rose.

Mr. PRICE. Not for a moment. I am now attending to the case of my friend on the left, the chairman of the Committee on Retrenchment. He says the certificate specified this as blank paper. I say that it does not. The certificate has not a word about blank paper. I pretend to know what a certificate is when I see it. I know how it ought to be made and what it should be. I have seen certificates many times. I say that this certificate does not say a word about this being blank paper.

Now, sir, if these men told the truth when they signed the paper, that these were $18,643,000 of bonds, and if these three other men told the truth when they signed the other paper, there is an untruth between them. One

certificate stated that they were blank pieces of paper which they destroyed, and the other certificate stated that they were $18,643,000 of United States securities. These are straightforward statements.

Mr. VAN WYCK. You say the certificate was not on before the bonds were destroyed.

Mr. PRICE. I say it was not there when these men signed this.

Mr. VAN WYCK. I say the gentleman is wrong.

Mr. PRICE. When I yield the floor to my friend from New York it will be time to take it. I say when these men certified they had destroyed these bonds I do not know they have been destroyed, because when they signed that they signed what was not true. They certified they destroyed United States securities, and these men come in afterward and say they were not securities of the United States, but blank paper.

This, sir, is a bold fact, and can easily be understood. These men certified they destroyed $18,643,000, and other men certify to the fact that they did not destroy a dollar of United States securities. That is the effect of it. Every man can see for himself. I have stated the facts exactly as the records show them. I repeat, so there shall not be the least misunderstanding: these men positively certify they destroyed $18,640,000 of United States securities, and the other men certify they were blank paper. The whole difficulty is that either one or the other of these men do not certify to what is the truth. I now yield to my friend from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I desire to have read to its completion the report which the Clerk began to read. Before he commences I wish to say, in plain, simple, clear language, so nobody can misunderstand the matter, that this is suppressed evidence taken before a committee organized to investigate the Treasury Department; that this is the report of the minority of that committee. It is evidence which was produced before that committee, but rejected by the majority of that committee, and incorporated in the report of the minority. The Clerk will read from the suppressed evidence. I make that statement so there shall be no misunderstanding. It is evidence not accepted by the committee, but is incorporated in the minority report.

Mr. GARFIELD. The paper from which an extract has been read is a copy of the charges sent by Mr. Wilson, of New York, to the Secretary of the Treasury at a time previous to the examination by our committee. When that paper was offered to the committee they said they would not accept it, but summon the man himself. The man was summoned and underwent a long examination before that committee, and his evidence is in print as a part of their report. The committee thought it improper to put in the report a letter of that particular man himself when he had full opportunity before the committee to give his evidence. Subsequently the gentleman from New York [Mr. BROOKS] put that with other matters in what he called "suppressed proceedings," which I always thought was a rather scaly proceeding.

Mr. LOGAN. I propose now to have this suppressed document read. It is signed by Mr. Jordan, the present Solicitor of the Treasury. It is evidence sworn to before that committee. I wish it to be read. The House and the galleries will excuse a portion of it, but it is necessary to be read to show the character of this man.

The Clerk read as follows:

"A cursory reading of a printed letter addressed by Clark to the Secretary, and marked 'private,' doubtless to keep it out of the hands of members of the committee, who would be likely to resent its scurrilous flings and innuendoes, impressed me at first as a successful refutation of the report; but upon referring carefully to the report itself, I find the so-called reply leaves the material points untouched. That report I therefore make part of my case.

"4. *Business incompetency.*—Clark has failed in every business enterprise he ever undertook, and in every case inquiry shows the failure was due to his visionary, unpractical character, combined with improvident and extravagant or immoral habits. He failed as a maker of rules at Hartford and Brattleboro'; he failed as the superintendent of copper smelting works at Simsbury, Connecticut; he failed as a flour merchant in New York. Prior to his employment in Washington, his only success seems to have been as clerk and bar-tender at the Carleton House, a second-class hotel of this city, where he was engaged in those capacities for three or four years.

"5. *Immorality.*—An incident which occurred during the latter portion of Clark's residence in New York did as much as anything else, unless his reckless speculations on Wall street be excepted, to destroy the credit of the firm of Clark & Coleman, and procure its failure. The facts, which were reported in the papers of the day, may be briefly stated as follows: a brothel in the eighth ward had made itself especially offensive to the police as a resort of the most profligate and dissolute of the community. It was found necessary to break it up. A descent was planned."

Mr. ELIOT. I rise to a question of order. There is a great deal in that document that ought not to be read. I suggest that it be printed in the Globe and not read from the desk.

The SPEAKER. The Chair sustains the point of order. The report made by this committee last evening was in regard to the cancellation and destruction of bonds. As the chairman of the committee has said, anything in regard to the official character of the Secretary of the Treasury, the superintendent of the Printing Bureau, or the employés of that bureau, will be in order. The Chair will not restrict debate to any extent in regard to that; but the private character of any of the employés, either male or female, is not before the House. The House has ordered no investigation of that kind, therefore it would not be in order to discuss it.

Mr. LOGAN. Very well. I will now say that I only desired to present this as evidence sworn to before a committee showing the character of some of the individuals who have charge of millions of dollars belonging to this Government. That character, it seems, is so damnable that it cannot be read in this House on account of its immorality. I desired to show that the character of one of the principal men of the Treasury Department is so infamous that it cannot be read in this House.

The SPEAKER. The House has ordered no investigation into that subject. If it had this would be in order.

Mr. LOGAN. I withdraw the call for the reading of it, and yield to the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL. I call for the reading of the report of the committee on the subject before the House.

The Clerk read as follows:

The joint Committee on Retrenchment, to whom was referred the following resolution:

"*Resolved*, That the Committee on Retrenchment be, and is hereby, instructed to investigate the charges made by the gentleman from Illinois, [Mr. LOGAN,] in reference to the false certificates of the destruction of $18,643,000 of United States bonds to report to this House to-morrow"—

would respectfully state that they examined a number of witnesses, and find the following facts:

That the paper on which bonds are printed is issued by the chief of the currency and printing to the counting division, where it is counted by three official counters, the person receiving being charged and accountable for every sheet, at the same time the character and denomination of the bonds is assigned to each, so that the aggregate of values is known in each issue. Sometimes, however, in the course of preparation, some sheets are soiled or torn, or defectively printed. Of such, a record is duly made, counted by a committee, burned, or destroyed by maceration under the direction of another committee, with the same particularity as bonds once issued and returned. This is the theory and practice of the bureau. This is the process; A committee of three or four, one each from the Secretary's, Register's, and Treasurer's office, to count the bonds and currency returned for destruction.

Then a committee of four, one each from said offices, and a citizen outside the Department appointed by the Secretary, whose duty is to receive from the first committee and see that all such bonds and currency are actually destroyed. However, all bonds for destruction must come through the Register's office, where they are canceled by punching both the bond and the respective coupon in the case of coupon bonds.

Three books of registration are kept in which are entries of the number of bonds destroyed, and their denomination certified by the counting committee.

Also a certificate of the second committee that the same have been burned or destroyed.

Said books are kept, one in the Secretary's, one in the Register's, and one in the Treasurer's office.

When sheets, partly printed or blank, are destroyed it has been usual to designate, not only the number of the sheets, but the denomination they would have if the sheets had been perfected into bonds and issued. Everything appears as if the bonds were perfect, except that at the top of the page of the books of certificates is stated the value and character of the sheets destroyed; if not complete bonds the statement shows how far the sheets were printed; sometimes on the face, back, tinted, bronzed, or blanks.

During Secretary Chase's term the Printing Bureau, being charged with the number of sheets and the denomination thereof the same as printed, claimed a credit should be given the bureau for each sheet as money the value it was intended to possess.

Secretary Chase sustained the view of the bureau; General Spinner, the Treasurer, not only dissented, but refused to have them so credited. It was finally agreed that there should be the same formality in counting and destroying, and the same record as in the case of bonds perfected, and that they should be credited not as money, but denominated "statistical;" that is, a formal and designated record to correspond with the original issue.

The present charge of abstraction is of registered bonds issued under the act of March 3, 1863. Sheets were issued in June and July, 1864, to print a large number of different denominations. Before they were all used a committee of four was appointed by Secretary McCulloch to make inquiry into the affairs of the Printing Bureau, who made an inventory of all bonds, complete and defective. They also found certain blank sheets for this issue of bonds, being the lot in controversy, not yet printed or soiled. These they also took, making an account thereof under the denomination to have been attached to them by printing, folded and delivered them to Mr. Root, of the Treasurer's office, who receipted for the sixty-five thousand sheets as blanks with the denominations named.

He placed them in charge of Mr. Sellers, the head of the east room, who placed them, sealed, in his vault, where they remained till December, 1867, when, a question arising what disposition to make of them, the Secretary ordered that they should be destroyed.

They were then duly counted by the counting committee as to the number of sheets and intended denominations, of which a record was duly made, and they were then delivered to the destruction committee to be destroyed.

A schedule of the number of the sheets and denominations was delivered to Mr. Neale, of the Register's office, one of the destruction committee. Not knowing the meaning thereof, as he had never before destroyed any perfect blank sheets, except in small quantities, although he had been in that department over eighteen months, Mr. Neale made inquiry why said sheets were to be destroyed, and why a record of denominations was added. He was informed as above stated, and declined signing the ordinary certificate of destruction until the counting committee had certified the condition of the sheets.

They were then destroyed, and a certificate in accordance with the facts signed on the proper books, before described, and containing the statement and certificate of the counting committee.

On the top of the page on which the said statement and certificates were entered it is distinctly stated, and they were called "blanks."

A copy of said page is annexed and made part of this report.

No person through whose hands they passed had any idea that they were destroying them in place of or as substitutes for bonds. All knew they were blanks—the whole proceeding was public and open.

After being taken by the Secretary's committee of inquiry the sheets were not again in charge of the Printing Bureau.

The attention of General Spinner was called to this matter about three weeks ago. He examined the circumstances and found no fraud. His attention was again called to it on the 9th instant. He did not intend to convey the impression that there was any fraud, for he knew there had not been. He did say it was wrong to destroy blank paper, and also wrong to denominate it as bonds, which should be explained; and had he known it was to be destroyed he would not have allowed it. He was not aware that it is customary to destroy blank paper.

The character of the bonds alleged to be stolen sustain the above facts. It will be remembered they were registered. In the office of the Register of the Treasury is kept an account of every registered bond, with the name of the person to whom payable; and before each semi-annual period for the payment of interest a schedule is made out for each place where there is a sub-Treasury, and where the holders reside, and the proper amount to meet the interest at each place is remitted. At each change of ownership the bond is sent to the Register's office, and a new bond issued to the new owner.

It was, therefore, evidently impossible by a combination of all the persons through whose hands the sheets passed, aided by every person in the Printing Bureau, to consummate a fraud of this kind without detection.

Eighteen millions of bonds with fictitious names, or bonds ordered to be destroyed in the Register's office, could not possibly be used and escape discovery. Under a concurrent resolution of the two Houses, adopted in March last, a sub-committee of the committee has been engaged in the investigation of the issue of the various loans of the Government since the beginning of 1861, inquiring into the details of each loan, the number of bonds printed, the number issued, the number destroyed, &c., and the voluminous testimony in regard to these points will be laid before Congress in due time.

The committee having found nothing irregular in the matters referred to, that no frauds were attempted,

neither could any have been consummated in the case of registered bonds, do, therefore, ask to be discharged from the further consideration of the resolution.

Schedule of United States 5-20 registered bonds, act March 3, 1863. BLANKS *returned by me this day to be destroyed.*

Number of packages.	Number of pieces.	Denomination.	Face value.	Discount.	Net value.
		Of 3 cents*	*		
		Of 5 cents.			
		Of 10 cents.			
		Of 15 cents.			
		Of 25 cents.			
		Of 50 cents.			
		Of $1			
		Of $2			
		Of $5			
		Of $10			
		Of $20			
1	2,800	Of $50			$140,000
		Of $100			
		Of $500			
1	3	Of $1,000			3,000
1	3,700	Of $5,000			18,500,000
		Of $10,000			
No. 3.		Total.....			$18,643,000

Amounting, as above stated, to $18,643,000.

TREASURER'S OFFICE, *December* 13, 1867.

———,
Treasurer United States.

TREASURY DEPARTMENT,
WASHINGTON, *December* 19, 1867.

We hereby certify that all the United States securities specified and described in the foregoing schedule were this day totally destroyed in our presence.

W. V. S. WILSON,
For the Secretary of the Treasury.
CHARLES NEALE,
For the Register of the Treasury.
J. W. WHELPLEY,
For the Treasurer of the United States.
GEORGE M. DAVIS,
Specially appointed by the Secretary.

I certify this to be a true copy of the certificate contained in the books of the Treasurer's office.

FRANK JONES, *Assistant Cashier.*
WASHINGTON, *March* 10, 1868.

*These bonds are but blank pieces of paper. The authority of the committee for denominating them as bonds of specified value is derived from slips that accompany each package, which slips are made out in office of Mr. Clark.

J. N. BURKET, *for Secretary.*
ALBERT S. SEELY, *for Register.*
R. COURTNEY, *for Treasurer.*

Mr. RANDALL. I now offer the following resolution:

Resolved, That the report and testimony be recommitted to the Committee on Retrenchment, with instructions to report at the earliest practicable time whether any and what changes are required in the present mode of conducting the printing of the United States notes and bonds; and that they have leave to report by bill or otherwise.

I now yield to the gentleman from Massachusetts [Mr. DAWES] for five or ten minutes.

Mr. DAWES. I do not design to enter into the discussion of the special matter which has engaged the attention of the gentleman from Illinois [Mr. LOGAN] or the gentleman from New York, [Mr. VAN WYCK;] but one matter has attracted my attention with it which has caused me more uneasiness than any other, and that is the mode in which the accounts are kept of the destruction of bonds. Therefore, upon the motion of the gentleman from Pennsylvania, [Mr. RANDALL,] that this report be recommitted, I desire to call attention to that matter.

Some four or five years ago, before the Printing Bureau had grown to the magnitude to which it has since attained, when I was in the city of New York, on a certain occasion, I was shown, in the office of an engraver in that city, the different parts which go to make up the whole of the several vignettes that form the plates upon which our bonds and our currency had been struck off and printed in this Printing Bureau, and I was shown how easy it was to counterfeit them, and I was convinced that the whole confidence which the public would have in these bonds ultimately rested upon the integrity of one man. I came back here and struggled with some few who coöperated with me in this House to break up the Printing Bureau in the Treasury Department, not because I had any lack of confidence in any gentleman connected with it, but because, let it be constituted as it would, let one man or another be put there, ultimately the entire confidence which the country would have in our credit system rested upon the integrity of one man. That discussion very soon degenerated into personal charges against Mr. Clark, who then happened to be in the bureau. Nothing was further from my intention than to have raised any such issue, but it degenerated into that, and the public mind was diverted from the inherent defect in the system to an issue raised upon the integrity of Mr. Clark. And from that time to this this establishment has gone on and grown into the magnitude and proportions to which it has arrived, so that $2,500,000,000 of bonds of the United States, of various denominations, are abroad in the country, and the whole integrity of the matter falls back upon one man.

Mr. WELKER. Let me make one suggestion in reference to counterfeiting. When I was in New York on one occasion I examined the operations of the American Bank Note Company, and I found that that company were printing paper money for the Italian Government and for several of the South American republics, and making it perfect and complete, to be delivered for circulation without a single signature or mark being placed on it by the Governments of those countries. That shows the degree of confidence that the Government must necessarily place in the officer who makes currency for any country.

Mr. DAWES. What the gentleman states is true, and they also printed bonds for the confederacy at the same time.

Now, I want to call attention to a matter upon this sheet, copied from the books of the Treasury, that does not seem, from what I have heard, to have attracted the attention of the House, and that is of more consequence, it seems to me, than the mere form in which these accounts are kept. Let me read:

"These bonds are but blank pieces of paper. The authority of the committee for denominating them as bonds of specified value is derived from slips that accompany each package, which slips are made out in the office of Mr. Clark."

So that the whole thing comes back and rests upon the integrity of Mr. Clark.

Now, I am not here upon the floor to make the slightest suggestion in relation to Mr. Clark; but I do say that $18,000,000 is too much to rest upon the integrity of one man; and the whole of the United States bonds, their faith, whether they be true or false, or whether there may not be $2,500,000,000 of other bonds abroad in the land just like them, falls back at last on the integrity of one man, and, whether he be a St. Paul or any other man, it is too much to rest the credit of this Government upon him.

Upon the question of recommitting this report to the Committee on Retrenchment, with instructions to inquire whether legislation may be called for in connection with what has arisen here, I will ask the House to take notice of the fact that there is developed here just what I had the honor to state to the House five or six years ago, that at some time this whole system would break down upon the fact that some man's integrity is not sufficient to bear up under all the temptations that, with a confidence most amazing, this Government is willing to repose without question upon his integrity.

Mr. RANDALL. That the House may more attentively listen to the resolution than they seemed to before——

Mr. MILLER. Will my colleague yield to me——

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] has but six minutes of his time remaining.

Mr. RANDALL. I cannot yield now. I ask that the resolution I offered be again read.

The resolution was read, as follows:

Resolved, That the report and testimony be committed to the Committee on Retrenchment, with instructions to report at the earliest practicable time whether any and what changes are required in the present mode of conducting the printing of United States notes and bonds, and that they have leave to report by bill or otherwise.

Mr. JUDD. Will the gentleman allow me to suggest an amendment?

Mr. RANDALL. I will hear it.

Mr. JUDD. Also to inquire into the fitness of the party who now controls the Printing Bureau.

Mr. RANDALL. I do not want to descend to personal investigations, and therefore I cannot assent to that proposition. If the gentleman wants to know my individual opinion, after an examination of the subject, I will say that I think that person ought long ago to have been removed, or at least suspended. I was in favor of suspending him, at all events, during the examination into this subject. After the appointment of the Committee on Retrenchment I looked into this subject carefully and, I thought, dispassionately; certainly as dispassionately as I knew how to do; and I became thoroughly convinced that there were gross abuses in connection with this printing of United States notes and bonds. But I had the assurance made to me at that time that many of the abuses which were then made apparent to the committee would be corrected; but the same abuses come up here again to-day, the subjects of this examination. Hence it is that I have offered this resolution, which proposes that the Committee on Retrenchment shall thoroughly examine this subject of bond printing; and if, after mature deliberation, they shall deem legislation necessary in connection with this subject they are instructed to report such needed legislation.

Not a single gentleman, even of the signers of this report, (of whom I am not one,) has commended the manner in which these books of the Treasury Department have been kept. One after another they have told us that the books of the Department are not kept in the manner in which they should be kept. The gentleman from New Jersey [Mr. HALSEY] has told us that they are not kept in the manner in which any business man who properly understood business would for a moment have his books kept. Now, the Department having failed to keep the promises which were made to correct these abuses, it is time that some legislation should be introduced into this House which would result in more security and safety in relation to this matter than now exists in connection with the printing of these bonds. If any gentleman will go into that Department and examine into this matter he will see that any engraver who chooses to turn counterfeiter can rob this Government to an unlimited amount.

As to Mr. Clark and his integrity I know nothing about him and I care nothing about him. I never saw him in my life until I came to Washington. And since I came here I can say I have had no official intercourse with him, except in connection with this committee. But I am convinced that so much power should not be vested in any man, I do not care who he may be, without some proper checks and balances. Mr. Clark may be as honest a man as any in the country; yet, with the present system, those immediately under him will have an opportunity to defraud the Government. In regard to bonds being duplicated I have no doubt that some have been so duplicated honestly; that is, the duplication has been done by the Government, and the bonds have been properly issued. In fact, I may be permitted to say that it came to the knowledge of the committee, in at least one instance, that those were genuine bonds bearing the same number. How that was explained—however, it could not be fully explained; but it was attempted to be explained, and the explanation failed to prove satisfactory. Yet both of those bonds were legitimate and genuine. Now, it is time, in my judgment, that some such action as I have suggested should take place on the part of Congress. I hope, therefore, that so simple

a proposition as the one I have offered will be adopted by this House.

Mr. JUDD. I desire to ask the gentleman from Pennsylvania [Mr. RANDALL] a question. He says that his investigations have shown him that duplicate bonds have been issued. I desire to ask him to what extent do his investigations show that duplicate bonds have been issued?

Mr. RANDALL. These duplicates of the same number were discovered in the destruction of United States bonds to the amount, I think, of $10,000.

Mr. VAN WYCK obtained the floor.

Mr. KELLEY. I ask the gentleman from New York [Mr. VAN WYCK] to yield to me a moment for a single remark upon the fact now under discussion, that different bonds with the same number upon them have been returned to the Department.

Mr. VAN WYCK. Very well; I will yield to the gentleman.

Mr. KELLEY. Mr. Speaker, as this question has been started, it seems to me some light might well be thrown upon it, and light calculated to relieve any public anxiety which may have been created. From time to time there have come in bonds bearing the numbers of others previously redeemed. For a long time it was the custom of the Department to destroy the bonds as redeemed, making a note of them. It was found that duplicates came in so frequently that the gentlemen charged with the business of keeping the record became alarmed lest at some time their integrity might be doubted, and insisted that the bonds redeemed should be preserved, not destroyed as theretofore. The redeemed bonds are now filed away, and when a duplicate comes in the bond of the same number previously redeemed is produced.

The query is, how is the existence of these duplicates accounted for? I am told that when such a case happens one of the gentlemen connected with the Department is called, who suggests that the second bond has been erroneously numbered and indicates the number which it ought to bear. I am told that in this way some bonds, having been ascertained not to bear the number assigned from the fact of the original of that particular number coming in, are marked with another number, and thus bear evidence that they have been duplicated not only once but several times. In other words, they represent the duplication of several bonds. I think the committee charged with the investigation of this subject might well turn their attention to that particular point.

Mr. VAN WYCK. I now yield for a few minutes to my colleague on the committee, the gentleman from New Jersey, [Mr. HALSEY.]

Mr. HALSEY. Mr. Speaker, I think that if the gentleman from Pennsylvania, [Mr. RANDALL,] who has made the motion to recommit the report, will reconsider the matter, he will withdraw the motion. I will send to the Clerk's table to be read the resolution under which the committee are acting, and also the order of the committee assigning certain subjects to a sub-committee.

The Clerk read as follows:

Resolved by the Senate and House of Representatives, That the joint Committee on Retrenchment be, and are hereby, instructed to make a careful and minute examination of the method adopted by the Treasury Department to print the bonds, notes, and securities of the United States, what guards have been adopted to prevent fraud or mistake, and what additional guards, if any, ought to be adopted to prevent fraud or mistake; whether there has been any fraudulent or erroneous issue of bonds, notes, or coupons, and, if so, by whose fault or negligence, and the proper remedy and prevention thereof; and especially to examine the official conduct of those charged with the printing, registration, and issuing of any notes, bonds, or securities of the United States; and that said committee have power to sit during the recess of Congress, to send for persons and papers, to examine the same, and to take testimony, and report at the next session of Congress.

Ordered, That so much of the inquiries referred to this committee as relates to the security of the public moneys and the methods of accountability with regard thereto, and to the Printing Bureau of the Treasury Department, be committed to a sub-committee consisting of Senators EDMUNDS and BUCKALEW and Representative HALSEY.

Mr. HALSEY. Mr. Speaker, by what has just been read, the House will observe that a sub-committee was charged with the investigation of "the security of the public moneys and the methods of accountability with regard thereto, and the Printing Bureau of the Treasury Department." That sub-committee commenced their investigations in the city of New York last October. We commenced with the war issues of Treasury notes and bonds, beginning with the early part of 1861, under Mr. Secretary Chase. We examined the officers and employés of every bank note company in New York that had done Government work as to their system of printing, the checks adopted to prevent fraud, and also as to the quantities and denominations printed for and delivered to the Government. The sub-committee then came to Washington and required the Secretary of the Treasury and his employés to furnish statements of the quantities and denominations received from these New York companies, and to account for every bond which had been put in their possession.

We have been pursuing that investigation from that time to the present; and have been examining, also, into the printing done by Mr. Clark in the division of which he has charge. We have made an inquiry as to every item and the value of every piece of paper which he has delivered to the Secretary of the Treasury. We have required the various officers to account for every piece of paper they have received, whether complete or not, whether perfectly printed or incomplete. We have pursued our investigations until now we are just about ready to examine the methods and checks adopted in the Printing Bureau of the Treasury Department, so that we may ascertain whether additional guards are necessary. I think, sir, that covers all the ground desired by the gentleman from Pennsylvania.

Mr. RANDALL. There is nothing whatever in what the gentleman has stated which militates against the adoption of the resolution I have offered. I have no doubt the committee will be assiduous.

Mr. HALSEY. The sub-committee referred to by me has been specially charged with the investigation of this subject. It seem to me, therefore, when this report is disposed of, the subject should be left in charge of that committee. They have been investigating the entire matter and have been carefully attending to their duty; they have taken much testimony and procured a great fund of information, which will appear in the final report.

Now, as the gentleman from Massachusetts [Mr. DAWES] has referred to the manner of this printing, I desire to say here, so far as we have gone, we have found nothing which need startle the House or the country. I do not stand here to defend the Treasury Department or Mr. Clark or any one else. We are not a whitewashing committee. We mean to get at the facts as far as we can, and to report to the House the truth in reference to all these matters.

Mr. STEVENS, of Pennsylvania. I should like to know when the morning hour begins.

The SPEAKER. It will not commence until this is disposed of.

Mr. STEVENS, of Pennsylvania. I think we should pass over this business and go at once to the morning hour.

Mr. VAN WYCK. I object to that.

Mr. STEVENS, of Pennsylvania. Would it not do just as well to consider this matter to-morrow?

Mr. VAN WYCK. I presume that to-morrow will be a *dies non*.

The SPEAKER. To-morrow will be private bill day.

Mr. VAN WYCK. I do not propose to occupy the hour to which I am entitled.

The SPEAKER. The gentleman from New Jersey is upon the floor.

Mr. STEVENS, of Pennsylvania. I wish to say while I am up that I intend to call the previous question on the admission of Alabama at half past four o'clock to-day.

Mr. WOOD. Will not the morning hour commence after this pending subject is disposed of?

The SPEAKER. It will.

Mr. WOOD. Then this Alabama bill cannot come up until after the morning hour.

Mr. BOYER. I cannot be taken off the floor.

The SPEAKER. The gentleman has the floor on the Alabama bill, and cannot be taken off of it.

Mr. HALSEY. Mr. Speaker, I wish to make a statement which may relieve the minds of gentlemen on this subject. The act of February 25, 1862, and its supplements, provided for the issue of $514,000,000 of five-twenties. Up to December, 1867, the Treasury Department had paid of duplicate coupons eighteen of $100, thirty-two of $500, and twenty-four of $1,000 bonds. In all that issue of five-twenty bonds that is the total amount of duplicate coupons.

Mr. WASHBURNE, of Illinois. What is the total?

Mr. HALSEY. The total amount paid on duplicate coupons of those five-twenty bonds is $1,254. Now, during that same period of time, of coupons that were never presented or paid, there were thirty-five of $50 bonds, seventy-seven of $100, twenty-five of $500, and eighty-five of $1,000. In other words, those bonds have had no interest paid on them. Among the duplicate coupons it is evident that the numbers in some instances have been changed. Figures have been added at one end or the other of the regular number. The fact is, that some of those said to be duplicate bonds are not really so, but have been altered, and properly belong to the numbers which are marked as having never been presented. When bonds are stolen their numbers are advertised, and, to prevent detection, the thieves change the numbers, as a three to an eight, a nine to a cipher, &c. It thus, apparently, appears that the Department has paid duplicate coupons when in point of fact it has done no such thing.

I now desire to refer to a remark made by the gentleman from Illinois [Mr. LOGAN] yesterday. He asked if the committee were aware of the fact that the Treasury Department had redeemed $70,000 counterfeit seven-thirty notes. I did not answer him then because the chairman of the committee put it off. Sir, not only are the committee aware of it, but the country is aware of it. It was published in all the papers. And here let me state that the Treasury Department proper—that is at Washington—never redeemed those counterfeits; they were redeemed by Mr. Van Dyck, Assistant Treasurer at New York, who had five-twenty bonds in his possession for the purpose of conversion of the seven-thirties into five-twenties. These counterfeits were presented to him and he gave five-twenties for them. They were sent to Washington, and on their entering the loan branch of the Secretary's office the fraud was detected, because on looking at the numerical registers giving the numbers of the notes issued these numbers were found to be duplicates, corresponding genuine numbers having been redeemed before. The sub-committee which has been engaged in the investigation has not overlooked any of these points, and will in due time present a report which will cover the whole ground, and I have no doubt it will give the truth, and the whole truth, no matter whom it may affect.

Mr. VAN WYCK resumed the floor.

Mr. MAYNARD. I desire to call the attention of the gentleman to a single point. It appears that the Secretary of the Treasury ordered the destruction of this blank paper, six thousand five hundred and three sheets, but it does not appear what necessity there was for its destruction. I presume it is susceptible of explanation.

Mr. VAN WYCK. Mr. Speaker, debate has traveled very widely, and I propose in as brief and plain a manner as I can to explain the facts which have been ascertained by the committee in regard to the subject referred to

them. This committee do not report at this time upon anything except the matter referred to them by the resolution of the 9th instant. All in regard to the Printing Bureau, and all in regard to modifications, changes, or reforms in that bureau had been previously referred to the committee. A sub-committee, composed of the gentleman from New Jersey [Mr. HALSEY] and two members of the Senate have been investigating those matters, and will in time make their report. Therefore the committee in this instance did not deem it necessary to present for the consideration of the House anything except what the resolution referred to them on Monday last called for.

Many things have been said in this discussion which are partly of a personal nature. I propose not to spend much time in answer to them. As I have endeavored to state to the gentleman from Illinois, there has been no disposition to do injustice to him; there was not the least desire to reflect upon any statement which he had made. The impression as I stated yesterday had gone forth to the country that there had been a great fraud perpetrated upon this Department, and it was necessary that these reports, if untrue, should be contradicted. Now, sir, I think no gentleman will rise in his place to-day on this floor and say that the evidence sustains the charge that there was any abstraction of $18,000,000 of bonds. If that be so—and I do not understand the gentleman from Illinois to-day to insist that the proof sustains the charge that these bonds were abstracted——

Mr. LOGAN. I never made such a charge.

Mr. VAN WYCK. The impression, I say, is deducible from the gentleman's remarks, whether properly so or not, which was deduced from them not only by members of this House but by the country. Whether he intended to convey that impression such an impression was conveyed, but the facts show that there was no fraud. He said yesterday, in answer to my colleague, that he did believe there was, and the impression left on the House and the country was that a fraud had been committed. Therefore, I say to-day, that there is no proof of fraud of the kind, and with all due respect to the gentleman, for whom I entertain nothing but the utmost kindness, he seems to have traveled out of the record when he took occasion in his remarks on this matter to say that the Department had its attorneys here. What he meant by "attorneys" I do not know. Who he meant to say were acting in the capacity of attorneys for the Department I do not know. He had no occasion to say that of any gentleman who had taken part in this investigation, or who is connected with the committee. The gentleman said that if any person rose on this floor and denounced the Treasury they covered him with "slime." Now, sir, I have seen no gentleman here do anything of that kind. No gentleman has thrown any dirt, except the gentleman from Illinois. Nobody else has sought to beslime any one. Gentlemen have merely asked that the facts should be presented and that the inferences deducible from them should be drawn, and I submit to all the gentlemen of the House if such is not the case.

The gentleman has time and again upon this floor sought to attack the Treasury Department and persons connected therewith, and he has done it unanswered. No one, I think, and certainly no member of the Committee on Retrenchment, has risen and come to the defense of the Secretary at all, and hence it is that the charge which he makes, the insinuation which he makes, against the members of that committee, that they are seeking to "whitewash" the Department, is entirely unfounded. When, where, under what circumstances have they "whitewashed" it? They have not yet reported in regard to the Printing Bureau, and as to the report which they have made, that there was no fraud in this transaction of the $18,000,000 bonds, no man controverts it by saying that there was fraud. When did they "whitewash?" Whom did they "whitewash?" For what purpose and object did they "whitewash?" A gentleman who is so sensitive that he desires that the truth shall not go forth as an antidote to false impressions ought certainly to have a little regard for the character of others and not charge them with being the attorneys for a Department which he stigmatizes as corrupt; and the members of a committee that has not earned that reputation ought not to be charged with coming into this House and seeking to "whitewash" any department or bureau which he stigmatizes as corrupt. Any such imputations as that I throw back on the gentleman who has made them.

Now, in regard to the telegraphic dispatch to which reference has been made, it was not a statement of my own or of my colleague, [Mr. LAFLIN,] but it was merely a statement that General Spinner had explained the matter, and it was sent off so that the facts might go forth from a representative of the Treasury Department and appear in the same issue as an answer to the charges which had been made on the floor of Congress. Was there anything unjust in that? Was there any want of magnanimity in that? When the gentleman from Illinois, from his high position here, with his distinguished character as a member of this House, and the regard entertained for him throughout the country, made such an assertion against the Treasury Department as to create the impression that they had stolen $18,000,000 of bonds, was it wrong for us to do that?

Mr. LOGAN. Will the gentleman allow me?

Mr. VAN WYCK. No, sir; I cannot yield now.

Mr. LOGAN. I say to the gentleman that I never made any such statement, and when he says that I charged robbery or abstraction of the bonds he states that which he knows to be untrue.

Mr. VAN WYCK. The gentleman has repeated that time and time again in this discussion. Now, it is an easy matter to bandy words. The gentleman says he has been beslimed. I say what I have before said, that no one has thrown dirt, in regard to this matter, except the gentleman from Illinois, [Mr. LOGAN.] And at this very minute he steps in to confirm the assertion which I made. I said that such was the impression deducible from his remarks, that such was the impression created in this House and in the country. Yesterday he said that he believed there was fraud in the transaction. Now, if the gentleman believed that there was fraud in that transaction, did he not mean to say that there was fraud in the transaction? Did he not mean to say to the country that there was fraud in the transaction? And I ask if it was not just to men who were honest and guiltless of fraud, among whom was General Spinner, that the statement should go forth to the country that they were clear of fraud? The gentleman says he was actuated by the best of motives. So we assumed, and the day before yesterday we asked him to meet with us and assist in the examination of witnesses. As to myself, I have no occasion to regret what I have said in regard to this matter. I have certainly not been in the habit of saying anything which I intended to take back or to retract, and I have done nothing in connection with this matter which I wish had been left undone. So there let that matter rest.

Now, if the House will indulge me a moment further in relation to these personal matters, to which I must make some reply, I will say a word or two in justice to my colleague, [Mr. LAFLIN.] He certainly is not amenable to the criticism which the gentleman from Illinois sought to apply to him. It is true he is chairman of the Committee on Printing of this House. But that has nothing whatever to do with the Printing Bureau of the Treasury Department; and on yesterday he came in here, and deliberately, calmly, without any excitement, stated just exactly what were the facts. He stated them in a way which should not have excited the displeasure of any one. Yet the gentleman seemed to convey the impression, which certainly was not correct, that my colleague assumed the character or position or attitude of "big Indian." He did not put his hand upon his breast and seek to have such an impression conveyed to the minds of members here.

There may be objections to the mode of doing the business in the Printing Bureau, to the theory upon which that business is conducted. But let me say right here that it is the same mode which was inaugurated by Secretary Chase, which was continued by Secretary FESSENDEN, and which is carried on to-day. I am not here to justify Mr. Clark or the Secretary of the Treasury or anybody else, but to state just what are the facts. This paper upon which the bonds are printed must go into the hands of somebody. It is put in charge of the Printing Bureau, and Mr. Clark is the chief of that bureau. The mere fact that he has so much paper placed in his hands does not give him the power to rob the Government of a dollar, unless there is complicity in some of the other bureaus through which this paper must pass before it comes out in the shape of perfected bonds. The paper is passed to the counting clerk, and then to the first division, or what is called "the plate" division. Now mark; in this plate division, where the sheets are given out, not only is the number of sheets recorded, but the proposed value to be printed on the sheets is here recorded.

I ask the attention of the gentleman from Tennessee [Mr. MAYNARD] to what I am now saying, as it will be an answer to his interrogatory to me a few minutes since. Not only is the number of the sheets recorded, but also the value which the sheets are intended to represent when they shall have become complete and perfect bonds. For instance, one thousand sheets are given out to the printer. He is first charged with the thousand sheets of paper, and then he is charged with the denominations which those sheets are to have impressed upon them, although they are in reality but blank sheets of paper. The sheets then are taken where the printing is to be done, where they are counted eight times, and then they are taken to another division, where another charge is made of the number of sheets and of the proposed value to be attached to them. And so these sheets go through every bureau or division of the Printing Department, until in the end some of them are perfect bonds, some are imperfect, and some, possibly, are still perfectly blank. But still the character and denomination of the bonds ascribed to them in the first instance go with them. The mutilated or imperfect bonds which are to be destroyed still bear upon the books the denominations and values originally ascribed to them. These books show this to be the theory of the Department. Is a mutilated bond of any more value than a blank sheet or a bond printed on one side?

Mr. MAYNARD. Not of as much value.

Mr. VAN WYCK. No, sir; not of as much value. Yet these are called "securities," and are considered as representing $1,000, $5,000, or $50,000, as the case may be; and when they are mutilated or destroyed they are so carried out on the books. I have here books of the Treasury Department which I have brought for the inspection of any gentlemen who desire to see them. Now, I trust that I have made myself understood in the outset. If I have that solves the whole difficulty in regard to this matter except the inquiry, which I will answer by and by, why so many sheets of blank paper were destroyed. The gentleman from Illinois referred to the testimony of Mr. Neale. Now, it happens that these sheets were issued in 1864. Mr. Neale was a clerk in the Printing Bureau. These bonds were in two lots—one of thirty-seven hundred and the other of twenty-eight hundred. In 1864 these bonds all came into the possession of this man Neale, who is the person furnishing the information to the gentleman from Illinois. Mr. Neale, on first receiving these bonds, charged himself with the sheets and carried out the denomination—$50.

He did this with the thirty-seven hundred bonds. He charged himself with the blank sheets and charged himself with the denomination. This was in 1864. When he returned those bonds he returned, some printed, some mutilated, twenty-four hundred and fifty-seven sheets, (that is, with merely the green printed,) thirty-seven hundred blank papers, and eighty-six bonds.

Now, sir, in 1864, there was made on these books an entry of thirty-seven hundred blank sheets of paper which were returned, and twenty-eight hundred blank sheets of paper which were returned. The books all the way through carry out these bonds in the same way—tints, mutilated, printed upon the back, defective, blank, &c. Here is the record, which gentlemen who are curious about this matter of printing may examine. Now, there is in the Department another book containing a receipt of the same issues of bonds and the return of them. In this second book are recorded the same thirty-seven hundred sheets of blank paper and the twenty-eight hundred sheets of blank paper.

Now, sir, the Secretary of the Treasury thought it necessary, by reason of some rumors, to institute an inquiry in regard to the manner of conducting this Printing Bureau. And now I will answer the question put awhile ago by the gentleman from Tennessee, [Mr. MAYNARD.] This committee went to Mr. Clark's bureau, and there they found these blank sheets to which I have just called attention—some printed, some mutilated, some tints. They found the identical blank sheets now in controversy. According to the theory of the bureau, those blank sheets had significance and value. Under that theory they had attached to them a denominational value and were considered just as deserving of protection as the bonds that had been printed. Consequently, Mr. Root, a clerk in the Treasury Department, gives his receipt for these very same bonds; and among them in one receipt are the thirty-seven hundred bonds marked as blank paper and carried out with their denominational value, $18,500,000.

Now, sir, Mr. Root took these out of the Printing Bureau entirely, and they never went back there. Mr. Root took these blank sheets from the Printing Bureau and they were never entered into that bureau again. When he took them he gave a receipt for thirty-seven hundred blank sheets which were marked to represent the value, if they were ever printed, of $18,500,000. You may say this is a foolish theory. So it is. They had better adopt a better system, you may say. I say so too. But there has been no fraud in all this; so it will appear when you take into consideration the way in which they do their business at the Printing Bureau. Mr. Root has signed this. When they take the paper they sign a receipt. They give duplicate receipts. Here is the receipt. Mr. Root gave his receipt for these blank sheets and then they passed out of the Printing Bureau. Here are twenty-eight hundred blank sheets of paper with the value carried out in money, although there was not the least taint upon them. The books of the Treasury from 1864 down to the present time have entries of these figures and give the denomination of these papers. So this is not the only entry of this character.

These sheets were taken from the Printing Bureau. Here are the receipts. Then they were passed to the cash department. What then was done? They were put into the safe. Why put blank paper in the safe? Although they were blank paper they were carried out as of a certain value. It was because of the theory of their system. Whether right or wrong, they had a value, and every sheet had to be accounted; for every sheet represented $1,000 or $5,000. These sheets were locked up in the safe, and there they remained locked up, so no man's hand could touch them save the man who had receipted for them. Finally the question arose what should be done with this blank paper? Then it was that these sheets were ordered to be destroyed. My friend from Tennessee has referred to the action of the Secretary of the Treasury carrying out the theory of the Department in this regard. The Secretary of the Treasury said "Let these papers be destroyed as others were." They were taken from the safe. It was not done without proper checks. There is a check upon every transaction there. I am not justifying the system at all, but only showing there was no fraud here. When these sheets were taken from the safe they went into the hands of the counting committee. They were counted as if they were bonds. They went next into the hands of the destruction committee. When they went there they stated, and here is their certificate, that they were blank sheets.

Now, sir, when fraud is charged, when crime is alleged to have been committed, we look for the motive which led to it. We want to know who did it and why it was done. If fraud is committed we want to know who is to be benefited by it. If there was any fraud or crime Mr. Clark was not to be benefited, for these sheets had gone out of his bureau. They had been taken to be destroyed from the safe of the Treasurer of the United States. They were counted and receipted for when they went in, and they were counted and receipted for when they were taken out and before they were destroyed. It just happened that this committee of investigation came and seized upon all the effects of the bureau, just at the time, too, when these blank sheets of paper were there, and they took possession of them. That is the reason there were so many blank sheets.

Mr. MAYNARD. I understand the gentleman to say that when this paper is delivered at the Printing Bureau its value is fixed; that they fix the value it is intended to bear when completed. I think I understand that, and that every sheet of paper is traced from the time it enters the bureau until it leaves the bureau, and the character in which it leaves the bureau, whether it is a complete bond or blank paper. I understand all that, and I think I can see the importance of keeping the trace of every piece of paper which goes into the bureau, and every piece which goes out, and how it goes out. But I cannot see, when it is in the bureau, when it is good, smooth, white paper, why it is necessary to destroy that paper and then to go into the market to buy more just like it, unless it is to preserve this system.

Mr. VAN WYCK. That is all. That is just what General Spinner said was wrong. That is what you and I say is wrong. It is to carry out the theory of the system. That is all of it. There was no fraud.

Mr. MAYNARD. Then it is a piece of expensive red tape.

Mr. VAN WYCK. I agree with you. It was right, however, according to the system which prevailed there.

The papers came into the hands of the destruction committee. Then this man Neale made the inquiry. He went into the Register's office and they told him all about it. Then he went back and said he would put this certificate on the book before the paper was destroyed. These were only blank sheets of paper, and the gentleman from Iowa [Mr. PRICE] thinks it extraordinary that any one in the Treasury Department should make an entry on the book of this certificate that they were not bonds. He thinks it is something wonderful that they should perpetrate this fraud of certifying that these were securities. It is also said that this is written in red ink. So it is, by another clerk, whose duty it is to fill out the sheets. Let me say to the gentleman from Iowa that a certain kind of these bonds are called "statistical" in order that it may be understood that they are not real bonds. It is understood in the Department that mutilated paper blanks are called "statistical." All such bonds are in red ink, and every man who opens the record can see the character of those papers. They are called securities because they are papers of that character. They are written in red ink to designate their character as statistical.

Now, my friend will not insist that a mutilated bond is better than a blank sheet. My friend from Tennessee [Mr. MAYNARD] says it is not so good. Some are tinted and some are bronzed, yet all the receipts speak of them as securities. They are headed "blanks" or "bronzed," and they are written in red ink to show that they did not intend to call them bonds perfected. They are called securities because value has attached even to the mutilated, defaced, and unprinted blanks.

Mr. PRICE. Will the gentleman yield for a moment?

Mr. VAN WYCK. For a question.

Mr. PRICE. What I stated was this: that the certificate written there was not written in red ink, because it is not so written. The word "blank" at the head of the page is written in red ink. That has nothing to do with the certificate whatever. I stated—and the gentleman will agree with me in that—that the certificate at the bottom of the page written in black ink, signed by the four men, states that they had destroyed $18,643,000 United States securities, when the fact was they did not destroy anything but blank paper. And I stated further that all this difficulty had arisen from their not certifying to the facts as they were.

Mr. VAN WYCK. Will you look a moment at this book? That is "bronzed." Is not that a certificate calling it a security? Do you not see that?

Mr. PRICE. That is a printed certificate, but if you call a blank paper a bond that does not make it so.

Mr. VAN WYCK. I agree with you there.

Mr. PRICE. I knew you would agree with me. When the facts come to be stated you will have to agree with me. [Laughter.]

Mr. VAN WYCK. Good. Witness, stand a moment. [Laughter.]

Mr. FARNSWORTH. This discussion is not in order.

Mr. VAN WYCK. Here is a certificate which they signed at the bottom. It is all one instrument; it all speaks of the same transaction. There is nothing at the bottom signed in ink except the name and date. The receipt is of the above, on the page.

Mr. PRICE. That is where the gentleman makes a mistake. The certificate is of the United States securities therein contained, specifying them. The certificate covers these and nothing else. That is where the trouble is.

Mr. VAN WYCK. Now, let us see what it says. Here it is: "Schedule of United States five-twenty coupon bonds, act February 26, 1862, bronzed—returned by me this day to be destroyed;" and then it gives the number of packages and the number of pieces—sixteen $1,000 each carried out $16,000. Now, let me read the certificate.

Mr. PRICE. I was just going to ask the gentleman to let me read it.

Mr. VAN WYCK. I will read it myself.

Mr. STEVENS, of Pennsylvania. I rise to a question of order. The gentleman from New York [Mr. VAN WYCK] having been longest in the military service has the best voice, and is entitled to read that paper. [Laughter.]

Mr. VAN WYCK. Yes, I concur with the gentleman in that opinion. I anticipated his opinion, and was acting upon it.

The SPEAKER. The gentleman from New York is entitled to the floor.

Mr. VAN WYCK. I will read the certificate. It is as follows:

"We hereby certify that all the United States securities, specified and described in the foregoing schedule were this day totally destroyed in our presence."

Now, this is headed "Schedule of United States bonds," "bronzed," and that is what it covers—the schedule. They certify that all the United States securities "specified and described" in the foregoing schedule have been destroyed.

Mr. PRICE. Let me read it.

Mr. VAN WYCK. If you can read it any better do so.

Mr. PRICE. The answer to that depends

entirely on what a schedule is. What is a schedule? Is it not a description of articles? A schedule is a description of articles. Here, on this page of the book, is a description of what they call "United States bonds"—a bond for $500, a bond for $1,000, so many for $5,000, so many for fifty dollars each. The schedule is a memorandum, an account of certain things which they certify they have "this day destroyed." Here is the certificate:

"We hereby certify that all the United States securities specified and described"—

What does "specified" mean? They specify the bonds and describe them. They tell you how many there were and of what denominations; and they certify that they have destroyed all these securities, and they sign their names to the certificate. They certify below the schedule to the memorandum, and the memorandum relates to United States bonds and nothing else, when the fact in this case is that there were no bonds at all.

Mr. VAN WYCK. Let me say a word right there. They certify that they have destroyed all the United States securities specified and described in the schedule. What kind are described? "Bronzed;" and in another case, here in this book, they are described as "blanks."

Mr. PRICE. I beg the gentleman's pardon. They are not described as "blanks;" and I will let any disinterested party read that page, and if he says they are I will abandon the case. They are described as bonds.

Mr. VAN WYCK. They are described as "blanks." And that is not all; upon this same page, which is to be the evidence of the guilt of the Department, appears this certificate, which was put there before the bonds were destroyed, saying that these bonds are but "blank pieces of paper." And, therefore, is it not wonderful that upon this page itself anything like fraud should be predicated against this Department? Now, only a word or two more and I will close.

Mr. MAYNARD. I would like the gentleman to explain why it was thought necessary to make an additional certificate in reference to this particular transaction?

Mr. VAN WYCK. A similar certificate appears in another place in this book, where another pretty large number of bonds was destroyed and the same certificate was made. This is not the only certificate of the kind in the book; there is still another. But, no matter; that does not help the charge at all; because with the evidence of the destruction of the bonds, if you choose to call them so, goes forth the written evidence that they were only sheets of blank paper.

Now what is the theory? Who perpetrated this fraud? Not the Printing Bureau, not Mr. Clark, because the paper was beyond his control. Not the counting committee, for they turned them in as blanks. Not the destruction committee, because they regarded them as blanks and destroyed them as such.

Mr. HOOPER, of Massachusetts. Will the gentleman allow me to make an inquiry?

Mr. VAN WYCK. Certainly.

Mr. HOOPER, of Massachusetts. I can understand perfectly well, from the gentleman's explanation, that any imperfect bonds, which have not gone through the full process of printing, can be traced and recognized. But what I want to ask the gentleman is, what evidence is there that these thirty-seven hundred sheets of blank paper are the thirty-seven hundred sheets of blank paper originally delivered to the Printing Bureau?

Mr. VAN WYCK. The testimony of the committee who traced it all through. The denominations were attached to them when they were first issued in 1864.

Mr. HOOPER, of Massachusetts. The gentleman says these sheets, thirty-seven hundred in number, were blank sheets. If so, was there any mark on them to designate their intended denominations?

Mr. VAN WYCK. There was nothing on the sheets, but there were strips of paper accompanying each bundle setting forth the denominations.

Mr. HOOPER, of Massachusetts. Was there the slightest evidence before the gentlemen who signed the certificate that these sheets were the identical thirty-seven hundred sheets issued in 1864?

Mr. VAN WYCK. They could not say that, because they did not know it. But there were others who knew the history of the sheets, tracing them from 1864 to this time.

Mr. HOOPER, of Massachusetts. Does the gentleman say they certified to this without having any knowledge of it?

Mr. VAN WYCK. They certified that there were so many sheets of blank paper. Now, I defy any one to tell me how a fraud of this kind could be perpetrated in registered bonds. Before each registered bond is issued from the Treasury the name of the person to whom it is issued is put in the body of the bond or of the certificate, because it is not exactly a bond, but a mere certificate that the United States owes so much money to such a person. On the back is printed a power of attorney, and if any person holding a registered bond wishes to transfer it he signs the power of attorney printed on the back of it. It is then sent back to the Register's office, where it is destroyed, and a new certificate is issued for what is called a registered bond. Therefore it is utterly impossible for any person or persons, no matter how strong the combination may be, to perpetrate a fraud of the kind charged here through the medium of registered bonds. It possibly might be done in the case of coupon bonds, but not in the case of registered bonds. When I refer to the charge of fraud, of course I do not refer to anything said by the gentleman from Iowa, [Mr. PRICE,] because he has distinctly stated that he did not believe there was any fraud in this transaction. The registry shows how many of these bonds have been issued. The different United States Assistant Treasurers have a record of the bonds which draw interest payable at their offices. When a bond is given up or canceled it is marked as canceled at the office here, and when the next payment of interest is made there is sent forth only the names of those entitled to draw interest. Therefore it is utterly impossible that a fraud of this kind could be perpetrated through the medium of this species of security.

Mr. MAYNARD. I suppose the gentleman wants to get at the facts?

Mr. VAN WYCK. Certainly.

Mr. MAYNARD. He has no particular theory to maintain?

Mr. VAN WYCK. Not at all.

Mr. MAYNARD. Does the investigation show that there was any considerable amount of this blank paper destroyed?

Mr. VAN WYCK. No, sir. I understand that my time is about out. Now, I have no sort of objection to the resolution of my colleague on the committee, [Mr. RANDALL.] I will, therefore, call the previous question on his resolution.

The SPEAKER. The gentleman from New York [Mr. VAN WYCK] moved on yesterday that the report of the committee be printed. The gentleman from Illinois [Mr. LOGAN] moved to amend that motion so as to include the printing of the testimony with the report. The gentleman from Pennsylvania [Mr. RANDALL] has submitted a resolution to recommit the report with instructions. And the gentleman from New York [Mr. VAN WYCK] has now called the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. Would it be in order to move that this matter be referred to a special committee, to be composed of gentlemen from this side of the House, inasmuch as the gentlemen on the other side seem to have got into such a quarrel that they cannot settle this matter?

Mr. VAN WYCK. We will attend to our own quarrels, and hope to be allowed to attend to our own funerals. [Laughter.]

Mr. ELDRIDGE. We would like to bury you all. [Renewed laughter.]

The SPEAKER. The only amendment pending, then, is the amendment of the gentleman from Illinois, [Mr. LOGAN,] that the evidence be printed with the report. Does the gentleman from New York [Mr. VAN WYCK] accept that amendment?

Mr. VAN WYCK. Yes, sir.

The SPEAKER. If there is no objection the report and evidence will be ordered to be printed; and the resolution of the gentleman from Pennsylvania [Mr. RANDALL] providing that the subject be recommitted with certain instructions will be considered as adopted.

There was no objection.

ORDER OF BUSINESS.

The SPEAKER. In regular order the morning hour would now commence; but the Chair understands that the gentleman from Massachusetts, [Mr. ELIOT,] who has charge of the bill for the continuance of the Freedmen's Bureau, now pending in the morning hour, is willing to allow it to go over.

Mr. PIKE. I hope we shall go on with the business of the morning hour.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to proceed in the morning hour with business from the Committee on Appropriations.

Mr. PIKE. I object.

The SPEAKER. The morning hour has now commenced.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Maine [Mr. PIKE] will withdraw his objection.

Mr. PIKE. We have had but two morning hours for reports during this week. There are other committees that want to report.

The SPEAKER. The gentleman from Kentucky [Mr. ADAMS] is entitled to the floor on the bill for the continuance of the Freedmen's Bureau.

Mr. ELIOT. I hope the gentleman from Maine will withdraw his objection to the arrangement proposed. My colleague on the committee [Mr. ADAMS] cannot conveniently address the House to-day. I would suggest that there be an understanding that at the close of my colleague's speech I may call the previous question and take this bill out of the morning hour, so that we may dispose of it.

Mr. PIKE. I have no objection to its being taken out of the morning hour.

Mr. WOOD. I object to the arrangement proposed by the gentleman from Massachusetts, [Mr. ELIOT.]

The SPEAKER. The Chair will state to the gentleman from Massachusetts that if his colleague on the committee surrenders to him the floor before the end of the hour he can then demand the previous question before the morning hour shall expire.

Mr. ELIOT. I should like to have an understanding about this matter. I will say to the gentleman from New York [Mr. WOOD] that after the previous question is seconded I will give him a portion of my time.

Mr. WOOD. I do not know how long I may desire to occupy the attention of the House; but I dislike to be limited to fifteen or twenty minutes. If the gentleman from Massachusetts will permit me to address the House without any other limitation than that which the rules provide I shall not object.

The SPEAKER. The gentleman from Maine [Mr. PIKE] and the gentleman from New York [Mr. WOOD] object to allowing the business of the morning hour to go over. The gentleman from Kentucky [Mr. ADAMS] must take the floor or surrender it.

Mr. WASHBURNE, of Illinois. Would it not be in order to move to postpone the business of the morning hour?

The SPEAKER. It would be, if the gentleman from Kentucky will yield the floor for that purpose.

Mr. WASHBURNE, of Illinois. I hope

the gentleman from Kentucky will consent to that arrangement. He will still retain his right to the floor. I would like to have some action to-day on a bill of a public nature—an appropriation bill.

Mr. PIKE. We are a long way ahead of the Senate with the appropriation bills.

Mr. WASHBURNE, of Illinois. So we ought to be.

The SPEAKER. If this bill were postponed the Chair, unless some arrangement were made, would resume the call of committees for reports. The bill for the admission of Alabama cannot be taken up till after the morning hour, unless the morning hour be waived by the consent of the House.

Mr. ELDRIDGE. I understand that my friend from Kentucky [Mr. ADAMS] does not object to a postponement of the Freedmen's Bureau bill, provided he shall have, when it comes up, the same right to the floor that he now has.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] is aware of the fact that the Chair cannot entertain conditional objections.

Mr. ELDRIDGE. I suppose that by unanimous consent the House could make that arrangement.

The SPEAKER. The gentleman from Massachusetts [Mr. ELIOT] stated to the gentleman from New York [Mr. WOOD] that he would be willing after the previous question had been seconded to yield him a part of his hour. The gentleman from New York stated that he objected to being limited as to time.

Mr. ELDRIDGE. The gentleman from Kentucky has the floor and is entitled to an hour, and the gentleman from Massachusetts cannot get the floor unless he sees fit to give it to him out of his hour.

The SPEAKER. Objection has been made.

Mr. ELDRIDGE. Then it will go over of necessity. The gentleman from Massachusetts has no right to object if the House desires to postpone this mattter. The gentleman from Kentucky is willing to defer his speech until the next morning hour.

The SPEAKER. The gentleman from Maine objects, and the gentleman from Kentucky will proceed with his remarks.

Mr. ELDRIDGE. He is willing to go on.

Mr. GARFIELD. I wish to inquire of the Chair if this proposition has been made: that the Freedmen's Bureau bill go over until the next morning hour, provided the gentleman from Kentucky is not ready to go on now, and that the Speaker proceed with the call of committees?

The SPEAKER. To-morrow will be private bill day, and the morning hour is set apart for reports of a private nature.

Mr. GARFIELD. Let it go over, then, until the next public morning hour.

Mr. PIKE. I move that it be taken out of the morning hour.

The SPEAKER. If it be taken out of the morning hour it will not be again reached for a month. There are three measures now before it which must be first disposed of before it can be reached; the first is, the Alabama bill; second, the bill in reference to the rights of adopted citizens, and third, the bill of the gentleman from Indiana [Mr. JULIAN] in reference to the sale of the public lands.

Mr. PIKE. That shows the necessity of going on with the discussion now.

Mr. ELIOT. If the gentleman from Kentucky is ready to go on I will not interfere.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Kentucky will yield to me to move that this bill be postponed until Tuesday next.

Mr. ADAMS. I yield to that motion.

Mr. WASHBURNE, of Illinois. I move, then, that its further consideration be postponed until Tuesday next, and on that motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

Mr. WASHBURNE, of Illinois. I rise to report back from the Committee on Appropriations the amendments of the Senate to House bill No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1869, and for other purposes, with the recommendation of concurrence in some and non-concurrence in others, and ask that they shall be now considered in the House as in the Committee of the Whole on the state of the Union.

The SPEAKER. If there be no objection it will be ordered accordingly.

Mr. BROOKS. We reserve all our rights to object under the rules.

There was no objection, and it was ordered accordingly.

First amendment of the Senate:

Page 1, line nine, strike out "New Granada" and insert "United States of Colombia."

Mr. WASHBURNE, of Illinois. We recommend concurrence. It makes the bill conform to the name of the country at the present time.

The amendment was concurred in.

Second amendment:

Page 2, line six, strike out "fifty" and insert "thirty;" so it will read:

For contingent expenses of all the missions abroad, $30,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Third amendment:

Strike out the following:

For expenses of intercourse with the Barbary Powers, $3,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Fourth and fifth amendments:

Page 3, line seventeen, strike out "Guayamas," and page 5, line nine, after "Guayaquil" strike out "Guayamas."

The Committee on Appropriations recommend concurrence.

The amendments were concurred in.

Sixth amendment:

Strike out "and twenty-five;" so the paragraph will read:

V. COMMERCIAL AGENCIES.

Schedule C.

Amoor River, Apia, Gaboon, Saint Paul de Loando, including loss by exchange thereon, $400,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Seventh amendment:

Page 5, line nineteen, after word "dollars" insert: And the salary of the consul at Guayamas shall be $1,000 per annum.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Eighth amendment:

Strike out the following:

Provided, That no consul general, consuls, except those consuls whose compensation is by fees, and no consular agents, or commercial agents, shall be paid except those specified in this act, and all laws and parts of laws providing for the appointment or payment of any other consular officers than those in this act specified, excepting those above specified who are paid by fees, are hereby repealed; and all moneys received for fees at any vice-consulates or consular agencies of the United States, beyond the sum of $1,000 in any one year, and all moneys received by any consul or consul general from consular agencies or vice-consulates in excess of $1,000 in the aggregate from all such agencies or vice-consulates, shall be accounted for and paid into the Treasury of the United States, and no greater sum than $500 shall be allowed for the expenses of any vice-consulate or consular agency.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Ninth amendment:

Page 6, after line twenty-two, insert the following: For the salaries of consuls at Osaca and Jeddo, Japan, whose salaries are hereby fixed at $3,000 each, $6,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Tenth amendment:

Page 7, lines three and four, strike out "$17,000" and insert "$12,500."

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Eleventh amendment:

Page 7, strike out lines five and six, as follows:

For expenses under the act to encourage immigration, $10,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Twelfth amendment:

At the end of the bill add the following section:

SEC. 4. *And be it further enacted*, That the act entitled an act to encourage immigration, approved July 4, 1864, be, and the same is hereby, repealed.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Mr. WASHBURNE, of Illinois, moved to reconsider the several votes on the amendments of the Senate; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

On motion of Mr. WASHBURNE, of Illinois, a committee of conference was ordered on the disagreeing votes of the two Houses.

CALL OF COMMITTEES—AGAIN.

The SPEAKER resumed the call of committees for reports, and having called the Committee on Coinage, Weights, and Measures,

Mr. KELLEY said: The Committee on Coinage, Weights, and Measures, have not been able to get ready to report. If there is any committee that would like to exchange with us I should be glad to do so.

The SPEAKER. That can only be done by unanimous consent. One exchange has already been made and one postponement. It creates some confusion in the business.

Mr. STEVENS, of Pennsylvania. I suggest that the gentleman exchange with the Committee on Reconstruction.

Mr. WASHBURNE, of Illinois. I hope that will be agreed to, because the postponement of the Freedmen's Bureau bill has deranged matters and taken some of the committees by surprise.

Mr. KELLEY. I will state that there are one or two important bills before the Committee on Coinage, Weights, and Measures, upon which the committee is waiting for official information. We hope to be able to report in a few days, as soon as we can obtain the information.

The SPEAKER. Is there objection to regarding the morning hour as terminated?

Mr. ELDRIDGE. I object.

The SPEAKER called the Committee on Patents.

Mr. MYERS. I desire to say that, not expecting this committee to be called to-day, it is not ready to report.

The SPEAKER. It will then go over till the next call.

PACIFIC TELEGRAPH.

Mr. WASHBURNE, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to this House a copy of the contract made under and by virtue of the act of Congress passed June 16, 1860, entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph;" and also a copy of any assignments of said contract; also, a statement as to the whole amount paid under the said contract, to whom paid, and when paid, the amount paid by the Government for telegraphing to and from the Pacific coast for each year, and the rates at which such payments have been made, and to state the difference of rates, if any, paid by the Government and individuals; and, further, that the said Secretary communicate to this House a copy of any communication in his possession from the assigns of the original company in regard to other charges upon the Government by said assignees.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had disagreed to the amendment of the House to the bill (S. No. 108) for the relief of Henry

Greathouse and Samuel Kelly, asked for a committee of conference on the disagreeing votes of the two Houses thereon, and that Messrs. VAN WINKLE, RAMSEY, and CONNESS had been appointed managers on the part of the Senate.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 426) for the relief of Thomas Crossley;

An act (S. No. 282) granting a pension to Annie E. Dixon;

An act (S. No. 291) granting a pension to Ann Kelly, widow of Bernard Kelly;

An act (S. No. 292) granting a pension to Maria Raftery;

An act (S. No. 314) for the relief of George T. Brien;

An act (S. No. 316) for the relief of Rebecca V. Senor, mother of James H. Senor, deceased;

An act (S. No. 315) granting a pension to Marquis D. S. Mitchell, of the Creek nation of Indians;

An act (S. No. 323) granting a pension to Michael Kelly;

An act (S. No. 317) granting an increase of pension to Sylvanus Blodgett, of Jericho, Chittenden county, Vermont;

An act (S. No. 338) for the relief of William Blake, a soldier of the war of 1812;

An act (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor child;

An act (S. No. 341) granting a pension to John W. Salyers, a soldier of the war of 1812;

An act (S. No. 342) granting a pension to Thomas Stewart;

An act (S. No. 343) for the relief of W. G. Cummings;

An act (S. No. 344) granting a pension to Caroline and Margaret Swartwout;

An act (S. No. 333) for the relief of Julia M. Molin;

An act (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased;

An act (S. No. 332) granting a pension to John W. Harris;

An act (S. No. 281) granting a pension to Anne Dycher, widow of Nathan D. Dycher;

An act (S. No. 184) granting a pension to Mrs. Ann Corcoran;

An act (S. No. 280) granting a pension to Michael Hennessey, of Platte county, Missouri;

An act (S. No. 319) granting a pension to Bridget W. McGrorty and the minor children of William B. McGrorty, deceased;

An act (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812;

An act (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased;

An act (S. No. 322) granting a pension to Sherman H. Cowles;

An act (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian R. Posey;

An act (S. No. 340) for the relief of Thomas Chittenden;

An act (S. No. 381) granting a pension to Edward Hansel, minor child of Edward Hansel, deceased;

An act (S. No. 382) granting an increase of pension to Obadiah T. Plum;

An act (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

An act (S. No. 419) granting a pension to Mary Atkinson; and

An act (S. No. 420) granting a pension to James A. Guthrie.

A subsequent message from the Senate, by Mr. FORNEY, announced that that body had concurred in the report of the committee of conference on Senate bill No. 308, for the relief of the heirs of the late Duncan L. Clinch, deceased.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 425) granting a pension to George Bennett;

An act (S. No. 424) granting a pension to Bartlett and Carrie Edwards, children of David W. Edwards, deceased;

An act (S. No. 423) granting a pension to James Jackson;

An act (S. No. 422) granting a pension to Maria Schweitzer and the minor children of Conrad Schweitzer, deceased;

An act (S. No. 421) granting a pension to Caroline E. Thomas; and

An act (S. No. 427) for the relief of the widow and children of John W. Jamison, deceased.

RAILING OF OLD HALL.

All the committees having been called,

Mr. COBB said: I have a resolution here which I wish to offer upon the call for reports of the Committee on Public Buildings and Grounds.

The SPEAKER. That committee having been passed, the resolution can only be received by unanimous consent.

Mr. COBB. I do not offer it as a report, but it is business which I wish to present in behalf of the committee. I ask unanimous consent to offer the following resolution:

Resolved, That the Speaker be directed to authorize the architect of the Capitol to sell at public auction the iron railing taken from the old Hall of Representatives, and that the moneys thus realized be applied to the casual repairs of the central portion of the Capitol.

Mr. MAYNARD. I must object to that resolution again.

COMMITTEE ON MINES AND MINING.

The SPEAKER. By the unanimous order of the House the Committee on Mines and Mining were to be called at the close of this call.

Mr. DRIGGS. In the absence of the chairman of the Committee on Mines and Mining, I will state, as a member of that committee, that we are not yet ready to report any business to the House.

The SPEAKER. Then the committee will be called again in its regular order.

ENROLLED BILL AND RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the Committee had examined and found truly enrolled a bill (S. No. 376) to facilitate the settlement of paymasters' accounts, and joint resolution (S. R. No. 117) to authorize the erection of a military storehouse at Fort Monroe, Virginia; when the Speaker signed the same.

SECURITIES OF NATIONAL BANKS.

The SPEAKER. The next business in order during the morning hour is the consideration of a resolution offered on the 16th of December last by the gentleman from Missouri, [Mr. PILE,] and which was laid over under the rule. The Clerk will report it.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be directed to report to the House whether, since the 1st day of July last past, any national banks have changed their securities held in the Treasury to secure their circulation and Government deposits; and, if so, what banks have so changed their securities, what changes have been made, the date, amount, and kinds of such changes specifically; and that he be required to make no further changes in the funded securities of the United States by payment or otherwise, except of interest, until further order or legislation of Congress thereon.

Mr. PILE. I will yield for a moment to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I ask leave to take from the Speaker's table Senate bill No. 213, to amend the judiciary act. It came from the Finance Committee of the Senate, and I desire the House to pass it now.

The SPEAKER. That would require unanimous consent, as the morning hour has not yet expired.

Mr. SCHENCK. There can be no possible objection to it.

Mr. ROSS. If the resolution of the gentleman from Missouri can be passed first I shall have no objection.

Mr. SCHENCK. The gentleman from Missouri has yielded the floor to me.

Mr. ROSS. I must object. Let us pass the resolution first.

Mr. PILE. I demand the previous question on the resolution.

The previous question was seconded and the main question ordered.

Mr. WASHBURN, of Massachusetts. This is a very important resolution, and it ought not to pass.

The question was put on agreeing to the resolution; and there were—ayes 40, noes 22; no quorum voting.

Tellers were ordered; and Messrs. PILE and WASHBURN, of Massachusetts, were appointed.

Mr. PILE. If I can have unanimous consent I will modify the resolution.

The SPEAKER. The resolution cannot be modified, and no business can be done while the House is without a quorum. The question is on agreeing to the resolution.

The House divided; and the tellers reported—ayes thirty, noes not counted.

So the resolution was rejected.

Mr. SCHENCK. I now ask unanimous consent to take from the Speaker's table the bill to which I referred a few moments since.

Mr. MAYNARD. I rise to a privileged question. I move to reconsider the vote by which the resolution of the gentleman from Missouri [Mr. PILE] was rejected, with a view to having the resolution modified.

Mr. PILE. I intended to make that motion myself.

The SPEAKER. The motion to reconsider will be entered.

POWERS OF SUPREME COURT.

The SPEAKER. The bill referred to by the gentleman from Ohio, [Mr. SCHENCK,] Senate bill No. 213, to amend an act entitled "An act to amend the judiciary act, passed the 24th of September, 1789," will now be read, after which the Chair will ask for objections to its consideration at the present time.

The bill was read at length. It provides that final judgment in any of the circuit courts of the United States in any civil case against a collector or other officer of the revenue, for any act done by him in the performance of his official duty, or for the recovery of any money accepted by, or paid to him, which shall have been paid into the Treasury of the United States may, at the instance of either party, be reëxamined and reversed or affirmed in the Supreme Court of the United States upon writ of error without regard to the sum or value in controversy in such action.

Mr. SCHENCK. I desire to make a word or two of explanation, which I think will be perfectly satisfactory. As the law now stands, these appeals or writs of error can be taken in any case where one of the officers of customs is concerned. But by some inadvertence of the law-making power, that cannot be done in the case of an internal revenue officer. This bill proposes to put those officers on the same footing in that respect; that is all there is in it. I hope there will be no objection to its consideration at this time.

Mr. STEVENS, of Pennsylvania, objected, but subsequently withdrew his objection.

No further objection being made, the bill was taken from the Speaker's table, and read a first and second time.

Mr. SCHENCK. I suppose I need not repeat the explanation of this bill which I made a few minutes since. The whole effect of it is to place officers of internal revenue upon the same footing with officers of customs.

Mr. WILSON, of Iowa. Will the gentleman from Ohio [Mr. SCHENCK] yield to me to offer an amendment to this bill?

Mr. SCHENCK. I will hear the amendment.

Mr. WILSON, of Iowa: I desire to move to amend the bill by adding to it the following:

SEC. 2. *And be it further enacted*, That so much of the act approved February 5, 1867, entitled "An act to amend an act to establish the judicial courts of the United States, approved September 24, 1789," as authorizes an appeal from the judgment of a circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed.

Mr. SCHENCK. I am willing to have the amendment received, and now I call the previous question on the bill and amendment.

The previous question was seconded and the main question ordered.

The amendment of Mr. WILSON, of Iowa, was agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SECURITIES OF NATIONAL BANKS.

Mr. MAYNARD. I now call up the motion to reconsider the vote by which the resolution of the gentleman from Missouri [Mr. PILE] was rejected.

The resolution was as follows:

Resolved, That the Secretary of the Treasury be directed to report to the House whether, since the 1st day of July last past, any national banks have changed their securities held in the Treasury to secure their circulation and Government deposits; and if so, what banks have so changed their securities, what changes have been made, the date, amount, and kinds of such changes specifically; and that he be required to make no further changes in the funded securities of the United States by payment or otherwise, except of interest, until further order or legislation of Congress thereon.

The motion to reconsider was agreed to.

The question recurred upon agreeing to the resolution.

Mr. PILE. I modify the resolution by omitting the last clause relating to the changes in the funded securities of the United States, &c.

Mr. HOLMAN. I would ask the gentleman if this information has not already been furnished to this House?

Mr. PILE. No such information has been called for to my recollection, and none such has been laid before this House.

Mr. WASHBURN, of Massachusetts. If the gentleman will allow me, I will say that I think we have had laid before this House statistics giving this information. I have no objection to the resolution, but I think the information has already been received.

Mr. PILE. I am certain no such information has been received by this House. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution as modified was adopted.

Mr. PILE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

VESSELS IN THE NAVY.

Mr. WASHBURNE, of Illinois. I rise to a matter, and I wish to inquire of the Chair whether or not it is a privileged question? On the 6th of January I submitted the following resolution, which was adopted by this House:

"*Resolved*, That the Secretary of the Navy is hereby directed to communicate to this House the following information:

"*First*. The number and names of all the vessels belonging to and connected with the Navy Department on the 1st day of April, 1861.

"*Second*. The number of vessels built by and for the Government for the Navy Department since April 1, 1861, the names and tonnage and number of guns of such vessels, when built, where built, by whom built, and the cost of each vessel.

"*Third*. The number and names of all vessels of every description and the tonnage of each vessel purchased by and for the Government for said Navy Department since April 1, 1861, when and where purchased, by whom purchased, the amount paid for such vessels, the amount of commissions paid on such purchases and to whom, how many of such vessels have been lost or destroyed, and how many of them have been sold, and the names of those sold, when sold, to whom sold, and whether at public or private sale, and for how much sold, and the names of parties selling them or in any way connected with such sale, and how many of said vessels, and the names and tonnage thereof, remain unsold, and where such unsold vessels now are, and what is the use to which they have been put."

That was more than two months since, yet no response whatever has yet been received from the Department upon that subject.

The SPEAKER. Repeating a resolution calling for executive information has not been regarded as a privileged question.

Mr. RANDALL. I desire to say that to my own knowledge the Navy Department is progressing in collecting the information called for.

Mr. WASHBURNE, of Illinois. The present Navy Department has been progressing in this matter for two months. If the gentleman does not look out the present Navy Department will not exist a month longer.

Mr. RANDALL. I have nothing to do with that.

GREATHOUSE AND KELLY.

Mr. FARNSWORTH. I ask unanimous consent to take from the Speaker's table Senate bill No. 108, for the relief of Henry Greathouse and Samuel Kelly. The Senate have disagreed to the amendment of the House. I desire to move that the House insist upon its amendment, and ask the appointment of a committee of conference.

No objection was made, and the bill was taken up.

The motion of Mr. FARNSWORTH was agreed to.

The SPEAKER appointed, as the conferees on the part of the House, Mr. FARNSWORTH, Mr. FERRY, and Mr. JOHNSON.

LEGAL SERVICES FOR STATE DEPARTMENT.

The SPEAKER. The next business in order during the morning hour is a resolution offered on the 10th of February last by the gentleman from California, [Mr. HIGBY,] and laid over under the rule.

The Clerk read the resolution, as follows:

Resolved, That the Secretary of State be directed to furnish to this House a statement of the amount paid by or through the State Department during each year since 1860 for legal services in addition to the amounts paid to salaried officers, including all sums paid for legal services, whether as office costs, commissions, or traveling or other expenses, with the names of the persons to whom money has been paid, with the amount of each, specifying the cases or business in which such services have been rendered; and also to state whether any amounts are now claimed for similar services hitherto rendered, and by whom; and also what persons, if any, other than the officers authorized by law, are now employed as counsel for said Department, and for what compensation, and how paid or agreed to be paid, and under what authority such counsel have been retained and employed, and for what purposes.

The SPEAKER. The gentleman from California, [Mr. HIGBY,] who offered this resolution, is not now in his seat.

Mr. WARD. I call for the previous question on the adoption of the resolution.

Mr. ALLISON. I desire that some gentleman shall explain to the House the object of calling for this information. The resolution seems to cover a great deal of ground, and it may call upon the Secretary of State for information which he ought not to be required to communicate.

Mr. WARD. I know nothing about the resolution except what I learn from the recital which it contains. I demanded the previous question because I thought the resolution one which should properly be passed.

Mr. GARFIELD. Will not the gentleman from New York [Mr. WARD] consent that the resolution shall be referred to the Committee on Foreign Affairs? It is an important resolution, and ought not to be adopted without a full knowledge of its scope and object.

Mr. WARD. I have no objection to the reference. I withdraw the call for the previous question.

The SPEAKER. If there is no objection the resolution will be referred to the Committee on Foreign Affairs.

There was no objection.

Mr. GARFIELD moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EQUALIZATION OF BOUNTIES.

The SPEAKER. The next business in order in the morning hour is a bill (H. R. No. 31) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union. Pending the question on the engrossment of this bill on the 11th of March, 1867, debate arising, it went over under the rule.

Mr. SCHENCK. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

CURRENCY OF THE COUNTRY.

The SPEAKER. The next business in order in the morning hour is a resolution offered on the 26th of November, 1867, by the gentleman from Illinois, [Mr. BROMWELL,] on which debate arose, and which was laid over under the rule.

The Clerk read the resolution, as follows:

Resolved, That gold and silver not being in sufficient quantity in this country to furnish a circulating medium adequate in amount to the wants of the people, the deficiency should be at all times supplied by Treasury notes of the United States called "greenbacks," to the exclusion of all other paper currency, and in sufficient amount to promote the energies and enterprise of all classes of the community.

Mr. HOOPER, of Massachusetts. I move that this resolution be referred to the Committee on Banking and Currency.

The motion was agreed to.

WHISKY FRAUDS IN NEW YORK.

The SPEAKER. The next business in order is a resolution offered November 26, 1867, by the gentleman from Wisconsin, [Mr. COBB.] Debate arising on the resolution, it was laid over under the rule.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the joint select Committee on Retrenchment be, and they are hereby, instructed to inquire into and investigate the alleged whisky frauds in the city of New York; the causes which led to the detailing of a deputy commissioner of internal revenue for duty in New York city, and to the organization of the so-called "Metropolitan Board of Internal Revenue;" the efficiency or non-efficiency of said board, and the causes thereof; the manner in which the several officers constituting said board discharged their duties, respectively, in the collection of internal revenue tax; and whether any of such officers or agents have been guilty of fraud, corruption, or neglect of duty in office; that said committee report the result of such investigation, together with the testimony by them taken, to Congress; and that for such purpose the said committee shall have and possess all powers heretofore granted them for other purposes.

Mr. COBB. I wish to say, Mr. Speaker, that, although this resolution encountered objection and went over, the committee, as I have been informed, were at the very time I offered the resolution, and a long time afterward, engaged in the investigation which the resolution contemplated. The object having been accomplished, I am willing the resolution shall take whatever direction the House may think proper.

The SPEAKER. If there is no objection the resolution will be laid on the table.

There was no objection.

Mr. VAN WYCK. I ask unanimous consent to present at this time a report from the Committee on Retrenchment in reference to whisky frauds.

There being no objection, the report was received, and on motion of

Mr. VAN WYCK, ordered to be printed and recommitted.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was presented by Mr. W. G. MOORE, his Private Secretary, who also announced that the President had this day approved and signed joint resolution and bills of the following titles:

Joint resolution (H. R. No. 228) relative to the post office and sub-Treasury of the city of Boston;

An act (H. R. No. 274) providing for hold-

ing a circuit court at the city of Erie, Pennsylvania; and

An act (H. R. No. 785) to revive an act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery.

He also announced that the bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," having been presented to the President on the 28th ultimo, and not having been returned within ten days (Sunday excepted) has become a law under the Constitution of the United States.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 328, to establish certain post roads, with amendments, in which he was directed to ask the concurrence of the House.

On motion of Mr. FARNSWORTH, the bill and amendments of the Senate were referred to the Committee on the Post Office and Post Roads.

PUBLIC LANDS, LAND GRANTS, ETC.

The SPEAKER. The next business in order is a resolution offered December 9, 1867, by the gentleman from Indiana, [Mr. JULIAN,] which was laid over by unanimous consent, to be taken up when resolutions giving rise to debate should be in order.

The Clerk read the resolution, as follows:

Resolved, That in order to carry into full and complete effect the spirit and policy of the preëmption and homestead laws of the United States the further sale of the agricultural public lands ought to be prohibited by law, and that all proposed grants of land to aid in the construction of railroads, or for other special objects, should be carefully scrutinized and rigidly subordinated to the paramount purpose of securing homes for the landless poor, the actual settlement and tillage of the public domain, and the consequent increase of the national wealth.

Mr. JULIAN. It was my intention to discuss the principles embodied in that resolution, but I have already had an opportunity to do so; and, believing the resolution is understood and will not be objected to, I demand the previous question on its adoption.

Mr. WASHBURNE, of Illinois. I hope the gentleman will let me move to strike out what favors the railroad monopolists.

Mr. JULIAN. I prefer the resolution should pass as it is. There is nothing in it which favors railroad monopolists, and the gentleman from Illinois ought to have known that fact.

Mr. WASHBURNE, of Illinois. It is a recognition of these grants to monopolists.

Mr. JULIAN. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. STEVENS, of Pennsylvania. I demand a division of the resolution.

The SPEAKER. The question recurs, then, on the first branch of the resolution, as follows:

That in order to carry into full and complete effect the spirit and policy of the preëmption and homestead laws of the United States, the further sale of the agricultural public lands ought to be prohibited by law.

The first branch of the resolution was adopted.

The second branch was then read, as follows:

And that all proposed grants of land to aid in the construction of railroads, or for other special objects, should be carefully scrutinized and rigidly subordinated to the paramount purpose of securing homes for the landless poor, the actual settlement and tillage of the public domain, and the consequent increase of the national wealth.

The second branch of the resolution was also adopted.

Mr. JULIAN moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

Mr. BINGHAM, from the managers of the impeachment of the President of the United States, submitted the following resolutions; which were read, considered, and referred to the Committee on Printing:

Resolved, That the stenographers of the House be authorized to attend the managers to the Senate to report the proceedings of the trial of the impeachment of the President of the United States, and that the same be printed by the Congressional Printer, so as to distribute to the members of the House at least one copy of such report of the preceding day by nine o'clock in the morning; and that the necessary expenses of said reporting be charged to the contingent fund of the House.

Resolved, That two thousand extra copies of such report be printed for the use of the House, one copy to be retained for each member and bound for preservation.

RECONSTRUCTION.

The SPEAKER stated that the next business in order was the following resolution submitted December 12 by Mr. GETZ, and debate arising thereon laid over under the rules:

Whereas it is reported that the cities of Boston, in Massachusetts, and Pittsburg, in Pennsylvania, have elected Democratic mayors; and whereas such elections are indicative of a spirit of disloyalty in the citizens of said cities, which demands prompt suppression: Therefore,

Be it resolved, That the select Committee on Reconstruction be instructed to inquire whether the States in which the said elections were held have republican forms of government, or do not need reconstruction.

Mr. GETZ. The House is undoubtedly impressed with the grave importance of that resolution. So am I. It comes up rather unexpectedly to-day, and I do not feel disposed to enter into any discussion of its merits. I do not feel able to discuss it with that gravity its importance demands. I have the fullest confidence in the Reconstruction Committee, and I move its reference to that committee.

Mr. HOOPER, of Massachusetts. I think it should be referred to the Committee on Revisal and Unfinished Business, as it is the intention of those cities to change for the better. [Laughter.]

Mr. GETZ. I prefer that it should go to the Committee on Reconstruction.

Mr. FARNSWORTH. I suppose the gentleman from Pennsylvania has heard there was an election in New Hampshire recently.

Mr. GETZ. My resolution has no reference to New Hampshire.

Mr. TWICHELL. It ought to be referred to a select committee on the New Hampshire election. [Laughter.]

Mr. ELDRIDGE. The city of Boston needs reconstruction.

Mr. GETZ. That is in the resolution.

Mr. ELDRIDGE. I hope the gentleman from Massachusetts will include the whole State of Massachusetts, for it is yet an unfinished business for his party.

Mr. GETZ demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were laid on the table.

PACIFIC RAILROAD.

The next business lying over under the rules was House joint resolution No. 168, to regulate the tariff for freight and passengers on the Union and Central Pacific railroads and their branches, introduced by Mr. WINDOM, January 20, 1868.

Mr. GARFIELD. I move to refer it to the Committee on the Post Office and Post Roads, and call the previous question.

Mr. WASHBURNE, of Illinois. I hope the House will not second the previous question. Let us have a square vote and see who is in favor of this resolution.

Mr. DAWES. We had a square vote the other day.

Mr. WASHBURNE, of Illinois. And the gentleman was with the monopolists. [Laughter.]

On seconding the previous question there were—ayes 52, noes 51.

Mr. WASHBURNE, of Illinois. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. GARFIELD and WOODWARD.

Mr. ALLISON. Let the joint resolution be reported in full.

The SPEAKER. The Clerk, not expecting this business to be reached to-day, the joint resolution is not here; it is on the files at the Clerk's office.

Mr. GARFIELD. I think it is very proper, therefore, to have it referred.

Mr. WASHBURNE, of Illinois. It is a resolution that ought to be passed.

The House divided; and the tellers reported—ayes 42, noes 54.

So the previous question was not seconded.

The SPEAKER. The Clerk will now report the joint resolution.

The joint resolution was read.

It constitutes the Secretary of War, Secretary of the Interior, and Attorney General of the United States, a board of commissioners, whose duty it shall be, on the 1st day of July, in each year, to establish a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just, and not exceeding double the average rates charged on the different lines of railroad between the Mississippi river and the Atlantic ocean in latitudes north of St. Louis, Missouri; and it shall not be lawful for said railroad company to charge any sum in excess of the rates so fixed and established.

Mr. WASHBURNE, of Illinois. I demand the previous question.

Mr. VAN HORN, of Missouri. I move to lay the resolution on the table.

On the laying of the resolution on the table there were—ayes 43, noes 52.

Mr. HOOPER, of Massachusetts. I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 70, not voting 66; as follows:

YEAS—Messrs. Adams, Anderson, Archer, James M. Ashley, Axtell, Barnum, Beck, Boyer, Brooks, Dawes, Dixon, Donnelly, Eliot, Haight, Hill, Hooper, Johnson, Jones, Kelley, Kerr, Knott, Lincoln, Mallory, Marvin, McCullough, Miller, Morrell, Mungen, Myers, Newcomb, O'Neill, Paine, Pile, Plants, Poland, Price, Raum, Scofield, Smith, Starkweather, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, Thomas, Lawrence S. Trimble, Twichell, Van Aernam, Robert T. Van Horn, William B. Washburn, Welker, and Stephen F. Wilson—53.

NAYS—Messrs. Allison, Bailey, Barnes, Beaman, Beatty, Blaine, Blair, Cary, Churchill, Sidney Clarke, Cobb, Cook, Cullom, Driggs, Farnsworth, Ferriss, Ferry, Fields, Garfield, Getz, Golladay, Halsey, Hawkins, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Loan, Loughridge, Maynard, McCarthy, McClurg, Moore, Moorhead, Niblack, Orth, Pernam, Peters, Pike, Poisley, Randall, Robertson, Schenck, Shanks, Sitgreaves, Spalding, Stewart, Taffe, Trowbridge, Upson, Van Auken, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William Williams, John T. Wilson, Wood, and Woodward—70.

NOT VOTING—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Benjamin, Benton, Bingham, Boutwell, Bromwell, Broomall, Buckland, Burr, Butler, Cake, Chanler, Reader W. Clarke, Coburn, Cornell, Covode, Dodge, Eckley, Eggleston, Ela, Eldridge, Finney, Fox, Glossbrenner, Gravely, Griswold, Grover, Harding, Higby, Asahel W. Hubbard, Humphrey, Jenckes, Laflin, George V. Lawrence, Logan, Lynch, Marshall, McCormick, Mercur, Morgan, Morrissey, Mullins, Nicholson, Nunn, Phelps, Pomeroy, Pruyn, Robinson, Ross, Sawyer, Selye, Shellabarger, Aaron F. Stevens, John Trimble, Burt Van Horn, Van Trump, Henry D. Washburn, Thomas Williams, James F. Wilson, Windom, and Woodbridge—66.

So the House refused to lay the bill on the table.

The SPEAKER. The morning hour has expired, and the bill goes to the Speaker's table.

TRIAL OF AMERICANS IN GREAT BRITAIN.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In further answer to the resolution of the House of Representatives of the 25th of November, 1867, calling for information in relation to the trial and conviction of American citizens in Great Britain and Ireland for the last two years, I transmit a continuation of the report from the Secretary of State on the subject. ANDREW JOHNSON.

WASHINGTON, *March* 11, 1868.

Mr. CULLOM. I move that the message

and accompanying papers be referred to the Committee on Foreign Affairs.

The motion was agreed to.

ADMISSION OF ALABAMA.

The House then resumed the consideration of the special order, being House bill No. 904, for the admission of the State of Alabama, upon which Mr. BOYER was entitled to the floor.

Mr. BOYER. Mr. Speaker——

Mr. GARFIELD. I wish to ask the gentleman from Pennsylvania if he desires to go on at this late hour, and, if not, whether he will yield to me?

Mr. BOYER. I will yield for a motion to adjourn.

Mr. GARFIELD. Before that motion is made I ask the gentleman to yield to me to ask unanimous consent to report back a bill from the Committee on Military Affairs, that it may be passed.

Mr. BOYER. I will do so if it will not come out of my time.

Mr. GARFIELD. It will not come out of the gentleman's time.

Mr. STEVENS, of Pennsylvania. I object to anything now except the Alabama bill. My colleague and myself intend to use up this evening.

Mr. BLAINE. Will the gentleman from Pennsylvania [Mr. BOYER] yield to me to make a motion to adjourn?

Mr. BOYER. I yield for that purpose.

Mr. BLAINE. I move that the House do now adjourn.

The question was put; and there were—ayes 70, noes 31.

So the motion was agreed to; and thereupon (at four o'clock and eighteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. BARNUM: The petition of Joseph Jennings and 108 others, citizens of Black Rock, Fairfield, and other sea-coast towns of Connecticut, praying for an appropriation for the protection of the harbor of Black Rock, in said State, and for the repairing and extension of the breakwater on Fairweather Island for the protection of the abovenamed harbor.

Also, the petition of John Spencer and 158 others, citizens of the towns of Madison, Clinton, and Westbrook, Connecticut, praying for an appropriation for the protection and improvement of the harbor of Black Rock, in said State, and for a breakwater on the reef extending from the southern end of Fairweather Island.

Also, the petition of the Middlesex Manufacturing Company and 52 others, citizens of Connecticut, owners and masters of vessels, merchants, and other persons engaged in the transportation of merchandise by water through Long Island sound, praying for an appropriation for the protection of the harbor of Black Rock, Connecticut, and for a breakwater on the reef extending from the south side of Fairweather Island for the protection of vessels entering said harbor.

Also, the petition of John Brooks and 92 others, citizens of Black Rock, Fairfield, and other sea-coast towns in the States of Connecticut, and Newport, Rhode Island, owners of vessels, merchants, and other persons engaged in the transportation of merchandise through Long Island sound, praying for an appropriation for the protection of the harbor of Black Rock, in the State of Connecticut, and for the repairing and extension of the breakwater on Fairweather Island.

By Mr. HILL: The remonstrance of journeymen cigar-makers and manufacturers of cigars in the city of Patterson, New Jersey, against affixing a stamp to each cigar and in relation to tax and tariff on cigars.

Also, the claim of Susan Young, of Morris county, New Jersey, for pension.

By Mr. HOPKINS: The petition of Joseph Parkins, for additional pay for extra work as contractor on the Rock Island arsenal.

By Mr. JUDD: A memorial of the Board of Trade of the city of Chicago, Illinois, for an additional grant of public lands to aid in building a ship-canal from Sturgeon bay to Lake Michigan.

Also, the petition of the Board of Trade of Chicago and George F. Foster and others, vessel owners, asking an appropriation to complete the harbor at White Lake, Michigan.

Also, the petition of Messrs. Hall, Kimbook & Co. and others, asking Congress to reduce the expenditures of the Government.

By Mr. JULIAN: The resolutions of 59 citizens of Richmond, Indiana, remonstrating against the passage of the bill reported from the Committee of Ways and Means requiring a stamp duty on cigars, and giving their reasons for such remonstrance.

By Mr. KELLEY: The petition of 6 of the slaves of the late George W. P. Custis, setting forth that they had labored on his Arlington estate severally from thirty-five to fifty-nine years with no wages, and had been frequently promised by said Custis that they should be provided for on the estate in their old age, and praying Congress to grant each of them a homestead of twenty acres out of said estate, which is now the property of the United States.

By Mr. MYERS: The petition of 300 employés of morocco manufacturers in the third district, Pennsylvania, asking that foreign goat-skins and Sicily sumac shall be relieved from payment of duties.

By Mr. NIBLACK: A memorial of sundry journeyman cigar-makers and manufacturers of cigars of Evansville, Indiana, remonstrating against taxing cigars by a separate stamp on each cigar.

By Mr. O'NEILL: A memorial of Captain James Marks, asking that all sea-going vessels may be compelled by law to carry self-righting life-boats.

By Mr. PAINE: The memorial of William Torpfer and 113 others, journeymen cigar-makers and manufacturers of cigars, of Wisconsin, submitting a preamble and resolutions relating to cigars.

By Mr. PRICE: The petition of certain parties asking for equalization of compensation to certain employés at the Capitol.

By Mr. SPALDING: The remonstrance of Henry F. Clark and others, citizens of Cleveland, Ohio, against the passage of the international copyright bill.

By Mr. WARD: A remonstrance from citizens of Elmira, New York, against the proposed stamp tax on cigars.

By Mr. WILLIAMS, of Indiana: A memorial of the cigar manufacturers of the tenth district of Indiana, remonstrating against the passage of the stamp tax reported by the Committee of Ways and Means.

Also, a memorial of late officers of the Army, protesting against changing the law in reference to pay of officers' servants.

IN SENATE.

FRIDAY, *March* 13, 1863.

The following prayer was offered by Rev. E. H. GRAY, D. D.:

O God! Thou art very great; we are very insignificant. The world itself lies down in the sepulcher of ages; but Thou, O God, dost not write wrinkles on eternity. The earth has its beauty and pleasures and pursuits and interests, all of which are rapidly passing away; but eternity, ever present, unborn, undecaying, is a link of that chain which composes Thy being, O God, and the golden thread that entwines all the destinies of the universe. We pray that since we are thus allied to Thee and connected with the great future, we may walk worthy of the high vocation wherewith we are called, and may be prepared to discharge the duty devolving upon us and to appreciate the importance of the great mission upon which we have been sent unto the world. Let Thy blessing, we pray Thee, be upon us; prepare us to serve God according to His will in our day and generation. Let Thy blessing, we pray Thee, rest upon Thy servants who are about to engage in the discussion of matters and enter upon a great and important duty upon which the eyes of the nation and of the world rest. May they be guided by Divine wisdom; may all their acts be characterized by justice; and may this high court be led to such a verdict as God will approve in the high court of Heaven, and to which all the people shall respond heartily amen. And may the blessings of God, the Father of Mercy and the Supreme Ruler, rest upon the Senators and upon all in authority and upon all the people to-day and forevermore. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings.

At the expiration of ten minutes——

Mr. EDMUNDS. I move to dispense with the further reading of the Journal. It consists simply of a recitation of the action on various pension bills.

The motion was agreed to by unanimous consent.

PETITIONS AND MEMORIALS.

Mr. JOHNSON presented a petition of Henry C. L. Keith, late assistant collector of the first collection district of Texas, praying the passage of a law for his relief, so that he may receive compensation for services rendered by him prior to his taking the oath prescribed by act of Congress of July 2, 1862; which was referred to the Committee on Finance.

He also presented the petition of the executive committee and other officers of the American Colonization Society, praying that the Postmaster General be authorized to enter into a contract with that society to carry monthly mails between the United States and Liberia; also, that the Secretary of the Interior be authorized to pay the society $100 for every person of color who shall emigrate to Liberia under its auspices and aid; which was referred to the Committee on Post Offices and Post Roads.

Mr. HOWE presented a memorial of the Chamber of Commerce of Milwaukee, Wisconsin, praying a grant of lands to aid in the construction of a ship-canal from Sturgeon bay to Lake Michigan; which was referred to the Committee on Public Lands.

He also presented a memorial of the mayor and council of Green Bay, Wisconsin, praying a grant of lands to aid in the construction of a ship-canal from Sturgeon bay to Lake Michigan; which was referred to the Committee on Public Lands.

Mr. YATES presented a memorial of the Legislature of the Territory of Colorado, asking an appropriation for the erection of capitol buildings for that Territory; which was referred to the Committee on Territories.

He also presented a petition of citizens of Colorado Territory, remonstrating against annexing certain portions of that Territory to the Territory of New Mexico; which was ordered to lie on the table.

Mr. MORGAN presented the petition of merchants and importers of the city of New York, praying that duties erroneously exacted by reasons of non-allowance for draft on importations of merchandise be refunded; which was referred to the Committee on Finance.

He also presented a memorial of honorably discharged officers of the late Army to suppress rebellion, protesting against the passage of the bill prohibiting the payment of the commutation for pay of officers' servants from May 1, 1864, to March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY presented a petition of delegates to the constitutional convention of Virginia, praying a removal of the civil disabilities imposed on J. M. Brickhouse, of that State,

by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of Riley H. Smith, late a private of company D, third regiment West Virginia cavalry volunteers, who lost his leg after discharge, and while on his way to the place of payment, asking that he may be placed on the pension-roll; which was referred to the Committee on Pensions.

Mr. BAYARD presented a memorial of the city council of Wilmington, Delaware, praying an appropriation for the improvement of the harbor at the mouth of Christiana river; which was referred to the Committee on Commerce.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of an amendment to the act entitled "An act for a grant of lands to the State of Kansas in alternate sections to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1865, so as to make certain provisions for the Atchison, Topeka, and Santa Fé Railroad Company; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas, in favor of granting to the Union Pacific Railway, Southern Branch, Company, the same subsidy in bonds of the United States as is granted to the eastern branch of the Union Pacific railway; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. SUMNER presented the petition of Henry Reeves, late a private of company I, thirtieth regiment Massachusetts volunteers, asking for an increase of pension and that it may begin from the date of his wounds; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Springwater, New York, praying that additional bounty may be given to all drafted men as well as to volunteers; which was referred to the Committee on Military Affairs and the Militia.

He also presented the following petitions, which were referred to the Committee on Finance:

A petition of Isaac Prouty and seventy-one others, shoe and leather manufacturers of Spencer, Massachusetts, in favor of the repeal of internal revenue tax upon manufactures;

A petition of Walter Chamberlain and one hundred and seventeen others, shoe manufacturers of North Ridgewater, Massachusetts, in favor of repealing the internal revenue tax upon manufactures;

A petition of L. Fullem and sixty-eight others, shoe manufacturers of West Brookfield, Massachusetts, in favor of a repeal of the internal revenue tax upon manufactures;

A petition of Damon, Thomas & Lewis and thirty-six others, shoe and leather manufacturers of Boston, in favor of repealing the internal revenue tax upon manufactures; and

A petition of Andrew Atwood and twenty others, of Athol, Massachusetts, in favor of a repeal of the internal revenue tax upon manufactures.

Mr. CAMERON presented the memorial of the Philadelphia Female Anti-Slavery Society, praying the adoption of measures for the protection of the rights of the colored people of the country by taking measures to secure to every State a republican form of government; which was ordered to lie on the table.

Mr. CAMERON. I also present a number of petitions from the Philadelphia Typographical Union, signed very largely by journeymen printers. These gentlemen represent that an international copyright would do great injury to their trade. It is proper to say to the Senate that no class of workmen in the world are so intelligent as journeymen printers, none so well acquainted with their own interests and the interests of the country in which they live. I think, therefore, these petitioners are entitled to peculiar attention, and for that reason I make these remarks, trusting that the joint Committee on the Library will give these petitions full weight. I move their reference to that committee.

The motion was agreed to.

Mr. MORTON presented a petition of citizens of Ohio, praying for the passage of a law making eight hours a legal day's work; which was referred to the Committee on Finance.

Mr. FRELINGHUYSEN. I present a petition of a number of citizens of Newark, New Jersey, and New York city, praying that the Navy may be reduced to thirty vessels, the Army to twenty thousand men, the Navy appropriations to $12,000,000, and the Army appropriations to $35,000,000, and that the revenue laws may be so adjusted as to keep the balance of trade in our favor, so that the products of gold and silver may remain at home, thus hastening the time when we shall have a specie basis for our currency. I move their reference to the Committee on Finance.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. SUMNER, it was

Ordered, That the petition and papers of W. H. Versey on the files of the Senate be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 384) to authorize the building of a railroad bridge across the Ohio river at Paducah, Kentucky, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 593) to amend an act entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 725) supplemental to an act approved July 14, 1862, entitled "An act to establish certain post roads," reported it with amendments.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the bill (H. R. No. 786) declaring St. George and Booth Bay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine, reported it with amendments.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the memorial of James Hooper, praying compensation for the loss of the bark General Berry while in the Government service, destroyed by the rebel privateer Florida, submitted a report, accompanied by a bill (S. No. 436) for the relief of James Hooper. The bill was read and passed to a second reading, and the report was ordered to be printed.

CUSTOMS WAREHOUSING SYSTEM.

Mr. SPRAGUE, from the Committee on Commerce, submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Commerce be, and is hereby, instructed to examine and report on the warehousing, bonding, and transportation system under the laws and regulations pertaining to the customs, with power to send for persons and papers, with leave to report at any time by bill or otherwise.

HEIRS OF ASBURY DICKINS.

Mr. TRUMBULL. I move that the Senate postpone all other business and proceed to the consideration of Senate bill No. 408, a private bill, which I trust will not take much time.

The motion was agreed to; and the bill (S. No. 408) for the benefit of the heirs of Asbury Dickins, deceased, was read the second time and considered as in Committee of the Whole. It provides for the payment to Maria Dickins and the other heirs of Asbury Dickins, deceased, of $4,276 81, it being the difference between the salaries of the Secretary of the Treasury and the Secretary of State and chief clerk of those Departments for the aggregate periods of time that Asbury Dickins acted as Secretaries aforesaid under *pro tempore* appointments by the President of the United States.

Mr. MORRILL, of Vermont. I am very reluctant to oppose this bill; but having voted against it in committee I will state briefly the reasons why I did so.

I know that a bill for the relief of any officer of the Senate, or one who has been connected with the Senate in an official capacity, always meets with so much favor that very little scrutiny is given to it in any case. The facts in this case are that an officer who was for a very long period of his life in the service of the country, and always receiving a salary commensurate with his capacity and with his service, did, for some temporary period of time, discharge the duties of a higher office; and now it is proposed to pay him the difference between his salary as chief clerk and the salary of Secretary of State and Secretary of the Treasury, which positions he held at various times—an amount which he never claimed during his lifetime, to my knowledge, and which comes up here a long period after his death. It strikes me that if we pass this bill we set an example for paying the Assistant Secretary of State for acting as Secretary during the time that the Secretary may be ill; and we set an example for paying the various officers who may have discharged the duty of Secretary of the Treasury for such time as the Secretary of the Treasury may have been absent; and so of any other Cabinet officer.

Mr. HARLAN. I know but little about the merits of this bill, but I understand that it is to make some payment to the heirs of Mr. Dickins, at one time Secretary of the Senate. I rise merely to state one fact for the information of the Senate, that I know personally that one of these heirs was in the rebel army. It came to my knowledge in this way: he had been strongly recommended for a position in the Interior Department, and when presented with the oath required by law to be taken by all officers of the United States he was unable to take it for the reason, as assigned by himself, that he had performed service in the rebel army.

Mr. FESSENDEN. That difficulty can be obviated by adding a proviso, which I suppose the Senator from Illinois can draw at once; but I wish to inform my friend from Vermont that there are as many as twenty precedents of a like kind on the statute-book, not only precedents where officers have received the difference between the two salaries, but have received both salaries at the same time in some cases; and precedents, also, where one Cabinet officer discharging temporarily the duties of another Cabinet officer has received both salaries by act of Congress. I hold a list of them in my hand, which the Senator can look at.

Mr. MORRILL, of Vermont. But the Senator will not claim that that is right, whatever may be the facts.

Mr. FESSENDEN. It was done by Congress; but since that time a law has been passed that no officer shall receive the pay of both offices for such service. This bill goes no further than to provide that payment shall be made of the difference between Mr. Dickins's salary as chief clerk and the salary of the head of the Department during the time he discharged the duties of head of the Department. I understand—I do not know how the fact is; my friend from Illinois can say—that this matter was once before the Court of Claims, and the Court of Claims allowed the claim. I suppose that was at the time when all their awards were by law sent back to Congress to be acted upon, and the report probably was laid aside and not acted upon. The Court of Claims have, as I understand, decided it to be a just and valid claim, as I have no doubt that it is. The fact that Mr. Dickins did not urge the claim while he was alive was not because he did not consider it his due, but because he was all the time in service as Secretary of the Senate, and he did not choose to bring it for-

ward. Now he is dead, and his heirs are left in a state of absolute pecuniary want. There is no reason in justice or equity, to my apprehension, why the amount in this bill should not be paid to such of the heirs as were loyal and continued loyal. Not only are they in the condition I have stated, but they absolutely lost property by possession being taken of their farm by the Government, which was used by it during the war, and for which they have received no compensation. I think under these circumstances it is eminently just and proper that this sum should be allowed and paid. I hope it will be done without further controversy.

Mr. TRUMBULL. To obviate the objection which has been made, I move to amend the bill by adding this proviso:

Provided, That none of said heirs who have taken part in the late rebellion against the United States shall receive any of the benefits of this act.

Mr. JOHNSON. I do not wish to say anything on the amendment, but I rise for the purpose of speaking to the bill. As far as I am advised, continuously up to the period when we passed the law referred to by the Senator from Maine, when an officer held two appointments under Government, one having a lower salary than the other, he was paid, under the opinions of the several Attorneys General, the larger salary if he demanded it, and in very many instances he was paid both; but the legal advisers supposed that when an officer who was properly appointed discharged the duties of a higher office, and discharged them faithfully, he was entitled to be paid the salary appertaining to that office, as he would have been if he had been nominated and confirmed by the Senate. It was found, however, or supposed to have been found, to work injuriously in some instances, and we passed the act which is now on the statute-book in relation to such cases.

Now, as to Mr. Dickins, I speak with some personal knowledge when I say that when he discharged the duties of Secretary of State he discharged them with very eminent ability. That, I know, was the opinion of men of that day; and, as far as I am advised, that opinion has been concurred in by all his successors in office. He was a faithful servant of the Government in every station which he has held. As the Senators know who were present during the period that he discharged the duties of Secretary of this body, he was eminently faithful and intelligent. He died poor—died poor because he confined himself exclusively to the duties of his office, because he did nothing except what the duties of office required, and took no opportunity to amass money in any way. I hope the Senate will with almost unanimity vote to his heirs this stipend.

Mr. DAVIS. I will say a single word in favor of this bill, as I reported it from the Committee on Claims. The first precedent in support of the principle of this bill occurred when Mr. Monroe filled the position of one of the Secretaries by an appointment *pro tempore*. He received his pay for both offices, and all the precedents that have since taken place gave pay to the officer for both the offices whose duties he performed. The principle went up before Judge Taney, a member of the Supreme Court, in the Maryland circuit, and it was there decided by him that a purser in the Navy who had performed the duties of two offices should have the salary of both. This case went before the Court of Claims, and the Court of Claims, in relation to the claim of Asbury Dickins, sustained the principle and awarded to him the pay both of chief clerk and of Secretary of the Treasury and of State, the duties of which offices he had performed at various intervals. The bill which the Committee on Claims have reported does not allow him pay for both offices; but it gives him the larger salary of the two, and deducts that which he received as chief clerk of the two offices. That is the whole of it, and I trust the bill will pass.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Illinois.

Mr. CONNESS. I suggest that the amendment be modified by the insertion of the words "nor their assigns" after the word "heirs." There may be assignments made.

Mr. TRUMBULL and Mr. FESSENDEN. There is no objection to that.

The PRESIDENT *pro tempore*. The question is on the amendment as modified.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. HOWE. I should like to hear that amendment read once more.

The PRESIDENT *pro tempore*. It will be read again.

The Secretary read as follows:

Provided, That none of said heirs, nor their assigns, who have taken part in the late rebellion against the United States, shall receive any of the benefits of this act.

Mr. HOWE. This bill was reported from a committee of which I am a member. I did not concur in that report. The fact which has been stated here is one which was not known to me at the time, and it seems to me this amendment does not make the proper provision for that case. This bill attempts to meet a claim said to exist on behalf of Mr. Asbury Dickins against the Government. That claim it is supposed his heirs succeed to. Of course, they take *pro rata*. Now, this amendment, as I understand it, provides that although his heirs shall receive the whole sum which he would have received yet it shall not be distributed *pro rata*, but it shall be confined to those who were loyal during the rebellion, so that you confiscate the share of those who were disloyal, not in favor of the Government, but in favor of those who were loyal.

Mr. FESSENDEN. Is not that right?

Mr. HOWE. No; I think it is not right. I think if, under those circumstances, you give to those who adhered to the Government the share they would have received if all had adhered, you do all for them that a liberal and generous Government ought to do; and my own opinion is, you do more; that neither Mr. Dickins nor any of his heirs has any claim at all. That is my opinion; but I think it ought not to go any further than to give to the loyal heirs the share which they would inherit.

The amendment was concurred in.

Mr. CONKLING. Before the final vote is taken upon the bill I should like to know the meaning of the latter part of the amendment offered by the Senator from Maine. I am not sure whether the qualification of loyalty applies to the heirs or the assigns. I beg the Secretary to read it again.

The Secretary again read the proviso.

Mr. CONKLING. It is very clear what the mover intended, and the amendment was capably prepared, no doubt; but I submit to him whether there is not a doubt as to what it means? Suppose one of the heirs, who has not taken part in the rebellion, has assigned to one who has taken part in the rebellion, how would it affect him?

Mr. FESSENDEN. I will say to the Senator from New York, that I neither prepared the amendment nor offered it. He is mistaken in that particular. It was prepared by the honorable Senator from Illinois, and appeared to me to be quite distinct and plain.

Mr. CONKLING. I beg the Senator's pardon. I thought it was offered by him. I do not know enough about the parties to be affected to understand what the practical importance of it may be. When you say: "Neither heirs nor assigns who have taken part in the rebellion," is the qualification confined to the heirs, or does it extend to the assigns? That is, I think, questionable.

Mr. FESSENDEN. I suggest to my friend that a transposition of the words will obviate all the difficulty.

Mr. CONKLING. I was about to suggest that.

Mr. FESSENDEN. Let it read "that none of said heirs who have taken part in the rebellion, nor their assigns." That would undoubtedly be better.

The PRESIDENT *pro tempore*. That modification will be made unless there be objection, and it will be made accordingly.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House insisted upon its amendment to the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. F. FARNSWORTH of Illinois, Mr. T. W. FERRY of Michigan, and Mr. J. A. JOHNSON of California, managers at the same on its part.

The message also announced that the House agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURNE of Illinois, Mr. F. C. BEAMAN of Michigan, and Mr. G. W. MORGAN of Ohio, managers at the same on its part.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 213) to amend an act entitled "An act to amend the judiciary act, passed the 24th of September, 1789;" and it was thereupon signed by the President *pro tempore*.

BILLS INTRODUCED.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 437) for the relief of Isaac Rutishouser, of Chicago, Illinois; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 438) for the relief of John B. Earle; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 439) for the relief of Asbury Stalnaker; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents; which was read twice by its title, and referred to the Committee on Printing.

CONSULAR AND DIPLOMATIC EXPENSES.

On motion of Mr. MORRILL, of Maine, the Senate proceeded to consider its amendments to the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, disagreed to by the House, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. HOWE, and Mr. BUCKALEW.

D. B. ALLEN AND COMPANY.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate bill No. 150.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 150) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails. It proposes to appropriate the sum of $23,000 for the payment of D. B. Allen & Co., for carrying the United States mails between New York and San Francisco in 1864 and 1865, during the suspension of the overland mail service on the overland route, which is to be in full payment for the service.

Mr. CONNESS. I send to the Chair a brief report made by the committee, accompanying the bill, and ask that it be read.

The Secretary read the following report:

The Committee on Post Offices and Post Roads, to whom was referred the memorial of D. B. Allen & Co., representing the Atlantic Steamship and the Pacific Mail Steamship Companies, for compensation for carrying the United States mails during the suspension of the overland mail service in 1864 and 1865, beg leave to report:

That the suspension of the overland mail service, by reason of Indian hostilities on the plains, took place in 1864; that the amount paid for said service annually was $840,000, while $160,000 annually was paid to the said steamship companies for carrying printed matter and such letters as might be marked to be specially sent that way.

When the suspension occurred, leaving the entire Pacific slope without mails, the Postmaster General applied to the said steamship companies to carry the entire mails during the interruption of the overland route. The companies cheerfully complied, and for a period of about four months all the mails of the United States for the Pacific were safely and expeditiously transported by them. According to the lowest rates for which the United States mails were ever carried by sea to California, namely, $300,000, and deducting the $160,000 received by them for carrying printed matter, they would be entitled to receive some forty-six thousand dollars for the extra service thus performed. It has been proposed to pay only the rates of freight charged by the steamship lines for carrying the additional mail matter; but the utter injustice of this rule will be seen, when it is remembered that the mails have to receive extra care, and that no steamship can leave without having them on board, after causing serious and expensive delays.

Knowing, however, the difficulties attending claims after they have been allowed to remain unpaid for long periods of time, and the indisposition to pay such, and the companies consenting, the committee recommend the payment of half the sum found to be justly due, $23,000, and report a bill for the payment of the same, the passage of which is recommended.

Mr. HENDERSON. I desire to ask the Senator from California if the contractors on the overland mail route were paid for the transportation of the mail during the time that he now proposes by this bill to pay the steamship company?

Mr. CONNESS. The contractors of the overland mail are subject, when the carrying of the mails by them fails through their negligence in any respect, to fines and deductions, which are generally made. That is a question which the law places in the discretion of the Postmaster General. When the carriage of the mails overland is obstructed by Indian hostilities or other means out of their power there liability, however, does not exist. They, I suppose, did receive compensation for carrying the mails during that period, although their losses in stock and supplies were, perhaps, more than fourfold the amount they received. These questions are adjusted necessarily upon their own merits. This is a case where, pending hostilities of that kind and a total cessation of carrying the mails, a distinct application was made by the Postmaster General to the two steamship companies to carry all the mails, with which they complied, and did the service, and for which the United States are clearly liable; but, as stated in the report, the companies consenting, the amount, after being exactly ascertained according to the lowest estimate, has been reduced one half, and the committee propose to pay that amount. I will say further in this connection that this bill has passed the Senate before without objection, for an investigation of the facts shows clearly that it is a debt which should be paid.

Mr. HENDERSON. I would ask the Senator if the contractors on the overland mail route have not been paid for damages arising from Indian hostilities in addition to the amount paid to them under their contract for carrying the mails; whether a bill of that character has ever been passed?

Mr. CONNESS. I believe not, sir. Indeed I have a knowledge as near as can be on any subject that they have not been so paid.

Mr. HENDERSON. I ask whether this consideration now asked arises under a contract with the Post Office Department, or whether it is a consideration intended to be paid by Congress for the voluntary taking of the mails?

Mr. CONNESS. The Senator need not have asked that question. I have already stated that the mails were not voluntarily carried, but carried upon a written request for the performance of the service by the Postmaster General.

Mr. HENDERSON. The Senator misapprehends me. I do not desire to be troublesome. I simply ask him if it was under a contract, and whether that contract is now before the Senate in the report of the committee?

Mr. CONNESS. I did not understand the Senator's question exactly. I have stated—and I suppose that covers the Senator's question, which I do not exactly comprehend—that the report shows the facts, and if the report, which is very brief, should be read again I think the Senator will understand the case——

Mr. HENDERSON. I understand the report.

Mr. CONNESS. Very well. The report states that $160,000 annually was paid to the steamship companies at that time for carrying printed matter; the letter mail being carried overland, for which the Government paid $840,000 per annum; that when by an order of the Postmaster General the mails were not to be sent westward overland any longer he then made a written application to the companies to carry the entire mail by sea; that they complied with his request; that they carried that mail for four months of time expeditiously and promptly, for which it is proposed to pay them one half the lowest sum ever paid for carrying the mails. That is the whole case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. The morning hour having expired, the chair will, according to the order of the Senate, be vacated for the Chief Justice of the United States.

The CHIEF JUSTICE took the chair and the case proceeded, as reported in a department of the *Congressional Globe* which we have provided for the consecutive publication of proceedings so important. If the report of this great State trial were intermixed from day to day with the legislative proceedings, it would be diffused so extensively as to make particular reference troublesome. In a *Supplement to The Congresstional Globe* it will be compactly given, and thus furnish facilities for its use.

When the Senate sitting as a court for the trial of the impeachment adjourned, the President *pro tempore* resumed the chair, and the Senate proceeded with its legislative business.

ADJOURNMENT TO MONDAY.

Mr. TRUMBULL. I move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. ANTHONY. I hope that question will not be taken in the absence of the chairman of the Committee on Appropriations.

Mr. JOHNSON. He was here a moment ago.

Mr. ANTHONY. I know he has an appropriation bill which he wishes to bring up to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. MORRILL, of Maine. I trust the Senate will not adjourn to Monday, if that is the motion. There is an appropriation bill that might be passed to-morrow, and which ought to be passed, I submit to the Senate. I trust, therefore, the Senate will not adjourn.

Mr. TRUMBULL. We can pass it on Monday.

Mr. CONNESS. I only wish to add my voice to the opinion of the Senator from Maine. It is very palpable that all the time we have now should be devoted to legislative business, and I hope we shall not adjourn over to Monday.

Mr. TRUMBULL. I hope we shall.

Mr. MORRILL, of Maine, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 22; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Cole, Corbett, Davis, Drake, Fowler, Frelinghuysen, Henderson, Hendricks, Howard, Johnson, McCreery, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Saulsbury, Tipton, Trumbull, Van Winkle, and Vickers—25.

NAYS—Messrs. Anthony, Cattell, Conkling, Conness, Edmunds, Ferry, Fessenden, Harlan, Howe, Morgan, Morrill of Maine, Nye, Pomeroy, Sherman, Sprague, Stewart, Sumner, Thayer, Wade, Willey, Williams, and Wilson—22.

ABSENT—Messrs. Bayard, Cragin, Dixon, Doolittle, Grimes, Morton, and Yates—7.

So the motion was agreed to.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of executive business. I wish to make a motion that is necessary to be made.

The motion was not agreed to.

Mr. CONNESS. Will a motion be in order to proceed to the consideration of executive business?

The PRESIDENT *pro tempore*. That motion has just been rejected.

Mr. CONNESS. I move to reconsider the vote just taken.

Mr. CONKLING. Pending that I move that the Senate do now adjourn.

Mr. CONNESS. I had the floor, I believe, and the Senator could not take it from me to make that motion.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 13, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

Mr. FARNSWORTH. I ask that by unanimous consent the reading of the Journal be dispensed with.

Mr. ELDRIDGE. I object. I understand that there was a bill rushed through here yesterday which nobody understood.

The Journal of yesterday was then read and approved.

COMMITTEE OF CONFERENCE.

The SPEAKER appointed Messrs. WASHBURNE, of Illinois, BEAMAN, and MORGAN managers of the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the Senate to House bill No. 718, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1869, and for other purposes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of the House to the bill of the Senate No. 213, to amend an act entitled "An act to amend the judiciary act," passed the 24th of September, 1789.

CORRECTION.

Mr. DAWES. I desire a moment to correct a remark which I am reported to have made in the Globe. I am reported to have said, after a suggestion from the gentleman from Ohio, [Mr. WELKER:]

"What the gentleman states is true, and they also printed bonds for the confederacy at the same time."

My reference to the remark of the gentleman from Ohio would leave the inference that I meant to charge the American Bank Note Company with printing bonds of the confed-

cracy. That was not my intention. I meant merely to state that engravers in New York who had control of these dies of different kinds also at the same time were printing notes of the confederacy. I had no intention to charge it upon the American Bank Note Company or upon any other company. It is known that bonds of the confederacy were printed in New York and by engravers who had also the dies I was speaking of. It is due to the American Bank Note Company that I should make this correction.

HARPER'S FERRY, WEST VIRGINIA.

Mr. GARFIELD. I ask unanimous consent to report back from the Committee on Military Affairs, with an amendment, Senate bill No. 186, providing for the sale of lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, for consideration at this time. I will state the nature of the amendment recommended to the House by the committee. As the bill came from the Senate, it proposes to give the proceeds of this sale to the State of West Virginia for school purposes. The amendment proposed by the Committee on Military Affairs is to provide that the proceeds of this sale shall be paid into the Treasury of the United States.

Mr. FARNSWORTH. I call for the regular order.

Mr. GARFIELD. I hope the gentleman will not object to this bill being considered at this time.

Mr. FARNSWORTH. I will not object if it takes no time.

Mr. GARFIELD. It will take very little time.

Mr. HOLMAN. I trust the gentleman from Ohio [Mr. GARFIELD] will allow this bill to pass over for the present, as the members from West Virginia, who are interested in this bill, are not now present.

Mr. GARFIELD. I have seen those members, and they do not object to it.

The SPEAKER. Does the gentleman from Indiana [Mr. HOLMAN] object to the consideration of this bill at this time?

Mr. HOLMAN. I think it better not be considered now.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

An act (S. No. 213) to amend an act entitled "An act to amend the judiciary act," passed the 24th of September, 1789.

SOUTH GEORGIA AND FLORIDA RAILROAD.

The SPEAKER laid before the House resolutions of the constitutional convention of Georgia, asking a loan of $100,000 from the United States to the South Georgia and Florida railroad; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for one week for Mr. JENCKES, and for ten days for Mr. KETCHAM.

Mr. O'NEILL asked and obtained leave of absence for four days for Mr. KELLEY.

ANN D. DURDING.

Mr. ALLISON. I ask unanimous consent to introduce and have considered at this time a bill for the relief of the grantees of Ann D. Durding.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The preamble states that Ann D. Durding, by her duly-appointed attorney, attempted to locate the northwest quarter of the southwest quarter of section twenty-one, township ninety-seven north, of range six west, in the district of lands subject to sale at Dubuque, Iowa, on the 7th of November, 1851, with bounty-land warrant No. 23525, for forty acres, under act of September 28, 1850; but by an error the location was made in township ninety-one north, instead of ninety-seven north, and a patent was issued on said location in township ninety-one north, which patent was destroyed by fire by the burning of the land office at Dubuque; also that the tract in township ninety-seven north has been withdrawn from market under act of Congress approved May 12, 1864, to aid in constructing the McGregor Western railroad, but it has not yet been taken up or approved to that road; also that the tract in township ninety-seven north has been several times conveyed, and the said Ann D. Durding cannot be now found, and that the loss of this tract of land by her grantees would result in great hardship to them.

The bill accordingly authorizes the Commissioner of the General Land Office to cause the records and papers in the case to be corrected, and to issue a patent for the northwest quarter of the southwest quarter of section twenty-one, in township ninety-seven north, in range six west, Iowa, in the name of Ann D. Durding.

Mr. PAINE. Does this bill come from any committee?

Mr. ALLISON. It does not come from any committee. But I know personally the facts recited in the preamble to be true. If any gentleman doubts that I will consent to have the bill referred to the Committee on Private Land Claims, so that they may report on it.

Mr. PAINE. I, of course, do not doubt the word of the gentleman from Iowa, [Mr. ALLISON.] But I am exceedingly unwilling to set so bad a precedent as to pass such a bill as this without the recommendation of the committee.

Mr. ALLISON. Then I ask leave to introduce the bill for reference.

No objection was made; and the bill (H. R. No. 911) for the relief of the grantees of Ann D. Durding was received, read a first and second time, and referred to the Committee on Private Land Claims.

HEIRS OF GENERAL D. L. CLINCH.

Mr. HOLMAN. I rise to a privileged question, and present a report from the committee of conference on the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, namely:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendments, to wit:

In the third line from the bottom of the third page strike out after the word "of" the words "ten thousand dollars in trust for the said Eliza B. Anderson" and insert the following, to wit:

"Fifteen thousand dollars to Lars Anderson, in trust for the exclusive use of said Eliza B. Anderson during her lifetime, and any part thereof remaining at her death to be held in trust for her children."

And that the House agree to the same.

WILLIAM S. HOLMAN,
JOHN A. BINGHAM,
W. B. WASHBURN,
Managers on the part of the House.

TIMOTHY O. HOWE,
W. P. FESSENDEN,
GARRETT DAVIS,
Managers on the part of the Senate.

Mr. COBB rose.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] is entitled to the floor.

Mr. HOLMAN. My purpose was to ask the previous question on this report; but if the gentleman from Wisconsin [Mr. COBB] desires to discuss this question I, of course, cannot insist on the previous question. But, inasmuch as this matter has already consumed so much time, my friend from Wisconsin will not, I trust, ask more than five minutes.

Mr. COBB. I do not think I can do justice to the question in that time.

Mr. WASHBURNE, of Illinois. I hope that the gentleman from Wisconsin will be allowed full time to explain his objections to this bill, and that the gentleman from Indiana [Mr. HOLMAN] will also explain upon what principle the bill rests.

Mr. HOLMAN. I yield to the gentleman from Wisconsin [Mr. COBB] for five minutes.

Mr. COBB. Mr. Speaker, I do not think that I can do anything like justice to this case or to myself in respect to it in five minutes; and I know that this House cannot go before the country with credit if it should pass this bill upon a brief consideration of five or ten minutes.

Mr. Speaker, in rising to oppose this bill I have no expectation that what I may say will have the effect which I think it ought to have in inducing this House to non-concur in the report of the committee of conference and thereby prevent the passage of the bill. I wish the House to take notice that it has received no information in regard to this bill by a report from any committee; and I will state further, if it be in order, that no committee of this House has examined this subject at all. This bill has been reported from a committee without any examination of the facts upon which the claim rests, or any consideration or discussion of the principle upon which it is proposed to pass the bill. And, if it be in order, I will go further and state that the opinion expressed by, I believe, a majority of the committee, both in the committee and out of committee, is that the bill cannot be sustained on any principle whatever. The bill involves an attempt to blend two claims which are entirely foreign to each other. One is an old Seminole war claim, of the flimsiest nature, based upon no evidence and resting upon no principle but what has been repudiated over and over again in this House. This claim is blended with the consideration of the meritorious and gallant services of General Robert Anderson in defense of Fort Sumter and the flag of the country.

Sir, if we were to carry out to its legitimate results the principle upon which it is proposed to pass this appropriation, it would involve the expenditure of infinitely more money than the Government now possesses or ever will possess in this generation. There is one point in the case which I hope my time will enable me to state. It seems that Duncan L. Clinch left eight heirs, one of whom is the wife of General Robert Anderson. The other seven are residents of the rebel States; and it is not denied by anybody that they have been adherents to the rebel cause throughout the war. These seven of the heirs have executed a mongrel between an assignment and a power of attorney to the claimant in this case authorizing the collection of their share of the claim. And it is now proposed that Congress shall grant to this claimant a sum of money—I will not say all that is claimed nor all that is proved, for an indefinite claim is made and nothing whatever is proved. Nothing is shown that would entitle a party in any court anywhere to any kind of relief. A vague claim is put forward for compensation for spoliation committed by Indians and by soldiers and by persons unknown. No estimate of the amount of the damages is made or pretended to be made in any testimony presented in this case. It is proposed not to give to General Anderson the distributive share of his wife as one of the eight heirs, but to give to Mr. Lars Anderson, in trust for her, the sum of $15,000.

No one claims the original damages ever amounted to more than twenty-five or thirty thousand dollars; and yet they propose to give her, who is entitled only to one-eighth at the furthest, something more than half of what is the outside limit that any one has ever claimed, resting as this does upon mere imaginary estimates of spoliations committed by Indians, soldiers, and other persons unknown.

The SPEAKER. The gentleman's five minutes have expired.

Mr. HOLMAN. I will extend the gentleman's time five minutes longer.

Mr. COBB. Mr. Speaker, the statement made in the report by the gentleman from Kentucky [Mr. DAVIS] to the Senate—and there is the only place where it has received any consideration—is that Duncan L. Clinch

owned two plantations in Florida, one called "Auld Lang Syne," upon which Fort Crane was built, and another not far off called the "Sweetwater." As I have said, the Government built Fort Crane upon the first-named plantation and occupied it with troops.

Mr. WASHBURN, of Wisconsin. In what year?

Mr. COBB. More than a third of a century ago, in 1832–33. Witnesses swore that at the time the Government troops were there there were large quantities of corn and sugar-cane growing upon the plantation, and that a large number of horses, hogs, cattle, and mules were running at large through the country, supposed to belong to these estates, the greater part to the Sweetwater plantation, which was not occupied by the troops at all. They believed that the Indians fired some of the buildings and drove off the horses and mules, and that they did it because General Clinch had allowed United States troops to encamp upon one of his estates; that these Indians, making it a personal and political matter against General Clinch, fired one of his plantations because he allowed Uncle Sam to occupy the other. That is about all there is of it.

Mr. HOPKINS. I understand my colleague to state this bill has never been examined by the Committee of Claims. I wish him to state what examination was given to it.

Mr. COBB. I do not know to what extent I am authorized in making an explanation of what occurred in the committee.

The SPEAKER. The gentleman cannot state what occurred in the committee-room.

Mr. HOPKINS. I do not ask my colleague to state what occurred in the committee-room. I only ask him to state the conclusions reached by the committee. I want to hear what were the results reached by the committee.

The SPEAKER. That is to be found in their report.

Mr. WARD. Does my colleague on the committee state that this was not examined by the committee?

Mr. HOPKINS. I understood him to say so.

Mr. WARD. I am surprised my colleague should make such a statement.

Mr. HOLMAN. I did not so understand the gentleman from Wisconsin.

Mr. COBB. Not a single one of these papers was ever read in the committee or ever examined, or any report of any fact ever made by any sub-committee to the Committee of Claims.

Mr. MAYNARD. I rise to a point of order. Without any reflection upon the gentleman, I must protest against the statement of what occurred in the committee-room, as it is clearly out of order.

The SPEAKER. The Chair sustains the point of order. It is not in order to allude on the floor to anything that has taken place in the committee unless by written report sanctioned by a majority of the committee. That is the rule of the House.

Mr. COBB. I have been endeavoring to state what did not occur in the committee. I have declined to state what did. [Laughter.]

Mr. MAYNARD. The gentleman cannot do indirectly what he cannot do directly.

The SPEAKER. The Chair sustains the point of order.

Mr. COBB. It would not be in order according to the rules, and certainly it would not be in order upon any rule of propriety, or, I might say, common decency, to state what has been said on this subject in committee and out of committee. This is a claim based simply upon lobbying, nothing else—not upon evidence, not upon facts, not upon justice. But, sir, as I am confined to so short a time I will not attempt to enlarge upon this subject.

Mr. HOLMAN. I am perfectly willing, so far as I am concerned, that my friend should take whatever reasonable time he may deem necessary. I do not wish to restrict him in any legitimate debate.

Mr. LAWRENCE, of Pennsylvania. Let us take a vote.

The SPEAKER. How much time does the gentleman from Indiana yield?

Mr. HOLMAN. Five minutes longer.

Mr. COBB. Mr. Speaker, it is difficult to attack a claim upon which no facts have been presented and urged by any one. I was apprehensive that the gentleman would call the previous question without any affirmative statement being made on the part of the friends of the bill of the grounds upon which the claim is based. I should have preferred to have listened to whatever might be said in favor of the bill and made my remarks in opposition thereto. But I have done all I expected to do when I call the attention of the House to the anomalous character of this claim. It is an old Seminole war claim which was before Congress in one shape or another for a great number of years. Permission was given to go to the Department, and at one time permission was given to go to the Court of Claims; but the claim never passed either branch of Congress. It is now brought up at a time when the table of the Committee of Claims is groaning with just claims from all parts of the country. It is brought up at a time when the committee are obliged to report against hundreds and thousands of claims of parties whose houses and property were taken possession of for the use of the Army during the war. It is made at a time when these numerous claims are presented upon which we confessedly cannot grant relief. It is made at a time when there are hundreds of cases before the committee of spoliations committed by Indian tribes, cases where emigrants to California and Oregon have been robbed of all their earthly possessions, and we are compelled to answer to their application that the Government does not and cannot pay that kind of claim. At such a time this claim of more than one third of a century old is taken up, and by working upon the sympathies of this House it is sought to be forced through, purporting to be based upon the gallant services of a general in the Army who happens to be the husband of one of the heirs who succeed to this old shadow of a claim.

It is suggested that some of these heirs are rebels. It is true they reside and have resided in the rebel States; and I desire to state, upon the authority of a member of the Committee of Claims, not now in his seat, the member from Pennsylvania, [Mr. MERCUR,] that the person who is prosecuting this claim, and who has succeeded in getting a report in his favor, has stated that although assignments of the claims of the other heirs were made to Mrs. Anderson, yet, if the bill passes, she will consider herself in honor bound to share the money with the rest of the heirs. That is a fact which it is well for the House to know.

Mr. HOLMAN. I ask that the preamble to this bill be read, so that the House may see the grounds on which it rests.

The Clerk read as follows:

Whereas Eliza B. Anderson, wife of Major General Robert Anderson, and daughter and heir-at-law of the late Duncan L. Clinch, deceased, has an equitable claim, in her own right, to the exclusion of all other heirs of said Clinch, against the Government of the United States, they having released all demands in the premises; and whereas the family of said Robert Anderson need for their support the amount which she may be entitled to, now, therefore, in consideration of the premises, and in consideration of the distinguished services of said Major Robert Anderson, and his permanent disability: be it enacted, &c.

Mr. HOLMAN. I yield to the gentleman from Ohio.

Mr. BINGHAM. I desire simply to say that the House was long ago satisfied that the father of this petitioner had an equitable claim against the Government of the United States. It was so understood and was so reported long ago in the Senate of the United States. But the father died, and, war intervening, the claim was not liquidated. The amount, as is well stated in the report of the Senate, cannot be very decisively ascertained. It did appear, however, before the committee that there were unsettled equities to which this lady was clearly entitled by all the usage and practices of the Government, and the case itself not being within any of the rules which have recently been adopted by the House for the protection of the Government against claims for damages arising from the ordinary ravages of war the committee thought it their duty to report the bill. But in this connection I would do injustice to myself, and injustice to the committee that reported this bill, if I were not to remind the House of what is recited in the preamble to the bill, and that is that the family of Major General Anderson is in comparatively destitute circumstances, that it is young, in need of education as well as of support, that the father of the house is a wreck, an absolute wreck, dying day by day, solely owing to the fact that he stood with his seventy brave associates within the walls of your doomed Fort Sumter when all its quarters were on fire and the angel of death swept over him, and was saved alive only by the intervention of that good Being whose invisible presence saved him, and saved through him a country for us all.

I submit to the House, under circumstances of this sort, whether it would be wise or proper to ignore the recitals of this preamble, and, notwithstanding the admitted facts often recorded in the councils of the nation that there is an outstanding equity, reject the bill. I was satisfied with the bill as it passed the House before. I am satisfied with it as it comes back to the House to-day, and I am ready to record my vote in support of it.

Mr. HOLMAN. Mr. Speaker——

Mr. BANKS. What is the position of this bill before the House?

The SPEAKER. The question is on agreeing to the report of the committee of conference which has been agreed to by the Senate.

Mr. BANKS. Then it is not in a condition to be amended so as to include other cases?

The SPEAKER. It is not. The report of the committee of conference must be agreed to or rejected as a whole.

Mr. HOLMAN. It seems to me that the suggestion of the gentleman from Massachusetts is unnecessary in this connection, for it is very clear that no case of exactly the same character could occur in the present condition of our history. I wish to say to the gentleman from Wisconsin [Mr. COBB] that the Committee of Claims—and I say it with reference to all of them—have been reasonably cautious and certainly very prudent in their investigation of claims, and the majority of the committee, I may say without impropriety, believed that there was a foundation for this claim of the heirs of General Clinch, and they fixed the amount due at $10,000. The Senate, on the other hand, insisted on $15,000 as the amount; and the question referred to the committee of conference was between ten and fifteen thousand dollars. The House, by a unanimous vote, without a dissenting voice, passed the bill allowing $10,000; and although, I trust, I generally display great care in the investigation of claims against the Government, yet, with the facts before the country which have been referred to by the gentleman from Ohio, [Mr. BINGHAM,] I was not willing, as a member of the committee, to higgle upon the question of the amount between ten and fifteen thousand dollars.

Mr. WASHBURN, of Wisconsin. I would ask the gentleman from Indiana if there was not a bill passed many years ago for the relief of General Clinch for this very property?

Mr. HOLMAN. It is true that there was a bill passed for the relief of General Clinch as far back probably as 1840 or 1841.

Mr. WASHBURN, of Wisconsin. What for?

Mr. HOLMAN. It was for property destroyed by the Indians, but it was not for the injury done to the real estate, and I submit to the gentleman from Wisconsin that by the uniform practice of the Government up to the late war in regard to the war of the revolution and subsequent wars property destroyed by the enemy in consequence of its occupation by

the Government of the United States has been regarded as the subject of compensation.

Mr. WASHBURN, of Wisconsin. It appears from the statement of the gentleman from Indiana that an appropriation was made as far back as 1841 to General Clinch for property destroyed by the Indians. This question was all then fresh before the country; it was fresh before that Congress. If he was entitled to any further appropriation why was it not made then and there?

Mr. HOLMAN. It will require more time than I now have to go fully into details. But there was no pretense that that appropriation covered the whole extent of this claim.

Mr. COBB. Will the gentleman allow me to ask him a question?

Mr. HOLMAN. Certainly.

Mr. COBB. I desire to ask the gentleman a question relating to a statement he has made. He says, what is very true, that as early as 1840 or 1841 a bill was passed to compensate General Clinch for the personal property destroyed by Indians, soldiers, &c. Now I wish to ask the gentleman if he has examined these papers, and if he can state to this House the amount of damage growing out of the destruction by burning of houses, &c., as estimated by any witness or anybody?

Mr. HOLMAN. I think the testimony substantially proves—I do not say that you can get at the exact sum with any great degree of certainty—the testimony substantially proves that the loss sustained by General Clinch was about thirty thousand dollars. I will say further that there can be no question as to there being a substantial claim in behalf of General Clinch against the Government independent of the appropriation referred to. Upon that point I think no gentleman who has examined these papers can entertain any doubt. The gentlemen connected with the other branch of Congress have examined this subject with great care and thoroughness, and they have approved this appropriation; they have regarded the proof as satisfactory and conclusive that the amount of damages reached the sum of $30,000.

For myself, I hold that there is a clear and manifest equity in behalf of the heirs of General Clinch against the Government for a very considerable amount of money; that that claim, whatever it is, is the exclusive property of Mrs. Anderson. And in consideration of the services rendered to the country by her distinguished husband, which can never be overlooked by this country, taking all these matters into consideration, his services, his circumstances in life, &c., recited in the preamble of this bill, I, for my own part, predicate this bill upon all these facts.

Now, as to the amount, I say that this House cannot well afford to higgle when a claim is of a nature like this. It seems to me that, regarding all the facts, there can be nothing more ungraceful or ungrateful on the part of the Government of the United States than to hesitate about any act that would express the highest conceivable appreciation of the services rendered by this distinguished officer, especially when you consider the time and the circumstances when his services were rendered, and which have connected his name indissolubly with the history of this Republic.

Mr. BINGHAM. Let us have a vote.

Mr. HOLMAN. I must insist upon the previous question.

Mr. WASHBURN, of Wisconsin. I want to inquire of the gentleman from Indiana [Mr. HOLMAN] whether he puts this claim upon the ground of the distinguished services to which he has referred, or whether he advocates it as a just claim?

Mr. HOLMAN. I put it upon both those grounds.

Mr. WASHBURN, of Wisconsin. There have already passed six private bills for the relief of Duncan L. Clinch.

Mr. HOLMAN. I say that this claim itself is well established.

Mr. WASHBURN, of Wisconsin. If the gentleman will bring in a bill granting a pension to General Anderson I will vote for it.

Mr. HOLMAN. I base this claim upon all the grounds recited in the preamble.

Mr. BINGHAM. I hope we will have a vote on this matter.

Mr. HOLMAN. I call the previous question upon agreeing to the report of the committee of conference.

The question was then taken upon seconding the previous question; and upon a division there were—ayes 46, noes 68.

Before the result of the vote was announced,

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. WASHBURN, of Wisconsin, were appointed.

Before the tellers took their stations,

Mr. HOLMAN said: I desire to make a suggestion, which I think will be concurred in by gentlemen on all sides of the House. I suggest that the report of the committee of conference be agreed to, with an amendment reducing the amount from $15,000 to $10,000.

The SPEAKER. The report of the committee of conference cannot be amended by the House. The House can reject the report and ask the appointment of another committee of conference.

Mr. HOLMAN. Cannot the House amendment to the Senate bill be amended so as to fix the amount at $10,000?

The SPEAKER. If the House should reject the conference report, which has already been agreed to by the Senate, the bill will then be before the House for further action.

Mr. HOLMAN. I hope we shall agree that the House amendment——

The SPEAKER. The Chair understands the gentleman from Indiana [Mr. HOLMAN] to consent that the report of the conferees shall be considered as rejected.

Mr. HOLMAN. Yes, sir.

The SPEAKER. If there is no objection the conference report will be considered as rejected.

There was no objection.

Mr. HOLMAN. I now move that the House recede from its amendment and agree to the bill, with an amendment striking out "$15,000" and inserting "$10,000." I trust there will be no objection to this, and that the bill will be permitted to pass in this form.

Mr. WASHBURN, of Massachusetts. I move that the House insist on its amendment, and ask the appointment of another committee of conference.

Mr. HOLMAN. I trust my friend from Massachusetts will withdraw that motion. The same object can be accomplished by my motion. It will only be necessary for the Senate to agree to the amendment of the House.

Mr. WASHBURN, of Massachusetts. Must there not, Mr. Speaker, be another committee of conference?

The SPEAKER. There need not be if the Senate should concur in the action of the House.

Mr. WASHBURN, of Massachusetts. Then I withdraw my motion.

Mr. HOLMAN. I now call the previous question on my motion. I trust there will be no objection to passing the bill with the amendment I have proposed.

Mr. SCOFIELD. I move that the bill be laid on the table.

On the motion there were—ayes 53, noes 63.

Mr. COBB. I call for the yeas and nays.

The yeas and nays were ordered.

IMPEACHMENT OF THE PRESIDENT.

Mr. MAYNARD. Before the yeas and nays are taken I ask unanimous consent to offer the following resolution, which I believe is a question of privilege:

Resolved, That until otherwise ordered, the House, in Committee of the Whole, headed by the chairman, appear at the bar of the Senate each day pending the trial of the impeachment of the President of the United States at the commencement of the day's proceedings, and remain until the close, and then return to the Hall.

Mr. SPALDING. I object.

Mr. LAFLIN, by unanimous consent, reported from the Committee on Printing the following resolution:

Resolved, That the Congressional Printer be directed to furnish five copies of the trial of impeachment of the President of the United States in book form to each member of the House the next morning after its publication in the Daily Globe, and to print and bind five thousand copies when completed for the members of the House.

Mr. WASHBURNE, of Illinois. This resolution provides that these copies shall be furnished to members the "next morning" after the publication in the Globe. I would like to know at what time we are to get them.

Mr. LAFLIN. At nine o'clock.

Mr. WASHBURNE, of Illinois. Say eight o'clock. I want to have this document at breakfast time. [Laughter.]

Mr. LAFLIN. I demand the previous question on the adoption of the resolution.

Mr. MAYNARD. I ask the gentleman to withdraw the demand for the previous question, that I may offer my proposition as an amendment.

Mr. LAFLIN. I must decline to withdraw the demand.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. GARFIELD. If gentlemen will not consent to let the resolution of the gentleman from Tennessee [Mr. MAYNARD] be adopted, in order that the House may go to the Senate as a Committee of the Whole, I move that we now adjourn.

Mr. SCHENCK. I rise to a question of privilege.

The SPEAKER. No question of privilege can be interposed against a motion to adjourn.

Mr. GARFIELD. I withdraw my motion for a moment.

Mr. SCHENCK. Some moments ago, when the resolution of the gentleman from Tennessee was presented, I rose to inquire (though I could not at that time on account of the confusion get the attention of the Speaker) whether the proposition that the House attend in a body the impeachment trial is not a question of privilege, as connected with the course of the impeachment.

The SPEAKER. It is a question of privilege. But the House has ordered the yeas and nays on the motion to lay on the table the bill for the relief of the heirs of the late Duncan L. Clinch, deceased; and the Chair does not know how that order can be interfered with except by unanimous consent.

Mr. GARFIELD. I would very much prefer that the resolution of the gentleman from Tennessee should be adopted; and, if the House will permit him to offer it, I will for that purpose withdraw the motion to adjourn.

Mr. DAWES. I would suggest that the difficulty about the gentleman's resolution is that the House is not at this time prepared to resolve that it will attend the trial every day.

Mr. MAYNARD. The resolution simply provides that we shall attend regularly "until otherwise ordered." The House can at any time order otherwise.

The SPEAKER. The Chair will inform the House that, according to his information, at one o'clock, when the Senate has organized as a court for the trial of the impeachment, a message will be sent inviting the House of Representatives to accompany the managers to the bar of the Senate, where seats will be provided for the members generally as well as the managers.

Mr. WASHBURNE, of Illinois. I move that the House take a recess until we have notice from the Senate. If the House undertakes to have a call of the yeas and nays we cannot stop it when the notice comes, but must carry it through.

Mr. MAYNARD. Mr. Speaker, I submit, as a matter of propriety, the House should not, as a straggling body of gentlemen, but as an organized body, attend at the bar of the Senate during this grave proceeding—one of the gravest that has ever taken place in this country. We ought to be there to stand by our managers who in our name are engaged in this mighty prosecution.

Mr. KERR. Mr. Speaker, the gentleman from Tennessee [Mr. MAYNARD] says this House ought to attend the judicial sessions of the Senate during the trial of the impeachment of the President, because it is being prosecuted in the name of the House. The same reason would require that "all the people of the United States" should also attend, because the impeachment is being prosecuted also in their name.

But I do not arise to reply to that suggestion of the gentleman so much as I do to move that during the trial of the impeachment the House resolve itself into a Committee of the Whole on the state of the Union, in order that such gentlemen as do not please to attend the judicial sessions of the Senate may remain here and make speeches, and thus economize the time of the House when in session for regular business.

Mr. SPALDING objected.

Mr. MAYNARD again submitted his resolution.

Mr. SPALDING again objected.

Mr. DAWES. I move that the resolution of the gentleman from Tennessee [Mr. MAYNARD] be modified so as to be applicable only to this day.

Mr. SPALDING. I do not object to that.

The motion was agreed to.

PENSION BILLS.

The following Senate bills were taken from the Speaker's table, read a first and second time, and referred to the Committee on Revolutionary Pensions and the War of 1812:

An act (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812;

An act (S. No. 338) for the relief of William Blake, a soldier of the war of 1812; and

An act (S. No. 341) granting a pension to John W. Salyers, a soldier of the war of 1812.

The following Senate bills were taken from the Speaker's table, read the first and second time, and referred to the Committee on Invalid Pensions:

An act (S. No. 426) for the relief of Thomas Crossley;

An act (S. No. 282) granting a pension to Annie E. Dixon;

An act (S. No. 291) granting a pension to Ann Kelly, widow of Bernard Kelly;

An act (S. No. 292) granting a pension to Maria Raftery;

An act (S. No. 314) for the relief of George T. Brien;

An act (S. No. 316) for the relief of Rebecca V. Senor, mother of James H. Senor, deceased;

An act (S. No. 315) granting a pension to Marquis D. S. Mitchell, of the Creek nation of Indians;

An act (S. No. 323) granting a pension to Michael Kelly;

An act (S. No. 317) granting an increase of pension to Sylvanus Blodgett, of Jericho, Chittenden county, Vermont;

An act (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor child;

An act (S. No. 342) granting a pension to Thomas Stewart;

An act (S. No. 343) for the relief of W. G. Cummings;

An act (S. No. 344) granting a pension to Caroline and Margaret Swartwout;

An act (S. No. 333) for the relief of Julia M. Molin;

An act (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased;

An act (S. No. 332) granting a pension to John W. Harris;

An act (S. No. 281) granting a pension to Anne Dycher, widow of Nathan D. Dycher;

An act (S. No. 184) granting a pension to Mrs. Ann Corcoran;

An act (S. No. 280) granting a pension to Michael Hennessey, of Platte county, Missouri;

An act (S. No. 319) granting a pension to Bridget W. McGrorty and the minor children of William B. McGrorty, deceased;

An act (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased;

An act (S. No. 322) granting a pension to Sherman H. Cowles;

An act (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian R. Posey;

An act (S. No. 340) for the relief of Thomas Chittenden;

An act (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased;

An act (S. No. 382) granting an increase of pension to Obadiah T. Plum;

An act (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

An act (S. No. 419) granting a pension to Mary Atkinson;

An act (S. No. 420) granting a pension to James A. Guthrie;

An act (S. No. 421) granting a pension to Caroline E. Thomas;

An act (S. No. 422) granting a pension to Maria Schweitzer and the minor children of Conrad Schweitzer, deceased;

An act (S. No. 423) granting a pension to James Jackson;

An act (S. No. 424) granting a pension to Bartlett and Carrie Edwards, children of David W. Edwards, deceased;

An act (S. No. 425) granting a pension to George Bennett; and

An act (S. No. 427) for the relief of the widow and children of John W. Jamison, deceased.

Mr. VAN WYCK moved to reconsider the votes by which the various bills were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WHISKY FRAUDS.

Mr. VAN WYCK, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing under the rule.

Resolved, That five thousand extra copies of the report of the Committee on Retrenchment on whisky frauds be printed for the use of the House.

OFFICERS' FEES IN BANKRUPT CASES.

Mr. VAN WYCK, by unanimous consent, introduced a joint resolution (H. R. No. 233) in regard to the fees of clerks and marshals in bankrupt cases; which was read a first and second time, and referred to the Committee on Revision of Laws of the United States.

LIFE-SAVING INVENTIONS.

Mr. DRIGGS, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Printing be instructed to have printed for the use of the House five thousand extra copies of the report of the life-saving commission on the subject of the life-saving invention recently examined and tested by the said commission in the city and bay of New York.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I move a call of the House. We can dispense with it at any time.

The question was put and appeared to be carried.

Mr. WASHBURNE, of Illinois. I withdraw the motion.

Mr. ROSS. Mr. Speaker, would it be in order to require the Sergeant-at-Arms to call upon the people of the United States to attend the impeachment trial? [Laughter.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body insisted on its amendments to House bill No. 718, making appropriations for the consular and diplomatic expenses of the Government, for the year ending June 30, 1868, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had ordered that Messrs. MORRILL of Vermont, HOWE, and BUCKALEW be the conferees on the part of the Senate.

The message further announced that the Senate had passed a bill (S. No. 408) for the benefit of the heirs of Asbury Dickens, deceased, in which the concurrence of the House was requested.

The message further announced that the Senate had adopted the following order:

Ordered, That the Secretary inform the House of Representatives that the Senate is in its Chamber ready to proceed on the trial of Andrew Johnson, President of the United States, and that seats are prepared for the accommodation of its members.

Mr. WASHBURNE, of Illinois. In view of the notice just given, I move that the House resolve itself into the Committee of the Whole for the purpose of proceeding to the bar of the Senate.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. WASHBURNE, of Illinois, in the chair,) and at one o'clock and fifteen minutes p. m. proceeded, in pursuance of the order of the House, to the bar of the Senate.

At five o'clock and fifteen minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, reported that the Committee of the Whole, in pursuance of the order of the House, had attended the Senate sitting as a high court of impeachment, in company with the managers, and after hearing arguments in the case the court had adjourned till Monday, the 23d instant, at one o'clock p. m.

SESSION FOR SATURDAY.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that the session of to-morrow be in the Committee of the Whole, for debate only.

Mr. FARNSWORTH. I hope the debate may continue to-morrow on the bill for the admission of Alabama. Several gentlemen desire to speak upon it.

Mr. WASHBURNE, of Illinois. Let the understanding be that that subject may be debated in the Committee of the Whole, and the debate confined to that, if gentlemen please.

The SPEAKER. The bill cannot be taken up until there has been a morning hour.

Mr. WASHBURNE, of Illinois. Is there any objection to my proposition?

The SPEAKER. The gentleman's colleague [Mr. FARNSWORTH] objects.

Mr. WASHBURNE, of Illinois. Then I move that when the House adjourns it adjourn to meet on Monday next.

Mr. FARNSWORTH. I am not strenuous about this matter. I desire to progress with the Alabama bill as fast as the House will do so; but as there seems to be a pretty universal desire to have a session for debate I will not object.

The SPEAKER. The Chair is aware of several gentlemen who desire to speak to-morrow on general subjects. If there be no objection there will be a session to-morrow for debate only as in the Committee of the Whole.

No objection was made.

ADMISSION OF ALABAMA.

Mr. BAKER. I ask the unanimous consent of the House that some amendments which I propose to offer at the proper time to the bill for the admission of Alabama may be ordered to be printed.

There was no objection, and the order was made.

NUMBERING OF BILLS.

Mr. LAWRENCE, of Ohio, by unanimous consent, submitted the following resolution;

which was referred to the Committee on Printing:

Resolved, That the number and title of every bill and joint resolution introduced in this House shall be inserted in the report of proceedings in the Congressional Globe.

And then, on motion of Mr. ELDRIDGE, (at five o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BLAIR: A memorial of officers of the Northern Central Michigan Railroad Company, asking an amendment of the act of July 3, 1866, in relation to the grant of lands for a railroad from Amboy by Hillsdale and Lansing to some point on or near Traverse bay, in the State of Michigan.

Also, a memorial to the same effect from citizens of Hillsdale county, Michigan.

Also, a memorial of a large number of citizens and tax-payers of Eaton county, Michigan, requesting a reduction of the expenses of Government, and that the taxes be correspondingly reduced.

By Mr. CHURCHILL: A memorial of L. A. Eddy and others, citizens of Madison county, New York, against changing the present system of national bank note currency.

By Mr. HUBBARD, of Connecticut: A memorial of sundry citizens of the first congressional district of Connecticut, remonstrating against taxing cigars by a separate stamp on each cigar.

By Mr. LYNCH: The petition of cigar-makers, relating to the tax on cigars.

By Mr. MORRELL: The petition of 56 citizens of Tell township, Huntingdon county, Pennsylvania, praying Congress to establish a mail route from Waterloo, Juniata county, to Shade Valley, Huntingdon county, Pennsylvania, and the establishment of a post office at Shade Valley Mills.

By Mr. PAINE: A memorial from the Chamber of Commerce of the city of Milwaukee, Wisconsin, for an additional grant of public lands to aid in building a ship-canal from Sturgeon bay to Lake Michigan.

By Mr. NICHOLSON: A memorial of the city council of Wilmington, Delaware, for the improvement of Christiana river.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 14, 1868,

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. By the order of the House business to-day is to be confined solely to debate as in Committee of the Whole. The gentleman from Maine, Mr. PERHAM, who is entitled to the floor, is confined to his house by sickness, and asks unanimous consent that he may be recognized as entitled to the floor on some future Saturday. Is there objection? The Chair hears none.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. MCDONALD, its Chief Clerk, announced that the Senate had passed a bill (S. No. 150) to provide for the payment of D. B. Allen & Co., for services in carrying the United States mails, in which he was directed to ask the concurrence of the House.

PURCHASE OF ALASKA.

Mr. HIGBY. Mr. Speaker, there has been some little debate already upon the question of the treaty made between the United States and the emperor of all the Russias with reference to the territory called Alaska. The principal portion of that debate has been against the action of the President and Senate of the United States. One member of the House, however, the gentleman from Ohio, [Mr. SPALDING,] in speaking on the question, dwelt more upon one point as to the power of the President and Senate of the United States to make and complete a treaty, especially where there is an appropriation of money necessary in order to its completion. Three or four gentlemen have spoken who have made two points—that one and the other against the utility or benefit to this country of making such a purchase.

Mr. Speaker, if it were a question to be settled alone between the House of Representatives and the President and Senate of the United States I might coincide with those gentlemen who have taken such a strong position against the action of the President and Senate in this particular case. But I want the House to bear in mind that the House of Representatives is not one party to this question, and the Senate of the United States and the President of the United States together the other party to this question. It is a question between the Government of the United States, as a Government and as a nation, and the emperor of all the Russias—a Government in Europe. It is a question between two Governments—ours and a foreign Government. It is one that cannot be settled here among ourselves between the branches of this Government. But the two that I have named are the parties to this contract in the treaty. And, sir, whatever action the House of Representatives may take upon this question—especially, sir, if it be to refuse an appropriation of $7,200,000—we will find that difficulty will arise thereafter and one in which the Government of Russia will call us to an account as a nation for a violation of an agreement that has been made with that Government. That is the difficulty we will find on our hands after we have taken action on this subject against an appropriation.

I have said that if it were a question to be settled between the House of Representatives and the President and Senate I might coincide with those members of this House who have thus argued upon this question, that it was a duty to consult this House in reference to such matters where large appropriations were asked to be made. But I say it is beyond the power, beyond our reach to settle this question, because it is one that must be settled upon foreign waters, if need be, and in a foreign country.

It is not necessary for me to refer the older members of this House to a case between the Government of the United States and the Government of France which transpired during the administration of Andrew Jackson. It was then ascertained by treaty that as a matter of indemnity to citizens of the United States the Government of France owed the citizens of this country the sum of $25,000,000. That was ascertained and settled by treaty. What did the legislative department of that Government do? Year after year it refused to make the appropriation necessary to pay the $25,000,000 ascertained by treaty.

What was the result? The question could not be settled between the legislative department of France and the king of France, because the Government of the United States was an interested party, and, when it had forborne sufficiently long, said to the French Government: "You must pay the money or we will take means to make you pay it." And Andrew Jackson gave the Government of France to understand that unless that money was paid according to treaty stipulations there would be means used by which they should be compelled to pay it; and he advised Congress to pass a law by which we could make reprisals and spoliations upon the commerce of France unless France did settle the demand. The measure had the desired effect; the legislative department of France did its proper work, which was to make the appropriation, for it had no other course to pursue.

Mr. Speaker, I do not wish to see this country placed in a false position, as, in my judgment, it would be by refusing to make the appropriation which is to carry out the stipulations of this treaty. By refusing in this case we will be placed in a position where we shall have difficulty with a foreign Government. That is one of the reasons why I am in favor of making this appropriation. I want no complications with a foreign Government upon a question of this character, especially when it is so fair upon its face and so reasonable and so just, at least, on the part of Russia.

Mr. WOOD. Mr. Speaker, I apprehend that the gentleman from California [Mr. HIGBY] is not entirely justified in drawing a parallel between the case under the present so-called treaty with Russia and the matter of the claims of the citizens of the United States upon the French Government to which he has referred. In the former case there was a treaty; it had been made by every department of the French Government; it had been fully recognized in all its various aspects. The French Government had recognized their obligations to our citizens.

Now in this case, those of us who believe that the House of Representatives have the right to act upon this matter in its discretion with reference to the appropriations of public money, contend that this treaty is not yet complete; that it is not yet the supreme law of the land, which deprives the House of Representatives of of its right to judge of the propriety and policy of making an appropriation of the public money for any purpose.

Mr. HIGBY. I will say to the gentleman from New York [Mr. WOOD] that he misapplies what I said. I am not speaking of this being a parallel case, although it is a treaty. I am drawing this parallel, that we cannot, as a House of Representatives, settle this question with the President and the Senate, and make such settlement a finality; because there is a foreign Power which has its claim upon this Government, and with that foreign Power we must settle. We cannot address our argument to the President of the United States and to the Senate of the United States; we must address it to the emperor of all the Russias.

And let me say still further, that I must correct the gentleman when he says that all the departments of the French Government acquiesced in this treaty; because the legislative department was not called upon to acquiesce in the treaty at all, for it was not a part of the treaty-making power of France.

But when payment of the $25,000,000 was demanded, in accordance with the terms of the treaty by our Government, then the legislative department of the French Government refused to make the appropriation. But when it was found that Andrew Jackson was firm upon this question in insisting that the Government of France should live up to treaty stipulations, and that if the money were not paid according to those treaty stipulations a power would be exerted which would bring that Government to terms, it was then that the legislative department of that Government did acquiesce and did appropriate the money.

I have said that if this were a question that could be settled between the House of Representatives on the one side and the President and the Senate on the other I would go as far as any other member of this House to assert its power as to this question of appropriating money. But since we cannot settle with them, I say it is of no use for us to address our argument to them; we must address our argument to the Government of Russia, and to that Power alone.

Mr. MAYNARD. Will the gentleman from California yield to me for one moment?

Mr. HIGBY. I can yield for a question only. If I were sure that additional time would be allowed me I would not restrict the gentleman. But as I do not understand that I shall have more than my hour I will yield only for a question.

Mr. MAYNARD. What I desire to submit to the gentleman is this: whether under our Constitution (which the Emperor of Russia is

presumed to be able to read as well as ourselves) the President and the Senate, as the treaty-making power, have the right to bind this nation to the payment of a sum of money—whether they have the right to make such a contract with a foreign Power in the name of the nation.

Mr. BANKS. Will the gentleman from California allow me to say a word?

Mr. HIGBY. When I shall have answered the point suggested by the gentleman from Tennessee [Mr. MAYNARD] I will yield to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. Speaker, a very similar question to that presented by the gentleman from Tennessee was raised by the gentleman from Ohio [Mr. SPALDING] when he addressed the House on this subject some weeks ago. He said that the Government of Russia is presumed to know that the power does not reside in the President and the Senate to make and complete a treaty. Let me ask the gentleman from Tennessee whether the existence of this power in those departments has not been a mooted question; and whether even with President Washington it was not a mooted question. Did he not give Congress to understand that, according to the construction given to the Constitution by him and those who joined with him in making it, Congress had nothing to do but simply to appropriate the money? And I ask the gentleman whether a long line of the distinguished men of this nation has not held to the proposition that when the President and the Senate have made a treaty it is binding upon Congress to make all appropriations necessary to carry out that treaty? In saying this I am not taking either one or the other side of this question; I am simply reminding the House that a long line of most distinguished authorities has held that the President and the Senate have this power.

Now, sir, is it not supposable that the Government of Russia, when the President and the Senate made that treaty and professed to bind this "nation," understood that they were acting in good faith, and that the power they professed to exercise was really possessed by them?

Mr. MAYNARD. I will answer the gentleman very fairly, and say that I believe the treaty-making power of this nation, consisting, under our Constitution, of the President and the Senate, has the authority to bind this nation to the payment of a sum of money; and if the treaty-making power improperly or unwisely enters into such a contract in the name of this Government our remedy is not by repudiating the contract, but by repudiating the men who have improperly or unwisely exercised the power vested in them.

Mr. HIGBY. I agree with the gentleman. He has hit the point of this question. In this instance the President and Senate have gone too far, and the Government of Russia has yielded too much to leave it in the control of this House. It is a question to be settled by and between the two Governments. The people are the parties empowered to settle the question, if the treaty-making power is improperly exercised, with the men who so improperly exercised it. I will now yield to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. With the permission of the gentleman from California, I desire to say that the case presented in regard to the French treaty was precisely this: the sovereign of the French Government made a treaty with the Government of this country recognizing a certain amount of money to be due to us. It was an adjudicated claim between the sovereign power of the two Governments.

Now, another department of the French Government did not feel inclined to appropriate the money to fulfill that treaty. They excused themselves on the ground that they were not obliged to do it. The Government of the United States did not recognize that excuse on the part of a portion of the Government which was not recognized in the treaty-making power. They did not accept that declaration as a sufficient answer to the claim, and General Jackson, then President of the United States, announced to Congress that if money was not appropriated and the claim paid measures should be taken to cause the French Government to do it. Now, the gentleman on the other side will be very much puzzled to point out a particle of difference between the case presented by the gentleman from California and this that occurred under General Jackson's administration, except that the subject of the treaty is a little different.

Mr. PAINE. With the permission of the gentleman from California, I will ask the gentleman from Massachusetts a single question. Does he not know that in the case to which he has just referred the claim of the United States against France was absolutely good irrespective of any treaty stipulations.

Mr. BANKS. Of course I know that, else there would not have been a treaty recognizing it. But the claim that the President of the United States made was based upon the treaty, because that was a confession of the claim; and the refusal of another department of the French Government to appropriate the money did not affect our claim at all.

Mr. PAINE. The gentleman has stated that there was a treaty between the United States and France, and by virtue of it the President of the United States claimed that these payments should be made; but he should know that in that case if there had been no treaty there would have been a valid claim on the part of the Government of the United States against France, whereas in this case, in the absence of a treaty, there is no pretext that there would be any claim on the part of Russia against the United States.

Mr. HIGBY. I say to the gentleman from Wisconsin, as I said to the gentleman from New York, that I do not pretend that the two cases are precisely alike. But it is by treaty that we settled the question with France, and I was only citing the manner in which this Government reached the Government of France in order to get that money. It was a question to be settled between two Governments, and not between the branches of any one Government. I say that this is a treaty between this Government and the Government of Russia, and the only way we can get along with this matter is by addressing our arguments to the Government of Russia. We cannot address our arguments now in this case to the President and Senate of the United States with any success.

Mr. WOOD. I desise to propound this question to the gentleman: whether he denies the abstract right of the House of Representatives to judge of the propriety and policy of the appropriation of the public money whenever application is made to it under any circumstances whatever.

Mr. HIGBY. Mr. Speaker, I said at the outset that if this was a question to be settled between the President and Senate of the United States on one the side and the House of Representatives on the other I would go as far as any member of this House in the line of argument that has been used on this floor. I have no doubt at all as to the question of propriety of the House of Representatives, but I am asking where our argument in this case has got to be addressed.

Mr. WOOD. You admit the right then.

Mr. HIGBY. Certainly.

Mr. WOOD. Then there is no difference between us.

Mr. HIGBY. I certainly admit the right, but it is directing all our force and strength where it is not commonly used in attacking what the President and Senate have done so long as there is a power outside of the Government which is going to make its demand in this case. That is my point.

Mr. WOOD. That is another question.

Mr. HIGBY. I was unfortunate, perhaps, in not making myself clear at the outset. I meant to be understood as I have just stated.

Now, sir, I wish to consider the position taken by the member from Ohio, [Mr. SPALDING,] that it was presumable that the Government of Russia knew that the President and Senate of the United States had not the power to make this treaty until the money was appropriated. Let us see what Russia did and see whether that Government would do a thing of this kind as against its own interest.

Let me read one of the articles of the treaty between these two Governments. I read article four of the treaty:

ARTICLE IV.

"His majesty the emperor of all the Russias shall appoint, with convenient dispatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery."

Is it possible, sir, that with the knowledge that the President and Senate of the United States had not power to make such a treaty, the Government of Russia should have provided in the treaty that as soon as there was an exchange of ratifications it should be understood as a delivery of the territory? Not at all, sir. The presumption is, that the Government of Russia understood that the President and Senate had the power, and that they represented the Government, and were the treaty-making power of the Government. That is the presumption, and, as I have before said, it is a mooted question with us. A number of the most distinguished men of this nation have taken the position, and argued it ably, that whenever the President and the Senate have completed a treaty between this Government and any other Government it is binding upon this Government, and the House of Representatives are bound, in connection with the other branches of the Government, to make the necessary appropriation.

That view of the question has been very ably urged by some of the greatest men of this nation; and I say the presumption is that the Russian Government supposed that they were dealing with the treaty-making power of this nation when there was an exchange of ratifications, and a delivery was understood to be made.

Well, sir, what further has been done? Under that article of the treaty which I have read, in the month of July or August last, persons were named to represent the two Governments; and those named on the part of this Government went to Sitka, the principal town in the territory to be delivered, and there, in the name of this Government, received possession of all that territory that was delivered up by the representatives of the Government of Russia. The Russian flag disappeared, and the stars and stripes are waving to-day at Sitka, the emblem of the dominion and power of this Government over that territory; and there it has waved since that delivery took place. Russia has withdrawn what title she had to represent her there, and the United States has full sway and full power there. A post office has been established and a postmaster appointed. A general is there with a portion of our Army, representing the Government of the United States and holding possession of the territory. Is it to be supposed that the Russian Government would have done all this if there was a lack of power on the part of the President and of the Senate to complete a treaty? Sir, it is not supposable for one moment. And here I leave this branch of the subject.

Statesmanship dictated the purchase of Louisiana and Florida. The Northwest Territory, from which has since been carved several of the richest and most powerful States of the Union, was drained by the Mississippi and its branches, the natural channels for the commerce of that vast territory, yet in embryo, to seek the ocean. That river and its branches in the west, and the Alleghany mountains in the east, bind the North and South together. The Mis-

souri and Columbia rivers and their branches will be strong bonds in holding the Atlantic and Pacific slopes together in the future settlement of the vast West. Whatever efficiency, though, these may lack, if any, will be amply supplied by the lines of railroads that will soon traverse the continent from the Atlantic to the Pacific. Alaska will soon have a hardy, active, and enterprising people; trade and commerce will grow up to great importance. Its growth and thrift on the north, the same on the south in Washington and Idaho Territories, will make British Columbia sicken and die as a British province and cause it to spring into newness of life as territory of the United States. Already the people of that province are agitating the question of a transfer of allegiance from the British Crown to the Government of the United States. While the people of the province may have little or no power in the premises, their expression shows how very unnatural and forced is their present allegiance, and how much more prosperous that people and province would be as citizens and territory of the United States. Statesmanship, it seems to me, dictates that this House should acquiesce without hesitation in the treaty made with Russia and at once make the appropriation.

Mr. Speaker, finding the direction in which the debate was drifting upon this subject, I felt it my duty to gather, if possible, some little information with reference to that section of the continent. It is true we have none of us much information. All the sources have been meager. Still we have been able to gather some information on the subject; and I have no doubt that when the Committee on Foreign Affairs come to report upon this matter we shall be furnished with much more than I have in my possession, and that the House will be much more enlightened on this question. But in the mean time I have done what I could to get information upon the subject.

Among other things I obtained a letter from a gentleman in the city of Boston who, from the year 1824, I believe, to 1827 and 1828, passed some three years or more upon that coast. I call the attention of members to that letter, for much very valuable information will be found in it, and I have no doubt it will prove far more interesting to them than anything that I can say. It is as follows:

WASHINGTON, D. C., *December* 16, 1867.

DEAR SIR: It is with pleasure that I now comply with your request for information in respect to our newly-acquired Territory of Alaska, being recollections and reminiscences of a visit made there in my youth.

I sailed from Boston, Massachusetts, my native place, in 1824, in the brig Griffon, of one hundred and eighty tons, bound to what was then called the "Northwest Coast of America." The object of the voyage was to purchase furs for the China market.

We arrived at the harbor of Chatsena, situated on the western side of Chatham straits, about latitude 55° 30′ north, Territory of Alaska, in April, 1825.

There we found a portion of a large tribe of Indians, which inhabited Prince of Wales Island. The general name of that race of natives was "Skittegates," and they occupy not only the large island of Prince of Wales, but the fine island or country of Queen Charlotte's, to the south. These people are of rather large stature, active, energetic, and uncommonly intelligent, and very friendly to the whites; the latter called by these Indians "yates hardi," or "iron men." Here we refreshed ourselves with halibut, deer, ducks, &c., and purchased some furs—sea otters, land otters, beavers, martins, and minks.

We then visited Chigarney, a little to the north of Cape Murray, latitude 54° 40′, where we met with another portion of the same tribe above named; thence to port of Skittegates, Queen Charlotte's Island; then north again to several places in Chatham's straits and Stickine straits. Not to weary you with too many particulars, I will state generally that we continued to cruise from port to port during that whole year and the following ones until September, 1828, within the limits of latitude 53½° up to Sitka, latitude 57°, and will give the general results of my observations and experience in that portion of Alaska Territory.

That whole region is of a mountainous character, cut up into islands and peninsulas by straits, sounds, and arms of the sea. Good and excellent harbors are innumerable.

Forests of timber cover the land from mountain top to water's edge. Spruce, Norway pine, beach, maple, cedar, and hemlock principally abound. Fur-bearing animals are abundant, some of which I have already named. The waters of the sea, rivers, and creeks are filled with fish, such as halibut, cod, salmon, &c. Among the smaller kinds is one very abundant, resembling a smelt in appearance, of a rich, oily quality. These the natives take from the rivers in vast numbers in early spring; put into cedar boxes for winter use and for traffic with interior tribes for furs. The Irish potato is extensively cultivated on Prince of Wales island and Queen Charlotte's island. The latter, particularly, is the best I have ever met with. The fruits are raspberries, strawberries, thimbleberries, and blackberries. Game is very plenty, deer, bear, and beaver—the latter excellent eating—geese, mallard ducks, &c. Eggs of the sea fowl form an article of traffic. The largest portion are brought by the natives in canoes from Forrester's island, which lies off Prince of Wales island. Such is the multitude of birds frequenting that island (Forrester's) that I have no doubt a valuable deposit of guano may be found there. The island has never been explored that I know of, though it is often sighted, and seems covered with a cloud of sea-fowls.

In mineral riches the southern portion of Alaska is extensive. I have seen anthracite and cannel coal, iron ore, virgin copper—a large natural deposit of the latter is found on the northern end of Prince of Wales Island. The natives make much use of it for handles of daggers, nails, and household articles.

Climate.

It is mild and equable. The first year I was on that coast I kept a register of the thermometer, which is unfortunately mislaid. From recollection, I may say, the thermometer never fell below 25° above zero in winter or rose above 60° in summer, showing the annual average to be about 42½°.

Snow seldom fell; when it did it soon disappeared. Rains, however, are very frequent. Perhaps three quarters of the year is rainy, cloudy, or foggy.

We often wondered the cause of the mildness and wetness of the climate, but scientific research has explained by attributing it to the warm ocean current (similar to the Gulf Stream in the Atlantic) which has been traced running from the Bay of Panama, the equator, to Luzon and China sea and its coast, Japan islands, Fox islands, Ounalaska, to the coasts of Alaska, British America, California, to Bay of Panama again. Prince of Wales island corresponds in temperature to Baltimore.

As to the winds, we had strong and frequent gales in winter from the southeast, but never experienced hurricanes or cyclones at any time, or anything approaching the tempests found on the Atlantic coast and other parts of the world. During the three and a half years of winter and summer I passed in southern Alaska, with eight or ten American vessels cruising for furs along its coasts and straits, I never knew of a shipwreck or serious damage occurring to any of them. Hardly a spar was ever carried away. It is one, if not the most healthful climate in the world. Among the large number of men comprising the crews of the above-mentioned vessels not a single death occurred during the whole period named, nor a case of sickness, except sexual ones. The harbors are never frozen up or thick ice formed. The navigation is excellent. Deep water everywhere, even close to the shores. All reefs and sunken rocks are buoyed by nature with kelp, giving warning to the mariner. The rise and fall of tide is considerable. Sandy beaches in good harbors, with friendly natives, afford opportunity to careen vessels for cleaning or repairing. It is a singular fact, however, that the copper sheathing on ships bottoms never wears out in that region. I have known it to be worn eleven years without deterioration.

Whales, both sperm and right, were seen in great numbers by us; also hair and some fur seal. Extensive banks for cod fishery extend off northern and southern Alaska coasts, and will soon be generally used by fishing vessels fitted out from California, Oregon, and Washington Territory, as well as from Sandwich islands.

General Observations.

Since our glorious republican empire has extended itself to the shores of the Pacific I have been much impressed with the future certainty that its sovereignty will embrace, sooner or later, all North America, and I have fondly looked upon Alaska, since its acquisition, as destined to be the New England of the Pacific States, furnishing by immigration and settlement a similar hardy, industrious community of shipbuilders, fishermen, and toilers of the sea and land.

Whatever may be said, true or untrue, in disparagement of the northern portion of Alaska, above latitude 57°, the southern portion, which my remarks embrace, is alone, in my judgment, well worth the $7,200,000 stipulated in the late treaty with Russia as the price.

Aside from the intrinsic value as estimated, it is worth, in the eyes of the sagacious statesman, a greater value for the purpose of preventing or avoiding any and all cause of future difference with our great and true friend, the Russian nation, whether growing out of occupation of contiguous territory, commercial, navigating, or fishing rivalry in that part of the world. The United States and Russia cannot now or hereafter have any cause of difficulty, but, on the contrary, every reason to continue the best of friends. These two nations are destined to go hand in hand in progress and civilization, and in extending the blessings of Christianity over all their respective people and over all the northern hemisphere, and will one day, not far distant, dominate the whole world!

I will close by adding that in regard to northwestern Alaska, with its fine harbors and proximity to the Arctic fishing grounds, frequented by over one hundred American whale ships, soon to increase to double that number, it will become of great value to us as a place of resort for repairs and shelter of those vessels while pursuing their dangerous and hardy vocation. Information recently received is to the effect that our whaleships are warned off the opposite coast and harbors belonging to Russia; hence Alaska harbors become more necessary to us.

I am, sir, yours, very truly,

HENRY A. PEIRCE,
Merchant of Boston.

Hon. WILLIAM HIGBY,
Member of Congress from California.

I have also from Blodgett's Climatology of the United States some notes containing observations for a period of twenty-five years in Alaska in reference to the climatology of that section of the world, which I obtained through the kindness of the Commissioner of Public Lands, whose letter here precedes the notes furnished by him:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *December* 16, 1867.

SIR: Referring to your request in letter of 14th instant for information in regard to the "Climatology of Alaska," I have the honor to transmit herewith a synopsis of the report upon the subject recently made by Lorin Blodgett, Esq., pursuant to a call for information on the subject.

I am, with great respect, your obedient servant,
JOSEPH S. WILSON, *Commissioner.*

Hon. WILLIAM HIGBY, *House of Representatives.*

Climatology of Alaska.

The isothermal lines on this map were traced by Lorin Blodgett, Esq., author of Blodgett's Climatology of the United States, at the special request of the Commissioner of the General Land Office. The transfer of the late Russian possessions to the jurisdiction of the United States has rendered accessible the very accurate and extensive meteorological statistics collected by authority of the Russian Government for a period of twenty-five years. From a careful and laborious examination of these statistics Mr. Blodgett has arrived at the following conclusions:

1. The west coast of North America from Prince of Wales island to Alaska peninsula is the equivalent in winter of the east coast of the United States from Baltimore to Portland, Maine. Prince of Wales island is the equivalent of Baltimore and Philadelphia; Sitka is the equivalent of New York city, and Kodiak is the equivalent of Portland, Maine.

2. This coast of Russian America represents in winter the north coast of Scotland and the west coast of Norway. On the east of Asia its equivalent for the same season is the coast from a point south of Pekin to the northern islands of Japan and Kamtschatka.

3. The summer climate of the coast of Russian America compares with the summer climate of the British provinces north of Halifax and the coast of Newfoundland, Sitka being warmer than St. John's, Newfoundland.

4. The summer equivalents in Europe are the north of England, from Lancaster on the west coast, and the whole west coast of Norway from Bergen northward. Lancaster, England, is but one degree warmer for the summer than Sitka. In Asia the summer equivalent is the coast of the sea of Okhotsk and the Island of Kamtschatka.

5. The equivalents in mean temperatures for the year are found on the coast of Maine. Bath, Maine, corresponds with Prince of Wales island: Eastport, Maine, being the equivalent of Sitka, and St. John's, Newfoundland, corresponding with Kodiak island and the Alaska peninsula. The Maine observatory at Portland has almost the exact mean annual temperature of Sitka.

6. In Europe the whole Baltic coast from Konigsburg northward has the same average temperature as the coast of Russian America from Prince of Wales island to Norton sound. In Asia the Kurile islands, the sea of Okhotsk, and Kamtschatka are the like equivalents.

Generally Russian America has a full maritime and insular climate, highly favorable to forests and grasses, with no severe winter weather, but with cool, damp summers. By comparisons at the foot of the table of mean temperatures it will be seen that the coldest winter months are not colder than the coldest in New York harbor; they are not nearly so cold as the coldest at Albany, New York. They are not so cold by two or three degrees as the coldest at St. Louis, and they are not so cold by twenty degrees on the average of each month as the coldest at St. Paul, Minnesota.

This peculiarly mild winter renders the measure of summer heat of much less importance than it would be with the severe winters of Albany, New York, and St. Paul, Minnesota.

As the consequence of the facts of climate developed above the entire coast and island surface not mountainous must be capable of pasturage and cultivation from the southern boundary to latitude 59° north, with much of the peninsula of Alaska and Kodiak island. The surface is valuable for its forests in many cases where the soil is not level enough for cultivation. With our present limited knowledge of the character of the surface and of the presence or absence of precipitous mountains on the coast and islands it would not probably be safe to estimate the valuable surface capable of sale, as the lands of the United States are elsewhere sold, above twenty thousand square miles. This would, of course, not include any part of the continent north of Prince William's sound, or adjacent to Cook's strait; the country of the Kwichpak and Youkon rivers. And it is also supposed that most of the Alaska peninsula is too rough in surface for the occupation of its lands. The whole country, however, is remarkable for its capacity to sustain animal life, for its profusion of game, of wild

fowl, and of herbage, fruits, and berries, by which the crowded life of these regions is sustained.

The waters and sea also abound in fish and marine animals, and constitute the basis of the most extensive fisheries in the world. Not having the severe and destructive winters of the North Atlantic, the whole of this coast of Russian America, even to Kotzelrie's sound, will sustain a vast fleet of fishing vessels, and these vessels can obtain stores and recruit in the immediate vicinity of the fishing grounds instead of being driven southward to winter. They can be built also at Sitka or on any of the islands of the vicinity, timber of the best quality being abundant everywhere.

It will be observed by the comparisons attached to the table of the quantity of snow that generally falls it is less than in New York and New England. During the period of observation several months of the winter are found to have no fall of snow recorded, while rain was frequent and the temperature much above the freezing point.

I also have here the original memoranda of a lecture delivered by Professor Davidson in the city of San Francisco, before the Academy of Natural Sciences of California, a few months since. Professor Davidson passed several months in the Territory of Alaska, where he went, with the representatives of this Government, at the time the transfer of the Territory was made. The memoranda are as follows:

"After describing the geographical features of the country visited by the Coast Survey party under his charge, the marks of glacial action, volcanoes, &c., he discussed the influence of the great current of warm water which crosses the Pacific ocean from the coasts of Formosa (in latitude 22°, longitude 238° west) and the easternmost point of Japan and strikes upon the coast of North America south of Sitka. It is this great, warm river of the ocean which gave the mild climate to Alaska, as the Atlantic Gulf stream made Great Britain and Norway inhabitable.

"This great, warm stream leaves the coast of Japan about latitude 35°, and passes eastward to the latitude of 48° and longitude 148°, where one branch turns sharply toward Sitka, and the greater volume of water passes southward along the coast of Queen Charlotte and Vancouver islands and the coasts of Washington, Oregon, and California.

The warm stratum of air above this vast mass of warm water is necessarily laden with aqueous vapor, and coming in contact with the colder air from the continent a condensation of vapor and precipitation of rain is the consequence. This humidity of the climate sustains the immense growth of timber with which the whole country along the sea-board abounds. The largest trees climb the steepest mountain sides to elevations of two thousand five hundred to three thousand feet. The Sitka spruce was cut and measured four feet diameter and one hundred and eighty feet long, and others determined to be two hundred and fifty feet high and six feet diameter. The yellow cedar (*cupressus sitchensis*) was found six feet diameter and estimated one hundred and fifty feet high; it commences about latitude 54° 34′ and extends throughout the archipelago from 54° 40′ to 59° 15′—how much farther north was not examined.

This is the best wood on the coast for ship-building and cabinet work. The lecturer had specimens of this wood from a wrecked vessel of the Russian American Company. The vessel had been built thirty-two years and lying a wreck for six years, yet the timbers and kelson were as sound as the day when the vessel was built, and the iron and copper bolts were unoxydized and the wood around them well preserved. Under ground its preservative qualities are equally remarkable, as was illustrated by timber at Fort Simpson that had been under ground twenty years, and taken out as sound as the day it was cut.

As the lecturer was familiar with the woods of Oregon, Washington Territory, and California, from eleven years' duty there, and had been brought up in a ship-building district, he was competent to pass an opinion on the subject.

Other woods were named, but these noted as the best.

When it is known that the shore line of the islands, bays, inlets, and straits of the archipelago amount to seven thousand eight hundred and sixty statute miles the inexhaustible supply of this part only of the territory may be readily comprehended. For comparison the lecturer stated that the shore line of Washington Territory, from Columbia river to the northern boundary, including Washington sound, Admiralty inlet, Puget's sound, and Hood's canal, amounted to only two thousand and twenty-eight statute miles.

Temperature and rainfall, &c., of Sitka, from fourteen years' observation at the Imperial Observatory at New Archangel.

Temperature Fahrenheit.		Rain in inches.	Total.
March.....35°.5		*4.8	
April.....41°.2	41°.3	*5.0	14.0
May.....47°.2	Spring.	*4.1	Spring.
June.....47°.2		*4.0	
July.....51°.7	54°.3	*4.1	15.4
August.....55°.3	Summer.	7.3	Summer.
Sept'r.....51°.2		10.5	
October....44°.2	44°.2	11.9	30.8
Nov.....37°.1	Autumn.	8.5	Autumn.
December.31°.7		8.2	
January...31°.1	31°.9	7.6	22°.9
February..32°.9	Winter.	7.1	Winter.
		83.1 for year.	

*About the monthly average of Pennsylvania.

Yearly mean 42°.9 or 3° warmer than the middle of Norway or six inches less than Astoria at the mouth of Columbia river.

Greatest rainfall, ninety-six inches in 1850; least, fifty-eight and six tenths inches, in 1861. Greatest in one month, twenty-one and three tenths, August, 1867; least, six and a half, in November, 1853.

In the same month of August, 1867, the records of the Smithsonian Institution show that eighteen inches fell in eastern Pennsylvania!

The yearly average of days upon which rain, snow, and hail fell, or on which fog prevailed, for fourteen years, was two hundred and forty-five.

It is to be noted that the above results are from observations made hourly throughout the year.

Harbor of Sitka never freezes, and ice is unfit for the San Francisco market, which derives its supply from Kodiak, in latitude 57° 47′, or 15° north of Boston.

At Kodiak, some years, thermometer never runs below zero. Lisiansky says that in 1805 the thermometer did not fall below 38° until December 24, when it reached 26°. The coldest day that year was January 22, when the thermometer was zero.

Ice from fifteen to twenty-four inches each year. Coldest temperatures noted are by the ice company's agents within the last fifteen years, when the thermometer has reached 18° below zero, but the men worked without extra clothing, as the air was perfectly calm. The ice is not thicker than that about Boston, although nine hundred geographical miles further north!

Climate of Ounalaska from nine years' observation of Bishop Benjaminoff.

Temperature Fahrenheit.		
March.....29°.9		
April.....33°.4	Spring 33°.9	
May.....41°.3		
June.....46°.2		
July.....50°.6	Summer 49°.6	
August.....51°.9		
September.....43°.7		
October.....36°.7	Fall 37°.6	
November.....32°.4		
December.....29°.0		
January.....29°.6	Winter 30°.1	
February.....31°.0	Only 1°.8 below Sitka	
	37°.8 for the year, or 5°.1 below that of Sitka.	

The highest temperature recorded is 77°.0, and the lowest only 0°.6 below zero, but only upon ten occasions was it recorded less than 10° above zero.

He says it rains there only one hundred and fifty days each year and about twenty-seven inches, but the lecturer seemed to doubt this latter quantity, as it was not really observed as the other phenomena had been.

Whale fisheries were discussed and their importance shown by the fact that seventy American whalers yearly fished on this coast against ten English and French. At present the principal fishing ground is in the region of Behring's straits on account of the shallowness of the Behring sea and Arctic ocean, which have only thirty fathoms of water. On the great Fairweather ground, between Sitka and the entrance to Cook's inlet, in 60°, the greater depth of water enabled the whale to "sound" without touching bottom, and to come up far away and in uncertain directions from the boat; but in the shoaler water he invariably struck bottom, came up straight from the point struck with his head enveloped in a mud coat, and was easily taken. But the "Fairweather ground" is so covered with whale when the "whale feed" covers those waters in June and July that the old navigators frequently mistook the spouting of the hundreds around them for the surf breaking upon sunken rocks. (See Dixon, Meares, Portlock, &c.)

The lecturer said the great value of the territory consisted in the immense banks of cod, the woods, the furs, and the deposits of coal, of which they had found and brought away specimens. This coal was found close to navigable waters, and by analysis proved superior to any bituminous on the Pacific; the exact locality of the vein or veins was not found on account of the lateness of the season, &c., but the geologist and mining engineer of the company reported that all the accompanying geological conditions existed for the existence of good coal. The specimens were found for a distance of between five and seven miles.

I am aware that it is very easy to appeal to the imagination for facts. It is very easy to talk against a proposition when there is but little or no information about it. That is much easier than it is to speak in its favor.

I was surprised at the speech of the member from Wisconsin [Mr. WASHBURN] upon this subject, delivered in this House a few weeks since, a gentleman of his noted ability and reputation, and particularly the character which he tried to give to this section of our continent that has lately become ours; and not only that, but he also has attempted to give a character, which I do not consent to the correctness of, to the sea over which early navigators went to reach that coast, and the storms and the perils which they encountered before they arrived at their points of destination.

Now, sir, if we were to rely upon the remarks which he made we might suppose there was not so turbulent an ocean on the face of this earth as the Pacific ocean. And yet it is just as common a thing to see in the harbor of San Francisco vessels from Sitka, and those, too, of small tonnage, as it is to see vessels from Mexican ports lower down the coast. And we do not look upon it as any very wonderful thing that they have traversed the ocean which Cook traversed, and where he had encountered so many perils.

If what the gentleman said is to be credited, we who have lived upon the Pacific coast, who have heard its surges beating upon the western borders of this continent for nearly twenty years, will be very much astonished to receive such enlightenment. It is true the Pacific ocean has its storms; its navigators have encountered perils there.

But how is it with the ocean on this side of the continent? Take your lines of commerce from this continent to Europe; if you could search the bottom of the ocean you would see its whole length strown with the wrecks of vessels and wealth. It is but a few years since that a steamer freighted with nearly five hundred precious lives, on its way from Panama to New York, founded in mid-ocean, without striking upon any rock or reef, and became the coffin of nearly all its passengers. We have never had any such perils there as the Atlantic ocean has witnessed, no matter how many Cooks and other navigators have traversed it.

It is a slander to attempt to say that the ocean along the coast there is a perilous ocean in comparison with other oceans, for it is not true.

Why, sir, in 1865, the steamer Brother Jonathan, with two hundred passengers, struck upon a rock in sight of land upon the Pacific and went down, all but eighteen of the passengers being lost. But that was not on account of the storm, but because the navigators of the steamer were not well versed in the sunken rocks along the coast. Being a loaded vessel, she struck with such violence as to let her mast go down through the bottom, and within twenty minutes she sunk. I have already referred to the Central America, that went down in mid-ocean with such a freight of precious life here upon the Atlantic. No such case has been known upon the Pacific ocean; and the case I cited of the Brother Jonathan was not a parallel.

Now, sir, we are told that in Alaska there is nothing but icebergs; that the country is uninhabitable. Yet civilized men have lived there for years and years. Gentlemen here may ask why Russia has not turned that country to better account. Why, where is St. Petersburg, the capital of that empire? Thousands of miles away, and she has a wilderness country yet unsettled between her capital and Alaska thousands of miles in extent. Waters must be crossed before it can be reached from Russia. Hence Alaska is comparatively useless to Russia. But it can be made useful to us, as it is far more accessible. We are told that the region is inhospitable. Yet all accounts go to show that we have there at least fifty thousand square miles of territory, which, I venture to say, is as good as the country from 45° northward, if not from 40° northward, on the Atlantic side. I do not wish any of my New England friends to take umbrage at what I say; but I venture the assertion that the climate of Alaska, till you get up to 59° or 60°, is as good a climate—taking one month with another, taking its mean temperature—as that of the country from New York to the farthest extremity of Maine. I venture the assertion that there has been no such weather in Alaska as there has been from the city of New York northward during this last winter. There is, undoubtedly, in that region, a vast amount of snow. Why, sir, in the month of September, I have, from Victoria, in British Columbia, seen the mountains of Washington Territory at an elevation of four or five thousand feet covered with vast piles of snow with a bright glistening sun shining upon them. But at the foot of those mountains the fields were verdant and fruitful with every kind of product useful to man. So, sir, through my own State, I can point you to mount-

ains covered with snow in July, August, September, and October; yet at the foot of those mountains are fields rich with every product, and orchards and vines laden with the fruits of the tropics as well as of the temperate zone. Sir, we can point you to snows upon the mountains to the depth of five, ten, fifteen, and twenty feet; yet in the valleys where the cities are no snow is seen except in extraordinary years. It is elevation that makes climate there, not latitude.

Mr. WASHBURN, of Wisconsin. As the gentleman from California has alluded to me, I will ask him to yield for a moment. He has misunderstood to some extent what I said in regard to the character of the winds of the Pacific. My remarks applied particularly to that portion of the Pacific adjacent to the Russian purchase. I am well aware that the Pacific ocean, in the vicinity of San Francisco is what its name imports, a pacific sea; but, sir, I believe the most authentic information will satisfy this House that such is not the case in the more northern latitudes.

I hold in my hand Executive Document No. 177 of this session of Congress, which has been printed within the last day or two. It contains the report of Captain William A. Howard, of the revenue service, who was sent to that coast in July last by the Treasury Department to make investigations. I think if gentlemen will read that report they will be satisfied that I said nothing in regard to the character of that sea which is not borne out by it.

One word more. I have seen nothing since I made the remarks which I did early in the present session to change my mind. The mass of facts contained in this volume which I hold in my hand, and which I have glanced at very hastily, in no way changes that opinion.

Now, sir, there has been a good deal of machinery put in operation to affect the operation of this House in reference to this matter. In November last, two days before Congress met—

Mr. HIGBY. I cannot yield for a speech to be interjected into mine. If the gentleman says I have not represented him correctly I will submit to a correction, but I cannot allow him to reply to what I have not said.

Mr. WASHBURNE, of Wisconsin. Very well; I will endeavor to get the opportunity after the gentleman has finished his speech.

Mr. HIGBY. There has been a great deal said about St. Thomas and some other sections as being subject to earthquakes and hurricanes. Once in thirty or forty years, or oftener it is said that hurricanes and earthquakes desolate the West India islands. I do not know anything about it. But as regards the Pacific coast I know that they have had snow in Sacramento during the past winter, a thing that has not occurred since the settlement of that country twenty years ago. There have been storms on the coast this winter such as have not been known for years. But, sir, who has known such a winter here in Washington as we have had this season? The gentleman from Wisconsin [Mr. WASHBURN] has been here in former years as a member of Congress. Can he tell us whether in his experience there has ever been such a winter as the past one?

Mr. WASHBURN, of Wisconsin. I can, most certainly. The first winter I was here was more severe than the past winter, as gentlemen who were with me can testify.

Mr. HIGBY. Well, sir, this is the worst I have seen, and I was not aware that any one had witnessed a more severe one. Certainly, we have not had a worse one on the coast of California, nor has there been a worse one on the coast of Alaska. And I tell gentlemen that the sea is navigable in the winter, that ships go and come just as they do in other waters on our coast. The southern limit is 54° 40′. We have a long stretch of territory that does not reach up to 60°, extending more than a thousand miles. A strip of Alaska thirty miles in width, four hundred miles in length, along the coast, shuts out the British possessions from the ocean, with coast islands, the whole extent about seventy-five miles in width; and for this whole extent of coast British Columbia has no access to the ocean except across this portion of Alaska.

"Fifty-four forty" is the southern point, and it is assumed that the region must be extremely cold and barren. Why, sir, London, the seat of one of the greatest empires of the earth, is in latitude 52° north, and nearly all the island lies north of London, and yet we hear of no terrible frosts there. "Oh," gentlemen will say, "but there are warm ocean currents that affect the temperature." So there are warm ocean currents sweeping along the coast of Alaska, and that is how they account for its being so warm in comparison with the same latitudes on the Atlantic side.

St. Petersburg, the great city of the Russian empire, is in latitude 59°. Stockholm, the city of Charles XII, whose martial tread made Europe tremble, is in latitude 58°. Two thirds of Sweden lies north of 60°; nine tenths of the Russian empire is north of 50°; and yet the coast of the Pacific north of 54° 40′ is claimed to be frozen and barren. Gentlemen attempt to measure the temperature of the Pacific by the Atlantic coast. I tell them that there is 15° of latitude difference between the two coasts as regards temperature; 40° north latitude on the Atlantic is the same in mean temperature, if not colder, than 55° on the Pacific shore. So, sir, it is with Europe and Asia; there is a vast difference between the western coast of Europe and the eastern coast of Asia, and gentlemen must take these things into consideration.

Speaking, sir, of the storms upon that coast, the gentleman from Wisconsin will find, if he will read that letter which I received from a gentleman in Boston, that during the time they were on that coast they saw no such desolation and there were no such storms. He was there at least three years, a better test than any that can be found in the report to which he refers. It may be said that that is not a proper index, and I admit that you must take a term of years. Neither are the storms that have swept along that coast during this past year a proper index by which to judge.

Sir, this is a country that is full of mineral wealth. Its cod fisheries are superior to any that the Government of the United States has anywhere. Its fisheries alone are worth the money that Russia asks for the whole territory. Its timbers are superior. A piece of timber has been brought from Sitka that was in a vessel built some thirty-seven years ago which is as sound to-day as it was the day that it was put into the vessel.

Let me say further to the members of this House that the hardy men who come here from northern Europe will many of them be very likely to seek a climate something like the climate they have left. The hardy Norwegians, Swedes, and Russians who become citizens will in years to come seek this country, and it will be populated with as hardy and enterprising a people as we shall have in the Union.

Mr. Speaker, I am not one of those who are ready to carp at every movement that is made of this character. I believe that it is policy and statemanship to accept the offer that Russia has made. There is an important territory between Washington Territory and Alaska, and that is the British possessions. We need that. We want no skulking place on that coast for piratical craft, such as we had a few years ago, when the Shenandoah sought the harbor of Victoria. I remember well how sensitive we all were upon the Pacific coast; although we felt that our harbor was well defended, yet we could not drive from our minds the thought what power there was in a well-armed vessel driving over the ocean, seeking out and destroying our defenseless merchantmen. She did get among our whaling fleet in the north, and did great injury and damage by burning and destroying vessels. We want no such skulking-place upon that coast. Let us have Alaska, and we shall soon, by the power of cohesion, have the British possessions that intervene, and then we shall have one continuous coast from the southern portion of California to the extreme northern point. Sir, policy and statesmanship demand that we complete this treaty by appropriating this money, and that we have no question with this great Power of Europe, that has on all occasions been friendly to the American Government.

Mr. Speaker, I trust that whatever spleen we may possess with reference to the action of the President and the Senate we will not weaken our own cause by fighting the appropriation among ourselves to win nothing in the end. It would be very severe upon us if we should find that we are driven to make this appropriation by a Power that will call upon this Government to settle its just demands, and will call upon it in such a way that we must bend in our course, and pursue one entirely different.

I hope that on an early day we shall hear from the Committee on Foreign Affairs, and that they will be able to furnish, if need be, more information to the members of this House, if they shall desire it, and that this House will justify at once the generous confidence which the Russian Government has manifested by a surrender of this territory by meeting the payment which the President and the Senate have agreed to pay.

Mr. BROMWELL obtained the floor.

Mr. WASHBURN, of Wisconsin. Will the gentleman from Illinois [Mr. BROMWELL] yield to me for a few moments?

Mr. BROMWELL. How long a time does the gentleman want?

Mr. WASHBURN, of Wisconsin. Ten minutes, I think, will enable me to say all I desire.

Mr. BROMWELL. I will yield that time to the gentleman.

Mr. WASHBURN, of Wisconsin. As the gentleman from California [Mr. HIGBY] has alluded to me, I beg leave to make a very few observations. He claims that I have misrepresented the character of the Pacific ocean. I think he misunderstood entirely the scope of the remarks I made when I addressed the House some time since on this subject. As I stated a moment since, my remarks were intended to apply entirely to that portion of the Pacific coast adjacent to the Russian possessions.

I hold in my hand Executive Document No. 177, published at this session of Congress. It contains a vast mass of information which has been placed upon our desks by the Secretary of State. It contains a report of Captain William A. Howard, of the revenue service, who was sent to that coast in July last. I call the attention of gentlemen to that report, for it fully bears out every observation which I made in regard to the character of that part of the Pacific ocean and in regard to the storms prevailing there. It is filled with accounts of the terrible weather that prevailed during the whole time he was there. I will read his account of one storm while he was on that coast:

"Having coaled the Lincoln with all the dispatch the boisterous and rainy weather would permit, supplying the custom-house with everything possible to put it in working order, I paid my respects to the late Russian and present authorities, offering to take dispatches, &c. Paying all bills against the ship, I got underweigh at three and a half p. m., in a heavy rain, blowing a gale from the southeast, falling barometer, (29°;) determined to anchor in Port Lincoln, not considering Sitka safe should it blow a heavy gale as appearances indicated. At five p. m. came to in Port Lincoln with single anchor, the gale increasing and roaring overhead like a train of railroad cars running with great speed; at this time hardly a breath blew across the ship's deck. At daylight the wind suddenly shifted in a terrific squall and struck the ship broadside on, heeling her three strakes, (what no canvas had done;) before she swung head to it she broke adrift, but on letting go a second anchor she brought up head to the wind, and during the day the gale was very heavy, but the ship lay perfectly easy, without any sea or feeling of wind, the harbor being so perfectly protected—thus demonstrating the perfect safety of Port Lincoln. The great disasters at Sitka, and the narrow escape of the Ossipee from foundering, show its violence, as well as the unfitness of Sitka (New Archangel) for a port of entry. Had the Lincoln remained that night she could not have escaped destruction; she would have been driven on shore had her anchor held, (which I con-

ceive impossible in such holding ground,) by other vessels drifting upon her, which subsequently sunk. The Mameluke's masts were blown out of her; other vessels had their boats blown from their tackles and dashed to pieces."

Captain Howard in his report constantly speaks of the terrible, dark, foggy, rainy weather prevailng on that coast. And he pays the following compliment to Mr. Davidson, the gentleman referred to by the gentleman from California, [Mr. HIGBY:]

"I beg leave, however, to bear testimony to the untiring exertions of Mr. Davidson and Coast Survey party to accomplish an almost impossibility. For many days and nights they watched in vain for sun, moon, and stars, which led us almost to believe neither ever had been or would be seen."

That is the delightful country and delightful climate to which the gentleman has called our attention. Now, in regard to the temperature of that coast, I refer gentlemen to Professor Davidson's table of the temperature of Sitka, as follows:

"Beginning with the month of March we can judge of the temperature of the different seasons by the following scheme:

Months.	*Degrees.*	*Season.*
March	35.5	
April	41.2	Spring, 41°.3
May	47.2	
June	51.7	
July	55.3	Summer, 54°.4
August	55.8	
September	51.2	
October	44.2	Autumn, 44°.2
November	37.8	
December	31.7	
January	31.1	Winter, 31°.9
February	32.9	

It cannot have escaped the attention of members of the machinery which has been brought to bear to induce this House to sanction this treaty. I have here a telegraphic dispatch from General Halleck, in command of the Pacific military division, sent on the 19th of November last. It will be recollected that he took great interest in this treaty, and telegraphed from the Pacific coast while it was pending before the Senate, recommending its ratification. The following is the telegram to which I referred:

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,
SAN FRANCISCO, CALIFORNIA, *November* 19, 1867.

GENERAL: It is understood that the best agricultural land in the newly acquired Territory of Alaska is to be found on the peninsula of Kenay, between Cook's inlet and Prince William's sound. The climate is said to be far better than at Sitka or Kodiak. It is proposed to establish a military post on this peninsula early next spring, and no doubt settlers will follow as soon as they are certain of protection.

I therefore respectfully suggest to the Department of the Interior that these lands be surveyed and brought into market at as early a period as possible.

Very respectfully, your obedient servant,
H. W. HALLECK,
Major General U. S. A., Commanding Military Division of the Pacific.

ADJUTANT GENERAL *of the Army, Washington, D. C.*
Official: R. WILLIAMS,
Assistant Adjutant General.

It was made known through the papers at that time that General Halleck had advised that this country should be surveyed and opened for settlers. I desire to call the attention of members to the particular portion of this territory, thus recommended for settlement, as described by Professor Davidson in his report. General Halleck must have derived his information from some one who had never been there. Professor Davidson speaks of this country as follows:

"Tebenkoff (1848) gives a dark picture of the appearance and climate of Prince William's sound, calling it desolate, gloomy, and deserted; surrounded by rocks and pine forests; mountains covered with eternal snow, and enveloped in perpetual fog, or invisible with drizzling rain."

This is the country which General Halleck says is understood to be the best part of that Territory, and which he desires to have surveyed for settlers.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. WASHBURN, of Wisconsin. Yes.

Mr. HIGBY. How did they find out that the mountains were covered with eternal snow?

Mr. WASHBURN, of Wisconsin. I am quoting the authority cited by the gentleman from California, [Mr. HIGBY.] The gentleman has no right to call his accuracy in question. Professor Davidson continues:

"Rain falls sometimes for a whole month, and there are not more than sixty or ninety sunny days in the year. During the months of July and August the thermometer showed 59° on fair days and 46° on rainy days. The frost in winter is very severe, but of short duration, for the south winds change it suddenly to thaw and rain."

This is, as General Halleck says, the best part of the territory, which he wants surveyed, so that people may go there and settle.

Accompanying that expedition was a botanist and also a geologist. They were sent out there to obtain information which was to be ready when Congress should meet.

They were instructed to hunt for fishing banks and for coal-fields, neither of which they found within the jurisdiction of Russia. Now, here is what Dr. Kellogg, the botanist, says:

"Unfortunately, this vast region of islands and continental coast is not bordered at the bases of these lofty timbered ranges with sloping or level bottoms; but is gashed with precipitous and inaccessible gorges, the peaks, for the most part, being capped with snow, which, melting in summer, together with the continual rains, make every rockless footstep a sphagnous, miry morass."

He uses what is a new word to me; but I find from the definition that this sphagnum is a kind of moss which covers the entire surface of the ground to the depth of one or three feet. This botanist says that the whole country where the rocks do not come to the surface is covered with this miry moss:

"Altitude passes for naught here; even the mountains are miry to their tops."

A beautiful country!

Now, sir, a geologist was also taken out, and I have his report before me. I undertake to say here, notwithstanding all that has been said in telegraphic dispatches and through the public press, that no coal of any value has been discovered in that region. No gold has ever been discovered in Russian America. The little gold that has been discovered on the Stochin river has been far east of the borders of Russian America, at least one hundred miles. No silver has been discovered there. No lead has been discovered there. There is no proof that any copper has been discovered, although a man writes from Boston, or near Boston, that he once bought of a native a copper dagger, and when he asked the native where he got it he pointed east—inland. We are asked to infer from this circumstance that there is copper there. There is no proof that any metal, precious or base, has yet been discovered there.

Now, as I do not want to take up the time of my friend from Illinois, [Mr. BROMWELL,] I cannot go into the question of the fisheries or the fur trade. I considered those to some extent in my speech on this subject. Captain Howard was instructed to look for fishing banks. He found a fishing bank, but it was below the latitude of 54° 40′, the extreme southern limit of this region. It was not within the Russian waters; it was not within the limits where vessels are not allowed to fish. It was far distant from the main land. He found but one bank, although he sounded the waters often. But he tells us that he heard there were other banks which were being kept secret. Now, I will be candid enough to say that I believe there is abundance of fish on that coast. But we have always been allowed to fish there. We have never been interfered with. We have fished beyond the jurisdiction of Russia. But the climate of Walrussia is such that fish cannot be cured there. Hence it is of no consequence whether we have the right to land there or not. Without owning Walrussia we have the privilege of catching fish there, and going with the cargo wherever we please.

[Here the hammer fell.]

Mr. HIGBY. Permit me to say that whether fish can be cured there or not it is a fact that codfish taken in those waters are brought to San Francisco cured. I do not know where they cure them.

Mr. BROMWELL addressed the House on financial topics. [See Appendix.]

NATIONAL DEBT AND FINANCES.

Mr. SELYE. Mr. Speaker, some few days since I introduced a bill for the amendment of the act to provide a national currency, the general features of which are as follows:

First. Repeals the clause which restricts the aggregate circulation to $300,000,000, and declaring that there be no restriction as to the number or aggregate capital of the banks to be formed, thus returning the well-tried principles of the New York free banking law.

Second. Repeals the thirty-first section, which compels the banks to keep a reserve in legal-tender notes equal to fifteen per cent., and in certain cities to twenty-five per cent. of their circulation and deposit, a useless and unnecessary loss of interest, and no practical security to the billholder or depositor.

Third. Provides for the redemption of their notes in New York city by all the banks at par, which is in effect equivalent to returning to specie payments.

Fourth. Authorizes a new loan, payable, principal and interest, in gold coin at the present weight and standard, for the purpose of redeeming all the legal-tender notes in excess of $100,000,000, when reduced to that sum the remainder to be receivable for customs duties, and to be reissued to creditors of the Government who may desire them, so that the limit of $100,000,000 be not exceeded.

Mr. Speaker, this subject is one on which it may be thought presumptuous in me to address the committee. I profess no special knowledge, only such as a plain man who has kept his eyes open picks up in the course of an experience long enough to encounter most of the rubs of practical working-day life. I was bred a blacksmith, or, more properly speaking, a forger and machinist, and claim to have been a rather uncommonly good one. I know what it is to be in want of money to be used in my business, and to be enabled by its use to get a fair profit from industry. I know what it is to be unable to borrow it, not because anybody doubted that I could and would use it advantageously to myself, advantageously to the other mechanics whom it would enable me to keep employed, and advantageously to the whole community, but because money was scarce, and higher interest could be had from pinched speculators than from people engaged in productive trades. I have pounded my way along in life till I have got to be tolerably independent of money-lenders, and finally have met here on the floor of the House of Representatives my old friend and fellow-workman under the same roof in the then village of Rochester, Hon. JOHN COVODE, of Pennsylvania, one of the most influential members of this House.

I have the notion that we rely a little too much on the supposed knowledge of those whose business is to deal in money, and who, it seems to me, may have a general interest adverse to those who want to hire the use of money. It is time somebody should speak for the masses who purchase the use of money and want the price low. I shall try to represent them. The bankers and brokers, who want to get the most for the use of their money, and do not want competition in lending, will find enough to speak for them and to accept their counsels with abundant deference.

The free banking law of the State of New York was passed in the year 1838, and has been in operation ever since. Before it became a law banking was a monopoly, or a privilege doled out through political favoritism or more corrupt inducements. These had finally become so offensive that the people determined there should be no more of them forever in the State of New York, but that every man and every association of men who thought they could get a profit by banking should have the privilege to try it, so that they complied with uniform conditions required for the security of billholders. The vain notion that the Legislature could find out how much money the people wanted to use better than the people themselves was exploded as nonsense. This

was the great feature of the law. In 1863 Congress enacted the national banking law, nearly all the provisions of which are closely copied from the free banking law of New York. It differed, however, from the latter in the essential particular that, instead of allowing the people to have the benefit of all the circulating bills which they might find it convenient and profitable to use, it restricted the aggregate circulation to $300,000,000, and undertook to apportion it out in the ratio of representation. Nothing could be found in the working of the New York law for twenty-five years to suggest the necessity of such a change.

Experience had shown that the banks could never keep afloat the full amount of circulation to which they were entitled. Bank after bank had been established in out of the way places, in the hope that the inconvenience of reaching them to demand the redemption of their bills would enable them to make money by this sort of forced circulation. One by one they found the effort a vain one; the people would take no more money than they wanted; they would not take it if it was not redeemable where they wanted; such banks were obliged to wind up; their securities, deposited with the State comptroller, were quietly sold; the billholders got value for the notes, and the bankers pocketed the loss from their fruitless attempt to surfeit the people with money they did not desire. As, therefore, the restriction in the national law was not founded upon experience, it must have proceeded upon some theory which embraced these points: First, that $300,000,000 was the largest amount of circulating bills that it was good for the people of the whole nation to have. Second, that after distributing one half of this amount in the States and Territories, according to representative population, it was wisest and best to let the Secretary of the Treasury apportion the other half as he thought good, "having due regard to the existing banking capital, resources and business of such States, District [of Columbia,] and Territories." That distribution was made in such a way, as I will show, as to give the largest circulation to those States which needed it least, and to leave those where it was most wanted suffering for the machinery of exchange, and that without remedy until the restriction is repealed.

Let us look a little at the main point in this theory. Money, whether in the shape of coin, bank bills, or legal-tender notes, is useful, because it is the indispensable means of effecting exchanges of labor and the fruits of labor. So are wagons; so are railroad cars; so are canal boats, and the vessels that navigate the rivers, the lakes, and the ocean. All that they do is to facilitate the exchange of commodities, bringing and carrying them from the people who want to sell to the people who want to buy. Does any mortal now suppose that it is necessary for the law to prevent building more than a restricted number of wagons or cars or ships or canal boats? When roads and wagons and the means of drawing them are plenty transportation is cheap; and that means that the man who has raised a bushel of wheat or mined a ton of coal, or in any other way has added something tangible to the wealth of the country, can get his product to market by paying a small toll to the man who only carries it on its way to be exchanged for plowshares or tools or clothing. Everybody knows that it is the producer who pays the tax of transportation, so that every reduction in the cost of getting to market is so much added to the price of his products and the reward of his labor. Nearly every railroad adds more than its cost to the value of the farms along which it passes, though competition may reduce the toll to a rate too low to be remunerative to the capitalists who lay the tracks. We have learned to let them look out for themselves, and derive some consolation from the fact that their private loss represents the public gain.

The swiftest and cheapest of all the engines for circulating products is money, whether in coin or that which will produce coin, or, what is the same thing, will purchase like coin the commodities which are of actual service in filling our physical wants. Whenever the supply is scanty exchanges slacken and labor is paralyzed. No man, without going back to the slow and cumbrous process of truck and barter, can buy his neighbor's work or his neighbor's wares until he can sell his own. The want of a dollar keeps idle and rusting as many times a dollar's worth of the products of industry, whether it is for a day or a month, as the dollar could pass through different hands in the course of that time. Remember that a thing is of no use to the world till it gets from the hands of the producer into those of the consumer, and that what we call consumption is simply putting things in the way of aiding fresh production. A ton of coal might as well be at the bottom of the mine for all the good it does till it comes to the furnace or the forge, where it melts iron ore. The iron might as well be in its native bed for any use that comes of it until it gets to the blacksmith-shop or the foundry. The ax and the spade are no value to the world while they rest in the shop of the maker. They only contribute to wealth when they get into the hands that wield them in chopping and digging. In short, every hour that intervenes between production and consumption is an hour in which the labor expended in the production is as useless as if it had been devoted to sheer idleness. You necessarily suspend the employment of labor when, by stinting the supply of money, you impede the sales which furnish the means of paying labor. Laborers unemployed are more unprofitable than dead men, for they must be fed and clothed.

All that I have said amounts to this, that the steady and rapid circulation of money means the steady and rapid activity of industry, and the intermittent and sluggish circulation of money means that labor is torpid, production small, and the whole community slipping downward toward poverty.

Now, every man of observation knows that when money is plenty it goes rapidly from hand to hand, and is kept in constant employment. When, on the other hand, it is scarce, as it is the only means of paying debts, people cling to it for that purpose and are afraid to expend it in keeping up the purchase and sale of commodities. "A nimble sixpence is better than a slow shilling;" but the trouble is that when men can get shillings the shillings are nimble, and when they can only get sixpence the sixpence is slow. This is the simple answer to the argument that it makes no difference what is the value of the currency, for when it is contracted prices are lower and each dollar goes further. That may be true enough every time it goes, but how if instead of going it stands still? If every drop of our blood was magnified to the size of a musket ball we could get along with fewer drops, but how if the heart has not the energy to move them?

The Special Commissioner of the Revenue, on page 28 of his recent report, says that it is not easy to see what connection there has been between "the policy of the Treasury as regards contraction or funding and the paralysis of business which is the invariable concomitant of a fall in prices." On the next page he says:

"So far from there having been any adverse influence exerted upon prices through a contraction of the currency, the tendency, in truth, has been entirely in the opposite direction, for it cannot be doubted that a fall of prices, equivalent on the whole business of the country to at least ten per cent., must have been equivalent to a large addition to the machinery of exchange before existing."

What does this come to, when you put it into plain English, but saying that when your machinery is standing still in a state of paralysis a little of it is as good as more? Granted; but paralysis is not what we are after. What we ask for is life, motion, and growth.

The notion up at the Treasury seems to be that because we have more currency than we had before the rebellion we have more than is needed; because industry was stimulated to great activity we were in the paroxyism of a fever and must be bled. Now, supposing that the people do not know when they are healthy as well as the doctors at the other end of the avenue, I can see no better way of finding whether it is too much circulation that is the matter with them than by comparing the amount of their currency with that of other nations supposed to be more sober and quiet. Two years ago it was shown that the circulation of hard money and paper money in France amounted to over one thousand million dollars, or nearly thirty dollars for each one of the population. Five sixths of this was in coin. In Great Britain and Ireland, at the same time, it was about seven hundred million dollars, or nearly twenty-five dollars per head of the population. Of this less than half was in coin. I ask you to notice here the fact, which may be seen everywhere, that the more a people is addicted to the use of coin instead of paper the larger is the amount of currency they have to use, because coin is cumbrous, and when people are afraid of paper substitutes the coin moves slowly from hand to hand. It is a slow coach, and therefore must be made greater to do the same business as an equal amount of paper money. At the time to which this statement refers our currency in actual circulation, composed entirely of paper, was less than five hundred and fifty million dollars, or less than fifteen dollars a head to our population, only half of the currency of hard money in France, and only three fifths of that in Great Britain. This ought to be enough to prove that instead of our currency being inflated it was very moderate.

But it is plain enough in the nature of things that we ought to have a larger currency in proportion to our population than the thickly-settled countries of the Old World, just as people scattered miles apart over a continent want more wagons than those who are packed in cities. What actual money, coin, or paper is most used for is in small purchases and in the payment of wages. Our rate of wages is higher than anywhere else in the world, and we mean that it shall never be less. I mean real wages, not simply as measured by nominal price, but by the food and clothing and schooling for the children that the price will buy. The success of our republican institutions, the ability to maintain government by the people and for the people, depends upon the capacity of the man who has no capital but his head and his arms to better his own condition and start his children a little ahead of the point where he started himself. The only foundation and security for this is to maintain a high rate of wages.

The man who works for two dollars a day is not to be paid in a bank check. He must have the cash that he can spend Saturday night in buying the supplies for his family. This is the grand reason why this nation requires a larger currency than those where wages only keep soul and body together. On this point I am happy to be able to support myself by the authority of Mr. McCulloch. On the sixteenth page of his last report the Secretary says:

"In all the cities and towns throughout the country checks upon credits in banks and bills of exchange have largely taken the place of bank notes. Not a fiftieth part of the business of the large cities is transacted by the actual use of money, and what is true in regard to the business of the chief cities is measurably true in regard to that of towns and villages throughout the country. Everywhere bank credits and bills of exchange perform the office of currency to a much greater extent than in former years. Except in dealings with the Government for retail trade, for the payment of labor and taxes, for traveling expenses, the purchase of products at first hand, and for the bankers' reserve, money is hardly a necessity. The increased use of bank checks and bills of exchange counterbalances the increased demand for money resulting from the curtailment of mercantile credits."

It would be easy to illustrate this by the example of the city of New York, where the weekly reports of the operations of the clearing-house show that every day transactions to the amount of $25,000,000 are settled in the afternoon by the exchange of bank checks and the passing over of balances amounting to

$1,000,000 in bills, or in other checks on the deposit in the clearing-house of the debtor banks. In other words, every dollar in the course of the day does the work of twenty-five dollars, by settling exchanges to that amount. The exchanges at the New York clearing-house in the last week of January amounted to $637,449,023, while the balances paid over to settle that enormous business were but $22,716,388, about one dollar to twenty-eight. Of course, comparatively little of actual currency is needed there. It is in the rural districts, in the thinly-settled new States and Territories, and in the South, which is so bare of money that property is almost without value—that currency is most necessary.

This brings me to the fact that in the apportionment of the currency, under the existing laws, New York and the New England States, where population is most compact, where cities and large towns are most numerous, where credit is best established, and where currency is needed least, have a share of it much larger in proportion to their population than the new and thinly-settled States that need it most. By the recent report of the Comptroller of the Currency it appears that in October last the national banks had circulating notes to the amount of $297,000,000; of these $173,000,000 belonged to the banks of New England and New York, which contain about one fifth of the population of the Union. The banks in the remaining States—containing four fifths of the population—had a circulation of but $134,000,000. Four fifths of the people in the new and thinly-settled States and Territories have less than four fifths as much currency as one fifth of the people in the old and thickly-settled States. It is the new States in which the population is growing most rapidly, and in which, therefore, there is a necessity for an increasing currency. The disproportion is shown even more strongly when we see that the city of New York has bank capital to the amount of $75,000,000, and circulation $35,000,000; Boston $42,000,000 capital, $24,000,000 circulation; Philadelphia $16,000,000 capital, $11,000,000 circulation.

There is no mode in which we can deprive the favored section of its undue share of currency; and the only remedy that can be applied is to remove the present restrictions and allow the people to supply themselves with banks and currency as they want them and where they want them. If there should be any excess at first it will soon cure itself by the new local circulation displacing and driving back for redemption the bills of the eastern banks. Everybody naturally prefers the note of a bank in his neighborhood which he knows something about, and whose counter is accessible, to one issued in a distant city, which he may suppose to be equally good. In the one case he can soon find out whether it is good or not; in the other it takes time and trouble.

Other members representing the districts which suffer most from the want of currency have spoken, or will speak, to this point, and I therefore will not enlarge upon it further than to say that the southern States, which now have no Representatives here, are in the extremest want of currency to move the little property which remains to them, and as soon as regular government is restored must be supplied if we would give them a chance to emerge from utter poverty.

The second section of my bill proposes to repeal the thirty-first section of the existing law. As it stands now every banking association in seventeen of the cities of the Union, St. Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington, are required at all times to have on hand an amount equal to at least twenty-five per cent. in lawful money of the United States—that is, in coin or in legal-tender notes—of the aggregate amount of its notes in circulation and of its deposits. Every other association out of the seventeen cities is required to have on hand fifteen per cent. of its circulation and deposits in coin or legal-tender notes. Nine per cent., however, of the fifteen may consist in balances due from some redeeming banks approved by the Comptroller of the Currency in the seventeen cities. Now, what is all this for? It ought not to be necessary for the security of the billholders. They have security in the deposit with the Comptroller of ten dollars in bonds of the United States for every nine dollars of circulating notes issued to the association.

Moreover, the law requires the Comptroller of the Currency to redeem the notes upon the failure of the bank to do so, whether the stocks held as security will bring enough for that purpose or not; and it gives to the United States a first and paramount lien upon all the assets of the association to reimburse any deficiency in the proceeds of the bonds to pay the notes. To argue that this is not adequate to the security of the billholder and of the Government is to depreciate the credit of the latter, and "it is an ill bird that fouls its own nest." The ultimate security of both Government and billholder consists in allowing the banks to do a reasonably profitable business. This cannot be promoted by compelling them to lock up a reserve of fifteen per cent., producing no interest. If the ten per cent. excess of bonds is not sufficient security for the billholder and the Government make it more. The bank will then have the advantage of getting interest on its funds and be so far strengthened in its ability to pay.

But it may be said that this reserve is required for the security of depositors. I answer that it is no part of our duty to look out for them; they can look out for themselves. They live in the neighborhood of the bank. They have the means of investigating the character of its business and resources, the honesty and solvency of its managers and stockholders, who, be it remembered, are personally liable to an amount equal to the par value of their shares in addition to the amount invested in such shares, (section twelve.) They can make such bargain as they choose for security if they are unwilling to trust their funds to the safe keeping of the bank without special security. It is our business, as we have undertaken to furnish a uniform currency, which circulates at remote distances from the banks as well as in their immediate vicinity, to see that the billholder is safe, and there our duty ends. It is a part of the policy of the system that every billholder should be interested in maintaining the credit of the Government and its bonds; and every device which tempts him to be indifferent to that undermines the buttresses of our financial prosperity and the Union itself; it smooths the way for repudiation and ruin. It is well to have those who deal directly with the banks interested in keeping a watch upon its solvency for their own protection. This second amendment, like the first, is a return to the principles of the New York free banking law, which thirty years' experience has shown to be the most perfect system ever devised.

My third amendment proposes to extend to all the banks the same obligation which now rests on those in the seventeen cities to redeem their notes at par in the city of New York. If banks at Chicago, Leavenworth, New Orleans, and San Francisco can and must redeem at New York, there is no reason why others should not do so. Unless this be required, it gives a value and credit to the notes of the banks in the seventeen cities which the others do not enjoy. It is impossible that the currency should be uniform unless this obligation is also uniform. The operation of this amendment will be to render the notes of each bank available to every other at the place where it is bound to redeem its own, and to prevent the delay of realizing upon them by a circuitous redemption in that one of the other cities where they are now redeemable. New York is the great clearing house of the Union, the point where the greatest mass of our exports and our imports center, their exchange adjusted, and their values compared. Mr. George S. Coe, a banker of New York, in a recently published letter to one of my colleagues, [Mr. PRUYN,] very truly says:

"All true currency is in the nature of bills of exchange. These are legitimate only when drawn against products of industry, which they represent and convey through the channels of commerce and trade, and of which they are the title deeds. As such they can never be in excess of the public want; because their amount is the measure of the property of the nation passing into trade and commerce. The more there is of such currency the greater is the evidence of prosperity." * * * * "The true office of a bank or banker in respect to currency, whether in foreign commerce or domestic trade, consists in receiving such bills or notes as represent products of industry moving toward the places of consumption, issuing in exchage for them his own bills in sums as required for public convenience, but equal in aggregate amount, so that the proceeds of the one may redeem the other. He is simply a subdivider or retailer of quantities for the more minute distribution of the fruits of labor and service."

The process is a very familiar one in the city where I reside. A miller fills a canal boat with flour, say one thousand barrels; takes his bill of lading; goes to a bank with it; draws his draft on his agent at New York for the value of the flour, payable when the flour may be expected to be sold. The bank discounts his draft and gives him its own notes, with which he buys the wheat to make another boat load of flour. The bank sends forward the draft to New York with the bill of lading attached, and when the flour is sold it furnishes the funds to redeem the bank notes. In substance and effect the bank notes are redeemed in and by the flour. Such is, or ought to be, the course of trade everywhere, and the bank notes ought to be redeemed where the property goes to. New York is the easiest place, as it is there where the most property goes and is settled for. The cotton that goes out to Europe from New Orleans and Mobile is paid for in foreign bills of exchange, but these are sold in New York; for, being the great place of importation, it is there that foreign bills are in demand. If it should be said that, as to some banks, which are off the tracks on which products run to New York, the obligation to redeem them will involve an expense, I have to answer, first, that the expense can never exceed the cost of transporting specie, and that is exceedingly small; and second, that if it were much larger than it is, the banks will be greatly more than compensated in getting rid of the obligation to keep the large and unproductive reserve now required. The public will, at the same time, get much better security than the reserve in the prompt redemption, at a common center, which the interests of all solvent banks will enforce.

The fourth section of this bill provides for reducing the amount of legal-tender notes outstanding to $100,000,000. For this purpose it authorizes the Secretary of the Treasury to borrow the requisite amount of money upon a new loan. I have left in bank for the present the rate of interest to be paid, and the period after which the bonds shall be redeemable at the pleasure of the Government. It is carefully provided, for the purpose of putting these bonds on the best footing for sale either at home or abroad, by removing all doubt as to the funds in which they are payable, that both interest and principal shall be met in gold coin of the same weight, fineness, and alloy now established by law. I think it will be found that this is the first time that the public creditor has had a distinct pledge that he shall receive a fixed quantity of pure metal, and been guarantied against any debasement, either by reduction in the weight of the nominal dollar, or by change in the quantity or quality of alloy. Those who take these bonds will know precisely what they are bargaining for. They will take the risk—I might more properly say the certainty—that an ounce of gold thirty years hence will be of considerably less value than an ounce of gold to-day.

Its value has been falling ever since the great discoveries in California, Australia, and elsewhere, in 1849 and the following years. It will continue to fall as on the extension of railroads into our western gold-fields and the

improvements in machinery for reducing the ore shall progress. The value of gold, like that of potatoes, is measured by the quantity of labor which at any given time is required to produce it. No matter how much toil may have been expended in procuring and bringing to market an ounce of gold, it may be a thousand years ago—for it is the most indestructible of metals—it will buy no more labor than is required to produce an equal quantity at the time it is offered in exchange. If there is anything certain in this world, it is that the real cost of any commodity or chattel, whether it is gold or clapboards, that is, the human labor required to produce it, is continually decreasing, and must continually decrease. The progress of civilization consists in throwing off labor from human muscles and putting it upon natural agents, like water and steam, that work for nothing when you have once provided the machinery for them to work with. Every new machine cheapens the construction of every other, and we have only begun to see how numerous and powerful and cheap they are to be. For this reason it is sure as death that the longer we postpone the payment of our debt the less trouble will it cost our children to pay it. This would be true if our posterity, thirty years hence, were to be no more numerous than we are to-day, and were to have no more accumulated capital than we have—simply because they will have better machinery, and work to better advantage. The burden of a debt depends not upon the property a nation has already amassed, but upon its productive power—its daily and yearly surplus earnings—and that is why we bear taxation such as the world never saw with so little difficulty. The average American man earns more—by which I mean, does and produces more, spends more, and has more left, twice over, than the average man of any other nation that the sun shines upon. I shall return to this point directly, and show that the present rate of taxation is unprofitable and vexatious. My point now is, and it applies as well to any future funding of our debt as to the special loan I propose to contract—that the longer it has to run the easier it will be to pay it. Fortunately, the policy of capitalists coincides in this respect with the interests of the nation, as a borrower. What they desire is an investment of secured permanence—the longer it is to last the better they like it, and the more premium they will pay for it.

A comparison of the valuation of products and property in the census of 1850 and 1860, shows the fact that the wealth of the loyal States increased in those ten years over one hundred and twenty per cent. It required nothing less than our gigantic war to teach us how enormous our resources had become. We had no idea of our strength till we put it to the test. The people, as a whole, paid for the war as it went along. They furnished the labor, the food, the munitions, military and naval, and the materials of all kinds, without borrowing a stiver from foreign nations till after the war was over. I firmly believe we were richer at the end of it—that is, the loyal States—than we were at the beginning. Not that war makes us rich, but that the annual surplus of productions more than met the annual drain. I am willing to admit that the burden of our debt, under such a system of internal taxation as we have borne, may call upon us to accept a smaller estimate for the future rate of increase in national wealth than that which was realized in the ten years before the war. Throw off twenty per cent. on this account—and that alone is sufficient to extinguish the debt in the first ten years. We are then authorized to expect that the wealth of the nation will double itself every ten years. In twenty years it will four times; in thirty years it will be eight times as much as it is now. This estimate was made by Mr. Wells, the Special Commissioner of the Revenue, and vindicated in a pamphlet entitled "Our Burden and Our Strength," published and widely circulated in 1864. Whether it is precisely accurate or not, it sufficiently proves that our wealth increases much more rapidly than our population, and that to be in a hurry to cancel our debt would be as unwise as to stunt a rapidly-growing child by putting a man's work upon him.

I think that it will be soon enough if we pay off the debt during the present century. Independent of the decrease in the value of gold, for which twenty-five per cent. is a moderate estimate, the debt will be but one eighth of the load upon our children at the close of the year 1899, that it is upon us to-day.

Do not suppose, sir, that I would postpone the payment of all the debt to that day. On the contrary, I think we should provide for its steady reduction, paying something toward the principal every year. But I think our contributions should be comparatively small at first, and that they should rise in proportion to the increasing ability of the people. The debt ought to be so arranged that some portion should be made redeemable at our pleasure annually. We should not promise to pay absolutely, but reserve the option of paying if we think proper. This is the mode in which the debts of all the great nations of Europe are payable. One effect would be, that if we should have, at any time, a considerable surplus of revenue, we could apply it in buying up that portion of the debt becoming redeemable in a year or two, and which, for that reason, would bear but a small premium. We do not want to repeat an operation which occurred shortly before the war, when we paid a premium of twenty-two per cent. for our bonds bearing six per cent. interest, and in eighteen months afterwards borrowed the money back again at twelve per cent. It is a great deal better to retain the power to continue an existing loan than to be exposed to the necessity of going into the market, upon an emergency, to contract a new one.

I have given some of the reasons why it is economical for the Government—looking at it merely as a corporation—to be in no great haste to extinguish our war debt. But the chief reason remains to be stated. Every cent that is taken from the pockets of the people in the shape of taxes to pay a debt bearing five or six per cent. interest is diverted from its most profitable employment to a less profitable one. Especially is this true with what is taken from the masses of our countrymen, the persons of very small capital. To the rich it makes little difference. Men of large capital usually get small interest for it, and it would be no particular loss or hardship to them if, instead of continuing to pay interest on their share of the debt, they were called upon to pay off the principal at once. All they have to do is to buy such an amount of Government bonds that the coupons will meet their Federal taxes, and the thing is done. It is, in that case, a matter of no consequence whether they continue to receive the income with one hand and pay it back to the tax-gatherer with the other, or should say, "This is double trouble; we might as well surrender the bonds to the Treasury—get rid in that way of our share of the national debt, and stop the taxes and the income together."

But the great mass of our people are those who are working and saving to get together a little capital in tools, machinery, or raw material, to render their industry more productive. To them, money is worth more than five or six per cent., because its use in the shape of land or tools or materials enables them to apply their labor with a larger profit. What is their profit is also the profit of the whole community. It is this class, the class that wants to borrow capital, not the class that wants to lend it, that does the most to increase the wealth of the nation. To put this in a simple shape, consider the difference in the earnings of a man who can have the help of a horse, and the man who cannot. What rate of interest is it on the cost of a horse that he cannot profitably pay? Now, every cent you take from him in the shape of taxes postpones the day when he can pay for a horse and postpones the day when he can pay the tax with least loss to himself, and with least disadvantage to the public. It is too plain to talk about, that it is the interest of the nation—just as it is of the individual, that he should have the tools to work with as quick as possible. Every day that the nation keeps him out of them by unnecessary taxation it keeps itself from advancing in wealth as it might do. It was because our people had, up to the time of the rebellion, been substantially free from any taxation by the General Government that their wealth had grown so rapidly as to be a marvel to themselves.

We must get back to that condition, of not feeling taxation, as soon as possible for the sake of enhancing our resources as rapidly as possible. For the past half century, since the close of the war growing out of the French Revolution, in which the British national debt rolled up to its present enormous figure, the statesmen of that kingdom have acted steadily upon the principle I have stated. They have never troubled themselves about providing for the principal of their enormous debt in any other way than letting the people grow rich. Whenever the revenue produces a surplus for a year or two, after paying the current expenses of the Government, including interest, they get rid of that surplus by abolishing or diminishing some tax that bears most severely on the producing masses. In a year or two more the increasing property of the kingdom again gives a surplus, and another tax is cut down or taken off altogether. Such has been the history of the past fifty years. The result has been that in forty-two years, from 1816 to 1858, while the debt was only reduced from $4,200,000,000 to $3,900,000,000, or the proportion of thirty-nine to forty-two, the property of the kingdom had so increased that the debt which in 1816 would have been a charge of thirty-seven and one half per cent. on the whole private wealth of Great Britain was but thirteen and four tenths per cent. on the property of 1858. In other words, the burden had diminished to one third its former relative weight.

Now, while our progress is so much more rapid than that of Great Britain as to strengthen immensely the argument for following her example, I do not propose it for imitation to the extent of postponing the redemption of our debt to an indefinite future. All I ask is that we should not needlessly clog our national energies by maintaining oppressive taxation upon the class of industrious men with small means for the sake of being able to contract short loans at a small premium, if any, when we can borrow the money to fund our debt at a large premium if we will only agree to keep the loan long enough.

There was some sense in paying off our debt with unexampled rapidity in the first two years succeeding the close of the war, for the purpose of fortifying our credit by demonstrating to foreign nations the ability and the willingness of our people to bear enormous taxes. That purpose has been answered. It is dangerous to continue the process after the necessity has passed. We can afford to look at the question now with the view of ascertaining what is the best and the most economical course for ourselves, and, therefore, in the long run, gives the best security to public creditors. We may cease to trouble ourselves with any discussion as to whether the public debt shall be paid in coin or greenbacks, for long before we ought to pay the principal the greenbacks will be more desirable than gold.

Finally, sir, the fifth and last section of my bill provides that when the legal-tender notes are reduced to one hundred millions they shall be payable in gold and receivable for duties, but may be reissued in payment of demands against the Government to such persons as desire them. As the Government is the greatest debtor and the greatest creditor in the country, its obligations, if they contained no promise to pay otherwise than by being received in payment of public dues, would always be in great request from their being so much more convenient than gold. No merchant wants to pay

duties in gold if he can get paper that will pay them. The earliest notes issued by the Government during the war, which were receivable in payment of duties, actually commanded a premium of from one half to one per cent. in gold for this reason.

I think, therefore, these bills would never be presented for redemption otherwise than in payment of taxes and duties, and that as fast as they came in that way they would be sought for in preference to gold, and be continually reissued. My doubt is whether the sum is large enough for the public convenience, for it will be difficult to prevent their being hoarded by banks in place of specie. To the amount, whatever it may be, that public convenience shall demand of the notes, they will operate as a loan without interest. The Government will have returned to specie payments, and that involves practically the return of the banks to specie payments.

We shall reach this consummation without knowing it, for all that specie payments means is that the people have ceased to ask for specie, as they always do when they have faith that it can be had for the asking. It is the restoration of confidence that we want, and it is the reverse of contraction that will give it.

IMPEACHMENT OF THE PRESIDENT.

Mr. JONES. Mr. Speaker, we are indeed rapidly making eventful history; we hear it said even in the streets that we are in the midst of revolution. This Congress has swiftly gone from one extreme to another in violations of the Constitution, and this House having failed before on grave charges, now proposes to impeach the President of the United States on a mere pretext, as suddenly seized upon as it is unwarrantable and preposterous.

The last hours of this arbitrary debate on so important a proposition are closing upon us, and we have hardly time to collect our thoughts, much less to express them. May we not stay this impetuous prosecution for a moment and take an example from history? Impeachment is the most solemn procedure that ever engaged a deliberative assembly. Warren Hastings, a mere subject of the crown and appointee as Governor General of India, was impeached before the British House of Lords. His trial itself lasted one hundred and forty-seven days, and the case, from its inception to its close, occupied the Parliament, from time to time, through a series of seven long years. The master minds of England—Burke and Pitt and Fox and Sheridan and Windham and Earl Grey—exhausted their powers on this great case, and Edmund Burke, in one of the most marked efforts of forensic eloquence the world has known, alone occupied four days in its delivery. In his closing speech he said:

"My lords, I have done! The part of the Commons is concluded. With a trembling hand we consign the product of these long, long labors to your charge. Take it! Take it! It is a sacred trust! Never before was a cause of such magnitude submitted to any human tribunal. A business which has so long occupied the councils of Great Britain cannot possibly be hurried over in the course of vulgar, trite, and transitory events. Nothing but some of those great revolutions that break the traditionary chain of human memory, and alter the very face of nature itself, can possibly obscure it. My lords, we are all elevated to a degree of importance by it. The meanest of us will by means of it become more or less the concern of posterity. It has pleased Providence to place us in such a state that we appear every moment to be on the verge of some great mutation. There is one thing, and one thing only, that defies mutation—that which existed before the world itself. I mean justice; that justice which, emanating from the Divinity, has a place in the breast of every one of us, given us for our guide with regard to ourselves and with regard to others, and which will stand after this globe is burned to ashes our advocate or our accuser before the great Judge, when he comes to call upon us for the tenor of a well-spent life."

This long extract is only pardonable because of its fitness to the present occasion. I commend these memorable words to this House. What deliberation! what solemnity was there invoked by the mighty spirit of a mighty age! But what do we behold here, sir, and in this case? The Chief Magistrate of one of the greatest nations on earth, without crime or misdemeanor or the shadow of either, but really for the faithful discharge of his sworn duty to the Constitution, and for vindicating his own self-respect and official dignity, to be accused, tried, convicted, and deposed, as is threatened by his prosecutors, in the short space of ten days. Compare the two cases. Is not this indeed a commentary upon the wisdom, the dignity, and the justice of an American Congress? "*O tempora! O mores!*" The day too, sir, on which this proceeding was begun, the period in our history, the circumstances which surround us, all so inappropriate for such business, only serve to illustrate the relentless ardor and blind fanaticism which control the majority in this House. On that day, the natal anniversary of the Father of his Country, when the American people are accustomed to assemble together and celebrate it in glittering marches, delightful measures, and joyous pastimes by day and in bonfires and illuminations by night; when this Capitol itself in its peerless beauty and grandeur should have been an object of fraternal visitation, and the scene of mutual exchanges of proud and grateful emotions, we were required to sit here day and night listening to vain and empty declamation, the reiteration of unfounded and gratuitous charges against one who I believe has acted in the conscientious discharge of his duty and in zeal, public justice, and patriotism is no unfit successor of the immortal Washington. Consider the period in our history. A great war has just desolated our land; the people of ten States are denied representation in both Houses of Congress; their civil government has been stricken down; every vestige of constitutional liberty has been wrenched from them, and they are placed in a great degree under the domination of their former slaves. Their structure of society, their civilization, in a word, has been upturned and destroyed. They are leveled to the dust, appealing to us for liberal laws and the permission to obey them; their manhood only preventing them from appealing for the bread of life for which, indeed, they are suffering.

Those rich States which contributed over three hundred millions in staples alone to the annual wealth of the country are prostrate, impoverished, and despairing under military rule. Their commerce is lost, their markets are destroyed, and ruin stalks abroad through their fields and cities. The people of the North are compelled not only to bear their own heavy burdens of taxation, but must also make up the deficit of the non-producing South, and sustain, besides the costly Government which rules it, a despotism as dark and absolute as that which overshadows Poland. See, too, the condition of our people in the northern States themselves; their financial embarrassment, the stagnation in trade and commerce, the tenantless workshops, the idle laborers in every vocation of life; indeed, squalid poverty meeting us at every step we take in the streets that lead from the Capitol. They appeal to us day by day and hour by hour in petitions and otherwise, and almost cry out with uplifted hands for us to do something to relieve the country from the distress and impending ruin which everywhere seem apparent. And yet, in this alarming crisis in our affairs, we are to turn a deaf ear to these appeals, stop the wheels of legislation, and go into the impeachment of the Executive without law, cause, or decency. A trial, rather a stupendous farce, involving much valuable time and perhaps millions of the hard-earned treasure of a tax-burdened and suffering people. No adequate preparation for debate, the gag put upon the minority, and the scene carried on with a levity and a ribaldry better becoming charlatans than the legislators of a brave and free people. And all for what, sir? in the name of God and our country for what? Simply to remove an obstacle to their desperate machinations; to gratify hate and vengeance, and to preserve power in the hands of a ruthless majority.

I call aloud upon the people to turn their eyes to the Capitol to see what is being enacted in this high place of the nation, to look to their public servants, whether they are properly exercising the great trusts committed to them, or are guilty of base subterfuges and monstrous abuses of power. Can, oh! can the Republic much longer stand this strain upon its vital energies?

But what, sir, is the case before us? what the offense committed by the President, or what the charge preferred against him? He has simply attempted to remove a Cabinet officer. Had he not the right, and was it not his duty to do so? This question is of a two-fold character. Let us briefly examine it. All power in our Government, whether legislative, executive, or judicial, is derived from the Constitution, its fundamental law. That Constitution was the work of master minds, who having scrutinized the more liberal forms of civil polity which had existed in Greece and Rome and Carthage, and throughout the succeeding ages, especially the models of the Batavian and Helvetic confederacies—the only examples which remained of former republics—after all drew their best and wisest lessons from the British constitution, which was pronounced by the celebrated Montesquieu to be the "mirror of political liberty." Upon this, with such modifications and improvements as the wisdom and experience of our great statesmen suggested, was founded the Federal Constitution. It is a congregation solely of delegated powers, and establishes a compound system of government. Its powers are divided under three great heads, legislative, executive, and judicial, separate and distinct, equal and coördinate, and by the maintenance of each in its integrity depends the very existence of the whole. It is in this triple harmony, this political trinity, if I may so speak, that consists the beauty, the virtue, and the glory of our Federal system. This happy equilibrium of the forces of government was the result of all the learning of our fathers, and it was to establish this in absolute verity that they examined so closely and steered so narrowly between all the models before them.

Montesquieu says:

"When the legislative and executive powers are united in the same person or body there can be no liberty."

Madison says:

"It will not be denied that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it."

Again he says:

"In order to lay a due foundation for that separate and distinct exercise of the different powers of Government which, to a certain extent, is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own."

Hamilton says:

"An absolute or qualified negative in the executive upon the acts of the legislative body is admitted by the ablest adepts in political science to be an indispensable barrier against the encroachments of the latter upon the former."

Washington says, in his Farewell Address:

"The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism."

Such is the language of a great lawgiver, of the chief authors of the Constitution itself, and of the Father of his Country. But what does the instrument itself say:

"The executive power shall be vested in a President of the United States.

"He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

He solemnly swears that he will, faithfully execute the office of President, and will to the best of his ability preserve, protect, and defend the Constitution of the United States.

After these opinions and this, the written organic law, who can doubt that the President had the right to perform the very act for which he is accused? The power to remove from office would seem naturally and logically to follow the power to appoint, but the Constitution has required that the appointment by the President of embassadors, other public ministers and consuls, judges of the Supreme Court,

and other officers of the United States whose appointments are not otherwise provided for, shall be sanctioned "by the advice and consent of the Senate;" but mark, however, that the power of the President to remove any of the above mentioned officials, except those whose removal is provided for by impeachment, and among whom are not the heads of the Executive Departments, was in no manner restrained or qualified. It was deemed to be inherent in the very nature of his office and in its proper execution. But fortunately upon this point we are not left to cavil or conjecture. The question, after being freely and fully discussed at an early period in the legislative branch of the Government, and by many of the authors of the Constitution themselves, was expressly settled. It arose in the House of Representatives in 1789, on a bill for establishing the Department of Foreign Affairs, in which the direct question of the removal of its chief officer by the President came up; which, indeed, involved the exercise of that power in all the subordinate departments under the executive branch of the Government. Without the time to allude even partially to the able arguments of those who participated in this debate, I conceive that no better summary and conclusion upon its whole scope can be adduced than an extract from the speech of Mr. Madison, who was its master spirit. He said:

"The question now resolves itself into this: is the power of displacing an executive power? I conceive that if any power whatsoever is in the Executive it is the power of appointing, overseeing, and controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office by associating the Senate with him in that business, would it not be clear that he would have the right, by virtue of his executive power, to make such appointment? Should we be authorized, in defiance of that clause in the Constitution, 'The executive power shall be vested in the President' to unite the Senate with the President in the appointment to office? I conceive not. If it is admitted that we should not be authorized to do this I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first one is authorized by being excepted out of the general rule established by the Constitution in these words: 'The executive power shall be vested in the President.'"

This, then, is the general rule. An exception was made in the power of appointing but none in the power of removing; therefore it remained absolute.

The question was thereupon decided in the House of Representatives by a vote of 34 to 20 and in the Senate by the casting vote of the Vice President. But this principle is still further vindicated by a decision of the Supreme Court in 1830 in the case *ex parte* Herren. That court there held that—

"No one denied the power of the President and Senate jointly to remove when the tenure of office was not fixed by the Constitution, which was a full recognition of the principle that the power of removal was incident to the power of appointment; but it was very early adopted as a practical construction of the Constitution that this power was vested in the President alone, and such would appear to have been the legislative construction of the Constitution, for, in the organization of the three great Departments of State, War, and Treasury, in 1789, provision was made for the appointment of a subordinate officer by the head of the Department who should have charge of the records, books, and papers appertaining to the office *when the head of the Department should be removed from office by the President of the United States.*

The Navy Department was not established till 1798, and the court held substantially that its chief officer existed under the same tenure as the other Secretaries and was removable by the President, thus recognizing the principle that the power of removal was vested in the President *alone* in such cases, although the appointment of the officer is by the President and Senate.

Here, then, we have the emphatic decision of the legislative and the judiciary, two of the three coördinate branches of the Government.

Now, if we can unite with these in judgment and practice the executive branch our argument is complete and the position of President Johnson thoroughly sustained. Here it is most timely and aptly illustrated. On the 12th May, 1800, John Adams peremptorily removed, *while the Senate was in session*, the Secretary of State, Timothy Pickering, as appears by the following letter:

12th *May*, 1800.

SIR: Divers causes and considerations essential to the administration of the Government in my judgment requiring a change in the Department of State, you are hereby discharged from any further services as Secretary of State. JOHN ADAMS,
President of the United States.

To TIMOTHY PICKERING, *Philadelphia.*

Subsequently he nominated John Marshall as Secretary of State in place of Mr. Pickering, and the Senate had no other notice. Can it be necessary to add anything more?

Our most learned and distinguished commentators upon the Federal Constitution and laws, Justice Story and Judge Kent, in discussing this question, referring to these decisions, consider the whole matter as settled and acquiesced in by the Government and the people. Removal from office in his subordinate departments has ever been the undisputed practice of the Executive, and was especially manifested in the splendid administration of General Jackson, and in the language of Daniel Webster in a case involving the same principle:

"Thus has the important question been settled by construction, settled by precedent, settled by the practice of the Government, and settled by statute."

But Congress, not satisfied with this repeatedly-settled constitutional power, and wishing to make the executive authority subservient to the legislative, on the 2d March, 1867, passed the tenure-of-office bill. That bill, none can doubt, is, in its provisions, violative of the Constitution and the decisions and authorities referred to. The President promptly put upon it his veto, and I have yet to see the respectable, unbiased authority which denies the reason and the justice of his constitutional prohibition.

In this act he was supported by the opinion of every member of his Cabinet, and no one of them expressed his abhorrence of the bill with so much emphasis as this now valiant knight of the War Office, Edwin M. Stanton. Indeed, such was the ability with which he descanted upon its odious provisions that the President desired him to prepare his veto, which only press of business denied him that pleasure. The bill, however, becomes a law, at least we will so consider it for the purposes of the argument, and we are now told that the President has violated it, and in doing which he has been guilty of high crimes and misdemeanors, sufficient to warrant his impeachment and removal from office. His accusers base the entire charge of this violation upon a single provision of the bill; it is this:

"*Be it enacted, &c.*, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Who can doubt that here is a provision and exception that the Secretaries of State, of the Treasury, of War, of the Navy, of the Interior, the Postmaster General, and the Attorney General, are not included within the scope and meaning of this bill, but are in its spirit and letter expressly exempted? And such was the expressed opinion of the author and the supporters of the bill at the time of its passage in the Senate. They were to hold their offices respectively for and during the term of the President by whom they were appointed and for one month thereafter. It only remains, then, to determine by whom and for whose term the Secretary of War, Edwin M. Stanton, was appointed. Who denies that he was appointed by Abraham Lincoln, and therefore could only hold his office for Lincoln's term and one month thereafter, except by the reappointment or mere sufferance of President Johnson? Could language be plainer, could fact be more patent? He bears no commission from Johnson, and has only retained the place of Secretary of War through the too patient endurance of that President.

But, to spin out sophistry refined, it is claimed by some that Lincoln's term has not expired, and we must therefore tolerate the official life of the dignitary Stanton, if indeed he naturally abides for four years and one month thereafter. Is Lincoln dead, or does he still live? Can dead men hold office and administer human affairs? Had we not a Tyler administration and a Fillmore administration; and is not this the administration of Andrew Johnson, who succeeded to the Presidency as they did? To assume that this is the term of Lincoln is to reject the laws of nature and to belie the evidence of our own senses. The term of the office and the term of the officer are very different things; the one is fixed by law, the other depends upon the life, the removal, or resignation of the officer. The provision in the bill did not refer to the term of the office, but to "the term of the President," the officer who then held it.

This strained construction is but another manifestation of radical frenzy and desperation. President Johnson, then, in the attempt to remove Mr. Stanton, has in no manner violated this law in its strict letter and bearing; but if he had, what more can be made of it than that in the exercise of a high prerogative he had chosen to act in accordance with previous laws of Congress, which had been confirmed by the Supreme Court, rather than of this which he had vetoed, and the constitutionality of which had not been passed upon? Had he not the right, too, to test a law the validity of which he and his Cabinet and the most learned of the land had at least doubted? This right inures to the humblest citizen of the Republic. In the attempt to displace Mr. Stanton, and to install General Lorenzo Thomas, do not all the attending circumstances go to show that the President simply intended to present the question for judicial investigation and settlement? Some on the other side of the House have said, with apparent soberness and even awful gesture, that it was the intention of the President to use the Army to override the laws and strike down the liberties of the people. Did he send General Thomas to the War Office with an army at his back, or even the smallest squad of soldiers? Not an individual accompanied him; he went solitary and alone. It was purely an unostentatious, quiet, civil proceeding, by which, under proper forms of law, to elicit the judgment of the highest court of the Government upon this much-vexed question. Why could not Congress have allowed this to be done? Was it not necessary for a proper discharge of the duties of the Executive and for the peace and harmony of the country? But to deprive the act of all criminal intent or the slightest disposition to disobey even this law the President, being thwarted in his effort with General Thomas, soon sends into the Senate the name of Thomas Ewing as Secretary of War.

This would seem to be the whole case in its legal aspect. What right has been infringed, what liberty destroyed, what law violated by the President?

But there *is* a section of this tenure-of-office bill upon which the President is to be impeached that bears in the right direction. Section five provides—

"That if any person shall, contrary to the provisions of this act, accept any appointment to, or employment in any office, or shall hold or exercise, or *attempt to hold or exercise*, any such office or employment, he shall be deemed, and is hereby declared, to be guilty of a high misdemeanor, and upon trial and conviction thereof he shall be punished therefor by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

Now, do not the facts and circumstances of this case show, and has it not been proven, that Mr. Stanton himself "attempts to hold or exercise" the office of Secretary of War "con-

trary to the provisions of this act" and without the shadow of authority, and would it not be a righteous judgment that *he* should suffer the penalties here prescribed and be required for this as well as other and even *graver* crimes to look out for long years from the loathsome dungeons of the Dry Tortugas?

Was it not the President's duty to remove him? How could he "take care that the laws be faithfully executed" unless there was harmony of sentiment in all the Executive Departments, and especially between him and those who are so near to him—the heads of Departments? They are the members of his official family, with whom there ought to be free and daily intercourse and among whom there must be concurrence of opinion in order promptly and properly to execute the laws. Mr. Stanton had differed essentially with the President, had openly opposed his policy, and had become obnoxious, odious, politically and personally, to him and his Cabinet. He might have often exclaimed to him, in the language of the indignant Cicero, pointing to the conspirator of his country's liberties:

"*Quousque tandem abutere, Catalina, patientiâ nostra?*"

How long, indeed, had he abused their patience?

After much tolerance he was politely invited to retire, but invitation and hints, amounting to insult to a proud man, having no effect, he was finally ejected and the head of the Army placed in his stead "*ad interim.*" This "silent monitor" for a time with seeming fidelity discharged the duties of the office, but at length, in an hour when we thought not, betraying the confidence of his chief, suddenly evacuates and lets in this scorned and cast-out official, with the Senate at his heels. Did ever audacity mount higher? Was ever Executive so outraged both as to personal and official dignity?

The President, with that caution and calmness characteristic of the man, for a time bears this monstrous encroachment; but who thought that he would long submit to it? Who doubted that he would persevere in the exercise of his prerogatives, and that he would again attempt to remove this detestable obstacle to the execution of the laws. General Thomas is dispatched to take charge of the office, and this creeping, cringing thing, this "Caliban of the Tempest," obsequiously submits, and only asks time to gather up his effects. The General, with the courtesy of a soldier, grants his request and retires. After a reasonable time he returns, but only to find this brazen interloper surrounded by soldiers and on a throne, as it were, of bristling bayonets.

Look, Mr. Speaker, at the War Department to-day, sir, and you see armed soldiers standing around in squads and pacing their measured lines, guarding this would-be official, who, in Falstaffian pomp and heroic mockery, whiles away the sunny hours, and at night, I am told, swings his execrable limbs in a hammock, doubting, trembling, shivering, lest the rightful authority should enter in and scowl and hurl him into the streets.

Such, sir, is the spectacle now presented in the capital of a great country, famed for the supremacy of the civil over the military authority, for proper subordination in its several departments, and for a just and wise administration of the laws. Is the reputation or the life of Edwin M. Stanton worth so much that the blood of the nation should stand still and the whole system be endangered even for a moment in this controversy?

But, sir, the fiat has gone forth; right or wrong, wicked or worthy, the President is to be impeached. He is abused, stigmatized, anathematized without measure, but he recks not of the slanderous missiles that are hurled at his head. He sits calm and wise as Ulysses in the Grecian tent. The people will, I trust, and posterity, I am sure, will, vindicate his acts. His highest eulogy has been pronounced by himself when, in maintaining the act complained of, he said: "If I had been fully advised that in thus defending the trust committed to my hand my own removal was sure to follow I could not have hesitated, actuated by public considerations of the highest character." This sentence will go down the ages to come. I know, sir, how vain are my words and all our efforts, our appeals, protestations, and votes. Party supremacy must be maintained at all hazards; the revolution must go on and bear down in its sweep all obstacles to its accomplishment. There has been a Spanish inquisition; there has been a French revolution, and it might not be amiss if some would bring to memory the fate of a Danton, a Robespierre, and a Marat.

I might remind gentlemen of their solemn obligations on this occasion as conservators of the peace, the laws, and liberty of the country. But what are constitutions and laws and oaths when the fires of revolution are still blazing and its wheels fast rolling on?

I commend to these swift accusers the significant prophecy of Gouverneur Morris, who put into shape and penned this Constitution of ours; and I bid them beware that they do not now signally verify it:

"But, after all, what does it signify that men should have a written Constitution containing unequivocal provisions and limitations? The legislative lion will not be entangled in the meshes of a logical net. The Legislature will always make the power which it wishes to exercise. Attempts to restrain it by other means will only render it more outrageous. The idea of binding legislators by oaths is puerile. Having sworn to exercise the powers granted according to their true intent and meaning, they will, when they feel a desire to go further, avoid the shame if not the guilt of perjury by swearing the true intent and meaning to be, according to their comprehension, that which suits their purpose."

Sir, gentlemen tell us that we may not even warn them of their evil deeds or of the popular wrath to come. They avow that valiant men will sustain their action if necessary on the battle-field; each equal to two or three of any who may oppose them. Vain threats! fanatical delusions!

I do warn them, sir, that the spirit of liberty may still lurk in the bosoms of the sturdy yeomanry of this land, and if provoked too far a million of men will spring to arms to defend their rights and to ward off a merciless despotism. I might here, without arrogance, speak for a hundred thousand riflemen of Kentucky, who would be united as one man in the contest, equal in courage, strength, and skill to the best the world has produced. I admonish gentlemen that they may not much longer enjoy the luxury of this Belshazzar feast. The handwriting may already be faintly seen upon the wall; they have been weighed in the balance and found wanting. Sir, the people of this great country, if they are not dead to shame and dishonor, if they have a spark of the valor of their revolutionary sires, will not submit to these accumulated wrongs and outrages; no; rather they will rise up in the full magnitude and majesty of their power, and come, if need be, like avalanches from the mountains, like hurricanes from the valleys, like the swelling waters of mighty rivers, like the surges of the lakes and the billows of the sea, even to this Capitol, batter down these doors, drive out those servants who have so misused their authority, purge and cleanse these Halls, possess that tribune and altar, and place in these seats true and faithful sentinels, who, they and their successors, shall guard forever the rich heritage which their fathers have bequeathed to them.

I yield the remainder of my time to the gentleman from Pennsylvania, [Mr. BOYER.]

AMENDMENT TO THE JUDICIARY ACT OF 1789.

Mr. BOYER. I desire to call the attention of the House, and especially the attention of the country, to a measure of legislation which was passed through this House the day before yesterday, and which was passed without any objection solely because it was introduced in a manner calculated to deceive and to disarm suspicion of its real design and effect. I shall refer in this place to the proceedings as published in the Globe, and I shall afterward make such brief comments as I may deem proper to the occasion.

There was a resolution pending introduced by the gentleman from Missouri, [Mr. PILE,] when the gentleman from Ohio [Mr. SCHENCK] rose and said:

"I ask leave to take from the Speaker's table Senate bill No. 213, to amend the judiciary act. It came from the Finance Committee of the Senate, and I desire the House to pass it now.

"The SPEAKER. That would require unanimous consent, as the morning hour has not yet expired.

"Mr. SCHENCK. There can be no possible objection to it."

Then some proceedings intervened upon a motion of the gentleman from Missouri, [Mr. PILE,] when Mr. SCHENCK again rose:

"Mr. SCHENCK. I now ask unanimous consent to take from the Speaker's table the bill to which I referred a few moments since."

Mr. MAYNARD. I suggest to the gentleman from Pennsylvania [Mr. BOYER] that the gentleman from Ohio [Mr. SCHENCK] is not in his seat, and if he is going to animadvert upon that gentleman he had better wait until he is present.

Mr. BOYER. I do not think that I shall have another opportunity of saying what I desire to say. I am sorry the gentleman is not here. I should be very glad to see him in his place.

A privileged motion then intervened. When the subject was again resumed:

"The SPEAKER. The bill referred to by the gentleman from Ohio, [Mr. SCHENCK,] Senate bill No. 213, to amend an act entitled "An act to amend the judiciary act, passed September 24, 1789," will now be read."

The bill was then read. It provides that there should be extended to the Supreme Court certain appellate jurisdiction in cases of custom-house and revenue officers. I read from the report:

"Mr. SCHENCK. I desire to make a word or two of explanation, which I think will be perfectly satisfactory. As the law now stands, these appeals or writs of error can be taken in any case where one of the officers of customs is concerned. But by some inadvertence of the law-making power, that cannot be done in the case of an internal revenue officer. This bill proposes to put those officers on the same footing in that respect; that is all there is in it. I hope there will be no objection to its consideration at this time."

All objection was accordingly withdrawn. At this stage the gentleman from Iowa, [Mr. WILSON,] the honorable chairman of the Judiciary Committee, rose:

"Mr. WILSON, of Iowa. Will the gentleman from Ohio [Mr. SCHENCK] yield to me to offer an amendment to this bill?

"Mr. SCHENCK. I will hear the amendment.

"Mr. WILSON, of Iowa. I desire to move to amend the bill by adding to it the following:

"SEC. 2. *And be it further enacted*, That so much of the act approved February 5, 1867, entitled 'An act to amend an act to establish the judicial courts of the United States, approved September 24, 1789,' as authorizes an appeal from the judgment of a circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed.

"Mr. SCHENCK. I am willing to have the amendment received, and now I call the previous question on the bill and amendment.

"The previous question was seconded and the main question was ordered."

The amendment of Mr. WILSON was then agreed to, without any objection being made; nor, as will be perceived, was any opportunity for inquiry afforded.

Now, sir, it will become perfectly evident when I refer to the character of the act which is repealed by the amendment, that had it been known what the real nature of the amendment was and to what it actually did refer, it could never have been passed in the manner in which it was suffered to pass at that time without opposition. The act of February 5, 1867, provides—

"That the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdictions, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States; and it shall be lawful for such person so restrained of his or her liberty to apply to either of said justices or judges for a writ of *habeas corpus*, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known; and the said justice or judge to

whom such application shall be made shall forthwith award a writ of *habeas corpus*, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in contravention of the Constitution or laws of the United States."

It further provides:

"The said court or judge shall proceed in a summary way to determine the facts of the case by hearing testimony and the arguments of the parties interested; and if it shall appear that the petitioner is deprived of his or her liberty in contravention of the Constitution or laws of the United States he or she shall forthwith be discharged and set at liberty."

And it provides further—and this is the important part repealed by the amendment of the gentleman from Iowa, [Mr. WILSON:]

"From the final decision of any judge, justice, or court, inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which said cause is heard, and from the judgment of said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the person alleged to be restrained of his or her liberty as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default of such, as the judge hearing said cause may prescribe."

It is well known to this House and to the country that it was under this provision of the act of February 5, 1867, that the McCardle case has arisen and is now pending before the Supreme Court of the United States. It is now very plain that the object of the amendment introduced by the gentleman from Iowa [Mr. WILSON] was to repeal the jurisdiction of the Supreme Court in such cases. It was, doubtless, intended to operate upon the very case which is now pending before the Supreme Court and which has been argued by counsel and submitted; for the amendment expressly relates to appeals which have been taken, as well as those which may hereafter be taken in such cases.

This House, and especially the minority, were disarmed by the remarks with which the gentleman from Ohio [Mr. SCHENCK] prefaced the introduction of the bill. After we had been told by the gentleman who had charge of the bill that there could possibly be no objection to it, that it related only to revenue officers; and after the House had been asked, as a matter of courtesy, to allow it to be introduced for action at that time, we had reason to think that he would not accept as an amendment to that bill that which was not germane to its subject-matter, which related to an entirely different thing, and which the gentleman must have known, if he understood the nature of the amendment, would never have been suffered to pass without objection if its real character had been explained. The gentleman must have known it would not have passed without objection if, by the title of the bill, by the subject-matter of the bill, and by the remarks of the gentleman by which its introduction was prefaced, we had not been given to understand that it was a matter which related entirely to appeals to the Supreme Court in the cases of revenue officers, and that it was not intended to apply to anything else.

Mr. BLAINE. Will the gentleman allow me to ask him a question?

Mr. BOYER. Yes, sir.

Mr. BLAINE. Was the gentleman from Pennsylvania [Mr. BOYER] in his seat when the amendment was offered by the gentleman from Iowa, [Mr. WILSON?]

Mr. BOYER. I was in my seat when the amendment was offered by the gentleman from Iowa.

Mr. BLAINE. The gentleman says it was not germane. Was it in the power of the chairman of the Committee of Ways and Means [Mr. SCHENCK] to have made it in order by objecting to it? Why did not the gentleman himself object to it?

Mr. BOYER. I will answer the gentleman. But I will first read the forty-eighth rule of this House, which says:

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

Mr. BLAINE. Why did not the gentleman raise that point of order at the time the amendment was offered?

Mr. BOYER. I did not raise the point of order, because I did not expect, after what had transpired, that any amendment which would not be in order, or which would be entirely different from the spirit and meaning of the bill itself would come from such a source as the honorable gentleman from Iowa, [Mr. WILSON,] the distinguished chairman of the Committee on the Judiciary, who enjoys in a high degree the respect of this House as well of the minority as the majority.

Mr. BLAINE. I appreciate the gentleman's position; but it would appear from his own statement that gentlemen on the side of the House of which he is a prominent member, did not comprehend, were not wide enough awake to see the point and bearing of the proposition, though it was read in their hearing, and now three days afterward they wake up. That is the whole of it.

Mr. BOYER. I do not yield for a speech, but I am glad that the gentleman has made these remarks. I have already said that the minority were disarmed by the manner in which this measure was introduced. I admit that, occupied by other matters, and trusting to the good faith of the gentleman who introduced this matter into the House, the minority never suspected that in that way the majority would attempt to affect their escape from what they must believe to be a pending judgment of condemnation against them at the hands of the highest judicial tribunal of the land. It must be because they fear that their acts of legislation have been unconstitutional; it must be because they are afraid to submit them to the test of judicial inquiry that, in that covert way, by artful approaches and by disguises not easily seen through at the moment, a measure was smuggled through, which, if it produces the effect for which it was intended, will, perhaps, prevent the constitutionality of the reconstruction acts from being tested in the manner in which the question is now being tested in the McCardle case, now pending before the Supreme Court of the country. It must proceed, therefore, from a consciousness on the part of the majority that their acts are illegal and outside of the Constitution that they feel compelled to resort to the passage of such an act as the one I have described.

But if the majority in this House were determined to pass such an act as that to escape from the judgment of the court it would have been more worthy in them to have done it openly. It would have been more manly to have introduced it in such a way that it might have been fairly discussed; and then, if by overwhelming numbers they had power enough to pass an act for the purpose of obstructing the administration of justice they could still have insisted upon it. What I take occasion especially to complain of is the manner in which the attempt was so successfully made to disarm the suspicions of the minority by an appearance of fair dealing. This much is due to the minority, who, I admit, were not "wide enough awake," using the language of the gentleman from Maine, [Mr. BLAINE,] to anticipate that there would come from such a source and in such a manner anything so entirely different from what they had been led to expect by the nature of the introduction of the bill and the remarks by which it was accompanied.

Mr. BLAINE. I would like to ask the gentleman another question. He characterizes this as an "illegal" proceeding. The gentleman, who is a good lawyer, will allow me, not a lawyer at all, to put to him this question: The Supreme Court of the United States obtained jurisdiction of a certain class of cases by an act of Congress passed about a year ago. Was that illegal?

Mr. BOYER. The gentleman entirely misinterprets my language when he says that I characterized this as an "illegal" transaction. I admit that whatever fraud there may be in this case is not punishable at law. I admit that the act, although passed as it has been, cannot therefore be vitiated as an act of legislation. What I condemn particularly is not the illegality of the transaction, but the manner in which the measure was foisted upon us, and so made a law without resistance and without debate. I say that such a proceeding was not consistent with the courage usually displayed by the gentleman from Maine [Mr. BLAINE] himself, and I will add by the gentleman from Ohio, [Mr. SCHENCK,] and the gentleman from Iowa, [Mr. WILSON.] What is done in this House upon important matters like that should be done courageously, in a manly way, in open debate, with fair notice. Your numbers surely are overwhelming enough. Can you not rely upon them without resorting to devices of this description in your assaults upon the judiciary of the country?

Mr. MAYNARD. The gentleman uses the word "fraud." Will he please explain wherein he imagines there has been any fraud?

Mr. BOYER. Upon that point I have no further explanation to offer than what I have already said.

Mr. WILLIAMS, of Pennsylvania. Will my colleague allow me to ask a question? I desire to do it on account of the absence of my colleague on the Judiciary Committee, the gentleman from Iowa, [Mr. WILSON.]

Mr. BOYER. I will yield for a question.

Mr. WILLIAMS, of Pennsylvania. I understood my colleague [Mr. BOYER] to say—perhaps I was mistaken in so understanding him—that the gentleman from Iowa, in the presentation of this amendment, had acted in bad faith and had introduced it in such a way as was calculated to mislead the House. Now, my recollection is, if the gentleman will allow me——

Mr. BOYER. I do not yield any further. I have no explanation to make. What I have said, I have said, and in the manner in which I have said it I am willing to allow it to remain. The manner in which we were misled I have already explained. It is not necessary for me to go over the ground again.

Mr. WILLIAMS, of Pennsylvania. The gentleman says he was misled by the way in which the amendment was introduced. My recollection is there was nothing said upon its introduction by the gentleman who offered it, but all that was said was by the gentleman from Ohio, [Mr. SCHENCK,] and was in relation to the bill as it stood just as it came on our tables without any amendment.

Mr. BOYER. Exactly; but I will ask the gentleman this question, whether, if he had introduced the bill and had prefaced it with the remarks which were made by the gentleman from Ohio, and he had afterward knowingly acepted an amendment which was not germane to the bill, or which was of a character that he knew would be most obnoxious to the minority of this House, he would have let his remarks stand without further explanation? Recollect, I do not expressly charge the gentleman from Ohio [Mr. SCHENCK] with knowingly permitting an amendment of this character to be made; that is, with knowing its nature and effect. But I say this, that it would be contrary to all the experience we have ever had in regard to that gentleman's astuteness and business character to suppose that he would allow an important amendment to be made to a bill which he had in charge of the nature of which amendment he knew nothing beforehand.

Mr. WILLIAMS, of Pennsylvania. Then, if I understand the gentleman, he makes the charge of bad faith against the gentleman from Ohio, [Mr. SCHENCK,] who is here and can take care of himself.

Mr. BOYER. The gentleman cannot put words in my mouth. What I have said I am responsible for. I have said it without any personal malice toward anybody—certainly without any ill feeling toward the gentleman from Ohio, for whom I have always entertained a very high regard, or toward the gentleman from Iowa, for whom I have always entertained an equal regard. But what I have said I considered due to the minority in this House,

who suffered this measure to pass without objection, and due to the country in order that it may know by what means the majority in this House think it necessary to sustain themselves in their unconstitutional acts of usurpation.

Mr. ALLISON. Will the gentleman yield for a question?

Mr. BOYER. Yes, sir, if I have time to answer. My time is about out.

The SPEAKER *pro tempore*. The gentleman has one minute left.

Mr. BOYER. Then I cannot yield.

Mr. KERR. I rise to take the floor, but not to say anything on this subject. I have no desire to go on to-day.

Mr. SCHENCK. I ask the gentleman, then, to yield to me five or ten minutes, to reply to the gentleman from Pennsylvania, [Mr. BOYER.]

Mr. KERR. Not wishing to proceed with my remarks to-day, I am willing to yield, provided I retain my right to the floor when the House adjourns.

The SPEAKER *pro tempore*. The gentleman from Indiana [Mr. KERR] will be entitled to the floor if the House adjourns.

Mr. KERR. That is all I desire. With that understanding I yield to the gentleman from Michigan, [Mr. BLAIR.]

Mr. BLAIR. And I yield it to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I do not propose to occupy many minutes. I was called in from my committee-room while engaged with public business a few moments ago, and found the gentleman from Pennsylvania [Mr. BOYER] commenting upon legislation which took place some two days ago in this Hall. His commentary upon that legislation assumes two aspects; it divides itself into two propositions. In one of them he undertakes directly or by implication to impute fraud to members of this House in the majority, but more particularly, perhaps, to the gentleman from Iowa, [Mr. WILSON,] the chairman of the Committee on the Judiciary, who offered an amendment to a bill which was then pending and which passed the House, and to myself, who introduced the bill to which the amendment was offered, in the manner in which that legislation was carried through.

I do not intend to answer any charge of fraud made by that gentleman or any one else. I shall be far gone, indeed, when I find it necessary to go over to that side of the House to learn lessons of propriety, of fairness, of manliness, and of honor in legislation.

The other branch of the proposition as submitted by the gentleman seems to be in the nature of an apology for himself and those who constitute the minority in this House to their constituents for not having been awake and watching and observing the course of legislation, so that something which they disapprove has passed and, so far as the action of this House is concerned, become a law. It is not for me to interfere between them and their constituents.

Now, what are the facts upon which the gentleman proceeds to present these views? There was a bill which came from the Senate relating to appeals or writs of error to be taken to the Supreme Court of the United States in cases where officers of internal revenue were concerned, placing them upon the same footing as officers of the customs in regard to such appeals and writs of error. I desired that that bill should pass, and upon my motion it was taken from the table and I explained it. Here is your record—I do not know how fully the gentleman from Pennsylvania may have brought it to the attention of the House—the reported proceedings of this House, showing what took place on that occasion. Does the gentleman pretend to say that in any particular whatever, when I stated the character of that bill, I in the slightest degree misrepresented it?

Mr. BOYER. No, sir; I did not say the gentleman had misrepresented the bill as it then stood at all.

Mr. SCHENCK. Very well; then the offense did not begin there. I stated the bill fairly, its nature and character, and on my statement of it, after some delay in the endeavor to bring it to the attention of the House, sufficient to waken up the sleepiest here, it was taken from the table for consideration and was made the subject of action.

Thus far, then, the gentleman and I are agreed. What next? Unanimous consent having been given for the consideration of the bill, pending its consideration when it was thus brought before the House, the chairman of the Committee on the Judiciary asked me if I would yield for the purpose of enabling him to offer an amendment—not a very unusual proceeding in any case where a bill is under consideration; and in order that I may be correct about this matter I will read from the record itself as given to us by the reporters for the Globe:

"Mr. WILSON, of Iowa. Will the gentleman from Ohio [Mr. SCHENCK] yield to me to offer an amendment to this bill?

"Mr. SCHENCK. I will hear the amendment.

"Mr. WILSON, of Iowa. I desire to move to amend the bill by adding to it the following."

And here there does not appear in the record what the gentleman knows took place, that instead of the gentleman from Iowa reading it himself, that amendment was sent to the Clerk's desk and read in the hearing of the House audibly and distinctly by the Clerk. What is the character of the amendment? One which the gentleman says takes away the jurisdiction of the Supreme Court in the McCardle case and like cases, and which they were entrapped into letting pass.

Mr. BOYER. The gentleman will allow me to correct him. I did not say it took away the jurisdiction of the Supreme Court.

Mr. SCHENCK. What then?

Mr. BOYER. I said that it was intended to take away that jurisdiction.

Mr. SCHENCK. One, then, which the gentleman construes as being intended for that purpose. When I heard that amendment I understood, I thought, perfectly well what its effect would be, and I do not know whether there would be any difference of opinion between the gentleman and myself as to its effect. I liked the amendment. I believed it was a good one. I believed it was perfectly germane to the bill, and, with due deference to the opinion of gentlemen upon the subject of its pertinency to the other matter in the bill, I say I can have very little respect for the parliamentary knowledge of any man who will say that an extension of the bill to other matters affecting the jurisdiction of the courts of the United States upon the subject of appeals was not germane to one which already provided in its very language for and concerning such jurisdiction. I believed it to be germane, and, it being presented and distinctly understood, what did I say?

Why, what the gentleman perhaps would not have said, that I was willing the amendment should be received; but I did not attempt to accept it—I had no power to do so—as a modification of the bill. I only consented to withdraw the previous question or refrain from demanding the previous question, in order to let in the amendment, that it might be voted upon by the House, and then I demanded the previous question on the bill and amendment. But still, the gentleman says, he slept on; and his friends around him—vigilant watch-dogs on the walls of liberty, [laughter,] and always guarding the Constitution—did not observe it. And this he says was a trick, was a fraud practiced upon them. Now, I would not make a confession of that kind if I were the gentleman. I should be afraid if I were he of being held to account by my constituents. And, sir, I can hardly credit that as an excuse.

When I remember that gentlemen upon the other side profess to be the peculiar guardians of the Constitution; when I remember that they claim, whenever the Supreme Court or any of the other courts of the United States are alluded to in any legislation here, it is their business to take care that nothing is done which shall in any way curtail or affect the power of those courts, I must conclude that the gentlemen who at the time listened to this amendment—for some of them at least heard it; they were not all asleep—did not see in it what the gentleman from Pennsylvania [Mr. BOYER] thinks he now discovers in it. And if that be so, if they now regard it and construe it differently, it is not for me to raise any question either about their obtuseness then or about their late awakening to a discovery which they were not then capable of making.

But I do not wish to screen myself behind any pretense upon my part that I did not apprehend the amendment that was read, that I did not have an understanding at least of what I supposed would be its effect. I consented that the House might have an opportunity of voting upon that proposition as an amendment to the bill before voting upon the bill itself because I was glad an amendment of that kind had been offered and hoped it would become law.

Mr. BOYER. Will the gentleman allow me to ask him a question at this point?

Mr. SCHENCK. Certainly.

Mr. BOYER. I desire to ask the gentleman whether when he heard that amendment read from the Clerk's desk, that was the first time that he had heard it read, or whether he had himself read it before, or knew before it was read by the Clerk that it was about to be offered?

Mr. SCHENCK. Disclaiming by any admission upon my part that I am bound to be catechized by the gentleman, because I do not admit his right to cross-question me, as I do not attempt to cross-question him, for I am not in the habit of interrupting gentlemen, I will be frank on my own account, and not because I recognize any such right, I never had heard the amendment read; I never had seen it. But I did hear, the moment before it was offered, that a good thing to accomplish a good object, just such an object as was accomplished, might be obtained by putting an amendment upon that bill, and I was glad to have an opportunity of hearing such an amendment read, and was not so stupid but that I could see as soon as it was read what the object was, and to give it, as I did, my hearty concurrence.

Mr. BOYER. I thank the gentleman, and I think the country will thank him, for this confession.

Mr. SCHENCK. I am not afraid of the country not thanking me. The gentleman has alluded to the Supreme Court and to its jurisdiction, which he thinks it was the intention of this amendment to affect, as applied to the McCardle case, and a conspiracy to undermine and destroy that court.

Sir, I have lost confidence in the majority of the Supreme Court of the United States. Is not that plain enough? I believe that they usurp power whenever they dare to undertake to settle questions purely political, in regard to the status of States, and the manner in which those States are to be held subject to the law-making power. And if I find them abusing that power by attempting to arrogate to themselves jurisdiction under any statute that happens to be upon the record, from which they claim to derive that jurisdiction, and I can take it away from them by a repeal of that statute, I will do it. Is there any indistinctness in that?

Mr. BOYER. That is very manly and courageous.

Mr. SCHENCK. Now, I hold that the Supreme Court of the United States, arrogating to themselves the pretension to settle not merely judicial but political questions, and trampling upon the principle of the decision made in the case of the Dorr rebellion, and upon every other decision of that kind, are, the majority of them, proceeding step by step to the usurpation of jurisdiction which does not belong to them. And I hold it to be not only my right but my duty, as a Representative of the people, to clip the wings of that

court wherever I can, in any attempt to take such flights.

Mr. HOLMAN. I would like to put an inquiry to the gentleman in connection with this matter, as to the manner in which this bill came before the House.

Mr. SCHENCK. Very well.

Mr. HOLMAN. I wish to ask the gentleman from Ohio whether this bill did not come before the House by unanimous consent, without the right to object being reserved, after he had made the statement as to the effect of his bill?

Mr. SCHENCK. Yes, sir.

Mr. HOLMAN. The amendment offered by the gentleman from Iowa [Mr. WILSON] was germane to the bill as it came before the House; therefore no point of order could be made upon the amendment. Now, I submit to the gentleman from Ohio whether, when a measure is taken from the Speaker's table by unanimous consent, after its provisions are well understood, it was exactly fair, according to the usual course of proceeding in this House, for him to allow an amendment which, though actually germane to the bill, could not have come before the House by unanimous consent?

Mr. SCHENCK. I will answer the gentleman. When a bill is brought before the House upon a statement of its contents, if that statement be fair (as gentlemen do not pretend to deny my statement was in this case)—if that statement gives a true interpretation of the bill and its objects, then there is nothing like fraud or trick in bringing the bill, thus fairly stated, before the House. When the bill is before the House it is, as is known to every man who knows anything about legislation, subject to amendment.

Now, I have, as a legislator, as many shortcomings, probably, as any other individual, in not always watching carefully the business which is being transacted here; but I never heard it pretended that because a man approves of a bill brought before the House he is from that point to curl himself up in his chair and go to sleep, oblivious of the fact that the bill may by amendment be materially altered, or be extended to other subjects than that originally embraced in it. These gentlemen complain, then, if they complain according to the record, not of the bill, but of the amendment which was made to the bill. But the gentleman from Indiana [Mr. HOLMAN] says that I allowed the amendment to be made to the bill. Sir, the gentleman talks outside of the record. I said I was willing the amendment should be offered and voted upon by the House, and I made the necessary motion to bring the House to a vote upon it; and unless I am responsible as the guardian of the gentleman from Indiana, [Mr. HOLMAN,] and the gentleman from Pennsylvania, [Mr. BOYER,] and other gentlemen on that side, I do not see but that my responsibility ends there. Let them go to their constituents and apologize, and not demand explanations of me. If an amendment which was offered to a bill—an amendment germane, as the gentleman from Indiana now admits—was material and affected some important interest in the country, as gentlemen think, and they slept at their posts, not observing what was going on, the matter begins and ends there; there is no more of it. If the gentleman will dare to say, as I know he will not, that I brought the bill before the House by a statement of it which did not correspond with the fact, that would make a very different case. But he does not pretend to assert any such thing.

Mr. BOYER. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Oh, yes; I will let gentlemen interrupt me as much as they please.

Mr. BOYER. I desire to ask the gentleman this question—whether, admitting that all he states is accurate, he did not appeal to the courtesy of the whole House, including the minority, to allow the bill to be taken up and passed at that time, and whether, after the amendment was attached to the bill, he did not still pass it by virtue of that courtesy, which he knew was yielded because the measure, as finally passed, was not understood or explained?

Mr. SCHENCK. Mr. Speaker, I will answer the gentleman. I did not pass the bill at all. The House passed it. It was not passed by any courtesy of mine, but by the votes of the majority here. No complaint is made or can be made of the bill or anything relating to it, up to the point when this amendment was offered. What then? The amendment did not get before the House by my courtesy, except in yielding to hear it read, and then approving of it, and being willing and desirous that the House should vote upon it.

Mr. BOYER. But the bill got before the House by the courtesy of the House.

Mr. SCHENCK. It did; and I suppose gentlemen on the other side contend that if, after having appealed to the House to allow a bill of this kind to pass, I discovered and understood that a good thing was offered to that bill by way of amendment but which I might have guessed would not be agreeable to gentlemen who do not want the insurrectionary States to be held under law, but to have anarchy there, it was my duty to run over to that side, shake members by the shoulder, and say, "Wake up, Mr. BOYER; wake up, Mr. HOLMAN! the country is in danger. This incendiary from Iowa has offered an amendment to a very innocent bill, and you are not upon the watch; the country is likely to be destroyed, the Constitution overthrown and the Supreme Court demolished, and everything is going to ruin. I beg you to arouse and get full possession of your faculties in order to prevent this catastrophe!" That is about the position in which the gentleman has now placed himself.

Sir, the gentlemen on the other side may say they did not understand it. Am I responsible for that? If I am to be responsible for the ignorance of the gentleman from Pennsylvania and his associates, upon constitutional questions or questions of law, God help me for the weight of responsibility which may be thrown upon my shoulders!

Mr. BOYER. I will say to the gentleman that he pays the same deference to me that he does to the Supreme Court. With that I am content.

Mr. BLAIR. Mr. Speaker, I am not willing to have all my time occupied with this discussion.

Mr. HOLMAN. Allow me one moment.

Mr. SCHENCK. I should have been done long ago, so far as I am concerned.

Mr. HOLMAN. In referring to the question of vigilance the gentleman from Ohio, severe as he is, I hope does not intend to be unjust.

Mr. SCHENCK. I do not want to be.

Mr. HOLMAN. I objected to the bill being taken up at the time, until I was entirely satisfied with the explanation and returned to my seat. I heard the amendment offered by the gentleman from Iowa. I saw at once, as every gentleman saw, that the measure was germane. But does not the gentleman know that after this kind of amendment was allowed to be offered by courtesy all effort on our part to defeat it would have proved futile?

Mr. SCHENCK. I may be wrong in point of ethics, but I do not recognize the obligation——

Mr. HOLMAN. Did not the gentleman call the previous question on the amendment the moment it was before the House?

Mr. SCHENCK. I do not recognize that rule of ethics as one which must prevail in legislation, that when I have in regular order or by courtesy got a bill before the House, from that time I am to look out that nothing is offered by way of amendment to which somebody around the Hall may object. That is asking entirely too much. Of course the gentlemen do not claim that I was under any more obligation to one of their party than to one of my own. If any obligation of the character indicated rests upon me or any other member, it must be a general obligation to all. Therefore, when they lay down a parliamentary law or courtesy, or parliamentary practice that any one introducing or calling up a bill is bound from that time on to go around and consult, wake up the slumbering, or otherwise arouse the attention of each particular member of all parties when anything is offered by way of amendment to the bill, lest some advantage may be taken by the sleeping——

Mr. HOLMAN. It is a matter of courtesy to the House.

Mr. SCHENCK. Oh, yes, sir; I do not think I am any more devoid of courtesy than others. And now that the gentleman from Indiana [Mr. HOLMAN] says he did make objection, I will say that I do not recollect it; but I do recollect that the gentleman from Illinois [Mr. ROSS] arose and objected, but only because he wanted a resolution offered by the gentleman from Missouri first to be voted upon. He said he would insist upon his objection till that resolution was disposed of. After that the venerable gentleman from Pennsylvania, [Mr. STEVENS,] sitting next to the Speaker's desk, also made objection, which, however, he withdrew at a somewhat later stage, and after some little business had intervened the bill came before the House without objection. That is all I remember about that.

Sir, the fact of the matter is, I suppose, about this: the news from New Hampshire had just been received, gentlemen on the other side were flurried and excited and not as wide awake to all the circumstances that transpired around them as they usually are; but under the mist or cloud which befogged them, dampening their ardor and covering them as with a wet blanket, they were not on the alert to observe any legislation that might be going on which they might think was detrimental to some interest of which they thought themselves the defenders, and they have sought this occasion through the gentleman from Pennsylvania to apologize to their constituents for having failed to be looking out for what might possibly come from this side of the House or elsewhere.

Sir, as I do not happen to be in that condition myself I will occupy the attention of the House no further. I have no apology to make to my constituents. I will go home and tell them what I have said to the House and to these gentlemen. As soon as the member from Iowa offered that amendment and I heard it distinctly read I thought it provided for a contingency which ought to be provided for—the repeal of a law which was likely to lead to mischief by the usurpations of jurisdiction under it—and I was glad that the House helped me, a majority of them being of the same opinion, to carry through, along with an innocent little bill, that amendment equally innocent, so far as the Government and its interests are concerned, and hurtful to nobody unless it may be to rebels, who want to be shielded and protected.

Mr. BLAIR obtained the floor.

Mr. ALLISON. I desire to say a few words.

Mr. BOYER. I should like to have two or three minutes.

Mr. BLAIR. If the gentlemen will allow me a moment I think I can make a suggestion which will be satisfactory to all. So much time has been occupied by this discussion and the hour is so late that I ask that I may be allowed to have the floor on the next day set apart for debate after the gentleman from Indiana [Mr. KERR] shall have spoken, and, if that shall be agreed to, then I will yield the floor to the gentlemen who desire to take part in this discussion.

No objection was made.

Mr. ALLISON. I only desire to say a word or two, and I do it because of the absence of my colleague, [Mr. WILSON,] the chairman of the Judiciary Committee. If I understood correctly, the remarks made by the gentleman from Pennsylvania, [Mr. BOYER,] he imputes bad faith to my colleague in offering that amendment. Now, it is the first time in the history of legislation here that I have heard that it is bad faith to offer an amendment to a

bill when that bill is presented to the House; and gentlemen are compelled, when they impute bad faith to my colleague, either to admit that every member upon this side of the House was inattentive to the business of legislation here or else to admit that knowing what that amendment was, they voted for it. The amendment was offered by my colleague to the bill called up by the gentleman from Ohio; it was read at the Clerk's desk and it was germane to the bill. No gentleman on the other side called on my colleague to explain the effect of the amendment; and I call upon the gentleman from Pennsylvania, [Mr. BOYER,] who says he was in his seat at the time, to say why it was he did not ask my colleague to make an explanation of the amendment, if he was opposed to it? No explanation was required of my colleague. No division was asked on the vote on the amendment by any gentleman on the other side, and it was passed without a division.

Now, the gentlemen on the other side are compelled to accept one or the other of these positions; they must either admit that they did not understand the provisions of the amendment when they heard it read or else that they were so inattentive to the business of the House that not one of them heard it read at the Clerk's desk. That is all I have to say.

Mr. BOYER. I desire to say but a very few words in continuation of this discussion. I am perfectly content with its result. There has been enough admitted by the gentleman from Ohio [Mr. SCHENCK] entirely to satisfy me and, I trust, to satisfy the country that I was correct in my narration of the facts. I did not make any unnecessarily offensive remarks in relation to either of the gentlemen concerned. I am perfectly willing to let the country characterize the proceedings upon which I have commented, and apply to them those criticisms which may be deemed most befitting. For myself, I do not bandy epithets. I have not in terms charged deliberate fraud, but I have stated facts, and I ask that the country may pass upon them, if it takes sufficient interest in the subject-matter of this discussion to think about it at all. It is conceded that the bill which was introduced by the gentleman from Ohio [Mr. SCHENCK] was altogether different in its provisions from the amendment which was afterward, with his consent, introduced and appended. The bill itself provided for the extension of the appellate jurisdiction of the Supreme Court. The amendment provided for the restriction of that jurisdiction in a different matter. The bill itself relates to revenue officers. The amendment related to writs of *habeas corpus* issued and brought before a United States circuit court to determine whether a citizen is unlawfully held in custody. It is admitted that the gentleman from Ohio obtained a footing for his bill in the House by prefacing its introduction with the remark that there could be no possible objection to it, and by explaining that it only related to United States revenue officers.

It is admitted by the gentleman that after having thus, by the courtesy of this House, obtained unanimous consent for the consideration of the bill at that time, he allowed an amendment to be offered which he knew, if understood by the House, would prevent its being received to be acted on at that time by unanimous consent. And yet, notwithstanding this, it is admitted that the bill, with this amendment, was passed through under the operation of the previous question.

It is said that the amendment was germane to the bill. Suppose it was; then so much the worse, for if germane to the bill after the consideration of the bill had been consented to without objection, no objection to the amendment could have prevailed, and immediately after the reading of the amendment it was agreed to by the gentleman from Ohio, who in the same sentence and without pause, moved the previous question, thus precluding all opportunity for examination or inquiry or reference to the bill whose provisions were repealed by the amendment. Whether this is to be considered in the light of an attempt to take an advantage under circumstances which, whether intended or not, were certainly calculated to deceive, let the public judge; and whether it was intended or not, and whether such deception, if it existed, was warranted by any code of morals, or whether it was lawful in legislative strategy to secure such an advantage by such means, it is not for me to pronounce judgment, but for the House and the country, and with them I leave it. Let this case stand upon the facts as they have been admitted in the course of this discussion. If the gentleman from Ohio [Mr. SCHENCK] is content, I certainly am also.

Mr. ALLISON obtained the floor.

Mr. SCHENCK. Will the gentleman yield to me for a few moments?

Mr. ALLISON. I will yield to the gentleman.

Mr. SCHENCK. The gentleman from Pennsylvania [Mr. BOYER] wishes to clear himself, as it would seem from his last remarks, from any disposition to bandy epithets. Why, sir, what call was there for any such remarks from him? The charge was made that a fraud had been practiced. What does the gentleman now call it in his last remarks? "A deception;" and he "will leave the country to judge what name shall be given to this fraud and deception;" that is, he first passes judgment and then leaves it to the county to give a name to it.

Sir, it was because the gentleman, instead of apologizing to his constituents and to the country for being, as he confesses, asleep at his post, undertook to shift the responsibility upon others who were more wide awake than he, and to hurl epithets at them, that I asked the attention of this House at all; and without that I should not have done it.

Now, sir, the gentleman says that the previous question was called upon this bill, without opportunity for examination or discussion. Did he ask for any examination or discussion? Did anybody ask for it? Has it been my practice in this House, in the case of bills of which I have the management, to cut off altogether any opportunity either for question, discussion, inquiry, or examination, of that which is presented for the consideration of this House and which is under my charge? The gentleman knows it is not so. But when nobody asks to be permitted an opportunity to examine, when nobody proposes to discuss, am I to stop, turn around to members of this House and say, "Now, gentlemen, do not some of you want to examine this thing, and try to understand it before you vote upon it? Do not some of you want to discuss this matter before the vote is taken upon it?"

Mr. ASHLEY, of Ohio. You did say that if any one wanted any further explanation you would give it.

Mr. SCHENCK. That was in reference to the bill, not the amendment. So much with regard to any imputation of fraud upon my part.

As regards the gentleman from Iowa, [Mr. WILSON,] I know well if he were here he would take care of himself, if he felt that he needed it; I do not think he does. The gentleman from Iowa being awake to the wants of the country and to the duties of his position, when he saw an opening to propose an amendment which would accomplish a good thing, and a right thing, in a bill which was pending and to which his amendment was germane, asked permission to get his amendment in and have it voted upon; and he obtained that permission.

Now, it would better become gentlemen upon the other side to ask oblivion of the past, if they think there has been any failure on their part, and to humbly promise their constituents at home that in the future they will keep more wide awake, and when these naughty Republicans have what they conceive to be good amendments to offer, they will be more on the alert and take care that the Democratic party shall suffer no detriment—it would better become gentlemen to do that than to be abusing the gentleman from Iowa [Mr. WILSON] for having shown upon his part a readiness to be at his post, wide awake, and not sleeping while at his post. Sir, I do not mean to add anything more.

Mr. HOLMAN. Mr. Speaker——

The SPEAKER *pro tempore*. The gentleman from Iowa [Mr. ALLISON] is entitled to the floor.

Mr. ALLISON. I was about to make a motion that the House adjourn; but if the gentleman from Indiana [Mr. HOLMAN] desires to occupy only a moment, I will yield to him.

Mr. NIBLACK. I want only two or three minutes.

Mr. ALLISON. I will yield to the gentleman for a few moments.

Mr. NIBLACK. Mr. Speaker, I only want to say a word or two about this matter by way of explanation on my own account. I happened to be one of those on this side of the House who were not "caught napping" so far as this amendment was concerned. I think, however, that many of our friends attach undue importance to the action of the minority here on that occasion. Nothing that we could have done could have delayed the passage of that proposition for any great length of time; and hence our action is of no practical importance in the matter.

I suppose that the difference of a day or two will not amount to anything so far as regards any influence which the bill may have upon the Supreme Court. I was in my seat giving some attention to the motion of the gentleman from Ohio [Mr. SCHENCK] and to his statement about this bill, he being the chairman of a committee of which I am a member. From the statement which he made I could see nothing objectionable in the bill, and, therefore, I did not object to taking it up. When, however, the bill had been taken up, and this amendment was proposed, I did see in the amendment a measure to which I was seriously opposed. I rose to my feet for the purpose of objecting to the amendment; but a moment's reflection convinced me that an objection from me would be of no avail; that the amendment was regularly in under the rules, and that the gentleman from Ohio controlled the affair. I did not think the amendment could be ruled out on a point of order; for it occurred to me that it was germane to the bill. I turned round to a gentleman near me and remarked, "We are caught handsomely in this thing; there is no use in making a fuss now." Under those circumstances the bill with the amendment was passed, the previous question being ordered on the demand of the gentleman from Ohio.

I fully understood when that measure was passed what was involved in it, and was prepared to submit my objections if those objections could have availed in the slightest degree; but I knew that objection was useless. I subsequently inquired of the gentleman from Illinois [Mr. MARSHALL] and the gentleman from Wisconsin, [Mr. ELDRIDGE,] who did not happen to be in their seats at the time, and who are members of the Judiciary Committee, whether the measure had been considered by that committee, and whether there had been any prior arrangement or understanding in the committee in regard to the matter. Learning that there had not been, I did not see that anything was to be gained by pursuing the matter further; but it having been telegraphed all over the country that we on this side were "caught napping," I desired to say that I, for one, understood the effect of the proposition of the gentleman from Iowa [Mr. WILSON] at the time it was offered, though, of course, when the gentleman from Ohio asked unanimous consent to take up a perfectly unobjectionable measure, I could not foresee that any such amendment as that of the gentleman from Iowa was to be offered.

Mr. BLAINE. The gentleman did not consider the measure of enough importance to call the yeas and nays upon it.

Mr. NIBLACK. There happened to be so few present on this side of the House that we could not get the yeas and nays. The measure was brought up at a time when we were wholly unprepared for it, and we had not the power to do anything in the way of resisting its passage.

Mr. ALLISON. I think the explanation of the gentleman from Indiana [Mr. NIBLACK] is abundantly satisfactory. Gentlemen on the other side certainly were not "napping." They understood the bill and did not object to it. I move that the House adjourn.

Mr. WOOD. Will the gentleman permit me to say a word?

Mr. ALLISON. I beg the gentleman to postpone his remarks.

Mr. WOOD. I do not want to detain gentlemen who desire to be dining; but I would like to say a few words on this question.

Mr. ALLISON. I think that at another time there will be no objection.

Mr. WOOD. I will not insist upon going on now if the gentleman from Iowa [Mr. ALLISON] wants to go home.

On motion of Mr. ALLISON, the House (at four o'clock and fifty-five minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ASHLEY, of Ohio: The petition of George W. Reynolds and 147 others, citizens of Maumee city, Ohio, praying Congress for a reduction of the Army and Navy, and for a reduction of the tax on manufactures, and for other measures of relief.

Also, the petition of John N. Pease, Washington Lenderson, and others, citizens of Sylvania, Lucas county, Ohio, on the same subject.

Also, the petition of M. Shoemaker, H. Moore & Co., and others, manufacturers of Toledo, Ohio, on the same subject.

Also, the petition of H. G. Cartwright, James F. Hamilton, and a large number of officers and soldiers of New Burlington, Ohio, protesting against the passage of a bill introduced by Senator Wilson, of Massachusetts, January 20, 1868, which proposes new and invidious changes in the law affecting the bounty, back pay, and the right of the soldier to a fair hearing in the courts against the ruling of the Department of War.

Also, the petition from O. R. Small, H. C. White, and others, officers and soldiers of Lisbon, Ohio, on the same subject.

Also, the petition of James A. Tulleys, Hamilton Walley, and others, officers and soldiers of Bainbridge, Ohio, on the same subject.

Also, the proceedings of the Toledo board of trade, protesting against the proposed change in the coin of the United States, as provided in a bill introduced into the Senate by Hon. JOHN SHERMAN, Senator from Ohio; said change proposing to stamp one side of the coin with the emblem of France and the value of such coin in the French language, and the reverse side with American devices and the value in the English language.

Also, the petition of George W. Wright, Samuel Andrews, and a large number of printers in the city of Toledo, Ohio, protesting against the passage of the bill now before Congress securing an international copyright.

Also, the petition of McCarthey & Meloney, and other journeyman cigar-makers, of the tenth congressional district of Ohio, objecting, for reasons stated in petition, against the passage of the bill now before the Committee of Ways and Means providing that a stamp shall be affixed to each cigar.

Also, the petition of Chase, Isherwood & Co., Bronson & Messenger, and Worts, Nash & Co., manufacturers of tobacco, at Toledo, Ohio, protesting against the passage of the bill now before the Committee of Ways and Means which provides that all fine cut and chewing tobacco shall be put up in foil or paper, for reasons therein set forth.

By Mr. UPSON: The petition of Myron Hinkley and 44 others, citizens of Michigan, praying Congress for a reduction of expenditures and taxation.

IN SENATE.

MONDAY, *March* 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of last Friday's legislative proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 6th instant, information in relation to the disposition made of the proceeds of captured and abandoned property received by Colonel Holabird, assistant quartermaster; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, in answer to a resolution of the Senate of the 27th of January last, in relation to the arrest and trial of Rev. John McMahon, Robert B. Lynch, and John Warren by the Government of Great Britain, and the action taken by this Government in maintaining the rights of American citizens abroad; which was referred to the Committee on Foreign Relations, and ordered to be printed.

IMPEACHMENT PROCEEDINGS.

Mr. EDMUNDS. I offer the following order, which I ask to have considered at this time, so that, if agreed to, the Globe report of our proceedings may be made perfect:

Ordered, That the Secretary furnish from his Journal to the reporters, for the purpose of insertion in the official reports, minutes of the proceedings and lists of yeas and nays taken on motions submitted to the Senate when sitting on the trial of impeachments when such proceedings and yeas and nays are not taken when the doors of the Senate Chamber are open.

I do not know but that the order explains itself; if it does not I will explain it. The Constitution requires that a Journal shall be kept of all the proceedings of the Senate, including, of course, as well its judicial proceedings as its legislative and executive proceedings. The rules respecting the trial of impeachments also require that a Journal shall be kept of our proceedings, and that the yeas and nays shall be taken and entered on the record when required. The Journal of such proceedings as were had when the doors were closed for deliberation the other day is, of course, not accessible to the reporters, while the rule requires that all the proceedings shall be reported in the same manner as legislative proceedings. The rule as to deliberation, of course, on the face of it, only contemplates that the privacy of the Senate shall relate to the informality and interchange of opinion and discussion upon pending propositions. Therefore I take it that the minutes of our proceedings while the doors are closed are just as much a necessary part of our Journal proceedings, and therefore a public part, as any other; and, in order to make the record of the trial complete, which we require to be published in the Globe, it is essential that these minutes of our votes and proceedings should be furnished to the reporters, that they may go into the Globe.

Mr. HENDRICKS. I think this had better lie over until to-morrow.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rule.

SOLDIERS' BOUNTY.

The Senate proceeded to consider its amendment to the bill of the House of Representatives No. 331, to facilitate the payment of soldiers' bounties under the act of 1866, disagreed to by the House; and

On motion by Mr. WILSON,

Resolved, That the Senate insist upon its amendment to the said bill, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Messrs. WILSON, HOWARD, and FERRY the conferees on the part of the Senate.

PENSION APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill of the House of Representatives No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, disagreed to by the House; and

On motion by Mr. MORRILL, of Maine,

Resolved, That the Senate insist upon its amendments to the said bill, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Messrs. GRIMES, CONKLING, and MORRILL, of Vermont, the conferees on the part of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the constitutional convention of Georgia, in favor of a loan of $100,000 by the Government to the South Georgia and Florida railroad; which were referred to the Committee on Post Offices and Post Roads.

He also presented resolutions of the constitutional convention of South Carolina, against a repeal or reduction of the import duty on rice; which were referred to the Committee on Finance.

He also presented resolutions of the Toledo Board of Trade, protesting against any change in the system of coinage; which were referred to the Committee on Finance.

He also presented a petition of Jesse Baldwin, praying for the payment in gold of any outstanding Treasury seven-thirty notes of the issue of 1861; which was referred to the Committee on Finance.

Mr. MORGAN presented a memorial of bankers, merchants, and citizens of New York, remonstrating against the passage of certain amendments to Senate bill No. 207, for funding the national debt, and for the conversion of the notes of the United States; which was referred to the Committee on Finance.

He also presented a memorial of retired officers of the Army, asking that no reduction shall be made in their pay and emoluments; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition of citizens of Ontario, Livingston, and Monroe counties, New York, requesting that drafted men may receive the same bounty as volunteers, and that soldiers who volunteered, and from no fault of their own did not serve out the term for which they enlisted, may receive the bounty promised them; which was referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented a petition of John Graham, of the town of College Point, county of Queens, New York, praying compensation for carrying the mails from New Orleans to Key West for the quarter commencing April 1 and ending June 30, 1855; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of David McCauley, praying for the reduction of the Abercrombie reservation so far as to exclude therefrom certain property belonging to him; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Chamber of Commerce of the city of St. Paul, Minnesota, praying that an appropriation may be made for the improvement of the Minnesota river in accordance with the recommendations of Major General G. K. Warren, of the engineer corps; which was referred to the Committee on Appropriations.

Mr. CAMERON presented a memorial of journeymen cigar-makers and manufacturers of cigars, protesting against the passage of the bill which provides that a stamp be affixed to each cigar, and praying that the duty on imported cigars remain unchanged; which was referred to the Committee on Finance.

He also presented a resolution of the Legislature of Pennsylvania, in favor of demanding from the British Government the release of American citizens imprisoned within that kingdom upon suspicion of political offenses; which was ordered to lie on the table.

He also presented resolutions of the Legislature of Pennsylvania, in favor of the establishment of a line of steamships between the United States and Liberia; which were ordered to be laid on the table.

Mr. FRELINGHUYSEN presented resolutions adopted by the "Grant Union Club," of Greenville township, New Jersey, in favor of the reconstruction policy of Congress, and asking the passage of the bill declaring what shall constitute a quorum of the Supreme Court, and urging the liquidation of the national debt according to the plighted faith of the nation; which were referred to the Committee on Finance.

He also presented a petition of twelve colored men of Augusta, Georgia, stating that they desire to go to Liberia, where they will enjoy both social and political equality; that while they have been sober and industrious all their earnings until emancipated have gone to their masters, and praying an appropriation of $100 each to take them to Liberia; which was referred to the Committee on Finance.

Mr. FERRY presented a petition of John S. Noble, praying an amendment to the bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones, deceased, so that the bill shall have no retroactive effect to render any persons liable for using the invention after the expiration of the original term of the patent and before the approval of the act; which was referred to the Committee on Patents and the Patent Office.

Mr. COLE presented resolutions of the Legislature of California, in favor of placing the first battalion of mounted California infantry volunteers on the same footing with other volunteers in relation to bounty; which was referred to the Committee on Military Affairs and the Militia.

Mr. NYE presented a petition of Anna M. Howard, widow of Oliver G. Howard, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of a grant of lands in lieu of those lands lost to schools by Indian reservations and trust lands, and that in the disposition of Indian reservations and trust lands the sixteenth and thirty-sixth sections may be reserved for school purposes; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. SHERMAN. I present the petition of Frederick Jones & Co., and a large number of manufacturers of Boston, praying the prompt passage of the House bill to repeal the tax on manufactures. As this bill will be reported very soon, I move that the petition lie on the table.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 403) in relation to testimony in the Court of Claims, reported it back with a recommendation that it be indefinately postponed, the substance of it being embodied in the bill previously reported.

Mr. CATTELL, from the Committee on Finance, reported a bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; which was read and passed to a second reading.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 900) to exempt certain manufactures from internal tax, reported it with amendments, and notified the Senate that he would move to take it up for consideration to-morrow.

ROAD FROM FORT WILKINS TO FORT HOWARD.

Mr. POMEROY. The Committee on Public Lands, to whom was referred Senate bill No. 331, to extend the time for completing a military road in Wisconsin, have directed me to report it back and recommend its passage.

Mr. HOWE. If there is no objection from any one, I should like to have the bill just reported from the Committee on Public Lands passed now.

By unanimous consent the bill (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin," was considered as in Committee of the Whole. It proposes to extend, until March 1, 1870, the time for completing the military road and for the sale of land authorized by the act referred to.

Mr. POMEROY. The bill extends the time exactly two years. The time will expire on March 1, 1868, and this extends it to March 1, 1870. It gives no additional grant, but merely allows two years' further time.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 441) for the survey of the Mississippi river; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

INDIAN APPROPRIATIONS.

Mr. HENDERSON. There is a bill on the Calendar which has been examined by the Committee on Indian Affairs, but which I desire to take up now with a view of referring it to the Committee on Appropriations, so that it may be reëxamined by that committee. The committee meet to-morrow morning, and it is important that it should be acted on immediately. I move, therefore, to take up House bill No. 819, with a view of referring it to the Committee on Appropriations.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department, and for fulfilling treaty stipulations.

Mr. HENDERSON. I move the reference of the bill to the Committee on Appropriations.

The motion was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States announced that the President had on the 16th instant signed the following bill and joint resolution:

A bill (S. No. 376) to facilitate the settlement of paymasters' accounts; and

A joint resolution (S. R. No. 117) to authorize the erection of a military storehouse at Fort Monroe, Virginia.

CENTRAL BRANCH UNION PACIFIC RAILROAD.

Mr. HOWARD. I move to take up the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole. It has been read.

Mr. GRIMES. Let it be read again.

The Secretary read the bill.

Mr. JOHNSON. Mr. President, it is to me a relief to rise to address myself to topics which are not calculated in any way to excite solicitude or to create alarm. The bill upon your table looks only to the promotion of the interest and prosperity of the country. It has no political bearing except that in its consequences it may tend to cement the Union and add to the wealth of the nation. And I will proceed as briefly as I can to state why, in my opinion, the measure before you should be adopted.

It is not many years since Congress determined, as I think, in the spirit of a wise and enlarged policy, to establish a connection by railroad between the Atlantic and the Pacific. At first the project itself was considered Utopian. I speak from knowledge that when it was first agitated many of the best men in the Senate at that time, long before 1862, recently after we obtained California, deemed it altogether impracticable. They thought, in the first place, that it could not be accomplished at all; in the next place, that if it could be accomplished it would be an expenditure which would seriously involve the Government. But the people took a different view of it, and they soon imparted their spirit to their Representatives, and the result was the passage of the act of 1862. It was a great measure; great in every aspect in which it can be viewed. It was great in its political consequences—consequences not at all connected with anything of party which could distract us, but consequences which referred themselves exclusively to the wealth, prosperity, and continuance of the Union. Having determined upon the measure, the next thing to be decided was where should the main trunk of this great channel commence. There were various plans; but they all finally resolved themselves into fixing it at the one hundredth meridian. The obvious object of placing it so far west was that the benefit of the improvement should be as widely dispersed as was practicable, so that all the parts of the United States might participate in its advantages. We had a northern interest; a vast population at the North, full of enterprise, capable of opening for themselves and their country immense wealth; patriotic; and they were to be accommodated. Their section was dotted over with cities, then comparatively of great magnitude, but destined, as it was obvious, to become of still greater magnitude. We had what was called a central interest that involved Missouri and Kansas and several States which were to become important and potential States of the Union

They were to be accommodated, and they were cared for. We had a southern interest and they were to be taken care of. The first thing that was done when the act of 1862 was passed was for the several State Legislatures of the States to which I have referred to pass acts of incorporation by which the roads incorporated would be able with facility to make a junction with the main trunk, so as each to enjoy in part all the benefits of the great enterprise. It was, however, an enterprise of such magnitude that all saw that it could not be accomplished by individual means. It was, in the true sense of the term, a national undertaking pregnant with national benefit; and as it could not be accomplished by means of private wealth the nation in a spirit of enlarged policy determined to come to its aid and it was done. It was done by providing two means of aid; first, by giving to each of these companies a portion of the public lands through which the roads were to pass; and, next, at the same time giving them subsidies in the form of bonds of the Government.

Looking at the legislation of that day, its general purpose, without now taking up the particular provisions of the laws, it is obvious to my mind that it was the purpose of Congress that all of those three several channels which were to connect themselves with the main channel, that is to say, the main trunk at the one hundredth meridian, should be equally assisted

by the United States. The work was commenced under the act of 1862 and the State charters to which I have alluded; but it was evident that it could not succeed without some additional legislation. What was called the Southern Pacific, now the Union Pacific, eastern division, when the act of 1864 was passed, were by their charter to make their road in such a mode that they would connect at a point one hundred miles distant from the town of Atchison with what I shall call for simplicity the Central Pacific railroad; and they were to make from that terminus, as a part of their own road, a continuous road to the main trunk. If that law had been carried out St. Louis and Baltimore, and several of the other growing cities and cities yet in prospect, would have shared equally in the benefit of the undertaking; and in 1864 Congress passed an act by which they provided that these several companies might consolidate for the purpose of making their respective roads; but it provided a very proper provision—a provision necessary to save the undertaking from defeat in whole or in part—that if any one of the companies consolidated or not consolidated should fail to make the road according to the plans then determined upon, there being maps of those plans then on file in the Land Office, either of the other companies who had an interest in the completion of the particular road should be at liberty to complete it.

In 1866 Congress passed an act by which they relieved the Union Pacific, eastern division, from making the connection between their road and the point to which the Central Pacific was authorized to make its road; and, as the Central Pacific at that time had no authority to go beyond the one hundred miles, it would, unless some other provision was made, have defeated altogether the central route. When Congress authorized the Union Pacific, eastern division, to abandon the route which they were to adopt under the first law, they, in my opinion, by their legislation agreed that the Central Pacific should be at liberty to extend its road to the one hundredth meridian upon the same terms and with the same aid that the Union Pacific, eastern division, would have done if they had not been relieved from the obligation imposed upon them by the original law. The Union Pacific, eastern division, then adopted the route which they were authorized to take under the act of 1866.

What was the state of things at that time? The central branch had made its road one hundred miles from the point of its beginning, made it fairly, legally; the stockholders had spent not only all the money they individually could raise, but all the money that the Government afforded them by means of its bonds; constructed the road in the very best possible mode in which such a structure could be established; furnished it with locomotive power and with all the necessary passenger cars, and found that by force of the act of 1866, and the eastern division of the Union Pacific having adopted the route which they were authorized to adopt under that act, their road was comparatively, if not totally, valueless in their hands. They were enterprising men; they undertook the work in good faith, expended their money upon the assumption, which they had a right to make, that the Government would act in perfect good faith with them, upon the assumption that their road would be connected with the main trunk, and that it would enjoy all the advantages consequent upon such a connection, instead of being visited with the bankruptcy, as far as the road is concerned, of being forced to terminate their line in the prairies, where there is no city, no trade, and no trade possible for years to come. Not only was that operation the effect upon them of the act of 1866 and what was done under the authority of that act, but the whole benefit of the enterprise was lost to the cities and the country lying within the line of the Central Pacific. They could not get to the main trunk by any direct route. Their only way of reaching there was by running up to the north as far as Chicago, and when they reached Chicago they were further from the main trunk by some one hundred and twenty miles than they were at the point of the termination of their road. That is to say, from St. Louis to the main trunk at the one hundredth meridian is four hundred miles nearer than to go to Chicago and then to such meridian. From St. Louis to Chicago is two hundred and eighty miles, and when there the distance to the meridian is one hundred and twenty miles further than the distance to the same point by the central line.

Mr. President, I have examined the several acts with some care, and I think it is perfectly obvious (and I say it with great respect for those who entertain a different opinion) that it was the purpose of the act of 1864 to give to the central branch of the Union Pacific road all the advantages of land and of bonds which would have belonged to the Union Pacific, eastern division, if they had constructed their road upon the plan originally adopted: first, because by any other interpretation of those laws the manifest policy of Congress would be defeated; secondly, because the words of the law, in my opinion, admit of no other interpretation. The very clause which gives to any company the right to run with its own road to the main trunk upon the contingency that the particular company authorized to run upon that route failed to do so evidently means that upon such failure they themselves are to be the holders of the particular franchise and vested with all its advantages.

I say it is manifest from the obvious policy of the entire scheme. Leave the central branch of the Pacific railroad to terminate its road where it now is terminated, St. Louis and Baltimore and all the other States and cities lying within the sphere of that particular road will lose the benefits of the enterprise. And can it be conceived that their representatives, to say nothing of the justice of the representatives at the North or at the South, would have consented to the act of 1866 if they had had the slightest suspicion that under any possible state of things the central road was not to be constructed; or, to state it still more correctly, would they have done so if they had not believed that upon the contingency of the omission of the Northern Pacific, eastern division, to run their road as they were directed to run it by the act of 1862, they were not to become *quasi* the assignees of that company, and clothed with all the rights which that company would have had if they had carried out the act of 1862? Therefore the central company, after the passage of the act of 1866, applied to the Secretary of the Interior, and he decided, as I think erroneously, but I have no doubt honestly, that they were not entitled to the bonds and the land to which the Northern Pacific, eastern division, would have been entitled if they had made the road from the point of intersection with the Central Pacific to the main stem at the one hundredth meridian.

I am the more confirmed in my opinion by the fact that I see exhibited with the memorial of the Central Pacific the legal opinion of Hon. Benjamin R. Curtis, lately one of the most distinguished of the judges who ever adorned the Supreme Court of the United States; an opinion evidently given without any doubt at all that the conclusion at which he arrived was the correct one. He states in that opinion—and I concur with that, and if I had been the Secretary I would have acted upon that impression—that without any additional legislation the Central Pacific, having a right to extend their road to the one hundredth meridian, were entitled to the lands and bonds to which the eastern division would have been entitled if they had constructed the road in that direction.

But there is no appeal from the decision of the Secretary of the Interior except to Congress, and they come here and ask us—to do what? Whether the right be legally a clear one or not is now immaterial. The Secretary of the Interior entertaining a different judgment, and having decided upon that judgment, there is no mode, except through the aid of Congress, by which they can obtain the assistance without which the whole enterprise, as far as they are concerned, is lost, and all the money that they have expended in the undertaking is also lost. If the law is not clearly with them, they ask it upon grounds, as I think, of very obvious equity. Who are these gentlemen? I forbear to name them. They are known, I believe, individually to very many members of the body, and known advantageously—not speculators taking up the stock with the view to sell it, but subscribing to the stock and entering in good faith upon the undertaking upon the double ground that it will inure greatly to the advantage of the Republic as well as to secure to themselves a handsome reward for their own labor and their own disbursements. They tell us—and unless they had been deranged men it could not have been otherwise—that but for the conviction to which they came upon reading the acts to which I have alluded they never would have expended three or four million dollars upon an undertaking absolutely fruitless if it was to be deprived of the advantage of a connection with the main trunk. Shall we not give it? Suppose we do not give it; saying nothing of their pecuniary loss, saying nothing of the breaking of what to my mind is the pledged faith of the nation—a consideration always of high moment—what is to be the effect upon the States, the cities, and the people who have an immediate interest in the completion of a central road which, as the members of the Senate will see if they look at the plats, runs in almost a direct line from the town of St. Louis to the main trunk?

Independent of all questions of mere equity as between the United States and the gentlemen who have engaged in the enterprise, is it not due to the States bordering upon the line of the central railroad that they should share in the benefits of the great undertaking? Shall they be given exclusively to the North? Shall they be given exclusively to the South? Or shall they be given to the South and the North alone? Look at the mighty West, which will be deprived of the advantages of the enterprise if this road is not continued to the main trunk; look at their area; look at their present population, and that greater population which is sure to be there in a very short time; and then ask yourselves, is it not just, is it not the dictate of a wise and enlarged policy, to secure to them the advantages of this undertaking? St. Louis, destined to be one of the greatest inland cities in the United States, now great in everything of enterprise of which greatness consists, growing into still greater magnitude, will be deprived of the benefit of that great undertaking. I mention her alone; but what is true of her is true of the other cities that stand within the line of the Central Pacific.

Now, what are the advantages of the road? Mr. President, it is a question which should challenge the attention and gratify the hopes of every American citizen. The troubles of the day, I believe, as I believe in my existence, are sooner or later to terminate. Party will soon be lost in patriotism. We will look back, if we live ten or fifteen years longer, or those of you who may live that period of time, and if you do not those who are to succeed you will look back, upon the agitations of the day with surprise and wonder and with amazement—I stop not to inquire who is to blame or whether any particular parties are to blame—that a country like ours should be torn by dissensions when it posseses all the elements necessary to constitute a great and a powerful people, the greatest and most powerful (I say it in no mere spirit of boasting) that the history of the world gives any account of.

Senators will find by consulting a map prepared by the present enlightened Commissioner of the Land Office, with great labor and evidently with great accuracy, that the whole India and China trade is to be ours, and the statesmen and merchants of England are now aware of it, as I have some reason to know.

Their share of it they will receive through the United States. They will only get that part of it which we may not need for ourselves. It will form a mine of wealth infinitely greater than that which is furnished by the mines developed or undeveloped on the Pacific coast. Let me give the Senate, by way of illustration, two or three facts calculated to make good what I have just stated. I get them from the map to which I have adverted. From London to Yokohama, in Japan, is eleven thousand five hundred and nine miles via Suez, and the voyage is sixty days. From New York via San Francisco to the same place is only seven thousand five hundred and twenty miles, and the journey occupies twenty-six days. The difference in favor of the United States in miles is three thousand nine hundred and eighty-nine, and in time thirty-four days. The distance from London by the Suez canal to Shanghae, in China, is ten thousand four hundred and sixty-nine miles, while from New York by way of San Francisco it is only eight thousand three hundred and fifty-five miles; making in point of distance the difference in favor of the American line of one thousand nine hundred and fourteen miles, more than two thirds of the distance between here and Liverpool. Upon the contingency of any accident occurring to the canal, or upon the occurrence of war by which the canal may be closed to the trade of London, the distance from London would be increased four thousand eight hundred miles to each of the above places; and upon that contingency—one very likely to occur, for wars, unfortunately for humanity, are still to be waged; the influence of Christianity will not in the future be able to prevent it, as it has not been in the past—in that contingency the distance to Japan from London would be sixteen thousand three hundred and nine miles, while the distance from China, via San Francisco, to New York would be but seven thousand five hundred and twenty miles; and upon the same data the distance from London to China would be fifteen thousand two hundred and sixty-nine miles, the difference in that event being in favor of the American route six thousand seven hundred and fourteen miles.

Nobody can doubt, I think, who reflects upon the subject, that the whole trade of the East, of China and Japan, will find its way to Europe through our ports. Do honorable Senators know what the value of that trade in only two articles was to England for some five years preceding 1865? It is startling, but likely to be quadrupled when they come in immediate contact with the enterprise of the Americans. The value of the trade to London alone in teas and silks for five years immediately preceding 1865 was over two hundred million dollars. That will be ours, doubled, trebled, quadrupled. Now, is it asking too much for the States and the people who are interested in the completion of the central road that it should be completed, so that they shall share equally in the advantages of this route? The two hundred and odd million dollars for five years is comparatively trifling to what the trade will be that will find its way to us and from us to the European world. It is a trade without which the European world cannot well live. The articles are luxuries, for the most part, but they are luxuries that have ingrafted themselves into the very nature of their people. Tea will be drunk, silks will be worn, and all the fine articles of merchandise and all the tempting exotics of the region will find their way here. Even the cotton which may grow there, and will grow there, as it certainly can, will find its way to us.

Nineteen twentieths of the tea sold at Nijni Novgorod, the center of the great tea trade in Russia, is brought from China to Liverpool and shipped thence to St. Petersburg and to Nijni Novgorod by the way of Moscow, the whole of which will find its way thence by the way of New York when these roads are completed. The value of this trade it is almost impossible to overestimate.

A word now as to the political consequences of bringing that trade to our doors. The trade of China and Japan ours, it will do for us what it has done for England. A country very little larger than one of our own States for many and many years has commanded almost the trade of the world. She has been able to pass unharmed through years of tremendous war, fought for the purpose of her conquest by the mighty leader who marshaled the hosts of France, a man of consummate genius, of daring character, and unlimited ambition, dying, because of the excess of that ambition which sought indulgence in sacrificing human life, a prisoner upon a barren rock of the ocean. She, however, by means of the immense wealth which by force of her commerce she was able to accumulate, stood alone unharmed. Not a hostile foot was ever permitted to tread the soil of England during the years of those mighty wars which shook the other European nations. Then what will not be the effect of this trade upon us even in material power the imagination can hardly exaggerate; but what is still better, in my judgment—and I am sure that such will be the opinion of the Senate if it be well founded in point of fact—it will make us through all time one nation. We shall then all see that to separate would be to go to destruction; that our wealth, our power, our happiness consist in keeping together and enjoying one and all the vast accumulations of wealth and prosperity consequent on that union, sure to be the result of being the recipient of the immense trade of the East.

I hope, therefore, Mr. President, without venturing to trouble the Senate further upon the subject, that they will agree to adopt the measure now pending.

Mr. MORRILL, of Vermont. I move to amend the bill by striking out in lines twenty-four and twenty-five the words "and for any greater length of road than one hundred and fifty miles from" and in lieu of those words to insert the word "beyond;" so as to make the proviso at the close of the bill read:

Provided, That no subsidy in United States bonds shall be allowed to said Central Branch Company beyond the termination of the one hundred miles on which bonds are authorized to be issued on said line of railroad.

Mr. MORRILL, of Maine. I gave notice on Friday that I should ask the Senate to consider the appropriation bill for the Post Office Department on Saturday, or, the Senate failing to sit on Saturday, on this day.

Mr. HOWARD. The bill to which the Senator from Maine refers is not the order of the day, and I hope he will not antagonize it with the measure now before the Senate. I think in a few minutes the bill now before us can be disposed of, and I hope, therefore, we shall continue its consideration. It is now nearly two months since it was reported, and I have been looking for every opportunity to take it up for the consideration of the Senate and have the Senate pass upon it.

Mr. MORRILL, of Maine. I am very well satisfied from what I observed that the Senator is not to get a vote on this bill at once. The bill to which I should like to invite the attention of the Senate will not take long. I hope it can be passed in half an hour or so.

Mr. HOWARD. Let us finish our action on this bill, and I will then give the honorable Senator my assistance to take up the bill to which he refers.

Mr. MORRILL, of Maine. I move that the present and all prior orders be postponed for the purpose of proceeding to the consideration of the bill making appropriations for the post office service. I feel some solicitude in the matter, because I hope that the Committee on Appropriations will be able to-morrow to report the appropriation bill for the Army, not with the expectation of proceeding with its consideration to-morrow, but of proceeding with it at the earliest possible moment. I hope the Senator from Michigan, therefore, will not feel constrained to object to taking up the post office appropriation bill now.

Mr. HOWARD. I really feel it my duty to press the further consideration of the bill now before the Senate. It is one of a great deal of importance to the company concerned, as well as to the country at large. It has been before the Senate now for some two months, and I really think the Senate will be but doing its duty to finish its consideration at the present time. I do not think the discussion will last much longer.

Mr. POMEROY. The Senate is aware that we make almost no progress with a measure if we take it up and then lay it down again. I believe this is the third time this bill has been taken up. I should be exceedingly gratified if we could be allowed to complete it to-day. I think we can do so within an hour or two. Of course I am disposed to vote to give precedence to appropriation bills, and it is very ungracious to try to postpone measures of that national character; but I think I should not be doing my duty if I did not urge the Senate to dispose of this measure in some way. It has had the attention of the Senate two or three times, and it is important that it should be brought to a close. I think we can take up the appropriation bill during the day after we have concluded our action on this bill.

Mr. MORRILL, of Maine. I hardly think the friends of this bill have any reason to complain if the appropriation bill should be pressed; for the Senate will bear in mind that I endeavored to get the attention of the Senate to act on the post office appropriation bill on Saturday, and I think that at least some Senators who are now for pushing it aside did not favor the action of the Senate on Saturday.

Mr. POMEROY. I am not one of them.

Mr. MORRILL, of Maine. I doubt exceedingly whether, after having given notice that I should endeavor to call this appropriation bill to the attention of the Senate to-day, it ought to have been in a position to be antagonized by this bill. However, I have no feeling on the subject; if the Senate think otherwise, if they think that a bill making appropriations for the service of the Government should give place to this bill, in its nature private, having some public aspects, I do not deny it is for the Senate to say. I feel it my duty to present the subject to the Senate.

Mr. CONKLING. I wish, Mr. President, an opportunity to submit some remarks upon the bill now before the Senate. I have no choice as to whether it continue to be considered now or be postponed. I suggest, however, to the Senator from Maine that if he is to press this motion we had better vote upon it at once and go on with one bill or the other. A good deal of time is elapsing in the consideration of this incidental question.

Mr. POMEROY. If there was any necessity for the post office appropriation bill to be passed to-day I would not say a word; but it is one of those public measures that always pass and may as well pass a month hence as now. It is a regular appropriation bill, and no very urgent necessity requires it to be passed to-day.

Mr. SUMNER. If the Senate had not already commenced to-day the consideration of the railroad bill, if they had not listened to an address on the subject so that that bill may be considered as fairly opened to the Senate on this occasion, I should not oppose the proposition of my friend, the Senator from Maine; but it does seem to me that the best economy of time will be consulted if the Senate proceeds with the matter which it has already in hand. I say, therefore, let us go on and try to finish it to-day; I do not doubt that we can finish it; but if the proposition of the Senator from Maine is adopted then this measure goes over until to-morrow or the day after to-morrow. I see no need of the delay while important interests, both public and private, are made to wait. I am not aware that anything will wait by the postponement of the appropriation bill; and that appropriation bill, whenever it comes up, if I may so express myself, will take care of itself.

Mr. MORRILL, of Vermont. I believe that the business of the Senate is a good deal behind

that of the House; nearly all the appropriation bills are yet to be acted upon; and, judging from my short experience here, I think they are even less likely to pass than a railroad bill. I hope, therefore, we shall attend to the appropriation bills first.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine to postpone all prior orders and take up the post office appropriation bill.

Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 25; as follows:

YEAS—Messrs. Anthony, Buckalew, Conkling, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Saulsbury, Sherman, Trumbull, and Vickers—21.

NAYS—Messrs. Cameron, Chandler, Conness, Corbett, Cragin, Dixon, Doolittle, Drake, Ferry, Harlan, Howard, Johnson, Nye, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Bayard, Cattell, Cole, Fowler, Patterson of New Hampshire, Patterson of Tennessee, Ross, and Sprague—8.

So the motion did not prevail.

Mr. CONKLING. Mr. President, a majority of the memorialists, upon whose prayer the bill before us is brought forward, are residents of the State of New York; and if the merits of the bill were such as to enable me to give it my support I should feel not only the consciousness of voting as I ought to do, but the pleasure which may properly be derived from the fact that a vote justly given coincides with what inclination might be if inclination were at liberty to prevail. I wish, however, to assign some reasons which have occurred to me as standing in the way of a vote favorable to this project; and if I am wrong in the facts as I understand them I shall be very glad to be set right. I fear, Mr. President, that I shall not find correction of any errors into which I have fallen in the speech just delivered by the distinguished Senator from Maryland, [Mr. JOHNSON;] for he discussed this question upon considerations which, if I understand it at all, have very little pertinency to the measure itself. One, in listening to him, would suppose that upon the success or failure of this measure depended the construction of a continuous line of road from the valley of the Mississippi to the Pacific ocean; and he discusses it as if speaking in ignorance of the fact that a railroad, the main trunk, as it is called, has not only been projected, but is actually constructed and actually in process of operation at a point far beyond the western terminus of this road. I shall discuss this bill, Mr. President, as a measure which, as I comprehend it, proposes, in effect, to donate $2,400,000 in Government bonds, and to donate, also, one million nine hundred and twenty thousand acres of land, for the construction of a road which, as I understand, would not even contribute incidentally or locally in the end to the multiplication of branches or mouths connecting with this grand trunk extending from the valley of the Mississippi to the western ocean. In form the bill provides that nothing contained in another act to which reference is made shall be construed to deprive these parties of their right to do a certain thing. That is a form of legislation, legislating by reference to some other bill, which I think has become unfortunately usual, perniciously common, in the practice of Congress.

But, Mr. President, it was no accident which brought it here, and it is no matter of form that that phraseology has been fixed upon. On the contrary, those who will look at this subject will find that if the proposition were stated directly that these claimants should be permitted to construct a road from the western terminus of their present road to the one hundredth meridian, and should have alternate sections of land on either side of that road, such an act would encounter an intervening statute, a statute which has already operated to dispose of these identical lands. I infer, therefore—and if I am wrong I beg to be set right by the advocates of the bill—that the purpose is to pass a retrospective act, an act which by relation back to an anterior statute and giving construction and effect to it will withdraw large quantities of land which have already by operation of law inured to the St. Joseph and Denver Railroad Company, and bring them back to the claimants here by an operation, if I may so say, *nunc pro tunc*. I ask the distinguished Senator from Kansas [Mr. POMEROY] whether I am not right in supposing that the design of this phraseology is to go back and construe the statute to which I have referred so as to oust that company whose road is already built from St. Joseph out to Troy, or somewhere beyond, of the rights which had descended to it under the existing legislation of Congress?

Mr. POMEROY. Does the Senator want an answer now?

Mr. CONKLING. I should be very glad to know whether I am right or wrong in that statement, as I venture on this matter with great diffidence certainly as compared with the Senator.

Mr. POMEROY. The particular phraseology of this bill I understood to have been drawn so as to convey what is clearly in the mind of those who advocate the bill the law now. It is to continue in force the existing law, which is that this company, which had the right in a certain contingency to a connection with the Union Pacific road on the one hundredth meridian or west of that, shall not be deprived of that right by the legislation of 1866. It is to continue in force precisely as what they regard as the law now. The St. Joseph and Denver City railroad grant was a subsequent grant to that; and if this grant should be abandoned that would attach, but not until the rights conveyed to this company have been abandoned—I mean to say if this company abandon their grant, then the rights of the other company would attach, not till then.

Mr. CONKLING. So that, Mr. President, I am right in my statement, except that the Senator, espousing the view which I reject, that under the law as it stands now these claimants have rights, uses the word "abandon" as specifying the time and the event in which the St. Joseph and Denver City Company shall acquire absolute title to these lands. I think I shall be able to show the Senate that the time has come and passed already which fixed, and fixed irrevocably, the rights of the St. Joseph and Denver City Company to these identical lands unless by legislation relating back those rights can be denied now, the change to take effect as of a previous time.

The first question, then, Mr. President, is whether these claimants have by law a right to subsidies and to land from the western terminus of their present one hundred miles of road to the one hundredth meridian. It seems a little extraordinary in one aspect to discuss that question in this forum. If, as is argued, they have that right, the courts are open. The Secretary of the Interior, we are told, holds that they have no such right by law. The distinguished Senator from Maryland, expressing his own opinion, and citing what he deems distinguished living authority, affirms that they have by law, and he says that they clearly have by law a right to what is sought here. If that be so will any Senator state to me the difficulty in compelling by familiar process the delivery of the bonds? If the Secretary of the Interior has fallen into an error, what more simple than to go to the appropriate judicial tribunal and by a writ of *mandamus* set him right in his law and compel him to make delivery? But the question is brought here, and let us see what it is and how it is.

The Atchison and Pike's Peak Railroad Company was chartered by the State of Kansas. That company is now called the Pacific railroad, central branch, and the claim which they set up here is as assignees of the Hannibal and St. Joseph Railroad Company; and the rights which they have, be they more or less, were granted, not to them, but to the Hannibal and St. Joseph Railroad Company. The rights in question were conveyed to that company by section thirteen of the act of 1862, and I beg to call attention to that section:

"That the Hannibal and St. Joseph Railroad Company, of Missouri, may extend its roads from St. Joseph, via Atchison, to connect and unite with the road through Kansas upon filing its assent to the provisions of this act, upon the same terms and conditions, in all respects, for one hundred miles in length next to the Missouri river, as are provided in this act for the construction of the railroad and telegraph line first mentioned, and may, for this purpose, use any railroad charter which has been or may be granted by the Legislature of Kansas: *Provided*, That if actual survey shall render it desirable the said company may construct their road, with the consent of the Kansas Legislature, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the road leading from the western boundary of Iowa at any point east of the one hundredth meridian of west longitude or with the main trunk road at said point; but in no event shall lands or bonds be given to said company, as herein directed, to aid in the construction of their said road for a greater distance than one hundred miles."

From this section it will be perceived that certain specific things were granted to this company—the right to choose its own route, to choose its western terminus, the right to have of lands and of bonds as many as should be required by constructing a road one hundred miles in length, but in no event were they to have more than that.

Now, what is the first answer to this claim? That, confessedly, they have received everything conferred by this section; they have received to that point beyond which the declaration is expressly made that they should receive nothing whatever. What have they received? For every mile of road which they have built twelve thousand eight hundred acres of land, making in all one million two hundred and eighty thousand acres, and they have received in bonds $1,600,000.

Mr. POMEROY. The Senator means to be correct, I know.

Mr. CONKLING. I do.

Mr. POMEROY. He means to state, I suppose, that the company will be entitled to so much land if it can be had. The facts are that their road went through a settled portion of the country, and they did not get the lands. The law would entitle them to that quantity of land if the lands had been there and had not been occupied by settlers.

Mr. CONKLING. But, being occupied by settlers, they got other lands in lieu of them.

Mr. POMEROY. No; they do not get other lands, because there are none to be had within the limits of the grant. For the first one hundred miles of road they cannot get lands within the limit prescribed by law.

Mr. CONKLING. To what extent of road does that remark apply?

Mr. POMEROY. To the first hundred miles.

Mr. CONKLING. In respect to what portion of the road?

Mr. POMEROY. They cannot get lands within the limit fixed by the law because they are occupied. They would be entitled, if the lands were not occupied, to one million two hundred and eighty thousand acres, as the Senator says.

Mr. CONKLING. I beg the Senator to inform me what portion of the number of sections granted for the first one hundred miles the company have not been able to get. What is the deficit?

Mr. POMEROY. They have not been able to get three hundred thousand acres, all told, of Government land.

Mr. CONKLING. Does the Senator from Kansas mean to inform us that under the law as it stands now, and under the withdrawals which have occurred, these claimants have received of lands for the one hundred miles of road which they have constructed not three hundred thousand acres?

Mr. POMEROY. That is what I mean exactly.

Mr. CONKLING. And nothing in lieu of it?

Mr. POMEROY. And nothing in lieu of it.

Mr. CONKLING. That is a statement which takes me very much by surprise; and for the

reason, among others, that in all the papers which have been submitted here, no such allegation has been made, and no such statement has ever been made to me by any of the numerous gentlemen who, verbally and by communications of one kind and another, have argued this case for the claimants.

Mr. POMEROY. If the Senator would read the law, he would see that they could not get land unless it was contained within the precise limits fixed; and by reference to the land department he would see that the land within the prescribed limits for the first one hundred miles has mostly been taken up, so that there is but between two hundred and fifty and three hundred thousand acres for the company. It falls short of three hundred thousand acres.

Mr. HOWARD. The reason is that the lands have been taken up by private purchasers on the route. That is the simple answer to the Senator from New York.

Mr. POMEROY. And there is no provision that they shall be made up hereafter further out on the line of the road.

Mr. CONKLING. I think nobody will gainsay the fact that this grant was sought at a certain time applicable to a certain subject. Those who applied for it did so with their eyes wide open. Just as far as Congress had the power to effectuate its legislation, it did give to this company ten alternate sections for every mile, making twenty sections in all per mile, and seeking it with their eyes wide open, they took what was granted, be the same more or less; but the suggestion that the route of this road was so far settled that, in point of fact, there was a competition for these lands, so as to imply such a value as the Senator now suggests is entirely new to me, and we shall see that while that argument makes one way as to the possession of this company, it makes very much the other way as to the value of their possessions and the opportunity which they have had.

Mr. EDMUNDS. Will the Senator permit me to inquire of the chairman of the Committee on Public Lands, in this connection, what official evidence we have before us as to how much land this company has actually been able to take up and secure. The Senator from Kansas states that he understands it to be not more than so much, but have we any official information from the Land Office or otherwise, and if so what is it as to what the fact really is?

Mr. POMEROY. We have no official information that I know of. The facts are that the company have never taken any land, but they have the right to take some ultimately. They have never had delivered to them any land as yet, but they have a right to take something less than three hundred thousand acres.

Mr. EDMUNDS. How does my friend from Kansas get at that? By guess?

Mr. POMEROY. No, sir; from examination at the office myself.

Mr. CONKLING. Passing by the lands that they received, let us look for one moment at some other things.

Mr. POMEROY. I suppose the Senator does not like to be interrupted.

Mr. CONKLING. I beg pardon of my friend. I do like to be interrupted and am thankful for any information he may choose to give me on the subject. I understand perfectly well that he comprehends the whole matter, and I appreciate my own deficiency and want of information.

Mr. POMEROY. If the Senator had read another section of the same law to which he has referred, he would have found that the ninth section of the act of 1862 provided:

"Said railroad through Kansas shall be so located between the mouth of the Kansas river, as aforesaid, and the aforesaid point on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast.

Mr. CONKLING. That relates to a wholly different branch of this subject which I shall not overlook when I come to it. I will endeavor to state what I think that statute means; and I will endeavor to show what application I think it has to this case; but certainly it has no application to what I am now talking about.

Mr. POMEROY. The Senator was reading the provision in regard to the one hundred miles, stating that in no event could this company have lands or bonds beyond that. I only read this to show that the road which they were obliged to connect with, was obliged to connect within one hundred miles.

Mr. CONKLING. I take issue with the Senator upon that point, and I will show him that that allegation is contradicted by the memorial which is presented here, by the report of this committee, by the law, and by the facts; and if I am wrong about that, I shall feel that I have failed to appreciate this case so entirely that I ought not to vote upon it with my present understanding. But I will come to that in due time.

I was saying that this company had received the right to 1,280,000 acres of land, and the result is subject, as the distinguished Senator from Kansas says, to the diminution he has stated. I venture to make no issue with him upon that, because I have no information about it. I affirm, however, that they received also $1,600,000 in bonds of the Government. Of that, I think, there can be no question. And I affirm further, (I shall recur to it again in a different connection,) that this same company has received of Indian lands, under Indian treaties, not less than one hundred and twenty-seven thousand acres; and I assert that those lands are very valuable.

Mr. POMEROY. The Senator means to say, I suppose, that they bought these lands and paid for them.

Mr. CONKLING. I mean to say that they never paid for them upon my information, exceeding $1 25 per acre, and I mean to say that in making that purchase, assuming that they paid that sum, they became most fortunate parties to a bargain, to say the least of it.

I have been endeavoring to show that this company took by act of Congress very valuable donations; that they have realized, or are unquestionably to realize everything which it was the design of Congress to give; and that brings me to the special case which they present here. What is it? They say that the Leavenworth, Pawnee, and Western railroad, now known as the eastern division of the Union Pacific road, intended originally to run to Junction city or Fort Riley, and thence up the Republican Fork to the one hundredth meridian, affording them an opportunity thus of making union with the main trunk Pacific road. They say that this company has changed its route and gone further to the South along the Smoky Hill Fork; and thus they have been deprived of an expectation at least upon which they relied; and they say that upon this, as the honorable Senator from Maryland said, certain rights have accrued to them under the sixteenth section of the act of 1864. What is that section?

The honorable Senator from Maryland gave it this interpretation: that if any company embraced in the provisions of that section omitted to construct its line of road in the manner and under the conditions then understood, it should be the right of any other company to go on and complete this construction, and receive for doing it all that the defaulting company would have received. I beg to say that I do not so understand this section. It is a section, in the first place, aimed at default in point of time; and especially aimed at default and at nothing else. The case of these claimants is that the Leavenworth, Pawnee, and Western road now called the Union Pacific road, eastern division, is in default in respect of a part of its line, and that they, the claimants here, have a right to come in and take up the road at the point from which they have omitted to build it, and carry it on with the subsidies and grants which would have accrued to the other company had the completion been made by it. Let us see the foundation of that claim. I read from the sixteenth section of the act of 1864, Statutes-at-Large, thirteenth volume, page 362:

"And in case upon the completion by such consolidated organization of the roads, or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid, (and forming, or intended or necessary to form, a portion of a continuous line from each of the several points on the Missouri river, hereinbefore designated, to the Pacific coast,) shall not have constructed the number of miles of its said road, within the time herein required, such consolidated organization is hereby authorized to continue the construction."

Certain proceedings are to take place in that event.

"And said consolidated company shall pay to said defaulting company the value, to be estimated by competent engineers, of all work done and material furnished by said defaulting company, which may be adopted and used by said consolidated company in the progress of the work under the provisions of this section: *Provided, nevertheless*, That said defaulting company may at any time, before receiving pay for its said work and material, as hereinbefore provided, on its own election, pay said consolidated company the value of the work done and material furnished by said consolidated company, to be estimated by competent engineers, necessary for, and used in, the construction of the road of said defaulting company, and resume the control of its said road."

The bare reading of that section is suggestive of its whole purpose. It was to provide for a case where, from inefficiency, poverty, misfortune, or culpable neglect a company should come short in what? In a legal duty imposed upon it, namely, to complete by a certain day a certain number of miles; and when that should occur, neither the public nor the parties engaged in continuous connection with this defaulting company should wait, but the work should proceed, and the materials of the defaulting company be made use of in carrying it forward, of which an account was to be rendered to them, and when they were able to resume what their poverty or their misfortune had compelled them to relinquish they should be permitted to come in and pay the outgo, and be subrogated to the rights of the new company and restored to their own. That was the purpose of this section and the whole of it; and now the allegation is that the Eastern Division Union Pacific Railroad Company is the party denominated there as a defaulting company. Why? Because Congress, by an act passed in 1866 changed the route of the Leavenworth, Pawnee, and Western railroad and authorized and directed that route to go, not as previously intended, by the Republican Fork, but deviating southward, along the Smoky Hill Fork; and now the eastern division, as it is called, having been by a statute of Congress exonerated from all obligation to do one thing and directed to do a different thing—because authorizing them to do it was equivalent to a direction—having by law been directed not to construct their road from Fort Riley up the Republican Fork, but to construct it somewhere else, these gentlemen argue that that company is in default for not having built its road within the time, as Congress interposed and said it should not build it by saying it should build it somewhere else. And we are told that a very eminent lawyer has given an opinion, as it is styled, that this section applicable to defaulting companies applies to the case which I have stated. It was the saying of a Roman poet that money had no color; and I presume that proposition is accepted now as much as it was then; and it may account, when nothing else accounts, for the opinions that counsel, no matter how eminent, applied to to write an argument is able to write for his client. There is no impropriety. I do not mean to intimate that there is any in his doing it for a fee given to him for that purpose.

The distinguished Senator from Maryland puts to me the question whether I mean to say he would give an opinion which he does not believe in. No, sir; I said what I meant when I spoke of it as an argument for which his client pays him. I shall refer again to what gentlemen have chosen to call this opinion, and I shall refer to it to show, if it shows nothing else, that it does not hint anywhere

that these claimants have any such right as is to be conferred by this bill. Neither Judge Curtis nor any other man who has put his hand to paper and whose opinion or argument I have seen undertakes to affirm that the Central Branch Pacific railroad has a right, under existing law, to subsidies from the western terminus of its present hundred miles to the one hundredth meridian; and I undertake to say that no man who regards his reputation as a lawyer will write any argument to show that. I will endeavor, when I come to it, to show what Judge Curtis does express an opinion about, if an opinion it is to be called; and I affirm now that he does not express that opinion, nor say in his argument that he believes any such thing to be the law.

Mr. POMEROY. If the Senator will read the residue of that section he will find what it is that this company claims under. It does not claim under that portion of the section which he read. It makes its claim under the last part of the section, and not under that portion which he read.

Mr. CONKLING. In order to cover my blunder, if I have made one, I beg to turn to a pamphlet which has been put in my hands, composed by the legal adviser of these claimants, presented as a brief to convince me of the merits of this claim and the propriety of voting for it; and I find on page four of the pamphlet this statement:

"But the word 'default' is used in this section not in its strictest sense, but simply (as it often is) in the sense of omission. The word 'default' itself is not used. The words 'said defaulting company' occur several times."

"But the word 'defaulting' is here qualified by the word 'said,' and the said default referred to is the omission of the eastern division to build 'its said road' within the time required; that is, the road 'authorized as aforesaid, and forming, or intended or necessary to form, a portion of a continuous line from each of the several points on the Missouri river hereinbefore designated to the Pacific coast.'"

Referring to the identical section and the identical part of the section, and reciting the very words which I have read, and this counsel for the claimants felt that there was where the shoe pinched and that this argument hinged, as the honorable Senator from Maryland considered that it hinged, upon the portion of the section to which I have called attention. If we have been misled by this and by the opinion, as it is called, of Judge Curtis, and by the various other papers which are before me calling attention to the right which accrued under this alleged default, it is an error to be charged to somebody older in this case than I am. I take it as I find it, and I look at it, satisfied that the section did not mean, as I shall take no section to mean, using the word "default," omission to do a thing which the law said a man need not do; but as meaning rather an omission to do a thing which some law said he must do.

I had the curiosity to look at Bouvier's Law Dictionary to see his definition of "default," and I find it to be "the neglect to perform a legal obligation or duty." It is to rebut the idea of such a definition, to argue away that meaning of the section, that these briefs have been presented; and I think the Senator from Kansas can hardly say that I am mistaken in supposing that stress is put upon it, and that the rights are claimed there if they are claimed anywhere. But now I shall be very glad if he will tell me under what part of this statute the rights do arise, if they do not arise here?

Mr. POMEROY. The Senator read very correctly until he came to the very sentence where these rights attached and then stopped. Now, I will read it, beginning where he left off:

"And in case any company authorized thereto shall not enter into such consolidated organization"—

Which applies to this company—

"such company, upon the completion of its road as hereinbefore provided"—

That is, the one hundred miles—

"shall be entitled to, and is hereby authorized to continue and extend the same, under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof, as fully and completely as are herein provided touching such consolidated organization."

That is the part of the section, nothing more, and nothing less. The Senator read until he came to that, and then omitted it, and spoke upon the previous portion of the section under which this company do not claim.

Mr. CONKLING. Mr. President, am I to understand now from the Senator that the allegation is, under this act, that they can go on and construct the road unless there has been the default previously specified? The Senator, without meaning to do it intentionally, stated that I read until I came to that sentence, and that there, apparently by a queer coincidence, I stopped. Now, I ask him to answer, if he will, exactly the question whether he or the claimants here intend to put themselves upon the idea that under the language he has read they can go on and construct a continuation of a road unless, as a prerequisite, the company to which that continuation was originally allotted is in default in regard to its construction?

Mr. POMEROY. What is claimed, as I understand it, is precisely this: this section provides that certain companies may consolidate; but if they fail to consolidate, or do not choose to consolidate, any company that has completed its road as far as it was authorized under the law, and finds upon that completion no company there to connect with, may have the right to go on to the connection provided for, the one hundredth meridian. That is precisely the meaning of that section, as I understand it.

Mr. CONKLING. Then, Mr. President, take it the other way: shall I be right if I suppose that it is an immaterial fact in this case that the Leavenworth, Pawnee, and Western road is in default, as they say? Shall I lay that out of the case?

Mr. POMEROY. It is immaterial to this question.

Mr. CONKLING. Let us be sure that we understand each other. The Senator now says, if I comprehend him, that the fact that the eastern division, as it is called now, went down the Smoky Hill fork in place of up the Republican fork is an immaterial fact bearing upon this question which we are now discussing.

Mr. POMEROY. That was not the point at all. It is immaterial to this question whether they have defaulted or failed to make the connection. They are not there at the point. They may have been relieved by law; they may have been relieved by subsequent legislation. The only fact I want to establish is that they are not there at the point named in the law.

Mr. HOWARD rose.

Mr. CONKLING. I wish the Senator from Michigan would allow me one moment to understand the Senator from Kansas. I want to be sure before we leave this point that we do understand it alike. I beg now to inquire of the Senator from Kansas whether the claimants do or do not base the rights which they say they have now by law upon the fact that this eastern division has omitted or failed or defaulted, or whatever word you please to use?

Mr. POMEROY. Yes, sir; they claim that if the eastern division had built according to the law they would have had no claim; but, they not building there, their rights inure, under the act of 1864, to a continuous line.

Mr. CONKLING. Then they inure under these provisions saying what shall happen in case of default, do they not?

Mr. POMEROY. Yes, sir.

Mr. CONKLING. Then I was precisely right in the first place, just as I supposed, and as everybody argued.

Mr. HOWARD. Will the Senator from New York allow me one moment?

Mr. CONKLING. With great pleasure.

Mr. HOWARD. As I understand it, the ground upon which the claimants rest their claim is this: that in consequence of the action of Congress in 1866, in passing the law authorizing the divergence up the Smoky Hill Fork, the present company have lost their right to form a connection with the eastern division on its route to the one hundredth meridian, thus losing a very important privilege which had been assured to them by the legislation of Congress. It is quite immaterial in what way this loss has accrued, whether by the action of Congress or by the default of the company. It is the loss of a valuable right to form the connection which is the ground of the present claim.

Mr. CONKLING. Mr. President, the Senator from Michigan anticipates a little the line of argument which I intended to make. I perceive the force of his suggestion, and I mean to treat it with all the candor which I think is due to it; but it belongs to a subsequent point in this consideration. The Senator from Michigan will have observed (because I know how critically he does observe legal questions) that I was discussing for a moment the simple point whether, upon the law as it stands now, the Secretary of the Interior was right or wrong in denying the claim of these parties. Now, the Senator from Michigan says they claim that no matter whether there was a default or not, in other words, no matter whether they are entitled now by law or not, there is a case of hardship made out to which Congress ought to listen. That I will come to; but it is entirely foreign to this point.

To turn back to the remark of the Senator from Kansas, from which I deviated, we have now at last his admission, frankly made, that the whole right claimed now by existing law arises from the fact that the eastern division of the Pacific railroad were, as these parties allege, and are in default as to the construction of their road from a certain point. Therefore I was not wrong, but I was right, in discussing as I had done the portion of the statute upon which that question arises.

Mr. POMEROY. If the Senator means that they failed to build on the line originally marked out he may use the word "default." If he means a failure to build on that particular line in that sense it is a default.

Mr. CONKLING. I know the Senator from Kansas too well to suppose that he is trying to "darken counsel with words." He knows all about this subject well enough to understand that there is no mistake whatever about the point between us. I am arguing that by the law as it stands now these parties have no right to these bonds. The claimants, however—I will not say the Senator—the claimants and their counsel take the ground that they have by existing law such a right. What kind of a right? A legal, technical right which they would receive under existing statutes, if they were enforced, to the bonds and lands which are asked here. My proposition is that if that right exists it must be that because the company to whose bonds they seek to succeed are in default under the provision which I read, and under no other provision of this statute, that any man has ever referred to whose suggestions or opinions have been handed to me.

Now, I say, not to repeat suggestions with regard to the statutory question, that any Senator who will take the trouble to read even one section of the act in question will see, I think, that it provides for a case so wholly different from this that it is fruitless to discuss it. The meaning of the words "default" and "defaulting company" is one which we are not driven to seek at large. Construction is given to them over and over again by the various alternatives provided for in the section. Therefore, for myself, I am compelled, and I do it with great deference, to reject the idea that our hand is in the lion's mouth. If I believed it was I could not understand why these claimants should be here; I could understand why they should be in court asking a *mandamus* to enforce their rights. But I do not believe they could go there and maintain themselves, and for the same reason I do not believe the proposition can be sustained in this forum that as they stand today they are entitled to what this bill proposes to confer.

Mr. DRAKE. The honorable Senator from New York will allow me to ask him a question at this point. I understand the honorable Senator to take this position: that as the legal definition which he finds in Bouvier's Law Dictionary of a "default" is a failure to perform some legal duty or obligation, therefore there can be no default charged, in the legal sense of the term, upon the Union Pacific railroad, eastern division, when it changed its route from the Republican Fork to the Smoky Hill route. Am I right in that view of the gentleman's position?

Mr. CONKLING. The Senator may assume that he is substantially right, if I understand him.

Mr. DRAKE. Then, sir, although, in order that the Senator from New York should make out his position on that point, it is necessary for him to show that by the charter of this company it was laid under a legal obligation to make that route from up the Republican Fork to the one hundredth meridian, my understanding of it is that it only had the right to make it, a right conferred by law, and that there was no legal duty imposed upon it to make it; and, if there was no legal duty, then the legal definition of the word "default" does not, according to Bouvier's Law Dictionary and the views of the Senator from New York, apply in this particular case; but the word "defaulting" there must be held to have a meaning synonymous with the mere word "failure" or "failing." I suggest this to the honorable Senator.

Mr. CONKLING. In other words, if the Senator will pardon me, there is no need of a law dictionary or a legal definition to dispose of the case upon his theory, because if they never were bound at any time to go there then the whole argument falls to the ground. If this was an optional gift to the Leavenworth, Pawnee, and Western road, and they did not choose to avail themselves of that option, the whole idea that this section applies to them at all, or that any penalty for a default of any kind would apply to them, seems to me entirely beside the line of reasonable argument. I mean, however, upon that point to say that there need be no misunderstanding between us, that a charter granted to a corporation like any other grant operates as a contract; it is a contract. It binds the grantee in the supposed case to do certain things. When the other party to that grant or contract interposes, and not only waives the obligation to do that thing, but directs it to be done specifically in a different way, the possibility of default, of omission, of anything which will satisfy this statute, is entirely at an end. And when Congress interposed, I care not for this purpose whether previous to that the grantee we are considering was bound to go up the Republican Fork or only authorized to go up the Republican Fork; when Congress interposed and directed that company to go elsewhere, the time was at an end within which any party could come into court, or anywhere else, and say that he had rights based upon the fact that this company came short in what it was bound to do. That is the argument.

Mr. DRAKE. With the permission of the honorable Senator from New York I beg to call his attention to the use of a word in his closing sentence which does not seem to me to be justified under the circumstances. He assumes that Congress directed the Union Pacific railroad, eastern division, to change its route. That is not the fact. Congress only gave them authority to change the route.

There is one other suggestion to which I wish to call the attention of the Senator from New York. He speaks of the charter being a contract. Granted that it was a contract; and here there was a tripartite contract—a contract between the United States and the Union Pacific railroad Company, eastern division, and the Central Pacific railroad, a contract, namely, that the central branch should have a connection of one hundred miles west from Atchison with the Union Pacific railroad, eastern division, which was to come up to the one hundredth meridian. There was a contract between the Government and this company, and then afterward the Government and the Union Pacific railroad, eastern division, changed that contract and turned the eastern division's route entirely away from it. It is upon the basis of that change in this tripartite contract, by two of the parties, by which the other is left with the end of its route out in the woods and with no connection, that they press upon Congress, in my opinion with great justice, the equity of giving to them all the eastern division road would have had from the end of that one hundred miles up to the one hundredth meridian.

Mr. CONKLING. Mr. President, as often occurs in argument, even when conducted in that way most likely to bring out the views of those who take part in it, the facts are not understood alike, and therefore we start from different premises. In the first place, the eastern division never was bound to go to the one hundredth meridian upon any particular route. Therefore a very important element of the case is wanting. In the next place, it had the privilege originally of exercising an option as to the route which it should take. Again, the act of 1866, which I have before me, is just as effectual for this purpose as if it had required the eastern division to go along the Smoky Hill Fork. My friend from Missouri is too good a lawyer to deny that the phraseology of this act, speaking of this identical road then projected upon a certain route, and providing that "with the consent and approval of the Secretary of the Interior" the company "are authorized to locate, construct, and continue their road" by the Smoky Hill Fork, if they should so select—he is too good a lawyer to deny that that language is sufficient for all purposes here, and as sufficient as if it had been in the language, not of permission, but of requirement. With the other provisions of this act, and of the statutes with which it was to be read *in pari materia*, the word "may" became "must," because if they did not do that thing and proceed with their route other alternatives followed.

However, I beg the Senator to let me pass along from that point, for I did not intend to occupy anything like so much time, and there are some other suggestions with regard to this subject which I wish to make. Let me waive all this; let me suppose that the eastern division was in default, and that the rights of these claimants took effect as they allege. I ask the Senator what rights, then, accrued to them? Did the right accrue to these claimants upon any possible construction to receive bonds and lands from the expiration of their present one hundred miles? Who says that? Why, sir, the route which these parties selected originally, the road commencing at St. Joseph and coming down to Atchison, and then turning west, ran in the general direction of Fort Riley. The route of the Leavenworth, Pawnee, and Western railroad ran in the direction of and to Fort Riley or Junction City. If it were true that the hundred miles which these parties were authorized to build carried them to Fort Riley or Junction City, a plausible case for this claim would be made out; but no such thing is true. On the contrary, this is the fact, and I appeal to the report of the committee to bear me out in what I say: if the eastern division going to Fort Riley had gone from there up the Republican Fork to the one hundredth meridian these parties would have had no connection by more than fifty miles. Let me read from this report. The report on page 2 informs us—

"The eastern division, as authorized by the act of 1866, filed a new map of its route before the 1st of December, greatly diverging from its original line, which"—

That is, its original line—

"From Fort Riley passed off to the northwest up the Republican river toward the initial point, on the one hundredth meridian."

That the committee say was the route, and that is, as I understand it. Now, on page 3 they say:

"From the point where the central branch now terminates to the old route of the eastern division, on the Republican Fork, is, in a direct line, about fifty miles, but the Central Branch Company have not filed a map of their route over this intervening space."

Mr. POMEROY. That is simply a mistake of the committee. It is not fifty miles or anything like it.

Mr. CONKLING. According to the map which they submit here and the scale of the map it is over fifty miles, and I understand the fact to be that it is fifty miles. But, Mr. President, however the fact may be, I beg to say, in all candor, that the gentleman who prepared the pamphlet which I have here was hardly warranted in the following statement:

"And the Hannibal and St. Joseph Railroad Company having adopted the route via Atchison the result was a collection of maps showing the entire plan, and a plan every mile of which was provided for by the acts of Congress and subsidized with lands and bonds."

I say no man is warranted in making that statement. On the contrary, the truth is that if these roads had been built just as originally guessed at there would have been a gap, my information is, and this report says, of upward of fifty miles for which no bonds and no lands were to be given; and now the proposition is that bonds for that fifty or sixty miles and lands for that fifty or sixty miles are to be added. And here, sir, I beg to ask, what was the question submitted to Judge Curtis? Has Judge Curtis written any argument to show that from the western terminus of this hundred miles any right or any equity even is to be spelled out? What is the question he says was submitted to him?

"Whether the Atchison and Pike's Peak Railroad Company, now called the Central Branch Union Pacific Company, are entitled under acts of Congress to receive lands and bonds from the United States."

For what?

"For building a railroad from the point of junction of the said road and the Leavenworth, Pawnee, and Western railroad, intended and provided for by the act of July 1, 1862, to the junction with the Union Pacific railroad on the one hundredth parallel of west longitude."

That was the question submitted to Judge Curtis—a question just as different from this as day is different from night. Different from this, the report of the committee says, by as many bonds and as much land as are called for by fifty miles of road.

Now, sir, let us see, on the theory of Judge Curtis, whether these parties are not bound to go on and extend their road over this interval, whatever it may be? Are they not bound to go to the point at Junction City or Fort Riley, where alone they might have made their connection? Is it possible that, in addition to everything else, they have a right to turn around and say, "Although two other companies have already received the equivalent of these lands"—as I shall show they have—"we propose now to ask that bonds shall be given us over again, not only for everything which was subsidized originally and which has been added since, but we ask now a fresh division of lands and bonds to enable us to build a road across a gap fifty or sixty miles in length."

Mr. POMEROY. The company does not propose to build there at all, even under this bill.

Mr. CONKLING. I am perfectly aware of that, Mr. President, and I thank the Senator for reminding me of it. He says the company do not propose to build there at all. No, sir; as I understand, the company do not propose to occupy the route which they complain of being deprived of. On the contrary, they propose to build a road from their present terminus, running up along the Republican Fork, and striking the one hundredth meridian a good way north, which road, upon that route, never could have been constructed by these statutes originally, no matter what action had taken place under them. But my point is, that they come here now saying that if Congress had not changed the Republican Fork route and made it go down the Smoky Hill Fork they would have had a continuous line, in the language of this memorial, every mile of which would have

been subsidized with lands and bonds, when, I say, the report of the committee is, the face of the map is, and the facts beyond all question are, that there would have been a gap beyond the expiration of their one hundred miles, which, I am told, the committee is right in saying is fifty miles, for which no subsidies, for which no lands, were ever intended to be granted to any company whatever. I think it is a pretty material point in this case. I do not mean to say there has been any bad faith about it. I do not mean to say that any one intended we should understand that Judge Curtis had expressed an opinion covering the case here. I do not mean to say that the statement was put here intentionally, that they would have had, but for this, continuous subsidies and lands; but I do call attention to the fact that it is an error by a distance just as great as that distance from Washington, if that be the name of the place where the one hundred miles terminate, down to Junction City. But I beg to say further that the committee, in their report, do not find that even this point, even the right to connect at Fort Riley, under any condition of these statutes, would have come to the claimants here. They say:

"The provisions relating to the central branch were enacted by Congress under the expectation that the eastern division would pass up the valley of the Republican Fork and form a junction with the main trunk at or near the one hundredth degree of longitude; and that the central branch would unite and connect with it at some point on the route."

I have no doubt that was the expectation; and I think I can show before I sit down that they have now the opportunity to connect with a road just as good and upon better terms than the prosecution of the original eastern division route ever could have given them.

But, Mr. President, we are told there is a case of equity here; and that laying out of view, as my honorable friend from Kansas, whether inadvertently or not, has done, for the sake of consistency and candor, laying out of this case the idea that they have any rights now by law——

Mr. POMEROY. No, I have not said that.

Mr. CONKLING. I know the Senator has not said that; but I know also that what he has said operates, by his declarations and admissions, to show (and I agree with him entirely in that respect) that it is utterly idle to pretend that the case presented here is covered by the law now.

But we are told—and it was that suggestion which brought the Senator from Michigan to his feet—that there are equities here which, although the technical rights may fail, although the legal rights may fail, should attach; and which, looking at this as a case of hardship, of disappointed expectation, of failure to realize what the parties anticipated, should induce the Senate to pass this bill. I want to look at it in that aspect a little while. In order to consider such a question as this fairly the situation of the parties on both sides is to be regarded. I will begin with seeing what the situation of these claimants is. They have, as in part I said before, received Government bonds amounting to $16,000 per mile. They have issued, being authorized to do it under the law, bonds of their own of an equivalent amount, $16,000 per mile, making $32,000 in all. Now, sir, I undertake to say, speaking upon information derived from men practical in this subject and knowing this route and kindred routes, that the road as it stands to-day—and they say in one of their papers here that there is no better road, that there is no road better equipped, more thoroughly appointed in rolling stock and apparatus—I undertake to say that that road has not cost to exceed $32,000 per mile. I know it is very difficult to get at; but I have a right to say, for that we know, many Senators who hear me know, that roads have been made upon routes kindred to this in their situation and circumstances and equipped for a less sum of money than that I name. They have received, as I said before, under Indian treaties, one hundred and twenty-seven thousand acres at least of land for which they paid not to exceed $1 25 per acre; and they have received under the Government grant one million two hundred and eighty thousand acres, subject, as I said before, to whatever accidents there are in the location to which the Senator from Kansas called attention.

Mr. POMEROY rose.

Mr. CONKLING. I ask the Senator not to interrupt me about that, because I say I do not pretend to affirm that they have received that. I take it subject to whatever diminution there is.

Mr. POMEROY. I have got the exact figures—two hundred and thirty thousand acres instead of three hundred thousand as I stated.

Mr. CONKLING. That they have received already?

Mr. POMEROY. That they are entitled to receive.

Mr. CONKLING. How do you know that is the amount they are entitled to receive?

Mr. POMEROY. I got it from the Land Office, where the lands are reserved for them.

Mr. CONKLING. Well, Mr. President, I have said once or twice that I accept what the Senator says on that subject, because I know he is intelligent with regard to it and I know his good faith. But as the Senator presses me upon it, I beg to say to him in all candor that I do not believe these parties have ascertained any such thing, so that they can rely upon it; and I say that upon the general knowledge I have of transactions in the office, I do not believe that statement; and before this bill shall pass from us, if it lingers for awhile, I will endeavor to qualify myself with the reasons for what I say. But I am willing to accept now the statement which the Senator makes.

I say, Mr. President, upon this state of facts, that that piece of road is a good piece of property as it stands; and I say it would be a good piece of property if these parties had paid for it themselves, which they have not, as I believe, to any appreciable extent whatever. On the contrary, I believe that the money realized on the bonds which they have received, $1,600,000 doubled, as I have stated, which would make nearly three millions and a quarter in round numbers, has substantially built and equipped this road. But we are told that it begins at St. Joseph or Atchison, as you please, and that it runs west one hundred miles, and there it is left without a local habitation or a name, without connection or a prospect, all its hopes dashed by the deviation of this kindred road with which it hoped to splice, and with which it expected to go on rejoicing. Is that true, sir?

Before I answer that question let me say if it were true that they had one hundred miles of road built and paid for in the way I speak of, and pointing toward this main trunk—and there was no resource except to continue and complete it as every other railroad company has begun, continued, and completed every railroad, until the proposition arose to make one across a trackless wilderness by the aid of Government subsidies—if, I say, they had no resort except that, they would be the possessors not only of a most acceptable piece of property and a good investment, but a most inviting potentiality; and I think I might say, without speaking entirely in the air, that if these gentlemen, to use the phrase, are sick of their bargain, they will find men who will take the road off their hands, pay them for their entire outlay, and pay them a rate of interest upon it which is forbidden by the laws of the State in which I live.

But, sir, it is not true that any such necessity is upon them. On the contrary, a corporation exists called, I think, the St. Joseph and Denver City Railroad Company, which road has already built a road beginning at St. Joseph and running out at least as far as Troy.

Mr. MORTON. How far is that?

Mr. CONKLING. It is a short distance; I think not to exceed eighteen miles; but the road is projected all the way to Denver City. Some gentlemen who had here an atlas showing me when the President called the body to order this morning, turned me to the map of this region, and looking upon it I saw with some curiosity that this road was projected from St. Joseph to Denver, and I saw according to the scale of that map, as Senators will see if they will look at it, that this road will be carried within twenty or thirty miles of the claimants' road before it reaches this western terminus which we are discussing. So that they will find themselves not with the eastern division starting at a point fifty or sixty miles distant from their expiration and running up the Republican Fork, but with a parallel railroad approaching them at their western terminus within twenty or thirty miles and destined to proceed right on to the one hundredth meridian and to the very main connection which they started to make.

I am told by the Senator from Missouri, [Mr. HENDERSON,] who, I regret to see, is out of his seat, that just now, looking to the opening of spring, movements are inaugurated, individual and otherwise, for pushing forward this St. Joseph and Denver road. The Senator told me that recently a meeting was held in the city of St. Joseph, at which I think he said about a quarter million dollars were raised by volunteer subscription to push it on, and they meant to "make it go;" and when it goes I submit that it answers all questions that are to be asked appealing to considerations of hardship or profit with regard to this matter.

But, Mr. President, there is a little more than this——

Mr. MORTON. I should like to ask the Senator from New York a question. I regard this part of his argument as very material. I wish to ask whether this St. Joseph and Denver road is a subsidized road either by a grant of money or land?

Mr. CONKLING. I am coming to that question.

Mr. MORTON. And further, at what point will it connect with the Pacific road starting westward from Omaha?

Mr. CONKLING. I am obliged to the Senator. I was coming to that very point.

Mr. POMEROY. I should like to know how it happened that the Senator learned that they had built a road to Troy? I never heard of it, and my colleague never did.

Mr. CONKLING. Well, Mr. President, that brings one up with a very short turn; but I beg to say to the Senator that I know it from a considerable number of persons of respectability who have given me that information, telling me that they had been on the road, that they knew all about it, and that there it was.

Mr. POMEROY. That it was really built and running to Troy?

Mr. CONKLING. Really built from the city of St. Joseph to Troy, or in the immediate vicinity of Troy. The statement made to me, I am sure was, "to Troy." I will not undertake to say that any gentleman told me that the road was running that distance, but that the road was projected from the city of St. Joseph to the city of Denver; that they had commenced building it, and in building it had reached Troy.

Mr. DRAKE. Eighteen miles?

Mr. CONKLING. Eighteen miles was the statement made to me. Now, Mr. President, as an issue of fact is raised upon that, assuming that this road has not been built to Troy, assuming nothing except what the statutes and the current history of the country inform us is true, namely, that there is a company chartered to build a road from St. Joseph to Denver, and that that road is projected: I say now, in answer to the question of the Senator from Indiana, that to that railroad company has accrued the right to the very lands which are sought here. I find an act of Congress, approved July 23, 1866, providing—

"That there is hereby granted to the State of Kansas, for the use and benefit of the Saint Joseph and Denver City Railroad Company, the same being a corporation organized under the laws of the State of Kansas, to construct and operate a railroad from Elwood, in Kansas, westwardly, via Maryville, in the same State, so as to effect a junction with the Union Pacific railroad"—

This is a part of the question which the Senator from Indiana asked me—

"or any branch thereof not further west than the one hundredth meridian of west longitude, every alternate section of land designated by odd numbers, for ten sections in width on each side of said road, to the point of intersection."

Mr. MORTON. What is the date of that charter?

Mr. CONKLING. I am reading from the act of July 23, 1866. I read further:

"But in case it shall appear that the United States have, when the line of route of said road is definitely fixed, sold any section or any part thereof granted as aforesaid, or that the right of preëmption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purpose aforesaid from the public lands of the United States nearest to tiers of sections above specified so much land, in alternate sections or parts of sections designated by odd numbers, as shall be equal to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the rights of preëmption or homestead settlement have attached as aforesaid; which lands, thus indicated by odd numbers and selected by direction of the Secretary of the Interior as aforesaid, shall be held by the State of Kansas for the use and purpose aforesaid."

Under this statute and under two other statutes which I have not before me, my understanding is that this company, thus subsidized, the moment the eastern division turned off and went by the Smoky Hill Fork, became entitled to these sections of land falling within their route, the route of the St. Joseph and Denver City Company, all the way up to the one hundredth meridian. I ask the Senator from Kansas whether I am wrong in this? Indeed I did ask him before, and he told me I was not.

Mr. POMEROY. No, I did not—not by any means.

Mr. CONKLING. I beg the Senator's pardon, then.

Mr. POMEROY. I said if this Central Branch Company should abandon its right——

Mr. CONKLING. I submit to my friend with great candor that is not a fair way to answer this question. I am not going to the other question, whether they have abandoned it or not.

Mr. POMEROY. Then I say directly that they are not entitled to this land.

Mr. CONKLING. I ask the Senator this question: is it not true, as it now stands by the laws now in existence, that when the eastern division turned off down the Smoky Hill Fork, in the absence of any other company going on and constructing a railroad by the Republican Fork, the St. Joseph and Denver City Company became entitled to these lands? Is not that true?

Mr. POMEROY. No, sir.

Mr. HOWARD. I believe the statute to which the Senator from New York refers relating to the St. Joseph and Denver road is contemporaneous with the act of 1866 allowing the divergence to which he has alluded. How could such a consequence follow two such acts passed at the same time?

Mr. CONKLING. Mr. President, am I to understand the two Senators, the Senator from Michigan and the Senator from Kansas, to deny this proposition, which I will state: the eastern division being subsidized to go up the Republican Fork fails to do so; we will say, for this purpose, is in default; the central branch suppose that it is. The St. Joseph and Denver City road is granted alternate sections between its two termini. Do the Senators deny that, by law, alternate sections falling along that route, the route of which I have last spoken, and not received by the eastern division railroad owing to their default, and not received by any other company building a road there, go into the possession of the St. Joseph and Denver City Company?

Mr. HOWARD. If the Senator wishes an answer I am prepared to give it.

Mr. CONKLING. Certainly.

Mr. HOWARD. I do not think the two subjects have any relation to each other. They have nothing to do with the real question before us.

Mr. CONKLING. I am very much obliged to the Senator for that answer. That is a matter of argument of which Senators will judge whether it has anything to do with the subject or not. I am talking about a fact; and I certainly do not wish to invite any information which the Senator does not want to give. I undertake to say that the eastern division, had it gone up the Republican Fork, would have received alternate sections there; but it went along the Smoky Hill Fork and received the same quantity of lands and bonds upon that route which it would have received upon the other. My next statement is, that failing to go upon the original route, and Congress having provided for the St. Joseph and Denver City road to occupy that route and given it the lands in alternate sections, that company succeeds to those lands unless by the bill before us we enact that the act of 1866 shall have the effect of withholding those lands from the Denver City road and giving them to the claimants in this case. That is my proposition, and I think the distinguished Senator from Kansas will not deny what I say. I think he will not deny that in the absence of this bill the St. Joseph and Denver City road takes these very lands along its route as it approaches the Republican Fork.

Now, let us see what the effect of this is to be. The distinguished Senator from Michigan said it had nothing to do with this question. The St. Joseph and Denver City Company, as things stand to-day, I say, have succeeded to these lands. They have acted upon that idea; their rights are fixed. Suppose by this bill we transfer the lands from the Denver City Company to the Central Branch Pacific railroad; will not the St. Joseph and Denver City Company come here, and, coming, will they not have a most meritorious case? They are not in default. They are pressing their road forward with the utmost diligence. They enlisted under a charter which said they should have alternate sections from two determined termini; that they should begin at a point fixed and run to the one hundredth degree, making a junction with the Pacific road; and in doing it should receive alternate sections, five in width, on opposite sides of the road. What are we to say to them when they come here? Nothing, except that in 1866 Congress turned another company, which had previously occupied it by prospecting, off this route; that Congress, by a charter, in 1866, gave to the St. Joseph road the right to go on and acquire and possess these lands, and that now, in 1868, we take up the subject and give to a company which has been already subsidized for another route these same lands, and do it by a bill the form of which goes back and seizes upon the identical lands lying along the route, in place of turning them over to the chances of seeking their lands somewhere else. Would that be an answer satisfactory to the conscience and judgment of the Senate against these other claimants whom we are about to rob? I submit that it would not.

Mr. President, by acts of Congress passed in 1852, 1855, and 1862, the present claimants have the right of way across the public domain wherever they choose to carry their road. That would be thought very valuable in the region of country to which I am accustomed. They have, in addition to that, according to my recollection, a grant of all sites necessary for station-houses and erections of all kind—another very valuable thing. And they have already paid for, by their bonds and the Government bonds, one hundred miles of road running through a region so populated and so rapidly filling up that the Senator from Kansas tells us that by purchase more than a million acres of lands have been taken up, and taken up so immediately upon the route itself as to have prevented, when the rights of these claimants accrued, their getting possession of them.

Now, sir, upon this whole case, as I understand it, I infer several things:

First. That by law the present claimants have no right whatever to the bonds and lands sought in this bill.

Second. That if, in truth, a default had occurred or a contingency had arisen making them the successors of what was originally granted to the eastern division Pacific Railroad Company, this bill asks for fifty or sixty miles, whatever the distance may be between the terminus of their present road and Junction City, for which nobody can pretend a subsidy was ever granted to any human being.

Next. That, looking at the equity of this case, in place of being one of hardship, these parties are already the recipients of a most magnificent endowment, and that they are the owners of a piece of property which, viewed as an investment, before war prices and expanded currency sent the ideas of men wild with regard to interest and profits, would have been sought after with avidity in any portion of the commercial world.

Again, I infer that the quantity of bonds and lands sought here have been given once and received once in the case of the eastern division of the Pacific railroad, because the act changing the route transferred to them equivalent lands and equivalent bonds. The lands have been given over again in the act to which I have referred to the St. Joseph and Denver City Company, chartered to run a road so nearly parallel with this that it approaches it within twenty or thirty or forty miles, thus disposing in point of public utility of the whole argument made by the distinguished Senator from Maryland.

Again, as I understand the facts, the carrying forward of their road from St. Joseph to Denver City by the latter company gives to the present claimants an opportunity far cheaper, far better, brought many miles nearer home to them, of making a connection at the one hundredth meridian, than that opportunity which they insist they have lost.

Besides, it is apparent to me from the facts, as I understand them, that if we now interpose and wrest from the St. Joseph and Denver City Company these lands, and bring them back where they would have gone under the original legislation, we clothe the company which we thus divest with a claim for remuneration and restitution which the conscience and judgment of Congress will not be able to resist.

Therefore, sir, I conclude that this case, so far from being one of merit, so far from being unanswerable in logic or irresistible in its appeal in respect to hardship and equity, is a case at least as naked as it would be if new parties were to come here asking confessedly a new grant to construct a road from Washington, if that be the name of the western terminus of the present one hundred miles, on to the one hundredth meridian.

Mr. President, there is one other aspect of this subject which I must present. I regret that I have dwelt so long upon it; but it has arisen chiefly from the interrogations of other Senators; I meant to be very brief. There are now pending in the two Houses of Congress, I venture to affirm, not fewer than sixty bills proposing to grant lands and to give bonds to western railway companies—Pacific railway companies and companies seeking to be tributary to the Pacific railway. I have caused a list to be made, which of course I do not propose to read, giving the number of such bills pending in the House of Representatives introduced during the present Congress up to some four or five weeks ago; and up to that time in the other House alone the number amounted to forty-four. I have the titles of them in my hand. In this body, I speak within limits when I say that since the 4th of March, 1867, at least twenty have been introduced. And thus we have before us practically not only the question whether as an act to be considered *ab initio*, as I insist, a fresh proposal, we are to give $2,500,000 to a railroad company and two

million acres of land to it upon a route where there is a company already in operation to build a parallel road, but also whether we are to take a new step in a line of legislation which, although great arguments were made in its favor in the beginning, would in the end, if carried far enough, beggar any nation.

I am not going to dispute with those who believe, because I was one who believed, that it was desirable and well originally to foster by subsidies and lands the laying of a track of railroad from the Valley of the Mississippi to the Pacific ocean. I voted for the original bills looking to the establishment of such a line of road, and with the lights before me I should do so again. I was anxious to provide for a road connecting one side of this continent with the other side. But, sir, there is such a matter as too much of a good thing; and it does not follow that because it was wise to adopt measures which have already insured a railroad from Omaha to San Francisco, which is to be completed almost while we are talking about it, it is therefore wise to continue to subsidize companies, not only branches but parallel roads, to gridiron the entire West. All will admit that we are to stop somewhere. Where are we to stop? Is there any better place to stop than that place which we reach when we ride one hundred miles west from Atchison on a railroad, and come to a terminus within twenty or thirty miles of which a parallel road already chartered is to go? If that is not a good point to stop with subsidies and grants of land and money I do not know where we shall look for such a place. It seems to me that it is.

And although I will not assume in this connection to make any very specific allusion to a consideration denominated economy, yet I venture to suggest that if two and a half million bonds are to be granted here it will be very difficult in the next plausible case to refuse to grant the amount asked for there; and that, if we are to continue to go from one to another of these bills, considerations of economy will be brought home to us, no matter whether we like it or not.

Mr. President, we have tried several times during this session to curtail upon different measures. It has been said, and said with great truth several times, that they were very small matters, and that efforts were being made to cut off small sums; and that if we wished to retrench we had better wait and assail something of larger proportions. I submit we have reached now such a measure as that. We have come to a bill the character of which, the magnitude of which, properly invites criticism in the light of frugality; because in regard to a region so thickly settled as this is, on the statement of the Senator from Kansas, and a region which is already traversed or to be traversed by roads which we know will be built, it is idle to talk about it as if it were necessary to make this grant in order to bring the public lands into market and in order to enhance the value of the public domain there and thereabouts. That will not do; the case has gone too far for that already.

The honorable Senator from Ohio [Mr. SHERMAN] reminds me of what I had forgotten, what strikes the eye in a moment, if you look at the map, that the city of St. Louis has already a connection with the Union Pacific railroad—a double connection. She has first a water connection by the river, and second, a railroad running all the way from the Pacific railroad to St. Louis.

Mr. POMEROY. What is that road?

Mr. SHERMAN. The road along the valley of the Missouri river.

Mr. POMEROY. All the way?

Mr. SHERMAN. It will be done all the way next summer; it is being finished now.

Mr. POMEROY. That is a road to be.

Mr. CONKLING. What is the criticism on that statement? I find it necessary to be very technical here. I did not say there were cars running on this road; I did not know whether there were or not. To be sure, the question did not occur to me. I only stated what the map showed, what is public history, what I have heard over and over again, and what I think my honorable friend, in his candor, will not deny, that a railroad has been projected and has been completed, from St. Louis to the Union Pacific road. I do not say that every rail is down, or that the rolling stock is there, but that, in the language of the newspapers and the current histories of the day, a road is completed in the valley of the Missouri from the Union Pacific railroad, which touches that valley at Council Bluffs or Omaha, down to the city of St. Louis, and the line is to be run, I understand, during the coming season. For that information I am indebted to the Senator from Ohio. Certainly the road is laid down on the map before me, furnished by these very memorialists. It is not worth while to haggle and to be too minute—to go with a microscope at the facts about this, and split hairs with regard to immaterial distinctions. The fact is, that there is a connection there, looking to the present and looking to the future; and the fact is, undoubtedly, that if this bill is defeated these claimants will carry their road, which is already laid down on the ground, to a connection with the Pacific railroad; and the whole question is, whether Congress shall put its hands into the people's pockets and pay for building the continuation of this road or whether it shall leave these private capitalists to do it.

Mr. President, that is the question before us, and I make no apology for being earnest in its discussion. I know these gentlemen. I gainsay nothing of what the Senator from Maryland said as to their respectability, and as to the consideration to which they are entitled. As I said before, a majority of them are constituents of my own, and it is not a task that I invite to rise here to interpose objection to their receiving what they ask. But I repeat they are the possessors of one hundred miles of road, which, in my judgment, it did not cost $32,000 a mile to build and equip; and $32,000 a mile they have received already in the bonds of the Government and the first mortgage bonds of this road. In addition to that they have received the public lands and they have received, under Indian treaties, by purchase at $1 25 an acre, one hundred and twenty seven thousand acres of land, worth three or four times as much as they paid for it. They have laid their road in a fortunate place; they have laid their road, as I have said, at a point which insures to its western terminus the near proximity of advancing roads. The practical question, the only question is, whether these gentlemen, thus fortunate, powerful as they are known to be in the capital that they wield, and their names only need be looked at to fortify me in that regard, whether these gentlemen, affluent in means, abundantly able to consummate and complete their investments, are to be left with their own means to obtain a connection making yet richer, yet more desirable the franchise which has been given them, or whether we are to take from the public Treasury at this time $2,500,000 in bonds and one million nine hundred thousand acres of land and present it as a subsidy, where, in my humble judgment, the public interest does not require that any subsidy should be granted? That is the question, sir; and if the peculiar circumstances of this case make it a question different from the one which would be presented if I or you or some new comer were here asking such a grant, those circumstances, in my judgment as a lawyer and legislator, do not change it in favor of the claimants, but very materially the other way.

Mr. President, I wish to apologize again for the time which I have been enticed into consuming. I rose for the purpose of making what I meant to be a very brief and very simple statement. I have been led by the inquiries and remarks of others into a somewhat extended comment upon this bill. If the facts, as I understand them, are erroneously understood; if the considerations which in truth and in law pertain to this case are not those which thus far have guided my judgment I shall be very glad to know it, and I shall certainly vote in accordance with any controlling consideration which can be brought forward. I need not say, Mr. President, that no matter what considerations of urgency in respect to the public need might press upon me, if the faith of the nation were plighted; if its gage had been given to these parties, or their assignors, that the demands of this bill should be complied with, I would certainly not be the first to shrink from the full measure of responsibility and of compliance which that good faith requires; but, as I understand the facts, no such consideration arises. There is no more obligation in respect to vested rights or plighted faith to make this donation to the claimants named in the bill than to make it to any member of this body, or any citizen of this country. I leave the question, sir, having assigned in this imperfect way the reasons which, as I understand the facts, prevent me at present giving the bill my support.

Mr. HOWARD. Mr. President——

Mr. POMEROY. If the Senator from Michigan will yield to me I desire to make a statement which will not require more than five minutes.

Mr. HOWARD. Very well.

Mr. POMEROY. I wish only to make a very brief statement in reply to the Senator from New York. I know that the Senator has been entirely sincere in the remarks he has made, and that his errors are only such as are incident to the fact that he is not acquainted with the geography of the country of which he speaks, and is not very familiar with the early legislation on this question. The errors of the Senator from New York arise, I believe, entirely from the fact that he is not familiar with this route and the routes of the other roads referred to in the bills, and is not familiar with the legislation in regard to them.

This company places its claim, if, indeed, it is a claim, entirely upon the law, and the law can be stated in a single sentence. As assignees of the Hannibal and St. Joseph Railroad Company, they were entitled to make a connection with the Union Pacific railroad, eastern division, within a hundred miles, and that eastern division was required to be so located that the several roads from Missouri and Iowa authorized to connect could make the connection within the limits prescribed by that act, provided it could be done without deviating from the general direction of the line to the Pacific coast. That was substantially the provision of the ninth section of the act of 1862. That was a sufficient guarantee that they were to have a subsidy in lands and bonds for all the road they were required to build.

Mr. CONKLING. Allow me to ask a question.

Mr. POMEROY. I propose to occupy only five minutes, and then to stop.

Mr. CONKLING. I certainly will not interrupt the Senator, though I heard him with patience.

Mr. POMEROY. I know the only way to defeat the bill is to talk too much, and I do not mean to do that.

Mr. CONKLING. I wonder that did not occur to the Senator when he catechised me somewhat copiously. As he is correcting me now, I beg him to allow me to seek a little information.

Mr. POMEROY. Very well.

Mr. CONKLING. Does the Senator mean that the act he has just referred to required the eastern division to so locate its road that the central branch would unite with it within one hundred miles?

Mr. POMEROY. Yes, sir; the law so requires.

Mr. CONKLING. Then the act or acts of the eastern division locating its route down to

Junction City and thence up the Republican Fork were in violation of the law, as the Senator understands?

Mr. POMEROY. They did not locate at Junction City. There the Senator's geography is at fault. They did not go down to Junction City and then up the Republican.

Mr. CONKLING. Did they not go to Fort Riley?

Mr. POMEROY. Yes, sir.

Mr. CONKLING. I speak of Junction City and Fort Riley as convertible terms. I know they are not precisely the same, but I speak of that vicinity.

Mr. POMEROY. But they were not obliged to go to Fort Riley.

Mr. CONKLING. No matter whether they were obliged to go there or not; my question is whether they violated the law in going to Fort Riley and then up the Republican Fork?

Mr. POMEROY. My answer is that they were required to locate within the limits prescribed by the law.

Mr. CONKLING. I have no right to complain of the answer, because the Senator is not bound to give me an answer; but my question was very explicit.

Mr. POMEROY. Excuse me a moment. They were required to locate within the limits prescribed by the law, and the Republican valley was regarded as practically complying with it, because it is not fifteen miles from the end of this road when there built to the Republican valley. If the Senator was as familiar with that country as he is with places in New York known to both of us I should be entirely satisfied to rely on his statements; but I should look with as much complacency upon his telling the Senate that it was fifty miles from Albany to Troy as I can look upon his statement that it is fifty miles from the terminus of this road to the Republican. I have driven over the ground many times.

Mr. CONKLING. My friend will pardon me. The Committee on the Pacific Railroad have reported here with this bill a report, in which they say that in a direct line it is about fifty miles. Surely he should not blame me for taking the report of the committee.

Mr. POMEROY. It was a mistake of the committee.

Mr. CONKLING. It is not my mistake, I beg the Senator to understand; and if he will be kind enough to answer the question I should like to know whether he says it was a violation of the law that the eastern division located its route down to Fort Riley and thence up the Republican Fork.

Mr. POMEROY. It was not a substantial compliance with the law, but I would not regard it as a violation of the law, because it was practically near enough for this company to make connection.

Mr. CONKLING. Then the Senator understands the words "within the limits aforesaid" to refer, as to this company we are now considering, to the one hundred miles?

Mr. POMEROY. Yes, sir.

Mr. CONKLING. I will take a future occasion, if I am able to get the floor, to state what I suppose that clause to mean.

Mr, POMEROY. Then I say this company were authorized to make a connection within the limits prescribed by law. When the bill was before Congress in 1866, authorizing the eastern division to deviate from the line of the Republican to the Smoky Hill, I called the attention of the Senate to this provision of the act of 1864:

"And in case any company authorized thereto shall not enter into such consolidated organization, such company, upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby authorized to, continue and extend the same under the circumstances and in accordance with the provisions of this section, and to have all the benefits thereof as fully and completely as are herein provided touching said consolidated organization."

I claimed then that the rights of this company to continue that line vested and would be insisted upon. It is only in pursuance of that provision of the law that they have the right to claim under the law the right to build on this line. The subsidies already granted, and upon which the Senator from New York has expatiated so largely, are by no means, at least so far as the land is concerned, what he has represented. Although for the first one hundred miles of this road the company gets but two hundred and thirty thousand acres of land, the bill, if we were to judge simply from its letter, gives the company sixteen hundred thousand acres. To have the right to the lands is one thing; but when they are actually occupied and taken by settlers so that the company does not get them it is quite another thing. This subsidy, although on paper it seems so large, as a matter of fact dwindles into insignificance and becomes almost nothing.

As to the Senator's idea that the company's rights interfere with any other company, I have only to say that whatever right was acquired by the company authorized in 1866 could not be interfered with by grants previously made. This grant was made in 1862. The Senator, in a long argument, has undertaken to show a grant made in 1866 takes these lands. By no means. The company to whom that grant is made is only entitled to such lands as were not already granted and as had not been actually occupied and taken possession of. These lands had been already granted and had been set apart by the Commissioner of the General Land Office to this company and for this line.

Mr. EDMUNDS. Will the Senator permit me to ask him a question by way of explanation?

Mr. POMEROY. Certainly.

Mr. EDMUNDS. Did not the Senator himself in 1866, when the Smoky Hill bill was under consideration, state that the Hannibal and St. Joseph line was only entitled to bonds for one hundred miles; and was not his only point at that time that possibly some further legislation would be required to enable them to build further West, but that they would only be entitled to bonds for one hundred miles, whichever way the eastern division should be run? It seems to be so stated in the Globe in the remarks of the Senator.

Mr. POMEROY. My remarks in the Globe were not of that character. I said there would have to be further legislation in respect to the rights of the settlers. Settlers had taken land at $2 50 an acre, and if you allowed this company to change its location there would have to be further legislation; and the Senator from Michigan immediately rose and said he was prepared to bring in a bill to relieve settlers who had taken their land at double the minimum price; and that is the legislation to which I referred in the remarks I made. I have been looking over the Globe.

Mr. EDMUNDS. My friend from Kansas did say that; but afterward, on the 19th of June, 1866, when the very question of the effect of the act we were then passing and the act of 1864 would have on the Hannibal and St. Joseph Company or its assigns was up, the Globe represents my friend from Kansas as saying this:

"Though the Hannibal and St. Joseph Railroad Company had the right to build a branch under the provisions of the act, they had to use a charter to be obtained from the Legislature of Kansas, from the fact that a company in one State could not be authorized, even by act of Congress, to build in another State, except with the consent of the State and by using a charter of that State. The law says that they shall have land and bonds for only one hundred miles. It does not say that they shall not build any further, as the Senator seems to claim. This company located its road and filed its plat on the Republican. The Hannibal and St. Joseph road had notice then, and all the world had, that this company was going up the Republican. They then filed their plat out to the Republican to meet this company, and went on building their branch road. They are grading the sixty-fifth section to-day on that line to the Republican. They had the right to connect with them anywhere, but were not to have bonds or land for over one hundred miles."

Mr. POMEROY. That is what I say now: that if they were able to connect with that company, and that company had not changed its line, they would only have the right to land and bonds for one hundred miles. But the law did provide that if that company failed, or they were not able to make the connection within the limits prescribed, nothing should interfere with their having the right with the subsidy to go on to the one hundredth meridian. That is provided for in the same law; and not at all inconsistent with that were the remarks which I made in 1866.

I will only add a word; I do not intend to take up any time on this question; but this road being in my own State, I should be doing injustice to citizens of my State if I did not say that this company which was authorized by legislation to form the connection spoken of, has been deprived of that connection by a change of route of the eastern division road. The right of this company to build its road and to have the connection was vested; and whatever damage it may have been to this company to have been deprived of its rights, if the Senate construes its legislation to have deprived it of rights, we are bound in equity if not in law to make up by giving the right to the connection provided in the orignal bill.

Mr. EDMUNDS. My friend will permit me to ask him whether that is not quite a different question from the question of their being entitled to bonds, as they say they are, by force of the existing law? Whether they are entitled to damages for having a line diverted from them on which they could run, is quite a different question from what the law already existing entitles them to.

Mr. POMEROY. I have found that many gentlemen, lawyers, have doubts whether the law is clear without additional legislation; but nobody has any doubt as to the equity of the thing. If a person is not able to see the propriety of the bill in point of law, he must certainly see the equity and justice of it when the circumstances are mentioned. If this was really a new grant and had never been enacted before, I should have despaired of advocating it; indeed I would not urge it. I have said over and over again that new grants for new enterprises may be impracticable at this session; but as this is the completion of an old grant, as it is carrying into effect a policy already inaugurated by law, it stands on an entirely different basis from a proposition to make a new grant; and it is mainly on that ground that I advocate it.

Mr. WILLIAMS. I desire to ask the Senator from Kansas one question, that I may understand this matter somewhat. I wish to understand from him whether he said that he did not intend to vote any subsidies to any new roads during this session of Congress, and that he thought this had some peculiar claim to a subsidy on account of past legislation?

Mr. POMEROY. I said that this stands on an entirely different basis from a new enterprise.

Mr. HOWARD. Mr. President, the honorable Senator from New York has invited our attention to a great variety of facts and considerations, and opened a broad, almost unlimited, field of discussion and argument. I do not propose to follow him through all the points he has taken or endeavored to take in the discussion of this, which is to me a very simple proposition. His whole discursive argument concentrates itself into one simple conclusion of his own, that the present bill for the relief of the Central Branch is totally without merit, and that the United States are not bound upon any principle of law, equity, or good faith to extend the relief asked for or any part thereof. As to the question whether we are bound in good faith or not, we may as well go to the law and the testimony. The ninth section of the act of 1862 declares—

"That the Leavenworth, Pawnee, and Western Railroad Company of Kansas are hereby authorized to construct a railroad and telegraph line from the Missouri river, at the mouth of the Kansas river, on the south side thereof, so as to connect with the Pacific railroad of Missouri, to the aforesaid point on the one hundredth meridian of longitude west from Greenwich, as herein provided, upon the same terms and conditions in all respects as are provided in this act for the construction of the railroad and telegraph line first mentioned."

Here is the right, privilege, or franchise,

whatever you please to call it, granted to the eastern division to construct a railroad from the mouth of the Kansas river to the one hundredth meridian of longitude, which is the initiative point in the Union Pacific railroad proper. Does anybody doubt this? Of course it cannot be doubted. The same section of the act declares:

"And said railroad through Kansas shall be so located between the mouth of the Kansas river, as aforesaid, and the aforesaid point on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act."

That is to say, within the distance of one hundred miles west of the Missouri river. The act is mandatory; it requires that the eastern division shall be so constructed that the other branches, to come in from the East, may reach it within the distance of one hundred miles. Nothing can be more manifest or indisputable than this. But the act proceeds:

"*Provided*, The same can be done without deviating from the general direction of the whole line to the Pacific coast. The route in Kansas, west of the medidian of Fort Riley, to the aforesaid point on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey."

There, sir, is the whole of this case, really.

Mr. EDMUNDS. Now, will the Senator read in that connection the thirteenth section of the act of 1862?

Mr. HOWARD. Why should I read it?

Mr. EDMUNDS. It seems to have a bearing on the question.

Mr. HOWARD. I have no objection to reading it. Section thirteen of the same act declares:

"That the Hannibal and St. Joseph Railroad Company of Missouri"—

Now known as the Central Branch—

"may extend its roads from St. Joseph via Atchison to connect and unite with the road through Kansas."

That is, that the eastern division—

"Upon filing its assent to the provisions of this act upon the same terms and conditions in all respects for one hundred miles in length next to the Missouri river, as are provided in this act for the construction of the railroad and telegraph line first mentioned, and may, for this purpose, use any railroad charter which has been or may be granted by the Legislature of Kansas."

Mr. EDMUNDS. Will the Senator be kind enough to read the proviso to that section which seems to touch it?

Mr. HOWARD. Certainly. The proviso is as follows:

"*Provided*, That if actual survey shall render it desirable the said company may construct their road, with the consent of the Kansas Legislature, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the road leading from the western boundary of Iowa at any point east of the one hundredth meridian of west longitude, or with the main trunk road at said point; but in no event shall lands or bonds be given to said company as herein directed to aid in the construction of their said road for a greater distance than one hundred miles."

It was plainly, therefore, contemplated that the eastern division, leaving the mouth of the Kansas on its way to the one hundredth meridian, should be so located, so arranged, so surveyed, that all these branches mentioned in the charter of the Union Pacific railroad could form a connection with that line within the one hundred miles. It was the duty of the eastern division beyond a doubt, on accepting this portion of its charter, to proceed to construct its road within the limits I have mentioned, for the purpose of enabling the central branch to avail itself of its privilege of forming connection with it on its way to the one hundredth meridian. This is not disputed. Nobody can dispute it, for it is the very language of the law itself. After this, and in 1866, upon the application of the eastern division, Congress changed this law and allowed the eastern division to diverge off toward the southwest, to pass away toward Denver, and released it as a corporation from its obligation to pass up the Republican Fork, or rather in such direction as to enable the branches to form the connections I have mentioned. The eastern division was released by act of Congress from this plain duty imposed upon it by its charter; but this release by no means took away from the branches the valuable right and privilege given to them of forming a connection with the eastern division on its way to the one hundredth meridian. Congress took it into their heads to deprive them of this privilege, and they did it by the act of 1866.

This, I say, was a right given to the branches—the right of forming this connection. It was a valuable right. It was to this company and to others an almost inestimable privilege. It is very true that Congress, in its omnipotence, can, if it sees fit, change its laws; perhaps it has the power under the Constitution actually to repeal a charter that it may have granted to any company without having reserved the right to do so. But will the honorable Senator from New York say that Congress, having promised and guarantied this privilege in terms so explicit as those I have read from the statute, may now, without a violation of its good faith, turn around and say to the branches you shall not enjoy this privilege; we will render it absolutely impossible for you to enjoy it? I think he will not.

Mr. CONKLING. Does the Senator wish me to answer that?

Mr. HOWARD. No, sir; I do not ask for an answer.

Mr. CONKLING. I should be very glad to answer if the Senator wishes me to do so.

Mr. HOWARD. I have now stated the substance of this case. This branch had a right to form this connection originally by the act of 1862. By the legislation of 1864 it also had the right, in case the eastern division should fail to construct its road in the direction of the Republican Fork within the time prescribed, to enter upon its route and construct the road itself. By the plainest terms of the law it had this right in case the eastern division, by any neglect or fault of its own, had failed to construct its road. But the eastern division committed no such fault; it was guilty of no such neglect; it was expressly authorized by act of Congress in 1865 to abandon its old route and go up the Smoky Hill Fork. Now the central branch comes before us and says, "Here you have by your legislation authorized us in the first place to form a connection with the eastern division on its way to the one hundredth meridian, and by your act of 1866 you have taken from us this privilege; it is to us a valuable, an inestimable privilege; we ask of you indemnity; we ask of you protection; we have expended our money in the construction of our road for one hundred miles on the faith, and nothing but the faith, of the enactments of Congress; they are now changed, and we are left destitute."

Sir, the whole policy of the Pacific railroad acts requires the construction of these branches and all of them, and gives to each branch the right to form a connection with the main trunk, which proceeds westwardly from the one hundredth meridian. The present branch has been compelled to stop its work at the end of one hundred miles into the interior of Kansas. It is not progressing further, because, relying upon the faith of the Government, the corporation expect that there shall be given it the same right and privilege contemplated in the act of 1864 in case of the failure of the eastern division to construct that road onward to the one hundredth degree.

The honorable Senator from New York has said a good deal about there being a gap between the present western terminus of the central branch and what he seems to regard as the route of the eastern division had it proceeded onward up the Republican Fork. Sir, does not the Senator know from the language of the statute that at that very terminus, the end of its one hundred miles, it had the right to form a connection with the eastern division? Besides, it is not by the present bill required that the central branch shall proceed a single foot westwardly from its present terminus. It may, if it sees fit, change its direction at that point and go directly to the northwest and form a connection with the Omaha branch at a point considerably to the east of the one hundredth meridian; and that is what it probably will do, as I am informed.

But the great point of the argument is, Mr. President, that the Government is bound by its own legislation, by the express words of its enactments, to see to it that this central branch has bonds and lands to complete its route so as to form a connection with the main trunk, and upon that ground I am entirely willing to rest the claim. The good faith of the Government has been pledged to carry out this plan. I will not now enter into a technical discussion of the construction given to the acts of 1864 and 1866 by the Secretary of the Interior; I will not now say, because I do not deem it necessary, whether he was right or wrong in the construction he gave to those acts; but I do say, and I do insist, that the Government is bound in good faith to keep its contract and to perform its promise with this company.

Mr. EDMUNDS. Will the Senator from Michigan allow me to ask him whether he did not report the bill of 1866, which authorized this eastern division line to diverge to the southward?

Mr. HOWARD. Is it material who reported it?

Mr. EDMUNDS. I merely wish to get at the fact.

Mr. HOWARD. I made the report from the Committee on the Pacific Railroad, according to their instruction.

Mr. EDMUNDS. Now, I wish to ask my friend if he did not then contend that the passage of that bill violated nobody's obligations and disturbed nobody's rights; that the act of 1864 had given to all these branches east of the one hundredth meridian the right to extend themselves independently to any point of connection west of the one hundredth meridian, subject always to the limitation that they could only have bonds for one hundred miles?

Mr. HOWARD. The Senator from Vermont calls my attention back to the legal, technical question of the right of this company to proceed and construct its road without any further legislation to the one hundredth meridian. That is a question which I do not deem it necessary now to discuss. It is not discussed in the report of the committee who presented this bill to the Senate, and I deem all discussion of that question entirely useless. What I say is that under the legislation of Congress our faith is plighted to this company, and we cannot now refuse to keep that faith. I may entertain one opinion as to the legal right of this company and another Senator may entertain another. That is not, however, the question; in my mind it is a question of pure good faith and nothing else.

Mr. EDMUNDS. The object of my inquiry was really to get information. I am desirous of doing this company justice. I remember the passage of the act of 1866; having had but little experience in public affairs, and my mind, therefore, not being burdened by a long history of legislation, I cannot forget the circumstances under which the act of 1866, which authorized the eastern division to diverge itself to the southward, was passed. It was passed on the report of my friend from Michigan, the chairman of the Pacific Railroad Committee. It was maintained by him, against the opposition of my friend from Massachusetts, on the ground that it was doing injustice to this very line that is now claiming a right, and to the Union Pacific, also, on the ground not, as it was then contended, that it would entitle them to any bonds beyond a hundred miles, but on the ground that they were entitled to make a connection east of the one hundredth meridian. That was combatted by the Senator from Missouri [Mr. HENDERSON] on the ground that the act of 1864 gave these companies the right to connect west of the one hundredth meridian, and, therefore, it was contended that these other branches had no rights which would be infringed by the resolution of this doubt.

It was stated in that same connection by my

friend from Michigan—I have my finger on his words in the Globe—that this eastern division and this Union Pacific division and this central branch division were all of them branches of the main stem having independent rights to go west of the one hundredth meridian to connect. It was also stated that these two companies, the eastern division and central branch, were originally grants by the Kansas Legislature, that they were State companies, and therefore it was argued, and it had great force on my mind, that all the Government of the United States had done was a mere bounty to these State companies, and hence it might, so far as its own bounty was concerned, without anybody having a right to complain, say to them, "You may go here," or "you may go there," because giving bounty to one company on condition that it should connect with another had no effect (so far as the United States were concerned, if it was a bounty) upon what they might have a right to do afterward. It was of no consequence, so far as we were concerned, whether the central branch of the Union Pacific should be enabled to connect with that line or not except as it was determined by the charters granted by the State of Kansas, so far as their rights as between themselves were concerned. If we are to be complained of in granting a mere bounty and a bonus to encourage these public works, because we choose either to withdraw the bounty or to give it upon some other condition than that we first insisted upon, it is certainly a new doctrine in ethics. If, then, as I judge from the debates of 1866—and they give me more light than anything else, because I was not familiar with it before—we passed the explanatory or permissive bill of that year, whichever you please to call it, upon the recommendation of my friend from Michigan and of his committee, who were then acting in view of all these circumstances, when the rights of this very corporation, as I have read from the speech of my friend from Kansas, were brought into question, it was determined by the votes of all of us (I think I was satisfied myself and voted for that bill of 1866) that we had a right to regulate our bounty as we pleased——

Mr. POMEROY. The Senator voted against it.

Mr. EDMUNDS. I think not. Perhaps I did; but my recollection is that I followed the committee. If we then determined not that these rights preëxisted, but that we only were giving bounty to these lines, with what grace does it come from the Committee on the Pacific Railroad, or from the Senator from Kansas, having induced us to pass that bill, to turn around and say that we thereby violated a plighted faith with this company and are now bound to make up bonds to them to make it good?

Mr. POMEROY. Does the Senator mean to say that I urged the passage of that bill of 1866?

Mr. EDMUNDS. I mean to say that I understand the Senator from Kansas to have been satisfied with the passage of the bill, to have withdrawn an amendment that he proposed in order to have the bill acted upon speedily and passed. I do not know how the Senator voted in the end.

Mr. POMEROY. I withdrew the amendment because I considered the rights of this company not at all interferred with.

Mr. EDMUNDS. Does the Senator from Kansas mean to say that he stated to the Senate at that time that this company would be entitled to bonds beyond one hundred miles if the bill of 1866 passed?

Mr. POMEROY. No; but I said at that time in that connection that their right to build to the Union Pacific proper, east of the one hundredth meridian, could not be interfered with by a departure up the Smoky Hill, because that was a vested right.

Mr. EDMUNDS. Exactly. The Senator from Kansas puts the case as he generally does, upon its true ground. He stated that the passage of the bill of 1866 could not interfere with the right of the Central Branch Union Pacific railroad, if that is the name of it, to extend itself westwardly until it should strike the trunk line; and he said in the same breath that they were only entitled to bonds for the first one hundred miles nevertheless, and that was the true position to take about it; that was the real truth about it. If you pay any attention to the laws under which these things were done, the acts of 1862 and 1864, the Central Branch Union Pacific, had a right independent of the eastern division entirely, no matter where the eastern division went, to extend itself westward to the one hundredth meridian. But in connection with that, as the Senator from Kansas as truly said in 1866, on this very floor, it had no right under any circumstances, as the law explicitly stated, to any subsidy in money beyond the first one hundred miles of its road.

Acting upon that state of the question the Senate thought fit to pass the bill of 1866. Now, I say it surprises me, honestly and sincerely surprises me, to see the position taken by my friend from Michigan upon this case now as compared with the position upon which we acted in 1866.

Mr. POMEROY. The Senator does not intend to misrepresent me, I know.

Mr. EDMUNDS. Certainly not.

Mr. POMEROY. The Senator will recollect that the bill was up two or three times, and he quotes correctly what I said at one time. I said that by making the connection the central branch had a right to bonds only for the distance of one hundred miles. I then, with my eye upon this statute to which I have referred to-day, said that in no event could the rights of this company be interfered with, because they had vested. It had a right to connect with the Union Pacific, and if the eastern division went up the Smoky Hill this company would have the right still to go on and run to the line of the Union Pacific.

Mr. EDMUNDS. That is perfectly correct. My friend states it now exactly as he did then, except that he omits to state now, as he did state then—I use his very language: "The law says they shall have lands and bonds for only one hundred miles," speaking of this very road.

Mr. POMEROY. That is true, if they made the connection there.

Mr. EDMUNDS. But at that time the very point was the right of this company to extend itself beyond the one hundredth meridian wherever it might be necessary to connect with the main stem; and that is the misfortune of the position of my friend from Kansas and my friend from Michigan.

Mr. HOWARD. Will the Senator from Vermont allow me to interrupt him?

Mr. EDMUNDS. With the greatest pleasure. I am only desirous to be correct.

Mr. HOWARD. Of course I had no intention to reflect upon the Senate in the language which I used. I spoke in reference to the law as it is administered by the Secretary of the Interior. He holds that under the legislation of 1866 the central branch has not the right to proceed westwardly to construct its road to the one hundredth meridian.

Mr. EDMUNDS. Where is the evidence of that? Is there any such written report?

Mr. HOWARD. Does the Senator ask me whether I have a written report to that effect? I can only refer him to the annual report of the Secretary of the Interior, in which he very distinctly states that he has so decided. That was a decision which neither the Senator from Vermont nor myself nor the company nor any person could prevent.

Mr. EDMUNDS. Is not that only in relation to the money?

Mr. HOWARD. It involves the whole question necessarily. It is sufficient for me to know as a Senator that a company cannot obtain the benefit promised to them, as I think, by the legislation of Congress without a new statute. Whether he is right or wrong I shall not undertake to say; but I will add this: that when this question was before me in 1866 I did suppose that the branches would have the same right which had before been granted in favor of the eastern division; but we were proceeding in rather a hurried manner. It was near the close of the session, and the question probably did not receive as careful consideration and discussion as it was entitled to.

Mr. HENDRICKS. I wish to ask the Senator from Michigan whether, at the time the bill of 1866 was passed allowing the southern road to take a southwestern departure instead of going up to the northern road, he in advocating the passage of that bill suggested to the Senate, or did he at the time think, that that would give this particular company a right to these additional bonds?

Mr. HOWARD. I do not know what I may have said in discussion on that occasion; but my opinion was—whether it was announced or no I do not know—that it would give them that right; in short, that it preserved all the rights of the branches as they were enacted in the charter. That opinion seems to differ from that of the Secretary of the Interior, whose duty it was to administer the law.

Mr. RAMSEY. I should like to ask a question of the Senator from Vermont, who, I believe, is entitled to the floor.

Mr. EDMUNDS. Certainly.

Mr. RAMSEY. My question is whether the Senator will give way to a motion to adjourn?

Mr. EDMUNDS. I am not so much interested in the question before the Senate as to refuse to yield to that request.

Mr. FESSENDEN. Before such a motion is made I should like to put a question to my friend from Michigan.

Mr. EDMUNDS. Very well. I will yield to the Senator from Maine, and afterward to the Senator from Minnesota.

Mr. FESSENDEN. I want to know, for information, whether the fifth section of the act of 1864, which was an amendment to the act of 1862, does not give these roads the right to change their location; that is, does it not extend the time for one year to them to make their locations and file their plats?

Mr. HOWARD. I suppose the honorable Senator can answer that question as well as I. I do not at this instant recollect in regard to that point.

Mr. FESSENDEN. I understand that is what that section did. If that be the case did the act of 1866 do anything more than still further extend that time?

Mr. HOWARD. I think it did, for this reason: that it allowed the eastern division to diverge off in the direction of Denver.

Mr. FESSENDEN. It did not say anything about that, I believe.

Mr. HOWARD. Yes, sir; it speaks of Denver. It allowed that company to make connection with the main trunk at any point not further than fifty miles west from the meridian of Denver.

Mr. FESSENDEN. The law of 1864 extends for a year the time for making the location and filing the map; and then the law of 1866 says that the time may be still further extended for filing the map, and puts in a proviso that it shall not give them the right to go beyond fifty miles west of a certain point; that is all it does. Now, what I want to ask, is whether, when that law of 1864 was passed, giving an extension of time, thus to make their location and file their map, the Central Branch Pacific railroad made any objection to it? I want to know what there was particularly new in regard to that road in the law of 1866, the other being merely an extension of time.

Mr. HOWARD. Here is the act of 1864, which the Senatar from Maine can examine if he wishes to do so.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the

committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 308) for the relief of the heirs of the late Duncan L. Clinch, deceased.

EXECUTIVE SESSION.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of executive business.

Mr. RAMSEY. Before that is done I ask the Senate to allow me to submit an amendment to the Post Office appropriation bill, that it may be referred to the Committee on Appropriations under our rules.

The PRESIDING OFFICER, (Mr. CONNESS in the chair.) The amendment will be received and referred, if there be no objection.

Mr. HOWARD. I hope we shall proceed to act finally on this bill this afternoon.

Mr. SUMNER. I hope we may get a vote on this bill.

Mr. WILLIAMS. It is perfectly manifest that there can be no vote obtained on this bill to-night unless gentlemen intend to tire every Senator out.

The PRESIDING OFFICER. The question is on the motion of the Senator from Oregon, that the Senate proceed to the consideration of executive business.

The motion was agreed to—ayes twenty-four, noes not counted.

After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 16, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

CALL OF THE STATES FOR BILLS, ETC.

The SPEAKER stated, this being Monday, the first business in order was the call of States and Territories for bills and joint resolutions for reference, and not to be brought back by a motion to reconsider, under which call joint resolutions of States and Territories could also be presented.

JAMES C. CLAPP, DECEASED.

Mr. DAWES introduced a joint resolution (H. R. No. 234) authorizing a settlement of the accounts of James C. Clapp, deceased; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM H. NEWMAN AND COMPANY, ETC.

Mr. TABER introduced a bill (H. R. No. 912) to authorize the payment of the claim of William H. Newman & Co. and L. A. Van Hoffman & Co., of New York city; which was read a first and second time, and referred to the Committee of Claims.

STEAMSHIP LINE TO LIBERIA.

Mr. MILLER presented a joint resolution of the Legislature of Pennsylvania, instructing their Senators and requesting their Representatives in Congress to urge upon the attention of the General Government the propriety of establishing a line of steamships from the United States to Liberia, in Africa; which was referred to the Committee on Commerce, and ordered to be printed.

JOHN KELLY.

Mr. MILLER also introduced a bill (H. R. No. 913) for the relief of John Kelly, of Patterson, Juniata county, Pennsylvania; which was read a first and second time, and referred to the Committee of Claims.

EXPENSES OF THE LEGISLATIVE DEPARTMENT.

Mr. BROOMALL introduced a joint resolution (H. R. No. 235) providing for a saving of expense in the legislative department; which was read a first and second time, and referred to the Committee on Public Expenditures.

REHEARING IN PATENT CASES.

Mr. MILLER also introduced a bill (H. R. No. 914) allowing a rehearing in patent cases before the district court of the United States for the District of Columbia, and to allow an appeal therefrom to the Supreme Court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

MARY SHEDRON.

Mr. KOONTZ introduced a bill (H. R. No. 915) for the relief of Mary Shedron; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DELAWARE POST ROAD.

Mr. NICHOLSON introduced a bill (H. R. No. 916) to establish a post road in the State of Delaware; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

HOUSE OF CORRECTION IN THE DISTRICT.

Mr. WELKER introduced a bill (H. R. No. 917) to amend an act entitled "An act to establish in the District of Columbia a House of Correction for boys;" which was read a first and second time, and referred to the Committee for the District of Columbia.

MARINDA STAGE.

Mr. BUCKLAND introduced a bill (H. R. No. 918) for the relief of Marinda Stage; which was read a first and second time, and referred to the Committee on Military Affairs.

OHIO POST ROUTE.

Mr. VAN TRUMP introduced a bill (H. R. No. 919) to establish a post road from New Holland, in Pickaway county, Ohio, via Clarksburg and Greenland, in Ross county, to Chillicothe, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

EMILY GARDNER.

Mr. ECKLEY introduced a bill (H. R. No. 920) for the relief of Emily Gardner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

R. H. EARNEST.

Mr. GOLLADAY introduced a joint resolution (H. R. No. 236) to authorize a settlement of the claim of R. H. Earnest, lieutenant colonel one hundred and fifteenth United States colored troops; which was read a first and second time, and referred to the Committee of Claims.

A. S. THURNICK.

Mr. STOKES introduced a bill (H. R. No. 921) for the relief of Major A. S. Thurnick; which was read a first and second time, and referred to the Committee of Claims.

HARBOR AT MICHIGAN CITY.

Mr. COLFAX introduced a bill (H. R. No. 922) refunding the amount paid by private subscription toward the improvement of Michigan city, Indiana; which was read a first and second time, and referred to the Committee of Claims.

SUPREME COURT.

Mr. WASHBURN, of Indiana, introduced a bill (H. R. No. 923) in relation to the Supreme Court; which was read a first and second time, and referred to the Committee on the Judiciary.

HARBOR AT MILWAUKEE.

Mr. PAINE presented a memorial of the Legislature of Wisconsin, for reimbursing the city of Milwaukee for certain expenditures on the harbor of that city; which, with accompanying documents, was referred to the Committee on Commerce.

RIGHTS OF PARTIES UNDER TREATIES, ETC.

Mr. JOHNSON introduced a bill (H. R. No. 924) to restore to certain parties their rights under the treaties and laws of the United States; which was read a first and second time, and referred to the Committee on the Public Lands.

CANAL IN CALIFORNIA.

Mr. JOHNSON also introduced a bill (H. R. No. 925) granting lands to aid in the construction of a canal in the State of California; which was read a first and second time, and referred to the Committee on the Public Lands.

F. S. M'DONALD.

Mr. DONNELLY introduced a joint resolution (H. R. No. 237) for the relief of Francis S. McDonald; which was read a first and second time, and referred to the Committee of Claims.

F. A. CONWELL.

Mr. DONNELLY also introduced a joint resolution (H. R. No. 238) for the relief of F. A. Conwell, an Army chaplain; which was read a first and second time, and referred to the Committee of Claims.

DISTRICT COURT IN WEST VIRGINIA.

Mr. POLSLEY introduced a bill (H. R. No. 926) to establish a district court at Lewisburg, West Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

OVERFLOWED LANDS.

Mr. FLANDERS presented a memorial of the Legislature of the Territory of Washington, in relation to certain overflowed lands in King county, Washington Territory; which was ordered to be printed, and referred to the Committee on the Public Lands.

He also introduced a bill (H. R. No. 927) in relation to certain overflowed lands in King county, Washington Territory; which was read a first and second time, and referred to the Committee on the Public Lands.

ISAAC E. HIGGINS.

Mr. FLANDERS also presented a memorial of the Legislature of Washington Territory, asking relief for Isaac E. Higgins; which was ordered to be printed, and referred to the Committee on the Public Lands.

Mr. FLANDERS also introduced a bill (H. R. No. 928) for the relief of Isaac E. Higgins; which was read a first and second time, and referred to the Committee of Claims.

DISTRICT COURTS IN INDIANA.

Mr. NIBLACK introduced a bill (H. R. No. 929) authorizing district courts to be held at the cities of Evansville and New Albany, in the State of Indiana; which was read a first and second time, ordered to be printed, and referred to the Committee on the Judiciary.

PHILIP RENAULT.

Mr. LAWRENCE, of Pennsylvania, introduced a joint resolution (H. R. No. 239) authorizing a settlement of the claim of the heirs of Philip Renault for certain lands; which was read a first and second time, and referred to the Committee on Public Lands.

PROMOTION OF AMERICAN COMMERCE.

Mr. PIKE introduced a bill (H. R. No. 930) to promote American commerce; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INTEREST ON PUBLIC DEBT.

Mr. BUTLER introduced a bill (H. R. No. 931) in regard to interest on the public debt; which was read a first and second time, and referred to the Committee on the Judiciary.

MARINE HOSPITAL AT CAIRO.

Mr. RAUM introduced a bill (H. R. No. 932) to authorize the erection of a marine hospital at Cairo, Illinois; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

RETIRING ARMY OFFICERS.

Mr. WARD introduced a joint resolution (H. R. N. 240) in relation to retiring officers of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

SARAH SMITH.

Mr. SMITH introduced a bill (H. R. No. 933) for the relief of the heirs of Sarah Smith;

which was read a first and second time, and referred to the Committee on Invalid Pensions.

EASTERN JUDICIAL DISTRICT, NEW YORK.

Mr. HULBURD introduced a bill (H. R. No. 934) to repeal an act entitled "An act to create the eastern judicial district of the State of New York," approved on the 25th day of April, 1865, and to make provision for the trial of causes pending in said district; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

The SPEAKER. The next business in order is the call of the States and Territories in their reverse order for resolutions, commencing with the State of Illinois, where the call rested on Monday last.

PAY OF A CONTESTANT.

Mr. FARNSWORTH. I offer the following resolution, upon which I demand the previous question:

Resolved, That there be paid out of the contingent fund of the House to A. C. Hunt, contestant of the seat of Hon. GEORGE M. CHILCOTT, the sitting Delegate from the Territory of Colorado, the sum of $2,500, in full compensation for salary and mileage as such contestant.

Mr. UPSON. I move that that resolution be laid on the table.

Mr. FARNSWORTH. I hope the gentleman will allow the vote to be taken directly on the resolution. If there was ever a case where a contestant should be paid this is one.

Mr. UPSON. There has been no contest.

Mr. FARNSWORTH. Will the House allow me two minutes to explain the resolution?

The SPEAKFR. If the resolution gives rise to debate it goes over under the rule.

Mr. CHANLER. I rise to debate it.

The SPEAKER. That is not in order, pending the demand for the previous question.

The question was put in seconding the previous question, and no quorum voted.

Mr. WASHBURNE, of Illinois. I ask my colleague to let the resolution be referred to the Committee of Elections.

Mr. FARNSWORTH. I have no objection to that.

Mr. UPSON. Then I withdraw the motion to lay on the table.

The resolution was then referred to the Committee of Elections.

NATIONAL POLICY.

Mr. ROSS. I offer the following preamble and resolutions, to which, I think, there will be no objection, and upon which I demand the previous question:

Whereas the Fortieth Congress of the United States has been charged with disloyalty to the Government, and with a purpose to subvert and destroy the essential principles and just balances upon which it rests: Therefore, with a view of re-assuring the friends of free government and constitutional liberty, and to put the public mind at rest in regard to all such charges,

Be it resolved, That the Constitution of the United States is the supreme, paramount law of the land binding upon all, and should be obeyed and enforced by each of the three coördinate departments of the Government.

2. That the power and authority of the Federal Government is paramount and supreme to the extent of the delegated powers, and may, in addition thereto, lawfully exercise such incidental powers as may be necessary to execute the express grants.

3. That all other powers are reserved to the States States and people respectively.

4. That we will faithfully abide by and strenuously maintain the essential and fundamental principles of free government as established by our fathers under the Constitution of the United States.

5. That we oppose, emanate from whatever source they may, all efforts to render the military independent of and superior to the civil power.

6. That we are opposed to the creation of a multitude of new offices, and sending swarms of officers to harass the people and eat out their substance.

7. That we will oppose all efforts to deprive the people of the right of the writ of *habeas corpus* and trial by jury.

8. That it was wisely provided in our admirable Constitution for executive, legislative, and judicial departments of the Government, and that we will strenuously oppose any encroachment of either of said departments upon the rights and powers belonging to the others.

9. That free speech, a free press, and a free ballot are essential to the liberties of a free people, and cannot be surrendered.

10. That we are opposed to a large standing Army in time of peace, as dangerous to civil liberty and burdensome to the tax-payers.

11. That the peculation and fraud perpetrated on the national Treasury by dishonest Government officials, amounting to over one hundred million dollars per annum, should be speedily stopped.

12. That by a wise and economical administration of the national Government $200,000,000 may be saved annually to the national Treasury.

13. That under our Constitution and form of government each State has the right to determine for itself as to what class of citizens shall exercise the elective franchise in said State.

14. That no more Government bonds should be issued which are not subject to the same rate of taxation as other property.

15. That the national currency known as "greybacks" should be withdrawn from circulation, and the vacuum supplied with legal-tender Treasury notes known as "greenbacks."

The question was upon seconding the call for the previous question.

Mr. BALDWIN. Would it be in order to move to refer these resolutions to the gentleman who offered them, with instructions to investigate and ascertain if he cannot find more resolutions of a similar character to present?

The SPEAKER. That would not be in order. But, should the call for the previous question not be sustained, a motion to refer the resolutions to some committee would be in order.

The question was then taken upon seconding the previous question; and upon a division there were—ayes 23, noes 79.

Before the result of the vote was announced,

Mr. ROSS called for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. Ross and BALDWIN were appointed.

The House again divided; and the tellers reported that there were—ayes 25, noes 74.

The previous question was not seconded.

Mr. ROSS. I now move to lay the resolutions upon the table, and upon that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were twenty-four in the affirmative.

So (the affirmative being more than one fifth of the last vote) the yeas and nays were ordered.

Mr. SPALDING. Is it in order to ask that a separate vote be taken on each resolution?

Mr. TABER. Is it in order to call for a division of the question?

The SPEAKER. It is not, for the motion is to lay the entire series upon the table.

Mr. ROSS. I have no objection to a separate vote being taken on each resolution.

Mr. BLAINE. I object to it.

Mr. WASHBURNE, of Illinois. I would inquire of the Chair what is the pending motion?

The SPEAKER. To lay the series of resolutions on the table.

Mr. WASHBURNE, of Illinois. By whom is that motion made?

The SPEAKER. By the mover of the resolutions.

Mr. WASHBURNE, of Illinois. Then he wants them laid on the table.

Mr. ROSS. I make that motion so as to get gentlemen on the record.

The question was upon laying the resolutions upon the table; and being taken it was decided in the negative—yeas 8, nays 133, not voting 48; as follows:

YEAS—Messrs. Dawes, Farnsworth, Maynard, Poland, Price, Taffe, Thomas, and Wood—8.

NAYS—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beck, Bingham, Blaine, Blair, Boutwell, Boyer, Bromwell, Broomall, Buckland, Burr, Butler, Cake, Cary, Chanler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eckley, Ela, Eldridge, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Higby, Holman, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Johnson, Judd, Julian, Kelsey, Kerr, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, McClurg, McCormick, McCullough, Mercur, Miller, Moore, Moorhead, Morgan, Morrell, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Pike, Plants, Polsley, Randall, Raum, Ross, Sawyer, Schenck, Scofield, Selye, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stokes, Taber, Taylor, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Auken, Robert T. Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—133.

NOT VOTING—Messrs. Axtell, Barnes, Barnum, Beatty, Benjamin, Benton, Brooks, Reader W. Clarke, Cornell, Eggleston, Finney, Fox, Griswold, Halsey, Harding, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Kelley, Ketcham, Kitchen, Lynch, Marshall, Marvin, McCarthy, Morrissey, Nunn, Perham, Peters, Phelps, Pile, Pomeroy, Pruyn, Robertson, Robinson, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, and Woodbridge—48.

So the resolutions were not laid on the table.

Mr. ASHLEY, of Ohio. I move that the resolutions be referred to the Committee on the Judiciary, and on that motion I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. ASHLEY, of Ohio, was agreed to.

So the resolutions were referred to the Committee on the Judiciary.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolutions were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD LAND GRANT TO STATE OF IOWA.

Mr. WASHBURNE, of Illinois. I submit the following preamble and resolution, on which I demand the previous question:

Whereas by the act of Congress entitled "An act making grants of land to the State of Iowa in alternate sections to aid in the construction of certain railroads in said State," approved May 15, 1856, land was granted to build a railroad from the city of Dubuque to a point on the Missouri river near Sioux City, with a branch from the mouth of the Tetes des Morts to the nearest point on said road, to be completed as soon as the main road is completed to that point; and whereas the main road was many years since completed to the point where the said branch should intersect; and whereas the said branch has not been built in accordance with the provisions of the said act of Congress:

It is hereby resolved, That the Secretary of the Interior be directed to inform this House by what authority lands have been certified and confirmed to the State of Iowa for the purpose of building said road, in violation of said act of Congress requiring the said branch to be built as aforesaid.

Mr. ALLISON. I ask the gentleman from Illinois to modify the preamble of this resolution. I have no objection to the adoption of the resolution calling for this information; but I think that some of the statements of the preamble, intended as statements of fact, are incorrect.

Mr. WOOD. I object to debate.

Mr. WASHBURNE, of Illinois. I believe all the statements are correct.

The SPEAKER. No debate is in order. The previous question has been called, and the gentleman from New York [Mr. WOOD] objects to debate.

Mr. SCHENCK. Would it not be in order for me to suggest a slight modification?

The SPEAKER. The gentleman from New York objects to debate. If the resolution gives rise to debate it must go over under the rule.

Mr. WASHBURNE, of Illinois. In order to meet the objections of the gentleman from Iowa [Mr. ALLISON] and the gentleman from Ohio [Mr. SCHENCK] I modify the second and third clauses of the preamble so as to read as follows:

And whereas it is alleged that the main road was many years since completed to the point where the said branch should intersect; and whereas it is also alleged that the said branch has not been built in accordance with the provisions of the said act of Congress.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble, as modified, and the resolution were adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGAL TENDERS FOR REDEMPTION OF BONDS.

Mr. INGERSOLL. I submit the following resolution, on which I demand the previous question:

Resolved, That, for the purpose of relieving the

business of the country from the depressed condition to which it has been brought by the retiring of legal-tender notes from the volume of the currency by the Secretary of the Treasury, an amount of legal-tender notes equal to the amount heretofore retired should be issued and restored to the currency of the country, and that the amount of legal-tender notes so restored should be used only in purchasing for cancellation any of the gold-interest-bearing bonds of the United States.

Mr. BLAINE. I hope that the previous question will not be seconded, and that this resolution will be referred to the Committee of Ways and Means.

Mr. INGERSOLL. I hope the previous question will be seconded, that we may see whether the House is in favor of the resolution or not.

The SPEAKER. If the resolution gives rise to debate it must go over under the rule. The question is on seconding the demand for the previous question.

On seconding the previous question there were—ayes 41, noes 73.

Mr. INGERSOLL. I call for tellers.

Tellers were ordered; and Messrs. INGERSOLL and BLAINE were appointed.

The House divided; and the tellers reported —ayes 49, noes 73.

So the previous question was not seconded.

Mr. SCHENCK. I move that the resolution be referred to the Committee of Ways and Means, and on that motion I call the previous question.

The previous question was seconded and the main question ordered.

Mr. ROSS. I call for the yeas and nays on the motion to refer the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 58, not voting 4; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Cake, Chanler, Churchill, Covode, Dawes, Dixon, Dodge, Driggs, Eckley, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Hawkins, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Jenckes, Judd, Kelsey, Kitchen, Koontz, Laflin, George V. Lawrence, Lincoln, Lynch, Maynard, McCarthy, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Nicholson, O'Neill, Paine, Peters, Pike, Plants, Poland, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Smith, Spalding, Starkweather, Stewart, Taber, Thomas, John Trimble, Twichell, Upson, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, and Woodward—90.

NAYS—Messrs. Adams, Archer, Baker, Barnum, Beck, Boyer, Burr, Butler, Cary, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Donnelly, Eldridge, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Holman, Hotchkiss, Hunter, Ingersoll, Johnson, Jones, Julian, Kerr, Knott, William Lawrence, Loan, Loughridge, Marshall, McClurg, McCormick, McCullough, Morgan, Mungen, Newcomb, Niblack, Orth, Polsley, Raum, Ross, Shanks, Sitgreaves, Stokes, Taffe, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, Van Trump, William Williams, John T. Wilson, Stephen F. Wilson, and Wood—58.

NOT VOTING—Messrs. Axtell, Barnes, Beatty, Benjamin, Benton, Bromwell, Brooks, Reader W. Clarke, Cornell, Eggleston, Finney, Fox, Griswold, Harding, Asahel W. Hubbard, Humphrey, Kelley, Ketcham, Logan, Mallory, Marvin, Morrissey, Nunn, Perham, Phelps, Pile, Pomeroy, Pruyn, Randall, Robinson, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Windom, and Woodbridge—41.

So the resolution was referred to the Committee of Ways and Means.

Mr. BLAINE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUNCAN L. CLINCH, DECEASED.

The SPEAKER. The morning hour having expired, the first business in order is Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, and the Chair will state the condition of the question. At the time the House resolved itself into the Committee of the Whole on Friday last to proceed to the Senate, the House had rejected the report of the committee of conference. The gentleman from Indiana [Mr. HOLMAN] then moved, the bill being before the House, to recede and to agree to the Senate bill with an amendment, to strike out "$15,000" and insert "$10,000," pending which, the gentleman from Pennsylvania [Mr. SCOFIELD] moved that the bill and amendment be laid on the table, on which the yeas and nays were ordered.

Mr. WARD. I appeal to the gentleman from Pennsylvania to withdraw the motion to lay on the table.

Mr. SCOFIELD. I have no objection.

Mr. HOLMAN. Then I demand the previous question on the pending amendment.

Mr. COBB. I rise to a question of order. Is it competent, after the House has ordered the yeas and nays, for any member to withdraw the motion he has submitted?

The SPEAKER. It is in order to withdraw the motion to lay on the table before the vote is taken. Ordering the yeas and nays does not put it out of the condition of the mover to withdraw his motion.

Mr. COBB. I move then that the bill and amendment be laid on the table, and on that motion I demand the yeas and nays.

The House divided; and there were—ayes fourteen, not one fifth.

Mr. COBB. I demand tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The House then refused to lay the bill and amendment on the table.

Mr. HOLMAN. I now call for the previous question on the bill and amendment.

Mr. SCHENCK. I ask the gentleman to yield to me for a few moments.

Mr. HOLMAN. I yield to the gentleman on condition that he renews the demand for the previous question.

Mr. SCHENCK. I will renew the demand for the previous question if it be insisted on. My only object in making the request is to submit a very few remarks in favor of passing this bill as it came to us from the Senate—in favor of passing the bill at any rate, with or without amendments, as embodying, what I believe to be, an act of justice to one whose interests are involved.

My attention was attracted to this bill when announced by its connection with some old memories of mine which relate to General Duncan L. Clinch, a most gallant and brave officer of the Army in years gone by, one whom we used to call upon this floor and throughout the country "Old Wythlacoochee." War in Florida in those days, before war had become so grand and magnificent in the scale with which it has since been carried on in this country, was a great thing, and in that war no one more distinguished himself than he; and it was my pleasure to be intimately associated with him afterward, when, leaving the Army, he and I occupied seats at the same desk, not in this but in the old Hall, he being a Representative from one of the districts of the State of Georgia.

Now, sir, this bill has been put, I observe, by most gentlemen here as to its merits upon the ground of a proper recognition of the claim of the gallant General Anderson, him of Sumter memory. I make no exception to it on that ground. No one is willing to go further than I am in recognizing in a proper way his services at the very beginning and, in one sense, the turning point of this late war at its inception. I know, from some personal acquaintance with matters connected with this claim something of the equities of this claim as it connects itself with General Anderson and his family.

It is a mistake to say the money, if appropriated by Congress, will go to any disloyal person. All interests in the claim have been fully and absolutely assigned, as I understand, to Mrs. Anderson. Whatever is given will be put in trust of Lars Anderson, the brother of the general, for her and her children. General Anderson himself, after all his gallant services, is now an invalid reduced to live upon the pay of a retired officer, which is half pay proper, cutting off all allowances of any kind, and thus he struggles on almost at the starvation point.

Mr. WASHBURN, of Massachusetts. I presume the gentlemen does not wish to convey a wrong impression. General Anderson is now receiving full pay.

Mr. SCHENCK. Under what provision?

Mr. WASHBURN, of Massachusetts. There is a provision by which retired officers may be assigned to certain duties.

Mr. SCHENCK. To what duty is General Anderson assigned?

Mr. WASHBURN, of Massachusetts. I do not know what duty it is.

Mr. SCHENCK. He was on duty at Newport, I understand, but has been relieved and returned to his half pay. I thought he was not on duty for he had been relieved at Newport. If he be on duty then he does get his full pay; but in his invalid condition he cannot expect long to be favored in that way by the Government. He is liable at any moment by being relieved from duty to be sent back to that starvation allowance that he will have if not otherwise provided for.

Mr. BANKS. If the gentleman will allow me, I desire to say a word on this matter, because I voted under a misapprehension the other day. The service to which he is assigned is a temporary service by the favor of the Secretary of War, and it may be discontinued at any moment, so that he will be receiving only half pay. I understand he lived for seven months on $120 a month.

Mr. SCHENCK. That is confirmatory of what I supposed to be the case. My impression was that being relieved at Newport he was not on duty even of a temporary character. But if he be on duty the condition of his health is such that I am sure he is liable only under favorable circumstances to be continued on duty, but must fall back to that condition of which I spoke.

Now, sir, so far as the equities of the case are concerned, connecting this with any claim for service which General Anderson may have on the country, it commends itself entirely to me. But as I said at the outset, I had other memories with reference to Duncan L. Clinch himself. While in the service of the country he did suffer, as was known at the time and as I very well remember, very largely in property by reason of its being occupied for military purposes. Besides passing several bills disconnected with this, giving him what he was justly entitled to in relation to forage and other articles while in service in Florida, there was a bill passed which relieved him in part so far as the loss of his personal property was concerned; but as I am advised, and as I understood at the time, General Clinch never obtained any compensation from the Government for the occupation of his real estate for military purposes, occasioning a great amount of destruction. He did, as I understand, prosecute his claim with a view to obtain compensation for that loss, but being a man of sensitive nature and quick in his conclusions, he became disgusted with the way in which claims were pressed before Congress, and abandoned, almost in a huff, I may say, any further prosecution of a claim which he considered justly due. Shortly after that he died, and in consequence of his not pursuing his claim his heirs are without any compensation as yet.

Mr. WARD. I desire to ask the gentleman if it is not the fact that General Clinch sustained losses to the amount of over thirty thousand dollars in consequence of his property being occupied by the Government, and in consequence of the hostility that the Indians felt toward him because he was in command of the United States troops at the time?

Mr. SCHENCK. That, I believe, is fully set forth in the report made in the case in the Senate, and is in entire accordance with my general recollection at the time. He was not allowed for this loss to his real estate, and yet that loss was at the time understood to be occasioned in great part by the fact that the Indians were peculiarly hostile to him as one of the

officers of the United States engaged in hostilities against some of their tribe.

Mr. MILLER. How long ago is it since this claim arose?

Mr. SCHENCK. It must be twenty-five years, I should think.

Mr. MILLER. I would ask the gentleman another question. Suppose General Anderson is reduced to half pay, how much would that amount to yearly?

Mr. SCHENCK. About one hundred and twenty dollars a month for himself and family—a good deal less than the gentleman from Pennsylvania gets for his attendance here.

Mr. MILLER. Many of our poor soldiers get only ninety-six dollars a year.

Mr. SCHENCK. That is very true, and some laborers in the country, constables, and others in civil employments, do not get nearly as much as members of Congress. It so happens that these things, whether rightly or wrongly, are graduated in all the departments of life.

Mr. COBB. I desire to ask the gentleman a question. He has alluded to the fact of seven eighths of this claim having been assigned to the present claimant by the original heirs, whom, I believe, it is admitted, adhered to the cause of the rebel States. I would ask him if he is willing to set the precedent and let it go to the country that all that is necessary for any rebel claimant against this Government to do is to assign his claim to some loyal person?

Mr. SCHENCK. Oh, no, Mr. Speaker. I am not disposed to go any further in that direction than the gentleman himself would do; but I have two answers to that. In the first place, I see no great harm in a rebel parting with his property to a Union man or a Union woman where there is no resulting trust or benefit to the rebel. If it passes absolutely away from the disloyal and goes to benefit the loyal, I think it is rather a good thing.

In the next place I shall not be frightened from doing justice to those who are loyal, because their loyalty may have been tested and has stood fire and come out clear, notwithstanding their family connections might have drawn them in the other direction. I look upon that rather as a merit than otherwise.

Mr. HOLMAN. I suggest to the gentleman that the bill now pending proposes to place this appropriation in the hands of Lars Anderson, in trust for the benefit of Mrs. Anderson and her children, and it is impossible, with a gentleman of such high character as the gentleman knows Lars Anderson to be, that this act of Congress can inure to the benefit of any persons but Mrs. Anderson and her children.

Mr. SCHENCK. I do not desire to bring into this debate what may seem to be any indelicate allusions to family affairs, but I am glad the gentleman from Indiana has made the suggestion. I do know the high character of Lars Anderson, the brother of General Robert Anderson, and I feel warranted in assuring the House that he will faithfully carry out the trust which Congress may impose in him by an appropriation of this kind to him for the benefit of the children of Mrs. Anderson, so that some small proportion of that which I do believe was in all equity due to General Clinch may reach his descendants and be enjoyed by them even if they do not get it until in the third degree.

And here, sir, I beg leave to remark that I do not consider it a strong objection to a claim that it is twenty-five years old if the claim is founded in justice. It is rather a reflection upon the want of justice and generosity upon the part of the Congress of the United States that it should not have responded to the demand long before this. And to pay it now, without interest, is certainly not doing too much in such a case.

Mr. WASHBURN, of Wisconsin. I would ask the gentleman from Ohio [Mr. SCHENCK] when this claim was first presented to Congress?

Mr. SCHENCK. I do not recollect. Gentlemen must understand that I am not an exact or precise witness here; I knew General Clinch well; I served with him here in Congress, and in a general way was acquainted with his different claims upon the Government, which at the time I believed to be just, and I believe so now. As I said before, it was about twenty-five years ago. I am sorry to confess my age to the House in this way: but I was here more than twenty-five years ago.

Mr. WASHBURN, of Wisconsin. Is not the gentleman aware that General Clinch obtained an appropriation from Congress?

Mr. SCHENCK. Yes; I have so said already.

Mr. WASHBURN, of Wisconsin. A large appropriation?

Mr. SCHENCK. Not a large appropriation.

Mr. WASHBURN, of Wisconsin. How large?

Mr. SCHENCK. It did not cover the loss to the real estate.

Mr. WASHBURN, of Wisconsin. It authorized the Secretary of War to adjust the claim.

Mr. SCHENCK. Yes; just as I have already said. But the claim was adjusted only in reference to the articles of personal property which were taken, leaving still outstanding and pressed against the Government a claim for the occupation of his real estate, and the destruction of buildings and various other items of property by the Indians, because the United States military forces occupied his property.

Mr. WASHBURN, of Wisconsin. I have before me a list of the claims in favor of General Clinch presented to Congress down to the close of the Thirty-First Congress. It embraces six different claims; that is to say, claims presented at six different times by Duncan L. Clinch, for different matters of indemnity. But there is no claim in that list of the kind now under consideration. It seems that during the life time of General Clinch he never preferred any claim of this kind.

Mr. SCHENCK. I am certain the gentleman is mistaken.

Mr. WASHBURN, of Wisconsin. Here is the record of all the claims presented to Congress by General Clinch.

Mr. SCHENCK. I do not know about the book to which the gentleman refers. I can only say that his statement is not according to my recollection. It may be, though I think not, that I confound my frequent conversations with General Clinch, and my personal knowledge of the matter with that of which the gentleman speaks.

But let me say to the gentleman that it is a little ungenerous to speak of these claims of Duncan L. Clinch without stating what those claims were. If the gentleman will look into those claims he will see that they were claims arising out of matters connected with his service in the Army, and do not in the slightest degree throw any weight in the scale against this claim, which is based on entirely different grounds.

Mr. WASHBURN, of Wisconsin. I desire to correct an error I have fallen into. A mistake in the marginal notes of this list of claims has led me to fall into an error. I find, upon a closer examination, that it is true a claim was presented by Duncan L. Clinch for indemnity for damages and loss of property occasioned by hostile Indians. The committee to whom that claim was referred asked to be discharged from its further consideration, and it was laid upon the table. That was in 1840.

Mr. SCHENCK. I thought the gentleman was mistaken, yet I did not like to set my memory against the book which he had, although I was sure I was right.

Mr. WARD. Will the gentleman yield to me for a few moments?

Mr. SCHENCK. I have said all I wished to say. I promised the gentleman from Indiana [Mr. HOLMAN] that when I was through I would call the previous question or yield to him for the purpose of doing so. However, I will yield for a short time to the gentleman from New York, [Mr. WARD.]

Mr. WARD. I desire, with the permission of the gentleman from Ohio, [Mr. SCHENCK,] to answer the inquiry of the gentleman from Wisconsin, [Mr. WASHBURN.] I have examined the papers in this case with some care, being on the Committee of Claims, as I desired to become acquainted with the case. The property of General Clinch, destroyed by the Indians, and destroyed in consequence of his connection with the Army and the occupation of his property by United States troops, and the property appropriated by the United States Government and damage done real estate by Indians and our troops amounted, both real and personal, to about sixty-five thousand dollars. A very large proportion of this was personal property. A portion of it was for sugar-cane and corn, which the Army appropriated. For a portion of that sugar-cane and corn there was an allowance made to General Clinch, and he received pay from the Government.

Mr. WASHBURN, of Wisconsin. How much pay?

Mr. WARD. I think some eight thousand dollars. For the other personal property destroyed, amounting to ten or twelve thousand dollars, and for the injuries to his real estate, amounting to a much larger sum, General Clinch never received any compensation. Two or three different bills were reported in the Senate for his relief. The bill to which the gentleman refers, under which General Clinch received relief, was reported in 1840. In 1841, 1842, and 1843 bills were reported for his relief, but no action was taken upon them. Shortly after that General Clinch entered Congress, and he refused while he was in Congress to permit his claim to be brought up at all. In 1848, after he left Congress, he died, and General Robert Anderson became one of his executors. General Anderson did not press the claim and the matter has been permitted to lie until the present time, when Mrs. Anderson, a daughter of General Clinch, and the wife of the hero of Fort Sumter, who is now the exclusive owner of all these claims in her own right, presents this demand to Congress for its consideration. The matter was submitted to the Committee of Claims and examined by that committee; and I believe that the whole committee, with a single exception, are in favor of granting this relief.

Sir, it has not been my habit to favor the passage of claims through this House. I have believed and still believe that the imperiled condition of the country and the embarrassed state of our finances demand of us the closest scrutiny in regard to the claims presented here. Hence I have almost invariably opposed claims coming before this House. But, sir, I deem this claim equitable and just. The bill proposes to pay but a small fraction of the amount actually due in equity to Mrs. Anderson from this Government, and I believe that, in another aspect of the case, there is a claim presented here that we cannot disregard. There are certain claims of such a nature that no Government can afford to disregard them, whatever may be its condition. Among the claims of this class is that which General Robert Anderson has upon the people of this country.

Mr. WASHBURN, of Wisconsin. Does the gentleman propose to pay that class of claims in this way?

Mr. WARD. I propose, wherever there is a just and equitable claim due to any man or woman, and that man or woman has such a record as General Robert Anderson has, and when such a person is in pecuniary embarrassment or in poverty, I propose to pay that claim, to any reasonable extent.

Mr. WASHBURN, of Wisconsin. If the claimant is not embarrassed will the gentleman pay the claim?

Mr. WARD. Now, Mr. Speaker, after a single further remark I will yield the floor.

Mr. COBB. I would like to ask the gentleman a question. Several gentlemen who have spoken in support of this claim have stated to the House that General Clinch received pay for personal property which it is alleged was

destroyed; but this is a claim for the destruction of real estate, or, as some one has said, for the occupation of real estate as well as its destruction. The gentleman from New York [Mr. WARD] has stated that the claim for corn and sugar-cane was paid. Now, the gentleman says that he has carefully examined the papers in this case, which I do not doubt; and I desire to ask him whether the present claim is not in part for that identical corn and sugar-cane; whether it does not so appear by the papers; furthermore, whether four fifths of this claim is not for personal property; and furthermore, whether he can tell this House (and if he cannot do so without examining the papers, I wish he would examine them) how much of this claim is for real estate or the occupation or destruction of real estate?

Mr. WARD. In reply to the gentleman's first question, I will say that I do not understand that any of the property for which General Clinch or his heirs recovered pay is embraced within the claim now presented. The committee certainly did not allow anything for such property. More than that, sir, the injuries to real estate for which this bill is intended to settle amount to about twenty thousand dollars. I understand the personal property which was destroyed by the enemy, and for which the Government is equitably bound to pay, amounts to at least $10,000, and I think much more.

Mr. Speaker, I was about to say, and that is all I desire to say on this case, that I do think some consideration should be paid to the character of the public services of the real claimant, General Robert Anderson. I hope we will pursue the same policy that all other nations have pursued, that is to defend and protect its heroes in the hour of their extremity and need. When General Robert Anderson went into Fort Sumter in 1860 he was a healthy man, except suffering from the effects of a wound he had received in the Mexican war. He came out of it after that terrible experience, after that fearful bombardment, a wreck. The strong man was gone. The vigor had departed from his life and his constitution, and here he is able to do but little duty. His wife and children—six in number—are all dependent upon the bare pittance he receives from the Government. I am prepared, sir, to vote for this claim on the single proposition that, while we are paying an equitable claim, we are at the same time doing something for the relief of this loyal man and his family; and in some manner testifying our gratitude to this first grand hero of the struggle through which the nation has but just past, the booming of whose guns from the doomed fort awakened the nation and called forth its children to battle and to victory.

Mr. COBB. I ask to have this paper read at the Clerk's desk.

Mr. HOLMAN. It appears to be a voluminous paper.

Mr. COBB. It is short. It is an inventory of the property we are called on to pay.

Mr. HOLMAN. We have not time to have all the papers read that may be desired.

Mr. SCHENCK. I ask the gentleman from Indiana to let me move to concur. It has precedence of a motion to recede.

The SPEAKER. The motion to reconsider the vote by which the conference report was rejected would be one of higher privilege.

Mr. SCHENCK. I make that motion. I think we ought to have agreed with the Senate. I demand the previous question.

The Clerk read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, namely:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendments, to wit:

In the third line from the bottom of the third page strike out after the word "of" the words "ten thousand dollars in trust for the said Eliza B. Anderson" and insert the following, to wit:

"Fifteen thousand dollars to Lars Anderson, in trust for the exclusive use of said Eliza B. Anderson during her lifetime, and any part thereof remaining at her death to be held in trust for her children."

And that the House agree to the same.

WILLIAM S. HOLMAN,
JOHN A. BINGHAM,
W. B. WASHBURN,
Managers on the part of the House.
TIMOTHY O. HOWE,
W. P. FESSENDEN,
GARRETT DAVIS,
Managers on the part of the Senate.

The previous question was seconded and the main question ordered.

Mr. COBB demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 63, not voting 59; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Arnell, Axtell, Banks, Barnum, Bingham, Boyer, Broomall, Burr, Cake, Cary, Chanler, Sidney Clarke, Dixon, Eldridge, Farnsworth, Ferry, Garfield, Getz, Grover, Haight, Halsey, Hawkins, Higby, Hill, Holman, Hooper, Hotchkiss, Hulburd, Jenckes, Johnson, Jones, Kerr, Knott, Logan, Lynch, Mallory, Marshall, Maynard, McCullough, Mercur, Moorhead, Morgan, Mullins, Mungen, Niblack, Nicholson, O'Neill, Peters, Pike, Randall, Ross, Schenck, Sitgreaves, Smith, Starkweather, Stewart, Taylor, John Trimble, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, Ward, Henry D. Washburn, and Wood—67.

NAYS—Messrs. Delos R. Ashley, Bailey, Baker, Baldwin, Blair, Boutwell, Bromwell, Butler, Churchill, Cobb, Cook, Cullom, Dawes, Eckley, Eliot, Ferriss, Fields, Glossbrenner, Golladay, Gravely, Hopkins, Hunter, Judd, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Loughridge, McCarthy, McClurg, Miller, Moore, Morrell, Myers, Newcomb, Orth, Paine, Plants, Polsley, Price, Raum, Robertson, Sawyer, Scofield, Shanks, Stokes, Taber, Taffe, Trowbridge, Upson, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodward—63.

NOT VOTING—Messrs. Adams, Allison, James M. Ashley, Barnes, Beaman, Beatty, Beck, Benjamin, Benton, Blaine, Brooks, Buckland, Reader W. Clarke, Coburn, Cornell, Covode, Dodge, Donnelly, Driggs, Eggleston, Ela, Finney, Fox, Griswold, Harding, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Julian, Kelley, Ketcham, Laffin, Lincoln, Marvin, McCormick, Morrissey, Nunn, Perham, Phelps, Pile, Poland, Pomeroy, Pruyn, Robinson, Selye, Shellabarger, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Thomas, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Windom, and Woodbridge—59.

So the motion to reconsider was agreed to.

The question recurred on agreeing to the report of the committee of conference.

Mr. SCHENCK. On that I move the previous question.

Mr. COBB. I move to lay the report on the table, and on that I demand the yeas and nays.

Mr. SCOFIELD. Mr. Speaker, would it be proper to say that it was agreed that if the motion to lay on the table was withdrawn the friends of the bill would accept an appropriation of $10,000?

Mr. SCHENCK. I object to debate.

The SPEAKER. No debate is in order.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 52, nays 77, not voting 60; as follows:

YEAS—Messrs. Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Blair, Bromwell, Butler, Cobb, Coburn, Cook, Dawes, Eckley, Eliot, Ferriss, Fields, Glossbrenner, Golladay, Gravely, Hopkins, Hunter, Julian, Kelsey, William Lawrence, Loan, Loughridge, McCarthy, McClurg, McCormick, Miller, Moore, Morrell, Newcomb, Orth, Paine, Plants, Polsley, Price, Robertson, Sawyer, Scofield, Shanks, Taffe, Thomas, Upson, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—52.

NAYS—Messrs. Allison, Anderson, Archer, Arnell, Axtell, Banks, Barnum, Beck, Bingham, Blaine, Boutwell, Boyer, Broomall, Burr, Cary, Chanler, Sidney Clarke, Dixon, Dodge, Donnelly, Farnsworth, Ferry, Garfield, Getz, Grover, Haight, Halsey, Hawkins, Higby, Hill, Holman, Hooper, Jenckes, Johnson, Jones, Judd, Kerr, Kitchen, Knott, Laffin, Logan, Mallory, Marshall, Maynard, McCullough, Mercur, Moorhead, Morgan, Mullins, Mungen, Myers, Niblack, Nicholson, O'Neill, Peters, Pike, Randall, Ross, Schenck, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stokes, Taber, Taylor, John Trimble, Lawrence S. Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Wood, and Woodbridge—77.

NOT VOTING—Messrs. Adams, Ames, James M. Ashley, Barnes, Beatty, Benjamin, Benton, Brooks, Buckland, Cake, Churchill, Reader W. Clarke, Cornell, Covode, Cullom, Driggs, Eggleston, Ela, Eldridge, Finney, Fox, Griswold, Harding, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Kelley, Ketcham, Koontz, George V. Lawrence, Lincoln, Lynch, Marvin, Morrissey, Nunn, Perham, Phelps, Pile, Poland, Pomeroy, Pruyn, Raum, Robinson, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, Twichell, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Stephen F. Wilson, Windom, and Woodward—60.

So the House refused to lay the report on the table.

The previous question was seconded and the main question ordered.

Mr. SPALDING. Mr. Speaker, have we not voted this down once?

The SPEAKER. The House has once voted it down, but it has reconsidered it.

Mr. SPALDING. I hope we will vote it down again, then.

On agreeing to the report of the committee of conference there were—ayes 62, noes 57.

Mr. SPALDING. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. DAWES. If this report is not agreed to will it not be competent to appoint another committee of conference to fix it as it ought to be?

The SPEAKER. The pending motion will then be on the motion of the gentleman from Indiana.

Mr. SCOFIELD. Will it be proper for me to make the remark now that I was cut off from making a little while ago?

The SPEAKER. It will if gentlemen do not object to debate.

Mr. BLAINE. I object to debate.

The question was taken; and it was decided in the affirmative—yeas 76, nays 63, not voting 50; as follows:

YEAS—Messrs. Adams, Allison, Anderson, Archer, Arnell, Axtell, Banks, Barnum, Beck, Bingham, Blaine, Boutwell, Boyer, Burr, Cake, Cary, Chanler, Sidney Clarke, Dixon, Farnsworth, Ferriss, Ferry, Garfield, Getz, Golladay, Grover, Haight, Halsey, Hawkins, Higby, Hill, Holman, Hooper, Hotchkiss, Ingersoll, Jenckes, Johnson, Jones, Judd, Kerr, Kitchen, Knott, Laffin, Lynch, Marshall, Maynard, McCullough, Mercur, Moore, Moorhead, Morgan, Mullins, Mungen, Niblack, Nicholson, O'Neill, Peters, Pike, Randall, Ross, Schenck, Selye, Sitgreaves, Smith, Starkweather, Stewart, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, Ward, Henry D. Washburn, and Wood—76.

NAYS—Messrs. Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Blair, Bromwell, Broomall, Butler, Churchill, Cobb, Coburn, Cook, Dawes, Dodge, Eckley, Ela, Eliot, Fields, Glossbrenner, Gravely, Hopkins, Hunter, Julian, Kelsey, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, McCarthy, McClurg, McCormick, Miller, Morrell, Myers, Newcomb, Orth, Paine, Plants, Polsley, Price, Raum, Robertson, Sawyer, Scofield, Shanks, Spalding, Stokes, Taffe, Thomas, Trowbridge, Upson, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodward—63.

NOT VOTING—Messrs. Ames, James M. Ashley, Barnes, Beatty, Benjamin, Benton, Brooks, Buckland, Reader W. Clarke, Cornell, Covode, Cullom, Donnelly, Driggs, Eggleston, Eldridge, Finney, Fox, Griswold, Harding, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kelley, Ketcham, Logan, Mallory, Marvin, Morrissey, Nunn, Perham, Phelps, Pile, Poland, Pomeroy, Pruyn, Robinson, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Twichell, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, William B. Washburn, Stephen F. Wilson, and Woodbridge—50.

So the report of the committee of conference was agreed to.

Mr. SCHENCK. I move to reconsider the vote by which the report was agreed to, and to lay the motion to reconsider on the table.

The SPEAKER. Having been once reconsidered, it cannot be again reconsidered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, announced that the Senate insisted on its amendments to the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GRIMES, Mr. CONKLING, and Mr. MORRILL of Vermont, managers of the conference on the part of the Senate.

The message also announced that the Senate insisted on its amendment to the bill (H. R. No. 331) to facilitate the payment of soldiers'

bounties under act of 1866, disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILSON, Mr. HOWARD, and Mr. FERRY managers of the conference on the part of the Senate.

WITHDRAWAL OF PAPERS.

On motion of Mr. SCHENCK, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers of John Shafer.

IMPEACHMENT OF THE PRESIDENT.

Mr. BUTLER. I move to suspend the rules so as to order that while the impeachment of the President of the United States is pending it shall be in order to suspend the rules at any time.

Mr. WASHBURNE, of Illinois. I hope that will not prevail.

The SPEAKER. The Chair will state the question. The gentleman from Massachusetts moves to suspend the rules for the purpose of ordering that at any time during the pendency of the impeachment of the President a motion to suspend the rules shall be in order.

Mr. WASHBURNE, of Illinois. Will the gentleman from Massachusetts confine it to matters connected with impeachment?

Mr. FARNSWORTH. Are not matters connected with impeachment privileged questions?

The SPEAKER. Some are, and some are not.

Mr. WOOD. I rise to a question of order. It is this: that the gentleman from Massachusetts makes a proposition which affects one of the standing rules of the House, and one day's notice must be given the House before it can be made.

The SPEAKER. The Chair sustains the first part of the point of order, which is that it does change a rule of the House; but the Chair overrules the last part of the point of order, because the motion is to suspend the rules—the rule to which the gentleman refers as well as all others.

Mr. WOOD. Does not a rule of the House require that before a standing rule can be altered one day's notice shall be given?

The SPEAKER. It does, and that is one of the rules that the gentleman moves to suspend.

Mr. WOOD. But he must first give one day's notice.

The SPEAKER. That is not required. A gentleman can move to suspend all the rules in the book after the expiration of the morning hour on Monday; and the gentleman from Massachusetts [Mr. BUTLER] moves to suspend that rule and all others that stand in the way of this order.

Mr. BUTLER. I wish to modify my motion so that everybody may understand it. I move to suspend the rules so as to order that during the pendency of the impeachment the rules may be suspended at any time as to any matter which the Chair shall rule grows out of the question of impeachment.

Mr. WOOD. Until the conclusion of impeachment.

Mr. BUTLER. For any motion growing out of the matter of impeachment.

The SPEAKER. The Chair supposes that the gentleman from Massachusetts intends to except the morning hour on Monday, which is the only time when the States can be called for bills and joint resolutions, and which has always been reserved for that purpose.

Mr. BUTLER. I will modify my motion so as to make that exception.

Mr. WOOD. I demand the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was taken upon the motion to suspend the rules; and it was decided in the affirmative—yeas 107, nays 37, not voting 45; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Eckley, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Hawkins, Higby, Hill, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Plants, Poland, Polsley, Price, Raum, Robertson, Schenck, Scofield, Selye, Shanks, Starkweather, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—107.

NAYS—Messrs. Archer, Axtell, Barnum, Beck, Boyer, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—37.

NOT VOTING—Messrs. Adams, Ames, Barnes, Beatty, Benjamin, Benton, Boutwell, Brooks, Reader W. Clarke, Cornell, Donnelly, Driggs, Eggleston, Finney, Fox, Griswold, Harding, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kelley, Ketcham, Lincoln, Marvin, Morrissey, Nunn, Perham, Phelps, Pile, Pomeroy, Pruyn, Robinson, Sawyer, Shellabarger, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Twichell, Van Aernam, Burt Van Horn, Van Wyck, and Woodbridge—45.

So (two thirds voting in the affirmative) the rules were suspended.

Mr. BUTLER. I now submit the following resolution, for which leave has just been given by a vote of the House; and upon it I call the previous question:

Resolved, That, except during the morning hour of Monday, the rules may be suspended, during the pendency of the impeachment of the President, to proceed to the consideration of any matter which may be reported by the managers on the part of the House of Representatives.

Mr. WOOD. I think this resolution is not precisely like the one of which the gentleman gave notice when he submitted the motion to suspend the rules. The words, "relating to impeachment," I think should be inserted before the words "which may be reported," in order to make the resolution conform to that for which the House gave leave when it consented to a suspension of the rules. I hope the gentleman will modify his resolution as I have suggested.

Mr. BUTLER. I must decline the suggestion of the gentleman.

Mr. RANDALL. I rise to a question of order. These managers were elected for the purpose of conducting the impeachment before the Senate. My point of order is that they have no power or authority to propose legislation to this House.

The SPEAKER. If this resolution should be adopted the effect of it would be to authorize the managers to ask the action of the House on "any matter which may be reported" by them.

Mr. RANDALL. Then by the adoption of this resolution the House would form the managers into a committee?

The SPEAKER. They are practically a committee now, elected by the House, as all committees not appointed by the Chair are required to be elected. The Chair will state frankly to the gentleman from Pennsylvania [Mr. RANDALL] that the effect of this resolution, if adopted, will be to give the managers jurisdiction of other questions, as it authorizes them, without qualification, to report any matter.

Mr. RANDALL. Then they do not now possess that jurisdiction?

The SPEAKER. Not to this extent.

Mr. WOOD. Have the managers the right, under the resolution, to introduce any other business except such as may relate to impeachment?

The SPEAKER. The effect of the resolution would be to give the managers power to introduce matters which might not strictly relate to impeachment.

Mr. WOOD. Then I raise the point of order that that is not in accordance with the object for which the rules were suspended.

The SPEAKER. The Chair sustains the point of order. The gentleman from Massachusetts [Mr. BUTLER] must introduce the resolution for which leave was granted. He can then move such amendment as he may choose.

Mr. BUTLER. Very well; I offer the following resolution:

Resolved, That pending the impeachment trial (except during the morning hour on Monday) the rules may be suspended as to any matter which the Chair may rule grows out of impeachment.

The SPEAKER. That resolution is in order.

Mr. BUTLER. I now move to amend the resolution so that it shall read:

Resolved, That, except during the morning hour on Monday, the rules may be suspended during the pendency of the impeachment of the President to proceed to the consideration of any matter which may be reported by the managers on the part of the House of Representatives.

That limits this privilege to the managers. I now call the previous question.

Mr. TRIMBLE, of Kentucky. I rise to a question of order. This is a proposition to change the rules of the House. Must it not lie over one day?

The SPEAKER. The Chair has already overruled that point of order when raised some time since by the gentleman from New York, [Mr. WOOD.] The gentleman from Massachusetts, [Mr. BUTLER,] for the purpose of adopting this resolution, moves to suspend all rules that would interfere with that object, the effect of which motion, if adopted, is to suspend, among other rules, that which requires a proposition to amend the rules to lie over one day.

Mr. ROSS. I move that the resolution and amendment be laid on the table.

Mr. NICHOLSON. I rise to a question of order. I submit that the resolution as first stated by the gentleman from Massachusetts [Mr. BUTLER] was adopted by a vote of two thirds on the motion to suspend the rules. To offer another proposition is it not necessary to submit another motion to suspend the rules?

The SPEAKER. The Chair overrules the point of order, but will state to the gentleman that this proposition cannot be adopted without a two-thirds vote.

Mr. WOOD. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 31, nays 100, not voting 58; as follows:

YEAS—Messrs. Axtell, Barnum, Beck, Boyer, Burr, Cary, Chanler, Getz, Glossbrenner, Golladay, Haight, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, McCormick, Morgan, Niblack, Nicholson, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—31.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Ela, Eliot, Farnsworth, Ferriss, Fields, Garfield, Gravely, Higby, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Poland, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—100.

NOT VOTING—Messrs. Adams, Archer, Baker, Barnes, Beatty, Benjamin, Benton, Blaine, Brooks, Cake, Reader W. Clarke, Cornell, Donnelly, Eggleston, Eldridge, Ferry, Finney, Fox, Griswold, Grover, Halsey, Harding, Hawkins, Hill, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kelley, Ketcham, Mallory, Marshall, Marvin, McCullough, Morrell, Morrissey, Mullins, Mungen, Nunn, Perham, Phelps, Pile, Plants, Polsley, Pomeroy, Pruyn, Robinson, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stone, John Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Wyck, and Woodbridge—58.

So the House refused to lay the resolution and amendment on the table.

During the roll-call the following announcements were made:

Mr. PIKE. My colleague [Mr. PERHAM] is detained from the House by sickness.

Mr. LAWRENCE, of Ohio. My colleague [Mr. BEATTY] is detained from the House by sickness in his family. If he were here he would vote "no."

The result of the vote was announced as above stated.

Mr. ROSS. I move that the resolution and amendment be referred to the Committee on the Rules.

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] has demanded the previous question. If that should not be seconded the motion to refer would be in order.

Mr. ROSS. I think that this proposition should be referred to the Committee on the Rules.

The SPEAKER. Does the gentleman from Massachusetts yield for a motion to refer to the Committee on the Rules?

Mr. BUTLER. No, sir.

Mr. ROSS. I hope the gentleman will consent to the reference. This is a proposition to change important rules of the House.

On seconding the demand for the previous question there were—ayes 76, noes 27.

So the previous question was seconded.

The main question was ordered, which was upon the amendment offered by Mr. BUTLER.

Mr. ROSS. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 33, not voting 52; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dixon, Dodge, Driggs, Eckley, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Higby, Hill, Hooper, Hopkins, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Plants, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Stokes, Thomas, John Trimble, Trowbridge, Upson, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—104.

NAYS—Messrs. Axtell, Barnum, Beck, Boyer, Burr, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Haight, Holman, Hotchkiss, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—33.

NOT VOTING—Messrs. Adams, Ames, Archer, Arnell, Barnes, Beatty, Benjamin, Benton, Blaine, Brooks, Cary, Reader W. Clarke, Cornell, Dawes, Donnelly, Eggleston, Farnsworth, Finney, Fox, Griswold, Grover, Harding, Hawkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Kelley, Ketcham, Marvin, Morrissey, Nunn, Perham, Phelps, Pile, Pomeroy, Pruyn, Robinson, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Taffe, Taylor, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, and Woodbridge—52.

So the amendment was agreed to.

The question then recurred on the adoption of the resolution as amended.

Mr. ROSS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MUNGEN. I wish to ask a question of the Chair as to the effect of this resolution. If it be adopted will this House then become the appendage of the managers of the impeachment, or will they continue to be an appendage of the House?

The SPEAKER. The Chair does not understand the gentleman's question, but he will state to him, as he did to the gentleman from New York, [Mr. WOOD,] that the resolution, as amended, authorizes the committee to report any matter they may think fitting for the consideration of the House.

The question was taken; and it was decided in the affirmative—yeas 107, nays 34, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Hawkins, Hill, Hopkins, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kitchen, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moorhead, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Plants, Poland, Polsley, Price, Raum, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—107.

NAYS—Messrs. Archer, Axtell, Barnum, Beck, Boyer, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Haight, Holman, Hotchkiss, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, VanTrump, Wood, and Woodward—34.

NOT VOTING—Messrs. Adams, Barnes, Beatty, Benjamin, Benton, Brooks, Reader W. Clarke, Cornell, Eggleston, Finney, Fox, Griswold, Grover, Harding, Higby, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Kelley, Ketcham, Lincoln, Lynch, Marvin, Moore, Morrell, Morrissey, Nunn, Perham, Phelps, Pile, Pomeroy, Pruyn, Robertson, Robinson, Shellabarger, Aaron F. Stevens, Stewart, Thomas, Twichell, Van Aernam, Burt Van Horn, Van Wyck, and Woodbridge—48.

So the resolution, as amended, was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution, as amended, was adopted; and also moved that the motion to reconsider be laid on the table.

Mr. ROSS demanded the yeas and nays.

Mr. WASHBURNE, of Illinois, withdrew his motion.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for two weeks for Mr. VAN AERNAM.

The SPEAKER also asked and obtained indefinite leave of absence for Mr. BEATTY, on account of sickness in his family.

The SPEAKER also asked and obtained indefinite leave of absence after next Saturday for Mr. GROVER.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. MACDONALD, its Chief Clerk, announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested: An act (S. No. 331) to extend the time for building the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin, to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin."

NATIONAL ART ASSOCIATION.

On motion of Mr. BANKS, by unanimous consent, it was ordered that the bill (H. R. No. 864) for the incorporation of the National Art Association be printed.

RELIEF FROM POLITICAL DISABILITIES.

Mr. BINGHAM, from the Committee on Reconstruction, reported back House bill No. 778, to relieve William W. Holden and others from disabilities, with amendments.

The bill as amended was read. It provides that the several persons hereinafter named shall be severally relieved from all disabilities imposed upon them, or either of them, by the laws of the United States, to wit: William W. Holden and C. J. Rogers, of Wake county, North Carolina; William A. Smith, of Johnson county, North Carolina; Calvin J. Cowles, of Wilkes county, North Carolina; Thomas Settle, of Rockingham county, North Carolina; Rufus Barringer, of Mecklenburg county, North Carolina; Luke Blackmer, of Rowan county, North Carolina; Robert W. Flourney, of Potontoc county, Mississippi; Joshua S. Morris, of Claiborne county, Mississippi; James R. Berry, of Little Rock, Arkansas; Victor C. Barringer, of North Carolina; General James Longstreet, of Louisiana; Robert B. Kingsberry, of Texas; Thomas J. Mackey, of South Carolina; James L. Orr, of South Carolina; Joseph E. Brown, of De Kalb county, Georgia; James L. Alcorn, of Coahoma county, Mississippi; and Benjamin D. Nabers, of Tishamingo county, Mississippi.

Mr. COVODE. I wish to add the name of John A. Gilmer, of North Carolina.

Mr. BINGHAM. I accept that amendment.

Mr. COVODE. The reason why I ask to have this gentleman's name inserted I will state. During the struggle on the Kansas question John A. Gilmer acted with Governor Washburn, of Maine, Henry Winter Davis, of Maryland, and others, for the purpose of defeating that scheme. I hold in my hand a letter from him which I received this morning, in which he gives his reason for going into the rebel congress. He says he was elected without his knowledge or consent, and though he went there he did it for the purpose of embracing the very first opportunity to throw his weight against the rebellion and in favor of the Union. I ask to have the letter read.

The Clerk read as follows:

GREENSBORO', NORTH CAROLINA,
February 11, 1868.

DEAR SIR: Pardon me with troubling you with a line. While the present or some other bill is before Congress removing disabilities from persons, could you feel free to do me the great favor to move to amend by inserting the name of John A. Gilmer, of North Carolina? Could I be freed from my political disability I would feel happy. I was always devoted to the Union. To nothing was I more averse than any attempt to break or weaken the bonds of the Union or the things that tended to separate the States. I was educated to believe, and always did believe, that in the Union was all our strength. So I believe now, and am particularly anxious for the Union and harmony to be restored, and am using, and shall continue to exert and use, my influence in that direction, but am for the present cut off from all chances to take any part in politics and from doing good, where, if again were free to act, I might do good.

The people of my district are extreme, if such a thing is possible, for the Union. Like a fool I permitted them to send me to the confederate congress. This they did with hope that some opportunity might present itself in which I might be useful in securing peace, harmony, and the restoration of the Union.

Last October was a year ago I was attacked with palsy and lost, in a great degree, the use of my left side. Ever since I have been confined mostly to my house, and my health has been feeble and bad; unable to get about much. For the last few months I have gradually improved, and I have fair hopes that I will be restored to good health again, and that I will be restored both in body and mind.

Please confer with my old friend MOORHEAD and other northern members that used to respect me, and let me have a line from you.

Yours, truly, JOHN A. GILMER.

Hon. JOHN COVODE.

Mr. WELKER. I ask my colleague to yield to me for a moment to make a personal explanation.

Mr. WASHBURNE, of Illinois. I hope this matter will be disposed of. It will not take but a moment.

Mr. BINGHAM. I move to strike out the word "general" before the words "James Longstreet."

The amendment was agreed to.

The SPEAKER. The name of John A. Gilmer will be regarded as inserted if there is no objection.

Mr. MAYNARD. I wish to say word on that.

Mr. BINGHAM. I yield to the gentleman from Illinois, a member of the committee.

Mr. FARNSWORTH. I move to add the name of W. B. Richardson, of Carthage county, North Carolina.

Mr. MAYNARD. I wish to interpose an objection to the name proposed by the gentleman from Pennsylvania, [Mr. COVODE.]

Mr. ELDRIDGE. I ask the gentleman from Ohio [Mr. BINGHAM] to allow me to move to insert the name of Governor Worth, of North Carolina. He was also a true Union man. The name of Governor Holden is already in, and it seems to me proper to insert the name of Governor Worth also.

Mr. MULLINS. I think we shall have Mosby in before this is done with. [Laughter.]

Mr. BINGHAM. I do not yield to the gentleman from Wisconsin, [Mr. ELDRIDGE.] I have yielded to the gentleman from Illinois, [Mr. FARNSWORTH.] I now yield to the gentleman from New York, [Mr. LAFLIN.]

Mr. LAFLIN. I move to insert the name

of W. B. Rodman, of Washington, Beaufort county, North Carolina, whose loyalty I can personally vouch for.

The SPEAKER. That will not be in order while there is an amendment to an amendment pending.

Mr. WOOD. If the gentleman vouches for his loyalty then he must be a traitor.

Mr. FARNSWORTH. I accept the amendment of the gentleman from New York, [Mr. LAFLIN.] I move to add the two names.

Mr. SPALDING. I move to lay the bill and amendments on the table.

The question being put, there were—ayes 48, noes 66.

Mr. SHANKS. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 89, not voting 48; as follows:

YEAS—Messrs. Arnell, Banks, Barnum, Beck Bromwell, Butler, Cake, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cullom, Eckley, Eldridge, Golladay, Haight, Hawkins, Higby, Hopkins, Hunter, Jones, Julian, Kelsey, Kerr, Knott, George V. Lawrence, William Lawrence, Loan, Maynard, McClurg, McCormick, Mercur, Miller, Mullins, Myers, O'Neill, Orth, Plants, Price, Ross, Shanks, Spalding, Thaddeus Stevens, Taber, Taffe, Van Trump, Ward, Henry D. Washburn, Thomas Williams, William Williams, and Stephen F. Wilson—52.

NAYS—Messrs. Allison, Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Beaman, Bingham, Blaine, Blair, Boyer, Broomall, Buckland, Chanler, Cook, Covode, Dawes, Dodge, Donnelly, Driggs, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Gravely, Halsey, Hill, Holman, Hooper, Hotchkiss, Richard D. Hubbard, Ingersoll, Jenckes, Johnson, Judd, Ketcham, Koontz, Laflin, Lincoln, Loughridge, Lynch, Mallory, Marshall, McCarthy, Moore, Moorhead, Morgan, Mungen, Newcomb, Niblack, Nicholson, Paine, Peters, Pike, Poland, Polsley, Randall, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Sitgreaves, Smith, Starkweather, Stokes, Taylor, Lawrence S. Trimble, Trowbridge, Upson, Van Auken, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, Wood, and Woodward—89.

NOT VOTING—Messrs. Adams, Baldwin, Barnes, Beatty, Benjamin, Benton, Boutwell, Brooks, Burr, Reader W. Clarke, Cornell, Dixon, Eggleston, Ela, Finney, Fox, Griswold, Grover, Harding, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Kelley, Kitchen, Logan, Marvin, McCullough, Morrell, Morrissey, Nunn, Perham, Phelps, Pile, Pomeroy, Pruyn, Robinson, Shellabarger, Aaron F. Stevens, Stewart, Stone, Thomas, John Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, and Woodbridge—48.

So the House refused to lay the bill on the table.

The question recurred upon seconding the demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. ASHLEY, of Ohio. I wish to ask my colleague whether this bill relieves the gentlemen named under the provision of the constitutional amendment?

Mr. BINGHAM. It does not say anything about the constitutional amendment. It is confined exclusively to the laws of the United States.

Mr. ELDRIDGE. Is debate allowable?

The SPEAKER. It is not, except that the gentleman from Ohio, [Mr. BINGHAM,] who reported the bill, is entitled to the floor for an hour.

Mr. ELDRIDGE. I do not object, if we can have a fair chance to be heard upon this side of the House.

Mr. SPALDING. Is a majority vote sufficient to pass the bill?

The SPEAKER. It is, by the terms of the bill itself.

Mr. BROMWELL. I rise to ask a question of the gentleman who reported this bill.

The SPEAKER. If the gentleman from Ohio, [Mr. BINGHAM,] who reported the bill, claims the floor he is entitled to it for one hour.

Mr. BINGHAM. Has the previous question been seconded?

The SPEAKER. The previous question has been seconded and the main question ordered, and when the gentleman resumes his seat the debate will be closed.

Mr. BINGHAM. What is the question of the gentleman from Indiana, [Mr. BROMWELL?]

Mr. BROMWELL. I wish to know for what reason the committee recognizes Mr. Longstreet as a "general?" Was he a general of the United States Army?

Mr. BINGHAM. The word "general" has been struck out. It was only put in for the purpose of identifying the man.

Mr. MAYNARD. I rise for information. What is the amendment pending?

The SPEAKER. The amendment of the gentleman from Pennsylvania, [Mr. COVODE,] is to include the name of Mr. Gilmer; and there is an amendment to the amendment, offered by the gentleman from Illinois, [Mr. FARNSWORTH,] to include a gentleman suggested by himself, and another suggested by the gentleman from New York, [Mr. LAFLIN.] The amendment to strike out the word "general" before the name of Mr. Longstreet was agreed to by unanimous consent.

Mr. MAYNARD. Will the gentleman allow me to say a word in reference to the first amendment?

Mr. BINGHAM. I will yield the gentleman two minutes.

Mr. MAYNARD. I rise simply to say that in my opinion this amendment ought not to be adopted.

Mr. BINGHAM. Which amendment?

Mr. MAYNARD. The first.

Mr. BINGHAM. To whom does it relate?

Mr. MAYNARD. It is to include the name of John A. Gilmer, of North Carolina. I concur in all that has been said by the mover of the amendment as to the position that that gentleman occupied before the war, when he and several others of us were here; but it is also true that when the war broke out he went heartily into the rebellion and did our cause immense mischief, more by his previous position and by the weight of his character than he would have been able to do had he been of the original order of secessionists. And, sir, if he has since the war done anything to give aid or assistance in the great work of reconstruction that we have been attempting to carry on in North Carolina, I am not aware of it; I have never heard of it; neither do I believe that it is the fact.

And, sir, whatever we might be disposed to do for a man who is old and infirm and paralyzed, yet we are establishing precedents here, and it behooves us to be cautious what sort of precedent we establish. If we include his case, I see not on what principle we may not include the case of almost every other man in the South. I trust the amendment will not prevail.

Mr. ROSS. I desire to ask the gentleman from Ohio [Mr. BINGHAM] a question.

Mr. PRICE. I rise to a point of order, and it is this: there is no power under the laws of this country to remove disabilities of this character, unless it be under the fourteenth article of the amendments to the Constitution, and I understand the gentleman from Ohio, [Mr. BINGHAM,] who reported this bill, to say that he does not propose to do it under that article of the Constitution, consequently the whole thing is out of order, in my opinion.

The SPEAKER. The Chair overrules the point of order upon the ground that the Presiding Officer of this House cannot decide constitutional questions; he can only decide parliamentary questions. It is for the courts to decide upon the constitutionality of this bill, should it become a law.

Mr. BINGHAM. I desire to say to the gentleman from Iowa, [Mr. PRICE,] that this bill has no relation whatever to the fourteenth article of amendment to the Constitution of the United States. The terms of the bill confine it to the laws of the United States. The terms of the bill are technical; they never can be construed to have any relation whatever to the Constitution of the United States. I say to the gentleman from Iowa [Mr. PRICE] that this bill *pro tanto* proposes to repeal the acts of Congress imposing disabilities upon these parties, and there is no color of excuse to raise a question of constitutional power about this bill.

Mr. BECK. Will the gentleman yield to me for a few moments?

Mr. BINGHAM. Certainly.

Mr. BECK. Mr. Speaker, as the bill for the removal of political disabilities from the gentlemen therein named has been reported by the Reconstruction Committee, of which I am a member, I desire to say that while I did not oppose it in the committee, for the reason, as I stated when the case of Governor Patton was under consideration, that I did not wish to make a factious opposition, and desired to see all men relieved from illegal restrictions on their rights and privileges, I did not vote for the bill, and cannot now oppose its provisions.

I understand that many of the persons to whom it applies have been already pardoned by the President for any offenses they may have committed, and most of them are covered and protected by the terms of amnesty proclaimed, and that they have complied with the terms required by the pardons and amnesty so granted. That being so, all their civil disabilities are already removed, as the Supreme Court in the case *ex parte* Garland, 4th Wallace, had decided. Among other things the court say:

"The Constitution provides that the President shall have power to grant reprieves and pardons for offenses against the United States except in cases of impeachments. The power thus conferred is unlimited, with the exception stated. It extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogatives of mercy reposed in him cannot be fettered by any legislative restrictions.

"Such being the case, the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction, it prevents any of the penalties and disabilities consequent upon conviction from attaching if granted after conviction; it removes the penalties and disabilities, and restores him to all his civil rights; it makes him, as it were, a new man, and gives him a new credit and capacity."

Under that decision, which binds and ought to control and govern this House as fully as it does the humblest citizen, I maintain that we have no right to assume that any of these men are still laboring under civil disabilities, and undertake to remove what only exists in violation of the Constitution, and by reason of the brute force which this Congress maintains over ten States of this Union. I deny the right of this body to grant pardons to or remove disabilities from the people of these States. The power to pardon and remove disabilities assumes the existence in us of the power to punish and to impose disabilities. If we have that power we have it without limit, except the will of the majority here, and every citizen in every State holds all his rights, civil and political, at the mercy of Congress. Such an assumption is the essence of despotism.

Again, I oppose it because it is simply a means of coercing men to adopt the policy of and attach themselves to the political organization now dominant here, a means, and a potent means, of rewarding all such as do so, whether from honest or dishonest motives, and of punishing by continued exclusion from office, or even from the exercise of the elective franchise, all who, however honestly, differ from and refuse to forward the interests of that party. Such a proceeding being wholly variant from all my ideas of free representative Government I felt it to be my duty to withhold my assent, and to state thus briefly my reasons for so doing.

Mr. BINGHAM. I have but one word to say in reply to the gentlemen from Kentucky, [Mr. BECK.] The Supreme Court of the United States can very well decide for itself in a case which comes before it, as did the case referred to by the gentleman; it can execute

its judgment under the existing laws of Congress touching disabilities imposed upon persons offering to practice as counselors of law before that tribunal. But it can make no dicision in the premises that operates either upon the House of Representatives or upon the Senate. Therefore, with all due respect to the gentleman from Kentucky, [Mr. BECK,] I beg leave to say that the decision of the Supreme Court of the United States, to which he has referred, in no wise touches the question now pending before this House; and that is whether the Congress of the United States shall remove the disabilities imposed by the laws of the United States.

Now, I have one other word to say; and that is that the law to which the gentleman referred, namely, the act of 1862, which expressly authorized the President of the United States to proclaim amnesty, has been repealed by the power that made it; so that the very reason, upon which the decision of the Supreme Court rests no longer operates.

Now, if any relief at all is to be extended to these persons, it remains with Congress to extend it; and I pray the House to consider that the bill by its terms operates only upon the acts of Congress, and not at all upon the fourteenth article of amendments to the Constitution of the United States.

Mr. BLAINE. Then it does not require a two-thirds vote to pass this bill?

Mr. BINGHAM. No, sir.

Mr. BLAINE. Only a majority vote.

Mr. BINGHAM. That is all.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. BINGHAM. Certainly.

Mr. WILLIAMS, of Pennsylvania. I understand the gentleman from Ohio [Mr. BINGHAM] to entertain the opinion that the fourteenth article of the amendments to the Constitution has already become a part of the Constitution by the action of a sufficient number of States. I wish to ask him now whether he entertains the opinion that the fundamental law of the land is any law at all?

Mr. BINGHAM. Certainly it is.

Mr. WILLIAMS, of Pennsylvania. And does it not fall within the scope of the bill we are now asked to vote for?

Mr. BINGHAM. No, sir; and I undertake to say that no act of Congress, from 1789 to this hour, which by its terms simply recited "the laws of the United States," was ever held, either by Congress or by your judicial tribunals, to operate at all upon the text of the Constitution or to be intended to so operate. That is my answer to the gentleman.

Mr. WILLIAMS, of Pennsylvania. I would like the gentleman to state distinctly whether he is of opinion, as a lawyer, that under the term "law" a constitutional provision would not be comprehended in its construction by the courts.

Mr. BINGHAM. "The laws of the United States" is the term applied to the acts of Congress.

Mr. WILLIAMS, of Pennsylvania. Is not the Constitution "the supreme law of the land?"

Mr. BINGHAM. It is. But it is the supreme law enacted by the people of the United States; and the gentleman ought to remember that the enacting words of an act of Congress are not "be it enacted by the people of the United States." The introductory words of the Constitution, however, are, "We, the people of the United States, do ordain and establish this Constitution." A law of the United States, in the ordinary acceptation of the term, is an entirely different thing from a constitutional provision.

I do not propose to waste words about this question. If the gentleman thinks that after the pledge we have given to the people of this country it is well to repudiate that pledge, let him do it. For one I will not do it. Among the men who are named in this bill are men who saved your famishing prisoners from death in the prison pens of the rebellion, yet gentlemen stand here to quibble about passing this bill. I ask for the vote.

Mr. SCHENCK. I ask my colleague to yield to me for a moment?

Mr. BINGHAM. I will do so.

Mr. SCHENCK. Amid the confusion here it is very difficult to understand at what point we have arrived and what we have under consideration. I had supposed that a bill was reported recognizing the mode prescribed in the fourteenth article of the amendments to the Constitution for removing these disabilities by a two-thirds vote of both Houses of Congress. I understand now that a distinction is drawn between coming back through that door and coming back through some relief from disability incurred under some particular statute. That I may know what is here intended, I will inquire of my colleague in the first place what is to be the effect of this bill if it should pass? Will it restore these men to the privilege of holding office, civil and military?

Mr. BINGHAM. No, sir; I answer my colleague very candidly, it will do no such thing, because the disability in regard to holding office is a disability imposed by the fourteenth article of the amendments to the Constitution; but it will remove from these men the disability imposed by our acts of reconstruction, by which they are excluded from registration and from voting even in the elections of the State.

Mr. SCHENCK. Mr. Speaker, the fourteenth article of the amendments to the Constitution provides in the third section that—

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

Now, sir, I am in favor of removing the disabilities in some at least of these cases, which I know, so far as we can well know such a thing, to be particularly meritorious. I know that there are in the list here presented men who have been devoting their lives to this work of reconstruction in conformity with the policy of Congress. But, sir, I will never vote for any bill of any kind to remove any disability from any of them unless they come in through the door provided in the constitutional amendment; that is, by a vote of two thirds of both Houses. To ascertain whether we were moving in that direction was my object in making this inquiry.

Mr. BINGHAM. Mr. Speaker, the gentleman is welcome to his vote and his speech. I anticipated the very difficulty which my colleague has presented, and I drew with my own hand a provision for insertion in this bill to extend relief in these cases in accordance with the fourteenth article of the amendments; but it was suggested to me that that must be done at another step. The position in which my colleague puts himself is simply this: that he will not favor the removal of any disabilities unless we can remove all at once. It was suggested to me that for the very reasons so well stated by my colleague it was of some advantage in this work of reconstruction that these men should be relieved from the disabilities resting upon them under the statute law of the United States, so that they might actively participate in the work of reorganizing the State governments. But my colleague seems to conclude that the committee were all at sea, mistook the temper of the House, and concluded that they would do nothing unless they could do all things.

Now, I beg leave to say a word further in vindication of the action of the committee. While we do believe, or at least I believe, that the fourteenth article of the amendments having already been ratified by three fourths of the organized States of this Union is therefore entitled to be proclaimed a part of the Constitution, yet every man in America knows that that amendment is not operative, and never can be operative as part of the Constitution until it is by the law-making power, in some form, so proclaimed, which has not been done.

Mr. SCHENCK. I will wait until that is acknowledged all round to be a part of the supreme law of the land.

Mr. BINGHAM. Of course, the gentleman will wait.

The SPEAKER. The gentleman from Ohio is not in order unless his colleague yields to him.

Mr. BINGHAM. Of course, my colleague will have to wait. I now yield to the gentleman from Illinois, my colleague on the committee.

Mr. FARNSWORTH. Mr. Speaker, there is evidently some misunderstanding here in regard to the object of this bill. The committee investigated the different names presented to it, and upon repeated investigations came to the conclusion they were proper persons from whom disabilities should be removed. Some of them, as has been stated by the gentleman from Ohio, [Mr. BINGHAM,] were men who fed our prisoners in the rebel prisons. Others were men who held some petty office.

Mr. MULLINS. Will the gentleman allow me?

Mr. FARNSWORTH. Not now. Others held some petty office.

Mr. DRIGGS. I make the point of order that gentlemen must take their seats. The confusion is so great we cannot hear what is going on.

The SPEAKER. Gentlemen must take their seats and suspend conversation.

Mr. FARNSWORTH. Others were men who held some petty offices before, and perhaps through the war, like the man whose letter I hold in my hand; men who fought the rebellion before, during, and after the war. Others are men who have accepted the situation cheerfully, in good faith, and in consequence have been ostracised and set upon by the whole press of the South.

But, sir, I rose chiefly for the purpose of saying, as a member of the Reconstruction Committee, it was my understanding the purpose of this bill was to remove the disabilities of these persons in pursuance of the fourteenth article of the Constitution of the United States, also with the understanding that it would require a two-thirds vote of both Houses to pass the bill and make it effective. That certainly was my understanding; and I believe it was the understanding of the other members of the committee.

Mr. BINGHAM. There was not a word of the sort syllabled in the committee. I drew the bill myself. The gentleman from Massachusetts [Mr. BOUTWELL] knows he suggested I should strike it out.

I yield now to the gentleman from Massachusetts, [Mr. DAWES.] If issues of this sort are to be made with me I will withdraw from further participation in this business. I say, sir, not one word was uttered in committee as has been suggested. I drew the bill as it is, and was advised by the members of the committee it would carry.

Mr. DAWES. The gentleman from Ohio knows I am desirous to coöperate with him so far as the cases embraced in this bill are concerned; but I desire his ear for a moment. I desire to inquire of him whether, if this bill becomes law, any gentleman whose name is embraced in it is relieved thereby from taking the oath of office prescribed by the act of July 2, 1862, or whether, nevertheless, and notwithstanding, this act requires every man must swear he has not participated in this rebellion?

Mr. BINGHAM. I suppose he is relieved from the acts of Congress.

Mr. DAWES. I do not see, Mr. Speaker, how he can be relieved from the disabilities imposed by that act when that act is not mentioned in this bill; but I suppose the bill we passed the other day, provided this bill should pass by a two-thirds vote, the general bill we passed the other day would effect that object. I only inquire of the gentleman from Ohio how

in the world he is going to benefit those gentlemen unless they come within the provisions of that general bill, unless this also passes by a two-thirds vote?

Mr. BINGHAM. I have no doubt the bill relives them from the disabilities, as I have said before, imposed by the acts of Congress. I ask leave to say further, I did draw it so as to extend to the disabilities under the Constitution. And I beg leave to say further, in the hearing of the gentleman from Massachusetts, of that committee, I struck that line out at his own suggestion.

Mr. DAWES. Will the gentleman allow me? Does he say how the persons named in this bill are to be relieved from taking the oath prescribed by the act of July 2, 1862?

Mr. BINGHAM. I have answered it before. This repeals *pro tanto* all the acts of Congress imposing disabilities. That is the answer the gentleman requires.

I yield now to the gentleman from Iowa.

Mr. WILSON, of Iowa. Mr. Speaker, it seems to me there is some misunderstanding about this bill. If I have a correct appreciation of it, it will relieve the persons whose names are included in the first section of all disability imposed by the fifth and sixth sections of the act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867.

The proviso to the fifth section is as follows:

"*Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention."

Then the sixth section is as follows:

"SEC. 6, *And be it further enacted*, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

Mr. DAWES. Now I put the same question to the gentleman from Iowa, I put to the gentleman from Ohio. Suppose one of these men named in this bill is relieved from these disabilities and is elected a member of Congress, would he have to take the oath?

Mr. WILSON, of Iowa. Undoubtedly he would.

Mr. DAWES. He would have to swear that he had not participated in the rebellion.

Mr. WILSON, of Iowa. As I understand the effect of this bill it will be, as I have already stated, to relieve the parties named in it from the disabilities imposed by the two sections which I have read of the act of March 2, 1867. Those disabilities affect them as citizens of the several States where they reside; that is to say, that until we shall have admitted the State of North Carolina to representation in Congress, no person upon whom these disabilities are imposed can hold any office in that State under the constitution and laws of that State. That is the length and breadth of the disabilities of which this bill treats, as I understand it. It does not relate to the holding of any office under the General Government, but simply to the holding of office in the State where they reside.

Mr. PRICE. I ask my colleague whether that disability can be removed without a two-thirds vote?

Mr. WILSON, of Iowa. Unquestionably that disability can be removed by the same vote which passed this bill.

Mr. PRICE. Which imposed it?

Mr. WILSON, of Iowa. Yes, sir; which imposed it. Its passage was interfered with by a veto; but it could have been passed by a majority vote.

Mr. PRICE. Let me call my colleague's attention to the fourteenth article, which provides they shall not hold any office under the State government without a two-thirds vote of both Houses of Congress.

Mr. WILSON, of Iowa. If my colleague is correct and the constitutional amendment is in force, and, therefore, these parties cannot be relieved except by a two-thirds vote, then this bill is worth nothing at all; but, on the contrary, if he is in error, if that amendment is not yet a part of the Constitution, the passage of this bill will relieve the parties named of their disabilities under the two sections to which I have referred. The gentleman from Tennnssee asks me what effect this bill will have upon the test-oath. I do not think it will have any effect. If it is as I construe it, then it does not apply to Federal officers; and as no other officers are required to take the test-oath this does not affect the test-oath provided by law.

Mr. SCHENCK. Will the gentleman from Iowa allow me to make an inquiry? Is not the dispensing with that oath provided for by law, and does not this provision which relieves these persons from all disabilities imposed upon them by the laws of the United States cover that test oath?

Mr. WILSON, of Iowa. The act to which the gentleman refers removes the obligation to take the oath, but does not remove disabilities. But if there is any danger of that, I certainly would have an amendment to this bill, so as to exclude from it any such operation. I will never consent, at least until the country is in a more settled condition than it is, to modify or repeal that oath. But my construction of the bill is this: that it relates to persons as residents and citizens of the several rebel States, and relates to them as exercising the right of franchise within the States, or of holding office under the States. Now, sir, if there is any difficulty——

Mr. BINGHAM. I resume the floor. I want to know what the gentleman from Pennsylvania [Mr. COVODE] wishes.

Mr. COVODE. Mr. Speaker, the gentleman from Ohio has yielded to me, but as my impulses are all against relieving any of these persons, and believing that Governor Gilmer is one of the best of those that are named, in order to disembarrass the question I will withdraw his name. It appears to me it would require a two-thirds vote to relieve him.

The SPEAKER. It will require unanimous consent to withdraw it now, the previous question operating.

Mr. RANDALL. I object.

Mr. BROMWELL. Will the gentleman from Ohio yield to me?

Mr. BINGHAM. I hope the House will either pass this bill, vote it down, or adjourn.

Mr. SCOFIELD. Will the gentleman yield to me to make a motion to adjourn?

Mr. BINGHAM. Yes, sir.

Mr. SCOFIELD. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: Resolutions of the west ward Republican club of Petersburg, Virginia, approving the action of the House of Representatives in impeaching Andrew Johnson, President of the United States.

By Mr. BROOMALL: The petition of the clerks and employés in the Executive Departments, praying for the establishment of a public library for their use and improvement.

By Mr. BUTLER: The petition of Rufus King Howell, of New Orleans, praying Congress to remove from him political disabilities on account of holding an office under the confederate government.

Also, the petition of manufacturers of tonics and bitters, of Lancaster, Pennsylvania, in regard to tax under existing laws.

Also, the resolution of Ben. Butler council No. 21, union league of America, approving the course pursued by Hon. E. M. Stanton, and pledging the whole strength of the league in support of Congress.

Also, the petition of journeymen cigar-makers and manufacturers in regard to the tax on cigars.

Also, the petition of citizens of Hyde Park, Massachusetts, in favor of paying the five-twenty bonds in the lawful currency of the country.

Also, the petition of Nathaniel Tarr, for relief.

By Mr. CAVANAUGH: The petition of John Donegan and others, citizens of Nevada, in the Territory of Montana, relative to the rights of naturalized American citizens in foreign countries.

By Mr. CHURCHILL: The petition of Lyons & Finney, Goble & McFarlane, and others, shipowners and shipbuilders, of Oswego, New York, asking for the nationalization of certain Canadian-built vessels therein mentioned.

By Mr. CLARKE, of Kansas: A concurrent resolution of the Legislature of the State of Kansas, requesting Congress to so amend an act entitled "An act for a grant of land to the State of Kansas, in alternate sections, to aid in the construction of a certain railroad and telegraph line in said State," approved March 3, 1863, that when the Atchison, Topeka, and Santa Fé Railroad Company shall complete and put in running order twenty consecutive miles they may take up from lands at any point on said road granted in said act an amount sufficient to make up any deficit found in lands granted by said act on the portion of road so completed, and so continue until said road is completed. Also, that the line of said road may be changed to the southern boundary of Kansas, with the same grants and privileges as now held.

Also, a concurrent resolution of the Legislature of the State of Kansas, memorializing Congress to extend to the Union Pacific Railway, Southern Branch Company, the same subsidy in the bonds of the United States as is granted to the eastern branches of the Union Pacific railway.

Also, a concurrent resolution of the Legislature of the State of Kansas, pledging unanimous support to Congress, not only in the removal of Andrew Johnson, if found guilty, but of every other obstruction to reconstruction upon a loyal basis.

Also, a memorial of G. E. Reside, asking payment for Army stores transported by him.

By Mr. DRIGGS: The petition of captains, vessel owners, and officers on the lakes of Buffalo and vicinity, for the erection of a light-house at the mouth of Au Sauble river, Lake Huron, Michigan; the great necessity for which has been increased by the erection of a harbor now being built by the Government.

By Mr. FIELDS: The petition of J. W. Church and others, in opposition to the bill now proposed by the Committee of Ways and Means affixing a stamp as a tax upon cigars.

By Mr. FLANDERS: The petition of citizens of King county, Washington Territory, in relation to certain overflowed lands in said county.

By Mr. GARFIELD: The petition of 109 citizens of Cleveland, Ohio, praying that the Constitution of the United States be so amended as to abolish the office of President.

By Mr. GLOSSBRENNER: The petition of Franklin Stoner, late of company G, eighty-fourth Pennsylvania volunteers, praying for a pension.

Also, the petition of the Mount Holly Paper Company and of sundry paper makers of Mount Holly, Pennsylvania, praying Congress not to enact the bill now pending to create an international copyright.

Also, a memorial from journeymen cigar-makers and manufacturers of cigars, of York

county, Pennsylvania, remonstrating against the adoption by Congress of the proposition to affix an internal revenue stamp to each cigar.

By Mr. HOTCHKISS: The petition of Sidney A. Downs and others, citizens of Birmingham, Connecticut, for relief from burdens of taxation.

By Mr. JENCKES: The petition of C. B. Farnsworth and others, for improvement of the channel of Pawtucket river.

By Mr. KITCHEN: The petition of S. V. B. Strider and others, citizens of Harper's Ferry and Bolivar, West Virginia, asking compensation for private property destroyed by the United States Army.

By Mr. McCLURG: The petition of citizens of the District of Columbia, in regard to the Washington aqueduct road.

By Mr. MERCUR: The petition of 36 citizens of Bradford county, Pennsylvania, praying for the establishment of a post route from Armenia, in said county, to Fall Brook, in Tioga county, in said State, nine miles.

Also, the petition of 34 citizens of Fall Brook, Tioga county, Pennsylvania, praying for the establishment of a post route from said borough of Fall Brook to the borough of Alba, in Bradford county, in said State, a distance of nine miles.

By Mr. MOORHEAD: Two petitions from citizens of Pittsburg, Pennsylvania, praying that the law establishing bonded warehouses for foreign merchandise be repealed and the system abolished.

By Mr. STOKES: The petition of Thomas R. Elliott, late second lieutenant company G, fifth Tennessee infantry volunteers.

Also, the petition of William M. Henry, for pay as second lieutenant of cavalry, company E, first regiment Tennessee cavalry.

Also, the petition of Captain Hiram Mahaffy, Roane county, Tennessee.

Also, the petition of Elijah A. Purcell, for pay as second lieutenant of infantry, company G, ninth regiment Kentucky infantry volunteers.

Also, the petition of Mrs. Luisanah Sizemore, widow of W. O. Sizemore.

IN SENATE.

TUESDAY, *March* 17, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 3d instant, information in relation to claimants for indemnity for the depredations by Sioux Indians in Minnesota, under the act of February 16, 1863; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. YATES presented additional papers in relation to the claim of Captain Phelps Paine; which were referred to the Committee on Claims.

Mr. RAMSEY presented a memorial of the Chamber of Commerce of the city of St. Paul, Minnesota, praying aid for the completion of the lines of railroad extending from Sioux City to the head of Lake Superior; which was referred to the Committee on the Pacific Railroad.

Mr. MORGAN presented a memorial of manufacturers of and dealers in stoves and stove-patterns in the county of Albany, New York, remonstrating against the passage of an act authorizing the renewal of a certain patent granted to Samuel Pierce in December, 1845; which was referred to the Committee on Patents and the Patent Office.

Mr. DRAKE presented a petition of John Forbes, of Texas, praying to be relieved from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CHANDLER presented a petition of citizens of Michigan, praying a repeal of the tax on manufactures; which was referred to the Committee on Finance.

He also presented five petitions of citizens of Michigan, praying the adoption of measures for the reduction of the taxes, and that the expenses of the Government be reduced to a strictly peace basis; which were referred to the Committee on Finance.

Mr. TRUMBULL presented four petitions of citizens of Illinois, praying the adoption of measures for a reduction of the taxes, and that the expenses of the Government be reduced to a strictly peace basis; which were referred to the Committee on Finance.

He also presented a petition of citizens of Illinois, praying a reduction of the tax on whisky; which was referred to the Committee on Finance.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, remonstrating against any further extension of the time for the completion of a railroad from Lake St. Croix to Lake Superior unless the railroad company shall build, equip, and put in complete running order forty miles of road before making application for such extension; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for the improvement of the harbor of Bayfield; which was referred to the Committee on Commerce.

Mr. HARLAN presented a resolution of the Legislature of Iowa, in favor of an increase of a grant of land to that State to aid in the building of a railroad from McGregor westerly to the forty-third parallel until it shall reach the county of O'Brien, in that State; which was referred to the Committee on Public Lands.

Mr. STEWART presented a petition of Hiram C. Lillie, praying for the passage of an act confirming unto him a certain tract of land in Marin county, California, known as the Soulajulle Rancho; which was referred to the Committee on Private Land Claims.

Mr. CAMERON presented a petition of citizens of New York, praying the adoption of measures for a reduction of the taxes, and that the expenses be reduced to a strictly peace basis; which was referred to the Committee on Finance.

He also presented seven petitions of citizens of Philadelphia, Pennsylvania, praying the adoption of measures for a reduction of the taxes, and that the expenses of the Government be reduced to a strictly peace basis; which were referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. STEWART, from the Committee on the Public Lands, to whom was referred the bill (S. No. 287) granting the right of way and lands to the Pecos and Placer Mining and Ditch Company of New Mexico, reported it with an amendment.

Mr. MORGAN, from the Committee on Finance, to whom was referred the bill (S. No. 264) to locate and establish an assay office in the Territory of Idaho, reported it with amendments.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department, and for fulfilling treaty stipulations, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, reported it with amendments.

Mr. FESSENDEN, from the Committee on Foreign Relations, reported a joint resolution (S. R. No. 123) authorizing the Secretary of State to adjust certain claims, and directing the payment thereof; which was read, and passed to a second reading.

He also, from the Committee on Claims, presented a letter from the Secretary of State, addressed to Hon. CHARLES SUMNER, inclosing a copy of a report of the Examiner of Claims in the Department of State upon the claim of Nathaniel J. Miller, of Portland, assignee of Drake & Conklin, of San Francisco, owners of the steamer Monitor or Fee Pang, to accompany the foregoing resolution; which was ordered to be printed.

Mr. CORBETT, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 215) to vacate and sell the Umatilla reservation, in the State of Oregon, reported it with amendments.

COMMITTEE ON RETRENCHMENT.

Mr. EDMUNDS. I am instructed by the joint Committee on Retrenchment to report that that committee has this morning adopted the following resolution, which I will read, as it explains itself—it is rather a matter of privilege than anything else—for the information of the Senate, as the report to which this resolution refers was made to the House of Representatives:

Resolved, That the joint select Committee on Retrenchment have seen with surprise a document purporting to be a report from that committee on the subject of frauds upon the revenue by distillers of whisky and others engaged in the manufacture and sale of whisky, made by one of the members of that committee to the House of Representatives on the 12th instant; and they hereby instruct the chairmen of the committee, Mr. EDMUNDS, of the Senate, and Mr. JENCKES, of the House of Representatives, to state to their several Houses that said document is not the report of said joint committee nor of any sub-committee thereof; that the subject of the investigation of frauds in whisky was not referred to said committee by the resolution under which they were appointed, and has not since been referred to them by any resolution of either House; that under their general powers they have not authorized any sub-committee nor any one of their number to make such investigation; that the subjects embraced in said so-called report have never been submitted to the committee or any sub-committee thereof for consideration; and that said document, in manner and matter, substance and conclusion, is the unauthorized work and act of an individual member of said committee, without the consent, knowledge, or approval of any other member thereof.

I make this statement, of course, with unfeigned regret that a circumstance of that kind should make it necessary for the committee to inform the Houses that appointed them that a document which has appeared in the newspapers is wholly without their authority in any respect whatever.

CHARLES GRAFTON PAGE.

Mr. FERRY. I am instructed by the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent, to report it back with a recommendation that it pass; and there are circumstances which make it almost necessary that the bill should receive present consideration. I think it will take but a moment, and I ask that it may now be put upon its passage.

By unanimous consent, the bill (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent was considered as in Committee of the Whole. Its purpose is to authorize the Commissioner of Patents to receive and entertain a renewal of the application of Charles Grafton Page for letters-patent for his induction apparatus and circuit breakers, now on file in the United States Patent Office, including therewith his circuit breakers, described by him prior to the application; and if the Commissioner shall adjudge him to have been the first inventor thereof he is to issue to him a patent, which shall be valid notwithstanding Page's invention may have been described or in use prior to the application, and notwithstanding the fact that Page is now an examiner in the United States Patent Office. But any person in possession of the apparatus prior to the date of the patent shall possess the right to use and vend to others to use the the specific apparatus in his possession without liability to the inventor or patentee or any

other person interested in the invention or the patent therefor.

Mr. FERRY. This bill comes to us from the House of Representatives, having been passed there, and with a unanimous recommendation in its favor by the Committees on Patents of both Houses. I believe the bill is pretty generally understood.

Mr. GRIMES. Explain it; let us know what it is.

Mr. FERRY. The invention referred to is relative to the use of an electric coil in the communication of shocks in medical cases. It was invented by Dr. Page when he was an examiner in the Patent Office, which fact prevented him from obtaining a patent. Subsequently a similar invention was made in Europe upon a reward offered by the emperor of the French, which was a plagiarism from Dr. Page, and that invention is now in use in Europe, taking from Dr. Page the credit which belongs to him as the original inventor. All the manufacturers of the instrument in America desire that Dr. Page should have this patent granted to him. There are but four manufacturing establishments in this country, and the committee received communications from all of them. Dr. Page is probably at the point of death; he will not live more than a month or six weeks, from the information which the committee had; and it was on account of this fact that they desired to have the bill passed now.

Mr. GRIMES. Is the patent going to expire when he dies?

Mr. FERRY. No, sir.

Mr. GRIMES. Then I do not see what that has to do with it.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MAJOR A. L. BREWER.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom a petition on the subject was referred, reported a joint resolution (S. R. No. 122) for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army; which was read, and passed to a second reading.

Mr. SHERMAN. I should like to have that resolution taken up and passed now if there be no objection.

By unanimous consent, the joint resolution was read the second time, and considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury to enter a credit of $3,636 on the account of Major A. L. Brewer, paymaster United States Army, who, with his clerk, Robert F. Brewer, was destroyed by the explosion of the steamer J. R. Carter on the Mississippi river, and which sum stands charged against Major Brewer as a balance against him on his accounts in the Treasury Department.

Mr. SHERMAN. I presume it is hardly necessary to make a statement in regard to this case. Major Brewer was killed by the explosion of a steamboat on the Mississippi river, and all his vouchers and papers destroyed. There is a balance of some three thousand dollars standing against him on the books in the Treasury, while, in the opinion of all the officers, and, I believe, of General Brice, nothing is due. They have satisfactory evidence, not formal evidence, that there is nothing due to the Government. This resolution will enable the widow, who is now here, to settle the accounts. I suppose there is really no doubt about it. Major Brewer was known to my colleague and myself as a man of considerable prominence in Ohio, and was considered one of the most excellent men in the State. He served during the war as a paymaster, and disbursed large sums of money, and at the close of the war lost his life. This is for the purpose of enabling his widow to settle up his accounts, which are all correct, and, I believe, certified to by all the officers of the Government.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COURTS IN TENNESSEE.

Mr. PATTERSON, of Tennessee. I ask the indulgence of the Senate to take up Senate bill No. 377. It will not excite a moment's discussion. It merely proposes to change the times of holding the courts in Tennessee. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 377) to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee. It provides that the circuit and district courts for the district of East Tennessee shall hereafter be held at Knoxville, on the second Mondays of March and September in each year; for the district of Middle Tennessee at Nashville, on the third Mondays of April and October of each year; and for the district of West Tennessee at Memphis, on the fourth Mondays of May and November of each year. All recognizances, indictments, or other proceedings, civil and criminal, now pending or returnable in those courts, are to be entered in court and be heard and tried according to the times of holding the courts as herein provided. The act is to take effect from and after the first Monday in July, 1868.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863; which was read twice by its title, and referred to the Committee on Commerce.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 443) for the relief of Hiram C. Lillie; which was read twice by its title, referred to the Committee on Private Land Claims, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 444) granting lands to the State of Nevada to aid in the construction of a railroad and telegraph line from the Central Pacific railroad to the Colorado river; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 445) to regulate the salaries of registers and receivers of land offices appointed under the act of Congress approved July 26, 1866, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes;" which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 446) for the benefit of the Notre Dame and St. Mary's Academy, of St. Joseph county, Indiana; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 447) to provide for a temporary government for the Territory of Alaska; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 124) for the distribution of certain public documents abroad; which was read twice by its title, and referred to the Committee on Printing.

ALTO VELO.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That two thousand extra copies of the report of the Secretary of State on the "Alto Velo" claim of Patterson & Murginendo be printed for the use of the State Department.

VESSELS AND MACHINERY CONTRACTORS.

Mr. DRAKE. I move that the Senate take up Senate resolution No. 100 for consideration.

The motion was agreed to; and the joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery was considered as in Committee of the Whole.

The preamble recites that Congress, by an act passed on the 2d of March, 1867, provided for the investigation by the Secretary of the Navy of the claims of all the contractors for building vessels of war and steam machinery; that pursuant to that act the Secretary of the Navy appointed a naval board for the investigation of the claims in question; that it appears that the provisions of the act have not been fully conformed to in the findings of the board; and that Congress have neither the time nor means for the careful legal investigation which the importance of the subject demands, and hence, for the purpose of relieving it from the further consideration of the subject, and as a final settlement of the claims of the contractors, it is proposed by the resolution to refer the claims for building vessels of war and steam machinery, mentioned in the act entitled "An act for the relief of certain contractors," &c., approved March 2, 1867, to the Court of Claims, which is vested with jurisdiction, and whose duty it shall be to investigate and determine the claims of the several petitioners upon the principles of that act, and its finding is to have the same force and effect as any other judgment of the Court of Claims.

Mr. GRIMES. I do not rise for the purpose of debating this measure. I will simply state what my colleague on the Committee on Naval Affairs, I think, neglected to state when he made the report, that I did not agree to this report, and I intended, in conjunction with another member of the committee, to submit a minority report. I believe that the colleague who agrees with me on the subject has a report embracing the views of the minority written out, but he has not had an opportunity to present it. He is not here this morning.

Mr. SHERMAN. I should like to have this measure laid over. My attention is only called to it within a day or two.

Mr. DRAKE. I object to the joint resolution going over. I think it is one of the most just measures that are now before the Senate. It was examined with very great care in the Committee on Naval Affairs, and that committee reported favorably upon it. It is for the relief of a class of individuals who are most meritoriously entitled to relief. A report was made in their favor by a commission appointed by the Navy Department; and then another commission was appointed that reported adversely; and now between the two reports they simply ask to be remitted to the Court of Claims to have the whole matter fully investigated. I trust, sir, that the Senate will look upon the matter in the light in which I look at it, and will refuse to postpone the resolution. It is simply asking that they may have the privilege of going before an impartial tribunal, proving their case there, and abiding by the decision of that tribunal.

They have been here, or a number of them have been here, this whole winter, ever since Congress opened, knocking at the doors of Congress, asking just for this simple privilege of going into the Court of Claims, and if they can prove their title to relief under the provisions of the act of March 2, 1867, to get it, and if they cannot prove it not to get it. So simple a request as that, and so just in itself, backed as it is by the investigations of a commission that was more than six months engaged in investigating their claims, certainly seems to me to deserve consideration at the hands of the Senate. I hope the Senate will not lay over the joint resolution, but that they will proceed to act upon it.

Mr. EDMUNDS. I have very strong reason to believe that the Senator from New Jersey, [Mr. FRELINGHUYSEN,] who was obliged to go home this morning on business, has views differing from those of my friend from Missouri, being on the same committee, and that he intended to submit his views either in the form of a minority report or in the form of remarks for the information of the Senate. I submit to my friend from Missouri whether it is quite the thing, in the absence of that Senator, to spring this important bill upon the Senate at this time.

Mr. DRAKE. I have only to say that I do not understand the Senator from Vermont now to speak for the Senator from New Jersey. I do not understand that the Senator from New Jersey requested any postponement of the bill if it should come up. If he had, I should certainly not object to its postponement.

Mr. EDMUNDS. Why, Mr. President, it is a matter of serious surprise to me that the Senator from Missouri, after this statement, should insist upon this bill being considered and acted upon now, when it is brought to his knowledge as a matter of fact that the Senator from New Jersey, being on the same committee with him, as he knows the fact to be, was opposed to the bill, that he had views to submit in some form or other, that he had no reason to suppose that the bill would be brought up this morning, and that he has gone for a day to his home in Newark on some necessary private business. I should be astonished to have the Senate or my friend from Missouri either, knowing these facts, insist that in the absence of the Senator from New Jersey, who desires to be heard upon this matter, the bill should be acted upon. I hope my friend from Missouri will not insist upon it.

Mr. DRAKE. I will state that I am not disposed to insist upon taking up the bill in the absence of a Senator who wishes to contest it provided I understand that that Senator who is absent does wish to contest it. I understand the honorable Senator from Vermont merely to speak in the general upon the supposition that the Senator from New Jersey has views against it, and not to state the thing as for the Senator from New Jersey.

Mr. EDMUNDS. No; I do not speak for the Senator from New Jersey. I only derive my knowledge from him of what his views are. I suppose he did not authorize me or anybody else to speak for him, because he expected to be present and speak for himself; but now it happens that for the first time in the session he is absent from the Senate, and so it happens that this particular bill must be taken up now.

Mr. DRAKE. Very well, Mr. President; I did not know that the Senator from New Jersey was to be absent.

Mr. EDMUNDS. That is why I say you ought to give way.

Mr. DRAKE. Nor did I know the Senator from New Jersey had any views to submit against the bill. Still, I am very far from desiring to insist on considering a bill in the absence of a Senator who does wish to express views upon it to the Senate. But, sir, I will inquire of the Senator from Vermont if he can tell when the Senator from New Jersey will probably return.

Mr. EDMUNDS. As I said, I am not speaking for the Senator from New Jersey, because the information that I derived from him was several days ago, happening to be present sitting in my seat when the Senator from New Jersey and my friend from Iowa [Mr. GRIMES] were speaking of the subject. It was not private; they were speaking of it in my presence. That is how I came to know the views of the Senator from New Jersey. I happened accidentally, in speaking of a personal matter of his and my own, to know that he intended to go home to New Jersey this morning, and that he intended to return on Saturday, I think.

Mr. HENDRICKS. Mr. President, I must have been mistaken from what the Senator from Vermont says; but I had thought that the Senator from New Jersey was in favor of this bill.

Mr. GRIMES. Oh, no.

Mr. HENDRICKS. I must have misunderstood him, of course. I was taken by surprise at the statement that he was not in favor of it.

Mr. HOWE. I wish to ask a question which either the Senator from Iowa or the Senator from Missouri can answer. There was a bill reported here from the same committee; and am I mistaken in supposing that it had reference to these same claimants? I wish to know whether that bill passed or not.

Mr. GRIMES. It did not. It is due to the Senator from New Jersey to say that he opposed the report of this bill. I do not know that he proposed to contest the passage of it any further than that he told me a few days ago he proposed to submit the views of the minority in writing, and I think I understood him to say that he had them prepared or very nearly so.

Now, in answer to the inquiry of the Senator from Wisconsin, I will state that this is about the history of this transaction: certain persons who engaged during the war in filling contracts with the Navy Department for the construction of iron-clad vessels claimed that in consequence of the tariff, in consequence of the increase of the price of labor and all material, by the issuance of greenbacks and bonds instead of gold, and in consequence of changes in the construction of the vessels to meet the requirements of the Navy Department, they were put to a great deal of additional expense over and above what their contracts required. They were paid by the Navy Department during the progress of their work a portion of this amount, but they were not satisfied with that and came to Congress and had passed through the Senate, but not at a legislative session of the Senate, a resolution directing the Secretary of the Navy to make certain investigations. That had not the force and effect of a law. The Secretary, however, appointed three officers to make the investigation, and they took, as they say, the statements of the contractors, not going into an examination of the real merits of the case. The contractors then came before Congress two years ago and sought to have another bill passed that would cover their whole case. A majority of the Committee on Naval Affairs reported in favor of their claim. It amounted, I think, to about two million dollars. I was the minority of the committee. Finally, upon my motion, we agreed to give them a certain amount, about one half of that, I think, as the bill went to the House of Representatives. The House of Representatives, however, would not agree to it, and upon the motion, I think, of Mr. Delano, of Ohio, they directed a new commission to be formed by the Secretary of the Navy, who were to make an investigation according to the plan specified in the bill. That new commission made a report showing in a tabular form the amount of the contract of each one of these individuals, the amount that had been paid upon the contract, the amount that had been paid by the Secretary of the Navy during the progress of the work and at its completion in excess of the contract, the amount they now claim, and the amount that this commission thought they were entitled to. The amount which the commission thought they were entitled to was about two hundred thousand dollars. The Committee on Naval Affairs unanimously reported a bill in favor of paying that portion of the contractors the $200,000, which this commission thought they were entitled to; but they did not report a bill in favor of paying the claim which the contractors put in of $2,000,000, or any part of it, and they were not unanimous in referring that claim to the Court of Claims. That is the way the matter stands.

Mr. HOWE. But what I wish to know is, if this is intended as a substitute for the award made by the commission appointed by the Secretary of the Navy, or is this in addition to that?

Mr. GRIMES. I am not exactly authorized to speak on that point, because I was opposed to the report of this proposition, and I cannot say what were the specific views of the majority of the committee upon that subject.

Mr. TRUMBULL. Did the claimants agree to take the award?

Mr. GRIMES. The bill carrying out the award is pending. The award was made only to five or six contractors. The board found that there were only five or six of the contractors entitled to anything, and they to a very diminished amount of what they claimed. The Committee on Naval Affairs were unanimously in favor of paying what that board found, amounting, I think, to between two hundred and two hundred and twenty-five thousand dollars.

Mr. DRAKE. One hundred and eighty-seven thousand three hundred and eighty-three dollars.

Mr. GRIMES. I thought it was a little in excess of $200,000. The committee reported the bill early in the session to pay that, and it is now pending. Then comes in this joint resolution, which is intended to cover, as I understand, not only the other cases that were not reached by the bill, and which the committee did not report in favor of, but to pay the contractors who were mentioned in that bill an amount in excess of the amount that was awarded by the board. That is my understanding of it.

Mr. DRAKE. I wish to say a word of explanation in regard to this matter. I do not think the Senator from Iowa has fully stated the case. Of course he does not intend to suppress any fact in regard to it, but he has not fully stated it. On the 9th of March, 1865, the Senate passed a resolution requesting the Secretary of the Navy to organize a board for the purpose of investigating all these claims. That board was constituted of three officers of the Navy, and it made a report in favor of fifty-eight contractors, allowing them the amount of $2,267,000. Subsequently an act was passed on the 2d of March, 1867, requiring the Secretary of the Navy to reinvestigate these claims, and he appointed another commission, and that other commission reported in favor of seven contractors, $187,383, and left all the rest of the fifty-one contractors out in the cold.

Mr. EDMUNDS. If the Senator will pardon me, I will call his attention to the fact that the Senator from New Jersey has not yet gone; he is now here.

Mr. DRAKE. So I perceive.

Mr. EDMUNDS. I will, therefore, withdraw any objection I have to this measure being considered.

Mr. DRAKE. Now, what are the facts? The first commission sat nearly seven months, had every fact brought before them that could bear upon the case, summoned witnesses, had perfect transcripts of the books of these contractors, and after a session of seven months or thereabouts made a report in their favor. The other commission did not sit as many weeks, did not summon any witnesses, did not examine any books, or did not have them brought before them, and cut down the award to the smaller sum named, $187,383. Now, the fifty-one contractors, in whose favor the first commission reported, say that they have not been fairly dealt with, and instead of asking Congress to investigate their claims all they ask is that the Court of Claims may be invested with jurisdiction over the whole subject of the whole fifty-eight contractors, and that they shall determine what is right and proper in the premises. They ask nothing at the hands of Congress but the appointment of an umpire between these two commissions.

Mr. GRIMES. I should like to have the Senator tell the Senate wherein his statement differs from that which I made to the Senate.

Mr. DRAKE. My statement is not through yet.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate.

Mr. DRAKE. I should be very glad if the Senate would allow this matter to be disposed of now.

Mr. SHERMAN. I move that the unfinished business and all prior orders be postponed, with a view to take up House bill No. 900, to exempt certain manufactures from internal tax.

Mr. HOWARD. Allow me to inquire of the honorable Senator from Ohio if he expects that bill to be debated at any length. I am very reluctant to have the bill which was under discussion yesterday postponed. We are very nearly through with the discussion of it.

Mr. SHERMAN. I presume this bill will lead to debate; but, as a matter of course, the Senator from Michigan must be aware that the highest necessities compel us to act upon it, because the effect of its pendency is to prevent the production and sale of a great mass of manufactured articles. In either event, whether it is to be defeated or passed, it ought to be taken up and acted upon within a day or two. I hope it will not take longer than to-day and to-morrow. It is an important subject, but it lies in a nutshell.

Mr. HOWARD. I am quite aware of the importance of the bill to which the Senator refers; and I am willing that the order of the day, the unfinished business of yesterday, should be laid aside informally for the present.

Mr. DRAKE. I, of course, do not wish to stand in the way of the bill which the chairman of the Committee on Finance desires to bring up; but I will make an effort to-morrow morning to resume the consideration of the joint resolution which has been pending this morning in the morning hour.

Mr. POMEROY. If the unfinished business be laid aside informally it will come up after the bill of the Senator from Ohio shall be disposed of.

Mr. SHERMAN. That will take all day.

Mr. POMEROY. It may, or it may not.

The PRESIDENT *pro tempore*. The unfinished business of yesterday may be laid aside informally by unanimous consent.

Mr. EDMUNDS. I object to its being laid aside informally. This practice brings everything into confusion, and we have unfinished business riding upon unfinished business, so that for two or three days we do not know where we are. I object to that practice.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, to postpone the unfinished business of yesterday and all prior orders, for the purpose of taking up House bill No. 900.

The motion was agreed to.

TAX ON MANUFACTURES.

The Senate accordingly proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

The first section of the bill proposes to repeal sections ninety-four and ninety-five of the act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864, and all acts and parts of acts amendatory of those sections, except only so much of those sections and the amendments thereto as relates to the taxes imposed thereby on gas made of coal wholly or in part, or of any other material; on illuminating, lubricating, or other mineral oils or articles the products of the distillation, redistillation, or refining of crude petroleum, or of a single distillation of coal, shale, peat, asphaltum, or other bituminous substances; on wines therein described, and on snuff and all the other manufactures of tobacco, including cigarettes, cigars, and cheroots. The second section provides that nothing in the act contained shall be construed to repeal or interfere with any law, regulation, or provision for the assessment or collection of any tax which, under existing laws, may accrue before the 1st of April, 1868.

The Committee on Finance propose to amend the bill by striking out the word "and" in line fifteen of section one and adding to that section the following words:

On turpentine, on coffee, roasted or ground, and articles intended as substitutes for coffee, spices, and mustard, on refined sugars, and on the products of sugar refineries, on sugar candy and confectionery, and on diamonds, emeralds, precious stones, and imitations thereof, and on all jewelry.

Mr. SHERMAN. The importance of this bill justifies a statement of the facts on which it is based, to which I ask the attention of each Senator, so that I shall not have to repeat what I say, as I desire to be as brief as possible.

It has been the desire of the Committee on Finance to reduce the taxes as rapidly as the public service would allow. Ever since the war, at each session, Congress has been enabled to throw off more or less internal taxes, and we hoped that at an early period of this session Congress would repeal a considerable amount of taxes. At the beginning of the session the Committee on Finance were disposed to report a bill for the repeal of the ninety-fourth section of the internal tax law, which imposes the great mass of taxes on domestic manufactures, but the House of Representatives, who must originate revenue bills, deemed it best to make a general revision of the internal revenue law, and this has delayed our action. They now find that the task is so great that they are not able to complete the work by the 1st of April, and hence they have sent to us a short bill repealing the taxes embraced in section ninety-four of the internal revenue act, with some few exceptions. We are now called upon to consider that bill.

The estimates of the Secretary of the Treasury, contained in his annual report, show clearly that we are able to throw off some taxes. In his estimate for the next fiscal year he puts the aggregate receipts at $381,000,000, and the aggregate expenditures at $372,000,000; but this estimate of expenditures is made upon the extravagant basis of previous expenditures. He says:

"The foregoing estimates are made on the general average of the receipts and expenditures for the past nine months. The Secretary is hopeful, however, that Congress will take measures to largely reduce expenditures in all branches of the service, so that a steady reduction of the debt may continue."

In the same report he estimates a surplus revenue for the present fiscal year of something like twenty-five million dollars; so that to the extent of this surplus revenue it is clearly our duty to throw off taxes. But, aside from that, his estimate of expenditures has been already largely reduced by Congress in many items to which I shall call the attention of the Senate; so that, on the basis of the Secretary's own estimates, we are able to throw off taxes to the amount of $30,000,000, chiefly because of the reduction of appropriations already made. Since his annual report was made the Secretary of the Treasury has very materially changed his estimates of the income for the present year. I have before me a table containing his revised statement and estimate for the present fiscal year, which shows a very great difference between the published estimates and the estimates as now revised.

From a comparison it appears that the total amount of receipts, according to the estimates sent to us in December, was $417,161,928, and the total amount of expenditures for the present fiscal year was $393,269,226, making a surplus of about twenty-four millions. Yesterday, however, I received from the Secretary of the Treasury the revised estimate, based upon actual receipts and actual expenditures, showing that the amount of receipts according to the revised estimates will be $386,871,471, a diminution from the estimates of $30,290,491, but the expenditures also have been diminished, though not in so great a proportion. They were estimated, according to the annual report, at $393,269,226; they are now estimated at $379,664,284, still showing a surplus of receipts over expenditures during the current year.

Mr. HENDERSON. Of how much?

Mr. SHERMAN. Between seven and eight millions.

Mr. GRIMES. Where do the diminished expenditures come from? Where does he suppose we shall save so much?

Mr. SHERMAN. I will come to that presently. I simply show upon the statements as they now stand, without going into the details, that there is a surplus revenue which may be diminished, unless it is the sense of Congress that the present rate of expenditure should be continued, or unless this surplus revenue should be applied to the reduction of the public debt.

Admitting, therefore, that we may reduce the taxes somewhat, the question is, upon what principles may they be reduced and to what extent. In the reduction of taxes those which bear most heavily upon domestic production should first be thrown off. This principle has been applied ever since the war. At the last session of Congress we repealed a great mass of internal taxes on domestic industry; and at the preceding session we also reduced largely the taxes on domestic industry. The chief taxes of this kind that are still levied are embraced in the ninety-fourth section of the internal revenue act, and average from three to five per cent. on most of the manufactures of iron, leather, wood, and other materials, and which are the most useful articles and implements of life. It is proposed now to repeal these taxes; and the question arises whether the condition of the public Treasury would justify us in doing so.

And here, Mr. President, I am compelled to look a little more carefully into the necessary expenses of the Government. I trust Senators, in this matter of dry detail, will see that it is necessary for me to recite these facts, which are probably familiar to them, in order to present the question fairly. In examining the necessary expenditures for the next fiscal year we find that $200,779,000 are items that are irreducible, that cannot be controlled or affected by the legislation of Congress. It is absolutely necessary to provide for them. The first item is the public debt, and interest on the public debt, which I have put down at $135,000,000. The interest on the public debt is $129,678,078 50. According to the bill reported from the Finance Committee, it is proposed that the smallest sum that shall be applied now to the reduction of the principal of the debt shall be a little over five million dollars. So that we may say that $135,000,000 are absolutely necessary for the purpose of paying the interest on the public debt, and the smallest possible sum that has yet been proposed to apply to the payment of the principal. It requires for pensions $30,330,000. It requires for permanent appropriations for collecting revenue and refunding duties $9,969,000. It requires for bounties provided for under existing law, which will be paid during the next fiscal year, $25,500,000, making an aggregate of $200,799,000 which must be provided for, and which no act of Congress can alter or change. They are beyond our power unless we repeal the bounty law, which I suppose would be impracticable.

I will here call attention to the fact that sometimes, without our notice and without reflection, bills are passed which very largely increase the expenditures. As an instance of it I will state that the bill reported not long since by the chairman of the Committee on Military Affairs, giving to the widows and soldiers the bounty provided for by the bounty acts will require the expenditure of several million dollars. I will not give the precise figures now, because they are in the course of computation. I am directed by the Committee on Finance to report a bill to repeal that bounty act if it should amount, as I suppose it will, to many million dollars. I hope the Senate, when it is reported, will remember that it is excluded from all calculations made by me.

The expenditures that are within the reach of Congress and which may be modified or changed, increased or reduced, are estimated by the committee at $150,934,184; and I may say that in making up this aggregate the Committee on Finance have consulted the Committee on Appropriations—have ascertained the amount of appropriations already provided

for by law, and have estimated and computed those likely to be provided for, and have put the amount at $150,934,184, composed first of general appropriation bills which we compute at $123,265,000, allowing for a considerable addition to the bills as they passed the House of Representatives.

In many cases they were reduced to such an extent that the officers of the Government would be unable to carry on the operations of the Government. We have also added the appropriations for the current year that will not be expended until the next year, details of which are contained in the book of appropriations, amounting to $24,669,184. Then we estimate private bills and judgments of the Court of Claims at $3,000,000. That, as a matter of course, is an indefinite quantity which we have no control over except as Congress from time to time provide for these bills. These items make an aggregate of $150,934,184. But Congress may reduce this sum from ten to thirty million dollars according as they deem the exigency of the public service requires. The appropriations that lap over from one year to another are mostly of a character that can be suspended if it is desired. For instance, at the last session we appropriated some six or seven million dollars for the improvement of rivers and harbors, the great body of which is not expended. We provided, also, very large sums for public buildings, the great body of which has not been expended, but in some cases contracts have been made.

The $24,000,000 of lapping appropriations are composed mainly of items which Congress might suspend by repealing the laws under which they are being contracted. Congress might possibly reduce the aggregate that I have here stated $20,000,000; but to do so it would be necessary to repeal the acts authorizing the expenditures. The mere failure to appropriate will not stop the expenditure. Sometimes it is supposed that the reduction of an appropriation bill will stop the expenditures; but it is not so. The law providing for the expenditure remains, and the money has to be supplied by deficiency bills. The only way, therefore, to reduce this estimate is in the manner I have stated, by repealing the acts which authorized the expenditure. It is proper that I should state that in making these estimates I have made the additions liberal, because I know that Congress, while they often talk economy, when they come to pass laws do not always practice it. I have, therefore, made a considerable addition to the appropriation bills as furnished by the Senator from Maine, [Mr. MORRILL.] And yet, allowing the highest estimate, the expenditures for the next fiscal year cannot exceed $351,773,184, and they may be reduced from ten to thirty million dollars, according as Congress may deem the exigencies of the public service demand.

Now, Mr. President, the question is, what are our sources of revenue, and what necessary taxes must be maintained? The first item and the largest item of receipts is the duties on customs. The Secretary of the Treasury estimates them at $145,000,000 for the next fiscal year. After a careful review I think that estimate may be maintained. It is true I have a letter here from the Secretary of the Treasury recalling that estimate, stating that if we repeal the taxes on domestic industry the effect will be to largely increase domestic products and thus reduce importations. No doubt it will have that effect to some extent; but still the receipts from customs during the present and last fiscal year have been largely in excess of his estimates. It is very difficult to tell what will be the effect of the repeal of internal taxes upon importations. If by repealing these taxes on domestic industry we encourage our own industry and thus supply the market now occupied by foreign products, to that extent the country will get a great benefit if the revenue does not. A measure that increases the revenue is often very injurious to the country, and if the effect of this measure should be what the Secretary of the Treasury now anticipates, the people may consider themselves fortunate in substituting in place of foreign products the products of our own industry. We therefore see no necessity to change the estimates made by the Secretary and place the receipts from duties on imported goods at $145,000,000.

The revenue derived from miscellaneous sources was also estimated by him at $30,000,000. This is composed chiefly of premium on gold, sales of property, consular fees, and a multitude of items which form the item called "miscellaneous." It is estimated by him at $30,000,000 upon the supposition that the amount of gold to be sold will be diminished from time to time; and I have no doubt that that estimate will be reached.

The public lands are estimated at $1,000,000.

Now, as to the internal taxes, which is the remaining source of revenue, we have taken great pains to ascertain what will be the effect of the passage of this bill. With the assistance of the Internal Revenue Bureau we have made an estimate of the probable receipts from internal revenue if the bill should pass as the House of Representatives sent it to us. I have other estimates furnished by the Ways and Means Committee of the House, but will only state that of the Commissioner of Internal Revenue. This estimate, I have no doubt, will be maintained and probably increased except as to the leading item of spirits or whisky. On this matter I present the estimate of the Internal Revenue Bureau. The items are these:

Spirits	$50,000,000

The revenue last year was only about $28,000,000. The revenue now is only about one and a half millions per month, so that it will be necessary, in order to reach the estimate made by the Commissioner of Internal Revenue, to have much more efficient agencies at work than we have yet had. The House of Representatives are now preparing a bill which they think will increase the tax on spirits to $50,000,000. As a matter of course we cannot answer for that. It will depend partly upon future legislation, partly upon the honesty and fidelity of the agents of the Government, and partly upon incidental causes. We know very well that this revenue has been the most deceptive of all our revenues. It has always yielded less than we expected, and, therefore, when we estimate that spirits next year will yield us $50,000,000, it is the very highest estimate possible. I have no doubt, if the tax could be honestly collected, it would yield twice $50,000,000, because no one computes the number of gallons manufactured in this country at less than fifty million, while it is supposed to approach nearer one hundred million. The failure to collect the whisky tax is the scandal and reproach of our system. It is more shameless and more scandalous in its frauds than any other portion of our internal revenue. I have no doubt that the consumers of spirits pay the tax of two dollars on every gallon consumed, and yet the Government does not receive one fifth of the actual amount of revenue due on this article alone. I therefore would not be responsible for this estimate, and I do not believe that next year we will collect so much as this; but I take the estimate for what it is worth. The other items, I have no doubt, are within or below the fact.

Fermented liquors	$6,000,000
Tobacco	20,000,000

It is generally supposed that we will get considerably more.

Oil	$5,000,000
Gas	1,850,000
Gross receipts	6,500,000
Sales	5,000,000
Income (including dividends and salary tax)	30,000,000

I have no doubt that is $5,000,000 less than the amount that will be received. By a statement I have before me it appears that the income tax upon the basis of the present law, collected from May 1, 1867, to February 1, 1868, has yielded $32,222,617 16, and will probably yield before the year is out very nearly $37,000,000.

Mr. FESSENDEN. Has not that fallen off very much?

Mr. SHERMAN. The Commissioner of Internal Revenue says that it has not greatly. The income tax for the present year is now being assessed, and the returns from some portions of the country show an increase. It is true in the manufacturing districts the income tax undoubtedly has largely fallen off; but in other places, in the city of New York and elsewhere, from general business sources, the rise of real estate and other causes, the incomes are increasing rather than decreasing. In the agricultural regions the incomes are increasing, because they have been prosperous by reason of high prices.

The residue of this estimate is as follows:

Legacies and successions	$3,000,000
Special taxes	14,500,000
Schedule A	1,000,000
Bank circulation and deposits	2,000,000
Penalties	1,000,000
Stamps	13,000,000
	$158,850,000

The Commissioner adds:

"Except as to the tax on spirits, this estimate is fully sustained by the receipts thus far during the present fiscal year. I have placed the above estimate as to the tax on spirits in the belief that the changes about to be made in the mode of securing the collection of the tax will result in at least as great an increase."

This is an aggregate of $158,850,000, which, added to the items I have already given, shows the aggregate estimated revenue on the basis of the House bill and present laws to be $334,850,000. That sum deducted from the highest estimate that I can put upon the expenditures would leave a deficit of $16,883,184. The question which the Committee on Finance had to determine in the first instance was whether or not they would report a bill that upon this showing would leave a deficit of some $16,000,000 for the next fiscal year.

I desire, before proceeding further, to state that in the amount of expenditures there are some items included that ought not properly to be considered as part of the current expenditures of the Government. There is the item of $25,500,000 for bounties, which is really rather in the nature of a war debt than an expenditure. It will cease with the next year, and unless new bounty bills are devised and passed there will then be an end of that kind of expenditure. This item is more than the deficit, and if considered as a part of the debt rather than a part of the expenditures would leave the balance on the right side, but would add to the public debt. But we have regarded and treated the $25,500,000 for bounty as part of the expenditures to be provided for from the current income.

The question is how this apparent deficit shall be made up. The Committee on Finance, as you will perceive, propose to retain the taxes on several articles repealed by the House of Representatives in order to make up a part of this deficit. We propose to retain the tax on the article of turpentine, which yields us $423,595; and the tax on ground coffee and substitutes for coffee, which yields $250,000. As these substitutes for coffee tend by their manufacture in this country to diminish the amount of coffee imported, and thus largely reduce the revenue from customs, it is deemed necessary to maintain, even for other purposes than for revenue, this duty on ground coffee and the substitutes for coffee. We retain the tax on refined sugar, which yields $2,065,000; and we believe nothing can bear a tax better than this article. Refined sugar is mostly consumed by the wealthier classes. The tax may be easily collected in large refineries with as little expense as any other, and will bear as lightly as any other tax. Our home production is largely protected by a very heavy import duty; and therefore we deemed it proper and right, in the present condition of our finances, to retain the tax on refined sugar. The tax on jewelry, diamonds, &c., which yields us $375,000, is retained; making an aggregate of taxes retained of $3,113,595.

Now, Mr. President, the first question that

arises on this bill is whether or not the Senate will agree to the amendment proposed by the Committee on Finance. The objection to the amendment is that it retains the machinery of taxation on domestic products. We called upon the Commissioner of Internal Revenue to ascertain whether by retaining these few taxes the cost of collection would be materially increased, and we found that it would not. In every district of the United States collectors and assessors must be retained to collect the remaining taxes, the tax on incomes, the tax on whisky, on tobacco, special taxes, stamps, &c. Therefore the excepted taxes might be retained, being in their nature articles manufactured at a few places where they could be easily reached and where the tax could be easily collected. We therefore deemed it important to retain these taxes, and I hope the Senate, without any further explanation of this amendment, will concur. Applications will be made by persons engaged in refining petroleum, in refining sugar, and in the manufacture of the excepted articles to include them in the repeal; but if we do so we must supply the deficit in some other way; and as these articles can bear an internal revenue tax better than any others we deemed it necessary to retain them.

In order to supply the balance of money necessary to pay the expenses of the Government it is proposed by the House of Representatives to increase what are called the special taxes, and I have here now, in advance of their being published, a statement of the various special taxes proposed by the Committee of Ways and Means.

Mr. ANTHONY. If the Senator will pardon me, I did not understand the aggregate amount of taxes included in the amendment of the Committee on Finance.

Mr. SHERMAN. A little over three million dollars. The amendment we report will retain $3,000,000 of revenue that would be repealed by the House bill. The House of Representatives inform us, through their proper committee, that they propose to make up any deficiency (without going into an accurate analysis of it) by increasing the special taxes, and furnish us a schedule of the proposed taxes. But the objection that will occur to the mind of every one is, "Why not add these taxes now to this bill, and thus make your work complete?"

Their reply is this: that they have undertaken the revision of the entire revenue code, made necessary, as they think, in order to collect the whisky and tobacco tax; and in revising that code they will also provide various provisions for the collection of the special taxes and changing the rates. They have, therefore, deemed it better to postpone all questions involving detail until they can send us another bill. But in the mean time such is the distressed condition of the manufacturing interests of the country, paralyzed by the pendency of this bill, which will affect the market value of every product of manufacture, that it is important to settle at once the question whether or not these taxes on manufactures shall be continued; and they send us a bill simply repealing the tax on manufactures, leaving to future legislation to supply the deficit. After a careful examination of this subject the Committee on Finance thought that while it was important to delay the multitude of details, yet it was important to retain the revenue as far as possible. We have, therefore, reported an amendment, which is not yet printed, but which I have on my table, and will offer at the proper time, retaining a special tax on the sales of manufacturers, the aggregate of whose manufactures is over ten thousand dollars, of one fifth of one per cent., which will yield us many millions of dollars; perhaps enough to cover the whole deficit made by the showing that I have already given.

Now, the question is, whether or not this tax ought to be levied now or postponed until the House of Representatives report their bill. There is no difference between the Senate committee and the House committee as to the rate of the tax on sales, or as to the mode of taxation. The only question is, whether or not we should postpone the time of levying that tax until they mature their bill in regard to other features of taxation. On the whole, after a careful examination, the majority of the Committee on Finance deemed it necessary and proper to retain some tax to substitute, as we repeal the tax on manufactures, another form of tax, the same form that will be adopted hereafter, and report that as an amendment to this bill. In this way we suppose that any deficit that is made upon the showing I have already given will be made up.

Now, Mr. President, there are one or two other facts which I wish to state. Upon questions of detail the Senate will have to depend upon the proper committees, and I do not wish to go into long details of figures upon a statement of this kind. But I wish to say a word in answer to a letter received from the Secretary of the Treasury, which I feel bound to lay before the Senate. The Secretary of the Treasury remonstrates in urgent terms against the repeal of the tax on manufactures on the ground, as he says, that it will greatly reduce the revenue and endanger a large deficiency. The letter is quite lengthy and deserves attention. It is as follows:

TREASURY DEPARTMENT, *March* 16, 1868.

DEAR SIR: The abolition of the duty on cotton will reduce the revenues some $20,000,000. The bill which has recently passed the House, and is now before the Senate, abolishing after the first of May next the taxes on manufactures and productions imposed by sections ninety-four and ninety-five, act June 30, 1864, and enumerated in table II in the report of the Commissioner of Internal Revenue for 1867, pages 335, 336, and 337, with certain exceptions, will, it has been estimated, effect a reduction of some $60,000,000 on the basis of the last year's revenues. It must also be borne in mind that this large reduction of the revenues from the internal industries of the country will have the effect of reducing the general level of prices throughout the country, and thus tend to interrupt and to lessen importations, and therefore to diminish the customs revenues.

A considerable portion of the large revenues from customs received during the two last fiscal years, and which are still maintained, are due in no inconsiderable extent to the fact that the high prices in this country have made our market a desirable one for the sale of foreign productions. So great a reduction of prices as will be effected by the contemplated legislation cannot, I repeat, but have a tendency to reduce importations, and consequently to impair the revenue from customs.

Should the bill referred to become a law, I think it may be fairly estimated that the total revenues for the next fiscal year will fall from a hundred to a hundred and twenty millions below the estimates made in my last annual report. It is exceedingly desirable that taxes should be reduced, and I should hail with pleasure the proposed reduction if I felt assured that it would be accompanied with a corresponding reduction of expenditures. I am free to say that I am greatly apprehensive that such a reduction of expenditures will not be made, and that the revenues of the country for the next fiscal year, if the bill now before the Senate or in the hands of your committee should become a law, will be insufficient to meet the interest on the public debt and the current expenses of the Government.

I earnestly ask that the Finance Committee will give this subject careful consideration in all its bearings before reporting favorably upon the bill referred to. Nothing could be more disastrous to the credit of the Government at the present time than such a reduction of taxes as would create a necessity for an increase of the public debt.

Very truly yours, H. McCULLOCH,
Secretary of the Treasury.

HON. JOHN SHERMAN, *Chairman Finance Committee, United States Senate.*

P. S.—Will not the effect of the bill under consideration be to relieve all cotton from taxation?

The chief point of his objection is, that this bill proposes to throw off taxes to the amount of $60,000,000. That is a total misapprehension. That argument is based entirely upon the assumption that the present laws would yield during the next fiscal year a revenue of $146,000,000 on the articles embraced in section ninety-four; and he refers us to the estimates and the actual receipts during the year 1866. If Senators will turn to the report of the Commissioner of Internal Revenue they will find that the aggregate revenue from the various articles of manufactures during the year ending June 30 last was $146,223,673. The amount of taxes included in this sum and not included in section ninety-four, and therefore not repealed in this bill, was $58,752,832, leaving a balance of $87,470,841 which accrued under section ninety-four. The articles excepted by the House of Representatives, consisting of tobacco, gas, petroleum, &c., yielded $26,448,009, showing a balance of $61,022,832. Adding to that the cotton tax, which has already been repealed, of $23,769,078, would make a total aggregate of repealed taxes, according to the estimate of the Secretary, of $84,791,910. But the fallacy of his reasoning rests in this: that many of the taxes upon which this sum was raised during the last fiscal year were repealed at the last session and are not now in force, and therefore the statement that this bill reduces the taxes $60,000,000 is erroneous. In order to ascertain the exact reduction I have the actual receipts of the revenue during the six months that have transpired of the present fiscal year under the laws as they now stand in force. I find from this statement that the total amount of taxes collected from the 1st of July to the 1st of December under the present law on the articles that are repealed by the House bill was $20,889,892 for six months, or $41,779,784 for a year; so that if you pass the bill precisely as it came from the House it would be a reduction of taxes of $41,779,784.

From this aggregate of repealed taxes the Senate reserve the amount I have already stated, $3,113,595, leaving a balance of $38,666,189 of repealed taxes, according to the Senate bill. This, as I said, is partially made up by an amendment, which I shall offer, retaining a special tax on manufacturers of one fifth of one per cent. on their sales, and also made up by the House of Representatives by other special taxes to be reported hereafter.

I believe, sir, that these are all the facts that it is necessary for me to state at this stage of the debate. I have carefully examined this subject, and while I have some doubts, and no one can hesitate to express them, whether or not the estimates submitted to us may be in all respects maintained, and especially will be able to collect $50,000,000 from spirits; yet, on the whole, I believe the public good will be advanced by lightening the burden of taxation from our people at this time. I know that if the Senate will follow the course that seems to have been indicated already by the House of Representatives and indicated here, of reducing those expenses which are within our power, we may not only have enough to pay all the expenses of the Government and the interest on the public debt, but next year we will have a surplus.

The whole reasoning of the Secretary of the Treasury is based upon the idea that we will not reduce the expenditures. He so states in his letter. He says that while we may reduce the appropriation bills, we will not reduce the expenses. If Congress should reduce the taxes without reducing the expenses, it will be derelict in its duty and fail to perform its highest obligation. The idea of maintaining our expenditures and yet demanding the repeal of taxes would be the most insane that could possibly affect the mind of any one. As I stated in the outset, our revenue and expenditures upon the present basis of expenditures are so near each other—not more than a difference of from nine to twenty-five million dollars—that we have no power to reduce taxes except by a reduction of expenditures. But upon the basis already started upon in the House of Representatives, and so far concurred in here, and the changes of the laws that will be necessary to be made hereafter, I have no doubt we can reduce the expenses so as to justify this large reduction of taxation. It is only upon that basis that I, for one, am willing to report this bill. I trust, therefore, that Senators hereafter, when bills are introduced to increase the expenditures of the Government, will scrutinize them carefully. Unless all the various schemes by which the expenditures of the Government are proposed to be increased, are steadily resisted by the Senate and by the House of Representatives, there will be no other alternative except to restore

the taxes we are now repealing. Every proposition hereafter made demanding a large increase of our expenditures ought to be accompanied with a proposition either to borrow the money or to levy new taxes. Unless you adopt the Quixotic mode of repealing all taxes and require the Secretary of the Treasury to pay all the expenses, and punish him by impeachment if he will not do it. [Laughter.] That would be a very easy way. The committee think, after a careful business examination of this subject, that we shall be enabled to carry on the expenses of the Government during the next fiscal year upon the basis of the receipts from customs and from internal revenue, reduced as they will be by this bill, and we are therefore willing to take the responsibility to the extent of advising the passage of this bill.

Mr. President, this is all I deem it necessary to state at this stage of the debate, unless Senators call for some information that does not now occur to me.

Statement of the estimated and actual Receipts and Expenditures for the fiscal year ending June 30, 1868—the first two quarters actual and remaining two estimated.

Receipts.

From customs—		
First quarter, actual		$48,081,907 61
Second quarter, actual		32,983,305 08
Third quarter, estimated		38,000,000 00
Fourth quarter, estimated		37,000,000 00
		$156,065,212 69
From lands—		
First quarter, actual	$287,460 07	
Second quarter, actual	379,059 62	
Third quarter, estimated	300,000 00	
Fourth quarter, estimated	350,000 00	
		1,316,519 69
From direct tax—		
First quarter, actual	$647,070 83	
Second quarter, actual	382,614 83	
Third quarter, estimated	-	
Fourth quarter, estimated	-	
		1,029,685 66
From internal revenue—		
First quarter, actual	$53,784,027 49	
Second quarter, actual	45,398,204 84	
Third quarter, estimated	44,000,000 00	
Fourth quarter, estimated	46,000,000 00	
		189,182,232 33
From miscellaneous sources—		
First quarter, actual	$18,361,462 62	
Second quarter, actual	6,916,324 89	
Third quarter, estimated	7,000,000 00	
Fourth quarter, estimated	7,000,000 00	
		39,277,787 51
		$386,871,437 88
Estimates December, 1867, annual report, page 34		417,161,928 00
Difference		$30,290,491 00

Expenditures.

Civil, foreign intercourse, and miscellaneous—		
First quarter, actual		$13,152,348 08
Second quarter, actual		14,039,005 46
Third quarter, estimated		11,000,000 00
Fourth quarter, estimated		12,500,000 00
		$50,691,353 54
Pensions and Indians—		
First quarter, actual	$10,484,476 11	
Second quarter, actual	831,192 42	
Third quarter, estimated	10,000,000 00	
Fourth quarter, estimated	5,000,000 00	
		26,365,668 53
War—		
First quarter, actual	$30,537,056 85	
Second quarter, actual	31,273,494 28	
Third quarter, estimated	30,000,000 00	
Fourth quarter, estimated	32,000,000 00	
		123,810,551 13
Navy—		
First quarter, actual	$5,579,704 67	
Second quarter, actual	7,571,454 25	
Third quarter, estimated	6,000,000 00	
Fourth quarter, estimated	6,500,000 00	
		25,651,158 92
Interest on the public debt—		
First quarter, actual	$38,515,640 47	
Second quarter, actual	32,629,913 56	
Third quarter, estimated	40,000,000 00	
Fourth quarter, estimated	42,000,000 00	
		153,145,554 03
		$379,664,286 15
Estimates by annual report, December, 1867, page 34		393,269,226 00
Difference		$13,604,940 00

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
WASHINGTON, *March* 13, 1868.

SIR: I have the honor to submit the following estimate of receipts from internal revenue for the year ending June 30, 1869, if the bill now under consideration becomes a law;

Spirits	$50,000,000
Fermented liquors	6,000,000
Tobacco	20,000,000
Oil	5,000,000
Gas	1,850,000
Gross receipts	6,500,000
Sales	5,000,000
Income (including dividends and salary tax)	30,000,000
Legacies and successions	3,000,000
Special taxes	14,500,000
Schedule A	1,000,000
Bank circulation and deposits	2,000,000
Penalties	1,000,000
Stamps	13,000,000
Total	$158,850,000

Except as to the tax on spirits, this estimate is fully sustained by the receipts thus far during the present fiscal year. I have placed the above estimate as to the tax on spirits in the belief that the changes about to be made in the mode of securing the collection of the tax will result in at least as great an increase.

Very respectfully, THOMAS HARLAND,
Acting Commissioner.

Hon. JOHN SHERMAN, *United States Senate, Washington, District of Columbia.*

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
WASHINGTON, *March* 14, 1868.

SIR: In compliance with your note, I have the honor to submit herewith a statement showing in detail the amount received from July 1 to December 31, 1867, from several of the principal articles proposed to be exempted, and, in aggregate, the amount from all other articles proposed to be exempted, and the estimated receipts for the months of January, February, and March upon the same articles, together with a statement showing the monthly receipts from the income tax from May, 1867, to January, 1868, inclusive.

The statement relative to the articles subject to excise tax will explain itself.

The statement concerning the income tax shows, first, the amount of the income tax proper collected directly from individuals; and, second, the amount received for the same months from institutions paying tax upon their dividends and interest, together with the tax upon salaries. The income tax proper upon the last assessment has been substantially all collected, so that for the three months remaining to complete a full year but a small amount can be expected.

The amount received from institutions paying dividend tax and from the salary tax does not vary greatly, taking one period of three months with another, and to complete the year $2,000,000 may safely be added. This would make the collections for the year upon income in all its forms in round numbers $35,000,000.

It is reported on all hands that the profits of business during the year 1867 were much below those for the year 1866, and we may thus anticipate a considerable reduction in the amount to be assessed this year upon incomes.

The amount actually drawn from the Treasury thus far during the present fiscal year to meet the expenses of assessing and collecting the revenue has been at the rate of about nine million dollars per annum. Should the changes which I understand the Committee of Ways and Means to favor be incorporated into the statute, I cannot think that the reduction of expenditures would be more than eight hundred thousand dollars. The receipts last year were in round numbers $265,000,000, and the estimated receipts under the proposed changes are somewhere about one hundred and sixty million dollars, making a reduction of some forty per cent.; but it will be at once apparent that the expenses of assessment and collection cannot be reduced in the same ratio. Assessors and collectors are paid a salary of $1,500 per annum, and, in addition to this, a commission decreasing as the collections of the several districts increase. It is presumed that there will be no reduction in the salaries paid to these officers, and, as the rate of commissions decreases with an increase of the amount collected, a diminution of collections cannot result in a corresponding diminution of commissions. The amount paid for rent of offices cannot be materially reduced, and many other incidental expenses will be as great when smaller amounts are collected as now. In some of the city districts there can be under the proposed changes a reduction in the number of assistant assessors, but in a large portion of the country at present there is but one assistant assessor for a county, and in some cases one of these officers attends to two or three counties. Of course, so long as taxes are to be collected from distillers and brewers, or, in fact, so long as taxes of any kind are to be collected, an assistant assessor cannot effectually supervise much more territory than he does at present.

It is understood to be the intention of the Committee of Ways and Means to recommend the imposition of a light tax upon sales upon many of the manufacturers whose products are exempted from the excise tax to which they have heretofore been subject, and it is evident that the expense of assessing a tax of one tenth or one half of one per cent. will be as great as that of assessing a tax of five per cent. While the amount of work to be performed by revenue officers will somewhat diminish, I cannot think that the reduction of expenses can safely be estimated at more than $800,000.

Very respectfully,
E. A. ROLLINS, *Commissioner.*

Hon. JOHN SHERMAN, *Chairman Finance Committee, United States Senate, Washington, D. C.*

Statement showing the receipts for the first six months of the present fiscal year from several leading sources of revenue upon which the House bill repeals the tax; also, the estimated receipts from the same sources, for the months of January, February, and March, 1868.

Articles.	Receipts from July to December, 1867, both months inclusive.	Estimated receipts for January, February, and March, 1868.
Boots and shoes	$1,359,281 87	$685,000 00
Bullion	217,471 00	92,000 00
Cloth and other fabrics of cotton	3,718,470 47	1,800,000 00
Cloth and other fabrics of wool	2,094,513 21	945,000 00
Clothing, except boots and shoes	480,615 28	300,000 00
Iron	1,728,217 83	925,000 00
Leather	972,681 61	460,000 00
Soap	267,588 65	150,000 00
Sugar	1,055,557 23	560,000 00
Turpentine, spirits of	315,764 13	130,000 00
Articles increased in value by being painted, polished, &c.	352,986 83	170,000 00
All other articles not above enumerated	8,326,743 89	4,160,000 00
Total	$20,889,892 00	$10,377,000 00

Statement showing the monthly receipts from income from May, 1867, to January, 1868.

	Income, personal.	Income, all other sources.	Income, total.
May	$1,131,046 96	$782,032 52	$1,913,079 48
June	8,642,811 26	362,015 08	9,004,826 34
July	8,816,245 00	960,431 77	9,776,676 77
August	4,508,976 80	843,984 49	5,352,962 29
September	1,307,330 66	418,031 31	1,725,361 97
October	1,623,328 67	753,816 51	2,377,145 18
November	480,720 36	665,647 14	1,146,367 50
December	298,528 75	470,120 71	768,649 46
January	173,694 81	983,853 36	1,157,548 17
Total	$26,982,684 27	$6,239,932 89	$33,222,617 16

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Finance.

The amendment was agreed to.

Mr. SHERMAN. I offer another amendment, to insert as an additional section the following:

And be it further enacted, That after the 1st day of April next no allowance for drawbacks shall be made on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; and no claim for drawback on any article exported prior to June 30, 1866, shall be allowed unless presented to the Commissioner of Internal Revenue within three months after this act takes effect.

The amendment was agreed to.

Mr. SHERMAN. I offer the following amendment, to come in as an additional section:

And be it further enacted, That every person, firm, or corporation who shall manufacture, by hand or machinery, any goods, wares, or merchandise not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages with his own name or trademark thereon any articles or compounds not otherwise specifically taxed, and whose annual sales exceed $10,000, shall pay for every additional $1,000 in excess of $10,000 two dollars, and the amount of sales within the year beyond $10,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of $10,000 shall be assessed by the assessor and paid monthly as other monthly taxes are assessed and paid.

The amendment was agreed to.

Mr. MORGAN. Is it in order to move to strike out any portion of the amendments that have been made?

The PRESIDENT *pro tempore*. It is not in order at this time. When the bill is in the Senate it will be.

Mr. MORGAN. I made that inquiry because the amendment in the first line——

Mr. SHERMAN. The Senator can make his motion when the bill is reported to the Senate.

The PRESIDENT *pro tempore*. The bill is amendable, but not by striking out anything that has been already inserted as an amendment.

Mr. MORRILL, of Vermont. I move to amend the bill by inserting after line eighteen of section one the words, "on all sugars produced from sugar-cane, and not from sorghum or imphee, other than those produced by the refinery."

The PRESIDENT *pro tempore*. That amendment is not now in order. The Senator proposes to amend an amendment already agreed to in committee.

Mr. MORRILL, of Vermont. No, sir; it is an addition to it.

The PRESIDENT *pro tempore*. But it is to add to or alter an amendment already agreed to. The amendment will be in order when the bill shall have been reported to the Senate.

Mr. MORRILL, of Vermont. Very well, sir; but I may as well discuss it now as at any time. Mr. President, the statement of the chairman of the Committee on Finance is an exceedingly fair one; but I confess that I have not confidence that, after we shall have passed this bill, our receipts will equal our expenditures; and I propose to criticise, in the first instance, the estimate of the revenue to be realized from spirits. Fifty million dollars is the estimate for that for the year ending June 30, 1869. Without going into any discussion of that point, I do not believe there is a Senator on this floor who thinks that we are going to get $50,000,000 from spirits in 1868-69. I know that whenever we alter the laws in relation to distilled spirits we always say, "we are going to catch the rascals this time;" but until human nature shall change, and we shall find men regenerated and as pure as the angels around the throne of heaven, that is a tax which cannot be fully collected. Spirits are evasive, and cannot be caught by laws, whether State or national, as we could duties. If we could now enact any laws by which the collection of that whole tax could be enforced we should at once stop the production of the article. No man can afford to manufacture an article and pay the tax and give away his raw materials, as he would be compelled to do, until the price should rise so as to enable him to get the cost of the raw materials, of the manufacture, and the tax; so that, let the law be as efficient as it may whenever it may be passed by the other House, it is absurd to suppose that we are going to enforce it and to collect any such amount as $50,000,000.

Then I turn to the subject of incomes, and there was the only mistake that I thought I discovered in the statement of the chairman of the Committee on Finance. He states that the amount of income tax collected so far this year shows that that tax is going to reach $36,000,000. Why, sir, the tax did not become assessable until the 1st day of March, and it is not payable until April, and the only data that we have upon that subject are the returns made and the tax collected in 1867; and in regard to that tax the law was not as it is now. The information at the Internal Revenue Bureau from the assessors is that we are not going to get $20,000,000 from that tax, as I understand on personal application there for information on this topic. We enlarged the amount of exemption from $600 to $1,000, and that at once almost entirely excludes the whole farming interest of the country from paying any income tax. It excludes nearly sixty per cent. of the whole number of persons that paid any income tax at all. Then we changed the rate so that those who formerly paid ten per cent. where the income was in excess of $5,000 now only pay five per cent., all alike all over the country, whatever their income may be over and above $1,000. From this source we got last year over $25,000,000. The statement I have made shows at once that there would be a reduction there of $12,500,000 probably, provided the amount of income of the people was precisely the same this year as the last.

But beyond that, from the depressed condition of the country, we know that there is scarcely any kind of business which this year will afford the same amount of income that has been received heretofore. I know that some speculators in real estate, in corner lots, may perhaps have made some money within the past year; but in almost every other direction the business of the country has been sadly crippled, and especially has this been the case for the last six months, and we may expect it to continue to be depressed for the year to come. With the same rates, and with no greater reduction, that would be a large decrease in the amount of revenue from incomes.

Therefore, Mr. President, it is with some misgivings that I shall give a vote for this bill, even with the amendments proposed by the Committee on Finance. I should deem it disastrous for us to report a bill here which would show upon an examination it would not pay our ordinary expenses and the interest of the public debt. Our creditors at home and abroad are lynx-eyed. We cannot hope to deceive them. The moment we report a bill here that shall show a deficit, a less amount of receipts to be expected than of expenditures, it will be known throughout the world; and it would be a very great mistake for us to undertake to popularize ourselves by making the country or the world at large believe that we were reducing our taxation when our expenditures were not reduced in proportion. When we come to the subject of expenditures I have not seen any disposition manifested here for any such large curtailment of expenses as will warrant us in throwing off the entire amount of taxation which we are now compelled to impose on the people. I find that whenever a bill comes up appropriating a large amount there are always enough here ready to pass it; it cannot be resisted successfully, no matter what the subject may be, whether railroads, bounties, pensions, claims, or anything else. To suppose that the Senate will pass the regular appropriation bills as they have come to us from the House of Representatives without any increase is but the sublimity of humbuggery. No one doubts that they will be increased at least thirty or forty million dollars.

But, Mr. President, placing some reliance on the expectation that the House of Representatives will send a general bill here which will recover in other directions some parts of the revenue surrendered here I am almost persuaded to vote for this bill. I will say, however, that to me it would seem impolitic for us to repeal all the taxes now, and then before we adjourn reinstate any considerable part of them. I think it much better that we should keep on as nearly as we can all the taxes we propose to put on for this year. I have no idea that a general bill from the House of Representatives will be received here, and be acted upon, in season to go into effect before September; and, therefore, I deem it important that we act upon this bill at the earliest moment possible.

Mr. President, I desire now to say a word in advocacy of the amendment I have proposed, which is to reinstate on the tax list all sugars produced from sugar-cane, and not from sorghum or imphee. I know not why that tax should not be imposed. It produced last year $500,000, and the year before it produced more than that. If it be repealed, I warn Senators that whenever the subject comes up the duty imposed on the importations of foreign sugar will be reduced an equal, if not a larger amount, and the revenue now derived from imported sugars, something like twelve million dollars, will be reduced a million, or even perhaps two or three millions, whenever that reduction shall take place, and that is an amount which we cannot afford to spare. Besides, viewed simply as a matter of protection, it is at the present moment an object, even for the Louisiana sugar-maker, to have this tax retained, for this reason: before the tax was put on, our tariff was only three fourths of a cent a pound on raw sugar; but when we placed a tax of one cent a pound on brown sugar from the sugar-cane we increased the duty on imported foreign sugars up to three cents a pound for the very lowest quality, and for sugars above No. 12, Dutch standard, to three and a half cents a pound, and above No. 15 to four cents, and above No. 20 to five cents a pound. Besides, only about one half of this revenue is derived from that source, as I understand; the other half is derived from the manufacture of sugar from molasses. It would manifestly be wrong to throw it into the power of those men who distill molasses and make sugar from it, to entirely escape from tax, while all other sugars are taxed.

I do not desire, Mr President, to detain the Senate any longer at this time.

Mr. STEWART. I do not desire to occupy the attention of the Senate in any discussion of this matter further than to express my delight at the opportunity to vote for so good a bill. The mistakes we have made, which I have been observing during the time I have had the honor of a seat in this body, have been that we have levied too much taxation every year. All our mistakes have been in that direction; and I am glad that we are now to commence legislation touching the finances in the direction of a reduction of taxation. The Senator from Ohio reminds me that we have reduced taxes every year for three years past. We have not yet, at all events, made any great mistake in that direction. We may have levied a smaller amount of taxation each year than we did the year preceding, during the last three years; but still we have levied more taxes than we ought to have raised during the whole of that time.

When hostilities terminated we undoubtedly had a debt of $3,000,000,000, funded and unfunded. We have paid off $267,000,000 of the funded debt and enough of the unfunded debt —I do not know its exact amount—to make the total of debt paid off reach fully $500,000,000. We have lost in the collection of this immense revenue from one hundred to one hundred and fifty millions a year according to various estimates. I suppose $100,000,000 would not be an overestimate of the amount we have lost by the attempt to levy too much taxation. We have thus put a burden on the industry of the country of not far from one thousand million dollars since the close of the war above the current expenses of the Government and the payment of interest on the public debt.

If we remove taxation I believe we shall still be disappointed in the amount of revenue. I think my friend from Vermont will ascertain that by relieving the industries that are proposed to be relieved by this bill our income tax will be increased and not diminished. There is a point of taxation which may be reached where you destroy the business interests that you tax and then diminish the amount of revenue. I think if you relieve the people from some of these burdens you may look for increased revenue from the sources of taxation upon which you rely, and above all, I believe you can look for an increased revenue from whisky.

If you have plenty of revenue without the whisky tax, and your Treasury is plethoric, there is not the same responsibility upon the officials to collect that particular tax; but if the wheels of Government must stop or the laws be enforced there is an additional obligation on them to collect the whisky tax and the other taxes on which you rely. Levy only so much taxation as, when collected, will pay the current expenses of the Government, the interest on the public debt, and a small amount of the principal, and a very small amount, indeed, until

our business interests can revive, and you will thereby create a necessity for a vigilant and vigorous administration of the law. Let the Secretary of the Treasury, and let all the officers who have charge of the administration of the revenue, feel that if they fail to do their duty they will produce a deficiency in our accounts and bring on trouble with our creditors. Then the public creditors will watch these public servants and see that the laws are enforced. Cease to levy your exactions on the ordinary industry of the people; take your hand off; let them prosper; and make every man who has an interest in your bonds watchful for the enforcement of your laws. That, I think, is the true policy. I believe our mistakes have all been in the direction of levying too high taxes.

I rose to say thus much without any discussion of the question. I must again express my thanks to the Committee on Finance for starting boldly at the right end of reform and in the right direction. In that way you will get more revenue next year than you anticipate. Let the people of the United States have an opportunity to retrieve their fortunes, let them have an opportunity to start in their business again, let trade revive, and the sources from which you expect your revenue will increase. But, sir, we have taxed too much; we have destroyed many industries; we must let them revive; and we must hold officials to a strict accountability to collect the revenues which we do levy; and let them see, if they do not do that, they will not have the money to meet the expenses of the Government.

It is dangerous to make our Treasury too plethoric. I believe the surplus of revenue we have been collecting has been one of the corrupting influences that have led to the failure to collect certain taxes. I do not assume to blame anybody for this. I know the Senate have always been voting, as they supposed, sufficient taxes to pay current expenses, interest, and a small part of the principal of the public debt; and in each instance we have levied more than was anticipated. Our taxes have been such as to destroy many of the industries of the country. Relieve those industries now, and you will still receive more than you expect. The reform is commencing in the right direction. I hope the bill will pass, and I see no necessity for the amendment suggested by the Senator from Vermont.

Mr. VAN WINKLE. I believe the question before the Senate at this time is the amendment offered by the Senator from Vermont.

The PRESIDENT *pro tempore*. That amendment is not now in order; but the Senator from Vermont proposes to move it when the bill shall have been reported to the Senate.

Mr. VAN WINKLE. Then, if it be in order, I wish to propose an amendment, to come in at the end of the first section.

The PRESIDENT *pro tempore*. That will be in order if it be an addition to the matter already inserted at the close of that section.

Mr. VAN WINKLE. I move to amend the bill by inserting at the end of the first section the following proviso:

Provided, That the products of petroleum and bituminous substances hereinbefore mentioned, except illuminating gas, shall, from and after the passage of this act, be taxed at one half the rates fixed by the said section ninety-four.

That section ninety-four is the section which it is proposed to repeal with some exceptions; and petroleum, with all its products, is made one of the exceptions. I cannot, Mr. President, but consider, when so many taxes are to be dispensed with on articles of manufacture, as they are called, and as most of them are, that it is somewhat invidious to single out this production, which is one of the staples of my State, to be retained for taxation. It might be deemed invidious under any circumstances, as it is by no means an article of luxury, nor an article which leads to vice and immorality, as whisky and wines are supposed to do. There is no other reason, nor have I heard any other assigned, than that the tax can be paid. All considerations of justice or of equity in the arrangement of these taxes seem to have been laid aside in reference to this particular article.

The tax on petroleum is four hundred and fifty per cent. on the value of the crude production at the wells. It is a tax almost as high as that on whisky, I believe. It bears almost the same percentage to the average cost of the article originally as does that on whisky. It is a high tax at all events. The tax is on the refined oil, on the other products which are the results of the distillation of the crude material. On the refined oil, the price of which is now thirty-eight cents in the market, and has not been higher than that, I believe, for many months past, the tax is twenty cents, or more than fifty per cent. of the selling price, and over one hundred per cent., and considerably over one hundred per cent., of the cost of the manufactured article. The tax on the other products of petroleum, such as naphtha, benzine, &c., is ten cents, which bears an equally high proportion to their cost.

The injustice of it is evident by the remarks I have made showing that this tax is onerous, that it exceeds the actual value of the article, and that there is no outside reason why it should be taxed to this extent. The price of the article at the time this tax was imposed was much higher than it is now. It was then selling, I believe, at wholesale for not less than sixty cents per gallon. There may have been some propriety at that time, when we were not in the way of reducing taxes but rather of extending them, when the price was better proportioned to the tax imposed, in placing twenty cents on such an article; but surely every reason should now dictate a reduction at least as great as that which I now propose. I have asked no more in this amendment, leaving the final adjustment of the rate of tax to the bill that is talked of being prepared in the Committee of Ways and Means. I have asked no more on this article than a reduction of fifty per cent. of the tax; that is, that an article which now costs eighteen cents and is taxed twenty cents shall be taxed only ten cents.

I think, Mr. President, that this request is reasonable. I think it is in justice and in equity demanded at the hands of the Senate that they should make this reduction. Although I have been told that this bill is but temporary in its operation, that some time next summer, according to the Senator from Vermont, we are to have another bill here in which this matter can be adjusted, yet, sir, I ask if during the intervening three or four months there is any justice in continuing a tax which you can now afford to repeal at least in part and which is enormous and oppressive.

The operation of this tax, as realized from year to year, is very detrimental to the manufacturers of the commodity in this country. The proportion between the crude oil exported and the refined oil exported is largely in favor of the crude; that is, the exportation of the crude article is increasing, while the exportation of the refined article is diminishing in perhaps a greater ratio. The actual effect is easily seen; it is that the manufacture of the article is discouraged in this country, while the crude material is sent away to Europe, to the West Indies, and to other places, but principally to Europe, to be there manufactured into refined oil. It is thus doing a double injury; it is breaking down our own establishments for the manufacture of this oil, and it is injuring the manufacturers themselves to a great extent.

I am sorry to say that, from late developments, the fact is that the same tricks and dishonesty have been manifested in relation to this article under this high taxation which we so much complain of in the case of whisky. Oil refineries or distilleries are seized for dishonest conduct in relation to the tax from time to time; and it is already realized by the honest refiners that their business is suffering from the fact that an article can be afforded to be put on the market at a cheaper rate because of the dishonesty that is connected with it.

I suppose it will be said in reference to this matter that the country cannot afford to lose one half of this tax. We can afford to lose taxes on many other articles, it seems, but not on this; and why? Is not this a fair and legitimate branch of business? Is it not giving employment to hundreds and thousands of our citizens? Is it not creating an article of export which is very valuable, and so taking the place of the export, perhaps, of so much of specie? Is not this a line of business providing an article the export of which ought to be encouraged rather than discouraged? I presume there can be but one answer to these questions; and when I assure you that the facts are as I have stated them in reference to the diminution of the refining in this country and the increase of the refining of our own product in other countries I think no Senator can well hesitate to grant what is asked for in this amendment.

As I have heard this morning I have heard for every year, I believe, since I have been in Congress, that we were going to come short in the revenue. That has been the cry on the part of certain Senators and the same Senators every year that I have been here. I do not pretend to impugn the figures that have been laid before the Senate this morning; I believe, on the contrary, that they are correct; but I do not think account is generally taken of the increasing population, business, and wealth of the country, to show that what is founded on the results of last year is generally below the mark during the next year. At any rate, sir, I know, and you know, and every Senator here knows this fact, that while we have heard of and anticipated short revenue the Secretary of the Treasury has managed to sequester some three hundred million dollars out of these taxes and pay it upon the national debt—money that there was no occasion to pay; and it would have been of far more service and interest to the country if we had been allowed to reduce the taxes in that proportion.

This article is manufactured in almost every one of the northern and some of the southern States. The oil is produced only in western Pennsylvania and West Virginia and the adjoining regions of Ohio. I believe those are the only parts of this great Union where it is produced in any quantity. It therefore becomes a matter to us of the last importance as being one of our staple products that its chance for a sale in the markets should be equal to other commodities; and, as I have already stated, it is manufactured in almost every State of the Union, and every State is more or less interested. By reason of overproduction or something else those who produce the oil from the bowels of the earth are suffering. The refiners have hitherto done a very fair business, and that business has been increasing as far as the demand would admit; but now that is changed; the refiners begin to suffer; the business begins to go down; and of course those who only produce will suffer accordingly. We both produce and manufacture in my State; and it is such an interest that I could not excuse myself if I was silent on the subject. I hope Senators will take what is proposed into consideration and reflect on it. Although it may fail from having a bad advocate, I trust, if they will examine the subject for themselves, there will be no necessity for my adding a word to what I have said.

Mr. CAMERON. I shall vote for the amendment of the Senator from West Virginia, because of its justice, in my opinion, for some other reasons besides those which he has explained. The production of petroleum is one which a few years ago excited the interest of the whole world. For a little while it was very profitable; I believe the price of the crude oil went up as high as a dollar a gallon; and I remember at that time it did more to pre-

serve our credit than any of the productions of the country, for the amount of it which we sent abroad, and in lieu of which we should have sent gold if we had not had the petroleum to send, was sufficient to keep our Treasury in credit.

But my principal reason for desiring to have the tax taken off now is that all except the production of the crude article is the work of labor; it is the result of manual labor. Refiners are manufacturers, and they ought to have the same protection that all other classes of manufacturers have. There is no reason why you should take the tax off the manufacture of cotton or wool or any other product that will not apply with the same force to the manufacturers of refined petroleum.

It is, besides, a most dangerous business. The product is very liable to destruction from its inflammable character and also from evaporation. It is almost as difficult to preserve from destruction a manufactory of refined petroleum as it is a manufactory of powder.

In the western part of Pennsylvania everybody for the last two or three years who has been engaged in the oil business has lost money. I do not know of a single individual who has made any profit. When the tax was laid at twenty cents a gallon I think the oil was selling at from sixty to eighty cents a gallon, and at that time the tax may have been fair enough, but it is not so now, when the price has gone down to thirty-eight cents.

But, aside from all these arguments, I am in favor of reducing taxes for another reason. If we reduce our taxes we shall reduce our expenditures. Take taxes off the labor of the country and the people will compel their representatives here to be more economical. On the other hand, have a large surplus in the Treasury and it will be sure to be expended. Legislators are thriftless of the money and property belonging to the public generally. They will not turn their attention to economy in public affairs as men usually do in their own, and, therefore, the more money you allow them to have in the Treasury the more they will spend.

There is no reason why we should not take one hundred millions off the present annual expenditures of the Government; and I believe that if we reduce our taxes the effect will be beneficial in that direction. Do that, and let us have no money in the Treasury for members of Congress to appropriate and officers of the Government to expend. I would rather have the Treasury at the end of this year without money enough to pay its current expenses than to have a surplus of a single million. I am opposed to the whole system of keeping the public money hidden in the Treasury or putting it into banks for the benefit of bankers to make money out of its use. All this and a hundred other things may be said of the improper use of the public money resulting from levying large taxes. Large taxes produce expenditures, produce waste and extravagance in the expenditures of the Government. It is so with thriftless individuals. Give men large sums of money and they rarely know how to use them. When they get money easily they fool it away very easily. I think the true policy lies in reducing our taxes, and then we shall have less money to spend. I would, therefore, for the present, take this bill, but I would add to it the amendment of the Senator from West Virginia, and I would be willing to put on one or two other amendments.

Mr. MORRILL, of Vermont. I was in hopes that the chairman of the Committee on Finance would respond to the arguments that have been adduced in favor of the reduction of this tax; but as he does not rise I will say that, in my judgment, there is no single thing in the whole catalogue of articles which may be taxed that can so well sustain the burden of taxation as refined petroleum. I know that there will be complaint in relation to this tax, adjust it how we may, until it is repealed. We formerly levied it not only on the refined article but on the crude. Then the parties interested professed to be entirely satisfied with any amount of tax we might levy, provided we would levy it on the refined article and repeal the tax upon the crude article. In 1866, therefore, we repealed the tax upon the crude article, surrendered a tax which yielded over two million dollars, and retained the taxation only on the refined. In 1866 we obtained over five million dollars on the refined article, and last year we obtained nearly five million dollars.

But, Mr. President, it is complained that we levy a high tax upon this article when the price is very low. That is the strongest reason in the world why we should retain a high tax upon it; for even at the highest price it has ever reached, a dollar or a dollar and a quarter a gallon, it is a cheaper article for illuminating purposes than any other existing in the world. I took occasion to have the Smithsonian Institution examine, and by a careful test ascertain, the amount of illuminating power there was in petroleum several years ago, and it was ascertained that there was no article, oil, gas, spermaceti, or anything else, that could begin to compete with it for illuminating purposes. It will be observed that the tax is still retained on gas; and as long as we retain it on any illuminating article we should retain it on refined petroleum. I would have completed the symmetry of the bill, if I could have had my way, by still continuing the tax on sperm candles, paraffine, and stearine. I think they ought to come in; but the amount manufactured in the country since the introduction of petroleum is so small that perhaps they may be as well omitted. But this is an article upon which we gain a very large amount of revenue; it can sustain a tax better than anything else, and we cannot afford to surrender it.

Mr. SUMNER. Mr. President, the practical question, it seems to me, is whether the article can bear this tax. My friend from Vermont thinks that it can; he seems to think that question is beyond doubt. Now, from the information that I have received, I am led to doubt it. I do not know whether the attention of the Senator has been called to what may be pictured as the vicissitudes of petroleum. We all know that when it first appeared it flowed in streams most profusely; but those who have given attention to the subject know that now those streams are failing and that but very little, comparatively, is produced, and that little costs much more to produce than it did before, and the profits are naturally much less. Under these circumstances the question arises whether this article can now bear the tax that was imposed upon it when it was produced in such large quantities.

There is also another circumstance, I believe, to which my attention has been called. At first the article was very largely exported. It was not found in other countries, nor was there any substitute for it; but I understand that latterly in England shales have been manufactured into an oil which is a substitute for petroleum, so that this article is no longer exported largely to England. There, again, is a source of profit cut off. I understand that there are also on the continent of Europe some other changes which have essentially modified the demand for petroleum.

Under these circumstances I come back to the original question, which was proposed by my friend, whether the time has not arrived for a modification of this tax. I am not strenuous on the point. I listened to the Senator from West Virginia, and I must say I was impressed by what he said. I had not anticipated his motion; I did not expect this question to be brought up on this bill; but now that it is brought up, it does seem to me that we must vote upon it, in the spirit of the bill under discussion, and also with reference to the actual condition of the petroleum business. Unless I am very much mistaken, that business is suffering very much from our taxation. It may be said that all business is suffering from our taxation. More or less, this is true; but the object of the present bill, as I understand it, is to apply a remedy where we are aware that business is suffering, so far as that remedy can be applied consistent with the revenue of the country; and that brings me to a general observation with regard to the character of the present measure. For one, I welcome it. I always did regret infinitely—I expressed that regret at the time—that our system of taxation was so multifarious, that it was applicable to so many subjects.

The reply, however, then was that we were beginners; that we could not, as in the older countries, at once select a few subjects for taxation; but that, with experience, we should be enabled to make such a selection. Time has passed, and we now have something of that experience; and I humbly suggest that the sooner we act on that experience, and also on the experience of the great taxed countries of the world, we shall be the better off. Now, according to that experience, whether at home or abroad, I believe I may say there is one rule, and it is this: that taxation should be simplified as much as possible, and should be made applicable to as few subjects as possible. We know to how few subjects the great taxation of England is applicable; very few, indeed. The taxation of France embraces, I know, a larger number. That of England, perhaps, would be a better model for us, and we could more easily imitate it.

There are unquestionably certain subjects in our country within the sphere of taxation, and which may be made to produce a very large revenue. Senators to-day have referred to one of them, the whisky tax. I have always been in favor of having that tax as large as possible, and when established I have always been in favor of its enforcement. Of course, the reply has been constantly, "You cannot enforce so large a tax." I am not sure of that. Such taxes are enforced in other countries. Why can they not be enforced in ours? We need honesty in the agents; but, better still, we need honesty in those who control the agents. With a thoroughly honest Administration disposed to enforce that tax, I believe it can be enforced, and if enforced it will yield a very large revenue.

There, sir, is one source of supply; I might enumerate others of a kindred character. I will not, however, detain the Senate by any further discussion on that head. I go back to the point from which I started, that now that the question is before us of the tax on petroleum I am willing to meet it, as I meet the other changes proposed, and follow the Senator from West Virginia.

Mr. SHERMAN. I desire, before saying a few words of reply to the argument in regard to petroleum, to correct a statement I made in response to a suggestion of the Senator from Maine. I stated that in the taxes repealed, included in the statement I furnished showing that the present bill would decrease taxes to the amount of $40,000,000, cotton was included. In that I was mistaken. I desire to make the correction now so that nobody shall be misled.

In regard to the tax on refined petroleum, I will say that it now yields $4,827,911. Many of the gentlemen interested in this matter are from my own State, and I should, as a matter of course, like very much to oblige them, if I could. They applied to our committee to repeal this tax; but the House of Representatives had retained it, and we were indisposed to go any further toward the repeal of taxes than the House had gone, because we felt they had gone just as far as we dare go at this time in the repeal of taxes, and that, therefore, it was not wise to add to what they had done in this direction, unless there was some strong reason for it. Hence we resisted the application made by various refiners to repeal the tax bearing on them.

The article of petroleum can bear this tax as well as any other that is unrepealed, and the reason is obvious. It is a product of nature, which in its crude state is not now worth very much. The chief value of it is derived from the process of refining. When we dealt with

it a year or two ago, all that was asked of us was to repeal the tax on crude petroleum. The parties interested then said they were perfectly willing to pay the tax on the refined article, as they had the benefit of the protection—it operates as a protection to them—and they arranged and wrote out the law to suit themselves, and fixed the rate and fixed the various degrees. If Senators will look at the internal revenue laws, they will find various rates of tax for different qualities of products, some ten cents a gallon, some twenty, and some at other rates. They arranged that to suit themselves. From the statement they now make to us, I am satisfied that there are some corrections necessary to be made in this tax. The article above a certain grade is free from tax, and below a certain grade is free from tax; and under these exemptions frauds have crept in by mixing one grade of article with another. No doubt the proper committees will in due time make the necessary changes in the law to meet this difficulty. But I say to the Senate, that we cannot now give up this revenue, and this particular interest has no right to complain because we throw off other taxes, for all this tax falls on the consumer.

They complain that their interest is very much depressed, languishing. Why? When two years ago we dealt with the tax on petroleum, great fortunes had been made out of the crude article, and we then repealed the tax on crude petroleum; but now those who produce it suffer just as much. It is not caused by the tax. It is caused by the over-stocking of the market, by the depression in the price of the article, both crude and refined. This is caused not by our tax on the refined article, but it is caused by the over production of petroleum. Those who produce petroleum and pump it from the well without any tax whatever, complain just as much of the depression in their business and of the small value of their crude article as the refiners do.

Mr. VAN WINKLE. I beg to interrupt the Senator for a moment. He is now showing, I think, the best reason in the world for reducing this tax. At the time he speaks of, men were making fortunes out of the crude article. They were selling it at thirty cents a gallon at Parkersburg, and now they are very glad if they can get eight or ten cents.

Mr. SHERMAN. In other words, when we had a tax of several cents on crude petroleum they were making fortunes; and now, when there is no tax on crude petroleum, they are all breaking up. We ought to restore the tax according to that mode of reasoning; and if we repeal the tax on refined oil the refiners will not make any more money. The only question is whether the article itself can come in competition with other substitutes for it. No one pretends that. We find that petroleum can drive out of the market any competition of any other article. It has driven the hog from the prairie; we have to eat him now instead of burning him. It has driven the seal from the sea. It has taken the place of all articles that produced light, and even with the heavy tax on it it is the cheapest article in the market, so that there is no doubt of its ability to bear the tax against any competition; and that is the only test of the measure of taxation that a given article will bear, whether with the tax upon it any other article can compete with it.

The Senator from West Virginia knows very well that nothing can compete with refined petroleum now either for burning purposes or for the multitude of purposes for which it is used. It has driven out of use a multitude of articles that before were the production of various parts of our country among the rest turpentine; and to avoid all complaint we have retained the tax on turpentine in this bill, although the other House propose to repeal it.

Mr. CAMERON. I should not have risen to say another word on this subject were it not for the fact that I believe the information of the Senator from Ohio is not very accurate. To my mind he does not seem to understand the business of petroleum very well. He says it is a profitable production.

Mr. SHERMAN. Oh, no.

Mr. CAMERON. At any rate the Senator says its product has been increased.

Mr. SHERMAN. I did not say a word about that. I did not say that it was profitable, or that the product had increased.

Mr. CAMERON. I think the Senator said something very much like it. He said it had no competition or something like that. The fact is that the manufacturers of refined petroleum have great competition in Europe. In Belgium they can refine the crude oil much more cheaply than it can be done here, and they make a larger profit by it because they can use constituent parts of the oil which are not used here. Benzine, for instance, is used by the poor people of the low countries—Belgium and Holland and all around there—for lamps. They have a cheap sort of lamp in which they use this article, and by the addition of a sponge explosion is prevented. That makes a very slight light which would not be used here, but which the poor people there are willing to use. So far do they carry this that they reëxport to this country the barrels which go to that country with the oil. The empty barrels are sent back here and bought again by our manufacturers. Barrels here cost from a dollar to a dollar and a half apiece; I believe about a dollar and a quarter now. In Belgium they have them manufactured at half that price.

The business of refining oil is carried on abroad very largely, as I understand. The article is a natural product of our soil, which some years ago was produced in immense quantities. Single wells produced a thousand barrels in a day. Now, with pumps and all other appliances in use scarcely any of the wells produce more than two or three barrels a day. At one time the tax might very easily have been borne when the whole oil region was full of wells, when the ancient landholders had sold out their lands at an immense profit. Men who were willing before oil was discovered to sell their lands at a dollar an acre sold many of them for three hundred or four hundred dollars an acre. They were full of money and everybody in the country was in wild speculation. At that time it could have borne a tax very well; but now the whole oil country is prostrate; the original landholders have taken their money and gone away, and those who put money in there are impoverished. The whole business is languishing and requires as much care and protection now as any other branch of the industry of the country.

Mr. BUCKALEW. Mr. President, there are two or three considerations that ought to control the judgment of the Senate upon this subject which are somewhat independent of the particular matters of detail that have been mentioned in the debate.

In the first place, the products of petroleum are articles of necessity to the country. They bear a very different character from those which the Committee on Finance have proposed to place in this bill as additional exceptions, to wit, articles of jewelry and various others mentioned in the amendment proposed by the committee. These are articles of common necessity, and are becoming of general use in this country and abroad. If there should be any discrimination between different articles of manufacture by reason of the uses to which they are applied and of the common necessities which they meet in our own and in other countries, such discrimination should favor the products of petroleum. I think that in selecting a few articles out of the large list covered by the former section which it is now proposed to repeal we should take this consideration largely into account: because these are articles of necessity we should allow them to be included among those upon which there is to be a repeal of the taxation now provided by our revenue laws.

Again, sir, petroleum in the various forms which it assumes is a new article in the markets of the world; it is of comparatively recent introduction, and I consider it to be good public policy to allow it to go out without restriction or incumbrance wherever it can go, so that at as early a period as possible it shall command the markets of the world in preference to naphtha and other articles which are produced in other countries and against which for a time at least it will have to struggle. Is not that a just and legitimate consideration in settling public policy?

Again, Mr. President, this is an article of export. The pressing want of our country now is the command of foreign markets. By reason of our difficulties at home arising from the war, and because our country is new and capital among us limited in amount, other nations are ahead of us in commanding the markets abroad. Here is an article which we can send abroad both in a crude state and in manufactured forms; here is an article which can be a basis for exchanges between us and foreign countries, and indirectly the foundation upon which our financial system can in part repose. And because it is one of the articles by which our commercial and monetary interests may be sustained in future it should be cherished, and not burdened.

If, therefore, regard be had to general considerations independent of the particular points which have been alluded to, I think the argument is stronger in favor of exempting petroleum and all its products from taxation, than it is in favor of exempting any other article in the revenue list except cotton. A temporary exemption of cotton may be more necessary on account of the peculiar condition of the southern country. For my part I shall not only vote for the amendment of the Senator from West Virginia, but shall stand ready at all times to vote for any motion or proposition which will remove or keep off taxation from petroleum, and from all the products which are manufactured from it.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from West Virginia.

Mr. BUCKALEW called for the yeas and nays, and they were ordered.

Mr. MORRILL, of Vermont. I notice by some remarks of the Senator from Pennsylvania, who was last up, that he supposed our existing law in some way obstructs the exportation of the article.

Mr. BUCKALEW. I meant those remarks to apply entirely to the subject-matter of the present amendment, the products of petroleum. I am well aware that there is no taxation of the crude article.

Mr. MORRILL, of Vermont. But, whether the present amendment passes or not, there will be no more and no less obstruction to the exportation of the article. There is none, in fact, existing now. Mr. President, the sole distress of the parties engaged in this business is the competition among themselves. There is no article which competes with it. We retain the tax upon gas the same as it is now. In relation to the new discoveries mentioned by the Senator from Massachusetts, I will inform him that shale was distilled in England long before petroleum was found in this country, and there was a patent there which has only recently expired; and the distillation of coal was known long before and competed just as much heretofore as now. I do not desire to protract the discussion. I trust that the amendment will be voted down.

The question being taken by yeas and nays, resulted—yeas 22, nays 20; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Cole, Conkling, Cragin, Doolittle, Fowler, Frelinghuysen, Henderson, Hendricks, Johnson, McCreery, Norton, Saulsbury, Stewart, Sumner, Tipton, Trumbull, Van Winkle, Vickers, and Willey—22.

NAYS—Messrs. Anthony, Chandler, Conness, Corbett, Dixon, Drake, Edmunds, Ferry, Fessenden, Grimes, Howard, Morgan, Morrill of Vermont, Pomeroy, Ramsey, Ross, Sherman, Wade, Williams, and Yates—20.

ABSENT—Messrs. Bayard, Davis, Harlan, Howe, Morrill of Maine, Morton, Nye, Patterson of New

Hampshire, Patterson of Tennessee, Sprague, Thayer, and Wilson—12.

So the amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend the bill by adding at the end of the second section the following clause:

And nothing herein contained shall be construed as a repeal of any tax upon machinery or other articles which have been or may be delivered on contracts made with the United States prior to the passage of this act.

This is in conformity with our legislation last year, when we repealed the tax upon the transportation of passengers and freight on railroads. We then specially provided that those companies or persons having contracts with the United States for the carrying of the mails should be subject to that amount of deduction. This is to apply to many contracts that are now existing which have not yet been liquidated. Parties have manufactured machinery and other articles to a very large amount, and if taxes be taken off them it will benefit private parties in some instances to the extent of $50,000. The whole amount of contracts to which this would apply is from five to seven million dollars. I take it there is no objection to the amendment.

Mr. SHERMAN. This amendment was considered in committee and rejected. I ask that it be read.

The Secretary read the amendment.

Mr. SHERMAN. This language is covert, but it is intended to meet a certain class of cases. Contractors have furnished the United States, especially in the Navy, with large machinery; and, as a matter of course, they have built this machinery and delivered it upon the basis of existing laws. The purpose of this amendment is to deduct from the contract price of that machinery five per cent., the amount of the tax now to be taken off. In the first place it is unjust. If the amendment of the Senator from Vermont applied only to Mr. Isherwood and some other men who have made these extensive contracts I might be willing to yield to it; but they have made contracts with others on the basis of the existing laws, and the persons with whom the contracts were made have purchased supplies and materials, and have gone on and constructed engines and supplied us with materials on the basis of the existing laws. They have consequently paid the tax which enters into and forms an element of the cost of those articles. Now, to deduct five per cent. from the amount of their contracts, because the articles have in the course of their manufacture paid a tax of five per cent. to the Government, would be unjust.

It is impossible to regulate all such matters by law. In the case put by the Senator from Vermont it is perfectly right that the provision to which he refers should be made. The railroad company was bound to pay five per cent. tax on its gross receipts, and when the tax was subsequently repealed it was proper enough to require them to continue to pay the five per cent. to the time the tax was actually repealed, or to deduct five per cent. on all deliveries by them after that time where the contract had been previously made at an agreed price. For instance, if a railroad company agreed to do certain transportation for the United States at the rate of a dollar a ton for a certain number of miles, and after the contract took effect the United States relieved them from the tax of five per cent. on their gross proceeds, which entered, as a matter of course, into the contract price, it would be proper enough for them to throw five per cent. of their contract price off that transportation. But you cannot carry that principle into a matter like an engine, which is made by a great variety of persons. The builder himself pays the five per cent. in the cost of the materials and labor which enter into the article constructed.

I am satisfied, from the little reflection we had time to give this matter, that the provision might work injustice. Let contractors who contract to furnish property and supplies to the Government stand by their contracts. If they make by the benefit of our laws well and good. If, on the other hand, we levy additional taxes on them, they must suffer. I do not think we ought to discriminate in cases of this kind. I think the attempt to do so would be an impossibility and it might work injustice.

Mr. MORRILL, of Vermont. I am rather surprised at the information I derive from the chairman of the Committee on Finance that this matter was considered in committee. I was there all the morning, except, perhaps, five or ten minutes, and it was not considered while I was there.

Mr. SHERMAN. It was proposed there.

Mr. MORRILL, of Vermont. It was mentioned and talked of, but it never received any vote or consideration.

Mr. SHERMAN. I know there was no vote taken, because it was not pressed.

Mr. MORRILL, of Vermont. Because it was accidentally overlooked. I did not hear any objection to it in committee.

Mr. SHERMAN. I supposed it was because it was not pressed.

Mr. MORRILL, of Vermont. I think the chairman of the Committee on Finance is entirely mistaken in relation to the operation of the amendment proposed by me. It is certainly not to tax anything that is not already taxed, but it merely provides against a repeal of any tax to which these parties may be subject. Is not that right? If these parties have made contracts with the Government and are liable to taxes under them shall they not pay them? The bill is absolutely a bonus to them unless we provide for this.

I think such a provision as that I offer would be right in all cases, but this is as far as we have ever gone, I believe, in these laws, except in some cases of contracts relative to leasing coal lands. I trust there will be no disposition on the part of anybody here to give this bonus to these parties where they are under contract to deliver articles at a stipulated price, and where they are under existing laws liable to tax, for all that the amendment proposes is that this bill shall not operate as a repeal of any tax that those parties are liable to.

Mr. FESSENDEN. Certain parties, as I understand the statement, have made contracts with the Government for the delivery of machinery. How did those parties make their estimates of the contracts? Just as all other men do; they estimated the tax as going into the price, and they estimated the depreciation of the currency as going into the price, as every contractor with the Government does, as a matter of course. Having put the tax of five per cent. into the price charged to the Government, and having completed the machinery, what the honorable Senator from Vermont proposes is that we shall not now proceed to give them that five per cent. of their contract price after they have charged it to the Government for the thing they proposed to sell; that the Government shall not now present them with that amount, making, of course, in a large contract, a contract of millions, a very large sum, as stated by the honorable Senator from Vermont.

And, as my friend from Iowa [Mr. GRIMES] suggests to me, it would be a great advantage to the man who has not complied with his contract in season over the man who has complied with his contract and already paid the tax. If that is the true state of the case, as put by the Senator from Vermont, it is a perfectly plain proposition. If the amount of the tax was five per cent. it would, in the case of a contract for $1,000,000, amount to $50,000. That $50,000 has been charged to the Government in making up the different items which go to constitute the whole price paid for the machinery. What does the honorable Senator from Ohio object to our doing? He objects to our saying to these contractors, "Inasmuch as you demand that $50,000 of the Government for your machinery and have charged it to the Government, and the Government has to pay it, the Government will not first present you with that amount which it is to pay you." It strikes me that it is a perfectly palpable proposition, and if we do not agree to what is offered it will be a mere giving away and wasting of so much of the public money.

Mr. JOHNSON. I was, like the honorable member from Maine, in a state of comparative ignorance as to the effect of the amendment. I had supposed, from what fell from the honorable member from Ohio, that it was to impose a tax now for the first time.

Mr. MORRILL, of Vermont. Oh, no.

Mr. JOHNSON. Now, as I understand it, it is to prevent the repeal of a tax existing at the time the contracts in question were entered into.

Mr. MORRILL, of Vermont. That is all there is of it.

Mr. JOHNSON. That being the case, it is perfectly clear that to the extent of the diminution in the tax which the bill proposes you are giving to contractors with the Government just the amount of that diminution. If it was five per cent. before, and we reduce the tax one half of that amount, we are giving them two and a half per cent. There is no justice in that that I can see, because it is very obvious that in entering into their contracts with the Government they entered into them upon the assumption that they would be obliged to pay five per cent. upon the articles which they were to use.

Mr. HOWARD. I should like to inquire of the Senator from Vermont why he confines the operation of the amendment merely to contracts between individuals and the Government. Does not the same principle, if it be a principle of justice, apply to other executory contracts entered into for the delivery of goods which are taxable between individuals?

Mr. MORRILL, of Vermont. I have already alluded to that. I said that I acknowledged the principle of the rule, but that the amendment went as far as Congress had ever gone heretofore, and as far as I thought it would go now.

Mr. HOWARD. I did not hear those remarks of the Senator. Why is not the section as it stands a sufficient protection? Section two declares "that nothing in this act contained shall be construed to repeal or interfere with any law, regulation, or provision for the assessment or collection of any tax which, under existing laws, may accrue before the 1st day of April, A. D. 1868."

Mr. MORRILL, of Vermont. I am willing to admit, for one, that that is a very backhanded way of providing when a law shall go into effect. I tried to remedy it and failed in committee; but that is merely to provide when this law shall go into effect.

Mr. HOWARD. I think if we apply the principle of the Senator's amendment in one case we ought to do so in another. I cannot draw any distinction in point of justice between a contract between an individual and the Government and a contract merely between individuals for the delivery of taxable articles. I merely throw this out as one reason why I, at least, do not see the propriety of the proposition.

Mr. FRELINGHUYSEN. It seems to me that the suggestion of the Senator from Michigan shows that this is legislating on a wrong principle. I suppose that all contracts which are made in the country, whether between individual and individual or between the Government and an individual, are made subject to the laws of the land. They take their chances of what the law may be when the contract is to be fulfilled.

I do not believe that the Government of the United States are in the habit, if they make a contract, and after the contract is made impose a higher duty on the material or a higher tax, to add that to the contract price; neither is it the habit with individuals; and that is the objection to this proposition. While in a particular case it may seem fair, still, take the course of legislation year after year, and I think the true principle is to let the law fall upon the contract favorably or unfavorably, as it may happen, each party taking his chance

There is certainly no propriety in making an exception in favor of the Government which you do not make in favor of railroad companies and individuals.

Mr. SHERMAN. The amendment of the Senator from Vermont, it seems to me, goes far beyond what has ever been done before, and I am afraid it will do injustice to individuals. I know the Senator does not want to do that. So far as articles have been delivered, there is no objection to the proposition; and there is no doubt the law would make it so. Where articles are delivered to the Government the price is presumed to be paid, and therefore I do not see that the amendment would apply in such cases. The articles having been delivered, the contract is complete, and that is the end of it. I would have no objection to that clause so far as it goes; but the amendment goes further and says that the tax shall apply to all contracts made prior to the passage of this act. Allow me to put a case. I do not know that such a case has actually occurred, but it is possible.

Suppose the Government of the United States has in the ordinary way advertised for contracts for the delivery of harness and other supplies of the Army. They are to be delivered in the future. They are now subject to tax; they are to be manufactured during the next summer. The contracts are usually made for a year in advance, and a length of time is allowed for complying with the contracts. In the meantime the tax is repealed. This provision would be perfectly correct if all the tax was taken off the cost of the article; but in my judgment the effect of a repeal of the tax is partly to raise the value of the labor that enters into that article, and as a matter of course the contractor will have to pay more for the labor and the article will cost him more. There are many elements that enter into the cost. The tax is not always a mere addition to the cost; and the taking off a tax does not cause a reduction of the cost to the same extent, always. Therefore, when you apply this principle to contracts to be executed in the future for the manufacture of articles, as in the case I put, you may do great injustice to contractors.

I do not know whether there are any contracts of this kind or not; but if there are, great injustice may be done. I do not see why contractors with the Government should not be put upon the same footing as all other contractors are. If the laws are changed in their favor let them get the benefit; if the laws are changed to their detriment, as they are by the imposition of new taxes, as a matter of course they suffer; but I see no reason in legislating for so small a matter as five or three per cent. would be on the small amount of contracts that are to be executed in the future for the benefit of the United States. The amount cannot be very large. It is, however, for the Senate to say.

Mr. MORRILL, of Vermont. If the Senator's suggestion were to be in favor here, we might as well abandon the whole proposition. I have not supposed this amendment would operate at all upon articles that had already been delivered; but, out of abundant caution, I put that in. It is to catch those articles which have not been already delivered where the contract has been made prior to the passage of the law that I offer it. The only question, in my judgment, about the justice of the matter is whether the contract was made in the expectation that the party would have this tax to pay.

Mr. GRIMES. I wish to inquire of the Senator from Ohio whether I understand him correctly in the expression of the opinion that the effect of this law, if passed, would be to increase the price of labor and also to increase the price of the manufactured article?

Mr. SHERMAN. No; I said it would decrease the price of the manufactured article undoubtedly; but I thought to some extent the laborer would share in the benefit of the removal of the tax. As a matter of course it will cheapen the value of the article.

Mr. GRIMES. Then if the contractor has estimated for it now under the existing law, he can very well afford to pay the amount.

Mr. SHERMAN. But I do not think it will cheapen the article to the extent of the tax.

Mr. GRIMES. Then, I think, we had better not pass this bill. I supposed we were going on the theory that the effect of the bill would be to revive the industry of the country and cheapen manufactured articles to the consumers.

Mr. SHERMAN. I think all experience has shown that the diminution of the cost of the article is not to the extent of the tax removed; but it is a relief of so much tax. So many million dollars are distributed among the people and received by them partly in the increase of the value of their labor, partly in the diminution of the tax they pay to the manufacturers. It is diversified. We throw off $40,000,000 of taxes by this bill, and the people get the benefit of it either by the increased value of their labor, by the increased activity given to their employment, or by the reduction of taxes.

Mr. FESSENDEN. There is one very short answer to the objection made by the honorable Senator from Michigan; and that is that we cannot enforce such a provision in the case of private contracts, because the Government cannot know what those private contracts are. They are infinite in number all over the country, and in order to carry out the provision the Government officers must be acquainted with the private contracts of individuals scattered over the country. It is a matter of impossibility. You cannot do it so that the provision could be enforced. It has been argued that in the case of the Government itself, where it does know what its contracts are and who its contractors are, and can enforce the contracts, therefore, because they cannot do it in other cases, the Government must put its hand into its pocket and pay to these contractors large sums of money. There is nothing in an argument of that sort.

My honorable friend from New Jersey, if I understand him, argues that we never must pay any attention to consequences in passing laws, but that the laws must have their full operation. I grant that after they are passed they must; and when we have passed this bill it will have its full operation; but the object is to pass it so that the Government shall not lose money by it. This is taking a new departure, to argue, as gentlemen substantially do, that we are not at all legislating for the benefit of the Government now and must have no reference whatever to it. I suppose that although we are legislating for the benefit of manufacturers, and for the relief of industry to a very great extent, while that is the principal object of this bill, yet at the same time we should not go so far as to give money to men in excess of what is required under contracts already made. If the amount of the tax, five per cent. or three per cent., was not included in the price, and if the Government had not to pay that price, it would be very fair to leave the law to its general operation; but the fact is that these men having contracted to receive the amount of the tax as part of the price, are now to go on and make their articles and deliver them to the Government, and demand of the Government the amount of the tax. Is that fair? Is the Government called upon to do any such thing as that? The effect of it is precisely what I state. The amendment cannot go so far as to injure anybody if the tax is due. I dare say there will be many cases where it will not be paid, and where, from the nature of the contract itself, it cannot be enforced; but where it can be, there is, as it strikes me, exceeding propriety in it, unless the Government at this time, from the great surplus which it is going to have on hand, according to the exposition of my honorable friend from Ohio, has money enough in its strong box to give $50,000 here and $100,000 there, out of that strong box, simply because it has made contracts.

I listened to my honorable friend with a great deal of interest, and it puzzled me to see where he was going to get it; but from his present liberality, his disposition to deliver over to contractors this amount of money which the Government must pay to them, it would seem to me that the surplus must be larger in his own mind than he exhibited to the Senate in the very clear and lucid statement that he made. Now, sir, it strikes me that the proposition is too plain a one for dispute; and in those cases where it can be enforced, the Government is under no sort of obligation to pay in fact five per cent. to contractors instead of relieving industry, for that is the amount of it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. FESSENDEN. I offer this amendment as an additional section:

And be it further enacted, That on and after the passage of this act, there shall be allowed and paid a drawback equal in amount to the import duty paid on all lumber, hemp, (manilla,) copper, and upon all iron not advanced in manufacture beyond bars, rods, and bolts, which shall be wrought up in the construction, rigging, or equipment of sailing vessels of the United States, or used in repairing vessels of foreign build documented in conformity with the provisions of the act of 23d December, 1852, less five per cent. of the amount of such drawback which shall be retained for the use of the United States under such regulations as the Secretary of the Treasury may prescribe.

This is precisely a transcript of an amendment which, after some debate, was adopted in the Senate by a very large majority to the tariff bill of last year. I think at that time the Senate settled the propriety of it, and I think the Senate can now have no doubt of its propriety. I know that the objection which will be made to it is, that this is a bill relating to the internal revenue, and not to the tariff; that therefore it is not strictly germane; but that objection is one that is very seldom made in the Senate, and very seldom sustained. The amendment is not strictly upon the same subject as the bill, but yet it has reference to the general object of this bill. Besides, it is suggested to me that when the bill relating to the cotton tax was before the Senate, we amended the tariff bill by a section which we added to it. If I saw any other bill pending here to which this would be more germane, which was likely to come before the Senate within any reasonable time I would not offer it here; but there is none.

Mr. MORRILL, of Vermont. I will inform the Senator that I think there is an independent bill in the other House.

Mr. FESSENDEN. There may be in the House of Representatives, but it has not got here, and I do not know that it ever will get here. If there was a bill here that could be taken up, I should be very glad to put this proposition upon a bill to which it would be more germane. But what will be done with the bill referred to in the other House I do not know.

The general object of this bill, as I understand it, and as I think no Senator will dispute, is to relieve the suffering industry of the country, the great pursuits of industry which are not only beneficial to individuals, but beneficial to the country itself. If there is an interest in the country which is of very great importance, perhaps comparing in its general character with the general interests of manufactures, it is the interest of navigation. Everybody knows that at this time the navigating interests are so depressed that they are almost destroyed—I mean that portion of them which relates to the construction of vessels. My own State has heretofore been very largely interested in the construction of sailing vessels; and so have all the other States, more or less, on the sea-board. We arrived at a point where the State of Maine manufactured more sailing tonnage than any other State in the Union. Now, it is an undeniable fact that that interest is so much depressed as to be almost destroyed. Our ship-yards, as a general rule, are perfectly still. Nothing of any considerable consequence is done in that line. In

that the country loses, and it loses, perhaps, more in another respect, or will eventually, and that is, that we are fast being deprived of that skilled labor in the construction of vessels which has been heretofore considered of great consequence to this country, and would be in the future if it could be kept. We need it sometimes at periods of emergency; and we need it always from the effect it has to give to the country a high character in the construction of vessels to navigate the ocean.

One great reason, and the principal reason, why the construction of vessels in our section—perhaps in all sections, but in ours principally—is so much depressed is simply because, owing to the very high price of all the articles which go into the construction of those vessels, we cannot compete with our neighbors of the British provinces. Not only is labor very much cheaper there—and that cannot be remedied—but materials are cheaper, for the reason, in the first place, that if they had at any time duties upon those articles, at the present time they give a drawback upon all articles which go into the construction of vessels; and we, if we make vessels at all, are obliged from necessity, from the present laws with reference to those things, to pay such heavy duties on all the articles enumerated in my amendment, that it is impossible for us to continue in competition with our neighbors. The consequence is, that the construction of sailing vessels, except in very few instances, has about ended; that is, comparatively.

Under these circumstances, as this bill is brought forward for the purpose and with the express object of relieving the great industries of the country, I appeal to Senators to tell me what one there is among them all which has suffered, and is suffering, so much as that which is connected with the manufacture and construction of vessels, and what one, if it is suffered to fall into decay, is to produce such great injury to the general interests of the country itself?

I do not feel disposed to make a long argument on this subject, because I speak of facts which are known to every individual in the Senate. There is no disputing the general statement. It is admitted by everybody; it is known to all. I may well appeal to my honorable friend from Nevada [Mr. STEWART] for his vote when he says that it is so desirable to see all industries again flourishing in order that we may be able to meet our responsibilities and take our place as a nation. Strike down and keep down the navigation of the country in its present position, and Senators may well ask themselves whether they do not diminish wonderfully our chance of again taking our place by the side of other nations in all those things which go to make a nation great and strong. I say nothing more, sir, because it is useless for me to argue on matters which every Senator understands in their general aspect quite as well as I do.

Mr. SHERMAN. There is certainly no parliamentary difficulty in attaching to a bill of this kind a proposition relating to the tariff, and therefore I do not make the point, except that it is rather unusual. When the two relate to the same particular article, as in the case of cotton, where we repealed the internal tax on cotton, there fell with it the duty on imported cotton; they were germane to the subject, although one related to the tariff and the other to the internal revenue. But the difficulty in this case is this: this is a bill intended to relieve us from taxes; the proposition of the Senator from Maine is a proposition to increase expenditures. They are, therefore, precisely in opposite directions. If this amendment should be adopted, the amount that would be taken from the Treasury it is difficult for us to estimate, because we do not know how many articles or the value of the articles that will enter into the manufacture of ships. The duties collected on all the articles which enter into the manufacture of a ship would be refunded. The shipping interest receives benefit from this bill like all other interests, because now many of the articles which enter into the component parts of a ship pay taxes—not, it is true, the hull of the vessel, because we relieved the hull of the vessel and most parts of the vessel from taxes before; but many other articles that enter into a ship pay internal taxes. Nearly all manufacturers do. They get the benefit of the repeal to that extent. They get also the general benefit which the people at large will derive from this repeal.

But this amendment proposes, in addition to that, to give them a bounty for building vessels. Every article of American manufacture, without exception, that enters into a ship they will get without any tax. In that respect they will stand like any other industry. No article that I am aware of which forms, remotely or directly, any component part of a ship will pay any duty, provided it is made out of American products—American lumber, American kemp, American iron, American glass, nails, and all the other articles that enter into the component parts of a ship. But this proposition is that where these articles have paid a duty at the custom-house, forming a part of our revenue, that money shall be taken and paid back to persons to build vessels; in other words, it is a bounty for ship-building. That is all there is of it.

I submit whether, under the circumstances by which we are surrounded, on a bill of this kind, intended to relieve the industry of our country, it is right to increase our expenditures by taking money collected in the form of taxes and paying it to ship-builders as a bounty for ship-building. I agreed a year ago, when the tariff bill was pending, to the relief contemplated by this proposition, and voted for it on a general revision of the tariff where we raised the tariff duties, but that was in a bill which increased the revenue on other matters, and would have increased the revenue sufficiently to compensate for this relief to ship-building. But that bill was defeated, and therefore there is no merit or strength in this proposition. The very bill to which this proposition was then attached by the consent of the Committee on Finance would have raised the additional revenue required to refund back to the ship-builder the amount collected from articles that enter into the manufacture of a ship; but that bill failed.

And now, all our computations are based upon the present revenue laws, which yield us not to exceeed $145,000,000 duties. We cannot diminish those duties without diminishing our revenue. We cannot take the money received from duties and pay it over to the ship-builder without making it necessary to lay other forms of taxation on other industry; and I say in regard to this proposition, as I said in regard to the proposition of the Senator from West Virginia, that no proposition to reduce revenue ought, in the present condition of financial affairs, to be made unles some other tax is substituted in its place. I do not know how much will be required to comply with the provisions of this section if it should become a part of the law. As a matter of course, in order to be of any very great relief to the shipping interest, it must be very large. I have no statistics before me, and have had no opportunity to consider it. This same proposition was submitted to the Committee on Finance, and we dismissed it on the ground that it did not relate to the general purpose of this bill, which was to relieve industry from taxes. This proposition is to reduce the taxes by taking a portion of the proceeds of taxes and giving it as a bounty to ship-builders.

It is true that the shipping industry of this country is now under depression; but that is true, also, of the shipping interest all over the world. I saw statistics recently, carefully prepared from a leading shipping journal, showing the same distress on the Clyde and in Liverpool and all the ports of England. The same want of prosperity exists in the shipping interest all over the world. I have no doubt that Maine and all the other shipping States will gradually regain their ascendancy and their prosperity in this interest; but it will be by the gradual abolition of taxes and by dispensing with our paper currency. I have no doubt that the depreciated currency has a more injurious effect upon the interests of a commercial community like Maine, where they are brought in direct competition with countries where gold only is circulated; and they will get their general relief by the raising of the standard of our currency to the standard of gold. But the idea of sustaining the shipping interest by bounties, by taking money collected in the form of taxes from the Treasury and giving it in bounties, ought not to be resorted to unless the very bill itself provides the means and mode and manner of raising the money to pay those bounties, as the tariff bill did. It is probable, if the tariff bill had passed, the increased revenue from the very articles named in this amendment would make up the amount necessary to pay back to the shipping interest the amount that entered into the vessels, because many of these articles imported into this country enter into the manufacture of many other things besides shipping; and it may have been that the increased duties levied by that tariff bill would have furnished from these same articles an increased revenue sufficient to pay the bounty contemplated by that bill.

I do not think it is necessary to argue this question further, because I trust the Senate will keep this bill free from all extraneous matters. Let us, if possible, lift the load from the manufacturing industry of our country, so that by the 1st of April they may start in full play. It is important to have this bill acted upon and to have as few points of controversy between the two Houses as possible. It is important to make it as simple as possible, so that it may be acted upon promptly and passed through all the stages of parliamentary form in order to take effect upon the 1st of April. Now all industry is suspended. No man will manufacture, because he cannot tell whether he is to pay a tax. No man will buy goods, because he hopes to buy cheaper when the tax is taken off. The result is that it stops not only the manufacture but the purchase and sale of all articles the price of which will be affected by this bill. I submit, therefore, whether we ought to mingle with it any other matters not directly connected with the subject before us, which is to relieve the manufacturing industry by this bill from such burden as the condition of the finances will allow. I trust the Senator from Maine will himself see the force of this reason, which influenced the Committee on Finance almost unanimously, and waive this question for the present, without going into the merits of it, and allow it to come up in some other form, as it will hereafter. He will find certainly that we are as willing to extend relief to the commercial interests as we are to the manufacturing and all other interests. It so happens that if this bill should pass in its present form the taxes will be removed from domestic industry except upon those articles which can easily bear them. All taxes on shipping, all taxes on manufactures, all taxes on articles which enter into the common consumption of the country, will be repealed, and our internal taxation will be confined to comparatively few articles, upon which the tax may be collected easily and well.

Mr. FESSENDEN. Mr. President, my honorable friend from Ohio said he trusted that I should see the force of his argument. I confess that I am not so fortunate, and especially do I not see the force of that argument which he repeated several times calling this a "bounty." I expected to hear him talk about "codfish" the next thing [laughter]—the old story—but he did not get to that. Now, what is the object of calling it "a bounty" and repeating that it is a "bounty." Merely to prejudice the minds of Senators, going upon the idea that we are a class of people here in this Chamber who are dominated by the sound of words and cannot look beyond them to the thing itself. It would do very well in addressing a multitude in a stump speech out doors,

but I think it rather out of place here. Why, sir, this "bounty," as the Senator calls it, or this "species of bounty," has been very common ever since the formation of the Government. In all the tariff bills that we have passed are provisions giving a drawback upon certain articles for the benefit of commerce and for the benefit of navigation. It is as old as the Government itself, and it has never been called a bounty, but simply refunding a certain amount of duties charged for the special object of benefiting a particular industry, applicable alike to all classes of men, either directly or indirectly.

Laying aside the force of that argument, what is the other? Let me ask Senators again what is the object of this bill? Is it not to relieve the suffering industry of the country? My friend says it is, so far as levying direct taxes is concerned, except as to branches of industry that may easily bear taxation. I might differ with him somewhat upon that point; but let that pass, for it has nothing to do with the position which I take. I ask again, and can anybody answer me the question, is there any industry of this country, any pursuit of any kind or description, which has suffered more, and is suffering more, and is more depressed, more nearly ruined, than this very interest of navigation—the construction of vessels? If the Senator cannot deny that he yields the whole argument; that is to say, he yields the whole argument upon which he endeavors to make an exception between this particular thing, which I wish to notice here, and the general provisions of the bill under consideration. It is not to foster this, perhaps, or to foster that; but industry is languishing. He says the navigation interests are languishing everywhere. So they are. Some of the causes apply everywhere, because all business is languishing now throughout the civilized world. I hope it will not endure long; but it is a fact that is ignored in our discussion of bills with reference to funding and the currency and all those things, but it is worth while to remember it here.

This interest with us suffers from these general causes, unquestionably, like others; but, in addition to that, it suffers from the particular cause that I have mentioned. Why, sir, England always gave a drawback upon all articles that entered into the construction of vessels, because she wished to make herself the great navigating Power of the world. The colonies on our border give a drawback at this moment of duties upon all articles that enter into the construction of vessels. Pass a river in my State, and you find on the other side of the line vessels constructed of materials more abundant, produced there, with labor cheaper, and with no duty imposed upon iron or cordage or any of those things, because it is all given back. Come to our side of the line, and you have not only the greater price of labor—and I do not regret, for the laborer's sake, the greater value of it in this country—but you have all the heavy and onerous duties, imposed as they have been for the general protection, not for purposes of revenue alone, but for the protection of other manufactures, pressing upon that interest until it almost sinks into the ocean. Is that to be overlooked? Is that state of things not worthy of consideration? Are we to be answered in reference to that matter, "This is not directly the thing that we are legislating upon, because we are taking off taxes levied at home; that is to say, articles produced at home." The answer to that is, what is the effect of your taxation? For all of it is taxation. It is taxation of a different description, but it is all taxation. What is the effect? If the effect is the same and the remedy is as easy, why not apply it in one case as well as the other? That is the answer.

My honorable friend speaks of how much this will take from the revenue. This bill strikes off at once from the revenues of the country many million dollars. The taxes all press alike upon the consumer; whether imposed upon foreign products or imposed upon manufactures of our own, the effect is precisely the same. My friend from Ohio does not hesitate to strike at once $65,000,000 from the internal revenue in addition to some $40,000,000 taken off by the last Congress. No question arises then about the revenue, and whether it is or is not adequate to the wants of the Government when you strike there; but when you come to a tax which amounts to perhaps four dollars a ton, and perhaps a little more—I cannot tell the Senator exactly how much that would reach; but not, I think, over four dollars a ton—upon an interest as important to the strength and glory of this nation as any other interest that can be named, amounting certainly not to a very large sum, his alarm is excited about the revenue, whether it will be adequate to the support of the Government. One can readily see that in the first beginning, if we take these duties off, and it has an effect to increase or to foster the construction of vessels, it is to be small at first, growing larger and larger as the interest itself improves and is able to sustain itself against the competition which it meets. I should be very glad to see the day come, and so I know would all of us, when our ship-yards throughout the country will be as busy with industry as they have been heretofore, when you could hardly go into a port on the Atlantic seaboard that you did not hear the sound of busy industry used in the construction of a vessel and see the ribs of the great machine ready to receive its sheathing and soon to become a thing of life upon the ocean. Sir, you see no such sights now. If such an effect can be produced by relieving that great industry of the slight—slight to the Government, heavy to the industry itself—burden that is imposed upon it at the present time and by the present laws, if you can bring about that result, will it not be worth accomplishing? Will it not be worth, in its ultimate results to the very revenue of the nation itself and to its welfare, a thousand, aye, ten thousand, times more than any amount of money that you may withhold from the coffers of the Government now in order to produce so great a result as that would be?

Sir, I do not feel disposed to talk about this matter unnecessarily; but viewing it as I do, and knowing what the effect will be, I hope the Senate will come to the same conclusion that it did by so very large a vote a year ago, and try to build up that interest as well as others.

Mr. MORRILL, of Vermont. Mr. President, knowing, as I do, the tremendous diminution of our foreign commerce, I should be in favor of a proposition of this kind, if it was carefully drawn, on any proper occasion. I am aware that our commercial marine has been reduced one half and that of England has been increased fifty per cent. since the piracies of the Alabama and her associates, and since the terror of those pirates of the seas drove our own merchants to sell their ships abroad. I am not sure that I would not go even further than the proposition of the Senator from Maine, which, I believe, applies only to sailing vessels. I think that our steam vessels having competition with foreign nations ought as much to be relieved as our sailing vessels.

But, sir, I am aware that if this measure is pressed here many propositions will be offered in relation to the tariff. If the bill goes back to the House of Representatives with a proposition in relation to the tariff there will be a multitude of propositions offered, and the bill will be retarded for I know not how long a time; certainly it cannot be expected to go into operation on the 1st of April; and, while I am ready to consider favorably this proposition on its merits, I hope that neither this nor any other proposition will be offered to embarrass the bill.

Mr. HENDERSON. I move to amend the amendment by inserting in line seven, after the words "United States," the words "and steamboats and other boats navigating the inland waters of the United States;" and by inserting in line eight, after the word "build," the words "steamboats or other boats herein named;" so that, if amended, the amendment will read:

And be it further enacted, That on and after the passage of this act there shall be allowed and paid a drawback equal in amount to the import duty paid on all lumber, hemp, (manilla,) copper, and upon all iron not advanced in manufacture beyond bars, rods, and bolts, which shall be wrought up in the construction, rigging, or equipment of sailing vessels of the United States, and steamboats and other boats navigating the inland waters of the United States, or used in repairing vessels of foreign build, steamboats, and other boats herein named, documented in conformity with the provisions of the act of December 23, 1852, less five per cent. of the amount of such drawback, which shall be retained for the use of the United States under such regulations as the Secretary of the Treasury may prescribe.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. JOHNSON. If the amendment offered by the honorable member from Missouri is adopted I do not see why it should not be made to embrace ocean steamers. But I do not rise so much to discuss that amendment as to say a word upon the principle of the amendment first offered by the honorable member from Maine. It is objected to, first, upon the ground that it is not pertinent to the bill before us, or, in the ordinary language of such occasions, is not germane to the matter. The honorable member from Ohio says it is not germane, because the object of the bill is to relieve the industry of the country. How is that done? It is done, or proposed to be done, by taking off one-half of the present tax upon everything which is supposed to affect the industry of the country. That is one way, to be sure, of relieving the industry of the country. But there is another way equally effective and more effective, and that is, to remove the tax altogether.

Now, if ship-building be one of the valued industries of the country, it will be very much relieved by the adoption of the amendment offered by the honorable member from Maine. That amendment says that in all cases of ship-building the tax imposed by your laws upon any foreign import which may be used in the manufacture of ships shall be subject to drawbacks for the benefit of the ship-builder. Does not that relieve that industry of the country, just as effectually and more effectually than the other industries of the country are relieved by taking off one half of the tax?

Supposing, therefore, that there is no objection, parliamentary or otherwise, to the amendment upon the ground stated by the honorable member from Ohio, the next question is, is not the principle itself a correct one? There are some industries of the country that are more exclusively national than others; and if any one can be said to be more national than another, it is the marine of the country, the ship-building of the country. In every nation which has at any time evinced any disposition to increase its commerce or to secure its safety upon the ocean in time of war, these drawbacks have always been allowed. Now, it so happens that we stand more in need of the drawback than at any antecedent period; because Senators are not to be forgetful of the fact, which every man who considers this particular industry as it exists knows, that ship-building is now virtually extinct in the United States.

Sir, what necessarily enters into perfect ship-building? It is itself an art. It requires very high skill. To obtain skill in that art requires years of constant devotion and study; and the effect in former years was that the marine of the United States was, in point of fact, superior in all sailing qualities to the marine of the rest of the world. During the war of 1812, when we had no Navy, strictly speaking, able to compete with the naval force of England, her commerce was almost virtually driven from the ocean by the sharp sailers, who, as privateers, traversed the sea. They eluded the vigilance of the fastest of the naval vessels of England. They absolutely laughed at them, because they could keep beyond the reach of their guns and sail around them with perfect impunity. That was accomplished by the skill of our builders;

and there was no port of the Union more celebrated in that particular than the port of Baltimore. Her clippers were the wonder of the seas. Now they are gone. What was true of Baltimore then was true soon afterward of New England and the North. I believe we were the first (if it can be called an invention) of the inventors of these fast sailing ships, or schooners, or clippers; but the enterprise and skill of New England were soon found equal, if not more than a match for the skill of Maryland; and the result was that in all our passenger vessels and in all our freight vessels, we were the superiors of the passenger and freight vessels of the rest of the world; and who can tell how much that added to the wealth of the United States?

But that is not all. Who can tell how far it contributed to preserve our peace with the rest of the nations? Who can tell how deeply it entered into the consideration of the statesmen of England and told them "beware of entering into a quarrel, if it is possible to avoid it, for if you do your commerce will be swept from the ocean by the American commercial marine, acting under the authority of the Government."

But that is not all. Our ships of war, the few that we now have, are, it has been said, and I believe correctly said, the finest upon the sea, subject, perhaps, to no exception, but in general the finest that sail the ocean. But, now, except so far as the Government by its immense wealth is able to attain skill in this particular industry, the art is lost. Go to the State of Maine, and turn your eyes back some years and then you will see that she built fully one half our commercial marine. Now her yards are deserted; her builders have become impoverished; her workmen have been obliged to go elsewhere and seek other employment; and if she has not already lost the skill which gave her marine the excellence which it richly deserved, unless we do something to encourage her it will be finally lost, and forever. The result has not only been to lessen us in the estimation of the world as a commercial nation as far as our navigation is concerned, but we are losing all the trade in which our own marine was engaged. The coasting trade and the ocean trade are now being carried on almost exclusively under foreign flags.

Mr. GRIMES. I will inquire of the Senator what part of the coasting trade is carried on under foreign flags?

Mr. JOHNSON. A great deal of it from port to port. But suppose the coasting trade is not now affected, the coasting trade must be affected unless you encourage the building of vessels. How is the trade to be carried on if we cannot build ships? It may be carried on by ships built for us abroad and brought into the United States as American ships; but, as far as the trade is to be carried on in the future, unless we encourage the art of ship-building it will be carried on in ships built elsewhere.

Now, speaking for one, Mr. President, I cannot help believing that my feelings do not lead me astray. I have for years felt regret, deep sorrow, deep pain, at the fact that we were about to leave the ocean, the scene of so many of our noble exploits, the scene upon which we won such imperishable renown in the past, to the hands exclusively of other nations who may become enemies. Let us engage in a war—heaven forbid that it may ever happen, but happen, no doubt, it will—let us engage in a war with no ships of our own, with no commercial marine except such as we may buy, and then what becomes of our commerce and what becomes of our name? A name, Mr. President, to a nation is worth five thousand times the amount of the tax which you are asked to surrender for the ship-building of the United States; a name upon the ocean; one that will not only be respected but feared; I do not mean feared in the spirit of cowardice, but feared because of its power, thus furnishing to us, and to those who are to succeed us, a security infinitely greater than any that treaties can afford, that we shall never be insulted designedly by any of the nations of the world.

Mr. HOWARD. I do not know that I should dissent from any of the material views just expressed by the honorable Senator from Maryland upon the general subject of encouraging industry, and the construction of a navy, and acquiring a great name and fame as a naval power and a navigating power on the face of the globe. In all that I concur with him, and shall be ready to coöperate with him or others when a proper occasion shall present itself. But at present it seems to me that the amendment offered by the honorable Senator from Maine is not germane to the subject which we have under consideration. It is quite clear that the very amendment he has offered opens widely the door to a discussion of the tariff, and of the general ideas that prevail upon that subject. I do not think that this is a proper time for such a discussion. I hope, therefore, earnestly, and with great respect to the honorable Senator from Maine, that he will not see fit to press this amendment further upon the consideration of the Senate.

What does he propose to do in his amendment? Simply to repeal the import duty upon all those articles mentioned in his amendment which enter into the construction of sailing vessels; that is to say, to admit free of duty, practically free—for it is free if it is subject to a drawback of the same amount, as he proposes—to admit free of duty all iron and all copper and all other materials that enter into the construction of a sailing ship. Sir, I never can consent to this, representing, as I do, a constituency two of whose leading industries are the manufacture of iron and copper. It is now proposed, for instance, in reference to the latter article, to take off the duty entirely from that material, which enters so largely into the construction of ships. Why, sir, under the present state of our tariff laws and under the present state of our internal revenue laws, the companies engaged in mining and in the manufacture of copper in my State are scarcely able to stand upon their legs. The most important companies engaged in this business for the last one or two years, as I am credibly informed, have prosecuted their business at an actual loss month after month and year after year. Now, the honorable Senator from Maine proposes to do them a still further injury by taking off the little protection which they enjoy in reference to copper, so far as it enters into the construction of vessels. The same is true of iron.

When this question shall fairly come up before the Senate I have much more to say than I shall say now; but I do hope that the Senate will see fit to narrow down this discussion to the real merits of the bill which has been laid before us by the Committee on Finance; that is to say, the internal revenue taxes; and let all the rest of it pass by for future consideration, because I know that this discussion, if he presses his amendment, must lead to a very considerable consumption of time, and, I think, to the disappointment of the country at the present juncture.

Mr. FESSENDEN. I wish to say a word in reply to the Senator from Michigan, and to point out his extreme generosity. He objects to this proposition because it will remit the duty upon this quantity of iron and copper used in ship-building, comparatively very small in amount compared with the whole that is used. I suppose or expect that I shall vote for this bill. What effect has it? It relieves iron and copper of an onerous tax. Are those industries any worse off than that of which I have spoken? Not at all. What further does it do? And I wish the Senator would answer me if he can. When we passed the tariff bill we graduated the duties upon imported iron and copper upon the tax that we imposed upon the domestic manufacture of iron and copper. The tariff bill is higher at this day for the very raising of those taxes. What is the effect of this bill? The effect of this bill is to relieve iron of all the taxes imposed by way of internal tax and leave the heavy duties on importations unchanged, thus having the double benefit.

And now, when all I suggest is that, so far as this great industry is concerned which suffers vastly more than any of those, you will relieve it so far from its burdens, the Senator objects that it will affect to that extent, no more, the manufacture of iron. Sir, I merely call attention to it to show the point to which the disposition to grasp all and to give nothing may carry a man even as liberal as my friend from Michigan.

Mr. SHERMAN. I wish to call attention to the effect of the passage of the amendment of my friend from Missouri upon the revenue of the country. I have said all I desire to say in regard to the duties on sailing vessels. But suppose all the duties on the articles that enter into a steamboat on the western waters or on the lakes should be refunded, what would be the effect? Every foot of timber, every pound of copper, every pound of iron, every foot of canvas for the sails, every foot of rope, everything that enters into the vessel, will be brought from foreign countries.

In Detroit they will bring copper from Wales instead of taking copper from Lake Superior; and they will bring all their lumber to build a vessel in Detroit from Canada. If the proposition of the Senator from Maine is passed with the proposition of the Senator from Missouri, then the State of Maine, being on the sea-board, has this advantage; and the city of Detroit, where they build a great many vessels, has not the advantage. The result would be that they would build the vessels in the State of Maine for the commerce of the lakes, because in the State of Maine they can build upon the prices that prevail in England, France, and Wales; they can import all the articles which enter into the manufacture of a vessel at Portland, make it there, and ship it to Detroit. But if you are to adopt this principle why should you not extend it to steamships and the great ships that are now built for the California trade, maintained and protected to some extent by the Government of the United States? Look at the effect of it. Every single article that enters into the manufacture of vessels in all this broad country from Maine to California, and all the internal commerce of the country—and the number is so vast that it would startle us if we knew the number of vessels afloat—would be of foreign material, or else the price of the domestic article, the raw product, would be so much reduced as to compete with the foreign product. What would be the effect upon your internal industry, upon the manufacture of iron, which enters so largely into the cost of a steamship; upon the manufacture of the rope and cordage which enter to some extent into the composition of a sailing vessel? The result would be more injurious, it seems me, to our American industry than the repeal of the present tax would be beneficial.

I think the shipping interests in all this vast country ought to be content with the benefits they will receive in common with the whole people of the United States by the repeal of the internal taxes, leaving to future legislation in some other form, to extend those advantages which we ought to give to our shipping interest. As a matter of course our vessels now have a monopoly of all the interior trade and the coasting trade, and there is no danger but that there will be Baltimore clippers. That which is most injurious to the interests of Maine now is the competition of steam vessels with sailing vessels. That is what has paralyzed the industry of ship-building. And now on the western lakes the propeller with its screw is taking the place of the old sailing vessel, and nearly all the great vessels that now cross the ocean are screw steamers. A great many, no doubt, are sailing vessels; but comparatively their number is diminishing, while the steam vessels are increasing. As inventions are made in engines, as the power of coal is husbanded, as the

motive power is increased by new inventions, steam vessels will gradually supersede the sailing vessels; and then, as a matter of course, this industry will languish and die out, just as the old wagon trade of Pennsylvania languished and died out by the building of canals and steamboats, and finally stage coaches and railroads. They will get some other industry. The enterprising people of Maine, who are as active as any in the United States, will seek other avenues of industry, other sources of wealth, and adapt themselves to the progressive events of the times.

I cannot see the necessity or propriety of this bounty, for I do think that is the proper name for this, although my friend from Maine thinks not. It is a bounty, money taken from the Treasury of the United States, collected there by our revenue laws, and paid over, not to the man who pays money to the Treasury, but paid to a different class of men—not refunded back, like other drawbacks, to the man who paid the money. For instance, when goods are brought into this country and reexported, we pay back to the man who paid in the money the duties collected; but here the money is collected at New York, the duty on cordage and the like, and it is taken out of the Treasury and paid to a ship-builder in Maine.

Mr. FESSENDEN. I submit to my honorable friend whether that is a fair argument. Who pays the money? Is it not the consumer? The merchant imports the article, and he pays the duty in the first instance. When he sells the article to somebody else, does not the person to whom he sells it pay him back that money? Why does my friend use an argument which he himself would contradict in another aspect of the case?

Mr. SHERMAN. Mr. President, it seems to me after all this is a new principle, and the Senator from Maine is not able to show that this principle was ever before adopted. We agreed to do it a year ago as an exception; but heretofore the idea of a drawback has been this: where a man imports merchandise into this country and wants to reëxport it, we give him the drawback; where a man manufactures goods in Ohio, whisky, for instance, unless he ships it in bond, when he sends it to a foreign country we pay him back the tax he paid. But here is quite a different case. These articles are imported into the port of New York; the cordage for the vessel, the ropes for the vessel, the materials for the vessel, the lumber for the vessel; the duties are paid at the custom-house there. If that material goes into the building of a house in Portland the duty is not refunded; but if it goes into a vessel built in Portland the duty is refunded to a different person; not to the man who paid the duty, but to a different person. I call it a bounty, although the Senator takes offense at that word. I think that is the meaning of it. It is a bounty, a gratuity, an inducement, if you please to call it so, to the ship-builder, to build in this country. If confined alone to sailing vessels, as proposed by the Senator from Maine, it might give temporary relief to a particular industry, but it would be a discrimination against another industry competing with the sailing vessel and in favor of an industry that is gradually dying out and must eventually die out, because I have no doubt that in time steam vessels will supersede sailing vessels just as one form of locomotion supersedes another; not because the sailing vessels are any poorer, for they are improving all the time, but because the steam vessels in the long run are the cheapest on account of the saving of time.

I think the Senator from Maine ought to be willing to allow this question to await some future time when it will be more proper, when it will be more pertinent. It is a proposition to pay money out of the Treasury. Here is a bill of relief repealing taxes. This proposition is a mode of taking taxes from the Treasury and expending them. The one increases the expenditures, the other limits the receipts. It seems to me the Senator ought to be satisfied to take some other time, and let us pass this bill if possible to-night. If not, I hope we shall have a vote on the amendment.

Mr. CAMERON. I have risen to say a word only to the Senator from Ohio in reply to what he said about steam vessels and sailing vessels. He said the time would soon come when sailing vessels would be no more seen. I think that was the expression, or something like it; in other words, that the steam vessels would take the whole business of the country. I entirely disagree with him upon that point. Within my congressional service steam was first introduced into this country, and I remember when I offered the first petition in favor of steam vessels I was laughed at in the good old Senate of that day. I think the sailing vessel is going to continue for all time. The sailing vessel will have the place in relation to steamers that the canal has now in relation to railroads. Those articles which are expected to go quickly and swiftly will go at a high expense by steam vessels; but those that have more time to spare, longer journeys to make, more distant ports to enter, will go by the sailing vessel. That will continue long after the Senator from Ohio ceases to be a Senator, and ceases to be upon this sphere. Long after that sailing vessels will go, and I think for all time to come there will be a competition as to time and swiftness between the steam and the sailing vessel.

Mr. CONNESS. Like the smooth bore.

Mr. CAMERON. The smooth bore is good yet for killing squirrels. [Laughter.] To my mind this is a question of mutual interest. All my life I have been in favor of protecting the industry of my country. I was taught to believe when I started life that there were three great interests, and those were agriculture, commerce, and manufactures. As you increase and stimulate the agricultural products, and as you increase the manufacturing industries, you increase the number of ships, and give them supplies to carry abroad into distant parts of the world.

I listened with great attention to the Senator from Maryland a little while ago when he spoke about those vessels of which we were so proud many years ago—the Baltimore clippers. I suppose he has forgotten what gave rise to those clippers. At that time Baltimore was the most growing town in this country. From 1790 to 1810 the growth of Baltimore was greater than that of any town which has ever started in this country since, not excepting Chicago, because it was the nearest between the ocean and the great West. First, pack horses brought the products of the West to Baltimore and carried the importations of her merchants to the West, and gave riches and wealth and consequence to the people of Baltimore. They grew in consequence of that. After a while De Witt Clinton and other master spirits designed the canal between the Hudson and the lakes and brought over that canal the trade of the West, and then New York began to grow. I remember when I read in a book: "New York is a great town, which has twenty thousand people." But then New York was away from the West, and the West was the prospering part of the Union.

So it is now. Our sea-board must carry our commerce, the products of our manufactures and our soil to distant countries. As I said a little while ago, petroleum, four or five or six years ago, saved the country, as I believe, from bankruptcy by being the only article we had to send abroad. It was carried by our ships cheaply, and brought back the gold. So it is with the wheat and the other agricultural products of the middle and the western States. Commerce depends upon agriculture and commerce depends upon manufactures; and the ability to pay taxes depends upon the commerce of the country. Therefore I would protect them all equally and all fully.

This amendment of the Senator from Maine is, to my mind, perfectly right. It gives a drawback upon that portion of copper and iron which may be used in ship-building. I do not believe that will be much; but I want to relieve the commercial people of the East from the impression that they are paying a tax to Pennsylvania and other States which produce iron. We do not want to interfere with their prosperity, and we expect them to help ours. I believe that is all I have to say about it.

Mr. DRAKE. I would like to ask the Senator from Pennsylvania a question just there, if he can give me the information; if he cannot, perhaps the honorable Senator from Maine can. I would like to know what the probability is that ship-building will be revived in the State of Maine, or anywhere else in the country, if you allow this drawback upon the iron and copper that go into ships?

Mr. CAMERON. That is a question which I would have expected from a person less intelligent than the Senator from Missouri. I know that he knows almost everything that I know, and a great many things beside; and I am, therefore, surprised that he should ask me the question; but I will say this: as you cheapen the cost of vessels you increase the ability to carry freights cheap.

Mr. DRAKE. I thought I might appeal to the Senator from Pennsylvania for information on this subject above all other Senators here; for when the Senator from Pennsylvania could assume that he was old enough to recollect what the Senator from Maryland had forgotten, I supposed he was old enough to know everything. [Laughter.]

Mr. GRIMES. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 17, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

WHISKY FRAUDS.

Mr. JENCKES. I ask consent to have read and placed on the Journal a resolution adopted this morning by the joint select Committee on Retrenchment:

Resolved, That the joint select Committee on Retrenchment have seen, with surprise, a document purporting to be a report from that committee on the subject of frauds upon the revenue by distillers of whisky and others engaged in the manufacture and sale of whisky, made by one of the members of that committee to the House of Representatives on the 12th instant; and they hereby instruct the chairman of the committee, Mr. EDMUNDS, of the Senate, and Mr. JENCKES, of the House of Representatives, to state in their several Houses that said document is not the report of said joint committee nor of any sub-committee thereof; that the subject of the investigation of frauds in whisky was not referred to said committee by the resolution under which they were appointed, and has not since been referred to them by any resolution of either House; that under their general powers they have not authorized any sub-committee nor any one of their number to make such investigations; that the subjects embraced in said so-called report have never been submitted to the committee or any sub-committee thereof for consideration, and that said document, in manner and matter, substance and conclusions, is the unauthorized work and act of an individual member of said committee, without the consent, knowledge, or approval of any other member thereof.

Mr. ASHLEY, of Ohio. By whom is that signed?

The SPEAKER. It is presented by the joint Committee on Retrenchment.

Mr. LOGAN. Who was the gentleman referred to who made the report?

Mr. JENCKES. The gentleman from New York, [Mr. VAN WYCK.]

Mr. WOOD. I wish to make an inquiry of the Chair. On motion of my colleague [Mr. VAN WYCK] five thousand extra copies of this document were ordered to be printed. Would it not be in order to rescind that resolution?

The SPEAKER. That resolution was referred to the Committee on Printing, and is not

yet reported back within the recollection of the Chair.

Mr. WOOD. Would it be in order, then, to instruct the committee not to report the resolution?

The SPEAKER. It would require unanimous consent to do anything of that kind at this time.

Mr. WOOD. I thought the document was a fraud at the time when it was first brought before the House.

Mr. LAFLIN. I ask the chairman of the committee if he will not delay the presentation of this paper until my colleague, who is absent, returns. I therefore object to it on that ground.

The SPEAKER. The Chair thinks the objection comes too late.

Mr. LAFLIN. If the Chair will permit me, I will say that I was giving strict attention to the matter with the intention of objecting in case it required unanimous consent, as I supposed it did.

Mr. WASHBURNE, of Illinois. I think this is a matter of so much importance that it should go over until the gentleman from New York [Mr. VAN WYCK] is here to answer for himself.

Mr. JENCKES. I do not ask any action on the matter.

Mr. WASHBURNE, of Illinois. If the allegation contained in the resolution is true it is a very serious matter.

Mr. JENCKES. I do not ask any action at the present time. I was instructed by the committee to present this resolution and move that it be entered on the Journal; not that any action shall be taken on it now; action may be moved on it hereafter, when the gentleman from New York [Mr. VAN WYCK] returns and is in his seat.

The SPEAKER. The gentleman from New York [Mr. LAFLIN] states that he rose in his place at the proper time and objected. The Chair entertains the objection, therefore, as in time.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from New York [Mr. LAFLIN] that he let the resolution be received and lie over until his colleague returns.

Mr. JENCKES. That is all we ask.

Mr. LAFLIN. I have no objection to that.

The SPEAKER. The Chair will state that if the resolution is received it will go upon the Journal, being in the shape of a resolution of the committee. The Chair understands the gentleman from New York [Mr. LAFLIN] to object to the reception of the resolution.

Mr. LAFLIN. I do, on the ground of my colleague's absence.

Mr. RANDALL. I consider this a question of high privilege. It relates to a misrepresentation of the action of a committee, and the right to have the resolution entered on the Journal is a question of privilege.

The SPEAKER. The Chair overrules the point that it is a question of privilege, on the ground that that point should have been made when this report was presented. The rule will be found on page 55 of the Digest:

"If it is disputed that a report has been ordered to be made by a committee the question of reception must be put to the House."

That question must be raised when the report is presented. The resolution is not before the House.

PACIFIC RAILROAD.

Mr. PRICE. I ask leave to report from the Committee on the Pacific Railroad a bill (H. R. No. 459) to aid in the construction of a railroad and telegraph line from Portland, Oregon, to connect with the Central Pacific railroad at the northern bend of the Humboldt, in the State of Nevada, and to secure to the Government the use of the same for postal, military, and for other purposes, that it may be printed and recommitted.

Mr. WASHBURNE, of Illinois. I object.

FRAUDS IN UNITED STATES CURRENCY.

Mr. CHANLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and hereby is, directed to inform this House, if not inconsistent with the public interest, by what regulations and in what manner frauds are detected and prevented in the printing and issue of United States postal and United States fractional currency.

PERSONAL EXPLANATION.

Mr. WILSON, of Iowa. I ask unanimous consent to make a brief personal explanation.

The SPEAKER. For how long a time?

Mr. WILSON, of Iowa. Well, I will say fifteen minutes, although I do not think I shall want so long.

Mr. ELDRIDGE. I wish to know whether anything can be added to that proposition after it has once been allowed—whether the gentleman can add some other subject?

The SPEAKER. If unanimous consent is granted to the gentleman from Iowa [Mr. WILSON] to make a personal explanation the leave will be confined to him alone.

Mr. ELDRIDGE. He cannot make a speech upon any other subject?

The SPEAKER. Not without new leave from the House.

Mr. WOOD. I object, unless we on this side may have the right to reply to anything the gentleman from Iowa may say.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for three days for Mr. HALSEY and ten days for Mr. CARY.

Mr. TRIMBLE, of Kentucky, asked and obtained leave of absence for ten days for his colleague, Mr. JONES, and one week for Mr. STONE.

The SPEAKER, by unanimous consent, asked and obtained leave of absence for two days for Mr. WILLIAMS, of Indiana.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 731, to authorize Charles Grafton Page to apply for and receive a patent, without amendment.

It further announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. 377) to change the times for holding the district and circuit courts of the United States in the several districts in the State of Tennessee; and

A joint resolution (S. R. No. 122) for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army.

ENROLLED BILL.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, when the Speaker signed the same.

HOMESTEAD LAWS.

Mr. JULIAN. I ask unanimous consent to report from the Committee on the Public Lands and have printed and recommitted a bill amendatory of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and of the acts amendatory thereof, approved March 21, 1864, and June 21, 1866.

Mr. WASHBURNE, of Illinois. I object.

IMPROVEMENT OF ERIE HARBOR.

Mr. SCOFIELD. I ask unanimous consent to submit for consideration at this time the following resolution:

Resolved, That the Committee on the Public Lands be instructed to inquire into the propriety of granting to the city of Erie, Pennsylvania, a donation of lands to aid in improving the harbor of Erie.

Mr. WOOD. I object.

ORDER OF BUSINESS.

Mr. PIKE. I insist upon the regular order.

Mr. INGERSOLL. I desire the attention of the House for a minute or two only upon a personal matter.

The SPEAKER. Unless the demand for the regular order is withdrawn, the gentleman cannot make his personal explanation.

Mr. INGERSOLL. I hope the gentleman will withdraw that call for one minute and then I will renew it.

Mr. PIKE. Very well; I will withdraw it.

Mr. SPALDING. I renew the demand for the regular order.

Mr. INGERSOLL. I desire to have an opportunity to make a statement personal to myself, for which I have been waiting for a week.

The SPEAKER. The regular order is called for, being the consideration of House bill No. 778, to relieve William W. Holden and others from disabilities.

Mr. WASHBURNE, of Illinois. I desire to give notice that to-morrow, after the morning hour, I propose to call up the miscellaneous appropriation bill with the amendments thereto reported from the Committee of the Whole.

Mr. INGERSOLL. Will the gentleman from Ohio [Mr. BINGHAM] yield to me for a few minutes?

Mr. BINGHAM. If it does not come out of my time.

Mr. SPALDING. Of course it will.

Mr. INGERSOLL. Suppose it does; I want but a minute or two.

Mr. SPALDING. I insist upon the regular order.

RELIEF FROM POLITICAL DISABILITIES.

The SPEAKER. The regular order is the consideration of House bill No. 778, to relieve William W. Holden and others from disabilities. The previous question was seconded and the main question ordered upon the bill on yesterday, and the gentleman from Ohio, [Mr. BINGHAM] had occupied twenty-two minutes of the hour to which he was entitled, having reported the bill.

Mr. SHANKS. I ask leave to have printed in the Globe some remarks upon this bill, which I do not now desire to take up the time of the House in making.

Mr. INGERSOLL. I call upon the gentleman from Ohio [Mr. SPALDING] to object, for certainly that is not the regular order.

The SPEAKER. Does the gentleman from Illinois [Mr. INGERSOLL] object to granting leave to the gentleman from Indiana [Mr. SHANKS] to have his remarks printed in the Globe?

Mr. INGERSOLL. I do not object: but I thought the gentleman from Ohio [Mr. SPALDING] was becoming a little forgetful of his duty.

No objection being made, leave was accordingly granted to Mr. SHANKS to have his remarks upon the pending bill printed in the Daily Globe. [See Appendix.]

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] is entitled to the floor for thirty-eight minutes.

Mr. TAFFE. Will the gentleman yield to me for a moment?

Mr. BINGHAM. I hope the gentleman will excuse me if I decline to yield to him.

Mr. Speaker, I thought it was apparent, from the remarks made on this floor yesterday, that the House desired that this bill should include the constitutional amendment. I myself desired it originally. It was stated by a gentleman in the debate that he was sure the committee desired it; and, although I was not advised of that fact, I take his word for it. I will therefore move to reconsider the vote by which the House ordered the previous question upon this bill, in order that I may move to amend it by inserting the "Constitution and" before the words "laws of the United States;" so that it will read: "That the several persons hereinafter named be, and they are hereby, severally relieved from all disabilities imposed them or either of them by the Constitution and laws of the United States."

The question was taken upon the motion to reconsider, and it was agreed to.

The SPEAKER. The first question is upon the amendments of the gentleman from Penn-

sylvania [Mr. COVODE] and the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. BINGHAM. The amendment of the gentleman from Pennsylvania [Mr. COVODE] is to insert the name of John A. Gilmer. I hope it will be rejected, as the mover of it de ired on yesterday to withdraw it, and it was objected to.

The SPEAKER. If no objection be made the amendment of the gentleman from Pennsylvania [Mr. COVODE] will be regarded as withdrawn.

No objection was made, and the amendment was withdrawn.

The SPEAKER. The pending question is then on the amendment of the gentleman from Illinois, [Mr. FARNSWORTH.]

The question was taken, and Mr. FARNSWORTH'S amendment was rejected.

Mr. BINGHAM. I move to amend by inserting in line five after the word "the" and before the word "laws," the words "constitution and," so it will read "the Constitution and laws of the United States."

Mr. MILLER. I ask my friend from Ohio whether he will agree to permit me to move to strike out the name of General Longstreet.

Mr. BINGHAM. I do not wish to do that. I was instructed by the committee to report his name, and I desire to state some of the reasons why his name and the names of others should be retained.

Mr. MILLER. He was one of the leading rebels, and his name ought to be stricken out.

Mr. LOGAN. If the gentleman will allow me for a moment, I will make a suggestion. If we are going to relieve others, I ask that the name of John D. Ashmore, of South Carolina, be inserted with other names.

Mr. BINGHAM. Is an additional amendment now in order?

The SPEAKER. An amendment is in order to the amendment of the gentleman from Ohio, but it must be germane.

Mr. BINGHAM. I suppose we must pass upon my amendment first?

The SPEAKER. It has to be passed upon separately.

Mr. BINGHAM. Before proceeding further I ask, if there be no objection, that the vote on my amendment be first taken.

Mr. BOUTWELL. I wish to call the attention of my colleague from Ohio to the nature and effect of this amendment. I believe its effect will be that persons who have been relieved will be authorized to enter upon the discharge of the duties of national offices to which they may be appointed or elected without taking either the test-oath, or even the oath passed the other day by this House, if it becomes the law which is to be a substitute in this case. I fear the amendment goes too far.

Mr. BINGHAM. If the gentleman chooses he can move to except from its operation the test-oath; but I say to the gentleman from Massachusetts it appears to me, after reflection, very clear that the provisions of the test-oath are in no sense disabilities; that word "disabilities" is the operative word of this bill, and in no wise touches the test-oath. It is a qualification for office, and stands clear of this bill altogether, as also of the bill which was reported by the honorable gentleman from Massachusetts [Mr. DAWES] the other day, and which, I believe, passed the House.

Mr. SPALDING. I suppose it is understood by this amendment it will require a two-thirds vote, under the Constitution, to pass this bill?

Mr. BINGHAM. Undoubtedly, it is so understood.

Mr. SPALDING. I want the House to understand that.

Mr. NICHOLSON. I ask the gentleman to yield to me for a moment.

Mr. BINGHAM. Certainly.

Mr. NICHOLSON. Believing the Constitution of the United States imposes no disability whatever, I demand the yeas and nays on the adoption of the amendment.

Mr. BINGHAM. I desire to say a word before the vote is taken. It must be perfectly evident, first, in answer to the gentleman from Massachusetts, [Mr. BOUTWELL,] that the adoption of this amendment will in no wise cut off any amendment of the kind which I have suggested; that is to say, to add to the end of this bill that nothing in this bill shall be construed to exempt any person from the requirement of existing law to take the oaths of office required by existing law. That is all I have to say on that subject. Touching the suggestion of the honorable gentleman from Delaware, [Mr. NICHOLSON,] I beg leave to say that assuming it to be true, as he seems to assume, that the Constitution imposes no disability, that three fourths of the organized States of this Union have no power to adopt an amendment to the Constitution without the consent of the States lately in rebellion or some of them, thereby reducing us to the extremity, by reason of their rebellion, of being put at their mercy touching that issue—assuming that to be so, I appeal to gentlemen to consider whether that is any excuse for refusing to pass a law to relieve these parties from disabilities imposed by existing law?

The words are mere surplusage in the gentleman's view of the subject; and that being the case, of course he or any other gentleman holding his views is not concluded by giving a vote in favor of this bill, for the reason that there are upon the statute-book existing laws, which beyond question do, until these parties are relieved from their disabilities, exclude them from participating in any matters pertaining to the administration of federal affairs, cutting them off altogether. This bill is intended, as I said yesterday, to relieve them from the disabilities imposed, for example, for your reconstruction acts.

I trust that gentlemen on every side of the House, when they come to decide this question, will have some respect for that public opinion which was expressed two years ago or less by the whole loyal people of this country from Maine to California. That opinion was that the Congress of the United States should be expressly invested with authority to remove these disabilities. That authority has been put into the written letter of the Constitution; and it has been put there, doubtless, for the very purpose that it should be used. Now, if it be the judgment of the House that this is an inopportune time to exercise this power, be it so; I have no feeling upon the subject. I am here simply as the organ of the committee to report this bill. In reporting it yesterday in the form in which it was then presented, omitting these words, I thought I was doing all that could be done under suggestions which had been made to me. But it seemed from the temper manifested by the House yesterday, (and I was glad to see it,) and especially upon the suggestion of my colleague, [Mr. SCHENCK,] that the House would prefer to pass upon the whole question at once, if it is to be passed upon at all. Hence, acting upon the suggestion of my colleague, I have inserted the words "Constitution and."

Mr. SCHENCK. Mr. Speaker——

Mr. BINGHAM. I yield to my colleague for a moment.

Mr. SCHENCK. Will not my colleague be willing to say "the fourteenth article of the amendments to the Constitution?"

Mr. BINGHAM. I have not the slightest objection to that, but I ask my colleague to consider that if that constitutional amendment is adopted, as I believe it is, it is a part of the Constitution.

Mr. WILLIAMS, of Pennsylvania. I hope the gentleman from Ohio [Mr. BINGHAM] will not accept the amendment suggested by his colleague, [Mr. SCHENCK.]

Mr. SCHENCK. If my colleague inserts simply "the Constitution," he and I might understand that as including the fourteenth article of the amendment, while others might give it a different construction. I prefer that we should aver specifically what we claim as the rule under which we act.

Mr. BINGHAM. I have really no choice myself in regard to the matter. Let the bill specify "the fourteenth article of the amendments to the Constitution," if gentlemen please.

Mr. SCHENCK. Just at this point I would inquire of the Chair, if I may be permitted to do so, whether it will be understood that the bill, taking this shape, will require a two-thirds vote to pass it?

The SPEAKER. The Chair has already suggested informally to a member of the committee that, following the principle laid down in Jefferson's Manual, he cannot decide questions of consistence; "for, were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will." The opinion of the Chair is that the fourteenth article of the constitutional amendments has been adopted and is a part of the Constitution; but in this opinion he differs, of course, from some members of the House. But this whole question could be settled by inserting after the enacting clause the words "two thirds of each House concurring therein." It would then unquestionably require a two-thirds vote to pass the bill.

Mr. BINGHAM. Upon reflection I believe I will stand by the amendment as I have already offered it; so as to read, "by the Constitution and the laws." It is very clear that, if the constitutional amendment is adopted, it is a part of the Constitution, and the words are proper; if it is not adopted there is nothing in the Constitution with reference to which the bill can operate. This is no time for us here to be standing upon forms. I said before that I had no objection to my colleague's suggestion; but others object. They insist that the amendment is a part of the Constitution; and I insist that if it is not a part of the Constitution there is nothing in the Constitution with reference to which this bill can operate.

I believe myself that the amendment is a part of the Constitution. I believe the people of the country so regard it. I believe Congress will so declare before the close of the session. I believe there is no tribunal in this land that can challenge it after the declaration is made, and that being so it seems to me it is useless to be wasting words on this subject. I yield to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. I suggest that whatever we do in this matter we ought to make definite. Now, the disabilities imposed upon these people, in consequence of their participation in rebellion, arise from the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States and acts supplementary thereto," and the amendment to the Constitution of the United States known as article fourteen. It is not presumed, perhaps, that there are any other disabilities imposed upon these people by the Constitution and laws from which they would be relieved by the general terms of the amendments proposed by the gentleman from Ohio, [Mr. BINGHAM.] But I am not so sure of that that I am willing that any doubt should exist. I believe it is also important that we declare in the act that a removal of these disabilities was by a two-thirds vote of each House of Congress, therein conforming to the fourteenth amendment to the Constitution of the United States. I have, therefore, to submit, if it be in order, and if not I trust the gentleman from Ohio will allow the amendments to be proposed: first, that after the word "assembled," in the enacting clause, the words be inserted "two thirds of each House concurring therein;" so that it will appear from the act itself that it was passed in conformity to the Constitution.

Mr. BINGHAM. I accept the gentleman's amendment, though I think the Journal of the House will settle all that.

Mr. BOUTWELL. Very well. Now then, the amendment I propose, further, is that in the fifth line after the word "them," where it

occurs the second time, the words "by the laws of the United States" be stricken out, and that these words be inserted, "By the act passed March 2, 1867, entitled 'An act to provide for the more efficient government of the rebel States and the acts supplementary thereto,' and the amendment to the Constitution of the United States known as article fourteen." I believe this amendment will be in order, being larger than the amendment proposed.

Mr. BINGHAM. I accept that amendment, because it is the same thing in law and in fact.

The Clerk reported the part of the bill as amended, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein,) That the several persons hereinafter named be, and they are hereby, severally relieved from all disabilities imposed on them, or either of them, by the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States and the acts supplementary thereto," and the amendment to the Constitution of the United States known as article fourteen, to wit.

Mr. BINGHAM. I have accepted the amendments of the gentleman from Massachusetts, [Mr. BOUTWELL,] because I am perfectly sure that the bill is precisely in law what it was before. There were no laws imposing disabilities except the laws recited in the fourteenth article of amendments to the Constitution. The test-oath never was a disability. It is no disability upon me, and no disability upon the gentleman from Massachusetts.

Mr. NICHOLSON. I rise to a point of order. It is not in the power of the gentleman from Ohio to accept these amendments, being instructed by the committee.

Mr. BINGHAM. It is too late.

The SPEAKER. The Chair overrules the point of order. The gentleman from Ohio moved this amendment this morning on his own responsibility, as the Chair understands.

Mr. MAYNARD. Would it be in order to move that the bill and pending amendments be recommitted with instruction to report it back accompanied by a report in writing?

The SPEAKER. It would not while the gentleman from Ohio has the floor.

Mr. MAYNARD. I would suggest to the gentleman from Ohio the importance, before we are called upon to act on a question like this, that we have in writing deliberately set forth the grounds upon which this action is taken, not only for our own personal justification, but in order that it may be circulated through the region of the country where these persons live, and that it may be known there what are the principles upon which we act. We cannot act here at hap hazard from mere personal regard for this, that, or the other man. We must establish some general principle of action that shall pervade the whole population, and extend our amnesty upon some sort of rule that shall be known and recognized by the country at large, and especially by that portion of the population upon whom we desire to act.

Mr. BINGHAM. I do not feel disposed to yield further. I am perfectly willing the House shall make what disposition they please of this bill. I beg leave to say that the committee, so far as the names inserted in the bill are concerned—and I am not responsible for the few names that were introduced here upon the responsibility of members—but, so far as the names incorporated in the printed bill are concerned, the committee was entirely satisfied of the propriety of reporting a bill for their relief; and it arose, among other things, from a communication made to the committee in writing, setting forth the names of almost all these persons, with the exception of Longstreet and Orr, and perhaps Mackey, of South Carolina—a communication made in writing from the secretary of the Union National Committee, setting forth the recommendations he had from the localities, recommendations from State conventions, and representations from Republican committees of the position these gentlemen hold.

I beg leave to add further, in regard to one of the persons named in this bill, from North Carolina for example, that we had information before the committee that one of these gentlemen named here had rendered very essential service to our own soldiers when in prison at Salisbury. Since this report was made I have received myself two, if not more, communications from soldiers of my own State at Cincinnati, one of whom, I believe, is Colonel Davis, though I speak only from memory, testifying to the fact of personal relief that they experienced at the hands of this person while they were in prison at Salisbury.

Mr. MULLINS. Will the gentlemen allow me to ask him a question?

Mr. BINGHAM. Oh, no; the gentleman must excuse me. I want to complete my statement. I have no feeling about this matter.

Mr. MULLINS. I only wanted to ask the name of the man who was good to our soldiers.

Mr. BINGHAM. Well, I can give you the name after a while. It is in the bill; you may be assured of that.

I ask the House to consider that the whole country is familiar with the services which Holden, the first name that we find in this bill, rendered to our cause even before the surrender of the rebellion, and has rendered to it ever since the surrender of the rebellion; and to-day he is a candidate, as I understand it, before the people of North Carolina for Governor under the new organization. Of course, if he is going to be permitted to take his place and exercise his functions as Governor at all in the event of his election, Congress must relieve him from this disability, assuming that the fourteenth article of amendments is a part of the Constitution.

Mr. LOGAN. I would like to ask the gentleman a question, if he will permit me.

Mr. BINGHAM. Oh, yes; I will yield to the gentleman.

Mr. LOGAN. Merely for my own satisfaction, I desire to know what evidence there was before the committee showing the repentance of James L. Orr, of South Carolina?

Mr. BINGHAM. I will state, as I was going to state before the gentleman's inquiry, that Governor Orr, of South Carolina, went into the convention of that State, as the whole country is advised, and made an open, strong, earnest speech to the people, urging them to carry out in good faith the requirements of the act of Congress and reorganize their State government; that he stands there at this hour and is assailed to-day by every single sheet that I have set my eyes on that still clings to the "lost cause" for having done this thing.

Mr. LOGAN. What kind of a speech did he make at the Philadelphia convention a year ago last August denouncing the Constitution?

Mr. BINGHAM. I have no doubt he made a far worse speech in the confederate congress. But it appeared to the committee that a man who was elected Governor of the State over such a man as Wade Hampton, who has made such speeches there as Mr. Orr has made, has some influence over the people at large. And the committee thought it was well enough to arm him with the power to influence others to follow his example. Of course it is for this House to say this is all unwise, if they think so; and if they do I shall have no quarrel about it with anybody. I have only acted as the organ of the committee in making this report.

Mr. SCHENCK. Will my colleague [Mr. BINGHAM] allow me to make a suggestion in regard to the disposition of this bill?

Mr. BINGHAM. Very well.

Mr. SCHENCK. I apprehend we are all working toward the same end; at least I hope so. There are a number of names embraced in this bill. I have had some opportunity, by extensive correspondence, to become acquainted with the feelings of gentlemen in the South, of citizens of the South, and also with some of these men themselves. Now, while there are in that list names of some men the relieving of whom from disabilities would be hailed with satisfaction North and South, there are also there the names of some the relieving of whom from disabilities would create great dissatisfaction, and justly so, I think, in some portions of the South.

The bill being made up of these names, and having taken that form upon which we are now generally agreed as being the most satisfactory, in its recognition of the constitutional rule of what shall be required to pass this bill, I would suggest that it be printed and allowed to lie over to a day certain some three or four weeks hence, with a view of getting information from the South, which will certainly pour in upon us in relation to particular individuals. I hope my colleague will consent to that arrangement. I am very sure we shall hear from authentic sources in the South both for and against some of these names, with facts, statements, information, &c.

Mr. BINGHAM. I always feel inclined to yield to my colleague [Mr. SCHENCK] for any suggestion he may deem it proper to make. But I will say to him—without intending to cast any reflection upon him—that it should have occurred to him that I myself cannot consent to the suggestion he has made, because it would be a reflection upon the action of the committee whom I represent; an admission that they had acted in this case without sufficient evidence; that they had brought a bill before the House without anything to justify it; a bill which was inopportune. Now, it is perfectly competent for my colleague to submit a motion to accomplish the object he has in view, when he shall have the opportunity, to recommit the bill, to postpone it, or to do anything else he may think best, in order to carry out his purpose; and if that should be the pleasure of the House, of course I would have nothing to say either by way of complaint or otherwise. But I think it my duty to ask that the House shall act directly upon this bill, and if they shall see fit to postpone the bill be it so; if they shall see fit to recommit the bill, be it so.

Mr. SCHENCK. My colleague does not quite do me justice in this matter. I intended no reflection upon his committee, as he certainly must understand. But it should be borne in mind that each one of us must act upon such information as he may have.

Mr. BINGHAM. I understand that.

Mr. SCHENCK. And it must be recollected that we have not, all of us, the information that the committee has. But the difficulty is that if any one of us knows, or believes he knows, that there is in this list the name of any man who should not have the relief here proposed, he will be forced to vote, reluctantly, against the whole bill. Will my colleague allow me to make the motion I have indicated, and let the sense of the House be taken upon it?

Mr. BINGHAM. I have no objection, for I have grown weary of all this.

Mr. SCHENCK. I move, then, that the bill and pending amendments be printed, and that the further consideration of it be postponed till this day three weeks.

Mr. MILLER. I suggest to the gentleman from Ohio, that he amend his motion so as to provide that the bill be recommitted. It may be proper that the committee should make some alterations.

Mr. SCHENCK. I think the bill has assumed a shape which is satisfactory, and that there is no necessity for recommitting it.

Mr. WASHBURNE, of Illinois. We might as well pass the bill now as at any time.

Mr. MILLER. This is a very important bill.

Mr. SCHENCK. I also move that the bill be made a special order.

Mr. WASHBURNE, of Illinois. I must object to making the bill a special order.

The SPEAKER. The Chair will state to the gentleman from Ohio the condition of business in the House. If this bill be postponed for three weeks it may be reached before the close of the session, but probably it will not be, for the reason that there are three bills——

Mr. SCHENCK. I will modify my motion and move that the bill and amendments be

recommitted, with authority on the part of the committee (I trust unanimous consent will be given for this purpose) to report at any time after to-day three weeks.

The SPEAKER. The Committee on Reconstruction has now authority to report at any time. The Chair will continue the statement he was making of the reason why this bill would be delayed if postponed for three weeks. There are three bills now before the House after the morning hour, either by unanimous consent or upon privileged motions; first, the bill for the admission of the State of Alabama; second, the bill concerning the rights of American citizens in foreign States; and third, a bill in regard to sales of the public lands, pending upon a motion to reconsider made by the gentleman from Indiana, [Mr. JULIAN.] When these bills shall have been disposed of, then, if appropriation bills do not consume the time of the House, there are three other bills which were postponed to the 15th, the 21st, and the 28th of January, respectively, and which have not yet been reached. One is the bill of the gentleman from Pennsylvania [Mr. STEVENS] to establish a system of schools for the District of Columbia which shall serve as a model for similar institutions throughout the nation. Another is the bill of the same gentleman relative to damages done to loyal men, commonly known as the "confiscation bill." Another is the bill of the gentleman from Indiana [Mr. JULIAN] in regard to sales of the public lands. Then there are other bills which may come in.

Mr. SCHENCK. I understand, then, that the Committee on Reconstruction has leave to report at any time.

The SPEAKER. It has. The same resolution which authorized the committee to employ a clerk authorized the committee to report at any time.

Mr. SCHENCK. I modify my motion and move that the bill and amendments be recommitted with instructions to report the same back with a brief statement in each case of the reasons of the committee for recommending the relief from disability of any of the persons now named in the bill, or whose names they may hereafter insert.

Mr. FARNSWORTH. What objection has the gentleman to passing the bill as it came from the committee, leaving off the names that have been added since? So far as regards the men whose names were embraced in the bill as reported from the committee their cases were all examined by the committee.

Mr. SCHENCK. I will say, in answer to the gentleman, that, as I am at present advised, I should be compelled to vote against the bill, for I think the committee have been deceived in regard to one or two of the persons named in the bill.

Mr. BOUTWELL. I hope, Mr. Speaker, the House will not recommit this bill. So far as concerns the men named in the bill I believe the committee gave to their cases all the attention and investigation it was possible to give. If we are to act in pursuance of the fourteenth article of the amendments to the Constitution, it is manifestly impossible for any committee to report to this House from time to time the reasons by which they may have been governed in each individual case. In regard to the removal of those disabilities something must be taken by the House upon trust, and something must be taken by the country upon trust. The persons whose names are reported by the committee embrace a very small number. Many of them are persons known to the House and to the country. For one I am willing to make a beginning in the way of relieving these people from their disabilities, following it up as far and as fast as they give evidence of a purpose to be loyal to the Constitution and the Government of the country.

Some of these persons are known to-day to be of the highest character of merit. One of them, Mr. Blackmer, of Rowan county, North Carolina, has sacrificed more in the cause of the Union than most of us, as appears from affidavits in possession of the committee, made by soldiers of the Union Army. Others are persons who have already performed good service in the work of reconstructing the governments of those States in the interest of the Union. I am anxious for one, while I mean to insist on exercising the full powers of the Government for the establishment of loyal institutions in all this region of country—I am anxious for one, sir, the nation shall say to these people that when they do their duty to the country we will be just and generous to them. Therefore, I hope this bill will not in any way be postponed; that it will not be recommitted, but we will take the responsibility by a two-thirds vote of relieving these people, not more than twenty of them, as reported by the committee.

Mr. LOGAN. Will the gentleman from Ohio yield to me?

Mr. SCHENCK. Certainly; I wish only to say one word in reply to the gentleman from Massachusetts.

Mr. LOGAN. Mr. Speaker, I desire to make a remark or two because I differ with some of my friends in regard to this bill, and wish to give my reasons for my position. I am willing to relieve those persons who are entitled to be relieved, that is those of whom we have evidence they have done works meet for repentance.

Now, sir, I would like to know what evidence we have of the repentance of James L. Orr? I know that Mr. Longstreet, called General Longstreet, wrote a letter accepting the situation. I presume every rebel general would write one to be relieved from disability under the law. If we propose to extend forgiveness to those who fought, not in defense of the country but in bitter opposition to it, simply because they may write a letter expressing repentance, then, sir, I say we propose to give more to those men than we give to those who have never lost any blood in opposition to this Government.

I want first to see the facts which will induce me to vote for such a proposition as this. I know that James L. Orr is willing to execute the laws; but, sir, has he anywhere shown that he is favorable to the existing laws of this country? I know plenty of men who deserve it if we want to relieve men from these disabilities. Why, sir, Judge Humphreys, of Huntsville, Alabama, is a man who suffered in a rebel prison because of his devotion to the Union.

Mr. FARNSWORTH. Will my colleague allow me to say a word about Governor Orr?

Mr. LOGAN. Certainly.

Mr. FARNSWORTH. I desire to say to my colleague this much in regard to Governor James L. Orr. We all understand and know very well he was a member of the rebel congress, and, no doubt, during the rebellion sympathized with it. Whether he was forced into it or not, he sympathized with it during its progress. I wish, however, to say this much in regard to him since the war, and I have it from the officers who commanded that department. General Sickles, whose judgment on a matter of this kind no one will gainsay, has declared that Governor Orr is one of the best men among them all in the South. He has more heartily and cheerfully accepted the situation. He has striven as hard as he could to bring the minds of the people to a cheerful acquiescence in the laws of Congress. It is true, Mr. Orr went to the Philadelphia convention. I do not think that is past forgiveness. A member of this House went to that convention, and was afterward received into a Republican caucus in this House. Governor Orr has stood by General Sickles. When the President relieved General Sickles from the command of that department Governor Orr wrote a letter expressing his profound regret.

Mr. LOGAN. I decline to yield further.

Mr. FARNSWORTH. I will finish my remarks hereafter.

Mr. LOGAN. I wanted to give my reasons; the gentleman can give his. I was stating in reference to Mr. Orr that I had seen nothing myself indicating repentance on his part. So far as the mere fact of his bowing a willing obedience to the law is concerned, that is what each and every man ought to do, and is bound to do, especially when the military forces are there to make him do it. There is not one particle of evidence that I have yet seen showing that James L. Orr has changed one opinion that he ever entertained when he was a member of the rebel congress. And there is nothing to show that Mr. Longstreet, commonly called General Longstreet, has ever changed one opinion that he ever entertained while he was plotting in behalf of the confederacy or fighting against his country's flag. He accepts the situation. He is willing now to go on and continue the Government, but he does not tell you he is satisfied that he was wrong when he was fighting against the Government.

Sir, the kind of repentance I want is an acknowledgment of the wrong. When we relieve such persons and bring them under the folds of our flag while they cherish the same sentiments of rebellion and secession in their hearts that they entertained during the war we virtually say to them that their attempt to destroy the Government was no such treason as calls for repentance of their wrongs. I am not willing to do it. So far as Governor Holden is concerned I am willing to say this: he and I were friends before the war, and we have corresponded since the war. He has written to me frequently, and I have written to him, in reference to the best manner of producing peace and harmony in this country. Since the close of the war he has evinced loyalty. Prior to that time I cannot speak in regard to his acts. But he has shown that he desires forgiveness for the wrongs he committed. He is willing to say he was wrong. These other men say no such thing, and never have said it, as I understand. Now, are we to go hunting around the southern States for subjects of forgiveness? Gentlemen say ought to show these people that we are willing to forgive and forget. I am as willing as any man to do justice. The gentleman from Massachusetts [Mr. BOUTWELL] says some of these people suffered equally as much, perhaps, as any on our side suffered.

Mr. BOUTWELL. If the gentleman will allow me, I have referred to but one person whose name is in that bill, and who, upon the affidavits of officers of the Union Army, did great service to the Union cause during the progress of the war at the hazard of his life.

Mr. LOGAN. I would like to see him relieved. He is of the class that I am willing to see relieved. But I do not propose, so far as my vote is concerned, to open the door right at the start and relieve those who were leaders in the rebellion. When you do it, I ask you to tell me what argument you can give for not relieving General Lee? What evidence have you that he does not accept the situation? No more than you have in regard to these other men. I tell you you are opening the door for removing the disabilities of General Lee and the leaders in the rebellion.

Mr. MAYNARD. If the gentleman will allow me, there is a class of men in the rebel States who are not rebels, who are Union men and were Union men all the time, but who for the purpose perhaps of protection, and in order to secure a little pittance, held some small, insignificant office, which operates technically to their disqualification. Now, that class of persons, if we can find them, ought to be relieved. I do not suppose they are very numerous, but I know there are such persons.

Mr. LOGAN. I have no doubt of it, and I do not object to them; I am ready to-day to relieve all those who are entitled to relief, but I am not so anxious to run and at one leap seize these rebels by the hair of their heads and drag them in. I propose to wait till they ask to be taken in.

Now, sir, let us see to whom this bill applies. Here is Governor Brown, of Georgia; it is said he is a loyal man, has evinced Union sentiments and love of country. Sir, Governor Brown is

a politician. He saw the handwriting on the wall, and the war having ceased he has taken advantage of it. But who is Governor Brown? He is the man who before his State seceded seized the forts in his State that belonged to the Government of the United States and turned them against our Government. That is the kind of man that you desire to relieve first! Now, sir, I am in favor of relieving, first, men who sympathized with the Government, and who were forced into the rebellion by a power which they could not resist, and not the class of men who first "fired the heart of the southern people," as they called it, who assailed the temple of liberty and trampled your flag in the dust, and who at last come and kiss your feet and ask you to give them back the rights which they forfeited by causing our friends to bleed in defense of their country.

Mr. KELLEY. I would like to ask the gentleman whether he can name any man in the State of Georgia who has addressed as many people, traveled as far, and labored as long and assiduously to induce the people of Georgia to accept the congressional policy of reconstruction in its fullness, to elect a convention and present a constitution, or who has labored more industriously and more effectively for the adoption of that constitution to-day in the broad State of Georgia than Joseph E. Brown, and if works meet for repentance are not to be recognized by Congress, in whom the fourteenth amendment to the Constitution puts the power by a two-thirds vote of both Houses to recognize them?

Mr. MULLINS. Let me ask the gentleman how long did God make Adam lie out before he gave him a chance, by the birth of the Saviour, to repent? [Laughter.]

Mr. KELLEY. The gentleman from Illinois will not allow me time to go into that question.

Mr. LOGAN. So far as Mr. Brown's work in Georgia is concerned, I have nought to say. I was not saying that Mr. Brown is not now acting honestly and faithfully; I said no such thing; but I was calling the attention of the House to the fact that the men first selected for relief are the men who fired the first guns against the Government. I say they are not the class that I wish to relieve first.

Mr. KELLEY. A single moment, if the gentleman from Illinois will permit. I am not, as the gentleman knows, upon the Reconstruction Committee, and have had nothing to do with making up the list under consideration. I am, however, in correspondence with or know personally nine of the fifteen gentlemen named, and for these nine I am ready to vouch on this floor. I am not, as the gentleman says, in favor of restoring to full political rights those who went as leaders into the rebellion, but those who went as leaders into and have impelled and controlled the reaction, and thus given evidence to the country that, howsoever they may have sinned, they repent it and desire to devote themselves to the country in works meet for repentance.

Mr. LOGAN. I am very glad to find that the gentleman from Pennsylvania evinces such a Christian spirit. I am very glad to find that his devotion to Christian spirit and sympathy is such that he is willing to forgive all wrongs. I have no objection to that; I am only sorry that I am differently constituted; I am only sorry that God in His wisdom, in creating me, constituted me differently from what he did the gentleman. I cannot have these sympathetic feelings in my bosom which he has. That is my misfortune, perhaps, and his good fortune.

But, sir, let me say this: I would rather believe such men as Judge Humphreys, of Huntsville, Alabama, and others whom I could name all over the South, and whom no man yet has ever asked this Congress to relieve from their disability, than select such men as Mr. Brown for relief. What has Mr. Brown done? He has made a few political speeches, it is true. Why? I do not say because he wants to get back into some political party that has power, so as to get an official position; I will not say that; but I will say this, that no people ever lived on earth who loved political power as these leaders at the South do, and, in my judgment, there are no people who will change their opinions faster and oftener than will these people for the purpose of obtaining power.

You propose to relieve General Longstreet. Why? Because he wrote a letter accepting the situation. And it is proposed to relieve Governor Brown. Why? Because he proposes to act with the Republican party. Sir, I tell you this principle is not correct. The true principle, the correct principle, is this: let us wait until the people of the South themselves give evidence that they want those men relieved by electing them to some offices to hold which they will be required to obtain this relief. Then it will be time enough for us to relieve them. If we do that we will be doing our duty. If Mr. Orr or Mr. Brown is elected to the United States Senate, and you want either or both of them to be admitted to seats there, then you can relieve them from these disabilities. But I am opposed to relieving them first; I am opposed to any such legislation as is proposed by this bill, whether in favor of rebels or anybody else.

Mr. DAWES. Will the gentleman from Illinois [Mr. LOGAN] yield to me for a few moments?

Mr. LOGAN. Certainly.

Mr. DAWES. I feel a reluctance to vote in favor of this bill for this reason: it comes here without any report from the committee; there is no record of any reason to induce us to vote to relieve these men from these disabilities. It is true some of them are public characters and are very well known to many members of this House. But some of them are not so known to us.

Upon the precedent we are asked to establish here to-day many men from the South will come here to this House for relief. It seems to me that in the beginning we ought, at least, until the condition of things down there is very much changed, to let it be understood that this is not to be a matter of course, but such measures must be based upon some positive evidence, to be founded upon a report of a committee, which shall be printed and made a matter of record, so that it can be referred to hereafter as a precedent.

As I said the other day, upon a bill which I myself had the honor to report to this House, I am anxious to vote for the relief of every man who is a fit subject for it. But I want to be able to turn to the printed record, so that I may say to my constituents, "Those are the grounds upon which I cast my vote for that relief." I wish the committee would take this bill back again, and, before they ask us to vote for it, put upon the printed record before us—and not only before us but before the people in the South—the reasons why they ask us to relieve these men from these disabilities. I do not say this because I have any disinclination to vote this relief in regard to some of the men named in this bill. But I want it to be understood by them all that they must bring up here, and put upon the record so that we can all see it, the evidence that can justify our action in that respect. Therefore I must vote to delay action on this bill until we can have some report of the kind I have indicated.

Mr. LOGAN. Before I return the floor to my friend from Ohio, [Mr. SCHENCK]—and I ought to make my apologies to him for having retained it so long—I desire to say that I could not better express the views I entertain than they have been expressed by the gentleman from Massachusetts, [Mr. DAWES.] As I have already said, I am ready to vote to relieve all who are entitled to this relief. But I want to see the evidence which will prove to me that they are entitled to it before I vote to relieve anybody, and I will say that evidence must be pretty strong to convince me at least; that, of course, will not govern any one else. I will not vote to relieve any man from disabilities unless I can see strong proof that it is proper to do so. I now return the floor to the gentleman from Ohio, [Mr. SCHENCK,] by whose courtesy I have been holding it.

Mr. SCHENCK. If gentlemen will permit me, I prefer to say a few words, which I have not yet done, in defense of my own position. I think the discussion which has sprung up on my motion, which motion I thought a very reasonable one when I made it, proves the propriety of my having submitted it.

This House, in the present temper of gentlemen upon this side, at least, is not prepared to vote upon that bill. It is obvious that two thirds cannot now be united in support of the bill, however unanimously the House may be disposed to act when we shall have fuller light upon the subject.

Now, I desire to say to my friend from Massachusetts [Mr. BOUTWELL] that he and I do not in the slightest degree differ in our views as to the propriety of passing bills of this kind, and by law removing disabilities from men who by their conduct have given proof of their penitence, their restoration to such a condition of mind and behavior as entitles them to be thus relieved from the disabilities under which they labor. But that is the general proposition. Here we are acting in reference to specific cases. And what do I propose? Why, simply that we shall recommit this bill to the committee with instructions to report it back with a brief statement in each case of the reason for recommending the removal of the disability in that particular case. The report need not be a long one.

But the gentleman from Massachusetts says that we ought to take upon trust the conclusion to which the committee have arrived in regard to the matter. Unfortunately, however, for a proposition of that kind, each one of us feels his share of the weight of responsibility of action upon this subject; and each one will have to answer to his constituents and to the country, North and South, for having selected from the mass of those who may be more or less penitent and more or less fitted to be restored to their former privileges under the Constitution and the laws each one of these particular individuals. The gentleman says, however, that the committee cannot, in the very nature of things, make a report of that kind, because it would involve the necessity of going into a long account of the career of each individual. In that respect the gentleman is mistaken. In a very brief way the committee, summing up as a conclusion the convictions which have been produced in their minds in regard to any of these men, may say that for such and such reasons, furnished by the evidence before them, and which, if they choose, may be reported to the House, they propose a remission of the disabilities in the particular case.

The provision that Congress might, by a vote of two thirds, remove the disability in any of these cases was, I suppose, intended to have some meaning. If we exercise this power without reason or with little reason, or, whether there be reason or not, with little consideration, the value of the boon is by so much diminished. In following out the rule we have prescribed to ourselves, that we shall take back these men into the fold among Union citizens for cause shown by themselves, their neighbors, or associates, we are performing a grave and serious duty, and we ought to be satisfied in every case that sufficient cause is shown.

Now, sir, as I said when upon the floor before, I do not want to be driven to vote against this bill; I do not want to see any gentleman here driven to vote against it, neither do I desire that we shall be driven to the necessity of calling for a division of the question, so as perhaps to take the yeas and nays upon the case of each man named in the bill, as I suppose under parliamentary law it would be perfectly competent to do, but I want action on this measure to be suspended for some two or three weeks. Meanwhile the attention of the country North and South having been attracted to the subject, we shall obtain information which will enable us to act more intelligently

in reference to all these cases. I pledge the gentlemen that, so far as I may be convinced that any of these men ought to be thus relieved from disability, no man will vote more cheerfully than I for passing such a bill as this. The very man whose name heads this list, William W. Holden, of North Carolina, was, I presume from records which have been shown to me, deeply steeped in the rebellion at the beginning of the war, yet I have had opportunities of knowing that throughout the whole of this last year that man has been laboring steadily, assiduously, and apparently with an eye single to the public good and to national duty, to undo the wrong which he before helped to do. His case, therefore, in spite of what may have been his misdoings at the beginning of the war, is one of those cases in which I would cheerfully give my voice for removing the disability.

I have no desire at this time to go into particular cases, but only to submit the general proposition that no harm can be done by waiting a few days more and having more light under the benefit of which to act understandingly in relation to the whole matter. And it will do no harm in the South. It will do no harm to those upon whom this is to operate that they and their neighbors shall know what we do we do with care, caution, and discretion. I do not want to be understood as imputing any want of care, caution, or discretion to the Committee on Reconstruction. I have no doubt they endeavored to present to us only those names of persons with regard to whom they were entirely satisfied this benefit of the removal of disability should be extended, but then we are, as I stated before, to act on this subject, and we do not want to fall into any error into which, possibly, the committee may have fallen, not in regard to the general list, but any particular man. A few days' delay in order to avoid being misled or mistaken will certainly do no wrong to anybody, but will be a wholesome thing and attract the attention of the people of the South to the fact that here is a door open, but to be opened cautiously and carefully, and to ask them to turn their eyes in this direction to what will be the consequences of well-doing on their part, and to what, also, will be the futility of attempting to get back unless on some sort of proof furnished.

I now yield to the gentleman from Pennsylvania, [Mr. MILLER.]

Mr. MILLER. Mr. Speaker, I hope the House will agree to the motion that this bill shall be recommitted to the Committee on Reconstruction. I deem it to be one of the most important measures which can come before Congress at this session. It proposes to remove the disabilities imposed by the law from persons many of whom were leaders during the rebellion in the southern States. Some of them have been generals in the rebel army, educated at West Point at the expense of the United States, and others have occupied high and responsible civil positions in the rebel States. Some of them were members of the rebel congress, and now want to be restored so they can hold office under the United States Government.

Now, sir, as to the reconstruction of the southern States, let me say that they are not yet reconstructed. The reconstruction laws have not been complied with, and it is time to talk about removing disabilities when these States are admitted to representation and have adopted the amendment.

The gentlemen talk about the fourteenth article of the Constitution. It was the intention of Congress when that article was proposed and passed it should be ratified by the Legislatures of the late rebel States after they should be reconstructed under the reconstruction laws before any disability should be removed or representation admitted, and upon that issue we went before the country and were nobly sustained by the loyal people. It was never intended by that fourteenth article they should be relieved before those States were reconstructed. The honorable gentleman from Ohio, [Mr. BINGHAM,] who reported this bill, says the fourteenth article has been adopted. How that will be determined it is not for me to say. If two thirds of the loyal States is sufficient it has been adopted; if not it has not been adopted.

In order to prevent any difficulty that might arise on that question I say we ought to insist that three fourths of all the States of this Union should ratify it, and no State engaged in the late rebellion should be admitted to representation on this floor or have any disability of those who took part in the rebellion removed till its Legislature has ratified the fourteenth article of amendments to the Constitution. Then, when three fourths of the States have so ratified it, there can be no difficulty hereafter by palming upon the country any part of the rebel debt or claim for slaves emancipated, so that on that subject the public mind may be at rest.

Sir, why ought these men to be relieved at this time? It is said they have accepted the situation and are willing now to be loyal. How can they help accepting the situation? They were defeated. They tried their best to destroy this Government. They used all their influence against it. Some of them were leading generals in the rebel army, fighting against the Union and slaughtering our loyal young men who went forth in defense of our country. Sir, these rebels may be thankful that they escape with their lives and retain their property, instead of asking at this early period to be restored so they can hold office, and are not willing to wait until their States are reconstructed before they ask the removal of the disabilities imposed upon them by Congress, so that they can be elected as Union men. Why, sir, what do we see? These very men, assuming that their disabilities are to be removed, are already candidates for office. They want their disabilities removed in order that they may hold offices in the gift of the southern people, and no doubt aspire to represent them in Congress. They ought to accept the position that we at the North have all along proposed they should, and that is to take the back seats and let the loyal people take the offices.

But, no; they ask us to remove their disabilities and let them have the offices, and those who in the country's struggle remained true to the old flag and suffered beyond description for the cause of the Union stand back.

Mr. Speaker, I am opposed to this bill. It is a very important question; and I ask, can this Congress go before the loyal people of the country and say we have relieved, by passing an act, the leading men who were engaged in the rebellion, the men who plotted treason and committed perjury, to take their seats in the councils of the nation? Are we prepared, before these States are reconstructed, thus to go before the people and say we have admitted leading rebel generals to this floor? Let the States first be reconstructed; let them adopt their constitutions, and let them be ratified and returned here to Congress; let them then send men here who were not engaged in the rebellion. Then it will be time enough to talk about removing by a two-thirds vote the disabilities provided for by the fourteenth article of amendments to the Constitution and laws of Congress. In the North we went before the people and told them that under this fourteenth article of amendments we would allow none who participated in the rebellion to hold office, or even vote, until the rebellious States were reconstructed, and that none but true loyal men would be admitted as Representatives. Then, if we saw fit, we could remove the disabilities, and not before.

I do not condemn all the white people in the South who were in the rebellion. Many of them were forced into it by their leaders; but now those very leaders come here and ask us to remove their disabilities, so as to place them again in the lead. Are gentlemen on this side of the House prepared to say that the men who led the rebel armies and slaughtered our kindred and friends shall have their disabilities removed, and that they shall hold the high positions in the Government? I, for one, Mr. Speaker, say no; and as long as I have a seat on this floor I will record my vote against such a measure. As was well said by the gentleman from Illinois, [Mr. LOGAN,] you will open the door for the admission of General Lee, who was educated at West Point at the Government expense, but who, when the country needed his services, turned his back against the Government, and used all his military skill to destroy this Republic. We will find him here, no doubt, if this bill should pass, asking that his disabilities be removed. And what next? Why, we shall have Jeff. Davis coming in, for it seems he is never to be tried for his treason.

Mr. ASHLEY, of Ohio. Mr. Speaker, how much time has the gentleman allowed him?

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] yielded the floor to him. The Chair does not know how long.

Mr. MILLER. As other gentlemen desire to have the floor, I will only say, in conclusion, that this is an important bill, and I hope it will be recommitted, in order that the people of the country may have time to make up their minds and instruct their Representatives how to vote upon the question. For my part my mind is made up, and I will not go back upon what I declared before my constituents at the last campaign, when I was so well sustained. In my opinion, this is not the time to remove disabilities imposed upon leading rebels; and while we are inviting the late rebel States to form proper governments we must not neglect the mandate of the northern States, who, in the country's need, supplied our armies.

Mr. STEVENS, of Pennsylvania. I desire to move an amendment.

The SPEAKER. It is not in order pending the motion to recommit.

Mr. STEVENS, of Pennsylvania. I want to move to strike out all the names except William W. Holden, Luke Blackmer, and Thomas J. Mackey, the history of whom is told us all.

Mr. FARNSWORTH. It is told us in regard to the rest of them just as much.

Mr. STEVENS, of Pennsylvania. So it is; but, so far as I know, always against them.

Mr. FARNSWORTH. Governor Holden was mixed up as well as the rest of them.

The SPEAKER. Does the gentleman from Ohio withdraw the motion to recommit?

Mr. SCHENCK. I think not. I hope the amendments will all go into the newspapers. I yield three minutes to the gentleman from Illinois, [Mr. BROMWELL.]

Mr. BROMWELL. I hope that the bill will be recommitted. If any men are to be reinstated from the South they must be either those men who have engaged warmly in the rebellion or that class of milk-and-water men who were sort of for the Union and as much for the rebellion, praying "good Lord" and "good devil" at the time the rebellion was being initiated.

Now, as to the leaders of the rebellion, the men who struck for the rebellion and took the leadership in that enterprise, I think they can wait with patience a little while, at least until the public have time to ascertain whether they are wanting to change front merely for the purpose of obtaining office. And as to the milk-and-water men, the so-called Union men, who had secession in their hearts without the courage to carry it out, it is immaterial to the country whether they are ever reinstated or not; they are of no advantage to any country.

But, sir, we are told that there is a class of men in the South who are so influential there that if they be reinstated they will bring the whole multitude in with them. Sir, it has been the bane of the South from the beginning that a few men have taken the proprietorship of the whole affairs of that country and carried it into secession and whithersoever they would. I think it is time there was a proclamation of emancipation in respect to that in the South as well as in regard to negro slavery. If men

are to be reinstated because of their stump speaking and their influence in controlling the masses in the South I think we had better wait until a new set of men come to the surface in the South, and see if some men who always have been loyal and are likely always to be loyal will not arise in their place who will control the affairs of the South in the interest of the multitude, of the masses of the people, and not in the interest of the few. Sir, those Union men who stood firm through fire and sword, those men of whom it is said that they fed our prisoners of war, I would, if they have been in any way implicated in the rebellion, relieve them from disability as quick as any man upon this floor. But as to those who have fought four years against the Government—as the Government is still trembling in the balance, as the controversy is not even yet ended, and we know not where it will terminate—it seems to me that they can afford to wait until a thorough investigation can be made.

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. Will the gentleman yield to me for a few minutes?

Mr. SCHENCK. I desire that the previous question shall be called on this motion. How much time have I left?

The SPEAKER. The gentleman has ten minutes remaining.

Mr. SCHENCK. I will divide that time between my colleague [Mr. ASHLEY] and the gentleman from Illinois, [Mr. FARNSWORTH.] I yield first to my colleague for five minutes, and then I will yield to the gentleman from Illinois on the promise that he will call the previous question before long.

Mr. ASHLEY, of Ohio. I hope the motion of my colleague [Mr. SCHENCK] will not prevail. Some two months ago I introduced a memorial asking for relief from disabilities of the gentlemen named in this bill who reside in North Carolina. That memorial was signed by a large number of the members of the convention in North Carolina.

Private letters which I have received from gentlemen who formerly resided in Ohio, from North Carolina, satisfies me that every man named in this bill, and one or two others of whom I have personal knowledge, ought to have this relief granted.

It is, I think, two months since that petition was referred to the Reconstruction Committee. Since that time Mr. Holden, of North Carolina, has been nominated by the loyal men in that State for Governor, and, as every member of the House knows, no man in North Carolina has performed more work and labored more faithfully for the reorganization of that State than Mr. Holden, whom we are called upon to relieve from the disability under which he labors on account of participation in the rebellion.

Now, sir, I do not expect this House to order any committee of this body to prepare a written report and place it upon the public records of the country giving all the reasons why relief should be granted in such cases. From a general knowledge I may be able to vote for the relief of a man. I am willing to be very liberal, and whenever the loyal men of the southern States come here and ask for the relief of a man in their locality, or when a convention, which is in session under the law of Congress, asks for the relief of any citizen of their State, I stand ready and willing to grant that relief, in order that we may strengthen the arm of every man who comes to the aid of this Government in building up constitutional governments in the South. I hope, therefore, that this bill will not be recommitted, but that the gentleman in charge of it [Mr. BINGHAM] will demand the previous question upon the bill and put it upon its passage now.

Mr. SCHENCK resumed the floor.

Mr. GARFIELD. Will my colleague yield to me for a few words?

Mr. SCHENCK. For how long a time?

Mr. GARFIELD. For three minutes.

Mr. SCHENCK. I will yield to my colleague for three minutes.

Mr. GARFIELD. Mr. Speaker, I do not know enough about all the persons named in this bill to be able to say positively whether we should pass it or not in its present shape. I do not very much care whether the motion of my colleague [Mr. SCHENCK] to recommit this bill shall prevail or not, though upon the whole I rather prefer to have the bill recommitted. We cannot hope to adopt, we ought not to adopt, any such doctrine as the one advocated by the gentleman from Pennsylvania, [Mr. MILLER,] that we shall not remove the disability from any of these men until we go down into their hearts and ascertain whether they are really penitent for all they did during the war. It seems to me it is enough for us to be assured that a man of influence, of power, is earnestly working, and will continue to work, in assisting us to restore the States lately in rebellion. Any man who is willing to do that, any man who furnishes us satisfactory evidence that he will so act in good faith, I am willing and anxious that such relief shall be extended to him as this bill proposes.

We have none too many friends in the South now. There are none too many there who are willing, honestly and fairly, to accept the situation. It belongs not to us but to the Searcher of all hearts to decide whether a man sincerely loves the Union. All we can fairly ask is that he will do what is required, and as soon as we are assured of that we should be willing to remove the disabilities now imposed upon him by our laws.

One word more. I have learned to believe that those men who fought us most honorably are generally the most reliable when they profess their desire to see the restoration policy fully carried out. I have far more confidence in an honorable enemy, who fought us in open, manly warfare, than I have in a man who gave only his spirit to the rebellion but kept his body out of danger.

It is no objection, in my mind, to this bill that there is named in it a man who fought against us with all his power under the mistaken doctrine of State sovereignty or other political delusions, but who now, seeing his great and fatal mistake, is willing to help restore what he once tried to destroy. I believe no better doctrine can be adopted by us than that which the Apostle Paul announced on one occasion, when he "thanked God that the gospel was preached, even though it was through envy and strife." And I am thankful to have any man, for whatever reason, work with us in seeking to restore this Union. If I am sure he will act right I shall not look too curiously into his motives, but will vote to remove the legal disabilities which we have imposed upon him.

[Here the hammer fell.]

Mr. SCHENCK. I now yield the remainder of my time to the gentleman from Illinois, [Mr. FARNSWORTH,] with the understanding that he will call the previous question on my motion to recommit when he shall have concluded his remarks.

Mr. FARNSWORTH. Mr. Speaker, I was very glad to hear the remarks of the gentleman from Ohio, [Mr. GARFIELD,] who last addressed the House. It seems to me there are but two courses for us to take in order to avoid what in my judgment would be a very great calamity, that is, having in those ten States a white man's party and a black man's party. Certainly everybody would deplore that condition of things; for when it comes to that—when the people are divided into two parties upon the basis of color, the black man's party will go to the dust. We want to avoid that; and in order to do so, we must do one of two things—either adopt a liberal system of removing disabilities from the men upon whom they have been imposed, or else open the door to all of them, allowing universal suffrage and permitting everybody to hold office. I tell this House that unless we begin, and begin soon, to remove disabilities from the men in the South who accept the condition of things cheerfully and with good heart, it will not be long before the door will be thrown wide open, and rebels, though steeped to the very eyes in the blood of Union men, will be allowed to go to the polls and to control political affairs.

The gentleman from Pennsylvania, [Mr. MILLER,] if he had known more about this subject, would never have talked as he has done. Why, sir, I have upon my desk a petition for the removal of disabilities from some fifty men in Alabama. And who are they? I believe every one of them is a member-elect to the Legislature, chosen by Union votes. Yet each of these men is disqualified by the constitutional provision from holding any office in the State of Alabama. I am assured by very intelligent gentlemen from that State that in many parts of the State a greater number of loyal than of disloyal men are disfranchised by this provision of the Constitution. I have no doubt the case is the same in North Carolina. In those portions of the rebel States where there was not very much slavery, there was before the war a system of rotating in the holding of offices, such a system as we have in the northern States. A man, after being for a year or two a clerk of the circuit court, or the county court, or a probate judge, would give place to another; while in a heavy pro-slavery district an office would be held by one family for fifty years, descending as a sort of heirloom from father to son. In such regions fewer men held offices than held them in the loyal portions of those States. Consequently during the war these men were all watched. Detectives were upon their track. In order to avoid being hanged, perhaps, they subscribed something toward raising a rebel regiment, or toward getting a rebel flag, or they enlisted in the home-guards, or they held some petty office. By such acts they are now disqualified.

Gentlemen have a good deal to say about Longstreet and Orr. Longstreet fought us gallantly, bravely, boldly; and I, like the gentleman from Ohio, [Mr. GARFIELD,] have a great deal more confidence in the soldier of the South, who, taking his life in his hand, went into the field and fought us there gallantly and bravely, than I have in the stay-at-home, either there or here. When Longstreet saw that he was engaged in a bad work he gave it up.

Mr. MULLINS. When did he see it?

Mr. FARNSWORTH. He saw it as soon as the rebellion began to be crippled. But I do not care when he saw it; he saw it some time; and now, without probing very deeply the recesses of Longstreet's heart, I would only inquire, is he acting heartily with the loyal people of the country? Does he accept the situation cheerfully?

Mr. MULLINS. He does, under duress.

Mr. FARNSWORTH. I do not care whether it is under duress or not. One man like Longstreet can do the loyal cause in the South more good than a thousand ordinary men. I know this: that because of his course since the war he has been set upon, denounced, and ostracised by the whole rebel horde of the South.

Mr. MULLINS. Then he cannot do us much good.

Mr. FARNSWORTH. "Cannot do us much good!" Yes, he can; because he has influence with thousands of soldiers in the South—not the sneaking, stay-at-home newspaper editors who are denouncing him. Longstreet desires those States to be reconstructed upon a loyal basis, upon the basis, too, of loyal suffrage. He is heartily and in good faith acting with us.

I want to stop now and inquire what Longstreet really did? I do not know that he ever murdered anybody. I believe that he was regarded by all our soldiers as an honorable soldier. I never heard him accused of starving anybody or of murdering prisoners of war. I believe that he conducted the war according to the rules of civilized warfare. He fought us and he fought us bravely.

Mr. WILLIAMS, of Pennsylvania. Was he not an officer of our Army previous to the war?

Mr. FARNSWORTH. He was an officer of our Army, graduating at West Point, educated at the Government expense, if you please. Like Stonewall Jackson and many others he was educated in the school of State's rights, believing when his State went out of the Union he must go with it. He went when his State went out of the Union; but he has given up the State's rights heresy since the war. He is now devoted to the Union and the Union cause.

So, too, with Governor Orr. While Governor Orr was not an original secessionist, while we who were then members of Congress know that he was drawn into the Calhoun school, yet he went into the rebel congress. Since the war, if we are to believe the testimony, and it is the testimony of all our Union officers in South Carolina, he has been their able ally; that he has worked night and day to infuse into the minds of the people in South Carolina a disposition to accept the situation, to accept the laws passed by Congress to reorganize the State government. A man like Governor Orr can do in his sphere more good than a thousand ordinary men.

Now, Mr. Speaker, we have to do one of these things, and we must not scan too closely the record of the past. I thought, with my colleague, full a year ago that we were going to hang somebody. I believe now that somebody ought to have been hung; but, sir, I have given up all idea that anybody is going to be hung. It is too late in the day to think anything of that now. We must give that up.

Then, sir, we have to take this other fact: that we must, in pursuance of the constitutional provision, extend to these men amnesty, and do it liberally, so as to encourage these men to assist us; or else we must have a black man's party and a white man's party, which will drive us to open the doors to let in all the rebels. We must do one or the other.

I am in favor of the principle of the bill and the course which has been adopted by the committee of which I am a member; that is, to extend amnesty to the men who are aiding us in good faith in accomplishing restoration, thus to encourage and help them. I am not for saying to these men that they may write letters and make speeches in favor of reconstruction, but they shall not vote. If we pursue any such course we will most certainly drive these people off.

Mr. ROSS. Will the gentleman permit me to ask him a question?

Mr. FARNSWORTH. I must decline. From all that has been said here, however, I am inclined to vote that the bill shall be recommitted until the House shall have thought more on the subject. I now demand the previous question.

The previous question was seconded and the main question ordered.

The question recurred on Mr. SCHENCK's motion.

The House divided; and there were—ayes 65, noes 41.

So the motion was agreed to; and the bill and amendments were recommitted to the Committee on Reconstruction.

Mr. FARNSWORTH moved that the list of names he proposed to submit as an amendment be also referred and ordered to be printed.

The motion was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRIP OF THE MIANTONOMAH.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in response to a resolution of the House, concerning the expense attending the recent trip of the Miantonomah to Europe; which was referred to the Committee on Appropriations, and ordered to be printed.

MILITARY RESERVATION, LOUISIANA.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting a letter from the Commissioner of the General Land Office, relative to the military reservation at Fort Jessup, Louisiana; which was referred to the Committee on Military Affairs.

GOVERNMENT LANDING BATTERY, NEW YORK.

The SPEAKER, by unanimous consent, presented a communication from the Secretary of War, transmitting a letter relative to the condition of the boat-landing at the Battery, New York harbor; which was referred to the Committee on Military Affairs.

HARBOR AT MICHIGAN CITY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House of the 10th instant, a communication from the chief of engineers, relative to the harbor at Michigan city, Indiana, and recommending an appropriation of $35,400 for that purpose; which was ordered to be printed, and referred to the Committee on Commerce.

HARBOR AT WILSON, NEW YORK.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication from the chief of engineers, relative to the harbor at Wilson, Niagara county, New York, in answer to a resolution of the House of the 26th ultimo; which was ordered to be printed, and referred to the Committee on Commerce.

PACIFIC TELEGRAPH.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 12th instant, a copy of the contract, &c., made to facilitate telegraph communication between the Atlantic and Pacific States; which was referred to the Committee on Appropriations.

IMPORT DUTY ON RICE.

The SPEAKER also laid before the House a preamble and resolutions of the constitutional convention of South Carolina, protesting against the repeal of the present import duty on rice; which were referred to the Committee of Ways and Means.

CONTESTED ELECTION—NEW MEXICO.

The SPEAKER also laid before the House evidence in the contested-election case from New Mexico; which was referred to the Committee of Elections.

FREEDMEN'S BUREAU.

The SPEAKER. The morning hour has commenced, and the House resumes the consideration of House bill No. 598, to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes, which was pending at the expiration of the morning hour on Wednesday last, on which the gentleman from Kentucky [Mr. ADAMS] is entitled to the floor.

Mr. ADAMS addressed the House. [See Appendix.]

Mr. ELIOT obtained the floor.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

ADMISSION OF ALABAMA.

The House then resumed the consideration of the special order, being House bill No. 904, for the admission of the State of Alabama, upon which Mr. BOYER was entitled to the floor.

Mr. BOYER. Mr. Speaker, this is scarcely a measure to be discussed. It deserves nothing but denunciation. A plain statement of the facts furnishes all the condemnation which is required to damn this bill to everlasting infamy in the judgment of all calm and honest men.

This bill is a bald and impudent fraud upon the people of Alabama. It makes the reconstruction act of the 23d of March an atrocious lie, a cheat, a miserable pretense of fair dealing, seemingly intended only to beguile and betray.

The act of March 23 told the people of Alabama, as plainly as language could express it, that the vote of every registered citizen not polled should count as a vote against the constitution framed by the mongrel convention lately assembled in that State. This Congress pledged itself to reject any constitution not sustained by at least one half of the registered voters of Alabama. Upon the faith of that pledge a majority of the registered voters refrained from voting; and thus, by staying at home, they defeated the proposition in the very mode provided by Congress for that purpose. Now, it is proposed to go back upon this pledge thus solemnly made by Congress, and accepted and acted upon in good faith by the people of Alabama, and in the face of the American public and before high Heaven, the Reconstruction Committee advises this Congress to eat its own words, and to perpetrate that which in a statute, enacted, printed, and promulgated as a law of the land, it has heretofore declared ought not and should not be done.

In order that there may be no mistake, let us refer to the language of the law:

"SEC. 5. That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors, qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session then immediately upon its next assembling," &c.

Making this and other terms conditions-precedent to the admission of the State. Now, look at the figures. There are in the State of Alabama—

Registered voters	170,000
Of these at least one half were required to vote upon the question to enable the constitution to be lawfully ratified by a majority of the votes cast, namely	85,000
But at the election the number of votes cast, including those against as well as for the constitution, were	71,817
Being less than the required number	13,183

In view of these figures is it unparliamentary to pronounce the legislation proposed by this bill disgraceful? Is it in order to say that such shameless fraud upon the people of a State would make its perpetrators odious throughout all coming time?

It is only by gradual descent through many downward steps that so low a depth of legislative depravity could possibly be reached. That the government of a negro minority should, without the consent and against the protest of the people, be inflicted by an American Congress upon a State in the American Union is a spectacle too monstrous to be endured.

I have, nevertheless, but little hope that this bill can be defeated. Its passage would be indeed a fitting sequel to what has gone before. A party which has not hesitated during three years to wantonly perpetuate disunion, and to rob the nation of the natural fruits of peace; a party which seeks to degrade the judiciary, destroy the Executive, and murder constitutional liberty for party ends, may be expected to do anything else which might be deemed necessary for the accomplishment of the same objects.

If Congress will not regard the Constitution itself, made by the hands of patriots for the perpetuation of civil liberty, how can it be expected that Congress will respect the reconstruction laws made by itself for the establishment of despotism and the degradation of the white race? It will respect them as long as they answer the purposes for which they have been designed, but not a moment longer.

How naturally one repudiation begets another. Let national creditors and all whose interests depend upon the preservation of the nation's honor beware. Public faith once broken is easily broken again. Acts are now regarded with comparative indifference which, if attempted two years ago, would have startled the nation.

What excuses have the Reconstruction Com-

mittee offered the House and the country for the passage of this measure in such palpable violation of existing obligations? Before I proceed to examine the report of the committee which accompanies the bill, I desire to call attention to the class of voters by whom the proposed constitution of Alabama has been rejected. In prescribing the qualifications of voters especial pains were taken to exclude a sufficient number of the whites to give numerical ascendency to the blacks. Therefore an oath was invented admitting of great latitude of construction and boards of registration appointed who would be certain to operate it so as to produce the desired result. Each registered voter was obliged to take the following oath:

"That I have never been a member of any State Legislature nor held any executive or judicial office in any State and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do. So help me God."

This test-oath was applied with great stringency throughout the military districts of the South. Under it almost all who at any time held the pettiest offices were excluded by many of the boards of registration; as, for example, aldermen, tax-collectors, assessors, constables, street commissioners, auctioneers, school directors, and even the sextons of cemeteries. How the test-oath must have applied in Alabama appears from the following figures:

The total white population of Alabama is, according to the census of 1860	526,271
Total negro and mulatto	437,080
Majority of the whites	89,191

But notwithstanding this difference of population in favor of the whites the registered colored voters exceed the registered white voters by upward of twenty thousand. Considering the proportion between the colored population and the registered colored voters, instead of seventy-three thousand registered white voters the white population ought to have furnished about one hundred and twelve thousand, if all had been permitted to register, showing that nearly forty thousand of the white people of Alabama must have been disfranchised.

For the colored applicants for registration there was doubtless a corresponding laxity of construction on the part of the boards of registration, every one of which was in the interest of the Radicals.

Still the voters thus sifted and registered rejected the obnoxious constitution by a majority of many thousands.

Let us now see for what reasons the Reconstruction Committee propose to reverse this verdict, and by an exercise of arbitrary power force upon the unwilling people of Alabama this rejected constitution, and admit to seats in this Congress the adventurers who have come here as the representatives of a negro minority.

The committee in their report do not profess to have observed the letter of the act of March 23, 1867, but they say:

"That it is their intention to pursue the spirit, if not the letter, of the law of March 23, 1867, entitled 'An act supplementary to an act entitled an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration.' They especially intend to enforce the spirit of that law when there seems to be any conflict in the facts in evidence between the spirit and the letter."

But it is not pretended that the letter does not express the meaning which it was originally intended that act should convey. How, then, can there be a conflict between the spirit and the letter of the law, unless by the spirit is meant the ulterior design of all the reconstruction laws passed by this Congress, which is that not one of the proscribed States shall be admitted until its people are willing to pass under the radical yoke, and until the Representatives they send to this Congress have first prostrated themselves before the ebony idol which has been set up in the midst of the southern land.

And the committee say: "Such is the true principle laid down by moral jurists for the government of judges." "Moral jurists" forsooth! What are moral jurists as contradistinguished from jurists proper? I suppose they are the high priests of the higher law; that they are the oracles who sit in the courts of those who find in their sectional passions and in their partisan ambitions laws which are paramount to the written laws of their country.

The committee go on to say that the provision under which the constitution had been rejected is "a most unusual provision in our or any other Government." But surely no fair man can deny that it is a reasonable provision that a majority of the legal voters shall be on the side of the constitution which is to become the organic law of the State. If this be, indeed, unusual, and not according to the established custom, it is a custom more honored in the breach than in the observance.

The committee say still further on that "on the day of the Alabama election a most extraordinary and unexpected state of things existed;" that a violent storm prevailed "from morning to night;" that "the streams were swollen," and that cause "kept from the polls numbers of voters who would otherwise have attended." Who ever before heard that because of foul weather upon an election day not only was the election itself to be disregarded, but the fruits of victory were to be handed over to the defeated party?

But the committee were careful not to state in this connection that the election continued for more than one day; and that the time was twice extended by the dictator of the district, until the whole number of days for voting was five in all. It is not pretended that the rain continued to descend and that the waters did not abate for the whole of those five days during which the people of Alabama were invited to vote. Is an act of Congress so flimsy a thing that the winds can blow it down and the rains wash it away? If so, then we may liken this Congress to the foolish man described in Holy Writ who built his house upon the sand.

The committee say that there were frauds committed in this election. How could there have been frauds committed except, indeed, they were upon that side now championed by this Congress? Who appointed the boards of registration and the officers of the election? Generals Pope and Meade; and they are men after your own hearts. There is not a Radical paper in the land which has not sounded their praises. They appointed all the boards of registration and all the officers of election. Careful to the utmost degree was Congress that among these manipulators of the ballots there should be no lurking rebel. Here is the oath taken by every officer of the election:

"I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto; and I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

And were there not Radical place-hunters enough besides interested in the result to assist in watching the polls? There were nineteen members of the convention who were members of the boards of registration and fifty-six members of the convention who were candidates for office at that election. A majority of each board of registration were Radicals, and four fifths of all the boards of registration contained at least one member who was a Radical candidate for office, and the members of the boards of registration were also, under the law, the officers of the election. How, then, with all these safeguards, could there have been fraud, except on the part of those who now allege it?

The committee say that ballot-boxes were stolen. If they were stolen they must have been stolen by their Radical custodians, and stolen for the very purpose of making the charge against others.

The committee go on to say that there were violence and threats to deter voters from going to the polls. Where was Meade, the dictator, with the United States troops, detachments of which were stationed at every poll and in every city, village, and hamlet throughout the State? If there was violence, where were the provost marshal's guard and the military police? There could have been force only on one side, and that the side of those who were protected by Federal bayonets, and not on the side of the defenseless and unarmed white people of Alabama.

It is said by the committee that the colored voters were prevented from going to the polls. Yet seventy thousand of them are admitted to have been there, three fourths of their entire number. If these charges or any of them were true you may be sure that the agents and spies of the Freedmen's Bureau would be here to prove them.

But what evidence is there, Mr. Speaker, of the truth of any of these allegations? There was not a single witness examined before the committee. It is true, the chairman of the committee [Mr. STEVENS, of Pennsylvania] announced in the hearing of the House the other day that there had been three witnesses examined. But even so prominent a member of the Committee on Reconstruction as the gentleman from Illinois [Mr. FARNSWORTH] knew nothing of it, and so testified in the hearing of the House. The conservative member of that committee, the gentleman from Kentucky, [Mr. BECK,] who was then in his seat, said that he had never known anything of the examination of any witnesses, nor had he ever had notice of the meeting of the Reconstruction Committee for the examination of witnesses in this case. And I am authorized by the other conservative member of the committee, the gentleman from New York, [Mr. BROOKS,] who is prevented by sickness from attending the session of the House to-day, to state in his behalf that he never heard of the examination of a witness on this subject by the Reconstruction Committee, and that he never received any notice to attend any meeting of the committee for any such purpose.

The only thing called "testimony" which challenges the attention of the House consists of some *ex parte* affidavits, one of them signed by a group of seven irresponsible nobodies, of whom no one here ever heard before, and another signed by a number of colored people, not one of whom could sign his name or read the contents of the document to which he was induced to affix his mark. It was three of these latter individuals whom the chairman of the committee designated as having been examined before the committee. They were examined, as I have already shown, if examined at all, in a corner; and the result of that examination must have been a conviction, on the part of the honorable chairman, that it would be dangerous to have them examined in the presence of the conservative members of the committee, lest an opportunity might be afforded for cross-examination. Ignorant men like these, not able to read or write, could doubtless have been induced by those who manipulate them to sign almost anything which would have been considered necessary for the business in hand. I say, therefore, in view of these facts, that there was no testimony deserving the name of evi-

dence before the Reconstruction Committee to make out any one of the allegations contained in their report.

But the committee go on to say that since the act of March 23, this convention has passed a law which enables a constitution to be ratified by a majority of the votes cast, no matter how few may be the voters that attend the polls; and the committee have the audacity to say that they do not see why that law should not apply to this case, although the law was passed long after the election in Alabama had taken place. Amazing obliquity of human vision, that this learned committee should not be able to see that an *ex post facto* statute could not apply either in morals or in law to a case like this!

They conclude their report by the emphatic declaration that they have "determined that no State shall ever be admitted into the Union when the right to universal suffrage shall not be made permanent and impossible of violation." There is the key which unlocks the whole system of policy by which the Reconstruction Committee and the majority in this House have been directed. The committee might as well have added that they were in like manner determined to admit any State which would establish negro equality and send Representatives here pledged to vote as they are bidden by a Republican caucus, and loyal to the perpetuation of Radical misrule.

Who are these gentlemen of the Reconstruction Committee who have thus laid down their ultimatum? But a single one of them all comes from a State which has incorporated into its own laws the doctrine which they say it is their fixed determination to enforce in every one of the proscribed States of the South. The gentleman from Massachusetts [Mr. BOUTWELL] on that committee is the only one who comes from a State where negro equality is acknowledged, even in theory. Another gentleman on that committee, the gentleman from Ohio, [Mr. BINGHAM,] comes from a State which only last fall rejected this principle by a majority of 38,353; and a Republican State at that. The gentleman from Wisconsin, [Mr. PAINE,] another member of that committee, comes from a State which in November, 1865, rejected the same proposition by 8,059 majority. Three other States of the North have recently held elections in which the question was decided the same way. One of these was Connecticut, which gave in 1865 a majority of 11,035 against it. Another was Minnesota, which in 1867 gave a majority of 1,298 against it. Kansas, one of the youngest of the sisterhood of States, rejected the same proposition last year by a majority of 8,938. There are in all but six of the northern States that have incorporated into their constitutions the doctrine of negro political equality; and five of these are in New England.

Now see how broad and comprehensive is the philanthropy of these gentlemen of the Reconstruction Committee. Why do they not go home and convert the Republican heathen there? Why do they not turn themselves into missionaries to preach this new political gospel within the limits of their own loyal States? Is it because their party is against it, and they wish to retain their political power by being quiet on that subject at home, but are willing for the temporary acquisition of political power elsewhere to enforce it upon the defenseless and helpless white people of the South?

Why, sir, let my colleague, the chairman of the Reconstruction Committee, [Mr. STEVENS,] go home to Pennsylvania and become a negro missionary there; there, sir, where only a week ago a proposition striking the word "white" from the constitution of Pennsylvania was voted down in the Republican Legislature of that State by a vote of only thirteen yeas to seventy-three nays. Why such hot haste to admit the State of Alabama now? For three years she has been a suppliant at your doors, and you have never opened your arms to receive her; for three years she has petitioned for representation here, which you have persistently denied. Why do you bring her here now, coerced into a representation which you know her people abhor, and under a constitution which they have rejected?

I do not intend to discuss the nature of the instrument which this bill seeks to make the constitution of Alabama. For, having been rejected by the people, it matters not if it were written by a Solon with a quill plucked from the wing of an angel, it cannot become the constitution of Alabama under the operation of this bill without a violation of the fundamental principle of American government, which is, that governments are ordained by the people.

But there is one feature in that instrument so especially monstrous that I cannot forbear its mention. It disfranchises all citizens who will not swear eternal fidelity to negro equality. The fourth section of article seven provides an oath to be taken by all registered to vote, as follows:

"That I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men."

Was there ever so shameless a law to fetter free thought and the utterance of honest convictions? And this is in the name of republican government! Was such a thing ever heard of before in any nation pretending to be a republic? Upon the sacred subject of negro equality all men are to have but one opinion; no man dare change his opinion; or if he does he must never express it, upon pain of perjury. He must never attempt by argument to change the opinions of others, no matter how much the public interest may require reform. The negro is to be enshrined as a divinity, whose name is not be taken in vain. All this would be ludicrous were it not so terrible on account of its reality.

Let me here read an extract from the eloquent and touching appeal in which the unhappy white people of Alabama implore this Congress to deal mercifully toward them:

"Will you, nearly three years after the war has ended, when the passions it kindled should have died out in the magnanimity which great success ought to inspire, suffer a whole State, full of your kindred civilized, white inhabitants, not only those who had opposed the Government, but women and children and loyal men who had adhered to it, to be thus delivered over to the horrid rule of barbarian negroes? Do not compel the honorable officers and brave men of the armies of the Republic to hold us down while such fetters are forged in our view and yours, and then ignominiously fastened upon us. We are compatriots of Washington and Henry and Jefferson and Madison and Marshall and the Pinkneys and Marion and Jackson and Clay and Taylor. Are there no names among these potent enough to arouse any respect for us in your legislative halls?

"It is said, and by frequent repetition you are made to believe it true, that the negroes and self-styled loyalists cannot have justice done them, and are unsafe among us, and that we are still in a state of rebellion. The charges are false. Ever since the war our courts and upright judges in them have administered justice as impartially as anywhere else in the Republic.

"What higher evidence beside this could be given of the universal good faith and entireness and frankness of our surrender than the fact that notwithstanding the great provocations of intruding political adventurers not a single guerrilla band has existed and been kept up against your authority since the abdication of the confederate authorities, under whose orders the war was waged.

"Continue over us, if you will do so, your own rule by the sword. Send down among us honorable and upright men of your own people, of the race to which you and we belong, and ungracious, contrary to wise policy and the institutions of the country, and tyrannous as it will be, no hand will be raised among us to resist by force their authority. But do not, we implore you, abdicate your rule over us by transferring us to the blighting, brutalizing, and unnatural dominion of an alien and inferior race, a race which has never exhibited sufficient administrative ability for the good government of even the tribes into which it is broken up in its native seats, and which in all ages has itself furnished slaves for all the other races of the earth."

Let us turn now for a moment to a closer consideration of the particular provisions of the bill. This bill does not provide for the admission of Alabama as a coequal member of the Federal Union. She is not only the first to adopt the proposed amendment of the Constitution known as article fourteen, recognizing the equality of all races of men and conferring upon them both Federal and State citizenship, and upon Congress the right to legislate for the State upon the subject hereafter; but the second section provides that outside of any constitutional amendment the State shall forever be subject to Congress in that regard. It reads as follows:

SEC. 2. *And be it further enacted*, That said State of Alabama shall be recognized and admitted into the Union upon the following fundamental condition: that the right of suffrage of citizens of the United States shall never be denied or abridged in said State on account of race, color, or previous condition of slavery; and Congress shall have power to annul any act of said State in violation or in derogation of the provisions of this act.

How can this lawfully be done? Where does the Constitution, which is the only lawful bond of this Union, prescribe that Congress may repeal State laws in any other cases than those in which jurisdiction has been specially granted by the words of the Constitution itself. Does not the Constitution expressly declare that all powers not therein granted to the Federal Government are reserved to the States respectively and to the people? The States were intended to be equals. But this bill provides for a degraded, manacled, and subservient State. Is this a restoration of the Union made by our fathers.

Is this the Union which this Republican Congress promised to restore when they summoned the nation to arms for the suppression of the rebellion? Did Congress not then proclaim, and was it not the rallying cry of the northern hosts and the hope of all patriots, that the Union should be restored with all the dignity, equality, and rights of the several States unimpaired? If such conditions of inferiority as are prescribed by the pending bill can be imposed by Congress upon a State in one particular where is the limit to the absolute power of Congress to impose every other? But why should we be surprised? Is not one third of the nation in chains, and has not this same Congress abolished the government of the people in ten States?

I am apprehensive that this Congress has at last reached that point when it is in the condition of the hardened sinner who fears neither God nor the devil! I do not say, however, that here there is no fear of man, for even he who is encompassed by the blackness of total depravity fears his fellow-men. He startles at the summons of the executioner. And for this nation there is but one way of salvation open. Abstract principles of law, justice, and morality are of little avail, and against the inexorable tyranny of party discipline it has been our sad experience to see the judgments and consciences of the more moderate men of the dominant party oppose but a feeble resistance. It is the people only who can arrest the usurpations which threaten to overwhelm and subvert the institutions of our country. And when we of the minority, who are so powerless in this Hall, are permitted to speak, we have no other resort than to appeal as best we can to that mighty audience outside the walls of this Capitol who can, if they will, still save the Republic.

But if they will stand carelessly by and see one after another of the pillars of constitutional law torn from its foundations it is only a question of time, and of a very brief time, I fear, when the temple itself will fall to the ground, and in one common political ruin involve us all.

It is the voice of the people alone which Congress will heed; and unless it speaks in tones of thunder Congress will disobey even that. I am not over confident that it will make itself heeded in time. I know not how much longer this nation is to be distracted by usurpations and revolutions. But this I do know, that if the people of one little State had voted last week as if they were conscious of the great perils which encompass them there would have come an echo from the granite hills of New Hampshire which would have checked for a time the insolence of party power in this place,

and, it may be, prevented the great wrong which it is proposed this day to inflict upon the helpless white people of Alabama.

Mr. LOAN. I ask the gentleman to yield to me five minutes of his time.

Mr. BOYER. I yield five minutes to the gentleman.

Mr. LOAN. Mr. Speaker, I have asked for this time merely for the purpose of giving briefly some of the reasons why I cannot support this bill. I cannot undertake to argue it at any length, but I am unwilling to place myself upon the record against this measure without at the same time placing there some of the reasons which induce me to vote against it.

The rebellion was the physical manifestation of sectional ideas, freedom against slavery. And it was for preserving the integrity of the Union controlled by liberty that induced the millions of the North to enter the Union army, and to rescue at the point of the bayonet from rebel rule and slavery the fairest portion of the Republic. This they did with a gallantry that was worthy of the cause in which they fought, and they have confided to us as the exponent of the people's will the task of reconstructing and restoring to the Union these late rebel and disorganized States upon a basis of loyalty, liberty, and justice; that all parts and sections of the Republic might be brought into harmony with the leading ideas upon which this Government rests, that the Republic might be perpetuated. This can only be done by a radical extermination of the causes which created the discord and produced rebellion and war, to wit, treason and rebellion, and all dogmas that brought them into existence, and in the substitution for these the ideas and principles that successfully opposed them in the war, to wit, loyalty, freedom, and justice. In a popular form of government like ours we are compelled to rely on the sentiment of the people for the maintenance of these principles. Paper constitutions, however liberal, and paper guarantees however ample, are wholly incapable of securing peace to the country or safety to the Republic unless they are supported by a popular sentiment that will give effect to their provisions. Prior to the rebellion, we had the Constitution of our fathers and the laws they made the most solemn oaths to support and maintain them, the prestige of three-fourths of a century of peace and unexampled prosperity, as guarantees for the maintenance of the Union and the preservation of the Republic, and yet, under circumstances like these, without a cause, and I may say without a decent pretext for their great crimes, the people of the South, by the aid of a treasonable popular sentiment, inaugurated a rebellion in eleven States of the Union, which grew to such magnitude as to involve the Republic in the most gigantic civil war known to modern times.

In any proposition for the reorganization of these rebellious States the primary considerations should be for the safety of the Republic, its future peace, and the rights of those Union people who protected it against treason and rebellion.

The condition of the rebel States and of the people there is of but secondary importance. Any measure for the restoration of any of these States that does not imply absolute safety to the Republic and its future peace should not, in my judgment, be entertained.

Such is not the character of the pending bill, and those who support it seem to be aware of the danger they incur. They know the people of Alabama cannot be safely trusted with the control of the State, and hence they have deemed it proper to impose terms and conditions upon them that are wholly unwarranted. They seem to be conscious that the rebels are still in the ascendancy there, and that the Union people unaided will be unable to maintain themselves in the political control of the State. The election returns are conclusive that such is the case, and it is in vain for gentlemen to urge swollen streams, intimidation on the part of the rebels, or unfriendly action on the part of the Administration as reasons which will account for the meagerness of the vote to ratify the constitution. The truth is, the votes are not there. The popular sentiment in Alabama is against the constitution, against the Union, and for rebellion and for separation. More than seventy thousand negroes voted; and the whites could have voted had they desired to do so. An appeal made a few days since by the gentleman from Kentucky [Mr. BECK] in this connection is worthy of remark, as indicating the views yet entertained by many of even the intelligent white citizens of the late slaveholding States in relation to the rights of American citizens, when he advised us not to degrade the whipped rebels of the South by placing them on an equality with all other American citizens on the question of suffrage. And he urged us to buy the friendship of the rebels, and the consideration intimated for the purchase was the disfranchisement of all colored Union soldiers and citizens and the enfranchisement of the rebels and their restoration to political power and control; and from the earnestness of the gentleman I am inclined to think that he was not aware that there was anything unreasonable in the monstrous proposition.

So long as such sentiments prevail, in my judgment the only safe reconstruction will be one supported and maintained by physical force sufficient to beat down armed treason wherever it is to be met, by voters sufficient to control it at the ballot-box and intelligence sufficient to subdue it everywhere.

When these conditions are complied with I shall very cheerfully vote to admit Alabama or any other of the late rebel States to all the rights of States in the Union; and I will be willing to do it without any stipulations to ratify amendments to the Constitution, or upon any fundamental condition, because I shall then be willing to trust the people there; but I am not willing to release the grasp of the Federal Government placed upon the rebel States at the cost of so much blood and treasure by the gallant soldiers of the Republic so long as the rebel spirit which rendered such sacrifice necessary shall rule in those States.

Mr. BOYER. I yield five minutes to the gentleman from Kentucky, [Mr. BECK.]

Mr. BECK. Mr. Speaker, I have sought the floor for the purpose of offering a minority report, which the chairman of the committee very kindly promised I should have the opportunity to offer before he moved the previous question. I propose to read that minority report myself.

Mr. FARNSWORTH. I rise to a point of order. There is no such thing as a minority report.

The SPEAKER. It can only be received by the courtesy of the House, but the gentleman from Kentucky having obtained the floor can read whatever he pleases.

Mr. FARNSWORTH. I have no objection to his reading it, but not as a report.

Mr. BECK. I will read it as a part of my remarks. It is signed by the gentleman from New York [Mr. BROOKS] and myself:

Minority Report of the Reconstruction Committee.

The undersigned, members of the Reconstruction Committee, having carefully examined the report of the majority since its publication, the acts of Congress known as the reconstruction acts, and the constitution and ordinances rejected by the people of the State of Alabama, submit as their report to this House the following preamble and resolution:

Whereas an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and an act supplementary thereto, passed on the 23d of the same month, provide for calling a convention to prepare a constitution for the government of the State of Alabama and for holding an election in that State for the ratification or rejection of said constitution by those persons who were authorized under said acts to register and vote in said election; and whereas an election was held for that purpose in said State, commencing on the 4th day of February last and continuing until the 8th of that month, which resulted in the rejection of said constitution by a majority of fifteen thousand of the registered voters under said acts, who were expressly authorized under and by the provisions of said acts to reject said constitution either by depositing their votes against it or by not voting at said election; and whereas this large majority of registered voters were utterly opposed to the ratification of said constitution:

1. Because it deprives a large number of the white males of said State of the right to vote or hold office.

2. Because it confers the right to vote and hold office on all the black males, thus disfranchising intelligence and capacity, and enfranchising ignorance and incapacity.

3. Because it requires all persons before voting to subscribe an oath that they "accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons on account of race, color, or previous condition of any political or civil right, privilege, or immunity enjoyed by any other class of men."

4. Because, in apportioning representation to the people of the several counties of the State, it ignores three counties and leaves them without any representation.

5. Because it gives to twenty-four of the fifty-nine counties in the State, which are recognized, having a white population of two hundred and fifty-two thousand four hundred and seven, and a black population of three hundred and twenty-eight thousand three hundred and ten, sixty-five of the one hundred Representatives which compose the House of Representatives, and it gives to the remaining thirty-five counties, having a white population of two hundred and eighty thousand two hundred and eighty-two, and a black population of one hundred and eleven thousand one hundred and fifty nine but one representative each; and because it apportions representation in the Senate in the same way as near as may be.

6. Because by these means it places the power to impose taxes and all other legislative power in the hands of those who will be non-tax-payers when it goes into operation, and deprives a majority of those who will have to pay the taxes of the right to vote or of the power to protect themselves against the oppression with which they will be inevitably visited.

7. Because it makes no provision for and does not make it the duty of the Legislature to appropriate the money raised by law for common schools, equally and separately, for the benefit of the white and black children in the State.

8. Because, after declaring in the first section of the third article "the powers of the government of the State of Alabama shall be divided into three distinct departments, namely, legislative, executive, and judicial," it provides, in the fifth section of the eleventh article, that "the board of education shall exercise full legislative powers in reference to the educational institutions of the State, and its acts, when approved by the Governor, or when reënacted by two thirds of the board, in case of his disapproval, shall have the force and effect of law, unless repealed by the General Assembly.

9. Because it divides the militia into two classes, namely, "volunteer militia" and "reserve militia;" and it is made the duty of the Governor by an ordinance, which was not published with the constitution, for the information of the people, as two others were which were less objectionable, to organize immediately one hundred and thirty-seven companies of volunteer militia, which are to be armed and paid, when in service, at the same rate as United States officers and soldiers, and out of the State treasury, the mounted men to have fifty cents per day for their horses.

10. Because by the twentieth section of said ordinance, which goes into operation with the constitution, "all proceeds of the sale of contraband and captured property seized or captured by the militia" shall constitute a part of the fund out of which they are to be paid, thus inciting the "volunteers" to harass the people in time of peace by unlawful seizures and so provide the means of paying themselves if the property seized is honestly turned over.

11. Because this constitution provides for a government which will cost annually from one million five hundred thousand to two million dollars, a sum which the tax-payers of the State are wholly unable to meet in their present impoverished condition.

And whereas said registered voters believing they had the right to defeat a constitution so objectionable as this, in either of the ways provided in the aforesaid acts, and relying on their own and the good faith of Congress in this behalf, they made public their resolution, some weeks in advance of said election, not to vote at said election, but to stay away from the polls. And, whereas, this large majority of registered voters, for the reasons aforesaid, were opposed to the adoption of said constitution, and did not vote in said election and did not go to the polls, thereby avoiding all occasion of violence or disorder. And whereas it is now charged by those who favor the adoption of said constitution, "that there is no reason to doubt that a majority of the legally registered voters residing in the State actually voted at said election and believed they voted for the constitution; and that at least ten thousand legally registered voters attempted to vote but were unable to do so," for reasons set forth in a paper published in the Daily Globe of March 12, 1868, and sworn to by Albert Griffin, John C. Keffer, and others, before a notary public of the city of Washington on the 29th of February, 1868. And whereas those registered voters who opposed the adoption of said constitution have no desire to avoid a thorough and searching investigation of all matters connected with said election. And whereas there is good reason to believe:

1. That the freedmen in large numbers, in all or most of the counties in the State, refused to vote for the adoption of said constitution when they saw the great body of the old white citizens, with whom they were well acquainted, among whom they had always lived and with whom they expect to continue to live, and who were permanently interested in the State, were opposed to it.

2. That their purpose not to vote was strengthened by the fact that those white men who were most active in favor of its adoption were new-comers, of whom they knew little or nothing, and who had no visible interest in the State or the freedmen except to get office.

3. That in many instances these new-comers and those who aided them used threats of violence to freedmen if they did not come and vote; in others they promised them lands and mules, and in this way induced or scared many into going to the polls and voting who would not otherwise have gone.

4. That many freedmen voted who were not of legal age, and also voted for others who were either unwilling to come to the polls and vote or were unable to.

5. That many of the freedmen voted more than one ticket, and, in some instances, when they were detected they excused themselves because of ignorance, and gave the names of white men who were candidates for office as the persons who had given them the roll of paper and told them to put it in the box—that it was "all right."

6. That many freedmen voted in counties where they did not live as well as in the counties where they did live. This was the case in Mobile, Dallas, Montgomery, Barbour, Hale, Macon, Lee, Greene, and Marengo counties, and to some extent, but not as great, in several others.

7. By these means many illegal votes were obtained in favor of adopting said Constitution, and through the active agency in a great degree of those whose only interest in the question consists in the fact that if it is adopted, they expect to get an office of some sort which will enable them to live on the substance of people to whom they are strangers, "alike unknowing and unknown!" Therefore,

Be it resolved, That the bill and pending amendments be recommitted to the Reconstruction Committee, and that they be directed to send for persons and papers, or, if they deem it advisable, to visit the State of Alabama for the purpose of ascertaining the truth of these and other allegations made before the House of Representatives.

JAMES BROOKS.
JAMES B. BECK.

Mr. BOYER. I yield the remainder of my time to the gentleman from New York, [Mr. WOOD.]

Mr. WOOD. Mr. Speaker, I have not time, if I had the capacity, to add anything to the general objections to this measure which have been made by the gentleman from Pennsylvania [Mr. BOYER] in his able speech, and in the minority report read by the gentleman from Kentucky, [Mr. BECK,] who has just taken his seat. I have risen for the purpose of calling the attention of the House more especially to the stipulations provided for in the second section, for the purpose of reminding the House that in the original bill admitting the State of Alabama, passed in 1819, Congress incorporated certain conditions which were to bind that State forever after. But by a decision of the Supreme Court of the United States, it was held that Congress had no power to insert such fundamental stipulations. And it is remarkable that that decision should have been made under the original act of Congress passed in 1819, admitting Alabama as one of the States of the Union. The decision is given in 3 Howard, in which it is settled "that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which Alabama or any of the new States were formed."

This case was brought up by writ of error from the supreme court of Alabama. It is reported at length, and, in my judgment, settles the principle that Congress cannot incorporate stipulations like those in the second section of this bill, which provides certain conditions forever hereafter to bind the State.

The stipulation which was contained in the original act, passed on the 2d of March, 1819, for the admission of Alabama, was "that all navigable waters within said State should forever remain public highways," &c. This stipulation, the court decided, conveyed no more power over the navigable waters of Alabama to the Government of the United States than it possesses over the navigable waters of other States under the provisions of the Constitution.

But as gentlemen will examine the decisions for themselves, I will make no further quotations. In my judgment it settles and declares the principle, and this is sufficient for our purpose. The bill under consideration, for the immediate admission of Alabama, is subject to other grave objections. It proposes to indorse the action of a mere moiety of the population, who voted on the proposition to make a constitution for the State to bind the present and future generations. Of those who voted for the constitution but few were qualified; and the constitution itself, whether adopted by a competent vote or not, is utterly objectionable in many of its features. While I am earnestly desirous of giving the people of the southern States their own governments at the earliest possible moment, I am not in favor of handing over that people to the tender mercies of their former servants, made more degraded by the new principles and habits which their present associates have taught them. If this constitution shall be adopted by Congress and the class of men to which the government of that State shall be assigned in consequence are to take the reins, God help Alabama, and God help those who are to live under the *régime* thus to be created! Heretofore, in all countries and ages, government has been in the hands of the more intelligent and virtuous; but under the system thus created this is to be reversed. The ignorant and debased are to govern, and the cultivated, educated, and refined are to be governed. I need not depict the results of such a state of things. It requires no prophecy to see that insecurity of property and general demoralization, social and political, will follow. Those safeguards which society require for the protection of life, liberty, and property will find no advocates in such a community when thus controlled. Nor will time afford relief; because this is a proposition to make a fundamental form of government—a permanent provision to bind the present and the future. A certain class is to be clothed with all power to the exclusion of all other classes, however meritorious or well qualified. Nor is this the only objection to the congressional system of reconstruction. There is another, which the industrial and tax-paying interests of all other parts of the Union should think over and consider deeply. It is that, under this state of things, the productive resources of the agricultural regions of the South must become paralyzed, and, in time, almost entirely destroyed. Such has been the result in every country where the laboring element of the population have been encouraged to become proprietors of the soil instead of the tillers of it. Jamaica is a signal example; we need no other. It is a case in point, which, if gentlemen will study closely, they will be struck with the painful analogy. In discussing another bill (the Freedmen's Bureau) I shall have occasion to draw the parallel between the two countries, when I shall attempt to show that the southern States, like the fair Island of Jamaica, will become, like her, a desolate and a waste, unproductive, uncivilized, and almost inhuman in the degradation of its population.

Mr. STEVENS, of Pennsylvania, obtained the floor.

Mr. FARNSWORTH. Will the gentleman allow me to report back the amendments of the Senate to the post route bill and let it be passed?

Mr. STEVENS, of Pennsylvania. I will do so, retaining the floor on this bill.

Mr. FARNSWORTH. I report back the amendments of the Senate to the post route bill with a recommendation that they be concurred in.

Mr. ROSS. I call for the regular order.

The SPEAKER. This bill contains no legislation.

Mr. ROSS. If might repeal the Supreme Court.

The SPEAKER. The gentleman from Illinois [Mr. ROSS] objects, and the bill is not before the House.

Mr. STEVENS, of Pennsylvania. After a full examination of the final returns from Alabama, which we had not got when this bill was drawn, I am satisfied, for one, that to force a vote on this bill and admit the State against our own law, where there is a difference of twenty odd thousand would, not be doing such justice in legislation as will be expected by the people. With that view of the case, I shall vote for the motion to recommit, and on that motion I demand the previous question.

Mr. POLAND. I desire to present a substitute for the bill as an amendment, so that it may be printed.

Mr. STEVENS, of Pennsylvania. I do not object.

The substitute was ordered to be printed.

Mr. PAINE. I ask consent to print some remarks on this bill, not having had an opportunity as a member of the committee to deliver them.

Leave to print was granted to Mr. PAINE; also to Mr. KERR, Mr. ELDRIDGE, and Mr. MUNGEN.

Mr. GARFIELD. I desire to ask if the bill will be left open to amendment when it is reported back?

Mr. STEVENS, of Pennsylvania. Oh, undoubtedly it will be open for discussion and amendment when it is reported back.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to recommit the bill to the Committee on Reconstruction was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT ON METERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting the report of the commission to examine meters; which was referred to the Committee of Ways and Means.

Mr. MAYNARD. I move that the report be printed.

The motion was agreed to.

LIGHT-HOUSE AT BAYLEY'S HARBOR.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a communication from General Reynolds, light-house engineer eleventh district, relative to the light-house at Bayley's harbor, &c.; which was referred to the Committee on Commerce.

THE PATENT OFFICE.

Mr. LAWRENCE, of Ohio. I ask leave to offer a resolution in relation to the Patent Office, to which I am sure there will be no objection.

The Clerk read the resolution, as follows:

Resolved, That the Committee on Patents be instructed to inquire into the expediency of providing by law that the funds under the control of the Patent Office, after paying expenses, shall, from time to time, be paid into the Treasury, including surplus moneys now on hand; also, that said committee inquire into the expediency of reducing the fees required to be paid by applicants for patents; and that said committee report by bill or otherwise,

There was no objection, and the resolution was received.

Mr. LAWRENCE, of Ohio. In support of the resolution which I have offered I submit the following letter, which I have received from the acting Commissioner of Patents:

UNITED STATES PATENT OFFICE,
February 8, 1868.

SIR: In reply to yours of the 7th instant I have to say that the statements below shows the balances on hand of the patent fund on the 1st of July, 1863-64 65-66 and 67, and also the amount on hand on the 1st of January, 1868.

The money constituting the patent fund is kept on deposit in the Treasury, and drawn therefrom on regular requisitions approved and signed by the Secretary of the Interior, as the necessities of the office quire a strict account, with vouchers, being furnished quarterly to the accounting officers of the Treasury.

The law makes no provision for investing the fund so as to draw interest.

Balance on hand July 1, 1863	$38,506 69
Balance on hand July 1, 1864	58,149 76
Balance on hand July 1, 1865	82,789 34
Balance on hand July 1, 1866	218,532 46
Balance on hand July 1, 1867	285,790 16
Balance on hand January 1, 1868	271,444 48

Very respectfully, yours, &c.,

A. M. STOUT,
Acting Commissioner.

HON. W. LAWRENCE, *House of Representatives.*

In addition to this, I call attention to the following facts: the Patent Office is supported by fees; the statement which I have given shows that there is a constant fund on hand, which ought to be, as it is called, "covered into the Treasury," that is, paid in under a "covering warrant:"

Table exhibiting the Business of the Office for twenty-nine years ending December 31, 1865.

Years.	Applications filed.	Caveats filed.	Patents issued.	Cash received.	Cash expended.
1837..	-	-	435	$29,289 08	$33,506 98
1838..	-	-	520	42,123 54	37,402 10
1839..	-	-	425	37,260 00	34,543 51
1840..	765	228	473	38,056 51	39,020 67
1841..	847	312	495	40,413 01	52,666 87
1842..	761	391	517	36,505 68	31,241 48
1843..	819	315	531	35,315 81	30,766 96
1844..	1,045	380	502	42,509 26	36,244 73
1845..	1,246	452	502	51,076 14	39,395 65
1846..	1,272	448	619	50,264 16	46,158 71
1847..	1,531	553	572	63,111 19	41,878 35
1848..	1,628	607	660	67,576 69	58,905 84
1849..	1,955	595	1,070	80,752 78	77,716 44
1850..	2,193	602	995	86,927 05	80,100 95
1851..	2,258	760	869	95,738 61	86,916 93
1852..	2,639	996	1,020	112,056 34	95,916 91
1853..	2,673	901	953	121,527 45	132,869 83
1854..	3,324	868	1,902	163,789 84	167,146 32
1855..	4,435	906	2,024	216,459 35	179,540 33
1856..	4,960	1,024	2,502	192,588 02	199,931 02
1857..	4,771	1,010	2,910	196,132 01	211,582 09
1858..	5,364	943	3,710	203,716 16	193,193 74
1859..	6,225	1,097	4,538	245,942 15	210,278 41
1860..	7,653	1,084	4,819	256,352 59	252,820 80
1861..	4,643	700	3,340	137,354 44	221,491 91
1862..	5,038	824	3,521	215,754 99	182,810 39
1863..	6,014	787	4,170	195,593 29	189,414 14
1864..	6,972	1,063	5,020	240,919 98	229,868 00
1865..	10,664	1,937	6,616	348,791 84	274,199 34

It is here seen that the number of applications for patents received in 1865 exceeded, by nearly forty per cent., the number filed in any previous year, and the number of caveats filed exceeded those of any previous year by more than seventy-five per cent. The number of patents issued exceeded those issued in 1864, the highest previous year, by more than thirty per cent.

The receipts into the patent fund exceed those of any former year by more than thirty-six per cent., while the expenditures were only increased a trifle over eight per cent., and a considerable surplus is left to the credit of the patent fund.

I think it is manifest that the inventors of the country ought not to be taxed as heavily as they are now. In other words, the fees for procuring patents should be reduced.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman that he modify the resolution by striking out the words "after paying expenses." All the money received ought to go into the Treasury, and then appropriations should be made to pay the expenses.

Mr. LAWRENCE, of Ohio. It is merely a resolution of inquiry. The committee will have the whole matter before them.

The resolution was agreed to.

JAMES B. STEADMAN.

Mr. SHANKS. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to furnish to this House in full the reasons assigned by the Commissioner of Internal Revenue in his request for the removal of James B. Steadman, collector of internal revenue for the first district of the State of Louisiana.

Mr. WOOD. I object.

CUSTOM-HOUSE, ETC., AT TOLEDO.

Mr. ASHLEY, of Ohio. I ask unanimous consent to submit the following resolution calling for executive information:

Resolved, That the Secretary of the Treasury be directed to inform this House of the condition of the custom-house and post office at Toledo, Ohio, and what appropriation is needed for such additions and repairs to said building as have been reported necessary for the safety of the public property and the safe conduct of the public business therein. Also, whether the interest of the Government would not be better subserved by selling the present building and erecting a new one.

Mr. WASHBURNE, of Illinois. I must object to that.

Mr. ASHLEY, of Ohio. It is merely a call for information.

Mr. WASHBURNE, of Illinois. I am afraid it will lead to some expenditure hereafter.

COLORADO MILITIA.

Mr. DODGE. I am instructed by the Committee on Military Affairs to move that that committee be discharged from the further consideration of the letter from the Secretary of War *ad interim*, transmitting a statement of the settlement of the accounts of the Colorado militia for 1864 and 1865, and that the same be referred to the Committee on Appropriations.

No objection was made, and the recommendation of the committee was concurred in.

STATE GOVERNMENTS REPUBLICAN IN FORM.

Mr. BROOMALL. I now call up the motion, entered by me on the 12th of July last, to reconsider the vote by which the House referred to the Committee on the Judiciary House bill No. 126, to guaranty to the several States of the Union a republican form of government.

The question was upon the motion to reconsider.

Mr. BROOMALL. I desire to inquire of the Chair whether this bill will come up to-morrow before or after the morning hour?

The SPEAKER. Should the House now adjourn, the motion to reconsider will come up to-morrow the first thing after the reading of the Journal.

Mr. BROOMALL. Could it not be set down for consideration after the morning hour?

The SPEAKER. The first business after the morning hour is the consideration of House bill No. 768, concerning the rights of American citizens in foreign States, the pending question upon the bill being the motion of the gentleman from Massachusetts, [Mr. BANKS,] to recommit it to the Committee on Foreign Affairs.

Mr. BROOMALL. Very well; then I am willing to yield to a motion to adjourn.

Mr. SPALDING. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: Resolutions of a meeting of citizens of Houston, Texas, upon the division of said State into three States and a Territory, &c.

By Mr. AMES: The petition of John C. Randall and others, of Quincy, Massachusetts, for a reduction of taxation and national expenses.

By Mr. CARY: A remonstrance by all the printers of Macon, Georgia, against the passage of the proposed law of international copyright.

By Mr. HOOPER, of Massachusetts: The petition of Professor Willard Parker and others, praying Congress to allow them the use, as heretofore, of alcohol in medical and scientific colleges free of tax.

By Mr. KELLEY: A remonstrance of the paper-makers of Manayunk, Pennsylvania, against an international copyright law.

By Mr. LAWRENCE, of Ohio: A remonstrance of the tobacconists of Urbana, Ohio, against the proposed stamp on cigars.

By Mr. MUNGEN: The following protests of soldiers against the passage of Senate bill No. 311, introduced by Senator WILSON on the 20th of January last, in relation to soldiers' bounties:

Protest of Captain E. Geisy and 35 others, Union soldiers, of Fairfield county, Ohio.

Also, of T. H. Godman and 24 others, soldiers, of Erie county, Ohio.

Also, of E. P. Reed and 15 others, of Portage county, Ohio.

Also, of M. V. Burt and 25 others, of Cuyahoga county, Ohio.

Also, of W. H. H. McArthur and 12 others, of Clark county, Ohio.

By Mr. MYERS: A memorial of 460 members of the Philadelphia Typographical Union, No. 2, against the passage of an international copyright law.

By Mr. O'NEILL: The petition of Mrs. Ellen Smith, numerously signed by prominent citizens of Pennsylvania, asking that a pension be granted her, notwithstanding the fact that she had not applied for it until after the time prescribed by law had passed.

By Mr. POLSLEY: The petition of Ferguson Malcolm, for compensation for property used and destroyed by the United States troops during the late war.

By Mr. SCOFIELD: The petition for a post route from Curlsville to Callensburg, via Sligo Furnace, in Clarion county, Pennsylvania.

By Mr. THOMAS: A memorial of David Smith and others, citizens of Sharpsburg, Maryland, protesting against the constitution of that State, and alleging that Union registers and judges of election have been persecuted for doing their duty under the laws.

By Mr. VAN TRUMP: The petition of Captain Milton C. Peters and 20 others, officers and soldiers, of Sciota county, Ohio, remonstrating against the passage of Senate bill No. 311.

Also, the petition of Lieutenant George S. Evans and 13 others, officers and soldiers, of Vaughnsville, Ohio, remonstrating against the passage of Senate bill No. 311.

Also, the petition of Captain S. S. Canfield and 13 others, officers and soldiers, of Wood county, Ohio, remonstrating against the passage of Senate bill No. 311.

Also, the petition of James J. Vorhees, and 30 others, officers and soldiers, of Gilead, Wood county, Ohio, remonstrating against the passage of Senate bill No. 311.

Also, the petition of Captain John Hamsu, and 37 others, officers and soldiers, of Toledo, Ohio, remonstrating against the passage of Senate bill No. 311.

IN SENATE.

WEDNESDAY, *March* 18, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of Hon. O. H. Browning, Attorney General *ad interim*, in relation to appropriations for that office for the year ending June 30, 1869; which was referred to the Committee on Appropriations.

He also laid before the Senate a report of Hon. E. M. Stanton, Secretary of War, communicating, in compliance with a resolution of the Senate of December 20, 1867, information in relation to the military reservation at Fort Ridgely; which was referred to the Committee on Public Lands, and ordered to be printed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased; and it was signed by the President *pro tempore*.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented a petition of surviving officers, enlisted men, militia, and volunteers of the military and naval service of the United States in the war of 1812, praying an amendment to House bill No. 603, so as to give them thirteen dollars per month pension; which was ordered to lie on the table.

Mr. SUMNER presented a petition of citizens of North Carolina, praying a removal of the disabilities imposed on C. W. Gundy, jr., William Vaughn, Frank Vaughn, and Frank M. Godfrey, of North Carolina, by acts of Con-

gress; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of the United States, praying a repeal of the tax on manufactures; which was referred to the Committee on Finance.

He also presented a petition of citizens of the United States, praying a change in the mode of selecting officers for the collection or disbursement of moneys belonging to the United States; which was referred to the Committee on Finance.

He also presented a petition of citizens of Culpeper county, Virginia, praying the removal of the civil disabilities imposed on Henry Shackelford, of that State, by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. WILSON presented a petition of John O'Dwyer, late captain in the Veteran Reserve corps, praying to be allowed the three months' pay proper granted to Army officers by the act of March 3, 1865; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That the petition of Robert Murray, jr., of New York, praying that an American register be granted to the German-built brig Haytien Margaret, on the files of the Senate, be referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. FERRY, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones, reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee, reported it with amendments.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the petition of Jeremiah Carhart, asked to be discharged from its further consideration, and submitted a report; which was ordered to be printed.

Mr. HOWE, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 217) for the relief of Beals & Dixon, reported it without amendment.

Mr. MORGAN, from the Committee on Finance, to whom was referred a petition of merchants and importers of New York, asking that duties erroneously exacted by reason of non-allowance for draft on importations of merchandise, be refunded, reported a bill (S. No. 448) to refund duties erroneously exacted in certain cases; which was read and passed to a second reading.

BILLS INTRODUCED.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 449) to revive and continue in force the act of the 29th of July, 1850, and the act amendatory thereof of the 2d of April, 1852; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 125) authorizing the issue of a new register to the American-built schooner Milton Badger; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

OCCUPANCY OF SAN JUAN ISLAND.

Mr. SUMNER submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Congressional Printer be directed to print for the use of the Department of State one thousand five hundred copies of the message and accompanying documents relating to the joint occupation of San Juan Island in Puget's sound.

PUBLIC EXPENDITURES.

Mr. HENDRICKS. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be requested to inform the Senate what have been the monthly expenditures and the average expenditures per month of the War, Navy, and Interior Departments since the 1st day of July, 1865; and also the monthly expenditures of each bureau of said Departments during the present fiscal year.

Mr. EDMUNDS. Let that lie over until to-morrow.

The PRESIDENT *pro tempore*. Objection being made, the resolution will go over under the rules.

Mr. HENDRICKS. I will say to the Senator that I have made inquiry at the Department, and found that this information can be given without inconvenience.

Mr. EDMUNDS. Then I withdraw the objection.

The resolution was considered by unanimous consent, and agreed to.

SOLDIERS' BOUNTIES.

Mr. WILSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the Senate amendment, the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866, having met, after full and free conference recommend to their respective Houses as follows:

That the House agree to the Senate amendment with the following amendments, namely:

1. In section one, line three, after the word "authorized," insert the words "and directed."

2. In section one, line four, after the word "for," insert the words "not more than."

3. In section two, line two, after the word "authorized," insert the words "and directed."

4. Add at the end of section four the following words, namely: "who shall be responsible respectively for the official acts of said clerks."

And that the Senate agree to the said amendments.

HENRY WILSON,
J. M. HOWARD,
O. S. FERRY,
Managers on the part of the Senate.
H. E. PAINE,
JAMES A. GARFIELD,
J. LAWRENCE GETZ,
Managers on the part of the House.

The report was concurred in.

RECORDING OF CONVEYANCES OF SHIPS.

Mr. EDMUNDS. I move that the Senate now proceed to the consideration of the bill (S. No. 366) regulating the presentation of bills to the President and the return of the same. It has already been up two or three times.

Mr. DAVIS. The Senator from Pennsylvania, who is not in his seat, [Mr. BUCKALEW,] feels an interest in that bill, and I ask the Senator from Vermont to postpone it until the Senator from Pennsylvania comes in.

Mr. EDMUNDS. The Senator from Delaware [Mr. BAYARD] is desirous of addressing the Senate on the subject, and undoubtedly by the time he concludes the Senator from Pennsylvania will have come in.

Mr. DAVIS. Very well.

Mr. EDMUNDS. It is desirable to have the bill passed soon if it is to be passed at all.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

The motion was agreed to.

Mr. HENDRICKS. I ask the Senator from Vermont to allow me to call up a bill that the Judiciary Committee instructed me to report some time ago, and which ought to pass. I think it will not require two minutes to do so. It is in regard to the recording of claims against vessels. There is confusion growing up, and the bill ought to be disposed of. It is Senate bill No. 373.

Mr. EDMUNDS. I did not understand the description the Senator gave of the bill.

Mr. HENDRICKS. It is the bill that regulates the recording of conveyances of vessels.

Mr. EDMUNDS. Certainly; I have no objection. This may be laid aside informally.

The PRESIDENT *pro tempore*. If there be no objection, the bill regularly before the Senate will be laid aside informally and the bill mentioned by the Senator from Indiana taken up.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 373) to amend an act entitled "An act to provide for recording the conveyances of vessels, and for other purposes," approved July 29, 1850. It provides that the record required by the act entitled "An act to provide for recording the conveyances of vessels, and for other purposes," approved July 29, 1850, shall be made in the office of the collector of the customs where the vessel has its permanent registry.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRESENTATION OF BILLS TO PRESIDENT.

The PRESIDENT *pro tempore*. The bill taken up on motion of the Senator from Vermont is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 366) regulating the presentation of bills to the President of the United States and the return of the same.

Mr. BAYARD. Mr. President, the bill now before the Senate comes, as I understand, from the Committee on the Judiciary. Were it not that my own convictions are very clear on the subject I should hesitate to make any opposition to it. The better way to treat the question will be by referring to the clause in the Constitution to which this bill has undertaken to give an interpretation. The objections, I may state, to it generally are two: first, that the construction of the Constitution involved in the bill is erroneous; second, that whether erroneous or right it is the assumption of judicial power for the Congress by legislative act to undertake to define the Constitution of the United States.

I will first read the clause of the Constitution regulating this matter, clause two, section seven, article one, and will then endeavor to state my objections as succinctly as I possibly can:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."

It is on the construction of the last clause that the question turns. The bill before the Senate provides:

That the ten days mentioned in section seven of article one of the Constitution, within which the President is required to return to the House in which it originated any bill not approved by him, shall be held and construed to be ten calendar days (Sundays excepted) next after the day of the presentation of any such bill to him.

That I believe has always been considered the true construction of the Constitution, and has always been acted on. There is no objection to that, but the bill proceeds to provide:

And the adjournment of Congress which shall prevent the return of any such bill by the President shall be held and construed to be the final adjournment of a session and not an adjournment of either or both Houses of Congress acting by themselves or with the consent of each other, as provided for in the Constitution, to a particular day.

It is that provision which I consider proceeds on a manifestly erroneous construction of the Constitution. The object of the clause of the Constitution is to give a partial negative to the executive power upon the legislation of Congress, and with a view to give to the Executive a reasonable time within which to present his objections to any measure passed by a majority of both Houses, the period of ten days is designated in the Constitution excepting a *dies non*, Sunday. The period of ten days, beside Sundays, is al-

lowed within which the President is to return with his objections a bill to the House in which it originated for the reconsideration of the proposed measure by both Houses. The gist of the limitation, therefore, is that within a certain limited time the President must make his objections. The particular day on which it is to be done is not material; but the necessary effect of the Constitution is that the length of time allowed, the ten days which are limited to the President within which objections can be made, cannot be abridged by legislation on any rational construction of the Constitution.

But further, in connection with this limitation of time, the provision is that the bill shall become a law if not returned within ten days, unless Congress by their adjournment prevent its return. The language is:

"Unless Congress by their adjournment prevent its return, in which case it shall not be a law."

The construction given by the committee is, in my judgment, erroneous in two respects. In the first place, the committee confine the term "adjournment," as used in the Constitution, to a particular meaning not justified by its received signification at the time of the passage of the Constitution and now, or by its etymology. An adjournment may be defined to be, I will not say a suspension of business, but a postponement of session for a period of one day, from one day to another, or for any number of days. That is an adjournment. It may be from day to day; it may be without day; it may be for a period of ten days or three months. Each is equally included under the word "adjournment." The committee, however, propose to confine the meaning of the word "adjournment," as used in this clause of the Constitution to adjournment without day. The Constitution uses no such language. It is necessary to add to the general term "adjournment" there used the words "without day," or "*sine die*," in order to justify the construction for which the committee contend.

But, Mr. President, there is an additional objection which to my mind is all powerful. The committee propose in the same section, not intending to deprive the Executive of the ten days to which he is entitled, that if Congress is not in session during the ten days or at the end of the ten days the President may send the bill to the office of the Secretary of the Senate or the Clerk of the House of Representatives, according to the House in which the bill may have originated. There is no such provision in the Constitution; and the settled usage of this Government, without a single exception from its foundation, is that no communication is made by the Executive to either House except to the House in session, and that usage ought to have a controlling influence to exclude the idea which is contained in the provision of the bill that I am now referring to.

But further, the very object of the clause looks to the fact that the bill should be returned during the session of the House in which it originated. It looks, if I may so speak, to immediate action on the part of Congress—at all events it looks to giving to Congress the right of immediate action as soon as the objections of the President are received. The House are to proceed to consider the objections; they are to spread them at large on the Journal; there is to be a reconsideration of the measure formerly under debate. The whole clause looks to speedy action, at all events, upon objections made by the President, and the language employed providing for a return to the House does not imply filing a document with the Clerk or the Secretary when the House is not in session, whether it be the Senate or the House of Representatives. It is forcing language to adopt any such construction.

But again: the language of the Constitution is that the bill is to be a law if not returned within ten days, "unless the Congress by their adjournment shall prevent its return, in which case it shall not be a law." If it be true, as provided in this bill, that the President may make his return to the Secretary of the Senate or the Clerk of the House of Representatives, then there is no possible case in which, whether the Senate or House of Representatives has adjourned for the session or for any other time, Congress can prevent a bill becoming a law by their adjournment. They may adjourn for the session; but if the President has authority to return the bill to the office of the Secretary of the Senate or Clerk of the House of Representatives he may still return it within the ten days. In other words, the effect of such a construction authorizing the filing of the objections with the Clerk, for it is no more—it is no return to the House, it is the simple filing of a message or the objections with the Clerk—is that the words, "unless the Congress by their adjournment shall prevent its return" are rendered nugatory and entirely useless. How could they prevent its return by their adjournment, if that power exists, or if it was intended by the Constitution that the President might make the return to the Clerk of the House of Representatives or the Secretary of the Senate? As long as the Congress continues those officers are there; their officers are there and the return could be made to them. Congress might have adjourned for the session, and yet the President could return the bill to the office of Secretary or Clerk unless the words of the Constitution to which I have referred have meaning; and if they have meaning, then the ordinary sense of the word "adjournment" would require that we should construe the clause to mean that Congress must be in session—not during the whole time; far from it—but the gist of the matter is, that Congress shall not abridge the time allowed to the Executive to make the return, and Congress, or at least the House in which the bill originated, must be in session on the tenth day, the last day; no more. They may adjourn in the interim; it is immaterial; that does not, in the meaning of the Constitution, and cannot prevent the return of the bill with the objections of the President. The Executive is not bound to return it on any one day; but he is, by the language of the Constitution, allowed ten days' time. Therefore, just as in the case of a writ where you have the whole time, he has the whole time to do it in. If you are in session on the last day of the time, it is immaterial that you may have adjourned in the interim, because that does not prevent the return of the bill. He is to return it within the time, not on any particular day. You cannot abridge the time by a construction of the Constitution. You are not bound to be in session in the interim. If on the day on which the limitation expires the House in which the bill originated is in session, beyond all question a return then would be within the terms of the Constitution and would give to the President the full time to which he is entitled. There is no obligation on him and no reason why he should return the bill on any particular day within the ten days; but he is entitled to the whole time; and if Congress, by its adjournment, does not deprive him of any portion of that time, of course in that case Congress by its adjournment has not prevented the return of the bill with his objections.

I hold, therefore, that the true construction of the Constitution is plain. The intent of the Constitution is immediate procedure. I do not say that the House may not, when the message comes before them, postpone its consideration to a subsequent day but they have the right to act at once. The intent of the Constitution is that they may, if they see fit, reconsider that measure with the President's objections after the period of ten days has expired. But under the construction this bill gives a bill might be returned when Congress had adjourned for three weeks to the office of the Secretary of the Senate, or even after Congress had adjourned for the session. It is true the bill says the word "adjournment" is to be construed to mean adjournment for the session. What is there to justify this attempt to add words to the language of the Constitution so as to give to the term "adjournment" a meaning other than what its etymology and its ordinarily received signification implies? I am unable to understand the reasoning of the committee on that point.

Mr. President, I did not come here intending to speak to-day, and my purpose merely is to get the objections before the Senate. There is involved, so far as I can see, no question which would appeal to any sentiment connected with party in reference to this measure. It is very clear that the bill is prospective in its language, and most certainly it cannot by its terms give any efficacy to an act unless that act has efficacy without reference to the bill. I do not suppose, therefore, there is any intention of that kind. But on this subject of construction there is another thing to be adverted to. In the interpretation of all statutes—and the Constitution is but an organic statute—the true course is to take the words in their natural import, as understood at the time by the makers of the instrument. If there is no obscurity about them of course there is no room for collateral circumstances to enter into the question. Where there is obscurity, of course, looking to the subject-matter, you can necessarily go to the debates of the day, if they throw any light on the question, or to any other collateral matter, for the purpose of arriving at the true construction. I propose to show now, from the Constitution itself, in the use of its own language, that this word "adjournment" cannot mean and does not mean "adjournment for the session," because the Constitution in other parts (differing from the mode in which we now, in what way I know not, have fallen into the habit of speaking of the suspension of business during the day as a "recess") used the word "recess," when its framers meant to speak of the body having ended its session. First, in article one, section three, referring to the Senate of the United States, it is provided:

"If vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

This shows that when the Constitution means to speak of the adjournment *sine die* of a legislative body it speaks of it as a "recess" of that body, that is, the period when the session is ended. That provision was in regard to the Legislature of a State; but you will see that the same term was employed in reference to the Congress of the United States in article two, section two, in the third clause, where it is provided:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

There is the same language exactly as in the previous clause, and the same meaning, that the session of the Senate having ended there is a recess of the body. In both cases, as applied to a State Legislature and to the Senate of the United States, the language is express, and it is plain that the framers of the Constitution, when they meant to speak of the termination of the session, spoke of the body as being in recess.

Having thus shown that when they speak of an adjournment *sine die* or an adjournment for the session they express the idea by the use of the word "recess," I submit that, according to any rule of interpretation of written instruments, it is not allowable to confine the word "adjournment," as found in the particular clause now under consideration, which, in its etymological import, means an adjournment to any other day, or from one day to another, or for ten days, or for the session, solely to an adjournment without day. You are then interpolating and adding additional words to the word "adjournment," to give it a specific meaning contrary to the meaning which the Constitution used in reference to the same subject in other clauses of the instrument. And further, you are obliged, in order to get at this

construction, to authorize, not the return of the bill to the House in which it originated, but the sending of a message to be filed with the Secretary or Clerk of the House, although it is intended for the consideration of the House, and for its immediate action if it thinks proper to do so, for the purpose of the reconsideration of the measure; and although the settled usage of the Government from its foundation is such that there is no instance to be found in which a President of the United States has made a communication to either House through the medium through which it is now proposed, to say it can be done under the Constitution.

I submit, therefore, Mr. President, to the judgment of the Senate that the construction given by the committee to this clause of the Constitution is erroneous in fact, and that there is really no practical difficulty, if you assume the construction that I contend for, which is, that if the bill originated in the Senate, while the Senate may adjourn for its three days it must be in session when the time expires. It is not requisite that it should be in session during the whole intermediate time, because the want of session during any part of the intermediate time does not abridge the right given to the Executive. He has the whole time within which to act, and because you had adjourned for a few days in the interval it certainly would not be held that Congress by its adjournment had prevented the return of the bill when the House in which it originated was in session at the time when it was returned.

I am aware, sir, that in the State of New Hampshire this question came up before the judges, and they arrived at a different conclusion; although it is true that the language of their State constitution is not precisely the same as that used in the Federal Constitution; nor am I aware that the argument which I have presented, arising from the use of the word "recess" in our Constitution, was before them, or could have had any application there. I have read the opinion of the judges in that case with care, deliberately, and I confess that I am unable to see the force of the reasoning which they employ. There is but one argument used by them which I shall notice. I may say, before referring to it, that one great objection to the weight of the decision would naturally be with every man that it was an unargued case. It is very clear that, no matter what may be the intellectual power of any body, judicial or legislative, the discussion of two sides of a question will naturally enlighten the mind, especially on judicial questions, and that in that way you will more probably arrive at a correct conclusion than by submitting to judges a general question as to the construction of a law without any argument taking place before them. On this question, as far as I can see from the report, there was no argument. Under a provision which exists in the constitution of New Hampshire the question was referred by one or by both branches of the Legislature to the judiciary and the opinion of the court delivered. The case is not precisely the same as that presented under the Constitution of the United States, for the reasons I have maintained, but it is not far from it in substance. I read from the forty-fifth volume of New Hampshire Reports, page 610:

"I. Is Monday, August 22, when neither House was in session, to be counted as one of the five days specified? Upon this point there can be no doubt. The adjournment referred to in this provision of the Constitution is not, we think, the ordinary recess or adjournment from time to time during the continuance of the session, but the final adjournment at the close of the session."

That is simply the expression of an opinion; no reason whatever is given for it. It certainly is not according to the etymology of the word. The word "adjournment" would cover any species of adjournment to another day. They use the word "recess" here evidently in the mode which we have been in the habit latterly of using it, but a mode directly contrary to the sense in which it is used in the Constitution of the United States by its framers. The court assume the fact, without assigning a reason for it, that an adjournment from time to time is not the "adjournment" meant by their constitution. Why so? The word "adjournment" certainly includes an adjournment over one day or two days, as much as an adjournment to the next session. The word "adjournment" covers either; and then, as I have shown, the language of the Federal Constitution is that the adjournment must be such as to prevent the President from making his return. The court go on to say:

"If we are right in the view expressed upon the first point, namely, that it might be sufficient for the Governor to return the bill, &c., to the Speaker after the adjournment of the House for that day, if within the five days, then it follows, of course, that the House could not prevent the return of a bill by adjourning over any one of the five days, even though it should be the last one of the five, because the bill might in that case be returned, within the time limited, to the Speaker, or to the Clerk, or some other proper officer."

The court, in the course of their argument, rely very much on the usage in that State applied to another matter. The usage in New Hampshire is to send the bill to what is called the executive chamber. In that case it was sent to the executive chamber, but the Governor did not get it till the day after it was sent there. The court held, under the usage, that the bill had been delivered to him within the intent of their constitution on the day on which it was sent there. Here the usage of the Government of the United States, from its origin to the present day, is, that in no single case has a President of the United States, on the return of a bill to the Senate or House of Representatives, ever undertaken to file his message with the Clerk of the one or the Secretary of the other; but the action of the Executive has uniformly been by message sent to the House when in session. That is the settled usage; and when you look to the language of the Constitution, that the bill is to be returned to the House, it is certainly forcing language to say that a return to the House means filing a paper with the Secretary or Clerk when the House is not in session.

But, sir, there is another argument—and it is the only one entitled to weight—which I shall endeavor to answer. The court go on to say that the bill may be filed with the Speaker or the Clerk. I see no warrant for that. I cannot understand, taking the universal usage of the Government, on what foundation you can hold that such a filing would be sufficient, when the Constitution says that the bill is to be returned with the objections to the House in which it originated, necessarily implying a House in session, and not a filing with the Clerk or Speaker. But here is the argument which I think requires to be controverted and which has plausibility, certainly:

"The Constitution provided, in articles nineteen and thirty-six, against any adjournment of the House or Senate during the session for more than two days at any one time."

With us it is three days.

"It could not have been expected that any such adjournment would or could operate to defeat the return of any bill within the time there specified that the Governor might wish to veto. Although in the case before us both Houses adjourned for the same time, yet it often happens, and it may at any time happen, that one House will adjourn for a day or two while the other is in session. Now, a bill must be returned to the House in which it originated, and if it should be held that it must be returned to that House while in session, then an adjournment of that House over one day would prevent the return of the bill during that day as much as an adjournment of both Houses; and if it had been intended to provide against such an adjournment for a day or two at the longest the constitutional provision should have been that the bill should be returned in five days to the House in which it originated, unless that House shall prevent it by an adjournment."

That is the argument. I admit it has great plausibility. My answer to it is a ready one, keeping in view the other clauses of the Constitution. I believe it may be assumed as axiomatic that the whole is greater than a part; the maxim *omne magis inse continet minus* applies; and though the word used is "Congress," necessarily, taking the whole clause together, "Congress" includes "the House in which the bill originated," and if that House is not in session, not every day during the ten days, for that is not at all requisite, but on the day when the limitation of time expires, it comes within the general term "Congress," and the bill would not become a law, because the gist of it is to allow the President ten days within which to make his objections. Then he is to return the bill to the House in which it originated; and the House may proceed and has the authority to proceed at once to *reconsider* it; and I think the Constitution in its provisions looks to the fact that it would do so at once. In the earlier days of the Republic, I believe, there was always an immediate consideration. To this argument, then, my answer is that if the House in which the bill originated is not in session on the day when the limitation of time expires, within the intent and meaning of that clause of the Constitution, the President's time is abridged, and Congress by its adjournment—for the word "Congress" includes both Houses—has prevented the President from having the time the Constitution contemplates he shall have for the purpose of returning bills. It seems to me that this is the true construction of the Constitution; and then comes the second question.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday, being House bill No. 900, is by the rules regularly before the Senate.

Mr. DAVIS. I trust the Senate will permit the honorable Senator from Delaware to conclude his speech.

The PRESIDENT *pro tempore*. That can be done by unanimous consent.

Mr. SHERMAN. I should like to know how long the Senator will be likely to require.

Mr. BAYARD. Not more than fifteen minutes, probably.

The PRESIDENT *pro tempore*. If there be no objection the Senator from Delaware will be permitted to finish his remarks. The Chair hears no objection, and the Senator will proceed.

Mr. BAYARD. The second objection, Mr. President, is that this bill proposes, on its face, to define by legislative action the interpretation of the Federal Constitution. That is the scope and object of the bill, that certain words in the Constitution are to be held and construed in a particular manner; the word "adjournment" in the Constitution is to mean an adjournment to the next session; and the President is to be authorized, whether the Constitution prescribes it or not, to file a message with his objections to a bill with the Clerk in the one House and the Secretary in the other. In other words, as I read it, supposing my construction to be right or any other construction differing with that of the committee, Congress, by legislation, is in this bill assuming the power to give a construction to the Federal Constitution, to prescribe its construction by law. Is not that the exercise of judicial power? I make allusion to no other measure; but this particular one now pending seems to me to be a clear and naked assumption of judicial power. The Constitution of the United States vests judicial power in the courts, the Supreme Court, and such inferior courts as may be organized by Congress; the executive power in the President, and the legislative power, with limitations, in the Congress of the United States. I suppose it to be the essence of free government, which no one will deny, that these powers shall be kept distinct. No one can deny that a Government where the power of making laws and expounding laws and executing laws is in one and the same hands, be it an aggregate body or a single man, is a despotism. That is the very division between a despotism and a free Government. The subdivision of power into different departments, operating as a check upon each other, is the basis of all free government. In every State of this Union it is adopted. It is the practical limitation. The theory would amount to nothing, no paper constitution would be worth the parchment upon which it

was written, if the same power that can make the laws can also give the interpretation to the laws—I mean the interpretation which shall bind the Government and the other Departments. If there be any one judicial power which is clear it is that the expounding of either the statutes passed by Congress or of the Federal Constitution is vested, as a final resort, in the judiciary of the United States.

Do not suppose for a moment, Mr. President, that I mean to contend that Congress cannot in the first instance pass a law for effecting any particular object that it believes to be within its powers. I do not for a moment deny that. It may pass the statute; butit must undergo the ordeal afterward of judicial scrutiny to determine whether it is in excess of power or not, and that must be before a judicial body. It must first meet, according to the checks of the Constitution, the negative of the President. That may be overcome by a vote of two thirds. If it is so overcome, then the question, not whether it is an abuse of power, but whether it is *ultra vires*, is necessarily a judicial question; and the Constitution is a nullity unless you have that system of checks upon the exercise of authority by the legislative body.

Congress passing a law under what they suppose to be the powers confided to them by the Constitution to effect any particular object, and Congress undertaking to give an interpretation to the Constitution by legislative act, are different things. The latter is exactly the frame of this bill. The language is, that certain words "shall be held and construed" to have a certain meaning. What is that but judicial action and judicial interpretation of the Constitution? It is proposed to hold and declare that the word "adjournment" in the Constitution shall have the meaning of "adjournment *sine die*," or "adjournment for the session." Where does the authority exist in the Congress of the United States to prescribe that construction? The question must, after all, come before the courts of the country.

Sir, in the State of Massachusetts, which in her domestic affairs has always, in practice as well as in theory, rigidly adhered to this great principle of the subdivision of the three great powers of government into separate hands, I find that this question has arisen. Many other States have the same provision. They have there a provision different from our Constitution. We have no such provision, but we have the judicial power vested in the Supreme Court, and the provision of our Constitution is that when a case arises which involves the rights of individuals the courts must necessarily pass in that case upon the constitutionality of the law under which those rights are claimed or by which those rights are infringed. But in Massachusetts they have a clause in their constitution which authorizes the Legislature, or either branch, to refer to the judiciary, without the necessity of having a case arise, questions of construction for decision. If it embodied in it, which, for aught I know, it may do there, any direction that the question should be argued before the court, I should think it a most valuable and wise provision, and should regret that it did not exist in every State in the Union. It appears that what is called the constabulary law of Massachusetts was vetoed by the Governor, and on the 21st of February, last month, an order passed the Legislature referring the question to the supreme court as to whether the Governor's veto of the State constabulary law was void, the veto not having been sent within five days after the law was repealed, as required by the constitution of the State. That is orderly. That adheres to the division of powers. That shows that in her domestic constitution Massachusetts, as every State in this Union should do, adheres to the division of powers between the different departments as essential characteristics of a free Government. On what principle is it, because a provision does not exist in the Federal Constitution by which you may refer this case to the Supreme Court, that you shall undertake to prescribe by law what the Supreme Court shall decide when a case does come before it? Is that within your appropriate functions? Is it not the assumption by Congress of a power clearly not granted to them, of mere naked judicial power, the expounding of the intent and meaning of a clause of the Federal Constitution?

Mr. President, but for this second question I should not have troubled the Senate with any remarks upon this bill; because if the Constitution had chosen to provide that the President should have ten days to return a bill, and might return it to the Secretary of the Senate or Clerk of the House of Representatives if either House was not in session at the expiration of the ten days, I do not think there could have been any great difference as regards results. The only difference that could have occurred would have been that it would deprive Congress of the power of immediate action upon an executive veto, which I should consider wrong. I prefer the Constitution as it is; but I do not think it would be of so much importance if it had not been that this bill undertakes to give a construction to the Constitution which is a naked assumption of judicial power. Can it be, Mr. President, that I am not right in the estimate of the distinction between free government and despotism? Surely, it must be clear to every man that if the right to make the laws, and the right to expound the laws, and to expound the authority under which those laws are made, rest in one and the same body, whether it be an aggregate body or one single individual, of course it is no government of law, because he can give to that instrument such construction as he sees fit; and even the division between legislative and executive power would not make it a free Government if you had not also the judicial power vested in a non-political body. Those three great divisions have been adopted in every State in the Union; and there would be far less risk, it would be much more improbable in the progress of a State that such invasions should take place, than, with the much greater power in the Federal Government, that such occurrences, owing to the ambition of men, should take place here. It matters nothing as against my argument whether a power is assumed by an aggregate body or whether it is assumed by a single individual. In either case free government is at an end. When the power to expound and give construction to the laws that are made by the legislative authority is also vested in the legislative body, and they are to decide on the extent to which that power is vested in the body, whether it is claimed and exercised by a Congress or by a President, the country in which such a doctrine exists is no longer a Government of laws and a free country.

If, as I stated, I am wrong in my view of the law and the committee are right in their construction, there is no difficulty. If a case has occurred—which I understand to be so, without referring to the particulars of it—there can be no difficulty about it. If any party's rights are infringed, if this be a true construction of the Constitution and the bill has become a law, the non-promulgation of it by the Secretary of State does not make it less a law. His authority is purely ministerial. He has but a single discretion as to the number of papers in which he will publish the laws, no more. If he does not publish a law which has been really passed, beyond all question the courts can get at the facts if any individual's rights are infringed and the party chooses to bring it before the courts. There is no difficulty in ascertaining the facts, and the court would hold it to be a law if it was a law, although the Secretary of State might not have chosen to publish it, whether from inadvertence or misconception would be immaterial. No such power is confided to him. On the contrary, if he were to publish as a law that which had never been passed according to the forms and principles of the Constitution and was not in fact a law; or, if you please, if he were to publish a law which was unconstitutional, in excess of the power of the legislative body, that would not make it a law. It would do this: the publication would be *prima facie* evidence on presentation to a court of the existence of the law; that is all; but the law would be open to inquiry. It would be open to inquiry as to whether the law had passed, if there was any fraud in reference to the publication or any suppression of facts. The courts have competent power to get at the facts in either case; the question is purely judicial; and no matter whether this bill passes or not, necessarily, if the right of any individual was infringed under an act of Congress he would go before the courts for an adjudication. And as to any future case you cannot make a bill a law, if my construction of the Constitution is right, when the President has not returned it because the House in which it originated was not in session on the last day limited to him within which his objections are to be made.

I submit, Mr. President, that the legislation contemplated by this bill is unnecessary because as to past acts they must go before the courts in order to raise the question of construction, and our construction cannot control the courts; as to the future, it is the assumption of judicial power to attempt to prescribe to the courts the mode in which they shall read the Federal Constitution and the construction which they shall give to it. I hold, therefore, that the construction given by the committee is erroneous as regards the structure of the Constitution itself, that it is not what the Constitution contemplated, and further, whether I be right or not in that objection, that it is a question for the courts of the United States to decide, that it is a plain, naked assumption of judicial power for Congress to undertake to prescribe the definition or the construction of the Federal Constitution, one that in this case may involve no danger whatever—it is very small in that respect—but one which in its general principle, if carried out in action, leaves the people of this country under a legislative despotism.

The PRESIDENT *pro tempore*. House bill No. 900, being the unfinished business of yesterday, is now before the Senate.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866; and

A bill (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent.

TEST-OATH IN GEORGIA.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a communication from General Grant which was omitted at the proper time.

The Secretary read as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, *January* 14, 1868.

SIR: I have the honor to inclose herewith copy of a telegram received from Major General George G. Meade, commanding third military district.

Very respectfully your obedient servant,
U. S. GRANT, *General.*

Hon. B. F. WADE, *President of the Senate.*

Mr. SUMNER and Mr. JOHNSON. What is it?

The Secretary read the telegram, as follows:

[Copy cipher telegram received ten p. m.]

FROM ATLANTA, GEORGIA, *January* 12, 1868.

General U. S. GRANT:

Unless the pending bill in Congress directing military commanders to fill all the offices in the State under their command rescinds the test-oath and provides for selection from qualified voters, I am informed its execution in this district will be entirely impracticable. GEORGE G. MEADE,
Major General.

HEADQUARTERS ARMY UNITED STATES,
January 13, 1868.

Official: GEORGE K. LEET,
Assistant Adjutant General.

The communication was referred to the Committee on the Judiciary.

CONSULAR AND DIPLOMATIC EXPENSES.

Mr. MORRILL, of Maine. I ask leave to submit a report from the committee of conference on the disagreeing votes of the two Houses on the consular and diplomatic appropriation bill, and I ask for its present consideration.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill of the House (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the seventh and ninth amendments of the Senate and agree to the same.

That the House recede from their disagreement to the eighth amendment of the Senate and agree to the same with an amendment, as follows:

Strike out all after the proviso contained in said amendment and insert in lieu thereof the following words:

Provided, That all moneys received for fees at any vice consulates or consular agencies of the United States beyond the sum of $1,000 in any one year, and all moneys received by any consul or consul general from consular agencies or vice consulates in excess of $1,000 in the aggregate from all such agencies or vice consulates, shall be accounted for and paid into the Treasury of the United States, and no greater sum than $500 shall be allowed for the expenses of any vice consulate or consular agency in any one year.

And that the Senate agree to the same.

L. M. MORRILL,
TIMOTHY O. HOWE,
C. R. BUCKALEW,
Managers on the part of the Senate.
E. B. WASHBURNE,
GEORGE W. MORGAN,
F. C. BEAMAN,
Managers on the part of the House.

Mr. MORRILL, of Maine. The second amendment disagreed to by the House was an amendment to transfer the consul at Guayamas from schedule B, with a salary of $1,500, to schedule C, with a salary of $1,000. The House recede from their disagreement and concur with the Senate. The eighth amendment was in relation to the proviso of the House, which was intended, it was said, to prevent consuls and consular agents from receiving fees outside of the salaries established by law, and also to provide for the payment of the fees received by consuls from their consular agents into the Treasury. The Senate disagreed to that proviso chiefly upon the ground that the proviso was so involved as not to be well understood. The House recede, in this report, from the first part of their proviso, which was considered, upon examination, to be nothing more than a repetition of the law already upon that subject. That is to say, it provided that consuls and consular agents should receive no more salary than was provided for by law; of course that is the law at the present time. The House recede from that, and the Senate agree to the last clause of the proviso, which was intended to provide by the House, and does provide, in the judgment of the committee, that all moneys received by consuls from consular agents beyond $1,000 shall be paid into the Treasury of the United States.

Mr. MORRILL, of Vermont. I desire to ask the chairman of the Committee on Appropriations if he has inquired into the subject so as to know precisely the effect this will have in various places where we have important commercial agencies. There is one that occurs to my mind, and that is at Bradford, in England, where the amount of business, perhaps, is nearly equal to the establishment of a consulship; but it is merely a commercial agency. We have sent abroad a young American gentleman there very competent to do the business; and it will be utterly impossible for him to remain there and live on $500 a year, I submit to the chairman of the Committee on Appropriations.

Mr. MORRILL, of Maine. I do not understand it to affect him in that way. By the consular regulations these commercial agents are appointed on recommendations of the consuls, and they are necessarily resident within the consul's district. If, on the recommendation of a consul to a minister, it is found advisable to appoint a consular agent within the consular district as an aid to the consul, and the minister approves it, then it is sent to the State Department, and being approved there, the consular agent receives an appointment. He gets no salary, but has a portion of the fees. Two thirds of the legitimate fees which arise, under the regulations of the Department, go to this consular agent and one third to the consul. By this regulation the consul, who is responsible for the consular agent, is to receive not exceeding $1,000 from the consular agent. It does not, as I understand, affect the interests of the consular agent. It was not designed to do so, and I believe does not.

Mr. MORRILL, of Vermont. I only designed to call attention to it because it struck me as I read the proviso that it might work some injustice. I am not clear that it does not now. I think this whole subject ought to be carefully considered and a new system adopted, as I suppose there will be before the end of the session.

The report was concurred in.

TAX ON MANUFACTURES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 900) to exempt certain manufactures from internal tax, the pending question being on the amendment proposed by Mr. HENDERSON to the amendment of Mr. FESSENDEN.

The amendment of Mr. FESSENDEN was to add to the bill the following section:

And be it further enacted, That on and after the passage of this act, there shall be allowed and paid a drawback equal in amount to the import duty paid on all lumber, hemp, (manilla,) copper, and upon all iron not advanced in manufacture beyond bar, rods, and bolts, which shall be wrought up into the construction, rigging, or equipment of sailing vessels of the United States, or used in repairing vessels of foreign build, documented in conformity with the provisions of the act of 23d December, 1852, less five per cent. on the amount of such drawback, which shall be retained for the use of the United States, under such regulations as the Secretary of the Treasury may prescribe.

The amendment of Mr. HENDERSON was to insert after the words "United States," in line seven, the words "and steamboats navigating the inland waters of the United States," and after "build," in line eight, the words "steamboats or other boats herein named."

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine.

Mr. JOHNSON. I move to amend the amendment by inserting after the words "sailing vessels" the words "or ocean steamers."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland to the amendment of the Senator from Maine.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. CHANDLER. I understand the effect of the original amendment is to give a drawback on the materials used in the construction of sailing vessels, and this amendment to the amendment adds ocean steamers. Would it be in order now to offer a still further amendment that it shall apply to all sailing vessels and all steamers used for internal as well as ocean commerce?

The PRESIDENT *pro tempore*. Such an amendment is not in order now, because that would be an amendment in the third degree.

Mr. CHANDLER. I hope, then, that neither this amendment nor the original proposition will carry. I suppose four fifths of all our commerce is internal. This is placing a burden on internal commerce that it ought not to bear if the sea-going commerce is exempted from it.

Mr. FERRY. I shall vote against the amendment to the amendment, and also against the original amendment, because I believe such propositions endanger the original bill, a bill which I consider to be of immense consequence to the country; and I think we ought not to hazard it by propositions like this at this time.

Mr. FESSENDEN. I have no objection myself to putting in "ocean steamers" or "sea-going steamers;" but I will say to the Senator from Michigan that my amendment as offered covers all sailing vessels no matter whether engaged in internal or external commerce.

Mr. SHERMAN. You confine it to registered vessels. It applies only to registered vessels or vessels for foreign commerce—documented vessels.

Mr. FESSENDEN. Documented vessels are a different thing.

Mr. SHERMAN. It does not apply to internal commerce.

Mr. FESSENDEN. Yes; it covers the whole.

Mr. GRIMES. "Documented" is a general term; it includes licensed as well as enrolled vessels.

Mr. SHERMAN. I did not so understand.

Mr. MORRILL, of Maine. Certainly, it covers both.

Mr. FESSENDEN. With regard to a large portion of the vessels, the largest portion of the vessels of any size, they are vessels that engage at one period of the year in the mere coastwise trade and at other periods of the year, as they may get freights, they become registered and engage in foreign commerce, so that it is impossible to make a discrimination. The reasoning applies to the whole of them except as to a small class of vessels, and a very small class, which are in that point of view, perhaps, of very little consequence, and the limitation might be put on if it was judged expedient, applying it to vessels not less than one hundred tons in burden. I should not object to that. That would cut out, however, a species of small vessels that never go abroad which my friend from Vermont [Mr. MORRILL] would object to, otherwise the logic of the thing applies to one just as much as to another. Many of the vessels which are enrolled for the coastwise trade go abroad occasionally, becoming registered vessels. They can give up their enrollment and take a register if they desire to do so, and *vice versa*, by the navigation laws. The reasoning, therefore, applies to the one just as much as to the other except as to the small class of vessels I speak of.

I would say further to the Senator from Michigan, that my amendment, applying to sailing vessels, covers just as well vessels on the lakes and rivers as those that navigate upon the coast and make foreign voyages. It does not make any discrimination between sailing vessels, but it does not cover steamers. I think that for the encouragement of navigation, to reach the whole benefit that I desire to reach, it should cover sea-going steamers; but I am willing to take a part if I cannot get the whole, and I do not desire that any amendment shall be put on which will hazard that which I deem to be of very great importance. But there is no reason for including in my amendment steamers that navigate our own rivers, for they have no competition. They are confined exclusively to that kind of business; they are made for river navigation, and are entirely unfit for ocean navigation. The logic of the thing does not apply to them in any way; and they do not need any protection, because while our navigating interest on the ocean has been failing every year, and is now reduced to so low a point that we cannot boast at all of our power in that particular as compared with other nations, yet on the lakes it has been constantly increasing, for the reason that on the lakes there is no competition in reality. The report of Mr. Commissioner Wells shows the fact that our navigation there has been increasing, and it needs no protection. I suppose that with some gentlemen that is a sufficient reason for letting it die on the coast as long as it gets along on the lakes and rivers well enough; but that hardly applies, I think, to a just and gen-

erous and statesmanlike view of the whole question which ought to be considered in reference to this matter.

Mr. HENDERSON. I wish to ask the Senator a question. If his amendment be adopted will it not permit the drawback to be paid to a ship-builder in Maine even though he is building a ship for a foreign owner? Suppose a builder in Maine should be building a vessel for somebody abroad, in England or elsewhere, does not the amendment give him drawback?

Mr. FESSENDEN. Certainly; there is no doubt about that in the case supposed; and I do not know of any objection in the world, so far as that is concerned, to encouraging the building of ships in this country even to be sold to foreigners. Take the fact as it is now: the cost of a steamer, for instance, has been stated, and you may infer something of the cost of sailing vessels from that. Why is it that our foreign steam navigation is so small comparatively as to amount to nothing? On the Clyde they can build a steamer for $500,000 which would cost us more than double that sum to build here. The same comparison holds good to some extent as to sailing vessels. In old times we used to build a great many steamers and sailing vessels; our ship-yards were full and our men were employed for foreigners. Was it not of great advantage to this country in every point of view?

Mr. HENDERSON. Certainly.

Mr. FESSENDEN. I should like to see that time return. We cannot do it now for the reason that the expense of building steamers is so enormous, and the expense of building sailing vessels is comparatively as great; and, in addition to the general competition in that particular, we meet with the same competition that I spoke of yesterday, upon our own immediate border, in reference to our neighbors in the British provinces.

Now, sir, allow me to say a word in answer to the remark made by my honorable friend from Connecticut, [Mr. FERRY.] The great interest of the people of my State is their navigating interest. They are not the only State interested in navigation, because the same rule holds good in a greater or less degree all along the Atlantic border, throughout the eastern section of the country, as it is called. Is that to be sacrificed? My friend says he cannot vote for this amendment because the bill is an important bill, and he does not wish to load it down. Suppose we should apply the same reasoning to every bill that is brought in here, and say, "We will have nothing except the particular thing, because we may put it in peril." The great interests of Connecticut are manufacturing interests, I know; and, therefore, the Senator cannot vote for anything which endangers the bill that he considers is for the benefit of manufactures. So far as that is concerned, my answer is that when you are legislating, if you wish to legislate fairly and keep good feeling and a common intent, you must have some regard to other peculiar interests as well as those in which you are particularly concerned.

As I remarked yesterday, a large portion of my State has no direct interest in manufactures; it is naturally for free trade; but you never find Senators and Representatives from that State, or any portion of them, advocating free trade doctrines or withholding their votes ever from all that is necessary in order to sustain the manufactures of the country, or, more properly speaking, the labor of the country, in every possible way. Certainly no man has gone further than I have in that respect: but will you force me to resort to the principle of free trade because that is the direct interest of a large portion of my people and their feeling? Will you do it by refusing the same encouragement to their labor which you are so anxious, and which I, too, am anxious to secure for that which is more particularly interesting to you? That is not, my honorable friend will permit me to say, either a magnanimous or a generous view to take of legislation. I do not wish to come to; it I never wish to be pushed to the point, so long as I am in Congress, by any view that I am compelled to take by the action of others, of acting on what would look like a sectional view in any sense of the word. I believe I never have been influenced by it hitherto, and I hope that so long as I may have the misfortune to remain in public life I never may be. All I ask of Senators is, that while they are considering the peculiar interest of their own section, they may consider those which are more particularly connected with other sections than their own.

Mr. JOHNSON. Permit me to ask the honorable member whether there is not a tax upon the tonnage of American vessels.

Mr. FESSENDEN. Yes, sir.

Mr. JOHNSON. How much?

Mr. FESSENDEN. Twenty cents a ton.

Mr. CHANDLER. Mr. President, this opens up a very large subject. I suppose the two States of Maine and Michigan are perhaps more interested in ship-building than any other two States in the Union. They are both lumber States and have an abundance of the material for ship-building. But, sir, Michigan comes directly in competition with the Canadian provinces, where a ship can be built for about one half what it can be in Michigan. In Canada, directly opposite Detroit, they pay two dollars a day to ship-carpenters when four dollars is paid in Detroit; and all the materials of which a ship is composed are about in the same ratio. A large proportion of the ships in use on the lakes are not engaged in any way in foreign trade. None would receive registers except those that pass through the Welland canal, which are a very small class of ships, and are being abandoned for those of a larger class.

While Michigan is a ship-building State, and while she is a lumber State, she likewise produces largely of copper and of iron. The three ingredients of a ship are lumber, copper, and iron, and there is very little of anything else. While I would like to protect the ship-builders of Michigan, I am not disposed to sacrifice the iron miners or the copper miners, or any other miners of the country. I am disposed to give all the protection we can give to the ship-builders of Maine and of Michigan, but not by sacrificing any other interest or imperiling any other interest. If we decide that ships shall be imported free and built where they can be built cheapest, as a matter of course all the ships for use on the lakes will be built in Canada, and all the ships for service on the Atlantic coast upon the Clyde and in other foreign ports. I am as anxious as the Senator from Maine or any other Senator in this body to grant all proper protection to the ship-building interest; but certainly I am opposed both to the amendment to the amendment and to the original amendment, as being unfair, offering an unfair advantage to one class of producers over another. I hope the amendment will not prevail.

Mr. MORRILL, of Vermont. While this proposition is seriously pressed I shall vote for any amendment which shall seem to improve it. If it is to pass at all it certainly should be amended in various particulars, in my judgment. I regard it as utterly fruitless to expect that it will be carried in this House and the other, and I believe it will only result in a consumption of time which will retard the progress of the bill itself. I shall ultimately vote against the amendment, however amended; but now the question is on the proposition of the Senator from Maryland, which is to include ocean steamers. That, I think, should be amended so as to apply only to those of a certain amount of tonnage, say two thousand or more tons burden. We do not need, it seems to me, to give any protection to that class of our sea-going steamers which are engaged exclusively in the coasting business, because they have an entire monopoly of it; but such steamers as go across the ocean to Europe, such as may be engaged in the trade from California to China, will be of not less than one thousand tons burden, probably much more than that, and that class of steamships ought to receive encouragement and protection, if any class whatever are protected. Certainly we observed with regret that our trade is now monopolized by the large sea-going steamers of England, France, and Germany. I desire to see that corrected at the earliest possible moment.

Then there is another class of sailing vessels, that class formerly known as the Baltimore clippers, of a much smaller burden, that deserve protection. Then there is no use in concealing the fact that the British provinces engaged in the cod fisheries, by building their vessels at about half the cost at which they can be built in the United States, are able to drive our vessels from the fisheries. Something should be done, perhaps, for them; and on the lakes we encounter the same kind of competition. But a bill to accomplish all these objects, I submit, ought to be very carefully prepared. On a bill merely of a few lines repealing internal taxes, it seems to me, it is rather inappropriate, and I hope it will not be pressed at this time.

Mr. NYE. Mr. President, I shall vote for the amendment of the Senator from Maine if that is all that can be obtained, and I shall vote for the amendment proposed to include ocean steamers of all classes; and I should be glad, likewise, to vote if possible to include the amendment proposed by the Senator from Missouri, [Mr. HENDERSON.]

It is a fact apparent to us all that our exterior commerce is in a languishing condition, and it seems to me that the time is opportune now to make an effort to revive it by all the means in our power. It is a peculiar crisis, if I may be allowed that expression, in the commercial history of this country. By the artificial channels of commerce across the continent which we are now constructing, it is perfectly palpable to him who will observe that the great ways of commerce heretofore regarded as fixed are about to be changed; that an entire revolution in the course of the next quarter of a century, if this Government act wisely upon the opportunities presented, will work a complete change in the commercial channels of the world. I have taken occasion within the last six months to have a little map drawn which I propose to use on another occasion, in which I have had depicted all the principal commercial ports of the commercial nations of the earth and have had marked, upon the lines now existing and those that will probably exist hereafter, the distances from those commercial ports to New York and London. It must be apparent to any who will observe that New York, if the nation act wisely upon the opportunity presented, will soon become what it was designed to be in the geography of the world, the great commercial center, and hence the monetary center of the world.

Sir, it is a fact observant to any one looking at the world's history, that every time the center of trade has moved from the time the India trade was first known it has moved westward, until it has been thought that it found its final resting-place in London. He that will observe will see that London is an unnatural center of commerce and trade, about as consistent with that notion as it would be to make Albany the great commercial point in the State of New York, while New York city lay at the very mouth of the Hudson river and on its magnificent bay. To reap this reward that is now offered to us we must encourage by all possible means our commercial interest. It has had two great elements to war against during the war, to wit, it has been exposed to flame and destruction on the one hand and to the fear of being conquered on the other, and forced to adopt foreign flags, until the fact is apparent that to-day our flag is scarcely seen upon the great commercial pathways of the world.

Sir, it is for wiser men than I am to determine what is to be done; but it seems to me

that the first great step necessary to be taken to build up commerce is to cheapen the vehicles, the vessels, in which that commerce is carried. In this matter I cannot be accused of having any particular local interest to bias me, because the State in which I live has not a commercial port in it. If, by putting our ship-builders on an equality with other ship-builders, their skill and their energy will enable them to compete with the ship-builders of the world, so that we shall be enabled again to build ships as cheaply as other nations, I fear not the competition of the commercial world; and I wish to reach that result by whatever process we properly can. When that time comes this nation will go on prospering and to prosper; for within our bosom, as a nation, lies every possible commodity that is necessary to be used in the construction of vessels.

The honorable Senator from Michigan says his State produces iron and copper. I see nothing in that which should induce him to oppose this proposition. I suppose the more iron and copper that can be used the better for the producers of those articles.

Mr. CHANDLER. That is the point.

Mr. NYE. That is the very point I assume. Profits in trade do not consist so much in a small business with large profits as in a large business with lesser profits. If the iron man can sell twice as much iron as he does now he can afford it at a less rate; and so with the producer of copper. My friend from Michigan is not alone a representative of a State that produces copper. When this great internal channel of trade that is now being constructed shall cross the mountains and reach out upon the plains, in the State in which I live we shall be able to produce copper for half the price they can produce it in Michigan. I think the Senator from Pennsylvania [Mr. CAMERON] took the noble and true view of this question. I know that if you are going to have cheap commerce you must have cheap vessels, or at least vessels as cheap as those of other nations. I would go further if I had the power; for the purpose of resurrecting our commercial prosperity I would not only give drawbacks upon every particle of material used in the construction of a ship, but I would give drawbacks upon every cargo that came in an American bottom.

Sir, England is a wise commercial nation, and her history is not uninteresting or uninstructive when read. She knows that the secret of her great commercial power is in furnishing every facility to those who construct the ships in which her commerce is carried on. She has continued this policy. As the honorable Senator from Maine has said to-day, you can buy for from five hundred thousand dollars to five hundred and fifty thousand dollars on the banks of the Clyde a steamship that costs from a million to twelve hundred thousand dollars here. Subsidies will not remedy the disadvantage in which we stand as compared with her. We are tired of subsidies; the country is tired of them. The real advantage which her merchants hold is in the cost of the vessel in which they transport their commodities. They start with half the cost of the original construction, and everthing that they use to propel a vessel they have at lesser rates than we have. In that way England holds her commercial supremacy, and in that way she will hold it till, in my judgment, this nation learns to adopt her policy in supplying the vehicles of conveyance as cheaply as she does.

Mr. President, this is a subject that interests quite largely the region of country where I reside, the Pacific coast. The honorable Senator from California [Mr. CONNESS] will excuse me for speaking as one from that "coast." We are now there just in the infancy of a great commercial future. Upon that slope are to be built up great cities; they will be built up in our country by opening wide the commercial gates that are at hand. There we are just commencing, or soon will commence, to build ships; and if they are not to be built there, every interest would dictate that we should have them built as cheaply as they can be on the Atlantic coast, for the purpose of aiding, if I may use the expression, the local commerce of the western coast.

Senators should not be blind to the importance of that western commerce. I see, Mr. President, I think clearly, that the time will soon arrive when the commerce of the Atlantic ocean will be to that of the Pacific what the commerce of the Mediterranean is to the commerce of the world to-day. We have just opened there now commercial relations with six hundred million people. Heretofore the whole commercial relations of this country were mainly with a population of one hundred and sixty millions in the European world. We are now opening commerce with the nations of Asia, and they are no inferior race, either. It is quite common to talk in terms not very commendatory of China and Chinamen and of Japan and the Japanese. But, sir, they produce what is produced nowhere else. They produce the fruits of the sun, the trade in which constitutes a large portion of the commercial importance of Great Britain, and out of which that empire has grown commercially rich. There, sir, we come in contact with arts older than our civilization on this continent, and we shall there find great articles of commerce for this country.

It is right at this point that the Senator from Maine moves this amendment to give life and vigor to what is now perishing and dying. I join with him in that effort. It seems to me an opportune moment, that if we can do but little that little shall be done; and I may speak for those who are now engaged in the construction of those mighty ships for the China trade, that they shall share in the benefit of being the originators and great projectors of this important commercial line. Their ships are ships of four thousand tons, propelled by an enginery as resistless as the typhoons and simoons through which they run, and with a daring management that bespeaks itself to the confidence of the legislator who is legislating for the future interests of the commerce of the country.

It seems to me, sir, entirely fit and proper that this small step at least should be taken. I intend, when the tariff question comes up in its full shape and form, to offer a proposition which shall cover this whole subject, and I think I shall be able to show abiding reasons why it should be adopted, and large advantages held out to build up our commerce. For, sir, the history of the past shows the fact that no nation has ever been great that has not been commercially great, and that no nation can ever be great without this arterial circulation that permeates through every vein of commerce. It must have an arterial circulation, and while we are talking of Maine let us remember that the main channels are arterial. I bespeak for this nation the proper consideration of this great subject. I am glad to see this little amendment. Small though it is, it is the beginning of a new era; it is the beginning of a life to a dwindling power; it is for our best interests now and hereafter. I hope at least that the amendment will be adopted.

Mr. CONNESS. Mr. President, I will not occupy the Senate long. The question before us primarily is whether we shall relieve certain industries of this country from the internal taxation imposed upon them. To that is moved as an amendment a proposition to exempt at the same time the ship-building interest of the country from certain burdens that have been imposed upon it; and to that is moved a proposition to include ocean steamers in the amendment proposed to exempt sailing vessels.

Mr. President, all these propositions together present a very extended form of question, one that, in my opinion, we cannot safely or wisely deal with at this time. Prior to the war this country and its people knew nothing of direct internal taxes. I hope, as all our people hope, soon to see the period when they will know them no more. It was only during a period of the greatest public danger, when the credit of the nation must be sustained by revenue derived from some quarter and from any and all quarters, that internal revenue taxes were imposed upon and borne by the American people. When the war closed we had our immense debt to deal with—an ascertained debt of monstrous size, and an unascertained debt of a great extent. We could not then dispose of the internal taxes or the burdens imposed by our legislation upon the industry of the country at once. Three years or nearly three years have passed since the close of hostilities, since the great expenditures required by the continuance of the war. During that time or nearly during the entirety of it the nation's Treasury has not been relieved from great expenditures, but for the first year they went on very nearly at the rate they had attained when our great armies were in the field. Now, as soon as we could come to the consideration of this subject, it has been proposed to remit a certain class of internal taxation. To that proposition I am here to say amen, and to give it my vote and support.

I listened to the statement made yesterday by the chairman of the Committee on Finance with interest. He told us that this was not to be considered the measure of this session for the reduction of taxation, but that it was a preliminary step, one necessary to be taken, and which might be acted upon now with comparative safety. I agree with him; and while I shall be ready at any time to join with the honorable Senator from Maine in any measure that he and others can devise for the relief of the interest which he proposes to assist by his amendment, namely, the ship-building interest, I do not think that this is the time or that this is the bill to attach it to.

I feel, Mr. President, as a Representative of the Pacific coast, a new country, where the business of ship-building is just beginning, that it is my duty to afford every possible facility to that interest consistent with the national interests and necessities; and I shall be ready to cooperate with my honorable friend from Maine, and would be even if that interest did not directly affect the people whom I immediately represent here. I know that the ship-building interest, which was so important at one time to the people of the State he represents here with so much honor and ability, is in a condition that requires all the assistance we can lend it by favorable legislation. But, sir, it is a large question; and nobody knows its extent and reach better than the Senator. It involves the question whether citizens of the United States requiring the use of ships shall be prevented from going into the cheapest market to buy them. It is a question that comes to us now at a period when the marine of the country is being rapidly changed from one propelled by sails to one propelled by steam, introducing a new feature and a new set of considerations. I do not think we can deal safely or wisely with it in connection with this proposition, and I am not in favor of incumbering this proposition with it. I hope, on the contrary, that we shall vote with promptness and dispatch to relieve the interest to be relieved by the bill before us, and then that we shall go forward to do as much in the same direction for all the other industrial interests of the country as we can do.

These are my views in brief in regard to the proposition now immediately before us; and these are my intimations and promises, to be carried out faithfully, in connection with such measures as my friend from Maine shall see fit to present to us for our consideration and for the relief of the interest that now suffers so much in the country.

Mr. MORTON. Mr. President, I do not wish to endanger the passage of the bill now before the Senate by attaching to it this or any other amendment, however meritorious it may be. If attaching to it this amendment will

endanger its passage I am not for the amendment, for I want this bill to pass in substance as it is now before the Senate.

But, Mr. President, I cannot let this occasion pass without expressing the deep feeling I have on the question of the decline in American ship-building, the loss of our mercantile marine. It is a question of national defense and it is a question of national power. It is something more than simply protecting a branch of American industry. There is the same propriety in protecting ship-building that there is in protecting manufactures of any other kind; that there is in protecting the manufacture of iron, of copper, or of cordage. But, sir, beyond all that, this is a question of national defense and power. The nations that build the ships will chiefly navigate them; that is the history of the world; and if ship-building shall pass away from us, our mercantile marine will pass away from us, and then with it will pass away our nursery of seamen, and our mechanics to build ships will pass away, and we shall be at the mercy of any other great naval Power. Why, sir, what do we rely upon now? We propose to cut down our Navy; we will not incur the expense of maintaining a Navy that is equal to or that can compete with the navy of England, or of France, or of Russia, because in case of war we rely upon improvising a navy, building up one for the occasion; but to do that we must have the seamen to begin with, and we must have the mechanics that can build our ships; for when that time comes we cannot borrow seamen, nor can we buy ships or borrow mechanics.

Perhaps it would be proper (I am not prepared to answer that question to-day) to attach this amendment to the bill. But I desire it to be understood that I am for taking all proper measures in legislation to protect the ship-building interest of this country. It is not simply a question of protecting American industry, protecting American manufactures, but it goes to the very foundation of our power.

During the late war, when it became necessary to blockade two thousand miles of coast, we rapidly formed a Navy that was able to perform that operation; but if the present decline in ship-building shall go on, if other countries shall so rapidly and completely almost monopolize the great carrying trade of the world, we cannot do that thing in the future, because we shall not have the ships, and more than that we shall not have the seamen.

I agree with the sentiments expressed by the Senator from Nevada, [Mr. NYE.] One great element of our power from the time we were Colonies, and that which enabled us to succeed in the war of the Revolution, was the great progress the Colonies had made in commerce, in ship-building. They had a vast mercantile marine at the beginning of the revolutionary war, when you consider their population and their circumstances, and that mercantile marine grew in power until the beginning of the late war. It gave us influence throughout the world. There was not a sea that was not whitened with the sails of our commerce. We were proud of it, and it was a material part of our national bragging and boasting that we indulged in. But, sir, that has passed away now to a great extent and is rapidly passing from us. It is therefore incumbent on the Congress of the United States at an early day to take such steps as shall stop this decline in this great national interest, for it is sapping the very foundation of our power. It goes beyond the question of the duty to protect the manufacture of cloth or of iron or of copper or of anything else; it comprehends all the interests that are embraced in the protection of these things, and it comprehends something more, a vast deal more; it comprehends the power of national defense.

Mr. CHANDLER. Mr. President, I do not propose to follow the Senator from Nevada [Mr. NYE] in his glowing descriptions of the Pacific commerce as it is to be; nor do I propose to controvert the views of the Senator from Indiana, [Mr. MORTON.] My own experience is that ships are not commerce and the owning of ships does not create commerce. In order to have commerce you must protect and encourage the production of that which creates a commerce. Now, sir, we shall find that to enlarge our commerce we must offer inducements to our people which will create that commerce, offer inducements to American shipping over foreign shipping. This is simply a question of free trade. I have before me the amendment, and I say it is free trade in every single article that enters into the production of a ship. The provision is that "on and after the passage of this act there shall be allowed and paid a drawback equal in amount to the import duty paid on all lumber, hemp, (manilla,) copper," and iron of certain descriptions, and all descriptions that go into the production of a ship. Every article that goes into the construction of a ship is enumerated. If you are going to admit into this country free of duty every article that goes into the construction of a ship why not admit a ship free of duty? If you abandon your cord-makers, your sail-makers, your copper miners and your lumber interests, why protect the man who builds a ship? Sir, if you are going to have free trade, have free trade fully and have it honestly; import your ships, build them where ever they can be built cheapest, and bring them in free.

If you can build on the Clyde for $500,000 a vessel that would cost $1,000,000 here, build it there. By this amendment you abandon every American interest that enters into ship-building except simply the mechanic, who works on the construction of a ship. Sir, if you mean free trade, if you are in favor of free trade, if you intend to abandon your mining interests, your iron mines, your copper mines, your cord-makers, your sail-makers, your lumbermen, your mills—if you intend to abandon all these interests of American production, carry out the principle and admit ships duty free; build them on the Clyde, build them in Russia, build them in Germany, build them in Canada, build them anywhere else on the face of God's earth where they can be built cheapest, and then bring them in duty free.

But, sir, this proposition goes far beyond the building of ships in this country. One half the product of copper in the United States, as I am informed, is used, in times of peace, in ship-building. The bottom of every ship that goes to sea is cased with copper. Every steamship requires an immense amount of copper and of iron. You abandon by this proposition one half the market for copper and iron. The Senator from Nevada asks will not the increase in the amount of business benefit the copper and iron mines? Certainly; but by this proposition you cut off one half the market. There is not a mine on Lake Superior to-day that is not running at a loss, if it is running at all. Our production has fallen from nearly ten thousand to six thousand tons of copper annually, and it will be not over three thousand tons next year, even with the present protection, which amounts really to nothing. You are abandoning by this proposition every American interest except the man who works with the hammer and the adze in the manufacture of a ship. If that is what you mean, say so, and let ships be bought where they can be bought cheapest, and brought in free of duty. I do not believe it is the desire of this body to adopt free trade as the rule; but if it is, this amendment ought to be sustained.

Mr. FESSENDEN. I wish simply to say a word in reply to the Senator from Michigan. I shall not occupy much time, for I have, perhaps, already said more than I ought to have said. I think the Senator from Michigan either does not comprehend this matter, or else he has stated it in a manner that will mislead the Senate if we rely on his statement. Looking at the amendment you will see that it applies exclusively to raw materials. The iron is confined to a certain stage of progress. He speaks of abandoning the cord-makers and the mechanics. Why, sir, the work that is done upon any of these things is done by our own mechanics. There is no abandonment of any manufacture, so to speak, except the manufacture of the raw material, if that is a proper expression. He speaks, also, as if the only use of iron in this country was in the manufacture of ships. Sir, taking all the iron produced in this country, how much of it goes into the construction of vessels? Hardly an appreciable part of what is produced. I undertake to say that this amendment does not affect the question of the production of iron a particle in any way. The Senator from Pennsylvania, [Mr. CAMERON,] whose State is probably more largely interested in the production of iron than any other State in the Union, has spoken on the subject.

The Senator from Michigan asks why not abandon the manufacture of vessels and buy them elsewhere? You are in a fair way to do that because you have been rendering the construction of vessels in this country so exceedingly expensive. If you wish to come to that, if this nation is to be no longer a navigating people, and consequently hardly a commercial people within its own borders, you may adopt the doctrine of the Senator from Michigan.

But let us look at the generosity of his position. Ship-building on our ocean coast is at an end comparatively. Ship-building on the lakes is increasing because it has no competition. The document that I have referred to, the report of the Special Commissioner of Revenue, shows that year after year the ship-building interest has been increasing on the lakes. Now, what says the Senator from Michigan? "We do not need this protection, for we have no competition, and therefore, as we do not need it, perish the construction of vessels on the sea-board for fear that thereby our sales of iron will not be quite so large!" Sir, it is a very statesmanlike view of the whole subject! It was that to which I rose to reply. I hope the Senate is not prepared, in accordance with the advice of the Senator from Michigan, to abandon ship-building on the sea-board and to purchase our vessels abroad. That is the question which I put to the Senate and which I wish the Senate to consider. Sir, if it is to come to that, if that is the doctrine to be assumed, how can Senators expect me, situated as I am, to vote invariably to support bills for the protection of inferior manufactures, when by that very act I am striking down the greatest interest in which my own State is involved and the section of the country from which I come? That would be requiring more of a legislator than any country has a right to require of one situated as I am; for, although I hope not to be influenced by local considerations, I cannot forget that my State and my region of country make a part of this nation, and in legislating I am bound somewhat to regard their interests.

Mr. MORTON. I should like to make one remark in answer to the Senator from Michigan. He says it is to establish free trade if you admit without duty those articles which enter into ship-building, and which will thus enable American ship-builders to compete with foreign ship-builders. I should like to ask the Senator this question, how far the American manufacturers of iron, copper, cordage, or whatever you please, will be protected or benefited when you have driven ship-building out of the country? I would ask him if ships built in Canada or upon the Clyde will be constructed of iron or of copper from America? No, sir; not one dollar's worth of it.

Then, sir, if you shall so maintain the law as to finally drive out, as you are rapidly doing, all ship-building from this country, I would like to ask how the manufacturers referred to will be benefited, because they will not furnish a single article that will enter into the construction of any ship built in Canada or in Europe? Then, sir, you gain nothing in that direction. Suppose, if you please, the duty should be taken off every article that is used in ship-building to the extent that it is so

used, not for other purposes, not generally, but to that extent; I ask, then, will our manufacturers of iron, of copper, of cordage, lose anything by it? If you shall drive the ship-building out of our country none of their products will be used in ship-building in Canada or on the Clyde. We shall have lost that which is of the greatest importance to us in a national point of view, as a means of national defense, and other branches of manufacture will have gained nothing. They can gain nothing, but they must lose. There is not a branch of manufacture in this country that will not lose by the destruction of our mercantile marine.

The Senator says that ships do not make commerce. I tell him that they are the medium of commerce; that the nation which builds ships will navigate them; and that the nations which build and navigate the ships will lay all other nations under contribution. China furnishes a vast foreign commerce, and yet it is carried on in American, British, and French bottoms, and we know that those nations who own the ships have made the money which has been made in that trade. We know that China has been at the mercy of foreign nations, because those foreign nations have had the carrying trade. So with every other country that is in that position. And, sir, as I understand the facts, this will be our condition in a few years if things go on as they are.

Unlike the Senator from Maine, I do not speak from local interest; I do not speak from any sectional consideration; but I speak from what I believe to be a national consideration, and I say that the question of ship-building is one of national concern, of national defense; that without a mercantile marine you cannot have a nursery of seamen, and without seamen you cannot build up a navy. You have got, then, to keep up a continual navy, at a vast expense, for the purpose of educating your own seamen. Then, sir, in every point of view this is of national importance.

Mr. DRAKE. Mr. President, I should be much obliged to the honorable Senator from Maine if he would give me a little information about this matter. I should like to know what is to be the effect upon the ship-building interest of the country in the way of reviving it if this amendment now pending should be adopted. In order to get at that effect I should like to know from the honorable Senator from Maine what advantage it will be in dollars and cents in the building of a ship. How much will be saved in the building of a ship by this amendment if it shall be adopted?

Mr. FESSENDEN. I stated yesterday that I thought it would be about four dollars on a ton, not less than that, probably between four and five dollars. I have no means of making an accurate calculation. On a vessel of one hundred tons it would be about four hundred dollars, on one thousand tons $4,000.

Mr. DRAKE. Assuming the statement of the Senator from Maine to be an approximation to the reality in the case, I am unable, perhaps on account of my own dullness, to understand how this measure has an appreciable value under the circumstances. If it be true that vessels can be bought on the banks of the Clyde for half of what they can be built in this country, then it is very certain that a mere saving of four dollars per ton is not going to revive the ship-building interest in this country at all, so far as I can judge. Perhaps I may be all wrong; perhaps I may not know anything about it; but if a vessel of four thousand tons can be bought on the Clyde for $500,000 when the same vessel would cost $1,000,000 in this country it is very evident that only $16,000 of the $500,000 that it will cost here more than it will there is to be saved by the adoption of this amendment; and I am rather inclined to think that a saving of $16,000 under such circumstances will not probably have the effect of reviving the ship-building interests of Maine.

Mr. FESSENDEN. The Senator will remark that, in reference to the large steamers spoken of, built on the Clyde, the very great difference in the cost of construction arises in a large degree from the fact that they are constructed principally of iron. Those large steamers that are built on the Clyde are what are called iron steamers; and the same rate of difference does not apply to sailing vessels, wooden vessels, as a general rule. The Senator will understand that the benefit of a reduction may be very great, although that reduction does not produce equality. While we have many disadvantages we have some advantages. We cannot offset the greater difference in the cost of labor. That is an impossibility. The cost of labor always has been and always will be greater in this country; but we have heretofore, to a large extent, made up for that difference, because our workmen had arrived at such a great degree of skill, and the result was the superior quality of our vessels. We build ordinarily very much better vessels than are built abroad. We make it up in the superior character of our seamen and the greater enterprise of our people. On equal ground, I admit, they would beat any people of the world in navigation. It has been so heretofore, and will be again when they have a fair chance. Although the relief you give does not bring them near to an equality with foreign builders in the cost of production, it still is a sensible relief, which will enable our people to avail themselves of their other advantages and thus begin to bring up again this business to what it was before.

I do not claim to be practically acquainted with the details of this matter; but recently we have had a large convention of ship-builders in the State of Maine, and I believe throughout New England. They have fully considered the whole matter, and have made representations as to what they deem to be required; and they recommend as one great step toward resuscitating this interest, the relieving it from the very onerous duties upon the materials which go into the construction of vessels. Their belief is that it will produce very much of the effect we desire to produce, and I have great reliance on their judgment.

Mr. DRAKE. There is only one other word I would say about the matter. I feel a great anxiety not to embarrass the passage of this bill on which the Senator from Maine now proposes to attach his amendment; and I would inquire of that honorable Senator whether it is not practicable to attach the section that he now proposes to put on this bill to some other bill in connection with which it would be more at home; and whether this bill may not be seriously embarrassed by bringing into connection with it a matter that does not really belong to the object intended to be attained by the bill.

I am free to say that I suppose there can hardly be a Senator on the floor who would have more at heart the cherishing of the ship-building interest of this country than I have, and who would look with more jealousy upon having our ships driven out of our own ports by foreign vessels. But I suppose this matter can be reached in some other connection better than in this, and I therefore do not feel disposed to imperil this very important bill by bringing it in here if it can be put somewhere else without peril to anything.

Mr. FESSENDEN. I will reply to the Senator with pleasure on that point. I am not a convert to the idea that we are to take it for granted that Congress will not do upon any bill what is reasonable and right in itself. I fear that there is sometimes a difficulty, but I have never attached, in these matters of ordinary legislation, so much consequence to the statement that you cannot do what is right for fear that somebody else will do what is wrong. I rather take it for granted that if the proposition is a reasonable and right one everybody of good sense—and I hope nobody is sent to Congress who has not good sense—will see the benefit and propriety of it and act accordingly. But Senators must act on their own judgment in reference to that matter. I do not know of any other bill about to be presented to which this proposition can be attached, and this was the reason why I offered it here.

Now, sir, I hope my amendment will be adopted; but whatever may be its fate I feel very much encouraged by the kind words that I have had from some gentlemen who, instead of opposing this measure on the ground that it is unreasonable, say that they deem it to be reasonable and proper and right and stand ready to support it on another occasion, even if they cannot do it on this. For these good words I thank them. I beg them to understand that I cannot but appreciate the liberality and the manliness and the statesmanship of the views they have expressed. But, sir, I must leave the question to the consideration of the Senate, hoping that they will do what is right about it.

Mr. SHERMAN. Mr. President, the debate has now gone so far that I trust I may appeal to the Senate to come to a vote upon this question. I know that this will be a troublesome question, and if this amendment be adopted it will open the door to many other propositions in regard to the tariff. If this is adopted members will be encouraged to open other disputed questions in regard to the tariff on this bill, because they may say "If we refund the duty collected on the articles that enter into ship-building, we ought for the same reason to relieve other articles from heavy and onerous duties imposed by the tariff." Why thus mingle the two questions together?

It seems to me that the Senator from Maine has accomplished substantially what he desired in having an expression of the views of the Senate; and I have no doubt, from the disposition manifested, that at the proper time proper measures of relief will be extended to the commercial interest. My own impression is that the proper mode of relief is by giving them discriminating duties in certain cases, as was done formerly under the old tariff laws.

Mr. FESSENDEN. Our treaties stand in the way of that.

Mr. SHERMAN. Only so far as our treaties with three or four commercial nations are concerned. They do not stand in the way so far as regards the trade with China.

Mr. FESSENDEN. Our treaties with nearly all the nations that have any navigation prevent such a course being adopted.

Mr. SHERMAN. That reason does not apply to Asia, where we have a discrimination now to the extent of ten per cent., I think. This proposition, to the extent that it relieves this interest, is simply taking money from the Treasury of the United States in the nature of bounty to ship-building. I trust, at any rate, we may come to a vote upon the question. It is important, if the bill is to take effect on the 1st of April, that we should perfect it and have the disagreeing votes between the two Houses settled before that time. I trust we shall act upon the amendment and proceed to vote on the bill.

Mr. CORBETT. Mr. President, I have examined this question somewhat. I see many interests which are relieved by the bill from the House of Representatives which are suffering very much less than the shipping interest of this country. I feel that the amendment proposed by the Senator from Maine is propitious, and that it is not improper to attach it to this bill.

Among the things exempted by the list contained in the bill before us I notice the manufacture of carriages, which last year yielded $1,116,000; pianofortes, which last year yielded $425,000; silverware, $88,615; safes, $94,000; and screws, $172,000.

Carriages, I believe, are used quite as extensively as they were previous to the war. I think, in fact, the demand has been increasing; so that surely the interest of carriage-making is not suffering more than the ship-building of Maine. Pianofortes are used, I believe, quite as extensively as they were before the war; and I doubt very much whether any great proportion of the profits derived from releasing the tax on that manufacture will go to the

laborers engaged in making pianofortes. As to screws, I believe there are but two establishments in the United States that produce them, and that interest is one of the greatest monopolies in the country, one of the most wealthy. It surely is not suffering; and yet we propose to relieve it by taking off its taxes to the amount of $172,000. Then, as to silverware, every man who uses silverware certainly can afford to pay a tax on it.

It seems to me that we are by this bill striking out a class of taxes that should be kept, to some extent at least. We are relieving certain manufacturers that there is no necessity for relieving at this time, who are not suffering as many, and I have no doubt the great body of those included in the exemption are.

We strike out by this bill $8,000,000 of taxation on articles not specified. We know not what these may be. When we come to examine them carefully I believe it will be found that there are many articles in the list which can as well pay a tax as not. I know of other interests which are suffering, and which will be knocking at our door for relief. For example, there are parties running railroads who are paying heavy taxes which they are obliged to meet by assessments upon the stockholders. I know, for example, of some horse railroads where the companies are obliged to pay a tax on the gross receipts where the income does not meet the expenses and the stockholders are assessed to pay the tax. The great body of the railroads, it is true, are paying dividends; but there are instances of the kind I have just stated, and perhaps there should be an exemption in some form or other for their benefit.

I think, considering the time and the occasion, considering how important it is to nurture our commerce, we should adopt some such proposition as that offered by the Senator from Maine. I do not know of any time when we can pass such a measure unless it is now. If not incorporated in this bill it may be deferred perhaps for a year longer; but in the meantime our shipping interest will have died out; our mechanics engaged in ship-building will have scattered through the country and be engaged in some other pursuits. It seems to me that it is very proper to adopt this amendment, and I shall, by my vote, sustain the Senator from Maine.

Mr. MORRILL, of Maine. Mr. President, I appreciate the anxiety of my honorable friend, the chairman of the Committee on Finance, to bring this measure to a vote; and yet the interest I feel in the question pending leads me to say a word in regard to certain facts, which have not been adverted to, which bear directly upon this interest in my own State.

I hear it said by one honorable Senator that it is not true as a general statement that this interest is particularly embarrassed at the present time; that the shipping interest of the country is on the whole rather prosperous. That remark, coming from the source it does, greatly surprises me, because I supposed that if there were one thing well understood in this country it was that the ship-building interest of the nation was becoming extinct, that it was not only greatly depressed but absolutely becoming extinct, and that we were in danger of losing the art. That your ship-yards are absolutely being annihilated under the present state of affairs I assume to be an undoubted fact. If I know anything in regard to the history of this country I know that to be so. Let us see what the Secretary of the Treasury says on this subject. I read from the report of the Secretary for the year 1867, his last annual report:

"The shipping interest of the United States, to a great degree prostrated by the war, has not revived during the past year. Our ship-yards are, with rare exceptions, inactive. Our surplus products are being chiefly transported to foreign countries in foreign vessels. The Secretary is still forced to admit, in the language of his last report, 'that with unequaled facilities for obtaining the materials, and with acknowledged skill in ship-building; with thousands of miles of sea coast, indented with the finest harbors in the world; with surplus products that require in their transportation a large and increasing tonnage, we can neither profitably build ships nor successfully compete with English ships in the transportation of our own productions.'

"No change for the better has taken place since the report was made. On the contrary, the indications are that the great ship-building interest of the eastern and middle States has been steadily declining, and that consequently the United States is gradually ceasing to be a great maritime Power."

What is the remedy?

"The materials which enter into the construction of vessels should be relieved from taxation by means of drawbacks."

That is the advice of the Secretary of the Treasury, whose duty it is to be conversant with this subject, and who probably knows of what he speaks. I hear it said we ought not to do it on this particular bill, because it is not germane. I maintain that it is cognate precisely and particularly and exactly. What is this bill? It is a bill in its very title "to exempt certain manufactures from internal tax." It is a bill to exempt certain of the industries of the country from taxation. Why? Do we not need the revenues? To some extent certainly we do. Well, sir, why are these particular industries exempt, and the burden left to fall on this industry? Has anybody answered that? Has anybody attempted to answer that? Has anybody risen here and undertaken to show by the figures that this industry can survive while others cannot? No, sir.

Mr. MORRILL, of Vermont. The Senator will allow me to suggest that we repealed all taxes upon ship-building which are in the nature of the taxes we are now repealing by this bill some years ago.

Mr. MORRILL, of Maine. I am coming to that. I am not speaking of that now. I am not confining my remarks particularly to internal taxes. The fact that this is an impost instead of an excise, I take it, raises no distinction in principle. If it is a burden, and if the interest is absolutely sinking under the burden, are we to hold that it is not to be relieved because the burden is in the shape of an impost instead of an excise? Is that an argument? Is that statesmanship which stands here and sees a great interest of the country sink and become extinct, annihilated, and, when you interpose in its behalf, tells you that is an impost, that is not an excise, and therefore relief must not be applied? The real question here, sir, is whether this interest demands relief. And as the measure before us is one where relief is being granted to other industries I think I make a case for this particular interest when I show that this interest, like the interests which are being relieved, is also being depressed.

So much upon the allegation that this amendment is not germane to the bill. I insist upon it that it is germane; it is not traveling out of the record; it is relieving this great national industry essential to your prosperity and to your renown from a burden under which it is sinking.

The honorable Senator from Michigan says that he is friendly enough to commerce, although commerce does not consist in ships. I had supposed hitherto that shipping, in all its varieties, was a very essential element of commerce, rather the characteristic of all commerce; and I was a little surprised to hear my honorable friend, the chairman of the Committee on Commerce, announce to the Senate of the United States that ships had not much to do with commerce anyhow! I do not exactly see how commerce could thrive without them, and I suggest to my honorable friend that if he pushes his researches a little further, if he leaves the copper fields and the iron fields of Michigan, he will find that ship-building and ships are a very essential element both in domestic and foreign commerce.

My honorable friend from Michigan says he is willing to favor this interest, but he proposes to vote against this amendment because it is unjust to other interests. What other interests? Copper and iron—those are the interests he specified, and those are the interests in which his particular community are largely interested. How is it unjust to copper? He says we consume very largely of copper in the building of ships, consume nearly one half the American product of copper. I do not know how that is; it may be so or it may not, but let us apply the argument.

My honorable friend has succeeded, as the representative of copper, in getting a specific duty of five cents a pound on it, so that no foreign importations can be made. We are forced to have this article in the building of our ships, and when we come here and show him that by the imposition of this tax by which he prospers, and by which he has secured a monopoly of the American trade, he is destroying this interest, annihilating it, he is not willing to let it up, because it is unjust, unjust to copper! I submit that in this instance my honorable friend does not show his usual liberality. If he will look at the shipping interest of this country he will see that it is absolutely perishing beneath this burden. He knows and the country knows that during the war no interests were more prosperous than the iron and copper interests which he represents here, and which have been so largely protected that they constitute to a very great extent a monopoly. He cannot divide with us because it is unjust to these interests!

Let me show by a few facts how this shipping interest stands. I apply it to my own State particularly, because I know most of that, and because I suppose that is a fair illustration of what is taking place everywhere else. At the outbreak of the war in the ports of Maine there were documented seven hundred and thirty-nine thousand eight hundred and forty tons of shipping. Six years afterward, in the same ports, there were documented two hundred and seventy-four thousand four hundred and sixty-eight tons, being a reduction of four hundred and sixty-five thousand three hundred and seventy-two tons. About two thirds of the entire shipping in the six years had absolutely passed from the State. It is under the operation of this state of facts that we appeal to you. Nobody denies it.

The Senator from Michigan says it cannot be relieved, because to relieve it would be unjust to the copper and iron interests. Sir, how were those interests during the war? Were they crippled? Were they ever more flourishing than they were during the war? Was the demand for those products ever so great? Everybody knows that those interests were particularly prosperous; and so, to a very great extent, were the manufacturing interests which the chairman of the Committee on Finance very properly now seeks to relieve. I am in favor of that; but we all know that during the war those very interests which this bill seeks to relieve were prosperous beyond measure, while our interest sunk, was driven from the ocean by pirates and the extraordinary condition of affairs which no foresight could guard against. And now, when the war is over and other interests which prospered during that period come here and seek relief, and we ask to participate in the relief, we are to be told by the representatives of those interests which were prosperous during the war, "You cannot have it." They have got five cents a pound specific duty on copper, and have a monopoly of the supply of the domestic market, and no matter what becomes of our ship-yards, no matter what becomes of our commerce and our national renown as connected with it, we cannot have relief. That is the inference from that sort of argument.

My State is very largely interested in this shipping interest; in some sense it is the leading interest of my State, or has been hitherto. As the honorable Senator from Maryland said on a former day, we built something more than one half of the entire ships of the country. Ship-yards have grown up there within the last two generations which vie with the ship-yards of the world. What was the value of this shipping interest to which I have referred and which has been lost to my State within the last six years? To give you an idea of the

predicament in which our State is placed let me refer you to the figures in the document before me, which is an official document of the Legislature of the State. In round numbers it is estimated that $14,000,000 have been lost to the shipping interest of my State in the last six years under the operation of the system of measures from which we ask this partial relief. They say very properly that the nation might grant this relief and suffer nothing from it, because they say that having stricken out this $14,000,000 of course so much is lost to the taxation of the country. They estimate it in this way:

"So this amount would yield a tax at two per cent. of $280,000 annually, and, if now held by the State, would contribute largely toward liquidating our obligations."

Mr. President, I have said all that it was my purpose to say in rising; first, that this measure is proper on this bill.

Mr. HOWARD. Will the Senator from Maine allow me a word before he takes his seat?

Mr. MORRILL, of Maine. Certainly.

Mr. HOWARD. The Senator speaks of the falling off of the shipping interest in Maine. I take it that the document to which he refers has reference of course to the condition of things produced by the war. It is very probable that the war operated in that way so as to discourage the building of ships. There was less use, less call for ships during the war than there would have been had it been a time of peace. Now, as the war seemed to be the moving cause of this depression in that interest, and as the war has passed away and there is no longer any danger of piracies upon the ocean, no longer any danger of the destruction of vessels built in Maine, what occasion is there for this special legislation for the encouragement of ship-building there? This is the point to which I wish to call the attention of the honorable Senator, that the cause of the depression seems to have disappeared. Will not that interest necessarily revive in a time of peace and come again to the same footing on which it was before?

Mr. MORRILL, of Maine. My honorable friend, I think, has hardly paid much attention to the consideration of the subject if he supposes that either my colleague or myself or anybody else who has spoken of this interest presumed that the whole difficulty had arisen from the dangers of piracy, the destruction of the shipping interest by piracy. It is the changed relation of labor and prices that creates the difficulty. Of course, during the war there were superadded to all these difficulties the perils of the seas, the perils of piracy; but I am speaking now of the difficulties of making vessels, not the difficulties of sailing them.

I say then, Mr. President, I have accomplished all I desired by calling the attention of the Senate first to the fact that this does seem to me precisely the bill on which to place such a proposition; and besides, I have met the proposition made here, that this cannot be done with justice to other interests. Somehow or other it is supposed that if this interest is let up some other interest is to be taxed. I suppose that is true with every interest that is let up. The burden will fall to some extent on some other; and the same argument, of course, would apply to every other interest that is sought to be made to apply to this.

Mr. CHANDLER. Mr. President, the Senator from Maine [Mr. MORRILL] has taken me to task for a remark I made that ships do not create commerce. I should like to inquire of the Senator how many ships he thinks it would take to create a commerce if they were not used? I said that they do not create commerce; nor do they. If ships are required for use they will be built, but if they are not required for use they will not be built. Now, sir, I assert that during the past three years there have been more ships built in the whole United States than were ever built in three years before. They have been built wherever they were in demand. They have been built because it paid a profit to build them; and they have been built notwithstanding the duties that the Government has collected from the materials of which they were constructed.

The Senator from Maine says, "Why not grant this boon to the State which I represent?" Sir, what boon does he ask? "Why not do an act of justice?" What act of justice does he ask? Three years ago we levied a tax of two per cent. upon every hull built in the United States. That internal revenue tax has been removed from hulls. Three years ago we collected five per cent. upon every article of iron that went into the construction of a ship. That tax has been removed. Three years ago we levied a tax of five per cent. upon every pound of manufactured copper that went into the construction of a ship. That tax has been removed, and this bill removes all other internal taxes that have been assessed upon the ship-building interest. Now, will the Senator from Maine tell me wherein any other interest is benefited over the interest of the ship-builder by the laws as they now stand without this amendment as proposed? I care not what it be, will he tell of any interest that has the precedence over that of ship-builders with the laws as they now stand without this amendment as proposed? Sir, there is no interest that is favored above this; there are few interests that are favored as much as this—the ship-building interest of Maine.

The Senator talks as though Maine was the only State interested in ship-building. I will inform him that the State of Michigan has a greater interest than Maine in ship-building. Michigan furnishes the lumber for all the ship-building interests in the West; and Michigan is not here complaining that she has to pay a duty upon the foreign articles used in the construction of her shipping. Sir, this proposition is free trade, nothing more and nothing less. It is asking that the interests of all the other States of the Union shall be sacrified to the interests of the ship-builders of Maine. If this proposition prevails I will then vote for free trade in ships, and I will vote for it this very day. Sir, why shall you protect the laborer and the mechanic in Maine when you abandon all other laborers and mechanics in the rest of the United States? If a man can buy a ship on the Clyde for $500,000 that will cost $1,000,000 here, and you propose to abandon the protection of every interest here except that of the laborers in Maine, then I will vote to go to the Clyde and buy the ship there.

But the Senator from Indiana asks: would you use Michigan copper or iron in the manufacture of a ship on the Clyde? No, sir; and you would not use an ounce of it in building a ship in Maine. You allow a drawback upon every pound of foreign copper and iron that comes in, and on foreign lumber, too. I say it is abandoning every interest of American manufacture.

Mr. President, I shall not occupy the time of the Senate. I hope that neither the amendment to the amendment nor the amendment itself will prevail; that this proposition will be voted down as not being germane to the bill. But, sir, if you adopt this amendment, I very much doubt whether you can afford to pass the bill as it is brought before us from the Committee on Finance. You cut into a very large interest which now supplies your coffers with gold. You cut into the revenue from foreign commerce, and cut into it largely. I say again, I doubt, if this proposition be adopted, whether you can afford to pass the bill as it has been reported from the Committee on Finance.

Mr. HENDRICKS. I think ordinarily the system of drawbacks is a very objectionable one. It is supposed to rest upon a partiality or favoritism in legislation. But, sir, I have made up my mind to vote for this amendment, notwithstanding the general objection to the system, for the reason that I think this is an interest that it becomes not only the advantage but the honor of this country to protect and promote just as far as it can be done. One of the saddest spectacles connected with the war was the sweeping of our commerce from the ocean; and now I think it is known to us all that there is scarcely any interest in the country more depressed than the ship-building interest, and I shall vote to relieve it from all taxes until it can to some extent recover itself again.

It seems to me that it is a clear proposition that we can reduce the revenues coming from imports more safely than we can reduce, perhaps, the income from direct taxation. For nearly two years there have been locked up in the coffers of the Government $100,000,000 of gold, and I have been astonished that the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate have not given that subject some attention. When there is a demand in the country for circulation to carry on the business of the country, and we have that system of taxation upon imports which piles up and keeps out of use in the public Treasury $100,000,000 of gold, certainly there is some reform necessary. When it is proposed in this small matter to reduce the income from imports and at the same time to relieve a depressed interest I give it my support.

Sir, why was it that we took the tax off cotton? I voted for it because it was an agricultural production in its raw state. I voted for it also because it was known to us all to be an interest very much depressed and requiring the fostering aid of the country rather than taxation. Why is it that it is proposed now to relieve manufactures of the taxes that the present laws impose? Because it is said that manufacturing interests are depressed.

It is not sufficient for the Senator from Michigan to say that we have already relieved this interest to some extent. That was right; it was proper; but still this interest languishes, if we can rely upon the statements of Senators who are familiar with the interest itself; it needs still further relief, and I shall vote for the amendment because I think that relief ought to be given. While we are relieving other interests let us relieve this also, especially as it reduces the income where it can be more safely reduced than even at the point aimed at by the bill reported by the Senator from Ohio.

Before I take my seat I desire to express the opinion that the country would be served if the two committees would reform the whole system. For three years now our reforms have been in patches, if I may so express it, a little relief brought in here and a little there, without taking up the whole subject and disposing of it upon some system. I recollect two or three years ago it was understood that some increase in the tariff ought to be made. I did not think so; but it was claimed that there ought to be some increase; and, as there was not quite time to do it, it was proposed to increase all duties fifty per cent. So we passed that sort of a law at one time, and then increased the tariff on wool at another time. Instead of taking up the whole subject and adjusting our revenue system according to the interests of the country and according to the demands of the Treasury, we have been legislating in patches.

Now, I am willing to put this amendment upon this particular bill. It is not exactly germane; it relates to imports and not to direct taxation; but yet it introduces no disturbance in the system. It can be easily adjusted, and there will be no practical trouble. I vote for the amendment because we are now legislating for the relief of depressed interests.

Mr. MORRILL, of Maine. I rise to correct a statement of the Senator from Michigan, because, considering the honorable Senator's position, it may have an influence in the country to which it is not entitled. The Senator

sat down with the statement, in reply to myself, that Michigan builds more ships than Maine. I have the report of the ship-building districts for 1866, in which it appears that Michigan did not build a ship that year, and probably never did build one, in the sense of ship-building. She built some schooners, some brigs, and some steamers; but she built no ships in the sense of ships. Her whole amount of tonnage for the year 1866 was $6,900\frac{23}{100}$ tons, while Maine built during that year of depreciation $73,952\frac{57}{100}$ tons. Probably the same proportion would hold good now. My honorable friend will see that he is greatly mistaken when he classes Michigan with the ship-building interest in the same sense as the State of Maine.

Mr. CHANDLER. If the honorable Senator will pardon me a moment, our greatest draught of water is fourteen feet over the St. Clair flats, and not reliably over twelve. We cannot build a ship, brig, or bark of over a thousand tons, a capacity of forty thousand bushels. We call them ships, though they may not be as large as the ships of the Senator from Maine. But I am glad to find that in that year of greatest depression Maine was so prosperous.

Mr. MORRILL, of Maine. And very glad, I hope, to find that he is so accurate in regard to the commerce of the country. [Laughter.]

Mr. CHANDLER. I do not admit the accuracy of those figures.

Mr. MORRILL, of Maine. No, I suppose not.

Mr. CHANDLER. I stated that Michigan furnished lumber for all the surrounding States for building ships, and Michigan was more interested than the State of Maine, if I remember my statement.

Mr. MORRILL, of Maine. Then I understand the honorable Senator to adhere to the proposition that this book is not accurate; the statistics are not to be relied upon——

Mr. CHANDLER. I say I have not examined them.

Mr. MORRILL, of Maine. And we are to take his statement that Michigan is a large ship-building State?

Mr. CHANDLER. Certainly; that is what I say.

Mr. MORRILL, of Maine. Well, let it stand at that.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 19, nays 19; as follows:

YEAS—Messrs. Conkling, Conness, Corbett, Davis, Dixon, Fessenden, Hendricks, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Nye, Patterson of Tennessee, Sumner, Van Winkle, Vickers, Willey, and Wilson—19.

NAYS—Messrs. Anthony, Cattell, Chandler, Drake, Edmunds, Ferry, Frelinghuysen, Henderson, Howard, Howe, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Tipton, Wade, Williams, and Yates—19.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cole, Cragin, Doolittle, Fowler, Grimes, Harlan, McCreery, Morton, Patterson of New Hampshire, Sprague, Stewart, Thayer, and Trumbull—16.

As the Chief Clerk handed up the list to the President *pro tempore*, Mr. McCREERY entered the Chamber and addressed the Chair, but was apparently not heard by the President *pro tempore*.

The PRESIDENT *pro tempore*. On this question the yeas are 19 and the nays are 19; so the amendment to the amendment is not agreed to. The question recurs on the amendment offered by the Senator from Maine, [Mr. FESSENDEN.]

Mr. McCREERY. Mr. President, I vote "nay."

The PRESIDENT *pro tempore*. I am told that the Chair was addressed before the announcement of the vote.

Mr. SHERMAN. The Senator from Kentucky, to my knowledge, addressed the Chair. It does not change the result.

Mr. FESSENDEN. The amendment was not carried, and he votes against it. It does not change the result.

Mr. SHERMAN. I say it does not change the result; but he desires to have his vote recorded, and I know the fact that he addressed the Chair before the announcement of the result.

The PRESIDENT *pro tempore*. If the Senator from Kentucky addressed the Chair before the announcement he is entitled to vote.

The Secretary called the name of Mr. McCREERY, and he voted "nay."

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Maine.

Mr. FESSENDEN. I should like to have the yeas and nays on that question.

The yeas and nays were ordered.

Mr. CATTELL. Mr. President, the amendment offered by the Senator from Maine is, I believe, precisely the same as the one which was attached to the tariff bill of last year, and very fully discussed in the Senate at that time and adopted. In common with some other gentlemen who will vote against this amendment now, I voted for it on that occasion. I think it is not germane to the bill under consideration. While I agree with most that has been said in favor of the adoption of it as a principle, and while I shall be prepared to vote for a bill properly guarded to cover this interest, which is a suffering one and an important one, and which needs encouragement, yet I am constrained to vote against the proposition in connection with this bill. I fear it will very greatly embarrass the speedy passage of the bill now before the Senate—a bill, in my judgment, the most important to the industrial interests of the country of any which has received the consideration of Congress during its present session. I greatly desire that this bill shall not be embarrassed by a subject which opens up the whole question of the tariff, and which, in my judgment, will lead to very great debate in the other House of Congress. Therefore, although favoring, in the main, the principles involved in the amendment, and desiring, upon some future occasion, to vote for a bill covering this ground, which shall be properly guarded so as not to be manifestly unjust to other interests, I am compelled, in its present connection, to vote against it.

Mr. HOWE. I rose at the same time that the Senator from New Jersey did, and as near as I understand myself I rose for precisely the same purpose and to say almost precisely the same words that he has just said. I do not see my way clear to vote for this amendment at this time and upon this bill; but while I shall feel constrained to vote against it I do not wish to be understood as fixedly opposed to the principle incorporated in the amendment. I do not quite see my way clear to afford the protection to this peculiar business of ship-building which I concede it ought to have; I would be glad to give it, but I hope to find the way open to afford the necessary protection hereafter, and I think it may come substantially in the way suggested by this measure. But I just now want to get the bill reported from the Committee on Finance enacted into a law and relieve the country from so much of the burden of taxation as is referred to in the bill, and for that reason I shall vote against this amendment.

Mr. MORRILL, of Vermont. I hope the Senator from Maine will now withdraw the call for the yeas and nays, because, as he will readily see, if the yeas and nays are taken, he will not obtain a fair expression of the Senate, and he will not disclose the real strength of the measure.

Mr. FESSENDEN. I am so situated with regard to this matter that I am compelled to call for the yeas and nays, whatever may be the result. I hope it may be favorable; but if not, I say, as I said before, that I feel exceedingly encouraged for the future by the expression of the Senate. I hope, however, the amendment will be adopted.

Mr. YATES. I rise for a similar purpose to that of the Senator from New Jersey and the Senator from Wisconsin. I appreciate the arguments and the force of reasoning of the honorable Senator from Maine; and I shall be willing to vote at any time for the relief of this interest; but I do not consider the proposition exactly germane to the question under consideration. I feel, although I represent an agricultural State, that that State is just as much interested in what will promote the commerce or the commercial marine of Maine or any other State as that State itself. Whatever will facilitate transportation, either by railroad, or by steamers, or by sailing ships, across the ocean, will contribute to the prosperity of Illinois. In voting against the amendment proposed by the Senator from Maine I do not wish to be understood as committing myself against the relief of this industry.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 25; as follows:

YEAS—Messrs. Conkling, Corbett, Cragin, Davis, Dixon, Fessenden, Hendricks, Johnson, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Sumner, Vickers, Willey and Wilson—18.

NAYS—Messrs. Anthony, Cattell, Chandler, Cole, Conness, Drake, Edmunds, Ferry, Frelinghuysen, Grimes, Henderson, Howard, Howe, McCreery, Morrill of Vermont, Norton, Pomeroy, Ramsey, Ross, Sherman, Tipton, Van Winkle, Wade, Williams, and Yates—25.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Doolittle, Fowler, Harlan, Morton, Sprague, Stewart, Thayer, and Trumbull—11.

So the amendment was rejected.

Mr. GRIMES. I offer the following amendment, to come in as an additional section:

And be it further enacted, That from and after the taking effect of this act the amount of duties to be charged and collected upon goods, wares, and merchandise imported into the United States shall be diminished to the extent of ten per cent. of the amount authorized to be charged and collected under existing laws; and it shall be unlawful for any person or officer of the Government, from and after the taking effect of this act, to demand, collect, or receive a greater amount of duties upon any goods, wares, or merchandise imported into the United States than is now authorized and required by law to be collected, less ten per cent. thereof.

The purpose of this amendment, I apprehend, will be readily perceived by every Senator without any difficulty. It proposes to reduce the duties now authorized to be imposed upon goods, wares, and merchandise hereafter to be imported into the United States ten per cent., and prohibits any officer of the Government from exacting or demanding any more than ten per cent. less than the amount now authorized by law.

As to the parliamentary question, the propriety or the legality of attaching such an amendment as this to this bill, I suppose that has been sufficiently discussed and determined by the Senate. We settled that question a few weeks ago on the cotton bill, as it was called, wher,e on a bill to take off the internal tax on cotton, we determined to change also the existing laws regulating the introduction of cotton from abroad; and I believe it has been acquiesced in by everybody here to-day that the amendment proposed by the Senator from Maine, and which came so near being adopted, was parliamentary and in order.

Mr. President, I offer this proposition for several reasons, among others:

First. To redeem the faith of the Government; for, as I understand it, that faith, if not technically is virtually pledged to a proportionate reduction of the duties on imports as the taxes on domestic manufactures shall be removed. The great argument urged by the advocates of the tariffs of 1862 and 1864 was that it was necessary to pass those acts in order to adjust the tariff to the existing internal taxes. In fact, the internal tax law was then the only pretext for imposing the high rates of duties on imports under the tariff acts of those years, as is abundantly shown by the debates on both bills when pending in Congress.

Second. Because it is but fair that while we relieve the manufacturers of the country and enable them to make money we should at the same time relieve the consumers of the country and enable them to save a little money; for I

agree fully with the Senator from Maine that however we may arrange our tariff and tax laws, or however we may reason about them, we cannot escape from the conclusion that the revenues of the Government, through whatever channels paid into the Treasury, are wholly drawn from the consumers.

Third. Because it is fair and it is important that all of the branches of industry should understand what is to be the whole policy of the Government. The manufacturers are a comparatively small class in this country. While it is important to them to know whether their products are hereafter to be taxed, it is of equal importance that the mercantile, the commercial, and the agricultural interests should know whether or not we are to be content to improve the condition of the manufacturers and ignore the claims of all other classes of people and all other descriptions of industry.

Fourth. Because a reduction of the tariff will greatly increase the revenues from imports, and for two reasons: first, that assigned by the Senator from Vermont in his remarks in the House of Representatives on the 2d June, 1864, "that as we increase the cost of one article we diminish the number of those who will be able to consume it;" and, second, because you will thereby lessen the amount of frauds now perpetrated upon the revenue. Your tariff laws now furnish an incitement to smuggling, and the passage of the act as reported from the committee will only stimulate that description of enterprise still further. I can enumerate many imported articles now openly sold in the market of New York at one half the amount of the import duty. Why? Because your high duty has encouraged smuggling. These are some of the reasons, and only a part of them, why I think we ought at this time to consider our whole financial system as an entirety, and not as a sort of mosaic legislation, each part to be prepared, polished, and adjusted at such times as the whim of the seven financial workmen selected by this body shall dictate.

And now how do we stand pledged upon this subject? I do not need anything further as evidence on this point than the remarks of the Senator from Maine [Mr. FESSENDEN] yesterday in reply to the Senator from Michigan, [Mr. HOWARD.] It will be remembered that the Senator from Maine at the time of the passage of both these tariff acts was the chairman of the Committee on Finance of this body. Yesterday he said:

"When we passed the tariff bill we graduated the duties upon imported iron and copper upon the tax that we imposed upon the domestic manufacture of iron and copper. The tariff bill is higher at this day for the very raising of those taxes. What is the effect of this bill? The effect of this bill is to relieve iron of all the taxes imposed by way of internal tax and leave the heavy duties on importations unchanged, thus having the double benefit."

Mr. President, that is the complaint that I have against the bill as it now stands upon the table and on which we are called to vote—that every dollar that we take out of the Treasury or that we prevent going into the Treasury for the benefit, it is said, of these manufacturers only serves, virtually and in effect, to so much increase the tariff upon the consumer.

Now, sir, let us see what we stand pledged to in this regard. When the tariff bill of 1862 was under consideration Mr. MORRILL, of Vermont, in moving to amend a section relating to iron, said:

"The object of the amendment is to place a duty equal to the tax laid upon bar-iron. As the bill was reported all iron costing less than fifty dollars per ton was exempted from duty. But the tax on this iron is $1 50 per ton, and, in addition to that a tax has been levied upon coal, it takes from four to eight tons of coal to make a ton of iron."—*Globe*, page 2936, part four, second session Thirty-Seventh Congress.

"Mr. SHELLABARGER. I rise to make an inquiry of the chairman or some member of the Committee of Ways and Means as to the correspondence between the additional duties assessed on the articles named in this section and the tax we have put upon them by the tax bill. I would inquire if the increased duty is larger in any considerable number of cases than the tax that we have imposed?"

Mr. STEVENS, who was at that time the chairman of the Committee of Ways and Means, and had charge of the tariff bill then under consideration, replied:

"The general principle adopted is the one that was mentioned by us when the tax bill was under consideration. We have laid the additional duty, as nearly as possible, at the same rate as the tax, except in some cases where it was necessary to correct errors in the present tariff.

"Mr. SHELLABARGER. I wish simply to say that I desire to vote on this bill in such a way that we shall accomplish this result, to wit: leave the present tariff substantially as it is, of course having regard to the imposition of home duties upon these commodities. Wherever by increasing the tariff we would increase the revenue during the war I should be willing to vote for the increase; but I am not willing to increase the tariff on any of these commodities except as a compensation for duties that have been imposed upon them, unless that increase will result in an increase of our war revenue. I am very glad to be informed that the bill is constructed with regard to that."

In a discussion upon the duties upon rice, Mr. STEVENS said:

"Now, what I look upon as important in reference to the duty on rice, is this: the doubt is whether we ought to levy any tax on imported rice at all. My own judgment is that we ought not, because we have not included it in the tax bill, and it is a violation of the principle upon which we started in making up this tariff bill."—Page 2939.

Again, Mr. STEVENS is reported on page 3053 of the Globe as saying:

"As long ago as three months, perhaps, when the tax bill was reported to this House, the Committee of Ways and Means distinctly stated, and it went forth to the country through all the papers, that we intended to impose an additional duty upon imports equal to the tax which they had put upon the domestic article. It was done by way of compensation to domestic manufactures against foreign imports."

So much in regard to the tariff of 1862, and the principle upon which it was announced to the world that that tariff was framed. Bear in mind, Mr. President, that we passed a war tariff in 1861 by which we greatly increased the duties imposed by the tariff of 1857 upon all goods imported into the country. Then, in 1862 we passed the bill, extracts from the debate upon which I have just read to the Senate. Then, again, in 1864 we passed another tariff bill, still further increasing the duties on imports. When that bill was under consideration in the Senate, Mr. Clark, the then Senator from New Hampshire, and who was a member of the Finance Committee, and who had a good deal to do with the bill, said:

"The principle that has governed the committee in adjusting this tariff has been to make the duties correspondent with the internal revenue, to advance the one as we advance the other."

Senator FESSENDEN said:

"The policy of the country, I take it, is to get money to support the Government principally from internal taxation, and to an exceedingly large degree from manufactures. If you propose to get money from them you must enable them to pay it; because, if you so legislate as to break down manufactures, or to check their prosperity or affect their prosperity seriously, that source of revenue, which is the great source of revenue, is dried up, and you fail in that most important particular. The tariff is adjusted, and was adjusted before, upon that simple particular with reference to the internal revenue taxation; and any gentleman will see, on the slightest consideration in the world, that on no other principle can you possibly accomplish your object."

Mr. Cowan, then a Senator from Pennsylvania, and also a member of the Committee on Finance having charge of the bill, said:

"It was universally agreed that this tariff bill was to be compensatory; that it was to compensate against the additional internal revenue levied upon the several articles embraced in it."

Mr. President, I know the Senate is impatient to come to a vote on this proposition; else I would take great pleasure in reading several other extracts from the able speeches of some of my associates on this floor as well as from the speeches of members of the House of Representatives, all going to the same purpose. I say that Congress is pledged to the country that the tariff bill and the tax bill shall be compensatory of each other; that if we pass this bill without the amendment which I propose, the advantage will be exclusively to the manufacturers and not to the consumers in Iowa and Nevada; that it will not diminish the amount they will be compelled to pay for all the imported articles, or the manufactured articles either; for, sir, I do not apprehend that you are going to reduce the price of a single manufactured article in this country by taking off these taxes. We tried that in several instances. We took off, three or four years ago, the duty on agricultural implements; and I believe, instead of the price of agricultural implements going down it went up. The reason was that the high price was not caused, as a great many men seemed to foresee in the first instance, by this small duty, but by the condition of your currency.

Mr. President, I have very faint hopes that this amendment will be adopted, but I hope I shall accomplish the object of calling the attention of the country to the subject. I want it to be understood how Congress committed itself when it passed the former tariff bills, and I want it to be understood, when another tariff bill shall come before us, if one ever shall come, demanding at our hands that an additional duty of twenty or thirty per cent. shall be imposed on all products imported from abroad, that we stand committed not in favor of such an imposition of duties, but rather of a diminution of the duties.

Mr. MORRILL, of Vermont. Mr. President, I suppose the Senator from Iowa has already accomplished his purpose, as I presume he does not anticipate success in his motion. He has completed the mosaic symmetry of his record. Formerly, I believe, he was counted as an advocate of protection; but more recently, he seems to have swung around the circle and got on the other side.

I suppose that the sentiment of the Senate has already been indicated in relation to ingrafting on this bill any topic relating to the tariff. I doubt not that the vote we have already had is a fair indication of what the vote will be on this proposition.

In relation to the merits of the question, there is no doubt that the tariff was increased to an equal amount with the internal taxes at the commencement; but as we progressed we found that we had to increase it a little more than the precise percentage, because there was a duplication, and a reduplication of taxes that made the cost of domestic manufactures large. Paper money also added to the cost of everything.

The sole or paramount question is, whether we can spare this money from the Treasury. I shall be very ready to reduce the tariff whenever we can spare the money. But, contrary to the theories of the free-trade men, it has been ascertained that a high tariff will produce a larger amount of revenue than a low one. The tariff of 1857, if I recollect rightly, only produced about sixty million dollars. The tariff of 1861, which only went on the theory of a mere translation of ad valorem duties into specific duties, produced a very much larger amount of revenue; and when we had to increase the tariff after the commencement of the war we found that a higher rate of duties more than doubled the amount of revenue received, and all that, too, in gold.

Now, sir, if gentlemen think they can spare the money, if they prefer to resort to internal taxation in preference to customs duties, they will vote for the amendment of the Senator from Iowa and reinstate the duties upon our internal or domestic productions. I rather think myself that the Senate and the country will be better satisfied to raise whatever revenue we must raise as much as possible from customs duties. Certainly, we cannot afford, it appears to me, to reduce them at the present moment. It is not a question of protection, but one of revenue.

Mr. CATTELL obtained the floor.

Mr. HENDRICKS. Before the Senator from Vermont takes his seat I should like to ask him one question, if the Senator from New Jersey will allow me to do so. The Senator from Vermont closed his remarks by saying that we should raise the revenue as far as possible from imports instead of by direct taxation. I wish to know of the Senator how he proposes to dispose of the excess that accumulates in gold in the Treasury. The laws provide for the payment of certain obligations on

the part of the Government in gold and silver. Beyond that I do not understand that the Secretary of the Treasury is authorized to make payments in gold and silver. Now, I desire to know of the Senator from Vermont whether he wishes to adopt a system which seems to me to be not only disturbing all the business, trade, and values of the country, but corrupting in its influence—the system of collecting gold and silver in excess of the sums that the Secretary is allowed to pay out in gold and silver, and to reduce that to paper currency by sales in the market.

Mr. MORRILL, of Vermont. Mr. President, if the Senator from Indiana had listened to the statement of the chairman of the Committee on Finance yesterday, he would have discovered that it will be impossible for us to carry on the Government and pay the interest on the public debt and our ordinary expenses without the resource to which he has called my attention. The Senator from Ohio presented a statement of the Secretary of the Treasury of miscellaneous receipts for the coming year, a large part of which, he stated, would be derived from the premium on gold which would be sold, and without that premium there would be an actual deficit of a much larger sum than was stated by the chairman of the Committee on Finance. Besides this, the amount which will be received in 1869 does not now look very likely to be greatly in excess of what may be our actual requirements for cash payments.

Mr. HENDERSON. With the permission of the Senator from New Jersey, who has the floor, I should like to ask the Senator from Vermont what evidence he has that this proposed reduction as contemplated by the amendment of the Senator from Iowa will reduce the returns from customs duties?

Mr. MORRILL, of Vermont. If the Senator from Missouri had listened to my argument I think he would not have asked me that question, because I have already stated that it is found by our own experience over and over again that what is called a high tariff does produce a greater amount of revenue than a low one. A point might be reached when that would not be the result, but our experience shows that it has not been yet. I do not, and never did, advocate high protection, but I am for an ample revenue.

Mr. FESSENDEN. My friend will allow me to ask him a question. He stated, as I understood him, that the change in the tariff in 1861 was principally a change from *ad valorem* to specific duties; that that was the difference between that tariff and its predecessor, and that there was a great increase in the amounts received under it. Does that prove the position he takes, that a high tariff produces more than a low one? It will undoubtedly on the same amount of importations.

Mr. MORRILL, of Vermont. Mr. President, in relation to that, I was not speaking fully and at large and with that care that I should have done if I had prepared myself as the Senator from Iowa has done on this subject, and perhaps what I said may allow the interpretation given to it by my friend from Maine. In relation to the specific duties, it is known to the Senator from Maine, of course, as it is to all other Senators, that they avoid fraud in invoices, both in the amount and in the value. We are cheated constantly whenever we have *ad valorem* duties. Goods are undervalued; they are understated. But if it is a question of the scales or of the yard-stick, then we get precisely the amount that is levied in the statute. If I could have my way I would translate every *ad valorem* duty that we have into a specific duty. I think we could get along with three fourths, possibly two thirds, of the amount of the nominal rates that we have if it was possible to put the *ad valorems* into a specific form. Upon iron, lead, sugar, tea, and coffee the present duties are specific, and we get a large revenue from them. If we could extend the system in other directions lower duties would give more protection and more revenue.

Mr. FESSENDEN. My friend does not answer my question, I think. He began by saying that it had been proved that a high rate of duty gave us more than a low rate of duty in amount; that that had been established by our tariffs. He proved it by citing the tariff of 1861, which he said was in fact but a change from *ad valorem* to specific duties. Now, I ask how that sustains his position.

Mr. MORRILL of Vermont. Well, Mr. President, whatever may have been my words, I had in my mind the various changes that we have made in 1862, 1864, and 1865, I believe. We have changed the tariff three or four times since 1861. The amount of increase in the tariff of 1861 was mainly from the change from *ad valorem* to specific duties; it was not large, and yet it answered the purpose of revenue and protection; but when we increased our revenue from $60,000,000 or $70,000,000 up to $179,000,000 it was by a large increase of the rates of the tariff. It was imposed to a great extent upon articles of luxury which people accustomed to and able to have will buy at any price.

Mr. CATTELL. Mr. President, I do not rise for the purpose of returning the compliment to the Committee on Naval Affairs which its chairman has been so kind as to pass upon the Committee on Finance, but simply to state in a few words what I think is a full answer to the elaborate argument which is presented to the Senate. It was the intention of Congress, no doubt, to fix the tariff in relation to the internal revenue tax. It was an experiment at the commencement, but there was an attempt to adapt the two systems of revenue, the one to the other, and it was quite likely that mistakes would occur in it. The Congress of the United States, after the experience of two or three years in this adjustment, took up the tariff question last winter and increased the rates under the direction of the then chairman of the Committee on Finance, whose ability in regard to the whole subject I shall never forget, and this body by a very large majority passed a tariff bill increasing the duties at least twenty-five per cent., and the same principle and to the same extent was passed upon by the House of Representatives. The bill, however, unfortunately, as I think, for the country, failed for want of time to reach it in the House of Representatives after it had passed the Senate. I presume the Senator from Iowa must be laboring under the impression that that tariff bill was passed. The Congress of the United States, upon a careful examination of this whole subject, then determined that in order to equalize these two systems of taxation they would advance the rates on imports at least twenty-five per cent.

It was found that the tariff was too low, and the Congress of the United States virtually agreed, although the bill failed to become a law, to advance the rates of duties at least twenty-five per cent., and I think more. Then is it a fair presumption now that because the tax of from one to five per cent. upon domestic manufactures is removed there must be a further reduction upon the import duties on the same articles to the extent of ten per cent. It is, of course, in entire accordance with the theory of the Senator from Iowa, who has no hesitation on this subject to state that he considers the tariff, even as it exists now, excessive, without reference to the internal taxation, and therefore the amendment comes very naturally from him; but I insist upon it that the intention of Congress last year, the object of the action upon the tariff last year, was to grant an additional protection to the manufacturers of this country because of the high rate of internal taxes which then existed; and now, because a reduction of from one to five per cent. is proposed to be made upon the overburdened industrial pursuits of the country, it is proposed by the gentleman that double the amount of the import duties shall be relieved!

Mr. GRIMES. I may be mistaken, but I never heard before that the tariff bill that we had under discussion last winter in both Houses of Congress was simply an effort to adjust the then existing tariff so as to make it correspond with the then existing internal revenue laws. We had done that in 1862 and 1864. The bill that we had under consideration last winter was simply to protect, as it was said, the industry of the country, and there was no argument advanced here for it upon any other ground.

Now, Mr. President, I do not know that it makes much difference to the Senate or the country what may be my opinions, or whether or not I have changed my opinions; whether or not I was once in favor of protection and am now in favor of free trade. All I can say is, that if I have changed my opinions I have followed the example of the distinguished Senator from Vermont; for he has announced here in regard to this subject exactly different opinions from those which he declared in 1862 in the House of Representatives, where he took the ground that if you imposed a high tariff you would diminish the number of consumers, and therefore lessen the amount of receipts.

But, sir, it is not true that I ever was a protectionist, if by a protectionist you mean what I understand to be meant by the high tariff men of this body, a prohibitionist or a restrictionist, and there is not any difference. The word "protection," as applied to this subject, is a perfect misnomer. It never should be used in connection with it, for there cannot be a protection unless just to the extent that the article is protected; to that extent it is prohibited. There are certain impediments thrown in the way of carrying on the legitimate commerce or trade between citizens so as to protect the man who manufactures the article at home against the man who manufactures it abroad, and just so far as it is a protection it is a hinderance, it is a restriction upon trade, it is a prohibition upon trade.

Now, sir, as to what my positions were, I can tell the Senate that I never was a protectionist of that description. I never voted, as I have been charged in the New York Tribune and other places, for Mr. Clay. I never had an opportunity to do it. The first presidential vote I ever gave was in 1848. And, as I am charged here with being a free-trader, I will say that if it be a free-trader to try to obtain just as much money as possible for the benefit of the United States from imports I am a free-trader. I am in favor of a revenue tariff. That is legitimate and proper; but the moment the Government undertakes to go beyond that and take money from my pocket, or take the profit of my labor, for the purpose of building up a particular manufacture for the benefit of the Senator from Vermont, that moment the Government transcends its obligation and its duty. That is the kind of a free-trader I am. I am in favor of getting just as much money as possible, and I would, if I could, pay the entire expenses of this Government from the duties received from imported articles. There is not any trouble about building up manufactures. They will be created just as fast as the capital of the country shall become concentrated, and can be used in that way more profitably than in any other business.

Mr. FESSENDEN. How about the tax on whisky?

Mr. GRIMES. That is a different thing. That is on a domestic product.

Mr. FESSENDEN. You said you would raise the whole revenue from the duties on imports?

Mr. GRIMES. There are some specific articles of domestic production that might be taxed; but I am speaking now in general terms with regard to the question of the tariff; and in order to convince, if I am able to do so, the Senator from Vermont that I have not changed my opinions on this subject; that I entertain to-day exactly the opinions I have always entertained; that in my conviction a man has a right to his limbs, and he has just as much right to the product of his limbs, to the productions of his industry, as he has to his person; and that when you undertake to say that

I shall not be permitted to send the product of my industry in the shape of wheat to Montevideo, to Brazil, or to Buenos Ayres, to obtain with twenty bushels of my product a thousand pounds of wool with which to clothe my family, but, on the other hand, I shall buy only one hundred pounds of wool from a farmer of Vermont, it is incumbent upon the Government to show a good reason why I should thus be restrained; and the only reason that they can assign is that it is necessary to preserve the Government that I should be thus restrained in order to procure the means with which the Government can be conducted. Just to that extent it has a right to restrain me, and no further.

Mr. HENDERSON. I desire to state, in order to be consistent myself on this subject, that I offered a similar proposition in the Committee on Finance, and I found myself in the condition of the juror who had eleven contrary, obstinate men upon the jury. I had six against me in committee; I voted solitary and alone for a proposition of this sort; but I find now some company in the Senator from Iowa.

I have no speech to make on this subject. I have no idea that the Senate will adopt the amendment, and yet it is just what my friend from Maine wants. It is worth all the drawback that he could possibly get, even if he were to multiply it by two, in resuscitating the injured and depressed industry of ship-building in his own State.

Mr. President, my judgment is that now is the proper time to commence a reduction of the tariff. The Senator from Vermont says that it is utterly impracticable; we cannot do that. Why? Because we want the money, and a high tariff necessarily produces a larger amount of money than a low one. I do not think so. The history of the world does not show it. The history of our own country does not show it. I have not the time now to enter into the figures on the subject; but our condition, if we follow it up, will be the same as the condition of England after the war with France which closed in 1815. They increased the duties, and English history will show it, from that time up to 1842. They continued to increase them, both excise and customs duties. In 1842, when Sir Robert Peel became prime minister, he suggested a different course of policy. I have before me a work on that subject, "Tayler's Taxation of England." The author says:

"On the 11th of March, 1842, Sir Robert Peel entered upon his bold and comprehensive scheme. He took an extended view of our financial history of late years, pointing out the constant deficiency of the revenue as compared with the expenditure, in despite of an increase of duties and population."

What did he suggest? Did he suggest a continuation of the old system, or did he suggest, in order to meet the annual deficits of the Treasury, that taxes should be increased? On the contrary, he suggested that taxation should be decreased. What effect did it have upon the English finances? He did not at that particular time say that the corn laws must be repealed; but in 1845 he did. He tried a reduction of duties, and he found that it increased the revenue, and then it was that he changed the entire policy of the English Government. He suggested in 1845 an absolute repeal of the corn laws. Gentlemen answered Mr. Peel then just as we are answered here now: "If you do this, you will ruin the Treasury; you will bankrupt the country;" but, sir, the singular proposition is apparent before us in English history, that upon the repeal of the corn laws English finances improved instead of deteriorating.

Mr. EDMUNDS. They did not get so much revenue on corn, did they?

Mr. HENDERSON. No; certainly not. Now, sir, will it damage us in this country to export a little more and import a little more? Suppose that the taking off of excise duties will stimulate the manufacturing products of the northern States; that is what we are proposing to do, is it not? We propose now, instead of levying this tax that we have levied, much against my will if I had my way, a tax of five per cent. on manufactures, to take it off by this bill. Will not that stimulate manufactures to a larger production than before? If not, we had better not take it off. I suppose it will do them some good; will it not? Does it not then increase the products of the nation? If so, what is to become of them? Must they not be exported; and if exported, shall we not get something in return? If we do, I apprehend that this intercourse between this and other nations of the world will give some employment to my friend's shipping in Maine. It is depressed simply because there is nothing to do; there is nothing to be carried in the ships, and unless we can revive the business with which shipping can be stimulated, and upon which it can make profits, of course there is no necessity for shipping at all.

Mr. President, what we want, as I understand it, is to stimulate all the articles of industry; to increase their products; and in increasing their products to increase the intercourse between this and other nations of the world. It is not to be expected that other nations will pay us entirely in coin for the products we send to them.

As I said before, it does not necessarily follow that the reduction of the tariff will not give us an increased revenue. As the Senator from Iowa very properly says, he was called upon during the war again and again, and I was called upon five or six times by my friends, the Senator from Ohio [Mr. SHERMAN] and the Senator from Maine, [Mr. FESSENDEN,] to vote for an increase of the tariff. I never believed much in high protective duties; I never have been in favor of them; but I was compelled to vote for them upon the representations of the Committee on Finance that they were absolutely essential, that they were necessary under the circumstances. I found it to be so, because if we levied high rates of excise duty upon our own industry of course we had to protect that industry, and I saw no other way of protecting it except by increasing the rates of duty. Now it is proposed to take them off; and what return have we? I dislike to speak on this subject because gentlemen charge me with being sectional in my views and feelings. The proposition, as I understand it, is now to leave tobacco and whisky, western products; to leave petroleum, a product of the central States; to leave sugar and turpentine, the products of the southern States, to be taxed; but the manufactures of the eastern States, of the Atlantic States, are to be entirely exempted. What return do we of the West get? Is it to keep the exorbitant rates of tariff duties just precisely where they were before? That may be all right; it may be proper; and it may live for a short time, but it will not live a great while. The day will come when New England manufacturers and New England shipowners and New England commercial men will find that their true interest is in a direction very different from that which their representatives have been pursuing in this body.

I have no idea, as I said, that this proposition is going to receive much support; but now is the proper time to present it, and if it is not done now it never will be done. I know perfectly well that it is exceedingly difficult to get duties off. Why? Because gentlemen insist all the time that you must keep something in the Treasury. I know that. Gentlemen insist upon the payment of high rates of interest upon bonds; they also insist that we must pay the necessary taxes; and yet my friend from Maine says the shipping cannot afford it; the Senator from West Virginia says petroleum cannot afford it; and after awhile I may say that tobacco and whisky cannot afford it from the West. Now, sir, what is to afford it? And yet we have these exorbitant rates of interest to pay, and we must necessarily meet them. In what way are we to meet them? By shouldering the entire burden of the affair on the West? Surely not. It cannot be done.

Mr. President, I hope the amendment of the Senator from Iowa will receive anyhow a respectable vote. The day will come when the measure will be successfully agitated. Ten per cent. reduction is not enough; it ought to be twenty per cent. It ought to be largely more than is proposed. Gentlemen need not jump at conclusions and insist that necessarily a reduction of the tariff will bring about a reduction of the revenue. It does not follow; it cannot follow; and if it does follow, then we might as well give up the entire question. I do not desire to take up the time of the Senate. I have said nothing on this bill, and did not expect now to say a word. I did not intend to offer a proposition of this sort. It was voted down by such a large majority in committee that I felt it was not necessary to do so. The Senator from Iowa, however, has presented it to the Senate, and I feel bound to vote for it, and I have felt bound also to give the reason for my vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

Mr. GRIMES. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. FERRY. I wish to say one word only. I shall vote against this amendment for the same reason that I voted against the amendment of the Senator from Maine, because I do not wish to jeopard and hazard the original bill.

The question being taken by yeas and nays, resulted—yeas 12, nays 32; as follows:

YEAS—Messrs. Davis, Grimes, Henderson, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Pomeroy, Saulsbury, Trumbull, and Vickers—12.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Sherman, Sumner, Tipton, Van Winkle, Wade, Willey, Wilson, and Yates—32.

ABSENT—Messrs. Bayard, Doolittle, Fowler, Harlan, Morton, Ross, Sprague, Stewart, Thayer, and Williams—10.

So the amendment was rejected.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. SHERMAN. I hope the Senator will allow the bill to be reported to the Senate, and then I shall not object to an adjournment.

Mr. FESSENDEN. Certainly; but I thought we could not get through with the bill to-night.

Mr. SHERMAN. I do not propose to do so, but I want to have it reported to the Senate.

The PRESIDENT *pro tempore*. If no further amendment be offered, the bill will be reported to the Senate.

Mr. SHERMAN. I desire to give notice that I shall endeavor to get a vote on the bill to-morrow. As it is important that our amendments should be acted on by the House of Representatives, there being but two days of this week left, I desire to have the final vote to-morrow, and I hope Senators will come prepared to sit it out, if necessary.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 18, 1868.

The House met at twelve o'clock m. Prayer by Rev. MANSFIELD FRENCH.

The Journal of yesterday was read and approved.

STATE GOVERNMENTS REPUBLICAN IN FORM.

The SPEAKER. The first business in order is the consideration of the business pending at the adjournment yesterday, being a motion entered on the 12th of July last by the gentleman from Pennsylvania, [Mr. BROOMALL,] to reconsider the vote by which the House referred to the Committee on the Judiciary House bill No. 126, to guaranty to the several States of the Union a republican form of government.

The bill was read at length. The preamble states that the form of government of several of the States of the Union is not republican in this particular: that by the constitutions and laws of such States political rights are made to depend upon parentage and race, and are hereditary in certain families, to the exclusion of others equally citizens of the United States; and that it is the constitutional duty of the United States to guaranty to every State a republican form of government.

The first section provides that all provisions and enactments in State constitutions and laws which make distinctions in political or civil rights among citizens of the United States, or deny such rights to any such citizens on account of parentage, race, lineage, or color, are, and are hereby declared to be, void and of no effect.

The second section provides that if any person shall prevent any qualified citizen of the United States from exercising the right of suffrage at any election in any State, under the pretense that such citizen is disqualified by the constitution and laws of such State on account of his parentage, race, lineage, or color, such person shall be deemed guilty of misdemeanor, and, on conviction thereof in the proper court, shall be sentenced to pay a fine not exceeding $5,000, or to undergo imprisonment not exceeding five years, or both, at the discretion of the court.

The SPEAKER. The pending question is upon the motion to reconsider, upon which the gentleman from Pennsylvania [Mr. BROOMALL] is entitled to the floor.

Mr. BROOMALL. Mr. Speaker, the fourth section of the fourth article of the national Constitution reads thus:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive, when the Legislature cannot be convened, against domestic violence."

These duties are imposed upon the United States in terms the most imperative with which our language is endowed. It is no mere grant of power, no mere submission to discretion or judgment, but a positive command, "the United States shall guaranty." However willing the public officers upon whom duties are imposed by this section may be to avoid the responsibility or the labor of performing them, they can only do so by an utter disregard of their official oaths. All such officers have sworn that they will guaranty a republican form of government to the States respectively, will protect them against invasion, and, on the proper application, against domestic violence. It is incumbent, therefore, upon every such officer, whether legislative, executive, or judicial, to inquire conscientiously what duties are imposed upon him in the premises, and to perform such as are with the consciousness that he is responsible to his Maker and to his fellow-men for their performance.

In the minds of the framers of the Constitution three distinct evils threatened the States: first, the destruction of the republican features of their governments by the people themselves peaceably and according to the forms of law; second, foreign invasion; and third, domestic violence. The last was required to be guarded against and averted only upon the call of the States themselves. Only upon the application of the proper State authorities could the United States be either required or permitted to protect the State against the illegal and violent acts of its own citizens. For the first and second of the apprehended evils, on the other hand, the appropriate remedy is enjoined upon the national Government without the action and even against the consent of the States themselves.

It was foreseen that a State might invite foreign invasion as a means of aiding rebellion or with the intention of transferring her allegiance to some other Power. Hence it was necessary not only not to require the United States to await her call for aid, but to enjoin positive action even in disregard of her wishes and against her remonstrance. In like manner it was foreseen that if the people of any State should establish monarchy or adopt any other anti-republican system or principle under the regular forms of law, and by the consent and suffrages of a majority of the citizens, it would be idle to await or expect the call of the State authorities. In this case also the proper remedial action was required of the United States without the application and against the will of the State. It was intended that no other than a republican form of government should be established in any State even with the consent and by the desire of all its citizens. Every citizen of the United States, wherever located, was supposed to be interested in the form of government of every State; and, if the republican principle should be violated in any of them, was empowered to call upon the Government for the guarantee.

The history of this provision, as contained in the Madison Papers, shows that the framers of the Constitution intended, what the language unmistakably expresses, to impose upon the United States the duty of compelling every State to maintain a republican form of government. It was originally proposed by Mr. Randolph in these words:

"That a republican government and the territory of each State, except in the instance of a voluntary junction of government and territory, ought to be guarantied by the United States to each State."

This was amended upon the motion of Mr. Madison to read thus:

"That a republican constitution and its existing laws ought to be guarantied to each State by the United States."

In commenting upon it Mr. Randolph said:

"The resolution has two objects: first, to secure a republican government; second, to suppress domestic commotions."

He urged the necessity of both these provisions. Mr. Madison afterward offered as a substitute the following:

"That the constitutional authority of the States shall be guarantied to them respectively against domestic as well as foreign violence."

To which Mr. Randolph moved to add:

"And that no State be at liberty to form any other than a republican government."

Mr. Madison accepted this, and Mr. Wilson then moved, as a better expression of the idea, the following:

"That a republican form of government shall be guarantied to each State, and that each State shall be protected against foreign and domestic violence."

This was assented to by Messrs. Madison and Randolph and adopted by the Convention. At a subsequent period it was amended and made to read as we now find it in the Constitution.

It is evident from this that the provision was inserted upon full consideration and with the intention of giving the United States both the power and the duty of forcing by some civil process republican governments in the States.

The bill now before the House is proposed to be enacted under this constitutional provision. My remarks, therefore, will be mainly limited to the powers granted and the duties imposed by it upon the national Government and its several departments.

The first question which naturally suggests itself is who shall judge of the necessity for action? What branch of the Government shall decide whether or not a given form of State government is republican? Before answering this question I propose to address myself to another equally important, though apparently standing second in the regular order. That is, what branch of the Government shall fulfill the guarantee? The answer to this question may throw light upon the former, for obviously the party called upon to act may be the judge of the necessity for action.

Now, the Constitution cannot execute itself. Without something else it is but a dead letter. It has no remedial features. The judiciary may expound it, but in the absence of duly enacted laws the judiciary can do nothing more. Without remedial law a decision of the Supreme Court that a given State government is not republican in form would have no more efficacy in righting the wrong than would the solemn enunciation of some grand scientific truth.

Besides this, in the absence of law it is difficult to see how such a question could get before the courts of the United States. A citizen of a State disfranchised by its laws cannot sue the officers of the election in those courts; and a citizen of another State has no cause of action against them because the obnoxious laws do not operate upon him. It is plain, therefore, that the remedy is not, in the first instance, with the judiciary.

The same difficulty would stand in the way of the Executive. His province is to cause the laws to be executed and obeyed. He cannot execute a mere constitutional provision except where the Constitution imposes that duty upon him expressly, as in the case of making treaties and nominating officers for ratification by the Senate. However far from republican the form of a State government may be, without law the executive, like the judiciary, would be utterly powerless to afford the relief. It follows, therefore, that the remedy in the first instance is in the legislative department.

I return now to the former question, what tribunal shall say whether or not a State government is republican in form? This is now readily answered. The remedy being legislation, Congress, the sole and final judge of the necessity of its own action, can alone decide this question, and its decision binds all other parts of the Government.

Having ascertained the remedy and by what department of the Government it shall be applied, the next question which arises is: how shall Congress in any given case by legislation guarantee to a State a republican form of government? Suppose a State by the regular process prescribed in its constitution should establish a monarchy. How shall Congress apply the remedy? Not, certainly, by declaring war against it. No civil government provides that remedy for internal evils. Physical force is only contemplated to be used for the enforcement of law, and in this case, thus far, there is no law.

Congress might refuse to admit Senators and Representatives from the State, but this would avail nothing if the State should be satisfied without representation. It would in fact be no remedy for the evil, though it might possibly afford an inducement to the State to correct the evil itself. It would certainly be no guarrantee of a republican form of government.

How, then, shall Congress perform this duty? There is but one other mode possible, and that is to legislate immediately upon the obnoxious provisions. To declare void those features of the State government which are not republican and to provide for the infliction of pains and penalties upon those who shall attempt to enforce them.

This may or may not leave a perfect State organization. If it should, then no further legislative action will be necessary. If it should not, if the anti-republican provisions should be so interwoven with the institutions that annulling them will sweep away all the essential elements of the State, leaving the people substantially without civil government, then there will remain simply citizens of the United States occupying territory within the limits of the United States, and not within any organized State. This condition of things has occurred so frequently since the formation of the Government that precedents for its proper treatment are upon every page of our country's history. A simple enabling act would authorize the citizens to form a new State organization, conforming it to the provisions of the national Constitution.

To ascertain when a case arises calling for the exercise of this power it is proper to inquire, what is a republican form of government? On this subject Mr. Madison says:

"If we resort for a criterion to the different principles on which different forms of government are established we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the

great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic."

A republican form of government may be said to be that in which the sovereign power rests in the whole people in their corporate capacity, and is exercised by their representatives chosen according to some established rule, either by all the citizens or by such portion of them as, by reason of domestic or social relations with the remainder, may be fairly considered to represent the interests of all. If the representatives be chosen by one tenth of the entire number, and if that tenth be so selected as fairly to represent the interests of the remaining nine tenths, the form of government would be republican; but if that tenth be selected according to some rule which would make them antagonistic to any of the remaining tenths—as if they be taken only from the learned professions or only from the manufacturers, the merchants, or the farmers, or if they be taken exclusively or largely from geographical divisions containing a minority of population, so as to represent land rather than people—it is obvious that the whole people would not be represented, and that the government would be that of a class only, an aristocracy and not a republic.

To constitute the required form of government, therefore, it is necessary that every citizen may either exercise the right of suffrage himself, or have it exercised for his benefit by some one who by reason of domestic or social relations with him can be fairly said to represent his interests. In one of these cases he is directly represented in the government, and in the other indirectly. This indirect representation is that possessed by women, children, and all those under the legal control of others.

However desirable it may be that every free agent should have by law an equal voice in the common government, yet the fact that women do not vote is not in theory inconsistent with republicanism. The primary and natural division of human society is into families. All forms of religion, all systems of laws, recognize this arrangement. By common consent or common submission, whether founded upon reason and justice or not, is not material to the argument, the adult males are supposed to represent the family, and the government is not bound to look further than this common consent or submission. It receives as representation of the family those whom the family sets up in that capacity. When the women of the country demand that they also shall be recognized as representatives of the family, or of themselves, they ought to be, and they will be, so recognized. But when the demand comes, all men who are afraid to measure intellect with women on equal terms will object just as all who suspect themselves to be below the average negro in the scale of humanity will oppose the measure now before the House.

But whether the foregoing definition of a republican form of government be correct or not, one thing is certain: where political power and the want of it are hereditary and partial the government is not republican. The essential ingredient of that species of government is that the sovereign power is in all the citizens; and though political rights and duties may not be enjoyed and exercised by all of them, yet hereditary political privileges and hereditary political disabilities destroy the republican form.

It matters not how few, how poor, and how ignorant the proscribed families are. It is the existence of proscribed families which fixes the character of the government. In no sense can the sovereign power in such case be said to be in all the citizens. For those who by law inherit and transmit only the right to be governed the sovereignty might as well vest in a single line as in ten thousand. The number of privileged families only settles the question whether the government is a despotism, a limited monarchy, or an aristocracy. I do not, of course, deny the right to disfranchise individuals as a punishment for crime, but I do deny the right to make the disfranchisement hereditary.

The bill under consideration sets out that in certain States of the Union the elective franchise is limited to certain families or races of men, to the exclusion of other families and races equally composed of citizens of the United States. This fact will not be denied, and the only question to be decided is whether, in this particular, the form of government in those States is republican. If my definition and argument be correct, that question is of easy solution. For the families and races excluded there is neither direct nor indirect representation. In them no sovereignty exists. The government, therefore, is that of a class, and not of the entire citizens. It has all the characteristics of an aristocracy.

It makes no difference in its favor that the ruling class constitute the majority of the citizens. On the other hand, the case of the class excluded is the harder from the fact that it is the minority. If the body of the citizens were excluded, they might by combinations force a kind of justice from their rulers. But the condition of a disfranchised minority is hopeless indeed. Even the resource of revolution is denied to them.

If the majority may lawfully disfranchise the minority on account of race or lineage, then may the citizens of South Carolina of African descent limit the elective franchise to themselves to the exclusion of their white fellow-citizens. If in the form of government now being constituted there such a limitation should be placed, who in this Hall or in the country would maintain that the government is republican? Not a single vote could be obtained in either House of Congress for the admission of a State with such a constitution. Now, if it is not republican in South Carolina, where black men are in the majority, to limit the suffrage to black men, with what consistency shall we maintain that it is republican in Ohio, where white men are in the majority, to limit the suffrage to white men? Let us beware how we advocate the doctrine that the minority may be lawfully disfranchised on account of lineage, lest that doctrine be turned against ourselves and lest for very shame we be obliged to submit.

If it be said that the case I am apprehending cannot arise, that such a constitution presented by South Carolina and persisted in would insure and perpetuate her exclusion, I reply that the danger is not to be apprehended in that shape. South Carolina will present no such constitution; she will first secure her admission. But State constitutions are subject to change by a majority of the citizens under certain forms and regulations. The spirit of rivalry existing between the blacks and Democrats, the war of races which forms so prominent a part of the political creed of our opponents is very likely if persisted in to produce its fruits of retaliation. Thus far the blacks, where in the majority, have behaved with a wonderful degree of forbearance; but who shall answer for its continuance under continual provocation? It will be from the exercise of virtue more than human if the black majority of South Carolina do not imitate the white majority elsewhere, and after admission do not change the constitution by inserting the word "black" as a qualification for voting to correspond with the word "white" in the constitutions of other States. We have no right to expect that they will be better than we are, after all their degradation, after all the oppression they have undergone at our hands. I should be ashamed of the selfishness of my race if I did not believe such an event very likely to occur. Let us be forewarned!

With such a State, regularly admitted and as "sovereign" as any other, only having exercised a right conceded to all other States since the foundation of the Government, of fixing and changing from time to time the qualification of voters, what would we do? We would decide that the form of government is not republican. Even our political opponents, those great admirers of aristocracy and class government, would concede that. But what then? Some white citizen of South Carolina would point us to the fourth section of the fourth article of the Constitution and call upon us for this guarantee, and how would we grant it? To refuse representation to the State would not benefit the disfranchised white man? Would we make war upon a "sovereign State" in profound peace with us? That was hardly allowable, according to Democratic authority, when the State was in armed rebellion. What we would do is very manifest. We would pass just such bill as that now before the House. We would legislate the anti-republican provision out of the Constitution and provide pains and penalties for anybody who should attempt to enforce it.

If we admit that a majority of the citizens of a State may lawfully disfranchise the minority on account of a difference of race or lineage, what is there to hinder the process from going far beyond the African? The larger portion of our citizens are of Teutonic or Saxon lineage. Yet no inconsiderable number are of Celtic origin. Now, the antagonism of Saxon and Celt in the Old World is proverbial. Even in our own country symptoms of this occasionally appear. English writers upon ethnology are fond of predicting that the battle of the Boyne will at some time be fought over again on American soil with possibly different results. If we throw aside the positive declarations of the sacred writings that all men are of one common parentage, and the inferences drawn from similarity of anatomical and physiological structure and from identity of passions, prejudices, faculties, and instincts of good and evil throughout the entire human family, if we throw these aside there is not the smallest particle of evidence that the Saxon and Celt are of common origin. Science, history, and even tradition are silent upon the subject.

I repeat, if we admit that a majority may lawfully disfranchise the minority on account of a difference of lineage, what is there to hinder the Saxon from disfranchising the Celt? And when this is done why might not the Saxon of British descent apply the same rule to him of German origin, and so on until there shall remain but a single powerful reigning family?

But I am told that this right to disfranchise on account of race is not the absolute right of the majority; that its operation is limited to the black race; that this is a white man's Government; that all white men of all races have equal rights, and that black men and red men have no rights whatever except by the grace and favor of the white men.

The title of the white man to the country, at least as against the red man, will not bear very nice inspection. It has at best no higher foundation than that of present occupancy; and if we rest it upon present occupancy it is certainly no better than that of the black man. If cultivating, if defending the soil, mingling with it one's sweat and blood, gives title to it, then indeed is the black man's right quite as good as ours.

Let me inquire at what period of our country's history the Government became exclusively that of the white man? The negro has always owed allegiance to it. He has always been capable of committing treason against it. He has always been subject to its laws. His property has always been taxed for its support. He fought for its establishment. He fought for its preservation during the recent dark and bloody period, and that, too, when those who deny him all participation in it were seeking or conniving at its overthrow.

Besides all this, the negro aided in the formation of our present "more perfect Union." He was a voter in all or nearly all the States at the time. His representatives, as well as ours, said for him, as well as for us: "We, the people of the United States," "ordain

and establish this Constitution." It is strange, indeed, if the Government is not the Government of all who created it, who are subject to its laws, who owe it allegiance, and more than all, who can be compelled to fight for its preservation!

During the earlier years of the war, when our political opponents had at length reluctantly consented that the rebellion should be put down if it could be done gently and without hurting anybody, they opposed the arming of the blacks; they maintained truly that doing this would be acknowledging that the Government is theirs as well as ours; but when the business became serious, when the draft came, they, as well as we, refused to exempt the black man. Now, I accept the Democratic doctrine. Nothing can be more sound than this proposition: none but white men should have been called upon to fight for a white man's Government. Every Democrat who procured a black substitute, every one who was saved from the draft by the drafted black man, every American citizen who now enjoys the blessings of a preserved Government, is estopped from claiming exclusive property in it as against those who fought to sustain it.

It may be said that if the doctrine I have been advancing be correct the late slave States never had a republican form of government, and the fact that they were recognized at the adoption of the Constitution as coming within its provisions in this respect may be urged against the correctness of my definition of that form of government. It will not do to reason thus too hastily. At that time the free blacks in all or nearly all the States had the right of suffrage, and, according to the theory of slavery, it did not militate against the republican form that the slaves had not. Considered as chattels, they could not, of course, be deemed a political element any more than horses and dogs. Considered as persons they were under the legal control of others, and came within the rule applicable to minors. Bad as the system of human slavery was, it might in theory coexist with a republican form of government. None but freemen can constitute the political element of any State. In theory the slaves were a part of the family of the master. The relation between them was like that of parent and child, very like in many cases if the clerical postmaster at Confederate Cross-roads is to be believed. In theory the master represented the slaves in the State. Whether he did them justice in that capacity is quite another question.

When the free blacks came to be disfranchised, then the want of republican form first began. But this was mainly done after the adoption of the Constitution, at successive periods, by a State at a time; and being inconsiderable in numbers, and without political influence, the victims of the wrong were unable to require and secure the guarantee. The glaring want of the republican form in those States first appeared when four million American citizens, unrepresented in their Government, sprang into existence at the bidding of the conqueror. Before that time we might excuse the disfranchisement of the few free blacks upon the principle of the well known legal maxim, *de minimis non curat lex*, but that will not serve us now. We must now either adopt universal suffrage or abandon the republican form of government.

If it be objected to the bill that it proposes to regulate the right of suffrage in the States by congressional action, and that that entire subject is left by the terms of the Constitution to the States themselves, I answer, nothing is left to the States themselves by the terms of the Constitution except subject to the right and duty of the United States to guaranty them a republican form of government. It follows, then, that wherever the want of a republican form appears there we must legislate. If a State should make her offices hereditary we would be obliged to legislate upon the term and tenure of State offices. If she should shut her courts against every man who could not trace his descent from Adam, or some other ancient celebrity, we would be obliged to legislate upon the duties of her judges and the rights of suitors in her courts. In like manner if she limit the right of suffrage to a favored part of her citizens and their lineal heirs forever, we can do nothing else than legislate upon the question of State suffrage. I repeat, no power whatever is reserved to the States except subject to the right and duty of the United States to guaranty them a republican form of government.

The cause of universal suffrage is the cause of the great laboring masses of the community. Wherever suffrage is restricted the restriction falls upon them. Nowhere are the poor and the ignorant gifted with political rights and the wealthy and the learned denied them.

Republicanism is only better than other forms of government because it secures the due representation of all interests in the administration of public affairs. My colleague from the Luzerne district [Mr. WOODWARD] says there is no antagonism between capital and labor. I think he is mistaken. I grant that each aids the other, and that without either the other would be very inefficient for its own or the public weal. But all organic life is made up of antagonisms; and it is the proper balancing of these antagonisms that makes the world the glorious thing it is.

Capital is interested to make itself dear and labor cheap, and labor is interested to reverse this order. Derangement would follow if either were permitted to have its own way to the exclusion of the other; but when both succeed to the full extent consistent with the success of both in the general struggle and rivalry, then that just equilibrium is produced which we call a healthy condition of trade, business, and society.

A government conducted solely in the interests of labor might fail in security to property, and thus end in anarchy and ruin. On the other hand, a government conducted solely in the interests of capital might degrade and depress the great masses of the people, bear them down to a point just above starvation, and end in aristocracy or monarchy.

It is the function of a republican form of government to balance these and all other conflicting interests, and it does this by giving all of them their full representation in the conducting of public affairs. If the Government were composed of importers alone, it is easy to see that no such question as that of protective duties would be permitted to arise; and if domestic manufactures alone were represented, an ocean of melted lead might as well roll between us and the Old World as far as foreign competing imports are concerned. But both having political power according to numbers, a just equilibrium is produced, under which both kinds of business prosper. I mention this as an instance of the rivaling interests with which all society is filled, and as a powerful argument in favor of a republican form of government, which, by equal representation of all interests, produces an equitable balancing of all antagonisms.

In every community labor has the advantage of numbers and capital, the advantage of power of combination to effect its purposes. Under equal representation, such as exists to a great degree in our northern States, these advantages are found in the main to balance each other and to conduce to the general prosperity. So true is this that men are constantly being transferred from one class to the other by a rule which is dependent upon their own behavior, and any young man of ordinary intelligence and opportunities may elect which class he will enter.

A very different state of things existed formerly in the South. There labor was not represented in the Government except through the small number of laboring white men. The great mass of the laborers, being slaves, were wholly without political power. The natural result followed. No poor man, though free and white, could rise, because his business was discriminated against in the management of State affairs and the lands were appropriated in farms of one thousand to one hundred thousand acres by a comparatively small but closely combined and powerful class of the community.

The low price of labor in Europe and the degraded condition of the masses may be in some degree owing to a superabundance of laborers, but much more to the fact that labor is not fully represented in the Government. This is well understood by the people, and the various reform movements which have from time to time extorted from the fears of those in power some recognition of the right of labor to representation, are movements in the right direction. Universal suffrage and absolute despotism are the extremes to which all Governments tend. There is no middle ground such as that attempted to be occupied by England and advocated by the Democratic party here, which is capable of being held for any great length of time. The first Napoleon, himself a despot, said truly that Europe must eventually become all republican or all Cossack, and it requires no prophet to foretell that when we deliberately reject universal suffrage we will be already on the road to monarchy.

I repeat, the cause of universal suffrage is the cause of the great laboring masses of the community. As long as their business is not represented in the Government in its full force and numbers, it will be discriminated against. My colleague from the seventeenth district [Mr. MORRELL] is a manufacturer; I am very happy to say a successful one. Now, what would he say if it should be proposed to disfranchise half the manufacturers? Though he were not included within the proscribed half he would very properly object. It would destroy the balance of power. It would weaken the influence of his business in the councils of the nation, and render it subject to unfriendly legislation. It might increase his influence among the manufacturers, but that would by no means compensate for the loss of power in the State and nation. Thus the want of the black laborer's vote weakens the political power of the white laborer. It is an ingenious device of the capitalist to lessen the influence of the white laborer by disfranchising so large a portion of his business, and the cruel part of it is that he makes the white laborer aid him in the iniquity by playing upon his prejudices of race and color.

My colleague from the Luzerne district is a capitalist. It is all very well for him to cry peace when he sees the labor of the country to the extent of five million people disfranchised. He naturally wants things to remain as they are. He has got the upper hold. When the rebels had plundered our Treasury, and seized our forts and arsenals and half our territory, all they asked was to be let alone. They could see no antagonism between them and us. If the laborers of the country had managed to disfranchise half the capital, my colleague would preach quite a different doctrine. His fears for the safety of his public stocks, his bonds and mortgages, and his lands, would then teach him that the world is made up of rival and conflicting interests, which can only be kept properly balanced by equal and fair representation in the Government.

That general diffusion of wealth which is the result of just and equal laws is a thing greatly to be desired in all countries. That system of government is the best one which secures to every man the full share of the world's goods to which his ingenuity and his industry entitle him. I have no fear that capital will not be able to take care of itself. With labor represented in the Government to the full extent to which I think it ought to be, to the full extent of universal suffrage, the advantages would be quite sufficiently on the side of capital.

In asking universal suffrage, I am asking no unfair advantage for the laboring masses of the

community. I accord to them just what I claim for myself, the right to say that every man who follows my business shall by his vote and influence aid me in keeping up in the State and nation a just balance between it and other rival interests; and when I see designing men rousing the prejudices of white laborers to induce them to keep down their own just political power by keeping disfranchised a large portion of their business I cannot help sounding the alarm though it is needless. The man who attempts to do this pays but a sorry compliment to the intelligence of his countrymen.

To those who, like the gentleman from New York, [Mr. BROOKS,] urge the inferiority and ignorance of the blacks as a reason for denying them political rights, I reply: that is the argument against granting such rights to the masses of white men in England. The right of voting there is confined to a class quite as select and intelligent as our Democratic politicians, but we do not find the country any the better governed for it.

Fraud is much more to be feared in the ballot-box than ignorance, and the greater the number of voters the less the opportunity for fraud. Hitherto our political dangers have not arisen among those who held their power by the voice of the people. If universal suffrage had been established fifty years ago the rebellion would have been an impossibility.

The argument founded upon ignorance and inferiority comes with an ill grace from those who affect to fear that five million blacks will be an over match for thirty million whites, unless kept down by political disabilities. What a commentary is this upon the boasted superiority of the white race! But such appeals to the weak side of human nature deserve no answer. He who seriously holds up negro domination as a thing to be feared in this country is to be pitied as a coward; and he who does it fraudulently is to be despised as worse.

Republicanism, though in strict accord with the best interests of the masses of men, has its foundation in far nobler considerations—the eternal principles of truth and justice, the equality of man in the sight of his Maker. The little mind, proud always in proportion to its littleness, moving in its microscopic circle, wraps itself up in its petty bundle of selfish interests and thinks that it, its household, its family, its race, constitutes the one sole end and aim of the Almighty's care. Such a mind rejects with scorn everything that does not square with its own little measure. To it the parable of the good Samaritan is wholly unintelligible, and if it dared it would accuse the Author of that parable of "sickly sentimentality," because he taught that human rights and duties are not circumscribed by the boundaries of race or nation. To such a mind the doctrine of the universal brotherhood of man, first taught on the mountain in Judea, is as utterly meaningless as would be a dissertation on music to the deaf or a description of the rainbow to the blind.

In conclusion, permit me to say, let there be no war of races in America; and to guard against such a calamity let every man accord to his neighbor that just share in the conducting of public affairs which he claims for himself. Above all, let us not load down the weak, the poor, and the ignorant with political disabilities. Surely we have advantages enough in the race of life which God has placed before us all without making them bear the burden. Let all who are asked to obey the laws have an equal voice in making them. Let all the rivaling interests of humanity be equally represented in the common Government. Then will that great distinguishing characteristic of American society, the general diffusion of wealth and knowledge, be increased and perpetuated, making us an example of justice and prosperity to the world.

Mr. Speaker, my hour, I believe, has not expired, and I yield to my colleague [Mr. WOODWARD] for a question.

Mr. WOODWARD. I merely wish to ask my colleague whether we have a republican government in the State of Pennsylvania?

Mr. BROOMALL. The gentleman has failed to hear the whole of my remarks, or he would answer that question for himself by saying that in that particular we have not a republican form of government in Pennsylvania. We had prior to 1838. Before 1838 we had no hereditary disfranchisement. Now we have such disfranchisement. I have maintained that hereditary disfranchisement is anti-republican.

Mr. WOODWARD. I am obliged to ask the gentleman one other question. I wish to know whether he, as a lawyer, is so ill-read in the legal reports of his own State as not to know that the supreme court of Pennsylvania decided that, under the constitution of 1790, the word "freeman" meant white freeman; and that the introduction of the word "white" into the constitution of 1837 did not in effect alter the constitution a particle?

Mr. BROOMALL. My colleague knows very well the history of that transaction. He was one of the men who put that anti-republican feature into the constitution of Pennsylvania. I was a boy at that time reading law, and was very glad to listen to the gentleman occasionally. He knows perfectly well that that decision of the supreme court was made in a case got up by the judges of the supreme court for the purpose of preventing the people from adopting the new constitution. The word "white" in the new constitution was regarded as being put in for the purpose of carrying the constitution with the people, and these supreme judges who were legislated out of office by the same constitution got up a case in which they decided that the word "white" was constructively in the old constitution. I guess my colleague laughed at them; I know every other lawyer in Pennsylvania did; and I know he acted as if he laughed at them, for he was one of those who insisted on putting the word actually in the document he assisted in framing, and it was put in. The thing was a political trick, and it has been ridiculed and laughed at by the profession ever since in Pennsylvania, just as the Dred Scott decision has been ridiculed and laughed at in the United States.

Mr. WOODWARD. My colleague has not answered my question. I asked him whether he did not know that by the highest judicial authority in the State of Pennsylvania it has been adjudicated that even before the adoption of the constitution of 1837, in which the word "white" was inserted, negroes or people of color had not the right to vote in Pennsylvania?

Mr. BROOMALL. I know that while the convention of 1837 was sitting the judges of the supreme court, as I have said, got up a case for the purpose of saving their seats, and they decided what my colleague himself did not believe at the time to be sound, that the word "white" was constructively in the old constitution, so that in that respect there should be no difference between the old and the new constitution.

Mr. WOODWARD. My colleague now admits that before the word "white" was put into the constitution of Pennsylvania the highest judicial authority in that State had decided that in the then existing constitution the word "white" was implied. Now, that constitution was adopted in 1790; and I ask the gentleman whether we had a republican government in Pennsylvania in 1790?

Mr. BROOMALL. I know that the decision of the supreme court of Pennsylvania was to the effect described by the gentleman from Pennsylvania; but I ask him whether he himself was not on that bench at times when decisions of the supreme court were reversed? I will remind him of the class of cases in regard to constructive estates tail, in which the court turned itself clear upside down within a brief period, [laughter,] he concurring in both decisions. What is a decision of the supreme court of our unfortunate State worth after that? [Laughter.]

Mr. WOODWARD. I wish to say a few words in reply to what the gentleman has urged against the old judges of the supreme court who are dead and gone. In respect to anything he says against living men who have been in that position, I have nothing to say. I take this opportunity to say, for the information of my colleague and others, that when I came into this House I came resolved to spend not one minute of the public time, or one dollar of the public money, in defense of myself; and although I have had the honor to be criticised by a large number of gentlemen on the Republican side of the House, I have said nothing by way of personal explanation. My life, which has been a very poor and imperfect one, is upon the record, and gentlemen may study it. The only favor I have to ask from my assailants is what I have asked once before, that when they assail me they should appeal to the record, to authentic documents, instead of going down into the gutters and gathering the garbage they find there. That is all I have to say about personal assaults.

Nor will I spend one moment of time in reply to the insinuations of my colleague in regard to the decisions of the supreme court of Pennsylvania during the time I had the honor of being connected with it. But as to what he has said about the supreme court in 1837, when they decided under the constitution of 1790 the negro man had no right to vote, I do ask the privilege of the House to make a few words of explanation.

The SPEAKER. The time of the gentleman from Pennsylvania has expired, and the Chair recognizes the gentleman from Kentucky, [Mr. KNOTT.]

Mr. WOODWARD. I hope I will be permitted to proceed.

Mr. KELLEY. I hope my colleague will be allowed half an hour.

Mr. WOODWARD. I only ask a few minutes. I ask it in behalf of the dead and not the living.

The SPEAKER. If there be no objection the gentleman will be allowed half an hour.

There was no objection, and it was ordered accordingly.

Mr. WOODWARD. The gentleman has spoken of the case of Hobbes and Fogg, which gentlemen will find reported in 6 Watts's Reports, about page 558, as a "got-up case." Now, I state to the House what I know in the premises. The case of Hobbes and Fogg originated in the county in which I dwell, the county of Luzerne. It was a case brought by a colored man against the inspector of an election for refusing to take his vote at that election. It was tried before the late Judge Scott in the common pleas of Luzerne county; and the colored man recovered in that action. The defendant, who was the election inspector, took the case to the supreme court of Pennsylvania, and it was argued before the then judges of that court, at Sunbury, in the summer of 1837. One of the counsel in the case is the present Judge Conyngham, who presides now in the common pleas of Luzerne county. The judges of the supreme court held the case under consideration until the succeeding winter, the winter of 1838. At the time that case was argued before them the convention, of which my venerable friend [Mr. STEVENS] and myself had the honor of being members, known as the reform convention for amending the constitution of Pennsylvania, was in session in Harrisburg. They adjourned about the same time, some time in July, until the succeeding fall, and met in Philadelphia for the residue of their session. When it was in session the supreme court was also in session in Philadelphia and decided the case of Hobbes and Fogg, not a got-up case as the gentleman alleges, but a *bona fide* law suit, originating in the county of Luzerne, between parties whom I know.

The supreme court in January, 1838, decided that case, and the report of their decision may be seen in 6 Watts's Reports, which is to be found in the law library. The chief justice of

Pennsylvania, John Bannister Gibson, whom my friend eulogized when he announced his death in the spring of 1863 at the session of the supreme court at Harrisburg, and whose eloquent words may be read in the seventh volume of Harris's Reports—a man of whom I may say that the continent which we inhabit has never yet produced his equal as a great judge—John Bannister Gibson, whose name is better known in Westminster Hall to-day than that of any other American lawyer, who, Mr. SUMNER told me some years ago, when he rode the circuit with Lord Campbell, is quoted more frequently in England than any other American lawyer; he was the man who wrote the opinion which the gentleman has attempted to characterize by some belittling terms, and which opinion, if gentlemen will read, will speak for itself. And what does he decide? He decides that under the word "freeman," which was the word in our old constitution, negroes had no right to vote; that the inspector was right in refusing to receive the black man's vote; and that the court which decided in favor of the negro was wrong. Accordingly the court reversed that judgment then and there, on the ground that under the constitution of 1790, which used the word "freeman," the black man had no right to vote.

Judge Gibson went further. He showed, with that luminous logic for which he was distinguished above all other men in our State, if not above all others outside of it, that the negroes never had entered into the social compact of this country; that they were brought here to be slaves against their consent; that they were not here as the emigrant is, by his own volition, and by no act or deed of theirs had they ever entered into the social compact out of which suffrage results.

Sir, let me say further, that within the last year, nay, only last fall, a present judge of the supreme court of Pennsylvania, placed on that bench by the very party which sent my colleague to this House, and a Republican of the strictest sort—I mean Hon. Daniel Agnew—in a case which was then before the court, reaffirmed the great principles of Judge Gibson's decision. And allow me here also to say he was a member of the reform convention. The case before the court was this: a railroad ran from Westchester and Philadelphia, on which the directors partitioned off a part of one car for colored people and made all suitable arrangements for accommodating them in that portion of the car. It was just as well cushioned and seated as any part of the car, but it was segregated from the rest of the car by a partition. A colored woman entered the car. The conductor told her she must take her place in the part assigned to colored people. She said she would not. He told her she must or leave the car. She still refused. He then turned her out. An action was thereupon brought against the company for refusing to carry her in the car. It was tried before the common pleas in Philadelphia, and the plaintiff recovered damages. It came into the supreme court, and Judge Agnew, whom I will indorse, as sound and thoroughgoing a Republican as any on this floor, delivered the opinion of the court; and what was it? He reversed the judgment of the court below. He decided that this was a reasonable arrangement by which the blacks were to be separated from the white passengers, and that the woman was bound to conform to it; that the black race had no part in the social compact, in the language of Judge Gibson in the other case, and that all our constitutions, laws, and usages from the very settlement of this country down to that time had maintained the distinction. He would not allege the inferiority of the colored race, but he did expressly say that that distinction was not to be construed into inferiority. If any gentleman choose to say that the inferiority is on the part of the white man there is nothing in Judge Agnew's opinion to forbid him, and he is welcome to take that view. But Judge Agnew does not allege that the negro is inferior to the white man, but he does allege that he is distinct from the white man and has always been so treated under the laws of Pennsylvania, which the gentleman seems not to understand.

Mr. BLAINE. Would they have turned out a white person for not going into the other part of the car?

Mr. BURR. Suppose you go in and try it.

Mr. WOODWARD. It will be time enough to decide that question when it arises. But when I hear an intelligent lawyer from Pennsylvania beginning by reciting in the preamble to his bill that we have no republican government there, and alleging in answer to my question that in practice and usage we have no republican government in Pennsylvania, and have never had, and especially when I hear him indulging in reflections on those great and good men who decided the case of Hobbs *vs.* Fogg, I confess I feel myself moved to vindicate not only the constitution and laws of Pennsylvania against such mistaken statements, but to vindicate as far as I may the memory of those good men who are dead and gone, as well as that living man who is still honoring the bench of the supreme court of Pennsylvania, by saying that no one sentence that has fallen from the lips of my colleague in regard to negro suffrage and the negro race finds the slightest foundation, the least shade of a shadow of foundation, in the constitution and laws or the judicial judgments of the State of Pennsylvania.

I have stated, and stated correctly and truly, as I believe, the judicial decisions on this subject. When, then, the convention of 1838 came to this article in regard to elections and read that "freemen" were entitled to vote, they were not ignorant of the judicial construction which had just been placed upon it—that it meant white men; but they deemed it prudent, from abundance of caution, to guard against the madness and frenzy of party passion in the future by inserting before the word "freemen" the word "white." The convention was not a convention of Democrats. The Democrats were in a minority in that body. I had the honor to be in a minority there, although not in so wretched a minority as I am in here. But by a large vote—I cannot tell by how large a vote—the word "white" was inserted before the word "freemen," and it stands there to this day, which is a further construction of the laws and usages of Pennsylvania in regard to the black race. It was a confirmation of the judgment of the supreme court in the case of Hobbs *vs.* Fogg, and which was a part of the grounds on which Judge Agnew placed himself in the recent case. We are, therefore, a happy family in Pennsylvania on the subject of negro suffrage. We have always been of one mind. The only reason, as is shown in Judge Gibson's opinion, why the word "white" was not placed in the constitution of 1790 was that Albert Gallatin, who was a man of very dark complexion, when somebody proposed to put in the word "white," said that it would exclude him from voting, and out of deference to him the word "white" was left out. But from abundance of caution, and to guard against just such statements and arguments as the wounded ear of this House has heard to-day, we did put the word "white" into the constitution, and we mean to keep it there.

Now, one question more to my colleague and I have done. That provision being in the constitution of Pennsylvania by the highest judicial sanction of the State, and suffrage being by common consent in all our history held to be one of the reserved rights of the States, I would like to know how the gentleman proposes to eradicate the word "white" from the constitution of the State—in other words, how he proposes to overthrow the constitution by an act of Congress?

Mr. BROOMALL resumed the floor.

Mr. KELLEY. I hope my colleague [Mr. BROOMALL] will not fail, in replying to our distinguished colleague, [Mr. WOODWARD,] to bring the attention of the House to the fact that the contemporaneous construction of the constitution of 1790 and all subsequent action under it in the State recognized the freeman's right to vote irrespective of his color, and that he and I both know men who each year for eighteen, twenty, and twenty-five years cast their votes at the annual elections throughout the State of Pennsylvania.

Mr. BROOMALL. My colleague is right. Up to 1838 no Pennsylvanian entertained any more doubt about the right of men of all races to vote in Pennsylvania with the necessary other qualifications than the people of the United States doubted that negroes had rights that white men were bound to respect up to the time of the Dred Scott decision.

But the Dred Scott decision did not strike and wound the moral sense of the people of the United States more than the decision which my colleague lauds so highly did the moral sense of the people of Pennsylvania at the time it was made. I remember that decision perfectly well; and I can very well appreciate the reason of my colleague for insisting, by way of abundant caution, upon inserting the word "white" in the constitution of Pennsylvania, notwithstanding it had been decided to be virtually in the old constitution. He knew, as every Pennsylvanian knew, that up to the moment of that decision the idea would have been held by any legal mind to be preposterous and absurd. And he could not know that the common sense of mankind would not, upon the very next trial of a similar case, force the judges to reverse their decision, as the judges of Pennsylvania have been in the habit of doing. I do not wonder that he desired to put the word "white" in the Constitution; and the fact that he did desire it is all I want to base my argument upon. He did not believe it to be virtually there before.

The thinking men of Pennsylvania all derided that decision, and would have overthrown it before one year had passed if it had not been for the gentleman and his colleagues, "by way of abundant caution," putting the word "white" in the new constitution. I said that the case the gentleman cites was got up for the purpose. That was what was told me at the time. I remember the case, although I had no personal knowledge of it.

Mr. WOODWARD. The gentleman is mistaken about that.

Mr. BROOMALL. But it is very significant that that case was decided by judges who would have been, indeed who were, legislated off the bench by the new constitution, and who had that very strong reason for removing the argument in favor of the new constitution, based upon the Democratic prejudices of the people of Pennsylvania.

Mr. BOYER. Will my colleague allow me to ask him a question?

Mr. BROOMALL. Very well; although I hope the gentleman will not interrupt me too much.

Mr. BOYER. The gentleman says the people of Pennsylvania would have reversed the decision of the supreme court of that State had not the word "white" been put in their new constitution. I would ask him if the people of Pennsylvania did not vote for that constitution, thereby approving the insertion of the word "white" in it?

Mr. BROOMALL. Certainly they did, by a very small majority, and they did it in part for the purpose of getting rid of certain of their judges. The people of Pennsylvania understood that in regard to the question of white and black suffrage the two constitutions were the same, the old one by the decision of the court and the new one by the action of the convention in inserting the word "white;" they understood that very well. A dozen reasons operated to induce the people of Pennsylvania to adopt that constitution; but I am proud to say that my vote at that election—and it was the first vote I ever gave—was cast against that constitution, and upon the ground that it disfranchised native Pennsylvanians

and their posterity forever; and I never gave a vote in this House or elsewhere in contradiction of the principle that I then laid down for myself.

The gentleman talks about the decision of Judge Agnew. I would be sorry to undertake to bolster up all the decisions of the supreme court of Pennsylvania. I have already given somewhat my opinion about their decision in the "constructive estates tail" cases, which would form a very curious history for the profession elsewhere than in Pennsylvania. I did not intend to reflect upon my colleague [Mr. WOODWARD] by saying that he voted upon both sides in that class of cases. He gives a good reason for voting against his judgment in the first instance; and a good reason for changing and voting according to his judgment in the second instance. I do not blame him for that; most men's minds are liable to change. I have nothing to say about the decision of Judge Agnew.

But I say this, that political disabilities being made hereditary destroys the republican form of a government in any State. If I am right about that, then I can see no difficulty in answering the question my colleague [Mr. WOODWARD] has asked as to how I propose to get at the remedy in this case. I propose to legislate out of the constitution and laws of any State which has these anti-republican provisions exactly, and only these anti-republican provisions, and permit the remainder of the constitution and laws of the State to remain just as they are now.

Mr. WOODWARD. Mr. Speaker——

Mr. BROOMALL. I cannot be interrupted now. It is all very well for the gentleman to talk about the inferiority of the black race, and rather to ridicule Judge Agnew because he does not put the matter upon that ground.

But I happen to call to mind now that within the last two or three weeks, I, with certain other Radical members of this House, was consulted by some negroes of Virginia upon the question whether or not it would not be wise for them to have put in their new constitution, if they could get it, a provision that nobody should vote in that State who could not read and write; because, by putting in that provision, they said they would exclude five friends of my colleague for every one of my black friends who would be so excluded. Well, when the case was presented to me in that shape, I began to wake up and to think, "Possibly these people are not such mere brutes after all. If they are willing to measure intellect with us I am inclined to think we ought to be ashamed to say we are not willing to measure it with them." I, however, as one individual, did not advise the insertion of the provision, because I would not deny political rights to a man on account of his ignorance. I think political rights are needed for the preservation of our civil rights, and the man who is poor and ignorant and low has more necessity for political rights than the man who is learned and wealthy and elevated. If I disfranchise anybody I will begin at the top of the heap and disfranchise first the man who is able to take care of himself without political rights.

Mr. ELDRIDGE. I would like to ask the gentleman a question. I understood him to say that he began to hesitate when the consequence of his decision one way or the other was stated to him. I wish to know whether he bases his decision with regard to the rights of human beings simply upon the question whether they are his political friends or the political friends of his colleague, [Mr. WOODWARD.]

Mr. BROOMALL. Oh, no; I do not. I am not a party to this rivalry between the Democrats and the negroes. [Laughter.] I have nothing to do with it. I have seen it going on for a number of years. For a long time in this contest I stood by and said nothing, rather hoping that justice would be done in the long run. But, now that the Democrats have got to be the weaker party, I am not sure that we ought not to begin to legislate a little in their favor, giving them some protection against the rivalry of their great and lasting opponent—the negro. [Laughter.] Probably the best we could do, however, would be to stand and look on, as the woman did in the fight between her husband and the bear, and with the same indifference.

Mr. ELDRIDGE. I understood the gentleman, however, to state that he did not hesitate at all until he found that possibly the decision which he might make would operate against his friends; that, in other words, he did not go for human rights on account of his devotion to those rights, but because the persons whose rights were in question would vote for his party, and not for the party of his colleague.

Mr. BROOMALL. I am sorry the gentleman has misunderstood me. These black men wanted the provision put in to exclude from voting the white rebels who could not read and write, they (the black men) being able to read and write.

Mr. ELDRIDGE. But I understood the gentleman was in favor of it.

Mr. BROOMALL. They said that such a provision inserted in the constitution of Virginia would, in the course of a year or two, exclude from suffrage five white Democrats for every negro that would be excluded.

Mr. ELDRIDGE. And then the gentleman hesitated, not till then.

Mr. BROOMALL. Why should I hesitate then? If I were actuated by party motives I would, of course, be glad to have a reason for the adoption of such a provision. Those who consulted me were partisans, and believed they had a right to that advantage of their rivals—the Democrats. I thought they had not a right to it. I want to see justice done in this contest between the negro and the Democrat; I want to see each side have fair play. If the negro gets so far above the Democrat that he can read and write while the Democrat cannot, I will refuse to exclude the Democrat's vote on that account. [Laughter.] Though he may be poor and ignorant, I will give him a vote. [Laughter.]

Mr. KNOTT obtained the floor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the Houses on the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 373) to amend an act entitled "An act to provide for recording the conveyance of vessels, and for other purposes," approved July 29, 1850.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United State, by Mr. W. G. MOORE, his Private Secretary, announced that the bill (H. R. No. 599) entitled "An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869," having been presented to him on the 4th instant, and not having been returned by him within ten days, (Sundays excepted,) had become a law in accordance with the Constitution of the United States.

PAYMENT OF SOLDIERS' BOUNTIES.

Mr. PAINE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the acts of 1866, having met, after full and free conference recommend to their respective Houses as follows:

That the House agree to the Senate amendment with the following amendments, namely:

1. In section one, line three, after the word "authorized" insert the words "and directed."

2. In section one, line four, after the words "for" insert the words "not more than."

3. In section two, line two, after the word "authorized" insert the words "and directed."

4. Add at the end of section four the following words, namely: "who shall be responsible respectively for the official acts of said clerks."

And that the Senate agree to the said amendments.

H. E. PAINE,
JAMES A. GARFIELD,
J. LAWRENCE GETZ,
Managers on the part of the House.
HENRY WILSON,
J. M. HOWARD,
O. S. FERRY,
Managers on the part of the Senate.

The report was agreed to.

Mr. PAINE moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. BARNUM.

Leave of absence was granted to Mr. SMITH for one week.

Leave of absence was granted for twenty days to Mr. COBB.

BENJAMIN COOLEY AND JAMES W. BOSWELL.

On motion of Mr. COBB, leave was granted for the withdrawal from the files of the House of the papers in the cases of Benjamin Cooley and James W. Boswell, of Maryland, claimants for relief on account of additional service as mail contractors.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

CONSULAR AND DIPLOMATIC BILL.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I present a report from the committee of conference on the consular and diplomatic bill.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the seventh and ninth amendments of the Senate and agree to the same.

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with an amendment, as follows: Strike out all of the proviso contained in said amendment, and insert in lieu thereof the following words:

Provided, That all moneys received for fees at any vice consulates or consular agencies of the United States beyond the sum of $1,000 in any one year, and all moneys received by any consul or consul general from consular agencies or vice consulates in excess of $1,000 in the aggregate from all such agencies or vice consulates, and shall be accounted for and paid into the Treasury of the United States, and no greater sum than $500 shall be allowed for the expenses of any vice consulate or consular agency for any one year.

And the Senate agree to the same.

E. B. WASHBURNE,
GEORGE W. MORGAN,
F. C. BEAMAN,
Managers on the part of the House.
L. M. MORRILL,
TIMOTHY O. HOWE,
C. R. BUCKALEW,
Managers on the part of the Senate.

The report of the committee of conference was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent, when the Speaker signed the same.

STATE GOVERNMENTS REPUBLICAN IN FORM.

The SPEAKER. The gentleman from Kentucky [Mr. KNOTT] is entitled to the floor.

Mr. KNOTT. Mr. Speaker, I have heard it suggested that fifteen minutes before the shower of fire and brimstone descended upon Sodom and Gomorrah the inhabitants of those devoted cities were probably standing on the street corners talking of the price of stocks and the various interests of their daily avocations, utterly insensible of the terrible calamity about to befall them; and if the measure now proposed to this House shall fail to arouse the American people to a sense of the dangers which threaten their institutions, I shall conclude that they are laboring under a similar species of lethargy. For, sir, in my judgment, if the principles contained in this bill are carried out they must inevitably lead to a total destruction of the few rights remaining to the States, and the ultimate concentration of all political power in the General Government. It is in fact a direct attack upon the main citadel, the last stronghold of State independence and security, the great paramount right upon which their very existence depends, the right of the several States to regulate the exercise of the elective franchise for themselves. And I regret, therefore, that I am not prepared, like the gentleman who has just preceded me, [Mr. BROOMALL,] with an elaborate written speech which has undergone a process of incubation for months, but must meet this important question extemporaneously, and treat it in a manner but illy suited to its magnitude. We are asked, sir, to enact in this bill—

"That all provisions and enactments in State constitutions and laws which make distinctions in political and civil rights among citizens of the United States, or deny such rights to any such citizens on account of parentage, race, lineage, or color, are, and are hereby declared to be, void and of no effect."

And this utter destruction of a great fundamental right which the several States had before the adoption of the Federal Constitution, and which they have continued to enjoy to the present hour, is to be rendered certain and complete by the operation of the next section, which provides—

"That if any person shall prevent any qualified citizen of the United States from exercising the right of suffrage at any election in any State under the pretense that such citizen is disqualified by the constitution and laws of such State on account of his parentage, race, lineage, or color, such persons shall be deemed guilty of a misdemeanor, and on conviction thereof in a proper court shall be sentenced to pay a fine not exceeding $5,000, or to undergo imprisonment not exceeding five years, or both at the discretion of the court."

And all this, as the title of the bill shows, under the specious pretext of guarantying to the several States of the Union a republican form of government. Yes, sir, to justify this high-handed and extraordinary measure the distinguished gentleman who opened this debate [Mr. BROOMALL] assumes, and it is so set down in the preamble of the bill, that several of the States of the Union have not republican forms of government, because by their constitutions and laws political rights are denied to certain persons on account of their race or color, and who, as he contends, are citizens of the United States, and that, therefore, under the provisions of the fourth section of the fourth article of the Constitution it is not only the right but the duty of Congress to pass this bill.

But, sir, I deny both his premises. I deny that negroes are or ever were citizens of the United States, and even if they were, I deny that it follows that a State has not a republican form of government simply because its constitution and laws deny him the right of suffrage or otherwise discriminate against him. I presume it will not be pretended that before the adoption of the Constitution of the United States a negro, either bond or free, was ever regarded as a citizen of any of the States. That instrument nowhere regards him in either condition as a citizen either of a State or of the United States. On the contrary, whenever it alludes to him at all it is in the light of servitude; in a word, as property. It makes provision for his importation and tax as property until 1808, and provides for his restoration to his master in case he should escape from his service; and it makes no provision for his ever being invested with the rights of citizenship at all. More than this, the question has not only been made in the Supreme Court of the United States, but in a number of the State courts, as to whether the negro is a citizen of the United States, and in every solitary instance it has been decided in the negative. And, further, I assert that no department of the General Government, not even the legislative, down to the Thirty-Ninth Congress, ever regarded negroes in any condition, bond or free, as citizens of the United States. The Thirty-Ninth Congress did not so regard them, and in proof of what I say I call the attention of the House to the first section of the fourteenth proposed amendment to the Constitution. It says:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside."

Now, sir, none will deny that this provision is intended solely for the benefit of the negro race. Yet why enact it if he is a citizen without it? Where is the necessity of going through the forms of amending the Constitution for the purpose of accomplishing that which exists without it? Sir, the conclusion is irresistible. It cannot be evaded. You yourselves have here placed upon the record an admission that the negro is not and cannot be a citizen of the United States without this or some similar amendment to the Constitution. The monstrous assumption that States which were original parties to the formation of the Federal Constitution have all along existed under anti-republican forms of government, because they have refused and still refuse to permit negroes to vote, cannot be maintained, even if we admit that to constitute a republican form of government every citizen under it must be allowed to exercise the right of suffrage—for the negro is not a citizen. But, sir, the other branch of the proposition is equally untenable; for if we admit the negro to be a citizen still a State may exclude him from a participation in any of its political rights, and yet have a republican form of government; for if it is true, as is assumed on the other side, that in order to constitute a republican form of government all the citizens under its jurisdiction must have a right to vote, then there is not, and I maintain there never has been, a republican government on the face of the earth; for the women and children, irrespective of age, are as much citizens as the adult males. Carry out the gentleman's principle, then, and you must not only compel the several States to allow the negro men but the negro women and children to vote also. The extreme absurdity of the conclusion to which the position logically tends, it seems to me, is sufficient proof of its utter fallacy.

What, then, is a republican form of government? Dr. Webster defines it to be one in which the sovereign power is exercised by representatives elected by the people, or, perhaps, more correctly speaking, by those who have been authorized in the formation of the social compact to exercise the elective franchise, because some must, in the very nature of things, as from want of sufficient age or other cause, be excluded from that privilege. And with this definition in view, Mr. Speaker, I propose to examine the constitutional grounds upon which the gentleman predicates our right to pass this bill. The only authority which he pretends to find in the Constitution for the enactment of this measure is, as I have already remarked, contained in the fourth section of the fourth article of the Constitution, which provides that—

"The United States shall guaranty to every State in this Union a republican form of government."

This, sir, like every other provision of written law, must be construed not merely according to its letter but its spirit, viewed in the light of all the surrounding circumstances at the time of its enactment. Construe it according to its very letter and it means nothing more than that the several State governments shall be republican in form; it nowhere authorizes the United States to interfere with the details of their governmental machinery. If the sovereign powers belonging to the several States are exercised by persons elected by those whom the people of those States have authorized to exercise the elective franchise this provision of the Constitution is satisfied, no matter who may be made electors by the States. But let us examine it in the light of contemporaneous circumstances.

And, sir, what were those circumstances? The Convention which framed the Constitution of the United States was composed of delegates sent from thirteen independent sovereign States. Each one of these States had its own government organized and in operation under its own constitution, which prescribed who should and who should not exercise the right of suffrage, and in each one of them the sovereign powers were exercised by persons elected by those whom the State constitution had authorized to vote. Under these circumstances they flattered themselves, no doubt, that they had republican forms of government, and in order to perpetuate those governments, by forming a more perfect union among themselves, which, while it should provide for the common defense of each and all of them against aggression from foreign Powers, should also promote the general welfare by securing domestic tranquillity, they sent their delegates to the Convention to frame a constitution and establish a general government for that purpose. And, sir, when that Convention assembled, every one of the States except Massachusetts authorized the institution of negro slavery, and not one of them recognized the negro as a citizen or a voter. Notwithstanding this, however, as I have said, they were impressed with the idea that they were in possession of republican forms of government, and were anxious to maintain them. There were two contingencies, however, in which they foresaw that they might lose the forms of government they then had. One was that the people of some particular State might become tired of liberty and seek to exchange their liberty for a monarchy or an aristocracy; the other was that the general government which they were about to establish under the Federal Constitution they were assembled to frame might eventually overshadow and ultimately absorb or destroy the rights and institutions of the several States.

This latter fear, no doubt, operated much stronger upon them than the first, for they were about launching upon the unknown sea of experiment. They were about creating a powerful executive branch of government concentrated in one man, and of such dispositions of power a free people who understand and value their liberties as they ought are always naturally jealous. Moreover, a grand judiciary system was about to be established whose jurisdiction was to extend to the gravest matters touching the rights of the several States, and which might by an abuse of power, sustained by a powerful Executive with the Army and Navy at its command, endanger the most vital interests, if not the very existence, of the State governments themselves; to provide against either of these contingencies, therefore, the framers of the Federal Constitution deemed it wise and prudent to provide that the government they were about to establish should guaranty to each of the States a republican form of government. The Constitution they were then framing had to be submitted to the people of the several States for ratification. The people of those States might possibly hesitate to ratify it on account of the fear that the new government might ultimately destroy their then existing State governments, the very thing they desired to guard against; and, there-

fore, to assure them that such fears were groundless, this provision was inserted in the Constitution. And, sir, it will be observed that this provision does not bind the States to keep forever the forms of government they then had, but left them free to change them and substitute others in their stead, provided only that they should be republican in form.

But, sir, the gentleman has invoked the testimony of James Madison, and I, too, will appeal to that authority, which I maintain fortifies my view of this question beyond controversy. So jealous were the people of the several States of the perpetuity of their then existing State governments that they even feared at that time that the General Government might do precisely what we are doing now, that it might seize upon this very guarantee as a pretext for interfering with and destroying the rights and institutions of the several States; and to quiet these apprehensions Mr. Madison wrote the following, which may be found in the twenty-first number of the Federalist:

"It may be asked what need there could be of such a precaution, and whether it may not become the pretext for alterations in the State governments without the concurrence of the States. These questions admit of ready answers. If the interposition of the General Government should not be needed the provision for such an event will be harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues of foreign Powers? To the second question it may be answered that if the General Government should interpose by virtue of this constitutional authority it will, of course, be bound to pursue the authority. But the authority extends no further than a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guarantied. Whenever the States may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed upon them is that they shall not exchange republican for anti-republican constitutions, a restriction which, it is presumed, will hardly be considered as a grievance."

From this, sir, it seems to me too plain for controversy that the clause in the Constitution upon which the gentleman relies for his authority for this ruthless attempt to strip the several States of the last badge of independence and sovereignty—the right to regulate the elective franchise within their own territorial jurisdiction to suit themselves—so far from justifying such a high-handed and revolutionary measure, is a pledge of the General Government to maintain and preserve the State governments in existence, and not tear down and destroy them. It had reference to the State governments in existence anterior to and at the time of the adoption of the Federal Constitution. It recognizes them as republican in form, although, as I have remarked, every one of them except one recognized the institution of negro slavery and protected that species of property by positive laws, and notwithstanding every solitary one of them denied to the negro, bond or free, the right of citizenship and suffrage.

And now, sir, I would ask if it is to be assumed that the framers of our Constitution were too ignorant and stupid to understand what it required to constitute a republican form of government? They found all the State governments, precisely as a large majority of them are to-day, denying the negro race any participation in the elective franchise; they recognized those governments as being republican in form, and they promised the several States in this provision in the Constitution to guaranty those preëxisting governments or any others the States might see proper to substitute in their stead, provided they should be republican in form; and will gentlemen say that these statesmen and sages to whom we have been taught to look with such veneration, and whose hallowed shades are so often and so eloquently invoked on this floor, were so ignorant as not to know that these State governments were anti-republican, or that they were so base as to provide the very means for their destruction under the deceitful pretense of protecting them and providing for their perpetuity?

But if those State governments were republican in form then they are equally so now. And if the General Government had no authority to compel the several States to admit negro voters then it has none now. But carry the logic of the other side a little further, sir. If it is anti-republican to exclude a certain class from voting then it was anti-republican to recognize and protect the institution of slavery. But did the framers of the Federal Constitution so regard it, does the Constitution itself, in the light of which we must interpret all laws enacted under it, so regard it? Not at all, sir; for the Constitution expressly provides for the security of that kind of property, by providing for the rendition of fugitive slaves from their masters, and prohibits any interference by congressional enactment with the importation of slaves before the year 1808. But, sir, there is another consideration which, it seems to me, places this question still further beyond dispute. When the Convention assembled to frame the Constitution of the United States they found each State not only in possession of a republican form of government in complete operation which it promised in the Constitution to guaranty and protect, but an essential feature, the grand fundamental right, the very corner-stone of those State governments was the right of each State to regulate the exercise of the rights of suffrage for itself. They found each State in possession of this right, indeed it is impossible to conceive how a republican form of government could exist without it. They expressly recognized the existence of this right in the States by leaving them to fix the qualifications for electors for members of Congress and presidential electors. And nowhere, from the beginning to the end of the Constitution, did they pretend to alter or interfere with that right in any way. They neither delegated to Congress the power to interfere with, nor prohibited its full and free exercise by the several States. Here, then, the argument ought to close. This ought to be conclusive of the whole question, for the tenth article of the amendments to the Constitution expressly declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Where, I repeat, is the power delegated to Congress by the Constitution to throttle a State and force it to permit anybody to vote contrary to the free will of its people? Where is the individual State prohibited from declaring who shall or who shall not be voters within its own territorial jurisdiction? Why, Mr. Speaker, the majority of this House stand committed upon the record in the most solemn manner to the doctrine that the right to regulate the question of suffrage is one of the rights of the States, so sacred and so essential to their very existence as such that while they have sought to influence it they have not even dared to attempt to take it away by constitutional amendment. Let me call the attention of the House, sir, to the second section of the fourteenth proposed amendment to the Constitution. It says:

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Now, sir, this provision expressly recognizes the right in each State to permit the negro to vote or not, as it shall see proper, and only seeks to enforce his enfranchisement by cutting down the representation of such States as may deprive him of the right of voting. If Congress has the right to compel the States to allow him to vote, where is the necessity of this constitutional amendment? It is true, sir, that I deny that this amendment has been ratified in the manner prescribed by the Constitution; and I think if the American people are left to the untrammeled exercise of their own free wills it never will be; but I know that many gentlemen entertain a contrary opinion; and I would ask them if they are not satisfied to stand by the principle they have themselves so explicitly recognized? Will they never be satisfied? Will they, like the insatiate horseleech, continually cry, "Give! give?" But if you really thought it necessary or proper to compel each State to enfranchise the negro why did you not insert it in this amendment? Because, sir, you knew that instead of such an amendment receiving the ratification of a solitary State they would unanimously, instantly, and indignantly repel such a stab at their most vital interests, and you dared not put them to the test.

But, Mr. Speaker, I know of what little consequence it is to appeal to the Constitution on this side of the House. I know with what plausible sophistry such objections to any measure are usually met; and I can only say, sir, that my conviction is that such wanton violations of the fundamental law as is here attempted will, if carried into execution, "return to plague the inventor" as surely as there is retributive justice in Heaven. Strike down the right of the States to regulate the question of suffrage in this instance, and another innovation predicated upon this as a precedent will take place in the next Congress, and as precedents multiply the facility for revolutionary legislation will increase until State rights, State institutions, and State governments will be swept away and all political power consolidated in the hands of a centralized despotism. Instead of each State having the right to manage and regulate its own domestic concerns in accordance with the peculiar wants, tastes, and dispositions of its own people, as was contemplated in the formation of the Federal Union, one section will lord it over another. Representation will be so regulated and controlled by the centralized power that the material interests of that section which, from its numerical strength, can exercise a predominant voice in the Government, will be fostered and promoted at the expense of the weaker sections. This, as it has done in all ages and countries the world over, will lead to domestic strife and civil war, and to guard against this immense standing armies must be kept battening like vampyres upon the body-politic until it sinks away the hopeless, helpless, enervated victim of a remorseless despotism. It is idle, sir, to say that a great and powerful people cannot be deprived of their liberties. Rome was once as free and the Roman citizen as proud of his name and prestige as you are to-day. Yet, look at the lazzaroni and banditti of Italy, and see what a great and powerful and free people may in process of ages become by an abandonment of the fundamental guarantees of human liberty, by failing to keep the elective franchise and the administration of public affairs in the hands of those who are qualified by their virtue, intelligence, and position in society to exercise them properly. Let any man read the history of the transition of Rome from the republic to the empire, and he will find we are treading, step by step, the same path that led her to internecine war and ultimate despotism. First the manumission and then the enfranchisement of her slaves.

But, sir, it seems to me that if a decent regard for the plainest requirements of the Constitution would not be sufficient to restrain me from giving my assent to this measure, a sense of self-preservation would, particularly if my interests were in those sections of the Union where there are the fewest number of negroes. I know that gentlemen may felicitate themselves with the idea that the consequences of permitting the negro to vote will not be felt materially, whatever they may be, in their own peculiar sections, because there are but few of them there, and it is true it may not have a perceptible influence on their local elections,

but I beg them not to deceive themselves. I would ask them to remember a fact which no statesman can disguise from himself if he would. I ask them to consider that there is and must necessarily be a conflict between the material interests of different sections of this Union growing out of the difference in soil, climate, productions, and habits of life, which must, in the nature of things, characterize a country of such vast territorial limits as our own. These interests must be harmonized or the conflict must result in one section of the country becoming subsidiary to the other, and I ask gentlemen to reflect for a moment, that every solitary negro vote they make at the South will nullify a white vote at the North, and that his influence must be felt either for or against other sections of the Union, in these Halls, and in the election of the Chief Magistrate, as long as this Government exists. Your two thousand five hundred millions of untaxed bonds, which weigh like an incubus upon the laboring millions of the country; your national banks, founded upon these Government securities and perpetually pouring a stream of wealth into the swollen coffers of your capitalists; your mammoth corporations, which have become bloated upon the munificent subsidies of the Government; your extraordinary tariff laws, which have enabled one section of the country to feed fat upon the labor of the others; your thousands of contrivances for wringing the last drop of sweat out of the brow of the laborer to minister to the ease, the arrogance, and the luxury of the capitalist, all depend upon the future character of the General Government.

Into whose hands, then, do you propose to commit these tremendous interests? Is it a race which has undergone a system of pupilage for centuries in the science of self-government? It is an axiom in political philosophy that the perpetuity of every free government must depend upon the virtue and intelligence of those in whom the power of the State is intrusted. But who is it that gentlemen seem so anxious to enfranchise that they would strain to their utmost tension, if not override, the plainest principles of the Constitution? Have they the virtue and intelligence which should justify us in the conclusion that they are fit persons for the exercise of the tremendous power it is proposed to place in their hands? I tell gentlemen, no. I tell them, as I would tell their constituents if I could call them around me in one vast assembly, if you invest the ignorant, uncultured, recently manumitted slave with the right of suffrage you conjure into existence a political power in this country to whom your bonds, your banks, your tariffs, your commerce, all your interests will be no more than chaff before the whirlwind. But I will not ask you to take my word as to the capacity of the negro race for a just and intelligent participation in the rights of government. I happen to have before me the Commentaries of the illustrious Chancellor Kent, an impartial witness, occupying a standpoint from which he could view the subject without a shade of prejudice to obscure his vision. He says:

"The African race, even when free, are essentially a degraded caste of inferior rank and condition. Marriages between them and the whites are forbidden in some of the States where slavery does not exist, and they are forbidden in all of the slaveholding States, and, when not absolutely contrary to law, they are regarded as revolting, and an offense against public decorum. Such connections in France and Germany constitute the degraded state of concubinage which is known to the civil law as *licita consuetudo semimatrimonium;* but they are not legal marriages, because the parties want that equality of status or condition which is essential to the contract."

I read this, sir, because it happens to be convenient; but I do not ask gentlemen to form an opinion upon that testimony alone, but I ask them to look at the testimony of the people of every State of this Union except six, as expressed in their State constitutions. They all declare him unfit to exercise the right of suffrage or to participate in the rights of government in any way. These constitutions, many of them, have held out this declaration for nearly half a century, and it has never yet been refuted to the satisfaction of their people. There they stand to-day so many monuments erected to the grand fundamental idea that this is a white man's Government, the grand master-piece, the pride and glory of the Anglo-Saxon race. Before you tear them down and erect in their places the black badges of negro suffrage read the naturalization laws which received the sanction of the wisdom and patriotism of the statesmen and sages of purer and better days, and you will see that they were intended for free white men as the only proper persons to participate in a white man's Government. If you are not content with this go and ask the nineteen thousand four hundred and twenty-one intelligent freemen in Kansas; go and ask the two hundred and fifty-five thousand white men in Ohio; go and ask the twenty-eight thousand men of your own race and color in Minnesota; go and ask the thousands in Wisconsin who only last fall voted down the infamous proposition to degrade them to the level of the negro, and they will tell you in tones of thunder that he is not qualified for the elective franchise. If this will not satisfy you look at the facts which you yourselves have exhibited, and listen to the still, small voice of your own consciences. You say he is incapable of protecting himself in the ordinary transactions of life, and for that reason you maintain the Freedmen's Bureau at an expense of millions of dollars annually. You keep a swarm of hungry office-holders battening like cayotes upon the public Treasury for the avowed purpose of exercising a kind of guardianship over him in the ordinary concerns of every-day life. But why do you keep him under this system of wardship if he is capable of voting intelligently? If he is prepared to vote, to hold office, to participate in all the political rights of the Government, is he not equally competent to take care of himself without all this drain upon the public Treasury? If this will not suffice look at the report of the Reconstruction Committee on the Alabama bill which was introduced in this House the other day. Do they not tell you that thousands of negroes in Alabama were influenced to withhold their suffrages because they were afraid of a temporary discharge from employment and that they might suffer for food? Look, sir, at these things, and then tell your constituents, if you can, that the negro race is, under existing circumstances, prepared to receive the right of suffrage. Tell them that you propose to intrust their dearest interests into the hands of this degraded, ignorant lazzaroni who would sell their votes for a mess of pottage—this set of pliant tools, ready and waiting to be manipulated by any designing demagogue who may be disposed to use them.

Sir, it is high time that gentlemen had begun to look at this question as becomes enlightened statesmen. This morbid, sentimental, illy-advised, misplaced philanthropy which has swept like an epidemic over a large portion of the country has run its course. People are settling down into the conviction that after all the white man is about as good as the negro, and it will be difficult after a while to ride into office on that ungainly hobby. We had better look at the question soberly and sensibly; and I tell gentlemen again they may try this experiment if they choose. I grant they may possibly achieve a temporary triumph by the aid of the negro, but it will not be long before they find they have warmed into life a nest of adders that will sting them to death. They may march to the polls now singing, "John Brown's soul is marching on;" but, sir, whenever it suits the interests of the gang of hungry cormorants, the brigade of carpet-bag adventurers who have manipulated them under the reconstruction acts in the southern States to raise the cry, they will flock around the ballot-box, howling, "down with the bondholder, down with taxation, down with the tariff laws, and give us cheap clothes, cheap victuals, free whisky, and nothing to do."

Gentlemen may think that gratitude to their deliverers may induce them to act otherwise; but I beg them to remember that gratitude is, at best, but an ephemeral virtue. In the most enlightened bosom it rarely lives longer than Jonah's gourd, and they need not expect to find an exception to the rule in the negro. They may think, too, perhaps that a high consideration of the public credit, strained to its utmost tension for his benefit, may influence his political action, but they will find when they try it that he has about as much conception of the sanctity of the public credit as the gorilla would have of the differential calculus or Newton's Principia.

I repeat, sir, you may try this experiment if you see proper. You may fasten this incubus upon the people of this country to ride them like the Old Man of the Sea rode Sinbad the sailor; but when your people have discovered that you have conjured into being a political power whose baleful breath has transformed the sequins of the bondholder into dry leaves, extinguished the fires in your forges, stopped the perpetual whirl of your machinery, and rusted the spindles of your factories, do not be surprised to find the curses of an outraged constituency clustering like Medusean vipers about your head.

Mr. WOODWARD. Mr. Speaker, I sincerely hope the House will indulge me in a few words on this bill. As brought forward by my colleague from Pennsylvania, [Mr. BROOMALL,] it is a surprise to me. I never heard it till I heard it read from the Clerk's desk. I am not in a state of preparation to discuss the subject, as I wish I were. What I propose to say now in opposition to it will be said from the inspiration of the moment. If I should have an opportunity on some future occasion, I intend to submit to the House some views upon the subject of suffrage in general, which I shall have matured with considerable care, and which, I trust, may be entitled to consideration. But I do not propose to enter now into those views. I reserve them for a future occasion.

My objection, sir, to this bill is that it proposes a subversion of the fundamental law of every State that does not tolerate negro suffrage. As Pennsylvania, by her constitution, expressly excludes negro suffrage, this bill, brought forward by a Representative of Pennsylvania, and, for aught I know, a son of Pennsylvania, proposes to subvert the constitution of Pennsylvania. Such is the effect of the bill; and the only reason I fear its passage is that it is supported by precisely the line of argument which I have heard urged in favor of other measures which have been passed.

The bill begins by reciting what I must say is not true. In using this language I, of course, mean nothing offensive. I say the statement of the bill is an historical mistake. My colleague [Mr. BROOMALL] said, in the colloquy which we had awhile ago, that negro suffrage interested the people of Pennsylvania about the time he was beginning to read law.

Well, sir, I must say that he read law to very little purpose if he did not learn from his legal reading that the State of Pennsylvania has had a republican form of government from the year 1776, during all of which time it has excluded negro suffrage, and during a part of which time it had negro slavery, because it did not formally abolish slavery till 1790; and it had slavery long after the act of abolition was passed, for it was a gradual abolition. That was a republican form of government.

And now, sir, I will tell the gentleman another legal historical fact, which is worthy of his attention, that from the very formation of the confederacy after the Declaration of Independence the right of suffrage was the conceded right of the States, over which the Articles of Confederation and the Constitution of the United States had no power whatever. I say, for the information of this young student from Pennsylvania, who, I maintain, has read the law backward, if we are to judge from his speech to-day—I say he will find it written in the

chronicles, when he comes to read them aright, that from the Declaration of Independence down to the date of this bill suffrage, whether white or black, has been a State power with which the Federal Government has nothing under the heavens to do.

His bill proposes that the Federal Government shall overturn the suffrage in the States and force negro suffrage upon them. The Federal Government has no suffrage to bestow on anybody, black or white. It never had, and it never will have unless you revolutionize the Government and make it something the fathers did not make it. It never had the control of suffrage, and yet my innocent young student does not seem to be aware of it. He proposes that the Federal Government shall go into the States and dictate who shall be voters. It must have been understood by my friend that he sits in this House by virtue of State suffrage regulated, conferred, and protected by the State of Pennsylvania, and not by the General Government at all. There is not a man among you who does not sit here by suffrage regulated by the States, and that, too, provided for in the Constitution of the United States. The Constitution declares:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

We are indebted to the people of his State for the gentleman's presence here to-day. The people of his district have exercised the suffrage conferred upon them by the State of Pennsylvania. But for that we should not have had the benefit of the gentleman's legal exposition of constitutional law. Yet what does their Representative propose by this bill? After reciting that we have no republican government in Pennsylvania, he then goes on in the second section as follows:

SEC. 2. *And be it further enacted*, That if any person shall prevent any qualified citizen of the United States from exercising the right of suffrage at any election in any State under the pretense that such citizen is disqualified by the constitution and laws of such State on account of his parentage, race, lineage, or color, such person shall be deemed guilty of a misdemeanor, and, on conviction thereof in the proper court, shall be sentenced to pay a fine not exceeding $5,000 or to undergo imprisonment not exceeding five years, or both, at the discretion of the court.

That is a provision which is proposed to be enacted by the Federal Government, which never had any suffrage to confer, by a Representative who sits in this House at this moment by virtue of State suffrage, and who but for that State suffrage would not have been here, perhaps, to make it. I have heard some strange things since I have had the honor to sit here; but I declare to you I never heard anything more strange than this. We are told that it is all a mistake to suppose we have been living under a republican government; that the States had the right to regulate suffrage, that you had the right to send members of Congress here to enlighten the nation. We are told that it is all a mistake, and any man hereafter who shall say otherwise is to be subjected to the penalty of $5,000. The gentleman from the Chester district, [Mr. BROOMALL,] from his legal reading, has discovered that the State of Pennsylvania is not republican in form.

Mr. KELLEY. Will my colleague permit me to ask him a question in this connection?

Mr. WOODWARD. I believe I must decline.

Mr. BROOMALL. I should like to put a question to my colleague.

Mr. WOODWARD. I yield for a question.

Mr. BROOMALL. I would like to ask my colleague what he would do with a State which, by a regular amendment to its constitution, should limit the right of suffrage to ten of its citizens and their lineal heirs forever.

Mr. WOODWARD. Mr. Speaker, I maintain that suffrage, be it universal or limited, is a State affair, and not the affair of the Federal Government, and when the State of Pennsylvania comes to abuse this reserved right it will be time enough for the gentleman and me to chop logic on the subject. She has never yet abused any of her rights.

Mr. BROOMALL. I am sorry I cannot get an answer.

Mr. WOODWARD. I do not like to be thrown out of the line of my argument. I am showing, and I mean to show more fully, that this matter of suffrage is a State right, and the gentleman ought to know that this bill invades the reserved rights of the State of Pennsylvania.

Now, sir, in the colloquy I had with my colleague this morning, I referred to the case of Hobbs *vs.* Fogg, which the gentleman called a get-up case. I say it was as regular a lawsuit as the gentleman was ever concerned in in his life—a *bona fide* controversy. Here I have it before me, as I had not then, and I beg leave to call the gentleman's attention to some of the language of Chief Justice Gibson in that case, because it bears upon the general doctrine which this bill attempts to subvert.

Having shown in a previous part of the opinion that under the constitution and laws of Pennsylvania negroes never were voters, Judge Gibson goes on to add (6 Watts, page 558:)

"But, in addition to interpretation from usage, this antecedent legislation furnishes other proofs that no colored race was party to our social compact. As was justly remarked by President Fox in the matter of the late contested election, our ancestors settled the province as a community of white men; and the blacks were introduced into it as a race of slaves; whence an unconquerable prejudice of caste, which has come down to our day, insomuch that a suspicion of taint still has the unjust effect of sinking the subject of it below the common level."

I wish I had time to read the very nervous sentences of this great man in reference to the entire absence of the negro race from that social compact out of which suffrage results. He demonstrates it. No man living in Pennsylvania ever raised his voice, so far as I know, against the conclusions of that great man's reasoning. The gentleman himself does not attempt to do it. And if this be taken as a true exposition of the law of the land, the bill the gentleman has brought forward here is a mere monstrosity; it is subversive of all the usages and principles of constitutional law that have ever prevailed in Pennsylvania.

Well, sir, I alluded during my colloquy with the gentleman this morning to another case decided by a Republican judge who is now on the bench. I had not the opinion before me then; I have it now, and will read from it. Judge Agnew says:

"The right to separate being clear in proper cases, and it being the subject of a sound regulation, the question remaining to be considered is whether there is such a difference between the white and black races within this State, resulting from nature, law, and custom, as makes it a reasonable ground of separation. The question is one of difference, not of superiority or inferiority. Why the Creator made one black and the other white we know not, but the fact is apparent and the races distinct, each producing its own kind and following the peculiar law of its constitution. Conceding equality with natures as perfect and rights as sacred, yet God has made them dissimilar with these natural instincts and feelings, which he always imparts to his creatures when he intends that they shall not overtop the natural boundaries he has assigned to them. The natural law which forbids their intermarriage and that social amalgamation which leads to a corruption of races is as clearly divine as that which is imparted to their different natures. The tendency of intimate social intermixture is to amalgamation, contrary to the law of races. The separation of the white and black races upon the surface of the globe is a fact equally apparent. Why this is so it is not necessary to speculate, but the fact of a distribution of men by race and color is as visible in the providential arrangement of the earth as that of heat and cold. The natural separation of the races is therefore an undeniable fact, and all social organizations which lead to their amalgamation are repugnant to the laws of nature.

"From social amalgamation it is but a step to illicit intercourse, and but another to intermarriage. But to assert separateness is not to declare inferiority in either; it is not to declare one a slave and the other a freeman; that would be to draw the illogical sequence of inferiority from difference only. It is simply to say that, following the order of Divine Providence, human authority ought not to compel these widely separated races to intermix. The right of each to be free from social contact is as clear as to be free from intermarriage. The former may be less repulsive as a condition, but not less entitled to protection as a right. When, therefore, we declare a right to maintain separate relations as far as is reasonably practicable, but in a spirit of kindness and charity, and with due regard to equality of right, it is not prejudice or caste, nor injustice of any kind, but simply to suffer men to follow the laws of races established by the Creator himself, and not to compel them to intermix contrary to their instincts, nor can we disregard the laws and customs of the State. Indeed, these must be our guide, leaving it to the Legislature to correct the errors of the law as to its departure from that justice which should ever be its foundation. It is unnecessary to recur to the original condition of negroes as slaves in Pennsylvania, or to trace the legislation of the Province distinguishing them from the freeman. Nor need we, for the purpose of defining the status of the negro, refer to that great law of emancipation in 1780, whose preamble, the most beautiful, just, and expressive ever prefixed to a human statute, only professed to extend to the black race a portion of our own freedom.

"We have a later and authoritative guide, the solemn decision of this court in 1837 in the case of Hobbs *vs.* Fogg, 6 Watts, 553. The opinion came from the pen of the late C. J. Gibson, and bears the imprint of his remarkable intellect. It is there shown from the laws, constitution, and customs of the State, and from a former decision of this high court of errors and appeals, that the status of the negro never fell within the term 'freeman' in the several constitutions, and that the emancipation act of 1780 did not elevate him to the citizenship of this State. And in 1838 the people of this Commonwealth, by an express amendment of their constitution, drew the line directly between the white citizen and the black inhabitants of the State. It is clear, therefore, that under the constitution and laws the white and black races stand in a separate relation to each other. We find the same difference in the institutions and customs of the State. Never has there been an intermixture of the two races socially, religiously, civilly, or politically. By uninterrupted usage the blacks live apart, visit and entertain among themselves, occupy separate places of public worship and amusement, and fill no civil or political stations, not even sitting to decide their own causes. In fact, there is not an institution of the State in which they have mingled indiscriminately with the whites.

"Even the common school law provides for separate schools when their numbers are adequate. In the military service also they were not intermixed with white soldiers, but were separated into companies and regiments of color, and this not by way of disparagement, but from motives of wisdom and prudence, to avoid the antagonisms of variant and immiscible races. Law and custom having sanctioned a separation of races, it is not the province of the judiciary to legislate it away. We cannot say there was no difference in fact when the law and the voice of the people had said there was. The laws of the State are found in its constitution, statutes, institutions, and general customs. It is to these sources judges must resort to discover them. If they abandon these guides they pronounce their own opinions, not the laws of those whose officers they are. Following these guides, we are compelled to declare that at the time of the alleged injury there was that natural legal and customary difference between the black and white races in this State which made their separation as passengers in a public conveyance the subject of a sound regulation to secure order, promote comfort, preserve the peace, and maintain the rights both of carriers and passengers. The defendants were therefore entitled to an affirmative answer to the point recited in the beginning of this opinion."

No student of law, no mature lawyer, has ever been found to raise his voice against this doctrine, so far as I know.

Well, sir, now we come down to the constitution of Pennsylvania of 1838, which, as I have said, had inserted in it the word "white" out of abundant caution and to exclude all doubt. That constitution was submitted to the people of Pennsylvania and it was adopted by the popular vote; not by a very large majority, but by a clear majority.

Mr. BROOMALL. About twelve hundred.

Mr. WOODWARD. There is another popular testimony to this same legal doctrine which I have deduced from these cases. In the present session of the Pennsylvania Legislature a proposition was brought forward by a gentleman who represents one of the same counties which my colleague [Mr. BROOMALL] represents upon this floor—the county of Chester—to amend the constitution of Pennsylvania by striking out the word "white," and he supported it with ability in repeated arguments; he brought to bear in support of that proposition all the resources of his logic and learning; and, while I would make no invidious comparisons, I do not think that he fell into the series of historical blunders which the Representative from the same district has fallen into on this floor; he made no such blunders as we have heard here this morning; no such statements of law as we have heard; he made a solid, compact, and persuasive argument in favor of amending the constitution by striking out the word "white;" and what was the result? In a Republican Legislature the proposition received 19 votes out of 100.

Mr. LAWRENCE, of Pennsylvania. Will the gentleman allow me a word?

Mr. WOODWARD. Yes, sir.

Mr. LAWRENCE, of Pennsylvania. As my colleague has referred to Judge Agnew, I desire to say one word. He comes from my district, and I say that that decision to which my colleague has referred to-day, which is so logical and clear, is sustained by nine out of every ten Republicans in my district and in northwestern Pennsylvania. I desire to indorse it fully.

Mr. WOODWARD. I am much obliged to my friend from Washington county for that testimony. It is what I would have expected from him. I believe Judge Agnew spoke the sense of a large number, and, I would fain hope, the larger portion, of the Republican party in Pennsylvania.

Mr. WILLIAMS, of Pennsylvania. About one out of every five.

Mr. SCOFIELD. As my colleague [Mr. LAWRENCE] speaks for all northwestern Pennsylvania, I wish to tell him he has no right to make such declarations for the lawyers in my district. He spoke not only for his own district, but all northwestern Pennsylvania. I say he is mistaken when he undertakes to put such language as that in the mouths of the legal men in the nineteenth district.

Mr. LAWRENCE, of Pennsylvania. Allow me to say further, I will not bandy words about lawyers; I will say the common-sense men of western Pennsylvania. [Laughter.]

Mr. SCOFIELD. Let me say that no class of citizens indorse that opinion except political partisans who concur in the sentiments of that decision because it was their political opinion before. The gentleman is entirely mistaken in supposing that his opinion extends so far.

Mr. WILLIAMS, of Pennsylvania. He refers to his own district and that is about all.

Mr. SCOFIELD. I think he is mistaken as to his own district.

Mr. LAWRENCE, of Pennsylvania. If my colleague will allow me a word further I will say that every Republican paper in my district and the leading papers in the district from which General MOORHEAD comes, indorsed that opinion, and I believe to-day that nine out of every ten of the thinking, sensible men of the country adopt that opinion.

Mr. WILLIAMS, of Pennsylvania. The gentleman is mistaken in a statement of facts.

Mr. WOODWARD. I must resume the floor. I rejoice to hear such testimony from such a source. It tends to show that what I have been contending for is true Republican doctrine. We believe in the separateness of the two races in Pennsylvania. I use Judge Agnew's language when I use the word "separateness." Judge Agnew did not allege inferiority; representing Judge Agnew, I do not now allege inferiority. But standing upon his language, I allege separateness. Our constitution, laws, and usages have separated these two classes of people in Pennsylvania. God did it in the first place, and we Pennsylvanians, who are pious people, respect His decree.

Mr. ELDRIDGE. You follow God for your leader.

Mr. WOODWARD. Yes; we followed God. Judge Agnew recognized His decree, and the respectable Republicans of Pennsylvania will sustain Judge Agnew in that decision.

[Here the hammer fell.]

The SPEAKER. The hour of the gentleman from Kentucky [Mr. KNOTT] has expired.

Mr. STEVENS, of Pennsylvania, obtained the floor.

Mr. ELDRIDGE. The gentleman from Pennsylvania [Mr. WOODWARD] desires some ten minutes more to conclude his remarks. I hope there will be no objection to that.

Mr. STEVENS, of Pennsylvania. I will yield for that purpose if no objection is made to giving him the time and not take it from my time.

Mr. KELLEY. I object. The gentleman would not yield to me for a question.

Mr. MULLINS. And I object; for the gentleman would not yield to me.

The SPEAKER. It requires unanimous consent.

Mr. KELLEY. I will withdraw my objection. I simply wanted to ask a question which was pertinent to the point in issue.

Mr. MULLINS. I think the gentleman will repent of his refusal to yield to a question from me, and I will withdraw my objection.

The SPEAKER. No objection being made, the gentleman from Pennsylvania [Mr. WOODWARD] will be entitled to proceed for ten minutes.

Mr. WOODWARD. I am very much indebted to the House for the privilege of finishing my remarks, which are somewhat desultory. My friend, [Mr. KELLEY,] who was so much aggrieved at my declining to yield to his question, may ask it now if he has one to ask.

Mr. KELLEY. I understood the gentleman to be denouncing as preposterous the theory that the General Government had any supervision over the question as to who should be electors for members of the most numerous branch of the Legislature. I wanted to say to him that that was a folly in which Monroe and Madison indulged, and upon which they carried the Virginia convention which accepted the Constitution of the United States; and if the gentleman wants proof of that I have it here.

Mr. WOODWARD. Where is the question of the gentleman? I yielded for a question; I did not yield for an argument.

Mr. KELLEY. My question is whether the State of Virginia, in Convention assembled, did not accept the constitution of the United States upon the express understanding that the State had the primary right to regulate the electors for the most numerous branch of the Legislature, subject to the supervision of Congress?

Mr. WOODWARD. I am not informed of any such condition in the State of Virginia.

Mr. KELLEY. Is the gentleman prepared to dispute the proposition?

Mr. WOODWARD. I am not in the habit of disputing what I know nothing about.

Mr. KELLEY. Then the gentleman should not charge the proposition with being absurd and preposterous.

Mr. WOODWARD. I know from the very foundation of this Government suffrage has been treated as a State affair. And I very much doubt whether the gentleman has any authority for saying that Virginia ever mistook the nature of the right of suffrage.

Mr. KELLEY. I will produce the authority hereafter and not ask the gentleman to give me any portion of the ten minutes of his extended time.

Mr. WOODWARD. I have not alluded to the politics of Virginia nor to the history of Virginia. I have been speaking of the history of Pennsylvania. And the gentleman is guilty of what is called in pleading "a departure" when he interposes a question arising in the constitutional history of Virginia. I do not know how the fact may be to which he has referred, neither do I care. I know that in the history of this country there is nothing to indicate that Virginia ever gave up her right to control the question of suffrage within her limits; nor is there anything in the Constitution of the United States which amounts to a delegation of power to the General Government over the question of suffrage.

Now, sir, this attempt to regulate suffrage in Alabama under your reconstruction acts, as well as in Virginia and elsewhere, is a mere usurpation of a conceded, reserved right; and it is amazing, sir, to see a body of men, sworn to support that Constitution, deliberately taking away from the States one of the rights that have been reserved to the States from the very origin of the Government. The only rational ground upon which it seems to me any man of sense can stand in that position, whether it is in reference to this bill or the reconstruction acts, or any other of the numerous measures proposed against the people of the South, the only ground they can stand on is the ground of the venerable gentleman from Pennsylvania, [Mr. STEVENS,] that these are subject provinces, conquered by force of arms, lying prostrate at our mercy, capable of being formed and molded to suit our passions and our will; and because we happen to be very indignant and very oppressive in our present disposition, therefore we will degrade the white people by forcing negro suffrage upon them. I know no other rational ground upon which this monstrous legislation can be supported than that.

Well, sir, if that be the ground how ridiculous it would be if not for the gravity of the occasion to hear gentlemen cite that clause of the Constitution of the United States which relates to guarantee and protection—that the Government shall guaranty to each State a republican form of government. That was the argument the gentleman placed himself upon this morning. It is the argument upon which the reconstruction laws have been supported in debate; but if the southern States be conquered provinces, pray what has the guarantee clause to do with them? The Government of the United States is not bound to guarant to subject provinces a republican form of government, but only to States. Such is the tenor of the bond. I think, therefore, when my colleague who spoke this morning stands upon the constitutional provision he abandons the more tenable ground of our venerable colleague from the Lancaster district. Then let us see how it stands. I have long desired to express a few thoughts on this guarantee provision of the Constitution, for I have heard things said here which make it proper I should submit my thoughts.

Allow me to say I know right well why that clause was put in our Constitution. Here were thirteen States entering into a confederacy under Articles of Confederation, and then into a more perfect union under the Constitution of the United States guarantying to each member a republican form of government and protection against invasion. Whoever will read that clause will see that guarantee and protection are separated from each other only by a comma; they both belong to the same sentence. It is a covenant on the part of the whole that each member of the Confederacy shall be guarantied in its republican form of government and protected from insurrection and invasion. The men who used those words were exquisite masters of the English language. They knew what a guarantee was; they knew it was not an original or primitive contract, but what we call an accessory or subsidiary contract; they knew there must be failure of the primary party before the contract or guarantee would attach. Let me illustrate. If A contract to build a house or to paint a picture for B, that is what we call a simple prime contract; but if I promise that A shall build a house or paint a picture for B, it becomes a contract of guarantee, and the liability under that contract does not attach until there is a failure of performance on the part of A.

It is necessary that there shall have been a failure to perform on the part of the original prime contractor before the guarantor can be called on to perform for him.

Now, here are the people of the State. They are liable to be overrun by a foreign enemy. They are liable to be disturbed by insurrection and rebellion. They have a State to protect them; but the State may fail to protect them against a foreign or domestic enemy. The Federal Government agrees to protect them in that event. That is the nature of the contract or guarantee, and that is the precise thing the Constitution promises. The word "protection," of little less legal signification than "guarantee," is consistent with that construction of the word "guarantee" as used in the Constitution.

Now, sir, before this clause can attach—and so have been the judicial decisions—there must be a recognition of a state of rebellion

or insurrection on the part of the State, and a demand for protection. We have read within the last twenty-four hours that the President of the United States informs General Grant that military forces cannot be sent into Tennessee, because that State has not as yet given this Government notice that she is unable to subdue any insurrection or rebellion that may exist there. A case has not occurred for the guarantee to attach to the State of Tennessee.

And have the people of any other State called on us to perform this covenant of guaranty and protection? No, indeed. But on the other hand, we are volunteering to overrun their State rights. Had a foreign enemy invaded them as we have done, they might call on us for protection under this clause; but that this beneficent provision should be made our excuse for invading States with military force, against their will, confounds all ideas of justice, of law, and of reason.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania, resumed the floor.

Mr. SCHENCK. Will the gentleman yield to me a few minutes?

Mr. STEVENS, of Pennsylvania. I will yield five minutes.

Mr. SCHENCK. Mr. Speaker, it is not my purpose to enter into this discussion at any length, nor to make anything that may be regarded as a speech. But I have ventured to ask a few minutes of time from the venerable gentleman from Pennsylvania simply for the purpose of expressing my surprise—a surprise which comes from my observation of the position of the Democratic party upon this question of negro suffrage—that gentlemen on the other side should take ground against it. We are entertained here by what may be called metaphysics of constitutional law. I do not propose to be drawn off into anything of that kind, but I wish to direct the attention of the House and of the country to the fact that in spite of all their professions to the contrary there is not at this day any part of our people more fully committed to negro suffrage than this modern Democratic party.

Why, sir, this whole matter, it seems to me, resolves itself into a very simple difference between these Democrats and any other party of the country. The whole distinction lies in a nutshell, and that difference I undertake to explain thus: these gentlemen of the Democratic party admit that representation ought to be founded upon population, do they not? They hold, therefore——

Mr. CHANLER. Will the gentleman——

Mr. SCHENCK. I do not mean to be interrupted by anybody.

Mr. CHANLER. I only wished to ask a question.

Mr. SCHENCK. I say that the gentlemen themselves will not dare to pretend that they base representation on anything but population, upon numbers of people. What then? Whenever they make that admission they admit that they recognize the negro as a man to be counted, to be considered, to be taken into the enumeration, when you are going to determine how many agents shall be selected for carrying on the Government of the country.

Let me illustrate by our neighbor Maryland, close at hand. That State has adopted, in a constitution made by Democrats of the extreme school, secessionists, and rebels, the doctrine that representation in their Legislature must be founded upon the number of people in the several counties in the State. Then, if it be so, that the Democrats consider the negroes as one of the integral parts of the people of the country who are to be represented, what does it amount to? Why, it amounts to virtually giving the benefit of suffrage to the negro. It amounts to their considering him as one to be counted when the number of representatives are to be ascertained, or the number of those who are to carry on your Government.

What, then, is the difference between the Democrats and anybody holding what they are disposed to consider an opinion in favor of negro suffrage?

Simply that they are for having the negro enjoy virtually all the benefits of suffrage; but they want some white man as proxy, not selected or appointed by the negro himself, to cast the vote for the negro. We claim that if you give the negro suffrage he ought to vote himself. Apply it to the South. The Democratic doctrine is that in reorganizing the South the negro is to be allowed, according to their principle of basing representation on population, the benefit of suffrage, only some white rebel is to cast the vote for the negro; and we claim that the negro, the loyal negro, should cast the vote for himself.

Now, sir, that I undertake to say is the only difference between those men who howl about negro suffrage and the rest of the people of the country who entertain the opinion that the negro should not only be counted, but he should have the means of protecting himself. Is there any other difference? I want, therefore, to see an end to this howl, and I want to see these gentlemen candidly and boldly, if they dare, come before the country and admit that they are in favor of negro suffrage virtually, admit that they are in favor of counting the negro, admit that they recognize in him one of the integral parts of the population to be represented and to be governed, only they want somebody else not appointed by him to act as his proxy, because they do not dare to lodge in the man himself, however loyal and true he may be to the country, the right to exercise the privilege of his own ballot.

Now, having said this, I thank the gentleman from Pennsylvania for giving me the opportunity, and will resume my seat.

Mr. STEVENS, of Pennsylvania. Mr. Speaker——

Mr. CHANLER. Will the gentleman from Pennsylvania allow me a moment?

Mr. STEVENS, of Pennsylvania. I am afraid my time is running, or I should be very glad to accommodate the gentleman.

Mr. CHANLER. I will seek another opportunity.

Mr. STEVENS, of Pennsylvania. This, Mr. Speaker, is a grave question of argument; it is not a question for demagogues. The world is going on in its progress of human government, and is every day advancing in the great science which is to make man happy or make him miserable. We are either to relapse into a state of barbarism where that infamous doctrine that one man can own another is to be reëstablished, or we are to establish the doctrine where every man governs himself and has rights which are inalienable. Among those inalienable rights, I start by saying, is the right of universal suffrage, which no man will dare, after this generation shall have passed away, dispute. We are not now merely expounding a government; we are building one. We are making a nation. We are correcting the injustice, the errors, the follies which were heaped upon other times by necessity. From the dark ages up mankind have been ground down by despots and by tyrants whom they could not in any way control. They were unable to form governments such as ought to control the human race and enable us to govern ourselves. Europe, Asia, every country in the world, till within the last century, has been thus held in chains which they could not break, in chains and withes which the world could not snap in its then condition. But a period arrived when the Almighty Governor of the universe placed within the power of our fathers both the knowledge and finally the power to break those chains and give the world an opportunity, if it would, to be free. When the dawn of the Revolution came it broke upon this world as a new, a mighty, a glorious revelation. That which never before had opened the eyes of mankind and given them a clear insight into the rights of the human race opened the eyes of our great and glorious fathers and taught them precisely what we have to carry out, and when we have carried it out human government will become perfect and tyrants everywhere must tremble, and demagogues who talk to us about difference of races must be ashamed and skulk from the face of the world.

Now, what was that great right that they discovered? It was that "all men are born equal." The black man who brushes the boots of my respected friend from the Luzerne district [Mr. WOODWARD] is, according to that doctrine, as much entitled to every right and every privilege of a free man and a citizen as that gentleman or myself. And whenever he or I or any one else undertakes to make a distinction between the black race and our own because of the color of the skin or the formation of the body he forgets his God, and his God will forget him.

In other words, we now propose to go to universal and impartial suffrage as the only foundation upon which the Government can stand. You must build all your science of government upon that foundation. When you attempt to depart from it you cease to be men and become tyrants, deserving the execration of the human race. There is no other way than by universal suffrage that you and I and every man can protect himself against the injustice and inhumanity and wrongs that would otherwise be inflicted upon us.

We have reached a point in the history of this nation when we can adopt that great and glorious principle. We have just builded a nation in whose institutions we can incorporate that principle. And my effort shall be to prove to this House not simply that we have just reached that point, but that we have reached it by means of the Constitution, not by violating it, although our forefathers, who proclaimed that principle and would have adopted it, could not do so without violating the compact which they themselves had made, and which would have destroyed the great Government they were then building and were bound to defend. We have reached that period which our fathers did not reach and could not reach, when, in speaking of universal suffrage, we must speak of it not as a boon, but as an inalienable right, which no man dare take away, and which no man can rightfully surrender. His God has forbidden it; the science of Government has forbidden it.

Henceforth let us understand that universal suffrage, operating in favor of every man who is to be governed by the votes cast, is one of those doctrines planted deep as the foundations upon which our fathers laid the immortal work of universal liberty, which work of theirs will last just so long as that immortal doctrine shall last, and no longer.

Whatever construction shall be given to the Constitution in its present condition by this Congress and those nearest, the great events which have modified it will be likely to be accepted through future time as its true meaning. It is important, therefore, that the most beneficent interpretation should be given to it, and that it should be most liberally construed, so as to secure all human rights in the changed condition of our country and of that instrument which, while it, as to the old States, may not be radically changed, is not so inflexible as to be incapable of accommodating itself to the changing necessities of humanity.

Before the Constitution was amended I could not agree with some of my learned friends that Congress could intermeddle with State laws relative to the elective franchise in the United States. The circumstance of slavery seemed, while it was submitted to, to prevent it. After the amendment abolishing slavery I still doubted, and proposed a constitutional remedy on the 5th of December, 1865, in the following words:

"All national laws shall be equally applicable to every citizen, and no discrimination shall be made on account of race and color."

Since the adoption of the fourteenth amendment, however, I have no doubt of our full power to regulate the elective franchise, so far as it regards the whole nation, in every State of

the Union, which, when tried, I hope, will be so formed as to be beneficial to the nation, just to every citizen, and carry out the great designs of the framers of the Government, according to their views expressed in the Declaration of Independence.

It cannot fail to be beneficial and convenient, when we consider the trouble and inconvenience which a citizen of one State encounters when he travels temporarily into another. Instead of being a brother at home he is now an alien in his native land. While he participates in all the burdens and anxieties of Government, he is forbidden, if a non-resident, to take part in selecting the magistrate who is to rule his destinies for the next four years.

In this there is no principle of republican justice. The Constitution of 1789 did not carry out the principles of government which were intended by the fathers when in 1776 they laid the foundations of the Government on which this nation was built. Then they had been inspired with such a light from on high as never man was inspired with before in the great work of providing freedom for the human race through a government in which no oppression could find a resting-place.

They contemplated the erection of a vast empire over the whole continent which in its national character should be governed by laws of a supreme, unvarying character. While municipal institutions with self-control might be granted for convenience, it was never intended that one half of this nation should be governed by one set of laws and the other half by another and conflicting set on the same subject.

The laws, the principle, which were to apply to the dwellers on the Penobscot were to apply to those on the Savannah and Susquehanna; else the Declaration would have proclaimed that the one—the people on the Penobscot or Susquehanna—were born free and equal, and those on the Savannah with a modified equality; that the one had inalienable rights, among which was liberty; that the other had inalienable rights, but perfect liberty was not among them. The grand idea of those immortal men was that there were certain rights, privileges, and immunities which belonged to every being who had an immortal soul, none of which should be taken from him, nor could he surrender them in any arrangement with society.

So essential to the repose of the whole community was it that every man should possess each of these rights, privileges, and immunities, that he was forbidden by his Creator to part with them. He could not sell himself, he could not sell his children, into slavery. He could not sell his life for a price. He could not surrender the right to pursue his own happiness. Every attempt to do so was nugatory. Every instrument founded upon such a contract, no matter how solemn, no matter how hedged about by broad seals, no matter how stamped by State legislation and executive approval, none of these things gave it life. It was null and void; it was a corpse incapable of animation.

I am speaking now of the original design of the framers of the Declaration of Independence, who had determined that there were certain principles which, to give perfect liberty, should apply alike to every human being. Who can deny this position without laying a heavier burden upon one human being than another without being authorized to do so by their common Creator? Who can doubt that if you put such power into the hands of the best men it will be abused, unless restrained by equal laws? Why should one man be more responsible to his temporal or eternal governor than another and be punished by different rules? I know that when they came to frame the Constitution, slavery having increased, they were obliged to postpone some of those universal principles, and allow individuals and municipalities to violate them for awhile. I thank God that necessity no longer exists. The law-givers of America are now as free to act as Sampson when the fire had touched the flax. May they never again be beguiled by any conservative Delilah to suffer their locks to be shorn and their limbs to be bound by the withes of a twisted Constitution.

The laws which were then intended to be universal must now be made universal. The principles which were intended to govern the whole American nationality must now be made to cover and control the whole national action throughout this grand empire. Towns, corporations, and municipalities may be allowed their separate organizations not inconsistent therewith, but must not incorporate any principles in conflict with those great rights, privileges, and immunities. What are those rights, privileges, and immunities? Without excluding others, three are specifically enumerated—life, liberty, and the pursuit of happiness. These are universal and inalienable. It follows that everything necessary for their establishment and defense is within those rights. You grant a lot or easement in the midst of your estate; you thereby grant the right of way to it by ingress and egress. Disarm a community and you rob them of the means of defending life. Take away their weapons of defense and you take away the inalienable right of defending liberty. This brings us now directly to the argument by which we prove that the elective franchise is a right of the Declaration and not merely a privilege, and is one of the rights and immunities pronounced by that instrument to be "inalienable."

If, as our fathers declared, "all just government is derived from the assent of the governed;" if in federal republics that assent can be ascertained and established only through the ballot, it follows that to take away that means of communication is to take away from the citizen his great weapon of defense and reduce him to helpless bondage. It deprives him of an inalienable right. This clearly proves that the elective franchise ranks with "life" and "liberty" in its sacred, inalienable character. But, while the Declaration clearly proves what the intention then was, the action of the Convention in framing the Constitution of the United States, it seemed to me, bartered away for the time being some of those inalienable rights, and, instigated by the hellish institution of slavery, suspended one of the muniments of liberty. Having thus shown that the elective franchise is one of the inalienable rights of man, without which his liberty cannot be defended, and that it was suspended by the arbitrary Constitution of 1789, let us see if that suspension has been removed, so as to leave our hands unrestrained in restoring its full vigor while still acting under the Constitution. That right appertains to every citizen. But while this suspension existed the natural love of despotism induced communities to hold that each State might fix the qualifications, rights, and deprivations of its own citizens.

The fourteenth amendment, now so happily adopted, settles the whole question and places every American citizen on a perfect equality so far as merely national rights and questions are concerned. It declares that—

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, nor shall any person be deprived of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

If by the amended Constitution every American citizen is entitled to equal privileges with every other American citizen, and if every American citizen in any of the States should be found entitled to impartial and universal suffrage with every other American in any State, then it follows as an inevitable conclusion that suffrage throughout this nation is impartial and universal so far as every human being, without regard to race or color, shall be found concerned, and so far as it affects the whole nation.

Can he who swears to support the Constitution in all its parts refuse to aid in carrying this into effect without clear, direct perjury—a worse perjury than would have been committed by those who, under the old Constitution, could not agree to that construction, and thus refused their aid to their fellow-men? What a grand compulsion have these despots, rebels, and murderers finally forced upon the American Republic by their impatient, rash, and bloody acts! How they have aided the just men of the nation in producing this great good! It were well if they could claim some merit as a compensation for so great a crime. But if evil must come into the world, "but woe unto him through whom it cometh," I fear that if good does come into the world through compulsion no merit will be attributed to the unwilling actors. Let no man now, then, who belongs to this great Government, dare to stand up in the face of high heaven and longer deny to God's immortal beings the high, the inalienable, the God-granted rights which his immortal Father gave them.

Let no one in the past, present, or any future age attempt to palliate his offense either before an earthly tribunal, which is to decide between God's creatures, or who is to plead his cause at the bar of a higher tribunal, venture to insult divine justice by longer pleading his inability to execute that justice.

We must remember that most of us are separated from the dread tribunal occupied by a Judge who cannot be deceived, by the narrowest isthmus that ever divided time from eternity. If every citizen of any State is entitled to all the inalienable rights, privileges, and immunities of this Government, and if one of those inalienable rights is the right to cast the ballot for every man who is to take part in the Government, show me the man who is so impudent as to deny that suffrage by the ballot is due to every being within this realm to whom God has given immortality. He must be an impudent citizen, and ought never to profess to believe in the existence of a Deity, for that a world could be created and governed without an overruling cause is more feasible than such a proposition. What would be the effect of conferring this just right upon every citizen in this Republic according to the original intention of our fathers?

If ever there was a spot on earth where it could be tried with perfect success, and bestow perfect happiness upon all those who are their own rulers and their own subjects, that spot is the continent of North America. In less than ten years it will contain a sound population of more than fifty million people, girt round by deep and broad waters, which no force could cross without our consent. The sea-girt isle of Great Britain, which was said to be cut off from the rest of the world, was not half so secure by her water defenses as this continent.

That would be a tall and a bold admiral who hereafter with hostile intent should venture this side of the pillars of Hercules. Before any monarchical nation shall again attempt to erect its institutions on this side of the Isthmus of Darien, they will find that there exists a Republic composed of the islands of the sea more powerful than the European portion of Great Britain, not less powerful than was the Achæan League, which republic we shall not blush to call an ally because a meridian sun and the tyrant's lash have planted in their color and into their souls the deep and inextinguishable principles of abhorrence to human bondage. A people now but little understood, but in a few years of progress, with their own institutions really free, instead of being ground by the nominal freedom, but real despotism, of Jamaica, will have made as long and rapid strides in the cause of civilization as our southern States are now making. The seed of such an empire is already planted and is germinating. It may not be known to all that the Danish possessions of St. Thomas, Santa Cruz, and St. John's are sustained by republican institutions, though all of the legislators and most of the executive officers chosen by themselves are colored. They have free schools, and can, with scarcely the exception of a sin-

gle individual of the proper age, read and write, and have all the essential requisites of a free republic, except, perhaps, the appointment of a few of the executive officers by the home Government, when the wishes of the people are always consulted.

Let a tyrant attempt to put his foot upon such a bombshell and he will be blown with all around him to inevitable ruin. Before the time supposed for such action shall have arrived Cuba, the most fertile and productive spot of its size, except, perhaps, the Delta of the Nile, will have become saturated and ripe with the bursting principles of freedom, and, together with St. Domingo, Hayti, Jamaica, and their cognate races, will be ready to leap to arms and defend their appropriate dominions, if such aid be needed in the cause of freedom, and if they shall not then have been added to our dominion by our enterprising Foreign Secretary. All of these islands are now free except Cuba and Porto Rica, which are now oppressed by the proudest and most cruel tyrant of Europe, himself of a mixed race of swarthy Moors and sluggish white blood. He may as well take warning that the day is very near when he must knock the shackles from every Cuban or have them torn from them by the spirit of liberty. She is within sight of emancipated America, and surrounded by islands of the sea every one of which is free. The sounds of the overseers' lash and the cries of the agonized slave will not, must not, be longer permitted to mingle with the sweet pæans to liberty which are shouted forth through every freeman's voice in the western world. All the golden rivers of Africa will never again purchase sufficient power to reënslave those just made free by the spirit of liberty, much stronger than all the powers of Hercules or of Sampson.

Before any other nations are prepared to establish their institutions in any part of this western world the broad, bold shoulders and swarthy frames of the inhabitants of this island empire will have established Governments that Spain and other European nations will willingly surrender to freedom, lest they should corrupt their despotic lead and hasten their own Governments a half century along the railroad path of liberty. But whether such an ally shall then exist or not, without boasting, this Government, counting upon her position and power, can entertain no fear of all the world beside. Traverse her twenty thousand miles, from the Russian possessions around the Isthmus of Darien, up the Gulf Stream to the bold shores of the Granite State, which, with the islands of the Gulf soon, I hope and believe, will be added to the mighty nation to which they naturally belong; thence up to where the Esquimaux roam and where we have lately employed the protection of the mighty walrus, on the strait which no hostile foot will ever attempt to tread, around to where the herring, the codfish, and the whale are seeking to find a permanent refuge—but no time which the eye of man shall ever see or his imagination depict can ever screen them from the hearty enterprise of this mighty empire—and you have such a vast, impregnable, and sea-girt domain as the world never saw. If anything more were wanting, more ironclads than all Europe could send to this distance could be brought into active operation in any time necessary for the defense of the nation.

Then take your route northward, from the southern isthmus, and you cross every latitude necessary for the production of all the industrial products of civilization. No mineral, no vegetable that ever God created for the wealth, comfort, or ornament of man would be wanted. Her southern climate, never more to be polluted by the unholy and infamous institution of slavery, bears upon every breeze the balmy odors that delight the senses. Its soil is filled with burning sapphire, its rivers run sands of gold, while its more rugged parts bear quartz equal to the fabled Ophir, and lodes of silver. If its more northern climate is held in firm delight by the hardy sons of "Greenland's Icy Mountains," its moss-clad granite will always be protected by the goddess of liberty. How much better than the delicious isle over which continually blow the soft breezes of spicy Ceylon, where

"Though every prospect pleases,
Only man is vile."

The ingenious artist of the gods, when procured by the mother of Achilles to engrave coast surveys and geographical delineations upon his invincible shield, never depicted a land so glorious and so variegated with gold and silver and every precious metal, and so bewitching to the senses with the odors of God's happiest creations. Its enchanting products grow in abundance on every inch of her variegated soil; and, since the curse of slavery is removed, if we do the justice which the Declaration of Independence proposes, and we now propose, will soon contain a greater abundance of riches than either Europe, Asia, or Africa.

I now desire to indicate an amendment which I propose to offer when in order. I understand that this bill is not now in a condition to be amended.

The SPEAKER. The bill is not now open to amendment, the pending question being on the motion to reconsider the vote by which it was referred to the Committee on the Judiciary.

Mr. STEVENS, of Pennsylvania. At the proper time I shall move to amend the bill by adding the following:

And be it further enacted, That every male citizen of the United States above the age of twenty-one years, who was born or naturalized in the United States, or who has declared his intention to become naturalized, shall be entitled to vote on all national questions which may arise in any State in the Union where he shall have resided for the term of thirty days; and no distinction shall be made between any such citizens on any account, except for treason, felony, or other infamous crimes, not below the grade of felony at common law.

CHARLES W. DENISON, DECEASED.

The SPEAKER. The Chair has been requested by the Pennsylvania delegation to state that a resolution was adopted by this House, on motion of the gentleman from Pennsylvania, Mr. RANDALL, directing the Sergeant-at-Arms to pay out of the contingent fund of the House the funeral expenses of their late colleague, Mr. Denison. The Sergeant-at-Arms has nothing to do with the contingent fund of the House. If no objection be made, the resolution will be amended by inserting the word "Clerk" in lieu of "Sergeant-at-Arms."

No objection was made, and it was ordered accordingly.

SOLOMON W. MURPHY.

Mr. BURR asked and obtained unanimous consent to withdraw from the files of the House the papers in the case of Solomon W. Murphy, leaving copies of the same on file.

LEAVE OF ABSENCE.

Mr. HAWKINS asked and obtained leave of absence for Mr. NUNN for ten days.

Leave of absence was granted to Mr. MCCARTHY for eight days.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866; when the Speaker signed the same.

STATE GOVERNMENTS REPUBLICAN IN FORM.

Mr. STEVENS, of Pennsylvania. I now yield the remainder of my time to the gentleman from Michigan, [Mr. BEAMAN.]

Mr. BEAMAN. Mr. Speaker, if, as it has been asserted, history is continually repeating itself, it is chiefly because the records of former ages are not sufficiently studied and properly heeded. If we would be guided by the lessons taught by past events and give attention to their warnings history would seldom repeat itself, at least in its sad story of great crimes and unnecessary human woe. Since like causes are followed by like effects, a knowledge of the past should enable us to avert many of the calamities that have befallen those who have gone before us. But we are prone to bury the past or to remember it only as the period of transactions in which we have little concern. Nor is it only the acts of remote ages over which we cast the vale of oblivion. To-day we forget the events of yesterday, though they may have been laden with private grief and national sorrow. Even now we seem in some degree oblivious to the great struggle through which we have just passed; a struggle that caused streams of blood to run down our hills and overflow our valleys. The ink with which the great American civil war was written is yet hardly dry. The pen that recorded its sickening details has but just been laid aside. The events of the great rebellion are of recent date, yet it would seem that we are rapidly losing sight of the real character of the struggle which convulsed a continent and challenged the gaze of an astonished world. We still have a recollection of opposing armies, and we seem even now to listen to the lingering echoes of booming artillery. We know that there was a deadly contest in which hundreds of thousands of brave men fell to rise no more. We know that the life of the nation was menaced by treasonable hands, and that it was saved for the time being at great cost of life and treasure. And yet it would sometimes seem that these facts have found a lodgment in our minds in great confusion. Indeed, if we give attention to statements made by some gentlemen on this floor, we may find ourselves in doubt as to the identity of parties; and we may be led to inquire who it was that opposed and who supported the Government in its late struggle for life. It is now customary for certain gentlemen to denounce the party that put down the rebellion as disunionists. The soldiers who exposed their lives on the field of battle in defense of the Union are proclaimed enemies of their country. Restraint imposed upon rebels who still defy all lawful authority is denominated tyranny. The demand for security for future good conduct of men who strove for four years by force of arms to undermine the Government is declared to be a denial of constitutional right.

Such are the denunciations made and reiterated by certain gentlemen with an assurance and zeal allowable only to men who have persistently and in good faith supported the Government in its hour of peril.

Mr. Speaker, I confess that the country is in much disorder and in great peril. To-day treason stalks abroad with arrogant mien. To-day the same bitter hatred that incited rebels to arms in 1861 exists against the Government. To-day there is treachery in high places, and at this hour millions of men are ready on the first faint glimmering of probable success to raise their impious hands against the national flag, though at this moment they are rather intent to find an opportunity to accomplish by stratagem what they failed to do by arms. Ten communities, once States of the Union, are without lawful State governments and bordering on anarchy. The nation is in debt in the sum of over two billion five hundred million dollars, and taxation is burdensome. The currency of the country is depreciated. Manufacturing interests are languishing, and laboring men find insufficient employment. Such is undeniably the condition of the country. How this condition of things was brought about I suppose we all know; but if memory has been treacherous a brief recurrence to the record of past events will refresh our recollection.

In 1861 the people were divided into two parties—the Democratic and the Republican party. In that same year the former, or at least a large portion of its members, rebelled and waged war against the Government, receiving at the same time the active sympathy of such of their brethren as continued to adhere to that organization. Not a single Republican was ever found bearing arms against the flag of his fathers. This war, this Democratic war,

brought upon the country all the ills with which it is now afflicted. It created a debt of gigantic proportions incurred in the defense of the liberties of the people against the assaults of Democrats. It caused an increase of officers, a multiplication of expenses to an alarming extent, so that in order to pay the interest upon the public debt and the current expenditures of the Government taxation must be onerous. This state of things was inevitable in consequence of the course pursued by the Democratic party. It was not enough to sacrifice the lives of hundreds of thousands of patriotic men; it required an accumulation of indebtedness which cannot be paid without taxation, and our people will never consent to a breach of the public faith. This Democratic war withdrew from industrial pursuits more than two million men, who, or the survivors of whom, on their return from fields of gallant deeds, found business affairs deranged and no places open for their employment. This Democratic war segregated eleven States of the Union, arrayed them against the Constitution, destroyed their respective governments, and reduced their people to a state of anarchy. Let me recapitulate: We had a war—a Democratic war. We have a national debt—a Democratic debt. We have burdensome taxation, made necessary by Democratic treason. We keep up a standing army in order to keep Democratic treason down. We have ten communities once States—Democratic communities—deprived of State governments by Democratic bayonets and prevented from restoration by Democratic treason, Democratic counsel, and Democratic obstinacy. Yet, with all these familiar facts before us, we are told that if the country is ever restored to peace and prosperity, that end must and will be accomplished by the Democratic party. That is to say, the agent that destroyed can alone rebuild.

This assertion is made, I suppose, under the impression that the hair of the same dog will heal the wound. Indeed, a distinguished gentleman on this floor has given notice in advance that the Democratic party is about to take the control of the Government, and he has informed us that that important event will be followed by an immediate repeal of all the legislation thus far had bearing upon the subject of reconstruction. But, Mr. Speaker, I have very little apprehension that the dreams of that gentleman will ever be realized. I hope the day is far distant, if that day shall ever dawn, in which the present Democratic party will get control of this Government. If, according to the theory of Vico, history revolves in cycles, we can hardly expect it to accomplish its revolution in our time, so as to repeat the story of the late rebellion. This people, with its terrible experience, is not likely again to put the dearest interests of themselves and their posterity into the custody of men who so wickedly betrayed their trust. These Democrats may cover themselves with lion skins from head to foot, but the attempted disguise will avail them nothing. Their words and deeds have passed into history, and so long as the Chicago convention of 1864 is remembered so long their true character will be known. So long as the declaration made by that convention that "justice, liberty, humanity, and the public welfare demand that immediate efforts be made for a cessation of hostilities" is remembered it will be useless for them to pretend that they rendered efficient aid in the crushing out of rebellion.

On the Republican party, then, is devolved the duty of restoring the Government and placing it upon a permanent foundation—a duty that would have been fully performed long before this time but for the defection of a treacherous Executive and the resistance of rebel sympathizers. This task of reconstruction is necessarily involved in difficulty, and the work has been constantly impeded by demagogues, by the use of all the arts of sophistry and misrepresentation, and by executive interference carried to the extent of usurpation. The surrender of the armies of Lee and Johnston left the seceded States without any civil government whatever. Even the rebel *de facto* organizations were swept away. Millions of men with inflamed passions and bloody hands, disappointed, chagrined, and embittered, were scattered over a vast area of territory, without law, without order, and without respect for personal rights. Mr. Lincoln, in whom the people had confidence, in the moment of the nation's victory was stricken down, and was succeeded by a man who had made some sacrifices for the country, but more professions of zeal than sacrifices. He commenced his Administration by an enunciation of his policy in words that gave hope and encouragement to the people. For several days after his succession he was visited by delegations and distinguished men from the different States, who assured him of the cordial support of the people; and during that period the telegraphic wires were occupied in sending over the country his brave and patriotic responses. The people, at first distrustful and despondent, at length became reassured.

But Congress, in whom alone resides the power to organize governments, was not convened. At length the President began to exercise powers of doubtful authority, creating uneasiness in the public mind; but this was relieved from time to time by assurances that the President was making experiments, and that all his proceedings would be submitted to the judgment and approval of Congress. But on the first Monday in December that body assembled, and the first annual message of the President exposed to the eyes of the people the true condition of affairs. He had hatched out a brood of bogus governments, and he informed us that the States were already reconstructed and entitled to representation and to all the constitutional rights of the loyal States of the Union.

And here begins the congressional policy of reconstruction. Congress looked over the country and saw in the seceded States rebellion still rampant. The officers of these bogus governments were leading rebels.

Even the vice president of the defunct confederate government was reported a Senator-elect. Most of the loyal men theretofore holding appointments in those States were removed and traitors put in their places. Loyal white men had been put under the ban, and loyal blacks were protected in neither life nor liberty nor property. A sentiment of loyalty that had begun to spring up was suddenly extinguished. Those Johnson-presidential governments could not for one moment be recognized without an utter abandonment of every principle for which we had contended and utter ruin to every loyal man in those regions. They were simply rebel organizations, intent on a course of tyranny more terrible than that which prevailed before the war. They assumed to be the injured parties and claimed rights under the Constitution as though they had not contemned and violated every paragraph of that instrument. Beaten and dispersed in the field they assumed the words and style of conquerors. Instead of "accepting the situation" they assumed to dictate terms of settlement. So far as mere words and mien are concerned some allowance might have been made in consideration of the irritation naturally growing out of disappointment and humiliation, but they inaugurated a reign of cruelty, rapine, and murder without parallel in the history of civilization.

And now what did Congress do or attempt to do? But first as to what they did not do. They did not confiscate the property of the leading rebels, as in justice they might have done. They did not hang nor banish those rebels from the country. They did not even attempt to disfranchise the great mass of the white traitors who had borne arms against the Government. Nor, as they ought to have done, did they enfranchise the loyal blacks who had, at all times and in all places and under all circumstances, been as faithful and loyal to the Government as the mother is to the welfare of her first-born child. But if the policy of Congress was faulty, it was so chiefly by reason of its leniency. It was inaugurated in the first session of the Thirty-Ninth Congress by the submission by joint resolution of an amendment to the Constitution to be voted upon by the State Legislatures, known as the fourteenth article. The principal features of that amendment are as follows, first:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside."

Second:

"Representation shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors of President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State being above twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in proportion in which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such State."

Third, the amendment excludes from holding civil or military offices under the United States or under any State those—

"Who having previously taken an oath as a member of Congress or as an officer of the United States or as a member of any State Legislature or as an executive or judicial officer of any State to support the Constitution of the United States, shall have been engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may by a vote of two thirds of each House remove such disability."

Fourth, the amendment also establishes the validity of the public debt, prohibits the payment of the rebel debt, as also the payment of any losses by the emancipation of slaves.

Mr. Speaker, I grant that this proposition was not entirely fair, just, and reasonable, because it did not protect the great mass of the loyal men in the rebel States. It did not, in terms, give to the loyal blacks, who had borne arms under the flag of the nation, a voice in its government; but it did authorize the rebels to exclude them from the right of suffrage. It excluded but a comparatively small number of white rebels from holding office and none of them from the elective franchise, and, by the very terms of the amendment, the disability to hold office might be removed by a two-thirds vote of each House. It left it entirely in the power of those white rebels to say whether or not the negro is a man and entitled to use the ballot, subject only to the condition that if they should decide adversely he should not be represented. I do not ask what could be more just and reasonable, because I know that it was neither fair, just, nor reasonable that a wicked rebel should dispose of the political rights of a loyal black man. But I may ask what proposition could be more lenient, more indulgent, more merciful to men who have committed the highest crime known to our laws, and whose necks were fit subjects for the halter? Yet all these rebel communities save one—the State of Tennessee—rejected the proposition with scorn and contempt, hoping, with the aid of their new ally, Andrew Johnson, to force themselves into power without conditions, let, or hinderance. Thus, by the obstinacy of these misguided men, Congress has been induced, if not compelled, to perform an act of tardy justice. The refusal of the rebels to accept of the proposed amendment induced further legislation, which resulted in the several reconstruction acts providing for the organization of the governments by loyal men without regard to race or color. Now, if there is any injustice in recognizing the manhood of the negro—which I deny—the wrong rests upon the head of the unrepentant rebel. He would have it so. The States must be reorganized, the rebels resisted, and if to that end it became indispensable the black man had to be used.

It is said that this is a white man's Government, but I insist that it should be a loyal man's Government. This country is the gift

of God, and man is God's creature, whether white or black. This is man's country, and the black, equally with the white, may claim it by birthright. He was born here, as were his ancestors before him for many generations, and his voice should be heard in the Government of the country. It is not necessary, however, at this point, to consider the question whether the colored man should be clothed with all the political rights of complete citizenship in the several States. It is illogical to say that he shall not vote in South Carolina because he is denied that privilege in Michigan. Michigan has not been in rebellion, and she needs no reconstruction. The votes of her colored citizens are not necessary to keep her in the Union nor to compel her to sustain the Constitution. The case is far different in South Carolina. The majority of the people of the latter State are loyal, but they are black. The minority are white, but rebels, and they will not organize a loyal government and submit to the Constitution and laws of the land. So in other rebel communities the majority of the whites are unrepentant rebels, but the minority in connection with the blacks are sufficiently numerous to reorganize and maintain the State. Congress is legislating for rebel communities with the view to reconstruction, and it must adopt means conducive to the end to be accomplished. To say that Congress shall not apply a rule to South Carolina that is not put in practice in reference to Michigan is to declare, in effect, that the former shall not be reconstructed at all. There is no analogy between the cases, for the reason that Michigan is not a subject for reconstruction, and the Federal Government cannot interfere with her domestic affairs. The question, therefore, of negro suffrage in the rebel States must be considered simply in reference to its expediency as applicable to the condition of their people, and it involves, first, the power of Congress; and secondly, the necessity of the case; and the course to be adopted is not in any respect to depend upon the practice in other States.

But fears have been expressed that the whites of the South will be subjected to negro rule. Such a revolution of the wheel of fortune might be condign justice. We know how long the poor blacks have been subject to the cruel and despotic rule of the whites. But who is to subject them to any such extremity? Should such a calamity befall them it will result from their own obstinacy. Their prompt acceptance of the constitutional amendment in good faith would not only have relieved them from any such apprehension, but it would have left the poor negroes at their mercy, and would perhaps have established a reign of tyranny far worse than negro supremacy.

But, in truth, all such objections are captious and frivolous. Every one knows that the thing is impossible. There are but two of the southern States in which the colored population predominates in numbers. Are the chivalrous white gentlemen of the South, with all their superiority in numbers, education, skill, and mental vigor, in danger of being brought under the dominion of the ignorant, unlettered negroes? The confession would be humiliating to the Anglo-Saxon race.

But, Mr. Speaker, speaking for myself, I do not hesitate to say that I am disposed, as a citizen of Michigan, to apply to my own State the same rule in respect to negro suffrage that I would prescribe for South Carolina. Why not? On the 4th day of July, 1776, the people of the United States, through the lips of Thomas Jefferson, declared to the world that all men are created equal. Equal in what respect? Certainly men are not created equal in mental vigor, size, physical strength, beauty of form, complexion, color of the hair and eyes. They are not created equal socially, because one is born to wealth and another to poverty. But they are all the creatures of our Heavenly Father, the children of God, from whom they inherit equally the right to enjoy life, liberty, and property. They are created with the inalienable right to be equal before the law, equal at the ballot-box, and equal in all political rights. Without such political rights no man can be secure of life, liberty, or property. Otherwise you may dispose of his property by laws to which he has never consented. You may try him for offenses affecting life and liberty before tribunals created without his privity, and against which he had not even the poor privilege of protest.

Some gentlemen are constantly prating about "negro supremacy, negro equality, and amalgamation." Sir, what have these matters to do with the question of suffrage? And why are these points made specially against the negro? Why are not the same objections raised against other classes and races of men? Do you never vote at the same poll with white men whose social position is questionable and whose ignorance is unquestionable?

Now, we all know that there are persons of weak intellect, of debased and despicable character, and of profound ignorance among all nationalities of white men, whether native American, Irish, German, English, or French; and the Indian "taxed" is not always of high respectability, great experience in public affairs, or extensive mental accomplishments. Some of the characters I have indicated would hardly know the difference between the Constitution and a prayer-book, and perhaps have never heard of either, especially the latter. You may have occasion to vote with such a class of men at the same poll, for we do not exclude white men from the elective franchise on account of ignorance or bad character, nor even the so-called civilized Indian "not a member of any tribe." Do you thereby make these worthy electors your equals socially? Would you feel in duty bound on the next day after the election to send your carriage for those sovereign electors and introduce them into your parlors because your ballot and theirs had been mingled in the same box? And, should your ballot and that of a black man happen to be placed in juxtaposition, would you for that reason at once deem it incumbent on you to give your daughter in marriage to the "American citizen of African descent?" Why, on the same principle, are you not bound to become the father-in-law of one of those other voters who, though white, is somewhat more debased than the negro? Why, by parity of reasoning, are you not bound to inaugurate practical amalgamation by sending your daughter into a wigwam as the wife of the half-tamed savage and the prospective mother of children of the forest.

But, if you allow negroes to vote, will they not hold offices? Of course they will if the people elect them. I suppose in the northwestern States there may be one negro to every thousand white men. Should these gallant colored politicians on some unpropitious day make a raid and gobble up all the offices in the Northwest, that day would be a dark one indeed. I know that in my own town already negroes do perform certain menial offices. We have colored barbers and white barbers, and sometimes the former are preferred. We have in my little city some fifteen hundred or two thousand voters, and we have, I suppose, twenty or thirty negroes. Now, I think we shall have a black mayor just at that moment when the white people shall prefer a gentleman of color at the head of our city government to any other man; and when our fifteen hundred or two thousand white voters conclude to select one of these twenty or thirty colored gentlemen to act as chief magistrate of the city I shall try to "accept the situation" with becoming submission and Christian resignation.

These expressions—"elevation of the negro," "negro equality," "negro supremacy," "amalgamation," &c.—are mere catchwords employed to excite the prejudices of the inconsiderate and the ignorant. We know how and when they originated. They were not in use in the early days of the Republic, when it was believed that slavery was a temporary institution; on the contrary, negroes were then allowed to vote. But they were brought into vogue at a later period by slaveholders to produce prejudice in the northern mind against the capacity of the negro as an apology for his enslavement. It was necessary to the maintenance of the servile institution that the black should be regarded as something less than man. It would not do for him to enjoy all the rights of a freeman in one section of the country while his brethren were slaves in another. And hence from the moment that the idea was conceived of making slavery a permanent institution the negro became the subject of detraction and the grossest slanders. And so we were told at the commencement of the war that the negro could not learn to read—but he does read; that he was attached to his master, preferred servitude to freedom, and would not leave him—but somehow he did get away on the first opportunity; that he would not fight—but he did fight; that he would not obey the laws and observe order—but he did sustain them though his master violated them; that he would rise and kill his master—but unfortunately the master got on to his feet first and murdered the negro. And then we were told that he had no independence of will, and that he would vote precisely as he was directed by his former owner; but experience in the late southern elections shows a different result. Perhaps if the prediction had proved true, perhaps if he had shown less of manhood, there would be less opposition in the South to granting him the right of suffrage.

And now we are told that he does not know enough to vote; but he votes very well in New England, in Tennessee, in Washington, and before many years have elapsed he will vote efficiently and with good discretion in Michigan and all other States of the Union. Prejudice must have its day and may reign triumphant for a season, but it cannot continue always. Justice must in time prevail and suffrage will become impartial. The negro will not be allowed to vote because he is black, nor the Irishman because he is unlearned, nor the American because he is ignorant, nor the rich man because of his lands and houses; but all these, and all the races of men born in this country or duly naturalized will be allowed to speak through the ballot-box, because of the justice and necessity of the case; because this is a people's Government, and they are constituent parts of the body-politic, and are to be affected and controlled by the laws of the land. In all nations there is ever a struggle for power between the few and the many, between the aristocracy and the masses of the people, and at this day our own Republic is not an exception to the rule. In this respect, though not so manifest, the same elements exist here as in France and England. Mr. Seward's "irrepressible conflict" still waxes hot. This Government will either slide into a monarchy or become thoroughly popularized. It must become an aristocratic power or Government of the people. Such was the opinion of our fathers, and hence they declared that all men are created equal. They acted in the main in accordance with the import of their declaration, and for many years negroes were allowed to vote in all the States but South Carolina. But in process of time cotton became king, and the monarch must have slaves, and slaves could not be voters, and so the entire race must be proscribed; and thus it happened that prejudice and cupidity ruled the hour.

Thus we see that the negro has not been excluded from suffrage by reason of his ignorance or his color. It is caste that denies him this inalienable right. He is despised because he has been maltreated and oppressed, because his race has been enslaved, because he has been robbed of his right to freedom with which God has endowed every human being. Every time that we assert the incapacity of the negro as an excuse for denying to him the exercise of political rights we are rebuked by the practice of our whole lives. Why is the half-tamed Indian allowed to vote? His skin is as dark as that of a large proportion of the colored people of this country. In point of

humanity, intelligence, fidelity to the laws of God and man, he is not to be compared with the African. Why prate of the black man's ignorance while thousands of white men in every State are unable to read the ten commandments or to write their names? We must allow all classes of our citizens to participate in the affairs of Government or abandon all our notions of Democratic institutions. We have, perhaps, four or five million colored people in this country. It is affectation, nay, it is a mockery, to boast of a people's Government while a sixth or seventh part of the entire population is held in duress and wholly excluded from participation in the conduct of public affairs.

And here let me sound a note of warning to the private citizens, the laboring men and the indigent voters of this country. If money is power union is strength. Let the laboring men and the indigent voters remember that though united in action they are not too numerous for the protection of their rights against aristocratic power. Let them also bear in mind the fact that no man can be sure of the preservation of his own rights unless every other man is also protected. The practice of wrong upon one man implies that injustice may be done to another. If a man may be ignored because he is black, another may be treated in the same manner because he is poor. Every man's safety consists in the maintenance of laws that shall protect every other man. As a nation advances in age and wealth its tendency is toward aristocracy, and individual influence, unsupported by wealth, gradually becomes more and more insignificant. Let every man then insist that every other citizen shall have the right to vote, not because they are equals in social position, in personal appearance, in knowledge, in pecuniary circumstances, but for the reason that they are men, constituent parts of the great Commonwealth, subject to the same laws, capable of appreciating the enjoyments of life, and subject to like wrongs and misfortunes.

For a laboring man to oppose the political enfranchisement of the negro because he is black is but to exercise the spirit of an aristocrat, who would establish grades of nobility and reduce every man to a servile condition who could not boast of wealth or family distinction. This aristocratic tendency had been making rapid strides in the South for many years, and it finally culminated in rebellion. Southern planters, who declared the negro incapable of citizenship, could not endure the "mudsills" of the North, and of course they deprecated impartial suffrage; but observe that they respected the "mudsills" no more than they did the slave. Their course was natural and logical. They held that the rich should own the poor. They despised the northern farmer and the "greasy mechanic." In truth, they did not confide in the people and admit their right to rule. Now, let no man deceive himself. Whatever may be his motives or the influence by which he is affected, whether it be misconception, indiscretion, or prejudice—it does not matter whether he is rich or poor—the man who denies political rights to any other man, by reason of color or race, is aiding to build up aristocratic institutions and to establish the doctrine of the divine right of kings. The times are perilous and the people are busy in the investigation of the principles of free government. The history of the last few years has shown that many errors had crept into our political theory, some of which have already been eradicated. Indeed, since the commencement of the late war we have made wonderful progress.

Six years ago it was thought dangerous to emancipate the few slaves that were held in bondage in the District of Columbia. Mr. Lincoln's great proclamation of emancipation excited the alarm of many patriots and philanthropists. But the work moved on without detriment to the country, and now no man at the North would willingly see that system of bondage restored, while many, very many, at the South rejoice that slavery is no more. Daily we advance in our knowledge of the rights of man and the true principles of free government. Prejudice may linger for a brief season, but it will finally be swept away, and when every citizen within our borders shall have been assigned his proper political position, then shall we, indeed, be a nation of freemen; then shall we have realized what our fathers saw with an eye of faith, a Government of the people, in which every man is equal before the law.

Before Mr. BEAMAN had concluded his speech the hour of Mr. STEVENS, of Pennsylvania, expired, when

Mr. BROOMALL obtained the floor and said: My desire is to let this bill go to the Judiciary Committee, to which I originally had it referred; but I do not wish to interrupt the remarks of the gentleman from Michigan, [Mr. BEAMAN,] and if I can obtain the floor at the conclusion of his remarks I will permit him to conclude.

The SPEAKER. The gentleman from Pennsylvania [Mr. BROOMALL] is entitled to the floor for one hour for the purpose of closing the debate.

Mr. SPALDING. I hope the gentleman will not send this bill back to the committee without giving some of us, constituting, I trust, the majority in this House, an opportunity to say that we do not recognize the constitutionality of this measure. I do not like to have the impression go out to the country that this House is prepared to pass this bill.

The SPEAKER. The gentleman from Pennsylvania [Mr. BROOMALL] is entitled to the floor to close the debate.

Mr. BROOMALL. My wish is not to interrupt the business of the House further than necessary at this time. I desire the debate to close by all means to-day.

Mr. MAYNARD. I hope the gentleman from Michigan [Mr. BEAMAN] will be permitted to finish his speech.

Mr. BROOMALL. I yield to the gentleman from Michigan fifteen minutes.

Mr. BEAMAN resumed and concluded his remarks as printed above.

Mr. BROOMALL. I now yield five minutes to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. Mr. Speaker, I do not wish to occupy much of the time of the House; but I desire to remark that only last October I was called upon as a citizen of Ohio to vote upon a proposition to amend the constitution of that State by inserting a provision giving the right of suffrage to the free black man equally with the white man. I not only voted cheerfully for that proposition, but I used all my influence with my fellow-citizens in my section of the State to induce them to ingraft that provision upon our State constitution. It was unsuccessful. We were in advance of the sentiment of our people; they voted down the proposition by forty thousand majority. Now, I would like to see the member of Congress from the State of Ohio who would have the boldness to vote for the passage of this bill, which, in my judgment, cuts directly across the Constitution of the United States, and, in fact, derides the action of the people of my State in refusing to insert in their constitution of State government a provision granting this general right of suffrage to the blacks as well as the whites.

Sir, I believe the day may come when our Constitution, the great charter of our liberties, shall be so amended that all free people may vote. God hasten the day when that right may be so extended! But, sir, so long as the Constitution remains as it is, I will sooner suffer my right arm to drop from its socket than vote for any such bill as that now before us. And in saying this I am bold to affirm that I speak the sentiments of a large majority of my colleagues on this floor irrespective of party. I should regard the passage of this bill at this hour as the death-knell of our hopes as a political party in the approaching presidential canvass.

Mr. BROOMALL. I now yield fifteen minutes to my colleague, [Mr. KELLEY.]

Mr. KELLEY. Mr. Speaker, I have no hope that this bill will be adopted by this Congress. I will gladly give it my vote when brought to that test, and in doing so will, in my judgment, act strictly within the letter and intent of the Constitution, and but exercise a power which the framers of the Constitution and the members of the State conventions that accepted it knew they had embodied in it.

The gentleman from Ohio [Mr. SPALDING] hastened to announce, as did my colleague from the Washington district, [Mr. LAWRENCE, of Pennsylvania,] that the question of colored suffrage is not a party question. I admit and deplore the fact that it is not, for the Republican party is founded upon the theory of the equality of man before the law, and the fact that the consent of the governed is the only legitimate basis for government. Those are accepted party doctrines, and I take it for granted that those members of the Republican party who deny the colored citizens' right to vote, like the leaders of the Democratic party, deny the humanity and the immortality of the great mass of mankind, for the majority of the human race are of those shades of complexion and that character of blood to which, while asserting the equal rights of man, they deny equality before the laws.

Mr. LAWRENCE, of Pennsylvania. I said it was not a party question.

Mr. KELLEY. I did not misrepresent you, but said the question of suffrage is not a party question within the Republican party. But I deplore the fact that you are as benighted or prejudiced as you are.

Mr. LAWRENCE, of Pennsylvania. I admit my colleague has stated my sentiments, though I did not do so myself. I say it is not a party question to-day in my district, and has not been. When I spoke I was indorsing the opinion of Judge Agnew, which was merely in regard to the right of railroad companies to carry passengers in separate cars.

Mr. KELLEY. I did not mean to reflect upon my colleague, and have not time to criticise the disgraceful opinion of Judge Agnew.

Mr. LAWRENCE, of Pennsylvania. I believe the people of Pennsylvania will sustain that decision.

Mr. KELLEY. I regret that the Republican party has not risen to the height of applying its principles as a test to all questions, and carrying them into execution to their last logical result. There is no difference between my colleague and myself as to its halting on the question of suffrage.

The gentleman from Ohio [Mr. SPALDING] hopes the Constitution will be so amended that a law of this kind may be adopted; and my colleague from the Luzerne district [Mr. WOODWARD] to-day treated the proposition involved in the bill as novel, as an absurd novelty, as a proposition no lawyer or American statesman had ever entertained. If the proposition is new to him it is because he is not familiar with the political history of the country in its early days; for, sir, the proposition contained in this bill was considered by the men who framed the Federal Constitution. They deliberately embodied it in the Constitution, and that fact was recognized in such of the State conventions as considered and accepted the Constitution. When, a few moments ago, I asked my colleague [Mr. WOODWARD] whether Monroe and Madison had not discussed it in the Virginia convention, he disclaimed any reference to Virginia, and said he was confining his discussion to our own State, Pennsylvania. But, sir, he should have known that it attracted the attention of and was discussed by Wilson, McKean, and other leading members of the Pennsylvania convention, as the published debates show.

In order to show that the doctrine that Congress is invested by the Constitution with the

right to provide who shall be electors for the most numerous branch of the Legislature is not a novelty, and that it was embodied in the Constitution, I turn to Elliot's Debates—the report of the Virginia convention, which is believed to have been made by Madison himself—pages 276–277, second volume. In the course of the debate on the 13th of June, 1788, it is said:

"Mr. Monroe wished that the honorable gentleman who had been in the Federal Convention would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators, and also why there was an exception as to the place of electing Senators.

"Mr. Chairman, the reason of the exception was, that if Congress should fix the place of choosing the Senators, it might compel the State Legislature to elect them in a different place from that of their usual sessions, which would produce some inconvenience, and was not necessary for the object of regulating the elections. But it was necessary to give the General Government a control over the time and manner of choosing the Senators to prevent its own dissolution.

"With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State, by any means, be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people subject to the control of the General Government in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. The powtr appears to me satisfactory, and as unlikely to be abused as any part of the Constitution."

Mr. WOODWARD. I desire to ask the gentleman a question.

Mr. KELLEY. I yield for a question.

Mr. WOODWARD. The gentleman read from the debates upon the Federal Constitution. What I wish to inquire is this: if the right to regulate suffrage in the States was ever conferred upon the Federal Government the gentleman can lay his finger on the clause which confers it.

Mr. KELLEY. Yes, sir. The clause is that which was under discussion in the Federal Convention at the time the utterances I have just read were made, and is that clause which gives Congress the power to regulate the time, place, and manner of holding elections. Now, if the gentleman means to ask me whether I have ever known Congress to exercise that power, I say now, as I said when discussing this question somewhat elaborately, though without method, during the Thirty-Ninth Congress, that it never has exercised it, that it is a dormant power, and that a mass of judicial precedents and State action overlies it, but which precedents and decisions are not more weighty or potent than were those which corroborated and sustained the constitutionality of the Missouri compromise. As these were all wiped out by the stroke of a judicial pen so will a judicial pen some day vindicate the right of Congress to exercise this long dormant power.

Mr. WOODWARD. Will the gentleman name the article and section in the Constitution to which he refers?

Mr. KELLEY. I forget the number of the article. It was discussed as article six, but did not receive that number in the final arrangement of the Constitution. It is the clause which gives Congress the power to regulate the time, place, and manner of holding elections. The gentleman, familiar as he is with the text, will readily turn to it. I say the power is there, and that it was first overridden by the Virginia and Kentucky resolutions of 1798; and I say further that that same graceful facility of overruling judicial decisions, ancient or recent, which was referred to by my colleague [Mr. BROOMALL] this morning, and which, after thirty years, declared the Missouri compromise to be unconstitutional, will yet approve the constitutionality of a law passed by Congress to secure to every freeman under the flag and on the soil, unconvicted of crime, the right to the full enjoyment of citizenship.

Mr. WOODWARD. If the gentleman will allow me I have that clause before me to which he refers, and I ask him to consider it in connection with section two of article one, as a lawyer.

Mr. KELLEY. The fifteen minutes allowed me, which are now nearly exhausted, will not, as the gentleman's long judicial experience has taught him, allow me to elaborately consider a question of constitutional law involving a comparison of several clauses. Nor did I take the floor to do that. I took it to disabuse the mind of my colleague of his impression in regard to a proposition that was familiar to every member of the Convention that framed the Constitution and to every member of the convention of the several States that acted upon the Constitution, and to show him that it was not a novelty, much less a ridiculous novelty. If I have brought to his attention the sources of historical evidence of that fact I have done all I hoped to do in so brief a period.

Mr. WOODWARD. I wish to call the attention of the gentleman to the fact that all that he has produced does not touch the qualification of suffrage. The regulations of the elections is a different matter from the qualification of electors. What he has produced relates to the one subject and not to the other. The question I propound to him or to any other gentleman is, what clause of the Constitution confers upon the Federal Government any power over the qualifications of electors?

Mr. KELLEY. Without going into a constitutional disquisition I will merely remark that James Madison, in the prime of life, when a member of the Virginia convention, used language with very marked precision; and in the paragraph which I have read he uses this language:

"Should the people of any State by any means be deprived of the right of suffrage it was adjudged proper that it should be remedied by the General Government."

Now, if the General Government were to have no control of the question of suffrage, pray what did Mr. Madison mean when he made that statement? He was speaking for the Federal Convention, and was appealed to by Mr. Monroe, in the passage I have read as the honorable gentleman who had been in that Convention, and as such requested to inform the Virginia convention what the Federal Convention believed it was doing when it inserted the clause referred to. The question was expressly to the point, and his answer was explicit and to the point. It was in substance, as I have shown, that it was giving Congress the power to regulate suffrage if the States failed to regulate it on the principles of justice and equality.

Mr. WOODWARD. Now, is the gentleman prepared to read that clause of the Constitution in connection with the one to which I referred?

Mr. KELLEY. No, sir; for I rose to lay some historical facts before the House and not to be diverted into a constitutional disquisition, for which time is not allowed. While we speak my time has expired, and I must leave the floor.

[Here the hammer fell.]

Mr. BROOMALL. I now yield ten minutes to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. Mr. Speaker——

Mr. FARNSWORTH. I ask the gentleman to yield to me for a moment that I may report a bill for the purpose of having it recommitted and ordered to be printed.

Mr. KERR. I will first, out of abundance of caution, ask what it is?

The SPEAKER. It is in relation to Alabama.

Mr. KERR. I will yield to the gentleman.

ADMISSION OF ALABAMA.

Mr. FARNSWORTH, from the Committee on Reconstruction, reported a bill (H. R. No. 935) to admit the State of Alabama to representation in Congress; which was read a first and second time, recommitted to the Committee on Reconstruction, and ordered to be printed.

Mr. FARNSWORTH. I desire to give notice that I intend to report the bill back to-morrow after the morning hour, and ask action on it during the day.

AMENDMENT OF HOMESTEAD LAW.

Mr. KERR. I will yield now to my colleague, [Mr. JULIAN.]

Mr. JULIAN, by unanimous consent, from the Committee on Public Lands, reported a bill (H. R. No. 934) amendatory of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and of the acts amendatory thereof, approved March 21, 1864, and January 21, 1866; which was read a first and second time, recommitted to the Committee on Public Lands, and ordered to be printed.

Mr. PRICE moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ELDRIDGE. Will the gentleman from Indiana [Mr. KERR] yield to me to moye that the House do now adjourn?

Mr. KERR. I will yield for that purpose.

The SPEAKER. The gentleman from Pennsylvania [Mr. BROOMALL] is entitled to the floor, and the motion cannot be made without his consent.

Mr. BROOMALL. I have promised that this discussion shall close to-night; there is business pressing on the House, and I cannot consent to an adjournment. Gentlemen will have plenty of time to discuss this question hereafter.

Mr. KERR. Very well; then I will proceed.

Mr. LOGAN. Will the gentleman yield to me to enable me to offer a resolution calling for information?

Mr. KERR. I will yield for that, and then I must not be interrupted again.

SALE OF UNITED STATES BONDS, ETC.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed, without delay, to report to this House the amount of commissions paid for sale or disposal of United States bonds or securities since the 2d day of March, 1862; to whom paid, and if commissions are still paid for similar services to the same parties; if not, to whom commissions, if any, are paid; also, what amount of gold has been sold by the Treasury Department since the 2d day of March, 1861, and what amount of commissions have been paid on sales of gold, and to whom paid; whether said commissions on sales of gold were paid in coin or currency; that he state separately the amount of commissions paid on the sales of Government securities and sales of gold.

PUBLIC BUILDINGS AT TOLEDO, OHIO.

Mr. ASHLEY, of Ohio. I ask unanimous consent to submit the following resolution calling for executive information:

Resolved, That the Secretary of the Treasury be directed to inform this House of the condition of the custom-house and post office at Toledo, Ohio, and what appropiation is needed for such additions and repairs to said building as have been reported necessary for the safety of the public property and the safe conduct of the public business therein. Also, whether the interest of the Government would not be better subserved by selling the present building and erecting a new one.

Mr. KELSEY. I object.

HARBOR AND RIVER IMPROVEMENTS.

The SPEAKER. The Chair will state to the gentleman from Indiana [Mr. KERR] that the gentleman from Massachusetts, [Mr. ELIOT,] who represents the Committee on Commerce, desires to offer a resolution calling for some information for the use of that committee.

Mr. KERR. I will yield for that purpose.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to submit to the House of Representatives revised estimates of amounts recommended for harbor and river improvements for the fiscal year ending 30th June, 1869, reducing such amounts as far as may be safely and prudently done, having in view the protection of works from injury or deterioration and reasonable progress toward completing the same, regard being had to the wants of commerce in each case.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. CULLOM. I ask the gentleman from Indiana to yield to me for a moment.

Mr. KERR. For a moment.

Mr. CULLOM. A day or two since an executive communication, accompanied by correspondence in regard to the rights of American citizens abroad, was laid before the House and referred to the Committee on Foreign Affairs. No order to print was made. The document is one that ought to be printed, and I ask that an order for its printing be now made.

There was no objection, and the order was made.

Mr. KERR resumed the floor.

PRINTING OF A BILL.

Mr. MILLER. Will the gentleman from Indiana yield to me for a moment? I yielded to him the other day. [Laughter.]

Mr. KERR. I cannot resist that argument.

Mr. MILLER. On Monday last I introduced a bill (H. R. No. 914) allowing a rehearing in patent cases before the district court of the United States for the District of Columbia, and to allow an appeal therefrom to the Supreme Court of the United States. I omitted to ask to have the bill printed, and I now ask unanimous consent that it be ordered to be printed.

There was no objection, and the order was made.

STATE GOVERNMENTS REPUBLICAN IN FORM.

The SPEAKER. The gentleman from Indiana [Mr. KERR] is now entitled to the floor for ten minutes.

Mr. KERR. Mr. Speaker, the gentleman who last addressed the House on this bill [Mr. KELLEY] assumes that it is not now a partisan question whether suffrage should be extended to all the States of this Union by act of Congress. I believe myself it is not. From what we have heard here to-day I am prepared to agree with him that it is not now a party question on that side of the House whether this bill shall pass or not. But I infer from what he said, and I believe it to be true, that the moment the majority of this House feel that they have the power to enact a bill of this kind they will do it just as certainly as that God exists. It is to-day the settled purpose of the party to introduce and pass a bill of this kind just as soon as possible.

Mr. LAWRENCE, of Pennsylvania. I know the gentleman does not want to misrepresent any one.

Mr. KERR. I will except the gentleman from what I have said.

Mr. LAWRENCE, of Pennsylvania. And the gentleman should except two thirds of us.

Mr. KERR. I hold that the bill now under consideration cannot have any shadow of legal authorization under the Constitution of the United States as it stands to-day. I agree with the distinguished gentleman from Ohio [Mr. SPALDING] that it runs directly across the Constitution. But it is the fixed and cherished policy of the majority in this House to change the Federal Constitution. It is their deliberate purpose, to-morrow or next week or a month hence, or as soon as they can, to make the Federal Constitution a different instrument from what it now is. And then, under the somewhat latitudinarian expressions contained in the proposed fourteenth article of amendments to the Constitution, not only will this bill but almost every other kind of law that the party majority here can desire be introduced into this House and enacted into a law.

The title of this bill is, "A bill to guaranty to the several States of the Union a republican form of government." It appears to me that title should be changed. It should read, "A bill to corrupt the blood, demoralize the lives, and undermine the foundations of all constitutional government and the civil liberties of the people of this country, and perpetuate the ascendancy of the Radical party." Then its true character would be understood, and no one deceived. The country could then measure the extent of its purpose and policy. It could then arrive at a more just conclusion as to its duty in the premises. I do not think the country should now hesitate an instant to believe that such is the deliberate policy of Radicalism. To this result the conduct of the majority in this House for seven years past has pointed with as much directness and fidelity as the compass does to the pole. They only await the arrival of the hour when the people will submit to the imposition of such measures upon them.

It is said to be a bill to guaranty something. What does it propose to guaranty? The very idea of a guarantee is to secure the protection or performance of something that already exists, of a preëxisting contract, compact, or obligation of some kind. Is there anything of the kind here proposed to be guarantied? No, sir, but the very contrary. This bill, by its express terms, and in bold language upon its very face, proposes not to guaranty anything in the legal and universal acceptation of the word, but to make constitutions for the several States. That is the cherished policy of the majority here. This bill proposes to prescribe constitutions, to tear down preëxisting constitutions, republican in form, solemnly approved as such by the wise framers of our Government, and sanctified by their struggles and blood, and to build up in their places other constitutions and forms of government not made, organized or adopted by the people of the States to be governed by them. This bill does not propose to guaranty, by its provisions, any form of government that now exists to the northern States, but to create forms of government there that do not exist, and to denominate its own creations governments "republican in form." Where does Congress obtain such power? Who authorized Congress, or the Radical party, to make constitutions for the States of this Union? Have the fortunes of the Radical party become so desperate that they are compelled to ignore and deny the right of the States freely to choose and organize their own local governments? This bill asserts the right and capacity of a few citizens of the States, selected to represent them in Congress, to make constitutions for the several States, and denies the original and inalienable right of the people of the States to govern themselves. The Radical Congress of to-day may, therefore, prescribe one form of republican government. But if this Congress should be succeeded by another Radical Congress, the latter might condemn the ideal of to-day and prescribe another, and a Democratic Congress might condemn both and establish an entirely different model.

Incorporate the provisions of this bill into the constitutions of the northern States and they will instantly cease to be the chosen and accepted governments of the people of those States, and will become governments dictated to them, forced upon them, by strangers, to which, if the last spark of patriotism and manhood be not extinguished in them, they will never submit, but will rather rebaptize in blood the sacred birth-right of local self-government. If this bill shall become law, the constitution under which you, Mr. Speaker, and I live to-day, cannot without falsehood be said to have been adopted by the people of our State; not at all. It would be a constitution made, in part at least, by Congress, by the Representatives of the States of this Union, by a power and authority outside of the States to be governed and controlled by it, and to which the people of Indiana ought never to submit.

But the gentleman from Pennsylvania [Mr. BROOMALL] was pleased to say, in the course of his remarks, that any man who feared the domination of the negro race in this country was a coward.

Mr. Speaker, is it evidence of courage to court the domination of negroes? Is it statesmanship to introduce into the body of electors, the governing and law-making classes, the most inferior, ignorant, and corruptible races on the earth? Such a policy has not been tolerated or adopted by any Government, people, or party known to history, except the present Radical party in this country. A Government which rests upon and can only be sustained by the intelligence and virtue of the people, cannot be safely committed to such guardians.

Ah, Mr. Speaker, who are the cowards in this country to-day? Are the Democratic party?—a party whose fidelity to principle has been characterized by a degree of courage and self-sacrifice that has known no parallel in the history of political parties or of civil government. I will tell you who the cowards are: they are those white men of this country who marshal themselves under the leadership of the Radical party, who are afraid to meet the Democratic party, their white fellow-citizens, in a fair, hand-to-hand fight before the people of this country, of their own race, blood and lineage, but seek to skulk and intrench themselves behind the power and influence and aid of a negro population. They are those who are the cowards. Yes, they are afraid to appeal for support to, and abide the verdict of their own race. They tremble as convicted criminals before such a tribunal, and by an unnatural and unjust exercise of power appeal for support to a race utterly incompetent either to govern or support themselves. They fear to avow before the country the principles on which they stand. Let it not be said that the members of the Democratic party are cowards because they fear negro domination. We have no fear when we have only to do battle before the intelligence and virtue of the people of this country; but when we are compelled to meet the ignorance and barbarism and stupidity and vice of the country, manipulated by a political party in power, then we do fear for the welfare of the country. It is then, and then only, that we confess to any trepidation; it is not because we fear the negro. The negro has no power in this country; and when you establish your system of government in the South, the whole effect of it will be to make tyrants of yourselves and slaves of everybody else, the negro as well as the white man.

We are told further, Mr. Speaker, that there is a contest in this country between the Democratic party and the negro. I do not know how to characterize fitly that kind of political twaddle. It certainly amounts to much less than the dignity of an argument. The Democratic party is to-day, and has been throughout the whole history of this country, the truest and best friend of the negro; and it always will be. It does not want to take from the negro a single right to which he is entitled either by the law of his being, by the law of God under which he was created, or by the laws of the country. We would concede to him and guaranty him in the possession of every one of his civil, social, and personal rights; but we would give him no control over the political destiny of this country. We would retain the Government in the hands of the race to which we belong. We would retain it in the hands of that race to which you belong, and to which all the people who, in the history of the world, have shown any capacity for self-government have always, without one single exception, belonged. This bill proposes to corrupt that

ruling race, not alone in the South, but throughout the entire country. It proposes to appeal to that ignorant and inferior race to help the party now in power to retain the political control of the country. It was the theory and doctrine of our ancestors in this country, of the fathers of our Constitution and our system of Government, that civil liberty is secure so long only as it rests upon the foundation of the intelligence and virtue of the people. Is it proposed now to extend and widen and deepen those foundations?

No; it is proposed to undermine, to subvert, to overthrow them, and to substitute for them the sandy foundations of negro ignorance, incapacity, and barbarism. This revolutionary and corrupting policy is demanded by no existing condition of things in the country. It can advance the true interests of no class, section, or State. It may give temporary and hateful ascendancy to a party. But should any party willing thus to retain power be trusted by the country? I think not.

I make the bill of the gentleman from Pennsylvania [Mr. BROOMALL] a part of my remarks.

A bill to guaranty to the several States a republican form of government.

Whereas the form of government of several of the States of the Union is not republican in this particular, that by the constitutions and laws of such States political rights are made to depend upon parentage and race, and are hereditary in certain families, to the exclusion of others equally citizens of the United States; and whereas it is the constitutional duty of the United States to guaranty to every State a republican form of government: Therefore,

Be it enacted, &c., That all provisions and enactments in State constitutions and laws which make distinctions in political or civil rights among citizens of the United States, or deny such rights to any such citizens on account of parentage, race, lineage, or color, are, and are hereby declared to be, void and of no effect.

SEC. 2. *And be it further enacted*, That if any person shall prevent any qualified citizen of the United States from exercising the right of suffrage at any election in any States, under the pretense that such citizen is disqualified by the constitution and laws of such State on account of his parentage, race, lineage, or color, such person shall be deemed guilty of a misdemeanor, and on conviction thereof in the proper court shall be sentenced to pay a fine not exceeding $5,000, or to undergo imprisonment not exceeding five years, or both, in the discretion of the court.

[Here the hammer fell.]

Mr. BROOMALL. I desire now to withdraw the motion to reconsider, in order that the bill, together with the amendment of my colleague, [Mr. STEVENS] may go to the Committee on the Judiciary.

Mr. RANDALL. I move that the bill and amendment be laid on the table.

The SPEAKER. The bill is not before the House. The pending question is a motion to reconsider the reference.

Mr. RANDALL. Then I move that the motion to reconsider be laid on the table.

The SPEAKER. The gentleman's colleague [Mr. BROOMALL] has the floor, and proposes to withdraw the motion to reconsider.

Mr. BROOMALL. I withdraw the motion.

Mr. RANDALL. My colleague is afraid to "toe the scratch" and take a vote directly on the question.

Mr. BROOMALL. I will state, for the benefit of my colleague, [Mr. RANDALL,] that it was not my intention to ask a vote on this bill without its having been regularly considered by the Judiciary Committee, hence I want the bill now to go back to the committee. I called it up on the motion to reconsider, partly for the purpose of alarming my venerable friend from the Luzerne district, and also to hear our eloquent colleague from the Lancaster district, with whose noble speech I must say I was very much gratified. I must say, too, inasmuch as allusion has been made to the convention of 1838, by which the constitution of Pennsylvania was made anti-republican to a certain extent, that I hope my colleague, [Mr. STEVENS,] who refused to put his name to that constitution, will live to see the day he can conscientiously put his name to it, when that anti-republican obnoxious word "white" will be blotted out.

And then, on motion of Mr. ALLISON, (at four o'clock and fifty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. BARNUM: The petition of F. E. Burr and 24 others, owners and masters of vessels and merchants engaged in the transportation of merchandise by water through Long Island sound, citizens of the State of Connecticut, and residents of the village of Black Rock and sea-coast towns in said State, praying for an appropriation for the protection of the harbor of Black Rock.

By Mr. BOYER: The petition of citizens of Pennsylvania, praying for the repeal of the law establishing bonded warehouses.

By Mr. BUCKLAND: The petition of Peter Evans and 19 others, manufacturers and journeyman cigar-makers of Tiffin, Ohio, remonstrating against stamping each cigar for revenue.

Also, the petition of Mrs. Magaret Nyce, for relief.

By Mr. DONNELLY: A memorial of the Chamber of Commerce of St. Paul, Minnesota, in relation to the completion of lines of railroad extending from Sioux City to Lake Superior, and connecting the Great Trunk line from the Atlantic to the Pacific oceans.

Also, the petition of Lieutenant H. G. Hicks, E. M. Marshall, and others, citizens of Minnesota, protesting against the passage of the Senate bill to prevent the payment of bounty to deserters and to prohibit the payment of $100 bounty to soldiers who entered the service prior to July, 1861.

Also, the petition of Captain Henry Platt, Sergeant J. Helbergen, and others, for the same purpose as the above.

Also, the petition of Captain N. C. Norcross, Lieutenant William Shaw, and others, for the same.

Also, the petition of Lieutenant Samuel G. Roberts, J. E. Jenckes, and others, for the same.

By Mr. FLANDERS: The petition of the members of the Legislature and others, citizens of Washington Territory, asking an amendment of the organic act of the Territory in relation to the manner of electing members of the Council.

Also, the petition of the associate justice of the supreme court of the Territory of Washington, asking an increased compensation for services.

By Mr. LAFLIN: The petition of I. H. Sherman and others, in favor of reduced expenditures and taxation.

Also, the petition of Brigadier General J. E. Curtis and others, praying Congress to order a medal to every officer, soldier, sailor, and marine who has received an honorable discharge in the war just closed, &c.

By Mr. McCLURG: The petition of Samuel Henley and Miles J. Henley, of Missouri, for compensation for steam ferryboat.

By Mr. MYERS: The petition of the guardian of the minor child of D. C. Odenheimer, deceased, a corporal of company A, twelfth Pennsylvania cavalry, for arrears of pension from December 11, 1863, the date of the widow's remarriage, to January 23, 1868, the date pension commenced.

By Mr. VAN TRUMP: The remonstrance of Captains B. S. Shirley, Henry C. Greiner, and John Wilson, of Perry county, Ohio, against the passage of Senate bill No. 311.

Also, the petition of Eli Harsh and 79 others, citizens of Pickaway county, Ohio, praying Congress to establish a post road from Shadesville, Franklin county, Ohio, to Genoa, Pickaway county, Ohio.

Also, the petition of J. N. Hawkins and 147 others, citizens of Ross and Pickaway counties, Ohio, praying Congress to establish a post road from New Holland, in Pickaway county, Ohio, via Greenland, to Chillicothe, Ohio.

IN SENATE.

THURSDAY, *March* 19, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a joint resolution of the Legislature of Wisconsin; which will be read.

The Secretary read as follows:

Joint resolution No. 16, instructing our Senators and requesting our Representatives to adhere to the policy of the loyal people of the Republic as adopted by Congress.

Whereas the events which have very recently taken place and are now transpiring at the Federal capital are such as distinguish times of great national peril; and whereas it is the right and duty of the people of the State, when occurrences like the present are pressing upon them, to give utterance to their will and to strengthen and support those upon whom the responsibilities of the occasion directly rest:

Be it resolved by the Assembly, (the Senate concurring,) That our Senators in Congress are instructed, and the members of the House of Representatives from this State are requested, to adhere with unflinching firmness to the policy of the loyal people of the Republic adopted by Congress; that they resist with all constitutional, just, and efficient means any and all attempted usurpation of power by any officer of the Government, and that in this they discharge their whole duty as guardians of the rights and liberties of the country.

Resolved, That we declare our confidence in the patriotism and statesmanship of Hon. Edwin M. Stanton, Secretary of War; that we admire the courage and constancy with which he successfully resists the unwarranted attempts at executive encroachments; that we approve the action of the United States Senate in restoring him to the office from which he was unjustly suspended; that it is the desire of the citizens of the State of Wisconsin that he shall remain in the War Office so long as the country is in danger from the conspiracies of its enemies, whatever be their character or position; and that we honor General Grant for that obedience to law which prompted him at once to surrender the office of Secretary of War to him upon whom it was conferred by our martyred President.

Resolved, That the Governor of the State is hereby requested to transmit an attested copy of the foregoing to each of our Senators and Representatives in Congress, to the Presiding Officer of each House of Congress, and to Hon. Edwin M. Stanton.

A. M. THOMSON,
Speaker of the Assembly.
N. M. LITTLEJOHN,
President of the Senate pro tempore.

The PRESIDENT *pro tempore*. The resolution will be laid on the table.

The PRESIDENT *pro tempore* also presented a memorial of the Manufacturers' and Mechanics' Association of Wisconsin, praying a repeal of the tax on manufactures; which was ordered to lie on the table.

Mr. SUMNER. I present the petition of a large number of citizens of Washington, in which they ask Congress to pass a bill for the recharter of the city of Washington. They particularly protest against any bill that shall associate Washington with Georgetown or that shall bring Washington under the government of what are called commissioners. They express their opinion in favor of the bill introduced some time ago by myself, which is entitled "A bill to renew the charter of the city of Washington." I ask the reference of this petition to the Committee on the District of Columbia.

It was so referred.

Mr. SUMNER. I also offer the petition of colored citizens of Kent county, Delaware, in which they represent that they have always been loyal to the Government, and particularly so during the great war of the rebellion; and that by an act of Congress they have been made citizens of the United States, which act, they add, according to the laws of Delaware, is of no benefit to them as citizens, for they are deprived of the rights of citizenship in the State of Delaware. Accordingly they pray Congress now assembled to enact such laws as shall secure to them all the rights that in justice pertain to them as American citizens. I offer a similar petition of colored citizens of Newport, Newcastle county, Delaware; a similar petition of colored citizens of Laurel, Sussex county, Delaware; a similar petition of colored citizens of Frederica, Kent county, Delaware; another one from Frederica, Kent

county, Delaware; another one from colored citizens of Georgetown, Sussex county, Delaware; another one from colored citizens in Lewistown, Sussex county, Delaware; and another one from colored citizens of Wilmington, Delaware. I ask their reference to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. They will be so referred.

Mr. SAULSBURY. One of those petitions comes from the town in which I live. I know there is not a negro in the town who can draw up a petition, and I did not know there was one who could write his name.

Mr. GRIMES presented a resolution of the Legislature of Iowa, in favor of an additional grant of land to aid in the building of a railroad from McGregor westerly on or near the forty-third parallel, until it shall reach the county of O'Brien, in that State; which was referred to the Committee on Public Lands.

Mr. WILSON presented a memorial of citizens of Boston, Massachusetts, remonstrating against the passage of an international copyright law; which was referred to the Committee on the Library.

Mr. CATTELL presented a memorial of paper-makers in Manayunk, Pennsylvania, remonstrating against the passage of an international copyright law; which was referred to the Committee on the Library.

Mr. CAMERON presented a memorial of the Board of Trade of Philadelphia, praying a repeal of the tax on manufactures; which was referred to the Committee on Finance.

Mr. MORGAN presented a memorial of citizens of New York, praying a reduction of the taxes, and that the expenses of the Government be reduced to a peace basis; which was referred to the Committee on Finance.

PUBLIC EXPENDITURES.

Mr. POMEROY. I desire to have a reconsideration of the vote by which the resolution of the Senator from Indiana [Mr. HENDRICKS] was agreed to yesterday morning, for the purpose of amending it. It passed without my noticing it particularly, although I rose to object at the time the Senator from Vermont [Mr. EDMUNDS] made his objection to it. His objection was withdrawn, and I believe the resolution was passed. I desire to amend the resolution, and if it has passed out of the possession of the Senate I want an order requesting its return. I do not know how that is.

The PRESIDENT *pro tempore*. The resolution will be read.

The Secretary read it, as follows:

Resolved, That the Secretary of the Treasury be requested to inform the Senate what have been the monthly expenditures and the average expenditures per month of the War, Navy, and Interior Departments since the 1st day of July, 1865; and also the monthly expenditures of each bureau of said Departments during the present fiscal year.

The PRESIDENT *pro tempore*. The Senator from Kansas moves that the resolution be recalled from the Secretary of the Treasury.

Mr. POMEROY. Has it passed out of the possession of the Senate?

The PRESIDENT *pro tempore*. It has.

Mr. POMEROY. Then I move that an order be passed requesting the Secretary of the Treasury to return it to the Senate.

Mr. HENDRICKS. If the Senator desires any additional information, he can offer his resolution at once. Mine is a distinct proposition to secure information upon particular points. I have no objection to such information as the Senator wishes, being called for.

Mr. POMEROY. The amendment I propose is not only germane, but I think essential to a full report upon the resolution offered by the Senator from Indiana. These monthly expenses are all in the annual reports, and in the annual reports there are reasons given for each estimate and for each expenditure by items. The resolution introduced by the Senator from Indiana, as it was passed by the Senate, calls for the gross amounts, without the items containing the reasons why the expenditures were incurred. My amendment will call for an answer in items, and for some additional things which are not contained in the resolution of the Senator from Indiana. I think it is very important that the two should go together, so that the report when it comes in will explain itself; that is, the statement of monthly expenses will show what they are for, whether for bounties, for the support of the Army, for the Freedmen's Bureau, and so on. I wish to have the report in detail so as to explain itself.

Mr. EDMUNDS. I hope we shall not take up any time with this matter. Of course the Senator from Kansas has a right to move to reconsider the vote on the resolution, and an order requesting the return of the paper for the purpose of reconsideration follows, as a matter of course, by our practice. I am sure the Senator from Indiana will not object to that. It will not delay the matter more than a day. It is certainly the usual course here.

Mr. HENDRICKS. I, of course, will object to it. I have asked for certain information from the Treasury Department. Now, the Senator from Kansas wishes to pile that up with all the reasons in detail. I do not know anything about the details. It was not my purpose to call for them. I want to know what have been the expenditures up to the present time, to guide myself in voting upon the different propositions for the reduction of expenditures and the reduction of taxes.

Mr. EDMUNDS. I think the Senator did not comprehend the scope of what I said. I am not arguing in favor of the amendment; I do not know what it is, nor care for that matter; that will be determined afterward; but I am simply saying that inasmuch as the Senator from Kansas has a right to move a reconsideration, inasmuch as that is a right which the rule gives him, the course of practice in this body is, and it is a necessary one, that such a motion being made, if the paper has gone out of the possession of the body an order shall be passed requesting its return in order that the motion may operate. Such an order is a matter of course, and therefore I hope the Senator from Indiana will not object to it. When the paper comes back and the question shall be on reconsidering it there will be quite a different question presented.

Mr. HENDRICKS. The original resolution, I suppose, is not sent away from the Senate. The original resolution is here.

Mr. EDMUNDS. By the rule, whenever a resolution of this kind or any other is acted upon the paper is understood to have passed from the possession of the body, although the identical piece of paper which was offered here may not have gone; and hence, as we know, in respect to nominations, if I may allude to them, the same course is taken. Then, sir, my point is not that this resolution ought to be reconsidered, or that, if reconsidered, the amendment ought to be adopted—I do not know anything about that; but, inasmuch as the rules give the Senator from Kansas a right to make this motion, it follows as a matter of course that the paper should be returned to the possession of the Senate, so that the motion can be heard. That is all I say.

Mr. HENDRICKS. I do not understand the practice of the Senate as the Senator from Vermont does. I understand the rule he speaks of to apply to the case of nominations where the nomination itself, the paper, goes away; but if a resolution is passed by the Senate calling on a Department for information, that original paper is certainly never sent to the Department; I presume the original paper remains here, and the Department is informed of the passage of the resolution. But if the Senator be correct on the question of practice, of course I have nothing to say.

Mr. HOWARD. I beg to inquire of the Chair what is before the Senate, and whether reports are in order.

The PRESIDENT *pro tempore*. The pending question is a motion to send to the Treasury Department for a resolution adopted yesterday calling for information from that Department, in order that a motion to reconsider the vote adopting the resolution may be made.

Mr. HENDRICKS. The Chair can inform us about the question between the Senator from Vermont and myself without any great delay.

Mr. EDMUNDS. Whether the motion to reconsider is now in order without sending for the paper, or whether it can only be entered?

The PRESIDENT *pro tempore*. The impression of the Chair is that the rule referred to applies only in executive session to the case of nominations.

Mr. POMEROY. But the Chair will remember that when bills are sent to the other House and we desire to reconsider the vote passing them the first motion is to request the return of the bill, and then when it is returned we proceed to reconsider it. It seems to me the same principle applies in this case. When a resolution addressed to either of the Departments is offered the rule requires that it shall lie over one day if any Senator objects to its consideration. That is with a view of seeing if any Senator desires to move an amendment. This resolution passed without consideration yesterday; and the same rule which would call for the return of a bill or resolution from the House of Representatives would apply to calling it back from a Department or anywhere else, so that a motion to reconsider and then amend it could be made in order. It is not strictly in order to amend a resolution unless it is properly before the Senate, and my motion is to bring this resolution properly before the Senate in order to amend it.

The PRESIDENT *pro tempore*. The Chair thinks the motion to send for the paper is in order.

Mr. HENDRICKS. Where is the paper, Mr. President?

The PRESIDENT *pro tempore*. With the Secretary of the Treasury, it is presumed.

Mr. POMEROY. My motion is that the Secretary of the Senate be directed to ask the Secretary of the Treasury to return the resolution in order that a motion to reconsider may be entered.

Mr. HENDRICKS. I do not wish that done. I wish this information now. I will say to the Senate that I wish it to guide me upon the votes I am to give. I want to know what are the expenditures up to the present time, so that I can judge how to vote upon the different propositions for reducing the expenditures and reducing taxes. I did want an answer to this resolution before we should come to vote upon the bill which is pending before the Senate proposing to strike off a large amount of internal taxes. I tried a few days ago to offer this resolution, but did not succeed. Now, this proposition is simply to delay getting the information that I wish.

Mr. POMEROY. So far as I am concerned it cannot delay it more than a day. I want the information, too, but I want the items; I want it in a form that I can use. I want to see how much went to support the Army, how much went to pay bounties, how much for transportation, how much for cemeteries, &c. I want the items given so that I can see what the account is made up of. To get simply the gross amount, as this resolution calls for, so that the country will understand that we are carrying on the War Department at war expenses without giving the items, will work great injury to us, and it can be of no use to know the amount without the items.

Mr. HENDRICKS. Injury to whom? I do not understand the Senator when he talks about working "injury to us." I do not want to injure the Senator from Kansas; it was not in my head. I was not thinking about him or his in regard to this matter. I want to know what the expenses are. Now, I say to the Senator, if he can tack on to my resolution a proposition that there shall be a detailed statement of all the expenses of the Government I cannot get the answer to it during this session. The aggregates which I have asked for I have inquired at the Department, and I find I can receive in a few days; but to call for the

details would be like furnishing the reports over again. The Senator says those details are given to a very large extent in the reports that accompany the President's message. Now, he wants to repeat all that; and, if that be done, I cannot get the aggregates I ask for until, perhaps, the close of the session, which will defeat the very purpose I had in view in offering the resolution. If he wants to get the detailed information he speaks of let him offer a separate resolution, and I will not fear that it hurts us. Let him offer his resolution.

Mr. SHERMAN. I think my friends will find that probably all the information they ask for is published in the tabular statements annexed to the remarks I made on Tuesday.

Mr. POMEROY. All I desire is that in making up the statement of expenditures the items shall be given, so that those who pay the taxes and are anxious to know what is done with them shall see for what the money has been spent.

Mr. EDMUNDS. I rise to a point of order. I wish to inquire of the Chair whether debate on the merits of the information that is to be obtained from the Secretary of the Treasury is in order on a mere motion for an order to return the paper so that it can be debated.

The PRESIDENT *pro tempore*. The rules do not prescribe how any gentleman shall argue a question. There is no rule of order with regard to varying from the point before the Senate. Every Senator must judge of his own arguments.

Several SENATORS. Question, question.

Mr. GRIMES. What is the question?

The PRESIDENT *pro tempore*. The Senator from Kansas moves that the resolution adopted yesterday and transmitted to the Secretary of the Treasury be sent for, with a view to a reconsideration.

Mr. GRIMES. I should like to inquire if anybody ever heard of such a motion as that being made before?

The PRESIDENT *pro tempore*. The Chair cannot answer that question.

Mr. GRIMES. This is a piece of legislation; it is not desired to have an executive communication with the Chief Magistrate of the country. We have entire control over this matter. If we do not wish to have the information we called for yesterday we can pass another resolution specifying particularly the kind of information we do want.

Mr. EDMUNDS. The Senator from Kansas has a right to move a reconsideration.

Mr. GRIMES. He has a right to move to reconsider, and that ends the whole matter. When you reconsider, the question will recur on the passage of the original resolution.

The PRESIDENT *pro tempore*. The rule is in regard to all matters except executive nominations that they cannot be reconsidered unless the paper is in the possession of the Senate.

Mr. GRIMES. That is so.

Mr. EDMUNDS. The twentieth rule, without any regard to executive nominations, exclusively says this:

"When a question has been once made and carried in the affirmative or negative it shall be in order for any member of the majority to move for a reconsideration thereof; but no motion for the reconsideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion upon which the vote was taken shall have gone out of the possession of the Senate, announcing their decision, except a resolution confirming or rejecting a nomination by the President."

Therefore it appears to me by the express letter of the rule, in order that the Senator from Kansas may exercise his right to move to reconsider, it is necessary to request the return of the resolution, so as to have it in the possession of the Senate.

The PRESIDENT *pro tempore*. The Chair agrees with the Senator from Vermont in that respect.

Mr. EDMUNDS. Certainly; I know the Chair agrees with me; but I was endeavoring to convince the Senator from Iowa that he ought to agree with the Chair.

Mr. GRIMES. Well, I do not see the applicability of the rule which the Senator has read. That simply relates to legislative proceedings between the two Houses, and to nothing else. This is a piece of legislation that is consummated; and now, if you want to affect it, you must pass another resolution rescinding it or changing its phraseology, or requiring a different duty to be performed by the Secretary of the Treasury. This rule simply relates to the interchange of communications, messages, documents, papers, and bills between the two Houses of Congress.

Mr. CONNESS. Why, Mr. President, it seems an exceedingly strange doctrine to announce here that this body has not a right to send to one of the Departments for a paper.

Mr. HENDRICKS. Will the Senator allow me to suggest to him that the Secretary of the Senate informs me that the paper I offered is now in the Senate and has not been away from the Senate? An engrossed copy of it has been sent to the Department, but the original document itself is here.

Mr. CONNESS. Then let the Senator move to take it up for consideration.

Mr. HENDRICKS. No; I do not move that. It was passed yesterday.

Mr. POMEROY. The engrossed resolution is the document. The papers we offer here are not considered as the original papers when they have been engrossed. The engrossed papers are the documents.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas, to request the Secretary of the Treasury to return the resolution referred to.

Mr. HENDRICKS. I wish, before that vote is taken, to say one word to the Senate. I had no sinister purpose in offering the resolution. It has been a straightforward business, so far as I am concerned. The Senate passed it. Now, if the Senator from Kansas wishes any additional information to come with that, he can offer his resolution requiring the Secretary of the Treasury to send, in connection with that information, such additional information as he wants, and it does not produce any delay. I want an answer to the resolution I introduced.

Mr. MORTON. I am not very conversant with the rules of the Senate, but I suppose, from the practice of the Senate in other cases, it has a very clear right to send for this resolution. I think it must have passed without any consideration in the first place, because the greater part of it is clearly unnecessary. Up to the end of the last fiscal year we can obtain from the public documents all the information called for. I understood my colleague to say that he called for certain specific information; but the resolution does not show that. If that was his purpose he should have directed his resolution to that point; but as it stands it is a general call for information which is already contained in official documents up to within a very short period. I suppose, however, the motion made by the Senator from Kansas is eminently proper.

Mr. HENDRICKS. Here is the resolution that I offered:

Resolved, That the Secretary of the Treasury be requested to inform the Senate what have been the monthly expenditures and the average expenditures per month of the War, Navy, and Interior Departments since the 1st day of July, 1865; and also the monthly expenditures of each bureau of said Departments during the present fiscal year.

There is nothing very extraordinary about the resolution. I say to my colleague that he is mistaken when he says the same information is to be found in the documents. A monthly statement I cannot find in the documents. I find quarterly statements and annual statements, but I want the monthly statements. It does no harm that we have this information, and I desire it.

Mr. POMEROY. I do not object to that; I only want more of it.

Mr. HENDRICKS. Then offer your resolution separately.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas.

The motion was agreed to.

REVISION OF THE RULES.

Mr. ANTHONY. We have had a good deal of discussion about the rules this morning. I move now that the Senate proceed to the consideration of the report of the select Committee on the Rules. I have been trying to get that up a number of times.

Mr. NYE. Let us make our reports.

Mr. ANTHONY. If this be taken up I will not object to any business being interposed that requires no discussion.

The PRESIDENT *pro tempore*. The motion of the Senator from Rhode Island is in order, and the question is on that motion.

The motion was not agreed to; there being on a division—ayes 13, noes 19.

PAPERS WITHDRAWN.

On motion of Mr. GRIMES, it was

Ordered, That William Jones have leave to withdraw his petition and papers from the files of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes.

REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on Claims, to whom was referred the bill (S. No. 48) to authorize the settlement of certain accounts in connection with a memorial of Albert Greenleaf, reported that the bill should be rejected, and submitted an adverse report thereon; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 204) to provide for the appointment of a supervising surgeon of marine hospitals of the United States, reported it with amendments.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 401) to authorize the construction of a railroad and telegraph line from New Orleans, in the State of Louisiana, to Mobile, in the State of Alabama, and to secure to the Government the use of the same as a military and post road, and for other purposes, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom were referred resolutions of the constitutional convention of Georgia, in favor of a loan of $100,000 by the Government to the South Georgia and Florida railroad, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

ALTO VELO CORRESPONDENCE.

Mr. ANTHONY. The Committee on Printing, to whom was referred the resolution to print extra copies of the report of the Secretary of State on the "Alto Velo" claim, have instructed me to report it back without amendment, and ask its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That two thousand extra copies of the report of the Secretary of State on the "Alto Velo" claim of Patterson and Murguiendo be printed for the use of the State Department.

BILL RECOMMITTED.

Mr. HOWARD. I ask the indulgence of the Senate to take up Senate bill No. 276, relating to a grant of land to the Northern Michigan Railroad Company, for the purpose of having it recommitted to the Committee on the Pacific Railroad.

The motion was agreed to; and the bill (S. No. 276) to grant lands to the Northern Michigan Railroad Company, in extension of the Northern Pacific railroad, was taken up.

Mr. HOWARD. I move that the bill be

recommitted to the Committee on the Pacific Railroad.

The motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. GRIMES. I ask leave to make a report from a conference committee.

The PRESIDENT *pro tempore*. The report will be received.

Mr. GRIMES. The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, have instructed me to report that the committee have been unable to agree. I will state to the Senate that the only subject of controversy is in regard to the naval pension fund. It will be remembered by the Senate that, as the appropriation bill came from the House of Representatives originally, there was a section covering the entire naval pension fund into the Treasury. The Senate, after debate, adopted an amendment or substitute for that section, declaring that the naval pension fund should hereafter draw three per cent. interest. The House failed to agree to that amendment, and a committee of conference was appointed on the disagreeing votes. I am instructed by the Senate conferees to move that the Senate insist upon its amendment and ask for another conference.

The motion was agreed to.

Mr. GRIMES. I move that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to.

The PRESIDENT *pro tempore* subsequently appointed Mr. GRIMES, Mr. EDMUNDS, and Mr. HENDRICKS.

RODERICK R. BUTLER.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 870, to remove political disabilities from Roderick R. Butler, of Tennessee.

The motion was agreed to.

GEORGE W. DOTY.

Mr. NYE. The Committee on Naval Affairs, to whom was referred the petition of Captain George W. Doty, praying that he may be placed in the position on the Navy Register to which he considers himself entitled, ask leave to report a joint resolution for his relief. It is simply a question of assigning him his position on the Register, and I should like to have the resolution acted upon at the present time.

The PRESIDENT *pro tempore*. There is a question regularly before the Senate; but the joint resolution reported will be read a first time if there be no objection.

The joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy on the retired list, was read a first time by its title, and passed to a second reading.

Mr. NYE. I hope the Senator from Illinois will let me take a vote on the resolution.

Mr. TRUMBULL. We cannot have two bills before us at the same time. I have no objection to the report being made; but if it is considered it will displace the other bill, I suppose.

The PRESIDENT *pro tempore*. It cannot be done except by unanimous consent. By that anything can be done.

Mr. MORRILL, of Vermont. If the Senator from Illinois will yield to me, I desire to offer a resolution.

Mr. TRUMBULL. I have no objection to the offering of a resolution.

Mr. NYE. This will not take half a minute. It is merely to correct a mistake. I hope the Senator will not object to it.

Mr. TRUMBULL. I will not object if it does not displace House bill No 870.

The PRESIDENT *pro tempore*. The joint resolution indicated by the Senator from Nevada will be taken up if there be no objection.

By unanimous consent the joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy, on the retired list, was read the second time, and considered as in Committee of the Whole. It directs that the name of George W. Doty, commander United States Navy, be placed upon the Navy Register as a commander from the 16th of July, 1862, the date of his commission.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRINTING OF PARIS EXPOSITION REPORTS.

Mr. MORRILL, of Vermont. With the consent of the Senator from Illinois, who yields for the purpose, I offer the following resolution:

Whereas the Senate of the United States did, upon March 3, 1868, adopt a resolution authorizing the printing of the reports of the commissioner of the United States to the Paris Exposition: Therefore,

Be it resolved, That the Committee on Printing inquire into the amount of material to be printed under the above resolution, the cost of the same, and also whether such publication involves the preparation and the printing of any maps, plates, or illustrations, and, if so, what will be the cost of the same; and also whether said resolution contemplates, at the discretion of the Secretary of State, the publication of reports therein referred to both separately and together; and that, until further order by the Senate, said resolution be suspended.

I have consulted with the chairman of the Committee on Printing, and he has no objection, and I take it no member of the Senate will have any objection, to the passage of this resolution.

The resolution was considered by unanimous consent, and agreed to.

POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. CHANDLER. I ask leave to——

Mr. TRUMBULL. I must insist on going on with the bill regularly before us. We have but a few minutes left of the morning hour.

Mr. CHANDLER. This will not take a minute.

Mr. TRUMBULL. It will take long enough to rule this bill out to-day.

Mr. CHANDLER. Oh, no.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. TRUMBULL. I feel that I must object, as I desire to pass this bill to-day.

The PRESIDENT *pro tempore*. The bill taken up on motion of the Senator from Illinois is before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee. The Committee on the Judiciary reported the bill, with an amendment, to strike out the preamble in the following words:

Whereas R. R. Butler, Representative-elect from the first congressional district of Tennessee, performed honorable service in the Army of the United States from September, 1863, till May, 1864: Therefore,

And also to strike out all of the original bill after the enacting clause in these words:

That the disabilities imposed upon Roderick R. Butler, of Tennessee, by force of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act of Congress supplementary thereto, passed March 23, 1867, and the act supplementary thereto, passed July 19, 1867, and by any provision of the Constitution of the United States, are hereby removed.

And to insert in lieu thereof the following:

That any disabilities imposed by the Constitution or acts of Congress known as the reconstruction acts upon Roderick R. Butler, of Tennessee, in consequence of participation in the recent rebellion, be, and the same are hereby, removed. And the said Butler, on entering upon the discharge of the duties of any office to which he has been or may be elected or appointed, instead of the oath prescribed by the act of July 2, 1862, shall take and subscribe the following oath: I, Roderick R. Butler, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will faithfully discharge the duties of the office on which I am about to enter: so help me God.

Mr. SAULSBURY. I should like to ask the honorable Senator from Illinois what honorable service Mr. Butler performed anterior to 1863. There seems to be a special reference made to a particular date; that after that date he performed honorable service in the Federal Army. Will the honorable Senator from Illinois tell us what honorable service Mr. Butler performed anterior to that date and since the commencement of the late war?

Mr. TRUMBULL. Perhaps I ought to have stated in explanation of this bill to the Senate that, as appears by the preamble, Mr. Butler is a Representative-elect from the State of Tennessee to the other House. The House of Representatives have passed and sent us two bills, one of which relieves Mr. Butler from any disabilities imposed upon him by what are known as the reconstruction acts, and the other authorizes any person, without naming Mr. Butler, who has been relieved by act of Congress from his disabilities, to qualify as a Representative by taking a certain oath, which is not the whole of the oath of July 2, 1862, known as the test-oath, or the oath of office which is familiar to the Senator from Delaware. I understand the facts to be these: Mr. Butler was a member of the rebel Legislature of Tennessee, and cannot, therefore, take the oath properly, as is thought by the members of the House of Representatives, to qualify himself to take his seat; but after being a member of the rebel Legislature of the State of Tennessee he joined the Union armies and performed good service to the country, and his, in the opinion of the House of Representatives, is a case entitling him to be relieved from any disabilities that have been imposed upon him.

Mr. SAULSBURY. Will the honorable Senator allow me to ask him if he will not agree to an amendment of this kind: that any person who, since the date mentioned, 1863, did not give aid or comfort to the rebellion shall be relieved from disabilities, by taking the same oath; so that it may not be confined to Mr. Butler alone, but that all that class of persons situated like him since the date of his supposed adherence to the Union cause shall also be relieved by taking a similar oath?

Mr. TRUMBULL. The Committee on the Judiciary have had this subject under consideration, and have found it difficult, as the cases are so different, to frame a general provision. We are considering that subject with a view of reporting in favor of such persons as seem to be entitled to relief from the disabilities which have been imposed upon them; but it was thought better to confine this bill to the particular case.

The House of Representatives, it will be seen, is disposed to admit Mr. Butler to take his seat without requiring him to swear that he has not held any office under any government in hostility to the United States, which is part of the oath of office of 1862. It will be remembered by the Senator from Delaware that the Senate, when the Senator from Tennessee [Mr. PATTERSON] appeared in this body, passed a similar resolution to relieve him from taking that portion of the oath; but the House refused to agree to it at that time. Now, the House seems to have adopted the view which the Senate took at that time, that where a party shows that he was a true Union man and performed service to the country he may be relieved from taking that portion of the oath which in this case Mr. Butler cannot take, in the opinion of the House of Representatives; and therefore the committee have confined the bill to this particular case. We have incorporated in the amendment the provisions of both bills, so as to pass but one. It was necessary to amend the House bill, because, in removing the disabilities from Mr. Butler, it contains a provision in the latter clause removing any disabilities imposed by any provision of the Constitution of the United States.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

Mr. TRUMBULL. I ask that that be laid

aside informally for a few moments, for I think we shall dispose of this bill as soon as I can state what it is.

The PRESIDENT *pro tempore*. By unanimous consent the Senator can proceed, not otherwise. No objection being made the Senator will proceed.

Mr. TRUMBULL. Of course it is not competent for Congress to remove the disabilities of age and citizenship which are imposed by the Constitution, and I presume the House of Representatives did not mean that; and yet their bill so reads, and removes any disabilities provided by any provision of the Constitution of the United States. It being necessary to amend the House bill, we have amended it so as to incorporate into this bill also House bill No. 869, so far as it relates to Mr. Butler, and we have required him to take the oath in the same language as was required in House bill No. 869.

With this explanation I hope the Senate may be disposed to pass the bill.

Mr. BUCKALEW. I observe that in the amendment proposed by the committee there is this clause: "Any disabilities imposed by the Constitution" upon the person proposed to be relieved. I understand that that has reference to the proposed fourteenth constitutional amendment. If so we are about passing a bill here which is to give a decision or express an opinion by Congress as to the present operation of that amendment. This bill, as I understand it, professes to treat that fourteenth amendment as a valid part of the Constitution. If I am mistaken in that I shall be glad to have myself corrected.

Mr. TRUMBULL. It is not the intention of the committee to pass upon that question at all, and the bill was framed in the alternative, in the way that it is, to avoid any decision of that question. If the constitutional amendment is in force the bill will relieve him from any disability imposed by it. If it is not in force the bill will relieve him from the disability imposed by the reconstruction acts. If the Senator from Pennsylvania will look at the language he will see that it reads, "that any disabilities imposed by the Constitution or acts of Congress known as the reconstruction acts." We know that the reconstruction acts of Congress do impose disabilities. Now, if any are imposed by the Constitution or acts of Congress they are relieved; and we put it in that form with a view of avoiding a controversy which it was anticipated might arise if we undertook to either recognize or refuse to recognize the fourteenth amendment as adopted. That is the view which the committee had of it, and that is my own view of it: that we do not commit ourselves one way or the other.

Mr. BUCKALEW. I move to amend the amendment in the second line by striking out the words "Constitution or;" so that it will read:

That any disabilities imposed by the acts of Congress known as the reconstruction acts, &c.

Mr. TRUMBULL. I hope that will not be done.

Mr. BUCKALEW. Mr. President, there is no possible pretense that any constitutional provision would disqualify this applicant for membership in the House of Representatives unless it be the particular amendment to which I refer, popularly known now as the fourteenth proposed amendment to the Constitution of the United States. I insist, therefore, that the retention of these words will have the effect of recognizing that fourteenth constitutional amendment as possibly or probably an existing and valid provision of the Constitution. There can be no reason in the world for inserting those words if that amendment is not now in force. Then it will only be necessary that this bill shall repeal the disqualifications imposed by the reconstruction laws.

There is another difficulty in this connection. The Senator from Illinois has explained that that language is put in this amendment in the alternative in order that either view with reference to that amendment may prevail; that gentlemen who think the constitutional amendment is already adopted may vote for this bill, and that those who think it has not been adopted may also vote for it. I understand that to be his explanation, that he desires to avoid any decision whatever at present by the two Houses of Congress upon that question. That, perhaps, may be a reasonable view, judged from the point from which he views this subject. But observe, sir, that in the one case perhaps a two-thirds vote would be necessary to the enactment of this measure, and in the other case perhaps only a majority vote of the two Houses. Now, sir, how is our vote to be taken? How is it to be recorded? Is this bill to require a two-thirds vote upon the Journals of each House, and is it to be so certified when it is placed upon the statute-book in order that it shall have effect? The bill, as proposed to be amended, does not seem to take that consideration into account; and yet I suppose it to be involved, and directly involved, in the adoption of the amendment which the committee have proposed.

While I am up I will suggest that this case is not a case similar to that of Senator PATTERSON, as stated by the Senator from Illinois.

Mr. TRUMBULL. I did not mean to be understood as saying that it was similar in its facts, but that it was similar in the effort to relieve a party from taking a portion of the oath. I do not say that it is the same case in regard to the facts that existed in reference to the two individuals. I meant merely to say that the Senate took similar action in regard to a claimant to a seat here to relieve him as is now taken by the House of Representatives; that is all.

Mr. BUCKALEW. Mr. President, the explanation is quite timely and proper. In the former case—the case of Senator PATTERSON, of Tennessee—there was no question that at all times from the commencement of the rebellion down to the time when he appeared in the Senate claiming a seat here he had been devoted to the Government of the United States. There was no pretense that upon any occasion he had rendered, in point of fact and with intention, aid and encouragement to the enemies of the United States. There was no difficulty in the case alleged in any quarter, except the technical fact that he had held a judicial office after the rebellion broke out under the government of Tennessee. To remove that difficulty in his case the Senate, at the instance of the Senator from Illinois, passed a bill removing in that case the requirement of law that the iron-clad oath should be taken by that applicant for a seat. What took place? We sent that bill over to the House of Representatives; and what did they do? They refused, by a vote of two to one, I think, or probably more, to pass it. By a very large vote, indeed, they rejected it; they voted it down; they threw it back in our faces; they refused to remove the supposed disability in a case where the applicant had at all times been true to the Government of the United States, and had exhibited his patriotism in a most signal manner in his own State, where there was no question with reference to his record, with reference to his motives, with reference to his conduct, when the essential characteristics of that conduct came to be considered. In that case the House of Representatives refused to pass a bill removing a supposed disability.

Here, however, they send us a bill with reference to a gentleman claiming membership in their House. The case is reversed. Here is an applicant asking membership in the House; and it would seem the House desire to admit him for some reason or other—a man with a disloyal record, to use the ordinary term, square and distinct, about which there can be no doubt or question. The House of Representatives send us a bill to dispense with the existing oath required by law which will exclude that man from membership in their body. Of course I desire to speak with all due respect for that branch of Congress; but one thing is manifest: that they now ask us to do the very thing which they refused to do at our request on a former occasion. More than that: they ask us to remove the disability in the case of a man whose disloyalty during a portion of the war is unquestionable, when they refused to remove a technical difficulty or objection in the case of a man whose loyalty was unquestioned. Now, it occurs to me that, so far as the House of Representatives is concerned, they could make no objection, they could make no complaint, if we refused to pass their bill and left them in this case to the existing laws of the United States. In the former case, upon further consideration, a majority of the Senate thought that the oath might be administered and might be taken under the existing law. That was the decision of the Senate upon further consideration, and eventually we acted without the concurrence of the House.

Mr. SHERMAN. With the consent of the Senator from Pennsylvania, I call for the order of the day. This bill will evidently lead to a long debate.

Mr. TRUMBULL. If the Senator from Pennsylvania is going to debate it at any length of course it must go over; but if not, I should be glad to have it acted upon now.

Mr. BUCKALEW. I do not wish to postpone the measure myself.

Mr. SHERMAN. Other Senators wish to speak upon it.

Mr. TRUMBULL. I am not aware of any other Senator who desires to speak. Suppose we see if we cannot dispose of it in a short time. If we cannot, I will agree to let it go over.

Mr. SHERMAN. I hear Senators around me say that they desire to debate it, and as the tax bill must pass to-day I trust the Senator will not persist in pressing this bill now.

Mr. TRUMBULL. I certainly shall not if it is going to be debated; but I wanted to see if we could not act upon it.

Mr. SHERMAN. I call for the regular order.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate.

TAX ON MANUFACTURES.

The Senate resumed the consideration of the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. SHERMAN. I call for a separate vote on the amendment with regard to petroleum.

Mr. CONNESS. I call for a separate vote on the amendments of the Committee on Finance.

The PRESIDENT *pro tempore*. The amendments will be taken up separately. The question will be on concurring in the first amendment made as in Committee of the Whole, which will be read.

The Secretary read the first amendment, which was in section one, line seventeen, after the word "cheroots" to insert:

On turpentine, on coffee roasted or ground, and articles intended as substitutes for coffee, spices, and mustard, on refined sugars, and on the products of sugar refiners, on sugar candy and confectionery, and on diamonds, emeralds, precious stones and imitations thereof, and on all jewelry.

Mr. MORGAN. I move to amend the amendment by striking out the words "on refined sugars, and on the products of sugar refiners."

If this amendment should prevail it would leave the bill, as far as these articles are concerned, precisely as it came from the House of Representatives. This is a bill to relieve the domestic industry of the country. It is not to be supposed that in the large number of articles that are relieved each one is alike prosperous, or the reverse. It is not to be supposed that any one article will be excepted unless it can be shown that that article can afford to pay the tax better than others; that there is a good reason for such an exception. I have not been able to understand that there

is any good reason for this exception of refined sugars except that the tax amounts to $2,000,000 and that the money is easily collected. The amount collected during the last year was $2,065,000. Perhaps I ought to add another reason that is given: that it is mainly in a few cities where this money is collected.

Now, what are the facts in relation to the sugar interest? At the present time, and I have it from undoubted authorities, there is not thirty-three per cent. of the refining capacity of the country at work. In the city of New York alone there are twelve refineries either closed or nearly so; in Boston five or six; and in Baltimore two. Some twenty-five million dollars of capital are invested in the business in the United States, more than half of which is in buildings and machinery and the lands upon which the buildings are erected, which would be worthless if the business were destroyed, and nine thousand men thrown out of employment.

It has been said that refined sugars are used mainly by the rich. That I think is a mistake. In what is called the manufacturing or refining of sugars we use just what are imported as raw sugars. It is simply advancing the quality. They can all be used just as they are. It is scarcely a manufacture; it is only advancing the quality. I do not understand that refined sugars are used by the rich only, or that they are in any sense a luxury. They are used by all.

My friend from Ohio stated in his opening speech on this bill that applications would be made by persons engaged in refining petroleum and in refining sugars and in the manufacture of other articles excepted, for relief. Sir, was not that to be expected? When so many thousand articles as we find in this bill are excepted, ought it not to be expected, where an exception is made of an industry very respectable in amount and character, that there would be objection to that exception? In my opinion, there is no interest more requiring that the tax upon it should be removed than this. I have a letter from a gentleman who is well known, in whom I have entire confidence, and for whose respectability I can vouch, who writes as follows:

"Indeed, the tax of the past year has, in some, and perhaps many, instances been paid out of the capital. Some refiners have failed; some have suspended work; and all feel that it is essential to their business to have the tax removed. The duty of about one hundred per cent. on the raw material, and this tax in addition, has placed the business of refining for some time in unfair competition with foreign products. We are of the opinion that there are but very few articles which have been taxed so unjustly on the whole revenue list.

Mr. SHERMAN. This is a subject of a good deal of importance because it involves the collection of a little over two millions of revenue. The Committee on Finance were very anxious to relieve all branches of industry as far as possible; but as long as it was necessary to maintain some taxes we had to select the taxes to be maintained. The House of Representatives have only undertaken to repeal a certain class of taxes on manufactures, and they have excepted from the operation of the repeal some twenty-six million dollars of articles embraced in the ninety-fourth section of the internal revenue act. We were not entirely satisfied that this exception would be sufficient, and we proposed to extend it further so as to retain the tax on several other articles. The Senate committee proposed to add to the exceptions of the House of Representatives a little over three million dollars, the chief item of which is the tax now proposed to be repealed, a little over two million dollars.

I venture the assertion that there is no tax so easily collected in the whole internal revenue list as the tax on refined sugar. It is collected in a few large establishments at very little cost and without much possibility of fraud. It is a very low tax. It is only two per cent. on the aggregate result. It is less than one fourth of one cent a pound on the average production of these refineries. It is only about one half the average rate of taxes on other manufactured products. They are protected by a tariff duty of over sixty per cent., and the discriminating protection in their favor is something like ten times the amount of the internal tax. The refineries themselves are protected against refineries in other countries more than ten times the aggregate tax paid upon their production, and it yields us $2,000,000 a year.

Now, Mr. President, if we intend to raise any tax on any branch of manufactures, this is the best that can be retained, and we cannot repeal it without endangering a very large deficit. In the statement which I made the other day I showed very clearly, I think, by figures, that we had no margin to go upon; that the estimates of receipts submitted to us by the Internal Revenue Bureau were as large as they could be, and in regard to the chief item probably too large; and even upon those estimates there is a deficit upon the estimated receipts of a considerable sum, which can only be made up by new taxes, a part of which is the tax on sugar and the tax on manufacturer's sales, and by the reduction of expenses. Now, if we repeal this tax of $2,000,000, we must make up that deficit. We have already, in addition to what the House have repealed, thrown off $2,500,000 on petroleum. I hope, however, the Senate will reconsider its action on that subject by another vote. Now, it is proposed to repeal the tax on refined sugar, something over two million dollars. Sir, the sugar refiners have had their own way in the framing of the tax bills. The duty now on raw sugar imported into this country below No. 12, Dutch standard, and not above No. 15, is three and a half cents a pound. The article is worth about four and a half cents a pound, so that it is a duty of something like seventy-five per cent. The next grade pays a duty of half a cent a pound more in gold, and the next grade pays a duty of one cent a pound more in gold, and so on. The rate goes up to fifteen cents a pound, which is a discriminating duty in favor of the refiners, while the tax levied upon their article, and the only tax now levied on sugar refiners, is about two mills a pound. The tax is two per cent. on the aggregate value of the article; and the average value of the article, as I get it from my friend from New York [Mr. MORGAN] himself, is from eleven to thirteen cents a pound, so that the tax is about two mills on a pound, and the discriminating duty in their favor, as against all other refiners in the world, is at least four times the amount of the tax upon them, and the discrimination in their favor must be paid in gold while they pay the tax in currency at a depreciation of forty cents to the dollar.

It is not necessary for me to pursue this matter further. If we are able to repeal this tax I should be very glad to do it; but there is no tax that is more readily borne, more easily collected, and more generally diversified. This tax is paid by the rich more than by the poor, because a great deal of the sugar that is consumed by the poor is hardly refined at all, is of the coarser grades, the refining process of which costs very little, and therefore imposes very little additional tax, because the additional tax is only two per cent. on the value of the refined article. As the price advances, as it does in sugars very much by the process of refining, the rate increases; and the better qualities of sugar are consumed by the rich.

Now, it seems to me that when this interest is protected by a duty of something like thirty million dollars in gold, because that is about the product of our duty on imported sugars, and they pay only a tax of $2,000,000 in currency, no tax can be more easily collected and more properly borne, and it ought to be among the last taxes repealed. Although England has repealed the great body of her duties she yet maintains a higher rate of duty on refined sugar than we do. Sugar is one of the great elements of her system of taxation, and I think it is among the last taxes we ought to repeal.

The Senator from New York says the refiners have lost money. So have the manufacturers. I doubt whether the refiners have lost as much as any other class of manufacturers. I can show from documents before me that in many cases manufacturers of wool, cotton, and other fabrics have lost half of their capital in endeavoring to maintain their establishments at work. One establishment I know, according to the statement made to me, and I have no doubt it is true, has lost in the endeavor to carry on its business $200,000 a year. But there is no pretense of that kind in regard to sugar refiners. That they have not made so large profits as formerly is because of the gradual reduction of the price of the article on hand. I say again that unless the Senate are disposed to throw off all taxes, without regard to the necessity of raising revenue, we cannot afford to repeal this tax on refined sugar.

Mr. CONNESS. Mr. President, three reasons, as I have understood the Senator from Ohio, have been given by him why this amendment should not be adopted. One is that the tax is easily collected; another is that the sugar refiners have an extraordinary protection in the duty imposed upon the foreign article; and another is that we cannot afford the loss of revenue that would be involved in the adoption of the amendment offered by the Senator from New York.

I could not help concluding, while the Senator from Ohio was speaking, that he had nearly reasoned himself out of court, if I may be allowed to use that term. He proved conclusively to my mind that the sugar refiners had too much margin in the duty we impose on the foreign article; and that he gives as a reason for keeping up the internal tax, both of which lead to keeping up sugars at a high rate to the consumers of the country. Now, sir, our object should be to lighten taxation to the masses of the people, to cheapen articles upon which the masses of the people live. While we pursue the policy of levying high tariff duties upon commodities consumed by our people, of whatever kind, and in addition to that levy internal taxes, the cost of living in the country must necessarily remain at an exorbitant rate, the price of labor remain exorbitantly high, and the very class of difficulties under which the country now labors will be continued.

When I voted yesterday against the amendment offered by the Senator from Iowa, [Mr. GRIMES,] which proposed a reduction of ten per cent. upon the duties imposed at our ports on foreign goods, I did not vote against a review of the tariff and a reduction of just such duties as are imposed upon sugars; but, on the contrary, I voted as I did on that occasion because I did not think we could reach the subject in the manner proposed by the amendment of the Senator from Iowa, and because I thought this was not the bill to attach it to. I now say, although I have voted generally for such a scale of duties as should keep up the amount of revenue collected from foreign goods, and at the same time discriminate in favor of home manufactures, that if the duties imposed on foreign goods are to be continued as a reason for keeping up these internal taxes I shall join the Senator from Iowa and vote at the earliest possible time for a reduction of the duties upon foreign goods coming to our ports.

But the Senator from Ohio says that we should continue to collect this tax because it is easily and cheaply collected. Yes, Mr. President, we must continue to tax the people who honestly pay the tax imposed upon them, or who, if not from their integrity, but because they cannot evade the tax, pay it; we must continue to impose taxation upon them and fail to press the collection of taxes upon those who evade the law and are dishonest! Sir, I will not vote to continue a tax for that reason. I would vote rather to remit the tax in favor of those who honestly pay, and from whom we collect it without considerable expense to the Government.

But the Senator added that refined sugars were used mainly by the wealthy and rich classes of the country. Not so, sir. Fifteen

or twenty years ago it was true; it is not true to-day. Fifteen or twenty years ago the product of sugar refiners consisted in crushed sugars, lump sugars, but latterly, by the introduction of machinery and the application of art and science to the product of the sugar-cane, the great masses of our sugars that are consumed by the common people pass through the sugar refineries. The molasses that was once the rough product of the sugar plantations is now again submitted to the operation of the machinery and means provided by sugar refineries, and we get bleached and marketable sugars as a result; and also, as a further result, we get the denomination of sirups that are classed as golden sirups and by other names, which also now enter into common use. I undertake to say that there are no articles that are used so largely by the masses of the American people as what are called refined sugars and sirups; and yet we propose to keep up this internal tax upon these articles of general and almost universal consumption. I hope we will not do so.

Mr. President, I wish the honorable Senator from New York had included in his amendment the words "on coffee, roasted or ground, and articles intended as substitutes for coffee, spices, and mustard." Those words ought to be stricken out. Those taxes I am in favor of dispensing with, too. As I understand from a member of the Finance Committee, the ground upon which the tax is proposed to be retained on "coffee roasted or ground, and articles intended as substitutes for coffee" is, that adulterated articles, mixtures with coffee of ground peas and other substitutes, such as chickory, are imposed upon the market, and that they deserve to be and should be taxed. That does not appear to me to be a sufficient reason for maintaining that class of taxation and burden. The poor very often have to resort to such cheap commodities as they can furnish and obtain in lieu of coffee. In many of the agricultural districts of this country—in the West—the farmers very commonly burn barley and grind it and use it as coffee, and it makes their staple as coffee the year round. We might as well undertake to tax that if it went into the market for use.

I hope, sir, that the honorable Senator from New York will allow the vote to be taken upon the entire amendment proposed by the committee, which includes "sugar candy and confectionery," and "on diamonds, emeralds, precious stones, imitations thereof, and on all jewelry."

It would appear as though there should be no sympathy in connection with the use of the articles last mentioned, as "diamonds, emeralds, precious stones and imitations thereof, and on all jewelry;" but, sir, we tax these articles at our ports. They are not articles of domestic product.

Mr. SHERMAN. This is solely on articles of domestic product. If the Senator thinks there is no jewelry made in this country he is very much mistaken. This applies to the cheap jewelry made here, and which yields us three hundred and some odd thousand dollars of revenue. The manufacture amounts to several millions in this country.

Mr. CONNESS. I was alluding especially to the tax proposed on diamonds, emeralds, and so on. I suppose there is an internal tax imposed upon those articles that come from foreign markets. Am I not right in that?

Mr. SHERMAN. No, sir; the diamonds and imitation diamonds are sometimes used as ingredients in the manufacture of jewelry. Diamonds when imported pay a small duty on their importation, and when they form a part of the manufacture of an article here they are taxed again.

Mr. CONNESS. That is precisely what I understood; we tax them a second time. Now, sir, I think our taxes imposed at our ports are sufficient, and if they are insufficient they should be made sufficient. But what I am anxious to do is to vote for wiping out the great mass of our internal taxation, and at the same time wipe out the men who are engaged in collecting those taxes. It is hard to tell which is the greatest burden, the amount of money exacted from the people or the impositions practiced by those engaged in collecting it, and the sooner we get rid of both the better.

Mr. MORGAN. Mr. President, the Senator from California has taken a view of this general question that I supposed he would; and I was sure this proposition would commend itself to his judgment, as I think it must commend itself to the judgment of the entire Senate when it is fairly understood. I should prefer, however, that the question should first be taken upon refined sugars as proposed by me. A further motion to strike out would not be in order at this time.

The Senator from Ohio assumes—for he does not profess to have any knowledge on the subject—that because certain duties are exacted on imported sugar, the business of sugar refining in this country must be profitable. I can assure the Senator that it is not profitable, and that Congress will be called upon for relief with reference to this interest, and be called upon so earnestly and justly that they cannot resist the application.

Mr. CONNESS. Will the honorable Senator allow me to say a word to him by way of suggestion?

Mr. MORGAN. Certainly.

Mr. CONNESS. Senators all around me say——

Mr. MORRILL, of Vermont. I beg pardon; I must not be included.

Mr. CONNESS. With one exception the Senators around me say that they cannot vote for the special amendment of the honorable Senator from New York; but if he will include the entire amendment inserted by the committee he can have their votes.

Mr. MORGAN. That is a matter within the control of the Senate. Before I take my seat I wish to say that about one half of this tax is paid in the city of New York. I meant to have stated that when I was up before. Of the $2,065,000 realized last year from this tax, $959,000, or about one half of the whole, was paid by the refiners in New York. The tariff as it now stands gives an advantage to the refiners in Cuba of about three fourths of a cent. a pound. I have no doubt whatever, therefore, that it is the duty of Congress to so adjust the tariff and the internal tax system as to afford additional protection to this interest.

Mr. CAMERON. I am in favor of taking off all the items which were left out of the bill by the Committee of Ways and Means of the other House; and I think there is some reason why special legislation may be had for the sugar refiners. I understand that by our tax laws and tariff laws, taking the whole revenue system together, the business has been almost destroyed in this country, or is at least in danger of destruction. Within the last month there was imported into the city of Baltimore alone, a cargo of fifteen hundred hogsheads of sugar, which, compared with the article made in this country, is entirely of the same quality, and even perhaps a little better. I have before me two samples of sugar, one made in Demarara and the other made in the city of Philadelphia, and the Senate will see by comparison that they are precisely alike; and yet under our existing system there is a discrimination in favor of the foreign producer of about one cent a pound. Nobody can tell the difference in quality on looking at these two samples.

Our existing laws offer an inducement to the foreign manufacturer to send his sugar here in a refined condition. The importation of partially refined sugar for this year will not fall short of two hundred and fifty million pounds, to produce which requires three hundred and five million pounds of raw sugar. Thus the foreign producers, by importing it in the condition shown in the sample before me, save the duty on fifty-five million pounds of raw sugar. The American manufacturer must buy the crude sugar in the same place and pay for the molasses the same tax he pays for the sugar, and the same for the dirt, and the same for the waste, and everything else included in the gross amount. The foreign producer pays, in the importation I have stated, on molasses half a cent a pound on forty-two million five hundred thousand pounds imported into this country, and he pays no duty upon twelve million five hundred thousand pounds of dirt which he does not import. I could go on and show that the revenue would be increased by taking off this tax entirely and imposing an additional duty on imported refined sugar; but, as there seems to be a disposition to take the bill just as it came from the other House, I will withhold any remarks on that point with the hope that it will not be necessary to make them. I shall vote for the motion to strike out everything that has been added by the Finance Committee of the Senate. If Senators will look at these two samples of sugar I think they will derive some information that may be useful.

Mr. JOHNSON. Mr. President, until this bill was introduced, the policy of protection was by the friends of that policy supposed to be the policy of the Government. I do not understand the Senate to be ready now to abandon that policy. It is not abandoned by this bill. I do not so understand them, because yesterday, although their attention was called to the fact that the existing tariff was made what it is because of the amount of internal taxes imposed upon the domestic manufactures, and only on that account, as far as the debates on that occasion give us any information, they refused to reduce at all the impost duties. Now, I suppose that the reason for refusing to reduce the one and for reducing the other is because without the existence of both the domestic article cannot be manufactured with anything like a profit.

The bill upon the table, as it came to us from the House of Representatives, removed the internal tax from all the articles of domestic manufacture contained in the particular schedule referred to. In that schedule sugar and the other articles mentioned by the honorable member from California were included. They were, therefore, to have the benefit of the protection which it is the object of the bill to afford; and one would suppose that the Senate would think that they were entitled to the benefit of the protection which is afforded by the impost upon the articles which the Finance Committee have thought proper to exclude, as well as the benefit of a reduction of the internal tax upon these articles. The honorable member from Ohio, the chairman of the Committee on Finance, as the organ of that committee, tells us that we cannot afford to do without the amount of revenue which the tax upon refined sugar brings into the Treasury. He says, and no doubt says correctly, that it is some two million dollars a year; and he says, also, that it ought to be excluded from the benefit of this bill, because it is very easily collected in the first place, and because it is not in the power of the parties engaged in this manufacture to cheat the Government. They are in point of fact honest, either because they are honest in themselves; or they are honest, in point of fact, because it is not in their power to defraud the Government, and we will therefore make them pay what we will not make others pay, no matter what may be the effect upon the article.

Mr. WILLIAMS. We cannot make others pay.

Mr. JOHNSON. Yes, you can. However, that is not the question before us. You do not, from some cause or other, make them pay.

Mr. President, whether free trade, in the absolute sense of that term, would at this time be the proper policy of the Government is a question which I do not propose to argue. I do not think it would; but very many reasons might be given in support of that doctrine. One thing is certain: that we do not mean to adopt it. We mean to continue what we have done in the past to protect our domestic industry. Then the question in relation to every article of domestic industry is what protection

does it need, if it be an industry of interest to the country? The honorable member from New York, [Mr. MORGAN,] who is perfectly acquainted with the facts to which he refers—and he needs, therefore, not to be confirmed by any statement I shall make—tells the Senate that this particular industry is languishing for the want of protection.

In order to support the parties who are concerned in it, that is to say, to pay their hands and make anything like a dividend, they are obliged to make use of their capital. The amount of tax which the Government receives upon this article, manufactured in Boston, New York, Philadelphia, and Baltimore alone, is about one million seven hundred thousand dollars per annum.

Now, the question is, first, is it advisable to protect this industry; second, if it be wise to protect it, is it not necessary to give it the benefit of this bill? I do not understand the honorable member from Ohio or anybody else to say that it is not a subject worthy to be protected. All concede that it is a valuable manufacture to the country; and the only question, therefore, which remains for us to decide is whether it is now sufficiently protected. That depends upon the fact. The protection which it now has is the protection of the impost and nothing else. The burden under which it labors is the excise and nothing else; and because of the excise, notwithstanding the amount of the impost which more or less excludes from importation the article of sugar from other countries, they are not able to live; and unless they falsify, unless all the evidence before us is untrue, if you continue this tax, notwithstanding you continue the impost, they must languish for a time and then die. What is to be the result to the country? The whole commodity will come to us from abroad; this article of domestic industry will be lost. The Senate, I suppose, know the amount of money which is invested in it; I believe some twenty-five or thirty million dollars; and the number of hands it employs must be very numerous. The benefits that it confers upon the cities where these refineries are located are very great, and the competition which it enables them to make with the foreign article is advantageous to the whole country.

I think the honorable member from Ohio has told us that this is but a tax on luxury. Is that so in any proper meaning of the term luxury? Luxury, as understood in the sense in which it becomes the especial favorite subject of taxation, is that which is enjoyed exclusively by the rich. Is that the case with this article? You may by your taxation increase the price to such an extent that only the rich can enjoy it; but is not the mechanic earning his two or three dollars a day, or less, and are not his wife and his children, to have the benefit of this particular article? Are we alone, if we are to be considered as the rich, to be the only people in the United States who are to have it because the only people who are able to buy it on account of your taxation? Certainly not. The mechanic, the laborer, the needle-woman, everybody engaged in the industry of the hand or of the head, who makes only his six or seven or eight hundred dollars a year, desires to have this particular article. To them it is as much a necessity as it is to us. To deprive them of it would be as cruel and would be felt to be as severe as to deprive ourselves of it.

But I should like to know upon what principle of justice it is that you are to select a particular article of manufacture and deny it the benefit of this bill. Why is it that the woolen manufacture and the cotton manufacture and every other kind of manufacture in which man engages anywhere within the United States are to have the benefit of this bill? We are told it is because they cannot compete with the foreign article notwithstanding the very exorbitant tariff which your system of revenue imposes upon the foreign article, and hence we are now for protecting it. Why not protect him that labors in the manufacture of sugar? Can any reason be given that looks like a just one? Why is a discrimination to be made against that branch of industry? The honorable member tells us we want the money, and from this branch of enterprise we can get it. He refuses to attempt to get it from other articles of manufacture because to impose a tax upon them would lead sooner or later to their ruin.

Now, Mr. President, without meaning in the slightest degree to question the policy of protecting them by any mode of protection which will not inflict a serious injury upon the public, let it not be forgotten that those whom we are now asked to protect and whom we are about to protect made immense sums during the last five or six years. Stock in manufacturing companies which languished in the market before the war commenced and was almost a drug soon after the war commenced doubled nearly its par value, and the dividends made from time to time were fifteen, twenty, thirty, and as high as seventy per cent. We might say to them, "You can afford now to be content with a slighter amount of profit, or you may afford to lose because the loss which you may now sustain, when carried to the debit of profit and loss, will not equal the amount of the gains which you have carried to the credit of profit and loss, during the last five or six years." Does that apply with as much force to sugar? The sugar refiners have never made as much. Their stock during the war was only worth what it was in the beginning; and now, as they tell you—and the House of Representatives seems to have been satisfied of the truth of that assertion—they must fail unless they also are included within the protection of this bill. If it be said that the effect of including them is to bankrupt the Treasury, I reply that is the effect of including all the other manufactures which are to be benefited by this bill; but I do not believe that will be the effect. The true mode to meet the exigency, in my opinion, is to revise the whole system of revenue, to reduce the taxes justly and equally; and, where it can be done without ruin to the domestic article, to reduce imposts on foreign products.

That is one mode; and the other mode, which is certainly within our power, is to reduce our expenses. Reduce the expenses; let the disbursements on account of the Army be reduced; let the Army itself be reduced; let the Navy be reduced; let the Freedmen's Bureau be done away with in whole or in part; save the millions that are now being expended on account of these several items, and then, with the bill on your table including all the articles included within its benefits as it passed the House of Representatives, you will have money enough to meet all the proper expenses of the Government.

Mr. President, I am sure I need not say to those to whom I am now addressing myself that I will vote at all times, and under all circumstances, for any amount of taxation that may be proved to be necessary in order to maintain the good faith of the country with reference to its existing debt; but at the same time it should be our purpose, as I think, to reduce our expenses where we can do it without materially injuring the domestic industry of the country or the internal improvement of the country, both of which enable us to pay more taxes than we should otherwise be able to meet.

Mr. CONKLING. Mr. President, in supporting this amendment, I am unable to divest myself—nor do I feel bound to divest myself—of the knowledge that it proposes to remove a burden resting chiefly, and in effect invidiously, upon my own constituents. My colleague has directed attention to the fact that of the $2,065,000 of revenue collected last year on this item the State of New York paid $959,892. New York paid almost one half of the entire revenue derived from the tax we are considering. If that were an exceptional case, if it happened as a rare curiosity in the revenue system that the State of New York paid upon a particular article an undue proportion of the tax, I should feel an obligation resting upon me to dismiss such a consideration in forming my opinion of its propriety; but it so happens that the revenue system, considered at large, works out results very like this particular one in the respect I indicate.

During the fiscal year ending June 30, 1867, the amount of internal revenue paid over by collectors of internal revenue districts amounted in the total to $248,124,000. Of this sum the State of New York paid $58,200,000, or twenty-three and one fifth per cent. of the entire amount. There was collected that year from the sale of stamps, from fines, penalties, &c., $17,796,000, the precise proportion of which paid by New York it is impossible to ascertain; but undoubtedly the proportion was larger than that of the total derived from district collectors directly; so that of inland revenue the State of New York paid nearly, if not quite, one quarter of the entire sum.

The honorable Senator from Ohio, [Mr. SHERMAN,] in a persuasive and conversational way, is undertaking to tell me some of the reasons for this. He is right, very likely, in the reasons which he refers to. I can tell him a good many other reasons, reasons which will account for the fact that up to the time when the rebellion began, down to the year 1860, commencing with the very morning of the Government in its administration, the figures show that of all the money the General Government ever had derived from all sources about ninety per cent. came from the State of New York. There are peculiar reasons for that, too, I know.

Mr. EDMUNDS. I should like to ask the Senator where that State obtained the money.

Mr. CONKLING. Obtained the money! Not from that crucible of false moneys, called debt, but obtained it by the acquisition of property in the sense in which that word is used when it represents the product of human labor.

But, Mr. President, I was going to say that during the same fiscal year of which I was speaking there were collected in gold of customs duties $176,000,000, and of these customs duties seventy per cent. were collected at the port of New York. I do not wish to provoke inquiry or criticism by dwelling upon that particularly. It is enough for my purpose to remind Senators that of the internal revenue strictly about one quarter, only a fraction less than one quarter, was paid during the last year, of which we have full returns, in the State of New York.

Now, sir, we come to a particular item of taxation which shows to us that one half of its amount is raised in New York; and it happens to be a tax imposed upon an article which subjects that article to a discrimination against the domestic production of at least three quarters of a cent per pound. It seems to me that, stopping there, a very strong case is made in favor of exemption, and a case which can be answered in only one way, and that is the way which the honorable Senator from Ohio has employed to answer it. He says that we are unable to afford this diminution of the revenues. Without discussing the question of merit or hardship, he looks at his table and sees that $2,000,000 comes from this item, and he says there are two million reasons why we cannot exempt it, every dollar answering a reason, as the Senator from Maine [Mr. FESSENDEN] does not mean me to hear him remark.

Mr. President, there is an answer to that in my mind, and an answer which I hope is not disrespectful to this body or to the other House of Congress. I believe, from an observation of a good many years, and this year is not an exception, that the only way, the only possible mode, in which appropriations that might be dispensed with can be prevented and cut off is that condition of the Treasury which renders it impossible to make those appropriations, unless we are to have loan bills. Whenever we come to the time that the condition of the public Treasury is such that additional appropriations can be paid only by borrowing, then we shall have a yard-stick to

measure by, which everybody will be able to see, and to which respect will be paid; but just as long as the condition of the Treasury is such that it can answer, not only the appropriations that have been made up to any point in the session, however late it may be, but also additional appropriations, reasons too cogent to resist will be found for additional appropriations, and we shall have subsidies, grants, and all sorts of things, large and small, which no argument can successfully encounter, except the final argument of necessity. To that argument they will yield, but they will yield to nothing else. Therefore I look with composure, to say the least, upon the probability of dispensing with taxes until we find ourselves without a margin in the Treasury, and until we find upon us a necessity for looking about carefully and selecting with the utmost discrimination between appropriations in order to find which are they that can be dispensed with and still the interest paid on the public debt and the indispensable outlays of the Government, the unavoidable current expenses provided for.

This answers with me a great deal of solicitude which I should otherwise feel. We dispense with twenty odd millions as a tax on cotton, and we do it upon the theory that two and a half cents a pound on cotton is an enormous percentage. We remove it; and, sir, we come presently to a day, which day I looked for when that vote was taken, when cotton is twenty-six cents a pound, and when you cannot afford to dispense with $2,000,000 on sugar, one half of which is raised in a single State. Then we have a bill coming from the other House dispensing at large with the tax on manufactures. Without going any further I think we might as well stop and ponder what the result is to be as to the balance-sheet; and the only refuge from solicitude, from great disgust and anxiety on that subject, I find in the suggestion which I make, that, even though it turns out that we have no margin, that the balance is against us, that the income is not equal to the expenditure, even that brings with it a sort of healing on its wing. Even that brings an objection to appropriations which may serve when no other argument in the nature of objection will serve.

Therefore, Mr. President, I shall feel at liberty to vote for this amendment; and, although I understand it to be not in order now, when the amendment proposed by the Senator from California touching spices, ground coffee, and so on shall be offered I shall feel bound to vote for that; and I shall trust for vindication in the votes which I shall give, as I said before, to the diminution of drafts upon the Treasury.

Mr. WILLIAMS. Mr. President, I suppose that every member of Congress who has taken any pains to look into the financial condition of the country votes for this bill with some misgivings as to the result—with some doubts as to whether or not with the adoption of this proposed law there will be an adequate amount of money in the Treasury to meet the necessary expenditures of the Government. This bill was passed by the House of Representatives, sweeping out of existence by a general enactment a large class of taxes, making some exceptions and recognizing the necessity for some exceptions to the general law abolishing all taxes on manufactures in the United States. Now, the Senator from New York appeals to the Senate, on behalf of his State, to remove this tax upon refined sugars, because a large proportion of that business is conducted in that State. But this bill imposes a tax upon whisky, which is a very large manufacture in Ohio and Illinois and other western States; and they have the same right to complain of these exceptions that New York has to complain of the exception contained in the amendment proposed by the committee in this respect; and so, if we proceed and exempt from taxation everything in which each State may be interested, the consequence will be that we shall have no taxes.

The Senator from New York [Mr. CONKLING] exhibited to the Senate the amount of taxes which that State paid into the Treasury, and complained of the particular hardship that would be imposed upon New York if this tax upon refined sugars should be retained by the bill. Now, sir, I undertake to say that New York derives more benefit from this bill than any other State in the Union; because it is a very large State; because there are great manufacturing interests in every part of the State of New York. New York is therefore more benefited than any State in the Union by the bill, even as it is amended by the Committee on Finance; and so New York has no reason to complain. As to the duties referred to which New York pays into the Treasury, they are derived from the customs at New York city, that city being the great market for the country.

Now, sir, in reference to these refined sugars, there appears to me to be a singular inconsistency in the arguments which are adduced in opposition to the amendment of the committee. One Senator rises here, and, representing the sugar refiners, says that it is necessary that this tax should be removed, so that they can carry on their business. "Retain this tax," he says, "and the business in this country is ruined; they cannot go on." Another Senator rises, and, representing the poor people who pay this tax to the sugar refiners, he says it is necessary that this tax should be removed for the sake of the poor people who consume the sugar. If the pathetic and eloquent argument that was addressed to the Senate by the Senator from Maryland [Mr. JOHNSON] is to have any force, it follows that the sugar refiners do not pay this tax, for the men who consume the sugar pay it to the refiners, and they make just as much as though there were no such tax imposed.

Mr. FRELINGHUYSEN. With the permission of the Senator, as that applies to all these articles, I would suggest whether the truth is not that about one half the tax is paid by the consumer and the other half by the manufacturer.

Mr. WILLIAMS. I have heard the honorable Senator's suggestion before; but I can see no reason for that suggestion. Suppose a tax of one half cent is imposed upon each pound of sugar, I will ask the honorable Senator if he does not suppose that when the sugar refiner sells that pound of sugar he adds that half cent to the price for which it is sold, and if the consumer does not pay the half cent.

Mr. CONKLING. May I ask a question? If it be true that sugar from Cuba, for example, of a given quality, can be laid down on the wharf in New York for three quarters of a cent a pound less than it can be refined here, upon what argument or arithmetic is the Senator able to say that the vendor of home-refined sugar can add the entire tax and still compete and his customers assent to it.

Mr. WILLIAMS. If that can be done which the gentleman supposes, then a certain consequence might follow; and if that position be correct the argument which has been presented here in favor of the consumers amounts to nothing. I understand the position of the Senator to be that the taxes which are imposed upon these manufactured articles are not paid by the consumers, but by the sugar refiners.

Mr. CONKLING. If the Senator will allow me one moment, I will state what I understand to be true. Doubtless, taking the tax upon tobacco, for example, or matches, or some other thing which is manufactured exclusively here, the internal revenue tax is added to the price of the article, and the consumer, in theory, and in practice probably, pays it. But now, I submit to the Senator, taking an article like this, the foreign product of which has an advantage of what I understand the committee agree is about three fourths of a cent a pound, is it true that the refiner of the sugar can add to it the entire tax and still compete with the foreign article. If the figures are right, of course it is impossible, because all buyers buy where they can buy cheapest, and the same profit given to each would put one vastly in advance of the other.

Mr. WILLIAMS. I understand that these sugar refiners are protected by the tariff, and that they have protection enough to enable them to conduct the business in which they are engaged. And now, sir, I must say that I do not confide altogether in the representations that are made by these sugar refiners as to the condition of their business. I know that during the last session of Congress all persons who were engaged in any kind of manufacturing were represented here in Congress, and all endeavored to induce the Committee on Finance and Congress to believe that they were in a state of utter prostration, that they were unable to conduct their business; and I know that false representations were made to the committee on that subject, and that delegations who were interested in certain manufacturing companies in the country glorified themselves because they had succeeded by their false representations in misleading and deceiving the committee as to the condition of the business which they represented. I do not make allegations of that kind as to the representations in reference to the sugar refiners; but I know that just so long as there is any tax imposed upon any kind of business in this country these representations will be made, and they must be received with certain grains of allowance.

According to my information and belief on the subject, although, I suppose, I am not as well advised as the Senator from New York, these sugar refiners are not in such a depressed condition, are not now under existing circumstances in a position where they cannot proceed with their business. I understand that with this tax of one half cent a pound they may prosecute their business with profit; and it was the opinion of the committee, under the circumstances, as certain other manufactures were excepted, this might be reasonably and profitably excepted. I believe that every dollar of this tax is paid by the consumers and that it does not devolve any loss upon the refiner, because he is protected in his business by the tariff, and he can add the amount of this tax to the products of his labor, and it is paid by the consumers; and it is a tax that is more easily and satisfactorily paid, in my judgment, than any other sort of tax.

Sir, an appeal has been made here in behalf of the poor people, who, it is said, will be oppressed by the continuance of this tax. I say in the first place that a very large proportion of these refined sugars are used by people who are wealthy and perfectly able to pay this tax. Such of these sugars as are used by poor people are used in very inconsiderable quantities. If a poor man goes to a country store and buys two or three pounds of sugar and pays half a cent more per pound for that sugar than he would without that tax he does not feel it, he does not complain, he cares little or nothing about it. When taxes can be collected in that way in the country the people will be better satisfied with a system of that nature than with any other plan of raising a revenue. Where a tax is imposed upon an article of clothing that may cost twenty dollars, and the consumer is required to pay a tax upon it in proportion to its value, he feels the tax; it is a burden upon him; but where the tax is such as it is upon sugar, half a cent a pound, and two or three pounds are consumed by a family in a week or perhaps two weeks, there the tax can be readily paid and no burden is realized by the consumer. It is the true policy of taxation, as it seems to me, to collect taxes where they can be collected at the least expense and where they will be most certain and reliable, and where they will be paid by the people with the least complaint or the least consciousness of the burdens that are imposed upon them.

Now, it is proposed to strike out from this bill all the amendments proposed by the Committee on Finance to the first section, including jewelry, diamonds, and everything of that

nature. No reason appears to be assigned for voting against the amendment proposed by the committee, except that it is desirable to adhere to the bill as it came from the House of Representatives.

Now, I ask why these articles may not be taxed? Who suffered in consequence of any tax imposed on them? Generally they are used by the rich people, and they can afford to pay these burdens better than others who are poor and less able to meet the demands of the Government; and wherever we can impose taxes without burdening the people it seems to me that we ought to do it, and we ought not to strike down at one blow all sources of income to the Government, because the time will soon come—it is not far distant, in my opinion—when it will be necessary to re-establish these taxes, and it will be much more difficult if it becomes necessary to reimpose these taxes than it will be to retain them at this time.

Mr. DAVIS. Will the honorable Senator permit me to make a suggestion to him?

Mr. WILLIAMS. Certainly.

Mr. DAVIS. The honorable Senator from Oregon adverts to the facts that this bill embraces jewelry and other articles of luxury that will necessarily be consumed by the rich, and that are not within the reach of the poor. That is true; and what is the reason why such articles are embraced in this bill? It is simply this: they are very small in bulk and of great value, and when you impose taxes beyond a certain amount upon such articles you necessarily introduce a system of frauds that defeats the collection of all revenue upon them. This principle now applies to a great article of internal taxation, and that is the article of whisky. The tax upon that is two dollars per gallon. It is so high as to give such a bounty to frauds and evasions as to render it impossible to collect the tax. If you want to have a fair and honest tax upon whisky, or upon any other article in relation to which the facilities of fraud and evasion in the payment of revenue are so great, you must reduce the rate to such an amount as that there will be no longer a premium for those frauds.

Now, if the honorable gentleman wants to replenish the Treasury and to enrich it, let him reduce the tax on whisky from two dollars to fifty cents per gallon and make the distiller pay the tax, and dispense with the officers and the complex system, in the mazes of which the frauds are produced that defeat the collection of the revenue on at least three fourths of all the whisky that is manufactured.

I trust the honorable Senator from Oregon will allow me to make one other suggestion. That Senator is an able man; he is one of the soundest lawyers in this body; he has steadily won upon my respect as a lawyer and as a statesman, and he will allow me to make another suggestion to him. Senators here exclaim: "We cannot spare this tax from the revenue; it is necessary for the payment of the expenses of the Government." Sir, can you not spare from the Army three fourths of its strength? The Army now consists of about fifty thousand troops, and may be raised under present laws to above one hundred thousand, when five thousand or ten thousand men at the utmost are all that are necessary for the wants of the Government in the application of the Army. Twenty thousand would surely be a sufficient maximum. Reduce your Army to twenty thousand or ten thousand and how much will you save to the Treasury?

Repeal your Freedmen's Bureau and how much will you save to the Treasury? Abrogate your system of reconstruction in the South and withdraw all the subsidies and heavy appropriations of money in that unconstitutional and iniquitous system of policy for the enslavement of the southern people, and how much would you save to the Treasury? Sir, if you will go to work with a heart and a will in the retrenchment of expenditures, instead of asking where shall we get such an amount as will be necessary to meet the current expenses of the Government, you will be at a loss to find the subjects to which to appropriate the revenue you collect.

Mr. WILLIAMS. Mr. President, I think I ought to leave the Senator from Kentucky [Mr. DAVIS] to discuss this question with the Senator from New York, [Mr. CONKLING.] He represents a State in which they manufacture whisky, and, of course, he feels very much oppressed by the high tax upon whisky, while the Senator from New York represents a State in which they are engaged in the sugar refining business, and, of course, he is very much oppressed.

Mr. DAVIS. Permit me to make a single explanation. About three fourths, I think, of all the whisky that is manufactured in Kentucky is taken out to California and Oregon to find a market. [Laughter.]

Mr. WILLIAMS. Well, sir, I am very glad to know that the Pacific coast contributes so much to the support of the State of Kentucky, for I have very grave doubts as to how that State would progress unless it was for the contributions received from the portion of the Union in which I live. [Laughter.] But, sir, the argument made by the Senator from Kentucky indicates that it is impossible to levy any tax that will satisfy every State or all parts of the country. He is deeply aggrieved because there is a tax of two dollars upon whisky, and he calls upon Congress to reduce that tax because I suppose his State is engaged in the manufacture of that article.

Mr. DAVIS. Allow me to say a word. The honorable Senator says the consumer pays all the tax; so that it would be the people of California and Oregon who would be paying this two dollars tax upon Bourbon and Kentucky whisky.

Mr. WILLIAMS. If that is so what is the gentleman complaining about, I would inquire? Why does he find fault with this high tax on whisky? If the people on the Pacific coast, as he says, pay the tax and money paid goes to Kentucky I do not see why he should complain.

Mr. DAVIS. This is the point of complaint, if the honorable Senator will permit me to state it: the tax on whisky is evaded to such an extent that three fourths of the amount that is manufactured does not pay any tax; but by reducing the rate of tax you will secure the collection of it upon so large a quantity as to increase the revenue and give us more money in the coffers of the Treasury. I want to enrich the Treasury by decreasing the rate of tax.

Mr. WILLIAMS. I am very sorry, Mr. President, to hear from the distinguished Senator that the people of his State are so addicted to fraud upon the public revenue as he represents. It is necessary that the tax should be reduced from two dollars a gallon to fifty cents to enable the people of Kentucky to be honest and pay what is due from them to the Government. I suppose, therefore, this legislation is desirable for the sake of promoting honesty in the State of Kentucky.

Mr. DAVIS. The honorable Senator again is mistaken. The whisky that is manufactured in Kentucky is called old Bourbon. It is taken to Cincinnati and New York, and even to Boston, and out of one barrel of old Bourbon the rectifiers there make about three barrels of your Red Head. [Laughter.] It is there, in those large establishments in the great cities, where the excessive frauds take place. As a proof of it let me mention one fact. Before the war there were only six distilleries in the cities of New York and Brooklyn; now there are upwards of five hundred, and fraud is going on upon a wholesale scale at each. Go into the city of New York and you will find whisky selling all over at from $1 25 to $1 75 per gallon, when the tax upon it is two dollars. These frauds are not perpetrated in my country; they are perpetrated upon an article that is manufactured in my country and taken to other countries and adulterated.

Mr. WILLIAMS. Mr. President, I shall have to refer the Senator from Kentucky to the Senator from New York to defend the State which he represents. The Senator interrupted me to say that two thirds, as I understood him, of the whisky manufactured in Kentucky was sent to the Pacific coast, and for that reason the people of the Pacific coast were the persons who consumed the whisky and ought to complain of the high tax; but now he represents that it goes to the city of New York and is there adulterated, and that the people of the city of New York, whom the Senator [Mr. CONKLING] so feelingly represented a short time ago, are those who are engaged in committing fraud upon the Treasury. Now, sir, I will leave that question to be settled between the Senator from Kentucky and the Senator from New York. It is not one in which I am concerned; and the whisky question is not at all pertinent to this discussion. It has only been thrust in, I suppose, by the Senator from Kentucky, for the purpose of showing his great solicitude for the interests of his State. Whenever the whisky question arises, whenever the discussion comes up as to what tax ought to be imposed on whisky, I shall be ready to express my views on that question. I have always been of the opinion—I am prepared to say that now—that the tax imposed upon whisky was an injudicious tax so far as the revenues of the country were concerned, and that a lower tax would have produced more revenue.

I have taken more time, Mr. President, than I intended. I simply rose to make one or two suggestions as to the necessity of retaining this tax as it has been recommended by the Committee on Finance, and to show that there were no good and substantial reasons, in my opinion, why this tax should be rejected, because it is a tax that is imposed upon sugar and the substitutes for coffee in the country that are generally consumed. Each individual pays his proportion of this tax to a greater extent than is true in reference to almost any other tax in the country; and as it is a tax that is paid with the least complaint and seems to be the least burdensome on the people, and as there is a manifest necessity that we should keep up the revenues of the country, I think this amendment of the committee ought to be adopted.

As to the suggestion of the Senator from New York, that the only way to stop appropriations is to let the Treasury run out of money, it strikes me that there is a consideration affecting the public credit which is entitled to some weight. Suppose the Treasury of the United States should be perfectly bankrupted and there should be little or no revenue to the Government, would not that affect the credit of the country to a very great extent? And, sir, it is not these imaginary appropriations to railroads that exhaust the Treasury, as the Senator from New York seems to think, and he is constantly referring to them, but it is the interest of the public debt and the necessary expenditures of the Government in maintaining the Army and the Navy and the ordinary machinery of Government that consume this vast amount of money. And the amount that has gone out of the Treasury, or will probably go out of the Treasury, in the shape of railroad appropriations is a very inconsiderable sum.

Mr. MORRILL, of Vermont. Mr. President, when we reach the time that the Senate of the United States will not appropriate sufficient money for the ordinary expenses of the Government, God help us. I have supposed that there was some danger possibly of ultimate repudiation, but I never supposed that repudiation was to begin here. I invite Senators, if they will not accept of the estimates of the chairman of the Committee on Finance, to make them for themselves. I think that he made them with great liberality; and what were they? They showed that, if even we took his estimates as he presented them, there was to be a deficit of $16,000,000; and in order to

bring it down to that we had to set aside $25,500,000 that are now appropriated and to be paid out for bounties; and we had to accept also the estimate of $50,000,000 from whisky, when nobody expects that that amount will be received; and we also had to accept his estimate of the amount from incomes as he stated it, and I do not think it will begin to reach that amount. Besides that, we did not take into calculation the annual increase of the public debt for three or four years to come, which is inevitable by past legislation in consequence of subsidies to railroads that have been chartered, and which will, in due course of time, call upon the Treasury for additional millions of dollars in the shape of bonds.

Now, Mr. President, I desire that Senators shall examine this question for themselves. I do not ask them to take my estimates; but I say this, and I am willing to have it put upon record, that the deficit, instead of being $16,000,000, will be more than forty million dollars. Is not that enough? If we should pass the bill as reported the deficit will be more than forty million dollars for the year to come, in my judgment.

But, Mr. President, instead of this being a question of protection to the sugar manufacturers, it is a question of protection to the credit of the Government itself. In relation to the particular item under consideration I suppose it will be in order for me to perfect the amendment before the vote is taken on striking out, and I shall, therefore, offer an amendment proposing to reinstate the tax upon brown sugar. We adjusted the internal revenue tax upon refined sugars in the act of 1867 to the satisfaction of the sugar refiners. We gave them this advantage which they had not theretofore enjoyed: that we did not tax them two per cent. on the sirup or molasses, the residuum that was left in the process of manufacture. There was one other point to which they called our attention at that time, and as to which I thought they were entitled to relief, and when the opportune moment arrives I shall be in favor of granting it; and that is in relation to the higher grades of refined sugars. Those sugars that are above the grade of No. 15 to 20, Dutch standard, are refined by the centrifugal process in Cuba, and brought in here so as to compete with our loaf or crushed or granulated or pulverized refined sugars. On these sugars foreign refiners have some advantages over American refiners.

Therefore, I shall be quite ready to grant them relief in that direction whenever a proper occasion and a proper bill shall be before us so that we can do it. But these parties have enjoyed a lucrative business for years. There has been no business in the whole country that has been more profitable than that of sugar refining. So great is it that by their own confession ninety per cent. of all the raw sugars that are brought into this country are to-day refined. We have nothing scarcely but what passes through the sugar refineries of this country. Take the lower grades of sugars that come from India; they are first subject to a duty of three cents a pound, and even these are refined so as to increase their value and increase their cost. Take the higher grades; they are also refined. All these grades of sugars constantly passing through in these refineries are increased in value, and then are consumed by the country; and there is no people on earth that consume so large a quantity of sugar *per capita* as the people of the United States.

Mr. President, the claim on the part of the Senator from New York that these sugars are largely refined in that city is just. They are refined there; but it would be no more just to claim that New York should have any favor on that account than it would be to claim favor for the city of New York because there are collected there nearly three fourths of the customs duties. Those duties are not paid by New York because that proportion of all the customs duties that are collected in the country is collected at the city of New York. It would be just as absurd to claim any favor on that account as it would be for the people of my town, for instance, to claim some favor in relation to the manufacture of copperas when they manufacture millions of pounds but do not consume one pound.

But, in relation to the amendment which I propose here, I think if Senators can be made to understand it they will see the propriety of its adoption. As I observed when I introduced this subject on a former occasion, the sugar planters of this country, who will pay a small portion of the tax which we shall gather on this article, are very largely protected. They are protected at the rate of three cents a pound, and if this tax is imposed they will still have a protection of two cents, which is a greater protection than is granted to iron, to silk, or to any other article of manufacture that can be named that I am aware of.

Besides that, it will be unjust to change this if we retain the tax on refined sugars, because the article of brown sugar is very extensively made from molasses. Molasses pays a duty of eight cents a gallon, and from that is obtained something like four pounds of sugar, sometimes less, sometimes more, but certainly three pounds of sugar, and a residuum that is very valuable after that. If we should take this tax off it would inevitably produce this result; that instead of the lower grades of sugar being imported here they would all come in in the shape of molasses and be refined into the lowest quality of brown sugar. I do not think we ought to give an advantage to that class of sugar makers or sugar refiners, or whatever name may attach to them, and they do not desire it that I am aware of. I trust, without consuming further time, that there will be no objection to the adoption of the amendment.

The PRESIDENT *pro tempore*. The amendment is not in order at this time.

Mr. MORRILL, of Vermont. Is it not in order to move to amend a paragraph which it is proposed to strike out?

The PRESIDENT *pro tempore*. But this amendment would be in the third degree. It is not in order until the amendment of the Senator from New York shall have been disposed of.

Mr. MORRILL, of Vermont. The proposition, as I understand it, is on the part of the Senator from New York to strike out all in relation to sugars. I propose to offer an amendment adding words to the words proposed to be stricken out.

The PRESIDENT *pro tempore*. The proposition of the Senator from New York is an amendment to an amendment, and that is as far as the process of amendment can be carried. The question is on the amendment of the Senator from New York to the amendment made as in Committee of the Whole.

Mr. FRELINGHUYSEN. Mr. President, I shall vote against this amendment striking out sugar for I see no reason why we should strike out sugar and retain the tax on coffee, mustard, and the other articles mentioned in the section; and after voting against striking out sugar, I shall vote for striking out all this part of the section. I believe that the interests of this country require that the manufacturers of every kind should have relief, should have a jubilee. They have been taxed, and they have paid their taxes freely, generously, heroically, because there was necessity for it. I do not believe that that necessity now exists; and so far from the taking off of this tax being a step toward repudiation, by encouraging the industrial interests of the country, it is a step toward enabling us better and easier to pay our debts. We have now in the Treasury in currency about one hundred and fifty million dollars. We have $80,000,000 in gold, which is equal to about one hundred and twelve million dollars in currency, and thirty-seven or thirty-eight million dollars in currency, making a total of $150,000,000. While that money is in the Treasury I hold it to be the interest of this country to take off all these burdens from the industry of the country and give it a chance to recuperate, to recover its strength, after the great strain that has been laid upon it.

Neither do we propose that there shall be so great a deficiency as some suppose. Those who vote in favor of striking out these excepted articles very probably before Congress adjourns will supply the Treasury by revenue from another source, such as a tax on sales, or taxation on some branch of the interests of the country that can better bear it. I hope that this amendment will not be agreed to and that the whole list of exceptions will be stricken out.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York [Mr. MORGAN] to the amendment made as in Committee of the Whole.

Mr. MORGAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 24; as follows:

YEAS—Messrs. Cameron, Cattell, Conkling, Conness, Davis, Dixon, Hendricks, Johnson, McCreery, Morgan, Nye, Patterson of Tennessee, Ramsey, Saulsbury, Sumner, Trumbull, Van Winkle, Vickers, Willey, Wilson, and Yates—21.

NAYS—Messrs. Buckalew, Cole, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Norton, Pomeroy, Ross, Sherman, Tipton, Wade, and Williams—24.

ABSENT—Messrs. Anthony, Bayard, Chandler, Doolittle, Harlan, Patterson, of New Hampshire, Sprague, Stewart, and Thayer—9.

So the amendment to the amendment was rejected.

Mr. MORRILL, of Vermont. I now move to amend the amendment of the committee by inserting after the word "mustard" the words "on all sugars produced from sugar-cane, and not from sorghum or imphee other than those produced by the refinery."

Mr. CONNESS. If that amendment be adopted will it be in order to strike it out again?

Mr. EDMUNDS. Not unless you strike out the whole clause.

Mr. CONNESS. Will it be in order to move to strike out other words, including these, if this amendment be adopted?

The PRESIDENT *pro tempore*. It will be.

Mr. CONNESS. All right, then.

Mr. SHERMAN. I trust the Senate will not adopt this amendment. The only remaining article of raw agricultural product now taxed is the sugar of Louisiana—sugar made from molasses. Something like half a million dollars is realized from it. After consideration the committee scarcely thought it worth while to retain this tax. Every Senator will understand the question without debate. It is a question whether we shall tax now by an internal tax sugar produced in this country from the sugar-cane. It is at present subject to a tax of two per cent. The committee thought it better to repeal it, and let it fall with the cotton tax and all other taxes on agricultural products. I will not, however, detain the Senate by discussion.

Mr. MORRILL, of Vermont. I will merely say that only about one half the amount collected heretofore has been collected in Louisiana and a large part of it was not from the agricultural product but was from the refining from molasses. The amount collected in Louisiana was $281,000. I think the whole scheme will have to be legislated upon within a few weeks if we do not adopt this amendment. It is the only way in which we can equalize the whole subject. I think the refiners themselves, if we retain the tax on refined sugar, will complain if this tax is not placed on this article.

Mr. VAN WINKLE. I trust this amendment will not prevail, and I trust so because I am always opposed to taxing products of the earth, and I consider raw sugar as nothing more than a product of the earth. We tax manufactured articles probably with propriety; I speak now of manufactured articles as opposed to mere articles of production. They assume different shapes; they have more than the value of the labor added to them in the process of

manufacture. Take, for instance, the raw cotton which is manufactured into a dress, or take a piece of iron which is manufactured into a watch-spring, the changed condition of the article adds to its value in the market, and it brings more. But the process which sugar undergoes is simply what is necessary to prepare it for market; it is like the threshing of wheat or the shelling of corn.

I have heard it said here that natural products had no greater right to exemption than any other articles; but I think in what I have stated the reason is very palpable. The value of these natural products is, in fact, made up of labor, including, perhaps, capital and the value of the land devoted to them, but it is principally labor; and I suppose there will be no difference of opinion as to the proposition that it is not proper or desirable to tax labor itself.

I am, therefore, opposed to this amendment on general principles, also for additional reasons growing out of the particular state of things at this time. Sugar is a product of a very limited section of our country, and it has certainly been in that condition for years past that it needs encouragement rather than anything that would repress its cultivation. During the last year many of the sugar plantations, which are now very limited in extent, were inundated, and everything upon their surface perhaps destroyed. Previous to that, as the result of the war many of the buildings, sugar mills as they call them, and other things that are necessary in order to the production of sugar, were destroyed; and I learn from a source which I believe is reliable that this year they were entirely out of what they call seed, and they had to import from Cuba what was used.

Such has been the operation of the recent affairs in our country, and particularly in that section of it, that the business is depressed, the cultivation is depressed, and if taking off this tax should aid them in their competition with foreign sugars or aid them at all in building up this interest, I think the case comes within the principle advocated by all those persons who have professed to be in favor of the protection of domestic industry.

I am, therefore, against this amendment on the general principle that this is a mere production of the earth, no more entitled to be called a manufacture than wheat is after it is threshed, and on the other principle that it is a product of a portion of our country which is suffering, and that it is a branch of business that has suffered very extensively and in which a great outlay of capital must be had before our people can again engage in its production to any extent. I trust the amendment will not be adopted.

Mr. GRIMES. I would not say anything on this subject but for the fear that an argument which I have sometimes used here myself against the taxation of agricultural products shall get into bad company and shall be used hereafter in a manner which will not be very satisfactory to those of us who have used it heretofore. It occurs to me that there is no analogy whatever between the case which the Senator from West Virginia has put and the case now under consideration. In all the cases we have hitherto considered, where this argument was used, there has been no protection of the agricultural product. We may have had upon the statute-book some provision protecting the product against importation from abroad, but there really was no importation, and the statute did not take effect. But in this instance, while sugar in New York is only worth in bond four and a half cents a pound, it is protected by a duty to the extent of three cents a pound. Now is it possible that it cannot afford to pay a small tax when we furnish it as large a protection as that, nearly seventy-five per cent? Then I think the Senator from West Virginia is a little mistaken in saying that this is the only product of the earth that we propose to tax. I suppose that tobacco is a production of the earth.

Mr. VAN WINKLE. If I said that, I did not mean to say it; but I do not recollect that I did say it. I was probably misunderstood.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment made as in Committee of the Whole.

The amendment to the amendment was rejected.

Mr. CONNESS. Now I move to amend the amendment by striking out the words "on turpentine, on coffee, roasted or ground, and articles intended as substitutes for coffee, spices, and mustard, on refined sugars, and on the products of sugar refineries."

Mr. ANTHONY. Why not strike out the whole clause?

Mr. CONKLING. How does that leave the bill? Substantially as it came from the House?

Mr. CONNESS. It leaves in the section the words "on sugar candy and confectionery, and on diamonds, emeralds, precious stones, and imitations thereof, and on all jewelry."

Now, Mr. President, I wish simply to say, in advocacy of this amendment, a word touching what was said by the Senator from Vermont, who is not now in his seat, [Mr. MORRILL.] When he was on the floor in the discussion of the other amendment he stated that in his opinion there would be a deficit of $40,000,000 in the revenue if that amendment prevailed and should be finally carried. It will be remembered that this whole clause is new matter introduced by the Finance Committee in their report; and those who will remember the report made in the House of Representatives—I trust I shall not be considered out of order in referring to that in this connection—will remember that the chairman of the Committee of Ways and Means reported the bill to that body without the clause now presented to the Senate; and in his report he stated that there was, in his opinion, and in the opinion of that committee, a very considerable margin yet reserved; and that the revenues, in their opinion—indeed, there was a resolution of the House passed expressing that opinion—could abundantly afford the loss to be caused to the revenue by the adoption of the bill as they passed it.

Mr. SHERMAN. My friend must certainly be mistaken. He does not want to quote a colleague of mine in the other House incorrectly. On the other hand, the chairman of the Committee of Ways and Means said expressly that they would provide for a deficiency by an increased tax on sales. We have their scheme now before us, showing how they propose to make up the deficit; so that my friend from California must be mistaken. The chairman of the Committee of Ways and Means did not claim that there was a surplus; but he said distinctly they would provide for any deficit by another bill which they were preparing.

Mr. CONNESS. Well, Mr. President, we have been told by the honorable chairman of the Committee on Finance, who has just taken his seat, that there was another bill in preparation, and that it would be introduced and presented for our action. I hope that we shall pass this bill as it passed the House of Representatives, and pass it at once——

Mr. ANTHONY. Then why not make it so by striking out the whole of the committee's amendment?

Mr. CONNESS. I will leave that to some other Senator. If any Senator should see fit to move that amendment we can then take a vote upon it. I move to strike out the words I have indicated, and upon that I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from California, on which the yeas and nays are demanded.

Mr. CONNESS. Before that call is made I am asked by Senators to include the entire words in italics. Will that be in order?

The PRESIDENT *pro tempore*. Of course the Senator can modify his amendment.

Mr. CONNESS. Then I will so modify it.

Mr. CONKLING. That will leave that section of the bill just as it came from the House of Representatives, as I understand?

Mr. CONNESS. Yes, sir.

Mr. SHERMAN. The question will come up, as a matter of course, on agreeing to the amendment made as in Committee of the Whole; and that is the same proposition. The Senator is just making it in a different form. He might as well let the question come up in the ordinary way: shall the Senate concur in the amendment made in committee.

Mr. CONNESS. I am perfectly willing that the question shall assume that form, if it can be taken now.

Mr. SHERMAN. Very well.

Mr. POMEROY. There may be other amendments to be offered to the section, and you cannot move other amendments if you agree to the section in the Senate.

Mr. CONNESS. It is no matter how the vote is taken. Therefore let the motion stand as it is.

The PRESIDENT *pro tempore*. There seems to be a misunderstanding about the section as amended. The Secretary will report it.

The SECRETARY. The words proposed to be stricken out are:

On turpentine, on coffee, roasted or ground, and articles intended as substitutes for coffee, spices, and mustard, on refined sugars, and on the products of sugar refineries, on sugar candy and confectionery, and on diamonds, emeralds, precious stones, and imitations thereof, and on all jewelry.

If these words be stricken out there will still be a proviso, which was inserted in committee, at the end of the section, as follows:

Provided, That the products of petroleum and bituminous substances hereinbefore mentioned, except illuminating gas, shall, from and after the passage of this act, be taxed at one half the rates fixed by the said section ninety-four.

Mr. CONNESS. I adhere to the amendment as I offered it, and I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SHERMAN. Now, all I wish to state is to submit to the Senate the precise amount of revenue derived from these articles, and then let each Senator be governed by his own judgment. On the article of turpentine the amount yielded is $423,000, and it is collected without any great trouble from an article in which there is a substantial monopoly and is very generally used, so that the tax is fairly distributed.

The next item is coffee, roasted or ground, and the adulterations made of various products and used as a substitute for coffee. These articles, to the extent that they are used in place of coffee, destroy our revenue from coffee. If the whole of this system of adulteration was stricken out, abolished, and prohibited forever, it would add very largely to the revenues of the country; but I suppose that is impracticable. This tax on the adulterated article of coffee, mustard, &c., yields us something over a third of a million dollars. It is collected with great ease, because it is collected at manufacturing establishments. With regard to sugar enough has been said already. With regard to diamonds, emeralds, precious stones, &c., nearly all that is levied on the cheap jewelry manufactured in this country, to the extent of many millions, and yields us altogether about three hundred thousand or four hundred thousand dollars. The whole amount stricken out by the Senator from California, if his amendment prevails, will be about three million one hundred thousand dollars. I leave each Senator to judge whether we can afford to do it. I do not want to add to the argument.

The question being taken by yeas and nays, resulted—yeas 24, nays 18; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Cole, Conkling, Conness, Davis, Dixon, Ferry, Frelinghuysen, Howe, Johnson, McCreery, Morgan, Nye, Patterson of Tennessee, Ramsey, Saulsbury, Trumbull, Van Winkle, Vickers, Willey, Wilson, and Yates—24.

NAYS—Messrs. Buckalew, Chandler, Corbett, Drake, Edmunds, Fessenden, Fowler, Grimes, Henderson, Howard, Morrill of Vermont, Norton, Pomeroy, Ross, Sherman, Tipton, Wade, and Williams—18.

ABSENT—Messrs. Bayard, Cragin, Doolittle, Harlan, Hendricks, Morrill of Maine, Morton, Patterson of New Hampshire, Sprague, Stewart, Sumner, and Thayer—12.

So the amendment to the amendment was agreed to.

Mr. POMEROY. Now I move to strike out the proviso that we adopted in Committee of the Whole.

The PRESIDENT *pro tempore*. The question now is on concurring in the proviso to the first section, which will be read.

The Secretary read it, as follows:

Provided, That the products of petroleum and bituminous substances hereinbefore mentioned, except illuminating gas, shall, from and after the passage of this act, be taxed at one half the rates fixed by the said section ninety-four.

Mr. SHERMAN. The question now comes up on the amendment adopted in committee as to whether we shall throw off $2,500,000 more revenue from the internal tax derived under section ninety-four. The question is whether, in addition to the large amount of taxes repealed by the House of Representatives, and in the face of the figures that have been presented, we are willing to go still further in the reduction of taxes. I have no more responsibility in regard to this matter than any other Senator. Each Senator is bound to judge for himself. My people will be more relieved by the repeal of this tax than the constituents of most Senators; but the question is whether, under the great responsibility that rests upon us, we are prepared to repeal, not only the forty-odd millions of taxes embraced in this bill, but to go beyond it and repeal two and a half millions more.

Mr. CONNESS. I understand the Senator that the House of Representatives included this as an item of taxation.

Mr. SHERMAN. I know that; and the Senate has stricken it out, has relieved it from tax. Now, Mr. President, there is not a single article of those upon which we have just acted that will not bear the tax imposed upon it without the slightest complaint. There is no complaint made from any portion of the people who consume these articles. There is no demand made by any man that consumes any of the various articles stricken from this list of taxes. The only complaint comes from the persons who manufacture. On account of the tightness of the times or the competition among themselves, they find their business a little hard, and endanger the financial condition of the country by seeking relief from temporary taxation. I do not wish to debate that over again.

Now, the proposition is to relieve another interest. I wish to state a simple fact and present some plain figures. Petroleum now furnishes the cheapest light in the world. I have a table before me showing that crude petroleum was selling in the city of New York on the 1st of December at from sixteen to sixteen and a half cents a gallon, and that the refined article was selling at from twenty-three to twenty-six cents a gallon, so that it is the cheapest article in the world free from the tax. Now, the question is, whether we shall relieve this interest from the small tax——

Mr. VAN WINKLE. What was the price of the refined petroleum?

Mr. SHERMAN. From twenty-three to twenty-six cents free from tax, in bond. Now there is a tax upon it; so that even with the tax, it is the cheapest light in the world. Nothing can come in competition with it. Formerly, the articles that came in competition with it, sold at from a dollar to a dollar and a half a gallon.

However, if the Senate think we are now so rich and prosperous and happy that we can get along without these revenues, they will vote to retain this proviso. The most joyous thing I have heard to-day, and which gave me more satisfaction than anything else, was the promise of my friend from Maryland [Mr. JOHNSON] that hereafter we will all embark in the boat of retrenchment and economy; everybody is going to resist appropriations; all schemes and projects for expending money are to be hereafter defeated; all appropriations are to be cut down; we are all to be economical and spend no more money. That is all very well, if we carry out our resolutions. We shall then be able to get along without these taxes. I have no doubt that we should be able to pay all the expenses of the Government if Congress would deliberately cut away at appropriations and expenditures as cheerfully as they do at taxes. Taxes are unpleasant things, and it is so nice to repeal them. Appropriations are very pleasant, and it is so nice to make them. These two tendencies in the human mind do not go well together. They make what my friend from Vermont seems to be alarmed at—a deficit. There is one healthy result from a deficit should it occur, and that is the one stated by the Senator from New York; and I am partly reconciled with him to face a deficit, in the hope that it may check expenditures, because I believe nothing else will.

Mr. VAN WINKLE. I feel myself called upon to say a few words in addition to what I said the other day on this subject, and perhaps to repeat some of the things I then said. The turn affairs have now taken renders it necessary.

On the former occasion of which I have spoken I called this an invidious tax. I am confirmed in that opinion by what has occurred since. Here is an article which costs to produce eighteen cents, on which there is levied a tax of twenty cents. Let me say to the Senator from Ohio, in reply to the statistics he read as to the prices in New York in December last, that there was a little flurry in the oil market in New York at that time, and the prices were higher then than they had been for a great while before or have been since. The average sales at Philadelphia, which is the great oil market, have been for refined oil thirty-eight cents, duty paid, and the duty is twenty cents per gallon. Here is a tax, then, of considerably upwards of one hundred per cent. laid upon an article for no other reason which has been stated as yet than that it will bear it.

There has been no reply to my charge that it was an invidious tax, and there will be no reply I suppose. I say, again, it is an inequitable tax. No attention whatever is paid to that by gentlemen who oppose this reduction. They do not consider for a moment their moral right—they are clothed with the legal power perhaps, but they do not consider for a moment their moral right to levy any such tax upon an article of this kind. Sir, if you want to have your people contented, if you want to satisfy everybody in the country, arrange your taxes, when you must tax, so as to leave no feeling of injustice on the part of any particular industry. I ask gentlemen to examine this whole list of taxes, those that are about to be removed as well as those that continue on, and to say if there is a tax upon another article besides whisky, which is akin at all to this tax upon petroleum.

This oil, when it is pumped from the earth, can be bought at the wells for about two dollars a barrel, and the tax on a barrel of refined oil is nine dollars. As I stated the other day, it is four hundred and fifty per cent. of the original cost. It goes, it is true, through the process of refining; it is fitted for use, and so has an additional value. And yet, sir, when you have paid for that, when you have brought it into a state ready for use, you are then met with a tax of upward of one hundred per cent. upon it. I have only asked in the amendment that has been adopted in committee to have this tax reduced one half. I think I have been moderate in that. I almost blame myself that I did not insist upon having the whole taken off. But, sir, I was willing to show some sense of justice in relation to it, and having asked for the half, I trust that that at least may be given me as a poor boon.

Mr. SHERMAN. The Senator can change his motion.

Mr. GRIMES. I hope the Senator will change his motion. We have got to keep up all this machinery and all these officers for collecting one half of it.

Mr. VAN WINKLE. Certainly, and that itself is a tax. They are now preparing to levy a tax of twenty-five cents a barrel on this article when it is exported. It seems to find no mercy anywhere; but it did the other day with a majority of the Senate, and I trust they will still be merciful.

Mr. President, I have heard a great deal of talk here that we are going to fall short in the revenue. As I said the other day, I have been hearing that cry for several years past; and yet the Secretary of the Treasury has in a few years managed to get out of these taxes some three hundred million dollars or more, and to pay that much upon the national debt, where, as I have heretofore observed, there was no occasion whatever to pay it. I do not suppose such a thing was ever heard of as that one tenth of the whole debt as it stood at the end of the war should be paid within three years by taxing the people in order to do it. I saw the calculations that have been presented here. I helped in compiling them. I took them into consideration, and when I returned in the morning I said I was satisfied there would be revenue enough. It then appeared that we were some fourteen or fifteen million dollars short. That was my conclusion. It is all a matter of opinion, after all. Gentlemen who are used to dealing in statistics seem to think that statistics are to decide everything.

But, sir, statistics are never anything more than an approximation, and it is a matter upon which gentlemen can exercise their own judgments. I put it as a plain proposition, if during the last four or five years the actual result has been that the taxes always exceeded the estimates and always exceeded the calculations, is it not reasonable to suppose that they will again exceed these estimates? It is more than probable. What has been the situation of the country during the past year? There was at least a great disappointment in the wheat crop, and there were some other things which fell short. Money got to be immensely scarce in the West; and in that way consumption was discouraged, and was not as great as I presume it had been in former years. Have we any reason to expect that same thing now? We have had a short wheat crop, I believe, for two years, and we may well expect that the third one will be better. That is the great moving lever, perhaps, of the whole country; and if it is so we certainly have a right to expect that the same objects taxed during the the year that is past, if they are taxed again, will produce a greater revenue.

Mr. President, I stated that this, like the sugar interest in Louisiana, is an isolated interest. The production of oil covers a small territory. Parts of three States alone produce it in any quantity. It is a business of recent growth. It was only in 1860, I think, that it was discovered that this article could be drawn from the bowels of the earth in quantities sufficient for commercial purposes. Then immediately came the war. The business was discouraged after the first run of speculation subsided, and there was a hard time for three years, as I know. Then the business again improved, and when it had got up to be a very fair paying business, and was subsiding from the speculative character it had maintained at first into a regular business, then came these awfully low prices. The article depreciated, for what reason I cannot say, unless over-production had something to do with it. It has uniformly kept this low price until about the time that the gentleman mentioned in his statistics, in December last, when there was a flurry in the oil market and it went up for a little while.

Gentlemen who are familiar with it can sustain me in my statement. And now, when this business is depressed, when the very figures read by the chairman of the committee show that it did not yield as much during the last fiscal year as it did during the previous year, when there was a falling off, perhaps, of ten

per cent. or more in the receipts from the tax, this business is to be continued to be depressed when others are relieved, and when what is asked for it here is less than has been granted to other businesses, and those which are taxed only lightly, comparatively, while this is taxed very heavily.

I said the other day, and I wish to call the attention of Senators particularly to that fact, that the export of this oil is diminishing. Gentlemen, of course, are in favor of paying the debts of this country abroad, if they can, in the products of this country. That is the great cry. We hear it on all occasions, and very properly, in favor of other articles; but in regard to this article, which has grown up to the bulk, I think, in our exports of $10,000,000 in a few years, when it is taking the place of many other articles that used to be exported or answering the same purpose, when we have relieved other interests from taxes, gentlemen are not willing to relieve this one even from a portion of the tax.

Sir, it sounds strange to me to hear gentlemen who have been advocating protection principles all their lives, who have been advocating the building up of the manufactures of this country all their lives, join in opposition to so valuable a manufacture as this. I have been reminded a great deal of what occurred between Mr. Randolph, when in Congress, and a Louisiana member. The Louisiana member had made a strong anti-tariff speech until he came to sugar, and then he was altogether a tariff man; and Mr. Randolph rose in his place and told him he had made a suicidal argument. It appears to me that if gentlemen who are so earnest for the protection of manufactures of a certain kind are not willing to extend that protection to manufactures of another kind they are in the same category with Mr. Randolph's opponent.

I call upon the Senate, then, as an act of simple justice, to relieve from this at least ungenerous tax the commodity in behalf of which I am now speaking. I call upon them, also, to do so in consideration of the fact that this is a valuable export article. The fact is that now the crude article is gaining rapidly upon the refined or manufactured article; that is to say, the percentage of increase is greater of the crude than of the refined exported, and, indeed, I believe the latter has somewhat fallen off. Although I know that I do not present things here as they should be presented, gentlemen may find, in the mere facts which I have stated and for which I vouch, as far as I can vouch for such things, reasons enough, I think, for allowing this provision to remain in the bill.

Mr. SHERMAN. I have but a word further to say. I do not see how anybody, after voting to remove the small tax on refined sugar, can refuse to vote to repeal the large tax on refined petroleum. The tax on refined sugar was two per cent., about one quarter of a cent a pound. That business is all carried on in the cities of New York, Boston, Philadelphia, and Baltimore. It was an insignificant tax of a quarter of a cent a pound, but it yielded us the handsome sum of $2,000,000. The tax on petroleum, on light, is about sixty per cent., which yields us some four million dollars. On the ground of the necessity of the revenue I have voted for taxing petroleum, and I intend to be consistent and shall continue to do so; but I do not see how Senators who think a tax of a quarter of a cent a pound on refined sugar is so oppressive and burdensome, so terrible a tax, can refuse my friend from West Virginia when he asks us to repeal the tax on light. The whole of that tax is, I believe, paid in the city of Cleveland, the city of Pittsburg, and the city of Wheeling.

Mr. VAN WINKLE. There is so much of the refining done in the gentleman's own State that it pays one third more of this tax than the State of Pennsylvania.

Mr. SHERMAN. It is pretty much all done at Cleveland and Pittsburg, I believe, with very few exceptions.

Mr. FOWLER. And at Nashville.

Mr. SHERMAN. About one half the tax is paid in my own State; but I have steadily voted to retain the tax on petroleum, although my people, according to the argument of my friend from New York, [Mr. CONKLING,] pay one half of the tax on petroleum. I have no doubt that the people who pay the tax at Cleveland get it back again; but they are just as clamorous for the repeal of the tax on petroleum as others are for the repeal of the tax on other articles, and they show buildings lost, they show their property sacrificed, the profits they hoped to get out of the business all gone, the stock which at one time was worth $400 or $500 now worth ten or fifteen dollars, that there is a greater depression in this interest than in any other. I have no doubt that the depression in this interest is caused by the same reason that causes the depression in refining sugar, that is, opposition among themselves and the erection of too many refineries. The character of the tax is precisely the same.

But the House of Representatives retained the tax on petroleum. I think myself we are repealing taxes very liberally. This is one of those taxes that might be retained, but it is not near so strong a case as the tax on refined sugar. That tax falls on a few places; it falls mainly upon the wealthy; it is a very small rate of tax upon an article of necessity like sugar; while this is a very high rate of tax upon an article of prime necessity as a light, the gas consumed by the poor people all over the country. However, I shall still vote to retain this tax, although I must confess that the vote of the Senate rather staggers me and rather induces me to let the whole of this tax on petroleum go.

Mr. FESSENDEN. I am very much in the habit of following the Committee on Finance in these matters when I can understand what they desire me to do. But, really, after the last speech of the honorable chairman of that committee, I do not know how he wants me to vote, although I know how he will vote himself. [Laughter.]

Mr. SHERMAN. I will say to the honorable Senator that the committee—not unanimously; I think there were two exceptions—voted to retain the tax on petroleum, and we are of that opinion yet; but we were of the same opinion in regard to the tax on refined sugar by the same vote.

Mr. FESSENDEN. My remark was that I knew how the Senator was going to vote and how the members of the committee would vote, generally speaking; but I wished to know how he wanted me to vote, because his speech was one way and he announced his vote another; and, as I make a point of following the wishes of the committee, I wanted to know what those wishes are, what they desire me to do, if I can find out. [Laughter.]

Now, sir, things change with changing time, of course, and the view we take of them. I cannot help casting my mind back to a former day, when we were called upon loudly by the newspapers of the country and by public opinion generally to tax. The cry then was, "Tax the the people; the people are ready to be taxed to sustain the war; tax them to raise the credit of the Government, and make us stand well, not only at home, but among the nations of the earth; raise the credit of the people by showing that you are ready, all of you, to sustain your share of the public burdens." It was a new thing for us to levy what is called an internal tax. But we went to work, inexperienced as we were, to see if we could devise a mode by which we could raise something more from the people—and they bore it well—in order to sustain the burdens of the Government. We devised an internal revenue bill; full of defects unquestionably, because it was a new thing. One would have thought at that day, to read some of the leading newspapers of the country, that it was a very simple thing, and did not require more than about twenty-four hours for anybody to sit down, especially if he was the editor of a newspaper, and frame a tax bill that would be exactly the thing; but it took us some months of hard labor to devise a system. We at last did devise one, which, as I said, of course, was full of defects, that laid taxes largely upon a great many articles; and we raised revenue, and from year to year we tried to meet the defects in our bills, and see if we could not make them more operative and stronger than they were, producing the effect that we desired without being attended with much of the injury that was necessarily connected with them.

The honorable Senator from West Virginia says that we were always in advance of the expenditures of the Government. Not exactly; for we had to borrow a vast deal of money, some hundreds of millions every year, in order to carry on the war. Perhaps, however, he meant to apply the remark which he made to the time since the close of the war, and to say that the revenues have been in advance of the expenditures during that time. He nods assent. That, I suppose, is the fair inference from what he said.

Mr. VAN WINKLE. I derived that information from the fact that $300,000,000 have been paid on the public debt, which money, I presume, came from taxation.

Mr. FESSENDEN. Yes, sir; and the Secretary of the Treasury has been attacked here more than once for paying so much of the public debt. He did not make the internal revenue tax.

Mr. VAN WINKLE. If the Senator will allow me to interrupt him again, certainly I made no attack on the Secretary of the Treasury.

Mr. FESSENDEN. I know the Senator did not.

Mr. VAN WINKLE. I was speaking of the immense estimates that had been made.

Mr. FESSENDEN. I know; but the Senator said that was the system. We have been raising more revenue than we wanted, and we have paid so much of the debt, and more than once I have heard the Secretary of the Treasury blamed for it. Why did he pay so much of the public debt? Because we had a surplus revenue. What else should he have done with it but pay so much of the public debt? He did not make the tariff bill; he did not make the internal tax bill. We made them here, and if, when we came to a time of peace, they produced more than was necessary for the yearly expenditures, what was to be done with the surplus? Was anything else to be done with it the first year (and it all came the first year after peace, if I recollect aright) than to apply that surplus to the payment of the public debt as far as it would go? Whose fault was that? Nobody's. We did all we could to get all we could reasonably from the people toward sustaining the Government and paying our bills. It so happened that we got more, very considerably, than was enough to meet the expenditures of the Government when the burdens of the war were taken from us.

Well, sir, the time came—God be praised—that the burdens of the war were removed; and what have we been doing since? Trying to reduce taxation. The moment it appeared that we had a surplus more than was necessary to meet the public expenditures we began to remodel our internal revenue bill in order to see how much we could relieve the people from; and we have been doing it from year to year; and yet we hear these constant complaints, "take off taxes; take off taxes." Sir, how far will you go in taking off taxes? I know that it is a very popular thing, and I know that the people are groaning under their burdens; but, after all, you must ask yourself the question whether you have not got to carry on the Government yet. We have got through the war; but can you dispense with your Government?

To hear gentlemen talk about this matter it would seem as if now that we were through the war, all we had to do was to throw everything off; to consider only how we can do something that may be popular at home; how we can

relieve this interest, that interest, or the other. I go with gentlemen just as far as I can go in that direction; but I call their attention to the fact they are compelled to look in the face, that we must raise a certain amount of revenue from some source. From what source shall it come? I know it is a very nice time just at this particular period to take off taxes. We have a presidential election coming on, and it is important that the best showing should be made that can be made; but I tell you it is a poor showing that results in a deficiency; unless we adopt the argument of my honorable friend from New York, to which the chairman of the Finance Committee gives his assent, that it may be the only way in which we can reduce expenditures by showing a deficiency, and that that will bring men to their senses. Perhaps that might be beneficial; but let us look at the principle.

What was the principle upon which my friend from Vermont [Mr. MORRILL] and I, when we stood at the head of the two committees in the two Houses, went with reference to this matter? It was this, and I believe there is no dispute about it in any country, and never has been; that in laying taxes you must, as a general rule, calculate upon a surplus, and not upon a deficiency, a larger or a smaller one; that the only safe rule is so to lay your taxes, whether internal or external, that you may probably have a small surplus. That is the way men manage their private affairs. They do not calculate upon a deficiency at the end of the year. That does not seem to be good sense or statesmanship under any state of facts. And accordingly, although we proceeded upon the principle in the last Congress of lightening the burdens of taxation, of taking off taxes, yet we also made our calculations upon the basis of reducing taxes to the lowest possible point that we could, leaving still enough to meet the necessary expenses of the Government, and therefore calculating upon a small surplus. We concluded that that was the correct principle.

My honorable friend from West Virginia says it has always so happened that we have had more revenue than we expected. Why? If he looks back he will see that up to the present year, almost to the present time, we have had one continued success in business; business has been going on successfully, energetically, encouragingly all over the country; but how is it now? You may calculate perhaps upon your revenue exceeding your estimates when business is prosperous; but can you make the same calculation when business is depressed, and growing more and more depressed every day? You must then estimate on the belief that your calculations will fail you, both as to external and internal revenues. What produces it? Consumption. What produces consumption? Ability to pay; prosperity. When your prosperity stops, your ability to pay stops with it; your consumption is lessened. It is not, I will say to my honorable friend, safe in any point of view to contrast a prosperous year with a very unprosperous one, and say, because we had a surplus, or more than we expected in a prosperous time, therefore we are to have more than we anticipate in a most unprosperous time and when matters are growing worse and worse every day. That is no safe mode of calculation.

Take the year as it is, and the year as it probably will be, and what are your chances? Any man, on looking at it, would say, instead of calculating that you are to get more in proportion than the same taxes have produced heretofore, you must inevitably get less. From what source do you derive your internal taxes? From prosperity in business. They are all of them founded upon it, more or less, to a greater or less degree. From what do you expect the large sums from your customs? From consumption, and that consumption depending upon the ability to pay; the ability of the people to consume. If times change in those particulars, your calculations must change. You must calculate for a large surplus rather than a small one, and then graduate your taxes so as apparently to produce more in order to be safe.

Mr. VAN WINKLE. Will the Senator permit me to interrupt him for a moment?

Mr. FESSENDEN. Certainly.

Mr. VAN WINKLE. I think he did not pay very close attention to what I said; and, of course, I do not blame him. He has misunderstood me in two instances. In the first place, he understood me to be attacking or blaming the Secretary of the Treasury for paying off a large portion of the public debt. I had no intention of doing so, and did not do so. On the contrary, I was applying the fact precisely as the gentleman has applied it, to show that our estimates of taxes had always been too low; we had not gone as far in reducing taxes as we might have done, and, therefore, a large surplus was left, which the Secretary, very properly, paid on the debt. I endeavored to show—I will not say I showed—that there was reason for believing that the receipts from these very taxes would be increased during the next year. I showed it from the situation of the former year, the deficiency of the wheat crop, and other circumstances of that kind. If I am wrong in that, and the gentleman can convince me of it, I am willing to acknowledge it. But I assure him I was not going it blind.

Mr. FESSENDEN. I have misunderstood my friend. His explanation is satisfactory. I will do my friend the justice to say that he never means to say anything that he does not perfectly believe.

I was commenting upon what I thought a mistaken view of a principle, or of a probable operation of a principle. I was saying that in laying your taxes and calculating them so as to meet your expenditures, you must, to be safe, provide for a surplus and not for a deficiency, apparently; and more especially is that true in unprosperous times; and I was endeavoring to show the correctness of that statement. I will not enlarge upon it.

I come now to the statement of the honorable Senator who is the chairman of the Committee on Finance. What did he show in the closest calculation that he could make on this very bill? A deficiency of about fifteen or sixteen million dollars. He believes that the duties will amount to as much as they did the year before, although the natural effect in my judgment, to a certain extent, of largely increasing protection, as this bill does, as I remarked yesterday, will be to diminish the duties from imports, and that effect is more likely to be produced by the less ability rather of our country to consume.

Mr. CONNESS. That is subject to our revision.

Mr. FESSENDEN. It is subject to our revision unquestionably; but the question is, where you will find wisdom enough to provide for it. You may revise and revise, and if the country cannot consume, has not the ability to consume, you will not get your duties. That will be the result; and that I think was hardly considered. Therefore I say, although the natural effect of the present times, and of the present bill upon the duties levied upon importations would be to reduce them largely, my friend from Ohio is obliged, in order to avert the idea of a greater deficiency still than that he mentioned, to assume that, changed as all things are, we shall get as much in the coming year from that source as before. By this bill we strike off $65,000,000. Is there any hope of making that up? And what do we labor under besides? The idea of prosperity, perfect regularity in business while we are going on, as we are at present, with a currency so uncertain and fluctuating as it already is, is to my mind preposterous. I have thought, and I mean to say by and by, and to give some reasons for this opinion if I get a good opportunity, the first thing for us to do is to pay attention to restoring the currency and not to trifle with it.

Now, sir, what has been the result? We are going on striking off taxes to a very large amount; and I am very glad to strike them off wherever they can be, just leaving enough to pay the expenditures of the Government from year to year; but we diminish in that particular, and we make our calculations in these times, bad as they are, upon a deficiency in the revenue for the next year of fifteen or sixteen millions. In my judgment, $40,000,000, the sum at which my honorable friend from Vermont [Mr. MORRILL] put it, will fall below what the deficiency will be next year, and must necessarily fall below it in the present state of the business of the country. Then we shall get the advantage that my honorable from New York [Mr. CONKLING] suggests. We may bring gentlemen to their senses with regard to appropriations for all sorts of schemes; but what will the effect be upon the country is another aspect? Then we shall have to go into the market to borrow money, and to go there under a very beautiful state of circumstances, too, with a large portion of the members of Congress talking about repudiation, and urging repudiation in point of fact, urging, at any rate, that the currency shall be left in its present unsettled condition, and that nothing shall be done in order to bring us back to a sound system again! Why, sir, I look forward to that state of things for the coming year with absolute alarm. While I am perfectly willing and desirous to go as far as we can safely in taking off internal taxes and relieving business, yet I tell you you will only bring about a greater evil in the succeeding years if you begin to go upon the principle that we are to have a deficiency necessarily, and to provide for it afterward by increasing the public debt, borrowing money, because we shake our credit. That is the result of it.

Sir, I have made these general remarks without reference to the pending proposition particularly to explain why, with my views of what is coming, with my perfect unwillingness to legislate in this style on the presumption that we are to have a deficiency and on the hope that it will not be bigger than is mentioned, when inevitably it must be, in my judgment, if we go on in this way, I shall vote against taking off these taxes to such an extent as is here proposed.

Gentlemen may reply to me, "Then why did you yesterday propose that we should give a drawback upon your navigation?" My answer is, "If you are going to relieve everything we should like to come in for a share." I do not like to be excepted in the matter, and I do not like to have the Senate apply one rule to me that they will not apply to anybody else. I think petroleum can afford to pay the tax that has been put upon it, though it may feel it sensibly; all these articles which go into general consumption can bear the tax; but that is different from prostrating a very great interest of the country by heavy and burdensome taxation.

Now, sir, I cannot vote for the proviso of my friend from West Virginia for the reason that I cannot give a vote to increase the deficiency which is admitted, as I understand, by the committee, any more than I could vote for the previous proposition to take off the tax which is levied upon refined sugars or the other articles mentioned, which we have just struck out. I think they can bear it. Undoubtedly all these things are oppressive; but taxation is oppressive in its nature; it cannot be avoided. The only question is whether, because it is oppressive, we are to yield to these calls that are made upon us to a point beyond where we can stand safely and raise money enough to meet the expenditures of the Government from year to year and from day to day. My impression is that we must pause in this career and think something of the duties that are laid upon us in the other direction. It is a duty to please the people, if we can, and to lighten their burdens, if we can—not only a duty, but a pleasure. But there is another duty incumbent on us, and that is to sustain the Government nevertheless; and we gain nothing by yielding to temporary expedients which look to dangers in the future.

Mr. CORBETT. I cannot support this proposition. I believe that this whole system of taking off by one swoop $65,000,000 of taxes from the industries of the country, as it is said, will only involve us in trouble. The trouble lies here: it is not the two or three or four or five per cent. or forty per cent. tax upon these articles that produces the distress in the country. The whole trouble lies in your currency. What is worth a dollar you count $1 40, and your people are not willing to export from the country at a dollar what costs them and they regard as worth $1 40. They are all holding their products at that estimate, and wishing for a time when they can export what cost them $1 40 as $1 40. They only manufacture now what they want within themselves, what they use in the western States, and what is exchanged to and fro from the East to the West, and from the North to the South. There is the great trouble that lies at the foundation of all this. In my opinion you had better retain your $65,000,000 of taxes upon these industries, and appropriate it, if need be, to the purchase of specie to bring your currency to a specie standard. Then you will relieve the country from forty per cent. premium upon everything that is manufactured. Now you are taking off two or three per cent. where you could take off forty per cent. It seems to me that we are taking entirely the wrong course. We are taking the horse by the tail instead of taking him by the head. You can lead a horse much better by taking him the easiest way.

But if you take off this two or three per cent. upon manufactures now the trouble will be just as great, and in a few months from now you will have the same cry that you have now. You will find that the difficulty lies in the currency. I cannot vote for taking off these taxes. I do not think it will benefit the people at large. It is for the benefit of a few manufacturers. I do not think the laboring classes will get the advantage of it, and I think I shall have to vote against taking off taxes at all.

Mr. BUCKALEW. I do not propose to repeat the argument I made upon this subject when the question arose in Committee of the Whole. It would be an inconvenient practice to travel over the second time the same general grounds of argument. I think we ought to take it for granted that the members of the Senate remember at one stage of a proceeding upon a bill what has been said at a previous one. Otherwise, the double consideration which a bill will undergo, first in Committee of the Whole and then in the Senate, will be a very inconvenient mode of transacting public business; we shall duplicate our debates, and encumber the record which we leave behind us. For this reason I shall not restate the argument I made before, those general considerations which, in my judgment, justify the action taken by the Senate in committee, and would have justified more radical action upon this subject; I mean a total repeal of the existing internal taxation upon the products of petroleum.

This is an important article of export. Besides, we are engaged in a question in which our own manufacturers and the manufacturers of foreign countries are competitors before us; and it is gravely proposed that we shall strike a blow at our own manufacturers; that our policy shall be so shaped that there shall be no exception of petroleum from taxation except in its crude form; that all its manufactured forms shall be assigned to it by foreign capital and by foreign industry. It is also manifest at the first blush that this article in its various forms is a very different one from any of those from which taxation is removed by this bill and upon which the argument in favor of the imposition of a tax is much greater. This is an article of prime necessity and just entering into foreign markets.

But the argument made now, under the pressure of which we are to reverse our action as taken in committee, is that we cannot spare this tax. The Senate should remember what has already been done. We have attached a section to the bill by which there is to be, as I understand it, a very large amount of tax imposed on manufacturers' sales. If, when we reach that new section of the bill, we choose to approve and retain it, we will have increased very largely the amount of revenue above what we would derive if we had taken the bill as it came to us from the House of Representatives. I say, then, that if we agree to this amendment (not for the abolition of this tax, but for its reduction) the bill, when it becomes a law, will be productive of a much greater amount of revenue than it would if it remained in its original form as sent to us from the House.

Observe, in this case it is not a question presented of the abolition of this tax, but of its reduction. Sir, can anything be more evident, more clear, from the facts stated in this debate, than that this is an unreasonable and oppressive tax? You have already refused to retain the tax upon jewels and other articles of luxury, upon refined sugars, upon the imitations of coffee, and upon some other things which the committee reported to us as proper objects for retention under our tax system. You have refused to tax them at all. You have left them in the general schedule or list of articles upon which the whole tax shall be removed. Now, having done that, when you come to an article of common necessity, an article of general use, and an article with reference to which public policy indicates to us tender and gentle and generous treatment, you propose to do nothing; you propose to retain the taxation imposed upon it by a prior law, adopted at a time when the article was much higher in price than it is at present; a tax which bore, when imposed, a very different proportion to the value of the article from that which it bears now.

Mr. President, we have before us, not a bill to impose taxes, not a bill to raise revenue to fill the coffers of the Government and support the public Treasury, but a bill for the reduction of taxes. We have, therefore, a question of discrimination presented by this motion between different interests; and I submit that in the course of this debate there has been no argument submitted to the Senate in favor of any other interest in any portion of the country as strong as that which applies to this. What is the difficulty about this particular item or proposition? The explanation of the fact that we have debate upon it, that it is with difficulty that the Senate arrived at a vote in its favor, was suggested by the Senator from West Virginia. Petroleum production is an interest which is confined to two or three States. It is an interest which is located in the great mountains which traverse the interior of our country. It is confined to the territory of Pennsylvania and of West Virginia, and to some extent of Ohio also; and because it is not more generally distributed it does not seem to appeal so strongly as some other interests to gentlemen who have votes to give.

Now, I submit to them, as a question of justice, as a question of fairness in our legislation, that they ought to regard other interests besides those which lie at their homes and which they have peculiarly in charge; that they should make this measure of repeal, the repeal of oppressive taxation upon the manufacturing interests of the country, operate fairly and appear fairly to the people when it is sent out to them. When the interests that are concerned in the manufacture of pretroleum, located in a particular section of the country, ask us simply for a reduction of the present burden, and are willing to retain one half of it, (although that is a severe imposition upon them, a hard and harsh imposition,) it seems to me that that appeal ought to be listened to, and particularly that it ought to be listened to by gentlemen who have voted in favor of not taxing jewels and sundry other objects, in favor of which no particular appeal can be made to our justice or our generosity.

Mr. WILLEY. I desire, before the vote is taken, to make an inquiry of the chairman of the Committee on Finance. Suppose this amendment prevails, and the reduction be made as proposed by the amendment; will not the tax on this article still remain higher than the tax on any other article except whisky?

Mr. SHERMAN. I will answer the Senator, that, with the exception of whisky and tobacco, I think the tax on petroleum is altogether the highest.

Mr. WILLEY. There is nothing that enters into what may be called the necessaries of life as this does—light for the poor—that compares with it in any degree in the amount of tax upon the article, as I understand. Therefore I submit that it will be excessively unfair to impose such heavy taxation on one of the neces saries of life, and make an invidious distinction against this single article, at the same time that you exempt other articles not so necessary for the comfort and convenience of the people at large.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made in Committee of the Whole, adding a proviso to the first section.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Conkling, Cragin, Davis, Fowler, Frelinghuysen, Grimes, Hendricks, Howe, Johnson, McCreery, Morrill of Maine, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Sumner, Trumbull, Van Winkle, Vickers, Willey, Wilson, and Yates—27.

NAYS—Messrs. Anthony, Chandler, Cole, Conness, Corbett, Dixon, Drake, Ferry, Fessenden, Howard, Morgan, Morrill of Vermont, Pomeroy, Ramsey, Sherman, Tipton, Wade, and Williams—18.

ABSENT—Messrs. Bayard, Doolittle, Edmunds, Harlan, Henderson, Morton, Sprague, Stewart, and Thayer—9.

So the amendment was concurred in.

Mr. EDMUNDS. I now desire to offer an amendment as a substitute for the first section.

Mr. SHERMAN. The amendments of the committee are not yet disposed of.

Mr. EDMUNDS. Very well; I will wait until they are disposed of.

The PRESIDENT *pro tempore*. The next amendment made in committee will be read.

The Secretary read the next amendment made as in Committee of the Whole, which was to insert at the end of the second section the following words:

And nothing herein contained shall be construed as a repeal of any tax upon machinery or other articles which have been or may be delivered on contracts made with the United States prior to the passage of this act.

The amendment was concurred in.

The next amendment made in Committee of the Whole was to insert as a new section:

And be it further enacted, That after the 1st day of April next no allowance for drawback shall be made on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; and no claim for drawback on any article exported prior to June 30, 1866, shall be allowed unless presented to the Commissioner of Internal Revenue within three months after this act takes effect.

Mr. MORGAN. I propose to amend that section in the second line by inserting after the word "drawback" the words "on account of internal taxes;" so that it will read:

That after the 1st day of April next no allowance for drawback on account of internal taxes shall be made, &c.

This is a verbal correction, and I believe there is no objection to it. It will make the section clearer.

Mr. SHERMAN. I suggest to the Senator to insert the words "on account of internal tax paid." It does not change the meaning; but the word "drawback," it was feared, might extend to drawbacks on customs duties.

Mr. MORGAN. I have no objection to that. The object is simply to make the section clearer. It is not intended to affect the customs.

The PRESIDENT *pro tempore*. The amendment to the amendment will be so modified.

Mr. JOHNSON. I should like to have the amendment reported again.

The Secretary read the amendment to the amendment as modified.

Mr. FRELINGHUYSEN. It seems to me the amendment was a great deal better as originally presented by the Senator from New York, without the word "paid." If there was a drawback there must have been something paid, and putting in the word "paid" would look as if it referred to past transactions. It is better without the word "paid."

Mr. SHERMAN. I think it necessary to keep the word "drawback" there. I have a letter from the Commissioner of Internal Revenue on the subject. I will state what the purpose is. As by this bill we repeal the taxes on manufactured articles, the purpose is that manufacturers shall not export articles that were manufactured before the 1st of April, and then make new articles for the domestic market and send abroad the articles that have paid the tax.

Mr. FRELINGHUYSEN. I agree with the Senator from Ohio that it is necessary to retain the word "drawback;" but it is the word "paid" to which I objected. The amendment is much better without than with that word, I think.

Mr. SHERMAN. On the contrary, as there is so much drawback, say five dollars on a sewing-machine, up to the 1st of April, they may claim when they export a sewing-machine that it is intended that they shall have the benefit of the drawback of five dollars. Now, unless they have paid the internal tax of five dollars, they are not entitled to the drawback. I think it important to have it specific.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, as modified, to the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

The next amendment made as in Committee of the Whole was to insert the following as an additional section:

And be it further enacted, That every person, firm, or corporation, who shall manufacture by hand or machinery any goods, wares, or merchandise not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages with his own name or trade-mark thereon any articles or compounds not otherwise specifically taxed, and whose annual sales exceed $10,000, shall pay for every additional $1,000 in excess of $10,000, two dollars; and the amount of sales within the year beyond $10,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of $10,000 shall be assessed by the assessor and paid monthly as other monthly taxes are assessed and paid.

The amendment was concurred in.

Mr. EDMUNDS. I move to amend the bill by striking out all of the first section after the enacting clause, and inserting the following in lieu thereof:

That the rates of taxation provided in section ninety-four of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, or in the act amendatory of said section, shall hereafter be one half of the rates now provided, except on wines in said section described, and on snuff and all other manufactures of tobacco, including cigarettes, cigars, and cheroots.

Mr. GRIMES. As this amendment opens up the whole subject in a new phase, and I do not think the Senate is prepared to decide upon it, I move that the Senate do now adjourn.

Mr. SHERMAN. On that motion I shall call for the yeas and nays. I trust by this vote to ascertain whether the Senate will stand by me and see whether or not the bill shall be passed to-night. I wish to say to the Senate that we know our public engagements are such that unless we pass this bill through the Senate to-night, it cannot go through the forms of legislation this week, so as to take effect on the 1st of April. I am willing to abide by the sense of the Senate, but I hope we shall sit it out.

Mr. CONNESS. I also hope that we shall sit it out.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was not agreed to.

Mr. EDMUNDS. Mr. President, this matter has now assumed a shape where I think it necessary that Senators should look the bill fairly in the face and see precisely what we are coming to, if we pass the bill in the shape in which it is now left. The amendments that the Committee on Finance have reported in order to bring our receipts anywhere into the neighborhood of our expenditures for the coming year have been rejected; and the bill now stands upon the simple proposition of the House of Representatives to so adjust the taxation of this country for the year to come as knowingly to leave us at the end of the year with a deficit of $20,000,000 or upward.

Mr. SHERMAN. The tax on manufacturers' sales is added.

Mr. EDMUNDS. Very well. May I ask the chairman of the committee how he thinks the matter will stand at the end of the year as the bill is now?

Mr. SHERMAN. According to the estimates I submitted there would probably be a deficit of $16,000,000; but the tax on manufacturers' sales is estimated to yield $10,000,000 or $11,000,000.

Mr. EDMUNDS. But was not your estimate of the deficit based upon the fact that your amendments retained the tax on turpentine, &c.?

Mr. SHERMAN. No, sir; $16,000,000 was the sum estimated under the bill as it came from the House. We deducted $3,000,000 for the additions the committee made, leaving $13,000,000; and I think the tax on manufacturers' sales will nearly cover it. However, the Senate have reduced the taxes $2,500,000 more than the House did.

Mr. EDMUNDS. Then, Mr. President, the result is, aside from this estimate upon the probable sales, that we are more than twenty millions behind. As has been well said by the Senator from Maine, (and it is only necessary to state it to intelligent men to have it understood,) the amount of revenue that we are to realize from the tax on sales is to depend upon production after all, upon the prosperity of the country, upon the degree of stimulation that is infused into manufactures and into those things that are produced for sale. Is it not entirely problematical how much that will be? Are we not now, as is said by everybody, in a condition of considerable distress and stagnation; and can we therefore fairly estimate any considerable sum as a safe basis of calculation for the revenue that we are to derive in the year to come?

The result is, that with this estimate upon manufacturers' sales reduced to what may be reasonably certain we are still left with a large deficit. If it be taken as estimated by the chairman of the committee we are left with a considerable deficit, somewhere from five to fifteen millions at best. Now, I want to ask Senators if they are prepared to face their intelligent constituents, men who intend to stand by the country, and who are willing to bear the necessary burdens of Government, upon a proposition of that kind? Shall we not be at the end of the year, in such a case as this, worse off than we are now—with a deficit in the Treasury, with the credit of the Government thereby diminished, as all history and all experience prove it must be? Shall we not be in a condition where the relative value of our demand notes and gold will be wider apart than it is now? Can any man calculate or look forward without alarm to the consequences that are, if we believe anything in human experience or human reason, almost certain to follow from knowingly and voluntarily adopting a course of legislation which shall leave us at the end of the period for which we are pretending to provide behind, running in debt again without making any provision to meet that debt?

What are we to do with the deficit, I should be glad to ask Senators, when the end of the year comes round? Are we suddenly again to increase taxation so as not only to meet the current expenses of that year, but to make up for the deficiency in this? How will the people bear that? That is concentrating taxation instead of distributing it, as it ought to be distributed, according to my judgment.

Sir, I believe it is one of the most fatal steps that any statesman or any man or any party can enter upon in a country like ours to coolly and deliberately sit down to provide a system of laws which, at the end of the year you are providing for, shall leave you more deeply in debt than you were when you began; and that, too, in a state of peace, when war has passed by for more than two years. Can it be possible that all the virtue of the country, of which so much has been said during this war, ended with the war, and that people who were willing to talk very loud in favor of taxation at that time in order to sustain the credit of the Government and carry it on are no longer willing to bear that necessary taxation which shall make the ends meet?

I agree that taxes ought to be reduced as low as they possibly can be; but as one citizen of this country I oppose as far as I humbly can taking any off which shall reduce taxation below the necessary annual expenditure of the Government. Such a course once entered upon is very difficult to recover from. You will hear cries a year hence louder than you hear them now that taxation must not be increased; and the first step taken in the direction of deficiency, and therefore ultimately of repudiation—I do not say it in any offensive sense; I will say ultimate total inability to meet your expenses—is the worst and most fatal step of all, because the process of retracing such a step as that is much more difficult than it is to avoid taking it in the first place.

Where is the necessity for this action? Will not the people be satisfied? Will not industry revive, as we are told it is now reviving to some degree, and I believe it is, if upon all these articles of manufacture that are mentioned in the bill to which this section refers we immediately strike off one half of the taxation? That is exactly the proposition that the Senator from West Virginia endeavored to demonstrate would be reasonable and satisfactory for his constituents; all that he thought it fair and right to ask; and he obtained it; and it was right that he should. Now, if you apply the same rule to other articles which are no more necessary, many of them much less necessary, than the article that is manufactured from crude petroleum, the oils that the poor use, you will then come out even; you will have no great excess; you will have no deficiency; and the people will be satisfied.

But how are we to meet objections that will be made to our conduct when we relieve from taxation entirely numerous articles of luxury; relieve all musical instruments and pianos; relieve all manufactures of gold plate and silver plate; relieve diamonds and jewelry and everything of that kind? I am surprised that the House of Representatives have not put in gold watches and every other article of luxury that can be imagined—billiard tables, for example—as not the subject of taxation. They might do so just as well as to exempt diamonds or silver plate, and those articles of luxury that everybody knows in this country are not found in one house in two hundred. How are we to meet our constituents or to meet any just and reasonable opposition to our legislation if we say, "Instead of reducing taxation upon all articles equally we have totally exempted many articles of luxury, and yet still upon the light that the poor man burns in his home all over the country, the product of petroleum, we insist upon having two and a half per cent.?" It is unjust; it is wrong.

Mr. President, I insist upon it that the only way to equalize this burden upon the people is not to take the tax off entirely from a great variety of articles and leave it upon others that are just as necessary; but it is to take it for granted that the existing law has equalized taxation as much as possible, and then reduce the whole *pro rata* to a point where we can reach an even relation——

Mr. SHERMAN. My friend made a mistake. He said we had reduced the tax on petroleum to two and a half per cent. It is thirty-three per cent. still.

Mr. EDMUNDS. I am speaking of reducing it just one half of what it was. That is what I meant.

Mr. SHERMAN. But you spoke of reducing it to two and a half per cent. I thought you had fallen into the impression that it was only five per cent.

Mr. EDMUNDS. Oh, no. I meant to have said reducing it one half from what it was before. That is precisely what my amendment proposes to do as to all other articles, many of which are just as necessary to life as petroleum, and many of which are no more necessary; that is to say, the great mass of the articles that are manufactured and consumed in the country and that enter to a considerable degree into the reasonable necessities of every man. They are used everywhere. The salt of the salt works of New York is used in every family. The tax upon that is distributed among all classes of the community. This bill proposes to take it off entirely. That is as well able to bear this tax as many other articles that the people consume. A man can almost as well in these days of intelligence go without his light in his parlor or sitting-room or kitchen at night as he can without the salt that seasons his food—perhaps not quite so well, but almost.

Mr. GRIMES. And, besides, we have protected that to the amount of one hundred and sixty per cent.

Mr. EDMUNDS. Especially, as my friend from Iowa suggests, when salt is so largely protected as it is already. But both of them I am willing to treat as necessities, necessary to the use of the great body of the community; and the tax, therefore, upon that description of article is distributed upon the great body of the community, and hence it is much more lightly felt than the taxes imposed otherwise. So it is with boots and shoes. Everybody wears boots and shoes; and yet you take off the tax entirely. And yet still, to use again this illustration as to petroleum, which is just as great a necessity, you insist upon keeping a very heavy tax upon that.

Now, what is right? Do we desire to produce a deficiency? My friend from New York hardly maintains that. He looked upon it as one of the mitigating circumstances of the evil of a deficiency that it might bring men to their senses, when, if brought to their senses, they would find themselves at the bottom of the pit.

Mr. President, I shall say no more, because I do not wish to occupy the time of the Senate in more than stating these propositions. It appears to me that the only true process that we can adopt is to keep our expenditures and our receipts in a relation to each other where they will touch; and in order to do that we must impose taxation as equally as possible; because so far taxation is necessary, and so far the safety and honor and credit and prosperity of the country require it. The country, in my judgment, will be much more deeply injured by reducing taxation to that point where we find ourselves growing poorer and poorer as a nation and Government, find ourselves owing more at the end of the year than we did at the beginning, than it will be by imposing a wholesome burden upon the people every year, requiring them to contribute to keep themselves and their country out of debt, and so out of any further dishonor.

And again, Mr. President, speaking of the details which this amendment will cover, my friend from Missouri [Mr. HENDERSON] reminds me that we have taken the tax off all sorts of carriages—common carriages were not the subject of taxation before—farm wagons, and I believe some other species of vehicles; but the tax on carriages is now entirely removed by this bill as it stands; and the man who rides on Pennsylvania avenue in his coach-and-four, or his coach-and-two, or whatever it may be, pays nothing upon that, although we all know that the tax upon good carriages comes out of the consumer; at least on the last one I bought I am quite sure it did, and I think other gentlemen will find it to be so; and yet nothing is to be paid for them.

So, Mr. President, I am again reminded by my friend who is familiar with all these details, for I only proceed upon general principles, photographs are now entirely exempted, which are an article of luxury certainly—a pleasant thing to have, but a thing that a poor man can do without, and to a large degree does do without. They are made entirely free, while his light is taxed, and while the country is to be poorer at the end of the year than it is now, so far as the state of its public debt is concerned.

Mr. President, is this a safe course of legislation to enter upon? Is our virtue to be so sorely tried at the end of the year as this species of legislation certainly seems intended to try it? Shall we expose ourselves a year hence to the temptation of going still further in the same direction when we find ourselves with a deficit of what I predict will be at least $25,000,000, with the legal tenders at a much lower depreciation than they are now, which will be a necessary consequence of that, and everybody clamorous for some other method than taxation and a return to the true valuation of things as the means of redress and remedy? No, Mr. President; it may be useful to those who wish to appeal to what are called the Democratic instincts of the country to reduce taxation to nothing, regardless of what your necessities are; it may be expedient, possibly, for those who believe that the only way to meet Democratic doctrine is by adopting it, to enter upon such a course of legislation as this. But it is one which, in my judgment, is so injurious to the interest and prosperity of the country that I cannot, for one, let it pass without saying so, and without proposing what appears to me will be a just mean between the evil to which we are likely to come and the present high rate of taxation that seems to be unnecessary.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. CONNESS. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 32; as follows:

YEAS—Messrs. Anthony, Edmunds, Fessenden, Fowler, Grimes, Norton, Pomeroy, Trumbull, Williams, and Yates—10.

NAYS—Messrs. Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Davis, Dixon, Drake, Ferry, Frelinghuysen, Henderson, Hendricks, Howard, Howe, Johnson, McCreery, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Ramsey, Ross, Sherman, Sumner, Tipton, Van Winkle, Vickers, Wade, Willey, and Wilson—32.

ABSENT—Messrs. Bayard, Corbett, Cragin, Doolittle, Harlan, Morrill of Vermont, Morton, Patterson of Tennessee, Saulsbury, Sprague, Stewart, and Thayer—12.

So the amendment was rejected.

Mr. TRUMBULL. As there seems to be an apprehension that there may be a deficiency in the Treasury next year from this reduction of taxes, I propose an amendment which I think will bring an additional revenue into the Treasury, and I shall hope, at least, to have the support of my friend from Ohio. I offer this amendment as an additional section:

And be it further enacted, That on and after the 1st day of April, 1868, in lieu of the duty now imposed, there shall be levied, collected, and paid, in the manner now provided by law, a duty of one dollar per gallon for first proof upon spirits, other than brandy, manufactured or distilled from grain or other materials.

I do not propose to take up any time in discussing this matter. The amendment is understood by every member of the Senate on its reading. We all know that very great frauds have been practiced upon the country by the manufacturers and dealers in whisky, and that the revenue derived from that article has not been what was anticipated. We know that whisky has been sold all through the country during the last year at less than the amount of the tax. The tax is so large, the inducement to avoid it is so great, that men will run the hazard of manufacturing it, and bringing it upon the market without paying the tax to such an extent that they have succeeded in selling it for less than the amount of the tax. A reduction of this tax has been recommended by various officers, and in my judgment the revenue will be increased by its reduction. I think it will be better for all interests that we should reduce the tax. I would be willing to put it down to fifty cents, but at all events we should reduce it to one dollar a gallon. I think that reduction would increase the revenue, would diminish fraud, and would not increase intemperance. My friend from California [Mr. CONNESS] suggests, in a side remark, that it belongs to the next bill. This is the very bill on which we are reducing taxes upon other articles, and why not upon this? It seems to me this is the very bill upon which to put it.

Mr. SHERMAN. I do not want to detain the Senate by any discussion of the whisky tax except to say that this subject is being carefully considered by the committees of the two Houses. The rate fixed by the Senator from Illinois is the rate that I advocated and voted for when the tax was raised, but it is now two dollars a gallon. It is a very doubtful proposition whether we can reduce it. It is stated in the newspapers, and I presume correctly, that the Committee of Ways and Means of the other House have determined to maintain it at two dollars, and are providing very stringent machinery to collect the tax. But at any rate it is not the rate of tax that fixes the amount collected; it is the machinery of collection. Heretofore the frauds have been practiced on the revenue by getting hold of the whisky in its process from the still to the market, and getting it in the nature of free whisky without paying tax.

The committees are now engaged in all sorts of investigations with a view to collect that, if possible. It may be a very difficult task. The English people had the same trouble for a length of time, and finally they put on such heavy fees in the nature of license taxes as to confine the distillation of spirits to very few distilleries. If my memory is correct there are only fourteen distilleries in England and some fifty or sixty in Ireland; at any rate, there are comparatively few. My own belief is that the best way is to put a very severe license tax or special tax on the business, so as to confine the distilleries to a few places and large establishments where they can be properly managed. Perhaps no way could be devised so efficient as for the Government itself to undertake, through proper agents, to manufacture the proper amount of whisky.

But all that leads me aside from the question now. It is manifest that any provision upon this subject must embrace a multitude of details in order to collect the tax, which we have not now the time to discuss. The Senator may be assured of one thing, that before this session closes we shall have a bill before the Senate on this subject, and I think this matter ought to be left until then, without our committing ourselves in any way upon it now. The question ought to be left open, so that the mind of each Senator may be unembarrassed by any committal now, to decide the question of the rate of taxation when we furnish the machinery necessary to collect the tax.

Mr. DAVIS. I move to amend the amendment by striking out all after the enacting clause of the section proposed by the Senator from Illinois, and inserting:

That from and after the 30th day of June next there shall be paid by the distiller on whisky of any proof fifty cents for each and every gallon thereafter distilled, and no more.

Mr. President, it was well suggested by the honorable chairman of the Committee on Finance that the system of collection ought to be simplified to prevent fraud. My proposition requires that the duty on whisky shall be paid at the distillery and by the distiller. That obviates the necessity of any other officers than an assessor and a collector. It provides that the amount shall be collected on whisky

without regard to its proof. In that respect the process is simplified. Then the rate of tax proposed by me is so low that it will not encourage frauds and perjuries for the purpose of evading the payment of tax. If the tax is established at one dollar it will be still high enough to stimulate frauds and evasions that must result in a very large quantity of whisky being manufactured that will evade the payment of all tax.

If the tax should be reduced to fifty cents, and should be required to be paid by the distiller, I have no question in my own mind that the product of the whisky tax would be double what it is under the present system.

The thought suggested by the honorable Senator from Ohio is one to which the most of the country that produces whisky would be hostile. I am aware that it has been the object of the gentlemen who framed these revenue bills heretofore, and from the time the system originated, to monopolize the whole distillation of whisky at a few points and to confine it to a few manufacturers. It is in these large manufacturing establishments of whisky that the frauds are perpetrated. The makers of large quantities have the means to purchase and corrupt the officers; they do buy them up and induce them to betray the interests of the Government for the purpose of making profit for the distillers. It is when the establishments are small in the quantity they produce and great in number, spread over the whole country, and where but a small quantity of whisky is manufactured, that they are most free from frauds, because the quantities that are manufactured are not sufficiently remunerative in their aggregate product to enable the manufacturers to purchase up the officers.

In my own district the amount of whisky tax paid in December last was about one hundred and forty-seven thousand dollars. It is a large producing section of country of whisky, not of your red head, but the genuine article, the old Bourbon, the copper distilled whisky that passes through two copper worms and through two copper stills, and which is made by appropriating one bushel of corn meal to half a bushel of rye meal for the purpose of making the genuine article, that I suppose was the nectar of the ancient gods. My State passed a law making it a penitentiary offense to corrupt whisky, to counterfeit it; and although the law was very rigorous it has failed of its effect. It operates in Kentucky; they do not counterfeit the whisky in Bourbon county nor in any part of Kentucky; but the way the rectifiers adulterate the article in the city of Cincinnati is terrible!

I tell the honorable Senator that this is a fair article to be taxed—none fairer. The people will drink it, and all the temperance societies that were ever organized in the world will not prevent it, nor will the Maine law. Everything of that sort has failed and will fail. John Barleycorn will rise and surely come again. There is no preventing it. If men will drink whisky and whisky must be made to be drunk it ought to be the best article, and the best article is not made in those large establishments that turn out from fifty to a hundred and two hundred barrels a day, but in your small establishments that make from one to three hundred barrels in the course of a whisky season, one or two barrels a day of corn and rye.

A SENATOR. With a mash-tub?

Mr. DAVIS. With a mash-tub, too. I know all about the process. I speak of establishments that run through two copper stills and two copper worms, and that take it from the worm when it is about forty per cent. above proof, and with pure water then reduce it to proof, and then put it away for two years, and at the end of two years there is no drink on the face of the earth that compares with it. Your cogniac brandy, your wine, and everything else utterly fails in the comparison. [Laughter.]

If gentlemen want to get the largest amount of revenue from this most legitimate article to be taxed for the purpose of raising revenue to enrich the Treasury, to prevent the deficit of which the honorable Senators from Vermont are so much afraid, to raise money enough to meet all the proper and just and liberal wants of the Government, they ought to put down this monopoly of whisky by a few great establishments; they ought to encourage its distillation widely over the country in copper stills and copper worms, where an article will be produced that is not a poison, one that will not only warm, but soften while it warms, and that will inspire genial sentiments and noble thoughts, and produce patriotic effusions, too, in the form of stump speeches, &c. [Laughter.] The honorable Senator from Ohio ought to adopt a policy that would put down large monopolizing establishments and throw the manufacture of the article into these small copper distilleries, and collect the moderate tax of fifty cents upon a gallon, making the distiller pay it, without any expensive machinery, and without any agents to be bought up and corrupted for the purpose of defeating the collection of the just revenue of the country; and in that way he would have infinitely a better article, and in addition to that he would double the produce to the Treasury. I think the proposition ought to prevail.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky to the amendment of the Senator from Illinois.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Illinois.

The amendment was rejected.

Mr. HENDRICKS. I propose to amend the bill by inserting after "cheroots," in line seventeen of the first section, these words: "And on diamonds, emeralds, precious stones and imitations thereof, and on all jewelry."

Mr. EDMUNDS. That amendment is not in order.

Mr. HENDRICKS. Why not?

Mr. EDMUNDS. Because those words have already been stricken out.

Mr. HENDRICKS. My purpose is to insert the latter part of the amendment proposed by the Committee on Finance. I think that the articles mentioned in my amendment ought to be subject to taxation. I was reluctant to vote against the committee's amendment because some portions of it, I thought, should prevail.

The PRESIDENT *pro tempore*. The Chair thinks the amendment is in order. It is not the same proposition that was stricken out.

Mr. HENDRICKS. No; it is not the same proposition. The effect of this amendment will be to leave subject to the present rate of taxation diamonds, emeralds, precious stones, and imitations thereof, and jewelry.

Mr. FRELINGHUYSEN. I hope that amendment will not prevail. Diamonds and precious stones which are imported into this country pay a duty once; and there is no reason why, when they get into the hands of the manufacturers, they should be taxed a second time. As to the tax on jewelry which is mentioned there, that is a tax upon the industry of the country, a very large portion of the industry of the country that is employed in that branch, and a large portion of this tax falls upon them. I hope that the Senate will adhere to the principle which they have adopted, which is for once to leave the mechanical industry of this country free. There are abundance of sources from which we can collect all the revenue that we need; and that is the opinion of the committee of the House who have examined this whole subject; and I trust that the Senate will adhere to the vote they have already taken on this question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana.

The amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

Mr. ANTHONY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 35, nays 3; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Davis, Drake, Ferry, Frelinghuysen, Henderson, Hendricks, Howard, Howe, Morgan, Morrill of Maine, Morrill, of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Sumner, Tipton, Trumbull, Van Winkle, Vickers, Wade, Willey, Williams, Wilson, and Yates—35.

NAYS—Messrs. Corbett, Fessenden, and Fowler—3.

ABSENT—Messrs. Bayard, Dixon, Doolittle, Edmunds, Grimes, Harlan, Johnson, McCreery, Morton, Norton, Patterson of Tennessee, Ramsey, Saulsbury, Sprague, Stewart, and Thayer—16.

So the bill was passed.

On motion of Mr. SHERMAN, its title was amended by adding the words "and for other purposes."

Mr. SHERMAN. I desire to announce that the Senator from Iowa [Mr. GRIMES] and the Senator from Minnesota [Mr. RAMSEY] were paired on the bill. I was requested to state that Mr. GRIMES, if present, would have voted against the bill, and Mr. RAMSEY for it.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 598) to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes; and

A bill (H. R. No. 861) relating to the Supreme Court of the United States.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1869, and for other purposes; and it was thereupon signed by the President *pro tempore*.

PUBLIC EXPENDITURES.

The PRESIDENT *pro tempore* laid before Treasury, in compliance with a resolution of the Senate a letter from the Secretary of the this morning, returning the resolution of the Senate of yesterday inquiring with regard to the monthly expenditures of the War, Navy, Interior, and Treasury Departments; which was ordered to lie on the table.

HOUSE BILLS REFERRED.

The bill (H. R. No. 598) to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 861) relating to the Supreme Court of the United States was read twice by its title, and referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

Mr. CONKLING. I move that the Senate do now adjourn.

Mr. MORRILL, of Maine. Allow me to make a motion to call up a bill to make it the order of the day for to-morrow, an appropriation bill?

Mr. HOWARD. I have a bill already up.

Mr. CONKLING. I yield to the Senator from Maine.

Mr. MORRILL, of Maine. I move tha tthe Senate proceed to the consideration of the bill making appropriations for the Post Office Department, with a view to having it the order for to-morrow.

Mr. HOWARD. I hope that will not be done. I believe that the unfinished business for to-morrow is the Central Branch Pacific railroad bill.

Mr. MORRILL, of Maine. No; that has passed out of its place.

The PRESIDENT *pro tempore*. There is no unfinished business.

Mr. MORRILL, of Maine. That was displaced by the bill just passed.

Mr. CONKLING. I believe I had the floor. I yielded to the Senator from Maine to hear his suggestion, and if a vote can be taken on his proposition I will give way; otherwise I insist on my motion.

Mr. MORRILL, of Maine. I ask for a vote on my motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine to take up the bill mentioned by him.

The motion was agreed to.

Mr. CONKLING. I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 19, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

REGULATION OF LABOR IN NAVY-YARDS.

Mr. BANKS, by unanimous consent, introduced a bill (H. R. No. 936) for the regulation of labor in the navy-yards of the United States and compensation thereof; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NEW ORLEANS AND MOBILE RAILROAD.

Mr. DAWES, by unanimous consent, introduced a bill (H. R. No. 937) to authorize the construction of a railroad and telegraph line from New Orleans, in the State of Louisiana, to Mobile, in the State of Alabama, and to secure to the Government the use of the same as a military and post road, and for other purposes; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. ALLISON moved that the votes by which the preceding bills were referred be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CORRECTION OF JOURNAL.

Mr. BURR. I notice the Journal states I asked and obtained leave of absence. That is a mistake, and I ask that it be corrected.

The correction was made accordingly.

FORT LEAVENWORTH RESERVATION.

Mr. CLARKE, of Kansas, by unanimous consent, introduced a bill (H. R. No. 938) to authorize the sale of twenty acres of the land of the military reservation at Fort Leavenworth, Kansas; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POLICY OF CONGRESS.

Mr. PAINE, by unanimous consent, presented the following joint resolution of the Legislature of Wisconsin; which was ordered to be printed in the Globe, referred to the Committee on the Judiciary, and also ordered to be printed in the usual form:

JOINT RESOLUTION No. 16.

Instructing our Senators and requesting our Representatives to adhere to the policy of the loyal people of the Republic as adopted by Congress.

Whereas the events which have very recently taken place and are now transpiring at the Federal capital are such as distinguish times of great national peril; and whereas it is the right and duty of the people of the State, when occurrences like the present are pressing upon them, to give utterance to their will and to strengthen and support those upon whom the responsibilities of the occasion directly rest:

Be it resolved by the Assembly, the Senate concurring, That our Senators in Congress are instructed, and the members of the House of Representatives from this State are requested, to adhere with unflinching firmness to the policy of the loyal people of the Republic adopted by Congress; that they resist by all constitutional, just, and efficient means, any and all attempted usurpation of power by any officer of the Government; and that in this they discharge their whole duty as guardians of the rights and liberties of the people of the country.

Resolved, That we declare our confidence in the patriotism and statesmanship of Hon. Edwin M. Stanton, Secretary of War; that we admire the courage and constancy with which he successfully resists the unwarranted attempts at executive encroachments; that we approve of the action the United States Senate in restoring him to the office from which he was unjustly suspended; that it is the desire of the citizens of the State of Wisconsin that he shall remain in the War Office so long as the country is in danger from the conspiracies of its enemies, whatever be their character or position, and that we honor General Grant for that obedience to law which prompted him at once to surrender the office of Secretary of War to him upon whom it was conferred by our martyred President.

Resolved, That the Governor of the State is hereby requested to transmit an attested copy of the foregoing to each of our Senators and Representatives in Congress, to the Presiding Officer of each House of Congress, and to Hon. Edwin M. Stanton.

A. M. THOMSON,
Speaker of the Assembly.
N. M. LITTLEJOHN,
President of the Senate pro tempore.

Approved March 6, 1868.
LUCIUS FAIRCHILD, *Governor.*

STATE OF WISCONSIN, } ss.
OFFICE OF SECRETARY OF STATE, }

I, Thomas S. Allen, Secretary of State of the State of Wisconsin, do hereby certify, that the foregoing resolution has been carefully compared with the original resolution on file in this office, and that the same is a true and correct copy thereof.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Wis-
[L. S.] consin, at the Capitol, in Madison, this 7th day of March, A. D. 1868.

THOS. S. ALLEN,
Secretary of State.

STATE OF WISCONSIN, EXECUTIVE DEPARTMENT,
MADISON, *March* 14, 1868.

SIR: I have the honor to transmit herewith an attested copy of joint resolution passed by the Legislature of this State at its last session, "instructing our Senators and requesting our Representatives to adhere to the policy of the loyal people of the Republic, as adopted by Congress."

I am, sir, very respectfully, your obedient servant,
LUCIUS FAIRCHILD,
Governor of Wisconsin.

Hon. HALBERT E. PAINE, *Member of Congress, Washington, D. C.*

ANNUAL POST ROUTE BILL.

Mr. FARNSWORTH. I ask unanimous consent to report back from the Committee on the Post Office and Post Roads the Senate amendments to House bill No. 328, to establish certain post roads, with the recommendation that they be concurred in with certain amendments, embracing only post routes asked for by members of the House. There is nothing of general legislation in the bill; nothing but the usual provision for post routes.

There was no objection, and the amendments to the amendments were adopted, and the Senate amendments, as amended, were then concurred in.

SUPREME COURT OF THE UNITED STATES.

Mr. BOUTWELL. I ask unanimous consent to report back with amendment from the Committee on the Judiciary House bill No. 861, relating to the Supreme Court of the United States.

The bill was read. It provides that in case of the removal of the Chief Justice of the Supreme Court of the United States from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve upon the associate justice of said court whose commission is senior in time; and such associate justice shall be Chief Justice of such court until such inability shall be removed, or another appointment shall be duly made, and the Chief Justice of said court shall be duly qualified.

The amendment reported by the committee was to strike out the words "and such associate justice shall be Chief Justice of such court."

The amendment of the committee was agreed to.

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPECIAL POST OFFICE AGENTS.

Mr. WASHBURN, of Indiana. I ask unanimous consent to offer the following resolution:

Resolved, That the Postmaster General be directed to inform this House of the names of all special agents of the Post Office Department, the place where such agents are employed, the rate at which they are paid; and also the names of all persons to whom special-agent commissions have been issued of a complimentary character, and the reasons for granting such complimentary commissions since January 1, 1867.

Mr. LAWRENCE, of Pennsylvania. I suggest to the gentleman that he had better modify the resolution.

Mr. WASHBURN, of Indiana. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FREEDMEN'S BUREAU.

The House resumed the consideration of the bill (H. R. No. 598) to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes, pending at the close of the morning hour on Tuesday last, on which Mr. ELIOT was entitled to the floor.

Mr. ELIOT. Mr. Speaker, I have taken the floor at this time for the purpose of calling the previous question on the bill which has been considered in the morning hour for two or three days. I suppose it is proper that I should first withdraw the motion to recommit which is pending. I accordingly withdraw it, and demand the previous question. I will state that I have promised to assign to the gentleman from New York [Mr. WOOD] thirty minutes of the hour which belongs to me, with the right to assign it as he sees fit to his friends on the other side.

The previous question was seconded and the main question ordered.

Mr. WOOD. I yield to the gentleman from New Jersey, [Mr. HAIGHT.]

Mr. HAIGHT. I simply ask leave to present the petition of officers and soldiers of the State of New Jersey, against the passage of this bill, and ask its reference to the Committee on Military Affairs.

The petition was referred accordingly.

Mr. WOOD. Mr. Speaker, this is a bill to continue the Freedmen's Bureau. It will be recollected that the original act creating this bureau was passed in March, 1865. The original act terminated the existence of the bureau in one year after the cessation of hostilities. Subsequently, in 1866, another act was passed continuing in force the bureau for an additional period of two years, and adding very largely to the powers of the bureau as originally given. The present bill proposes to continue the bureau for a period of nearly a year and a half beyond the present time, to devote the unexpended balances to educational purposes, and to add very largely to the powers of the Secretary of War and of the Commissioner of Freedmen's Affairs.

It will be recollected that the immediate cause for the passage of the original act was the then condition of the slaves who were about to become freedmen under the operation of our military power. As the Union Army made its progress into the insurgent States, and as it obtained and held possession of the enemy's territory and property, it necessarily freed, practically at least, a very large number of those who were then slaves. These colored people, of course, naturally came into our lines. They sought protection from the military authorities; they were doubtless encouraged to do so, until, as we gradually obtained and held permanently a very large portion of the enemy's

territory, our Army found itself encumbered with thousands and tens of thousands of these slaves. They became, according to the reports of the commanding generals, rather an impediment and a burden upon the Army. It was a new feature in warfare. As we progressed into the bowels of the enemy's territory thousands and tens of thousands, aye, I think I may say, in the aggregate, hundreds of thousands, of these persons hung around our camps and sought protection.

This was the condition of things, Mr. Speaker, down to 1864, and during the year 1864 I think the archives of the War Department will show that almost every leading military commander sent for some relief from the War Department and from the Government from these difficulties. Then it was, in the winter of 1864–65, that the gentleman from Massachusetts, [Mr. ELIOT,] who reports this bill, who reported the original bill, sought a remedy in the creation of a Bureau of Emancipation, which subsequently was entitled the Bureau for the Relief of Freedmen, Refugees, and Abandoned Lands, the alleged object of which was to take care of, protect, feed, and render freemen these slaves. I remember well, when this gentleman made his original application to this House in the Thirty-Eighth Congress for the passage of his bill, how he touched the sensibilities and excited the feelings of humanity of gentlemen upon this side of the House as he presented what purported to be at the time a philanthropic and truly Christian and benevolent proposition.

He predicated his proposition, also, upon the ground of temporary military necessity. He never urged the adoption of the original act upon the assumption that it was to incorporate permanently into the Government of this country any such institution as this; but it was to take care of these people in their *in transitu* condition—between the condition of slavery and the condition of freedom—to endeavor to make them, if you please, Union soldiers, to afford them in the meantime such facilities and such pecuniary aid, such support and encouragement, and, if you please, such information and instruction, as might enable them to become soldiers and fit them for the new condition that they were about to enter upon—that of free men. The original act went just that far and no further. It did not require the appropriation of a single dollar of public money. On the contrary, the gentleman declared in this Hall, that so far from its being a tax upon the Treasury, it would be the means of putting money into the Treasury. But, sir, in 1866, after this bureau became permanently established under the War Department and after the close of hostilities, they came forward again with a proposition, not only to continue the bureau for two years longer, but to appropriate for its use an immense sum of public money, and conferring extraordinary powers, such as had never been given to any department of the Government before.

Now, what are those powers? Powers to seize private and public property; to arrest, to try, to convict, and to punish individuals without due process of law; powers to take private property without just compensation, as the Constitution requires; powers to seize the lands of individuals, to confiscate them without judicial proceedings, and to parcel out those lands to these freedmen.

Now, Mr. Speaker, I know it creates a smile in this House for a gentleman to refer to the Constitution; but, sir, I learnt my politics a quarter of a century ago, in the Congress of the United States, when there was a solemn regard for the securities which the Constitution throws around the rights and liberties of the American people, and I cannot unlearn the convictions of my youthful manhood; and therefore it is that in every act that now comes before us my first impulse is to see whether Congress has power to enact it.

Sir, this is a Government of delegated powers; we have no power not delegated. The legislative, executive, and judicial departments of the Government have their existence only by the Constitution, and with only the powers therein set forth. Their powers are not only delegated powers, but they are declared and they are limited. They are familiar to us all. I defy any gentleman in this House to find any authority, directly or indirectly, according to the letter or by the most distant implication or by the most latitudinarian construction of that instrument, for conferring such extraordinary powers as that bureau possesses. When the bill was originally introduced it was in time of war, and the gentleman from Massachusetts [Mr. ELIOT] sustained it upon the ground that the war power gave to Congress the authority asked for. During the war everything was done under "the war power." Had there been, in 1865, before the close of the war, authority for the establishment of such a department of the Government as this, under "the war power," the war having ceased, then the power has ceased, and the bureau should cease also. Of course I do not admit that any part of the Constitution gives such authority to Congress in peace or war; but, if there is any justification by the necessity of the case for this assumption of doubtful powers during such a war as we have had, there can be no excuse for the continuance of it now.

But the gentleman from Ohio, [Mr. SPALDING,] in reply to the gentleman from Pennsylvania [Mr. WOODWARD] the other day, in a discussion with reference to the power of Congress to create the Department of Education, found the authority to create such a department in that clause of the Constitution which gives Congress the power "to provide for the general welfare." "General welfare," Mr. Speaker? Why, sir, general welfare has been dead for some time. General welfare ceased to exist in this country when the Republican party obtained power. In the place of "general welfare" we have a great many other generals. We have a distinguished general from Massachusetts, who is now making war upon the White House; and I anticipate he will meet with about as much success as he did when he attempted to take Fort Fisher. We have a distinguished general from Ohio, who takes the place of "general welfare." He makes war upon the Democratic party daily, and upon the handful of men upon this side of the House. I will say this to his credit, that he does it with more persistency and more courage than he did when he led his troops into an ambush laid for them by the rebels at Vienna Court-House.

Now, sir, there is no power under the Constitution, either in the war power or in the provision giving Congress power to provide for the general welfare to create such a bureau. But admit, for the sake of argument, that we have the power to do so; assume that no delegated power has been transcended in the enactment of this law. My next position is this, that if we have the power it is wrong to use it; it is cruel to the negroes; it is unjust to the white men; it is an unauthorized expenditure of the public money wrung by taxation from the people of the whole country and from all classes, to be devoted to purposes of this character. Sir, there is an analogy between the condition of our southern States, so far as the freedmen are concerned, and the condition of the British West Indian possessions about the time of emancipation in 1834. The Island of Jamaica, for instance, so fair, beautiful, and fruitful in all the products of the tropics, yielding annual crops amounting to millions of pounds sterling. When the philanthropists of England undertook to ameliorate the condition of the blacks in the British West Indian possessions the British Government freed the negroes, but compensated their owners therefor. Unlike us, they did not seize private property and take it without compensation. The British Government, in honorable contrast to the action of our own Government under similar circumstances, did compensate the owners of slaves in the West India islands when they enacted the decree of emancipation there.

What was the effect of emancipation there? I refer to it to show that the like effects are already gradually taking place in the southern States, not only in decreasing population, but also in decreasing products.

Of the vast sum appropriated by England for the liberation of the slaves, $30,000,000 went to the Island of Jamaica. We find, from the Encyclopedia of Commerce the following as the results for two periods of exportations:

Before Emancipation.

1809, (value of products).....£3,033,234

After Emancipation.

1853, (value of products).....£837,276

Leading products of Jamaica in 1805.

Sugar	150,352 hogsheads.
Rum	46,837 puncheons.
Pimento	1,041,540 pounds.
Coffee	17,961,923 pounds.

The next year, the first under the "free" system, the amount of sugar fell off to 77,970 hogsheads; coffee to 10,593,018 pounds.

Products of Jamaica in 1856.

Sugar	25,920 hogsheads.
Rum	14,470 puncheons.
Pimento	6,848,622 pounds.
Coffee	3,328,147 pounds.

Upon which the author of Results of Emancipation in the North and West India Islands, remarks:

"The only crop that had increased was that of pimento or allspice, the increase of which, instead of being an evidence of the industry of the negro, is the reverse. The pimento tree grows wild in Jamaica, and rapidly spreads over land under cultivation. As the plantations were abandoned they were overrun with this tree, and the negro women and children pick the berries without the trouble of cultivation. The coffee tree, to a certain extent, is like the pimento, and grows wild in many places; hence, the production of coffee has not fallen off in the same proportion as that of sugar, which can only be produced by careful cultivation. The coffee crop of Jamaica, however, in 1813, before the overthrow of slave labor, was 34,045,585 pounds, but the average crop for the past ten years has not been over 5,000,000 pounds, while the sugar crop has fallen, in 1853, as low as 20,000 hogsheads. These facts and statistics demonstrate the down-hill progress of Jamaica, and show what may be expected whenever the experiment of free negroism is attempted.

"The rapidity with which estates have been abandoned in Jamaica and the decrease in the taxable property of the island is also astounding. The movable and the immovable property of Jamaica was estimated at £50,000,000, or nearly two hundred and fifty million dollars. In 1850 the assessed valuation had fallen off to £11,500,000. In 1851, it was reduced to £9,500,000; and Mr. Westmoreland, in a speech in the Jamaica House of Assembly, stated it was believed that the falling off would be £2,000,000 more in 1852. From a report made to the House of Assembly of the number and extent of the plantations abandoned during the years 1848, 1849, 1850, 1851, and 1852, we gather the following facts:

Sugar estates abandoned	128
Sugar estates partially abandoned	71
Coffee plantations abandoned	96
Coffee plantations partially abandoned	66

"The total number of acres thus thrown out of cultivation in five years was 391,187. This is only a sample, for the same process has been going on ever since emancipation.

"In the five years immediately succeeding emancipation, the abandoned estates stood as follows:

Sugar estates	140=198,032 acres.
Coffee plantations	465=188,400 acres.

"These plantations employed 39,383 laborers, whose industry was, therefore, at once lost to the world, and the articles they had raised were just so much extracted from consumption. The price of these articles, sugar and coffee, was increased on account of diminished production, and that increased cost represented the tax which the world paid for the privilege of allowing Sambo to loll in idleness. The Enclopedia of Commerce says:

"'The negro is rapidly receding into a savage state, and unless there is a large and immediate supply of emigrants all society will come to a speedy end and the island become a second Hayti.'"

Again, in the Results of Emancipation I find the following:

"In Lewis's West Indies, written seventeen years before emancipation, it is remarked: 'As to free blacks they are unfortunately lazy and improvident, most of them half starved and only anxious to live from hand to mouth. Even those who profess to be tailors, carpenters, or coopers, are for the most part careless, drunken, and dissipated, and never take pains sufficient to attain to any dexterity in their trades. As for a free negro hiring himself out for plantation labor, no instance of such a thing was ever known in Jamaica.'

"Earl Grey said in the House of Lords, June 18, 1852, that it was established by statistical facts that the negroes were idle and falling back in civilization; that, relieved from the coercion to which they were formerly subjected, and a couple of day's labor giving them enough food for a fortnight, the climate ren-

dering clothing and fuel not necessary to life, they had no earthly motive to give a greater amount of service than for mere subsistence.'"

Mr. Bigelow, the editor of the Evening Post, one of the original Abolitionists of New York, our late minister to Paris, wrote in 1850, after a visit to Jamaica, a work, in which he says:

"The land of that island is as prolific as any in the world. It can be bought for five dollars to ten dollars per acre, and five acres confer the right of voting and eligibility to public offices. Planters offer $1 50 per day for labor; sixteen days labor will enable a man to buy land enough to make him a voter, and the market of Kingston offers a great demand for vegetables at all times. These facts place independence within the reach of every black. But what are the results? There has been no increase in voters in twenty years. Lands run wild. Kingston gets its vegetables from the United States!"

Again, ex-Governor Wood, of Ohio, a distinguished member of the Republican party, who paid a visit to Jamaica in 1853, says:

"Since the blacks have been liberated they have become indolent, insolent, degraded, and dishonest. They are a rude, beastly set of vagabonds, lying naked about the streets as filthy as the Hottentots, and I believe worse. On getting to the wharf of Kingston the first thing the blacks of both sexes, perfectly naked, came swarming about the boat and would dive for small pieces of coin that were thrown by the passengers. On entering the city, the stranger is annoyed to death by black beggars at every step, and you must often show them your pistol or an uplifted cane to rid yourself of their importunities."

But, sir, I give even higher authority—that of the late President Lincoln and of Major General BUTLER, of Massachusetts. Mr. Lincoln, in reply to the Chicago divines who waited upon him for the purpose of inducing him to issue a proclamation of emancipation, said:

"And suppose they (the negroes) could be induced by a proclamation from me to throw themselves upon us, what should we do with them? General BUTLER wrote me a few days since that he was issuing more rations to the slaves who had rushed to him than to all the white troops under his command. They eat, eat; and that is all."

Now, the best test of the prosperity of any people is in the extent of their increase. I know that a distinguished earl has just said in the House of Commons that Ireland was in a prosperous condition because the consumption of spirits had increased; but, sir, that is not my test of the prosperity of a people. A people who are following the laws of nature and of God will be industrious and will reproduce their species. God intended us to be industrious; and as we live up to the law of our creation we are happy, we are prosperous, we are prolific. Apply that test to the negroes of the southern States in their present condition, under the paternal care of our Government, which gives them alms, protection, and education, without any return or labor on their part? They are fast decreasing. I was informed recently by an eminent physician of South Carolina that eighteen out of every twenty of the negro infants die before they are one month old. The census taken in the States of Alabama and Mississippi in 1866 shows that notwithstanding the war there has been an increase of the white population and a very material decrease of the black population. Hence it is evident that the welfare of that people is dependent upon their industry, and their industry is dependent upon the necessity for their laboring for their own support. In the island of Jamaica, where the Government does not take care of the negroes, they will not work; and in the United States they certainly will never work so long as we continue to expend upon them millions of dollars annually. The aggregate expense of this bureau since its organization has been nearly seventeen million dollars. But this sum, enormous as it is, does not comprehend all advantages which have been given to the freedmen. Congress has passed no less than fifteen acts since 1863 especially for the benefit of southern blacks and not one for the benefit of the white workingmen of the North, a competing laboring element of our own race, who, it appears to me, is entitled to some consideration at our hands, if we are to dispense the public money for charitable objects.

If these objections are not sufficient others may be found in the conduct and management of this bureau which, in my judgment, should defeat this proposition to continue it.

The administration of the bureau is all wrong. It is wrong because it has been used as a political engine; it is wrong because it has been used to put its own emissaries and agents in political positions; it is wrong because it has been used and its funds have been used for personal, partisan, and improper purposes.

It is not my intention, Mr. Speaker, to make assault on Major General Howard, Commissioner of that Bureau, although I hold in my hand an accusation against that gentleman, which of course I do not indorse, which declares he holds sentiments in reference to the amalgamation of the races utterly revolting, and which no man whose heart, to say nothing of his head, is in the right place can for a moment entertain. It has been charged that he himself has declared he would as lief marry a black woman as a white woman, provided there was actual affinity. I do not say it is so; but if it is so he is unfit to hold the position he holds as head of this bureau.

I make no accusation against his integrity, but I state the fact that he has become a man of large wealth. It is said he owns more real estate in the vicinity of Washington city than any other recent comer here; that lands in which he was interested have been bought for fifty dollars an acre and sold to the freedmen for $200 an acre, showing a benevolent, philanthropic, paternal care over those poor people. I am not prepared to say it is so. I do not indorse the sentiment. I only say what I hear.

Mr. Speaker, in conclusion, I am obliged to present to the House a condensed summary of the several objections I have to this bill. In the limited time allowed I cannot further discuss them.

1. There is no power in Congress to create departments and to appropriate money for purposes of this character.

2. The grounds, if any, which originally existed for the adoption of this measure have long since ceased.

3. It has failed to accomplish the purposes for which it was ostensibly established.

4. It has become a severe tax upon the Treasury without affording any advantages or benefits to the people in return.

5. It has been injurious to the freedmen, inasmuch as it has encouraged idleness by affording pecuniary support without labor; it has engendered animosities between the whites and blacks of the southern States, thus retarding reconstruction; it has prevented the proper working of the southern plantations by inducing the negroes to try to become proprietors instead of laborers; its agents have used their positions to enrich themselves and to obtain political preferment; its funds are squandered without accountability or proper care; no detailed statement has ever been furnished Congress of the several sums of money and parcels of property (personal and real) which were taken from the rebel planters and others at the close of the war; it has illegally confiscated lands and rendered no account thereof; it has dispensed sinecure positions to political favorites; it has produced a system of espionage and prying into the affairs of private citizens with no object of public good; it has been used as a political engine by which to uphold and continue the dominancy of the Radical party, and to secure to that party the ten southern States, whose people, white and black, have been made more or less dependent upon its favors and authority aided by the military commanders.

6. Originally adopted as a temporary provision for affording information and protection to the freedmen and refugees for the few months intervening between the close of the war and the establishment of law and order in the insurgent States, now that order and government have been reëstablished it should be allowed to close up its affairs, account for the millions of public money intrusted to it, and cease to exist.

7. The ground on which the continuance of the bureau is now advocated is the necessity of giving the freedmen instruction, and it is proposed to devote the large remaining unexpended balance of about seven millions in the hands of the commission to such educational purposes. This implies that those people are entirely uneducated and ignorant, which, if true, they are unfit to make new State governments for the southern States, to adopt constitutions, elect Governors, members of Congress, Legislatures, Senators, and State officers, and for self-government, as is proposed by Congress.

8. For these reasons this bill should not pass. This so-called Freedmen's Bureau has no merit. It is wrong in principle and wrong in practice. It consumes the public money and demoralizes the laboring element now so necessary to the agricultural prosperity of the southern people. Congress has no power to create such a bureau, and should not continue it another day, admitting it has.

Mr. ELIOT. I now yield ten minutes to my colleague on the committee from Tennessee, [Mr. ARNELL.]

Mr. ARNELL. Mr. Speaker, I send to the Clerk's desk to have read a statement of the receipts and disbursements of the Freedmen's Bureau in Tennessee, which I think will prove a full and satisfactory answer to the charges which have been made as to the expense of its operations.

The Clerk read as follows:

Report of the receipts and disbursements in the Bureau of Refugees, Freedmen, and Abandoned Lands, State of Tennessee, from the organization of the Bureau up to January 1, 1867.

Received from rents on abandoned property, &c.	$159,188 15
Received from appropriation made by Congress	36,977 58
	$196,165 73
Disbursed in the service of the bureau	$121,408 86
Transferred to the chief disbursing officer of the bureau	60,102 47
On hand January 1, 1867	14,654 40
	$196,165 73

From the organization of the bureau up to October 1, 1867.

Received from rents on abandoned property, &c.	$163,161 45
Received from appropriations made by Congress	111,246 18
	$274,407 63
Disbursed in the service of the bureau	$186,148 18
Transferred to the chief disbursing officer of the bureau	63,073 02
On hand October 1, 1867	25,186 43
	$274,407 63

The above expenditures include the expenses in the State of Kentucky up to the 15th of June, 1866. No part of the receipts, however, accrued in the State of Kentucky.

From the above it will be seen that the amount of rents received from abandoned lands or property in the State of Tennessee was $37,779 29 more than had been expended in the service of the bureau in the two States—Tennessee up to January, 1867, and Kentucky up to June 15, 1866.

Also, that on the 1st of October, 1867, the amount disbursed in the service of the bureau in the State of Tennessee up to that time, and in the State of Kentucky up to June 15, 1866, was only $22,986 73 more than had been received from rents on abandoned property in the State of Tennessee up to October 1, 1867.

Mr. Speaker, this exhibit shows better than any statement emanating from any other quarter concerning the enormous expenditure of this bureau, the actual state of facts. Only $22,986 have been spent for two States containing a population of two million two hundred and sixty-five thousand. And in this connection I desire to state in regard to the rations issued to the people of the State of Tennessee that ten white persons are benefited by receiving those rations to one colored person.

This exhibit also confirms the statement of the gentleman from Massachusetts, [Mr. ELIOT,] that had Andrew Johnson allowed the cap-

tured rebel property, as was originally intended to be used, to pay the expenses of this bureau it would have cost the General Government nothing. That report clearly shows that in the States of Tennessee and Kentucky it has not cost the General Government one dollar, but was self-sustaining beyond the sum of $22,986.

My object in introducing that report was to give the facts in regard to the expenditures of this bureau in those two States. I trust that it will be continued. I desire, also, to read confirmatory testimony from the report of General Carlin on this subject:

"It will be impossible for two or three years to secure anything like even-handed justice to the freedmen owing to the character of the magistrates. It is their habit in this State, when left to themselves, practically to ignore the colored-testimony law. The bare statement of a white man outweighs the solemn sworn testimony of unimpeached and unimpeachable colored witnesses. And, where colored men are concerned, the humane principle of the law which requires a jury to incline rather to acquittal than to conviction in doubtful cases is reversed. Juries, as I know from long and close observation, incline toward the conviction of all colored persons charged with crimes. But the evil is greatly increased in those places where there are no real and influential friends of the freedmen to aid them. The bureau will be necessary for years yet as guardians of the lives and liberties of the freedmen.

"Very few murderers would ever be arrested for the murder of freedmen were it not for the presence of the bureau. Civil officers rarely ever take any measures to discover the perpetrators of the most brutal murders. Take the whole number of murders of freedmen in Tennessee within two years past, numbering more than a hundred, and scarcely an instance of arrest can be found by any constable or sheriff. The truth is, the freedmen need for a few years to come the vigilant guardianship of the bureau—a guardianship which should be extended to nearly every county in Middle and West Tennessee. This is a most critical time in the history of the freedmen. Are they to go forward in the path of improvement upon which they have entered with so much hope and promise, or will they relapse into their old habits, live in poverty and ignorance, and become an incumbrance to the body-politic? This question is to be answered by another. Will the Government at Washington, through the bureau, and the great benevolent organizations at the North, through the same agency continue for a few years the work among the freedmen which has been so well commenced? To stop now would be to lose a large part of what has been so well done. The critical time has not been passed. The freed people are not able yet to go alone. They are still like children, and a little further help now will be like seed sown in good ground—yield a hundredfold."

Now, sir, I desire to state, from my own personal observation, that I know this to be true. It was only two days ago that the papers brought to us a dispatch concerning two murders near to my own town. Two colored persons were murdered by a rebel soldier, and yet no attention, so far as I have heard, was paid to them whatever. I introduced into this House, some weeks ago a resolution, and had it referred to the Committee on Freedmen's Affairs, in regard to a rebel organization known as the Kew Klux Klan in the State of Tennessee. I would like to know of the chairman of that committee if he can inform me what action has been taken thereon?

Mr. ELIOT. In reply to the gentleman's inquiry I will say that the resolution, immediately after being referred to the committee, was submitted to the Commissioner of the bureau for such information as he could obtain. Subsequently the committee received from him a communication addressed by the commissioner in Tennessee, Mr. Walsh, to Brigadier General Carlin on the subject referred to, which I will place in the hands of the gentleman from Tennessee, that he may embody it, if he pleases, in his remarks.

Mr. ARNELL. I desire to do so:

BUREAU OF REFUG'S, FREEDM'N & ABAN'D LANDS,
OFFICE SUB-ASSISTANT COMMISSIONER,
NASHVILLE, TENNESSEE, *January* 11, 1868.

GENERAL: In obedience to your instructions, I proceeded to Pulaski, Tennessee, on the 9th instant, to investigate the riot and murder, at that place, of Orange Rhodes and the wounding of several others, on the 7th instant. The riot was commenced by Calvin Lamberth, (white.) After a thorough investigation I find the following to be the facts:

Some time last summer a feud originated between Calvin Lamberth (white) and Calvin Carter (colored) about some matter of trade, which left a disagreeable feeling between the parties, but as it was a small and trifling matter no difficulty arose from it. The immediate origin of the riot was from Calvin Carter (colored) interfering with a colored strumpet, Lucy Reynolds, kept by Calvin Lamberth, (white.) Calvin Carter (colored) had threatened to whip said Lucy Reynolds if he caught her going to Lamberth's house. Whitlock Fields (colored) was with Carter at the time that Carter said he would whip the woman. The woman, Lucy Reynolds, who frequented Lamberth's store at unseasonable hours, informed Lamberth what had been said by Carter and Whitlock Fields. On the 7th instant Lamberth (white) was hunting Carter (colored) stating he would kill him on sight, and about nine o'clock on that morning he (Lamberth) went into John Carter's grocery store, still looking for said Calvin Carter (colored) and having a stick in his hand, but failed to find him. About one o'clock in the day Lamberth, with John Kennedy and two other friends, went and stood in front of John Carter's grocery, with pistols in their hands. The town constable, H. Arnet, dispersed them. In about half an hour after Lamberth (white) again went over to the grocery with a stick in one hand and a pistol in the other, and stood in front looking for Calvin Carter. Whitlock Fields stood in Washington Rhodes' house and told Calvin Carter (colored) that Lamberth (white) was coming. Without further provocation Lamberth then shot at Whitlock Fields twice, and then in return Fields snapped a cap—his pistol would not go off. Immediately upon the firing the young men of the town ran out of their several houses carrying double-barrel shot guns and pistols, already loaded for the occasion, and drew up in front of John Carter's grocery store in line. The negroes who were in the grocery store, numbering eight, attempted to defend themselves, a few of them having pistols. The whites who were in line then made a general attack, firing volleys into the house. At this time Mr. Malone was trying to quell the disturbance, and told the negroes that the whites had promised to keep back if they would keep quiet. Under Mr. Malone's advice the negroes crowded back into a heap in the house and doorway, and as they were thus huddled together the whites rushed up and again fired into them. The result of this volley was the killing and wounding of the following colored men: Orange Rhodes, mortally; Calvin Carter, supposed mortally; Ben. Nelson, severely; Tom Butler, severely; John Carter, slightly; Calvin Carter, slightly. None of the whites were injured.

There were eighteen white men firing into the colored at ten paces distant. Orange Rhodes, killed, was known to be, both by white and black, one of the best colored men in the country, being orderly and peaceable. The mayor, town constable, Mr. Richardson and Mr. Malone, deserve great credit for their exertion in quelling the riot, and ran the risk of their lives in doing so. Some of the white men engaged in this were Calvin Lamberth, John Kennedy, McLumore, James Taylor, jr., McKinney, Sterling Payne, Robert Moore, Black Richardson, Macy Ezell, McCrea, Percy, and Ed. Black.

The white men, waiving an examination, were placed under bonds of $1,500 each to appear before the criminal court.

From all the facts and evidence that could be obtained it is evident that this difficulty was sought and brought on by Lamberth, and that the parties who aided and assisted him were prepared and ready for such an emergency. There being only eight negroes, and a few of these armed, proves (contrary to the assertion made) that they were not prepared for the murderous assault made. Circumstances further prove that the white men acted upon this occasion from preparation and preconcerted action, for an instant after the first firing by Lamberth eighteen white men drew up in line in front of the store, prepared for action. From the readiness in which these men attended upon this occasion it could only be done by an organization well matured and drilled. There is reason to believe, and circumstances and affidavits warrant the belief, that such an organization is in existence, and that it is called the "Kew Klux Klan," having for its end the expulsion of loyal men, whites and blacks, from the counties of Giles and Mauray, and thus terrorizing, similar to that which was general in the country about the breaking out of the rebellion. The parties, numbers, and intentions of such Klan is not as yet definitely known, but sufficient of the Klan and its intention is known, however, as to warrant its prompt suppression.

I am, General, very respectfully, your obedient servant,
MICHAEL WALSH,
Sub-Assistant Commissioner.
Official: S. W. GROESBECK,
Lieutenant and Acting Assistant Adjutant General.
Official: E. WHITTLESEY,
Acting Assistant Adjutant General.
Brevet Major General W. P. CARLIN, *Assistant Commissioner, Tennessee.*

Mr. ARNELL. I will state, too, that I have already received anonymous notice, purporting to come from this "klan," that for having presented such a resolution in this House I may expect summary midnight justice whenever I return to my home. I am not disposed to bandy words and be brave one thousand miles from my antagonist. I do not propose to make any cheap reputation in that respect. I simply mention the fact.

It was only the other morning that the newspapers brought to us a dispatch stating that Major General George H. Thomas had informed the General of the Army concerning the condition of affairs in Tennessee, and asking his advice in regard to them. He stated that they were of such a character that it was necessary that they should be looked after. Every one is very well aware that there is nothing sensational at least in General George H. Thomas. This bureau ought to be continued, and is absolutely necessary for the protection of life and liberty of the Union men in Tennessee. It is the blue-coated guardian of liberty at the South. It is not enough to cry Peace! peace! The air is already "promise crammed." Slavery has been overthrown, but you can have no peace until you pluck its roots out of the American soil. We need at the South both the moral and physical power of the General Government. War still exists there, and the country ought to understand it.

[Here the hammer fell.]

Mr. ELIOT. Mr. Speaker, before I reply, as I shall very briefly, to some of the statements which have been made in connection with this bill, I want to brush away a foul slander that has found a mouth-piece on this floor. I do not know that the gentleman from New York [Mr. WOOD] is to be congratulated that he has found opportunity to inject into this discussion a slander born of private ill will and personal unkindness.

Mr. Speaker, the experience which I have had in discussions upon this floor would have profited me not much if I had not somewhat anticipated that from some quarter reference might be made to that calumny which I had observed, as it seems also to have come to the notice of the gentleman from New York. Sir, there is no slander so destitute of truth, so without foundation; there is no calumny so foul, so mean, that will not, when it is thrown upon the air by an envenomed tongue, as it flies hither and yon, find some friendly voice to give it circulation; and the author of this calumny, not more destitute of all foundation of truth than it is full to overflowing of "envy, malice, and all uncharitableness," may be himself congratulated that this offspring of his unkind heart has found a fit god-father in the gentleman from New York. And yet the gentleman does not indorse the slander! No, sir; he does not add the weight of his great name, but he gives it circulation, and now from this House, from the gentleman from New York, it takes its start.

Mr. Speaker, when that falsehood came to my notice, I addressed a note to the Commissioner that I might be able to know what the fact was, and I have this answer:

WAR DEPARTMENT,
BUREAU OF REFUGEES, FREEDMEN
AND ABANDONED LANDS,
WASHINGTON CITY, *February* 18, 1868.

DEAR SIR: You have called my attention to an absurd charge made against me, that I have said or done something which looked as if I favored the intermixture by marriage of the white and black population. This charge originated with certain men who hate me. Of course, there is no shadow of truth in it. In all the bureau work promoting marriages I have had no case of this kind to act on, and none is known at my office. As a board the trustees have never considered the subject, and have never to my knowledge privately or officially sought to do so. Whatever words I may have used, this charge is untrue.

Very truly, yours, O. O. HOWARD,
Major General, Commissioner, &c.
HON. T. D. ELIOT,

Now, I ought to believe that the gentleman from New York will be as glad as I certainly am to have this slander nailed here to the counter, and I am, upon the whole, not sorry to have had this opportunity to drive the nail in hard and clinch it fast.

Mr. WOOD. Will the gentleman allow me to produce my authority?

Mr. ELIOT. No, sir; you had it in your hand when you repeated the slander. It is signed "Brown."

Mr. WOOD. No, sir; it is not.

Mr. ELIOT. If the gentleman has got a name to his authority he may give it.

Mr. WOOD. If the gentleman will allow the Clerk to read the authority, which I was careful to say I did not guaranty to be true, I will send it to the Clerk's desk.

Mr. ELIOT. Is it not anonymous?

Mr. WOOD. I will send it to the Clerk's desk.

Mr. ELIOT. It is an anonymous communication. If it is not signed "Brown" it is signed by somebody to whom Brown gave it.

Mr. WOOD. I assure the gentleman it is not signed by any such person.

Mr. ELIOT. I want no such paper read.

Mr. WOOD. If the gentleman does not want the authority, very well.

Mr. ELIOT. Why, sir, it is no better authority than the gentleman's! [Laughter.]

Mr. WOOD. I beg to suggest that there must be some foundation for the charge or the gentleman would not be so sensitive.

Mr. ELIOT. Will the gentleman give me the name of the author?

Mr. WOOD. Will the gentleman permit the authority to be read?

Mr. ELIOT. Oh, no; it has got no name; it has got no name. [Laughter.] The gentleman may as well admit it. It is one of those foul, anonymous communications which nobody ought to take notice of.

Mr. WOOD. Then why does the gentleman take notice of it?

Mr. ELIOT. Now, Mr. Speaker, I do not propose to discuss, following the line of remark made by the gentleman from New York and by the gentleman from Kentucky, [Mr. ADAMS,] the constitutional power of Congress to pass this bill. But before I go away from the slanders, allusion is made to the rumor that General Howard is a wealthy man. Sir, I pronounce it right here, and now, false, foul, and scandalous.

Whether General Howard has wealth or not is not of importance, but it is the intimation that in some way or other he has derived wealth under the administration of the bureau. That is the meaning of the slander, if it has any meaning at all. I say it is false; and I will say further that there is no man who will dare stand up in this House and vouch for the truth of it, or who can name a respectable man who has stated that it was true.

Mr. BLAINE. Will the gentleman allow me to make a single remark?

Mr. ELIOT. Certainly.

Mr. BLAINE. I profess to know General Howard with great intimacy for a period reaching back almost to his boyhood. While I do not profess to know just exactly the list of his property, I do know that he has no pretension to being a man of wealth. He has no more property than frugality and industry would have given him.

And I desire to add, if I could add anything to the very forcible and emphatic denial which the honorable chairman of the Committee on Freedman's Affairs [Mr. ELIOT] has made, that nothing in any way partisan or dishonest could attach to the name of General Howard. A more pure, upright, disinterested man does not exist in the United States, and any one who makes the opposite charge does but disgrace and dishonor himself in so doing.

Mr. FARNSWORTH. I hope no gentleman on this side of the House will take the trouble or time to deny any slander of General O. O. Howard; the country does not require any such denial.

Mr. BLAINE. I do not think it does myself.

Mr. FARNSWORTH. That is all I want to say.

Mr. WOOD. Mr. Speaker, gentlemen are exceedingly sensitive upon this subject. I disclaimed any responsibility for my statements at the time I made them. It was in the line of my argument in objection to this bill; a bill which takes some fifteen or twenty million dollars of the people's money, and puts it in charge of General Howard.

Mr. ELIOT. The gentleman from New York [Mr. WOOD] disclaimed as emphatically before as he does now. But why did he desire to come here and air these foul slanders.? Who cares whether the gentleman indorses them or not? It was the statement of them that was of importance. But let it go.

Mr. WOOD. If the gentleman will give me a committee of investigation I will prove the charges.

Mr. ELIOT. I cannot yield further. General Howard has lost his right arm in the service of his country, but his heart is right. There are some who have both arms yet whose hearts are not right.

Mr. WASHBURNE, of Illinois. And not a great way off, either.

Mr. ELIOT. I did propose to refer to the remarks made by the gentleman from Kentucky, [Mr. ADAMS,] a member of the committee that reported this bill. I was in hopes to have had opportunity to see his remarks printed in the Globe. I looked for them in the Globe of yesterday, but was disappointed in not finding them. I looked again to-day, and was again disappointed. Of course I have no complaint to make. The gentleman has the right to retain—indeed, it is very customary for gentlemen to retain—their speeches for revision. But it makes it rather difficult for gentlemen to reply to statements made upon this floor, as any reply would be likely to be based upon incorrect assumptions. I did not hear all that the gentleman said, and I could not answer him without assuming what perhaps would be found to be incorrect when the remarks came to be published. If they had appeared in the Globe I could now reply to them. If I caught his language correctly, however, I understood him to defend the truthfulness of the President in his statement that $12,000,000 were appropriated to run this machine in the first place, and that the expense of it would run up to fifty or sixty million dollars. I understood the gentleman from Kentucky [Mr. ADAMS] to come to the rescue of the President and to defend him from the charge I had made against him that the statements he had made were incorrect.

Sir, the gentleman from Kentucky undertook too much for any one man to accomplish. But the gentleman said that, after an examination which he had made, and in view of information which he had derived from the Commissioner of Freedmen's Affairs, he was prepared to state upon this floor that the cost of this bureau to the Treasury of the United States had been more than twelve million dollars. Now, sir, that was a remarkable statement coming from an honorable gentleman who had before him upon his desk, while he was speaking, the written communications, prepared at his request by the Commissioner, stating in detail not only all the money which had been used from that appropriated from the Treasury, but, by estimate, the value of all the rations furnished by the War Department and all the medical supplies and all the quartermaster's property which had been furnished, part of which has been paid for by the bureau and part of which has not been hitherto paid for. The gentleman having all this information before him I say it was a remarkable statement to put forth that the cost of this bureau to the Treasury of the United States had been more than twelve million dollars.

Mr. ADAMS. Mr. Speaker——

Mr. ELIOT. I cannot yield for anything, unless the gentleman says I have stated his remarks incorrectly.

Mr. ADAMS. If I understood the gentleman correctly, he represents that I stated that at the time the President made that statement the bureau had cost over twelve million dollars.

Mr. ELIOT. No, sir; that is not what I said.

Mr. ADAMS. Will the gentleman let me hear what he did say on this subject? I would like to know what it is that he considers such a "remarkable statement."

Mr. ELIOT. Mr. Speaker, the gentleman from Kentucky ought to have known that instead of amounting to over twelve million dollars, the aggregate, including everything, whether in the form of money, old clothes, supplies, medical stores, everything which in any shape has gone toward the support of that bureau from the date of its organization, instead of being the sum he stated, is but very little over one half of it.

Mr. ADAMS. Mr. Speaker—

The SPEAKER. Does the gentleman from Massachusetts [Mr. ELIOT] yield to the gentleman from Kentucky?

Mr. ELIOT. No, sir; I cannot yield.

Mr. ADAMS. I wish to understand what the gentleman——

Mr. ELIOT. I cannot yield. The gentleman, when he had the floor the other day, peremptorily refused to yield.

The SPEAKER. The gentleman from Massachusetts has one minute of his hour remaining.

Mr. ELIOT. In that one minute it is of course impossible for me to restate what I have already said. The gentleman found fault with a statement which I made. I reiterate what I have already said—that there has been nothing distributed to that bureau that has not been charged to the bureau. There had been rations and medical and other supplies furnished before Congress appropriated money; and these were not included in the statement I made. I have not time to say anything more, and I ask a vote upon the bill.

Mr. ADAMS. I would like to move an amendment before the vote is taken on the bill.

The SPEAKER. No amendment is in order. The previous question, which has been operating for the last hour, prevents any amendment.

Mr. ELDRIDGE. I move that the bill be laid on the table.

Mr. HOLMAN. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 101, not voting 53; as follows:

YEAS—Messrs. Adams, Axtell, Barnes, Beck, Boyer, Burr, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Phelps, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—35.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Coburn, Cook, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, Laflin, William Lawrence, Loan, Loughridge, Lynch, Mallory, Maynard, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Selye, Shanks, Spalding, Aaron F. Stevens, Stewart, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, and Stephen F. Wilson—101.

NOT VOTING—Messrs. Anderson, Archer, Barnum, Beatty, Benjamin, Benton, Brooks, Cary, Reader W. Clarke, Cobb, Cornell, Covode, Dodge, Eggleston, Ela, Finney, Fox, Griswold, Halsey, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Ketchum, George V. Lawrence, Lincoln, Logan, Marvin, McCarthy, Moorhead, Morrissey, Mullins, Nunn, Perham, Pruyn, Robinson, Scofield, Shellabarger, Smith, Starkweather, Thaddeus Stevens, Stokes, Stone, Van Aernam, Burt Van Horn, Van Wyck, William Williams, John T. Wilson, Windom, and Woodbridge—53.

So the House refused to lay the bill on the table.

Mr. ADAMS. Is it in order to offer an amendment?

The SPEAKER. Only by unanimous consent. The previous question has been operating since twenty minutes past twelve o'clock.

Mr. ADAMS. It is an amendment which perhaps the House will agree to.

The SPEAKER. Does the gentleman from Massachusetts yield to have the amendment read?

Mr. ELIOT. I decline to yield to have it read.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. KERR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 38, not voting 54; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, Laflin, William Lawrence, Loan, Logan, Lynch, Maynard, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Pile, Plants, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Selye, Shanks, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Windom—97.

NAYS—Messrs. Adams, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Kerr, Knott, George V. Lawrence, Marshall, McCormick, McCullough, Mercur, Moorhead, Morgan, Mungen, Niblack, Nicholson, Phelps, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—38.

NOT VOTING—Messrs. Anderson, Archer, Barnum, Beatty, Benjamin, Benton, Boutwell, Cary, Reader W. Clarke, Cobb, Cornell, Covode, Eggleston, Ela, Finney, Fox, Glossbrenner, Griswold, Halsey, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Ketcham, Kitchen, Lincoln, Loughridge, Mallory, Marvin, McCarthy, McClurg, Morrissey, Mullins, Nunn, Perham, Poland, Pruyn, Robinson, Scofield, Shellabarger, Smith, Starkweather, Stewart, Stokes, Stone, Taylor, Van Aernam, Burt Van Horn, Van Wyck, William Williams, John T. Wilson, and Woodbridge—54.

So the bill was passed.

During the vote,

Mr. TAYLOR stated that he was paired with Mr. GLOSSBRENNER.

Mr. PIKE stated his colleague, Mr. PERHAM, was detained from the House by illness.

Mr. TRIMBLE announced that his colleague, Mr. JONES, was paired with Mr. HARDING, of Illinois.

Mr. ARNELL announced that Mr. STOKES, if present, would vote in the affirmative.

Mr. BARNES stated his colleague, Mr. ROBINSON, was absent on account of sickness, and if present would vote in the negative.

The vote was then announced as above recorded.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, the Secretary, notifying the House that that body had passed a joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy, on the retired list, in which he was requested to ask the concurrence of the House.

LEAVE OF ABSENCE.

Mr. GOLLADAY was granted leave of absence indefinitely; Mr. STOKES for ten days, and Mr. PRUYN to the end of this week.

ADVERSE REPORTS.

Mr. WASHBURNE, of Illinois, by unanimous consent, from the Committee on Commerce, submitted adverse reports on the following cases; which were laid on the table and ordered to be printed:

A bill (H. R. No. 581) for the relief of the Winona and St. Peters Railroad Company; and

A memorial of William Carroll.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate further insisted upon its amendments to House bill No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, and asked a further committee of conference upon the disagreeing votes of the two Houses upon that bill; and also announced that Mr. GRIMES, Mr. EDMUNDS, and Mr. HENDRICKS had been appointed on the part of the Senate.

CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I now ask the House to take up for consideration the amendments of the Committee of the Whole on the state of the Union to House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The SPEAKER. If there be no objection, they will be considered as before the House.

There was no objection.

Mr. WASHBURNE, of Illinois. It was agreed that my colleague [Mr. LOGAN] should have the privilege of moving an amendment in the House, and I yield to him for that purpose.

Mr. LOGAN. I move to reduce the appropriation in the following paragraph from $1,500,000 to $564,904 32:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, $1,500,000.

Now, Mr. Speaker, in order that the House may understand this amendment that I have offered and this paragraph of the bill, I will ask the chairman of the Committee on Appropriations to be good enough to allow me to refer to a letter in his possession from the Secretary of the Treasury on this particular point.

Mr. WASHBURNE, of Illinois. I have no objection. Here is the letter. If you have it read it will come out of your time.

Mr. LOGAN. I will read that portion in reference to this particular request:

"In reply to the memorandum left here by you on the 22d instant, on the subject of the item of $2,000,000, submitted in the estimates of appropriations for the fiscal year ending June 30, 1869, for necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, I have to state that the amount expended under this head was for the year ending June 30, 1867, $1,849,263 29, and for the first eight months of the following year, $1,247,515 98.

"This appropriation includes the expense of executing the work of the Bureau of Engraving, which now numbers six hundred and twenty-four employés, about its general average, and furnishing paper and many other necessary articles for conducting the same; and also for the clerk hire of the department proper connected with loans.

"Under these circumstances I am of opinion that the estimate of $2,000,000 will not be in excess of the requirements.

"This fund will, of course, be used with strict economy, and should the committee determine to reduce it there can be submitted in the usual deficiency bill, at the commencement of the next Congress, if it become necessary, such additional amount as may then appear to be required."

From this letter it appears that this appropriation which is now reduced by the committee to $1,500,000 is for the expenses of the Printing Bureau, including paper, &c., furnished for printing bonds and notes, and the pay of employés. Now, we have had evidence before us within a few days past that they have destroyed paper that was purchased for the printing of these bonds and notes, and if we are appropriating money to buy paper which they destroy without any benefit to be derived from it whatever I am opposed to it. The Government is not now printing bonds and notes because it is not issuing any more. That being so, why appropriate money to purchase paper and print bonds? There should be no expense at that bureau except to pay its employés.

I have here a statement from the office of the Treasury Department, made up by the man having charge of the record, showing the number of employés and the amount of their pay. It is taken from the books. It shows, taking the month of February, for instance, that the amount of expenses was $47,075 36; making in the aggregate for the year on that basis, $564,904 32. That shows that the expenses of that bureau should not exceed the amount I have moved as an amendment.

The following is the statement which I received from the Treasury Department:

Statement showing the number of persons employed in the first division of the National Currency Bureau, Treasury Department, and the amount required to pay the same for the month of February, 1868.

	Per annum.
1 chief of division	$3,000 00
1 assistant	2,500 00
1 chief clerk	2,000 00
1 transferrer	3,000 00
1 transferrer	2,750 00
1 printer	2,400 00
1 engraver	3,000 00
1 engraver	2,500 00
1 engraver	2,000 00
2 engravers	1,800 00
1 prover	1,800 00
1 clerk	1,800 00
2 clerks	1,400 00
1 clerk	1,200 00
1 superintendent	1,000 00
For February	$2,720 08
155 persons employed as machinists, transferrers, value senders, &c	11,354 83
227 operatives (average $2 per day)	10,696 94
152 operatives, watchmen, &c. (average $2 per day)	6,671 56
101 plate printers	15,631 95
652 persons. Total	$47,075 36

Aggregate salary of each for month of February, $72 20.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I demand the previous question on the bill and amendments.

Mr. WILSON, of Iowa. I desire to ask the gentleman a question.

Mr. RANDALL. I wish to offer an amendment.

Mr. WASHBURNE, of Illinois. The bill has been fully considered in the Committee of the Whole, and I cannot allow the amendment to be offered.

Mr. RANDALL. You will after hearing my statement.

Mr. WASHBURNE, of Illinois. It will have to be offered by unanimous consent.

Mr. RANDALL. I want to provide that none of this money shall be used in paying commissions for the conversion of the seven-thirties into five-twenties.

Mr. WASHBURNE, of Illinois. That is entirely unnecessary.

Mr. RANDALL. I am not sure of that, therefore I want to provide against it.

Mr. WASHBURNE, of Illinois. The gentleman from Wisconsin [Mr. SAWYER] will ask unanimous consent to move an amendment, to which there will be no objection, which can be done as well after the previous question is seconded as before.

Mr. WILSON, of Iowa. I desire to ask the gentleman from Illinois whether it is his purpose to allow any opportunity for the discussion of the various amendments that have been reported to the House from the Committee of the Whole. If the friends of the amendments which have been made are to be allowed no opportunity to defend them against any attacks which the gentleman representing the Committee on Appropriations may make, then I hope the previous question will not be seconded and that the House may have an opportunity to discuss amendments that may be opposed by him.

Mr. WASHBURNE, of Illinois. That is a very extraordinary proposition of the gentleman from Iowa. This bill has been fully discussed in the Committee of the Whole on the state of the Union as bills ordinarily are, and it comes into the House, and I make the usual motion for the previous question, and under the rules I have an hour to close the debate.

Mr. WILSON, of Iowa. I do not think it very extraordinary to ask for an opportunity to discuss a bill that proposes an appropriation of six or seven million dollars; and unless some such opportunity is to be afforded I hope the previous question will be voted down.

The question was put on seconding the previous question; and there were—ayes 34, noes 48—no quorum voting.

Tellers were ordered; and Messrs. WASH-

BURNE, of Illinois, and WILSON, of Iowa, were appointed.

The House divided; and the tellers reported—ayes 31, noes 67.

So the House refused to second the previous question.

The SPEAKER. The first question is upon the amendment offered by the gentleman from Illinois, [Mr. LOGAN,] to strike out in lines ten and eleven "$1,500,000" and insert in lieu thereof "$564,904 32;" so that the paragraph will read:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, $564,904 32.

Mr. LOGAN. Mr. Speaker——

Mr. RANDALL. I ask the gentleman to allow me to offer an amendment to the amendment. It is to add the following proviso:

Provided, That none of said sum shall be used to pay commissions for the purchase, sale, or conversion of the bonds or notes of the United States.

Mr. LOGAN. I have certainly no objection to that myself. I think it is right.

Mr. RANDALL. I know it is right.

Mr. LOGAN. I should be glad to see it adopted.

Mr. WASHBURNE, of Illinois. I do not rise to commence my hour speech at this time. I am indifferent as to what the House may do with the amendment of my colleague, [Mr. LOGAN.] If gentlemen will look at the paragraph which it is proposed to amend they will see that the appropriation as made here is "for necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes."

The estimate of the Secretary of the Treasury to carry out existing law—because it is for no other purpose—was $2,000,000. The committee were somewhat staggered by that estimate, and thought we could get along with a smaller amount, and I was instructed to make inquiry at the Treasury Department in relation to it. I did so, and I have here a letter which was read by my colleague, [Mr. LOGAN,] but which I shall ask to have read again by the Clerk. It will be seen, however, that the committee, instead of putting in the $2,000,000 estimated for, only put in $1,500,000. The Secretary, in his letter, thinks that the whole amount estimated is necessary; but the committee did not care to change the amount which they had put in their bill, to wit: $1,500,000. I will ask that the House, in order that they may thoroughly understand this matter as it is understood by the Treasury Department as to what is necessary to carry out the laws which we have already made, may listen to the letter of the Secretary of the Treasury, and then they can do as they please.

The Clerk read as follows:

TREASURY DEPARTMENT, *February* 25, 1868.

SIR: In reply to the memorandum left here by you on the 22d instant, on the subject of the item of $2,000,000 submitted in the estimates of appropriations for the fiscal year ending June 30, 1869, for necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, I have to state that the amount expended under this head was, for the year ending June 30, 1867, $1,849,263 29; and for the first eight months of the following year, $1,247,515 98.

This appropriation includes the expense of executing the work of the Bureau of Engraving and Printing, which now numbers six hundred and twenty-four employés, about its general average, and furnishing paper and many other necessary articles for conducting the same, and also for the clerk hire of the Department proper connected with loans.

Under these circumstances I am of opinion that the estimate of $2,000,000 will not be in excess of the requirements.

This fund will, of course, be used with strict economy, and should the committee determine to reduce it there can be submitted in the usual deficiency bill at the commencement of the next Congress, if it become necessary, such additional amount as may then appear to be required.

I am, very respectfully, H. McCULLOCH,
Secretary of the Treasury.

Hon. E. B. WASHBURNE, *Committee on Appropriations, House of Representatives.*

Mr. LOGAN. I want to call the attention of the House to this proposition of the Secretary of the Treasury. He is willing to accept this appropriation of $1,500,000, with a threat that at the next session of Congress he will ask for a further appropriation in the deficiency bill. Now, I have sent to the desk a statement showing the exact amount of expenditures for this Printing Bureau, for the salaries and compensation of all the officers and employés of every character, and I have asked that just that amount shall be appropriated. I again ask the attention of the House to what he says about the subject of paper. I think we should stop any further appropriation for the purchase of paper until the Secretary of the Treasury shall stop destroying thousands of sheets unused of the paper which we have already purchased; until he shall have to save that he now has on hand.

Now, I would ask what printing is there to be done there? I know the gentleman in charge of this bill [Mr. WASHBURNE, of Illinois] does not want to make an appropriation of money when no money is necessary. I would like to have some member of that committee explain to me what printing is now to be done by that Printing Bureau. Do not members know that after the 15th day of July next there is to be no printing done there? Then I would ask what this appropriation of $1,000,000 is for? They have on hand now all the material, inks, &c., that is necessary. I wish the committee had examined that matter thoroughly. The Secretary says that he wants this appropriation for paper and othe things. What "other things?" Let him send his estimate to the House of his "other things" that he wants an appropriation for.

Now, I do not say that I know all about this matter. But I do say that I have examined it sufficiently to know that this $1,000,000 is not necessary, and if you appropriate this money you will make an appropriation for which there is no necessity. They are printing now no Treasury notes, yet they have the same number of employés, in fact, more than they had when they were printing all your bonds, Treasury notes, fractional currency, and everything of that kind. I say they have more force; not perhaps in numbers, but they are more efficient workers than they were at that time. And they have more in number to-day than there is any necessity for. They are doing no printing there that amounts to anything; and they will do none after the 15th of July. Now, I would like some gentleman conversant with this matter to tell me what this $1,000,000 is for.

Mr. BLAINE. I do not know that I can answer the gentleman's question, but I desire to interrupt him for a moment. I am glad to see, by the gentleman's speeches to have this appropriation reduced, that he has given up the idea of needing any more means to issue additional greenbacks.

Mr. LOGAN. I have not done any such thing. But I will say to the gentleman from Maine [Mr. BLAINE] that when Congress passes laws for the issue of any more greenbacks it can appropriate money to buy the paper.

Mr. BLAINE. But the gentleman thinks that so improbable that he would not appropriate anything now?

Mr. LOGAN. No, sir; I say no such thing. I think the gentleman from Maine is himself very improbable in his positions and statements. He is opposed to issuing any more greenbacks. Why, then, does the gentleman's own committee, the Committee on Appropriations, want this $1,000,000? I wish he would explain it. He is on the committee, and he ought to know what this money is wanted for. I presume it is wanted for some such purpose as that for which the Secretary of the Treasury wants the $100,000 voted to him by the Senate the other day, which it was said was to defend some lawsuits which somebody will probably commence at some future day in some court, nobody can tell where! Then, again, he wants $150,000 for the detection of counterfeiters, whom no attempt to arrest will ever be made.

Now, sir, I ask, through no personal feeling toward the Secretary or anybody else, that this House shall do that which it is required to do by law. When the Department shall have shown any right to this appropriation I shall be willing to vote for it. Until that is shown I am opposed to such an expenditure. Let this money be expended for something that requires the expenditure. By appropriating this $1,000,000 for some other necessary purpose we shall subserve better the interests of our constituents and the country than by appropriating it for this Printing Bureau, under the charge of this man S. M. Clark. When this Congress seems determined that no more money shall be printed and issued, and when that bureau is destroying the paper that has already been purchased for it, as has been shown here recently, I think we should stop these appropriations for the expenses of printing.

Mr. RANDALL. Mr. Speaker, what is the position of my amendment?

The SPEAKER. It is pending.

Mr. RANDALL. I do not think the amendment requires any elaborate argument on my part. It speaks for itself. It is so manifestly proper that I think there will be no objection to it. Hence I will not occupy the attention of the House. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. RANDALL'S amendment to the amendment was agreed to.

On agreeing to the amendment, as amended, there were—ayes 68, noes 30.

So the amendment of Mr. LOGAN, as amended, was adopted.

The first amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 2, in line twenty-four, after the word "provided," insert "further;" so that it will read, "Provided further."

The amendment was agreed to.

The next amendment was read, as follows:

On page 4, in line sixty-seven, strike out "thirty" and insert in lieu thereof "sixty;" so as to make the paragraph read:

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, $60,000.

The amendment was agreed to.

The next amendment was read, as follows:

On page 4, after line seventy-eight, insert the following:

For pay and rations of engineers for steamers used in the hydrography of the Coast Survey, no longer supplied by the Navy Department, per act of June 12, 1858, $10,000.

The amendment was agreed to.

The next amendment was read, as follows:

On page 6, after line one hundred and twenty-one, insert the following:

For the erection of a permanent buoy on Success Rock, Long Island sound, $3,000.

Mr. WASHBURNE, of Illinois. This amendment was offered in the Committee of the Whole by the gentleman from New York, [Mr. TABER.] In the regular estimates in regard to light-houses, on page 71, the item was omitted; but in a more detailed estimate, on page 117, the item is inserted. Under these circumstances I see no objection to the amendment being adopted.

The amendment was agreed to.

Mr. SAWYER, by unanimous consent, offered the following amendment:

At the end of line ninety-three add the following:

And provided further, That the appropriation now available for rebuilding the light-houses at Bailey's harbor, Lake Michigan, be applied to the erection of a new structure between that point and North bay, and upon its completion the light at Bailey's harbor shall be discontinued.

The amendment was agreed to.

The next amendment of the Committee of the Whole was read, as follows:

Page 8, line one hundred and eighty-two, add the following:

And it is hereby provided, That the six steam revenue cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping.

Mr. SPALDING. Mr. Speaker, I hope this

amendment will not be agreed to. I did not happen to be present in the Committee of the Whole on the state of the Union when this amendment was offered, or I should have raised the question of order on it. I came in the next day and in a few words discussed the object of this amendment. Since then I have received a great number of protests from the people along the lake shore against throwing aside these revenue cutters. It is certainly impolitic to do so until the Committee on Commerce give us some substitute for them.

This amendment contemplates laying up in ordinary these revenue cutters, built two years ago at a cost of $1,000,000. Although, perhaps, some better system may be substituted, I claim we ought not to lay up these cutters and leave our lake coast exposed to smugglers without some substitute to protect it. I hope the House will not concur in the amendment. I am content the Committee on Commerce should bring in a bill regulating this whole subject at the proper time, and then I will go with them. I hope the House will consent that this measure may be rejected in the form it is now presented.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I hope the House will adopt the amendment of the committee. I understand that remonstrances have been received from certain portions of the lake coast in relation to these revenue cutters. It is entirely evident from the language of these remonstrances that they were deceived as to the purport of the amendment. These remonstrances were against the sale of these vessels. I myself would be for the sale of these vessels out and out, as being utterly useless for any purpose, while they are an expense to the Government annually of $163,000.

I will state, what I think I stated in the committee the other day, something of the history of these revenue cutters. Up to 1865, I think, when they were built, we had no such cutters upon the lakes. We were at no such vast expense for revenue purposes. The Treasury Department did not come here and ask us to build six revenue cutters for the purpose of protecting the revenue. The Treasury Department neither asked nor desired any such thing, and the Treasury Department takes credit to itself for not having recommended the building of these steamers. They were built upon the mere notion of Congress, with no consultation whatever with the Treasury Department or any other Department.

They were not necessary to protect the revenue. They were built as a war measure, merely in the fear we might have some difficulty with Great Britain and with the Canadas, and hence this act for building these revenue cutters was put through both branches of Congress with railroad speed. Now that war is ended, when there is no real necessity for keeping up these vessels, I ask what justification there is for it? The Treasury Department has not sent in any communication that I am aware of asking us to continue these revenue cutters. If they were a necessity for the protection of the revenue, and if these revenue cutters, large and unwieldy as they are, were best adapted for that purpose, then I, of course, should be against the amendment and for keeping up these revenue cutters.

But there is no such necessity. We can with one-tenth part of the appropriations which are required every year to keep up these revenue cutters protect the revenue upon these lakes more completely and more thoroughly than we do it now. I do not wonder at these remonstrances coming from some of the lake ports in regard to these vessels. I know how easy it is to get them up. I know it may be a pleasant thing for some of these places along the lakes to have revenue cutters lying off the coast to be used for picnic excursions. It is a very fine thing for the revenue officers, and I can very well understand how these gentlemen, who are in command, high-toned, elegant gentlemen as they are, making their acquaintances on the shore, can go with their remonstrances to the people, and convince them that it is very unwise to have these revenue cutters taken away.

But, sir, I think the taxpayers have something to say. I think they will ask us what is the necessity of these revenue cutters there. Sir, they have already asked me that question in letters I have received from men living upon the lakes. And the gentleman from the Binghampton district of New York, [Mr. HULBURD,] and the gentleman from the Oswego district, [Mr. CHURCHILL,] and all those who are in a position to know about this matter, have told me, as they will tell the House to-day, that there is no real necessity for these cutters. That being the case, I ask if it is right and proper for us to appropriate this large amount of money every year?

Mr. CHURCHILL. Mr. Speaker, I introduced this amendment believing that the opportunity was presented here for saving to the Treasury a very large amount of money. I will call the attention of the House to a few facts in regard to these revenue cutters in addition to what has been stated by the gentleman from Illinois, [Mr. WASHBURNE.]

Before the commencement of the war we were for many years without any revenue cutters at all on those lakes. Some twenty years ago there was one on Lake Ontario and the St. Lawrence river, and I think one on the upper lakes. The one on the St. Lawrence river and Lake Ontario was withdrawn, taken around by the coast, and put into service on the Atlantic. Shortly before the war there were some five or six schooners of small cost and annual expense employed on the lakes as revenue cutters; but their service was not for the purpose of preventing smuggling. Their principal service, as I understand, was to convey to the light-houses along the lakes their supplies of oil and other things which they might desire for use. When the war broke out in 1861, and the Government was in great want of transportation upon the ocean, all of these cutters, these sailing vessels, were withdrawn, taken to the coast, and put into use by the Government there; so that we were left without any revenue cutters upon the lakes for some three or four years, except that, I think, in 1863, a single small steamer was built on some one of the upper lakes. After the St. Albans raid in 1864, and after various other hostile demonstrations from Canada against our people, a notice, which was required to be given by the treaty of 1817 before we could increase our armed force on the lakes, was given to the British Government. The six months' notice expired in November, 1864, and upon the very first day of the assembling of Congress in December, 1864, a bill was introduced for the construction of six revenue cutters as a war measure, under the impulse of the fears which were then existing of hostile expeditions from Canada. That bill passed both Houses almost without discussion, and in less than three weeks it received the signature of the President and became a law.

These cutters were not built in such a form as they would have been if they had been intended simply to prevent smuggling on those lakes. Instead of that they were proper war vessels, with an armament of very considerable power, which would enable them in any emergency to give a very good account of themselves on the lakes. Hence I am entirely opposed to having these cutters withdrawn from the lakes and sold. They should be kept upon the lakes. They should be there in such condition as that they could be made prompt use of if at any time our relations with Canada should require their use; but in the meanwhile, when no such necessity for their use exists, it is folly, as it appears to me, that we should be expending $163,000 a year just to keep these vessels afloat. They can be laid up and kept in perfect order at a very trifling expense to the Government; and then, whenever the emergency shall arise, if it ever does arise, these vessels will be there ready for use if they are wanted.

It is suggested that the British Government are about putting afloat upon these lakes some vessels of their own, and that for that reason we should keep these vessels afloat. But it will be recollected that these vessels are being put upon the lakes by the British Government because an armed hostile organization, extending through this country and Canada, and which has stood in hostile array upon Canadian soil more than once in the last twelve months, is now in existence, and it is for the purpose of providing against danger from that source that these vessels are about to be put on the lakes by the British Government. The dangers are now existing in Canada leading to that measure which existed in 1864 on our part, leading to our putting vessels of war afloat on the lakes; but now, since the danger to us has disappeared, the Government, or rather the taxpayers of the country, should be relieved from this unnecessary expense. I move the previous question on the amendment.

Mr. SPALDING. Will the gentleman withdraw that for a moment?

Mr. CHURCHILL. I will do so.

Mr. SPALDING. It is admitted by the gentleman from New York, [Mr. CHURCHILL,] who moves this amendment, that he did not contemplate disposing of these six steam revenue cutters. He would not deem it advisable to have them disposed of, because they may be wanted by and by upon the lakes as an armament for the protection of our commerce.

Now, I supposed the object the gentleman had in view by recommending that they be laid up in ordinary was that they should be disposed of altogether. I have a stronger objection to letting these valuable vessels rot in the way proposed, for we have no ship-houses in which they can be placed for safety to protect them from the weather. They must necessarily be undergoing a process of decay if they are laid up as this amendment proposes.

But the gentleman from Illinois [Mr. WASHBURNE] says that the citizens upon the lake shores who have remonstrated against this amendment remonstrate simply against a sale of the vessels. They use the word "sale," but they mean by it that the vessels shall not be taken out of their present employment. They say that they have a valuable commerce upon this chain of lakes, which we all know they have; one the value of which it is very difficult to estimate. These vessels are now, running as they do during the summer season, of inestimable value to that commerce. They have strong engines. They are frequently employed to relieve our merchant ships which are cast aground; they can take them off more readily than any other power that can be applied. In that way they are useful. But as a preventive force against smugglers they are certainly necessary along that line of coast so long as we attempt to interdict smuggling and prevent depredations upon our revenue.

I say, upon all accounts, upon every consideration, it is inexpedient to adopt this amendment, and dispose of these vessels in the way which is now suggested. We want, along that long line of navigable coast, to see occasionally the American flag displayed. We have opposite to it the long line of coast of a nation which has been in times past our enemy. They may become inimical again. They are putting upon the lakes their armed vessels now. May not we keep there five or six revenue cutters to show occasionally their guns and the American ensign, that they may see what they may expect if they should make us trouble upon those waters? In behalf of the population of that long line of coast I remonstrate against the adoption of this amendment, and I hope the House will not agree to it.

Mr. PETERS. I ask the gentleman from New York [Mr. CHURCHILL] to yield to me to move an amendment to the amendment of the Committee of the Whole, to authorize the Secretary of the Treasury to sell these vessels to the best advantage, at public or private sale, and to pay over the proceeds into the Treasury.

Mr. CHURCHILL. I cannot yield to the gentleman for that purpose.

Mr. PETERS. Will the gentleman yield to me to say a few words?

Mr. CHURCHILL. Certainly.

Mr. PETERS. If the argument in favor of the amendment of the gentleman from New York [Mr. CHURCHILL] is good for anything, it is that these vessels are useless for anything but war purposes, and good for nothing for revenue purposes. I was in hopes the gentleman would yield to allow an amendment to be offered and have the sense of the House taken upon it. I am opposed to the previous question on this amendment, because I want an opportunity to offer the amendment I have indicated. Now, if there is no object in keeping these vessels for revenue purposes, I want to know what object there can be in keeping them at all? There is no place where to keep them; there are no means to be devoted to their preservation. If you lay them up they will be a large annual expense to the Government, and they will deteriorate, become worn out, and good for nothing.

Mr. SELYE. And become rotten.

Mr. PETERS. And, as my friend from New York [Mr. SELYE] says, they will become rotten. I undertake to say that by the time we have a war with England we can build new vessels cheaper than we can then make these old ones serviceable. The British Government has no marine upon the lakes, and we have no need of any there for mere intimidation. It seems to me that it is a confession of the question on the part of members here, who merely desire to get rid of this expense, by a sort of compromise, to lay these hulks up to rot. If the argument is worth anything, it is a good argument in favor of disposing of these vessels for the most you can get for them. And if ever the time should come when we will need a marine upon the lakes we can then provide it more cheaply than we can maintain till then the vessels we now have on hand.

Mr. TROWBRIDGE. Will the gentleman from New York [Mr. CHURCHILL] yield to me for a few moments?

Mr. CHURCHILL. Certainly.

Mr. TROWBRIDGE. I desire to say a word in reference to the remark made by the gentleman from Ohio [Mr. SPALDING] concerning remonstrances he has received against the adoption of this amendment. I have received a large number of communications on this subject from my constituents, but there has not been a remonstrance among them. They have contained a universal approbation of the proposition to lay up these vessels. There has been a uniform expression of opinion from the business men and tax-payers of Michigan, that the expense we incur in keeping these vessels afloat is entirely useless. They say that no single instance can be cited where they have ever made a seizure. I happened to see, a day or two since, in this city, the collector of the port of Detroit, and I asked him the question; and he said that within his knowledge these vessels had never made a seizure, and that the expense had not been overstated by the gentleman from New York [Mr. CHURCHILL] of $163,000 a year for these vessels. So far as preventing smuggling is concerned, they might as well be laying here about this Capitol; because those who are engaged in smuggling know every day where these vessels are. They do not go up to the vessels and report themselves, but have avoided them and always will avoid them. One tenth part of this expenditure for smaller craft would be far better.

Mr. SPALDING. Is the gentleman's district on Lake Michigan?

Mr. TROWBRIDGE. No, sir; but it extends all along the line of the St. Clair river and Lake Huron, and comprises nearly the whole eastern coast of Michigan.

Mr. SELYE. I ask my colleague [Mr. CHURCHILL] to yield to me for a few minutes.

Mr. CHURCHILL. Very well.

Mr. SELYE. I suppose these revenue cutters are used now, whatever may have been the purpose for which they were originally constructed, for the purpose of preventing frauds upon the revenue by smugglers and all that sort of thing. If that is the object of keeping them afloat, then every man who knows anything about Lake Ontario, to say the least of it—and I have lived in sight of it for forty years—knows that you can get a tug that will answer every purpose, costing from eight to ten thousand dollars, with not more than six or eight men on it, and one gun sticking out behind. Tug-boats can go where the cutters cannot go. Besides that, on the tugs there is a different class of men, a working class, a class of men who do not wear kid gloves and patent leather boots. [Laughter.] They are ready to work, and they do work. I am in favor of doing away with these revenue cutters, as they are called, and putting in their stead these tugs, which will be of more service than any cutters can be, if the object is to prevent smuggling. As has been remarked by my friend from Michigan, [Mr. TROWBRIDGE,] no frauds on the revenue have ever been detected by these cutters. They serve only to furnish accommodations for pleasure parties of ladies and gentlemen; and for such pleasure parties my constituents and those of other gentlemen have to pay the bills by the sweat of their brows.

Mr. WASHBURNE, of Illinois. I now call the previous question on the bill and amendments. Let us treat this bill as we have always treated other bills of the same kind. There is no need of going over in the House the debate we have already had in the Committee of the Whole.

The SPEAKER. The gentleman from New York [Mr. CHURCHILL] is entitled the floor.

Mr. PETERS. I would like to know from the gentleman from New York, [Mr. SELYE,] who is a practical man, how long, in his opinion, it will take these cutters, if laid up, to become good for nothing with such means of preservation as there are on the lakes. I ask this question for the purpose of ascertaining whether these cutters had better be laid up or be sold.

Mr. SELYE. In fresh water a boat made of oak will not last more than eight years. In using oak wood for mills, &c., we generally estimate eight years as its lifetime. In salt water it will last longer.

Mr. WASHBURNE, of Illinois. The gentleman from New York [Mr. CHURCHILL] yields to me, and I demand the previous question on the bill and amendments.

Mr. GARFIELD. That is hardly fair.

Mr. WASHBURNE, of Illinois. Why not? These questions were all discussed in the Committee of the Whole.

On seconding the demand for the previous question there were—ayes 33, noes 40; no quorum voting.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. GARFIELD were appointed.

The House divided; and the tellers reported—ayes 46, noes 54.

So the previous question was not seconded.

Mr. WASHBURNE, of Illinois. I rise to a point of order. I understand from the gentleman from Iowa, [Mr. WILSON] that the object of this proceeding is to prevent me from being heard, under the rule, in opposition to these appropriations for court-houses, &c.

The SPEAKER. The Chair overrules the point of order upon the ground that the gentleman from Illinois is entitled to one hour on each amendment.

Mr. WASHBURNE, of Illinois. Then what does the gentleman from Iowa gain?

Mr. WILSON, of Iowa. All I ask is, that those members who have proposed amendments which have been adopted in the Committee of the Whole shall have an opportunity to reply to any attacks which the gentleman from Illinois may make upon those amendments. He knows very well that if the previous question should be seconded he can use his entire hour in attacking the amendments and prevent every friend of them from being heard.

Mr. WASHBURNE, of Illinois. If the gentleman's amendments cannot successfully withstand attacks then they ought to fall. The gentleman is insisting upon a course in regard to this bill which I undertake to say has never been pursued with regard to any other bill since we have had our present rules; and the purpose is to prevent me from being heard in opposition to these outrageous appropriations which the gentleman and his friends are endeavoring to force through this House.

Mr. WILSON, of Iowa. The remark which has been made by the Chair answers all that the gentleman has said. On each amendment he is entitled to an hour. What more does he want than that?

Mr. WASHBURNE, of Illinois. What do you gain then?

Mr. WILSON, of Iowa. An opportunity to reply.

Mr. WASHBURNE, of Illinois. The gentleman does not gain that, because, according to the ruling of the Chair, I have the right to close the debate on every amendment.

The SPEAKER. The gentleman from Illinois is entitled to one hour, if he claims it, on each amendment after the previous question has been seconded. The gentleman from New York, [Mr. CHURCHILL,] whose amendment is pending, is still entitled to the floor.

Mr. CHURCHILL. I yield to my colleague.

Mr. HULBURD. I move the following amendment:

That the Secretary of the Treasury be authorized and directed to lay up and withdraw from commission every revenue cutter on the Atlantic coast, bays, gulfs, &c., not actually required and needed for constant service.

Mr. Speaker, my colleague's amendment proposes to withdraw all the revenue cutters from the lake coast. I do not propose to oppose it, although, as I said before, the commercial interests of our lakes are equal, if they are not superior, to those of the entire Atlantic coast. I do not say that it is not proper to lay up these revenue cutters in order to save to the Government the expense as is alleged of $163,000 annually. I am not opposed to it upon the lake coast if the same retrenchment is practiced upon the Atlantic coast.

Now, sir, I wish to test the sincerity of the gentleman from Illinois [Mr. WASHBURNE] and other gentlemen on this question, and to see whether the same economy cannot be carried out when it touches other people's interests beside those who live upon the northern lakes. It is well known there are a large number of revenue cutters on the Atlantic coast, some on the Potomac, some in the Bay of New York, some at other places—that they are scattered all along the Atlantic coast. Some are actually needed, while others are used to carry Secretaries, Assistant Secretaries, and their especial friends and admirers to the islands east and north of us, at a heavy expense to the Government; some are used for no other purposes during the season of navigation than those summer excursions. Since I have been a member of Congress I have known of an Assistant Secretary "bowling" North on one of these revenue cutters with all his family. Now, is it right to keep up a fleet for the convenience of the Executive or the heads of any of the Departments of the Government, and for the pleasure and personal gratification of their families and friends? I insist that expenditure shall now be cut off, and that only those revenue cutters shall be kept up which are actually needed for the purposes of commerce or humanity. I insist that they shall hereafter be sanctioned for no other purpose. If we are to cut off the thousands for revenue cutters upon the northern lakes, where we have large interests to protect, then I want to see the millions we expend for the same service on the Atlantic coast also cut off.

Mr. PIKE. Who is to determine by virtue of this amendment how many cutters are necessary for this service?

Mr. HULBURD. The Secretary of the Treasury.

Mr. PIKE. He determines it now.

Mr. HULBURD. I know he does; but I

propose that he shall cut off all that are not needed.

Mr. WOOD. Mr. Speaker, I will go as far as my colleague or the gentleman from Illinois in reducing the expenses of the Government. I would reduce all those not absolutely necessary for the protection of commerce and for the protection of the revenue.

Now, sir, ever since this Government was originally organized this revenue-cutter system has been in use; but almost on every occasion when appropriation has been asked for it war has been made upon the system. War has been made against it annually for the last thirty years. Heretofore that war has come from gentlemen from the western States, which have no foreign commerce to protect; by gentlemen whose districts did not lie immediately contiguous to the Canadas, and who did not represent districts lying on the Atlantic sea-board. But, sir, this is the first time that Representatives from New York, from districts lying upon the lake border for seven hundred or eight hundred miles, where you can throw a biscuit from the shores of Michigan and New York to the English possessions in the Canadas, have opposed this revenue-cutter system.

The small sum asked to continue this system is saved almost annually by either one of the revenue cutters on the lakes, so far as New York is concerned.

Gentlemen refer to abuses which have grown up under this system. I am free to admit there is a great deal of force in what has been stated by my colleague. The system has been abused. Collectors and deputy collectors have used our revenue cutters for summer excursions, for yachting purposes, in which members of the Government and of Congress have joined. But because the system has been abused, because the officers in charge have used these vessels for improper purposes, is that any reason for their being cut off where they are absolutely needed? Why, sir, there is more smuggling from the Canadas into the United States, across the waters of Lake Ontario, Lake Erie, and Lake Michigan, in my judgment, than would support twenty revenue departments, so far as the employment of revenue cutters is concerned. I know that they cannot in all cases prevent it; but if, to any extent, the use of these vessels will save the revenue to the Government, if they are of any service on the Atlantic sea-board—and I think no gentleman in his senses can deny it—I do hope that neither the proposition to lay them up in ordinary, as is proposed by the amendment of my colleague, nor to abolish them altogether, will prevail. I hope the House will hesitate before it takes that course. I hope before we do it we may have a report from the Committee on Commerce or a recommendation from the Secretary of the Treasury on the subject showing the necessity for dispensing with these vessels.

Mr. WASHBURNE, of Illinois. The gentleman from New York [Mr. HULBURD] says he desires to test my sincerity in regard to this as a matter of economy. Now, I suppose he heard the reason which I gave why these revenue cutters on the lakes should be laid up, or rather, as I would prefer, why they should be sold. It was because they are unnecessary as a means of protecting the revenues, and because they are a useless expense to the Government. And now the gentleman from New York comes in with a proposition—for what purpose? As it stands it merely amounts to nothing. It only gives the Secretary of the Treasury a discretion which he has already. It neither adds to or detracts from the power and discretion which he already has.

But the object of the amendment is to do away with the revenue cutters. According to the speech which he made, his desire is to have all these revenue cutters abolished and he comes in and asks to have my sincerity tested on that proposition. Why, sir, there is no likeness between the two cases. I would be glad if it were practicable or possible to reduce the revenue service. The Committee on Commerce has that subject already under consideration, and we are endeavoring to devise some means whereby we may reduce the expenses of the whole revenue service. But let me tell the gentleman from New York that, in a consultation at the Treasury Department, when I complained of these large expenses, they admitted that they were large and stated their desire, if possible, to reduce them; but they said such was the extent of smuggling going on, such were the means resorted to by those engaged in smuggling—which is a great interest in the country, an interest which controls, I may say, hundreds of millions of dollars, an interest which goes through courts and juries—I would not say it ever goes through Congress; no, sir;—[laughter]—an interest, I would not say, that controls New York city—they said if the revenue was to be protected against this stupendous interest, instead of reducing the number of revenue cutters we should give them an additional number for certain portions of the country, in order properly to protect the revenue. I take it there is no man here who does not desire to see the revenue protected. I take it we desire to see collected as much revenue as possible from importations, so as to relieve our constituents to that extent from internal taxation. I will go with my friend in reducing the expenses whenever they can be reduced, and yet protect the revenue; but I will not go with him to strike down all the means of protection, and permit your revenue to be defrauded out of millions and tens of millions of dollars.

Mr. PIKE. Mr. Speaker, in relation to this extra service I wish to say a word. So far as regards the amendment of the gentleman from New York [Mr. HULBURD] it seems to me that the trouble about the extra service is in the class of vessels employed. Now, on the coast we used to have some sailing vessels. When steam was introduced we had small steamers. Under Mr. Harrington's administration of the Treasury Department they were enlarged, so that we had a fleet of very handsome, stately semi-ships of war of about three hundred and fifty tons burden, of the Mahoning class, costing about one hundred thousand dollars each. But they were of little or no use on the coast, except occasionally to relieve vessels in distress in the winter time.

For the purpose of pursuing or detecting smugglers, as the gentleman from Michigan [Mr. TROWBRIDGE] says, they might as well have floated around the Capitol as on the waters of the Atlantic.

Now, two years ago, by authority of Congress, these vessels were disposed of partially, and, to my surprise, sailing vessels were introduced instead; so that now we have a portion of that fleet remaining. We have some small steam tugs in the service, and we have some small sailing vessels of about two hundred tons burden, introduced within the last two or three years, to take the place of those large steam vessels. I have conversed frequently with gentlemen of the marine service and with collectors of the customs in relation to the proper disposal of these vessels. The vessels built under Mr. Harrington's administration, costing, if I recollect aright, about one hundred thousand dollars apiece, were sold, bringing but $20,000 apiece, very much less than half the cost of the engines. Undoubtedly, if these vessels built upon the lakes under Mr. Harrington's administration—the Sherman, the Fessenden, and other vessels—were sold, they would produce about the same sum.

But it is evident to my mind, from all the information that I can gather upon the subject, that if we would pursue a reasonable course for the double purpose of protecting the revenue against smugglers and relieving vessels in distress, we must resort to the same means that the merchant marine resort to. They, for the purpose of towing vessels and managing vessels, and, under the direction of insurance companies, relieving merchant vessels in distress, use a species of vessels called tug-boats. These tug-boats are small but very powerful, having as much power as a vessel of the Mahoning or Ashuelot class; but, as the gentleman from New York [Mr. SELYE] says, having only eight or ten men on board—at any rate, a very limited number—the cost of running them is very small in comparison. And if we could pursue a system under some bureau or somebody with continuous authority that should not change from small tug-boats to large steam-vessels, and from large steam vessels back to small sailing vessels, but should institute a proper revenue marine for the proper class, we might at the same time benefit the interests of the Government and take care as far as is necessary of merchant vessels in distress.

I have for some time been hoping that under somebody's lead—and I think the Committee on Commerce is the proper body to initiate a reform of the kind—this revenue marine might be placed in a sensible position with regard to the revenue and with regard to the merchant service. The British system is to have a cordon of vessels all around the island, stationing at leading points naval vessels of some magnitude and then having boats going from one vessel to another. Our coast is too extended for that system; but we can approximate to it and introduce some common sense into the management of this service if Congress shall so determine. At present it costs about one million two hundred thousand dollars a year to support this system, which is a very considerable sum and worthy the attention of Congress.

Mr. HULBURD. I desire to ask the gentleman from Maine if he supposes that the multiplying of revenue cutters on the coast and in the bay of New York will suppress or stop smuggling? I ask the question in view of what fell from the lips of the acting chairman of the Committee on Appropriations [Mr. WASHBURNE, of Illinois] intimating—although I can hardly think he meant it—that the motion I had made was in the interest of smugglers, or that I wanted to lay up these cutters entirely for the purpose of allowing smuggling to take place. I ask the gentleman how it happens that with cutter after cutter in the bay of New York vessels come in and discharge, as has been done in one instance certainly within the last six months, before they come to the wharves and inside of the bay, fifty odd trunks, with a revenue cutter alongside knowing that it was taking place and allowing it to go on unchecked and unreported to the custom-house; and the owner of the trunks indorses the collector of New York as an honorable, respectable, honest man! I ask the gentleman if he supposes that another revenue cutter upon the other side of the vessel would be any protection against smuggling under circumstances like that?

Mr. PIKE. I cannot say in relation to the harbor of New York. But I can say in regard to the harbor of Boston. I notice that a short time since one of the Boston cutters went down the harbor and had the high distinction of bringing Mr. Dickens to the city when he last did this country the honor to land on its shores.

Mr. CHURCHILL. In reply to what has been said by my colleague from the city of New York [Mr. WOOD] I desire to say that I appreciate, as much as he or any of my colleagues on this floor can, the importance of furnishing every possible facility to the officers of the revenue for the purpose of preventing illicit trade. Although I assented to allowing my colleague from the St. Lawrence district [Mr. HULBURD] to offer his amendment, it was not because I desired to sanction thereby any measure which would in any way cripple the efficiency of the revenue service on the ocean.

Mr. HULBURD. I would ask my colleague [Mr. CHURCHILL] if he supposes I offered that amendment with any such view?

Mr. CHURCHILL. Not at all.

Mr. HULBURD. If there is a member on this floor who has done more than I have tried to do to prevent smuggling and to increase the revenues of this Government I would like to

have him arise in his place and say so. And I think it is very ungenerous on the part of my friend from Illinois, [Mr. WASHBURNE,] even by indirection, to intimate that I have offered an amendment subject to such a charge.

Mr. WASHBURNE, of Illinois. I have made no such charge or insinuation.

Mr. HULBURD. I understood the gentleman to say that it was offered in the interest of smugglers.

Mr. WASHBURNE, of Illinois. I said that such would be the effect of the amendment if adopted; but I made no charge or insinuation.

Mr. CHURCHILL. I do not believe there is a member on this floor who believes that my colleague from the St. Lawrence district [Mr. HULBURD] had any such idea in offering his amendment. In fact, I understood from the very terms of his amendment that it was intended to leave the Secretary of the Treasury to judge how far the present revenue service should remain untouched in order that he may be able to maintain it in the highest state of efficiency he may deem necessary.

Now, so far as these revenue cutters upon the lakes are concerned, I am satisfied from personal investigation that they are useless for the purpose of preventing smuggling there. I have been assured by the commander of one of those vessels that his vessel was entirely inadequate for any such purpose, and that he could not see how he could be useful in preventing smuggling. And within the last week I have been told by an officer of the revenue, as familiar with the trade of the lakes as perhaps any man in Washington, that he had received a similar assurance from the commander of another of these vessels. And I have been assured by officers of the revenue on Lake Ontario that they could not use these cutters for the purpose of preventing smuggling. It was for this reason that I offered this amendment in the Committee of the Whole. But because I believed the trade on the lakes, great as it is, and growing in importance as it is, ought to have the protection which would be furnished by vessels of war upon those lakes, I am opposed to the utmost to any proposition looking to the sale of these vessels. I now call the previous question on the amendment.

Mr. BANKS. Will the gentleman withdraw the call for the previous question and yield to me for a few moments?

Mr. CHURCHILL. Certainly.

Mr. BANKS. I desire to say that in my opinion the public service will be injured by the removal contemplated by the amendment of the gentleman from New York, [Mr. HULBURD.] Those vessels furnish one of the chief means for the prevention of smuggling on a large scale. For this reason I hope his amendment will not be adopted.

Now, one word in regard to the remark of the gentleman from Maine [Mr. PIKE] in reference to the use of the revenue cutter in Boston harbor on a particular occasion alluded to by him. It is the duty of the boarding officers of the custom-house to board all vessels coming into the harbor from abroad. The steamer which brought Mr. Dickens to this country was boarded by the boarding officers of the custom-house of Boston. He took advantage of the return of the boarding vessel to come to the city upon her, in order to get there the sooner. That was the only reason why he happened to come up on that boat. It did not go down the bay specially to bring him up.

Mr. CHURCHILL. I demand the previous question on the amendment and the amendment to the amendment.

The previous question was seconded and the main question ordered; and under the operation thereof Mr. HULBURD'S amendment to the amendment of Mr. CHURCHILL was adopted.

On the amendment as amended there were—ayes 65, noes 26; no quorum voting.

Tellers were ordered; and Messrs. SPALDING and CHURCHILL were appointed.

The House divided; and the tellers reported—ayes 72, noes 33.

So the amendment, as amended, was adopted.

Mr. PETERS. I now desire to offer an amendment, if it be in order.

The SPEAKER. It is not in order, except by unanimous consent.

Mr. WASHBURNE, of Illinois. I hope that now the House has had discussion enough. I call the previous question on the bill and amendments.

On seconding the demand for the previous question there were—ayes 47, noes 61; no quorum voting.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. WASHBURNE, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 40, noes 58.

So the previous question was not seconded.

The next amendment was read, as follows:

On page 9, in line one hundred and ninety-six, strike out "twenty-five" and insert in lieu thereof "seventy-five;" so that the paragraph will read:

For the construction of appraisers' stores at Philadelphia, $75,000.

Mr. WASHBURNE, of Illinois. On this amendment I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the main question had been ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I believe, Mr. Speaker, I am now entitled to an hour to close the debate on this proposition.

The SPEAKER. The gentleman is entitled to one hour.

Mr. WASHBURNE, of Illinois. It is always, Mr. Speaker, and especially when the House is in the temper which it has exhibited to-day, an ungracious task to oppose any amendment proposing an appropriation of money. The appropriations added to this bill in the Committee of the Whole have been considered of so much importance that my friend from Iowa [Mr. WILSON] has paid a compliment to my influence here which I am certain I do not deserve, for under his lead the House, contrary to the universal practice with regard to bills of this character, has refused to second the demand for the previous question upon the whole bill, fearing that something which I might say in the hour allotted to me by the rules might induce the House to vote against these public building appropriations. Now, my friend from Iowa ought to have known this House well enough to know that nothing which I can say would be likely to prevent these appropriations from being voted in. And here I beg leave to recall to our friends on this side of the House that we have vauntingly proclaimed ourselves the party of economy. Our conventions, State and county, have everywhere emblazoned economy as a watchword on our banners, and we here have been called upon to live up to our professions before the people.

Mr. RANDALL. You confine your economy to your preaching; you do not extend it to your practice.

Mr. WASHBURNE, of Illinois. It does not extend to the gentleman's practice or the practice of his friends. I say, Mr. Speaker, we have resolved as Republicans that we are a party in favor of economy.

Our constituents have demanded that we shall exercise the most rigid economy, making no appropriations for which there is not an imperative necessity. Now, sir, upon gentlemen on this side rests the responsibility for our legislation. Gentlemen on the other side do not bear the responsibility, and they are consistently and persistently extravagant. But, sir, I repeat it, we are responsible for the legislation of the country, and we are the majority, and we must answer to our constituents whether all our professions shall be proved to be false, or whether we will in our official capacity here carry them into practice; whether, in short, we will—

"Keep the word of promise to the ear,
And break it to the hope."

Sir, what do we see here? Your committee has included in this bill certain necessary appropriations for certain public buildings already commenced. When the bill comes up in the House what a spectacle do we exhibit. I will not say in relation to this body that there has been a "ring" formed here for the purpose of carrying particular appropriations through.

Mr. O'NEILL. I call the gentleman to order. I want to know whether gentlemen of this House who are as conscientious in the performance of their duty as is the gentleman from Illinois are to be characterized as forming a "ring" because they feel it their duty to vote for the propositions upon which the gentleman is commenting.

The SPEAKER *pro tempore*, [Mr. ALLISON.] The Chair rules that the gentleman from Illinois is in order.

Mr. WASHBURNE, of Illinois. I distinctly stated I would not charge there was a "ring."

Mr. O'NEILL. You did charge it in so many words.

Mr. WASHBURNE, of Illinois. No, sir.

Mr. O'NEILL. If you did not charge it you said it.

Mr. WASHBURNE, of Illinois. I said I would not say there was a "ring" formed by my friend from Pennsylvania and others.

Mr. MAYNARD. I rise to a question of order. I understand the pending question is on the amendment of the Committee of the Whole on the state of the Union, and I make the point that the debate should be confined to it, and the gentleman from Illinois should not be permitted to lecture the House.

The SPEAKER *pro tempore*. The gentleman from Illinois must confine himself to the specific amendment, but he can discuss the general question of economy, which the Chair understands he is now doing.

Mr. WASHBURNE, of Illinois. While I say I would not charge a "ring" was formed here, yet it is very much like the "rings" formed in the Legislature of my own State, and, I dare say, in the Legislature of the State of Pennsylvania, from which my friend comes.

Mr. O'NEILL. I hope the gentleman will confine his remarks to what is occurring here, and not to what occurs in the State Legislatures.

Mr. WASHBURNE, of Illinois. I wish to know whether I am in order or not?

Mr. O'NEILL. I ask the gentleman to let me put a question to him, and then I will take my seat.

Mr. WASHBURNE, of Illinois. I do not yield.

Mr. ROSS. I object to any imputation upon the Republican Legislature of Illinois. [Laughter.]

Mr. GETZ. And I object to any imputation upon the Republican Legislature of Pennsylvania. [Renewed laughter.]

Mr. WASHBURNE, of Illinois. The distinguished "Knight of the Golden Circle" is not authorized to speak for the Legislature of Illinois. [Laughter.] I say this legislation here is very much like the "rings" in the State Legislatures.

And let me say here that this "ring legislation" is becoming the curse of the country. These combinations of different and distinct interests for the purpose of forcing legislation upon subjects grouped together when not one of them could stand separately is one of the alarming features of the times, and should be resolutely confronted by all honest legislators. It might not be in order to say that this system exists here in this body, but it is in order to say, as I have suggested, it exists in our State Legislatures to an alarming degree. I take it that it prevails in the State of the gentleman, [Mr. O'NEILL,] the Commonwealth of Pennsylvania. I say it with shame it has prevailed in my own State, Illinois. It was by this ring

legislation that our last Legislature got through that series of acts, the new State-house, the agricultural college, the southern penitentiary, and perhaps some others, which, if not promptly repealed, will entail millions and millions of public debt on our people, already groaning under a load of taxation almost too grievous to be borne. It is this "ring legislation" that threatens particularly to fasten upon the people of our State the new State-house, one of the most monstrous schemes ever thrust through a legislative body, and which has met with almost universal execration from all parties, and I trust the people will not only repudiate the scheme, but the parties who are responsible for foisting it upon the State. And, sir, shall we here sanction any such vicious principle by sustaining combinations, if such exist, to carry through these appropriations for different localities, for Pennsylvania, for Iowa, for Wisconsin, and for Illinois? And though there are appropriations in this bill for my own State, for public buildings at Springfield and Cairo, yet I hold myself under no obligations to vote for the other appropriations in the bill in order to get through the Illinois appropriations. However much I may desire to gratify friends in the particular localities interested by voting those particular amounts, I am compelled by a sense of public duty to put the Illinois appropriations on the same footing with those out of the State; and believing that the state of the Treasury, the already existing overwhelming public debt, and the pressure of taxation upon the people render it inexpedient to make further appropriations than the bill, as reported, provides. I am against anything further, either in Illinois or elsewhere.

What is the appropriation now before us? I ask gentlemen on this side of the House to pause and consider before they finally act on these matters. This application is for $75,000 for appraisers' stores in Philadelphia. That is the provision of the bill as amended in Committee of the Whole.

The Committee on Appropriations put in $25,000 as being the largest sum we thought could be allowed. Now, my distinguished and popular young friend from Pennsylvania comes here and asks that the appropriation shall be increased to $75,000. The country has been clamoring for your Committee on Appropriations to reduce the expenditures of the Government, and yet the House votes in these amendments increasing the appropriations, and we cannot help it. When we cut them down you increase them over the estimates even. I do not propose to object to your voting them in, and even if I did, it would he of no avail. But I do propose to discharge my duty to my constituents and the country, and there my responsibility ends.

Mr. HOPKINS. I wish to ask the gentleman a question. As the gentleman has stated the Committee on Appropriations is entitled to so much credit, I want to ask him whether the House has not reduced the appropriations reported in the bill $1,000,000?

Mr. WASHBURNE, of Illinois. The gentleman can find out by looking over the bill.

Mr. HOPKINS. I say they have.

Mr. WASHBURNE, of Illinois. They have not reduced the amount by cutting down the appropriation for the Madison custom-house, but they have added to it.

Now, in regard to the appraisers' stores in Philadelphia, can the gentleman from Pennsylvania assign any good reason for this large appropriation?

Mr. ROSS. I rise to a point of order. I want order preserved so my colleague can be heard.

Mr. WASHBURNE, of Illinois. The gentleman shall hear me. He has heard me before. I call upon any gentleman to tell us any good reason for this appropriation. Now, sir, I have looked, but looked in vain——

Mr. O'NEILL. Will the gentleman——

Mr. WASHBURNE, of Illinois. No, sir; I do not yield.

Mr. O'NEILL. I merely ask to be permitted to explain——

Mr. WASHBURNE, of Illinois. I say I have looked in vain to find the necessity for these appraisers' stores. I have looked in vain to find where the recommendation was made by competent authority that we should appropriate any of the people's money for these stores at Philadelphia. But I find that at the last Congress $50,000 were voted for this purpose. I undertake to say it was the understanding of every man who voted for that appropriation that $50,000 was the amount necessary to build these stores. But how does this matter stand? Why, sir, this is a bill, if gentlemen feel interest enough in it to look at it, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869. But it seems that after we made this appropriation last year another appropriation was deemed necessary, and the Secretary of the Treasury sent in his estimate for this building for the next fiscal year ending June 30, 1869. And what was it? I read it to the committee, and I now read it to the House. It is in this bill:

For the construction of appraisers' stores at Philadelphia, $50,000.

And yet my friend from Philadelphia [Mr. O'NEILL] comes in and asks us to vote $25,000 more, and the House in Committee of the Whole has done it. The gentleman points me to another appropriation which is not asked for by the Secretary of the Treasury, to go into this bill. This is a bill for expenses from July, 1868, to July, 1869. As I have before stated, $25,000 more than the Secretary of the Treasury asked for in this bill has been put in, and that, too, without our having any plan or any estimate in regard to the amount necessary to erect and complete this building, and with no information in regard to the necessity of it. My friend when he was discussing this thing with that sweet eloquence with which he so often wins the House, [laughter,] did not deign to tell us what the necessity was, but he made his proposition for $25,000 more, and it was agreed to. He wanted more money, and more money he must have.

"Fe, fi, fo, fum,
He smelt the blood of an Englishman,
Dead or alive he would have some."

[Laughter.]

Mr. O'NEILL. I ask the gentleman to allow me to explain. I want him to read fairly and plainly to the House what was the demand of the Secretary of the Treasury for these stores at Philadelphia and then——

Mr. WASHBURNE, of Illinois. I am going to deal fairly and squarely. I say that the Secretary of the Treasury asked, by the book which I have before me, $50,000 for this building; and your bill shows that you have put in $75,000, does it not?

Mr. O'NEILL. As the gentleman now asks me a question, I think I ought to have the privilege of answering. [Laughter.]

Mr. WASHBURNE, of Illinois. I do not yield. I know what the gentlman refers to. I know there is an estimate on page 4 very near the bottom for $25,000 to come into another bill for an amount to be expended before that time. But for this bill I say the record bears me out that the Secretary of the Treasury asked for only $50,000, but without any regard to that, and without any knowledge on the subject we have added $25,000. It does not say it is not for finishing these appraisers' stores. But the question which we are to meet here is whether the House will permit these things to go through in this way; these appropriations to go in without any examination or recommendation, without any necessity established, and go on and on, adding and still adding to the expenditures of the Government and burdens of our constituents. Now, I say that the Appropriation Committee has inserted an appropriation which is as large as you can make if we are to practice any economy and are to pretend to keep down our expenditures. Why, sir, it was but the other day when you took off your internal taxes to the amount of $75,000,000, and that very day you voted $500,000 for a building lot at Boston, and $75,000 for an assay office in Idaho. Now, I ask my friends how they expect to stand up under these things, reducing your taxes but increasing your appropriations? Your revenues will not be enough to meet your expenses. The country will be bankrupted, dishonored, disgraced. You cannot pay your debts. And when the Appropriation Committee come here and try to keep down the expenses they are met and assailed on every side, so that a stranger looking down from the gallery when these appropriation bills are being considered would be almost led to believe that the Committee on Appropriations, who are devoting themselves with all their energies to keep down the expenditures and lessen the taxation of the people, are but a band of robbers trying to break into the Treasury. Instead of being supported by our friends in our efforts for economy and retrenchment, we have but one continued struggle in attempting to keep out of our bills the vast sums attempted to be incorporated in them.

But, Mr. Speaker, I do not propose to speak longer to this item. I have said thus much in accordance with my convictions of duty as the representative of the committee reporting the bill. It would be a far more pleasant task to acquiesce in all the vast and countless appropriations which are sought than to stand up here and resist them. But, sir, where is the country to land and what is to be our condition if all these things are permitted to go through? Let me tell gentlemen, let me tell members of the Republican party, because I want to speak a word for that party as a party of progress, of justice, patriotism, and humanity, a party to which I have been attached during its life, and have given it my best energies, and whose fortunes I have followed alike when victory has flashed from its standards and when defeat and disaster have hung upon its heels; I say let me tell you, my Republican friends, as I love that party and would see it great and glorious, its principles triumphant, and its success assured, beware that you do not destroy the confidence of the people in it by your extravagant and uncalled for appropriations of the people's money. I repeat it, sir, we, as the Republican party, are responsible to the country for the legislation of this Congress, and the country will hold us to that responsibility. We have come into power upon promises of economy and retrenchment, and let as not forfeit the pledges we have given to the country and our constituents. For one I intend to keep my faith with my constituents. That is all I propose to say on this item.

Mr. O'NEILL. Will the gentleman allow me five or ten minutes?

Mr. WASHBURNE, of Illinois. "Not a man nor a dollar." [Laughter.]

The SPEAKER *pro tempore*. No further debate is in order.

The question was put on the amendment; and there were—ayes 42, noes 35; no quorum voting.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. O'NEILL. I wish to say to the House that this amendment passed the Committee of the Whole by a very large majority.

The SPEAKER *pro tempore*. No debate is in order.

The question was taken; and it was decided in the negative—yeas 45, nays 63, not voting 81; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, James M. Ashley, Banks, Bromwell, Broomall, Burr, Churchill, Cullom, Dodge, Donnelly, Gravely, Haight, Higby, Hopkins, Richard D. Hubbard, Jenckes, Judd, Kelley, Loan, Logan, Mallory, Maynard, Miller, Myers, Newcomb, O'Neill, Pomeroy, Price, Randall, Raum, Robertson, Sawyer, Scofield, Sitgreaves, Taffe, Taylor, Thomas, Twichell, Van Auken, Robert T. Van Horn, Thomas Williams, James F. Wilson, and Wood—45.

NAYS—Messrs. Bailey, Baker, Baldwin, Barnes,

Beaman, Bingham, Blair, Boutwell, Buckland, Butler, Coburn, Dawes, Dixon, Driggs, Eckley, Eldridge, Farnsworth, Ferriss, Fields, Garfield, Getz, Golladay, Hawkins, Hill, Holman, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Julian, Kelsey, Kerr, Kitchen, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Marshall, McCormick, Mercur, Moorhead, Mullins, Niblack, Plants, Polsley, Ross, Selye, Shanks, Spalding, Aaron F. Stevens, Taber, Lawrence S. Trimble, Trowbridge, Upson, Van Trump, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, and Woodward—63.

NOT VOTING—Messrs. Adams, Allison, Archer, Delos R. Ashley, Axtell, Barnum, Beatty, Beck, Benjamin, Benton, Blaine, Boyer, Brooks, Cake, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Eggleston, Ela, Eliot, Ferry, Finney, Fox, Glossbrenner, Griswold, Grover, Halsey, Harding, Hooper, Asahel W. Hubbard, Humphrey, Ingersoll, Johnson, Jones, Ketcham, Lynch, Marvin, McCarthy, McClurg, McCullough, Moore, Morgan, Morrell, Morrissey, Mungen, Nicholson, Nunn, Orth, Paine, Perham, Peters, Phelps, Pike, Pile, Poland, Pruyn, Robinson, Schenck, Shellabarger, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, John Trimble, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—81.

So the amendment was disagreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment was disagreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment was on page 9, in line one hundred and eight, to strike out "$15,000" and insert in lieu thereof "$89,008;" so that the paragraph would read:

For construction of the court-house at Des Moines, Iowa, $89,008.

Mr. DODGE. This amendment was fully discussed in Committee of the Whole on the state of the Union. I desire to have read letters from the supervising architect and the Secretary of the Treasury, which I send to the Clerk's desk.

The Clerk read as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
February 8, 1868.

SIR: I have the honor to inclose an estimate of the total cost of the United States court-house and post office at Des Moines, Iowa, completed, and to say that the Department has succeeded in making contracts for the supply of material on advantageous terms, both as to price and promptness of delivery.

I believe that if sufficient appropriations for the completion of the building can be obtained that the building can be put under roof before next winter, and finally completed before the close of the next fiscal year. I need not add that the cost of the building will depend in a very great measure upon the promptness with which it is completed.

The total estimated cost of the building completed is.....$174,008 00
85,000 00

$89,008 00

Very respectfully, A. B. MULLETT,
Supervising Architect.

Hon. HUGH MCCULLOCH, *Secretary of the Treasury.*

TREASURY DEPARTMENT,
February 10, 1868.

SIR: I have the honor to inclose herewith a communication from the supervising architect with an estimate of the cost of the United States court-house and post office at Des Moines, Iowa, from which it will appear that the sum of $89,008 will be required to finally complete the building according to the approved plans and specifications.

As it is so evidently to the interests of the Government that the work should be completed at the earliest possible moment, (which cannot be done if delays arise from the want of funds,) I would earnestly recommend that the above amount be included in the bill making appropriations for the fiscal year ending June 30, 1869.

Very respectfully, H. MCCULLOCH,
Secretary of the Treasury.

Hon. THADDEUS STEVENS, *Chairman of the Committee on Appropriations, House of Representatives.*

Mr. DODGE. It will be seen by these communications that the Secretary of the Treasury desires to complete this building. It is now nearly half built, and if it is left unfinished for another year it will be a loss to the Government of five or six thousand dollars in rent, besides the injury to the building from being left in an unfinished condition. The contracts have been let for the building and a portion of the material has been delivered, and it is certainly a matter of economy to finish it. The Secretary says that the sooner it is completed the cheaper it will be for the Government. I now yield to my colleague, [Mr. WILSON.]

Mr. WILSON, of Iowa. The statement which has just been made by my colleague [Mr. DODGE] is similar to the statement made in Committee of the Whole when this amendment was first offered, and which led that committee to adopt that amendment. It may be said that there is an unexpended balance of the appropriation made for the present fiscal year; that is true. Of that appropriation there is an unexpended balance of $51,843 96. With regard to that, I ask attention to the following communication from the office of the supervising architect, Treasury Department:

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
March 18, 1868.

DEAR SIR: The unexpended amount of appropriation for the Des Moines court-house and post office is $51,843 96. This sum will be sufficient to carry on the work until July.

The sum asked for in the appropriation bill will then be available and will be sufficient to complete the building.

Very respectfully, your obedient servant,
J. C. RANKIN.

General G. M. DODGE, *House of Representatives.*

Now, sir, the whole case is this: this work is now in progress under contract. A certain amount of money is necessary in order to complete it according to contract. The Government needs this building, and for want of such a building we are now paying rental to the amount of about $5,000 a year for offices, which this building will supply as soon as it is completed. The Government is, therefore, expending now each year by way of rental an amount of money nearly equal to six per cent. upon the amount required to complete this building. So that in any view of the case it is economy on the part of the Government to make this appropriation and complete this work.

I wish simply to urge this consideration on this House: that by appropriating now the amount of money necessary to complete this building the Government will save what would be equivalent to about six per cent. interest on the amount asked for. It is, therefore, no additional cost to the Government to make this appropriation. As I have already said, the Government needs the accommodation this building would afford if completed. The question for this House to consider is whether the money already appropriated, and which is being expended upon this building, shall be allowed to remain there, returning nothing to the Government, or whether we will make this appropriation to complete the building, so that we can have the use of it and save the rent we are now paying annually. I submit this case to the House as one which, from the very first step to the last, is as complete as any I have ever known to be presented for the consideration of Congress.

Mr. WASHBURN, of Wisconsin. If the facts are as stated by the gentleman from Iowa, [Mr. WILSON,] that this building is now partially completed, and this sum of money is required to complete it, then I think it economy on the part of Congress to make this appropriation. But I observe, by reference to the estimates, that the Secretary of the Treasury asks for $25,000 only. Now, I want to know why we should make a larger appropriation than he asked for? As I said before, I concur entirely with the views of the gentleman from Iowa [Mr. WILSON] in reference to this matter; that as short as we are of money, and as much as I regret that fact, still I think it would be economy on the part of the Government to complete this building.

Mr. WILSON, of Iowa. In answer to the question of the gentleman from Wisconsin, [Mr. WASHBURN,] I will say that at the time the Secretary of the Treasury submitted the estimate to which he refers, the contracts had not been made for the completion of this work. In addition to that I will say that I have here in my hand a detailed statement of the estimates made by the supervising architect, giving the amount required for each item going to complete this building. So that there is no point upon which information can be desired that the papers in this case do not fully present it.

Mr. MILLER. I agree with the gentleman that it would be economy to complete this building. But I would like to inquire how much money has already been expended upon it, and how far is the building advanced?

Mr. WILSON, of Iowa. My colleague [Mr. DODGE] can furnish that information better than I can.

Mr. DODGE. The building is now constructed above the first floor; the amount of money up to the 1st of July next will be $84,000. That is for the ground, building, and everything. The Secretary of the Treasury, in this estimate, asks for $89,008 to complete the building.

Mr. WILSON, of Iowa. I will add, Mr. Speaker, that the fact should not be overlooked that the unexpended balance of $51,000 is included in the appropriations made for the present fiscal year, and will be expended, as the supervising architect says, by the 1st of July next. Then the appropriation proposed to be made in this bill can be made available, because it will be an appropriation for the next fiscal year. Within that fiscal year this building can be completed, by the aid of this appropriation, according to the representations which are made here by the officers of the Government. The Government then will have the use of this building, and will save the amount which it is now paying out for rent.

Mr. WASHBURNE, of Illinois. I demand the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. No man can know better than I do, Mr. Speaker, how unpleasant it is to antagonize friends in regard to these appropriations, and I am sure it affords me more pain to oppose them than it affords pleasure to my friends to urge them.

Now, sir, in regard to this appropriation for Des Moines I must say, with due deference to my friends from Iowa, that it seems to me one of the most flagrant propositions that I have ever known. Now, Mr. Speaker, (Mr. ALLISON in the chair,) you know, for you come from the State of Iowa, and are, of course, in favor of this appropriation, that at the last session of the last Congress a very distinguished Representative from the Des Moines district of your State came in here and asked an appropriation of $85,000 for a court-house at Des Moines, a very nice, respectable little village in Iowa. I hope it will grow to be, after a while, as large a town as Galena. [Laughter.] It was thought then that the appropriation was extravagant, but it was argued, "just give us this amount and we can erect a building which can be used for all the purposes of the Government, and thereby save a large expenditure in 'rent'" That was the point, that it would save the Government the expense of paying "rent." That is always the dodge—to save paying "rent." Now, for what does the Government need to pay this "rent?" For a court-house. The original appropriation was for a court-house—for nothing else—not for a post office, not for revenue offices, or anything of the kind, but for a "court-house."

Mr. WILSON, of Iowa. This building is to be used for all those purposes?

Mr. WASHBURNE, of Illinois. The language of the bill, Mr. Speaker, is for a "court-house at Des Moines," and Congress gave $85,000 on the plea that it would save us a great deal of "rent." That was at the last session of the last Congress.

Now what is here presented? At this, the long session of the Fortieth Congress, they come in here and what do they ask? Why, sir, although they say they have $51,000 on hand, they come in and ask us to vote them $89,000 more. I say, sir, that it is an outrage upon Congress, after they obtained this appropriation of $85,000, upon the implied pledge at least that it should construct the building, when they have $51,000 on hand to ask us to give them $89,000 more!

Gentlemen speak of a contract. Where is

the contract? What man had the right to make a contract beyond the appropriation? If any contract has been made it should be held as fraudulent and void. They had no business to make a contract covering a larger amount than was appropriated in the original bill. It is amazing that gentlemen will contend that we are bound to go on and appropriate an indefinite sum beyond that already appropriated to carry out any contract that may be made regardless of law.

Well, sir, I now come to another fact. I ask gentlemen's attention to it. When the Department came to make up the estimates, they made up the estimate of $25,000 for the building, and that estimate was before the Appropriation Committee. Having this before us, this estimate of $25,000, and considering there should be something to carry out and preserve what we already had there, we proposed to give $15,000 more, that is $100,000 which the Government would be compelled to pay for that building at Des Moines.

But, sir, my friends from Iowa were not satisfied with that. They go up to the Treasury Department and get amended estimates for the purpose of inducing the House to vote a larger appropriation to beautify and adorn the pleasant city of Des Moines. I should like to know what we are to be governed by? Here is an estimate for $25,000 and then we have another estimate for $89,000 more. Instead of the $85,000, as we were told, completing this building, we are now asked to vote $89,000 more. What reliance is to be placed upon these estimates? Where is the pledge that we should not be called upon for more?

I say, Mr. Speaker, it is our duty to stop this thing of permitting Government agents here or elsewhere to run us into debt in this way. If contracts have been made they are contracts which they had no power to make, and they cannot call upon us to enforce them.

Mr. WILSON, of Iowa. Mr. Speaker, as I have already stated in the Committee of the Whole on the state of the Union, I agree with the gentleman that the policy heretofore followed of making contracts beyond the amount of the appropriation was wrong. It is a practice which ought to be prohibited, and we have passed a bill prohibiting it in the future. I believe that bill is right. But, sir, this was done under the old policy. The facts are as I have already stated them. This is asked for by the Secretary of the Treasury, and I submit while he may think the gentleman who formerly represented that district did wrong in pledging it to ask no more, still the completion of this building will inure to the advantage of the Government.

Mr. WASHBURNE, of Illinois. That is where I take issue with my friend. I say it is not to the advantage of the Government. I say that we have no money to put up these extravagant buildings. We are compelled to borrow money at seven to ten per cent., and we are taxing our people to the last degree. We have taken off the tax on manufactures, and yet we are asked still further to increase our expenses. If it were not that we have not the money, not enough without borrowing to sustain the national credit, I would be glad to gratify gentlemen. All demand of us "economy;" that we shall keep down our appropriations to a certain amount, and the Committee on Appropriations have striven hard to do so. Every gentleman says he is in favor of economy. Oh! yes; every man is for economy; we must all have economy unless it touches some pet scheme. But there is always some pet scheme which must go in, and when all are in your economy is extravagance, and the money goes out of the public Treasury. It is like the man in Maine who was in favor of the liquor law but against its execution. We are all for economy when it does not strike at the pet project of each particular man.

I say, Mr. Speaker, let us stop where we are; there is no necessity to complete these buildings now; wait until we have more money and the taxes shall be reduced.

Mr. RAUM. Mr. Speaker——

The SPEAKER. Debate is closed on the bill and amendments, the gentleman from Illinois [Mr. WASHBURNE] having resumed his seat.

Mr. WASHBURNE, of Illinois. I desire it to be understood that I have not been speaking in my hour.

The SPEAKER. The gentleman's hour is exhausted by his resuming his seat.

Mr. WASHBURNE, of Illinois. There are some provisions here which will require explanation. I desire to make no further speech on this particular provision.

The SPEAKER. If there is no objection the gentleman's hour will be extended to allow him to explain the amendments.

Mr. LOGAN. If there is reply.

The SPEAKER. That will depend on the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. It is not from any special desire on my part, but there are some amendments on which I have no doubt the House will desire that I should be heard, as, for instance, the amendment in relation to finishing the Capitol and one or two other matters. I have some letters from the architect on that subject. I would state to my colleague that I do not propose to discuss this custom-house matter any more, because I think the House has settled that question in the case at Philadelphia.

Mr. ROSS. I move that the House adjourn.

The SPEAKER. Before putting that motion the Chair will state that a message has been received from the Senate, saying that they further insist upon their amendments to the invalid pension appropriation bill, and ask for another committee of conference.

Mr. ROSS. I withdraw the motion for that purpose.

PENSION APPROPRIATION BILL.

Mr. BUTLER. I rise to make a privileged report from the committee of conference on the invalid pension appropriation bill.

The committee of conference on the disagreeing votes of the two Houses on the amendments to House bill No. 678, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, having met, after full and free conference have been unable to agree.

W. H. KELSEY,
JOHN A. NICHOLSON,
BENJAMIN F. BUTLER,
Managers on the part of the House.

JAMES W. GRIMES,
JUSTIN S. MORRILL,
ROSCOE CONKLING,
Managers on the part of the Senate.

Mr. BUTLER. I move that the House reciprocate the request of the Senate and order a new committee of conference.

The motion was agreed to; and the Speaker appointed as conferees on the part of the House, Messrs. BUTLER, LAWRENCE of Ohio, and BURR.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I hope there will be an understanding in regard to the appropriation bill before the House adjourns.

The SPEAKER. The Chair understands that the gentleman from Illinois has a right to explain the amendments, but not discuss them.

Mr. ROSS. I believe there is no arrangement.

The SPEAKER. The Chair stated the question to the House whether there should be such an arrangement and no objection was made.

Mr. FARNSWORTH. Will this come up in the morning hour?

The SPEAKER. The first business in the morning hour will be the call of committees for reports of a private nature, unless the House by a majority vote shall set aside that order of business. If not, this bill will come up immediately after the morning hour.

RAILROAD LAND GRANT IN IOWA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior in answer to a resolution of the House, of the 16th instant, having reference to a grant of land to the State of Iowa for a railroad by act approved May 15, 1856.

On motion of Mr. ALLISON the communication was referred to the Committee on Public Lands.

Mr. ALLISON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

An act (H. R. No. 718) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1869, and for other purposes.

LEAVE OF ABSENCE.

Mr. VAN TRUMP asked and obtained indefinite leave of absence for Mr. MORGAN, on account of sickness in his family.

Leave of absence was granted to Mr. WILSON, of Pennsylvania, for one week.

Mr. ROSS. I renew the motion that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of W. R. Sutton, of Roanoke Island, South Carolina, for payment for damages to property by United States troops.

By Mr. BANKS: A memorial of J. P. Battles and 50 others, cotton manufacturers, of Lawrence, Massachusetts, representing the suffering condition of that branch of national industry, and praying for, first, a revision of the revenue laws; second, a reduction of expenditures; third, a repeal of taxes on all materials and manufactures except articles of luxury.

Also, a memorial of General Harvey Brown and others, retired officers of the United States Army, praying that so much of House bill No. 839 as deprives them of their service rations and the percentage proposed to be allowed to other Army officers in the said bill may be repealed.

By Mr. COOK: The petition of citizens of La Salle county, Illinois, asking for reduction of the expenditures of the Government and reduction of taxation.

By Mr. DRIGGS: The petition of C. H. Gallup, and joint resolution of the Legislature of Michigan, asking the Government for an appropriation in money to aid in the construction of a light-house and breakwater in the harbor of Port Austin, Huron county, Michigan.

Also, the petition of Charles Kipp and 79 others, residents of St. John's City, Michigan, praying for a reduction of taxes and the expenses of the Government.

By Mr. HOOPER, of Massachusetts: The petitions of volunteer officers and the soldiers and seamen in the Army and Navy from Massachusetts, protesting against the passage of the bill in relation to bounties, introduced in the Senate on the 30th of January last.

By Mr. KELLEY: The petition of citizens of Philadelphia, praying for the repeal of the additional tax of one cent per pound on roasted coffee.

By Mr. LAFLIN: The remonstrance of Paddock & McCutchen, of Watertown, Jefferson country, New York, against the imposition of a stamp upon cigars.

By Mr. LAWRENCE, of Pennsylvania: The papers in the case of the claim of the heirs of Philip Renault for certain lands.

By Mr. LOGAN: The petition of citizens of Hancock township, Hancock county, Illinois,

for the establishment of a mail route, and for a post office at Uniontown, in said county.

By Mr. MUNGEN: A memorial of the agents of the Choctaw Indians, asking that the eastern boundary line of the Choctaw territory be run and established in accordance with treaty stipulations already existing.

By Mr. O'NEILL: Resolutions of the Executive Committee of the National Club of Philadelphia, commending the course of the House of Representatives upon the impeachment of the President, and expressing the hope that the Senate will proceed with the trial without unnecessary delay.

By Mr. PHELPS: A memorial of the Baltimore and Cuba Smelting and Mining Company and others, praying the passage of a law allowing a certain drawback upon foreign copper ores used as admixtures with native ores in the manufacture of copper.

Also, a memorial of Charles D. De Ford and others, citizens of Baltimore, manufacturers and dealers in cigars, against the passage of the bill to affix a stamp upon each cigar.

Also, a memorial of 150 Union soldiers of Maryland, against the passage of the bill to prevent payment of bounties to soldiers unjustly charged with desertion.

By Mr. PLANTS: The petition of Jesse Baldwin, for the resumption of specie payments by the national banks.

IN SENATE.

FRIDAY, *March* 20, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

COLORED PERSONS IN DELAWARE.

Mr. SUMNER. I present the petition of colored citizens of Sussex county, Delaware, in which they ask Congress to enact such laws as shall secure to them the rights that in justice pertain to them as American citizens, and they say that at this time in Delaware they are deprived of those rights. I also present a similar petition from Odessa, in Delaware; another from Newcastle, Delaware; another from Newark, Delaware; and another from Camden, Delaware. All of these are from colored citizens. I ask their reference to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. They will be so referred.

Mr. SAULSBURY. I object to the reference for the purpose of making a remark. When similar petitions were presented yesterday as coming from my State I observed that one of them was from the town in which I lived. I did not see the petitions before they were referred; but after the reference I inspected them. They are printed petitions, stating no special grievance. So far as the negroes in the town in which I live are concerned, there is not one of them who ever signed the petition purporting to come from there. The signatures are all in the handwriting of one individual, as can be seen by inspection. I also examined the other petitions presented from that State yesterday morning. I find that the signatures to the petition from the town of Milford, eight miles from which I live, are all in one handwriting; and no person, I venture to say, whose name purports to be attached to that petition ever signed it. So also of the petitions presented yesterday from Georgetown; the signatures are all in the handwriting of one person, and those from the town of Milford in the handwriting of another person, and those from the town of Laurel in the handwriting of another person; but the signatures on each are in the same handwriting. There is no negro, I venture to say, who subscribed his name to the paper or made his mark, and there is no certificate by any person that he signed the negro's name at the negro's instance and request.

Mr. President, I happen to know something about this population among whom I live. It is strange, if the whole colored population of the State of Delaware is aroused to the enormity of oppression under which they live, that we, who reside among them, and who have daily communication with our homes, should not have heard something of it. The truth of the matter I suspect to be this, and the fact so appears, that those petitions are short, printed petitions, and some persons, perhaps in my own State, but no native Delawareans, I trust, have got a list of the names of all the negroes at the different post offices in the State and have attached their names to the petitions and forwarded them here for presentation to the Senate. I object, therefore, to the reference of these petitions to the Judiciary Committee, unless we have some authority, some assurance, that the papers purporting to be petitions are *bona fide* papers, and have been subscribed by the persons whose names purport to be attached to them. If I had them in my hand I would exhibit to the Senate the petitions in proof of what I say. I will add, however, an amendment to the motion to refer them to the Judiciary Committee, that the committee be instructed to inquire into the genuineness of the signatures to the petitions.

Mr. SUMNER. I have no objection to that motion of the Senator.

Mr. SAULSBURY. Then I have no objection to the reference.

Mr. SUMNER. But I would say that I received the petitions in due course of mail, as I am in the habit of receiving petitions from my own State and from other parts of the country.

Mr. SAULSBURY. I have no doubt of that.

Mr. SUMNER. And I have presented them in the discharge of my duties as a Senator here. On their face the petitions are respectful in form, and they set forth what, from other sources, I have understood to be undeniable, that at this moment the colored citizens of Delaware are despoiled of their rights. The colored citizens of Delaware at this moment, unless report is false, have not their rights under the civil rights bill. They have not that great right under the Constitution of the United States of casting their suffrage. They are despoiled of civil rights; they are despoiled of political rights. Can any one doubt that? Can it be denied? Then these colored citizens find occasion for petition. They have friends also among them, as appears from a memorandum which has been furnished with these petitions, and which I will read:

Extract from the minutes of the meeting held January 1, 1868, *in Episcopal Zion Church, corner French and Ninth streets, Wilmington, Delaware—Celebration of the fifth anniversary of President Lincoln's Emancipation Proclamation.*

"On motion—

"*Resolved*, That D. H. Gustus, Spencer Williams, and Levi Anderson be appointed as a committee to prepare and circulate a petition for signatures to be presented to Congress, praying them to enact such laws as shall secure to the colored people of ——, Delaware, all the rights that in justice pertain to them as American citizens."

That is a printed circular. It is in its nature like other circulars under which petitions on an extensive scale have been signed and afterward presented to Congress. The petition asks for rights which, according to all the evidence that has reached us, are still denied in Delaware. I have not heard any one say on this floor that they are not now denied; these petitioners, therefore, have occasion for petition. But it is said these signatures are in one writing in those different places. Well, sir, unhappily, owing to the perversity of the institutions of Delaware, these petitioners have not in their childhood been taught to read and write; therefore they may not all be able to sign their names; it may be that the committee through whose agency these petitions have been gathered and finally forwarded to Washington have aided these petitioners in their signatures. With regard to that I know nothing. I have presented the petitions as I received them. On reading the petition I at once took an interest in it; I felt that it was just, and that was enough for me.

Mr. SAULSBURY. Mr. President, there is no specific grievance complained of in any one of these petitions. The petitions are alike, although numerous, and as a specimen I will read one:

"The petition of the subscribers, citizens of Newark, Newcastle county, in the State of Delaware, respectfully showeth that we, the colored citizens, who have been loyal to the Government, and more so during the great rebellion, and by an act of Congress have been made citizens of the United States, which act, according to the laws of Delaware, is no benefit to us as citizens, for it deprives us of all the rights of citizenship in said State.

"And your petitioners will ever pray your honorable Congress now assembled to enact such laws as shall secure to us all the rights that in justice pertain to us as American citizens."

Now, sir, it is very common to charge upon the State of Delaware, the State of Maryland, the State of Kentucky, and some other States, that the negro population within those States are oppressed. I want to know what right of citizenship there is that a negro is deprived of in the State of Delaware? He is punished in no other mode for his offenses than a white man. It is true that he is not allowed to vote under the laws of the State of Delaware; and is he allowed to vote in the State of Ohio? Is he allowed to vote in the State of Indiana? In how many of the States of this Union is he allowed to vote? If there be such wrong, such oppression in the State of Delaware in reference to this negro population; if their wrongs and their oppressions are to awaken the sympathies and arouse the feelings and call forth the indignation of the philanthropic and the humane in other States, let me say to those philanthropic and humane gentlemen cast the beam out of your own eyes before you attempt to pluck the mote out of ours. Sir, there is not a class of people on the face of the earth, in the same condition of life, who are better cared for, better protected, and whose rights are better secured by law, than the negro population of the State of Delaware? Is one of them accused of crime? Is he unable to employ counsel? What do our courts of justice do? I speak from experience. They assign counsel to defend him at the public expense. They have assigned me to defend such persons as well as other counsel. I have defended them without fee or reward when they have been unable to pay counsel, and counsel have not been assigned, and where the court have assigned counsel I have defended them as other members of the bar do. It is easy to bring these wholesale sweeping charges against whole communities and States; but I challenge the act of oppression toward this population to be pointed out in my State. I have no objection to the reference with the instructions which I propose, that the Committee on the Judiciary be instructed to inquire into the genuineness of those signatures.

Mr. EDMUNDS. Is there any question before the Senate?

The PRESIDENT *pro tempore*. The question is on the reference of these petitions with instructions.

The reference with the proposed instructions was agreed to.

ORDER OF BUSINESS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill No. 366, relating to the presentation of acts to the President.

Mr. FESSENDEN. I should like to make a report.

Mr. EDMUNDS. If the bill be taken up I will give way to anything that does not occasion debate.

Mr. HOWARD. I hope the regular order of business will be proceeded with.

Mr. JOHNSON. May I inquire what the bill is which the honorable member from Vermont proposes to take up?

Mr. EDMUNDS. The bill regulating the presentation of bills to the President, which was reported from the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

Mr. MORTON. I desire to present some petitions.

Mr. DRAKE. I would ask the Senator from Vermont not to call up that bill at this time, and not to attempt to call it up. It is a bill of general legislation which is worthy of the attention of the Senate after the morning hour and not in the morning hour. And I will give as another reason why I hope the Senate will not take up the bill that I desire to offer this morning in the morning hour an amendment to the rules of the Senate when sitting in the trial of an impeachment, or rather an additional rule, and there is no time between now and next Monday to accomplish a thing of that kind but in the morning hour. And, sir, for the information of the Senate I will read that which I desire to bring before the Senate, if this bill is not taken up.

Mr. MORTON. I believe I had the floor.

Mr. DRAKE. I did not know that the honorable Senator from Indiana had the floor. If he had intimated that to me before I should have ceased in a moment, and I shall not go on now if that be so.

Mr. MORTON. Go on, sir.

Mr. DRAKE. I will read the additional rule which I wish to introduce, and which cannot be effectively introduced unless it be this morning; and if the bill which the honorable Senator from Vermont wishes to bring up now is taken up it will consume the whole morning hour probably, and there will be no opportunity to introduce it. It is in these words:

When the Senate is sitting upon the trial of an impeachment, the presiding officer shall be addressed as "Mr. President;" and all papers submitted by either party, which in their nature should be addressed in terms to the tribunal, shall be addressed to it as "the Senate;" and all references in papers or debate to the tribunal, shall be to it as "the Senate."

Mr. President, when the Senate sat this day a week ago, in the matter of the impeachment trial, we had a very extraordinary spectacle exhibited here. The counsel for the President on one side of the Chamber addressing the presiding officer of the Senate as "Mr. Chief Justice," the managers on the part of the House of Representatives on the other side of the Chamber addressing the presiding officer as "Mr. President."

We had still further the extraordinary spectacle of the paper signed by the President of the United States entering his appearance to the impeachment, addressed, not to the Senate, not to the president of the Senate, but to the Chief Justice, and that paper, together with a professional statement signed by the counsel, was read here to the Senate, in neither of which did the word "Senate" occur.

Mr. JOHNSON. Mr. President——

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. JOHNSON. I believe the question before the Senate is whether the bill referred to by the honorable member from Vermont shall be taken up.

Mr. DRAKE. Yes, sir; and I am giving reasons why it should not be taken up.

Mr. JOHNSON. The reasons are that you want something else taken up which has nothing in the world to do with the question. You might as well discuss anything entirely foreign to the particular question before the Senate. Unless we observe something like what I suppose to be parliamentary rules, we shall consume the whole hour and take up nothing.

Mr. DRAKE. I suppose, Mr. President, that I am in order?

Mr. JOHNSON. I make the question.

Mr. DRAKE. I am assigning reasons why this bill should not be taken up now; and I am giving as a reason that I wish to introduce another matter before the Senate, and I am showing why that other matter should come before the Senate in preference to this bill. If the President of the Senate decides that I am out of order, of course I shall take my seat.

The PRESIDENT *pro tempore*. The Senator is in order.

Mr. DRAKE. Now, sir, as I was remarking, the attempt was made here when we sat last in the trial of the impeachment, on the President's counsel and of the President himself, utterly to ignore the Senate of the United States, and to set up the pretense that this was but a court. And, sir, two Senators on the floor in addressing the President of the Senate addressed him as Mr. Chief Justice. Sir, when the Senate is sitting on the trial of an impeachment there is no Chief Justice here. An individual sits as President of the Senate in virtue of his official character in another place as Chief Justice of the Supreme Court of the United States. When we have the Vice President in the chair we do not address him when we rise here as "Mr. Vice President," but as "Mr. President." His character of Vice President does not belong in this Chamber, nor does the character of Chief Justice belong in this Chamber. Either of those officers, when presiding here, is President of the Senate. I hold it to be due to the Senate itself, after the two days' effort made here to strike out of its rules everything in relation to a high court of impeachment, to maintain its character as the Senate and the character of its presiding officer, when it sits on a trial of an impeachment, as President of the Senate, and not as Mr. Chief Justice.

And, sir, it is for the purpose of putting a stop *in limine* to that proceeding on the part of the President's counsel, which was evidently studied beforehand, determined upon beforehand, and had in it a distinct purpose which will develop itself in the course of the trial in all probability—it is for the purpose of putting a stop to that thing that I desire to introduce this new rule in regard to the proceedings of the Senate when sitting in the trial of an impeachment. I consider, as to-day and to-morrow are the only days that can elapse before we engage in the trial again, that that is a good reason why the bill proposed to be taken up by the Senator from Vermont should not be taken up, because it will consume all the time that we would have to devote to this other subject.

The PRESIDENT *pro tempore*. The question is on taking up the bill indicated by the Senator from Vermont for consideration.

Mr. HENDERSON. I hope that motion will not prevail. I called up a bill the other day in reference to some Indian matters which I desire to have passed this morning. I will state to the Senate, in a word, a fact in reference to it, and then they can act as they choose.

Last fall the Indian commission asked of the Sioux Indians on the Powder river, who have been hostile during the last eighteen months, to meet us at Fort Laramie. The Indians have assembled there in large numbers, and I am in the receipt of telegraphic dispatches to the effect that unless something is done very soon the Indians will disperse, and if they do, the probability is that they will renew the war. They have met there for the purpose of settling the difficulty between themselves and the whites; and we are now feeding them there at an immense expense and must continue to do so until an effort is made to make peace with them. There is no appropriation of course for the purpose of concluding that peace. I desire that the measure to which I refer shall be put through this morning. I desire that it shall be passed before the wheels of legislation are locked up so that nothing can be done, in order that if peace can be secured it shall be. If the Senate do not act this morning, I think the strong probability is an expenditure of five or six million dollars will be entailed upon us in the course of the next twelve months. The Indians, I understand, are disposed now to disperse. They have been there for some time, and we made a positive promise to them that if they would assemble we would meet them there and conclude a treaty of peace with them.

If the Senate is disposed, under this statement of fact, not to act upon the bill, it must take the responsibility. I had it up a few days ago. I have had no bill before the Senate at this session as chairman of the Committee on Indian Affairs; I have not asked the time of the Senate, and I have found it so far utterly impossible to get a bill before the Senate. If the Senate are disposed to pass this measure by and take the chances of Indian wars in the coming year and a very large expenditure of money, producing a deficiency which will startle some gentlemen in all probability within the next twelve months, they must take the responsibility; it will not rest on my shoulders. I desire to take up the measure this morning and I shall vote against any proposition until I can have an opportunity of bringing it up.

Mr. POMEROY. I should not like to delay any of these bills, but yesterday the Senate voted to request the return of a resolution from the Secretary of the Treasury that I might move an amendment to it, and I said then to the Senator from Indiana that I would not delay the passage of the resolution. I am prepared now, if the Senate is ready to act upon the reconsideration, to offer an amendment so that the resolution may pass at a very early day. That is the only reason I have for not desiring to take up the bill which it is now proposed to take up.

Mr. HENDRICKS. I do not want the Senator from Kansas to put himself to any inconvenience or delay on my account. The information I wish to get I shall obtain by addressing a note to the Secretary of the Treasury, and I shall not be defeated in getting the information by having the resolution piled down so that an answer cannot be brought back from the Treasury Department during the session.

Mr. HOWE. The Senate does not seem to be agreed what bill it shall take up, and, pending the debate, I should like to offer a couple of memorials and make some reports.

The PRESIDENT *pro tempore*. There is a matter before the Senate. The question is on taking up the bill mentioned by the Senator from Vermont.

Mr. EDMUNDS. I only wish to say that the bill has been reported from the Judiciary Committee for a good many weeks. It is a bill that that committee thought to be important in view of what had taken place and of what might take place, a bill of general interest and a matter affecting the course of legislation, and, therefore, a bill of public importance. I have felt it to be my duty to ask the Senate, every opportunity I could get, to take it up and act upon it one way or the other; for if it is not passed, then some other measure which will effectuate a result must be adopted. Having said that, it is entirely in the hands of the Senate. It is not a railroad bill, or a land-grant bill, or an Indian bill, or any other bill than one that relates to the powers of Congress and of the President to act in harmony with each other. If the Senate do not want to take it up I am willing to let it sleep. It does not affect me more than any other Senator. I should hope they would be willing to take it up, and I think we can pass it in five minutes.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to take up the bill mentioned by him.

The motion was not agreed to.

Mr. HENDERSON. I move that the Senate now proceed to the consideration of House bill No. 733.

Mr. FESSENDEN. I should like to make a report.

Mr. HENDERSON. I will give way when I get the bill up.

Mr. FESSENDEN. But all the time of the morning hour is spent in debating whether we will take up bills.

Mr. HENDERSON. The Senator has my statement that if something is not done in regard to the question involved in this bill the Indians will have dispersed long before we get through the trial of the impeachment, and we must take the responsibility of an Indian war coming upon us the ensuing summer. It is an important measure which I have been desirous for a long time to get considered, but I have been crowded out from day to day. It is the first time, as chairman of the Committee on Indian

Affairs, that I have made such an appeal to the Senate.

Mr. FESSENDEN. I will not interfere with the Senator; but I should like to have an opportunity of making a report.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves to take up for consideration House bill No. 733, for the relief of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation.

The motion was agreed to.

Mr. HENDERSON. Now the bill being up, I am willing to allow the morning business to be introduced which will not occasion debate.

The PRESIDENT *pro tempore*. If there be no objection, that course will be pursued.

PETITIONS AND MEMORIALS.

Mr. MORTON presented a petition of Elizabeth Steepleton, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of Henry Lieber and other German citizens of Indiana, praying the abolition of the Presidency; which was referred to the Committee on the Judiciary.

Mr. DAVIS presented a petition of Henry W. Cleaveland, praying to be allowed a pension; which was referred to the Committee on Pensions.

The PRESIDENT *pro tempore* presented a memorial of A. J. Donelson and Minor Meriwether, for the board of levee commissioners of the counties of Bolivar, Washington, and Issaquena, Mississippi, praying aid in rebuilding the levees of the Yazoo basin of the Mississippi valley; which was referred to the Committee on Commerce.

Mr. HOWE presented a petition of citizens of Calumet county, Wisconsin, praying a reduction of the taxes and that the expenses of the Government be reduced to a peace basis; which was referred to the Committee on Finance.

He also presented resolutions of the Legislature of Wisconsin, instructing their Senators and Representatives in Congress to adhere to the policy of the loyal people of the Republic as adopted by Congress; which were ordered to lie on the table, and be printed.

Mr. MORGAN. I present a memorial of Dr. Francis Lieber, professor of public law in the law school of Columbia College, Theodore W. Dwight, professor of municipal law in the same college, William Cullen Bryant, author, Henry T. Tuckerman, author, Andrew D. White, president of Cornell University, George William Curtis, author, and others, in favor of an international copyright law. I move that the memorial be referred to the joint Committee on the Library.

The motion was agreed to.

Mr. BUCKALEW. I present a petition signed by citizens of Norristown, Pennsylvania, setting forth that great injury and wrong to the commercial and manufacturing interests of the country, as well as a loss of revenue to the Government, are occasioned by what is known as the warehousing system, and praying that the law establishing bonded warehouses shall be repealed and the system abolished. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was recommitted the bill (S. No. 276) to grant lands to the Northern Michigan Railroad Company in extension of the Northern Pacific railroad, reported it with amendments.

He also, from the same committee, reported a bill (S. No. 450) relative to filing reports of railroad companies; which was read, and passed to a second reading.

Mr. FESSENDEN, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 784) to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866, reported it with amendments.

Mr. CORBETT, from the Committee on Commerce, to whom was referred the bill (S. No. 153) to establish a collection district in the State of Oregon, reported it with amendments.

Mr. HOWE, from the Committee on Claims, to whom was referred the memorial of Elizabeth K. Spurries, guardian and representative of the children of the late Surgeon Henry L. Heiskell, reported adversely thereon.

He also from the same committee, to whom was referred the petition of Parker Quince, to be compensated for services as collector of internal revenue in North Carolina, submitted a report, accompanied by a bill (S. No. 452) for the relief of Parker Quince.

The bill was read and passed to a second reading, and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 451) allowing drawbacks on articles used in the construction of vessels; which was read twice by its title.

Mr. FESSENDEN. I move that the bill be printed and laid on the table. I do not think it is necessary to refer it to a committee, as the subject was fully discussed the other day.

The motion was agreed to.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 453) supplementary to an act entitled "An act to establish the office of register of deeds for the District of Columbia," approved February 14, 1863; which was read twice by its title, and referred to the Committee on the District of Columbia.

IMPEACHMENT RULES.

Mr. DRAKE. I offer the following as an additional rule of the Senate when sitting upon the trial of an impeachment.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider it at this time.

Mr. JOHNSON. I object.

Mr. DRAKE. I ask for its introduction now. I suppose that does not require unanimous consent.

The PRESIDENT *pro tempore*. No; I thought the Senator submitted it for present consideration.

Mr. DRAKE. I merely propose to introduce it at this time.

The PRESIDENT *pro tempore*. It is introduced, and objection being made to its consideration it goes over under the rules.

Mr. DRAKE. If objected to, of course it goes over; but let it be read for information.

The Secretary read the proposed rule, as follows:

When the Senate is sitting upon the trial of an impeachment the presiding officer shall be addressed as "Mr. President;" and all papers submitted by either party which in their nature should be addressed in terms to the tribunal shall be addressed to it as "the Senate," and all references in papers or debate to the tribunal shall be to it as "the Senate."

REMOVALS IN TREASURY DEPARTMENT.

Mr. WILLIAMS. I submit the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be requested to inform the Senate as to the following transactions in his Department since the 1st of January, 1868:

How many clerks or employés have been removed, and the form of the circulars or letters, if any, addressed to heads of the bureaus and divisions as to removals?

How many clerks or employés have been appointed, and if the letters of appointment are signed by the Secretary; if not, by whom are they signed?

How many clerks heretofore removed have been appointed, and from what States or places, since the above mentioned date, have the appointment of clerks or employés been made, and upon whose recommendations?

Mr. BUCKALEW. I object to the consideration of the resolution.

The PRESIDENT *pro tempore*. Objection being made, the resolution will go over.

INDEX TO CONGRESSIONAL GLOBE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be directed to consider the expediency of employing a suitable person to prepare an index to the Congressional Globe on the plan of Morre's Improved Index for newspaper and pamphlets, at a cost not exceeding $120 per volume.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 19th instant, approved and signed the bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased.

PERSONAL EXPLANATION—SHIP-BUILDING.

Mr. CHANDLER. I desire the indulgence of the Senate for a moment to make a personal explanation. Mr. President, the other day I was led into an error in a statement which I made relative to the shipping built in Maine and Michigan respectively. I was led very innocently into this mistake, not having examined the authorities, but having listened to both the honorable Senators from Maine, and taken their statements to be reliable. For instance, the senior Senator from Maine [Mr. FESSENDEN] said:

"I should be very glad to see the day come, and so I know would all of us, when our ship-yards throughout the country will be as busy with industry as they have been heretofore, when you could hardly go into a port on the Atlantic sea-board that you did not hear the sound of busy industry used in the construction of a vessel and see the ribs of the great machine ready to receive its sheathing and soon to become a thing of life upon the ocean. Sir, you see no such sights now."

I supposed from such statements as these that the ship-yards of Maine were as silent as the streets of Babylon and Nineveh; I supposed the grass was growing where chips ought to be; that the ship-building interest of Maine was utterly destroyed; and upon that supposition I made my statement. And is it surprising, sir, that I should have made the inference I did, when the distinguished Senator from Nevada [Mr. NYE] almost shed tears and deluged us with eloquence, and when my friend from Indiana [Mr. MORTON] was so deeply impressed with the distress existing in the ship-yards of Maine that he could hardly find language to utter his feelings, and when even my unimpressible friend from Missouri [Mr. DRAKE] was almost persuaded to go against his convictions as to the proper time and place when the measure should go through.

Since then I have investigated the subject, and I now desire to call the attention of the Senate to the facts in the case. I have taken the figures for three years prior to the war, including the first half of the first year of the war, and the three years succeeding the war, including the last half of the last year of the war. I find by the official documents which are on my desk that in 1858–59 (the year ending June 30, 1859) the State of Maine built 55,959 tons of shipping, while the whole amount built in the United States was 242,286 tons. In 1859–60 the State of Maine built 40,905 tons, while the whole nation built 156,602 tons. In 1860–61, including part of the first year of the war, the State of Maine built 57,343 tons, and the whole nation 233,194 tons. I ask attention to the figures I shall now give as to the three past years, because I have no doubt the Senators from Maine were both deceived as I was. I have no doubt they really thought that the ship-yards of the State of Maine were lying desolate and idle; their constituents had misinformed them, and a majority of the Senate were almost persuaded, against their own judgment, out of sympathy for the suffering people of Maine, to vote the relief called for. In 1864–65 the State of Maine built 73,754 tons of shipping, and the whole nation 415,740 tons. In 1865–66 the State of Maine built 79,290 tons, and the whole nation 383,805 tons. In 1866–67 the State of Maine built 73,921 tons, and the whole nation 336,146 tons.

I stated that during the past three years there had been more ships built than ever were built in three years before in this country, and the official figures bear me out in that assertion. The State of Maine during the last three years which are reported, including in that time half the last year of the war, built nearly double as much shipping as she did the three years prior to the war, including in that period the last half of the first year of the war.

I simply wished these facts to come out before the Senate, and I hope that those gentlemen who have shed tears so profusely over the suffering of the ship-builders of Maine will dry their eyes.

Mr. MORRILL, of Maine. Perhaps I ought to say a word in reply to my honorable friend. I ought to begin by expressing my regret that he should feel called upon to make a personal explanation, for I supposed at the time that he was very innocent, as he now declares himself to be, in regard to the shipping interests of the country, and he ought not to feel aggrieved that he was put right on that subject.

Mr. CHANDLER. On the contrary, I thank the Senator for having set me right, because I have no doubt the Senator was at the same time set right himself. I think he was deceived at the same time. I am under great obligations to the Senator.

Mr. MORRILL, of Maine. The point in the debate was, I believe, not that the Senator was not innocent. but that he was entirely ignorant on the subject. If the Senator thinks he has relieved himself from that difficulty this morning before the Senate and the country I shall be equally delighted with him. But he shows this morning that he is innocent of the whole subject of the commerce of the country, particularly of the ship-building interests of the country. It is curious to observe how carefully my honorable friend evades the issue which he raised gratuitously on my State, that Michigan was the great ship-building State. He seems to have lost sight of Michigan this morning. Michigan is not heard of. He advises the Senate and instructs the Senate upon the ship-building interests of Maine, in comparison with the ship-building interests of the whole country, and to show that it does not sustain that relation to the country that the Senator from Maine ignorantly and innocently supposed it did. The exhibition he has made shows how innocent my honorable friend is in regard to the entire ship-building interests of the country. Maine, he says, he shows from the records here to have built about one fifth of the entire tonnage on a comparative view of the whole shipping interests of the country, or only a fraction of the whole.

I tried to raise a distinction, and I tried to get the honorable Senator, the other day, to recognize the distinction which does exist in that ship-building which is peculiar to Maine, which relates to the foreign commerce of the country, the ships that go to sea, the ships that are connected with the foreign commerce of the country, and carry your flag around the world ships which I said never were built on the lakes, and about which Michigan never did know anything, and never will in the nature of things. [Laughter.] She has not got the great ocean on which to send them.

The honorable Senator is innocent of all these facts; but there they are, and the fact I have just mentioned is the great fact that characterizes my State. When we talk of Maine as a ship-building State we mean those great ships that carry the flag around the world as distinguished from those flatboats [laughter] that float over the St. Clair flats, [renewed laughter;] raft-boats directed by center-boards. [Continued laughter.] Those are the ships that give your nation renown, and those are the ships I am talking about; but the Senator is innocent of all that, of course!

Of that kind of commerce it is true we do build one half, and always have done it until the war came on. The Senator, in order to make the disparity great against Maine, innocent, of course, of the whole thing, mingled together all the boat building, steamboat building, raft building, &c., all that shipping which navigates the internal waters and never sees the outside; and so he thinks he has made a case against Maine and made a case against the Senators, who really do not know what the ship-building interests of Maine are! If the Senator is satisfied with his exposition I have no reason to complain.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House further insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, further insisted upon by the Senate; agreed to the second conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appointed Mr. B. F. BUTLER, of Massachusetts, Mr. WILLIAM LAWRENCE, of Ohio, and Mr. A. G. BURR, of Illinois, managers at the same on its part.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 832) making appropriations for the services of the Post Office Department for the fiscal year ending June 30, 1869.

Mr. HENDERSON. I propose that the appropriation bill be passed over informally for the purpose of proceeding with the bill which the Senate, on my motion, agreed a short time ago to take up.

The PRESIDENT *pro tempore*. That can be done by unanimous consent.

Mr. MORRILL, of Maine. If the bill of the Senator from Missouri can receive the consideration of the Senate without debate I shall be very glad to allow the order of the day to be laid aside informally, because I agree with him that the bill which he proposes to take up is vastly important to the interest which he represents.

The PRESIDENT *pro tempore*. The special order will be passed over informally if there be no objection.

REVISION OF THE RULES.

Mr. ANTHONY. With the assent of the Senator from Missouri, I wish to call up the report of the select Committee on the Revision of the Rules, with a view to fixing a time for its consideration.

The PRESIDENT *pro tempore*. It requires unanimous consent to take up that matter, another question being pending. The Chair hears no objection, and the report of the Committee on the Rules is before the Senate.

Mr. ANTHONY. I move that it be postponed until to-morrow at one o'clock, and made the special order for that hour.

The motion was agreed to.

THE NAVAJO INDIANS.

The PRESIDENT *pro tempore*. The bill (H. R. No. 733) for the relief of the Navajo Indians at the Bosque Redondo and to establish them on a reservation is before the Senate as in Committee of the Whole, and the pending question is on the amendment reported by the Committee on Indian Affairs, to strike out all of the bill after the enacting clause and insert the words which will be read.

The Secretary read the words proposed to be inserted, as follows:

That the commission heretofore authorized and created under the act of July 20, 1867, "to establish peace with certain hostile Indian tribes," is hereby authorized and directed, as early as practicable, to conclude a treaty with the Navajo Indians now held at the Bosque Redondo, in the Territory of New Mexico, against their will, providing for the removal of said Indians to their former home in the northern part of said Territory, or to such other lands in the Indian territory west of the State of Arkansas as may be thought best suited to their present condition and future prosperity, and for the purpose of carrying out the provisions of this act, and to subsist the Indians during the period of removal, there is hereby appropriated the sum of $150,000, to be expended by the Commissioner of Indian Affairs, under the direction and supervision of said commissioners.

SEC. 2. *And be it further enacted*, That the sum of $75,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, for the purpose of enabling said commission to conclude a peace with the Sioux Indians of the Powder river, the northern Cheyennes, and other Indians recently hostile in the western part of Dakota, now being assembled at Fort Laramie, and also meet the Shoshones, Snakes, Bannocks, and other Indians, on or near the line of the Union Pacific railroad, and east of the eastern boundary of the Territory of Utah.

Mr. HENDERSON. I move to amend the amendment by striking out, after the word "authorized," in the sixth line of the first section, the words "and directed as early as practicable," and insert "if on examination it be thought advisable."

The amendment to the amendment was agreed to.

Mr. HENDERSON. In line seventeen of the same section, after the word "expended," I move to insert the words "if found necessary."

The amendment to the amendment was agreed to.

Mr. HENDERSON. Then, after the word "necessary," in the third line of the second section, I move to insert the words "to be expended by the Commissioner in the same manner as provided in the preceding section."

The amendment to the amendment was agreed to.

Mr. HENDERSON. In lines nine and ten of the second section, after the word "railroad," I move to strike out the words "and east of the eastern boundary of the Territory of Utah."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Indian Affairs, as amended.

Mr. CONNESS. The proposition which is contained in the first section of the amendment reported by the committee is:

That the commission heretofore authorized and created under the act of July 20, 1867, "to establish peace with certain hostile Indian tribes," is hereby authorized and directed as early as practicable—

with some slight verbal amendments that have been made—

to conclude a treaty with the Navajo Indians now held at the Bosque Redondo, in the Territory of New Mexico, against their will.

The commissioners are to conclude a treaty with Indians now held on a reservation against their will. That will be a great treaty when it is made! I thought that a treaty contemplated first an agreement between two powers, each of which had some independence; but this is changing the matter, and we are to make a treaty with prisoners of war while they are under duress, as the Senator from Michigan [Mr. HOWARD] suggests.

But, further, the section declares that the treaty shall provide "for the removal of said Indians to their former home in the northern part of said territory, or to such other lands in the Indian territory west of the State of Arkansas as may be thought best suited to their present condition and future prosperity," and "for the purpose of carrying out the provisions of this act and to subsist the Indians during the period of removal"—subsisting one party to the treaty—"there is hereby appropriated the sum of $150,000, to be expended by the Commissioner of Indian Affairs, under the direction and supervision of said commissioners."

In regard to the other section I shall have nothing to say; it is a subject upon which I am not informed; but in regard to this proposition I wish to say a few words to the Senate, and then, if a majority of this body shall see fit to appropriate $150,000 to make a treaty with these Indians, held against their will upon a reservation, and to subsist them pending their removal to some other reservation or back to the scene of their former homes, I at least shall be satisfied.

Sir, we talk a great deal of economy; but the money paid in connection with Indian affairs can hardly be called an investment, not even for the purposes of peace. It adds nothing to the production of the country. It contemplates no plan of business according to which the industries of the country shall pro-

ceed to realize. In this connection I will say simply and briefly that a few years since General Carleton, in connection, I believe, with Kit Carson and the troops commanded by the general, said that he captured the entire Navajo tribe of Indians, and it was conceded so far that they were permitted to be removed to a reservation which was after due deliberation selected for their use on the Pecos river, what is now called the Bosque Redondo. There they have been kept ever since, subsisted by the Government, and to all intents and purposes that has been a reservation for them; nay, it has been lawfully set apart as an Indian reservation for their use and benefit; and I believe that we have even appropriated, my recollection is, in one item, $100,000, I think about two years since, to quiet the title to the Bosque Redondo reservation. We allowed certain persons to float a claim from there somewhere else—if I recollect aright, about to where they pleased—and confirmed that. It was only toward the close of the Thirty-Ninth Congress that the Senator from Wisconsin, [Mr. DOOLITTLE,] who was then chairman of the Committee on Indian Affairs, reported a bill for $1,500,000 to subsist these Indians at the Bosque Redondo; and the Senate will remember that there was a considerable debate on the subject and that the appropriation was finally very largely cut down, and I believe they have gotten along about as well as if the $1,500,000 had been expended.

At that time there was a very general discussion, and it was developed in the course of that discussion that these Indians were not altogether a warlike tribe, but, on the contrary, the most highly civilized tribe of all the Indians of North America; that when they were disturbed and said to have been captured by our Army they were engaged in the manufacture of blankets of a superior character and various articles which they themselves used and even marketed and sold; that they produced largely from the earth; but in one of those moments of martial pride and anticipated glory our commanders went out against these Indians and captured them and gathered them together and put them upon the Bosque Redondo, and fed them there at immense expense to the Government, nobody being profited thereby, perhaps, but those contractors who furnished supplies to the commissary and quartermaster's departments of the Army in that direction. Now, the proposition contained in the section which I have read is to make a treaty with these Indians, these prisoners. Why make a treaty with them? It is confessed in the section that they are there against their will? Why not keep them their against their will? Or, if they are to be sent elsewhere, why not send them elsewhere against their will? If their will does not amount to anything why make a treaty for the purpose of compromising with it? If it has not existence why recognize it? I undertake to say that in the whole history of Indian affairs there is, perhaps, no such proposition as this, that a tribe of Indians captured and for many years past held and fed shall be negotiated with, erected into an independent power, a treaty power, a treaty made with them with all gravity and solemnity—one of those remarkable documents known as Indian treaties—and the doors of the Senate shall be closed and the galleries shall be cleared pending its consideration, for why not? Why shall not all this solemnity and gravity be observed? Why shall anybody be allowed to know the mere considerations that shall enter into a treaty made with a tribe of Indians now held at the Bosque Redondo against their will? Why shall the penetration of the public be allowed to be let in upon such a document pending its consideration by the Senate of the United States?

But after the treaty shall be made your Secretary of the Treasury is to disburse to the extent of $150,000—for what? To pay for making the treaty first, and next for still subjecting the will of these Indians and removing them elsewhere. Where? Back, as this section provides, to their former home in the northern part of the Territory of New Mexico, "or to such other lands in the Indian Territory west of the State of Arkansas as may be thought best suited to their present condition and future prosperity." How far will $150,000 go? The estimate is that there are seven thousand of these Indians. How far will it remove and subsist them to the Indian Territory west of Arkansas? Or what is to be done with it after they are sent back to their former homes? And when it is expended what shall be done further? Half a million next, and then another half million, and then a million and a half to subsist these Indians somewhere against their will? You have got them on a reservation now against their will. You took them from their former homes and it cost $1,000,000 to take them and subsist them on the Bosque Redondo on the Pecos river; and now they are to be taken from the Bosque Redondo on the Pecos river to their former homes whence they came and whence they were taken by the prowess of your commanders and your Army, or they are to be taken west of Arkansas and held somewhere else against their will.

Mr. President, I have said nothing, and I shall say nothing, against the wisdom, good judgment, and patriotism, and the high character of the Indian commission spoken of here. I have no doubt that they brought their best judgment to bear upon the propositions that were put before them last year when they went to the Indian country; and I shall continue to have the opinion that they did until the contrary is shown. Far be it from me to cast one single reflection upon them. Nay, sir, to the extent that they put an end to what was probably a foolish war with the Indian tribes, certainly a very unwise one, and have saved the public moneys, they are entitled to all consideration; and none concede it more readily than I do. But I take it that if this commission had visited the Bosque Redondo, had made themselves acquainted with the exact facts in this case, before they undertook to deal with this proposition, they would at least have some plan; it would not be as ill-defined as is contained in this section; it would not simply propose that we should enter into a treaty with persons who are now within our grasp, subject to our will; who are there against their will, having no will, but in our power and subject to our control; and that it would not further be proposed to spend $150,000 to take them somewhere or nowhere, and subsist them while being taken; and then what further? Nothing; nothing.

Mr. President, I have simply alluded to a few historical facts connected with our dealings with this tribe of Navajo Indians. I might have stated an additional fact, and I will do so briefly before I take my seat. When we captured this tribe, or when our armies did the valiant thing of capturing this tribe, they brought in principally the women and children, but they did not bring in the warriors. They were left on their native heath, to make war or not as they saw fit in the future. How many of those warriors have since come in, and how many of them will be parties to this treaty, if made, when made, I do not know. I can hardly think it is contemplated to make a treaty with the women and children; but it is contemplated and provided that the treaty shall be made with the Indians, without stating their age or sex, who are held at the Bosque Redondo against their will.

Now, sir, if the honorable Senator, the chairman of the Committee on Indian Affairs, who has this bill in charge, will agree to pass over this first section, leave it subject to further inquiry, and pass the second section, which I doubt not contains a wise provision, I shall be content at present, and I think the Senate will do a wise thing. I do not think we can pass the first section recommended by the committee without acting in the dark, and risking an enormous outlay of money, present and prospective. Of course I have no disposition, can have none, but that we shall act wisely and well with the Indians and with the public money; but I have felt it my duty to present these views to the Senate, and having done so, I shall simply content myself by voting upon the proposition.

Mr. HENDERSON. I move to amend the first section of the amendment, in line seven, by striking out the word "held" after the word "now," against which gentlemen make so much complaint.

Mr. CONNESS. Not at all. They are held.

Mr. HENDERSON. I insist upon it; and also that the words "against their will," in the eighth and ninth lines of the same section, be stricken out.

Mr. CONNESS. There is no occasion for that.

Mr. HOWARD. Why strike out those words? Is it not the fact that they are held there as prisoners of war?

Mr. HENDERSON. No, sir; they were turned over to the Interior Department last year by the appropriation bill, because the military refused longer to support them and issue them rations; so that they are not now prisoners of war. The expression gives offense, and I do not wish to retain words that give offense, because I am too kind-hearted to use words which offend gentlemen.

Mr. HOWARD. Are they not prisoners of war now?

Mr. HENDERSON. They were until they were turned over by the appropriation bill of the last Congress to the Interior Department.

Mr. HOWARD. I wish to inquire of the Senator, if he will allow me, whether they are free to conduct themselves according to their own ideas or not?

Mr. HENDERSON. They want to go back, I understand.

Mr. HOWARD. Can they go back?

Mr. HENDERSON. I understand the military authorities object.

Mr. HOWARD. What right have the military authorities to object to their returning?

Mr. HENDERSON. I do not know. I do not know why they got up a war last year that cost $18,000,000. I cannot tell the Senator.

Mr. CONNESS. I remind the Senator that there was no war with these Indians.

Mr. HENDERSON. I do not know why they got up a war in Colorado in 1864 which cost us $27,000,000; but they did. I move to strike out those words.

The PRESIDENT *pro tempore*. The question is on striking out the words mentioned by the Senator from Missouri in the first section of the amendment reported by the committee.

The amendment to the amendment was agreed to.

Mr. HENDERSON. Mr. President, I am not going to discuss this bill; I do not desire to take up the time of the Senate. You appointed a commission by the passage of a law at the last session, consisting of General Sherman, General Terry, General Harney, Mr. Taylor, the commissioner of Indian affairs, Mr. Tappan, General Sanborn, and myself. We spent the entire time from the adjournment of Congress up to the time that we met at this session. I was not able to get back at the November session of Congress on account of business connected with this matter. I went in accordance with the wishes of Congress. I think we have saved to the Government from fifteen to thirty million dollars. That is the opinion of the entire body of the commission. We did the best we could. After returning here, having examined into these matters, a resolution was passed unanimously by this commission requesting me to bring this subject immediately before Congress.

Mr. WILLIAMS. I should like to ask the Senator if the commission visited this particular reservation.

Mr. HENDERSON. We did not. We would have visited it and would have made a treaty but for this fact: if you will turn to the act of last July it will be discovered that we did not have authority to do so. We were requested to make treaties only with hostile

tribes. The question being submitted to me, I gave it as my opinion that we could not legally conclude a treaty with Indians who had been turned over by an act of Congress last year to the civil authorities; that we should be transcending our duties as defined by that act; otherwise we should have gone to the Bosque Redondo and made this arrangement.

Now, Mr. President, it is my duty to state to the Senate right here that I am, by the unanimous vote of the Committee on Indian Affairs of this body, instructed, when the appropriation bill comes up, to offer an amendment to that bill appropriating $500,000 to support these identical Indians for the coming year.

Mr. CONNESS. Where they are to be sent?

Mr. HENDERSON. On the Bosque Redondo, the Senator will understand, provided they remain there. I have that instruction by the unanimous vote of the committee. We have examined into the facts. We find that it is necessary to make the appropriation, and why? Mr. President, these Navajo Indians are there at a place where it is impossible to succeed with any sort of agricultural pursuit, and it is for the Senate to determine whether they shall be kept there at the public expense or whether they shall go to some place where they can support themselves.

Mr. CONNESS. The Senator will allow me to ask him, in this connection, whether, if they be removed, they will not also have to be subsisted at the same expense anywhere else that they are sent?

Mr. HENDERSON. Surely not. They are upon a place now, I will state to the Senator, where they have to pack wood upon their backs and carry it for ten miles. The Senator knows perfectly well that there is no wood within ten miles of where they are. There is no timber there. It is of all places upon the earth, I suppose, from all the understanding I have on the subject, the most infamous. That is the information received by the commission.

I will state another fact in this connection, and I dislike very much to state it. The Senate ought to understand that a great many persons are said to be in favor of the Indians remaining at the Bosque Redondo because it is a private land grant. The owners of that grant insist that the Indians shall remain there, and that the Government of the United States shall appropriate $500,000 to pay them for the title. I understand such to be the fact. I have not investigated it. It is perfectly clear that this reservation is upon a private land grant, a Spanish land grant; and if we keep them there we must pay the owners for that tract of land. Now the question arises whether the Government will retain them there or not. This section provides that the commission shall examine into the subject, and they will not remove them unless it be thought advisable so to do. If they, upon an examination, come to the conclusion that the Navajo Indians cannot properly sustain themselves there, of course they will make arrangements to remove them.

But the Senator asks: "Will you make a treaty with Indians?" Last year I was opposed to making any more Indian treaties, but I am now a convert to the contrary doctrine. I went and examined for myself, and I am now satisfied that by a talk with the Indians, by an agreement, by calling them together in council and treating them with kindness and with some consideration, we can avoid difficulties that would otherwise cost the Government millions of dollars; that you can do more with a wild Indian by treating him kindly and by agreeing to a treaty of peace, as he calls it, than you can by fighting him for years and years; that is, by an expenditure of $10,000 in that way, I undertake to say, you can avoid a war with an Indian tribe that will cost the Government millions. Therefore I have changed my mind on that subject. I freely admit it; and I am now a convert to the doctrine of making treaties, even if it be to please the Indians for the time being, and to prevent their going to war. The Senator will admit that that policy has succeeded. It did succeed last year. We stopped the Cheyennes from a war.

Mr. CONNESS. The Senator is not representing what I said fully. I suppose he does not mean to misrepresent me.

Mr. HENDERSON. Certainly not.

Mr. CONNESS. I spoke of the farce of making a treaty with parties held against their will and now in our possession; but I was careful to say that I had nothing whatever of objection to make to the second section, nor to any other part of what the Indian commission did.

Mr. HENDERSON. As I said when I rose, I shall not take up time, because I intend to introduce a bill in the course of a short time that will exercise all the talent of my friend from California and other gentlemen who desire to speak on the general policy controlling our relations with the Indians. I shall bring in a bill here that will open up the field of debate largely and extensively, indeed; and I hope we shall not undertake to discuss the entire question of Indian affairs on a little bill of this character.

The Senator complains of an appropriation of $150,000. Suppose the commission, upon examination, come to the conclusion that it is best to remove these Indians; they will need something, will they not? I do not ask for $500,000, as I have been instructed by the committee to do, upon a full view of this whole subject; I am not now urging that, and I hope I may not be compelled to urge it; because, if Senators will believe me, I do desire to curtail the expenses of this Government; and instead of expending $4,000,000 or $5,000,000 annually on Indian affairs, I hope, in the course of a year or two, to adopt a course of policy that will reduce it to $1,500,000 or $2,000,000. Such a thing is possible. It may be done; it ought to be done. We ought to make the Indians self-sustaining. We cannot make them self-sustaining when we put them upon a barren waste where they cannot possibly sustain themselves.

Mr. RAMSEY. I should like to inquire what number of Navajo Indians there are at this reservation?

Mr. HENDERSON. At the Bosque Redondo between seven thousand and seven thousand five hundred. I do not know that it will be necessary to make any of this expenditure. We are expending, and have expended from 1862 up to the present time, no less than from fifteen to thirty thousand dollars annually in wars with the Indians. The question is whether we shall stop that and adopt some other course of policy. If you have not a good commission here appoint another one. I shall not be with it; it is utterly impossible for me to be along. I should be very glad to be with them, but I cannot. You have General Sherman, General Terry, General Harney, Mr. Taylor, Mr. Tappan, and General Sanborn. Can you get better men in order to determine whether it is advisable to remove these Indians? If so, I hope my friend from California will suggest some other names. If you have confidence in these gentlemen, if you believe they are worthy and will not lead you astray in their recommendations, why not enable them to go there and see what ought to be done? Can any harm come of it? If they do not remove the Indians they will not expend the money. I suppose these gentlemen will not steal the $150,000. Senators do not anticipate anything of that sort. I think I can vouch for the honesty of all these gentlemen. Then what harm will it be? We know we have expended $750,000 annually for the support of these Indians where they are. How long is this to continue? We have already concluded a treaty with the Cherokee Indians enabling us to buy land at thirty cents an acre from the Cherokees, and bring any Indians we choose upon those lands. If we can get a reservation out of the Cherokee lands by paying to the credit of the Cherokees thirty cents an acre why should we not do it, if we can put these Indians upon lands in the Cherokee country on which they can sustain themselves?

But the Senator asks "After you remove them how much more shall we have to appropriate?" I do not know; I cannot tell. I promise the Senator that as long as I am connected with the committee I will keep expenditures down as much as I can. I will try to keep everybody, if I possibly can, from the President down to the lowest agent connected with Indian affairs, from stealing. I will do all that I possibly can in that direction. I have done all that I could so far. I may not have succeeded; I do not think I have fully succeeded; but I shall do the best I can in that direction.

Mr. GRIMES. How much is appropriated for the removal of these Indians?

Mr. HENDERSON. One hundred and fifty thousand dollars; but it is not necessarily to be expended. If they remove the Indians it is to be expended. If they do not remove them, of course there will be no expenditure, or but a very small expenditure for the expenses of getting there to make the examination. I assure the Senator that if these Indians remain where they are our expenditure will be $1,000,000 next year.

Mr. HOWARD. The Senator will allow me to ask him a question. I wish to ascertain the distance between the place where the Navajoes now are and the place to which they are to be removed, so as to make a reasonable guess, at least, at the probable cost of the operation. I do not know the geography of the country well enough to be able to do so.

Mr. HENDERSON. If they are removed back to their old homes the distance will be about two hundred and fifty miles. If it be thought best to remove them to the Cherokee country I suppose the distance will be between three and four hundred miles.

Mr. HOWARD. The bill proposes to remove them to their former home.

Mr. HENDERSON. The Senator will find that is not the case.

Mr. HOWARD. It so reads in the amendment.

Mr. HENDERSON. The Senator will find that that is not the case.

Mr. CONNESS. It is in the alternative.

Mr. HENDERSON. It will be left purely discretionary with the commission. Now, Mr. President, in my opinion, this thing ought to be done. If Senators desire to vote it down, let them vote it down. I surely am not very particular about it. But I give you warning that I am already instructed by the committee to offer an amendment to the Indian appropriation bill appropriating $500,000 for the Navajoes upon the Bosque Redondo. Sir, we are bound to make the provision proposed in this bill; there is no way of avoiding it unless we turn our backs and say, "We will keep these Indians at the Bosque Redondo although they desire to go back to their old homes, or to go somewhere where they can farm." You must either do that or admit before the civilized world that we are cruel in a degree that will be disgraceful to the people of this country.

A word now in relation to the second section. We asked the Sioux Indians on the Powder river, where they have been for some time in consequence of the building of the forts by General Pope that were spoken of by my friend from Maine [Mr. MORRILL] last year, to meet us at Fort Laramie. They have remained at peace ever since we sent messengers among them last fall. They have not committed any depredations. They are now at Fort Laramie, and I desire these peace commissioners to meet them and conclude a treaty of peace with them.

Mr. WILLIAMS. I should like to ask the Senator what the commission is to do with the $75,000 appropriated in the second section? I understand they are persons in the employ of the Government at this time, and paid; some of them at any rate. With what view is this $75,000 appropriated?

Mr. HENDERSON. If the Senator will observe the second section he will see that it is not only to meet the Sioux Indians at Fort

Laramie, but it is to obviate another difficulty which General Auger suggests to me. The Shoshones, the Snakes, and the Bannocks along the line of the Pacific railroad—and Senators ought to remember that that road was very much retarded in its operations last year on account of Indian difficulties—object to the road passing over their reservation. The Shoshones and Snakes reside, some of them, east of the eastern boundary line of Utah, and some of them in Utah. The surveys of the Union Pacific railroad have now reached their country, and they are making complaint, and I want the commissioners to proceed there and negotiate with them and make a new arrangement with them in order to permit the road to go through peaceably in the direction of California. If we do not do that we are liable to get into trouble with them. The entire trouble with the Apache Indians arose out of building a road through their country without their consent, because we did not have it. The treaty of 1851 expired, and we went to work to build roads over their country without consulting them, although we may say here in Congress that these poor, rude savages ought not to be consulted about a thing of this sort, yet we know that failing to consult them will bring about war, and it will continue. We might as well meet them and make some arrangement with them. It will cost but little, and it is better to expend a little in this way than to expend millions in a war.

Mr. President, I have examined this matter personally. I have some feeling about it. I desire to keep peace upon the plains. It is beneficial to California; it is beneficial to Utah; it is beneficial to Montana; it is beneficial to the whole country. It saves the entire nation many millions in the way of expenditure, and permits settlements in the western States to grow up. There is nothing harmful in the bill. It is intended simply to make such expenditures as may be necessary to secure the peace of the western country. With that view I hope sincercely that the bill will pass, and that all the discussion upon Indian affairs and the general treatment of Indians, the plan of civilization, and the plan of erecting reservations, &c., will be postponed until another occasion.

Mr. CONNESS. I shall occupy but a moment further. I wish first to present my compliments to the honorable Senator for the generous offer he has made to myself and others, the opportunity he is to give us hereafter of discussing the general subject. I desire to assure him that my purpose this morning was to discuss the special and not the general subject. I am very much mistaken, or else I addressed myself to the special subject when I was up. If my honorable friend had confined himself as closely to the text as I endeavored to do he would not have introduced another issue into the discussion by endeavoring to involve the personal character, honor, and integrity of the commissioners. Sir, I made no allegation against them in that respect when I was up.

Mr. HENDERSON. The Senator complained of the large expenditure of $150,000, and wanted to know what was to be done with it. I stated to him that it was not necessarily to be expended; it was only to be expended if it should be found necessary to expend it; and that I supposed these commissioners would expend the money as gentlemen ought to expend public moneys when placed in their hands.

Mr. CONNESS. I thought I had put in a sufficient disclaimer in favor of the commissioners when I was up before; but I will add a word to it: that the honorable Senator has not more confidence in the commissioners than I have. But, sir, that is not legislation; we do not sit here to provide any amount of money for the disposition, or to be put within the control, of gentlemen because they are honorable and honest men; we sit here to vote what is found to be necessary for the public business.

Now, what does the honorable Senator, the chairman of the Committee on Indian Affairs, tell us? What does he confess in regard to the first section of this bill? Why, sir, he answers the categorical question by saying that none of the commissioners have been upon the reservation, and he cannot tell exactly anything about it, but he guesses that there is a certain number of Indians there. That is my complaint. I ask the honorable Senator, as a member of that commission, why he did not and why they did not send some proper and authorized agent within the last year or within the period of their existence to this reservation, and why he is not here in his place in the Senate at the head of this committee with facts and figures on this subject? I have no doubt whatever that the commission will expend money economically. I did not question their wisdom; I do not now.

But, sir, there is a tale, and a sad one, hanging by this problem of the treatment of the Navajo Indians. What is it? Briefly, that we were said to have captured them by our arms at a cost of millions of dollars. We transported them at the cost of the Treasury of the United States to this reservation, the Bosque Redondo. We have discussed propositions brought in by the chairman of the Committee on Indian Affairs for $1,500,000 of appropriations at a time to feed and provide for these very Indians. If what the honorable Senator tells us be true, what shall we say of the advice we have had from the committe, of which he is the honored chairman, in the past? If the Senator was able to come into the Senate and state that that commission had sent to this reservation, and had ascertained that the Indians could not longer remain there with advantage to the Government or to themselves, had ascertained that they should be sent elsewhere, and how much money it would cost, I would not be here to oppose the proposition or to utter one word in regard to it.

Mr. HENDERSON. Let me ask the Senator a question. He knows that the Navajo Indians did support themselves when on their former reservation?

Mr. CONNESS. I think they did.

Mr. HENDERSON. They did.

Mr. CONNESS. That is to say, we did not appropriate money to subsist them.

Mr. HENDERSON. Not only that, but they were really rich with flocks and the profits of their farms. The Senator knows that for the last five years we have appropriated not one dollar less than $750,000 a year to support them, and we have done it upon sufficient evidence, satisfactory evidence. Now, I state to the Senator that there is satisfactory evidence before us that we must do it again next year if they are retained where they are. I submit to the Senator, is not that sufficient evidence that that is no fit place for them?

Mr. CONNESS. Mr. President, the Senator threatens us with an appropriation of $500,000. If we do not make this provision by appropriating $150,000 for the contemplated removal of these Indians we are threatened by the Senator with a demand for $500,000 to feed the Indians there.

Mr. HENDERSON. It is no threat.

Mr. CONNESS. The Treasury is threatened with it.

Mr. HENDERSON. Yes.

Mr. CONNESS. Well, sir, we had a demand for $1,500,000 from the honorable Senator's predecessor on the committee, and we did not make the appropriation, and the Indians did live, and they are in sufficiently good condition to-day for us to be engaged in passing a law providing for making a treaty with them.

Mr. HENDERSON. I know the Senator wants to be correct. Let me state in regard to that what the facts are. We did not make the appropriation asked; but I got an amendment on the appropriation that was given providing that if it became exhausted the military authorities should issue rations to these Indians. Rations have been issued to them; but General Sherman says that in the face of the complaints against the exorbitant expenditures of the War Department he will not consent to support them longer. The amendment was, the Senator will remember, that if the Indians were in a suffering condition rations should be issued to them in New Mexico from the Army headquarters. That has been done until the War Department say they will do it no longer. Therefore we did not gain anything.

Mr. CONNESS. Mr. President, if the entire support of the Indians came from the military arm of the Government and their control, too, where it belongs, by the way, and ought to be, I should have no word to say here. If General Sherman should send a communication here stating and vouching for the condition of these Indians, or any other band of Indians within his jurisdiction, I should accept his statement with perfect faith in its correctness; but he has not done that.

But, Mr. President, I did not intend to occupy time, and I give the honorable Senator from Missouri notice that I shall not occupy it hereafter when he introduces that bill. I do not know what it is to be unless it should be that bill that he introduced on one occasion here to create the Indian department a separate department of the Government. I suppose that is it. That is a bill that I give him notice I shall never spend much time in discussing; but I shall cast my vote against it whenever it is presented here.

Mr. RAMSEY. Mr. President, I am satisfied that the true policy of the Government is to restore these Indians to their old homes or to send them to some other congenial country. The Navajoes, before their removal to this reservation, were a pastoral people, and, I believe, subsisted upon their flocks almost entirely. There was no game, I imagine, in that country, or but very little of it. All their industries have been broken up, and they have been taken to a country where at present there is neither game nor fish, the chief subsistence of the Indians of the West. If you disturb them in these supplies, of course you must furnish others at the expense of the Government. Take, for inance, the Chippewas of the North, who subsist almost entirely on fish; if you were to remove them down on the Plains in New Mexico you would have to supply them with their subsistence. Take the Sioux of the Plains and remove them to the forest country of the lakes and they would have to be subsisted by the Government. So it is with all these Indians. Unless they are allowed to remain in the country in which they were reared from their infancy and were accustomed to gain a subsistence, either by hunting or fishing, you must supply them with subsistence day by day, just as you would your soldiers or prisoners in your prison houses. Now, the only way to relieve yourselves from the daily subsistence of these people is to restore them to a country where they can return to the pursuits they followed before or where game is abundant. I do not think the appropriation of $150,000 too great to remove them three hundred miles westwardly in New Mexico, or to some location in the other Indian territories. I think it should be done speedily. I think it was a very great mistake to remove them originally.

Mr. CONNESS. How long would you leave them where you propose sending them?

Mr. RAMSEY. Permanently, I suppose, unless they should be disturbed by the wave of civilization around them. If not disturbed by the Government by removing them, as in this case, or by civilized people crowding them, they could subsist there forever.

Mr. CONNESS. I should like to ask my honorable friend before he sits down whether he thinks it was the wave of civilization that disturbed them the last time they were driven away from their homes?

Mr. RAMSEY. No, sir; the Army disturbed them. It was a great mistake for the Army to carry them away from their own country. I cannot conceive of any good reason for their doing so. It is true they were

engaged in war with the New Mexicans and had been for two hundred years; but they disturbed no one else. The New Mexicans are a people not much superior to the Navajoes, and the Government might as well have permitted them to fight it out, as they had done for centuries before we got possession of the Territory.

Mr. WILLIAMS. Mr. President, a new light seems to dawn upon our minds in reference to these Navajo Indians; and now it is proposed to do, as it seems from this bill, what it has been regarded as wholly unsafe to do for all the time that these Indians have been confined upon this reservation. I remember, since I have been in Congress, that the proposition to remove these Indians and restore them to their former homes has been discussed, and it was argued that it would not do to put them back in their former place of residence, because they were a warlike tribe of Indians; they were always at war before they were captured; and if they were put back there and left free from the control of the Federal Government they would renew hostilities upon the white people; that the nation would be involved in a war with them, and consequently be subjected to immense expenditures in recapturing this great and powerful tribe of Indians. That has been the argument that has heretofore been urged, I think, every year—at any rate since I have been here—in favor of keeping these Indians upon a reservation, because it was unsafe to allow them to resume their former habits and modes of savage life.

Mr. RAMSEY. I should like to ask the Senator from Oregon what was the cause of the wars between the Navajoes and New Mexicans for centuries? Was it not because the New Mexicans were in the habit of carrying off the women and children of the Navajoes into slavery?

Mr. WILLIAMS. I know nothing as to the causes of the war that is said to have existed between these Indians and other people. But it has been said, and I suppose it is an historical fact, that there were continued hostilities between these Indians and the white people by whom they were surrounded or the Mexicans; that they were constantly making inroads upon the Mexicans and the Mexicans upon them, and so a state of war was perpetuated. And now, if this war should be renewed, we should inherit it, because New Mexico belongs to us, and the nation would be compelled to defray the expenses of the war.

Sir, I protest here against ever restoring these Indians to their former homes with the same rights and privileges and freedom which they formerly enjoyed; for, notwithstanding the honorable Senator from Missouri, in his visit to the Indians on the Plains last summer, discovered that they were an amiable and pacific people, I undertake to predict that if those Indians are put back in their old country not many years will elapse before this nation will be required to muster its armies to capture them again and put them upon some reservation where they can be secured, and where the white people can be protected from their savage inroads and attacks.

The Senator from Missouri begs us not to express our views upon the Indian policy of the Government, and I do not propose to do so at the present time, although he has taken occasion himself upon this bill to indicate, if not expressly to say, that all the Indian hostilities that have occurred upon the Western Plains and the frontiers of this country are chargeable, if not to the Army of the United States, to the white people. I simply wish, as I suppose this bill will pass, to say that I do not acquiesce in the views and opinions that have been expressed by the honorable chairman of the committee. I do not entertain the same opinion of the excellent and reliable qualities of the Indians which he seems to entertain. These same Indians that the honorable Senator met, and who appeared to be so peaceable and kind at the time, in the presence of a power of which they were afraid, would, if they found a defenseless home, murder the women and children and burn their residence in many cases, as the history of this country proves.

Indians are a treacherous race of people, and it is only by the exercise and presence of power that they can be preserved in a peaceable disposition toward the white people of this country. I believe in treating them justly and fairly. But, if the history of this country has demonstrated any one fact, it has demonstrated that it is necessary that this nation should determine some policy in reference to the Indians.

Now, sir, a treaty is made with an Indian tribe, and they agree to certain propositions, to which the commissioners empowered to negotiate the treaty agree, and all appears to be peace. But the western country is full of lawless and wicked white men, and if one of those men (and there are plenty of such persons who are capable of doing it) commits a crime against the rights of those Indians the country is involved at once in a war with that tribe, because they do not recognize the obligation of their treaty when any one white man violates their rights. The only way that peace can be preserved is to put the Indians where they will not only be compelled to preserve the peace, but where they can be protected from the attacks and inroads of bad and vicious white men. Therefore the Indians should be put upon reservations; and that should be the settled and fixed policy of the Government.

I rose simply to protest against the proposition of this bill, to put these Indians back where they formerly lived, to abolish any system of reservations, so far as they are concerned, and leave them as they formerly were, to make war or live at peace, as they pleased, with the white people of the country.

Mr. COLE. I would gladly add a word, if possible, to what has been said in favor of the passage of this measure. I am in the receipt of some information touching these Indians. I believe them to be, as they are at present situated, in a most distressed condition. When first taken upon this reservation they numbered something over nine thousand. My information is to the effect that they have now been reduced to about six thousand. The information of the chairman of the committee may be better. I am, at all events, well satisfied that their condition is deplorable in the extreme. There is no wood within ten or fifteen miles of the reservation, and when they go after wood they have to dig the roots of the sage brush and whatever other brush is found there, and carry them back to the reservation on their backs. They are at positive hostility with the Comanches, in whose country they are. They were taken from their own country into the midst of the country of the Comanches, who are described as exceedingly hostile toward them, and whenever they go out in search of wood or any other errand they are very likely to be assassinated by the Comanches.

It was stated by some Senator in the debate that these Indians are subdued; and they are at present. If they were once hostile they are not so now. They are thoroughly humbled. I believe there will be no difficulty in maintaining peace with them if they are taken to some other reservation or place where they can enjoy some of the comforts of life, and where they will not be constantly perishing for want of the ordinary necessaries of life. I am informed that many of them have perished from cold and from other privations. I believe, notwithstanding the large appropriations that have been made for their benefit, that they have suffered beyond all precedent almost for the want of the necessaries of life, particularly for the want of shelter and fire.

I hope, therefore, Mr. President, that this measure will pass. I believe it to be, as the chairman of the committee has stated it to be, a measure of economy. I believe it will inure to the benefit of the Treasury, and not in any sense to its detriment.

Mr. NYE. There seem to be two things apparent in the condition of this tribe: in the first place, that they are kept at a large expense where they are; and, in the next place, that they are discontented, and desire to go where their comforts may be increased. I have had some little experience in Indian matters, and I have had a great deal to do with Indians. I disagree entirely with the honorable Senator from Oregon [Mr. WILLIAMS] as to their characteristics and their disposition. They have not much philosophy to control their animosity; but they should not be condemned on that account.

I have tried to study and to learn the true history of this long-continued fight between the Navajoes and the New Mexicans. Whoever will read it will find that General Carleton had better have captured the New Mexicans than the Indians a great deal; for I challenge any person to candidly read what is written and what exists in tradition and then deny that the New Mexicans were always the aggressors. They did what was abhorent to the enlightened and intelligent world; they captured the women and children of the Indians and enslaved them, until now it is difficult to distinguish between a Navajo and a New Mexican.

Sir, the peace commission have certainly done enough to commend them to the confidence of this country. They have stopped the effusion of blood, and they have stopped a wonderful drain upon the Treasury of this country. I took occasion to say while the measure for their organization was being discussed, that after our Government had expended millions they would at last have to come back to the point from which they ought to have started: let the Indians understand what we wanted, and there would be no difficulty in obtaining their permission and retaining peace. The experiment was successful. That commission remains intact save the honorable Senator from Missouri, the chairman of the Committee on Indian Affairs, who says he cannot be present. The fruits of the past are a guarantee for the good judgment of this commission in the future; and I submit to my distinguished friend from California whether this is not the cheapest experiment for permanent peace with the Indians there that has ever been made.

Mr. CONNESS. I am willing to answer the Senator in a word, and say that I believe it to be the safest experiment; that is to say, the parties who are to be employed in attending to this business are the best men that ever had it in hand. I have no doubt of that.

Mr. NYE. I am very glad to have the concurrence of the Senator from California. It strengthens my own opinion on the subject.

Mr. CONNESS. The whole of it is a sad business.

Mr. NYE. Yes, it was a sad business; and when you talk of putting these Indians upon permanent places, when the Senator from Oregon says they should be put upon permanent reservations, where they should be obliged to stay, he talks about that which is as impossible as anything in nature. The tide of the superior race sweeps with a resistless power across this continent, and where these Indians are planted to-day they will be upturned and uprooted to-morrow. Now, sir, while we are thus dandling these dependent people upon the very tips of our fingers, and resting upon so unreliable a foundation as the staying of this progress across the continent, I submit to every Senator if it does not become him as a man to treat them at least with the ordinary sense of humanity in the process of their destruction.

Mr. CONNESS. A little "Lo! the poor Indian!" [Laughter.]

Mr. NYE. I am not to be driven from my own judgment by the cry of "Lo! the poor Indian!" Sir, I am not moved to mirth by the sufferings of the Indians. I have seen their sufferings. What is the fact? In the State where I live, before population reached there, the Indians had all the supplies necessary to their comfort, in a rude way, of course. But, sir, with this wave of population, their means have all been dried up. The pine tree, the banyan tree that bore the nut from which their bread was made has been cut down and used

as fuel. The waters of the streams from which they caught their fish in over-abundance have been poisoned by the thousand minerals used in the reduction of silver and gold ore until the fish have disappeared to a great extent. They feel, and this Senate should understand it, precisely as the farmers of New England would feel if they were to see persons entering their orchards and destroying them or into their grain fields and reaping their harvests. But we are told, if we say a word about that, "Lo! the poor Indian!" Sir, no white man can afford to be anything but magnanimous to his inferior.

I repeat, Mr. President, that this is the cheapest experiment we can make. If the judgment of the honorable Senator from Oregon is correct, and it will not do to take the Navajoes back to their old homes, this commission have the alternative of taking them to another place. I do not believe there would be any danger in putting them back where they were before. Sir, white people long for the place of their birth, and the older we grew the old birthplace has a charm that none other can possess. I recognize that instinct of humanity that leads the Navajo back to the hearthstone where he was born, to his old familiar ground; and while I would there compel him, if necessary, to observe the peace of the community, I would at the same time compel those who surround him to observe the rights of the Indian.

I am not going to discuss the policy of our Indian affairs. I know it is natural to blame agents and superintendents. The blame is not there; and I do not know that there is anybody to blame. This pioneering principle that exists in our people, that is dotting this continent for three thousand miles thick now with civilization and business prosperity, comes necessarily in antagonism with the old inhabitants of that region. But, sir, this country, if it ever puts on sackcloth and ashes for any one sin, will put them on for the sins it has committed against the former owners of this soil; ay, sir, and more: the recognized owners of this soil by the Government itself.

Therefore, sir, in view of these facts and under the circumstances that surround us, I bespeak of this Senate a calm and humane consideration for the proposition which this bill contains. It will be comforting to us individually, and it will be noble in us as a nation, to try to stop this effusion of blood, that results more from avarice on the one side and ignorance on the other than any other two causes. Sir, I never see an army drawn up in front of a tribe of Indians to kill them that I do not think it is a degrading work. I think —and I submit to the country if I am not right—that the crowning glory of the general who leads this commission, who has covered himself with imperishable renown upon a hundred fields of strife in this nation, was, after all, in sheathing the sword and entering the field of peaceful negotiation that brought peace to that people and prosperity to our own. Were I in his place I would count that one of the proudest gems in the coronet of glory that encircled my brow.

Sir, this experiment is going to cost $150,000. It would not move two companies of soldiers from the Missouri to the Navajo region. The bill puts $150,000 at the disposition of this commission; but they will not expend it unless it is necessary to do so. That wise and humane commission, that experienced commission, have a discretion to exercise; and I would rather trust them than the judgment of armies or the judgment of Congress itself. I hope, therefore, without much delay, we shall enable the members of this commission to enter upon this humane work and that this measure will be passed. If it saves future appropriations, well; but, sir, if the future appropriation which is suggested is necessary we dare not stand before the enlightened world in judgment and see suffering Indians upon this territory, that we are driving like chaff before the resistless wind of population, and have it said of us that we are a party to their sufferings instead of striving to alleviate them. Sir, money thus expended will not impoverish the nation; it will enrich it in riches more estimable than gold or silver. I hope, therefore, that this measure may be passed. It seems to be born of the necessity of the time. If this experiment should receive the sanction of Congress, it seems to me, it will meet the judgment of a people desirous of peace.

Mr. BUCKALEW. Mr. President, this is an old story to the members of the Indian Committee particularly, and it is to a great extent also familiar to the members of the Senate. If there has been any transaction in Government administration connected with outlays of public money which deserves notice and animadversion this business of removing the Navajoes to an unsuitable location and supporting them there is of that class.

From the information which I have obtained by service on the committee and from the public documents, I believe that no less than $10,000,000 have been expended upon these seven or eight thousand Navajo Indians. Their number is now somewhat less than it was when this peculiar experiment by the military authorities began. It is likely that the number has fallen from about eight thousand down to about six thousand; and there, at the end of many years, after our outlays have been enormous for their support, we are told that they are in an entirely destitute condition, and that the case stands no better than it did when the experiment began.

Now, Mr. President, I should like to know whether there is no security to the Government, and particularly to the Treasury of the United States, against the foolish performances of military officers in the western country; whether a subordinate officer in command can undertake to establish a system of policy producing prodigious expense to the Government, and that we shall be impotent and powerless to arrest him or to defeat the consequences of his conduct? General Carleton, of his own will, so far as I know, without instructions from the War Department or from any superior officer, undertook to remove these Navajo Indians from their own country, where they possessed the land; where they had settlements, where they were prosecuting branches of industry; and he conveyed them two hundred and fifty miles to the banks of the Pecos river and there located them, and sent us a report of his proceedings. I have the report before me, or a synopsis of it.

We were then told by the superintendent of Indian affairs in that Territory, a very competent and a very worthy man, that the Bosque Redondo reservation, to which the Indians were taken:

"Was barely sufficient for the Apaches, for whom it was set apart; that the Navajoes and Apaches could not live together upon it; that the Navajoes could best support themselves upon a reservation in their own country, where they had always been an agricultural and pastoral people, raising large crops and making their own garments"—

They are very celebrated for the making of blankets, and their blankets command the markets in all the neighboring regions in New Mexico—

"from the produce of their own flocks, and that the enormous expense of feeding them at the Bosque Redondo, counting by millions almost, was an unnecessary expenditure."

That is what we were told by our own officer who had charge of the Indian affairs in the Territory of New Mexico. On the contrary, General Carleton and those who thought with him represented the case differently, and this is what was said by them:

"They insisted that for the sake of permanent peace the Navajoes must be taken entirely away from their own country, and that when once settled upon a reservation they would provide for their own support."

And we were asked to appropriate money for a single season until these Indians, by the cultivation of the soil, by bringing into use the processes of irrigation which are known in that portion of the country, could maintain and support themselves for the future under the charge and guardianship of a very small military force as compared with that which would be necessary to keep them in a state of peace or to repress their hostilities in their former location.

Now, Mr. President, it is quite wide of the mark to apply to this tribe or stock of Indians arguments and reasoning which apply to Indians further north, to the wild and roaming savages who never cultivate the earth. We are told here that hostilities had existed for a century or more between these Indians and the inhabitants of New Mexico. The fact is that those hostilities were only occasional and they were upon a small scale; and so far as recent hostilities are concerned the evidence which we have is that they were provoked by the New Mexicans, and not by the Indians. In New Mexico a system of peonage existed, the remnants of which we took pains to abolish a year or two since by act of Congress, and the New Mexicans seized upon the Indian women and children, and reduced them to a state of *quasi* servitude, and that inflamed the resentment of the Navajoes, who are a much better, nobler, and more advanced race of Indians than almost any other tribe of which we have an account upon our continent; and there were some border difficulties.

Now, sir, a foolish military commander concludes that he, by adopting a new and grand policy, will render himself distinguished or promote the service of his country. His motives I am not concerned with; the Senate are not concerned with them; but they are concerned with the results which flowed from his policy.

Mr. HOWARD. I desire to inquire of the Senator from Pennsylvania whether any steps have been taken to bring General Carleton to justice for his unauthorized removal of that tribe of Indians from their homes, and the immense expenditure of public money that has been the consequence?

Mr. BUCKALEW. Mr. President, in the course of four or five years, except a few insignifiant and obscure courts-martial in the regular service of the Army, I do not know that a military officer has been brought to justice for any outrage of any description, whether it was the seizure of a citizen in violation of law, the provoking of an unnecessary Indian war upon the border, or any other impropriety or outrage. They seem to do pretty much what they please, and are not called to account for their conduct. I do not understand that General Carleton has been called to account in any way whatever, except, perhaps, that he has been to some extent rebuked by a failure to confirm him when nominated for promotion to the Senate.

Mr. WILLIAMS. I should like to inquire of the Senator why it is that for four or five years, with these facts staring Congress in the face, these Indians have been suffered to remain upon this reservation and supported at this immense expense? Is this something that has broken upon us to-day, or are these facts that have been all the time known to Congress?

Mr. BUCKALEW. Because at every succeeding session gentlemen have repeated arguments such as have been now submitted by the Senator from Oregon, have told us that if the Indians were restored to their former place of residence war would break out afresh, and that it would take a great many regiments to keep them in subjection, whereas upon this reservation only six hundred or eight hundred troops were necessary, and where there are two or three thousand acres of land blooming under the hand of cultivation; where the streams are to be turned over the surface, the soil is to be irrigated, and where we are to have a small land of Goshen in eastern New Mexico under military auspices—a splendid experiment of settlement and of colonization. That seems to have been the reason why Congress has not made an end of this thing.

At the last Congress, in February last, we did take some action. We provided that these

Indians should not be fed longer than until the 1st of July. We made limited appropriations; and we forbade the military authorities to furnish them supplies after that date. The expectation then was that, in the interval, they would be removed, or permitted to remove, to their former country in the northwestern portion of the Territory. I was in hopes that we would not be called upon this winter again to appropriate a large sum of money to them.

It seems, however, that the money we then voted has been expended; that the Indians are still upon this reservation; and that the alternative is now presented to us of appropriating $150,000 to remove them to their former place of residence or to some other reservation, or of voting a large sum of money to feed them during the next year where they are. We must do one or the other. We have made no progress to an early conclusion of this thing. And observe now, year after year it has gone on until the expense of these seven thousand Indians amounts to $10,000,000 or upward, and it seems impossible that the Government should bring it to a conclusion. I suspect, if the facts were known, somebody is making money out of this experiment. I suspect if it was not begun with reference to private profit it has been kept up for that purpose; and perhaps that will account for the difficulty we encounter in bringing it to a conclusion.

Our Indian superintendent, when the case first arose, advised us to place these Indians in their own country and to establish a few posts upon the border, not so much to restrain the Indians as to restrain those who were disposed to commit depredations upon them, a small military force there to preserve the peace. If his advice had been adopted and acted upon I have no doubt we should have avoided nearly the whole of this outlay of money. For my part I am in favor of restoring them to that location.

But the present bill leaves the subject to the peace commissioners. They are at liberty by negotiating with these Indians to restore them to their own country or to locate them upon another reservation west of Arkansas; and I suppose we had better leave the disposition of the money we vote and the settlement of our future policy to that commission, because they will have means of information at their command which we do not possess; and because we can place the utmost reliance upon the members of that commission. General Sherman and his colleagues need no encomium from me nor from any other member of the Senate. They require no indorsement before the people of the country as to their integrity or ability. Their eminent capacity for undertaking this work and their fidelity have been questioned in no quarter. The safest thing we can do is to allow the distribution of this money to be according to such policy as they may adopt on our behalf. We cannot go into the details of administration. We must trust some person or some body of men, and I do not know any with whom our confidence can be placed better than the commission that has already been organized.

I have said thus much, Mr. President, without intending to protract the debate unreasonably.

Mr. FESSENDEN. I do not know anything about this matter, and therefore I will not undertake to speak upon it. I rise, however, for the purpose of repelling, to a certain extent, the inference that might be drawn from an inquiry made by the honorable Senator from Michigan, if anybody had taken steps to punish General Carleton for this outrage. Now, sir, I have listened to the arguments of honorable gentlemen on the one side and the other, and neither of the gentlemen that I can understand professes to know anything personally about this reservation on which the Indians are placed. Senators say that it is of a certain character—barren; that the Indians are obliged to carry wood on their shoulders for a certain distance. I have heard different accounts of it. I have heard a very different account of it from American citizens residing in New Mexico—not New Mexicans, except that they lived in New Mexico, and men whom I have been in the habit of relying upon, so far as their statements are concerned. I have heard the same statements, or statements of a different character from those made here, with reference to the policy of removing these Indians. I have heard statements that it was a good policy; that it had, in fact, saved money to the Government by saving the annual expense of defending the people against Indian incursions. Which is right, which is the correct statement, I will not undertake to say. The honorable Senator from California knows nothing about it, for he has never been there and has never seen it. He speaks from hearsay, as I do. So it is with the honorable Senator from Missouri. He does not pretend to speak from personal knowledge.

And yet gentlemen get up here and make these broad statements with regard to the injurious policy of the thing itself, with regard to the expenditure of money, with reference to the character of the tract where the Indians are, without knowing anything except what they have ascertained from others. Now, what I want to say is, that before a conclusion is come to upon that matter by the Senate there ought to be an investigation and the facts ascertained, if the Senate are to decide it.

But, as I understand this bill from hearing it discussed, it is nothing more nor less than this: that this commission shall decide the question; and, that being the case, I am perfectly willing to agree that it shall be so; but I am unwilling to agree in advance that General Carleton is to be condemned, and inferences drawn here that he ought to be summarily punished, because he was the officer under whose direction this removal was made. I wish the fact to be ascertained, in the first place, whether it was not a wise act; or, at any rate, if it was not a wise act, whether it was not an act justified by apparently good reasons and arising from good motives.

It has been customary here, with reference to General Carleton, to speak in this way. He is an officer from my own State originally. He has now arrived at near fifty years of age. He has been constantly in the service on the frontiers. He has hardly ever been away from there. He served with distinction and ability throughout the war, and in every position in which he has been placed. He is a gentleman of high character and standing, who has been sent here twice by the recommendation of General Grant himself for the brevet rank of major general.

To show Senators that it is not safe to attack officers of this character until they really know something about the grounds of their action, I wish to refer to one circumstance. At a certain period strong objections were made here to the conduct of General Carleton in New Mexico. I took pains to go to General Grant and ask him, at the request of General Carleton, in a letter I received from him, to order a court of inquiry into his conduct. General Grant stated to me that he did not believe there was any ground whatever to order a court of inquiry, but that he had sent out an officer secretly—an officer ostensibly upon other matters—and instructed him to make a careful examination into the conduct of General Carleton in New Mexico and report to him with reference to it; and the result of that examination by that confidential officer sent to examine the conduct of General Carleton was that there was nothing in the charges against him whatever, and nothing upon which he could demand a court of inquiry at all; that he had behaved, so far as anything could be ascertained about it, with the utmost propriety, doing his duty there like a man. That was the report to headquarters, and on the strength of that report his name has been a second time sent to the Senate for brevet promotion.

And yet these statements are constantly made here with regard to this man, who has been in service now, I think—my colleague knows better than I—from sometime during the Mexican war, or just before, as a lieutenant of dragoons, and is not only a distinguished officer but a man of a high degree of cultivation. It is unjust and ungenerous to make these broad and general statements in regard to an officer without knowing anything either about his motives or his reasons.

Mr. HOWARD. If the Senator from Maine will allow me a word, does he insist that the removal of this tribe of Indians by General Carleton was authorized by the War Department or that it was within the line of his duty?

Mr. FESSENDEN. What I insist upon is this: that the War Department never complained of him for it.

Mr. HOWARD. That is not my question.

Mr. FESSENDEN. He was in command of that district at the time, and as the general in command he took the liberty to take these Indians, it being a time of hostilities, and bring them to this place. That was his judgment. He has not been court-martialed for it; he has not had even a court of inquiry; and, so far as the War Department is concerned, his action has been sustained up to the present time. Talk about punishing a man when he had a right to exercise his discretion in the best way to put an end to hostilities there! That is in the power of the commanding officer of a district to whom the carrying on of hostilities or defending against them is committed.

Mr. DOOLITTLE. If my honorable friend from Maine will give way, I think, as my attention has been called to this matter, I can make some statements in regard to it.

Mr. FESSENDEN. I am very glad to give way. I wish to state, however, before I give way, that the late President of the Senate, Mr. Foster, who went out on the commission that Congress sent out there two or three years ago, told me he examined into the whole matter with regard to General Carleton, and he found him to be one of the finest gentlemen that he ever met, and that he had conducted himself with the utmost propriety in that Territory. I defy examination, and when the matter comes up in the Senate, if it ever does come up again, I intend to have it with reference to that man.

Mr. DOOLITTLE. Mr. President, I have had occasion to look into this question in relation to the Navajoes, having been upon the commission referred to by the honorable Senator from Maine, and having visited the Bosque Redondo where this tribe of Indians were placed and held, substantially as prisoners of war, in company with Mr. Foster, then the President of the Senate, and had occasion to inquire into the history of the hostilities between the Navajoes and the United States and the reasons which controlled the military department in the course which was taken by them in relation to those Indians. In short, it would seem from the testimony taken by our committee that a state of hostility, almost uninterrupted, had existed for time immemorial between the Navajoes and the Mexicans. In that condition of things we acquired New Mexico. When General Sumner was in command, finding the state of things existing between the Mexicans and the Indians, he proposed that the United States, to settle the Indian difficulties there, should buy out all the Mexicans who had become citizens of the United States in New Mexico and remove them somewhere east, into Kansas, and surrender the whole of New Mexico to the Indians, and let them have it to suit themselves and fight it out among themselves, the United States trying to prevent their own citizens from interfering.

That policy was not adopted. It was insisted by the Government that we should hold New Mexico and defend the citizens of New Mexico against Indian depredations. The consequence of this was, that we have been in a state of *quasi* war with various Indian tribes in New Mexico ever since. We have held the country, costing, I suppose, what was necessary to support two or three regiments of troops all the

time. Probably from three to five million dollars of annual expenditure has been entailed upon this Government ever since we acquired New Mexico.

From this hostility existing more or less between the Navajoes and the New Mexicans, wars arose between them, and our military were called upon to interfere. They did so. They went forward into the Navajo country and built a fort—Fort Defiance. While Major Kendrick, who I believe is now connected with the Military Academy at West Point, was there in command, he, by his good management and prudence and proper control of the troops, managed to keep the peace; so that for a time, perhaps two or three years, we enjoyed a tolerably peaceful condition so far as New Mexico and the Navajoes were concerned.

But, sir, a war arose. It arose under circumstances which, in my judgment, attach as much to us as to the Indians. It commenced in this wise: an Indian came up near Fort Defiance and on some pretext or provocation he let slip an arrow and killed a servant boy that belonged to the commander of the post. He demanded the surrender of the Indian that had fired the arrow. The Indians refused to deliver him up. They proposed to compromise. They proposed to pay money or to pay three or four or five thousand sheep by way of punishment. This was refused by our officer. He took the responsibility to declare to the Navajoes that this Indian must be delivered up for punishment or war would be the consequence. The question was carried before General Garland, then commanding in New Mexico, and he finally decided, inasmuch as the commander of the post had taken that position in the presence of this tribe of Indians that it would not do for the Government of the United States or the military commander to recede from his position, and war must go on.

The result was war began. We had two or three campaigns; one under Colonel De Bonneville in which we met with some success, but failed altogether to subdue this tribe in their fastnesses. In their country, in what is called the Valley de Chelly, there is, I suppose, the greatest natural fortifications on the face of the earth. They would fly to this fortification—an immense gorge between the mountains, the sides, perhaps, a thousand or two thousand feet high. They would fly to this valley with their flocks and herds and wives and children and defy all approach on the part of our troops. A colonel in command of some of our troops went into this valley and thought he would hunt them out; but he was compelled to retire. He could not hold his position. The Indians rolled down rocks and stones upon him and drove him out. There was a temporary suspension of hostilities. It did not last long, and finally the war went on again. General Canby, one of the distinguished generals of our Army, was out in New Mexico and commanded several regiments of troops there, and he undertook to punish these Navajoes and bring them to terms; and he entered this Valley de Chelly. He got into the valley one night and was compelled to retire before morning. He did not bring them to terms. The Indians had rather the best of the fight so far as anything like substantial victory was concerned. At last, after Canby was withdrawn from that department——

Mr. NYE. I understood the Senator to say that the Indians refused and did not surrender the man who fired the arrow?

Mr. DOOLITTLE. Yes, sir.

Mr. NYE. Will the Senator allow me to correct him in that statement?

Mr. DOOLITTLE. That was the testimony taken before our committee.

Mr. NYE. The testimony cannot be so, for in this Chamber now sits the then Governor of that Territory, who did surrender that Indian, and he was hanged.

Mr. DOOLITTLE. My friend is mistaken and his informant is mistaken.

Mr. NYE. Governor Meriwether sits in this Chamber now, who was the person who did surrender the Indian, and he was hanged. Evidently the Senator did not examine the right witnesses.

Mr. DOOLITTLE. The witnesses that we examined were the superintendents of Indian affairs, having charge at the time, and others. The Navajoes refused to surrender the man.

Mr. NYE. The superintendent of Indian affairs for that Territory at that time is here now, and says he was surrendered.

Mr. DOOLITTLE. There must be a mistake in reference to the case referred to. I refer to the case when Lieutenant Brooks was in command at Fort Defiance. It is true, the Navajoes did surrender the dead body of an Indian, or Mexican, or somebody. They pretended at one time to surrender the man; that they had killed the man, and they surrendered a dead body, but it was not the person. They made a pretense at one time that they had captured the same person who had fired the shot.

Mr. NYE. Does the Senator refer to the case of Lieutenant Brooks where a negro was killed?

Mr. DOOLITTLE. Yes, sir.

Mr. NYE. There is the man [pointing to Governor Meriwether] who surrendered him.

Mr. DOOLITTLE. A dead body was surrendered by the Navajoes. I only refer now to the testimony of witnesses. I can refer to where the testimony was taken, and I can read the testimony.

But about this time, without going into the particulars whether the man was surrendered or was not, General Carleton came into the command of New Mexico, and he ordered Colonel Kit Carson to make an expedition against these Navajoes. Colonel Kit Carson, by attacking them in the fall of the year and destroying their crops, placed the Navajoes in such a position that they were compelled to surrender, and they did surrender. There were hardly any Indians killed by Kit Carson in the fight which he had with them, because he cut off their supplies. He captured the whole tribe; and, being captured, it was then resolved by the military to take them away from this their natural fortress in the Valley de Chelly and put them upon this reservation at the Bosque Redondo. Whether that was a wise determination on the part of the military or not I am not prepared to say. I incline to the opinion that I never should have favored it had it been left to me in the beginning; but the military determined upon it, and did actually remove them to the Bosque Redondo, and there they have been kept substantially prisoners of war, and they have been fed, more or less, at the expense of the Government; but on the Bosque Redondo they have raised some provisions to sustain themselves.

Now, if the provision of this bill be, as I understand it to be, to appropriate $150,000, and to give the discretionary power to this commission to go and look into this matter and satisfy themselves, and if they come to the conclusion that it is better to place them upon some other reservation, to do so, I have no objection to it. I am perfectly willing to trust and confide to this commission if they will go upon the ground and examine for themselves. But this country from which the Navajoes came is a country of which the white man knows but very little. Very few white men have ever been there except those who went there when they captured the Indians. It would be advisable also for this commission to look into this question to see whether to return them to their old country or to put them upon some other reservation. For my own part I am willing to trust this discretionary power to this commission, because it is a distinguished commission, and I have full confidence in it. For myself I would be glad if our whole country could be divided into districts, and a proper commission, men of high character, could be constantly kept discharging their duties as such, keeping the peace, and superintending not only the Indians, but the military in the region of the Indians, in order to preserve the peace.

Mr. HOWARD. The ground of my inquiry whether any steps had been taken in reference to General Carleton was that the honorable Senator from Pennsylvania stated unqualifiedly, if I understood him rightly, that General Carleton had removed this tribe of Indians without any authority whatever, without any instructions from the proper military authorities, and without any authority from any competent source. It was quite natural that I should put that inquiry, because if General Carleton had taken upon himself to remove these Indians two hundred or two hundred and fifty miles from their homes, and to locate them upon a tract that was sterile and unproductive and unfitted to their habits, and at a great expense to the Government of the United States, certainly it seems to me even the honorable Senator from Maine would think that the facts presented a case to justify some inquiry into his conduct.

Of course it must be conceded that it was a war time when this removal took place, and that hostilities existed between the authorities of the United States and the Navajo Indians. Of course I agree that we possess all the rights of a belligerent Power in reference to that tribe. If, therefore, it was necessary, in order to bring the war to a speedy and successful termination, to remove the Indian tribe, undoubtedly the general in command had that authority. I concede that.

But, sir, it seems to me that the circumstances must have been very stringent and very unusual to justify such a course on the part of the military officer in command. It seems, judging from the facts that have come out in this debate, that General Carleton espoused distinctly the cause of the New Mexicans in their hostilities with the Navajoes. I do not know what right he had to do that. I am not able to see why a military officer who was stationed there to keep the peace and prevent Indian hostilities should take the side of one or the other party in an Indian war.

Mr. FESSENDEN. He took no part more than all our officers who had preceded him. War broke out, and there were incursions. He was bound to interfere, because he was defending a part of the territory of the United States.

Mr. HOWARD. It seems he was defending a race of people who do not differ very greatly in point of civilization, as I understand, from the Navajoes themselves.

Mr. FESSENDEN. They were occupying a part of the territory of the United States and were citizens of the United States.

Mr. HOWARD. So was the region that the Navajoes were inhabiting a part of the territory of the United States, but they were an independent tribe of Indians. Well, sir, to come back to the point, the facts in the case show that the Navajo Indians were a sort of semi-civilized people; they had adopted habits of agriculture; they were in the habit of cultivating fields, raising corn and other grains for their own support and a considerable quantity for sale. They were in the habit of raising sheep and manufacturing cloths from the wool which they thus produced. They kept large herds of cattle, and of these cattle they made traffic, and were, in short, as prosperous as a semi-civilized people could well be. A state of hostility had long existed between them and the New Mexicans. The New Mexicans, it is said, were in the habit of insulting them and imposing upon them, by way of selling their women and carrying them off into captivity, and thus provoking war and all its consequences from time to time, provoking hostility and retribution on the part of the Navajoes. The commander, it seems, after having overcome the Navajoes, thought it best to take them away from the fields where they had resided for no one knows how many ages, and where were their hearthstones and their altars and the graves of their forefathers—a spot dear to them as are our own homes and firesides to us, for this feeling of human nature is common to all classes—and to remove them into a sterile, almost uninhabitable region two hundred and fifty miles off, thus subjecting the Government of the United States to the burden

of supporting the Navajoes by dealing out to them the necessary rations; and that is their condition now.

It seems to me, sir, that this was not a proceeding humane on the part of General Carleton, nor was it necessary. It seems to me, so far as I can understand the facts of the case, to have been unprovoked and wanton on his part; and I think the Navajoes, under the state of facts that has come to my mind, at least have just ground of complaint against the United States for the treatment which they have received at our hands.

Now, sir, I think that, under the circumstances of the case, instead of authorizing this commission, giving them a discretionary power, to remove this tribe still further away from their homes, and to locate them on the western borders of Arkansas, the simple duty rests upon us of restoring them to their homes, to their old houses and farms, and what may remain of their flocks and their herds; and, if necessary to protect them there, of sending a guard, in order that the New Mexicans may no longer practice their insults and injuries upon them. I therefore move to amend the proposition by striking out the following words, beginning in line ten and closing in line thirteen of the first section:

Or to such other lands in the Indian Territory west of the State of Arkansas as may be thought best suited to their present condition and future prosperity.

I move to strike out these words so as to take away from the commission in the concoction of the treaty they are authorized to enter into the discretionary power of removing this tribe still further away from their homes to a country where they are strangers and where they will be subjected, as a matter of course, to all the hardships and deprivations of strangers in a strange land without means and without friends or sympathizers.

Mr. FESSENDEN. I should like to ask the Senator to be kind enough to tell me where he gets his information in regard to all the facts he has stated?

Mr. CONNESS. What facts?

Mr. FESSENDEN. With regard to their having flocks and herds and all those things; with regard to the Bosque Redondo being such an uninhabitable place; with regard to this removal having been made without provocation and without any reason, &c. I want to know where he gets the facts. I should like to ascertain the sources of his information.

Mr. HOWARD. I am quite aware that the question of provocation is a disputed question. As a matter of course General Carleton and his friends will claim for him that the provocation was all given by the Navajo Indians.

Mr. FESSENDEN. Where does the Senator get the other facts he has stated?

Mr. CONNESS. I can answer.

Mr. HOWARD. I will refer the honorable Senator from Maine to the proper reports and proper documents.

Mr. FESSENDEN. What documents are they?

Mr. HOWARD. I did not suppose that there was any doubt at all about the social and industrial condition of the Navajo Indians. I am not perfectly posted up on that subject myself, I admit; but it is entirely notorious that they are a semi-civilized people, an agricultural, a pastoral, and to some extent a trading and commercial people, and a manufacturing people.

Mr. CONNESS. With the permission of the Senator from Michigan I desire to say, in the first place, that if the honorable Senator from Maine had listened to the statement made by the chairman of the Committee on Indian Affairs this morning, which must have been correct, I suppose, he would have found the evidence for the statement involving the sterility of this place where they now are.

Mr. FESSENDEN. I was not aware that the Senator from Missouri gave any evidence on that point. He merely stated that he had heard so, that somebody had told him so.

Mr. CONNESS. I can give the Senator the testimony. It is here.

Mr. FESSENDEN. What is the book the Senator proposes to read from?

Mr. CONNESS. I hold in my hand the Globe containing the debate in this body in February of last year, and it contains the documentary evidence then submitted. I have before me the testimony introduced on that occasion by the Senator from Wisconsin, [Mr. DOOLITTLE,] being that of a military officer—Major Bristol—who was at that time, I believe, in Michigan. The Senator from Wisconsin on that occasion introduced his testimony; and it is this:

"Am captain in the fifth United States infantry and stationed at this post."

Fort Sumner, near the Bosque Redondo.

"I have been here since the 22d of May, 1863; I have been part of the time commanding officer of the post and acting military superintendent of the Navajo Indians. When I came here there was but one Navajo Indian here. He was taken from a Mexican, who offered him for sale for ten dollars; so that all of them have been brought here since I came here. They came at different times. Total number brought here, eight thousand four hundred and seventy-four; of these, there were men, two thousand three hundred and twenty-five; of women, two thousand seven hundred and ten; of children, three thousand one hundred and sixty-four; infants at the breast, three hundred and seventy-five. At the last count, on the 30th of April last, there were present seven thousand one hundred and sixty-nine. The difference in number is accounted for by deaths not reported, and absence of those who were hunting. Some others reside on the reservation some twenty to twenty-five miles from the post, and were not present at the count, herding their stock. Some of them are owners of considerable herds of horses and sheep and a few mules and goats. The number of deaths among the Navajoes from all causes, so far as it has come to our knowledge, is two hundred and sixteen since the 1st of February, 1864."

Then the Senator continues to describe the reservation from which it is now proposed to remove these Indians in his own language, which I will read:

"This is the testimony he (Major Bristol) gave in 1865. The crops were then plenty, between three and four thousand acres."

That was at the Bosque Redondo. "We," referring to a committee of this body—

"we saw these; we went all over these grounds, Mr. Foster, Mr. Ross, and myself. We saw wheat, corn, &c., about three thousand acres and upward, which had been sown, planted, and cultivated by these Indians; we saw these acequias; and, so far as the Bosque Redondo is concerned, of all the places we saw in New Mexico south of the Taos mountains, this Bosque Redondo was by far the largest place that could by any possibility be cultivated or put under water that we saw in the Territory.

"Major Bristol goes on to say what has been done, because he was acting military superintendent."

And then the Senator proceeds to read from the Major's letter again:

"There has been made, mainly by the Indians, nearly thirty miles of acequias; and we contemplate opening other large acequias and feeders to bring another large tract under cultivation. For this purpose some surveys are necessary, as it would have to be opened fifteen to eighteen miles long to put the water upon a higher plateau of ground by hugging the base of the hill. The Indians can do the labor with some superintendence, and with that tract under cultivation I am confident, from my experience here, they can raise more than enough for themselves and to feed the Government animals needed at this post, and very nearly, if not quite, supply the troops at this post with breadstuffs. For peaches, apricots, and grapes, the soil is excellent; the river banks are covered with wild grapes. Upon the balance of the reservation there are many springs, besides the river; there are six springs. The pasturage is good, supporting cattle, horses, mules, and sheep in large numbers. Hay could be produced to feed during the winter storms.

"If Congress should appropriate a sum of money sufficient to give a few sheep to each family I am confident they would keep them and not kill them. From the wool the women would make their clothing, and from the milk feed the children to a considerable extent. The money could be better expended here for that purpose than to attempt to drive them from the States. There ought to be an appropriation for hats and shoes and some domestics, cotton cloth and calico, and a few dyes; and there should also be some farming implements, a blacksmith's and carpenter's shop; there ought to be a grist-mill. When the Indians came here, as a general thing, they were very much impoverished and in tatters. I never saw anything like it. Now, they are much better clothed, because the pelts of the sheep slaughtered by the Government were given to the poorer classes of the Indians, and their women have made the wool into blankets, and they are now much better clothed. The hides also have been used by them in their lodges; the green beef hides have been used by them to make soles for their moccasins. Those who came bringing their flocks and herds with them have increased in the number of their sheep and goats. There is a strong sense of individual property among Navajoes, and sheep are prized by them as the highest species of property. They regard each other's rights of property and punish with great severity any one who infringes upon it. In one case a Navajo was found stealing a horse; they held council and put him to death. As an evidence of how they prize sheep I would state that sixty-one Navajoes raised and gathered two hundred and fifty-nine thousand pounds of corn fodder which they sold to the Government at fifteen dollars per ton, for which they received sheep at the rate of about four dollars per head; and these persons receiving these sheep have little flocks now which they prize very highly."

And so I might go on with this testimony. This book is full of it.

Mr. FESSENDEN. I ask my friend if he reads that to show that the Bosque Redondo is a sterile, barren place, where nothing will grow and nothing can live?

Mr. CONNESS. I will allow the Senator who is chairman of the Committee on Indian Affairs, who proposes to remove these Indians from this Arcadia, to answer that question.

Mr. HENDERSON. Does the Senator want an answer now?

Mr. CONNESS. No, sir; I did not ask for an answer; the question came from the honorable Senator from Maine.

Mr. HENDERSON. I do not wish to take up the time of the Senate, and I did not enter into the question in regard to General Carleton or in regard to this reservation. I desired simply to send a commission that I supposed the Senate had confidence in there, and ascertain whether the statement of this military officer was true or not. I believe it to be untrue. My information is from Kit Carson and other persons who know that country much better than we possibly can, that it is utterly false.

Mr. CONNESS. I believe what the Senator does in that respect.

Mr. HENDERSON. What is the use, then, of insisting upon my taking up the time of the Senate? I do not desire to do it, and I refrain from entering into any discussion on the subject.

Mr. DOOLITTLE. Allow me to say a single word in regard to Major Bristol from Detroit, Michigan, a gentleman as I supposed of perfect truth and integrity. He was there at the post and upon the ground, and he gave this testimony on the subject. Mr. Foster, formerly Senator from Connecticut, and myself were there.

Mr. FESSENDEN. I ask the Senator whether he and Mr. Foster saw anything to contradict the officer's statement.

Mr. DOOLITTLE. We saw nothing to contradict the statement made by Major Bristol as to the fertility of the soil and its capacity for irrigation.

Mr. HENDERSON. What is the extent of it now?

Mr. DOOLITTLE. By the building of this acequia to which he refers, the large acequia going around the bottom of the hill, you can put from seventeen to eighteen thousand acres under water. That was the estimate made by the witnesses. We drove over the ground. Of course we did not measure it ourselves.

Mr. HENDERSON. Did you find any timber there?

Mr. DOOLITTLE. We did not find any timber there on the ground. The fuel used is the *meztique*, which is a root dug out of the ground. There is a large abundance of that in the neighborhood. It was also stated by witnesses that down the Pecos river, wood from the mountain just above could easily be floated in large quantities. That is what the witnesses stated to the committee. We saw the mountains, saw the wood, and saw the river. We did not know anything about floating it down.

Mr. HOWARD. If I understand my honorable friend from Missouri correctly, he says that the reservation on which the Navajoes are now located, that is the spot where these seven thousand prisoners now are, is a sterile region.

Mr. HENDERSON. That is my understanding.

Mr. HOWARD. That is my understanding about it, and that of course is one of the great reasons which influenced the committee in recommending the removal of them to some other place, is it not?

Mr. HENDERSON. Yes, sir.

Mr. HOWARD. If they are to be removed, as I said before, why not send them back to their old homes?

Mr. HENDERSON. With the permission of the Senator, as I do not wish to speak again, I will say a word just here. Our information is that it is a place unfit for these Indians to be. The Senator from Wisconsin, while he was chairman of the committee, from year to year reported in favor of appropriations to feed these Indians. We are now informed that they are in a starving condition. We say that if this is such a delightful place, such a fine agricultural reservation, it is profoundly strange that the Indians are starving to death, and that we must from year to year appropriate from five hundred thousand to one million dollars to feed them. An appropriation is again asked, and there is now abundant evidence before the committee to the effect that these Indians must require a large appropriation if they be kept there. If it is a place fit for Indians to live upon, I cannot understand why these annual appropriations are called for. Now, all I ask is that this Indian commission shall ascertain whether this is a proper place for them or not; and if they say it is not, to make a treaty with them and remove them; and if they say it is, in the name of sense let them remain, that is all.

Mr. HOWARD. Mr. President, I sympathize entirely with the chairman of the Committee on Indian Affairs when he expresses his amazement at the fact that we are under the necessity of feeding these Navajocs at the place where they now are if it be such a delightful Arcadian region as it has been represented by some to be. However, it is proposed to remove them, and remove them by a treaty to be entered into with them. The first section of the bill contemplates the making of a treaty with them for the purpose of removing them. That is the plain import of the first section, and it goes on to make an appropriation of $150,000 to subsist the Indians during the period of the removal under the supervision and direction of the commissioners.

It contemplates making a treaty with the Navajoes by which they shall be taken away from their present location and placed either at their former homes or transported to the region west of the State of Arkansas. I am anxious, of course, to coöperate with the committee so far as is practicable; but I think, as I said before, that the best disposition to be made of the Navajoes at the present time is to carry them back to their homes, place them again on the place which they once cultivated and from which they derived their subsistence, enable them once more to subsist themselves by the culture of land, by raising flocks of cattle and sheep and horses; let them go on in the course which they pursued before they were captured and carried off into captivity by General Carleton; send them back to their homes, where they are acquainted with the country, the place to which they were accustomed, where they will be able to pursue the same branches of industry and to make still further progress in the course of civilization.

If the commission shall enter into a treaty with them, as is contemplated by this bill, for their removal to the western borders of Arkansas, then comes another expenditure, another series of Indian contracts for removal and subsistence and all that, and Indian frauds; and I think I can assure the Senator from Missouri that the expenses of this removal to the border of Arkansas will run up to a vast amount before the thing is perfectly accomplished; and after we have located them they are in a land of strangers; and what security have we that we shall not again find it necessary to remove them to some other place? No, sir; let us return the captured tribe to its home, and if we find it necessary to feed them again feed them at their own firesides and upon their own tables and do them justice.

Mr. CORBETT. If it is necessary, as I conceive it is, to remove these Indians, the appropriation ought to be made punctually and promptly, so that they may be placed in their new homes previous to the time of planting. It was thought by the committee necessary that an appropriation should be made immediately to carry this bill into effect, so that a treaty might be made with them, and that they might be removed at once to obviate the necessity of so large an expenditure as will be necessary if they remain in their present locality. I know that in my State, where the Indians are put on proper reservations, the expense of their maintenance is comparatively small to the Government. I know of one reservation there containing twenty-five hundred Indians where the expense to the Government is only ten dollars per head per annum. If these Indians can be placed on proper reservations, where they can raise their crops and subsist themselves, as many of the Indians do in my neighborhood, I do not see why we may not as well save six or seven hundred thousand dollars a year by removing these Indians from their present locality, and it seems to me to be very important that it should be.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan to the amendment of the Committee on Indian Affairs.

Mr. CONNESS. If these Indians are to be disturbed again I think the commission ought to have the right to exercise their judgment as to removing them out of New Mexico, and therefore I am against this amendment.

Mr. FOWLER. I understand that the object of this amendment is to confine the commission to a single point; and that is to restore these Indians to the place from which they were taken. I hope this will be done. I think the whole merit of the bill is in that one thing. I do not know of any greater outrage that was ever perpetrated in the history of the country, except possibly the outrage committed upon the Cherokees in Georgia, than the removal of these Indians from their homes, putting them in a country to which they were altogether unaccustomed, and in which they were exposed to disease and to every manner of hardships. The very fact of bringing them away from their homes was itself an outrage which ought not to be tolerated one moment in any civilized country. They ought to be returned to their mountain homes from which they were taken. Unless this amendment prevails I think there will be very little merit in the bill.

Mr. FRELINGHUYSEN. I agree with the Senator from Tennessee, and I hope the Senate will, for the purpose of making the history of this country a little brighter, adopt this amendment. Here was a tribe of Indians so far civilized that they had their homes; that they had their fields where they were raising the cereal products and had their flocks and herds; and they were carried away from their homes and have been kept in a position where their number has in a few years been reduced from ten thousand to seven thousand; where they have been subjected to all the evils and vices incident to civilization. Now, the Congress of the United States has it in its power to say that they shall be restored to their homes, not subjected, possibly, to another injury by being removed to some country where they will be surrounded by hostile tribes and strangers: but we have it in our power to undo what we have done.

Mn. FESSENDEN. I ask my friend what evidence he has which is at all conclusive that what has been done is so much out of the way.

Mr. FRELINGHUYSEN. I do not suppose the Senator from Maine disputes the fact that they have been removed.

Mr. FESSENDEN. No; I do not dispute that.

Mr. FRELINGHUYSEN. That admission is enough. To take ten thousand men, women, and children away from their homes, where they have lived for ages, and march them two hundred and fifty miles to a sterile country, there to keep them and guard them for a course of years, till their number is reduced by disease, I do not think it wants any painting to make out a case.

Mr. FESSENDEN. I will ask the Senator if it is not the policy of the Government we have been acting on from the beginning to take the Indians to reservations away from their homes. It is done year after year by acts passed by Congress.

Mr. FRELINGHUYSEN. It is done by their consent.

Mr. HOWARD. Always.

Mr. FESSENDEN. Not at all.

Mr. FRELINGHUYSEN. It is done by treaty.

Mr. FESSENDEN. They have to agree to the treaty. That is precisely what is proposed here. What is to be done is to be done by treaty. They are either to be carried back to their old homes or somewhere else, as they may think best. Now, I will ask the Senator from New Jersey and the Senator from Michigan another question, whether, if they have confidence in this commission, it is not much safer to let the commission go upon the spot and examine all the facts, and decide the question, than for us to decide it here in the Senate on the loose representations that are made and in such ignorance of the subject as we are.

Mr. HOWARD. In answer to that I can only say that it is for Congress to settle upon what principle this commission is to act. It is for Congress to see to it now and always that they give no power to do wrong, no power to oppress the weak and the feeble. The Senator talks about a treaty, Mr. President. Why, sir, it is a mere abuse of terms to talk about forming a treaty with seven thousand helpless, starving men, women, and children, prisoners in our hands. We are to remove them, forsooth, by means of a treaty! Sir, there is here no opportunity for a treaty. It is a mere mockery, in my judgment, to speak of this arrangement as being the possible result of a treaty. They are in our power as much as the lamb is in the power of the wolf when he has him within his jaws.

Now, sir, the proposition of this first section substantially is to remove the Navajoes by main force from the place where they now are to another place equally inconsistent with their comfort and safety, perhaps. But in saying this I must at the same time say that I have great confidence in the commission; but I would settle the principle of doing right to this persecuted and injured tribe. They have been stolen and carried away by force of arms from the homes which they and their ancestors had occupied for perhaps a thousand years, contrary, I insist, to all the rules of modern warfare; for in modern times who has ever heard of a whole people being taken from their homes, carried off, and deposited somewhere else, helpless, hopeless, despairing, the mere creatures of their conquerors?

Mr. FESSENDEN. That is the history of the whole western country in regard to the Indians.

Mr. HOWARD. I deny it, Mr. President. You cannot find a single case of the kind.

Mr. FESSENDEN. All of them have been removed in precisely that way by treaty.

Mr. HOWARD. What, when they were prisoners of war? No, sir.

Mr. FESSENDEN. That does not make any difference. They were substantially prisoners; they could not resist.

Mr. HENDERSON. I suppose the commissioners will take a fair view of this question. The Navajoes are a very sensible people, and no doubt the commissioners will call them together and take a vote; and if they vote to go back to their old homes the commissioners will permit them to do so. If,

however, the Navajoes prefer to go into the Indian Territory, as a great many people say they would prefer, and it is a better country, a rich country, why should we force them back to their old location against their will? If a majority are really in favor of going to the Indian Territory, why not allow them to do so? I do not know how the fact may be; but we have information to the effect that many of them are not in favor of going back but of coming east. If that should be the case, why drive them back? Then we shall be guilty of the coercion complained of by the Senator from Michigan.

Mr. COLE. They may be, and probably will be, anxious to get out of the clutches of their mortal enemies, the Comanches, and that may be a reason why they would prefer to be removed east rather than west.

Mr. DOOLITTLE. I desire to say a single word in relation to this question. I am perfectly willing that this matter should be left to the discretion of this commission, because I have full confidence in them. At the same time the Senate must not deceive itself by supposing that these Indians are to be disposed of or removed without any expense to the Government. If you remove them to a new reservation west of Arkansas there will be large expenses necessarily involved. If you send them back to their old country, their former homes, it is a country nearly as large as the State of Ohio, and in it there are some two or three valleys, and in those valleys probably you will have to fix some kind of reservations. You must have more or less of military force. You will have to do more or less toward sustaining these Indians while you are taking them home. The Senate must not deceive itself with the idea that this Navajo question can be disposed of without any expense. It will cost money in any way you come to it and whichever course you choose to pursue.

Mr. HENDERSON. It will cost money to leave them where they are.

Mr. DOOLITTLE. Yes, it will cost money to leave them where they are. It will cost money if you take them to the Indian Territory west of Arkansas; and it will cost money if you take them to their old homes and hold guard over them and look after them. It will be an expensive thing in any event. It is impossible that it should be otherwise. However, sir, I did not rise to object to the proposition to leave this matter to the commission; but I wished simply to say that I do not expect, and the Senate will deceive itself if it expects, to dispose of this Indian matter without any expense.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan to the amendment.

The amendment to the amendment was rejected—ayes seven, noes not counted.

The amendment, as amended, was agreed to.

Mr. RAMSEY. I move to amend the bill by adding as a new section:

And be it further enacted, That the sum of $40,000 be, and the same is hereby, appropriated for the relief of the Sissiton and Wahpeton Sioux, parties to the treaty of May 2, 1867.

Mr. HENDERSON. I will state to the Senator that there is a bill reported by the chairman of the Committee on Appropriations to which this amendment will be more appropriate. I hope the Senator will not propose to put on this bill an appropriation for Indians. It is altogether a distinct matter. The bill to which I have referred will be taken up immediately after the disposition of the first appropriation bill that is to follow this measure.

Mr. RAMSEY. I have but a few words to say in support of my amendment, and I think when it is explained to the Senate they will at once see its propriety.

Mr. MORRILL, of Maine. I feel obliged to call for the order of the day.

Mr. RAMSEY. I know what the rules are. My amendment is in order; this is not a general appropriation bill.

Mr. MORRILL, of Maine. I do not raise any question of order on the amendment, but I call for the order of the day.

Several SENATORS. Let us finish this bill.

Mr. MORRILL, of Maine. I have given way for several hours. I desire to have this bill disposed of; but I cannot yield much longer.

Mr. RAMSEY. I imagine the Senator cannot call for the order of the day when I am on the floor. I cannot see how he can take the floor from me to call for the order of the day.

Mr. MORRILL, of Maine. I rather think it is in order for me to call for the order of the day. It was laid aside informally, and I have a right to call it up.

The PRESIDENT *pro tempore*. The Chair thinks the Senator from Maine cannot interrupt the proceeding on this bill till he properly gets the floor. Then he can call for the order of the day, and the matter will be subject to the control of the Senate.

Mr. RAMSEY. There is no Senator to whom I would rather yield the floor than the Senator from Maine; but at the same time I prefer to explain the proposition which I have offered.

Early in January last the Secretary of the Interior sent a communication to Congress, calling attention to the necessitous condition of these Indians, the Sioux Indians located at the Devil's Lake, stating that there were six or seven hundred of them in a starving condition. From that time to this, although the season has been one of the most inclement in the North, not one cent of appropriation has been made for their relief; and yet these Indians have a treaty with the Government which was proclaimed, as is stated in this amendment, on the 2d day of May, 1867, a treaty negotiated by them with the Government in the preceding February or March. By the terms of that treaty they threw themselves entirely upon the generosity and magnanimity of the Government. It was provided originally when the treaty was negotiated that, in consideration of the cession of the right of way through their country for a telegraph and railroad line and other things, they should receive annually a distribution of $100,000 worth of provisions and goods; but the Senate, in ratifying the treaty, struck out that provision and in lieu of it inserted this article:

"And further, in consideration of the destitution of said bands of Sissiton and Wahpeton Sioux, parties hereto, resulting from the confiscation of their annuities and improvements, it is agreed that Congress will, in its own discretion, from time to time make such appropriations as may be deemed requisite to enable said Indians to return to an agricultural life under the system in operation on the Sioux reservation in 1862; including, if thought advisable, the establishment and support of local and manual-labor schools; the employment of agricultural, mechanical, and other teachers; the opening and improvement of individual farms; and generally such objects as Congress, in its wisdom, shall deem necessary to promote the agricultural improvement and civilization of said bands."

The Indians, of course, trusting to the generosity and magnanimity of the Government under this provision, went to their homes and expected relief and support; but from that day to this they have not received a penny. They were thrown somewhat off their guard anticipating support from the Government, and did not probably make their usual provision for themselves. The winter has come upon them. It has been one of the severest we have known in that northern latitude, and I understand that many of them have been frozen to death. They are without clothing, without provisions, without any of those things which are necessary to sustain human life. The Interior Department, aware of these facts, communicated information of them to Congress early in January last and called for help, and yet none has been afforded. Now, I should feel myself to be guilty of a dereliction of duty to these poor people, who are in some sense neighbors to me, if I did not call the attention of the Senate to the subject now and ask, under the special circumstances of the case, that this appropriation of $40,000, which was urged by the Secretary of the Interior two months ago, should now be made. I agree to the proposition of the chairman of the Committee on Indian Affairs for the relief of the Navajo Indians. I think they are entitled to it; but when you consider the difference of climate, when you consider the solemnity of this treaty made by this Government with the Indians to whose case I now call your attention, a year ago, I think this an infinitely stronger case and one that appeals with much stronger force to the generosity and liberality of the Senate and of Congress.

The Commissioner of Indian Affairs on the 6th of January, addressing the Secretary of the Interior, recommended:

"That the sum of $40,000 be requested to be appropriated to relieve their present necessities, to be placed at the disposal of your Department at an early day. The treaty, before being amended, provided for the appropriation of $100,000, but it is believed that the amount above named will be sufficient at present, and should be appropriated at once."

He says further:

"From representations made to this office that that number of said Indians have located at Devil's lake and are in a suffering condition, I have respectfully to suggest that the attention of Congress be called to the matter, and that an agent be provided to take charge of them."

Mr. Benjamin Thompson, the agent for the Indians, an intelligent gentleman who has long been in that country, and whose representations may be relied on, says, on the 14th of December, 1867, in a letter to the Commissioner of Indian Affairs:

"I am in receipt of a letter from Charles Grant, esq., dated at Pembina on the 26th November, which informed me that on the 10th of that month there were over eighty lodges of Indians at Devil's lake, and on Sheyenne river, in that vicinity, in the greatest destitution, and depending on the Government for assistance. For the credibility of Mr. Grant I refer you to either of our Senators, or to any of the Minnesota delegation in Congress. He was several times elected to the Territorial Legislature of Minnesota, and is well known as a reliable man.

"Mr. J. R. Fulsom, Agent C. A. Ruffee, Esq., of the northern overland mail route, writes to me, also, that when he left Fort Totten, some ten days later"—

Fort Totten is at Devil's lake—

"there were about one hundred and thirty lodges in that vicinity, many of which have recently come in nearly naked, and without anything to live upon or the means to obtain subsistence."

One hundred and thirty lodges would indicate about eight hundred Indians. General Sibley, in a letter to the Secretary of the Interior under date of December 28, says:

"I have the honor to represent that late and reliable information from the Indian reservation at Devil's lake represents the condition of the Dakota or Sioux bands gathered there to be in the last degree deplorable. They are almost naked and starving, barely subsisting on what fish they can obtain, and as there are no buffalo or other game at this season they must receive speedy succor or many of them will perish. In view of the pressing nature of the call for aid, Governor Marshall, Bishop Whipple, and myself have recommended to Major Benjamin Thompson, the United States Indian agent, to adopt immediate measures to relieve these Indians, stating our conviction that the Department will approve any reasonable action he may take in the premises."

Mr. President, the chairman of the Committee on Indian Affairs has very properly said that, after communication with the Indians, after having seen them at their homes and upon the Plains, he is satisfied that the treaty policy is the better one. But, sir, what can be the views of these Indians in regard to the treaty policy? What do you suppose they think of it? You made a solemn treaty with them more than a year ago, promising to care for them in your own best judgment and discretion, and you have absolutely done nothing whatever for them, but have driven them to the very point of starvation. I hope that the Government of the United States, so far as the Senate is concerned at least, will endeavor to reinstate itself in the judgment of these poor people of that northwest country.

Mr. HENDERSON. For the information of the Senator from Minnesota, I will state that several days ago I caused dispatches to be sent to General Terry, to whose attention I called these Indians last fall and during the winter, while General Terry was here, and I have not yet received an answer. The Senator will see the difficulty now of fixing the amount of this appropriation without estimates from the Department.

Mr. RAMSEY. Why, sir, I read from a letter from the Commissioner of Indian Affairs himself, suggesting, as long ago as the 6th of January, that $40,000 should be immediately appropriated for this purpose. It will take months yet to apply the appropriations fully, even if they be made at once. It will take a month at least.

Mr. HENDERSON. I sympathize with the Senator in the object of his amendment. I have no doubt these Indians were suffering. Whether they are suffering now I am not so sure unless the Senator has late information from there, because my understanding is that General Terry has been issuing rations to them and that he has actually saved them from starvation. But in the absence of any information from General Terry as to what he will be able to do and what he has already done it is impossible for me to determine now what amount ought to be appropriated. If the Senator will withdraw his amendment until the appropriation bill comes up, which we hope to get up to-morrow, and which I think we shall get through to-morrow, it would be better. It is not a full appropriation bill for the benefit of all the Indians, but it is a partial appropriation bill, and it includes appropriations for the benefit of the Sioux of the Missouri and other Indians connected with the very tribe the Senator is now speaking of. I believe they belong to the Santee Sioux.

Mr. RAMSEY. They are Santee Sioux. Do I understand from the statement of the chairman of the Committee on Indian Affairs that there is a reasonable expectation of getting that appropriation bill up to-morrow?

Mr. HENDERSON. I understand that the chairman of the Committee on Appropriations has reported that bill, and that he expects to have it passed to-morrow, and also the Post Office appropriation bill. He proposes first to call up the Post Office appropriation bill, and immediately following that to call up the Indian appropriation bill to which I have referred, and by that time I hope to have the information from General Terry which will enable me to make a statement to the Senate showing what amount should be appropriated.

Mr. RAMSEY. I am willing to withdraw my amendment now and to offer it to that bill to-morrow, because that is probably the most effectual way to secure what we want; but I do not assent that it is not to be offered until we hear from General Terry. The Government was informed three months ago that these Indians were starving, and to ask us to wait for another dispatch is a little too much.

Mr. HENDERSON. The Commissioner of Indian Affairs has sent the dispatches himself at my request.

Mr. RAMSEY. I withdraw the amendment.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in, which was to strike out all of the bill after the enacting clause, and in lieu of the words stricken out to insert:

That the commission heretofore authorized and created under the act of July 20, 1867, "to establish peace with certain hostile Indian tribes," is hereby authorized, if on examination it be thought advisable, to conclude a treaty with the Navajo Indians now at the Bosque Redondo, in the Territory of New Mexico, providing for the removal of said Indians to their former home in the northern part of said Territory, or to such other lands in the Indian territory west of the State of Arkansas as may be thought best suited to their present condition and future prosperity; and for the purpose of carrying out the provisions of this act, and to subsist the Indians during the period of removal, there is hereby appropriated the sum of $150,000 to be expended, if found necessary, by the Commissioner of Indian Affairs, under the direction and supervision of said commissioners.

SEC. 2. *And be it further enacted*, That the sum of $75,000, or so much thereof as may be necessary to be expended by the Commissioner in the same manner as provided in the preceding section, be, and the same is hereby, appropriated, for the purpose of enabling said commission to conclude a peace with the Sioux Indians of the Powder river, the northern Cheyennes, and other Indians recently hostile in the western part of Dakota, now being assembled at Fort Laramie, and also meet the Shoshones, Snakes, Bannocks, and other Indians on or near the line of the Union Pacific railroad.

The amendment was ordered to be engrossed and the bill to be read the third time. The bill was read the third time, and passed. Its title was amended by adding the words "and for other purposes."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 4) for the relief of William Shunk, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 328) to establish certain post roads, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 867) for the relief of Jonathan Jessop, postmaster at York, Pennsylvania; and

A joint resolution (H. R. No. 146) for the relief of James C. Sloo.

EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. House bill No. 832, the Post Office appropriation bill, is now regularly before the Senate as the unfinished business of yesterday.

Mr. FESSENDEN. That bill being pending, I move that the Senate proceed to the consideration of executive business. There is no object in proceeding with that bill to-night, I suppose.

Mr. MORRILL, of Maine. With the understanding that the bill is to be proceeded with in the morning, I do not object to my colleague's motion.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

HOUSE BILLS REFERRED.

The bill (H. R. No. 867) for the relief of Jonathan Jessop, postmaster at York, Pennsylvania, and the joint resolution (H. R. No. 146) for the relief of James C. Sloo, were severally read twice by their titles, and referred to the Committee on Post Offices and Post Roads.

ADJOURNMENT TO MONDAY.

Mr. CAMERON. I move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. MORRILL, of Maine, called for the yeas and nays; and they were ordered; and being taken resulted—yeas 13, nays 12; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Cole, Doolittle, Hendricks, Howard, McCreery, Ross, Sprague, Tipton, Van Winkle, and Vickers—13.

NAYS—Messrs. Anthony, Conness, Corbett, Morgan, Morrill of Maine, Patterson of New Hampshire, Pomeroy, Sumner, Wade, Willey, Williams, and Wilson—12.

ABSENT—Messrs. Bayard, Chandler, Conkling, Cragin, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howe, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Ramsey, Saulsbury, Sherman, Stewart, Thayer, Trumbull, and Yates—29.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. ANTHONY. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 20, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

CORRECTION OF THE JOURNAL.

The Journal of yesterday was read.

Mr. VAN TRUMP. I notice by the reading of the Journal that the time of leave of absence granted to my colleague [Mr. MORGAN] is stated at one week. Indefinite leave of absence was asked for; and I move that the Journal be corrected accordingly.

The motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

Mr. BOUTWELL. I rise to a privileged question. I move a suspension of the rules for the purpose of introducing, at the suggestion of the managers of the impeachment, the following resolution:

Resolved, That on the days when the Senate shall sit for the trial of the President upon the articles of impeachment exhibited by the House of Representatives the House, in Committee of the Whole, will attend with the managers at the bar of the Senate at the hour named for the commencement of the proceedings.

The question was taken; and two thirds voting in favor thereof, the rules were suspended.

The question was upon agreeing to the resolution.

Mr. SPALDING. I would like to inquire if there is any compulsion about it?

Mr. WOOD. I desire to know if it is to be understood that the House shall remain in the Senate Chamber during the trial?

Mr. BOUTWELL. I do not understand that there will be any compulsion about it except what will be resting upon every member from the vote of the House.

Mr. WOOD. There is to be no session of the House pending the trial?

The SPEAKER. There will be none under this resolution, while the trial is proceeding; but it will be competent for the House at any time to order otherwise.

Mr. JENCKES. Are we to understand that this resolution will have the effect of declaring that the House will not transact any business on the days when the Senate is in session for the trial of the impeachment?

Mr. BOUTWELL. During the trial the House will not be in session.

Mr. JENCKES. I would like to move an amendment providing that on those days the House shall meet at eleven o'clock for the purpose of having a morning hour.

Mr. BOUTWELL. I presume the Speaker of the House can better answer the gentleman's question than I can; but my understanding is that the House will not be adjourned by the operation of this resolution, but will return to its Chamber.

The SPEAKER. The gentleman from Rhode Island [Mr. JENCKES] desires to amend the resolution so as to provide that the House shall meet at eleven o'clock on the days when the trial is proceeding for the purpose of having a morning hour.

Mr. WASHBURNE, of Illinois. I hope that amendment will not prevail. It will be utterly impossible for the committees to get along with their business if the House should meet at eleven o'clock.

Mr. JENCKES. If there is to be no business done on these days after the House enters the Senate Chamber, there certainly should be some time given before the House goes over to the Senate Chamber for committees to make reports.

Mr. BOUTWELL. I cannot yield for any amendment. The amendment suggested by the gentleman from Rhode Island is a proposition which can be presented to the House by itself and will rest upon its own merits. This resolution does not relate particularly to the business of the House. I demand the previous question.

Mr. CHANLER. I desire to inquire whether, the court meeting at one o'clock, we will not have plenty of time for the purpose indicated by the gentleman from Rhode Island from twelve to one o'clock?

Mr. BOUTWELL. We shall have what time there is.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of reports of committees of a private nature.

OCEAN LINE OF STEAMSHIPS.

Mr. HILL, by unanimous consent, introduced a bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports; which was read a first and second time, referred to the Committee on the Post Offices and Post Roads, and ordered to be printed.

EQUALIZATION OF BOUNTIES.

Mr. WASHBURN, of Indiana. I ask unanimous consent to report from the Committee on Military Affairs, and have ordered to be printed and recommitted, a bill to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union.

No objection was made; and the bill (H. R. No. 940) was read a first and second time.

Mr. HOLMAN. Instead of having that bill printed and recommitted, I would ask my colleague [Mr. WASHBURN, of Indiana] to have the bill set down for consideration on some particular day.

Mr. WASHBURN, of Indiana. I have no objection to that.

The SPEAKER. That would require unanimous consent, it being a different arrangement from that for which consent has already been granted.

Mr. WASHBURNE, of Illinois. I object.

Mr. WASHBURN, of Indiana. Then I move that the bill be printed, and ordered to be recommitted.

The motion was agreed to.

Mr. PRICE. I move to reconsider the votes of this House this morning referring bills to committees; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVY AND MARINE CORPS.

Mr. PIKE. I ask unanimous consent to report from the Committee on Naval Affairs, and have printed and recommitted, a bill to amend certain acts in relation to the Navy and Marine corps.

No objection was made; and the bill (H. R. No. 941) was read a first and second time, ordered to be printed, and recommitted to the Committee on Naval Affairs.

NORTHERN PACIFIC RAILROAD.

Mr. DONNELLY, by unanimous consent, introduced a bill (H. R. No. 942) additional to an act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by a northern route; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

MINNESOTA LAND GRANTS.

Mr. DONNELLY. I ask unanimous consent to introduce a bill making a grant of lands to the State of Minnesota, in aid of the construction of a railroad from Taylor's Falls via St. Cloud to the western boundary of said State, and have the same referred to the appropriate committee.

Mr. HOLMAN. I object.

Some time subsequently,

Mr. HOLMAN said: I objected some time since to the introduction of a bill by the gentleman from Minnesota [Mr. DONNELLY] making a land grant to that State. While I am opposed to the passage of the bill, I will not object to its being introduced and referred to a committee.

Mr. DONNELLY. I ask that the bill be also printed.

Mr. WASHBURNE, of Illinois. I objected to the introduction of this bill.

The SPEAKER. The Chair understood the objection to come from the gentleman from Indiana, [Mr. HOLMAN,] who has just withdrawn it.

Mr. WASHBURNE, of Illinois. I also objected.

The SPEAKER. Then the bill is not before the House.

DRAWBACK ON COPPER EXPORTED.

Mr. PHELPS, by unanimous consent, introduced a bill (H. R. No. 943) to allow a certain drawback on copper in pigs, bars, or ingots exported from the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

BATTALION CALIFORNIA MOUNTAINEERS.

Mr. HIGBY, by unanimous consent, presented concurrent resolutions of the Legislature of the State of California, asking Congress to place the first battalion mountaineers of the California infantry volunteers on the same footing with other volunteer soldiers; which were referred to the Committee on Military Affairs.

PERSONAL EXPLANATION.

Mr. MULLINS. Mr. Speaker, I was necessarily absent yesterday, when the bill for the continuance of the Freedmen's Bureau was passed. If present, I would have voted for its passage. I ask consent to record my vote.

The SPEAKER. The Chair, under the rules, cannot ask unanimous consent for that purpose. The only way in which the gentleman can effect his object is by moving to suspend the rules when that motion is in order.

TAX ON MANUFACTURES.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, announced that the Senate had passed a bill (H. R. No. 900) to exempt certain manufactures from internal tax, with amendments, in which the concurrence of the House was requested.

The SPEAKER. The Committee of Ways and Means is in session to day upon the tax bill; and the chairman of that committee [Mr. SCHENCK] requested that if this bill should be returned from the Senate it should be referred with the amendments to the Committee of Ways and Means. If there is no objection, the reference will be made.

There was no objection.

LOSS OF JUDICIAL RECORDS.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill (H. R. No. 944) to provide a remedy for the loss or destruction of judgment records or decrees pertaining to proceedings in the United States courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the various votes by which bills have been referred to committees; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELLEN CURRY.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier of company F, thirty-ninth regiment Illinois volunteers, upon the penson-roll of the United States; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ORDER OF BUSINESS.

Mr. VAN WYCK. I rise to a question of privilege.

The SPEAKER. What question of privilege?

Mr. VAN WYCK. Merely to a personal explanation.

The SPEAKER. That is not a question of privilege, and requires unanimous consent.

Mr. WASHBURNE, of Illinois. I object until after the morning hour shall have commenced.

The SPEAKER. The first business in the morning hour, this being Friday, is the consideration of bills of a private nature, under which order the House will resume the consideration of a bill pending at the expiration of the morning hour on Friday last, reported by the gentleman from Pennsylvania, [Mr. LAWRENCE,] from the Committee on the Post Office and Post Roads. It is House bill No. 867, for the relief of Jonathan Jessop, postmaster at York, Pennsylvania.

Mr. LAWRENCE, of Pennsylvania. I supposed, when I reported this bill, that it was so reasonable there would be no objection to it.

Mr. INGERSOLL. Will the gentleman from Pennsylvania [Mr. LAWRENCE] yield to me for a few moments?

Mr. LAWRENCE, of Pennsylvania. For what purpose?

Mr. INGERSOLL. I desire to ask leave of the House for a personal explanation.

Mr. LAWRENCE, of Pennsylvania. I will yield for a few moments.

PERSONAL EXPLANATION.

Mr. INGERSOLL. I ask unanimous consent for a minute or two to make a statement personal to myself.

The SPEAKER. That will require unanimous consent.

There was no objection.

Mr. INGERSOLL. I do not so much wish myself to make an explanation as to have one made by my colleague from the Galena district, [Mr. WASHBURNE, of Illinois.] When the appropriation bill was under consideration on the 28th ultimo he made a statement to which I desire to call attention. Upon reading his statement in the Globe the next morning I found that it contained a reflection upon myself; at least I so construed it. And now, sir, I embrace this the first opportunity since my colleague's restoration to health to call his attention to the matter. I attempted to do so the other day, but failed on account of the objection of my friend from Ohio, [Mr. SPALDING.]

I had made a motion in Committee of the Whole to strike out an appropriation of $26,000 reported from the committee for the Chain Bridge, as I believed the appropriation to be unnecessary at the present time, and that, if it should prove to be necessary, it could be included afterward in a supplemental bill. In that connection my colleague said:

"I have no interest in this matter. I care nothing about it. I suppose the Committee of the Whole would be very reluctant to strike out an appropriation of $26,000, as it would be so much less taken out of the Treasury."

I suppose that to this remark all the members of the Committee of the Whole might justly take exception. But my colleague proceeded:

"But I think I understand the reason why my colleague [Mr. INGERSOLL] desires that it should be stricken out."

Now, sir, I come to the language to which I particularly object:

"The object is to open the way for a big job of several million dollars for building another bridge."

Now, sir, I desire my colleague to state whether he thinks my intention was to open the way for a "big job"——

Mr. WASHBURNE, of Illinois. I did not say that it was the intention or object of my colleague. I said it was the object. Of course, I did not mean to impute that intention to my colleague.

Mr. INGERSOLL. Well, Mr. Speaker, that is a rather short explanation. [Laughter.]

Now, sir, I wish to enter my protest against the habit of some members here in debate of using smooth-bore guns shooting at random—of making general imputations without regard to the manner in which they may affect the personal character of other members. I say that this practice is not right, is not courteous, and should not be indulged. I, of course, knew that my colleague meant nothing personally offensive toward me by the remark I have quoted; but a stranger reading the report would very naturally and almost inevitably conclude that my colleague intended to charge me with an attempt to "open the way for a big job of several million dollars," to be taken out of the United States Treasury. And in this connection I would remark that the whole

sum to be expended for a new bridge, if Congress should sanction the project, could not exceed $300,000.

JONATHAN JESSOP.

The SPEAKER. The Clerk will read the bill reported from the Committee on the Post Office and Post Roads by the gentleman from Pennsylvaia, [Mr. LAWRENCE.]

The bill, which was read, proposes to authorize the Auditor of the Treasury for the Post Office Department to allow Jonathan Jessop, of York, Pennsylvania, the sum of $1,307 73 in the auditing of his accounts for the fiscal year of 1867.

Mr. LAWRENCE, of Pennsylvania. In order to give a fuller and more satisfactory explanation of this case to gentlemen who opposed the bill the other day I ask the Clerk to read the documents which I send to the desk.

The Clerk read as follows:

COUNTY OF YORK, *State of Pennsylvania, ss:*

Jonathan Jessop, of the borough of York, county and State aforesaid, being duly affirmed, doth depose and say that he is the postmaster of the borough of York, in the county of York, and State of Pennsylvania.

That on the night of the 11th of April, 1867, the post office in the said borough was feloniously and burglariously entered by some person or persons, to him unknown, and robbed of moneys and stamps belonging to said office to the value of $1,307 73; that the stamps stolen were of various denominations, such as are usually sold in offices of a similar grade and class; that the moneys abstracted consisted of United States notes commonly known as greenbacks, national bank notes, fractional currency, and specie, divided about as follows, to wit:

Stamps, $1,107 37; greenbacks and national bank notes, $75; fractional currency, $75; specie, $32 36; and coppers, $18.

That the said post office is situated in the central part of the borough, on the principal business street, contiguous to the watch-house, and in a substantial brick building, the upper part of which is used as a dentist's office, adjoining to and connected with a dwelling-house having but one back-yard common to both; this yard is accessible on one side only, and then only by scaling a smooth board fence about seven feet high.

That an entrance to the office was effected by tearing off the shutters from the rear door, which were bolted in a substantial manner, breaking out the window in the said door and then unfastening it; several ineffectual attempts having been made to force the door with a "jimmy."

That the burglars then removed the safe (weighing some six hundred pounds) to the rear of the yard, and after blowing it open with a charge of powder abstracted the money and stamps as aforesaid. The safe was one of Evans & Watson's patent, nearly new, and regarded as first class by competent judges.

Your affiant would further say that he used all due diligence and care for the custody and safe keeping of the stamps and moneys intrusted to his care, and took what he regarded as the proper and needed precautions to guard against robbery and burglary, and that through no fault of his this robbery was committed. That the $32 36 in specie had accumulated from postage on foreign letters, and was held subject to the orders of the Department, and which, in the last report to the Post Office Department, your affiant had stated awaited the order of the Third Assistant Postmaster General.

That the mail matter in the office was entirely undisturbed and unmolested.

JONATHAN JESSOP.

Sworn to and subscribed before me at York, in said county and State, this 25th day of November, A. D. 1867. GEORGE A. HECKERT,
Justice of the Peace.

—

To the Honorable the Senate and House of Representatives of the United States:

The undersigned citizens of the borough and county of York and State of Pennsylvania most respectfully represent to your honorable bodies that we are acquainted with Captain Jonathan Jessop, postmaster of York; that we are cognizant of the circumstances of the robbery of the post office at York in April last; that we have read the statements made by the said Captain Jessop in relation thereto, and know them to be correct in all respects; that we know him to be a careful and safe business man, and are satisfied that he exercised due care and diligence, and that he is in no way answerable or responsible for the burglary committed upon his office, and we most respectfully recommend to your honorable bodies the eminent propriety and justice of passing a bill for his relief; and, as in duty bound, we will ever pray, &c.

P. A. SMALL,	JAMES KELL,
WILLIAM D. ELLIOT,	SAMUEL SMALL, Jr.,
ALEXANDER J. FREY,	W. L. SMALL,
W. SPRIGG,	JACOB HUY,
W. H. JORDAN,	DANIEL A. RUPPL,
J. D. SCHALL,	JOHN C. JORADN,
WILLIAM SMITH,	JOHN A. WILSON,
ALEXANDER UNDERWOOD,	HIRAM YOUNG,
E. C. PARKHURST,	D. E. SMALL.

Mr. LAWRENCE, of Pennsylvania. I do not know it is necessary to read further. There is a petition signed by most of the prominent citizens in that village, showing the character of this postmaster for truth and veracity and his standing in the community.

Now, Mr. Speaker if there be no objection to the bill, after the explanation made by the documents and the report made by the committee—and I believe every member of the committee united in making this affirmative report—I will call the previous question.

Mr. SCOFIELD. I observe, in listening to the testimony, there is no evidence, if the Clerk has read it all, that this man has lost anything. There is evidence his store was broken open, but there is none that was read that he had any money or any stamps taken away.

Mr. LAWRENCE, of Pennsylvania. The gentleman is mistaken. There is one affidavit setting forth exactly the amount of stamps and the amount of money lost. It is the affidavit of the clerk.

Mr. SCOFIELD. The petition or affidavit read was the statement of the man himself of how much money he had, but no evidence has been read of anybody else that he had any money there.

Mr. LAWRENCE, of Pennsylvania. The whole testimony is there in reference to the case. It has been fully examined by the Committee on the Post Office and Post Roads, and a unanimous report made in favor of the payment of this claim.

Mr. SCOFIELD. The gentleman stated that before. I ask him for the first witness who proves this man had any money.

Mr. LAWRENCE, of Pennsylvania. I ask the Clerk to read the affidavit of Mr. Kauffman, the clerk.

The Clerk read as follows:

COUNTY OF YORK, *State of Pennsylvania, ss:*

William M. Kauffman, being duly affirmed, deposes and says that he is the chief clerk in the post office in the borough of York, county and State aforesaid; that on the morning of the 12th of April, 1867, he came to open the post office, as is his usual custom, and on opening the front door and looking through the delivery window he discovered that an entrance had been effected through the back door, which was standing open, and that a robbery had been committed; that before he entered the room where the mails are kept he proceeded to call Dr. J. D. Heiges and G. W. Heiges, who sleep in the third story of the building occupied by the post office; that he, in company with the two persons named, entered the mail-room and proceeded to make an examination of the premises; that they found the rear door standing open, the shutter torn off, and the glass broken out, and the safe lying in the back-yard broken open and robbed of its contents, and the mail matters in the office were unmolested; that he has read the deposition of Jonathan Jessop, the postmaster of the said office, and that the statements made by him in reference to the loss sustained, and other matters relating thereto, are to the best of his knowledge and belief true, and that he is a disinterested witness, and further this deponent saith not.

WILLIAM M. KAUFFMAN.

Mr. SCOFIELD. My friend will observe this witness does not say that the applicant had any money or any stamps in that safe. He says he found the safe broke open; that he found the building broken into, and that to the best of his knowledge and belief the man who employed him had stamps and money there. He does not say to his own knowledge this man had any money or stamps in this safe when it was broken open, or that anything valuable was taken. He says to the best of his knowledge and belief that his employer had told the truth.

Mr. LAWRENCE, of Pennsylvania. That is all the man could swear to.

Mr. SCOFIELD. I have no doubt this is an honest witness, but he does not swear anything of his own knowledge. He only swears to the good character of his employer. He says to the best of his knowledge and belief this man has not sworn to a falsehood. He does not tell us he had any knowledge, and the presumption is he had no knowledge or else he would have stated it.

Mr. LAWRENCE, of Pennsylvania. Mr. Speaker, every member of this House can readily see how difficult it would be for any man who was robbed to prove his loss if his own affidavit is not to be taken as a part of the evidence. I desire to state the fact that this postmaster is a one-legged soldier, having lost his leg at Petersburg; and he was selected as postmaster by the common consent of both parties. The most of the prominent citizens of York certify to his character as an honest, upright man. The member from that district, I am sorry to see, is not in his seat to-day. I wish he was; he would bear testimony to the character of Mr. Jessop, because he did so to me privately.

I desire to say further that in the investigation of this case I went to the Post Office Department. I found they had investigated it fully, and would have made the allowance at once. Mr. Anderson, the Auditor, told me yesterday that he would not hesitate to do so if he had the power, having no doubt that the robbery was committed. He said he knew the postmaster was honest, and was satisfied he had sustained the loss; but the Department had no power to make the allowance. Consequently, Mr. Jessop was compelled to come to Congress for relief. That is a statement of the whole case. The man's character is proved and the loss is proved. He is a public officer who had charge of the funds of the Government—because these stamps are Government funds—and the question is whether we shall let this poor soldier with one leg lose this money or whether the Government shall lose it, he having used common diligence to protect the property. The proof is that the safe was taken into the back-yard, blown up, and the money taken out. The Post Office Department sent a special agent there the next day to examine the facts, and he reported them just as I have stated them. The Department are satisfied in regard to the facts, and would allow a settlement if they had the power.

Mr. BROOMALL. I desire to ask my colleague what is the amount this post office yields per annum?

Mr. LAWRENCE, of Pennsylvania. I do not know what it yields. It is a presidential appointment. The loss sustained was $1,300.

Mr. BROOMALL. The evidence of the stamps being there rests upon the affidavit of the office holder, I understand.

Mr. LAWRENCE, of Pennsylvania. And the admission on the part of the Department that he got the stamps a few days before.

Mr. BROOMALL. Do I understand my colleague to be in favor of remunerating public officers in every case in which money may have been stolen from them, the evidence being only the oath of the man who makes the claim?

Mr. LAWRENCE, of Pennsylvania. That would depend altogether on the character of the man who makes the affidavit. If his neighbors all say that he is honest and faithful, if he has proved his loyalty to the Government by service under her flag and has lost a limb in that service, I should vote to pay it. Congress has over and over again remunerated public officers for losses of this kind.

Mr. BROOMALL. All I want to say is if that is the doctrine we shall have plenty of claims of this kind presented beyond all doubt.

Mr. SCOFIELD. I raised the point first that there was nothing in the evidence except that of the petitioner showing that the man lost anything. I understood my colleague to reply that there was, and he asked for the reading of a certain deposition; but it turned out that it did not show anything. But now my friend says that the applicant is a soldier who has lost a leg in the service of the country. Now, I join most heartily with him in his sympathy for the suffering soldier, but if my colleague puts the claim on that ground it should go to the Committee on Invalid Pensions. Our suffering soldiers should be taken care of; the man who has lost a limb in the service of his country should have the substantial gratitude of the country in the shape of a life support. But if he comes here with a claim he ought to

base it upon the same principle that all other claims are based, and that is, evidence aside from his own oath that he has sustained a loss. I submit to the House that it is a bad precedent, a bad rule to establish that the simple affidavit of the applicant himself that he has been robbed is sufficient. It is not a safe one. I have before this same committee an application from another gentlemen——

Mr. LAWRENCE, of Pennsylvania. I cannot yield the floor any longer.

Mr. SCOFIELD. Only a moment longer. I say I have an application before this same committee from the county of Venango, Pennsylvania, in which the petitioner says he has lost $4,000. I want to know whether the gentleman will adopt the same rule in regard to that man's claim?

Mr. LAWRENCE, of Pennsylvania. I will decide that case when it comes up and I hear the testimony.

Mr. SCOFIELD. I want to know if the same rule of testimony will be adopted, that the affidavit of the applicant is sufficient? Because they ought to be treated alike.

Mr. LAWRENCE, of Pennsylvania. I am inclined to think, from a partial examination of the case to which the gentleman refers, that the committee will report favorably upon it. I do not know the fact. But if the case is as meritorious as this is the committee will report in favor of it unanimously, as they did in favor of this.

Mr. FARNSWORTH. Will the gentleman allow me one moment?

Mr. LAWRENCE, of Pennsylvania. Certainly.

Mr. FARNSWORTH. I do not know how you can very well prove the loss of money or stamps if we are to be confined strictly to the rule that the gentleman from Pennsylvania [Mr. SCOFIELD] seems to indicate, that we ought to be, unless you have a witness who was present at the time of the robbery, and can swear to the amount taken.

Mr. SCOFIELD. Because it is difficult to prove a fact are we to take it for granted without proof?

Mr. FARNSWORTH. By no manner of means; but because of the difficulty, we are to prove it by the best evidence that the nature of the case admits of. But the gentleman from Pennsylvania seems to me very much like a lawyer I once heard of who was contending against a suit brought for the shooting of a dog. It was proved that the dog stood in the street and the man came out and raised a gun and pointed it toward the dog and fired and there was a report of a gun and the dog dropped. The lawyer insisted that the proof was not sufficient because no witness had sworn that he saw the ball enter the dog, [laughter.] Now, in a case like this, according to the gentleman from Pennsylvania, we would have to produce a witness who was present at the robbery and saw the money taken out. The loss is proved in this case by all the circumstances that the nature of the case will admit of. It is proved that the money was in the safe and that the postmaster got the stamps from the Department a few days before the robbery.

Mr. SCOFIELD. The gentleman will allow me to correct him. There is no evidence that the money was in the safe.

Mr. FARNSWORTH. It is shown that this postmaster got the stamps from the Department a few days before.

Mr. SCOFIELD. He may have them yet.

Mr. FARNSWORTH. The Government furnished him with a safe to keep the money and stamps in. He had them there before and he did not have them after the robbery, and the safe was found broken open and the contents stolen. Now, it would be impossible for a postmaster, it seems to me, to make better proof, unless he kept a man in the office for the purpose of proving robberies, and very few postmasters can afford to do that. It is proved by all his neighbors that this man is an honest man; there is no doubt of his veracity at all; there is abundant proof of his good character. He makes this affidavit and proves additional circumstances by the clerk in his office. I think the gentleman had better call the previous question.

Mr. LAWRENCE, of Pennsylvania. My colleague on the committee is a lawyer, and I want to know if in a number of the States of this Union plaintiffs are not permitted to testify in their own behalf?

Several MEMBERS. Certainly they are.

Mr. LAWRENCE, of Pennsylvania. In the United States courts in the State of Ohio a man comes up and swears in his own case. Now, I repeat what the chairman of the committee has said: that it would have been utterly impossible for this man to have proved the loss better than he has done unless he had somebody standing by and watching the robbery.

Mr. FARNSWORTH. I hope the gentleman will call the previous question.

Mr. SCOFIELD. Will my colleague allow me to set him right as to the law?

Mr. LAWRENCE, of Pennsylvania. You are just as likely to put me wrong. [Laughter.]

Mr. SCOFIELD. My colleague has referred to a rule in many States which allows an interested party to testify. There is no such rule in any State that I ever heard of except where the party, who has a counter interest, is in being, in life, and can take the stand to explain or contradict him. Where one party is dead, I know of no State that allows the other party to come in and swear in his own behalf.

Mr. LAWRENCE, of Pennsylvania. I promised my namesake from Ohio, who hardly ever speaks in this House, about three minutes. If he will get through in three minutes I will yield to him.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I would be glad to go, with my namesake and friend and relative, for this bill if I could do so consistently with my views of public duty.

Mr. LAWRENCE, of Pennsylvania. If the gentleman looks into the genealogy of the family I think he will find that we are not very nearly related. [Laughter.]

Mr. LAWRENCE, of Ohio. If we were we would be more apt to vote together than we now are. I often find my friend wrong, when if he would vote with me he would be right.

Mr. Speaker, we are so apt to take without question the work of a committee of this House there is great danger that we will go wrong if we pass this bill without the consideration which its importance deserves. I know that the amount involved here is not very great, but the principle involved is of the utmost importance and magnitude. Why, sir, what is it? This bill, as reported by the committee, proposes that the Government of the United States shall be the insurer of all moneys in the hands of its public officers, and that if the moneys are lost by accident, destroyed by fire, or stolen by robbers, the loss shall fall on the Government and not on the officer in whose hands the money was.

Now, I object to this bill because it violates a fundamental principle of the common law, a principle sanctified by the wisdom of ages and adopted as a rule in all the courts of this country. By the common law of this country and of England an officer who loses money, whether by the act of robbers or otherwise, cannot shield himself from responsibility by proving that the loss was a robbery. His compensation is given to him in part to cover the risk which he incurs by becoming a custodian of public moneys. We are now impeaching the President of the United States for subverting the Constitution and laws of the country. Yet it is here proposed to pass a bill by which we shall subvert the laws of this country and break down one of the wisest barriers ever interposed by the common law for the protection of public interests.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. I hope my friend will yield me a minute or two more of his time.

Mr. LAWRENCE, of Pennsylvania. If the gentleman had not devoted a portion of his time hunting up a relationship between us he would not have needed more time. I now yield one minute of my time to the gentleman from Ohio, [Mr. MUNGEN.]

Mr. MUNGEN. My colleague from Ohio [Mr. LAWRENCE] holds the doctrine that every man who holds an office is a kind of insurance agent, and that his salary was given him in order to insure him against loss. Now I hold that when an officer is honest and discharges his duties faithfully, and then sustains a loss without any fault on his part, the Government should bear the loss and not he. Now, in regard to the remark of the gentleman from Pennsylvania [Mr. SCOFIELD] concerning testimony, I will say to him that in several States of this Union juries find and render verdicts on the *ex parte* testimony of the parties to the suits. This man is entitled to the benefit of his statement in this case, corroborated as it is to a certain extent. I think so far as the character of the proof is concerned, it is perfectly competent.

[Here the hammer fell.]

Mr. LAWRENCE, of Pennsylvania. I now call the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. LAWRENCE, of Ohio. I ask for the yeas and nays upon the passage of the bill.

The question was taken; and there were nine in the affirmative.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

The question was then taken upon the passage of the bill; and, upon a division, there were—ayes 71, noes 27.

So the bill was passed.

Mr. LAWRENCE, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDINGS IN PENNSYLVANIA.

Mr. LAWRENCE, of Pennsylvania. I am instructed by the Committee on the Post Office and Post Roads to ask that the committee be discharged from the further consideration of the petition of citizens of the ninth congressional district of Pennsylvania, asking an appropriation for the erection of a suitable building for the internal revenue department and post office in said district, and that the same be laid on the table.

The motion was agreed to.

BRYANT TYSON.

Mr. LAWRENCE, of Pennsylvania, also moved that the Committee on the Post Office and Post Roads be discharged from the further consideration of a memorial for the relief of Bryant Tyson, of North Carolina, and that the same be laid on the table.

The motion was agreed to.

WILLIAM SHUNK.

Mr. FERRY, from the Committee on the Post Office and Post Roads, reported back, with an amendment, Senate bill No. 4, for the relief of William Shunk.

The bill, which was read, provides that there be paid to William Shunk, out of any money in the Treasury not otherwise appropriated, the sum of $825, being the amount due from the United States to E. C. Shunk, late postmaster at Cardington, Ohio, for salary as postmaster from January 1, 1864, to March 31, 1865.

The amendment reported by the committee was read, as follows:

Strike out in line five $825 and insert $625.

Mr. FERRY. Mr. Speaker, the object of this Senate bill is to relieve the surety of the

late postmaster at Cardington, Ohio. Upon the supposition that his surety had paid the whole amount in arrears by the postmaster, the Senate, in passing the bill, fixed $825 as the amount to be allowed the surety; but on a scrutiny of the accounts by the committee of this House, it appeared that the emoluments collected by the postmaster for the period during which he was in default had not been accounted for by him. Your committee addressed a letter to the Postmaster General, and from the reply received, which I hold in my hand, it appears that forty dollars per quarter is the estimated amount collected by the defaulting postmaster and not accounted for to the Department. The Postmaster General took the amount collected during the two preceding quarters as the basis upon which he estimates the emoluments collected during the period the postmaster was in default. The committee therefore propose to deduct from the sum named in the bill $200, being the estimated amount received by the postmaster for five quarters at forty dollars per quarter.

Mr. MAYNARD. The gentleman has shown very satisfactorily that the amount proposed to be paid by the Senate bill should be reduced. Will he give us some reason why the bill should pass?

Mr. FERRY. If the gentleman from Tennessee had listened to the reading of the bill he would have found that it explains itself. I will state, however, that the surety of this postmaster paid the full amount claimed by the Government; and he now asks that he shall be paid the amount of salary withheld during the period the postmaster failed to make returns. This amount is due to either the postmaster or the surety, since the whole amount due to the Government has been canceled by a draft which was paid by the surety.

Mr. MAYNARD. The gentleman has not stated the facts at all. He assumes that we know the facts. I for one do not understand them.

Mr. FERRY. If the gentleman questions the position I take, I will have read by the Clerk the letter received from the Post Office Department.

Mr. MAYNARD. I do not question the gentleman's position. I merely ask him to explain the facts of the case.

Mr. FERRY. For five quarters this postmaster at Cardington failed to make returns to the Department, and became a defaulter. A draft for the amount of arrears was drawn upon the surety and honored by him. As I have already stated, no salary was paid to the postmaster during the period he was in default because during those five quarters he failed to render his accounts, and the Department withheld his salary until he made due returns. The surety now asks that the amount of that salary withheld shall be paid to him instead of the postmaster, as his partial relief. The Senate, acting under a misapprehension, failed to deduct the amount of the emoluments collected by the defaulting postmaster during those five quarters. The committee of this House scrutinizing the matter, thought that some emoluments must have been collected during that period. We addressed to the Postmaster General a letter calling his attention to the matter, and received a reply in which it is stated that the amount of forty dollars for each quarter should be deducted, reducing the amount named in the bill from $825 to $625.

I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment reported by the committee was adopted.

The bill, as amended, was ordered to a third reading, read the time, and passed.

Mr. FERRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES C. SLOO.

Mr. FERRY, from the Committee on the Post Office and Post Roads, reported back with an amendment a joint resolution (H. R. No. 146) for the relief of James C. Sloo.

The Clerk read the joint resolution *in extenso*. It authorizes and requires the Postmaster General, in settling the accounts of James C. Sloo, late postmaster at Cairo, Illinois, to allow him additional credit of $2,000 for services of said postmaster from July 1, 1864, to July 1, 1866.

Mr. FERRY. I am instructed by the Committee on the Post Office and Post Roads to move to amend by striking out "$2,000," and in lieu thereof to insert "$1,400."

Mr. Speaker, Mr. Sloo, late postmaster at Cairo, claims, under the act fixing the salaries of postmasters, that the Department has not allowed him sufficient salary while he acted as postmaster at Cairo. That act fixing the salaries of postmasters particularly required the Postmaster General should adjust them upon the basis of the commissions and emoluments at the period of the passage of the act, in July, 1864. The postmaster claims that it was the duty of the Department to so arrange the interior of the post office as to accommodate the public interests there; that since salaries are fixed on the basis of the business done every facility should have been given by the Department to increase the amount of business; that this not having been done, instead of $3,000 a year, his salary should have been $4,000. He claims for two years $1,000 a year, making $2,000.

Finding the Department had failed to provide a sufficient number of locked drawers to accommodate the public business he, of his own authority, constructed forty-four additional ones, and by that means increased the emoluments from $1,000 to $1,700, and he alleges that if the Government had constructed one hundred instead of forty-four, not only $2,000, but a still larger amount would have accrued to the Department. Now, sir, I hold in my hand a letter from the Postmaster General, acknowledging the amount of the emoluments during these two years as $1,700 a year, and that the present incumbent of the Cairo post office has his salary fixed on the basis of $1,700 as the business of that office. In other words, sir, he is given $3,700, when Mr. Sloo, during a period when more business was done, had allowed him only $3,000; and this letter of the Postmaster General, which I will tax the patience of the House to have read, recognizes $1,400 as equitably due to him. On that ground, and that of justice, the committee report, instead of $2,000, he shall be allowed $1,400—$700 per year for two years. In defense of the position of the committee I will say that during the war the post office at Cairo, in the amount of business done, was second only to Chicago in all the offices of the West. The letters to the western department came to that distributing office. Mr. Sloo was compelled to employ twenty-five to thirty clerks and received only $3,000 salary while the present postmaster receives $3,700 while only employing eight clerks. As exhibiting the amount of business done I may state that during this time the amount of letters received at Cairo in one year was thirteen millions, while at Chicago it was fifteen millions. The committee are unanimous in recommending the passage of the bill with the proposed amendment. I now ask the Clerk to read the letter I send up.

The Clerk read as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, *January* 21, 1868.

SIR: I am in receipt of your letter of the 17th instant, stating that a resolution for the relief of James C. Sloo, late postmaster at Cairo, Illinois, has been referred to your committee and requesting information from this Department.

In reply I have to say, that by fixing the salary of the postmaster at Cairo, Illinois, at $3,000 a year from the 1st of July, 1864, upon the best data that could be obtained from the records of the Department as required by the salary act approved July 1, 1864, there is no doubt but that the postmaster received less salary for the two next ensuing years than he would have received under the old commission system. Under that system his pay would have been about thirty-seven hundred dollars a year instead of $3,000, making a difference of $1,400 in his favor for the two years; but the salary having been fixed as required by law, I did not feel justified in reviewing the matter without further legislation. The claim seems to be equitable.

I have the honor to be, very respectfully, your obedient servant,

ALEXANDER W. RANDALL,
Postmaster General.

Hon. T. W. FERRY, *Post Office Committee, House of Representatives.*

Mr. UPSON. I wish to inquire of the gentleman if the salary now paid is not in consequence of the amount of business done in the preceding year under the new law which we passed?

Mr. FERRY. In reply to my colleague I will say that the operation of the new law commenced in July, 1864, and this postmaster, Mr. Sloo, held the office from 1864 to 1866. He increased the emoluments of the office by introducing additional boxes, and at the end of two years, to wit, in July, 1866, the salary was then reviewed and fixed upon the business of the preceding two years then ending. Mr. Sloo's labor, therefore, was the basis of the salary fixed for his successor.

Mr. UPSON. Do I understand that the committee are going to introduce a system that if the business of the office increases the amount of pay shall be increased, notwithstanding the postmaster is serving under a law which fixes his salary?

Mr. FERRY. I answer by saying that, under this law, which was enacted for the benefit of the Government and not for the benefit of the employés of the Government, designing to give the same salaries to the postmasters of the land and yet looking to facilitating the interest of the Government, it was provided that at certain periods the salaries of the postmasters should be fixed, and those salaries are based upon the business of the office. This postmaster, at the time this law was passed, complained that the Department had not furnished facilities enough to transact the business of the office, and at his own instance he constructed forty-four additional boxes, and before six months had elapsed he showed an increase of emoluments at the rate of $700 per annum. Therefore he claims additional compensation.

Mr. UPSON. Do not the facts assumed by the committee show that he is now receiving too much pay?

Mr. FERRY. I answer that by the letter of the Department stating that Congress, having fixed the salary by the terms of existing law at $3,700, which is the amount now received by the incumbent, and that amount being fixed on the previous basis of the office while Mr. Sloo held it, he rightfully claims the same justice that is awarded to the incumbent.

Mr. UPSON. I understand from the gentleman that the business is now less than in 1863 and 1864.

Mr. FERRY. It is not less, because the emoluments of the office show that the salary should be $3,700, and salaries are based upon the amount of business done. During the time that Mr. Sloo was postmaster he employed thirty-five clerks, but he claims no more compensation on that account.

Mr. UPSON. But the compensation is fixed by the business done in 1863 and 1864, and not since.

Mr. FERRY. I answer that the compensation given to the incumbent is fixed by law, and on the basis of the service rendered. If Mr. Sloo performed greater service it is his loss. He asks no more than the incumbent receives as his right. I would inquire how much time I have left?

The SPEAKER. The morning hour expires at eighteen minutes past one.

Mr. FERRY. I yield two minutes to the gentleman from Maine, [Mr. PETERS.]

Mr. PETERS. I am glad this bill has been introduced. I have a case very much like this of the postmaster at Bangor. There were not boxes enough in the post office at that place, and in consequence of the demand for boxes, instead of paying two dollars per quarter we have had to pay five dollars. The receipts from that source should have increased the salary from $3,200 to $4,000. I have made

application to the Department and they tell me his salary is based on the adjustment made in 1864. It is adjusted once in two years, and he might have had it adjusted, perhaps, if he had made application, as the postmaster at Cairo might have done had he made application, but not having done so the Department say it is too late. The case I refer to is precisely similar in principle to this one, and I give notice to the committee that I shall introduce a bill for an adjustment of it, and I hope the same liberality will be shown by the House in that case that is shown in the present one.

Mr. MARSHALL. I desire to say a word on this bill.

Mr. FERRY. How long?

Mr. MARSHALL. One minute.

Mr. FERRY. I will give it.

Mr. MARSHALL. I merely want to say that I should be sorry to see any opposition made to the bill now before the House. There is no analogy between the office at Cairo during the time Mr. Sloo held it and that referred to by the gentleman from Maine, [Mr. PETERS.] The responsibility upon the postmaster at Cairo during that time was unparalleled, and the duty performed by him was unparalleled throughout the country.

Mr. FERRY. If the gentleman will pardon me, I was under a misapprehension as to the time remaining. I thought I had eighteen minutes. I am now told that the morning hour will expire at eighteen minutes past one o'clock, and it is nearly that time now.

The SPEAKER. The time of the Committee on the Post Office and Post Roads will expire at that time.

Mr. FERRY. The gentleman will, therefore, pardon me if I resume the floor and move the previous question so as not to lose the bill.

The previous question was seconded and the main question ordered.

The amendment reported from the Committee on the Post Office and Post Roads was agreed to.

The bill was then ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. FERRY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. WILLIAM G. MOORE, his Private Secretary, informed the House that the President had approved and signed an act (H. R. No. 331) to facilitate the payment of soldiers' bounties under act of 1866, and an act (H. R. No. 731) to authorize Charles Grafton Page to apply for and receive a patent.

CIVIL APPROPRIATION BILL.

The morning hour having expired, the House resumed the consideration of House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and the amendments thereto reported from the Committee of the Whole on the state of the Union.

The SPEAKER stated that the pending question was on the following amendment reported from the Committee of the Whole on the state of the Union: on page 9, in line one hundred and eight, to strike out "$15,000" and insert in lieu thereof "$89,008;" so that the paragraph would read:

For construction of the court-house at Des Moines, Iowa, $89,008.

The question was put; and there were—ayes 50, noes 50.

The SPEAKER. The Chair votes in the affirmative.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 52, not voting 70; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, Banks, Beck, Boyer, Brooks, Cake, Chanler, Churchill, Cullom, Dawes, Dodge, Eckley, Eldridge, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Hawkins, Hopkins, Hotchkiss, Hunter, Ingersoll, Jenckes, Johnson, Judd, Kelley, Kerr, Laflin, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marshall, McClurg, Miller, Mullins, Mungen, Myers, Newcomb, O'Neill, Paine, Peters, Pomeroy, Price, Pruyn, Raum, Robertson, Ross, Sawyer, Sitgreaves, Stewart, Taffe, Thomas, Twichell, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, and Windom—67.

NAYS—Messrs. Bailey, Baker, Barnes, Beaman, Beatty, Blair, Bromwell, Broomall, Buckland, Reader W. Clarke, Covode, Dixon, Driggs, Fields, Getz, Golladay, Haight, Halsey, Hill, Holman, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Kelsey, Koontz, George V. Lawrence, William Lawrence, McCormick, Mercur, Moore, Moorhead, Morrell, Niblack, Orth, Perham, Pike, Polsley, Randall, Selye, Aaron F. Stevens, Taber, Taylor, Trowbridge, Upson, Van Auken, Van Trump, Ward, Elihu B. Washburne, William B. Washburn, William Williams, Wood, and Woodward—52.

NOT VOTING—Messrs. Adams, Allison, Ames, Archer, James M. Ashley, Axtell, Baldwin, Barnum, Benjamin, Benton, Bingham, Blaine, Boutwell, Burr, Butler, Cary, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Donnelly, Eggleston, Ela, Finney, Fox, Glossbrenner, Griswold, Grover, Harding, Higby, Hooper, Asahel W. Hubbard, Humphrey, Jones, Julian, Ketcham, Kitchen, Knott, Marvin, Maynard, McCarthy, McCullough, Morgan, Morrissey, Nicholson, Nunn, Phelps, Pile, Plants, Poland, Robinson, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Stone, John Trimble, Lawrence S. Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Stephen F. Wilson, and Woodbridge—70.

So the amendment was agreed to.

During the call of the roll,

Mr. SCOFIELD said: Upon this question I have paired off with the gentleman from Iowa, [Mr. ALLISON.] He is in favor of this amendment, while I am opposed to it.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to change the phraseology of the amendment just adopted; so that it will read:

For the construction of a public building for a court-house, post office, and for offices of the United States at Des Moines, Iowa, &c.

Mr. WILSON, of Iowa. I have no objection to that amendment.

No objection being made, the amendment was modified accordingly.

The next amendment reported from the Committee of the Whole was to strike out "$25,000" and insert "$50,000," in the following clause:

For the construction of a court-house at Madison, Wisconsin, $25,000.

Mr. WASHBURNE, of Illinois. I suppose this House is determined to take this money out of the Treasury any way, and there is no use in opposing it.

The SPEAKER. Then the amendment will be considered as agreed to.

Mr. WASHBURNE, of Illinois. I move the same change of phraseology in this amendment that I did in the Iowa amendment.

The amendment to the amendment was agreed to, and the amendment, as amended, was then agreed to.

The next amendment reported from the Committee of the Whole was to insert the following clause in the bill:

For construction of post office and custom-house at Cairo, Illinois, $49,000.

Mr. WASHBURNE, of Illinois. I move the same amendment here that I did to the last two amendments.

The amendment to the amendment was agreed to, and the amendment, as amended, was then agreed to.

The next amendment was to strike out the following clause:

For continuing the work of the Capitol extension, $100,000.

Mr. WASHBURNE, of Illinois. That was struck out, I believe, on the motion of the gentleman from Iowa, of the Davenport district, [Mr. PRICE,] as an offset for the Iowa grab. Now, I ask the attention of the House to a letter from the architect of the Capitol extension, which covers not only this particular item, but the other item for repairs of the Capitol. I ask the Clerk to read the letter.

The Clerk read as follows:

ARCHITECT'S OFFICE, CAPITOL EXTENSION,
WASHINGTON, D. C., *February* 28, 1868.

SIR: In reply to your verbal inquiries in relation to the necessity for the items for the Capitol extension and new dome, in the pending appropriation bill, I have the honor to make the following statement:

The appropriation of $125,000 asked for by this office for the Capitol extension is for the completion of the wings, and not for any additions or extensions. The entire marble work is in an unfinished condition, requiring trimming down and pointing the joints, in order to prevent injury to the walls by the absorption of water and freezing of the same in the joints. The balustrade of the southwest portico is yet to be supplied.

In order to further preserve the building the large iron gutters on the roof, which are continually leaking, must be replaced or covered by copper gutters. The roof itself, from its peculiar construction, requires constant watching and repairs. At every snow a force of men are required to clear the roof in order to keep the legislative Halls habitable. In fact so great is this annoyance that a new roof of a different construction, before many years, will have to be supplied.

It is the intention to paint the unfinished committee rooms, and the exterior wood work should also be repainted.

The granite steps of the north, south, and western porticos, which have settled off from the building on account of their foundations running but a short distance in the ground, and then resting on made soil, should be reset. There are many other repairs and contingencies which would be paid for out of this appropriation.

As to the item of $5,000 for the new Dome, I have to say that the entire work is not yet completed, and that from the expansion of the iron, of which material the Dome is constructed, the services of painters are constantly required to fill up and paint the open joints and other portions of the work in order to prevent corrosion and consequent decay.

The item of $15,000 for the annual repairs of old portion of the Capitol, is for the necessary reglazing, painting, plumbing, and keeping the copper roof in repair, and for putting on iron skylights over the cupolas, the present skylights being of wood, and are so decayed that it is impossible to keep them weather-tight; in fact, one is in such a condition there is danger of its falling in.

I am, very respectfully, your obedient servant,
EDWARD CLARK, *Architect.*

Hon. E. B. WASHBURNE, *Acting Chairman Committee on Appropriations, House of Representatives.*

Mr. WASHBURNE, of Illinois. If the members of the House have listened to the reading of this letter they can determine what they should do in regard to this appropriation. I will say, however, that the matter is more elaborated in the report of the architect of the Capitol extension, to which members can refer. I can state, what is known to every gentleman here who knows Mr. Clark, that he is one of the most honest, reliable, and trustworthy men whom we have ever had in the public service. His statements are to be fully relied upon. The House has the facts before it, and it can vote upon the pending amendment.

The question was upon striking out the clause.

Mr. SELYE. Will the gentleman from Illinois [Mr. WASHBURNE] yield to me for five minutes?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. SELYE. Mr. Speaker, this architect, the gentleman says, is an honest man. He may be; but it is with him as all other architects, the moment you stop the appropriations "Othello's occupation's gone;" and then they have to go to work and earn the money on which to pay their taxes as my constituents do. Now, this architect in his report asks for $15,000 for repairs, when it appears he has already on hand $51,000. He complains that the gutters and sundry other things about this building are out of order. Sir, if I were the architect of this building or any other building, new as this is, and if any part of it should get out of repair so soon, I would fix it up in the night at my own expense, to save my own credit.

Mr. Speaker, we have been twenty-eight years erecting the buildings on this five-acre lot—eight years longer than it took Solomon to build the temple and his own house besides. [Laughter.] It seems to me that these buildings should be well constructed and need little or no repairs at this time.

Now, sir, this appropriation should, at any

rate, be amended so as to read, "for repairing and finishing the Capitol extension," &c.

Mr. WASHBURNE, of Illinois. I have no objection to that amendment; I think it is very proper.

Mr. PRUYN. Does the gentleman from Illinois think that this appropriation will finish the work?

The SPEAKER. The Clerk will read the paragraph as it will be when amended.

The Clerk read as follows:

For repairing and finishing the Capitol extension, $100,000.

Mr. NEWCOMB. I move to amend, so that the paragraph will read, "For removing the Capitol," &c. [Laughter.]

The SPEAKER. That would scarcely be germane.

Mr. SELYE. I see that in this bill we have the following appropriation:

For the annual repairs, such as painting, glazing, keeping roofs in order; also water-pipes, pavements, and approaches to public buildings, $15,000.

Now, if that appropriation is to pass, I shall ask that the appropriation of $105,000 be cut down to $50,000, so as to make the whole appropriation $65,000.

Mr. WASHBURNE, of Illinois. I believe my friend's time has expired. I ask whether the amendment to the phraseology of the paragraph is considered as adopted?

The SPEAKER. It is regarded as pending. The first question is upon that amendment. The question will then be upon the amendment reported from the Committee of the Whole, to strike out the paragraph.

The amendment of Mr. SELYE was adopted.

The question then recurred on the amendment of the Committee of the Whole, to strike out the paragraph.

The amendment was not agreed to.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 12, strike out lines two hundred and fifty-six and two hundred and fifty-seven, as follows:

For continuing the work on the new Dome of the Capitol, $5,000.

Mr. WASHBURNE, of Illinois. Before the question is taken on striking out this paragraph, I move that it be amended so as to conform in phraseology to the preceding paragraph, by striking out "continuing the work on" and inserting "repairing and finishing."

The amendment of Mr. WASHBURNE, of Illinois, was adopted.

The question then recurred on the amendment reported from the Committee of the Whole.

The amendment was not agreed to.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 12, strike out "one" in line two hundred and sixty-six and insert "four;" so as to make the paragraph read:

Smithsonian Institution:

For the preservation of the collections of the exploring and surveying expeditions of the Government, $4,000.

Mr. WASHBURNE, of Illinois. That amendment came in as a sort of compromise. I suppose there will be no objection to it.

The amendment was adopted.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 13, strike out "ten," in line two hundred and ninety-six, and insert "twenty;" so as to make the paragraph read as follows:

For surveying the public lands in Minnesota, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, $20,000.

The amendment was agreed to.

The next amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

On page 13, strike out "fifteen," in line three hundred and one, and insert "twenty;" so as to make the paragraph read:

For surveying the public lands in Dakota Territory, including the lands along the Red River of the North, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, $20,000.

Mr. WASHBURNE, of Illinois. That ought not to be agreed to; $15,000 is entirely sufficient.

Mr. BURLEIGH. I happen to know this money is required.

Mr. WASHBURNE, of Illinois. I call the gentleman to order.

The House divided; and there were—ayes 42, noes 28.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 58, nays 44, not voting 87; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Axtell Barnes, Beck, Blair, Buckland, Burr, Cake, Chanler, Sidney Clarke, Dixon, Dodge, Driggs, Eldridge, Ferry, Golladay, Gravely, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Kelley, Kerr, Kitchen, Knott, Laflin, Loan, Logan, Marshall, McCormick, Morrell, Mungen, Myers, Newcomb, O'Neill, Paine, Peters, Poland, Polsley, Pomeroy, Pruyn, Raum, Ross, Spalding, Aaron F. Stevens, Stewart, Taber, Taffe, Lawrence S. Trimble, Van Auken, Van Trump, Welker, Thomas Williams, and Wood—58.

NAYS—Messrs. Ames, Bailey, Baker, Beaman, Beatty, Bromwell, Broomall, Reader W. Clarke, Cook, Eliot, Farnsworth, Fields, Garfield, Getz, Haight, Hawkins, Hill, Hulburd, Kelsey, William Lawrence, Lincoln, Loughridge, Maynard, Mercur, Miller, Moore, Moorhead, Niblack, Nicholson, Orth, Plants, Sawyer, Scofield, Sitgreaves, Thaddeus Stevens, Taylor, Trowbridge, Upson, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and William Williams—44.

NOT VOTING—Messrs. Adams, Allison, Archer, Arnell, James M. Ashley, Baldwin, Banks, Barnum, Benjamin, Benton, Bingham, Blaine, Boutwell, Boyer, Brooks, Butler, Cary, Churchill, Cobb, Coburn, Cornell, Covode, Cullom, Dawes, Donnelly, Eckley, Eggleston, Ela, Ferriss, Finney, Fox, Glossbrenner, Griswold, Grover, Halsey, Harding, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Julian, Ketcham, Koontz, George V. Lawrence, Lynch, Mallory, Marvin, McCarthy, McClurg, McCullough, Morgan, Morrissey, Mullins, Nunn, Perham, Phelps, Pike, Pile, Price, Randall, Robertson, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Starkweather, Stokes, Stone, Thomas, John Trimble, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—87.

So the amendment was concurred in.

The next amendment was read, as follows:

Page 15, line three hundred and forty-four, strike out "five" and insert in lieu thereof "twelve;" and strike out "eight" and insert "ten;" so it will read:

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, $5,000.

Mr. WASHBURNE, of Illinois. That is all right.

The amendment was concurred in.

The next amendment was read, as follows:

In the same paragraph, relating to the surveying of the public lands in Montana, strike out "$5,000" and insert in lieu thereof "$15,000."

Mr. CAVANAUGH. I ask to say a few words in explanation of that amendment. It is a just and proper amendment.

Mr. WASHBURNE, of Illinois. I object. It has been discussed three or four times.

The House divided; and there were—ayes 30, noes 42—no quorum voting.

Tellers were ordered; and Mr. NICHOLSON and Mr. SCOFIELD were appointed.

The House again divided; and the tellers reported—ayes 51, noes 45.

Mr. WASHBURNE, of Illinois, demanded the yeas and days.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 49, not voting 70; as follows:

YEAS—Messrs. Delos R. Ashley, James M. Ashley, Axtell, Banks, Barnes, Beck, Blair, Brooks, Buckland, Burr, Cake, Chanler, Coburn, Dodge, Eckley, Eldridge, Ferriss, Getz, Golladay, Gravely, Holman, Hotchkiss, Richard D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Kelley, Kerr, Knott, George V. Lawrence, Lincoln, Loan, Mallory, Marshall, McClurg, McCormick, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Peters, Pile, Poland, Polsley, Pomeroy, Pruyn, Randall, Raum, Ross, Sitgreaves, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Upson, Van Auken, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Wood—70.

NAYS—Messrs. Bailey, Baker, Baldwin, Beaman, Beatty, Bromwell, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Covode, Cullom, Dixon, Eliot, Farnsworth, Ferry, Fields, Garfield, Haight, Halsey, Hill, Hulburd, Julian, Kelsey, Kitchen, Koontz, Laflin, William Lawrence, Loughridge, Maynard, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Orth, Paine, Perham, Plants, Price, Scofield, Spalding, Aaron F. Stevens, Thaddeus Stevens, Trowbridge, Cadwalader C. Washburn, and Elihu B. Washburne—49.

NOT VOTING—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Barnum, Benjamin, Benton, Bingham, Blaine, Boutwell, Boyer, Cary, Cobb, Cook, Cornell, Dawes, Donnelly, Driggs, Eggleston, Ela, Finney, Fox, Glossbrenner, Griswold, Grover, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Jones, Ketcham, Logan, Lynch, Marvin, McCarthy, McCullough, Morgan, Morrissey, Nunn, Phelps, Pike, Robertson, Robinson, Sawyer, Schenck, Selye, Shanks, Shellabarger, Smith, Starkweather, Stokes, Stone, Taylor, John Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Ward, William B. Washburn, Stephen F. Wilson, Windom, Woodbridge, and Woodward—70.

So the amendment was agreed to.

The next amendment was as follows:

Page 15, after line three hundred and fifty-three, insert the following paragraph:

For surveying the boundary line between the State of Nebraska and the Territory of Colorado, and that portion of the western boundary of the State of Nebraska embraced between the forty-first and forty-third parallels of latitude, estimated three hundred and twenty miles, at not exceeding twenty dollars per mile, $6,400.

Mr. WASHBURNE, of Illinois. It is utterly useless for the committee to struggle against this bill being loaded down with amendments of this kind. I have no doubt this amendment is to be voted in because it takes money out of the Treasury. There is no earthly necessity for it. It is not recommended by any proper authority.

Mr. ROSS. Mr. Speaker, is discussion in order?

The SPEAKER. The gentleman is entitled to an hour for explanation of the amendments. The gentleman will find that to be so by reference to the report in the Globe.

The amendment was disagreed to.

The next amendment was as follows:

Page 16, strike out lines three hundred and sixty-six and three hundred and sixty-seven, as follows:

For repairs of Pennsylvania avenue, including cleaning sewer-traps, new crossings, &c., $20,000.

The amendment was agreed to.

The next amendment was as follows:

Page 18, line four hundred and fifteen, strike out the words "and Pennsylvania avenue, fifty," and insert in lieu thereof "thirty;" so that it will read:

For lighting the Capitol and President's House and public grounds around them, around the executive offices, $30,000.

The amendment was agreed to.

The next amendment was as follows:

Page 18, strike out lines four hundred and sixteen, four hundred seventeen, and four hundred and eighteen, as follows:

For lighting Four-and-a-Half street, across the Mall, and Maryland avenue west, and Sixth street south, $20,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso on page 18:

Provided, That the corporation of Washington city shall light their street lamps with seven-feet burners, twenty-one nights in each month, from dark until day-light, and that no part of this appropriation shall be disbursed until it is proved to the satisfaction of the chief engineer of the War Department that said corporation have so lighted their street lamps.

The amendment was agreed to.

The next amendment was as follows:

Page 18, line four hundred and twenty-seven, strike out "twenty" and insert in lieu thereof "five;" so that it will read:

For pay of lamp-lighters, gas-fitting, plumbing, lamp-posts, lanterns, glass, paints, matches, materials, and repairs of all sorts, $5,000.

The amendment was agreed to.

The last amendment was as follows:

At the end of line four hundred and thirty-one add the following:

For continuing the work on the national arsenal at Columbus, Ohio, $15,000.

Mr. WASHBURNE, of Illinois. I desire to say a word upon this matter. It will be recollected when we were in committee there was some discussion upon this amendment, and notwithstanding it was an item that did not belong to this bill and we had no information in relation to it, no recommendation and no estimate from the Department, the committee determ-

ined to put this $15,000 in. No remonstrance from the Committee on Appropriations could restrain the Committee of the Whole from making the appropriation. In vain did I implore the committee to keep it out, saying if it was proper it could be put in the Army appropriation bill in the Senate, and the House could concur in it. Now, sir, I went to the ordnance office and inquired in regard to the matter, and I desire to have a letter from the War Department on the subject read for the benefit of the House:

ORDNANCE OFFICE, WAR DEPARTMENT,
WASHINGTON, *February* 29, 1868.

SIR: In answer to your inquiries of this morning, I have to inform you that there has been heretofore appropriated for the arsenal at Columbus, Ohio, including the amount expended for the purchase of the site, and the amount applied to the construction of that arsenal taken from the general appropriation "for arsenals," $373,838 91. There now remains on hand, unexpended, and applicable to the construction of that arsenal, $48,271 52, which amount was considered by this bureau sufficient to meet the wants for that object for the next fiscal year, and is still so considered, and therefore no estimate was made, and no additional appropriation is considered necessary at this time.

The sum paid for the site of the arsenal was $15,550.

Respectfully, your obedient servant,

A. B. DYER,
Brevet Major General and Chief of Ordnance.

Hon. E. B. WASHBURNE, *Chairman Committee on Appropriations.*

Mr. WASHBURNE, of Illinois. I yield for a moment to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I was one of those members from the State of Ohio who, when this matter came up, as our colleague from the Columbus district [Mr. SHELLABARGER] was not here, thought there ought to be something put in the bill for the arsenal at Columbus. At that time we had this much intelligence, that a considerable amount of money was needed to complete the work, but we did not know officially how much unexpended balance there was on hand and we therefore insisted that something should be put in in the Committee of the Whole, so that when the bill came into the House the subject might be before us, and by that time we might know officially how much is needed. I am very glad to hear that a member of our delegation [Mr. LAWRENCE] has written to the ordnance department and to the War Department, and found out substantially the same thing which the gentleman from Illinois [Mr. WASHBURNE] has discovered, namely, that there is a sufficient unexpended balance for the purposes of the year, and I trust, therefore, that the matter will be pressed no further, but that the amendment will be disagreed to.

Mr. WASHBURNE, of Illinois. What I wanted to do was to call the attention of the House to the manner in which we legislate here. Gentlemen come in, and without any knowledge or authority get appropriations through the committee.

Mr. INGERSOLL. I rise to a question of order. Is it proper for my colleague to lecture the House in this manner?

Mr. WASHBURNE, of Illinois. Yes, sir.

The SPEAKER. The Chair will state, in reply to the point of order, that the Manual says the action of the House must not be criticised.

Mr. BLAINE. It is only the action of the Ohio members that the gentleman is criticising.

Mr. WASHBURNE, of Illinois. It is no criticism. It is highly honorable in gentlemen to vote away these amounts of money.

Mr. MUNGEN. I desire to say a word by way of explanation.

Mr. WASHBURNE, of Illinois. I must decline to yield further.

The question was taken on the amendment, and it was disagreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SESSION FOR DEBATE.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that the session of the House to-morrow may be for debate only, as in Committee of the Whole.

There was no objection; and it was so ordered.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I move that the House proceed to the business on the Speaker's table.

Mr. FARNSWORTH. I would like to report back the Alabama bill, and after that, if the House desires to go to the business on the Speaker's table, they can do so.

The SPEAKER. The motion to go to business on the Speaker's table has priority.

Mr. FARNSWORTH. I was aware of that; but I thought the gentleman would forego his motion.

Mr. WASHBURNE, of Illinois. I must insist on my motion.

The motion was agreed to.

EXTENSION AND RENEWAL OF PATENTS.

The first business on the Speaker's table was a bill (S. No. 313) requiring persons applying to Congress for the extension or renewal of patents to give public notice thereof; which was read a first and second time, and referred to the Committee on Patents.

SCHOOL PROPERTY.

The next business on the Speaker's table was a bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation; which was read a first and second time.

Mr. INGERSOLL. I desire action on this bill at the present time. It will take but a minute. There is a necessity for its immediate passage, or this property, held for school purposes, will be sold for taxes. I desire to offer a substitute for the bill so as to place all the schools on the same footing.

The SPEAKER. The bill will first be read, and then the substitute.

The bill was read. It provides that all the real and personal property in the cities of Washington and Georgetown, in the District of Columbia, now, or under the school laws of the District, hereafter, to be held by the trustees of the colored schools for said cities in trust for the use of the colored schools, shall be, as long as held for that purpose, exempt from local taxation, and that it shall not be lawful for the authorities of either of said cities to collect any tax that may have accrued or been levied or assessed against any of such property, since the said trustees acquired title to or right to occupy or use the same for school purposes.

It also provides that all real and personal property in the county of Washington, District of Columbia, outside the limits of the cities of Washington and Georgetown, now or hereafter to be held and used for school purposes, shall be exempt from taxation, and that it shall not be lawful for the authority of said county to collect any tax that may have accrued or been levied or assessed against any such property since the same was acquired for and has been held or used for said purpose.

Mr. INGERSOLL. I move the following amendment to the bill by way of substitute: strike out all after the enacting clause and insert in lieu thereof the following:

That all real and personal property in the District of Columbia now under the school laws of said District, or hereafter to be held by the trustees of colored schools for the cities of Washington and Georgetown, and by the board of commissioners of primary schools of Washington county, District of Columbia, in trust for the use of colored schools, shall be, so long as held for that purpose, exempt from local taxation, except such as are authorized by the charter of said cities, and by the law establishing the levy court of the county of Washington for special purposes; and it shall not be lawful for the municipal authorities of either of said cities, or the levy court of the county of Washington, to collect any tax that may have accrued against, or been levied or assessed upon, any such property since said trustees of colored schools or board of commissioners of primary schools, as the case may be, acquired the title or right to occupy or use the same for such purposes, except such taxes as may have accrued, or been levied or assessed for special purposes as aforesaid.

SEC. 2. *And be it further enacted*, That it shall be the duty of such member of the board of trustees of the schools for colored children in the cities aforesaid, as now is or shall be, by said board of trustees, from time to time, hereafter designated or selected to act as treasurer thereof, to give separate bonds every year to the municipal authorities of said cities of Washington and Georgetown respectively, with two sureties each, to be approved by the mayors of said cities respectively, in a penal sum to be fixed annually by the mayors of said cities respectively, for the safe-keeping and faithful disbursement of such moneys as shall, from time to time, be paid to said trustees by the municipal authorities of said cities for educational purposes, under and by virtue of the provisions of the eighteenth and nineteenth sections of the act of Congress, approved June 25, 1864, "to provide for the public instruction of youth in the county of Washington, District of Columbia, and for other purposes," and the declaratory act, approved July 23, 1866, "relating to public schools in the District of Columbia."

SEC. 3. *And be it further enacted*, That it shall not be lawful for said trustees of the schools for colored children to expend in either of said cities moneys received under the provisions of said acts from the municipal authorities of the other.

The question was upon agreeing to the substitute.

Mr. INGERSOLL. I will explain the differences between the substitute and the Senate bill. The substitute provides that the trustees of colored schools who have the handling of the money for school purposes shall give bond for its faithful distribution according to law; and it further proposes to put the property of the colored schools on the same footing, in regard to taxation, with the property belonging to white schools. The reason why this bill should be passed at this time is that, in the deeds conveying the property to the trustees of the colored schools, they are not described as trustees, but the property is deeded to certain persons who are named. Consequently the property is now assessed for taxes like other property held by individuals.

Under general law property in this District held for school purposes is not taxable, except for special purposes under special laws, for the improvement of the property, &c. Now, it is proposed to put this property on the same footing, besides requiring the trustees for expending the funds for the colored schools to give bond for its faithful distribution. That is all there is in the bill. The reason why it should be passed now is that this property, having been assessed for taxes, and the taxes not having been paid, it is advertised for sale to satisfy the taxes upon it. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. INGERSOLL moved to amend the title so that it would read: "An act exempting certain property in the District of Columbia, held for school purposes, from local taxation, and for other purposes."

The amendment to the title was agreed to.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENLARGEMENT OF CAPITOL GROUNDS.

The next business upon the Speaker's table was Senate bill No. 54, to enlarge the public grounds surrounding the Capitol, and for other purposes; which was taken from the table and read a first and second time.

Mr. GARFIELD moved that the bill be referred to the Committee on Public Buildings and Grounds.

The motion was agreed to.

NAVAL POWDER MAGAZINES.

The next business upon the Speaker's table was Senate joint resolution No. 118, for the appointment of a commission to select suitable locations for powder magazines; which was taken from the table, and read a first and second time.

Mr. GARFIELD. This relates to naval powder magazines. I therefore move that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

THOMAS CROSSLEY.

The next business on the Speaker's table was a bill (S. No. 426) for the relief of Thomas Crossley; which was read a first and second time, and, on motion of Mr. JENCKES, referred to the Committee on Patents.

HEIRS OF ASBURY DICKINS.

The next business on the Speaker's table was a bill (S. No. 408) for the benefit of the heirs of Asbury Dickens, deceased; which was read a first and second time, and referred to the Committee of Claims.

D. B. ALLEN & CO.

The next business on the Speaker's table was a bill (S. No. 150) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LAND-GRANT MILITARY ROAD.

The next business on the Speaker's table was a bill (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green bay, in the State of Wisconsin;" which was read a first and second time, and, on motion of Mr. JULIAN, referred to the Committee on Public Lands.

HEIRS OF MAJOR A. L. BREWER.

The next business on the Speaker's table was a joint resolution (S. R. No. 122) for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army; which was read a first and second time.

Mr. GARFIELD. I desire that this joint resolution shall be acted on now. I am prepared to present documents which will fully explain it.

The joint resolution, which was read, proposes to authorize and require the proper accounting officers of the Treasury to enter a credit of $3,636 on the account of Major A. L. Brewer, paymaster in the Army, who, with his clerk, Robert F. Brewer, was destroyed by the explosion of the steamer J. R. Carter, on the Mississippi river, and which sum stands charged against Major Brewer as a balance against him on his account in the Treasury Department.

Mr. GARFIELD. Mr. Speaker, I will submit a brief explanation of this matter, and then ask the reading of a letter from the Secretary of War in reference to the subject.

Major Brewer was for two years a member of the Senate of the State of Ohio, and was very well known to me, I being at the same time a member of that body. I am familiar with his whole career. Soon after the war broke out he became a paymaster, and served in that capacity with very great credit, disbursing more than two million dollars, and keeping his accounts in the most admirable condition. Early in the year 1866, having then paid out all the money in his hands, not having a dollar of Government money in his possession, but having with him most of his books and papers, he was on his way down the Mississippi with his son, then acting as his clerk, when the steamer was blown up, and he and his son perished. His accounts, however, were in perfect order; he had made full returns of all moneys and vouchers in his hands. Very fortunately for the Government there was not a dollar in his hands at the time of the destruction of the steamer.

But when his accounts were subsequently examined in the auditing office in the Treasury, it appeared that there had been some overpayments and some mistakes in disbursements—things of common occurrence with every paymaster. Doubtless, if Major Brewer's papers had been accessible, these overpayments, &c., would all have been satisfactorily explained. But the total amount was only a little over $3,000, though during his career as paymaster Major Brewer had made disbursements to the amount of more than $2,000,000. All the records of our paymasters' work can furnish, I think, no instance of more faithful service than is exhibited in the fact that the disallowances of all kinds in the accounts of this man who disbursed so large an amount of money did not exceed $3,636.

I now ask the Clerk to read the letter of the Secretary of War which I send to the desk.

The Clerk read as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 10, 1868.

SIR: I have the honor, in reply to your call of the 31st ultimo, to forward a letter from the Paymaster General in regard to the late Major Brewer, together with a draught of a joint resolution proposed to be submitted to Congress in relation to the settlement of Major Brewer's accounts. The joint resolution has my cordial approval, and I believe it to be in accordance with justice due to a faithful officer who, with his son, perished while in the public service.

Major Brewer was personally and intimately known by me for many years. His personal integrity was unblemished, and he was a careful and faithful disbursing officer during the war, intrusted with large sums of money which he properly accounted for. The balance standing against him is not large under the circumstances in which his disbursements were made, and arise not from any failure to account, but from alleged errors in overpayments which, but for his sudden death and the death of his clerk at the same time, I have no doubt he would have been able satisfactorily to explain or recover back.

The joint resolution therefore commends itself strongly to the favor of Congress and is a just measure of relief.

I have the honor to be, yours truly,
EDWIN M. STANTON,
Secretary of War.

General GARFIELD, *Chairman of Committee on Military Affairs, House of Representatives.*

Mr. GARFIELD. I now ask the Clerk to read the letter of the Paymaster General.

The Clerk read as follows:

WAR DEPARTMENT,
PAYMASTER GENERAL'S OFFICE,
WASHINGTON, *February* 5, 1868.

SIR: I have the honor to report in the case of additional Paymaster A. L. Brewer, who lost his life in the steamer J. R. Carter, near Vicksburg, Mississippi, February 2, 1866, that he had been previously on duty in Louisville, Kentucky, and before being relieved at that station, November 30, 1865, he had turned over to the proper officers the public funds remaining in his hands and closed his official accounts, showing no balance.

At the time of his death he was proceeding to duty in New Orleans, under orders, and had no public funds in his custody. He was never charged with any money after the rendition of his accounts at the close of the preceding November.

The amount standing against Major Brewer on the books of the Treasury arises from disallowances of the accounting officers for errors and overpayments. Many of these were discovered in the preliminary examinations in this office and noted in the letters of transmittal to the Second Auditor.

If Major Brewer had lived till notified of the suspensions against him it is highly probable he could have explained or cured very many, if not all, of them.

Very respectfully, your obedient servant,
B. W. BRICE, *Paymaster General.*

P. S.—I deem it proper to add that Major Brewer, from the time he entered upon his duties as paymaster, February 19, 1863, disbursed large sums of money, amounting, as shown by the books of this office, to a total of $1,743,659 76. He was, as I have been advised, a gentleman of high moral character, good qualifications, and most correct private habits. The errors in his accounts are those almost inseparable from the duty of hurried disbursements to troops in the active field. The death of his clerk, occurring at the same time and by the same casualty, left no one competent to explain and remedy the irregularities charged against Major Brewer's accounts. I am fully satisfied that all his disbursements, as set forth in his own accounts, rendered and balanced by himself, were made in good faith as charged by him.

B. W. BRICE, *Paymaster General.*

Hon. E. M. STANTON, *Secretary of War.*

Mr. WARD. Has this matter ever been before any committee of this House?

Mr. GARFIELD. It was before the Committee on Military Affairs. It was, however, first taken up and passed in the Senate, and has now been sent to us.

Mr. WARD. Has that committee passed upon it?

Mr. GARFIELD. They were cognizant of the whole thing, and they have no objection to it. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TENNESSEE UNITED STATES COURTS.

The next business upon the Speaker's table was Senate bill No. 377, to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee; which was read a first and second time.

On motion of Mr. MAYNARD, the bill was referred to the Committee on the Judiciary.

CONVEYANCES OF VESSELS.

The next business upon the Speaker's table was Senate bill No. 373 to amend an act entitled "An act to provide for recording of conveyances of vessels and for other purposes," approved July 29, 1850; which was read a first and second time.

On motion of Mr. WASHBURNE, of Illinois, the bill was referred to the Committee on Commerce.

GEORGE W. DOTY.

The next business upon the Speaker's table was Senate joint resolution No. 126, for the relief of George W. Doty, a commander in the United States Navy on the retired list; which was read a first and second time.

On motion of Mr. PIKE, the joint resolution was referred to the Committee on Naval Affairs.

PACIFIC RAILROAD FREIGHT TARIFF, ETC.

The SPEAKER stated the next business was a joint resolution (H. R. No. 168) to regulate tariff for freight and passengers on the Union and Central Pacific railroads and their branches; which, on the 16th instant, went over, the House having refused to second the call for the previous question.

Mr. WASHBURN, of Wisconsin. Let the joint resolution be now taken up.

The SPEAKER. The pending question is on its engrossment and third reading.

Mr. PRICE. I ask the gentleman from Wisconsin whether this resolution has ever been printed or been before any committee?

Mr. WASHBURN, of Wisconsin. I will answer the chairman of the Committee on the Pacific Railroad, that at the November session I introduced a bill embodying the same features.

The SPEAKER. The joint resolution will be read.

The Clerk read the joint resolution. It proposes to constitute the Secretary of War, the Secretary of the Interior, and the Attorney General of the United States a board of commissioners, whose duty it shall be on the 1st day of July in each year to establish a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just and not exceeding double the average rates charged on the different lines of railroad between the Mississippi river and the Atlantic ocean in latitudes north of St. Louis, Missouri, and that it shall not be lawful for said railroad companies to charge any sum in excess of the rates so fixed.

Mr. WASHBURN, of Wisconsin, addressed the House. [See Appendix.]

Mr. PRICE obtained the floor.

Mr. KOONTZ. I hope the gentleman will yield to me for a motion to adjourn.

Mr. PRICE. If I yield the floor for that purpose when will this subject come up again?

The SPEAKER. It is impossible to tell; but when it does come up the gentleman from Iowa will have the floor. If there is no other business claiming the attention of the House this will come up after the morning hour on Monday. At that time, however, the Chair

thinks the House will be at the bar of the Senate. It will come up in all probability on Tuesday after the morning hour.

Mr. PRICE. I think the House is anxious to adjourn but I wish to have the privilege some time of replying to my two friends, the gentleman from Wisconsin [Mr. WASHBURN] and the gentleman from Illinois, [Mr. WASHBURNE.]

The SPEAKER. The subject is now before the House, and the gentleman will have the floor when it next comes up.

LEAVE OF ABSENCE.

Mr. TROWBRIDGE, on account of sickness in his family, was granted leave of absence for two weeks.

Mr. BROOKS and Mr. DONNELLY were granted leave of absence for one week.

RIGHTS OF ADOPTED CITIZENS.

Mr. WOOD, by unanimous consent, presented the following substitute, which he gave notice he would move for the third section of House bill No. 768, concerning the rights of American citizens in foreign States, and the same was ordered to be printed:

SEC. 3. *And be it further enacted*, That whenever it shall be made known to the President that any citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign; or, if any citizen shall have been arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to make reprisals on the high seas, or to arrest and detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and the President shall, without delay, give information to Congress of any proceedings under this act provided Congress shall be in session, and if not in session he shall convene Congress by proclamation for the purpose of considering and determining what further action shall be taken by which to vindicate the rights and maintain the honor of the American Government.

And then, on motion of Mr. KOONTZ, (at four o'clock and ten minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: The petition of R. H. Hardaway, president of the South Georgia and Florida railroad of Thomasville, Georgia, for an appropriation by Congress to aid in the construction of said road.

By Mr. CAKE: The petition of Henry S. Boner and others, citizens of Schuylkill county, Pennsylvania, in favor of speedy action upon the question of protection to labor; cautioning Congress that a tremendous influence will be brought to bear upon this body by the enemies of labor at home and from Europe, and particularly from England, in the shape of money and other means to defeat a protective tariff, and the longer it is delayed the more potent this influence will become among those who are indifferent on this subject.

By Mr. COVODE: The petition for a mail route from Curlsville to Callenburg, Pennsylvania.

By Mr. DONNELLY: A series of concurrent resolutions of the Legislature of the State of Minnesota in relation to the improvement of the St. Croix river.

Also, a joint resolution of the Legislature of the State of Minnesota, in relation to the establishment of a United States land office in the Red River valley.

Also, a memorial of the Legislature of the State of Minnesota, asking an appropriation to construct a wagon-road from Fort Abercrombie down the Red River of the North.

By Mr. GARFIELD: The petition of soldiers and sailors, asking that medals may be given to volunteers in the late war.

By Mr. KELLEY: The petition of Rev. James Sinclair, of North Carolina, for relief from political disabilities.

Also, the petition of Spartan D. Goolett, of South Carolina, for removal of political disabilities.

By Mr. LINCOLN: A memorial of merchants, bankers, and shippers, of New York city, for an American line of steamships to Europe.

By Mr. PAINE: The petition of John Nazro & Co., H. C. Bradley & Co., A. Meinecke, and 80 others, importing firms of Milwaukee, for the enactment of a law to provide that imported merchandise received at any port of the United States and directed by invoice and bill of laden to any other port of entry may be forwarded for entry to the custom-house at the port of destination without entry, warehousing, bonding, or other delay, at the port of arrival under suitable regulations.

By Mr. PHELPS: The petition of manufacturers of morocco, of Baltimore, Maryland, praying such an amendment of the revenue laws as will permit the free importation of sumac and goatskins, and an increase of duty on manufactured morocco equal to average premium on gold.

By Mr. PRICE: The petition of James Middleton, for an increase of pension.

By Mr. RANDALL: The petition of Mrs. E. H. Rudd, widow of the late Commodore John Rudd, deceased, praying that she be granted a pension.

Also, the petition of sundry cigar manufacturers of the first congressional district of Pennsylvania, against proposed legislation having in view the placing of stamps on each cigar.

By Mr. VAN TRUMP: The petition of Joseph Thompson and 11 others, citizens of Fairfield county, Ohio, praying for the establishment of a post road from the city of Lancaster, Ohio, via Hartzler and West Rushville, to Rushville, in said county.

By Mr. WELKER: The petition of T. C. Bushnell, A. H. Myers, and 6 others, citizens of Ashland, Ohio, asking the reduction of taxes and expenses of the General Government.

By Mr. WINDOM: A memorial of the Legislature of Minnesota, praying for a grant of lands to the Minnesota and Missouri Railroad Company, to aid in the construction of a railroad from the Minnesota State line to the Missouri river, at Yancton, Dakota Territory.

Also, a memorial of the Legislature of Minnesota, in relation to the reduction of the rate of postage to foreign countries.

IN SENATE.

SATURDAY, *March* 21, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of J. Wheaton, of Florida, praying that he may be relieved from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Schuylkill county, Pennsylvania, praying such legislation as will give protection of American labor and industry; which was referred to the Committee on Finance.

Mr. WILSON presented a memorial of the Legislative Assembly of the Territory of New Mexico, praying a confirmation of the Rio Grande land grant to the actual settlers who have occupied, improved, and lived upon the land for the last ten years, and against the confirmation of an old grant the conditions of which have not been complied with; which was referred to the Committee on Private Land Claims.

Mr. RAMSEY presented a resolution of the Legislature of Minnesota, in favor of the establishment of a United States land office in the valley of the Red River of the North; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Minnesota, in favor of an appropriation for the improvement of the St. Croix river; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of a grant of land to aid in the construction of a railroad from the Minnesota State line to the Missouri river at Yancton, Dakota Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. VICKERS presented a petition of manufacturers of morocco, of Baltimore, Maryland, praying for such an amendment of the revenue laws as will permit the free importation of sumac and goatskins and an increase of the import duty on manufactured morocco equal to the average premium on gold; which was referred to the Committee on Finance.

Mr. BAYARD. I present the petition of Pusey, Jones & Co., and about seventy-five of the principal ship-owners, shipping merchants, and others interested in the commerce of the city of Wilmington, Delaware, in reference to the improvement of the mouth of the Christiana river. They state, what I can confirm from my own knowledge, that during stormy weather it is the only safe harbor of refuge for vessels between the Delaware breakwater and the city of Philadelphia; and the consequence is that the narrow channel is often completely filled by vessels, so much so that on several occasions the passenger boats plying between the cities of Philadelphia and Wilmington have thereby been prevented from entering the river. They ask, therefore, that Congress will take some action for the purpose of deepening and widening the river at its mouth. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the petition of Samuel N. Miller, submitted a report, accompanied by a bill (S. No. 454) for the relief of Samuel N. Miller. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the Committee on Claims, to whom was referred the bill (S. No. 279) for the relief of William Henry Otis, reported it with amendments, and submitted a report; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes, reported it with amendments.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 455) to reorganize the Post Office Department and fix the pay of its officers; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 127) expressive of the thanks of Congress to Dr. Isaac I. Hays; which was read twice by its title, and referred to the Committee on the Library.

POST ROUTE BILL.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom were referred the amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 328) to establish certain post roads, have instructed me to report it back and recommend a concurrence in the amendments of the House with a few additional amendments, and I hope they will be acted on at once.

By unanimous consent, the Senate proceeded to consider the amendments of the House of Representatives to its amendment.

Mr. RAMSEY. I suggest that there is no

necessity for reading either the amendments of the House of Representatives or those now reported by the committee. They are simply the establishment of numerous post roads.

The PRESIDENT *pro tempore*. The reading will be dispensed with, if there be no objection, and the question is on concurring in the amendments of the House of Representatives with the amendments reported by the committee.

Mr. SHERMAN. Before that is done I should like to know whether there is any legislation here, or anything beyond the simple establishment of post routes.

Mr. RAMSEY. There is not a particle of legislation, but simply the establishments of post routes.

The amendments to the amendment were agreed to; and the House amendments, as amended, were concurred in.

POST OFFICE APPROPRIATION BILL.

On motion of Mr. MORRILL, of Maine, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869.

The Committee on Appropriations reported the bill with an amendment, to insert in line thirteen, after the word "dollars," the words "under the act approved March 3, 1865, entitled 'An act relating to the postal laws;'" so as to make the item read:

For foreign mail transportation, $420,000, under the act approved March 3, 1865, entitled "An act relating to the postal laws."

The amendment was agreed to.

The bill, as amended, was reported to the Senate, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read the third time. It was read the third time, and passed.

ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I now move that the Senate proceed to the consideration of the Army appropriation bill.

The motion was agreed to; and the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, was considered as in Committee of the Whole.

The first amendment of the Committee on Appropriations was after the word "source," at the end of line twenty-three of the first section, to insert "except appropriations made by act of March 2, 1867," and after the word "Treasury," in line twenty-five, to insert "at the close of the current fiscal year;" so as to make the clause read:

For medical and hospital department, $200,000: *Provided*, That all sums that have accrued to the credit of the medical and hospital department from the sale of medical and hospital stores, or from any other source, except appropriations made by act of March 2, 1867, are hereby covered into the Treasury at the close of the current fiscal year.

The amendment was agreed to.

The next amendment was to strike out lines thirty-two and thirty-three of the first section, in the following words:

For expenses of the signal service of the Army, $5,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SHERMAN. I think the second section ought to be stricken out, but if that be done we shall have to change the appropriation for transportation of the Army.

Mr. GRIMES. Before this bill passes I desire to say a very few words. I have seen it stated in various newspapers, in telegraphic dispatches from this city, and also in editorials, that the Senate Committee on Appropriations have been exceedingly extravagant in the appropriations they have been willing to make for carrying on the public business. The statement is to the effect that, under the lead of that committee, the appropriation bills for the different Departments of the Government as they have been sent to us from the House of Representatives have been vastly increased. Now, the truth is that not a single appropriation bill sent to the Senate from the House of Representatives has been increased, and not a single one has been sent to us that has not been reported back from the Committee on Appropriations to the Senate considerably decreased, and the bills have not been increased by the Senate.

Mr. JOHNSON. Have none of the items been increased?

Mr. GRIMES. The aggregate has not been increased; the amounts have sometimes been changed. While I say this, Mr. President, I am also frank to say that I think that, in a great many instances, the appropriations ought to be increased; and, among others, that several items of appropriation in this bill ought to be increased. I will instance only one or two, and they are items to which Senators who represent States interested in the protection of the frontier ought to give some attention.

The amount appropriated by this bill for the transportation of the quartermaster's department is $5,000,000. It is proposed in the future to prevent using an appropriation made to one bureau of the War Department to carry on the operations of another bureau of that Department; so that during the next fiscal year there will be allowed for the transportation of the entire Army of the United States only $5,000,000. Before the war, in 1859–60, we appropriated for this purpose between two and three million dollars; I believe the amount was something over two million three hundred thousand dollars. That was at a time when the Army consisted of eleven thousand men, when they were almost all of them in forts and cantonments, and not required to be moved much, and when the expenses of moving troops were not one half per man what they are to-day. We now have about fifty thousand men, and the necessities of the country may require that they be moved from point to point during the year.

Mr. WILLIAMS. I should like to ask the Senator how much the estimate was for that item.

Mr. GRIMES. The estimate was $13,000,000, and that estimate was submitted by General Rucker, who, I think, is one of the most economical and in every way best officers connected with the service that I know.

Then, again, in regard to the cavalry, an estimate was made by the Secretary of War and submitted to us for $1,700,000 for the remount of the artillery and cavalry horses. General Grant's revised estimate was $1,000,000. The House of Representatives has seen fit to strike that entirely out, and the Senate committee have not felt justified in putting it in. I understand that the refusal to make this appropriation is based upon the fact that it is said the General-in-Chief of the Army has issued, or is about to issue, an order reducing the number of men to the minimum allowed by law. Now, sir, the order that was made by General Grant in regard to the reduction of the Army does not apply to the cavalry at all; it only applies to the infantry. It is said, however, that he is about to make such an order in regard to the cavalry. He may make such an order or he may not. Of course, that will depend altogether on the condition in which we shall find ourselves with regard to the Indians when the spring opens and the grass begins to grow. If the commission, of which the Senator from Missouri is a member, shall succeed in preserving peace by buying it of the Indians, it is very possible that the cavalry force can be greatly diminished; but if they are not successful, and some of these Indian tribes go to war with us, we shall need the entire cavalry force in order to protect the frontiers.

Then, again, suppose an order to diminish the number of men to the minimum shall take effect, it will require two or three years to accomplish it. You cannot diminish them at once. You are only going to decline to reënlist the men at the expiration of their terms of enlistment, and in that way it will be observed that you will not accomplish the reduction before the end of two years, the men being all enlisted for three years.

Mr. President, this is all I have to say in regard to this bill. I think that the best way for us is to look at our condition fairly and squarely in the face, make just such appropriations as we believe or have any reason to suppose the public exigencies of the country may require. If it is not necessary to remount the cavalry it will not be done, as a matter of course; and if it is not necessary to move the Army from one portion of the country to another it will not be moved, and the expense will not be incurred. The fact that we make a large appropriation is no evidence that we are going to spend a large amount of money; and merely to reduce appropriations is no evidence of true economy, in my estimation. I would a good deal rather make the full appropriations needed to-day than to come in before we adjourn with a large deficiency bill and take the responsibility before the country of having made a false estimate.

Mr. WILSON. Mr. President, it may be that the Army appropriation bill appropriates too small a sum of money; but I believe we had better accept it as it came from the House of Representatives than to attempt to increase it. I trust the condition of the country will be such that we may be able to reduce the Army within ninety days, and reduce it largely.

Mr. GRIMES. How are you going to reduce it?

Mr. WILSON. There is no trouble in reducing the Army if we wish to do it. I take it, if we were to say to the men who are in the Army that they would be discharged if they wished it, we could discharge half the Army in twenty-four hours. I do not think there would be the slightest difficulty in reducing the number of men in the ranks of the Army. The difficulty to be encountered is in getting rid of the large number of officers. But if the condition of the country generally, and of the frontier especially, should be favorable, if we are to have no Indian war this year, it seems to me we may be able to make a reduction before the close of the present session. The only thing in this bill that I feel any anxiety about is the appropriation for the quartermaster's department. It was thought a larger sum would be necessary; but the amount sent here by the House of Representatives being $5,000,000 it was deemed best by our Committee on Appropriations not to increase it.

I believe we ought to make these appropriation bills at the lowest possible rate. It may be that we shall make them lower than we can carry out; but it ought to be impressed on every department of the Government that every dollar must be saved that can be saved. If we have a small deficiency it may bring up the question sharply before us whether we shall increase taxation, or whether we shall cut down expenses in every direction where they can be cut down. There is a general complaint in the country—we all join in it here—that our expenditures are larger than they need be, and certainly we ought to bring them down to the lowest possible point. We have entered on a system of reducing our taxes, and the chairman of the Committee on Finance told us the other day that we had entered on this system with the understanding that we were to reduce our expenditures. I think the Committee on Appropriations and the Senate ought to adhere rigidly to that policy and reduce our expenditures wherever we can. Therefore, I hope nothing will be added to this bill, and that we shall send it back to the House with the slight amendments that have been made. I think we can save that amount at any rate.

Mr. SHERMAN. I move to strike out the second section of the bill, after the enacting clause, in these words:

That the sums appropriated for each of the several items contained in this act shall be made up only by computing the unexpended balance for such item which may remain in the Treasury on the 30th of June, 1868, and adding thereto so much more from

the Treasury as will give the sum for each of such items appropriated by this act: *Provided, however*, That this shall not be construed to prevent the payment from the proper appropriation of expenditures made during the current fiscal year after said year shall have closed.

And to insert in lieu thereof:

That all appropriations heretofore made for any of the heads of appropriations provided for in this act remaining unexpended on the 1st of July next shall be carried to the surplus fund, except so much of such balances as will pay expenditures made during the current fiscal year.

The House of Representatives have undertaken to do in section two what I propose to do in the substitute; that is, they provide that the unexpended balances shall be computed, and only a sufficient sum shall be taken from the aggregate of unexpended balances and the appropriations made in this bill to meet the current expenditures; but the trouble is, the unexpended balances now in the War Department are $82,876,506, growing out of the vast appropriations made during the war and which remain unexpended. Consequently the balances of appropriations unexpended in former years, which are carried over from year to year, are nearly three times the aggregate amount appropriated by this bill. I have no doubt that at the end of the war a general provision should have been adopted carrying all those balances into the surplus fund, because the circumstances which gave rise to the appropriations having ceased by the termination of the war, the whole of them should have been carried to the surplus fund, and then new appropriations made for the objects intended. The House of Representatives intended to accomplish that purpose by this second section, but they have not done it. I call the attention of the chairman of the Committee on Appropriations to the fact that on pages 96 and 97 of the estimates he will find there are balances of unexpended appropriations amounting to $144,778,000, every dollar of which I think (I have looked over the items) ought to be carried to the surplus fund. But without a careful examination, without calling the attention of the proper Departments to it, I would not like to propose a thing of that sort, for fear some of these balances ought to be kept, for the time being, to pay existing liabilities.

I have drawn the amendment so that it will not interfere with the payment of the actual expenditures during the current year, but will only carry the balance now to the credit of the War Department on the Treasurer's books to the surplus fund, and then these items will be placed to the credit of the proper heads of appropriations for the benefit of the War Department, and the moneys expended during the next year will be paid out of these appropriations instead of out of the unexpended balances of old appropriations. I do not know that it is necessary to explain the matter further. Let the amendment be reported again.

The Secretary read the amendment.

Mr. SHERMAN. I ought to state further that there are balances of appropriations made for a multitude of things in the War Department that ought to be carried to the surplus fund; and I trust the Senator from Maine will look to it. For instance, the balance of the appropriation for "collecting, drilling, and organizing volunteers" is $13,757,397. There is not the slightest use of keeping up that head of appropriation. So with the next "draft and substitute fund" and "medical and hospital department." There is no use in keeping up these balances of appropriations, and if I had my own way about it I would extend the amendment so as to carry all these appropriations to the surplus fund.

Mr. JOHNSON. Why do you not do it?

Mr. SHERMAN. I do not like to do it without further consideration.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio.

Mr. MORRILL, of Maine. I am not quite sure what the effect of this amendment would be. It is obvious enough what was intended by the House of Representatives by the second section, and that is, that the War Department was to use up first any surplus that it might have under any of these particular heads and then to draw upon the appropriations made by this bill.

Mr. SHERMAN. I will state to my friend that in many cases the balances of appropriations to the credit of particular heads are several times the amount of your appropriation.

Mr. MORRILL, of Maine. Yes; I see they are.

Mr. SHERMAN. And, therefore, it is no limit at all.

Mr. MORRILL, of Maine. In such cases it would not reach the appropriation at all perhaps. Now, the effect of this amendment will be to cover all those surplus appropriations into the Treasury, and then they will go to the expenditures of the specific appropriations made by this act. Whether on that proposition the House of Representatives will consider that the appropriations are ample, I do not know how that might be.

Mr. FESSENDEN. If they do not agree to it, it can be settled in a committee of conference.

Mr. MORRILL, of Maine. It is suggested, and that, perhaps, would obviate the difficulty, that if the House of Representatives should disagree to it, should find it did not meet their expectations, it would be considered in a committee of conference. All I mean to say is, that I am not quite certain that I know enough of the subject to say that it is quite safe to adopt this amendment.

Mr. JOHNSON. I ask the honorable chairman if this bill has not been drafted upon estimates made by the Department?

Mr. MORRILL, of Maine. Yes, sir.

Mr. JOHNSON. And whether the estimates have not been made lower because of the sums unexpended?

Mr. MORRILL, of Maine. Not apparently. They seem to have estimated independent of any surplus on hand. For instance, for the transportation of the quartermaster's department the estimate was $13,000,000.

Mr. JOHNSON. How much was it before for the same service?

Mr. MORRILL, of Maine. There was no appropriation whatever made last year for this service because there was a large surplus on hand.

Mr. FESSENDEN. Did not that very fact result in a deficiency?

Mr. MORRILL, of Maine. Yes, sir; that resulted in a deficiency owing to the Indian difficulties.

Mr. President, while I am on the floor, perhaps I had better state precisely what the general features of this bill are, and how it is regarded by the Committee on Appropriations of the Senate. The bill as it came from the House of Representatives appropriated $33,086,000. We have reduced it a few thousand dollars only. I think it is $33,076,000 now, and it is chiefly for the ordinary service of the Army; for the pay proper of the Army, for the quartermaster's and ordnance departments, &c. The estimate printed and sent to Congress at the commencement of the session was $51,000,000 for the Army for the next year. That estimate was based upon the maximum force of the Army, which in September last was about fifty-six thousand men. A subsequent estimate was made and communicated to both Houses at a later period in the session based on the minimum force of the Army, and fixing the sum at $37,000,000.

Mr. JOHNSON. Has the Army been reduced?

Mr. MORRILL, of Maine. The Army had not actually been reduced at that time; but in contemplation of its reduction to the minimum standard, which would be some forty thousand men, the estimate was reduced to $37,000,000. The House of Representatives have reduced it still further about four million dollars.

Mr. JOHNSON. Four millions less than the second estimate?

Mr. MORRILL, of Maine. Yes, $4,000,000 less than the second estimate, which was based upon the minimum of the Army. One of the greatest items of reduction is in transportation of the quartermaster's department, which is reduced from $13,000,000 to $5,000,000. I understand that the General of the Army accepts that reduction, but upon the express understanding or statement that whether that will be adequate at all to that branch of the service will depend, as the Senator from Iowa has properly said, upon the fact whether you are to have peace or war with the Indian tribes. If the commission now authorized by Congress is successful, so that you avoid collision with the Indian tribes, and it is practicable to reduce the Army as it is contemplated, then the General of the Army thinks we may possibly get along with $5,000,000 for the transportation of the quartermaster's department. But it is fair to say that the appropriations for the Army have been reduced to the lowest possible scale considered at all practicable for the service of the Army.

Then, in another respect, I ought to call the attention of the Senate to another feature of the bill; and that is that there are no appropriations in this bill for the fortifications of the country. I believe the ordinary estimates this year were some three millions for that item. For the fortifications this bill allows only $200,000, and that simply "for the preservation and necessary repairs of the fortifications and other works of defense."

Mr. JOHNSON. Some are in process of construction?

Mr. MORRILL, of Maine. They are all in process of construction or thorough repair, pretty much; and it will be seen that the whole system of works of defense is suspended in contemplation of this bill, and only so much, a nominal sum, $200,000, is appropriated simply for the preservation of the works for the current year.

Another feature of the bill is in regard to the improvements of armories and arsenals, and the same principle of economy has been applied there. They have been reduced to the very lowest figure. For example, $20,000 was asked for for the arsenal at St. Louis, Missouri, and $5,000 only is granted.

These are the principal features of the bill.

Mr. MORRILL, of Vermont. I desire to ask a question of the chairman of the Committee on Appropriations in relation to the appropriation for the armory and arsenal at Rock island. I saw recently an account that an ice dam had formed there, and that the water had overflowed the island and damaged the arsenal there to a great extent, and carried off the Government bridge. I desire to ask the chairman whether it is proposed to rebuild the arsenal there and to repair the machinery, and, if so, whether this sum appropriated in the bill is sufficient.

Mr. MORRILL, of Maine. The committee had no information on that subject.

Mr. GRIMES. I can assure the Senator from Vermont that the island has not been submerged since that universal deluge which also submerged the green hills of Vermont. There is not a foot of the island that is not high and dry and above the highest rise that was ever known in the Mississippi river. It is true there has been a gorge of ice that has removed the bridge that was constructed across the slough from the Illinois main shore to the island. The island is in the State of Illinois; the main channel is on the Iowa side of the island. That gorge has occurred since this bill has been in the hands of the Committee on Appropriations of the Senate. I understand that a permanent bridge—this was a temporary affair—would cost $60,000. It is not provided for in this bill.

Mr. WILSON. Estimates have been made, I understand, for a bridge costing about fifty thousand dollars, but new estimates are to be made for a suspension bridge, which it is supposed will cost about seventy thousand dollars, as it is believed a suspension bridge would be

a safer bridge than the bridge it was contemplated to build. This bridge has been recently carried away by a flood of ice. The estimates in regard to that are not included in this bill. This bill has nothing to do with them, but they are coming in. I was informed a day or two ago that estimates were coming in to build these bridges; one of the bridges that has been estimated for costing about fifty thousand dollars, and another estimate for a suspension bridge, which it is supposed will cost about twenty thousand dollars more, but to be a safer bridge; and Congress will determine which they shall have.

Mr. MORRILL, of Vermont. While I did not suppose the entire island has been submerged, I saw a statement that there had been very great damage done there, both on the island and on the Iowa side of the river, amounting to at least a million dollars; that the Government property was damaged and people had to flee from the island.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, [Mr. SHERMAN.]

The amendment was agreed to.

Mr. DAVIS. Mr. President, I offer an amendment in the form of an additional section:

And be it further enacted, That from and after the 1st of May next the Army of the United States be reduced to twenty thousand men, rank and file, and that the President of the United States do proceed to muster out men and officers and make all proper and necessary orders and regulations to reduce, consolidate, and organize the Army upon twenty thousand men as the maximum.

Mr. WILSON. I hope the Senate will not adopt this amendment. Before the close of the present session I hope that we can make some reduction of the Army; but we are not yet in a condition to say whether we can reduce it at all, or, if we can reduce it, to what extent. In the course of three or four months I hope the affairs of the country will be in such a condition that the Army can be safely reduced. Then we shall know probably whether we are to have any Indian hostilities this year. We all hope we shall not; and, if not, I see no difficulty in the way of making a reasonable reduction of the Army; but we are not in a condition now to adopt this amendment, or, in my judgment, to pass any act making a reduction of the Army. I think we had better wait a few months and see what the condition of the country will be at that time.

Mr. DAVIS. Mr. President, it is here admitted by everybody, I believe, that the people are very much oppressed by taxation. Certainly, one of the principal causes of this large taxation is the very large Army that we have. The honorable Senator who is chairman of the Committee on Military Affairs [Mr. WILSON] admitted a few minutes since that the Army might be reduced to something like half its present numbers. The honorable chairman of the Committee on Appropriations [Mr. MORRILL, of Maine] has stated to-day that the number of the Army in September last was about fifty-six thousand. I have seen statements in the papers that of this large Army nearly twenty thousand men are stationed in the ten southern States. There is no need of an army of that size in our country at this time; and particularly, there is no need for the occupation of the ten southern States by any such military force. There is not to-day a necessity for a thousand men in arms in the ten southern States.

Sir, we are all making loud professions of economy. There is a good deal of difference, though, between the profession and the act; and never, I think, on any occasion was there a greater difference than there is at present. Men are frightened at the idea of having a deficit in the Treasury, of not having enough of money to meet the just and necessary demands of the Government——

The PRESIDENT *pro tempore*. The morning hour having expired, the special order of the day is regularly before the Senate.

Mr. MORRILL, of Maine. I hope that will be laid aside.

Mr. ANTHONY. I have no objection to the special order being laid aside informally, so that after the business in which the Senate is now engaged shall have been disposed of it may come up without a vote.

Mr. MORRILL, of Maine. We shall get through with this bill very shortly, I think.

Mr. ANTHONY. I suggest that the special order be laid aside informally by general consent.

The PRESIDENT *pro tempore*. If there be no objection the special order will be postponed informally, and the consideration of the Army appropriation bill will be continued. The Senator from Kentucky will proceed.

Mr. DAVIS. I was not going to make many remarks. Indeed, the reduction of the Army is a matter of such obvious necessity that it cannot be enforced by argument. When it is known and stated that the Army of the United States now consists of about sixty thousand men in service, and that if the companies were all filled up it would amount to about one hundred thousand men, there cannot be two opinions that that organization of the Army ought to be reduced very greatly. If the Army were raised to one hundred thousand men it would cost at least $100,000,000 a year. The present numbers of the Army will cost exceeding sixty million dollars. If it is reduced to twenty thousand it will be reduced about two thirds in number, and something like the same proportion in cost. That will save forty or fifty million dollars annually to the Treasury, and enable Congress to relieve the people from forty or fifty million dollars of yearly taxation. If that should be the result of your policy, if the majority of Congress now would march up to the subject and reduce the Army in something like the proportion in which the chairman of the Committee on Military Affairs says it may be reduced, and as he admits it may be within two or three months, there will be no longer this cry for additional sources of taxation or the expression of fear and fright lest there should be a deficit in the Treasury.

Now, sir, what does the amendment which I have offered propose? That the Army be reduced to twenty thousand men from and after the 1st of May next, and that the President, the Commander-in-Chief, be authorized to proceed forthwith to make the necessary orders and regulations for that reduction, mustering out troops, soldiers and officers, consolidating troops, making all the requisite orders for the consolidation of the Army upon the maximum of twenty thousand men. If there is any sincerity and truth in the profuse expressions of economy by the Senate and by the House of Representatives, here is a legitimate subject upon which that purpose may be properly expended, upon which it may properly act. I propose that this matter of reduction shall be intrusted to the President of the United States. He is the Commander-in-Chief of the Army. He is the proper authority to make the reduction, and not your General of the Army or your Secretary of War, because they are both subordinates, and are subject to his will and orders, as they ought to be. I have no doubt that the President of the United States would do it with as much good judgment and good sense, and with as single an eye to the public good and to the exigencies of the service as would any officer of the Government. He is the appropriate authority to do it.

Now, sir, if the Army may be reduced in two or three months to one half its present numbers, why not commence the work at this moment? If this is not intended to be a promise merely to delude, but the promise is made in good faith, and fruits are to result from the promise in acts and in retrenchment and economy that will save fifty or sixty millions in the single item of the Army, and its expenditures, I insist now is the time to undertake the work; and I think that the proposition which I make presents the right mode in which it should be commenced and carried out.

Mr. MORRILL, of Maine. I will say one word in reply to the honorable Senator. He is greatly mistaken when he supposes that the military force of the country is employed in the late rebel States.

Mr. DAVIS. Will the honorable Senator permit me to interrupt him? I have no official information on that point; but I have seen it stated repeatedly in the last week or two that there were eighteen thousand troops in the ten southern States.

Mr. MORRILL, of Maine. I do not know precisely; I have no special information on the subject; but only a comparatively small portion of the military forces of the country is, according to my understanding, within those States. They are employed chiefly on the frontiers, including Texas; but, however that may be, it is plain enough to my mind that a proposition involving so much as the Senator's proposition does ought not to be put upon this bill without having first been submitted to the committee of this body who would have the opportunity of knowing whether the public service could sustain the shock which would follow so large a reduction of the military force. Precisely what our demands on the frontier are, I suppose the honorable Senator from Kentucky does not know. Then, I submit to him that to reduce the Army to twenty thousand men at the present time without some knowledge as to what the service really requires on the frontiers, is taking a leap in the dark; and then the honorable Senator will allow me to remind him that there is—to what extent I do not know—service for the military arm of the Government in the late rebel States, and that service is devolved on the military by the acts of Congress. Are we prepared to say that it is advisable to-day, in the present condition of the southern States, to withdraw that force? Is the honorable Senator willing to withdraw the forces from the frontier and transfer them to those States; or is he willing to retain the forces on the frontier and withdraw them entirely from those States? Is he sure that a state of anarchy and disorder would not ensue in those districts which he would regret as much as any Senator on this floor? I suggest, therefore, that the honorable Senator offers this amendment, as it seems to me, without adequate knowledge to enable him to know whether the service of the country can well spare so great a change as that contemplated by this amendment. I hope, therefore, that if the honorable Senator persists in his motion the Senate will not agree to it.

Mr. DAVIS. Mr. President, I admit that I have not the necessary information to enable me to form a definite, reliable opinion as to the extent to which the Army might be reduced. I believe from the general and uncertain information that I possess that ten thousand men in the Army of the United States now would be sufficient for the whole of the public service, including the troubles from the Indians on the northwestern frontier. In relation to the portion of the Army that is stationed in the southern States, I have no doubt in my own mind that a thousand men judiciously stationed in those States would be sufficient for every proper purpose of the Government and the country. I have no question in my own mind that these five military commanders and all the troops which have been placed under their command in the southern States are, for there purposes of mischief, of disintegration of the State governments; in other words, of revolution of our system of government, for the purpose of holding the southern people in the presence of and under a military power which is intended and is calculated to awe them into submission to the slavery that the attempt is there being made to reduce them to.

Mr. MORRILL, of Maine. Will the Senator allow me to ask him whether he believes or has any information on the subject which authorizes him to say that there is more force in those military districts than is necessary for the execution of the laws of Congress?

Mr. DAVIS. I do not know that there is.

Mr. MORRILL, of Maine. That is the point.

Mr. DAVIS. I do not know that the force will be sufficient for a great while even for that. Certainly, if this state of things is to be continued in the South for years and years; if Congress is about to adopt the same policy that Philip II did in relation to Holland; if Congress is about to adopt the same policy in relation to the southern States that that tyrant of Spain did to Holland, and if they intend to persevere in it as he and his successors did in the subjugation of the Hollanders and the Zealanders, I admit that the military force which is now in the South is not more than is sufficient to effect this work. But, Mr. President, if we are to have free and constitutional government, if the people of the States are ever to be permitted again to form their own constitutions under the Constitution of the United States, and in perfect subordination to it, and with hearts loyal to that Constitution and to the Government and the Union which it organized, then I not only admit, but I declare, that, in my judgment, the whole military force in the southern States is not only unnecessary, but it is unjust and oppressive to the people that it should be there. I believe now that the people of the southern States are as true to the Constitution, as true to the Union, as obedient in their will, in their principles and sentiments to the Government and authorities of the United States as are the people of Maine or any other people in the United States. I have no doubt that if the Army was withdrawn and the people of those States were permitted to take care of their own affairs, to rehabilitate their own local governments, they would do that work as wisely, as justly, and with as strict a spirit of loyalty to the United States as would the people of Maine. Upon that point I entertain no doubt. I see no reason, especially I see no reason within the Constitution and within the just powers of Congress and within a sound statesmanship, that authorizes the continuance of eighteen thousand troops in the southern States. Are the people of this country to be burdened with taxes to maintain eighteen thousand soldiers in the southern States?

My honorable friend from Maine asked me if this force was more than sufficient to execute the laws of the Union. I believe that if that military force was entirely withdrawn from the southern States there would not be a movement in the way of armed resistance to the laws of Congress, unconstitutional and oppressive as I believe them to be. I have no idea that armed resistance would be made to the execution of these laws; but there would be such a peaceful resistance, such a rising among the whole people, sustained by black and white, if the Army and Freedmen's Bureau were withdrawn, as would so execute the laws of Congress called the reconstruction laws as to defeat the purposes of the projectors of those laws in their enactment. I have full faith, Mr. President, that the laws of Congress would be no more resisted forcibly in the southern States if nine tenths of the soldiers that are now stationed in them were withdrawn than they would be resisted with the presence of such a force as that among them. I have the fullest confidence that all resistance which the southern people intend to make against the reconstruction laws and the policy of Congress will be pacific. They have not the heart nor the resources to make military resistance; if they had, it would be unwise in the last degree, I think, to attempt it. They are satisfied from their own experiences and the lessons of those experiences that when they resist what they believe wrong legislation or oppression upon the part of the Government the resistance ought to be made by the ballot and not by the cartridge-box. The effect of the presence of that soldiery there is to prevent this peaceful and effective and triumphant resistance that would otherwise be made by the people of those States, in my judgment, to the policy of Congress.

I think, Mr. President, the proposition I make ought to be adopted. The business of reducing the Army one half or one third ought to be commenced immediately, and ought to be commenced under the sanction and the control and direction of the Commander-in-Chief. The proposition does not contemplate that it shall be undertaken until the 1st of May. By that time, according to the admission of the chairman of the Committee on Military Affairs, the country will be in such a condition as to authorize this reduction. Between his admission and my proposition there is very little difference. If the policy of his admission is to go into operation, the policy of my proposition ought at once; and the proper officer to execute the policy of thus reducing the Army and saving fifty or sixty millions to the Treasury, relieving the people of that amount of taxes, is the President, to whose discretion it ought to be intrusted as the Commander-in-Chief.

Mr. HENDRICKS. Mr. President, I agree with the Senator from Kentucky that there ought to be a reduction of the expenditures of the War Department. No one can examine the report of the Secretary of the Treasury without being forcibly impressed in that respect; but I am not quite prepared to vote for this proposition. I do not think that the proposition has been sufficiently considered in Congress to justify us at this day in adopting it. Nor am I prepared to say that an army of twenty thousand would be sufficient for the protection of our borders and the proper use of an army.

The Senator from Kentucky very much underestimates the expenditures of the War Department. They would be large enough, one would think, as he stated them; but he has stated them at very much less than the report of the Secretary of the Treasury shows them to have been. That report shows that the expenditures of the War Department for the year ending on the 30th of June last were $95,266,330 88. Think of it, Mr. President; $95,000,000 for the support of the Army, in a time of peace, for the year ending the 30th of June, 1867! The report also shows that the expenditures of the War Department for the quarter ending the 30th of September, 1867, were $30,537,056 85, or at the rate of about one hundred and twenty-two millions a year; and the estimates of the Secretary, as the expenditures were then going on, for the remaining three-quarters of the present fiscal year, including $24,500,000 for bounties, was $100,000,000.

Then, sir, the estimate of the Secretary of the Treasury of the expenditures of the War Department for the year now transpiring being $100,000,000 for the last three quarters, and the actual expenditure for the first quarter ending the 30th of September last being over thirty million dollars, the entire expense of the War Department for the present fiscal year will be more than one hundred and thirty million dollars, out of which is to be taken something more than twenty-four million dollars for bounties, leaving the expenditures of the Army for the present fiscal year, as ascertained by the estimates, and ascertained by the payments already made, leaving out the bounties, over one hundred million dollars; and I believe the report of the War Department shows that the Army is now, in men and officers, about fifty-six thousand strong. Fifty-six thousand men, for their annual support, now require from the Treasury $100,000,000, in round numbers; being, instead of the estimate of the Senator from Kentucky, of $1,000,000 per regiment, nearly two million dollars per regiment; being, instead of $1,000 per man, nearly two thousand dollars per man. Before the war the expenses of the Army were about a thousand dollars to the man or a million dollars to the regiment, and it was then understood to be the most expensive military force in the world. Now, sir, in a time of peace comparatively—true, we have some trouble with the Indians—the Army is costing us nearly two thousand dollars for every soldier and officer, nearly two million dollars for every regiment, a thing unheard of, as I believe, in the support of the military force of any Government in any age of the world. Of course, sir, an expenditure like this should attract the attention of the Senator from Kentucky.

Mr. President, a proper management of the War Department can save to the people of the United States, in my judgment, with the forces as they now stand, fifty-six thousand strong, $40,000,000 a year. While we are economizing in the appropriation bills a few thousands here and a few thousands there, the work of reform must be made in the War Department, and, to some extent, in the Navy Department. The expenditures for the Navy for the year ending the 30th of June last were $31,034,011 04, and for the quarter ending September 30 last $5,579,704 67, and the estimate for the remaining three quarters of this fiscal year for the Navy Department was $22,000,000; so that for the Navy and the Army the expenditures from the national Treasury this year will be about one hundred and fifty million dollars.

Mr. GRIMES. What do you estimate for the Navy?

Mr. HENDRICKS. The Navy is estimated for the remaining three quarters of this year at $22,000,000, and the actual expenditures for the first quarter, the quarter ending on the 30th of September last, were $5,579,704 67, making the expenditures for the Navy Department about twenty-seven and a half million dollars.

Mr. MORRILL, of Maine. The fiscal year ending June 30, 1868?

Mr. HENDRICKS. Yes, sir; the present fiscal year.

Mr. GRIMES. I will state to the Senator from Indiana, as he doubtless will be pleased to know, that the expenses of the Navy Department have been very materially decreased, probably one half, during the present winter.

Mr. HENDRICKS. I am very much gratified, Mr. President, to be satisfied that that is the case.

Mr. GRIMES. Perhaps I overestimate in saying one half; it is one third, at any rate.

Mr. HENDRICKS. The tax-payers will be gratified to learn it. I do not know that in maintaining the naval force we now have just criticism can be made on the Navy Department for this amount of expenditure; but I am calling the attention of the Senate to the fact that in a time of peace the Navy and the Army are now costing the American people above one hundred and fifty million dollars a year, and that out of this is to be deducted something above twenty-four million dollars for bounties.

Mr. WILSON. That does not belong to the Army expenditures proper.

Mr. HENDRICKS. I know that, and I am giving the Army the credit for it. Taking out the bounties, the expenditures for the War Department this year, as shown by the actual expenditures for the quarter ending September 30, 1867, and by the estimates for the remaining three quarters, will amount to $100,000,000 and something more, and that to support an army of fifty-six thousand men. Certainly, when the Senator from Massachusetts, the chairman of the Committee on Military Affairs, presents his views in regard to the Army, the country will expect him to make some showing in regard to this matter. I do not in this statement charge against the Army the bounties; it is not proper that that should be done; but I give simply what the expenditures are for the support of the War Department proper, as I find them in the report of the Secretary of the Treasury.

Mr. EDMUNDS. What are the details?

Mr. HENDRICKS. I have given that, but I will repeat it for the benefit of the Senator from Vermont. The Secretary states that the entire expenditures of the War Department for the year ending June 30, 1867, were above ninety-five million dollars; that for the first quarter of the present fiscal year, the quarter ending September 30 last, the expenditures for the War Department were $30,537,056 85, and the estimate of the Department for its expenditures for the remaining three quarters

was $100,000,000, including $24,500,000 for bounties, so that the entire expenditures reach above one hundred and thirty million dollars, and you make a credit upon that of something above twenty-four million dollars for bounties, and you still have several millions beyond $100,000,000 to support the Army proper.

Mr. EDMUNDS. The Senator did not understand me. I understood that statement before; but I asked him to give us the details which made up the expenditures for the quarter ending September 30.

Mr. HENDRICKS. I have given you all that the Secretary says. He gives the expenditures, and then in his estimate he estimates the bounties at $24,500,000.

Mr. EDMUNDS. Does he not tell us what those expenditures were for in detail?

Mr. HENDRICKS. I have not the estimates.

Mr. SHERMAN. If my friend will allow me, I will state to him that this general head includes all expenditures made under the direction of the War Department. It includes the expenditures made upon this Capitol building and all public buildings and grounds, all rivers and harbors.

Mr. EDMUNDS. I understand it perfectly, but I wanted to ascertain whether my friend from Indiana understood it, and whether the country would understand it from the way he was putting it.

Mr. SHERMAN. The rivers and harbors are estimated this year at $6,875,000. The money appropriated for those purposes is expended under the direction of the War Department. This aggregate sum includes a multitude of objects not belonging to the Army proper. The Senator, by looking at the estimates, will find the details.

Mr. HENDRICKS. I have excluded the amount of the large item of bounties, and then charged upon the Department the expenditures that the Secretary of the Treasury reports. What little may be spent upon this Capitol building I do not know, but I do not suppose it amounts to much. The appropriations are very inconsiderable.

Mr. SHERMAN. All the public buildings are included there.

Mr. HENDRICKS. No; not all the public buildings.

Mr. SHERMAN. Yes; all the public buildings are under General Michler's charge, and the appropriations are about two or three millions.

Mr. HENDRICKS. The public buildings, so far as I know anything of them, are under the charge of the Secretary of the Treasury, in a bureau of the Treasury Department proper.

Mr. SHERMAN. No, sir; under General Michler, of the War Department.

Mr. HENDRICKS. I had occasion to look into something about the expenditures on a public building in Indianapolis, and I know I found that that was under the Treasury Department.

Mr. SHERMAN. That was a custom-house, I suppose.

Mr. HENDRICKS. No, sir; a post office and court-house; so that it does not include that class of public buildings. Mr. President, I did not expect to speak on this subject this morning; but as the Senator from Kentucky so much underestimated the expenditures I thought it my duty to refer to the report of the facts and estimates made by the Secretary of the Treasury.

Mr. MORRILL, of Maine. The solicitude which the honorable Senator from Indiana expresses for a reduction of the expenditures of the Army is certainly commendable. I think he overlooks, however, one great fact which is apparent in the legislation of this year. I have not examined the figures, and therefore cannot speak with accuracy; but, as I understand his estimates, he puts down the expenditures of the War Department at $130,000,000 the current year ending the 30th of June next. That includes $24,000,000 of bounties to soldiers, of which the honorable Senator, I take it, does not complain. It should be noticed that it includes all the service that comes under the War Department, which, as suggested by the Senator from Ohio, for harbor and river improvements, that are largely in the section of the country from which the honorable Senator comes, amount to about six million dollars, which are charged to the extravagance of the War Department. The appropriations have been made here, over which the Department has not the slightest control or the slightest discretion. We appropriate $6,000,000 for harbor and river improvements, chiefly in the western country, and the honorable Senator, himself a representative of that region, rises here in his place and arraigns the War Department for extravagance, and fails to discriminate that so large a portion of this gross sum as $6,000,000 is appropriated for works of internal improvement in the section of country which he so ably represents, and over which it has not the slightest discretion in the world. So of a great many other items appropriated for the general service of the country. It includes the Military Academy, all your armories, all your arsenals, and all the fortifications, which latter item last year ran up to $2,000,000. All these are put into this general sum of appropriations, over which the Secretary of War, in the administration of the War Department, has not the slightest discretion; and still the honorable Senator from Indiana arraigns the Administration as if it were guilty of extravagance.

Now, let us see what we have done this year toward meeting the reasonable expectations of reform. Let us contrast the appropriations of this year. Last year, it is said, they ran up to the enormous sum of $130,000,000, including $24,000,000 for bounties. The Senator knows very well that we had the expenses of an Indian war on our hands last year, and that for the quartermaster's department alone there were some forty-eight million dollars expended in transportation and otherwise, and into that entered very largely the expenditures made necessary by the Indian war. This year, upon the idea that we are to have no Indian war and upon the idea of a reduction of the Army and of the expenditures of the Army, the appropriations for the year ending June 30, 1869, in contrast with those for the year ending June 30, 1868, are as follows: for the Army, $33,000,000; for bounties, say $24,000,000, making $57,000,000. Take that from the appropriations of last year and you have a reduction in the expenditures of last year of over seventy-three million dollars. Now, I submit to the honorable Senator from Indiana whether, to say the least of it, there is not a commendable attempt on the part of Congress to reduce the expenditures to which he very properly alludes as having been excessive last year; but they were excessive from the causes I have mentioned, and did not grow necessarily or in fact out of the extravagance of the service.

Mr. DAVIS. Will the honorable Senator from Maine give me information upon one point? How many soldiers are there engaged on the Indian frontier at this time?

Mr. MORRILL, of Maine. I do not know.

Mr. DAVIS. Can the honorable Senator tell me how many troops are stationed in the ten southern States?

Mr. MORRILL, of Maine. No, sir; I have no particular information on the subject. My general information is that only a small portion of the Army comparative is in what are known as the military districts in the southern States.

Mr. HENDRICKS. I wish to add very briefly, in reply to the Senator from Maine, that into the particulars of these expenditures it is utterly impossible for me at present to go. I stated that the Secretary in his report showed the expenditures for the last fiscal year to be $95,000,000 and a fraction. Then I was told that there were expenditures made by the War Department which were not properly chargeable upon that Department. Turning to another portion of the Secretary's report, in which he gives the expenditures in detail, I find that for the pay department there were $30,000,000; for the commissary department, quartermaster's department, ordnance department, engineer department, Inspector General, Adjutant General, Secretary's office, and for the relief of sundry individuals over sixty-five million dollars, making the aggregate $95,266,330 88. There is an item, Senators will observe, for the relief of sundry individuals and miscellaneous; but that is only $765,466 41, a very inconsiderable item. Then the expenditures made by the engineer department for every purpose whatever during that year were but $3,232,414 08. Any expenditures that may have been made for public buildings or for rivers and harbors would be under the charge of the engineer department or bureau. The entire expenditures of the engineer department were a little above $3,000,000. In these $95,000,000 I do not see the bounties. But, sir, I find the Army made up of about fifty or sixty thousand men, costing the country the sum I have given, $95,000,000. I shall not continue the debate, for I do not wish to delay the passage of the bill; but I have felt it my duty to call the attention of the Senate to the subject and of the Senator from Kentucky to his underestimates.

Mr. SHERMAN. There ought not to be any difficulty about this matter. There is no doubt that for the year ending June 30, 1867, the amount of expenditure stated by the Senator is correct, $95,000,000. Of that there was $30,700,000 for the pay department. That sum included all that was disbursed by General Brice. That was before the bounty law took effect, and the Senate will perceive that it did not include the bounty of that year, but it included all unexpended payments for old bounties and arrears of pay, &c.—everything that was paid out by General Brice. It included every variety of things. Then the payments on account of the commissary department included, no doubt, balances for old supplies. Then, in the engineer department there was an expenditure of over three million dollars. What was that for? For public works under the charge of the engineer department. Then, for the ordnance department the expenditures were $4,690,000. What was that for? To pay the ordnance department? Not at all. It was to build fortifications. Then there was "for the Secretary's office and the Army expenditures, $8,514,000." That included all the multitude of other expenditures under the direction of the Secretary of War. For instance, by law the Secretary of War is directed sometimes to erect public buildings and they are paid for out of this fund. Other public buildings are built under the direction of the Treasury Department. If the Senator wants the details, they are given in tables every year in the book of estimates. In the book of estimates for the present year, which I have before me, he will find that the estimates for objects under the War Department, the Army proper, a long list of items amounting to $51,030,134. The Senator from Maine says that General Grant, while Secretary of War, reduced his estimates from $51,000,000 to $37,000,000, and the House Committee of Ways and Means reduced them to $33,000,000. As I understand the Senator that was for the Army proper and all the expenses of the Army. If they confine their expenditures within the estimates, well and good, but I doubt if they will be able to do so. I wish they could do it, but I do not believe they will.

The expenses of the Army are estimated here at $51,000,000. Then, besides that, there is an estimate for arsenals and munitions of war of $1,500,000. That is for future expenditures and will depend entirely upon the action of Congress. Then there is the estimates for the Military Academy. Then there is an estimate of $2,245,000 for fortifications and other works of defense. All this is charged to the Army, but the expenditure for fortifications has not been sanctioned by the committee. Then there is an estimate for river and harbor improvements, amounting to $6,857,000. That has no connection with the Army, except that the appropriations for public works of that

character are disbursed by the Army. Then comes the item for public buildings and grounds. I could not awhile ago tell my friend from Indiana what that amounted to, but I see that the estimate for this year is $1,426,769, under the direction of the War Department. All the custom-houses and court-houses and post offices are built under the direction of the Treasury Department; but other public works, including the custody of this Capitol and the Washington aqueduct, are under the direction of the military engineers. Even the custody of the public grounds here is under the War Department, because they are placed under the charge of a military officer. The Army estimates proper submitted to us were $51,000,000, and they are now reduced by this bill to $33,000,000, and that is all that ought to be charged to the Army. If the Army does not cost us over forty or forty-five millions I shall be very well satisfied. My impression is that the appropriations contained in this bill are not sufficient and that we shall have next December to make up a deficiency by a deficiency bill. If, however, the proper authorities can conduct the Army with an expenditure of $33,000,000, the country may be satisfied and we shall be able to reduce taxation a great deal more than we have yet; but I have no anticipation of anything of that kind.

Mr. GRIMES. Mr. President, a little more than one half of all the expenses of the Army in the last year were those of the quartermaster's department, amounting to $48,000,000; and that was occasioned by our troubles on the frontier; by the necessity of moving troops and furnishing them supplies at enormous prices, caused by Indian wars. The Department has estimated for $20,000,000 for this purpose for this year; but the Committees on Appropriations have allowed only $7,500,000. I think, then, that whatever may have been the expenses of the Army last year, they afford no criterion as to the necessary expenses of the Army this year.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky.

The amendment was rejected.

Mr. CONNESS. I move to amend the bill by striking "$10,000," and inserting "$101,000" in line one hundred and fifty-four of section one; so as to make the clause read:

For Benicia arsenal, Benicia, California, $101,000.

Mr. JOHNSON. Do I understand that the amendment is to appropriate $101,000, instead of $10,000, as reported for that item?

Mr. CONNESS. Yes, sir. Mr. President, in dealing with this item the House committee evidently simply struck blindly at the appropriation. If they had noticed and abided by, in any respect whatever, the estimates of appropriations sent in from the Department, they would have found the items that I will now read, and I ask the attention of the Senate while I read them:

Benicia Arsenal, Benicia, California:

First. For permanent barracks for one hundred enlisted men, with cistern for the same	$53,000
Second. For guard-house and fire-engine house, under one roof	11,500
Third. For brick stable	7,000
Fourth. For office building	11,500
Fifth. For officers' quarters	18,000
Total	$101,000

These "remarks" accompany the estimate, showing the condition of that post:

"*Remarks.*—First, there are no permanent barracks now at this arsenal, and the enlisted men are quartered in an old wooden building, not plastered or lined, with a decayed shingle roof and decayed weather-boarding. There is also not sufficient space in this building for the proper accommodation of the men. The cistern is necessary, as all the rainwater that can be obtained is needed for the use of the post.

Second, third, and fourth, the guard-house, office, and stable now in use are old buildings put up for temporary service, and always requiring repair. Instead of constant expenditures for patching up these buildings, it is better to erect permanent structures."

The last item may be dispensed with, but the first is essentially necessary. I wish to read in this connection a letter that I hold in my hand from the commanding officer at that post, addressed to myself, dated Benicia, February 11, 1868:

"DEAR SIR: I put in an estimate for $132,858 for the fiscal year commencing July 1, 1868. This would have gone toward completing this arsenal, which is the only source of supply for Utah, Arizona, Washington, Oregon, Alaska, and California. The War Department, even exercising the rigid economy which has characterized it lately, has only reduced this amount to $101,000. Please see that the committee do not reduce it any further. This arsenal is a new one and has never been completed. We should have had the whole amount of my estimate as I reduced it myself as far as I could conscientiously."

Now, Mr. President, it is not contemplated to keep the one hundred men that are at that post in a building described according as I have read from this book. I will modify my amendment, however, so as to confine the appropriation to what is actually necessary to protect the men from the weather, which is $53,000. I modify the amendment so as to propose to insert $53,000 in place of $10,000; and I think the chairman of the Committee on Appropriations, with this statement before him, will not object to that.

Mr. MORRILL, of Maine. I am not sure that I have the information on this subject which would authorize me to resist the honorable Senator to any very great extent, if I did not feel that it would lead to other difficulties. If he will look at the appropriations he will see that they have been cut down generally. This item is fixed at what it is, based on a general reduction; and though the reduction looks pretty strong in his case, he will find that it is equally strong in others. My apprehension is that if I allow the Senator's amendment to go without objection, I may be embarrassed by movements from other quarters. I refer the Senator to the case of the Watertown arsenal, Massachusetts. The estimate in that case is $140,000; but he will see by the bill that but $15,000 are appropriated.

Mr. CONNESS. That is a place of manufacture, is it not?

Mr. MORRILL, of Maine. I think it is. Now, if you look at the reasons for the estimates, I think the Senator will find that they are about as strong in favor of Watertown as those in favor of the particular arsenal in which he feels interested.

Mr. CONNESS. I will call the Senator's attention to the fact that that appropriation for Watertown arsenal is for the manufacture of arms. It is a question of policy as to whether we shall continue to manufacture at the rate we have heretofore, while the appropriation in the case of which I speak, and in regard to which I have now moved the amendment, is simply for shelter for the men, where the testimony is clear and conclusive that they are not covered from the rain and weather. Besides, the honorable Senator will find by applying a general rule here that the reduction is frequently one half, a quarter, and sometimes five times, but that in this case the reduction is ten times, being evidently the merest guesswork in the world, a mere cut at the appropriation.

Mr. MORRILL, of Maine. Quite as much so at Watertown.

Mr. CONNESS. But I have already stated that that is a place for the manufacture of arms. At the Benicia arsenal there is no manufactory of arms; nor is this a provision for anything except simply to protect one hundred men that are necessary to be stationed there to take care of the arms that are in existence. It is the only place of supply for the whole Pacific coast. While I join in the general disposition for the reduction of appropriations, yet it does not appear to comport at all with any regard for the public service to resist such a motion as that I now make.

Mr. WILLIAMS. How much do you propose to appropriate?

Mr. CONNESS. I move to insert $53,000, which is a reduction from the lowest estimate, which is $101,000, and which is the estimate alone, as stated in the estimates for appropriations for this purpose:

"There are no permanent barracks now at this arsenal, and the enlisted men are quartered in an old wooden building, not plastered or lined, with a decayed shingle roof and decayed weather-boarding. There is also not sufficient space in this building for the proper accommodation of the men. The cistern is necessary, as all the rain water that can be obtained is needed for the use of the post."

I propose to leave out all the other items of the estimates which contemplate the building of a guard-house, office, stable, &c. The estimate for the construction of this necessary building to protect these men and the cistern is $53,000. Here it is in the estimates:

For permanent barracks for one hundred enlisted men, with cistern for the same, $53,000.

I hope there will be no objection to that, because it is the very next thing to a crime to gather men together and not protect them from the weather.

Mr. MORRILL, of Maine. I have no information on this subject; but it is obvious enough that the appropriations from the House were made entirely upon the ground that no improvements were to be made; that they would not go into the question of making permanent improvements at the present time. That seems to be the basis. Now, it will be seen that this item is for permanent barracks for a certain number of soldiers at this place. The necessity for it grows out of the fact that they are in an old and decayed building. That is pretty obvious. I have said perhaps all that it is necessary for me to say on the subject.

The PRESIDENT *pro tempore* put the question on the amendment, and declared that the ayes appeared to have it.

Mr. MORRILL, of Maine. I shall have to ask for a division of the Senate upon this amendment.

Mr. CONNESS. Let us have the yeas and nays upon it, otherwise we cannot get a quorum.

The yeas and nays were ordered.

Mr. JOHNSON. I did not hear what was stated by the honorable member from California very distinctly. I rise now to ask him if the statement made by the officer in command is that a larger appropriation than this $10,000 is necessary to preserve the building as it is. Is it in a state of decay?

Mr. CONNESS. I will read the statement again for the Senator's information. In the book of estimates of appropriations sent in here there is this language in regard to this item which I move:

For permanent barracks for one hundred enlisted men, with cistern for the same, $53,000.

There are other items, making the whole appropriation asked for $101,000. The other items are:

For guard-house and fire-engine house under one roof	$11,500
For brick stables	7,000
For office building	11,500
For officers' quarters	18,000

I propose leaving all those out, confining the appropriation to $53,000. The House Committee cut down the whole appropriation at random to $10,000. The remarks in regard to the necessity of this first appropriation are as follows, and I ask the attention of Senators to them:

"There are no permanent barracks now at this arsenal"—

Mr. JOHNSON. Who makes those remarks?

Mr. CONNESS. The Department.

"And the enlisted men are quartered in an old wooden building, not plastered or lined, with a decayed shingle roof and decayed weather-boarding. There is also not sufficient space in this building for the proper accommodation of the men. The cistern is necessary, as all the rain water that can be obtained is needed for the use of the post."

It is a manifest duty to take care of those men, and I only ask the appropriation necessary for that purpose. I hold in my hand also a letter from the colonel commanding the post who asks for a larger appropriation, which I do not ask for in view of the general reduction.

Mr. GRIMES. I understand that the appropriation the Senator from California asks for is to erect a permanent building for the use of the troops that are stationed at this arsenal. They are now in the occupation of a temporary building with a leaky roof.

Mr. CONNESS. Not a leaky roof. It leaks all over, sides and roof—falling down.

Mr. GRIMES. That may be; but it is near as leaky as the tents that the Army occupy in other portions of the country.

Mr. MORRILL, of Vermont. Or as the Treasury. [Laughter.]

Mr. GRIMES. Or, as the Senator from Vermont says—I would not say any such thing, but I think I would be justified in repeating his remark—as leaky as the Treasury. I do not indorse the suggestion. I suppose that the House of Representatives put in this appropriation of $10,000 in order to put a new roof on that building and to make it in a fit condition for the troops that may be stationed there to occupy. I cannot conceive why there is a necessity for having one hundred men at the Benicia barracks.

Mr. CONNESS. It is the only arsenal on that whole coast.

Mr. GRIMES. But we do not need one hundred men to protect it. We do not have one hundred men at other arsenals. There are no troops at all at the armory at Springfield, I apprehend. I do not think there are any at the arsenal at Watertown. I think the Senator from New York will say there are none at Watervliet.

Mr. SUMNER. There are none at Springfield.

Mr. GRIMES. There are none at Springfield or Watertown; and why we should build barracks to accommodate one hundred men at this particular arsenal I do not know. Perhaps the Senator from California can assign some reason why we should make a permanent establishment there. There was no reason assigned to the Committee on Appropriations why we should appropriate so much more at this particular arsenal than any of the others.

Mr. CONNESS. This appears to be a military post, to which troops are sent to be distributed to the other posts on the coast. I wish to state to the Senate, and I wish the honorable Senator from Iowa would hear me on this point—it is an argument to get this appropriation, but it is a statement of fact—we are not quite so well protected on the Pacific coast from the danger of the seizure of that arsenal as the arsenal at Springfield, in Massachusetts, and at other places in the northern States.

Mr. EDMUNDS. California is just as loyal as Massachusetts.

Mr. CONNESS. The honorable Senator may say so; but we have had our troubles there, and they are not over yet, or the danger of them is not past. The safety of the post at Benicia is essential and necessary, and an application at the War Department will convince any Senator that the greatest care has had to be taken, the utmost watchfulness at that post since our troubles began, even up to the present day.

Mr. GRIMES. I agree with the Senator from California in the opinion that Benicia is the wrong place for this arsenal to be stationed; and that is one reason with me why I think we ought to make an appropriation to take it away from there, why it ought to be removed. I think the most proper place for the establishment of that arsenal is at the island of Yerba Buena. That is now a military reservation. That is in the immediate vicinity of San Francisco where the population is. It is an island that cannot be approached by any insurgent force that may be raised in that State; and it is within the fortifications; so that in every way it seems to me better adapted for the purposes of an arsenal than Benicia.

Mr. CONNESS. I will not follow the Senator in that particular.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 19; as follows:

YEAS—Messrs. Buckalew, Cameron, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Drake, Ferry, Hendricks, McCreery, Patterson of Tennessee, Ramsey, Saulsbury, Tipton, and Williams—17.

NAYS—Messrs Chandler, Conkling, Cragin, Edmunds, Frelinghuysen, Grimes, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Ross, Sherman, Sumner, Van Winkle, Vickers, Wade, and Wilson—19

ABSENT—Messrs. Anthony, Bayard, Cattell, Fessenden, Fowler, Harlan, Howard, Morton, Norton, Nye, Patterson of New Hampshire, Pomeroy, Sprague, Stewart, Thayer, Trumbull, Willey, and Yates—18.

So the amendment was rejected.

Mr. BUCKALEW. I offer the following amendment as an additional section:

And be it further enacted, That from and after the 1st day of May next, the Army of the United States shall be reduced to a number not exceeding thirty thousand men, rank and file; and that the President of the United States proceed to make all necessary orders and regulations for mustering out men and officers and to effect such reduction.

Mr. President, I am unwilling that this important appropriation bill should pass without some expression of opinion from the members of the Senate who agree with a large part of the people of the country out of doors that the Army of the United States ought to be reduced, and reduced promptly. I did not call for a division upon the amendment of the Senator from Kentucky [Mr. DAVIS] because I was not sure that his amendment did not go too far, as a first movement. I now, however, offer his amendment with the number changed and made so large that there can be no reasonable question that there will be an adequate number of officers and soldiers left (if it be adopted,) to constitute the Army of the United States.

We have listened to a debate this morning upon the appropriations and outlays for the Army during the past year and during the current year. I do not think that the important question now is, how much money shall be appropriated for the support of the Army for the coming year. Whatever amount of expenditure is incurred which is not provided for by this appropriation bill will be made up hereafter. It must be met by us; it must be covered by a deficiency bill when we assemble in December next, or at some other time. Therefore, whether we appropriate $15,000,000 or $30,000,000 or $50,000,000, in the present bill to the support of the Army proper, is perhaps not material. If we appropriate more money than will be needed the result will be that a certain amount will remain in the Treasury unexpended which has been appropriated by law. If the outlay is to be greater than the sum appropriated, you will be required hereafter to make up the necessary amount by voting an additional appropriation from the Treasury. The mode by which the expenditure for military purposes can be reduced is by reducing the number of officers and soldiers who are to be supported, or by providing different rates of compensation for them, or by cutting off some of the collateral outlays connected with the organization and management of the Army.

Now, Mr. President, can anything be more clear than that a force exceeding fifty thousand is unnecessary at this time, and that a force so large as that will not probably be necessary during the next year?

Here is a proposition which will test gentlemen upon the question of reform, although I do not offer it for the purpose of making a test. I do not offer it for the purpose of putting gentlemen upon the record and holding them responsible for their votes. I offer it for the *bona fide* purpose of reform, considered by itself and for itself. At the same time, however, our action upon this question will define our positions, not only to ourselves, but to the people of the country who observe our proceedings.

We are seeking to relieve the industries of the country by the removal or reduction of taxes which press upon them. We are confronted by facts in relation to our finances which must arrest our attention. Our revenue laws are not all enforced. Our officers who are charged with the execution of those laws do not perform their duty. The failure to enforce our revenue laws compels us to retain taxes which we would gladly repeal. Our appropriate committees in both Houses are engaged in attempts to amend our revenue laws; to frame them so that we shall obtain a just and proper result from them. That is one object upon which we are engaged, and it is both necessary and laudable. Another object, the one to which I have just alluded, is also legitimate, and, in fact, indispensably necessary to promote the public interests and maintain the public credit, and that is, the relief of the people from the pressure of particular taxes which bear severely upon industry and production.

Again, here is a third object as important as either of the others and entitled to prompt attention; and that is, the reduction of expenditures. Everybody is talking about it. Every one professes to be in favor of it. We are constantly making professions of economy; of our ardent desire to attain and to secure material reform in our outlays of the public money. But let me warn gentlemen present, and warn the people who are not present, that economy is not to be secured merely by reducing the appropriation of the public money in these bills. Outlays which are dependent upon the amount of money appropriated may be reduced in this manner. Where the expenditure is entirely dependent upon the appropriation you may limit and curb your outlay by cutting down appropriations, but you will not curtail and curb your outlay by simply failing to appropriate money in cases like the present, where, under the law, the outlay will be incurred at all events. If you have fifty or sixty thousand men, rank and file, in your military service, and in your appropriation bill vote a smaller sum than that which is necessary to supply and pay them, you have done nothing for economy; you have not reduced the outlay; but you have practiced a deception either upon yourselves or upon the people. While upon the face of your bill you show but a limited appropriation of money to the particular object, you know, or you may know, that the amount actually expended will greatly exceed that; that it is merely a question of time; that what is not voted in March will be voted in December or at some other date hereafter.

Now, sir, we are to meet our obligations, and to meet them in the spirit in which you, sir, ordinarily meet your public responsibilities as a member of the Senate—meet them frankly; cover up nothing; disguise nothing. I propose to you a mode of reducing the expenditures of the Army by saying to the Commander-in-Chief of the Army and to all men concerned with it, "On the 1st of May the whole number of persons in the military service shall not exceed thirty thousand." We have been told here that the number now employed in the southern States is not very large; eight or ten thousand, perhaps; it may be less than that.

We have no information that upon the western border a large body of troops will be required. We have negotiated with Indian tribes who were hostile; and continually the rates of the expense, even if we have Indian wars there, are reduced by our railroad improvements, which give facilities for transportation, and reduce largely that item of outlays to which reference has been made in this debate. We do not need troops on the Pacific coast; at least we need no considerable number there.

Now, instead of merely talking about reform, instead of professing to be devoted to reform, let us, by the adoption of an amendment like this, secure reform, and secure it against all accidents. It is my impression that so large a force as thirty thousand is not necessary; that in all probability an army of twenty or twenty-five thousand men will meet any requirement of the public service of which we have any knowledge or expectation. But, sir, I am content to take the limit which I have named. I would charge upon the President, the Secretary of War, and the General of the Army a

duty which they can easily and conveniently perform.

But gentlemen may say, "We do not know what will happen; there may be renewed insurrection somewhere; a new Indian war or several Indian wars may break out; and to make an absolute limit of this sort may be found inconvenient after awhile." Mr. President, this Congress will be in session long after this reform takes effect if the amendment be adopted. We will doubtless be here until the middle of the summer, until the approach of fall. In fact, we may have some members among us desirous, as they were last year, to sit in permanent session. If any unexpected emergency should arise Congress will have no difficulty in authorizing an increase of force. The interval between the present long session and the next one will be, at all events, very short, a few weeks merely. There can, therefore, be no argument based upon the possibility of some great and now unexpected emergency during the present year.

Sir, if you can by an amendment of this sort strike off twenty-five or thirty million dollars from the public outlay you will rejoice the hearts of the people; you will do something which they will understand; you will call out to yourselves their respect and their confidence also. They will believe you are in earnest.

But it may be said—and with a word or two upon that point I will conclude—that all this should be left to the President, the Secretary of War, and the General of the Army; that they are better able to judge how many men should be employed in the public service. I understand, so far as the opinions of those officials are concerned, they think a large reduction of the Army can be made. That is their opinion. "That being so," gentlemen say, "why should Congress act? Why should not this question be left to their judgment?" There is a very ready answer to this. It is an ungracious thing to dismiss men who are employed by the Government, to turn them out of their places; it is an ungracious and unpleasant duty to dismiss officers who hold your commission and draw salaries from your Treasury, and men employed in the military service who have enlisted under your laws and are performing their contracts, and restore them to their employments at home; and neither the General of the Army nor the President can very well do this alone. You must give them an act of Congress, some expression of the law-making power, to authorize, to warrant their action. If you give them an express permission, a command to do this, doubtless they will proceed with alacrity and with promptness to execute your decision. Without it, whatever may be their private opinions, nothing important will be done; men unnecessarily employed in the public service will not be discharged. To accomplish that it is necessary that Congress shall act; Congress, which authorized the organization of this force, must itself retrace its steps to some extent, must at least confer the authority, in distinct and explicit terms, by which this reform can be introduced and executed.

However, Mr. President, I desire, at all events, if nothing else be accomplished by my motion, to make up a record for myself, and by my vote upon this amendment to show that I am sincere in the cause of reform. The people demand a reduction of the public expenditures, and I desire to be heartily with them in opinion and action.

Mr. CONKLING. Mr. President, it often happens in legislative proceedings that a proposition is properly disposed of upon some ground having little or nothing to do with its merits. It not unfrequently happens that a gentleman, without special skill in parliamentary proceedings, is able to introduce a proposition with the spirit and result of which there may be general sympathy, and yet to present it in a time and in a connection rendering it impossible that it should receive the support which at another time it might command.

We are considering now an appropriation bill the proper genius of which is to provide a legal way for taking from the Treasury and applying to payments money applicable by existing laws to certain specified purposes. The Senator from Pennsylvania proposes to introduce in connection with that a measure changing radically, suddenly, and finally the structure and volume of the Army. I am in favor, for my own part, entirely of what he proposes. I am in favor of reducing, at the earliest day possible, to the lowest point possible, the Army and the Navy of the United States. But, Mr. President, it does not follow, for that reason, that I should vote for this amendment or that I am at liberty to vote for it, unless I would act in that way which all legislative experience shows to be rash, exceptional, and unwise. The Army is to be reduced by a bill directed to that purpose. It is a bill to be framed by the best lights which we can get; of course upon consultation with those persons whom I may denominate the military authorities; those persons knowing, and charged with the responsibility of knowing, better than we can, in detail, how much it is possible to accomplish, how rapidly it is possible to accomplish it, and the various things, without reciting them, which enter into wholesome and vigorous legislation upon such a subject. Here we have had no such consultation; we have no measure aimed at such a result; no measure before us which has turned properly the attention of any member of this body in any such direction; but one, on the contrary, wholly different in its scope and genius.

But, more than that, sir, who knows, at a time like this, without examination, without forecast, without any data, except what may be supplied by that general information which all intelligent people have, that it would be safe or excusable, defensible in any way, for us to say that on a certain time a certain great reduction, neither more nor less, should be made in the Army; speaking now with the ground covered with snow in those regions where Indian hostilities are to be apprehended; and speaking, therefore, in total ignorance of one single element, one unknown quantity in this sum, which by itself would destroy all exactness and all safety in attempting such a computation.

I have no idea, Mr. President—because of my personal respect for the Senator who proposes this amendment—that his purpose is to put his fellow-members of this body upon the record in such a way that the public or his constituents may deduce from that record the belief that he, and he alone, with those who associate with him in the vote which we are now about to take, are honestly in favor of retrenchment and reduction, and that every member of this body who feels constrained to adhere to the purpose of this bill is against wholesome reform, retrenchment, and frugality. He does not mean that; and yet a silent vote rejecting this amendment, I am perfectly well aware, would expose everybody who contributes to that negative vote to the imputation of talking about immaterial matters of economy and rejecting the weightier matters of the law when we have the opportunity. I preferred, therefore, for one, before being compelled to vote upon this amendment, to put on record an explanation of the vote, and to accompany that explanation with the gage which I gladly give to my honorable friend from Pennsylvania that, at the proper time, I will go as far as he will go in voting to cut down the Army and the Navy, if he proposes to act, as I know he does, upon tangible and proper considerations. I should be glad to do it at the earliest possible moment; but when we do it we should do it in a measure which has the benefit of the experience of my honorable friend from Massachusetts [Mr. WILSON] and the committee of which he is chairman, which committee, in bringing it forward, of course will act upon consultation with those officers in the Government charged with the responsibility and in contact with the particular knowledge appropriate to this subject.

The earlier we have the opportunity, for me, the better I will vote, and vote gladly as to the Army, as to the Navy, as to every other branch of the public service, to reduce it to the lowest effective point, the lowest point which we, as legislators, can determine to be a safe one. If it turns out, with regard to appropriations or any other matter, that we make a mistake, and go a little too far, and have to correct it in a deficiency bill, it will be a failing and a blunder that will "lean to virtue's side;" and I shall face even that without any such appalled sense as the Senator from Pennsylvania manifested the other day when he sought to frighten the Senate from its propriety, to scare it from its discretion, by holding up as a bugbear the possibility that to the extent of $20,000, I believe, in that particular instance, there might be a deficiency and a necessity for a deficiency bill; and, said my honorable friend in his enthusiasm, "paper going to protest, and the Senate of the United States acting so that that might happen." Well, sir, I do not want any paper to go to protest, but nevertheless I will brave even those dangers for the sake of joining the honorable Senator from Pennsylvania, when the time comes, and I hope it will come very soon, in going to the very verge of debatable propositions in eliminating from appropriation bills and every other form of legislation every element of expense, every cause of outlay, which by any possibility can be retrenched.

Mr. WILSON. I have already said, Mr. President, that I trusted that before the close of this session we should be able to reduce the military establishment of the United States. The attention of some of us here has been turned in that direction. But, sir, we are not yet prepared to report any such measure or to support it. If it shall turn out on the disappearance of the snows and the coming of the grasses that we are to have an Indian war the military force cannot be reduced. On the contrary, we shall hear an outcry in favor of arming volunteers in the section of the country in danger. The Army of the United States is now scattered over vast spaces of territory. A small portion of it has been sent to our recent distant purchase. We cannot yet tell the amount of force that we may be able to dispense with. It will depend very much on the condition of our frontiers, on our Indian difficulties. That will govern the question more than anything else. I have strong hopes that we shall be able before the close of the present session of Congress to report a bill reducing the number of the forces; but we cannot tell to-day what class of forces we may best reduce. On the 1st day of July next the act that increased the pay of the officers of the Army thirty-three per cent. will expire. The forces of the United States now are being reduced every day. They were up to fifty-six thousand last summer. They are lower by several thousand to-day. Very little is doing in recruiting in any part of the country. The order issued by General Grant while acting as Secretary of War contemplated bringing the force down to less than forty-five thousand men. I hope that we shall be able to cut the Army down lower than that number before the close of the session; but I am very sure we are not ready to-day to vote upon any proposition in that direction.

I am glad that the Senator from Pennsylvania joins with us in favor of retrenching expenses wherever they can be retrenched. I want the Senator to understand, and I am sure we all understand here, and the country will understand, that the bill now before us makes a very large reduction; and no deficiency bill will ever be called for to supply the millions that are reduced by this bill from what was appropriated last year, and from what was asked for this year. It may be that we shall have a deficiency bill to supply a deficiency in the quartermaster's department. That will depend very much on whether we are to have

any Indian troubles or not. The Army has been moved, scattered in small bodies all over this country. That work has been done. The great cost of the quartermaster's department is in transportation. The cost last year amounted to many million dollars on the frontier, and it may be increased somewhat this year. We have appropriated a very small sum for that purpose. I see no other portion of the bill in regard to which there is likely to be any deficiency.

I hope, therefore, that we are not to pass this amendment, knowing so little as we now do in regard to what we can do in this direction. I can say to the Senator that I trust we are all here in favor of reducing the Army and the Navy and the foreign service and everything else. I thought the other day that we could cut down a little in regard to the foreign service. My own opinion is to-day that we can save not only some money, but the credit of the country, by cutting down several of the missions south of us on this continent, and classifying them and consolidating them, getting rid of some of them, and getting rid of some men who are doing anything but giving credit to the country; some men whom we knew when they were sent out could not do us any credit; some of us believed so then, and said so; but what little we attempted to do the other day in that direction we failed in.

I hope we shall pass this appropriation bill as it came from the House of Representatives. It appropriates about thirty-three million dollars. Unless we are called upon by the quartermaster's department to supply a deficiency I do not see any likelihood of being called upon for any other deficiency. If we were to order the disbandment of a large portion of the Army and difficulties should arise anywhere, the very fact that you had reduced the Army below what the needs of the country required might increase the demand to more than the amount that you would now save to supply the movement of your Army by the quartermaster's department from one section of the country to the other. I hope, therefore, that this amendment will be rejected.

Mr. DAVIS. Mr. President, the honorable Senator from New York made some strictures upon the proposition submitted by the honorable Senator from Pennsylvania, which applied more strongly to an amendment that I had moved than to the proposition of the honorable Senator from Pennsylvania. He said that propositions of this kind were premature, that gentlemen get up here, without information, and ignorantly and crudely make propositions of retrenchment. That was the substance of his remark.

Mr. BUCKALEW. I am perfectly willing that the Senator should apply that to himself, instead of to me. [Laughter.]

Mr. DAVIS. I was going to take it to myself. [Laughter.] The honorable Senator from New York made these strictures upon the proposition of the Senator from Pennsylvania, and I had made a proposition more extreme than that of the Senator from Pennsylvania, and with less profession and less real knowledge of the subject than he himself professed to have. The honorable Senator from New York belongs to the majority. He is in the confidence of the War Department—eminently so, I understand. He is in the confidence of the majority of the Senate. He belongs to the Committee on Appropriations. Whose duty is it but that of the Committee on Appropriations to see that the subjects for which appropriations are asked are proper, and that the amounts asked for are proper? In a series of resolutions presented by me six weeks or two months ago, I invited the attention of the honorable Senator and of the whole Senate to this subject. I then said that the Army ought to be reduced to twenty thousand. I say so still. The honorable Senator tells us that we do not know whether the just service of the country would permit such a reduction or not. I frankly admit the fact. But, sir, as the honorable Senator belongs to the majority, and has the confidence of the head of the War Department, as I am informed, and as I have no doubt is the fact, and as the subject of appropriations is intrusted particularly to him, why did not he, in the performance of his duty, ascertain from his chief, the head of the War Department, whether the Army was too large or too small, and whether the appropriations asked for were proper or not?

When the Senator from Pennsylvania and myself have the same facilities for getting accurate information and forming a correct and something like a statesmanlike judgment in relation to these subjects that the honorable Senator from New York has had, and we fail to avail ourselves of such opportunities and facilities, we shall then be subject to his strictures. But, sir, when neither of us belongs to the Committee on Finance, nor to the Committee on Military Affairs, nor to the Committee on Appropriations, and neither of us has the particular confidence of the head of the War Department, or any facilities for obtaining his judgment in relation to the numbers of the Army and the propriety or policy of its being reduced, and we get up here and in the dark seek to bring the attention of the Senate and of the country to the subject, admitting that we are without any exact or reliable information, but simply ask well-informed gentlemen and statesmen, as the Senator from New York is, to give proper attention to such matters, I do not think we subject ourselves properly to such strictures as he made upon the honorable Senator from Pennsylvania and his proposition. If the proposition of that honorable Senator was subject to the animadversion of the Senator from New York, mine was much more so; but I deny that either of us fell within his strictures.

Instead of reproaching the Senator from Pennsylvania, the Senator from New York ought to have been making his animadversions upon the chairman of the Committee on Military Affairs for not having matured this subject as it should have been matured, and for not having given the Senate proper information as to the exact numbers of the Army, where the Army was stationed, how many upon the Indian frontier, how many in the southern States for the purpose of reducing the white people there to slavery to the negroes, and where the various bodies of the Army were stationed. The honorable Senator himself, as belonging to the Committee on Appropriations, ought to have been ready with all this information. Is he willing to appropriate blindly? The whole subject of appropriations to the Army and to every other service of the Government of the country comes under his supervision and is addressed specially to his judgment, and he is the proper organ to which the Senate and the Senator from Pennsylvania and myself can appeal upon such subjects. Instead of condemning us for want of the requisite information, he himself is censurable for getting up and making such animadversions upon us without himself being able to give it.

The honorable Senator has professed on this occasion and on other occasions to be a very great friend of retrenchment.

His professions to-day were all that any friend of retrenchment could ask. I would not ask more extended and liberal professions of economy. I am only sorry the honorable Senator has not been better prepared to act out some of them practically. Now, it seems to me that when some members do even strike in the dark and without proper information in relation to these subjects, to get a start made in the line of retrenchment and economy, if the honorable Senator is a true friend of some reformation, he will refrain in the future from such animadversions upon those crude movements, however defective they may be in point of exactness of information.

Mr. DOOLITTLE. The objection raised to this amendment by the honorable Senator from Massachusetts seems to be the uncertainty of our affairs upon the frontiers; that we do not know whether with the opening of spring may not come an opening of further and other Indian wars; and that we must wait until the snows pass away and the grasses come to determine that question. Mr. President, this uncertainty in relation to the Indian wars which has prevailed upon our frontier has been to me a very painful subject for many years. I believe that no greater mistake was ever committed by Congress than when the House of Representatives refused to concur in the measure which was proposed and passed by the Senate a year or two ago. The truth is, that when the commission which was appointed by the Senate and House of Representatives together, in 1865, to look after Indian affairs, were upon the Plains, by their simple presence an Indian war with the Comanches was prevented which had already been ordered by one of the military commanders at Fort Larned. He had already issued the order, and fifteen hundred troops were in motion to cross the Arkansas to go into a country where not a single white man lives, to make war upon the Comanches, the most powerful tribe of all the Indians of the West; a war which, once begun, as military gentlemen testified before our committee, could not in any reasonable probability have been concluded without an expenditure of $30,000,000. The presence of that commission prevented that Indian war.

I am informed, and I believe it to be true, that the commission which was upon the Plains this last summer, by its presence, by its influence, by its advice, prevented the outbreak of at least three Indian wars upon the frontier.

Mr. HENDERSON. Their continuation.

Mr. DOOLITTLE. Prevented the continuation of them, brought the wars to a termination, which would have added to the expenditures probably twenty or twenty-five million dollars in addition. All the expenditure of the last year or year and a half, in my judgment, is to be attributed to the fact that we did not carry out the policy resolved upon by the Senate of providing such commissions and keeping them constantly at work. I do not care particularly as to the manner in which they are to be organized; but I have no doubt that the expenditure of $500,000 in organizing commissions, dividing the Indian country among four or five commissions, and keeping them constantly in the field, constantly at work, supervising the Indians and supervising the Army, for it needs as much supervising and more than the Indians themselves to prevent the outbreak of Indian wars, will do more to keep the peace on the Plains than the expenditure of $15,000,000, $20,000,000, $30,000,000, and sometimes $40,000,000 a year in the use of the Army. I hope that my honorable friend now having charge of the Committee on Indian Affairs will bring this subject forward and establish these commissions in our Indian country and make them a permanent affair; that they may be constantly at work; that we shall have men of the highest character connected with the Army and civil life in the employ of the Government as acting commissioners of Indian affairs, upon the ground, supervising Indians and Indian affairs, and looking after the Army and the men who control it.

Sir, I do not believe that it need cost the Government much to keep the peace with commissioners of this sort properly organized and kept at work. They can keep the peace. The commission which was in the field last summer made peace on the Plains, and doubtless saved $20,000,000 to the Government. The highest officers of the Army should be detailed for service upon these commissions as well as men of high standing and character in civil life. It is a matter in which I have felt a very great interest, both for the purpose of preventing bloodshed and for the purpose of economy and saving to the Treasury.

Mr. President, I believe it is entirely safe for us to say that in the present condition of the country our Army can be reduced down to the number which is mentioned in the amendment of the honorable Senator from Pennsylvania; and that this uncertainty in

relation to Indian affairs ought not to prevent us from acting upon the question raised by his amendment and acting upon it now. I am in favor of this amendment. I believe that we need not keep back from declaring our true opinion because by possibility there may be some uncertainty hanging over Indian affairs. I believe that under a policy such as has been favored by the honorable Senator from Missouri who now has charge of the Indian Committee, in the light of the experience of the commission organized last summer and the experience of the commission to which I have referred sent out in 1865, a little expenditure can keep the peace on our frontiers and prevent wars with the Indians.

Mr. WILLIAMS. I should like to ask the Senator who offers the amendment if it is practicable to reduce the Army in this way. Ought there not to be a bill providing how many regiments shall constitute the infantry, how many companies or guns shall constitute the artillery, how many regiments shall constitute the cavalry of the Army of the United States? To reduce the Army in a proper way is it not necessary that Congress should pass a bill of that description; or is it practicable to say that the Army of the United States shall only consist of thirty thousand men, rank and file, and then leave it for the President or some other individual to muster out whoever he pleases, whatever branch he pleases, or retain whatever branch he pleases?

Mr. BUCKALEW. I will answer the Senator's point. The amendment confers authority to make all necessary regulations for the purpose of carrying into effect the reduction. If, in addition to that power, it be thought desirable to discriminate between the different branches of the service—the cavalry, infantry, and artillery—or to make any other regulation, it will be perfectly feasible to add it afterward in the Senate or in the committee of conference. What I desire is that the Senate in this vote shall begin this process of reduction at the only point where it can begin—in Congress. I want this amendment, if it is to be adopted, sent to a committee of conference, which will be composed, doubtless, of members of the military committees of the two Houses; let them confer together, if they choose, and consult with the General of the Army, and see what can be done. Let us get something effective, instead of allowing everything to drift along. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 27; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Ferry, Fowler, Johnson, McCreery, Patterson of Tennessee, Saulsbury, Sprague, and Vickers—11.

NAYS—Messrs. Cattell, Cole, Conkling, Conness, Corbett, Drake, Edmunds, Frelinghuysen, Grimes, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sumner, Tipton, Van Winkle, Wade, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Cragin, Dixon, Fessenden, Harlan, Hendricks, Morton, Norton, Ross, Stewart, Thayer, Trumbull, and Yates—16.

So the amendment was rejected.

Mr. WILSON. I offer an amendment which will make a large reduction in expenses, and I take it no one will oppose it. It has passed the Senate once without any opposition as a separate bill. It is to add as additional sections the following:

And be it further enacted, That the grade of regimental commissary in the several cavalry regiments shall be, and it is hereby, abolished; and the lieutenants now holding the appointments of regimental commissary may be assigned for duty to companies of their regiments, and shall fill the first vacancies that may occur in their respective grades of first or second lieutenant in the regiments to which they now belong; and nothing herein contained shall affect their relative rank with other lieutenants of their grade.

And be it further enacted, That the grades of regimental commissary sergeant, regimental hospital steward, and veterinary surgeon are hereby abolished, and the number of corporals in each company of cavalry, artillery, and infantry shall be reduced to four, and the said non-commissioned officers shall have the privilege of receiving an honorable discharge, with full pay and allowances to the actual date thereof, if they shall so elect, in preference to remaining in the service in such other grades as may be assigned to them by the Secretary of War.

And it be further enacted, That fourteen of the bands authorized by section seven of the act to increase and fix the military peace establishment, approved July 28, 1866, not to include the band at the Military Academy, shall be honorably discharged without delay, and their discharges shall take effect so as to entitle them to receive full pay and allowances to the actual date thereof.

And it be further enacted, That nothing in this act shall be so construed as to authorize the discharge of any commissioned officer, and officers of the Army on leave or on the retired list shall not be considered as changing station when obeying an order for duty.

And it be further enacted, That no bounty shall be paid to a deserter from the Army or the Navy in any case whatever, unless the Secretary of War or the Secretary of the Navy, as the case may be, shall previously order the charge of desertion to be canceled, solely on the ground that it had been erroneously made, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

I will simply state that this proposition will save, it is supposed, some two or three million dollars. It has been approved by the General of the Army and, I believe, the Secretary of War. The Senate once passed it without any opposition as a separate bill with another section, to which objection has been raised in the House of Representatives, and it has not been acted on there. I hope, therefore, no opposition will be made to it now, unless it be on the general principle that you do not want any amendment on the bill in the nature of general legislation.

Mr. MORRILL, of Maine. I was about to suggest to the honorable Senator that I do not see any objection to the proposition itself, and I dare say the Committee on Appropriations would be very glad to coöperate with him in the passage of such a bill; but it is so entirely independent in its character that it seems to me it ought not to be insisted on as an amendment to this bill. It is an entire independent bill of four or five sections, which it is impossible for the Senate to consider now. The Senate certainly will have to take it altogether upon the credit of the honorable Senator, which I consider good authority——

Mr. WILSON. The Senator will allow me to interpose. If he makes the objection simply on the ground that he desires to keep the appropriation bill clean from general legislation I will not press the amendment.

Mr. MORRILL, of Maine. That is the great object, I think.

Mr. WILSON. Every section of the amendment will save money to the Treasury. The Committee on Military Affairs thought on examination it would save two or three millions. We reported it sometime ago as a separate bill, and the Senate passed it without any opposition; but no action has been had on it in the other House. There was another section in the bill, which I have left out in this amendment, to which, I understand, some objection has been made. But, as the Senator from Maine wishes to keep the bill clean from general legislation, I withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. CRAGIN. I move to reconsider the vote by which the amendment proposed by the Senator from California [Mr. CONNESS] was lost. I should like to have another vote upon it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire, to reconsider the vote by which the amendment of the Senator from California was rejected.

Mr. CONNESS. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Buckalew, Cattell, Cole, Conness, Corbett, Cragin, Davis, Dixon, Doolittle, Drake, Ferry, Fowler, Hendricks, McCreery, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Saulsbury, and Williams—20.

NAYS—Messrs. Chandler, Conkling, Edmunds, Frelinghuysen, Grimes, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Ross, Sherman, Sumner, Tipton, Van Winkle, Vickers, Wade, Willey, and Wilson—20.

ABSENT—Messrs. Anthony, Bayard, Cameron, Fessenden, Harlan, Howard, Morrill of Vermont, Morton, Norton, Sprague, Stewart, Thayer, Trumbull, and Yates—14.

So the motion to reconsider was not agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 122) for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army.

The message further announced that the House had passed the bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, in which it requested the concurrence of the Senate.

SCHOOL PROPERTY IN THE DISTRICT.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That all real and personal property in the District of Columbia now under the school laws of said District, or hereafter to be held by the trustees of colored schools for the cities of Washington and Georgetown, and by the board of commissioners of primary schools of Washington county, District of Columbia, in trust for the use of colored schools, shall be, so long as held for that purpose, exempt from local taxation, except such as are authorized by the charter of said cities, and by the law establishing the levy court of the county of Washington for special purposes; and it shall not be lawful for the municipal authorities of either of said cities, or the levy court of the county of Washington, to collect any tax that may have accrued against, or been levied or assessed upon, any such property since said trustees of colored schools or board of commissioners of primary schools, as the case may be, acquired the title or right to occupy or use the same for such purposes, except such taxes as may have accrued, or been levied or assessed, for special purposes as aforesaid.

SEC. 2. *And be it further enacted*, That it shall be the duty of such member of the board of trustees of the schools for colored children in the cities aforesaid as now is or shall be, by said board of trustees, from time to time, hereafter designated or selected to act as treasurer thereof, to give separate bonds every year to the municipal authorities of said cities of Washington and Georgetown respectively, with two sureties each, to be approved by the mayors of said cities respectively, in a penal sum to be fixed annually by the mayors of said cities respectively, for the safe-keeping and faithful disbursement of such moneys as shall, from time to time, be paid to said trustees by the municipal authorities of said cities for educational purposes, under and by virtue of the provisions of the eighteenth and nineteenth sections of the act of Congress, approved June 25, 1864, "to provide for the public instruction of youth in the county of Washington, District of Columbia, and for other purposes," and the declaratory act, approved July 23, 1866, "relating to public schools in the District of Columbia."

SEC. 3. *And be it further enacted*, That it shall not be lawful for said trustees of the schools for colored children to expend in either of said cities moneys received under the provisions of said acts from the municipal authorities of the other.

Mr. SHERMAN. I move to refer the amendment to the Committee on the District of Columbia.

Mr. CONNESS. Is there anything further from the House?

The PRESIDENT *pro tempore*. The question is on the motion to refer this amendment to the Committee on the District of Columbia.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

INDIAN APPROPRIATIONS.

Mr. CONNESS, and Mr. MORRILL, of Maine, addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Maine.

Mr. CONNESS. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from California.

Mr. CONNESS. I move to take up for consideration House joint resolution No. 216. It will not excite, I will say to the chairman of the Committee on Appropriations, any debate, and I am asked specially to call it up.

Mr. MORRILL, of Maine. I understood the Chair to give the "Senator from Maine" the floor, and I should like to have that point settled.

Mr. CONNESS. I had obtained the floor, I believe, and did not yield it.

Mr. MORRILL, of Maine. The Senator from California obtained the floor on the other bill.

Mr. CONNESS. Not at all, sir.

The PRESIDENT *pro tempore*. The Chair recognized the Senator from Maine. The Senator from California addressed the Chair before the motion was put on the other bill, first. After that the Senator from Maine took the floor.

Mr. CONNESS. If I state what this resolution is, I think the chairman will give way. It is a joint resolution of the House of Representatives which I am asked to call up by the Lincoln Monument Association. It proposes to give to that Association, for the purpose of their work, certain cannon. It will excite no debate whatever, and the Association are desirous that it should pass.

Mr. MORRILL, of Maine. If the Senator will allow me, I feel quite at the mercy of my honorable friend from Rhode Island, [Mr. ANTHONY,] who allowed the appropriation bill to proceed, and permitted his proposition, which was the special order of the day, to be laid aside informally; and I was about to throw myself upon his indulgence again for the purpose of taking up the Indian appropriation bill, which will not occupy twenty minutes, I take it, in its reading and passage.

Mr. ANTHONY. I am very anxious, indeed, to have the report of the select Committee on the Rules disposed of; but I never like to oppose an appropriation bill.

Mr. MORRILL, of Maine. The Senator has the floor.

Mr. ANTHONY. I will give way with the understanding that the special order is to be laid aside informally, and not postponed by a vote, so that when the appropriation bill is disposed of the report will be in order.

Mr. MORRILL, of Maine. Certainly, I will give way at any time to the Senator.

The PRESIDENT *pro tempore*. It can be done by unanimous consent.

Mr. DRAKE. What is the proposition now before the Senate?

The PRESIDENT *pro tempore*. It is a special order made yesterday for one o'clock to-day, which was passed over informally for the purpose of considering the appropriation bills.

Mr. DRAKE. Is there any motion now before the Senate?

The PRESIDENT *pro tempore*. There is a subject before the Senate.

Mr. DRAKE. What is it?

The PRESIDENT *pro tempore*. The special order being the report of the select Committee on the Rules.

Mr. DRAKE. Is there any motion before the Senate in reference to those rules—in reference to that special order?

The PRESIDENT *pro tempore*. The Rules themselves are the special order, and are before the Senate.

Mr. DRAKE. I move to set aside the special order and to proceed to the consideration of the amendment to the Rules which I offered yesterday.

The PRESIDENT *pro tempore*. The Senator from Maine has the floor.

Mr. DRAKE. I would ask the Senator, as this appropriation bill cannot possibly suffer by a few days' delay, to oblige me so much as to allow me the precedence here at this moment.

Mr. MORRILL, of Maine. If it were a personal concern it would do me the utmost pleasure to oblige the honorable Senator from Missouri; but as it is a matter of public concern, I do not feel at liberty to do so.

Mr. DRAKE. Is it a matter of public concern, I inquire of the Senator, that that bill should be passed to-day?

Mr. MORRILL, of Maine. It is of the utmost concern, as the honorable Senator might have noticed from the remarks of the Senator from Missouri [Mr. HENDERSON] yesterday, who was pressing it; and also of the Senator from Minnesota, [Mr. RAMSEY,] who was pressing for immediate action on a particular item and was only put off on the ground that this bill would be taken up to-day to which he could properly move it.

Mr. DRAKE. I would inquire of the honorable Senator from Maine whether this Indian appropriation bill does not cover appropriations for the year ending the 30th of June, 1869.

Mr. MORRILL, of Maine. No, sir; I have the pleasure to inform the honorable Senator that the appropriations in this bill are in anticipation of the appropriations for that period and are immediate. Immediate action is required. Besides, I presume the bill will not occupy twenty minutes of the time of the Senate.

Mr. SUMNER. I desire to make a suggestion which I hope may harmonize my two excellent friends, the Senator from Maine and the Senator from Rhode Island, and that is that the Senate proceed to the consideration of executive business.

Mr. MORRILL, of Maine. Oh! but we do not want to be harmonized.

Mr. SUMNER. I wish to harmonize the Senators.

Mr. ANTHONY. We are in harmony already. I understand that the report of the select Committee to revise the Rules is now in order regularly before the Senate, and the Senator from Maine asks that that may be laid aside informally, for the purpose of taking up the appropriation bill mentioned by him.

Mr. MORRILL, of Maine. That is it.

Mr. ANTHONY. I have never, since I have been in the Senate, opposed the taking up of an appropriation bill, and I will not do it now. If the special order can be laid aside informally without a vote, so that it will come up when this bill shall be disposed of, I shall not object.

Mr. MORRILL, of Maine. Then I hope that course will be pursued. The bill, I am sure, will not occupy twenty minutes.

Mr. SUMNER. It is impossible for me, my friend from Maine knows, to antagonize with him on any occasion. If, therefore, he does not at once withdraw his proposition in view of the suggestion I have made, I shall have nothing more to say, except that I will add one word and then I will submit myself to his conscience. The Senator knows perfectly well the business pending in executive session, and I appeal to him now to allow the Senate to proceed with its consideration.

Mr. MORRILL, of Maine. As the Senator makes it a matter of conscience, I insist on my motion that the public business go on.

Mr. DRAKE. What is the motion?

The PRESIDENT *pro tempore*. That the Senate proceed by unanimous consent to take up the appropriation bill indicated by the Senator from Maine, passing over the special order informally.

Mr. DRAKE. I object to any passing over of the special order informally.

Mr. MORRILL, of Maine. Then I make the motion to postpone all prior orders and proceed to the consideration of the Indian appropriation bill.

The PRESIDENT *pro tempore*. The question is on the motion now made by the Senator from Maine.

The motion was agreed to; and the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department and for fulfilling treaty stipulations, was considered as in Committee of the Whole.

The Committee on Indian Affairs, to whom the bill had been referred, reported it with an amendment to strike out all after the enacting clause, and in lieu of the words stricken out to insert:

That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of fulfilling treaty stipulations with various Indian tribes, to be expended as required by such stipulations with the several tribes named, for purchase and distribution of seeds, agricultural implements, cattle, tools, provisions, blankets, clothing, and other articles specified in said treaties, which said sums may be drawn from the Treasury and used for the purposes named during the fiscal year ending June 30, 1868, but the same shall be deducted from the amounts to which the said tribes shall be entitled under their respective treaties for the fiscal year ending June 30, 1869.

For the Comanches and Kiowas, $20,000.
For the Chippewas of Lake Superior, $8,000.
For the Winnebagoes, $20,000.
For the Ottoes and Missourias, $9,000.
For the Indians on the Siletz reservation, in the State of Oregon, for agricultural implements, cattle, and provisions, $10,000, or so much thereof as their present necessities may require.
For the Chippewas of Boisé Fort, $6,500.
For the Chippewas of the Mississippi, $3,500.
For the Pillager and Winnebagoshish band of Chippewas, $8,000.
For the Chippewas of the Pembina tribe, $4,000.
For the Pawnees, $20,000.
For the Poncas, $10,000.
For the Indians of New Mexico, $20,000.
For the Goship band of Shoshones, $1,000.
For the eastern band of Shoshones, $5,000.
For the northwestern band of Shoshones, $3,000.
For the western band of Shoshones, $3,000.
For the Blackfeet band of Sioux, $7,000.
For the Ogallalla band of Sioux, $2,000.
For the Minneconjon band of Sioux, $6,000.
For the Sans Arc band of Sioux, $5,000.
For the Oncpapa band of Sioux, $7,000.
For the Lower Brule band of Sioux, $6,000.
For the Two Kettles band of Sioux, $6,000.
For the Lower Yanctonnais band of Sioux, $10,500.
For the Upper Yanctonnais band, $10,000.
For the Yancton Sioux, $20,000.
For the Assiniboines, $20,000.
For the Arickarees, Gros Ventres, and Mandans, $20,000.
For transportation of purchases to Indians, $20,000.

SEC. 2. *And be it further enacted*, That the Secretary of the Interior, in expending the appropriations herein made, shall, in all cases where any number of individuals belonging to a tribe may have manifested a disposition to commence the cultivation of the soil for a livelihood, cause such agricultural implements, seeds, harness, and stock to be purchased and forwarded immediately as may be thought necessary to give proper encouragement and aid to such undertaking.

Mr. HENDERSON. I move to amend the amendment by reducing the appropriation in the seventeenth line for the Comanches and Kiowas from $20,000 to $15,000.

The amendment to the amendment was agreed to.

Mr. HENDERSON. In line twenty-two I move to reduce the appropriation for the Ottoes and Missourias from $9,000 to $6,000.

The amendment to the amendment was agreed to.

Mr. HENDERSON. In line thirty-two I move to reduce the appropriation for the Pillager and Winnebagoshish band of Chippewas from $8,000 to $6,000.

The amendment to the amendment was agreed to.

Mr. HENDERSON. In line thirty-five I move to reduce the appropriation for the Pawnees from $20,000 to $10,000.

The amendment to the amendment was agreed to.

Mr. HENDERSON. In line thirty-seven I move to reduce the appropriation for the Indians of New Mexico from $20,000 to $15,000.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move to amend the amendment of the committee by inserting after line sixty-one, at the close of the first section:

That the sum of $40,000, or so much thereof as may be necessary, be and the same is hereby appropriated for the relief of the Wahpeton and Sissiton Sioux Indians of Dakota Territory, parties to the treaty of May 2, 1867.

Mr. HENDERSON. Let it be inserted after line fifty-nine.

Mr. RAMSEY. Very well; I will propose it to come in after line fifty-nine.

Mr. MORRILL, of Maine. I desire to ask the Senator from Minnesota whether this is the sum and for the same tribe of Indians to which reference was made yesterday.

Mr. RAMSEY. The same tribe of Indians of which we heard yesterday. This is the amount estimated for by the Interior Department, according to the reports submitted to Congress in December and January last, in consequence of the necessitous condition of these Indians; and I think that instead of diminishing the amount then estimated we ought rather to increase it, considering how much suffering they have passed through from that time to this.

Mr. MORRILL, of Maine. I shall be obliged to rely upon the chairman of the Committee on Indian Affairs for his judgment as to whether this appropriation is proper or not.

Mr. RAMSEY. The honorable Senator will find in House Executive Document No. 76 of this session, the whole correspondence on this subject. In that document is the estimate of the Commissioner of Indian Affairs, approved by the Secretary of the Interior. I think the Senate will recollect what was said about this question yesterday. These Indians were treated with more than a year ago, and the Government solemnly promised to furnish them with means to carry on agriculture and provide themselves by the cultivation of the earth with subsistence; but they have not had a cent from that day to this. Their sufferings are as great, I imagine, as those of any body of Indians in the whole United States. I find in a paper which I have recently received from the city of St. Paul a letter from Fort Wadsworth, in Dakota Territory, convenient to these Indians, a portion of which I will read to the Senate:

"We begin to get the details of the sufferings of the Indians in the Northwest. One of our scouts received a letter a few days since from one of his relatives on the Cheyenne, which states that fifteen lodges near the Dog's Den had been without game all winter. Two or three men were sent to Devil's Lake to endeavor to get some provisions, but the storms which prevailed at the time, in connection with the emaciated condition of the messengers, caused them to be a long time on the journey, and although the commanding officer of Fort Totten and others forwarded a few supplies, it is expected they will not reach their destination until after starvation shall have completed its extermination in the camp.

"Near the Black Bute, on the Mouse river, there were eighty lodges, all of whom are presumed to have perished. There was also a small camp at the northern 'Chief's Bluff,' who were entirely without supplies, and no hope is entertained of any of them being in existence now.

"The Indians at Devil's Lake are getting fish enough to furnish them about half a meal a day. Fish could be taken in greater quantities, but the Indians are so miserably clad that they are unable to withstand the intense cold, exposed as they must be to the cold winds that pass over the lake. A man, when he goes on the lake to fish, takes all the clothing of his family, leaving the women and children with nothing but the fire in the lodge to protect them from the cold.

"There is no use in moralizing upon the condition of these Indians, who came in and surrendered to the authorities at Devil's Lake at the invitation of the Government. They had reason to expect that some provision would be made to enable them to remain there during the winter and to put in a crop in the spring. But they found nothing; and, at the suggestion of the commanding officer at Fort Totten, those who were best able to hunt the buffalo left late in the fall in quest of game; but the early snows and the entire absence of buffalo from their usual ranges combined to entail suffering, and death probably, upon all who left Devil's Lake last fall and severe suffering from starvation and the intense cold upon those who remained at the lake.

"It is absurd to say that nothing could have been done last fall to obviate this state of things. Supplies of clothing and provisions to a limited amount could have been supplied, but were not. The responsibility rests somewhere, and it is a fearful one. Probably from four to six hundred lives have been sacrificed by a want of judicious management and prompt action. Let those concerned reflect upon it."

As I said yesterday these Indians are parties to a treaty made in February, 1867, but which was not finally proclaimed until May, 1867.

Mr. MORRILL, of Maine. Allow me to ask the Senator whether he has heard anything from the dispatch which it was said yesterday had been sent to some officer in that vicinity.

Mr. RAMSAY. I have not; but here you have the communications of the Commissioner of Indian Affairs and of the Secretary of the Interior, sent to Congress in December and January last. You have the facts again vouched for by this communication from Fort Wadsworth, which I have read from a St. Paul paper of the 15th of March, 1868, and the letter is dated Fort Wadsworth, Dakota Territory, March 8.

Mr. MORRILL, of Maine. But it was said yesterday that the Commissioner of Indian Affairs had sent a dispatch to some officer or agent or commissioner in charge of these Indians, from whom information more recent might be expected.

Mr. RAMSEY. How much longer would the chairman of the Committee on Appropriations have us wait in view of the circumstances detailed in all these communications?

Mr. MORRILL, of Maine. My inquiry is whether the information has been received?

Mr. RAMSEY. I do not know.

Mr. HENDERSON. I propose to amend the amendment of the Senator from Minnesota by striking out "$40,000" and inserting "$20,000." I stated yesterday that in reference to this matter I had caused a dispatch to be sent to General Terry, in whom I have the utmost confidence. He was here in January, and I called his attention to the statements which I saw in the St. Paul papers and other papers in Minnesota. My attention had been called to the statements the Senator read from, and, in addition, to this which I find in a St. Paul paper of a recent date, and which I will read:

"From various reliable and responsible sources we learn that great destitution and suffering exist among the inhabitants near Devil's Lake, in Dakota Territory. The winter has been one of unusual severity. Many parties crossing from Fort Abercrombie to Devil's Lake have been severely frostbitten, notwithstanding that the usual precautions have been taken to prevent the same. The soldiers stationed at the lake are on half rations, and have no provisions to spare for the half-breeds and Indians congregated there, while the animals belonging to the post are dying daily for want of forage. The Indians, who number twelve or fifteen hundred, in that locality are starving for want of food, and at last accounts were making ugly demonstrations against the occupants of the military post. It is earnestly hoped that prompt measures will be instituted to relieve this suffering, not only on philanthropic grounds, but in order to prevent a renewal of Indian hostilities in a territory adjoining our frontier."

I was somewhat surprised to see these statements in various papers from Minnesota; and, as I stated to the Senate yesterday, I caused a dispatch to be sent to General Terry in order to get what I knew would be correct and reliable information. I now hold in my hand a dispatch from General Terry to the Commissioner of Indian Affairs, in answer to the one sent to the General at my instance:

Copy of telegram received at Indian office *March* 20, 1868, dated ST. PAUL, *March* 19, 1868; received at WASHINGTON *March* 19, 1868.

Hon. N. G. TAYLOR, *Commissioner Indian Affairs:*

I have no official reports as to the condition of Indians at Devil's Lake. The recent newspaper reports are lies. There is a large surplus of subsistence at the post, and the commandant was directed in January to feed the Indians. ALFRED H. TERRY,
Brevet Major General.

That was my information at the time, that there was a great amount of subsistence at the fort. General Terry gave me his word that he would attend to this matter and would not let the Indians suffer. I could not believe that under any circumstances he would violate his word, because I have found him to be a gentleman to be relied upon under any and all circumstances. We are under treaty stipulations with these Indians, and they are attempting, as I understand, now to commence farming operations; and my impression is that it would be proper to provide a sufficient amount to enable them to commence farming operations. There are some fifteen hundred of them. We ought to purchase them some stock, and we ought to send them some seeds and agricultural implements. For that purpose $20,000 will be amply sufficient, and with that view I propose to amend the proposition. We, of course, shall have to pay back to the War Department what we have taken from them. The War Department will present a bill against the Indian Department, of course, to be paid back, for the rations with which they have supplied the Indians, but that can be done under the general appropriation bill.

The PRESIDENT *pro tempore*. The amendment of the Senator from Missouri is not now in order, as the amendment of the Senator from Minnesota is an amendment to an amendment. The Senator from Minnesota, however, may accept it.

Mr. RAMSEY. The Senator from Missouri, I understand, proposes to reduce the appropriation from $40,000 to $20,000. I really think the Senator ought not to insist on a thing of that kind after so much delay, as it must be seen, that the Government is guilty of. At this late day, after having ignored the communication made to Congress by the executive authorities in December and January, it is now proposed to reduce the estimate then made to $20,000. I have no doubt that General Terry feels anxious to have the Government to know that he has properly provided for the wants of the soldiers at Fort Totten. That is all right enough; but General Terry does not say that the newspapers lie in regard to the Indian sufferings in Dakota. What he says is that the story that the soldiers at Fort Totten are on half rations is a lie, and that is all.

But I repeat what I have read and what I have said heretofore of the sufferings of the Indians at Devil's Lake and in all that northwest country. This results, not from any neglect of their own to provide for themselves, as Indians always do, very poorly, but from their being thrown off their guard and deceived by the promises of the Government, in the treaty to which I have referred, that the Government would provide for them and furnish them the means of agriculture; furnish them some means of sustaining themselves when they withdrew from the chase. The Government has not done it, and in consequence the Indians are in this distressed condition.

Congress was informed of this condition of affairs in December and in January again and again, and now the Senator proposes to answer all these various complaints and representations by reading a dispatch of General Terry that his soldiers at Fort Totten are not upon half rations! Who cares about that? We have nothing to do with that. This is an Indian appropriation bill. The military appropriation bill has just passed. There was the proper place to make any appropriation for these soldiers that they stood in need of; but I take it, when we propose an application for the Indians, it is not a sufficient answer to say that the soldiers are not starving.

Mr. MORRILL, of Maine. Allow me to remind the Senator that he misapprehends this dispatch altogether. The dispatch to General Terry was in regard to the Indians and their suffering condition, and in regard to the newspaper articles which the honorable Senator relies upon; and he says expressly, in regard to those articles that they are lies. That is, the articles in regard to the condition of the Indians are lies. It is a very specific statement that the recent newspaper reports on which my friend relies are lies, and he says "there is a large surplus of subsistence at the post," not only for the soldiers, but "the commandant was directed in January to feed the Indians," not the soldiers.

Mr. HENDERSON. That was in accordance with the request of the commission.

Mr. MORRILL, of Maine. So they have got through the winter, and certainly $40,000 would be a pretty large appropriation for such a purpose. I hope my friend will accept the suggestion for $20,000, which will meet all the purposes. I understand we are under treaty stipulations with these Indians, and that amount will be in harmony with the bill, perhaps, to anticipate an appropriation which these Indians will be entitled to in the regular bill. In the case we have before us certainly $20,000 would seem to be a very ample allowance.

Mr. CONNESS. I think it must be evi-

dent to the Senate that all that is necessary to translate a generous and magnanimous Senator into a very hard-hearted man is to make him chairman of a Committee on Appropriations. We have listened to the statements read by the honorable Senator from Minnesota, and the chairman of this committee rises in the face of these statements and makes a speech that I must be excused and must forbear from commenting upon.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota to the amendment of the Committee on Indian Affairs.

Several SENATORS, (to Mr. RAMSEY.) Accept the $20,000.

Mr. RAMSEY. No; but I will compromise on $30,000.

Mr. MORRILL, of Maine. It is very difficult to see what could be done even with $20,000; I think it is a large allowance.

Mr. RAMSEY. But gentlemen ought to consider that by the time you get the produce of the sum appropriated to that remote country the amount is reduced very much.

Mr. MORRILL, of Maine. I have a very great suspicion of that.

Mr. RAMSEY. The amount appropriated will not furnish as much provisions at Devil's Lake as the same amount would at the city of Washington—perhaps not half as much. The transportation at this season of the year is very expensive, and, I presume, the cost of the transportation is to be taken out of the gross appropriation. An appropriation of $40,000 for feeding a thousand or more Indians at that distant point, by the time the cost of the intermediate transportation is taken out, will be reduced one half; and what is $20,000 worth of provisions for a thousand people who have been starving for three months and have been without clothing?

Mr. MORRILL, of Maine. If the Senator resists any compromise he must take the chances of what he can get. I shall feel bound to oppose his amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota to the amendment reported by the Committee on Indian Affairs.

The question being put, it was declared to be carried in the negative.

Mr. RAMSEY. I call for a division.

The PRESIDENT *pro tempore*. Senators in favor of the amendment to the amendment will rise.

Mr. RAMSEY. On reflection I think I will accept the offer of the chairman of the Committee on Indian Affairs and take $20,000. [Laughter.]

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Minnesota to modify his amendment by striking out "$40,000" and inserting "20,000?"

Mr. RAMSEY. Yes, sir.

The amendment to the amendment, as modified, was agreed to.

The amendment of the Committee, as amended, was agreed to.

The bill was reported to the Senate, as amended, and the amendment made as in Committee of the Whole was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

REVISION OF THE RULES.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration——

Mr. ANTHONY. I have given way for the last three or four weeks to everybody and everything; and I really hope that if the Senate desire to revise the Rules they will take up this report.

Mr. MORRILL, of Maine. Feeling under obligations to the Senator, I move that the Senate proceed to the consideration of the report of his committee.

Mr. ANTHONY. The motion, I believe, is unnecessary. I think the report is regularly before the Senate as the special order.

The PRESIDENT *pro tempore*. No; other business has intervened, and the special order has lost its place.

Mr. MORRILL, of Maine. I move, then, that the Senate proceed to the consideration of the special order assigned for to-day, the report of the select Committee to Revise the Rules.

Mr. DRAKE. I submit the question of order whether that remains any longer the special order when another matter has supplanted it.

The PRESIDENT *pro tempore*. The Chair said it did not, and therefore the motion was made to take it up, which motion is now pending. The question is on taking up the report for consideration.

Mr. DRAKE. Is that motion amendable?

The PRESIDENT *pro tempore*. I do not see how it can be amended.

Mr. DRAKE. Well, sir, I object to it upon this ground, that this is an attempt to amend the Rules of the Senate that have been in operation from time whereof the memory of man runneth not to the contrary; an attempt to force this thing in here now, I do not say for the purpose, because I am not fully advised of the purpose, but with the effect, of preventing the Senate from acting on a matter which is regarded by many Senators as of importance with reference to the action of the Senate sitting upon trial of an impeachment next Monday. Now, sir, if it should be that the purpose of the Senator from Rhode Island is, by thrusting this thing in this way before the Senate, to prevent the Senate acting to-day upon the proposition which I introduced yesterday, and which bears upon the impeachment trial, then I should like to know it, and we can tell just exactly where we stand. If it is not his purpose to do that, yet the effect is the same. Sir, I wish now to have the sense of the Senate on the question whether it will suffer a matter of that kind that I introduced yesterday, and which relates to the trial that is to come on next Monday, to be thrust aside for the purpose of taking up Rules of the Senate, which it does not make a bit of difference to the public business whether they be adopted this day or a week hence or a month hence.

Now, sir, I appeal to the Senator from Rhode Island to give me the position here that will enable me to take the sense of the Senate on the proposition I introduced yesterday.

Mr. ANTHONY. Mr. President, I think I appreciate as highly as any Senator can the vast importance of deciding whether we shall address the dignitary who is to preside over this body next week as "Mr. Chief Justice" or "Mr. President." [Laughter.] But I can only express my surprise and, if my friend from Missouri will allow me to say so, my indignation that so vigilant a guardian of the public interests as he is should have allowed this question to remain till the day but one before we are to meet in that capacity. [Laughter.] It seems to me he ought to have brought it up the very day that the court of impeachment—I beg pardon, the Senate acting as a court of impeachment—adjourned. But, Mr. President, I am afraid that those very mischievous Senators who sit upon the other side of the Chamber, if this question comes up, will discuss it and debate it so long that our patience will be wearied out, and we shall be obliged to adjourn, and I think thus the whole session of to-day will be lost.

Mr. DRAKE. I suppose that means that they will debate it until the gentleman gets hungry for his dinner.

Mr. ANTHONY. Well, they generally get hungry for dinner about this time.

Mr. DRAKE. Not yet.

Mr. ANTHONY. I hope, for the reason I have stated, the Senate will proceed to the consideration of the special order of the day, which is, next to the question whether we shall call the presiding officer of this body "Mr. Chief Justice" or "Mr. President," I think the most important matter of public concern before us. [Laughter.]

Mr. DRAKE. Mr. President, I have made an appeal to the Senator from Rhode Island, which he has chosen to disregard. He undertakes the game of "whistling down the wind" this proposition that I have presented to the Senate.

Mr. NYE. Will the Senator from Missouri give me one moment?

Mr. DRAKE. Yes, sir.

Mr. NYE. Can you not put your amendment on the Rules that the Senator from Rhode Island desires to call up?

Mr. ANTHONY. Certainly it can be offered as an amendment to the Rules.

Mr. DRAKE. But, if the Senate does not get through with the whole subject of the rules to-day, that amendment will go over with the whole subject to the end of time.

Mr. NYE. I suggest that that will be the shorter way, for I heard one of the Senators on the other side of the House say he was prepared to make a long constitutional argument on this question. [Laughter.]

Mr. DRAKE. Very well, sir; let the gentlemen on the other side make their long constitutional arguments. I am very well disposed to be in a good humor about this matter, quite as much so as the gentlemen who are engaged in the very laudable attempt of laughing down a thing which they see the substance of but do not wish the country to see the substance of. Sir, I insist upon it that there is substance in this matter. I say before this Senate and before the country that if, when the Senate sat yesterday week, I had been placed in any position of responsibility in regard to the impeachment trial, such as the chairman of the committee charged with looking after the matters connected with that trial, I would have taken the position that the paper which was read here signed by the President of the United States, purporting to enter his appearance to the charges, should not be received by the Senate, for the simple reason that it was not addressed to the Senate, but addressed to an individual who has no place in the Senate whatever. We do not know him here; he does not belong here. There is no Chief Justice, sir, in the Senate of the United States. There never was; there never can be under the Constitution as it is.

Mr. GRIMES. Mr. President, I desire to know what the question before the Senate is?

The PRESIDENT *pro tempore*. The question is on taking up the special order, the report of the select Committee to Revise the Rules of the Senate, for consideration at this time.

Mr. GRIMES. I undertand——

Mr. DRAKE. Mr. President, I insist on my right to the floor.

Mr. GRIMES. Well, sir, I insist upon my right to the floor.

Mr. DRAKE. Very well, sir. He has not the floor, and I have it.

Mr. GRIMES. Mr. President, I am still addressing the Chair on a point of order.

Mr. DRAKE. The gentleman has not before said that he addressed the Chair on a point of order.

The PRESIDENT *pro tempore*. The Senator will state his point of order.

Mr. GRIMES. I understand that the Presiding Officer of the Senate stated that those Rules were informally laid aside for the purpose of considering the several appropriation bills that were under the charge of the Senator from Maine; therefore, those appropriation bills having been disposed of, the Rules are now before the Senate, and if the Senator from Missouri wishes to reach the question he is discussing he must move to postpone them in order to take up his own proposition.

Mr. DRAKE. The gentleman does not know the position of the case at all.

The PRESIDENT *pro tempore*. The Chair will state the condition of the question. The special order was passed over informally for the purpose of taking up an appropriation bill. The bill was taken up and disposed of. Another appropriation bill afterwards was sought to be taken up informally. That was objected to,

and the party seeking to take it up was put to his motion to take it up; and the Senate, on motion, decided that they would proceed to the consideration of that bill, which the Chair believed displaced the order of the day, so that it could be only proceeded with on motion; and that is the position the Chair occupies now, believing that the special order lost its place by this intervening motion; and, therefore, the question is now on the motion of the Senator from Maine, to take up what was the special order, the Rules reported by the select committee on that subject, for consideration at this time. That is the question now pending.

Mr. DRAKE. And I am giving reasons why they should not be taken up. Am I in order, Mr. President?

The PRESIDENT *pro tempore*. The Chair supposes the Senator to be in order.

Mr. BUCKALEW rose.

Mr. DRAKE. Am I entitled to the floor, sir?

The PRESIDENT *pro tempore*. Certainly, you have the floor.

Mr. DRAKE. Then, sir, I do not yield it.

Mr. BUCKALEW. Mr. President, before the Senator proceeds I desire to ask him a question relating to the point on which he is speaking, if he permits me. I do not care to thrust myself in.

Mr. DRAKE. Certainly.

Mr. BUCKALEW. I desire to know what he means by speaking of the committee which has charge of this trial? I was not aware that we had any such committee.

Mr. DRAKE. Charge of matters connected with the trial I thought was the phraseology I used.

Mr. BUCKALEW. We had a committee, I believe, to prepare rules preparatory to the trial. That committee reported, and I suppose its functions are ended.

Mr. DRAKE. It is not a matter of any consequence whether we had a committee or not. Mr. President, I say that when the Senate sat yesterday week for the trial of the impeachment, an indignity was put upon it by the President of the United States in entering his appearance to the articles of impeachment, sending a document here addressed not to the body before which he was required to appear, not to the Senate of the United States, but to the Chief Justice, when no such man was here at all. That indignity was studied. It was followed up by his counsel. Whenever they attempted to address the President of the Senate, they addressed him as "Mr. Chief Justice," while the managers of the impeachment on the part of the House of Representatives addressed him continually as "Mr. President." Now, sir, while it is true that the Chief Justice of the Supreme Court of the United States comes in here in virtue of his holding that office, to preside over the Senate, he is no "Chief Justice" when he takes your chair; he is "President of the Senate while sitting upon the trial of an impeachment," and no one has a right to address him as "Mr. Chief Justice." If this thing had been done promiscuously, one way as "Mr. President" and then another way as "Mr. Chief Justice," showing no design, I would not have said anything about it, perhaps; but there was a design in it; there was a purpose in it to ignore the constitutional character of this body, to call it a "court," to reject its character as a "Senate." I wish to vindicate that character. We engaged here very earnestly in an effort to take out of the rules governing the Senate when sitting upon the trial of an impeachment, everything that related to a "high court of impeachment" and we did it; and yet, sir, notwithstanding that, the President's counsel come in here and the President himself and address the Senate as a court and never recognized it as a Senate at all.

Mr. President, suppose the Constitution had said that the Speaker of the House of Representatives should preside in this body when the President of the United States was impeached, would you, in addressing him, get up and say "Mr. Speaker?" Suppose it had provided that the Governor of the most populous State in the Union should come here and preside in that event, would you call him "Mr. Governor?" And when the President *pro tempore* of the Senate is in the chair is he addressed as "Mr. President *pro tempore*?" What propriety would there be in it? Just as much as there would be now in my addressing you, sir, as you sit in that chair as "Mr. Senator from Ohio?"

Sir, there is more in this than appears upon the face of it. There is a studied and deliberate attempt on the part of the President and his counsel to flout the Senate; and, sir, I wish to prevent it. All the time while we were adopting the rules we were adopting them for the purpose of having everything conducted in good order and with propriety. Here, sir, is an impropriety on the very first day that the President's counsel appear. I wish to check it in the future. There is substance in it; there is meaning in it; and I hope the Senate will not take up the general rules, but will refuse to take them up that I may bring up the proposition which I offered yesterday.

Mr. ANTHONY. If the proposition which the Senator from Missouri makes could be considered and voted on without debate, I would very willingly give way and I would vote on either side of the question, for I do not think it of the least consequence. I cannot recognize in it the grave question which he connects with it. I noticed that last Friday week some Senators addressed the presiding officer as "Mr. Chief Justice," and some addressed him as "Mr. President." I recollect that I had occasion myself to address him once and it would be impossible for me to tell which term I used. I think it of no kind of consequence which is used. He is the President of the Senate for the time being, and he is the Chief Justice, and he is there because he is Chief Justice; and I think it is of no sort of consequence which term is used.

But I know very well that this question, being connected, as my friend from Missouri has connected it, with matters of much graver consequence, will be discussed here for a long time, and we shall just wear out what remains of this day's session to no purpose, whereas if the order of the day is taken up we may, perhaps, accomplish some result. I hope, therefore, the Senate will proceed to the consideration of the Rules reported by the select committee on that subject. I can assure the Senator from Missouri that I am no conspirator in this matter; I am no party to any conspiracy or to any intrigue to put down his motion. On the contrary, he must bear witness that I have with the utmost fidelity endeavored for the last three weeks, every time I could get the eye of the Chair, to call up the report of the Committee on the Rules long before the Senator made his proposition. I have no objection to his proposition particularly.

Mr. DRAKE. I understand it perfectly, sir.

Mr. SPRAGUE. Mr. President, by the proposition of the Senator from Missouri, as I understand his resolution, the Senate is to have two presiding officers. Now, it may make some difference with my vote in this aspect: in the event that the President of the United States should be successfully impeached, I desire to know which of those presiding officers is to be the successor of the President of the United States? [Laughter.]

Mr. DRAKE. I have no doubt, Mr. President, that it would make a very big difference with the honorable Senator from Rhode Island; but as it happens that the very moment the President of the United States is convicted the functions of the Chief Justice, as presiding officer, cease, and the other presiding officer comes with his head above water, it is not likely there will be any trouble in determining which is the one.

The PRESIDENT *pro tempore*. The question is on proceeding to the consideration of the report of the select Committee to Revise the Rules of the Senate.

Mr. DRAKE. On that question, as a test of the sense of the Senate, I call for the yeas and nays.

Mr. SAULSBURY. I have listened, sir, with a great deal of pleasure to the honorable Senator from Missouri. He certainly feels that his proposition is one of great importance. He informs us that in addressing the presiding officer of the Senate when it sits as a court for the trial of the President of the United States as "Mr. Chief Justice," there is a design, a purpose, an object; that there is something hidden which has not been revealed. He seems to be perfectly confident, perfectly satisfied, that there is some matter beneath which is unknown to many members of the Senate. Now, if it be true that gentlemen come before this body when acting in another capacity with a design and a purpose known to that honorable Senator, but unknown to his colleagues on this floor, I think it is due to his colleagues that he should tell them what that design and what that purpose is. If it be true that the President of the United States, in the communication which he sent to the Senate acting as a court of impeachment, had a design in addressing its presiding officer as "Mr. Chief Justice," if his counsel had a purpose to subserve of which they had knowledge, and of which the honorable Senator from Missouri seems to have knowledge——

Mr. DRAKE. I never said so.

Mr. SAULSBURY. The honorable Senator declared that there was a purpose in it, as I understand; that it meant something.

Mr. DRAKE. Yes, sir; but I never said that I knew what the purpose was.

Mr. SAULSBURY. Then, Mr. President, I ask the honorable Senator by what authority, on what ground, does he tell his colleagues on this floor that there was a design and there was a purpose in all this, if he does not know what that design and purpose was?

Mr. DRAKE. Will the Senator allow me to reply?

Mr. SAULSBURY. Certainly, sir; I always yield with pleasure to any correction.

Mr. DRAKE. I say this: the President was cited to appear before the Senate of the United States, and he brings in a paper here, not addressed to the Senate of the United States, but addressed to "Mr. Chief Justice."

Mr. ANTHONY. By whom was he cited?

Mr. DRAKE. Cited by the Senate of the United States; and he brings in a paper entering his appearance to that citation, not addressed to the Senate, but to the Chief Justice, and never once referring to the Senate, as such, in it; and his counsel take it up in the same strain and address themselves to "Mr. Chief Justice" all the time. I say, sir, that these circumstances occurring do develop to my mind distinctly that there was a purpose in doing it. What the underlying purpose is I cannot yet see, but that there was one I have no doubt.

Mr. SAULSBURY. Mr. President, every communication which comes to this body, whether it comes from the other House or from a Department, is addressed to the Presiding Officer of the Senate, and not to the Senate itself. Now, sir, the circumstance which has awakened such strong suspicion in the mind of the honorable Senator from Missouri is that the presiding officer, on the occasion when we last sat as a court of impeachment, was addressed as "Mr. Chief Justice." Why, sir, the Chief Justice of the United States is, according to the terms of the Constitution of the United States, made the presiding officer of the body when sitting in that capacity. Because he was so addressed by some Senators and by the counsel on the part of the defense, the honorable Senator takes the alarm. He snuffs danger in the distance. He sits upon the topmost tower and beholds that danger in the far-off distance.

And yet, sir, when asked the basis for his suspicion, the grounds of his belief that there was a purpose to subserve, a secret design cherished, he knows nothing except that it awakens in his mind grave suspicion! I ask

the honorable Senator from Missouri whether he thinks it is proper to invoke the solemn action of the Senate upon his individual suspicions, without stating to them some reasonable basis for those suspicions? Shall the simple employment of one word for another be sufficient reason for the basis of suspicion, for the suspecting of a design and a hidden purpose unrevealed, which should not only move the action, stir the feelings, and alarm the apprehensions of the honorable Senator from Missouri, but should also arouse the apprehensions and the alarm of this entire body? I submit to the honorable Senator from Missouri that when he invokes the action of this body, he ought to give it some reason for acting in accordance with his wishes other than his mere suspicions.

Mr. President, while I am up, I will make a further remark. If the proposition of the honorable Senator be proper, it does not go far enough. I believe it does not provide for disrobing the Chief Justice, when he comes in here, of his robes. I think it ought to go further, if it be proper at all, and it should provide that the Chief Justice, when he presides here, shall not wear his gown, because you, sir, do not wear one as Presiding Officer of this body.

Mr. DRAKE. I suggest to the honorable Senator that we might just exactly as well say that the President of the Senate should not wear his coat or his pantaloons in the Senate Chamber.

Mr. SAULSBURY. No, sir; I hope that the present Presiding Officer of this body will never be caught in such a predicament as that, and I do not believe he ever will. [Laughter.]

But, sir, if you divest the Chief Justice of his character as Chief Justice, I suggest that the Senator should amend his proposition and say that the Chief Justice shall not wear his robes when presiding over the Senate.

Mr. CONNESS. I move that the Senate do now adjourn.

Mr. ANTHONY. I hope that the Senate will take up this report, and if it be taken up, so as to be left the unfinished business, I shall make no objection to an adjournment.

Mr. DRAKE and others. Oh, no. We cannot do that.

Mr. ANTHONY. Then I shall ask for the yeas and nays on the motion to adjourn. If the report be taken up I will consent then to an adjournment.

Mr. JOHNSON. The motion to adjourn is not debatable.

Mr. CONNESS. In view of the statement just made by the Senator from Rhode Island, I will withdraw the motion if he will renew it.

Mr. ANTHONY. Very well.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, to take up for consideration the report of the select Committee to Revise the Rules of the Senate.

Mr. DRAKE. On that question I have asked for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Davis, Dixon, Doolittle, Edmunds, Ferry, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Howe, Johnson, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sherman, Sprague, Van Winkle, Vickers, Willey, Williams, and Wilson—31.

NAYS—Messrs. Cameron, Chandler, Conness, Drake, Nye, and Tipton—6.

ABSENT—Messrs. Bayard, Cattell, Conkling, Corbett, Cragin, Fessenden, Harlan, Morton, Norton, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Trumbull, Wade, and Yates—17.

The PRESIDENT *pro tempore*. The Rules are before the Senate.

REPORT OF IMPEACHMENT TRIAL.

Mr. ANTHONY. Now, before moving the adjournment, I wish to offer a resolution.

The Secretary read the resolution, as follows:

Resolved, That three hundred copies of the edition of the report of the impeachment trial published at the Congressional Printing Office be furnished, as the trial progresses, for the use of the Senate, and that five thousand copies of the entire work, with an index, be printed and bound for the use of the Senate.

The resolution was referred to the Committee on Printing.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 21, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. By order of the House the business to-day is to be confined to debate only, as in Committee of the Whole, on the President's annual message.

The gentleman from Indiana [Mr. KERR] is entitled to the floor.

Mr. KERR. On account of indisposition I do not desire to speak to-day. I ask unanimous consent of the House that I may be allowed the second hour on the next day, when the House shall meet as in Committee of the Whole.

No objection being made it was ordered accordingly.

Mr. NEWCOMB addressed the House. [See Appendix.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that that body had passed a bill (H. R. No. 328) to establish certain post roads, with an amendment, in which the concurrence of the House was requested.

Also, a bill (H. R. No. 832) making appropriations for the services of the Post Office Department during the fiscal year ending June 30, 1869, with an amendment, in which the concurrence of the House was requested.

Also, a bill (H. R. No. 733) for the relief of the Navajo Indians at the Bosque Redondo and to establish them on a reservation, and for other purposes, with amendments, in which the concurrence of the House was requested.

The message further announced that the Senate had agreed to the amendment of the House to the bill (S. No. 4) for the relief of William Shunk.

NATIONAL FINANCES.

Mr. BLAIR. Mr. Speaker, I have seized the present occasion to make some remarks upon the great and pressing question of the hour—the financial problem. Its importance is not likely to be overestimated nor its difficulties prove of easy solution. This has been in every age and country "the grand question." Every scheme of war or administration resolves itself at once into a question of finance. They who triumph here are victorious everywhere, and they who fail in this fail altogether. It is not possible to teach good morals successfully to those who are starving for bread, nor can we inspire a people with high regard for national honor and good faith while the maintenance of these seems fairly beyond their power. It is the business of the statesman to point out the way for realizing most from the national resources and for applying them in such manner as to accomplish the greatest result with the least waste. The best intelligence of the country is now being earnestly applied to this subject, and there is good reason to hope that the true solution may be reached. Taking up the questions involved in their logical order we are led first to consider, and, if possible, to answer the question, what are the evils under which the nation labors? A perfectly correct answer to this question would, no doubt, suggest the sufficient and complete remedy. Some of these evils are apparent to the most casual observer, while others are deeply hidden, and therefore more dangerous. They are all to be traced directly to the great civil war through which the nation has passed. There is a natural exhaustion after so great a strain upon the national resources—a powerful reaction which ought not to surprise any sensible person, and probably does not.

As its first legacy the war has left us a great national debt. To many it seems in its magnitude appalling, and to all a matter of most serious concern. It is a debt for which we have nothing to show. It was incurred in the preservation of the national life, and measures the destruction and waste of war. Unlike the debts incurred in the great enterprises of peace, which show forth the energy and power of the people in the line of improvements and development, it is but an evidence of poverty. But the debt itself is not by any means the sum of the impoverishments occasioned by the war, if it is even the greatest of them. Nearly a million of men, mostly from the laboring classes, were either killed outright or so disabled as to be no more fit for the industries of the country. This was a prodigious loss in an economical point of view. The laborers of the country are its principal source of wealth. Our producing power has been greatly diminished by this immense sacrifice. The implements of their industry lie idle now that the hands that held them have ceased to move. We have also left to us a disorganized industry in many of its branches unnaturally stimulated by the unusual demands of war, while in others too much disused to give place to the more profitable employments of the time.

Attendant upon these evils also is a disordered and depreciated paper currency, itself one of the greatest of our misfortunes. Gold and silver have gone out of use as a circulating medium, and appear only in the price-list as an article of merchandise. Prices are rendered unstable, labor unremunerative, and trade mere speculation, because there is no longer a uniform standard of values. The result of this has been that manual labor has fallen into disrepute. The fields are untilled to a great extent, while the cities and towns are over-crowded with an eager multitude, all making haste to be rich in some more rapid and genteel way than following the plow. The great staple products of the soil maintain enormous prices, even for such times as these, and the cost of living is almost too heavy to bear. Looking at the history of the past six years it is not only not to be wondered at that we encountered some embarrassments at this time, but it is truly marvelous that our embarrassments are so light. With an enormous debt bringing with it a taxation wholly without example in this country; with a disorganized industry seeking to adapt itself to the altered state of things; with an irredeemable paper currency inflating prices and sending doubt and distrust everywhere, what hinders the coming in of total bankruptcy and ruin? Nothing but the patriotism, endurance, sublime faith, and energy of the people, and these will be found sufficient. In the light of the past I look hopefully toward the future.

The recuperative power of the nation is wonderful, the ingenuity and enterprise of our people without a parallel, and the field for development such as the world has never witnessed. The national resources will be found more than equal to every demand upon them. Though our burdens are heavy they are not heavier than we can bear. Nay, they are much lighter than those we have already borne. All we need is to observe the plainest principles of a sound political economy, and apply carefully and wisely the means within our reach to the redemption of the national obligations. As to details there may be differences of opinion, and very likely they may be found in many instances quite unimportant, but as to the main purposes to be kept in view there can be but one opinion among intelligent, honest men. The argument before the people may be confused somewhat by ingenious politicians whose only object is success, but its clearness and force cannot be broken. There is a party out of power which wants desperately to get in. If it should darken counsel by bold assumptions of falsehood and cunning evasions of the truth it need not surprise and should not

alarm us. If the people should be invited, as in fact they have been, by strained constructions of law and crooked perversions of plain contracts, to seek to avoid their honest obligations, let us remember that this invitation comes from the same persons who advised the young men to stay at home while the streams run blood at Gettysburg and Vicksburg.

This brief review shows that our present financial troubles are to be referred mainly to these causes, to wit:

1. The heavy national war debt, requiring large taxes for many years to pay off the yearly interest and ultimately to liquidate the principal.

2. A disorganized industry, occasioning too large a production in some branches and too little in others, together with excessive importations of foreign goods.

3. An unsound and depreciated paper currency, which leads to idleness, extravagance, speculation, and overtrading.

Other evils might be enumerated, no doubt, of a subordinate character, but the foregoing will be recognized as the principal causes of the present uneasiness in the public mind. Into these, I think, nearly all others may be easily resolved. What then is the remedy for them, if there be any, and how shall it be applied? And first, as to the public debt, that great nightmare which has frightened so many people out of their senses and is making cowards of so many public men, but which, in my opinion, is not by any means our worst danger at the present time—what is to be done with it? To this question there ought to be but one answer. There can, in fact, be but one answer by a brave and honest people—it is to be paid. There is, indeed, in the country a small party of political freebooters who boldly propose to repudiate this debt, but no man who has any fear either of infamy in this world or of the pangs of the second death will make haste to join them. It is safe to affirm, upon the honor of the American people, which has never yet been defiled, that this debt will be paid.

But there is a new Democratic method for the payment of the public debt, which may be fitly termed the "greenback" scheme. It comes from a quarter not likely at once to win the confidence of the loyal people of the country. Its inventor was not quick to bring his gifts to the aid of the nation in its great struggle for existence. He was not ready then with a scheme to put down rebellion, but rather scoffed at our efforts and pronounced them a "failure." He would not vote the money to carry on the war, and his people dismissed him from the public service on account of his want of patriotism. There were many men of his party who stood by their country, preferring to save the nation even though a party might perish, but this gentleman was not of them. Now, however, Mr. Pendleton exhibits the greatest alacrity in bringing forward a project to pay a debt to the making of which he was utterly hostile. It must be paid, he informs us, in legal tenders, but he does not in the least enlighten us as to what he will do with the legal tenders. Is he sincere in his profession of a desire to pay the national debt, or does he mean utterly to swamp it in his overwhelming flood of irredeemable greenbacks? There is the utmost reason to suspect the latter. Repudiation is an ugly word. Payment in something which is no payment sounds much better. The Ohio convention, on the 8th January, which put Mr. Pendleton forward as its candidate for the Presidency, expressed itself in this wise:

"*Resolved*, That, neither forgetting nor denying our ancient faith that gold and silver coin form the currency of the Constitution, we declare that the five-twenty bonds should be paid in the same currency received by the Government for their issue."

The Indiana convention, held on the same day, adopted this resolution on the same subject:

"*Resolved*, That we are in favor of the paying of the Government bonds in Treasury notes, commonly called greenbacks, except where expressly made payable in gold by law, at the earliest period."

There is some encouragement to be derived from the fact that the Ohio convention still had virtue enough left to be ashamed of itself. Seeing that, as Democrats, they were turning their backs upon all the best traditions of the party, they declare "that they neither forget nor deny their ancient faith that gold and silver coin form the currency of the Constitution," but still demand that "the five-twenty bonds shall be paid in the same currency received for their issue." Why the five-twenty bonds any more than every other debt of the United States? They were bought and paid for in the same manner as every other form of indebtedness. The same currency used then is used now, and is likely to continue for some time to come. Does this resolution mean that the debt was unconstitutionally contracted, and therefore ought to be paid in a currency not sanctioned by the Constitution? It certainly has a very strong leaning in that direction. Gold and silver are recognized as "the currency of the Constitution," and greenback payment as applicable only to the five-twenty bonds. These bonds are treated as an exceptional case. The Indiana Democracy does forget entirely the "ancient faith," and deny it, too. They "favor the payment of the Government bonds in Treasury notes at the earliest period," or rather they wish to make known their intention to refuse payment of the Government bonds as soon as possible. They have been educated in the "Golden Circle," and do not blush in their work.

If the five-twenty bonds are to be paid in greenbacks, then I desire to know in what manner and when they will pay the greenbacks; for if you will keep your promise to pay the legal tenders according to the terms of that promise, then it is immaterial how quickly the bonds are paid in that currency. But if you intend to break your promise to pay the legal tenders speedily in money, then the pretense of payment of $1,720,000,000 of the national debt in that paper is a false pretense and a very thin cover to a shameless repudiation.

I pass by now the fact that it is utterly idle to call that a payment which is only the substitution of one promise for another. The greenbacks are themselves a material portion of the national debt, and, in my judgment, that portion which calls most loudly for immediate payment. It is the legal tenders that stand most in the way of a return to a sound currency and to the restoration of that stability in all business affairs which is the only safe basis of prosperity. What are these magical greenbacks which we are told are "to relieve the people from the burden of debt" and lift the load of oppressive taxation from their shoulders? By what wonderful process is it that the people are to be relieved of a great burden of debt, not yet due, by the substitution for it of another of equal amount, which is already overdue.

The legal-tender note is simply the promise of the United States to pay to the holder a certain sum in money at the Treasury in New York. It is due as soon as issued, and ought to be paid in gold at the Treasury when demanded there. If so paid it would constitute a sound paper currency. But, in fact, it is not paid at all. The promise is broken as soon as made. It is, therefore, a dishonored paper from the beginning, always at a heavy discount from actual money, a false and fluctuating standard of values, and a general disturber of the business of the country. By this false and delusive circulating medium the public judgment has been demoralized and led astray, men's minds have been confused, and their good sense confounded between actual money and mere promises to pay money. Because it passes current and the depreciation is not marked on its face, but only in the premium upon gold and the enhanced price of commodities, we are innocently asked by persons who are otherwise supposed to possess good sense if this is not good enough money. It is the precise delusion that pronounced a national debt a national blessing. It takes for granted that there is some value in these pictorial promises themselves, while, in fact, they are utterly worthless except in so far as there is a probability that they will ultimately be paid off in gold. And this probability is lessened by every additional issue and as well by every act of Congress that indicates a disposition to postpone indefinitely the day of resumption of specie payments.

When the legal tenders were first issued their real character was fully understood. It was then thought necessary to apologize for an act so entirely at war with all sound principles. Congress informed the country that this was a temporary expedient for borrowing money, justified by an appalling necessity, and to be resorted to no longer and to no greater extent than the necessity demanded. The public mind was not yet debauched by the speculative gambling which always carries off an irredeemable paper currency. But gambling is a seductive vice, and when once entered upon it is hard to bring back its blinded devotees to the sober ways of honest industry. That is our present difficulty. The country has become to a degree intoxicated with an abundance of cheap and depreciated paper money, and, like every inebriate, instead of putting aside the poisonous draught cries loudly for more It is the daughter of that financial "horse-leech" which cries forever "Give! give!" This greenback delusion will shortly pass away. The good sense of the country will reject it. It is an appeal to the dishonesty of the people, which does not give them credit for the intelligence they actually possess. At first blush it seems a cunning ruse to tell the public creditor that he must receive in payment for his bond the same currency in which he paid for it originally, but when more closely scanned it is a manifest fraud; it wholly ignores the contract and deliberately repudiates the interest. Why not have kept the greenbacks in the beginning? What necessity for bonds at all?

If the country is ready, by compelling its creditors to accept non-interest-paying Treasury notes for interest-paying bonds, to repudiate the interest upon the debt, how long will it be before it is ready to repudiate the debt itself? Who will be willing, after incurring the shame of the first repudiation, to bear heavy burdens to escape the second. A reputation already spotted will not be likely to haggle about the size of the spots.

In this argument I make no account of the particular language of the several acts authorizing the issue of the five-twenty bonds. On a question of national good faith shown like this we cannot resort to the acts of the small lawyer. When the bonds were put on the market the nation was *in extremis*. Greenbacks would not answer its purpose. There was the most overwhelming necessity, not only that the money should be obtained, but that it should be obtained upon securities having a term of years to run, that the business and credit of the country might not be destroyed by a floating debt so large as to be unmanageable. With this understanding the bonds were issued to fall due at a period supposed to be remote enough to escape all contact with the greenback flood. They were promises to pay money as understood both by seller and buyer and the people were exhorted by every motive of patriotism to invest in them, and they did so to such an extent as to excite the admiration of the whole civilized world. Shall we now come to them and say that the cunning lawyers have found out a trick in the acts of Congress to cheat them out of the securities they bought?

Why, sir, if we are to do this, let us at least assume the virtue of the common highwayman. Let us stand square up to the position we take. Let us say to the creditors of the nation: "It is true enough that when we were in great straits and desperate need of money you came forward very generously and saved us. And it is equally true that we, in apparent good faith, gave you the promise of the Government to pay you certain sums of money with interest at a future day. But really you must be aware

that the Government was at that time so terribly in want of money that we were compelled to make a great many fine promises that it is now very inconvenient to keep. The fact is, you got altogether too good a bargain out of us, and you are getting quite too rich in consequence of it. We have got the power in our own hands now. In fact, we are a very great nation, (thanks to the money you foolishly loaned us,) and can do as we please. We conclude not to pay you at all, as we agreed to. As for the bonds, they are of no account. But we do not intend to leave you wholly without consolation; you shall have greenbacks in exchange. Of course, you will lose the interest entirely hereafter; but that was necessary because that is the precise thing that troubles us at present. Perhaps the greenbacks may not be worth much, since there will be such a vast volume of them, but at least they look well, and some people think they are better than gold. At least they will stay with you, because nobody will 'export them.'"

This will, at least, be candid, and if a little humiliating still reaches the main chance. It offers a short and easy method of disposing of the public debt, which only needs to be extended to the ordinary business of life to make its beauties completely manifest. A law to this effect would need only one addition to make it perfect, and that is a proviso forbidding forever the redemption of the "greenbacks." It is wonderful that such a scheme should ever have commanded the attention of any considerable number of people for a day, and can only be accounted for upon the principles of that sort of political strategy which has faith only in knavery, and that party cowardice which fears to speak the truth lest the people should refuse to heed it.

Sir, there can be nothing more fatal to all true statesmanship than this ill-founded distrust. I shall advise to nothing but the most scrupulous fulfillment of all our obligations. If I had no respect for honesty I would do this upon the principles of enlightened self-interest. The national credit has a money value far greater than all that can be gained by these repudiation projects. It may happen that our Republic may again be compelled to be a great borrower, but who would take our loans if we seek excuses to evade the just performance of our present obligations. Whatever the proper remedy for our national ills may be it is certain that greenback payment is no remedy for anything. It is an empty delusion, a transparent snare. No form of words can conceal its plain purpose, nor can the loudest mouthing cheat the financial world into a belief in its honesty.

Closely connected with the political scheme of greenback redemption of the five-twenty bonds, and forming really a material portion of it, is a fierce onslaught upon the bondholders as a class. It is most natural that those who intend to defraud the holders of the Government securities out of their just dues should seek first to render those holders odious to the body of the people. Hence they are furiously denounced as "Shylocks, rolling in wealth" wrung from the hard earnings of the people by oppressive taxation; aristocrats, made rich by fat contracts and political corruptions. In answer to these vague and unmeaning denunciations, I cut from a newspaper (the Iron Age of March 12) a brief but true history of the loan, which shows clearly who are these odious bondholders:

"A suggestive word or two upon the history of that loan. Before the bonds could be prepared, the pressure—not of the millionaire bankers, but of the people—at the agencies in New York, Philadelphia, and Boston, was unprecedented by any instance of popular excitement. At New York, $800,000 in one day, on the 4th of September, was deposited with the sub-Treasurer, to await the preparation of the bonds. On the 5th his clerical force was not sufficient to count the cash thrown upon them. He was obliged to arrange with the banks for the issue of the bonds over their counters, when they were afterward received. On the 12th of September the Herald said: 'The office of the sub-Treasurer in Wall street is every day besieged, even before the doors are open, by crowds hastening to enroll their names among those patriots who are nobly responding to their country's call. The loan still continues to increase regularly at the previous rate of half a million a day. As an instance of the universality of the subscription it may be mentioned that one man who contributed $600 was unable to write his name!'

"In the other principal cities of the loyal States similar scenes were witnessed. At the Philadelphia agency, about two millions were deposited with Mr. Jay Cooke upon his receipts as subscription agent, to be exchanged for bonds when they should be ready, anticipating their delivery fully six weeks. He, too, was obliged to employ additional clerks to receive and count the cash which the crowd pressed upon their hands. On Saturday nights, to accommodate the laboring men of the city who thronged his office, it was kept open till nine o'clock.

"Some idea of the distribution among the classes may be formed from the proportion of the several denominations issued. The whole number of bonds issued was 485,608; of these the number of fifty dollar bonds was 154,518; of $100 was 194,141, together making 348,659—within a fraction of seventy-two per cent. of the whole; 71,708 were of the denomination of $500, and only 65,251 of $1,000 and $5,000—a little more than one eighth of the whole number in such sums as might indicate capitalist purchasers!

"But again, the five-twenty bond of 1862—the very loan in particular upon which the war against the bondholders is raised—was distributed in the following proportions: the bonds for $498,000,000 of this loan numbered 850,269; of these 99,396 were for $50; 252,508 for $100; and 155,905 for $500. Money was plentier in 1862, and the industrial classes could go a grade higher in their purchases than in September, 1861; their proportion to the capitalist class stood a shade below sixty per cent. of the whole number. The thousand-dollar men amounted to thirty-nine per cent. and a fraction, and the five and ten thousand dollar subscribers to less than one per cent. of the whole number, and to only eleven per cent. of the amount subscribed.

"The seven-thirties issued in 1864 and since bear a similar character. In a published letter of Mr. Jay Cooke, under date of 26th February, 1868, the following account is given of them:

"'It is not generally known how large a proportion of the securities of the United States are held by people of moderate means for the investment of their savings. We have not at hand the precise figures of the denominations in which the several series of five-twenties were issued, but the following statement shows the number of notes of each denomination embraced in the issue of the seven-thirty Treasury notes, which are now being converted by the Treasury into five-twenty bonds. In these conversions the Treasury has never been able to supply enough small bonds to adequately meet the demand:

962,580	50s	$48,129,000
1,474,940	100s	147,494,000
436,792	500s	219,896,000
370,376	1000s	370,376,000
8,824	5000s	48,106,000
3,256,509		$830,000,000

"'These figures will give an approximate idea of the amount in which all the five-twenty bonds of the Government are held.

"'They show that one half of the loan in amount was taken in fifties, one hundreds, and five hundreds, and further, that as 2,877,813 pieces of these three denominations were issued against 371,197 pieces of the large denominations the capitalists are in very small minority, and any legislation repudiating, in whole or in part, the obligation of the bonds of the Government would fall most severely upon widows, orphans, and people of small capital who invested their money in those securities in perfect reliance upon the representations made to them by the Treasury Department, directly and through its agents, at the time of their issue.'"

Let Horatio Seymour also testify who are the holders of the bonds. In his speech to the State convention at Albany, on the 11th of March, he says:

"On the other hand, the bonds so unwisely, wastefully issued have gone into the hands of innocent holders, who, to a vast amount, are compulsory owners. It is a mistake to suppose that they are mostly held by capitalists. Large sums belonging to children and widows, under the order of courts or the action of trustees, have been invested in Government bonds. The vast amounts held by fire and life insurance companies and savings banks are, in fact, held in trust for, and are the reliance of, the great body of active business and laboring men or women or of widows and orphans. The savings banks of this State, which are the depositaries of the poor or of persons of limited means, hold about sixty million dollars of Government bonds. The whole amount held in the State of New York, in the various forms of trust, will not fall below $200,000,000. If we look into other States we shall see that only a small share of these bonds are held by men known as capitalists; but they belong, in fact, if not in form, to the business men, the active and the laboring members of society. The destruction of these securities would make a wide-spread ruin and distress, which would reach into every workshop and every district, however humble."

Wholly rejecting this scheme, then, as both dishonest and useless, what measures of relief can Congress adopt with a reasonable hope of success?

And this question is to be answered as any sensible business man would answer it in his own affairs. It consists wholly in a rigorous reduction of expenses and a careful husbanding of resources. The common sense of the country has already reached the right conclusion. There are no mere schemes of finance that can help us at all. We must begin by going carefully through our national household and cutting away remorselessly every useless expense. This being thoroughly done, the result will surprise the country. It is not to be denied that Congress has fallen into habits of lavish expenditures for the last five years. Vast sums of money have been voted with an easy recklessness that never could have obtained under a sound financial system. Men could hardly be expected to be prudent when the Treasury was supplied by a machine which required to feed it nothing more expensive than thin paper.

The whole system of borrowing, made easy by means of "hydraulic printing presses," must be abandoned entirely and a prudent system of paying substituted for it. Let us agree at once that there shall be no further increase of the national indebtedness in any form, and write this determination upon the door-posts of the Capitol. This is the first and most essential step toward a permanent and wise system of finance. It will restore confidence and inspire hopefulness in the public mind. The people will see that we are traveling a safe road and in the right direction. They know it leads directly to the desired haven of specie payment and convertible paper. Having done this, the next step is to cut off every unnecessary expenditure, and thus reduce the aggregate expenses of the Government to the lowest point consistent with good and vigorous administration. This will enable us to reduce the internal taxes to such an extent as to lift the entire burden from the useful industry of the country, and will be found a prodigious gain every way. Manufactures and trade will revive, and the cheerful sound of busy industry will again be heard in the silent workshops. The great herd of idlers who have crowded into the cities in pursuit of gain without work will, to a great extent, finding their occupation gone, disperse to the fields of labor that will invite them. My belief is that this one measure of relief is worth more than all the other schemes talked of here and elsewhere put together. It is practical and immediate in its operation, and is subject to no test of opinion.

The next great need of the country, and especially of its laborers, is a sound currency of equal value at all times and in all places. That this cannot be made of irredeemable paper it seems needless to assert outside of a madhouse, and yet we have witnessed the spectacle in this House of a Democrat eulogizing Andrew Jackson and at the same time declaring that pictorial promises to pay money are in fact money. We are compelled to believe that the financial theories of that party have undergone the same wretched demoralization as its fidelity to liberty and the Union. The combined judgment of the civilized nations of the world, acting upon the experience of ages, has determined that gold and silver shall alone constitute money. It is possible to make something else than actual money a legal tender in payment of debts, whether it be paper, corn, or any other commodity, but these things are not therefore money. They are made to serve the uses of money to a certain extent, and are popularly called such, but do not in fact constitute money any more than do the bills of exchange issued by individuals, and which actually perform so many of the uses of money in the operations of trade. To restore a sound currency, then, is to reëstablish specie payments. But to do this evidently time will be required. We can no more return to specie payments at once than we can at once restore the wastes and ravages of war. It is a work of growth. Still, we can be steadily approaching that result and not going in the opposite direction further and further from it.

Whatever tends to promote the general prosperity of the country will advance this great

object. Wise legislation will, no doubt, aid materially, but our main dependence must be upon the industry and enterprise of the people. All the legislation which is aimed at the speedy restoration of the lately rebellious States to the Union I look upon as most important, since the productive power of the country can only be fully developed under conditions of stability and peace.

The balance of trade between us and foreign countries ought speedily to be turned in our favor in order that the flow of the precious metals should cease to be only outward, as at present. We ought not to be increasing our indebtedness abroad more and more every year; and I cannot resist the conclusion that the legislation of Congress ought to be aimed powerfully against this evil. We can never resume until a better balance-sheet is shown. Let us by heavy imposts shut out some portion at least of the costly luxuries which so exhaust our resources for the benefit of foreign monopolies, spurning the delusive sophistries of a speculative free trade; let us give to American labor the most efficient protection and support of American laws.

In the effort to resume specie payments I look for the most valuable assistance from the national banks. They have already proved themselves exceedingly useful, and have acquired the confidence of the business public in a very high degree. But they were not originated for such a condition of things as now exists. If the country is to continue indefinitely a policy of suspension and irredeemable legal tenders it is easy to see that the national banks are unnecessary. They can form no proper part of such a system. If the issues of banks are not to be redeemed then I confess they seem to me a useless monopoly.

But upon the supposition that specie payments will be resumed as soon as possible the banks become indispensable. They give us a currency at once safe and equally current in every part of the country. Whenever the Government will resume the banks will do the same, and their circulating notes will take the place of the legal tenders as they are withdrawn, thus supplying a sound and elastic currency, based upon coin redemption, without panic or disorder. The transition will be easy if not entirely imperceptible. When this period arrives all restrictions should be removed and the system made entirely free. There will be no need to limit the number or capital of the banks when their notes are promptly redeemed in coin. This will remove a just cause of complaint, the unequal distribution of the bank capital.

The system has been attacked by the Democratic opposition principally upon two grounds: first, that the capital has been distributed with gross inequality; and second, that the privileges granted to the banks are too lucrative. Ex-Governor Seymour, of New York, in a speech before the State convention at Albany, before referred to, and which is intended to be the key-note of the campaign, made this attack in the following language:

"As if bent upon making ruin certain they built up a banking system which was to have a monopoly of putting out currency, which was to get double usury interest from the Government upon its bonds, and interest from the people upon the currency issued upon those bonds. To render its monopoly complete all other banks were taxed out of existence. But madness and folly did not stop here. These banks were not alloted to the different States so that there could be even geographical fairness, but the States which held the bonds, which had the most wealth and made the most money out of the war, were allowed to absorb nearly the whole of the $300,000,000 to which they were limited."

To this uncandid and intensely partisan view it might be sufficient to say that the system is nearly identical with the free banking law of the State of New York, and confers upon the banks no monopoly or advantage of any sort which was not enjoyed by the banks under the New York system, of which I never heard that Governor Seymour or his party complained.

But another, and an entirely conclusive answer is, that if the distribution of banking capital under the law is unequal and unfair, that can easily be remedied by legislation, and if the privileges granted are too valuable they can easily be restricted and the law made in these respects to conform to justice and equality. These things do not in the least affect the system nor require its abrogation. In fact, they grow mostly, if not entirely, out of the suspension of specie payment, whereby the banks are exempted from the burdens imposed by the necessity of constant coin redemptions. This, we hope, is but temporary. When these institutions are required to redeem in specie the case will be bravely altered.

It certainly cannot be attributed to the banks as a fault that they have invested over three hundred million dollars in United States bonds, which removes that vast amount from the markets, thus greatly strengthening the national credit; nor does it seem much worse to pay the interest upon these bonds to banking corporations scattered all over the country at home than to send the coin for this purpose elsewhere. Governor Seymour simply finds fault with all we have done, as was natural for him, but does not propose any system to take the place of the national banks, unless his complaint that the State banks are taxed out of existence is intended to recommend a return to that system. If that is what he means we can afford to let the people decide without argument. It is not easy to see precisely what he wants. He was in a very spiteful vein at Albany. Perhaps the people of New Hampshire were to blame for it. The national banks are by far too essential a part of our financial system to be lightly abandoned. It seems to me much better to correct the system as experience may dictate and extend its benefits more equally to all parts of the country. This done and it cannot fail to be a great help in the restoration of the country to a sound financial condition. Some system of banking we certainly must have, and until a better than this is proposed I think the people will conclude to stand by that we now have.

As to what shall be done ultimately with the principal of the national debt I do not think it very important at this time to consider. What we have in hand now is the relief of the useful industry of the country from oppressive taxation, a return, as speedily as possible, to specie payments, and the reëstablishment of national prosperity upon the enduring basis of peace, national honor, and good faith. While doing this we can do little more than pay the accruing interest upon the public debt, nor is it desirable to undertake more. There need be no undue haste to lift this great burden all at once. Our children will not complain if we leave to them some considerable share of the heavy obligations incurred in the suppression of the rebellion. When, after a very few years, we have reached the beneficent conclusion of our measures of reconstruction, with a united people and an enlarged and prosperous industry, securing its rewards in a currency which the world recognizes, it will be time enough to begin to mature measures for funding the national debt at a much lower rate of interest. Then we can realize fully the advantage to which our unparalleled growth and natural resources fairly entitle us. To make any funding scheme successful at this time we should have to pay a much higher rate of interest upon the bonds than even ought to be submitted to by a country really so rich as ours.

Let us give our undivided attention to the great subject of restoration. And first of all, let us establish a solid and enduring peace throughout the land, based upon liberty and justice for all the people. Upon this broad foundation we will build a great and universal prosperity. Fostering carefully our American home industry and protecting it against ruinous competition from abroad, we will speedily see the balance of trade turn in our favor, and wealth will flow in upon us from without. Cotton, if it can no longer be king, will again become a very sturdy and useful free citizen, which is much better. The plow will again move in the furrow upon the abandoned plantation, and the dusky freeman will gather abundant crops where the sweat of the slave had hitherto cursed the ground. The soldier who went forth to waste the land will return now to till it. The hardy emigrants, fleeing from the oppressions and poverty of the old aristocracies, will pour in upon our vacant lands in an unbroken stream to build them new homes and add to the aggregate wealth. The inexhaustible wealth of the richest mines under the sun will fill the Treasury with their shining products, and all these combined will lift us up until our embarrassments disappear like a troubled dream.

Mr. NIBLACK. I wish to inquire of the gentleman from Michigan [Mr. BLAIR] if he is not cognizant of the fact that the recent Republican State convention in Indiana, which recommended my distinguished colleague, the Speaker of the House, for Vice President, resolved in favor of the payment of the five-twenty bonds in greenbacks; and also that the recent Republican State convention in Ohio passed similar resolutions? Why, then, does the gentleman call this a Democratic measure? I certainly have no objection to his calling it a Democratic measure, but would like to know his reasons for doing so.

Mr. BLAIR. I will say to the gentleman that I do not understand that the Republican convention, either of Indiana or Ohio, has adopted the policy which proposes directly to pay the public debt in greenbacks. I have not the resolutions of those conventions before me, but from my recollection of the language of the resolutions of the Ohio convention it is something like this: that when the public debt comes to be paid it should be paid in the currency which is at par at the time. They do not undertake to say that the debt should be paid in currency now by any means. I cannot, however, entirely acquit the Ohio convention. It seems to me as if there was something like an evasion. But certainly they did not adopt the scheme which the gentleman speaks of as adopted by the convention of the Democratic party in Ohio and Indiana.

Both of the latter conventions did adopt this policy, plainly and distinctly, while, I understand, the Republican conventions in those States did not fully adopt it. I wish the Republican conventions had done nothing of the sort. But I am sure they did not intend to bring the Republican party in those States to the adoption of Mr. Pendleton's policy. What they did was one of those unmanly exhibitions of partisan timidity.

But, sir, I have noticed while here that whenever this question has arisen in at least nine cases out of ten the Democracy in this House have voted in favor of every measure which has been offered here proposing to pay the national debt in greenbacks, while the great body of the Republicans have taken an opposite view. Therefore, I think my declaration that this is a Democratic measure is true.

Mr. NIBLACK. One word more.

Mr. BLAIR. Very well.

Mr. NIBLACK. I desire to say to the gentleman from Michigan, [Mr. BLAIR,] that in Indiana it is regarded rather as an imputation upon the Republican party to intimate that they are not as sound upon this question of paying the national debt in greenbacks as the Democratic party. And it is also claimed that the scheme originated with the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Massachusetts, [Mr. BUTLER,] and therefore that it is a simon-pure Republican measure.

Mr. BLAIR. All I have to say in reply to that, is that if the Republicans of Indiana have any such idea as that then so much the worse for the Republicans of Indiana.

Mr. MUNGEN. Will the gentleman now yield to me for a question?

Mr. BLAIR. For a question, yes.

Mr. MUNGEN. The gentleman says that "payment of the United States bonds in greenbacks is no payment at all." Now, sir, I would ask the gentleman from Michigan, [Mr.